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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Tuesday, May 16, 1978*

(Legislative day of Monday, April 24, 1978)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. MURIEL HUMPHREY, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God of our fathers, God of history, God of the Scriptures, God of inner experience, draw us together by our common loyalty to Thee. Keep us ever mindful of who we are, what our duties are, and the people who put us here. Lift our vision beyond ourselves, our party, our group to the larger realm of our common humanity destined to become Thy kingdom on Earth. Keep us true to truth and faithful to our best selves. Make us unashamed of old values and unafraid of new ones. Give us a part in the spiritual renewal of America, the invigoration of morality, the recovery of elevated patriotism, and an abiding sense of servanthood. Be with all who serve in the Government of the Nation this day and always.

We pray in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 16, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MURIEL HUMPHREY, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mrs. HUMPHREY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Madam President, I have no request for my time, unless the distinguished minority leader needs part of it. I will be glad to yield to him.

Mr. BAKER. Madam President, if the majority leader will do that, I do not think I will need it but I appreciate his yielding his time to me.

Mr. ROBERT C. BYRD. Madam President, will the Senator from Tennessee yield briefly to me?

Mr. BAKER. I am happy to yield.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Madam President, I understand there are three measures on the calendar which have been cleared for action by unanimous consent, Calendar Orders Nos. 719, 724, and 725. If there is no objection on the minority side, I ask unanimous consent that the Senate proceed to the consideration of these three measures.

Mr. BAKER. Madam President, there is no objection on our side. They are cleared on our calendar as well, and we are prepared to go forward with their consideration.

INCREASED AUTHORIZATION OF THE SURFACE MINING CONTROL AND RECLAMATION ACT

The Senate proceeded to consider the bill (S. 2463) to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) to raise certain authorized funding levels contained therein, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That section 712 of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87, 91 Stat. 445, 524) is hereby amended as follows:

(1) in subsection (a), delete all after "September 30, 1978," and insert in lieu thereof: "$25,000,000 for each of the two succeeding fiscal years, and in such fiscal years such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs."; and

(2) delete subsection (b) and insert in lieu thereof:

"(b) For the implementation and funding of section 507(c) there are authorized to be appropriated sums reserved by section 401 (b)(1) for the purposes of section 507(c) and such additional sums as may be necessary (i) for the fiscal year ending September 30, 1978, to provide an amount not to exceed $10,000,000 to carry out the purposes of section 507(c); (ii) for the fiscal years ending September 30, 1979, and September 30, 1980, to provide an amount not to exceed $25,000,000 to carry out the purposes of section 507(c); and (iii) for each fiscal year for a period of thirteen fiscal years thereafter to provide an amount not to exceed $15,000,000 to carry out the purpose of section 507(c).".

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–788), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. PURPOSE

The purpose of S. 2463 is to increase the authorization for appropriation of funds to be used for covering costs of certain programs established in the Federal Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87).

The programs fall into two categories. The first category includes the Federal interim inspection program and grants to States for incremental inspection costs. Both programs concern enforcement of the new law during the interim period prior to establishment of the permanent enforcement programs. Authorized levels of funding for this category would increase from $10 million to $25 million for fiscal years 1979 and 1980.

The second category comprises the program for assisting small operators in meeting various hydrologic and test boring requirements of Public Law 95–87. For fiscal years 1979 and 1980, S. 2463 would increase the authorization from $10 million to $25 million and for each fiscal year thereafter for 13 years the bill would authorize up to $15 million. These funds are to be appropriated from the abandoned Mines Reclamation Fund.

S. 2463 would ensure that adequate levels of funding are available to enable the degree of State and Federal enforcement contem-

plated by Congress when it enacted the Federal Surface Mining Control and Reclamation Act of 1977, and would ensure support for small operators whom Congress intended to assist in complying with the permit application requirements of the statute.

II. NEED

The original estimates of the costs for State interim enforcement programs, Federal interim inspections and small operator assistance programs as reflected in the authorization in Public Law 95–87 were deficient.

III. MAJOR PROVISIONS OF S. 2463 (AS AMENDED)

This bill would amend section 712(a) of the Federal Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87) so as to increase from $10 million to $25 million, the level of funding for grants to States in order to cover costs of enforcement programs during the interim enforcement period and costs of Federal inspections during the interim period. The bill would also increase the level of funding for the program of Assistance to small operators from $10 million annually for 15 years from date of enactment, to $25 million in each of fiscal years 1979 and 1980 and $15 million for each of the succeeding 13 fiscal years.

A. *State programs.*—The projected fiscal year 1979 level for State grants is $13.4 million. This is based on Office of Surface Mining (OSM) projections from fiscal year 1978 and an estimate of seven States being able to secure approval of permanent enforcement programs by the Secretary of Interior within that fiscal year, and consequently moving out of the interim enforcement program.

The fiscal year 1978 level of grants is estimated to be about $6.1 million. This compares with the total of $11.7 million comprising the original requests received from the States. The reduction in anticipated grants is the result of discussions and negotiations. OSM reports that its grants cover only the actual incremental costs of State programs due to enforcement of Federal standards, such as: additional personnel (inspectors and support staff); additional equipment (e.g., vehicles for the inspectors comparable to vehicles that the State normally uses for that purpose); and training for new and existing personnel. OSM has disallowed extravagant, sophisticated equipment and has discounted some of the personnel estimates because of the lateness in startup.

It is vital to upgrade State enforcement capability, because it is the key to the transfer of primary responsibility to the States. The program for enforcing the Federal and State standards during the initial period will accelerate development of State standards when OSM's permanent program regulations are issued in the fall of 1978.

Fiscal year 1978 State grants needs are being met by reprogramming OSM funds which became available from lapsed OSM personnel position funds (due to delayed funding). Assuming approval of the increased authorization of $25 million, both State and Federal inspection programs are being operated in fiscal year 1978 at a level that will put the programs where they would have been in fiscal year 1980, had enactment of the Supplemental Appropriations Act not been held up until March 1978, and had adequate funds been available.

Failure to secure sufficient funds for fiscal year 1979 would mean a cutback in State efforts in fiscal year 1979 with a resultant stultifying effect on the process of bringing the States into full enforcement of the Federal standards on a timely basis.

B. *Federal inspection.*—By the end of fiscal year 1978, OSM will have about 150 enforcement personnel in the field. The first group of 29 senior inspectors and supervisors has been recruited, trained, equipped and deployed. The next group should be ready before summer, 1978. In the preliminary stages, OSM inspectors will be going out with State inspectors so that each will become familiar with how the other works.

The fiscal year 1979 costs of Federal inspection will be $11,568,000 from section 712 (a) and $2,064,000 in administrative expenses chargeable to section 712(c). The fiscal year 1979 inspection force is designed to meet the statutory standard of two inspections per mine annually plus an average of an additional 0.8 inspections to cover citizen's complaints and return visits where violations may reflect a pattern.

OSM expects to reduce its inspection force in fiscal year 1980 as State permanent programs come online. The reduction will be achieved by attrition plus probable movement of Federal inspectors to State rolls as the State programs displace the Federal inspection effort. A number of Federal inspectors will be required for oversight and quality control indefinitely into the future.

OSM has supplied the following information detailing expected costs of Federal inspection and State grants for enforcement during the interim enforcement period, regarding the requested increase to $25 million as set forth in this bill:

I. Detail of Federal costs (fiscal year 1979):	
Permanent salaries (226 inspectors and 173 supporting personnel)	$7,713,000
Temporary salaries	482,000
Personnel benefits	841,000
Travel	451,000
Space costs	368,000
Communications and utilities	300,000
Other services (primarily aircraft and vehicle rentals)	473,000
Supplies and materials	281,000
Equipment (includes 65 vehicles for additional inspectors added in fiscal year 1979)	659,000
Total	11,568,000
II. Estimate of State grant costs (fiscal year 1979):	
Total of applications received for fiscal year 1978	11,700,000
Estimate of amounts to be requested by States which have not applied	490,000
Total applications and estimates	12,200,000
Anticipate cuts by OSM in State estimates	—6,100,000
Current estimate for fiscal 1978[1]	6,100,000
Increase to annualize State costs in fiscal year 1979	7,332,000
Total estimate fiscal year 1979	[2] 13,432,000
III. Total Federal and State costs: Estimate, fiscal year 1979	25,000,000

[1] Grants in fiscal year 1978 basically cover less than one-half year's operations.

[2] Estimate which may be reduced somewhat in amendment or supplemental request as State figures are refined.

C. *Small operators assistance.*—Public Law 95–87 provides $10 million per year from the Abandoned Mines Reclamation Fund for the purpose of assisting small operators to meet the hydrologic and test boring studies requirement of the act. Rather than place a disproportionately large cost on the small operator which might force him out of business, Congress determined that such costs would be borne by the Government from fees collected for reclamation.

There are two important variables in determining overall costs of the program: The number of small operators and the per operator cost. OSM reports that data is available from the Mine Safety and Health Administration and the Bureau of Mines on the number of small mines, which is to say, those producing no more than 100,000 tons of coal annually. The missing information is the ownership situation. For example, two or more small mines with different operators in the MSHA records and in the BOM records can actually be owned by a single third party and thus not be eligible for small operator assistance, according to criteria set forth in the act. There are about 3,000 small mines, but some lesser unknown number of small operators.

The second variable is the average cost of the work per mine. OSM currently estimates a range from $44,000 down to a few thousand dollars where the hydrologic data already exist and need only be abstracted for permit application purposes. An average of $22,000 per mine has been used for budgeting purposes. This will assist about 450 small operators per year if the average is correct.

Based on the average cost calculated by OSM, there is every likelihood that the small operator assistance. The second act is too low because less than 1,500 small operators could be assisted by the end of fiscal year 1980 when all small operators would have been required to submit application for permit under the permament enforcement program. This amounts to less than half of the small operators who might theoretically qualify for assistance under the act.

IV. COMMITTEE AMENDMENT

The committee amended S. 2463 in two ways. The first amendment incorporated S. 2672 (Ford and Huddleston), a bill to increase the authorized levels of funding for small operator assistance. The second amendment increased the proposed authorized level of funds for grants to States to cover costs of interim enforcement programs and for costs of Federal interim inspections, from $19,068,000 to $25,000,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MUSEUM OF AFRICAN ART

The Senate proceeded to consider the bill (S. 2507) to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 5, beginning with line 19, insert the following:

SEC. 7. (a) It is the intent of the Congress that, as soon as possible, the Museum shall be relocated in another building of the Smithsonian Institution which is more fitting for the display of works of art and generally to serve the function of a museum.

(b) Not later than two years after the ef-

fective date of this section, the Board submit a report to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives setting forth the plans undertaken by it, in consultation with the Commission, to carry out the intent expressed in subsection (a).

On page 6, line 6, strike "7" and insert "8";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Board of Regents of the Smithsonian Institution (hereinafter in this Act referred to as the "Board") is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

SEC. 2. There is established in the Smithsonian Institution a bureau which shall be known as the Muesum of African Art (hereinafter in this Act referred to as the "Museum"). The functions of such bureau shall be those authorized by section 3(a).

SEC. 3. (a) For the purpose of carrying out sections 1 and 2 of this Act, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 1 or paragraph (1) of this subsection;

(3) Conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this Act: *Provided,* That the proceeds from the sale of any property acquired pursuant to section 1 shall be designated for the benefit of the Museum. (b) In carrying out the purposes of this Act, the Board shall consider the recommendations of the Commission established pursuant to section 4.

SEC. 4. (a) There is established a Commission for the Museum of African Art (hereinafter the "Commission") which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on the date of the enactment of this Act. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of the communities of African descendents in the United States, collectors of African art, and scholars in the fields of African art and culture.

(c) Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of he Commission as specified in subsection (b), the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Members of the Comission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) The Commission shall select officers from among its members biennially and shall make bylaws to carry out its functions under this Act.

SEC. 5. The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 1 shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

SEC. 6. (a) The faith of the United States is pledged that upon the completion of the acquisition in section 1, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) There is authorized to be appropriated for the first fiscal year under this Act, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this Act.

SEC. 7. (a) It is the intent of the Congress that, as soon as possible, the Museum shall be relocated in another building of the Smithsonian Institution which is more fitting for the display of works of art and generally to serve the function of a museum.

(b) Not later than two years after the effecive date of this section, the Board submit a report to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives setting forth the plans undertaken by it, in consultation with the Commission, to carry out the intent expressed in subsection (a).

SEC. 8. Except for the provisions in sections 1 and 6(b) the provisions of this Act shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–793), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The bill as referred would authorize the Board of Regents of the Smithsonian Institution to accept transfer of land and improvements, collections, and all other assests and property of the Museum of African Art, which would then be established as a bureau in the Smithsonian Institution. The regents could acquire works of art for the museum; appropriately maintain them and its other properties; conduct programs of research and education; and, subject to certain limitation, dispose of property.

A Commission for the Museum of African Art, consisting of 15 members appointed by the Board of Regents, would be established. The Commission would provide advice and assistance to the Board on the operation and development of the museum, its collections, and its programs.

Employees of the museum who are serving on the date of transfer would be offered employment by the Smithsonian.

The bill pledges the faith of the United States to the operation, maintenance, and protection of the museum free of charge to the public. For the first fiscal year, $1 million would be authorized to be appropriated, and such amounts as are necessary would be authorized for succeeding fiscal years.

BACKGROUND

The Frederick Douglass Museum of African Art is a unique institution and one which very much needs to have its purpose and identity maintained and enhanced. Nearly 15 years old, the museum is being offered as a gift to the Nation with the proposal that it become a bureau within the Smithsonian Institution. The provisions of S. 2507 seek to achieve this objective with the Smithsonian acquiring the collections and real estate of the museum.

A number of witnesses appeared before the committee, all of whom testified strongly in favor of the Smithsonian acquring the museum. There was considerable discussion regarding the present location of the museum. It was the opinion of the committee that the row houses now comprising the complex are inadequate for museum purposes. The general consensus was that it would best serve the interests of the museum, particularly as it acquired new collections and needed more space, to eventually relocate within the Smithsonian complex.

The problem, however, at this time is that there is no available space to keep the museum together as an entity within the Smithsonian. An alternative is the possibility that eventually the Smithsonian may acquire another building, rather than constructing one, which might be occupied in part by the museum. One possibility cited during the hearing was the hoped for acquisition eventually of the Federal Trade Commission Building.

The immediate problem facing the museum, and reportedly a crisis situation, is the need for sufficient funding. The museum, with an annual operating budget of more than $700,000, has found it increasingly difficult to obtain funds to meet its needs. The financial crisis and other aspects of the gift offer to the museum are detailed in the printed hearing on S. 2507, which was held on April 25, 1978.

As to the future of the museum regarding its location, a compromise was reached with two amendments being proposed, namely, one, that it be declared the intent of the Congress that as quickly as possible the museum be relocated, and, two, that no later than 2 years after the effective date of transfer to the Smithsonian, the Board of Regents of the Smithsonian, in consultation with the Advisory Commission of the museum, would be required to submit a report to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives concerning plans or possible action.

As to the Frederick Douglass House, which was the first residence in Washington of the renowned Black orator and statesman, and the first building of the museum, it is envisioned by the committee that when the museum is eventually moved and its properties sold the house would continue as a public shrine, possibly under the administration of the National Park Service rather than the Smithsonian.

The regents formally voted to accept the museum as a gift, provided that Congress pass authorizing legislation, and that the Smithsonian's acceptance be made contingent upon receipt of adequate appropriations.

The Smithsonian seeks fundings of $1 million for its first year of operation, with about $300 000 going toward the upgrading of the museum, and with appropriations levels for future years soon after falling back to the $700,000 and $800,000 levels, not taking into consideration any inflationary factors.

The nine row houses which comprise the museum today, the total cost of which when acquired over a period of time was $800,000, have an estimated value of $2.5 million. The museum currently has an outstanding indebtedness involving mortgages and loans of about $250,000, or, about one-tenth of its total property valuation.

The museum was started in the Frederick Douglass House in 1964 by Warren Robbins, a former Foreign Service officer. It has now grown to number more than 7,000 pieces of objects, works, musical instruments, carvings sculputre, textile and paintings along with pictures and films valued at approximately $5.5 million. In addition to being the founder, Mr. Robbins has also been its director. He has testified before the committee that there is a strong possibility of the museum becoming the recipient of three major collections of African art, once its financial situation has been resolved by its becoming part of the Smithsonian. He is optimistic that in the future the museum will receive other collections and gifts of art and artifacts.

5-YEAR COST ESTIMATE

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., March 20, 1978.

HON. CLAIBORNE PELL,
Chairman Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2507, a bill authorizing the acquisition of the Museum of African Art by the Smithsonian Institute.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

COST ESTIMATE

MARCH 20, 1978.

1. Bill No. S. 2507.

2. Bill title: Authorization for the acquisition of the Museum of African Art by the Smithsonian Institute.

3. Bill status: As introduced in the Senate and refered to the Committee on Rules and Administration on February 7, 1978.

4. Bill purpose: The purpose of this bill is to authorize the Board of Regents of the Smithsonian Institute to accept a deed or other instrument donating and transferring the assets and property of the Museum of African Art to the Institute. In addition, S. 2507 authorizes funds for the operation and maintenance of the newly acquired museum. These funds are subject to subsequent appropriation action.

5. Cost estimate:

[By fiscal year; in thousands of dollars]

	1979	1980	1981	1982	1983
Authorization level: Operations and maintenance	1,000	742	795	845	914
Projected total cost: Operations and maintenance	815	890	792	843	910

The costs of this bill fall within budget function 500.

6. Basis for estimate: The cost estimate for S. 2507 is based on the fiscal year 1979 authorization level stated in the bill. Although the bill does not specifically state it, the Smithsonian Institution has indicated about $700,000 of the authorization level would be needed for salaries and expenses and $300,000 would cover the one time cost of upgrading the physical plant. Given the Institute's assumptions, the outyear authorization levels reflect only salary and expenses. The estimates assume the $700,000 for fiscal year 1979 and are inflated by the CBO projection for Federal pay increases and purchases of services. The spendout on the salary and expenses is 95 percent the first year and the remainder in the second year. The spendout for the upgrading of the physical plant is 50 percent in fiscal year 1979 with the remainder spent in fiscal year 1980.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

● Mr. MORGAN. Mr. President, before the Senate today is S. 2507, a bill providing for the Museum of African Art to become a part of the Smithsonian Institution.

As a cosponsor of the bill and as a member of the Board of Regents of the Smithsonian, I am deeply pleased that the Senate is about to pass this important legislation.

The Museum of African Art, here on Capitol Hill, is the only museum in the country devoted exclusively to African art. The museum, under its distinguished director, Warren Robbins, has developed a superb collection, and has been the catalyst for a number of major exhibitions of African art from private and public collections in the United States and from abroad. It is a "living" museum, with education as its primary mission. Acquisition by the Smithsonian will enable the museum to continue its invaluable work and to expand its educational activities.

The art and culture of Africa is a rich and important component of our national heritage. In part due to the museum's efforts, we are witnessing a growing awareness of that heritage. African art has had a profound impact on modern Western art. It has influenced our way of viewing objects and of thinking about our world. African art emerges from societies and lifestyles very different from our own, and can be a profound teacher about different ways of life, and a bridge by which all Americans can come to appreciate better the rich traditions of the vast and varied African Continent.

I am especially pleased that at this particular moment the North Carolina Museum of Art in Raleigh is hosting a major exhibit entitled, "A Survey of Zairian Art: The Bronson Collection," a collection acknowledged as the world's finest private collection of art from Zaire. In addition, the museum has recently acquired several African pieces for its permanent collection.

The collection is the result of 8 years of very serious and dedicated collecting by Mr. and Mrs. Lee Bronson of Los Angeles, Calif., and Lee's brother, Robert. We are privileged to have Lee serve as a member of the North Carolina Art Commission, and proud that the North Carolina museum was chosen for the opening of this important exhibit, which will come to Washington this summer.

When asked why he chose North Carolina, Mr. Bronson was quick to respond. He said:

First, because of the enthusiasm of the museum's director, Moussa Domit, and second, because the community here is mind-blowing * * * the nicest, most welcoming, enthusiastic art community I have ever been in!

It is this kind of enthusiasm and broad community support that indeed makes North Carolina the "State of the Arts."

North Carolinians are proud of the many great strides the State has made in the fine arts. North Carolina was the first State to establish and fund not only a State symphony orchestra, but also a State school for the performing arts as well as a State museum of art. North Carolina supports 16 historical outdoor dramas, 86 community arts councils with 58 artists in residence through the State's 57 community colleges. Just last year the North Carolina General Assembly appropriated nearly $3 million to the State division of the arts and subsidized each student at the school of the arts with nearly $4,500.

We are proud that in African art, as well, North Carolina has had an opportunity to help increase public awareness and appreciation. I know North Carolinians will be pleased that the Smithsonian Institution will now join with the Museum of African Art to continue this important endeavor.

I submit three articles from the Raleigh Times, and the Raleigh News & Observer for the RECORD at this time.

The articles follow:

[From the Raleigh (N.C.) News and Observer Apr. 20, 1978]

ART OF ZAIRE

(By Johanna Seltz)

"There is always something new out of Africa."—Pliny the Elder, 1st century A.D.

There's magic on the fourth floor of the North Carolina Museum of Art in "A Survey of Zairian Art: the Bronson Collection."

There among greenery, bark chips and copper and white drums are 207 pieces of African art that magically mix wood, feathers, beads, nails, ivory, fiber, dried elephant skin and furs into fantastic and varied sculptures and masks.

The show, which opens Sunday and runs through June 4, is billed as "the world's best private collection of Zairian art." The art of Zaire (formerly the Belgian Congo) is considered by many as the most intricate and sculpturally beautiful in Africa.

Valued in the millions of dollars, the show is the result of almost eight years of collect-

ing by Beverly Hills clothing designers and manufacturers, Lee Bronson, his wife Dona and his brother Robert. Lee Bronson is a member of the N.C. Art Museum Commission.

"This is the most important, and most ambitious, show the museum has ever held," said museum director Moussa M. Domit. "This is African art at its best. This is a milestone in the show business of the museum."

LARGE AND SMALL

The pieces in the show range in size from tiny ivory carvings to life-sized wooden totems and large wooden masks. The oldest works are 300 years old; the most recent date from the turn-of-the-century.

The styles range from subtle to raw, from realistic to abstract, from fierce to benign.

The Bronsons are purists and collect only what has been used in traditional Zairian rites, so most of the pieces have magical associations. "Nothing is decoration; everything was made for a purpose," Lee Bronson said.

Some of the headiest magic is found in a Yombe fetish figure, unique for its full headdress of red feathers in a knitted cap. The "good omen" figure was probably owned by a whole village and brought out only on special occasions, Bronson said.

It is "capable of coping with evil and bringing health and well-being to those who follow its rituals,," he said. A mirror on its belly hides magical material. Nails driven into its stomach give strength.

IVORY SCEPTER

An ivory scepter burnished by years of handling by kings of the Bushoong, an African tribe, also has its magic built in.

On the crown of the scepter above a ring of carved cowrie shells is a blob of crusted material—chicken blood, intestines, anything that could be molded into a solid mass. The mass is the scepter's magic, Bronson said.

"This is the only scepter we know of that has the magic intact," he said proudly.

An elephant is delicately carved into the front of the scepter at the feet of a haughty-faced African king chewing woot root. A pelican is carved at the back.

Bronson flew from California to supervise the show's installation this week. He paced like an expectant father, hovering over his favorites and proudly talking about the pieces.

The three large Ndunga masks of the Woyo tribe—wooden faces—are a rarity, as is the Chockwe table, he said. The Chockwe masks—cruel fierce aquiline faces—should not be ignored either, he instructed.

SMOKED MASK

He suggested sniffing the giant bongo mask of the Kuba tribe. The blackened wooden mask was hung over the tribal fires to keep beetles out of the wood and the mask smells like smoke.

A large Songe fetish that was taboo to touch and was carried on poles stuck under its arms had been packed in fat for some reason and also had a distinctive smell. It feels greasy to those brave enough to touch it.

The Bronsons discovered Zairian art in Belgium when they saw the collection in the palace of the Belgian king. The Bronsons' total collection now has about 1,000 pieces.

The Bronsons and the National Endowment of the Arts are paying for the show, which will travel to the Museum of African Art in Washington, D.C., and the Los Angeles County Museum of Natural History.

The Bronsons also paid for the exhibition's catalog—a showcase, hard-back book of 384 pages. The $60 book, which cost more than $100,000 to produce, has 56 color plates and more than 200 black-and-white photographs. It was written by Father Joseph Cornet, director-general of the Institute of the National Museums of Zaire.

[From the Raleigh Times, Apr. 28, 1978]

"ART OF ZAIRE"—ANOTHER WORLD

(By Wendy Zomparelli)

Step off the elevator onto the fourth floor of the N.C. Museum of Art on Sunday, and you'll step into another world.

Masses of tropical plants, statues in strange postures, masks with faces frozen in exotic grimaces—this is "Art of Zaire: The Bronson Collection." It is the world's first public showing of more than 200 objects from the collection of N.C. Art Commission member Lee Bronson, his wife Dona and his brother Robert.

"Art of Zaire" will be on display from this Sunday through June 4, and it's quite a contrast from the traditional oil paintings, watercolors and portraits that dominate the museum's three other floors.

"A show like this complements our collection of European art," said museum director Moussa Domit, as he stood before a display island of shell-encrusted Kuba masks and carved divination objects.

"This complement is important, because . . . it provides a field of comparison," he continued. "An African mask and a European Renaissance Madonna and child—what makes them both works of art? That is what I hope the public should try to find out."

Domit said great care went into the design of the display for the art objects from the Republic of Zaire, a region of Africa once known as the Congo. Statues, drums, bellows and masks stand on lighted copper and white cylinders, surrounded by natural bark chips and live plants.

"This setting does not try to imitate an African setting, except in the use of the blown-up pictures," Domit said, indicating a 12-foot square photograph of a Kuba chief in ceremonial costume. "But we have tried to create a natural environment, because that is what these objects need. They were created and used in a natural setting."

The display is striking, largely because of the use of copper. The copper's warm tones enhance the natural patina of wooden carvings and softly reflect colorful feathers, beads and shells. Copper as a display medium was suggested by Dona Bronson, Domit said, not only for its aesthetic qualities, but because copper is one of the principal resources of Zaire.

It's impossible to observe the exotic shapes and forms of the Zairian artifacts without sensing their magical symbolism, without imagining the sound of native drums, without wondering for what purpose the objects were made, and by whom. Here is a sampling of what's on display:

Proverb lid—Wives in the Woyo tribe have a collection of wooden pot lids carved to illustrate commonly known proverbs. When a wife wishes to rebuke or criticize her husband, she serves him food in a pot with an appropriate lid. The lid on display shows a serpent swallowing a woman. Its proverb and meaning, unfortunately, are unknown.

Chief's chairs—Chiefs of the Tshokwe tribe had ceremonial chairs that often imitated European chairs. Not designed for comfortable everyday sitting, the carved chairs on display are only about the size of those in a kindergarten classroom. One has carved scenes of birth and mourning around the bottom.

Initiation masks—One wooden and straw mask used in initiation rites of the Yaka tribe has a brightly painted lizard perched above a stylized face. The lizard represents a varan, a rare and mysterious creature used by Yaka fetish priests in preparing magical ingredients.

Door posts—The chief's house in a Kasai village traditionally has two carved, multicolored door posts. One is usually a female figure, the other a male figure or a crocodile. Those in the exhibition are female figures.

"Bwanga"—Members of the Songye tribe carve wooden power figures known as "bwanga," which they decorate with shells, beads, feathers and other power symbols to protect against evil spirits and insure the success of village activities. Once endowed with power, the figure is tabu and can be handled only with long sticks tied to its upper arms.

Ivory scepter—Carved ivory scepters of the Yombe tribe show a king chewing on a sacred plant. In certain ceremonies, Yombe chiefs chew the plant and spit pieces of it out onto the assembled villagers.

Some of the exhibited objects probably are 200 or even 300 years old. According to Joseph Cornet, director-general of the Institute of the National Museums of Zaire and author of the exhibition catalog, pieces more than 100 or 150 years old are very rare.

Zaire lies in the heart of the African continent, and the equator passes through its northern reaches. Almost exactly one-fourth the size of the United States, Zaire was colonized by the Belgians in the late 1870s.

After a period of civil unrest, Belgium agreed to grant the territory its independence in 1960. Violent internal turmoil marked the evolution of the new nation, known after independence as the Democratic Republic of the Congo. Political conditions were stabilized by 1971, when the country's name was changed officially to Zaire.

Today Zaire has about 22,000,000 inhabitants who are members of hundreds of tribes. This cultural diversity, authorities say, is one reason Zairian art is the most complex and varied in all of black Africa.

Lee Bronson will lecture on the collection at 4 p.m. Sunday, during the public opening of the exhibition.

After its stay in Raleigh, "Art of Zaire: The Bronson Collection" will travel to the Museum of African Art in Washington, D.C., and to the Los Angeles County Museum of Natural History. One mask in the show was given to the North Carolina museum last year and will remain in Raleigh. Lee Bronson has said he plans to make other permanent donations to the museum.

The exhibition, which cost more than $100,000 to produce, was made possible by a grant from the National Endowment for the Arts and by contributions from Dona, Lee and Robert Bronson.

The Bronsons have contributed another $100,000 to publish the exhibition catalog, a 400-page book on Zairian art containing illustrations of all 208 objects. Sixty of the illustrations are in color. All proceeds from the sale of the book in Raleigh will go to the N. C. Museum of Art.

The museum is open from 10 a.m. to 5 p.m. Tuesday through Saturday, and from 2 to 6 p.m. Sunday. Admission is free.

[From the Raleigh Times, Apr. 28, 1978]

CALIFORNIA COLLECTOR PICKS RALEIGH FOR EXHIBIT

The first public exhibition of what is said to be the world's finest private collection of art from Zaire opens Sunday—not in New York, not in Washington, but right here in Raleigh.

Raleigh?

"There are really two reasons we decided to open the exhibition here," explained art collector Lee Bronson.

"First, because of the enthusiasm of the museum's director, Moussa Domit. And second, because the community here is mind-blowing. It's the nicest, most welcoming, enthusiastic art community I have ever been in."

With his wife Dona and his brother Robert, Lee Bronson has been collecting art objects from Zaire for the past eight years. They now own more than 1,000 pieces, all of which they keep in their home in Beverly Hills—"and it's not that big a home," Bronson said.

Talk of originating the collection's first exhibition in the N.C. Museum of Art began two years ago, Bronson said, when museum director Moussa Domit visited the California family. While plans for the exhibition were in progress, Lee Bronson was appointed to the N.C. Art Commission.

One factor that clinched having the opening here was the museum's decision to devote an entire room in its new building to ethnographic art, Bronson added.

The Bronsons got their first taste of Central African art when they were traveling through Europe in connection with their fashion line, Bronson of California. They visited many museums, but none impressed them as much as the Tevuren—the largest museum of African art in the world, located in what used to be a palace of the Belgian kings.

"It was easy to get hooked," Bronson recalled. "This (African art) is as close to living art as you can get. Everything was carved for a purpose. Knowing that a piece was owned and used by a person, a living human being, is the biggest turn-on of all.

"We decided to focus our collection on the art of Zaire," Bronson continued, "because no other country offers the scope that Zaire does." Right from the start, he added, the goal was to build the best private collection of Zairian art, and if it was good enough, to display it publicly.

"There's a tremendous need to exhibit African art . . ." he said. "We have a great many blacks in this country who must know about Africa's cultural heritage."

Bronson, a tall, articulate man who resembles Danny Kaye when he smiles, casually picked up a power figure that was once considered tabu by an entire Songye village.

"The tabus don't bother me—I don't believe in that," he commented. "But when these objects first started coming into the house, we all were a little leery of them—me, my wife, our three kids. We weren't sure whether we should handle them—we didn't quite know what to do with them."

The Bronsons have never visited Zaire, although they hope to do so. Most of the objects in their collection were purchased from European galleries and collectors, and a few purchases were made here in America.

Bronson said Europe is the best place to find African art treasures, because 80 percent of the great pieces of Central African art were appropriated in the late 1800s and early 1900s by Belgian, German, English and other European collectors.

"You hear a lot of people say that art works like these should stay in the country of their origin," he continued. Nowadays, the government of Zaire prohibits the removal of art treasures. "But many of these objects never would have survived the climate and the periods of upheaval if they had stayed there—so I say thank God for the collectors."

Bronson said the entire collection probably will end up in a museum one day. He considers it his obligation, he added, to give pieces to different museums from time to time. He has already donated one mask to the N.C. Museum of Art and plans to donate another at the close of the exhibition.●

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HUBERT H. HUMPHREY FELLOWSHIP IN SOCIAL AND POLITICAL THOUGHT

The bill (S. 2730) to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80e–80j) is amended—

(1) by redesignating section 5 through 7 as sections 6 through 8, respectively, and

(2) by inserting after section 4 the following new section:

"HUBERT H. HUMPHREY FELLOWSHIP IN SOCIAL AND POLITICAL THOUGHT

"SEC. 5. (a) There is hereby established in the Center a Hubert H. Humphrey Fellowship in Social and Political Thought.

"(b) Each year the Board shall select a distinguished scholar, statesman, or cultural figure, from the United States or abroad, to serve at the Center for a period of up to one year as the Hubert H. Humphrey Fellow in Social and Political Thought (hereinafter in this section referred to as the "Humphrey Fellow"). Each Humphrey Fellow shall receive compensation in an amount, determined by the Board, not to exceed the annual income of the trust fund established under subsection (d).

"(c) Each Humphrey Fellow shall—

"(1) deliver a Hubert H. Humphrey Memorial Lecture; and

"(2) carry out such projects and work as are consistent with the Humphrey Fellowship.

The Board shall provide for the publication and dissemination of the Hubert Humphrey Memorial Lectures.

"(d)(1) There is hereby established in the Treasury of the United States a trust fund to be known as the Hubert H. Humphrey Fellowship Trust Fund (hereinafter in this section referred to as the 'fund'). The Secretary of the Treasury shall deposit in the fund such sums as may be appropriated to the fund under subsection (f) and shall receive into the Treasury and deposit into the fund such sums as may be received as contributions to the fund.

"(2) The Secretary of the Treasury shall invest amounts in the fund in public debt securities with maturities suitable for the needs of the funds and bearing interest at prevailing market rates; and the interest on such investments shall be credited to and form a part of the fund.

"(3) Notwithstanding section 4(a)(2), any gift, bequest, or devise of money, securities or other property for the benefit of the Hubert H. Humphrey Fellowship in Social and Political Thought received by the Board shall, upon receipt, be deposited into the fund as provided by paragraph (1).

"(e) The Secretary of the Treasury shall pay to the Board from amounts received as interest on investments under subsection (d)(2) such sums as the Board determines are necessary and appropriate for the purposes of the Humphrey Fellowship.

"(f) There is authorized to be appropriated to the fund for the fiscal year beginning October 1, 1978, $1,000,000.".

SEC. 2. Section 4(a)(2) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80g (a)(2)) is amended by striking out "devices" and inserting in lieu thereof "devises".

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mrs. HUMPHREY. Mr. President, today the Senate is considering S. 2730, which would establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution.

The creation of a fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars would be a lasting and very appropriate tribute to Hubert. Therefore, it has my full support. This is one of very few honors to my husband that he had the opportunity to consider himself. He and I both agreed that such a fellowship would be very worthwhile.

As most of you know, Hubert had an abiding interest in the Woodrow Wilson Center. The embodiment of scholarship, service, statesmanship, and excellence that the center represents, keenly reflects the interests of many of us in the serious examination of complex issues that profoundly affect society at home and abroad.

S. 2730 would authorize a one-time appropriation of $1 million, which would be set up in trust to support a distinguished scholar or statesman, from here or abroad, while he or she pursued the study of social and political thought for a year. This fund would provide a stipend and travel expenses for the fellow, cover administrative costs, and pay for annual presentation and publication costs for the lecture series developed by the fellow during the course of his or her studies.

The annual interest of the trust fund account would provide the yearly income to support the fellowship and has legal precedent in the act establishing the Harry S. Truman Memorial Scholarship.

Creation of the Hubert H. Humphrey Fellowship would serve several useful purposes, of course. But among the most important is the fact that this program would provide prestigious recognition of major contributions in a very important area of thought presently unrecognized by Nobel Prizes or comparable awards. From this recognition would flow encouragement to many who share the ideals articulated through word and deed by my husband.

I am sure that we all support meaningful efforts to insure better understanding of political and social processes, international dialog, and academic excellence. The fellowship's goal is to do just these things in a humanitarian framework—a framework that recognizes not only the importance of ideas, but the exchange and discussion of those ideas. You who served with Hubert over the years as his friends and colleagues know better than anyone how important this informed exchange of ideas was to him. He felt it was the basis for the progress of mankind.

Mr. President, I am pleased to support the proposal to honor Hubert H. Humphrey through the creation of this fellowship at the Woodrow Wilson Center. I want to express my gratitude to Senator WILLIAMS, Senator PELL, our distinguished majority leader, Senator BYRD, and the other Members of the Senate whose initiative and support will make this fitting tribute possible.●

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–794), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

The bill would amend the Woodrow Wilson Memorial Act of 1968 to provide for the establishment of a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution.

Each year a distinguished scholar, statesman, or cultural figure from this country or abroad, selected by the Board of the Woodrow Wilson Center, would be awarded the Hubert H. Humphrey Fellowship. Each Humphrey fellow would serve for 1 year and be required, in addition to study and research, to deliver a memorial lecture.

The bill would also establish a trust fund to provide for such a fellowship which, in addition to providing a stipend and travel expenses for the fellow, would also cover administrative costs, pay for an annual dinner, and publication costs of the lecture. It would authorize a one-time appropriation of $1 million, which would be invested by the Secretary of the U.S. Treasury in public debt securities. The annual interest of such a trust fund account would provide the yearly income to support the fellowship. Interest earned on the appropriation and investment is anticipated to be approximately $63,000 annually.

A hearing on the bill was held by the Committee on Rules and Administration on April 25, 1978. A letter from the Deputy General Counsel of the Department of the Treasury expressing the Treasury's objection to the provisions that would allow investment of appropriations to a trust fund, while at the same time lauding the purposes underlying the bill, may be found on page 7 of this report.

Dr. James H. Billington, Director of the Center, testified before the committee that the method was legal and had precedent in the act establishing the Harry S. Truman Memorial Scholarships, whereby $30 million was appropriated to create the fund. The Director also testified that a similar method of obtaining interest income within the Treasury involved the Library of Congress and the National Gallery, although the funds invested originally were private ones and not federally appropriated ones.

Any additional gifts received for the memorial fellowship program in the future will be deposited into the fund.

FIVE-YEAR COST ESTIMATE

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., April 11, 1978.

Hon. CLAIBORNE PELL,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2730, the Hubert H. Humphrey Fellowship in Social and Political Thought bill.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

COST ESTIMATE

APRIL 11, 1978.

1. Bill number: S. 2730.

2. Bill title: Hubert H. Humphrey Fellowship in Social and Political Thought.

3. Bill status: As introduced in the Senate and referred to the Committee on Rules and Administration, March 13, 1978.

4. Bill purpose: The purpose of this bill is to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institute. This bill, which authorizes the establishment of a new trust fund, is subject to subsequent appropriation action.

5. Cost estimate:

[By fiscal year, in thousands of dollars]

	1979	1980	1981	1982	1983
Initial authorization	1,000	0	0	0	0
Estimate of the authority to increase public debt	65	63	63	63	63
Net costs	65	63	63	63	63

The initial authorization amount of $1 million falls into function 500. The net costs and the estimated authorization for public debt securities show in function 900.

6. Basis for estimate: The cost estimate for S. 2730 assumes full appropriation in fiscal year 1979 of the $1 million authorization level stated in the bill. The bill requires that any appropriated funds be transferred to a trust fund account and invested in public debt securities, which automatically gives the Treasury the authority to increase the public debt. The amount of interest on these investments, which the Treasury is authorized to pay, is the net cost of S. 2730. CBO assumed that the funds would be invested in short term treasury bills and has projected the interest rate on those bills to average 6.47 percent in fiscal year 1979 and 6.3 percent during the remaining years. The interest costs, therefore, would be approximately $65 thousand the first year and $63 thousand thereafter.

The staff of the Smithsonian Institution indicated that the entire amount of interest received by the fund will be needed to cover the stipend, travel expenses, and the annual dinner for the Humphrey fellow. Therefore, none of the interest was assumed available for reinvestment, and the costs are shown as equal to projected interest receipts to the trust fund.

The Smithsonian staff assumed that there would not be any significant private contributions to the fund at this time; therefore, this cost estimate reflects only the investment of Federal funds.

7. Estimates comparison: None.

8. Previous CBO estimate: CBO prepared a similar estimate for the House Committee on House Administration on April 4, 1978.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

(Later the following occurred.)

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10392.

The PRESIDING OFFICER laid before the Senate H.R. 10392, an act to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the action of the Senate taken earlier today in passing S. 2730 be vitiated, and that the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Let me just explain briefly that each House passed similar bills at about the same time. For procedural reasons it is much easier for the Senate to accept the House bill than it is for the House to accept the Senate bill. It is for this reason we have taken this action. In view of the great service rendered to the American people in the Senate by our former colleague, the late Senator from Minnesota, I am pleased that we have been able to move quickly to complete action on this bill.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Madam President, I yield to the distinguished minority leader.

(At this point Mr. BAKER addressed the Senate in connection with S. 2467, and by unanimous consent his remarks and the colloquy in connection therewith are printed later in today's RECORD).

Mr. BAKER. Madam President, I have no further requirement for my time under the standing order. If there is any time remaining, I yield it back.

Mr. HELMS. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to exceed 5 minutes, with statements limited therein to 2½ minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

HONORING EUGENE PRICE

Mr. HELMS. Madam President, it has been said that a man never stands so tall as when he stoops to help a boy. There is a man in my State who stands exceedingly tall for his dedicated service to hundreds of boys and young men over a period of many years—his name is Eugene Price.

Eugene Price, the distinguished editor of the Goldsboro (N.C.) News Argus, has been a leader in Boy Scouts for a number of years. He has not been satisfied to sit at a desk and plan activities for his young friends. He has, instead, taken to the fields with his boys, leading long and meaningful marches and giving guidance to a whole generation of young men.

Often honored for his many civic endeavors, Gene Price was recently named Goldsboro's Distinguished Citizen — an honor well deserved.

It is interesting, Madam President, that the editor of the Rocky Mount (N.C.) Telegram expressed my sentiments and the sentiments of thousands of other friends of Eugene Price in a recent editorial in the Rocky Mount paper.

Madam President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HONOR TO EDITOR

Our manners to Eugene Price, editor of the Goldsboro News-Argus and recent object of a "roast" during which he was presented the Distinguished Citizens Award for outstanding service to youth and to his community.

Not only did editor Price receive this award, but a second award in the form of a check for $5,000 from an anonymous donor was presented for the establishment in his name of a fund for the Goldsboro Boy Scout district.

Not only was Price honored for service to Scouting, which included direction of a number of historic pilgrimages which won national attention, but tributes also were sounded for his many contributions to his community at large.

It is the case frequently when a newspaperman joins an organization to make him chairman of that group's publicity committee. But many newspapermen also can provide even greater service through their own ingenuity, as has been the case with Eugene Price.

Doubtless Goldsboro citizens, in looking over Price's record, found that many things for which he stood and which he incorporated in the program of the News-Argus were good for the entire community. And with Price constantly holding his reader's feet to the fire he has been able to realize worthy ambitions for the general welfare of the Goldsboro area.

Some newspapermen, unfortunately, employ their own columns for personal gain. This, however, has not been the case with Eugene Price, who has chosen to put his community and his paper first without attempting to match any personnal glory.

It is most heartening to hear of the worthy and justly deserved tributes which have been heaped upon this comparatively young man, who inherited a tremendous responsibility when he took over the duties of the late News-Argus editor, Henry Belk. Price has filled those shoes well, too, and continues to play the role of a dedicated citizen.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate tomorrow, May 17, 1978, to hold a hearing and markup session on an additional authorization of the Madison Memorial-Library of Congress Building.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Madam President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today, beginning at 2:30 p.m., to consider the Department of Energy authorization bill.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that Mr. LEAHY be protected under the order for recognition. He is chairing a hearing at my request at this time and, therefore, it has been impossible for him to be on the floor to be recognized under the order previously entered.

It is entirely a matter of his doing his duty and conducting hearings on the Interior appropriation bill, and he is chairing that subcommittee on my behalf at this time.

Madam President, I ask unanimous consent that at whatever time he may seek the floor this afternoon, he may be accommodated for not to exceed 15 minutes.

This is a request that is somewhat out of the ordinary, but due to the fact that I am the one who is responsible for his being absent at this time I feel that it is my duty to protect him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BARRY GOLDWATER

Mr. BAKER. Madam President, during his long and distinguished career in the military and in the U.S. Senate, my friend and colleague from Arizona, BARRY GOLDWATER, has received many important and impressive awards. One of the most important was presented recently at the U.S. Air Force Academy when Senator GOLDWATER was given the Thomas D. White National Defense Award for 1978.

In receiving this award, Senator GOLDWATER joins a long list of distinguished Americans who previously were singled out for exceptional contributions to the security of the United States. Included in the list are Lt. Gen. James E. Doolittle, Gen. Curtis E. LeMay, Dr. Edward Teller, Mr. Igor I. Sikorsky, and Mr. Bob Hope. The Thomas D. White Award was established on March 1, 1962 by the U.S. Air Force Academy and was named in honor of the man who served as Air Force Chief of Staff from 1957 to 1961. It is presented each year to "the U.S. citizen who is judged to have contributed most significantly to the national defense and security of the United States during the years preceding the award."

Madam President, because of this important honor, I ask unanimous consent that the certificate and the award citation presented to Senator BARRY MORRIS GOLDWATER at the Air Force Academy on May 13 be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES AIR FORCE ACADEMY

This is to certify that the Thomas D. White National Defense Award has been awarded to Senator BARRY MORRIS GOLDWATER for exceptionally outstanding contributions to the national defense and security of the United States. Given under my hand this 13th day of May, 1978.

THE THOMAS D. WHITE NATIONAL DEFENSE AWARD IS PRESENTED TO SENATOR LARRY MORRIS GOLDWATER

The 1978 Thomas D. White National Defense Award is presented to United States Senator Barry Morris Goldwater for his distinguished leadership and long term contributions to the nation and its citizens. Senator Goldwater is an unwavering and persistent spokesman of national defense—his Congressional leadership shows he has never hesitated to speak out in behalf of aerospace power and the men and women in uniform. Commissioned in the U.S. Army Air Corps in 1941, he has been an active aviator most of his adult life, logging more than 12,000 hours of flying time in more than 100 types of jet and conventional aircraft. He retired from the Air Force Reserve in 1967 with the rank of Major General after 37 years of distinguished military service. He has consistently and successfully applied his vast knowledge of defense issues in resolving the many and difficult national defense problems confronting our nation. During the early growth of our space exploration program, Senator Goldwater unhesitatingly declared that the national space program would be one of the best investments in our nation's history and would eventually return dividends far beyond its costs. Senator Goldwater's consistent support of the scientific achievements in the fields of aeronautics and astronautics has also greatly benefited our national defense posture. By bestowing the Thomas D. White National Defense Award upon Senator Goldwater, the United States Air Force Academy pays tribute to a true spokesman for aerospace power, a dynamic and stalwart national leader, and above all, a patriot.

Lt. Gen., USAF, Superintendent.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

Mr. LEAHY. I thank the Chair, Madam President.

I might say, incidentally, in my 3½ years in the Senate, this is the first time I have had a chance to address the Chair as Madam President. I state that it is a very pleasant feeling, indeed.

S. 3086—REMOVAL OF CONGRESSIONAL EXEMPTION FROM CERTAIN LAWS

Mr. LEAHY. Madam President, it is regrettable that a list of some of the Congress greatest achievements in this century is also a source of embarrassment and injustice with regard to the Congress.

The Civil Rights Act of 1964.

The Equal Employment Opportunity Act of 1972.

The Equal Pay Act.

The Fair Labor Standards Act.

The National Labor Relations Act.

The Occupational Safety and Health Act.

The Social Security Act.

The Freedom of Information Act.

The Privacy Act.

Collectively, these laws spell out civil, social, physical, and financial rights and standards for all Americans—almost. It is that "almost" that is the source of the embarrassment and injustice.

The problem is that in enacting these measures Congress proclaimed that what is good and fair for the country is not necessarily good and fair for Congress. In each instance, Congress specifically wrote itself out of the legislation.

I say injustice because Congress and its employees do not share the protection afforded by these laws, and embarrassment because Congress is unwilling to place itself under the same restrictions and responsibilities imposed by the acts.

The purpose of the bill I am introducing today is simple. It removes the congressional exemption from each of the nine laws. It rights the injustice. It removes the source of embarassment.

Removing the congressional exemption from the Civil Rights Act of 1964 and the bill amending it, the Equal Employment Opportunity Act of 1972, would make Congress subject to the same restrictions upon employment discrimination which apply in the rest of the country. That is not to say it would prevent all racial, religious, or sexual discrimination in employment practices on the Hill, but it would give affected individuals legal redress that they do not presently enjoy.

Similarly, subjecting Congress to the provisions of the Fair Labor Standards Act and the Equal Pay Act would give legal standing to the women who currently, and all too often correctly, charge they are not receiving equal pay for equal jobs.

Both of these laws and their congressional exemptions are currently being tested in the courts. But without changes in the law, they cannot be based upon legal merit and are subject to dismissal on a technicality.

While both Houses of Congress are considering amendments to their rules to make accommodations on these points, there would be no need for rule changes if Congress took the optimum course—joining the rest of the country under the provisions of these Federal laws.

Extending coverage under the National Labor Relations Act to congressional employees seems to me another obvious step. Today, we will begin the debate on the labor law reform bill. Those of us who support the bill proclaim it as good for the country. If that is so, why not extend its goodness to our own employees? I am particularly mindful of the many congressional employees in support positions, in the restaurants, in the various maintenance shops, and others. Why is not what is good for management and labor in the rest of the country also good for management and labor in Congress?

The Occupational Safety and Health Act should be mentioned in the same breath. Congressional employees deserve the protection of the act, and we should have to live by the same OSHA standards that we have imposed upon the rest of the country's employers. I doubt that a single Senate office could meet OSHA regulations. Why should we not have to take the same remedial action private employers must take?

With regard to social security, many Members of Congress now admit that we made a mistake with the legislation passed last year. In my opinion, not the least of the mistake was the failure to incorporate Congress and its employees into the system. I do not see why this group should be excluded from either the benefits or the tax bite. Individuals in the private sector who participate in voluntary pension programs must also partake of social security. So again I must ask, why not Congress?

Finally, when Congress passed the Freedom of Information Act, we made it national policy and law that an individual has the right to petition the Government for information held by the Government.

When we passed the Privacy Act, we made it Federal law that the Government must place better safeguards on the files it keeps on individuals, including allowing those individuals to see their files and correct erroneous information.

But those rights of individuals do not extend to information or files within the walls of Congress. How is that fair, much less rational?

I might be tempted to say that this is a bill whose time has come, if it were not already so painfully overdue. I want to put my colleagues on notice that I do not raise this issue idly. It will not fade away, at least not as long as I am in the Senate to advance it.

I hope it will win passage through normal means, but should it become bogged down in committee, or fail to be called up expeditiously, I will not hesitate to offer all or parts of it as amendments to relevant legislative vehicles.

Finally, should my list prove incomplete—and possibly it might—I would hope possible additions would be brought to my attention so they might be incorporated into the bill.

Simple equity and fairness demand passage of this legislation. It is time that we in Congress begin to live by the same rules we have set for others. We should no longer allow such a double standard.

Madam President, I ask unanimous consent that the following material be printed in the RECORD: the text of the bill; a summary of the bill; a statement by David Cohen, the president of Common Cause, issued today in connection with this bill; an article by Raymond Coffey, of the Chicago Tribune, dated May 14, 1978, entitled "Congress Exempt From Many of Its Own Laws."

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to eliminate the exemption for the Congress or for the Federal Government, as the case may be, in the provisions of Federal law described in this Act.

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 2. (a) Section 717(a) of the Civil Rights Act of 1964 is amended by striking out "in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service" and inserting in lieu thereof "in all units of the legislative branch of the Federal Government, and in those units of the judicial branch of the Federal Government having positions in the competitive service".

(b) Section 717(b) is amended by adding at the end thereof the following new sentence: "With respect to employment in any unit of the legislative branch of the Federal Government (except the Library of Congress), authorities granted in this subsection to the Civil Service Commission shall be exercised by the Equal Employment Opportunity Commission.".

LABOR MANAGEMENT RELATIONS

SEC. 3. (a) Section 2(2) of the National Labor Relations Act is amended by striking out "but shall not include the United States or any wholly owned government corporation, or" and inserting in lieu thereof the following: "and includes the United States, and any unit of the legislative branch of the Federal Government, but shall not include".

(b)(1) Section 7 of such Act is amended by striking out "Employees" and inserting in lieu thereof "Except as provided in subsection (b), employees".

(2) Section 7 of such Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Nothing contained in the provisions of subsection (a) of this section shall be construed to limit the application of the provisions of section 7311 of title 5, United States Code.".

FAIR LABOR STANDARDS: EQUAL PAY

SEC. 4. Section 3. (e)(2)(iii) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(iii) in any unit of the legislative branch of the Government, or in any unit of the judicial branch of the Government which has positions in the competitive service.".

OCCUPATIONAL SAFETY AND HEALTH

SEC. 5. (a) Section 3(5) of the Occupational Safety and Health Act of 1970 is amended by striking out "but does not include the United States or" and inserting in lieu thereof "and does include the United States (including any unit of the legislative branch of the Federal Government) but does not include".

(b) Section 3(6) is amended by inserting before the period a comma and the following: "and the employees of the United States (including any unit of the legislative branch of the Federal Government) shall be deemed to be employed in a business affecting commerce for the purpose of this Act.

FREEDOM OF INFORMATION AND PRIVACY

SEC. 6. Section 552(e) of title 5, United States Code, is amended by inserting before the period a comma and the following: "or any unit of the legislative branch of the Federal Government".

SOCIAL SECURITY

SEC. 7. (a)(1) Section 210 (a)(6)(C) of the Social Security Act is amended—

(A) by amending clause (i) to read as follows:

"(i) as the President of the United States;"; and

(B) by repealing clause (ii) thereof.

(2) Section 210 (a)(6) of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) Except that the preceding provisions of this paragraph shall not apply with respect to service performed as a Member of Congress (as defined in section 2106 of title 5, United States Code) or in the legislative branch;".

(b)(1) Section 3121 (b)(6)(C) of the Internal Revenue Code of 1954 (relating to definition of employment) is amended—

(A) by amending clause (i) to read as follows:

"(i) as the President of the United States;"; and

(B) by repealing clause (ii) thereof.

(2) Section 3121 (b)(6) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) Except that the preceding provisions of this paragraph shall not apply with respect to service performed as a Member of Congress (as defined in section 2106 of title 5, United States Code) or in the legislative branch;".

EFFECTIVE DATE

SEC. 8. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect 30 days after the date of enactment of this Act.

(b) The amendments made by section 7 of this Act shall be effective with respect to taxable years beginning after December 31, 1978.

BRIEF SUMMARY OF SENATOR LEAHY'S DELETION OF CONGRESSIONAL EXEMPTIONS LEGISLATION INTRODUCED MAY 16, 1978

Section one—Enacting clause.

Section two—Equal Employment Opportunity. Repeals the exemption from the Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972 thus subjecting Congress to anti-discrimination provisions of the acts.

Section three—Labor Management Relations. Repeals the exemption from the National Labor Relations Act thus subjecting Congress to the collective bargaining and labor practice provisions of the act.

Section four—Fair Labor Standards; Equal Pay. Repeals the exemption from the Fair Labor Standards Act of 1938 and the Equal Pay Act making Congress subject to the equal pay provisions of the acts.

Section five—Occupational Safety and Health. Repeals the exemption from the Occupational Safety and Health Act thus subjecting Congress to the job safety and health provisions of the act.

Section six—Freedom of Information and Privacy. Repeals the exemption from the freedom of Information Act and the Privacy Act thus subjecting Congress to the disclosure and information safeguarding provisions of the acts.

Section seven—Social Security. Repeals the exemption from the Social Security Act thus placing Congress under both the taxing and benefit provisions of the act.

Section eight—Effective dates. Sections one through six 30 days after enactment. Section seven effective for taxable years beginning after December 31, 1978.

STATEMENT OF DAVID COHEN

Common Cause is pleased to add its support to the bill being introduced by Senator Leahy. For too long, the Congress of the United States has exempted itself from the important laws it passed for other Americans to live by. Senator Leahy's active leadership in ending this double standard is welcome.

Tax-paying, law abiding citizens operate by the rules. They believe their Congress should operate by the same rules. For Congress to set itself apart with a double standard breeds disrespect for our institutions and creates a climate for poor Congressional performance.

Senator Leahy's bill is an important step in recognizing that elected officials should insist on following the same requirements they ask of others. It would require Congress to abide by the provisions of laws it has passed in the areas of equal employment opportunity, equal pay, freedom of information, social security, labor relations and occupational health and safety. These areas represent some of the blatant examples of Congress' double standard. Let me comment on a few of these.

Citizens are required to pay into the Social Security system at an all-time high rate. Members of Congress continue to raise these taxes in an effort to restore the financial viability of the system. But Members of Congress and government employees don't pay these Social Security taxes themselves. They have their own pension plan and do not help to support Social Security. While many privately employed citizens also participate in special pension plans, they—unlike Congress—are required to pay into Social Security as well. Senator Leahy's bill says that Members of Congress should join other Americans in supporting the Social Security system.

When Congress passed the Freedom of Information Act opening to public scrutiny the papers and documents of the Executive Branch, it totally exempted itself. Obviously, Congress believes the public's business is not necessarily public. Senator Leahy's bill would place Congressional papers under the Freedom of Information Act.

Congress has also exempted itself from the provisions of both the Equal Opportunity Act and Equal Pay Act, which have helped to halt employment discrimination based on race, sex, and religion. While both the House and Senate have token provisions in their rules barring employment discrimination, there is no enforcement mechanism to handle any grievances. As a result, women are still paid approximately one-half the salaries earned by men. This bill would bring to employees of the Congress the same safeguards that apply to other American workers.

There are further examples of the double standards that other forward-looking Members of Congress who share Senator Leahy's concern are seeking to end. Common Cause will also work to end the double standard in how Congress finances its campaigns, keeps its books and deals with its own conflicts of interest.

Not until Congress recognizes its responsibility to apply to itself the standards it decrees for us and to punish itself when it strays, will the institution have the respect of the American people. Common Cause applauds and strongly supports Senator Leahy's efforts to end the Congressional double standard.

[From the Chicago Tribune, May 14, 1978]

CONGRESS EXEMPT FROM MANY OF ITS OWN LAWS

(By Raymond Coffey)

WASHINGTON.—Congress voted last year to increase Social Security taxes on 110 million American workers and their employers by $227 billion over the next decade, the biggest peacetime tax boost in U.S. history.

But there is one very small and very visible American minority whose own paychecks won't be getting nicked for even a dime's worth of that extra $227 billion.

That is the 535 members of Congress themselves. They have exempted themselves, and their 16,500 employes, from the Social Security laws. And Social Security is only one example of the way in which Congress sometimes spares itself from the laws it makes for others.

For example:

The Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972, which protect workers against discrimination. Congress is exempt.

The Equal Pay Act of 1963, which guarantees women the same pay men get for comparable work. Congress is exempt.

The Age Discrimination in Employment Act, which bans discrimination based on age for workers between 40 and 65. Congress is exempt.

The National Labor Relations Act, which defines the recognition and bargaining rights of labor unions. Congress is exempt.

The Fair Labor Standards Act, which sets minimum wage standards and requirements for overtime compensation. Congress is exempt.

The Occupational Safety and Health Act, which regulates working conditions down to such issues as what kind of toilets employers must provide and how far off the ground fire extinguishers must be placed. Its enforcement is widely criticized by employers as amounting to harassment. Congress is exempt.

All this has led Sen. John Glenn (D., Ohio), the former astronaut, to describe Congress as "the last plantation."

It has also, in the view of critics, immunized and desensitized Congress to the impact of its own lawmaking.

Under the civil rights and equal opportunity legislation of recent years, corporate giants such as NBC television, American Telephone & Telegraph, and nine big steel companies have been required to make multimillion dollar settlements on back pay and promotion for blacks, women, and other minorities among their employes.

But members of Congress themselves are under no compulsion to match the performance imposed on others, and it shows.

Among the 1,100 "professional" employes such as administrative and legislative aides and press secretaries on U.S. Senate staffs, there are only about 30 blacks.

A survey by the Capitol Hill Women's Political Caucus found that at the "professional" level, the median salary for women congressional staffers was $22,000, for men $28,000. A House commission itself found that at the $30,500 salary level men outnumbered women 35 to 1.

"It's hypocritical," fumed a woman congressional aide who is active in a coalition that is trying to press Congress into adopting a formal system of fair employment practices for its own workers.

"People on Capitol Hill don't even enjoy basic human rights," she said. "There's no overtime pay; some people don't even get vacations. A lot of people up here who get sick just get fired. There's not even any provision for maternity leave. I think they [members of Congress] like having serfs working for them."

But Social Security and employment practices in their own offices are not the only areas in which congressmen here singled themselves out for special treatment.

A recent compilation by the Congressional Quarterly research organization listed the following as among other laws from which Congress has exempted itself.

The Freedom of Information Act requires agencies of the executive branch of government, but not the legislative, to open their files to the public.

Congress passed a law last year exempting its members from having to pay state or local income taxes in next-door Maryland, where about 125 of them reside. Neighboring Virginia and the District of Columbia had voluntarily exempted members of Congress living there.

Congress has enacted a system of public

financing for presidential election campaigns, but not for its own members' electioneering.

In the area of conflicts of interest, Congress requires executive branch officials sometimes to divest themselves of interests that might produce a conflict with their public duty, but requires members of Congress only to disclose such interests.

Still another exemption for members of Congress is now in the works. There are bills before both the House and the Senate to put curbs on so-called "junk telephone calls," the use of automatic dialing devices that can ring thousands of phone numbers, deliver a sales pitch, and take orders.

But among the exemptions already written into the bills are "political organizations," which would include the campaign operations of members of Congress. That would mean, in effect, a telephone subscriber may be protected from the unwelcome attentions of someone trying to sell storm windows but not from a politician trying to sell himself.

The practice of exempting itself from some of the laws it prescribes for others is provoking a growing volume of criticism of Congress here.

"If you gave people a coloring book on government they would color Congress imperial purple," said David Cohen, president of the public-interest lobby Common Cause, recalling criticism of the "Imperial Presidency" and the Watergate notion that the White House might be above the law.

"There is tremendous [public] dissatisfaction" with the double standard Congress applies in exempting itself from the laws it passes, Cohen said.

Last year's Social Security tax increase provided perhaps the most dramatic recent example of how this alleged "double standard" can make members of Congress oblivious to the mood of the people they represent.

Many members returned to Washington after the Christmas break almost stunned at the vehemence of opposition back home to the tax hike and immediately began efforts to undo it.

"How can we really understand how much Social Security bites when we're not paying it," said Rep. Abner J. Mikva [D. Evanston]. "My argument is that we should pay it because everyone else pays it."

However, when the question of bringing Congress into the Social Security System came up last year, Mikva was one of only 38 House members—out of 435—who voted for it.

Instead of Social Security, members of Congress have their own retirement plan into which they contribute 8 per cent of their salary. The taxpayers contribute a matching amount.

Under the plan, members who get themselves re-elected long enough are eligible at age 60 for a maximum pension of $46,000 a year—80 per cent of their current $57,500 salary.

Under Social Security, workers are taxed at the rate of 6.05 per cent on the first $17,700 of earnings, with employers paying an equal amount. The tax increases voted by Congress last year would push up steadily to a rate of 7.15 per cent in 1986, with the wage base rising from the current $17,700 to an estimated $40,200.

Thus the maximum Social Security tax now is $1,070 for a worker, plus the same amount for his employer. In 1986 that figure would nearly triple, to $2,874.

In other areas, such as civil rights and equal opportunity legislation, Congress' answer to criticism of the exemption it grants itself take two basic tacks:

First, there is the constitutional doctrine of separation of powers. It would be unconstitutional, members argue, for the executive branch of government, through its law enforcement responsibilities, to interfere with operations of the legislative branch.

A constitutional law expert, formerly with the Justice Department, said he believes this argument may be overdrawn by Congress in some areas, such as in denying civil rights protections to congressional employes.

For example, he noted, Congress itself has not let the separation of powers doctrine prevent it from setting up the General Accounting Office, a congressional agency, to keep an eye on goings-on in the executive branch, though refusing to let anyone from outside check up on congressional spending.

"I don't think it would necessarily be unconstitutional for [these laws] to apply to Congress," the expert, now a law school professor, said, "but it might also not be a good idea," as a matter of policy, "to set up a constant situation of confrontation" between the executive and the legislative.

The second argument is that members of Congress, as elective officials, represent a "special case," different from private employers.

Many congressional staffers, including those most active against current conditions on Capitol Hill, generally agree that their bosses do need some special leeway, that they do need a greater measure of personal loyalty, temperamental congeniality, and agreement in personal outlook with their employees.

But, according to Olga Grkavac, who is a leader in the Capitol Hill Women's Caucus and works for Rep. Edward Markey [D., Mass.], there is obviously something wrong when the person hired for these special qualities of loyalty, qualification, and political outlook turns out so overwhelmingly "to be a white male."

Whatever constitutional and other obstacles there may be Rep. Paul Simon [D., Carbondale] believes Congress should find some way to bring itself at least "under the general tenor of the laws" it passes. "A general exemption contributes to [public] cynicism" which, he said, "is still strong" among the American public.

Mikva said that "clearly there is a perception of Congress as an extremely privileged class and therefore we ought to bend over backwards" not to take advantage of a double standard.

Sen. Charles Percy [R., Ill.] disputes the argument that Congress is losing touch with the people it legislates for and says "we're right out there on the firing line." But he does think that "what is good for the goose is good for the gander" and that Congress should strive to impose on itself the same standards its laws impose on others.

"There is increasing public awareness," Common Cause's Cohen said, that Congress is not living under the same set of rules as ordinary people and that "is part of what makes people think in terms of an imperial Congress. People don't want to put up with that sort of stuff."

QUORUM CALL

Mr. LEAHY. Madam President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LABOR LAW REFORM ACT OF 1978

Mr. ROBERT C. BYRD. Madam President, under the order previously entered, I now ask the Chair to lay before the Senate Calendar No. 709, H.R. 8410.

Mr. BAKER. Mr. President, reserving the right to object, I ask the majority leader if it is his intention then to proceed further, after that matter is called up—for example, to substitute the Senate numbered bill for the House bill

Mr. ROBERT C. BYRD. I imagine that the distinguished Senator from New Jersey (Mr. WILLIAMS), who is chairman of the Committee on Labor and Public Welfare, will offer the Senate bill as an amendment in the nature of a substitute.

Mr. WILLIAMS. That is correct.

Mr. BAKER. The distinguished Senator from New Jersey indicates that that is the case; and in that case, we will not object.

Mr. ROBERT C. BYRD. With all due respect to the Senator, I do not believe an objection would lie to taking up this bill.

Mr. BAKER. It would not, except that the majority leader asked for unanimous consent.

Mr. ROBERT C. BYRD. No, I did not ask unanimous consent. I just asked that the Chair, under the previous order, lay before the Senate the bill.

Mr. BAKER. Then, I misunderstood.

The PRESIDING OFFICER (Mr. NELSON). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

UP AMENDMENT NO. 1315

(Purpose: To substitute text of S. 2467 for the text of H.R. 8410)

Mr. WILLIAMS. Mr. President, I have an amendment at the desk, as a substitute for the House bill, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1315, a complete substitute for H.R. 8410:

Strike out all after the enacting clause, and insert language of S. 2467.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. WILLIAMS: Steve Paradise, Mike Forscey, Jerry Lindrew, Mike Goldberg, Denny Medlin, Joan Wilson, Harriet Bramble, Darryl Anderson, Charles Edwards, Martha Woodman, Maureen Dollard, Sue Painter, Don Zimmerman, John Rother, Mike McCurry, Peter Harris, Tom Altmeyer; Mr. NELSON: Warren Savall; Mr. DOLE: Ernie Garcia and Ed Wallace; Mr. HARRY F. BYRD, JR.: John McElroy; Mr. HELMS: Dick Bryan; Mr. LUGAR: Robert Kabel, Mark Lubbers, Mary Hayes.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that this amendment be agreed to and as agreed to be considered original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Labor Law Reform Act of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Labor Relations Act.

SEC. 2. (a) Section 3(a) of the National Labor Relations Act is amended to read as follows:

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor-Management Relations Act, 1947, and by the Labor Law Reform Act of 1978, is hereby continued as an agency of the United States, except that the Board shall consist of seven instead of five members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of six years. Their successors, and the successors of the other members, shall be appointed for terms of seven years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom that individual shall succeed. The President shall designate one member to serve as Chairman of the Board. No more than a simple majority of the members of the Board shall be members of the same political party. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.".

(b)(1) The third sentence of section 3(b) is amended by striking "three" and substituting "four".

(2) Section 3(b) is further amended by inserting after the third sentence the following new sentence: "The Board shall within ninety days after the date of enactment of the Labor Law Reform Act of 1978 establish a procedure, upon conditions stated in the rule, pursuant to which a group specifically designated pursuant to the first sentence of this subsection to decide summary judgment cases may, where appropriate upon the motion of a prevailing party in a decision of an Administrative Law Judge issued after a hearing under subsection (b) of section 10, summarily affirm such decision. A motion for summary affirmance shall be filed within ten days after the decision of the Administrative Law Judge, any exceptions to that decision and any response to that motion shall be filed within twenty days thereafter, and the motion and response shall then be presented for decision.".

SEC. 3. The second and third sentences of section 4(a) are amended to read as follows: "The Board shall appoint an executive secretary, and such attorneys, examiners, law clerks to Administrative Law Judges, and regional directors, and such other employees as it may from time to time find necessary for the proper performance of its duties. The Board may not employ any attorneys for the purpose of reviewing transcripts of hearings or preparing drafts of opinions except that any attorney employed for assignment as a legal assistant to any Board member may for such Board member, and any law clerk assigned to an Administrative Law Judge may for such judge, review such transcripts and prepare such drafts.".

SEC. 4. Section 6 is amended to read as follows:

"SEC. 6. (a) The Board is authorized to make, amend, and rescind (in the manner prescribed by subchapter II of chapter 5 of title 5, United States Code) such rules and regulations as may be necessary to carry out the provisions of this Act.

"(b)(1) The Board shall within twelve months after the date of enactment of the Labor Law Reform Act of 1978 issue regulations to implement the provisions of section 9 including rules—

"(A) which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production, provide that if an employer or agent of the employer addresses the employees on its premises or during working time on issues relating to representation by a labor organization during a period of time that employees are seeking (i) representation by a labor organization, (ii) to decertify or deauthorize a labor organization as their representative defined in subsection (a) of section 9, or (iii) to rescind an agreement made pursuant to the first proviso to subsection (a)(3) of section 8, the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organization, and, with due regard for the rights declared in section 7, the right of such labor organization to conduct membership meetings without undue interference, and the right of the employees to the privacy of their homes, provide also in the circumstances described in clause (i), (ii), or (iii) that the employees are assured an equal opportunity overall to obtain such information from the employer and such labor organization. To obtain an opportunity to present information relating to representation pursuant to this paragraph, a labor organization shall notify the employer, in writing, that employees of that employer have demonstrated an interest in representation by that labor organization and from the time of receipt of such notice the labor organization is to be entitled to an equal opportunity to present such information in an equivalent manner;

"(B) to facilitate the resolution of disputes concerning the eligibility of voters; and

"(C) to govern the holding of elections in cases in which an appeal has not been decided prior to the date of the election.

"(2) The Board shall, to the fullest extent practicable, exercise its authority under subsection (a) of this section to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

"(3) A rule or regulation issued by the Board with respect to the subject matter set forth in paragraph (1) or (2) of this subsection shall be judicially reviewable in accordance with the provisions of section 706 (2) (A) through (D) of title 5, United States Code, only in a proceeding under section 10 of this Act. The failure of the Board to comply with the time requirements set forth in paragraph (1) of this subsection, or to institute a rulemaking proceeding with respect to the subject matter set forth in paragraph (2) of this subsection, within a reasonable period of time after a request for such a rulemaking procedure has been filed with the Board pursuant to section 553(e) of title 5, United States Code, to complete such a procedure within a reasonable period after its institution, may be reviewed upon the petition of any aggrieved party in the court of appeals of the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit. The court of appeals shall have jurisdiction to grant appropriate relief.

SEC. 5. Section 9(b)(3) is amended by striking out "such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards" and inserting in lieu thereof by a hyphen and the following:

"(A) in the case of a unit involving guards regularly assigned to work on the premises of two or more employers (whether or not individual guards move between the premises of such employers), such organization admits to membership, or is affiliated, directly or indirectly, with an organization which admits to membership, employees other than guards, and

"(B) in any other case, such organization admits to membership nonguard employees at the same location, or if such organization is directly affiliated with any national or international labor organization which represents nonguard employees at the same location".

SEC. 6. Section 9(c) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provisions of section 9, whenever a petition has been filed and served on the employer, or the individual or the labor organization that is the representative defined in subsection (a) of this section, in accordance with such regulations as may be prescribed by the Board, by an employee or group of employees or any individual or labor organization acting in their behalf—

"(i) asserting that their employer declines to recognize their representative as the representative defined in subsection (a) in a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6, that a majority of the employees in that unit have designated that individual or labor organization as their representative defined in subsection (a), and that no individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the bargaining unit defined in the petition; or

"(ii) asserting that a majority of the employees in a unit appropriate for the purposes of collective bargaining do not wish to be represented by the individual or labor organization which has been certified or is being currently recognized by their employer as the representative defined in subsection (a), or do not wish to be covered by an agreement between their employer and a labor organization made pursuant to the first proviso to subsection (a)(3) of section 8,

the Board shall investigate such petition. If the Board finds with respect to a petition filed under clause (i) that the unit there specified is a unit appropriate for the purposes of collective bargaining under a rule established by the Board pursuant to section 6, and if the Board has reasonable cause to believe that a question of representation affecting commerce exists and that the other conditions specified in this subsection have been met, the Board shall within thirteen days after the filing and serving of the petition direct an election by secret ballot to take place not less than twenty-one days nor more than thirty days after a petition is filed and served under this subparagraph (unless another date prior to such twenty-first day is agreed to by the employer and the representative named in the petition) and shall so notify the representative named in the

petition, the employer and any other appropriate party. If the Board has reasonable cause to believe with respect to a petition filed under clause (ii) that a question of representation affecting commerce, or a question concerning an agreement made pursuant to the first proviso to subsection (a) (3) of section 8, exists and that the other conditions specified in this subsection have been met, the Board shall within thirteen days after the filing and serving of the petition direct an election by secret ballot to take place not less than twenty-one days nor more than thirty days after a petition is filed and served under this subparagraph (unless another date prior to such twenty-first day is agreed to by the employer and the representative named in the petition), and shall so notify the representative named in the petition, the employer and any other appropriate party.

"(B) In any proceeding under this subsection in which the Board directs an election by secret ballot, and which is not governed by subparagraph (A) of this paragraph, the Board shall direct the election on a date not more than forty-five days after the filing and serving of the petition and shall inform the representative named in the petition, the employer, and all other interested parties of the election date not less than eight days prior to the election except that, where the Board determines that the proceeding presents issues of exceptional novelty or complexity, the Board may direct the election on a date not more than seventy-five days after the filing and serving of said petition. In computing the time limits stated in this paragraph the days of the week during which a majority of the employees involved in the election are on vacation shall not be included.

"(C) After an election conducted pursuant to subparagraph (A) or (B) of this paragraph is completed, the Board shall, unless under a rule adopted pursuant to subsection (b) (1) (C) of section 6, the ballots have been impounded, promptly serve the parties with a tally of the ballots.

"(D) (i) Any party to an election conducted pursuant to subparagraph (A) or (B) of this paragraph may, within five days after such election, object to the election on the ground that conduct contrary to a rule relating to the election declared by the Board pursuant to its authority under section 6 or conduct contrary to a rule of decision declared by the Board in a proceeding under section 10 did affect the result of the election. Except for the purpose of issuing and enforcing rules applicable to campaigning during the forty-eight hours prior to the holding of an election, the limitations stated in subsection (c) of section 8 on the Board's authority to utilize evidence in determining that an unfair labor practice has been committed shall also be applicable in determining that an election be set aside.

"(ii) Whenever challenged ballots are sufficient in number to affect the outcome of the election, the Board shall investigate the challenges and serve a report on challenges upon the parties. Nothing contained herein shall preclude resolution in a subsequent unit clarification proceeding, of the unresolved eligibility questions raised by such challenges.

"(iii) The Board shall move expeditiously to resolve any issues raised by the objections or regarding eligibility and certify the results of the election. An objection that an election was conducted under subparagraph (A) instead of subparagraph (B) shall not be a basis for setting the election aside.".

SEC. 7. Section 9(d) is amended by inserting immediately after the word "thereupon" the following: "after review in accordance with section 706(2) (A) through (E) of title 5, United States Code".

SEC. 8. The first sentence of subsection (10) (b) is amended to read as follows:

"(b) Whenever—

"(1) it is charged that any person has engaged in or is engaging in any such unfair labor practice, or

"(2) it is charged that any person has engaged in or is engaging in a willful violation of—

"(A) any final order of the Board entered pursuant to subsection (c) of this section and which is not and has not been the subject of a proceeding under subsection (e) or (f) of this section, or

"(B) any final order of a court of appeals of the United States entered in a proceeding under subsection (e) or (f) of this section.

prohibiting interference with, restraint, or coercion of employees in the exercise of the rights guaranteed in section 7 or discrimination against employees to encourage or discourage membership in a labor organization, and that said violation occurred within three years of the entry of the order violated.

the Board, or any agent or agency designated by the Board for such purpose, is authorized to issue and cause to be served upon such person a complaint stating the charges. Such complaint shall contain a notice of hearing before the Board or member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall be issued based upon any unfair labor practice or willful violation of a final order occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge.".

SEC. 9. Section 10(c) is amended by—

(1) inserting "(1)" after "(c)";

(2) striking out the fifth sentence of paragraph (1) (as redesignated by this section) and inserting in lieu thereof the following: "If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, or has willfully violated or is willfully violating a final order as specified in subsection (b) of this section, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.";

(3) by adding in the final sentence of paragraph (1) after the word "report" the following: "containing findings of fact (including the basis on which conflicts in the evidence are resolved) and conclusions of law and in cases of exceptional novelty or complexity such further discussion of the facts or law as is necessary"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) If upon the preponderance of testimony taken the Board shall be of the opinion that the allegation in the complaint that a person has willfully violated or is willfully violating a final order as specified in subsection (b) of this section has been sustained, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order certifying the identity of that person to the Secretary of Labor. Notwithstanding any other law, unless the Secretary of Labor determines that because of unusual circumstances the national interest requires otherwise, the Secretary shall certify the identity of such person to the Comptroller General. The Comptroller General shall distribute a list to all agencies of the United States containing the names of persons certified by the Secretary of Labor pursuant to this subsection. Notwithstanding any other law, no contracts shall be awarded to such person during the three-year period immediately following the date of the Secretary's certification, unless the Secretary, in his discretion and for reasons stated in a written explanation determines that setting a lesser period of debarment would better effectuate the purposes of the Act, or unless the agency of the United States concerned, after notice and opportunity for hearing to all interested parties, certifies to the Secretary of Labor that there is no other source for the material or services furnished by the person affected by the Board order: *Provided*, That debarment orders shall specify affirmative action to be taken to protect the affected employees' section rights, and the Board shall recommend removal of the debarment or reduction of the debarment period to the Secretary if it is satisfied that the affirmative action requirements of the order have been effectuated, or if it is satisfied, for other reasons, that such relief will effectuate the purposes of the Act: *Provided further*, That this subparagraph shall restrict the award of contracts solely to the business entity legally responsible for the willful violation or to the local, intermediate, national, or international labor organization legally responsible for the willful violation.

"(3) (A) In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may enter an order pursuant to paragraph (1) of this subsection which includes an award to the employees in that unit of compensation for the delay in bargaining caused by the unfair labor practice in an amount equal to the difference per hour during the period of delay between (i) the wages and other benefits such employees were receiving at the time of the unfair labor practice increased by a percentage equal to the change in wages and other benefits stated in the Bureau of Labor Statistics' average wage and benefits settlements, quarterly report of major collective-bargaining settlements, for the quarter in which the delay began and (ii) the wages and other benefits actually received by such employees during that period. If the Secretary of Labor certifies to the Board that the Bureau has, subsequent to the effective date of the Labor Law Reform Act of 1978, instituted regular issuance of a statistical compilation of bargaining settlements which the Secretary determines would better effectuate the purposes of this subsection than the compilation specified herein, the Board shall, in administering this subsection, use the compilation certified by the Secretary.

"(B) In a case in which the Board determines that any person has unlawfully discriminated against employees to encourage membership in a labor organization, or has unlawfully interfered with, restrained or coerced employees in the exercise of the rights guaranteed by section 7, during a period (i) in which employees in a bargaining unit which includes that employee are seeking representation by a labor organization, (ii) after a labor organization has first been designated or selected as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining agreement is entered into between the employer and the representative, or (iii) in which employees currently represented by an individual or labor organization which has been certified or is being recognized by their employer or currently covered by an agreement made pursuant to the first proviso to subsection (a) (3) of section 8 in a bargaining unit which includes that employee are seeking to deauthorize or decertify that representative or rescind that agreement is alleged, the Board may enter an order pursuant to paragraph (1) of this subsection which includes an award of back-

pay in an amount equal to one and one-half the employee's wage rate at the time of the unfair labor practice for the time lost by reason of the unfair labor practice less the wages the employee has earned during that period.".

SEC. 10. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end thereof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection".

(b) The first sentence of subsection 10(f) is amended by—

(1) inserting "within thirty days" after "by filing", and

(2) inserting before the period at the end thereof the following: "except that, if a petition for review has been timely filed, any other party to that Board proceeding, aggrieved by the order, may, within fifteen days of service on it of said petition, file a further petition for review".

SEC. 11. (a) The first sentence of section 10(l) is amended to read as follows: "Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of—

"(1) subsection (a) (3) or (b) (2) of section 8 which deprives an employee of employment during a period (i) in which employees in a bargaining unit which includes that employee are seeking representation by a labor organization, (ii) after a labor organization has first been designated or selected as a representative defined in subsection (a) of section 9 in such unit until the first collective-bargaining agreement is entered into between the employer and the representative, or (iii) in which employees currently represented by an individual or labor organization which has been certified or is being recognized by their employer or currently covered by an agreement made pursuant to the first proviso to subsection (a) (3) of section 8 in a bargaining unit which includes such employees are seeking to deauthorize or decertify that representative or rescind that agreement, or

"(2) paragraph (4) (A), (B), or (C) of section 8(b), paragraph (7) of section 8(b) or section 8(e),

the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.".

(b) Section 10(m) is amended by inserting "under circumstances not subject to section 10(l)," after "section 8,".

SEC. 12. Section 19 is amended to read as follows:

"SEC. 19. Any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required in a contract between such employees' employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a fund maintained by the employer for the sole purpose of paying individuals for their services as neutral arbitrators under the contract or to a nonreligious charitable fund exempt from taxation under section 501(c) (3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in such contract or if the contract fails to designate such funds, then to any such fund chosen by the employee.".

SEC. 13. Section 301 of the Labor Management Relations Act of 1947 is amended by adding at the end thereof the following new subsection:

"(f) (1) Where there is in effect a collective-bargaining contract between an employer and a labor organization which is the representative of employees under section 9(a) of this Act, the courts of the United States shall, notwithstanding the limitations stated in the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101–115), but subject to the limitations stated herein, have the authority in a civil action brought by that employer to restrain (A) a concerted refusal in breach of that contract to cross a picket line not maintained by a labor organization in connection with a labor dispute; or (B) a concerted refusal to work in a breach of that contract (and concerted activity in furtherance thereof) that is neither initiated, authorized, nor ratified by the labor organization, where a refusal to cross a picket line maintained by a labor organization in connection with a labor dispute is not involved.

"(2) (A) In an action under paragraph (1) of this subsection no restraining order may issue unless the employer has, in addition to the other requirements for obtaining relief, proved at a hearing held after the labor organizations concerned have been given notice and an opportunity to oppose the granting of relief, that the concerted activity specified above has occurred or is occurring.

"(B) In an action under paragraph (1) (A) of this subsection, if the picket line is maintained by a labor organization in connection with a labor dispute, no restraining order shall be granted pursuant to this subsection.

"(C) In an action under paragraph (1) (B) of this subsection, if the labor organization does not oppose the granting of relief under this subsection on the ground that the concerted activity in question has been initiated, authorized, or ratified, it shall be conclusively established for the action in question and related actions that the activity was not so initiated, authorized, or ratified. If the labor organization has initiated, or authorizes or ratifies the concerted activity, no restraining order shall be granted pursuant to this subsection.".

SEC. 14. Except as otherwise specifically provided in this Act, the amendments made by this Act shall take effect sixty days after the date of enactment of this Act.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that all the amendments that have been submitted to S. 2467 be considered as in order to be offered to the substitute amendment that has been agreed to as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. And this is understood to be should cloture be invoked.

Mr. JAVITS. Mr. President, will the Senator yield to me briefly?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, so the procedure may be clear on this side, as the ranking minority member of the committee, I will function as the manager of the bill on this side except the member of the committee who is principally in opposition, Senator HATCH, of Utah, will take over as the manager on this side when he deals with matters in which he is in opposition, that is, his amendments or opposing amendments to which he may be opposed.

I just announced that for the benefit of the Senate.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. WILLIAMS. For what purpose?

Mr. HATCH. For a unanimous-consent request.

Mr. WILLIAMS. I yield.

Mr. HATCH. Mr. President, I ask unanimous consent that Bill Kingston, of Senator DOMENICI's staff, Chip Waggoner, of Senator STEVENS', and Bob Hunter and Bill Henderson, of my staff, be accorded the privilege of the floor throughout this debate and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, under the form the unanimous-consent agreement that has already been entered with respect to the amendments printed and at the desk, are those amendments now fully qualified for all purposes under rule XXII of the Senate, that is, are they eligible for consideration even if cloture is invoked?

The PRESIDING OFFICER. They are eligible to be offered.

Mr. BAKER. But there is no further requirement for "qualification" under the rule?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. And the only requirement beyond that would be a postcloture requirement under rule XXII that amendments must be germane?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, also, if the distinguished Senator will yield——

The PRESIDING OFFICER. But these amendments are eligible to be called up.

Mr. ROBERT C. BYRD. They are eligible to be called up, but not necessarily in order either with respect to germaneness, if they are not germane once cloture has been invoked, or for other reasons, perhaps, for example, if they amend more than one part of the bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. In the event the Chair rules that an amendment in this group that has now been qualified is nongermane and therefore not eligible for consideration postcloture, is that ruling of the Chair appealable?

The PRESIDING OFFICER. An appeal would be in order.

Mr. BAKER. I thank the Chair.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, since the passage of the Wagner Act in 1935, Congress has twice made fundamental revisions to the Nation's labor relations laws—first in 1947 and again in 1959.

These amendments were designed to establish a comprehensive set of union unfair labor practices to regulate in detail the collective bargaining process.

But in neither instance did the debate focus on the administration of the act as it affects the right of workers who wish to organize and bargain collectively. In fact, since 1935 Congress has never examined the NLRA from the perspective of the unorganized worker who desires to be represented by a labor organization. Such an examination is long overdue and this bill, the Labor Law Reform Act, gives us that opportunity.

This bill is designed to end delay and bring an end to the growing number of violations of employee rights.

The current law suffers from two basic defects. The first is the inadequacy of the remedies which the NLRB may invoke against law violators. The second is the inordinate delay in the processing of both unfair labor practice cases and election petition.

The labor law reform bill addresses these problems by partially restructuring the operation of the National Labor Relations Board in order to minimize delay in the processing of unfair labor practice cases and election petitions. In addition, it requires the Board to utilize its long dormant rulemaking power to simplify the law and to expedite the resolution of representation disputes. The bill also creates effective remedies which the Board may invoke against violators of the law.

Perhaps the most compelling single reason for this legislation is the inability of the NLRB under the present statute to provide expeditious relief in contested labor relations cases. An unfair labor practice charge filed in 1975 took a median of 315 days for disposition by the full Board. In 1976, the process took 358 days. In 1977, the figure was up to 396 days. There is every reason to believe that unless remedial action is taken, the time required to process these cases will continue to increase.

To correct this disgraceful situation, this bill proposes five changes in the law which will reduce case handling time at every stage from the issuance of the complaint to the petition for court review.

Mr. President, we deal in this bill with the question of the size of the National Labor Relations Board, and we do this after literally decades of opinion that there should be an expansion of the membership of the Board.

It presently takes a median of 134 days from the initial decision by an administrative law judge to a final board determination. This represents an increase of 14 days from 1976. Unquestionably the main reason for this delay is the increasing number of cases which the Board must decide each year. Since 1947 when the Board was expanded from three to five members, the number of contested unfair labor practice decisions issued has increased from 115 to over 1,100 in fiscal 1977. This figure is expected to go over the 1,400 level by fiscal 1979. In the past the Board has found law violations in 80 percent of these cases. Thus, in the overwhelming majority of cases, we know that it is an individual whose rights have been violated who suffers from the delay and a wrongdoer who gains an advantage.

Since the board normally sits in panels of three, increasing its size from five to seven members, as first suggested by Senator Robert Taft, Sr., will permit more panels to hear and decide cases at any one time. This will reduce the bottleneck at the Board level and lead to a more rapid disposition of pending cases.

Another means of reducing needless Board delay is to promptly resolve uncomplicated cases. Many cases which reach the Board are either covered by established precedent or do not involve substantial questions of law. In fact, approximately 40 percent of all contested cases are now affirmed by adoption of the ALJ's decision without modification or with a minor clarification. A large number of these cases involve allegations of discrimination for engaging in union activity which turn on credibility determinations made by the administrative law judge.

Nevertheless, these cases continue to be processed in the same manner as those which present far more complex legal questions. This poor allocation of limited resources would be unworthy of anything more than academic note were it not for the fact that grievous harm is done to litigants as a result.

In order to remedy this situation, section 2 of the bill requires that, within 90 days of enactment, the Board must adopt a procedure whereby, on the motion of the prevailing party in an unfair labor practice case, a quorum of three members of a designated board panel will be empowered to summarily affirm the decision of the administrative law judge. However, the Board would retain discretion in selecting the types of cases which would be subject to this procedure. This change will minimize delays while leaving sufficient flexibility in the process to insure that meritorious cases will receive full Board review.

We have also dealt with another problem which causes delay in the provision of our bill which addresses the form of decision that emanates from the administrative law judges.

Testimony at our hearings has demonstrated that even greater delays take place at the administrative law judge level. The median time from the issuance of an unfair labor practice complaint to the issuance of an ALJ decision is 203 days and it presently takes a median of 111 days for an administrative law judge to issue a decision after the close of the hearing. This is far too long. In order to speed up this process, the bill requires administrative law judges to issue short form decisions except in the most complicated cases. In addition, the bill gives the board the authority to hire law clerks to assist administrative law judges. I believe that a significant improvement in case handling at the administrative law judge level will be achieved as a result of these sensible and modest reforms.

SELF-ENFORCING ORDERS

Unlike the orders of most Federal agencies, a decision or order of the Board is not self-executing. If the Board determines that there is noncompliance, it must file a petition for enforcement. Because there are no fixed time limits for filing these petitions, long delays often occur before enforcement or review. Thus, in fiscal 1976, in approximately one-fourth of the cases the total elapsed time was more than 120 days. There is no reason that the rights of the injured party should be held in abeyance while the law violator uses his threat to appeal as a bargaining chip.

The labor law reform bill would therefore amend section 10(f) of the act to require any party aggrieved by a Board decision to file an appeal in the appropriate court of appeals within 30 days. If no petition for review was filed within that time, the Board could, by filing a petition for enforcement, obtain a final decree.

Section 9(a) of the NLRA provides that a representative chosen or selected by a majority of the employees in an appropriate bargaining unit shall be the exclusive representative of those employees. Section 9(c) of the act authorizes the NLRB to conduct secret ballot elections for workers who seek certification of a union to represent them in collective bargaining.

The principal defect in the present method of conducting representation elections is that they are not held promptly. Half of all representation elections take place more than 45 days after the filing of the petition. Twenty-five percent take more than 57 days.

In addition, the timing of the election is controlled by the employer to serve his tactical advantage, not by neutral principles designed to advance employee free choice. Elections take place within the time limits just noted only if the employer foregoes his right to a preelection hearing. He may force such a hearing whether or not there are substantial issues to be resolved. And the median time for regional-director-ordered elections is 78 days; for Board-ordered elections 286 days. This means that the employer can extort concessions on the terms for running the election from the union and the employees by threatening to demand a preelection hearing.

The timing of a representation election should be determined by the difficulty of the legal issues that must be decided upon before an election can be held, the practical problems inherent in conducting a proper election, and the strength of the preliminary showing of employee interest in collective bargaining, not by the employer's desire for delay.

This bill would accomplish that goal by setting up a new system for conducting elections without sacrificing the right of employers to fully litigate arguable questions of law.

Over the years the Board has, through case law, established a series of plainly appropriate groupings of employees for collective bargaining. There is no labor relations question on which there has been such a strong consensus of scholar-

ly opinion as on the proposition that the Board should make greater use of its rulemaking authority under section 6 of the act. The Board has steadfastly refused to use its power to issue rules respecting unit issues.

Therefore, section 3 of the bill requires that within 1 year of the act's effective date, the Board must exercise its authority under seciton 6 to promulgate election rules and to do so in accordance with the Administrative Procedure Act. The Board would establish certain units as appropriate for collective bargaining, and issue regulations designed to facilitate agreements on voter eligibility by spelling out the criteria to be used in making such determinations.

Another necessary reform is fixed time limits for conducting elections.

In plainly appropriate units in which a majority of employees support the request for an election, S. 2467 would require these elections to be held between 21 and 30 days after a petition filed with the Board is received by an employer. Where there is a substantial unit question that requires a preelection hearing or only marginal support for the petition is demonstrated, a 45-day limit is set. Finally, a 75-day limit is allowed for the decision of unit questions of particular complexity.

Mr. President, I suggest, as to the adequacy of this period, that to those of us who are engaged in other elections—and that means most of the people of this country—it is interesting that the periods assigned by this bill under this amendment for the holding of elections come very close to the election periods we are all adjusted to and used to. Where there is a complex matter involved, we provide for 75 days. That is just about the length of time we are all familiar with; it is the period of time that applies to all of us in the selection of a President. From Labor Day to the first Tuesday after the first Monday in November is just about 75 days.

So when I hear the loud lament that has gone across the land that we are engaged in the dastardly business of "springing quickie elections" into the labor-management forum, I have to smile. The computers have spilled out propaganda to millions and millions of homes that we are engaged in "springing quickie elections" upon the employers of this land, and upon the employees as well, as a matter of fact.

Yet these time frames comport so closely to American experience that if there is anything indigenous to our great land, it is the democratic election, and that is what we are talking about here, democratic elections for the choice of whether there will be or whether there will not be a union as the bargaining agent for the workers who are employed in that unit.

Now, Mr. President, we deal with the conduct of the parties during the campaign period prior to the election. We have addressed ourselves to consideration of fair campaign procedures.

The Supreme Court has held that an employer may be required to open his premises to union organizers if the combined effect of employer campaigning and his refusal to allow similar union campaigning creates an imbalance of opportunities for organizational communication. The Court has left it to the Board to determine when such an imbalance exists. I believe that striking this delicate balance is more properly a task for Congress, and in my opinion such an imbalance does in fact exist and must be corrected.

I note that when I speak of my personal view on this matter, I am speaking for all of those who have joined in sponsoring this legislation, and a principal cosponsor and full partner in this legislation is the ranking minority member of the Senate Human Resources Committee and our Subcommittee on Labor, the most able and knowledgeable senior Senator from New York (Mr. JAVITS). So when I put this in the first person, I know that I am speaking for all of those who are joined in cosponsorship and support of labor law reform and are working for it.

In order to enhance the opportunity of employees to hear both sides of the arguments concerning unionization, this bill therefore adopts a procedure designed to promote full and fair debate.

Rather than restructuring the employer's present right to speak, the bill provides that if the employer choses to communicate with his employees at the worksite on matters relating to a union organizing campaign, his employees will have an opportunity to hear from the union on a relatively equal basis. Thus the initiative remains with the employer.

If for any reason this would be anathema to the employer, it will never happen, because the whole process, of course, is triggered and goes into operation only as a result of the employer's choice of forum in communicating to the workers.

The union's right to reply is triggered when the employer or his agents conduct an antiunion campaign on company time or company property. When an employer stops production to address his employees on a group basis, the union will have a right to reply in the same manner.

Conversations with employees by supervisors or other employer representatives trigger equal access only if such conversations are part of a systematic employer antiunion campaign. In these situations the union will not have an opportunity to reply during working time or in working areas. Instead the Board is required to provide the union with an opportunity to discuss the issues with the employees on the employer's premises during nonworking time in such nonwork areas as the cafeteria, lounges, parking lots, and other areas that would not involve any disruption of production. It is clear, no doubt, that this should be the law, and I again submit that these are principles of equality, and with equality comes fairness and justice to all.

Casual encounters by employees with supervisors or other employer representatives, which occur on an unplanned, sporadic basis and which do not have the purpose or effect of presenting the employer's position on union representation in a systematic manner do not generate a right to reply by the union. Of course, employers remain free to conduct as extensive a campaign as they would like off company premises without generating any right of reply by the union.

As a further effort to encourage free debate on issues dividing labor and management, and in response to a proposal introduced by a member of the committee, the Senator from Utah (Mr. HATCH), the bill limits the Board's power to regulate campaign speech that does not contain threats or promises of benefit. This was a measure which had been introduced by the Senator from Utah. We saw its fairness, we saw its equity, we saw it as a contribution to the whole thrust and approach of this bill and the committee acted and included that in the bill which is now before us as the substitute.

However, Mr. President, the Board's present authority to overturn elections on the basis of misrepresentations is left undisturbed with respect to the 48 hours prior to the election. These are the closing hours and I think most appropriately, present law would continue.

EFFECTIVE REMEDIES

Probably one of the corrections which has been most needed in bringing equity, fairness, and justice to the whole arena of labor-management relationships is effective remedies in this initial period of organizing and bargaining on first contract. Effective remedies are greatly needed, because of the abuses we have seen. Enactment of the election and case processing procedures will mean little if we do not take the incentive out of frivolous litigation and patently illegal activity.

If employees are to make a free choice on union representation, the law must protect them from discharge or other forms of reprisal by both employers and unions. As Derek Bok, the president of Harvard University, has pointed out:

> A realistic sense of priorities should lead us to recognize that an elemental fear of reprisal still poses the major threat to the free and fair elections contemplated by the National Labor Relations Act.

Mr. President, what is the evidence that employees are being coerced and intimidated? The statistics speak for themselves. In the past 10 years, while organizing activity has remained at the same level, the number of complaints issued by the Board concerning employer violations of workers' rights has doubled from 1,585 cases in 1966 to 3,345 cases in 1976. The vast majority of these cases involve discrimination and refusals to bargain.

These figures suggest that present remedies do not have a deterrent effect The axiom of law enforcement, most recently documented by Dr. Charles Morris of Southern Methodist University Law School, states that where quick, certain and strong remedies have been provided, the number of violations tends to be small and stable. Where such remedies are not provided, the number of violations tend to increase as it becomes understood that it is profitable to violate the law.

S. 2467 would therefore create several additional remedies for violations of the National Labor Relations Act, modeled on those now provided for in other areas, which are addressed to the illegal actions of unions, such as in the area of secondary boycott violations. This arises through section 10(l) and 303 of the act.

There are provisions, Mr. President, for injunctions in discriminatory charge cases. An employer who is bent on destroying a union organizing campaign will frequently discharge active union adherents prior to the election. The intended effect is to intimidate the discharged employees' fellow workers and to show them collective organization does not afford the protections which the law promises. It typically takes a year to process a contested discharge case. Accroding to a reliable study, only 5 percent of those who are unlawfully discharged and offered reinstatement 6 months or more after that violation accept reinstatement.

Thus, delay in remedying a discriminatory discharge all but assures that an employer will gain the benefit he desires, getting the employee who actively support the union out of the plant. Thus, under the present system reinstatement orders frequently fail to remedy the effect of the violation for both a discharged worker and his fellow employees to whom their employer's power to act without effective sanction is graphically demonstrated.

Section 10(l) injunctions are regularly used to give employers prompt relief from alleged union violations of the law, before the administrative process begins. Their purpose is to rapidly enjoin unfair labor practices which have a particularly deleterious effect on business.

The labor law reform bill recognizes that certain unfair labor practices can have an equally detrimental effect on workers and unions. Therefore, section 10 of the bill requires the Board's general counsel to seek a preliminary injunction from a U.S. District Court to reinstate a discriminatorily discharged employee.

Mr. President, we provide backpay awards in discriminatory charge cases. Under the current law, a worker who suffers an economic reprisal because he is engaged in protected union activities has the right to receive backpay less any earnings which he or she earned, or should have earned, prior to reinstatement. This formula complicates the computation of backpay and shifts from the wrongdoer to the injured party the full burden of mitigating the damages caused by the unlawful conduct. Substantial delay in calculating backpay may also occur, because a second hearing is often required to determine the extent to which the employer's liability has been mitigated. These hearings can be of greater duration than the initial unfair labor practice case, particularly those involving a large number of employees.

It is clear that this system is inadequate. The threat of a backpay award has not deterred discharges. For example, in 1960, the Board awarded 3,400 employees $1.1 million in backpay awards. In 1977, over 7,500 employees received over $17 million in backpay.

Moreover, under the present system, the employee is not compensated for the true loss he has incurred. Obviously, the discharged worker suffers considerable financial loss over and above his actual lost earnings.

In order to remedy this situation, the bill provides that whenever the board finds that an illegal discharge has occurred during the course of a union's organizating effort, a decertification campaign, or before the first contract is obtained, the affected employees will receive 1½ times lost wages less any wages actually earned. This formula eliminates the need for a lengthy second hearing on the backpay issue and more adequately compensates the discharged worker for his real loss.

At present, there is no legal incentive for an employer to recognize and bargain with a union which is certified after a board election. If he fails to bargain, a bargaining order, issued months or years after the actual event has taken place, only requires him to do what he should have done originally—open good faith negotiations.

This bill therefore provides that the board may, as a remedy for a refusal to bargain prior to the entry of the first agreement, award to the affected employees compensation for the delay in bargaining caused by the unfair labor practice.

The measure of such damages is an objective one. It consists of the difference between the wages and other benefits received by the employees during the period of delay and the wages and other benefits they were receiving at the time of the unfair labor practice, multiplied by a factor which represents the percentage change in wages and benefits under collective bargaining contracts as determined by the Bureau of Labor Statistics.

In other words, what all employees in categories were receiving when their employer was living with the law will be applied to those employees who have suffered because their employer is violating the law. It is an objective standard and it meets all bases of fairness in that regard, I earnestly submit.

The need for this remedy is apparent. The impact of a refusal to bargain in good faith can cause irreparable damage. Employees are denied lawfully obtained representation during the period that the unfair labor practice is being processed and, worst of all, this period may last several years. In the meantime, employees have been deprived of any tangible economic gains that could result from good-faith bargaining.

The employer, on the other hand, finds himself in precisely the same position whether or not he wins or loses his case. Under these circumstances, I believe it is more than fair to shift the risk of being found in violation of the law to the unsuccessful litigant.

DEBARMENT

This is another provision applying old remedies from other laws to this area. In order to discourage a policy of willful violations, the bill amends the act to establish a new procedure providing for debarment for willful violation of board orders.

Under this provision, the NLRB General Counsel may issue a complaint, including a recidivism allegation, which can, if proven, lead to debarment from participation in Federal contracts for up to 3 years. Presently, violation of such an order is enforced through a contempt proceeding. However, due to the protracted litigation entailed and the fact that courts of appeals thoroughly dislike the de novo review which a contempt proceeding requires, this deterrent has not proved effective.

Congress and the executive departments have frequently recognized that it is not desirable for the Federal Government to do business with willful law violators. The Walsh-Healey Act, Davis-Bacon Act, Service Contract Act, and Executive Order 11246 all utilize this sanction. I find debarment in such a case far preferable to a system which permits employers or unions who continually violate our labor laws to have those violations blessed by the granting of millions of dollars in Federal contracts.

Mr. President, while this bill focuses on streamlining the Board's operating procedures, creating remedies designed to fully compensate victims of violations of the act and assuring that representational elections are conducted promptly and fairly, this bill also corrects three other deficiencies in the present law which merit special attention: The lack of protection for employees whose religious convictions forbid compliance with a lawful union security agreement, the need for added remedies against stranger picketing and wildcat activity, and the unfair limitation on the right of guards to select a union of their choice.

The religious objectors amendment extends to all workers a right that only employes of health care institutions now enjoy—the right to continue working when, as a matter of religious principle, the employee cannot contribute periodic union dues and initiation fees required as a condition of employment.

Under the committee bill, the "religious objector" must contribute sums equal to the otherwise required union dues and fees to nonreligious charities selected by the union and the employer, or where provided for in a collective bargaining agreement, directly to an arbitrator, thus bypassing the union entirely.

One of the major issues in the recent coal strike which pressed so hard upon the welfare of this Nation was the provision in the proposed contract permitting strict disciplinary measures against those who engage in wildcat strike activity. The promotion of industrial peace requires congressional action to provide an added remedy against these debilitating illegal work stoppages.

Therefore, this bill broadens the equitable jurisdiction of the courts to protect employers from the effects of so-called "stranger" picketing. The bill provides that the courts may enjoin concerted refusals to work in breach of contract that are a response to any picket line other than one set up by a union

to further its position in a labor dispute.

In addition, this bill provides that the courts may enjoin breach of contract work stoppages which are not triggered by outside pickets but represent an attempt by workers to redress grievances unrelated to their conditions of employment.

Plainly, such unauthorized activity undermines industrial peace and the majority rule principle of the NLRA and should not be sanctioned.

Finally, this bill amends section 9(b)(3) of the act to grant greater freedom of association to guard employees. The provision permits "in-house" guards to be represented by a nonguard union so long as that union does not represent nonguard employees at the same location. In order to avoid potential conflicts of loyalty which could arise if guard and nonguard employees at a single location were represented by the same union, guards employed by contract guard and armored car companies may only be represented by pure guard unions.

Mr. President, the National Labor Relations Act has created a system of industrial peace and democracy that is the envy of the free world. Just as Representative Government assures and protects the legitimacy of our laws, the NLRA assures and protects the working conditions agreed to in collective bargaining agreements.

The value we as a nation have earned from the operation of this system of free collective bargaining cannot be overstated. But despite this overall success in providing employees with the opportunity to improve their working conditions and raise their standards of living, the Labor Act has proven ineffective and impotent in the face of adamant employer resistance. Over the years the law, both substantively and procedurally, has grown to favor the employer bent on avoiding unionization.

The purpose of the bill now before us is to restore balance to the law and to reaffirm the central premise of the National Labor Relations Act—that employees should have the right to determine for themselves whether or not they wish to be represented by a labor organization in a fair election conducted in a free and uncoerced atmosphere, and that they should register their judgment on this issue without undue delay. This is the only objective of the Labor Law Reform Act.

This bill is not a catchall designed to cure every ill. Rather it is a carefully considered moderate means of ending the tactics of coercion and delay that undermine the ideal of employee free choice central to our national labor policy.

The need for the bill has been recognized for a long time.

Archibald Cox, back in the 1960's, studied all of these areas. He issued a report way back then and it included so many of the observations we are making here today and so many of the suggestions we are making here today, too. Yet, the opponents of this legislation will do anything but debate on it the facts. Indeed, it appears that debate might well go far afield from the issues.

This bill, Mr. President, is entitled to truly profound and fair debate. It is not sweeping in all avenues of ills on the labor-management front. But it is very important to the limited areas that it does reach. It is entitled to searching debate here on the floor. I hope it will get that kind of debate and that the debate will be focused on the merits of the issues.

I will say that I have been somewhat disappointed that opponents of this have not dealt with objective analysis and that discussion, up to now, has been highly emotional.

This legislation can stand objective scrutiny. Despite the longstanding complaints about the Board's processes, opponents have yet to advance a single suggestion for improving the law's employee protections. They know that while they rail against the limited additional remedies we would provide, they presently enjoy the benefits of far stronger civil and criminal remedies against union misconduct. They know that while they waive the banner of small business, the act applies to only 22 percent of the establishments in industries within the Board's jurisdiction.

These issues will, of course, get at long last, factual, actual analysis, Mr. President. We will examine the coverage of the National Labor Relations Board; what businesses it reaches, what businesses it does not. Large numbers of small businesses, the majority of small businesses, as a matter of fact, are not now covered under National Labor Relations Board policies. Some 78 percent of the small businesses in this country, are not reached by National Labor Relations Board action.

So, in fact, the Board's and this bill's coverage of small business is limited. Sometimes I get the impression, however, that some of the things I read about this bill and its effect on small business are the opinions of those who have not even looked at the bill, and do not know what the law is now and what procedures are today.

But if we know the law, the procedures, the language of this bill, we would never be suggesting that this bill effects all the small businesses in our country. It clearly does not.

This debate will provide the bill's supporters the opportunity to cut through these rhetorical excesses and to explain to our colleagues and to the American people why the Congress should take the steps necessary to make the promise of the Wagner Act a reality. I welcome this opportunity. For I know that justice is on our side.

So I am grateful for this day when we can take the debate away from the computerized mailing lists and away from the mailboxes of our land where people are getting so much excessive misrepresentation of the issues, and to the Senate, where we can test these issues objectively, fairly, in open debate.

It is a day that we have waited for.

Some of the ideas we will examine here were first advanced by Senator Taft in 1949, by Archibald Cox in 1960, by the American Bar Association, and by others All have contributed to what we have put together as our response, to our effort to make the law effective in all its details; to insuring justice and democracy in working places of our country.

(The following proceedings occurred earlier and are printed at this point in the RECORD by unanimous consent.)

Mr. BAKER. Madam President (Mrs. HUMPHREY), the Senate is about to embark upon a thorough and complete debate of a very fundamental subject: The balance between labor and management in America. It is a debate which has been underway in varying degrees of intensity since 1935 when the Congress enacted the National Labor Relations Act (NLRA).

In the past 40 years, that act has been altered significantly only twice. The reason is quite simple. The National Labor Relations Act has served this country very well.

Under that landmark legislation, the labor movement has made impressive strides in its effort to bargain collectively with management. Indeed, the concept of collective bargaining is as embedded in the economic fabric of this Nation as the basic notions of supply and demand.

When I rise in opposition to H.R. 8410, the Labor Law Reform Act of 1978, it is not because I believe that we should check the progress of the labor movement by diluting or otherwise altering the provisions of the NLRA. Rather, I believe that we must protect the integrity of the act and the collective bargaining process, and H.R. 8410 would not do that.

As a former administration official said, "If it ain't broke, don't fix it." In reviewing the record of the past decade, I fail to see substantial evidence of any major ailment affecting the labor movement or the collective bargaining process. And yet, the amendments proposed to the NLRA in H.R. 8410 are tantamount to amputation of a limb when a simple splint would suffice.

The proponents of this measure have stated that it is designed to correct two basic problems they believe exist with the NLRA. The first involves inordinate and unnecessary delays which allegedly exist in the preelection and election process. The second consists of the perceived inadequacy of the remedial measures available under the NLRA to discourage repeated and flagrant violations of the act.

My basic concerns with this bill are threefold: It constitutes an overbroad solution to an exaggerated problem; it will be particularly harmful to small businesses in this country; and finally, it will undermine the essential, but precarious balance between labor and management.

With respect to the allegations of excessive delays, it is argued that the National Labor Relations Board, as currently structured, takes so long to dispose of unfair labor practices cases (ULP's) that employees are denied the rights guaranteed them under the NLRA. To correct this so-called injustice, the bill would provide for a variety of changes in the act.

However, a review of the NLRB record indicates that it has earned and deserves its reputation as one of the most

effective Federal agencies. The NLRB holds more than 9,000 elections annually. In 1975, more than 80 percent were conducted within a time span of 12 to 44 days after an election petition was filed. In the remaining cases, all but a few were handled in a median time of 75 days, despite the fact that many of those elections involved novel and complex issues for the Board's consideration.

Moreover, in the 30,000 unfair labor practices cases brought to the Board each year, about 95 percent are completely resolved in the regional offices in a median time of 55 days after they were filed. Less than 300 end in litigation in Federal appellate court.

In other words, the record simply does not support the notion that inordinate delays are the rule, either with respect to elections or the disposition of ULP's, rather than the exception. Indeed, if S. 2467 becomes law, it may well create additional delays and spawn more litigation by diminishing the present willingness of management to voluntarily abide by the actions of the NLRB.

It is equally difficult to find support for the argument that the remedial measures available to the NLRB to discourage repeated and flagrant violations of the act are grossly inadequate. The proponents cite a few isolated cases of employer abuse of the act and then attempt to use that as a justification for various major changes which they propose. Those changes include a mandatory "make whole" remedy, 150 percent back pay, mandatory injunctions, and contract debarment.

Clearly, these additional "remedies" exceed the pale of reason and moderation. The NLRB record indicates that "flagrant" violations of the Board's rulings seldom occur. Of the more than 20,000 unfair labor practice cases filed against employers annually, less than 200 ultimately require court review and only 25 lead to contempt proceedings. Therefore, one wonders why we should enact legislation aimed at dealing with less than 5 percent of the cases when it would have devastating impact upon the other 95 percent who do not abuse the act.

Once again, the scope of the proposed remedy exceeds the extent of the problem and the result may be to polarize employers and employees who would otherwise have approached the question of collective bargaining in an open and forthright manner.

Perhaps the most disturbing aspect of this bill is the impact these proposed revisions would have on small businesses and the people who depend on them for their livelihood. Every argument made for this bill addresses problems attributable to large businesses. But, this proposal would apply to businesses of all sizes. Therefore, it would impact most heavily upon small operations, since they constitute 94 percent of all businesses in this Nation. In fact, 75 percent of all elections for representation held by the NLRB are in businesses having less than 50 employees, and 98 percent are held in businesses with less than 400 employees.

Small businesses are the backbone of our economic system. They constitute the primary source of employment for a large segment of the working population. Often, however, these employers lack the legal sophistication or management expertise necessary to avoid unintentional violation of many of these new rules, and they could ill afford the punitive action which would result from the failure to comply.

Ordinarily, the additional burdens that this bill would place on such businesses would have to be weighed against the positive effects of the legislation. However, such positive effects cannot be shown. In fact, it appears that this bill will undermine the efficiency currently found in the collective bargaining system.

Enterprises with small and less formally structured work forces are most aware of employee discontent and unrest. These employers realize that they cannot afford the reduction in productivity that such dissatisfaction engenders. H.R. 8410 would most likely succeed in destroying the lines of communication that currently exist and in "chilling" the growth of cooperative and voluntary collective bargaining in this country.

Finally, this bill would irreparably damage the delicate balance that has been developed over the past four decades between labor and management. At the heart of this equilibrium is the basic premise upon which our present labor law is built; that is, the undeniable right of all employees to organize and bargain collectively on matters concerning wages, hours, and working condition, if they so desire.

I cannot overemphasize my support for this principle. But my support is based upon the firm belief that the only way we can maintain the present balance is to continue to encourage employers and employees to voluntarily seek solutions to differences that may arise between them. In my judgment, H.R. 8410 will have just the opposite impact.

It will discourage employers from voluntarily complying with the wishes of the NLRB and dampen their willingness to work with employees to avoid the necessity of creating a structured employment environment.

In conclusion, let me stress that my opposition to this bill is directly attributable to my strong belief in the collective bargaining process. H.R. 8410 would only impair that process. This bill is ill-suited to the problem it is supposed to solve; it would wreak havoc within the small business community; and it would be counterproductive to the balance that must exist between labor and management.

Madam President, I have by no means identified all the problems with this bill, but I felt obligated at this point, at the beginning of this debate, to state clearly and succinctly the major concerns that I have with it and to express the hope that this measure will be defeated.

Mr. HELMS. Madam President, will the distinguished Senator yield?

Mr. BAKER. I am happy to yield to the distinguished Senator from North Carolina.

Mr. HELMS. Madam President, I thank the able minority leader for his cogent remarks. He has opened a discussion which may well be lengthy on this floor, on a subject that needs the full consideration of the Senate and of the American people. I commend the Senator on his remarks.

Mr. BAKER. Madam President, I thank my friend and colleague from North Carolina, who has done so much to bring this matter to the attention of the Senate and the country, and who will participate, I am sure, most fully in the debate which will ensue. He is right; my expectation is that it will take a long time to debate this issue, not because any of us are determined to be dilatory in our tactics, but rather because this is a matter of such fundamental importance that it must be addressed fully and thoroughly by this body and the country.

Mr. HELMS. The Senator is correct. I thank the Senator for yielding.

Mr. HATCH. Will the distinguished minority leader yield?

Mr. BAKER. Yes. I am happy to yield.

Mr. HATCH. I should like, as well, to thank the distinguished minority leader on this. I think he has pointed out some of the major defects in this bill in a very short and concise statement. I think he has hit the nail on the head when he said this is an antismall business bill.

I think it needs to be pointed out that the Washingtonian labor leaders are spreading all over the country that this bill does not cover most of the small businesses. The fact of the matter is it covers 76 percent of all employees. The National Labor Relations Act, which will be amended, covers every business in America but, by a rule of the NLRB, does not cover businesses that do less than $50,000 worth of business in interstate commerce. So naturally, this bill will not cover the sole proprietors and those who really are not in the business world. But the vast majority of all employees in small business will be covered by this bill; let nobody make any mistake about it. The distinguished minority leader has put his finger right on the point that I think needs to be made.

In addition, he has implied, and I want to compliment him for this, that this bill is inflation-causing and that there is no way that this bill is going to serve the working men and women of America, because it is going to eat into their paychecks. I think it ultimately will not only disturb their ability to live, but hurt their ability to live in a decent manner.

I compliment the Senator.

Mr. BAKER. I not only agree with the Senator, but I do applaud his pointing up these factors that trouble me and him and, I think, trouble many others.

I might also say, Madam President, that the distinguished Senator from Utah (Mr. HATCH) has been asked to provide a leadership role on the floor in the management of this debate. He serves on the minority side in the committee. He was opposed to this measure in committee. I wish now to thank him publicly for agreeing to accept an additional responsibility on the floor as we pro-

ceed to consideration of this matter, as many others will participate through our respective efforts, the Senator from North Carolina and others, in the presentation of this issue.

Mr. HATCH. I thank the distinguished minority leader.

(Conclusion of earlier proceedings.)

The PRESIDING OFFICER (Mr. HASKELL). The Senator from New York.

Mr. JAVITS. Mr. President, I am going to suggest the absence of a quorum to give Senator HATCH and myself an opportunity for a few minutes with the Republican conference. I should say we will not be more than 15 minutes.

I ask unanimous consent that when the quorum call is rescinded that I may be recognized to make my opening statement.

The PRESIDING OFFICER. Is there objection?

Hearing none, the Senator will be recognized when the quorum call is rescinded.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. I ask unanimous consent that Alfred Pollard of my staff be granted the privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 1:18 p.m., recessed until 1:48 p.m.; whereupon, the Senate reassembled when called to order by the presiding officer (Mr. HASKELL).

Mr. JAVITS. Mr. President, I would now like, if I may, to make my opening statement on this bill.

Let me first express my pleasure and appreciation at being joined with the Senator from New Jersey (Mr. WILLIAMS) in what looks as though it is going to be a very interesting debate, and something of a struggle.

Mr. President, I am pleased to join Senator WILLIAMS, chairman of the Human Resources Committee, in urging the Senate to enact legislation to protect the freedom of working Americans to choose whether or not to organize in unions while not changing the substantive bargaining rights of either employees or employers under the National Labor Relations Act.

The Labor Law Reform Act of 1978 which we advocate today has the full endorsement of the President, and backing of all living Secretaries of Labor, and is supported by a broad coalition of working people, both union and nonunion. The decisive battle is to be fought here in the Senate, the bill having already passed the House by a vote of 257–163 with no such outcry as we are witnessing here.

In my judgment, the Labor Law Reform Act of 1978 represents a long overdue revision of our basic labor relations statute, a revision that is necessary if we are to maintain effectiveness of the rights and protections already incorporated in the National Labor Relations Act as the foundation of our national labor relations policy. Reform of the administrative procedures and remedial measures which together implement and enforce the National Labor Relations Act is necessary to protect the continued integrity of our free collective bargaining system of labor-management relations.

Mr. President, I intend to discuss in some detail the specifics of this legislation and the reasons I believe it should be enacted. They are many, and to my mind, compelling. I had hoped, in fact, to be able to confine my remarks solely to the substantive issues raised by this measure. Unfortunately, the real issues of rights denied to workers, of widespread avoidance of existing law, and of the lack of its effective enforcement are being obscured behind a fog of rhetoric and denunciation that is more and more heated as it becomes less and less factual or tenable.

In the months since this bill was introduced, the pulbic debate on the question of labor law reform has been befogged by some determined to sidetrack discussion from the provisions of the measure itself and its rather modest objectives, and to make the issue instead the institution of trade unionism—and in its more dire form, the survival of our check-and-balance free enterprise economic system.

These opponents are not newborn babes, Mr. President, innocent of what words mean. They have read this legislation. They should know very well that it is designed primarily to protect the rights of working Americans already spelled out in the National Labor Relations Act, and certainly, they should be aware that it is no threat to our economic system. Yet, Senators and the public have been besieged with warnings that this is "the labor bosses' bill," that it will lead to what they call "push-button unionism" for the aggrandizement of "power-hungry union professionals."

THE LOBBY

The makeup of the lobby against this bill is no mystery. Orchestrating this exercise in obfuscations are unhappily some of the major business and industrial associations of the United States—both individually and under the umbrella of the National Action Committee. They are joined in coalition with the National Right to Work Committee and others—who cannot resist this chance to merchandise their brand of turn-back-the-clock policy.

For example, recently the National Right to Work Committee—sent an Actiongram to its activists that is typically demagogic in its attack on this legislation. It refers to "the phony labor law reform bill," the "pushbutton unionism bill," "this vicious legislation," "big labor," "union bosses," and "a blatant union power grab" which would "force hundreds of thousands more working men and women into unions against their will." All this packed into a communique of fewer than 500 words.

Also as what is considered trump card, a massive effort has been made to mislead small business men and women into believing that this bill is some special threat to them and to pit them against their own employees. The sardonic twist is that so many of these small business enterprisers are themselves ex-employees and should know better than anyone how they can be abused and exploited by professional antilabor elements in U.S. economic life against their own best social and economic interests.

The National Action Committee produces a brochure entitled: "Labor Law Bill; Not Reform But Rip-Off," and places newspaper ads headlined: "Is the U.S. Congress Killing Small Business?" It warns in the copy that passage of this bill "could sound the death-knell of small business as we know it." The ad flagrantly distorts the impact of this legislation on small business—which would be largely unaffected. The purpose is clear: To mobilize small businessmen against the legislation, and to mobilize them largely on the basis of misrepresentation."

Even the U.S. Chamber of Commerce chimes in labeling this bill a "union grab for small business" and in a newsletter accuses the House of Representatives of "caving in to strong pressure from organized labor." In a dial-a-message sponsored by the Chamber's newly-formed Citizens Choice, the bill is referred to as a "union power grab (which will) jeopardize every American's right to work."

None of this contributes to constructive debate. It is clap-trap designed to convince the public and the Senate that passage of this measure will turn American business and industry, and American workers, into pawns in the hands of "ruthless union officials," another of their pet phrases.

It will do nothing of the sort, and they should know it.

The plain fact is they are determined to torpedo this bill and will say almost anything their imaginations and their public relations personnel conjure up to discredit it, no matter how wildly off the mark.

MISREPRESENTATIONS

I want my colleagues in the Senate to know just how these statements they have been hearing day after day actually misrepresent the facts of the bill. Let us begin to clear the air now, for if we do not we stand little chance of conducting a reasoned debate that will truly inform every vote to come. I will explain the justification of the bill in greater depth subsequently in my statement today, but it is important at this point simply to juxtapose the misrepresentations we have all heard with the facts of what the bill actually proposes.

Misrepresentation. This bill will effectively repeal section 14(b) of the National Labor Relations Act so that the so-called "right-to-work" laws of several States will be nullified.

Fact. The bill in no way changes the right of States under scetion 14(b) of the act to prohibit union-shop agreements. Furthermore, the bill in no way changes existing law with respect to union-security arrangements.

Misrepresentation. This bill will force employers to permit union organizers on their property any time they choose and disrupt production while they address the employees during working time.

Fact. The bill protects the right of employees to be equally informed on both sides of the issue before voting for or against representation. It requires equality and nothing more.

In each case it is the employer who controls the manner, time and place of the campaign. The bill specifically requires the access rules to be promulgated by the Board to regard the need of the employer to maintain the continuity of production.

Misrepresentation. This bill will allow unions to force representation elections so fast that the employer will never get a chance to tell his side of the story to the employees.

Fact. The bill was revised by the Human Resources Committee expressly to guarantee employers a minimum period of three weeks following the filing of a petition in which to campaign. Most commentators and many business persons have concluded that a 3- to 4-week-campaign period is ample, and it has been the Board's customary practice where possible to schedule the election 3 to 4 weeks after the unit is determined. Furthermore, all employers have many and continuing opportunities to communicate their opinions to their employees, and in most cases they are free to do so before a petition is filed as well as after.

Misrepresentation. This bill denies due process for employers. Cases can be railroaded through the National Labor Relations Board and judicial review of Board decisions would be curtailed.

Fact. The bill proposed reforms designed to speed up the unnecessarily slow decisionmaking process at the NLRB. But full administrative and judicial review will continue to be available to all interested parties. For routine cases involving issues of fact or credibility only, the bill provides for a summary judgment procedure by which an administrative law judge's decision could be affirmed in 30 days. The bill also provides that a party who wishes to contest a final decision of the Board must file for review of that decision within 30 days. In each procedure, due process is fully preserved and all parties will be heard before a decision is reached.

Misrepresentation. This bill will allow the Federal Government to set wage scales for unionized employees.

Fact. The bill does not permit the Federal Government to set wage scales. It does permit the Board to order backpay for employees who have lost wage increases due to their employers' illegal refusal to bargain with them in good faith. In all cases the remedy would be a form of backpay only, and would not set future wage rates or other contract terms.

Misrepresentation. This bill will unnecessarily require injunctive relief in cases of workers illegally discharged for union activity during organizing campaigns since the NLRB can already petition the courts for injunctions.

Fact. The bill requires the Board to seek immediate reinstatement of illegally discharged employees before a Federal judge. A right is only as effective as its remedy, and without immediate reinstatement the act's protections against unlawful reprisals are ineffective at best. Although the Board now has authority to seek injunctive relief under section 10(j) of the act, its policy has been not to seek such relief in discharge cases. Furthermore, absent a congressional mandate, the courts have not been receptive to the Board's efforts to obtain preliminary relief under section 10(j).

Misrepresentation. This bill will reverse the Supreme Court decision in the Boys Markets case which permits employers to obtain Federal court injunctions against work stoppages in breach of no-strike clauses of collective bargaining agreements.

Fact. The bill expands the opportunity for employees to seek prearbitration injunctive relief against work stoppages beyond those available under existing law. It in no way restricts the present availability of judicial relief to any employer.

Misrepresentation. This bill will cause skyrocketing inflation. Every 10-percent increase in union membership results in a 5-percent increase in inflation.

Fact. It is impossible to predict what effect the bill would have upon the decisions of employees in secret ballot elections, and it is similarly impossible to predict what relationship if any, an increase in union membership has to the rate of inflation. An economic study recently conducted by Robert Nathan concluded that the maximum possible economic effect of a dramatic increase—10 percent—in union membership would be less than one-half of 1 percent in national price levels.

Misrepresentation. This bill will have a devasting impact among small businesses.

Fact. The bill has little impact upon small business, for the simple fact that small business is not covered under the Board's volume of business jurisdictional standards. Only 22 percent of all business establishments fall within these standards, leaving small business outside of the administration of the act and outside of the reach of this bill. Over 88 percent of all retail businesses, and 90 percent of all service business establishments, are not subject to Board jurisdiction. The charge that Mom and Pop stores will be affected any way is thus manifestly untrue.

Misrepresentation. This bill just represents a union power grab by desperate labor leaders trying to win back the thousands of members they have lost in the last few years.

Fact. This point is simply irrelevant to the bill. The National Labor Relations Act establishes the framework within which employees can make the free choice as to whether or not to be represented by a labor organization. The act is neutral, as it should be, on the issue of whether employees should or should not be labor union members. The rights of both employees and employers are already established, and the purpose of the bill is only to protect those rights by making the law's remedies effective.

Mr. President, these are the kinds of distortions being spread across the country about this bill. Labor unions and their leaders are not what this bill is all about; nor does it do anything to expand the membership or bargaining power of trade unions except as American workers freely decide to vote for them.

The proposal simply expedites the decisionmaking process of working people on the question of whether to join or not join a union seeking to organize a worksite, without deliberate delay and free of any coercion or reprisal. It provides for effective remedies for violations of the law which thwart employee free choice—remedies sufficient to discourage deliberate violations. Certainly, no one who believes in fairness, or in the rule of law, can rationally object to this.

S. 2467 is hardly extreme in intent or content. It intervenes in no existing labor-management contractual relationship. It bestows no new powers on trade unions or their leaders. It deprives managements of no existing rights. Its aim simply is justice at the workplace.

Mr. President, I recognize this is not true of all opposition to this bill. I know there are some genuine concerns about what it will do. Honest philosophical differences exist. But these have been and will and should be expressed in the responsible language of reason—as I expect they will be in this Chamber—not in demagogy.

Indeed, we already have heeded the responsible voices of concern and have revised the measure to meet certain legitimate reservations that were expressed during our hearings.

But none of these accommodations or others that are reasonable will satisfy those voices of reaction seeking a free ride on this bill. And, I am convinced now that we could reduce this bill to a placebo, and still these bitter-enders would attack it as vehemently and as irresponsibly as they now do.

While I deplore this deeply, I am not surprised by it. Vehemence and irresponsibility have corrupted many a debate in all years.

Mr. President, much of the more dug in opposition to S. 2467 stems from an ancient and erroneous notion that anything that strengthening workers' rights weakens management's. It is a head-in-the-sand attitude, one that absolutely disregards the need for change, accommodation and even vision.

To turn back the clock, or merely to preserve the status quo, is not what our Nation is about. It is not what our free enterprise system is about. It is not what built this Nation and not what nourishes it. We owe our strength, our economic plenty, our unequalled standard of living to the basic dynamism of free enterprise that is implicitly denied

and devalued by those who would decry the efficacy of collective bargaining.

Surely, this magnificent system can accommodate the protection of workers' rights to organize if they wish without crumbling. Yet, you would not think so if you listened closely to the voices of some of the major business and industrial associations. It is sad, Mr. President, that they have so little faith in the vitality and viability of the system they purport to defend and so little confidence in its basic strength.

They seem to prefer to lead us back to the industrial stone age. Their statements in opposition to the bill today seem to recall the opposition, in the year 1903, to legislation establishing the 8-hour day and to the small trade union movement advocating the need for such a proposal.

Mr. President, in 1903 the Nation was treated to a veritable feast of anti-unionism, compliments of the then National Association of Manufacturers. I would quote a few of these statements to remind my colleagues how little times, language, and ideas may change.

"To the manufacturers of the country, what more important subject can there be than this of organized labor * * * which, if not reduced, will do more, in the end, to ruin the industries of the country than could be done by war or pestilence."

"The introduction in Congress of such measures as these—the 8-hour day—can only be regarded as ominous manifestations of the deep-seated power of (organized labor), an organization which has had such an insidious growth that we find it dominating to a dangerous degree the whole social, political, and governmental systems of the Nation * * * with socialism stealing upon us at a rapid rate."

"The welfare of those who toil in our factories call for our most earnest consideration * * * (But) the union unwillingly drives men into its ranks by its policy of intimidation * * *"

"(Trade unionism) denies to those outside its ranks the individual right to dispose of their labor as they set fit—a right that is one of the most sacred and fundamental of American liberty."

"Organized labor is an organization of manual labor, trained and untrained, of men who do as they are told and who depend upon the brains of others for guidance."

"The 8-hour day could well have been entitled an act to repeal the Bill of Rights guaranteeing the freedom of the individual."

Much of the extreme opposition to labor reform will be judged just as extreme by future generations as we now judge the same organization opposition to an 8-hour day.

Mr. President, I would not want what I have said and what I intend to say to be construed as an attack on the American business community at large. Most business men and women are fair-minded. I have much regard for most business leaders and for what business managers have done for this Nation. Many businessmen—most of them, I am convinced—recognize the important part trade unions play in our working life. Many thousands of American firms have have collective bargaining agreements with the unions that represent their employees, and management and labor live in an atmosphere of mutual respect. Sure, they bargain hard, and sometimes strikes occur—but each recognizes and respects the other's rights.

Except insofar as they have been deliberately misled about this proposal, I believe most businessmen could accept its purposes and live with it comfortably, recognizing that workers' rights to organize, if they wish, must be protected.

I honesty believe this to be true. And yet, why are so many so silent? Too few voices have been raised by responsible business leaders who want no part of a vendetta against the trade union movement and who should help to fashion this bill as a modest measure with realistic and rational goals.

I am deeply disappointed that so few of those many thousands of businessmen and women who do have vision, and do know better, and are fair-minded, have not spoken up. By their silence, they have permitted some extremists falsely to claim leadership and to appear to be spokesmen for American business. This development is a disservice to the majority of those in the business community who do not want to give aid and comfort to law avoiders, and who are not afraid of the democratic process in labor-management relations.

I had hoped for progressive business men and women who would publicly recognize the value of a fair labor-relations law that is fairly enforced. I had hoped for some in the business community who would declare their support for labor law reform as a symbol of good faith and as an investment in good labor-management relations for the years ahead. I had hoped for those business persons who believe in the absolute necessity of a joint labor-management approach to solving the truly important economic problems facing this Nation to declare the importance of those problems instead of focusing on the already-decided battles of the past.

Mr. President, I believe we are at a crossroads in our economic life and development, and the measure we are considering is but one element among many choices we have to make.

We should move forward in the direction of a new era rather than backward toward old errors in labor-management relations. We have far larger economic problems confronting us—inflation, unemployment, problems of productivity intertwined with stiff competition from abroad, questions of how we can move toward greater industrial democracy and more participation by workers in major business decisions that so intimately affect their lives. These problems must be addressed, soberly and responsibly and without acrimony, by labor and management together.

HISTORY OF UNION STRUGGLE

To put this into context, Mr. President, I think it is important for all of us to recall how hard and bitterly American workers and their leaders were forced to fight to establish their unions—many present officials of labor organizations, and the generations of unions and members that preceded them.

It took much to build their unions—struggle, sweat, sacrifice, courage, risk, blood. Probably too few Americans are aware of it—and perhaps even some Members of this body, as well—but the first unions were treated as criminal conspiracies and their members punished as conspirators.

In 1806, a judge in Philadelphia ruling against striking bootmakers, said:

> A combination of workmen to raise their wages may be considered from a two-fold point of view. One is to benefit themselves . . . the other is to injure those who do not join their society. The rule of law condemns both.

For years, this decision stood—a criminal conspiracy for working people to join together to secure a voice in their wages, hours, and working conditions. To most of us, this would be unthinkable today. I am not sure it is unthinkable to the forces seeking to muddy up our present debate.

But in the eyes of many employers, unionism for decades in the 19th and this century remained a conspiracy to be crushed, and during these decades union meetings often were held in secret. Members used codes for correspondence and conversation. They were hounded and harrassed by employers, discharged on the basis of their union activity and blacklisted from employment in their trades.

To prevent unionism from spreading, employers in the 1870's forced workers to sign the "iron clad," progenitor of the "yellow dog" contract. One railroad prohibited employment of anyone who failed to sign the following: "I do promise to leave the Knights of Labor, all brotherhood organizations, all labor unions * * *."

These kinds of tactics intensified in the beginning of this century. The open shop drive of the early 1900's cut union membership by more than half. The then National Association of Manufacturers and other national industry associations led the antiunion campaign.

The American plan of post World War I enlisted 23 national industrial associations and 1,665 local chambers of commerce in a nationwide union busting campaign. According to the sponsors, "There is no need for labor unions. No benefit or advantage will accrue to anyone except union leaders. Every man ought to work out his own salvation and not be bound by the shackles of (union) organization."

Mr. President, the real extent of repression of trade unions only became apparent when the Senate Civil Liberties Committee, chaired by Senator Robert M. La Follette, released its report covering the period 1933 to 1937. It is instructive to read the committee's proceedings and report. They are shocking. The report detailed efforts by employers to smash unions through espionage, strong-arm tactics, violence, coercion, bribery and strikebreaking. The committee found that some 2,500 leading corporations hired company spies, informers, and other agents. Records of just three

so-called industrial security agencies showed nearly 4,000 operatives planted among workers in key industries. Some infiltrated the unions and reported regularly to management. Some even became union officers.

The committee uncovered the fact that nearly $10 million was spent by one group of companies for spies, strikebreaker, weapons, and ammunition. Many of the spies and strikebreakers, and many in whose hands the weapons wound up, were known gangsters.

It might be interesting, Mr. President, for the Senate's memory to be refreshed —and for the public to learn—about what unions and their members and leaders had to confront when a firm hired an industrial security agency. I quote now from a prospectus of the Bergoff Industrial Service, advertising its wares:

Strike prevention department—This department is composed of men possessing natural leadership qualifications . . . to counteract the evil influence of strike agitators and the radical element.

Undercover department—Our undercover department is composed of carefully selected people . . . who furnish accurate information on the movements and contemplated actions of their fellow employees.

Open shop labor department—This supplies all classes of competent mechanics and workpeople to keep the wheels of industry moving during a strike.

Protection department—Composed of big, disciplined men with military or police experience, for the protection of life and property.

One such group protected life and property so well in October 1933 at a steel plant in Ambridge, Pa., they shot 15 fleeing strikers, killed 1, gassed hundreds. The La Follette committee report gives dramatic evidence of workers spied on, beaten, blacklisted, harrassed, even killed—all because they wanted a union.

Mr. President, the Wagner Act ended most of the abuses brought to light by the La Follette committee by ending most of the opportunities to practice them. But even the Wagner Act ran into the same close-minded and mulish opposition. According to opponents:

It—the Wagner Act—destroys equality of bargaining power between employer and employee. And it will increase enormously the causes of labor disputes. . . . It takes from employers and employees alike their constitutional right to develop their mutual relationships under local conditions and free from bureaucratic political dictation . . ."

The problem of human relations in industry can never be solved by law, and espeally by class legislation which seeks to enarone one class while it enslaves another.

The speaker was concerned, in this instance, about the enslavement of employers. It never came about.

Mr. President, the Wagner Act said in its preamble:

It is the policy of the United States to encourage the practice and procedure of collective bargaining by protecting the exericse by workers of full freedom of association, self organization, and the designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

But the Wagner Act hardly signaled the end to vehement anti-unionism. Today, instead of the Bergoffs there are professional consultants counseling top management officials on means to prevent a union from organizing and/or to throw out a union where it exists. Thousands of top officers of business and industry have attended seminars conducted by these consultants. They are lured by promotional brochures advertising "preventive labor relations" or how to "maintain a non-union operation," or "strategies to preserve nonunion status."

What do they hear at these seminars? Here, from a report by a person who attended one, are some statements by the consultant:

Union recognition cards are vile and they're dangerous . . . Don't share your pie with the union . . . The name of the game is to prevent the (recognition) election and chill the union off.

From the same source, some words on the decertification process:

The decertification campaign is as wide as your imagination. Management can't write an anti-union speech, but you can tell a loyal employee how to write one. Don't tell such an employee "I want you to file" a decertification petition. Tell him he has a right to file. Don't tell him you will pay for his going to the NLRB, but "wink" at him so that he knows you will make it up.

The consultant advises his management students that the objective in bargaining is not to negotiate a contract but to not arrive at a contract, so that a decertification process will be made easier. The strategy is known in the union-busting trade as "bargaining to an impasse."

Mr. President, it strikes me that it is probably much more than coincidence that the increasing use of these consultants has been paralleled by a drop in union successes in organizing elections in recent years and a corresponding increase in decertification elections.

I hope this brief historical review shows, if nothing else, that many even now have never accepted the right of working people to organize and bargain collectively. The Wagner Act is being subverted by such obduracy, and the Senate is called on once again to take a stand on the right of the trade union movement itself to exist.

LABOR'S CONTRIBUTIONS

Mr. President, this history of where we have come from and where some of the opponents of this bill are today in their labor relations practices is sobering indeed. We must not forget that history in evaluating the arguments made for both sides in connection with this legislation. But I for one will not stand aside silently when the attacks continue on the very existence of the trade union movement, or the motives of those who have given their lives to the cause of working people.

Mr. President, it saddens me that in the late 1970's, a U.S. Senator feels compelled to stand here and defend the trade union movement, particularly when the labor movement as an institution is not the real issue in the bill we are considering.

But I am proud of what labor unions have done for this country. They have brought dignity and security to the workplace for millions of working people, and a voice in their own destinies to their members; good, hard-working men and women who contribute to the Nation and to the communities they live in.

Read of a devastating flood in Pennsylvania, or a hurricane in Florida, or a tornado in the Midwest * * * the first in with their hands, their hearts, and their help are the unions and their members, helping their neighbors rebuild.

It was the American labor movement that led the battle for free public education; that brought young children out of the gloom and filth of early mines and mills to attend those schools; that brought democracy to the workplace; that helped to create the great wealth of this Nation and made it possible for so many to share that wealth; that has led to the struggle for human rights, not only at home but throughout the world.

The 8-hour day, minimum wage laws, food and drug protection, protection for women workers, civil rights, voting rights, an end to the poll tax, fair employment practices, pension reforms—much of the basic human rights legislation of the 1960's—these are things that happened to the Nation because the American labor movement was there, working among the people and in the corridors of Congress.

America's unions do not work for their members alone—it is the working poor who get a higher minimum wage or who are covered by the Fair Labor Standards Act for the first time because the AFL–CIO, the Auto Workers, and other labor organizations worked and fought so the poor could have money for bread on their table and a roof over their heads. Our unions work for minimum wages for the workers who are not organized, who do not have unions—not so with many who today denounce labor law reform.

Today we accept as part of our way of life those laws which are firmly woven into the American fabric—consumer protection, housing, social security, workers' compensation, medicare and medicaid, school lunches, and food stamps. But it was not always so. It has been an uphill fight all the way to establish a firm and fair basis for that decent society we have and accept as part of our way of life today.

Who speaks for the housewife worried about the safety of the meat and vegetables she must feed her family? Who speaks for the workers in a tiny workplace with no union, no recourse, nobody to defend him? Who speaks for the student trying to get through college? Who speaks for the unemployed black or chicano youth trying to get a job or enter a training program? Who speaks for the veteran? Who speaks for the senior citizen? Who speaks for the downtrodden, the mentally retarded, the sick, the homeless, the cripples, the handicapped, the outcast? Where are most of the constituents of the National Action Committee then? I know exactly where they

are. So do you. So does the American public.

The record of the battles for social progress is clear. There are those who fought child labor and those who supported it. There are those who fought worker safety and health, and those who supported it. There are those who fought food and drug legislation, and those who were for it. Those who were against housing for poor people, and those who were for it, those against social security, those who supported it, those against medicare for the elderly and medicaid for the poor and those who were for it.

Over and over it is the same story. Those who flood Congress with misleading mail playing to fears and hates, appealing to the dollar sign, opposing every single forward step we have made as a nation.

The American labor movement in season and out has been on the side of those who need protection on the job from low wages, long and killing hours—who need protection from dangerous chemicals where they work—who need a decent house—who need protection in the marketplace from shoddy or dangerous merchandise—whose children need education. Of all the worthwhile causes that labor organizations support here in the Congress and throughout our land, only a fraction of those who benefit are union dues payers or have union membership.

Now, of course, labor's legislative goals are not only altruism. Labor works for its members. Labor has a constituency. The labor unions in America are made up of people—they are plumbers, they are electricians, they work in steel mills, they mine coal, they make automobiles, they build refrigerators. And all of these people in unions are parents of children in schools, they are consumers, and they grow old and expect the social security system to be there to help them in their old age. So it is very natural that organized labor in America should care about other things besides the wages, hours and working conditions of their immediate members.

Consider the Civil Rights Act, or the Occupational Safety and Health Act, or the Pension Reform Act, or the proposed National Workers' Compensation Standards Act, which Senator WILLIAMS and I introduced just last week. These are prime examples of measures which organized labor supports and which benefit more than its own members. They are for the protection of millions of people outside of the labor movement who pay no dues, who carry no union membership cards. Hundreds of such examples could be cited showing that the work of our unions in this country has a beneficial effect on the lives of people who work and are not union members themselves.

Some of my colleagues here today will remember the eloquent words spoken in this Chamber last year by our dear friend, Hubert Humphrey, in response to another attack on the motives and traditions of the American labor movement. They are very much worth repeating here on this occasion. He said:

> . . . organized labor basically has been good for this country. This country has the best of labor-management relations. This country has high productivity. The standard of living in this country for the unorganized worker is due in a large measure because of the efforts of organized labor . . . it has fought for public health, child care, school lunches, programs of nutrition, all the things that mean something to millions and millions of people who never got inside a union hall . . . Who has come in here and testified day after day and year after year for programs to aid the physically and mentally disabled in this country? Who has put their political muscle behind those programs? Organized labor, as one of the groups in America, thank God.

He also pointed out that perfection is not to be found in any of our institutions:

> . . . I know there have been some crooks in the labor movement, but may I say there have even been some people who have stolen from the church treasury; but we do not abandon our religion or our churches. There have been a few who have disgraced the legal profession, even some that have disgraced politics, and some who have disgraced the medical profession, but we do not condemn the whole system because of the transgressions of the few.

Unions today are about 20 percent of our total work force. But they speak for millions of American working men and women of all races, of all ethnic groups who need a voice in Washington, who need that special advocate they do not otherwise have in our huge, complicated system of Government. Other voices are heard loudly in our Halls in the Capitol. We know where the American Medical Association is. We know that the American Bankers Association is around. We know of all the trade associations that fill the yellow pages of the Washington phone book. Why is labor's voice condemned?

Instead of coming to the Congress today with a message of knocking unions, I ask my opponents on the questions of labor law reform—why are you not praising the work and worth of the American trade union—their history of social progress, their accomplishments in making the workplace a better place to earn a living. Each of us should want and work for a free, responsible, sensitive, humanitarian labor movement. This is what the American people have a right to hear from us. We need organized labor as much as we need business enterprise. We need the AFL–CIO as much as we need the chamber of commerce and the NAM. We need our trade unions because they are the conscience of our free enterprise system.

Instead of a litany of abuse against unions, I call upon my colleagues to join me in fair judgment on the unions of this country. Our unions are not unblemished—but they are a great and proud part of America's rise to greatness. They have served us well. And they have gone beyond their immediate membership—they have served a wider constituency—they have worked for the good of all who labor, all who enter the marketplace, all who look to a dignified old age. America's unions are to be honored and given that place in our history they have too often been kept from.

America's unions are the men and women who work in our textile mills, they work in our hotels and restaurants, they build our cars and trucks and buses, they cut and sew our dresses and suits, they build houses and buildings, they repair our fixtures in our offices and homes, they labor in our steel mills and in our mines—they are the very heart and soul of what makes America strong and vigorous. Their sons have died in our wars. They are the very backbone of this country. And they deserve much better than what they get from those who would defame the worth of our unions, and who by implication would deny men and women who work for a living that opportunity to be a part of unions, to join and work in unions, and to benefit from the union cause. Without unions, our people would be less, they would have less, they would not be full partners in the flourishing democracy we have.

The American worker has been guaranteed by law the right to be a part of this movement, and the right to refuse to be represented according to majority vote, for 43 years. We must not permit this right to be emasculated, if our democratic economy is to remain a partnership.

WIDESPREAD VIOLATIONS

Mr. President, Senator WILLIAMS and I felt compelled to sponsor this bill because of the overwhelming evidence of widespread and flagrant violations of this basic right. Such violations are not simply subjects for academic discussion. They are real, and they involve people. House and Senate committee hearing reports are filled with testimony by working men and women about how they were denied rights supposedly guaranteed by law. The record is there to be read. I will cite only one or two. They typify the rest. This was the testimony of Johnny Davis of Johnsonville, S.C.:

> I have been working at Wellman Industries in Johnsonville, S.C., for the last 19 years. In 1970 we started a campaign there trying to get a union organized. I took an active part in signing the committee sheet and helped the people who was unable to sign their names and further instructed them how to fill the cards out . . .
>
> We lost the first one in 1970. And we tried again in 1971. That one was put aside. So we still didn't give up. We tried the third time in 1972 and were lucky enough to win.
>
> But during the three years that we were fighting, we lost a lot of people fired by the company for taking active parts in trying to organize the union there.
>
> Further, later in 1972 we finally got authorized to have a panel of bargaining negotiators and I was appointed to be on that committee. Finally in 1976, the early part of the year, we got the first meeting set up. We held meetings from the first of the year through about five months. At that time the company refused to continue bargaining. So we come to the union organizers. They started filing complaints over and over and over. And the company in turn appealed over and over, the same as they filed the complaints.
>
> So we continue through five years of fighting, from 1972 to 1977. We still have no union yet . . .
>
> After five years of fighting . . . we are praying that the law will be strong enough to help us, because we really need help.

This is not simply delay of the law's protection; it is denial—and it happens time and time again.

This is one victim of one firm. There are many other victims of many other firms, thousands and thousands of workers denied the right to union representation after they had chosen it, often by employers willing to pay backpay and willing to risk other remedial orders because they considered it cheaper than union recognition. These remedies must be made sufficient to deter deliberate violations.

Bancroft Manufacturing Co., at several Mississippi locations, stalled the union that its employees had voted to have represent them for 4 long years without coming to a collective bargaining agreement.

At the end of 4 years, even a court order was not enough to bring management to the bargaining table in good faith to negotiate an initial contract. It simply defied the court order, laid off 65 workers and transferred others. In the process, the company violated the National Labor Relations Act repeatedly. Reinstatement and backpay orders were insufficient to deter it.

In another instance, the J. H. Rutter-Rex Manufacturing Co. of New Orleans, legal proceedings took nearly 16 years, from 1954 to 1969.

In January 1954, the employees chose the clothing workers as their bargaining representatives. Negotiations with the company began but broke down in April and the employees went on strike. The union filed unfair labor practice charges against the company for refusing to bargain in good faith.

In February 1956, the NLRB found the company guilty and ordered reinstatement of all employees who applied and to "make such applicants whole for any loss of pay suffered by reason of the * * * refusal, if any, to reinstate them." Meanwhile the employees had terminated the strike and had asked for their jobs back. The company refused reinstatement to over 207 of the 622 employees.

The company appealed the NLRB order to the court of appeals, which upheld the Board on August 19, 1957. Meanwhile, the regional office of the NLRB had started the laborious task of determining a formula for establishing the amount of money owed to the discharged employees. The process took several years, prompting the company in 1962 to ask for a stay of the Board order. The request was denied by the court of appeals.

It was not until 1966, 12 years later, that the Board's trial examiner ruled the company owed $160,000 to a total of 182 employees and denied an award to another 35 employees. The backpay award was determined to be effective through 1961. The company again appealed to the court of appeals, and ultimately, the case went to the Supreme Court. On December 15, 1969, the Supreme Court held for the workers in a case that started in 1954.

Mr. President, soon I will get into the specifics of this legislation. I wish to emphasize again, however, some things I have already said. It is clear that some opponents of this measure are trying to make the labor movement, not the bill's merits, the focus of debate. It is hard to understand those in 1978 who look upon unions and their leaders as some alien force, an aberration in the American experience.

I believe the labor movement has stood tall in the struggle for progress for the just-plain-people of this Nation. I have been here for a while, and I have a long memory. I remember the labor movement coming up this hill time and again to say yes to proposals that help people, whether or not they directly affected unions and their members.

And all the while other groups I have cited were marching up here to say no. I do not ever recall the so-called National Right to Work Committee, for example, appearing before the Senate to testify in behalf of programs to create jobs. What is the real right to work all about, after all, if it does not mean jobs?

SMALL BUSINESS

Mr. President, a word to those millions of hard-working, independent men and women of the American business community is appropriate here. I cannot believe that their organizations reflect the real beliefs of most such employers. I think responsible business people would approve of penalties to deal with the abuses of labor law by the minority of employers among them, and would support the principle of expediting workers rights to vote yes or no to a union free of coercion and reprisal.

Superficially, the attack against this measure might be attractive to some businessmen and women. Much of what such opponents are doing and saying is designed specifically to frighten operators of small businesses into outspoken and active opposition to the bill.

I hope small business will not be imposed upon. The truth is, Mr. President, relatively few of the millions of American small businesses will be affected.

The claim by opponents is that small business lacks the resources to respond to employee organizing attempts and therefore it should be exempted from the provisions of the Labor Law Reform Act. In my judgment, it would be a mistake for the Congress to respond to this line of argument by establishing, within the law designed to protect the right of employees to freedom of choice, a double standard of justice. There are no rights that the act establishes for employees that are not necessary for employees of small business. In 1977, over 22,750 unfair labor practice charges were filed against employers. Of this total, over 6,000 or 26.3 percent of the charges were filed against employers with fewer than 10 employees at that establishment, and another 2,200, 9.6 percent of the total, were against establishments employing between 10 and 20 employees. To exempt those employees from the protections of the act would thus be to deny over one-third of the employees now in need of legal redress their existing rights. That would be a gross denial of the equal protection of the law.

From small business' perspective, the National Labor Relations Act offers very important protections against union abuses. Many of the act's most effective remedies such as those relating to recognitional picketing and secondary boycotts, exist for the protection of the business person who becomes the subject of pressure from a more powerful labor organization. Again in 1977, of over 10,000 charges against unions filed with the Board, over 3,200 were filed by employers or employees at establishments with fewer than 10 employees, and another 750 were filed in establishments with between 10 and 20 employed.

The Department of Labor estimates that only 800,000 of a total 3.8 million business establishments in this country are doing a sufficient volume of business to meet the Board's existing jurisdictional standards. These 3 million businesses that are not now subject to Federal labor regulation include approximately 1 million retail establishments and 1 million service establishments. Thus the greater part of small business today is excluded from the Board's jurisdiction by administrative action, and the Congress should not go even further to keep them out. Businesses excluded from the Board's jurisdiction must rely upon State law for protection, and 34 States today do not have a comprehensive labor relations law. In my view it would be irresponsible to remove the collective bargaining relationships between small business and their employees from the framework of the National Labor Relations Act.

THE MERITS OF LABOR LAW REFORM

I have said already, Mr. President, that I believe passage of S. 2467 can create a new era in industrial peace and labor-management relations. Passage will tell the business community that the rights of workers to organize, or to decline organization, will be protected fully; that there will be no profit in law avoidance, and if employees choose a union, to learn to deal with it and live with it amicably.

Passage will also tell American workers that the right to decide is their right, that their decision will be respected and protected—uncoerced opportunity to vote a union up or down, in or out.

Mr. President, I have spoken at some length. I would have liked to address nothing more than the specifics of the legislation. That should be, after all, what a final decision is based on.

With that, Mr. President, I would like to turn to the substance of the Labor Law Reform Act.

In contrast to the attacks that have been made against the bill, the fact is that S. 2467 as reported by the Human Resources Committee is a moderate bill which attempts nothing more than to put a stop to the continuing erosion of existing rights and protections.

Last fall when the Labor Subcommittee conducted 8 days of hearings on this bill, it became clear that this legislation would be the most controversial legislation designed to protect the rights of working people since title VII of the Civil Rights Act of 1964. At that time, I recognized that the bill had to be revised in order to assure any reasonable person that it meant no more than Senator WILLIAMS and I said it meant when it was introduced—to wit, that it would

restore the effectiveness of the National Labor Relations Board's procedures and remedies, but that it would not change the substantive rights of unions with respect to their bargaining relationship with management. To this end, I proposed several key changes in the version of the bill reported by the Human Resources Committee. The intent of these changes was also to moderate the bill's impact upon businesses, to refine the improvements to the Board's administrative processes, and to accommodate some reasonable features from the related bill introduced by Senators HATCH and TOWER, S. 1855. I would like to summarize a few of these changes which were adopted by the committee in order further to balance the legislation now before us:

As compared to the originally introduced bill, S. 2467 lengthened the election deadline for the shortest elections from 15 to 30 days;

Every relevant section of the bill's election provisions was made applicable to union decertification and deauthorization elections as well as to representation elections, and every remedial section was made applicable to union as well as employer unfair labor practices;

The equal access provision was narrowed to focus especially on truly captive audience speeches, and it was conditioned upon the prior receipt of notice from the union to protect against unfair surprise;

The measure of backpay was lowered from double to 1½ regular wages in order to more closely approximate actual losses suffered, and any actual wages earned during the backpay period were made deductible to prevent the possibility of unjust enrichment;

The debarment provision was made more flexible to permit a debarment sanction of less than 3 years, and the scope of the debarment was limited to the corresponding scope of the willful and repeated violation of the act;

The provision liberalizing the treatment of guards was narrowed to apply only to in-house guards, not to contract guards or armored car guards;

The standard of review for Board-promulgated rules was expressly made to conform to the well-developed standards under the Administrative Procedure Act;

Employers were guaranteed an expanded statutory right to freedom of speech during election campaigns;

Employers were empowered to seek court injunctions to enforce a contractual promise not to strike in certain situations; and

Employees with religiously-based conscientious objection to the payment of union dues were guaranteed the right to continue working even where a union security agreement provides otherwise.

These changes and others have produced a bill that is carefully balanced, yet will afford meaningful protection to the over 65 million American workers, union and nonunion alike, who deserve the full freedom to decide for themselves whether they want to bargain collectively with their employers.

In the more than 40 years since this country first recognized the right of working people to organize and bargain collectively, it has always been our national labor policy to protect the free choice of employees to decide for themselves whether or not to be represented by a labor organization. This policy is today threatened by unjust and unnecessary delays in secret ballot elections, ineffectual enforcement and remedial powers, and by employers that take advantage of loopholes in existing procedures to evade and frustrate the basic purposes of the act. In short, we are confronted by evidence of a serious and growing disrespect for the law.

ELECTION PROVISIONS

The Labor Law Reform Act addresses two major problem areas that have arisen since the National Labor Relations Act was last subject to overall revision in 1959—the manipulation of the act's election provisions and the inadequacy of the Board's remedial powers during the period before the establishment of a contractual relationship.

If there is any one single problem that has contributed to breakdowns in enforcement of national labor policy, it has been the inability of the enforcing agency to provide prompt and effective protections of the rights guaranteed by the act. Since 1959, the caseload of the Labor Board has more than doubled, and the ever growing delays before representation issues can be settled or rights vindicated offer testimony to the real need for legislative attention to the timeliness of the act's protections.

The problem of delay has become especially serious as legal advocacy in labor relations has become more sophisticated and the case law more complex.

Because the National Labor Relations Board has not promulgated rules covering appropriate bargaining unit determinations, it must now make such determinations on a case-by-case basis before an election may be held. Employers and unions may gain substantial delays for further campaigning and possibly unfair tactics simply by demanding hearings on such issues. In 1976, over 1,000 representation elections—of the 9,000 conducted—were delayed beyond 75 days after the filing of the petition. These delays often jeopardize the fairness of the ensuing election and lead to charges of unfair labor practices during the campaign.

There is simply no justification for such delay in the holding of elections. Accordingly, the Labor Law Reform Act of 1978 would guarantee elections with a time certain. Within 1 year of enactment, the Board would be required to exercise its existing authority under section 6 to promulgate rules establishing certain units of employees as presumptively appropriate for collective bargaining and to issue rules designed to facilitate agreements on voter eligibility by spelling out criteria whch would be employed in making such determinations.

These rules will eliminate the need for case-by-case unit determinations, and will thus enable most elections to take place within 1 month. Where issues of voter eligibility or other issues remain, the Board may continue to resolve those after the election is held if necessary.

The bill establishes three new categories of representation petitions and sets election deadlines for each.

First, where the Board has already established through rulemaking the appropriate unit involved, and where over 50 percent of the employees in the unit have signed authorization cards, the Board would be required to hold the election within 21 to 30 days of the filing of the petition requesting recognition. Thus, where there exists no substantial legal issues to be resolved before the vote and a majority of employees have indicated they want the union to begin collective bargaining on their behalf, the election is to be held within 1 month in order to promote a free and fair election and to avoid the possibility of greater disruption inherent in an extended campaign period.

A second category of representation petitions is where no presumptively appropriate unit has been established by rule, and where more than 30 percent of the employees in the proposed unit request collective bargaining with a designated representative. Such elections must be held within 45 days of the request. This time period represents the median time elapsed for all elections under existing law, so that the bill simply requires most elections to meet the present average standards.

The final category includes representation petitions which would fall into the above categories, except that the Board determines that the petition presents "issues of exceptional novelty or complexity." For such extraordinary cases, the election must be held within 75 days. These time limits will permit the full operation of administrative due process consistent with the minimization of opportunities for delays and manipulation for tactical advantage. They permit more than adequate time for both employer and union to present their views to the voters.

The promise of expeditious elections would be an empty guarantee without a statutory assurance that the voters will be able to hear both sides of the issue before casting their ballots. Indeed, the entire policy of employee freedom of choice is premised upon the employees' right to an informed choice. Although this has been the stated policy incorporated in our labor law for many years, the recent empirical study conducted by Professors Getman and Goldberg revealed that in fact, employees were not equally well acquainted with both sides of the campaign before voting. This was found to be true because of an inherent imbalance now permitted by the Board's case law—the employer's power to deny a union access to employees at their place of work. The study found that "the employer who uses working time or premises to campaign against the union and denies those facilities to the union effectively communicates with a substantially greater proportion of the employees than does the union" (at 156).

It is fundamental to the democratic process that each party should have a roughly equal opportunity to communicate with the electorate. In light of the empirical evidence that this opportunity

does not in fact exist today, the Labor Law Reform Act requires the Board to promulgate rules that would insure employees an equal opportunity to obtain information concerning issues relating to representation from both management and union. Within this overall goal, the bill carefully safeguards the need for continuity of production and minimum inplant disruption. Two points in particular need to be emphasized: in all cases it is the employer who remains in control of the extent of onpremise campaign activity, and no employer will knowingly trigger the equal access rule, for the bill requires the union to give notice to the employer as a precondition to access.

The employer will thus be on notice that a serious organizing effort has begun, and that the employees from that point until the election or until a period of time has elapsed, will have the right to hear both sides of the issue. Union speeches to assembled employees in working areas and on paid time are required in one circumstance only—where the employer has chosen a captive audience speech to present the case against the union. Campaign activity short of captive audience speeches will require union access only to nonworking areas. This rough equality is the minimum standard required to protect the employee's right to a free and informed secret ballot selection.

A directly related election reform is the free speech provision of the bill, which makes section 8(C) of the act applicable to representation cases. Thus the Board would be prohibited from relying on campaign statements alone as evidence upon which to overturn an election, provided those statements are not coercive in nature. It is my firm belief that the Federal Government should not be in the business of regulating speech, for the guarantee of freedom of speech is one of our most cherished national values. Our commitment to freedom of speech is historically based on the faith that the truth emerges from the competition of ideas and not through Government regulation. That commitment should be equally applicable when the Board determines whether to set aside an election under section 9 of the act as it is to the decision whether to issue an order under section 10.

This freedom is of course premised upon the right to reply, and thus the free speech guarantee can exist only if it is considered together with the equal access rule. Freedom of speech for candidates in political elections is based on the assumption that each party will be able to point out to the voters those aspects of the other party's campaign it believes to be untruthful or unfair. That freedom in representative elections can only be based on a similar assumption that each party will be able to reach the employees to counter statements it believes are misleading. This rationale also explains the 48-hour statutory period just prior to the election, where the opportunity for effective reply does not always exist. The free speech rule would not necessarily apply during this critical period just prior to the balloting; rather the regulation of campaign statements during that period must be left to the Board's supervision to prevent the possibility of abuse.

REMEDIES

The ultimate purpose of the unfair labor practice provisions of the NLRA is to create a climate which will encourage voluntary compliance with the prohibitions stated in the act. And it is an axiom of law enforcement—most recently documented in this context by Prof. Charles Morris of Southern Methodist University Law School—that where quick, certain, and strong remedies have been provided, as they have for certain union fair labor practices, the number of violations tends to be small and stable, but where such remedies are not provided, the number of violations tend to increase as it becomes understood that it is profitable to violate the law.

The time between the employees' first organizational efforts and the entering into of the initial collective bargaining agreement is typically the most volatile and important period for concerted activity and bargaining in good faith. The protections of the act during this time, therefore, must be made especially strong if statutory rights are to be respected.

Under current law, however, there is every financial incentive to discharge union adherents and to refuse to bargain in good faith. This is because the Board is limited to remedial orders simply reinstating the employees discharged for engaging in protected activities under section 7 of the act, often after the election or the contract issue is decided, or simply telling the offending party to cease and desist from the unlawful bargaining tactics have already destroyed the collective bargaining relationship.

These ineffective remedies have encouraged those who would deliberately violate the act. Since 1959 there has been an increase of 150 percent in the number of unfair labor practice complaints issued for illegal discharges or for refusals to bargan in good faith. The Board in 1977 awarded a record $17.4 million in backpay to employees, and ordered 4,458 individuals reinstated.

I believe that we cannot permit these inadequate remedial tools to remain unchanged. We need remedies which will both truly restore the injured employees to the place they would have occupied but for the unfair labor practice, and which will effectively remove the existing incentives to engage in such practices.

Accordingly, the Labor Law Reform Act of 1978 contains three provisions designed to strengthen the remedial powers of the National Labor Relations Board during this critical period:

First. It requires the General Counsel of the NLRB to seek a temporary court injunction under section 10(l) of the act to immediately reinstate employees unlawfully discharged during the precontract period, pending the Board's own hearings;

Second. It establishes a one and a half regular wage measure of backpay for the employee discriminated against during the same period; and

Third. It permits the Board to issue "make whole" orders in unlawful refusal to bargain for first contract cases which would award objectively determined backpay to employees who suffered an economic loss due to the unlawful refusal to bargain.

These three remedial reforms would remove existing incentives associated with the most serious violations of the act. The court injunction under section 10(l) would restore those employees illegally discriminated against to their jobs in the most expeditious manner possible. Speedy reinstatement is vital to the protection of rights under the act, for it not only relieves the hardships associated with loss of employment, but it also demonstrates to other employees that the law can react swiftly to violations of protected rights. The Board's median time of more than 1 year to decide an illegal discharge case and order reinstatement clearly cannot offer meaningful protection to employees who fear retaliation for protected activities. In addition, an overwhelming percentage of complaints of discriminatory discharge are subsequently upheld by the Board and the courts, so that the issuance of a formal complaint is normally a reasonable basis for the expectation of an eventual reinstatement order. The burden on the Federal courts will not be substantial, for the regional director's issuance of a complaint will constitute evidence of probable cause of a violation, and the fact of discharge is per se irreparable harm to the employee. Therefore the courts should give maximum deference to the complaint itself in granting the temporary reinstatement order, and their role will be quickly accomplished.

The bill is designed to keep the backpay period as brief as possible, so that the actual amount of backpay awards and the loss of productivity should be significantly less than under current procedures. The award of 1½ times the discharge employee's regular wage rate in backpay is designed to approximate the true losses to employees associated with loss of employment.

I believe this injunctive remedy affords both employers and employees greater justice than is now available to them under the act, and it does this while minimizing the disruption to all parties that is an inevitable consequence of a prolonged period of unemployment. The backpay provision provides for any actual interim earnings to be deducted from the 1½ wage award, so that there will not be any unjust enrichment. But since the brief preinjunction unemployment period will not normally permit finding another job, no duty to mitigate is placed on the employee who is illegally fired. This feature has the related benefit of permitting the Board quickly to compute the backpay owed without getting tied up in a lengthy and expensive investigation and hearing to determine the extent of the employee's efforts to mitigate lost wages.

The "make whole" remedy for refusals to bargain in good faith for an initial collective bargaining contract has been recognized by the Board itself as a necessary tool in effectuating the re-

medial purposes of the act for without it a violation of the duty to bargain is risk free. But in Ex-Cell-O Corp., 185 NLRB 107 (1970), the Board concluded that additional legislative authority was necessary before it could issue such unit-wide backpay orders for refusals to bargain. This bill would grant the Board the statutory authority that it needs. If enacted, the bill would direct the Board normally to employ the make-whole remedy for all those especially serious violations associated with bargaining for a first contract, except where to do so would in the Board's judgment not serve the policies of the act.

This remedy would remove a very serious loophole in the act's remedial scheme. Today, if an employer wishes to avoid bargaining with a newly certified bargaining representative, simply challenging some aspect of the representation election before the Board and later in court will automatically insure that no bargaining will be required for approximately 2 years or more. Even for the business person who wants to obey the law, simple arithmetic leads to the observation that payment to a single attorney in order to buy a delay is much cheaper than payment to one's employees in terms of better wages and working conditions. So long as we permit this calculation to exist, no meaningful enforcement of the duty to bargain can be possible. Instead of bargaining, the situation today encourages litigation. Instead of problem solving, it encourages delay and evasion of the legal duty.

Many persons have argued that the make-whole proposal will deny the right to judicial review of issues connected with the representation case. This argument is without foundation. Full judicial review will be available as before after a "technical" refusal to bargain. The bill in no way blocks any party's access to the courts. What it would change is the risk of paying for the cost due to delay. Under present law, the employer is held harmless regardless of the merit of the claim; under the bill, the employer is held harmless only if the objection is upheld. This is a fair and proper allocation of the inevitable cost of litigation. The right to litigate must be tied to the responsibility for the costs such litigation imposed on innocent parties. The bill would end the cost-effective avoidance of bargaining that has led to evasion of the duty imposed by the act.

Although previously similar proposals have been attacked as permitting the Board to engage in speculation in computing the amount of the backpay award, S. 2467 permits no such speculation. Instead, the bill establishes an objective statistical index for the backpay due. The Quarterly Report of Major Collective Bargaining Settlements, published by the Bureau of Labor Statistics, is the most current and most accurate index of percentage gains that can be expected through collective bargaining, and is thus the measure utilized by the bill. If more accurate or refined measures are developed in the future, they can be utilized if the Secretary of Labor so certifies. I would hope that the Department of Labor will develop such objective measures as soon as possible, so that the virtue of objectivity can be matched by an equal measure of precision. In any event, the index is expressed in percentage terms, not wage levels, so that a small business in a low-wage industry will not be subject to payment of an undue measure of backpay. The index exists for remedial purposes only. It is not a measure of a party's good faith bargaining, nor is it a guaranteed reward for unions in first contract bargaining situations, since they are themselves subject to the duty to bargain imposed by the act. Both the make-whole remedial authority and the objective measure of the backpay award are necessary steps toward moving the statutory incentives away from the courtroom and back to the bargaining table, so that the purpose of the act to promote fair bargaining will be served.

DEBARMENT

A final new remedial power addresses the persistent problem of flagrant violators who do not comply even when all means of judicial review are exhausted. The Board's current contempt proceedings have been severely hampered by several factors, including the reluctance of courts of appeal to engage in the required de novo factfinding hearings, the lack of any readily-available pool of magistrates or hearing officers familiar with the NLRA, and the higher standard of proof required for contempt as compared to the underlying violation. For these reasons, there is a real danger today that violators are being encouraged to try to get away with noncompliance in the knowledge that the Board faces a difficult and lengthy road in contempt proceedings.

In response to these concerns, the bill follows the example of the Service Contract Act, Walsh-Healy Act, Davis-Bacon Act, and Executive Order 11246, and provides for up to a 3-year debarment from Government contracts for those who willfully and contemptuously violate a final order of the Board.

The bill thus creates an administrative procedure that could serve as an alternative to judicial contempt proceedings. An allegation that a party is violating a final cease and desist order would be reviewed by the General Counsel, who could issue a complaint specifying a willful violation of an order less than 3 years old. After a hearing on the issue of willful violation, the Board could make the required finding and then certify the identity of the party to the Secretary of Labor. The Board would also specify the affirmative action necessary to fully remedy the effects of the willful violation, and the appropriate debarment period of up to 3 years.

The Secretary would be required to inform the Comptroller General that such firm or union was barred from participation in Federal contracts for the specified period. The bill provides for exceptions where the Secretary determines the national interest precludes debarment or where a Government agency certifies to the Secretary that the firm is the sole source of a particular material or service. In addition, the Board may recommend removal of the debarment if it finds the affirmative action duties have been satisfied.

This debarment provision simply insures that parties doing business with the U.S. Government are not labor law scofflaws. Those who profit from public business opportunities must be made to obey public law in doing so. It would be unconscionable indeed if our Government were to continue to give business to firms who may have obtained it willfully violating the rights of employees.

S. 2467 would merely incorporate this fundamental principle into the administration of the National Labor Relations Act, as it is already incorporated in several other of our laws regulating labor practices. And in so doing, it would provide protection to the many businesses that deserve to bid for Government contract work without the threat of unfair competition from firms which repeatedly violate the law.

BOARD PROCEDURES

In line with the overall thrust of the bill to promote the speed with which rights can be vindicated, S. 2467 incorporates several reforms in the Board's internal case-handling structure.

The bill addresses the problem of delay at the administrative law judge level in two ways, based upon the strong recommendations recently made by the chairman's Task Force on the National Labor Relations Board. The problems of delay at this first line of enforcement are growing especially severe—hundreds of cases are pending awaiting the availability of an administrative law judge to hear them, and even after a case is heard, it takes a median of over 100 days before a decision and order issues. The bill directs the administrative law judges to set out their findings of fact and conclusions of law in brief, conclusionary paragraphs that avoid unnecessary recitals of testimony or extended discussions of legal principle. In this way the opinions will be expedited and the Board itself will be more clearly charged with the responsibility under the statute of developing its position regarding any open legal issues.

In addition, section 3 of the bill permits the Board to employ law clerks to assist the administrative law judges. Just as such assistances have long proved valuable to both Board members and Federal judges, so the availability of law clerks will assist the administrative law judges in improving both the speed and the quality of their written decisions. The bill leaves to the judgment of the Board just how best to utilize this authorized assistance.

Two important procedural reforms in the bill are designed to eliminate delays in unfair labor practice cases. First, the Board is required within 90 days to establish through its rulemaking authority a procedure for summary affirmance within 30 days of an administrative law judge's decision and order.

The summary affirmance procedure is designed to permit the Board to dispose quickly of those routine unfair labor practice cases that present

primarily issues of fact or credibility that the administrative law judge is in the best position to evaluate. This procedure would, of course, still permit a party to seek judicial review of the Board's final order, but it would relieve the Board of the burden of reviewing every case appealed to it on a de novo basis. The current system of a two-tier de novo decisionmaking structure is simply not an efficient use of administrative resources nor is it required in light of the relatively low rate of Board reversals of administration law judges' orders.

The bill requires that a motion by the prevailing party below for summary affirmance, and the opponent's response, be presented to a summary affirmance panel of Board members within 30 days. This is intended to permit the Board to make a decision on the basis of the motion, the opposition, and the supporting briefs almost immediately upon presentation. This compares to the current 120-day median time elapsed at the Board between appeal and final decision. Such summary affirmance procedures could greatly reduce the ever-growing caseload pressure on the Board, and free it to give greater attention to rulemaking and to significant decisions on questions of law.

Second, the bill shortens the delay between a final Board order and judicial review of that order in the court of appeals when a party contests the Board's decision. Under the bill, the party seeking judicial review in all cases would have 30 days after the Board's decision in which to file for such review with the clerk of the appropriate court of appeals. If no petition for review has been timely filed, the Board is directed to have its order automatically enforced by the appropriate court, as in any default proceeding.

This provision is designed to relieve the Board of the burden of determining whether to seek enforcement when a violator delays full compliance, and to put pressure on such violator either to comply with or to contest a Board order within a month of the Board's decision. Again, the overriding policy is the elimination of as much delay as possible consistent with maintenance of due process.

OTHER PROTECTIONS

Three final sections of the bill deserve some further explanation. Sections 12 of S. 2467 requires employers and unions to accommodate the religious beliefs of employees who conscientiously object to the required payment of dues and fees under a lawful union security agreement. Objecting employees, where the collective bargaining agreement so provides, may be required to pay in lieu of such dues an equivalent sum to either a designated nonreligious charity or to a fund maintained by the employer for the sole purpose of paying for contract arbitration expenses. I introduced legislation to this effect in 1966, and I regret that it has taken 12 years to bring this overdue protection to active consideration by the Senate. The 1972 amendments to title VII of the Civil Rights Act created a duty for employers to accommodate their employment policies to the religious practices of their employees, but the courts have interpreted this duty too narrowly for it to be effective. Congress again incorporated this protection for conscientiously objecting employees of health care institutions in the 1974 amendments to the National Labor Relations Act. S. 2467 would take the final step and apply this protection to all employees covered by the act.

In response to many complaints that existing law has left guard employees without an effective means for representation, the bill permits some liberalization with regard to the representation of guards who are employed directly by the employer whose property they are assigned to protect. Section 5 of the bill would permit any union which did not represent any other employees of that employer at that location to represent those in house guards. This rule would continue to assure that no direct conflict of loyalty could arise for guards who must protect property during labor disputes as well as at other times. Because of the multilocation nature of the work of guard employees working for contract guard companies or armored car companies, the bill does not change existing law for those employees in order to prevent the possibility of conflicts in loyalties from arising at any location.

Section 13 of the bill provides employers with additional statutory authority to seek injunctive relief in situations where employees breach a contractual obligation not to strike. The Supreme Court's decisions in *Boys Market* v. *Clerks' Union*, 398 U.S. 235 (1970), and *Buffalo Forge* v. *Steelworkers*, 428 U.S. 397 (1976), have established the basic framework for construction of the scope of injunctive relief available under section 301 of the National Labor Relations Act. In brief, the Court has found that since section 301 is founded in part upon a policy of promotion of arbitration for the settlement of contractual disputes, only injunctive relief which serves that policy is within the exception to the anti-injunction provisions of the Norris-LaGuardia Act.

S. 2467 does not alter those decisions, nor does it change the underlying policies of section 301 or of the Norris-LaGuardia Act. Instead, the bill simply extends the possibility for injunctive relief to two situations not now clearly covered by the above decisions: First, the refusal to cross a picket line maintained by nonemployees over issues not related to a labor dispute, and second, the refusal to cross a picket line maintained by employees of another employer, or employees employed at a different location, where the union has not authorized the picketing. These two situations, truly "stranger" picketing and spreading "wildcat" pickets, threaten both the stability of labor-management relations and the integrity of contractual methods of contract resolution.

In these circumstances we must recognize that court injunctions are often the only means of enforcing the promise not to strike. The policy of the Norris-LaGuardia Act is not infringed because that law was directed at court interference between unions and employers where no collective bargaining relationship existed. Likewise, the bill's provisions further the policies embodied in section 301, which promotes the effective enforcement of the bargaining agreement within the context of an established bargaining relationship.

Because the bill provides for injunctions for refusals to cross nonauthorized picketing or picketing by nonemployees, it also requires that the union be given the opportunity to state in court whether or not the picketing is authorized. If not, an injunction may issue; if so, the employer must go through arbitration first before applying for an injunction, and the possibility of damages is also available under section 301. This election of remedies applies only to the two situations specified under section 13 of the bill; it does not apply to the more typical Boys Market injunction which involves authorized union activity which breaches the bargaining agreement.

Mr. President, I would like to state for myself that I shall very openmindedly be looking at amendments with a view toward seeing whether or not they forward the basic purpose of this bill, which is to prevent the law's avoidance, either by delay or other means which are inconsistent with the letter and spirit of the law. I will have no hesitance whatever in espousing any amendment, which, in my judgment, contributes to rather than detracts from that fundamental objective.

In sum, Mr. President, I believe that the Labor Law Reform Act of 1978 deserves to be enacted. It represents a reaffirmation of our 43-year-old commitment to employee freedom of choice in regard to representation by a labor organization, and a renewed commitment to Government neutrality with respect to that choice. In light of the overwhelming evidence of the need for changes to the existing statute, our failure to approve this modest reform would be a retreat from these most basic commitments.

The debate in the media and much of the lobbying campaign has tended to rhetorical excess which has ignored the substance of the bill in favor of the symbolic choice between business or labor union dictatorship. That is not the issue. The issue is whether the rule of law will prevail in the protection of the working persons' freedom to decide whether or not to be represented by a labor organization. S. 2467 is designed to protect this freedom from the threat of serious erosion, and I urge its prompt enactment.

I ask unanimous consent that there be appended at the foot of my remarks an editorial from the New York Times of Sunday, May 14, 1978.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 14, 1978]

LABOR RIGHTS—AND RESPONSIBILITIES

Employers who want to resist unions have been finding the climate more favorable than in many years. This may be difficult to discern in the success of a few powerful labor leaders who sit as equals with the chiefs of major corporations. The big unions are still wooed by politicians. But in a nation that has grown disenchanted with many of its

large institutions, unions, too, are widely scorned as corrupt, conservative, old-fashioned and unimaginative.

As a result, unions are losing members and losing representation elections for new recruits. And as so often before, they have turned to the Government for help. Labor leaders believe—with some justification—that some of their failures result from flaws in the nation's labor laws, starting with the 1935 Wagner Act that guarantees workers the right to choose a union to represent them.

To patch up the law, the labor movement, with White House support, has proposed a complex piece of reform legislation. It passed the House last fall and comes before the Senate next week. It would change the law to speed up representation elections and the grievance procedure to deal with unfair labor practices. It would also provide tough new penalties for employers who interfere illegally with the right of workers to unionize.

The business community is alarmed by the bill, fearing that it will give unions too much power, stimulate a wave of new recruiting and spur inflation by raising the costs of labor. Opponents of the legislation hope to talk it to death with a Senate filibuster.

The fear is exaggerated. The current law should be amended in the direction suggested by the reformers. Employers have had too much opportunity to interfere with efforts to organize their workers. The referee in the existing grievance process, the National Labor Relations Board, is overworked. A decade ago, the N.L.R.B. had about 10,000 pending cases. Now the number has doubled. A few major cases, like those involving the textile plants of J. P. Stevens, have attracted attention. Scores of others have left unions and workers dangling for years in a regulatory limbo as the appeals process slowly unwinds before the N.L.R.B. and then the courts.

The new legislation would enlarge the N.L.R.B., streamline its operations and set time limits on representation elections. Among the new penalties for employers who repeatedly violate the law is a provision to bar them from government contracts. Those who delay by refusing to bargain in good faith on a new labor contract would be required to pay a penalty in higher wages to their workers for the wasted time.

There is some merit, however, in the fear of businessmen that the legislation may be inflationary. If it speeds the unionization of more workers, as the unions hope, it may force up wages as new contracts are negotiated. But large pay raises are not inevitable. In urging the bill's passage, we also urge again that the unions enlist in the President's embryonic effort to temper inflation through voluntary acts of restraint. If labor wants its position fortified vis-a-vis employers, it should demonstrate that its new strength will be used prudently.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, at this time I shall avail myself of only a few minutes for opening remarks. Later on I will go into some detail in response to the distinguished proponents of this legislation, who have spoken at some length in their advocacy of the pending legislation.

I listened to the able Senator from New Jersey (Mr. WILLIAMS) and the able Senator from New York (Mr. JAVITS) with great interest. I have jotted down a number of points which I hope they will agree should be discussed at some length as this debate proceeds.

For example, several times during their speeches both Senators referred to "equal treatment," as if union leaders do not already enjoy far more than equal treatment. I rather imagine that there are small businessmen all across the land who fervently wish there would indeed be equal treatment. As matters now stand the situation is one of very unequal treatment in favor of union leaders, and this legislation would make bad matters worse.

If you want to hear a howl, Mr. President, from lobbyists for the union leaders, just raise a suggestion that unions be treated equally with business and brought under the antitrust laws of this country. That is just one example. I will get into that sort of thing more extensively in the days to come.

At the moment, Mr. President, I would simply observe that often we engage in two debates simultaneously on this floor. The surface debate concerns the subject matter at hand. The question is whether we will adopt this or that piece of legislation. But then there is usually a second debate which is not quite so obvious to the public, and which is not always reported by the media. This debate is seldom seen or heard, but it may encompass the real underlying issue. Such is the debate that we will have in regard to this so-called—and I use the words advisedly—so-called labor reform bill.

The Senate will ostensibly debate whether this change or that change is needed in the law. We will debate whether one section is too harsh or whether it is too weak. We will debate whether an administrative innovation will speed things up or slow things down.

Meanwhile, Mr. President, the real issue lurks just beneath the surface, but it need not or should not do so, because we are now supposed to be a government in the sunshine.

So the Senator from North Carolina suggests that in this debate, however long it may last, we let the Sun shine in, including a listing in the RECORD and for public edification the support given to various candidates in political campaigns. When the Sun does shine in, Mr. President, what we will see before us is a bill that is designed mainly to unionize the South in pushbutton fashion.

This is not a reform bill, Mr. President; it is not even a labor bill. Let that be clear at the outset. It is purely and simply a piece of economic legislation receiving its impetus from those northeastern and midwestern sections of the country that are daily watching with increasing concern as jobs and industry leave their area and move to other States.

For many years now union membership has been declining as a percentage of the work force. In the past 2 years it has started falling in absolute numbers.

The Senator from North Carolina will supply statistics proving this point, and I think the American people will be greatly enlightened by these statistics as this debate proceeds.

The point is this, Mr. President, and it ought not to be overlooked: During the past 2 years, membership in unions has begun falling in absolute actual numbers; that is why the panic button was hit. That is the impetus and the genesis of this bill before us. Because only if the South and West can be quickly unionized, in effect by Federal force, will this trend be reversed. That, Mr. President, is the purpose of this bill—to supply this Federal force—and that purpose ought not to be ignored by us, and certainly it ought not to be obscured from the American people.

So what we have is an alliance between the snowbelt economic interests and big unions. They have decided that they must — I emphasize the word "must"—unionize the South, and they must do it soon, and they have to have a very bad law in order to do it.

I do not ask you to take the word of the Senator from North Carolina that this is so. From time to time citizens send to me copies of responses they have received from their U.S. Senators and Representatives in other States. One gentleman sent me a copy of a response he received from a Member of the House of Representatives, the distinguished Representative from Pennsylvania, Mr. AUSTIN J. MURPHY.

Mr. President, let me read to the Senate what Mr. MURPHY, in pertinent part, said to his constituent in Pittsburgh, Pa. He said:

> The bill should only affect companies where union activity has been illegally inhibited. It would not affect plants where employees are truly content with the status quo. In fact it will remove one of the advantages Southern plants had over ours in Pennsylvania.

My good friend and distinguished colleague, the Senator from Minnesota (Mr. ANDERSON), wrote this to one of his constituents in regard to right-to-work laws:

> Section 14(b) permits states to enact mandatory open shop or "right-to-work" laws. Usually such laws keep wages lower than those paid in states like Minnesota which is not one of the 20 states having "right-to-work" statutes. This means that Minnesota goods must constantly compete with goods produced in southern and western states which employ cheap labor. . . .

Then the Senator went on to say—

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. HELMS. Yes, gladly.

Mr. WILLIAMS. Just for a question. I missed the beginning of this. What is the origin of the letter, if it is a letter?

Mr. HELMS. If the Senator would like, I will put the entire letter in the RECORD.

Mr. WILLIAMS. Well, I would rather know right now, before I read the RECORD tomorrow.

Mr. HELMS. What is the Senator's question?

Mr. WILLIAMS. What are you reading from?

Mr. HELMS. I have read from a letter written by Congressman AUSTIN J. MURPHY to a constituent in his State of Pennsylvania.

Mr. WILLIAMS. What district does Congressman AUSTIN J. MURPHY represent?

Mr. HELMS. He is a Representative in Congress from the 22d District of Pennsylvania.

Mr. WILLIAMS. Thank you.

Mr. HELMS. Is there any question about Mr. MURPHY?

Mr. WILLIAMS. No; I missed it when you started the origin of this.

Mr. HELMS. I see. I thank the Senator for his inquiry.

Mr. WILLIAMS. The author is a Representative from Pennsylvania?

Mr. HELMS. Yes, as I believe I said during my comments.

I continue to quote now from the letter from the distinguished Senator from Minnesota (Mr. ANDERSON). He said:

I believe that as long as Section 14(b) remains in its current form Minnesota businesses will continue to face serious competitive problems from other states. This is a factor that each member of the Minnesota Congressional delegation must weigh before voting on this question.

Let me quickly say that I do not fault Senator ANDERSON, who is my friend, from being interested in his constituents. That is not the point. The point that this Senator is trying to make is that we must not have, during the debate on this bill, the pretense that holiness resides solely with the proponents of this legislation.

This is a big union bill. This is a bill calculated to give even further advantage to the leaders of big unions of this country, who, in the opinion of a great many Americans, already have too much political clout and too much power over the small businessmen of this country.

Be that as it may, Mr. President, the legislation now before us may not directly repeal section 14(b), but it may indirectly accomplish the same result and the Senators from the 20 States having right-to-work laws should be mindful of it.

Let me say again that I do not begrudge the Minnesota delegation or the Pennsylvania delegation or any other northeastern or midwestern delegation, for voting its region's economic interests. But let us be candid enough to say that this is what is involved. Those of us who represent the Southern and Western States have not only a right but indeed a duty to protect our economic interests. I think we have a duty to say that a worker ought to have a right to join a union if he or she wants to join, but that he or she ought to have a right not to join a union if he or she does not want to. That is fundamentally what this debate is going to be about in the ensuing weeks.

I judge that the strategy of snowbelt interests is to spread their misery southward. They are losing industry. We can debate for days about why they are losing their business and their industries. But the point is that they want to spread their misery southward by thrusting upon us compulsory unionism. Mr. President, I will not go further in my comments at this time, but the Senator from North Carolina, speaking for the majority of the people of his State, in response to those who would thrust compulsory unionism upon North Carolina, answers with an emphatic "thanks but no thanks."

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HART). Who yields time?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, the misnamed labor law reform bill is bad legislation for several reasons. It will cost jobs in my State and in several other States; it will cause more inflation; it will reduce the freedom of workers to choose whether they wish to join a union; it will make it more difficult for small business to compete with big business; and it will increase Government interference in private labor-management negotiations. Let us examine carefully the reasons behind each one of these effects.

Mr. President, in order to understand why this bill will cost South Carolina jobs, we must first sketch out the rapid economic progress my State has made in recent years and the reasons for it. After this is done, it can be more easily seen how the labor law reform bill now before us would eat away at the foundation of South Carolina's economic development.

Mr. President, the most recent figures available show that the total personal income in my State for 1976 increased 12 percent over that of 1975. For the United States as a whole, the change was 10.2 percent over the same period. Even after adjusting these figures for inflation, South Carolina had a much better than average increase in personal income. Furthermore, my State's performance in 1976 is part of a longer trend. It has been among the fastest-growing States for several years. In the period 1971 through 1976, personal income increased by 61.2 percent for the country as a whole. In South Carolina it increased by 75.2 percent. Over the same time period, only 10 States show larger percentage growth rates; personal income in 40 States, including the District of Columbia, grew at a slower pace. Since about 85 percent of total personal income represents wages and salaries, it can be seen that the increase in income is broadly distributed among South Carolinians.

The rapid growth of investment in plant and equipment within my State has been a major reason for the increase in personal income. Investment in South Carolina was $210 million in 1960, $1,235 million in 1977. Not only does this investment create jobs immediately, since manpower is needed to build the plant and equipment, but this plan and equipment provides a source of steady employment in the years ahead. Therefore, that investment for 1977 of $1,235 million means jobs in 1978 and in 1979 and for many years after that.

South Carolina has not been alone among southern States in making impressive economic progress. Since 1957 employment in 17 States below the Mason-Dixon line was increased by 75.3 percent while personal income per person, adjusted for inflation, has jumped 75.7 percent. In the Northeast, by contrast, employment has increased by 18.7 percent and personal income per person has gone up 43.5 percent.

Mr. President, South Carolina has made impressive progress in large part because it has been diligent in offering an attractive economic climate to workers and employers alike. My State has recognized that the free-enterprise system depends upon the willing cooperation among people. If a company wants good people to work for it, that company has to go out in the marketplace and be competitive. It has to offer competitive wages, competitive fringe benefits, and competitive working conditions. There are so many different employers, and it is so easy for workers to move in today's mobile society, that no one company can afford to be dictatorial and expect to attract capable workers. By the same token, workers must be competitive in what they demand. If they demand too much, companies will look elsewhere for employees. Neither side can afford to be unreasonable.

The labor law reform bill strikes at the heart of South Carolina's ability to offer a competitive economic environment and, in so doing, will cost my State jobs. This can be easily verified by looking at a few of the bill's provisions. The bill provides that when the National Labor Relations Board finds an "unlawful refusal to bargain" prior to the first collective agreement, it may award employees compensation equal to their present wages and benefits multiplied by the average percentage increase in wages and benefits as reported by the Bureau of Labor Statistics in its quarterly report. The Bureau's statistics are based on bargaining agreements reached by units having 5,000 or more employees. Yet, 75 percent of recent elections conducted by the National Labor Relations Board, to determine whether workers want to unionize, involves units having 49 or fewer workers. Furthermore, the bill would make it more difficult for an employer to contest in court a decision by the Board and also makes it more likely that the Board will find an "unlawful refusal to bargain."

These provisions, taken together, will enable labor bosses to promise, "Look, vote in the union, demand a steep wage increase, and if the company does not give in, the Government will step in and force the company to give you a large wage increase anyway. But the Government will not step in if you vote against the union. You can only lose if you vote not to organize." With the cards stacked like that, there is not much doubt what the results of the election could be. The union will probably be voted in. But, Mr. President, the message this bill gives to small businesses is that unless it can afford to pay wages and benefits that big business can pay, small business will not be able to survive.

It is elementary economics that small businesses are unable to manipulate prices including the price—or wage—at which they hire workers. They already pay the wage rate that competitive conditions insist they must. As the facts surrounding South Carolina's economic progress over the last several years make quite clear, this competitive climate has dramatically increased income and employment in my State. This bill fails to recognize that different employers operate in different markets and must meet different competitive pressures.

For example, Mr. President, union rep-

resentation of workers is greater in large business than in small business. This is due in large part because large-unit, mass-production techniques are very efficient in manufacturing, contract construction, and transportation, areas in which large companies excel. Small business has proven to be very efficient in service industries. It clearly is inappropriate to impose on small companies, competing in service industries, the wages negotiated by large companies belonging to completely different areas of our economy. To arbitrarily impose on all employers those particular conditions that a few, very large employers are comfortable with is not only unfair but will also result in the elimination of many companies and the jobs they offer.

Mr. President, the plain fact is that those industries that have both giant companies and giant unions are the least affected by this bill. Already unionized, these companies have long experience in contract negotiations. They need not fear the Government's intervention. A contract will not be imposed on them by the Government. South Carolina has been increasingly successful in attracting companies of all sizes. The major reason for this success is South Carolina's competitive, flexible economic environment. While law-abiding companies of all sizes are welcome, it is the small and medium-sized companies that are the backbone of my State's economic resurgence. South Carolina does not have the gigantic auto and steel companies, for example. This bill, by attacking the ability of smaller companies to compete, attacks the ability of South Carolina to compete for jobs.

Mr. President, the labor law reform bill will further worsen this Nation's already serious inflation problem. As I have already explained, this bill encourages union bosses to make demands that bear no relationship to an employer's particular situation but encourages them instead to base their demands on the average of wages paid by certain large employers as computed from data compiled by the Bureau of Labor Statistics. Because of competition, smaller employers by and large have no choice but now to pay workers according to their productivity. Therefore, we can be sure that as a result of this bill a wave of wage increases, not accompanied by proportionate increases in productivity, will be demanded. This is clearly inflationary. One of the key conclusions reached by the highly respected economic consulting firm, Rinfret Associates, Inc., in its analysis of S. 2467 and H.R. 8410, is that—

> It must be concluded that S. 2467 tends to add to the inflationary trends of the United States and may, in fact, increase the base rate of inflation above the current 6 percent level.

Mr. President, this bill would greatly reduce the right of workers to freely choose whether or not they want to join a union. Current labor laws give union organizers every opportunity to make their case. Despite this, union membership of the total work force is down to 20.1 percent, a 20-percent drop since 1955. The main reason for this decrease in union membership is the failure of organized labor to keep in touch with workers' interests. This failure is reflected in the increase in the number of elections to withdraw from union membership. According to the Right to Work Committee, the number of such elections was 200 in 1967 but 600 in 1975. As columnist Nicholas von Hoffman noted:

> You can't organize a shop if the community it sits in is against you. Labor, these last few years, has lost the support of shop and community both.

Organized labor does not want to do the hard, grassroots work necessary to increase its membership. Union bosses do not want to get down in the trenches in order to find out workers' needs. Union bosses want instead a law that will have the Government tip the scales in favor of organized labor. This law will do nothing to make union leaders more attentive to their members' needs. If the sponsors of this bill were really interested in the workers' freedom of choice, some attention would have been paid to stopping the coercion of workers by unions. This bill provides not one single reform on the abuse of workers' rights by unions. The real purpose of this bill is to increase union membership while excusing labor leaders from the responsibility of better serving their members.

Mr. President, it is clear that this bill will hurt small business. I have already explained how the bill would take the wage settlements negotiated by large employers and arbitrarily impose them on small employers without any regard to what this would do to the ability of small business to compete in the marketplace. The distinguished columnist James J. Kilpatrick notes that, "This bill is aimed primarily at small companies with 50 to 100 workers." The published analysis of S. 2467 done by Rinfret Associates, Inc. states:

> This proposed legislation would weigh most heavily against small business and would make it increasingly difficult for small business to survive in competition with large business and large labor unions. To the extent to which small business is hurt, it would decrease competition and increase the control of large business and large unions over the destiny of the American economy.

Mr. President, this is not what the people of my State, and the people of this Nation, want.

Finally, Mr. President, this bill would increase still further the interference of the Federal Government in our economy. This bill removes the National Labor Relations Board as an umpire in the collective bargaining area and makes it an ally of union bosses. This is a complete and unwise departure from past practice. Furthermore, the bill's provision that will have the effect of imposing wage settlements on small business changes the very character of the labor laws from remedial to punitive. The Government does have a role to play in assuring both sides that each will have a fair opportunity to make its case. Present law accomplishes this. The Government should neither take sides nor undertake to make decisions that are better made by parties in the private sector.

Mr. President, this bill, if enacted, will do great damage to South Carolina's economy and to the economy of this Nation. Present law provides ample safeguards to union organizers. They are given every opportunity to make their case. But the law should not also tip the scales as this bill would do. South Carolina is making rapid economic progress. Yet, we still have much ground to make up. Others are jealous and fearful of the strides we are making. They want to put as much lead into our shoes as they have put into their own. If they succeed in this, all will lose. A faster, more competitive race would result in better performances by everyone.

Mr. President, I believe there was some remark made on the floor about those opposing this bill having a stone-age philosophy in labor-management relations.

I was, indeed, astonished to hear such a statement made. It is very difficult to believe that one making such a statement would consider the Washington Post of Washington, D.C., of having a stone-age philosophy.

I would like to read an editorial from the Washington Post of Wednesday, March 15, 1978, entitled "The Labor Bill."

> The Labor Reform Act of 1978 is one of those pieces of legislation whose pluses and minuses are buried under the cloud of rhetoric that accompanies it. The bill is (depending on which version of the literature you prefer): a) a measure desperately needed to protect vital rights of working men and women from destruction by law-breaking and vindictive employers; b) a last-ditch effort by labor unions to bolster their sagging membership rolls by stacking the deck against workers who do not want to join unions; c) a relatively insignificant measure that tinkers with, but makes no monumental changes in, present law.
>
> Regardless of which view is closest to the truth, the bill is going to be the major battleground between the unions and business organizations this year. Both sides have already invested vast sums of money and lobbying power in the fight. More will be forthcoming as the time for the Senate to begin debate on the subject draws closer. Both sides, it seems to us, have staked far more on the bill than its merits deserve. Organized labor appears to regard its passage as the best way to retrieve at least part of the prestige it lost last year when the common situs picketing bill was defeated. Business groups seem to see the bill as an opportunity to demonstrate that the political clout the labor movement once had is slipping quickly away.
>
> We do not intend to get into the specifics of this legislation just now. It is enough, for the moment, to say that the bill is mislabeled. It ought to be called the "Union Organizing Act of 1978."

I repeat, Mr. President, that statement. Those are not the words of a South Carolina paper. Those are not the words of a southern paper. This is what the Washington Post says, and nobody can accuse the Washington Post of being a conservative paper, I am sure.

What does the Washington Post say? It says that this bill should be called the "Union Organizing Act of 1978."

I will proceed:

Most of its major provisions are aimed at making it easier for unions to organize new units. Some of these are aimed at well-documented problems, but others are not. Much of the rest of the bill involves procedural changes at the National Labor Relations Board. However, one major section would put the government in the business of blacklisting companies that are persistent violators of the labor laws.

Last fall, when the House passed its version of this act, we noted that we were less troubled by what the bill did than by what it failed to do. That is still true. Like the House, the Senate Human Relations Committee has lost sight of the need to change the law so that it better protects the rights of workers. This bill does improve the protection of some of those rights against abuses by management, but it does nothing—

And I repeat in my own words, "nothing"—

to protect them from labor unions. And one kind of abuse is about as common as the other these days. The main focus of this legislation is on the rights of unions—as unions, not as representatives of workers. We doubt that adding additional provisions strengthening the law against union misdeeds would take much of the bitterness out of the fight that is going on over passage of the bill. But that would at least reduce the one-sidedness of this "reform" act.

Mr. President, I hope my colleagues will take time to read this editorial dated March 15, 1978.

Mr. President, I say, as we begin debate on this so-called labor reform bill, that I hope the Senators in this body will take time to talk to the people back home.

The polls show that the people—I repeat, the people—I repeat, the people who sent us here—are against this bill. The people of the United States do not favor this bill. The polls clearly show they are against this bill.

It has not been long since this body went against the wishes of the people and gave away the Panama Canal.

Now are we going to repeat that mistake and again go against the wishes of the people, simply because in this body we can do so if we wish?

I say to the Members of the Senate that the people are interested in this bill. The people are interested in protecting the working people of this country. The people are interested in preserving the right to join unions or not join unions.

I can hear it said now that this proposed legislation does not force them to join unions. This bill is tilted strongly toward unions. I have always perceived the Government as the arbiter, and it should be, in labor-management relations. The Government should not tilt either way, toward management or labor. It should go right down the middle. It should be fair. It should be just. In the bill, this is not the role of the Government. This bill is strongly tilted to unions, and we should recognize that fact at the outset.

The unions have lost membership. They want to retrieve that membership. They lost the common situs picketing bill. They have failed to repeal section 14(b) of the Taft-Hartley law. Now, with the backing of the President of the United States, they hope to come in and gain a victory on this bill, which they do not deserve. One, I hope, the Senate will see that they do not get.

I say now, speaking for myself—and I am sure for a number of others here—that we intend to fight this bill, and fight it to the last, because it is not in the best interests of the people of the United States. If this bill passes, it will be passed over the wishes of the citizens of this country by Senators, elected by the people, who have not abided by the wishes of the people.

Mr. President, I ask unanimous consent that Emory Sneeden, of the staff, Committee on the Judiciary, have the privilege of the floor during the consideration of H.R. 8410 and the vote thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I appreciate the remarks of the distinguished Senator from South Carolina. I know how he fights for the things in which he believes.

It is with a certain amount of remorse that I stand here today, because I have a great deal of respect for the union movement. I was raised in that movement, and I believe in the union movement.

I think that without it, we would have a rich and a poor class in this country. I believe that the union movement has served well not only this country but also employees throughout our society.

However, I have to admit that when the basic fabric of our society is being attacked, whether it is big corporations, big unions, or whoever it may be, I would be remiss not to stand and fight against those types of excesses. I believe this is such a cause, and it is with sorrow in my heart that I have to stand against some of the unions which have been demanding this type of power in America. They have not asked for it. They have not earned it. They are demanding it, whether they deserve it or not.

This bill is going to affect every basic fabric of the free enterprise system with regard to union organizing, and it could be one of the most detrimental bills in our country's history should it pass.

There are those who say, "Why filibuster? It is overwhelmingly against you. It is overwhelming against your side and the people who are willing to stand up."

In the end, power finally will determine how this bill goes, and that power will be the big special interest group in Washington today, and that happens to be our Washington labor union leaders, who sometimes represent the men well and sometimes do not.

What bothers me is that this bill has been characterized as devastating to small business, as an inflation-causing bill, which would have a tremendous inflationary impact as a bill that could put workers out of work and as a bill that could destroy companies all over America.

Today I received a letter from the Small Business Legislative Council, dated May 16, 1978:

DEAR SENATOR HATCH: The Small Business Legislative Council (SBLC) expresses the vehement opposition of 350 national and regional trade associations employing 13,700,000 workers to S. 2467, the Labor Law Reform Act. Enactment of S. 2467 would be devastating to the economic livelihood of the small business community and their employees.

S. 2467 is an anti-small business bill. In our view, it is exactly the type of legislation needed by the labor unions to tip the balance in their favor in a campagin to organize small businesses. You are well aware of the emotional dust that this legislation has raised; it has obscured to a great extent the impact that the bill's passage would have on small businesses—such as the ones that our organization speaking for 4 million small business firms represents.

Recent statistics from the National Labor Relations Board (NLRB), such as those cited in the enclosed petition, indicate that nearly 75 per cent of all cases before the Board involve shops with fewer than 50 employees. The average unit organized today involves approximately 22 employees. Twenty-two employees is by all measures a small business.

I might mention that 50 or less is by all measure a small business, and 250 or less is by all measure a small business.

The letter continues:

Can a small business of this nature withstand the immense pressure brought on by aggressive union organizers? Can small businesses afford the heavy financial penalties imposed by the legislation? Do small businesses have the professional sophistication and legal expertise to defend themselves against entrapment efforts by labor union professionals? The answer to all the questions, as you well know, is a resounding NO.

The typical small business person struggles daily to compete; he wears many hats in this struggle, and an additional burden of incomprehensible labor laws is one that he, and the small business community at large, cannot endure.

The harmful effects of this proposed legislation on small business speak for themselves. In addition, the cost of implementing the legislation, reported to be in the neighborhood of $40,000,000 per year, stirs further opposition. American taxpayers, individuals and small businesspersons alike, are the ultimate bearers of the cost of government-mandated expenditures. This particular legislation will take its toll on small business in two ways—in the higher taxes they are forced to pay and in the economic damage that union organization inflicts on business. Small business would lose its competitive edge. Its cost of doing business would increase and enable larger companies to swell their already overpowering share of the market.

Consumers will also feel the effect in two ways—increased taxes and an increase in prices businesses will have to charge to compensate for union demands.

Given these facts, the Labor Law "Reform" bill merits your total opposiiton. The enclosed petition from representatives of the small business community truly reflects their desire to see this harmful and inflationary legislation defeated on the Senate floor. We respectfully urge you to oppose S. 2467 or similar bills.

Your small business constituency appreciates this opportunity to present its views on this very important issue.

Sincerely,

JOHN LEWIS,
Executive Director.

This is a petition to the Senate of the United States of America that they have enclosed with their letter.

Whereas the Senate of the United States of America is considering labor legislation

(S. 2467 formerly S. 1883 and now H.R. 8410) which could have a disastrous effect on the economy, be extremely harmful to small business, and cause a net loss of many jobs throughout the nation; and

Whereas 75 percent of all cases before the National Labor Relations Board involve business units with less than 50 employees; and

Whereas 60 percent of all cases before the National Labor Relations Board involve business units with less than 30 employees; and

Whereas 50 percent of all cases before the National Labor Relations Board involve business units with less than 20 employees; and

Whereas 25 percent of all cases before the National Labor Relations Board involve business units with less than 10 employees; and

Whereas statistics of the National Labor Relations Board clearly indicate that there is an inability of small businesses to defend themselves against entrapment efforts instigated by highly-organized and very professional full-time employees of Big Labor; and

Whereas the same statistics clearly reveal a direct ratio of successful self-defense and size, thereby indicating an unfair disadvantage to smaller businesses; and

Whereas the proposed labor legislation (S. 2467) would result in an estimated additional cost of approximately $40,000,000 per year to the American taxpayers; and

Whereas the proposed legislation would result in the failure of many small businesses which cannot afford the heavy financial penalties proposed in the legislation; and

Whereas the proposed legislation would cast a chill on the nation's job market, causing many present employees of small business to lose their jobs, and intimidating many small businesses which in the absence of this legislation would expand and hire new employees;

Therefore, the undersigned 350 associations, having an estimated 13,700,000 employees throughout the nation,

Hereby respectfully petition the Senate of the United States of America to offer relief from this potentially harmful legislation

By opposing S. 2467 or any similar bill embodying substantially the same provisions of S. 1883 or similar bills.

They list the various trade organizations which they represent, and maybe a representative sample would be in order.

In fact, I ask unanimous consent that all of these trade organizations be printed in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Agricultural & Industrial Mfrs. Assn., Shawnee Mission, Kans.

Alabama Nurserymen's Assn., Auburn, Ala.

Alaska Mechanical Contractors Assn., Anchorage, Alaska.

American Apparel Mfrs. Association, Arlington, Va.

American Assn. of Professional Bridal Consultants, West Hartford, Conn.

American Component Dealers Assn., Fayetteville, N.C.

Amer. Fishing Tackle Mfrs. Assn., Chicago, Ill.

Amer. Gear Mfrs. Assn., Arlington, Va.

Amer. Institute of Kitchen Dealers, Hackettstown, N.J.

American Ladder Institute, Chicago, Ill.

American Pipe Fittings Assn., Stamford, Conn.

American Welding Society, Miami, Fla.

Architectural Woodwork Institute, Arlington, Va.

Arkansas Wholesale Grocers and Tobacco Distributors Assn., Little Rock, Ark.

Associated Master Barbers and Beauticians of America, Charlotte, N.C.

Associated Meat & Food Suppliers of Southern Calif., Los Angeles, Calif.

Associated Retail Bakers of America, Annapolis, Md.

Akron Assn. of Plumbing, Heating and Cooling Contractors, Inc., Akron, Ohio.

Alabama Petroleum Marketers Assn., Birmingham, Ala.

American Academy of Environmental Engineers, Rockville, Md.

American Association of Nurserymen, Washington, D.C.

American Collectors Association, Minneapolis, Minn.

American Cutlery Manufacturers Assn., Washington, D.C.

Amer. Frozen Food Institute, Washington, D.C.

Amer. Hardware Mfrs. Assn., Palatine, Ill.

Amer. Institute of Real Estate Appraisers, Chicago, Ill.

American Metal Stamping Assn., Richmond Heights, Ohio.

Amer. Society of Real Estate Counselors, Chicago, Ill.

Appliance Parts Distributors Assn., Detroit, Mich.

Arizona Nurserymen's Assn., Prescott, Ariz.

Associated Industries of Kentucky, Small Business Division, Louisville, Ky.

Associated Master Plumbers of Green Bay, Inc., Green Bay, Wis.

Associated Plumbing Contractors of Maryland, Inc., Baltimore, Md.

Association of Physical Fitness Centers, Washington, D.C.

Assn. of Plumbing-Heating-Cooling Contractors of Oklahoma City, Inc., Oklahoma, City, Okla.

Assn. of Washington Business, Olympia, Wash.

Automotive Engine Rebuilders Assn., Glenview, Ill.

Automotive Service Councils, Inc., Elmhurst, Ill.

Automotive Warehouse Distributors Assn., Kansas City, Mo.

American Building Contractors Association Chapter, Coachella Valley, Calif.

American Building Contractors Association Chapter, Los Angeles, Calif.

American Building Contractors Association Chapter, North Tahoe, Calif.

American Building Contractors Association Chapter, Orange County, Calif.

American Building Contractors Association Chapter, Sacramento, Calif.

American Building Contractors Association Chapter, San Diego, Calif.

American Building Contractors Association Chapter, San Francisco (Bay Area), Calif.

American Building Contractors Association Chapter, Tulare-Kings County, Calif.

American Assn. of Meat Processors, Elizabethtown, Pa.

Amer. Consulting Engineers Council, Washington, D.C.

Amer. Institute of Constructors, Oklahoma City, Okla.

Amer. Boiler Mfrs. Association, Arlington, Va.

Amer. Consulting Engineers Council, Washington, D.C.

Amer. Die Casting Institute, Des Plaines, Ill.

Amer. Institute of Constructors, Oklahoma City, Okla.

American Meat Institute, Washington, D.C.

Beauty and Barber Supply Institute, Inc., Englewood, N.J.

Better Home Heat Council, Inc., Wellesley Hills, Mass.

Building Service Contractors Assn., Intl., McLean, Va.

California Assn. of Nurserymen, Sacramento, Calif.

Chicago Midwest Envelope Mfrs. Assn., Chicago, Ill.

Christian Booksellers Association, Colorado Springs, Colo.

Connecticut Small Business Federation, Hartford, Conn.

Cutting Tool Mfrs. Assn., Birmingham, Mich.

Cast Metals Federation, Rocky River, Ohio.

Dairy & Food Industries Supply Association, Washington, D.C.

Delaware Retail Association, Wilmington, Del.

Door & Operator Dealers of America, Cleveland, Ohio.

Drug Wholesalers Association, Washington, D.C.

East Side Plumbing & Heating Contractors Association, Granite City, Ill.

Eastern Iowa Association of Plumbing, Heating, and Cooling Contractors, Davenport, Iowa.

Electronic Representatives Assn., Chicago, Ill.

Empire State Petroleum Assn., Inc., New York, N.Y.

Engraved Stationery Mfrs. Assn., Chicago, Ill.

Electrical Generating Systems Mart. Association, Chicago, Ill.

Farm and Land Institute, Chicago, Ill.

Farmers Elevator Assn. of Minn., Minneapolis, Minn.

First Class Mailers Assn., Washington, D.C.

Food Merchandisers of America, Washington, D.C.

Food Processing Machinery and Supplies Association, Washington, D.C.

Foodservice Equipment Distributors Assn., Chicago, Ill.

Fuel Merchants Assn. of New Jersey, Springfield, N.J.

Garden Centers of America, Washington, D.C.

Georgia Nurserymen's Assn., Inc., Athens, Ga.

Georgia Oilmen's Association, Atlanta, Ga.

Georgia Retail Association, Atlanta, Ga.

Grand Rapids Assn. of Plumbing, Heating and Cooling Contractors, Grand Rapids, Mich.

Greater Belleville Plumbing, Heating and Cooling Contractors, Belleville, Ill.

Illinois Mfrs. Representatives Assn., Glenview, Ill.

Independent Bakers Association, Washington, D.C.

Independent Battery Mfrs. Assn., Inc., Largo, Fla.

Independent Business Assn. of Wisconsin, Milwaukee, Wis.

Independent Petroleum Assn. of America, Washington, D.C.

Independent Sewing Machine Dealers of America, Inc., Hilliard, Ohio.

Independent Veneer Producers Assn., Roseburg, Oreg.

Indiana Assn. of Nurserymen, W. Lafayette, Ind.

Industrial Mfrs. Representatives Assn., Cleveland, Ohio.

Institute of Real Estate Management, Chicago, Ill.

Intermountain Oil Marketers Assn., Salt Lake City, Utah.

Intl. Assn. of Wall & Carpeting Contractors/Gypsum Drywall Contractors, Intl., Washington, D.C.

Intl. Assn. of Wiping Cloth Mfrs., Chicago, Ill.

International Franchise Association, Washington, D.C.

Intl. Real Estate Federation, Amer. Chapter, Chicago, Ill.

Intl. Repro Graphic Blueprint Assn., Franklin Park, Ill.

Iowa Grain & Feed Association, Des Moines, Iowa.

Iowa Nurseryman's Assn., Ankeny, Iowa.

Independent Businessman's Assn., Kalamazoo, Mich.

Kalamazoo Masters Plumbers Assn., Kalamazoo, Mich.

Kansas Plumbing, Heating and Cooling Contractors Assn., Inc., Wichita, Kans.
Kentucky Feed & Grain Assn., Midway, Ky.
Lincoln Assn. of Plumbing-Heating-Cooling Contractors, Lincoln, Nebr.
Louisiana Oil Marketers Assn., Shreveport, La.
Machinery Dealers Nat'l. Assn., Silver Spring, Md.
Mfrs. Agents National Assn., Irvine, Calif.
Marketing Agents for Food Service Industry, Chicago, Ill.
Mechanical Contractors Assn. of Central, Ohio, Columbus, Ohio.
Metal Ladder Mfrs. Association, Greenville, Pa.
Metropolitan Washington Assn. of Plumbing-Heating-Cooling Contractors, Washington, D.C.
Michigan Grain & Agri-Dealers, Saginaw, Mich.
Mid-Oregon Assn. of Plumbing-Heating-Cooling Contractors, Eugene, Oreg.
Kampground Owners Association, Phoenix, Ariz.
Kentucky Assn. of Plumbing-Heating-Cooling Contractors, Inc., Louisville, Ky.
Kentucky Nurserymen's Assn., Lexington, Ky.
Lincolnway Plumbing and Piping Contractors Assn., Rock Falls, Ill.
Louisiana Wholesale Grocers Assn., Inc., Baton Rouge, La.
Madison Assn. of Plumbing Contractors, Madison, Wis.
Mfrs. Agents of Cincinnati, Cincinnati, Ohio.
Maryland Oil Jobbers Council, Camp Springs, Md.
Menswear Retailers of America, Washington, D.C.
Metropolitan New Orleans Assn. of Plumbing-Heating-Cooling Contractors, Inc., New Orleans, La.
Michigan Assn. of Nurserymen, Lansing, Mich.
Michigan Petroleum Association, Lansing, Mich.
Mississippi Assn. of Plumbing, Heating, Cooling Contractors, Pascagoula, Miss.
Mississippi Feed & Grain Assn., Jackson, Miss.
Mississippi Petroleum Marketers Assn., Jackson, Miss.
Missouri Oil Jobbers Association, Jefferson City, Mo.
Motorcycle Trades Assn., Inc., Alexandria, Va.
Mfrs. Assn. of Delaware Valley, Norristown, Pa.
Narrow Fabrics Institute, New Rochelle, N.Y.
National Appliance Service Assn., Kansas City, Mo.
Nat'l Assn. of Brick Distributors, McLean, Va.
Nat'l Assn. of Coin Laundry Equipment Operators, Inc., Tucson, Ariz.
Nat'l Assn. of Elevator Contractors, Atlanta, Ga.
Nat'l Assn. of Glove Mfrs., Inc., Gloversville, N.Y.
Nat'l Assn. of Independent Lumberman, Arlington, Va.
Nat'l Assn. of Plastic Fabricators, Washington, D.C.
Nat'l Assn. of Retail Dealers of America, Chicago, Ill.
Nat'l Assn. of Store Fixture Mfrs., Sunrise, Fla.
Nat'l Assn. of Tobacco Distributors, New York, N.Y.
Mississippi LP-Gas Dealers Assn., Jackson, Miss.
Missouri Agricultural Industries Council, Inc., Kansas City, Mo.
Montana Assn. of Nurserymen, Bozeman, Mont.
Mississippi Liquor Dealers Assn., Meridian, Miss.
National Air Transportation Assn., Washington, D.C.
National Art Materials Trade Assn., Hasbrouck Heights, N.J.
Nat'l Assn. of Chemical Distributors, Dayton, Ohio
Nat'l Assn. of Convenience Stores, Falls Church, Va.
Nat'l Assn. of Floor Covering Distributors, Chicago, Ill.
Nat'l Assn. of Home Mfrs., Washington, D.C.
Nat'l Assn. of Meat Purveyors, Tucson, Ariz.
Nat'l Assn. of Plastics Distributors, Devon, Pa.
Nat'l Assn. of Service Contractors, Washington, D.C.
Nat'l Assn. of Temporary Services, Washington, D.C.
Nat'l Barrel & Drum Assn., Washington, D.C.
Nat'l Beer Wholesalers of America, Inc., Falls Church, Va.
Nat'l Candy Wholesalers Assn., Washington, D.C.
National Concrete Masonry Assn., McLean, Va.
Nat'l Electric Mfrs. Agents Assn., Hempstead, N.Y.
Nat'l Elevator Industry, Inc., New York, N.Y.
National Family Business Council, West Bloomfield, Mich.
Nat'l Food Distributors Assn., Chicago, Ill.
Nat'l Glass Dealers Assn., Washington, D.C.
Nat'l Home Furnishings Assn., Chicago, Ill.
Nat'l Independent Dairies Assn., Washington, D.C.
Nat'l Labor-Management Foundation, Washington, D.C.
Nat'l Lumber & Bldg. Material Dealers Association, Washington, D.C.
Nat'l Motorcycle Dealers Assn., Washington, D.C.
Nat'l Office Products Assn., Alexandria, Va.
Nat'l Paper Box Association, Haddonfield, N.J.
Nat'l Parking Association, Washington, D.C.
National Peach Council, Martinsburg, W. Va.
Nat'l Retail Hardware Assn., Indianapolis, Ind.
Nat'l Screw Machine Products Assn., Cleveland, Ohio.
National Bicycle Dealers Assn., Wickliffe, Ohio.
National Commercial Refrigeration Sales Assn., Philadelphia, Pa.
Nat'l Confectionery Salesmen's Assn. of America, Inc., New Monmouth, N.J.
Nat'l Electronic Service Dealers Assn., Indianapolis, Ind.
National Employment Association, Washington, D.C.
Nat'l Farm & Power Equip. Dealers Assn., St. Louis, Mo.
Nat'l Frame Builders Association, Dayton, Ohio.
Nat'l Hardwood Lumber Assn., Chicago, Ill.
Nat'l Home Improvement Council, New York, N.Y.
Nat'l Insulation Contractors Assn., Washington, D.C.
Nat'l Landscape Association, Washington, D.C.
Nat'l Macaroni Mfrs. Assn., Palatine, Ill.
Nat'l Office Machine Dealers Assn., Elk Grove Village, Ill.
Nat'l Paper Trade Association, Inc., New York, N.Y.
Nat'l Patent Council, Arlington, Va.
Nat'l Precast Concrete Association, Indianapolis, Ind.
Nat'l Roofing Contractors Assn., Oak Park, Ill.
National Shoe Retailers Assn., New York, N.Y.
National Water Well Association, Worthington, Ohio.
Nat'l Society of Public Accountants, Washington, D.C.
National Woodwork Mfrs. Assn., Chicago, Ill.
Nebraska Petroleum Marketers, Inc., Lincoln, Nebr.
New Jersey Tool, Die & Precision Machining Assn., Denville, N.J.
North Carolina Oil Jobbers Assn., Raleigh, N.C.
North Dakota Grain Dealers Assn., Fargo, N. Dak.
Nat'l Tool, Die & Precision Machining Assn., Washington, D.C.
National Small Business Association, Washington, D.C.
Nebraska Assn. of Nurserymen, Lincoln, Nebr.
New Jersey Retail Merchants Assn., Trenton, N.J.
North Carolina Assn. of Plumbing, Heating and Cooling Contractors, Raleigh, N.C.
Northeastern Lumber Mfrs. Assn., Falmouth, Maine.
Nat'l Liquor Stores Association, Washington, D.C.
National Assn. of Retail Grocers, Washington, D.C.
National Home Improvement Council Chapter, Birmingham, Ala.
National Home Improvement Council Chapter, Buffalo, N.Y.
National Home Improvement Council Chapter, Chattanooga. Tenn.
National Home Improvement Council Chapter, Cincinnati, Ohio
National Home Improvement Council Chapter, Columbia, S. Car.
National Home Improvement Council Chapter, Denver, Colo.
National Home Improvement Council Chapter, Erie, Pa.
National Home Improvement Council Chapter, Houston, Tex.
National Home Improvement Council Chapter, Little Rock, Ark.
National Home Improvement Council Chapter, New York, N.Y.
National Home Improvement Council Chapter, Portland, Oreg.
National Home Improvement Council Chapter, Salt Lake City, Utah
National Home Improvement Council Chapter, Springfield, Mass.
National Home Improvement Council Chapter, Boston, Mass.
National Home Improvement Council Chapter, Canton, Ohio.
National Home Improvement Council Chapter, Chicago, Ill.
National Home Improvement Council Chapter, Cleveland, Ohio
National Home Improvement Council Chapter, Dallas, Tex.
National Home Improvement Council Chapter, Detroit, Mich.
National Home Improvement Council Chapter, Grand Rapids, Mich.
National Home Improvement Council Chapter, Kansas City, Mo.
National Home Improvement Council Chapter, Milwaukee, Wis.
National Home Improvement Council Chapter, Pittsburgh, Pa.
National Home Improvement Council Chapter, St. Louis, Mo.
National Home Improvement Council Chapter, Seattle, Wash.
National Home Improvement Council Chapter, Washington, D.C.
Oil Heat Assn. of Greater Washington, Washington, D.C.
Oregon Assn. of Nurserymen, Portland, Oreg.
Oil Jobbers of Wisconsin, Inc., Madison, Wis.

Oregon Feed, Seed and Suppliers Association, Portland, Oreg.
Pacific Northwest Grain Dealers Assn., Inc., Portland, Oreg.
Pennsylvania Petroleum Assn., Inc., Harrisburg, Pa.
Pet Industry Distributors Assn., Chicago, Ill.
Plumbing, Heating, Cooling Contractors Assn. of Napa, Solano and Lake Counties, Napa, Calif.
Plumbing-Heating-Cooling Contractors Assn., Vienna, Ohio.
Plumbing Industry Program, Inc., Miami, Fla.
Plumbing Contractors Association of Erie County, New York, Inc., Buffalo, N.Y.
Plumbing, Heating, Cooling Contractors of Greater Indianapolis, Indianapolis, Ind.
Plumbing & Piping Contractors Assn. of Western Kentucky, Paducah, Ky.
Professional Insurance Agents, Washington, D.C.
Painting & Decorating Contractors of America, Falls Church, Va.
Petroleum Assn. of Delaware, Newark, Del.
Philadelphia-Suburban Assn. of Plumbing Contractors, Upper Darby, Pa.
Plumbing, Heating, and Cooling Contractors of Alameda County, Oakland, Calif.
Plumbing, Heating and Cooling Contractors Assn. of Northwestern Ohio, Inc., Toledo, Ohio.
Photo Marketing Assn. International, Jackson, Mich.
Plumbing-Heating-Cooling Contractors Assn. of Central Illinois, Champaign, Ill.
Plumbing, Heating, Cooling Contractors of Marin, Sonoma, & Mendocino Counties, Inc., Novato, Calif.
Power Transmission Representatives Assn., Shawnee Mission, Kans.
Printing Industries of America, Inc., Arlington, Va., consisting of:
Printing Industries Association of Southern California, Los Angeles, Calif.
Printing Industries Association of San Diego, San Diego, Calif.
Printing Industries of Northern California, San Francisco, Calif.
Printing Industries Association—Mountain States, Denver, Colorado.
Printing Industry Association of Connecticut & Western Massachusetts, Hartford, Connecticut.
The Printing Industry of Connecticut, Milford, Connecticut.
Printing Industry of Metropolitan Washington, Inc., Washington, D.C.
Printing Industries of Florida, Winter Park, Florida.
Printing Association of Georgia, Inc., Atlanta, Georgia.
Printing Industry of Illinois, Chicago, Illinois.
Printing Industries of Indiana, Inc., Indianapolis, Indiana.
Printing Industries of Maryland, Baltimore, Maryland.
Printing Industries of New England, Auburndale, Massachusetts.
Printing Industries of Michigan, Detroit, Michigan.
Printing Industry of Twin Cities, St. Paul, Minnesota.
Printing Industries of Mid-America, Inc., St. Louis, Mo.
Printing Industries Association of New York State, Inc., Williamsville, N.Y.
Printing Industries of Metropolitan New York, New York, N.Y.
The Printing Industry of the Carolinas, Inc., Charlotte, N.C.
Printing Industries Association of Northern Ohio, Cleveland, Ohio.
Printing Industry Association of South Central Ohio, Columbus, Ohio.
Printing Industries Association, Inc., Oklahoma City, Okla.
Printing Industries of the Pacific, Portland, Oreg.
Graphic Arts Association of Delaware Valley, Philadelphia, Pa.
Printing Industry Association of Western Pennsylvania, Pittsburgh, Pa.
The Printing Industry Association of the South, Inc., Nashville, Tenn.
Printing Industries Association of Texas, Dallas, Tex.
Printing Industries of the Gulf Coast, Houston, Tex.
Intermountain Graphic Arts Association, Salt Lake City, Utah.
Printing Industries of the Virginias, Charlottesville, Va.
Washington/Alaska Printing Industries, Inc., Seattle, Wash.
Printing Industries of Wisconsin, Milwaukee, Wis.
Association of Graphic Arts Consultants, Arlington, Va.
Binding Industries of America, Arlington, Va.
Conference Board of Major Printers, Arlington, Va.
Financial Printers Association, Arlington, Va.
Graphic Arts Equipment and Supply Dealers Association, Arlington, Va.
Graphic Arts Marketing Information Service, Arlington, Va.
Graphic Arts Union Employers of America, Arlington, Va.
Graphic Communications Computer Association, Arlington, Va.
International Book Printers Association, Arlington, Va.
International Business Forms Industries, Arlington, Va.
International Termographers Association, Arlington, Va.
Label Printing Industry Section, Arlington, Va.
Lithographic Preparatory Services Association, Arlington, Va.
Magazine Printers Section, Arlington, Va.
Master Printers of America, Arlington, Va.
National Association of Lithographic Plate Manufacturers, Arlington, Va.
Non-Heat Set Web Section, Arlington, Va.
Security Lithographers Section, Arlington, Va.
Web Offset Section, Arlington, Va.
Yearbook Printers Association, Arlington, Va.
Real Estate Securities and Syndication Institute, Chicago, Ill.
The Refractories Institute, Pittsburgh, Pa.
Retail Jewelers of America, Inc., New York, N.Y.
Rogue Valley Assn. of Plumbing, Heating and Cooling Contractors, Medford, Oreg.
Realtors National Marketing Institute, Chicago, Ill.
Retail Floorcovering Institute, Chicago, Ill.
Rhode Island Nurserymen's Assn., Inc., Kingston, R.I.
Schiffli Lace & Embroidery Mfrs. Assn., Inc., Union City, N.J.
Society of Industrial Realtors, Washington, D.C.
South Dakota Retailers Assn., Pierre, S. Dak.
Specialty Equipment Mfrs. Assn., El Monte, Calif.
Steel Service Center Institute, Cleveland, Ohio.
Smaller Business Assn. of New England, Waltham, Mass.
South Carolina Oil Jobbers Assn., Columbia, S.C.
Southeastern Lumber Mfrs. Assn., College Park, Ga.
Steel Plate Fabricators Assn., Hinsdale, Ill.
Texas Assn. of Nurserymen, Austin, Tex.
Toledo Area Small Business Assn., Toledo, Ohio.
Truck Equipment and Body Distributors Assn., Cincinnati, Ohio.
Textile Fibers & By-Products Assn., Charlotte, N.C.
Truck Body & Equipment Association, Washington, D.C.
Urethane Foam Contractors Assn., Dayton, Ohio.
Utah Plumbing, Heating, and Cooling Contractors, Salt Lake City, Utah.
Utah Council of Retailers & Wholesalers, Salt Lake City, Utah.
Vermont Plantsmen's Assn., Inc., Reading, Vt.
Washington State Nurserymen's Assn., Puyallup, Wash.
Western States Meat Packers Assn., San Francisco, Calif.
West Virginia Oil Jobbers-Distributors Assn., Charleston, W. Va.
Wholesale Nursery Growers of America, Washington, D.C.
Wisconsin Assn. of Food Dealer, Madison, Wis.
Women's Council of Realtors, Chicago, Ill.
West Central Plumbing, Heating, Cooling Contractors, Mountevideo, Minn.
Western Wayne County Assn., of Plumbing Contractors, Westland, Mich.
Wholesale Florists & Florist Suppliers of America, Arlington, Va.
Wilkes-Barre Wyoming Valley Plumbing-Heating-Cooling Association, Wilkes-Barre, Pa.
Wisconsin Assn. of Mfrs. Agents, Inc., Milwaukee, Wis.

Mr. HATCH. Mr. President, just to read off a few that I think may be very important: The Agricultural and Industrial Manufacturers Association in Shawnee Mission, Kans.; the Alabama Nurserymen's Association in Auburn, Ala.; the Alaska Mechanical Contractors Association in Anchorage, Alaska; the American Apparel Manufacturers Association in Arlington, Va.; the American Component Dealers Association in Fayetteville, N.C.; the American Fishing Tackle Manufacturers Association in Chicago, Ill.; the American Gear Manufacturers Association in Arlington, Va.; the American Institute of Kitchen Dealers in Hackettstown, N.J.; the American Ladder Institute in Chicago, Ill.; the American Pipefittings Association in Stamford, Conn.; the American Welding Society in Miami, Fla.; the Architectural Woodwork Institute in Arlington, Va.; and you can go on and on; the Associated Retail Bakers of America in Annapolis, Md., the Associated Meat and Food Suppliers of Southern California; the American Building Contractors Association throughout; the American Consulting Engineers Council; the American Institute of Constructors; the Automotive Service Councils; the American Building Contractors; the American Boiler Manufacturers Association; the Building Service Contractors Association.

You could just go on and on, and I have only gone through just a few of them and skipped most of them.

The fact of the matter is it goes to the Independent Petroleum Association of America; the Independent Business Association; the Independent Bankers; the Intermountain Oil Marketers Association; the International Association of Wiping Cloths Manufacturers; the International Real Estate Federation; the International Franchise Association; the National Air Transporation Associa-

tion; the National Association of Chemical Distributors; just to give you a few representative samples; the Pacific Northwest Grain Dealers; the Pennsylvania Petroleum Association; the plumbing, heating, and cooling contractors throughout the country, the printing industries, et cetera, et cetera.

I think it is extremely important that we understand really what is involved here.

There is no doubt that the latest union power grab, trying to shore up declining union membership by railroading the so-called labor law reform bill through Congress is aimed squarely at small business.

The House of Representatives has already approved its version of the bill.

In 1934, just before passage of the National Labor Relations Act in 1935, unions represented slightly over 3 million workers—about 5.9 percent of the total work force in America. Within 2 years of the act's passage, in other words, by 1937, union membership more than doubled to over 7 million members—about 12.9 percent of the total work force.

Therefore, union representation grew under the National Labor Relations Act. Then something dramatic happened. In the next 2 years union membership began to falter, with the representation rate dropping to 20.1 percent by 1976.

There is one simple fact about that decline: Under the auspices of the National Labor Relations Board, unions have been losing more representation elections than they have been winning, and that is something that needs to be understood.

In 1976 the National Labor Relations Board conducted more than 8,000 representation elections. Some 75 percent of these elections involved businesses with 50 or fewer employees, 87 percent with 100 or fewer employees, and a full 98 percent with no more than 400 employees.

In fact, the average size of a company which had a representation election supervised by the NLRB in that year was 48 employees, and the largest single percentage of elections, 25.2 percent, involved firms of 10 employees or less.

The unions in this case are obviously holding a loaded organizing gun pointed directly at small business.

Why small business?

Alan Kistler, director of the AFL–CIO's Organization of Field Services Department, says that the decline in union membership is due to forces beyond the control of the unions. Among these forces are the sluggish economy, the fact that most large companies susceptible to organization were unionized long ago, and the steady decline in labor intensive industries.

But most of all Mr. Kistler insists that unions are merely responding to demand for unionization that allegedly occur mainly from employees of small companies with weak pay and benefit plans.

Will the reform bill make a difference?

AFL–CIO czar George Meany says that passage of the "reform" bill will "make quite a difference" to the membership of his giant union.

Alan Kistler expects "a dramatic turnabout" in opportunities for union growth if the bill is approved.

William Winpinsinger, president of the International Association of Machinists and Aerospace Workers said on the National Chamber's "Enterprise" show that the unions need this legislation to win more elections.

How will it aid in union organizing?

First. Approval of this bill would cause the unions to redouble their organizing efforts and insure a greater percentage of representation elections come out the way the unions want them to.

Second. It will steamroll union organizing through quickie elections within 21 to 30 days of a union's demand that an election be held. Union organizers can take several months lining up support, but business will be forced to respond and hold the election within 15 days.

Third. It will require employers to subsidize the costs of the union's election campaign. Employers will be required to allow outside professional union organizers to talk to employees on company property, on company time, and use the same methods the company uses to communicate with employees—all at the company's expense.

In other words, if an employer on his own time and at his own expense talks to his employees on his premises about unionizing, and about the unionizing effort going on then, pursuant to this bill if it is enacted, he is going to have to open up his premises on his time, at his expense, and allow the union organizers to come on and organize his business.

My contention is that he is going to have to subsidize the unionization of his very own plant. That is something to think about, and we will go into it in much greater detail later.

In other words, if the employer exercises his right of free speech to talk to his employees—and that is what is what he is going to have to do—you are going to hear that the employers breach these rules and that they intimidate their employees, and so forth. I am sure there are some isolated cases of this, there is no question about it, and I am sure there are some companies which can be attacked on some of these basics. But we are talking about millions of companies in America. The vast majority, I would say 99.99 percent, abide by the law. Therefore, we are going to turn the whole law upside down just to get even with what has been mentioned in our committee of about four or five companies that the unions do not like. You might as well know that.

I think it is important for us to realize that these quickie elections, for instance, do not give the employer enough time to explain his side of the matter. In many cases, being a small businessman, he may not even know a labor lawyer to go to, and even if he can get an appointment he may not be able to get an appointment that will do him much good before the union election is held.

I might also add that he may have committed some unfair labor practices, because of not knowing what the law is because of the pressure to try to do something before those short, quickie times expire.

Senator JAVITS was quite accurate when he said recently that of the approximately 9,000 elections before the NLRB 80 percent of them were settled within a median time of 12 to 44 days. Of the remaining 1,500, it was a median time of about 75 days, and in only one-half of 1 percent, 47 out of better than 9,000 elections, did it take longer because of complex issues.

On this equal access matter, if the employer talks about unionization on his premises, on his time, at his expense to his employees, he has to open up his plant, on his time and his expense, and allow union organizers to come on and preach unionization to his employees, and the argument is that he has a captive audience. That may be the case. But he is able to talk to those people, and it gives him an inordinate advantage, which is certainly not the case with the employer, because what very seldom is mentioned by those who are proponents of this bill is that the unions have people on the premises talking to the employees during the work hours, who represent them, who are fellow employees, trying to get those to sign petitions and otherwise.

The unions can say almost anything they want to say without fear of violating the labor laws. They can make huge promises they know they cannot keep, which the employer cannot do. He cannot make any promise or threat or use any coercive activities to try to get the employees to come his way, and if he does he can be found guilty of unfair labor practices, and he can suffer very serious consequences, and he knows it and they know it.

Again, I am sure there may be some isolated cases, and there may be some that would make anybody aggravated, and I do not condone any breach of the law by employers or unions. I am certainly not going to stand here and justify any lawbreakers or any breaches of the law.

Fourth. It will give the NLRB massive powers to, in effect, intimidate employers who are exercising their legitimate rights under current law. The Board will be able to order wage and benefit increases, award 1½ backpay with interest to employees, and blacklist employers from Government contracts for up to 3 years.

Who will be the target?

Any industry that is not now heavily unionized can expect to be on the target list if this bill passes. For a clue as to who will be first, here are figures on extent of unionization in various industries:

2 percent of workers in the banking industry.

6 percent of workers in the insurance and real estate industries.

10.1 percent of workers in the retail industry.

12.5 percent of workers in the wholesale industry.

12.6 percent of workers in the service industry (9.5 percent of business services and repair).

Farmers are still free of union control, but are a prime traget for 100 percent unionization if their exemption is lost.

If this power is transferred to the leaders here in Washington, the Washington labor leaders, I believe that they may very well lose that exemption.

Alan Kistler has no doubts about who will be first:

> There is a trend toward unionization among white collar workers everywhere. Real estate and banking may be as well organized in the future as construction is today. We are on the verge of great growth.

COMMANDEERING "GREAT GROWTH"

This "great growth" scheme is a blatant effort to accomplish through Federal Government intervention what the unions have been unable to accomplish on their own. Regardless of what you might hear about the intent of this bill, the result will be to foist unions on employees at the expense of due process and the rights of individual employees.

Hurt the most will be small businesses, because smaller firms are the least able to defend themselves against the onslaught of a big union drive. The bill may provoke ill-conceived actions by the small employer, the union, and the employees involved that would increase the possibility of unfair labor practices being committed. Or, it may exert coercive pressure on the small business to refrain from exercising perfectly legitimate rights such as discussing union election issues with employees.

And what about the rights of employees? They cannot be expected to be able to make sound, reasoned, and informed decisions on the issue of union representation under such circumstances. This bill would surely disrupt the stable work environment desired by both employees and employers.

This, of course, appears to be exactly what the unions have in mind.

The AFL–CIO Executive Council is reportedly working on a new form of organization to capitalize on the advantages to be gained from passage of the bill—citywide unions for all types of workers. The first test of this new organization would be in small cities and small businesses would be the most threatened.

The citywide union would be an umbrella under which a variety of unionized employees could bargain as a group. For instance, in the supermarket industry, meatcutters and clerks could join together under the sponsorship of the AFL–CIO rather than the present system where they bargain separately for higher pay.

The local group would benefit from affiliation with the massive AFL–CIO, which in turn would gain increased power at the local level.

This kind or organization would add awesome power to the already hefty influence of the unions.

I think that is pretty important for us to understand. Just this past week, the AFL–CIO, in an opinion report or special report, issued this particular sheet, which says:

> AFL–CIO Special Report, Labor Law Reform. Mom and Pop aren't involved. The myth is afloat that S. 2467 will adversely affect small business. The truth is S. 2467 would not change coverage under the NLRA at all.

I certainly agree with that. It does not have such coverage, because it already has complete coverage of every business in America, including sole proprietorships, although no one in his right mind would want to unionize a sole proprietorship, because a sole proprietor is an executive, and really should not be subject to being unionized.

What they say is that 78 percent of all U.S. businesses will not be touched, and that is the distortion they would like the media to accept, the people of America to accept, and I suppose above all their own members to accept. But the fact is that they cannot accept that, because the businesses that are exempt are exempt by rule of the National Labor Relations Board. Seventy-six percent of all employees in our society, by those rules, will be covered, as Senator JAVITS mentioned earlier. He said he agrees that 24 percent will not be. Well, 76 percent will be, and the others who are not are either so small as to be insignificant, or they are sole proprietors.

That is why I have gone through these statistics, which show that the vast amount of unionization occurs in small businesses of less than 100 employees, and 98 percent of all union organizing goes on in businesses of less than 400 employees. So let no one be deceived by this, I think, conscious and willful distortion.

If there are any extreme distortions in this matter, or any radical approaches to this bill, it has to be, when you consider it, this type of stuff put out to mislead all the workers in America into thinking that only a few select businesses are going to be covered, and they are the ones who should be covered.

The fact of the matter is that nobody wants to organize a sole proprietor, because they cannot under the law, and there is no reason to. No man is going to join a union when he has only himself to account to—or woman either, for that matter.

These are some of the things that make you wonder just what is going on here.

Unfortunately, the unions are telling only half-truths by saying "Mom and pop aren't involved under NLRA coverage." They say that S. 2467 will not adversely affect small business and that 78 percent of all United States is presently exempted from this bill.

I think it needs to be pointed out that under the commerce power of the U.S. Constitution, the NLRA covers all business whose operations "affect interstate commerce." That includes sole proprietorships, assuming anyone in his right mind would want to organize them. The Board sets certain "jurisdictional standards" which in its discretion indicate which employers are covered. It is fair to say that almost all businesses with two or more employees doing a moderate amount of business are included. The 78-percent exclusion, while accurate, consists of businesses which are single proprietorships and/or those with fewer than two employees except in some very isolated situations. The Board will not certify any unit for collective bargaining unless two or more employees are involved. They should set the matter straight, and stop the deception that has been going on.

The telling statistic is that 76 percent of all working employees in this society are protected by the NLRA, because they work for firms which meet the Board's jurisdictional standard threshold, and it amounts to millions of companies, according to the report I have already read, the letter I have already read from the Small Business Legislative Council.

One of the common misconceptions of union organizing drives is that most campaigns are directed toward large employers. Yet according to the annual report, during fiscal 1977 only 0.3 percent of all representation elections conducted by the NLRB were in units containing over 1,000 employees (table 17 at 306). Rather, 57.2 percent of all such elections were held in units of 39 employees or less, and 85.3 percent were conducted in units of less than 100 employees.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

Mr. HATCH. Yes, delighted.

Mr. GOLDWATER. I was interested in hearing the Senator's discussion about control in interstate commerce. I believe the courts have destroyed what little is left of that clause. During the middle or late 1930's, the first case that comes to my mind, the courts held that the Otis Elevator Co. was engaged in interstate commerce, because the advertisement erected in New Jersey could be read in New York. I cannot conceive of a business in America that is not in interstate commerce under the broad decisions of the courts or the decisions of the quasi-judicial bodies.

For example, the bootblack in Salt Lake City uses polish made in Ohio.

Mr. HATCH. That is right.

Mr. GOLDWATER. He would be in interstate commerce.

Mr. HATCH. That is right.

Mr. GOLDWATER. So I do not believe it is possible, although you might by stretching the imagination here and there, to find a single business in America that would not come under the interstate commerce clause, and therefore be covered by the present labor laws.

I served on the Labor and Public Welfare Committee for 12 years, and we went through this battle day after day and year after year, and I am hearing the same arguments offered on behalf of this bill that have been offered on behalf of every bill that labor has ever wanted. It is going to be interesting to see if the proponents can offer any new arguments wanting to completely unionize the workers of America, even though it is quite obvious, with the declining membership of unions, that they will not do that.

I have always believed very firmly that if the labor movement in this country had been a voluntary movement, like the heavily unionized countries of the Scandinavian area, instead of having a little less than 20 percent of the workers unionized, we would have perhaps 95 percent. In fact, I think labor has defeated, to a pretty great extent, their own cause and desire by requiring mandatory union membership wherever possible.

In my humble opinion, that is all this

bill intends to do, is accomplish what is left to accomplish, and I will have more to say on that subject at an appropriate time.

Mr. HATCH. I thank the Senator from Arizona. I wish we had him on the committee today.

Mr. GOLDWATER. That is where I got all these gray hairs.

Mr. HATCH. Well, you look awfully good with the gray hair, whether you got it on the Labor Committee or not. I am losing mine, I am afraid.

The Senator from Arizona hit the nail right on the head in saying that with the growth of the Federal Government and the increasing control of all of our lives by the Federal Government, the courts have pretty well made interstate commerce mean almost anything. Frankly, very few businesses would be exempt from the provisions of the Interstate Commerce rules or from this particular bill.

I think it is important, though, because 0.3 percent of all representation elections conducted by the Board were in units containing over 1,000 employees. Those would be, I presume, larger businesses. Rather, it should be noted that 57.2 percent of all such elections were held in units of 39 employees or less, to give some other illustrations, and 85.3 percent were conducted in units of less than 100 employees. This comes right out of the Board's 1977 report. These statistics give credence to claims laid by opponents of this bill, S. 2467, which has been substituted for H.R. 8410, that the legislation is directed primarily toward the small businessman.

In other words, only three-tenths of 1 percent of labor organizing drives are conducted against what we would consider to be big business. All the rest are conducted against smaller businesses, and the vast majority against small businesses, per se.

I might add that the reason for this bill is that the unions have lost somewhere over 700,000 members in the last 2 years. They have lost better than 50 percent through representational elections in the last 2 years, and the AFL–CIO, in the last 2 years, lost 75 percent of the decertification elections. Of course, they want to stop these slides. The only way to do it is to come to the Government, I guess. Instead of going out and earning the right to represent people as they can and should, they come to the Federal Government to solve the problems for them.

I personally feel that that is wrong.

I might mention that in the analysis which I have made of the 42d annual report of the National Labor Relations Board, which was recently issued—and it is the 42d annual report covering the fiscal year 1977—the report contains significant statistical information concerning the administration of the National Labor Relations Act, and I think it is especially useful in analyzing claims made by proponents of S. 2467 and H.R. 8410, the labor law reform bills pending before the Senate.

With regard to case processing delays, organized labor asserts that the NLRB is not capable of expeditiously handling complaints filed with the agency. The annual report states that during fiscal 1977 the Board more than kept up with its caseload, taking in a record of 52,943 cases and closing 53,908 cases.

With regard to election delays, which has been a big complaint by those who are proponents of this bill, that elections are delayed so long that people are denied justice, let us look at the facts. Let us not just say these cliched terms. Let us look at the facts and see what is right. The strict expedited election requirements of these bills are premised on the theory that the National Labor Relations Board moves too slowly in, No. 1, holding elections to determine whether employees want to become union members, and No. 2, resolving legal questions that materially affect the outcome of such elections. The labor reform bills, therefore, would impose a series of inflexible deadlines for holding these elections and require legal questions surrounding the voting to be resolved after the election. However, according to the annual report filed for fiscal 1977, the Board received a record 14,358 representation changes while closing 15,436 such cases.

A key factor in this excellent record was that 82 percent of the cases were processed without the necessity of a formal Board hearing. Of the 9,795 representation elections actually held during the year, 7,986 or 81.5 percent were conducted under voluntary agreement between the parties.

Most importantly, the Board itself was required to direct an election in only 64 instances. When we consider the millions of businesses in this society, that does not sound like a very bad record and it does not sound like it needs too much remedy. I might add this particular bill does not remedy it but it adds more difficulties to try to remedy those 64 instances.

This 64 figure represents about one-half of 1 percent of these cases filed with the Board.

If these bills were to be enacted, according to the NLRB General Counsel, there would be a 47-percent drop in such voluntary agreements which would require hearings and regional director or Board decisions in more than 4,000 additional cases.

Existing Board procedures would be crippled by such a dramatic decline in voluntary agreements, and substantial delays in case handling would be the inevitable result.

Members need to know that what is going to happen here is that if this bill passes we will have crippled the Board, a Board which has operated expeditiously albeit weighted in favor of labor, as I believe it probably should be. If this bill passes it will not only be weighted in favor of labor, but weighted totally in favor of labor, and the Board would be overburdened with 4,000 additional cases, which is a conservative estimate of the National Labor Relations Board General Counsel. It would make it very, very difficult for the Board to function in its present model fashion.

Further evidence of the expeditious manner in which the Board now operates is found in the median times required from the filing of a petition of a union requesting an election to the issuance of a directive to hold such an election. The time for such action during fiscal 1977 was 43 days, down from 47 days during the previous year. In other words, instead of justifying the need for expanding the Board from five to seven members it is unjustified on the facts. They are actually decreasing the time. I do not know anybody who would say that 43 days is an abnormal time.

Any Federal agency, it seems to me, should be commended not condemned for concluding a hearing process and resolving complex legal issues within a median time of actually less than 6 weeks.

Under the labor reform bills, however, proponents point out that the Board would no longer have sufficient time for such questions to be answered until after the election has been concluded. Rather, the fixed election times would effectively require employees to vote on union representation before a determination of their legal rights had been made.

If that is justice, then it is different from what I have been led to believe justice is.

The legislation trades away the resolution of significant free election issues in return for holding elections a week or two sooner than is now the case. That is not justice, Mr. President. That is anything but justice.

As a matter of fact, that creates more difficulties, more delays, through this vote and impound procedure, which will not work. Certainly, it will not work justly and fairly.

With regard to the delays in resolving unfair labor practice cases, let us move off the election situation. The Board's record with respect to unfair labor practices is equally good. Out of 37,828 unfair labor practice charges which were filed with the NLRB during fiscal 1977, 37,602 were closed. Of the latter, 32,196 were closed before issuance of a complaint, indicating, again, voluntary compliance and voluntary solution to these problems by agreement.

This is a healthy development due primarily to the fact that present law contains strong incentives for parties before the Board to settle their differences privately. Because over 9,000 unfair labor practice cases were formally or informally settled by the parties and nearly 13,000 were withdrawn during the fiscal year, the Board was able to avoid costly and time-consuming litigation.

An earlier analysis compiled by NLRB's General Counsel indicates that over 90 percent of the unfair labor cases coming before the National Labor Relations Board in 1977 were disposed of in a median time of 42 days without the necessity of formal litigation by the Board. Ninety percent. That is an enviable record. That will undoubtedly suffer if this bill passes, and employers as well as employees will be drastically hurt.

The General Counsel predicts—and this is the General Counsel for the National Labor Relations Board which has

never been considered to be probusiness and certainly right now is not probusiness—that if the labor law reform legislation is enacted there would be a 3-percent drop in unfair labor practice settlements, and 2,674 new cases in unfair labor practices would be filed, a 6-percent increase.

These would have to be disposed of by the Board, which it presently does not have to do, because the parties can get together in this free and fair process today and resolve their difficulties.

I say this again stimulates litigation and it does not seem to comport with the stated purpose of this so-called reform bill, which is to "expedite the procedures" of the National Labor Relations Act.

This is not small business; this is not some small business trade association talking. This is not the Chamber of Commerce, although I think the chamber does a great deal of service throughout this country in helping us to understand some of the issues. This is the National Labor Relations Board, which is weighted toward labor. Certainly, I do not think anybody would dispute that. And I am not so sure it should not be. The question is, how far should it be weighted toward labor?

I can tell you this: The expediting of the procedures is not going to occur if this bill is passed. So one of the supposedly profound purposes for this bill is going to rise up and bite the very union men that it is supposed to be taking care of.

Unfortunately, the only purpose of this bill is to make it easier to concentrate power right here in Washington with the biggest special interest group in our country today. I do not think that is healthy, and I do not think that many people in this country think that it is healthy. Fifty-one percent of the labor union members themselves—men and women—do not think that any further power should be given to this special interest group.

Incidentally, if you think I am just talking about big labor, I am also talking about big business, because the two of them together comprise a massive special interest group right here in Washington. We all know which is more the significant and the more powerful.

I can tell you this: It is not the big corporations, although they are extremely powerful, and neither of these groups ought to control the U.S. Senate, the Congress, or this Government. I think we will find out about that in this particular bill that is before us today. We shall find out.

Our position has been categorized as David against Goliath, because the odds are overwhelmingly against us in arguing for what I consider to be the free enterprise system, which has been slowly eroded by bills such as this, and it is about time to stop it, for people in this society to stand up and take notice and fight back. For once, I have to admit they are doing it. The small business people in this country are just fed up to here, and rightly so.

Keep in mind that, according to the National Labor Relations Board's reported settlement of the 37,600 unfair labor practice complaints filed with the Board in the year 1977, contempt proceedings were required in only 34 cases. That is about one-tenth of 1 percent of the cases. When you add it up, that does not justify this radical change in the labor laws of our society.

I might mention that if there is anybody radical on this floor, or anybody who is extreme, it has to be those who are arguing for these bills, because the facts, the circumstances, the statistics, and the report of the Board itself do not justify their position.

In other words, out of 37,600 unfair labor practice complaints filed with the Board during fiscal year 1977, only 34 cases were so serious that the Board had to seek contempt proceedings in those 34 cases—less than one-tenth of 1 percent of all the cases.

The statistics raise serious questions about the actual need for stringent new remedies. Moreover, the report itemizes some of the remedies available under existing law that were found against J. P. Steven Co., one employer often characterized as the prime example of a recalcitrant employer.

In the National Labor Relations Board against J. P. Stevens Co., an appellate court required the company, among other things, to permit union organizers access to nonunion workers on company property for the purposes of communicating with employees, in some respects a more stringent requirement than the proposed "equal access" amendments in this bill. It further directed the company to formulate written nondiscriminatory rules governing union solicitation and to establish for all its supervisors and managerial personnel a continuing program of education concerning the rights of employees under the National Labor Relations Act.

Lastly, the company, its officers, and directors were subjected to fines of hundreds of thousands of dollars for failure to comply with the court orders.

The 1977 annual report shows not only that the proposed remedies are unnecessary, but that they are inappropriate as well. For example, under the "make whole" provision in the labor reform bill, employers found to have unlawfully refused to bargain with the union during initial contract negotiations must pay employees the difference between what they actually earn and what they would have earned had the contract been signed. "Damages" would be based on a Bureau of Labor Statistics index measuring collective bargaining contracts for employers with over 5,000 employees.

That is a big business, Mr. President. That is big business, hardly ever attempted to be organized any more by the unions. Yet, out of the 8,635 certification elections in fiscal 1977, only two such elections occurred in units of 3,000 employees or more. Yet they would impose on every small businessman in this society, who is made to make an employee whole, pursuant to these provisions by a stacked Board, the highest wages paid in society today, regardless of whether it applied to his particular area or not.

Obviously, the imposition of a fixed index that fails to reflect the economic realities of the vast majority of affected businesses is not only grossly unjust, it may jeopardize the economic and employment-producing potential of the affected company as well.

Only two elections in the whole year of 1977 involved units of 3,000 or more. Yet they would impose the wages according to the Bureau of Labor Statistics index measuring collective bargaining contracts for employers with over 5,000 employees. That is dramatic and it shows how basically unfair this bill is. It shows the nature in which it is trying to come down against small business under the guise that, because one or two major, or maybe five or six—that is about all I have heard in our hearings—major businesses in our society have breached labor laws and, vindictively, they want to get at them. All the businesses in our society, hundreds of thousands of businesses, have to be affected disastrously, or at least unfairly.

With regard to illegal discharges under these bills, S. 2467 and H.R. 8410, whenever a charge is filed by an employee alledging a discriminatory discharge during a union organizing campaign, the Board, under this bill, would be mandated to seek an injunction from a Federal District Court ordering reinstatement of the employee whether he is right or wrong—mandated. Under present law, the authority to seek such injunctions is discretionary with the Board under 10 (j) of the National Labor Relations Act. In the 15-month period ending in September 1977, the Board found it necessary to seek such 10(j) injunctions against employers in only 45 instances. Yet we are led to believe that it is such a blatant, widespread, illegal, and rotten practice that now, they want to make the Board—make the Board, not let it have discretion, because it can look into the cases preliminarily and determine whether or not the drastic remedy of a mandatory injunction is to be allowed or is to be sought. It makes the Board seek such injunctions whether it likes to or not or whether justice, law, or the facts require.

In more than 20 percent of the decisions in these cases. In other words, where the board sought a mandatory injunction. Remember, that is in only 45 cases. In more than 20 percent of those 45 cases, the injunctions were denied, indicating serious reservations by the deciding judges on the necessity of such relief.

Again, let us go to the Board, which is not known as a probusiness organization, but a prolabor organization. Again, I will add, it probably should be, but not extremely weighted.

According to the National Labor Relations Board general counsel, John Irving, the proposed legislation would require the board to seek injunctions in 3,479 district judge cases and require hiring of 128 new attorneys.

Now, if President Carter is sincere about how bad he thinks all the attorneys are, why do we always have these attorneys' retirement bills coming out of Congress? Everything we do here augments the legal profession and puts that

many more attorneys, I think, working against us in Government.

Again, that did not come from the Chamber of Commerce. That came from the National Labor Relations Board itself.

I would have to admit, that is a model agency. One of the best, if not the best, in Government today, because it does its work. But the reason it is is because of voluntary compliance and agreements between the parties, not because the crushing weight of big labor comes down and says "you have to do this and that."

It gives them an open and fair process, which they want to turn upside down, even though it has been thoroughly litigated before the circuit courts and the Supreme Court of the United States.

One hundred twenty-eight new attorneys. That is a lot of attorneys in anybody's business. Yet it is only one minor agency in Government today. And that is only the beginning, because when we get to the administrative law judges, one of the cushiest positions today, they decide about 10 cases a year, I am led to believe, and they want to get, pursuant to this bill, an attorney to back up every one of those administrative law judges.

So that adds hundreds of more attorneys to the expenses of every taxpayer in our country today.

The tremendous burden that these additional cases would place on the Federal district court system is apparent when it recognizes that they alone would increase the caseload of the district courts, the Federal district courts in this country, in civil litigation by more than 2.5 percent. That is something we have to think about, because our courts are already overburdened with unnecessary litigation, fomented by legislation here in Washington, which again provides great retirement programs for lawyers all over America.

With regard to rulemaking, because proponents have concluded that the Board's failure to exercise its rulemaking authority has resulted in delayed representation allegations, the labor reform bill would require the National Labor Relations Board to promulgate rules declaring certain units to be appropriate for the purposes of collective bargaining.

As I stated before, 81.5 percent, or 7,986 of the cases coming before the National Labor Relations Board in fiscal 1977, involving questions of appropriate bargaining units, were settled voluntarily by the parties.

If the parties found rules are necessary in such a substantial number of cases, and it was necessary for the Board to rule on less than one-half of 1 percent of such cases, the need for these extensive and extreme remedies, I think, is refuted.

I might mention that it is important to note that with the Board being up to date, current, handling its case well because of voluntary compliance, and businesses getting together and resolving their difficulties, they now want to, in my opinion, stack the Board by increasing membership from five to seven members.

If this bill is passed, that may be necessary, because of the added unnecessary workload the Board is going to have to have which presently is primarily resolved through voluntary arrangements between the parties, and the efficiency of the Board will be seriously impaired.

Why do they want these extra members of the Board? Some say it is weighted 3 to 2 in favor of big labor. Of the two, they would only be moderate and certainly not probusiness.

Some say it is 4 to 1 in favor of big labor right now.

If they have two more, we can count on it being 6 to 1, or, at the very least, 5 to 2.

I think we can point out some fairly interesting facts about this administration with regard to its willingness to be fair on appointments. It has not been willing. As a matter of fact, it has tried to stack a number of items here.

Let me mention a few things about the costs of this bill.

The cost analysis of a portion of the Labor Reform Act of 1977 has been completed by the General Counsel of the National Labor Relations Board.

Incidentally, I will give a preview of this. We found out the General Counsel had estimated the cost. This was while the bill was still in committee. The General Counsel's office estimated the costs of this particular bill, so I asked the general counsel to give us a copy of that, and asked the Board. They refused. They refused on the basis that the Office of Management and Budget said that they could not give it to us.

The reason we were so adamant on getting it is because we knew what it said. As odd as it may seem, we have a lot of friends in government today and, frankly, they told us it was disastrous, that the costs would be very interesting if we could get hold of this report.

Well, they refused to give it to us. Finally, through the help of the distinguished chairman of the Human Resources Committee, for whom I have great regard and deep affection, the Senator from New Jersey (Mr. WILLIAMS), they had to give it to us.

What we did, he gave us an extra day of hearing where we demanded the General Counsel of the National Labor Relations Board and the Chairman of the National Labor Relations Board and two other Board members come in and testify in this matter. Rather than do this, they gave us the report.

That does not sound to me too much like wide open government, open, clear, and fair, and everything aboveboard.

But that is only the beginning. You should see what else we had to do to get other reports in government, and I will refer to some of those in a minute. You cannot believe how we were stonewalled time after time. Why?

We should consider the type of power, special interest power, that has such control over the administration of this Government that a U.S. Senator has difficulty getting a formal report out of any agency of this Government when he wants it. I would exclude reports that contain sensitive intelligence or classified information. But even there, Senators are given access to those, by and large, if they are willing to go up to the intelligence room and read them. This was hardly to be classified like that.

As a matter of fact, there is no reason in the world why this should not have been given to us immediately, except for the fact that they did not want it to come out.

We have a President who said he is going to balance the budget by 1981. He said he is going to have cost effectiveness in Government, zero based budgeting. He said he is going to start paring down the bureaucracy and cutting out unnecessary agencies, cutting the costs, and saving the taxpayers money, and helping us to get at the problem of inflation, and stopping the huge deficits which have been riddling our economy for the last number of years.

I will tell Senators about this report, and when I am through, I think they will understand why those people did not want this report to come out.

In part, it says:

> Costs for the National Labor Relations Board, as outlined in the House-passed bill, would increase more than 47 percent.

Actually, it is more than 50 percent, and I will explain why and how in a few minutes.

An additional 900 to 1,000 employees would have to be hired to administer the provisions of the proposed legislation.

The NLRB general counsel, John Irving, in his cost analysis of the cost of processing of union organizing elections as a result of the bill, stated that unions can be expected to intensify organizational efforts in units in which they, the unions, were previously unsuccessful. He said it is reasonable to assume that this greater awareness will result in an increase in charges and petitions.

Estimated costs to the enforcement and field office of the National Labor Reations Board, according to Irving, will go up approximately $28 million. The projected budget for fiscal 1977 without H.R. 8410, the House version of the national labor law reform, is $1.467 million, up from the $88 million plus of last year. If passed by the Senate, the bill would add about $42 million to the fiscal year 1979 budget.

How is that? This occurs because Irving's estimate was $28 million. That did not include the $2 million it would cost for adding the two Board members.

Incidentally, if Senators do not think the National Labor Relations Board has a lot going for it, perhaps I should cite another statistic which I find very intersting. That statistic is this: Each member of the National Labor Relations Board, except one, has 23 attorneys backing him up. That may not bother anybody. There are five members. That is almost 100 attorneys right there.

By comparison, each Justice of the U.S. Supreme Court has only three attorneys backing him up. The weight of the matters before the two bodies is hardly comparable, although there are those who will come on the floor and say that the National Labor Relations Board handles more cases. Most of them are very simple things to handle. Most of them are settled voluntarily between the par-

ties, as I have mentioned. Very few actually come for private decision before the Board; and when they do, there is a circumscribed, very definite set of labor laws and rules that apply.

Everything that comes before the Supreme Court is a new issue, a major issue, a major research issue, involving monumental impact upon our society, or it does not get decided. Each Justice of the U.S. Supreme Court has three attorneys, compared to the 23 attorneys each member of the National Labor Relations Board has.

That is a pretty interesting statistic, because it means that each member of the National Labor Relations Board has almost eight times the number of attorneys that each Justice of the U.S. Supreme Court has.

That means $28 million, plus $2 million for the additional Board members, plus $3 million for the additional attorneys to back up the administrative law judges. It seems to be one of those great "Let's get more attorneys working" bills.

Then, we can add $12 million more, which the President has agreed must be added in order to help the Board, and we are up to $45 million, or better than 51 percent of what it cost us to run the Board last year.

That hardly looks like we are trying to curtail the budget and keep it in line and keep the bureaucracy from consuming us. It certainly is not justified under the present law, which, for the most part, is fair and reasonable.

I might mention, also, that this is clearly a contradiction of the President's stated objective to cut the size of the bureaucracy. It is likely that the President has not had an opportunity to analyze the projected costs for implementation of the proposed reform.

We did send a copy of the analysis to President Carter. I talked with President Carter last week, and he had not heard about it. That was sent around February 3 of this year.

Our best estimates show a 38-percent increase in clerical staff in the enforcement and field operations of the NLRB, and on the Board itself we would expect an increase of 34 percent in the professional categories and 18 percent in the clerical jobs. This is an overall 36-percent increase in the work force for the National Labor Relations Board with the passage of this bill.

If we add that up, it does not make sense, when we consider the statistics I have given, which show that the Board is a model agency that does a great deal of good within the perspective of its particular power, and in very few cases is there injustice or disadvantage.

Irving said in his analysis that his figures are based on very conservative estimates and might go even higher than he predicted with the passage of this bill. Irving said:

> Clearly, certain provisions in H.R. 8410 will require the agency to hire additional employees. Expeditious processing of representation cases, together with the dramatic increase in the number of petitions, will require additional staff. A rise of 20 percent in representation case intake is a reasonable projection. It is a conservative estimate that these deficient cases will increase by 6 percent.

I might add that I think it will be a great deal more than that. As a matter of fact, so do the labor leaders back here, because they have indicated that if they get this bill, there will be a new wave of organizing such as we have never seen in America before. They can do that now, except that it takes some work. Why do it if you can get Congress to do it for you and deliver the employees over to you in what happens to be an unfair manner?

The reason for this bill is clear. Labor union membership has declined by better than 700,000 in the past year, and defections have become commonplace. Since labor appears no longer to be growing within the framework of existing labor law, which has served this country well for the last 43 years, they now come to us in the middle of the ball game and want to change the rules, because they are losing. That change is going to cost the taxpayers, just administratively, about $45 million more a year, just so that labor can more easily organize the national labor force. I think almost every body agrees that organized labor would be seriously helped in its organizing activities, and I think it would be to the detriment of both employees and employers .

Let me go on to another report which was also stonewalled, and I will not give the details of this today, but suffice it to say it took me 2½ weeks after an agency head in this Government told me that I would have this report that day, and only by constant pressure and constant demanding was I able to get this small business situation report by the Office of Advocacy of the U.S. Small Business Administration. This is on Labor Law Reform Act of 1977, H.R. 8410 and S. 1883, now S. 2467.

It has on the outside:

> Notice: This staff paper does not represent the official position of the Small Business Administration or other government officials and should be regarded as an internal staff-level discussion paper only—subject to further refinements, modification, and revisions.

I might add it took me 2½ weeks to get this report and then only after they gave the Secretary of Labor enough time to write a whitewash report saying this one does not know what it is talking about, and this was done by the Office of Advocacy of the Small Business Administration of this Government and, incidentally, OMB again came in and said, "You can't give that up," after they promised it to me. They told them they were going to impound it, and they did not want it coming out to the public. Small reason—because it backs up everything I have been saying today, that this bill is devastating to small business. If it is enacted, it could very well spell the end of free enterprise as we know it today. That is what we were fighting for here. I do not know we have had a more important issue in front of this Senate in many, many years than what we have here, and there are a number of us who are willing to go to the wall for this country in this matter.

I shall just read this report to Senators because I think it is extremely important, and I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS SITUATION REPORT

I. SUBJECT

Labor Law Reform Act of 1977; H.R. 8410 and S. 1883 (S. 2467)

II. PROBLEM

In enacting the National Labor Relations Act of 1935, Congress was concerned that there existed an inequality of bargaining power between employees and employers. It appears the concern centered around the fact employees were not organized while employers functioned in the corporate or other business form. The advantage apparently derives from an organizational structure which allows the business concern to muster its resources efficiently and effectively against an unorganized labor force. Though this perceived advantage may have benefited businesses before the advent of organized strength currently enjoyed by trade unions, it does not now provide the small enterprise with any inherent superiority vis-a-vis labor. In the case of small business, the opposite is often true; a largely unorganized management is pitted against an efficient and effective unionization effort.

Under the operation of the nation's labor laws, the small business community appears to be holding its own. In fiscal 1976, the results of certification elections were as follows:

Size of unit (number of employees)	Elections won by unions (in percent)	No representative [1] chosen (in percent)
Under 10	58.6	41.4
Under 100	52.0	48.0
Under 300	50.6	49.4
Under 500	50.1	49.9

[1] Table 17—Size of Units in Representation Election Cases Closed, Fiscal Year 1976, Annual Report of the National Labor Relations Board.

The Labor Reform Act of 1977, as currently written, would tip the delicate balance which exists between small business and labor, in favor of the latter. The essentially neutral labor laws, which define the rights and obligations of both employers and employees, would be transformed into pro-labor legislation, by operation of the subject bills.

III. BACKGROUND

What follows is a description of various provisions of the subject bills.

Section 3. Equal Access.—Both bills require the National Labor Relations Board (NLRB) to issue regulations providing that if an employer addresses employees on company premises or time, union organizers must be afforded the same opportunity.

Section 5. "Quickie Election."—

S. 1883 would require that in cases where employees, or a labor organization acting on their behalf, file a representation petition and a majority of the employees seek the election, then an election must be held within 15 days of the filing of the petition. In all other cases, including those in which the petition is filed by the employer, the NLRB would be required to hold an election within 45 days. If, however, the NLRB decides the case involves complex or novel issues the time period may be extended to 75 days.

Where a majority of employees seek an

election H.R. 8410 requires that an election be held within 25 days of the filing and service of a petition by employers or a labor organization acting on their behalf. The 25 day limitation is also imposed in cases where a majority of employees seek decertification of the existing representative or wish to rescind an existing union-security agreement. In all other cases, including those in which the petition is filed by the employer, the time limitation is extended to 50 days. However, if the NLRB determines that the case involves complex or novel issues then the time period is extended to 75 days.

Section 7 and 8(2). Contract Debarment.—Both bills authorize the NLRB to find a person in willful violation of a final order upon a preponderance of testimony taken at a hearing. Upon such finding the Secretary of Labor would be required to debar such person from contracting with the Federal government for a period of time not to exceed three years, unless it is shown there exists no other source for the procurement. H.R. 8410 gives the Secretary discretion to suspend the debarment period under certain circumstances.

Section 8(3). Double Back Pay.—If an employee is illegally discharged during an organizing effort or prior to contracting between an employer and certified employee representative, the NLRB is authorized to award double back pay from the time of discharge to the time of a valid offer of reinstatement. H.R. 8410 provides an off-set for wages earned by the employee during the period of discharge.

Section 8(3). Make Whole Provisions.—In cases where the NLRB determines that an employer has refused to bargain in good faith, the NLRB is authorized to award compensation based on the wages and benefits actually received during the period of delay multiplied by the percentage increase in wages and benefits determined by the Bureau of Labor Statistics for major collective-bargaining settlements (units of 5,000 or more employees).

IV. PRO AND CONS

Equal access

In effect, the equal access provisions will penalize employers for utilizing the only available forum for presenting their case, i.e., the work site. Employers do not have the same opportunities as organizing representatives to discuss union issues with employees. Whereas an employer must furnish the union with a list of workers' names and addresses once the NLRB orders an election,[2] and even though union officials are free to visit employees in their homes, employers are not afforded such access.[3]

Once organizing activity is brought to the attention of the employer, the only effective methods of presenting his arguments are formally addressing assembled employees or posting written presentations in conspicuous places. When the employer seeks to assert his right to argue his case, he would, under the proposed legislation, have to allow the same opportunity to the labor organization despite all the other means of communication available exclusively to the union.

It is not difficult to imagine that the labor organization is at a distinct advantage, even in the absence of the equal access rule; but with it, small businesses' only available vehicle for countering union organizing is rendered a nullity.

The full impact of the equal access rule will be more fully appreciated following the discussion of the "quickie election" procedures.

[2] *Excelsior Underwear Inc.*, 156 NLRB 1236 (1966) *NLRB* v. *Wyman-Garcan Co.*, 394 US 759 (1969)

[3] *Peoria Plastics Co.*, 117 NLRB 545 (1957)

"Quickie elections"

The expedited election provisions of the proposed legislation will render small business virtually helpless in the face of surreptitious organizing activity. Many small businesses are not aware of union activity until approached by the employees regarding representation. Former NLRB General Council, Peter Nash, recently stated in an interview with Iron Age magazine, "In many cases, [union] organizing and campaigning by the union may go on for weeks and months before an employer even knows that [the] employees are being organized, [and during] this period of time, the employees hear only the union's side of the story." [4]

Once the organizing effort is made known to the employer, he would then have 15 days under S. 1883 or 25 days under 8410 in which to familiarize himself with the union's position and determine and present counter arguments; an obviously insufficient period in which to be well prepared. As was suggested earlier, the employer will most probably present his arguments at the worksite, either through a formal presentation or posted written argument, since these are the only efficient and expedient means, given the legislated time constraints.

Note also that the expedited election provisions apply only when a majority of employees seek the election. The more reasonable 45 day limitation is only available when either the union requires the time to convince a majority of employees or when the employers request the election.

It is obvious that the union is in a superior position as a result of the expedited election requirement and the equal access rule. Not only is the small business caught unaware by the petition for representation, but the union also has available the employer's forum, when the latter chooses to assert his rights.

This state of affairs not only disregards the rights of employers, it is also patently unfair to employees. The latter can hardly make an intelligent decision on the question of representation when they are presented with only one side of the story.

Contract debarment

The section 8(2) contract debarment penalty for willful violation a final order of the NLRB is patently discriminatory. In the first instance, it will not apply to labor organizations, since they do not have contracts with the Federal Government. Labor organizations will be in the enviable position of being able to violate orders with virtual impunity. Secondly, the impact of the penalty is in direct proportion to the amount of government work engaged in by the firm. The greater the percentage of total revenue derived from government contracts, the more significant will be the sanction. In this regard, the fact that many small enterprises participating in the 8(a) program are totally dependent on government contracts makes them particularly vulnerable to the devastating effects of contract debarment.

It must not be forgotten that the employer will not be the only one to suffer the effects of contract debarment. Very simply, if the firm loses government business, then employees lose jobs.

Double back pay—Make whole provisions

The double back pay and make whole provisions of the subject legislation will have a disproportionate impact on small business. Note that the penalties only apply to the period of time involving organizing activity and negotiating prior to contracting. The 1976 Annual Report of the NLRB reveals that 75 percent of representation elections involved firms of fewer than 50 employees.[5] The inescapable conclusion is that small firms will be most vulnerable to the proposed sanctions.

It is not improbable that many small businesses will aquiesce to labor's demands to avoid the severe financial impact of the double back pay or make whole provisions. These provisions of the proposed legislation will have a devastatingly chilling effect on the assertion of rights by the small business community.

A careful reading of the penalty provisions of the bill (double back pay, make whole and contract debarment) in conjunction with an analysis of the disposition of unfair labor practice cases as reported by the NLRB suggests that the intent of the sanctions is to apply coercive pressure against the legitimate exercise of employers' rights. In fiscal 1976, of the 21,762 unfair labor practice cases closed involving charges against an employer, 71.9 percent were either withdrawn or dismissed.[6] In other words, at least two out of every three charges against employers were groundless. A significant expenditure of time and money is required to legally challenge an unfair labor practice charge. Further, the stringency of a potential penalty must be weighed against the chances of a successful defense. By imposing overly severe penalties, employers will be less inclined to risk the resources necessary to assert their rights.

The punitive nature of the penalties alters the thrust of Federal Labor laws, which was designed as remedial legislation. The National Labor Relations Act is not a criminal statute; rather, its intent was to preserve the right of employers and employeers and to remedy unfair practices. The subject bills go a long way toward criminalizing activities on the part of employers through the punitive provisions contained therein.

V. VIEWS

The subject bills are Administration legislation.

The House of Representatives passed H.R. 8410 (as amended).

All associations of small businesses, of which we are aware, oppose the legislation.

VI. CONCLUSION AND RECOMMENDATIONS

While the bill might accomplish the underlying goal of fairness in labor-big business relations, it will probably tip the fairly even scale of labor-small business relations in favor of unions. Although small business is generally opposed to unionism, we should not adopt an anti-union position since the country has traditionally protected the right to unionize, even in small firms. However, we should be straight forward in protecting the rights of small businesses to fairly communicate to their employees the advantages and disadvantages of unionization and to legitimately manage their businesses even during an organizing campaign. The Labor Reform Bill will give unions an unfair advantage over small businesses who have neither the time or expertise (including resources to acquire the expertise) to walk the very thin compliance line proposed by the bills. Since the penalties for non-compliance are so severe, most small businesses confronted with a union organization drive will likely give up in advance rather than risk any action which might be construed later to have been illegal. This will result in unnecessarily increased costs which small businesses are least able to pass on to consumers. Projected

[4] "It's Face-Off Time in Labor Law Reform," John D. Baxter, *Iron Age*, Nov. 28, 1977, p. 28.

[5] Table 17—Size of Units in Representation Election Cases Closed, Fiscal Year 1976, Annual Report of the National Labor Relations Board.

[6] Table 7—Analysis of Methods of Disposition of Unfair Labor Practice Cases Closed, Fiscal Year 1976, Annual Report of the National Labor Relations Board.

further, this means many more small businesses going out of business.

VII. RECOMMENDATION

The bills should be amended to exempt employers with less than fifty (50) employees. Such an amendment would allow the exempted small businesses to continue to operate under present laws which appear to be fair to both unions and small businesses.

Mr. HATCH. Problem.

Keep in mind this was not done by the chamber of commerce; this was done by the small business interests in this country. This was not done by some probusiness group. This was done by the Small Business Administration, and it was deliberately withheld from a U.S. Senator because they did not want it to come out, and I think, as I read it, Senators will figure out why they did not want it to come out because it is devastating to this bill and so when they finally had to give it out because we put so much pressure on them, they whitewashed it with a letter from the head of the SBA making it very clear this is not an original position, although the best brains in the SBA put it together, as far as I know, and they had to have the Secretary of Labor have enough time to write his usual conformity report which I am sure was written by those who are very strong proponents of big labor here in Washington.

Now remember this is the Small Business Administration situation report of the Office of Advocacy of the U.S. Small Business Administration, and we went through a lot of pain to get this so that the people in the country would understand.

II. PROBLEM

In enacting the National Labor Relations Act of 1935, Congress was concerned that there existed an inequality of bargaining power between employees and employers. It appears the concern centered around the fact employees were not organized while employers functioned in the corporate or other business form. The advantage apparently derives from an organizational structure which allows the business concern to muster its resources efficiently and effectively against an unorganized labor force. Though this perceived advantage may have benefited businesses before the advent of organized strength currently enjoyed by trade unions, it does not now provide the small enterprise with any inherent superiority vis-a-vis labor. In the case of small business, the opposite is often true; a largely unorganized management is pitted against an efficient and effective unionization effort.

Is that not amazing? The Small Business Administration is saying this, as I say, not the chamber of commerce.

Under the operation of the nation's labor laws, the small business community appears to be holding its own.

In fiscal 1976, the results of certification elections were as follows:

Size of the unit, number of employees. They have three categories, three columns. Size of the unit, number of employees; the elections won by the union; and no representative chosen, in other words, the election is lost by the union.

In units, under 10 employees the unions won 58.6 percent of those elections and lost 41.4 percent; in units under 100 the unions won 52 percent and lost 48 percent; in units under 300 the union won 50.6 percent and lost 49.4 percent; and in units under 500 in 1976 the unions won 50.1 percent and lost 49.9 percent.

The report goes on to state:

The Labor Reform Act of 1977, as currently written, would tip the delicate balance which exists between small business and labor, in favor of the latter.

That is an extremely dramatic statement.

The Labor Reform Act of 1977, as currently written, would tip the delicate balance which exists between small business and labor, in favor of the latter.

It says, "in favor of the latter," meaning "labor."

The essentially neutral labor laws, which define the rights and obligations of both employers and employees, would be transformed into pro-labor legislation, by operation of the subject bills.

Background. What follows is a description of the various provisions of the subject bills, and then the report goes on to talk about equal access, quickie elections, and they characterize it as a "quickie election," contract debarment, double back pay, make whole provisions, and then it goes into the pros and cons of equal access.

Mr. President, I skip the substantive labor law sections which we can read into the RECORD later. I want to get down to the last couple of sections in this Small Business Administration Office of Advocacy report, because I think they are particularly telling. I might add that the report is quite accurate, even though it goes by the old 8410 and is off somewhat on the "quickie" election dates which were extended from 15 days in the Senate bill to not less than 21 and more than 30, and there may be some other technical problems. But, by and large, this report states really what the facts are. I think the views will not change with regard to this bill.

V. VIEWS

The subject bills are Administration legislation.

The House of Representatives passed H.R. 8410 (as amended).

All associations of small businesses, of which we are aware, oppose the legislation.

That is no small statement made by the Small Business Administration.

VI. CONCLUSION AND RECOMMENDATION

While the bill might accomplish the underlying goal of fairness in labor-big business relations, it will probably tip the fairly even scale of labor-small business relations in favor of unions. Although small business is generally opposed to unionism, we should not adopt an anti-union position since the country has traditionally protected the right to unionize, even in small firms. However, we should be straight forward in protecting the rights of small businesses to fairly communicate to their employees the advantages and disadvantages of unionization and to legitimately manage their businesses even during an organizing campaign. The Labor Reform bill will give unions an unfair advantage over small businesses who have neither the time or expertise (including resources to acquire the expertise) to walk the very thin compliance line proposed by the bills. Since the penalties for non-compliance are so severe, most small businesses confronted with a union organization drive will likely give up in advance rather than risk any action which might be construed later to have been illegal. This will result in unnecessarily increased costs which small businesses are least able to pass on to consumers. Projected further, this means many more small businesses going out of business.

That is pretty drastic language coming from the Small Business Administration. I have to admit they have tried to disown this as much as they can now that we have found out about it, but it is too late. They do not write these reports just for the fun of it. They wrote it because it is true. That is what is wrong with this bill. It is extremely detrimental to small business, and the capstone in it says, "this means many more small businesses going out of business."

VII. RECOMMENDATION

The bills should be amended to exempt employers with less than fifty (50) employees. Such an amendment would allow the exempted small businesses to continue to operate under present laws which appear to be fair to both unions and small businesses.

The fact of the matter is that there is a report which certainly backs up what we have been saying, that neither the facts nor the law justifies what this bill is doing to America or might do to America.

I might mention that with regard to small business we ought to be aware of the jurisdiction question.

The Board's jurisdiction under the act extends to all cases involving enterprises whose operations affect interstate commerce. Section 2(6) of the National Labor Relations Act defines "commerce" and section 2(7) defines "affecting commerce." The Board's jurisdiction has been construed to extend to all such conduct as might constitutionally be regulated under the commerce clause, subject only to the rule of de minimis.

When we talk about businesses that are not covered by this bill we are talking about de minimis businesses of two employees or less. Most are sole proprietorships.

In its exercise of administrative discretion, the Board has limited the assertion of its broad statutory jurisdiction to those cases which, in its opinion, have a substantial effect on commerce.

At this point I would be delighted to yield the floor to the distinguished Senator from Kansas, who would like to make a statement.

The PRESIDING OFFICER (Mr. FORD). The Chair recognizes the distinguished Senator from Kansas.

Mr. HODGES. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOLE. I yield.

Mr. HODGES. I thank the Senator. Mr. President, I ask unanimous consent that Linda Laidstain and Bill Kennedy of my staff have the privileges of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. I thank the Senator for yielding.

(The following proceedings occurred during the foregoing remarks by Mr. HATCH and are printed at this point by unanimous consent:)

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. I am delighted to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator (Mr. HATCH) for yielding.

ORDER FOR ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMPTION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I do not believe there are any orders for the recognition of Senators tomorrow.

I ask unanimous consent that after the two leaders, or their designees, have been recognized on tomorrow and any Senators are recognized under orders entered prior to that time for recognition, there be a brief period for the transaction of routine morning business not to extend beyond 12 noon and with statements limited therein to 3 minutes each, and at the conclusion of the morning business the Senate then return to the then unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. HATCH. I am very delighted to always cooperate.

Mr. ROBERT C. BYRD. Mr. President, I do not anticipate any rollcall votes today. I think we might as well let our colleagues know that.

Mr. HATCH. Fine.

Does the distinguished Senator know how long he wants to go today?

Mr. ROBERT C. BYRD. Is the Senator going to be the last speaker today?

Mr. HATCH. Senator DOLE will be the last speaker, and we have asked him to come right over so he may complete his remarks. That would be within the next hour.

Mr. ROBERT C. BYRD. That would be fine. Then have him complete his remarks and no other Senators wish to speak, if that is agreeable with the manager of the legislation.

Mr. WILLIAMS. I have just a few closing remarks.

Mr. ROBERT C. BYRD. All right.

Mr. HATCH. That will be fine.

(Conclusion of earlier proceedings.)

LABOR LAW REFORM ACT OF 1977

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, the Senator from Kansas listened to a great deal of the debate today, and I would only say, at the outset, that I would hope that the debate in the following days, would be as instructive as it has been today and as objective in its effort to come to grips with some of the problems that are presented in this legislation.

I would say at the outset that I doubt that this legislation is as bad as the Chamber of Commerce says it is or as good as the AFL–CIO says it is. So it is our responsibility to view the legislation as it comes to us, and I would suggest that we are in for what appears to be controversial debate as time goes on.

Without repeating what has been said before, the Senator from Kansas would like to briefly analyze some of the major provisions. I know the distinguished Senator from Utah has touched on these points, as have the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS), and others.

Mr. President, there is no doubt about it that 2467 as reported from the Committee on Human Resources will alter the balance of labor relations at the expense of individual workers' freedom of choice. Normal stability in labor relations will be seriously undermined for union and nonunion employees alike and with a few notable exceptions, such as the recent coal strike, the United States has not suffered the crippling effect of major work unrest.

The experiences of several European countries offer vivid examples of the economic chaos that can be engendered by massive or frequent strikes. Those countries with the most powerful union leaders have been characterized by high inflation rates and low economic growth curves.

Another factor greatly associated with the presence of powerful union leaders is a large amount of dissatisfaction among the workers they purport to represent. When union officials gain more personal influence, workers perceive those officials as no longer being primarily concerned with the welfare of the union members.

This is probably true of anyone who has a certain amount of authority, a certain amount of power, whether in politics, business, and labor organizations. The major beneficiaries who would benefit from passage of S. 2467 are those leaders of the labor movement. Unfortunately, the biggest losers will be American workers, both union and nonunion. Those workers who have not chosen to join a union will lose because they might be pressured into paying for union representation they do not desire.

Union members, the rank and file who have made America the strongest industrial power in the history of the world, will also suffer if this bill is passed. Their leaders will become even more remote. The workers will no longer have the benefit of equal bargaining with their employers. The provisions of the bill will be used as a club to beat demands down employers. The result can only be a worsening of employee-employer relations. It is possible that many union members will lose their jobs. Some employers may decide to operate without union members.

Employers too will be losers if S. 2467 is enacted. The equity and balance that has previously characterized our national labor law will no longer exist. Employers will not be able to either effectively bargain or adequately prevent compulsory unionism being forced on their employees.

Unions would be able to have rush elections called and reduce the opportunity of rebuttal by employers to an unacceptable degree. After the unequal elections, unions would be granted significant powers to be used in forcing demands on employers. The normal "give and take" of the collective bargaining process would be eliminated. The other losers, if this bill passes, would be the American public. People all over the country would feel the adverse effects if the Senate passes this legislation. The increase in labor unrest will disrupt the normal supply of goods and create bottlenecks and shortages. When the inevitable wage demands go up faster than inflation, the price tag, on virtually every commodity throughout the country, will be forced to increase.

Many of the difficulties surrounding S. 2467 stem from a failure by its sponsors to remedy the weaknesses they perceive in current labor laws with precise and carefully drawn legislation. The preeminent concern, of course, is to obtain legislation that is fair and workable. Not every provision of this bill would harm employee rights, however, the major section represents a significant departure from present law. These changes should not be made without thorough debate.

Under the Taft-Hartley Act, employees achieved substantial gains. While that legislation attempted to create an equitable balance between employers and labor organizations, employee rights remained the paramount concern. This bill, however, does little for the protection of employee rights and, in fact, would result in an undermining of an employee's right to refrain from engaging in union activity.

The significance of an employee's informed choice in selecting a union to be a bargaining agent should be at the forefront of this legislation. However, the bill completely skirts this issue and would have exactly the opposite effect. Employee free choice is not something that should be sacrificed in the name of expediency.

One of the key problems with this legislation is that there are numerous sections of this bill wholly unrelated to the stated purposes. It is self-evident that the real purpose of these provisions is to provide union organizers with greater advantages over employers during representation campaigns. This conclusion is borne out by figures published by the Bureau of Labor Statistics indicating that organized labor lost 800,000 dues paying members between 1974 and 1976. Similarly, according to the Board's annual report, in 54 percent of the elections conducted in fiscal year 1977, workers rejected union representation. These statistics reveal the eroding position of organized labor and the genesis of the demands voiced by officials of international labor unions in seeking congressional assistance to help stem the tide of declining membership.

In sum, in contrast to prior labor legislation, this bill does not provide an appropriate balance between the rights of

labor and management. While much has been made of the assertion that the bill is intended to equalize the positions of labor and management, even a cursory analysis shows this claim to be unfounded.

SIGNIFICANT PROVISIONS REVIEWED

Mr. President, the Senator from Kansas would like to review some of the significant provisions, the timing of elections, the rulemaking power, equal access, the free speech provisions, back pay remedies, debarment, the so-called "make whole" remedies, illegal work stoppages, and economic impact. It seems to me that if we are to objectively and fairly consider this bill, we first have to look at the provisions and determine what they will do for employees, what they will do for America's working men and women, and whether there is a balance between what they might achieve, on the one hand, and the disadvantages on the other.

I do not know of anyone who will be debating this bill who has some anti-union feeling about this legislation. It has been said that it is a union measure. It has also been said that it is going to help America's workers. That would indicate that only those in unions are helped, and that to be helped you have to be a member of the union.

I am not certain that this is so. It seems to me that, as has been pointed out on this floor, most working men and women are not members of unions, and I suggest they should have that right, but the facts are to the contrary.

We are asked to make some very substantial changes in labor legislation and labor law, and it seems to me that it is one thing to say this is labor reform, and quite another thing to determine just what we mean by labor reform. What makes this legislation a reform measure? What provision makes it a reform measure? Is reform giving the labor leaders more power? Is that reform for the American workers? Just what do we mean by reform?

Of course, the Senator from Kansas understands, as do other Members of this body, that one way to put people on the defensive who are on the other side is to call it a reform measure. We have had all kinds of reforms before this body. We have had tax reform, we have had welfare reform, now we have labor reform; we have had election reform, ethics reform—every time we put the word "reform" in the title, or refer to the legislation as being "reform legislation," those who may be on the other side are left on the defensive.

We are out to try to prove to the American people that this is not reform. But it seems to this Senator that to be totally prepared, we have to first look at the provisions and not at the canned speeches or the rhetoric provided by either side on this debate. We have to analyze this bill a section at a time.

There have been abuses, no doubt about it. But how do we balance the equities between labor on the one side and management on the other?

Under the present law, there are no mandated deadlines for the direction and holding of elections, and under current law the NLRB has the flexibility to arrive at a fair determination in each case.

Section 6 of this bill amends section 9(c) of the act by establishing mandatory time periods for the holding of elections. These time periods can be summarized as follows: An election must be directed within 13 days after filing a petition in an appropriate bargaining unit supported by a majority of the employees, and the elections must then be held in not less than 21 days and no more than 30 days from the filing of the petition. When the petition seeks a unit not established by rule or is supported by less than a majority, but at least 30 percent of the employees, a 45-day time limit is imposed. Finally, a 75-day period is allowed for issues which present questions of exceptional novelty or complexity.

That is what happens. That is how section 6 of this bill amends section 9(c) of the current act. Somebody would look at that on its face and say that is perfectly fair, that that is the way it ought to be. I heard the distinguished Senator from New Jersey make reference this morning to the average time it takes in certain election cases. It does seem to be an unreasonable length of time. There ought to be more speed, there ought to be a faster decision. But is this the way to proceed?

ANALYSIS

The committee report states that S. 2467 is aimed at expediting the Board's representational process. The basic premise of this legislation is that the NLRB's election machinery is too slow. An analysis of the facts, however, does not support the claims made to illustrate the delays in the voting process. Moreover, the decision must first be made as to desirability of speeding up Board elections.

I have indicated maybe in some cases they are too slow. Maybe in other cases they should be speeded up.

The primary problem with the committee's treatment of the subject of delays in the representative process is that adequate attention has never been focused upon the real causes of delay. No indepth study of this subject was considered prior to serious consideration of this legislation. However, two obvious factors contribute to significant delays. First, is the inability of the regional offices to schedule consecutive day hearings. This results in prolonged and cumbersome proceedings stretched out over an extensive period of time. Second, regional directors choose not to decide representation issues themselves but rather transfer these issues to the Board for decision.

Since transferring the case to the Board is a time-consuming task, regional directors should not be permitted to avoid initially ruling on unit issues.

That would speed up the process a great deal.

The voting process whereby an employee casts a ballot for or against a union raises significant issues. Majority rules bears with it the consequence of having to adhere by union rule and to a contract which someone else negotiated. The safety valve built into the current law was described by the Supreme Court in *J. I. Case* v. *NLRB*, 321 U.S. 332, 339 (1944) as follows:

> The workman is free, if he values his own bargaining position more than that of the group, to vote against representation: but the majority rules, and if it collectivizes the employment bargain, individual advantages or favors will generally in practice go in as a contribution to the collective result.

Proponents of arbitrary time limits on representation elections make the basic assumption that speed is the preeminent concern in effectuating employee desires.

The Senator from Kansas thinks that is not always the case. It is not always how quickly the election may come or how quickly the process may move.

Yet, if one assesses the impact that collective bargaining has on individual rights, it can hardly be asserted that speed in conducting elections necessarily serves the interests of employees.

We cannot make that judgment without some basis for it.

Union election campaigns, like any other campaign, provide voters with an opportunity to consider the arguments, pro and con, and decide on a course of action. The potential shift from individual freedom of contract to aggregate freedom of contract is an extremely important issue in any campaign. That issue and the consequences which flow out of establishing a bargaining relationship is too important to be reduced by imposing mandatory time periods for holding elections.

Congress itself has recognized the substantial impact collective bargaining occasions on individual rights. In 1959, the Senate Labor Subcommittee considering governmental regulations of internal union affairs noted:

> Under the National Labor Relations and Railway Labor Acts the union which is the bargaining representative has power, in conjunction with the employer, to fix a man's wages, hours, and conditions of employment. The individual employee may not lawfully negotiate with his employer. He is bound by the union contract. In practice, the union also has a significant role in enforcing the grievance procedure where a man's contract rights are enforced. The government which gives unions this power has an obligation to insure that the officials who wield it are responsive to the desires of the men and women whom they represent.

These same concerns demand that employees be given the maximum, not minimum, time to make an informed decision on whether a union should be chosen to represent their interests.

In that same vein, the time periods prescribed by the bill are unrealistic. First, the time periods run from the date a petition has been received and not from the date that the bargaining unit has been established. Since the key issue in the representational process is defining the pool of voters, the main inquiry is what unit of workers the board will direct an election in, not what unit the union asserts is appropriate in its petition.

So that, in itself, is a major flaw.

Unit decisions are not arrived at for at least some period of time. Yet, the clock starts running once the petition is received, even though the parties might not know who will vote for several weeks

thereafter. Thus, the period of time to actually campaign in the defined unit is far shorter than even the 20- to 30-day period.

The use of mandated time periods is also faulty in that it presumes that where a union receives a majority of signed authorization cards, an election should be conducted in a shorter period of time. This is totally at odds with the notion of providing employees a meaningful opportunity to make an informed choice. It has been repeatedly recognized that employee signatures on authorization cards are not a reliable indication of employee support for a union.

According to the study conducted by Professors Goldbert, Getman, and Herman, "Union Representation Elections: Law and Reality" at 135 (1976), which was relied on by the Senate Human Resources Committee in proposing the equal access provision, 18 percent of the employees who signed authorization cards stated either that they did not want union representation when they signed or were uncertain of their desires in this regard. Moreover, this study revealed that only 72 percent of card signers actually voted for union representation in a board election.

As a practical matter, the signing of an authorization card only allows a union to get on the ballot. As characteristic of any political election, it is often maintained that everyone has the right to have his name on the ballot and, therefore, have any eligible voter sign his petition. It does not, of course, suggest that the employee who signed an authorization card will, in fact, vote for the union at the time of the election. Furthermore, if an employee only hears one side of a story, it is not difficult to sign a card, particularly where the consequences of signing are not told to the employee.

That also might be true, I might suggest, in politics as well as union politics.

RULEMAKING POWER

The Board currently has rulemaking authority but has chosen not to use this authority due to the complexities involved in this area.

This is another section of the bill that ought to be carefully considered.

Section 4 of the bill, which amends section 6 of the act, authorizes the Board to promulgate rules concerning equal access, resolution of disputes concerning eligibility of voters and holding of elections in cases in which an appeal to the Board has not been decided prior to the date of the election. The Board is also charged with promulgating rules to determine whether certain units are appropriate for the purposes of collective bargaining.

That is what happens with the amendments. How do you analyze that particular amendment fairly and objectively? I hope the analysis is considered as such.

ANALYSIS

Indeed, former Chairman McCulloch considered rulemaking to be a "cumbersome process * * * that necessarily impedes the law's ability to respond quickly and accurately to changing industrial practices".

While the drafters of S. 2467 believe that rulemaking should be used in representational cases, the Labor Board has previously rejected such an approach. In 1971, the American Association of University Professors filed a petition requesting that the Board issue rules "to guide the determination of issues in representation cases involving faculty members in colleges and universities". Denying the petition for rulemaking, the Board stated:

> The Board considers that the petition properly points out that the Board's unit determinations in this area should take into account certain practices that organizational structures which do not parallel the traditional practices and organizational structures in private industry. The Board's information to date, however, suggests that there is also a great variety in this regard within the academic community, and also that the practices and structures in universities and colleges are undergoing a period of change and experimentation. The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adapting its approach to a highly pluralistic and fluid set of conditions. Accordingly, the Board shall deny the petition.

The reasons advanced for rejecting rulemaking in the academic community in 1971 are, in the opinion of this Senator, equally relevant today. Moreover, a review of rulemaking the public sector illustrates limited utility for its use in private sector representational cases.

Rulemaking in Massachusetts and Florida resulted from the fact that the parties and agencies involved agreed that the establishment of bargaining units at the outset of a new legislative scheme would be best achieved in one proceeding rather than case-by-case adjudication. The procedures employed in those States can best be analogized to a consolidated representational case. Indeed, in Florida, for example, the pending representation cases involving State employees were essentially folded into the rulemaking proceeding.

From a logistical point of view, it is a very difficult and time-consuming task to establish bargaining units through rulemaking. While general criteria can and have already been developed, the application of that criteria will vary depending on the facts of a particular case. For example, the Board has long exercised its rulemaking authority concerning voting eligibility of employees on layoff or leave of absence with a reasonable expectation of return to work. Despite the rules, however, litigation has not been avoided, and it is likely that codification of bargaining units will have the same result.

The value of rulemaking is in establishing a framework which can be applied on a uniform basis. Bargaining unit determinations, however, have never been susceptible to such a standard. According to an extensive study conducted on behalf of the industrial research unit of the Wharton School of Finance and Commerce, it was concluded that:

> (T)he vascillating trends and inconsistent results in many of the unit cases provide substantial evidence of the severity of this problem. An analysis of these same cases will reveal that much of the confusion in the area of unit determinations is attributable to the board itself.

Another example of the highly tenuous basis for proponents of this section is revealed in a statement contained in the Senate report (p. 20) that: "(e)xamples of such plainly appropriate units approved as a matter of course by the Board are single plant units. * * *" However, a careful review of the case law on this subject reveals extensive litigation concerning the single plant vis-a-vis the multi-plant unit, particularly where there is a high degree of functional integration of the employer's operations. As an indication of the disparity of thinking by Board members as to the proper unit configuration with respect to the single plant versus multiplant unit, member Leedom, in a dissenting opinion in S. D. Warren Co. (144 N.L.R.B. 204 (1963), Aff'd. on other grounds, 353 F.2d 494 (1st Cir. 1965)), asserted that his colleagues' decision represented "an arbitrary grouping with no rational foundation."

The problem with S. 2467 is that it assumes that the Labor Board is capable of establishing hard and fast unit structures by rulemaking. The adoption of bargaining unit rulemaking could well have a negative impact on existing collective bargaining arrangements. In cases where long-standing bargaining units would not coincide with newly-created Board unit rules. The negative impact on labor relations stability of such a scenario would be very significant.

EQUAL ACCESS

Under the current law, unions have several campaign alternatives not accorded to employers. Some of these measures include the following: Union officials are allowed to carry the campaign to the employees' home whereas employers can only address groups of employees at the workplace. Union officials can campaign without notification to the employer for any length of time. Union officials may speak to a small group of employees in close quarters; with the benefits that come from personal requests to sign authorization cards. Union officials may make promises to employees as part of their campaign efforts but employers may not make any promises. Furthermore, employee organizers may solicit union support on company premises during nonworking hours and may distribute union literature in nonworking areas.

Section 4 of the bill, which amends section 6 of the act, provides that the Board must issue regulations allowing employees an "equal opportunity to obtain in an equivalent manner" campaign information from a labor organization during a period of time the employees are seeking representation by a labor organization. In addition, after the union has given written notice to the employer that employees have demonstrated an interest in representation by that union, the union is entitled to an "equal opportunity to present information in a manner equivalent to the employer."

Section 4 is one of the most arbitrary provisions of the proposed bill. Most importantly, this provision is unnecessary because unions already have a vast array

of communication avenues that employers are prohibited from using. This provision, together with the prohibitively short election time limits, insures that voters will not be given an adequate opportunity to fully weigh the merits of unionization. Indeed, upon careful review it is manifestly clear that this provision will do little to realize, and may, in fact, subvert the very purposes it seeks to accomplish.

The Board has, over a period of 42 years, developed various procedures and safeguards necessary to insure the fair and free choice by employees of their bargaining representative. The equal access rule contradicts the Board's lengthy experience in carefully balancing the rights of labor and management, notwithstanding the rule's total disregard with respect to an employer's property rights. The Board, however, has never held as a general rule that equal access for labor organizations in election campaigns is necessary. This is because labor organizations already have a large number of types of access under current law previously referred to.

Despite this background, this legislation gives unions even more access and, therefore, will hinder the former balance in organization campaigns between labor and management.

As indicated in the Senate report, this provision is directed at "captive audience" speeches conducted by the employer during the campaign. There is a substantial question as to what constitutes the "required showing of interest" on the part of employees for the purpose of qualifying for the access rule.

According to the Senate report "10 percent of the employees in the proposed unit, or a minimum of three employees in small units," constitutes a sufficient showing of interest. It is obvious that this definition is woefully inadequate because the ingredients constituting the proper showing of interest are never defined. For example, are the employees required to sign a petition to be given to the employer or must the employer rely solely on the representations of these union organizers as to the number of supporters? These problems are exacerbated by the Senate report's additional statement in the nature of a disclaimer that "this test is to be used as a rule of thumb only." If the test is not 10 percent of the employees or a minimum of three employees, is 8 percent or 5 percent or a minimum of one employee sufficient?

Second, as currently drafted, this provision would apply anytime an employer talks with his employees concerning unionization, even though no petition for an election has been filed by a union with the board. As a result, it is likely that union organizers will notify employers that they have obtained several organization cards and insist that they should have access to the company premises every time the company mentions unions. This process is particularly troublesome because a union can simply continue notifying the employer that it has obtained organizational cards without a corresponding duty to file a petition to an election.

Third, this provision is extremely vague with respect to its scope of coverage. Significantly, it appears that it would apply to such situations as a small group meeting conducted by an employer in which the subject of unionization is discussed, despite the fact that it is only one of numerous subjects covered. Hence, any time an employer touches upon the subject of unions, however so briefly, a union might have the right to go through the lengthy and cumbersome ordeal of coming onto the employer's premises and addressing the employees, at the employer's expense and with a resulting loss of production.

Fourth, the breadth of this provision far surpasses its stated purpose of equalizing campaign opportunity. While the sponsors of the equal access provision maintained that it was aimed at an employer's "captive audience" speeches, as currently drafted and as described in the Senate report, this provision would apply to any communication, oral or written, by the employer during working hours on company premises. It is, of course, difficult to understand the necessity for expanding the coverage of this provision.

Fifth, there is an additional problem concerning the number of union officials who should be permitted on the company premises. Union campaigns usually entail the efforts of significant numbers of organizers who will surely want to spread their union information. Organizers canvassing company premises would seriously disrupt the workplace and should not be tolerated.

There is often a substantial lack of employer knowledge concerning organizational attempts, a premise widely disputed by the sponsors of this bill. Since the employer normally learns of union drives upon receipt of the petition for an election, it is certainly unfair and inequitable to give union organizers even greater advantages by allowing these persons to carry on their campaign on company premises.

Aside from these considerations, under current law there are two situations where the Board has been invested with discretion to expand a union's communication opportunities. On the one hand, there is a line of cases revealing unique circumstance so that the opportunities between the union and the employer are grossly disparate, regardless of either party's conduct. For example, in *NLRB* v. *S. & H. Grossinger's Inc.*, 372 F. 2d 26, 29 (2d Cir. 1967), the second circuit held that nonemployee organizers should be permitted access to employees on the employer's premises where "no effective alternatives are available to the union in its organizational efforts." On the other hand, there is another line of cases indicating that there may be no circumstantial disparity and opportunity, but the employer's conduct in intimidating employees from exercising existing communication opportunities, the Board is requested not only to clear up those avenues, but also to provide the union with others. See, e.g. *NLRB* v. *J. P. Stevens & Co., Inc.*, 563 F. 2d 8 (2d Cir. 1977), cert. denied, 46 U.S.LW 3526 (1978)).

Mr. President, the Senator from Kansas has attempted to discuss certain sections. In the next few days I will be discussing other sections of the bill and trying to analyze them compared to current law.

Today the Senator from Kansas touched on three different areas. The time of elections, the rulemaking power and equal access. Other areas that will be discussed, as indicated before, are the free speech section, back pay remedy, debarment, so-called make-whole remedies, preliminary injunctions illegal work stoppages, and economic impact.

CONCLUSION

Mr. President, the Senator from Kansas does not believe that every provision of this legislation would disrupt the collective bargaining process. The National Labor Relations Act, like other statute, needs periodic revision to keep it up to date. Indeed, this may be the time for some changes in the NLRA.

Nevertheless, there are significant portions of this bill which cause the Senator for Kansas grave concern. I do not question the motives of those who have supported the provisions that I discussed earlier.

I certainly do not question the motives of those who support the provisions, who worked on it in committee, and those who support the bill. I understand, I think, what they have in mind.

Yet, I cannot agree that these revisions would be of benefit to American workers. Several of the new sections would change the NLRA from a remedial statute whose primary purpose is to promote settlement by the parties to a statute with several punitive provisions.

The primary concern of the Senator from Kansas is that during the subsequent debate all Members of the Senate keep employee rights in mind. Every section that is discussed must be evaluated as to its effect on working men and women. We must insure that they are given a full and fair discussion of issues involved in a representation election. We must not take actions which will pressure an employee on his decision of whether he wants to support a union or not.

It seems to this Senator that the point I want to focus on during the debate, whether it lasts 1 day, 1 week, 1 month, or whatever, is the rights of the employees.

The Senator from Kansas looks forward to the upcoming debate. I hope that as we discuss the bill before us and as we discuss the current law, as we discuss and analyze how this would change the rights of employees, the rights of employers, that we will keep always in mind, a balance.

Mr. President, if the Senate makes employee rights the paramount issue in this debate, I am certain that we will reach the correct decisions on this bill. The Senator from Kansas hopes that every Member of the Senate will weigh the issues carefully, without preconceived notions, before voting.

I yield the floor.

Mr. WILLIAMS. Mr. President, very briefly, I would like to take a few moments to discuss a couple of the spe-

cifics that have come on during the last 4 or 5 hours.

Those who are opposing the labor law reform bill argue that the bill would have a serious and detrimental effect on small business.

The claim has been made that this is an antismall business bill. In fact, this bill does nothing—to extend coverage of the National Labor Relations Act or to extend the jurisdiction of the Labor Board. At this time, the Labor Board does not exercise jurisdiction over 78 percent of our Nation's nonagricultural businesses; 96 percent of our Nation's auto and related repair shops, 90 percent of our banks, more than 90 percent of our hotels, motels, and restaurants do not meet the Board's jurisdictional standards.

The opponents of the bill argue that this is a matter of the Board's discretionary jurisdiction and that the full statutory jurisdiction of the NLRB is indeed broader than that which it has exercised. They are right in that.

While the Board's jurisdictional standards are discretionary, the Board has shown no desire to lower its jurisdictional standards for years. So the suggestion that the Board is actively seeking to assert jurisdiction over small business which is not presently covered just cannot be supported by any analysis of the record.

Our opponents also state, that 75 percent of elections are now held in plants or shops which employ fewer than 50 workers. However the figures tell a different story. A recent NLRB annual report indicates that 75 percent of the elections were held in units of fewer than 50 workers. But the unit in which the election is held, is not necesssarily equal to the size of the employer's enterprise.

Many of these elections are held in small units in large plants. The enterprises are often much larger than the unit in which the election is held. The Board simply does not publish figures on the size of the establishments in which elections are conducted.

The point is that we cannot say that these elections were held in businesses that employ fewer than 50. The elections were held in units of businesses that included 50 or less.

Mr. President, the opponents have styled the Labor Law Reform Act as an antismall business bill. It is not. And it is very important, on our first day of consideration on this measure, that my colleagues understand that there is nothing in this bill that extends the act's coverage to any businesses which are not presently covered. I hope we can be very clear on that.

Mr. President, I would like to complete the record in connection with the discussion that the Senator from Utah developed, concerning the Small Business Administration.

The Senator from Utah has placed in the RECORD a study prepared by the Office of Advocacy of the Small Business Administration which asserts that the Labor Law Reform Act will have a devastating impact on small business.

Mr. President, this report is an internal staff working paper which does not represent the position of the SBA.

Vernon Weaver, administrator of the SBA has stated in a letter to Senator HATCH that the report contains factual errors as well as interpretations of fact which are open to question.

Mr. President, I ask unanimous consent that Mr. Weaver's letter together with a Department of Labor memorandum which points out the numerous factual errors in the SBA staff study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., May 5, 1978.

HON. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATCH: Thank you for your letter of April 3, 1978, concerning the impact of S. 2467, the Labor Reform Bill, on the small business community.

As you know, the Bill is a proposal of the Administration and as part of the Administration, we support it.

With respect to the letter that you received from Mr. Nik B. Edes, Deputy Under Secretary of Labor, I know of no coordination with the Small Business Administration by him prior to writing the letter.

As you requested, I am enclosing a "Small Business Situation Report," which was prepared by staff of the Office of Advocacy of the SBA. This report is annotated on its face page as follows:

"*Notice: This Staff Paper does not represent the official position of the Small Business Administration or other government officials and should be regarded as an internal staff level discussion paper only—subject to further refinements, modifications, and revisions."

I am also enclosing a memorandum from the Department of Labor which makes clear to me that the SBA staff report contains matters of fact or interpretation that are incorrect or open to question.

It should be noted that the SBA staff report is a working paper which was written without any discussion with either the National Labor Relations Board, the Department of Labor or the senior staff of this Agency. The staff paper is an internal memorandum to me giving me some possible options. It is not the Administration's position nor, of course, the position of this Agency. We ask that you examine it in that light.

Sincerely,

A. VERNON WEAVER,
Administrator.

SBA LABOR LAW REFORM FACTUAL DEFICIENCIES

There were a number of factual errors contained in the SBA draft report (Part III) where the drafter discussed and described a number of provisions in the House and Senate bills. Among these errors were the following:

EQUAL ACCESS

It is stated that both bills require Board regulations which provide that if employers address employees on company premises or time, union organizers must be afforded the same opportunity.

We would note that both bills make the equal access rules applicable to decertification and deauthorization elections. In addition, both bills assure employees an equal opportunity overall to obtain information from employers, as well. Finally, S. 2467 provides that in order to trigger the equal access rule, a union must notify the employer that employees have demonstrated an interest in representation.

ELECTIONS

The Report refers to election deadlines of 15 days, 45 days and 75 days in S. 1883. It is noted that the 15-day election is applicable to those situations in which a majority of employees seek the election. It also refers to the deadlines in H.R. 8410.

We would note that the timetables in S. 2467, the Senate bill now under consideration, are: between 21–30 days, 50 days and 75 days. The 21–30 day election is only appropriate where majority support is demonstrated and an appropriate unit under a Board rule is specified.

The H.R. 8410 deadlines, as stated in the Report, are correct. However, the 25-day election is only appropriate where majority support is demonstrated *and* an appropriate unit under a Board rule *or* decision is specified.

Both H.R. 8410 and S. 2467 make the expedited election provisions applicable to decertification and deauthorization elections.

CONTRACT DEBARMENT

The Report contains an incomplete description of the debarment provision in the bills.

Debarment applies to willful violations of final Board or court orders. Both bills provide that debarment shall not occur if the Secretary of Labor determines that the national interest requires otherwise or if the affected agency certifies that there is no other source for the material or services.

Under S. 2467, the Secretary of Labor may set a debarment period of less than 3 years if the lesser period would better effectuate the purposes of the Act. The debarment order shall include affirmative action plans to protect rights guaranteed under the NLRA. The Board shall recommend to the Secretary removal of the ban or reduction of the debarment period if the affirmative action requirements have been effectuated or if it is satisfied, for other reasons, that relief will effectuate the purposes of the Act.

Under H.R. 8410, the Secretary is authorized to set an appropriate debarment period, not to exceed 3 years, commensurate with the seriousness of the violation. The Secretary may remove the ban or reduce the debarment period upon the submission of appropriate evidence.

BACKPAY

The Report states that double backpay shall be awarded to employees illegally discharged during an organizing campaign or prior to the first collective bargaining contract.

S. 2467 provides a 150 percent backpay remedy, less any actual wages earned during the period of discharge. In addition, the remedy would also apply to violations which occur during decertification or deauthorization campaigns.

H.R. 8410 provides a double backpay remedy also less any actual wages earned during the period of discharge.

(Each bill applies to both union and employer violations.)

MAKE-WHOLE

The Report states that in cases where an employer has refused to bargain in good faith, the NLRB may award compensation based on the wages actually received during the delay multiplied by the percentage increase in major collective-bargaining settlements.

We would note that the remedy only applies to unlawful refusals to bargain prior to the first collective bargaining contract. Further, nothing in the bills restricts the remedy to employer violations. Finally, the compensation formula is misstated in the Report. The award shall be in an amount equal to the difference between (1) wages and benefits received by employees at the time of the unfair labor practice increased by the percentage change in major collective-bargaining settlements and (2) wages and benefits

actually received by employees during the period of delay.

We have become aware of a Small Business Administration staff discussion paper, entitled "Small Business Situation Report." This internal SBA document presents a critique of the Labor Law Reform Act of 1978.

We wish to offer the following comments with regard to the Report.

"PROBLEM" AND PURPOSE

In its statement of the problem, the Report states that the Labor Law Reform Act would transform the NLRA into pro-labor legislation, and tip the small busines-labor balance in favor of the latter.

It is our firm conviction that this legislation is neither pro-union nor pro-management. Its intent is to assure that the free choice of employees, already guaranteed under the Act, is effectively protected. The bill primarily addresses the problems of unorganized and unrepresented workers. The problems encountered by these employees in their relations with unions, small business and big business are the focus of S. 2467.

To a substantial degree, the NLRA has fulfilled its original purpose of prescribing the legitimate rights of employees and employers. In recent years, however, certain defects have become apparent. These problems must be dealt with if the law is to continue to function effectively as a substitute for industrial strife.

The purposes of Labor Law Reform legislation are primarily to improve the processes by which the Board handles representation election and unfair labor practice cases and provide more effective remedies for violations of the Act. The bill provides fair and reasonable means to achieve these goals. It does not alter the fundamental relationships that exist between employees, employers and unions.

The proposed legislation intends to improve the operation of a basically sound law, which has served the interests of labor, management and the public for more than 40 years. In the long run, speedy and effective procedures and remedies serve the interests of everyone.

The Report states that the equal access provision would render worksite campaigns, the only effective method for an employer to present his views, a nullity. It is further stated that the union has other means of communication exclusively available to it which may place it at an advantage, even absent equal access.

We strongly believe that equal access is one of the most important provisions in the Labor Law Reform legislation. It provides employees an equal opportunity overall to obtain information relating to unionization from both employers and unions, while protecting the property rights of employers. By reestablishing a balance between the rights of employers and unions, the equal access provision fosters fairness and equality in election campaigns and protects the right of free choice of employees.

In our view, employers have an overwhelming advantage in presenting their views to their workforce. An employer is now able to subject employees to a noncoercive anti-union campaign from the moment the employee is hired. For example, an employer may require its employees to attend meetings on company time. Employers may also conduct campaigns by systematically talking to individuals or small groups of employees, or making use of company bulletin boards.

Such speeches and similar campaign tactics provide uniquely effective campaign weapons. Nevertheless, existing law generally provides no right to reply to employer captive audience speeches or other similar tactics. In the vast majority of cases, unions must rely on contacting employees in their homes or over the telephone or outside plant parking lots. There is absolutely no comparison, as suggested in the Report, between the effectiveness of employer worksite speeches and the limited avenues of information available to the union.

The Report is plainly wrong in stating that the employer worksite campaigns would be rendered a nullity. The employer can still deliver any number of captive audience speeches before the union organizing campaign has begun, without being subject to the equal access requirement. Moreover, the provision is only triggered when the employer engages in certain types of campaigning. Thus, the initiative remains with the employer.

We would emphasize that the provision explicitly instructs the Board, which will have primary responsibility to implement the statutory directives, to give "due regard for the needs of the employer to maintain the continuity of production."

The Report states that the expedited election provisions would not provide employers sufficient time to campaign. It is noted that many small businesses are not aware of union activity until approached by employees. In addition, the quickest election only applies when a majority of employees seeks the election.

It is clear that the election process is one area which has suffered from unnecessary delays. Delays in the election process hold back the start of collective bargaining and frustrate employees. Moreover, these delays are often utilized as a tactic to unfairly influence the outcome of elections.

While election delays vary, we are convinced that most delays are unnecessary. For this reason, we support a series of deadlines that would assure that elections are conducted promptly. We are confident that the deadlines are both administratively feasible and fair to all parties. We anticipate that the stabilizing effect of expedited election procedures would benefit employees, unions and employers. We would note that S. 2467 extends the deadlines to 21–30 days, 50 days and 75 days. In addition, the expedited election provisions are also applicable to decertification and deauthorization elections.

In response to the assertions in the Report, we think that it would be highly unlikely that an employer would be unaware of an organizing campaign until contacted by an employee. This is especially true in a small business. In any event, we believe that the 21–30 day timetable permits sufficient time for an employer to conduct an effective campaign. Again, it is certainly easier for a small employer to communicate its views with all its employees than may otherwise be the case. Finally, we think it logical and appropriate to allow the 21–30 day election in those cases where majority support is shown. We would note that an appropriate unit under a Board rule must also be specified to make this election deadline applicable. In these cases, the issues are relatively clear, the Board requires less time to conduct the election, and the parties require less time to campaign.

The Report asserts that the debarment remedy would not apply to unions, thus permitting unions to violate orders with virtual impunity. In addition, it is noted that small enterprises would be particularly vulnerable to debarment and employees would lose jobs as a result of the remedy.

We believe that a debarment remedy is of vital importance in underscoring the immense importance we place both on compliance with our labor laws and on preservation of the integrity of our procurement system. Just as public contracts ought not go to firms that undermine basic labor standards or engage in unlawful employment discrimination, such contracts ought not be awarded to persistent and willful violators of the NLRA.

We would point out that while as a practical matter there are more employers who are Government contractors than unions, the provision also applies to union violators. In addition, the law now contains a variety of remedies for union unfair labor practices, some of which are not ordinarily applicable to employers.

It must be emphasized that one of the primary reasons for including a debarment remedy in the legislation is to protect the integrity of the Government's procurement process. In this respect, small business might benefit by not having Government funds spent to subsidize employers who seek to obtain an unfair competitive advantage by committing willful violations of NLRB orders. Of course, debarment is already an available remedy in a number of civil rights and labor standards statutes and orders. However, unlike some of these laws, S. 2467 does not provide for the cancellation of existing contracts.

Finally, we believe that the overall effect of the debarment remedy would be to protect employee rights. Debarment is likely to prove a very powerful deterrent to violations of the law, and is, therefore, not likely to be commonly imposed. It may be noted, in this regard, that the Secretary of Labor is authorized to set the term of debarment for a period not to exceed 3 years, and may subsequently lift the debarment or reduce the debarment period. With respect to the reference in the Report to small enterprises participating in the 8(a) program, we find no basis for assuming that such businesses violate the law to a greater degree than other employers. To the extent that these small employers do commit repeated, willful violations, they should properly be subject to the debarment remedy.

It is asserted that small business would acquiesce to labor's demands or to a union organization drive to avoid the severe financial impact of the backpay and make whole provisions. The Report argues that the intent of these new sanctions is to apply coercive pressure against the legitimate exercise of employer's rights.

It is our firm belief that the remedies for certain unfair labor practices must be strengthened. The currently available remedies are so weak that employee self-organization can often be discouraged, particularly in its early stages, and meaningful collective bargaining can be avoided. More effective remedies are essential to adequately compensate victims of unlawful activity and to deter violations of the Act.

The remedies provided in S. 2467 are not punitive. Further, they would not infringe on the legitimate rights of employers to oppose a union organization drive or union contract demands in a lawful manner. Only those unions and employers who violate the law to defeat the purposes of the NLRA would find themselves subject to the provisions of the bill.

The purpose of the backpay provision is to provide a more meaningful remedy for the damages suffered by illegally discharged employees. We would note that S. 2467 was amended to provide a 150 percent backpay remedy, less any actual wages earned during the period of discharge. Such compensation might approach the burdensome expenses, in addition to lost wages, that are likely to be incurred by wrongfully fired employees. These include interest on loans, relocation expenses and costs of job search. Clearly, this remedy is not punitive. In construing the nature of the double backpay remedy in the Fair Labor Standards Act, the Supreme Court has rejected the argument that such damages are punitive. Further, we would emphasize that the 150 percent backpay remedy is just applicable during an organizing campaign or before the first collective bargaining contract has been signed. It is in these early stages of self-organization that employees are most vulnerable to em-

ployer unfair labor practices. It should be noted that the remedy would apply to violations which occur during decertification and deauthorization campaigns, as well.

The legitimate exercise of employer rights is left undisturbed by 150% backpay. Moreover, the provision would have no effect on the bargaining position of the employer. Since it only applies in cases of illegal discharges, it is difficult to understand how this will force a business to acquiesce to a union's demands.

The make whole provision, like 150% backpay is clearly remedial in nature. This provision applies a fixed formula of damages in cases involving unlawful refusals to bargain before the first collective bargaining contract. Again, make whole is needed to recover the very real losses suffered by employees who have been unlawfully deprived of their right to bargain. Like backpay, it only applies to those who have been found to have violated the law. Notwithstanding the assertions in the Report, there would be no coercion of business to accept union demands. The law still would not compel agreements or set the terms of contracts. The provision only applies a measure of damages during the period of the unfair labor practice.

As a final note, we would add that the backpay and make whole provisions, like the other remedy provisions in S. 2467, apply to both union and employer violations.

SMALL BUSINESS EXEMPTION

Based on the arguments presented against the Labor Law Reform legislation, the Report recommends that the bill be amended to exempt employers with less than 50 employees from its coverage. Apparently, the recommendation is not intended to exempt such small employers from the existing provisions of the NLRA.

We believe that the recommendation would have a devastating effect on both employers and employees.

It must be recognized, at the outset, that pursuant to the Board's jurisdictional standards, nearly 3 million small businesses with over 14 million employees are already exempt from the provisions of the NLRA. These jurisdictional standards essentially exclude most very small employers from coverage under the Act.

However, if this recommendation is enacted, a total of approximately 95% of this nation's employers and 25,412,542 employees would not be entitled to the protections of the bill. Given the importance of the bill's expedited procedures and strengthened remedies, we believe it would be unconscionable to exclude this enormous group of employers and employees from the provisions of the legislation.

Employees earning their wages in such businesses should not be made into second class citizens, incapable of exercising the rights granted by Congress to the nation's workforce. In addition, the recommended change would encourage employers having just over the jurisdictional number of employees to discharge the number of workers necessary to defeat coverage.

In sum, we believe the recommendation would unfairly discriminate against smaller employers and their employees, and is certainly not warranted by the arguments made in opposition to S. 2467 in the Report.

Mr. HATCH. Mr. President, with regard to Mr. Weaver, I think the only ones who can testify concerning the events and incidents that surrounded the obtaining of the Office of Advocacy report are two people—Mr. Weaver and me. Later in the debate, I will explain what really happened there. I think it will be quite clear that the Office of Advocacy report is a valid report. Nevertheless, I want the record to show that at this point.

Mr. WILLIAMS. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I think there has been developed today the classic confrontation which is going to take place here between the opponents and the proponents of this measure.

I repeat what I said before. I hope that in those matters in this bill on which the opponents can make any other recommendation, they will come forward. I assure them, as the ranking member of the committee, that I will do my utmost to consider them objectively and with a view toward effectively perfecting the bill. But I cannot and will not lend myself to a dismantling of the trade union movement in this country.

I believe it is a complete diversion in our debate to try to go back to 1935 to the origins of the National Labor Relations Act, and to challenge the fundamental decision made by our country 43 years ago to protect the right of workers to organize and to bargain collectively with their employers. This is an essential element of the productivity and progress of the economy of our country in order to build up workers as we build up business. They are the people who make, and they are the people who consume. Left to themselves, as individual bargainers, they found themselves very much disadvantaged. By combination, they have obtained important advantages.

The fact that 20 percent of the work force is in unions has been of inestimable value to the whole working population, which has thereby had a yardstick by which it has been able to measure its progress.

I deeply believe, notwithstanding some excesses in the American labor movement, that when the law's delays can be used to avoid the law, we should tighten up the laws and that is all we are doing today. There is no use rearguing the case which was decided 43 years ago as to the basic policy of the country.

Mr. President, labor bosses, labor racketeers, and labor barons make nice whipping boys. It is just as good to talk about industrial bosses and industrial barons and industrial despots. There have been just as many crooks in either camp.

We should not permit this to obscure from our vision and from our sense of perspective the importance to the more than 93 million Americans who work for a living of the standards which have been set by collective bargaining in this country, in terms of their working lives and future, their security on the job, and their security in old age.

For those reasons, I hope very much that we will get off what is ancient history and is not going to be decided in this bill—to wit, trade unionism—and get down to the propriety and the efficacy of the measures we seek in this bill. I deeply believe that in that way we can fashion a bill which will not deserve the tremendous dedication which seems to be voiced in order to filibuster it to death. Why? It is not worthy of it, actually, except that one may think that by upsetting this bill you are going to upset the whole labor movement of the United States. Gentlemen, you will not. You know it as well as I do. We will take weeks and weeks of the Senate's time in an absolutely vain pursuit.

I know how people feel, and I respect it. They have every right to their opinions, as I have to mine. But I hope we will think it over in the days ahead, as to what this bill really amounts to. It is far from the dread threat it is pictured to be. I hope that, rather, we will devote ourselves to fashioning a remedy for what are some obvious evils which have crept into the system, in fairness to the working people of the United States.

Mr. JAVITS. Mr. President, I have concluded with our share of the debate.

Mr. WILLIAMS. The debate is ended for this evening.

ROUTINE MORNING BUSINESS

Mr. WILLIAMS. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on May 12, 1978, he approved and signed the following acts:

S. 917. An act to provide for conveyance of certain lands adjacent to the Gund Ranch, Grass Valley, Nev., to the University of Nevada;

S. 958. An act for the relief of Ernesto F. Garcia, Jr.; and

S. 2220; An act to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board.

A message from the President of the United States stated that on May 15, 1978, he approved and signed the following acts:

S. 482. An act to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and

S. 661. An act to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes.

MESSAGES FROM THE HOUSE

At 2:55 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10392. An act to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship;

H.R. 11005. An act to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979;

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services;

H.R. 11241. An act to change the name of the harbor at Ventura, Marina, Calif., to Ventura Harbor; and

H.R. 12112. An act designating Gathright Lake on the Jackson River, Va., as Lake Moomaw.

At 4:53 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 2, 22, 28, 36, and 39, and concurs therein; that the House recedes from its disagreement to the amendment of the Senate numbered 20, and concurs therein with an amendment in which it requests the concurrence of the Senate; that the House recedes from its disagreement to the amendment of the Senate numbered 26, and concurs therein with an amendment; and that the House recedes from its disagreement to the amendment of the Senate numbered 37, and concurs therein with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1568. An act to name the lake located behind Lower Monumental Lock and Dam, Wash., "Lake Herbert G. West."

The enrolled bill was subsequently signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 11005. An act to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1979; to the Committee on Finance.

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services; to the Committee on Commerce, Science, and Transportation.

H.R. 11241. An act to change the name of the harbor at Ventura Marina, Calif., to Ventura Harbor; to the Committee on Environment and Public Works.

H.R. 12112. An act designating Gathright Lake on the Jackson River, Va., as Lake Moomaw; to the Committee on Environment and Public Works.

COMMUNICATIONS

The Presiding Officer laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3588. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the North Pacific Fisheries Act of 1954; to the Committee on Commerce, Science, and Transportation.

EC–3589. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend section 6(e) of the Land and Water Conservation Fund Act, as amended; to the Committee on Energy and Natural Resources.

EC–3590. A communication from the Secretary of the Interior, reporting, pursuant to law, submission of an application by Texaco, Inc., to the Department for repayment of royalties totaling $84,560 under lease OCS–G 2047, East Cameron Block 272, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC–3591. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the Hidalgo County Water Improvement District No. 2 of San Juan, Tex., for a loan under the Small Reclamation Projects Act (70 Stat. 1044, as amended); to the Committee on Energy and Natural Resources.

EC–3592. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Emergency Drought Act of 1977, Public Law 95–18, as amended; to the Committee on Energy and Natural Resources.

EC–3593. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to provide authorization for additional administrative expenses for the local public works (LPW) program (Local Public Works Capital Development and Investment Act of 1976, Public Law 94–369; 42 United States Code 6701); to the Committee on Environment and Public Works.

EC–3594. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title IX of the Public Works and Economic Development Act of 1965, as amended; to the Committee on Environment and Public Works.

EC–3595. A communication from the Federal Cochairman, Coastal Plains Regional Commission, transmitting, pursuant to law, the 10th annual report of the Coastal Plains Regional Commission covering the period October 1, 1976, to September 30, 1977; to the Committee on Environment and Public Works.

EC–3596. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report of building project survey for Milwaukee, Wis.; to the Committee on Environment and Public Works.

EC–3597. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a proposed amendment to pending legislation S. 2863 that authorizes additional appropriations during fiscal year 1979 for the Department of State to carry out authorizations, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations and other purposes authorized by law; to the Committee on Foreign Relations.

EC–3598. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the Foreign Assistance Act by increasing the authorization for fiscal year 1978 voluntary contributions to UNRWA contained in section 302(a)(1) of that act (22 United States Code ss. 222(1)(1) from $42.5 to $52 million; to the Committee on Foreign Relations.

EC–3599. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report concerning the extent to which the Republic of Korea is cooperating with the Department of Justice investigation into allegations of improper activity in the United States by agents of the Republic of Korea; to the Committee on Foreign Relations.

EC–3600. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving Federal Agency Efficiency Through the Use of Productivity Data in the Budget Process," May 10, 1978; to the Committee on Governmental Affairs.

EC–3601. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Adjustment Assistance Under the Trade Act of 1974 to Pennsylvania Apparel Workers Often Has Been Untimely and Inaccurate," May 9, 1978; to the Committee on Governmental Affairs.

EC–3602. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the continental U.S. bomber air defense forces; the relative importance of the bomber threat versus the ballistic missile threat; and information on the air defense systems being proposed and funds being requested by the Department of Defense; to the Committee on Governmental Affairs.

EC–3603. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Why Are New House Prices So High, How Are They Influenced by Government Regulations, and Can Prices Be Reduced?," May 11, 1978; to the Committee on Governmental Affairs.

EC–3604. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Secondary Treatment of Municipal Wastewater in the St. Louis Area—Minimal Impact Expected," May 12, 1978; to the Committee on Governmental Affairs.

EC–3605. A communication from the Assistant Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting, pursuant to law, and annual report of the meetings of the Board of Directors of the Commodity Credit Corporation, from March 12, 1977 through March 27, 1978; to the Committee on Governmental Affairs.

EC–3606. A communication from the Assistant Secretary for Administration, Department of Commerce, reporting, pursuant to law, a proposal to amend six systems of records; to the Committee on Governmental Affairs.

EC–3607. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final notice of allocation formula and program guidelines for State Planning Commissions program-intrastate planning; to the Committee on Human Resources.

EC–3608. A communication from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation account of the Federal Mine Safety and Health Review Commission for "Salaries and Expenses" for the fiscal year 1978 has been apportioned on a basis which indicates the necessity for a supplemental estimate of ap-

propriation; to the Committee on Human Resources.

EC–3609. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to revise and extend provisions of law concerned with health services and health research; to the Committee on Human Resources.

EC–3610. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on immunization liability; to the Committee on Human Resources.

EC–3611. A communication from the Director-Designate, Community Relations, Service, Department of Justice, transmitting, pursuant to law, a report on the activities of the Community Relations Service for fiscal year 1977; to the Committee on the Judiciary.

EC–3612. A communication from the Attorney General of the United States, transmitting a draft of proposed legislation to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review; to the Committee on the Judiciary.

EC–3613. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 713 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–3614. A communication from the Secretary, Smithsonian Institution, transmitting, pursuant to law, the annual report of the Smithsonian Institution for fiscal year 1977; to the Committee on Rules and Administration.

EC–3615. A communication from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

S. 2511. A bill to restrict the possession and carrying of pistols, other firearms, and other dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections (Rept. No. 95–893).

S. 2512. A bill to provide explicit authority for the arrest of material witnesses (Rept. No. 95–894).

S. 2556. A bill to change the name of the District of Columbia Bail Agency (Rept. No. 95–895).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Daniel M. Friedman, of the District of Columbia, to be chief judge of the U.S. Court of Claims.

Jack E. Tanner, of Washington, to be U.S. district judge for the eastern and western districts of Washington.

Robert F. Collins, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Ellen B. Burns, of Connecticut, to be U.S. district judge for the district of Connecticut.

Harold H. Greene, of the District of Columbia, to be U.S. district judge for the District of Columbia.

Cristobal C. Duenas, of Guam, to be judge of the district of Guam.

Leonard B. Sand, of New York, to be U.S. district judge for the southern district of New York.

Alfred Laureta, of Hawaii, to be judge for the district court for the northern Mariana Islands.

By Mr. EASTLAND, from the Committee on the Judiciary.

Peter J. McLaughlin, of Delaware, to be U.S. marshal for the district of Delaware.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LEAHY:

S. 3086. A bill to eliminate the exemption for Congress or for the United States from the application of certain provisions of Federal law relating to employment, privacy, and social security, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 3087. A bill to amend the Bank Holding Company Act of 1956 to prohibit bank holding companies and their subsidiaries from selling property and casualty insurance as principals, agents, or brokers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CURTIS:

S. 3088. A bill to remove certain criminal penalties imposed as a result of the failure of an individual to answer questions submitted in connection with a census of survey conducted under title 13, United States Code; to the Committee on Governmental Affairs.

S. 3089. A bill to provide that certain criminal penalties imposed as a result of the failure of an individual to answer to questions submitted in connection with a census or survey conducted under title 13, United States Code, shall not be applicable to any census taken under section 142 of such title; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 3086. A bill to eliminate the exemption for Congress or for the United States from the application of certain provisions of Federal law relating to employment, privacy, and social security, and for other purposes; to the Committee on Governmental Affairs.

(The remarks of Mr. LEAHY when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. DURKIN (for himself and Mr. HATHAWAY):

S. 3087. A bill to amend the Bank Holding Company Act of 1956 to prohibit bank holding companies and their subsidiaries from selling property and casualty insurance as principals, agents, or brokers; to the Committee on Banking, Housing, and Urban Affairs.

BANK HOLDING COMPANY ACT AMENDMENT

● Mr. DURKIN. Mr. President, 8 years ago, Congress enacted the Bank Holding Company Act Amendments of 1970. At that time, no one foresaw the expansion of bank holding companies into many nonbanking activities or the impact of this expansion on these other commerical activities. Consequently insufficient limits were incorporated into the 1970 legislation.

Today, independent insurance agents across America face unfair competition through the expansion of bank holding companies into the areas of retail property and casualty insurance. Due to a recent Supreme Court ruling, the Federal Reserve Board may soon begin approving applications of bank holding companies desiring to enter the retail property and casualty insurance area. Any move into the activities of independent insurance agents would be contrary to the good of the Nation. Therefore, I am introducing today a bill which helps define the activities to which bank holding companies are limited to keep the retail property and casualty insurance industry competitive.

It is imperative that every effort be made to prevent the erosion of competition in the sale of property and casualty insurance. The retail property and casualty insurance agents are one of the few areas of business left in this country where small, independent entrepreneurs can, through initiative and perseverance, build viable businesses of their own. Unless my bill is passed, this area will be barred to the independent small businessman. It is time we stopped paying lip service to small business, and took actions to protect and benefit them.

My legislation does not permit bank holding companies to act as agents or brokers in the sale of property and casualty insurance, and does not allow bank holding companies to engage in the underwriting of such insurance. However, my legislation does not infringe on the current involvement of banks in the sale of credit life or credit disability insurance, nor does it compromise the National Bank Act that allows banks operating in communities of 5,000 inhabitants or less to sell property and casualty insurance. My legislation merely allows independent agents to have the right to carry on their business free from unfair competition.

The need for passage of my bill is charged with some urgency, considering a recent Supreme Court action. Until last month, pending court actions delayed approval of applications for the entrance of bank holding companies into property and casualty insurance brokerage. Then, the Supreme Court let stand the lower court holding that allowed the approval of such applications. The Federal Reserve Board is expected to begin approving applications within weeks, initiating the potential end of competition in yet another segment of the American business community.

Mr. President, my great concern for preserving the strength and resources this country possesses in the form of enterprising, small businessmen, requires that they receive protection when potentially unfair practices can limit or destroy their activities. The independent

insurance agents across this country perform a great service to the American people, and my legislation will help them to continue to perform that service.

I urge the Congress to consider my legislature as soon as possible, given the urgency of the situation, which will help slow the trend toward unfair limitations on competition.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the semicolon at the end and inserting in lieu thereof a period and the following: "For purposes of this subsection, providing insurance as a principal, agent, or broker is deemed not to be closely related to banking or managing or controlling banks as to be a proper incident thereto, except (A) where the insurance is limited to insuring the life of a debtor in connection with a specific credit tranaction or providing indemnity for payments due on a specific loan or other credit transaction while the debtor is disabled, or (B) in the case of a national bank, to the extent permitted by the eleventh paragraph of section 13 of the Federal Reserve Act, and in the case of any other bank, to the extent permitted under the laws of the jurisdiction under which it is organized and doing business;".●

ADDITIONAL COSPONSORS

S. 1066

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 1066, a bill to create an Office of Hispanic Affairs.

S. 2600

At the request of Mr. RANDOLPH, the Senator from California (Mr. CRANSTON) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 2600, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.

S. 2609

At the request of Mr. DOMENICI, the Senator from Oregon (Mr. MARK O. HATFIELD) and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of S. 2609, the 1978 amendments to the Older Americans Act.

S. 2726

At the request of Mr. RIEGLE, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2726, the Housing Conservation Act of 1978.

SENATE JOINT RESOLUTION 75

At the request of Mr. DOMENICI, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of Senate Joint Resolution 75, designating the pine tree as the national aboreal emblem of the United States.

AMENDMENTS SUBMITTED FOR PRINTING

LABOR LAW REFORM ACT OF 1978—H.R. 8410

AMENDMENTS NOS. 2108 THROUGH 2148

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 40 amendments intended to be proposed by him to the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

AMENDMENTS NOS. 2149 THROUGH 2175

(Ordered to be printed and to lie on the table.)

Mr. LUGAR submitted 27 amendments intended to be proposed by him to the bill (H.R. 8410), supra.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1978—S. 1500

AMENDMENT NO. 2176

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. DURKIN (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. METZENBAUM, Mr. PROXMIRE, and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 1500) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes.

ALASKA LANDS PROPOSAL

● Mr. DURKIN. Mr. President, today the greatest expanse of untouched wilderness in our Nation stands on the verge of development. The wildlife and scenic beauty of Alaska, natural resources unmatched anywhere in the country, can no longer be protected from harm by their remoteness. These precious resources will only be protected by rational, strong conservation policies which provide a framework for resolving the many conflicting demands for the use of the remaining Federal lands in Alaska.

For that reason I am today submitting a major amendment to S. 1500, called the Alaska National Interest Lands Conservation Act of 1978.

In its original form, S. 1500 was introduced a year ago by our late colleague, Lee Metcalf. During the ensuing year, this legislation and other proposals for so-called D–2 public lands have been under consideration by the Committee on Energy and Natural Resources, on which I serve. We have gained much new information about the resource itself and about what the land and wildlife mean to Alaskans and to the entire Nation. Based on this information, I am introducing a refined strengthened version of S. 1500.

Central to this proposal is the conviction that Congress can and should act now to preserve wilderness areas in Alaska. We will never have another chance like this. The wilderness of Alaska is the largest, most untouched wilderness in the United States, and it will never again be so vast and so untouched.

My amendment places federally owned land in Alaska in the three great national conservation systems: The National Park System, the National Wildlife Refuge System, and the Wild and Scenic Rivers System, it also makes modest additions to the National Forest System.

The lands in the three conservation systems, totaling about 110 million acres and comprising some 30 percent of Alaska's land mass, will be preserved in their natural state for the foreseeable future.

The placing of these lands into the four categories is not a haphazard rearranging of the face of Alaska. It is based on years of painstaking study, and has one overriding purpose—to protect and preserve the best part of the last great wilderness for generations of Americans to come.

This proposal in no way hinders a reasonable and orderly development of Alaska's resources. Some 235 million acres, or about 60 percent of the land mass, lie outside the conservation systems and can be used for timber harvesting, mineral and oil and gas extraction.

Today, as I speak, exploitation of resources already in progress is working great changes on the face of the Alaskan landscape. The Alaska oil pipeline, for instance, is not merely a pipeline. It is an access corridor to large parts of interior Alaska creating pressures on the State and Federal Government for rapacious development in what is still wild, beautiful country.

In the past 2 years I have made two trips to Alaska. During the first trip in 1976, I was concerned that Alaska's wealth of resources would invariably be exploited by the lower 48 States.

A subsequent trip in 1977 convinced me that Japan, Taiwan and some of our economic competitors in the Far East would take the lead in tapping these resources unless the Congress took strong steps to protect the land.

I am a strong supporter of orderly and reasonable development of natural resources. By submitting this amendment, I am simply attempting to mitigate the pressures of accelerated, boom and bust development on wilderness land.

Similar development pressures occurred in the Western States 100 years ago, when the great western forests—practically all of them on Federal lands—were being taken over by timber companies, including some whose private intents did not coincide with public interest. Congress put on the brakes in 1891, authorizing the President to establish forest reserves by proclamation, thus keeping designated forest lands in Federal ownership to serve the long-term national interest. Presidents Grover Cleveland and Theodore Roosevelt used this authority to set aside most of the land that is now the National Forests of the West.

In the same era, starting in 1872, Congress established the early national parks in the West—Yellowstone, Yosemite and Sequoia. Again, the purpose was to set aside, in the national interest, lands of great value, and Congressmen from throughout the United States saw the lasting importance of such legislation.

We now know that the U.S. Congress of the late 19th century had great foresight for its time, but did not go far enough in protecting the national interest. For every area saved—a Yellowstone, a Mount Rainier—there were many areas that passed into private hands and were either lost to the Nation or had to be repurchased at great cost to the taxpayers. A prime example is the

Redwood National Park, for which this Congress has recently authorized $400 million to acquire vitally needed forest land. We need not have spent a penny for that additional Redwood Forest if the Congress of a century ago had kept it in public ownership.

Alaska stands in the same position now as the western public lands did a century ago. We in the Congress have the opportunity to protect the national interest values of Alaska's Federal lands. We can save large areas where the wilderness, its scenic values and wildlife remain untrammeled, existing as they have for millennia. We can keep Alaska from falling into the hands of the pavers and polluters. That is the purpose of my amendment.

Today, we stand in an enviable position, in contrast to our predecessors of the 19th century, for we have much more complete data on the resource values of the Alaska lands. Agencies of the Interior Department studied these lands exhaustively under the mandate of section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971—the national interest lands provisions. The Department's reports and the testimony before the Energy and Natural Resources Committee have given the Senate a complete inventory of the resources at stake.

Knowing where the resource values are located, we can resolve the conflicts in legislation, rather than dump the whole matter into the lap of some Government agency, as the 19th century approach would have done.

The testimony and the Interior Department studies show that the overwhelming majority of commodity resource values—such as oil, gas, hardrock minerals and timber—are found in lands that do not have the highest wilderness, wildlife, scenic and ecological values. Therefore, we need not fear to establish large national parks, wildlife refuges, wild and scenic rivers, and wilderness areas in Alaska, because we know that the land in question is primarily of value for these public purposes, and not for resource development.

The concern has been raised that the national interest lands proposal could be a "lock-up" of needed mineral resources. This concern is misplaced. In the first place, the conflicts between resources have largely been resolved, so there is not much land of high commodity value within the proposed conservation areas.

Second, these resources are not going to disappear if they are not immediately exploited. The resources will always be available should we need them.

However, the wilderness and wildlife values will not always be there if we do not act to preserve them now. Unlike the minerals in the ground, they will disappear if they are not protected from careless development.

So if we err, we should err on the side of setting too much land aside. If we need the resources we can always get them, but we can never bring back wilderness once it is lost.

I am also convinced that these conservation lands need a strong Federal oversight to remain untouched and unspoiled. Based upon my experience with this subject as a member of the Energy and Natural Resources Committee, I believe that the State of Alaska would find it extremely difficult to resist pressure for development of these important areas without the strong Federal presence in Alaska provided by this legislation.

Alaska is at a turning point. By approving this legislation, the Congress will be able to protect the national interest values of the prime wilderness land in Alaska, and at the same time provide for orderly and reasonable economic development.

I ask unanimous consent that a summary of the amendment, a listing of the organizations in the Alaska coalition, a policy comparison between my amendment and others, and a copy of the acreage totals under my amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY: ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—INTRODUCED BY SENATOR JOHN DURKIN

Title I—Findings, policy, and definitions:

Sec. 101.—Sets forth findings.

Sec. 102.—Establishes policies based on the findings of Sec. 101.

Sec. 103.—Defines the terms used throughout the bill.

Title II—National Park System:

Sec. 201.—Establishes the following new units of the National Park System:

(Millions of acres)

1. Aniakchak:	
National Monument	0.36
National Preserve	.21
2. Bering Land Bridge National Preserve	3.12
3. Cape Krusenstern National Monument	.54
4. Gates of the Arctic:	
National Park	8.47
National Preserve	1.10
5. Kenai Fjords National Park	.42
6. Kobuk Valley National Park	1.72
7. Lake Clark:	
National Park	2.395
National Preserve	1.095
8. Misty Fjords National Preserve	2.28
9. Noatak National Preserve	5.89
10. Wrangell-St. Elias:	
National Park	9.96
National Preserve	2.09
11. Yukon-Charley National Preserve	1.73

Sec. 202.—Enlarges three existing units of the National Park System:

1. Denali National Park	3.89
2. Glacier Bay National Park	.71
3. Katmai National Park	1.57
Total acreage added to national park system	47.55

Title III—National Wildlife Refuge System:

Sec. 301—Establishes the following units of the National Refuge System:

1. Alaska Maritime (also includes 2.98 million acres of existing refuges)	.46
2. Alaska Peninsula	1.55
3. Becharof	1.02
4. Iliamna	2.90
5. Innoko	3.46
6. Kanuti	1.42
7. Koyukuk	3.72
8. Nowitna	1.60
9. Selawik	3.20
10. Tetlin	.77
11. Yukon Flats	10.31

Sec. 302—Enlarges four existing units of the National Wildlife Refuge System:

1. Arctic	9.47
2. Togiak	3.84
3. Yukon Delta	12.57
4. Kenai	.25
Total acreage added to wildlife refuge system	56.54

Sec. 304—Provides for federal-state study of western Arctic and Porcupine caribou herds, and for a U.S.-Canada cooperative agreement governing caribou and other migratory wildlife utilizing habitat in both countries.

Title IV—National Wild and Scenic Rivers System:

Sec. 401(a)—Establishes the following new units: Birch Creek, Colville, Copper, Delta, Fortymile, Gulkana, Ikpikpuk, Killik, Nowitna, Selawik, Unalakleet, Utukok, Wulik, and Yukon (Ramparts Section).

These units total 3.049 million acres.

Units with portions of rivers within preserves: Alagnak, Aniakchak, Beaver (Wrangell-S. Elias), Charley, Chilikadrotna Chitina, Etiviluk-Nigu, Mulchatna, Noatak.

Units with portions of rivers within refuges: Beaver (Yukon Flats), Nowitna, Porcupine, Sheenjek, Andreafsky, Ivishak, Kanektok, Kisaralik, Selawik, Squirrel, Wind.

(b) Boundaries and Development Plans:

Establishes a timetable for completion of development plans.

Boundaries may include an area up to two miles from the high water mark.

Sec. 402(a)—Establishes the following study rivers: Copper (Iliamna), Holitna-Hoholitna, Koyuk, Kuskokwim (middle), Melozitna, Mulchatna, Nelchina-Tazlina, Nuyakuk, Situk, Susitna.

(b) Establishes a staggered timetable for completion of studies.

Sec. 403 Administrative Provisions.

(b) Designated rivers are withdrawn from the mining and mineral leasing laws.

(c) Study rivers are withdrawn from the mining and mineral leasing laws during the study period.

(e) Snowmobiles are permitted for customary travel and subsistence purposes as was occurring before 1/1/77.

(g) Study rivers are withdrawn from the public land laws during the study period.

Title V—Additions to National Forests:

1. Tongass	1.45 million acres
2. Chugach	1.89 million acres
Total	3.34 million acres

The Secretary of Agriculture will provide maximum protection for the fish and wildlife values of the Copper River additions and adjacent lands in the Copper River Delta.

Title VI—National Petroleum Reserve in Alaska:

Fish and Wildlife Service shall manage the area during the review period of the Naval Petroleum Reserves Production Act of 1976, and until Congress determines otherwise.

Title VII—Wilderness:

Sec. 702—Establishes the following wilderness areas within the National Park System:

	Million acres
1. Aniakchak Monument	.29
2. Bering Land Bridge Preserve	.70
3. Cape Krusenstern Monument	.40
4. Denlai Park	5.51
5. Gates of the Arctic Park	8.47
6. Glacier Bay Park	2.98
7. Katmai Park	3.77
8. Kenai Fjords Park	.34
9. Kobuk Valley Park	1.14
10. Lake Clark:	
Park	2.395
Preserve	.855
11. Misty Fjords Preserve	2.28
12. Noatak Preserve	5.58
13. Wrangell-St. Elias:	
Park	9.41
Preserve	1.08
14. Yukon-Charley	1.04
Subtotal	46.24

Sec. 703—Establishes the following wilderness areas in the National Wildlife Refuge System

	Million acres
1. Alaska Maritime	2.91
2. Alaska Peninsula	.60
3. Arctic	15.49
4. Becharof	1.02
5. Innoko	1.26
6. Izembek	.30
7. Kanuti	.30
8. Kenai	1.41
9. Kodiak	.74
10. Koyukuk	.91
11. Nowitna	.56
12. Nunivak	2.85
13. Selawik	.24
14. Tetlin	.32
15. Togiak	2.77
16. Yukon Delta	2.33
17. Yukon Flats	3.25
Subtotal	37.26

Sec. 704 Wilderness Reviews—All non-wilderness portions of conservation units shall be reviewed; one-third of the areas within 3 years, two-thirds within 7 years.

Sec. 705—Establishes the following wilderness areas in the National Forest System

	Million acres
1. Nellie Juan	1.18
2. Copper River Delta	.68
3. Stikine-LeConte	.468
4. West Chichagof-Yakobi	.420
5. Yakutat	.281
6. Duncan Canal	.163
7. Etolin Island	.136
8. Karta	.039
9. Tebenkof	.067
10. Idaho Inlet-Mud Bay	.101
11. North Kruzof	.014
12. Rocky Pass	.072
13. Admiralty Island	1.100
Subtotal	4.721
Total wilderness	88.22

Secretary of Agriculture is directed to exchange the timber rights of the village of Angoon on Admiralty Island for timber rights elsewhere in the Tongass National Forest.

Secretary shall designate alternative lands off Admiralty Island for selection by the Native corporations of Juneau and Sitka.

As of 10/1/78 the Secretary of Interior shall pay all court costs incurred by the Native corporations of Juneau, Sitka and Angoon in this litigation.

Sec. 706—Special Provisions:

(a) This section applies only to wilderness areas in Alaska.

(b) Measures may be taken to control fire, insects and disease within wilderness areas.

(c) Aquaculture—Secretary may permit fishery research, management, enhancement and rehabilitation activities within wilderness and wilderness study areas.

(d) Certain fish hatchery sites within Nellie Juan, Stikine-Leconte and West Chichagof-Yakobi Wilderness are designated wilderness in ten years if a fish hatchery is not developed before then.

(e) Existing cabins may be maintained or replaced.

(g) Commercial services may be performed within the wilderness areas.

Title VIII—Subsistence

Sec. 802 Policy—Nonwasteful subsistence shall be the first priority use of public land resources.

Sec. 803 Definition—"subsistence uses" means the noncommercial (except for handicraft articles), customary and traditional uses of renewable resources for direct personal or family consumption, for the making of handicraft articles, or for customary trade.

Sec. 804 State Regulation.

(a) Interim Regulation—during an interim period of 18 months the State may regulate subsistence according to the policy of this Title. If the State fails to accept such authority the Secretary shall regulate subsistence during the interim period.

(b) State Authority—after the interim period the State is authorized to regulate subsistence, in a manner consistent with this Act. If the State fails to accept such authority the Secretary shall regulate subsistence according to this Act.

(c) State Program—during the interim period the State submits a subsistence program to the Secretary which must contain certain elements, including the establishment of priorities for subsistence uses on the basis of customary and direct dependence upon a resource, local residency and availability of alternative resources; a system of local and regional fish and game councils to provide a voice for rural residents concerning the State's regulatory program; and a "grievance" procedure available to such councils.

(d) Certificate of Approval—if the Secretary does not approve the State program the State has an opportunity to modify the program. The Secretary may grant one extension of the interim period.

Sec. 805. Enforcement Duties of Secretary of Interior.

(a) The Secretary shall monitor the State program, and if not in compliance will notify the State of necessary changes.

(b) Local and regional councils may notify the Secretary that the State is not in compliance.

(d) The Secretary may close any public lands to subsistence after consultation with the State and public hearing. The Secretary may make an emergency closure for 30 days.

Sec. 807—The Secretary must give notice to the State and hold hearings before making any land-use decision which would restrict subsistence.

Sec. 808—The Secretary shall ensure that subsistence users will have access to subsistence resources on public lands.

Sec. 809—Snowmobiles and motorboats shall be permitted for subsistence purposes.

Sec. 811—Secretary shall submit a report on subsistence after four years and every three years thereafter.

Sec. 815—Secretary shall reimburse the State for 50% of the costs of the State subsistence program.

Title IX—Implementation of Alaska Native Claims Settlement Act

Sec. 901—The core townships are immediately conveyed to Native corporations, along with Native reserves to the appropriate Native corporations.

Sec. 902—Establishes a procedure for accelerating conveyances of Native lands.

Sec. 903—Eliminates public-use easements on core townships and establishes specific guidelines for the location of such easements elsewhere.

Sec. 904—Tax Moratorium Extension—provides that the 20 year moratorium on State taxation of undeveloped and unimproved lands will not begin until the lands are conveyed to the Native corporations.

Sec. 905—Alaska Native Land Bank—Native corporations, groups, and individuals are authorized to enter into an agreement with the State (or the Secretary of Interior if the lands involved are within a conservation system unit or the State declines to participate in the program), whereby Native lands that are not developed may be exempted from taxation.

Sec. 909—No EIS shall be required in connection with conveyance of land under this Title.

Title X—Alaska Advisory Coordinating Council

Sec. 1001—The Council shall consist of the heads of the Alaska offices of NPS, F&WS, USFS, BLM and Heritage Conservation and Recreation Service; the State Commissioners of Department of Natural Resources, Department of Fish and Game, Department of Environmental Conservation and the State subsistence agency of Title VIII; one member appointed by the Governor from recommendations of village corporations, and one from regional corporations' recommendations.

Sec. 1002—The Council shall conduct studies and advise the Secretary, other Federal agencies, the State and Native corporations on all aspects of resource planning in Alaska. The Council would not be authorized to classify, manage or regulate Federal lands.

Sec. 1003—The Council may recommend cooperative planning and management zones. As their first priority federal members of the Council shall consider the Togiak, Iliamna, Becharof, and Alaska Peninsula conservation system units.

Sec. 1004—Unless extended by Congress the Council shall terminate in ten years.

Title XI—Administrative Provisions

Sec. 1101—Land Acquisitions and Exchanges—Secretary may acquire land within the boundaries of any conservation unit. Any land owned by the State, a local government or Native corporation shall only be acquired with the owner's consent.

Sec. 1102—Access:

(a) Secretary shall (consistent with the purposes of the conservation unit involved) provide access to subsistence lands, to conservation units, to State lands, and for administrative purposes.

(b) Secretary may permit customary patterns and modes of travel across conservation units.

(c) Secretary shall give rights of access to owners of land surrounded by a conservation unit, subject to reasonable regulations.

Sec. 1103—Secretary may acquire archeological and paleontological sites in Alaska.

Sec. 1104—Secretary may establish information centers in many locations in Alaska.

Sec. 1105—Secretary may establish administrative sites and visitor centers near or within conservation units.

Sec. 1106—Secretary shall permit persons who were engaged in providing any visitor service before 1/1/78 to continue such service.

Sec. 1107—Local Hire—Secretary may exempt local people from civil service regulations.

Sec. 1108—Within five years the Secretary shall submit a management plan for each conservation unit.

Sec. 1109—Taking of Fish and Wildlife:

(a) All units of the National Park System are closed except for subsistence uses, and except for sport hunting within national preserves.

(b) Other conservation units shall remain open.

Sec. 1110—As soon as possible maps of each unit shall be filed with Congress. Whenever possible, boundaries shall follow key topographic features in all cases where straight line map boundaries approximate such features.

Sec. 1111—Actions concerning conservation units are not exempted from the National Environmental Policy Act.

Sec. 1112—Requires Congressional review of all regulations issued by the Secretary identical to those contained in Sec. 551 of the Energy Policy and Conservation Act of 1975.

Title XII—Miscellaneous

Sec. 1201—Iditarod National Historic Trail is included within the National Trails System Act.

Sec. 1202—Lands owned by the State or local governments may be acquired for the Klondike Gold Rush National Historic Park only by donation or exchange, and may include the minerals in such transaction.

Sec. 1203—Within conservation units maintenance of navigation aids, defense facilities, etc. shall be permitted.

Sec. 1204—Mining and Mineral Leasing:

(a) New units and additions to existing conservation units are withdrawn from the mining and mineral leasing laws.

(b) Existing mineral leases, patents or claims which predate this Act shall remain valid. The Secretary shall have first right of refusal for purchase of these properties. All claims shall lapse unless application for patent is made within three years.

Sec. 1205. Mineral Assessments—Secretary is authorized to enter into contracts with public or private entities for continued mineral assessments of all public lands in Alaska.

Sec. 1206—All powersite withdrawals within conservation units are rescinded.

Sec. 1207—Scenic Highway Study:

(a) One mile on either side of sectfons of the Parks, Denali, Richardson, and Edgerton Highways are withdrawn from the mining and mineral leasing laws during the study period.

(b) During a 3 year period the Secretary shall study the desirability of establishing a Denali-Wrangell Scenic Highway to include these roads.

Sec. 1208. Authorization for Appropriation—necessary sums to carry out this Act are authorized.

POLICY COMPARISON BETWEEN S. 1500, S. 1500 AS AMENDED, S. 2465 AND S. 1787

COOPERATIVE MANAGEMENT

Metcalf S. 1500—The Secretaries of Interior and Agriculture are authorized to identify areas of ecological concern and to cooperate and seek agreements with the heads of other Federal agencies, state, local and private interests.

Three years after enactment of legislation each Secretary shall make a report on the status of cooperative planning. (No Statewide Commission would be established.)

Durkin, et al. S.—Establishes Alaska Advisory Coordinating Council Composed of federal, state, and Native members which can recommend cooperative planning and management zones. The bill directs that first priority of the Council be given to the Alaska Peninsula and Bristol Bay regions, The Council would terminate in ten years. This title is contained in H.R. 39 as approved by the House Interior Committee.

Carter/Andrus S. 2465—The Secretary of Interior is authorized to cooperate and seek agreements with the heads of federal agencies, the State of Alaska, Natives and private landowners.

An Alaska Cooperative Planning Commission would be established. The Commission would be comprised of Federal and State land managers, Native and other public members. This Commission would be advisory only.

Stevens S. 1787—Establishes a joint Federal/State Alaska Lands Classification Commission. Fifty seven million acres of federal lands plus a substantial (but not necessarily equal) amount of State lands would be placed under the classification authority of this Commission. On these "Alaska Cooperative Lands" the Secretary and Governor would hold veto power over any decisions as they affect the Federal or State lands.

OIL, GAS AND MINERALS

Metcalf S. 1500—Oil, gas and mineral development would be precluded on lands included within S. 1500. Congress, of course, could open these lands in the future should development be necessary.

Durkin, et al. S.—Oil, gas and mineral development would be precluded on the lands included within S. . Congress, of course, could open these lands in the future should development be necessary.

Carter/Andrus S. 2465—Oil, gas and mineral development would be precluded within new units of the National Park System. National Wildlife Refuges would be closed to hard rock mining but open to oil and gas development consistent with existing law. (Wilderness designation within Wildlife Refuges and National Forests would preclude development.)

Stevens S. 1787—New National Park units would be closed to development. National Wildlife Refuges would be open to mineral leasing under existing law.

The Alaska Cooperative Lands would be open to all uses authorized under Public Land Laws (including 1872 Mining Law) unless specifically closed by act of the Alaska Lands Classification Commission. (No wilderness designated in S. 1787.)

ACCESS AND TRANSPORTATION

Metcalf S. 1500—Access within units of the National Park and National Wildlife Refuge Systems would be handled by the Secretary of Interior. The units established in S. 1500 are all designated as Wilderness and only those forms of access allowed under provisions of the Wilderness Act would be permitted. (Airplanes, motorboats, trails and other forms of traditional access or access needed for the proper administration of the area i.e. helicopters.)

Transportation for roads, pipelines etc. across units created at S. 1500 would be decided by Congress for it would entail a deletion from the wilderness designation within these new units.

Valid existing rights within all new areas created in S. 1500 would have guaranteed access.

Durkin, et al. S. —Access within non-wilderness areas of the conservation system lands would be regulated by the Secretary of the Interior.

Access across wilderness areas of conservation system units would require Congressional approval.

However, established corridors and modes of transportation would be recognized, even in wilderness areas.

Transportation for roads, pipelines, etc. across units of the National Park System or across wilderness areas would require Congressional approval. However, only Secretarial approval would be needed in non-wilderness refuges and scenic rivers.

Valid existing holdings within all new areas created in this bill would have guaranteed access.

Carter/Andrus S. 2465—Access within units of the National Park and National Wildlife Refuge Systems would be regulated by the Secretary of the Interior. Where Wilderness would be designated within these units or on National Forest Lands only access consistent with the Wilderness Act would be allowed.

Transportation corridors across a National Park or Wilderness area would take Congressional Approval.

Transportation across a National Wildlife Refuge would be a Secretarial decision.

Access to valid existing holdings within any Wilderness area, National Park or Wildlife Refuge would be guaranteed.

Stevens S. 1787—Access within units of the National Park and Wildlife Refuge Systems would be regulated by the Secretary of the Interior.

Transportation corridors across units of the National Park System would require Congressional approval.

Transportation corridors across units of the National Wildlife Refuge System would be regulated by the Secretary of the Interior.

On Alaska Cooperative lands access and transportation would be guaranteed upon the classification approval of the Alaska Lands Classification Commission.

Valid existing rights within any area created would be honored and access guaranteed.

SUBSISTENCE HUNTING

Metcalf S. 1500—Subsistence hunting and gathering by local Native and non-native residents is guaranteed on all Federal lands. The Federal Government would have jurisdiction over the administration and regulation of subsistence hunting.

Subsistence management zones shall be designated and local subsistence advisory boards shall be established.

Subsistence shall be given priority over other consumptive uses with the Secretary having authority to halt all taking of wildlife for reasons of public safety administration and sound wildlife management.

Durkin, et al. S. —Subsistence hunting and gathering by local Native and non-native residents is guaranteed on all Federal lands. The State of Alaska would have jurisdiction over the administration and regulation of subsistence hunting. The Secretary of the Interior would have oversight responsibilities.

Subsistence shall be given priority over other consumptive uses with the Secretary having authority to halt all taking of wildlife for reasons of public safety administration and sound wildlife management.

Carter/Andrus S. 2465—Subsistence hunting and gathering by local Native and non-native residents is guaranteed on all Federal lands and shall have priority over all other consumptive uses.

The State of Alaska is authorized to permit and allowed to regulate subsistence use on the Federal lands. The Secretary maintains the authority to close Federal lands to all consumptive uses including subsistence hunting for reasons of public safety, proper administration and sound wildlife management. (The State must be consulted.)

The State shall create a system of local subsistence advisors.

Stevens S. 1787—Subsistence hunting and gathering by Native and non-natives receives priority and preference over other consumptive uses. The State of Alaska would regulate hunting and fishing on all lands described in S. 1787 under existing law.

S. 1500 amended acreage

National Park Service:	
New units	41.38
Additions to existing units	6.17
Fish and Wildlife Service:	
New units	30.41
Additions to existing units	26.13
National Wild and Scenic Rivers	3.05
Total	110.48
National forest additions	3.34
Wilderness acreage:	
National parks	46.24
Wildlife refuges	37.26
National forests	4.72
Total wilderness	88.22

ALASKA COALITION—"TO PRESERVE ALASKA'S NATIONAL INTEREST WILDLANDS"

The Alaska Coalition represents a broad and growing spectrum of Americans who wish to see a generous sampling of our natural heritage on the Federal lands in Alaska preserved. We support and seek improvement of H.R. 39, the Alaska National Interest Lands Conservation Act.

We are conservation and environmental groups—National Audubon Society, the Wilderness Society, Defenders of Wildlife, the Cousteau Society, Environmental Defense Fund, Natural Resources Defense Council, the International Ecology Society, Sierra Club, Friends of the Earth, National Parks and Conservation Association, Rivers Unlimited, Environmental Policy Center, and American Rivers Conservation Council.

We are unions—United Automobile Workers; Oil, Chemical and Atomic Workers International.

We are Alaskans—Alaska Conservation Society, Trustees for Alaska, Brooks Range Trust, Southeast Alaska Conservation Council, Denali Citizens Council, Alaska Center for the Environment, and Fairbanks Environmental Center.

We are civic groups—National Council of Senior Citizens and the Garden Club of America.

We are outdoor and sporting groups—Trout Unlimited, Federation of Western Outdoor Clubs, Appalachian Mountain Club, American League of Anglers, and Federation of Fly Fishermen.

And we are literally thousands of regional, state-wide, and local citizen organizations, councils, and committees across America—the grassroots voice asking Congress to live up fully to this unparalleled opportunity to preserve the Earth's greatest living conservation trust of land and wildlife—for all of us, for all Americans, and for all the future!●

NOTICE OF HEARING

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

Mr. HATCH. Mr. President, I announce that the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary will hold an oversight hearing on the U.S. Fishing and Wildlife Service. This hearing will be on Thursday, May 25, at 9:30 a.m., in room 2228, Dirksen Building.

ADDITIONAL STATEMENTS

ON THE DEATH OF ALDO MORO

● Mr. CASE. Aldo Moro's coldblooded murder by the Red Brigades in Italy is not, unfortunately, an isolated incident. It did not take place because of Italy's peculiar political circumstances. The fact is that the death of Aldo Moro is part of a program of terror aimed against democratic governments in Europe, the Middle East, Africa, Latin America, and we may soon find, in North America.

Political terrorism and the killing of civilians for radical political purposes is not a series of separate acts by separate organizations like the Red Brigades, the Bader Meinhof Gang, or the Palestine Liberation Organization. These terror oriented groups are linked together by their radical political ideas, by their disdain for human life, and by their mean regard for the democratic system. They get support, sometimes covertly and sometimes out in the open, from the Soviet Union and Eastern European countries with ties to the U.S.S.R.

Unfortunately, some of these groups have received shelter and support in democratic states and even in the United Nations. It is this help they depend upon to exploit these societies and to achieve their terrorist goals.

It seems to me the U.S. Government can best show its solidarity with the people of Italy and with all other democratic countries by now acting on a fully organized and determined basis to crush these terrorist organizations.

In this connection, I submit for the RECORD an editorial and an earlier statement suggesting steps to that end.

The material follows:

[From the Washington Post, May 16, 1978]

ADDENDUM ON ITALY

Three days after the killing of Aldo Moro in Rome, gunmen threw a businessman named Pietro Fiocchi out of a car near Milan. Mr. Fiocchi had been kidnapped last November and was being freed, six months later, upon the payment of $800,000 in ransom. The gunmen were also businessmen, in a manner of speaking. They represent the purely commercial side of the brigandage that is now on the rise in Italy. Several days later, another gang of kidnappers freed a 13-year-old child named Elena Corti, upon payment of another ransom. They had held her since January.

Last year in Italy 76 people were kidnapped, one of whom was Mr. Fiocchi. So far this year there have been 19, one of them Mr. Moro and another Miss Corti. There's an important difference in styles of terrorism between northern Europe and Italy. In West Germany, a small and isolated organization can occasionally carry off a spectacular crime. In Italy, the political outrages are part of a tide of kidnappings and assaults that range from the revolutionary to the purely mercenary.

The breakdown of law enforcement tends, unfortunately, to be circular. One successful crime incites other people with guns to try the same thing. Demoralization among the police spreads. To reverse the deterioration requires vigorous political intervention by the national leadership. Something like that happened in this country in the early 1930s amidst a rising toll of bloodshed and political corruption due to organized crime. Americans suddenly stopped treating bootlegging as a joke, and racketeers as folk heroes. The national campaign against organized crime was never totally successful, but in a remarkably short time it made racketeering far less attractive—and, perhaps as important, less glamorous.

To do the same thing in Italy will be harder, because of the mixture of radical motives and simple greed. But political terrorism is nothing new in European experience. Both France and Italy suffered a succession of anarchist bombings and murders in the 1890's; in Italy, they culminated in the assassination of King Umberto. That example is worth recalling because in both countries liberal democracy survived and grew stronger.

The results of last weekend's local elections in Italy have no direct bearing on national politics, but they certainly suggest strong support among the voters for a kind of law enforcement that does not now exist there. Is the present government capable of meeting that demand? The leading figures in Italian politics tend to be cautious to a fault, suspicious of strong administration. They are given to proceeding slowly and, preferably, by indirection. Now their constituents seem to be pressing them to take an uncharacteristic kind of action The whole political development of Italy is at stake in these events. But it is equally correct to say that it all comes down to the enforcement of the laws against kidnapping.

STATEMENT OF SENATOR CASE

Mr. President, it is time for the United States and other nations to act more forcefully to combat international terrorism.

In recent weeks, terrorists have:

Brutally and deliberately slaughtered 34 persons in Israel.

Assassinated a leading Egyptian newspaper editor, a close friend of President Sadat.

Killed several prominent West Bank Arabs who favored moderate approaches to Middle East problems.

Threatened publicly to kill President Sadat.

Captured a government building in Holland and held more than 70 persons hostage until rescued by the Dutch Marines.

And today, kidnapped a former Prime Minister of Italy, killing his bodyguards.

Some of the terrorist groups might have been less active and deadly if there had been more vigorous efforts by this country and other responsible countries to curtail the resources being made available to the terrorists.

It is not solely a question of passing new laws, although tougher legislation is being drafted, Administration officials have been reluctant to use laws already on the books that could help dissuade countries that have been providing assistance to the terrorists.

For example, the State Department recently approved the sale of an executive jet airliner to Libya, a nation which is a major supporter of extremist terrorist groups. That type of aircraft, with a range of seven thousand miles, is extremely useful in helping terrorists move from one country to another or helping them smuggle in terrorists. I made this point in a letter to the State Department on February 16.

The Department replied that the executive jet has "little potential to be employed in any militarily significant fashion by the Libyans." Apparently transportation of terrorists is not militarily significant in the State Department's view.

To the Department's credit, export licenses for two other passenger planes and for maintenance of C–130 transport planes were turned down. But that does not justify the sale of the executive jet.

It is regrettable that officials who are supposed to be concerned about terrorism would approve such a sale. In its reply, the State Department said the sale signals that "we are not trying to prohibit all bilateral commercial exchanges, an important point in view of our major economic interests in Libya." Even if one accepts that point—and I'm not sure I do—there are other items we can continue to sell them rather than a plane so ideally suited for sneaking terrorists and weapons past the customs inspections which are slack at many airports.

I opposed the sale not because I thought the executive jet was potentially useful in military operations but because it could be so handy for terrorist operations.

I urge the President to reconsider the sale and refuse to allow the plane to be delivered until there is an across-the-board halt to Libya's support for terrorists. Citing Libya's recent refusal to allow hijacked planes to land there is not a sufficient sign of progress for they may have merely been trying to avoid bad publicity. It is the clandestine activities which cause more concern.

Another example of the State Department's mixing of signals concerns the financial support for the PLO which issued press statements saying that Al Fatah, its military arm, conducted the March 11 attack in Israel.

More than two months ago, on January 1, Al Fatah representative in Saudi Arabia made a broadcast on the government-controlled Saudi Arabia radio thanking the Saudis for providing more than $42 million of aid to his group last year. There had been earlier press reports that the Saudis had been providing millions of dollars in aid to the PLO. Since President Sadat's courageous trip to Jersusalem last November there also have been reliable reports from a number of sources that the PLO was planning to take a more activist role. Yet, according to reports in the Washington Star and by the Associated Press, the top American official in Saudi Arabia said last week that he did not know of any effort to ask the Saudis to stop bankrolling the group.

Our Ambassador, John West, also was quoted by the Associated Press as saying the Saudis denied they were contributing to terrorist organizations of any kind. If he does not know that Al Fatah is a terrorist group.

he should spend more of his time in Washington getting briefed instead of trying to persuade members of Congress to approve selling 60 F-15's by telling them that the Saudis are backing moderate forces in the Middle-East.

Tuesday, the Assistant Secretary of State for Near Eastern Affairs, Mr. Alfred Atherton, told the Senate Foreign Relations Committee that the U.S. had raised the funding issue with the Saudis over a period of years, including "quite recently."

There is reason to believe that the "quite recently" meant since this weekend after the PLO publicly admitted its role in terrorist activities.

From comments made by State Department and Saudi officials, it is obvious that the Saudis—at least so far—are turning down the approaches made to them regarding their funding of the PLO.

Mr. President, I am well aware of the frustrations in trying to counter terrorism and of the limits to what we can do to prod nations to stop giving assistance to international terrorists.

The Senate Foreign Relations Subcommittee on Foreign Assistance, of which I am the ranking Republican member, has held hearings on the issue and will hold more. The Senate Committee on Governmental Affairs already has held hearings on Senator Ribicoff's omnibus anti-terrorism bill which I co-sponsored. It is my hope that the Senate Foreign Relations Committee will have an opportunity to act on it soon.

There are, however, existing laws which can and should be used more vigorously. I would like to point out in particular an amendment added to the Export Administration Act last year and signed into law by President Carter, which declares that it is national policy to use export controls to encourage other countries to take immediate steps against international terrorism. This section reads:

"(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls."

I interpret the word resources in subsection (8) to include financial resources.

Mr. President, it is time that officials make more vigorous use of the laws, particularly when it comes to trying to cut off aid to outlaw groups which violate all standards of humanity by deliberately slaughtering as many people as possible.

I have no doubt that some Administration officials will find all sorts of excuses for not wanting even to consider using export controls.

The Administration faces a key test of its seriousness in opposing terrorism with action instead of words. The test cannot help but influence whether Congress will go along with the discretionary phrases of "wiggle room" the Administration will want when Congress acts upon future anti-terrorism legislation designed to close the existing loopholes.

Mr. President, with this background in mind, I am introducing, with a number of my colleagues of both parties, a resolution (S. Con. Res. 72) calling on the President to take additional actions to combat international terrorism.●

SENATOR CULVER TESTIFIES ON RURAL HOME REPAIR PROGRAM

● Mr. EAGLETON. Mr. President, on April 20 the Senate Appropriations Subcommittee on Agriculture and Related Agencies held hearings on the fiscal year 1979 budget for agricultural and rural programs, including the Farmers Home Administration (FmHA) section 504 rural home repair program. As chairman of the subcommittee, I was very interested to note the statement of Senator JOHN CULVER which strongly endorsed the proposed increase in funding for this FmHA low-income home repair program.

Senator CULVER represents the State of Iowa, a State with strong agricultural and rural ties, and with the third highest proportion of senior citizens among the 50 States. Throughout his years of service in the Senate and House, Senator CULVER has been a strong defender of the interests of rural Americans. In his persuasive testimony he cites some disturbing statistics about the high incidence of substandard housing in our rural areas, and he relates the important role these FmHA home repair loans and grants can play in aiding many low-income rural homeowners.

Senator CULVER's statement will be very useful to the Appropriations Subcommittee on Agriculture and Related Agencies, and I believe that my colleagues can benefit from it as well. I ask that Senator CULVER's statement be printed in the RECORD.

The statement follows:

FMHA SECTION 504 RURAL HOME REPAIR PROGRAM

(Statement of Senator JOHN CULVER)

Mr. Chairman, I wish to express my strong support for President Carter's proposed fiscal year 1979 budget increases for the Farmer's Home Administration Section 504 Rural Home Repair Program. I believe the FmHA home repair grants and loans fulfill a vital function in aiding the rural elderly and poor, and these significant funding increases are long overdue.

The incidence of substandard housing in rural areas is some 3½ times greater than that in urban areas. The 1976 U.S. Housing Survey revealed that 1.8 percent of all occupied housing units in urban areas lacked some or all plumbing, contrasted to the 7.1 percent of rural housing units which lacked plumbing. Of the 23 million rural housing units in the U.S., fully 4.2 million suffered from one or more structural deficiencies, and 1.6 million lacked some or all plumbing. This means that rural America has less than 30 percent of the population, but suffers nearly 40 percent of the poverty and 60 percent of the substandard housing.

In the homes we are talking about may be found dilapidated conditions even beyond the imagination. They include shanties without paint or shingles; shacks lacking electricity or running water; old homes with leaky roofs, broken windows, and no insulation, which are impossible to heat; rundown houses with exposed wiring and holes in the floor which pose serious hazards to the children and adults who occupy them; and structures with shaky steps, weak porches and falling plaster. For some low-income rural Americans, however, these places are home, because there are no realistic alternatives and they have no money to afford better housing. These are the people who need assistance to make their homes as decent, livable and safe as possible.

Recent funding levels for the FmHA home repair program of $5 million for grants and $15 million for loans have been sadly inadequate. President Carter's proposal to appropriate $24 million for grants and $24 million for loans is a step in the right direction and a promising recognition of the value this program can have in helping low-income rural Americans. With poverty and dilapidated housing so prevalent in rural areas, the potential for this type of repair assistance has scarcely been tapped. I have had the opportunity recently to see firsthand how this FmHA home repair program operates in Iowa, and I am convinced it deserves these funding increases at a minimum. Even at the proposed budget levels, no more than 20,000 low-income rural homeowners will benefit from this program.

As you know, Mr. Chairman, the basic qualification for Section 504 assistance is the financial inability to qualify for either credit from conventional sources or FmHA Section 502 rural home loans. While the maximum grant or loan available through this Section 504 program is $5,000 per family, the average loan or grant is about $2,600. The loans are in the form of long-term one percent annual interest loans for those who can afford to pay off the debt, and the grants are utilized only for low-income elderly homeowners who are unable to pay back a loan. Sometimes a combination grant/loan is found to be appropriate for an elderly homeowner.

The repairs that may be made under this program include such items as leaky roofs, crumbling foundations or chimneys, faulty wiring, insufficient plumbing, broken windows, missing floorboards, inadequate insulation or furnaces, and deficient doors and porches. Much of the labor for these activities is provided through the Department of Labor's CETA program, but for some of the more specialized jobs, private contractors are utilized.

Any homeowner living in a community of 10,000 people or less (or some communities between 10,000 and 20,000 population which are not close to a major metropolitan area) who does not qualify for other FmHA home loans may be eligible for Section 504 assistance. In my own state of Iowa, 43 percent of our citizens live in rural areas or towns of 2,500 or less, and another 14 percent live in towns of 2,500 to 10,000 population. If the proposed funding was appropriated, roughly 500 low-income rural Iowans could benefit from this program during fiscal year 1979.

Mr. Chairman, I believe there are few needs more basic than decent, weather-tight housing with adequate plumbing. The number of dilapidated homes without plumbing in our rural areas is very disturbing. The need for this type of rural home repair assistance is pressing, and I urge your Subcommittee to give favorable consideration to President Carter's budget request for $24 million each for FmHA Section 504 grants and loans.●

THE SENIOR INTERN PROGRAM

● Mr. TOWER. Mr. President, this is my second year of participation in the senior intern program, and my staff and I again feel fortunate to enjoy and profit from the rewarding experience of becoming better acquainted with two very active and dedicated Texas community leaders, Mrs. Naomi Moore of Lubbock, and Mr. Charles Johnson of Beaumont.

Mrs. Moore, aged 75, served as a teacher in the Lubbock Independent School District before joining the speech department of Texas Tech University. After

"retiring" from teaching, she began working in the Small Business Administration's Service Corps of Retired Executives (SCORE) Office, where she is presently employed as a secretary. Mrs. Moore has written a booklet entitled "How Do You Know You're Old?", which is currently in its fifth printing, and which speaks extensively on the subject of how to age gracefully and happily. Mrs. Moore serves as president of her local study club and has been active in the International Platform Association, Scouts of America, Camp Fire Girls, Writer's Group, Symphony Guide, Theatre Guild, and Friends of the Library.

Mr. Johnson, who is accompanied by his wife Elizabeth during his stay in Washington, is 73 and is retired from Mobil Oil after serving years in numerous capacities, including night superintendent of the Beaumont refinery. He is now actively involved in community and senior citizen affairs, serving in the United Appeals Drive and on the Volunteer Services Council.

He served for 2 years as president of Beaumont Chapter No. 406 of the American Association of Retired Persons (AARP) and is currently serving as AARP assistant State director of southeast central Texas. As assistant State director, Johnson is directly responsible for 16 senior citizen chapters in 10 counties, with over 2,500 members.

There is a real need in the Congress to involve ourselves with the elderly and give them the opportunity to involve themselves with us. Recent passage of Senate Resolution 219 which I was pleased to cosponsor, insures the continuation of the worthwhile senior intern program. It is a program that has provided an invaluable learning experience for all involved. For the interns, I am hopeful the Government will become less remote, more real, more responsive. At the same time, this program affords a learning experience for the participating congressional office by opening a new channel of communication with older Americans and their elected representatives. We are given the opportunity to learn more about the problems and concerns of people in this age group, and we will hopefully respond by designing our legislation to understand the needs, and solve the problems of the aged.

This Nation is finally beginning to realize that citizens such as Naomi Moore and Charles Johnson, provide the foundation, the enduring strength of our society. I welcome them to Washington and look forward to our working, and learning together in the coming days.●

ECONOMIC BENEFITS OF PRESERVATION

● Mr. LEAHY. Mr. President, over the past months I have spoken on many occasions of the economic, cultural, and social benefits of historic preservation. With the recent administrative reorganization, the Federal preservation program has been placed under the direction of the Heritage, Conservation, and Recreation Service in the Interior Department. Thomas D. Bever, an economist at HCRS, prepared the following economic analysis of preservation benefits. In it, Mr. Bever cites examples of high labor intensity, private sector stimulation, revitalization of downtowns, housing rehabilitation and resource conservation which demonstrate some of the economic benefits of historic preservation.

Despite this proven promise, we in the Congress have not supported the Federal program as strongly as the issue and situation warrant. I am hopeful that this year, during the appropriations process, we will agree to fund the program at the level of $100 million. Even that level of support will not meet the demonstrated need around the country, but it would be a move in the right direction. According to a survey done by the Conference of State Preservation Officers, the backlog of requests to the States is at the very minimum $300 million. It is important to remember that each Federal dollar must be matched by the States or local entities, public or private. As Mr. Bever's analysis points out, Federal preservation funds leverage far more than that 1-to-1 ratio. I commend it to my colleagues because it is clear evidence that preservation and reuse is a process which can benefit all segments of our society.

The analysis follows:

THE ECONOMIC BENEFITS OF HISTORIC PRESERVATION

(By Thomas D. Bever)

There is a movement growing in this country, a movement that offers a solution to problems of unemployment, inflation, poor housing, dying inner cities, and depressed small towns. It provides an alternative to the high cost of housing. It offers an alternative to urban renewal. The movement goes by the various names of historic preservation, heritage conservation, neighborhood revitalization, adaptive use, and rehabilitation. But the concept is not as elusive or as sophisticated as its various titles attempt to convey. In practice, it is simple; take an old building, fix it up, and use it.

This movement of rehabilitating old neighborhood houses or adapting old commercial buildings for new use is not limited to any particular region of this Nation. The large cities of Boston, Atlanta, Dallas, Denver, and San Francisco are experiencing it. Medium size cities like Savannah, Georgia, are experiencing it, as are small towns such as Burlington, Vermont. Ghetto areas like New York's Bedford-Stuyvesant have witnessed healthy neighborhood revitalization through the rehabilitation of existent houses and shops.

Historic preservation is not by any means limited to museum work. To be historic, a structure need not be a place where a nationally prominent figure lived, died or slept. A building is historic if it exhibits an architectural style that records an era, a part of our heritage that we wish to conserve. Because of this, the extent of historic preservation work has broadened to include a full range of older buildings.

Why is historic preservation successful? To some extent, the reasons are social. Modern houses oftentimes lack character and detail in their architecture, are located in neighborhoods without any sense of neighborhood, and are void of simple amenities such as trees, sidewalks and porches. Modern commercial buildings are built larger than human scale; their architectural style is intimidating, repetitive, and boring. There are good reasons other than the crime rate that explain why people do not stroll around their neighborhood or downtown areas in the evening.

In addition to giving people a sense of time, place, and meaning in terms of where they live, historic preservation has been successful for purely business reasons—it costs less to rehabilitate a building than to construct a new one, and these preserved buildings compete successfully in the marketplace. Some of the most important benefits to society from preserving and adapting our built environment are economic; providing jobs, stimulating business activity, revitalizing downtown areas. These are not the only economic benefits that come from historic preservation, nor will such benefits accrue in every preservation or adaptive use project. They have simply been demonstrated to repeatedly occur in the past. These issues—of employment, private sector stimulation, neighborhood revitalization, resource efficiency and available financing—are considered here as substantive economic benefits from the movement.

1. EMPLOYMENT

Rehabilitation projects are as high as 75% labor intensive, compared to 50% for new construction projects, according to an October 1977 report "Conservation of the Urban Environment" by the Office of Archeology and Historic Preservation, U.S. Department of the Interior.[1] This is not only important in terms of the employment potential of historic preservation, but also in terms of an individual project's multiplier impact on a local economy. Dependent on the size and sophistication of a locality, a higher proportion of construction materials will come from outside the area than will construction labor. For funds that are spent in a local economy, a higher percentage of funds remain as a stimulant in that locality from projects that are labor intensive. Thus, funds utilized in historic preservation projects have greater impact on employment than funds used in the construction of new buildings such as hospitals, schools, and office buildings because of (1) the greater labor intensity of preservation projects, and (2) through this labor intensity, the higher multiplier. The Advisory Council on Historic Preservation analyzed projects funded under the Economic Development Act and found that demolition and new construction yielded an average of 70 jobs per one million dollars expended, while renovation, including historic preservation, created 109 jobs per million dollars.[2] In a separate study, the State of Vermont's Division of Historic Preservation found that over 400 new jobs would be created at a cost of approximately 3 million dollars for a recent historic preservation project; that is a labor intensity approaching 80 percent.[3]

According to testimony of the General Services Administration in support of the Public Buildings Cooperative Use Act (S. 865), May 19, 1975, before the U.S. Senate Subcommitee on Buildings and Grounds, rehabilitation creates two to five times as many jobs as new construction for a given expenditure of money. This is enhanced by the fact that the highest concentration of the unemployed tend to reside in those areas with the highest concentration of old structures.

The Downtown Development Corporation of Rutland, Vermont, was granted $350,000 from the Department of Commerce's Economic Development Administration for an historic preservation project, which was matched by a $180,000 loan fund created by six local banks. This original $350,000 grant is expected to generate $1.1 million in con-

struction and related activities by the spring of this year.[4] The equivalent of 60 full time jobs will be created for a period of 18 months; 60 jobs represent approximately 3 percent of the county's unemployed work force. Welfare for 60 people would have cost $360,000. Thus it cost less to provide 60 jobs through an historic preservation project than to provide 60 persons welfare. In this case in Rutland, 24 of the individuals who were actually workmen on the project came from the ranks of the unemployed.[5]

Rehabilitation can be a training ground for a community's unemployed. In Brooklyn's Bedford-Stuyvesant area, one of the largest ghettos in the United States, a community development company titled Bedford-Stuyvesant Restoration Corporation runs a program rehabilitating facades and walkways in the neighborhood. Through this program, welding, masonry, and painting are taught to be neighborhood's unemployed. Thus far, 13,074 houses on 86 blocks have been refurbished and 3,351 men have gone through the training program, at a cost of only $3 million.[6]

2. PRIVATE SECTOR STIMULATION

The rehabilitation and adaptive use of old buildings has been shown to be a wise investment by the private sector. First, in recent years, the costs of building materials have increased more than labor costs, causing rehabilitation and adaptive use work to be less influenced by inflation than new construction. Second, reusing an old building saves on demolition costs, which in dense city areas can run as high as 10 percent of total construction costs.[7] Provisions of the 1976 Tax Reform Act disallow the tax deduction previously available for demolishing buildings listed on the national register. Third, whereas new construction takes up to two or more years on the average to complete, rehabilitation oftentimes takes less than a year. Fourth, renovation can take place throughout the year, because the construction work is already shielded from the weather. Portions of a rehabilitated structure can be completed and rented out while work is being done to complete others, whereas new construction projects have to be virtually finished before space is rented. Fifth, dramatic increases in the price of land on the urban fringe is diminishing the previous cost advantage of new construction on undeveloped land. Finally, the new Tax Reform Act allows all rehabilitation costs on historic structures to be written in 5-year depreciation schedules.

Rehabilitation structures for adaptive use can more than compete with modern new construction. The Old Faneuil Hall in Boston has been rehabilitated into a variety of new shops; modern shopping centers usually gross $100 per square foot annually in sales, whereas Faneuil Hall gross $300.[8] The Chicago Bridge and Iron Company purchased a 3,400 unit development of World War II housing near Washington, D.C., converting these townhouses and apartments into luxury condominiums. According to the Harvard Business Review, the pretax profits margins for this project were between 12–14%, which includes the acquisition costs of all land and buildings.[9] Stanford Court, a dilapidated apartment complex in San Francisco, was adapted to a luxury hotel at a cost of $22,000 per room (comparable to other first class hotel construction costs). In 1975, seven years after the hotel opened, occupancy exceeded 70% and the average daily room rate exceeded $50. House profit for the year 1975 was 30% and in that year, the hotel generated a positive cash flow.[10]

A small amount of investment in historic preservation programs strongly stimulates private sector investment. In Charleston, the Historic Charleston Foundation utilized $100,000 of seed money in a revolving fund to rehabilitate $4 million worth of homes, which in turn has stimulated $18 million in private investment restoration work.[11] In Savannah, the Historic Savannah Foundation saved 800 primarily abandoned structures from 1959–69 in an entirely private effort through a revolving fund; $1 million in raised funds along with $5 million in borrowed funds affected $100 million of private investment in restoration, along with $40–$50 million in other downtown facilities (a new Civic Center, a River Front, Plaza, etc.).[12] Since 1967, $7 million of investment by Mount Auburn Housing Foundation in their Cincinnati neighborhood has caused $35 million of private funds to be invested.[13] Such levels of business stimulation demonstrate that historic preservation may be a prime area for the Federal government to facilitate private sector job creation, as has been advocated by President Carter.

Rehabilitation costs per square foot are often significantly less than the costs of new construction.

Case studies presented at the National Trust for Historic Preservation conference on the "Economic Benefits of Preserving Old Buildings" demonstrated that the cost of rehabilitating old structures generally runs 25%–33% less than comparable new construction.[14] In those cases where the costs were equivalent, the preservation project provided greater amenities—time saved in construction, more space in either height or volume, or the right location. These amenities frequently produced other economic benefits to a developer through higher occupancy rates and rents. In addition, rehabilitation oftentimes bypasses lengthy development review processes, local neighborhood opposition; and zoning delays.

According to a recent article in the Harvard Business Review: "A high-rise office building that cost $40 per square foot in 1967 could cost as much as $80 per square foot to replicate today. The average renovation cost now ranges from $15 to $40 per square foot, depending on the quality of the finish. Therefore, if this building can be purchased for less than $40 a square foot, space in the refurbished structure could be offered at a lower cost than comparable space in a new building." [15]

In downtown San Antonio, the Alamo National Bank recycled its 23-story 1930's landmark building at a cost of $38 per square foot, whereas similar new construction would have cost $70 million. The job was finished in only 14 months.[16] The costs of rehabilitating the Pioneer Building in Seattle was less than $19 per square foot, compared to more than $30 for new construction of similar quality. In Maynard, Mass., the Digital Equipment Corporation owned a 19th century textile mill that used to produce blankets for Civil War troops—the company converted it to both corporate offices and modern manufacturing facilities to produce computer hardware. The cost? Fifteen dollars per square foot, about half that of new construction.[18] In Tacoma, Washington, the old City Hall has been adapted to house 30 new businesses on five floors and will eventually add 20 more shops and restaurants; the cost of conversion was $5–$8 less per square foot than new construction.[19] In Baltimore, Maryland, the city's professional theater company Center Stage rehabilitated the old Loyola College and High School into their new auditorium-theater complex. A new theater would have taken 2–3 years to build and cost $2.5 million, whereas recycling the school took less than a year and cost $1.7 million.[20]

The Advisory Council on Historic Preservation states in its report "Adaptive Use: A Survey of Construction Costs" that: "The Survey indicates that demolition costs inside the buildings being recycled are minimal, normally only 1–4% of the total project costs. Structural costs are also low, normally varying from about 5–12% of the total project cost, which is less than half the average expenditures for new construction. This reflects the fact that little structural work is normally required when reusing an old building. Architectural costs vary above and below the average for new construction. Generally, in projects where the maximum effort was made to reuse the existing interior and exterior materials, the costs are substantially below those for new construction." [21]

3. REVITALIZATION

Rehabilitation has been an effective tool in revitalizing urban areas. In the Pioneer Square Historic District of Seattle, Washington, a combination of private investors, local and Federal grants have succeeded in retaining the impressive victorian architecture of the area, and in the process, have revitalized the Square as a center of the city's commerce. According to the city's Office of Urban Conservation, the historic preservation work caused the total assessed valuation of lands and buildings in Pioneer Square to increase 114 percent between 1969–1976, compared to a 79 percent increase for the city as a whole. The total value of building permits issued for alterations in the period 1971–1976 was 800 percent higher than in the period 1965–1970. In 1974 there were 100 retail businesses in the district—in 1977 there were 187.[22] This recycling of the former skid row area into Pioneer Square revitalized the entire depressed area and increased the surrounding neighborhood's tax base by 1000 percent.[23]

The Advisory Council on Historic Preservation reported that the Trolley Square Project in Salt Lake City was completed for less than $19/square foot and combines stores, shops and restaurants in a shopping area that provides a market for regular visits by the residents of the neighborhood. The Report states that in addition to these services, "Trolley Square has stimulated the rejuvenation of the surrounding neighborhood. Typified by deteriorating housing stock, the area is new experiencing revitalization with new people moving in and renovating houses throughout the area." [24]

4. RESOURCE EFFICIENCY

ERDA conducted a study that determined rehabilitation consumes 23 percent less energy than new construction; in 1967, the base year studied, it took 49,000 BTU's per square foot to rehabilitate a structure compared to 65,200 BTU's per square foot to build it new.[25]

Historic preservation is resource efficient. and responds to the contemporary demands of natural resource scarcity. This is the other advantage of rehabilitation's labor intensive nature. That is, since rehabilitation is 75 percent labor intensive, to provide a given amount of usable residential or commercial floor space, fewer natural resources are utilized in the production of physical capital goods (wood, metals, etc.).

5. AVAILABLE FINANCING

Private and local matching funds are readily available for State and Federal grants in historic preservation. When the State of Vermont received an historic preservation grant of $1,200,000, the State was able to attract over $2,000,000 in private and local matching funds, almost twice what the Department of Commerce's Economic Development Administration requires under its 50/50 matching requirements.[26] In Philadelphia, 13 banks have united under a mortgage plan to provide loans to people seeking houses in older neighborhoods.[27]

Footnotes at end of article.

CONCLUSION

The market for historic preservation work is not an insignificant one. The 1978 Buildings magazine estimates that the modernization market in the private sector alone was more than $10 billion. Building Design and Conservation magazine reported in March 1977 that rehabilitation of non-residential buildings, of which historic preservation is a part, has increased from 13.5% of the market in 1970 to almost 25% in 1977 representing approximately $20 billion in construction.[28] The Bureau of Census reported that rehabilitation of residential property may reach 38% of the market, an expenditure of $32 billion. Together that accounts for $52 billion, or 32% of all construction activity.[29]

It appears evident that opportunities exist for the rehabilitation of old buildings in almost every city and many towns across this country. A wide variety of businesses and individual citizens have found strong economic advantage in utilizing the built environment that already surrounds them. But further than this, the current economics of the marketplace have provided a situation that naturally assists in diminishing the national problems of unemployment, the inner city, and a stagnant economy. Unfortunately, the opportunities offered by historic preservation cut across the grain of traditional growth as Americans have witnessed in the past. It is not so much expansion, as it is visible improvement. Nonetheless, this visible improvement of our residential and commercial environment is not only valuable in aesthetic terms, but in terms of real national growth in the economy, in terms of employment growth, in terms of providing for increased corporate profits, and in terms of providing increases in individual home ownership.

Historic preservation is an area the Federal government has not had to substantially subsidize, like urban renewal. Instead, Federal funds have been used for their most effective purpose—as seed money to get a project started, later allowing the private sector to take its place. Furthermore, the previously mentioned changes in the 1976 Tax Reform Act demonstrate how governments can remove disincentives that discourage private entrepreneurs from entering into the business opportunities afforded by historic preservation.

Historic preservation is not by any means the answer to all our social and economic problems. But in numerous cases, throughout the country, it has demonstrated itself to be one positive response to such problems. It has rewarded those individuals who have given it an opportunity in the marketplace. Historic preservation is an opportunity, a unique one, that demands the attention of any creative businessman, public policy decision-maker, and individual citizen.

FOOTNOTES

[1] Office of Archeology and Historic Preservation. "Conservation of the Urban Environment." Report to the Secretary of the Interior. Washington, D.C. 1977.

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HARRY JOHN MILLER II OF SCOTTSDALE, ARIZ.

● Mr. GOLDWATER. Mr. President, on May 15, Harry John Miller II, of Scottsdale, Ariz., was presented with the Recording for the Blind's 1978 Scholastic Achievement Award as one of four outstanding college graduates. Johnny Miller has been blind since 18 months of age. He was graduated magna cum laude from Arizona State University in Tempe, Ariz., with a bachelor of arts degree in history. Johnny has an avid interest in music and has been a member of the university's Men's Glee Club, Concert Choir, and his local church choir, where he sings every Sunday. He also frequently sings with local hotel bands in the Scottsdale area. He is an ardent sports fan with a particular interest in swimming, which he manages to do on a daily basis. Johnny was accepted for early admissions at Arizona State Law School and will attend in the fall. He plans to major in canon law and someday hopes to go into the Catholic priesthood.●

GEORGE C. MARSHALL RESEARCH FOUNDATION ANNUAL DINNER

● Mr. JACKSON. Mr. President, I had the good fortune to attend the dinner of the George C. Marshall Association on April 4 of this year. This dinner has become one of the significant annual events in Washington, D.C., celebrating the significance of the Marshall plan legislation and its author, General Marshall—Chief of Staff, General of the Army, Secretary of Defense, Secretary of State, citizen, and recipient of the Nobel Peace Prize.

Our distinguished Secretary of War Henry L. Stimson said in his valedictory remarks on September 1945:

General Marshall's devotion to the Nation he served was a vital quality which infused everything he does. During the course of a long lifetime, much of it spent in positions of public trust, I have had considerable experience of men in government. General Marshall has given me a new gauge of what such service should be. The destiny of America at the critical time of its national existence has been in the hands of a great and good citizen. Let no man forget it.

We will not forget it.

I am honored to be able to bring the remarks of the 1978 annual dinner to a wider audience. William McChesney Martin served as our delightful host, and talks were given by Congressman ZABLOCKI, Francis Wilcox, and Senator Henry Cabot Lodge. I ask that these remarks be printed in the RECORD.

The remarks follow:

THE GEORGE C. MARSHALL RESEARCH FOUNDATION ANNUAL DINNER COMMEMORATING THE FIRST MARSHALL PLAN LEGISLATION

Mr. MARTIN. I want to say a word about these dinners. This is the third Annual Dinner of the George C. Marshall Associates. And these dinners could never have started or could never have gotten where they are today except for the dedicated work of General Lucius Clay. We all regret that General Clay could not be here tonight. (Applause.) Bob Lovett, of course, has been a key supporter of the Foundation from the beginning and our trustees and a lot of others have been of great importance to our development. We are sorry Bob could not be here tonight, but we are delighted that so many of the rest of you could. I think that these dinners have developed into something unusual in Washington.

I had a friend of mine who could not be here tonight—I promised I wouldn't quote him by name—tell me that he had been coming to dinners for a long time in Washington and there was only two that he really enjoyed; one was the Gridiron Dinner and the other was the Alfalfa and he said: Now I have added the Marshall Dinner.

I think it is a nice dinner because it has a happy state of nostalgia in it, and out of the perspective of this nostalgia we get a constructive feeling of hopefulness about the future.

(Applause.)

I want at this juncture to say that we had the help of Mr. Horace R. Kornegay, who is the President of the Former Members of Congress, in inviting members of the 80th Congress who worked on the Marshall Plan legislation to be with us tonight. Not too many could be here, but those who are here, I would appreciate it if they would stand up.

And before I go any further, I would like to say that no organization has been more fortunate than this one in having a dedicated, intelligent, conscientious, thoughtful, devoted helper in Ambassador Fred L. Hadsel. He has done yeoman service for all of us.

(Applause.)

Our first speaker, who is going to give us a few remarks, is Congressman Clement Zablocki. He has been on the International Relations Committee of the House longer than anyone else there, and is now Chairman. It gives me a great deal of pleasure to present him. We would appreciate it very much, Mr. Zablocki, if you would give us a few remarks.

Mr. ZABLOCKI. The First Marshall Plan Legislation, A Personal Perspective:

It is indeed an honor and singular privilege to celebrate with you the 30th anniversary of the passage of the first Marshall Plan legislation and to pay tribute to the public service of General of the Army George Marshall and members of the Marshall Association. Celebrating my own 30th year of service in the Congress, I have a special affinity for this much more significant milestone in the history of western civilization.

While 1977 marked the third decade since the Marshall Plan was first conceived and proclaimed, 1978 marks the anniversary of its enactment into law.

We have already paid tribute to the "bold and creative promise" inherent in General Marshall's historic address at Harvard on June 5, 1947. The House has also recognized this extraordinary act of statesmanship and vision by passing H.R. 9165, authorizing the Secretary of State to acquire a statue or bust of the General for placement in the Department of State. I hope and trust that the Senate will soon favorably act upon the resolution.

As a legislator and politician who has been around for a few years, I cannot refrain from noting that between the conception and the implementation—there is often a world of difference. (And I believe that after one year in office, President Carter would support me in that judgment!)

Getting the first Marshall Plan, legislation passed was not an easy task, and there were a few rough moments . . . It required patience, determination, and a sense of common purpose among bipartisan supporters in that effort are present this evening such branches of our government. I am pleased to note that several of you who participated in both the executive and legislative as Averell Harriman, Ty Wood, and others. Let me say, I will not reveal your present ages, but we will never forget your contributions at a time when they were truly needed.

In the intervening years, the Marshall Plan has been studied, analyzed, and examined in great detail as a model for other areas of the world. To some, it represents a unique program of foreign assistance in that it obviously worked. Results were tangible, discernible and dramatic. The recovery of war-ravaged countries with an industrial base, a skilled and educated population, and modern technical know-how is, we have learned, a far more rapid process than is the development of traditional, agriculturally-based economies.

Today, in fact, those early recipient-nations of Marshall Plan assistance, including two of our former enemies, are among our most intense commercial competitors. Under these circumstances, there is a temptation, at times, to conclude that too much recovery can be a dangerous thing. On occasions like this, however, it is well to consider what the original Herter Report of 1947 referred to as the "alternative in terms of human lives, human misery and human slavery . . ." It behooves us to consider what our economic, political and security prospects might have been by the beginning of this decade had there been no George Marshall and no Marshall Plan.

Finally, my friends, as we look to the future, I would like to leave with you a quote from the late, always-quotable, Hubert Humphrey. In testifying before our Committee on International Relations, he summarized some of the challenges now confronting the institutions of the Atlantic Community—institutions which the Marshall Plan brought into being. He said:

"The past three decades have witnessed the tremendous success of NATO. Not only has NATO withstood the threat from without, it has minimized the likelihood of conflict within. However, even the most satisfying achievements cannot dispel the need for reassessment and renewal. We are no longer the world of 1947, or 1957, or 1967. Today, the scope of problems is broader, the challenges greater, and the risks more severe. Economic uncertainty and a sudden awareness of vulnerability to worldwide market forces have weakened the self-confidence of the advanced industrialized societies.

"Institutions conceived 30 years ago must now meet the requirements of a new era. We cannot leave to chance the resiliency and dynamism that will propel these institutions toward renewed purpose and viable goals. Periodically, therefore, we must undertake with serious resolve a reappraisal of our institutions to assure their survival . . ."

Ladies and Gentlemen, there is not much more that I can add to this eloquent statement. In memorializing the passage of the first Marshall Plan legislation, we are reminded, not only of the problems of this decade—questions of nuclear balance and arms control—of economic prosperity or global recession—or of the survival of the concept of individual human rights and liberties . . . We are also reminded of the unfinished work which lies ahead during the remainder of this century if what the Marshall Plan began is to prevail.

To meet these global problems, we need all of the leadership, perseverance, and dedication we can muster—qualities which are so prominently represented among this audience tonight.

The threat to western democratic traditions and values—which was clearly perceived during the early years of the cold war—remains essentially intact—although it is less visible, less dramatic and, to a generation unfamiliar with armed conflict, less immediate. But the challenges confronting Europe and the United States, not only in the military field, are more formidable and complex than at any time since the end of World War II.

For example, the multilateral trade negotiations currently in progress in Geneva are of crucial importance to the United States and the European Community, but the search for a viable compromise promises to be a most difficult task. Ultimately, it will confront Congress with some very painful decisions.

Similarly, the nuclear energy issue—involving the adequacy of safeguards and nuclear waste disposal procedures—has already demonstrated a potential for divisiveness within the Atlantic community, and this is only the beginning. . . .

As our leaders, both in the Administration and the Congress, address these matters in the months ahead, they will need the understanding, support and wisdom of individuals such as you who are assembled here this evening—from across the nation. Let me close by promising you that I will do all in my power to ensure that your voices—the voices of experience—are clearly heard.

Thank you very much.

Mr. MARTIN. We are very fortunate to have here one of the unsung heroes, in my judgment, of Washington, Fran Wilcox. He was the Chief of Staff of the Senate Foreign Relations Committee. He was always a modest, quiet individual who never pushed himself forward, but who made many contributions in Washington, not the least of which was to help shepherd successfully through the Foreign Assistance Bill that created the Marshal Plan.

He then took over, with Christian Herter, and started the School of Advanced International Studies of the Johns Hopkins University and has been a stalwart there. Now he is the Director General of the Atlantic Council. We are very fortunate to have Fran Wilcox here tonight, who is going to give a few remarks.

Mr. WILCOX. The Marshall Plan: Some Reminiscences from Capitol Hill:

It is both an honor and a personal privilege for me to be here tonight. It is an honor because the Marshall Plan has proved to be perhaps the most imaginative, and the most successful foreign policy the US has launched in the post-war period. It is a personal privilege because I have fond memories of those days and nights and week-ends when I worked with the Congress during one of the most constructive periods in American history.

This is neither the time nor the place for a long, scholarly address. I recall what George Marshall used to say—"nobody ever had a good idea after 3 o'clock in the afternoon." With your permission, however, I would like to reminisce a little about the bipartisan foreign policy and how the Marshall Plan was handled on Capitol Hill, and then suggest what I think would be a good way to celebrate this 30th anniversary.

The Marshall Plan was a political miracle. 1948 was not an ideal year to bring anything like the Marshall Plan to Capitol Hill. The White House was controlled by the Democrats but the Republicans were in the driver's seat in Congress. With the elections only 10 months away Congress was obviously interested in such things as the economy, tax cuts and reduced government expenditures. In these circumstances no one in his right mind could expect Congress to be interested in a $17 billion program—especially a foreign aid program.

But things are never quite as bad as they seem in Washington. One reason the Marshall Plan emerged so successfully, lay in the fact that the Congress handled remarkably well the pressure groups that descended on Capitol Hill like a swarm of locusts. The wheat farmers wanted to sell their wheat, and the millers wanted to make sure that a certain portion of it was ground in American mills before it was sent abroad. The tobacco growers wanted to send their best burley to their customers in Europe. Then there were the dried eggs interests, the coal mine owners, the fruit growers and other pressure groups that wanted to protect their particular interests. American shipowners insisted that 50 percent of the goods be shipped in American bottoms—and of course our marine insurance companies wanted to insure the cargoes with American insurance.

The amazing thing was that most of these interests were accommodated—with resultant votes for the Marshall Plan on the Senate floor—without doing harm to the program. The Marshall Plan proved that where there is a will there is a way—or to put it in other terms—compromises are still an essential part of the legislative process.

In many ways the Marshall Plan displayed Congress at its very best. They took a program they did not want and, with excellent leadership and a thorough-going study, they eventually became convinced it was in the national interest. In the Senate they turned an impossible achievement into a 69–17 vote.

One fundamental lesson a staff member soon learns is the tremendous importance of votes in the life and death of a member of Congress. Senator Tom Connally's reaction to a visit paid him by the Ambassador from Greece in 1947 is illustrative. The Senator was closeted with some important—and I suspect well-to-do—constituents from Texas.

When I informed him that the Ambassador had stopped by to thank him for his leadership in securing congressional approval of the program of aid to Greece and Turkey, the Senator replied: "Hell, there are not any votes for me in Greece. Tell the Ambassador I'm very sorry but I won't be able to see him today."

There are, of course, other lessons staff members learn about the legislative process. During one meeting of the Foreign Relations Committee someone objected that the words in the ECA bill "impact on our domestic economy" were too general and vague and ought to be left out. "That's perfectly all right," said Arthur Vandenberg. The Chairman of the Committee. "Just leave those words in. I can tell 19 different Senators on the floor of the Senate who are worried about something—your problem is taken care of by that clause in the bill." The clause was left in and it did serve a very useful purpose!

Charles Osgood recently reported on CBS about the advantages of ambiguity:

"Simplistic theory might suggest
That contracts will work out the best
Whose paragraphs—for ill or good—
Are absolutely understood.
But more sophisticated thought
Has in recent effort taught
That when an issue's really tough
Clarity is not enough.
What may seem an incongruity
What one needs is ambiguity".

* * * * *

Some revisionist historians have been trying to re-write post-war history largely to discredit our foreign policy and our leaders. They picture Harry Truman as a callous, hard-liner dropping atomic bombs on Nagasaki and Hiroshima, heating up the cold-war by giving aid to Greece and Turkey, keeping the communist nations out of the Marshall Plan, and raising hell by throwing America's weight around. They characterize the Marshall Plan as an instrumentality of the cold war whose chief purpose was to deepen the chasm of suspicion and distrust between the East and the West. Santayana once remarked that a fanatic is a person "who has forgotten his objectives and therefore redoubled his efforts." Some of these people are real fanatics.

As for Harry Truman I haven't the slightest doubt that the objective historians of tomorrow will rank him among our great Presidents. Rarely has any President faced more complex problems and rarely has any President taken more courageous decisions. One admirer put it well when he commented that Harry Truman was the only person he ever knew who could follow someone into a revolving door and come out ahead of him.

I have the same high marks for the Marshall Plan. In retrospect all kinds of explanations have been put forth for its creation. Some say it was designed primarily to assist in the rebuilding of a war-torn Europe and to extend help to those in need. Others argue that it was designed to stimulate world trade, to promote the unification of Europe, to expand our export markets, to stop communism, to use up our surplus commodities, or to prevent the resurgence of German nationalism.

Whatever the reason, the Marshall Plan proved to be one of the most farsighted, successful—and probably the most profitable—foreign policy the US has launched in the post-war period. Whether it was designed to rebuild a devastated Europe, isolate the Russians, or get rid of our dried eggs, the fact is it worked and it worked exceptionally well.

The success of the Marshall Plan on Capitol Hill was due in no small measure to the respect Arthur Vandenberg had for George Marshall. We had just won a terrible war and General Marshall had been the guiding genius back of that victory. In 1945–48 he could have almost anything he wanted on Capitol Hill. As the Republican foreign policy leader in the Senate, Vandenberg must have been sorely tempted at times to blast the President and the Secretary of State for mistakes they made or for blunders just over the horizon. Yet very often when such incidents were called to his attention, his reaction was typically non-political. "I don't want that mess to get in the press", he would say. "I just can't do that to George Marshall. It's something I can discuss with him over the telephone".

On his part Marshall admired Vandenberg and fully recognized his indispensable role in the birth of the Marshall Plan. "At times," he said, "I was his right-hand man, and at times he was mine". "But for his leadership and coordination in the Senate", Marshall remarked, "the plan would not have succeeded". He went on to say that Vandenberg had "never received full credit for his monumental efforts" and that the Vandenberg name should have been associated with it. It may be a little late for a rechristening but fundamentally Marshall was right—as he usually was!

Arthur Vandenberg was one Senator I knew who always did his homework. He wrote his own speeches—a procedure which would cause raised eye brows today in the Senate—and he mastered his subject matter so thoroughly he was able to give a detailed answer to questions that arose on the Senate floor.

I recall vividly one Saturday afternoon in 1948 when he read me the important speech he had written to preesnt the Marshall Plan to the Senate. It was an excellent speech and outside of a few points of a technical nature I had no real criticism to offer. "That's great", I said with enthusiasm. "Tell me, how long did it take you to write it?" "It took something over two weeks", replied the Senator with a note of pride in his voice, "and I typed it seven times on my own typewriter".

We often forget, but the fact is the Russians were quite helpful in making the Marshall Plan the success story it became. They were helpful, first of all, because they decided not to participate. Had they joined in order to sabotage the program, we can only speculate about the results. Even more important, at the very moment Congress was deciding what to do about foreign aid, the Russians invaded Czechoslovakia. If anything were needed to convince doubtful members of Congress, this was it! No administration argument could have carried more weight on Capitol Hill than the growing threat of communism.

I have often thought that communist leaders have a very poor sense of timing and rather poor information about American public opinion. Quite frequently, in the post-war period, the Russians have misbehaved at precisely the right time to help our Administration win a critical vote on Capitol Hill.

Their evaluation of events in America has not been so good. It reminds me of the lady who was commenting on the behavior of a pretty neighbor girl. "You don't have to worry about her," she said, "She's a fine upright girl. Most every time I see her coming home from a date she's carrying a Gideon Bible under her arm."

One other development which did much to assure the success of the Marshall Plan was the creation of the NATO treaty. In 1948, partly as a result of the invasion of Czechoslovakia, the fear of Russian expansionism hung like a pall over Western Europe. Whether the Soviets actually had any intention of launching an attack against the West will be debated for years to come. The fact is that many people in Europe were fearful that an attack might be launched and so long as this fear and uncertainty about Soviet intentions persisted, economic recovery was seriously handicapped. In the atmosphere that prevailed, very few people were willing to take the risk involved in starting new businesses or investing their capital in the rebuilding of Europe. NATO furnished the indispensable security umbrella without which the economic recovery of Europe would have been impossible.

The approval of the Marshall Plan did more to confirm my confidence in the legislative process than any single thing that happened during my 10 years on Capitol Hill. Anyone who works with Congress over a period of time can't help but be annoyed, discouraged and disillusioned at times because of the long, drawn-out hearings and the monotonous and seemingly interminable debates. To one interested in efficiency it appears to be an inexcusable waste of time to hear Senators droning on by the hour about "pot likker" recipes, the Washington Redskins, and the sex life of Penguins.

But one must ask, what is the alternative? One alternative—and I approve of this—is to give Congress a good facelifting so it can perform its legislative duties with greater efficiency. The other alternative—which none of us here could accept—is to depart from our principle of checks and balances and give the Executive Branch a free hand to run the government. The superb handling of the Marshall Plan by the Congress convinced me that when the chips are down, and the national interest requires it, Congress can rise to great heights and perform its duties in a thoroughly competent manner.

* * * * *

One thing the Marshall Plan did was to put the bi-partisan foreign policy of the late 1940's to its acid test. Senator Vandenberg believed that bi-partisanship was "of indispensable importance" to our foreign policy. He also believed that the two party system was the heart and soul of our democracy. How could these two concepts be reconciled?

Clearly bipartisanship would not be possible if it required a surrender, by the minority party, of the principle of free enquiry and free debate in arriving at our position. Nor would it be possible if the party out of power adopted a "me-too" attitude, merely rubber-stamping everything the Administration did with respect to foreign policy.

Anyone close to Capitol Hill during the Marshall Plan era knows how carefully these pit-falls were avoided. In the early post-war years the UN Charter, the European Recovery Program, and the North Atlantic Treaty were accepted in our country on a non-partisan basis. Can anyone who reads the voluminous hearings held by the Foreign Relations Committee and the lengthy debates on the Senate floor on these issues, honestly argue that the debate was curtailed or free enquiry impaired? Quite the contrary.

As Vanderberg said about the Marshall Plan: "It is the final product of 8 months of more intensive study by more devoted minds than I have ever known to concentrate upon any objective in all my 20 years in Congress".

Nor can it be demonstrated that these major enterprises involved any substantial element of "me-tooism". The Marshall Plan legislation, sent to Capitol Hill by a Democratic Administration, was thoroughly rewritten—and if I do say so—considerably improved by a Republican Congress.

May I cite one example to underline this point. When the Marshall Plan legislation was drafted, it called for an authorization of $17 billion for four years. Senator Vandenberg quickly realized that such a huge amount would serve as a focal point of attack for all opponents of foreign aid. He suggested, therefore, that the $17 billion figure be removed from the bill and that Congress be called upon to appropriate funds for only the first year of the program. That not only made a good deal of sense from a legislative point of view, but it took a good deal of steam out of the opposition. For

Vanderberg politics was always "the art of the possible".

On occasions like this it is fitting and proper to glory in the achievements of the past. But it would be an opportunity lost if we did not give some thought to the great problems that lie ahead.

When the Marshall Plan was created this nation was in a transition period when new issues were constantly arising and policies had to evolve to meet fresh tests and changing conditions. Once again in the late 1970's we find ourselves in a hard transition period. The issues that challenge us are at least as tough as those that faced us after World War II and most of them will continue to plague us during this century. We all know what they are—world population pressures, food for the hungry, human rights, the energy crisis, the world inflationary spiral, unemployment, the pollution of the environand the ocean floor, world trade, the balance ment, terrorism and violence, the sea-bed of international payments, arms control and disarmament, outerspace, a more equitable sharing of the world's resources among the rich and poor nations, and the eternal problem of war and peace.

These are staggering problems—problems that will tax our imagination, our patience, and our organizing and negotiating skills to the limit. Moreover, most of them—like the sale of wheat to the Soviet Union, or the purchase of oil from the Middle East—have a direct relationship to our domestic economy including the price of food, inflation, the national budget, and so on. Now more than ever, in this constantly shrinking world, foreign policy questions and domestic issues have become almost inseparable.

In this situation we need to develop a new national consensus and to lay the basis for a new foreign policy from a bipartisan point of view. We need a new unity of purpose. We need to put the bitterness and rancor of the Vietnam War behind us and develop new patterns of working together. With the President engaged in the day-to-day conduct of foreign affairs, Congress can be of great assistance, as it was during and after World War II, in helping to find suitable answers to these difficult questions.

Congress is a deliberative body. No one, so far as I am aware, has ever argued that rapidity and dispatch and efficiency are among the major virtues of a representative assembly. Congress does have the facilities, however, to serve as a forum, a national sounding board, where the major issues of foreign policy can be thrashed out and where the nature and purpose of American policy can be critically examined. If these facilities are effectively organized, Congress can be of inestimable value in helping to shape the difficult policy decisions that face our country.

Frankly, I think the time has come to launch another Marshall Plan. Admittedly in 1948 we were faced with a desperate situation and a tremendous challenge. Friendly countries in Europe lay smoldering in the ruins of World War II and something had to be done before the bottom fell out of Western civilization. We had to be bold, imaginative, generous and courageous if the values we stood for in the world were to survive.

Clearly the situation today is different. Western Europe has survived—thanks to the Marshall Plan and the indomitable spirit of our friends and allies—but the desperate plight of many developing countries is not pleasant to contemplate.

I do not have to remind this audience—but I will—that illiteracy, ill health, and endemic hunger are part of the way of life in more than a quarter of the globe. In 1975 some 28 countries were still below the $200.00 per capita income level—including India, Bangladesh, Pakistan and Indonesia. Eight countries had not even reached the $100 per capita level. When we ponder the solemn fact that over a billion people go to bed hungry every night—if they have a bed—that nearly as many cannot read or write, and that at least one-third of the world's population of 4,000,000,000 are illhoused, we must recognize there is still a tremendous job to be done.

Now no one can expect us to be as bold, imaginative, generous or courageous today as we were in 1948. Furthermore, as most experts remind us, the job to be done today is vastly different from the one we faced 30 years ago. In this connection it is important to keep in mind certain figures. During Marshall Plan days our GNP was $258 billion and we spent $16 billions in a four-year period. That amounted to about 1.5 percent of our GNP each year. Today our GNP will run to $2 trillion and we allocate about .27—much less than 1 percent—for foreign assistance. As an American I am proud of my country. But I am not proud of the fact that we now rank 12th—among the 18 major industrial nations—in our relative contribution to official development assistance in the world.

I am not suggesting that we once again devote 1.5 percent of our GNP to mutual assistance programs. That would be $30 billion a year—a sum that is completely unrealistic in view of the other urgent demands on our budget. But it is quite apparent to me that what is needed is a dramatic proposal for a massive foreign aid program that would fire the imagination, encourage the cooperation, and challenge the productive capacities of the countries involved as the Marshall Plan did 30 years ago.

Mr. MARTIN. You can see why Fran Wilcox has been such a worker in this vineyard.

I want to recognize just two other people, because I am indulging myself as Chairman here. One is Secretary Henry "Joe" Fowler, who has been a close friend and associate of mine, who is here tonight. And the other is Senator Henry "Scoop" Jackson, who is also here tonight, both of whom have been very helpful in many projects.

And over the period of nostalgia that we are talking about, there are a lot of things that are offshoots of this. The Atlantic Council is one offshoot of the Marshall Plan that Randolph Burgess had quite a bit to do in working out.

Last summer the OECD put on a program in Paris where the Marshall Plan was looked at in a 30 year perspective. The conference was instigated and sponsored by the Marshall Foundation and others. Robert Marjolin and Lincoln Gordon were the Co-chairmen there, and Emile van Lennep was host for the OECD.

In Norway there has been a group called the Friends of Marshall that has been formed. And in Germany we have a leader today in Hermann Abs who has taken over the chairmanship of the Marshall Foundation's efforts in that country. I have a wire from him that came in today, I would just like to read to you. Dr. Abs is one of the outstanding bankers of the Western World. His message to us is as follows:

"To my very great regret I have not been able, as I had hoped, to make arrangements to attend the George C. Marshall Research Foundation dinner on Tuesday, April 4, 1978, because that is the date for an extremely important meeting of my bank for which it is essential I should attend. I am myself the chief loser by being unable to be with you all that day, but I would like here and now to express the hope that the occasion will be a success. I take this opportunity to express once more my great admiration and respect for General George C. Marshall and for the policies pursued under his firm influence by the United States of America after World War II. The magnanimity of the victors, displayed so abundantly inter alia in Marshall Plan aid, enabled the recently vanquished opponent Germany to escape from the confusion and destruction of war. The engagement of the United States and its belief that Germany would be able to master the future on the basis of democratic constitution were the decisive factors in the postwar rebuilding of my country. The merit must remain ever green in both your country and mine. My most cordial greetings to old friends, and all best wishes for the success and the future of our common cause."—Hermann J. Abs.

I think that is an extremely fine tribute and we deeply appreciate his remarks.

Now we come to the piece de resistance of the evening. We have held this out to the last. And we are very, very fortunate that we have as our principal speaker tonight Henry Cabot Lodge.

If you started and tried to give a list of his accomplishments and achievements, it would take more time than I think he will probably take in his address. So I am simply going to limit my remarks to saying he was a distinguished Senator who was very effective and helpful on the passage of this bill we are commemorating tonight.

He was also a distinguished Ambassador. He was our Ambassador to the United Nations and in Germany; and he was our Ambassador in Vietnam under difficult circumstances. Secretary Fowler and I know how effective he was in Germany when we went over at a time of currency confusion not unlike the currency confusion of today. We found that he had smoothed the road very effectively.

And as a trustee of the Marshall Foundation, he has been a bulwark of strength who has constantly put his shoulder to the wheel in helping develop programs at the Foundation that will make it possible for young people to comprehend the character of General Marshall, a statesman and soldier who fully understood that the military purpose was to have peace.

General Marshall, as our speeches tonight will prove, left an indelible print on our generation. We hope his life and career will be studied by a great many people working in the vast biographical and historical holdings of the Marshall Foundation, a place which I hope all of you will visit down at Lexington, Virginia. You have an opportunity to participate in this very special program.

It gives me the greatest pleasure to present as our speaker of the evening The Honorable Henry Cabot Lodge.

Senator LODGE. General Marshall and the Marshall Plan, Some Inalienable Truths:

When I look at the last fifty years, I am impressed that life expectancy is up 50%, that the working day has been cut ⅓, and that per capita output has more the doubled. I can never forget the defeat of Hitler's attempt to impose a racist police state on the world in a war of unprecedented scope. I remember that after the war there was the wisdom to build NATO, form the U.N.—and to go to the moon. And, of course, and of unique interest to us—there was the wisdom of General Marshall to invent and then to carry out the Marshall Plan.

Long before there was any thought of European recovery—and while the war was roaring full blast—General Marshall's achievements had been prodigious. As Chief of Staff during World War II he had directed the creation of the World War II Army and Air Force, determined the world-wide strategy for our armed forces and chosen virtually all the Generals. Any one of these accomplishments would have entitled the author to a big place in history. But, after the war, came the Marshall Plan which in sober truth prevented Europe from being overwhelmed. These achievements, in war and peace, justify the statement that Gen-

eral Marshall stands out as the greatest American of the 20th century.

The Marshall Plan laid the economic foundations for a peaceful Western defense against Soviet pressure. It started a generation of postwar economic growth, preventing another depression-and-war cycle like that of the 1930's. A European framework was hammered together within which West Germany and Italy could come back into the free community of the West. For the first time since Charlemagne in the 9th century Western Europe moved towards regional unity, manifested today in the Common Market and other European institutions. And for the first time in all history a peacetime community of the nations on both sides of the North Atlantic began to emerge.

The Marshall Plan promoted the security of the United States by strengthening our friends. We did not seek to profit at the expense of a war-torn Europe but rather to relieve its woes. We must not forget the wisdom of that approach. National security is achieved not just by military power—indispensable though that is—but by taking actions which subtract from the number of our potential enemies and add to the numbers and strength of our friends. This thought is typical of General Marshall, by its sagacity, its magnanimity, and its love of his fellow man.

These are but a few examples of General Marshall's achievements. They explain how it was that a man of the quality of the late Ambassador Charles E. Bohlen could say:

"I have never gone in for hero worship, but of all the men I have been associated with, including Presidents, George Catlett Marshall is at the top of the list of those I admire. He had the ability to evoke loyalty, respect and affection of those who had the privilege of working with him. He was a man of integrity. You felt the firmness as if it were written in large letters all over him."

The existence of nuclear weapons introduces a new danger into the world and raises the question of whether we can continue to use methods for nominating our candidates for President which worked well in the past. Public opinion in the future should demand that our candidates for Presidential nomination be drafted instead of emerging from the usual competitive scramble. My reading of history tells me that only two of our Presidents—Washington and Eisenhower—were actually drafted for their first nomination for President. (I omit the many times when a sitting President "drafted" himself for a second term.) The traits which are needed in a President in modern times will undoubtedly not be those which are required in a man who fights for the Presidency in the usual way—such traits as scrappiness, competitiveness and no small amount of artfulness and lust for office. The President in the 21st century will have to be primarily concerned with avoiding nuclear war. His second priority may be to administer the government so that it will actually work in spite of all of the roadblocks which over the years have been built into it. Both of those tasks call for talents which are quite different from those which are needed to win a party nomination and to get elected in the usual way. Both require a basic change in public opinion.

Clearly the pressure of our convention system requires the wrong kind of activity by candidates; candidates should concentrate on avoidance of nuclear war and not become absorbed in campaign strategy and tactics. When a truly superior man appears he should be brought to the front by a "college" of eminent citizens of widely different backgrounds especially chosen for the purpose and not be required, as he is by present circumstances, to "jawbone" the delegates. Is the drafting of men for Presidential nominations at least not worth thinking about? If the public started judging men on their capacity to avoid war, their knowledge of the world and of weapons and their ability to surround themselves with the ablest advisers—instead of on their skill in raising money or their ability physically to withstand the fatigue of campaigns—I believe the country would be safer.

I do not need to tell this audience that the talents I have just mentioned are precisely those which General Marshall had in such abundant measure. Alas, we cannot bring him back to life, but we can at least work to keep his memory green, to educate ourselves on all that he did and the way in which he did it and fit ourselves to act in his spirit.

This, I submit, is one of the goals of our Foundation. All of you here in this room are tremendously busy people. There are many interesting and valuable things which you can do with your time. And yet, I venture the guess that when in the years ahead you look back on your connection with the Marshall Foundation, you will feel that you gave your time and energy for a great cause. It is no exaggeration to say that if, someday, we are able to act as General Marshall would have acted, we will on that day save our country.

He was, of course, an expert on weapons and foreign relations. To suggest how he would deal with the problems which we face in 1978 is speculation, but I believe that he would be concerned by the current arms race with the Soviet Union and, in his oft-quoted phrase would not be "fighting the problem", but would be trying to solve it.

Finally he was an incarnation of loyalty to the American ideals on which our country was founded. These ideals are as good today as they were when the United States committed itself to them in the 18th century. They should underlie all our plans.

I refer, of course, first to the words of the Declaration of Independence that "all men are created equal" and have "certain inalienable rights" among which are "life, liberty and the pursuit of happiness." But I also stress the words written thirteen years later in the Preamble to the Constitution, which I shall now quote. And I shall ask each of you to ask yourself, as I cite each separate phrase, how well we have succeeded—and are succeeding—in making each phrase live.

I quote the Preamble: to "form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity".

You may agree with me that we have done better with some than with others. Clearly, the "inalienable rights" of "all men" have not yet been assured: the constitutional mandate to "establish justice" has not yet been carried out; and "domestic tranquility" does not everywhere exist.

The words of the Preamble are not only adequate, they are also noble. By way of ideals we need nothing more. Otherwise enthusiasm for what is bad will surely triumph over lack of enthusiasm for what is good. This enthusiasm must come from the feelings of the people individually. Without ideals we face the disaster described with such sombre drama by W. B. Yeats in which "the best lack all conviction, while the worst are full of passionate intensity". Light—which is truth—and heat—which is enthusiasm—used to be together. Somewhere along the line they became divorced so that today we have truth without enthusiasm and enthusiasm without truth.

Lincoln in his first inaugural address spoke of "the struggle for maintaining in the world that form and substance of government whose leading object is to elevate the condition of man; to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life."

I close by quoting Lord Bacon. He said: "It is not what men eat, but what they digest, that makes them strong; not what we gain, but what we save that makes us rich; not what men read but what they remember that makes them learned, and not what we preach, but what we practice that makes us Christians. These are great but common truths, often forgotten by the glutton, the spendthrift, the bookworm, and the hypocrite."

I conclude by saying that these truths are epitomized in the life of General Marshall. They are dependable guides for the future and, our foundation, in our efforts to keep his memory green, does a noble work.

Mr. MARTIN. A very splendid and fitting end to what I hope you all agree with me is a happy ending to a very delightful dinner.

One of my friends asked earlier tonight if I have a piece of poetry for us tonight, because this is the third time that I have been up here. At the first dinner I gave you my favorite quotation from Browning with respect to General Marshall as a man who never turned his back, but marched breast forward. Last year I gave you "Say not the struggle naught availeth" as being evidence of his spirit. And tonight I merely want to close with a little bit of what I happen to love and what we hear so much of today. It is what I think is essential as a part of our way of life.

"To dream the impossible dream, to fight the unbeatable foe, to bear with unbearable sorrow, to run where the brave dare not go. And the world will be better for this, that someone covered with scars still strove with his last ounce of courage to reach the unreachable stars."

Thank you all for being here.

(Applause.)●

PUBLIC DISCLOSURE OF PERSONAL FINANCES

● Mr. CLARK. Mr. President, since my candidacy for the Senate in 1972, I have voluntarily issued an annual statement detailing my income, tax returns, and net financial worth. Such a statement was issued from my office again yesterday, to coincide with the filing deadline of new Senate Rule XLII.

Mr. President, I ask that this personal financial disclosure statement be printed in the RECORD.

The statement follows:

Senator and Mrs. Dick Clark: Summary of 1977 Federal Tax Return

Personal income:	
Salaries	$75,274
Interest income	2,226
Dividends	1,170
State and local income tax refunds	382
Alimony received	1,650
Business income (speaking fees received by Senator Clark)	17,810
Capital gains (sale of stock owned by Mrs. Clark)	7,268
Loss from partnership (family partnership of Mrs. Clark's)	(3,954)
Total	101,826
Less adjustments to income:	
Congressional travel allowance	2,646
Alimony paid	14,400
Adjusted gross income	84,780
Itemized deductions:	
Medical	150
State and local taxes	5,338
Interest expense	159
Contributions to charity	205
Miscellaneous deductions	237
Total deductions	6,089

Senator and Mrs. Dick Clark: Summary of 1977 Federal Tax Return—Continued

Taxable income	81,891
Income tax	29,725
Self employed social security tax (due on Senator Clark's earnings from speaking fees)	1,304
Total Federal tax	31,029

Senator Dick Clark: Summary of 1977 Iowa Tax Return

Personal income:	
Salary	$55,350
Income from speaking fees	17,810
Interest	203
Total	73,363
Less adjustments to income:	
Congressional travel allowance	2,646
Alimony paid	14,400
Additions to income:	
Self employment tax	755
Total	57,072
Less Federal tax withheld in 1977	14,869
Less additional Federal tax paid in 1977	1,439
Less itemized personal deductions:	
Medical	150
Local taxes	666
Interest expense	71
Total deductions	887
Net taxable income	39,877
Tax	3,206
Less personal exemption credit	25
Total Iowa State tax	3,181

Mrs. Dick Clark: Summary of 1977 Washington, D.C. Tax Return

Personal income:	
Salary	19,924
Dividends	1,270
Interest	2,023
Alimony received	1,650
Capital gains from sale of stock	7,268
Loss from partnership	(3,954)
Total	28,181
Less itemized deductions:	
Medical	372
Local taxes	194
Contributions to charity	205
Interest	88
Misc.	237
Total deductions	1,096
Less personal exemption for self and son	1,500
Taxable income	25,585
Total Washington, D.C. tax	2,014

Income in 1977 from speeches and articles

Date and Institution or group; place	Amount
Jan. 9 Brookings Institution, Williamsburg, Va	$250
Jan. 18 Wellesley College, Wellesley, Mass	350
Feb. 7 Ohio Grain, Feed and Fertilizer Assn., Cincinnati, Ohio	2,000
Feb. 13 Brookings Institution, Williamsburg, Va	400
Feb. 16 Nat. Telephone Cooperative Assn., Houston, Tex	1,000
Feb. 21 Denison U., Granville, Ohio	750
Feb. 25 U. of California at San Diego	250
Feb. 25 Stanford U. Arms Control Assn., Palto Alto, Calif	300
Feb. 25 Stanford U., Palo Alto, Calif	400
Feb. 26 U. of California at Los Angeles	500
Mar. 3 United Methodist Church, Washington, D.C	50
Mar. 7 Brookings Institution, Washington, D.C	150
Mar. 8 Council on Foreign Relations, Chicago, Ill	1,000
Mar. 12 Princton U., Princeton, N.J.	250
Mar. 26 Quad Cities World Affairs Council, Moline, Ill	1,000
Mar. 27 Sunday Sinai Forum, South Bend, Ind	1,000
Mar. 28 Brookings Institution, Washington, D.C	150
Mar. 30 National Town Meeting, Washington, D.C	500
April 3 Conference on Brotherhood, Chicago, Ill	1,000
April 17 U. of N.Y. at Geneseo	750
April 25 Union College Schenectady, N.Y.	1,200
April 30 Harvard U., Cambridge, Mass	300
May 2 Nat. Assn. of Regional Councils, San Antonio, Tex	500
May 7 Nuclear Arms Proliferation Symposium, Washington, D.C	500
May 17 Brookings Institution, Washington, D.C	150
June 17 Brookings Institution, Washington, D.C	150
June 18 University of Wisconsin, Whitewater, Wis	450
Sept. 20 Brookings Institution, Washington, D.C	150
Oct. 5 George Washington U., Washington, D.C	500
Nov. 23 Brookings Institution, Washington, D.C	200
Dec. 5 Brookings Institution, Washington, D.C	150
Dec. 6 Haverford College, Haverford, Penn.	350
Preface, National Catholic Magazine	350
Article, National Catholic News Service	60
Article, U.S. Capitol Historical Society	200
Article, New York Times	150
Total	17,810

Speech income figures for previous years were as follows: 1973, $3,500; 1974, $6,480; 1975, $13,450; 1976, $9,558.

Statement of estimated financial worth January 1, 1978

Assets held individually by Senator Clark:	
Savings account	$21,772.84
Checking account	2,980.54
Senate retirement fund equity	18,219.50
Total	42,972.88
Liabilities, none.	
Assets held individually by Mrs. Clark:	
Savings accounts	15,022.51
Interest in family partnership (The Kennett Company)	22,081.88
Life insurance ($5,000 face value)	1,110.00
Securities (see itemization below *)	41,157.45
Total	79,371.84
Liabilities, none.	
Assets held jointly:	
Checking account	985.13
Personal belongings (2 cars, clothing, books, other personal effects)	15,000.00
Total	15,985.13
Liabilities, none.	
Total combined net worth	138,329.85

* Listing of securities:

BONDS

Par Value, Market value 1/3/78.		
$5,000	Girard Trust Bank RGD Bond, 7⅛%, 9/01/79	$4,962.50
5,000	Ford Motor Credit Co. Notes, 8⅝%, 6/1/86	5,112.50
5,000	Ford Motor Co. S/F Deb., 8⅛%, 1/15/90	5,056.25

STOCKS

Shares		
50	American Tel and Tel Co	3,000.00
50	Chemical New York Corp	2,093.70
20	IBM	5,375.00
120	Sears, Roebuck & Co	3,285.00
100	Southern Pacific Co	3,387.50
100	Standard Oil Co. of Indiana	4,850.00
60	U.S. Fidelity and Guaranty Co	1,950.00
8	White Mountain National Bank	320.00
30	First Financial Group of New Hampshire	465.00
13	Kennett Corporation	1,300.00

CARTER CHINA POLICY

● Mr. SCHWEIKER. Mr. President, I would like to bring to the attention of the Senate yet another example of the Carter administration's ineptness in the conduct of foreign policy. In little more than a year's time, the present administration has presented both the American people and the rest of the world with a foreign policy unrivaled in memory for inconsistency, uncertainty, and insensitivity to the needs of our allies and the goals of our enemies. While these characteristics prevail, no matter where one looks—to the Middle East, to Africa, to Europe, to overall defense or international economic policy—it is with regard to the administration's attitude toward East Asia that I would like to address my remarks.

As I am sure my colleagues are aware, the President's National Security Adviser, Zbigniew Brzezinski, has announced that he will visit the People's Republic of China from May 20 until May 23. The State Department has said this "is not a negotiating trip, not a trip for normalization of relations." Rather, Mr. Brzezinski's visit is described as an outgrowth of the Shanghai Communique of 1972, which provided for occasional trips by U.S. officials to Peking. I have no quarrel with Mr. Brzezinski's desire to visit the People's Republic, and I certainly support efforts to increase contacts and reduce tension between the People's Republic and the United States. In fact, I, myself, enjoyed a most informative and beneficial visit to the People's Republic just a year ago.

It is, however, the timing of the proposed Brzezinski trip that disturbs me. The People's Republic of China has repeatedly stated that before full diplomatic relations can be established between our two countries, the United States must renounce all diplomatic ties to Taiwan and abrogate the mutual United States-Taiwan defense commitment now in effect. To our credit, we have just as consistently refused to unilaterally abandon our long-term friend and ally.

It appears, though, that the Carter administration is moving in this direction. It is no accident, in my opinion, that Mr. Brzezinski is due to arrive in Peking on May 20—the very day that President Chiang Ching-kuo is to be inaugurated in Taipei. At best, this coincidence will be perceived in Taiwan as an unwarranted insult; at worst, it may be viewed in Peking as an indication that the United States is now convinced that Taiwan must be abandoned, and that concessions on the PRC's part are not necessary.

Mr. President, the process whereby relations between the United States and the People's Republic of China will be normalized will necessarily be long and arduous. I do not believe the Congress or the American people are prepared to pay the price of abandoning Taiwan in order to recognize the People's Republic. Yet this seems to be the direction in which the administration is moving. Once again, the administration's policy toward an important and complex problem is symbolized by ineptness and insensitivity. I would urge that Mr. Brzezinski consider delaying his departure for Peking so that the inauguration of President Chiang can be accorded the full respect due from the United States.●

NATIONAL RUNESTONE HUNT JULY 30

● Mr. JACKSON. Mr. President, today is Constitution Day in Norway and as such it appears to me to be an excellent time to announce a special Viking event to be held in conjunction with Viking Thanksgiving Day July 30.

But first a brief word about Viking Thanksgiving Day. In this country, the festival actually dates back to 1623 when Governor Bradford of the Massachusetts Colony proclaimed July 30 of that year as a day of thanksgiving for the bounteous harvest. Last year, Gov. Michael S. Dukakis of the Commonwealth of Massachusetts renewed the tradition and declared the day "Viking Thanksgiving Day" in a salute to the early explorers of our country. He was joined by others, including Gov. James R. Thompson of Illinois and Mayor Michael A. Bilandic of Chicago in proclaiming July 30 in honor of the early Viking explorers and settlers.

As the son of Norwegian immigrants to this country, I am especially proud of the contributions Scandinavians have made to our country. It is a pleasure to have this opportunity to announce to my colleagues and the public a "National Runestone Hunt" to be held on Viking Thanksgiving Day this year.

For those who may be unaware, some three dozen records in the form of runic inscriptions dating back to almost a thousand years have been identified and translated in North America. They have been found everywhere from Massachusetts to my home State of Washington. There also have been many Viking ship mooring stones discovered in various parts of this country.●

RENEWABLE ENERGY SYSTEMS FOR DEVELOPING NATIONS

● Mr. PERCY. Mr. President, I would like to draw the attention of my colleagues to a speech given by Mr. Dennis Bakke at last month's Caribbean Conference on Energy for Development, held in San Juan, P.R. Mr. Bakke is director, Western Hemisphere operations for the al Dir'iyyah Institute. This organization is dedicated to promoting the widespread use of renewable energy resources in developing countries.

Mr. Bakke's speech is worthy of note for its reasoned and objective assessment of the potential for decentralized renewable energy resource systems to contribute to the energy needs of rural areas in Third World nations. He is by no means blind to the problems. Mr. Bakke does not hesitate to state that these systems are expensive, that national governments cannot easily shift from large-scale, centralized energy sources, and that citizens in developing nations may resent the introduction of less sophisticated technology into their villages.

Despite these obstacles, Mr. Bakke presents convincing evidence that these alternatives are not pipe dreams. In particular, he points to work done by the National Academy of Sciences in cooperation with the Tanzanian National Scientific Research Council. A team of experts spent a week calculating the cost of performing certain village tasks with a variety of energy systems. The results are quite encouraging for renewable energy technologies. Wind, small hydro, and flat plate solar equipment all are economically competitive with fossil fuel-powered technologies or will be so within the next couple years.

In his conclusion, Mr. Bakke calls for a concerted effort by business, national governments, and international agencies to boldly experiment with development and implementation of decentralized energy systems in Third World nations. I fully endorse Mr. Bakke's call. Without such an effort, both the developing and developed world will be unable to meet their energy needs in the years to come.

Mr. President, I ask that the text of Mr. Bakke's speech be printed in the RECORD.

The speech follows:

ENERGY, AGRICULTURE AND RURAL DEVELOPMENT

As a relative novice in the field of developing country rural energy use, I feel a little like the man who upon visiting a town for the first time asked directions to a local hotel. After a partial explanation of four different ways to reach the place, the town native giving directions gave up in frustration saying, "the more I think about it, I don't believe you can get there from here". Similarly, the more one looks at the problems of energy for developing countries and the strategies (directions) to overcome those problems outlined by the experts, the more one has the tendency to question whether we can ever get there from here. Here are some observations about the dilemma from one who is a new participant in the area.

PROBLEM

A major energy related roadblock to economic development is the high price of petroleum. Cheap energy, especially cheap petroleum has been the life blood of development in the West and among most developing nations. The reality of high prices forces reconsideration of the past strategies.

In addition, the future demand for petroleum is projected to increase dramatically. Most recent studies estimate that developing country oil consumption will reach 20 million barrels a day (current U.S. consumption equals 18 million barrels a day) between the year 2000 and 2020, up from about 6 million a day in 1975. Even with this substantial increase, many nations would still be left with a per capita energy consumption far below what the experts believe is the subsistence level. The Overseas Development Council has projected that the demand would have to rise to as high as 80 million barrels a day if the per capita commercial energy consumption of the poorest countries is raised to a level that appears necessary to eliminate "gross poverty". Since the world consumed only 46 MBD in total during 1975 this would represent a very heavy additional demand even if the actual increase falls considerably below this projection.

Clearly there is a major disparity between achieving world development goals using the conventional petroleum strategy and the decline in world oil production that is likely before the end of the century. Either the development goals and the expectations they generate will have to be abandoned or an alternative to the petroleum strategy must be found.

A word about development goals and expectations. The modernization process—the application of science and technology to improve man's health, productivity, living environment and raise expectations for a better life—is a relatively new phenomenon. For thousands of years men expected and were satisfied to live as their fathers before them had lived. Only in the past few hundred years has this modernization concept begun to infect the world and make dramatic changes. Everywhere the ideas of modernization have touched and the process begun, the movement has been unstoppable.

Expectations for a "better life" have been raised among most of the people in the world. The movement appears powerful and relentless. Thus, frustrating progress by lowering economic development goals or making it impossible to achieve these goals will probably have extremely serious consequences for national and world stability.

Clearly the stakes are high and the incentives great to find alternatives to the petroleum energy model for development. Recently, much discussion has focused on the use of decentralized energy systems and renewable energy sources especially in rural development and agriculture. On the surface, these systems appear to have attractive environmental and sociological consequences, in addition to reducing petroleum dependence. But the key factor is cost, and even though we know little about the eventual economics of these alternative sources, we do believe they will be expensive.

In addition, is it really possible for national governments to shift their economic development plans away from large scale, easily managed, visible, centralized energy sources to numerous small systems whose political payoff is questionable? And then too, will ordinary rural citizens of developing nations endorse and enthusiastically support the introduction of "appropriate" technology that they know from media reports is not used in the "modern" world? No one in Los Angeles eats food prepared on a solar cooker, for example. This is one of the major obstacles cited in introducing the Wisconsin cookers in Mexico during the 60's.

I make these points not because I believe the alternatives to petroleum based development are pipe dreams. In fact, we at the al Dir'iyyah Institute are totally committed to the development and application of these alternatives. Unfortunately, we find ourselves without sufficient data and experience to answer the questions posed above or to evaluate effectively the many technical options discussed in recent literature.

There is some hope, however. In August of 1977, the U.S. National Academy of Sciences sent a team of experts to Tanzania to sit down with the Tanzanian National Scientific Research Council and experts from the Government and the University to consider the matter of solar energy for the villages of Tanzania. According to Jim Howe of the Overseas Development Council (ODC) these experts spent a week analyzing calculations of the costs of performing certain village tasks (a) with diesel engines, (b) with elec-

tricity from Tanzanian electric grid; and, (c) with the five small scale technologies (e.g. mini hydro, wind, flat plate solar, photovoltaic). What they learned was encouraging. Each of the five technologies is either now able to compete with diesel or will be able to do so within the next few years. Whereas the costs of diesel are about 2.3 shillings per Kilowatt hour of electricity, the cost of mini hydro ranges from 0.26 to 0.97 shillings, of wind is 1.5 shillings, of flat plates cooling is 0.98. Photovoltaic costs are now 11.6 shillings but if the U.S. Department of Energy predictions of price drops hold true, the PVC cell will cost 0.83 shillings in 1935. Currently the cost of energy from the electric grid in a village would be 0.88 shillings.

In addition, a number of organizations like the U.N., AID, World Bank, ODC, U.S. Department of Energy, and others are undertaking studies and demonstrations to fill the existing knowledge gaps. The al Dir'iyyah Institute, for example, has just funded an effort by ODC and the U.S. Peace Corps to collect systematically energy consumption data in over a thousand villages around the world.

EMPHASIS ON RURAL ENERGY USE

Much more work is necessary especially in the actual introduction of technology into rural life. Where should this research focus? Where are the opportunities greatest? Let me suggest four reasons for focusing as much effort as possible on the agricultural and rural sectors in this search for energy alternatives.

1. Most developing nation peoples live in rural areas—85% in Africa, 70% in South Asia, and 50% in Latin America. These figures are even higher if urban slums possessing similar energy characteristics to rural areas (e.g. no grid electricity) are added to the total. Yet, one estimate states that in Latin America only 2% of the electricity generated is used in rural areas.

2. Development will be slow and narrowly focused until the agricultural sector becomes productive. An economy that can not feed, from indigenous sources, both its rural farm population and its teachers, road builders, doctors, researchers, and government workers will find economic growth extremely difficult. Nor will it support the changes that will improve the people's health and welfare.

3. Improved rural energy use could help slow urbanization. Until the quality of life improves including better transportation, communication facilities, health, recreation, education and employment opportunities, the massive migration to the cities in developing countries is likely to continue. All of these improvements require energy.

4. Rural energy use in developing countries tends to be very inefficient. Arjun Makhijani calculates that end use efficiency in rural areas of developing nations is on the order of 5% compared to 20% in the developed world. Studies also indicate that farmers in developed countries use more energy per unit of crop produced than does a U.S. farmer when both commercial and non-commercial fuels are included. In India, for example, 19 million BTU's are required to produce a ton of rice as compared to just over 6 million in the U.S.

FOCUS ON COOKING AND AGRICULTURAL LABOR PEAKS

Within the rural sector there are two problem areas that appear most pressing where expanded demonstrations and increased attention by private and public institutions would be most beneficial. The first is fuel for cooking. Most studies indicate that 70–80% of all rural energy is used in the food system and 50–60% of that for cooking.

This is not to say that energy to produce a clean water supply or heat water is not important, but cooking is the major consumer. It is also terribly inefficient. Typically the average rural person in a developing country uses 5 to 7 billion joules per capita annually for cooking compared to 3 billion joules per capita typical of electric stove and ovens in the U.S. and 1 billion joules per capita in U.S. gas stoves and ovens. The opportunity for efficiency improvements is great. In addition, wood is the primary fuel for cooking. Many developing nations, including those in Latin America are experiencing a frightening net loss of forests. This ultimately leads to soil erosion, desertification, loss of water by rapid runoff and flooding. Finally, a number of technologies exist or are in the late stages of development for helping alleviate these problems. The simple direct solar cooker, a more sophisticated solar cooker that will allow food preparation indoors, a chemical heat pump cooker that allows storage of energy for use when the sun does not shine and efficiently designed wood stoves all appear feasible under certain conditions. What is needed is more carefully planned, locally supported efforts to actually install such devices. The major problem here is not so much the technology transfer process. Any future effort must emphasize this aspect of the application phase.

The second area of focus must be energy for agriculture with first priority given to those alternative energy sources that will result in the most productive use of the entire rural labor pool. Makhijani believes that the investment must be first directed toward those areas such as irrigation that increase both labor productivity and employment and to those technologies that require a smaller amount of capital to create a given number of jobs. For example, capital intensive schemes of fertilizer production and grid electricity for irrigation produce one job for every $20,000 invested. Producing electricity and fertilizer in a village scale plant that uses dung and crop residues can provide one job for every $3,000 of capital.

Technologies should be aimed at reducing high peak demands that typify developing nation's agriculture. First, because the peaks are the direct cause of the lack of labor jobs in rural areas for much of the year. Second, they probably encourage a high birth rate among farm families.

I use mechanically powered irrigation as an example of this kind of technology because a couple of pennies worth of electricity can provide as much water as a man can pump in a day. Irrigation is an excellent example of lowering the agricultural peak labor demands by allowing multiple cropping and by broadening time frames for planting and harvesting of crops. This is also why finding alternative economical ways to power irrigation systems is a top priority of the Al Dir'iyyah Institute.

CONCLUSION

As much as some would like to continue the petroleum oriented model for developing countries, the price, supply constraints and overwhelming potential demand make this strategy unrealistic. Determining what direction to move in as an alternative, however, is as uncertain as my guide directing me to the hotel. If we are to reduce that uncertainty and diminish the energy barriers to development, especially in the rural/agricultural areas, developing country governments must commit themselves financially to large scale applications of new approaches to energy supplies.

One study concluded that less than 10% of energy capital investments are made to benefit rural areas. This must change. In addition, business must take bold risks with decentralized agricultural energy systems that reduce labor peaks and improve labor productivity. Finally, foundations and international organizations must shift efforts away from paper studies toward actual on-site demonstrations to learn more of the process of technology transfer. Only with this kind of concerted effort are we likely to see our goals more clearly and hasten the progress toward reaching those ends.●

TRIBUTE TO WILLIAM LEAR

● Mr. GOLDWATER. Mr. President, a few days ago one of the finest men I have ever known passed away. He was William Lear, a man who has probably made more contributions to the progress of flight and in the general field of electronics than any man who has lived since flight began. He was undoubtedly one of the greatest geniuses to have ever lived in this country, and if there was ever a man who came up in the accepted Horatio Alger way, it was this fine fellow. I have worked with him, I have been in ventures with him, I have watched him apply this great ability of his to problems that seemed unsolvable and, yet, after he had been after it for a short while, answers would come.

This country and the world are going to miss this man; aviation is going to miss him, but most particularly, all of us who had the great privilege of knowing him will miss his friendship, his great sense of humor and his intelligent advice about the matters that concerned aviation electronics and, more importantly, our country. My heartfelt sympathies go to his wonderful wife, Moya and to their children, and I will cherish the memory of his friendship as one of my prized possessions throughout my life.●

SENATOR PERCY ON SUN DAY

● Mr. JAVITS. Mr. President, I would like to share with my colleagues an article written by the distinguished Senator from Illinois. Senator PERCY is a leading proponent of solar and other renewable energy resource technology. His dedication and hard work on the entire energy issue are well known, and make his commitment to solar energy all the more persuasive.

Senator PERCY sponsored the Senate resolution proclaiming May 3 Sun Day, as well as several other recent solar bills. Among his contributions to Sun Day was an article published on May 3 in the Chicago Tribune. The article is an excellent summary of some of the best reasons for using solar energy. I ask that it be printed in the RECORD.

The article follows:

"SUN DAY" OBSERVED—RAY OF HOPE ON ENERGY

(By CHARLES H. PERCY)

Of all the uncertainty that exists in this world, there is one thing we can count on every day—the rising and setting of the sun.

The sun is our most reliable and newest potential source of energy. As solar energy becomes more economical and efficient, it will be used to heat and cool our homes, to dry crops, to run factories, and to generate electricity.

Unlike direct sunlight, oil and natural gas are finite resources which are becoming increasingly expensive and scarce. We simply cannot rely on these sources to meet our long-range energy needs.

"Sun Day" is a milestone in emphasizing the importance of solar energy. It helps to mark the beginning of a new era that will utilize the world's most dependable, safe, and inexhaustible supply of energy.

As the first rays of sunlight hit the earth Wednesday, 40 million people around the world will begin celebrating "Sun Day." Activities range from meetings on solar energy in each of Australia's seven states to a two-day fair in Saitama, Japan, to a solar energy seminar for members of Parliament in London.

The arguments in favor of solar energy are compelling. It cannot be embargoed. Its supply is unlimited. It is environmentally safe. It will create new jobs.

Many consumers may wonder when solar energy will be readily available for economical use. How long will it take, they ask, for the government and private research and development to pay off?

Some have already found solar equipment to be cost effective. It is estimated that a Chicago-area family of four can have solar collectors installed in its home for $1,850, to provide some 75 percent of the family's hot-water needs.

By 1980 in Springfield, a solar-assisted space-heating system will be cheaper than an electric furnace. The electric furnace life cycle cost—which includes installation and operation for the 15 years or so it will last—will be $10,858, whereas a solar-assisted life cycle will cost $9,407. As we move toward market pricing of all energy sources, which we inevitably must, pay-off periods for solar will be even shorter.

Thus, economics can be added to the other good reasons to harness the sun's clean energy to supplement increasingly costly fuels like oil and natural gas.

In considering the initial costly investment, though, another factor to consider is that solar equipment is viewed as a home improvement. It tends to increase the resale value of the house by as much as the installation cost of the system. Therefore, a homeowner gets a double pay-back on a solar investment.

The President's Council on Environmental Quality recently reported that the entire country can meet 25 percent of its energy needs by the year 2000 with solar energy. By the year 2020, it contends that solar energy can sustain one-half of our energy load.

This report is optimistic when compared to other forecasts. But even if only 5 to 10 per cent of the nation's energy, a more realistic figure, is produced from solar energy, it would still mean decidedly less dependency on imported oil.

Our current commitment to solar energy is not sufficient. But important steps have been taken. A solar tax credit, for example, is one measure waiting to be released from the Energy Conference Committee. It will grant homeowners up to $2,200 for solar energy equipment that costs $10,000.

The Congressional Solar Coalition, an informal group of senators and congressmen who have banded together to promote the development of solar energy, recently introduced eight bills. These bills will provide different kinds of assistance to solar and other renewable forms of energy.

The tax credit and the Solar Coalition's efforts are only beginning measures. What is also needed is a unified, binding commitment to conservation and solar energy by millions of Americans.

I say conservation and solar because the latter is not possible without the former. If energy demand continues to grow at its current pace, by the year 2025 we will need all the solar energy we can harness, all the nuclear power plants we can build, all the coal we can mine, all the shale oil we can produce, and any other source of energy we can get our hands on simply to keep pace.

Unless Americans learn to conserve, our energy choices for the future will be extremely limited.

I can envision a steady and accelerating progression of solar energy development. If the demand for solar and other renewable energy equipment increases, the American solar industry will flourish. Then mass production begins and prices drop. Engineering breakthroughs occur, and prices drop even more. And solar equipment becomes more economical and more popular.

Already there is much excitement across the country for solar energy's promise of environmentally safe energy independence. I am confident that Wednesday's commemoration of the importance of solar energy will build upon that excitement so that we can later look back on May 3, 1978, as the day America raised its sights to the sun.●

THE COUNCIL ON ENVIRONMENTAL QUALITY'S EXCITING SOLAR ENERGY REPORT

● Mr. PERCY. Mr. President, much reference has been made of late to an April 1978 report by the President's Council on Environmental Quality entitled "Solar Energy: Progress and Promise." In it, the Council contends that the United States can meet up to one-quarter of its energy needs by the year 2000 with solar and other renewable energy technology. By the year 2020, the Council contends, over half our energy needs can be satisfied by these clean, safe, inexhaustible resources.

Such encouraging news cannot help but add strength to the argument that solar energy can take over a significant portion of the work done by oil and gas by the time those resources get scarce. However, we need a much stronger commitment to solar energy than we have now to meet CEQ's goals.

I urge all my colleagues to read this document. Of all our energy options, the renewable one has some decided advantages. But the high cost of solar technologies have ruled them out of most people's calculations for middle-term supply. The CEQ report should dispel that perception.

I would like to insert the entire report in the RECORD to give my colleagues the opportunity to read it. However, in the interests of conserving paper, I will ask only that the CEQ's news release that accompanied the release of the report be inserted, and hope that those of my colleagues who have not yet done so will request a copy of the full report from CEQ.

Mr. President, I ask that the Council on Environmental Quality's news release of April 12, 1978 be printed in the RECORD.

The news release follows:

COUNCIL ON ENVIRONMENTAL QUALITY
NEWS RELEASE

If it tries hard enough, the U.S. can meet up to one-quarter of its energy needs through solar technology by the year 2000, according to a report released today by the President's Council on Environmental Quality.

Moreover, says the 52-page report, "For the period 2020 and beyond, it is now possible to speak hopefully and unblushingly of the United States becoming a solar society. A national goal of providing significantly more than half of our energy from solar sources by the year 2020 should be achievable, if our commitment to that goal and to energy conservation is strong."

Commenting on the report, Council Member Gus Speth emphasized CEQ's view that a transition to solar power "cannot be made overnight." "Nevertheless, if we commit our wills as well as our resources to this goal, we can probably achieve a solar society within the lifetimes of today's children," Speth said. "A solar world, with safe, sustainable energy, may be the most important gift this generation can leave behind us for the future."

The CEQ report, "Solar Energy: Progress and Promise," states that achievement of these energy goals will require a strong commitment to conservation and a reliance on a variety of technologies including solar collectors, small dams, windmills, solar cells, and fuels derived from biomass—plant materials that contain energy converted from sunlight.

The report is based on an extensive literature review and on numerous discussions with solar experts within and outside of government. It summarizes the technical status of each solar technology, and bases its optimistic findings on recent improvements in the development of solar technologies and on expected rises in the costs of competing energy sources.

"No one's crystal ball works very well in examining energy futures," Speth said, "but the consistently grim views reported by some people and the overly optimistic views reported by others convinced us to take a look for ourselves."

"Having examined the issue, we conclude that—while there are economic and institutional hurdles still to be crossed—the prospects for solar energy are brighter than most imagine. The view of solar energy as a rather exotic energy source of little practical significance is no longer justified, and may never have been."

Speth cited President Carter's National Energy Plan as the nation's "first major commitment to conservation and to the use of renewable resources." Quoting from the Plan, he said that "America's hope for energy to sustain economic growth beyond the year 2000 rests in large measure on the development of renewable and essentially inexhaustible sources of energy."

By the year 2000, the CEQ study estimates, the U.S. could save more than 20 quadrillion BTU's ("quads") of fuel through the use of solar energy—the equivalent of 10 million barrels of oil a day, and more than the energy now produced in the U.S. by coal and nuclear power combined.

Total U.S. energy demand in 1977 was 76 quads. A quad is a quadrillion or 10^{15} BTU's. One quad is equivalent to enough energy to heat 500,000 homes for 20 years. One quad is also equivalent to the fuel required to operate 20 large electric power plants for one year.

"Solar energy flows through the earth's natural system at a rate about 10,000 times greater than all energy from the world's fossil- and nuclear-powered machines," the report states. "In principle, with an average collection efficiency of only 15 percent—achievable with present technologies—all of our current energy needs could be met by using roughly 1 percent of our land area."

Many solar technologies cannot now compete with conventional energy resources, the report says, but the economics of solar energy have been improving rapidly. As evidence of progress, the report states that:

The number of homes supplemented with solar energy has risen from about 30 in 1973 to "somewhere in the thousands" today. Solar space- and waterheating systems are now available from almost 200 firms, and 1976 production of collectors exceeded the previous year's by 150 percent.

Photovoltaic cells, which convert sunlight directly into electrical current, cost 50 times as much a few years ago as those being produced today, and "prices are still dropping rapidly."

The development of economically competitive wind machines is proceeding rapidly, with the successful installation of several prototype machines within the past year.

Many sites at existing small hydro dams have been identified, where generators could be installed or rehabilitated to supply economically competitive electric power.

"In addition to solar's environmental ad-

vantages over coal and nuclear power, sunlight is not subject to embargo," Speth said. "An industry based on solar would generate twice as many jobs as the same investment in conventional electric-utility plants."

The report concludes with a CEQ summary of recommendations, made by a variety of sources, for accelerating the use of solar energy. CEQ does not specifically endorse any of them, but offers them as discussion points for possible changes in federal programs.

[Executive Office of the President, Council on Environmental Quality]

ONE POSSIBLE SCENARIO FOR PROVIDING A QUARTER OF U.S. ENERGY NEEDS FROM SOLAR SOURCES IN 2000

[*Solar energy in quads per year of displaced fuel; under conditions of accelerated development*[1]]

Solar heating and cooling	4
Intermediate temperature systems	4
Photovoltaic	3
Biomass	3
Wind	4
Hydropower[2]	5
Total	23
Total U.S. energy demand in 2000, assuming a serious energy conservation effort	100

[1] A quad is a quadrillion or 10^{15} Btus. One quad is equivalent to enough energy to heat 500,000 homes for 20 years. One quad is also equivalent to the fuel required to operate 20 large electric power plants for one year.

[2] Includes continuation of existing large-scale hydropower facilities.

April, 1978.●

TAX REFORM, CAPITAL INVESTMENT, AND FOREIGN TRADE

● Mr. PERCY. Mr. President, a week ago Secretary of the Treasury Blumenthal spoke to a group of financial analysts in Florida about the interrelationship of taxes, inflation, and investment. It was good news to hear an administration spokesman acknowledging that these economic factors are, indeed, affected by one another and that there is much the Federal Government can do to help.

The Mid-America Council for International Economic Policy had previously come to many of the same conclusions as the Secretary of the Treasury. In an excellent statement, "Tax Reform in an Era of Inflation and Great Capital Needs," the Council has pinpointed in a factual and reasoned manner the important components of our lagging export sector.

We know, Mr. President, that without adequate capital investment, productivity, and the very growth in the number of jobs are jeopardized. Yet the Council statement notes that we are not meeting our investment needs. What is more, the decline in the rate of investment has accelerated in the past 3 years and has affected our ability to compete with overseas competitors.

I have introduced with Senators DANFORTH and JAVITS, the Tax Reduction Act of 1978. Our bill will cut taxes for both consumers and business, but it is structured to encourage more than just consumption. The tax reductions are designed to build business confidence and spur the type of capital investment that produces jobs and increases Federal tax revenues in the process. The Tax Reduction Act will also help offset costs of inflation which, as the Council article states, "itself acts like an additional 'tax' on profits."

Mr. President, I ask that the Mid-America Council's statement be printed at the conclusion of my remarks and urge all those concerned with our future economic well-being to read it. Because of their length, I am not submitting all of the charts which accompanied this statement but I do attach the most relevant.

The material follows:

STATEMENT OF THE MID-AMERICAN COUNCIL FOR INTERNATIONAL ECONOMY POLICY

I. TAX REFORM IN AN ERA OF INFLATION AND GREAT CAPITAL NEEDS

Economic objectives of tax reform

Few will disagree with President Carter's stated concern that the U.S. needs tax reform to stimulate economic improvement and capital formation. We share these views for four basic reasons:

First, to stimulate the economy in the short term;

Second, to promote regular growth in the long term;

Third, to provide a sound foundation for private sector expansion; and

Fourth, to get the revenue necessary to finance government needs.

The Midwest and the Nation

The Midwest is particularly concerned about the hesitant progress of the current business recovery because the national business cycle has a greater impact on the Midwest than on any other section of the country.

During the postwar period, U.S. nonfarm personal income grew at an annual average rate of 7.6 percent during expansions and 1.9 percent during recessions, the cyclical swing being the difference or 5.7 percentage points. Taking 5.7 percent as a base of 100, the cyclical swing in each state can be expressed as a percentage of the U.S. average swing.

Which are the most cyclically sensitive states? At the top of the list is Michigan with its cyclically sensitive auto industry at 195 percent of the U.S. average. Indiana, largely due to the cyclical sensitivity of its steel mills, is second at 191 percent; and Ohio with its heavy industry is third at 160 percent. Illinois is ninth at 122 percent and most Plains states are far lower. The Midwest and Southeast are the most sensitive to cyclical swings, but the Midwest stands out far above all others.

The Midwest also has a special relationship to the nation in regard to the balance of trade. Illinois is the largest exporter of all the states. In Illinois alone, over 500,000 jobs are directly related to exports. The Midwest as a whole provides over half of the U.S. exports of agricultural products, transportation equipment, and machinery. These industries account for 55–60 percent of total U.S. exports. Success in exporting industrial goods in very competitive markets requires that U.S. export firms enjoy fair and consistent tax treatment of foreign income and expenses.

Capital needs and inflation

The position of the Mid-America Council is that the key problems faced by the business community today—whether in the Midwest or in the nation as a whole—are:

The need for capital, and the impact of inflation on business and capital formation.

The United States needs to increase the share of its resources devoted to capital investment in order to increase productivity and real wages and to provide jobs for a growing labor force. The Midwestern farmer, who at the end of the year finds that his revenue exceeds his costs, can either spend the net proceeds on consumption or he can invest in new equipment. With that equipment he can increase his productivity in future years. It is much the same on a national level for the farmer, the industrialist or any businessman.

However, a declining rate of investment in plant and equipment has recently been slowing down growth in productivity and real wages. A Congressional Budget Office study shows the growth rate of plant and equipment per worker fell from 2.6 percent in 1965–70 to 1.6 percent in 1970–75. Reflecting this drop, the growth rate in worker productivity fell from 2.4 percent in 1965–70 to 1.0 percent in 1970–75. The slowdown in productivity growth has in turn resulted in slower growth in real wages. Since 1969, real hourly wages have grown by less than 1 percent a year. The U.S. needs to reverse this downtrend and can begin doing so by reversing the tilt in the tax structure against business investment.

An additional reason noted above for increasing capital investment is to provide jobs for a growing labor force. Each year on the average, there are 1.5 million workers to be equipped with the tools of production. According to a Commerce Department study of 1975, the U.S. needs to devote 12 percent of real G.N.P. to business investment during 1975–80 in order to reduce unemployment to 5 percent. However, between 1965 and 1974, business investment averaged only 10.5 percent of G.N.P., and between 1975 and 1977, it averaged only 9.3 percent. Thus, business investment must be accelerated to 13 percent or more if G.N.P. is to reach economic and employment goals.

The U.S. lags other nations in investment, economic growth, and productivity growth. This is shown in Exhibit 1, at the end of the statement. As would be expected, the nations in which investment as a percentage of G.N.P. is largest are near the top in productivity growth and G.N.P. growth and, incidentally, most have large favorable trade balances. You will note from the chart the U.S. is overall last and the second to last country is the United Kingdom.

In the U.S., investment is financed principally from corporate savings, and the adequacy of corporate cash flow is much more important to maintaining a viable level of investment in the U.S. than in other industrial countries. Data in Exhibit 2 (attached) suggests that nearly two-thirds of domestic capital investment originates from corporate sources, substantially more than for any other country shown.

The inadequacy of domestic investment has been a persistent problem since the mid-1960's. It is the key weak spot of the present business recovery. A major cause of this stubborn problem is the inflation which has eroded both the incentives and the means for domestic investment. Reported profits of nonfinancial corporations, after taxes, have increased 115 percent since 1965. But when adjusted for inflation (underdepreciation and phantom inventory profits) they have actually declined 5 percent. Real return on investment (adjusted for inflation) has eroded. It was 3.7 percent in 1976—hardly an incentive to invest at today's cost of money.

The effective corporate tax rate, adjusted for phantom inventory profits and underdepreciation, peaked in 1974 and in the period 1974–76 substantially exceeded the statutory 48% rate based on Commerce Department statistics. Corporate tax cuts enacted since the 1950's have simply been insufficient to offset the ravages of inflation.

II. POSITIVE ASPECTS OF THE CARTER TAX PROGRAM

The tax reduction features of President Carter's tax package represent a step in the right direction because they seem to reflect a recognition of the capital formation problem. In justifying the business tax proposals in the program, the Treasury Department's "Detailed Descriptions and Supporting Analysis" states, "First, and of overrid-

ing importance, is the stimulation to capital formation both in the near future and over the longer term. . . . There has been a downward trend in the rate of return on reproducible assets since the mid-1960's, a trend that must be reversed."

As the Treasury Department analysis goes on to say, reducing the tax burden on businesses has two effects. First, it increases cash flow and thus makes it easier to finance capital expenditures. Second, lower tax rates and net tax payments increase after-tax profits on investment, and this is an incentive for companies to increase capital spending.

A reduction of the corporate tax burden has an additional effect: it helps to offset the cost of inflation, which itself acts like an additional "tax" on profits.

This additional cost of inflation stems from the fact that businesses can deduct only the historical cost of their utilization of physical assets (fixed assets and inventory). In order to replace assets used up in production during a period of inflation, higher prices must be paid than the historical prices paid for the old assets. In other words, as mentioned earlier, much of reported profits are fictitious since costs of production have been understated. Thus, profits are overstated for tax purposes and corporations pay higher taxes than if their assets could be charged off in real terms.

For these reasons, we support the idea of cutting the basic corporate tax rate from 48 percent to 45 percent this year, with an additional percentage point reduction in 1980.

We also endorse making the investment tax credit permanent at 10 percent, extending it to the construction or rehabilitation of industrial and utility structures, and permitting investors to apply these credits to offset up to 90 percent of tax liability in any one year. And, because we are all aware of the government-imposed burden of increased capital expenditures for pollution control facilities, we are pleased that the government wants to liberalize the investment credit provisions to cover these facilities.

III. PROPOSED REFORMS IN INTERNATIONAL TAX AREA

U.S. international business faces severe competition

When Congress considers changes in the law relating to U.S. international business, it is essential to remember that the international business arena is highly competitive. The game is played in the other team's stadium and under its rules. Most important, the other team is a very competent one. Every major economy in the free world involves strong competitors of many countries, local companies and others. While we like to think U.S. business dominates the world economic scene, that idea is far from a fact.

To illustrate this point, let's look at four countries where almost one-half of U.S. foreign investment is located—Canada, the United Kingdom, Germany and France. In those four countries there are over 280 local companies, owned by local persons or multinationals of other countries, with annual sales exceeding $500 million. Even in Canada, a nation of only 23 million people, there are 30 non-U.S. owned companies with over $500 million sales. In that country, over 25 percent of U.S. foreign investment is located, and many people mistakenly believe that U.S. business has everything to itself. Looking to the next country where 10 percent of U.S. investment is concentrated, the United Kingdom, we find 118 non-U.S. owned companies of such size. In Germany and France there are almost 140 such size companies. In Europe—where we find over 35 percent of U.S. investment—there are in total over 250 companies of such size.

Even this small examination of the world business scene is sufficient to illustrate that the competition is strong. Historically it has been assumed that U.S. industry dominates world markets. While that once may have been true, particularly because of the ravages of World War II, it no longer is true. The relative position of U.S.-based multinational companies has declined significantly, particularly in the last ten years. Let's examine some facts and trends regarding the world economic scene.

As Exhibit 3 demonstrates, in 1965, 68 of the top 100 companies in the world were American; in 1976 the number had declined to 48, a drop of 22 percent. If one excludes petroleum companies, the drop is even more pronounced. In 1965, of the 87 companies of the world's top 100 which were not in the petroleum industry, 57 or 6 percent were American. In 1976, of the 75 such companies, only 33, or 44 percent were American, a drop of almost 30 percent.

Another way to examine the trend would be to compare the sales and assets of the top American companies with the sales and assets of the top foreign companies. Between 1965 and 1976 the total sales of the top fifty foreign companies grew from 46 percent to 76 percent of total sales of the U.S. top fifty. The asset growth of the top ten foreign companies compared to the top ten U.S. companies was similar, going from 35 percent in 1965 to 67 percent in 1976. As you can see from this list, the foreign competitors are generally well known and are from Europe and Japan.

A third way of reviewing the trends would be to look at a bigger picture, the world gross national product (See Exhibit 4). In 1960 the U.S. economy produced 34 percent of world G.N.P. In 1975 we produced 25 percent. In contrast, the share of the European Economic Community rose by almost 5 percent and Japan rose over 5 percent.

Clearly, U.S. business no longer is the only big kid on the block, if it ever was. The local kids have grown up and, aided by the active support of their governments, have become top flight competition. In that competition, the taxation of the competitors is a vital factor in determining which will survive and continue to have an important share of the market. A significant additional tax imposed on one competitor will put it in a weaker competitive position. That weakness will be quickly recognized by the competition and exploited in many ways. If the weakness is large enough and the competition is astute enough, in a short time the competition will take over the market. When a competitor gains strength in the market in one country, it will probably use that strength to increase its position in markets in other countries. Eventually it could reach the posture of being a strong competitor for the market in the home country of the competition which had to pay the additional tax.

How do other countries tax foreign subsidiaries?

If the United States imposes tax on the unremitted earnings of foreign subsidiaries of U.S. business, it will be imposing a tax which the competitors will not face (See Exhibit 5). A comparison of the tax systems of seven countries where the principal competition is located shows that none of them tax such unremitted earnings other than on a Subpart F basis. Of equal importance is the fact that, in six of the seven countries, a business can earn income abroad under conditions where that income is not even taxed in the home country when that business brings it home as a dividend or foreign branch profits. Not shown in the chart is the fact that every country but Belgium and the U.S. allows special deductions for investments in or losses of foreign operations carried out through foreign subsidiaries. Clearly, U.S. business is barely even with the competition under present tax laws. If the U.S. tax law is changed as the President proposes, certainly the competitive balance will be tipped in favor of the foreign competition.

How do other countries determine taxable income?

How important is the change likely to be? Will the change merely eliminate "incentives" offered by other countries to attract U.S. investment and thus help keep that investment here? Many of the countries where U.S. business invests have high corporate tax rates and one would think that the foreign tax credit would eliminate the U.S. tax if deferral were eliminated. Such a conclusion assumes, fallaciously, that our income tax law works the same as the laws of other countries.

Let's look at how other countries determine taxable income. The taxable income in the other country will have to be restated to U.S. taxable income principles in determining the U.S. tax against which the foreign tax credit applies (See Exhibit 6). The four countries we looked at earlier where almost one-half of U.S. investment is located are a good sample of how other countries determine taxable income. Note all four are high tax countries. Looking at those four countries, we find that all allow special write-downs of inventory with both Canada and the United Kingdom allowing it to compensate for inflation. Three of the four countries allow special depreciation deductions and other fixed asset tax differences which significantly impact taxable income in a manner different from the United States. The U.K. allowance of a 100 percent write-off of the cost of new machinery and equipment probably presents the greatest difference from U.S. principles, but Canada also allows a 50 percent write-off. Two countries allow special reserve for estimated liabilities and two treat capital gains much differently than we do.

All these countries are high-tax countries and therefore the allowance of such adjustments to taxable income costs their national treasury significant revenue. Thus the countries have made decisions which say that all businesses operating there are entitled to pay less taxes. Those decisions are based on their economic considerations, their political systems, their level of inflation and numerous other national considerations. They are aimed at their many local businesses (as well as foreign-owned businesses) and thus are obviously not particularly aimed at stimulating U.S. investment there. Why should the U.S. government through a deliberate action in its tax law effectively wipe out the consequences of such decisions on profits earned in those countries by businesses owned by corporations of those countries? Clearly we could be accused of violating the sovereignty of the countries involved.

Conclusion

As the charts so graphically illustrate, the Administration's proposal to eliminate deferral would significantly hinder U.S. business in its competition in world markets. We strongly believe that not only would we be strengthening foreign competitors in markets in other countries but in our own domestic marketplace as well.

IV. ELIMINATION OF DISC

A second "reform" which would be detrimental to business in particular and to the U.S. economy in general is the proposed phase-out of the Domestic International Sales Corporation, or DISC, tax incentive for exports. There are several reasons for our opposition to this proposal.

First, this proposal could not come at a more inappropriate time, when the Carter Administration has announced an official U.S. trade deficit for 1977 of $26.7 billion, the largest in history. As a matter of interest, this figure counts imports on an F.O.B. ("free on board") basis, which takes into consideration only the value of imported goods as they leave the country. Most countries, including our major trade competitors, calculate imports on a C.I.F. (cost, insurance,

freight) basis, which adds to the value of the goods the cost of insurance and shipping. If we did the same, the U.S. trade deficit in 1977 would come to over $36 billion.

Quite aside from the dimensions of the trade deficit is another problem that has been ignored by the Administration, the steady decline in the U.S. share of world exports. from over 20 percent in the early 1950's to about 12.5 percent in 1977. By contrast, Japan's share has more than doubled in the past 15 years to 8.0 percent. Germany's share has increased from 5 percent in 1950 to 11.5 percent currently. Only the United Kingdom's share has declined as rapidly as that of the U.S.

The Administration has emphasized that the trade deficit in large part is due to recent increases in U.S. petroleum imports. But is this the complete story? An examination of the trade statistics shows that the real problem is not only imports, but also exports, and specifically a slowdown in the growth rate of our exports in recent years.

During the years 1969 to 1977, U.S. imports have grown on an average of 4 percent to 4.25 percent each year. Exports, on the other hand, have slowed down; from 1969 to 1974 they grew at an annual average of 8.3 percent, but since then the annual average has fallen to only 1.75 percent, far below the growth rate for imports.

In sum, the United States has steadily been losing ground to its competitors as an exporting nation, and recently its rate of export growth has slowed appreciably—yet the Administration wants to remove a key export incentive!

This leads to a second argument in favor of DISC, namely, that it is one of the few incentives that U.S. exporters can take advantage of, in comparison to what is available to exporters in other countries. Without DISC, U.S. exporters are left with very few stimuli to sell overseas—chiefly the direct loan, guarantee, and insurance programs offered by the Export-Import Bank and the Foreign Credit Insurance Association.

Other major trading nations offer a great variety of export incentives, both in terms of taxes and in other benefits. Looking strictly at tax incentives, many countries offer what amounts to tax subsidies for exporters either through regional investment incentives or via rebates of value-added taxes on goods that are exported. This latter feature is the heart of the European Common Market's tax system. There is no U.S. counterpart.

Furthermore, beyond the tax incentives that countries offer specifically for exporting, their tax systems often operate to the advantage of exporters in ways that the United States has chosen to avoid. Here I am speaking of the fact that most countries refrain from taxing the profits of trading subsidiaries located outside the home country. This means that a French or Dutch company, for example, can set up an offshore exporting company through which all export earnings are channeled. These earnings can then be used to finance other exports or foreign investments and not be taxed as long as they are remitted to the home country. The United States, on the other hand, undermined such export companies in 1962 with the adoption of the so-called Subpart F provisions of the tax code.

Furthermore, in the case of The Netherlands, Belgium and France, even when export earnings are returned to the parent company they are either not taxed or taxed only nominally.

DISC, in a sense, was a partial restoration of the deferral of tax on export earnings. But since other countries effectively allow 100 percent deferral of tax on export earnings, we are still competing literally with one hand tied behind our back.

Outside the tax area, the differences are even greater. Most countries not only offer programs like those of the Export-Import Bank, but go well beyond. So-called "mixed" credits are offered exporters—a blend of low interest-rate, long-term foreign aid money along with more commercially priced traditional export financing. Interest subsidies are common, and some countries, such as France, Germany, Italy and Canada, also offer outright capital grants in addition to loans and guarantees.

By contrast, our United States Eximbank loans are not subsidized, and the bank's interest rates are based on the cost of the money Eximbank borrows. Foreign aid financing through the Agency for International Development is available only for specific projects in certain less developed countries, and is not "mixed" with straight export financing. The United States has no capital grant program for exports. And yet, every time the Export-Import Bank comes to Congress to have its operating charter renewed, it runs into criticism that it is a "give-away program."

This, then, is what United States companies face in competition for export markets. The same facts are also relevant in another matter, the multilateral trade negotiations now going on in Geneva.

One of the most difficult topics of discussion in Geneva is the issue of export subsidies. Our trading partners want the U.S. to change our countervailing duty law, which allows us to retaliate against subsidized exports of other countries sent to the United States. In return the U.S. is asking for elimination of their most blatant export subsidies. Our trading partners claim that DISC is also an export subsidy, which makes DISC something over which to bargain, along with the countervailing duty law. In other words, retaining DISC is one of the few weapons we have in the fight to eliminate foreign export subsidies, which some U.S. industries have complained are hurting them. Does it make sense from a negotiating point of view to give up DISC unilaterally, when we have the opportunity of getting something in return for it at Geneva?

Finally, only two years ago Congress amended the DISC system to meet criticism that DISC was an unearned windfall to large exporting companies. The argument against DISC was that these companies were already exporting prior to DISC, so DISC merely gave them a reward for something they would have done anyway. Since the 1976 changes, however, DISC deferral has been granted only to export income that exceeds the annual average of a five-year base period. In other words, now a business only gets DISC benefits if it increases exports over what it was doing in previous years. As it now stands, DISC acts as an incentive to keep exports expanding, which was its original purpose.

If Congress were to change the ground rules for a third time in six years, it would only increase the uncertainty that business faces in planning. The last change is less than two years old. The new DISC system should be given time to see how it actually works to stimulate exports. Time will show that the new DISC system does provide an effective incentive for increased exports.

EXHIBIT I—INVESTMENT RATIOS COMPARED WITH GROWTH IN OUTPUT AND PRODUCTIVITY

[Average 1960–76]

	Investment/GNP		GNP growth rate		Manufacturing productivity growth	
	Percent	Rank	Percent	Rank	Percent	Rank
Japan	33.0	1	8.8	1	9.2	1
France	24.4	2	5.0	2	5.9	2
West Germany	24.2	3	3.9	5	5.9	2
Canada	22.6	4	5.0	2	3.7	5
Italy	21.0	5	4.6	4	5.7	4
United Kingdom	18.6	6	2.5	7	3.4	6
United States	17.7	7	3.6	6	2.6	7

EXHIBIT 2.—FINANCING CAPITAL INVESTMENT

[Percent of total savings]

	Noncorporate			
	Corporate	Individual	Government and foreign investors	Total
United States	65.5	31.4	3.1	100
Canada	58.2	24.4	17.4	100
United Kingdom	59.7	37.7	2.6	100
West Germany	47.2	37.3	15.5	100
France	52.7	32.5	14.8	100
Netherlands	41.7	39.4	18.9	100
Belgium	42.1	52.4	5.5	100
Sweden	56.2	21.7	22.1	100
Australia	30.1	50.5	19.4	100
Japan	41.2	38.9	19.9	100

Data source: U.N. Yearbook.

EXHIBIT 3.—DISTRIBUTION OF THE WORLD'S 100 LARGEST INDUSTRIAL COMPANIES

[Ranked by sales]

	Number of companies		
Country	1965	1970	1976
United States	68	63	48
West Germany	12	10	12
Japan	2	8	11
France	3	3	8
United Kingdom	9	7	7
Italy	2	3	3
The Netherlands	1	2	2
Other	3	4	9
Total companies	100	100	100

Source: Fortune, various issues.

EXHIBIT 4.—SHARES OF WORLD GROSS NATIONAL PRODUCT

[In percent]

Country	1960	1970	1975
United States	33.7	30.7	25.0
EEC (excluding United Kingdom)	12.8	15.8	17.1
United Kingdom	4.7	3.8	3.6
Japan	2.6	6.2	8.3
All other countries	46.2	43.5	46.0
Total	100.0	100.0	100.0

Sources: International Economic Report of the President, 1976, and OECD data.

EXHIBIT 5.—TAXATION OF INTERNATIONAL BUSINESS

Home country	Does country tax profit of foreign subsidiary: When unremitted	When paid as dividends	Earnings of foreign branch	Is foreign tax credit given	Are foreign earnings taxed as a practical matter
Belgium	No	No	No	Not needed	No.
France	No	No	No	do	No.
Germany	No [1]	Yes	Yes	Yes	No.
Italy [2]	No	Yes	No	Partially	Partially.
Japan	No [1]	Yes	Yes	Yes	No.
The Netherlands	No	No	Yes	Yes	No.
United Kingdom	No	Yes	Yes	Yes	No.

[1] Germany has limited subpt. F type of provisions. Japan will have limited subpt. F type provisions effective Apr. 1, 1978.

[2] Italy only taxes foreign branches which do not have separate management and accounting. It only allows foreign tax credits for taxes paid on branch income and for withholding taxes.

EXHIBIT 6.—SUMMARY OF UNUSUAL TAX DEDUCTIONS OR EXEMPTIONS IN 4 KEY COUNTRIES WHERE U.S. BUSINESS INVESTS

Nature of item	Canada	France	Germany	United Kingdom
Corporate tax rate	42 or 48 percent	50 percent	44 to 61 percent	52 percent
Arbitrary inventory write down	X	X	X	X
Very fast depreciation	X	----------	----------	X
Depreciation of goodwill	X	----------	----------	----------
Tax free reinvestment of gains on fixed assets	X	----------	X	----------

Nature of item	Canada	France	Germany	United Kingdom
Corporate tax rate	42 or 48 percent	50 percent	44 to 61 percent	52 percent
Office buildings not depreciable	----------	----------	----------	X
Investment tax credit	X	----------	----------	----------
Reserves for estimated expenses	----------	X	X	----------
Capital gains specially taxed	X	X	----------	----------

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA—STATE POPULATION DATA

● Mr. KENNEDY. Mr. President, one of the strongest points in favor of House Joint Resolution 554, the proposed constitutional amendment to allow citizens of the District of Columbia to elect their own Senators and Representatives, is the fact that the population of the District exceeds that of several other States.

Under one of the most basic principles of our democracy, the citizens of each of these States are represented in the Senate and the House. Yet, the 690,000 citizens of the District are denied this fundamental right.

According to the population data of the Bureau of the Census, the District of Columbia has a population greater than, or equal to, that of seven States, based on the most recent data available, the population estimates for 1977. These seven States are Alaska, Delaware, Nevada, North Dakota, South Dakota, Vermont, and Wyoming.

If the official census figures for 1970 are used, the District has a population greater than the population of 10 States—including Idaho, Montana, and New Hampshire, in addition to the above 7 States. Each of these States has its own representation in Congress—two Senators, and either one or two Members of the House of Representatives, depending on the population of the State. Yet, the people of the Nation's Capital have no such voice.

In this era of profound involvement by Congress in so many different aspects of American life, it is a denial of basic justice and human rights for the citizens of the District to have no voice in the decisions of Congress. House Joint Resolution 554 will provide the long-overdue remedy for this injustice, and I hope that it will be approved by the Senate this year and sent to the States for ratification as part of the Constitution.

Mr. President, I ask that the following table showing State-by-State population data prepared by the Bureau of the Census may be printed in the RECORD.

The table follows:

Population figures for the States and the District of Columbia

State	1970 census	1977 estimate
Alabama	3,444,000	3,690,000
Alaska	303,000	407,000
Arizona	1,775,000	2,296,000
Arkansas	1,923,000	2,144,000
California	19,971,000	21,896,000
Colorado	2,210,000	2,619,000
Connecticut	3,032,000	3,108,000
Delaware	548,000	582,000
D.C	757,000	690,000
Florida	6,791,000	8,452,000
Georgia	4,588,000	5,048,000
Hawaii	770,000	895,000
Idaho	713,000	857,000
Illinois	11,113,000	11,245,000
Indiana	5,195,000	5,330,000
Iowa	2,825,000	2,879,000
Kansas	2,249,000	2,326,000
Kentucky	3,221,000	3,458,000
Louisiana	3,645,000	3,921,000
Maine	994,000	1,085,000
Maryland	3,924,000	4,139,000
Massachusetts	5,689,000	5,782,000
Michigan	8,882,000	9,129,000
Minnesota	3,806,000	3,975,000
Mississippi	2,217,000	2,389,000
Missouri	4,678,000	4,801,000
Montana	694,000	761,000
Nebraska	1,485,000	1,561,000
Nevada	489,000	633,000
New Hampshire	738,000	849,000
New Jersey	7,171,000	7,329,000
New Mexico	1,017,000	1,190,000
New York	18,241,000	17,924,000
North Carolina	5,084,000	5,525,000
North Dakota	618,000	653,000
Ohio	10,657,000	10,701,000
Oklahoma	2,559,000	2,811,000
Oregon	2,092,000	2,376,000
Pennsylvania	11,801,000	11,785,000
Rhode Island	950,000	935,000
South Carolina	2,591,000	2,876,000
South Dakota	666,000	689,000
Tennessee	3,926,000	4,299,000
Texas	11,199,000	12,830,000
Utah	1,059,000	1,268,000
Vermont	445,000	483,000
Virginia	4,651,000	5,135,000
Washington	3,413,000	3,658,000
West Virginia	1,744,000	1,859,000
Wisconsin	4,418,000	4,651,000
Wyoming	332,000	406,000
Total	203,305,000	216,332,000

●

MIDEAST AIRCRAFT SALE

● Mr. SASSER. Mr. President, I voted yesterday to disapprove the sale of sophisticated aircraft to the countries of the Middle East, and I believe my vote to be in the best interest of peace in the Middle East.

After listening to the debate, both in open and closed sessions, and with the strong determination to distinguish reason from emotion, I felt that my commitment to peace in the Middle East demanded a vote to disapprove the sales. Our country's commitment to peace should promote a return to the negotiations rather than a massive buildup of the weapons of war. We should give peace a chance before once again arming the prospective belligerents.

The arguments in favor of sending 60 F–15's to Saudi Arabia and 50 F–5's to Egypt, along with 15 F–15's and 75 F–16's to Israel, were eloquently stated, but in my view, the arguments were not sufficiently supported by the facts.

I do not believe that the influx of armed warplanes into this war-torn and unstable region of the world will advance the cause of peace. I regret that the sale came before the Senate as a package. In the future, the administration would be well advised to propose arms sales separately from a policy standpoint as well as a legal requirement. Congress has and should exercise the prerogative to

consider every individual sale on its own merit and not as part of a preconceived configuration.●

FINANCIAL DISCLOSURE OF SENATOR JACOB K. JAVITS, 1977

● Mr. JAVITS. Mr. President, it has been my practice and policy during the last 10 years to publish a report of my financial situation. Now, for the first time in the history of this body, Senate rules require that certain financial information about Senators be made available to the public.

Yesterday, under these new Senate rules, I filed with the Secretary of the Senate two financial reports, which are public documents. The first form is the "Senate Public Financial Disclosure Report", which includes a list of my assets and liabilities as of January 1, 1978. The second form is the "Statement of Contributions and Honoraria" which discloses all contributions and honoraria received by me during the calendar year 1977. This form also incorporates, by reference, all reports of campaign contributions which are on file with the Secretary of the Senate and which are public documents.

In addition, I filed under these Senate rules, with the Comptroller General of the United States, a "Confidential Statement of Financial Interests". This statement includes a list of my assets and liabilities during the calendar year 1977 and a copy of my 1977 Federal tax return. As this report is not available to the public and as I have heretofore followed a policy of annual public financial disclosure, I am publishing a list of my assets and liabilities for calendar year 1977 in accordance with the form I have used before. The listing includes:

First, each of my interests in property;

Second, the assets held in a family trust established in 1937, in which as a beneficiary I have a life interest and my wife and children have a remainder interest;

Third, each of my liabilities; and

Finally, I am including a summary of my 1977 Federal income tax return and the amounts of State and local taxes paid for 1977.

I submit these items for the RECORD. The material follows:

INTERESTS IN PROPERTY (1977) [1]

NATURE OF INTEREST, TYPE OF PROPERTY, AND LOCATION:

Indian Trail Groves, Ltd., land, Miami, Fla.

Indian Trail Ranch Liquidating Trust-interests in mortgages on land, mortgages, Miami, Fla.

Arrowhead Associates, land, Tyson Corner, Va.

TBV Lessors, land, California.

Watergate West, Inc., stock, residence, Washington, D.C.

Computer Investors Group, Inc., stock, corporate stock, New York, N.Y.

L. S., Inc., stock, corporate stock, New York, N.Y.

Terra Bella Vineyards, vineyards, California.

[1] In all cases these are for normal investment only and do not represent any element of control or of relative major size.

Amax, Inc., bonds.

Southgate Associates, land and building, Chicago, Ill.

Checking Account, cash, First National City Bank, New York, N.Y.

Checking Account, cash, National Commercial Bank and Trust Company, Schenectady, N.Y.

American Bar Association Retirement Association, cash on deposit, Chicago, Ill.

Cleveland Realty Investors, stock, Cleveland, Ohio.

West Indies and Caribbean Development, bonds, West Indies.

Senate Retirement Fund, cash on deposit, Washington, D.C.

Paintings, art works, objects and household furnishings, Watergate West, Washington, D.C.

BENEFICIAL INTEREST IN TRUST (1977) [1]

Name of trust of fiduciary interest: Ida Javits Trust.

Name of trustee or other fiduciary: John Trubin and Lewis M. Schott—Trustees.

Address of trustee or other fiduciary: 375 Park Avenue, 14th Floor, New York, New York 10022.

TRUST HOLDINGS

Belco Oil & Gas Fund, land interest.

East Hampton Property, land interest.

Loxahatchee Real Estate, land interest.

American Telephone & Telegraph Co., bonds.

Bartell Media (Downe Communications), bonds.

Carolina Telephone & Telegraph Co., bonds.

Cavenham USA, Inc., bonds.

Government Employees Corp., bonds.

Government Employees Financial Corp., bonds.

Israel Savings, bonds.

Marcor, Inc., bonds.

N.Y.S. Power Authority, bonds.

U.S. Treasury Bills, short-term paper.

West Indies & Caribbean Development, bonds.

Anderson Clayton & Co., stocks.

Archer Daniels Midland Co., stocks.

Arlen Realty & Development, stocks.

Bankers Securities Corp., stocks.

Carolina Power & Light, stocks.

Cenco Instruments, stocks.

Chase Manhattan Corp., stocks.

Chesapeake Corp., stocks.

Citicorp, stocks.

Cities Service Corp., stocks.

Cone Mills, stocks.

Connecticut General Mortgage & Realty Investments, stocks.

Continental Illinois Properties, stocks.

Corporate Property Investors, stocks.

Corporate Realty Consultants, stocks.

Criterion Insurance Co., stocks.

Crown Zellerbach Corp., stocks.

Decicom, stocks.

Del Labs, stocks.

Duke Power Co., stocks.

Federal Paper Board Co., stocks.

Ferro Corp., stocks.

Freeport Mineral, stocks.

Global Marine Inc., stocks.

Government Employees Financial Corp., stocks.

Government Employees Insurance Co., stocks.

Government Employees Life Insurance Co., stocks.

Great Western Financial Corp., stocks.

IBM, stocks.

ICM Realty SBI, stocks.

IDB Bank Holding, stocks.

IMC Magnetic Corp., stocks.

Inland Container Co., stocks.

Investors Diversified Services, stocks.

Kaiser Aluminum & Chem. Corp., stocks.

Liberty Corp., stocks.

Magic Marker Corp., stocks.

Marine Midland Bank, Inc., stocks.

National Medical Products, stocks.

New York Times, Inc., stocks.

P. R. Mallory Co., Inc., stocks.

Royal Palm Beach Colony, stocks.

Specialty Brands Inc., stocks.

Staley, A. E. Mfg. Co., stocks.

Stokely Van Camp Inc., stocks.

Tishman Realty & Construction, stocks.

Transamerica Corp., stocks.

Tubos de Acero de Mexico, stocks.

Western Pacific Industries, stocks.

Westvaco Corp., stocks.

White Shield Exploration, stocks.

White Shield Indonesia Oil, stocks.

Indian Trail Groves Ltd., partnership interest.

Loxahatchee Investments, Ltd., Partnership interest.

Checking Account, cash.

Indian Trail Groves Ltd., partnership interest in mortgage on land.

Note receivable.

Painting.

Investment in Artic oil leases.

East Hampton property, purchase money mortgage.

LIABILITIES (1977)

(NOT INCLUDING CURRENT TRADE BILLS)

Name of creditor, location of creditor, and type of liability:

1. Ida Javits Trust, c/o John Trubin & Lewis M. Schott-Trustees, 375 Park Avenue, 14th Floor, New York, New York, income advances unliquidated.

2. Citibank, New York, New York, contingent liability on partnership loan re: Southgate Associates.

3. Watergate West, Inc., Washington, D.C., mortgage on personal residence.

4. Northwestern Life Insurance Company, Travelers Insurance Company, Union Labor Life Insurance Company, Equitable Life Assurance Society, New York Life Insurance Company, Massachusetts Mutual Life Insurance Company, Mutual of New York, various loans on life insurance policies secured by cash surrender value of policies.

5. Samuel Friedland, Miami, Florida, nonrecourse secured by Florida orange grove interest.

SUMMARY OF 1977 FEDERAL INCOME TAX RETURN OF SENATOR JACOB K. JAVITS

Senate Salary	$55,350
Net Income other than salary (includes dividends and interest, rents and royalties, articles and lectures, investments, etc.)	11,060
Total	66,410
Deductions (includes charitable contributions of $4,876)	47,730
Federal Tax	5,358
New York State Tax	5,371
New York City Tax	1,624
Total Taxes	12,335

●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from South Dakota (Mr. ABOUREZK) as a congressional adviser to the United Nations General Assembly special session on disarmament, to be held in New York City, May 23–June 28, 1978.

The Chair, on behalf of the Vice President, appoints the Senator from Alabama (Mr. SPARKMAN) as a congressional adviser to the SALT delegation in Geneva during 1978.

IS NEW YORK CITY FUNDING PHANTOM JOBS?

Mr. PROXMIRE. Mr. President, I should like to call attention to an article appearing in last Sunday's New York Daily News which reveals that New York City's mammoth fiscal year 1979 budget document includes funds for more than 17,000 employees "whose jobs and salaries appear in the budget, but who simply do not exist." The money set aside for this "phantom army" amounts to more than $250 million. And the inclusion of funding for these positions in the city's budget is particularly questionable in light of the fact that the city is planning to continue cutting its work force and projects a decrease of over 4,000 employees in the next fiscal year due to attrition.

I think this article is to the great credit of the New York Daily News, because this paper favors Federal aid, this paper recognizes this kind of story can only hurt the chances of New York in getting the Federal aid, but it is a story that should be told, and the Daily News tells the story fairly and honestly, and I think it is to the credit of the New York Daily News, as I say, that they do so.

It is understandable that the city might project slightly more positions in its budget than are currently filled, because there has to be some allowance for normal turnover. However, the 17,172 "phantom" jobs included in the mayor's fiscal year 1979 budget represent 10 percent of the actual work force, and that figure is way out of line with regular budgeting processes. According to the President's Office of Management and Budget, the Federal Government normally shows a discrepancy of between 0.5 and 1.25 percent between budgeted positions actually filled, and this is far, far below the 10 percent shown in the Koch budget.

I am disturbed about the implications of this underbudgeting, as reported in the Daily News article, which concludes:

> . . . this process does not save money, it spends it elsewhere. The money appropriated for the phantom army will, along with other "savings" from budgetary gimmicks, go unaccounted for, to turn up and be trumpeted as surpluses to pay for such things as union settlements in future budgets.
>
> And not for phantom unions, either.

Mr. President, New York City needs to get rid of the budget gimmickry of past years, and rid of the syndrome of "finding" extra money in the budget to use for pay raises and other spending that the city may want to do. These are the practices which got it into trouble to begin with, and which it has to get out of now.

I see that another Daily News article on the following day shows 219 phantom positions in the mayor's office alone. The article also indicates the mayor's concern that revelations of the type contained in the Daily News articles will not help the city's case in Congress.

Mr. President, it is my firm view that if the Federal Government continues to give New York City financial aid, then it will never reform its budget practices and never take the actions needed to restore budgetary credibility and return to the credit markets. These articles are good evidence of the problems remaining to be overcome by New York City.

Mr. President, I ask unanimous consent that the articles be printed in full in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GHOST ARMY MARCHES, AND YOU PAY

(By Donald Singleton)

A line-by-line analysis of New York City's mammoth municipal budget has disclosed a city government that is bloated with fat—thousands of unnecessary employes—and the existence of a phantom army of more than 17,000 employes whose jobs and salaries appear in the budget, but who simply do not exist.

The existence of the thousands of phantom lines in the budget has created a giant hidden surplus of more than $250 million, and probably much more, The News investigation has shown.

Mayor Koch and his top budget officials acknowledge—indeed, have planned for—some of the vacancies. But many of the empty lines have been created by a combination of legal budget gimmicks and lagging city employment policies.

Assuming a very conservative average cost of $15,000 for salary and fringe benefits, the surplus created by the 17,172 phantoms identified in The News investigation would amount to $257.6 million.

321,900 IN WORK FORCE

The vacant budget lines and hidden surplus were among the significant findings of the investigation. But perhaps most shocking of all was the existence of thousands of unnecessary, unproductive and duplicative jobs that have little to do with providing services. They have been larded in the budget over recent years, as the size of the municipal work force has grown from 226,800 people in 1954 to an estimated 321,900 today.

Leafing through the 2,100-odd pages of the budget's "supporting schedules," the average citizen would be appalled to discover the listings of countless "administrative staff analysts" and "urban designers" and "human resources specialists" and other city workers his tax dollars support.

The jobs sound impressive on paper, and, of course, most of them are necessary by any standards. But in reality, many an "administrative associate" turns out to be a guy who sits all day at a desk in a hallway, without telephone, typewriter or real duties. And even the most unpracticed eye can pick out case after case of duplicative effort.

Take, for example, the area of planning. There is a Department of City Planning, with a 1978 budgeted staff of 507—13 pages of "junior planners" and "assistant urban designers" and so forth.

According to the City Charter, one of the primary functions of the City Planning Commission is to "provide community boards with such staff assistance and other professional and technical assistance as may be necessary to permit such boards to perform their planning duties and responsibilities."

The Planning Commission acknowledges its responsibility, and claims it fulfills it. Martha Gershon, the agency's deputy director of public information, said last week that the commission "serves as the technical resource for the city's 59 community planning boards."

Yet, as recently as last Feb. 7, Mayor Koch created in his office a "Community Board Assistance Unit," budgeted for 89 full-time positions and bankrolled with an allocation of $1,729,438, to do exactly what the City Planning Commission claims it does—"provide professional guidance to the boards. . . ."

It doesn't stop there, by any means. The mayor also has a series of "development" offices whose duties include planning functions. There is the Mayor's Midtown Action Office (which incorporated the Mayor's Office of Midtown Planning), whose director is Ken Halpern, a former Koch campaign worker. Halpern said his duties include "working very closely with the Department of City Planning."

The Midtown Action Office and a sister agency, the Mayor's Midtown Enforcement Project, demonstrate more overlapping.

AN ACTION OFFICE JOB

The Action Office has as one of its responsibilities the job of "coordinating city agencies in the midtown area," according to the mayor's office, which set it up. The enforcement project also coordinates efforts by other agencies, with the aim of eliminating the Times Square pornography plague.

Between them, these two agencies have a budget of $687,758, and a staff of 47 people—all try to force other agencies to do what they are already being paid to do! And to what end?

Asked to cite his agency's major project, Halpern cited the Broadway Mall proposal, which a mayoral spokesman described as "kicking around for years."

A DIRECTOR AT 38G PER

As for the enforcement project, the new $38,000-a-year director is Karl Weisbrod, 33, who himself has been kicking around in city government for several years in several departments.

Weisbrod is too new in his current job to have much in the way of accomplishments, having been appointed on March 29.

But his predecessor, Sidney Baumgarten, summed up his year in charge of the agency on a less than enthusiastic note: "Baumgarten said that the number of pornographic establishments has remained at about the same level," according to a mayoral press spokesman.

The situation is similar in the area of youth service programing. There is, in the mayor's office, a New York City Youth Board, which is "responsible for the development of the city's general policies and goals for the prevention and reduction of juvenile delinquency and improvement of youth service delivery . . ."

Yet youth services currently are being provided by 15 other city agencies. Mayor Koch has appointed a blue-ribbon panel, headed by Bernard Gifford of the Russell Sage Foundation, to review the situation and recommend ways of improving coordination among the various agencies.

If it illustrates duplication of city services, the City Youth Board provides an even better illustration of the "phantom legion" phenomenon in the budget.

The Youth Board, in the current budget, has an allocating of $1,671,109 and an authorized work force of 120 full-time and 44 part-time employees.

Yet, a count of the actual staff of the agency reveals a total of only 93 on the payroll at the moment. The salaries of the 27 "phantoms" are being built up as a hidden surplus in the Youth Board's 1978 budget.

HE MAKES AN EXPLANATION

Part of this saving is strictly a matter of city policy. Steven Krause, the Youth Board's deputy executive director, produced a document signed by City Budget Director James Brigham, setting an actual staff limit of 110 full-time employes for this month. Brigham explained later, in an interview, that the monthly allocations are part of the city's plan of accomplishing savings by staff reduction through attrition.

Still, even using Brigham's ceiling of 110 employes, there is a gap created by 17 "phantom" employes in the budget.

Another budget gimmick was exemplified by Susan Herman, assistant to the Youth Board's executive director. "Actually, I'm not

even in the Youth Board budget," she said. "I'm on a Human Resources Administration line. I was working over in the mayor's office before I got this job—they're in the process of switching my line over, but it hasn't gone through yet."

Early this year, The News revealed that scores of the people working in the mayor's office were actually having their salaries charged to other agencies—they were on "borrowed" lines. Koch ordered the line-borrowing eliminated, and as of June 30, all the people in the mayor's budget will be on proper lines.

The number of phantoms in the Youth Bureau is small—only 17 or 27, depending on whether you measure against the budgeted staff of 120 or the "plan" allocation of 110.

But when you focus on a larger agency, the numbers become substantial. Take the Social Services Department, for example. The budget calls for a fulltime staff of 26,452, while the monthly allocation from the Office of Management and Budget sets a "plan" limit of 24,212. In fact the actual staff of Social services is 23,450. So, compared with the budget, there are 3,002 phantoms, and even compared with the "plan," the phantoms total 764.

Koch and his budget aides insist that the existence of the phantom army in the city budget is no problem.

IT SAVES NO MONEY

"What's wrong—certainly nobody's stealing the money," said Koch. "Shouldn't I be congratulated, for saving money?"

The answer, of course, is that this process does not save money; it spends it elsewhere. The money appropriated for the phantom army will along with other "savings" from budgetary gimmicks, go unaccounted for, to turn up and be trumpeted as surpluses to pay for such things as union settlements in future budgets.

And not for phantom unions, either.

FIND 219 PHANTOMS IN KOCH OFFICE

(By Donald Singleton)

Even Mayor Koch's office, with well over 1,000 employees, is not free of "phantoms"—jobs for which salaries have been appropriated but which have not been filled—a News investigation has disclosed. In fact, the mayor's office has 219 phantom lines, resulting in an estimated hidden surplus of more than $3 million.

Figures supplied by the New York City Office of Management and Budget show that the actual staffing of Koch's office falls far below the budget allocations, and even below the levels anticipated in the city's financial plan.

In the current budget, as updated to April 26, 1978, Koch's office is being funded for a staff of 1,384 full-time and 60 "other" positions. The total dollar appropriation for budget item "002—Mayoralty" is $36,605,415.

But, figures provided by the OMB show that the actual staffing of the mayor's office as of March 31 was only 1,165. The actual staffing was even 71 short of the reduced financial plan.

Thus, taxpayers are being required to pay for 219 mayoral employees who are not on the payroll. Figuring at a conservative average of $15,000 for one employee's salary plus benefits for a one-year period, this means the mayor's office budget contains what could amount to a hidden surplus of $3.3 million.

In yesterday's News, it was reported that at least 17,000 such "phantom" lines are contained in the present city budget, creating an over-all hidden surplus estimated at more than $250 million.

Koch yesterday called The News report "unfair, inaccurate and untrue."

He likened the report to the famous headline in The News during the fiscal crisis in 1975—"Ford to City: Drop Dead." He said the story in yesterday's paper had the effect of telling his administration "to 'drop dead' insofar as it hopes for winning new federal aid to avert bankruptcy are concerned."

During an interview last week, Koch justified the incorporation of such "phantom" lines in the budget on several counts. Some lines, he said, are kept open, according to law, when employees are promoted out of civil service positions to noncompetitive positions. In other cases, he said, the salaries of two lower-paid employees are combined to pay the salary of one higher-paid city worker, resulting in unfilled budget positions.

A Koch spokesman contended that every budget properly contains allowances for "turnover"—the periods between the time one employee leaves a position and a replacement can be hired.

But the turnover allocations in the budget fall far short of covering the actual surplus. In the mayor's Youth Board, for example, with 27 positions currently vacant, the total amount budgeted for turnover is only $30,000. Thus all unspent funds in excess of $30,000 become, in effect, a hidden surplus.

ANDERSON COLUMN RECALLS NEED FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Jack Anderson is a very respected columnist, and I would like to direct the attention of the Senate to a piece which he recently wrote concerning the genocide which is occurring in Cambodia. The column, entitled "Cambodia: A Modern-Day Holocaust," appeared in newspapers across the country, and hopefully made many Americans aware of the terrible situation which exists in Cambodia.

Anderson urged the United Nations, the White House, and Congress to declare Cambodia a criminal state, and to call it "Public Enemy No. 1." I have spoken on the Senate floor many times to condemn the genocide which is occurring there even now, genocide which is horrifying to every decent nation in the world. We live in a society which respects law and order, but the same cannot be said for much of the world. It is fitting for columnists like Jack Anderson to point out to the American people that in many countries, even the most basic of all human rights, the right to live, is not respected.

No one is safe in Cambodia from the ruthless ways of the Khmer Rouge. As Anderson mentioned, some entire villages have been destroyed, because of mere suspicions that their inhabitants had opposed the Khmer Rouge. The monsters of the Khmer Rouge are bent on eliminating all, including children, who are not from the peasant class. Anderson closes with a particularly sobering note, provided by a State Department source, who said:

We frankly don't know how many Cambodians are left, but if the trend continues, they may become extinct.

That assessment of the situation in Cambodia is surely one of the most convincing and compelling arguments in favor of the passage of the Genocide Convention. Mr. Anderson calls on Congress to condemn Cambodia as a criminal state, and I can think of no better way to do this than by ratifying the Genocide Convention, a treaty which would make the commission of genocide an international crime.

For 30 years, this treaty has been before the Senate, and in all those years, the Senate has yet to vote on it. The modern world is not above the barbaric crime of genocide; the Anderson column is all too vivid a reminder of that. The United States, long a world leader in the field of human rights, should have been one of the first to sign this treaty. We need to ratify the Genocide Convention.

I ask unanimous consent that the column to which I have referred be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

CAMBODIA: A MODERN-DAY HOLOCAUST

(By Jack Anderson)

While an audience of aghast Americans watched the Holocaust television series, the governments of the world, including our own, were averting their eyes from the dreadful extermination of millions of innocent Cambodian men, women and children.

Scarcely a voice has been raised in the United Nations to protest the Cambodian slaughter. President Carter has been slow to denounce the wholesale butchery, which parallels the Nazi nightmare for sheer brutality.

The death toll from beatings, shootings, starvation and forced labor may have reached 2.5 million victims since April 17, 1975, when the Communists seized control of Cambodia. Perhaps one-third of the Cambodian people have been annihilated. It is as if the entire population of Kansas had been eradicated.

Thousands have died of atrocities for no other reason than they had attended school or acquired a small holding. Witnesses have told of young people being executed for demonstrating affection for one another. "People were arrested and executed," states an intelligence report, "to reduce the number of lazy persons."

What is happening in Cambodia is so monstrous that the mind rejects the grisly truth. The charges are based on the private accounts of Cambodians who have fled the terror and communist defectors who have escaped party purges.

We have a stack of refugee accounts, verified photos and medical records. We also have had access to confidential documents and analyses from the State Department, Justice Department, Central Intelligence Agency and the White House.

The evidence is so overwhelming that we call upon the United Nations, the White House and Congress to condemn Cambodia as a criminal state, as public enemy No. 1 among nations. We urge Americans, who believe in human decency, the worth of human life, to write to Secretary-General Kurt Waldheim at the United Nations, New York City, 10017, in behalf of the oppressed Cambodian people. Letters also may be needed to move the president and Congress.

Doomsday came almost immediately after the Khmer Rouge guerrillas seized the country. Residents of the cities were evacuated from their homes and sent on death marches to primitive camps in the backwoods.

None was spared—not the old, the sick nor infants in arms. They were prodded for days by Khmer Rouge bayonets under scorching sun without food, medicine, shelter or water. Countless thousands failed to survive, victims of agonizing hardship and deliberate torture by their guards. Even today, Cambodia's cities are ghost towns with only Khmer Rouge bullyboys strutting in the streets.

Cambodia's villages were similary shattered. Inhabitants were rounded up en masse and herded to government compulsory labor communes far from their homes. In some

attested instances, entire villages suspected of having opposed the Khmer Rouge were wiped out.

One eyewitness told of village elders, and children alike being clubbed to death with pickaxe handles and heavy hoes. In one intance, 500 villagers were slain. In another, 120 families were beaten and shot to death.

Those who survived the original summary executions and reached the heavily guarded resettlement camps lived with sudden death every day. Khmer Rouge thugs and communist commissars have been instructed to "eliminate" all Cambodians, including children, who are not from the peasant working class, but even the peasants have been punished for remote ties to the past.

Even knowledgeable observers hesitate to say how many Cambodians have perished in this modern-day Holocaust. One State Department source told us: "We frankly don't know how many Cambodians are left, but if the trend continues, they may become extinct."

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER (Mr. RIEGLE). Does the Senator from Wisconsin yield the floor?

Mr. PROXMIRE. I yield the floor.

NEW YORK CITY

Mr. JAVITS. Mr. President, I hope Senator PROXMIRE will remain a minute. I wish to address some remarks to him if I may.

Mr. PROXMIRE. Yes.

Mr. JAVITS. I appreciate his concerns about New York City. As everyone here knows, I was born in New York City. I have lived there all my life except for the war years. I suppose, as they say in politics, I know where more bodies are buried as anyone in New York. But I hope very much that my beloved friend, and he knows I mean this, will realize that it is also a responsibility to see that New York lives to do all these things, and I want to tell this to the Senator, because he should know this from me, and quite publicly.

I think this city is suffering and is in very, very dangerous peril. Its infrastructure is running down. It finds it very hard to maintain that infrastructure, as everyone knows. A city which has had the history and the difficulties which New York has had is not going to be cleaned up in the next 6 weeks.

A great deal has been done. Senator PROXMIRE himself knows that.

I am deeply concerned about the rather slow pace we are taking with default impending on the 30th of June and with nothing in place, not the unions who were to buy securities, not the banks who were to help with the financing, and all the other ramifications. There are a long list of items that have to be put together. They are not being done. And the cement, whether we like it or not, is going to be the United States. Again we are facing a fundamental decision, and it is only 6 weeks away.

I wish to tell Senator PROXMIRE that I do not think without U.S. help New York is going to be kept from going down the drain, and, personally, I still think it would be a great national disaster if New York City went bankrupt. It would be a great disaster in the eyes of our country and in the eyes of the world. I think we all bear, and I mean all, not just Senator MOYNIHAN and me, but all, a very serious responsibility.

I really am making this little speech for climactic purposes. I do not think we have quite the feeling of urgency about what needs to be done with this city, in fairness to it and to the interests which are at stake.

It is the nexus of communication in the country. It is the very mirror of the United States to the world. It is what the world thinks about when it thinks about the United States. It is still the seat of finance and the stock exchange and the enormous edifice of capitalism which represents this country and the power of this country. It is the center of culture and art. It is one of the greatest medical centers the world has ever known.

And I really hope very much, and Senator PROXMIRE is a man who bears a very heavy responsibility in this matter, that all of us will be conscious of the short time and the peril in which this city stands.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the Senator on his statement, and I agree with almost everything he said. There is no question New York City is of great importance to this country, because of its uniqueness and the fact it is the No. 1 city of the world in the view of most Americans and in so many, many respects. There is also no question about the fact that a great deal needs to be done. Where is that responsibility? It has to be done in New York City itself, The city and the unions have to get together on an agreement as to what their wages are going to be and we should have that before us before the Senate committee acts.

The State has to act on legislation empowering the Municipal Assistance Corporation to be able to borrow an additional $3.5 billion. The pension funds have to make up their minds whether they are going to fulfill the obligation to buy the securities of the city. All of these have to come together.

We say we have to have those before us before we have the hearings of our committee. We are pressing on them to act on that.

I made a commitment just 2 days ago that—3 days ago, it was the end of last week—that as soon as these various actions were taken that Secretary Blumenthal persuaded the union and the city and State officials to take—and they made a commitment to take them by this coming Saturday—we would schedule hearings to begin on the 24th of May, this month, with followup hearings early next month right after the recess, so we are going to act on this, but I think the Senator appreciates the fact we would have a much better record if, when we have witnesses who come in to testify, we can cross-examine them on what the facts are; that we know what the settlement is with the unions; we know whether or not the pension fund has acted. When we have all that before us, we will have the basis for action.

One more point to the Senator, and that is I am not nearly as pessimistic about New York's being able to make the grade under these circumstances as he seems to be. In 1975 there was no question in my mind that if we had not provided assistance for New York they might have gone into default. However, this year I think it is quite different. New York has made a comeback in all kinds of ways. The banks are in better shape, the city is in better shape; the accounting system is more credible.

New York has the resources undoubtedly to do the job. Whether they can do the job without Federal assistance the hearings will help us determine. But I think you can make a strong case that New York can put it all together.

As the Senator knows, we have written a report going into great detail on that, examining the arithmetic very carefully and determining that in our view, if the banks do the job they can do, if the Municipal Assistance Corp. does its job, if the city can hold down the settlement with the unions, New York City can make the grade. But we are going to reopen that, consider it in great detail, in the hearings we expect to begin within a few days.

Mr. JAVITS. Mr. President, will the Senator hear me as an old lawyer and a tried and true legislator? Nothing is going to happen unless the United States shows it is going to act. I have run a lot of deals in my time, and the Senator has run some too.

There are some things that lean on each other. I can tell the Senator from long experience with New York that if he wants to see the unions and the pension funds and the banks and the State and all of these elements come together, they will have to know that the United States is going to act. Otherwise, I promise you, sir, they will remain apart. That is the cement that is going to put them together.

It is extremely fortuitous, Senator, that I was on the floor at the moment when you spoke. I am giving you my very best judgment. Unless it is clearly indicated that the United States is going to act in this matter affirmatively, I have the gravest doubts that all of these things will come together. But if, as conditions proceed, the United States indicates that it will act, then I think you will see them all tomorrow talking together. And I will tell you something. You yourself, Senator, will be the principal architect. If you take it in hand it will happen. If you do not take it in hand, I have grave doubts about it.

Mr. PROXMIRE. And may I say to the Senator that last week Secretary of the Treasury Blumenthal went to New York City. He had a meeting with the head of the unions, with the mayor, with the Governor, with Felix Rohatyn, and some of the other bankers; they made an agreement, they made a commitment, that they would only be able to put this together by this Saturday, by the 20th of May. If that agreement is fulfilled, as I say, then we will fulfill our agreement and begin the action, the hearings. But it would seem to me that we should certainly await that kind of development in New York so that, as I say, we do have the basis for action.

I presume when these responsible men, who are in the position to bring

this all about, make this kind of a commitment, they mean it.

So it would seem that we are fulfilling our responsibility. As the Senator knows, there has been the clearest kind of a signal from the Congress—the House of Representatives acted by a 32-to-8 vote in committee to favor assistance for New York. And I think there is every indication that there will be sympathetic people here who will be listening to the city. But we certainly should expect them to do their job first so that we know exactly what we are acting on and can make a record based on the facts, not a record based on some supposition upon what may happen.

Mr. JAVITS. Senator, this is the first ray of light I have seen, and the ray of light is not what they agreed to last Saturday. The ray of light is your attitude, and I hope very much you will remember, and I know you will, I know you will—w-i-l-l—remember come next Saturday what I have just said, and I hope you will also remember my advice.

You may have to put it together, and I hope you will.

Mr. PROXMIRE. I thank the Senator.

Mr. JAVITS. I thank the Senator.

ALASKA: TOO MUCH CONSERVATION

Mr. STEVENS. Mr. President, the House Rules Committee today is considering the so-called Alaska lands bill. I think it is very timely that the Washington Star has included an editorial in today's paper entitled "Alaska: Too Much Conservation." It is a very balanced editorial, and Alaskans take great heart from the fact that one of the Nation's leading newspapers is finally coming out, as we have, asking for balance by the Members of Congress as they review the proposals to classify and withdraw substantial portions of Alaska's land.

I am hopeful that other Members of the Senate will read this editorial, and to make certain that is the case, I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ALASKA: TOO MUCH CONSERVATION

Is the Alaska lands bill before the House a "land grab" by conservationists and the federal government or an appropriate preservation of nature's "crown jewels"?

Whichever it is, it's big. It would add approximately 102 million acres to the U.S. system of national parks, wildlife refuges, forests, and wilderness areas—double the present size. For comparison, it's like adding the entire state of California.

But then most things are big in Alaska. And it isn't that the federal government is taking land from private holders—the government owned the whole thing (375 million acres) until Alaska became a state. The Alaska statehood act authorized the state to select 104 million acres for itself—for size, that's also like giving the Alaska government the state of California. Another chunk—only 44 million acres this time—was authorized for transfer to native groups in the Alaska Native Claims Settlement Act of 1971.

That still leaves the federal government with Alaskan land holdings bigger than Texas. At issue in the House bill is what should the federal government allow to be done on its holdings.

"Seward's folly," as everyone knows by now, has turned out to be one of the great bargains in the annals of world land transfers, an area rich in oil, timber, gold, and minerals of all sorts. Alaska is also a place, as Rep. John Seiberling, D–Ohio, floor leader for the bill, describes it, where one can still see "land as it emerged from the hands of the Creator, unaltered by man for vast distances."

The argument is between those who believe Alaska should be open for development and those who, like Mr. Seiberling, believe its "crown jewels"—its natural wonders, its complete wilderness ecosystems—should be preserved. The Carter administration has taken the side of Mr. Seiberling and the conservationists.

The bill would not eliminate all taking of oil, minerals and other raw materials from federally owned land, but it would sharply restrict it. Some 66 million acres would be classified as "wilderness" on which virtually all development and mineral, oil and gas extraction would be prohibited.

The state government is not happy with the bill. It still has not selected all the 104 million acres authorized in the 1958 statehood bill and wants some of the land the House bill would put into the federal conservation system. The state's lone House member, Republican Don Young, wants a sharp reduction in the land classified as "wilderness" and Alaska's two U.S. senators oppose the bill as it stands.

It seems to us that the bill leans too much toward the conservationists. Opponents point out, for example, that the Arctic Wildlife Range would be off limits to development yet it is believed to contain more oil than Prudhoe Bay, to which it is adjacent. If the conservationists had had their way, Prudhoe Bay would not now be producing oil and the United States would be even more dependent on the OPEC cartel.

A better balance would be struck, in our opinion, if the House went along with a substitute to be offered by Rep. Lloyd Meeds, D.-Wash., a member of the Interior Committee. Mr. Meeds' substitute would cut in half the land to be designated as "wilderness" and would eliminate any wilderness designation for land in the Arctic Wildlife Range. It also would require the Interior Department to continue mineral assessment programs on all public lands in Alaska and would establish a process by which mineral extraction could take place on lands not designated as "wilderness."

To be sure, some areas of the nation should be left in their natural state, but preservation of "land as it emerged from the hands of the Creator" can be overdone. The probability is that only a small percentage of U.S. citizens will ever have the opportunity to view Alaska's environmental "crown jewels" while large numbers can benefit from development of its natural resources.

WHERE DO ALL THE TAX CUTS GO?

Mr. DOLE. Mr. President, inflation in the United States is approaching a dangerously high level. Recently the wholesale and consumer prices are both rising at double digit rates. In some sectors of the economy prices of some goods and services are advancing as close to triple digit rates. The country is caught in the grip of the worst and most prolonged inflation in our history.

INFLATION

Inflation has reached the point where it is destroying the Nation's effort to achieve economic growth, is wrecking the financial markets, and is destroying the retirement savings of every citizen in our country.

The Consumer Price Index jumped to a 9.6-percent annual rate in March. On May 4 this year the Labor Department announced that the April wholesale price experienced the biggest 1-month gain since November of 1974. According to the chairman of the President's Council of Economic Advisors "the underlying pressures are not abating." The administration has raised its inflation forecast for 1978 to 7 percent or 1 percent higher than its January prediction.

Over the past several months, Congress has been wrestling with the size of a tax cut for the coming year. Many of us in Congress are disturbed over the size of the Federal deficit yet we recognize that inflation gobbles up through our tax system an increasing percentage of an individual's earnings.

TAXFLATION

Mr. President, inflation, however, makes the Government's life easier by allowing it to fund expanding programs with inflation generated revenues. During inflationary periods the cost of Government programs rises, the revenues rise much faster as increasing money incomes push taxpayers into higher tax brackets. The Congress periodically rescues the taxpayer from this increased tax bite by informally "indexing" the tax system. These periodic rate cuts to offset the effects of inflation on individual tax bills are a sham, while the Congress and the administration have been arguing over the size and shape of the new tax cut and reforms, the Senator from Kansas and a number of my colleagues have been advocating a simple way to bring responsibility back to Government.

TAX INDEXING

Mr. President, tax indexing is the way of the future. The Government must be held accountable for its actions. Taxpayers must be able to stop the tax inflation treadmill. Government must not be allowed to profit by the inflation it creates. Tax indexing would require the Congress to show the political courage to vote for tax increases to finance the new programs and to expand the budget it authorizes. This is undoubtedly one of the unspoken reasons why the idea of indexation has met with such resistance.

Mr. President, a recent article appearing in the Washington Post magazine is an excellent account of tax indexing. I ask unanimous consent that the article be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE DO ALL THE TAX CUTS GO?

(By Michael Nelson)

A friend of mine used to tell me about a trick he would play on a rather absentminded high school teacher of his. It seems that sometimes the teacher would leave a pen on his desk and when he turned his back to write on the blackboard, my friend would take it. A little later the teacher would look around frantically until finally my friend would say: "That's all right—I've got one just like it that you can borrow," and the grateful teacher would thank him profusely.

I used to laugh at that story, until one day someone pointed out that the federal government was doing the same thing to me

that my friend used to do to his teacher. I asked him what he meant.

"Look," he said, "the government has cut taxes for three years in a row and it will probably cut them again this year. You probably think you've been getting something, right?"

"Sure," I replied. "After all, that's what a tax cut does—it gives you something."

"Now think a little harder. Has your tax rate actually gone down?"

I thought a little harder. He was right; it had not. And then I found out why.

The reason my tax rate and the tax rates of tens of millions of other people have not gone down, despite the tax cuts, is something called "taxflation." Though officials in Congress, the Treasury Department and the White House would just as soon not hear about it, taxflation may be the most expensive political time bomb in the entire tax code.

Taxflation is what happens when inflation blindsides a progressive income tax system, driving people up the tax ladder even as their real income—their actual spending power—stays the same or goes down. The most frustrating thing about inflation, of course, is that it eats up—or more than eats up—what seem at first glance to be substantial pay raises. But to add insult to injury, these illusory raises boost workers into higher and higher tax brackets just as if they were real ones. The reason is that the tax brackets and all the basic deductions—the personal exemption, standard deduction, and low-income allowance—are expressed in the tax law in simple dollar amounts, as if there were no inflation at all.

To appreciate how big a problem taxflation is, imagine reading this fictitious lead, concocted by former Office of Management and Budget director James Lynn, to an article in The Post one morning:

"To pay for its current and newly proposed spending, the federal government has programmed a series of regular tax increases that, each year, will add from $350 to $450 to the average family's income-tax bill. These increases will continue indefinitely."

Here is what Lynn means. The "average" husband-wife-and-two-kids American family made around $15,000 last year. That will work out to an effective tax rate of about nine percent, or $1,400, when they fill out their 1040 form this spring.

Now let's assume that inflation runs at seven percent this year—the average annual rate since 1970—and that this family's income just barely keeps up. That would give them $16,050 in dollar income in 1978, but, of course, no more actual spending power than last year's $15,000. Yet not only would their income tax go up to almost $1,600, but the rate at which they are taxed would go up to eleven percent. And if this were to continue through 1987, the family—still no better off than they were last year—would be paying at a rate of eighteen percent.

The average Washington area family, which makes around $25,000 a year, would be hit even harder. Presently paying fifteen percent in income tax, they would be assessed at a rate of twenty-seven percent ten years from now—again, with no increase in their spending power. Similarly, singles now paying around twelve percent on a $10,000 income would be up to twenty percent in 1987. (This would change if a tax cut were passed this year, but as we will see later, even that would not solve the problem.)

Perhaps the worst case is that of the poor working mother. A woman with one child who earned $7,500 in 1976 actually got $50 from the government in "earned income credit," which lowered her tax rate to 6.6 percent. But if her income simply kept pace with inflation that year—lifting her to $8,010—she will have to pay $635 in taxes—a rate of eight percent.

Of course, you won't see many leads this year of the kind James Lynn proposes; instead, you will be reading "Congress, Carter Slash Taxes"-style stories with sidebars on "Low and Middle-Income Taxpayers to Benefit Most." That is the nature of news—a tax cut is a finite event that ultimately takes place in one day; taxflation is a slow, continuing leak in your income that takes place every day. As a result, it strikes most news editors as about as newsworthy as "Sun Rises in East" or "Gravity Holds Pie on Baltimore Woman's Windowsill."

What is worse, the power of taxflation matches the size of the problem it poses. For example, Jimmy Carter's proposal for a $17 billion net cut in personal income taxes next year is designed both to offset the effects of the new social security and energy taxes (an estimated $12.4 billion by the time fiscal year 1979 ends on October 1, 1979) and to provide a little stimulus to the economy with the remaining $4.6 billion.

Yet according to figures released by Congress' Joint Committee on Taxation, taxflation will cost us an additional $13.4 billion during this period. The bottom line: a net loss to the taxpayer of $8.8 billion, even after the tax cut. And if House Ways and Means Committee Chairman Al Ullman has his way, the entire taxflation burden will remain on the public.

The direct effect of taxflation is obvious: it costs us more money. That may seem bad enough in itself, especially since it takes the form of what economist Milton Friedman describes as "taxation without representation—higher taxes imposed on the citizenry year after year without legislation." But there are side-effects on the economy that are also harmful.

One side-effect is a now familiar economic phenomenon called "fiscal drag," a malady the United States seems likely to suffer from between now and—at the earliest—October 1, the day the proposed tax cut would take effect. Fiscal drag is anything that keeps the economy from performing as well as it otherwise would, and though taxflation will have some help this year from the sluggishness of foreign economies and other factors, it is the most constant source. After all, that $13.4 billion in revenue from taxflation in fiscal years 1978 and 1979 represents money that consumers otherwise would be spending and banks would be lending, fueling economic growth.

It used to be that taxflation had a good side-effect too, namely that it contributed to economic stability during inflationary periods. The reasoning was that since inflation was caused by excess demand—too much money chasing too few goods—the removal of a few billion dollars from an overheated economy via taxflation would help cool it off.

But that no longer appears to be true. In fact, Professor Thomas Dernberg of American University showed in a study commissioned by the Joint Economic Committee of Congress that in 1974, our worst economic year in recent history, taxflation just added to the problem. The source of inflation then was not excess demand, but severe shortages in supply born of the Arab oil embargo and the poor grain harvest. As the Brookings Institution's Joseph Pechman points out, nowadays "inflation seems to occur at least as often when the economy is in trouble, when unemployment is high. The increased tax receipts (due to taxflation) during such periods are really counter-productive."

Not surprisingly, other nations that are burdened with inflation have been looking for a way to eliminate its effects from their tax system. Several—Canada, France, West Germany, Brazil and Denmark, among them—seem to have succeeded in a way that is instructive for the United States. Starting in 1974, for example, Canada has been "indexing" its personal income tax by adjusting individual tax brackets, credits, and deductions to take account of changes in the cost of living.

In the United States, indexing would mean that all the dollar amounts specified in the tax code—for the personal exemptions, standard deduction, low income allowance and the brackets themselves—would be automatically reset every time the Consumer Price Index went up. Under an indexed system, our $15,000-a-year family would continue to pay around nine percent of its income in taxes as long as its real spending power stayed the same, the $25,000-a-year family would still pay fifteen percent, the poor family would get its earned income credit, and so on. Thus, no one would be worse off on tax day just because inflation had kept them from being better off on payday.

Indexing advocates say that the advantages of such a plan—in addition to the economic ones already discussed—are obvious: it is fair, and it conforms with simple common sense. Fair because it is just not right for the government to take a multi-billion dollar "windfall profit" out of the hides of its citizens every time we go through an inflationary period. Sensible because it acknowledges modern economic realities that the present tax law is blind to.

To understand how much those realities have changed, recall that when the present tax brackets were set in 1964, the inflation rate was one percent. Economists did not even think to adjust the brackets for inflation—it just wasn't a problem. Since then, of course, prices have almost doubled. And if inflation continues to average seven percent a year, prices will keep on doubling every ten years from here on in.

Clearly, nobody ever meant for taxflation to happen. But now that inflation seems with us to stay, argue indexing supporters, there is no reason to glorify the earlier lack of foresight by not taxflation-proofing the personal income tab now. After all, the federal government is no stranger to the idea of indexing—it does not index the taxes that citizens pay in, but it does index most of the money it pays out. According to the Congressional Budget Office, $5 of every $8 of federal spending is already "adjusted automatically for increases in the price level."

Fair, sensible, practical, and economically wise—the case for indexing seems overwhelming. Which leaves us with the obvious question: why hasn't anything been done about it? Inevitably, the answer lies not in the realm of economics, but of politics.

"Let's face it," says Eastern Shore Representative Robert Bauman, a supporter of indexing. "Many of my colleagues see the present system as a goose, hidden away from the public eye, laying golden eggs."

A Senate budget expert who opposes indexing adds: "We need the revenue, and practically speaking, there's no other way to get it. So the attitude (in Congress) is let's leave well enough alone."

There is a grim, public-be-damned quality to these theories. But they gained credence on August 3, 1976, when a proposal by Senator Robert Taft of Ohio to index the personal income tax came before the Senate.

It was an unusual scene, to say the least. There was Taft, figurative hardhat on head, bemoaning the fate of construction and steel workers bruised by taxflation. Then James Buckley, another conservative Republican, stood up to rail against its "cruel, hidden, deceitful" nature. And, as if that weren't enough, Robert Dole, Pete Domenici and William Roth chimed in with expressions of their own unsurpassed concern for the "elderly and poor," the "workers," and the "low and middle-income taxpayer."

Holier than thou they may have been, but the conservatives clearly had the edge in this one. Not surprisingly, liberals of both parties took a walk, leaving only Russell Long—who, as chariman of the Finance Committee, had to be there—to articulate a case in favor of taxflation.

Perhaps rattled by the spectre of all this

rhetorical Democratic wine being poured from Republican bottles, Long let slip a hanging curveball, which his tormenters handily parked in the back row of the bleachers. We never had trouble with social security until we indexed it, he said, and was promptly reminded that the reason social security was indexed in the first place was to keep congressmen from really driving it into the poorhouse with their annual ad hoc benefits boosts.

But, Long replied, "this amendment would mean that every time we have a six percent inflation, we will lose $5 billion in revenue . . . when we already have an absolutely uncontrollable government deficit." To onlookers, that probably sounded as strange coming out of his mouth as compassion for the poor, the elderly and the working man did coming from the Republicans. Besides, he was lectured, it was tainted money, both of an inequitable, unjust, sneaky, and regressive tax.

Then, surely weary of hearing the Bible quoted at him by all these devils, Long told the truth. Not the whole truth, of course, but a better part of it than usually finds its way to the Senate floor.

The real problem with ending taxflation, he conceded, is that sooner or later Congress would have to make up the difference by openly voting for higher taxes.

"It is difficult—goodness knows, we have learned in writing this tax bill (of 1976) how difficult it is—to get senators to vote for tax increases. I have proposed all sorts of tax increases and voted for tax increases that we cannot persuade a majority of senators to vote for. Even when we call it reform we cannot get them to vote for it . . . Many times, when we ask people to vote for a tax increase, they will not vote for it, *for very understandable reasons*. Inflation is one thing that does tend, somewhat automatically, to help bring the budget into balance." (Emphasis added). Better to slip the people's money out of their pockets when they're not looking, in other words, than to run the risk of rousing them.

In case anybody is still wondering, those "very understandable reasons" Long was talking about are these: senators like being senators, and suspect that they would not be for very long if they openly raised taxes. The other side of the coin is that as much as they hate to vote tax hikes, that is how much they love to vote tax cuts. The great thing about taxflation, of course, is that it lets them have their cake and eat it too. Thus, over the past fourteen years, Congress has passed six tax cuts while at the same time it has doubled the federal budget, redoubled it, and almost redoubled it again.

"It is quite obvious," says economist Herbert Stein, that congressmen "are quite happy to have the real yield of the tax system increase automatically without their having to take any responsibility for it . . . [Congress] appears to all the people to be reducing taxes. In fact, however, it is mostly returning to the people the additional tax revenue it has extorted from them by inflation."

Needless to say, Taft's indexing proposal was defeated, by a margin or better than two-to-one. And although a few congressmen have introduced similar bills this year, nobody expects them to go very far. "It will probably come up again and get its thirty votes," predicts Bruce Thompson of Senator Roth's office. "But Congress isn't about to inflation-proof the tax system and deprive itself the pleasure of cutting taxes every year. Justice is one thing, but votes on election day are another."

In light of all this, the following prediction may seem surprising: tax indexing is inevitable. It is inevitable for two very fundamental reasons, one economic and the other political. The economic reason is that inflation is here to stay and that means that the idea of leaving the tax brackets expressed in simple dollar amounts will soon become not just unfair, but absurd. Think about a fact noted earlier: at a seven percent rate of inflation, prices double every ten years. That means that a 25-year-old worker who takes a job at $15,000 a year in 1980 will have to be up to $30,000 in 1990, $60,000 in the year 2000, and $240,000 a year by the time he reaches retirement age in 2020—just to stay even. Obviously something has to give, and since it probably won't be inflation, it will have to be the brackets.

The political imperative is equally powerful, if not quite as mind-boggling. As political scientist Everett Ladd points out, taxflation has helped to place more and more of the tax burden on the middle- and lower-middle class, while easing it for the rich. "Those earning four times the national median income in 1953—about $20,000—paid 20.2 percent of their income in taxes, while those at the median paid 11.8 percent," he writes. "Twenty-two years later, median-income families were taxed 22.7 percent of their income, while the rate of those earning four times as much had climbed more slowly to 29.5 percent . . . The burden of paying for the vast expansion of the role of the state has in a real sense been borne disproportionately by the middle- and lower-middle tax brackets." If Congress—especially the Democrats—does not index the income tax soon, predicts Ladd, they will be running a very severe risk of inviting a full-scale middle-class revolt.

When will indexing come? The day that senators and representatives realize that they will have to pass it if they want to keep on being senators and representatives. And that should happen about one day after the light bulbs go on over taxpayers' heads, as they realize that the pen Congress keeps "giving" them is the same one it slipped off their desk when they had their backs turned.

NATIONAL ASSOCIATION OF HOME BUILDERS STATEMENT ON INFLATION

Mr. HELMS. Mr. President, yesterday the executive committee of the National Association of Home Builders issued a statement which, I think, is quite significant. It is entitled "NAHB Statement on Inflation." The significance of this statement is that the National Association of Home Builders not only called on Congress to do something about inflation, it volunteered its cooperation in making sacrifices in order to curb inflation.

So often, Mr. President, we hear from various groups that something ought to be done, but too seldom do we hear groups or individuals saying they are willing to make a sacrifice.

In any case, I would like to share this NAHB statement on inflation with my colleagues, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NAHB STATEMENT ON INFLATION

Inflation is this nation's number one domestic problem.

There is no mystery about the causes of inflation. It has been correctly diagnosed many times before. Huge government deficits, the wage-price spiral, inflationary expectations and our nation's continued dependence on foreign oil have produced an inflation rate of close to 8 percent that weakens our economy both at home and abroad.

Yet, little is being done. The Congress is reluctant to cut its spending policies. The Administration has proposed another $60 billion federal deficit for fiscal 1979. Industry and labor show no desire to restrain wages and prices. The energy bill remained deadlocked in the Congress after more than a year of debate.

Consequently, the Federal Reserve Board has adopted a policy of high interest rates and tight money—a policy that historically has spelled disaster for potential home buyers. The most recent example was 1974 when the prime interest rate reached 12 percent which pushed mortgage interest rates to 14 percent.

President Carter captured the essence of the problem in his recent address on inflation.

"We want to conserve energy, but not to change our wasteful habits. We favor sacrifice, so long as someone else goes first. We want to abolish tax loopholes, unless it's our loophole. We denounce special interests, except for our own.

"No act of Congress, no program of our Government, no order of mine as President, can bring out the quality that we need to change from the preoccupation with self that can cripple our national will to a willingness to acknowledge and to sacrifice for the common good."

The 102,000 members of the National Association of Home Builders wholeheartedly agree with the Preisdent. What this country lacks is not the ability to fight inflation, but the will to fight inflation. Therefore we propose:

1. That the Congress of the United States and the Administration proceed immediately toward a balanced budget, and that there be no tax cuts so long as there is a deficit in the federal budget. We fully realize that balancing the budget would require federal budget cuts across the board including housing.

2. That there be an immediate freeze on federal civil service hiring until a 10 percent reduction in the number of civil service employees is accomplished through attrition. Moreover, NAHB supports President Carter's program to reform the Civil Service.

3. That the proliferation of Federal, state and local regulations—a prime force behind inflation—be curbed by such legislation as a Sunset Law calling for periodic review of existing regulations and programs.

4. That the federal government restrain wage and salary increases as an example to state and local governments and to the private sector.

5. That Congress continue careful consideration of any new legislation and that federal agencies review any new regulations and their timetables for implementation—including excessive environmental regulations—for their potential inflationary impact.

6. That the Congress immediately pass an energy bill with emphasis on researching and developing new energy sources with practical application for the majority of Americans.

7. That President Carter continue to explore ways to relieve inflationary pressures as exemplified by his recent charge to his Administration to report on ways to expand the timber harvests from national forests in order to reduce lumber prices.

That the NAHB membership stand ready to support and assist in meeting the above objectives and that we urge other industries to make this a joint effort.

ORDER ADDING SENATOR LUGAR AS A COSIGNER OF "ADDITIONAL VIEWS" ON S. 3077

Mr. LUGAR. Mr. President, I ask unanimous consent that I be added as a cosigner of Senator TOWER'S "Additional Views" on S. 3077 (S. Rept. 95–844), the Export-Import Bank reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER HOLDING H.R. 11291, S. 2401, AND S. 2093 AT THE DESK

Mr. WILLIAMS. Mr. President, I ask unanimous consent that, when received, H.R. 11291, S. 2401, and S. 2093 be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. WILLIAMS. Mr. President, under the previous order, I move that the Senate adjourn until 11:30 a.m. tomorrow.

The motion was agreed to; and at 6:20 p.m. the Senate adjourned until tomorrow, Wednesday, May 17, 1978, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 1978:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. James Arthur Hill, [redacted], U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Gerald Joseph Post, [redacted], U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Woodrow Wilson Vaughan, [redacted], (age 59), Army of the United States (major general, U.S. Army).

IN THE NAVY

Vice Adm. Patrick "J" Hannifin, U.S. Navy, (age 55) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. James B. Wilson, U.S. Navy, (age 53) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Charles E. McDowell, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy with the rank of rear admiral, for a term of 4 years.

HOUSE OF REPRESENTATIVES—*Tuesday, May 16, 1978*

The House met at 12 o'clock noon.

Rev. H. Paul Mathison, Law Enforcement Ministries of Escambia County, Pensacola, Fla., offered the following prayer:

O God, our Heavenly Father, help us to know that Thy mercy is bountiful, but that Thy judgments are sure. Help us to remember that: except the Lord build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain. We pray that truth, honor, justice, and frugality may again become the hallmark of our great country.

Help those we elect to places of high honor to possess the type of integrity that neither love for money, nor love for fame, nor love for power, nor fear of foes can deter them from giving that kind of responsible leadership that our Nation and world so greatly need.

Save us from childish banter with other nations, and may lasting peace prevail throughout the world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. STEIGER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STEIGER. Mr. Speaker, I object. to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 12, not voting 74, as follows:

[Roll No. 319]

YEAS—348

Abdnor	Carney	Fish	Johnson, Colo.	Moore	Simon
Addabbo	Carr	Fisher	Jones, N.C.	Moorhead, Calif.	Sisk
Akaka	Cavanaugh	Fithian	Jones, Okla.	Moss	Skubitz
Alexander	Chappell	Flippo	Jones, Tenn.	Motti	Slack
Ammerman	Clausen, Don H.	Florio	Jordan	Murphy, Ill.	Smith, Iowa
Anderson, Calif.	Clawson, Del	Flowers	Kastenmeier	Murphy, N.Y.	Smith, Nebr.
Anderson, Ill.	Clay	Flynt	Kazen	Murtha	Snyder
Andrews, N.C.	Cleveland	Foley	Kelly	Myers, Gary	Solarz
Andrews, N. Dak.	Cohen	Fountain	Kemp	Myers, John	Spellman
Annunzio	Coleman	Fowler	Ketchum	Natcher	Spence
Applegate	Collins, Ill.	Fuqua	Keys	Neal	Staggers
Archer	Collins, Tex.	Gammage	Kildee	Nedzi	Stangeland
Armstrong	Conable	Garcia	Kindness	Nichols	Stanton
Ashbrook	Conte	Gephardt	Kostmayer	Oberstar	Stark
Ashley	Corcoran	Giaimo	Krebs	Obey	Steed
Aspin	Corman	Gibbons	Krueger	Ottinger	Steers
Badham	Cornell	Gilman	LaFalce	Panetta	Stockman
Bafalis	Cornwell	Ginn	Lagomarsino	Patten	Stratton
Baldus	Cotter	Glickman	Latta	Patterson	Studds
Barnard	Crane	Gonzalez	Le Fante	Pattison	Stump
Bauman	Cunningham	Gore	Leach	Pease	Symms
Beard, R.I.	D'Amours	Gradison	Leggett	Pepper	Taylor
Beard, Tenn.	Daniel, Dan	Grassley	Lehman	Perkins	Thompson
Bedell	Daniel, R. W.	Green	Lent	Pettis	Thone
Benjamin	Danielson	Gudger	Levitas	Pickle	Treen
Bennett	de la Garza	Guyer	Livingston	Poage	Trible
Bevill	Delaney	Hagedorn	Lloyd, Tenn.	Preyer	Tsongas
Biaggi	Derrick	Hall	Long, La.	Price	Udall
Bingham	Derwinski	Hamilton	Long, Md.	Pritchard	Ullman
Blanchard	Devine	Hammer-schmidt	Lott	Quayle	Van Deerlin
Blouin	Dickinson	Hanley	Lujan	Quillen	Vander Jagt
Boggs	Dicks	Hannaford	Luken	Rahall	Vanik
Boland	Dingell	Hansen	McClory	Railsback	Vento
Bolling	Dodd	Harkin	McCormack	Rangel	Volkmer
Bonior	Dornan	Harrington	McDonald	Regula	Waggonner
Bowen	Drinan	Harris	McEwen	Reuss	Walsh
Brademas	Duncan, Oreg.	Harsha	McFall	Rhodes	Wampler
Breaux	Duncan, Tenn.	Hawkins	McHugh	Richmond	Watkins
Brinkley	Early	Heckler	Madigan	Rinaldo	Waxman
Brodhead	Eckhardt	Hefner	Maguire	Roberts	Weaver
Brooks	Edgar	Hightower	Mahon	Roe	Weiss
Broomfield	Edwards, Ala.	Hillis	Mann	Rogers	Whalen
Brown, Ohio	Edwards, Calif.	Hollenbeck	Markey	Rose	White
Broyhill	Edwards, Okla.	Holt	Marks	Rosenthal	Whitehurst
Buchanan	Emery	Holtzman	Marlenee	Rostenkowski	Whitley
Burgener	English	Horton	Marriott	Rousselot	Wiggins
Burke, Fla.	Erlenborn	Howard	Mattox	Roybal	Wilson, Tex.
Burke, Mass.	Ertel	Hubbard	Mazzoli	Rudd	Winn
Burleson, Tex.	Evans, Colo.	Huckaby	Meeds	Ruppe	Wirth
Burlison, Mo.	Evans, Del.	Hughes	Michel	Russo	Wolff
Burton, John	Evans, Ga.	Hyde	Mikulski	Ryan	Wright
Burton, Phillip	Evans, Ind.	Ichord	Mikva	Satterfield	Wydler
Butler	Fary	Ireland	Milford	Sawyer	Wylie
Byron	Fascell	Jeffords	Miller, Calif.	Scheuer	Yates
Caputo	Fenwick	Jenrette	Miller, Ohio	Schroeder	Yatron
	Findley	Johnson, Calif.	Mineta	Sebelius	Young, Alaska
			Minish	Sharp	Young, Fla.
			Mitchell, N.Y.	Shipley	Young, Mo.
			Moakley	Shuster	Zablocki
			Mollohan	Sikes	Zeferetti
			Montgomery		

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

NAYS—12

Bellenson	Goodling	Pike
Brown, Mich.	Jacobs	Steiger
Forsythe	Lloyd, Calif.	Traxler
Goldwater	Mitchell, Md.	Wilson, Bob

NOT VOTING—74

Allen	Frey	Pressler
Ambro	Gaydos	Pursell
AuCoin	Heftel	Quie
Baucus	Holland	Risenhoover
Bonker	Jenkins	Robinson
Breckinridge	Kasten	Rodino
Brown, Calif.	Lederer	Roncalio
Burke, Calif.	Lundine	Rooney
Carter	McCloskey	Runnels
Cederberg	McDade	Santini
Chisholm	McKay	Sarasin
Cochran	McKinney	Schulze
Conyers	Martin	Seiberling
Coughlin	Mathis	Skelton
Davis	Metcalfe	St Germain
Dellums	Meyner	Stokes
Dent	Moffett	Teague
Diggs	Moorhead, Pa.	Thornton
Downey	Murphy, Pa.	Tucker
Ellberg	Myers, Michael	Walgren
Flood	Nix	Walker
Ford, Mich.	Nolan	Whitten
Ford, Tenn.	Nowak	Wilson, C. H.
Fraser	O'Brien	Young, Tex.
Frenzel	Oakar	

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. Con. Res. 80) entitled "current resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1979"; the message also announced that the Senate recedes from its disagreement to the amendment of the House with an amendment to the above-entitled bill.

TODAY'S VISITING CHAPLAIN

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, our visiting chaplain comes to us from a great public service program. Rev. H. Paul Mathison is the director and chaplain of law enforcement ministries in Pensacola, Fla. His work in this area is widely hailed. Prior to undertaking this valuable service, he was actively associated with the Methodist Church and is one of the best known and most highly regarded of the pastors serving in my congressional district.

Incorporated in June of 1969, by the State of Florida, the law enforcement ministries, under the able guidance of Dr. Mathison, gives spiritual and moral counseling to those who have been accused of crime and placed in the city or county jails. Encouragement, counsel, and advice is given to families of those accused of crime, to those who have come "back to the streets" from prison or jail sentences and equally important, moral support is generously extended to the peace officers in times of personal and community crisis. It is Dr. Mathison who is charged with the heartbreaking task of delivering the death messages and who makes himself available when personal tragedy strikes behind the bars. Testimony of his good work comes from all walks of life.

Dr. Mathison's law enforcement ministries has never been funded by any agency, public or private. It is financially supported by the free-will contributions of individuals, churches, church groups, civic groups and businesses. The overhead operation expense is small—telephone, utilities, office supplies, and part-time secretary. Adequate office space is furnished, gratis, by the estate of the late Dr. W. D. Nobles, a leading Pensacolan for many years.

I would like to quote from a letter by one of his "congregation":

I want to take this time to express my deep gratitude for your help last year. Without your help, I doubt we could have come out of it as we did. I think I have learned a great lesson, not just in my actions, but learning that there are people like you that will stick out their necks for a guy in trouble. I think this experience helped to make more of a man out of me. I am only glad it happened in a situation where I could come to someone such as you.

This young man, who very easily could have become an institutionalized criminal, graduated in law in the upper percentile of his class. He is now married to a charming girl and practices law in the State of Georgia.

Reverend Mathison is accompanied today by his son, Rev. Bob Mathison and his daughter-in-law, Virginia. Rev. Bob Mathison will graduate from Virginia Theologian Seminary this month and pursue his ministry at St. Simon's On the Sound Episcopal Church in Fort Walton Beach, Fla.

I include a listing of some of the achievements in Dr. Mathison's active life of service.

FAMILY AND EDUCATIONAL BACKGROUND OF DR. H. PAUL MATHISON

Native of Skipperville, Dale County, Ala. Graduate of Auburn University. Studied Theology at Emory University, Atlanta, Ga. Served as Pastor, and District Superintendent of Methodist Churches in Alabama and West Florida.

Director of Methodist Children's Home, Selma, Ala. Director of Methodist Publishing House, Nashville, Tenn. Director of Escambia County Mental Health Society. Delegate to General Conference of the Methodist Church. Delegate to the World Methodist Conference, Oslo, Norway.

Received Doctorate of Divinity Degrees from Birmingham Southern College and Bob Jones University.

Married to former Bobbie Bryans of Pensacola, Florida. Have two children, Mrs. Barbara Magnuson, Greenville, S.C., and Rev. Bob Mathison, Fort Walton Beach, Fla. Two grandsons, David and Paul Magnuson.

At present he is chaplain of Law Enforcement Ministries, Escambia County and Pensacola, Florida.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Missouri?

There was no objection.

CUBA'S PREDATORY ACTIONS IN AFRICA SHOULD BE HALTED

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, at a White House meeting this morning I suggested to the President that the United States launch a diplomatic offensive among the nations of Latin America to put a halt to the predatory depredations of Cuban forces in Africa.

Acting as stalking horses for the Soviet Union, the Cubans are exporting war from the Western Hemisphere. I am sure that other Latin American nations disapprove of this predatory phase of the development of Communist Cuba. If enlisted, they should, and I believe would, join with us in imposing whatever sanctions and economic pressures necessary to impress on Fidel Castro the unified displeasure of the hemisphere with his foreign territorial aggression.

I believe it is time to stop wringing our hands over Cuba, to exercise the means available to take forceful action, in our own interest, and that of Latin America. We have just concluded the Panama Canal treaties, a tangible expression of our continuing good neighbor policy. I believe the climate is right for success of a hemispheric diplomatic offensive.

Of course, the first step should be to cease what are now inappropriate efforts to seek so-called normalized relations with a Cuban nation that is engaged in global warfare. Such negotiations have obviously given Mr. Castro a false sense of security. I am certain Mr. Carter would receive solid support in Congress for any effort to halt Cuba's predatory actions in Africa.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

HABIB HADDAD

The Clerk called the bill (H.R. 3995) for the relief of Habib Haddad.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MARTINA NAVRATILOVA

The Clerk called the bill (H.R. 10210) for the relief of Martina Navratilova.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

PROVIDING FOR CONVEYANCE OF TITLE AND OWNERSHIP TO 2.58 ACRES WITHIN THE BRIDGER-TETON NATIONAL FOREST, WYO., TO BEN BOSCHETTO, JR.

The Clerk called the bill (H.R. 10160) to provide for the conveyance of title and ownership to 2.58 acres within the Bridger-Teton National Forest, Wyo., to Ben Boschetto, Jr.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

DEPARTMENT OF ENERGY IS USING ENTITLEMENTS PROGRAM TO LEVY A TAX ON CRUDE OIL

(Mr. ECKHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKHARDT. Mr. Speaker, I suppose the most jealousy guarded right that this body ever exercises is the right to tax.

Yet, the Department of Energy is presently using the entitlements program as a means of levying a tax on crude oil on all persons in the United States for certain specific policy purposes determined not in this body, but in an administrative tribunal.

First, it is seeking to raise prices of crude oil all over the country to provide an additional subsidy of about 74 cents per barrel for residual fuel oil used in New England.

Second, the Department of Energy has said that it is planning a rule by which prices of crude oil will be raised to pay to persons producing synthetic fuels.

This is taxation without representation which is, I believe, without sanction of any law.

CUBAN PRESENCE IN AFRICA

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, I believe that the aggression which the Communist dictator Castor is carrying out in Africa has become a matter of the gravest concern to this country, to all of Latin America, to the United Nations, and to all the free nations of the Earth which cherish peace in a free world. Castro as all know is carrying on that drive in Africa in furtherance of communism under the domination of the Soviet Union.

Mr. Speaker, I have just obtained from the State Department figures to show that in Angola there are 23,000 to 25,000 Cubans, most of whom are military. In Ethiopia there are 16,000 to 17,000 Cuban troops.

In eight other African countries there are from 1,700 to 2,700 Cubans, most of them military personnel. In Mozambique, there are from 800 to 850, including about 500 military personnel. In Guinea, from 300 to 500, mostly military. In Equatorial Guinea, 100 to 400, about half of whom are military. In the Congo (Brazzaville), from 400 to 500 Cubans include about 300 military. Libya has 100 to 125 Cubans, all military, and Tanzania has from 100 to 300, virtually all civilians. In Algeria, there are 35 to 50 Cubans and another 20 in Benin.

So altogether, there are 40,000 to 45,000 Cubans—most of them military—in 10 different nations in Africa. All this means is that the Russians are using Castro and his Cuban troops as the spearhead of Communist aggression in Africa, the design of which is to bring that whole continent under the control of the Soviet Union.

This must be a matter of grave concern to all Americans. We cannot continue to allow the Soviet Union to pursue its aggressive course in Africa. It must be held accountable for its massive infusions of arms and for the proxy wars it is conducting through its Cuban mercenaries. It certainly must not be allowed to repeat in Zaire what it has done in Angola and in Ethiopia and what it obviously seeks to do throughout the southern part of Africa.

THE LATE HONORABLE KENNETH DYAL

(Mrs. PETTIS asked and was given permission to address the House for 1 minute.)

Mrs. PETTIS. Mr. Speaker, it is with regret that I announce the passing last Friday of a former Member of this body, Kenneth Dyal. He will be buried today at Montecito Memorial Park in Colton.

During the 89th Congress, Ken represented what was then the 33d Congressional District of California. At the time of his death, he was a bishop for the third ward, Oakland Stake of the Church of Jesus Christ of Latter-Day Saints. I am sure my colleagues, especially those who served with him in the 89th Congress, join with me in extending sympathy to his wife, Barbara, and his family.

SMALLER DEFICIT—A BARGAIN WE CANNOT AFFORD

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, a small budget deficit is usually a more desirable commodity than a large one. The conference report on the budget resolution offers Congress a chance to purchase a bargain-basement deficit—a mere $50.9 billion. But, if we snap up this loss leader, we will discover later that purchasing costly programs we do not really need with dollars that we should keep in our pocketbooks for nongovernmental items that we do need is a bargain we can ill afford.

When President Carter's $25 billion tax cut was proposed in January, analysis showed that net taxes went up for most people, after the effects of inflation and increased social security taxes. The only families of four to benefit were those with 1977 incomes between $8,000 and $17,000. The only singles better off were those between $3,000 and $4,500. This is with the $25 billion tax cut, remember.

Congress is now contemplating whittling the cut down to $15 billion for personal, corporate, and social security tax cuts combined. If this goes through, many people who cannot spare the cash are going to have to pay substantially larger tax bills in 1979.

Now why would Congress increase people's taxes? The conference report on the budget resolution has the answer. It permits costly new and expanded Government programs. Then, to hold down the deficit, it estimates tax revenues $47 billion higher than last year and $8.3 billion higher than President Carter's January request.

Mr. Speaker, this expensive blueprint is a bargain that our taxpayers simply cannot afford. Taxes are already too high. We should turn down the conference report tomorrow and draw up a less costly plan that will not force taxpayers to dig deeper into their pockets to pay for programs not worth the price.

WASTE IN CSA ENERGY PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, last December, when we were debating the appropriation of $200 million to pay fuel bills for the poor, some of us were critical of the allocation of funds under last year's program to such warm weather areas as Hawaii and Puerto Rico.

We were told by proponents of the program that things would change this year, that funds would only go to areas of the country that have a true emergency need, and that money would not go to every State in the Union, regardless of need. Those assurances probably provided the necessary margin for passage, because the program cleared the House by only one vote.

Then, lo and behold, we discovered tucked away in the Federal Register last week an announcement by the Community Services Administration that $631,000 had been awarded to pay fuel bills in, guess where? Puerto Rico! Puerto Rico where the average low temperature during the coldest 2 months of the winter is a frigid 70°, 2° above the level President Carter recommends that we set our thermostats.

CUBANS SHOULD BE STOPPED IN AFRICAN ADVENTURES

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. DON H. CLAUSEN. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Arizona (Mr. RHODES).

BUDGET RESOLUTION CONFERENCE REPORT A DISAPPOINTMENT

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I rise to advise the House that I was extremely disappointed with the final outcome of the conference report on the budget.

In 1979, there will be a major legislated and unlegislated Federal tax increases totaling $23.1 billion—$8.5 billion in social security taxes, $1.1 billion anticipated from the President's energy package and a $13.5 billion automatic tax increase resulting from inflation. Offsetting that is the $15.7 billion in tax cuts in the conference report. Simple arithmetic shows that the "relief" is not enough to counterbalance next year's increases. The American people will still have to assume an additional tax burden of $7.4 billion. So the actual effect of the conference budget resolution is to again "sock it to" the American taxpayer.

Mr. Speaker, I am sorry that this is the Democrat "solution" in the budget resolution to reduce the deficit. Even though there will still be a deficit of some $50.9 billion, the way this is achieved is by increasing taxes in 1979 and I think that is wrong for the American people.

NATIONAL GRANDPARENTS DAY

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker and Members, today I am introducing a resolution cosponsored by 239 Members authorizing and requesting the President of the United States to proclaim the first Sunday of September after Labor Day of each year as National Grandparents Day.

I have more than the necessary 218 signatures for the measure to reach the floor.

This is similar to a resolution introduced by our colleague, the gentleman from Georgia, JOHN J. FLYNT, JR., the chairman of the Committee on Ethics.

We have a ruling that there is no conflict of interest so any grandparents, who are also Members of the House of Representatives, who would like to be a cosponsor, can sponsor the resolution without violating our code of ethics.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore (Mr. NEDZI). Pursuant to the provisions of clause 3(b) of rule XXVII. The Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

COMPREHENSIVE REHABILITATION AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for the other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Rehabilitation Services Amendments of 1978".

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 100(b) of the Rehabilitation Act of 1973 is amended to read as follows:

"(b)(1)(A) For the purpose of allotments under the first sentence of section 110(a), there are authorized to be appropriated $808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) for each fiscal year thereafter.

"(B) For the purpose of the allotment increases authorized by the second sentence of section 110(a), there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1980, and for each fiscal year thereafter.

"(2)(A) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated $100,000,000 for the fiscal year ending September 30, 1979, and for each of the four fiscal years thereafter. There are further authorized to be appropriated such sums as may be necessary for each such fiscal year.

"(3) For the purpose of making grants to Indian tribes under part D of this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the four fiscal years thereafter—

"(A) an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1), for the purpose of carrying out section 130; and

"(B) such sums as may be necessary for the purpose of carrying out section 131.".

(b) Section 100 of the Rehabilitation Act of 1973 is amended by adding at the end the following new subsection:

"(c)(1) On the first November 15 occurring after the date of the enactment of this subsection, and no later than November 15 of each subsequent fiscal year, the Secretary of Labor shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2)(A) If in any fiscal year the percentago change published under paragraph (1) indicates an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) of subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) of subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1).

"(3) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(c) Section 110(a) of the Rehabilitation Act of 1973 is amended—

(1) by inserting "(A)" after "(b)(1)" where it first occurs;

(2) by striking out "under the first sentence of this subsection" and inserting in lieu thereof "under this subsection"; and

(3) by inserting after the first sentence the following new sentence: "Beginning with the fiscal year ending September 30, 1980, the amount of the allotment under the first sentence of this subsection may be increased by

any amount appropriated under subsection (b)(1)(B) of section 100".

(d) Section 110(b) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after "(b)", by striking out the last sentence, and by adding at the end thereof the following new paragraphs:

"(2) If a State receives as its Federal share under section 111(a) for any fiscal year, as a result of the maintenance of effort provisions of such section, less than 80 percent of the expenditure of such State for vocational rehabilitation services under the plan for such State approved under section 101 (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 111(a) and an amount equal to 80 percent of such expenditure for vocational rehabilitation services.

"(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.".

(e) The second sentence of section 120(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "three" and inserting in lieu thereof "five".

STATE PLANS

SEC. 102. (a) Section 101(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "For each fiscal year in which" and all that follows through the dash and inserting in lieu thereof the following: "In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such minor annual revisions in the plan as may be necessary to ensure the provision of accurate and current information. Each such plan shall—";

(2) in paragraph (5)(A) by inserting "(including the use of rehabilitation facilities)" after "methods";

(3) in paragraph (7) by striking out "and" at the end of clause (A) and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel trained to communicate in the client's native language or mode of communication";

(4) in clause (C) of paragraph (9) by striking out "under section 401" and inserting in lieu thereof "under section 13";

(5) in paragraph (11) by inserting before the semicolon the following: "(specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the Education of the Handicapped Act, and the Vocational Education Act)";

(6) in paragraph (12) by inserting "(A)" after "(12)", by striking out the semicolon and inserting in lieu thereof "; and", and by adding at the end the following new subparagraph:

"(B) provide for entering into agreements with the operators of rehabilitation facilities for the provision of services for the rehabilitation of handicapped individuals;";

(7) in paragraph (15) by striking out "(including the State's needs for rehabilitation facilities)" and inserting in lieu thereof "(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)";

(8) in paragraph (18) by inserting "personnel" before "working in the field of vocational rehabilitation" and by striking out "and" at the end thereof;

(9) in paragraph (19) by striking out the period and by inserting in lieu thereof a semicolon; and

(10) by adding at the end the following new paragraphs:

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in section 131, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other handicapped individuals residing in the State;

"(21) provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for handicapped individuals under part B of title VI; and

"(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.".

(b) Section 101(c) of the Vocational Rehabilitation Act of 1973 is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "(1)" before "the plan" and inserting in lieu thereof "(A)";

(3) by striking out "(2)" and inserting in lieu thereof "(B)";

(4) by adding at the end of paragraph (1) (as so redesignated by paragraph (1) of this subsection) the following new sentence: "The withholding of payments under this subsection shall continue, regardless of the filing of any appeal under subsection (d), until the Commissioner is satisfied that there is no longer a failure to comply with the State plan or until a court, after a full hearing on the merits of the case as a result of such appeal, issues a final order requiring the Commissioner to release such payments to the State."; and

(5) by adding at the end the following new paragraph:

"(2) The Commissioner may, in accordance with regulations he shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment. For good cause shown, the Commissioner may waive the requirements of the preceding sentence.".

(c) Section 101(d) of the Rehabilitation Act of 1973 is amended to read as follows:

"(d)(1) Any State which is dissatisfied with a final determination of the Commissioner under subsection (b) or (c) may file a petition for judicial review of such determination which the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date such final determination was made. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by him for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which he based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under subsection (b) or (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within thirty days additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction (i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c), and (ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

SEC. 103. (a) Section 103(a)(1) of the Rehabilitation Act of 1973 is amended by inserting "mental or" before "emotional".

(b) Section 103(b) of the Rehabilitation Act of 1973 is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by inserting "(including services offered at rehabilitation facilities)" after "services" and by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(3) the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals; and

"(4) the use of services providing recorded material for the blind and captioned films or video cassettes for the deaf.".

STATE ALLOTMENTS

SEC. 104. Section 110(a) of the Rehabilitation Act of 1973 (as amended by section 101(c) of this Act) is further amended by striking out "less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or $2,000,000" and inserting in lieu thereof "less than one-third of 1 percent of the

amount appropriated under subsection (b)(1) of section 100, or $3,000,000".

CLIENT ASSISTANCE

SEC. 105. Section 112(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "up to $1,500,000" and all that follows through "not more than 20" and inserting in lieu thereof "no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years, to establish";

(2) by inserting before the period at the end of the first sentence the following: ", including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this Act".

AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

SEC. 106. Part D of title I of the Rehabilitation Act of 1973 is amended to read as follows:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"GRANTS FOR DEMONSTRATION PROJECTS

"SEC. 130. (a) The Commissioner is authorized to make grants to the governing bodies of Indian tribes on Federal and State reservations for demonstration programs under which the tribes shall develop vocational rehabilitation services for handicapped American Indians residing on or near to such reservations.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless—

"(1) the application is made at such time and in such manner, and contains such information, as the Commissioner may require;

"(2) the application is developed in consultation with the State agency unit designated under section 101(a)(2)(A); and

"(3) the application contains assurances that the rehabilitation services provided under grants under this section to handicapped American Indians residing on or near to a reservation in a State shall be comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State.

"(c) The Commissioner shall allocate any funds appropriated under section 100(b)(3) to carry out this section on an equitable basis among the tribes whose applications are approved under this section.

"GRANTS FOR VOCATIONAL REHABILITATION SERVICES

"SEC. 131. (a) The Commissioner is authorized to make grants to the governing bodies of Indian tribes on Federal and State reservations in order that such tribes may provide vocational rehabilitation services for handicapped American Indians residing on or near to such reservations. If the Commissioner makes a grant under this section to the governing body of an Indian tribe on a Federal or State reservation, during the fiscal year in which payments are made under such grant, the State or States in which such reservation is located, in administering the State plan of any such State under section 101, shall not be required to provide vocational rehabilitation services to handicapped American Indians residing on or near to such reservation. For purposes of computing the allotment of any State under section 110(a), the population of such State shall not be considered to include any Indian citizens of such State who, as a result of the preceding sentence, are not provided with vocational rehabilitation services by such State.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless—

"(1) the application is made at such time and in such manner, and contains such information, as the Commissioner may require;

"(2) the application contains assurances that the rehabilitation services provided under grants under this section to handicapped American Indians residing on or near to a reservation in a State shall be comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

"(3) the application contains assurances that the tribe has demonstrated the capability to provide the services described in paragraph (2) and provides satisfactory documentation to support such assurances.

"(c) Sections 5, 6, 7(b), and 102 of the Indian Self-Determination Act shall be applicable to grants made under this section. For purposes of this subsection, any reference in such sections to the Secretary of Health, Education, and Welfare or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

"(d) The Secretary shall allocate any funds appropriated under section 100(b)(3) to carry out this section on an equitable basis among the tribes whose applications are approved under this section.".

DECLARATION OF PURPOSE

SEC. 107. Section 200 of the Rehabilitation Act of 1973 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct of rehabilitation research, rehabilitation demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who provide rehabilitation services and persons who conduct rehabilitation research by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

RESEARCH AND TRAINING: AUTHORIZATION OF APPROPRIATIONS

SEC. 108. Section 201(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 201. (a) There are authorized to be appropriated—

"(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out sections 203 and 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years;

"(2) for the purpose of carrying out section 203, $75,000,000 for the fiscal year ending September 30, 1979, $85,000,000 for the fiscal year ending September 30, 1980, $95,000,000 for the fiscal year ending September 30, 1981, $100,000,000 for the fiscal year ending September 30, 1982, and $125,000,000 for the fiscal year ending September 30, 1983;

"(3) for the purpose of carrying out section 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years; and

"(4) for the purpose of carrying out section 205, $35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, $55,000,000 for the fiscal year ending September 30, 1982, $65,000,000 for the fiscal year ending September 30, 1983, and for each such fiscal year such additional sums as may be necessary.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 109. The Rehabilitation Act of 1973 is amended—

(1) by redesignating section 202 as section 203 and by redesignating section 203 as section 205; and

(2) by inserting after section 201 the following new section:

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

"SEC. 202. (a) In order to promote and coordinate rehabilitation research and to more effectively carry out the programs under sections 203 and 204, there is established a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'). In the performance of his functions, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Health, Education, and Welfare to whom the Commissioner is responsible under section 3(a) of this Act.

"(b) The Institute shall be responsible for—

"(1) administering the programs described in sections 203 and 204;

"(2) disseminating information acquired through rehabilitation research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(3) coordinating Federal programs and policies relating to research and rehabilitation;

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities explaining how the quality of life of handicapped individuals may be improved;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

"(6) conducting conferences, seminars, and workshops (including in-service training programs) for rehabilitation personnel to inform such individuals of advances in rehabilitation research and rehabilitation engineering; and

"(7) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

"(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate in effect from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code In carrying out any of his functions under this section, the Director shall be governed by general policies of the National Council on the Handicapped established under title IV. The Director shall not delegate any of his func-

tions to any officer who is not directly responsible to him.

"(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS-18 of the General Schedule under section 5108 of title 5, United States Code.

"(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

"(d) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

"(e) The Director shall, by regulation, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(f) Not less than 90 percent of the funds appropriated under paragraph (2) of section 201(a) to carry out section 203 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

"(g) The Director shall develop and submit to appropriate committees of the Congress within one year after the effective date of this section a long-range plan for rehabilitation research which shall—

"(1) identify any additional research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment; and

"(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this subparagraph for funding.

The plan required by this paragraph shall be developed by the Director in consultation with the National Council on Rehabilitation established under title IV, and with any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

"(h)(1) The Institute shall undertake a study of the special problems and needs of handicapped individuals who reside in rural areas throughout the United States. Upon the completion of such study, but no later than 18 months after the effective date of this section, the Director shall submit the results of such study, together with his recommendations, to the Commissioner, the Secretary, the President, and the Congress.

"(2) The Institute shall undertake a study of the way in which Federal programs providing benefits to handicapped individuals might be restructured so as to eliminate any disincentives for persons receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but no later than 24 months after the effective date of this section, the Director shall submit the results of such study, together with his recommendations, to the Commissioner, the Secretary, the President, and the Congress.

"(i) In order to promote cooperation among Federal departments and agencies conducting rehabilitation research programs, the Director shall consult with the administrators of such programs regarding the design of research projects conducted by such entities and the results and applications of such research.

"(j)(1) The Director shall take whatever actions he considers appropriate to provide for a comprehensive and coordinated rehabilitation research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in rehabilitation research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult with the Director before establishing the project and provide the Director with sufficient opportunity to comment on the project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.".

RESEARCH BY PRIVATE ORGANIZATIONS

SEC. 110. Section 203(a) of the Rehabilitation Act of 1973 (as so redesignated by section 109(1) of this Act) is amended—

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Director may";

(2) by striking out "public or nonprofit" and inserting in lieu thereof "public or private";

(3) by striking out "provision of vocational rehabilitation services" and inserting in lieu thereof "provision of vocational and other rehabilitation services"; and

(4) by inserting after "restorative techniques" the following: ", including basic research where related to rehabilitation techniques or services".

RESEARCH AND TRAINING CENTERS

SEC. 111. Section 203(b) of the Rehabilitation Act of 1973 (as so redesignated by section 109(1) of this Act) is amended—

(1) by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Director may";

(2) by amending paragraph (1) to read as follows:

"(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.";

(3) in clause (A) of paragraph (2) by inserting "psychiatric," before psychological"; and

(4) by adding at the end the following new paragraphs;

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.

"(7) Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

"(8) Conduct of a program of research related to the rehabilitation of handicapped children and of handicapped adults who are aged sixty or older.

"(9) Conduct of a research fellowship program to expand the number of professionals of various rehabilitation disciplines who undertake research careers.

"(10) Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.".

TRAINING

SEC. 112. Section 205 of the Rehabilitation Act of 1973 (as so redesignated by section 109(1) of this Act) is amended—

(1) in subsection (a)—

(A) by striking out "The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Commissioner may";

(B) by inserting ", medical, social and psychological rehabilitation" after "vocational"; and

(C) by striking out "and" before "in performing" and inserting in lieu thereof the following: ", including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained";

(2) in subsection (b)—

(A) by inserting ", rehabilitation psychiatry" after "work"; and

(B) by inserting after "blind and deaf individuals," the following: "specialized personnel in providing job development and job placement services for handicapped individuals,";

(3) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Commissioner may also make grants to undergraduate schools of medicine

to support programs in rehabilitation medicine in order to provide expanded opportunities for medical students to become oriented to the medical care of handicapped individuals and to become familiar with the services which may be provided to such individuals."; and

(4) by adding at the end of the following new subsections:

"(d) The Commissioner shall evaluate the impact of the training programs under this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

"(e)(1) The Commissioner may establish not more than 12 programs under this section for the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals. Any applicant desiring to establish a program under this section shall provide for the development of a five-year program which demonstrates the applicant's capacity to train a sufficient number of interpreters for the deaf in such geographical areas as the Commissioner may prescribe.

"(2) Any applicant may, in connection with such program, provide for the training or retraining (including short-term or in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals. Such applicant shall provide assurances that any interpreter trained in such program shall meet minimum standards established by the Commissioner.".

SPECIAL FEDERAL RESPONSIBILITIES

SEC. 113. (a)(1) The first sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending before October 1, 1983".

(2) The last sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1984".

(b) Section 302(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 302. (a) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1983.".

(c) Section 304(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "For the purpose" and all that follows through "September 30, 1978" and inserting in lieu thereof the following: "For the purpose of making grants under this section for special projects and demonstrations (and for research and evaluation connected therewith), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1983".

(d) Section 304(b)(1) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "and facilities" and inserting in lieu thereof "and, where appropriate, constructing facilites"; and

(2) by striking out "older blind individuals" and all that follows through "reached" and inserting in lieu thereof "and blind individuals and deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services".

(e) Section 304 of the Rehabilitation Act of 1973, as amended in section 202, is further amended by adding at the end the following new subsections:

"(1) The Commissioner may establish through the State agency units designated under section 101(a)(2)(A) a program of interpreter referral services in each State.

"(2) Any State agency unit designated under section 101(a)(2)(A) desiring to receive funds to establish a program under this subsection shall provide assurances that such program will be operated in central locations throughout the State.

"(3) Interpreter referral services which are provided through any program operated under this subsection shall be designed to provide a pool of interpreters for specific geographical areas in each State. Such services may be made available at no cost for a period not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall make reimbursements for the cost of such services.

"(4) Any interpreter providing services for a program under this subsection shall be required to meet minimum standards established by the Commissioner.

"(5) Funds provided to any State agency unit for any program under this subsection shall not be used for administrative or related costs, nor shall funds made available under this subsection be used for assistance to deaf individuals who are receiving rehabilitation services as clients under any other provision of this Act.

"(f) The Commissioner may make grants to any State agency unit designated under section 101(a)(2)(A)—

"(1) to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

"(2) to expand the quality and scope of reading services available to blind persons by assuring that, to the maximum extent possible, the services provided under this Act will meet the reading needs of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.".

LOAN GUARANTEES

SEC. 114. Section 303 of the Rehabilitation Act of 1973 is amended to read as follows:

"LOAN GUARANTEES FOR REHABILITATION FACILITIES

"SEC. 303. (a) It is the purpose of this section to assist and encourage the provision of needed facilities for programs for handicapped individuals primarily served by State rehabilitation programs.

"(b) The Commissioner may, in accordance with this section and subject to section 306, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of rehabilitation facilities, including equipment used in their operation.

"(c) In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 3 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(d) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $200,000,000.

"(e)(1) The Commissioner may not approve a loan guarantee for a project under this section unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent he considers consistent with the interests of the United States.

"(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

"(f)(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

"(A) to enable him to discharge his responsibilities under loan guarantees issued by him under this section; and

"(B) for payment of interest under subsection (c) on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

"(i) to make payments of interest under subsection (c); or

"(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

"(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities dur-

ing the month preceding the issuance of the notes or other obligations.

"(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

"(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.".

HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 115. Section 305 of the Rehabilitation Act of 1973 is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 305. (a) The purpose of this section is to provide for the establishment and operation of the Helen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this title for construction of the Center shall remain available until expended."; and

(2) by adding at the end the following new subsection:

"(d) To the extent feasible, the Helen Keller National Center for Deaf-Blind Youths and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services provided to individuals by the Center."

COMPREHENSIVE CENTERS

SEC. 116. (a) The Rehabilitation Act of 1973 is amended (1) by transferring section 305 to title II, (2) by striking out section 204 and by redesignating such former section 305 as 204 and inserting it after section 203, and (3) by inserting after section 304 the following new section:

"COMPREHENSIVE REHABILITATION CENTERS

"SEC. 305. (a) (1) In order to provide a focal point in communities for the development and delivery of services designed primarily for handicapped persons, the Commissioner may make grants to any State agency unit designated under section 101(a)(2)(A) (which unit shall hereinafter in this section be referred to as the 'State agency') to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to handicapped individuals, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

"(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for the deaf) as may be necessary to assist those entities in complying with this Act, particularly the requirements of section 504.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve an application for a grant unless the application—

"(1) contains assurances that the State agency will use funds provided by such grant in accordance with subsections (c) and (d); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Secretary may require.

"(c)(1) The State agency may—

"(A) in accordance with subsection (e) make grants to units of general purpose local government or to other public or nonprofit agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of (i) leasing or constructing new or existing facilities to serve as comprehensive rehabilitation centers, (ii) operating such centers, or (iii) carrying out the activities specified in both clauses (i) and (ii); and

"(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

"(2) The State agency may provide for new buildings to be constructed to serve as comprehensive rehabilitation centers under subparagraph (A) or (B) of paragraph (1) only after determining that no existing structure in a particular locality is suitable for leasing, acquisition, alteration, or renovation as a center.

"(3) Funds made available to any State agency under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center, to deliver services in the center, and to provide equipment for the center.

"(d)(1) The State agency may approve a grant or enter into contract under subsection (c) only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) and if the application contains assurances that any facility assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

"(2) Any State agency which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

"(e) If within 20 years after the completion of any construction project for which funds have been paid under this section—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

"(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of the construction of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(f) The requirements of section 306 shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for the four succeeding fiscal years.".

(b) Section 306(a) of the Rehabilitation Act of 1973 is amended by inserting in the first sentence before the period ", except as otherwise provided in section 305(g)".

NATIONAL COUNCIL ON THE HANDICAPPED

SEC. 117. The Rehabilitation Act of 1973 is amended by striking out title IV and inserting in lieu thereof the following new title:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"ESTABLISHMENT OF NATIONAL COUNCIL ON THE HANDICAPPED

"SEC. 400. (a) There is established within the Department of Health, Education, and Welfare a National Council on the Handicapped (hereinafter in this title referred to as the 'National Council') which shall be composed of twenty members appointed by the President, by and with the advice and consent of the Senate, as follows:

"(1) At least five members shall be appointed from among persons who are responsible for directly administering State vocational rehabilitation programs.

"(2) At least five members shall be appointed from among persons who are engaged in conducting medical or other scientific research relating to rehabilitation.

"(3) At least five members shall be appointed from among persons who are handicapped individuals.

"(4) The remaining members shall be appointed from among persons who are knowledgeable with respect to the problems of handicapped individuals and who have an understanding of the programs funded under this Act.

"(b)(1) The members of the National Council shall serve for terms of three years, except that, of the members first appointed—

"(A) five shall be appointed for a term of one year;

"(B) five shall be appointed for a term of two years;

"(C) five shall be appointed for a term of three years; and

"(D) five shall be appointed for a term of four years;

as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) Any vacancy in the National Council shall be filled in the same manner by which the original appointment was made.

"(4) Members of the National Council shall, while serving on business of the National Council, be entitled to receive compensation at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of title 5, United States Code.

"(c) The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than six times a year.

"(d) Eleven members of the National Council shall constitute a quorum. Any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. The National Council shall—

"(1) establish general policies for, and review the conduct of, the Rehabilitation Serv-

ices Administration and the National Institute of Handicapped Research;

"(2) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;

"(3) make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve rehabilitation research, the administration of rehabilitation services, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of rehabilitation programs based upon such findings;

"(4) review all applications for financial assistance submitted under section 112 (relating to client assistance projects), section 130 (relating to Indian demonstration projects), title II (related to research and training), or title III (relating to supplementary services and facilities) and make recommendations for approval or disapproval of any application submitted under any such section or title to the head of any Federal agency or department responsible for administering the programs under any such section or title; and

"(5) submit not later than March 31 of each year (beginning in 1979) an annual report to the Secretary, the Congress, and the President, containing (A) a statement of the current status of rehabilitation research in the United States, (B) an analysis of the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate.

No person responsible for administering any program under any section or title referred to in paragraph (4) may aprove or disapprove any application for financial assistance under such program until he has received the recommendation of the National Council respecting such application, unless the National Council fails to submit such a recommendation within a reasonable period of time (as determined under regulations issued by the person responsible for administering such program).

"STAFF OF NATIONAL COUNCIL

"SEC. 402. (a) The National Council shall have a staff director who shall be appointed by the National Council and who shall be paid at a rate not to exceed the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. The National Council may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, not to exceed seven technical and professional employees to assist the National Council to carry out its duties.

"(b) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code).

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"SEC. 403. (a) The National Council may prescribe such rules as may be necessary to carry out its duties under this title.

"(b) The National Council may secure directly from any department or agency of the United States such information as the National Council may require to carry out its duties under this title. Upon request of the Chairman of the National Council, the head of any such department or agency shall furnish such information to the National Council.

"(c) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(d) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(e) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 404. There are authorized to be appropriated to carry out this title such sums as may be necessary.".

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 118. (a) Section 502(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 502. (a)(1) There is established the Architectural, Transportation and Communication Barriers Compliance Board (hereinafter in this section referred to as the 'Board') which shall be composed of the heads of each of the departments or agencies specified in paragraph (2) (or their designees whose positions are level IV of the Executive Schedule under section 5315 of title 5, United States Code, or higher) and nine handicapped individuals appointed by the President from among persons who are not Federal employees and who have substantial background and experience in the problems of handicapped individuals related to architectural barriers. The Chairman of the Board shall be designated by the President from among its members.

"(2) The departments and agencies referred to in paragraph (1) are the following:

"(A) The Department of Health, Education, and Welfare.

"(B) The Department of Transportation.

"(C) The Department of Housing and Urban Development.

"(D) The Department of Labor.

"(E) The Department of the Interior.

"(F) The Department of Defense.

"(G) The General Services Administration.

"(H) The United States Postal Service.

"(I) The Veterans' Administration.

"(3) The appointed members of the Board shall serve for terms of six years, except that of the members first appointed—

"(A) three shall be appointed for a term of two years;

"(B) three shall be appointed for a term of four years; and

"(C) three shall be appointed for a term of six years;

as designated by the President at the time of appointment.

"(4) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.".

(b) Section 502(b) of the Rehabilitation Act of 1973 is amended—

(1) by amending clause (1) to read as follows:

"(1) establish minimum guidelines and requirements for standards under the Act of August 12, 1968 (hereinafter in this section referred to as the Architectural Barriers Act of 1968), to enforce all standards prescribed by any Federal entity under such Act, to insure that any waiver or other modification of any standard is based upon findings of fact and is not arbitrary and capricious, and to insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons;";

(2) in clause (2) by inserting "communication," before "and attitudinal", and by inserting "telecommunication devices," before "public buildings"; and

(3) by striking out "and" before "(6)" and by inserting before the period the following: "; (7) submit a report to the President and to the Congress within twelve months after the effective date of this clause containing an assessment of the amounts required to be expended by each State (including any amounts required to be expended by political subdivisions thereof) to provide handicapped individuals with full access to all programs and activities receiving Federal assistance; and (8) in accordance with subsection (d)(2), make final determinations with regard to compliance with section 504 of this Act regarding architectural, transportation, and communication barriers confronting handicapped individuals.".

(c) Section 502(c) of the Rehabilitation Act of 1973 is amended by striking out "and" before "(3)" and by inserting before the period the following: "; and (4) to the extent practicable, provide technical assistance to any person or entity requesting such assistance for the purpose of assisting such person or entity in complying with this Act or with the accessibility standards promulgated under the Architectural Barriers Act of 1968".

(d) Section 502(d) of the Rehabilitation Act of 1973 is amended to read as follows:

"(d)(1) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any State agency unit designated under section 101(a)(2)(A) for the purpose of conducting studies to provide the cost assessments required by clause (7) of subsection (b). Before including in the report required by such clause the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

"(2) The Board shall conduct investigations, hold public hearings, and issue such orders as it considers necessary to insure compliance with the Architectural Barriers Act of 1968 and with section 504 (to the extent the Board has authority under subsection (b)(8). Except as provided in paragraph (3) of subsection (e), the provisions of subchapter II of chapter 5, United States Code shall apply to procedures under this section, and any order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building, public conveyance, or rolling stock found not to be in compliance with standards enforced under this section. The Board may sue and be sued in its own name, and may be represented by its own legal counsel in all Federal, State, and local courts.".

(e)(1) Section 502(e) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraphs:

"(2) The executive director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The executive director shall have final authority, on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by the hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(f) Section 502(h) of the Rehabilitation Act of 1973 is amended to read as follows:

"(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1983.".

NONDISCRIMINATION UNDER FEDERAL PROGRAMS AND ACTIVITIES

SEC. 119. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) in the section heading by inserting "and programs" after "grants"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "or under any program or activity conducted by any Executive agency (as defined in section 105 of title 5, United States Code). The head of each such agency shall promulgate such regulations as may be necessary to carry out this section. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.".

ATTORNEYS' FEES

SEC. 120. Title V of the Rehabilitation Act of 1973 is amended by adding at the end the following new section:

"ATTORNEYS' FEES

"SEC. 505. In any action or proceeding to enforce any provision of section 501, section 503, or section 504, the court may allow any prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs.".

SECRETARIAL RESPONSIBILITIES

SEC. 121. Title V of the Rehabilitation Act of 1973 as amended in section 120, is further amended by adding the following new section:

"SECRETARIAL RESPONSIBILITIES

"SEC. 506. (1) The Secretary is authorized to provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

"(A) to persons operating rehabilitation facilities; and

"(B) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any recommendations of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(d)(1).

"(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS–18 of the General Schedule, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.".

APPLICATION OF OTHER LAWS

SEC. 122. The Rehabilitation Act of 1973 is amended by inserting after section 10 the following new section:

"APPLICATION OF OTHER LAWS

"SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93–510) and of title V of the Act of October 15, 1977 (Public Law 95–134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.".

MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 123. (a) The Rehabilitation Act of 1973 is amended—

(1) by amending section 2 to read as follows:

"DECLARATION OF PURPOSE

"SEC. 2. The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational and independent living rehabilitation.";

(2) by amending the second sentence of section 3(a) to read as follows: "Unless otherwise specifically provided in this Act, such Administration shall be the principal agency of the Department of Health, Education, and Welfare and the Commissioner shall be the principal officer of such department for carrying out titles I through III of this Act, part A of title VI of this Act, and title VII of this Act.";

(3) in section 3(a) by adding at the end the following new sentence: "In carrying out any of his functions under this Act, the Commissioner shall be governed by general policies of the National Council on the Handicapped established under title IV of this Act.";

(4) by striking out section 3(b) and redesignating section 3(c) as 3(b);

(5) in section 7(1) by striking out "alteration, and renovation" and inserting in lieu thereof "alteration, or renovation";

(6) in section 7(3) by striking out "initial" in each place it appears;

(7) in section 7(6)—

(A) by striking out "The term" and inserting in lieu thereof: "(A) Except as otherwise provided in subparagraph (B), the term";

(B) by striking out "(A)" after "individual who" and inserting in lieu thereof "(i)" and by striking out "(B)" after "and" and inserting in lieu thereof "(ii)"; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

"(B) Subject to the second sentence of this subparagraph, the term 'handicapped individual' means, for purposes of title IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504, such term does not include any person who is an alcoholic or who is a drug abuser in need of rehabilitation.";

(8) in section 10 by inserting before the period at the end thereof the following: ", except that this section shall not be construed to limit or reduce fees for services rendered by rehabilitation facilities".

(9) by adding after section 11 (as added by section 121 of this Act) the following new sections:

"ADMINISTRATION OF THE ACT

"SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

"(2) provide short-term training and technical instruction;

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide staff and other technical assistance to the National Council on the Handicapped.

"(b) In carrying out his duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(c) The Commissioner may promulgate such regulations as he considers appropriate to carry out his duties under this Act.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"REPORTS

"SEC. 13. Not later than one hundred and twenty days after the close of such fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

"EVALUATION

"SEC. 14. (a) The Secretary shall evaluate the impact of all programs authorized by this Act, their general effectiveness in achieving stated goals, and their effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

"(c) The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to the Congress and the public.

"(d) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(e) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

"(f) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

"SEC. 15. (a) The Commissioner may establish a central clearinghouse for information and resource availability for handicapped individuals which shall provide information

and data regarding (1) the location, provision, and availability of services and programs for handicapped individuals, (2) research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and (3) the current numbers of handicapped individuals and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

"(b) The Commissioner may assist the Secretary to develop within the Department of Health, Education, and Welfare a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

"(c) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"TRANSFER OF FUNDS

"SEC. 16. No funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.".

(b) Title I of the Rehabilitation Act of 1973, as amended by sections 101 through 107 of this Act, is further amended—

(1) in parts A through C by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner"; and

(2) in section 121(a) by inserting after the first sentence the following new sentence: "Payments may also be made under this section for the costs of the construction of facilities to be used in providing services under such State plan if provision for such construction is included in such State plan.".

(c) Title III of the Rehabilitation Act of 1973, as amended by sections 114 through 116 of this Act, is further amended—

(1) in section 300 by striking out "initial" in paragraph (1), by inserting "and" after the semicolon in paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4);

(2) in section 301 by striking out "initial" each place it appears and by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(3) in section 302 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(4) in subsection (b) of section 304 and in subsection (d) of section 304 (as so redesignated by section 202 of this Act) by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(5) in section 304(c) by striking out "Secretary" where it first occurs and inserting in lieu thereof "Commissioner";

(6) in subsections (a), (c), (e), (f), and (i) of section 306 by striking out "Secretary" in each place it appears and inserting in lieu thereof "Commissioner";

(7) by amending paragraph (3) of section 306(b) to read as follows:

"(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 13;";

(8) in paragraph (4) of section 306(b) by striking out "Secretary" where it first occurs and inserting in lieu thereof "Commissioner"; and

(9) by striking out "SPECIAL FEDERAL RESPONSIBILITIES" in the title heading and inserting in lieu thereof "SUPPLEMENTARY SERVICES AND FACILITIES".

(d) Title V of the Rehabilitation Act of 1973 is amended by striking out "MISCELLANEOUS FEDERAL RESPONSIBILITIES".

(e) Section 1904 of title 38, United States Code, is amended—

(1) by striking out "section 202(b)(2)" and inserting in lieu thereof "and section 203(b)(2)"; and

(2) by striking out ", and section 405" and all that follows through "activities)".

(f) The table of contents for the Rehabilitation Act of 1973 is amended—

(1) by inserting after the item relating to section 10 the following new items:

"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.";

(2) by striking out the items relating to part D of title I and section 130 and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"Sec. 130. Grants for demonstration projects.
"Sec. 131. Grants for vocational rehabilitation services.";

(3) by striking out the items relating to sections 202 through 204 and inserting in lieu thereof the following new items:

"Sec. 202. National Institute of Handicapped Research.
"Sec. 203. Research.
"Sec. 204. Helen Keller National Center for Deaf-Blind Youths and Adults.
"Sec. 205. Training.";

(4) by striking out the item relating to the heading of title III and inserting in lieu thereof the following:

"TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES";

(5) by striking out the item relating to section 303 and inserting in lieu thereof the following new item:

"Sec. 303. Loan guarantees for rehabilitation facilities.";

(6) by striking out the item relating to section 305 and inserting in lieu thereof the following new item:

"Sec. 305. Comprehensive rehabilitation services centers.";

(7) by striking out the items relating to title IV and sections 400 through 407 and inserting in lieu thereof the following:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"Sec. 400. Establishment of National Council on the Handicapped.
"Sec. 401. Duties of National Council.
"Sec. 402. Staff of National Council.
"Sec. 403. Administrative powers of National Council."
"Sec. 404. Authorization of appropriation";

(8) by striking out the item relating to the heading of title V and inserting in lieu thereof the following:

"TITLE V—SPECIAL FEDERAL RESPONSIBILITIES";

and

(9) by adding at the end thereof the following new items:

"Sec. 505. Attorneys' fees.
"Sec. 506. Secretarial responsibilities.".

TITLE II—COMMUNITY SERVICE PROGRAMS; PROJECTS WITH INDUSTRY

ESTABLISHMENT OF PROGRAMS

SEC. 201. The Rehabilitation Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Employment Opportunities for Handicapped Individuals Act'.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"ESTABLISHMENT OF PROGRAM

"SEC. 611. (a) In order to promote useful opportunities in community service activities for handicapped individuals who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the 'Secretary') is authorized to establish a community service employment program for handicapped individuals. For purposes of this part, the term 'eligible individuals' means persons who are handicapped individuals (as defined in section 7(6) of this Act) and who are referred to programs under this part by the State agency units designated under section 101(a)(2)(A).

"(b)(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the program referred to in subsection (a). Such agreements may include provisions consistent with subsection (c) for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

"(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

"(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

"(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

"(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

"(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or results in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

"(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 101(a)(2)(A) to administer vocational rehabilitation services under this Act) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

"(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the

project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

"(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

"(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of handicapped individuals.

"(K) Such project will pay any reasonable costs for work-related expenses, transportation, and attendant care incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

"(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

"(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

"(A) The prevailing rate of pay for persons employed in similar occupations by the same employer.

"(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 if such employee were not exempt from such Act under section 13 thereof.

"(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 with respect to any person employed in a project under this section.

"(c)(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b). Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

"(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

"(d) Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"ADMINISTRATION

"SEC. 612. (a) In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehabilitation Services Administration, consult with any State agency designated under section 101(a)(2)(A) with regard to—

"(1) the localities in which community service projects of the type authorized by this part are most needed;

"(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

"(3) potential projects suitable for funding in such localities.

"(b) The Secretary shall coordinate the program established under this part with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.

"(c) In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

"(d) Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

"(e) The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

"SEC. 613. (a) Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally, applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

"(c) No part of the wages, allowances, or reimbursement for transportation and attendant care costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law.

"INTERAGENCY COOPERATION

"SEC. 614. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

"(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

"SEC. 615. (a)(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to handicapped individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribtuion of activities under such grants and contracts among the States, taking into account the needs of underserved States.

"(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 617 so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 616. For purposes of this part—

"(1) the term 'community service' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

"(2) the term 'program' means the community service employment program for handicapped individuals established under this part; and

"(3) the term 'attendant care' means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals perform duties of employment.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 617. There are authorized to be appropriated to carry out the purposes of this part $80,000,000 for the fiscal year ending September 30, 1979, $100,000,000 for the fiscal year ending September 30, 1980, $125,000,000 for the fiscal year ending September 30, 1981, $150,000,000 for the fiscal year ending September 30, 1982, and $175,000,000 for the fiscal year ending September 30, 1983.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"PROJECTS WITH INDUSTRY

"SEC. 621. (a)(1) The Commissioner, in consultation with State agency units designated under section 101(a)(2)(A), may enter into agreements with individual employers and other entities to establish jointly financed projects which—

"(A) shall provide handicapped individuals with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

"(B) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

"(C) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals,

(ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals.

"(2) Any agreement under this subsection shall be jointly developed by the Commissioner, the prospective employer, the appropriate State agency unit designated under section 101(a)(2)(A) and the handicapped individuals involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(b) No payment shall be made by the Commissioner under any agreement with an employer entered into under subsection (a) unless such agreement—

"(1) provides assurances that handicapped individuals placed with such employer shall received at least the applicable minimum wage;

"(2) specifies that the Commissioner, together with the State agency unit referred to in subsection (a), has the right to review any termination of employment, and that, in the event such termination occurs less than three years after the date of the commencement of employment of the handicapped individual involved, the Commissioner shall be entitled to require the repayment of a portion of the funds made available to the employer if such termination is without reasonable cause, as determined by the Commissioner in consultation with such State agency unit; and

"(3) provides assurances that any handicapped individual placed with such employer shall be afforded terms and benefits of employment equal to those which are afforded to other employees of such employer, and that such handicapped individuals shall not be unreasonably segregated from other employees.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SEC. 622. The Commissioner may make grants to, or enter into contracts with, handicapped individuals to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by State agency units designated under section 101(a)(2)(A), of individuals eligible to participate in any program under this section.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 623. There are authorized to be appropriated to carry out the purposes of this part $25,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, $30,000,000 for the fiscal year ending September 30, 1981, $35,000,000 for the fiscal year ending September 30, 1982, and $40,000,000 for the fiscal year ending September 30, 1983.".

CONFORMING AMENDMENTS

SEC. 202. (a) Effective October 1, 1978—

(1) section 304(d) of the Rehabilitation Act of 1973 is repealed; and

(2) section 304(e) of such Act is redesignated as 304(d);

(b) The table of contents for the Rehabilitation Act of 1973, as amended by section 120(c)(6), is further amended by adding at the end thereof the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec 601. Short title.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"Sec. 611. Establishment of program.
"Sec. 612. Administration.
"Sec. 613. Participants not Federal employees.
"Sec. 614. Interagency cooperation.
"Sec. 615. Equitable distribution of assistance.
"Sec. 616. Definitions.
"Sec. 617. Authorization of appropriations.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 621. Projects with industry.
"Sec. 622. Business opportunities for handicapped individuals.

"Sec. 623. Authorization of appropriations.".

TITLE III—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

COMPREHENSIVE SERVICES

SEC. 301. The rehabilitation Act of 1973, as amended by section 201 of this Act, is further amended by adding at the end the following new title:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PURPOSE

"SEC. 701. The purpose of this title is to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist State agency units designated under section 101(a)(2)(A) in providing independent living services designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for gainful employment but may benefit from vocational rehabilitation services which will enable them to live and function independently.

"ELIGIBILITY

"SEC. 702. Services may be provided under this title to any individual whose ability to engage or continue in gainful employment, or whose ability to function normally and independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services normally required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in gainful employment or his ability to function normally and independently in his family or community.

"ALLOTMENTS

"SEC. 703. (a) From sums appropriated for each fiscal year for the purpose of allotments under this section, each State whose comprehensive services plan has been approved under section 704 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all of the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $200,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

"(b) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"STATE PLANS

"SEC. 704. (a) In order to be eligible for funds under this title, a State shall submit to the Commissioner a State plan for providing independent living services to severely handicapped individuals for a three-year period, and, upon request of the Commission, shall make such minor annual revisions in the plan as may be necessary. Each such plan shall—

"(1) designate any State agency unit designated under section 101(a)(2)(A) as the agency to administer the programs funded under this title;

"(2) demonstrate that the State has studied and considered a wide variety of methods for providing comprehensive services to severely handicapped individuals (such as regional and community centers, halfways houses, and patient-release programs);

"(3) describe in detail the types of services to be provided by programs funded under this title, including information concerning the individuals served by such programs;

"(4) provide assurances that the State will conduct periodic reviews of the progress of individuals assisted under this title to determine whether services provided to such individuals should be continued, modified, or discontinued;

"(5) provide assurances that handicapped individuals shall have a substantial role in developing the plan; and

"(6) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(b) As soon as practicable after receiving a State plan submitted under subsection (a), the Commissioner shall approve or disapprove such plan. The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section.

"(c) For purposes of this title, the term 'independent living services means any appropriate vocational rehabilitation service, as defined in title I of this Act, and any other service that will make a substantial contribution in helping a handicapped individual improve his ability to live independently or function normally within his family and community. Such services may include counseling, psychological and related services, housing incidental to the purpose of this section (including the accommodation to and the modification of any space), transportation, attendant care, physical rehabilitation, therapeutic treatment, needed prostheses and other appliances and devices, health maintenance, recreational activities, interpreter services, and preventive services to decrease the needs of such individual for similar services in the future.

"PAYMENTS TO STATES FROM ALLOTMENTS

"SEC. 705. (a) From each State's allotment for a fiscal year under section 703, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 704. Such payments may be made (after necessary adjustments on account of previously

made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"(c) The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 704.

"(d)(1) The Commissioner may withhold from any State payments of funds appropriated under section 707(a) in the same manner as provided in section 101(c) of this Act for withholding payments under title I.

"(2) Any State may appeal the disapproval of a State plan under section 704 or the termination of payments under paragraph (1) in the same manner as provided in section 101(d) of this Act for appealing the disapproval of a plan or the termination of funds under title I.

"GRANTS FOR INDEPENDENT LIVING CENTERS

"SEC. 706. (a) The Commissioner may make grants to any State agency unit which qualifies for payments under section 705 to provide for the establishment and operation of independent living centers, which shall be facilities offering the services described in subsection (c)(2).

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

"(1) contains assurances that the State agency unit will use funds provided by such grant in accordance with subsection (c); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c) Funds received by such State agency unit may be used to make grants to public or nonprofit agencies or organizations for the operation of independent living centers. An application for such a grant shall—

"(1) provide assurances that handicapped individuals will be substantially involved in policy direction and management of such center, and will be employed by such center;

"(2) contain assurances that the independent living center to be assisted by such grant shall offer handicapped individuals a combination of independent living services, including, as appropriate—

"(A) intake counseling to determine the client's need for specific rehabilitation services;

"(B) referral and counseling services with respect to attendant care;

"(C) counseling and advocacy services with respect to legal and economic rights and benefits;

"(D) independent living skills, counseling, and training, including such programs as training in the maintenance of necessary equipment and in jobseeking skills, counseling on therapy needs and programs, and special programs for the blind and deaf;

"(E) housing and transportation referral and assistance;

"(F) health maintenance programs;

"(G) peer counseling; and

"(H) other programs designated to provide resources, training, counseling, services, or other assistance of substantial benefit in promoting the independence, productivity, and quality of life of handicapped individuals; and

"(3) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 707. (a) For the purpose of allotments under section 703, there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1979, $130,000,000 for the fiscal year ending September 30, 1980, $180,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for each of the next two fiscal years.

"(6) For the purpose of grants undersection 706, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $80,000,000 for the fiscal year ending September 30, 1980, $110,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for each of the next two fiscal years.".

INDIVIDUALIZED CASE PLAN

SEC. 302. Section 101(a)(9) of the Rehabilitation Act of 1973 is amended in clause (A) by inserting at the end before the comma "or eligible for comprehensive services under title VII of this Act"'.

CONFORMING AMENDMENT

SEC. 303. The table of contents for the Rehabilitation Act of 1973, as amended in section 120(c)(6) and section 202(b), is further amended by adding at the end thereof the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"Sec. 701. Purpose.
"Sec. 702. Eligibility.
"Sec. 703. Allotments.
"Sec. 704. State plans.
"Sec. 705. Payments to States from allotments.
"Sec. 706. Grants for independent living centers.
"Sec. 707. Authorization of appropriations.".

TITLE IV—INTERAGENCY PROGRAMS AND MISCELLANEOUS PROVISIONS

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 401. (a) The Secretary of Health, Education, and Welfare is authorized to make grants and contracts to public and nonprofit agencies for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of handicapped individuals, the elderly, and children, youths, adults, and families in need of protective services. Projects should be evaluated and the final report submitted to the Congress within 4 months after the completion of the project.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary.

LIMITATIONS ON AUTHORIZATIONS

SEC. 402. No authorization of appropriations in this Act shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no new borrowing authority or authority to enter into contracts under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

EFFECTIVE DATE

SEC. 403. This Act shall take effect on October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Briefly, Mr. Speaker, the bill, H.R. 12467, as amended, would extend the basic State-Federal vocational rehabilitation program with authorizations of $808 million for the basic State vocational rehabilitation program for fiscal year 1979 and provide that in subsequent years the authorizations would be adjusted to reflect any increases in the Consumer Price Index.

Other inmportant features of the bill are the creation of a National Institute of Handicapped Research, the establishment of a National Council on the Handicapped and the creation of a community service employment program for handicapped individuals.

Specific authorizations for the community service employment program would total $630 over the next 5 years.

In addition, H.R. 12467, as amended, would create a program to assist severely disabled individuals to live more independently. Authorizations over the next 3 fiscal years for activities under this proposed program would total $630 million.

Overall authorizations for all programs under the bill, exclusive of any cost of living increases and such sums as necessary would be $1.253 billion for 1979, $1.418 billion for 1980, $1.543 billion for 1981, $1.288 billion for 1982, and $1.363 billion for 1983.

Mr. Speaker, let me, at this point, express my sincere appreciation to the members of the Subcommittee on Select Education, Mr. BIAGGI, Mr. MILLER of California, Mr. JEFFORDS, Mr. PRESSLER, Mr. BEARD, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, and especially the chairman of the committee. Mr. PERKINS, and the ranking minority member of the Committee on Education and Labor, Mr. QUIE, for their patience, cooperation and diligence, particularly during these last few extremely busy weeks.

Indeed, I would like to thank all of the members of the full Education and Labor Committee for their unanimous support of this bill.

It is because of the cooperation and commitment of all of these members, from both sides of the aisle, to improving the employment and social conditions of handicapped individuals that this legislation is now before us for consideration.

Let me turn now to the major provisions of this bill.

First, as I mentioned earlier, H.R. 12467, as amended, would extend the Rehabilitation Act for 5 years. The act is scheduled to expire this September 30.

The authorizations for fiscal year 1979 would be $808 million, but in subsequent years, the authorizations would be based on a Consumer Price Index basis which would keep the program at least at the cost-of-living level.

Over the past several years, the program has been growing at approximately 3 percent per year.

In addition, beginning in 1980, the bill would authorize an additional $50 million for the States to carry on the basic program.

Mr. Speaker, this important feature

was unanimously approved by both the subcommittee and the Committee on Education and Labor. This strong support is based on the realization that there are at least 6 million more handicapped individuals in this Nation who could benefit from vocational rehabilitation if the necessary public investment were made.

Third, the bill establishes comprehensive rehabilitation services and independent living programs for the handicapped. These programs would be administered through the State agencies and would provide a variety of services necessary to allow handicapped individuals to live independently. In addition, the bill provides for the establishment and operation of centers for independent living.

Presently, many severely disabled persons, both young and old, may not be receiving the kind of services they need to assist them in avoiding institutionalization. The bill attempts to rectify this problem by permitting the delivery of services to them—such as homemaker, transportation, and special training, which services they cannot receive elsewhere.

Authorizations are provided for services and the creation of centers under two separate authorizations.

Fourth, Mr. Speaker, the legislation would assist more populous States in providing vocational rehabilitation by authorizing an additional $100 million for each of the next 5 fiscal years for innovation and expansion programs. Allotments for these programs are based strictly on a State's share of the national population and would therefore be particularly helpful to our larger States.

I want to again express my appreciation to our distinguished colleague from the State of New York, Hon. MARIO BIAGGI, for his sponsorship of this important feature.

Fifth, H.R. 12467, as amended, would improve and expand research affecting the lives of handicapped individuals. It would establish a National Institute of Handicapped Research to support research into ways to ameliorate the effects of disability on an individual's employment and daily living activities.

The Subcommittee on Select Education has looked into this area for a number of years. Through the Institute, we will attempt to upgrade research on the handicapped in the United States. The proposed Institute would be headed by a director appointed by the President and confirmed by the Senate. The Institute would have the responsibility for directing all rehabilitation research activities and research-oriented centers.

Sixth, the bill would create a community service employment program for handicapped individuals. This program would be administered by the Department of Labor and would help in reducing the high rate of unemployment of handicapped Americans.

This provision is one of the most significant additions to this legislation.

Under this new title, the Secretary of Labor would be authorized to establish a community service employment program—similiar to that established under the Older Americans Act for older Americans—for handicapped individuals.

In addition, the bill would expand on the Projects With Industries authority which the 1973 act mandated and would expand this authority in order to provide on-the-job training and job placement in private industry.

Incentives would be provided to industry to provide work opportunities to handicapped individuals.

In addition, the bill would create a new program to assist handicapped individuals in establishing their own businesses.

Seventh, the bill would authorize the Secretary of Health, Education, and Welfare to provide financial assistance to public and private entities in removing architectural, transportation, and communication barriers to the handicapped. This would be a particularly important provision for many of our educational institutions which have been attempting to make their facilities and programs more accessible to the handicapped.

Eighth, the bill further establishes a 20-member National Council on the Handicapped. The Council would be comprised of rehabilitation professionals, researchers and persons responsible for delivering rehabilitation services, handicapped persons.

The Council would participate in developing policy, reviewing programs as well as advising and making recommendations with regard to discretionary grants under both the Institute and the Rehabilitation Services Administration.

The bill also contains a committee amendment extending the provisions of the antidiscrimination features of the act to all activities and programs of the executive branch of the Federal Government.

Mr. Speaker, there are other important features of the bill which we feel will lead to the development of a more comprehensive and coordinated approach to the problems of the Nation's 35 million handicapped citizens.

For 58 years this program has assisted millions of handicapped individuals in preparing for employment and in leading more independent lives.

It is a program of proven value. Indeed, several cost-benefit analyses all agree on one crucial fact—the benefits of the vocational rehabilitation program are many times its costs.

Let me cite just one example. The total annual earnings of the over 300,000 individuals rehabilitated in fiscal year 1976 are estimated at $1.347 billion. This is a net increase of $1.101 billion over their total earnings prior to entering the program.

I do not want to dwell too long on the cost-benefit matters for I know that many Members of the Congress, and especially the other members of the Subcommittee on Select Education, share a commitment to the vocational rehabilitation for purely humanitarian as well as economic reasons.

I urge my colleagues to give their strong support to this legislation.

Mr. BRADEMAS. Mr. Speaker, at this point I yield to the distinguished gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank the distinguished gentleman for yielding.

The distinguished gentleman knows I strongly favor the objectives of this legislation. The first time I ran for the Senate in 1934 the first plank in my platform was Federal aid to education. Any kind of rehabilitation or educational program, I strongly support; but I am very much concerned about this bill coming up under a suspension of the rules on account of a remonstrance I have from the Governor of my State.

I am informed that this bill carries an appropriation or authorization of about $7 billion and would extend the present law for about 3 years. That is rather important legislation to be coming up under a suspension of the rules. What disturbs me particularly is the following telegram that I just received from the distinguished Governor of my State. It is addressed to me and it says:

> H.R. 12467, the Vocational Rehabilitation Amendments of 1978, is scheduled for floor action under suspension of rules Tuesday, May 16. I have grave concerns about several sections that would be profoundly detrimental to Florida's human services delivery system. This bill much too important to be considered in this manner. Urge your immediate assistance in delaying floor action.
>
> Signed: REUBIN ASKEW,
> *Governor of Florida.*

Now, the two sections that the Governor seems primarily concerned about are in section 102(b) requiring the withholding of all vocational rehabilitation funds from any State which finds itself in disagreement with the commissioner, regardless of the filing of an appeal.

At the present time, so I am informed by our State representatives, the State of Florida has a disagreement with the Federal Government over the provisions of this law. Under the present law, the Secretary of HEW has determined a State can continue to receive the funds that it would otherwise receive until the appeal is determined; but if these amendments that the able gentleman is bringing up now were adopted, the State feels that they would be automatically cut off when the disagreement occurs from the receipt of those funds until the appeal was determined.

May I ask the distinguished gentleman, am I correct, or is the Governor correct?

Mr. BRADEMAS. Mr. Speaker, the Governor is not entirely correct, I might say to the distinguished gentleman from Florida, and I am well aware of the gentleman's long-standing commitment in support of the provisions of this program.

The purpose of the bill under consideration is indeed, in situations of controversy like the one to which the gentleman from Florida (Mr. PEPPER) has cited, to insure that funds continue to go to handicapped persons, and so it would not be accurate to say that this bill would cut off funds to handicapped persons. Indeed the bill is so structured as to insure that such funds would continue to go into a State for the provision of services but not to the agency deemed in violation of Federal law.

Mr. PEPPER. Even though there is an appeal?

Mr. BRADEMAS. Yes. As the gentleman from Florida (Mr. PEPPER) may be aware, there was a recent ruling in the Federal District Court in the State of Florida which held that the State had not acted in conformity with the intent of Congress in its administration of the rehabilitation program. I might say also the auditor of the State of Florida has found that it is impossible to account for the expenditures of funds provided by Congress for the rehabilitation of handicapped persons under this law. However, I assure the gentleman from Florida (Mr. PEPPER) that any change in the present act by H.R. 12467, as amended would not apply to the present case pending before the courts.

Mr. Speaker, I hope that that observation will clarify the point for the gentleman from Florida.

Mr. PEPPER. In other words, the Governor's fear that the effect of the amendment the able gentleman from Indiana (Mr. BRADEMAS) is now presenting would be to cut off funds from the beginning of the disagreement until the disposition of the appeal are not well-founded?

Mr. BRADEMAS. If the Governor is apprehensive that the bill would lead to a cutoff of funds to handicapped persons, the Governor need not live in fear of that happening.

Mr. PEPPER. Mr. Speaker, I am pleased to have that statement from the gentleman.

There is just one other matter I would like to cover, and that is this: Section 121 of these amendments, I understand, exempts the Vocational Rehabilitation Act from the provisions of the Joint Funding Simplification Act. As I understand it, that act which was passed by the Congress in 1974 was designed to curb proliferation, make the Federal programs more effective, and bring the Federal programs into sharper focus.

As the distinguished gentleman from Indiana (Mr. BRADEMAS), who deals so favorably with the Older Americans Act, knows, that is one of the problems we are struggling with in dealing with the programs that are affecting older Americans to prevent so much proliferation and to bring about a more effective administration. It would seem to me that is a desirable objective. I understand that under section 121 the vocational rehabilitation program is exempted from what I had regarded as desirable provisions.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will allow me to answer, I am delighted to assure the gentleman from Florida (Mr. PEPPER), who is one of the great leaders either in the House or the Senate on problems affecting the elderly—and that comes about from his position as chairman of the Select Committee on Aging of the House of Representatives—that the provision in the rehabilitation bill now under consideration to which he refers is identical to a similar provision in the Older Americans Act, which provision has been in that statute since 1974 and has caused us no difficulty whatsoever.

So, Mr. Speaker, I think the gentleman can be reassured on that point as well.

Mr. PEPPER. So the salutary provisions of the Joint Funding Simplification Act would not be denied to the vocational rehabilitation program?

Mr. BRADEMAS. That particular provision would not run with respect to the Vocational Rehabilitation Act, even as that particular provision does not run with respect to the Older Americans Act for an identical reason; namely, that the purpose of this legislation is to be sure that the funds that are provided under it go for the service of handicapped persons, even as the fundamental purpose of the Older Americans Act is to be sure that funds provided under it go for the service of older Americans and not for some other purposes, which may be a laudatory purpose but which is not the purpose either of the Rehabilitation Act or of the Older Americans Act.

Mr. PEPPER. Mr. Speaker, I will just say in conclusion that I thank the gentleman very much for this information.

I still think it probably would have been better for a measure of this magnitude to have been considered in the ordinary way so that there could have been opportunity for extensive debate on the fundamental issues here on the floor.

I thank the able gentleman from Indiana (Mr. BRADEMAS) for giving me the information he has kindly offered.

Mr. BRADEMAS. Mr. Speaker, I thank my colleague, the gentleman from Florida (Mr. PEPPER).

Mr. LEHMAN. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to my colleague, the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I just want to take this time to reassure my distinguished colleague, the gentleman from Florida (Mr. PEPPER), that he really has nothing to worry about in regard to the money going to help those who need the help most under this program.

The mechanics of this just happen to be different in the way that this committee has set it up and in the way the department of health and rehabilitation services of the State of Florida is structured to deal with these matters. The Subcommittee on Select Education is most concerned and has been most concerned that none of the money was bogged down or commingled in such a way that it would get lost between the time the money was allocated and the people who need it receive it.

In good conscience, this was the best way it could be done, and even though the Governor in all good sincerity does not agree, this is the way I am convinced it should be done.

Mr. Speaker, I am proud that I have been able to play a role in the creation of this legislation.

Mr. PEPPER. Mr. Speaker, I want to thank my distinguished colleague for his comments.

Mr. BRADEMAS. Mr. Speaker, I, too, want to thank the distinguished gentleman from Florida for his contribution.

Mr. Speaker, I reserve the balance of my time.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from New York (Mr. BIAGGI), a distinguished member of the subcommittee, who has made important contributions to this legislation.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman from Indiana (Mr. BRADEMAS) for yielding me this time and I wish to commend the gentleman for his leadership in this legislation. I am pleased to rise as an original cosponsor of this bill. This is landmark legislation providing the necessary commitment which will permit greater independence for millions of disabled and handicapped citizens of this Nation.

Mr. Speaker, I was especially proud to have successfully sponsored an amendment to this legislation which will direct urgently needed assistance into our larger population States who have fared poorly under the present rehab formula. My amendment added $200 million in funds over 5 years for innovation and expansion grants. These funds are distributed by population. Further, as the law and the committee report indicate, States are entitled to funds under this program. My amendment also made it clear that funds under this section can be used to augment those services provided under the main formula in part B.

We are embarking on a positive and dynamic course with this legislation. We have moved from promise to reality with respect to the Rehabilitation Act. It deserves passage.

One of the more exciting innovations provided in this bill is section 301 or title VII of the act. This allows State vocational agencies, as part of their 3-year plan to provide rehabilitation services to handicapped persons who need extensive services to develop their employment potential. Such persons, who may not need vocational rehabilitation services, could instead receive services to assist them in living more independently in their communities. Individualized plans would be developed and in turn a myriad of services could be provided. Funds under this section could be used to develop independent living centers where a number of persons could come to obtain these important services. Without question this section epitomizes what the thrust of this bill is all about—moving away from the stereotype which views handicapped and disabled as being unable to exist in a community structure. Here as in so many other areas the direction is away from institutional settings and instead moving back into the mainstream.

I wish to comment on another key feature of the legislation—the establishment of a National Institute of Rehabilitation Research. Among their tasks will be a major study of those Federal programs which provide, either through their guidelines or administration, disincentives to obtaining employment. During consideration in the Education and Labor Committee I expanded this study to include those programs providing disincentives for those handicapped and disabled remaining employed. I am aware that this does, indeed, exist. One primary Federal program is medicaid which slaps income eligibility limits on persons who require full-time home health attendants but who are capable of working. I was and continue to be involved in a case in-

volving a Ms. Connie Panzarino who although totally disabled was able to work at a salary of some $9,000. Her full-time health attendant cost some $11,000. Her income was too high to qualify for medicaid assistance. The result: A choice between working and struggling, or going on welfare to receive medicaid assistance. This prompted my introduction of legislation to lift this absurd requirement as it pertains to workers. Tradition tells us that if such a thing happens in one Federal program, it is happening in others. The Institute study will now explore in depth the extent of this problem and report back to Congress so we can make the necessary changes.

This legislation is the product of much work and an especially comprehensive series of hearings during which the views of many in the vocational rehabilitation community presented their assessment of the Rehabilitation Act and how it needed to be improved. Many of these suggestions are reflected in this bill today. I am proud to be associated with it.

I wish to note at this point my efforts to correct what I still consider the only negative feature of this legislation; namely, the formula which governs the distribution of funds under part B of the act. It is a formula which is antiquated and does not accurately reflect the needs of the States in terms of getting the money to where it is needed. It was devised in 1954 as part of the Hill-Burton program. It is my hope that the House Appropriations Committee will provide the full authorization levels for the programs in the act whose funds are distributed by population. By doing this, we will be rectifying an inequity being endured by the larger population States who are seeking in good faith to provide desperately needed vocational rehabilitation services.

This legislation merits the overwhelming approval of the House. It is designed to make the Rehabilitation Act a dynamic force in the advancement of independence and security for our millions of handicapped and disabled Americans. At this point, I wish to pay a special tribute to my colleague JOHN BRADEMAS for his unrelenting pursuit of improving the quality of life of the handicapped community. He is viewed by many as this Congress spokesman and strongest advocate for the rights of the disabled and handicapped and this legislation is a testimonial to his legislative expertise and personal compassion. I also commend the distinguished ranking minority member of the subcommittee, Mr. JEFFORDS. Finally Chairman PERKINS is to be cited for his commitment to improving the fiscal plight of our larger population States through his support of my amendment adding $200 million to the innovation and expansion grants program. It will be a needed shot in the arm.

This Nation is a leader in providing opportunities for its citizens. This was provided in our Constitution. It did not make exceptions. Yet for the handicapped and disabled of this Nation, a series of societal and structural barriers have prevented their receiving their share of opportunity. When the Rehabilitation Act was first passed in 1973 it was hailed as an important new concept. Now, 5 years later, the euphoria has worn off and it is time for results. I am fully confident that H.R. 12467 places us directly on the road to results. Our Nation will be the better for it.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Speaker, I rise in support of H.R. 12467, the Rehabilitation Act Amendments of 1978.

Mr. Speaker, I wish to ask the ranking minority member on the subcommittee, the gentleman from Vermont (Mr. JEFFORDS), a question. What is the cost of this program for fiscal year 1979?

Mr. JEFFORDS. If the gentleman will yield, the total authorization would be $1.253 billion.

Mr. ROUSSELOT. Can the gentleman assure us that a very minimal amount of this goes for administration? Because there have been complaints that too much money goes to administration in many of the Federal programs of this type. I feel the House should know exactly how much is used for administrative costs. What is the percentage of this $1.253 billion that goes for administration?

Mr. JEFFORDS. I think that this program probably demonstrates the best that we have, so far as efficiency in the area of administrative costs. Less than 5 percent of the moneys which are appropriated under this bill go toward administrative purposes. I think the record ought to be looked at by other agencies and programs as a guide as to what can be done.

Mr. ROUSSELOT. Five percent or less?

Mr. JEFFORDS. That is correct.

Mr. ROUSSELOT. I want to say that that is an appropriate low figure, in comparison to other programs that we have in the Federal Government. I wish that HEW and some of the other big spending agencies in town could learn from this program. The committee is to be complimented for making sure that the major portion of the authorization goes to those who really need it. If in fact the administrative costs continue at this level—5 percent or less for administration—the rehabilitation program stands as a positive example of distribution system that works at a low administrative cost, and actually is received by the people it is supposed to help.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Speaker, is it correct that last year this figure, instead of $1.25 billion was $870 million, and that the President's request was $912 million, and that this is, to a large extent, because of additional programs that have been added into this, above that figure?

Mr. JEFFORDS. That is correct.

Mr. BEDELL. I guess the one reason I wanted to speak is that when we do this sort of thing under suspension we would question how we are handling our legislative matters.

However, in a bill of this complexity, as has already been indicated by the gentleman from Florida, if this does represent an increase of as much as 50 percent over what has been spent in the past, then I think we really have trouble with our budgetary process if we do not look at this bill under general debate.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding.

I subscribe to the remarks of the gentleman from Iowa (Mr. BEDELL), but I have some reservations about the formula by area, though not the intent of the bill.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is not often that a Member has an opportunity to come before the House to support a piece of legislation with the pride that I do today. I say pride because I think some of the provisions that we have added are so significant that they may directly alter the lives of millions of handicapped persons and go a long way toward significantly improving them. I have worked closely with the chairman of the Subcommittee on Select Education (Mr. BRADEMAS) and wish to commend him for his conscientiousness, candor, and willingness to work toward constructive legislation.

I have also had an opportunity to work closely with the distinguished ranking member of the full Committee, Mr. QUIE. The pride that I hold for the outstanding features of this bill must be shared with him for his efforts as he and I worked closely on the development of these provisions. He has worked long and hard for the handicapped throughout his time in Congress and I think that his leadership through the years has truly benefited disabled people throughout America.

Mr. BRADEMAS has already pointed out the highlights of the bill, so I will focus on a few provisions that I was particularly interested in and helped to develop.

The first and I think one of the keystones of the bill is the "Independent Living" provisions. I have long felt there are disabled people who are so severely handicapped that although they might not be able to work in the traditional sense, might be able to live independently as a result of receiving rehabilitation services. This new title should open new doors for those individuals to help them to live more independently. I see this provision also in terms of freeing people as we help the disabled to help themselves. If a person requires full-time attendant care and either has to pay personally for the attendant or receives some assistance from some Federal, State, or local program, it may be possible to make the handicapped person independent to the point that he or she may not need the attendant full time. In effect we have given the handicapped person some new independence and at the same time saved the costs of attendant care. This is a

provision to help not only the handicapped, but a provision to help the taxpayers as well. This is not to say that the economics is the only reason for this title, it certainly is not. This title recognized that there is a group of disabled persons who have traditionally fallen through the cracks. This new title recognizes their value and is an attempt to do something to meet their needs. Although there are provisions in the new Independent Living section for handicapped individuals who have vocational potential, I think the legislative history should be clear that the first priority must go to those disabled individuals who do not possess the vocational potential to qualify them for title I services. It is my understanding that as services are provided for these people under the new Independent Living Title, that the goal will always be to try to help them enough so that they might one day be able to benefit under the Title I services and be able to get and hold some type of employment. This is the hope of the title, but it should be clear that no individual should be denied services because the vocational potential is not there.

In other parts of the bill there are numerous provisions for the deaf. During the past year our understanding and awareness of the deaf and their problems have grown because we have had a man who is totally deaf working part-time on our staff on the Education and Labor Committee. To my knowledge this is the first time in the history of the Congress that a deaf person has worked for any Committee. He is Ed Corbett, who is Assistant Superintendent of the Maryland School for the Deaf. Ed has been working for us while he is completing his Doctorate at Gallaudet. Having Ed working for the Congress made not only Members, but staff, very conscious of the deaf and much more aware of their capacities as well as their needs. Our committee office now has a TTY and I believe it is one of the first on Capitol Hill. Because of Ed, many people have learned how to sign, hearing people who had no prior contact with the deaf are now objective, understanding and at ease with him.

Having a deaf person in the office makes you aware of the problems that they face first hand. We know that without a TTY he cannot function on the telephone. We know without an interpreter he cannot attend meetings. We became vividly aware of this problem when Ed, in carrying out his assignment, which is to track how Federal agencies are doing on the implementation of section 504 attempted to contact the office for Civil Rights in HEW. This is the office responsible for implementing 504. It turned out that OCR did not have a TTY and did not have an interpreter and so Ed and other deaf people throughout the country had no way of getting even basic information from that office. Just a few weeks ago the National Center for Law and the Deaf filed a suit against OCR to force them to get this equipment.

Some of the new provisions for the deaf are:

Under the State plan requirements of the act a State will have to provide:

"(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which could * * *

The scope of rehabilitation services which in the act defines what goods or services may be rendered to helping the handicapped person to become responsible has been expanded to include:

"(4) the use of services providing recorded material for the blind and captioned films or video casettes for the deaf.".

The Research and Training Center portion of the Act has been amended to allow the Commissioner to:

"(10) Conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and disseminating to deaf individuals captioned video cassettes which shall provide a broad range of educational, cultural, scientific and vocational programming.".

There is a new provision to establish comprehensive rehabilitation centers which will provide communities with a focal point for the redevelopment of services for all handicapped people. There is an additional provision in the services section which requires:

"(b) In addition such centers shall provide to local governmental units and other public and private nonprofit entities, located in the area, such information and technical assistance (including the provision of, or arranging for, support personnel, such as interpreters for the deaf) necessary to assist those entities attempting to comply with the provision of this Act, particularly section 504.

One of the most significant amendments we added comes from our recognition of the problems that the deaf face. As a result of our new understanding we expanded the role of the Architectural and Transportation Barriers Compliance Board. When people think about section 504, they generally think of the removal of architectural barriers for the physically handicapped. We are very much aware that the communication barriers that the deaf face are just as great. Therefore, we have amended the provisions of the Architectural and Transportation Barriers Compliance Board and renamed it the Architectural, Transportation, and Communications Barriers Compliance Board. This Board will have the responsibility to insure that all barriers, including communication barriers are removed. In addition they will be required to:

"(2) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting handicapped individuals, particularly with respect to telecommunication devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate or local), and residential and institutional housing;";

On April 4, 1978, I introduced H.R. 11856, the National Interpreters for the Deaf Training Act of 1978, with Congressmen BRADEMAS, QUIE, and PERKINS, It also came out of recognition that section 504 was more than just the removal of architectural barriers. As a result of the regulations recipients of Federal dollars now had to do something to make it possible for disabled people to be involved. The deaf face many problems in the hearing world, but the fact remains that even when agencies, organizations and governments move to do something with the deaf, there are simply not enough interpreters available throughout the country. More important, there are not enough trained interpreters,

There are also provisions which pertain to the blind. I developed legislation which would provide reader services for blind individuals. Reader services for the blind is for blind individuals who have gone through vocational rehabilitation, are placed in a job and have to pay out a portion of their salary for a reader in order for them to do their job. This did not make sense to me and we took steps to correct it. The new provision is included in the special projects section of the bill:

"(e) The Commissioner may make grants to any State agency unit designated under section 101(a)(2)(A)—

"(1) to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and

"(2) to expand the quality and scope of reading services available to blind persons by assuring that, to the maximum extent possible, the sevices provided pursuant to this Act will meet the individual reading needs of blind persons in elementary, secondary, and post-secondary education, and employment."

I had also tried to develop legislation to address the problems of the older blind. Although the full bill that I wrote was not included, this bill and the Older Americans Act has several new provisions designed to meet the needs of people who become blind in old age.

I think of particular significance are provisions that we have included in section 506 of the act. Over the past year I have worked vigorously to try to get funding for section 504. I have long been concerned that if the Federal Government is going to make the laws and make the rules, then it has an obligation to pay some of the costs. On November 18, 1977, and March 7, 1978, I introduced H.R. 10100 and H.R. 11333, the Rehabilitation Cost Assistance Act of 1977, with Representatives BENJAMIN, COCHRAN of Mississippi, DOWNEY, EDGAR, EDWARDS of California, FITHIAN, GOODLING, HARRINGTON, HARSHA, LUKEN, LUNDINE, MCHUGH, MADIGAN, Ms. MIKULSKI, MOFFETT, NOLAN, Ms. OAKAR, OTTINGER, PANETTA, PRESSLER, QUIE, ROE, MRS. SPELLMAN, and STARK, which would have addressed these matters. We added a new section 502(d)(1) which will hopefully bring about an answer to questions regarding the 504 costs that we are seeking:

"(d)(1) The Board may make grants to, or enter into contracts with, public or private

organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any State agency designated under section 101(a)(1) for the purpose of conducting studies to provide the cost assessments required by clause (7) of subsection (b). Before including in the report required by paragraph (7) of subsection (b) the findings of any study conducted for the Board under a grant or contract to provide the Board with the cost assessments described in such paragraph, the Board shall take all necessary steps to validate the accuracy of any such findings.

In this bill we take another step toward trying to bring a reasonable approach to implement section 504 and help to eliminate architectural, transportation, and communication barriers wherever they exist. We did this by shifting the responsibility for the oversight and enforcement of just the physical barrier provisions of 504 to the Architectural, Transportation, and Communications Barriers Compliance Board. In doing so we gave this board new and expanded responsibilities for this one aspect of 504. It is our thought that by separating only the "physical" barriers, whether they be ramps, doors, and so forth, for those in wheelchairs or interpreters for the deaf, from actual discrimination in jobs, education, housing, and health, we have taken a significant step forward. We concluded that—and I recognize that this is an oversimplification—almost all of the items covered in the category of "physical" can be removed or eliminated with money and desire. All of the other aspects of discrimination that could be considered discrimination were left to the Office of Civil Rights which is geared toward addressing those matters.

Consistent with my attempt to have the Federal Government responsible for paying a portion of the costs for implementing section 504, a provision was added to the bill in section 503(3) which authorizes:

"(3) The Secretary, with the concurrence of the Board, may provide, directly or by contract, assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers.

Finally, the most significant, is the last provision which I developed. It simply extends the coverage of section 504 to include any function or activity of any department or agency of the Federal Government.

When the original legislation was developed it was intended to apply to every phase of American life, but the Justice Department on September 23, 1977, issued an opinion at the request of HEW declaring that the Federal Government was exempt from the statute. This amendment removes that exemption and applies 504 to the Federal Government as well as State and local recipients of Federal dollars. The amendment requires each department and agency to promulgate regulations covering this new part. I think this is fair and appropriate and should go a long way toward developing a uniform and equitable national policy for eliminating discrimination.

Another amendment which I did not offer and one which I intend to pursue is H.R. 12469. Because of the lack of time it was not offered at this time. It is an idea, however, I believe, whose time has come.

It was the first recommendation from the White House conference on the handicapped.

The conference's report was strongly endorsed by President Carter.

It would bring BEH and RSA together for the first time.

It was under consideration to be included in the President's reorganization package, but was kept out at the last minute.

It would bring focus on programs for the handicapped in the Federal Government.

It will facilitate coordination between the major handicapped programs and will eliminate overlapping and duplication.

Every major effort on the behalf of the handicapped that has been written into law has been initiated by the Congress.

The amendment would do the following:

First. This amendment will bring together the two major programs for the handicapped in HEW—Bureau for Education of the Handicapped and Rehabilitation Services Administration—in one national office for the handicapped.

Second. The new national office will be placed in the Office of Education and will have a Director and a Deputy Director who will report directly to the Commissioner. There will be four bureaus directly responsible to the Director. They are:

The Bureau for Services. This Bureau will have two divisions:

Division for Education. This Division will contain the major dollars for education of the handicapped children, such as Public Law 94-142.

Division for Rehabilitation and Habilitation. This Division will contain the major dollars presently going for rehabilitation programs.

Bureau for Research. This Bureau would have three divisions. They are:

Division for Children's Research. This Division would be responsible for all the research programs presently in the Bureau for Education of the Handicapped.

Division for Adult Research. This Division would have the research authority of this act, except those which would authorize centers.

Division for Research Centers. This Division would include the rehabilitation training centers authorized under this act, research centers authorized under Bureau for Education of the Handicapped, the university affiliated facilities authorized under the Development Disabilities Act.

Bureau for Training. This Bureau would have two sections.

Children's Training and Adult Training. These two sections would have the authority for training in each of the two acts.

Bureau for Support Services. This Bureau would contain all the special programs authorized under either act which do not conveniently fit into any of the other categories.

Third. The structure and placement of these programs is certainly not locked into place. What is important here is the concept of relating programs and putting them together under one unified directorship.

Fourth. This was one of the first recommendations from the White House Conference on the Handicapped and one which the handicapped seemed to feel is necessary and needed.

Fifth. One national office will bring together programs so that the full range of services for chidren and adults can be coordinated and made more effective.

Sixth. The only new item to be authorized would be a Federal council on the handicapped. The idea of it would be to have one national council overseeing all Federal efforts for the handicapped.

Seventh. This amendment does not alter any existing programs, it merely puts them in one place within a structure. It should bring focus on programs for the handicapped, facilitate coordination and eliminate overlapping and duplication.

The bill before the subcommittee establishes in section 109, a National Rehabilitation Research Institute.

In section 400, a new national council on the handicapped is established.

The new National Institute would have the net effect of only focusing on research authority through this act. While I think this is an important step toward highlighting research and focusing on research, it would seem to me that by bringing all research together from BEH and RSA in a single research unit would give it more structure and more importance. Similarly, the new Federal council established in this bill would only give direction to RSA and the new institute. I think this too is a very positive step but I feel it would have more lasting and meaningful effect and influence if the council had responsibilities for the major programs for the handicapped contained in one national office.

Mr. Speaker, this bill before us is the culmination of efforts I have made to improve the lives of handicapped persons. I would like to take a moment here to summarize some of the provisions that I have developed in other bills. The first was an amendment to H.R. 50, the Humphrey-Hawkins legislation which specified that the removal of architectural barriers for handicapped persons would be a national priority. The following amendment was accepted and is a part of the Humphrey-Hawkins bill:

"(G) the implementation, through financial assistance, of programs already established by law as major national priorities, such as the removal of architectural barriers to the handicapped."

When the CETA legislation went through the House, I offered a motion, which was not agreed to but I feel is one which would have had significant and dramatic effects in altering the lives of handicapped people. My amendment would have earmarked 10 percent of all of the available CETA slots for the handicapped. It read as follows:

"(f)(1) The Secretary shall establish policies and procedures to provide that for fiscal

year 1979 and thereafter not less than 10 per centum of the total number of enrollment and training opportunities as detailed in each prime sponsor's plan pursuant to section 103 as authorized under this act shall be available for handicapped individuals and that services shall be provided to meet their special needs. The Secretary shall report to the Congress annually pursuant to section 128(a) on the status of handicapped individuals in programs under this act, including the number of persons served, their handicapping conditions, and the services being provided such individuals.

(2) The Secretary shall adopt appropriate administrative measures to insure that the benefits of this part will be distributed equitably between residents of rural and urban areas.

Two amendments that were successful, however, and are included in the CETA bill are provisions which will expand the training for persons who work with or assist the handicapped. That new section of the CETA legislation is as follows:

SEC. 304. (a) (1) The Congress finds and declares that due to the rapid implementation of programs to assist the handicapped mandated under the Education for All Handicapped Children Act and section 504 of the Vocational Rehabilitation Act of 1973, there is a need for people to provide the special supportive services and removal of architectural barriers required by these acts.

(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served. (b) The Secretary may establish programs throughout the nation which shall train personnel to work with and/or assist handicapped persons. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, included but not limited to interpreters for the deaf and aids in classrooms to assist in the education of the handicapped.

I was also successful in getting two affirmative action amendments adopted in the CETA legislation. Those amendments were as follows:

"(7) a descripion of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this Act, including—

"(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

"(B) a description of the number of handicapped individuals who were served each of the preceding two years, the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment; and

"(f)(1) The Secretary shall provide a focus for the employment and training of handicapped individuals under this Act, and shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 103(b)(7) and shall ensure that the special needs of such individuals are being met.

"(2) The Secretary shall include in each annual report pursuant to section 127(a) a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 103(b)(7), including a comparison of such practices and achievements with those of the two preceding years.

Also other amendments were added to the CETA bill regarding the handicapped. I believe they would be helpful. These included: Insuring that all persons working in sheltered workshops, not just institutionalized persons, would be eligible for CETA; and that "rehabilitation facilities" would be included in the definition of "community-based organizations" so that the interests of the handicapped would be represented on prime sponsors planning councils, State employment training councils, and that they have a say in reviewing training plans and the delivery of services.

There are around 7½ million unemployed, but employable, handicapped individuals. Most of these are now classified as discouraged workers and do not appear in the unemployment statistics. This number about equals the total statistical unemployment in the country. Yet the percentage of unemployed handicapped served by CETA is only 4 percent. It should be close to 50 percent. The need for these amendments is thus obvious.

One final comment regarding the handicapped and the provision to expand coverage to the executive branch.

A good example of the lack of Federal sensitivity to the problems of the handicapped is presently occurring in my own State of Vermont. The Bureau of Apprenticeship and Training which has an office in Burlington, Vt., was recently informed by the General Services Administration that they must relocate their operation to another location within the city of Burlington. However, adequate preparations for access by the handicapped was not fully considered in selecting the new location. Since learning of this my office and Vermont's two Senators have complained to GSA regarding the numerous architectural barriers found at the new site. To be specific let me list a few of the deficiencies we noted:

First. Inadequate curb parking for handicapped individuals in front of the office and the absence of curb cuts for wheelchair access.

Second. Inadequate provisions in the building of toilet facilities for sufficient turning space for wheelchairs and toilet doors wide enough to accommodate wheelchairs.

Third. Absence of a ramp at the entrance of the building.

Fourth. The lack of a suitable opening at the front door such as a treadle or other mechanism to allow easier access for wheelchair persons.

Responding to concern from the congressional offices GSA has been working on items two and three. It would seem that such preparations should be done automatically and particularly in light of the fact that the apprenticeship and training program responds to over 2,000 clients annually of which an estimated 180 to 200 are handicapped. I am sure that the problem I have outlined here is probably being duplicated by other Federal agencies throughout the country.

In conclusion we are making some important steps forward. The bill deserves your support.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

I just want to say that as laudable as this legislation is, I have to object to the procedure under which we are considering it, for when we suspend the rules, we also waive the provisions of the Budget Act. We also foreclose Members from having any opportunity to offer amendments to it. There are only 40 minutes to debate it—20 minutes for and 20 minutes against.

Mr. Speaker, yesterday we had a measure considered under the same procedure aggregating over $5 billion, and we talked less than 40 minutes about it.

I just happen to feel that for my own State of Illinois, for example, the formula is unfair and not what I would like to see.

I understand, however, that to open this bill up to amendment would then probably require us, under the hold-harmless provisions, to appropriate all that much more money in order to bring my State and the other larger States up to what I think we truly deserve.

However, Mr. Speaker, I must at least raise this objection to the procedure under which we consider this laudable bill as the gentleman has described. As I said it forecloses Members from offering constructive amendments that we think are in the best interests of the entire program. We are talking about a multimillion-dollar program in excess of several billions as a matter of fact.

Mr. Speaker, I notice several members of the Committee on the Budget here on the floor. I think they would also have to be consulted by reason of the fact that we are also affecting the provisions of the Budget Act when we take up bills of this kind under this procedure.

Mr. JEFFORDS. I just want to reassure the gentleman that there are adequate funds within the Budget Act to take care of this bill. There was no intent, by bringing the bill up under the suspension calendar, as I understand it, for purposes of waiving the Budget Act at all. Of course, the other points the gentleman made are well taken.

Mr. MICHEL. If the gentleman will yield further, I did not mean to imply that these authorizing figures were not included in the first concurrent budget resolution except to say that in any bill that comes up under this procedure it automatically does waive the provisions of the Budget Act. While the level of spending for this program was taken into account when the House considered the budget resolution itself, my principal objection is the fact that this procedure forecloses the opportunity for perfecting by way of amendment this legislation. If we are authorizing it for, again, several years, it is going to be some time before any of us will have an opportunity to amend the legislation the way we think it ought to be amended.

I thank the gentleman.

Mr. QUIE. Mr. Speaker, I would like to take this opportunity to join my colleagues in strongly endorsing this legislation. It is the culmination of a considerable amount of work by many people and I think enhances the entire vocational rehabilitation effort. Since others have already described several features of the legislation, I will not take the time here today to do so. I would point out one provision, however, which hopefully will benefit a program which is being developed in Minnesota, the Vinland National Center. We added a new section 305 to the bill which will establish comprehensive rehabilitation centers to provide a focal point in communities for the development and delivery of services primarily for handicapped persons. It is intended that the programs developed will be comprehensive and that is why the committee report pointed out the Vinland National Center as one example of what was intended. Already one such center is funded. Mountwood Park near Parkersburg, W. Va.

The center would be a unique and national model, a resource available to persons who have undergone the traditional rehabilitation process and who would benefit further from a regimen of physical activity and health care skill training. Handicapped persons would be taught to participate in strenuous health and sports activities. The center will use the four seasons to provide learning experiences in all types of sports activities from swimming to skiing. Concurrently with athletic training, the handicapped would learn how to take better care of their own health. Life enrichment programs in the areas of art, culture, socialization, and personal development would also be incorporated in the program to give handicapped persons the psychological impetus needed for full participation in society. The education and training programs of persons to work with the handicapped would be integral parts of the center, along with a research and information component. The benefits to the handicapped and to society from this type of program have been shown in a very limited way, but need to be demonstrated in this proposed pilot project with its provision for research and dissemination.

I believe that through programs like the one being developed in Minnesota that handicapped persons throughout the Nation truly will benefit.

Another provision that I particularly like is the amendment to the training section of the act which will provide for up to 12 centers strategically placed throughout the country for training interpreters to work with the deaf. The original bill named six of the base centers, one of which was the St. Paul Technical Vocational Institute. Although the committee dropped the specific names from the bill, it is felt by all that when this program is implemented, that because of its past record, as well as its present capacity and capabilities, that TVI should be one of the first recipients of funding under this section. St. Paul Technical Vocational Institute has truly developed a significant record of service and performance for deaf people and by deaf people.

Mr. Speaker, the bill before us today is a good one and I hope that all of my colleagues will vigorously support it.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 12467, the Comprehensive Rehabilitation Act Amendments of 1978. Assistance to our handicapped citizens being one of the most important priorities of the Congress, it is essential that the House and the Senate act expeditiously on these amendments.

By the end of May, it will have been 1 year since the first White House Conference on Handicapped Individuals, and in that year, certain steps have been taken to insure that our handicapped are receiving the benefits of programs designed to meet their special needs. In fact, this week of May 14–20 has been proclaimed "National Architectural Barriers Week," a week which calls to the attention of all Americans the need to accommodate the handicapped of this Nation, and to provide a "barrier free environment" for all the handicapped of America.

A barrier free environment signifies freedom in transportation, motion, and the day-to-day activities of the handicapped individual. Taking this concept one step further, the creation of a barrier free environment enables a handicapped individual to function with a minimum of rejection, alienation and non-acceptance by his peers. An environment which is truly barrier-free, allows the handicapped of America to participate, rather than observe, and to contribute fully to the society which has given him the opportunity to lead a whole, and fulfilling life.

I had the opportunity to testify before the subcommittee on Select Education on behalf of the Rehabilitation Act Amendments, and was joined by Bernard Shuldiner, the director of Occupations, Inc., a rehabilitation agency in Middletown, N.Y., part of the 26th Congressional District of New York which I represent. Both Mr. Shuldiner and I stressed the need for ongoing evaluation of rehabilitation services, a more realistic approach to funding, and a sense of accomplishment in rehabilitation programs.

We have come a long way in providing the services necessary to insure that the disabled are given a chance to lead productive lives, but there are still several courses which must be taken. For instance, the Congress must become more realistic in its funding of this program, and should allocate funds in accordance with population, enabling States to lessen the burdens that are now thrust upon them by Federal mandates. The distribution of funds based on need and population will contribute to a sense of equity, and will benefit all the handicapped in America.

The Rehabilitation Act amendments are admirable amendments, providing some new approaches to the problems of rehabilitation. In stressing the importance of independent living programs, and in stressing the need for a greater cooperation between government and private industry in creating work opportunities for the handicapped, these amendments are encouraging a realistic approach to solving the major ailments of our rehabilitation programs. Broader opportunities for independence in living and employment signify a new era in programs for the disabled, and herald a renewed commitment to our handicapped population.

Mr. Speaker, it is important that these amendments be accepted and translated into public law. I urge my colleagues to adopt H.R. 12467, further contributing to the benefits for our handicapped individuals.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I would like to commend the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS), the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS), and on our side the gentleman from Minnesota (Mr. QUIE), the gentleman from Vermont (Mr. JEFFORDS), and others who have provided the leadership on this bill. I just hope the coordination and development work is such that we really have a good piece of legislation.

I think I agree with our chairman here, that it is a step in the right direction. Since its early funding in 1974, historically this has been a great program, launched for the handicapped and rehabilitation programs. But, as a former State legislator, I want to say that it is important to coordinate with the State and local leaders for the handicapped. The provision which will start the Helen Keller School for the Deaf and Blind is indeed laudatory on behalf of the Congress.

I just hope that in the development of this legislation we do not spend a great deal of money on administration, and that we will have an excellent program for delivery of services. I do support the legislation. We should have fully debated this bill, however and not put it through under suspension. Some provisions needed to be perfected, particularly the HEW Department relationship with the States regarding the funding process. I believe HEW has to be responsive to local and State needs.

We hope the Senate can clarify this issue and be resolved in conference. I will monitor this problem prior to our final conference vote. Overall, its purpose is excellent. The handicapped need our support.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, let me compliment the distinguished chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS), the ranking minority member, the gentleman from Vermont (Mr. JEFFORDS), and all the other members of the subcommittee for doing an outstanding job.

Mr. Speaker, once again I am pleased to join in support of legislation which

has been one of the great success stories of this Nation's efforts to serve its people.

The basic purpose of vocational rehabilitation has not changed since the program was initiated in 1920. Programs authorized by this law over the years are the vehicles for assisting millions of handicapped persons in this country to achieve more productive and satisfying lives within their families and in the communities in which they live.

Since the beginning of the Federal-State partnership in rehabilitation, more than 4½ million handicapped people have been rehabilitated. Close to 300,000 handicapped persons were rehabilitated last year. More than 100,000 of those rehabilitated were classified as being severely handicapped.

I am pleased to report to the House both the percentage and the number of severely disabled persons among those rehabilitated has continued to rise each year since 1974—the first full year of operation under the Rehabilitation Act of 1973—which properly directed that priority be given to severely handicapped individuals.

May I remind my colleagues that disabled people represent a sizable minority of the Nation's population. There are between 25 million and 35 million physically and mentally handicapped persons in the United States. Of these, approximately 10 million may be characterized as severely disabled.

The Department estimates that there are some 6 million handicapped individuals who could benefit from rehabilitation services and that about 500,000 people with disabilities are added to our population each year.

Mr. Speaker, the bill before us today provides for the continuation of a remarkably successful program. Yet as the statistics indicate there is much to be done. It is my strong conviction that the rehabilitation program with the amendments being proposed today will do more than ever before for the handicapped citizens of our Nation. We will be able to do more for those handicapped who are not yet served.

Before I proceed, Mr. Speaker, I want to take a moment to compliment JOHN BRADEMAS for his continued leadership and direction in bringing the bill to the floor. Also to be commended are the ranking minority member of the committee, AL QUIE, and all the members of the committee on both sides of the aisle for their efforts in developing the legislation we have before us today.

I will not take time to discuss all of the various provisions of this legislation. May I mention, however, a few of what I consider to be the most important provisions. The major program in the act authorizes the Federal-State partnership of services to handicapped individuals.

The basic program this year was supported with $760,000,000 in Federal money and will provide services to more than a million and a half persons. The legislation before us provides a permanent authorization for the basic Federal-State program with an authorization of $808 million for fiscal year 1979. Authorizations in subsequent fiscal years will be based on increases in the consumer-price index.

Mr. Speaker, we are here speaking of the basic program, the program which has been in effect since 1920. Up until the mid-1960's, the program operated under a permanent authorization. We are now restoring that permanent authorization to provide the basic program with the continuity and stability it needs.

Furthermore, increases are provided in the minimum State allotment to better finance the basic rehabilitation program in some of our less populated States. At the urging of our colleague, MARIO BIAGGI, H.R. 12467 provides for a major expansion of the program of grants for innovation and expansion.

Under the Biaggi amendment, we can look forward to expanded rehabilitation services in those areas of the country where there are great numbers of unserved handicapped people.

There are a variety of amendments to strengthen the Federal support of rehabilitation research and development and new initiatives are authorized for employment of the handicapped and to provide support for independent living programs.

Mr. Speaker these are only a few of the important and necessary changes proposed by H.R. 12467.

As I have said, the bill provides a permanent authorization for the basic program. Other existing programs and new initiatives are provided a 5-year authorization.

This is an excellent bill and I urge all of my colleagues to join in support for it.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, this is a far reaching bill, but as the title implies it is a meaningful comprehensive rehabilitation bill for the handicapped. Those people in my State to whom we have given responsibility for administering these programs think that this is a well-balanced approach, and they have endorsed the legislation.

I have confidence in them, as I have in this committee. I hope that this legislation receives favorable approval.

Mr. JEFFORDS. Mr. Speaker, I yield to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I would like to say first that I think that this is outstanding legislation, and I am in total agreement with most of it. There are a couple of parts of it about which I am doubtful, one of which is the development of the Board. I wonder if I could ask the gentleman from Vermont a few questions to clear the matter up for the record.

Does not the language proposed in the bill, which gives independent compliance authority to the Board, create even a more confused situation for State and local school systems? Under the approach in the bill, would not three separate HEW agencies—the Office of Civil Rights, the Office of Education, and the Board—each be regulating the same school district with respect to the civil rights of handicapped children?

Mr. JEFFORDS. Mr. Speaker, in response to the inquiry of the gentleman from Washington (Mr. PRITCHARD), let me say that I do not believe so. I believe the intent of the act, and I think it is clearly stated therein. The purpose is to try to remove some of the confusion that has existed. It is to make sure that that area of the problem of section 504 dealing wtih physical barriers to the handicapped, is controlled by the Architectural Board. The other problems having to do with the allegation of discrimination from attitudinal problems or problems not corrected by correcting physical problems come under the Office of Civil Rights. Those are the problems taken care of there.

The problem is we have great difficulty in getting technical assistance from anyone on what constitutes compliance with 504 regarding physical plants such as schools. This is partially due to undermanning but, more than that, we have difficulty in getting guidelines covering those areas and problems, from people who have the expertise to give us those guidelines and the Compliance Board will have that purpose. They are used to dealing with physical structures. They know what needs to be done. They know of the expenses that are involved and the modifications that are needed, and that will be covered in section 504. We believe they will be more reasonable in their interpretation of the act, and will be the correct interpreters as to the physical barriers.

Mr. PRITCHARD. As I understand, the Board operates on a more rigid approach than does the OCR. It operates on the basis of a barrier-free concept for buildings. I believe you are getting us into more trouble by going with this Board.

Mr. JEFFORDS. The gentleman is correct in that the Board was originally created by the 1968 act relative to barrier-created situations. But I do not believe this Board will ignore the intent of the Congress in section 504 and in the declaration we are making here. I believe they will be reasonable in their interpretation of these regulations, and would not ignore them. I do not believe they would go forward under a previous act without taking the new laws into account. I assume that they will read the act and will understand the regulations and will act accordingly. I also do not believe they would ignore the costs that will be borne by local communities and States.

Mr. PRITCHARD. My understanding is that the Attorney General has concerns in this bill. Has the Attorney General forwarded any information on any position? I wonder if I could ask the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS) that question?

Mr. JEFFORDS. I yield to the gentleman from Indiana (Mr. BRADEMAS) for that purpose.

Mr. BRADEMAS. The answer to the gentleman's question is no.

Mr. PRITCHARD. They have not?

Mr. BRADEMAS. That is correct.

Mr. PRITCHARD. It was my understanding that they do have some serious questions about this bill but if they have

not forwarded them to the gentleman there is no way for the gentleman to know about them.

I have a couple of other questions that I am concerned with in that I think the people in the State and local areas are concerned with and have to be assured about. I know they are concerned about some of the provisions in this bill.

Mr. JEFFORDS. I am sure they are, but I can assure the gentleman and the people that my purpose is to assist them and not to hinder them. We have held hearings on these issues and, as a result, we have come forward with this approach to try and assist them.

There is additional language in here that will provide funds for them to conduct a study, for the States, so as to determine the extent of their problems under 504, the causes of their problems and what should be done to correct them. It also authorizes grants to assist them to correct the problems. These are big steps forward.

Mr. PRITCHARD. I want to again say that I strongly support this bill and, while I do have a couple of questions about some of the provisions, I do want to congratulate the chairman and the entire committee because I think this is a very good and a strong movement in America today?

Mr. STEIGER. Mr. Speaker, if the gentleman will yield, I wonder if I could direct a question to the distinguished chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS)? Given the track record can I ask my friend from Indiana whether the gentleman has a commitment from the President of the United States that he will sign this bill?

Mr. JEFFORDS. I yield to the gentleman from Indiana for the purpose of reponding to that inquiry.

Mr. BRADEMAS. Mr. Speaker, I would respond to the gentleman by saying that I believe in redemption from sin and I am very hopeful indeed.

Mr. STEIGER. I thank my colleagues.

● Mr. DODD. Mr. Speaker, I rise in support of H.R. 12467, the comprehensive rehabilitation services amendments. This legislation reauthorizes the Rehabilitation Act of 1973 which expires at the end of this fiscal year.

The Rehabilitation Act contains many provisions which have opened up countless new opportunities for the handicapped in our society. Among these are the requirement that the Federal Government and companies with whom the Federal Government does business adopt affirmative action programs for hiring the handicapped.

However, perhaps the most far-reaching impact of the Rehabilitation Act is yet to be seen. Regulations implementing section 504 of the Rehabilitation Act are only a year old and thus requirements for making all programs receiving Federal financial assistance accessible to the handicapped are not fully in effect.

Probably it is the expectation of the high cost of complying with section 504 that has generated the greatest public controversy and concern. It is for this reason that I am especially glad that H.R. 12467 specifically authorizes the Secretary of HEW to provide assistance in carrying out the removal of architectural, transportation, and communication barriers to any public or nonprofit agency. Thus for the first time the bill would authorize funds to assist recipients of Federal financial assistance in the removal of architectural barriers.

Legislation which I introduced last year would have authorized the Secretary of HEW to pay up to 80 percent of the cost of barrier removal. Although the bill that we are considering today does not specify the level of assistance which the Federal Government should provide, it does make a firm statement that it is the intent of the Congress that the administration stop stalling and help Federal recipients with the cost of barrier removal.

Furthermore, Mr. Speaker, I believe that Federal assistance must be provided if the goals of section 504 are to be achieved.

I strongly supported the long-delayed issuance of the section 504 regulations believing then, as now, that the protections they establish for the handicapped are very much needed. As we all know, it was well over 3 years after the Rehabilitation Act was enacted that regulations implementing section 504 were finally signed.

A major factor in the delay in the issuance of these regulations was the reluctance of HEW since 1974 to require educational institutions to pay large sums of money for the removal of architectural barriers. As you know, it was only under great pressure from handicapped groups and Congress that these regulations were finally signed in May 1977.

At the time the regulations were signed, Secretary Califano said that he would "aggressively seek" new Federal funds to help meet the "elementary and secondary educational accessibility obligations of the school districts of the Nation." However, since that time the Secretary has made no recommendations to Congress on this matter, and help for State and local school districts has not been mentioned in the President's budget request for fiscal year 1979.

While it remains unclear whether Federal assistance for the removal of architectural barriers will be provided, educational institutions throughout the Nation remain under a deadline of June 30, 1980, to make all of their programs accessible to the handicapped.

In addition to the costs of removing architectural barriers, all school systems will have the cost of providing for the special education needs of all handicapped children, ages 6 to 18, as required by the Education of All Handicapped Children Act.

By this September, over 4 million handicapped children will be served by our Nation's schools at an estimated cost of $1.44 billion for special education services alone. In Connecticut, 78,000 handicapped children will be enrolled in public schools this next fall at a cost of about $94 million. Add to this the cost of removing architectural barriers which some groups have estimated to be as high as $4 billion—in Connecticut the cost is estimated to be $75 million—and it becomes clear why school systems are concerned about the money they will have to spend to accommodate handicapped students.

While the Education of All Handicapped Children Act does provide assistance to educational institutions for up to 40 percent of the costs of special educational services, the Federal Government has made no similar commitment to assist in the removal of architectural barriers.

There is not any question that "mainstreaming" handicapped children benefits all children—nonhandicapped as well as handicapped. However, we cannot overlook the large cost of reaching this goal for our Nation's already overburdened municipal budgets.

I also feel that it is entirely contradictory for the Federal Government on the one hand to establish direct assistance programs such as countercyclical aid in recognition of the budgetary pressures on local communities, and on the other hand to impose provisions that result in tremendous increases in the budgets of these same local communities.

Quite frankly, I believe HEW is guilty of having failed to make even a good faith effort to provide educational institutions with assistance to remove architectural barriers. HEW's record on this matter speaks for itself. HEW has failed to issue regulations implementing section 607 of the Education of All Handicapped Children Act which authorizes the Department to make grants to State and local governments for the removal of architectural barriers.

These regulations originally were expected to have been published for comment last fall. In fact, I was informed recently that the regulations had been finalized and were "pulled back" at the last minute. For whatever reason, HEW has apparently decided that it will not utilize the authority which Congress gave it and will not request funds to help local communities remove architectural barriers.

Furthermore, I have been told that HEW was considering requesting only $5 million to implement section 607. Despite HEW's own estimation that the total cost of removing architectural barriers would be between $250 million and $400 million, HEW appears to have been willing to commit only the meager sum of $5 million.

Is it not true that HEW's action is clearly inconsistent with Secretary Califano's earlier stated promise to "aggressively seek" new Federal funds to help educational institutions with these costs? I believe that what we have here is much more than a difference of opinion over what constitutes "aggressive" action. Instead, I believe that by its lack of action HEW has openly flaunted the intent of Congress that the Federal Government share these costs with State and local governments.

Nothing better demonstrates the need for new legislation than HEW's handling of this matter. Looking at HEW's performance to date, it is absolutely clear that Congress cannot rely on the Department to develop a reasonable and

equitable plan for making grants to educational institutions. Legislation is badly needed.

It seems to me that the provisions of H.R. 12467 offer a reasonable approach to the achievement of the goals of section 504. The only alternative is for educational institutions themselves to bear the cost of program accessibility. This is neither an equitable solution nor a practical one. It would result in the reallocation of already scarce education dollars to pay for services for the handicapped at the expense of services which nonhandicapped students are receiving.

In addition, I am aware of the tremendous budgetary pressures under which communities across our Nation are suffering. It has been estimated that the cost of architectural barrier removal in many small towns would amount to as much as 50 percent of the annual school budget. Quite frankly, these kinds of costs are beyond the reach of most community budgets.

Therefore, it seems clear to me that the Federal Government has a responsibility to share in the cost of attaining the goal of program accessibility. Furthermore, I believe it is equally clear that HEW will not take the necessary action without a new mandate from the Congress. I believe the bill before us contains such a mandate. For this reason, I hope, my colleagues will give their support to this legislation.

Thank you.●

● Mr. STEERS. Mr. Speaker, over the past year, several of my constituents have contacted me concerning decreasing funds available to them under the 1973 Rehabilitation Act to assist the physically and mentally handicapped in becoming useful, employable citizens.

One of the problems with this act, which is not addressed in the bill we are considering today is the allocation formula to States which is based on population times per capita income square. This results in Maryland being somewhat penalized for being a comparatively high income State.

John Coburn, assistant State superintendent in vocational rehabilitation for the State of Maryland contacted me earlier this year to suggest that an appropriate allocation from the act should be based on population alone.

I am inserting Mr. Coburn's letter to me which is illustrative of the problems facing State administrators of the vocational rehabilitation programs:

JANUARY 25, 1978.

Hon. NEWTON I. STEERS, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. STEERS: This is in response to your recent request for information concerning the financial constraints which are presently being imposed within the Division of Vocational Rehabilitation.

Our primary problem exists due to the fact that the Division is a federal-State program with approximately eighty percent of the total funding being provided by the federal government. The attachment will indicate the amounts of Section 110 (Basic Support) and State matching monies which have been appropriated for the Maryland program over the last five years. This reflects a total increase for the five-year period of approximately thirteen percent while the inflation rate has been in double figures annually.

An additional financial problem has been created by the opening of the Maryland Rehabilitation Center in 1973. Although I believe this to be one of the best facilities which has been designed for serving handicapped persons in the United States, it is a costly operation. The attached information indicates that the increased cost of its operation has almost equaled the total increase available to the Division. This has resulted in little or no money available for the remainder of the total program.

Another problem of funding for the Maryland program is caused by the federal formula for allocation of funds under Section 110 of the Rehabilitation Act of 1973. The formula is based on the State's population x per capita income squared. This places undue emphasis on the relative wealth of the State, which results in Maryland being penalized for being a comparatively "rich State." We have proposed that if Maryland is to receive an appropriate allocation from the Act, it should be made based on population alone. This would require the inclusion of a "save-harmless" clause so that no State would receive less than it did for the previous fiscal year. If this recommendation could not be adopted, a second thought would be that the factor for the squaring of the per capita income could be removed. Either of these possibilities would result in a substantial increase of federal funding into the Maryland program.

I believe that as program administrator I have a personal responsibility to make the program as cost effective as possible. To this end, we have instituted studies of our basic service-delivery systems to determine whether or not we are getting our money's worth from all of the program activities. We have recently instituted the policy of not filling vacant positions as they become available in an effort to utilize salaries for additional case service monies. We are also making a concerted effort to utilize funds from other agencies which may be available for the provision of vocational rehabilitation services. In spite of all of these efforts, there is no doubt that we will be able to serve fewer persons during this fiscal year, particularly as a result of the reduction in staff.

We appreciate your concern for our present financial problem and would appreciate any assistance which you may be able to provide in obtaining additional resources so that we may continue this very worthwhile program.

If I may supply any additional information, please do not hesitate to contact me.

Sincerely yours,

JOHN M. COBUN,
Assistant State Superintendent
in Vocational Rehabilitation.●

Mr. JEFFORDS. Mr. Speaker, I have no further requests for time.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 12467, as amended.

The question was taken.

Mr. QUIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXCHANGE STABILIZATION FUND

Mr. NEAL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2093) to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes, as amended.

The Clerk read as follows:

S. 2093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by—

(1) striking out "with the Treasurer of the United States" in the first sentence and inserting in lieu thereof "in the United States Treasury";

(2) striking out the second and third sentences; and

(3) amending the fourth sentence to read as follows: "The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: *Provided,* That the fund shall not be available for the payment of administrative expenses.".

SEC. 2. Section 10 of the Gold Reserve Act of 1934 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended.".

SEC. 3. (a)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS–16, GS–17, and GS–18, no more than 61 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

(2) A person may be appointed to a position placed at GS–16, GS–17, or GS–18 under the authority of paragraph (1) only if such person, immediately before the effective date of this Act, held a position or has reemployment rights to a position—

(A) the duties of which were comparable to those of the position to which he is to be appointed; and

(B) for which the compensation derived from the stabilization fund established under section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a).

Appointments made under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS–16, GS–17, and GS–18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to such position under paragraph (2) leaves such position.

(b) The first sentence of section 5108(a) of title 5, United States Code, is amended by striking out "3301" and inserting in lieu thereof "3362".

(c) For purposes of determining the aggregate number of positions which may be placed in GS–16, GS–17, or GS–18 under section 5108(a) of title 5, United States Code, a position established under subsection (a) shall be deemed a GS–16 position.

SEC. 4. Section 51 of the Act of December 30, 1970 (84 Stat. 1659; 22 U.S.C. 276c–2), is amended by—

(1) amending the first sentence to read: "Notwithstanding the provisions of any other

law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States.";

(2) striking from the second sentence the words "the fund established pursuant to section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a))" and inserting in lieu thereof "funds appropriated to the Department of the Treasury"; and

(3) striking out the last sentence of the section.

SEC. 5. There are authorized to be appropriated not to exceed $23,000,000 and such additional amounts as may be necessary for increases in salary, retirement, other employee benefits authorized by law, and other nondiscretionary costs for fiscal year 1979, including sums for official functions and receptions and representation expenses, to carry out the international affairs functions of the Department of the Treasury.

SEC. 6. Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by inserting "(1)" immediately after "(b)" and by inserting at the end thereof the following:

"(2) Within fourteen days after the close of each calendar month beginning after the date of enactment of this paragraph, the Secretary of the Treasury shall transmit to the chairman (and the ranking minority member) of the Committee on Banking, Finance and Urban Affairs (and the chairman (and the ranking minority member) of the appropriate subcommittee thereof) of the House of Representatives and the chairman (and the ranking minority member) of the Committee on Banking, Housing, and Urban Affairs (and the chairman (and the ranking minority member) of the appropriate subcommittee thereof) of the Senate a detailed financial statement of the fund respecting all agreements entered into or renewed, all transactions occurring during such month, and all liabilities projected to occur.".

SEC. 7. This Act shall take effect on October 1, 1978, or on such later date as funds are made available pursuant to appropriations Acts authorized by section 5 of this Act, except that the amendments made by section 6 shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CUNNINGHAM. Mr. Speaker, I demand a second.

Mr. STANTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Is the gentleman from Ohio opposed to the bill?

Mr. STANTON. No, Mr. Speaker, I am not opposed to the bill.

Mr. CUNNINGHAM. Mr. Speaker, I am opposed to the bill.

The SPEAKER pro tempore. The gentleman from Washington qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. NEAL) will be recognized for 20 minutes, and the gentleman from Washington (Mr. CUNNINGHAM), will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us enacts a simple reform in the administration of certain expenses of the Department of Treasury. In the past, the salaries of some Treasury employees, some travel expenses, and other types of administrative expenses of the Treasury Department have been paid out of the Treasury's Exchange Stabilization Fund. This legislation prohibits the payment of those expenses out of the Exchange Stabilization Fund, and authorizes the regular appropriation of funds to meet those expenses in the future. To preserve close congressional oversight, the authorization is granted for only 1 year at a time.

The Exchange Stabilization Fund, or ESF, is a fund at the disposal of the Secretary of the Treasury for certain international financial operations. It was established, with money appropriated by the Congress, in 1934. It earns interest on its assets, and can earn profits on its foreign transactions. It also holds the special drawing rights allocated to the United States by the International Monetary Fund. The assets of the ESF amount to about $4.5 billion, which the Secretary of the Treasury can draw upon to support legitimate international financial operations. Authority for ESF operations stem from the original appropriation in 1934, and the Bretton Woods Agreements Act of 1945, as amended.

The legitimate financial operations of the ESF involve, primarily, the granting of short-term loans to foreign countries who need interim balance-of-payments assistance, and the participation of the Treasury Department in so-called swap arrangements, whereby we acquire the foreign currencies necessary for support of the dollar. None of these legitimate operations would be affected by this legislation. It is designed solely to prohibit the use of ESF funds for the payment of "administrative expenses." It cures the ESF of the criticism that it could be a source of unappropriated and uncontrolled expenditures by the Secretary of the Treasury on items far afield of its necessary and legitimate international financial operations.

This bill completes a minor but long overdue reform of the ESF, and insures that we will be able to discharge our oversight responsibilities. It is supported by the Department of the Treasury, and was reported out of committee without opposition.

Finally, Mr. Speaker, I would like to comment briefly on a subsidiary issue that has arisen concerning the Exchange Stabilization Fund. The Treasury Department informs us that, as of March 31 of this year, the ESF had accrued liabilities of about $750 million on some securities the U.S. Government had sold to the Swiss National Bank. Without getting into great detail about those operations, I would like to assure the Members that we are aware of the problem, that we will continue to monitor it, and that it is entirely unrelated to the bill before us. In brief, the United States, throughout the 1960's and early 1970's issued securities, denominated in Swiss francs, to the Swiss National Bank. The Swiss francs we thereby acquired were used to support the dollar under the old Bretton Woods system of fixed exchange rates.

The Treasury Department must now retire some of those Swiss franc bonds it issued years ago. To do so, it must buy Swiss francs. But the dollar has depreciated dramatically against the Swiss franc over the past year. Consequently, we now suffer a loss in buying those francs, compared to what they were worth when we issued Swiss franc bonds in past years. Some loss has already occurred, as some bonds have been retired. If all the remaining bonds were retired at the exchange rate prevailing on March 31, the future loss would be about $750 million. We do not expect it to be that large. Since then, the dollar has recovered somewhat against the Swiss franc. The more it recovers, the smaller the loss will be. The recovery of the dollar just during the month of April reduced the potential liability from about $750 million, as of the end of March, to about $600 million, as of the end of April. I think we can expect further recovery for the dollar, and thus a further reduction in this liability.

This loss, however large it proves to be, does not reflect, in any way, on the management of the exchange stabilization fund. The ESF is simply the account within the Treasury Department which is designated to pay for such losses, or to benefit from any profits that arise from foreign exchange transactions. The assets of the ESF are around $4.5 billion, so the possible losses are well covered. The losses themselves arise, let me repeat, because of policies pursued by several past administrations, in good faith efforts to support the dollar, and because of our recent experience with excessive oil imports and inflation, which have caused the dollar to decline against the Swiss franc. Those losses will be minimized, in the future, to the extent we succeed in controlling inflation and import less.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. NEAL. I am happy to yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I rise in support of this legislation which was unanimously reported by both subcommittee and committee. S. 2093 is largely a technical measure and for that reason we are considering it this afternoon under suspension of the rules. The bill does have important ramifications, however, for insuring proper congressional oversight over the expenditures of the Treasury Department. As the chairman of the subcommittee has pointed out, this measure removes administrative expenses from the exchange stabilization fund (ESF) and provides for their appropriation through normal Treasury Department authorizations. In effect, we are transferring the funding for the administrative activities of the fund from offbudgeted to onbudget.

The exchange stabilization fund was created by the Gold Reserve Act of 1934. It provides the Secretary of the Treasury with a sizable pool of resources to enable him to "stabilize the exchange value of the dollar." Since 1934 the international functions of the Treasury Depart-

ment have grown substantially. The Secretary of the Treasury manages the ESF, serves as the U.S. Governor to the IMF, the World Bank, International Development Association, International Finance Corporation, Inter-American Development Bank, Asian Development Bank, and African Development Fund. In addition, he has a variety of duties related to other international economic issues. These responsibilities have resulted in the need for a staff of experts and administrative personnel. Under the current system, the salaries of these individuals and the administrative expenses that they incur are paid out of the profits of the ESF without the opportunity for congressional oversight.

There is good reason why operations of the ESF to support our currency or the currencies of other countries require confidentiality. It would be relatively easy for speculators to frustrate attempted bailout operations if they knew when Treasury was intervening and in what magnitude. This need for confidentiality argues for leaving operational expenses offbudget. Administrative expenses, on the other hand, do not require confidentiality and belong onbudget where congressional oversight is possible.

At the beginning of this administration, this committee suggested to Teasury's Under Secretary for Monetary Affairs that he draft legislation removing the administrative expenditures of the ESF from the Fund. The administration studied the issue and sent up this legislation. The other body has already completed its action on this bill when it passed on March 8 of this year. I urge my colleagues to support this measure.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I want to support this bill also and applaud the gentleman's stand for moving to bring this Exchange Stabilization Fund from the backroom up front so that people can see it and understand it. I understand the reason for the Swiss franc loss the gentleman described.

I hope the committee will continue to study the Exchange Stabilization Fund. This is one of the funds in the U.S. Government that has never been audited by any one outside agency. It has never been audited by the GAO. The only person that ever audited the Exchange Stabilization Fund is an employee of the U.S. Treasury.

I hope there are no more of those Swiss franc matters floating around in that Fund. I think we would be far better off if the Exchange Stabilization Fund was brought under the budget and the Fund itself was audited by the General Accounting Office; but I do support what the gentleman's committee has done here now and I applaud it as a step in the right direction.

Mr. CUNNINGHAM. Mr. Speaker, I yield 6 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, it is with a good deal of reluctance that I rise in support of this bill. Clearly, we need improved accountability with regard to overhead operations of the Exchange Stabilization Fund. More importantly, we need a greater accounting from the Treasury Department concerning the financial management of America's exchange resources.

The loss which the gentleman from North Carolina just acknowledged does relate to this bill. These losses represent more than one-half the budget of the State of Iowa and would more than wipe out the Treasury's equity in the $4.6 billion fund. Based on these loss projections, the Treasury equity position in the fund would amount to a deficit of approximately $140 million. In addition, the fund, as of March 31, 1978, faced a $23 million liability to the Deutsche Bundesbank as a result of a currency agreement entered into January 3, 1978.

Recently, the Treasury announced that it would be auctioning 300,000 ounces of gold over each of the next 6 months beginning May 23 for total sales of 1.8 million ounces. If run through the Exchange Stabilization Fund, the profit on the sales of gold could be used to bail out Treasury's $140 million equity deficit and produce a $90 to $100 million positive balance in the fund.

Mr. Speaker, it should be clear that the inability of this administration to defend the value of the dollar has not only added one-half of 1 percent to the rate of inflation in America, but also has forced the Treasury of the United States to give up almost $300 million of our gold reserves. I stress this extraordinary loss figure and extraordinary means of recouping the loss because time after time in the past year we have been told by Treasury that the devaluation of our dollar vis-a-vis other currencies has a negligible cost effect. Unfortunately, this is simply not the case. Clearly, the decision to sell 1.8 million ounces of gold was not made primarily because the price of gold seemed attractive, but rather because the Exchange Stabilization Fund has suffered staggering losses.

On January 20, 1977—the day President Carter assumed the Presidency—the American dollar was worth 2.50 Swiss francs. Today a dollar buys 1.95 Swiss francs. We are committed in other words to pay 22 percent more on our Swiss debt obligations than we would have if the administration had been able to hold down inflation in America and instill greater confidence in its ability to manage the economy.

Mr. Speaker, the Treasury has been playing Russian roulette with our gold stocks and an old-fashioned shell game with its intentions. With a good deal of fanfare it announced early this spring that it intended to sell gold to protect the value of the dollar. This announcement was well received in the financial community as tangible evidence that the administration intended to back off from its weak dollar support policy. However, it would now appear that the gold sale decision was less related to administration resolve to protect the value of the dollar than to administration embarrassment that an undefended dollar had caused the substantial losses which necessitated the gold sale in the first place.

Additionally, it would appear that the reasons the administration has voluntarily come forth to propose a $23 million congressional authorization for the Fund has less to do with a desire for more congressional oversight than with the fact that the Fund no longer has an equity base to draw interest upon to finance its operating overhead. The embarrassment of losing $700 million rather than a desire for greater public accountability would appear to be the prime motivating factor behind this legislation.

Finally, Mr. Speaker, I should like to make the point that many of us have serious reservations regarding the reasons Treasury desires to sell our gold. But as long as the sales go through, I would urge that this Congress give serious consideration to mandating that in the future Treasury not restrict its sales to gold blocks worth a minimum of $67,000. These kinds of sales prevent the vast majority of Americans from purchasing some of "their" gold.

Last year we imported at least 1.6 million ounces of gold in the form of foreign bullion coins. Of these, 1.1 million were South African Kruger-rands. It would seem reasonable to me that if we are going to sell some U.S. gold then it should be in a form that would compete with these foreign coins. This would have a positive impact on our balance of payments and serve to underscore our human rights policy.

Mr. Speaker, there are two conclusions to be drawn from this intertwined story of exchange loss and attendant gold sales.

First, the administration can no longer use its ivory tower argument that the devaluation of the dollar has had little negative effect. We now know that argument is at least $700 million wrong. Nor can the administration sit idly as they have done over the last year and a half and hope that the dollar's decline will somehow reverse itself. Action must be taken.

A second conclusion tells us that the questionable activities of the Exchange Stabilization Fund require more scrutiny and oversight. It is clear to me that we simply can't afford to implicitly trust those controlling the financial future of our country without jeopardizing that future.

In this regard, this bill is a small step in the right direction. I urge its adoption.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I appreciate the remarks of the gentleman from Iowa (Mr. LEACH). I was not only impressed by his remarks but also by the remarks of our friend, the gentleman from Florida (Mr. GIBBONS).

I want to assure the gentleman, who is a valuable member of our committee—and I am hopeful that the chairman of our subcommittee will join me in this—that this problem the gentleman has brought up was voluntarily brought to our attention, thank goodness, by the Department of the Treasury, through Under Secretary Solomon.

I would also hope, following the suggestion of the gentleman from Florida

(Mr. GIBBONS), that this is not the end of our subcommittee's work on this subject, and that additional hearings will perhaps be held as the year goes on. I hope that we will continue our consideration of this subject.

Mr. Speaker, I personally compliment the gentleman from Iowa (Mr. LEACH) for bringing to the attention of the entire House today something that had to be said, and I appreciate his saying it.

Mr. LEACH. Mr. Speaker, I thank the gentleman.

Mr. CUNNINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the bill, not that I am at all opposed to the fact of bringing this particular aspect of Treasury expenditure under congressional review in normal budget authority, but I really wonder if, in fulfilling our stewardship to the public, we have the right to expend what appears to be some $23 million to successfully go out and lose, as they did last year, some $86 million, and to specify that most of these funds are to create additional new supergrades in employment within the bureaucracy, and to also fund receptions, et cetera.

While I can appreciate our concern about protecting our dollar abroad, I wonder if maybe more improvement in the way of handling our dollars here, the way we fight inflation here, would not be better than statutorily creating what appears to be nothing more than an international troupe to go around wining and dining those overseas and telling them what a great job we are doing in not handling our money properly.

Mr. Speaker, I would hope that someone would shed more light on this than I can extract from the bill, because I do have concern.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Mr. Speaker, I would like to quote to the gentleman from a letter to the chairman of our full committee from Mr. Robert A. Levine, Deputy Director, Congressional Budget Office:

> The transfer of the funding of the administrative expenses from the ESF to appropriations would increase budget outlays in function 800 during fiscal year 1979 by an estimated $22 million. Offbudget Federal outlays would decrease by an equal amount, however. The transfer would result in no net costs to the U.S. Government.

Mr. CUNNINGHAM. I thank the gentleman for that answer, and I did read that letter in the report. Of course, I think a lot of the Federal bookkeeping is done by taking it out of the right pocket and putting it in the left pocket, borrowing from Peter to pay Paul.

In the legislation, specifically on page 8, in addition to authorizing the $23 million, it mentions other sums, such as for official functions and receptions and representation expenses.

Even in the report that the gentleman referred to, preceding that letter it says there will be no additional costs. I appreciate that. But just looking at the track record, in 1973 this function was fulfilled at $9 million. In 1974, it went to $11 million. In 1975, it went to $14 million. In 1976 and for a 15-month period, apparently, it went to $21 million.

Do we seem to increase our ability to lose money to protect our dollar overseas by spending more? That is what my real concern is. I am concerned about our stewardship.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding.

Mr. Speaker, I would just comment on the observations made by the gentleman from Washington that I think the purpose of this bill is very proper, in the sense that it will bring greater administrative oversight. The real question is not whether or not we have administrative oversight, but how the administration and Treasury actually use the funds at its disposal. As a small step in the right direction on administrative oversight, this bill will give Congress greater control on just how the funds are spent within Treasury itself with regard to the administration of the fund.

Mr. CUNNINGHAM. Mr. Speaker, I have no further requests for time, but I still would urge a "no" vote on this piece of legislation.

Mr. NEAL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. NEAL) that the House suspend the rules and pass the Senate bill, S. 2093, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONSTRUCTIVE SALE PRICE FOR EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ET CETERA

Mr. WAGGONNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1337) to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera.

The Clerk read as follows:

H.R. 1337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That (a) paragraph (1) of section 4216(b) of the Internal Revenue Code of 1954 (relating to constructive sale price) is amended by inserting after the second sentence thereof the following new sentence: "In the case of an article the sale of which is taxable under section 4061(a) and which is sold at retail, the computation under the first sentence of this paragraph shall be a percentage (not greater than 100 percent) of the actual selling price based on the highest price for which such articles are sold by manufacturers and producers in the ordinary course of trade (determined without regard to any individual manufacturer's or producer's cost".

(b) The second sentence of paragraph (1) of such section 4216(b) is amended by inserting "(other than an article the sale of which is taxable under section 4061(a))" after "sold at retail".

SEC. 2. The amendments made by this Act shall apply to articles sold by the manufacturer or producer after September 30, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louiisana (Mr. WAGGONNER) and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1337 modifies certain rules used in determining the manufacturers excise tax applicable on sales of trucks, buses, highway tractors, trailers, and semitrailers.

In general, the excise tax is based on the price at which the manufacturer sells the item to a wholesale distributor. However, if the manufacturer sells directly to a retail purchaser, the tax is based on a constructive sale price. The purpose of using constructive sale prices in these cases is to produce the same general level of manufacturers excise tax on competing articles, some of which are sold at wholesale and some at retail.

Generally, the constructive sale price is a percentage of the retail selling price. However, in certain situations, the Internal Revenue Service has required use of the manufacturer's costs in making and selling the item as the excise tax base. This position of the Service has resulted in imposing differing levels of taxation on manufacturers of articles sold in highly competitive markets, and discriminates against manufacturers with low profit margins.

To eliminate this discrimination, the bill generally forbids use of manufacturer's costs in determining the excise tax applicable to trucks, buses, highway tractors, trailers, and semitrailers.

Mr. Speaker, the Treasury Department supports this bill. I urge the adoption of H.R. 1337.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1337, which would amend the Internal Revenue Code of 1954 with respect to the Federal excise tax on certain trucks, buses, tractors, and so forth.

Currently a 10-percent manufacturers excise tax is levied on certain sales by the manufacturer, producer, or importer of trucks, buses, highway tractors, and related chassis, bodies and trailers. Generally, this tax is based upon the price at which the article is sold to a wholesale distributor in the ordinary course of business.

In addition, special rules are provided where articles are not sold to wholesale distributors. Thus, for example where a manufacturer sells a taxable article only at retail, the excise tax is based upon a constructive sale price which is equal to the lower of, the price at which the article was sold or the highest price at which such article is sold to wholesale distributors by other manufacturers. The Treasury Department is authorized to determine the price at which articles are sold by other manufacturers.

The Internal Revenue Service has ruled that in cases where a manufacturer sells only at retail, the price at which articles are sold by other manufacturers is considered to be 75 percent of the price at which the manufacturer in question sold at retail. In addition, the Service has established a "cost floor" rule providing that where a manufacturer's actual costs of making and selling a taxable article exceed the percentage constructive price, actual costs are used as the tax base for computing the excise tax.

It seems that in operation the "cost floor" rule discriminates against manufacturers who operate on low-profit margins and who sell articles only at retail, since they pay a greater excise tax than their competitors who sell similar articles at wholesale, or who sell only at retail, but as to whom the percentage constructive price rule is applied.

In addition, the "cost floor" rule can produce uncertainty with respect to the amount of tax liability. This uncertainty is a consequence of the fact that both the application of the "cost floor" rule and the amount of the tax base depend upon which costs are to be allocated to a particular article. In many cases, there is a question as to what costs are properly allocable to the article in question. Thus, for example a manufacturer, which has paid tax based upon a percentage constructive price can, as a result of an Internal Revenue Service cost allocation which differs from the manufacturer's cost allocation, find himself faced with a deficiency long after the sale of the article has occurred.

To remove the current uncertainty and discriminatory treatment, H.R. 1337 eliminates the use of the "cost floor" rule for purposes of determining the constructive sale price of articles which are taxable under section 4061(a) and which are sold at retail. The bill provides that in such situations the excise tax shall, in general, be determined by using a percentage constructive sale price which is based on the highest price for which such articles are sold by other manufacturers in the ordinary course of business. The Service can continue to establish the percentages to be used in determining the excise tax base.

The Treasury Department supports H.R. 1337.

H.R. 1337 makes some very necessary changes in the tax laws and I urge its enactment.

Mr. Speaker, I wonder whether I might take just a moment to ask a question of the distinguished chairman of the subcommittee.

Mr. Speaker, under present practice the constructive sale price percentage is applied to an "established retail selling price." Under the bill, the computation "shall be a percentage (not greater than 100 percent) of the actual selling price." Thus, under the bill, the percentage will be applied to the actual retail selling price and not to the so-called "established retail selling price." Is my understanding correct?

Mr. WAGGONNER. Mr. Speaker, if the gentleman will yield, the gentleman's understanding is completely correct.

Mr. STEIGER. I thank the distinguished chairman, Mr. Speaker; and I yield back the balance of my time.

Mr. WAGGONNER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER) that the House suspend the rules and pass the bill H.R. 1337.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EMERGENCY INTERIM CONSUMER PRODUCT SAFETY RULE ACT OF 1978

Mr. ECKHARDT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11998) to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, as amended.

Mr. Speaker, I have transmitted to the desk a few minor changes which have been agreed to but are not in the printed copy of the report of the bill. None of these changes are subjects of controversy. As a matter of fact, they have been cleared and worked on by the minority as well as the majority.

The Clerk read the bill as follows:

H.R. 11998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Interim Consumer Product Safety Rule Act of 1978".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) existing Federal, State, and local laws and regulations are insufficient to protect the consumer from improperly manufactured insulation;

(2) an unreasonably large quantity of insulation is being distributed that does not meet minimum safety standards;

(3) an urgent need exists for the expedited setting of interim mandatory Federal standards for the manufacture of cellulose insulation; and

(4) such standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation.

(b) It is the purpose of the Congress in this Act to provide an interim mandatory safety standard for cellulose home insulation.

INTERIM CELLULOSE INSULATION SAFETY STANDARD

SEC. 3. (a) The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end thereof the followig new section:

"INTERIM CELLULOSE INSULATION SAFETY STANDARD

"SEC. 35. (a)(1) Subject to the provisions of paragraph (2), on and after the last day of the 45-day period beginning on the effective date of this section, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH–I–515C (as that specification read on December 1, 1977), shall be deemed to be an interim consumer product safety rule which shall have all the authority and effect of any other consumer product safety rule promulgated by the Commission under this Act. During such 45-day period, the Commission may make, and shall publish in the Federal Register, such technical nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety rule. At the end of such 45-day period, the Commission shall publish in the Federal Register such interim consumer product safety rule, as altered.

"(2) The interim consumer product safety rule established in paragraph (1) shall provide that any cellulose insulation which is produced or distributed for sale or use as a consumer product shall have a flame spread rating of 0 to 25, as such rating is set forth in the General Services Administration's specification for cellulose insulation, HH–I–515C.

"(b) Judicial review of the interim consumer product safety rule established in subsection (a), as such rule is in effect on the first day after the end of the 45-day period specified in such subsection, shall be limited solely to the issue of whether any technical changes made by the Commission are nonsubstantive. For purposes of such review, any change made by the Commission under paragraph (1) which requires that any test to determine the flame spread rating of cellulose insulation shall include a correction for variations in test results caused by equipment used in the test shall be considered a technical nonsubstantive change.

"(c)(1)(A) Any interim consumer product safety rule established pursuant to this section shall be enforced in the same manner as any other consumer product safety rule. A violation of the interim consumer product safety rule shall be deemed to be a violation of a consumer product safety rule promulgated by the Commission under section 9.

"(B) If the Commission determines that the interim consumer product safety rule does not adequately protect the public from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, it shall promulgate a final consumer product safety rule to protect against such risk. Such rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation. The provisions of section 9 (b), (c), and (d) shall apply to any proceeding to issue such a rule.

"(2)(A) Until there is in effect such a final consumer product safety rule, the Commission shall incorporate into the interim consumer product safety rule, in accordance with the provisions of this paragraph, each revision superseding the requirements for flame resistance and corrosiveness referred to in subsection (a) and promulgated by the General Services Administration.

"(B) At least 45 days before any revision superseding such requirements is to become effective, the Administrator of the General Services Administration shall notify the Commission of such revision. In the case of any such revision which becomes effective during the period beginning on December 1, 1977, and ending on the effective date of this section, such notice from the Administrator of the General Services Administration shall be deemed to have been made on the effective date of this section.

"(C)(i) No later than 45 days after receiving any notice under subparagraph (B), the Commission shall publish the revision, including such changes in the revision as it considers appropriate to make the revision suitable for promulgation as an amendment to the interim consumer product safety rule, in the Federal Register as a proposed amendment to the interim consumer product safety rule.

"(ii) The Commission may extend the 45-day period specified in clause (i) for an additional period of not more than 150 days if the Commission determines that such extension is necessary to study the technical and scientific basis for the revision involved, or to study the safety and economic consequences of such revision.

"(D) The Commission shall give interested persons an opportunity to comment upon any proposed amendment to the interim consumer product safety rule during the 30-day period following any publication by the Commission under subparagraph (C).

"(E) No later than 45 days after the end of the 30-day period specified in subparagraph (D), the Commission shall promulgate the amendment to the interim consumer product safety rule unless the Commission determines, after consultation with the Secretary of Energy, that—

"(i) such amendment is not necessary for the protection of consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation; or

"(ii) implementation of such amendment will create an undue burden upon persons who are subject to the interim consumer product safety rule.

"(F) The provisions of section 11 shall not apply to any judicial review of any amendment to the interim product safety rule promulgated under this paragraph.

"(d) Any Federal executive department or agency or independent regulatory agency which obtains information which reasonably indicates that cellulose insulation is being manufactured or distributed in violation of this Act shall immediately inform the Commission of such information.

"(e)(1) The Commission, no later than 45 days after the effective date of this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives which shall contain a detailed statement of the manner in which the Commission intends to carry out the enforcement of this section.

"(2)(A) The Commission, no later than 6 months after the date upon which the report required in paragraph (1) is due (and no later than the end of each 6-month period thereafter), shall submit a report to each committee referred to in paragraph (1) which shall describe the enforcement activities of the Commission with respect to this section during the most recent 6-month period.

"(B) The first report which the Commission submits under subparagraph (A) shall include the results of tests of cellulose insulation manufactured by at least 25 manufacturers which the Commission shall conduct to determine whether such cellulose insulation complies with the interim consumer product safety rule. The second such report shall include the results of such tests with respect to 50 manufacturers who were not included in testing conducted by the Commission for inclusion in the first report.

"(f)(1) The Commission shall have the authority to require that any person required to comply with the certification requirements of section 14 with respect to the manufacture of cellulose insulation shall provide for the performance of any test or testing program required for such certification through the use of an independent third party qualified to perform such test or testing program. The Commission may impose such requirement whether or not the Commission has established a testing program for cellulose insulation under section 14(b).

"(2) The Commission, upon petition by a manufacturer, may waive the requirements of paragraph (1) with respect to such manufacturer if the Commission determines that the use of an independent third party is not necessary in order for such manufacturer to comply with the certification requirements of section 14.

"(3) The Commission may prescribe such rules as it considers necessary to carry out the provisons of this subsection.

"(g) There are authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, such sums as may be necessary to carry out the purposes of this section.".

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended—

(1) in paragraph (8) thereof, by striking out "or";

(2) in paragraph (9) thereof, by striking out the period and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(10) fail to comply with any rule or requirement under section 35(f) (relating to testing of cellulose insulation).".

The SPEAKER pro tempore. Is a second demanded?

Mr. QUAYLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) will be recognized for 20 minutes, and the gentleman from Indiana (Mr. QUAYLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the legislation before us today is extremely important to the American consumer. It would establish a mandatory safety standard to protect consumers from flammable and corrosive home insulation. The bill was reported unanimously by both the Consumer Protection and Finance Subcommittee and the Interstate and Foreign Commerce Committee. And it is supported by both consumer and industry groups.

Americans have been reinsulating their homes at a record rate. Because of high energy costs and the severe winters we have had recently, the American homeowner is becoming more and more aware of the need to properly insulate his or her home.

Besides the practical consideration of the home heating bill, consumer interest in insulation has been further triggered by the administration. President Carter's energy proposal and the energy conference report a number of my colleagues and I have been working on for some time now, propose a tax credit for homeowners who install insulation during the period from April 30, 1977 to December 31, 1985.

The demand for home insulation is up almost threefold from the level of a few years ago. As many as 8 million homes will be reinsulated in 1978. And between 25 to 47 million homes may be reinsulated by 1985.

While such activity by the American consumer bodes well for the administration's energy conservation program, it is causing some concern among fire safety personnel across the country. Cellulose insulation makes up a substantial portion of the insulation being purchased by the consumer. Perhaps as much as 50 percent of the insulation going into homes this year will be cellulose. Recent information indicates that untreated or improperly treated cellulose insulation can present a very real risk of fire.

Recent data from the National Fire Incident Reporting System show that fire department personnel reported 467 residential fires where insulation made of wood or paper was the first item to ignite. Thirteen civilian casualties, including one death, resulted from these fires.

Unfortunately, no mandatory safety standard exists to protect consumers against flammable insulation. The consumer Product Safety Commission, which has authority to set such a standard, has failed to take timely action on this issue.

Unless a safety standard is enacted, fires caused by flammable cellulose insulation are likely to increase as more and more consumers install cellulose insulation in their homes. If cellulose continues to occupy 40 percent to 50 percent of the retrofit market, more than 20 million homes could be reinsulated with cellulose before the goals in the President's energy program are met. Unless preventive action is taken, the potential for serious injury to the occupants of these homes is substantial.

The American consumer cannot wait any longer for a safety standard. Congressional action is necessary to provide an immediate answer to the need for a mandatory standard.

It is important to note that the legislation before us today is supported not only by consumer groups but also by the industry. Responsible cellulose insulation manufacturers recognize the need for a mandatory standard. The two major industry trade associations support this legislation.

H.R. 11998 establishes an interim mandatory safety standard to protect against flammable and corrosive cellulose insulation. Under the bill, the existing GSA procurement standard for cellulose insulation would, with one exception, become a mandatory consumer product safety standard. The bill limits acceptable home insulation to that with a 0–25 flame spread rating, while the GSA standard permits a 0–50 flame spread rating. The standard goes into effect 45 days after the legislation is enacted, and it will be enforced in the same manner as any other consumer product safety standard.

Because the GSA is in the process right now of revising its procurement

standard, the bill sets out specific procedures for incorporating future GSA revisions into the interim standard. Under the bill, the Consumer Product Safety Commission has 195 days to analyze any GSA revisions and make any changes in the revisions which it feels are needed. The Commission is then to publish the revision with its changes as a proposed amendment to the interim standard. The public must be given an opportunity to comment on the proposal. Once the comment period is completed, the Commission has 45 days to study the comments and make a decision as to whether the amendment should be adopted. The Commission shall not adopt the amendment if it determines that it could impose an undue burden on the regulated industry or if it decides that it is not needed to protect consumers.

The legislation also requires the Commission to submit period enforcement reports to the House and Senate Commerce Committees. This will enable the committees to determine if the standard is being adequately enforced and if the Commission needs additional authorities to adequately enforce the standard.

I urge my colleagues to support this very important legislation. Our earlier actions on legislation to provide tax credits has provided a substantial part of the incentive to consumers to buy insulation. We must now act to make certain that such insulation is safe.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I thank the gentleman from Texas (Mr. ECKHARDT) for yielding me this time. I want to thank the chairman of the subcommittee for the work he has done and also the leadership he has exhibited in scheduling this bill.

I also think it is important to note that the gentleman from California (Mr. Moss), the subcommittee chairman of the Subcommittee on Oversight and Investigations of our Committee on Interstate and Foreign Commerce, has also done a great deal of work in this area.

It would be unfortunate—and I think the gentleman has alluded to this—if we were to reach the goal established by the President of the United States of insulating 90 percent of our homes by 1985 only to find that we have widespread fire hazards, safety hazards, and corrosiveness. So we have some minimal protection concerns not only from the consumer groups but by the industry itself.

There is no question but that cellulose can be and is an excellent insulator. But it has taken a bad rap of sorts. Recent articles in Consumer Reports and other publications, and statements by other groups and agencies have cited the dangers of cellulose insulation. As a result there has been a tremendous decline in the demand for such insulation.

Some of it, of course, has to do with the seasonal fallout but I think a lot of it has to do with uncertainty about a national energy policy. With these stories of the various hazards and fly-by-night operators, and so forth, the industry is justifiably concerned about that decline and I think many consumers are concerned about the quality of the product. We need some direction, and we need some definition. The gentleman knows, and I think most people know, that some of us have been working hard trying to have separate conservation pieces of the National Energy Act passed. But all of that argument aside for a moment, this is an important interim piece of legislation to give some sense of direction to the industry and to consumers. The standard that we are adopting here, as I think the gentleman has said, is a very flexible standard. It is a standard that is supported by the industry. It is a Government GSA standard that provides a great deal of flexibility for the industry.

I might say, Mr. Speaker, if the gentleman would permit, that conservation is generally regarded as an apple pie issue politically, but one of the things that I think we should all be concerned about is the danger that the American people and industry will become involved in conservation, and have a bad experience with it. That is precisely the danger with insulation. Industry has expected a Government standard. Consumers have expected some protection. There certainly has been a psychological push for insulation through the President's speech of a year ago, April 20, and through talk in the Congress and by members back home about impending tax credits and low-interest loans for insulation. So one of the worst things we could do would be to raise people's hopes about this insulation standard coming and then not have it come. They have waited long enough. So I thank the gentleman for this bill which is supported, as the gentleman said, not only by consumer groups but by industry and by most of the Governors of the 50 States.

I thank the gentleman.

Mr. ECKHARDT. The gentleman from Connecticut has put his finger on the problem here, and that is that when a standard is established ordinarily it takes a considerable time to put it into effect. But here we have recognized a need for quick action. However we go on the energy bill, I think we can be assured that the one point which is noncontroversial is that we should conserve energy, and that portion of the energy bill is going to pass.

The gentleman from Connecticut has been prescient in identifying a solution upon which I think all persons would agree. We have some experience with standards already established by GSA. We can simply utilize that standard now, pending subsequent more detailed examination of more refined standards, standards which may take a good while to consider and put into effect. In that way he has shown us a way to avoid dangers now without delaying the program of installing insulation to save energy. I think we all owe him a debt of gratitude for proceeding so quickly on the subject.

Mr. MOFFETT. I thank the gentleman.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. SHARP. I appreciate the gentleman's yielding. I just want to add my voice to his and to the gentleman from Connecticut's on behalf of this measure. I do not think we need to repeat the arguments for the bill. They have been well stated by the two previous speakers. But I want to compliment them because I think that they have performed a service to consumers in this country, and a service, I think, to the reputable manufacturers, distributors, and installers of cellulose insulation, and, perhaps most importantly, a service to the cause of conservation of energy in this country. We simply must insulate homes and buildings if we are going to use our fuels more efficiently than we have been. Obviously, we want to do that in a safe manner. It is very clear that because of the bad publicity about cellulose insulation, some of which was deserved because there have been examples of outrageous ripoffs and hazardous materials or faulty installation, that bad publicity, unfortunately, has been given a broad brush over lots of good manufacturers, installers, and a good product in many instances, and we must help the consumer distinguish between what is likely to be dangerous to him, and distinguish between that and what will be of help and of benefit to the consumer in this bill. This standard will help the consumer to do that, and will help the reputable manufacturer and will help the consumer sort it out.

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman from Indiana.

Mr. Speaker, I want also to recognize that both the gentleman from Connecticut and the gentleman from Indiana were on the Committee on Energy and Power when I served on that committee. I left it to become chairman of this subcommittee, and I know I left it in good hands. The problem of conserving energy has been addressed by the gentleman from Indiana, as well as the safety questions. I want to recognize the gentleman from Indiana as one of the most diligent Members, not only in the field of energy saving in homes, but also in devising what now constitutes the provision of law governing saving energy through auto engine efficiency.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I think it is also important to point out that some of the responsible industry people that the gentleman from Indiana is talking about in fact have come from Indiana. Some of the leadership in this industry that has come forth to take a responsible position was introduced to some of us through the gentleman from Indiana and they have been most impressive in their flexibility and their hard work on this issue. I think they deserve credit. It is a good example of Government and industry cooperation.

Mr. ECKHARDT. Mr. Speaker, I ap-

preciate the gentleman bringing that fact forward.

Mr. QUAYLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN), who is a cosponsor of this bill.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 10637, a bill to protect consumers from the dangers of corrosion and flammability that have characterized certain insulation materials, and to commend my colleague, the gentleman from Connecticut (Mr. MOFFETT) and the gentleman from Texas (Mr. ECKHARDT), for bringing this matter before the House. I am pleased to be a cosponsor of this bill.

The energy shortage has encouraged millions of Americans to insulate their homes. But some of the insulation they install may actually be endangering their property and even their lives.

This legislation establishes emergency procedures to promulgate safety standards for cellulose insulation. It is made necessary by the failure of the Consumer Product Safety Commission to act to protect the population. Although the Commission has for years been aware of the dangers posed by the installation of unsafe insulation, it has done virtually nothing to protect us, although the establishment of minimum safety standards has been supported by the insulation industry.

This bill establishes, on an interim basis, the safety standards that the U.S. General Services Administration has established for the insulation it purchases for the U.S. Government. It is entirely appropriate that we should insist on a comparable level of safety for American consumers.

Accordingly, Mr. Speaker, I urge my colleagues to join in supporting this legislation to insure that consumers purchase insulation that is safe to use.

● Mr. STAGGERS. Mr. Speaker, this bill, H.R. 11998, directs the Consumer Product Safety Commission to issue a safety standard for cellulose insulation, using the existing Government Services Administration standard as the basis for this action. The urgent need for a safety standard for cellulose insulation led the Interstate and Foreign Commerce Committee to instruct the CPSC to issue this existing standard no later than 45 days after enactment. This is also the reason for requesting that this bill be passed under suspension. The Senate has already passed a similar bill, S. 2401, and agreement on a final bill is expected very soon.

Cellulose insulation is widely used to insulate homes and provide energy savings on utility bills to homeowners. The Nation's energy conservation efforts have resulted in a greatly increased demand for cellulose insulation and its production has increased enormously. This increase in the amount of cellulose insulation manufactured and in the number of producers has created problems for the consumer regarding the safety of this product.

Cellulose insulation must be chemically treated to resist fire and corrosion. A shortage of one chemical, boric acid, has resulted in the use of substitute chemicals whose properties are not as well known. The market for cellulose insulation has recently gone down, due to widely publicized reports of hazards connected with improperly treated cellulose insulation.

A Federal safety standard is essential now to provide a uniform level of protection for buyers of cellulose insulation. I commend Mr. Moffett's initiative in introducing this bill and Subcommittee Chairman ECKHARDT's in expediting the progress of this bill to the floor.

I strongly urge my colleagues in the House to pass this legislation.●

Mr. QUAYLE. Mr. Speaker, I have no further requests for time.

Mr. ECKHARDT. Mr. Speaker, I have no further requests for time.

The SPEAKER, pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ECKHARDT) that the House suspend the rules and pass the bill H.R. 11998, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the Senate Bill (S. 2401) to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to standards for flame resistance and corrosiveness of certain insulation, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2401

An act to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Interim Consumer Product Safety Rule Act of 1978".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) existing Federal, State, and local laws and regulations are insufficient to protect the consumer from improperly manufactured insulation;

(2) an unreasonably large quantity of insulation is being distributed that does not meet minimum safety standards;

(3) an urgent need exists for the expedited setting of interim mandatory Federal standards for the manufacture of cellulose insulation;

(4) such standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation; and

(5) the Consumer Product Safety Commission should study all forms of insulation within the jurisdiction of the Commission to determine where appropriate standards should be developed and promulgated by the Commission to reduce the possible health and safety risks.

(b) It is the purpose of Congress in this Act to—

(1) provide an interim mandatory safety standard for cellulose home insulation; and

(2) direct the Consumer Product Safety Commission to study the forms of home insulation commonly used in the United States and to recommend appropriate legislative and administrative action in regard to reducing the possible health and safety risks that may result from the manufacture or use of such insulation.

INTERIM CELLULOSE INSULATION SAFETY STANDARD

SEC. 3. The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end therefore the following:

"INTERIM CELLULOSE INSULATION SAFETY STANDARD

"SEC. 35. (a) On and after the last day of the one-hundred-and-twenty-day period beginning on the date of enactment of this section, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH–I–515C (as that specification read on December 1, 1977), shall be deemed to be an interim consumer product safety rule which shall have all the authority and effect of any other consumer product safety rule promulgated by the Commission under this Act. During such one-hundred-and-twenty-day period, the Commission may make, and shall publish in the Federal Register, such technical nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety rule. At the end of such one-hundred-and-twenty-day period the Commission shall publish in the Federal Register such interim consumer product safety rule, as altered.

"(b) Judicial review of the interim consumer product safety rule specified in subsection (a) shall be limited solely to the issue of whether any technical changes made by the Commission are nonsubstantive.

"(c)(1) The interim consumer product safety rule specified in subsection (a) shall be enforced in the same manner and to the extent as the Commission enforces any other consumer product safety rule until such time as there is in effect a final consumer product safety rule, promulgated by the Commission in accordance with section 553, title 5 of the United States Code, setting health and safety standards for cellulose home insulation. A violation of the interim consumer product safety rule shall be deemed to be a violation of a consumer product safety standard promulgated by the Commission under section 7.

"(2) Until there is in effect such a final consumer product safety rule, the Commission shall incorporate into the interim consumer product safety rule each amendment to such requirements promulgated by the General Services Administration, unless the Commission finds, after consultation with the Secretary of Energy, that—

"(A) such amendment is unecessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose home insulation;

"(B) implementation of such amendment will create an undue burden upon the cellulose home insulation industry; or

"(C) additional time is required to study the safety or economic consequences of implementation of such amendment.

"(3)(A) At least thirty days before any amendment to such requirements is to become effective, after action by the General Services Administration, the Admnistrator of the General Services Administration shall notify the Commission of such amendment.

"(B) Any amendment to the interim consumer product safety rule shall be promulgated by the Commission in accordance with

section 553, title 5 of the United States Code.".

INSULATION SAFETY STUDY

SEC. 4. (a) In addition to research or other action already in progress, the Consumer Product Safety Commission shall conduct a thorough and complete study of—

(1) the need for safety standards, for fiber glass, rockwool, cellulose, urea-formaldehyde, styrene, urethane, vermiculite, perlite, and other forms of commonly used home insulation;

(2) methods of testing the safety of home insulation; and

(3) methods of enforcing home insulation standards.

(b) In conducting the study specified in subsection (a) the Consumer Product Safety Commission shall consult with the Secretary of Energy, the Secretary of Commerce, the Director of the National Bureau of Standards, the Administrator of the National Fire Prevention Control Administration, the Secretary of Housing and Urban Development, the Chairman of the Federal Trade Commission, and the head of any other Federal agency, department, or other entity. The head of each Federal agency, department, or other entity is authorized and directed to cooperate fully with the Consumer Product Safety Commission in its efforts to cary out the purpose of this section. Each such head shall submit to the Consumer Product Safety Commission all documents and information which the Commission requests and such head determines to be reasonable and necessary.

(c) Within one hundred and eighty days after the date of commencement of the study specified in subsection (a), the Consumer Product Safety Commission shall submit to the Congress a preliminary report on the results of such study. Such interim report shall include the Commission's preliminary findings with respect to those issues specified in paragraphs (1), (2), and (3) of subsection (a). As soon as practicable, but not later than three hundred and sixty-five days after commencement of the study, the Commission shall transmit to the Congress a full and complete final report stating the nature, extent, and adequacy of existing home insulation safety standards, safety tests, and research and safety standard enforcement methods. The Commission's final report shall contain recommendations for legislation or rulemaking which should be enacted or promulgated, or changes in existing law or rules which should be made, regarding home insulation, to protect the public health and safety. The Commission's final report shall specifically discuss the adequacy of existing testing facilities and quality control methods for home insulation and the need for technical assistance for manufacturers to insure an adequate supply of safe home insulation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated, for each fiscal year beginning with the fiscal year ending September 30, 1978, such sums as are necessary to carry out the purposes of this Act.

MOTION OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ECKHARDT moves to strike out all after the enacting clause of the Senate bill, S. 2401, and to insert in lieu thereof the provisions of H.R. 11998, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 11998, was laid on the table.

The SPEAKER pro tempore. For what reason does the gentleman from Tennessee (Mr. ALLEN) rise?

Mr. ALLEN. Mr. Speaker, I was seeking recognition to object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will state that the objection of the gentleman from Tennessee (Mr. ALLEN) comes too late.

Mr. ALLEN. I thank the Chair.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motion to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on the motion on which further proceedings were postponed.

The vote will be taken on H.R. 12467, on which the yeas and nays are ordered.

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12467, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 12467, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 12, not voting 40, as follows:

[Roll No. 320]

YEAS—382

Abdnor	Brodhead	de la Garza
Addabbo	Brooks	Delaney
Akaka	Broomfield	Dellums
Alexander	Brown, Ohio	Derrick
Allen	Broyhill	Derwinski
Ambro	Buchanan	Devine
Ammerman	Burgener	Dickinson
Anderson, Calif.	Burke, Fla.	Dicks
Anderson, Ill.	Burke, Mass.	Diggs
Andrews, N.C.	Burleson, Tex.	Dingell
Andrews, N. Dak.	Burlison, Mo.	Dodd
Annunzio	Burton, John	Dornan
Applegate	Burton, Phillip	Drinan
Archer	Butler	Duncan, Oreg.
Armstrong	Byron	Duncan, Tenn.
Ashbrook	Caputo	Early
Ashley	Carney	Eckhardt
Aspin	Carr	Edgar
Badham	Cavanaugh	Edwards, Ala.
Bafalis	Cederberg	Edwards, Calif.
Baldus	Chappell	Edwards, Okla.
Barnard	Chisholm	Emery
Bauman	Clausen, Don H.	English
Beard, R.I.	Clay	Erlenborn
Beard, Tenn.	Cleveland	Ertel
Bellenson	Cohen	Evans, Colo.
Benjamin	Coleman	Evans, Del.
Bennett	Collins, Ill.	Evans, Ga.
Bevill	Conable	Evans, Ind.
Biaggi	Conte	Fary
Bingham	Conyers	Fascell
Blanchard	Corcoran	Findley
Blouin	Corman	Fish
Boggs	Cornell	Fisher
Boland	Cornwell	Fithian
Bolling	Cotter	Flippo
Bonior	Coughlin	Florio
Bonker	Cunningham	Flowers
Bowen	D'Amours	Flynt
Brademas	Daniel, Dan	Foley
Breaux	Daniel, R. W.	Ford, Tenn.
Brinkley	Danielson	Forsythe
	Davis	Fountain
		Fowler
		Fraser
		Fuqua
		Gammage
		Garcia
		Gephardt
		Giaimo
		Gibbons
		Gilman
		Ginn
		Glickman
		Goldwater
		Gonzalez
		Goodling
		Gore
		Gradison
		Grassley
		Green
		Gudger
		Guyer
		Hagedorn
		Hall
		Hamilton
		Hammer-schmidt
		Hanley
		Hannaford
		Harkin
		Harrington
		Harris
		Harsha
		Hawkins
		Heckler
		Hefner
		Heftel
		Hightower
		Hillis
		Holland
		Hollenbeck
		Holt
		Holtzman
		Horton
		Howard
		Hubbard
		Huckaby
		Hughes
		Hyde
		Ichord
		Ireland
		Jacobs
		Jeffords
		Jenrette
		Johnson, Calif.
		Johnson, Colo.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kastenmeier
		Kazen
		Kemp
		Ketchum
		Keys
		Kildee
		Kindness
		Kostmayer
		Krebs
		Krueger
		LaFalce
		Lagomarsino
		Latta
		Leach
		Le Fante
		Leggett
		Lehman
		Lent
		Levitas
		Livingston
		Lloyd, Calif.
		Lloyd, Tenn.
		Long, La.
		Long, Md.
		Lott
		Lujan
		Luken
		Lundine
	McClory	Roncalio
	McCormack	Rose
	McEwen	Rosenthal
	McFall	Rostenkowski
	McHugh	Rousselot
	McKay	Roybal
	McKinney	Rudd
	Madigan	Ruppe
	Maguire	Russo
	Mahon	Ryan
	Mann	Santini
	Markey	Sawyer
	Marks	Scheuer
	Marlenee	Schroeder
	Marriott	Sebelius
	Martin	Seiberling
	Mathis	Sharp
	Mattox	Shipley
	Mazzoli	Shuster
	Meeds	Sikes
	Metcalfe	Simon
	Meyner	Sisk
	Michel	Skelton
	Mikulski	Skubitz
	Mikva	Slack
	Miller, Calif.	Smith, Iowa
	Miller, Ohio	Smith, Nebr.
	Mineta	Snyder
	Minish	Solarz
	Mitchell, Md.	Spellman
	Mitchell, N.Y.	Spence
	Moakley	St Germain
	Moffett	Staggers
	Mollohan	Stangeland
	Montgomery	Stanton
	Moore	Stark
	Moorhead, Calif.	Steed
	Moss	Steers
	Mottl	Steiger
	Murphy, Ill.	Stockman
	Murtha	Stokes
	Myers, Gary	Stratton
	Myers, John	Studds
	Natcher	Stump
	Neal	Symms
	Nedzi	Taylor
	Nichols	Thompson
	Nolan	Thone
	Nowak	Traxler
	O'Brien	Treen
	Oberstar	Trible
	Obey	Tsongas
	Ottinger	Udall
	Panetta	Van Deerlin
	Patten	Vander Jagt
	Patterson	Vanik
	Pattison	Vento
	Pease	Volkmer
	Pepper	Walsh
	Perkins	Wampler
	Pettis	Watkins
	Pickle	Waxman
	Pike	Weaver
	Poage	Weiss
	Preyer	Whalen
	Price	White
	Pritchard	Whitehurst
	Pursell	Whitley
	Quayle	Wiggins
	Quie	Wilson, Bob
	Quillen	Wilson, Tex.
	Rahall	Winn
	Railsback	Wirth
	Rangel	Wolff
	Regula	Wright
	Reuss	Wydler
	Rhodes	Wylie
	Richmond	Yates
	Rinaldo	Yatron
	Risenhoover	Young, Alaska
	Roberts	Young, Fla.
	Robinson	Young, Mo.
	Roe	Young, Tex.
	Rogers	Zablocki
		Zeferetti

NAYS—12

Bedell	Crane	McDonald
Brown, Mich.	Fenwick	Milford
Clawson, Del	Hansen	Satterfield
Collins, Tex.	Kelly	Waggonner

NOT VOTING—40

AuCoin	Ford, Mich.	Murphy, Pa.
Baucus	Frenzel	Myers, Michael
Breckinridge	Frey	Nix
Brown, Calif.	Gaydos	Oakar
Burke, Calif.	Jenkins	Pressler
Carter	Kasten	Rodino
Cochran	Lederer	Rooney
Dent	McCloskey	Runnels
Downey	McDade	Sarasin
Eilberg	Moorhead, Pa.	Schulze
Flood	Murphy, N.Y.	Teague

Thornton	Walgren	Wilson, C. H.
Tucker	Walker	
Ullman	Whitten	

The Clerk announced the following pairs:

Mr. Eilberg with Mr. Jenkins.
Mr. AuCoin with Mr. Brown of California.
Mr. Baucus with Mr. Carter.
Mr. Lederer with Mrs. Burke of California.
Mr. Michael O. Myers with Mr. Dent.
Mr. Teague with Mr. Frenzel.
Mr. Whitten with Mr. Kasten.
Mr. Walgren with Mr. Walker.
Mr. Charles H. Wilson of California with Mr. Cochran of Mississippi.
Mr. Nix with Mr. Runnels.
Mr. Rodino with Mr. Sarasin.
Mr. Flood with Mr. Schulze.
Mr. Rooney with Mr. Frey.
Mr. Moorhead of Pennsylvania with Mr. McCloskey.
Mr. Murphy of New York with Mr. McDade.
Mr. Ford of Michigan with Mr. Tucker.
Ms. Oakar with Mr. Pressler.
Mr. Murphy of Pennsylvania with Mr. Ullman.
Mr. Gaydos with Mr. Downey.
Mr. Breckinridge with Mr. Thornton.

Mr. RUDD, Mrs. HECKLER, and Messrs. BENNETT, MOFFETT, SYMMS, FOLEY, and FOUNTAIN changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of May 11, 1978.)

Mr. NATCHER (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. NATCHER), is recognized for 30 minutes, and the gentleman from California (Mr. BURGENER) is recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, the District of Columbia appropriations bill for fiscal year 1978 was presented and passed by the House of Representatives on September 16, 1977. After passage in the other body, a conference was held and the main item in disagreement was the civic center capital outlay item which provided for an expenditure of $27 million to be used in purchasing the site on New York Avenue between 9th and 11th Streets. The other body refused to approve this project. In addition to the civic center, there were several other items in disagreement and at the conference meetings the main items in disagreement were not resolved. Since there was no resolution of the items in disagreement, no conference report was approved. With no budget for fiscal year 1978, it became necessary for the District of Columbia to operate under a continuing resolution and the city has now been under this continuing resolution since October 1, 1977.

Another conference meeting was held and all of the items in disagreement were resolved. The other body agreed to permit the $27 million to remain in the appropriation bill for fiscal year 1978 contingent upon certain actions and conditions which must be complied with before the $27 million can be expended. The actions and conditions are as follows:

First. Commitment of private sector development prior to the actual release of appropriated funds for the civic center. The development is to be sufficient to generate tax revenues to pay 100 percent of the annual net fixed costs associated with the civic center following 3 full years of operation of the civic center;

Second. Implementation of District of Columbia law 2–58 to assure that the cost of site acquisition and the operating costs of the civic center in the early years of operation will be paid from the tax revenues authorized by this public law;

Third. Reexamination of the total cost including site acquisition cost of the civic center to be paid from appropriated funds with the objective of reducing it; and

Fourth. The above conditions to be addressed and considered in a report to the Subcommittees on Appropriations for the District of Columbia of the House of Representatives and the Senate. The report is to be approved by both subcommittees before the civic center appropriation is available for obligation.

Several months ago the District of Columbia enacted District of Columbia law 2–58. This law provides for both a surtax on local businesses and a room tax on hotels. The funds received under this legislation will be set aside for the civic center and it is estimated that this legislation will produce some $16 million over the next 3 years.

Mr. Speaker, I am delighted to announce to the House that the impasse which developed over the civic center has now been resolved and that a civic center can go under construction as soon as the actions and conditions agreed upon in the conference are complied with in full.

Another major item in disagreement between the two bills passed by the House and the Senate pertains to the restoration of funds totaling $1,243,000 for 186 uniformed positions in the Metropolitan Police force. The budget presented by the city deleted 186 positions and the House refused to accept this recommendation. The other body approved the recommendation of the District government and this was one of the items finally resolved in the conference. The sum of $1,243,000 is approved in the budget for fiscal year 1978 for the 186 uniformed positions.

Mr. Speaker, as one member of the Appropriations Committee, I am sorry that it has required so much time to resolve the items in disagreement in this bill but I sincerely believe that the time spent was very much in the best interest of our Capital City. It has been a pleasure working with the subcommittee on the other side.

The District of Columbia budget for fiscal year 1978 provides for total resources of $1,756,453,800. This bill provides for $129,173,400 for capital outlay. The District will receive in Federal grants $299,074,100 and $88,756,500 for reimbursements.

The Federal payment recommended in this conference report is $276 million. The sum of $28,116,000 is approved for Federal water and sewer payments. For Federal loans, we recommend $92 million. The District government will receive $28,543,000 for revenue sharing and in addition $8 million for countercyclical funds.

The District will receive from local taxes and other revenue sources the sum of $948,323,100.

Mr. Speaker, 46 percent of the total resources for the operation of our Capital City is financed from Federal funds, and 54 percent of total resources is financed from local and other revenue sources.

The amount of the Federal payment recommended of $276 million is $24 million below the budget.

This bill now provides $500,000 for fiscal year 1978 for the advisory neighborhood commissions. In addition, we include and recommend $9,900,000 to cover one-half the amount due December 1, 1979 for repayment of bonds issued to construct the District of Columbia Stadium. This conference report provides that there is hereby appropriated from the funds of the District $9,900,000 without fiscal year limitation for the purposes of the sinking fund established by section 6(a) of the District of Columbia Stadium Act of 1957, as amended.

We recommend the sum of $125,668,500 for repayment of loans and interest.

The budget for fiscal year 1978 provides for adequate funds for the operation of the District of Columbia.

Under permission, which I will request at the conclusion of action on the conference report and various amendments, I will insert a tabulation comparing the conference action with 1977 appropriations, the budget estimates for 1978 and the House and Senate allowances.

The tabulation referred to follows:

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1978 (H.R. 9005)—CONFERENCE SUMMARY

Item	New budget (obligational) authority, fiscal year 1977, enacted to date	Budget estimates of new (obligational) authority, fiscal years 1977 and 1978	New budget (obligational) authority, House bill	New budget (obligational) authority, Senate bill	New budget (obligational) authority, Conference	Conference action compared with— Fiscal year 1977, enacted to date	Budget estimates, 1977 and 1978	House bill	Senate bill
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
TITLE I									
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT, OF THE DISTRICT OF COLUMBIA									
Salaries and expenses	$1,500,000	$3,000,000	$3,000,000	$3,000,000	$3,000,000	$+1,500,000			
TITLE II									
DISTRICT OF COLUMBIA, FEDERAL FUNDS									
Federal payment	276,650,000	300,000,000	295,350,000	276,000,000	276,000,000	−650,000	−$24,000,000	−$19,350,000	
1977 supplemental		4,000,000					−4,000,000		
Payment in lieu of reimbursement for water and sewer services to Federal facilities	2,707,000	28,116,000	28,116,000	28,116,000	28,116,000	+25,409,000			
Loans to the District of Columbia for capital outlay	101,292,000	160,000,000		92,000,000	92,000,000	−9,292,000	−68,000,000	+92,000,000	
Total, Federal Funds to District of Columbia	380,649,000	488,116,000	323,466,000	396,116,000	396,116,000	+15,467,000	−92,000,000	+72,650,000	
1977 supplemental		4,000,000					−4,000,000		
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
General operating expenses	(84,453,300)	(90,742,200)	(90,783,000)		(90,862,600)	(+6,409,300)	(+120,400)	(+79,600)	(+$90,862,600)
Governmental direction and support				(117,313,400)					(−117,313,400)
1977 supplemental, general operating expenses		(1,123,300)	(648,000)	(625,100)	(625,100)		(−498,200)	(−22,900)	
Economic development and regulation				(14,050,100)					(−14,050,100)
Public safety	(247,707,800)	(263,441,200)	(264,069,000)		(263,771,000)	(+16,063,200)	(+329,800)	(−298,000)	(+263,771,000)
Public safety and justice				(263,763,800)					(−263,763,800)
1977 supplemental, public safety		(2,192,000)	(150,000)	(2,151,000)	(2,151,000)		(−41,000)	(+2,001,000)	
Education	(245,287,700)	(265,382,600	(264,876,600)		(264,679,200)	(+19,391,500)	(−703,400)	(−197,400)	(+264,679,200)
Public education system				(272,982,900)					(−272,982,900)
1977 supplemental, education		(3,800,000)	(2,800,000)	(2,800,000)	(2,800,000)		(−1,000,000)		
Recreation	(17,674,400)	(17,832,900)	(17,639,100)		(17,551,000)	(−123,400)	(−281,900)	(−88,100)	(+17,551,000)
Human resources	(274,675,600)	(287,311,100)	(285,865,600)		(283,462,300)	(+8,786,700)	(−3,848,800)	(−2,403,300)	(+283,462,300)
Human support services				(316,573,900)					(−316,573,900)
1977 supplemental, human resources		(1,939,000)	(1,486,500)				(−1,939,000)	(−1,486,500)	
Transportation	(55,028,600)	(61,337,200)	(59,834,500)	(59,713,900)	(59,713,900)	(+4,685,300)	(−1,623,300)	(−120,600)	
1977 supplemental		(1,737,200)	(1,309,100)	(1,309,100)	(1,309,100)		(−428,100)		
Environmental services	(69,036,000)	(68,519,100)	(68,519,100)	(68,191,900)	(68,191,900)	(−844,100)	(−327,200)	(−327,200)	
Personal services	(48,078,400)	(65,549,400)	(65,549,400)		(65,549,400)	(+17,471,000)			(+65,549,400)
1977 supplemental, personal services		(435,300)	0 (435,300)	(435,300)	(435,300)				
Settlement of claims and suits	(234,100)					(−234,100)			
1977 supplemental, settlement of claims and suits			(12,000)	(58,000)	(58,000)		(+58,000)	(+46,000)	
Repayment of loans and interest	(80,839,100)	(116,968,500)	(115,768,500)	(125,668,500)	(125,668,500)	(+44,829,400)	(+8,700,000)	(+9,900,000)	
Inaugural expenses	(650,000)					(−650,000)			
Total, operating expenses	(1,123,665,000)	(1,237,084,200)	(1,232,904,800)	(1,238,258,400)	(1,239,449,800)	(+115,784,800)	(+2,365,600)	(+6,545,000)	(+1,191,400)
1977 supplemental		(11,226,800)	(6,840,900)	(7,378,500)	(7,378,500)		(−3,848,300)	(+537,600)	
Capital Outlay									
Capital outlay	(36,586,700)	(177,476,900)	(168,757,900)	(102,173,400)	(129,173,400)	(+92,586,700)	(−48,303,500)	(−39,584,500)	(+27,000,000)
Total, District of Columbia funds	(1,160,251,700)	(1,414,561,100)	(1,401,662,700)	(1,340,431,800)	(1,368,623,200)	(+208,371,500)	(−45,937,900)	(−33,039,500)	(+28,191,400)
1977 supplemental		(11,226,800)	(6,840,900)	(7,378,500)	(7,378,500)		(−3,848,300)	(+537,600)	
TITLE III									
SUPPLEMENTAL APPROPRIATIONS, 1978									
SMALL BUSINESS ADMINISTRATION									
Disaster loan fund [1]		(1,400,000,000)		(1,400,000,000)			(−1,400,000,000)		(−1,400,000,000)
RECAPITULATION									
Grand total, new budget (obligational) authority, consisting of:									
Temporary Commission on Financial Oversight of the District of Columbia	1,500,000	3,000,000	3,000,000	3,000,000	3,000,000	+1,500,000			
Federal funds to District of Columbia	380,649,000	488,116,000	323,466,000	396,116,000	396,116,000	+15,467,000	−92,000,000	+72,650,000	
1977 supplemental		4,000,000					−4,000,000		
District of Columbia funds	(1,160,251,700)	(1,414,561,100)	(1,401,662,700)	(1,340,431,800)	(1,368,623,200)	(+208,371,500)	(−45,937,900)	(−33,039,500)	(+28,191,400)
1977 supplemental		(11,226,800)	(6,840,900)	(7,378,500)	(7,378,500)		(−3,848,300)	(+537,600)	
Small Business Administration		(1,400,000,000)		(1,400,000,000)			(−1,400,000,000)		(−1,400,000,000)

[1] Excluded from totals as was appropriated in Supplemental Appropriations Act, 1978 (Public Law 95-240).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. At this time, Mr. Speaker, I yield to my distinguished friend, the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding. I did want to ask him a question or two. The gentleman has not said much about the so-called D.C. convention center which was, as I understand it, the sticking point throughout the conference negotiations. On page 8 of the conference report there is language referring to amendment No. 37 which was reported back in disagreement. The language that appears on that page does not mention the Subcommittees on Appropriation for the District of Columbia but, rather, the Subcommittees on the District of Columbia of the House and Senate, which technically I do not think exist. As I understand it, an integral part of the agreement is that the D.C. Appropriations Subcommittees will have the right to review the spending and pass upon these plans at some point in the future. Is that a misprint?

Mr. NATCHER. I would like to advise the gentleman that that is an omission in the report. There should be the word "appropriations" following "District of Columbia". The gentleman is correct.

Mr. BAUMAN. That will be corrected in the motion when it is offered.

Mr. NATCHER. The gentleman is correct.

Mr. BAUMAN. I thank the gentleman for that assurance. I want to ask the gentleman a further question regarding the agreement which is embodied on page 8 of the conference report statement. As I understand it, the Members of the other body and the gentleman from Kentucky and others in the District of Columbia government agreed that if, indeed, the Congress appropriates this $27 million, the city officials will go about obtaining from the private business sector in the District of Columbia commitments to build up $15 million of improvements in the way of convention center-related buildings, spinoff activities, restaurants, and so on and that new business that will provide certain tax revenues to operate the center. I would refer the gentlman from Kentucky to an article in the Evening Star which appeared a few days ago under the byline of Diane Brockett in which she quotes Sterling Tucker as saying that the agreement was to accept his and the Mayor's "word" on such business commitments rather than demand signed legal contracts from the businesses before the $27 million is released to the city.

My question to the gentleman is why would this be a sufficient basis on which to project revenue when all we would have would be the word of a group of businessmen who might or might not go ahead and build these related businesses, which might or might not produce revenue to pay these costs? That sounds like an awfully "iffy" arrangement.

Mr. NATCHER. I would like to advise the gentleman from Maryland that beginning on May 1 of this year the revenue bill passed by the D.C. City Council, which is D.C. law 2–58, as the gentleman knows, provides for certain taxes as far as the hotels and the business community are concerned, and it is estimated that those taxes will produce about $16 million during the next 3 years. That bill is now in effect, and the District of Columbia government is and will continue to collect revenue as provided for under the bill.

I would like further to advise the gentleman from Maryland that every stipulation in the joint statement accompanying this conference report, the actions and conditions set forth numbered 1 through 4, will have to be fully complied with before the $27 million is released to purchase the site. They are set forth in the conference report statement. All of those conditions will have to be met.

In addition to that, I would like to advise the gentleman from Maryland that the cost of this civic center will have to be reduced. We first met in conference and in the first meeting I suggested the cost of the civic center be reduced by $20 million, be brought down $20 million. The cost of the civic center can be reduced. That is one of the stipulations that is carried in the conference report statement under these four provisions that must be complied with. All of the conditions will have to be complied with before the money is released.

I would like to advise the gentleman from Maryland that the distinguished gentleman from California, the ranking minority member of this committee and one of the ablest men in this House, (Mr. BURGENER) and I are committed to see that all these requirements are carried out before any of the money is released, before the site is purchased or any civic center contract gets underway. I will assure the gentleman from Maryland that all of the requirements will be complied with.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman's continued assurances and continued yielding on these questions; but the gentleman has not given a direct answer to my question. There is still $8 to $10 million of debt service costs and initial operating expenses to this center to be paid out of specific commitments by the business community to build hotels and restaurants, so that there are taxes to pay this amount. Why did you not require the business community to sign commitments, rather than to give only their word; then they would be bound to do as they say and the taxpayers would not wind up paying the bill, as they have on project after project in this city.

Mr. NATCHER. Mr. Speaker, in answer to the gentleman's question, I know the gentleman has read the four provisions in the conference report statement, and if the gentleman will bear with me I would like to read them and I would explain them as we go along and give the gentleman an answer:

1. Commitment of private sector development prior to the actual release of appropriated funds for the Civic Center. The development is to be sufficient to generate tax revenues to pay 100 percent of the annual net fixed costs associated with the Civic Center following 3 years of operation of the Civic Center;

Now, before the $27 million is released, before any move is made, we will have to have more than just a statement that the business community intends to participate in the construction of the civic center, so that as far as the first 3 years are concerned under the tax bill I mentioned a few minutes ago, we will have enough to operate the civic center during the early years of operation, and not just on the word of some individual as far as participation.

I know the gentleman is sincere in his question about this and I agree with the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield at that point?

Mr. NATCHER. Yes.

Mr. BAUMAN. Mr. Speaker, I hear cries of "vote". We will get to the vote soon enough, gentlemen. We are talking about a $110 million project and if some Members just want to throw it away they can just rush through this. I will not.

The question I am putting to the gentleman from Kentucky is whether or not we will require of the D.C. business community, which will benefit greatly from this center, to sign legal documents to assure this additional construction and these various businesses from which revenues are projected.

Mr. NATCHER. Mr. Speaker, in all fairness to the gentleman, I cannot commit the Mayor or the District of Columbia Council as to the procedure they would use to secure the participation of private interests.

Mr. Speaker as to the signing of legal documents before the $27 million is released, we will have to have participation that will satisfy the gentleman from Maryland, the chairman of the subcommittee, and the ranking minority member, the gentleman from California (Mr. BURGENER). That is the kind of assurance we will have to have.

Mr. BAUMAN. Mr. Speaker. I appreciate the gentleman's including the gentleman from Maryland.

Mr. NATCHER. Mr. Speaker, I want the gentleman to be included because I know of his interest.

Mr. BAUMAN. Mr. Speaker, I would not hold the gentleman from Kentucky (Mr. NATCHER) to that promise because it might be difficult to satisfy the gentleman from Maryland.

I still would rather see a specific requirement of legal commitments on the part of these businessmen who, after all, are going to make a lot of money out of Federal taxpayers on this project.

Mr. NATCHER. Mr. Speaker, I want to thank the gentleman for his comments, and I thank him for his interest. He has always been fair with me as the chairman of the subcommittee. I also thank the gentleman from California (Mr. BURGENER) for his interest and his support.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the distinguished chairman of the subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I thank the distinguished subcommittee chairman for yielding.

I noticed an article in the paper—and I believe it was this morning—stating that some group has approved, for the District of Columbia, the building of buildings on Pennsylvania Avenue that would reach a height of 16 stories. I do not know if this is part of the packet, although I know we are going to get business to come in on these projects.

I would hope that this committee, as well as the legislative committee, would begin to look at this problem. I think it is a very bad precedent to set to begin allowing buildings of that height. They have already allowed them, I believe, buildings up to a height of 13 stories. This one will go 16 stories, and before long someone will want one that is 20, 25, or 30 stories high.

If that happens, we will not be able to see the Capitol or the Washington Monument, and we have always tried to maintain their visibility in this city. I think it is error to have this done.

Mr. Speaker, I would hope that the chairman of the subcommittee, along with the legislative committee, would be willing to look into this matter to see if something could be done to change the plans.

Mr. NATCHER. Mr. Speaker, I would say to my distinguished friend, the gentleman from Florida (Mr. ROGERS), that I concur with the statement he has just made. This matter, as the gentleman knows, relates to the development of Pennsylvania Avenue under the authority Congress granted to the Pennsylvania Avenue Development Commission, and appropriations for this Federal Commission are under the jurisdiction of the Subcommittee on Interior Appropriations.

I concur with the gentleman's statement, and I want the gentleman from Florida (Mr. ROGERS) to know that before the day is over I intend to talk to the chairman of the subcommittee about this.

Mr. ROGERS. Mr. Speaker, I thank the gentleman, and I appreciate his concern. I think all of us in this body share that concern.

Mr. NATCHER. Mr. Speaker, I thank the gentleman for bringing this to our attention.

Mr. Speaker, I will conclude and allow my distinguished friend, the gentleman from California (Mr. BURGENER), to make his presentation, but before doing so, I want the Members to know that it is a distinct honor and a privilege for me to serve on this subcommittee with all the subcommittee members, and especially with the distinguished gentleman from California (Mr. BURGENER), who is one of the able Members of this House.

Mr. BURGENER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the chairman of the Subcommittee on the District of Columbia, the gentleman from Kentucky (Mr. NATCHER), for his kind words, and I want to commend him for his leadership on this committee and this subcommittee.

This has been a very difficult year for this measure. As the Members know, we have been at an impasse with the other body for many months. The principal disadvantage of all this has been to hold up the citizens and the government of the District of Columbia in carrying on their entire capital outlay program. I am pleased that we have now resolved the problems.

I want to say that the members of the minority on the subcommittee chaired by the gentleman from Kentucky (Mr. NATCHER) fully support the conference committee report.

For the benefit of those who are interested in fiscal restraint—and I hope we all are—I would point out that this conference committee report is some $46 million below the President's budget. I would further point out that when the bill left this House, it had in it $295 million in terms of the Federal payment; it now comes back at the lower figure of $276 million, which is in the conference report.

There are no real new initiatives and no new programs. It is pretty much business as usual. There is no new program of any major significance of which I am aware.

We do ask in rather strong language in the conference report that we take a much closer look at Forest Haven. I have had a very special interest in that facility, as have many local people.

We are asking in the conference report that the President's Committee on Mental Retardation, chaired by the Secretary of HEW, Secretary Califano, do a study on this, and the main question we are asking them is this: Will the funds appropriated by this Congress and the funds spent by the taxpayers of the District provide, within these limitations, the best possible level of service for the money being provided? We hope to have the answer to that question soon.

There is some $500,000 in this budget for the Advisory Neighborhood Commissions. The Members will recall that initially we had nothing in the bill for this purpose, and I think the Senate had $1 million. I personally support this fully at the present time. I have listened to a lot of witnesses and talked to a lot of people throughout the city, and I believe this to be an invaluable contribution to local government.

So in concluding these brief remarks, Mr. Speaker, I ask for an "aye" vote on the conference report.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I am opposed to the construction of the so-called D.C. Civic Center, not because I dislike Washington or its inhabitants—I spent a good part of my adult life and my childhood in this city, and I love it very dearly. But I do feel very concerned about the capacity of the city to continue much longer in the direction that it is now taking.

One of the reasons the city is in such difficult economic straits is not because of congressional mismanagement—I think the Congress has been generous to Washington—but because of the mismanagement by the administration of the city itself. I think it is unfortunate, but the statistics are there. Washington already has the highest per capita expenditure of any city in its population range. It has the highest per capita debt load of any city in the United States. According to the D.C. government itself, it also has the largest tax burden of any jurisdiction in the metropolitan area of Washington.

The question we have to ask about this $27 million civic center downpayment contained in the conference report before us—and it could balloon to at least a minimum of $110 million, based on current projections, and, according to one other projection, possibly as high as $250 million— is whether the city and the taxpayers can afford this.

We gather here today to discuss the affairs of the Capital City of the Nation at a time when the local press is documenting the failure of its public school system, constantly writing about the failure of the welfare system, and various other problems and scandals we ought to be seeking to solve.

And so the response to that is that we have a $110 million convention center which will primarily benefit certain business interests in this city and not help blacks or whites or any taxpayers who live here. Indeed, it will perhaps become their burden.

The proposed center is one of the most expensive in the United States, double the cost of similar facilities in Atlanta and St. Louis, and it could be the most expensive in the world, so far as we know.

The agreement reached extraneous to the conference report gives me little or no comfort that indeed there is going to be a commitment made from the business community or that the tax revenue from the District of Columbia is committed. Rather, the obligation has been settled upon all D.C. taxpayers and all of our Federal taxpayers. As a matter of fact, a leader in the other body on District of Columbia committee affairs is quoted as saying he had to reach a compromise on this, but if he were a District of Columbia citizen he would be opposed to it, simply as a bad idea.

Mr. Speaker, I will offer a preferential motion to recede from the disagreement of the Senate amendment and delete the $27 million which serves as a downpayment on the convention center. If indeed it is appropriate that the Congress should review this matter before this building starts, the city ought to come back in the next fiscal year, Congress should act in a proper legislative manner, and we should have full justification.

The Visitors' Center, the Kennedy Center for the Performing Arts, Metro, all of these things we were told would not cost the taxpayers, and in many cases we have wound up paying millions of dollars of the Federal taxpayers' money. As good stewards of the public purse and also exercising our constitutional duty to legislate for the District of Columbia, which the law provides, I think we should oppose the expenditure of this money.

Mr. BURGENER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I am a little disturbed that, once again, under this appropriation bill for the District of Columbus we are being asked to accept, on the basis of good faith, the fact that this legislation "will hardly cost the taxpayers anything."

We have had these promises before the District of Columbia government and the "believers" in the House who sing the same song year after year.

Mr. Speaker, I would like to review some of those "past promises" that the cost of various D.C. projects would be minimal with the gentleman from Maryland (Mr. BAUMAN), who seems to be the only one here today overly concerned about what this convention center is going to cost the taxpayers of America.

As I recall, the Kennedy Center was one of those that was going to hardly cost the taxpayers anything.

Mr. Speaker, may I ask the gentleman from Maryland (Mr. BAUMAN) this question: What did the Kennedy Center eventually cost us; does the gentleman remember?

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, it is hard to respond to the gentleman because we have not stopped paying for the Kennedy Center yet.

Mr. ROUSSELOT. We are still paying for it.

Mr. BAUMAN. The gentleman will remember that last year the roof leaked. I think it cost $4 million to fix that; but we were told originally that the Center would be paid for partially through private funds and partially through public funds.

Mr. ROUSSELOT. That was going to be taken care of by private funds, but the American taxpayers as a whole picked up the tab. I think it eventually cost $43 million, and that is a $12.2 million cost overrun.

Mr. Speaker, where are my colleagues who talk about defense overruns? Where are they today? I do not see them on the floor.

Oh, I do see one of my good friends, the gentleman from California (Mr. JOHN BURTON).

Mr. Speaker, I want to cover the other cost overruns and then I will yield to my colleague, the gentleman from Kentucky (Mr. NATCHER), because he is always very fair when he is in the chair.

Then there is the cost overrun of the National Visitors Center.

Mr. Speaker, may I ask the gentleman from Maryland (Mr. BAUMAN) this question: How much was the cost overrun to our American taxpayers on that National Visitors Center?

Mr. BAUMAN. If the gentleman will yield further, Mr. Speaker, this used to be called Union Station in the days when railroads were still able to run in this country.

The National Visitors Center has cost so far $31 million.

The House Committee on Public Works and Transportation just yesterday reported out a bill for an additional $36 million, and as the gentleman said this project was not going to cost the taxpayers anything.

Mr. ROUSSELOT. Then, there was $31 million cost overrun. And there is still more big costs to come?

Next, let us take up the Metro system. We all remember the super Metro system. The estimates are now that the system may cost $6 to $7 billion.

What are the cost overruns on that?

Mr. BAUMAN. If the gentleman will yield further, I do not have any final figures on that. They have had problems with the river flooding into it and it is now estimated to cost at a minimum, $6 billion.

Mr. JOHN L. BURTON. If the gentleman will yield, Mr. Speaker, a point of order: Is the gentleman qualified as an expert on these matters?

Mr. ROUSSELOT. Absolutely. Mr. BAUMAN has been one of the vigilant Members whom the House had on this issue. Also his constituents watch this problem because they live so close to Washington, D.C.

The SPEAKER pro tempore (Mr. FOLEY). The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. BURGENER. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. ROUSSELOT. I thank my colleague for yielding. Next, Mr. Speaker, I take up the Pennsylvania Avenue Redevelopment. What is the cost on that?

Mr. BAUMAN. If the gentleman will yield again, Mr. Speaker, I think the gentleman is characterizing it improperly. It is not necessarily a cost overrun on any of these. Some of them are. In any event, this one has cost around $300 million.

Mr. ROUSSELOT. Only $300 million?

Mr. BAUMAN. A modest amount according to our liberal friends.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am pleased to yield to the gentleman from New Jersey.

Mr. MINISH. I thank the gentleman for yielding, Mr. Speaker.

Did I understand the gentleman to say earlier that he is going to support an extension of the Renegotiation Act?

Mr. ROUSSELOT. I do not think the Renegotiation Board has anything to do with the cost overruns in the District of Columbia. I wish they did. In any regard the Renegotiation Board authority expired 2 years ago as the gentleman knows.

Mr. MINISH. But the gentleman did mention the cost overruns on defense.

Mr. ROUSSELOT. I did mention the problems of cost overruns in defense, about which so many of my colleagues in this House complain. They complain about cost overruns in the Defense Department. We need those same vigilant Members here for these cost overruns.

Here is an opportunity, if they want to look carefully at this matter, to look at the real cost overruns of the District of Columbia government on many of these projects.

Mr. MINISH. Mr. Speaker, I do not disagree with what the gentleman is saying; but I will take his remarks to mean he supports my legislation to extend the life of the Renegotiation Act.

Mr. NATCHER. Mr. Speaker, I yield myself 5 minutes in order to answer the gentleman from California (Mr. ROUSSELOT).

Mr. Speaker, in all fairness to the District of Columbia, I think the Members of the House should understand fully that the District of Columbia had nothing to do with the Visitors Center and had nothing to do with the Kennedy Center. These two projects are from the Committee on Public Works and Transportation of the House.

They are funded through the subcommittee on Interior appropriations, and under the control of the Federal Government, not the District of Columbia government. This colloquy between my good friend from California (Mr. ROUSSELOT) and my good friend from Maryland (Mr. BAUMAN) pertains not to the District—and both of them know it, Mr. Speaker. The District of Columbia government has nothing to do with it.

Certainly, there were overruns as far as the Kennedy Center is concerned. That was a matter pertinent to the Public Works Committee, the Interior Appropriations Subcommittee, and the Federal Government, not the District of Columbia.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, as the original author of the Kennedy Center legislation, of which I am extremely proud notwithstanding the architectural faults, I might point out to my friend from California and my friend from Maryland that it is a national monument. It is a national living memorial. If the gentleman would rather have an F–18 or some sort of aircraft sitting on the Potomac instead of a cultural center which belongs to all of the people of the United States, and which they are delighted to support and pay for, the gentleman can have it.

The time has long since gone by when all of the giggles relating to the arts and the performing arts and the more beautiful things in life—the day is gone when they are disposed of by talking about overruns. If Members are going to talk about overruns, they should confine them to the matters at hand which relate directly to the District of Columbia, not to the Nation.

Mr. NATCHER. Mr. Speaker, further answering the gentleman from California, as far as the District of Columbia Stadium is concerned, I was a Member of the House at the time the bill authorizing the stadium was passed back in 1956 and 1957. The District of Columbia at that time, as the gentleman well knows, did not have home rule. They had nothing whatsoever to do with construction and financing the District of Columbia Stadium. That white elephant was placed right on the back of the District of Columbia, and they have had to carry it ever since.

As far as the Kennedy Center and the Visitors Center are concerned, why bring that up at this time when the District of Columbia had nothing to do with either project? In all fairness to the District, we have home rule in the District today; we

have an elected mayor; we have an elected city council. If they want to spend their money for a civic center, every dollar of it is theirs, Mr. Speaker, I think they have a right to do it.

As far as bringing these other matters into it, they have nothing to do with the District of Columbia.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I agree with the gentleman. The point he makes is a good one. However, I think the gentleman would agree with me that on the other hand it should not obscure the fact that the District of Columbia is responsible for the overruns on the Metro. That is what we should be talking about here, because those overruns dwarf the others. Those overruns must be in the billions and billions of dollars by this time, and they are growing every day. Is that not a fact?

Mr. NATCHER. I would like to say to the gentleman that, as he well knows, back in the beginning, back in 1968, we said it will not cost $2.5 billion; it will cost between $4 billion and $5 billion. The gentleman remembers that. I have said it more than one time from the well of this House, and the gentleman remembers that distinctly.

Mr. WYDLER. I believe the gentleman said it because I know he is a man of his word, but even taking that figure, does the gentleman think we are going to bring it in at that figure?

Mr. NATCHER. I do not. I think it will cost between $6 billion and $7 billion. I think every bond will have to be retired by the Federal Government. I do not believe the maintenance and operating costs will be paid for out of the fare box, and I say to the gentleman it will cost between $6 billion and $7 billion to complete construction of the system—no question about it.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly?

Mr. NATCHER. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the chairman for yielding. I did not mention the stadium. If the gentleman wants me to bring it up, I would be glad to do so.

Mr. NATCHER. Go right ahead and bring it up.

Mr. ROUSSELOT. I did not mention the stadium.

Mr. NATCHER. I brought it up for this reason: Just to point out the fact that the stadium was placed on the back of the District of Columbia, and the District had very little to do about it.

Mr. ROUSSELOT. It was this House that unfortunately participated in that sad action.

Mr. NATCHER. I sat here in this House when the chairman of the Committee on the District of Columbia presented that bill and said to the House it will cost between $5 million and $6 million. It cost $20.1 million. We have to borrow $832,000 a year in interest money to pay for the interest on those bonds on this project that was foisted on the District of Columbia.

The SPEAKER. The time of the gentleman has expired.

Mr. NATCHER. Mr. Speaker, at this point I yield 5 minutes to the distinguished representative from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I rise in support of the conference report. As I do, I want to express my heartfelt appreciation, and that of the people of the District of Columbia, for the spirit of cooperation and the support of the distinguished chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER), that he has given to the elected government in its effort to deal with all of the serious problems confronting us in our Nation's Federal district.

I also wish to extend our appreciation to the ranking minority member of the subcommittee, the gentleman from California (Mr. BURGENER) for his support and cooperation in this cause.

The gentleman has correctly pointed out that since we have had the privilege of electing representatives in the legislature and in the executive branch of our Government, governed by the consent of the governed, he has given the kind of support to that government that is worthy of praise by this Congress.

One of the major concerns which our local government has spent much time and effort in wrestling with is the long-term fiscal integrity of the city, the need to tackle the resources that are inherent in our Nation's Federal district in order that we might produce the kind of economic development that will assure the residential population and the city a substantial and growing tax base.

I think all of us know that after the Government, which employs about 25 percent of the work force in the District of Columbia, the most important employment in the city is in tourism, which is so important to its retail stores, its industry, its hotels, its restaurants and the theaters. If the District of Columbia is to effectively capitalize upon the tourist and convention trade it will need a publicly constructed convention facility.

Again I want to commend the gentleman from Kentucky (Mr. NATCHER) for the support he has given to us in this regard. I also want to commend the gentleman most importantly for the support he has given to the principle of self-determination which is the heart of the issue before us today.

Again I urge a favorable vote on the conference report.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I will be happy to yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I thank my colleague, the gentleman from the District of Columbia (Mr. FAUNTROY), for yielding to me.

I would like to ask the chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER), a question.

I was startled to hear that the taxpayers in general will have to pick up the tab for the Metro system? Why is that and will the same requirement be put upon the taxpayers for the convention center?

Mr. NATCHER. If the gentleman will yield, I would like to say to the gentlewoman from New Jersey (Mrs. FENWICK) that under the authorization passed by this House to build the rapid transit system it provided for the District of Columbia's share, it provided for the outlying communities' shares and also the share of the Federal Government. The Federal Government was included in the original authorization.

At that time there was no provision for the issuance of $1.2 billion worth of bonds. Indeed, after we got the project started, with the Federal Government committed to pay about 50 percent of it, they later brought in the matter of the bonds, $1.2 billion worth. These bonds were issued with the understanding that they would be retired out of fare box collections. None of the bonds will be retired out of the fare box collections. They were guaranteed by the Federal Government. This House passed a bill whereby the Federal Government guaranteed payment of those bonds. I repeat, that bill was passed by the House and the Senate.

Mrs. FENWICK. Is anything similar being planned for payment for this conference center?

Mr. NATCHER. Is the gentlewoman referring to the proposed civic center?

Mrs. FENWICK. Yes.

Mr. NATCHER. There is none planned.

Mr. BURGENER. Mr. Speaker, if the gentleman will yield, I think, in response to the inquiry of the gentlewoman from New Jersey (Mrs. FENWICK) the answer is "no."

Mrs. FENWICK. So there is no Federal participation here?

Mr. BURGENER. No. These are Treasury bonds to be paid back by the District of Columbia the same as they borrow money to build schools, fire stations, libraries, parks, and so on. There is no Federal guarantee.

Mrs. FENWICK. It is not similar to the Metro system?

Mr. BURGENER. No.

Mrs. FENWICK. I thank the gentleman.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I rise to congratulate and compliment the distinguished gentleman from Kentucky for the very able job that he always does in discharging any responsibility that we ever place upon him. He has done a very excellent job in working out this conference report. As a man who for 15 years was an assessor of property, I think I have just a little insight into the problem that the District of Columbia has that is peculiar to it. All of the millions of dollars of property owned by the Federal Government occupied by Federal employees in any other city of the United States would be subject to taxes. If we were collecting ad valorem taxes in the District of Columbia on all property owned by the Federal Government and occupied by it, the District of Columbia would have no problem in financing its own budget without coming to the Congres for funding. The truth of the matter is that in addition to that, if this were a city such as Baltimore, the District of Columbia's local government would be

collecting probably a payroll tax on everyone working inside of the District of Columbia. None of that is available to the local city government, and we should bear that in mind when we consider the budget for the District of Columbia, the Nation's Capital.

This is the Nation's Capital, and we should take pride in it. I, for one, want to compliment and congratulate the distinguished gentleman from Kentucky for his very excellent leadership in this, as in all other matters where he has been charged with responsibility by this body.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I think my colleague, the gentleman from Tennessee (Mr. ALLEN) makes an excellent statement. I rise also in support of the conference report. I think the most telling argument that my colleague makes is the fact that this money provided by the Federal Government is really in lieu of payroll taxes and commuter taxes, and things like that, and that this is one of the real—maybe the real—justification for an appropriation bill like this. Will my colleague agree?

Mr. ALLEN. Yes; that is the basic reason. The Federal Government will always be called upon to contribute to the operation of the local government of the District of Columbia because it has deprived the local government of so much taxes that it would otherwise be collecting if it were operating as any other city in the United States.

Mr. NATCHER. Mr. Speaker, I want to thank my distinguished friend, the gentleman from Tennessee (Mr. ALLEN) for his statement.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. FOLEY). The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 2: Page 3, line 15, insert:

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198; the District of Columbia Appropriation Act, 1976, Public Law 94-333; and the District of Columbia Appropriation Act, 1977, Public Law 94-446; $92,000,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 20: Page 7, line 25, strike "$264,876,000" and insert "$272,982,900".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$264,679,200".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 22: Page 8, line 17, insert: ": *Provided further*, That not less than $5,392,000 of this appropriation shall be used exclusively for maintenance of the public schools.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 9, line 8, strike: "$285,865,600" and insert "$316,573,900".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$283,462,300".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 28: Page 10, line 4, insert: ": *Provided further*, That authorization is hereby provided to the Government of the District of Columbia to fund the Special Education tuition grants and increased bed capacity at D.C. Village out of funds heretofore appropriated to such Government for fiscal year 1977, but not to exceed $391,000 for tuition grants and $1,095,500 for D.C. Village".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: Page 12, line 21, insert ": *Provided*, That there is hereby appropriated from the funds of the District of Columbia $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6(a) of the District of Columbia Stadium Act of 1957, as amended.".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 13, line 14, strike out: $168,757,900 and insert "$102,173,400".

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided*, That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. BAUMAN moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

Mr. NATCHER. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

Does the gentleman from Kentucky (Mr. NATCHER) seek time?

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman would take some time briefly. I do not want to prolong this debate.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. NATCHER) is recognized for 30 minutes.

Mr. NATCHER. Mr. Speaker, on the motion offered by the gentleman from Maryland, I think the Members of the House should keep in mind that as far as the Civic Center is concerned it will be paid for by the District of Columbia out of its own money. We have an appropriation of $125,668,500 in this bill for the repayment of loans and interest by the District of Columbia to the Federal Government.

Mr. Speaker, we have home rule in the District of Columbia. As we can remember, some 5 years ago the home rule bill was enacted by this Congress. We have an elected Mayor. We have an elected City Council. I feel, Mr. Speaker, that if the elected Mayor and the elected City Council of the city of Washington want a Civic Center to be paid for out of their

own funds, they have a right to demand that a Civic Center be constructed.

Mr. Speaker, all down through the years the District of Columbia has paid its debts to the Federal Government; it has paid back the money that it owes. As I pointed out, we have money in the budget for this purpose at the present time. Not one dollar of this money will be coming from the Federal Government.

The District of Columbia would be issuing bonds now, as provided for under the Home Rule Act, if it had not been for the action taken by the other body. They took that action on the other side providing that the bonds could not be issued. Therefore, Mr. Speaker, the District of Columbia has to continue borrowing from the Federal Treasury.

I think the District of Columbia is entitled to this Civic Center to be paid for out of its own money. Every requirement concerning the interest of private business is here, the participation requirements will be complied with, and every statement that we set forth in the joint statement on this conference report will be complied with.

I say to the Members of the House that I hope the preferential motion offered by the gentleman from Maryland (Mr. BAUMAN) will be rejected.

Mr. Speaker, I request an "aye" vote on the motion to recede, and then I will offer a preferential motion to concur with the amendment set forth in the conference report.

The SPEAKER pro tempore (Mr. FOLEY). The gentleman from California (Mr. BURGENER) is recognized for 30 minutes.

Mr. BURGENER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to associate myself with the remarks of the chairman of the subcommittee, the gentleman from Kentucky (Mr. NATCHER).

I think it is well to remind ourselves of the expensive Federal projects that have not quite met our expectations, and I refer to the Kennedy Center and the National Visitors Center. Those are not, of course, the responsibility of the District of Columbia. The Metro presents a different situation. That is truly a partnership of the Federal Government, the District of Columbia government, and the local governments of Maryland and Virginia.

I just want to restate the fact that this proposal for the civic center has been voted on by the local government, and it is to be paid for by the local government, admittedly since it cannot issue bonds out of Treasury borrowings which it must pay back.

So without further belaboring the point, I think the restrictions we have placed on this in the conference report and in the language of the legislation are sufficient to satisfy this Member that the project, if it is ever built, is a sensible, reasonable project, and that it will have safeguards that will protect primarily the residents of the District of Columbia, since I believe the Federal taxpayers are already protected.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, as a taxpayer of the District of Columbia as well as back in my home district, I would be curious to know how specifically the District of Columbia proposes to finance the civic center. The gentleman says it will be an obligation of the District government.

Will real estate taxes be raised again, will there be an assessment of an amusement tax, or will there be a visitors' tax of some kind? Is either of the gentlemen prepared to answer that question?

Mr. BURGENER. Mr. Speaker, it is my understanding that these are regular Treasury borrowings to be paid pack, just the same as they are when they build a school, a library, or a fire station.

So the answer to the gentleman's question is no. However, with the provisions that we put in here that other private development projects must develop tax revenues, we have to carry the fixed costs, which means not only the fixed items but the operating costs, so we would have to be satisfied on that score before we appropriate the money.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield.

Mr. BURGENER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I do not wish to prolong this debate.

The gentleman from Kentucky (Mr. NATCHER) for whom I have the highest regard, has requested and received the right to divide the question. I have no objection to the adoption of a motion to recede from the position of the House. I do, however, object to the second motion that the gentleman will offer, which will be a motion to concur with an amendment that will add the $27 million downpayment on the Convention Center for the District of Columbia.

My opposition to this is compelled by concern for all the citizens of the District who will not benefit from this facility. The Government Accounting Office has investigated and found this project to be highly questionable as to its projected revenues, and about which one of the Members of the other body pointed out—and I quote:

> The convention center would only aggravate these negative trends and only put a further strain on the Treasury and on local taxes.

The argument that the District of Columbia is using its own money and its own borrowing authority just does not wash. This bill contains nearly $400 million in Federal taxpayers' money, including the Federal payment and other programs. If, indeed, as I suspect this center costs far more than the projected costs originally, the city will wind up coming back to Congress, asking all Americans to pay the bill. This is the only chance we have to stop this. If, indeed, the city can come in with proper cost estimates, as has been expressed here on the floor, then we ought to address the issue next year at the time they have this proof. There is nothing to prove the arguments that have been made here in favor of the Civic Center and every reason to disbelieve them.

It will be my intent to move at the appropriate time to table the motion to concur in the amendment, and an "aye" vote to table will be a vote against the convention center.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, my colleague has studied the past record, as I have, on these Washington projects, and I cannot help but recall that on most of those projects, I think all but one, there was virtually an ironclad statement of the sponsor of the project on the date of inception, like today, that they would oppose future appropriations over and above the mark that they had set. I have not heard those promises today. I wonder if there is a lack of candor here. I am just wondering if we all know down deep that it is going to cost more and if that is why we are not going to that specific question. I would feel a lot better if the managers on both sides would stand up and say: "This is the way it is going to be. If there is going to be an overrun, I will be the first to come on the floor and fight it."

We have heard that in the past, but we have not heard that today.

Mr. BAUMAN. Mr. Speaker, I have not heard those assurances and I do not think any Member on the floor can give those assurances, because the entire arrangement worked out by the conferees is subject to so many variables that it will be difficult to insure that no additional costs are going to be incurred. On the contrary, it probably assures additional costs.

Mr. NATCHER. Mr. Speaker, I move the previous question on the motion to recede.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recede.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to Senate amendment No. 37.

The House receded from its disagreement to Senate amendment No. 37.

PREFERENTIAL MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. NATCHER moves that the House concur in the amendment of the Senate numbered 37 with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$129,173,400: *Provided*, That none of the funds appropriated for the Washington Civic Center shall be obligated until the Subcommittees on the District of Columbia Appropriations of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. BAUMAN moves to table the motion to concur in the amendment of the Senate numbered 37, with an amendment.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the

Speaker pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 190, nays 199, answered "present" 1, not voting 44, as follows:

[Roll No. 321]

YEAS—190

Abdnor	Florio	Moore
Ambro	Flynt	Moorhead, Calif.
Andrews, N.C.	Forsythe	Moss
Andrews, N. Dak.	Fountain	Mottl
Archer	Gammage	Murphy, Ill.
Armstrong	Gephardt	Murtha
Ashbrook	Gibbons	Myers, John
Ashley	Gilman	Neal
Badham	Glickman	Nichols
Bafalis	Gradison	Pattison
Bauman	Grassley	Pursell
Beard, Tenn.	Gudger	Quayle
Bellenson	Guyer	Quie
Bennett	Hagedorn	Quillen
Bonker	Hall	Railsback
Bowen	Hammer-schmidt	Regula
Breaux	Hanley	Rinaldo
Brooks	Hannaford	Roberts
Broomfield	Hansen	Robinson
Brown, Ohio	Harsha	Rostenkowski
Broyhill	Hillis	Rousselot
Burke, Fla.	Hollenbeck	Rudd
Burleson, Tex.	Holt	Russo
Byron	Huckaby	Santini
Caputo	Hughes	Satterfield
Cavanaugh	Hyde	Sawyer
Clawson, Del	Ichord	Schroeder
Cleveland	Ireland	Shipley
Cohen	Jacobs	Shuster
Coleman	Jeffords	Skelton
Collins, Ill.	Johnson, Colo.	Smith, Nebr.
Collins, Tex.	Jones, Tenn.	Snyder
Conable	Kazen	Spellman
Cornell	Kelly	Spence
Cornwell	Ketchum	Stangeland
Cotter	Keys	Stark
Coughlin	Kindness	Stockman
Crane	Kostmayer	Stratton
Cunningham	Lagomarsino	Stump
D'Amours	Latta	Symms
Daniel, Dan	Leach	Taylor
Daniel, R. W.	Lent	Thone
de la Garza	Livingston	Treen
Delaney	Long, La.	Trible
Derrick	Long, Md.	Van Deerlin
Derwinski	Lott	Vander Jagt
Devine	Lujan	Vanik
Dickinson	McClory	Volkmer
Dingell	McCormack	Waggonner
Dodd	McDonald	Walsh
Dornan	McEwen	Wampler
Duncan, Tenn.	McKay	Watkins
Edgar	Madigan	Weaver
Edwards, Ala.	Marlenee	Whitehurst
Edwards, Okla.	Marriott	Winn
Emery	Martin	Wydler
English	Metcalfe	Wylie
Erlenborn	Mikulski	Yates
Ertel	Mikva	Yatron
Evans, Del.	Milford	Young, Alaska
Evans, Ga.	Miller, Ohio	Young, Fla.
Fary	Minish	Zeferetti
Fish	Mitchell, N.Y.	
Fithian	Montgomery	

NAYS—199

Addabbo	Bevill	Burke, Mass.
Akaka	Biaggi	Burlison, Mo.
Alexander	Bingham	Burton, John
Allen	Blanchard	Burton, Phillip
Ammerman	Blouin	Butler
Anderson, Calif.	Boggs	Carney
Anderson, Ill.	Boland	Carr
Annunzio	Bolling	Cederberg
Applegate	Bonior	Chappell
Aspin	Brademas	Chisholm
Baldus	Brinkley	Clausen, Don H.
Barnard	Brodhead	Clay
Bedell	Brown, Mich.	Conte
Benjamin	Buchanan	Conyers
	Burgener	
Corcoran	Kastenmeier	Pritchard
Corman	Kemp	Rahall
Danielson	Kildee	Rangel
Dellums	Krebs	Reuss
Dicks	Krueger	Rhodes
Downey	LaFalce	Richmond
Drinan	Le Fante	Risenhoover
Duncan, Oreg.	Leggett	Roe
Early	Lehman	Rogers
Eckhardt	Levitas	Roncalio
Edwards, Calif.	Lloyd, Calif.	Rose
Evans, Colo.	Lloyd, Tenn.	Rosenthal
Evans, Ind.	Luken	Roybal
Fascell	Lundine	Ruppe
Fenwick	McFall	Ryan
Findley	McKinney	Scheuer
Fisher	Maguire	Sebelius
Flippo	Mahon	Seiberling
Flood	Mann	Sharp
Flowers	Markey	Sikes
Foley	Marks	Simon
Ford, Tenn.	Mathis	Sisk
Fowler	Mattox	Skubitz
Fraser	Mazzoli	Slack
Fuqua	Meeds	Smith, Iowa
Garcia	Meyner	St Germain
Giaimo	Michel	Staggers
Ginn	Miller, Calif.	Stanton
Goldwater	Mineta	Steed
Gonzalez	Moakley	Steers
Goodling	Moffett	Steiger
Gore	Mollohan	Stokes
Green	Myers, Gary	Studds
Hamilton	Natcher	Thompson
Harkin	Nedzi	Traxler
Harrington	Nolan	Tsongas
Harris	Nowak	Udall
Hawkins	O'Brien	Ullman
Heckler	Oberstar	Waxman
Hefner	Obey	Weiss
Heftel	Ottinger	Whalen
Hightower	Panetta	White
Holland	Patten	Whitley
Holtzman	Patterson	Wiggins
Horton	Pease	Wilson, Bob
Howard	Pepper	Wilson, Tex.
Hubbard	Perkins	Wirth
Jenrette	Pettis	Wolff
Johnson, Calif.	Pickle	Wright
Jones, N.C.	Pike	Young, Mo.
Jones, Okla.	Preyer	Young, Tex.
Jordan	Price	Zablocki

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—44

AuCoin	Gaydos	Rodino
Baucus	Jenkins	Rooney
Beard, R.I.	Kasten	Runnels
Breckinridge	Lederer	Sarasin
Brown, Calif.	McCloskey	Schulze
Burke, Calif.	McDade	Solarz
Carter	McHugh	Teague
Cochran	Moorhead, Pa.	Thornton
Davis	Murphy, N.Y.	Tucker
Dent	Murphy, Pa.	Vento
Diggs	Myers, Michael	Walgren
Eilberg	Nix	Walker
Ford, Mich.	Oakar	Whitten
Frenzel	Poage	Wilson, C. H.
Frey	Pressler	

The Clerk announced the following pairs:

On this vote:

Mr. Davis for, with Mrs. Burke of California against.

Mr. Lederer for, with Mr. Brown of California against.

Mr. Michael Myers for, with Mr. Solarz against.

Mr. Runnels for, with Mr. Beard of Rhode Island against.

Mr. Cochran of Mississippi for, with Mr. Diggs against.

Mr. Frey for, with Mr. Ford of Michigan against.

Until further notice:

Mr. AuCoin with Mr. Sarasin.

Mr. Baucus with Mr. Nix.

Mr. Eilberg with Mr. McDade.

Mr. Gaydos with Mr. Thornton.

Mr. Jenkins with Mr. Schulze.

Mr. McHugh with Mr. Vento.

Mr. Rodino with Mr. Whitten.

Mr. Moorhead of Pennsylvania with Mr. McCloskey.

Mr. Rooney with Mr. Tucker.

Mr. Teague with Ms. Oakar.

Mr. Breckinridge with Mr. Walgren.

Mr. Dent with Mr. Frenzel.

Mr. Murphy of New York with Mr. Carter.

Mr. Murphy of Pennsylvania with Mr. Walker.

Mr. Charles H. Wilson of California with Mr. Pressler.

Messrs. BLOUIN, RANGEL and MOFFETT changed their vote from "yea" to "nay."

Messrs. MOSS, HUGHES, ZEFERETTI, MIKVA, ABDNOR, ASHLEY, and DICKINSON changed their vote from "nay" to "yea."

So the preferential motion to table was rejected.

The result of the vote was announced as above recorded.

Mr. NATCHER. Mr. Speaker, I move the previous question on the motion now pending.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the preferential motion offered by the gentleman from Kentucky (Mr. NATCHER) to concur in the Senate amendment No. 37, with an amendment.

The question is on the preferential motion offered by the gentleman from Kentucky (Mr. NATCHER).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 199, nays 183, answered "present" 1, not voting 51, as follows:

[Roll No. 322]

YEAS—199

Addabbo	Conte	Heftel
Akaka	Conyers	Holland
Alexander	Corcoran	Holtzman
Allen	Corman	Horton
Ammerman	Danielson	Howard
Anderson, Calif.	Dellums	Jeffords
Anderson, Ill.	Derrick	Jenrette
Annunzio	Dicks	Johnson, Calif.
Applegate	Downey	Jones, N.C.
Ashley	Duncan, Oreg.	Jones, Okla.
Aspin	Early	Jordan
Baldus	Edwards, Calif.	Kastenmeier
Barnard	Evans, Colo.	Kemp
Beard, R.I.	Evans, Ga.	Keys
Benjamin	Fascell	Kildee
Bevill	Fenwick	Krebs
Biaggi	Findley	Krueger
Bingham	Fisher	Leggett
Blanchard	Flood	Lehman
Blouin	Florio	Levitas
Boggs	Flowers	Lloyd, Calif.
Boland	Foley	Lloyd, Tenn.
Bolling	Ford, Tenn.	Long, La.
Bonior	Fountain	Lundine
Bonker	Fowler	McClory
Brademas	Fraser	McFall
Brinkley	Fuqua	McKinney
Brodhead	Garcia	Maguire
Brown, Mich.	Giaimo	Mahon
Buchanan	Ginn	Mann
Burgener	Gonzalez	Markey
Burke, Mass.	Gore	Marks
Burlison, Mo.	Green	Mathis
Burton, John	Guyer	Mattox
Burton, Phillip	Hamilton	Mazzoli
Carney	Hanley	Meeds
Carr	Hannaford	Meyner
Cederberg	Harkin	Michel
Chappell	Harrington	Miller, Calif.
Chisholm	Harris	Mineta
Clay	Hawkins	Moakley
	Hefner	Moffett

Mollohan	Rhodes	Steers
Myers, Gary	Richmond	Steiger
Natcher	Risenhoover	Stokes
Nedzi	Roe	Studds
Nolan	Rogers	Thompson
Nowak	Roncalio	Traxler
O'Brien	Rose	Tsongas
Oberstar	Rosenthal	Udall
Obey	Roybal	Ullman
Ottinger	Ryan	Volkmer
Patten	Scheuer	Walsh
Patterson	Sebelius	Waxman
Pease	Seiberling	Weiss
Pepper	Sharp	Whalen
Perkins	Sikes	White
Pettis	Simon	Whitley
Pickle	Sisk	Wilson, Bob
Pike	Skubitz	Wilson, Tex.
Preyer	Slack	Wirth
Price	Smith, Iowa	Wolff
Pritchard	Solarz	Wright
Rahall	St Germain	Young, Mo.
Rangel	Staggers	Young, Tex.
Regula	Stanton	Zablocki
Reuss	Steed	

NAYS—183

Abdnor	Evans, Ind.	Montgomery
Ambro	Fary	Moore
Andrews, N.C.	Fish	Moorhead, Calif.
Andrews, N. Dak.	Fithian	Moss
Archer	Flippo	Mottl
Armstrong	Flynt	Murphy, Ill.
Ashbrook	Forsythe	Murtha
Badham	Gammage	Myers, John
Bafalis	Gephardt	Nichols
Bauman	Gibbons	Panetta
Beard, Tenn.	Gilman	Pattison
Bedell	Glickman	Pursell
Beilenson	Goldwater	Quayle
Bennett	Goodling	Quie
Bowen	Gradison	Quillen
Breaux	Grassley	Railsback
Brooks	Gudger	Rinaldo
Broomfield	Hagedorn	Roberts
Brown, Ohio	Hall	Robinson
Broyhill	Hammer-schmidt	Rostenkowski
Burke, Fla.	Hansen	Rousselot
Burleson, Tex.	Harsha	Rudd
Butler	Heckler	Russo
Byron	Hightower	Santini
Caputo	Hillis	Satterfield
Cavanaugh	Hollenbeck	Sawyer
Clausen, Don H.	Holt	Schroeder
Clawson, Del	Huckaby	Shipley
Cleveland	Hughes	Shuster
Cohen	Hyde	Skelton
Coleman	Ichord	Smith, Nebr.
Collins, Ill.	Ireland	Snyder
Collins, Tex.	Jacobs	Spellman
Conable	Johnson, Colo.	Spence
Cornell	Jones, Tenn.	Stangeland
Cornwell	Kazen	Stark
Cotter	Kelly	Stockman
Coughlin	Ketchum	Stratton
Crane	Kostmayer	Stump
Cunningham	LaFalce	Symms
D'Amours	Lagomarsino	Taylor
Daniel, Dan	Latta	Thone
Daniel, R. W.	Leach	Treen
de la Garza	Lent	Trible
Delaney	Livingston	Van Deerlin
Derwinski	Long, Md.	Vander Jagt
Devine	Lott	Vanik
Dickinson	Lujan	Waggonner
Dingell	Luken	Wampler
Dodd	McCormack	Watkins
Dornan	McDonald	Weaver
Drinan	McEwen	Whitehurst
Duncan, Tenn.	McKay	Winn
Edgar	Madigan	Wydler
Edwards, Ala.	Marlenee	Wylie
Edwards, Okla.	Marriott	Yates
Emery	Martin	Yatron
English	Mikulski	Young, Alaska
Erlenborn	Mikva	Young, Fla.
Ertel	Milford	Zeferetti
Evans, Del.	Miller, Ohio	
	Minish	

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—51

AuCoin	Davis	Frey
Baucus	Dent	Gaydos
Breckinridge	Diggs	Hubbard
Brown, Calif.	Eckhardt	Jenkins
Burke, Calif.	Eilberg	Kasten
Carter	Ford, Mich.	Kindness
Cochran	Frenzel	Le Fante
Lederer	Neal	Schulze
McCloskey	Nix	Teague
McDade	Oakar	Thornton
McHugh	Poage	Tucker
Metcalfe	Pressler	Vento
Mitchell, N.Y.	Rodino	Walgren
Moorhead, Pa.	Rooney	Walker
Murphy, N.Y.	Runnels	Whitten
Murphy, Pa.	Ruppe	Wiggins
Myers, Michael	Sarasin	Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Davis against.

Mr. Brown of California for, with Mr. Neal against.

Mr. Diggs for, with Mr. Lederer against.

Mr. Ford of Michigan for, with Mr. Michael O. Myers against.

Mr. Murphy of New York for, with Mr. Runnels against.

Until further notice:

Mr. AuCoin with Mr. Mitchell of New York.

Mr. Baucus with Mr. Carter.

Mr. Breckinridge with Mr. Frenzel.

Mr. McHugh with Mr. Kasten.

Mr. Metcalfe with Mr. McCloskey.

Mr. Rodino with Mr. Murphy of Pennsylvania.

Mr. Rooney with Mr. Nix.

Mr. Tucker with Mr. Cochran of Mississippi.

Mr. Vento with Mr. Pressler.

Mr. Walgren with Mr. Eckhardt.

Mr. Moorhead of Pennsylvania with Ms. Oakar.

Mr. Dent with Mr. Kindness.

Mr. Eilberg with Mr. Frey.

Mr. Gaydos with Mr. Sarasin.

Mr. Hubbard with Mr. McDade.

Mr. Jenkins with Mr. Ruppe.

Mr. Le Fante with Mr. Schulze.

Mr. Teague with Mr. Thornton.

Mr. Whitten with Mr. Charles H. Wilson of California.

Mr. Walker with Mr. Wiggins.

Mrs. HECKLER and Mr. QUAYLE changed their vote from "yea" to "nay."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 39: Page 14, line 20, insert: ": *Provided further*, That none of the funds appropriated for the construction of the University of the District of Columbia shall be obligated until the Mayor, the City Council and House and Senate Committees on Appropriations have approved the consolidated master plan for the construction of the University of the District of Columbia.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. NATCHER moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the conference report just agreed to, and that I be permitted to include a tabulation summarizing the action taken.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS FOR FISCAL YEAR 1979

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1174 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1174

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11686) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous questions shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1174 provides for the consideration of H.R. 11686, which authorizes appropriations for the Department of Energy for National Security Programs for fiscal year 1979. This is a routine 1 hour, open rule which provides that the bill be read for amendment by titles instead of by sections. The rule was granted by the committee by a voice vote on May 10, 1978.

The bill, H.R. 11686, authorizes appropriations totaling $2.9 billion for fiscal year 1979 for Energy Department Research and Development and production of strategic and critical materials, and military applications of nuclear energy. I am sure that the details concerning the bill and its purpose will be fully provided by the chairman and members of the Committee on Armed Services during debate on the bill.

Although certain items, in particular funds for the neutron bomb, in the bill itself are controversial, the Committee on Rules has granted this open rule so that the full House may have the opportunity to work its will on this important legislation.

Mr. Speaker, I urge the adoption of House Resolution 1174 so that the House may consider the bill H.R. 11686.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) has explained the provisions of the rule, and while there is some dispute on the measure itself which will be hammered out during the debate on the bill, I have no objection to the rule.

I urge the adoption of the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 0, not voting 56, as follows:

[Roll No. 323]

YEAS—378

Abdnor	Broyhill	Dodd
Addabbo	Buchanan	Dornan
Akaka	Burgener	Downey
Alexander	Burke, Fla.	Drinan
Allen	Burke, Mass.	Duncan, Oreg.
Ambro	Burleson, Tex.	Duncan, Tenn.
Ammerman	Burlison, Mo.	Early
Anderson, Calif.	Burton, John	Eckhardt
	Burton, Phillip	Edgar
Anderson, Ill.	Butler	Edwards, Ala.
Andrews, N.C.	Byron	Edwards, Calif.
Andrews, N. Dak.	Caputo	Edwards, Okla.
	Carney	Emery
Annunzio	Carr	English
Applegate	Cavanaugh	Erlenborn
Archer	Cederberg	Ertel
Armstrong	Chappell	Evans, Colo.
Ashbrook	Chisholm	Evans, Del.
Ashley	Clausen, Don H.	Evans, Ga.
Aspin		Evans, Ind.
Badham	Clawson, Del	Fary
Bafalis	Clay	Fascell
Baldus	Cleveland	Fenwick
Barnard	Cohen	Findley
Bauman	Coleman	Fish
Beard, R.I.	Collins, Ill.	Fisher
Beard, Tenn.	Collins, Tex.	Fithian
Bedell	Conable	Flippo
Beilenson	Conte	Flood
Benjamin	Conyers	Florio
Bennett	Corcoran	Flowers
Bevill	Corman	Flynt
Biaggi	Cornell	Foley
Bingham	Cornwell	Ford, Tenn.
Blanchard	Cotter	Forsythe
Blouin	Coughlin	Fountain
Boggs	Crane	Fowler
Boland	Cunningham	Fuqua
Bolling	D'Amours	Gammage
Bonior	Daniel, Dan	Garcia
Bonker	Daniel, R. W.	Gephardt
Bowen	Danielson	Giaimo
Brademas	de la Garza	Gibbons
Breaux	Delaney	Gilman
Brinkley	Dellums	Ginn
Brodhead	Derrick	Glickman
Brooks	Derwinski	Goldwater
Broomfield	Devine	Gonzalez
Brown, Mich.	Dickinson	Goodling
Brown, Ohio	Dingell	Gore
Gradison	Mahon	Ruppe
Grassley	Mann	Russo
Green	Markey	Ryan
Gudger	Marks	Santini
Guyer	Marlenee	Satterfield
Hagedorn	Marriott	Sawyer
Hall	Martin	Scheuer
Hamilton	Mathis	Schroeder
Hammer-schmidt	Mattox	Sebelius
	Meeds	Selberling
Hanley	Metcalfe	Sharp
Hannaford	Meyner	Shipley
Hansen	Michel	Shuster
Harkin	Mikulski	Sikes
Harrington	Mikva	Simon
Harris	Milford	Sisk
Harsha	Miller, Calif.	Skelton
Hawkins	Miller, Ohio	Skubitz
Heckler	Mineta	Slack
Hefner	Minish	Smith, Iowa
Heftel	Mitchell, Md.	Smith, Nebr.
Hightower	Moakley	Snyder
Hillis	Moffett	Solarz
Holland	Mollohan	Spellman
Hollenbeck	Montgomery	Spence
Holt	Moore	St Germain
Holtzman	Moorhead, Calif.	Staggers
Horton		Stangeland
Huckaby	Moss	Stanton
Hughes	Mottl	Stark
Hyde	Murphy, Ill.	Steed
Ichord	Murtha	Steers
Ireland	Myers, Gary	Steiger
Jacobs	Myers, John	Stockman
Jeffords	Natcher	Stratton
Jenrette	Nedzi	Studds
Johnson, Calif.	Nichols	Stump
Johnson, Colo.	Nolan	Symms
Jones, N.C.	Nowak	Taylor
Jones, Okla.	Oberstar	Thompson
Jones, Tenn.	Obey	Thone
Jordan	O'Brien	Traxler
Kastenmeier	Ottinger	Treen
Kazen	Panetta	Trible
Kelly	Patten	Tsongas
Kemp	Patterson	Udall
Ketchum	Pattison	Ullman
Keys	Pease	Van Deerlin
Kildee	Pepper	Vander Jagt
Kindness	Perkins	Vanik
Krebs	Pettis	Volkmer
Krueger	Pickle	Waggonner
LaFalce	Pike	Walsh
Lagomarsino	Preyer	Wampler
Latta	Price	Watkins
Leach	Pritchard	Waxman
Leggett	Pursell	Weaver
Lehman	Quayle	Weiss
Lent	Quie	Whalen
Levitas	Quillen	White
Livingston	Rahall	Whitehurst
Lloyd, Calif.	Rangel	Whitley
Lloyd, Tenn.	Regula	Wilson, Bob
Long, La.	Reuss	Wilson, Tex.
Long, Md.	Richmond	Winn
Lott	Rinaldo	Wirth
Lujan	Risenhoover	Wolff
Luken	Roberts	Wright
Lundine	Robinson	Wydler
McClory	Roe	Wylie
McCormack	Rogers	Yates
McDonald	Roncalio	Yatron
McEwen	Rose	Young, Alaska
McFall	Rosenthal	Young, Fla.
McHugh	Rostenkowski	Young, Mo.
McKay	Rousselot	Zablocki
McKinney	Roybal	Zeferetti
Madigan	Rudd	

NAYS—0

NOT VOTING—56

AuCoin	Jenkins	Railsback
Baucus	Kasten	Rhodes
Breckinridge	Kostmayer	Rodino
Brown, Calif.	Le Fante	Rooney
Burke, Calif.	Lederer	Runnels
Carter	McCloskey	Sarasin
Cochran	McDade	Schulze
Davis	Maguire	Stokes
Dent	Mazzoli	Teague
Dicks	Mitchell, N.Y.	Thornton
Diggs	Moorhead, Pa.	Tucker
Eilberg	Murphy, N.Y.	Vento
Ford, Mich.	Murphy, Pa.	Walgren
Fraser	Myers, Michael	Walker
Frenzel	Neal	Whitten
Frey	Nix	Wiggins
Gaydos	Oakar	Wilson, C. H.
Howard	Poage	Young, Tex.
Hubbard	Pressler	

The Clerk announced the following pairs:

Mr. Lederer with Mr. Carter.
Mr. Michael O. Myers with Mr. Ford of Michigan.
Mr. Le Fante with Mr. Hubbard.
Mr. AuCoin with Mr. Kasten.
Mr. Baucus with Mr. Maguire.
Mr. Breckinridge with Mr. Railsback.
Mr. Rodino with Mr. McCloskey.
Mr. Rooney with Mr. Cochran of Mississippi.
Mr. Murphy of New York with Mr. Walker.
Mr. Moorhead of Pennsylvania with Mr. Kostmayer.
Mr. Davis with Mr. Pressler.
Mr. Brown of California with Mr. Wiggins.
Mrs. Burke of California with Mr. Tucker.
Mr. Dent with Mr. Fraser.
Mr. Gaydos with Mr. Murphy of Pennsylvania.
Mr. Eilberg with Mr. Thornton.
Mr. Diggs with Mr. McDade.
Mr. Mazzoli with Mr. Walgren.
Mr. Jenkins with Mr. Teague.
Mr. Stokes with Mr. Frenzel.
Mr. Vento with Mr. Schulze.
Mr. Charles H. Wilson of California with Mr. Sarasin.
Ms. Oakar with Mr. Mitchell of New York.
Mr. Nix with Mr. Whitten.
Mr Neal with Mr. Dicks.
Mr. Howard with Mr. Runnels.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11686) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11686, with Mr. BREAUX in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from California (Mr. BOB WILSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, the bill, H.R. 11686, would authorize appropriations for the national security programs of the Department of Energy (DOE) for fiscal year 1979, in response to President Carter's budget request.

The President requested new authorizations totaling $3,020.3 million. The bill contains authorizations totaling $2,897.1 million—a reduction of $123.2 million and 4 percent from the amount requested.

The bill would provide authorizations in three major categories: "Operating Expenses," "New Plant and Capital Equipment," and "Additional Authoriza-

tions for Previously Authorized Projects."

The greater part of "Operating Expenses" support the operation of the several Government-owned and contractor-operated laboratories and production plants necessary to carry out approved programs.

"New Plant and Capital Equipment" funds provide facilities for research and development, production, waste management, security, and fire protection. These funds also provide for the replacement of a limited number of facilities which have been in use since World War II.

Appropriations authorized for "Previously Authorized Projects" provide for further construction of projects begun in prior years which have been incrementally funded.

H.R. 11686 includes only those national security and defense-related programs of the Department of Energy (DOE) which are within the Armed Services Committee's jurisdiction. These programs represent less than 25 percent of the DOE budget for the next fiscal year.

While the costs of these programs represent only 2 percent of the total recommended budget for defense, and equal approximately six-tenths of 1 percent of the national budget for 1979, the programs are tremendously important to our defense. These programs are necessary to assure the future viability of our strategic and tactical nuclear forces, and their ability to deter war.

DOE NATIONAL SECURITY PROGRAMS

The bill would provide authorizations for the inertial confinement fusion (ICF) program in the amount of $299.2 million. The ICF program, formerly called laser fusion, has two ultimate goals. In the near term, it will have certain applications for nuclear weapons design and simulation. In the long term, the principle may be found scientifically and economically feasible as a new source of energy. The bill would increase operating expenses for this program by $12.2 million above the request.

Appropriations would be authorized in the amount of $290.6 million to support the continuation of the naval reactor research and development program.

Authorizations totaling $1,397.5 million are included in the bill for weapons activities—a net reduction of $26.3 million below the request.

Certain classified programs aimed at improving defense intelligence technology, and other technology useful in detecting possible violations of arms control agreements would be authorized in the amount of $28.4 million.

The bill would authorize appropriations for special nuclear materials production and defense waste management programs in the amount of $738.8 million.

The important safeguards and security programs would be authorized at a level of $43.1 million.

The bill also includes $99.5 million for defense program management and support expenses, and in authorizations for construction projects common to all programs.

COMMITTEE CHANGES

As I have indicated, the bill is $123.2 million below the President's budget request. This net reduction results from the committee's disapproval of the proposed B43 bomb modification program, and recommended reductions in authorizations sought for some construction projects.

The $2.9 billion in authorizations remaining in the bill will provide adequate support for the programs which the President has approved for the next several years.

MAINTAINING THE BALANCE OF POWER

Mr. Chairman, Secretary Brown and the Joint Chiefs of Staff are in agreement that the Soviet Union is continuing its great military buildup. Observers, both here and abroad, have stated that the Soviets now have military forces, both nuclear and conventional, far in excess of any defensive need. Yet, the buildup of Soviet strategic forces continues.

During the 5 years after SALT I was signed, the Soviets developed and deployed the SS–16, SS–17, SS–18, and SS–19 ICBM's. They developed and deployed new large ballistic missile submarines. They developed and deployed the SS–20 IRBM against NATO. They developed and deployed the Backfire bomber. In addition, as Secretary Brown recently noted, the Soviets are developing an entirely new series of ICBM's.

It is generally agreed that the Soviets enjoy a substantial quantitative advantage over the United States in most all conventional military systems. They are constantly striving to improve the quality of both their conventional and strategic forces.

In the face of these facts, President Carter made the point very forcefully, in his Wake Forest speech, that the United States will not hand over military superiority to the Soviets by default. He called for modernization and strengthening of our conventional as well as our nuclear military forces.

The intentions behind the Soviet military buildup are not clear. On the one hand, we have the statements of their leaders that "Soviet arms are only for the protection of the motherland." On the other hand, we have the evidence of their actions in the Horn of Africa and in the Middle East. In any case, we cannot afford to gamble on the obscure intentions of Soviet leaders.

If the military power of the United States were to be neutralized, Soviet influence would be spread worldwide. The eclipse of American military power would leave the Soviets free to engage in military adventures in Europe or in other parts of the world without real opposition.

The bill, H.R. 11686, would provide a relatively small but vitally necessary increment of American military power and this is crucial to our future national security.

I ask an affirmative vote on the bill.

Mr. BOB WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 11686. As our distinguished chairman (Mr. PRICE) has explained, this bill would authorize appropriations for defense-related programs of the Department of Energy (DOE) for fiscal year 1979.

The bill is important and deserves support for several reasons:

First, it provides the "teeth" for our strategic and tactical nuclear deterrent forces. Contrary to the ideas expressed by some persons, the world has not become more peaceful, or less dangerous, since World War II. For the United States, the risks of war and the challenges to our national interests have multiplied with the passing years.

Second, the bill will provide for the continuation of the high-technology programs within the several laboratories and production facilities of the Department of Energy. The teams of scientists and engineers devoted to the Department's national security programs represent a unique resource. If we are to have a viable nuclear deterrent force in the future, these people must lay the groundwork today, facilities must be maintained, and complex problems must be solved.

The bill would authorize funds for inertial confinement fusion research (formerly called laser fusion) which has a growing application in the determination of weapons effects and in the solution of weapons problems. This program, now supported for its national defense applications, may be the basic research necessary for a new source of energy.

This legislation would continue support for naval reactor research and development. This important and highly successful program has provided the Navy with safe and reliable propulsion plants for more than 100 ships. The first nuclear core for a submarine—the *Nautilus*—had an endurance of 62,000 miles. Present core designs will last for 400,000 miles at less cost. The goal of the program is to design even more economical reactors which will last throughout the life of the ship. Nuclear-powered warships have steamed more than 37 million miles and have accumulated over 1,600 reactor years of operation.

As the cost of oil continues to rise, and as the oil shortage increases, the wisdom of relying on nuclear propulsion for our Navy's ships will become more apparent.

The Committee on Armed Services generally supported President Carter's budget request for defense-related programs, and H.R. 11686 reflects this support. Support for the President's request, however, does not mean that the committee merely "rubberstamped" the programs presented. In fact, the committee's report will show that many changes were made.

As Chairman PRICE has noted, the bill would authorize appropriations at a level some $123 million below the request. We carefully examined each program. We recommended reductions where no damage would be done to essential programs and increases where programs were underfunded.

For example, the bill would authorize $12.2 million more in operating money for inertial confinement fusion research

than requested. Without this increase, this important program would be substantially delayed. We also recommended modest increases in the maintenance and repair area, and in the request for the design of new facilities. The bill would restore authorizations for five modest construction projects which are of high priority but were deleted during the budget review process.

Prior to discussing the authorization for nuclear weapons activities, it may be helpful to discuss the decisionmaking process involved.

Weapons specifications are originated by the Department of Defense in response to existing or forecast military requirements. The specifications are usually provided to the Department of Energy years in advance of a production decision. A nuclear weapons guidance document is prepared each year and reviewed by the Joint Chiefs of Staff. If approved by the Director of Defense Research and Engineering, the document is forwarded to the Department of Energy.

Through the legally established liaison process, the Department of Energy may perform conceptual studies, program studies, or development engineering. If all necessary approvals are obtained, production engineering, first production, and quantity production of a weapon will result.

There is a crucial legal requirement connected with weapons research, development, and production. To assure direct Presidential control, section 91 of the Atomic Energy Act of 1954 requires the "express consent and direction" of the President to do research and development on, or to produce, nuclear weapons. The law requires that this "consent and direction shall be obtained at least once each year."

Research and development and production decisions respecting nuclear weapons result from a very careful process. It is a process in which the President of the United States is required to participate by law. It is a decision process which the Congress has entrusted to every President since President Truman.

As the committee report on H.R. 11686 shows, the bill provides R. & D. and production authorizations for the President's fiscal year 1979 weapons program with a single exception. The requested authorization for rebuilding the old B–43 gravity bomb is not included. After careful study, the committee concluded that the proposed program was not cost effective, it involves a high degree of technical risk, and very little military advantage would be gained.

The bill would support the recent decision of the President to modernize the Lance missile and 8-inch projectile warheads to strengthen NATO. The new 8-inch round, for example, will be much more accurate, safer, and more secure for stockpiling in forward areas. The new round can be field assembled in 2 minutes, compared to the 1 hour required for the 8-inch round now deployed in NATO.

Also, the bill would support the President's decision to produce a limited number of Lance missile warheads of improved design which will improve the safety, security, and military effectiveness of this system.

While the President has decided to modernize our battlefield nuclear deterrent, he has deferred any decision to produce enhanced radiation weapons in the hope that some response would be made by the Soviets.

President Carter's decision, however, retained the option to add enhanced radiation features at a later time. As a result of the President's decision on April 7, there is no longer a request before the Congress for fiscal year 1979 funds to produce enhanced radiation weapons. While I do not personally agree with the President on the deferral of production, I hope that he will assure that all preparations are made to exercise this option.

Mr. Chairman, the overwhelming passage of this bill will send a message to both the Soviet Union and to our allies that the Congress of the United States is going to preserve the nuclear deterrent. That no potential aggressor can expect to walk away from a military adventure without heavy losses.

I urge the passage of the bill.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman yielding to me.

Mr. Chairman, did I hear the gentleman say that there are, on the basis of the President's decision to defer his decision on production of the enhanced radiation weapon, that there are no funds included in this authorization measure for the enhanced radiation weapon?

Mr. BOB WILSON. There are no funds for the production of the enhanced radiation weapon.

Mr. WEISS. Then, would the gentleman explain to me what the import of section 209 on page 11 would be, which says:

> No funds authorized to be appropriated by this Act may be used for the production of enhanced radiation weapons unless the President certifies to the Congress that the production of such weapons is in the national interest and submits a report to the Congress stating his reasons for such production.

Where would the money come from should the President decide that such an action on his part would be in the national interest?

Mr. BOB WILSON. I do not know about the gentleman, but that section is very clear to me. It says that no funds are in here for the production of enhanced radiation weapons unless the President says so, and then he will have to come and ask for appropriations to do so.

This is an authorization bill, remember. We are not authorizing any production of nuclear weapons.

Mr. WEISS. Will the gentleman yield further?

Mr. BOB WILSON. I will be happy to yield.

Mr. WEISS. I appreciate the gentleman yielding to me. Would the gentleman agree with me that if, in fact, there are no funds authorized to be appropriated in this particular authorization measure, that if we were simply to stop on line 18 after the word "weapons," it would not be taking anything out of this legislation, and we clarfiy as to whether the President did or did not have the right to go forward?

Mr. BOB WILSON. I think the paragraph is perfectly self-explanatory. I accept it as it is written. I think the President has said that he wanted an option. I think the House, in supporting this, would support that option that he has. So, I would not agree with the gentleman that taking that section out makes no difference.

Mr. WEISS. If the gentleman will yield further, at this point I am confused, and I suspect it is partly my fault.

Mr. BOB WILSON. I am probably doing all I can to help.

Mr. WEISS. I think that may be so also, but again if the President has the authority to go forward to have some of the money authorized here to be spent for the production of enhanced radiation weapons if he certifies to the Congress that it is in the national interest to do so, where would that money come from?

Mr. BOB WILSON. Obviously he would have to come back to the House and have some action on an appropriation bill to get the money.

Mr. WEISS. Would there have to be an amendment to this authorization measure, or does this authorization measure in fact provide the authorization for such funding by appropriation?

Mr. BOB WILSON. It provides the authorization with the condition that he has to come to the House and explain.

Mr. WEISS. So there is authorization for funding. I thank the gentleman for yielding.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WEISS.)

Mr. WEISS. Mr. Chairman, I appreciate the gentleman yielding the time to me. It is a courtesy that is consistent with his usual gracious conduct on this floor.

Mr. Chairman, although the amendment that we will be discussing later on will refer only to the section on the enhanced radiation weapon that I have just had occasion to have a colloquy on with the gentleman from California, I think probably we ought to place into context that particular weapon, the enhanced radiation weapon, with the rest of this measure.

H.R. 11686 authorizes the expenditure of some $2.9 billion almost totally for nuclear weaponry.

Given the state of the world as it has developed over the course of the last 33 years, I suppose it is inevitable that we wind up authorizing additional funds for nuclear weapons, but I think we ought to at all times be aware of where this nuclear race is likely to be taking us.

We should take into account the statement that the President made in his inauguration address where he expressed the hope that in his administration we would be taking major steps

toward the point where the nations of the world would have zero nuclear weapons.

The facts are, Mr. Chairman, that although it is often stated by those who claim Soviet superiority, that the U.S.S.R. has more missile nuclear launchers than the United States, that statement ignores the more important fact that our nuclear arsenal contains 11,330 deployed warheads to 3,515 for the Soviet Union.

I think it is important to stress in this general debate where we have come from since the last and perhaps the first debate of any kind on tactical nuclear weaponry—and certainly on the neutron bomb—which took place in this House in September of last year.

At that time a similar amendment was offered, and there was a great deal of discussion on the floor of this House and outside of this House.

Subsequently, on April 7, the President of the United States indicated that he was deferring production of enhanced radiation weapons. This announcement produced a great outcry about how the President was vacillating when, in fact, he had never committed himself to production and had already deferred it from October.

I think it may be worth noting that the position of the President of the United States was consistent with that of other Presidents of the United States going back to the Kennedy administration. Indeed, in a debate in the other body on February 21, 1963, the late Senator Thomas Dodd, in remarks that appear in the CONGRESSIONAL RECORD at page 2807 of that date, takes the Kennedy administration to task for not being fully aware of the Soviet Union's scientific developments concerning the production of a nuclear bomb, and enhanced radiation weapon.

And while there has been a great deal of talk recently to the effect that if we do not produce a neutron bomb—enhanced radiation weapon—that we will harm ourselves by foregoing the production of a vital defensive weapon, it is worth noting that in that debate Senator Dodd referred to the neutron bomb as an offensive weapon. Indeed, he set forth the hypothetical situation of the Russians invading West Germany, noting that the Russians' use of the neutron bomb would be ideal for them because they could take over Western Europe while leaving its industry intact.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEISS. I thank the chairman for yielding me this time.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. I, too, intend to support the amendment that will be offered by my colleague, the gentleman from New York (Mr. WEISS), and I again want to compliment him for his initiative and leadership on the very serious issue of the neutron bomb. I am disturbed to see that this authorization in essence writes a blank check to the Committee on Appropriations and says whatever the Committee on Appropriations seeks to appropriate for the neutron bomb is authorized in this bill (of course, if there is a Presidential certification of need). I think the members of this committee, if they have not done so already, ought to read an article in the May 1978 issue of Scientific American that discusses in a very scholarly and scientific fashion the issues related to the neutron bomb. I think after one finishes that article, one will clearly recognize that the bomb is not only militarily dangerous, not only expensive, but will also create a serious hazard to our own troops.

I think it is rather extraordinary that in discussing the use of the neutron bomb our military keeps saying that it is safe for American troops to be exposed to 150 rads of radiation. I think members of this committee know that the industrial safety level for exposure to radiation is 5 rads, so we are going to be authorizing a bomb that will expose our own troops to 30 times the radiation that would ordinarily be safe.

Do we really want to conduct a war by endangering our own troops by exposing them to a serious radiation hazard? I think this is a serious question that has not been discussed in connection with this bomb.

I would also like to ask the chairman of the committee a question, if he would be good enough to respond. I understand that we already have in our stockpiles roughly 30,000 nuclear weapons. How many additional nuclear weapons does this bill authorize, and how many additional nuclear weapons does the chairman think will assure the safety of this country?

Mr. PRICE. If the gentlewoman would yield, let me say that I have been exposed to nuclear weapons since they were first invented, and I have never publicly discussed, and do not want to discuss now, how many bombs we have in our stockpile. That is classified information protected by law.

Ms. HOLTZMAN. I said "approximately," and I was not aware that was classified information. That information appeared in the press. Is the number of additional new weapons authorized by this bill classified?

Mr. PRICE. The number is classified. The only thing I could volunteer to the gentlewoman is that we have had a net decrease in our stockpile, and that is still classified, the amount of that decrease in our stockpile of weapons.

Ms. HOLTZMAN. A net decrease? This bill spends more money to decrease the number of nuclear weapons?

Mr. PRICE. We spend more money for new development. We have been able to replace old, obsolete weapons on a less than one-for-one basis.

Ms. HOLTZMAN. But the total number of nuclear weapons under this bill will be decreased?

Mr. PRICE. Like any other stockpile of ammunition, we try to keep it in usable and reliable shape, usable and safe condition, and we spend money on stockpiles to replace older, less reliable, and less safe weapons with new ones which meet changing military requirements.

Mr. BOB WILSON. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I will be happy to yield to the gentleman from California. I was just confused by that answer.

Mr. BOB WILSON. I do not know the total number of warheads either that we have in storage, but I am told there has been a declining number in storage, and the ones that are authorized in this particular bill are going to replace some of the older ones, so there will be no net increase and a probable slight decrease in the total number of warheads that we have.

Ms. HOLTZMAN. I thank the gentleman for his answer, and I yield back the remainder of my time.

The CHAIRMAN. Does the gentleman from California seek any additional time?

Mr. BOB WILSON. I have no further requests for time.

Mr. PRICE. I have no further requests for time.

The CHAIRMAN. If there are no other requests for time, pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

H.R. 11686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy (hereinafter in this Act referred to as the "Department") for fiscal year 1979 for operating expenses incurred in carrying out national security programs, including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy, as follows:

(1) For national security programs, $2,152,589,000.

(2) For program management and management support related to national security programs, $47,151,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for plant and capital equipment including planning, construction, acquisition or modification of facilities (including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, necessary for national security programs, as follows:

(1) For weapons activities:

Project 79-7-a, Tonopah Test Range upgrade, Phase II, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 79-7-b, fire protection improvements, Los Alamos Scientific Laboratory, Los Alamos, New Mexico (A-E and long lead procurement only), $2,000,000.

Project 79-7-c, proton storage ring, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,000,000.

Project 79-7-d, water cooling station upgrade, Lawrence Livermore Laboratory, Livermore, California, $2,300,000.

Project 79-7-e, production and assembly facilities, Pantex Plant, Amarillo, Texas, $5,000,000.

Project 79-7-f, stockpile quality evaluation

facility, Y–12 Plant, Oak Ridge, Tennessee, $2,300,000.

Project 79–7–l, Systems R&D Lab, Sandia Laboratories, Albuquerque, New Mexico (A–E), $1,000,000.

Project 79–7–m, Weapons Materials Analytical Lab, Pantex Plant, Amarillo, Texas, $1,500,000.

Project 79–7–n, utility systems restoration, Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 79–7–o, universal pilot plant, high explosives, Pantex Plant, Amarillo, Texas, $3,500,000.

(2) For special materials production:

Project 79–7–h, utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $10,500,000.

Project 79–7–i, transmission and distribution systems upgrading, Richland, Washington, $7,000,000.

Project 79–7–j, pollutant discharge elimination, Savannah River, South Carolina, $9,000,000.

(3) For defense waste management:

Project 79–7–k, waste management facilities, Savannah River, South Carolina, $25,000,000.

(4) For propect 79–6, general plant projects—

(A) for naval reactor development, $3,000,000;

(B) for weapons activities, $26,400,000;

(C) for special materials production, $15,250,000; and

(D) for waste management, $5,950,000.

(5) For project 79–8, plant engineering and design—

(A) for special materials production, $1,500,000;

(B) for defense waste management, $12,000,000; and

(C) for military application, $32,000,000.

(6) For capital equipment not related to construction—

(A) for laser fusion, $8,200,000;

(B) for naval reactor development, $22,000,000;

(C) for weapons activities, $86,400,000;

(D) for special materials production, $32,000,000;

(E) for waste management, $8,000,000;

(F) for nuclear materials security and safeguards, $3,000,000; and

(G) for program management and support, $300,000.

ADDITIONAL AUTHORIZATION FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. Funds are hereby authorized to be appropriated to the Department for fiscal year 1979, for national security projects previously authorized by law, as follows:

(1) For project 74–1–b, replacement ventilation air filter, F Chemical Separations Area, Savannah River, South Carolina, $2,100,000; for a total authorization of $7,300,000.

(2) For project 75–7–c, intermediate-level waste management facilities, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $1,000,000; for a total authorization of $11,500,000.

(3) For project 77–13–a, fluorinal dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $50,000,000; for a total authorization of $65,000,000.

(4) For project 77–13–f, waste isolation pilot plant, Delaware Basin, southeast New Mexico, $40,000,000; for a total authorization of $68,000,000.

(5) For project 77–13–g, safeguards and security upgrading, production facilities, multiple sites, $3,800,000; for a total authorization of $20,200,000.

(6) For project 78–4–a, a high energy laser facility (NOVA), Lawrence Livermore Laboratory, Livermore, California, $187,000,000; for a total authorization of $195,000,000.

(7) For project 78–16–c, high explosive flash radiography facility, Lawrence Livermore Laboratory, Livermore, California, $5,900,000; for a total authorization of $10,900,000.

(8) For project 78–16–d, weapons safeguards, various locations, $9,000,000; for a total authorization of $26,000,000.

(9) For project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $5,700,000; for a total authorization of $6,300,000.

(10) For project 78–16–i, laboratory support complex, Los Alamos Scientific Laboratory, Los Alamos, New Mexico, $14,000,000; for a total authorization of $16,000,000.

(11) For project 78–17–a, production component warehouse, Pantex Plant, Amarillo, Texas, $2,550,000; for a total authorization of $2,800,000.

(12) For project 78–17–c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, Livermore, California, $11,000,000; for a total authorization of $12,300,000.

(13) For project 78–17–d, steam plant improvements, Y–12 Plant, Oak Ridge, Tennessee, $7,000,000; for a total authorization of $10,000,000.

(14) For project 78–18–a, high-level waste storage and waste management facilities, Richland, Washington, $9,000,000; for a total authorization of $27,000,000.

(15) For project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $13,000,000; for a total authorization of $28,500,000.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there amendments to title I? If not, the Clerk will read.

The Clerk read as folows:

TITLE II—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of (A) 120 percent of the amount authorized for that program by this Act, or (B) $5,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee, before the expiration of such period, has transmitted to the Secretary written notice waiving the remainder of such thirty-day notice period.

PROJECT COST VARIATION PROVISIONS

SEC. 202. The Department is authorized to start construction of any construction project for which funds are authorized to be appropriated by this Act only if the currently estimated cost of that project does not exceed by more than 25 percent the estimated cost set forth for the project. Further, the total cost of any project undertaken shall not exceed the estimated cost set forth for that project by more than 25 percent unless and until additional appropriations are authorized. This section shall not apply to any project with an estimated cost of less than $5,000,000.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 203. The Secretary of Energy is authorized to start a project set forth under section 102(4) of this Act only if—

(1) the then maximum currently estimated cost of the project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 (except that the building cost limitation may be exceeded if the Secretary determines that it is necessary to do so in the interest of efficiency and economy); and

(2) the then maximum currently estimated total cost of all projects undertaken under such section does not exceed the total amount authorized by such section for such projects by more than 25 percent.

AVAILABILITY

SEC. 204. Subject to the provisions of appropriations Acts, amounts appropriated pursuant to sections 101 and 102 of this Act for policy and management activities, for general plant projects, and for plant engineering and design are available for use, when necessary, in connection with all national security programs of the Department.

AUTHORIZATION TO PERFORM CONSTRUCTION DESIGN SERVICES

SEC. 205. In addition to construction design services performed with funds authorized under section 102(5) for plant engineering and design, the Secretary of Energy is authorized to perform construction design services for any national security construction project of the Department (in amounts not in excess of the amounts specified in such section) whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Secretary of Energy, and (2) the Secretary determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

ADJUSTMENTS FOR PAY INCREASES

SEC. 206. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

RESTRICTIONS ON THE B43 BOMB

SEC. 207. No funds authorized to be appropriated by this Act may be used for the testing, modernization, rebuilding, or replacement of any component of the B43 bomb, except that such funds may be used for quality and reliability testing of such bomb and for the replacement of limited-life components of such bomb.

FUTURE REQUESTS FOR AUTHORIZATIONS OF APPROPRIATIONS

SEC. 208. The Secretary of Energy shall submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorizations for appropriations for all programs of the Department of

Energy involving scientific research and development in support of the armed forces, military applications of nuclear energy, strategic and critical materials necessary for the common defense, and other programs which involve the common defense and security of the United States.

PRODUCTION OF ENHANCED RADIATION WEAPONS

SEC. 209. No funds authorized to be appropriated by this Act may be used for the production of enhanced radiation weapons unless the President certifies to the Congress that the production of such weapons is in the national interest and submits a report to the Congress stating his reasons for such production.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there amendments to title II?

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: Page 11, beginning on line 18, insert a period after "weapons" and strike all that follows through line 21.

Mr. WEISS. Mr. Chairman, the discussion that we are engaged in today is necessitated by the fact that the authorizatfon measure before us seeks, as it has been established, to have it both ways. We have on page 11, section 209 of the bill, an indication that funds cannot be authorized to be appropriated pursuant to this act for the production of enhanced radiation weapons unless the President certifies to the Congress that the production of such weapons is in the national interest and submits a report to the Congress to that effect setting forth his reasons.

At the same time, we have been told, in fact, that there is no authorization for funding in this measure. It seems to me that the way to determine with clarity exactly what we are or are not authorizing is to do what my amendment seeks to do, make a blanket prohibition against neutron weapons by putting a period after the word "weapons" on line 18.

I should say again that what we are talking about here is not a semantic argument. What we are talking about is the playing of games with the production and ultimately the deployment of nuclear weapons, neutron bombs, which would be calculated to be utilized more readily because their so-called collateral effect would be so much less.

What we are really saying, Mr. Chairman, is that after some 33 years of living at the edge of nuclear terror we have become so careless or blasé or unconcerned about the future of humanity that we are willing to let nuclear weapons, neutron bombs, be used almost the same way handgrenades would be used. Make no mistake, these neutron bombs, these enhanced radiation weapons, are to be used as antitank weaponry.

Do we need them? Are they essential? We have the testimony of the Secretary of Defense who says. "No, we have other weapons that do the job just as well."

We have also the statement of the President of the United States giving his judgment as to what would happen if the neutron weapons were used in the course of hostilities.

He says he does not know how we would limit them to that kind of limited nuclear warfare. The conclusion is, of course, that the confrontation would escalate to all-out nuclear warfare.

It seems to me, Mr. Chairman, that if we have been able through all these years to demonstrate the kind of self-discipline on a worldwide scale which has kept us from blowing ourselves and the rest of humanity up, we ought to try to maintain that discipline. We should not only be concerned about the Soviet utilization of neutron bombs or nuclear weapons. If we give the message, if we give the signal that we no longer consider nuclear warfare to be an absolute "no," we are also telling other nations—who may feel themselves at least as much threatened as we consider ourselves and our NATO allies to be threatened in Germany—that it is all right to say, "OK, once you feel so threatened, it's OK for you to use nuclear weaponry as well."

I think once we start giving that kind of message, we are in fact inciting global nuclear madness and inviting a global nuclear holocaust.

Mr. Chairman, the President has done his job. He has rethought the situation. He has said that as far as he is concerned, he is deferring production of neutron bombs and enhanced radiation weaponry.

We did part of our job in the debate that we undertook last September. We called national and international attention to the fact that the world was about to go down this road of madness. I think because of the national and international public outcry, the President had the occasion to review his thinking. Now we have the opportunity to further that process of taking a major step back from the edge of global nuclear warfare.

Nobody else can do it for us. In fact, it has taken us as a body a long, long time to get to the point where it was appropriate or proper to discuss tactical nuclear warfare. Now that we are here, nobody can do the job for us.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, I think if we want humanity to be able to look back favorably upon the kind of role that we played at a time when the fate of humanity was in our hands, we had better take a very small and very modest step and adopt this amendment so that we are not giving divided, mixed signals and blank checks to the Committee on Appropriations, to the President, or to anyone else about going forward toward nuclear annihilation.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to my friend, the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I wish to commend the gentleman from New York (Mr. WEISS) for his statement. I support him in his amendment and thank him for bringing this matter to our attention.

It seems to me it is pretty clear that when we have clear statements from the President that he feels this is something that is not needed and it is wrong for us to go ahead and spend the money, we should listen to him. Sometimes we do not listen, and that is one of the problems we tend to have.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has again expired.

(On request of Mr. ROBERT W. DANIEL, JR., and by unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, if I am correct, I understand that the concern of the gentleman from New York (Mr. WEISS) is particularly addressed to what might be described as the escalatory potential that we would be getting into with this problem?

Mr. WEISS. Yes, I think that is basically correct.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, is the gentleman familiar with the identity of Mr. Paul Warnke, our Chief Arms Negotiator on Disarmament?

Mr. WEISS. I am familiar with the statement that was issued by the Arms Control and Disarmament Agency on this issue and in which they said, in fact, that if there was any kind of impact at all, it was negative.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I would call the attention of the gentleman to Mr. Warnke's statement before our committee, in which he said in reference to enhanced radiation weapons that "I don't believe there is any significant difference as far as the escalatory potential is concerned."

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's making that statement. At the same time we have in July 1977 an arms impact statement from Mr. Warnke's agency in which they not only say it has a negative arms control impact, but they point out that the Russians, who do not at this point have neutron bombs and enhanced radiation weapons, would proceed with their old-fashioned blast nuclear weapons in response.

Mr. Chairman, last fall, I introduced an amendment to delete authorization for funding the neutron bomb stating that the use of the neutron bomb would mean the end of civilization as we know it. Fortunately, this warning did not go completely unheeded. Since then, as we

all know, the President announced his decision to defer production of the neutron bomb. Now it is time for us in Congress to do our part, to oppose this ominous weapon for humanity's sake. There are no free passes to survival in a nuclear war.

Should this authorization pass this Congress, everyone will be a victim, for the shadow of a nuclear holocaust falls everywhere. As far back as 1963, when President John F. Kennedy resisted the initial temptation to develop this weapon, it was obvious that, as Adrian Fisher, then head of the Federal Arms Control and Disarmament Agency, noted, the advent of the neutron bomb would touch off a dangerous new spiral in the atomic arms race. And such a spiral can only end in the unspeakable horror of a full-scale nuclear war.

This point is especially important now because it undercuts the position of those who claim that the United States should use the neutron warhead as a "bargaining chip" in arms negotiations with Moscow. The sad and frightening history of the nuclear arms race teaches that a weapons "breakthrough" by one side is quickly duplicated by the other. Rather than encouraging the Soviets to trade something in return for our agreeing not to develop the neutron bomb, the production of the neutron bomb by the United States would probably spur the Soviets to produce their own neutron warhead. They have probably had the scientific knowledge and technological capacity to do so as far back as 1963.

Another favorite argument of the neutron bomb's advocates is that it is merely a defensive weapon. This display of semantic slight of hand ignores the thinking of one of the weapon's first champions, the late Senator Thomas Dodd. While protesting the Kennedy administration's refusal to develop neutron weapons, Senator Dodd gave eloquent testimony to the offensive potential of this weapon. Commenting on the Russian achievements regarding the neutron bomb, Senator Dodd argued that:

> This weapon would permit them (the Soviets) to achieve the coveted prize of Western Europe with an intact urban industrial fabric instead of battering it to rubble with atomic or hydrogen bombs or even with high explosives as was the case of World War II.

The most shocking aspect of this weapon's awesome potential is that the decision to unleash it can be made in a tactical field situation. In fact, in the eyes of the weapon's proponents, this is a virtue. It is a way, they claim, of engaging in a limited nuclear war. But a "limited" nuclear war is a contradiction in terms. As Secretary of Defense Harold Brown said during his confirmation hearings,

> I do not think it at all likely that a limited nuclear exchange would remain limited.

Up to now, nuclear warheads have been viewed as weapons of the last resort. To change this thinking and deploy them as antitank field weapons would be a tragic mistake. By blurring the distinction between conventional and nuclear war, we not only risk triggering a full-scale nuclear response by the Soviets; we, by our own poor example, also invite other nations to deploy tactical nuclear weapons, a situation which will inevitably fan the flames of local skirmishes until they flare into larger wars. For a weapon designed to "limit" war, this would be an ironic and perhaps fatal consequence.

The only way to eliminate these risks is to delete all funding for this weapon. To do less would be an abdication of our moral and congressional responsibilities. I urge you, therefore, to join me in prohibiting a weapon that can only lead us closer to the brink of a global atomic war.

Mr. DAN DANIEL. Mr. Chairman, I rise in opposition to this amendment. The enhanced radiation weapon is a weapon of peace, not of war. Its primary value is deterrent.

It is well known that our adversary, the Soviet Union, can "button up" against conventional nuclear fallout, against biological and chemical warfare agents. It has no defense against the neutron.

One of the classic arguments of those who oppose the enhanced radiation weapon is that we do not need battlefield nuclear weapons. "After all," they will tell you, "we have the capability to destroy any nation 10 times over." This is a statement totally devoid of reason, for it leaves you with the recourse of greater destruction.

They conclude that the possession of a neutron warhead would invite escalation to a holocaust. No battlefield commander, no theater commander could order its use. Only the President of the United States can do this.

The neutron warhead is a reasonable alternative to doomsday.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. WEISS) which would prevent the President of the United States from ordering the production of enhanced radiation weapons should he decide they are a necessary adjunct to the U.S. weapons stockpile. We are all aware of the administration's actions this past year on producing ER weapons. As a matter of fact, Chairman Price called a hearing of the intelligence and military application of Nuclear Energy Subcommittee on April 19 to discuss, in part, the President's April 7th decision about theater force modernization without an enhanced radiation feature. The committee had anticipated a possible continuing delay in producing enhanced radiation weapons. Therefore, the committee saw fit to include section 209 in its bill, H.R. 11686. Section 209 is as follows:

> PRODUCTION OF ENHANCED RADIATION WEAPONS
>
> SEC. 209. No funds authorized to be appropriated by this Act may be used for the production of enhanced radiation weapons unless the President certifies to the Congress that the production of such weapons is in the national interest and submits a report to the Congress stating his reasons for such production.

It appears to me that the restrictions of section 209—certification of need by the President and submission of a report—provide the Congress with all the control necessary over the fate of the enhanced radiation weapon.

I wonder why the gentleman from New York singles out enhanced radiation weapons as those which should not be permitted in the U.S. arsenal. Why does he not condemn the new warhead for the Minuteman III, which at a few hundred kilotons is about one-tenth the yield of the Soviet SS–18 reentry vehicles? Why does he not condemn the new Trident warhead, which at a 100 kilotons or so, is one-tenth or less the yield of the new Soviet submarine-launched missile? I must confess, I am mystified.

My colleagues on the Armed Services Committee who met with high Soviet officials in Russia have told me of the violent harangues on the "neutron bomb" they were subjected to. Why a harangue on a few kiloton weapon—1 or 2 kilotons—when the Soviets seem unconcerned by the thousands of megaton and near-megaton weapons in the U.S. stockpile?

Could it be that the Soviets truly fear what enhanced radiation weapons would do to their invading armored forces should the President decide to use ER weapons to prevent the loss of NATO territory and NATO forces?

Let me repeat the statement Chairman PRICE made when he convened the fiscal year 1978 nuclear weapons posture hearings:

> The deterrent strategy that we have followed is a paradox: A force whose existence is chiefly designed to obviate the necessity for its use.

All nuclear weapons produce the same effects—blast, heat, nuclear radiation. Enhanced radiation weapons have the same kinds of effects as other nuclear weapons, only the ratios have been changed to destroy the aggressor.

It requires about 65 pounds of peak overpressure to destroy an armored vehicle. A 1 kiloton weapon, enhanced or otherwise, can do this out to about 400 feet; a 10 kiloton is effective to about 800 feet. The 1 kiloton will knock down and set fire to most dwellings in the half-square-mile area around the detonation point. The 10 kiloton will accomplish the same destruction over 3 square miles, 6 times that of the 1 kiloton.

The 1 kiloton enhanced radiation weapon will kill tank crews out to 800 feet and will significantly hurt them out to 1,600 feet or more, while restricting blast and thermal damage to that expected of a typical 1 kiloton weapon.

What about other effects against NATO forces and allied civilians—effects such as fallout and induced radiation? In the choice between a 10 kiloton weapon and a 1 kiloton ER weapon, the ER would have one-tenth the fission products, could be detonated much more closely to the ground without causing local fallout, and could still destroy the aggressor in his armored vehicle. The effects of induced radiation in the ground would be minimal for an ER weapon, and the

effects would dissipate in a few hours. It is the fallout that causes major concern to those who want to stay in a given area. As I pointed out, the fallout problem can be reduced to insignificance.

From all we have heard, enhanced radiation weapons technologically provide a means of fighting a war on friendly soil and driving back or destroying an invader.

I will not discuss the hundreds of Soviet SS–20 reentry vehicles targeted on NATO, or any of their other nuclear weapons. I will say this—if the Soviets want to destroy Western Europe, they could do it in 15 minutes. If they want to capture it intact, the enhanced radiation weapon will give them pause to reconsider.

The administration has canceled enough weapon systems on its own. I see no need for the Congress to completely tie the President's hands on enhanced radiation weapons production if he considers it necessary.

I urge a no vote on the amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, how does the gentleman feel in regard to chemical warfare? Does he support chemical warfare?

Mr. ROBERT W. DANIEL, JR. I think that this country would be prudent to have far better means of defending against chemical warfare than we have at present.

Mr. BEDELL. No, no, I am not talking about defending against. I am talking about the use of chemical warfare and developing chemical warfare. Does the gentleman support that? Would he support efforts to have us increase our chemical warfare capabilities as well?

Mr. ROBERT W. DANIEL, JR. We have chemical warfare capabilities at present, and I think it would be very imprudent not to retain and develop them.

Mr. BEDELL. Therefore, the gentleman feels that he does generally support chemical warfare; is that correct?

The CHAIRMAN. The time of the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.) has expired.

(On request of Mr. BEDELL and by unanimous consent, Mr. ROBERT W. DANIEL, JR., was allowed to proceed for 2 additional minutes.)

Mr. BEDELL. If the gentleman will yield further, Mr. Chairman, my question is, How does the gentleman differentiate between chemical warfare and the neutron bomb? It seems to me that each of them kills people, kills people sometimes quickly, sometimes slowly, but are addressed toward people rather than the equipment and the buildings.

Again, how does the gentleman differentiate between the neutron bomb and chemical warfare?

Mr. ROBERT W. DANIEL, JR. As far as killing people, which is the objective of defense against a Soviet armored attack, to kill crews in tanks without blowing up much of the rest of West Germany is, to me, a desirable objective.

Mr. BEDELL. That would be true of chemical warfare, would it not?

Mr. ROBERT W. DANIEL, JR. Chemical warfare would not be as effective against tank crews as would enhanced radiation weapons.

Mr. BEDELL. It would not?

Mr. ROBERT W. DANIEL, JR. No, it would not.

Mr. BEDELL. Chemical warfare would not kill the crews of tanks, in the gentleman's opinion?

Mr. ROBERT W. DANIEL, JR. If given time; but the Soviet tanks, I think the gentleman knows, have a good defensive capability against chemical warfare.

Mr. BEDELL. Surely, so the problem I have is that if we have agreed that, indeed, chemical warfare is wrong, as we have—we have done that in our treaties—that agreement is generally accepted worldwide. Therefore, I have great difficulty in understanding how the gentleman can stand in the well and say that even though we have agreed on chemical warfare, we should go ahead with weaponry which not only acts similarly, if not the same as, chemical warfare, but also, if it is used, would tend to move us more likely toward a nuclear exchange.

Mr. ROBERT W. DANIEL, JR. I will take the gentleman's argument a step further than he himself does: All warfare is a grim prospect to me. I do not want to see anybody killed in warfare.

Mr. BEDELL. I am sorry. I cannot hear the gentleman.

Mr. ROBERT W. DANIEL, JR. I say that I do not want to see any of the forms of death in warfare occur, whether it be by gunpowder and by shrapnel, by nuclear weapons, or by chemical, or biological warfare. All are repelling to me. I hope to God they never occur; but my objective is to see that this country is adequately protected with weapons by which we can defend ourselves and our allies.

This is what this weapon will do.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.) has expired.

(On request of Mr. HILLIS and by unanimous consent, M. ROBERT W. DANIEL, JR., was allowed to proceed for 2 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, one of the big differences here between the employment of chemical warfare and enhanced radiation weapons is that there is a great deal more residual effect in the use of chemical agents. Mustard gas and others can keep areas contaminated for great periods of time. They cannot be used defensively, in my opinion, with the pinpoint accuracy with which the enhanced radiation weapon can be employed against a mass armored formation.

Once a chemical gas is released, there is no control over where it is going. In the case of the enhanced radiation weapon, it is concentrated in a small area. There is not the fallout, and the wind will not carry it away. Furthermore, I believe it is more manageable and it can be directed against a tactical target defense much better than can chemical warfare.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, does the gentleman feel that the reason chemical warfare, it has been agreed worldwide, should not be used is because of the fact that it would be of greater residual effect, or does he feel the reason the agreement has been made is because of the effects of the way it is used and what it does, including the fact that it kills people, sometimes quickly, sometimes slowly? That is the whole purpose of what it does.

What does the gentleman think is the reason the world has agreed that we should not use chemical warfare?

Mr. HILLIS. If the gentleman will yield further, Mr. Chairman, as far as I am aware, the world has not agreed to ban chemical warfare. In fact, the Soviet Union has tremendous quantities of various chemical agents in their inventory. We do not. We do not desire to develop these agents. Our chemical warfare is for defense.

However, we are talking about some sort of meeting with the Soviets to work that out. In fact, I think we have negotiations under way at the present time to try to put limitations on chemical warfare. That is meritorious. We should do it, but I think it is an entirely different field than is the enhanced radiation weaponry we are talking about here now.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr ROBERT W. DANIEL, JR. I yield to the gentleman from Utah.

Mr MARRIOTT. Mr. Chairman, I would just like to make the point that I come from a State where we store the nerve gas components the gentleman is talking about. One reason we have not destroyed those nerve gas chemical warfare units is because the Soviet Union, I think, now has about 10 times as much as we have.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the request of Mr. MARRIOTT and by unanimous consent, Mr. ROBERT W. DANIEL, Jr., was allowed to proceed for 3 additional minutes.)

Mr. MARRIOTT. I think the point is that this is another good argument for the continuation of the neutron bomb. That, basically, is that the Soviet Union is far superior to us at the present time in chemical weapons. They have no desire to cut back in that area. In fact, their offensive and defensive capability is twice as good as ours. I think we need the neutron bomb to neutralize the effect of their chemical warfare.

Mr. ROBERT W. DANIEL, JR. I would say that the gentleman is quite correct.

The Soviets are superior by any standards.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman yielding to me. I wonder if the gentleman would tell me as to what his view is as to the capacity of the Russians to develop the neutron bomb.

Mr. ROBERT W. DANIEL, JR. I think they have a capacity that would generally be equal to ours in developing enhanced radiation weapons. I would point out that their objectives are different. We are not going to invade East Europe. We are not going to invade the Warsaw Pact with any other NATO nation. We are concerned about an invasion of NATO by the Warsaw Pact, so the need for a suite of defensive weapons, as this enhanced radiation weapon would be, is quite different from the needs of the Soviet Union, with a view toward expansion into the West by the Warsaw Pact, an entirely different situation. As to their capacity, I am sure it is good.

Mr. WHITE. Mr. Chairman, will the gentleman yied?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Texas.

Mr. WHITE. Is it not true that this is principally a defensive weapon, that if any weapon was tailored for the European mode, this would be? This is designed to protect troops in the free territory where we do not wish to devastate the land. The President is holding this in reserve.

Mr. ROBERT W. DANIEL, JR. The gentleman is entirely correct. This is a defensive weapon in nature, to defend against Warsaw Pact armored units coming into NATO.

Mr. WHITE. Is it not designed principally to disperse massive tank formations, which is precisely the Soviet strategy, and has been in past wars?

Mr. ROBERT W. DANIEL, JR. That would have to be behavior of all invading forces, so that they disperse and will not be so ready a target.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the erequest of Mr. WHITE and by unanimous consent Mr. ROBERT W. DANIEL, Jr., was allowed to proceed for 2 additional minutes.)

Mr. WHITE. Is it not true that virtually all experts we talk to—and I have talked to none who have other opinions—feel that this is the one weapon which will be the salvation for a thin line of defending troops in the NATO scenario in the event the Soviets and the Warsaw Pact countries should jump off?

Mr. ROBERT W. DANIEL, JR. The gentleman is a very thorough scholar of these things, as I know him to be, and he is entirely correct about the disparity in strength in these forces, and this indeed could make the difference.

Mr. WHITE. What the bill does as it now is, is give the President some maneuvering ground.

Mr. ROBERT W DANIEL, JR. That is exactly right. If this section were struck, as the amendment would do, all we would be doing is tying the hands of the President should he wish to put into development and production this weapon.

Mr. WHITE. And we would again be unilaterally giving away one of our good positions which would be useful for the security of the democratic nations.

Mr. ROBERT W. DANIEL, JR. That is the point. We would be dealing ourselves a setback in bargaining power.

Mr. PRICE. Mr. Chairman, I was trying to determine whether or not we could vote on this amendment in the next 5 minutes. Otherwise, I would suggest that the committee rise.

The CHAIRMAN. The Chair observes approximately 10 Members who desire to be heard on the amendment.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. BOLLING, having assumed the chair, Mr. BREAUX, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11686) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes, had come to no resolution thereon.

NATIONAL ADVISORY COMMITTEE ON BLACK HIGHER EDUCATION OPPOSES TUITION TAX CREDITS

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MITCHELL of Maryland. Mr. Speaker, there has been a mounting wave of opposition to tuition tax credits from persons and organizations deeply concerned that this proposal is inequitable, raises the possibility of serious harm to our public schools and is likely to further increase segregation of public schools. Even narrow proposals open the door to more extensive tuition tax credits in the future.

The Congressional Black Caucus has vigorously opposed tuition tax credit legislation. I am inserting into the RECORD a letter from Elias Blake, chairperson of the National Advisory Committee on Black Higher Education and Black Colleges and Universities which states the Advisory Committee's reasons for opposing the tuition tax credit proposals.

This is an issue of far-reaching consequence, and I hope that each Member of Congress will take a close, hard look at the proposals before rushing forward to vote for a costly and ineffective means of addressing questions which reach to basic issues in our educational system.

The Congressional Black Caucus statement opposing the tuition tax credit and the letter follow:

CONGRESSIONAL BLACK CAUCUS STATEMENT IN OPPOSITION TO THE TUITION TAX CREDIT

We are very much disturbed by support expressed in both the House and the Senate for legislation to provide tuition tax credit relief for the cost of postsecondary, private and parochial elementary and secondary education. Such credits would not be targeted to those most in need, would threaten existing student aid programs, would be exorbitant in cost, and could have a devastating impact on the public schools of this country.

The proposal to provide tax credits for tuition joins most directly the issue of Federal assistance to more affluent citizens and the Federal role in furthering education. A tax credit for tuition costs has the effect of a direct grant to parents to pay part of their children's schooling costs, with a consequent loss in revenue to the Federal government

Who, then, would receive the benefit of the tuition tax credit? The Joint Committee on Internal Revenue Taxation estimates that under the proposal passed by the Senate Finance Committee, families with incomes over $20,000 per year would receive 78 percent of the benefits, while families with incomes under $9000 per year would receive only 6 percent of the benefits. In addition, parents of public school students in grades kindergarten through twelfth would receive no benefits at all.

Clearly, such legislation would run counter to Federal education policy which has been developed over many years. At the postsecondary level, the programs of Federal aid to education have been aimed at implementing the principle that direct assistance be targeted to students and families with minimal resources who might otherwise be unable to obtain an adequate education.

Postsecondary education tax credits would be very costly. The Treasury Department estimates that a $500 tax credit would cost $2.2 billion by a conservative estimate. This increased drain on the Federal treasury might well lead to pressure in the Congress to halt funding increases for the student financial aid programs that have provided access to college for so many of our poor and minority citizens. Such funding increases are proposed in the bill in the Senate Human Resources Committee sponsored by Senator Claiborne Pell, and are doomed to failure if the tuition tax credit bill passes. The total cost of the complete tuition tax credit package by the end of fiscal year 1983 is estimated to be $15 billion (total for FY '78 to FY '83) with an annual revenue loss of $5.3 billion for each fiscal year thereafter.

As for elementary and secondary tax credits, our opposition is grounded on at least five distinct considerations.

First, such credits would inevitably undermine our system of public education which has been and continues to be the primary means by which our children acquire the skills that enable them to pursue their personal and occupational goals later in life. Although we acknowledge the many problems our public schools have had and the growing indications that our children are leaving high school lacking many skills, we do not believe that the answer to these problems is for American taxpayers to take on the costly burden of subsidizing the flight to private and parochial education.

The Joint Committee on Internal Revenue Taxation estimates that the elementary-secondary portion of the proposal passed by

the Senate Finance Committee would add about one billion dollars to the cost estimates of tax credits. This cost would predictably rise over time as the number of students attending non-public schools rises and such schools, responding to the incentive, raise their fees. In addition, the current federal expenditure per pupil is about $145 for public school students, and $75 per private school student. An allowance of an additional $500 for private elementary-secondary students is clearly inequitable.

Second, support of elementary-secondary private school education at the expense of the American taxpayer is not only inequitable, it is also a drain on public school education. According to the National School Boards Association, "public schools will be identified as a dumping ground" for children who cannot afford private education or who are otherwise unacceptable to private institutions. Public schools will be placed at the lower end of a socio-economic caste system."

Third, tax credits would encourage those who seek to flee the public schools because of apprehensions about school desegregation. Private academies created largely in response to the desegregation of our nation's schools after 1954 would receive a new impetus from the tax credit. Judicially, constitutionally and IRS—imposed prohibitions on discrimination would not be sufficient to prevent this regrettable result without a massive and costly monitoring and enforcement process. As Black American legislators who have struggled in the Congress for the enactment and continuation of vital civil rights legislation, we will not be allied with any proposal that would contribute to the resegregation of our nation's schools.

Fourth, tax credits at the elementary-secondary level also raise serious constitutional questions which cannot be ignored. Many constitutional scholars believe that the Establishment Clause of the Constitution as interpreted by the Supreme Court in the 1973 Nyquist case prohibits precisely the kind of aid to sectarian education that the tuition tax credit proposals now before Congress contemplates.

Finally, we have been told that tax credits would foster indirectly a "healthy" competition for the public schools of our nation. We view this as a misinterpretation of why our public schools face some of their current difficulties. They do not lack the motivation to succeed. They suffer from inadequate funding and the fact that, more and more, the segments of our society who have most to gain from good public schools are the poor, the politically under-represented and the residents of our inner cities. These groups are least able to protect effectively the public school systems from attacks within the policy-making centers of our society. This trend will continue and become appreciably worse if tax credits are permitted to encourage further flight away from our public schools.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., April 11, 1978.

Hon. JOSEPH A. CALIFANO,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: During its April 10–11, 1978 meeting, the National Advisory Committee on Black Higher Education and Black Colleges and Universities reviewed various proposals to provide financial relief to middle class families paying tuition to educate their children and gave serious consideration to the impact these proposals would have no Black Americans.

We feel that the plight of middle class families has been exaggerated and recent data indicate this to be the case. However, if in fact it is deemed expedient to lessen the cost to middle class families to educate their children, we are unalterably opposed to tuition tax credits as a solution, but would support the Administration's proposal to raise the family income ceilings of present student financial aid programs to respond to the impact of inflation. By broadening the coverage of the ongoing student financial aid programs, the needs of middle income families would be served without impairing the needs of lower income families whose children can achieve no access at all to higher education without financial assistance.

We feel that emphasis on tax credits for middle income families diminishes support of the current programs which have enabled large numbers of Blacks to attend college who would otherwise not have had this opportunity. Hence, we see any shift in the distribution of funds away from programs which have improved access of Black Americans to higher education as an erosion of gains over the past decade. Any diminution of current student financial aid funds will directly and immediately reduce the numbers of Blacks enrolling in higher education.

The Committee is also concerned that the tax credit issue might lead to the acceleration of racial isolation in the elementary and secondary schools and a weakening of the public school system. Therefore, in an indirect but substantial way, the national goals of desegregation and of a pluralistic society may be thwarted.

In summary, the Committee feels that the tuition credit proposals would have a negative impact on equity, access, and choice, and recommend that the Department vigorously work to preserve those programs which have a proven, positive influence for Blacks.

Sincerely,

ELIAS BLAKE, Jr.,
Chairperson.

A DEMOCRAT'S UNDEMOCRATIC SLIP

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, in his effusive statement of April 19, the Senate majority leader made it perfectly clear that the Panama Canal Treaty represented a triumph of the Carter administration over the will of the American people. In the plainest possible language, Senator ROBERT BYRD indicated that the Senators who voted for the sell-out of the Panama Canal had done so in direct defiance of the will of their constituents.

In fact, the Senator from West Virginia went further. He insisted that a protreaty vote represented such a flagrant defiance of our people's will that it could cost these Senators their seats:

It is still possible that some Senators, Madam President, who voted for these treaties may have offered themselves as sacrifices on the altars of courage * * *

Courage against whom, Mr. Speaker? The only thing these gentlemen will face in an election year is the electorate. Are we to understand that the Senate leader of the Democratic Party, that is to say, of the self-styled party of democracy, is congratulating his colleagues on defying the will of the people who elected them? That is precisely what the Senate leader of democracy is saying. There is no other possible interpretation of his plain statements.

But the democratic leader was not content merely to make his antidemocratic point. He proceeded to pound it in:

I offer my highest respect and gratitude and admiration to those courageous Senators who supported the treaties and who will soon stand for reelection. It has required genuine courage.

What the majority leader is doing is stating flatly, now that he can speak freely, what we all knew to be the case during the treaty debates. He is admitting that the Panama Canal giveaway is extremely and overwhelmingly unpopular with the American people. He is clearly indicating, now that the vote is over, that the claims of the liberal national media that the public was closely divided on this issue were utterly fraudulent.

There are times when an elected representative must take a position contrary to that of a majority of his constituents. But those times should be few and far between. Otherwise it is dishonest for one to run for an office whose purpose is to represent the people.

Today the liberal establishment is calling on its huge power in the media, its vast financial resources, and its bureaucratic power, to push through one discredited program after another. The enormous power used to shove through the Panama Canal treaties is being matched by the liberal forces now being poured into Washington to battle for the Federal education bureaucracy and against tuition tax credits for our overtaxed middle class parents who are trying to send their children to school. Liberals are using their power over committee chairmanships to block action against busing, which Americans oppose 9 to 1. Liberal pressure groups are pushing through huge budget increases with Mr. Carter's blessing, while three-quarters of the people of this country express worry over inflation, and rate Mr. Carter's handling of the economy as from poor to incompetent.

There is more. Walter Cronkite states flatly that he does not report stories of warnings of America's dangerously declining military position, and Carter pushes the surrenders at the SALT talks. Meanwhile, the American people are showing an almost unprecedented concern for our defense position, despite the bungling of our no-win war in Vietnam. In every area of public policy, there is a growing conflict between the will of the American people and the raw, brute power of the liberal establishment. It is just such a victory of power over the wisdom of our people which Senator ROBERT BYRD praised on April 19. It is worth noting that his colleague, Senator RANDOLPH, representing the same West Virginia constituency, confirmed Mr. BYRD's estimate of the will of the people by voting against both of the treaties.

I do not think that backing establishment power against the people one is supposed to represent is an act of virtue. I think it is the betrayal of the trust our people place in us.

There are a number of appropriate terms to describe the betrayal of a public trust, Mr. Speaker. But "courage" is not one of them.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I call to the attention of my colleagues two communications from the Export-Import Bank that have been referred to me pursuant to section 2(b)(3) of the Export-Import Bank Act. The communications notify the Congress of two proposed Eximbank transactions to assist: First, in the purchase and construction of a steel manufacturing plant in Trinidad and Tobago, and second, in the purchase and construction of two nuclear power generating units in Korea.

Section 2(b)(3) of the act requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more, at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In the proposed transaction with Trinidad and Tobago, two loans totaling $73,755,000 would be extended to the government-owned Iron and Steel Co. of Trinidad and Tobago, Limited, for purchase of equipment and services to be used in a new steel manufacturing facility in Trinidad and Tobago. Eximbank's participation would cover 75 percent of the total cost of the U.S. goods and services for the project. The loans would bear interest at 8.625 percent per annum and be repaid in semiannual payments over 10 years starting June 30, 1981.

In the proposed transaction with the Republic of Korea, Eximbank would provide a loan of $732,075,000 and a guarantee for private financing of $97,610,000, the two totaling $829,685,900, to the government-controlled Korea Electric Co. (KECO) to construct two nuclear power units in Korea. Eximbank's participation would cover 85 percent of the costs of the U.S. goods and services: 75 percent by direct loan and 10 percent by guarantee. The loan and guarantee would be repaid over 15 years in semiannual payments starting December 31, 1984, in the case of the first unit and December 31, 1985, for the second unit. The loan would bear interest at 8.375 percent per annum and the guarantee would carry a fee of 1 percent per annum payable by the private lenders on amounts disbursed to KECO.

I am inserting at this point in the RECORD the letters and other data from the Eximbank pertaining to these transactions and I welcome any comments my colleagues may wish to offer concerning these proposed transactions:

WASHINGTON, D.C., *May 3, 1978.*

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment, and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman, Export-Import Bank of the United States.

MAY 3, 1978.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the House of Representatives with respect to the following transaction involving U.S. exports to the Republic of Korea (ROK).

A. DESCRIPTION OF TRANSACTION

Background and purpose

In August 1969 and in June 1975, Eximbank authorized direct credits and guarantees of private credits to assist Korea Electric Company (KECO) in financing the purchase of U.S. goods and services for two nuclear power units at Ko-ri, Korea. The details of the 1975 transaction are found in our letter to Congress of May 20, 1975. The financial assistance authorized for the 1969 transaction was not required to be reported.

KECO, after consultation with agencies of the ROK Government as well as authoritative outside consultants, decided to construct additional nuclear power units and solicited bids for the goods and services and related financing for two units known as Korea Nuclear Units 5 and 6. Suppliers from France, Germany, Italy, Switzerland and the United Kingdom, all supported actively by their respective government export credit agencies, tendered bids along with United States suppliers. Each financial assistance package had certain attractions with the British and the Swiss offering terms substantially more favorable than Eximbank could offer. Nonetheless, certain U.S. suppliers have obtained purchase contracts from KECO subject to the availability of Eximbank financial assistance.

Consequently, Eximbank is prepared to extend a direct credit up to $732,100,000 to KECO for 75% of the costs of United States goods and services, estimated at $976,100,000 (U.S. Costs), and to guarantee private financing of up to $97,610,000 for 10% of the U.S. Costs. Funds for the balance of the U.S. Costs of $146,400,000 or 15% will come from KECO's own resources. The Eximbank direct credit and guarantee will be used to assist KECO in financing the purchase in, and the export from, the United States of a nuclear steam supply system from Westinghouse Electric Corporation, engineering and construction services from Overseas Bechtel Inc., and the balance of plant equipment and materials from U.S. suppliers presently not known but to be selected by Bechtel and KECO. In addition, the Eximbank financial assistance will be used for financing the purchase and export of uranium ore and its conversion, enrichment and fabrication into the initial fuel cores. Westinghouse will provide the initial fuel core fabrication services. The U.S. Department of Energy will provide the enrichment services.

The two nuclear power units, each capable of generating 994,000 kW of electricity, will be located at Ko-ri next to the two units for which the previous Eximbank financial assistance was authorized near the city of Pusan on the southeast coast of the Republic of Korea. The total estimated cost for the two nuclear power units is $2,153,000,000 of which $796,100,000 represents U.S. equipment and services, $180,000,000 the cost of the initial fuel cores, $119,500,000 for United Kingdom manufactured turbine generators, $570,700,000 for local costs and the $486,700,000 balance represents financial costs during construction.

Identity of the parties

KSCO was incorporated in 1961 and is the Republic of Korea's sole supplier of central station electric power. The Government of the Republic of Korea is the owner of the majority of KECO's stock. KECO is one of the largest users of Eximbank's programs for its U.S. purchases and has maintained an excellent credit relationship with Eximbank.

The Republic of Korea will issue an unconditional, full faith and credit guarantee of repayment of the Eximbank direct credit and the Eximbank guaranteed private financing.

Executive branch approval

Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State has advised Eximbank that the Executive Branch has no objection to Eximbank proceeding with this transaction. The Department of Energy has advised that based on its current survey of the uranium, its conversion, and enrichment and fuel fabrication supply situation, it has no objection to the proposed transaction.

Safety and safeguard aspects

The Preliminary Site Investigation Report for the nuclear units which was undertaken by D'Applonia Consulting Engineers, Inc. of Pittsburgh, Pennsylvania, covered aspects of site geology, seismology, marine geophysics and foundation conditions. The Ko-ri site was found to be the most favorable of several alternatives for the proposed units as population density is relatively low, seismic findings indicate no potential earthquake activity and site geology is favorable. The Republic of Korea Atomic Energy Committee (ROK–AEC), the regulatory body responsible for issuing plant construction and operation permits, is requiring that safety analysis reports patterned after the U.S. Nuclear Regulatory Commission (NRC) format be filed with the ROK–AEC. These reports are subject to its stringent review, before the respective permits are granted. The safety reports will include site investigation data, plant design criteria, environmental considerations and procedures for construction.

The ROK–AEC has entered into an agreement with the International Atomic Energy Agency (IAEA) whereby the IAEA actively engages in consultation with the ROK–AEC on issues including safety report review and quality assurance monitoring. The ROK–AEC was very active in auditing all aspects of construtcion of the Ko-ri No. 1 nuclear unit which is now in commercial operation.

Experience with this first nuclear project will further enhance the ability of the ROK–AEC to undertake its responsibilities in conjunction with the proposed project. The units themselves will be designed and built according to NRC standards. In addition, a comprehensive environmental monitoring program at the Ko-ri site is continuing, and will alert the ROK–AEC of any significant changes in environmental background conditions near the site.

A trilateral agreement between Korea, the U.S. and the IAEA is in effect whereby the IAEA administers Korean safeguard procedures, providing for the monitoring of nuclear fuel quantities and enforcement of security measures to prevent fuel diversion to other uses.

B. EXPLANATION OF EXIMBANK FINANCING

Reasons

The Eximbank direct credit of $732,100,000 and guarantee of $97,610,000 will facilitate the export of $976,100,000 of U.S. goods and services.

Eximbank perceives a positive impact on the U.S. economy from this financial support. This transaction will have a favorable impact on employment, as well as on the United States balance of trade. It is estimated that the transaction will provide 56,600 man-years of direct and indirect employment and will benefit 1,150 subcontractors and suppliers (many of which will be small businesses) in 230 cities in 38 states. The states to benefit the most are California (7,848 direct man-years—mainly employed by Bechtel), Pennsylvania (4,676 direct man-years—mainly employed by Westinghouse), New York (1,795 direct man-years), Missouri (1,296 direct man-years), Florida (1,200 direct man-years), Tennessee (1,148 man-years), Oregon (1,054 direct man-years), and Ohio (903 direct man-years). For further details, please see Exhibit 1 attached to this letter.

In addition, many of the manufacturers have excess capacity for the goods to be exported as a result of the slowdown and cancellation of similar projects in the United States.

Other economic benefits accruing to the United States from the transaction are: additional employment resulting from the sale of reload fuel cores (providing 1,300 direct man-years annually of employment), spares and related services; tax revenues generated by the sale of the goods and services at all levels; and a reduction of domestic plant costs through the spreading of costs over more units by enabling the nuclear industry to achieve an even workload and maintain a skilled work force. Further, cash flow from such exports will enable the nuclear industry to continue its high level of research and development activities.

Nearly every industrialized country with nuclear exporting capability bid on the transaction and their bids were supported by attractive financing proposals of their respective official export credit agencies. The Swiss and the British offered the most attractive terms with interest rates at far less than Eximbank is able to charge. KECO selected United States suppliers for the nuclear steam supply system, the engineering, construction management services and the initial fuel core on the basis of KECO's evaluation of cost and economic comparison, delivery schedule and quality of goods and services. It will consider U.S. suppliers for the balance of plant equipment.

The financing plan

The total cost of United States goods and services of $976,100,000, allocated $796,100,000 to equipment and technical services and $180,000,000 to the initial fuel cores, will be financed as follows:

	Equipment and technical services	Initial fuel core	Total	Percent of U.S. costs
Cash payment	$119,415,000	$27,000,000	$146,415,000	15
Eximbank credit	597,075,000	135,000,000	732,075,000	75
Private financing guaranteed by Eximbank	79,610,000	18,000,000	97,610,000	10
Total	796,100,000	180,000,000	976,100,000	100

(a) Eximbank Charges

The Eximbank direct credit will bear interest at the rate of 8.375% per annum. In addition Eximbank will charge the lenders of the guaranteed private financing a guarantee fee of 1% per annum on amounts disbursed to KECO, and Eximbank will charge KECO commitment fees of 0.5% per annum and 0.125% per annum respectively on the undisbursed portions of the Eximbank direct credit and the guaranteed private financing.

(b) Repayment Terms

The amounts disbursed under the Eximbank direct credit and the guaranteed private financing for the equipment and technical services will be repaid in 30 approximately equal consecutive semiannual installments, beginning December 31, 1984 in the case of the first unit and December 31, 1985 in the case of the second unit. In the case of the first unit the lenders of the guaranteed private financing will receive all of the first 5 installments and Eximbank will receive all of the remaining 25 installments. In the case of the second unit the lenders of the guaranteed private financing will receive all of the first 2 and part of the 3rd installment and Eximbank will receive part of the 3rd and all of the remaining 27 installments.

The amounts disbursed under the Eximbank direct credit and the guaranteed private financing for the initial fuel core will be repaid in six approximately equal consecutive semiannual installments, beginning December 31, 1984 in the case of the first unit with the lenders of the guaranteed private financing receiving the first and part of the second installment and Eximbank receiving part of the second and all the remaining four installments, and beginning on December 31, 1985 in the case of the second unit with Eximbank receiving all of the six installments.

Sincerely yours,

JOHN L. MOORE, Jr.

EXHIBIT 1—FINANCIAL AND EMPLOYMENT EFFECT OF NUCLEAR POWER EXPORTS, KOREA NUCLEAR UNITS 5 AND 6

State	Cities	Value of exports	Employment man-years	Suppliers and subcontractors
Alabama	3	265	7	6
California	12	243,127	7,848	464
Colorado	5	25,452	583	19
Connecticut	12	17,239	549	30
Florida	2	43,131	1,200	9
Georgia	1	76	2	2
Illinois	16	15,009	479	43
Indiana	8	4,305	106	12
Iowa	2	4,086	110	6
Kansas	1	242	5	1
Kentucky	2	458	17	7
Louisiana	2	2,945	72	2
Maine	1	35	1	2
Maryland	4	6,289	174	10
Massachusetts	8	10,719	307	25
Michigan	9	2,270	70	20
Minnesota	2	460	15	2
Missouri	3	40,606	1,296	10
Nevada	1	98	3	2
New Hampshire	1	4,965	159	2
New Jersey	13	28,112	885	44
New Mexico	5	24,402	550	17
New York	15	56,721	1,795	52
North Carolina	4	2,050	51	8
Ohio	14	28,525	903	58
Oklahoma	1	3,658	61	5
Oregon	3	34,725	1,054	10
Pennsylvania	39	170,142	4,676	137
Rhode Island	2	1,138	28	2
South Carolina	2	17,880	440	3
Tennessee	5	84,933	1,148	44
Texas	7	17,095	502	26
Utah	5	24,400	550	16
Virginia	3	16,518	524	12
Washington	4	1,405	38	9
West Virginia	4	4,226	104	2
Wisconsin	5	13,917	444	12
Wyoming	5	24,400	550	16
Total	231	976,114	28,306	1,147
Rounded total	230	976,100	28,300	1,150

Hon. STEPHEN L. NEAL,
Chairman, Subcommittee on International Trade, Investment, and Monetary Policy, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of the statement which Eximbank is submitting to the Speaker of the House and the President of the Senate, pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, regarding Eximbank's proposed financing for the exports of United States equipment and serivces to be used in a new steel manufacturing facility in Trinidad and Tobago. In evaluating this case, Eximbank has given careful consideration to the domestic impact of this financing and has concluded that there will be a net benefit to the United States if Eximbank extends the credit. An analysis of this point appears in the enclosed letter.

Construction of this project is already underway with a major portion of the equipment coming from Germany, Japan, and Canada—supported by the respective government export credit agency of each country. The background of this application, set forth in the enclosed statement, clearly demonstrates that when Eximbank initially deferred its decision on financing for the project, the foreign buyer instructed its purchasing contractor to shift all possible purchases to other countries where government-supported financing would be available. Only when the prospect of Eximbank financing was revived did the Trinidad company again address itself to a U.S. purchase program for those items which they had not already committed to Germany, Japan, and Canada. Thus if Eximbank does not support the United States exports, most if not all of the equipment for this project will probably be supplied by foreign countries. Therefore, we believe our support is both necessary and appropriate.

I will be pleased to provide you with any additional information or explanation you may wish.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman, Export-Import Bank of the United States.

MAY 2, 1978.

The SPEAKER,
House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Trinidad and Tobago.

A. DESCRIPTION OF TRANSACTION

Purpose

Eximbank has received a request from the Iron & Steel Company of Trinidad and Tobago, Limited (ISCOTT) to assist in financing the export from the United States of goods and services of U.S. manufacture or origin in categories specified in Annex I (U.S. Components), for a new steel manufacturing facility (Steel Facility) now under construction with the assistance of mainly non-U.S. procurement and financing at Point Lisas, Trinidad and Tobago.

To meet this request, Eximbank is prepared to authorize an increase from $6,450,000 to $50,205,000 in a previously authorized credit to ISCOTT (Credit No. 6497) which was to assist in financing the export from the United States of U.S. made electric drives for the Steel Facility. Credit No. 6497 was originally approved in conjunction with a credit to ISCOTT of $23,550,000 (Credit No. 6487) to assist in financing the export from the United States of U.S. goods and services required for a sponge iron direct reduction facility (Sponge Iron Plant) related to the Steel Facility.

Major elements of the Steel Facility are being supplied and financed by Germany ($50,000,000 for the rolling mill), Japan ($20,000,000 for electric furnaces), and Canada ($6,000,000 for electric drives).

Total cost of the Steel Facility (including the Sponge Iron Plant) is estimated to be

$280,000,000. Of this amount, U.S. costs supported by the Eximbank financing will total $98,340,000. Other foreign costs supported by other foreign government financing and local costs will total $181,660,000. The financing plan for the total U.S. goods and services of $98,340,000 is as follows:

	Credit 6487	Credit 6497 (as increased)	Percent of U.S. costs	Total
Cash	$4,710,000	$10,041,000	15	$14,751,000
Eximbank credit	23,550,000	50,205,000	75	73,755,000
Private loans not guaranteed by Eximbank	3,140,000	6,694,000	10	9,834,000
Total	31,400,000	66,940,000	100	98,340,000

The Steel Facility was conceived by the Government of Trinidad and Tobago (GOTT) to take advantage of the substantial gas deposits discovered offshore from Trinidad and Tobago. The Steel Facility will include the Sponge Iron Plant, electric furnaces, a continuous casting plant for billets, and a rolling mill. It will have an annual capacity of 465,000 tons of wire rods and bars.

Background

Midrex, a North Carolina engineering company and developer of the Midrex process of "direct reduction," which was selected by ISCOTT for the Sponge Iron Plant, first applied to Eximbank in February 1977 for a preliminary commitment for financing of the U.S. costs of $31,400,000 for the Sponge Iron Plant. At that time the Sponge Iron Plant was the only firmly planned facility and was an independent project. Since this facility supplies a product for which there is insufficient U.S. capacity to meet normal U.S. demand, there was no concern about adverse impact on the U.S. economy. The preliminary commitment was issued by Eximbank on March 14, 1977. Subsequently, in June 1977. ISCOTT, itself, applied directly to Eximbank for a second preliminary commitment for financing the purchase of all U.S. goods and services at a total cost which was then estimated to be $162,000,000 for the whole Steel Facility, including the Sponge Iron Plant. This application contemplated all non-local purchases being made in the United States.

The application was widely discussed with the interested agencies and departments of the U.S. Government, the U.S. steel industry, and potential U.S. equipment suppliers of the project. A decision was deferred because of a national policy review of the U.S. steel industry then under way which was examining the problem of steel imports. A domestic market impact study was undertaken at the same time by the Eximbank staff.

ISCOTT in the meantime decided that U.S. content of the project would be reduced from $162,000,000 to $75,000,000 after receiving the bids of suppliers from the U.S., Germany, Japan, and elsewhere. ISCOTT in August 1977 filed an application for a direct credit for financing U.S. costs in this reduced amount.

Decision on this application also was deferred. Because of this deferral ISCOTT placed orders for the rolling mill with German suppliers backed by HERMES, the official German credit insurance agency, and for the electric furnaces with Japanese suppliers backed by MITI, the official Japanese credit insurance agency. Furthermore, ISCOTT directed Midrex to shift all remaining purchases for the Sponge Iron Plant from the United States to Canada where financing would be provided.

Faced with this situation and the preliminary commitment, which Eximbank had already given to Midrex, to finance U.S. goods and services for the Sponge Iron Plant, Eximbank authorized a credit for the Sponge Iron Plant in the amount of $23,550,000 and a credit for potential remaining orders for electric drives in the amount of $6,450,000. As matters developed, the electric drives were eventually purchased by ISCOTT in Canada.

Eximbank took these actions because its domestic market impact study indicated that the Sponge Iron Plant would have no net adverse economic impact on the U.S. economy; and that, without Eximbank's support, foreign competition would obtain a significant portion of the orders for the Sponge Iron Plant and substantially all of the orders for the Steel Facility. It had become quite clear that with or without United States financing the Steel Facility would be built by ISCOTT.

Subsequent to these authorizations, ISCOTT selected Rust Engineering of Birmingham, Alabama, as general contractor. After reviewing procurement plans, Rust determined that some purchases, which ISCOTT planned to make in Europe, Canada, and Japan, could more effectively be made in the United States. The determining factor in some cases was cost, product specifications, or delivery time—in others, such as structural steel, it was the easier and less costly supervision by Rust of the fabrication work prior to shipment. As a result of recommendations made by Rust, ISCOTT requested the increase in Credit No. 6497.

Identity of the parties

ISCOTT, a corporation wholly owned by the GOTT, was organized in 1975 to construct and operate the Steel Facility. While it was originally intended to have foreign suppliers and steel users make equity investments in the project, present plans call only for the GOTT to hold equity which will be maintained, at least through project completion, at a ratio of debt to equity of 60/40.

In addition, the GOTT will enter a cash deficiency and completion agreement with ISCOTT and a trustee for the benefit of lenders whereby the GOTT will undertake to make up all cash deficiencies of ISCOTT required to complete the project and will cover all cash deficiencies in operating costs including debt service to lenders until such debt has been paid in full.

Nature and use of goods and services

The U.S. goods and services to be financed under the credit for the Sponge Iron Plant will be supplied under a contract between Midrex and ISCOTT at a total U.S. cost of $31,400,000.00.

The U.S. Components to be financed under Credit No. 6497 will be U.S. goods and services consisting of contractors' services, electrical equipment, structural steel, construction equipment, and other equipment for the Steel Facility detailed in Annex I at a total U.S. cost of $66,940,000.00.

B. EXPLANATION OF EXIMBANK FINANCING

Export financing support

The Eximbank credits of $73,755,000 will facilitate the export of $98,340,000 of United States goods and services. In terms of U.S. jobs associated with these exports, the impact of Eximbank financing on the domestic economy is quite substantial. It is estimated that the exports will directly support some 1500 job-years during the 1978/80 construction period. Approximately 250 of these job-years would be provided to U.S. steel workers because of the inclusion in the exported U.S. Components of $17,000,000 for structural steel.

From the outset there has been strong government-supported foreign competition for this project. In fact, in response to Eximbank's delay in approving the applications of ISCOTT for a preliminary commitment and then for a direct credit, ISCOTT awarded orders of about $50,000,000 for the rolling mill to German firms, about $20,000,000 for electric furnaces to Japanese firms, and opened all other components to international bidding. In November when Eximbank indicated to ISCOTT that, because of pending national policy considerations, financing from Eximbank would not be available, ISCOTT directed Midrex to switch all possible procurement to foreign sources, even for the Sponge Iron Plant for which Eximbank had issued a preliminary commitment to Midrex, and $6,000,000 for electric drives was awarded to Canadian firms. Without Eximbank support, little or none of the equipment and services for this project would be sourced in the United States. On the other hand, once Eximbank authorized its original credits, and ISCOTT understood that U.S. financing on terms competitive with foreign financng was available, ISCOTT directed Midrex to shift procurement to the United States. Moreover, as a result of ISCOTT's purchase of U.S. goods and services for the Steel Facility, including the Sponge Iron Plant, it is estimated that, after project completion, procurement in the United States for U.S. spare parts and maintenance will be from $3,500,000 to $4,000,000 annually.

With or without Eximbank support and with or without U.S. procurement, the GOTT is determined to build the Steel Facility. If Eximbank refuses to provide support for the remaining items, which may still be supplied by U.S. exporters, these items will be purchased from foreign exporters with the support of the credit institutions of the exporting countries. This fact bears directly on the serious and prolonged consideration given by Eximbank to the question of the impact that the construction of the Steel Facility might have on the U.S. economy.

National policy review

In response to severe economic dislocation in the U.S. steel industry during early 1977 caused, in part, by foreign steel being sold in the United States at below cost prices, in early Autumn of 1977 an Interagency Task Force undertook a policy review of the U.S. Government's impact on the domestic steel industry. The objectives of this review were to: 1) make sure the Government was not unconsciously imposing unfair burdens on domestic steel, 2) see that the Government was meeting its obligation to protect the industry from unfair foreign competition, and 3) formulate a national program to help ensure the continued viability of the industry. Eximbank refrained from taking any steel-related actions while this review was in progress.

By mid-November the Administration had evolved the broad outline of a comprehensive steel program which included a trigger price system for imports, more consistent environmental regulations, and loans for troubled domestic firms. This program cleared the way for Eximbank to consider financing of U.S. exports for economically and financially viable foreign steel projects on their financial and economic merits, most particularly their anticipated net economic impact on the U.S. economy.

C. IMPACT OF IMPORTS ON THE U.S. ECONOMY

A substantial portion of the steel from this project is expected to be marketed in the United States (approximately 250,000 tons per year), mostly in the form of wire rod. In evaluating the impact of these imports on the domestic economy, Eximbank has addressed itself to two questions: (1) whether the imports will displace U.S. production or other imports of non-U.S. origin or will provide a needed supply for the U.S. market; and (2) what is the net domestic economic effect of this project with or without Eximbank support?

An economic analysis made in answer to these questions strongly supports Eximbank

assistance for the Sponge Iron Plant and U.S. Components for the Steel Facility. The reasons for this conclusion are the following:

(a) Detailed analysis of recent trends in the U.S. wire rod market and a projection of such trends into the 1980's indicate that most of the projected 250,000 tons of imports would replace other imports rather than U.S. production. A reasonable estimate of total U.S. steel worker job-years displaced by ISCOTT over the decade of the 1980's is between 350–400, with a worst case estimate of 1,000 job-years.

(b) Since the GOTT is determined to build the project with or without U.S. procurement, whatever adverse impact on the U.S. economy may result from wire rod imports from this project, could not be attributed to Eximbank assistance. The German-supplied and financed rolling mill and the Japanese-supplied and financed electric furnaces are the core elements of steel production and are thus the portions of the project mainly responsible for its adverse impact on the U.S. economy. The Midrex content of the Sponge Iron Plant can, at best, only modestly reduce raw material costs and will probably not, therefore, have a noticeable influence on the price competitiveness of the end product. The U.S. Components, financed by Credit No. 6497, do not contribute any quality improvement to the end product.

(c) Since no adverse impact of the project can be associated with Eximbank support, the only impact Eximbank assistance can have is beneficial. If Eximbank does not provide financing support, the net domestic economic impact will be not only a worst case displacement of 1,000 steel workers' job-years in the 1980's, but also the loss of U.S. exports and related jobs. On the other hand, if Eximbank supports the Sponge Iron Plant and the U.S. Components, some 1500 job-years in various sectors of the U.S. economy, including 250 steel workers' job-years will be generated. Hence, Eximbank assistance allows the United States to obtain a net economic benefit of at least an estimated 500 job-years.

Interest rate and terms

Both Eximbank credits will bear interest at the rate of 8⅝% per annum, payable semi-annually. A commitment fee of ½ of 1% per annum also will be charged on the undisbursed portion of the Eximbank credits.

Principal amounts disbursed under the Eximbank credits and the unguaranteed private loans under the financing plan will be repaid in 20 approximately equal semiannual installments beginning June 30, 1981, with the private loans repaid out of the early installments.

Sincerely,

JOHN L. MOORE, Jr.

U.S. COMPONENTS TO BE FINANCED UNDER CREDIT NO. 6497

(It is estimated that 40 to 70 U.S. suppliers will provide the goods and services listed)

Category and estimated value

Engineering by Rust, $5.5–6.1 million.

Supervision by Rust in field, $4.6–5.1 million.

Small tools and consumable supplies, $1.5–1.65 million.

Piping material including valve fittings, etc., $5.6–6.2 million.

Construction equipment, $10–11 million.

Rebar, $1.5–1.65 million.

Structural Steel fabrication (432,000 MH), $17–18.8 million.

Electrical, $5.7–6.3 million.

Roofing and Siding, $1.3–1.4 million.

Architectural Finish—Miscellaneous, $2.5–2.8 million.

Anchor Bolts, $275–300 thousand.

Instrumentation, $500–600 thousand.

Concrete Batch Plant, $150–200 thousand.

Desalination Plants, $200–250 thousand.

Waste Treatment and Compaction, $260–275 thousand.

Temporary Housing and Construction Offices CCC Temp. Shops, $1.3–1.55 thousand.

Refractory, $300–400 thousand.

Form Lumber, $50–55 thousand.

Air Conditioning, Vent Fans, etc., $1–1.1 million.

Lectromelt Fume Control System, $1–1.1 million.●

BIG BROTHER IN SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 5 minutes.

● Mr. MARTIN. Mr. Speaker, on Sunday, May 14, 1978, the Atlanta Journal-Constitution reported a story headlined "Social Security Workers Used in Desegregation Battle." You might be prompted to ask: What does social security have to do with desegregation? Nothing. Absolutely nothing. It was never segregated. Yet, HEW Secretary Joseph Califano, according to the story, ordered social security officials in North Carolina to monitor the news media for him, to gage public reaction to his threatened cutoff of funds to the University of North Carolina. The threat was made after HEW and the university system failed to reach an agreement on desegregation.

The Journal-Constitution story quotes HEW official Sara Craig as saying "a great deal of urgency" was put on the request for information "as quickly as we could." How many social security cases which needed administrative action were temporarily set aside while managers worked up special reports on what the North Carolina media outlets were saying about Secretary Califano and HEW? What did it cost the dwindling social security trust fund? How often has it been used for such political chores, Joe? And who has the tapes of these reports? These questions need answers. I think Congress should demand that Secretary Califano give a full report on his action and any other orders whereby he has wasted the time of the Social Security Administration and its employees.

We all know that the public is outraged over increased taxes needed to keep the social security program solvent. I know they resent, as I do, this bureaucratic misuse of an Administrator's power to channel those funds into other functions. Secretary Califano's crusade against North Carolina risks serious damage to our progressive university system; and we can only hope his minions told him so.

The purpose of the Social Security Administration is not to help Secretary Califano with his media image. He should leave social security employees alone and let them get on with their job of serving the retired and disabled.

Mr. Speaker, I want to share with my colleagues the article from the Journal-Constitution which I mentioned earlier. I hope they will read it carefully because Big Brother may be looking at their State through the eyes and ears of social security employees. But do not blame them. They are just following orders.

HEW will not need a monitor to report this commentary on his latest abuse. I will personally send him a copy.

[From The Atlanta Journal and Constitution, May 14, 1978]

SOCIAL SECURITY WORKERS USED IN SCHOOL DESEGREGATION BATTLE

(By Leonard Ray Teel)

Social Security employees and equipment were used this spring to help Health, Education, and Welfare Secretary Joseph Califano Jr. in his school desegregation battle with North Carolina authorities.

On directions from high-level HEW officials, workers paid from Social Security trust funds were ordered to monitor public reaction in the news media to Califano's warning that North Carolina's predominantly white colleges might lose federal funds.

In offices across North Carolina and in the Atlanta regional headquarters, Social Security executives were called upon in March and again in April for priority reports dealing with the desegregation dispute, which Sara Craig, the top HEW official for the South, concedes is "politically loaded."

North Carolina was part of President Carter's solid support in the 1976 election. But public officials took a stubborn stand behind their university system, which they insist leads the South in quality education.

Califano has announced he is withdrawing his order to withhold the federal funds, an order he felt might contribute to further segregation of the 16-campus system.

More political chores such as a information-gathering project are expected by Social Security because HEW and North Carolina officials are still butting heads over a desegregation plan acceptable to Califano's new leadership at HEW.

The mission this spring for Social Security employees, handily located in communities across the state, was to monitor radio, television and newspapers.

They were told by HEW to note the reactions of the state's leaders to Califano's March 22 speech threatening to "defer" certain federal funds targeted by HEW lawyers, if no acceptable desegregation plan was reached by the HEW deadline.

The first information gathering effort began the day of the speech, March 22. Social Security employees in 11 offices from Asheville in the west to Greenville in the east used their sophisticated electronic communications network to report the news coverage and comments of public officials.

Employees in field offices relayed information to Social Security's southern regional headquarters in Atlanta's 101 Marietta Tower. The first reports were being filed within 12 hours of Califano's speech.

The morning after the speech, the information files Social Security had assembled were turned over to HEW's southern headquarters five floors below in the 101 Marietta building.

From there, the pertinent information was forwarded to HEW's deputy undersecretary for intergovernmental affairs in Washington, Dr. Eugene Eidenberg, a top Califano aide.

Although the first rush was completed within 18 hours, Social Security employees continued throughout that week sending more information.

Then in April, records show that HEW used the Social Security system again. This time, HEW wanted reports on a meeting of the North Carolina university system's board of governors. Then the federal agency asked for information about the visit to North Carolina of Vernon Jordan, executive director of the National Urban League and a past

critic of the Carter administration's policies toward blacks.

HEW's view is that the state still maintains the vestiges of de jure segregation in universities which HEW says do not offer blacks and whites equal educational opportunities. Using Social Security workers to gather information this spring was proper, HEW officials feel.

But although Social Security has been under HEW since 1953 and has shouldered HEW's Medicare program since 1965, the agency is not used to running such political errands.

Robert Ball, Social Security chief under Presidents Kennedy, Johnson and Nixon until 1973, says that former HEW secretaries allowed Social Security officials to operate fairly independently.

After the first political chore in North Carolina, one suspicious Social Security executive who prefers to remain anonymous leaked a copy of the files.

"Strange use of trust fund monies," he said. "Big Brother already is watching you but you just don't know it."

Social Security's Southern regional commissioner, Gordon Sherman, says he was only doing his job in ordering his managers or stand-ins to get the information for HEW.

Referring to Califano, Sherman said: "He's my boss."

Sherman said he did not send HEW a bill for the Social Security services. He did not have any idea of labor and electronics costs involved in the watchdog operation.

At HEW, officials saw no violations of Social Security's function or its trust fund in the North Carolina mission.

HEW's Ms. Craig regarded the operation as routine.

"We're in this together," said Ms. Craig, who remembered that she personally asked Sherman to alert Social Security employees for Califano's March 22 speech.

"Information," she said, "is the name of the game." With the network's cooperation, Califano "can make a better decision," she added.

"I don't feel like it cost him (Sherman) anything," Ms. Craig said, referring to the possible expense of trust funds.

"I cautioned Gordon that I didn't wish to make any unreasonable request," she said.

"There was a great deal of urgency," Ms. Craig conceded. She said HEW wanted to get the information "as quickly as we could."

Sherman said Ms. Craig telephoned him on a Sunday, March 19, three days before Califano's speech. He immediately assigned the job to his "special projects" coordinator.

When the project was finished, the coordinator, Alan Harris, filed a final memo, which said in part:

"During the week of March 20 and continuing through March 27, the Special Projects Staff worked closely with nine district (actually 10) offices in the state . . . SPS coordinated the project for the ORC (Office of the Regional Commissioner-Social Security), PRO (Principal Regional Office-HEW, Ms. Craig) and HEW Washington.

"This project required a great deal of time because it was neecssary to telephone the managers two or three times each day, bundle up material, get it typed, etc. But, the project was successfully completed as requested . . ."

In the end, the Social Security files contained the names, and media-expressed opinions, of a variety of North Carolina officials about Califano's speech.

Among them were Gov. James B. Hunt Jr., quoted as saying he was deeply disappointed in Califano's decision; U.S. Sen. Jesse Helms, reported as saying he would filibuster against HEW's budget; and the state's attorney general, Rufus Edmisten, quoted as saying people can never tell what HEW standards are.

Also named in the dispatches from the Social Security offices were University of North Carolina President William C. Friday, University of North Carolina Board of Governors Chairman William A. Johnson and other campus officials such as Winston-Salem State University Chancellor Douglas Covington.

More such watchdog chores are expected by Social Security executives.

Ms. Craig indicated that Social Security employees, scattered as they are throughout the communities and not bearing the stigma of outside "federal bureaucrats," are natural information gatherers.

"They're out there," she said. "They're out there 24 hours a day . . . Those people are astute observers. I would want to feel free to go out and ask them, 'What's your gut feeling?' "●

PRESIDENT CARTER'S ADDRESS TO LOS ANGELES COUNTY BAR ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 15 minutes.

● Mr. KASTENMEIER. Mr. Speaker, I would like to make my colleagues aware of an excellent, but somewhat controversial, speech given by President Carter on May 4, 1978, to the Los Angeles Bar Association. Although the President's remarks were widely discussed in the press, I would like to insert the entire text of the speech in the RECORD.

In his Los Angeles statement the President spoke of the need to improve the delivery of justice in our legal system. He reminded us that in so doing we must keep in mind the needs of the weak, poor, and powerless. His words were similar to those of the Honorable A. Leon Higginbotham, Jr., when he addressed the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice on "The Priority of Human Rights in Court Reform":

As I said at the outset, I wish this conference well. I hope it is successful. But I also hope that the fruits of its success will flow not just to judges, not just to lawyers, not just to court personnel, but also to those who, in the nature of things, will seldom be attending a conference like this—the weak, the poor, the powerless—those who, whether they like it or not, are inevitably involved in the process and the system that we are privileged to preside over. By all means let us reform that process, let us make it more swift, more efficient, and less expensive, but above all let us make it more just. We have enough victims in our society. In so many instances, they are victims of the conduct of others that violates the law. Let us not forget them. Let us not, in our zeal to reform our process, make the powerless into victims who can secure relief neither in the courts nor anywhere else.

In this regard, I agree with the observations of both President Carter and Judge Higginbotham. Once we embark upon the open sea of human justice, we ought never forget the plight of those members of our society who are ill-equipped to combat the resources of either the Government or powerful private parties. Since these individuals already lack access to the executive and legislative branches, we must pay particular attention that we not reduce their access to the one branch that has been responsive to their needs.

We must also keep in mind the needs of the middle class which increasingly suffers from the twin dragons of cost and delay in our courts. Its desires in this context must also be respected.

Last summer the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice (which I chair) held extensive hearings on the State of the Judiciary and Access to Justice. As a result of this inquiry, we verified that historically our Federal courts have served our society well. We also became aware of the fact that the Federal court system is severely congested. Skyrocketing case filings clog the courts and create a crisis of immeasurable proportion. Respect for the rule of law is threatened because litigants must wait for years to get a decision, which often comes in the form of a judgment order after little or no opportunity to present oral argument to the court. The rule of law is also jeopardized because judges are required to labor under extreme pressure, with little time for adequate reflection.

And, as aptly observed by Justice Frankfurter in *Dick* v. *New York Life Ins. Co.*, 359 U.S. 437, 459 (1959) (dissenting),

Without adequate reflection there cannot be adequate discussion; without adequate discussion there cannot be that fruitful interchange of minds which is indispensable to thoughtful, unhurried decision.

The subcommittee also learned that Americans are an extremely litigious lot. Undoubtedly, many disputes belong in the courts. Others, however, could be fairly resolved by alternative means. We must take steps to create an adequate system to resolve minor disputes in our society. The Department of Justice's decision to create experimental neighborhood justice centers is a step in the right direction.

Soon after the "Access to Justice" hearings my subcommittee acted by holding hearings on two different sets of bills designed to aid the courts and the people who use judicial machinery. We examined proposals to abolish or curtail diversity of citizenship jurisdiction. We also looked at several proposals to increase the civil and criminal jurisdiction of U.S. magistrates. At approximately the same time, we processed the Legal Services Authorization Act into law. As the President stated in his speech, the doubling of the Corporation's budget will have a significant effect on the delivery of justice to the poor.

After the subcommittee's hearings on magistrates reform and diversity jurisdiction, we moved forward on both proposals. The magistrates legislation (S. 1613, which passed the Senate on July 22, 1977) is now pending in the full House Judiciary Committee (where it is scheduled for debate on June 6). In brief, the proposed legislation increases the case dispositive jurisdiction of U.S. magistrates. It creates a vehicle by which litigants can consent to a less formal, more rapid, and less expensive means of resolving their civil controversies. It

also provides for a speedier resolution of minor criminal matters and creates merit selection procedures for the appointment of magistrates. I enthusiastically support this proposal, welcome the President's support, and hope that it is treated favorably by my colleagues in the full committee.

The abolition of diversity of citizenship bill (H.R. 9622) passed the House on February 28, 1978. The Senate Judiciary Subcommittee on Improvements in Judicial Machinery has held hearings. Hopefully, the proposed legislation will be enacted into law before the end of this Congress.

By way of background, H.R. 9622 abolishes diversity of citizenship jurisdiction and it also eliminates the amount in controversy requirement in Federal question cases. It achieves a proper jurisdictional balance between the Federal and State court systems. Generally speaking, Federal law questions are to be adjudicated in the Federal courts, regardless of the amount in controversy. Diversity cases, which involve questions of State law, are to be resolved in the States.

As recently stated by Senator TED KENNEDY in a speech before the National Center for State Courts—

> This legislation will have a double benefit. It will ease a large portion of the crushing caseload in the Federal courts. And it will be a major vote of confidence by the Federal Government in the integrity and capability of our sister courts in state and local government.

Hopefully, it will get lawyers who in the past have simply avoided the State courts involved in improving the administration of justice at the State level.

President Carter contended that one of the greatest failings of the organized bar is that it often has fought innovations. I have several observations to register about this contention.

The President mentioned the bar's objection to no-fault insurance, attorney advertising, and competition; he, however, neglected to discuss its vigorous opposition to the abolition of diversity jurisdiction. This was an oversight on his part.

From my perspective, the opposition espoused by the practicing bar on any issue ought to be accorded considerable weight. This weight is lessened, however, when—as is the case with diversity—there is disagreement within the legal community itself. Many fine legal scholars—including Charles Alan Wright, Erwin Griswold, Robert Bork, and David Currie—support the reform. The American Bar Association's special committee on coordination of Federal judicial improvements endorsed the measure. And the National College of Trial Lawyers supports a curtailment bill.

Apparently, several State bar associations have voted resolutions against H.R. 9622, without even having the bill before them. In fact, 26 State associations have voted resolutions against the diversity legislation; yet, with the exception of the American Bar Association, there have been few requests by bar associations from the House Judiciary Committee for either House hearings or the House report. This is very distressing. It can be likened to a judge who decides an issue without receiving briefs from the parties: a practice which would not be tolerated by a lawyer worth his salt. Closed door decisions by bar associations, without proper presentation of the facts, demean the entire legal profession and clearly should be accorded little weight. Similarly, resolutions voted by the executive committee of bar associations only represent the views of a minority of the bar, and are not very important.

Most of the State bar associations have not taken a position on other sections of the bill: for example, the abolition of the amount in controversy requirement in Federal question cases and the venue changes. No witness opposed these meritorious amendments and I can only conclude that the state bars have not even considered these aspects of the legislation. This reduces the credibility of their resolutions.

Generally, however, President Carter was rather harsh in his remarks about the legal profession. Although I agree with him in part, especially as concerns diversity of citizenship, I think his contentions would have had more validity 10 years ago or a century ago.

I would like to state that during the 95th Congress the American Bar Association has been extremely cooperative in aiding the passage of legislation designed to improve judicial machinery. ABA support for increased funding of the Legal Services Corporation Act was instrumental in obtaining increased appropriations for that important program. Moreover, the ABA assisted with research, testimony, and lobbying for a legislative proposal of mine designed to help protect the civil rights of institutionalized persons. Its enthusiastic and unwavering support for this measure is greatly appreciated.

In addition, the ABA supports the magistrates reform which I mentioned previously. It also endorsed legislation to aid victims of crimes, to create a National Institute of Justice, and to establish the office of a temporary special prosecutor. Many of these reforms, if passed into law, will result in innovative improvements to our legal system. I therefore think it was unwise of the President to characterize the organized bar as usually being opposed to innovation.

Since the American Bar Association released a response to President Carter's remarks, I also would like to insert this statement in the RECORD. This response frames the debate, and allows the reader to draw his own conclusions.

Finally, since the President opened his speech with a quote from "Bleak House" by Charles Dickens, I would like to close my statement with a quotation from "David Copperfield." Dickens respected the law and thought it was a "great pursuit" to be a lawyer.

> "How do you like the law, Mr. Micawber?" "My dear Copperfield," he replied, "To a man possessed of the higher imaginative powers, the objection to legal studies is the amount of detail which they involve. Even in our professional correspondence," said Mr. Micawber, glancing at some letters he was writing, "the mind is not at liberty to soar to any exalted form of expression. Still, it is a great pursuit. A great pursuit!"

I agree with this statement.

The text of President Carter's speech and the American Bar Association's response follows:

REMARKS OF THE PRESIDENT AT THE 100TH ANNIVERSARY LUNCH OF THE LOS ANGELES BAR ASSOCIATION

Governor Brown, Mayor Bradley, President Williams, President-Elect Taylor, distinguished members of the Los Angeles County Bar, ladies and gentlemen:

For the last half an hour, I have been sitting in a room nearby listening to the report on the background of this tremendous organization and also listing to the report on the future of the organization. And I have been thrilled with your past accomplishments and I have been touched by some of the struggles that you have experienced in your own history.

I congratulate you on your 100th Anniversary.

I would like to begin my speech with a quote from a book published in 1852.

"Jarndyce and Jarndyce drones on. This scarecrow of a suit has, in the course of time, become so complicated that no man alive knows what it means—innumerable children have been born into the case; innumerable old people have died out of it; whole families have inherited legendary hatreds with the suit—there are not three Jarndyces left upon the earth, perhaps since old Tom Jarndyce in despair blew his brains out at a coffee house in Chancery, but Jarndyce and Jarndyce still drags its dreary length before the court."

This quotation comes from the novel "Bleak House", and although Charles Dickens, who by the way was a court reporter himself, was writing about a chancery suit in London long ago, he could have been writing about a modern anti-trust suit in Federal Court. His subject was the same that should preoccupy you and me, lawyers, mayors, governors and the President of the United States; that is, insuring that our legal system serves the ends of justice without delay.

I am not a lawyer, but there is no question that has concerned me more throughout my adult life than that of human justice—striving to alleviate the inequalities, the unfairness, the chance differences of fortune that exist among people and to help ensure that all people possess the basic material and political rights that they need for full participation in the life of our society.

I grew up in a community in Georgia that often did not provide simple justice for a majority of our citizens because of the divisions of privilege between those who owned land and property, and those who did not, the divisions of power between those who controlled the political system and those who were controlled by it, the wall of discrimination that separated blacks and whites.

As a Governor and as a President, I have learned that, as Reinhold Niebuhr said, It is the sad duty of politics to establish justice in a sinful world." I am trying now as your President to carry our Nation's message of basic justice and human rights to other nations.

But I know that we cannot speak of human rights in other countries unless we are going to do our utmost to protect the rights of our own people here at home.

Let me tell you about some of the things that concern me.

On the last day of the Administration of Lyndon Johnson, the government filed an anti-trust suit against a major computer company. Nine years have passed; three new Presidential Administrations have taken

office; hundreds of millions of dollars have been spent on legal fees. But still the trial is not nearly over, and it has been speculated that the judge who has supervised it for the last nine years may die or retire before the trial is completed, in which case it would start all over again. Generations of computers have come and gone, there is not a single computer now being sold that was being sold when the case begin—but still the case goes on.

I am worried about a legal system in which expensive talent on both sides produces interminable delay—especially when delay itself can often mean victory for one side.

Justice should not be forced to obey the timetables of those who seek to avoid it.

As a public official, I have inspected many prisons and I know that nearly all inmates are drawn from the ranks of the powerless and the poor. A child of privilege frequently receives the benefit of the doubt; a child of poverty seldom does.

In many courts, plea bargaining serves the convenience of the judge and the lawyers, not the ends of justice, because the courts simply lack the time to give everyone a fair trial.

We have the heaviest concentration of lawyers on earth—one for every 500 Americans: three times as many as are in England; four times as many as are in West Germany; twenty-one times as many as there are in Japan. We have more litigation; but I am not sure that we have more justice. No resources of talent and training in our own society, even including the medical care, is more wastefully or unfairly distributed than legal skills.

Ninety percent of our lawyers serve ten percent of our people. We are over-lawyered, and under-represented.

Excessive litigation and legal featherbedding are encouraged. Non-contested divorces become major legal confrontations in many States. Complete title searches on the same property are unnecessarily repeated with each sale. Routine automobile accidents, the cases clog our courts while no-fault automobile insurance is opposed.

The number of medical malpractice suits skyrockets. Mahatma Gandhi, who himself was a very successful lawyer, said of his profession, and I quote, "Lawyers will as a rule advance quarrels rather than repress them." We do not serve justice when we encourage disputes in our society, rather than resolving them.

In my own region of the country, perhaps even yours as well, lawyers of great influence and prestige led the fight against civil rights and economic justice. They were paid lavish fees by their States and heaped with honors for their efforts. They knew all the maneuvers, and for too long they kept the promises of the Constitution of the United States from coming true.

The basic right to vote, to hold a job, to own a home, to be informed of one's legal rights when arrested, to have legal counsel if an indigent—these rights have been denied for generations, in our country, and are being recently won only after intense struggle.

I think about these things when I come to speak with you. What I think about most, however, is the enormous potential for good within an aroused legal profession, and how often that potential has not been and is not used. More than any other Nation on earth, ours was created out of respect for the law. We had the first written Constitution—it is the oldest; we proclaimed ours a government of laws, not of men; we put our faith in interpretations of the laws to resolve our most basic disputes.

None of us would change our system of laws and justice for any other in the world. From the beginning, it made the citizens the masters of the State, and not the other way around, and it has extended increasing protection to the poor and the victims of discrimination.

It is because of the enormous power of the law, and of the position of great influence and privilege which lawyers occupy within our society, that lawyers bear such a heavy obligation to serve the ends of true justice, and through dynamic effort, individually and collectively through organizations such as this, search for those ends of justice. I know that you understand these obligations.

During the last generation, many of our most important advances toward racial integration and protection of our people against government and its abuse have been made through the courts.

I heard the comments a few minutes ago about Chief Justice Earl Warren who has been an inspiration to all of us who serve in government. But let me mention briefly four challenges that we should face in order to improve justice in America.

First, in making criminal justice fairer, faster, more sensible, and more certain; second, in holding the law to the highest standards of impartiality, honesty, and fairness; third, in ensuring that access to the legal systems does not demand on political influence or economic power, and fourth, in reducing our over-reliance on litigation, and speeding up those cases that are litigated.

Our starting point in ensuring justice is to reduce crime through measures that are effective and fair.

There was encouraging progress in this direction last year, when the volume of crime fell for the first time in many years by four percent below the previous year's level. It is a welcome development, but it does not change the urgent need to control crime. States and local governments must take the lead in this effort, but the Federal Government must do its part.

We should streamline the Federal Criminal Code, which now contains many provisions which overlap, duplicate one another, are inconsistent and need upgrading. With the leadership of Senater Eastland and Senator Kennedy and the late Senator McClellan, a twelve-year effort recently culminated in the Senate passage of this new comprehensive criminal code. I hope the House will pass it this year without delay.

We are working with Congressional leaders to reorganize the Law Enforcement Assistance Agency, to gear our funding system to our most pressing needs, and to provide better support for State and local governments, and to concentrate our help on improving the criminal justice system and reducing crime. I will propose a consolidation and a reorganization of many of the functions now performed by more than 110 different Federal agencies that have direct responsibility for law enforcement.

We can reduce the tremendous overload on our criminal justice system by removing such crimes as drunkenness, and vagrancy from the courts, thereby freeing the courts to deal with serious offenses and enabling us to treat these social illnesses in ways that offer a greater hope of success than conviction and incarceration.

I am supporting uniform sentencing standards for Federal offenses, which will make the punishment for crimes more rational and fair and will help ensure that the rich and the poor are treated alike, no matter what court might convict them.

Powerful white-collar criminals cheat consumers of millions of dollars; public officials who abuse their high rank damage the integrity of our Nation in profound and long-lasting ways. But too often these big-shot crooks escape the full consequences of their acts. Justice must be blind to rank power and position. The Justice Department is now undertaking a major new effort on white-collar crime.

I have directed the Justice Department also to review our prison policy alternatives to incarceration, such as station house citations, supervised release, work-release programs and other community-based facilities.

I urge all judges and all lawyers to use your enormous influence to make these efforts a success.

Our second challenge is to see that our legal system lives up to its noblest tradition of honesty and impartiality, so that all people stand equal before the bar of justice.

One of the most important steps that we can take is to restore public confidence in our system of justice, to assure that government decisions are thoroughly impartial, and that personal interests and influence have no part. I have required all major appointees of mine, as a condition of accepting office, to disclose their personal financial interests. I have also required them to pledge that, after their term of public service is over, they would forego all contacts with their former agency in government for one year.

Last year I proposed legislation to make these standards a permanent part of the American law. In its current form, this ethics legislation would extend similar standards to the Legislative and Judicial Branches of our government. It has already passed the Senate and cleared the Rules Committee in the House and is ready for Floor action without delay.

Last week the House passed a bill I supported requiring those organizations which do significant lobbying of Congress to disclose their activities to the public. Although lobbying is a constitutionally protected activity, the American people have a right to know what major forces are affecting the legislative process. It is time now for the Senate to follow the lead of the House and pass a lobby reform bill.

Law enforcement agencies must set a clear example for their respect for the law. Recently, as the number of undocumented aliens has grown, there has been a disturbing trend particularly in your part of the country toward routine police harassment of our Mexican-American citizens. I know that your own bar association has studied this problem.

Last month, the Justice Department intervened in a harassment case in Texas where three policemen had been convicted for the death of a Mexican-American prisoner. In filing for a review of the one-year jail terms given to the convicted men, the Justice Department said, and I quote, "The public perception of inequality and the belief that the life to a Mexican-American citizen has little value can only do damage to respect for the laws and belief in justice."

This kind of harassment must stop, and my Administration, working with you, will do what it can to see that it does. Moreover, we have submitted legislation to Congress now which will stop the flow of illegal immigration while fully protecting the rights of our Hispanic citizens.

When I was Governor of Georgia, I appointed judges on the basis of merit alone. And one of my first acts as President was to create a nominating commission to recommend candidates to me for all appointments as Federal Circuit Judges. I am pleased that many Senators, including those from California, have now set up similar commissions at the District Court level.

The passage of the Omnibus Judgeship Act, now pending in a House-Senate Conference Committee, will provide a test for the concept of merit selection. The conferees have recently agreed that the President should set "standards and guidelines" governing the selection of District Judges, and I intend to

use this authority to encourage establishment of more merit panels and to open the selection process.

The passage of this act—which will create 152 Federal judgeships—offers a unique opportunity to make our judiciary more fully representative of our population. We have an abominable record to date. Of the 525 Federal judges, only 20 are black or Hispanic, and only six, about one percent, are women.

While the Federal Bench in Southern California has become more representative, this is not true elsewhere in the Nation. My Executive Order on the Circuit Court Nominating Commission specifically requires special efforts to identify qualified minority and female candidates.

During too many of the struggles for equal justice, just in the lifetimes of you and me—the questions of one-man, one-vote, voting rights for blacks, representation for indigent clients, and others—much of the organized bar sat on the sidelines or actually opposed these efforts. In today's struggle for women's rights, the passage of the Equal Rights Amendment—(Applause)—and the full participation of women and minorities at all levels of society, I hope that lawyers throughout the country will follow the actions that your bar association has already taken here in Los Angeles County.

The third challenge is suggested by the American Bar Association's theme for this year "Access to Justice". Too often the amount of justice that a person gets depends on the amount of money that he or she can pay. Access to justice must not depend on economic status, and it must not be thwarted by arbitrary procedural rules.

Overcoming these procedural barriers means that groups with distinct interests to defend—in civil rights, economic questions, environmental causes and so forth—must be able to defend them fully. We are supporting efforts to broaden the use of class action, and to expand the definitions of standing to sue. My Administration supports bills before Congress that would empower citizens to participate in the proceedings of Federal agencies—a right that has too often been reserved for the large and the powerful corporations which have the legal resources to express their view forcefully.

We must remove the economic barriers to justice. When a poor family is cheated by a merchant, unfairly threatened with eviction, falsely accused of a crime, it can very rarely take advantage of the skilled legal talent at reasonable rates.

In the City of New York there are 35,000 lawyers—one for ever 200 citizens. But only a handful of these lawyers are available for service to the city's poor—one lawyer for every 5,000 poor people. That is why we have now expanded the Legal Services Corporation; in Fiscal Year 1979, its budget will be more than twice as large as it was when my Administration took office about a year ago.

But you know and I know that legal help is often beyond the reach of most of the middle class Americans as well. Here, too, I believe that the bar has an obligation to accommodate those with modest incomes. Free and open competition is the best way to bring legal services within the reach of average citizens. Another solution, which my Administration supports, is the expansion of prepaid legal plans, legal clinics, and other low cost alternatives, such as those pioneered by the United Auto Workers.

The Neighborhood Justice Center near here in Venice and Marvista is a good example of what we are trying to do.

I also ask that lawyers join the effort to stop inflation by following the example we have asked of—(applause)—of following the example that we have asked of every other group in our society and join in decelerating the rise in legal fees. This morning new inflation figures were published in Washington that caused me grave concern. How can we, the privileged members of American society, call upon the working people, the men and women of our country, to make a financial sacrifice to deal with inflation unless attorneys, doctors, accountants and other professionals, Presidents, assume the same responsibility to assist in our efforts to keep a lid on inflation?

One of the greatest failings of the organized bar in the past century since the American Bar Association was founded is that it has fought innovations. When greater competition has come to the legal profession, when no-fault systems have been adopted, when lawyers have begun to advertise or compete—in short, when the profession has accommodated the interests of the public—it has done so only when forced to.

Construction work is now under way and as the second century of the Bar Association begins, the people of this country are beginning to see leadership from the members of the bar.

But as we make litigation more accessible, our fourth challenge is to make the adversary system less necessary for the daily lives of most Americans—and more efficient when it must be used. By resorting to litigation at the drop of a hat, by regarding the adversary system as an end in itself, we have made justice more cumbersome, more expensive and less equal than it ought to be.

This is a phenomenon more and more widely recognized—I know—among members of the bar.

One answer is to be sure that other pathways to justice do exist.

Many suggestions have already been made for making litigation less necessary, and my Administration will work with you and other members of the bar to implement them.

In the great number of cases there is no sound reason for a lawyer to be involved in land transfers or title searches. Simplified procedures and use of modern computer technology can save consumers needless legal fees.

We must eliminate from our judicial system cases which can be resolved in other ways. No-fault automobile insurance systems adopted by many States, are a step in the right direction; national standards for no-fault will have a much greater impact. We support no-fault divorce laws, like those passed when I was Governor of Georgia and the ones passed here in California, that can reduce litigation that is unnecessary and also the bitterness that litigation brings. We must look for ways to reduce the tremendous burden of medical malpractice costs.

Delays in our courts because of the excessive litigation are matched by the interminable delays in many Federal regulatory agencies.

In trying to solve society's problems, our regulators have proposed unnecessarily detailed specifications, and written regulations in the kind of gobbledygook that could employ a generation of law school graduates just to interpret them.

I have pledged to reduce this regulatory burden for the first time on American citizens and we have taken some steps toward change. A few weeks ago, I signed an Executive Order that will be carried out which requires the heads of departments and agencies personally to approve the regulatory agendas of their organizations; that regulations be signed by the one who wrote them; that regulations be gone over rigorously—(Applause)—in "sunset" reviews to terminate them when they have served their purpose; that they be simply written; and that they are the most cost effective rules possible to devise.

Where the free market place can do a better job than regulations—as in the setting of airline fares—I will work hard to deregulate that industry, and to encourage free and effective competition.

The Senate has passed a superb airline deregulation bill. I predict that next week it will come out of the House subcommittee and we expect success on the Floor of the House.

We must also find a way to remove the vested interests in over-litigation and delay. Last year, corporations spent $24 billion on legal services—12 times as much as we spent on all Federal, State and local courts combined. We must ask whether this is the right way or the best way to conserve our legal resources or to ensure justice.

We are reviewing suggestions for reducing litigation, including more arbitration, greater reliance on small claims courts and experiments with alternative systems for resolving disputes, such as the experimental arbitration systems now in existence in San Francisco, and in Philadelphia, and in other parts of our country.

But even with all of these steps, much litigation will of course still be necessary. There are a variety of steps that can be taken together to make necessary litigation more efficient and to reduce unnecessary delays.

I support legislation now in Congress to expand the functions and the jurisdiction of Federal magistrates, to reduce the burden on Federal judges.

I support a speedy appeals act to reduce the delay between sentencing and appeal; and I have directed Attorney General Bell to study whether we can also apply strict time limits to civil trials and to regulatory proceedings.

Those of us—Presidents and lawyers—who enjoy privilege, power and influence in our society can be called to a harsh account for the ways we are using this power. Our heirarchy of privilege in this nation, based not on birth but on social and economic status, tends to insulate some of us from the problems faced by the average American. The natural tendency for all of us is to ignore what does not touch us directly. The natural temptation when dealing with the law is to assure that whatever is legal is just.

But if our nation is to thrive, if we are to fulfill the vision and promise of our founding fathers, if we are truly to serve the ends of justice, we must look beyond these comfortable insulations of privilege.

I have too much respect for the potential of the law to believe that this leadership is not possible from you.

I hope that lawyers throughout the country will take up the challenges I have made today. I know you understand the responsibility to serve justice. You have dedicated your very lives to this task.

This responsibility is older than our Constitution, older than the Bill of Rights, older even than the tradition of the common law.

It comes from the roots of our western heritage, with the prophet Amos, who said, "Let justice roll down like waters, and righteousness like an ever-flowing stream."

Thank you very much.

INFORMATION IN RESPONSE TO PRESIDENT CARTER'S REMARKS TO THE LOS ANGELES COUNTY BAR ASSOCIATION

Legal Services for the Indigent.—In his speech, President Carter urged that economic barriers to justice be removed and that we assure "the poor family" access to "skilled legal talent."

President Carter cites as one of his major commitments in the justice area his support for a well-funded Legal Services Corporation. But the fact is that President Carter has fallen far short of meeting this goal. Instead, it has been the American Bar Association that led the push for full funding of the Legal Services Corporation.

Item: Last year Carter recommended $175 million, ABA urged $217 million and Congress appropriated $205 million.

Item: This year, Carter recommended $255 million—$49 million less than the $304 million recommended by ABA, and $30 million less than the amount approved two weeks ago by the House Appropriations subcommittee.

Since 1937, ABA has supported organized programs to effectuate the Constitutional right to legal counsel to the indigent accused in criminal proceedings. Leaders of the ABA are meeting this afternoon at the White House to propose a means to put muscle behind this objective—a federally-funded independent corporation to provide training and supplemental funds to state and local programs aimed at ensuring defense counsel for the poor. If the President's commitment is real, he will strongly and publicly support this ABA initiative.

Restoring Public Confidence.—President Carter's remarks stress that "one of the most important steps we can take is to restore public confidence in our system of justice."

There is legislation now pending in Congress to provide a mechanism for court appointment of a special prosecutor, patterned after recommendations made by the ABA over two years ago. Candidate Carter not only supported this approach, but promised to provide "leadership that will move forcefully" on this and other steps to avoid a recurrence of crimes we call Watergate. But where is the Presidential leadership now? What action is the White House taking to bring this issue to a vote?

Candidate Carter called for the appointment of all federal judges and prosecutors "strictly on the basis of merit, without any consideration of political aspects or influence." For 20 years, the ABA has supported merit selections of judges. More recently, ABA has taken a similar position with respect to U.S. attorneys. But where, after 18 months in office, is President Carter?

Item: To date, while no figures are available on judgships appointees, of 70 U.S. attorneys appointed so far by Carter, all but one are Democrats.

Item: The fact is that while merit selection panels were set up immediately for Circuit Court of Appeals judgeships, the President still has failed to institute a merit selection process for Federal District Court judgeships and U.S. Attorneys.

LEAA Reorganization.—President Carter refers to plans to reorganize LEAA and make it more efficient. Yet there is little evidence in preliminary reports on his reorganization plan that he is taking any significant steps to implement campaign pledges.

Item: Candidate Carter pledged his support for creation of an independent, publicly-funded National Institute of Justice. Instead, it seems the Administration's current thinking is to call merely for a revamp of the existing National Institute of Law Enforcement and Criminal Justice. As proposed, the Administration's NIJ would not be independent, would not guarantee a civil justice research program, and would not have the public visibility and credibility which is essential for the success of this program.

Item: Candidate Carter criticized LEAA for providing only 6 per cent of its funding to the courts of this country. To date, nothing indicates this situation will be improved under Carter's reorganization plan.

CRIMINAL JUSTICE REFORM

In his speech, President Carter criticizes "plea bargaining." "Plea bargaining" *is* a legitimate part of the criminal justice process if brought into the open and subjected to safeguards.

Along with the U.S. Supreme Court, ABA supports "plea bargaining" not as a "convenience of the judge and the lawyer," but because plea agreements aid the public by saving tax dollars, making dispositions speedy and certain, and frequently providing the prosecutor with valuable information about other crimes. The defendant is aided as well: penalties are reduced, the person frequently becomes eligible for rehabilitation programs and is saved from the ordeal, expense and uncertainty of a criminal trial. Finally a crime victim is aided by plea agreements by being saved the ordeal of testifying at a public trial and by being assured the certainty of a conviction.

The clear implication of President Carter's speech is that the organized bar has done little to improve the criminal justice system. But the facts are:

Item: The ABA has long backed a major nationwide effort to improve the criminal justice system. ABA Standards for Criminal Justice project, launched in 1964, produced guidelines for every stage of a criminal proceeding—including speedy trial, pretrial release, and sentencing. Since their issuance, over 6,000 appellate court decisions have cited the Standards; new laws and court rules in many states follow the Standards' recommendations.

Item: For almost a decade, the ABA has been in the forefront of those working to achieve codification of the federal criminal laws. ABA has actively supported S. 1437, as a sound basis for reform of the federal criminal laws.

Item: Ten years ago the ABA adopted policy calling for greater use of alternatives to incarceration. We welcome Carter's support of this approach. We urge the President now to join our efforts to convince Congress to amend the federal criminal code bill to stress greater use of such alternatives.

Item: ABA has long recognized the importance of the sentencing stage of a criminal proceeding, and has worked to help insure more uniform sentencing standards through recommendations contained in ABA Standards on Sentencing Alternatives and Procedures and ABA Standards on Appellate Review of Sentences.

Item: Since 1969 ABA has made a concerted effort in the field of corrections at a cost of more than $8 million. Not only has the Association developed comprehensive standards respecting the rights of confined persons, it has encouraged and assisted similar efforts by the American Correctional Association, the National Sheriffs Association, the American Medical Association, and the Department of Justice. ABA has encouraged states to develop their own Jail Standards and some 35 states have done so.

Item: ABA has worked to find ways to effectively reintegrate offenders into the community after confinement. We have strived to improve the correctional work force through the inclusion of women and minorities and through its educational upgrading.

Item: In recognition of the burgeoning problem of white collar crime, the ABA Section of Criminal Justice set up a Committee on Economic Offenses in 1975. The committee plans to present comprehensive recommendations to the ABA House of Delegates concerning more effective law enforcement and prosecution efforts.

Item: ABA supports and has worked hard to enact legislation to decriminalize many "victimless crimes," including drunkenness, proscribed sexual conduct between consenting adults, and marijuana offenses.

Item: ABA actively supports other badly-needed criminal justice reforms such as legislation to insure effective gun control and to curb grand jury abuse. Legislation is now pending in Congress. The President failed to mention these reforms in his speech. If his commitment to criminal justice reforms is real, it should be reflected in his active support now for these two proposals.

Public Participation.—In his speech President Carter says that participation in the proceedings of Federal agencies is a "right that has too often been reserved for the large and the powerful corporations which have the legal resources to express their point of view." For the last 18 months, one of ABA's priority issues has been the advocacy of legislation to assure citizen participation in the proceedings of federal agencies. This legislation is strongly endorsed by various consumer groups and the public interest bar as well. This is a crucial period for this important bill. Now is the time for the President to personally play a more active role to insure enactment of this badly-needed legislation.

Citizen Disputes.—The Consumer Controversies Resolution Act, which has been held on the Senate calendar for months, would provide needed assistance to states and localities in experimenting with judicial as well as non-judicial dispute resolution mechanisms. In his speech, President Carter expresses support for such experimentation. ABA has been one of the early experimenters in this area. We welcome Carter's support and hope that he will soon actively push for enactment of this important legislation.

No-Fault.—A recent five-month ABA study of state experience with no-fault auto insurance plans indicates that no-fault plans are not working as expected and have generally resulted in higher insurance premium costs. It found many of the analyses performed by the Department of Transportation and others are based on faulty information and incorrect methodology; and that there is no evidence upon which to conclude that a single, national no-fault approach would serve consumers as well as the diverse state laws now in effect.

As this study indicates and as candidate Carter said, "the no-fault insurance concept is still in the embryonic stage." State experimentation should be continued before we take a drastic step that will result in forfeiting important legal rights. A system of laws which provides all people access to justice to vindicate their basic legal right to seek compensation for harm inflicted by a wrong-doer should not be changed lightly.

Delivery of Legal Services.—In his speech, President Carter criticizes the organized bar for actively resisting innovative approaches to the delivery of legal services. While there is much left to be done, ABA has actively supported and encouraged prepaid legal services plans—including helping to found the American Prepaid Legal Services Institute and fighting to remove statutory barriers to such plans; experimenting with legal clinics, and working to improve lawyer referral services.

Real Estate Transactions.—President Carter's concern with archaic and costly systems of title examination is valid; we have spent many hours working toward the "modern computer technology" which the President mentions. However, the President's assumption that a lawyer is not needed in a real estate transaction is ridiculous. It ignores the substantial realities of economic life. Nationwide studies reveal that a residential real estate transaction is the most common situation in which the parties need lawyers. The sale or purchase of a home by the average citizen is usually the financial transaction of a lifetime, fraught with heavy legal obligations from the first contact with a real estate broker through settlement. Much money, complex legal allegations, and an assortment of tax considerations are involved in every such transaction.●

"CONSENSUS" ALASKA BILL PROVISIONS PRINTED AS AMENDMENTS TO H.R. 39—ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, I am today having printed in the RECORD a package of amendments which may be offered when the House debates H.R. 39, the Alaska National Interest Lands Conservation Act.

The amendments printed today are provisions of H.R. 12625, consponsored by Chairmen MURPHY and LEGGETT and ranking minority member FORSYTHE of the Committee on Merchant Marine and Fisheries and JOHN SEIBERLING and myself as chairmen of the Subcommittee on General Oversight and Alaska Lands and the full Committee on Interior and Insular Affairs.

These amendments draw upon the amendments to H.R. 39 which have been reported by the two committees. As I have earlier informed the House, our intent in cosponsoring this consensus bill was to save the time of the House by collecting into a clean bill the amendments to H.R. 39 which have broad support within the two committees, and to present this clean bill as a substitute original text when the bill is read for amendment in the Committee of the Whole. The entire consensus bill may still be offered as a substitute; by printing these amendments today, I am also holding open the option of offering these provisions of that bill in the form of a series of amendments rather than as an entire new substitute text.●

SOUTH AFRICA AND THE NAMIBIAN MASSACRE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MATTOX) is recognized for 5 minutes.

● Mr. MATTOX. Mr. Speaker, I know that the outrage I felt on seeing the mass grave of murdered Namibian refugees in Sunday's paper is shared by millions of Americans.

The South Africans said they were guerrillas, posing a threat to the border of their protectorate, Namibia. But noninvolved journalists said they were largely women and children.

On May 6, the United Nations Security Council agreed and passed a resolution condemning the South African army's action.

This barbaric attack on innocent Namibians, who had fled into Angola to find peace, is the result of a very complicated and tense political situation in Namibia. But whatever the outcome of negotiations, this massacre is an example to me now of just how insignificant the lives of black people are to the South African Government. I shudder to imagine how many more "limited military operations"—as the South African military calls them—we might be called upon to endure before the 50,000 troops stationed in the area now, are called home.

Importantly, we of the House will have an opportunity to vote this week on an amendment of economic import to South Africa. The Export-Import Bank authorization carries with it a prohibition on further bank guarantees for American business with South Africa. In committee, my position that this first move toward an American economic sanction was in order, and that as long as the Vorster government continues its policy of institutionally repressing black people, we should not be pouring more than $200 million in goods into that country which would in a very real sense, help perpetuate that government's economic growth. Now, after the Cassinga slaughter, I am even more convinced of this position.

The South African Embassy and its Washington-based law firm are bombarding my office with testaments of South Africa's progress in human relations—yet the death of Steve Biko looms heavily in my memory when I read the latest important development toward "mixing the races" there. If the government is so tolerant, why was Percy Quoboza imprisoned without trial for so many months—and finally, why are those Namibian refugees lying dead in that mass grave? This is not progress in any sense and even though I do not believe in using our Export-Import Bank as a political tool, I will vote to do so in this case, for in South Africa the purest form of racist humanity exists—a national policy of enslavement of the majority of citizens in a life of card checks, police searches, low-paying and degrading jobs, and hopelessness.

In the case of South Africa, it is obvious that it will be many years before the value of human life is recognized as easily as the value of a lost dollar. But perhaps this one act will help to shorten that time. It seems the least we can do.●

A FIRM STAND WITH RUSSIA IS OVERDUE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, America will applaud the strong statement made by President Carter on Russian encroachments, which frequently involve the use of Cuban troops, in Africa. It is to be hoped that this realistic step will be followed by equally firm action in conferences involving the Russians. It is just as important for America to be sufficiently strong that the Russians will know we can stand by our statements.

It is notable that this is the second strong signal by President Carter in 2 weeks that, if the Soviets want a strategic arms limitation treaty, they should stop roiling international waters. He said the Soviet involvement in Africa with Cuban troops is "a major obstacle to trust on the part of the American people that the Soviets want peace and want to have a successful détente effort." Earlier President Carter had harshly condemned Soviet intervention in Africa as a "danger to nuturing United States-Soviet relations."

In one of his sharpest attacks on Cuba, the President also said Fidel Castro was under Soviet domination and was sending troops into the Middle East as well as Africa, and is trying to prevent peaceful settlement of international disputes. He said this is an obstacle to any further progress between the United States and Cuba. The President said it was ridiculous for Cuba, which has been admitted to conferences of nonalined nations in the past, to say that it is not alined, for there is no other country that acts in harmony with and under the domination of the Soviets any more than the Cubans do.

The Carter administration has been criticized for its weakness in resisting Soviet/Cuban military power in Africa. The United States must hold the Soviet Union globally accountable for its actions.

There also are ways in which the United States can make it difficult and costly for Castro to maintain and expand his occupation forces in Africa. Our attitude in the U.N. and elsewhere has been passive toward Cuban activities. It has been established that there are 45,000 to 50,000 Cubans now in Africa in 14 countries.

Russian motives are crystal clear. By involvement in Ethiopia and South Yemen, they are moving to outflank the oil-rich Middle East. The Russians want a Marxist government in Rhodesia, and South African and Rhodesian intelligence sources are saying that two companies of Cuban troops have moved into Mozambique, along with 200 Soviet tanks and 35 Mig–21 fighter planes. The same sources say that Gen. Vasily Ivanovich Petrov—the man believed to be directing Russian military operations in Africa—recently turned up in Mozambique.

No one expects the United States to send troops abroad to counter Soviet ambitions or aggressions. Nonetheless, the United States can provide weapons to those who seek to withstand Russian aggression. Of particular moment is the case of Somalia, which ordered the Russians to leave their country. They were anticipating U.S. support. It has not been forthcoming. At any time the Russians unleash the Cuban forces in Ethiopia, Somalia, and the Horn of Africa can be engulfed.

The United States cannot afford to stand idly by and see the huge undeveloped mineral resources of Africa fall under Soviet domination. The growing Soviet presence in Asia and in Africa are danger signals of clear portent to the future of the United States. It should be made clear that there can be no accord in SALT talks while the Russians are establishing a colonial empire in Africa.

Again, the President is to be commended for his present position. It is to be hoped that there will be no weakening of this attitude.●

TRIBUTE TO THE LATE BISHOP WALTER A. FOERY

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, the milestones of our development as a nation are marked by the accomplishments of the men and women who thrust forward the social, public, religious, governmental, and personal development of our history. At some points great events and movements overwhelmed the efforts of individuals; at other points certain individuals came to such prominance and power that they could sweep along the whole Nation in a tide of reform and action.

Yes, great men and women coupled with great ideas and trends could draw us together as a people with common culture and identity. For every distracting element and fractious movement there was a suitable and effective pacifier and unifier. In the long term, the movement of American development was positive and cohesive, was expansive and democratic.

One of the forces most responsible for the orderly development of an educated, moral, and open society with the hallmarks of charity, equity, and compassion has been the involvement of the religious communities in the temporal life of the country. Providing a moral and ethical base and a structure of acceptable conduct for individuals and for public institutions as they expressed the consensus of the private aspirations and expectations of the leaders and constituency, the religious institutions proved valuable allies in peace and in war. They were one of the basic elements of our progress and continue to provide the leadership and mode of conduct so needed in today's world.

It is against this background that I ask for the attention of this House to the passing of one individual who has exemplified the traditions of this balance of public participation and private religious dedication. The death of retired Bishop Walter A. Foery, of the Roman Catholic Syracuse Diocese, has left a void in the collective consciousness of our community and of our Nation.

A litany of the lifetime of good works and selfless efforts of Bishop Foery gives ample evidence of his inspirational and spiritual dedication to the task of making the spirit of Christ manifest among men. His goal to make the lot of mankind a challenge for the fulfillment of a temporal and a devine plan was effectively moved forward by his championing of charity programs, educational institutions, youth programs, senior citizen programs, and internal reform within the Roman Catholic Church.

Not a radical, he was open to change, not a prude, he was worldly wise. Bishop Foery was a man of God who knew the ways of the world and how to make the instincts of men move them closer to God and earthly perfection.

His influence has been great, if somewhat overshadowed during the last years of his retirement. But, none among us can forget the living legacy of a strong dedication to quality education for our young people and a firm resolve to make each event and every day an occasion for the betterment of life on Earth and for the eventual victory over death which eternal life promises the faithful.

He will be missed. He will not be forgotten. He will be emulated. He will be at the gates of Heaven to welcome all who make their life's work the embodiment of Christian principle and spirituality.

At this point, Mr. Speaker, I would like to add the comments contained in a Syracuse newspaper, the Herald Journal, which give a dimension and background to this man of tradition and aggiornimento, this man who transcended his temporality and made real his spiritual devotion:

FOERY ACCLAIMED—CATHEDRAL SERVICES MONDAY

(By Peg Cram)

Community leaders and members of the clergy of Syracuse and Upstate New York today joined in tribute to the Most Rev. Walter Andrew Foery, fifth bishop of the Roman Catholic Diocese of Syracuse, who died yesterday afternoon at his home, 1234 James St.

Funeral services will be Monday at 10 a.m. at the Cathedral of the Immaculate Conception.

Congressman James M. Hanley, D., 32nd District, said, "I am saddened on learning of Bishop Foery's death. I have lost a dear friend. May he rest in peace."

Congressman William F. Walsh, R., 33rd District, said, "Bishop Foery was one of the outstanding religious personalities in the nation. Under his loving direction, the Diocese of Syracuse became a dominant bastion of Catholic faith in America. He was loved, admired and respected by members of all faiths. The Diocese of Syracuse was fortunate to have had him as its spiritual leader. His passing brings great sadness to our community."

In a telegram to Bishop Frank Harrison, Mayor Les Alexander stated: "I am greatly grieved to learn of the passing of Bishop Foery. He was a great spiritual leader as well as a humanitarian and exemplary citizen. On behalf of a community made better by his presence, I offer this word of condolence, both officially and personally."

Onodaga County Executive John H. Mulroy said he expressed his "sympathy both personally and officially on behalf of Onodaga County on the death of Bishop Foery. Bishop Foery not only served the Diocese of Syracuse with exemplary spiritual leadership, but combined it with a human warmth that truly expressed the Christian way of life."

Commented the Most Rev. Frank J. Harrison, D.D., Bishop of the Roman Catholic Diocese of Syracuse: "We are all deeply saddened by Bishop Foery's death. He had been our bishop for 33 years and he not only accomplished many things for the diocese, but he also had a very warm, close relationship with all of his priests. He was not only a bishop, but a 'father' to all. We all shall miss him."

Bishop Joseph H. Yeakel of the Syracuse Area of the United Methodist Church, said he did not have the "privilege of knowing Bishop Foery personally," but added that he felt Bishop Foery "had a tremendous impact on the community."

The Rt. Rev. Ned Cole, Bishop of the Episcopal Diocese of Central New York said, "We thank God, for the life and ministry of Walter Foery as Bishop of Syracuse."

"Bishop Foery was the Bishop of Syracuse when I came to this diocese 14 years ago and was the bishop who began the implementation of Vatican II in this area. We are grateful for his leadership in this, and his personal friendship. May The Lord grant him eternal rest and let perpetual light shine upon him."

Gov. Hugh L. Carey and members of the Central New York legislative delegation joined in mourning the death of Bishop Foery. Gov. Carey, a Roman Catholic, said, "Bishop Foery's work to sustain and strengthen the Diocese of Syracuse is an accomplishment that will live long after his passing. I was saddened to hear of Bishop Foery's death and my prayers are with him as are those he has served so faithfully for so long."

State Sen. Tarky Lombardi Jr. of Syracuse, said, "For Thousands of Central New York Catholics, Bishop Foery was the bishop of our youth and the later years." His passing recalls a whole lifetime of religious events at which he presided—confirmations, Christmas Eve midnight masses, ordinations and other liturgical events at the cathedral, and his simple but eloquent homilies.

"He was a much revered shepherd of his flock, whose love for all under his spiritual care clearly came through in his every action, whether he was saying mass, delivering a sermon, speaking at a public meeting or in face-to-face conversation."

Assemblyman Leonard F. Bersani, also of Syracuse, said, "In Bishop Foery's lengthy reign as shepherd of the faithful in the Diocese of Syracuse, he touched the lives of thousands of parishioners. He was a kind and gentle human being, dedicated to the welfare of all the people."

Terence Cardinal Cooke, Archbishop of New York, will preside at the pontifical concelebrated mass of Christian Burial Monday at 10 a.m. in the Cathedral of the Immaculate Conception for Bishop Foery.

Calling hours for clergy and the public will be Saturday from 2 to 9 p.m. at Bishop Foery's 1234 James St. residence.

Bishop Foery's body will be brought to the cathedral Sunday at 2 p.m. where it will lie in state Sunday at 8 p.m., a vigil service for the death of a bishop will be conducted in the cathedral. Burial will be in St. Mary's Cemetery in DeWitt.

Bishop Foery served as bishop of the Syracuse Diocese 33 years, longer than any of his four predecessors. He retired Aug. 4, 1970, succeeded by the Most Rev. David F. Cunningham, then co-adjutor bishop of Syracuse. The Most Rev. Frank J. Harrison, the present bishop of Syracuse succeeded Bishop Cunningham. Bishop Foery had succeeded the late Most Rev. John Aloysius Duffy as bishop of Syracuse.

Bishop Foery's death was attributed by aides at the Chancery to old age or exhaustion. He had been "slowly declining" for about a year, they said.

Bishop Foery served the diocese as bishop from 1937 to 1970.

A native of Rochester, he was born July 6, 1890. His father, William J. Foery died when he was 10 years old and his mother, Mrs. Agnes O'Brien Foery, brought up their four children.

Mrs. Foery saw Walter through his primary school days at the conclusion of which he decided to join the priesthood. He attended St. Andrew's and St. Bernard's seminaries in Rochester. He was ordained to the priesthood by the Most Rev. Thomas Hickey, Archbishop of Viminacium and then the only living former bishop of the city of Rochester. The ordination took place on June 10, 1916.

Bishop Foery was assigned to the assistant pastorate of Our Lady of Mount Carmel Church in the heart of downtown Rochester's Italian district. There, he laid the foundation for the philanthropic work which

gained him nationwide recognition and subsequent appointment as director of Catholic Charities of Rochester.

He was appointed pastor of Our Lady of Mount Carmel Church Feb. 8, 1922, and 10 years later in 1932, was named pastor of Holy Rosary Church, the post he held at the time or his advancement to the Episcopacy on June 8, 1937.

In 1931, the then-Father Foery was appointed director of the Columbus Civic Center and in 1936 was named the only delegate of the Catholic Welfare Center Council to the International Charities Council Conference in London, England. He spent several months in Europe studying charity administration in several countries. Father Foery was 47 when he received the papal bull announcing his elevation to become a bishop and was one of the youngest bishops in the See of New York.

Bishop Foery was an ardent athlete in his school days, playing tackle on the football field and pitching and playing third base for his baseball nine.

When Father Foery was named bishop, many of his brother priests and superiors praised him for "great humility" in the performance of his duties and in acceptance of the high honor.

Bishop Foery was elected fifth bishop of the Roman Catholic Diocese of Syracuse May 26, 1937. He was consecrated bishop Aug. 18, 1937 in St. Patrick's Cathedral in Rochester and was installed bishop Sept. 1, 1937.

From 1937, Catholic population in the diocese skyrocketed from 102,146 to 394,099 in 1967. Catholic high school population nearly tripled from 3,254 to 8,611. Grammar school population more than doubled from 15,246 to 33,149.

Bishop Foery's name is certain to go down in local Catholic Church history as a builder.

Bishop Foery received a licentiate in sacred theology degree from St. Bernard's Seminary and a Ph.D. from Niagara University in Niagara Falls. He was vice chairman of the Rochester Council of Social Agencies in 1935. He was consecrated bishop at St. Patrick's Cathedral in Rochester by Archbishop Mooney of Detroit and the co-consecrators were Bishop Keough of Providence, R.I. and Bishop Walsh of Charleston, Bishop Cooroy of Ogdensburg officiated at his installation as fifth Bishop of Syracuse. On Dec. 11, 1961, Bishop Foery was appointed assistant at the Pontifical Throne.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. NEAL, for 5 minutes, today.

(The following Members (at the request of Mr. QUAYLE) and to revise and extend their remarks and include extraneous matter:)

Mr. COHEN, for 5 minutes, today.

Mr. MARTIN, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. KASTENMEIER, for 15 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. MATTOX, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. NEAL, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,067.63.

Mr. QUIE, immediately following the remarks of Mr. JEFFORDS on H.R. 12467.

Mr. GILMAN, immediately following the remarks of Mr. QUIE on H.R. 12467.

(The following Members (at the request of Mr. QUAYLE), and to include extraneous matter:)

Mr. MICHEL.

Mr. HAGEDORN.

Mr. GILMAN.

Mr. BROWN of Ohio in two instances.

Mr. WHALEN.

Mr. MARKS.

Mr. STEERS.

Mr. FORSYTHE.

Mr. DICKINSON.

Mr. ASHBROOK.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. OTTINGER.

Mr. KASTENMEIER.

Mr. VENTO.

Mr. REUSS in two instances.

Ms. MIKULSKI.

Mr. PEASE.

Mr. TEAGUE.

Mr. FOWLER.

Mr. DOWNEY in two instances.

Mr. ROGERS in five instances.

Mr. WAXMAN.

Mr. MAZZOLI in two instances.

Mr. FRASER.

Mr. BRECKINRIDGE.

Mr. BRADEMAS in five instances.

Mr. VANIK.

Mr. BLANCHARD.

Mr. DRINAN.

Mr. CARNEY.

Mr. RANGEL.

Ms. SCHROEDER.

Mr. AMBRO in two instances.

Mr. JONES of Oklahoma.

Mr. LEHMAN.

Mr. BALDUS in two instances.

Mr. PHILLIP BURTON.

Mr. HANNAFORD.

Mr. ULLMAN.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1568. An act to name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West."

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 20 minutes p.m.), the House adjourned until tomorrow, May 17, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4170. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement for the quarter ended March 31, 1978, pursuant to section 819 of Public Law 95–111; to the Committee on Appropriations.

4171. A letter from the Assistant Secretary of Defense (Comptroller), transmitting the selected acquisition reports and SAR summary tables for the quarter ended March 31, 1978, pursuant to section 811(a) of Public Law 94–106; to the Committeee on Armed Services.

4172. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to remove chaplains from under the cognizance of the Chief of Naval Personnel; to the Committee on Armed Services.

4173. A letter from the Associate Director of Legislative Liaison, Department of the Air Force, transmitting the annual report for calendar year 1977 on the progress of the Air Force Reserve Officers Training Corps flight training program, pursuant to 10 U.S.C. 2110 (b); to the Committee on Armed Services.

4174. A letter from the Secretary of the Interior, transmitting the first annual report on the leasing and production of coal lands, pursuant to section 8B of the Mineral Lands Leasing Act, as amended (90 Stat. 1089); to the Committee on Interior and Insular Affairs.

4175. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of an application by the West Bench Irrigation District of Dillon, Beaverhead County, Mont., for a loan under the Small Reclamation Projects Act of 1956, pursuant to section 4(c) of the act; to the Committee on Interior and Insular Affairs.

4176. A letter from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to amend the Controlled Substances Act to extend for 1 fiscal year the authorization of appropriations under that act for the expenses of the Department of Justice in carrying out that act; to the Committee on Interstate and Foreign Commerce.

4177. A letter from the Secretary of Health, Education, and Welfare, transmitting the final report on the National Swine Flu Immunization Program of 1976, pursuant to section 317(j)(2) of the Public Health Service Act, as amended (90 Stat. 1114); to the Committee on Interstate and Foreign Commerce.

4178. A letter from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation to authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances; to the Select Committee on Intelligence.

4179. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting the 1978 annual report of the Board, pursuant to section 201(c) of the Social Security Act (H. Doc. No. 95–336); to the Committee on Ways and Means and ordered to be printed.

4180. A letter from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting the 1978 annual report of the Board, pursuant to section 1817(b) of the

Social Security Act (H. Doc. No. 95–337); to the Committee on Ways and Means and ordered to be printed.

4181. A letter from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting the 1978 annual report of the Board, pursuant to section 1841(b) of the Social Security Act (H. Doc. No. 95–338); jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce, and ordered to be printed.

4182. A letter from the Comptroller General of the United States, transmitting a report on reimbursing the States for interim assistance to supplemental security income recipients (HRD–77–145, May 15, 1978); jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Omitted from the Record of May 15, 1978*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11488. A bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development; with amendment (Rept. No. 95–1185). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Commitee on Interstate and Foreign Commerce. H.R. 12460. A bill to amend the Public Health Services Act and the Community Mental Health Centers Act to revise and extend the programs under those acts for health care delivery centers, and for other purposes; with amendment (Rept. No. 95–1186). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12348. A bill to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes (Rept. No. 95–1187). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12326. A bill to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes (Rept. No. 95–1188). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12303. A bill to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training, and for other purposes (Rept. No. 95–1189). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foerign Commerce. H.R. 12584. A bill to amend the Public Health Service Act to revise and extend the authorities under that act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes (Rept. No. 95–1190). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12370. A bill to amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, and for other purposes. (Rept. No. 95–1191). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12347. A bill to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine and the programs of the National Heart, Lung, and Blood Institute and the National Cancer Institute, to revise and extend the program for National Research Service Awards, and for other purposes with amendment (Rep. No. 95–1192). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12008. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes. (Rept. No. 95–1193). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 12637. A bill to amend the North Pacific Fisheries Act of 1954 with amendment (Rept. No. 95–1194). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 12668. A bill to establish a conservation program for the living marine resources of the Arctic and Southern Oceans, and for other purposes; with amendment (Rept. No. 95–1195). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 3633. A bill to provide additional funds to the States for carrying out restoration projects and programs, and for other purposes; with amendment (Rept. No. 95–1196). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 8394. A bill to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries; with amendment (Rept. No. 95–1197). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 10898. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979; with amendment (Rept. No. 95–1198). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted May 16, 1978*]

Mr. DODD: Committee on Rules. House Resolution 1186. Resolution providing for the consideration of H.R. 39. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes (Rept. No. 95–1199). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 12732. A bill to amend section 906, title 38, United States Code, to provide in lieu of a Government marker, payment not exceeding $100 toward the purchase price of a monument or marker; Veterans' Affairs.

By Mr. BYRON (for himself, Mr. BENJAMIN, Mr. CORCORAN of Illinois, Mr. GARCIA, Mr. GOODLING, Mr. LUKEN, Ms. MIKULSKI, Mr. MITCHELL of Maryland, Mr. PATTEN, Mr. PICKLE, and Mr. VENTO):

H.R. 12733. A bill to prohibit fuel adjustment clauses in electric utility rate schedules; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER (for himself, Ms. KEYS, Mr. BEILENSON, Mr. GREEN, Mr. MILLER of California, Mr. PATTISON of New York, Mr. ROYBAL, Mr. SEIBERLING, and Mr. STEERS):

H.R. 12734. A bill to amend title XX of the Social Security Act to increase the entitlement ceiling; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. MAGUIRE, Mr. OTTINGER, and Mr. WHALEN):

H.R. 12735. A bill to establish a comprehensive program of long-term care services for aged individuals, and to provide for the creation of community long-term care centers and State long-term care agencies as part of a new administrative structure for the organization and delivery of such services; jointly, to the Committees on Agriculture, Education and Labor, Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

By Mr. GIBBONS:

H.R. 12736. A bill to make temporary reductions in social security payroll taxes; to the Committee on Ways and Means.

By Mrs. HOLT (for herself, Mr. DORNAN, Mrs. FENWICK, Mr. GIBBONS, Mr. KEMP, Mr. LAGOMARSINO, Mr. MCCLOSKEY, Mr. MILLER of Ohio, Mr. MURPHY of Pennsylvania, Mr. ROUSSELOT, Mr. WAGGONNER, and Mr. WHITEHURST):

H.R. 12737. A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget; to the Committee on Rules.

By Mr. KEMP:

H.R. 12738. A bill to amend the Internal Revenue Code of 1954 to provide that National Research Service Awards made under section 472 of the Public Health Service Act shall not be includible in gross income; to the Committee on Ways and Means.

H.R. 12739. A bill to suspend the duty on live worms until the close of June 30, 1981; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 12740. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. MOTTL (for himself, Mr. GILMAN, Mr. GREEN, Mr. HARRINGTON, and Mr. WYDLER):

H.R. 12741. A bill to provide for the issuance of a commemorative postage stamp in honor of Gen. Casimir Pulaski and Americans of Polish descent; to the Committee on Post Office and Civil Service.

By Mr. STANGELAND (for himself, Mr. GUYER, Mr. OBERSTAR, Mr. QUIE, and Mr. SYMMS):

H.R. 12742. A bill to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. BONKER (for himself, Mrs. COLLINS of Illinois, Mr. ROSENTHAL, Mr. CONYERS, Mr. MCHUGH, Mrs. MEYNER, Mr. SOLARZ, Mr. BONIOR, Mr. WOLFF, Mr. RANGEL, Mr. MARKEY, Mr. BEDELL, Mr. MITCHELL of Maryland, Mr. SIMON, Mr. PEASE, Mrs. BURKE of California, Mr. DOWNEY, Mr. MCCLOSKEY, Mr. FASCELL, Mr. GREEN, and Mr. EDGAR):

H.R. 12743. A bill to establish an African Development Foundation; to the Committee on International Relations.

By Mr. JOHN L. BURTON (for himself, Mr. BEVILL, Mr. FLIPPO, Mr. FLOWERS, Mr. STUMP, Mr. BEILENSON, Mr. BROWN of California, Mr. PHILLIP BURTON, Mr. DELLUMS, Mr. HANNAFORD, Mr. HAWKINS, Mr. JOHNSON of California, Mr. KREBS, Mr. LLOYD of California, Mr. MILLER of California, Mr. PANETTA, Mr. PATTERSON of California, Mr. ROYBAL, Mr. STARK, Mr. DODD, Mr. CHAPPELL, Mr. FUQUA, Mr. LEHMAN, Mr. BARNARD, and Mr. EVANS of Georgia):

H.J. Res. 906. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. ROONEY, Mr. BEARD of Rhode Island, Mr. ALLEN, Mr. GORE, Mr. BURLESON of Texas, Mr. GONZALEZ, Mr. HALL, Mr. HIGHTOWER, Miss JORDAN, Mr. MATTOX, Mr. DAN DANIEL, Mr. BONKER, Mr. MOLLOHAN, Mr. SLACK, Mr. KASTENMEIER, Mr. ASHBROOK, Mr. BADHAM, Mr. BAUMAN, Mr. BURGENER, Mr. CAPUTO, Mr. DON H. CLAUSEN, Mr. DEL CLAWSON, Mr. COHEN, and Mr. COLLINS of Texas):

H.J. Res. 907. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of Setpember after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. GAMMAGE, Mr. SATTERFIELD, Mr. RONCALIO, Mr. ALEXANDER, Mr. LUKEN, Mr. RYAN, Mr. MOAKLEY, Mr. WATKINS, Mr. RAHALL, Mr. SIMON, Mr. DERRICK, Mr. QUILLEN, Mr. KETCHUM, Mr. ROBERTS, Mr. IRELAND, Mr. OTTINGER, Mr. CHARLES WILSON of Texas, Mr. WHALEN, Mr. OBERSTAR, Mr. D'AMOURS, Mr. MITCHELL of Maryland, Mr. ARMSTRONG, Mr. QUAYLE, and Mr. RUPPE):

H.J. Res. 908. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. FOWLER, Mr. GINN, Mr. LEVITAS, Mr. MCDONALD, Mr. AKAKA, Mr. ANNUNZIO, Mr. FARY, Mr. MURPHY of Illinois, Mr. PRICE, Mr. ROSTENKOWSKI, Mr. SHIPLEY, Mr. BENJAMIN, Mr. CORNWELL, Mr. EVANS of Indiana, Mr. JACOBS, Ms. KEYS, Mr. NATCHER, Mrs. BOGGS, Mr. HUCKABY, Mr. WAGGONNER, Ms. MIKULSKI, Mr. BURKE of Massachusetts, Mr. EARLY, and Mr. HARRINGTON):

H.J. Res. 909. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September, after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. MARKEY, Mr. BLANCHARD, Mr. BONIOR, Mr. BRODHEAD, Mr. TRAXLER, Mr. VENTO, Mr. MONTGOMERY, Mr. ICHORD, Mr. GEPHARDT, Mr. VOLKMER, Mr. YOUNG of Missouri, Mr. CAVANAUGH, Mr. HUGHES, Mr. LE FANTE, Mr. MINISH, Mr. PATTEN, Mr. THOMPSON, Mr. AMBRO, Mr. BIAGGI, Mr. DOWNEY, Mr. LUNDINE, Mr. PATTISON of New York, and Mr. RICHMOND):

H.J. Res. 910. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. ROSENTHAL, Mr. STRATTON, Mr. WEISS, Mr. ZEFERETTI, Mr. FOUNTAIN, Mr. GUDGER, Mr. JONES of North Carolina, Mr. NEAL, Mr. ROSE, Mr. WHITLEY, Mr. APPLEGATE, Mr. CARNEY, Ms. OAKAR, Mr. RISENHOOVER, Mr. STEED, Mr. DUNCAN of Oregon, Mr. WEAVER, Mr. AMMERMAN, Mr. GAYDOS, Mr. KOSTMAYER, Mr. LEDERER, Mr. MURPHY of New York, Mr. MURTHA, and Mr. MICHAEL O. MYERS):

H.J. Res. 911. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. STANGELAND, Mr. SYMMS, Mr. TAYLOR, Mr. THONE, Mr. VANDER JAGT, Mr. WYDLER, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, Mr. ANDERSON of Illinois, Mr. CONABLE, Mr. CUNNINGHAM, Mr. DERWINSKI, Mr. EMERY, Mrs. FENWICK, Mr. FINDLEY, Mr. GRASSLEY, Mr. HAMMERSCHMIDT, Mrs. HECKLER, Mr. HILLIS, Mr. HYDE, Mr. JEFFORDS, Mr. KINDNESS, Mr. JOHN T. MYERS, and Mrs. PETTIS):

H.J. Res. 912. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. STEIGER, Mr. TREEN, Mr. WALKER, Mr. WIGGINS, Mr. MINETA, Mr. PEPPER, Mr. BRINKLEY, Mr. HEFTEL, Mr. MIKVA, Mr. RUSSO, Mr. HUBBARD, Mr. PERKINS, Mr. BYRON, Mrs. SPELLMAN, Mrs. MEYNER, Mr. LAFALCE, Mr. NOWAK, Mr. SCHEUER, Mr. HEFNER, Mr. MOTTL, Mr. ENGLISH, Mr. ST GERMAIN, Mr. DAVIS, and Mr. JONES of Tennessee):

H.J. Res. 913. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Ms. HOLTZMAN, Mr. BROOKS, Mr. EDGAR, Mr. HAGEDORN, Mr. WYLIE, Mr. LEGGETT, Mr. MURPHY of New York, Mr. BEARD of Tennessee, Mr. MOORHEAD of California, Mr. STOCKMAN, Mr. HANLEY, Mr. VAN DEERLIN, Mr. WIRTH, Mr. ECKHARDT, Mr. ERTEL, Mr. HOLLENBECK, Mr. LEACH, Mr. MARKS, Mr. BOB WILSON, Mr. WALSH, Mr. RANGEL, Mr. NOLAN, and Mr. JOHNSON of Colorado):

H.J. Res. 914. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. CONTE, Mr. CRANE, Mr. DICKINSON, Mr. DORNAN, Mr. EDWARDS of Alabama, Mr. EDWARDS of Oklahoma, Mr. FRENZEL, Mr. GILMAN, Mr. GRADISON, Mr. GUYER, Mr. HANSEN, Mrs. HOLT, Mr. LAGOMARSINO, Mr. LATTA, Mr. LIVINGSTON, Mr. LUJAN, Mr. MCCLORY, Mr. MICHEL, Mr. MILLER of Ohio, Mr. RHODES, Mr. ROUSSELOT, Mr. RUDD, Mr. SKUBITZ, and Mr. SNYDER):

H.J. Res. 915. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. BYRON:

H. Con. Res. 623. Concurrent resolution disapproving proposed regulations of the Department of the Treasury requiring centralized registration of firearms and other matters; jointly, to the Committees on the Judiciary, and Ways and Means.

By Mr. BRECKINRIDGE (for himself, Mr. BROYHILL, Mr. JONES of Tennessee, Mr. PRESSLER, Mr. ALEXANDER, Mr. DORNAN, Mr. HARRINGTON, Mr. TREEN, Mr. MCKINNEY, Mr. LONG of Louisiana, Mr. LOTT, Mr. LEHMAN, Mr. BOLAND, Mr. MOAKLEY, Mr. CARNEY, Mr. BEARD of Tennessee, Mr. SIMON, Mr. BAUCUS, Mr. SATTERFIELD, Mr. MURTHA, Mr. LONG of Maryland, Mr. EMERY, Mr. EVANS of Delaware, and Mr. SEBELIUS):

H. Res. 1179. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr. CONTE, Mr. FRASER, Mr. REGULA, Mr. HORTON, Mr. O'BRIEN, Mr. BROWN of California, Mrs. HECKLER, Mr. MOTTL, Mr. GRADISON, Mr. BADHAM, Mr. JEFFORDS, Mr. JONES of Oklahoma, Mr. NEAL, Mr. MATTOX, Mr. BENJAMIN, Mr. BIAGGI, Mr. MCCORMACK, Mr. PATTISON of New York, Mr. SANTINI, Mr. FISHER, Mr. KRUEGER, Mr. RUDD, Mr. WIRTH, and Mr. PEPPER):

H. Res. 1180. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr. EVANS of Georgia, Mr. EILBERG, Mr. PEASE, Mrs. HOLT, Mr. BEVILL, Mr. MCCLOSKEY, Ms. MIKULSKI, Mr. JENRETTE, Mr. MCHUGH, Mr. TRAXLER, Mrs. BOGGS, Mr. LE FANTE, Mr. MCKAY, Mr. WATKINS, Mr. PERKINS, Mr. COHEN, Mr. KETCHUM, Mr. MARKS, Mr. ROSE, Mr. OTTINGER, Mr. WEISS, Mr. EDWARDS of California, Mr. BURGENER, and Mr. NEAL):

H. Res. 1181. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr. ADDABBO, Mr. PANETTA, Mr. HARKIN, Mr. SIKES, Mr. EDWARDS of Oklahoma, Mr. TSONGAS, Mr. BONIOR, Mr. GINN, Mr. WALGREN, Mr. DODD, Mr. LUKEN, Mr. STANGELAND, Mr. HEFTEL, Mrs. BURKE of California, Mr. HOLLAND, Mr. AUCOIN, Mr. SOLARZ, Mr. COUGHLIN, Mr. AKAKA, Mr. WHALEN, Mr. PHILLIP BURTON, Mr. RICHMOND, Mr. STUMP, and Mr. ROE):

H. Res. 1182. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr. BLANCHARD, Mr. RANGEL, Mr. CONYERS, Mr. STOKES, Mr. WHITE, Mrs. SPELLMAN, Mrs. COLLINS of Illinois, Mr. FITHIAN, Mr. HAWKINS, Mr. ANDERSON of California, Mr. DIGGS, Mr. BALDUS, Mr. STEERS, Mr. VENTO, and Mr. ANDERSON of Illinois):

H. Res. 1183. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. HANSEN (for himself, Mr. BOB WILSON, Mr. KINDNESS, Mr. SAWYER, Mr. DEL CLAWSON, Mr. TAYLOR, Mr. MONTGOMERY, Mr. LOTT, Mr. SNYDER, Mr. BURKE of Florida, Mr. YOUNG of Florida, Mr. SLACK, Mr. SYMMS, Mr. HYDE, Mr. TREEN, Mr. LIVINGSTON, Mr. STANGELAND, Mr. DICKINSON, Mr. MCCLORY, Mr. DORNAN, Mr. TEAGUE, Mr. WHITEHURST, Mr. MOORE, Mr. CLEVELAND, and Mr. LATTA):

H. Res. 1184. Resolution expressing the sense of the House of Representatives with respect to an exchange of instruments of ratification of the Panama Canal Treaties and with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. PATTISON of New York (for himself, Mr. HEFTEL, Mr. HARRIS, Mr. FLOOD, Mr. ROSE, Mr. KRUEGER, Mr. GORE, Mr. PRICE, Mr. TRAXLER, Mr. WATKINS, Mr. MCCLOSKEY, Mr. WEISS, and Mr. THOMPSON):

H. Res. 1185. Resolution to authorize each Member of the House of Representatives to hire two additional Lyndon Baines Johnson congressional interns and to authorize payment of additional compensation for such interns from the clerk-hire allowance; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

403. By the SPEAKER: Memorial of the Assembly of the State of New York, relative to resolution of the Cyprus conflict; to the Committee on International Relations.

404. Also, memorial of the Legislature of the State of New Mexico, relative to funding for a hydrothermal demonstration plant in New Mexico; to the Committee on Science and Technology.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 39

By Mr. DINGELL:

At the end of paragraph 10 of section (301) of H.R. 39, add the following paragraph:

(11) NORTH SLOPE NATIONAL WILDLIFE REFUGE.—(A) The North Slope National Wildlife Refuge shall consist of those public lands comprising, on the date of the enactment of this Act, the National Petroleum Reserve in Alaska.

(B) The significant fish and wildlife resources of the refuge are raptors and other migratory birds, polar bears, barren-ground grizzly bears, wolves, marine mammals, and the Western Arctic caribou herd.

(C) Teshekpuk Lake and the Utukok River caribou calving grounds are special values of the refuge.

(D) Nothing in this title shall be construed as repealing or otherwise affecting in any manner the functions of the Secretary set forth sections 104 and 105 of the Naval Petroleum Reserves Production Act of 1976 (relating to the exploration for petroleum on, and the supply of certain petroleum from, the land included under this paragraph within the refuge and to studies required with respect to such lands).

At the end of paragraph (16) of section 304(a) of the amendment, add the following paragraph:

(17) NORTH SLOPE NATIONAL WILDLIFE REFUGE.—(A) The North Slope National Wildlife Refuge shall consist of those public lands comprising, on the date of the enactment of this Act, the National Petroleum Reserve in Alaska.

(B) The significant fish and wildlife resources of the refuge are raptors and other migratory birds, polar bears, barren-ground grizzly bears, wolves, marine mammals, and the Western Arctic caribou herd.

(C) Teshekpuk Lake and the Utukok River caribou calving grounds are special values of the refuge.

(D) Nothing in this title shall be construed as repealing or otherwise affecting in any manner the functions of the Secretary set forth sections 104 and 105 of the Naval Petroleum Reserves Production Act of 1976 (relating to the exploration for petroleum on, and the supply of certain petroleum from, the land included under this paragraph within the refuge and to studies required with respect to such lands).

H.R. 39

By Mr. UDALL:

Strike the table of contents and in lieu thereof insert the following:

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINDINGS, POLICY AND DEFINITIONS

Sec. 101. Findings.
Sec. 102. Policy.
Sec. 103. Definitions.

TITLE II—NATIONAL PARK SYSTEM

Sec. 201. Establishment of new areas.
Sec. 202. Additions to existing areas.
Sec. 203. Administrative provisions.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 301. Definitions.
Sec. 302. Purposes of refuges.
Sec. 303. Administration of refuges.
Sec. 304. Establishment of refuges.
Sec. 305. Cooperative management agreements.
Sec. 306. Barren-ground Caribou Study.
Sec. 307. Miscellaneous provisions.

TITLE IV—NATIONAL FOREST SYSTEM

Sec. 401. Additions to national forests.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

Sec. 501. Additions to the National Wild and Scenic Rivers System.
Sec. 502. Potential additions.
Sec. 503. Administrative provisions.
Sec. 504. Wulik River.

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

Sec. 601. Findings and purposes.
Sec. 602. Designation of wilderness within the National Park System.
Sec. 603. Designation of wilderness study within units of the National Park System.
Sec. 604. Designation of wilderness within the National Wildlife Refuge System.
Sec. 605. Wilderness reviews within conservation system units other than National Park System units.
Sec. 606. Designation of wilderness within the National Forest System.
Sec. 607. Special provisions.
Sec. 608. Administration.
Sec. 609. Acquisition authority.

TITLE VII—SUBSISTENCE

Sec. 701. Findings.
Sec. 702. Policy.
Sec. 703. Definition.
Sec. 704. State regulation.
Sec. 705. Enforcement duties of Secretary of the Interior.
Sec. 706. Cooperative arrangements.
Sec. 707 Subsistence and land use decisions.
Sec. 708. Access.
Sec. 709. Snowmobiles and motorboats.
Sec. 710. Research.
Sec. 711. Periodic reports.
Sec. 712. Regulations.
Sec. 713. Other laws.
Sec. 714. Limitations.
Sec. 715. Reimbursement to the State.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

Sec. 801. Conveyances to village corporations.
Sec. 802. Other conveyances to Native Corporations.
Sec. 803. Administrative provisions.
Sec. 804. Tax moratorium extension.
Sec. 805. State selections and conveyances.
Sec. 806. Alaska Native Land Bank.
Sec. 807. Protection of Native Lands in contingency areas under timber sales.
Sec. 808. Use of protraction surveys.
Sec. 809. Action to enforce; jurisdiction.
Sec. 810. National Environmental Policy Act.
Sec. 811. Technical amendments to Public Law 94-204.

TITLE IX—MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

Sec. 901. Purposes.
Sec. 902. Definitions.
Sec. 903. Continuation of mineral assessment programs in Alaska.
Sec. 904. Existing mining claims and mineral leasing rights in conservation system units.
Sec. 905. Areas subject to the minerals access process.
Sec. 906. Initiation of the minerals access process by application or Secretarial motion.
Sec. 907. Recommendations of the Secretary to Congress.
Sec. 908. Congressional approval procedure.
Sec. 909. Exploration permits and development and extension leases.
Sec. 910. Permit and lease regulations.
Sec. 911. Miscellaneous provisions.

TITLE X—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

Sec. 1001. Purposes.
Sec. 1002. Use permits under existing authorities.
Sec. 1003. Use permits under new authority.
Sec. 1004. Coordination of right-of-way requirements.
Sec. 1005. Congressional approval procedure.
Sec. 1006. Issuance of permits.

TITLE XI—COORDINATION

Sec. 1101. Alaska Advisory Coordinating Council.
Sec. 1102. Functions of the council.
Sec. 1103. Cooperative agreements.
Sec. 1104. Termination.

TITLE XII—ADMINISTRATIVE PROVISIONS
Sec. 1201. Land acquisitions and exchanges.
Sec. 1202. Access.
Sec. 1203. Archeological and paleontological sites.
Sec. 1204. Cooperative information centers.
Sec. 1205. Administrative sites and visitor facilities.
Sec. 1206. Revenue-producing visitor services.
Sec. 1207. Local hire.
Sec. 1208. Management plans.
Sec. 1209. Taking of fish and wildlife.
Sec. 1210. Maps.
Sec. 1211. Major Federal actions.
TITLE XIII—MISCELLANEOUS
Sec. 1301. Iditarod National Historic Trail.
Sec. 1302. Klondike Gold Rush National Historical Park.
Sec. 1303. Navigation aids and other facilities.
Sec. 1304. National petroleum reserve in Alaska.
Sec. 1305. Withdrawals.
Sec. 1306. Scenic highway study.
Sec. 1307. Authorization for appropriation.

Strike section 103(4), and in lieu thereof insert:

(4) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

In subsection 201(9) amend the acreage figure for Wrangells-St. Elias National Preserve to read as "three million three hundred and eighty thousand acres of public land".

Strike all of Title III and insert a new Title III as follows:

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to insure, to the maximum extent practicable, the health, preservation, and enhancement of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information and education, extension services, propagation, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it exists on the day before the date of the enactment of this Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 304;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

PURPOSES OF REFUGES

SEC. 302. The major purposes of each refuge are—

(1) to conserve the fish and wildlife within the refuge which are designated in section 304 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife, and plants, within the refuge;

(2) to fufill the international treaty obligations of the United States with respect to fish and wildlife and plants;

(3) to insure, to the maximum extent practicable and in a manner consistent with the purpose set forth in paragraph (1), water quality and water quantity within the refuge; and

(4) to protect, maintain, or enhance, in a manner consistent with the purpose set forth in paragraph (1), any special value of the refuge specified in section 304, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, or scenic value of the refuge.

ADMINISTRATION OF REFUGES

SEC. 303. (a) IN GENERAL.—Each refuge shall be administered by the Secretary, subject to valid existing rights, to achieve the major purposes set forth in section 302 and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants and this Act.

(b) USES PERMITTED WITHIN REFUGES.—(1) The Secretary shall administer each refuge in order to provide opportunity for subsistence uses pursuant to title VII of this Act, but only to the extent that the provision of such opportunity is compatible with the major purposes of the refuge set forth in section 302.

(2) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose, described in such section 4(d) unless such use (including but not limited to, any oil and gas leasing permitted under paragraph (3)) or purpose is compatible with the major purposes of the refuge set forth in section 302 and with the provision of opportunity for subsistence uses under paragraph (1). The Secretary shall prescribe such regulations, and impose such terms and conditions, as may be necessary and appropriate to insure that activities carried out under such use or easement are so compatible.

(3) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. The Secretary, however, may permit oil and gas leasing on such lands, except in wilderness, consistent with the National Wildlife Refuge, Administration Act of 1966.

(c) REFUGE CONSERVATION PLANS.—(1) The Secretary shall prepare, and from time-to-time revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the significant fish and wildlife resources of the refuge and of other important fish and wildlife within the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological recreational, mineral, scenic, or wilderness values of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1205 and 1206;

(D) present and potential requirements for access with respect to the refuge, as provided for in section 1102; and

(E) significant problems which may adversely affect the populations and habitats identified and described under subparagraph (A).

(3) Each plan shall—

(A) based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values,

(ii) specify the programs for conserving fish and wildlife, and the programs relating to the values referred to in paragraph (2)(B), proposed to be implemented within each such area, and

(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

(B) set forth those opportunities which will be provided within the refuge for recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the major purposes of the refuge.

(4) In order to insure that the terms and conditions of cooperative management agreements which may be entered into under section 305 with respect to the refuge are appropriate, the Secretary may treat, but only for purposes of preparing the plan, land that is within, or near or adjacent to, the refuge as being within the boundary of the refuge.

(5) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of Native villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan of revisions.

(6) Before adopting a plan for any refuge, the Secretary shall publish notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public views and comment on the plan.

(7) The Secretary shall by regulation implement each plan prepared under this subsection.

(8) With respect to refuges established or redesignated by section 304, the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date; and

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment.

(d) AREAS SEAWARD OF COASTAL REFUGES.—(1) For purposes of this subsection—

(A) The term "coastal refuge" means any refuge (other than the Kenai National Wildlife Refuge) any part of which is on the coast.

(B) The term "plan" means a comprehensive cooperative management plan described in paragraph (4).

(C) The term "seaward area" means, with respect to any coastal refuge, that area seaward of each coastal portion of the refuge, the inner boundary of which area is the line of mean high tide and the outer boundary of which is a line drawn in such a manner that each point on it is six geographical miles from the base line from which the territorial sea is measured.

(2) Nothing in this section shall be construed as having the effect of including any seaward area within the boundary of any refuge.

(3)(A) There is established the Seaward Area Management Planning Committee (hereinafter referred to in this subsection as the "Committee"). The Committee shall be composed of four members as follows:

(i) A representative of the Secretary appointed from the United States Fish and Wildlife Service.

(ii) A representative of the Secretary of Commerce appointed from the National Oceanic and Atmospheric Administration.

(iii) Two representatives appointed by the Governor of the State.

The President and the Governor may each appoint to the Committee such number of observers as each deems appropriate.

(b) While away from their homes or regular places of business incident to attending Committee meetings, each observer appointed by the President shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(C) On such basis as may be mutually agreeable, the Secretary, the Secretary of Commerce, and the Governor of the State shall provide such staff and administrative and technical support services as are necessary and appropriate to enable the Committee to carry out its functions.

(4)(A) The Committee may prepare, and from time-to-time revise, to comprehensive cooperative management plan for each seaward area. The Committee may adopt, and revise, a plan only after the Secretary, the Secretary of Commerce, and the Governor have each approved the plan or revision. Such plan shall set forth those procedures and actions which will be implemented respectively by the Secretary, the Secretary of Commerce, and the State to assure that the major purposes of the coastal refuge are achieved within the seaward area and that the marine ecosystem within such area is conserved. Such action shall include, but not be limited to, the administration, in a manner compatible with the major purposes of the refuge and the conserving of the marine ecosystem, of laws for which the Secretary, the Secretary of Commerce, and the State are responsible respectively and which regulate activities carried out within the seaward area including, but not limited to, laws regulating the exploration for, and the extraction of, resources from lands under the waters of such area.

(B) In preparing any plan or revision thereto, the Committee shall provide opportunity for public views and comment.

(C) After the adoption by the Committee of any plan or revisions, the Secretary, the Secretary of Commerce, and the Governor of the State shall issue such regulations, and take such other measures as may be appropriate, to implement the plan or revision with respect to those functions under the plan which are within their respective jurisdictions.

(D) Any party to a plan may withdraw from participation in the plan by submitting written notice thereof to the other parties not less than ninety days before the date of withdrawal. Upon the withdrawal of any party, the plan shall cease to have force and effect.

(5) During any time in which a plan is not in effect with respect to the seaward area of any coastal refuge, the Secretary and the Secretary of Commerce shall administer laws, for which each is responsible, within the seaward area in a manner compatible with the major purposes of such refuge and the conserving of the marine ecosystem.

(6) The head of each Federal department or agency (other than the Department of the Interior and the Department of Commerce) which regulates activities within or over any seaward area (including, but not limited to, aircraft and vessel operations) which affect, or may affect, the carrying out of the major purposes of the refuge, or the conserving of the marine ecosystem, within the seaward area shall—

(A) if no plan is in effect with respect to such area, cooperate with the Secretary and the Secretary of Commerce in insuring, to the maximum extent practicable, that such activities are carried out within such area in a manner compatible with the major purposes of such refuge and the conserving of the marine ecosystem; or

(B) if a plan is in effect with respect to such area, cooperate with the Secretary, the Secretary of Commerce, and the State in insuring, to the maximum extent practicable, that such activities are carried out in a manner consistent with the plan.

(7) Notwithstanding any other provision of this subsection, to the extent that any plan or its implementation includes the management of the coastal zone as defined by the State pursuant to section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454), the plan shall be consistent with, and may be incorporated in, the coastal zone management program being developed or administered by the State pursuant to section 305 or section 306, as the case may be, of such Act.

(8) Nothing in this subsection shall be construed as affecting in any manner—

(A) the right or title of the State to submerged lands provided under section 6(m) of the Alaska Statehood Act;

(B) the jurisdiction of the State within the territorial sea, except as the State may otherwise agree under, and for the effective period of, a plan; or

(C) the application of section 307 of the Coastal Zone Management Act of 1972 with respect to the conducting or supporting of activities directly affecting the coastal zone of the State by any Federal agency, the undertaking of any development project in the coastal zone of the State by any Federal agency, or the granting by any Federal agency of a license or permit to any person to conduct an activity affecting land or water uses within the coastal zone of the State.

(9) (A) This subsection shall not affect, and no plan may affect—

(i) the administration and the implementation of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.); or

(ii) the right of passage of vessels through any seaward area for purposes of carrying out fishing under such Act within or beyond such area.

(B) No plan may provide for any procedure or action which is contrary to, or inconsistent with, Federal laws governing the conservation or protection of fish and wildlife.

ESTABLISHMENT OF REFUGES

SEC. 304. (a) ESTABLISHMENT.—The following are established as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaskan Maritime National Wildlife Refuge shall consist of the existing Aleutian Islands, Bering Sea, Bogoslof, Chamisso, Forrester Island, Hazy Islands, Pribilof (Walrus and Otter Islands and Sea Lion Rocks), Saint Lazaria, Semidi, Simeonof, and Tuxedni National Wildlife Refuges (each of which shall be administered as an identifiable subunit of the Alaska Maritime National Wildlife Refuge) and of the public lands generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated April 1978, including—

(i) Cape Lisburne, Cape Thompson, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Stolbi Rock, Egg Island, the Shumagin Islands, Sutwik Island, the Barren Islands, Middleton Island, Latex Rocks, Harbor Island, Granite Island, Pye Island, the Chiswell Islands, and those portions of King Island, the Punuk Islands, and the Trinity Islands not otherwise conveyed under the Alaska Native Claims Settlement Act; and

(ii) all islands, islets, rocks, reefs, spits, and spires, or portions thereof, which are off the coast of Alaska, are public lands, and are not conveyed under the Alaska Statehood Act or not reserved for inclusion within the National Forest System or the National Park System.

(B) The significant fish and wildlife resources of the refuge are marine mammals and marine birds and other migratory birds.

(C) Archeological resources are a special value of the refuge.

(D) The Secretary shall negotiate with the applicable Native Corporations, pursuant to section 1101(f), for the conveyance of public lands or the provision of other valuable consideration, or both, to such Corporations in exchange for the selection rights or title to the bird cliffs of Saint Paul and Saint George Islands. If the exchange is agreed upon, the Alaska Maritime National Wildlife Refuge shall include the bird cliffs of Saint Paul and Saint George Islands.

(2) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately one million five hundred and seventy thousand acres of public lands generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge," dated April 1978.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmonoids, the Alaska Peninsula caribou herd, moose, migratory birds, and marine mammals.

(C) Active volcanoes, the Pavlov Mountains, Nelson Lagoon, coastlines, and recreation are special values of the refuge.

(3) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall consist of all lands within the existing Arctic National Wildlife Range and of the approximately nine million nine hundred thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Refuge," dated April 1978.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, and peregrine falcons and other migratory birds.

(C) Representative unspoiled Arctic physiographic regions and recreation are special values of the refuge.

(4) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million ninety thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmon, and the Alaska Peninsula carbou herd.

(C) Volcanoes and the bear-denning islands of Becharof Lake are special values of the refuge.

(5) COPPER RIVER NATIONAL WILDLIFE REFUGE.—(A) The Copper River National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depected on the map entitled "Copper River National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are bears, Dall sheep, migratory birds, salmon, and marine mammals.

(C) Scenic mountains, coastal wetlands, and glaciers are special values of the refuge.

(6) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately two million seven hundred and eighty thousand

acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(7) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and fifty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, and furbearers.

(C) Sithylemenkat Lake is a special value of the refuge.

(8) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of all lands with the existing Kenai National Moose Range and of the approximately two hundred and fifty thousand acres of public lands generally depicted on the map entitled "Kenai National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are mountain goats, moose, bears, salmon, Dall sheep, and migratory birds.

(C) Recreation is a special value of the refuge.

(9) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of all public lands with the existing Kodiak National Wildlife Refuge, and of all other public lands, except the Barren Islands, lying within the boundary of the Kodiak Island Borough, generally depicted on the map entitled "Kodiak National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are Kodiak brown bears, salmon, marine mammals, and migratory birds.

(C) Nothing in this paragraph shall abrogate any existing Forest Service timber contract, prohibit the Secretary from exchanging lands under section 1101(f), or revoke existing cabin leases on the public lands added to the existing refuge by this paragraph.

(10) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million six hundred and fifty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Nogahabara sand dunes are a special value of the refuge.

(11) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million five hundred and sixty thousand acres of public lands generally depicted on the map entitled "Nowitna National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, peregrine falcons, moose, and martens and other furbearers.

(C) The Nowitna Wild River is a special value of the refuge and that segment of the river described in section 501(a)(23) shall be managed as a part of the refuge.

(12) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately three million three hundred and seventy thousand acres of public lands generally depicted on the map entitled "Selawik National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are peregrine falcons and other migratory birds, the Western Arctic caribou herd, salmon, and sheefish.

(C) Archeological resources and paleontological resources are special values of the refuge.

(D) The Selawik River is a special value of the refuge and shall be managed as a wild river from its headwaters to the Kugarak River. Detailed boundaries shall be established, and a development plan prepared for the segment of the river lying outside and east of the refuge boundary in accordance with section 501(b) and such segment shall thereafter be managed as a part of the refuge.

(E) Notwithstanding any other provision of this title, application may be made to the Secretary for the granting of an easement through the Selawik National Wildlife Refuge or the Koyukuk National Wildlife Refuge, or parts of both such refuges, for a road, railway, or pipeline to be used for the transportation from the Ambler River mineral belt to Norton Sound of minerals extracted in commercial quantities. If the Secretary finds, after notice and opportunity for agency hearing, that there exists no feasible and prudent alternative route for such a road, railway, or pipeline that would be less damaging to the environment than a route through either or parts of both of such refuges, the Secretary shall deem the construction and use of such a road, railway, or pipeline to be compatible with the major purposes of the refuge concerned and shall grant an easement through such refuge for the minimum right-of-way necessary for the road, railway, or pipeline, subject to such terms and conditions as the Secretary deems necessary and appropriate to insure that its construction and use will be carried out in a manner which will minimize adverse effects on fish and wildlife and their habitats.

(13) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and four thousand acres of public lands generally depicted on the map entitled "Tetlin National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds.

(C) The Secretary shall convey to the State, under section 6 of the Alaska Statehood Act, land validly selected by the State northeast of the Alaska Highway in township 11 north 23 east, Copper River Meridian, Alaska; except that such land shall not be considered to be validly selected unless the State agrees to accept the conveyance of the land with a covenant which requires the State to use the land as a State park, to protect the watershed of the Scottie Creek drainage, and to conserve the fish and wildlife within the park, but such covenant may not prohibit the construction and operation of a visitors information center.

(14) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of all lands within the existing Cape Newenham National Wildlife Refuge and of the approximately three million two hundred thousand acres of public lands generally depicted on the map entitled "Togiak National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are large mammals, salmonoids, marine mammals, and migratory birds.

(15) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of all lands within the existing Clarence Rhode National Wildlife Range and the Hazen Bay and Nunivak National Wildlife Refuges and of the approximately thirteen million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, marine mammals, musk-oxen, and salmonoids.

(16) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately nine million four hundred thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, the Porcupine caribou herd, moose, and wolves, wolverines, and other furbearers, and salmon.

(b) OTHER SIGNIFICANT FISH AND WILDLIFE RESOURCES.—The significant fish and wildlife resources of the Izembek National Wildlife Range (which is hereby designated as the Izembek National Wildlife Refuge), are migratory birds, brown bears, and salmonoids.

COOPERATIVE MANAGEMENT AGREEMENTS

SEC. 305. (a) IN GENERAL.—The Secretary shall undertake to enter into a cooperative management agreement with any Native Corporation, the State, any political subdivision of the State, or any other person owning land which is located within, or adjacent or near to, any refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner in a manner compatible with the major purposes of the refuge to which such land pertains and in a manner which will not diminish opportunities for subsistence uses in the refuge.

(b) TERMS AND CONDITIONS.—Each agreement shall—

(1) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (a);

(2) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(3) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(4) set forth those services or other consideration which the Secretary agrees to provide to the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(5) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals set forth in subsection (a); and

(6) specify the effective period of the agreement.

BARREN-GROUND CARIBOU STUDY

SEC. 306. The Congress finds that barren-ground caribou are a migratory species deserving special protection and that the Western Arctic and Porcupine herds of such caribou are of national and international significance. The Secretary shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, a study of the barren-ground caribou herds north of the Yukon River in order to determine the migration patterns, reproduction rates, and habitat (including calving and feeding areas) that are critical to their natural stability and continued productivity, and the effects on the herds of development by man, predation, and disease. The Secretary, acting through the Secretary of State and in consultation with the Governor, shall initiate negotiations with the Government of Canada as soon as possible for the purpose of entering into a treaty to protect the Porcupine caribou herd and its habitat.

MISCELLANEOUS PROVISIONS

SEC. 307. All proclamations, Executive Orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established by section 304, be included within such refuge.

(2) All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

(3) The designation of any existing unit of the National Wildlife Refuge System which is included within any refuge established by section 304, or which is redesignated by such section, is withdrawn.

Strike all of Title IV and in lieu thereof insert the following:

TITLE IV—NATIONAL FOREST SYSTEM

ADDITIONS TO NATIONAL FORESTS

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres, as generally depicted on a map entitled "Additions to the Tongass National Forest" dated March 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1210.

(2) Chugach National Forest by the addition of two areas, Nellie Juan and College Fjord, containing approximately one million two hundred and ninety thousand acres, as generally depicted on a map entitled "Additions to the Chugach National Forest" dated March 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1210.

Strike all of Title V and in lieu thereof insert the following:

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 501. (a) ADDITIONS.—Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(16) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian downstream to the southern boundary of the Yukon Flats National Wildlife Range; approximately 160,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(17) DELTA ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids, approximately 75,000 acres; to be classified as a recreational river area except for the segment from the Tangle Lakes area to a point opposite milepost 212 on the Richardson Highway which shall be classified as a wild river area; to be administered by the Secretary of the Interior.

"(18) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuck; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; approximately 320,000 acres; to be administered by the Secretary of the Interior and to be classified as a scenic river area except for the Wade Creek segment which shall be classified as a recreational river area and the following segments which shall be classified as wild river areas: Mosquito Fork downstream from the vicinity of Kechumstuck to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek. The classification of such segments of the Fortymile as wild river areas shall not preclude such access across such river segments as the Secretary determines to be reasonably necessary to permit commercial development of asbestos deposits in the North Fork drainage.

"(19) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; approximately 165,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(20) ALAGNAK, ALASKA.—The segment from where the river crosses the western boundary of the Katmai National Preserve (in township 12 south, range 38 west) to the western boundary of township 13 south, range 43 west, not including lands within the Katmai National Park; approximately 120,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(21) KILLIK, ALASKA.—From the northern boundary of the Gates of the Arctic National Park to the confluence with the Colville River; approximately 152,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(22) NOATAK, ALASKA.—The segment from the southern boundary of the Noatak National Preserve at the north boundary of township 27 north, range 18 west, Kateel River meridian to the mean high tide line; approximately 80,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(23) NOWITNA, ALASKA.—The segment from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to the southern boundary of the Nowitna National Wildlife Range; approximately 230,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(24) UNALAKLEET, ALASKA.—From the headwaters in township 13 south, range 3 west, Kateel River meridian, extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; approximately 110,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(25) YUKON (RAMPARTS SECTION), ALASKA.—The segment from the east boundary of township 12 north, range 11 west, to the west boundary of township 4 north, range 19 west, Fairbanks meridian, approximately 275,000 acres; to be classified as a scenic river area and to be administered by the Secretary of the Interior.

"(26) The portions of the following rivers which form the boundary of, or are within, any national preserve in Alaska: Alagnak, Aniakchak (including its major tributaries), Charley (including its major tributaries), Chilikadrotna, Chitina, Mulchatna, and Noatak; each to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(27) The portions of the following rivers which form the boundary of, or are within, any national wildlife refuge in Alaska: Nowitna, Porcupine, Sheenjek, Andreafsky, Ivishak, Kanektok, Kisaralip, and Wind; each to be classified as a wild river area and to be administered by the Secretary of the Interior.".

(b) BOUNDARIES AND DEVELOPMENT PLANS.—Section 3(b) of the Wild and Scenic Rivers Act is amended by striking out "(b) The agency" and substituting "(b)(1) Except as otherwise provided in this Act, the agency" and by adding the following new paragraph at the end thereof:

"(2) For those rivers in Alaska listed in paragraphs (16) through (21) and (24) and (25) of subsection (a), the detailed boundaries referred to in this section shall be established, and the development plans prepared and published, within such period after the date of the enactment of this paragraph as is specified in the following list:

One year: Delta, Fortymile, and Gulkana.

Two years: Birch Creek and Yukon (Ramparts section).

Three years: Killik.

Four years: Unalakleet.

The detailed boundaries for the rivers listed in paragraphs (22), (23), (26), and (27) of subsection (a) shall be established, and the development plans for such rivers shall be prepared and published, at the same time as, and in coordination with—

(A) the submission to the Congress of the applicable management plan under section 1108 of the Alaska National Interest Lands Conservation Act (in the case of a river associated with a national preserve), or

(B) the preparation of the applicable conservation plan under section 303(c) of such Act (in the case of a river associated with a national wildlife refuge).

In the case of the rivers listed in paragraphs (16) through (27), in lieu of the acreage limitation specified in paragraph (1) of this subsection such boundaries may include an area extending up to two miles from the ordinary high water mark on both sides of each such river. There shall not be included within such boundaries lands selected by Native Corporations or other valid rights of Alaskan Natives to lands without the consent of such Corporations or Natives if such valid rights were in existence immediately before the date of the enactment of this paragraph, except to the extent any such selection or right may hereafter be relinquished."

POTENTIAL ADDITIONS

SEC. 502. (a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act is amended by inserting after paragraph (58) the following new paragraphs:

"(59) Colville, Alaska.

"(60) Copper (Iliamna), Alaska.

"(61) Copper, Alaska: The segment from the confluence with the Chitina downstream to the mean high tide line.

"(62) Etivluk-Nigu, Alaska.

"(63) Holitna-Hoholitna, Alaska.

"(64) Ikpikpuk, Alaska.

"(65) Koyuk, Alaska.

"(66) Kuskokwim (Middle), Alaska: The segment between McGrath and Stoney River.

"(67) Melozitna, Alaska.

"(68) Mulchatna, Alaska: The segment from the southwest boundary of the Lake

Clark National Preserve to the confluence with the Nushagak River.

"(69) Nelchina-Tazlina, Alaska.

"(70) Nuyakuk, Alaska.

"(71) Situk, Alaska.

"(72) Utukok, Alaska.

"(73) Squirrel, Alaska.

(b) STUDY PERIOD.—Section 5(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) The studies of the rivers listed in paragraphs (59) through (73) shall be completed and reports thereon submitted—

"(A) for no less than five of such rivers within three years,

"(B) for no less than ten of such rivers within four years, and

"(C) for all of the remaining such rivers within five years,

after the date of enactment of this paragraph. The preceding sentence shall not apply to the rivers listed in paragraphs (59), (62), (64), and (72), and studies of such rivers shall be completed, and reports submitted not later than the time when the report in section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) is required to be submitted.".

(c) NPRA STUDY.—For date of submission of NPRA study, see section 1204.

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) COOPERATIVE AGREEMENTS.—Section 10(e) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "In the case of rivers listed in paragraphs (16) through (27) of section 3(a), the Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining such rivers to assure that the purpose of designating such rivers as wild and scenic rivers under this Act is served to the greatest extent feasible."

(b) MINING AND MINERAL LEASING; DESIGNATED RIVERS.—Section 9(a) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank or are situated within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (16) through (27) of section 3(a) are hereby withdrawn, subject to valid existing rights, during the period before establishment of the boundaries of such river from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto. Upon establishment of the boundaries of a river, such withdrawal shall apply only to areas which are within the boundaries of the river, as established under section 3(b).".

(c) MINING AND MINERAL LEASING; STUDY RIVERS.—Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (73) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.".

(d) INTERRELATIONSHIP OF APPLICABLE LAWS.—Section 10 of such Act is amended by inserting in the second sentence of section 10(c) before "and in the case of" the following: "(and the Acts under which particular national parks or preserves or wildlife ranges and refuges are established or enlarged)" and by striking out "these Acts" and substituting "this Act and such other Acts".

(e) SNOWMOBILES.—Section 10 of such Act is amended by adding the following new subsection at the end thereof:

"(f) In the case of the rivers referred to in paragraphs (16) through (27) of section 3(b), during periods of adequate snow cover and frozen river conditions, the use of snowmobiles shall be permitted by the Secretary, subject to such reasonable regulations as he deems necessary and appropriate. Such use shall be permitted only for customary travel, transportation, and subsistence purposes by local residents and by authorized subsistence users, as was occurring on or before January 1, 1977.".

(f) ACQUISITION AUTHORITY.—Section 6 of such Act is amended by adding the following new subsection at the end thereof:

"(h) In the case of the rivers in Alaska listed in paragraphs (16) through (27), the provisions of section 1101 of the Alaska National Interest Lands Conservation Act shall apply in lieu of the provisions of this section.".

(g) PUBLIC LAND LAWS.—Section 8(b) of such Act is amended by adding the following at the end thereof "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (73) of section 5(a) are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.".

WULIK RIVER

SEC. 504. The Secretary is authorized and directed to promulgate such regulations as may be necessary to protect the water quality and quantity of, and to prevent substantial adverse environmental degradation of, the Wulik River. Any such regulations shall be coordinated with, and shall not be more stringent than, the applicable requirements under the Federal Water Pollution Control Act.

Strike Title VI and insert in lieu thereof the following:

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

FINDINGS AND PURPOSES

SEC. 601. The Congress finds and declares that it is in the national interest that certain public lands in the State of Alaska within previously established units of the National Park, National Wildlife Refuge, and National Forest Systems and certain additions made to such systems by this Act be designated as wilderness and therefore as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness for the benefit of all the American people of present and future generations. The Congress further finds that certain other public lands within such national conservation systems are of evident wilderness resource value but require more thorough study prior to designation as wilderness.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL PARK SYSTEM

SEC. 602. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Aniakchak National Monument and Preserve, Alaska, which comprise approximately two hundred and ninety thousand acres, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978, and which shall be known as Aniakchak Wilderness.

(2) Certain lands in Bering Land Bridge National Preserve, Alaska, which comprise approximately seven hundred thousand acres, as generally depicted on a map entitled "Bering Land Bridge National Preserve", dated March 1978, and which shall be known as Bering Land Bridge Wilderness.

(3) Certain lands in Denali National Park and Preserve, Alaska, which comprise approximately five million four hundred and ten thousand acres, as generally depicted on a map entitled "Denali National Park and Preserve", dated March 1978, and which shall be known as Denali Wilderness.

(4) Certain lands in Gates of the Arctic National Park, Alaska, which comprise approximately eight million fifty thousand acres, as generally depicted on a map entitled "Gates of the Arctic National Park", dated March 1978, and which shall be known as Gates of the Arctic Wilderness.

(5) Certain lands in Glacier Bay National Park, Alaska, which comprise approximately two million eight hundred and twenty thousand acres, as generally depicted on a map entitled "Glacier Bay National Park", dated March 1978, and which shall be known as Glacier Bay Wilderness.

(6) Certain lands in Katmai National Park and Preserve, Alaska, which comprise approximately three million six hundred and thirty thousand acres, as generally depicted on a map entitled "Katmai National Park and Preserve", dated March 1978, and which shall be known as Katmai Wilderness.

(7) Certain lands in Kenai Fjords National Park, Alaska, which comprise approximately three hundred and forty thousand acres, as generally depicted on a map entitled "Kenai Fjords National Park", dated March 1978, and which shall be known as Kenai Fjords Wilderness.

(8) Certain lands in Kobuk Valley National Park, Alaska, which comprise approximately one million one hundred and forty thousand acres, as generally depicted on a map entitled "Kobuk Valley National Park", dated March 1978, and which shall be known as Kobuk Valley Wilderness.

(9) Certain lands in Lake Clark National Park and Preserve, Alaska, which comprise approximately two million six hundred and twenty thousand acres, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated March 1978, and which shall be known as Lake Clark Wilderness.

(10) Certain lands in Noatak National Preserve, Alaska, which comprise approximately six million eighty thousand acres, as generally depicted on a map entitled "Noatak National Preserve", dated March 1978, and which shall be known as Noatak Wilderness.

(11) Certain lands in Wrangell-Saint Elias National Park and Preserve, Alaska, which comprise approximately nine million five hundred and seventy thousand acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated March 1978, and which shall be known as Wrangell-Saint Elias Wilderness. Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(12) Certain lands in Yukon-Charley Rivers National Preserve, Alaska, which comprise approximately one million and forty thousand acres, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve", dated March 1978, and

which shall be know as Yukon-Charley Rivers Wilderness.

DESIGNATION OF WILDERNESS STUDY WITHIN UNITS OF THE NATIONAL PARK SYSTEM

SEC. 603. In furtherance of the purposes of the Wilderness Act, the Secretary of the Interior shall review the nondesignated wilderness within the boundaries of each unit of the National Park System as established or as expanded by this Act, and shall report to the President and the Congress in accordance with section 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all roadless areas within these boundaries for preservation as wilderness. Any subsequent designation as wilderness shall be accomplished in accordance with such subsections of the Wilderness Act. Recommendations for such units shall be submitted to the Congress on such basis that—

(1) no less than four are submitted within two years,

(2) no less than eight within three years, and

(3) all within four years after the date of enactment of this Act.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 604. In furtherance of the purposes of the Wilderness Act, and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain land in the Alaska Maritime National Wildlife Refuge comprising approximately two million nine hundred and ten thousand acres, as generally depicted on a map entitled "Alaska Maritime National Wildlife Refuge", dated April 1978, and which shall be known as Alaska Maritime Wilderness, Aleutian Islands Wilderness, Unimak Wilderness, and Semidi Wilderness.

(2) Certain land in the Arctic National Wildlife Refuge comprising approximately thirteen million one hundred and thirty thousand acres, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated April 1978, and which shall be known as Arctic Wilderness.

(3) Certain land in the Becharof National Wildlife Refuge comprising approximately four hundred thousand acres, as generally depicted on a map entitled "Becharof National Wildlife Refuge", dated April 1978, and which shall be known as Becharof Wilderness.

(4) Certain land in the Innoko National Wildlife Refuge, comprising approximately one million two hundred and forty thousand acres, as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated April 1978, and which shall be known as Innoko Wilderness.

(5) Certain land in the Izembek National Wildlife Refuge, comprising approximately three hundred thousand acres as generally depicted on a map entitled "Izembek National Wildlife Refuge", dated April 1978, and which shall be known as Izembek Wilderness.

(6) Certain land in the Kanuti National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Kanuti National Wildlife Refuge", dated April 1978, and which shall be known as Kanuti Wilderness.

(7) Certain land in the Kenai National Wildlife Refuge, comprising approximately one million four hundred and thirteen thousand acres, as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated April 1978, and which shall be known as Kenai Wilderness.

(8) Certain land in the Selawik National Wildlife Refuge, comprising approximately two hundred and forty thousand acres, as generally depicted on a map entitled "Selawik National Wildlife Refuge", dated April 1978, and which shall be known as Selawik Wilderness.

WILDERNESS REVIEWS WITHIN CONSERVATION SYSTEM UNITS OTHER THAN NATIONAL PARK SYSTEM UNITS

SEC. 605. (a) WILDERNESS REVIEW.—In furtherance of the purposes of the Wilderness Act and in accordance with the provisions of section 3(d) of that Act relating to public notice, public hearings, and review by State and other agencies, the Secretary of the Interior shall review, as to suitability or nonsuitability for preservation as wilderness, all lands within the conservation system units, other than those areas to be reviewed under section 603 and those areas designated as wilderness by this Act.

(b) DATES.—The Secretary of the Interior shall conduct his reviews, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act. The Secretary shall complete his reviews and the President shall advise the Congress of his recommendations with respect to no less than one-third of areas within three years after the date of enactment of this Act and with respect to the other two-thirds within seven years after such date of enactment, except that the reviews required thereunder with respect to units of the National Wildlife Refuge System shall—

(1) be completed at the same time as the conservation plans for the units concerned are prepared under section 303(c), and

(2) be coordinated with such plans.

The Secretary shall give at least ninety days advance public notice of any hearing or other public meeting concerning such areas. Any recommendation of the President to the effect that such area or a portion thereof should be designated as wilderness shall become effective only if so provided by an Act of Congress.

(c) EFFECT ON NATIONAL WILDLIFE REFUGES.—Nothing in this section shall be construed as affecting the administration of any unit of the National Wildlife Refuge System in accordance with title III until Congress otherwise provides in taking action on any Presidential recommendation made under subsection (b).

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 606. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Chugach National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately six hundred and ninety-six thousand acres (excluding lands of the village corporation for the village of Chenega), as generally depicted on a map entitled "Nellie Juan Wilderness", dated March 1978, and which shall be known as the Nellie Juan Wilderness.

(2) Certain lands in the Chugach National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately eight hundred and forty-seven thousand acres (excluding lands of the village corporation for the village of Tatitlek), as generally depicted on a map entitled "College Fjord Wilderness", dated March 1978, and which shall be known as College Fjord Wilderness.

(3) Certain lands in the Tongass National Forest, Alaska, including lands added to such forest under section 401, which comprise about four hundred and ninety thousand acres as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated March 1978, and which shall be known as the Stikine-LeConte Wilderness.

(4) Certain lands in the Tongass National Forest, Alaska, which comprise approximately four hundred and twenty thousand acres, as generally depicted on the above map as "Potential Wilderness" is designated as wilderness ten years from the date of enactment of this Act, unless before that date the Secretary has determined through written findings on the record that holders of mining claims in that area have met all the requirements for issuance of a patent, that proper environmental impact statements have been made available to the public, that satisfactory controls have been established which will prevent any environmental damage to the adjacent wilderness and nearby waters, and that commercial production of minerals has commenced.

(5) Certain lands in the Tongass National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately three hundred and fifty thousand acres (excluding lands of Yak-Tat-Kwan Native Village Corporation and the village of Yakutat), as generally depicted on a map entitled "Yakutat Wilderness", dated March 1978, and which shall be known as Yakutat Wilderness. Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary of Agriculture deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(6) Certain lands in the Tongass National Forest, Alaska, which comprise approximately one million one hundred and sixteen thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated March 1978, and which shall be known as Admiralty Island Wilderness and which shall be managed in accordance with the following provisions, among others:

(A) The Secretary of Agriculture is authorized to acquire, in accordance with the provisions of section 1101 of this Act, any lands, waters, and surface and subsurface interests therein which are located within the boundaries of the Admiralty Island Wilderness. Lands held or reserved for the Angoon Community Association under the provisions of the Act of June 18, 1934 (48 Stat. 984), specifically those lands withdrawn under Public Land Order 593, may only be acquired with the consent of the Angoon Community Association.

(B) Permits issued by the Forest Service, before the date of the enactment of this Act, for a dwelling or campsite in the Admiralty Island Wilderness shall expire not later than ten years after the date of enactment of this Act. The Special Use Permit for Thayer Lake Lodge shall be renewed as necessary for the longest of either (i) fifteen years after the date of enactment of this Act, or (ii) the lifetime of the permittee or the surviving spouse, whoever lives longer, so long as the management of the Lodge remains consistent with the purposes of the Admiralty Island Wilderness.

(C) Historic sites on Admiralty Island which have been identified and selected under section 14 (h)(1) of the Alaska Native Claims Settlement Act shall be included within the boundaries of the Admiralty Island Wilderness. The deed or deeds conveying such sites shall contain covenants, within the intent and purposes of this Act, preserving such sites in their natural condition and preventing timber development. Landownership of such historic sites shall remain in perpetual ownership of the stockholders of SEAlaska Corporation; except that if, in its subdivisions of the portion of two

million acres of land allocated to the southeast region pursuant to section 14(h)(1) of the Aalska Native Claims Settlement Act, SEAlaska Corporation does not include all of the historic sites on Admiralty Island as determined by the Tlingit community of Admiralty Island, then Kootznoowoo, Incorporated, as representative of such community, may idenitfy additional lands within the boundaries of the wilderness area as having important cultural and historic significance and the Secretary shall take appropriate action to preserve and protect such cultural and historic values.

(D) Under no circumstances shall the Secretary of Agriculture or any of his authorized officers or designees, permit educational, charitable, or nonprofit organizations or institutions, public or private museums, galleries, societies, associations or groups, private persons, Federal, State, or local agencies or any of their subdivisions access to the historical sites referred to in subparagraph (C) for archeological or anthropological research without the express, written consent of Kootznoowoo, Incorporated, as representative of the Tlingit community of Admiralty Island.

(E) The Secretary is authorized to enter into cooperative agreements with Kootznoowoo, Incorporated, for the establishment of research programs related to preservation of cultual resources of Admiralty Island on public and private lands.

(F) Wtihin five years after the date of enactment of this Act and in accordance with the provisions of section 1108, the Secretary shall prepare a management plan for the Admiralty Island Wilderness.

(G) As provided under section 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture is specifically authorized and directed, if the shareholders of Kootznoowoo, Incorporated, so elect, to exchange the timber rights to those lands selected for the village of Angoon under section 16 of the Alaska Native Claims Settlement Act for timber rights elsewhere within the Tongass National Forests in areas not designated as wilderness or wilderness study under this Act or other provisions of law. If the shareholders of Kootznoowoo, Incorporated, so elect, the timber rights to lands selected by that Corporation under section 16 of the Alaska Native Claims Settlement Act shall be conveyed to the Secretary of Agriculture. Within one year after such conveyance, the Secretary of Agriculture shall convey to Kootznoowoo, Incorporated, timber rights under this section which are of equal value to those conveyed to the Secretary. The conveyance of timber rights to the Secretary of Agriculture shall be conditioned upon the conveyance to Kootznoowoo, Incorporated, by the Secretary of Agriculture of timber rights of equal value under this section, except that if within one year after conveyance of timber rights to the Secretary of Agriculture, he cannot identify timber rights of equal value by mutual agreement, Kootznoowoo, Incorporated, at its election, may either rescind the conveyance or identify not more than twenty-three thousand and forty acres of land within the Tongass National Forest otherwise available for exchange under this paragraph and timber rights in lands so identified shall then be conveyed to Kootznoowoo, Incorporated, by the Secretary of Agriculture. Timber on Admiralty Island with respect to which the Secretary of Agriculture acquires title under this paragraph shall not be sold or otherwise cut or disturbed, except for subsistence uses or as otherwise provided by this Act. Notwithstanding the provisions of section 21(c) of the Alaska Native Claims Settlement Act, for the purposes of these timber rights exchange, the basis of valuation of the timber rights granted Kootznoowoo, Incorporated, shall be the highest average market value of timber in Alaska sold by the Secretary during any one of the twenty years preceding the conveyance.

(H) As provided under sections 21(c), 21(d), and 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture may acquire by purchase the timber rights of Kootznoowoo, Incorporated, which are to be exchanged pursuant to subparagraph (G) of this paragraph. The Secretary may acquire, pursuant to section 1101 of this Act, scenic easements on lands on Admiralty Island which may be appropriate to protect the natural and other values of Admiralty Island.

(I) In order for the Secretary of Agriculture to proceed as expeditiously as possible, lands withdrawn for selection by the Angoon Corporation pursuant to the Alaska Native Claims Settlement Act shall remain open to selection by Kootznoowoo, Incorporated. Lands not so selected by Kootznoowoo, Incorporated, shall become a part of the Admiralty Island Wilderness.

(J) In satisfaction of the rights of the Natives of Juneau and Sitka as provided by section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture shall designate alternative lands of equal or greater timber value located in southeast Alaska other than Admiralty Island for the benefit of Goldbelt, Incorporated, and Shee Atika, Incorporated. For purposes of this section, corporations formed pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act shall be considered as Village Corporations formed pursuant to section 16 of that Act. Upon notice that any such land is acceptable to Goldbelt, Incorporated, or Shee Atika, Incorporated, the Secretary shall immediately convey the surface estate in such land to such corporation and shall immediately convey the subsurface estate to the SEAlaska Corporation. As a condition to such conveyance, Goldbelt, Incorporated, or Shee Atika, Incorporated, shall release any claim to land sections on Admiralty Island and SEAlaska Corporation shall release any claim to subsurface right on Admiralty Island which corresponds to the land selection rights so released by Goldbelt, Incorporated, or Shee Atika, Incorporated. In studying lands for designation as alternative selection lands under this subparagraph, the Secretary shall also attempt to locate national forest lands not on Admiralty Island suitable for an exchange of timber interests with Kootznoowoo, Incorporated, under subparagraph (G). Nothing in this section shall be construed to affect any valid rights which Goldbelt, Incorporated, and Shee Atika, Incorporated, may have on Admiralty Island pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act nor shall it in any way be deemed to compel Goldbelt, Incorporated, or Shee Atika, Incorporated, to surrender any rights they may have on Admiralty Island prior to their voluntary acceptance of other land.

(K) Effective beginning October 1, 1978, the Secretary of the Interior shall pay all court costs and reasonable attorneys' fees incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kotznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act.

SPECIAL PROVISIONS

SEC. 607. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) FIRE; INSECTS; AND DISEASE.—Such measures may be taken as the Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desirable to maintain the wilderness character of the area.

(c) AQUACULTURE.—In accord with principles of sound fisheries management, and in a manner which will protect and preserve wilderness resources, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, is authorized to permit fishery research, management, enhancement, and rehabilitation activities within wilderness and wilderness study areas designated by this Act, except that only fishery research may be authorized in such areas within units of the National Park System, as he determines to be necessary and desirable to study, manage, protect, restore, augment, or sustain indigenous fish populations. Developments for any such activities shall involve only those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. In constructing such facilities and structures, no significant alteration to the natural contours of the terrain and no permanent roads shall be permitted. Reasonable access, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation, and enhancement activities subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area. Fishery research activities permitted within units of the National Park System shall only be undertaken in a manner that is consistent with the purposes for which such units are established or expanded. The construction or erection of permanent structures in support of these activities in wilderness or wilderness study areas within units of the National Park System shall not be permitted.

(d) CERTAIN FISH HATCHERY, FISHPASS, AND OTHER SITES.—(1) Those certain fish hatchery and fishpass sites identified on the maps of the Nellie Juan Wilderness, Stikine-LeConte Wilderness, and the West Chichagof-Yakobi Wilderness as "Potential Wilderness Areas" are designated as wilderness effective ten years after the date of enactment of this Act, unless during the ten-year period the Secretary of Agriculture authorizes development of a fish hatchery or fishpass in any such potential wilderness area. The Secretary shall manage each such area pursuant to the Wilderness Act until he authorizes such development or until the end of the ten-year period specified in the preceding sentence. Any fish hatchery or fishpass authorized for any such area shall be constructed, managed, and operated in a manner that minimizes any adverse impacts on the wilderness character of the adjacent wilderness.

(2) Those fish incubator sites identified on the map of Kenai Wilderness as "Potential Wilderness Areas" are designated as wilderness effective ten years after the date of enactment of this Act, unless during the ten-year period the Secretary authorizes development of a fish incubator in any such potential wilderness area. The Secretary shall manage each such area pursuant to the Wilderness Act until he authorizes such development or until the end of the ten-year period specified in the preceding sentence. Any fish incubator authorized for any such area shall be constructed, managed, and operated in a manner that minimizes any adverse impacts on the wilderness character of the adjacent wilderness.

(e) EXISTING CABINS.—Previously existing public use cabins within national forest wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(f) NEW CABINS.—Within national forest wilderness designated by this Act, the Secretary is authorized to construct and maintain a limited number of new public

use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape.

(g) COMMERCIAL SERVICES.—Commercial services may be performed within the wilderness designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purpose of the areas.

(h) WITHDRAWALS.—Subject to valid existing rights, national forest wilderness established by this Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including, in both cases, all amendments thereto, and from any right of mineral entry which would otherwise have been available hereafter under the Wilderness Act or any other provision of law.

(i) TAKING OF FISH AND WILDLIFE.—Within national forest wilderness designated by this Act, the Secretary of Agriculture shall permit taking of fish and wildlife on lands under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska, except that the Secretary may designate zones where, and establish periods when, no taking of fish and wildlife shall be permitted for reasons of public safety, administration, public use and enjoyment, or protection of subsistence activities and except that the taking of wildlife shall be prohibited in the Pack Creek and Swan Cove area, within the boundaries of Pack Creek Research Natural Area in the Admiralty Island Wilderness.

(j) COMMERCIAL FISHERIES.—In accordance with principles of sound fisheries management, the Secretary is authorized to permit commercial fisheries activities within wilderness designated by this Act, except within national parks.

(k) MISTY FJORDS.—Subject to valid existing rights, those certain lands in the Tongass National Forest, Alaska, which comprise approximately two million three hundred and forty thousand acres, as generally depicted on a map entitled "Misty Fjords Area" dated March 1978, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

ADMINISTRATION

SEC. 608. (a) IN GENERAL.—Except as otherwise expressly provided for in this Act, wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 602, 603, and 604 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

(b) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber on relevant lands within such units.

ACQUISITION AUTHORITY

SEC. 609. The Secretary of Agriculture is authorized, in accordance with the provisions of section 1101, to acquire privately owned land within the boundary of any area designated as wilderness within the national forest by this Act.

Strike all of section 806 and in lieu thereof insert as follows:

ALASKA NATIVE LAND BANK

SEC. 806. (a) ESTABLISHMENT; AGREEMENT.—In order to enhance the quantity and quality of Alaska's renewable resources, there is hereby established the Alaska Native Land Bank Program. All Native Corporations, and all other persons or groups who have received or will receive lands or interests in lands pursuant to the Alaska Native Claims Settlement Act or this Act are hereby authorized to enter into a written agreement with an appropriate State agency designated by the Governor of Alaska as the agent to administer such Program or with the Secretary of the Interior or his designee if the lands to be made subject to the provisions of subsection (b) are within the boundaries of a conservation system unit or if the State declines to participate in such Program. Such agreement shall provide that all or part of the undeveloped and unimproved land holdings of any Native Corporation, as specified by such Corporation, shall be subject to the provisions of subsection (b). No agreement under this section shall be construed as affecting any land or any right or interest in land of any corporation or person not a party to such agreement.

(b) TERMS OF AGREEMENTS.—Each agreement referred to in subsection (a) shall have an initial term of not less than ten years, with provision for renewal for additional periods of not less than five years. Such agreement shall provide that during its term—

(1) the landowner or landowners shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement and shall not permit development or improvements on such lands, unless otherwise provided in section 14(c) of the Alaska Native Claims Settlement Act;

(2) the renewable resources of such lands shall be available only for subsistence uses or such other uses as are not detrimental to subsistence uses;

(3) if the surface landowner so consents, such lands may be made available for local recreational use; and

(4) all or part of the lands subject to the agreement may be withdrawn from the Alaska Native Land Bank Program not earlier than ninety days after the landowner or landowners—

(A) submit written notice thereof to the State agency referred to in subsection (a) or the Secretary, as appropriate, and

(B) pay all Federal, State, and local property taxes and assessments which would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the State or local taxing agency.

Such agreement shall contain such additional terms, which are consistent with the provisions of this section, as seen desirable to the parties entering into the agreement.

(c) RESTRICTIONS.—Each agreement entered into under this section shall constitute a restriction against alienation imposed by the United States upon the land subject to the agreement; so long as the parties to the agreement are in full compliance with the agreement, lands subject to such agreement shall not be subject to any of the following—

(1) adverse possession,

(2) taxation by the United States, any State, or any political subdivision of a State, and

(3) any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or any officer, director, or stockholder of any such Corporation.

Except as provided in the preceding sentence, nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(d) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance with the agreement.

(e) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which (1) applies to any land which is subject to an agreement, and (2) was entered into before the day on which the agreement becomes effective.

Strike Title XII and in lieu thereof insert the following:

TITLE XII—ADMINISTRATIVE PROVISIONS

LAND ACQUISITIONS AND EXCHANGES

SEC. 1201. (a) GENERAL AUTHORITY.—Except as otherwise provided in this Act, the Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit. Any such land owned by the State, a politcal subdivision of the State or a Native Corporation which has Natives as a majority of its stockholders may only be acquired for such purposes with the consent of the State, such political subdivision of the State, or such Native Corporation, as the case may be.

(b) IMPROVED PROPERTY.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(c) RETAINED RIGHTS.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs, and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) DEFINITION.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1978 (hereinafter in this section referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use,

together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1978, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(e) CONSIDERATION OF HARDSHIP.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(f) EXCHANGE AUTHORITY.—In acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in the Alaska Native Claims Settlement Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(g) Acquired Lands Part of Unit.—All lands, water, and interests therein acquired by the Secretary and located within the boundaries of any conservation system unit shall become part of such unit and subject to the laws and regulations applicable to such unit.

(h) SCENIC EASEMENTS.—The Secretary shall reserve or acquire all scenic easements which he determines to be necessary to protect the scenic and natural values of (1) Sukakpak Mountain and the other public lands within the area heretofore reserved for utility transmission systems, or (2) the public lands within the area described in section 1206(a). Scenic easements reserved or acquired under this subsection shall not unduly interfere with the construction, operation, or maintenance of any authorized utility transportation system or other authorized facility or development. In acquiring scenic easements pursuant to this subsection, the Secretary may utilize his authority under subsection (f) of this section or section 22(f) of the Alaska Native Claims Settlement Act.

ACCESS

SEC. 1202. (a) GENERAL PROVISIONS.—The Secretary shall take all possible actions within or outside the boudaries of conservation system units as may from time to time be necessary, including acquiring or providing easements or other interests in lands in accordance with the provisions of section 1101, to carry out any one or more of the following purposes, consistent with the purposes for which the concerned conservation system units were established designated, or expanded:

(1) providing access to subsistence lands for purposes of subsistence uses under this Act;

(2) providing access for purposes of administering units of the National Park, National Wildlife Refuge, National Forest, or Wild and Scenic Rivers Systems established or expanded by this Act;

(3) providing public access to conservation system units, consistent with the purposes for which the units are established, designated, or expanded; and

(4) ensuring continued public access to areas conveyed to the State, particularly in cases where such areas are enclosed by one or more conservation system units.

(b) CUSTOMARY MODES OF TRAVEL.—Except as otherwise provided in section 10(f) of the Wild and Scenic Rivers Act or section 709 of this Act, in administering the conservation system units in Alaska, the Secretary shall permit the continuation of customary patterns and modes of travel across such units. Such travel may be conditioned by such reasonable regulations as the Secretary shall promulgate to assure that such travel is consistent with the purposes for which such unit was established. Before promulgating regulations under this section, the Secretary shall give at least sixty days public notice of the proposed regulations, including publication of the proposed regulations in a newspaper or newspapers having general circulation in each State judicial district in Alaska where the unit or units affected by the proposed regulations are located, and shall hold a public hearing or hearings concerning the proposed regulations at one or more locations convenient to the unit or units affected.

(c) SPECIAL ACCESS RIGHTS.—In any case in which State owned or privately owned land (including Native land) or a valid mining claim or other valid occupancy is effectively surrounded by public lands within one or more conservation system units, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the values of such unit or units.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

SEC. 1203. Notwithstanding any acreage or boundary limitiations contained in this Act with respect to the conservation system units described in sections 201(2), 201(6), and 201(10), the Secretary of the Interior may acquire, by purchase, donation, or exchange any significant archeological or paleontological site in Alaska located outside of any unit and containing resources which are closely associated with such unit. If any such site is so acquired, it shall be included in and managed as part of such unit. Property owned by a State or unit of local government may be acquired under this section only by donation or exchange. Not more than seven thousand five hundred acres of land may be acquired under this section for inclusion in a single conservation system unit. Before acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed acquisition in the Federal Register.

COOPERATIVE INFORMATION CENTERS

SEC. 1204. (a) ALASKA HIGHWAY CENTER.—The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of Federal or other land at a site adjacent to the Alaska Highway, an information and education center for visitors to Alaska. The Secretary shall seek participation in the program planning, construction, and operation of the center from appropriate agencies of the State and representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so.

(b) ESTABLISHMENT OF OTHER CENTERS.—The Secretary of the Interior is authorized to establish in both Anchorage and Fairbanks, Alaska, an information and education center for visitors to Alaska, and the Secretary of Agriculture is authorized to establish in Juneau, Alaska, Ketchikan, Alaska, or Sitka, Alaska, another such information and education center. Each Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska, and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alaska Highway Center. Before establishing any such center in any such city, the concerned Secretary shall notify the appropriate committees of the Congress of his intention to do so. Each Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in the concerned city, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) ADMINISTRATION.—Any centers and facilities established under this section shall be administered under applicable laws and in accordance with such special regulations as the Secretary may promulgate.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1205. (a) ESTABLISHMENT.—In conformity with the comprehensive conservation plans prepared under section 303(c), management plans prepared under section 1108, and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish administrative sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purpose;

(2) the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purpose; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has ac-

quired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered with the Secretary into agreements the terms of which assure the continued use of such buildings and facilities to carry out the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1206. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any person who, on or before January 1, 1978, was engaged in adequately providing any type of visitor service within any area established or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes of which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act; and

(2) shall give preference to persons whom he determines, by rule, are local residents.

(c) DEFINITION.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides.

LOCAL HIRE

SEC. 1207. (a) PROGRAM.—The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numercial limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) REPORTS.—Within one year after the date of the enactment of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

MANAGEMENT PLANS

SEC. 1208. (a) SUBMISSION OF PLANS.—Within five years after the date of the enactment of this Act, the Secretary shall submit, in writing, to the appropriate committees of the Congress plans for managing each of the conservation system units established or expanded by title II of this Act. At any time after submitting a plan under this subsection, the Secretary may revise such plan in accordance with the provisions of this section.

(b) COORDINATION.—The Secretary shall coordinate the development and preparation of mangement plans for conservation system units which have similar characteristics.

(c) PLAN REQUIREMENTS.—Each plan described in subsection (a) shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned conservation system unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of the areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(d) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section and any study under 1205 of lands within a conservation system unit, the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for native Alaskans residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(e) HEARING AND PARTICIPATION.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Advisory Coordinating Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will significantly be affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

(f) ADVICE AND REPORTS.—During the period beginning on the date of the enactment of this Act and ending on the date the final plan described in subsection (a) is submitted to the appropriate committees of the Congress referred to in subsection (a), the Secretary—

(1) shall keep such committees advised of the status of the plans described in subsection (a), of activities being carried out under this section, and of any information which the Department of the Interior has pertaining to any conservation system unit; and

(2) shall, at least once every twelve months, submit to such committees a report indicating the status of the plans described in subsection (a), particular problems being encountered with respect to developing such plans and managing conservation system units, and the anticipated date of submission of such plans.

TAKING OF FISH AND WILDLIFE

SEC. 1209. (a) NATIONAL PARK SYSTEM.—All areas of the National Park System in the State shall be closed to the taking of fish and wildlife, except—

(1) for the taking of fish and wildlife for those subsistence uses authorized under title VII of this Act;

(2) for fishing authorized by the Secretary and carried out in accordance with applicable laws of the United States and the State; and

(3) for the taking of fish and wildlife for sport and other purposes which the Secretary may, by regulation, permit within areas established by or under this Act as national preserves and which is carried out in accordance with applicable laws of the United States and the State.

(b) OTHER CONSERVATION SYSTEM UNITS.—The taking of fish and wildlife in all conservation system units, other than those units in the National Park System, shall be subject to applicable provisions of Federal and State law.

(c) SPORT HUNTING GUIDE SERVICES.—(1) Notwithstanding any other provision of this Act or other law to the contrary, with respect to any public lands within the Katmai National Park, Denali National Park, Gates of the Arctic National Park, or Wrangell-Saint Elias National Park which were on January 1, 1978, legally used by any person for sport hunting guide services pursuant to a lease, permit, or license lawfully issued or authorized by any agency of the United States or the State of Alaska, the Secretary

shall, if he finds that economic hardship would occur to such person if such uses were immediately terminated, offer to such person the option of (A) a permit for such person to continue in the exercise of such use on such lands in accordance with paragraph (2) of this subsection; or (B) subject to the provisions of section 1106 (including preferences provided by such subsection), a contractual right to furnish revenue-producing visitor services, other than for the taking of fish and wildlife on such lands.

(2) Any permit issued pursuant to subparagraph (A) of paragraph (1) of this subsection shall—

(A) be effective for a period not to exceed—

(i) twenty years from the date of enactment of this Act, or

(ii) the lifetime of the individual guide receiving such permit,

whichever is shorter;

(B) not authorize the person to whom it is issued to guide during any one year more hunters than the average annual number of hunters guided by such person during the three years immediately preceding the date of enactment of this Act, or to take more of a particular wildlife species during any one year than the average annual number of such species reported taken from the same area by parties guided by such person during such three-year period;

(C) contain such other terms and conditions as the Secretary deems necessary in furtherance of the purposes of the relevant conservation system unit, including such reasonable limitations or prohibitions which the Secretary may from time to time impose on the taking of wildlife during such periods and within such areas as the Secretary may designate or on the means by which fish and wildlife may be taken; and

(D) shall be terminated by the Secretary without compensation for failure of such person to exercise such use in accordance with the terms and conditions of the permit or for failure to exercise such use in accordance with applicable provisions of Federal or State law.

The Secretary is authorized to require such data and information from permit applicants as he deems necessary to support a finding of economic hardship and to impose appropriate permit restrictions as required by this subsection. Nothing in this subsection shall be deemed to create a compensable right in any public lands. It is the express intention of the Congress that the taking of wildlife except for subsistence uses in the units of the National Park System in Alaska, other than national preserves, be discontinued within twenty years after the date of enactment of this Act.

(d) NONSUBSISTENCE TRAPPERS.—Notwithstanding any other provision of this Act or other law to the contrary with respect to any public lands within the Cape Krusenstern National Monument, Denali National Park, or Kubuk Valley National Park which were on January 1, 1978, legally used by any person for traplines pursuant to a lease, permit, or license lawfully issued or authorized by any agency of the United States or the State of Alaska, the Secretary is authorized, if he finds that economic hardship would occur to such person if such uses were immediately terminated to permit such person to continue in the exercise of such use on such lands for a period not to exceed twenty years from the date of enactment of this Act or the lifetime of the individual receiving such permit, whichever is shorter. Any such permit shall—

(1) contain such terms and conditions as the Secretary deems necessary and determines to be consistent with the purposes of the affected conservation system unit, including such reasonable limitations or prohibitions which the Secretary may from time to time impose on the taking of wildlife during such periods and within such areas as the Secretary may designate;

(2) contain reasonable limitations or prohibitions on the means by which wildlife may be taken;

(3) entitle the person to whom it is issued to take during any one year no more wildlife of any species than the average annual number of that species taken by such person during the three years immediately preceding the date of enactment of this Act; and

(4) be terminated by the Secretary without compensation for failure to exercise such use in accordance with its terms and conditions or for failure to exercise such use in accordance with applicable provisions of Federal or State law.

The Secretary is authorized to require such data and information from permit applicants as is necessary to support a finding of economic hardship and to impose appropriate permit restrictions as required by this subsection. Nothing in this subsection nor any permit issued hereunder shall be deemed to create a compensable right in any public lands. It is the express intention of the Congress that trapping, except for subsistence purposes, within units of the National Park System in Alaska, other than national preserves, shall be discontinued within twenty years after the date of enactment of this Act.

MAPS

SEC. 1210. As soon as practicable after the date of enactment of this Act, a map and legal description of each conservation system unit, including each wilderness study area and each wilderness area, shall be filed with the appropriate committees of the Congress. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the appropriate offices of (1) the Director of the National Park Service, (2) the Director of the United States Fish and Wildlife Service, and (3) the Chief of the United States Forest Service, and appropriate offices of the Alaska field directors of such services. Following publication of notice in the Federal Register and reasonable notice in writing to the appropriate committees of the Congress of his intention to do so, the Secretary may make minor adjustments in the boundaries of any of the conservation system units. Whenever possible, such adjusted boundaries shall follow hydrographic divides or embrace other key topographic features in all cases where straight line map boundaries approximate such features.

MAJOR FEDERAL ACTION

SEC. 1211. No action concerning any conservation system unit in Alaska which is a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 may be taken by the Secretary unless, in addition to meeting the other requirements of such Act, a report explaining in detail the action (and the basis and reason therefore) and an environmental impact statement concerning such action, have been submitted to the appropriate committees of the Congress at least sixty days prior to the commencement of such action.

CONGRESSIONAL REVIEW

SEC. 1112. The provisions of section 551 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163) shall apply to all regulations issued by the Secretary pursuant to this Act, except that the term "energy action" shall be treated as a reference to regulations promulgated by the Secretary under this Act and any reference to the "President" shall be treated as a reference to the Secretary.

Strike Title XIII and in lieu thereof insert the following:

TITLE XIII—MISCELLANEOUS

IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1301. (a) AMENDMENT OF NATIONAL TRAILS SYSTEM ACT.—Section 5(a) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end thereof:

"(4) The Iditarod National Historic Trail, including the main route (approximately one thousand one hundred miles) and branch segments (approximately nine hundred and thirty miles), extending from Seward to Nome, Alaska, following the route depicted on the maps, identified as 'Seward-Nome Trail' in the Department of the Interior Iditarod Trail study report dated , 1977; except (A) that while this paragraph will commemorate the entire route of the Iditarod Trail by designation as the Iditarod National Historic Trail, only those segments which are within the exterior boundaries of federally administered areas and which meet the national historic trail criteria established in this Act, are established initially as components of the Iditarod National Historic Trail, (B) that the Secretary of the Interior may designate lands outside of the exterior boundaries of federally administered areas as segments of the Iditarod National Historic Trail upon application from concerned State and local government agencies or concerned persons involved if such segments meet the national historic trails criteria established in this Act and such criteria supplementary thereto as the Secretary may prescribe and are administered by such agencies or persons without expenses to the United States, and (C) that notwithstanding the provisions of section 7(c) the use of snowmobiles on segments of the Iditarod National Historic Trail will be permitted in accordance with regulations prescribed by the appropriate Secretary.".

(b) RESPONSIBILITIES OF SECRETARY.—The responsibility for coordination of Iditarod National Historic Trail matters shall rest with the Secretary on consultation with the heads of other Federal and State agencies where lands administered by them are involved. Such responsibilities shall include the following:

(1) Selecting the specific trail route, as provided for in section 7(a) of the National Trails System Act, within three years after the date of enactment of this Act.

(2) Developing a plan and guidelines for the acquisition, development, management, and maintenance of the trail with the advice and assistance of other Federal, State, and local agencies and organizations. Such plan and guidelines shall include at least provisions for the acquisition, retention, or dedication of significant historic sites and for a right-of-way or easement along most or all of the route to protect historic values and segments for potential future recreational trail development and to ensure continued public travel along the various trail segments.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

SEC. 1302. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes" approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(1) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known

as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1303. (a) EXISTING FACILITIES.—(1) Within the conservation system units, reasonable access to, and operation and maintenance of, existing air and water navigation aids and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate.

(2) Notwithstanding any other provision of this Act, reasonable access to, and operation and maintenance of, existing facilities for national defense purposes, and related air and water navigation aids, within or adjacent to conservation system units shall continue in accordance with the laws and regulations governing such facilities.

(3) Nothing in the Wilderness Act shall be deemed to prohibit, within wilderness areas, the carrying out of access, establishment, operation, and maintenance activities described in paragraphs (1) and (2).

(b) NEW FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance; and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

NATIONAL PETROLEUM RESERVE IN ALASKA

SEC. 1304. (a) MANAGEMENT.—Notwithstanding any contrary provision of the Naval Petroleum Reserves Production Act of 1976, during the review of land dedications pursuant to section 105(c) of such Act, and until Congress has determined otherwise the Secretary shall manage the National Petroleum Reserve in Alaska in such manner as to permit the continuation of established subsistence uses and to preserve scenic, historical, archeological, recreational, fish and wildlife, wilderness, and other surface values.

(b) AMENDMENTS TO NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976.—Section 105 (c) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501–6507) is amended—

(1) by inserting "archeological and paleontological," immediately after "historical," in paragraph (1)(B); and

(2) by striking out "within three years after the date of enactment of this title" in paragraph (3) thereof and inserting in lieu thereof "on the same date as the study under subsection (b)".

WITHDRAWALS; MINERAL RIGHTS

SEC. 1305. (a) Subject to valid existing rights, all public lands within the boundaries of any conservation system unit in Alaska are withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States, except as otherwise specifically provided in this Act. All withdrawals and reservations of land for powersite purposes within the boundaries of a conservation system unit are hereby rescinded. In the case of lands in Alaska outside the boundaries of any such unit, if an applicant for any Native allotment within any withdrawal or reservation for powersite purposes has complied with all applicable requirements, the Secretary may—

(1) grant the application for such allotment, and

(2) make an appropriate conveyance of land to such applicant,

as if the Secretary had declared such lands open to location, entry, or selection under section 24 of the Federal Power Act (16 U.S.C. 818), subject to the reservations specified in such section.

(b) MINERAL CLAIMS AND LEASES.—(1) After the date of enactment of this Act, any person who is the holder, on the date of the enactment of this Act, of any valid existing mineral claim or lease on public lands located within the boundaries of any conservation system unit in Alaska may carry out activities related to the exercise of rights under such claim or lease in accordance with regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purpose for which such unit was established.

(2) The regulations of the Secretary which were in effect for any area before the date of the enactment of this Act and which are applicable to the activities, referred to in paragraph (1) shall continue in effect notwithstanding the inclusion of the affected area in a conservation sytem unit until regulation under paragraph (1) of this subsection take effect.

(c) RECORDATION OF CLAIMS.—Except for mining claims on lands subject to the Mining in the Parks Act (90 Stat. 1342; 16 U.S.C. 1901 and following), all mining claims on public lands which lie within the boundaries of any conservation system unit are subject to the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

(d) REMEDY FOR PROPERTY LOSS.—The holder of any patented or unpatened mining claim, or any mineral lease, which lies within the boundaries of any conservation system unit in Alaska who believes he has suffered a loss by operation of this section, or by orders or regulations issued pursuant thereto, may bring an action in the United States District Court for Alaska to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

SCENIC HIGHWAY STUDY

SEC. 1306. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the "Denali Highway" between Cantwell and Paxson, the "Richardson Highway" and "Edgerton Highway" between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant thereform on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) COOPERATION; NOTICE; HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and with the owners of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) PERIOD OF WITHDRAWAL.—The lands withdraw under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1307. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94–258).

AUTHORIZATION FOR APPROPRIATION

SEC. 1308. There are hereby authorized to be appropriated such sums as may be neces-

sary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978. No authority to enter into contracts or to make payments under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

By Mr. YOUNG of Alaska:

Title I, page 37, section 103(3)(A)(iii), line 7 insert after "6(b)" "and 6(m)".

Title II, page 44, section 201(4) line 10 strike "eight million and fifty thousand" and insert in lieu of "seven million eight hundred and fifty thousand" and on line 13 strike "Gates of the Arctic National Preserve containing approximately sixty thousand acres of public lands".

—Page 47, section 201(7) lines 2 and 3 strike "one million and ninety five thousand" and insert in lieu of "eight hundred and forty five thousand".

—Page 48, section 201(8) line 1 strike "six million and eighty thousand" and insert in lieu of "five million nine hundred and thirty thousand".

—Page 50, section 201(9) line 7 strike "three hundred and eighty thousand".

—Page 51, section 201(10) lines 2 and 3 strike "one million six hundred and eighty three" and insert in lieu of "one million four hundred and eighty".

—Page 52, section 202(1) lines 6 strike "and fifty" and on line 7 strike "four hundred thousand" and insert in lieu of "two hundred and fifty thousand".

—Page 54, section 202(3) lines 1 and 2 strike "and an area of approximately two hundred and ten thousand acres of public land designated as the Katmai National Preserve," and on line 7 strike "and Preserve".

—Title III, page 66, section 302(1) lines 17 and 18 strike "four" and insert "eight".

—Page 62, section 301(7) line 6 strike "four hundred and fifty" and insert in lieu of "three hundred and thirty".

—Page 62, section 301(8) line 25 strike "two million" and insert in lieu of "one million nine hundred and thirty thousand".

—Page 67, section 302(2) lines 13 and 14 strike "three million eight hundred and forty" and insert in lieu of "three million one hundred and seventy".

—Page 64, section 301(10)(A) lines 11 and 12 strike "ten million three hundred and ten" and insert in lieu of "eight million six hundred and fifty".

—Page 44, section 201(4) lines 11 and 13 strike "eight million and fifty" and "sixty" and insert in lieu of respectively "five million six hundred and eighty" and "two million four hundred and thirty".

—Title II, pages 46 and 47, section 201(7) lines 25 and 1 strike "two million three hundred and ninety-five thousand" and insert in lieu of "one million nine hundred and eighty thousand" and on lines 2 and 3 strike "one million and ninety five" and insert in lieu of "one million five hundred and ten thousand".

—Page 50, section 201(9) line 4 strike "eight million six hundred and seventy" and insert in lieu of "seven million two hundred and ninety" and on lines 6 and 7 strike "three million three hundred and eighty" and insert in lieu of "four million seven hundred and sixty".

—Page 52, section 202(1) lines 5 and 6 strike "three million three hundred and fifty" and insert in lieu of "one million seven hundred and seventy" and on line 7 strike "four hundred" and insert in lieu of "one million nine hundred and eighty".

—Page 53 and 54, section 202(3) lines 25 and 1 strike "one million one hundred and thirty" and insert in lieu of "six hundred and thirty" and on line 2 strike "two hundred and ten" and insert in lieu of "seven hundred and ten".

—Page 73, section 304, line 7, add a new subsection (b) which shall read as follows:

—(b) The Secretary may permit oil and gas leasing and mineral entry pursuant to existing law on such lands, except in wilderness, consistent with the National Refuge Administration Act of 1966.

—Title III and title IV, page 64, section 201(10)(A) lines 11 and 12 strike "ten million three hundred and ten" and insert in lieu of "seven million six hundred"; page 74, line 10, add a new section which shall read as follows:

SEC. 402. PORCUPINE NATIONAL FOREST.—Porcupine National Forest shall consist of approximately two million seven hundred thousand acres of public lands generally depicted on a map entitled "Porcupine National Forest", dated May 1978.

—Page 62, section 301(7) lines 5 thru 23 strike completely and remember subsequent sections accordingly; page 74, line 10, add a new section which shall read as follows:

SEC. 402. NOWITNA NATIONAL FOREST.—The Nowitna National Forest shall consist of approximately one million four hundred and fifty thousand acres of public lands as generally depicted on a map entitled "Nowitna National Forest", dated May, 1978.

—Title VI, pages 91 thru 93, section 604(2) strike completely.

—Pages 99 thru 108, sections 606(3), 606(4), 606(5), and 606(6) strike completely.

—Pages 99 and 100, section 606(4) lines 10 thru 24 and 1 thru 3 strike completely and insert in lieu thereof:

(4) Certain lands in the Tongass National Forest, Alaska which comprise approximately three hundred thousand acres as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness" dated May, 1978 and which shall be known as the West Chichagof-Yakobi Wilderness.

—Page 100, section 606(6) lines 20 and 21 strike "one million one hundred and sixteen" and insert in lieu of "five hundred and fifty".

—Page 110, section 607(f) line 16 strike "national forest".

—Page 112, section 607(k) strike completely.

—Page 108, section 606, line 11, add a new subsection (7) which shall read as follows:

(7) Certain lands in the Tongass National Forest, Alaska, which comprise approximately five hundred and ten thousand acres as generally depicted on a map entitled "Granite Fiords Wilderness", dated May, 1978 and which shall be known as the "Granite Fiords Wilderness."

—Page 55, line 25, add a new section 204 which shall read as follows:

"SEC. 204. Mineral Entry and Leasing on Preserves. (a) The process contained in the following section, respecting access to minerals, shall apply only to public lands within National Preserves, except for portions designated wilderness, in Alaska. Except for mineral development and extraction under claims or leases in effect on the date of enactment of this Act, mineral exploration and development and extraction may be carried out within national preserves only in accordance with this section and provisions of this Act.

(b) The Secretary shall receive and consider applications to permit mineral entry or mineral leasing on lands affected by this section. The application shall be in such form and contain such information as the Secretary may reasonably require to enable him to carry out his duties pursuant to this section.

(c) In response to an application under this section, the Secretary shall make, and transmit to Congress as provided in this section, a decision to permit mineral entry or leasing in an area if he finds that, based on the information available to him—

(1) there is, or is reasonably anticipated to be within the ensuing fifteen years, a national need for substantial additional sources of such mineral or materials;

(2) such national need for such mineral or minerals cannot be adequately met in an economically feasible manner;

(3) such national need outweights the potential adverse environmental impacts on the conservation system unit which are likely to result from such mineral entry or leasing and possible subsequent development and extraction; and

(4) the area subject to the decision is likely to contain a resource of such mineral or minerals.

(d) Prior to permitting mineral entry or leasing on lands affected by this section, the Secretary shall submit his decision to Congress with a detailed statement setting forth the basis for his determination. Mineral entry or leasing shall be permitted in the affected area 120 legislative days after submission to Congress unless either the Senate or House of Representatives shall by resolution have disapproved the decision.

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Pages 166 thru 185, Title IX, strike completely.

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Title III, pages 58 and 59, section 301(2) Alaska Peninsula National Wildlife Range, strike completely.

Title VIII, page 151, section 805(h) lines 20 through 23, strike completely and insert in lieu of "list of "State Selection Lands, May 15, 1976', submitted by the State of Alaska and on file in the office of the Secretary of Interior, and as depicted on the map entitled 'State Selection Lands', dated May 15, 1978."

Page 42, section 201(2) lines 12 and 13 strike "four hundred and eighty" and insert in lieu of "three hundred and fifty."

By Mr. SEIBERLING:

—Page 296, line 9, add a new section as follows:

ALASKA NATURAL GAS TRANSPORTATION ACT

SEC. . Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94–); Stat. , or as imposing any limitations upon the authority of the Secretary concerning such system.

—On page 52, revise lines 4 through 9 to read as follows:

"(1) Mount McKinley National Park by the addition of an area containing approximately three million eight hundred and ninety thousand acres of public lands, as generally depicted on a map entitled 'Denali National Park,' dated May 1978. The park shall be managed for the".

(EXPLANATION.—Changes the preserve to park and adds 140,000 acres, including bear and other wildlife habitat on the north and an important access area on the south.)

—On page 53, revise lines 7 through 11 to read as follows:

"(2) Glacier Bay National Monument by the addition of an area containing approximately six hundred thousand acres of public lands, as generally depicted on a map entitled 'Glacier Bay National Park,' dated May 1978; furthermore, the Glacier";

And after the period in line 23 insert the following: "Nothing in this paragraph shall be deemed to prevent the continued use of privately owned facilities for commercial fishing purposes."

—Page 141, after line 3 add new subsection as follows:

( ) Certain lands in the Koyukuk National Wildlife Range, Alaska, which comprise approximately nine hundred and ten thousand acres, as generally depicted on a map entitled "Koyukuk National Wildlife Range", dated March 1978, and which shall be known as Koyukuk Wilderness.

—Page 141, after line 3 add a new subsection as follows:

( ) Certain lands in the Tetlin National Wildlife Range, Alaska, which comprise approximately one hundred thousand acres, as generally depicted on a map entitled "Tetlin National Wildlife Range", dated March

1978, and which shall be known as Tetlin Wilderness.

—Page 141, after line 3 add a new subsection as follows:

( ) Certain lands in the Togiak National Wildlife Range, Alaska, which comprise approximately two million seven hundred and seventy thousand acres, as generally depicted on a map entitled "Togiak National Wildlife Range", dated March 1978, and which shall be known as Togiak Wilderness.

—Page 141, after line 3 add a new subsection as follows:

( ) Certain lands in the Yukon Delta National Wildlife Range, Alaska, which comprise approximately two million three hundred and thirty thousand acres, as generally depicted on a map entitled "Yukon Delta National Wildlife Range", dated March 1978, and which shall be known as Andreafsky Wilderness and Kisaralik Wilderness.

—Page 141, after line 3 add a new subsection as follows:

( ) Certain lands in the Yukon Flats National Wildlife Range, Alaska, which comprise approximately one million nine hundred and seventy thousand acres, as generally depicted on a map entitled "Yukon Flats National Wildlife Range", dated March 1978, and which shall be known as Hodzana Wilderness and White Mountain Wilderness.

H.R. 12625

By Mr. KOSTMAYER:

TITLE II—NATIONAL PARK SYSTEM

—On page 16, revise lines 10 through 16 to read as follows:

"(3) Cape Krusenstern National Monument, containing approximately five hundred and forty thousand acres of public lands, as generally depicted on a map entitled 'Cape Krusenstern National Monument.' dated May 1978, which".

—On page 19, revise lines 1 through 5 to read as follows:

"(6) Kobuk Valley National Park, containing approximately one million seven hundred and seventeen thousand acres of public lands, as generally depicted on a map entitled 'Kobuk Valley National Park,' dated May 1978, which park shall be managed to main-".

—On page 25, revise lines 6 through 15 to read as follows:

"(1) Mount McKinley National Park by the addition of an area containing approximately three million eight hundred and ninety thousand acres of public lands, as generally depicted on a map entitled 'Denali National Park,' dated May 1978. The park shall be managed for the".

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

—On page 60, after line 24, insert the following paragraphs:

"(28) COLVILLE, ALASKA.—The entire river including the headwaters in township 9 south, ranges 36 and 37 west, township 8 south, ranges 34 through 37 west, and township 7, ranges 35 and 36 west, Umiat meridian, to the mean high tide line; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"'(29) ETIVLUK, ALASKA.—The entire river including its major tributary the Nigu River, to be classified as a wild river area and to be administered by the Secretary of the Interior.

"'(30) UTUKOK, ALASKA.—From the headwaters in township 10 south, ranges 37 through 40 west to the east boundary of township 7 north, range 39 west, Umiat meridian; to be classified as a wild river area to be administered by the Secretary of the Interior.'"

—And on page 61, line 6, after "(25)" insert "and (28) through (30)"; and in line 15, change the period to a comma and insert thereafter "Colville, Etivluk, and Utukok."; and on page 62, line 4, change "(27)" to "(30)".

H.R. 12625

By Mr. YOUNG of Alaska:

—Title I, page 10, section 103(3)(A)(iii), line 7, insert after "6(b)" "and 6(m)".

—Title II, page 17, section 201(4), line 10, strike "eight million and fifty thousand" and insert in lieu of "seven million eight hundred and fifty thousand" and on lines 11 thru 13 strike "Gates of the Arctic National Preserve containing approximately sixty thousand acres of public lands".

—Page 20, section 201(7), lines 2 and 3, strike "one million and ninety five thousand" and insert in lieu of "eight hundred and forty five thousand".

—Page 21, section 201(8) line 2, strike "six million and eighty thousand" and insert in lieu of "five million nine hundred and thirty thousand".

—Page 23, section 201(9), lines 8 and 9, strike "three hundred and eighty thousand".

—Page 24, section 201(10), lines 5 and 6, strike "one million six hundred and eighty three" and insert in lieu of "one million four hundred and eighty".

—Page 25, section 202(1), line 8, strike "and fifty" and on line 9 strike "four hundred thousand" and insert in lieu of "two hundred and fifty thousand".

—Page 27, section 202(3), lines 3 through 6, strike "and an area of approximately two hundred and ten thousand acres of public land designated as the Katmai National Preserve," and on line 7 strike "and Preserve".

—Title III, Page 44, section 304(3)(A), line 10, strike "nine" and insert in lieu of "eight".

—Page 45, section 304(6)(A), line 21, strike "two million seven hundred and eight thousand" and insert in lieu of "two million four hundred and sixty thousand".

—Page 48, section 304(11)(A), line 5, strike "five hundred and sixty" and insert in lieu of "three hundred and thirty".

—Page 48, section 304(12)(A), lines 18 and 19, strike "seventy thousand".

—Page 51, section 304(14)(A), line 8, strike "three million two hundred thousand" and insert in lieu of "two million five hundred and thirty thousand".

—Page 52, section 304(16)(A), lines 3 and 4, strike "nine million four hundred thousand" and insert in lieu of "eight million six hundred and fifty thousand".

—Title II, page 17, section 201(4), lines 10 and 12, strike "eight million and fifty" and "sixty" and insert in lieu of respectively "five million six hundred and eighty" and "two million four hundred and thirty".

—Page 19 and 20, section 201(7), lines 25 and 1, strike "two million three hundred and ninety-five thousand" and insert in lieu of "one million nine hundred and eighty thousand" and on lines 2 and 3 strike "one million and ninety five" and insert in lieu of "one million five hundred and ten thousand".

—Page 23, section 201(9), line 6, strike "eight million six hundred and seventy" and insert in lieu of "seven million two hundred and ninety" and on lines 8 and 9 strike "three million three hundred and eighty" and insert in lieu of "four million seven hundred and sixty".

—Page 25, section 202(1), lines 7 and 8 strike "three million three hundred and fifty" and insert in lieu of "one million seven hundred and seventy" and on line 9 strike "four hundred" and insert in lieu of "one million nine hundred and eighty".

—Page 27, section 202(3), lines 2 and 3 strike "one million one hundred and thirty" and insert in lieu of "six hundred and thirty and on line 4 strike "two hundred and ten" and insert in lieu of "seven hundred and ten".

—Title III, Page 32, section 303(b)(3), lines 7 through 13, strike completely and insert in lieu of "(3) The Secretary may permit oil and gas leasing and mineral entry pursuant to existing law on such lands, except in wilderness, consistent with the National Wildlife Refuge Administration Act of 1966."

—Page 48, 304(12)(A), lines 18 and 19, strike "three million and seventy" and insert in lieu of "two million six hundred".

—Titles III and IV, page 52, section 304(16)(A) lines 3 and 4 strike "nine million four hundred thousand" and insert in lieu of "six million seven hundred thousand acres"; Page 56, line 11, add a new section 402 which shall read:

SEC. 402. PORCUPINE NATIONAL FOREST.—Porcupine National Forest shall consist of approximately two million seven hundred thousand acres of public lands generally depicted on a map entitled "Porcupine National Forest", dated May, 1978.

—Page 48, section 304(11), lines 3 through 15, strike completely and renumber subsequent sections accordingly; page 52, line 11, add a new section which shall read as follows:

SEC. 402. NOWITNA NATIONAL FOREST.—The Nowitna National Forest shall consist of approximately one milion four hundred and fifty thousand acres of public lands as generally depicted on a map entitled "Nowitna National Forest", dated May, 1978.

—Title VI, page 73, section 604(2), lines 7 through 12, strike completely.

—Pages 77 through 86, sections 606(3), 606(4), 606(5), and 606(6), strike completely.

—Pages 77 and 78, section 606(4), lines 14 through 25 and 1 through 6, strike completely and insert in lieu of:

(4) Certain lands in the Tongass National Forest, Alaska which compromise approximately three hundred thousand acres as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness" dated May, 1978 and which shall be known as the West Chichagof-Yakobi Wilderness.

—Page 78, section 606(6), lines 23 and 24, strike "one million one hundred and sixteen" and insert in lieu of "five hundred and fifty".

—Page 89, section 607(f), line 13, strike "national forest".

—Pages 90 and 91, section 607(k), strike completely.

—Page 89, section 606, add a new subsection (7) which shall read as follows:

(7) Certain lands in the Tongass National Forest, Alaska which comprise approximately five hundred and ten thousand acres as generally depicted on a map entitled "Granite Fiords Wilderness", dated May, 1978 and which shall be known as the Granite Fiords Wilderness.

—Title II, page 29, line 2, add a new section 204 which shall read as follows:

SEC. 204. Mineral Entry and Leasing on Preserves. (a) The process contained in the following section, respecting access to minerals, shall apply only to public lands within National Preserves, except for portions designated wilderness, in Alaska. Except for mineral development and extraction under claims or leases in effect on the date of enactment of this Act, mineral exploration and development and extraction may be carried out within national preserves only in accordance with this section and provisions of this Act.

(b) The Secretary shall receive and consider applications to permit mineral entry or mineral leasing on lands affected by this section. The application shall be in such form and contain such information as the Secretary may reasonably require to enable him to carry out his duties pursuant to this section.

(c) In response to an application under this section, the Secretary shall make, and transmit to Congress as provided in this section, a decision to permit mineral entry or leasing in an area if he finds that, based on the information available to him—

(1) there is, or is reasonably anticipated to be within the ensuing fifteen years, a national need for substantial additional sources of such mineral or minerals;

(2) such national need for such mineral or minerals cannot be adequately met in an economically feasible manner;

(3) such national need outweighs the potential adverse environmental impacts on the conservation system unit which are likely to result from such mineral entry or leasing and possible subsequent development and extraction; and

(4) the area subject to the decision is likely to contain a resource of such mineral or minerals.

(d) Prior to permitting mineral entry or leasing on lands affected by this section, the Secretary shall submit his decision to Congress with a detailed statement setting forth the basis for his determination. Mineral entry or leasing shall be permitted in the affected area 120 legislative days after submission to Congress unless either the Senate or House of Representatives shall by resolution have disapproved the decision.

—Title XII, page 191, section 1205(b)(1), line 8, strike "feasible" and insert "practicable".

—Title III, pages 43 and 44, section 304(2), Alaska Peninsula National Wildlife Refuge, strike completely.

—Title VIII, page 128, section 805(h), line 16, strike completely and insert in lieu of "list of 'State Selection Lands, May 15, 1976', submitted by the State of Alaska and on file in the office of the Secretary of Interior, and as depicted on the map entitled 'State Selection Lands', dated May 15, 1978."

—Title III, page 44, section 304(c), lines 19 and 20, strike completely and insert in lieu thereof:

(C) In order to fully evaluate the natural resources contained within the Arctic National Wildlife Refuge, the Secretary shall do the following:

(i) Conduct, in cooperation with the State of Alaska, a comprehensive study of the Porcupine and Prudhoe Bay caribou herds, with emphasis on the effects of oil and natural gas exploration and development activities on these herds, predation, including predation by wolves, migration patterns, calving areas, disease and food supply. Such study shall begin within one year following date of enactment of this Act and shall not exceed ten years in length. The cost of this study shall be shared equally by the Secretary and the State of Alaska.

(ii) Conduct an assessment of the oil and natural gas resources present in the Arctic National Wildlife Refuge. Such assessment shall begin within one year following date of enactment of this Act and shall not exceed ten years in length. The Secretary shall not allow the drilling of exploratory oil and natural gas wells during the duration of this assessment.

(D) Within one year following the completion of the study and assessment required in 304(a)(3)(C), the Secretary shall make a final determination as to the compatibility of oil and natural gas exploration and development with the purposes for which the Refuge was established. In making the determination, the Secretary shall consider the following:

(i) The results of the study and assessment conducted pursuant to 304(a)(3)(C);

(ii) The existing and projected national need for oil and natural gas;

(iii) The purposes for which the Refuge was established.

(E) If the Secretary determines that oil and natural gas exploration and development are compatible with the purposes for which the Refuge was established, he shall allow oil and natural gas exploration and development to take place subject to such reasonable regulations as may be necessary to insure that such activities will have the least practicable harmful impact on the Porcupine caribou herd, other fish and wildlife resources, and the identified values of the Refuge.

(F) Any royalties obtained from oil and natural gas exploration and leasing activities on the Refuge shall be distributed in accordance with the procedures established by the Refuge Revenue Sharing Act.

(G) Such funds as are necessary to carry out the requirements of this section are hereby authorized.

—Title II, page 15, section 201(2), lines 11 and 12, strike "four hundred and eighty" and insert in lieu of "three hundred and fifty".

By Mr. SEIBERLING:

—Page 55, after line 16 add a new section as follows:

ALASKA PENINSULA AND ILIAMNA AREAS

SEC. 308. (a) ALASKA PENINSULA.—The Secretary shall cooperate with the Governor of Alaska and affected Native Corporations and shall conduct a study to determine the best future ownership and use patterns of the lands and resources on the Alaska Peninsula between the Naknek River and the southern boundary of the Katmai National Park and Preserve and False Pass, excluding the Izembek National Wildlife Range, Katmai National Park, and Preserve and Aniakchak National Monument and Preserve but including the Alaska Peninsula National Wildlife Range and Becharof National Wildlife Range as established by this Act. Such area shall be generally depicted on the map entitled "Alaska Peninsula Study Area", dated March 1978, which shall be on file and available for public inspection in the office of the Director, Fish and Wildlife Service, Department of the Interior, and in Alaska offices of the Secretary. The Secretary shall within three years after the date of enactment of this Act, submit a report of the results of the study, together with his recommendation to the President, on the suitability of exchanging lands for the purpose of effecting additions to or establishment of units of the National Wildlife Refuge System within the area. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to the study. Prior to submitting the report to the President, the Secretary shall hold public hearings at locations convenient to the area affected, shall solicit written comments of the Governor of Alaska and the affected Native Corporations on his recommendations, and shall include these comments as a part of his report.

(b) ILIAMNA.—With respect to the area of the Iliamna watershed, described as those lands and waters generally depicted on the map numbered FWS 71-00-1601 and dated March 1978, which map shall be on file and available for public inspection in the office of the Director, United States Fish and Wildlife Service and Alaska offices of the Secretary, it is the express intent of the Congress that the lands and waters be protected and managed for the primary purposes of watershed protection and fish production. The Secretary is authorized to enter into a cooperative agreement with the State of Alaska so that the United States and the State may effectively coordinate the management of their lands in this area for such purposes. Except for those lands to which the State is entitled pursuant to the Act of January 2, 1976 (89 Stat. 1145), all Federal lands within such area are hereby withdrawn from further selection by the State under the Alaska Statehood Act, under the Alaska Mental Health Enabling Act, or under the Act of March 4, 1915 (38 Stat. 1214), and the Secretary shall not make any conveyance of such lands to the State unless and until he determines that the State, by appropriate legislation has authorized, and is ready, willing, and able to implement, a plan for protection and management of the watershed and the fishery resources consistent with the intent of the Congress expressed above. Federal lands within such area shall not be conveyed to the State except for the purpose of exchanging under the provisions of section 1201(f) State lands located within the external boundaries of conservation system units. If the Secretary hereafter finds that the management and use of the area is inconsistent with such intent of the Congress, and following notice in writing to the Governor and a ninety-day period thereafter in which to correct such management and use, he may establish by appropriate order one or more units of the National Wildlife Refuge System within the area referred to on such map.

—Amendment No. 2, page 74, after line 20, add additional subsections as follows:

(9) Certain lands in the Koyukuk National Wildlife Range, Alaska, which comprise approximately nine hundred and ten thousand acres, as generally depicted on a map entitled "Koyukuk National Wildlife Range", dated March 1978, and which shall be known as Koyukuk Wilderness.

(10) Certain lands in the Nowitna National Wildlife Range, Alaska, which comprise approximately four hundred and eighty thousand acres, as generally depicted on a map entitled "Nowitna National Wildlife Range", dated March 1978, and which shall be known as Nowitna Wilderness.

(11) Certain lands in the Tetlin National Wildlife Range, Alaska, which comprise approximately one hundred thousand acres, as generally depicted on a map entitled "Tetlin National Wildlife Range", dated March 1978, and which shall be known as Tetlin Wilderness.

(12) Certain lands in the Togiak National Wildlife Range, Alaska, which comprise approximately two million seven hundred and seventy thousand acres, as generally depicted on a map entitled "Togiak National Wildlife Range", dated March 1978, and which shall be known as Togiak Wilderness.

(13) Certain lands in the Yukon Delta National Wildlife Range, Alaska, which comprise approximately two million three hundred and thirty thousand acres, as generally depicted on a map entitled "Yukon Delta National Wildlife Range", dated March 1978, and which shall be known as Andreafsky Wilderness and Kisaralik Wilderness.

(14) Certain lands in the Yukon Flats National Wildlife Range, Alaska, which comprise approximately one million nine hundred and seventy thousand acres, as generally depicted on a map entitled "Yukon Flats National Wildlife Range", dated March 1978, and which shall be known as Hodzana Wilderness and White Mountain Wilderness.

ALASKA PENINSULA AND BRISTOL BAY COOPERATIVE STUDY AREA

SEC. . (a) COOPERATIVE STUDY.—The Secretary shall cooperate with the Governor of Alaska and affected Native Corporations in conducting a study of the lands and resources (other than any lands and resources within units of the National Park System) within the area generally depicted on the map entitled "Alaska Peninsula and Bristol Bay Cooperative study Region," dated May 1978, which shall be on file and available for public inspection in the office of the Governor and the Alaska offices of the Secretary. The purposes of this study shall be as follows:

(1) the identification of the significant resources of the region, including, but not limited to, fish and wildlife, mineral, geological, archeological, cultural, ecological, paleontological recreational, scenic, wilderness, and historical resources;

(2) the identification of present and potential uses of land within the region;

(3) a determination with respect to which such uses are, or may be, compatible with the conserving of the fish and wildlife of the region;

(4) the designation of areas within the region according to their significant re-

sources and the present or potential uses within each such area which are, or may be, compatible with the conserving of fish and wildlife;

(5) the identification of land (other than any land within units of the National Park System) which should be exchanged in order to effectuate additions to one or more conservation system units or to otherwise facilitate the conserving of fish and wildlife and the management and development of compatible uses within the region;

(6) the identification of that land within the region which legally can and will be selected by the State under section 6 of the Alaska Statehood Act; and

(7) the specification of the activities that may appropriately be permitted in each area identified under paragraph (4) and the manner in which these activities properly may be regulated by the Secretary or the State, as appropriate.

Within five years after the date of enactment of this Act, the Secretary shall submit to the President a report of the results of the study, together with his recommendations and those of the Governor of Alaska on the suitability of exchanging lands. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with the respect to the study. Prior to submitting his report to the President, the Secretary shall hold one or more public hearings at locations within or convenient to the region studied, and shall solicit and include within the report the written comments of the affected Native Corporations.

(b) ILIAMNA AREA; RESTRICTIONS.—With respect to the area of the Iliamna watershed, described as those lands and waters generally depicted on the map numbered FWS 71–00–1601 and dated March 1978, which map shall be on file and available for public inspection in the office of the Director, United States Fish and Wildlife Service and Alaska offices of the Secretary, it is the express intent of the Congress that the lands and waters be protected and managed for the primary purposes of watershed protection and fish production. The Secretary is authorized to enter into a cooperative agreement with the State of Alaska so that the United States and the State may effectively coordinate the management of their lands in this area for such purposes. Except for those lands to which the State is entitled pursuant to the Act of January 2, 1976 (89 Stat. 1145), all Federal lands within such area are hereby withdrawn from any and all further selection by the State; and the Secretary shall not make any conveyance of such Federal lands within the area described in this subsection unless and until he determines that the State, by appropriate legislation, has authorized and is ready, willing, and able to implement, an adequate plan for the protection and management of the watershed and the fishery resources of such area consistent with the intent of Congress expressed above. Notwithstanding any other provision of law, no Federal lands within the Alaska Peninsula and Bristol Bay Cooperative Study Area, and no lands elsewhere within the State which have hitherto been withdrawn from State selection under section 17(d)(2) of the Alaska Native Claims Settlement Act, shall be conveyed to the State for the purpose of exchanging under the provisions of section 1201(f) State lands located within one or more conservation system units.

(c) COVENANTS.—All lands conveyed to the State under this section shall be conveyed subject to a convenant that provides that the Secretary determines that the management and use of the area is inconsistent with the intent of the Congress as set forth in this section, following notice in writing to the Governor and a ninety-day period thereafter in which to correct such management and use, the lands shall revert to the ownership of the United States; and the Secretary may by appropriate order include any such lands within one or more conservation system units of the National Wildlife Refuge System.

(d) TRANSITIONAL PROVISIONS.—On the date of the enactment of this Act, all Federal land within the region, other than within conservation system units, shall be under the jurisdiction of the United States Fish and Wildlife Service and shall be administered in the same manner as if such land were included within a refuge established under section 304 until conveyed to the State under subsection (b) or otherwise provided for by appropriate action of the Secretary or the Congress.

—Page 196, line 11, add a new section as follows:

ALASKA NATURAL GAS TRANSPORTATION ACT

SEC. . Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976, P.L. 94– ; Stat. , or as imposing any limitations upon the authority of the Secretary concerning such system.

(EXPLANATION.—This makes clear that nothing in this act can be construed as interfering with the construction or operation of the Alcan gas pipeline, as approved in the Alaska Natural Gas Transportation Act of 1976.)

—Page 74 after line 20, add a new subsection as follows:

( ) Certain lands in the Yukon Flats National Wildlife Range, Alaska, which comprise approximately one million nine hundred and seventy thousand acres, as generally depicted on a map entitled "Yukon Flats National Wildlife Range", dated March 1978, and which shall be known as Hodzana Wilderness and White Mountain Wilderness.

—Page 74 after line 20, add a new subsection as follows:

( ) Certain lands in the Yukon Delta National Wildlife Range, Alaska, which comprise approximately two million three hundred and thirty thousand acres, as generally depicted on a map entitled "Yukon Delta National Wildlife Range", dated March 1978, and which shall be known as Andreafsky Wilderness and Kisaralik Wilderness.

—Page 74 after line 20 add a new subsection as follows:

( ) Certain lands in the Togiak National Wildlife Range, Alaska, which comprise approximately two million seven hundred and seventy thousand acres, as generally depicted on a map entitled "Togiak National Wildlife Range", dated March 1978, and which shall be known as Togiak Wilderness.

—Page 74 after line 20 add a new subsection as follows:

( ) Certain lands in the Tetlin National Wildlife Range, Alaska, which comprise approximately one hundred thousand acres, as generally depicted on a map entitled "Tetlin National Wildlife Range", dated March 1978, and which shall be known as Tetlin Wilderness.

—Page 74 after line 20 add a new subsection as follows:

( ) Certain lands in the Koyukuk National Wildlife Range, Alaska, which comprise approximately nine hundred and ten thousand acres, as generally depicted on a map entitled "Koyukuk National Wildlife Range", dated March 1978, and which shall be known as Koyukuk Wilderness.

—On page 25 revise lines 6 through 15 to read as follows:

"(1) Mount McKinley National Park by the addition of an area containing approximately three million eight hundred and ninety thousand acres of public lands, as generally depicted on a map entitled 'Denali National Park,' dated May 1978. The park shall be managed for the"

(EXPLANATION.—Changes the preserve to park and adds 140,000 acres, including bear and other wildlife habitat on the north and an important access area on the south.)

—On page 26 revise lines 9 through 13 to read as follows:

(2) Glacier Bay National Monument by the addition of an area containing approximately six hundred thousand acres of public lands, as generally depicted on a map entitled 'Glacier Bay National Park,' dated May 1978; furthermore, the Glacier";

—And after the period in line 23 insert the following: "Nothing in this paragraph shall be deemed to prevent the continued use of privately owned facilities for commercial fishing purposes."

H.R. 8099

By Mr. CUNNINGHAM:

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the Congress hereby finds and declares that—

(1) the Ak-Chin Indian community wishes to increase its irrigated acreage substantially;

(2) the water table in the area in and around the Ak-Chin Indian Reservation has been dropping steadily in recent years, making increased irrigation water harder to find;

(3) delays in the completion of the Central Arizona Project have complicated the supplying of water from it to the Ak-Chin community;

(4) no specific amount of water or schedule for delivery of water for irrigated agriculture was promised or implied by the 1912 Executive Order setting up the Reservation, or by any other law or regulation;

(5) the Ak-Chins have been successful in making a profit from farming approximately 5,000 acres under irrigated cultivation;

(6) assistance in providing the Ak-Chin Indians, as citizens of the United States, with cost-effective means for irrigating more acres is in the national interest.

SEC. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to make loans to the Ak-Chin Indian community in accordance with this section for the purposes of locating commercially recoverable ground water on the Ak-Chin Indian Reservation and developing an irrigation system for farmlands on such Reservation.

(b)(1) The proceeds of loans made under this section shall be used only for—

(A) making such engineering and hydrological studies as may be necessary to determine the location of the Ak-Chin Indian Reservation or commercially recoverable ground water; and

(B) drilling, constructing, equipping, maintaining, repairing, reconstructing, and operating a well field and a water delivery system on the Ak-Chin Indian Reservation in accordance with the findings of such studies which are capable of supplying water, in an amount not to exceed forty thousand acre feet annually, for the irrigation of lands on such Reservation.

(2) For purposes of this Act ground water is "commercially recoverable" if—

(A) its recovery can be justified on a commercial basis, taking into consideration the costs of its recovery and the benefits that will result from its use, and

(B) its recovery will not diminish the ground water supply so as to cause severe damage to water users on neighboring lands.

(c) Loans under this section shall be made pursuant to a contract or other agreement between the Secretary and the Ak-Chin Indian community setting forth the same repayment terms as are provided in section 5(c) of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422e(c)), and such other provisions as the Secretary deems necessary

to provide assurance of prompt repayment of the loan.

SEC. 3. If it is determined from the studies made under section 2(b)(1)(A), or at any later time, that there is not a quantity of commercially recoverable ground water on the Ak-Chin Indian Reservation which, when added to water provided from other sources, is sufficient for the farming needs of the Ak-Chins on such Reservation, the Secretary shall report to the Congress a plan for providing loans to the Ak-Chin community to connect the Maricopa-Stanfield Water District, Pinal County, Arizona, with such Reservation for the purpose of satisfying such needs. Such plan shall be submitted to the Congress within 180 days after any such determination.

SEC. 4. There is authorized to be appropriated an amount not to exceed $10,000,000 for the purposes of section 2 of this Act.

H.R. 10929

By Mr. WOLFF:

—Add on page 38 after line 9 the following:

SEC. 812. (a) The Department of Defense shall report to the Congress at the end of fiscal year 1979 what efforts it has taken during the fiscal year to formulate a productivity plan with respect to manpower needs and what efforts it has taken during the fiscal year to gather productivity data under that plan upon which to base manpower requests for subsequent fiscal year authorizations.

(b) The Department of Defense shall make such plan and data available to the Congress at the end of fiscal year 1979.

EXTENSIONS OF REMARKS

ARMED SERVICES

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. DAN DANIEL. Mr. Speaker, on last Wednesday, Congressman BILL NICHOLS, chairman, Armed Services Subcommittee on Military Compensation, began hearings on the problems—primarily financial—confronting junior enlisted personnel and their dependents.

This is a matter of very real concern, for it is beginning to be apparent that young men and women who enlist in our armed services spend their first tour of duty falling deeper and deeper into debt, a circumstance which affects their morale, their effectiveness, and their family relationships.

The information being developed by Mr. NICHOLS' subcommittee apparently lays to rest the myth that armed services personnel live off the fat of the land, supported in a life of luxury by the American taxpayer. Not only have the men and women we ask to defend us seen their benefits eroded, they have also seen their standards of living cut to the bone.

Recently I obtained a copy of Mr. NICHOLS' opening statement. It is a fine one and I respectfully request that it be reprinted at this point in the RECORD:

FINANCIAL PROBLEMS OF JUNIOR ENLISTED STATIONED OVERSEAS

Today the subcommittee will initiate a series of hearings addressing the general subject of the financial problems experienced by our junior enlisted personnel stationed overseas.

The reasons for these hearings at this time are several. The plight of our junior personnel has received a considerable amount of media coverage and has been the source of numerous complaints by concerned citizens, government officials, and parents, and by service members themselves. During the recent posture hearings, the Department of Defense strongly supported extending travel entitlements for dependents of junior enlisted personnel assigned overseas. The full committee endorsed travel entitlements to all junior enlisted personnel, both for CONUS travel and overseas in its budget request for fiscal year 1979 to the Budget Committee. A number of legislative initiatives have been proposed or espoused, such as revising the method for computing the housing allowance (Mr. Hillis), authorizing payment of advance housing allowance (Department of Defense), or tying the amount of station allowances directly to the currency exchange rate. Finally, our colleague, Mr. Aspin, has requested hearings on this subject.

A multi-stage approach to investigating the situation is proposed. The first stage will involve receiving testimony from Defense witnesses. I would hope to evoke from the Defense witnesses their perception of the present problems experienced by junior service members stationed overseas, a discussion of administrative actions that they have taken or are considering that would alleviate these problems, and a setting of priorities on potential legislative approaches to the problems. This first phase should provide the subcommittee with a fairly broad, yet detailed framework, together with a "menu" of possible actions to evaluate and to coalesce into a workable solution.

The second stage would involve hearing the testimony of junior enlisted personnel who have been stationed overseas in high cost areas. In order to formulate preliminary findings and at the same time to minimize the cost and disruption of stage two, I propose that witnesses be "randomly" selected from service members presently stationed in the Washington, D.C., area who have recently returned from an overseas assignment. We will select members from junior and senior grades, from those with and without dependents, from those receiving travel and transportation for dependents and those not, from those stationed in areas where the dollar was rapidly devaluing and where it was not, and from those residing in government quarters and those not. By comparing the experiences of members from these different categories, we should be able, on a tentative basis, to specify the major causes of the financial plight of the service members.

Upon the conclusion of the second stage, we should have available to us sufficient information to decide whether the subcommittee, a panel thereof, or the staff needs to visit overseas locations or if a survey would provide us with the requisite data needed to refine the preliminary findings of the subcommittee.

To initiate this schedule, Dr. John P. White, Assistant Secretary for Manpower, Reserve Affairs, and Logistics and Major General Stanley M. Umstead, Jr., Deputy Assistant Secretary of Defense for Military Personnel Policy will be the lead-off witnesses today. I have also asked their counterparts from each of the services to testify. Antonia H. Chaves, Assistant Secretary for Manpower, Reserve Affairs, and Installations, and Lieutenant General Bennie L. Davis, Deputy Chief of Staff for Personnel, will testify today, also. The Army and the Navy will appear next week, tentatively on May 17.

I am hopeful that this series of hearings will provide a better understanding of the financial problems associated with junior enlisted personnel stationed overseas—including their cause and effect, assist in debating the issue of junior enlisted travel entitlements during consideration of the Defense Appropriations Bill should this issue arise in that context, and reaffirm this committee's concern over the circumstances in which our junior enlisted personnel find themselves.

With that introduction I would, on behalf of the subcommittee, welcome Dr. White and General Umstead.●

SEVENTH SESSION OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. RUPPE. Mr. Speaker, the Seventh Session of the Third United Nations Conference on the Law of the Sea has been meeting in Geneva since March 28. After 3 weeks of debate over organization and procedure, the delegates got down to detailed negotiations with the goal of producing a proposed treaty. Those negotiations have been completed and we are now waiting to see if the amendments to the existing text will be accepted by the conference.

During the last week, a member of the minority staff of the Merchant Marine and Fisheries Committee attended the conference. Although a final assessment of the work of the conference is premature at this time, his report of the state of play as of the last week is a helpful background document which can be used to evaluate the progress which may be achieved this year at the Conference. Therefore, I would like to insert his report in the RECORD at this point:

SEVENTH SESSION OF THE LAW OF THE SEA CONFERENCE, MAY 12 STATUS REPORT

With one week remaining, Ambassador Richardson is optimistic that a "package" of amendments to the Informal Composite Negotiating Text (ICNT) will be put before the Conference for debate on Wednesday, May 17.

The purpose of this debate will be to ascertain if the proposals—developed in small Negotiating Groups dealing with "hard core" unresolved issues—command consensus support and therefore should be incorporated into the Revised ICNT. If incorporated, these amendments will improve the "unacceptable" ICNT. However, this will not be a final text as several important issues will remain unresolved.

At this time, however, it is a matter of speculation whether this event will occur, what will be in the package if it is presented, and whether the ICNT will be revised. Under the rules of the Conference, promulgated after lengthy debate, the work of the Negotiating Groups must be referred

to the Plenary by each Committee Chairman. Furthermore, no changes can be made to the ICNT unless the proposals have been "presented to the Plenary and found, from the widespread and substantial support prevailing in the Plenary, to offer a substantially improved prospect of a consensus".

These procedural rules were developed to prevent another unilateral insertion of new, unnegotiated articles, in the text by a Committee Chairman. Although this possibility is foreclosed, each Committee Chairman has discretionary authority to prevent the work of the Negotiating Groups from being discussed in Plenary and therefore inserted into the ICNT, by referring the issue back to his Committee.

Further complicating the possibility of revising the ICNT is the fact that the Group of 77 (G–77) has not caucused on the proposals of the Negotiating Groups, and has not taken a position on the amendments. The G–77 is scheduled to meet to discuss the proposals on Monday and Tuesday, May 15 and 16.

Although there are a number of events which could prevent the package of amendments from going to the floor or limit the scope of the package, Richardson is optimistic because most of the Negotiating Groups were headed by moderates from the G–77. These Delegates have an interest in ensuring that the amendments formulated by them are supported by the G–77 and are referred by the Committee Chairman to the Plenary. Richardson also believes that the G–77 can be controlled by the moderates who support the amendments.

The scope of the package which will be presented to the Plenary is uncertain. Although it is generally assumed that it will contain only those provisions specifically debated during the session and previously promulgated by the Negotiating Groups, the Conference rules do not preclude a Plenary discussion of other amendments which may have only received limited attention. Understanding that the Conference decided that "The Plenary should aim at the completion of all substantive discussions for the production of a draft convention at the seventh session" it is possible that a draft convention will be laid on the table on a "take it or leave it" basis on Wednesday.

There is precedent for such a package deal. During the last session, the Chairmen of the Second and Third Committees agreed to a proposal of the Castenada Group and put it into the ICNT. This compromise regarding the status of the Economic Zone and the rights and duties of coastal states therein, was moved quickly through the two Committees, and has held together.●

BROKEN ARROW CELEBRATES PAST HISTORY; PLANS FUTURE GROWTH

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, this Saturday, May 20, 1978, marks a milestone in history for one of the communities in my district. I am referring to the celebration of the 47th annual Rooster Day festivities as well as the diamond jubilee of Broken Arrow, Okla.

Broken Arrow is one of the fastest growing communities in our Nation. With an annual growth rate of 14 percent, Broken Arrow now has a population of 32,800 people, making it the second largest city in the First Congressional District.

Rooster Day has come to be one of the largest celebrations in Oklahoma, attracting visitors from throughout the region. By way of history, Rooster Day began in the midst of the depression with local businessmen seeking ways to attract the area's farmers to town on a spring day during the time when the local chicken flocks were culled. Chicken farmers had to destroy many of their roosters in order to insure that hens would lay only infertile eggs which had a longer shelf life.

Prizes were given for the "scrubbiest" and "puriest" roosters, and a parade and carnival were held to attract celebrants. A beauty contest was also begun to select a queen, dubbed "Miss Chick."

Over the years, chicken farming has given way to the breeding of thoroughbreds and champion quarterhorses. Broken Arrow has grown from a sleepy farming community to a city bursting with industry. Ingenuity has been the mainstay of the city's history. At one time, when the city failed to convince the Katy railroad to come through Broken Arrow, the entire city was moved a distance of 4 miles to the rail line location. This activity is typical of the spirit of Broken Arrow, and their strong traditions remain.

Broken Arrow residents can be proud of their 25 years of accomplishments. I am proud to be their Representative in the U.S. Congress, and I look forward to once again being present at this annual celebration.●

OUR MAN IN WASHINGTON BEN COLE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. JACOBS. Mr. Speaker, for the record, Ben Cole has compiled a wholesome record of journalistic accuracy. Mr. Cole is the classic journalist, professionally prepared to recognize a wrong that needs a writtin'.

The article follows:

[From the Indianapolis Star, May 14, 1978]

OUR MAN IN WASHINGTON

(By Eugene S. Pullman)

Our man in Washington, Ben Cole, received a surprising compliment this week.

It was surprising not because it wasn't well deserved and overdue but because of the source. It appeared in the Columbia Journalism Review, which often is disdainful of the Midwest, and was contained in a piece by two Washington-based correspondents.

Discussing coverage of Washington by "regional" correspondents, they listed The Indianapolis Star as one of six newspapers which carried "enterprise accounts and detailed stories using local angles" on the unsuccessful attempt in June of 1975 to override President Ford's veto of the strip-mining bill.

One story, as the article pointed out, is "not a complete measure of performance" but this one did highlight the day-in and day-out solid job of reporting done by Ben Cole for The Star, the Muncie Star, Vincennes Sun Commercial and the Arizona Republic.

Ben knows his way around in Washington, having been there for more than a quarter of a century. He knows that no one reporter can cover all of Washington, so he covers those things most likely to be of interest and importance to his newspapers. He reports on such routine but important things as voting records. how Congressmen spend their time, what their income is, and who makes donations to their campaign funds. Additionally, he writes a well-read weekly column and, in his spare time, is a leading light of the annual Gridiron Club show of which he is an understandably proud member.

He covers White House press conferences, too, but, like many of his cohorts, is not so sure they're all that newsworthy because of the increased formality and lack of ability of follow up on questions.

It's an important job If he were not there, the constituents of the many Congressmen he covers would know little about their actions except that which their press secretries sent out. Even the massive and expensive Congressional Record is no longer an accurate report of Congressional debate or floor action.

Some may consider it a chauvinist opinion, but the firm belief here is that only newspaper reporters like Ben Cole tell it like it is as far as the Congress is concerned.●

THE CRUSHING BURDEN OF FEDERAL AND NEW YORK STATE TAXES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. KEMP. Mr. Speaker, earlier this year Newsday ran a series of articles about the economic situation in New York State and on Long Island. I found the section on taxes to be especially enlightening because it points out once again the crushing burden of taxes in New York and the tremendously depressing effect this is having on the economy. One lady is quoted as saying she's frightened, because she and her husband work just to pay taxes.

The New York situation is important, I think, because it is a microcosm of the United States as a whole. As taxes rise throughout the United States we can expect the same depressing effects to happen on a nationwide basis that are now evident in New York, where the tax burden is so much higher than in the rest of the country.

I offer this Newsday article to my colleagues in the hopes that we can learn from the New York experience and reverse this process by lowering the rates and restoring hope and incentive in America again:

TAXES—AN ALMOST-CRUSHING BURDEN

Because of taxes Pat Fahey of Bayport plans to sell his house; Rose McLaughlin of Seaford can't find a buyer for hers; and Margaret Darvassy of Lindenhurst, an outwardly tough 63-year-old widow, says she often wakes up in the middle of the night "terrified that I will lose my house and be forced out on the street."

These people are among the Long Islanders who are being ground down by a tax bill that is among the highest in the nation. To compound the problem, the bill shows every sign of increasing, according to many planners and economists.

The total tax burden, layer by crushing layer, is made up of federal, state and local

taxes, but most people focus first on the local property tax, because that is the one that most immediately determines whether they can keep their homes.

For example, Mrs. Darvassy, whose husband died two years ago, must pay $1,168 a year in property taxes on her two-bedroom Cape Cod house. She is not sure how much longer she can continue to do so, because the payment has to be squeezed from the $2,748 a year she receives from Social Security, the few thousand dollars she has in the bank, and the few dollars a week she earns as an aide in a senior citizens center. "I don't feel I have anything coming," said Mrs. Darvassy, who suffers from a heart condition and severe arthritis, "but I should be able to keep my home."

Rose McLaughlin, 53, and her husband, James, 55, on the other hand, have been trying, without luck, to sell their $63,000, 11-room ranch house in Seaford for two years. The $3,393 a year they pay in property taxes hasn't encouraged potential buyers. "When we tell people the taxes, they almost fall through the floor," Mrs. McLaughlin said.

For the moment, the McLaughlins can afford their house on their combined salaries as a secretary and a postal worker. Phil Fahey, however, can't afford his.

Fahey, 45, is a volunteer fireman and a former president of the Bayport Little League. He has been working since he was 10 years old and has struggled all his adult life to own a home. After 25 years in an administrative job at RCA in New York, he was laid off last year. That was enough to make him think of giving up the seven-room ranch house in Bayport in which he, his wife, Carol, and their two children have lived for 12 years.

Fahey says he can no longer afford to pay the $1,800-a-year property tax bill from his salary as a maintenance man in the Commack school district. The job, which he got recently under the CETA program, pays about half his previous $18,000-a-year salary.

Combine the Faheys, the McLaughlins, Mrs. Darvassy and other Long Islanders and you have a population that pays more property taxes per person than residents in any of the nation's other 71 major statistical areas. According to the U.S. Census Bureau, which is studying local taxes in those areas, the per capita property tax in 1976 for the Long Island standard metropolitan statistical area was $608.74, which is 129 per cent higher than the U.S. average, of $265.54.

That, however, is only the beginning of the LI tax bite. Residents of the Island also have a heavy state tax burden. New York, along with its local governments, takes the highest percentage of its residents' income in taxes.

In sales tax alone, Long Islanders paid an average of $210 in 1976, according to the census bureau. Residents in Darien, Conn. paid $174.17; in Bucks County, Pa., $117.64, and in Bergen County, N.J., $113.98.

In 1974, the total of New York state and local taxes amounted to 20.9 per cent of the per capita income, according to a study by the Teamsters Joint Council No. 16. In second place among the states was Vermont, which took 17.9 per cent of its residents' income.

Commerce and industry are also badly wounded, if not crippled, by the tax bite. Nathaniel Giffen, chairman of Suffolk County Federal Savings and Loan Association, gives as an example the state franchise tax his organization had to pay on $24 million dollars in dividends. In New York, he says, the tax was $366.000, but in New Jersey it would have been $250 and in Connecticut, $22,800.

Long Island taxpayers also pay more, on the average, to the federal government than residents of almost any other area in the country. Although it is mainly a reflection of the generally higher income of the area, the per capita federal tax in Nassau and Suffolk Counties in 1975 was $1,707. The only major statistical areas in the United States whose federal tax load exceeded Long Island's were West Palm Beach-Boca Raton at $1,876 and Washington, D.C.-Maryland-Virginia at $1,808.

By the standard economists use to compare property taxes, many of them think the Island's burden is approaching that seen only in places severely declining, such as Newark, N.J. That standard, called the effective property tax, is the ratio of the property tax in dollars divided by the actual value of the house. The actual value is determined by the sale price of comparable houses in the area.

Across the country the average effective property tax is between 1 per cent and 2 per cent. Though there is no agreement, many economists estimate that at 5 per cent the effective property tax becomes confiscatory, forcing people and industry to leave an area and driving down the value of property.

In theory, people are "not supposed to make decisions on life-style because of taxes," said Lee Koppelman, executive director of the Nassau-Suffolk Regional Planning Board, but he added "property taxes are no longer neutral."

Henry Schreiber, the senior executive president of the Central Federal Savings and Loans, says bank records indicate that the effective tax on Long Island is between 5 and 7 per cent on a new house and between 4 and 5 per cent on a resale.

Between 1966 and 1975 the average property tax for Long Islanders increased 137 per cent, from $228.37 to $542.95. The increase was sharper than the rise in salary, eating up more of a homeowner's income. While property taxes were going up 137 per cent, average income was only rising 86.08 per cent, from $4,053 to $7,543, according to the U.S. Census Bureau.

In 1962 Long Islanders paid an average 5.75 per cent of their income for all local taxes. This rose to 9.39 per cent in 1975, according to Matthew Drennan, an associate professor of economics at the Graduate School of Public Administration at New York University.

Drennan projected that if local taxes kept mounting at their present rate, by the year 2000, a person would be spending 21 per cent of his or her income for local taxes, and by the year 2042 the entire income would be needed to pay local taxes. Adding that the figure for the year 2042 was an academic illustration, he said, "I don't believe that's going to happen. The voters simply won't let it happen."

The sales tax will go up, probably to 9 per cent by 1981, according to Samuel Thomas of Garden City, dean of the graduate school of business and public administration at the City University of New York. Koppelman said that if the tax goes above 8 per cent, it could encourage people to dodge the law by going to New Jersey to save $300–$400–$500–$600 on buying a car.

There are those, of course, who disagree with even pessimistic predictions. "The situation is not as bad as it is painted," said Abe Seldin, chairman of the Nassau County Board of Assessors, who pointed to a handful of school districts in which taxes have been decreased and said that in Nassau County there has been a slowdown in the rate at which school taxes have been growing. Seldin added that "25,000 to 30,000 homes were turned over last year . . . If it was that bad, market values would not be remaining stable or increasing . . . Despite the taxes, we have people still wanting to live here."

Seldin's opinion was in the distinct minority in six months of interviews with Long Island officials and businessmen on the tax situation.

Fueling the property tax rise in the past has been the increasing expenses of almost every one of the local districts and governments that tax the average homeowner. Take the house the McLaughlins have been trying to sell. Included in their property tax bill are 15 different local taxes, each of which has increased between 1970 and 1978. The McLaughlins' tax bill would have been even greater had the county not agreed in 1976 that their house was overassessed, thus reducing their tax bill by several hundred dollars a year.

It's frightening—my husband and I work just to pay taxes," said Mrs. McLaughlin. "I haven't had a vacation in eight years."

By most measures, Mrs. McLaughlin will continue to be frightened, as will many other Long Islanders.

The taxes that could be levied in Suffolk's Southwest Sewer District are such that Babylon Supervisor Raymond Allmendinger said, "If help from the county is not forthcoming, two eventualities are likely: One, the district will go bankrupt. Two, Babylon and Islip will turn into ghost towns."

A variety of factors will prevent any decline in taxes and could insure an increase not only in the sewer district but in areas all across the Island, according to economists, politicians and planners.

Among these factors are: expenses mandated by state and federal governments, court decisions, the continuing demands both by residents for services and government employees for salary hikes, fixed costs and inflationary pressures.

Between 1971 and 1977, for example, the budget of the Commack school district increased from $27.6 million to $36.2 million, despite a decline in enrollment of 3,000 students and the firing last year of 50 teachers.

"This is very difficult for residents to accept," said district superintendent John Battles. "The simple answer would say less teachers, and less teachers should cost less."

The teacher dismissals, he said, saved $1 million—only about 3 percent of the district budget at a time when inflation is over 6 per cent a year. For the six-year period from 1971 to 1977 the cost of fuel oil doubled in the district, and the Social Security tax went up 50 per cent.

The same problems would hamper attempts to reduce costs sharply in almost all government agencies, says Alan Campbell, head of the federal Civil Service Commission and a former chairman of the political science department at Hofstra University. Even with reduced services, fixed expenses such as the bonded indebtedness on buildings must still be met, he said. There is also the seniority system, by which the newest, and generally lowest-paid, civil service workers are laid off first. Their pay and benefits are usually only a fraction of those received by more senior employees, Campbell said.

Also contributing to the tax problem is that government on Long Island willingly provides a smorgasbord of services not available in other areas.

In addition, many workers belong to unions skilled in the politics of and bargaining necessary for wage increases, and are aided by laws requiring binding arbitration. Particularly effective have been the police unions in both counties, whose members are among the highest paid police officers in the nation.

Recent court decisions may also have a sharp effect on the upward tax spiral. One member of the Assembly's Real Property Tax Committee has said that property taxes could go up as much as 28 percent in Nassau and in the towns of Islip and Brookhaven because of last year's court decision requiring full value assessments. Some have estimated that the taxes on homes in Nassau could be increased another 10 percent as a result of a December court decision requiring that commercial property be assessed at the same rate as residential property.

But the exact result of both decisions is "impossible to determine" now, according to Seldin. The long-range outcome may be exaggerated, he said, and the Legislature could rewrite the tax laws to protect homeowners.

Further complicating the tax picture is the uncertain result of a law suit by Levittown and 25 other school districts, which may require a change in the financing of public schools. The districts claim that the existing financing structure is both unfair and unconstitutional because it discriminates against students from poorer districts. Because those districts don't have the property base to raise large sums of money, the students in them "don't get the advanced placement courses, the labs, the supportive services," said Daniel Levitt, the attorney for Levittown.

Not as unpredictable is the inability of local government to limit costs sharply in such areas as welfare and education.

Even if they wanted to, local governments have to follow payment schedules that, largely, are mandated by the state and federal governments. In Suffolk County, welfare expenditures are about 40 percent of the county budget.

Local control of schools is "a myth," according to Koppelman, because of mandates covering most of a district's spending.

Whatever the exact shape of the forces operating on tax rates in the future, the direction they are pushing in is clear. It is a trend that can only harm people like 67-year-old Marie Wells, who lives alone in North Amityville in an eight-room house that her late husband, Benjamin, built with his own hands.

Her income is the $263.93 a month she gets from Social Security, but this year her property taxes went from $880 to $970. The tax bill is more than she thinks she can handle, but she said, "If I have to go without food, I'll try and hold on." ●

MOBILIZATION FOR THE APOCALYPSE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. McDONALD. Mr. Speaker, currently all too much of the debate on our defense needs centers about either an exchange of nuclear weapons or a short conventional war. Few of the so-called experts really discuss the scenario of a long conventional war with the Soviet Union. Obviously, the Soviet Union is preparing to fight both types of war and even perhaps a mixture of the two. Mr. Robert L. Goldich, of the Library of Congress, recently pointed out in an article, which appeared in Army magazine for May 1978, entitled "Mobilization for the Apocalypse," that we also have to consider the possibility of a long conventional war and plan for it. Such a war would require the most vast mobilization of this Nation in our history.

Mr. Goldich suggests, and I agree, that we should be taking steps now to expand our military training, prepare our industrial base, and in general get our planning ready for such an eventuality. At present, as it is well known, our number of reserves is dwindling, our Selective Service System is in a shambles and our industrial and civil preparedness is at an all-time low. Thoughtful Members of Congress would do well to read and ponder the questions he raises in his article which follows:

MOBILIZATION FOR THE APOCALYSE

(By Robert L. Goldich)

The manpower-intensive military emergency currently stressed in U.S. war-planning is a major war with the Soviet Union and its Warsaw Pact allies in Europe, the Mediterranean and the North Atlantic, with ancillary air and naval action worldwide.

The Department of Defense has asserted that such a conflict would begin with a period of exceptionally intense combat resulting in high casualties, followed by a comparative diminution of fighting and the concomitant mobilization of U.S. industry and manpower to continue the conflict. Such a war would require massive military and industrial mobilization, principally to meet ground-force requirements for replacements and force expansion.

The DoD discussion of mobilization requirements for a war with the Soviet Union, however, has until very recently been almost exclusively devoted to requirements through the first 180 days after mobilization begins (M+180). References in official literature to mobilization problems after the initial period of fighting are rare, although they have been increasing since the spring of 1976.

Much of this inattention results from a natural preoccupation with short-term problems. Its underlying cause, however, appears to be an opinion that a prolonged war with the Soviet Union could never take place. This view apparently is based on three broad reasons, rarely stated explicitly in open sources:

If NATO successfully halts a Soviet invasion of Western Europe, military operations will be conducted, according to the Joint Chiefs of Staff, only to "preserve or restore the territorial integrity of the Alliance," to be followed by some type of political settlement rather than the continuation of the war by NATO until the Warsaw Pact is decisively defeated.

It has even been suggested—and officially denied—that U.S. policy now rules out continued fighting to regain lost NATO territory, relying instead on diplomatic means. Presumably a major rationale for seeking such a settlement rather than military victory would be the desire to avoid a strategic nuclear exchange.

If Soviet-Warsaw Pact forces successfully invade Western Europe and force NATO off the Continent, and perhaps secure the British Isles as well, the United States would likely opt to accept the defeat and retrench. The unstated assumption apparently is that either decisive Soviet military superiority would preclude a successful U.S. counteroffensive or any attempt by the United States to continue resistance would lead to strategic nuclear war, with resultant mutual annihilation of both major combatants.

If, for whatever reason, a strategic nuclear exchange between the United States and the Soviet Union takes place, it will be so catastrophic for both sides as to render a protracted war impossible.

This reasoning seems specious, however. A protracted war between the United States and the Soviet Union is not only plausible but demands serious attention; it is important, then, to discuss the problems of and possible prewar mobilization planning for such a war.

These three arguments against the likelihood of a prolonged war between the United States and the Soviet Union are suspect on several counts:

If NATO does halt a Soviet invasion of Western Europe, it will be at great cost in lives and material. Few nations would be willing to accept a return to the *status quo* in such a situation. It is especially unlikely that the Soviet Union would suffer a repulse in an undertaking of such magnitude without resorting to all available means to gain its objectives.

It is also unlikely that the NATO powers would be content to blandly reestablish the prewar lines of contact and then let bygones be bygones after sustaining the casualties that a Soviet attack would cause.

Even if political negotiations are opened between the combatants shortly after hostilities begin, this need not mean a quick end to the fighting—as Korea and Vietnam have shown.

Immediate military superiority by the Soviet Union need not automatically prevent the United States from continuing organized resistance after Soviet occupation of Europe, any more than immediate military superiority by Germany during the first two years of the 1941–1945 Russo-German war prevented continuing Soviet organized resistance to Nazi Germany.

Such Soviet superiority would merely mean that we would have to fight for our lives and eventually reverse our defeats, as did the Soviets between June, 1941, and February, 1943. It would also mean that we would have to forcibly reenter and reoccupy the Continent, an undertaking we have successfully mounted once before in our history.

A strategic nuclear exchange might not take place as a result of mutual restraint on both sides, at least initially. The Soviet Union would not wish the economic infrastructure of Western Europe—so potentially useful to its own faltering economic system—to be damaged beyond repair, and neither the United States nor the Soviet Union would benefit greatly from defeating, treating with or occupying radioactive slag and wasteland.

While precedents for such restraint by a totalitarian power do exist (the failure of Nazi Germany to use chemical warfare comes to mind), it must be admitted that when national survival is at stake it is unlikely that it would be exercised.

Several factors could operate to prevent mutual destruction of both the U.S. and Soviet mobilization bases if a strategic nuclear exchange does take place. Some are technical. These include a breakthrough in antiballistic missile defense technology (possibly involving energy rather than projectile weapons); the ability of passive civil defense measures to limit both human and material damage from a nuclear attack; the use of "cleaner" nuclear weapons causing fewer human casualties (regular nuclear devices with less fallout) and less material damage (enhanced radiation weapons, or the "neutron bomb"); and possibly, significant medical advances against the ill effects of radiation exposure.

Other mitigating factors are intangible. Americans tend to assume that people have lower thresholds of tolerance for pain and suffering than they actually possess, an attitude that can be attributed to our fortunate historical background of having gone through comparatively little of either. The Soviets have not been so lucky and, consequently, have a much more realistic view of how much can be accomplished under enormous pressure. They have lost tens of millions of dead in domestic upheavals and foreign wars since 1914 and have emerged triumphant.

Under the same kind of pressure, it is likely that Americans would also discover that heavy casualties per se do not equate with defeat, and that if national survival were at stake we could endure far more than we presently realize.

In summary, a variety of factors exist which make a protracted war between the United States and the Soviet Union a distinct possibility, regardless of the initial outcome of a NATO-Warsaw Pact clash in Europe and whether or not such a clash is accompanied by a strategic nuclear exchange.

Such a war could determine the national survival and ideological superiority of the victor. Neither party could avoid a total war without eventually capitulating completely to the other, given the Soviet attempt to attain hegemony over Europe and the North Atlantic region, and the intolerable threat to the North American continent these Soviet territorial acquisitions would pose.

For the United States, it could be a war for survival, which would call upon the entire physical and psychological resources of the American people to carry the main burden of total war against a country whose economic capacity is roughly equal to ours and whose population is 20 percent greater.

Given that a protracted conflict between the United States and the Soviet Union would begin with a Soviet-Warsaw Pact ground, air and naval offensive against NATO, the United States would initially be faced with fighting a defensive battle. A major air and naval campaign to maintain and/or recapture command of the Atlantic would be necessary, as Soviet air and naval forces mounted a concerted effort against the lines of communication between North America and Europe.

Having successfully secured reasonable command of the Atlantic and the integrity of North America, a prolonged land conflict of several years' duration—possibly, if not probably, requiring forced reentry into the British Isles and the major European continent—would follow, leading ultimately to the defeat and occupation of the Soviet Union.

Throughout such a war, regardless of the course of battle in overseas theaters, major active and passive civil defense measures at home against Soviet missile, air and naval attack (nuclear and conventional) would be required.

The scale of this possible conflict to come can best be appreciated by some brief statistical comparisons. U.S. Army Intelligence reports indicate that if in 1980 the Soviets were to mobilize ground forces in roughly similar proportions to those they mobilized during World War II, they would have a maximum ground army of between 17 and 27 million people and approximately 700 (Soviet-sized) divisions.

To defeat such a host would require mobilization by the United States of perhaps 300 divisions, given the larger size of our divisions and our practice of providing individual replacements rather than wholesale unit reliefs in battle. Assuming a land campaign of four years' duration, in which not all U.S. divisions were initially employed due to lack of deployment space and divisional battle-casualty rates similar to those in the European Theater during World War II, total U.S. divisional battle casualties alone could easily approach 20 million.

This figure would not, of course, include casualties sustained by nondivisional ground forces, air and naval force casualties, and civilian losses in the continental United States. If these crude projections are compared with total World War II U.S. Army (less Army air forces) and Marine Corps strength of about 6.5 million personnel and 95 divisions, and total World War II battle casualties in all services of slightly under 1.1 million, it can be seen that we are discussing an ordeal unprecedented in American history.

Such a war would require total industrial mobilization to produce massive amounts of materiel; total manpower mobilization to provide war production labor and military manpower (especially sufficient ground forces to sustain a land campaign of several years against the Soviet Union); and total social and political mobilization to provide the government with enough persuasive and coercive authority to carry out the draconian measures required to prevent defeat and ensure victory.

Given the rough equality in manpower and resources between the two countries, victory could easily go to the nation that squeezes the greatest amount of energy and drive out of its population in the midst of the economic and social upheavals and massive casualties resulting from such an apocalyptic war.

In discussing preliminary contingency planning for long-war mobilization, it is important to emphasize what the government cannot do at the present time. We cannot, in peacetime, militarize our public services, centralize our economy or create an extensive program of internal social controls without, in effect, abolishing the democratic institutions we will be fighting to keep. In any case, the American people would not sanction such actions other than in time of overt emergency.

We cannot in the near future establish an extensive passive civil defense program or reintroduce conscription, although if public sentiments change somewhat some movement in these directions may be possible. And we cannot create natural resources out of thin air.

In short, we cannot in time of peace establish or test on a large scale our wartime mobilization machinery. Proposals to do such things are simply impractical and, while emotionally satisfying to some, do little to address the real problems we face.

What we can do is attempt to predict what mobilization measures would be necessary upon the outbreak of war or a formal general mobilization. Having made some tentative decisions about what policies should be followed, we can draw up plans, update them constantly and carry out small-scale tests of their effectiveness. Possibly, as small-scale exercises become more visible and their usefulness more apparent, public acceptance of their value may increase, permitting more extensive preliminary planning and testing.

To prepare for military mobilization for a prolonged war with the Soviet Union, the following measures could be implemented at little cost and with comparatively little impact on the public in time of peace:

The Department of Defense could well determine mobilization requirements—manpower and materiel—for defeating the Soviet Union and its Warsaw Pact allies in a protracted war, to supplement currently available mobilization requirements for a medium-risk, short-term defense of NATO. Only with such an accounting can realistic long-war mobilization planning be undertaken.

A responsive standby draft system could be activated to replace the standby selective service system allowed to atrophy after 1975. Such a system would prudently be geared primarily to the needs of the armed forces for manpower, and not be encumbered with the deferment, exemption and appeal procedures which characterized the pre-1975 selective service system. If political constraints make it impossible to conduct standby registration and classification of individuals in peacetime, avoidance of time-consuming due process in induction procedures would be especially important once mobilization begins.

Massive relaxation of peacetime physical, mental and age standards for enlistment and induction would be necessary in a prolonged war with the Soviet Union. Those less physically fit, intelligent or youthful would unquestionably sustain higher casualties, be less trainable and possibly pose disciplinary problems. These considerations, however, are secondary. The issue is not whether or not such persons would have some liabilities, but whether or not those liabilities would be worse than having unmanned spaces.

Accordingly, the services should both draw on our own and other countries' historical experiences and conduct their own rigorous testing programs in order to determine how far physical, mental and age standards can be relaxed for active-duty military. Several such programs, engendered by all-volunteer force recruiting problems, are currently under way. They need to be expanded.

In formulating induction standards, the aim should be to determine what physical, mental and age limits are barely acceptable for each discrete military occupational specialty. The concept of disqualification for military service per se has in the past deprived the armed forces of untold millions of persons who could have served acceptably in a variety of skills—including the ground combat arms. In a war with the Soviet Union, we would not have the luxury of being so selective or wasteful.

Female military personnel would have to be enlisted to the maximum extent possible so as to concentrate male personnel in the branches where male characteristics are decisive, and so as not to deprive the armed forces of the talents and skills of 50 percent of the population. Policies for their employment should be formulated as much as possible before mobilization, and must be based on one criterion only—contribution to the war effort—rather than catering to either feminists or male chauvinists.

The following aspects of the use of women in the wartime military, among others, need to be examined, especially from the oft-neglected perspectives of psychology and sociology:

The effects of massive female military participation and casualties on military effectiveness, national will and social cohesiveness, and postwar demographic recovery.

The extent to which women should be integrated with men in duty assignments, based on the effect of the degree of such integration of duty performance.

The true effects, if any, of female physiological and psychological differences on the performance of military duties. Fortunately, the expanding role of women in the peacetime force has prompted the services to begin examining some of these questions, but much more remains to be done. Foreign experience—notably that of the Israelis and Soviets—may have much to teach us in this regard.

Voluntary military training programs for both youth and adults could be staffed and maintained by the armed forces, as they were by the U.S. Army before both World Wars. Even if attendees at such programs were required to pay some or all of their expenses (as they did during 1915–1917 and during the 1930s), popular response might still be considerable.

Key industrial organizations should be required and individuals encouraged to be placed on a roster of groups and persons to be "converted" to military reserve units or individual reservists upon mobilization. Entailing absolutely no obligation on the part of the individuals involved in peacetime, maintenance of such a roster could provide the services with a pool of units and persons trained in a variety of specialized skills such as construction, communications, transportation and medicine, without having to carry them on the reserve troop list in peacetime.

Although political and social constraints appear to prevent the adoption of a full-scale program of passive civil defense in peacetime in the United States, it might be possible to begin constructing as many facilities as possible with civil-defense use in mind and begin training as many volunteers as possible in their functions.

This would include mandatory or optional hardening of public and private facilities and buildings against nuclear or conventional bombardment (the costs to be borne by the government); the funding of voluntary civil defense training programs; and preparation for the immediate assumption of control by the federal government of essential public services such as transportation,

communications, public health and public safety upon mobilization.

Such control need not mean day-to-day command, but there would be little room for traditional American localism in a prolonged war with the Soviets.

Industrial mobilization for a prolonged war has recently received official attention in the fiscal 1978 military posture statement of the chairman of the Joint Chiefs of Staff, Gen. George S. Brown. Gen. Brown's statement on the need for an industrial mobilization requirements study provides a basis for further discussion:

". . . a comprehensive interagency assessment (needs to) be made of the total capability of the U.S. industrial base to meet various emergency requirements. The complexity of the industrial base and its interdependence with the total economy require that any meaningful assessment include:

"Current capability to support mobilization measures against varying warning times to mobilize; levels and durations of conflict; sequential and simultaneous conflicts.

"Requirements for stockpiling and imports/exports or raw materials, finished goods and war materiel.

"Lead times for production.

"Capability of the transportation system to support mobilization.

"Recommendations for methods to improve industrial responsiveness.

"Requirements for manpower."

Once requirements have been roughly identified by a study such as that recommended by Gen. Brown, the following specific measures, among others, could be undertaken in peacetime to facilitate industrial mobilization:

Preparation of plans for compulsory service and deployment of the American civilian labor force. The United States was lucky enough to avoid such compulsory labor service in World War II because the nation's manpower resources were never strained to the maximum (our chief ally, Great Britain, was not so fortunate; it had compulsory labor service from 1941 on). In a war with the Soviet Union, such mandatory direction to work would appear imperative.

To release qualified persons for military service, provide war production labor and maintain essential consumer production, large numbers of persons not currently employed—housewives, retirees and young persons just below the age of military service—would probably have to be drawn into the labor force, whether they wished to work or not. In addition, labor would have to be assigned to places where it was needed on short notice.

Working conditions, production standards and social services (such as the provisions of care for children whose parents are subject to compulsory military or labor service) would have to be adjusted accordingly. Preparation to cushion such massive social and economic dislocation would be wisely begun before mobilization.

The government can better prepare advance plans for converting each major industrial facility in the United States to war production, as necessary, by predesignating the items to be produced, the raw materials to be employed, and the labor required for each industrial plant. The Defense Department has a cooperative preparedness planning program with private industry, but it appears perfunctory at best and the General Accounting Office (GAO) has strongly criticized it as inadequate.

Bare minimum nutritional, housing, clothing and other basic consumer standards needed to sustain the American people's capacity to survive and produce in time of war could be established, so as to identify the nation's surplus production capacity and raw materials which would be available for war production.

A variety of reasons have been presented here why a war between the United States and the Soviet Union could be a prolonged conflict with marked similarities to the two previous World Wars, despite the existence and possible—if not clearly probable—use of nuclear weapons. Some suggestions have also been presented as to how the government could begin preparing for such a contingency which might actually be adopted without maximizing public or political alarm and opposition.

Yet it is important to remember in discussing mobilization in a prolonged war with the Soviet Union that problems and prospects totally alien to the American experience are being discussed. These include the death or wounding of probably a majority of American men between the ages of 18 and 45; the infliction of a minimum of several million casualties on U.S. civilians by enemy bombardment (nuclear or conventional), and the wholesale uprooting of virtually the entire American adult civilian population in the name of economic mobilization, with attendant social and psychological agonies.

In short, what is contemplated here is that what the rest of the world has experienced during the wars of the 20th century would finally come home to us. Our capacity to endure such cataclysmic pressures is untested. That of the Soviet Union is far less so.

Professor John Erickson, authority on Soviet military affairs, has noted that "there is no guarantee in these mighty military-political undertakings that history is on anyone's side." It can be assumed, however, that history helps those who help themselves. Given the costly lessons learned by the Soviets in mobilizing for total war during 1941–1945, we would be remiss if we did not learn from them and take such tentative steps as are feasible against such an apocalyptic contingency.●

TRIBUTE TO ISRAEL'S 30TH ANNIVERSARY OF INDEPENDENCE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1978

● Mr. RODINO. Mr. Speaker, 30 years ago today, the sovereign state of Israel was founded. In honoring this great nation and its people, I am very proud to recall that President Truman recognized Israel's independence 11 minutes after it became a state.

Ever since President Truman's brave and just declaration of U.S. support and Israel have developed a special relationship—one committed to similar ideals and goals. The Jewish nation, born out of the courage and determination of Jewish refugees after World War II, gave Jews a homeland free from the unimaginable hardships they suffered for over 3,000 years. When a permanent, independent State of Israel was established on May 15, 1948, Jews all over the world rejoiced.

For the past three decades, Israel has advanced at an astonishing rate. Its agricultural and industrial expansion has been accompanied by numerous cultural and educational achievements. Israeli citizens include internationally respected artists, scientists, educators, and several Nobel Prize winning authors. Despite its relatively young life as a nation, Israel has cultivated not only large-scale economic growth, but a broad base of culture and learning that makes it the envy of many nations across the globe. Israel has accomplished all this while forming a government founded on strong democratic institutions. The Israeli Parliament, the Knesset, is a tribute to Israel's respect for democracy where all citizens are represented in government.

Mr. Speaker, the United States friendship with Israel is a most valuable one, because as we are committed to democratic government, Israel serves as an example for other young countries to turn to democracy in achieving social and economic advancement.

Mr. Speaker, I am proud to salute Israel and its people on their 30th anniversary as a nation. May the friendship of our two countries be preserved and the future bring peace and prosperity.●

THE SITUATION IN THE PHILIPPINES

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. WIRTH. Mr. Speaker, the situation in the Philippines is indeed a difficult one. The country has been in turmoil for the past decade under the leadership of Ferdinand Marcos. I would like to submit the following article by Dr. Ved P. Nanda, a distinguished professor of law at the University of Denver, which may shed some light on the situation:

[From the Rocky Mount News "Trends," Jan. 8, 1978]

FERDINAND MARCOS PUTS ON A CANNY SHOW

(By Ved P. Nanda)

The recent death sentence by a military court of Philippine President Ferdinand E. Marcos' major political rival, former Sen. Benigno Aquino Jr., on charges of subversion has once again underscored the demise of basic human rights under totalitarian regimes. For under modern Philippine law, which is based on U.S. law, military courts are prohibited from trying civilians, even in time of war. The Philippine situation is of special note since the United States tutored that country in democracy.

In August and September I had a first-hand glimpse into the Philippines under the five-year-old martial law imposed by Marcos, purportedly to bring about economic and social reforms. At a world law conference in Manila I met former President Diosdado Macapagal, whom Marcos succeeded, and other leading dissidents. Many of them are former detainees under martial law and were afraid to discuss the current situation. "I can't talk," said one young attorney. "The regime is so vindictive and repressive that I may again be detained."

Marcos is described by close observers as a consummate politician and a skillful manipulator. The description was borne out by his actions at the world law conference. At the inaugural session he stole the show by making dramatic promises to hold local elections next year, lift the curfew and ease foreign travel restrictions. The pronouncements lacked substance, but that was of little consequence. The voices demanding closer scrutiny were lost in the din of the accolades Marcos received from high government officials for his benevolence and his "scrupulous regard" for human rights. The words and picture of Marcos, Mrs. Marcos and their

admirers were daily splashed on the front pages of newspapers. Criticism of the government was never reported. For example, in a session on human rights a highly respected critic of Marcos, Juan T. David, explained at length how the Philippine Supreme Court had been co-opted by the executive during the martial law regime resulting in a "night-marish experience" for the Filipino people. Two jurists from abroad criticized totalitarian regimes in no uncertain terms. There was no mention of these addresses in the press.

In the face of reports by Amnesty International and the International Commission of Jurists that were highly critical of the Marcos regime and amply documented charges of arbitrary arrests, long-term detention and torture of political opponents, it is ironic that the sponsoring group of the Manila world law conference, the World Peace Through Law Center, honored Marcos with a special award citing him as a "nation builder" and a champion of human rights. The center provided Marcos and his supporters a handy platform to defend martial law, denounce political opponents and project the regime's image as a model of the rule of law. How and why the decision was made to give Marcos the special award remains a mystery. Ignoring the fact that the World Peace Through Law Center does not represent the jurists of the world, the Philippines press praised "World Jurists" for recognizing Marcos' "unique contribution to the rule of law."

Marcos justifies his authoritarian rule by invoking the need for political stability and economic and social reforms. He says constraints on civil and political rights are essential to instill in the country a sense of discipline and to rid it of corruption. Former President Macapagal challenges Marcos' statement that martial law was imposed to save the Philippines from anarchy. "The only purpose was to keep Marcos in power," he told me. "Since Marcos would have had to relinquish office in 1973 at the end of his second term as president, he stage-managed violence to clamp down on his opponents and to entrench himself in power for life. I have unassailable evidence to prove it."

Macapagal gave me two names to verify his charges. Both, one a congressman and the other a member of the Constituent Assembly, confirmed his allegations, giving several instances preceding the imposition of martial law when violence was initiated at the behest of Marcos by his followers, who were apprehended in some cases. "The entire thing was a hoax. Whatever ills were plaguing the country in 1972, Marcos was mostly to blame," said one critic. "How can he be absolved of a major responsibility when he has been in power since 1965?"

The official line in Manila echoes the false dichotomy between civil rights and economic rights raised by authoritarian regimes in most developing countries. "Political rights are a luxury that countries suffering from historical deprivation can ill afford," said one of Marcos' apologists at the conference.

"The Philippines is not suited for the Western-type democracy," chimed in another. "Our experiment is unique. Let no one tell us what is in our interest."

"A quote almost verbatim from Indira Gandhi a year ago," was an Indian attorney's rejoinder.

According to many observers, events in India—its experiment with the Emergency followed by elections resulting in a stunning defeat for Indira Gandhi—were watched with keen interest in the Philippines. Marcos and Mrs. Gandhi were often compared by Marcos' critics. The former was always mentioned as much more astute than Mrs. Gandhi. "He will not hold free elections," said one high government official. "Mrs. Gandhi taught him a lesson he is not likely to forget soon. Emergency in India was often used to justify martial law here, but elections in India and the restoration of democracy there are completely ignored."

Although a few Moslem leaders whom I met from the provinces strongly dispute Marcos' contention that the Moslem minorities are satisfied with his policies, and although a few dissident leaders—mostly students and recent graduates—claimed a sizable following among the residents of Manila, my overall impression is that Marcos is in control. Despite the simmering unrest, the opposition is in disarray, the populace is complacent, and the military and the judiciary are behind Marcos. A leading attorney described Marcos' relations with the Supreme Court as an "unholy alliance."

Both Marcos and his wife, Imelda, are building edifices to themselves—an international convention center, hotel complexes, housing projects, towering skyscrapers and highways. Their names are the only ones the population hears. Their images are portrayed as bigger than life: "a couple with destiny."

Prospects for an early return to normalcy look bleak. Friends and foes of Marcos agree on one thing: An average Filipino reveres authority. Marcos has taken full advantage of this national trait. Not only is his grip on the armed forces unchallenged, but his control of the national economy is unrivaled. No new investment can be made nor an existing economic project expanded without Marcos' approval. The going rate for Marcos' favor is said to be between 10 and 15 percent. The Marcos family itself owns a multitude of diversified enterprises, and I was often reminded that Mrs. Marcos has become one of the 10 richest women in the world.

Those who have known Marcos since his ascendance to power acknowledge his overriding ambition to leave a lasting mark on the country. Although not much has been done to improve the lot of the common people, skyscrapers, luxurious hotels, shopping centers and highways will be the Marcos legacy. His foreign policy is designed to be "pragmatic," wooing all centers of power—Washington, Moscow and Peking.

In all likelihood Marcos will hold local elections and might even hold indirect national elections, ensuring his victory. It is widely accepted that the model for any such elections will be the earlier referenda (which were allegedly all rigged) conducted under martial law to give the Marcos regime legitimacy. "Elections will never be fair. Otherwise he will share Gandhi's fate," was the critics' usual observation. The only hope the political opponents see for the restoration of civil rights in the Philippines is international pressure, especially from the United States, which Marcos gives the impression of defying but to which he is likely to be susceptible.

It is no secret that Washington is still ambivalent about the Philippines. Those urging the Carter administration to be evenhanded in applying human rights standards, thus not sparing Marcos from official criticism, have yet to succeed.

Marcos, on his part, has played his cards skillfully, keeping Washington guessing as to his next moves in domestic as well as foreign affairs. Two recent examples are former Sen. Aquino's case and Marcos' overtures toward Peking. The regime has occasionally orchestrated anti-American propaganda, thus exploiting what it calls the "Filipino desire for real independence."

Despite the apparent acts of defiance, Marcos knows he will not survive a showdown with Washington. The human rights issue persists and the crucial question is: Will Washington take bold steps against the repressive Marcos regime?●

WILDERNESS AND DEVELOPMENT IN ALASKA

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. TSONGAS. Mr. Speaker, our actions in the next few days on the Alaska National Interest Lands Conservation Act will be remembered in the centuries to come. As we head for a final decision on this legislation of historic import, there are two particular aspects of the current debate on the bill that could benefit from further clarification—its relationship to economic development and its wilderness title, which is in danger of being gutted.

First of all, some questions have arisen about the mineral and oil potential of lands proposed for addition to the national park, wildlife refuge, and wild and scenic rivers systems, and to national forest wilderness. Along with other members of the Interior Committee, I have carefully studied the economic impacts of H.R. 39.

If the bill were to pass in its present form, only about 30 percent of the lands in Alaska with metallic mineral potential and less than 5 percent of lands with favorable hydrocarbon potential would be included within the boundaries of new and existing conservation units in the State. Boundaries were drawn and redrawn to avoid conflicts with development. In fact, while I support many of the boundary changes, I believe that in a number of other cases the committee went too far in compromising with special interests at the expense if important wild areas.

In developing the bill, we had the benefit of the latest U.S. Geological Survey and Bureau of Mines information as well as detailed briefings, information prepared by the University of Alaska in cooperation with the Joint Federal-State Land Use Planning Commission for Alaska, testimony from private citizens and corporations, and proprietary minerals data from other sources. We also drew heavily on the administration's recommendations. The administration carefully adjusted boundaries in their proposal to remove many areas that a sophisticated computer analysis by the State of Alaska had identified as potential development areas.

The U.S. Bureau of Mines and USGS have identified the zones with mineral potential and ranked the probability of the occurrence of minerals in the various regions of Alaska. Furthermore, the lands proposed for protection under H.R. 39 have been singled out and more intensively studies than the other areas in Alaska.

The next phase of USGS assessment work in Alaska will provide better information on actual mineral occurrences, but it may take 25 years and involve activities that would be destructive to wilderness areas.

Exploration and possible development of areas outside the conservation units

could keep industry occupied for scores of years. Even if mining should become economically feasible in Alaska—which it generally has not been for many years—most of the potentially valuable mineralized areas have been eliminated from the bill, in many cases by making questionable sacrifices of wild areas. Virtually all the oil leasing candidate areas have been removed from conservation units except the internationally renowned Arctic National Wildlife Range, our Nation's finest wilderness.

Thus, oil and mineral resources within conservation boundaries are largely speculative. Yet developers seemingly would have us delay creating parks and wildernesses in Alaska until the 21st century just in case there are minerals in the locations in question.

Mr. Speaker, if we wait another quarter of a century to protect our prime wilderness, the wilderness will be destroyed and we may or may not wind up with a mining industry of lasting commercial significance. By contrast, if we seize our present opportunity to preserve this wilderness, we will be safeguarding the future of areas that have recognized, known resource values of major significance to the overall management of fish and wildlife populations, habitats, watersheds, or whole ecosystems.

If this were 1878 and we were trying to find about 100 million acres west of the Rockies to preserve, the developers probably would tell us not to establish a single park or wilderness in the entire Sierra Nevada, because the area has too much mining "potential." I do not believe that most Americans would want us to buy such arguments. Changes in the Alaska National Interest Lands Conservation Act to accommodate these mining and timber interests already have sacrificed millions of acres deserving of protection.

I am particularly troubled by the vast acreages of wilderness areas that have been slashed from the bill, because the real backbone of this legislation is its wilderness title. The proposed wilderness areas are not separate administrative entities. They are carefully delineated zones within the acreages of wildlife refuges, national parklands, and forests. They add vital protection to those portions of these areas where certain developments or interference with natural conditions would be highly undesirable.

Many Alaskan wildlife biologists consider wilderness overlays in the conservation units as particularly critical means to protecting Alaskan species that are dependent on wild habitats for their survival—wolves, bald eagles, grizzly bears, caribou, and other animals.

The lands proposed for addition to the National Wilderness Preservation System in the Interior Committee bill included about 10 million acres of refuge wilderness that subsequently were deleted in the consensus bill developed in cooperation with the Merchant Marine and Fisheries Committee. (This consensus bill is intended as a vehicle to facilitate floor debate, but the Interior Committee retains the right to offer floor amendments on this point.)

These refuge wilderness areas must be restored to the bill if we are to protect some of our Nation's healthiest animal populations. Furthermore, if we are to preserve our greatest caribou herd, any amendments to deny anything but full wilderness protection to the Arctic National Wildlife Range must be beaten back. The range is the last place in the United States that we should drill for oil and gas.

The bill before us has seriously crippled wilderness protection for key areas in Southeast Alaskan forests. Although the committee's efforts to insure no job losses in the Southeast are commendable, it should be noted that the bill takes the additional step of providing for a margin of growth in the timber industry. This margin of growth is excessive, because it is based on statistics that underestimate the amount of harvestable timber in the Southeast and do not include all the lands that have been chosen by State and Native interests in southeast Alaska. Under the Statehood Act and Alaska Native Claims Settlement Act of 1971, the State of Alaska and Native peoples have selected lands in the Southeast precisely because of their high commercial timber value. But the bill now under consideration places the onus of development on wild areas that belong to all the American people.

During the Interior Committee's consideration of H.R. 39, I particularly objected to deletion of acreage from the wilderness proposals for the Misty Fjords, because I believe the natural values of this area far outweigh any need to appease the mining and timber industries. The narrow, steep-walled fjords are unique in the United States. The Misty Fjords area also includes streams that are crucial to a large part of the salmon production in southeast Alaska. Yet a foreign country wants to build an open-pit mine at the headwaters of salmon streams in the area. Mr. Speaker, the entire 2.3-million-acre Misty Fjords area deserves maximum protection as wilderness.

Elsewhere in the Tongass National Forest, the Yakutat forelands area has been cut out of the proposed Yakutat Wilderness even though the forelands acreage is the premier overall wildlife area in southeast Alaska, according to the Forest Service itself.

It is a primary staging area for large numbers of sandhill cranes, snow geese, and swans. It provides excellent brown bear and moose habitat. Moreover, failure to preserve this area will also have repercussions on the local economy by endangering the salmon fishery. Because the fishery is of critical importance to local livelihood, the majority of residents of the Yakutat area favor preserving the area from logging and roadbuilding.

In the cases of both the Misty Fjords and the Yakutat, the bill is favoring timber interests rather than encouraging Alaska's growth industries: Tourism and fisheries. Timber employment in southeast Alaska has been decreasing while the number of jobs in tourism and commercial fishing and crabbing is on the rise. Tourism and fishing provided more jobs in 1976 than logging did.

Furthermore, a recent Forest Service study of the economics of Southeast Alaskan logging shows that further expansion will only result in economic instability and unemployment, because of Alaska's poor competitive position in national and international timber markets.

Fortunately the present bill does include another significant wilderness in the Tongass—Admiralty Island Wilderness, which protects brown bears, a concentration of eagles that represents more nesting bald eagles than all the rest of the lower 48 States put together, and other wildlife. But the other prime areas in the Tongass and Chugach National Forests and elsewhere in Alaska must be preserved as well.

Mr. Speaker, in spite of all the concessions granted to timber, mineral, and oil interests, opponents of this legislation undoubtedly will try to make more inroads into the bill. Already the legislation has been overcompromised, leaving the burden of proof on our national interest wildlands rather than on the developments that threaten them. We must reverse this trend and pass amendments that will strengthen the Alaska National Interest Lands Conservation Act.●

FIFTY YEARS OF DEDICATED SERVICE TO LAW AND COMMUNITY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. PURSELL. Mr. Speaker, on May 9, 1978 a great man, and I am proud to say a good friend, reached a milestone in his life which very few of us ever attain. On that day, Perry Richwine of Plymouth, Mich. celebrated his golden anniversary as a member of the legal profession. Very few people ever find a career that they truly enjoy. So, for a man to have not only found his satisfaction, but to then experience it for 50 years, truly gives cause for celebration.

Living all of his life in Plymouth, Mr. Richwine graduated from the Detroit College of Law shortly before his 19th birthday. In his 50 years of legal service in Michigan, he has had about 5,000 clients, managing to add approximately 100 new clients each year. Specializing in estates, Mr. Richwine recalled recently that one of his biggest cases came early in his career when he handled the George H. Fisher estate in Detroit.

Not only has he practiced law for 50 years, but Perry Richwine has served as mayor of Plymouth, municipal judge, president of the Plymouth Chamber of Commerce, and is a long-time member of the Plymouth Rotary Club. He was also president of First Federal Savings, located in Plymouth.

But there is much more to Perry Richwine than his illustrious career. He is a leader in his community who has the respect and admiration of all who know him. We are indeed fortunate to have had the friendship, service, and dedica-

tion of this man for so many years. We congratulate and honor Perry Richwine today, and wish him many more years of success and happiness.●

SAVED BY THE NUKES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. McDONALD. Mr. Speaker, the antinuclear sentiment in this country has reached new levels of idiocy in the past year or so. However, these critics forget, and some in the Carter administration also seem to forget, that nuclear power is saving us oil and that during the coal strike of this past winter, it literally saved our lives. It is high time that commonsense prevails and the witch doctors of the antinuclear groups begin to use their brains instead of their lungs. In this connection, Anthony Harrigan wrote an extremely intriguing item for release on April 20, 1978, for his "Sensing the News" column. I commend it to the attention of my colleagues:

SAVED BY THE NUKES

(By Anthony Harrigan)

If you follow the counterculture press, such as *The Real Paper*, published in Cambridge, Mass., you will discover that the antinuclear extremists will be back in business again this summer. For instance, the Clamshell Alliance, a mishmash of radical protesters, is hoping to block shipment of the nuclear reactor core to the new Seabrook nuclear plant in New Hampshire.

This opposition to nuclear power is all the more absurd in that the nuclear generating units were vital in getting the country through this winter's terrible strike by the United Mine Workers. Nuclear power also saved the country from disaster in the fierce winter of 1976.

Nevertheless, the anti-nuclear protesters persist in their opposition to the atom. As Dr. Peter Beckmann of the University of Colorado points out in the April edition of Access To Energy (Box 2298, Boulder, Colo. 80306), "the Clamshell Alliance and other graduates from America's best boutiques and discotheques believe it can all be done by sunbeams and conservation."

Dr. Beckmann cites the contribution made by nuclear power this year, when the striking miners proved no more reliable than the shieks of the Middle East. "Almost all of the 67 nuclear plants have been running at near capacity," he reports, "and there would be a hundred of them if they hadn't been sabotaged by the wreckers and obstructionists."

Among the principal obstructionists are President Jimmy Carter, who has done everything in his power to halt the Clinch River fast breeder reactor project, and Gov. Jerry Brown of California who wants to outlaw the safest and most effective power system man has devised.

Nuclear power now provides 12 per cent of the nation's electric generating capacity. Given America's dependence on foreign oil—and the disastrous outflow of dollars for that oil, and the proven irresponsibility of the union miners, America must turn to nuclear power for increased generating capacity.

Fortunately, the Clamshell Alliance types are being countered by sensible voices around the country. In Indiana, for instance, Prof. Phillip Powers, director of Purdue University's Engineering Center, recently urged increased development of nuclear power. "There will be more interest in and development of nuclear power," he predicted. "Most of the fear is centered in small minority factions. Most people, surveys show, want more nuclear use."

Prof. Paul Lykoudis, head of the School of Nuclear Engineering at Purdue, said that nuclear power is "safe, clean and not influenced by weather. He added: "If we had had nuclear power in Indiana, the coal strike would have passed like a breeze."

These advocates of nuclear power aren't urging that the nation put all its eggs in one atomic basket. Serious students of America's power needs realize that energy is needed from a variety of sources. They don't neglect proposals for experimentation with solar power or any other futuristic source. But they know that the nation must use the energy-producing resources and systems that are available now. One of the most important of these is nuclear power production.

The American people ought to know, Dr. Beckmann explains, that "only emergency injections of nuclear power" prevented an energy disaster this year and last. If the fact is understood, the American people also will understand that the actions of the Clamshell types threaten the well-being of the public.●

A TRIBUTE TO JACQUES RUEFF

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. KEMP. Mr. Speaker, I was saddened recently to read about the death of Pro. Jacques Rueff, one of the world's greatest economists.

Rueff is probably best known as Charles de Gaulle's chief economic advisor and a staunch defender of the gold standard. For most of his life Rueff argued that inflation cannot be controlled unless monetary authorities are somehow restrained from issuing excessive amounts of currency. The gold standard fullfilled this function, and we can only conclude that the present global inflation is a direct result of the abandonment of the gold standard or any system of fixed exchange rates. I share his belief and consider the breakdown of Button Woods to be one of the most serious errors of recent economic decisions.

The following essay by Henry Hazlitt from the May 1 issue of Barron's examines Rueff's career and his long-time fight against inflation.

The essay follows:

SALUTE TO RUEFF: TO THE END, HE FOUGHT THE GOOD FIGHT AGAINST INFLATION

A week ago Sunday, Jacques Rueff, the eminent French economist, died at his home in Paris at the age of 81. For almost half a century, his was perhaps the most persistent voice, surely in France if not the whole Western world, to call for the end of inflation and the maintenance or restoration of a full gold standard. The 19th Century produced celebrated economists, like John Stuart Mill and Walter Bagehot, who were much more—men of broad culture and varied interests, who made substantial contributions in several fields. Jacques Rueff was such a figure in our own time.

He was prolific and versatile. Besides books directly on economic subjects—on money and credit, on inflation, on the problems of transfer and the balance of payments, on the errors of the economic planners, on the fallacies of Maynard Keynes, and on the crisis of capitalism—he also wrote a profound two-volume work on The Social Order, and a treatise comparing the methods and outlook of the physical with those of the moral sciences. And he capped his career by the publication, a few months before his death, of a 443-page autobiography.

He was not merely a writer, but also a man of affairs. His government career began in 1923, when he was appointed an Inspector of Finance—a lifetime title that carried the authority to probe into any aspect of French government spending. Three years later, he jointed the staff of Premier Raymond Pioncare as a monetary expert. In succeeding years, he worked at the League of Nations, as financial attache to the French Embassy in London, in the Finance Ministry in Paris and in the French Treasury. At the outbreak of World War II, he was deputy governor of the Bank of France.

In 1952, he began a decade-long tenure as a judge, first in the Court of Justice of the European Iron & Steel Community, later as chief judge of the Common Markets Court of Justice. Under President de Gaulle, he headed a commission named by Finance Minister Pinay which drew up the famous Rueff plan, proposing the fiscal and monetary reform of 1958. Rueff's crowning recognition came in 1965, when he was welcomed into the 330-year-old French Academy.

Yet apart from this recognition, he was a prophet almost without honor—a Cassandra whose prophecies, though they turned out to be true, were generally ignored. Here is what he was saying, apropos the world's monetary system, as early as March 1932: "For ten years, men have endeavored to build not the kind of world that would last but the kind they wanted, a world to provide them with maximum satisfaction with a minimum of effort." He agreed that they had succeeded. "The world is becoming more and more as they hoped it would become—except that in its present form, with all the brakes removed, it is heading for certain disaster."

As for the policies embraced by the experts to strengthen the dollar, bail out the pound and prop up the ailing system, he dismissed these with a line: "To persist in the present course is to court catastrophe." This, remember, was said in March, 1932. The stock market had then been collapsing for some 30 months. Everyone thought he was entitled to feel that the worst was over. But the great banking panic lay exactly a year ahead.

The villain of the piece was the "gold exchange standard." Few economists seem to be aware of the crucial difference between this and a true gold standard. Under the latter, each country keeps its own currency directly convertible into gold. When it runs an adverse balance in international payments, it loses gold; hence it must raise interest rates and limit its issuance of new money, thereby bringing to a halt its previous expansionary policies.

But under a gold exchange standard—as it operated, for example, through the International Monetary Fund from 1946 to 1971—every other member country was obligated merely to keep its currency at parity with the dollar, which alone was convertible into gold. When other countries called for settlements of their balances, all parties thought it sufficed to settle in paper dollars. When France, Germany, or any other country acquired dollars, moreover, it could count them as part of its "reserves."

This system inevitably led to worldwide inflation. Other countries used their dollar reserves to expand their own domestic circulation, while the U.S. remained free to inflate, because, as the issuer of the "key currency," it did not suffer the effects of its balance-of-payments deficit.

Rueff kept insisting (as in October 1967, for example) that "We have to recreate an

international monetary system in which the debtor country loses what the creditor country gains. That implies the elimination of all the expedients pertaining to the family of the gold exchange standard, in other words, a return to payment of international balances in gold." Rueff clearly recognized the mounting practical difficulties caused by perennial inflation, in 1967, he was recommending that a full gold standard be adopted, but at a rate of $70 instead of $35 per ounce. His views were ignored. Reckless inflation continued. As a result, as international faith in the dollar began to vanish, the U.S. in August, 1971, abandoned even the gold exchange standard.

Rueff never believed politicians' excuses. In the London Times of June 27, 1975, he wrote: "It is a mistake and a lie to claim that it is not within the power of the body of Western states to bring a swift halt to the inflation undermining their existence. I maintain, in the face of the contrary belief of almost all public opinion, and accepting the accusations of presumptuousness which this article will earn me, that it is easy to put an end to inflation in the West, that the remedies I propose could not fail to be effective and that they would produce definitive results within a matter of a few weeks." (He reiterated these views in an interview published in Barron's on Aug. 4, 1975.)

Among them he included not only a world return to gold convertibility, but also an agreement between all Western states to "remove, once and for all, the possibility of unlimited quantities of money being printed by banks of issue against inconvertible foreign currencies. In other words, the agreement would oblige them to comply with the orthodox rules of the gold standard."

Whether the particular remedies suggested by Rueff would have worked as he thought is an open question. In any case, he recognized that the real barrier to his remedies was a political one. "There remains the last and most insurmountable obstacle to the reestablishment of convertibility in the West: The almost unchallenged affirmation that, for overriding social reasons, the governments of the West will never agree to allow the pace of their economic activities and their developmental policies to be governed by gold. About this point I am in no doubt: The restoration of effective convertibility into gold, with gold at an adequate price, far from involving a risk of economic deceleration, will immediately set a powerful wave of prosperity, security and well-being in motion throughout the world."

Whatever may have been the economic or political feasibility of Jacques Rueff's specific proposals when they were made, they are not feasible now. Today every country, at least to some extent, has swindled its citizens. No country is on a gold standard. The ugly record of bad faith suggests that, if any single country today did make its currency convertible into gold, at almost any price, a run on the bank, so to speak would promptly ensue.

But two immediate steps are possible. One is for every country to start balancing its budget and stop increasing its paper-money issue. The other is for each country to allow its own citizens to make private contracts in gold. The second step, almost incredibly, has already occurred here, but the first seems more remote than ever. Despite President Carter's campaign promise, nobody seriously expects the federal budget to be balanced by 1980. The officially estimated deficit for the current fiscal year is $62.8 billion; for the 1979 fiscal year it is $60.6 billion. Yet at the rate at which Washington is adding to expenditures, the 1979 deficit threatens to be nearer $100 billion.

As for the money and credit supply, no one in office today talks of halting its expansion; the only issue seriously weighed is at what precise rate shall the planned expansion go on. And as for gold, the Treasury talks only of auctioning it off. The ostensible purpose of such a move is to strengthen the paper dollar in the foreign exchange market. Yet no measure could actually be more shortsighted.

First, the proposed sales mean that the government will be selling its gold now at a lower price than it can get later on, as the paper dollar depreciates still further. They will serve as a signal that the U.S. never intends to return to a gold standard, and that both Americans and foreigners must abandon all hope of such a return. And the sales mean, finally, that in case of another major war, this country will have nothing to offer foreign sellers of desperately needed imports but depreciated and still-depreciating dollars.

The historical record, in short, is dismal. And past will be prologue so long as U.S. money managers heed the siren song of the Keynesians and turn a deaf ear to the well-founded warnings of the Mises, the Hayeks and the Rueffs.●

THE ROAD TO PROSPERITY, PART I—WHAT IS A CAPITAL GAINS TAX?

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. STEIGER. Mr. Speaker, I recently introduced a tax bill which has received attention and support far beyond my expectations. What was intended as an educational exercise now has the potential of becoming a major advancement in tax and economic policy.

I am referring to H.R. 12111, a bill to return to the pre-1969 tax treatment of capital gains. It is a simple bill, comprising only 2½ pages, but it is complex in its economic and political impact.

Because of this complexity, I think it would be useful to outline the problem and issues involved with capital gains. Today, I will briefly explain current tax law on capital gains and summarize H.R. 12111.

Ordinarily, the gain from a sale of property is included in income at the normal tax rates. If an asset is held for 1 year, it will qualify for capital gains tax treatment. Congress decided on lower tax treatment on long-held capital gains for three reasons:

First. Undue hardship would result from imposing the full weight of tax on capital gains when the asset has appreciated in value over a period of many years. This becomes especially important when a significant portion of the gain is from inflation and not from a real appreciation in value.

Second. Capital gains stem largely from investment. Capital is one of two essential ingredients for economic growth. An abundant supply of capital is necessary for economic activity. Favorable tax treatment encourages investment over hoarding consumption.

Third. Capital gains are not true "income." Income represents the benefits of economic activity, while capital is the stimulant of economic activity.

In 1969, Congress legislated a rather complicated procedure for taxing capital gains. The new procedure involves two methods for computing the tax. The first method allows a deduction from gross income of one-half of capital gains. The remaining half of the gain is taxed at ordinary income tax rates.

The tax rates vary from 14 percent to 70 percent. However, since only half of the gain is taxed, the effective rate is from 7 percent to 35 percent.

The second method involves the alternative tax. If the excess of a long-term capital gains does not exceed $50,000, it is taxed at a rate of 25 percent. If the capital gain is an excess of $50,000, the 25-percent rate does not apply to the amount of excess. A complicated procedure has been devised to discover the tax obligation. First, the tax on ordinary income must be determined. To this is added $12,500 (25 percent of the first $50,000 of capital gain). Finally, the taxpayer includes the difference between the regular tax on ordinary income plus the capital gain deduction and the regular tax on ordinary income plus the $25,000. The result would be the capital gain tax. Of course, we must then factor in the minimum and maximum taxes when applicable.

The minimum tax is applied to the 50 percent of capital gain which the taxpayer deducted from income. The tax rate is 15 percent, and it is reduced by $10,000, or 50 percent of the regular income tax for the year. Congress has also provided for a maximum tax on personal service income. It is felt that individuals who earn income through personal services, for instance, Elvin Hayes or Henry Ford II, should be allowed to keep half of that income. Thus, a tax of 50 percent is levied.

The maximum tax is involved when the taxpayer uses the alternative tax method for calculating a capital gain.

Let us now try to calculate the tax on a capital gain. I am focusing on the maximum tax applicable to the gain. First, there is the regular tax on half of the gain. If the taxpayer is in the maximum tax bracket, this rate is 35 percent (one-half of 70 percent).

The second step occurs when the taxpayer has earned income which is considered personal service income. The earned income is subject to a regular tax rate (increase) of 20 percent of half of the capital gain. When a taxpayer excludes half of the gain, he or she reduces the amount of earned income eligible for the 50-percent maximum tax on personal service income. In the highest personal tax bracket, 70 percent, the increase in tax on earned income is 20 percent—the difference between the 70-percent rate and the 50-percent maximum tax rate. However, only half of the capital gain was excluded from taxes, so the 20-percent rate must also be halved, and becomes an effective rate of 10 percent.

The third, and last step, involves the minimum tax. As I pointed out above, 50 percent of the regular tax is excluded from the minimum tax. The regular tax on the capital gain is 45 percent (step one of 35 percent plus step two of 10 percent). One half of 45 percent is 22.5 percent. Only 50 percent of the gain is covered by the minimum tax (the half of the gain previously excluded from income tax). However, we must also exclude one-half of the regular tax which

has been applied to the capital gain. So, the 15 percent minimum tax applies to 50 percent of the capital gain minus one-half of the regular tax (which was determined to be 22.5 percent). This difference is 27.5 percent. 15 percent of 27.5 percent is a minimum tax of 4.125 percent plus 10 percent plus 35 percent, or 49.125 percent.

My bill, which is summarized below, would substitute a flat rate of 25 percent for all of the above confusing computations. I will explain the economic benefits in later remarks.

GENERAL EXPLANATION OF THE PROVISIONS OF THE INVESTMENT INCENTIVE ACT OF 1978 (H.R. 12111)

IN SUMMARY

The bill reduces capital gains taxes for both individuals and corporations to 25 percent. This is 25 percent rate was in effect prior to the Tax Reform Act of 1969. Under current law, capital gains taxes can approach 50 percent for individuals and can exceed 30 percent for corporations. The bill makes other revisions to the International Revenue Code generally providing pre-1969 treatment for capital gains. Present treatment of capital losses is retained. The bill does not change the one-year holding period requirement for long-term capital gains treatment.

SPECIFIC PROVISIONS

Section 1: Tax Preference Items

This provision eliminates capital gains from the list of tax preference items for purposes of computing the minimum and maximum tax.

Section 2: Alternative Tax

Corporations: Under current law, corporations having a net capital gain are taxed on that gain at a rate of 30 percent. The bill reduces this rate to 25 percent.

Individuals: Under current law, individual taxpayers pay a tax on their first $50,000 of net capital gains at a maximum effective rate of 25 percent. Amounts in excess of $50,000 are taxed at rates up to 35 percent, plus additional taxes due to the minimum and maximum tax provisions. This bill limits the taxation of all capital gains to a maximum rate of 25 percent.

Section 3(a): Effective Date

The bill shall not take effect before January 1, 1980.

Section 3(b): Conforming Changes

The Secretary of the Treasury shall submit a draft of the proposed changes in the law as a result of this bill to assure that all conforming changes are made in the Internal Revenue Code.●

ALASKA LANDS BILL

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. EDGAR. Mr. Speaker, the Alaska National Interest Lands Conservation Act has the potential of being the greatest conservation law in our Nation's history. I view H.R. 39 as an act of foresight, creating national parks and wildlife refuges in Alaska that will provide their greatest benefits to future generations, just as the Yosemites and Yellowstone established by Congress a century ago are benefiting our generation more than they did the people of the 19th century. We cannot afford to let these wilderness and wildlife lands be whittled away; the loss is not ours, but our children's.

I believe H.R. 39 should be strengthened when it comes to the floor, to repair some of the damage done by a perhaps overgenerous spirit of compromise. The Interior Committee and the Merchant Marine Committee have been zealous in responding to the concerns of mining, timber, and oil industries. I think it is time to respond more clearly to the concerns of the public by making this bill a stronger vehicle for protection of our national heritage in Alaska.

As a member of the Subcommittee on Surface Transportation, I have been particularly interested in the transportation aspects of the Alaska legislation. One of the obstacles to efficient surface transportation in the lower 48 States has been the great difficulty of planning routes that do not conflict with existing land uses. Anywhere you want to build a highway, a rail line, a pipe line or a power transmission line, you run into conflict with people's houses, farms, industrial areas, or parks. It always boils down to a question of who gets the short end of the stick.

On the public lands in Alaska, the situation is so different that it seems like another world. Most of the land is still in State and Federal ownership, and has not been committed to specific uses. There are several major transportation routes, such as the Alaska highway, the Alaska Railroad, and the corridor that embraces the Alaska oil pipeline and its associated highway. But most of Alaska's surface transportation network remains to be built.

Transportation was one of the factors considered in the development of H.R. 39. Long before the bill was introduced, the transportation needs of Alaska were being studied by State and Federal agencies. The Alaska Department of Highways in 1973 proposed a system of transportation corridors criss-crossing the State. In 1974 the Interior Department's Bureau of Land Management prepared a primary corridor system plan, chiefly intended for transportation of energy resources. The Joint State-Federal Land Use Planning Commission for Alaska made its own study of the transportation outlook and held hearings across the State, but declined to identify specific corridors. Again during the field hearings of the House Interior Committee's Subcommittee on General Oversight and Alaska Lands, many people gave their ideas on Alaska's future transportation needs.

As an outgrowth of years of study by the agencies, and hearings by the subcommittee, the boundaries of the conservation areas in H.R. 39 were adjusted during markup to avoid conflict with essential transportation routes. Those boundary decisions take care of foreseeable transportation needs by leaving the needed corridors outside the conservation areas.

The unforeseeable needs are addressed by title X of the bill, entitled "Transportation and Utility Systems on Conservation System Units." First, this title states that all presently existing laws allowing transportation rights-of-way across areas of the National Park System, National Wild and Scenic Rivers System, National Wildlife Refuge System, and National Wilderness Preservation System shall apply to the areas established by H.R. 39.

Then it goes on to set up a procedure for roads, pipelines, and utility lines that are not allowed by those existing authorities. This title X procedure would seldom be needed, because the Secretary of the Interior already has ample authority for most transportation rights-of-way in the conservation systems. The new procedure would be used chiefly for transportation routes across the designated wilderness areas.

Access to mining claims and State or private property is expressly guaranteed, no matter where this property is located.

There is some concern that title X may be too generous to those who would build transportation routes across the National Interest Lands. The Interior Department has cautioned that this title may actually promote the use of these conservation lands for transportation purposes by providing expedited Federal action that is not available for right-of-way applications on other Federal lands.

My conclusion is that transportation needs have been thoroughly and satisfactorily taken into account in H.R. 39. In this bill we are protecting a large and still unimpaired share of wild America for public use. At the same time we are providing for the future transportation needs of Alaska.●

THE RIGHT TO KNOW, THE RIGHT TO ACT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. FASCELL. Mr. Speaker, the flood of unauthorized words released in the Warsaw Pact states as a result of the 1975 Helsinki accord is a seminal development which Americans and others have been slow to appreciate and comprehend. Freedom of expression is such a commonplace of our democracy that we may tend to undervalue the power of the word.

In societies where the state monopolizes the marketplace of ideas, neither the authorities nor those who hold other views make that mistake. For both the issue is clear: Free expression and the unhampered flow of information erode the power of any one group to impose its rule and its dogma on the mass.

Much of that uncensored post-Helsinki outpouring from Eastern Europe and the Soviet Union has reached us in abridged and disjointed form. Primarily through Western press accounts and occasionally in the testimony of exiles, we have heard the voices of dissent more as a babel than a concerted chorus. Nevertheless, taken together, these voices represent a powerful new factor in the communist world—a force which over time can lead to fundamental change.

Under its mandate to monitor implementation of the Helsinki accord, the

Commission on Security and Cooperation in Europe has been systematically following the currents of protest in Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Rumania, and the U.S.S.R. This week the Commission has published the first English-language compilation of the documents of Helsinki-related dissent from those countries.

The volume, titled "The Right to Know, the Right to Act," brings together an extraordinary sampling of authors and subject matters. The writers include coal miners and hotel porters in Romania, a pop singer in Czechoslovakia, and an actress in Poland, Orthodox priests, a former metal-worker and political prisoners in the Soviet Union. They report on harassments as seemingly petty as disconnected telephones and as obviously terrifying as forcible psychiatric confinement. They plead for the rights of dispossessed ethnic minorities to return to their land and of divided families to be reunited. They document censorship of subjects ranging from religious expression to economic information.

Together, in this volume they present the two unifying, democratic themes of dissent in the Communist world: Respect for the rule of law and for the right to exchange information and ideas openly. In Principle VII of the Helsinki accord, the 35 signatory states pledged to respect the "right of the individual to know and act upon his rights and duties" in the field of human rights. The volume just published by the CSCE Commission demonstrates how individuals in Eastern Europe and the Soviet Union, basing their actions on respect for domestic and international law, have undertaken to make that pledge a reality. It shows the coherence of dissent and the courage of dissenters. I recommend it to my colleagues for their thoughtful study.●

THE INTERNATIONAL INFORMATION WAR

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. WIRTH. Mr. Speaker, Mr. John Eger, the former director of the White House Office of Telecommunications Policy is an expert on many communications issues, not the least of which is the little understood, but crucial, problem of transborder data flow. For the benefit of my colleagues, I am placing an article of Mr. Eger's on this subject in the RECORD.

[From the Denver Post, Jan. 22, 1978]

INTERNATIONAL "INFORMATION WAR" DEVELOPING ON TWO FRONTS

(By John M. Eger)

WASHINGTON.—Brazil is stationing police censors at all post offices to intercept incoming publications that might contain anything "contrary to public order or to morality."

Thailand has just raised import duties on foreign films by 1,500 percent.

Several Canadian provinces now have laws that bar transmission of credit data out of their borders.

Colombia has claimed all the airspace over its territory and will try to collect rent from any nation that parks a communications satellite there.

Throughout the world, the free flow of information is under fire. And because the United States is the nation where the communications revolution is most advanced, it is often our publications, our films, our credit data and our satellites that are under attack.

According to one Commerce Department study based on 1967 figures, the "information industry" accounts for 46 percent of the U.S. work force and almost half the gross national product.

So the prospect of an international "information war" is a serious threat to American interests in an increasingly interdependent world. Yet it is a threat that three U.S. administrations have found no strategy to meet.

The issue is not merely the flow of information in the traditional sense of news, scientific data and publications. Anything that can be sensed, recorded, stored or transmitted—an electronically monitored human heartbeat, a message transferring funds from one bank account to another, a radio signal from an observation satellite in space—is vulnerable to the rising tide of new restrictions.

Many of the countries imposing these restrictions fear cultural inundation or annihilation. They speak of "electronic colonialization" or "electronic imperialism." While we see ourselves offering the developing nations information they need to survive, they see in our technology a threat of vast and unwelcome change.

Our information, especially when it is delivered directly to their people from orbiting satellites, is seen in the Third World as endangering traditional national roles and ways of life.

Among the industrial nations, the developing "information war" is taking different forms and stems from different motives. Long frustrated by our lead in the computer and communications field, Europe has turned to a new form of protectionism.

France's minister of justice, Louis Joinet, put the European concern most directy in a speech to an Organization for Economic Cooperation and Development symposium last September:

"Information is power, and economic information is economic power, information has an economic value, and the ability to store and process certain types of data may well give one country political and technological advantage over other countries. This, in turn, may lead to a loss of national sovereignty through supranational data flow."

To protect their "national sovereignty" against this perceived threat, many European nations are enacting a variety of data-protection laws. Most of these laws are being passed in the name of personal privacy and individual rights.

It is hard to find fault with the impulse to protect the privacy of personal data. The problem comes when these new laws are then used to protect not individual privacy, but domestic economic interests.

According to Rep. Barry Goldwater Jr., R-Calif., an author of the 1974 Privacy Act, that is exactly what is starting to happen.

"European economic interests," Goldwater testified to a House subcommittee last June, "have seriously discussed using national legislation dealing with personal privacy to discriminate against foreign, non-European business and technology."

Or as Brendan McShane of General Electric's information services division put it in an interview with the trade journal Datamation, "Europe has finally figured out a way to blunt American technology. The privacy issue provides an economic wedge that they weren't able to develop in the computer mainframe and services business."

In other words, the chief effect of the new data-protection laws being discussed or already enacted in 19 nations may be to force American and other transnational corporations to set up local subsidiaries for the handling of data within national borders.

The first nation to restrict the flow of information in the name of privacy was Sweden, which passed its Data Act in 1973 as a response to the discovery that material on Swedish citizens was stored or processed in more than 2,000 data systems outside the country.

One example, cited by OECD consultant G. Russell Pipe in a New Scientist article last year, involved the fire department in the Swedish city of Malmo, which compiled a data bank of fire hazards in the city's buildings. When an alarm is called in, the address is entered on a computer terminal, and any unusual hazards at that address are displayed on the computer screen a minute later—via a computer in Cleveland, Ohio.

Under Sweden's 1972 data law, a new Data Inspection Board must approve any export of files or personal data.

The impact of the new information laws being enacted and discussed elsewhere is still uncertain:

West Germany's new federal data-protection act, which goes into effect this month, requires German data processors to stop the "improper input, access, communication, transport and manipulation of stored data."

Belgium and France are making it a criminal offense even to record or transmit some data. In France violators could play fines up to $400,000 and serve prison terms of up to five years for recording or transmitting data defined only as "sensitive."

The Swiss, to protect the privacy and the attractiveness of their numbered bank accounts, are considering laws to prohibit all electronic data transmission across their borders.

Canada has warned U.S. industry of its concern over the one-way flow of information to the United States. So far, the laws passed have all been at the provincial level, but the warnings have had effect: One medical information bureau owned by U.S. insurance companies already has set up a Toronto subsidiary just for Canadian data.

Some also see a potential major threat in Britain, where existing law requires that the British Post Office be able to read any transmitted message—a rule that, if applied to electronic data, would force firms to share their confidential cryptographic codes and data-compression formula with a government body.

Restrictions on the more traditional forms of information flow are even more widespread. Television, for instance, has become a prime target.

In Canada commercial messages have been deleted from U.S. programs relayed by Canadian cable TV systems, and a 15 percent tax on all non-Canadian programming has been proposed.

In Brazil the government has proposed that 70 percent of all radio and television programs must be domestically produced.

American films, another information product once welcomed around the world, are increasingly being rejected. Jack Valenti, president of the Motion Picture Association of America, told a Senate foreign relations subcommittee that five countries now impose higher admission taxes on foreign films than on domestic productions, and that 14 countries restrict film imports through other methods such as high rental charges.

Time magazine has now been banned or

taxed out of existence in 18 countries. American and Western reporters are increasingly being kept from entering and reporting on Third World countries.

"Harassment of foreign and domestic news media in the Third World is increasing," Peter Galliner, director of the International Press Institute of Zurich and London reported last June.

Increasingly, international conferences and organizations have begun to reflect the new resistance to information flow. Proposals to curb transmission are being considered in meetings of the European Economic Community, the Nordic Council, the United Nations and UNESCO.

The 19-nation Council of Europe has been debating the issues of access and privacy in the use of personal information by international data networks. The OECD recently established a new subcommittee on "information, computers and communications."

Even the International Telecommunications Union, a technical, problem-solving, non-political organization from its founding in 1865, has been politicized, starting with the expulsion of Portugal and South Africa in 1973 over the issue of "colonialism."

That vote was led by a Third World bloc, which in 1974 forced a reallocation of coastal radio-telephone frequencies in which maritime nations' heavily used bands were reduced so that narrow, largely symbolic bands could be awarded to new nations that have no use for them.

In the United Nations the information issue has been exploited by the Soviet Union, which in 1972 proposed to the General Assembly a draft convention calling for strict controls over satellite broadcasting into national territory. The Soviet draft would permit any state to "employ the means at its disposal to counteract illegal television broadcasting of which it is the object, not only in its own territory but also in outer space and other areas beyond the limits of the national jurisdiction of any state."

Although the Russians later said their draft only authorized "legal" measures, the language could cover both jamming and the destruction of broadcast satellites in space.

There is the possibility that a majority of nations, bridging the interests of the Third World and the industrial nations of the West, could impose a new, restrictive body of international law.

There is also the possibility that overlapping, contradictory national laws passed piecemeal around the world could create total chaos in international communications technology is too attractive to be unused, such laws will not end the information revolution.

Instead, data banks in countries where it has become impossible or too expensive to operate, or where privacy of the data cannot be secure, could move to new "data havens"—countries which have not passed restrictive laws.

In either event American interests would suffer.

What is needed first is an American commitment to a comprehensive national communication and information policy based on our traditional belief in the freedom and free flow of information, subject only to the rights of individual privacy.

Such a policy would have to be made and implemented by the president, cutting across long-established lines of bureaucratic organization and patterns of thought that have kept us from recognizing the interrelationship of computers, communications and information with our foreign affairs and international economic policies.

The White House Office of Telecommunications Policy, now slated for extinction under President Carter's Reorganization Plan No. 1, would have been the logical place for this mammoth task to begin.

With OTP gone, the next best place would be the newly created post of assistant secretary of commerce for communications and information.

Unfortunately, the assistant secretary designate, former Federal Communications Commission general counsel Henry Geller, faces the task of negotiating away OTP's old powers to satisfy House Government Operations Committee chairman Jack Brooks, D-Tex., before the new office at Commerce can be established.

Until then, we are at a virtual standstill. The State Department's task force on "transborder data flow," though impressive sounding, has little authority to act and even fewer resources to unravel this complex set of issues.

Meanwhile, President Carter has on his desk the report of the expired Privacy Protection Study Commission and is proposing a Cabinet-level effort to decide what to do with the commission's recommendations.

Since the privacy issue has become a focus of the international debate on information policy, this study could become another opportunity to create a national policy in this field.

There is much that could be done.

For the developing nations, concerned with cultural as well as economic inundation, the United States could offer technology with a minimum of strings. A model can be found in the National Aeronautics and Space Administration's loan of an advanced technology satellite to India in 1975.

For a year, 5,000 remote villages received medical information, education programs and entertainment originating in India and broadcast to village TV sets via this satellite. (Yet why did NASA bring the satellite back in 1976 for use over the United States, leaving behind ground stations the Indians had built to relay its programs?)

Such gifts of technology to the Third World could be an important part of an overall strategy for economic development. In return, we could hope for—and, where necessary, bargain for—the freedom and free flow of information.

With the developed nations, we could bargain for the free flow of information through multinational trade negotiations and bilateral agreements. Since the export of information products and the import of raw information is essential to our growing information economy, we must treat these efforts as we would any other important sector of our economy.

First, however, we should either establish that the 1974 Trade Act is big enough to cover the concept of information trade, or legislate explicit authority for our negotiators.

If we do proceed to bargain on information flow, we will have to be prepared to make trade concessions in other areas, where our technological advantage is smaller and our labor costs are greater.

The result could well be a loss of jobs in older domestic industries, in exchange for guarantees that our growing information industry will continue to expand.

If we believe in free trade, we will have to choose between protectionism and progress.●

AID TO NEW YORK CITY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the House Committee on Banking, Finance and Urban Affairs on May 3, 1978, by a vote of 32 to 9, ordered reported H.R. 12426, the New York City Financial Asssistance Act of 1978. This legislation would provide Federal guarantees for up to $2 billion of New York City obligations over the next 4 years. The bill was reported to the Banking Committee on April 26 by the Subcommittee on Economic Stabilization by a vote of 12 to 2.

The committee and subcommittee are persuaded that a program of long term—up to 15 years—Federal guarantees of New York's securities represents the best method of helping the city complete the process of rehabilitating its fiscal and financial practices, so that it can eventually meet its borrowing needs through the private credit market without further Federal assistance.

Why New York City needs Federal guarantees, and what the guarantees can be expected to accomplish, has been very ably explained in an article written by Julia Vitullo-Martin, editor-in-chief of the Fiscal Observer, in the May 4, 1978, issue of that publication, and I commend it to my colleagues' attention.

The article follows:

BALANCE SHEET—THE CITY'S PITCH FOR FEDERAL GUARANTEES

Mary Garden was a captivating opera singer who was famous at the turn of the century for her interpretation of Thais. When she had trouble with high notes, she would raise her arm, jingling her many silver bracelets, to mesmerize her audience into believing she had hit the notes. Now York City has tried the Garden tactic—and failed. It brandished its four-year plan—104 pages of figures and text—to try to convince Washington of its fiscal virtue, honorable intentions, and financing needs. It has yet to try the straight-forward strategy of laying out simply, in one page, why it needs federal guarantees.

Were the city to lay out its arguments simply, they would probably go like this. New York, like all large American cities, needs financing to survive. It needs long-term financing to maintain its capital plant. It needs short-term financing to close the gap between its daily obligations and its receipt of revenues. But, unlike other cities, it cannot get this financing through the public market, which is closed to it.

The city is doing everything in its power to get back to the market. It has slashed its expenditures, promised to eliminate its use of bonds for operating expenses by fiscal 1982 rather than by 1986, implemented new accounting procedures, submitted itself to outside audits, and yielded part of its autonomy to the EFCB. None of this fiscal virtue, however, has opened the doors to the market. Indeed, as it learned last fall, the city does not even have market access for a modest amount of highly secured notes.

Short-term financing: This is the simpler and usually the easier form of financing. The city will get $2.7 billion in short-term loans this year—$1.875 billion from the federal government and $800 million from the state. Together, these loans amount to about 20 percent of the city's expense budget. To convert this debt into everyday terms, it is like a New Yorker making $20,000 a year, but having to borrow $4,000 a year from his checking-plus account to pay his bills. There are sound as well as questionable reasons for someone finding himself in this position. His income may flow irregularly with large amounts coming in at certain times and small amounts at others. Or, he may have a heavy expense early in the year—say private-school tuition in January. Or, he may be

using his short-term credit to cover expenditures he cannot afford—much like the city did before 1975.

About $1.1 billion of the city's seasonal borrowing needs today are legitimate and largely beyond its control. It receives 45 percent of its revenues from the federal and state governments. But it does not get all this money before it must spend it. State aid is more of a problem than federal aid. The federal government, for example, pays its $305 million revenue sharing aid to the city quarterly, but the state pays its $434 million in one lump on June 25, five days before the city's fiscal year ends. The most burdensome cash flow problem is in education. The state pays one-quarter of its education aid in the fall and does not forward the rest until after the start of its own fiscal year on April 1. This is convenient for the state (which indulges here in a little fiscal gimmickry of its own), but it means the city has spent about 60 percent of its education expenditures while having only 25 percent of the aid.

The other $1.6 billion in seasonal financing this year is more questionable. Part of the federal loans in the first half of fiscal 1978 allowed the city to pay back the $800 million state advance from the previous fiscal year. But the city will use a new state advance this spring to help repay the federal loans. These two loans inflate the seasonal borrowing by 145 percent.

Reducing seasonal financing needs: The city has managed to get its seasonal needs down somewhat. This year, it borrowed only $1.875 billion from the federal government, not the $2.3 billion authorized. The city is looking for ways to reduce its seasonal needs even more. First, it has turned over all medicaid disbursements to the state, which will pay out medicaid and then bill the city for its 25 percent share. Second, the city has cut expenditures in welfare and education, two of the biggest items in seasonal financing.

Third, it is exploring the possibility of paying off the state's $800 million advance with the proceeds of a bond sale by MAC. This would be a bit like using a mortgage to pay off a checking-plus loan. Some lawyers do not like the idea. But bonding out the advance would reduce the city's seasonal needs by $1.6 billion—$800 million from the state and $800 million from the federal government.

Fourth, the city is considering various schemes to accelerate its real estate tax collections and to delay its pension fund contributions—over the protests of the funds' trustees, whose agreement is not necessary.

Long-term financing: The city's financing efforts over the past three years have been directed solely at getting its debt restructured through MAC. The city cut its capital spending to about $200 million a year—about one-fifth of what it figures it should spend.

As The Fiscal Observer has pointed out before (see II–7, p. 4), the city as deferred maintenance and rehabilitation for so long that a patchwork remedy is no longer a way out. New York must rebuild its capital plant, and it can only finance this by borrowing. Since the market won't take the city's debt, the only alternative, says the city, is federal guarantees—which the federal government has used lavishly in the past for all sorts of borrowers, but not for cities. While many guaranteed projects have defaulted, New York City has been a good federal credit risk—repaying its seasonal loans fully and promptly.

But the guarantees would serve another purpose. The city hopes the guarantees will eventually open the public credit markets to it. The city figures it should work like this: With the guarantees, MAC will have market access and finally clean up the city's financing. MAC will bond out the state advance and restructure its own early, high-interest debt. Both MAC and the city will pay lower interest rates on both long-term and short-term debt than they would without the guarantees. These budget savings and reduced seasonal borrowing needs will allow the city to eliminate its use of capitalized expenses by 1982. Without the guarantees, the budget pressure will be so onerous that the city's finances will be chaotic during the next four years, leaving investors with no more faith in the city in 1982 than in 1978.

Will the banks and pension funds finance the city without the guarantees? Senator Proxmire thinks they will. Others think they won't. But the waiting for Washington can't go on until June 30—by which date the city pension funds are to buy $683 million more city paper in accord with their 1975 commitment.

Has the city exhausted its local resources? Must it turn to Washington for guarantees? No one knows. The city has not been negotiating in the open with the banks, as it has with the labor unions. It has put public pressure on the unions, but not on the banks. If the banks have resisted giving the city a financing commitment sufficient to fill out the $5.1 billion plan, the city should make this public. Because, with or without guarantees, the city will have to turn to the banks and the pension funds—sooner or later.●

COUNTY MEDICAID OPTION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. PEPPER. Mr. Speaker, when the medicaid law was drafted by Congress, we had in mind that the States would decide what kind and quantity of medical benefits would be given to the needy. The Federal Government would aid, but not dictate medicaid coverage. In practice the medicaid law has done exactly what it was intended to do. It has given the States discretion to tailor medical benefits to their perceived needs and budgetary capability. In 1978 the Nation's 21 million medicaid recipients received markedly different benefits depending on the plan of the State in which they lived.

All AFDC recipients are eligible for medicaid benefits. In addition, 35 States provide coverage to all persons receiving supplemental security income (SSI) payments. In 15 States, medical coverage of SSI recipients is limited to those who can meet additional eligibility criteria, although those persons may deduct their medical expenses from their income to establish eligibility. Also, 33 States have elected to cover medically needy persons.

Many county governments under administrative arrangements distinctly different from the State medicaid system supply medical benefits to the needy that supplement and fill in medicaid gaps. In effect there are two medical delivery systems that are operative, each providing a different kind and range of benefits and requiring different criteria for participation.

Today I have introduced a bill that proposes to give the county an option to deliver county medical benefits to the needy through the State medicaid system. The bill would amend title XIX of the Social Security Act to enable a county government, or county governments, either individually or in conjunction with each other, to file, and submit for approval of the State planning authority, the (Governor, and Secretary of Health, Education and Welfare, an arrangement that would supply through the medicaid system a level of benefits at least equal to the benefits formerly supplied to the needy by the county. On satisfying certain conditions and criteria, the arrangement must be approved by the appropriate officials. As a condition precedent to approval, the county government must show that the administrative costs are not excessive when compared with the value of medical benefits to be delivered under the arrangement. The county must also show that the proposed arrangement is consistent with provisions of the medicaid law and State medicaid plan. A further condition requires that the county government make a committment to absorb the cost of matching the Federal contribution that the State would have had to make if the county supplemental medical benefits called for by the arrangement had been included in the basic State medicaid coverage.

The broad objectives of the bill are to cut administrative expenses by supplying as far as practicable State and county medical benefits to the needy through a single system, and to overcome the criticism that the level of benefits supplied by the State medicaid plan falls short of what the county government finds adequate.●

A TRIBUTE TO THE 30TH ANNIVERSARY OF ISRAELI INDEPENDENCE DAY

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1978

● Mr. FARY. Mr. Speaker, 30 years ago today, the establishment of the State of Israel was proclaimed by Mr. David Ben-Gurion, an act crowning the efforts of a group of dedicated individuals who, for years, had been working for the revival of the Jewish State. Its founding ended the 2,000 year diaspora during which time there was no homeland for the Jews. The rebirth of Israel was the fulfillment of a prophecy and the realization of a dream.

However, this realization has not come without enormous costs and sacrifices, for Israel has been forced to defend her sovereignty against the armies of her Arab neighbors in four wars—the 1948 war of independence, the 1956 Suez war, the six day war of 1967, and the most recent Yom Kippur war. But in each case, the Israelis have risen to the occasion and demonstrated their determination to exist as a free and independent nation. This is due to the high mobility of the Israeli Defense Forces, the

efficiency of the armored brigades and the competence of their air force. The greatest praise is saved for the Israeli tacticians and the brilliant execution of their basic strategy along with the courage and initiative of the Israeli soldier.

However, the years since independence have not all been spent at war. The Israeli economy has made tremendous gains since its birth in 1948. Growth rates in industrial production, commerce and services are proportionally comparable to those of the advanced economies of Western Europe. But agriculture, with an annual expansion rate of 8 to 10 percent, is perhaps the most interesting facet of the Israeli economy.

The Jewish immigrants who came to Israel to establish the cooperative and collective farming projects had been separated from the land for centuries. Many nations of Europe made it illegal for Jews to own land or to be engaged in farming, so the nearly one and one-half million immigrants to Israel had to learn a new occupation. The results of those cooperative efforts are evidence of their success. Three-fourths of the nation's food is home grown, irrigated land has quadrupled and cultivated land doubled in the past two decades. Hundreds of new farming villages have been established since statehood, production has more than quadrupled, and the value of agricultural production has increased over tenfold. Much of the agricultural increase has come from lands considered waste prior to the advent of Israel: Swamps, deserts, marshes, eroded hills, and areas drained of their productive capacity. Israel has literally turned the desert into a garden.

Culturally, Israeli society is a unique blend of European, Middle Eastern, and African influences. Immigrants have come from many areas and have brought their traditions with them to mix into the Israeli melting pot. Ten percent of the Israeli population are Arab Christians, Druzes, and Muslims, with half of the Jewish population originating in north Africa and the Middle East. Added to these communities are the Europeans, Americans, Latins and native-born Israelis. The result is a rich diversity of backgrounds and strengths combining to shape the character of today's Israeli citizen.

Israel has devoted considerable efforts to the development of the arts, higher education and the sciencies. The country can boast of a fine symphony orchestra, internationally recognized artists and sculptors, and Nobel Prize-winning authors. An annual international Bible contest and the quadrennial Maccabiah games provide competition in such divergent areas as Biblical scholarship and athletic prowess. There are more than 1,000 libraries and 5,000 schools in Israel today and there are seven major universities and 52 colleges, nearly 200 talmudical colleges, and many museums and institutes which specialize in subjects ranging from archeology to atomic energy.

Mr. Speaker, I am proud to pay tribute to the State of Israel on the occasion of the 30th anniversary of her independence and wish her many more but would be remiss if I did not take this opportunity to express my grave concern over the current no war, no peace stalemate in the Middle East. Since the establishment of Israel in 1948 and ensuing wars fought between the Jewish state and her Arab neighbors, one of the chief stumbling blocks to a permanent peace has been the inability of mediators to persuade the belligerents to sit down in face to face negotiations to discuss the terms of a lasting peace. However, the courage displayed by Egyptian President Anwar Sadat in his historic trip to Israel, the first ever by an Arab head of state, has changed the course of diplomatic history in the Arab-Israeli conflict. Sadat's trip to Israel represents a de facto recognition of Israel's right to exist, something Israeli leaders have tried for decades to secure. As a result of this peace gesture, Sadat has incurred the wrath of the radical Arab States, but has the whole hearted support of Egyptian citizens. They, like the Israelis, are tired of war and deprivation and desire only to live in peace.

Therefore, on the occasion of this great day, I ask my colleagues to join with me in calling on Israeli Prime Minister Begin and Egyptian President Sadat to reopen their historic dialog and give their peace efforts renewed momentum, else this precious opportunity may slip from our grasp.●

DISARMAMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1978

● Mr. McDONALD. Mr. Speaker, the United Nations will hold a special session on disarmament in New York from May 23 through June 28, 1978. The disarmament special session is the product of an initiative by the so-called nonalined block whose members include Cuba, Vietnam, Angola, Algeria, Mozambique, and other regimes in fact politically allied with the Soviet Union. The special session on disarmament comes, furthermore, at a time when the United States, subject to Senate ratification, and the Soviet Union are apparently in the final stages of concluding another strategic arms limitation agreement. Therefore, it was logical for the Soviet Union to organize an international pressure campaign aimed at getting the United States to make the maximum SALT II nuclear concessions and to take further steps unilaterally for disarmament while the Soviet Union wages war by proxy with Cuban forces for control of Africa and carries out cold wars of subversion against the non-Communist countries throughout the world.

Obviously one of the main ways to influence the leaders of democratic countries is to manipulate public opinion so as to create an illusion of popular demand for an immediate disarmament agreement no matter how dangerous to the Free World's interests are its provisions.

The Soviet Union and what it terms the "world Communist movement" have developed over the past four decades an effective and complex network of fronts and contacts for manipulating public opinion in the non-Communist countries.

Peace is a condition certainly desired by almost all people, and some who live in the non-Communist world believe it is the main issue on which agreement with the Soviet Union and its allies can be achieved. They forget or are ignorant of the fact that the leaders of the Soviet Union and those who base their ideology on Marxism-Leninism have a very different definition of "peace."

For Lenin, who declared that "imperialism" was the most advanced stage of capitalism, the very existence of economic competition in non-Communist countries "inevitably engenders imperialist war [and] * * * it is impossible to escape that inferno, except by *a Bolshevik struggle and a Bolshevik revolution.*"[1] (Emphasis in original). Therefore, any attempt by a non-Communist country to defend itself is a "criminal act" from the Leninist point of view. Lenin wrote the following to encourage treasonable actions by the Marxist revolutionaries in World War I:

> We do not recognize any other point of view. If war is waged by the exploiting class with the object of strengthening its rule as a class, such a war is a criminal war, * * *. If war is waged by the proletariat after it has conquered the bourgeoisie in its own country, and is waged with the object of strengthening and developing socialism, such a war is legitimate and "holy."[2]

Even Lenin appreciated the word play in the Russian language based on the fact that the word "mir" means both "peace" and the "world." It is noted that the Soviets use the terminology of war in relation to "peace" such as "waging unrelenting struggles" for "mir;" and it would appear that the unfortunate people of Ethiopia and Eritrea are now discovering with what brutality the Soviets and their Leninist allies wage the struggle for "mir."

I recently had some informative discussions with a Soviet academician and arms control expert who left the Soviet Union because he came to realize that the U.S.S.R. had no real intention of accepting anything less than superiority over the United States in all forms of armaments and because he came to view communism as a "reactionary" political movement because it negates the hard won rights to individual liberty won since the days of feudalism. This man, Dr. Igor Glagolev, was also informative as to Soviet orchestration of propaganda campaigns designed to influence public opinion in the Free World. These campaigns are carried out by a number of agencies: Western academics and intellectuals are targeted via the various institutes of the U.S.S.R. Academy of Science; the International Department of

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[1] Lenin, *Collected Works*, Vol. 33, "Fourth Anniversary of the October Revolution," Progress Publishers (in English), Moscow, 1972. First published in *Pravda*, October 18, 1921.

[2] Ibid., Vol. 27, "Left-Wing Childishness and Petty-Bourgeois Mentality." First published in *Pravda*, May 9, 10 and 11, 1918.

the Central Committee of the Communist Party of the Soviet Union directs the operations of the international front organizations aimed at special interest groups such as trade unions, women, youth lawyers and groups and individuals who support peace and disarmament; the Foreign Ministry handles contacts with diplomats; TASS, Novosti and those employed by assorted Soviet publications make contacts with the press; and throughout all these agencies are the trained agents of the Soviet KGB.

Dr. Glagolev said that the best recent example of Soviet manipulation of U.S. public opinion was the U.S. anti-Vietnam war movement. As a former official of the Soviet Peace Council, Dr. Glagolev spoke from personal knowledge of how the organizational structure of the U.S. anti-Vietnam movement was controlled by the Soviet Union through its World Peace Council (WPC) front. The leaders of the U.S. People's Coalition for Peace and Justice and its predecessors such as the Spring Mobilization Committee and New Mobilization Committee met repeatedly with WPC leaders at conferences in support of the Vietnamese Communists. The dates of protests in the United States were coordinated with those abroad for the maximum media effect. Slogans tailored to the political needs of the Vietnamese Communists were developed and made consistent for all groups working with the WPC.

Dr. Glagolev said that the World Peace Council was controlled jointly by the International Department of the Communist Party of the Soviet Union Central Committee and the KGB who select each WPC leader in each country. This tight security is necessary because the WPC's second function is to funnel logistical aid to terrorist groups.

According to Foreign Report, a publication of The Economist (London), the World Peace Council and the other Soviet international fronts such as the World Federation of Trade Unions (WFTU), the Women's International Democratic Federation (WIDF), World Federation of Democratic Youth (WFDY) and International Association of Democratic Lawyers (IADL) are preparing for major propaganda drives for 1978. Western disarmament with banning the neutron bomb and cruise missile as key points is the priority; but other campaigns emphasize alleged human rights violations in non-Communist countries targeted for Soviet "destabilization" such as Iran, Chile, Northern Ireland, and the southern African countries; promote "workers solidarity" against the multinational corporations via industrial espionage to "expose" their inner workings; and promotion of a "new international economic order" which will criticize the developed countries for not giving more to poor countries while minimizing the meager Soviet bloc aid to the Third World.

The disarmament campaign has been building for some 3 years now, and the tactic has been relatively simple: raise calls for disarmament while creating pressure for massive domestic welfare programs. A new element has arisen through the environmentalist protests to the use of nuclear fuel to generate electricity.

As I documented in these pages before, leading activists of the World Peace Council initiated the Mobilization for Survival in the early spring of 1977 in order to bring the environmentalist movement into the disarmament campaign. The organization set up to oppose U.S. assistance to South Vietnam had already been redirected to the disarmament issue following a 1975 conference in Chicago organized by the leaders of the Communist Party, U.S.A. operated U.S. section of the World Peace Council. Prominent among these has been the former Coalition To Stop Funding the War, now called the Coalition for a New Foreign and Military Policy (CNFMP), which has been active in lobbying for the transfer amendments which failed in both the Senate and in this body recently.

According to the Communist Party press, the transfer amendments, the activities of the Mobilization for Survival (MFS), and the UN Special Session on Disarmament are all related to the ongoing United States-Soviet strategic arms limitations talks.

For example, an article in the March–April issue of New World Review, cited by three Federal investigating bodies as a pro-Soviet propaganda publication produced by the Communist Party, U.S.A. (CPUSA) and its front, the National Council of American-Soviet Friendship, demonstrates a number of interlocks.

After quoting from materials published by the Washington, D.C.-based Institute for Policy Studies (IPS) and its Transnational Institute (TNI), which has had KGB agents like Orlando Letelier and leaders of several revolutionary terrorist groups on its staff, in order to prove that there is no Soviet threat and that "the threat to world peace is coming rather from the U.S. military-industrial complex," New World Review lists three projects which can "turn the situation around:"

> First, there is the campaign against the neutron bomb itself. Banning this weapon, currently possessed only by the United States, not yet deployed, * * * is the key to further advances in banning systems of weapons now deployed. In this worldwide campaign * * *, the World Peace Council is giving outstanding leadership. While emphasizing the primacy of the anti-neutron bomb campaign at this time, the WPC links it to the New Stockholm Peace Appeal calling for banning of all nuclear weapons.
>
> Next there is pressure for the speedy and equitable conclusion of the long-delayed SALT II agreement.
>
> One of the greatest tools we have to curb the soaring U.S. military budget is the Transfer Amendment, which will shift some $12 billion from arms to human needs. In its "Save our Communities Week," March 26-April 2, the Mobilization for Survival will press for the amendment's adoption this spring.
>
> And coming the end of May is the month-long Special Session on Disarmament of the United Nations General Assembly, which is expected to convene a World Conference on Disarmament. *It is essential that we ensure a positive position by the U.S. delegation at this session.* (emphasis added)

"All these demand immediate and massive pressure on the President and on Members of Congress," wrote the editor of the Communist Party's bimonthly Soviet propaganda publication which has been published for more than 45 years. She then attached a listing of organizations "involved in one way or another in the struggle for arms control, for cuting the U.S. military budget, for banning the neutron bomb" to enable any reader of New World Review "who is not yet in touch with a local group." The eight organizations listed by New World Review were:

Mobilization for Survival (MFS), 1213 Race Street, Philadelphia, Pa. 19107.

U.S. Peace Council (WPC section), 156 Fifth Avenue, Room 232, New York, N.Y. 10011.

National Council for American-Soviet Friendship (CPUSA front), 156 Fifth Avenue, Room 304, New York, N.Y. 10011.

American Friends Service Committee, 1800 Connecticut Ave., NW., Washington, D.C. 20009.

Clergy and Laity Concerned (CALC), 198 Broadway, New York, N.Y. 10038.

Women's International League for Peace and Freedom (WILPF), 1213 Race Street, Philadelphia, Pa. 19107.

Women Strike for Peace (WSP), 145 S. 13th Street, Philadelphia, Pa. 19107.

Coalition for a New Foreign and Military Policy (CNFMP), 120 Maryland Avenue, NE., Washington, D.C. 20002.

All of these organizations have worked closely with the WPC and other Soviet international fronts in the past. More detailed background material on the groups will be provided later in this report.

The New World Review article closed with a call for the supporters of this aged pro-Soviet magazine to immediately get to work in their unions, church and neighborhood groups, and "as part of the growing organized peace movement" in order to make 1978 "the time the neutron bomb was banned and the turn was made toward disarmament."

During April the pressure from the CPUSA on its supporters in favor of the transfer amendment as a tactic against the U.S. bargaining-chip SALT strategy was so great that even the Communist Party's chief thug and vulgarian Gus Hall went out to stump for transfer and SALT. Hall addressed a small Minneapolis meeting of long-time activists "in the Farmer Labor Association, as well as in the trade union, civil rights and peace movements" and told them, as the CPUSA's Daily World reported, that they should work for "swift passage" of the transfer amendment.

The monthly publication, People's Herald, which began last year as a project of young U.S. Marxist-Leninists associated with the CPUSA-controlled Young Workers Liberation League (YWLL) and Venceremos Brigade (VB) to publicize the "correct" views of the Moscow and Havana supported "liberation movements," foreign policy initiatives and domestic issues, has announced that the U.S. section of the World Peace Council is now seeking to form a New York Peace Council chapter to supplement existing groups like the Chicago Peace Council and Los Angeles Peace Council.

Karen Talbot, the Communist Party member serving as coordinator of the

U.S. Peace Council while its old-time U.S. Stalinist war horses, Pauline Royce Rosen and Frances Bordos (Bordofsky) devote more of their time to CPUSA's group in the CNFMP, the National Center to Slash Military Spending (NCSMS), has announced that the WPC's priorities are "demanding that President Carter renounce the N-bomb at the Special Session of the U.N. on Disarmament * * * and that Carter conclude the SALT–II agreement, limiting new and more destructive arms production."

The past week, May 8–15, was designated by the WPC as "International Week of Action Against the Neutron Bomb," with principal U.S. WPC activities "delegations and letters to Congress." The People's Herald is acting as a center for the formation of a New York chapter of the U.S. Peace Council from its offices at 156 Fifth Avenue, room 819, New York, N.Y. 10100 [212/929–8130]. The publication's bias showed in its account of NATO's nuclear planning group which People's Herald said:

plans for continued and rapid development of air, land, and sea based cruise missiles, which are directed at the Warsaw Pact countries and are meant to intimidate the Soviet Union in the hope to force it to draw back from its steadfast efforts to halt the escalation of the arms race.

People's Herald, which is offering new subscribers their choice of three paperbacks published by the CPUSA's International Publishers as a bonus, in articles and advertisements and editorials has been promoting the Coalition for a New Foreign and Military Policy's now failed transfer amendment; the campaigns of the WPC and its U.S. section; the antinuclear demonstrations over the May Day weekend in Golden, Colo., and at Barwell, S.C.; and the Mobilization for Survival's May 27 rally at the United Nations.

MOBILIZATION FOR SURVIVAL

The Mobilization for Survival (MFS) was organized in the early spring of 1977 at the instigation of British World Peace Council activist Peggy Duff following her meetings with Sidney Peck, a former member of the Wisconsin Communist Party State Committee, and Sidney Lens, formerly a member of a Trotskyite Communist group but who has been collaborating with the World Peace Council and the CPUSA for two decades.

Using the structure and contacts that had supported the series of U.S. anti-Vietnam coalitions in which the Communist Party, U.S.A. (CPUSA) played a major role—the Spring Mobilization, National Mobilization, New Mobilization and People's Coalition for Peace and Justice—Peck and Lens set up the MFS, which held its first conference on April 23, 1977, attended by 118 people. At that time MFS set out in a call to action its program for a spring 1978 lobby in support of the failed Transfer amendments followed by "internationally coordinated mass demonstrations at the time of the U.N. Special Assembly on Disarmament."

The MFS "Call to Action" asserted that it was "require[d] that the structure of militarism be attacked root and branch and the arms race be stopped, with massive and well-organized pressure for total and universal disarmament." The MFS uses four slogans as substitutes for thoughtful debate on complex issues: "Zero nuclear weapons; ban nuclear power (even for peaceful purposes); stop the arms race (even though the Soviet Union is the only one racing); fund human needs * * *."

It is instructive to compare the rhetoric of the MFS with that of the U.S.S.R.'s World Peace Council front, for example, the WPC's "Washington Peace Proclamation" issued following its precedent breaking U.S. conference on Capitol Hill January 25–27, 1978.

Said the WPC:

We proclaim our determination to fight for the slashing of military budgets, * * *

The World Peace Council proclaims its full support for the efforts * * * to end the arms race, to ban all nuclear and other weapons of mass destruction, to adopt effective measures for the reduction of arms and to move towards general and complete disarmament.

In the area of the demand that defense spending be channeled into social welfare programs here and in the poor countries, the WRC's "Washington Peace Proclamation" says:

A billion dollars are being spent every single day on armaments, while every single day a billion men, women and children suffer the death pangs of starvation and hunger.

The arms race devours the flesh and blood of millions.

The MFS version reads:

* * * death comes each day to the sick, the hungry and the poor of all ages * * * because money * * * has built nuclear warheads * * * carried ammunition [and] financed bombers. * * * Think what is happening in nations that are desperately poor, where most people are hungry most of the time, where almost everyone needs medical care and cannot afford it. Think of what could be done with the billions spent on arms. The arms race is a criminal attack on the peoples of the world.

The corollary of that is, of course, that anyone who supports a strong defense against Soviet aggression is guilty of "criminal attack on the peoples of the world," the sort of charge found at Communist kangaroo courts in purge trials. The instigator of the arms race is the Soviet Union whose leaders have an aggressively expansionist and imperialist foreign policy and who seek to replace all non-Communist governments with dictatorships they control. In light of those facts, the MFS's assertion that the "real security" of Americans would be best served by transfering defense funds to "health care, education, housing, and other basic human needs" is poppycock in all senses.

The dozen signers of the Mobilization for Survival "Statement of Purpose" were representatives of organizations which previously collaborated with the World Peace Council and Vietnamese Communists in the People's Coalition for Peace and Justice (PCPJ) and its predecessors. They included:

Norma Becker, Fifth Avenue Peace Parade Committee.

Rick Boardman, co-director, Clergy and Laity Concerned (CALC).

Daniel Ellsberg, PCPJ, Pentagon Papers thief who disclosed highly classified "sourced" diplomatic documents on U.S. policies in Southeast Asia.

Sidney Lens Chicago Peace Council (CPC), the CPUSA-controlled midwest chapter of the World Peace Council.

Dorothy Maas, Fellowship of Reconciliation (FOR).

David McReynolds, War Resisters League (WRL).

Sidney Peck, former member of the CPUSA Wisconsin State Committee.

Grace Paley, a member of RESIST, who often works with the WRL.

Terry Provance, former head of the American Friends Service Committee's Stop the B–1 Bomber Campaign, now head of the MFS's international liaison with the "peace movement."

Ron Young, a member of the Fellowship of Reconciliation and the American Friends Service Committee.

The groups participating in the founding of the Mobilization for Survival included:

Stockholm Peace Appeal Campaign—the WPC's disarmament petition project run in this country by the Communist Party's U.S. Peace Council and the National Center to Slash Military Spending.

American Friends Service Committee (AFSC)—formed by a group of fourteen pro-socialist Quaker pacifists in 1917 to aid draft dodgers, it has cooperated with Communists virtually throughout its history. For example, in 1922, AFSC sent Jessica Smith to Russia ostensibly to organize relief for the famine brought about by the Bolshevik forced collectivization of farms, but where she instead attended Comintern meetings. With her first husband, Harold Ware, Smith helped run a Soviet espionage ring in Washington, D.C., during the 1930s. Following Ware's death in an accident, Smith married his successor as head of the spy ring, John Abt, who is today general counsel of the Communist Party, U.S.A. and a member of its Political Committee. Until last year, Jessica Smith was editor of New World Review.

Although AFSC still describes itself as "a corporate expression of Quaker faith," its far-left stance has caused a number of sections of the Religious Society of Friends to sever connections with AFSC. AFSC has worked with the U.S.S.R.-run World Peace Council for many years. During the war by Communist North Vietnam on South Vietnam, AFSC repeatedly denounced the United States as "the major obstacle to a peaceful settlement of the war."

In 1972, AFSC published a pamphlet, "Non-violence: Not First for Export," justifying the use of "violent revolution" by Communist-backed "national liberation movements." It asserted:

The revolutionary goal is a human society where the worth of the individual will be recognized and each person treated with respect. * * * Land reform measures will be enacted * * * . Education will be provided for every member of the society; * * * . There will be employment for all. Discrimination because of race, colour or creed will end. Universal medical care will be provided. * * *

Any sensitive recollection of the imperialistic rise of the western nations during the past five centuries compels us to see the central role played by violence in their assumption of power over the people of Africa, Asia, and Latin America. This has been apparent not only in the military structures of control, but in the political, economic and cultural forms of coercion and domination. At the heart of western hegemony has been its ultimate power to overwhelm with physical force the colonized

people who have thus been pushed against the wall by the keepers of repressive law and oppressive order. They have seen no recourse other than to take up the same arms which were used to exploit them. They have been taught by the West that force and violence are the ultimate arbiters of human destiny, and reluctantly they have been moved to action based on those suppositions.

Violence has become most apparent when the dispossessed have demanded the right to control their own land and destiny. In response to such insistent demands, every weapon in the western arsenal, from subversion and napalm to the threat of atomic destruction has been used to maintain the unjust and oppressive power of the ruling forces. We can now see that violence permeates the status quo as, for example, in South Africa: (1) in the suffering created by lack of decent living standards, resulting in poverty, malnutrition, starvation; and (2) in the brutal practices and behavior of the police and penal system and the injustice of the courts and legal system. The U.S. has allied itself economically with the violence of this status quo, and we ourselves are a part of it.

It should surprise no one, therefore, that Third World forces have turned to counter-violence as a means of winning their freedom.

Often overlooked and simply taken for granted, frequently described as the "community of law and order", is the violence of the status quo in America, the violence of many generations that still exists in massive fashion today. This violence is expressed in the agony of millions of men, women and children who in varying degrees suffer hunger, poverty, ill-health, lack of education, non-acceptance by their fellowmen, it is compounded of slights and insults, of rampant injustice, of exploitation, of police brutality, of a thousand indignities from dawn to dusk and through the night.

We hear so much in today's world about "terrorism". Repeatedly it is used to signify violent action on the part of oppressed peoples in Asia, Africa, Latin America, or within the black ghettos of America, as they take up the weapons of violence in a desperate effort to wrest for themselves the freedom and justice denied them by the systems that presently control their lives. What is so easily (one suspects, often deliberately) overlooked is the fact that the very regimes rebelled against the incarnation of a greater violence and terrorism than any used in the struggle against them. Long before the first freedom fighter laid hold upon a gun, a club, long before the first brick was thrown in Watts or Newark, racist societies were already guilty of a ruthless reign or terror where freedom was suppressed and human dignity denied.

. . . before we deplore terrorism it is essential for us to recognize fully and clearly whose "terrorism" came first, so that we can assess what is cause and what is effect. It is easy to recognize the violence of the revolutionary when he strikes out against the inequities and cruelities of the established order. What millions of middle-class people and other non-poor fail to recognize is that they are themselves accomplices each day in meting out inhuman, all-pervading violence upon their fellows.

Instead of trying to devise nonviolent strategy and tactics for revolutionaries in other lands, we will bend every effort to defuse militarism in our own land and to secure the withdrawal of American economic investment in oppressive regimes in other parts of the world.

Revolution then is needed first and foremost in the United States, thoroughgoing revolution, not a mild palliative. Specific and far-reaching changes are needed in American foreign policy, with equally specific and thoroughgoing changes in the U.S. domestic scene.

Institute for Policy Studies (IPS)—a Washington, D.C., based Marxist "think-tank" pressing for a socialist America by a variety of tactics. For the most part, IPS projects examine how policies favorable to the interests of the Soviet Union may be implemented by "progressives" in the United States. One of its chief tactics has been a sort of lobbying or "subversion from the top" in which IPS attempts to gain influence in Congress and federal agencies through seminars and other direct contacts with staff aides, legislators and officials. IPS members such as Richard Barnet, Earl C. Ravenal, Michael Klare, Daniel Volman, Fred M. Kaplan and others provide the basis for much of the anti-defense propaganda of the Mobilization for Survival (MFS), Coalition for a New Foreign and Military Policy (CNFMP), and closely related projects like the Center for International Policy (CIP) and Center for Defense Information (CDI).

The Institute for Policy Studies has never discounted the role of violence and terrorism in producing what it terms "social change." IPS and its international project, the Transnational Institute (TNI) for many years have had staff members working in support of Soviet-backed terrorist groups in Africa, the Middle East, Southeast Asia and Latin America via groups like the American Committee on Africa (ACOA), Middle East Research and Information Project (MERIP), Indochina Resource Center (IRC) and North American Congress on Latin America (NACLA).

Furthermore, the IPS and TNI staff has included Tariq Ali, a leader of the Trotskyite communist Fourth International's British section, the International Marxist Group (IMG), which works closely with several Irish terrorist gangs; U.S. Weatherman members and contacts Robert "Bo" Burlingham and Andrew Kopkind; Algerian FLN terrorist Cheriff Guellal; a variety of other Marxist-Leninist leaders; and the KGB agent, Orlando Letelier.

Clergy and Laity Concerned (CALC)—whose co-directors are Rick Boardman and Don Luce, a public supporter of the Vietnamese Communist's forced labor "re-education camps." was formed in 1965 by the National Council of Churches, but received little publicity until its 1967 White House demonstration in conjunction with the CPUSA-influenced National Mobilization Committee to End the War in Vietnam. CALC continued to play an important role in New Mobe and PCPJ with its leaders frequently meeting with the Vietnamese Communists in Paris and Hanoi. In January 1970, CALC described its goals in the following terms:

* * * what we're about today is not simply an end to the war in Vietnam, but a struggle against American imperialism and economic exploitation in just about every corner of the world. * * * Our task is to join those who are angry and who hate the corporate power which the United States presently represents, and to attempt, in our struggle, to liberate not only black, brown and yellow men in every corner of the world, but more importantly, to help liberate our own nation from its reactionary and exploitative policies.

Coalition for a New Foreign and Military Policy (CNFMP) and its "Disarmament Working Group"—CNFMP was formerly the lobbying group, the Coalition to Stop Funding the War, set up by the groups forming the People's Coalition for Peace and Justice. When South Vietnam fell to the Communists in 1975, the group changed its name and immediately moved into the disarmament and foreign policy campaigns being re-heated by the WPC. Just as TCPT worked losely with the Coalition to Stop Funding the War, CNFMP and the Mobilization for Survival (MFS) operate as complementary organizations on the disarmament, human rights, arms sales, antinuclear and other issues.

Women's International League for Peace and Freedom (WILPF)—an internationally active disarmament group thoroughly penetrated by the Communist Party, U.S.A. (CPUSA) to the extent that some chapters have CPUSA members as their leaders. WILPF collaborates closely with the WPC on all issues. WILPF provided the MFS with its initial offices and still plays a major role in operations.

Women Strike for Peace (WSP)—formed in the early 1960s and from its inception thoroughly penetrated by the Communist Party, U.S.A. In many areas, WSP and WILPF are virtually identical in membership and policies. WSP leader Pauline Rosen, a CPUSA member, runs both the U.S. WPC section and the National Center to Slash Military Spending, a member group of CNFMP and MFS.

Sane—formed with the assistance of the AFSC, played a leading role in the founding of the National Center to Slash Military Spending. SANE's executive director now is David Cortright, a former anti-military organizer at Fort Bliss who as an IPS intern from 1972 to 1974 transformed his activist practice into theoretical studies of how to subvert military discipline and order. Moving from the Center for National Security Studies (CNSS), a project aimed at destroying U.S. intelligence agencies which is staffed by IPS veterans and other New Leftists, Cortright replaced long-time SANE executive director Sanford Gottlieb in 1977 when Gottlieb moved on to head New Directions, Common Cause's international affairs spin-off.

The Mobilization for Survival lists the following national organizations and publications as working with it:

The following national organizations and publication are working with the Mobilization for Survival:

American Friends Service Committee;
Another Mother for Peace;
Catholic Peace Fellowship;
Clergy & Laity Concerned;
Critical Mass;
Fellowship of Reconciliation;
Gray Panthers;
Institute for World Order;
Mennonite Central Committee;
Movement for a New Society;
National Center to Slash Military Spending;
Peoples Alliance;
Promoting Enduring Peace;
SANE;
Seven Days Magazine;
Socialist Party;
Sojourners Magazine;
Stockholm Peace Appeal;
Task Force Against Nuclear Pollution;
War Resisters League;
WIN Magazine;
Women Strike for Peace;
Women's International League for Peace and Freedom;
World Citizens Assembly.

Regional and local groups working with the Mobilization for Survival include the following:

Alask. Public Interest Research Group;
Alliance for Survival, L.A., Ca.;
Arizona Mobilization for Survival;
Armadillo Coalition of Texas;
Artists Mobilization for Survival;
Atlantic Life Community;
Berkeley Students for Peace;
Boston Mobilization for Survival;
Boulder Mobilization for Survival;
Brandywine Alternative Fund, Media, Pa.;
Cactus Alliance (S. West Region);
Catfish Alliance (S. East Region);
Center for Peace Education & Action, New Haven, Ct.;
Chicago Mobilization for Survival;
Chicago Peace Council;
Citizens United for Safe Energy, Des Moines, Iowa;

Clamshell Alliance, Seabrook, N.H.;
Delaware Pacem in Terris;
E. Lansing Peace Educ. Center;
Erie Mobilization for Survival;
Genesee Valley Committee for Peace;
Great Plains Alliance;
Human Needs Education Action Network, Albany, NY;
Iowa Mobilization for Survival;
Ithaca Mobilization for Survival;
Jonah House, Baltimore, Md.;
Koinonia Partners, Americus, Ga.;
League Against Nuclear Dangers, Stevens Point, Wisc.;
LPOCO, Bethlehem, Pa.;
Long Island Mobilization Committee;
L.I. Safe Energy Coalition;
Madison Mobilization for Survival, Madison, Wisc.;
Miami Mobilization for Survival;
Mid-Peninsula Peace Conservation Project, Mountain View, Calif.;
Missourians for Safe Energy;
Mountain Life Community, Missoula, Montana;
Nebraskans for Peace;
N.Y. Metropolitan Area Mobilization for Survival;
Northern Sun Alliance, Minneapolis, Minn.;
Northern Thunder, Eau Claire, Wisc.;
Northwest Network for Peace & Justice, Seattle, Wash.;
Oystershell Alliance, New Orleans, La.;
Ozark Food Co-op, Fayetteville, Ark.;
Pacific Life Community;
Paddlewheel Alliance (Kentucky & Indiana;
Palmetto Alliance, S. Carolina;
Portland Mobilization for Survival;
Potomac Alliance, Wash, D.C.;
Rochester Peace & Justice Education Center;
Rocklanders for Disarmament & Social Justice, Pearl River, NY;
Rocky Flats Action Group, Denver, Colo.;
Sagebrush Alliance, Las Vegas, Nev.;
Schenectady Peace Center;
SEA Alliance, New Jersey;
South Jersey Peace Center;
So. Mobilization Affinity Group;
Southerners Mobilizing for Survival;
Syracuse Peace Council;
Texas Mobilization for Survival;
Thomas Merton Center, Pittsburgh, Pa.;
Trojan Decommissioning Alliance, Portland, Ore.;
UC Nuclear Weapons Lab Conversion Project, S.F., Ca.;
Washington Area Mobilization for Survival;
Westchester Peoples Action Coalition (WESPAC);
Western NY Peace Center;
Zero Nuclear Weapons, Phila., Pa.

SOVIET COVERAGE OF U.S. DISARMAMENT MOVEMENT

Predictably, the activities of the U.S. organizations cooperating with the Soviet front groups in promoting extreme American disarmament measures, breaking of alliances, cutting off arms sales and defense aid to allied nations under attack by revolutionary terrorists and subversive groups have received considerable attention from the Soviet media. For example, TASS correspondent Vitaly Gan provided a lengthy English language report on an April 22 press conference by the Coalition for a New Foreign and Military Policy at which Jane Leiper, associate director of the National Council of Churches, Washington office, and Michael Klare spoke for CNFMP to urge an end of arms sales to Nicaragua, South Korea, El Salvador, Chile, and other countries. According to the TASS report, CNFMP wants to make this country "abandon the ominous role of the world merchant of death." Considering that the death toll from the imposition of a Communist system in the Soviet Union is estimated at 60,000,000 dead of civil war, starvation, slave labor and purges; that figure of 60,000,000 and more have been estimated for Red China; that up to 2,000,000 people have been slaughtered and starved by the Cambodian Communists; that similar processes have been occuring in Angola, Ethiopia, and other African countries where Marxist dictatorships rule; it is not the United States that has earned the title "world merchant of death."

Michael Klare, who makes a specialty of collecting all possible information about U.S. sales, transfers and training programs related to defense and counter-insurgency technology, began as a "red-diaper baby" in a family long active in the National Emergency Civil Liberties Committee (NECLC), a Communist Party front formed to lead the campaign to destroy the U.S. domestic security and intelligence programs. Michael Klare became a leader of the Students for a Democratic Society "power structure research" projects, and in 1966 was a founder of the North American Congress on Latin America (NACLA), the self-described "anti-imperialist" research group set up to serve as the "intelligence-gathering arm" of the U.S. revolutionary left. NACLA has had intimate ties not only with the Weather Underground terrorists, but with the Cuban regime. NACLA operates a network of confidential contacts in industries, financial institutions, and Federal agencies. It will be recalled that one of these secret contacts, Treasury Department economist Richard Meinberg, was being placed in direct contact with KGB agent Orlando Letelier at the time of Letelier's murder; and that when his connection with NACLA was made public he left the Treasury Department to take a State Department post.

Now a member of the staff of the Institute for Policy Studies, Klare has participated in World Peace Council disarmament meetings and lectured a number of times on U.S. arms policies in Havana. According to Institute for Policy Studies sources, Klare went to Havana last fall to do some "research" immediately following which he was coauthor of an article charging that a complex and covert sales and shipping network was purchasing aircraft to be converted for military purposes in Southern Africa.

In addition to his activities with IPS, CNEMP, and the Fund for Peace's projects such as the Center for National Security Studies, Center for Defense Information, and Center for International Policy, Klare heads the Arms Race Task Force of the Mobilization for Survival which is now organizing demonstrations, marches, and conferences for the opening of the United Nations special session.

MOBILIZATION FOR SURVIVAL ANTINUCLEAR RALLIES

Over the May Day weekend of April 29–30, the Mobilization for Survival sponsored demonstrations in Barnwell, S.C., and near Golden, Colo., in an attempt to lure environmentalist and student groups into the Soviet-sponsored U.S. disarmament movement.

Organized by the Palmetto Alliance, an antinuclear power group modeled on the Clamshell Alliance in New Hampshire, Massachusetts, and other New England States, demonstrations attracted approximately 1,200 persons to a rally at a 20-acre campsite 3 miles from the Allied General Nuclear Services reprocessing plant at Barnwell. April 29 was devoted to a day of nonviolent training in mass civil disobedience and on organizing 300 volunteers who were willing to face arrest into disciplined "affinity groups" of 8 to 12 persons based on their place of common residence and wherever possible, their previous acquaintance.

On Sunday, April 30, the antinuclear demonstrators attended a rally addressed by Dr. Helen Caldicott, an Australian pediatrician now practicing in Boston who has been a leader of the Australian disarmament and antinuclear movements; a retired professor of medical physics, John Gofman; Palmetto Alliance leader Brett Bursey who first began urging national demonstrations against the Barnwell facility at Ralph Nader's Critical Mass Conference in 1975; and four members of the United Japanese Movement against A- and H-bombs, a unification of the Japanese Communist Party-controlled Gensuikyo and the Japanese Socialist Party-controlled Gensuikin groups. A march to the Barnwell reprocessing plant and back to the campsite was followed by a Jackson Browne rock concert.

On Monday, May 1, approximately 300 persons organized into affinity groups and describing themselves as "human petitioners" marched to the Allied General Nuclear Services plant property. As a heavy rain began the demonstrators moved onto the grounds but remained outside the main protective fence. After some time, plant security personnel told the demonstrators they were trespassing and asked them to leave. Eventually, after a second warning, the slow process of arrests began. In all, 284 demonstrators were read a set series of statements reminding them that they had refused to leave, were trespassing, and thus were subject to arrest—a process that took several hours.

Palmetto Alliance organizers were not pleased with the fact that 27 of those arrested refused to post bond, and so stayed in jail. These were, for the most part, veterans of the Clamshell Alliance's demonstration at the Seabrook powerplant in New Hampshire last summer. The Palmetto Alliance decided not to do support work for those who refused to post bond and concentrated on cleaning up the camping site before shutting down their office and going home. When the bond refusers realized that their action might interfere with the majority group's tactic in hoping for one mass trial, most paid up on Friday, May 5. Three diehards stayed in jail until Monday, May 8.

The approximately 150 persons who posted bond presumed that their local Palmetto Alliance lawyers would be able

to represent them at the preliminary hearing on May 5. The local judge, however, ordered all bond forfeited and dropped all charges except for those who remained in jail and two persons who turned up at the hearing. Thus the Palmetto Alliance has been denied its "mass trial" which it hoped to use as a free publicity forum for antinuclear statements.

The Palmetto Alliance's lawyers had negotiated in advance with South Carolina law enforcement officials so as to obtain the best possible terms for bond which on trespass charges may range from $15 to $50. Furthermore, the Palmetto Alliance had the State officials agree that demonstrators would receive a quick arraignment and not have to spend a night in jail as the arrests took place late in the day, and that they would all be taken back to their campsite by the Corrections Department buses. When an initial bond of $25 for simple trespass was suggested by the State authorities, the Palmetto Alliance insisted on the low figure of $15, which they got.

On the positive side, the South Carolina officials had organized the local, county, and State police agencies into one unified command under the direction of Col. J. P. Strom, head of the South Carolina State Police. Arrests made quietly and professionally; and contingency back up help was nearby should the anti-nuclear demonstrators have decided to take Clamshell Alliance leader Sam Lovejoy's advice and "take the machine."

The Colorado protests were organized by the Rocky Flats Action Group (RFAG), formed in 1974 by activists from the American Friends Service Committee, Clergy and Laity Concerned, and Environmental Action of Colorado. Since 1974, the RFAG has sponsored visits by Japanese anti-nuclear activists, was a participant in the War Resister's League's 1976 Continental Walk for Disarmament and Social Justice.

Antinuclear events in Denver commenced on April 27 with an RFAG meeting on peace conversion featuring Philip Asquith, a leader of the British Aerospace Workers Union, and Columbia University Professor Lloyd J. Dumas. On Friday RFAG conducted a day of civil disobedience training for affinity groups, and in the evening a caravan group that had driven from South Carolina's Savannah River reactor to Denver through Atlanta, Chattanooga, Memphis, and other cities arrived.

The RFAG distributed a 20-page booklet entitled "Local Hazard, Global Threat," which traced the U.S. manufacture of nuclear weapons from the production of plutonium in the Savannah River and Hanford, Wash., nuclear reactors, through the fabrication of plutonium trigger mechanisms at the Rocky Flats facility, to final assembly of finished components and eventual recycling of plutonium from dismantled, outdated weapons again at Rocky Flats. The booklet explained that the Rocky Flats facility, owned by the U.S. Energy Research and Development Administration (ERDA) and operated by Rockwell International, is a target because it "is a critical link in a nuclear weapon production chain that begins with weapons orders from the Pentagon and moves to bomb design at the University of California laboratories in Los Alamos, N. Mex., and Livermore, Calif."

RFAG literature promoting the demonstration said that—

> Closing down Rocky Flats would be a significant national initiative toward global disarmament.

Concern with the safety of nuclear power and other nuclear installations is an important public issue, and one which I share with many Americans. However, the Marxist revolutionary purpose of the mobilization for survival was made clear with the speeches to some 1,500 persons at a rally in downtown Denver on April 29. Speakers included Sidney Lens, whose long career in various Marxist-Leninist groups we have mentioned earlier, and Stokely Carmichael.

Carmichael, who was one of the most venemous militants of the 1960's, demonstrated he has not softened his position. He now leads his own Marxist-Leninist party, the All-African People's Revolutionary Party (AAPRP) which supports "total liberation and unification of Africa under scientific socialism." "Scientific socialism" is Angela Davis's favorite code word for Communism.

My colleagues may be interested to note that Carmichael and the AAPRP joined with members of the Patrick Sheils Irish Republican Club, a support group for the Soviet-sponsored Official IRA, and contingents of backers of the terrorist Palestine Liberation Organization (PLO) in a march of some 3,000 persons through the streets of Washington, D.C. Led by Carmichael and former Black Panther Party leader Bobby Seale, the marchers chanted: "Long live the PLO," and "South Africa and Israel must be destroyed." In his speech to the Washington rally, Carmichael predicted a socialist revolution within 10 years in this country.

In Denver, Carmichael provided a rabble-rousing speech cheered by the crowd when he attacked the U.S. "capitalist system" for indulging in "corporate greed at the expense of humanity" by defending the Free World with nuclear weapons.

As far as TASS correspondent Vitaly Chukseyev was concerned, the main event was the April 30 demonstration at the Rocky Flats plant in which nearly 5,000 persons participated. The TASS man spoke with Mobilization for Survival representative Daniel Ellsberg, the man who stole the Pentagon Papers and gave to our enemies top secret coded messages, political reports and evaluations noting the sources for the information. According to TASS, Ellsberg said he "fully agrees" with Leonid Brezhnev's "peace" proposals—in which the U.S.S.R. would keep its tanks, planes, missiles, and troops in the Warsaw Pact countries while the United States agrees not to build neutron bombs designed to counteract an invasion.

In his speech to the Rocky Flats rally, Ellsberg looked back to the success of the anti-Vietnam protests in bringing about U.S. abandonment of South Vietnam, and called on the disarmament and antinuclear activists to continue their participation in demonstrations. Ellsberg did not remind the crowd that the U.S. anti-Vietnam movement was organized by the Soviet Union and that the veterans of the anti-Vietnam movement were the ones who had created the Mobilization for Survival.

Following the Denver rally, a car caravan was formed to take demonstrators to the Rocky Flats plant at Golden, some 45 minutes away. Another rally was held at which the speakers included Richard Barnet, co-director of the Institute for Policy Studies; Philip Asquith, British Aerospace Workers Union; Mobilization for Survival activist Dr. Helen Caldicott; a member of the American Indian Movement, and organizers of the Rocky Flats Action Group.

At the end of the afternoon in increasingly heavy rain, the 150 civil disobedience volunteers began to blockade the railroad spur leading to the Rocky Flats plant. Temperatures dropped to near freezing, and only 65 hard core militants remained by 7 a.m. the next morning. Since no action had been taken to remove them, the demonstrators announced that they would continue the sit-in. Following President Carter's "Sun Day" appearance in Golden on May 3, the demonstrators announced they would continue to block the railroad until the U.N. disarmament session opened on May 27. Finally, on Friday, May 5, after 5 days of rain and snow, a mere 28 demonstrators remained to be arrested for criminal trespass and blocking a railroad right-of-way. Daniel Ellsberg was among those arrested.

On May 7, 23 demonstrators returned to continue the blockage. Another camp was set up near the railroad tracks. On May 8, Ellsberg and 23 others were arrested.

Antinuclear demonstrations in France, West Germany, and other Western European countries have attracted contingents of militants and revolutionaries who have engaged in violent confrontations with police. These have included associates of the Baader-Meinhof terrorist organization and groups of Trotskyite communists from the Fourth International's parties who have been engaged in and supporting terrorism in Europe, Latin America, and the Middle East. The Clamshell Alliance organization has had a number of European antinuclear organizers from France and West Germany working with it during 1976 and 1977. It is of interest that the Rocky Flats demonstration also had veterans of these European actions participating.

Parenthetically, it is noted that the U.S. section of the Fourth International, the Socialist Workers Party (SWP), has not given up on its attempts to infiltrate and take over the antinuclear movement despite rejection by most of the Clamshell Alliance-oriented environmentalist groups. However, the SWP is encouraging the MFS's development of a

strong national organization which is much easier to control than a coalition of strongly independent local groups.

True to its track record, the SWP is trying to get MFS and Clamshell to agree to set a date for a single national antinuclear demonstration in Washington, D.C., so as to have more "media impact." SWP members are continuing their attempts to work with local Clamshell and MFS affiliates.

MFS UNITED NATIONS PLANS

The Mobilization for Survival has announced a "multi-faceted schedule of events" planned to persuade the U.S. delegation to the U.N. Special Session on Disarmament of "growing public support for disarmament, the development of nonnuclear sources of power, and the funding of programs which provide real security for people by meeting basic human needs."

According to most of the groups supporting the CNFMP and MFS, "real security" means services provided by Marxist states such as a government-provided job, house, food, and medical care—the "kennel rights" of socialism boasted of by the totalitarian regimes in Moscow and Havana where every personal and political right is suppressed.

The MFS calendar of events includes:

May 25–26: International Religious Convocation for Human Survival, a program of the MFS being organized by its religious task force leader Paul Meyer, a former leader of the Anti-Vietnam People's Coalition for Peace and Justice, and by Clergy and Laity Concerned.

The religious convocation is designed to encourage the religious community to "raise a passionate cry * * * against the threat of nuclear destruction." Passion is an insufficient substitute for logic during sensitive arms control negotiations when political pressure may force really dangerous concessions.

The religious conference participants will march in the May 27 action and will also hold a special "procession" on the afternoon of May 26 to the U.N. to display "the Jewish ritual blowing of the Shofar, the soulforce of the Black church, the prayers of Bishops and Evangelicals, the chanting of Buddhist monks from Hiroshima, the Mother Earth rites of American Indians, the silence of contemplatives * * *."

May 27: MFS plans call for mass rallies on May 27 in San Francisco at the Civic Center Plaza organized by the Alliance for Survival, 1360 Howard Street, San Francisco, Calif. 94103 [415/626-6976] and in New York where a noon march from 42nd Street and Sixth Avenue to the United Nations will be followed by a 3-hour rally.

On May 28 and 29, the International Mobilization for Survival (IMFS), set up in Geneva in October 1977, by representatives of the MFS, the War Resisters International, the International Peace Bureau, the International Confederation for Disarmament and Peace, the Japanese United Movement against A and H Bombs and other groups. The IMFS states that the conference has the support of other groups including the National Peace Council, the Campaign Against the Arms Trade and the Peace French Mouvement in Great Britain; the French Mouvement pour le Desarmement and Paix et la Liberte; the Greek Committee for Nuclear Disarmament and Peace; and Folkereisning mot Krig in Norway.

MFS expects 400 foreign participants and 400 U.S. participants (at a $10 registration fee), but English will be the language of the meetings.

The International MFS Conference is being organized by the veteran British "peace" activist, Peggy Duff, operating from 777 U.N. Plaza, room 1100, New York, N.Y. 10017 [212-682-1345].

The MFS has announced that Ambassador Andrew Young has agreed to meet with a delegation of 15 MFS leaders, United States and foreign, during the rally. The delegation is to be headed by the Marxist theoretician from the American Indian Movement's International Indian Treaty Council, Jimmy Durham.

The Boston MFS chapter is coordinating "street theater" action called "no more victims." At the sound of a signal siren, volunteers are to fall down in the streets along the MFS march route. The action is a compromise between those who wanted a civil disobedience action and leaders of WSP and WILPF who were afraid that U.N. delegates might think the demonstration was an anti-United Nations protest.

MFS states, "People should choose lying-down positions with some degree of awkwardness to simulate death, but elaborate theatrical ploys are not necessary."

A number of groups active in the Mobilization for Survival have set up disarmament projects for the duration of the United States special session. The Fellowship of Reconciliation will open the Plowshare Coffeehouse and Discussion Center on the second floor at 777 U.N. Plaza.

Speakers at its meetings will include Richard Barnet, IFS; David McReynolds, WRL; Sol Mendlovitz, Institute for World Order; Arthur Waskow of the Public Resource Center; William Sloan Coffin; and Hungarian Bishop Dr. Karoly Toth, secretary-general of the Christian Peace Council (CPC), an off-shoot of the World Peace Council.

The United Nations Non-Governmental Organizations (NGO) in which the Soviet-controlled fronts and their U.S. collaborators are playing a major role, has set up their own disarmament center and will have a full day of the special session for their statements. On June 12, these will include the World Peace Council, Women's International Democratic Federation, World Federation of Scientific Workers, World Council of Churches, WILPF, "youth NGO group" including the U.S.S.R.'s World Federation of Democratic Youth and International Union of Students; and the Socialist International.

The Mobilization for Survival says that contributions to it are tax deductible if made out to "Youth Project—MFS Public Education Fund." The Youth Project is thus providing a tax exempt funding channel for the MFS's demonstrations and the end result is that the U.S. taxpayer is subsidizing this group's political pressure campaign for disarmament.

As elected representatives of the American people, it is our responsibility to expose the attempts of the MFS to manipulate public opinion and influence important decisions, and to call for an investigation into the MFS and Youth Project financial arrangement.

The World Peace Council, the Mobilization for Survival and their allies support the sort of "peace" the people of Vietnam, Cambodia, Ethiopia and Angola are now suffering from. It is the responsibility of the Houses of Congress to insure that the real interests of the American people whom we represent are protected in any disarmament treaties the executive branch may negotiate.●

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. FOWLER. Mr. Speaker, the pending Alaska National Interest Lands Conservation Act is a matter of great significance to Atlantans. In recent days my office has received more than a hundred letters and phone calls supporting this landmark piece of legislation. Many other residents of the Southeast testified in favor of H.R. 39 at hearings on the bill in Atlanta on May 14, 1977. More than ever, I am convinced that Alaskan wilderness is a national resource in every sense.

I joined other citizens of Atlanta in expressing my complete support for H.R. 39 at the May 1977 hearings because this legislation offers us a unique opportunity to preserve whole ecosystems that have unmatched natural, recreational, and wildlife values. Following this hearing, other hearings across the Nation, and extensive research on the scientific and economic issues involved in protecting Alaskan lands, the Interior Committee revised and approved H.R. 39. The legislation then was studied and revised by the Merchant Marine and Fisheries Committee. As you know, members of the two committees recently reached agreement on a consensus version of H.R. 39 to expedite our consideration of this legislation.

I wish to commend them on their action. What we now have before us is a package of legislation that has been developed through some of the most exhaustive research and public participation ever accomplished by congressional committees. The legislation aims to balance the accelerated pace of development in Alaska by preserving our prime wildlands in the interest of all the American people. This consensus agreement represents a major accomplishment that will provide us with an excellent foundation for considering the Alaska National Interest Lands Conservation Act.

Mr. Speaker, my main concern is that

the bill be compromised no further. Key parts of ecosystems have been deleted from conservation units and critical wildernesses have been denied protection. In particular, the bill has been weakened by a 50-percent reduction in wilderness acreage. I urge my colleagues to support the consensus bill and strengthening amendments to the bill that will restore these losses.

Some people will say that we cannot afford to remove so much land from projected economic development. But the truth is that the legislation has already deleted the areas with the most development potential and that we cannot afford not to set our Alaskan wilderness aside for those who come after us. Once the wilderness is lost, it is lost forever. People in Georgia and around the Nation will be watching to see how we in Congress meet the historic challenge of preserving our Alaskan wilderness.●

END OF AN ERA—JEAN F. WINDLE RETIRES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. ANDERSON of California. Mr. Speaker, June 3, 1978, will truly mark the end of an era for the Catalina Island community of Avalon, Calif. On that day, the island's manual switchboard—the last in the Bell Telephone System—will be replaced by a modern automatic device. And June 3 will also mark another milestone—the retirement of the manager of operating services, Mrs. Jean F. Windle.

Avalon is a close-knit community, and Jean is certainly known and loved by many islanders. For many years, she has given the kind of personal service to the community that cannot go unnoticed. She is not leaving the town she loves so well, but her retirement will mark a major change in Avalon, and will be the occasion for a commemorative banquet in her honor.

Jean came to the island in 1943, when she was employed as an operator on the old switchboard on April 7 of that year. Born in Sargent, Nebr., in October 1913, she moved to southern California from her native State in February of 1943, at the height of the Second World War. Due to the war, the Avalon switchboard was a busy place indeed—she worked a 6-day week for 3 years.

When Jean Windle arrived in Avalon, the switchboard had been in operation for almost 20 years. Telephone service to the island resort began on July 16, 1920, when a radio telephone system, the first in the United States, was installed in the Atwater Hotel. On July 1, 1923, the Southern California Telephone Co. opened its central island office at its present site in Avalon, and installed a special No. 9 switchboard with 11 positions. Service to the mainlane was provided by cable, and a month later the old radio circuits were disconnected.

In 1946, six positions were added to the board. On May 13, 1947, Jean Windle was promoted to management only 4 years after joining the company, a reflection of the dedication, hard work, and outstanding service that have marked her career. She has served in that capacity ever since, becoming a well-known and loved figure in the community. Her retirement this June will mark the completion of over 35 years of service to the people of Avalon, Calif.

The retirement of the old switchboard No. 9 on the same day will mark the end of a 58-year term of service for the last manual switchboard in the system. With the introduction of direct dialing service, the residents of Avalon will undoubtedly receive some gains in convenience of service. Still, it is always sad to see a tradition come to an end, and the highly professional and personal service provided by Jean F. Windle and her work force of 18 operators will most certainly be missed.

An active church member, Jean plans to remain in the unique island community where she and her husband, John Windle, raised their family. They are both avid rockhounds, collecting mineral specimens both on the island and in the deserts of the California mainland. They also collect examples of the pottery once made on Catalina Island itself.

Retirement will find them enjoying the good life, touring the mainland and enjoying their mobile home, but always returning to their beautiful home of Avalon.

Because of its relatively small size and unique heritage, Avalon and its people enjoy a strong sense of identity. At the same time, their warmth and hospitality are justly famous, as is the special beauty and grace of the town and its island setting. Jean Windle may be retiring, but I am sure that she and her family will continue to be highly regarded in the island city.

My wife, Lee, joins me in congratulating Jean F. Windle on an outstanding career of over 35 years serving the communications needs of Avalon and its residents. We would also express our sincere best wishes to her husband, John, and their children; John, Robert, Ernest, and Susan.●

STATEMENT IN OPPOSITION TO THE "HUMANE BOMB"

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Ms. MIKULSKI. Mr. Speaker, I join with many of my colleagues today in voting for Congressman WEISS' amendment to the Department of Energy's national security authorization which would prohibit the use of any funds to produce or deploy neutron weapons.

Last year, when the neutron bomb issue was debated on the House floor, I made a statement then opposing the funds to be used for this destructive weapon. I want to take this opportunity to reiterate some of the points that I made then.

The discussion of the neutron bomb has become exceedingly abstract and does not convey much of a picture of the effects that it has on people. Terms such as "clean bomb" and "tactical limitations" have been used to refer to this weapon. What we have to remember is the devastating effect that it has on its victims.

If you are irradiated by a neutron bomb, it will kill you in any of three ways. If you are very close, you are lucky because you will die by quick kill. Otherwise, when the bomb explodes it blows so many holes in your nerve cells that your brain ceases to function. If it does not, you will collapse and you will lose control of your body functions; you may get violent. You will die within minutes or perhaps hours, and while you are lying there waiting for death to call, you lie in your own waste, in your own feces, with rapid convulsions and shaking, just waiting for death.

This is just one of the types of death blows that the neutron bomb deals to its victims. We must not forget the dehumanizing effect that this weapon has when we consider its funding. We must not allow our country to produce such an inhumane weapon—we must act to eliminate all funds for neutron weapons.●

BEN FRIEDMAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. WAXMAN. Mr. Speaker. it gives me great pleasure to call to the attention of the members, Mr. Ben Friedman, an educator in the finest sense of the word. He imbued in his students an awareness of the joy and satisfaction of learning while at the same time set an example of personal integrity through his dedication and sincerity. He will be honored at a dinner given by the faculty of Eagle Rock High School on Tuesday May 30.

After 32 years of distinguished service, Ben Friedman is retiring from the Los Angeles City Schools. An excellent and dynamic mathematics teacher, Ben Friedman always stimulated his pupils to think. But more than that, he has left his mark of gentleness on thousands of individuals. Now, many of his pupils are leaders in legal, business, academic and political affairs.

Ben Friedman entered the Los Angeles City Unified School District in 1946 at Polytechnic High School, a multiracial high school located near downtown Los Angeles. Beyond teaching mathematics, he involved himself directly with the students of Poly; he was chosen to sponsor several senior classes and even coached the cross country team to a league championship.

In 1954, he transferred to Eagle Rock High School. For 24-years there Ben Friedman taught all mathematics courses from basic math to 7th graders

to calculus for 12th graders. He counseled students, directed the college scholarship office and served as chairman of the mathematics department since 1963. Ben Friedman's teaching skills and leadership have been recognized throughout the Los Angeles schools. He has served on countless citywide mathematics councils and committees and has presented several local television programs on basic mathematics.

Ben Friedman is a special person. His qualities of intelligence, compassion, hard work and kindness have inspired two generations of students. I ask the Members to join with me, his wife Frances and son Terry in paying tribute to Ben Friedman, a great teacher, citizen and human being.●

McKELVEY AFFAIR

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. HAGEDORN. Mr. Speaker, last fall, in an unprecedented action, the Carter administration fired, as director of the U.S. Geological Survey, Dr. Vincent McKelvey. Dr. McKelvey, a universally respected geologist and administrator, thus became the first director in the nearly 100-year history of the survey to be removed for what were clearly political reasons.

Dr. McKelvey's sin was a dogged commitment to the geological facts-of-life as he understood them. At a time when Carter administration officials, particularly Energy Secretary James Schlesinger, were pushing the proposition that energy de-control was futile as a means of encouraging new supplies simply because no new supplies remained in the ground to be encouraged, Dr. McKelvey failed the party line by observing that as much as 60,000 to 80,000 trillion cubic feet of gas were sealed in the geo-pressurized zones of the gulf coast region. Such an amount of reserves was capable of providing comfortable amounts of energy for the United States for the duration of the Carter administration and for several centuries thereafter.

Dr. McKelvey was fired, not for being the bearer of bad tidings, but for being the bearer of good tidings to an administration of doom-sayers, and no-growth advocates. I would like to bring to the attention of my colleagues an excellent article on the McKelvey Affair by Bruce Bartlett in the latest issue of the Washington Monthly. As Mr. Bartlett points out, Dr. McKelvey's fate has been shared by at least one other high ranking member of the Government.

The article follows:

KILLING THE MESSENGER: THE CARTER ADMINISTRATION AND THE FACTS ABOUT OIL AND GAS

(By Bruce Bartlett)

Last September Secretary of the Interior Cecil Andrus announced that he was replacing Vincent McKelvey as director of the U.S. Geological Survey. This was an unusual announcement for several reasons:

No director of the U.S. Geological Survey had ever before been removed from office for political or any other reasons. There have, in fact, been only nine directors in the 99-year history of the Survey.

Although the directorship is a political appointment, it has never been treated as such by previous administrations. It has been thought of as more a technical than a policy position.

McKelvey's standing as a geologist has never been higher. Indeed, by all accounts he is one of the finest geologists in the United States, the recipient of virtually every award that can be achieved in his profession.

McKelvey's dismissal came on the heels of a speech in which he seriously questioned the view that America is dangerously close to exhausting its oil and gas resources.

McKelvey's firing followed closely a similar forced resignation—that of Dr. Christian Knudsen from his job at the Energy Research and Development Administration after he completed a report showing that large quantities of natural gas and petroleum would become available if prices were decontrolled.

These circumstances are now leading congressmen and members of the scientific community to ask why McKelvey was fired and, more importantly, what effect his firing is going to have on the objectivity of scientific research in government. They contend not that the Carter administration does not have the right to have its own people in the government, but that McKelvey was a technical advisor, not a policy-maker. In policy positions a president needs people who will support him; in technical jobs he needs people who will tell him the truth. The implication is that scientists and technicians who produce data that contradicts administration positions will be replaced by people more compliant.

McKelvey was born in 1916, received his Ph.D. in geology from the University of Wisconsin, and has been with the U.S. Geological Survey since 1941. He became chief geologist in 1971 and was appointed director the same year by President Nixon. In keeping with the tradition of maintaining the non-political nature of the directorship, McKelvey was appointed on the recommendation of the National Academy of Sciences.

McKelvey has always held the view that there is a great deal of oil, natural gas, and coal left to be discovered in the United States. This view has frequently brought him into conflict with environmentalists and others who hold a much more pessimistic view of the nation's ability to meet future energy demands unless growth is radically reduced.

When scientists like McKelvey talk about the availability of energy they do so with qualifications that are frequently lost in the discussion. For example, when one talks of "reserves" of oil and gas it means those quantities of the mineral fuels that have already been identified and are considered, on the basis of existing geological and engineering knowledge, to be recoverable under current economic conditions, with existing technology. The term "resources" includes reserves but also includes deposits already identified but not yet recoverable under current economic or technological conditions. Thus, as prices change and technology changes, oil and gas deposits are continually moving from the resource category to the reserve category. One may also speak of "potential" resources, which are not yet identified but, on the basis of good evidence, are considered to be recoverable some time in the future.

Thus when it's said that proven reserves of natural gas in the United States amount to 216 trillion cubic feet (tcf) and that this is sufficient to last the country for only ten years, several assumptions are involved: It's assumed that the price will not go up, that costs will not go up, that demand will stay at roughly 21 tcf per year, that technology will not change, and that no new reserves will be discovered—in other words, a static situation in which nothing changes.

By contrast, discussions about oil and gas *resources* imply that prices and technology can and will change. A change in price will affect the use of certain technologies, and a technological breakthrough may change the price necessary to make certain resources recoverable. This is the way it has always been, and it's why it is not surprising that the United States has never had more than a dozen years' worth of oil *reserves* at any time. In 1914 the U.S. Geological Survey estimated total future domestic production of petroleum at only six billion barrels. The U.S. now produces this much oil approximately every 20 months and has done so for years. Thus, Professor Edward Mitchell of the University of Michigan has said:

"The fact that oilmen hold only ten or 15 years' supply of oil under the ground should be of as much concern to us as the fact that shoe stores keep only 30 days supply of shoes on the shelf. To hold more would be unprofitable for the businessman and uneconomical for society."

VAST RESOURCES

In this light we can now consider what McKelvey said in a Boston speech on July 13, 1977. McKelvey talked about the vast fuel resources that are potentially available in the United States. In the case of natural gas, for example, he said:

"By far the greatest potential sources of natural gas are the geopressurized zones underlying the Gulf Coast region, both on and offshore. The limited investigations that have been made of this region led to estimates of as much as 60,000 to 80,000 trillion cubic feet of gas dissolved in water at a ratio believed to average 25 cubic feet per barrel of water. This is an almost incomprehensibly large number. Even the bottom of the range represents about ten times the energy, value of all oil, natural gas, and coal reserves in the United States combined."

The importance of this statement is that it came at a time when Congress was in the middle of a debate over deregulation of new natural gas. The Carter administration was fighting deregulation on the grounds that there was little new natural gas left to be discovered. If this were true, then it would make sense to argue that an increase in prices would only increase profits to producers and accomplish nothing else. But McKelvey's estimates of potential reserves totally contradict this position. If the resources exist, then incentives can be provided for their discovery and production. President Carter made this point himself prior to the election in a letter to the governors of Texas, Oklahoma, and Louisiana.

"The decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states, which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas."

Keep in mind that Carter was talking about deregulating the price of only newly discovered natural gas, not gas that has already been discovered and is under production. But when deregulation forces in the Congress, a few months later, proposed the same thing, the administration opposed it. The logic of Carter's new position is not entirely clear, but when asked by Senator Herman Talmadge to comment on press reports of large potential natural gas resources, Energy Secretary James Schlesinger replied, "I haven't read those carefully because they seem to be based on smoking pot."

Schlesinger's statement is consistent with

the administration's position that there is no natural gas left to be discovered and that price therefore has no influence on supply. As White House press secretary Jody Powell said during a press conference on June 3, 1977, President Carter believes "that even if we increased the price of oil to provide an additional $20 per barrel, there would be very little, if any increase in our production . . . and the same is true in the price of natural gas."

THE TWO ASSUMPTIONS

McKelvey's data called into question the first major assumption needed to justify the administration's position—that America has no potential resources. The second major assumption—the non-influence of price on supply—was contradicted in a study done for the Energy Research and Development Administration by Dr. Christian Knudsen.

Early in 1977 ERDA set up a task force called the Market Oriented Program Planning Study (MOPPS) to determine what the availability of oil and natural gas would be under various price assumptions. Knudsen, a chemical engineer, was appointed head of the study.

The study's first set of projections, hereafter referred to as MOPPS I, showed that at a price of $2.50 to $3.00 per thousand cubic feet (mcf), as compared to the federally controlled price of $1.45 per mcf, the nation would be engulfed in natural gas.

The reason is that at somewhere around $2.50 per mcf it becomes profitable to drill into geopressurized methane deposits, which are known to lie at depths of 15,000 feet or more. Because of the enormously high drilling costs, you simply cannot begin exploring the geopressurized regions unless there is a higher rate of return than is attainable at the controlled price. ERDA has done at least one test well at this depth without conclusive results, but recently Chevron has been reported to have drilled a well in Louisiana that hit a huge geopressurized methane deposit.

Following the completion of MOPPS I Knudsen was transferred, the estimates thrown out, and a new study commissioned to find estimates closer to the views of the Carter administration. The MOPPS II study came out with supply estimates considerably lower than those of MOPPS I. But while these were more in line with the thinking of the administration, they were still too high. Thus MOPPS III was born, and it showed still less natural gas available at even higher prices.

TWICE THE GAS AT TWICE THE PRICE

Throughout all this revision of the MOPPS data, the studies were kept highly confidential. Finally, on June 3, after the press had picked up reports of the studies, all three MOPPS studies were released to the public. Although they differ in their estimates of how much supply responds to higher prices, all three studies confirm that such a response exists. Even the most pessimistic estimate, MOPPS III, showed that twice the present reserves of natural gas would become available at roughly twice the controlled price: 465 tcf at $3.00 per mcf.

Knudsen testified under oath that when his MOPPS report was released, after he had been removed from the project and moved to another job within ERDA, he was told that the real reason for his transfer was that the results of his study conflicted with conventional wisdom and concurred with industry estimates.

The case of Knudsen has been pretty much forgotten, but the case of McKelvey continues to draw interest on Capitol Hill and in the scientific community, due to his unquestionably high qualifications. Several members of Congress recently asked the House Government Operations Committee to undertake an investigation of the McKelvey matter, and Rep. Leo Ryan's subcommittee on Environment, Energy, and Natural Resources is expected to hold hearings later this year.

POLITICIZE A FEDERAL ORGANIZATION

On the day McKelvey was dismissed, The New York Times reported, "Administrators of the survey supporting Dr. McKelvey . . . charged that this was an attempt to politicize a federal organization that is basically scientific in nature." This is really the most serious issue involved in the entire McKelvey matter, for it conjures up memories of Lysenkoism in the Soviet Union. This is not to say that an incoming administration should not have the right to appont to politically sensitive jobs people who are compatible with its views. But it is another thing to fire, for example, the head of the Bureau of Labor Statistics because he produces unfavorable unemployment statistics. So it is with McKelvey, and it's a shame that just because they don't find his information pleasant, liberals haven't jumped to his defense. You don't have to agree with the idea of deregulation to admit that more gas would be available at a higher price; you could just as easily choose to stick with a lower price and less gas.

To this charge the Carter administration responds that McKelvey was removed from office because he was a poor administrator, not because his data contradicted its energy policy. But this runs counter to the views of almost everyone who has ever worked with McKelvey.

There is no evidence at all—and none is implied—that McKelvey or Knudsen personally opposed any of the administration's policies. The contention is that they produced scientific data, objectively derived, that contradicted the administration's position. If they were in fact removed from office for this reason, then it signals a kill-the-messenger mentality in the Carter administration that ought to be strenuously opposed.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF TITLE II OF H.R. 12426, NEW YORK CITY FINANCIAL ASSISTANCE ACT

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. ULLMAN. Mr. Speaker, on May 16, 1978, the Committee on Ways and Means approved title II of H.R. 12426, with amendments. Title I has been approved by the Committee on Banking, Finance and Urban Affairs and provides for Federal guarantees of certain debt obligations issued by New York City. As approved by the Committee on Ways and Means, title II provides that the interest on such federally guaranteed obligations will be taxable for Federal income tax purposes.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of title II of H.R. 12426 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule for consideration of title II which would provide for:

First, committee amendments which would not be subject to amendment;

Second, 30 minutes of general debate, to be equally divided;

Third, waiving all necessary points of order; and

Fourth, one motion to recommit with or without instructions.

We intend to file the committee report on title II on Monday, May 22, 1978. It is our intention to request a hearing before the Committee on Rules concurrently with the Committee on Banking, Finance and Urban Affairs.●

WELFARE REFORM

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. BROWN of Ohio. Mr. Speaker, the Greene County-Mad River Township Committee of my Seventh Ohio Congressional Youth Advisory Council recently completed its study of welfare reform. The members of the committee included Judy Willis, chairman; Loretta Gilliam, secretary; Dale Drummond, Jim Johnson, Kathy McDowell, Chet Murphy, Terry Powers, Justine Sewell, Kim Sydenstricker, Jane Turnbull, and Herbie Weber.

The following is a copy of the report which they submitted to me:

THE WELFARE MYTHS

Myth No. 1.—The most common and most widespread is that—People are poor because they don't work and don't want to work, welfare rolls are replete with lazy loafers.

The facts are quite different. Nearly 71 percent of the 26 million poor Americans are people that we do not normally ask to work: children and young people under 16, the aged, the severely disabled, students or mothers either full-time or part-time; 90 percent of poor Americans either work full- or part-time or are people no civilized society would force to work . . .

Only 2 percent of the 26 million poor people even resemble the mythical welfare stereotype: non-aged, non-disabled males who do not work. But census figures indicate that most of this group is between 62 and 64, ill, looking for work.

Case worker said, "Never has an applicant said 'I need help for the rest of my life . . .' They always say 'I need help till . . . the baby is born—I get my job back—for food—for my utility bill . . .'"

Myth No. 2.—Most of the poor are poor for life—they represent a permanent stagnant group. Each year about 7.5 to 10 million people move above the poverty line, and a like number become poor.

Myth No. 3.—The poor are mostly black and non-white. The fact is that 69 percent of the American poor are White.

Myth No. 4.—The poor don't know how to spend their money. Average Person spends 25% on Housing, 20% food=45%. Poor spend 80% for food and housing. Low-income people spend a somewhat greater proportion on food and housing.

Myth No. 5.—Many welfare families receive payments that are far too high. In 24 states, the combined benefits of Aid for Families with Dependent Children and food stamps total less than three-fourths of the official poverty level was only $5,500 for a family of four in 1975 . . .

PROBLEMS OF PRESENT SYSTEM

More income if father moves out.

Unequal Income: $267 in Ohio per month—$48 per month in Mississippi.

Administrative Cost: $13.3 cents per $1 spent.

Most poor in cities—Expensive to live there.

Need for permanent jobs.

Private companies leaving country (for cheaper labor, less taxes). Example: All electronics gone now—Zenith is leaving).

REMEDIES

Work incentives (get more if you work).

Simplify system.

Combine programs (don't send poor to agencies—loss of dignity).

Teach better work habits (be on time, help initially with clothes, transportation, physical problems—glasses etc.).

Federal $$$ is there—use it better.

OIC.—Help those who want to help themselves; 39 year old can't read, write past third grade level—Teach values, to budget, how to fill out application for employment, work habits.

RESPECT FOR ALL HUMANS AND ALL WORK . . . MORE DIGNITY

No matter what a job is—Respect the one who is doing it . . . it has to be done by someone. There is always a human being behind every job.

"So what is this thing called the welfare mess?" It is a large, complicated system of many federal, state and local government offices, controlled by equally as many federal and state laws and regulations administered by local units. Under this system are many rules that were made to bandage the laws that were enacted to help provide better service to the people it was designed to serve.

President Jimmy Carter has come up with a proposed bill to help ease the welfare mess and start the ball rolling to welfare reform. His plan has to do with keeping the cost as low as possible. This means that some programs would have to be scrapped, while other programs would be started. This is both a good and a bad idea. Where the cost of programs that have out-lived their purpose would be eliminated, the new programs would take as much if not more money to operate, but they may work better.

Federal programs that have been based on need, such as Aid to Dependent Children, the aged and disabled, food stamps, these would be eliminated and replaced by programs such as Guaranteed Income, Guaranteed Jobs, and Income Subsidies. (Actually, Food Stamps is not controlled by welfare, but is with the Agriculture Department.)

At this time, this committee would like to name and attempt to explain several of the main programs that are active now and some that Carter would enact.

PRESENT PROGRAMS

AFDC: Under the title of Cash Aid are Aid to Families with Dependent Children (AFDC), Supplemental Security Income. AFDC is under Title IV of the Social Security Act and permits states to give AFDC cash to needy children and their care-takers in fatherless families and to those with incapacitated or unemployed fathers. Children must be under the age of 18, or, if students, under 21. All states aid families without able-bodied fathers in the home, but as of December 1976 only 26 states (plus Washington, D.C. and Guam) offered ADC to unemployed fathers, defined as working less than 100 hours a month. Federal law requires almost all able-bodies AFDC recipients to register for training or jobs unless they are school children or mothers of preschool children.

Social security: SSI eligibility requirements under Title XVI of the Social Security Act entitles payments to aged (65 and over), blind, or disabled persons whose counted income and resources exclude a home, household goods and personal effects, etc.

Medicaid: Under the heading of Medical Care is Medicaid. Medicaid has two classes of eligibility: the categorically needy and the medically needy. The coverage of most categorically needy groups is mandatory, but coverage of medically needy groups is optional with the states. Categorically needy are all recipients of AFDC and those recipients of SSI who would have been eligible for Medicaid under the standard in effect January 1, 1972, before passage of SSI to replace the federal or state cash program for the aged, blind, and disabled.

Medically needy are defined as persons who would be eligible for cash aid (AFDC or SSI) except for their income level.

Food stamps: Under the heading of food aid is food stamps. Food stamps give automatic eligibility to households in which all persons receive cash public assistance. This includes AFDC families, certain recipients of Federal assistance, and SSI recipents in all but two states. Those have "cash out" food stamps in addition to the SSI state supplement.

Job training: Under job training are the Comprehensive Employment and Training Act (CETA) and the "Work Incentive Program." CETA has many branches of it, but the most important is the Comprehensive Manpower Service Economically Disadvantaged Segment. Eligible persons are those who are unemployed or underemployed. CETA stresses job training, but also provides some public service employments.

"WIN": The Work Incentive Program (WIN) under the Social Security Act opens this service for families on AFDC. Most of the recipients must register for work or training. WIN assists in finding a job and helps with the cost of things like transportation, lunch and childcare. These programs are in service now.

CARTER PROPOSALS

(1) Guaranteed income: Guaranteed income which is issuing cash grants to the poor, the federal government would assure a portion of every state's welfare cost. For example: A welfare family of 4 with no other income would be given a basic benefit of $4,200-increased by $600 for each additional child up to a family unit of seven. This plan, unlike that Aid to Family with Dependent children, would let two-parent families be eligible.

(2) Guaranteed jobs: Guaranteed jobs, in which the labor department would assume responsibility for finding jobs for able-bodied persons. For those that cannot be placed in the private sector, some 1.4 million public jobs paying minimum wage (or more) would be created in areas ranging from child care to cultural arts. Refusing a job would cut the basic grant.

Income subsidies: Income subsidies would extend welfare assistance to some employed people as an incentive to keep them working. This would go to families whose income borders poverty.

GREENE COUNTY COMMITTEE COMMENTS: PROGRAMS TO KEEP—PROGRAMS TO DISCARD

Present program: AFDC, keep and combine with other programs; social security, keep; medicaid, change; food stamps, change; job training, CETA, keep but alter and combine with other programs; WIN, keep but alter and combine.

Carter proposals: Guaranteed income, discard; guaranteed jobs, change; income subsidies, discard.

The Welfare System is a problem that has plagued our past administrators in Washington for years. As each and every problem that arose within the System, new and more patches were placed amongst the trouble spots until finally the welfare system is in such a mess from adding on and on, that the only way to solve the dilemma is to overhaul the entire works. Since this is undesirable as well as impractical, the only solution is to pick out the problems and try to correct them, not cover them up with some new bill or legislation.

GREENE COUNTY RECOMMENDATIONS

Reduce fraud: There is fraud, but it is hard to find. To solve these problems allow me to list a few answers to a complicated problem! Each year thousands of dollars are robbed from taxpayers by people who cheat and lie to obtain more funds. This "free ride" is unjust to taxpayers and to honest and decent people who use the welfare system for what it was meant for: A helping hand in a time of need.

Reduce paperwork: An over-abundance of paperwork, inability for cross-reference, lack of personnel promotes fraud. Too much paperwork enables facts to be lost and falsehoods to be entered upon record. Simpler and less complicated forms can be used and they would allow for easier cross reference, and not take away the dignity of the person in need.

Cross check: Allow Welfare administrators to cross-check the recipients' income tax return. This lets welfare workers check and see if the recipient worked last year and did not report it to welfare (Carter's Plan).

Prosecute rapidly: Allow prosecutors to act quickly and without hesitation against Fraudulors. This promotes hesitation against would-be fraudulent recipients.

Less departments and less over lapping: The New Welfare System would have to be less diversified than the one we have now. County departments, sub-offices, department heads—etc. etc. the list goes on and on. For each problem an office was created and thusly there are too many departments. A centralizing must occur; different offices that relate to different objectives must remain; yes, but these must be centralized under one Head Office. Here the system becomes less complicated and easier for the recipient to know where to go for what services.

Reduce the department over-lapping and create a better and more efficient management.

Work incentive: Create work incentives to recipients so that they can work and yet still receive partial or full welfare benefits. This will create additional revenues through taxes, and as more people get jobs and rise above the poverty level the costs will go down.

CLOSING REMARKS

The more our group researched and learned of the welfare programs—the more we found we didn't know. The vast differences state-by-state, the uncontrollable fraud, administrative inefficiencies, and the general high costs of the system exemplify the mess this social support system is in. Obviously, as mentioned so many times before, there exist no simple answers.

We, as Americans must substantiate for society's inequities by finding an honest, straight-forward system that is fair, not only to the recipient, but also fair to the taxpayer that shoulders these burdens. To accomplish these ends, the private sector must become more involved so that the public sector's expense is not so great. We believe the answers lie mainly in the manifestation of the private sector—tax incentives or some method to stimulate the private sector to provide more jobs.

The private sector cannot do this alone. The public sector has to do its part also, such as O.I.C. Educational Programs that educate a person so that he can qualify for a job. Similar encouragement programs help remedy the situation—instead of covering it up. If we all contribute our part, we can pull ourselves out of this expensive, inefficient, all-out disgusting welfare mess.●

AN INTERVIEW WITH GEORGE KENNAN

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. KASTENMEIER. Mr. Speaker, the May 7, 1978, the New York Times magazine contains an excellent discussion with George Kennan, who reevaluates his perspective on the nature of the Soviet Union as it exists today and not as it was some 30 years ago. Ambassador Kennan does not assign the worst circumstances and motives to the leaders of the Soviet Union, and to those who criticize his present views of the Soviet leadership, George Kennan responds by saying, "Do you really mean that you think it would have been better if in these 30 years I had learned nothing, and were saying precisely the same things that I said in 1947?"

Mr. Speaker, George Kennan's observations on U.S.-Soviet relations, particularly on the arms race, have great relevance, and I highly recommend a reading of the dialog between interviewer Marilyn Berger and George Kennan:

[From the New York Times Magazine, May 7, 1978]

AN APPEAL FOR THOUGHT

(By Marilyn Berger)

George F. Kennan is a deeply troubled man these days. The policy of containment, as set forth by him in his celebrated article published anonymously 30 years ago, has been coming back to haunt him. His prescription for dealing with the Soviet Union of Joseph Stalin has been dug up by domestic hard-liners to justify a policy of unremitting hostility toward Moscow that, in his view, could lead to a new international crisis, even to nuclear war. And he is afraid that the hardliners are acquiring a veto over American foreign policy.

Kennan, now 74, had hoped to withdraw from the debate over American policy toward the Soviet Union, to remain in his airy, gracious, book-lined office at the Institute for Advanced Study in Princeton, N.J., to gaze out over the woods where Einstein once walked, and to concentrate on history. But he is being drawn back into the arena by a growing concern: that the United States is being pushed by well-meaning but misguided people into a dangerous confrontation with Moscow.

He insists he is only a scholar now, attuned to the placid flow of his Princeton life—walking to work along the sycamore-lined streets; studying in the square turret of his house that some call his ivory tower; visiting the Pennsylvania Dutch-country farmhouse that he and his wife have given to one of their daughters, who always keeps their bedroom ready for them. But the George F. Kennan who appeared for this interview, during one of his recent visits to New York, still looked very much the diplomat he once was: blue pin-striped suit with vest; striped shirt; button-down collar; subdued, patterned tie; discreet mustache. He is still tall and straight and trim, his eyes still startlingly blue, reflective, almost sad.

What Kennan wants is for everyone, himself included, to step back and reexamine his preconceptions of present-day Russia. He has called for a "process of re-education in the realities of Soviet power and leadership"—a series of private gatherings of policy makers and other interested parties, at which "we would check our existing views at the door, together with our hats, and try to get a new view of the facts before we drew conclusions." Those conclusions would then be based on "what could be told to us by the most experienced and knowledgeable people who could be found in the respective fields." For the purpose of this exercise, Kennan proposes that "we lay aside all the arguments of who could conceivably do what to whom if their intentions were of the nastiest; and that we elevate our vision, at least for the time being, to the question of the real nature and situation of the particular foreign power we are dealing with."

That, in effect, is the same question Kennan addressed in his article, "The Sources of Soviet Conduct," which appeared under the pseudonym "X" in the July 1947 issue of Foreign Affairs, and which became the blueprint for containment. He wrote the article, he says, to temper the overly optimistic belief, held in some quarters in Washington at the time, that the Soviet-American alliance of World War II would assure peace in the postwar period. The article warned against a tendency to greet occasional spurts of Soviet cooperation "with gleeful announcements that 'the Russians have changed.'"

Today, Kennan is convinced that the Russians have changed. Today, his battle is with those who take what he regards as too pessimistic a view of Soviet intentions—those who discern in the present Soviet leadership a willingness to risk even nuclear war in a drive for world domination. That these "alarmists," as he calls them, should draw on his past writings for support is, to him, part of an old story. What Kennan said in 1947, and what he meant to say, are questions that have long been a matter of controversy.

In his 1947 article, Kennan wrote that "Soviet pressure against the free institutions of the Western world is something that can be contained by the adroit and vigilant application of counterforce at a series of constantly shifting geographical and political points." That analysis provided a theoretical underpinning for the military buildup of the West. But, in the same article, Kennan emphasized strong political components to containment. Not the least of these, he wrote, was the need for the United States to "create among the peoples of the world generally the impression of a country which knows what it wants, which is coping successfully with the problems of its internal life and with the responsibilities of a world power, and which has a spiritual vitality capable of holding its own among the major ideological currents of time. . . ."

In his memoirs, written in the 1960's after he capped his diplomatic career with ambassadorships to Moscow and Belgrade, Kennan complained that he had been misread—perhaps because he had expressed his ideas too sketchily. What he had meant, he said, was "not containment by military means of a military threat, but the political containment of a political threat." In the years following the appearance of the article—its authorship disclosed and Kennan famous as a result—he watched with growing concern as successive administrations in Washington overlooked or neglected the political aspects of containment. Even when Stalin's death and the development of the Sino-Soviet conflict drained away much of the rationale of containment, the United States, in his view, failed to grasp opportunities for negotiation of outstanding issues with the Soviet Union. As he put it in his memoirs: "It was not 'containment' that failed; it was the intended follow-up that never occurred."

Today, Kennan believes that in the current debate on how to deal with the Soviet Union, we stand at "a real and crucial parting of the ways, one road leading to a total militarization of policy and an ultimate showdown on the basis of armed strength . . . the other to an effort to break out of the straitjacket of military rivalry and to strike through to a more constructive and hopeful vision . . . of America's future and the world's." That is the theme that underlies much of what he had to say in the following interview.

Q. Mr. Kennan, you have written that "those Western alarmists who try to persuade us that a surprise Soviet attack against Western Europe is a serious possibility—unless we vastly increase our power to deter it—live in a dream world of their own." Why are the "alarmists" wrong?

A. I think the Soviet leaders are well aware that they have problems enough in Eastern Europe, in their own Communist bloc, and that it's enough of a strain on Russia to try to hold this great area together without increasing those responsibilities by trying to take areas further afield.

I object very strongly to the people who talk about war as though it had no purpose whatsoever, as though one went to war just for the purpose of going to war, as though it were perfectly natural that if you could go to war, you would. This is a curious quirk of the American mentality, it seems to me.

Normally, people have gone to war for a purpose, and if they didn't have a purpose, they didn't do it. And I don't see the purpose, from the standpoint of the Soviet Government. It would set up disarray in Western Europe, and that would unquestionably lead to disarray in Eastern Europe as well. And that's the last thing they want.

But in addition to that, they have a major problem on their hands with Communist China. They find themselves obliged to keep somewhere in the neighborhood of 40 to 45 divisions on the Chinese frontier—something like a million men; more than they do in Central and Eastern Europe. And especially when their military attention is divided this way, this is the last time that they would want to have a war in Western Europe.

You have said that those who are concerned about a surprise attack are talking about a Soviet leadership that many of us have never heard of. What is the present Soviet leadership like?

I would describe it as very conservative, in its own terms. Not at all adventurous. It is, after all, as you know, a leadership composed very largely of people quite advanced in age. They have many problems to solve at home. They are well aware of the terrible damage which the last World War did to Russia. They know that their people still feel very strongly about this. Everyone, I think, who has ever had any contact with the peoples of the Soviet Union knows that they have something approaching a complex about the possibility of another war—that is, that they definitely do not want it. And while it's true that public opinion plays a different role in Russia than it does in this country, nevertheless, it's not something that can be utterly ignored by the Soviet Government.

These are some of the reasons why I don't see any likelihood of their wanting to launch a war. Another, mind you, is ideological. The Leninist-Marxist ideology has never said that the way that Marxism was to triumph all through the world was by action of the Soviet armed forces. It might be an action in which the Soviet armed forces helped, but the main thing was always to be the action of the proletariat and of right-thinking people within the countries themselves. And this is not just meaningless, this. They do take ideology rather seriously.

You said the Soviet leaders are not at all adventurous. How, then, is one to view their intervention—with arms, with military advisers and with Cuban troops—in Angola and Ethiopia?

I stated in my recent book, "The Cloud of Danger," that "the Soviet authorities never

gave reason to suppose that they were willing to depart significantly from their established policies and practices . . . in the encouragement of pseudo-Marxist 'national liberation movements' in the third world." I find, in principle, nothing in recent Soviet actions in Angola or at the Horn of Africa which we ourselves have not done in other areas, on a number of instances, in recent years. In Ethiopia, in fact, the Russians seem, in large measure, simply to have taken our place. This answer assumes that the Soviet Union will not assist the Ethiopians to go beyond their own borders. If it became an invasion of Somalia, then I think the whole thing would acquire international significance.

You spoke of the concern of the Soviet leadership for keeping Eastern Europe together. What are their other overwhelming concerns now?

Domestically, I would say, the relative backwardness and lack of success of Soviet agriculture; the decline in the rate of increase in the productivity of labor, which means they're running up against a certain ceiling in their economic development beyond which labor productivity will be declining rather than increasing; a decline in the effectiveness of industrial investment; the fact that they lag behind, despite their great industrial strength, in the development of advanced technology, such as in the field of electionics. They seem to find it very difficult to crash through that sound barrier and come out into the sort of technological stratosphere that the Japanese and Germans and others of us have come into.

They are also concerned, I am sure, about what I might call the spiritual state of mind of their own people: the lack of enthusiasm for the ideology; the obvious signs of boredom, bewilderment; a certain demoralization among the youth. A great deal of alcoholism. A great deal of absenteeism in labor.

How can American policy encourage moderation in the present Soviet leadership, and, perhaps, make it more possible that moderates would succeed to power?

I don't think that there's anything very much that our Government could do to influence the selection of people who come to power in the Soviet Union. But it can affect the environment in which these people have to exercise that power when they do come. If they see opportunities for benefit to themselves and to their country from a good relationship, a developing relationship, with the United States, that's one thing, and then they will have incentive to move in that direction. But if they don't see such possibilities, and if they are brought to the conclusion that this country really doesn't want to have any very favorable development of relations with them, that we are placing our hopes on military rivalry and hope to be able to outproduce them and to outclass them in weaponry, and that's all we're interested in, then they are going to have to look around for alternatives. I wouldn't like to speculate on what those alternatives would be, but I think none of them would be very welcome from our standpoint.

Are you saying that if the "alarmists" in this country were to prevail, the Russians would have to look for those alternatives?

I think they would. In fact, it seems to me that there are a lot of people in our country, and many of them in Washington, who have no interest in the improvement of relations with the Soviet Union, who don't think that that's possible, who view the Soviet leaders as people absolutely committed against us and determined to defeat us entirely, in some way or other, and to destroy everything that we value. And, therefore, they would think that there's no use talking with the Soviet leaders at all—that the only thing you can do is be so much stronger than they are that you can face them down.

In that same book, "The Cloud of Danger," you wrote that there is no political or ideological difference between the United States and the Soviet Union that would be worth the risks and sacrifices of a military encounter.

I had in mind the political differences. The most serious of these is Berlin. Of course, an outright attack on Berlin would raise terribly serious problems for us. But none of the consequences of any of these possibilities could ever measure up to the disasters of a nuclear war.

I mean, one must make it a major purpose to avoid a nuclear war. Because, after all, life is better than death. And countries do survive all sorts of vicissitudes short of annihilation. They survive occupations, they survive being satellites, and so forth. Time softens these things, and eventually people get their own independence again. But once you're destroyed in a nuclear holocaust, that's it. You've had it, then.

In saying that, don't you stand to be accused of saying, "Better red than dead"?

Well, I do. I would say, "Rather red than dead." But, mind you, your question is simply an attempt to carry the issue to unreal ultimate conclusions. I don't think there's any need for us to be red, because I don't think that war is the way the Russians would like to expand their power.

Well, if, as you say, there are, in this country, these wildly erroneous impressions about the Russians, where do they come from? Why are the hardliners so strong today?

That's a very good question, a very good question. You know, it sometimes seems to me that people have a need for the externalization of evil. They have the need to think that there is, somewhere, an enemy boundlessly evil, because this makes them feel boundlessly good. They can't stand life without the image of an enemy somewhere. This is the nature of the militant mentality.

It's also true, of course, that chauvinist rhetoric—which derives, perhaps, from this same feeling—is very powerful even with people who are not aware that they have this philosophic inclination. Somehow or other, to thump the drum and say, "We're not going to let these people get away with this, we're going to stand up to it"—this is always very, very popular. It's an oversimplification, but people love oversimplifications.

Let's talk about the military for a minute. Isn't it the obligation of the military to prepare for the "worst case"?

Yes, but it's the obligation of others of us not to accept that, and to insist that other things be taken into account as well. Military considerations, no matter how sound they are from the strictly military standpoint, ought never, but absolutely never, to be taken literally. They should always be taken in relation to other considerations of a nonmilitary nature.

What bothers me about a great deal of the present discussion of the military realities is that they all have, implicit in them, a certain image of the Soviet leadership as a group of men who, obviously if they could do this and that to us militarily, would. Somehow or other, when you start to think in military terms of what we could do to them and what they could do to us, insensibly you move quietly to the assumption that since they could do this, this is what they would like to do.

And that leads to the stockpiling of more and more varied nuclear weapons.

You know, I don't see how this proliferation of nuclear weaponry can end well. I can't see any favorable ending to it. Even if it's not armed conflict, I see enormous dangers in it.

Do you foresee a Soviet-American nuclear exchange if we don't undertake a re-evaluation, a new look at the Soviet Union?

I cannot see it coming as a deliberate decision of either of these governments, because they know too well what horrors lie in that direction. But nobody knows what can be the chain effect of nuclear war started among smaller powers, especially ones where people are extremely violent in their feelings, even to the point of suicide, like the Arab terrorists. People like that, if they had nuclear weapons in their hands, no doubt would use them.

What about states—say the Arabs and Israel?

I'm no expert on the Middle East, but I should think that if it ever came to an all-out military conflict there, it is not at all to be excluded that whoever had these weapons would use them. This could create an extremely dangerous situation. Another thing one has to bear in mind is that perhaps one wouldn't always be sure where a nuclear weapon came from.

I think the very existence of these weapons in human hands is an enormous danger to us all, and, above all, to our children. It seems to me rather like putting loaded revolvers in the hands of little kids and letting them play with them. Human beings just are not good enough, and never will be, to control this amount of weaponry.

The Russians have proposed such things as an end to nuclear testing and an agreement on "no first use" of clear weapons. Do you think they propose these things knowing the United States will turn them down? Do they simply want to have the image of leadership in the field of disarmanent?

No, they might enjoy putting us in this position, but I don't think that's the reason they propose them. I think they would be quite willing to commit themselves to an abandonment of the principle of first use. I think they would be quite willing to give up testing if we did—provided, of course, that the third-country problem can be solved.

But you also said some time ago that any agreements the Russians make will be merely tactical steps toward objectives that will usually be inimical to the United States. You have said there can never be a "a community of aims."

At the time I said those things, there were two things that ought to be borne in mind: first of all, that Stalin was still alive, and it was the Stalinist regime we were dealing with; and, second, that we did not yet have the atom as a permanent reality in our lives. I think that if things had remained the way they were then, one would have to accept the view of our hardliners today.

But I think that both of us, the United States and the Soviet Union, are sobered by the existence of the atom. We both realize, I think, that there are limits on what we can expect to do, and that by trying to do more, trying to go beyond those limits, we can create for greater dangers for ourselves than opportunities. And that is a healthy thing. I think that's the beginning of wisdom. I won't say just for the Russians, but for us, too. Because Americans have often had overweening ideas as to what they were able to achieve in this world.

How do you answer the argument of the "alarmists" that it's not the one-time threat of Soviet attack that should concern Americans and Europeans but, rather, the permanent impact of Soviet military power on European freedom of political action, with the implication of blackmail?

You know, I don't really believe in the theory of nuclear blackmail. I don't think this is the way international affairs work.

It takes two to make an act of international blackmail. There has to be somebody to do the blackmailing, and there has to be somebody to accept it. Actually, I have not seen the Soviet Government put that kind of pressure on another Government and say, "Look here, you do this or that, or else." I

have lived and served in countries that did not have nuclear weapons, and I didn't see their governments giving in all along the line to the Soviet Union for this reason, although in certain instances they have had very serious differences with Moscow. Now according to this theory of nuclear blackmail, they should have trembled in their boots.

There is concern among these "alarmists" that, with Communist parties growing stronger in Western Europe, more and more people will be intimidated by the specter of Soviet power, particularly if it is not balanced by American military power, and that they will vote Communist.

Yes, but it hasn't been that way, you know. And smaller countries in Europe which have been much weaker than are France and Italy, and which have been even nearer to the Soviet Union, did not succumb to that sort of reaction. As a matter of fact, I would be tempted to say that if people react that way, then they deserve what they're going to get. If that is the degree of their pusillanimity and their lack of will, than I really haven't got much sympathy for them.

And that would be no loss to the United States?

It would be a loss, but nobody can protect another people from themselves.

You've been accused by your critics of being an apostle of "qualified isolationism," a form of isolationism that they say will cost more in blood and treasure in the long run.

I think the charge—without the consequences you cite—is perfectly justified. I think I am a semi-isolationist. I would like to see us try to do far less than we are trying to do in the world. I think a great deal of what we try to do doesn't do any good. We are overextending ourselves beyond our means, beyond our capabilities. I think we have a great many things to do at home, and I don't think it's really sound to involve ourselves over the world to the extent that we have.

You seem to be concerned almost exclusively with Western Europe, Japan, the industrialized areas. What about the rest of the world?

Well, if we can arrange our affairs in such a way that we will have a safe future in our relations with Western Europe, with Germany, with Russia, with China, with Japan, then, except for the oil problem—except for our dependence on the oil in the Middle East—I would not be worried about our relations with the rest of the world.

But what if there were Soviet control over those areas of the world that produce the raw materials we need?

I don't think there can be, really. I think that people greatly exaggerate the degree to which a great country can really control other countries far from its shores and not contiguous to its own military area. I don't really believe that countries are easily made into puppets by a great power far, far away. It seems to me that the entire experience of Africa since the last war belies that. Neither have we been very successful in making a puppet out of anybody, nor have the Russians, nor have the Chinese. Quite the contrary. The Russians have had one lack of success after another. So have we.

It's my belief that people will have a tendency to go their own way. These smaller and developing countries naturally take what they can get from the big ones, but they don't take orders from them any more than they have to. That was the whole experience of the phenomenon of colonialism. After all, it wasn't successful in the end. It all broke down. And it's not going to be any easier to re-create colonialism than it was to maintain it at the beginning of this century.

The Russians may not be able to hold on to new areas of influence in the long run, but your critics say that in the short run—if the Soviets got control of the main oil areas, for instance—the results for us would be very bad, and for Western Europe and Japan they could be fatal.

Of course, this might be very bad. Actually, I do not think it a very real possibility. The contingency is too hypothetical and too improbable to deserve serious discussion. But even then, the question bothers me, for it seems to me to imply, like so many questions being raised today about the Russians, that they are consumed with a desire to do terrible things to other countries or to enslave them. I think this is a serious and sometimes almost grotesque distortion of the real situation.

Have President Carter's pronouncements on human rights in other countries helped the dissidents in those countries?

I cannot say that I have followed this as closely as many other people have. But I think that, by and large, it has been counterproductive with relation to the people on whose behalf these things have been said.

But Mr. Carter seems to take the view that we must return to ourselves, to our principles, that we must be the best we can be and create an example— something you yourself once said.

If his pronouncements were directed solely to our own country, I would be strongly for it, and I would applaud Mr. Carter and say, "Fine, let us make sure that this country stands as a model for all humanity on human rights." But I do not think that any very useful purpose is served by pressing other governments in other parts of the world on this subject. I don't regard us as very good advisers to them. Very often we achieve just the opposite of what we wanted to achieve when we push along this line.

That seems to me to be the conclusion that one has to draw from the experience of the last two or three years. We have pressed for human rights in South Africa, and, so far as I can see, the main result of our efforts has been to crush—and to crush for years to come—the moderate and liberal white elements in that country. We have pressed for increased Jewish emigration from the Soviet Union, and the result is that we neither have the trade agreement which we could have had with that country, nor have we achieved an increase in the number of Jews coming abroad. On the contrary, it has declined. I don't quite understand this policy on our part. I don't think that it is entirely thought through.

You know, there was a time when we tended to talk about democracy, making the world safe for democracy. Today we never talk about democracy anymore. We talk only about human rights, and we press the Soviet regime to go further in the field to human rights than it has gone. Now the Soviet regime is an authoritarian regime. When we press it to go further along the path of human rights, what is it that we are demanding from it?

In other words, is not the question of human rights closely related to the question of democracy itself? I'm sure that the Soviet leaders feel this. And when we continually raise this subject, they see in it a disguised effort to promote the overthrow of the Soviet regime.

Now you may say, "Wouldn't you like to see the overthrow of the Soviet regime?" Well, before I could answer that question, I would have to know what the alternative to it is to be.

You are saying the Russian leadership considers all this very provacative?

I think they do. I think they suspect that what really lies behind it is still a hope on the part of our Government that we can succeed, finally, in overthrowing Communist power in Russia and Eastern Europe.

You've said the hardliners have something of a veto over U.S. policy, and that the Russians believe the hardliners have that veto. Does that make the Soviets more militant?

Let me put it this way. It puts arguments and force into the hands and mouths of their own hardliners, the people in Russia who say there's no use fooling with these Americans—in the end they will always react along the lines of the strongly anti-Communist, anti-Soviet sentiments that are widespread in this country.

Do you think Nixon and Kissinger handled the Russians properly in trying to develop a "web of relationships" with them?

I think that a lot of the summitry was unnecessary. I think it was unfortunate that some of this was overdramatized and led to false hopes here. But, otherwise, I think it was positive in its general direction, and I would like to see it continue.

Is the Carter Administration continuing it vigorously enough?

I haven't seen any great enthusiasm for its continuing, but it is permitting the existing agreements to continue.

You have said that you wrote your "X" article in 1947 to counteract the "left-wing deviationism" of the time. Do you find yourself feeling strange or uncomfortable in your fight now against "right-wing deviationism"?

Yes, I do. I know I do. And to many people it looks as though I've been a sort of turncoat in my views.

But you feel your views have been consistent?

Well, they have, to my mind. I've tried to adjust them to the nature of the Soviet Union as we know it today, and the world as we know it today, not the world as it was 30 years ago. I was very bitterly attacked the other day in one of the weekly intellectual magazines for things I had said in 1947 which appear to be different from things I was saying today.

Well, I didn't answer the attack, but I wanted to say to its author, "Do you really mean that you think it would have been better if in these 30 years I had learned nothing, and were saying precisely the same things that I said in 1947?" ●

LABOR LAW DISASTER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. ASHBROOK. Mr. Speaker, today the Senate is scheduled to begin consideration of S. 2467, a proposal which would allegedly "reform" the National Labor Relations Act. The House version of this bill—H.R. 8410—was approved last October. I led the opposition to this legislation and remain strongly opposed to it.

S. 2467 may or may not clear the Senate. If it is adopted by that body, however, the House will have another chance to correct the mistake it made when it passed the bill a few months ago.

There is growing concern in my own State of Ohio about the potential impact of this legislation. For the information of my colleagues I am including the text of an editorial from the Columbus, Ohio, Dispatch:

LABOR REFORM BILL IS SLY MISNOMER

If ever there was a misnamed piece of federal legislation, it is the so-called labor law reform bill now nearing a vote in the U.S. Senate.

If anything, the measure should be labeled as an organized union revival bill. It has more to do with halting the decline in unionization than in correcting laws which

would help to smooth labor-management differences.

Thirty years ago, about 40 percent of the U.S. labor force was unionized. Today, the percentage is barely 25.

The labor bloc still enjoys an influential position in the halls of Congress, but even that is waning. Seeing the trend, some labor bosses are resorting to bullying tactics on Capitol Hill to reinforce their positions.

They would be far better off by wooing general public opinion, polishing their image on the labor front and paying more attention to the concerns of their membership.

The current coal strike has done little to refurbish that image. Regardless of whether coal miners get back to work and replenish diminishing stockpiles of their vital fuel, they have a long way to go to win the confidence of the consumers who will pay their bills.

A major flaw in the bill before the Senate is a plan whereby the National Labor Relations Board would be increased in membership from five to seven. Of course, the two extra NLRB members would be appointed by President Carter who will be reminded by organized labor about his election due-bills.

What is especially dangerous about the proposal is that it is aimed at making it easier to organize workers employed by small entrepreneurs.

The bill calls for quick representation elections in as early as 21 days from the date they are called. Too, there is a provision for mandatory injunctions requiring reinstatement of employees allegedly discharged for union activity.

Any company found in violation of the proposed reform law would be banned from participating directly or indirectly in any federal contract or operation.

America's work force is entitled to protection, whether organized or independent. This measure is punitive in nature and will yield little more than unrest, an element already too prominent on the labor force.●

STUDY SHOWS PANAMA CANAL CARGO MAY BE DIVERTED OVERLAND

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. ANDERSON of California. Mr. Speaker, a recent study by the port of Los Angeles estimates that as much as 90 percent of the cargo presently going through the Panama Canal may be rerouted through a landbridge system overland across the United States. In the landbridge system, cargo will be transported from the Far East to the east coast and Europe through west coast ports and then overland; and from Europe to the west coast and the Far East through east coast ports and then overland across the United States by railroad or truck.

The study has shown that over the past year, there has been an increase of 3 million tons entering the port of Los Angeles. And with the possible increase in the rates charged to pass through the canal, the use of the landbridge will grow.

Mr. Speaker, I would like to insert for the RECORD an article from the May issue of American Shipper which outlines the findings by the Los Angeles Harbor Department, and commend this department for their industrious work in developing this report:

LOS ANGELES PORT STUDY SPECULATES 90 PERCENT OF PANAMA CANAL GENERAL CARGO TONNAGE MAY BE LOST TO LANDBRIDGES

An analysis of shipping trends by the Port of Los Angeles made in February uncovered data on minibridge movements, resulting in an additional 3 million tons of cargo annually for the West Coast port.

According to Los Angeles Harbor Department figures emerging as part of the research for the Port's Master Plan, an increasing number of shippers are including an overland leg in the shipment of cargo between the Far East and the East Coast, Europe and the West Coast, and between Europe and the Far East.

This land segment, up to now a cargo routing alternative to an all-water route through the Panama Canal, promises to change the very shape of ships and shipping at the Port of Los Angeles and elsewhere. The last evolutionary step in maritime trade approaching this magnitude was the introduction and acceptance of containerized cargo in the 1950's.

Referred to as minibridge, micobridge or landbridge, depending upon the cargo's ultimate destination the combination land and water route frequently provides shippers with a more economical and faster movement of goods. And port researchers predict the dollar savings will go up as the elements of the intermodal system—ships, trucks, railroads—are improved and expanded.

PANAMA CANAL

In many cases, pointed out Harbor Department Acting Planning and Research Director Bob Weir, the cost of extra handling and expenses associated with intermodal cargo movement is already less than the cost of Panama Canal fees combined with the additional daily operating costs of a ship for the longer voyage time required on the all-water canal route.

Weir suspects, by not using the Canal, shippers will need only six out of every 10 ships now in use.

"But aside from strictly economic reasons," Weir explains, "the growing acceptance of water-land routes for international cargo movement can be traced in part to the possibility of the Panama Canal's future fiscal and physical inaccessibility."

The Canal, opened in 1914 to cut miles and days off the long run "round the horn" of South America, triggered the first great expansion of the Port of Los Angeles. It was highly successful.

However, in the 60-plus years since that opening, ships have grown in size to the point where a large percentage of recently-constructed vessels, and those in the shipyards or on the drawing boards, exceed the physical limitations of the canal, either in length, in beam or in draft.

(Panama Canal regulations, with few exceptions, prohibit its use by ships longer than 950', wider than 106' or drawing more than 35.5 feet. The latest generations of tankers and container vessels and modern Navy aircraft carriers exceed these figures and must therefore utilize all-water routes other than the Canal.)

Also increasing in size has been the bill for maintenance and operation of the Canal—paid from the toll fees charged shippers using the facility. Indications are that this cost will rise even further regardless of the outcome of current treaty negotiations covering control of the Canal.

CONCLUSIONS

Los Angeles Harbor Commission President Roy Ferkich draws several conclusions based on these factors.

"As shippers are freed of the Canal's size restrictions," Kerkich states, "they are finding that fewer but larger ships, each carrying more cargo, result in a far more economical and profitable operation. Thus, tomorrow's trade routes and Los Angeles Harbor's Main Channel will probably be traveled by fewer but larger ships, each with greater capacity.

These changes—greater ship size and increased use of West Coast ports as part of water-land routes—will undoubtedly have a great impact on West Coast port facilities and the Southland economy."

PREDICT 90 PERCENT DIVERSION

Just how great an impact is projected in the Department's analysis of Panama Canal cargo diversions? Prepared by the Planning and Research Division, the figures assist port planners in determining what type, size and number of facilities will be needed in the future as shipping trends change. The report predicts that more than nine-tenths of all Far East cargo destined for ports on the East and Gulf Coasts will ultimately use a "bridge" system beginning on the West Coast. This diverted tonnage is expected to total over three million tons for Los Angeles Harbor alone.

In order to accommodate this increase the Port will have to develop more than 250 acres of cargo-handling and storage area, including the construction of six container berths. To handle this increased cargo, 247 new jobs will have to be filled.

The total economic impact of cargo diverted from an all-water Panama Canal route to the Port of Los Angeles is estimated by the report to be in excess of $2.3 billion, while the value of the cargo is expected to equal $5.6 billion.●

OUR NATION'S HIGHWAYS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. MICHEL. Mr. Speaker, Mr. Lee L. Morgan, chairman of the board of Caterpillar Tractor Co., recently addressed a Washington transportation seminar on the subject of our Nation's highways. I found this speech to be informative and thought-provoking. It points out the hard choices we in Congress are going to have to make when it comes to dealing with the very real problem of deteriorating national highway system. There can be no doubt that a good, well-maintained highway system is absolutely essential to the economic well being and the security of our Nation. But, unfortunately, there also can be no doubt that at present we are faced with hard decisions concerning the method by which we will fund the updating of what Mr. Morgan calls "the many thousands of miles of roads that don't reflect modern engineering standards and safety features."

You may disagree with some of Lee Morgan's proposals. But you cannot disagree with the accuracy of his message: Our Nation needs to improve the highways we already have.

At this point, I would like to insert in the RECORD remarks made by Lee L. Morgan to a Washington transportation seminar, April 24, 1978:

REMARKS BY LEE L. MORGAN

Our highway system is vital to the continued development of U.S. economic and social objectives. But it is a system that citizens tend to take for granted. And it's a system that is now suffering badly from lack of attention.

Caterpillar has a dual interest in highways. First, the products we manufacture are used to build and maintain roads, and to provide diesel power for trucks. But even if we did not stand to sell one extra Caterpillar machine, we would still be here . . . for we are interested as a major user of the nation's highways. Materials flowing into our factories and products flowing out are transported to a significant extent over the roads.

And Caterpillar's 64,000 American employees depend on those same highways to satisfy their daily transportation needs.

One need not be particularly perceptive to observe that American roads are deteriorating. We know it and you do.

But the country doesn't need (and Caterpillar doesn't advocate) large scale new road construction. We do need to arrest the deterioration of our modern highways, and update the many thousands of miles of roads that don't reflect modern engineering standards and safety features.

Several proposals are before the Congress to extend the life of the Highway Trust Fund. The fund has been in existence for over 20 years. Until the past few years, the fund has contained adequate revenues—generated by the four-cents-per-gallon gasoline tax—to support the highway system. But let's look at what has happened in the 1970s.

First, inflation has driven up the cost of construction and maintenance, to a level almost double that of a decade ago. Though federal highway authorizations have increased in actual dollars in the past 10 years, in real dollars they have declined by 30 percent. Simultaneously, a heightened public concern for safety has meant addition of some high cost features to highway construction.

Second, Americans have become more energy conscious. The U.S. is insisting on better mileage-per-gallon performance from automobiles. But the gas tax is tied to gallons of gas consumed. So increasing vehicle mileage—and the related wear on highways—haven't been accompanied by a commensurate increase in gas tax-generated revenues.

And third, some Highway Trust Fund dollars have been diverted to finance mass transit development.

We can all applaud the higher priority accorded safety, fuel conservation, and mass transit. But we are also cognizant of the impact on the Highway Trust Fund. The combination of inflation and these other factors has left the Trust Fund inadequate to complete needed highway construction, and to preserve and improve the existing road network.

There are measurable costs associated with substandard highways: They cause higher fuel consumption, at a time when the U.S. is trying to conserve that resource; by some estimates they add 50 percent to the cost of driving, when one considers added wear on tires, brakes, and other auto and truck components. They increase truck delivery times, thereby adding a cost to consumers. Most important—and tragically—they account for a large number of the deaths and injuries that occur on American roads. Federal Highway Administration studies predict that modernizing obsolete roads can cut highway deaths by a fourth.

We agree with the experts: the need is compelling. The U.S.—and state and local governments—must act affirmatively to restore and upgrade this great national resource.

The Highway Trust Fund is the appropriate federal-level means for meeting this challenge. But it won't be able to do so at existing funding levels.

Only here in Washington can steps be taken to ensure the integrity of the Trust Fund. Those steps may be unpopular in some quarters, but they are essential to upgrade and preserve the quality of our highway system. And we are among those who believe those steps should be taken as soon as possible. More delay in revitalizing our highways adds further costs . . . and casualties.

But we and the rest of the American traveling public aren't looking for a free ride. In fact, we prefer programs, like the Highway Trust Fund, which pay their own way. People who drive on our highways pay for them through the gas taxes their driving generates.

But unfortunately, the gas tax is no longer adequate to meet long-range highway construction and maintenance needs. We therefore agree with those who conclude there should be an additional levy on fuel. Despite the political unpopularity of a gas tax increase, we supported an increase when it was debated in the House in 1977. Now, in the context of the Highway Trust Fund renewal legislation, it seems appropriate to again pursue the question.

Americans pay very little for use of their highways. An American driving 12,000 miles per year . . . at an average of 15 miles per gallon of gasoline . . . pays less than $100 per year in state and federal gasoline taxes. That, ladies and gentlemen, is a very good bargain!

As a multinational company we're frequently reminded of just how good a bargain that is. Consider, for example, that the French pay an 83-cent-per-gallon tax; the West Germans, an 85-cent-per-gallon tax; and the Italians a $1.67-per-gallon tax.

A doubling of the four-cent federal gas tax would cost a typical American driver only $32 a year. There are few, if any, drivers who cannot bear that slight added burden.

You in Washington are the best judges as to the political feasibility of an additional gasoline tax. If that won't "fly" this year, there are alternatives. For example:

An ad valorem-type tax based on a percentage of the price paid for gasoline. It would work like a sales tax. As the price of gasoline increases, so would the revenues generated for the Highway Trust Fund.

A per-gallon tax which is adjusted periodically to reflect increases in highway construction costs. This approach does not offset the impact of lower fuel usage because of conservation measures. But it is better than the current system which takes no account of inflation.

Third, the Congress could adopt a gas tax increase which would be phased in over a several year period.

In closing, let us make a few other observations on the highway funding debate:

First, though we encourage development of mass transit, we are opposed to consolidation of highway and mass transit funds. We believe a separate mass transit trust fund should be established . . . similar to the Highway Trust Fund and Airport and Airways Trust Fund. Those two funds have proven the point; they've worked well.

Second, we support efforts to encourage the states to determine which of the remaining uncompleted segments of the Interstate System are vital to the System's usefulness, and to expedite finishing these segments. As stated earlier, we aren't advocating *new* highway building programs but, rather, encouraging the completion of the Interstate System.

Third, federal funding shares should reflect the nation's priorities for highways. Interstates, because of their substantially higher cost-per-mile of construction, bridge repair, and safety programs should be funded at a 90 percent federal share. Federal support for all other programs should be equalized, at an 80 percent level. Such an approach would encourage states to make decisions on a needs basis, rather than in terms of availability of dollars.

Finally we believe there should now be a substantial emphasis on replacement and rehabilitation of bridges, and the development of safer roads.●

FINANCIAL DISCLOSURE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. OTTINGER. Mr. Speaker, as I have done every year since my first election to Congress, I am today disclosing my and my wife's statement of assets and liabilities, schedule of the securities we own, schedule of other securities of which we are income beneficiaries, and schedule of the taxes we paid in calendar year 1977. While this disclosure goes beyond what is required by law at the present time, I am the sponsor of legislation requiring full financial disclosure, believing this to be the best protection of the public interest.

The statement and schedule are as follows:

RICHARD L. AND BETTY ANN OTTINGER STATEMENT OF ASSETS, LIABILITIES, AND CAPITAL AS OF MARCH 31, 1978

ASSETS

Cash (on hand or uninvested)	$73,818
Marketable securities—Betty Ann Ottinger (cost $56,931)—at market value (Schedule 1)	165,228
Marketable securities—Richard L. Ottinger Trust dated March 19, 1969 (cost $551,030)—at market value (Schedule 1)	1,463,465
Real estate:	
Residences in Pleasantville, N.Y. and Washington, D.C.—at estimated market value	500,000
	2,202,511

LIABILITIES AND CAPITAL

Liabilities

Notes and Loans payable:	
Testamentary Trust u/w/o Lawrence Ottinger f/b/o Richard L. Ottinger	301,912
Patricia L. Chernoff	150,000
Trust u/a dated 10/30/57 f/b/o Richard L. Ottinger	50,000
Other loans payable	40,000
	541,912
Income taxes payable on unrealized gain on marketable securities	459,329
Total Liabilities	1,001,241
Capital	1,201,270
	2,202,511

SCHEDULE 1

RICHARD L. AND BETTY ANN OTTINGER

SCHEDULE OF SECURITIES AS OF MARCH 31, 1978

BETTY ANN OTTINGER

Description

Stocks

Number of Shares or Par Value		*Current market value*
2,175	Champion International Corp.	$39,422
200	Gulf Oil Corp	4,975
175	International Business Machines Corp	41,213
80	Sears Roebuck & Co	1,790
184	Simplicity Pattern Co., Inc.	2,415
160	Travelers Corp	4,940
1,500	Weyerhaeuser Co	33,750
		128,505

Bonds

$37,000	U.S. of America Treasury Note, 6%, 11/15/78	36,723
	Total	165,228

RICHARD L. OTTINGER

Stocks

Number of Shares or Par Value		
500	American Telephone & Telegraph Co	30,625
2,850	Anheuser Busch, Inc	58,781
700	Campbell Soup Co	22,662
645	Champion International Corp.	11,691
1,800	Connecticut General Insurance Co	80,775
1,038	International Business Machines Corp	244,449
80	Sears Roebuck & Co	1,790
11,898	Simplicity Pattern Co., Inc.	156,161
1,200	Travelers Corp	37,050
7,494	Weyerhaeuser Co	168,615
8,100	Xerox Corp	339,188
	Total	1,151,787

Bonds

$50,000	Ascension, St. James Bridge & Ferry Auth. La., 4.45%, 11/1/2001	41,000
30,000	Federal Land Banks, 8.15%, 4/20/82	30,150
50,000	Honeywell Finance, Inc., 7%, 11/1/78	49,688
50,000	New York State Mtge. Finances Agency, 6.9%, 4/1/83	52,182
50,000	New York State Mtge. Agency, 5.7%, 10/1/96	49,750
25,000	P/H/A New York City, N.Y., 3.59%, 12/15/78	24,916
40,000	P/H/A Niagara Falls, N.Y., 2.86%, 4/21/78	39,963
25,000	Westmoreland Co. Indust. Dev. Pa. 4.6%, 12/1/85	24,029
	Total	311,678
	Total	1,463,465

RICHARD L. AND BETTY ANN OTTINGER SCHEDULE OF ASSETS OF VARIOUS TRUSTS OF WHICH RICHARD L. OTTINGER IS INCOME BENEFICIARY AS OF MARCH 31, 1978

Number of Shares or Par Value	Description	Current Market value
	Stocks	
400	American Telephone Telegraph Co	$ 24,500
3,000	Anheuser Busch, Inc	61,875
400	Atlantic Richfield Co	18,350
280.60	International Business Machine Corp	66,081
3,600	Perkin Elmer Corp	65,250
1,800	Sears Roebuck & Co	40,275
		276,331
	Bonds	
40,000	Xerox Corp., 8.2%, 11/1/82	40,050
30,000	Nevada Housing Div., 4.8%, 4/1/86	29,070
25,000	Pennsylvania, 4½%, 7/1/2000	19,378
15,000	New York, N.Y., 5%, 5/1/91	10,054
15,000	Federal Land Banks, 8.15%, 4/20/82	15,075
30,000	Puerto Rico Commonwealth, 4.5%, 7/1/97	20,372
25,000	Ascension, St. James Bridge & Ferry Auth. La., 4.45%, 11/1/2001	20,500
25,000	P/H/A New York City, N.Y., 3.59%, 12/15/78	24,916
15,250	New York State Mtg. Finances Agency, 6.9%, 4/1/83	15,916
9,150	New Jersey Turnpike Auth., 5.2%, 1/1/2008	8,281
6,100	P/H/A Monticello, N.Y., 3.4%, 10/13/78	6,076
21,350	P/H/A New York City, N.Y., 3.59%, 12/15/78	21,278
9,150	P/H/A Washington, D.C., 2.5%, 5/1/91	6,509
9,150	Bedford, New Castle, etc., N.Y., 3%, 6/1/83	7,659
9,150	Baltimore City Md., 4%, 8/1/86	7,968
9,150	Chelan Co., Wash., 3.4%, 12/1/2003	7,137
9,150	So. San Joaquin, Calif., 3.05%, 7/1/2004	6,954
		267,193
	Cash	2,759
	Total	546,283

The above securities are not reflected as assets of Richard L. Ottinger since he is only an income beneficiary of the Trusts. The schedule is prepared for informational purposes.

SCHEDULE 2

RICHARD L. AND BETTY ANN OTTINGER SCHEDULE OF ASSETS OF VARIOUS TRUSTS OF WHICH BETTY ANN OTTINGER IS INCOME BENEFICIARY AS OF MARCH 31, 1978

Number of Shares or Par Value	Description	Current market value
	Stocks	
150	Anheuser Busch, Inc	$3,094
250	General Electric Co	11,656
150	Johnson & Johnson	10,200
450	RCA Corp	11,250
306	Weyerhaeuser Co	6,885
		43,085
	Bonds	
$30,000	U.S. of America Treasury Note, 6%, Nov. 15, 1978	29,775
$25,000	N.Y. State Mtg. Agency, 5.7%, Oct. 1, 1996	24,875
		54,650
	Cash (Overdrawn)	(660)
	Total	97,075

The above securities are not reflected as assets of Betty Ann Ottinger since she is only an income beneficiary of the Trusts. This schedule is prepared for informational purposes.

SCHEDULE 3

RICHARD L. AND BETTY ANN OTTINGER SCHEDULE OF TAXES PAID IN 1977

Federal income tax	$32,431.00
State and local income tax	8,556.97
New York and District of Columbia property tax	15,375.00
Total taxes paid	56,362.97

●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district, I was absent from the House on Friday, May 12, 1978.

Had I been present, I would have voted: "aye" on rollcall No. 307, that the House resolve itself into the Committee of the Whole House for the consideration of H.R. 12222, the International Development and Food Assistance Act of 1978; "nay" on rollcall No. 308, an amendment to H.R. 12222 that sought to make tobacco and tobacco products ineligible for use in the food for peace program; and "aye" on rollcall No. 309, a substitute amendment to H.R. 12222 that sought to prohibit only direct aid funds from being used to aid Vietnam, Cambodia, Uganda, or Cuba.●

ALASKA'S WILDERNESS WILDLIFE REFUGES

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. MAGUIRE. Mr. Speaker, we in New Jersey appreciate the value of open spaces—by their absence as much as their presence. Most of us live in or near densely populated cities and suburbs, with high rises, factories, and freeways dominating our landscape.

We are beginning to realize what a heavy price we are paying for having failed so often in the past to bring economic and evironmental goals into balance—with long term benefits for each.

New Jersey suffers from one of the highest rates of cancer of any State in the Nation, and we are discovering that environmental pollution is a contributing factor in the development of cancer, heart disease, lung disease, and other serious health problems. Our citizen must travel farther and farther to enjoy the revitalizing benefits of the open countryside and woodlands. The vast pristine Alaskan wilderness seems so far away to us, but we know how important it is to preserve there, for our Nation and our world, for all Alaskans and all people everywhere; what we need not plunder.

The consensus bill reported by the Interior Committee and the Merchant Marine Committee to designate the national interest lands in Alaska is the result of an enormous amount of study and effort. In general, it is a well balanced proposal. Its major defect lies in the area of wilderness designation. The 2.3 million acre Misty Fjords Wilderness Area in southeast Alaska should be restored to the proposal, and nearly 10 million acres of designated wilderness acreage should be restored to the proposed wildlife refuges.

Alaska provides habitat vital to species of animals that have been practically extirpated in the lower 48 States. The great grizzly bear, symbol of the American wilderness, still survives in the hinterlands of Yellowstone and Glacier National Parks, but even there, pressures mount as backcountry hiking and camping increase. The timber wolf survives in the United States outside Alaska only on Isle Royale in Lake Superior and in northern Minnesota. Alaska also provides summer breeding and nesting habi-

tat to many species of waterfowl, shorebirds, and other birds that migrate to areas throughout the Western Hemisphere, including New Jersey.

Wilderness designation of the wildlife refuges in Alaska will provide the strongest possible assurance that these areas will never be changed from their present wildness. We will lose nothing by providing wilderness protection to these lands. The consensus bill has omitted from the conservation units it proposes the great majority of land with the highest potential for development of oil, gas, and minerals. Those areas proposed as wildlife refuges have been determined as being more important as wildlife habitat than as energy reserves.

The proposed minerals access process, also, should be strengthened. It provides for oil and gas leasing on nonwilderness portions of wildlife refuges at the discretion of the Secretary of the Interior. Such decisions on leasing should not be left to the discretion of one person, but should be made the responsibility of Congress, with opportunity for public input.

Finally, the consensus bill has rejected all provisions for cooperative State and Federal management of certain Federal lands, and rightly so. The State of Alaska chose 104 million acres of land with high potential for development. To allow the State control over Federal lands as well, other than in an advisory capacity, would be both unnecessary and unwise.

Mr. Speaker, never before has this House been called upon to make such momentous land conservation decisions. Our Nation has made many mistakes in the past, and we have learned much from them. Now we have a second chance in Alaska. We face Alaska now as we faced the West 200 years ago. Let us not make the same mistakes in Alaska now that we made then, by not preserving enough land. We are deciding, not the fate of a single State, but a significant part of the destiny of our Nation. For these lands are national lands, our national heritage, and our bequest to generations to come.

I urge my colleagues to support the consensus bill with amendments to strengthen the provisions for additional wilderness acreages and for the minerals access process, and to oppose any amendments to weaken its conservation provisions or to allow partial State control over Federal lands.●

"TOOK A SHOT"

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. DICKINSON. Mr. Speaker, recently the President "took a shot," with some very tough rhetoric, aimed indiscriminately at all the lawyers and doctors of our Nation.

A very respected lawyer from my State of Alabama sent me the following thoughts that came to his mind after being attacked by the President. I commend to my colleagues, Ralph Smith's conclusions about the meaning of the President's attack:

MAY 8, 1978.

Congressman WILLIAM L. DICKINSON,
Rayburn House Office Buliding,
Washington, D.C.

DEAR BILL: All of us down here are mighty well pleased to learn that the trouble with the country is that it is overlawyered and underrepresented.

All the time we have been thinking our trouble was that we were overtaxed and underpresidented.

With highest personal regards, I am,
Yours very truly,

RALPH SMITH, Jr.●

SURVEY OF MARIHUANA USAGE AMONG TEENAGERS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. MAZZOLI. Mr. Speaker, those who favor decriminalization of marihuana—a position with which I disagree—should read carefully the following article, entitled "Marijuana Use by Teen-Agers Grows Sharply, Survey Shows," which appeared in the May 9, 1978, Washington Post:

[From the Washington Post, May 9, 1978]

MARIJUANA USE BY TEENAGERS GROWS SHARPLY, SURVEY SHOWS

(By Blaine Harden)

Don, a junior at Chantilly High School in Fairfax County, claims that six years of daily marijuana smoking have helped him become more interested in life. At home there is frequently "nothing to do," but a walk in the woods to smoke marijuana, Don says, fills his mind with "80 million things to do that I never thought of."

Cynthia, senior at Fort Hunt High in Fairfax, says she has smoked marijuana four times a week for four years and argues that "pot won't mess you up unless you are going to mess up anyway."

These views—sharply challenged by a number of medical authorities—may help account for what an authoritative University of Michigan survey calls a sharp increase in daily marijuana use among high school seniors since 1975. According to the study, widely regarded as the most comprehensive and accurate assessment of American teenage drug use, one of 11 seniors now smokes marijuana daily.

The findings are alarming to many medical and drug authorities, who express fears that frequent marijuana use may have many, harmful long-term effects on the students. Many high school students dismiss these fears and refuse, for instance, to consider marijuana a drug.

"Marijuana," insisted one Fairfax County student, "isn't a drug. It's just something that's around, sorta like blue jeans."

The percentage of the nation's high school seniors who smoke marijuana daily has increased from 6 percent to 9.1 percent, according to the University of Michigan study.

"Researchers don't know about the long-range ramifications of these figures," said Dr. Robert C. Peterson, assistant director of the research division of the National Institute on Drug Abuse in Rockville.

"I think, though, there is reason to be worried. Show me any example in history where a drug made people any better able to cope with the difficulties of living."

The study of high school seniors shows that marijuana is almost universally available to high school students, that students are starting to smoke marijuana at increasingly younger ages, that more than half of them have smoked it, and that nearly two-thirds think there is nothing wrong with smoking it.

"Smoking pot has gone from being a deviant behavior to a majority behavior," said Dr. Lloyd D. Johnston of the University of Michigan, who directed the drug-use study.

While marijuana usage has increased sharply in high schools, use of almost all other drugs has remained the same as in 1975 or declined, the study shows. Troubled by drug problems in the suburban Washington school system, Fairfax County police said recently they will place undercover agents in the county's high schools.

Interviews with students at three high schools in different areas of the County, which has a highly rated school system and an annual median family income of $28,500, indicate that regular marijuana users believe the drug enriches their learning about academic subjects and about "life" and gives them a "distance" from their problems that helps them relax. Drug researchers dispute the students' views.

Regular marijuana smokers interviewed in the county agreed that too much marijuana is dangerous. "Pot is just another obstacle you have to deal with in growing up," said Cynthia from Fort Hunt High.

Marijuana for teen-agers is what martinis and Valium are to the teen-agers' parents, according to Dr. Allan Cohen, a clinical psychologist for the Pacific Institute for Research and Evaluation in California, a center for drug abuse information funded by federal grants.

Cohen, who has spent 15 years in marijuana research, said "undoubtedly some adolescents are self-medicating themselves against stress." But Cohen, along with other drug researchers interviewed, said most high school students use marijuana to fill in the empty spaces in their lives.

Students in the Fairfax high schools agreed that when they face a boring class or an empty afternoon at home after school before their parents return from their jobs nothing fills the hours like smoking marijuana.

"I figure if you have to go to some idiotic class," says Teresa, a 16-year-old junior at Fort Hunt High, "you might as well get high and enjoy it." At Chantilly High, 17-year-old Christy says, "If I have a test and I know I'm not going to do well, instead of sitting there (in class) and fretting. I might as well enjoy it."

Cohen said high school marijuana smokers use the drug to endure boring classes, to make up for a lack of goals and, often, simply to talk with each other.

"In the old days, it was possible that kids would get together and talk and enjoy each other's company. Now that group (regular marijuana smokers) finds it hard to communicate unless they are stoned. Then they really don't have to communicate," Cohen says.

Although no long-term studies of high school marijuana users have been conducted, Cohen said that clinical evidence and information gathered by counseling agencies indicates that chronic marijuana usage is related to decreased academic performance, truancy and a decreased ability for objective self-appraisal.

"What researchers and teachers are worried about," Cohen said, "is that this historically unique amount of daily intoxication may postpone maturity. Adolescence is a time when people must learn to make decisions, resolve conflicts and form their identities."

Researchers such as Cohen, Peterson at the National Institute for Drug Abuse and Johnston at the University of Michigan say they think regular marijuana smoking by high school students may stop students from "growing up" as they grow older. "The real

world does not have much patience with a 22-year-old masquerading as a 16-year-old," Cohen said.

Students interviewed in Fairfax high schools claim marijuana has none of these adverse effects, unless it is abused. They often cite newspaper and television reports that say that researchers have found no dangerous short-term effects on health from moderate usage. Smoking marijuana daily, they say, is moderate usage.

"When I'm high," says a 17-year-old junior from Fort Hunt, "I'm in a good mood for learning. I never get too excited for a test or too depressed to pay attention.

"Growing up is hard. There are a lot of ups and downs. Now that pot has been introduced in the high schools, things have calmed down."

Dr. Keith Schuchard, an English teacher at DeKalb Junior College in Atlanta and the mother of a 15-year-old who used to smoke marijuana regularly, said the idea of an adolescent who does not get either excited or depressed is repulsive.

"The whole 'laid back' thing when you see it in a 14-or 15-year-old is not very pretty," said Schuchard, who organized 40 families in an affluent suburb of Atlanta to stop teen-age marijuana use.

She said that she and other neighborhood parents, whom she did not know until the marijuana problem emerged, "dismantled a drug-oriented life" for her son by eliminating some of the vacuums marijuana filled for him.

The neighborhood parents group, which teen-agers called "PSP" "Parents' Snoop Patrol," did not allow unsupervised parties, unaccounted for spending money or "hanging-around time."

The program worked, Schuchard said, and she is now instructing parents in other Atlanta suburbs about how to start up their own PSPs.

In Fairfax, high school students say such a program would not do any good because parents do not have enough time for that kind of supervision and marijuana smoking is not a problem that parents can solve.

Students interviewed agreed that they are the ones responsible for learning how to use marijuana.

"It's like learning to drive a car," a Chantilly High junior says. "Some kids can't figure it out, but most everybody else has no problems."●

THE CASE AGAINST THE NUCLEAR AIRCRAFT CARRIER

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. DOWNEY. Mr. Speaker, when the Congress considers the defense authorization bill for fiscal year 1979, one of the most controversial items will be the addition to the President's budget of a new nuclear *Nimitz*-class aircraft carrier. The Armed Services Committees of both Houses added this $2.130 billion supercarrier to the procurement bill.

I am certain that efforts will be made on the floor to delete this aircraft carrier. To assist Members in their consideration, Representative PAT SCHROEDER has written a report on "The Case Against the Nuclear Aircraft Carrier" for the Arms Control and Military Affairs Committee of Members of Congress for Peace Through Law (MCPL).

As chairman of the MCPL Arms Control and Military Affairs Committee, I am inserting this report in anticipation of congressional action on the new carrier and urge my colleagues to give it the closest attention.

The text of the report follows:

THE CASE AGAINST THE NUCLEAR AIRCRAFT CARRIER

(A report to the Arms Control and Military Affairs Committee of Members of Congress for Peace Through Law, by Representative PAT SCHROEDER, May 1978)

The debate on the future of the aircraft carrier involves two interrelated questions. The first is how many carriers should we have? The second concerns what type of carriers we should build if additional construction is necessary. The first question is the more basic of the two. It requires that we go back to the development of our national strategy, the missions that strategy entails and our choice of varying means to carry out those missions. From those assessments force level requirements are generated including a determination of our need for aircraft carriers. Once this is decided the second question becomes relevant.

In more concrete terms relevant to the debate that confronts the Congress this year, the first question becomes what should the roles and missions of the Navy be, and must we have 12 deployable carriers into the indefinite future until the transition to VSTOL or VATOL platforms. Considerable controvery began to swirl around this question when it was reported in the press that the draft Consolidated Guidance Memorandum from the Office of the Secretary of Defense (OSD) for the out fiscal years recommended that the Navy deemphasize its power projection mission on the flanks of NATO and focus instead on its primary responsibility, sea control, and the projection of power in lower threat areas. This refocusing, it was apparently argued, would allow the Navy to drop its carrier requirement to 10 deployable decks.

While Secretary Brown in a later appearance before the Seapower Subcommittee reaffirmed, if lukewarmly, his support for the traditional missions of the Navy and opted to maintain 12 deployable decks for the future the issue remains moot. I continue to remain uneasy over the lack of attention that has been paid to alternatives to the carrier including the utilization of land based air, and current VSTOL, cruise missile and remotely piloted vehicle technology. The 12 deployable carrier requirement has not been fully justified on a strict cost-effectiveness basis in my mind. The cost of another carrier demands that it be so.

Supporters of the carrier will no doubt point to numerous studies on carrier force level requirements to justify additional construction. Three recent studies are of considerable note—the CVNX study initiated by then Secretary of Defense Schlesinger in late 1975, the National Security Council study submitted by the Ford Administration in January, 1977 and the recently completed Naval Force Planning Study (Sea Plan 2000) directed by the Carter Administration. The sad truth is that such studies have generated carrier requirements after assuming alternatives out of existence.

In a critique of the CVNX study, for instance, the Congressional Research Service concluded that, "The future need for aircraft carriers is treated entirely by implication. There is ample discussion of our present need for carrier based tactical air power, but scant discussion of how long we will continue to need it, or alternative ways of performing tasks now assigned to carrier-based tactical air."

Similarly the General Accounting Office in a discussion of the NSC study noted that "Although the study discussed new technology, it assumed that sea-based aircraft and the carrier's special utility for performing peacetime functions were indispensable and, hence, limited consideration of carrier alternatives. Land-based aircraft, missile technology, and remotely piloted vehicles were not seriously considered because they did not conform to the assumptions. As a result, the study recommended a continuation of the carrier centered Navy."

The Naval Force Planning Study only continues the trend. The assumption of a carrier centered Navy is continued. "Because uncertainty increases as we look further into the future, military capabilities must be balanced and flexible to deal with a range of possible world environments. Primary among these will be versatile naval forces, the centerpiece of which will continue to be carriers because they contribute heavily both to control of the seas in high threat areas and to the outcome of battles ashore." Again competing alternatives were ignored.

That such studies have been largely self-serving should not be surprising. Simply put the Navy is wedded to the carrier.

Just as the Air Force built in assumptions and scenarios to favor the B–1 in its studies, so these Navy in-house dominated studies have been structured so as to confirm Navy budgets and force level requirements.

It was only through rigorous review by the Carter Administration that the B–1 was dropped in favor of the more cost-effective cruise missile. As complete and objective an analysis is required of carrier force levels.

I cannot say unequivocally that alternatives to the carrier would be more cost-effective across a broad range of missions. There is, however, evidence that in some missions alternatives are a better bet for the taxpayer. The Congressional Budget Office last year in a study titled "The U.S. Sea Control Mission: Forces, Capabilities, and Requirements" demonstrated significant savings for land based air defense in the Atlantic in support of the sea control mission. These savings, which range in the study between 2.3 and 6.6 billion dollars depending upon various options chosen, accrue largely because many of the carriers assets become superfluous to overall defense requirements in the Greenland-Iceland-United Kingdom (G-I-UK) gap.

One of the most frequently heard arguments from proponents of additional carriers is that failure to maintain 12 deployable decks would lead to a reduction of our current forward deployments. The Navy currently argues that three carriers are needed for each of the four carriers that are currently forward deployed (Two each in the Pacific and the Mediterranean). Again options are available. The home porting of a second carrier in the Western Pacific (either Japan or Subic Bay, Philippines) would allow us to maintain current forward deployments with a reduced number of decks. Not only does homeporting allow higher deployed force levels with fewer total assets but also greater on-station time. Substantial savings could result from removing the need for additional carrier construction and subsequent operational costs as well as by shortening the logistics tail support for carriers that are forward deployed.

Even assuming current deployment, overhaul and training schedules, a drop to eleven deployable decks would mean only a three month period out of the year when four carriers could not be forward deployed. That gap could be filled by the deployment of additional land-based air or ships including the new general purpose helicopter assault ship (LHA). With a displacement of 39,000 tons and the capability of embarking 1,800 Marines the LHA was considered by both Secretary Schlesinger and Secretary Rumsfeld as capable of performing a wide range of functions. As Rumsfeld noted in his fiscal year 1977 Annual Defense Department Report, "These ships are equivalent in size to the old World War II Essex-class carriers, match the size of

the Soviets' new carrier, the Kiev, and while not as formidable as a carrier in some respects, could perform a wide range of functions in a crisis." Tangible signs of commitment to allies and power projection are not the sole providence of the carrier.

There are advantages and disadvantages to all options as well as cost assessments that need to be carefully calculated. But the costs of a decision to procede with the acquisition of another carrier demand such a complete analysis. The 2.2 billion dollar cost of the repeat Nimitz the House Armed Services Committee has recommended is just the tip of the iceberg. The recently issued Sea-Based Air Platform Study has estimated that the 30 year life-cycle cost of such a ship and its airwings at between 18 and 25 billion dollars depending upon the type of aircraft to be procured. Such cost figures do not even take into account the additional costs that would be associated with the procurement of nuclear powered escorts to protect the carrier.

Admiral Holloway has testified that the surface escorts for a nuclear carrier should number at least three if only one is an Aegis equipped ship. The Congress has currently authorized and appropriated funds for 9 non-Aegis nuclear cruisers, the last of which will be delivered in 1980. Given Admiral Holloway's requirements the construction of an additional nuclear carrier would require the construction of at least one additional nuclear Aegis equipped cruiser and one nuclear non-Aegis cruiser.

The $18 billion investment in a nuclear carrier alone needs to be put into perspective. A comparison between the Carter and Ford Administration 5-yr shipbuilding programs makes a good start. The Ford plan submitted in January, 1977 called for 156 new ships and 20 modernizations of existing ships. The Carter plan submitted this year calls for 70 new constructions and 13 modernizations. The Carter plan thus represents a cut of 86 new ships and 7 modernizations. While deferring for the moment on any arguments about how large a construction program we should have, it is interesting to note that the difference in cost between the Ford and Carter plans is $17 billion dollars. In other words, we could, if these estimates are in the ballpark, procure those 86 new ships and 7 additional modernizations for less than the life cycle cost of a new Nimitz carrier and its airwings. Nothing better states to me the opportunity costs of building large, high value ships.

Althoug some members of the Committee would have us believe that money grows on trees, we are realistically faced with a problem of best allocating scarce resources. It is unfortunate that the debate over the carrier this year has focused largely on a straight up and down comparison of the relative capabilities of the CVN versus the CVV. The real question is what we incrementally gain from spending a sum of money on a CVN versus what we gain from spending it in other ways.

Admiral Holloway testified before the Senate Armed Services Committee last year that he believed we should have enough nuclear powered task groups to constitute a "strategically significant segment of the fleet." "My personal view of the number of carrier task groups needed ranges from a low of four to a high of six." While the more detailed justifications for such numbers remained unexplored at that time, it is clear that at least the minimal requirement for nuclear carriers will be met by the commissioning of the Vinson in the early 80's and that with service life extension to the Enterprise we will retain these carriers in the active force well past the year 2000. The same cannot be said for other Navy requirements.

At a most fundamental level the material readiness of the Navy's ships and aircraft still remain well below par largely due to fiscal constraints. At the end of the last fiscal year the Navy still had 42 ships backlogged for overhaul to bring their material readiness up to par. The trend is up, but as Read Admiral Bulkeley, President of the Board of Inspection and Survey testified last year, "We have turned around the material condition of the fleet *but we still have a long way to go.*" (emphasis added)

As to aircraft readiness Admiral Holloway testified this year in his Posture Statement that, "Fleet aircraft material readiness underwent a steady decline from fiscal year 1972 through fiscal year 1976, reaching an all time low during the later fiscal year." Although as the Admiral notes in fiscal year 1977 and 1978 this trend was reversed, "the fiscal year 1979 level of funding will not sustain this rate. It is anticipated that fiscal year 1979 aircraft material readiness will decrease with the annual average being equivalent to that achieved in fiscal year 1977."

In his assessment of the current naval balance this year Admiral Holloway stated, "In the event of conflict the U.S. could probably retain control of the North Atlantic sea lanes to Europe, but would suffer serious losses to both U.S. and allied shipping in the early stages. . . . If Pacific fleet assets were to be shifted to the European theater in a NATO conflict, the U.S. forces remaining in the Pacific would be sufficient to protect the sealanes from the continental U.S. to Hawaii and Alaska, but only the military lines of communication to our allies in the Western Pacific."

Last June's Congressional Budget Office report on the U.S. sea control mission concluded that currently, "even with present missions unchanged, there is a need to add significantly to the surface escort force. Escort force levels have fallen far short of DOD goals, and modifications of total force requirements have not in themselves eliminated the gap between escort requirements and escorts available to the fleet." In 1974 then Secretary Schlesinger enunciated a requirement for 250 surface escorts, 210 of which were to be in the active fleet. Secretary Brown, as far as I know, has not yet changed that requirement. The current force level of cruisers, destroyers, and frigates at the end of fiscal year 1977 stood at 171.

For the procurement price of another Nimitz carrier and its airwings we could purchase 46 frigates for the escort role in time of war.

To say that we have overemphasized power projection may be an understatement. The Congressional Research Service recently calculated that roughly 65% of our surface fleet is primarily tasked with missions in support of the U.S. Navy's 13 aircraft carriers. If amphibious forces are added to this category then roughly 83% of our surface vessels could be said to be oriented toward power projection.

Now the Armed Services Committee is asking the House to build yet another power projection ship at a time when the Navy's ability to control the sea lanes is being questioned.

It may be argued by some that an emphasis on sea control is ill-advised in light of the short war scenarios which are currently in vogue. Sea control they might claim would be most important in an extended conventional war in Europe since convoys may not reach Europe in substantial numbers until the third week of war. While this argument has some merit, the ability to successfully exert sea control, at the very least, represents a vital hedge against a longer war. If we do not have the capability to fight a longer war the U.S. might well be forced to choose between the use of tactical nuclear weapons, with the consequent threat of escalation, or surrender, should the course of the war favor the Soviets. Sea control capabilities thus increase our options and give the Soviet Union more to think about.

Still we have needs to make our current carrier task groups fully capable. Secretary Brown in his appearance before the Seapower Subcommittee this year listed as one of two priority needs for the Navy improved air defense capability. While air defense is not provided solely through surface ships, the deployment of Aegis with ships in support of the carrier is considered a high priority by the Navy. For the procurement price of another Nimitz carrier and its airwings it would be possible at FY '79 prices to procure the 7 DDG 47's in the Carter 5-year plan to upgrade air defense for our conventionally powered carriers with about $3 billion to spare. The $3 billion is approximately equal to the procurement cost of 3 new follow-on Aegis equipped nuclear cruisers of the Virginia class with spare change left over to backfit Aegis into a fourth cruiser. Alternatively, for the life-cycle cost of the nuclear carrier and its airwings the Navy could procure at FY '79 prices its stated requirement for 15 DDG 47's and 4 new Aegis nuclear cruisers with at least $5 billion to spare.

While these escort requirements are still somewhat controversial and subject to change because of the reevaluation of needs and the tradeoffs that can be made among various systems in performing certain missions, the point is fairly clear. High value nuclear ships such as the Nimitz will also mean fewer ships at a time when the Navy is concerned over the size of the fleet. The cost of another nuclear carrier will, in short exact tremendous opportunity costs.

If the Navy and the Department of Defense can conclude after a thorough and objective review of alternatives that an additional carrier is necessary and fiscally the wisest choice, I find the CVV the preferred alternative. Again supporters of the Nimitz will undoubtedly trot out studies claiming it is the most cost-effective carrier. Again, I would hasten to point out that such conclusions are largely the result of the assumptions under which the studies were conducted.

A case history is illustrative. In late 1975 Secretary of Defense Schlesinger initiated the CVNX study. A skeptic of carriers of the Nimitz variety, Schlesinger called for an examination of the cost-effectiveness of smaller nuclear carriers (no conventionally powered alternatives were considered). Dr. Schlesinger specifically desired to build a carrier that would cost less than the $2 billion plus Nimitz and couched his guidance to the Chief of Naval Operations strictly in economic terms. He made no reference to missions or the types of aircraft such a carrier would be capable of handling.

However, Admiral Holloway provided a different set of guidelines to the study group. His guidance called for a carrier that "will be capable of operating modern aircraft across *all* the Navy's missions". (emphasis added) A Congressional Research Service analysis of the guidance noted that this "implies that the carrier must be able to operate F-14 and heavy attack aircraft and be able to survive in the most severe threat environment a naval force can be expected to face today, that is, the saturation attack conducted by coordinated land, air, ship and submarine opposition near the Soviet homeland." CRS concluded, "With these guidelines the subsequent finding that a Nimitz follow-on class is required is assured."

The type of scenario the carrier is forced to operate in will usually determine which is cost-effective. As the Sea-Based Air Platform Study showed this year there is generally no one superior cost-effective platform across all scenarios. Power projection scenarios in the highest threat areas do tend to relatively favor the Nimitz. The Navy jumps on this relative advantage to justify the cost of the nuclear carrier.

But the greater relative effectiveness of the Nimitz class carrier is overshadowed by their absolute vulnerability. There is no question

but that the carrier would be extremely difficult to sink, but it is subject to being easily put out of action. The Sea-Based Air Platform Study confirms that 2–5 missile hits yield a significant probability that a CVN would be put immediately out of action. "Immediate out of action" as defined by the study "means the ship is unable to launch or recover aircraft for at least one hour after the attack. The ship is inoperable at least for a short time, and may also be inoperable for a much longer time or indefinitely."

The Navy's stock reply to the vulnerability of carriers to cruise missiles is that in 1969, nine major caliber bombs exploded on the flight deck of the Enterprise, the first nuclear carrier, and that she was judged to have been able to resume flight operations within several hours.

I have always found myself somewhat amused by this example. The presumption seems to be that the inability to operate aircraft for several hours is no big deal and that the luxury of repairing the damage and resuming operations would be as available in wartime as it was to the Enterprise in peacetime. If the carrier cannot operate its aircraft it is basically useless, as are its escorts whose sole function is to protect the carrier. In such circumstances the carrier would have to high-tail it for safety, if it could. One would also have to assume that the carrier would be struck while conducting air operations. If the carrier is unable to recover its aircraft for the period it is out of commission they would have nowhere to land other than in the drink. The carrier may be able to resume operations in several hours, but it may not have any aircraft to operate.

The vulnerability of the carrier would be meaningless if we could be assured that no cruise missiles would hit the carrier. Supporters of the Nimitz and its high threat power projection mission point to the substantial upgrading of fleet air defense that will accompany the full deployment of F–14's and the incorporation of the Aegis anti-air warfare system into carrier escorts.

The GAO has done several summaries of Navy and DOD studies on the Aegis system. I would urge my colleagues to read them. To quote from the conclusion of one of those studies published last year:

"It is generally agreed that no present or proposed aircraft interceptor or area SAM system can prevent some saturation missiles from getting through, despite the great sophistication of air defense technology. There is a good chance that some of these leakers will put carriers out of action."

The carrier is highly likely to face such a saturation attack if it ventures near Soviet waters or attempts to project power on the flanks of NATO.

Ironically it has been pointed out both in the Naval Force Planning Study and by Secretary Brown this year to the Seapower Subcommittee that not even a nuclear powered task force could venture into high threat areas until that threat had been attrited by land-based air and antisubmarine warfare forces. Thus carriers, except at grave risk, would not be able to project power on the flanks of NATO in the crucial early stages of a war, and according to some sources up to 90–120 days after the onset of a war.

The Nimitz carrier simply cannot effectively accomplish what it was maximixed to do and it is too gold plated to be worth the price in other tasks where many of its assets become superfluous. Bigger and better does not mean cost-effective.

The CVV, while retaining some power projection capabilities, would be designed primarily for sea control, the Navy's primary responsibility, and would not demand the large numbers of offensive aircraft carried by the Nimitz. The CVV would emphasize air defense while providing sufficient offensive capability to engage any Soviet surface ships that are deployed in the open ocean. The CVNX study in comparing the air wings of a Nimitz sized carrier and a smaller nuclear carrier with approximately the size airwing of the CVV concluded that in tasks other than power projection the two wings were roughly comparable if the CVV was configured for sea control. The CVV is as Secretary Claytor said this year, ". . . by any account a highly capable weapons system." It is a sound alternative to another Nimitz in those roles the carrier can be expected to successfully perform.

There is no denying that there are certain advantages to nuclear power including unlimited propulsion endurance, the ability to sustain high speeds and thus reduce long transit times, as well as greater freedom from logistic support. But the utility of such advantages is highly situation specific. The advantages of nuclear power can thus be overstated. Some examples make this point.

1. While the nuclear carriers endurance and ability to maintain high speed is a significant advantage in terms of time of transit at distances of around 8,000 miles, that benefit is greatly discounted in shorter transits. If a 4,000 mile transit is assumed (e.g. the distance from the Western Atlantic to the eastern Mediterranean and thus a likely scenario in a NATO war) both a conventional task force and a nuclear task force would arrive at approximately the same time. While the nuclear carrier could sustain high intensity combat for 10 days without replenishment upon arrival, the conventional carrier could do so for 2 to 3 days. Given the lethality of modern warfare that is probably all the time it would take for the outcome to be decided.

2. Proponents of the nuclear carrier point to the fact that the nuclear carrier has a 13 to 15 year fuel supply built into its propulsion system and fret about the dwindling supply of fuel for conventionally powered carriers. Again this advantage seems overstated. DOD, even as the largest single user of the nation's energy, accounts for only 1.7 percent of the total national consumption. Of that 1.7 percent only 11 percent goes for ship operations. The U.S. is also currently in the process of building a billion barrel strategic petroleum reserve. In time of war there will be oil for the military. In any event, fossil fuel will be required to operate aircraft from either a nuclear or conventioned carrier.

3. While less dependent on logistical support nuclear ships are not free from such needs. Although they require no fuel oil, nuclear ships are dependent on support ships for ammunition, supplies, and aircraft fuel.

It is a waste of resources to plan our naval forces exclusively on the basis of the need for long, high speed transits, to be followed by extended engagements. We will have four nuclear task groups. That is enough given other demands on our defense dollars.

The greatest drawback of nuclear ships is their expense. Nuclear ships will mean fewer ships, and a consequent inability to increase the size of the fleet. According to a 1975 Department of Defense estimate, the long range impact of buying all nuclear powered strike force surface combatants could be to reduce the number of strike combatants by about 25 to 35 ships than if the same amount of money were to be spent on comparable conventionally powered ships.

And numbers of ships are important! This is most apparent in sea control where thousands of miles of ocean must be covered. No one ship, no matter how capable can be in two places at once. But numbers are also important in battle engagements. If a comparison is made between the effectiveness of equal cost carrier task groups that are on station, then the conventional force is more effective than the all-nuclear one. Because they are less costly conventional ships can be procured in greater quantities, and more ships mean more offensive and defensive systems or more firepower.

As an example last year the Navy presented data to the Seapower Subcommittee on procurement costs of the proposed nuclear powered strike cruiser and a hypothetical strike cruiser that was conventionally powered. Everything was held constant except for the propulsion system. The procurement cost for the nuclear cruiser was $1,014,000,000 in FY 78 prices, the conventional cruiser $766,000,000. Four conventional cruisers could thus be procured for the price of 3 nuclear cruisers. These equal cost buys, however, yield the following differences in weapons capabilities:

	(3) Nuclear	(4) Conventional
ASW Helicopters	6	8
8" guns	3	4
Close-in weapons systems	6	8
Aegis systems	3	4
Sonars	3	4
Harpoon antiship missiles	48	64
Tomahawk cruise missiles	24	32
Missile launchers	6	8

All else being equal, the larger the number of ships makes the conventional battle group more resistant to battle damage. Not only is the number of targets increased but fewer hits can be expected because of the larger number of defensive systems. Also because of the larger number of ships the loss of 1 or 2 is less severe a problem in the conventional task group.

This type of comparison is significant since supporters of nuclear power will argue that Navy studies have shown that the life-cycle costs of nuclear and conventional task forces are roughly equal. You may wonder how that can be when on a ship for ship basis nuclear powered vessels cost 30% more than their conventional counterparts. Equality in cost in achieved by using fewer escorts in the nuclear powered task force. The above comparison in military effectiveness is valid. The two task forces that are being compared in the Navy studies are not equal in their anti-air and anti-submarine capabilities.

Finally numbers are important from a perceptual point of view. In debates over the relative strengths of the U.S. and Soviet navies a lot of facts and figures get tossed around—numbers of ships, total tonnage, numbers and types of armaments—but I have never heard anyone focus on ship propulsion.

The House's overwhelming rejection of the Stratton amendment to add $2.4 billion to the First Budget Resolution clearly demonstrates that this body is unwilling to spend unlimited amounts of money on defense. This makes it urgent that we prioritize and ensure that our investments are the wisest ones. The CVV is not cheap. But it would result in life-cycle cost savings of from $5 to $7 billion, enough money, at current prices, to procure 12–17 attack submarines.

Design work on the CVV is not far enough advanced to award a contract in fiscal year 1979, but the Administration has included such a carrier in its plans for fiscal year 1980. The lapse of a year will give the Administration time to study alternatives and fully justify the need for another carrier. In either case, the investment in a fifth nuclear carrier is a bad choice.●

GOVERNMENT EXECUTIVE ON ADMINISTRATOR JAY SOLOMON

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. REUSS. Mr. Speaker, since Jay Solomon, Administrator of the General Services Administration, took over, the

GSA has played a major role in the revitalization of our Nation's distressed cities. The May issue of Government Executive cites Mr. Solomon and his agency as playing a key role in the success of the President's urban policy.

With a Presidential mandate behind it, GSA is starting to put U.S. Government employees back into the cities. It is pushing to open up GSA business to more small and minority businesses. It is developing the "living buildings" concept—the idea of turning Federal buildings back to their owners. the taxpapers, for community purposes. Mr. Solomon is also credited with bringing $2 million to $3 million of art into the buildings in the last year alone.

The article in Government Executive notes that Mr. Solomon does not stand on ceremony. He does not care if it happens to be less than the top echelon of an agency coming to talk to him. According to Mr. Solomon:

It could be the man at the bottom—as long as he can tell us what they are planning so we can work to eliminate the inevitable delays caused by our being brought in at the last minute.

Mr. Solomon works hard to know his customers' needs. When his people talk to agencies he tells them to "lay it on the line." He says:

There are no incentives for agencies to replay with you; you have to communicate. And then, if necessary, take the problems to the appropriate committees in Congress.

Mr. Solomon says the GSA is the business end of the Federal Government. But more than that, under his direction the GSA is a catalyst—a catalyst in the revitalization of our cities.●

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. LEHMAN. Mr. Speaker, I wish to reaffirm my support for the Alaska National Interest Lands Conservation Act. This legislation is the product of lengthy and thorough review conducted by two committees. The new compromise bill developed by the Interior Committee and the Merchant Marine Committee provides us with the opportunity to preserve for future generations the magnificent beauty and natural treasures of Alaska.

Charges have been made that this bill constitutes a massive "lockup" of natural resources, and that we are preventing the development of oil, gas, and mineral deposits. These charges are misleading. The U.S. Geological Survey estimates that there is a total of 71.5 billion barrels of recoverable oil reserves in Alaska; 28.1 billion barrels are located in onshore deposits; and 43.4 billion are located offshore. Just a small fraction of this amount can be found within the boundaries proposed in the new version of H.R. 39.

The Interior Committee took care to draw the boundaries of the conservation areas so as to avoid conflicts with high potential areas for oil and gas deposits. Only 5 percent of these lands are removed from future exploitation. One-third of the lands classified by the U.S. Geological Survey as less favorable are within the bill's boundaries. These also, however, contain some of Alaska's most productive waterfowl nesting areas. Here the choice has been made, and rightly so, that the preservation of a critical habitat outweighs the benefits to be gained from the development of these lesser quality resource deposits.

More than two-thirds of Alaska's lands lie outside of the proposed conservation areas. These lands will remain open to resource development. Certainly the existence of the Alaska oil pipeline and the plans for a natural gas pipeline signify our Nation's commitment to the development of energy sources. Our commitment to the preservation of unequaled natural splendor must likewise be strong.

We must not pass up this important chance to safeguard the lands and wildlife of Alaska. We must preserve the unspoiled nature of these areas for all Americans, today and for decades to come.●

THE FATE OF NATIONAL INTEREST LANDS IN ALASKA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. VENTO. Mr. Speaker, as the House is about to debate the fate of federally owned national interest lands in Alaska, it is instructive to look at how Alaskans are dealing with the future of State lands. Under the Alaska Statehood Act, the Congress gave the new State of Alaska an unprecedented grant of 104.6 million acres of land, an area the size of California, plus approximately 45 million acres of tide and submerged lands. To date, the State has selected about 75 million acres of its statehood grant. These selections encompass much of the most habitable and economically valuable lands in the State. As the Alaska Department of Natural Resources recently reported to the people of Alaska:

The existing state selected lands provide a wide ranging balance of resource lands which can be used to support the Alaskan economy. In many cases, *state selections have high-graded* lands for particular resource potentials. This is exemplified by our selection at Prudhoe Bay for oil and gas resources and our selection of much of the best agricultural land in the state in the Matanuska, Susitna, and Tanana river valleys. (emphasis added)

Clearly, Congress intent in the Alaska Statehood Act that the new State be provided a viable economic base has been realized. Nonetheless, the State government is now attempting to select part of its remaining statehood entitlement from the national interest lands—the new national parks, wildlife refuges, and wild rivers being proposed by H.R. 39, on which we will soon be voting.

The effect of such selections, if allowed by Congress, would be to create a pattern of fragmented land ownership and inholdings in conservation system units that would be neither in the State nor Federal interest.

At the same time that it seeks these State inholdings, the State administration is promoting State-Federal classification of national interest lands through a politically appointed joint commission. The Carter administration and the Interior Committee unequivocally rejected this proposal for State participation in Federal lands management. And wisely so, because the basic thrust of the State's proposal is to manage the national interest lands for developmental purposes in exchange for similar management of State lands. This would defeat the purpose of the whole national interest lands effort. These lands are intended for the national park, wildlife refuge, and river systems, not multiple-use management. It is not even clear that the State will be able to manage its own lands for development purposes. This November in Alaska, voters will decide whether to dispose of 30 million acres of the State's land into private ownership on a first-come-first-served basis. This "homesteading" initiative would provide that grants of 40 to 60 acres, depending on the length of residency in Alaska, could be staked by the first individuals on the scene.

But the term "homestead" that initiative proponents use is misleading, since there is no requirement to farm or even live on the staked land in order to gain title. After 1 year, the owner could sell, subdivide, or commit the land to any use. And if the Alaskans' only requirement is successfully challenged in court, as has happened in the case of other Alaska laws, Alaskans could see a flood of "outsiders" eager to pick off the best of the free land.

According to the initiative proponents, over 28,000 voters, or more than twice the number required, have signed petitions placing it on the ballot. Informed political opinion in Alaska is that this scheme is almost certain to pass.

What are the ramifications of this scheme for the National Interest Lands for which Congress has responsibility? If Congress allows the State to select portions of the National Interest Lands, the new conservation system units could become riddled with thousands of "homesteads" staked on these State-selected lands for speculative and developmental purposes. If Congress agrees to place Federal lands in a new Federal-State cooperative management system, it could, overnight, become a one-sided deal with the Federal Government contributing lands to the "fifth system" for multiple-use, but with the State losing its contributed lands to private appropriation under the initiative.

These major threats to the integrity of the National Interest Lands proposals can be readily avoided: The House should flatly reject any proposed State selections of the new national conservation system units. The State can select all of its remaining entitlement from a pool of more suitable lands not in conflict with H.R. 39 that it has identified in its own resource assessment. Furthermore, the Congress should reject, as have the ad-

ministration and the Interior Committee, any form of the State's proposal for a "fifth system" of joint classification of State and Federal (National Interest) lands.

Before Congress even began consideration of the National Interest areas the State had selected the best oil and gas, agricultural, timber, mineral, and settlement lands in Alaska. The State's economic future has been assured. It is against this background of congressional generosity to the people of Alaska that the State's bid for outright selection or some management jurisdiction over the finest Federal conservation areas should be judged. With the great State land giveaway initiative on this November's ballot, it is even more imperative that the National Interest Lands be fully protected in the time-tested National Park, Wild and Scenic Rivers, and Wildlife Refuge Systems.●

THE BOUNDARY WATERS WILDERNESS ACT: SIGURD OLSON'S UNIQUE ROLE—PART II

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. FRASER. Mr. Speaker, I would like to call my colleagues' attention to the second of three interviews the Madison, Wis., Capitol Times conducted with Sigurd Olson, one of the great champions of wilderness preservation and perhaps the foremost chronicler of the Quetico-Superior wilderness lakes country.

Much has been made during the BWCA debate of the conflicting visions and values of those who live in the vicinity of the canoe country and those from throughout the Nation who visit it. Such characterizations are far too simple in and of themselves. But, they do, according to Olson, contain an element of truth. On one hand, he notes that local residents have developed a sense of proprietary rights with respect to the BWCA:

Whenever you have a pioneer community removed from the metropolitan, megapolitan areas, you have people who feel the land is their own and who will fight every effort to control it—especially by these damnable bureaucrats from Washington who don't know anything about the country.

On the other hand, he points out that wilderness does demand a certain kind of physical and spiritual commitment not found equally in all people:

The joy of going into wilderness under your own power should not be discounted. Wilderness is always a challenge. It's pitting yourself against the primeval. And there's no greater satisfaction than to be able to do it.

There are so many young people today who are getting to feel that the wilderness is more than just rocks and trees, waters and portages. There's something intangible out there, something worth going in to find. And the young people who are going in are finding it.

As Congress tries to sort through the complexities of the pending BWCA legislation, it is worth our time to keep in mind the basic principles guiding the wilderness preservation movement. We have no better reminder of these principles than the thoughts of Sigurd Olson. I commend the interview to my colleagues' attention:

SIGURD OLSON'S BATTLE

(By George Vukelich)

Q: As you know, and as we're finding out, many local people, people within a 50-mile radius of Ely, are angry with you because of your support of the Fraser bill. How do you respond to that?

A: Some people are angry, yes. But an amazing thing is happening. More local people are saying they hope the Fraser bill passes. They are not the vociferous ones, but they feel deeply that the long effort to preserve this country is worthwhile, and the only way to save it and make it administratively possible for the Forest Service, is to pass the Fraser bill.

Congressman Oberstar, himself, admits that that he's torn. He sees this growing wave of sentiment in his own district here. He says, in substance, "here my own people are against me. Some are for me. I don't know which way to turn."

And when a congressman has his own constituents unsure about him, he is unhappy. My feeling is that Oberstar now thinks he doesn't have a chance—but he'll try. And, if Fraser wins, Oberstar can at least say to his constituents: "I tried. But you can never tell what Congress will do." So, Oberstar is in a dilemma.

And another thing: there's been wide support for the Fraser bill—well, The Capital Times has stirred up a lot of it down in your country—there's wide support in Wisconsin, in Iowa, in western Minnesota and all across the nation. People are realizing that this is a National Forest. It doesn't belong to the local groups; it belongs to everybody.

People come here from everywhere: From California. From New Jersey. From literally everywhere. And this is their country. If you paddle a canoe, you have a right to expect a wilderness experience.

If you don't like motorboats or snowmobiles, that's your right; you have a right to speak up. And Oberstar realizes that the nationwide flood of interest makes this issue an historic one.

I think Oberstar also realizes now that he could go down in history as the man who destroyed our beloved BWCA—our beloved wilderness canoe country.

You see, the people who oppose this most recent effort to preserve the area don't have the vision, the long point of view.

To those of us who support the Fraser bill, the preservation of wilderness is more than fishing. Or hunting. Or trapping. Or taking pictures. Or seeing how many miles you can cover. It's a rejuvenation of the human spirit in a time of worldwide stress and uncertainty.

People are looking for something, and that something can only be found in wilderness. So, the stakes are great.

Q: Do you feel that the young people living in this area today, the young packers who aspire to be professional guides, even as you were a professional guide here, share your philosophy and your dreams for this country?

A: Some of them do and some of them don't. I think, at heart, they do. But they've been so satiated with all the problems of this country and so infiltrated with the sentiment of some of the local people you talked to, that they're not quite sure.

There have been such innumerable changes and regulations, regulations and changes, over the last years that people are kind of confused.

They oftentimes wish wilderness would just go away—and government go away too. Let them live their lives! Let them use the country as they want to! That's what they oftentimes seem to be saying. But what they don't realize is that, if that happens, they'll soon lose the very thing that gives them a living now.

Q: In listening to the local people, you hear over and over the same objection to the Fraser bill: "In the wintertime here, the tourists are gone, and the local people are sort of handcuffed. We can't go back in the bush, using snow machines on the lakes, and there's no environmental impact there. It seems like we're being penalized for just living here." Can you appreciate their position?

A: Yes, I can. But I would also call their attention to the fact that what we're asking for is the preservation of only a fourth of the Superior National Forest. And the Superior National Forest is almost 4 million acres of land and water.

They've got three quarters of this whole National Forest to play around in. All kinds of lakes. All kinds of snowmobile trails. And the Forest Service plans on building more snowmobile trails back into the bush.

But some people want to go back into the last little corner of wilderness with their snowmobiles, which they say do no harm, but which do have an impact on wildlife and vegetation, let alone the spreading of beer cans in the bush.

The local people have come to feel that this is their playground and they can do anything they want with it. I am so familiar with this attitude. I've lived in this pioneer community most of my life. I've also lived in the West. I've spent time in Alaska.

And wherever you have a pioneer community removed from the metropolitan, megapolitan areas, you have people who feel the land is their own and who will fight every effort to control it. Especially by these damnable bureaucrats from Washington, who "don't know anything about the country."

I remember the fight for the Tetons. The cowboys had a big parade through town one day, led by a famous movie star with a rifle across his saddle pommel, carrying a huge sign that read: they shall not take away our land!

Go there today. Now the people of Teton Village are so proud of what they've done. Look what they saved! And they are the very ones who fought against wilderness to the end.

The time is going to come when people here in the Ely area will say the same thing: Look what we've done. We saved this beautiful country.

They'll forget about the oldtimers. They'll forget about me. And they'll forget about a thousand others, who fought over a long, long period of time, to save this wilderness. It always happens.

Q: What kind of economic impact would there be on this area if the Fraser bill passed? Would the motorized fishermen stop coming here?

A. There would be some economic impact, but not much. The motorized fishermen don't bring in that much revenue. If the resort capabilities were properly developed along the periphery of the area, which they haven't been, you would probably get more motorized fishermen than ever. There are lots of lakes outside the BWCA open to motors.

Q: How do you respond to people who say that for one reason or another: age, infirmity, physical condition, they need motors to get back into wild country?

A: If we're talking wild country in the BWCA, my own personal response to people my age is: You had the same chance to get into the wilderness that I had, without motors and if you didn't do it then, that's too bad.

Incidentally, my response to young people who claim they need motors in the BWCA is just this: If you are young and tough and love it enough, you'll go in with canoes and snowshoes and skis. Let them go in. But let them go in the hard way.

A lot of people, even young people, have gotten lazy. They don't want to exert themselves. But I think the time is coming when they'll accept the fact that those who want to enjoy the wilderness will have to work for the privilege of getting in.

The joy of going into wilderness under your own power should not be discounted. Wilderness is always a challenge. It's pitting yourself against the primeval. And there's no greater satisfaction than to be able to do it.

I have a steady stream of young people coming through here. And nine tenths of them, fortunately, are on my side; I talk their language, and they talk mine.

There are so many young people today who are getting to feel that the wilderness is more than just rocks and trees, waters and portages. There's something intangible out there, something worth going in to find. And the young people who go in are finding it.●

TUITION TAX CREDIT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. FORSYTHE. Mr. Speaker, I would like today to express my support for the use of tuition tax credits to ease the burden placed by the costs of education upon our Nation's taxpaying families. The time for such a tax credit is long overdue, and I intend to devote my efforts toward enacting this provision. I would like now to discuss my reasons for vigorously supporting a tuition tax credit for all levels of education.

In recent years, education costs have risen more quickly than discretionary incomes. Between the years 1967 and 1976, after tax income has risen 66.8 percent while public college education costs have risen 74.2 percent. I was shocked to learn that during 1967 to 1976, for families with 18- to 24-year-old dependents, Federal income taxes increased 103.9 percent, social security taxes 185.9 percent, and average State and local taxes 152.5 percent. The net effect of these statistics is that today tuition-paying families of all incomes have, on the average, relatively less money available to pay tuition bills than they had 10 years ago.

Significantly, much of the increasing tuition costs are borne by our middle-income families. During the last 10 years, the rate at which children from families with incomes of $8,525 or less attend college has grown by 12 percent. At the same time, the rate for families with incomes between $8,525 and $17,050 has decreased by 4 percent; the rate for families with incomes between $17,050 and $25,575 has declined over 9 percent. A Brookings Institution study of private higher education concludes:

> Students with family incomes between $15,000 and $25,000 a year face a substantially wider tuition gap relative to their ability to pay than their richer or poorer students.

While a tuition tax credit clearly provides relief to the middle-income families, it also will substantially benefit low-income families. Opponents of the tuition tax credit argue that a selective program of education grants could more adequately be targeted to those families with the greatest financial need. According to the Congressional Budget Office, however, some 1,436,000 families with incomes below $10,000 would benefit in 1979–1980 from the post-secondary portion of the Packwood-Moynihan tuition tax credit proposal, whereas just 181,000 low-income students would gain from the administration's proposal of selective grants.

Moreover, a tuition tax credit, by easing the burden for a large number of families, can indirectly, as well as directly, assist those with special needs. Such a tuition tax credit will supplement, not replace, strong national student aid programs. Rather than impair the financial position of lower-income families, the tuition tax credit will free up funds available under existing programs so they can be targeted to the special needs of our Nation's financially disadvantaged families.

Many people may be surprised to learn that, between the years 1967 and 1975, the appropriations for major student aid programs grew 281 percent. In fiscal year 1977, the Federal budget included $9.7 billion in spending and tax expenditures to provide financial aid to students. This vigorous national program of student aid can operate in tandem with a tuition tax credit. In parallel, these programs can give us a flexible and extensive program of educational assistance.

Those opposing a tuition tax credit argue that it benefits not just our Nation's lower- and middle-income families; upper-income tuition-paying families will also qualify for a tuition tax credit. It is true that a tuition tax credit applies to each and every family paying for the education of their children, including extremely wealthy families. Evidence indicates, however, that the bulk of the benefits of this proposal will go to the middle- and lower-income families. The American Council on Education esimates that only 11.4 percent of the benefits of a tuition tax credit would go to families earning more than $25,000.

Furthermore, many of the most productive steps taken by our Government serve our entire Nation, not just particular groups. An appropriate example of this assertion is our Nation's vital public school system, available to all of our families, regardless of income. Other programs, social security, for example, provide benefits for even our wealthiest citizens without detracting from their effectiveness. There is no intrinsic reason why a proposal to ease the financial burden of education should be jettisoned simply because it benefits everyone sharing the burden.

One of the prime advantages of the tuition tax credit is that it reaches everyone affected at relatively low administrative costs. A streamlined program, with little Federal bureaucracy, can be implemented quickly, reflecting the urgency of the tuition problem. Moreover, problems which plague grant programs—such as fraudulent applications and people's reluctance to apply for Government handouts—are avoided.

A witness for the Commission on Independent Colleges and Universities in the State of New York testified before the House Ways and Means Committee that:

> By far the best hope for lifting the yoke of government regulation from the academic field is that offered by the tax credit route. Dollars for higher education which come through appropriations inevitably bring with them a web of bureaucratic requirements.

I couldn't agree more fully with this testimony.

The House of Representatives will also be considering an amendment to extend the tuition tax credit to elementary and secondary education. I support such a credit. This approach will encourage diversity in our educational system and, in our country, diversity and competition lead to improvement on all fronts. Last year, U.S. Commissioner of Education Ernest L. Boyer pointed to this sentiment, stating:

> Private education is absolutely crucial to the vitality of this Nation, and public policy should strengthen rather than diminish these essential institutions.

Over the last decade, the percentage of our precollege students enrolled in private schools has declined. Currently, some 90 percent of the elementary and secondary students in the United States are enrolled in public schools. While I anticipate that a tuition tax credit may produce a slight increase in private school attendance, the statistics convince me that public schools—the centerpiece of our Nation's educational system—will experience no decline in quality, and only an insignificantly small decline in attendance, if a tuition tax credit is enacted.

Arguments that the tuition tax credit will contribute to racial segregation have no valid basis. For a private elementary or secondary school to attain and maintain a tax-exempt status—which is necessary for a tuition tax credit to apply—it must satisfy the Internal Revenue Service that it does not discriminate. Procedures for insuring that this system functions properly do not appear to raise irreconcilable problems.

Certain opponents of a tuition tax credit for tuition costs of elementary and secondary education challenge the constitutionality of such a provision. Since many private precollege schools benefiting from the tuition tax credit are affiliated with religious institutions, such tax credits, it is argued, would contribute to the propagation of religion. The first amendment of the Constitution states that:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

I have given considerable thought to this issue and have concluded that the tuition tax credit this Congress is considering does not violate our Constitution. The only pertinent case in which Federal legislation is involved is, in my opinion, Tilton against Richardson. In this case, the Supreme Court upheld grants under the Higher Education Facilities Act for the construction of academic buildings at church-related and other colleges insofar as their use is nonsectarian.

The essence of the Constitution, in

this respect, as interpreted by the Supreme Court, seems to be that the Federal Government shall not promote or commingle with religion. However, the tuition tax credit entails minimal interaction between the Government and religion. The Government's involvement is strictly with the taxpayers, not with the schools or with religious institutions. Most importantly, the proposals we are considering do not promote any particular religious point of view—they simply remedy a serious problem caused by the rising costs of education.

When Congress votes on this proposal, we will consider legislation which would allow parents of college students to claim up to $100 in tax credits for the school term beginning next August and $250 a year by 1980. A floor amendment will be introduced to extend the credit to elementary and secondary school costs as well. I am convinced that the burden of rising tuition costs is so grave that I will strongly support each of these provisions when I vote on this issue.

In conclusion, I stress that once our current objectives are carefully analyzed, it is clear that our best course of action is to enact a tuition tax credit for all levels of education. In recent years, families' incomes have not kept pace with the spiralling costs of education. While special programs of selective grants can ease this burden of education in some instances, a general program of overall financial relief is the specific measure needed now. The tuition tax credit is tailor-made for meeting these objectives, and can do so at relatively low administrative costs. For these reasons, I strongly support the enactment of a tuition tax credit for all levels of education.●

PERLE HEIMAN

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. MARKS. Mr. Speaker, on Wednesday evening, May 17, the Shenango Valley Section, National Council of Jewish Women, will honor Mrs. Arnold Heiman at a gathering at the Shenango Inn in Sharon, Pa.

Perle is an extraordinary woman; she has dedicated herself to making the lives of all those she comes in contact with better and happier. There is nothing in Perle's life that gives her more satisfaction, other than her own family, than to be a part of helping others. We have all known people who give of themselves unselfishly—but Perle Heiman's life is one continuous effort to share her rare gift of love and affection for others—a gift she inherited from her wonderful father and mother.

As a member of the Council of Jewish Women, she has filled all the chairs in the local section and has served on many of the regional boards. She has had the privilege of being president of council on three occasions. When there has been a job to do—the toughest and most time-consuming ones—Perle has always been available and involved.

Though her work with council has been time consuming, she has never shirked her responsibilities as a devoted wife, mother, grandmother, and sister.

As one whose life she has touched dearly, I wanted to share with you, my colleagues, this honor the council is paying to a marvelous human being, Perle Heiman.●

CONGRESSMAN BETHWEL HENRY OF MICRONESIA

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. PHILLIP BURTON. Mr. Speaker, on Thursday, May 11, 1978, I had the pleasure of attending a congressional luncheon hosted on the Hill by the Congress of Micronesia.

Congressman Bethwel Henry, Speaker of the House of Representatives, Congress of Micronesia, addressed the gathering. For the benefit of my colleagues, following are Speaker Henry's timely remarks on such topics as the current status negotiations between the United States and the trust territory of the Pacific Islands:

CONGRESSMAN BETHWEL HENRY OF MICRONESIA

Honored guests, ladies and gentlemen: I want to take this opportunity at the outset to express the regrets of Senate President Tosiwo Nakayama who planned to be with us today, but who has been regrettably and unavoidably detained.

In speaking before you today, let me allude to liaison officer Leo Falcam's remarks about the quality and quantity of food, but in relation to this speech. It is my sincere hope that the quantity of this speech will not exceed its quality.

The reason we have invited you to be our guests today is a simple one: Micronesia and America have had linked common interests for the past thirty years. We believe such an informal gathering today will help us to get to know each other, and each other's problems better so that we can work out together mutually satisfactory solutions for them. This meeting also gives us the chance to express our due respect and gratitude to our friends in the United States Congress who have often proved our most valuable allies in working to the benefit of the people of Micronesia.

Your active non-partisan support of the needs and desires of the people of Micronesia in the past has been invaluable and we look forward to continuing that relationship now and in the future.

Let me start by saying that Micronesia is now entering a critical period of time. That phrase has been used many times before, and it often seems that every year is a critical one for us.

As you may know, most of our delegation will be attending the 45th session of the United Nations Trusteeship Council next week in New York. As we will today, during that meeting we will be touching upon several issues of importance to the people of Micronesia which by inference are important to the United States. For Micronesia is the only trusteeship America has ever administered—it is the only strategic trusteeship ever created—and it is the only trusteeship remaining in the world.

Of prime importance to us, of course, is the resolution of the future political status of Micronesia.

The long nine year record of negotiations may speak well of endurance and determination, but speaks poorly of the essentials of negotiating; conciliation an compromise.

For this reason, Micronesian and United States agreement in Hilo, Hawaii, on the so called eight principles of free association last month have considerably brightened the prospects for a mutually satisfactory conclusion to the negotiations in the near future.

As you may know, Senator Bailey Olter who chairs the Micronesian Commission's committee on political status, signed the agreement and referendum and I am pleased to report that recently a meeting of the full commission in Ponape approved the eight principles agreement.

We believe that the accord on these points is an important step toward reaching an agreement that will be satisfactory to both Micronesia and America, since mutually satisfactory terms will ensure a viable association and not give the opportunity for differences to arise at a later date. Also, it is important to note that while the eight points accommodates major Micronesian interests, it also meets the security needs and requirements of the United States Government. Of course, we realize that agreeing on principles and agreeing on the details of a relationship are two different matters, we are optimistic that a fresh start has been signaled.

One of the encouraging aspects of this agreement in principle is that it shows that given the proper circumstances, a free association agreement and a constitution providing for Micronesian sovereignty can live together side by side.

This is of course vitally important to us given the fact that the people of Micronesia will cast their votes on a constitutional referendum this July 12th, an event in which the United Nations has been requested to both supervise and observe.

In this connection, the Congress of Micronesia has launched an intensive program of political education, the main thrust of which is to have traditional and elected Micronesian leaders visit the various districts of Micronesia explaining the constitution, and discussing why they support this historic document which represents an act of self determination and expression of unity by the people of Micronesia.

I am happy to report to you that this program is being well received in the districts, including some areas where previously there had been expressed only sentiments for further separation and fragmentation.

The position of the Congress of Micronesia, and the Micronesian commission on future political status and transition, has been to support the unity of Micronesia. We believe that unity simply makes good sense. It is to our benefit in terms of achieving common international recognition of Micronesian Sovereignty—especially in terms of our greatest potential asset, marine resources. It also provides us a means by which a diverse people can achieve common goals—yet still retaining our diversity, and local autonomy. At the same time it is to the benefit of the United States for a unified Micronesia under one constitution ensures stability, and simplifies the question of the administration of assistance to Micronesia, as well as facilitates our mutual efforts.

For these reasons we believe that a unified Micronesia serves the best interests of our people and the people of the United States of America.

Looking beyond the constitutional referendum and the completion of negotiations is the equally important question of transi-

tion—the transition from a trust territory government to a self-governing federated states of Micronesia.

The Micronesian commission on future political status and transition has been working on this area for some time now, and it is clear that many challenges and problems must be met.

Related to this I am also pleased to report that the Chief United States Negotiator has made a commitment to create an interagency task force on transition to work with the Micronesian Commission. The Commission has also issued two reports: one on the structure of Government, and one on our financial management system. I commend both reports to your attention copies of which can be made available to you on request.

Also relative to this is the need to begin to move the provisional Capital of Micronesia from Saipan in the Northern Mariana Island, to Ponape. The Congress of Micronesia has already relocated, and accordingly, we look forward to the early move of the Trust Territory Government and to the United States Government fulfilling its commitment to assist in the planning and funding of our new Capital.

In this connection, there is also a need to complete a basic infrastructure in Micronesia and the details must be worked out soon as to how and when these basic capital improvement projects can be funded during the transition period, and after termination.

This of course will involve United States financial assistance during the period of transition and afterward as set by the free association agreement between Micronesia and America. For this reason the commission on future status and transition has suggested a joint economic study be made which will provide the basis to discuss Micronesia's current and future funding needs.

There are, of course, many other important current matters related to both status and transition which I might discuss at length, but will only briefly mention.

These include the need to settle the Micronesian war claims issue, to streamline and reorganize the present Trust Territory government, the need for greater local self government, and the need to reach agreement on funding priorities in the total budgetary process for the Trust Territory from the district level, to the desk of the President of the United States.

Last, but by no means least in priority, is the need—through all of our joint efforts, to spur the economic development of Micronesia and thus lessen our dependence on outside aid, and at the same time lessen the burdens shouldered by the American taxpayer.

Despite our willingness to shoulder our own responsibilities the people of Micronesia still need your help, patience, cooperation, understanding and support, and at the same time we stand ready to do what is necessary in order to make our future association a mutually satisfactory one.

Before closing, on behalf of all of us here, and the people of Micronesia, I want to extend an open invitation to all of you to visit Micronesia at any time in the future, so that you might see first hand Micronesia's problems, and her potentials.

Finally, let me now ask for questions, with the caveat that if I cannot answer a particular one, I will turn for help to other members of the Micronesian delegation. Should you have an later questions to ask or issues to raise, please contact me either directly or through our liaison officer, Mr. Falcam. And here, I should mention, that within a week or so, Leo wil be sending out to you an information package containing basic briefing information on Micronesia.

Thank you very much.●

HARD CASES MAKE BAD LAW

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. TEAGUE. Mr. Speaker, there is an old adage in the legal profession to the effect that "hard cases make bad law."

We have before us an example which proves how true this adage is. I refer to the announcement by President Jimmy Carter that he would support legislation to pay $70,000 (the Slovik's GI insurance plus 6:07 percent interest over 33 years) to Antoinette Slovik, widow of Pvt. Eddie Slovik who was executed during World War II for desertion in the face of the enemy. By a strange coincidence this figure of $70,000 equals what a widow of a serviceman whose service was entirely honorable would have received.

In the first place I am against this overpayment on principle. As most of you know, I saw a lot of infantry combat in World War II and I think the vast majority of the veterans of infantry combat will agree with me.

To an infantryman, Private Slovik's desertion was the worst crime in the book. Any man who deserts in the face of the enemy is endangering the loss of his comrades' lives and should face the consequences. I know combat veterans think somewhat differently than other people, but we base our thinking on hard and bitter experience, and there is no experience on Earth harder or more bitter than prolonged and constant exposure to enemy fire.

But it has to be faced up to. There were many occasions when I was forced to send some of my closest friends ahead to almost certain death. I hated the experience but it had to be done. I knew it and those I had to send knew it also. Not one of those brave men even considered doing anything else than obey orders.

I myself was ordered into perilous situations and though I survived I paid for the experience. But, in combat there is no alternative to absolute obedience.

So much for the hard-boiled discipline of life and death in combat.

It is easy to be sympathetic toward Mrs. Slovik. After all, she did not desert, and she is paying for her husband's dereliction. But let us get down to the "hard case and bad law" aspect of this proposed legislation.

I would like to point out that never before in all its history has the Veterans' Administration paid interest on any claim or other benefit.

Are we going to set a policy and pay interest from here on to every claimant? And, if not, why should Mrs. Slovik be the sole exception to a very strict rule?

Certainly if we went along with the President's request we would be setting a very dangerous precedent. Lawyers all over America would be jumping up and claiming that all insurance policies on which premiums have been paid for some years should now be considered paid up with no more premiums due, because of the accumulated "interest."

If we establish a principle and a precedent in the Slovik case the Veterans' Administration would be, it seems to me, legally compelled to pay compensation with interest to all former prisoners of war. The payment from the Veterans' Administration, especially in the case of enlisted men, would be considerably higher than their pay.

Are we going to pay compensation with interest over 35 years to all those who were exposed to atomic radiation in the so-called "Smokey" exercise?

I am sure my colleagues will think of many other similar arguments why we should not make an exception in this one case, because the widow is a pitiable example. In this business there are no single exceptions; everything we do is precedential. If we made this exception we would, in fact, be establishing the "Slovik principle" and in doing so would be opening the gates for an uncontrollable raid on the Federal Treasury.

To grant the payment of this compensation is a direct insult to all the veterans who fought so gallantly and honorably for their country.●

CONGRESSMAN AMBRO CONGRATULATES SEDCO SYSTEMS, INC.

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. AMBRO. Mr. Speaker, on Friday, May 19, 1978, the U.S. Small Business Administration will honor Sedco Systems, Inc., of Melville, N.Y., as the National Small Business Subcontractor of the Year.

Sedco, a 15-year-old company, produces microwave electronic systems primarily for use in aircraft. The three main prime contractors for which it works, Culter-Hammer's AIL Division, Lockheed Electronics Co., and ITT Avionics Division, all nominated Sedco as the finest firm with which they had worked in 1977. The company was then selected by the Small Business Administration itself from among 10 regional winners for its speed in production and the reliability of its finished product.

Starting as a very small operation in 1963, Sedco presently employs about 100 people and has annual sales of almost $5 million. While it has grown in size and volume of business, Sedco has managed to retain those virtues of finely honed skills and pride of workmanship that we sometimes think do not exist any more in the modern technologically sophisticated workplace. At a time in our economic history when we constantly hear laments about cost overruns, decreased productivity, and sloppy execution of tasks by bored employees, it is a special source of pride to me that this diligent and productive enterprise within my congressional district is receiving its just recog-

nition for its achievements of reliability, quality, and productivity.

Mr. Speaker, it has been my distinct pleasure to meet Sedco's president, Murray Simpson—and, I might add, his charming wife—and it is easy for me to understand why this firm exemplifies the highest performance standards of the American free enterprise system. I am sure that Mr. Simpson is correct in predicting that it will just be a matter of a few years before Sedco is honored as the prime contractor of the year. I know that all of my colleagues join with me today in publicly congratulating the Simpsons and all of the Sedco employees for a job superbly done.●

OLDER AMERICANS ACT AMENDMENTS OF 1978

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. HANNAFORD. Mr. Speaker, yesterday the House passed H.R. 12255, the Older Americans Act Amendments of 1978, by a vote of 361 to 6. This legislation contains numerous constructive changes to the act. At this time, though, I would like to draw special attention to the committee report (95–1150) at page 15. Essentially the report references my efforts to incorporate into the act a provision that cities of 200,000 or more population be given the option of requesting PSA and AAA designations and be provided with an appeals process in the event of denial. Long Beach, the largest city in my district, and other cities throughout the Nation, which have demonstrated the ability to serve their elderly populations and have been denied such designations by the States should not go unheeded. There can certainly be no excuse to prevent efficient and effective service delivery systems for the aged. As those familiar with Long Beach's plight will know, there are no substantive reasons for its being denied PSA and AAA designations.

While present law authorizes States to designate cities as PSA's and AAA's, this has occurred in only 14 instances out of approximately 600 designations. On March 14, I introduced H.R. 11527 with the cosponsorship of Chairman PEPPER of the Select Committee on Aging and two of the committee's subcommittee chairmen, ED ROYBAL and MARIO BIAGGI, which makes clear that eligible cities have the option of requesting PSA and AAA designations. This legislation also provided an adequate appeals mechanism. Although the language of H.R. 11527 was not included as part of H.R. 12255 because of the view that adequate authority is contained in existing law, the report language states that ". . . the committee hopes that more consideration will be given for such designation to those cities that have demonstrated the capacity and interest to function as a PSA." Cities such as Long Beach which have a history of high elderly populations and a demonstrated ability and incentive to assist such individuals deserve PSA and AAA designations. Long Beach, on its own initiative, has developed innovative programs which serve as models to the rest of the Nation.

Mr. Speaker, let me offer a closer look at the accomplishments of Long Beach. First, it is a city with a population of 342,000. It has an elderly population numbering about 80,000, which is 23 percent of the city's total population. There are only a few cities in the Nation with an elderly population exceeding 20 percent. At this time, the city is part of the Los Angeles County planning and service area. While the city has 14 percent of the elderly population in Los Angeles County, it receives only 7 percent of the county's AAA funds. Moreover, about 20 percent of the city's elderly live at or below the poverty line.

The city of Long Beach has been involved in an ambitious program of senior citizen assistance. In 1976, the city established a department of human resources to: First, integrate basic human resource services into one comprehensive system; second, promote delivery of social services; third, eliminate a duplication of effort in human resource services; fourth, create jobs for low-income, minority, and other disadvantaged individuals; and fifth, provide maximum citizen and service provider participation in planning an effective and comprehensive service system.

In addition, the city has coordinated a major project to establish a geriatric health care delivery system. This effort has involved numerous community leaders, public and private organizations, service clubs, local hospitals, and the community programs division of the Ethel Percy Andrus Gerontology Center of the University of Southern California. The city's geriatric health care system will centralize both the assessment of seniors' needs and the dissemination of information on available services. Furthermore, the system will offer a wide range of services stressing preventative care and giving the elderly more flexibility in solving their problems.

Long Beach has taken a lead in encouraging citizen participation. With respect to its elderly, the city has in operation a senior citizen advisory commission, a task force on the frail elderly, a consumer task force for a geriatric health care delivery system, as well as informal monthly meetings of city agencies providing services to the elderly.

Mr. Speaker, again, I call attention to the committee report language which serves as notice to the States that eligible and capable cities such as Long Beach deserve to be designated as PSAs and AAAs.●

ECONOMETRICS STUDY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. VANIK. Mr. Speaker, late last week I asked the Library of Congress to study the underlying assumptions of a recent econometric model that is being used to justify a proposal to rollback tax rates of capital gains.

I have received the Library's work and want to make it available to my colleagues.

Basically, the Library report shows that the Chase Econometrics study has major faults and its conclusions are consequently useless. I hope my colleagues will be able to look over the report before they make any decisions about voting to cut capital gains taxes in half, as the Steiger proposal would do.

The report by the Library follows:

STUDY BY CHASE ECONOMETRICS ON EFFECTS OF REDUCING THE CAPITAL GAINS TAX RATE

The following is a comment on the study by Chase Econometrics entitled "An Alternative to the Fiscal Stimulus Act of 1978: A Reduction in Capital Gains Tax Rates."[1] Because of the time constraints in your request, this comment should be viewed as a preliminary observation. However, we trust that it will be useful to you in assessing the Chase study.

The Chase study basically models the effects of H.R. 11773 which would reduce the maximum tax rate on capital gains from 49.1 percent to 25 percent. The 49.1 percent rate derives from the interaction of the exclusion of one-half of capital gains at the top bracket rate of 70 percent, the maximum tax on earned income and the minimum tax on excluded capital gains. This effect would be limited primarily to higher income taxpayers, since those with marginal tax rates of below 50 percent who do not realize very large sums of capital gains (i.e. less than $10,000) would not be affected by the change.

The results of the Chase study are impressive in terms of achieving favorable macroeconomic effects and economic growth goals in conjunction with positive budgetary effects. The Chase simulation indicates that the rate of growth in GNP over the period 1980–1985 would increase by an additional .2 percent on average, that 440,000 jobs would be created and that the Federal budget deficit would be $16 billion less by 1985. However, the results of the simulation rest on some very crucial assumptions which tend to dictate the outcome.

The first observation which might be made is that the current public versions of the major macroeconomic models are not designed to simulate the effects of specific changes like the reduction of capital gains tax rates. As a result, certain assumptions about the linkages between the change in the tax and some other variable in the model must be made. The assumptions will profoundly affect the results of the simulation, and are therefore of crucial importance.

The Chase study has a number of proposed linkages internal to the model and several assumptions which influence the outcome. It assumes that the decrease in the capital gains tax will increase stock market prices. In the model higher stock market prices will lead to a faster rate of growth in capital spending and to more equity financing which reduces interest rates, increased investment will increase output and the increase in economic activity will increase Federal government revenues. The study also assumes that the lower tax rates on capital gains will increase realizations to the point where there will be no direct revenue losses. Given these assumptions regarding stock market prices and realiza-

[1] Evans, Michael K., An Alternative to the Fiscal Stimulus Act of 1978: A Reduction in Capital Gains Taxes, Macroeconomic Forecasts May 1978. Chase Econometrics, Inc. p. 6.

tions, it is not surprising that the results are that the tax decrease increases the level of revenue.

Considering the first in the chain of economic events discussed, the Chase study apparently assumes that the proposed capital gains tax changes will increase stock prices substantially. To quote from the study:

"We have found that after a two-year period, a 10 percent increase in the capital gains tax reduces an average of stock market prices by about 17 percent. Thus, a reduction in the maximum capital gains tax rate from 49.1 percent to 25 percent would raise stock prices about 40 percent by 1982 relative to what would occur if capital gains taxes remained at present levels." [2]

We were not able to ascertain precisely how this relationship was arrived at although discussion in the study suggests it was arrived at by examining some type of historical trend. Note that the study apparently proceeded under the assumption that tax rates increased in 1969 rather than 1970.

This presumed relationship must be viewed as quite a powerful leverage of tax rates on stock market prices. In another part of the article, the study shows that stock market prices fell by only 14.1 percent following the enactment of the higher taxes in 1970—almost a mirror image of what is proposed. But this decline also occurred as the economy moved into a recession and one might have expected a downturn in stock prices for that reason. The following year the index moved up by 18.1 percent. In fact, the stock market data (covering 1960–1975) showed the largest drop of 22.9 percent from 1973–1974 at the time of the oil embargo and subsequent recession when no tax change occurred.

The assumptions made in the Chase study may be compared with those in other studies. One study was made by the Securities Industry Association (SIA) [3] and was simulated on the Data Resources, Inc. model. This study also rested on a presumed relationship between capital gains taxes and stock prices. These assumptions were determined, however, by the industry association and not by Data Resources. Even so, the impact on stock prices was much smaller than those in the Chase study. The entire elimination of capital gains taxes, whose initial revenue loss is at least three times the Steiger proposal, is estimated to increase stock market prices by only 20 percent. Thus the impact assumed in the Chase study is about six times the impact suggested in the SIA study.[4]

Data Resources has not done a study of eliminating capital gains taxes or of applying the limited Steiger type reduction. However, some modeling experiments done last year may provide some clues to the type of assumptions they would use. In one study, they modeled the effect of taxing capital gains in full and limited the maximum tax rate to 50 percent. The proposal involves a $6.6 billion increase in capital gains taxes and a net increase of $4.6 billion when lower taxes on dividends and interest are considered.[5] The study states "the model unaided, predicts a small decline in stock market index, a result which is intruitively plausible, given the increased aggregate burden of tax." Thus, while one hesitates to draw conclusions from a different type of simulation, these statements do suggest that DRI's own assumptions of the effects on the stock market of tax changes would be very small. DRI also has some cautionary words about the stock market assumptions.

In weighing the two basic approaches to tax reform, encouraging the open capital market and household behavior versus encouraging internal business savings, a typical element, and the biggest unknown, is the response of the stock market. With a good stock market response, the partial integration of corporate and personal income taxes, ending the preferential treatment of capital gains, and reducing to 50% the upper limit of taxation on all source income, can become the vehicle for improving the equity of the tax system, boosting capital formation, and stimulating economic activity. A further advantage would be to encourage the capital allocation process by channeling more of the economy's savings to investment through the market mechanism. On the other hand, if the stock market does not respond to these tax changes, the measures would have little impact on activity or capital formation, and would have to be justified solely on equity and allocation grounds.[6]

As this quote suggests, the stock market response tends to be uncertain and difficult to predict. Even so, the Chase assumptions would appear to be quite generous, given the other studies described here.

While this assumption is the critical one, there are a number of other links which must occur if there is to be economic stimulus. The chain of events described in the Chase study which lead to economic stimulus seems reasonable in direction. However, the magnitude of these effects may be very difficult to predict. For example, the study notes the close coreral, the effect of portfolio shifts cannot be fixed business inevstment citing stock market prices as the causal factor. However, some economists would argue that higher stock market prices and higher business investment are both results of some other causal factor, such as an improvement in the economic outlook. In addition, because of the nature of modeling procedures in general, the effect of portfolio shifts cannot be taken into account. For example, increased funds flowing into the market may be accompanied by reductions in real investments or bond prices. A reduction in bond prices, considered in isolation, would tend to raise interest rates and discourage investment.

It is also interesting to note that the DRI studies cited the linkage between the stock market and economic stimulus as operating not only through business investment but through the stimulus of the increase in household asset values on consumption spending, leading to more investment through the accelerator principle. The Chase study speaks only of the former. This difference illustrates the complexity of tracing the effects of such changes on the economy.

Another problem with the modeling approach done primarily through effects on stock market prices is that a substantial portion of the capital gains, particularly for very high income taxpayers, is likely to be associated with real estate investment and particularly residential real estate. While there is very little published data to determine this effect, a special study in 1962 [7] indicated that only one-third of capital gains realized was on corporate stock, and this was a period when stock market investments might have appeared relatively more attractive. If the bill induces an increase in residential real estate investment, it could potentially have a negative effect on total business investments. These types of considerations are very unlikely to be picked up in a large-scale macroeconomic simulation. In theory, one might expect a similar revenue loss concentrated solely on the corporate sector, or perhaps aimed at dividends, to produce more fruitful results. Again, however, these effects are very hard to predict.

Another assumption used in the Chase study was that the initial revenue losses from the reduction in capital gains taxes would be washed out by a higher level of realizations. Apparently the argument used to justify this is that the amount of capital gains taxes collected fell when the rates were increased. The study states:

. . . the amount of capital gains tax paid in 1969 when the rates were increased to 40 percent was less than in 1968, the last year of 25 percent maximum rates.

To be sure, some of this may be due to the fact that individuals who knew that they would face higher tax rates in the following year elected to sell a disproportionately large part of their assets in 1968. However, tax collections have remained below 1968 peaks through 1975 and are certainly not likely to be higher for 1976 in view of the dismal performance of the stock market.[8]

One difficulty in this argument is that the tax rates increased not in 1969, but in 1970. Based on some new data provided by Treasury and reprinted in the Wall Street Journal,[9] tax collections have since exceeded their pre-tax peak in 1969 during the years of 1972 and 1973. Realizations did go down during the 1970 recession and the 1975 recession. But recent data on realizations for 1976 indicate a substantial increase in 1976 (from $13.8 billion in 1975 to $18.1 billion in 1976).[10] Thus, tax collections in 1976 should be well above the 1969 levels.

This is not to suggest that realizations would not increase with the decrease in taxes, but rather to suggest that there is no clear evidence that they would increase in the magnitudes suggested by the Chase study. The assumption of a neutral revenue effect requires that a halving of the tax rate would double realizations. The SIA study discussed earlier assumes that a repeal of the entire capital gains tax would increase realizations by only 20 percent, while the 1977 DRI studies suggested a "small" effect.

To quote Donald Lubick, Assistant Secretary of the Treasury for Tax Policy (designate) in a letter to the Wall Street Journal:

Others have assumed that reductions in capital gains taxes will greatly increase the realization of such gains, leading to increased revenues. Tax rates on capital gains obviously do have some effect on the amount of gains that are realized in any given year, but realizations also are related to many other factors, such as the state of the economy and of the stock market, the amount of capital gains which have accrued, and the relative attractiveness of the alternative investment opportunities. Over time, there have been large and frequent changes in the realized gains even when taxes have remained unchanged. Higher tax rates on capital gains in the 1970's have not caused tax revenues from capital gains to fall. There is no reason to believe that lower tax rates on capital gains will cause tax revenues to rise.[11]

These assumptions, of course, determine in large part the outcome, and in particular the level of budgetary deficit in the Chase study. Unfortunately, the 1977 DRI studies did not

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[2] Chase study, p. 9.

[3] Tax Policy, Investment and Economic Growth, prepared by the Securities Industry Association based on Econometric Studies by Data Resource, Inc. March, 1978.

[4] If the SIA study were a third the size, the price effect would be 6⅔ percent (20 percent/3). For a proposal of the same size, the Chase assumption is 40 percent which is six times as large.

[5] Data Resources Review. August, 1977. pp. 1.11–1.12.

[6] Ibid., p. 1.19.

[7] U.S. Department of Treasury, Internal Revenue Service, Statistics of Income. 1962, Supplemental Report, Sales of Capital Assets Reported on Individual Tax Returns.

[8] Chase study, p. 13.

[9] Wall Street Journal, May 8, 1978.

[10] Internal Revenue Service, Statistics of Income, Preliminary Individual Income Tax Returns, 1975 and 1976.

[11] Wall Street Journal, May 11, 1978.

include a revenue figure for their simulation, although it appeared that the economic effects were very small.

The outcome of the SI study was heavily dependent on monetary policy. If accommodating monetary policy is assumed (expanding the money supply to keep interest rates constant) the no tax on capital gains alternative in the study results in a projected improvement in the deficit of $15.4 billion after five years. By comparison, the Chase effects are quite high since their alternative is more limited.

However, if non-accommodating monetary policy is assumed, the SIA study predicts a revenue loss after feed-back of $11.7 billion after five years. Therefore, it is not clear that a change in capital gains tax rates, even with the assumptions used by SIA, would produce an increase in revenues—this effect in study would be highly dependent on monetary policy.

While there are a number of questions which might be raised about the assumptions in the Chase study, it is also important to note that the results under consideration relate to the goals of economic growth and full employment. It is generally desirable to keep tax policy consistent with other objectives such as distributional goals and efficiency in resource allocation.

With regard to the distribution of the tax cut, Assistant Secretary Lubick noted in his letter that the tax reductions in the Steiger amendment would substantially decrease the progressivity of the income tax. In particular, he noted that two-thirds of the benefits would go to individuals with incomes of $200,000 or more providing an average reduction of $14,000 while those in the $15,000 to $20,000 class would receive a reduction of $0.26 and those in the $20,000 to $30,000 bracket would have an average tax cut of just over one dollar.

With regard to the allocational effects, it is important to note that capital gains on stock are already favorably taxed relative to dividends, and that capital gains on other assets (non-stock) are also taxed favorably owing both to the lower rates and the failure to tax on an accrual basis. A more neutral tax proposal in terms of resource allocation might be a proposal which would reduce the tax on dividends or reduce the corporate tax rate in general.

JANE GRAVELLE,
Specialists in Taxation and Fiscal Policy.●

RESULTS OF OKLAHOMA FIRST DISTRICT CONGRESSIONAL QUESTIONNAIRE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, among the approximately 8,000 First District citizens who took the time to answer my recent questionnaire, overwhelming support was voiced for two issues—a constitutional amendment to permit national initiative petitions and tuition tax credits for higher education expenses.

Equally decisive opposition was expressed against three measures—the Humphrey-Hawkins full employment bill, legislation to extend time in which to ratify the equal rights amendment, and public financing of congressional elections.

I was particularly pleased to get the support of 71 percent of the voters for the initiative petition amendment. I introduced this amendment last year because I felt that citizens wanted an opportunity to participate more fully in the decisionmaking process of our Government. Today 23 States, including Oklahoma, have the initiative process which gives citizens a direct vote on certain issues.

Although this constitutional amendment will take at least 5 years to pass Congress and be ratified by the States, I intend to pursue this goal as long as I serve in Congress. The support expressed from our congressional district will help advance this proposal.

Only 22 percent opposed the initiative petition amendment. When questioned on how decisions voted on directly by the people would compare with decisions made by Congress, 66 percent thought the decisions would be better, 17 percent said worse, and 17 percent said about the same. By a vote of 73 to 24 percent, respondents thought the initiative process would increase the number of voters at the polls.

Following is a summary of the responses to other questions:

Tax credits to help pay the cost of higher education were supported by 70 percent, while 27 percent preferred direct Government grants.

The proposal to extend the time period another 7 years for States to ratify the equal rights amendment was opposed by 75 percent and supported by 20 percent.

Pending legislation to require Government policy achieving full employment levels—popularly called the Humphrey-Hawkins bill—was opposed by a margin of 76 to 18 percent.

Public financing of congressional elections similar to that now in effect for financing presidential elections was opposed by first district respondents by 83–12 percent.

A slight plurality of respondents favored scrapping the present Postal Service, which is now a semi-private corporation, and returning to the old system in which the post office is again under the control of Congress. Favoring this were 46 percent, while 33 percent opposed and 22 percent were undecided.

On the topic of welfare reform, a majority of 55 percent opposed replacing the present system of Federal programs such as food stamps, aid to families with dependent children, and supplemental security income, with a new system of a single cash payment to eligible welfare recipients. About 26 percent supported this.

On the question of whether welfare mothers of preteenage dependent children should be required to work, 54 percent said yes and 29 percent said they should remain in the home while drawing these welfare benefits.

All but one of the President's four tax reform proposals were opposed. The one approved by a slim 51–47 percent margin was to eliminate entertainment expense deductions. Proposals to eliminate or cut back tax deductions for travel expenses, business meals or the existing medical deductions were soundly opposed.

Specific results of the survey were as follows:

1. Do you support the concept of government financing of Congressional Elections?

	Percent
Yes	12
No	83
Undecided	5

2. Do you support extending for seven years the March 1979 deadline in which states can ratify ahe proposed Equal Rights Amendment?

	Percent
Yes	20
No	75
Undecided	5

3. Do you support the revised Humphrey-Hawkins bill which sets a national goal of 4% total unemployment and encourages more federal government planning to reach this goal?

	Percent
Yes	18
No	76
Undecided	6

4. Do you support scrapping the present Postal Service, which is now a semiprivate corporation, and returning to the old system in which the Post Office is again under the control of Congress?

	Percent
Yes	33
No	46
Undecided	23

CITIZEN PARTICIPATION IN POLICY MAKING

5. Would you favor a constitutional amendment that would allow citizens to propose and enact national laws through an initiative petition process similar to that currently used in Oklahoma and other states?

	Percent
Yes	71
No	22
Undecided	7

6. Would you be more inclined to go to the polls if you could vote on national issues as well as candidates?

	Percent
Yes	73
No	24
Undecided	2

7. If citizens were allowed to vote on such initiative petitions, do you think their decisions would be better, worse, or about the same as those made in Congress?

	Percent
Better	66
Worse	17
Same	17

WELFARE REFORM

8. Should the present federal programs such as food stamps, aid to families with dependent children, and supplemental security income, be replaced with one single cash payment to eligible welfare recipients?

	Percent
Yes	26
No	55
Undecided	19

9. Should welfare mothers of pre-teenage children be required to work, or should they be allowed to stay at home to care for their children?

	Percent
Work	54
Home	29
Undecided	17

TAX REFORM

10. Do you favor cutting back on business tax deductions for:

(a) entertainment?

	Percent
Yes	50
No	46
Undecided	3

(b) travel expenses?

Yes	29
No	69
Undecided	2

(c) meals?

Yes	34
No	64
Undecided	2

11. Should the existing tax deductions for individual medical expenses be changed so that only extraordinary expenses (those exceeding 10% of a person's income) could be deducted?

	Percent
Yes	13
No	82
Undecided	5

12. Two proposals have been suggested to aid students and their families in paying the cost of college tuition. One proposal would establish a tax credit to offset such costs; the other proposal would expand the existing loan and grant programs. Which do you prefer?

	Percent
Tax credit	70
Grant	27
Undecided	4

●

MINORITY INTERESTS AND WILDERNESS IN ALASKA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. RANGEL. Mr. Speaker, at the 1977 annual convention of the National Association for the Advancement of Colored People, a resolution was passed declaring that "an enduring resource of wilderness is needed by Americans of all races and economic backgrounds." Some months ago I became a cosponsor of H.R. 39, the Alaska National Interest Lands Conservation Act, because it is a good example of a wilderness bill that will benefit Americans in many ways.

The group of Americans who perhaps would benefit most directly are rural Alaskans—including Eskimos, Indians, Aleuts, and others—who depend on subsistence uses of the land. Under the Alaska Native Claims Settlement Act of 1971, of which H.R. 39 is an outgrowth, the land rights of Native villages have first priority in Alaska. H.R. 39 will expedite conveyance of lands which the Natives have selected under the 1971 law. Furthermore, on the other public lands that H.R. 39 designates as "national interest" conservation units, the needs of those who practice a subsistence lifestyle will be protected.

The report of the Committee on Interior and Insular Affairs on H.R. 39 stresses that hunting and fishing are still the cornerstone of the culture of many rural Alaskans and that the option to continue and preserve their way of life should rest firmly with these people. After conducting town meetings around the State on H.R. 39 and reviewing relevant studies, the committee has concluded that reliable evidence demonstrates that "50 percent of the food for three-quarters of the Native families in Alaska's small and medium villages is acquired through subsistence uses, and 40 percent of such families spend an average of 6 to 7 months of the year in subsistence activities."

In many of Alaska's 200 rural communities, fresh meat, fish, and produce are unavailable except through the subsistence harvest. At the same time, the population explosion in Alaska's urban centers has had repercussions in rural areas that threaten subsistence lifestyles and wildlife resources.

The number of resident hunting and fishing licenses issued practically doubled between 1965 and 1975. During this same period, the moose harvest in the Anchorage area dropped from 497 to 46. Now urban hunters increasingly are entering into more remote, subsistence-dependent areas of the State.

The Interior Committee took great pains to work out a subsistence provision of the bill that deals squarely with all these problems, balancing the needs of the people dependent on subsistence living with the need to protect wildlife resources and the interests of the Federal and State governments.

Under title VII the State will regulate taking of fish and game for subsistence uses on all the public lands in Alaska, subject to the necessary Federal oversight. The bill gives rural Alaskans a voice in decisions affecting them and provides protection for subsistence-dependent residents in any cases where it is necessary to restrict taking. Subsistence uses of wildlife and other resources are to have priority over other consumptive uses of these resources on public lands.

Mr. Speaker, through its subsistence provision H.R. 39 rightfully recognizes the value of the continuation of cultural diversity in our Nation. At the same time preservation of the national interest lands and their fish and wildlife habitats will protect these areas from harmful developments that could bring an end to subsistence living. Thus, H.R. 39 is a bread-and-butter bill for many Alaskan residents.

The NAACP resolution that I mentioned recognizes that many young people in our Nation—especially children from inner-city districts such as my own—grow into adulthood without experiencing the enjoyment of the great outdoors. Nevertheless, wilderness is the heritage of all Americans which they too aspire to enjoy one day. As the hearings across the lower 48 on H.R. 39 proved, many people from all walks of life want to see these lands protected. Along these lines, the NAACP resolution describes the value of wilderness as a "resource pool" of areas unaffected by man for the most part. The sensible thing to do is to preserve significant areas where wildlife can find refuge, where natural processes that scientists are just beginning to understand can continue without disruption, and where we can save land for future generations that has not been trampled by human developments. The lands that are proposed for protection in H.R. 39 are public lands belonging to all Americans, not to the special development interests.

Mr. Speaker, I give my complete support to H.R. 39 and would like to include in the RECORD the text of the resolution on wilderness resources as passed by the 68th annual convention of the NAACP, meeting in St. Louis, Mo., from June 27 to July 1, 1977:

NAACP 68TH ANNUAL CONVENTION RESOLUTIONS

XVII. MISCELLANEOUS

1. Wilderness Resources

Whereas, "wilderness" can be defined as land which retains its primeval character without permanent human improvements, untrampled by man, and is affected primarily by the forces of nature;

Whereas, the qualities and benefits of an enduring resource of wilderness is well-known for its opportunities in providing for primitive recreation, preservation of a "resource pool" unaffected by man;

Whereas, America's wilderness resource is dwindling at an astonishing rate through resource exploitation such as mining, clear-cutting, and development;

Whereas, an enduring resource of wilderness is needed by Americans of all races and economic backgrounds, especially minorities and the poor living in the inner cities;

Whereas, many young people born in the inner city grow into adulthood without experiencing the enjoyment of the great American outdoors;

Therefore be it resolved, that the National Association for the Advancement of Colored People support endeavors to set aside more land areas to be designated as wilderness areas; and urge Congress to expand wilderness areas.

HARRY J. NOZNESKY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. YATRON. Mr. Speaker, Mr. Harry J. Noznesky, honorary chairman of the General Battery Corp., will be honored on June 1 at the Municipal Stadium in Reading, Pa., with a "Harry J. Noznesky Night at the Ballpark."

Harry J. Nozneksy's business capability speaks for itself. Under his astute leadership, the General Battery Corp. has grown more than 20 times during the past 20 years—from a relatively small company to the second largest replacement battery manufacturer in the industry. Today the company operates 17 plants throughout the United States and Puerto Rico, and employs approximately 3,500 people.

Mr. Noznesky began his business career in 1933 with the First Pennsylvania Co. of Philadelphia. In 1935 he joined the U.S. Rubber Co. as a tire salesman, where he became district sales manager. Later, he joined Bowers Battery & Spark Plug Co. as vice president of sales, and in 1956 he became president. The Bowers firm became General Battery Corp. in 1960, with Mr. Noznesky as its first chief executive officer.

Graduated from the Georgetown University's School of Foreign Service in 1933 with a Bachelor of Foreign Service degree, Mr. Noznesky later received an honorary Doctor of Laws degree from that university in 1974. He was a recipient, in 1976, of Georgetown's John Carrol Award, presented on the basis of

career accomplishments, extensive public service, and dedication to the principles of the university. In addition, he is a vice president of the School of Foreign Service of Georgetown University Alumni Association.

In his younger days, Harry Noznesky was quite an athlete. In fact, he was a collegiate All-American on Georgetown's baseball team, and for a time played semipro ball with one of the New York Yankee's farm teams. He still is an ardent baseball fan; and currently serves as vice president of the Reading Phillies (AA Eastern League), and has been chairman of the Greater Berkshire Civic Baseball Committee.

Harry J. Noznesky's service to other civic and business associations is also very impressive. He has served as the director of the Manufacturer's Association of Berks County and the St. Joseph's Hospital in Reading, Pa. He has also served on the board of directors of the National Central Bank in Reading, Pa. Presently he is director of the Chit-Chat Foundation of Wernersville, Pa., and honorary director of the Hawk Mountain Council of the Boy Scouts of America. He is the past president and director of Battery Council International.

I am honored that I have the opportunity to bring Harry J. Noznesky's outstanding accomplishments to the attention of this body and I ask the Members to join with me in paying tribute to this exceptional man.●

CLERK-HIRE "SLOT" RESOLUTION

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today with the cosponsorship of 111 Members, I have introduced a resolution which addresses a problem that most Members must face.

As chairman of the Congressional Rural Caucus, a bipartisan ad hoc group of Members of Congress—and as a member of the Democratic Study Group, Democratic Research Organization, Congressional Clearinghouse on the Future, and the Environmental Study Conference—I routinely participate in voluntary "pooling" arrangements to secure staff for such ad hoc House-related, legislative support organizations. In this arrangement, several Members "pool" clerk-hire funds together to secure staff members to process legislative mail, handle specialized projects, and provide common legislative services including research; the preparation of bibliographies, papers, and publications; clearinghouse facilities and other routine legislative functions.

House Administration Committee rules are presently so interpreted as to require that, when two or more Members carry the same person on their clerk-hire allowance during any given month, such employee must be charged against all Members so contributing to such staffers—because of the constraints of the 18 slot limitation—which, again, we have imposed upon ourselves. The House Administration Committee rules work to the detriment and the frustration of the discharge of the duties of all Members, and of all such ad hoc Members' sponsored and supported legislative groups. The resolution I have introduced will contribute significantly to a resolution of this problem.

My resolution provides simply that only one slot will be utilized under such pooling arrangements—with the Member donating his slot advising the Finance Office of such designation.

If my resolution is adopted (its genesis is to be found in the 1977 Obey Commission on Administrative Review Report), it would not only increase the efficiency of our respective office operations, including legislative research and writing, but it would also provide a fair and equitable approach to the counting of clerk-hire slots—a system which now is a wholly unworkable and unreal one. It appears to me as an absurdity that we as colleagues—responsible both to the criminal sanctions of the land and accountable to our constituents—cannot jointly do—under the same limitations as to practice and purpose—that which we can do severally.●

COMMUNISM IRRELEVANT IN AFRICA

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. WHALEN. Mr. Speaker, in a recent Wall Street Journal article Arthur Schlesinger makes a convincing argument that the United States need not be overly concerned about the much-touted "Communist threat" in Africa.

First, he reminds us that "Communism and capitalism are in the African view equally Western, equally materialistic, equally rationalistic, equally remote from a system of ancient and irremediably tribal cultures."

Second, he sensibly observes that "like all nationalists, black African leaders fighting their private wars are delighted to con any outsider into helping them. But the meaningless rhetoric they offer Moscow in exchange does not mean for a minute that they 'accept' the Communist 'political philosophy.' Nor do their wars have anything to do with the Cold War."

Third, he points out that "The Russian record in Africa has been one of substantial failure—in Ghana, in Guinea, in Somalia, in Egypt. Neither Angola nor Ethiopia affords them any solider footing than Vietnam afforded us. . . . As for Cubans, Castro's imperial dreams are heading him for the gravest trouble at home."

Finally, he concludes that U.S. interests in Africa are limited and that African problems will and must be settled by Africans.

I commend to my colleagues the entire article:

[From the Wall Street Journal, May 2, 1978]

RUSSIANS AND CUBANS IN AFRICA

(By Arthur Schlesinger, Jr.)

In recent weeks Washington has resurrected the doctrine of linkage. Linkage means that, if the Russians make trouble in one area—Africa, for example—we will seek to punish them by denying them something in another area—say, the SALT talks. Linkage began as a cherished theory of the Nixon administration. It had little effect when applied. The Carter administration started by disowning it. Now the White House, though not the State Department, appears to be sidling toward it, apparently because it cannot figure out any other way of reacting to the Soviet-Cuban assault on Africa.

The doctrine presents an evident difficulty. It implies in the case at hand that we are doing the Soviet Union a great favor by trying to reach a SALT agreement. But obviously the only reason we are engaged in SALT talks at all is because we believe the limitation of nuclear weapons to be in our own interest. If we did not believe that, we had no business in holding the talks. Arms control is a favor not just to the Soviet Union but to ourselves as well, and to all mankind. To say that we won't conclude an arms control agreement because we don't like what the Russians are doing in Africa deserves precisely the childish metaphors that spring to mind: cutting off our nose to spite our face, or threatening to go into the garden and eat dirt. If arms control is in our own interest, as it plainly is, we punish ourselves quite as much as we do the Russians in declining to reach an agreement.

Linkage raises another question: Exactly what kind of Communist threat is this in Africa that we are getting so excited about? A recurrent experience of the American people is to discover that some exotic locality of which they had not previously heard is vital to the national security of the United States. An unknown place that had never before disturbed our dreams suddenly becomes a dagger pointed at the heart of something or other, a capstone to a hitherto undiscerned arch, the key to some momentous global conflict.

YESTERYEAR'S PROPHECY

A few years ago the high priests of national security told us that the communization of Vietnam would be fatal to our world position. In consequence we endured the most disgraceful war in our history to "save" Vietnam. Well, we lost the war, and Indochina indeed went Communist. What happened to our world position? Today the Communist states are fighting savagely among themselves, as could have been predicted, and the threat to American security has not visibly increased.

Now that we are mercifully out of Southeast Asia, the high priesthood, which has a vested interest in crisis, tells us that Africa has become the key to our security. In 1976 we were given to understand that Angola was the crucial spot. In early 1978 everything suddenly turned on the Horn of Africa. The Horn of Africa! Who among us had ever heard of the Horn of Africa six months ago? Yet our national fate was deeply involved, highest authority instructed us, on the outcome of a local conflict between Somalia and Ethiopia.

And all this, we are assured, is only the beginning. The diabolical Russians and Cubans are engaged in a monster plot to take over all Africa. "We are witnessing the most determined campaign to expand foreign influence in this troubled region," Frank Carlucci, the deputy director of CIA, tells the Senate Armed Services Committee, "since it was carved up by the European powers in the late 19th Century. . . . It is my view that Moscow and Havana intend to take advan-

tage of every such opportunity to demonstrate that those who accept their political philosophy can also count on receiving their assistance."

Let us try to sort out some of these issues. No one can doubt that the Russians are using the Cubans in a massive effort to dominate Africa, nor that success in this effort would create problems for the West. But an intention does not by itself constitute a threat. The serious question is: What prospect do the Russians have for establishing a permanent presence in Africa?

Now Africa is a multitribal culture, possessed by its own traditions, absorbed in its own problems, indifferent to the outside world, consumed by indigenous emotions of nationalism and tribalism, immune to Western ideas and institutions. It is safe to say that communism is as irrelevant as parliamentary democracy to the historic patterns of African thought and behavior. Evelyn Waugh remains the best guide to the idiocy of the West trying to do anything in an awakened Africa. To invoke Waugh, I suppose, is to risk charges of frivolity or worse. Such a reaction misses Waugh's essential point. What he wrote about with deadly accuracy in "Scoop" and "Black Mischief" was the total irrelevance to African mores of Western values, as proved both by the Westerners who tried to impose them and the Africans who tried to adopt them. Communism and capitalism are in the African view equally Western, equally materialistic, equally rationalistic, equally remote from a system of ancient and irremediably tribal cultures.

When Mr. Carlucci says that the Russians are helping "those who accept their political philosophy," he is kidding the Armed Services Committee, and no doubt himself too. Like all nationalists, black African leaders fighting their private wars are delighted to con any outsider into helping them. But the meaningless rhetoric they offer Moscow in exchange does not mean for a minute that they "accept" the Communist "political philosophy." Nor do their wars have anything to do with the Cold War.

I remember an Anglo-American meeting about the Congo in the early Kennedy years. Some in the American government had got it into their heads that the civil war over Katanga would enable Moscow to gain a bridgehead in the center of Africa and that the West must act at once to prevent this dangerous development. I noticed that David Ormsby-Gore, the wise British ambassador to Washington, was silent during the frenetic discussion. I asked him later what he made of it all. He said, "I really don't think we need get so agitated about tribal wars in Africa. After all, every country has the right to its own Wars of the Roses."

I do not suggest that we should regard the Soviet-Cuban intervention with complacency. Let us denounce it fervently in all the ency. Let us denounce it fervently in all the forums where men of international goodwill gather together. But don't let's take it all that seriously in our own councils. The Soviet Union does not have a hex on Africa. Most Africans who have been to Moscow cordially dislike the Russians as racists. The Russian record in Africa has been one of substantial failure—in Ghana, in Guinea, in Somalia, in Egypt. Neither Angola nor Ethiopia affords them any solider footing than Vietnam afforded us. If the Soviet Union wants to plunge into its own quagmire in Africa, I do not think this need be a major worry for us. One thing is quite certain: Africans have not got rid of one set of white masters in order to replace them by another.

AND BACK HOME IN CUBA

As for Cubans, Castro's imperial dreams are heading him for the gravest trouble at home. It is notable how little the government-controlled press and television tell the Cuban people about the Maximum Leader's African adventures. Troops leave for Africa in civilian clothes and the stealth of night. "The Cuban investment in Africa," Hugh Thomas, author of the best history of Cuba, reminds us, "is an enormous one for a country of nine million people. The burdens are being felt in Cuba itself"—a shortage of doctors; problems in the schools and in harvesting the sugar crop; rumors of desertion and even mutiny in the Cuban army. Thomas asks: "When will the discontent that many are feeling because of a seemingly endless African commitment, including deaths, merge with irritation at the cost of the commitment? Is the recent crime wave to which Castro drew attention (in a speech on Sept. 28) a symptom of this?" If Castro continues to try to nail the African trophy on the wall, he is likely to end up as popular in Cuba as Lyndon Johnson was in the United States in 1968.

The odds are overwhelmingly against the establishment of any permanent Soviet or Cuban presence in Africa. In any case those who would be most directly threatened by it are the independent black states. Why not let them deal with it in the first instance? We should do nothing to push them toward the Russians—for example, by temporizing with regard to Rhodesia or South Africa—but we should not try to pretend that we know better than they do where their own interests lie. And let us above all ignore the interventionist harangues of those who told us only a little while back that our national security required an all-out effort in Vietnam. "If you believe the doctors," old Lord Salisbury sensibly said, "nothing is wholesome; if you believe the theologians nothing is innocent; if you believe the soldiers nothing is safe."

Let us recognize that our interests in Africa are limited, that our wisdom about Africa is even more limited and that our power to decide the future of Africa is very limited indeed. Let us be extremely cautious about trying to settle African problems that Africans will, and must, settle for themselves.●

THE PRESIDENT'S POWER TO WITHDRAW TROOPS FROM THE REPUBLIC OF KOREA

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. DELLUMS. Mr. Speaker, presently the House will be asked to vote on the 1979 Defense Authorization Act. Included in that legislation is a section that prohibits the President from withdrawing troops from South Korea without the approval of Congress and until "peace" is reached between North and South Korea.

During consideration of this section in the House Armed Services Committee I questioned the constitutionality of these conditions. Subsequently I requested Mr. Leonard C. Meeker at the Center for Law and Social Policy to comment on the constitutional validity and effectiveness of these conditions if they were placed on the President. I believe his response will be of interest to all of us as we prepare to vote on this bill:

DEAR REPRESENTATIVE DELLUMS: You have inquired concerning the constitutional validity and effectiveness of Section 805 of the 1979 Defense Authorization Bill. The Section reads:

"SEC. 805. (a) No ground combat units of the 2d infantry [sic] Division stationed in the Republic of Korea on the date of the enactment of this section may be withdrawn from the Republic of Korea until the Congress enacts legislation authorizing the President to provide for the retention in the Republic of Korea, under conditions that would contribute to the security of the United States ground forces remaining in the Republic of Korea, of the equipment of each such unit to be withdrawn.

(b) In no event shall the ground combat units stationed in the Republic of Korea be reduced below 26,000 and not less than two full infantry brigades and the division headquarters of the 2d Infantry Division shall be retained in the Republic of Korea, until a peace settlement is reached between the Republic of Korea and the Democratic People's Republic of Korea ending the state of war on the Korean peninsula."

It is my opinion that these provisions [1] exceed the powers of Congress and would be invalid and of no effect if included in the legislation upon its becoming law. Regardless of the Defense Authorization Bill becoming law with these provisions and regardless of whether it became law through approval by the President under Article I, Section 7, Clause 2 of the Constitution, withdrawal of U.S. forces from the Republic of Korea would be for the President to decide.

Questions concerning authority over the deployment abroad of U.S. armed forces invite attention to the provisions of the Constitution relating to those forces and to this country's international relations. Both the President and Congress [2] are given constitutional powers in these areas. The issues regarding Section 805 are (1) whether the President has power to act alone in deciding on the withdrawal of forces from Korea, or must have the participation and concurrence of Congress, and (2) whether action by Congress regarding withdrawal is binding on the President.

AUTHORITY OF THE PRESIDENT TO DECIDE ON WITHDRAWAL

The Constitution confers authority on the President in regard to both the armed forces and international relations:

"The President shall be Commander in Chief of the Army and Navy of the United States, . . ." [3]

"He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, . . ." [4]

". . . he shall receive Ambassadors and other public Ministers; . . ." [5]

When the President acts in a matter relating to both the armed forces and international relations, he is clothed with his constitutional powers in both areas. Such is the case in regard to a decision on withdrawal of forces from a foreign country. The authority as Commander in Chief empowers the President to command, direct, give orders to, and have a "general superintendency" over the armed forces.[6] It is generally recognized that the President possesses exclusive authority to conduct the foreign relations of the United States.[7] The President, acting alone, has power also to make foreign policy in some situations.[8] In other situations, he shares this power with the Senate [9] or with both Houses.[10]

Congress also has powers relating to the armed forces and to international relations:

"The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common

Footnotes at end of article.

Defence and general Welfare of the United States; . . .

"To regulate Commerce with foreign Nations, . . .

"To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

"To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

"To raise and support Armies, . . .

"To provide and maintain a Navy;

"To make Rules for the Government and Regulation of the land and naval Forces; . . ." [11]

On an appraisal of the respective constitutional powers of the President and Congress, it would seem mistaken to conclude that any of the powers of Congress relating to the armed forces, or all of them taken together, give Congress responsibility for a decision to withdraw forces from a particular deployment abroad.[12] The Article I, Section 8 powers of Congress on providing for the common defense, raising and supporting armies, providing and maintaining a navy, and making rules to govern the armed forces are powers of a general character in regard to the defense establishment and do not import authority to make specific decisions on force deployment. By contrast, a decision to withdraw forces from a particular country seems clearly encompassed by the President's authority as Commander in Chief.

To the extent that a decision to withdraw forces is a decision on foreign policy, a contention that Congress must participate in that decision appears unsustained by the provisions of Article I, Section 8 giving Congress powers in the area of international relations. Force withdrawal is not a regulation of foreign commerce, a definition of international criminal offenses, or a declaration of war. The argument has been made—and never definitively decided—that a decision to send U.S. forces abroad requires the participation of Congress since the decision determines national policy in regard to a foreign-affairs question. Even if that argument were accepted, despite lack of support in the Constitution and in practice, it would by no means entail the conclusion that a decision to withdraw some of the U.S. forces from a particular foreign country requires Congressional concurrence. Withdrawal of some forces is not comparable to the sending of contingents initially. While withdrawal is not free from all risk of leading to involvement of the United States in hostilities, the risk is less than in deciding to station forces in a foreign country.[13] Moreover, a decision to withdraw forces may not represent a new departure in policy but a judgment on the best means of implementation: the President may conclude that national policy regarding the defense and security of the United States in relation to another country is best pursued by means involving a phased withdrawal from that country.

Long practice appears to have confirmed the authority of the President, acting alone, to withdraw armed forces from a foreign country. In the case of Korea, U.S. forces have been stationed in the Republic of Korea since the outbreak of the Korean war in 1950.[14] Elements of the forces in Korea have been withdrawn periodically since then, both for rotation and for reduction in size. President Eisenhower in 1953 authorized the signature of an armistice agreement terminating hostilities in the Korean war and began the process of withdrawing U.S. forces from the Korean peninsula.

In this and other situations, Presidents have withdrawn units of the U.S. armed forces from foreign countries on the basis of the President's constitutional authority, acting alone and without any participation by Congress in the decision. On the basis of historical precedent as well as analysis of the relevant provisions of the Constitution, it should be concluded that the President, acting alone under his constitutional authority, is authorized to withdraw U.S. forces from Korea, and that there is no requirement for Congressional participation in such action.

AUTHORITY OF CONGRESS TO LEGISLATION ON WITHDRAWAL

The remaining question is whether Congress has power to legislate on this matter and thereby bind the President. It has been shown in the preceding section that the President possesses authority to decide on withdrawal, and that the Constitution does not confer authority on Congress in this regard. Thus, not only may the President act alone, but there is no constitutional basis for independent action by Congress on a specific withdrawal of forces. A president could conceivably conclude an international agreement with a foreign country stipulating the withdrawal of U.S. forces from that country and then submit the agreement to the Senate and House for approval through joint resolution. Such a procedure would seem appropriate if the agreement contained provisions whose implementation called for action by Congress: *e.g.*, the furnishing by the United States of military assistance following withdrawal. But in the absence of action by the President to conclude the agreement, there would be no basis for legislation by Congress.

If the Senate and House were to pass a measure purporting to decide on the withdrawal of U.S. forces in a foreign country, the President might well veto the measure. In this case, the measure would have no force or effect since it would not constitute legislation by Congress. If the measure were passed over a Presidential veto, the President would be entitled to disregard it as unconstitutional. In the case of the 1979 Defense Authorization Bill, Section 805 is included in a measure having much larger scope than troop withdrawal from Korea. If the Bill should be signed by the President and his signature were accompanied by a statement that Section 805 is invalid and has no legal effect, the President would be entitled to treat this provision as unconstitutional and not binding on him.[15]

Sincerely,

LEONARD C. MEEKER.●

FOOTNOTES

[1] The provisions purport directly to limit a withdrawal of troops ("No ground combat units . . . may be withdrawn . . . In no event shall the strength of ground combat units . . . be reduced below 26,000, . . ."). The provisions are not a limitation on the use of funds appropriated by Congress. If the provisions purported to prohibit expenditure of appropriated funds to withdraw troops from Korea, they would probably be invalid as an attempt to accomplish through a legislative condition what Congress could not do directly. See Henkin, Foreign Affairs and the Constitution 113–16 (1972).

[2] Action by "Congress" under the Constitution is taken through the process in which laws are made: passage by both Houses and approval by the President, or passage by them over a Presidential veto. See U.S. Const. art. I, § 7.

[3] U.S. Const. art. II, § 2, cl. 1.

[4] Id. art. II, § 2, cl. 2.

[5] Id. art. II, § 3.

[6] See *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 641 (concurring opinion of Justice Jackson); The Federalist No. 69, (A. Hamilton); 3 Story, Commentaries on the Constitution of the United States § 1486 (1833).

[7] See *United States* v. *Curtis-Wright Export Corp.*, 299 U.S. 304, 319 (1936); Annals of Cong., 6th Cong., 613 (1800) (statement of Representative Marshall).

[8] See, e.g., *United States* v. *Pink*, 315 U.S. 203 (1942) (U.S. policy on recognition of the Soviet Government and settlement of claims); Presidential Proclamation No. 2667, 10 Fed. Reg. 12303 (1945) (U.S. policy on exploitation of mineral resources of the continental shelf).

[9] U.S. Const. art. II, § 2, cl. 2 (treaties).

[10] E.g., tariff or trade legislation; approval through joint resolution of the international agreement creating the World Bank and the International Monetary Fund.

[11] U.S. Const. art I, § 8, cls. 1, 3, 10–14.

[12] The situation is different from a decision to send troops abroad. Even there the general power of the President to station troops in foreign countries is supported by long practice. See Henkin, op. cit. supra, at 53, 106–07. However, with respect to one kind of sending decision—committing U.S. forces to hostilities—it seems clear that Congress has an indispensable role except in emergency situations: The draft of the Constitution considered by the Federal Convention in 1787 gave Congress the power to "make war." This was changed to "declare war" so that the President should have power to "repel sudden attacks." See 2 Farrand, Records of the Federal Convention of 1787, 318–19 (1411).

The arrangements mandated by the Constitution for use of armed forces in hostilities were designed to protect the power of Congress to declare war, and to reduce the risk of the United States being plunged into war through decisions of the President alone. Some risk was accepted by the framers in permitting the President to make the decision in an emergency not brooking delay. The same analysis was followed in the War Powers Joint Resolution passed over Presidential veto in 1973. Pub. L. 93–148, 87 Stat. 555. According to this legislation, the President would not be authorized to commit U.S. armed forces to hostilities unless (a) there had been an attack on the United States (construed by the Joint Resolution to mean "the United States, its territories or possessions, or its armed forces"), and (b) the urgency of the situation was such as not to allow consideration and decision by Congress. Pursuant to this analysis, the President would have to decide whether the emergency was so pressing as to require immediate action on his part without awaiting deliberation by Congress. It would then be for Congress to decide whether to follow the President's policy and support it through necessary legislation (e.g., appropriations measures).

[13] But, as noted earlier (note 12), historical precedents support the President's authority to send troops abroad. For example, in 1950-51, Congress considered and President Truman resisted legislative limitations on the number of troops that might be stationed in NATO countries. This "Troops to Europe" debate was concluded with a sense-of-the-Senate resolution. In 1940 President Roosevelt had sent troops to Greenland and Iceland despite a provision in the Selective Service Act prohibiting the sending of draftees outside the Western Hemisphere.

[14] The United States has had a Mutual Defense Treaty with the Republic of Korea since 1954. 5 U.S.T. 2368.

[15] See Henkin, op. cit. supra, at 113.

ALASKA LANDS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. BLANCHARD. Mr. Speaker, in a few days this House will face the greatest land conservation decision in its his-

tory. At stake is the future of over 100 million acres of the vast and magnificent public lands of Alaska. The Alaska National Interest Lands Conservation Act is designed to face up to the great responsibility of deciding how those lands will be used and cared for.

The evolution of this legislation has come about through an extensive scrutiny and consideration—through public hearings and the diligent work of both the Interior Committee and the Merchant Marine and Fisheries Committee. The task set before those committees has been an enormous challenge—to weigh in a delicate balance the economic and developmental needs of our Nation with the need to preserve irreplaceable monuments of our wild, natural, and scenic heritage. I believe that the committees have met that challenge and that the "consensus bill" agreed upon by the chairmen of those two committees is a credit to the committee members and to the decisionmaking process.

The opportunity is before us to make reasonable decisions that will provide the generations that follow us with both employment and environmental protection. For example, most of the prime mineral potential lands of Alaska are outside the proposed conservation units. The small percentage of mineral lands included within the units exist only because the surface lands are of such outstanding national value that they outweigh the possible returns from mineral exploration. With nearly 80 percent of Alaska open for exploration, these expansive, yet fragile, conservation units are the last place we should encourage exploration now.

Two of Alaska's most promising industries—tourism and commercial fishing, stand to benefit from the legislation as well. The establishment of new national parks, refuges, and wild and scenic rivers will certainly enhance Alaska's appeal to the traveling consumer. Second, the fishing industry is inextricably linked to the quality of Alaska's environment. A decision to protect one of the last great wild expanses on Earth is a sound investment for the future of our Nation and its people. This country originated the national park concept in 1872 with the creation of Yellowstone National Park. Today, Yellowstone is one of our most treasured national landmarks and the national park concept has spread throughout the world.

This Nation is indeed richly endowed with some of the grandest and most spectacular natural treasures on this Earth. In Alaska we have the chance to protect the crown jewels of that treasure, and I am confident that the future generations will laud this decision.●

WOMEN'S RIGHTS AND THE PROPOSED CRIMINAL CODE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mrs. SCHROEDER. Mr. Speaker, last January the Senate passed S. 1437, the proposed revision of the Federal Criminal Code. The House version, H.R. 6869, is currently under consideration by the Judiciary Subcommittee on Criminal Justice. Certain portions of these bills are harmful to the rights of women.

For instance, section 1641 of the House version of the bill makes spouses completely immune from Federal prosecution for rape while the Senate version is silent on the subject. The attempt in the Senate version to eliminate spousal immunity in rape prosecutions is laudable but whether the immunity is eliminated by leaving the provision silent on the subject is open to question. Some prosecutors and laymen might be confused about whether some common law immunity might still apply. I would support a clear statement within the section that a person does not enjoy immunity to rape prosecution by virtue of being the spouse of the victim.

Under the sexual assault provision, section 1642 in both the House and the Senate versions, it is an offense to engage in a sexual act with another who is not his spouse, knowing that the victim is incapable of understanding the nature of the act or under other similar circumstances. The circumstances listed are part of the common law definition of rape, and it seems only consistent to bar spousal immunity for sexual assault as it was barred in the rape section of the Senate version. At the very least, spousal immunity ought to be inapplicable with regard to the fifth, potentially forceful, condition mentioned in this section—where the assaulter compels the victim to participate by a threat or by placing the victim in fear.

As defined in both the House and the Senate versions, spousal immunity extends not only to married couples living together, but also to nonmarried couples living together and married couples no longer living together who have not yet obtained a judicial decree of separation. Thus, this extremely broad immunity in the House version of the bill leaves many women without the protection of either rape or sexual assault laws.

Another troublesome provision in both versions, section 1646(b)(2), excludes evidence relating to the rape victim's prior or subsequent sexual behavior—"except as otherwise required by the Constitution." This exception is too vague and could lead to the admission of too much evidence about the victim's past. It might also open a floodgate of appeals of rape convictions. Certain definite, narrowly drawn exceptions to the general rule of the inadmissibility of evidence of past sexual behavior ought to be set forth. I would support those exceptions carved out in Congresswoman HOLTZMAN's privacy-to-rape-victims bill, H.R. 4730. That bill would allow evidence of past sexual behavior only if the evidence (A) is of sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was the source of the victim's pregnancy, disease, semen, or injury; or (B) is of past sexual behavior with the accused and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which rape or assault is alleged.

I also have objections to section 878 (p) of S. 1437, which makes it a felony to mail any article, instrument, or drug intended for producing abortion or even materials which "directly or indirectly" give any information about procuring abortions. This section is clearly unconstitutional—it would apply even to medical journals containing articles about abortion procedures.

Many other provisions of these bills are repressive in a more general way, threatening the basic freedoms of all Americans—and could have an especially detrimental effect on the activities of women's groups, unions, veteran's organizations, minorities, farm groups, and the like in exercising their rights to assemble and petition the Government.

For instance, section 1302 in both versions, which makes it an offense to impair a Government function by physical interference, could even encompass a demonstration for women's rights that partially blocked a post office. The National Committee Against Repressive Legislation correctly asserts:

> Virtually every mass demonstration could fall within the broad language of this section—even an influx of cars carrying demonstrators could trigger it.

Sections 1001–1003, which govern the inchoate offenses, could have a chilling effect on free speech and assemble since they could be used, as they have been in the past, to harass or prosecute persons who participate in a group political activity by making everyone associated with the group liable for the offenses of a few militant members.

Section 1328 prohibits demonstrating within 100 feet of a Federal courthouse. This provision is unnecessary and overbroad and would only serve to further isolate the judiciary from public opinion.

Another potential damper on women's demonstrations is section 1831, which criminalizes inciting participation in a riot or giving directions in furtherance of a riot. A "riot" could involve as few as 10 persons, and Federal jurisdiction would attach if the offense involved movement of an individual across a State line. The language is vague and broad enough to include under giving "directions in furtherance of a riot" a participant's suggestion that the group move five feet north of its original location. Also, it invites abuse when the police must distinguish btween persons "inciting participation" in the riot from those merely demonstrating energetically.

A section having a similar impact is section 1861, which makes it an offense for one to disobey an order he or she knows has been issued by a law enforcement officer, designated public servant, or member of the armed forces or militia regarding behavior during a fire, flood, riot, and so forth. This section makes it possible for a petty official with poor judgment to bar legitimate political activity if in his narrow perception the order is designed to prevent serious injury to person or property. The offense ought to

be narrowed to lessen the chances for this kind of potential abuse.

Progress in the struggle for equal rights for women has, for a number of reasons, been disappointing. Obviously, women's groups feel a need to educate the public, especially through the use of free speech and assembly rights. Consequently, I take exception to the criminal provisions to which I have just referred. I hope all of my colleagues who support the cause of fair and equal treatment for all Americans, regardless of sex, will join me in opposing these provisions in their present form.●

FIRM HAND NEEDED ON TEAMSTER FUND

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 1978

● Mr. PICKLE. Mr. Speaker, tomorrow the trustees of the Teamster Central States Pension Fund apparently plan to choose as the new head of the fund a Mr. John Dwyer, reportedly an associate of Mr. Roy L. Williams. Mr. Williams was one of the former trustees ousted as part of reforms imposed on the fund by the U.S. Government in return for restoring the fund's tax-exempt status.

This is not the first signal the Congress has had that the oldtimers are trying to restore business as usual with the Central States Pension Fund. Earlier, the trustees quietly renewed a $4.5 million contract with Allen Dorfman to perform services for the Central States Health and Welfare Fund. They fired two top assistants to the fund executive director, Daniel Shannon, and followed that by ousting Mr. Shannon himself. Mr. Shannon has been more open than his predecessors in discussing the financial status of the fund and has publicly criticized the fund's association with Mr. Dorfman. The trustees reportedly intend also to reinstate former accountants and actuaries that were replaced after the Internal Revenue Service revoked the fund's tax-exempt status in 1976.

It is incumbent on the Government to make it clear that we will not accept any effort to rescind the gains that have been made in cleaning up this troubled fund. The retirement benefits of half a million people and assets of a book value of $2 billion are at stake.

Ways and Means Oversight Subcommittee Chairman SAM M. GIBBONS and I are writing Labor Secretary F. Ray Marshall and IRS Commissioner Jerome Kurtz to look into the new reports immediately and, if they prove true, to take strong action.

The Labor Department should replace the new trustees with court-appointed neutrals, and the IRS should once again press for full compliance with the terms by which it reinstated the fund's tax-exempt status and if violations of the previous agreement have occurred, then consider removing the tax-exempt status again.

Following is a press release which Chairman GIBBONS and I have issued today further detailing this matter:

GIBBONS AND PICKLE EXPRESS CONCERN ABOUT THE POSSIBLE UNDERMINING OF THE TEAMSTERS' CENTRAL STATES PENSION FUND CLEAN-UP

Washington Congressman Sam M. Gibbons (D-Fla.) and J. J. (Jake) Pickle (D-Tex.), the Chairman and Ranking Member of the Ways and Means Oversight Subcommittee, today called on Labor Secretary F. Ray Marshall and IRS Commissioner Jerome Kurtz to immediately look into reports that the newly appointed trustees of the Teamsters' Central States Pension Fund intend to appoint a Fund director associated with Roy L. Williams, an ousted pension trustee.

In a letter to Secretary Marshall and Commissioner Kurtz, the Congressman also expressed concern with (1) the renewal by the new trustees of a $4.5 million contract with Allen Dorfman; (2) the ouster of Executive Director Daniel Shannon, who publicly criticized Dorfman; (3) the recent firing of Shannon's two top press aides, and (4) the reported intention of the trustees to reappoint former accountants and actuaries and fire a number of other Fund executives.

According to Congressmen Gibbons and Pickle, these reports are reviving past charges that the much heralded replacement of Williams, Teamster President Frank Fitzsimmons, and 14 other trustees in the past 18 months "may only be cosmetic." The complete replacement of the past trustees and a broader reform blueprint were announced by the IRS and Labor Department at Oversight Subcommittee hearings in March, 1977. At that time, Secretary Marshall indicated that the voluntary agreement with the Fund would make court action under ERISA to restructure the Fund unnecessary.

The Congressmen said in their letter:

"Clearly, it is not enough to reform this Fund on paper alone. If these reports are confirmed, the Labor Department ought to consider seeking to replace the present trustees with Court-supervised neutrals."

The Congressmen also stressed that the Internal Revenue Service must go forward without further delay with the enforcement of the specific conditions of its April 26, 1977 requalification letter. In particular, this includes the review of past loan transactions by independent outsiders (so-called "legal audit") and the installation of a functioning internal audit staff. The Congressman called on the Chicago District Office of the IRS to set an early date for the completion of the loan review.

The Congressmen concluded:

"Five hundred thousand working Teamsters and the American people have every right to expect that their Government will live up to its past assurances regarding the clean-up of the Central States Pension Fund. Accordingly, these past assurances must become present realities through open, forthright and speedy use of all necessary enforcement tools." ●

SENATE—*Wednesday, May 17, 1978*

The Senate met at 11:30 a.m. and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, in whom we live and move and have our being, we offer our work this day in service to Thee. Direct our energies. Control our thoughts and feelings. Instruct our minds. Discipline our wills. Keep our eyes upon the everlasting beauty Thou hast created. Let our ears hear heavenly music. Use our mouths to speak Thy truth. Make this a day of obedience, a day of spiritual joy and peace. Make this day's work a small part of the kingdom of our Lord, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 17, 1978

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HARRY F. BYRD, JR., thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ARCHEOLOGICAL AND HISTORIC PRESERVATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 722.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2699) to amend the act of June 27, 1960 (74 Stat. 220), as amended by the act of May 24, 1974 (88 Stat. 174, 176; 16

U.S.C. 496), relating to the preservation of historical and archeological data; to authorize appropriations under sections 3(b) and 4(a) for fiscal years 1979 through 1983, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 27, 1960 (74 Stat. 220), as amended May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469), is amended as follows:

(1) In section 7(b), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon; and add the following words: "$500,000 in fiscal year 1979: $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.".

(2) In section 7(c), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon, and add the following words: "$3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.".

(3) Add the following new subsection "(d)" to section 7:

"(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed, and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–701) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2699 would amend the act of May 24, 1974, relating to the preservation of historical and archeological data, to provide for continued authorizations through fiscal year 1983.

Funds authorized pursuant to this act are administered by the Secretary of the Interior to provide for the scientific recovery, preservation, and study of significant archeological sites and materials and historic resources which might otherwise be irrevocably lost or destroyed during a Federal or federally related project.

In addition, S. 2699 provides that appropriated sums shall remain available until expended. This will allow the Secretary flexibility in the use of funds to respond to the activities and schedules of other agencies.

BACKGROUND AND NEED

In 1960, the Congress enacted the Reservoir Act which required all Federal agencies responsible for dam construction or for issuing licenses for dams to notify the Secretary of the Interior before starting construction or issuing the license. Upon receiving such notice, the Secretary was directed to survey the area involved to determine whether historical and archeological values exist in the project area and should be preserved. This act was amended in 1974 to broaden the scope of activity to include all Federal or federally assisted or authorized construction projects, such as major airports, roads, and public housing projects and other construction which results in alteration of the terrain.

The 1974 act amended the 1960 act further by authorizing the Secretary to conduct a survey and salvage program upon notification not only by the instigating agency but also upon notification by any other Federal or State agency; responsible private organization; or qualified individuals such as qualified professionals from universities, historical and archeological societies, and State archeological surveys. In addition, the 1974 act authorized any Federal agency responsible for a construction project to use or transfer up to 1 percent of the funds appropriated for a project to the Secretary for survey and salvage work.

Under the legislative mandates of the National Environmental Policy Act and the Historic Preservation Act of 1936, Federal agencies have been required to consider cultural resources in their planning process. Even with careful planning, however, conflicts do occur between necessary public works projects and the preservation of the Nation's archeological and historic heritage. The 1974 act provides a method to allow such public works to go forward while preserving significant information on the past which otherwise would be totally lost to the public, scientific community, educational institutions, and future generations.

As the authorization for this program expires on September 30, 1978, further authorization is necessary for the program's continuation.

COST

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 2699, as ordered reported.

As reported by the committee, S. 2699 authorizes the following appropriations under sections 3(b) and 4(a) of the 1974 act; $3-500,000 in fiscal year 1979; $4 million in fiscal year 1980; $5 million in fiscal year 1981; $5 million in fiscal year 1982; and $5 million in fiscal year 1983.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alabama.

ORDER TO HOLD H.R. 5551 AT THE DESK

Mr. ALLEN. I thank the distinguished majority leader and the distinguished acting minority leader for yielding to me at this time.

Mr. President, I ask unanimous consent that H.R. 5551, which passed the House on Monday, be held temporarily at the desk until a matter can be cleared with the committee chairman, to see if the matter can go onto the calendar.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, may I ask two questions: No. 1, has this been cleared with the committee chairman, and No. 2, what is the bill?

(Mrs. HUMPHREY assumed the chair.)

Mr. ALLEN. No, it has not been cleared with the committee chairman, but I stated no effort will be made to move the bill until it has been cleared. I did not know that the bill was going to be passed by the House on Monday. It has just come to my attention.

It is a bill that would suspend until June 30, 1980, the duty on 2-methyl, 4-chlorophenol, a chemical. It is used in an important pesticide for cereal grain. It is not produced in this country. There is a small manufacturing concern that is building a plant in Tuscaloosa, Ala., that will make this chemical. But at the present time they have to pay a duty on this product and then compete with foreign imports. This bill would merely suspend the duty until this plant can be built.

Mr. ROBERT C. BYRD. Further reserving the right to object, will the Senator state his request precisely again, please?

Mr. ALLEN. Madam President, I ask unanimous consent that H.R. 5551, which passed the House on last Monday, and which has not yet reached the Senate, be held temporarily at the desk until such time as I can clear with the committee chairman the moving of the bill and the bill going to the calendar.

Mr. ROBERT C. BYRD. Madam President, I do not intend to object, and I understand the Senator's situation. Could he put a time limit on it of, say, 48 hours or 96 hours?

Mr. ALLEN. Yes. Forty-eight hours.

Mr. ROBERT C. BYRD. I have no objection.

Mr. STEVENS. Reserving the right to object, will the Senator also add the clearance with the ranking minority member (Mr. CURTIS) on that matter?

Mr. ALLEN. Yes, The matter will also be cleared with the ranking minority member on the committee before an effort is made to bring forth the bill.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I yield the remainder of my time to the distinguished Senator from Alabama. He may proceed at this time or he may yield to the distinguished acting minority leader.

Mr. ALLEN. I certainly yield to the distinguished acting minority leader.

ALASKA'S D–2 LANDS

Mr. STEVENS. Mr. President, one of the most crucial decisions facing the Congress this year is the final disposition of Alaska's d–2 lands. The real question is: How should the land be utilized and what uses will be allowed on the land? There is a need for the expansion of recreational opportunities in Alaska. However, recreation uses need not preclude other uses of the land, particularly when the areas involved in Alaska are of such tremendous size.

It is my view that the creation of vast amounts of land in Alaska as parks, wildlife refuges, and wilderness areas would be detrimental to the State and the Nation. The designation by Congress of almost one-third of Alaska as wilderness will preclude the appropriate and reasonable utilization of Alaska's vast natural resources, including mineral, timber, energy, recreation, and agricultural potential. Prior to making a final decision on these lands, Congress must properly inventory natural resources contained within the areas.

A recent edition of "International Business" devoted entirely to Alaska and its assets contained an article by the Honorable Dixy Lee Ray, Governor of the State of Washington. Governor Ray urges Congress not to rush into a "Federal lockup that could cripple future economic development for both Alaska and the Nation." I ask unanimous consent that this article be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HONORABLE DIXY LEE RAY, GOVERNOR OF THE STATE OF WASHINGTON

A great opportunity and responsibility face Congress this year as the Alaska d-2 lands issue comes down to the wire. Facing a self-imposed December 1978 deadline, Congress seems likely to act on one of many proposals to withdraw certain lands for national interest purposes. The question is not so much that some 80 million acres will be withdrawn but rather under which of four conservation systems would the lands be administered—National Parks, Forests, Wildlife Refuges or Wild and Scenic Rivers.

I believe Alaskans and citizens of the other 49 states should consider this matter with great care. The opportunity exists either to freeze much of Alaska's resources from economic development or to enhance greatly multiple-use management potentials of Alaska.

There are certainly lands in Alaska, as in the 48 conterminous states that are meritorious of federal designation for park and wilderness purposes, but there is great danger that Alaskans may be rushed into a federal lockup that could cripple future economic development for both Alaska and the nation.

I would urge a slow and cautious approach. Congress should consider extending the 1978 deadline. I would also urge that serious consideration be given to designations such as National Forests that would enable multiple-use management of these vast resources. This is preferable to sealing off lands in single purpose designations.

Alaska is a vast and varied land. Its natural resource potentials are important to the nation and should remain accessible. The future economy of the nation will be greatly affected by Congress's decision. We here in the Northwest, with substantial direct trade with Alaska, have a particular interest that the right decision is forthcoming. I hope that Congress will carefully evaluate the balance of preservation and natural resource development that will not place undue economic burdens on Alaskans and the Nation. The Congress cannot afford to do otherwise.

Mr. STEVENS. Madam President, I have no request for time on this side of the aisle, and I yield such time as remains to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished majority leader and the distinguished acting minority leader for yielding their time to me to comment on a most important development which has taken place in my home State of Alabama regarding the Government and regarding the politics in that State.

TRIBUTE TO GOV. GEORGE C. WALLACE OF ALABAMA

Mr. ALLEN. Madam President, the decision of Gov. George C. Wallace no longer to seek elective office takes a Titan from public life.

It is a decision that I view with personal sadness, as do millions of people in Alabama and the entire Nation who are immensely grateful for the outstanding public service to which Governor Wallace has devoted the whole of his long career.

It is an understatement to suggest that Governor Wallace will be missed. It is not possible for any of us, at this time, to assess fully the magnitude of Governor Wallace's contributions to good government and the preservation and protection of the rights and freedoms which the founders of our great Nation deemed indispensable to liberty. History will make that judgment, Madam President; and, I dare say that it will be a generous one.

My personal association with Governor Wallace spans a period of more than gether in the Alabama State Legislature 30 years, beginning when we served toshortly after the end of World War II. During this time, I have experienced a most rewarding relationship with Governor Wallace. Certainly one of the most gratifying periods of my own years of public service was the honor of serving my second term as Lieutenant Governor of Alabama while Governor Wallace served his first term as Governor of our great State.

I feel that my personal association with Governor Wallace enables me to have a firsthand appreciation of the exceptional qualities that have made him one of the best known and one of the outstanding men in America during the last half of this century.

Anyone who knows George Wallace knows that he has always possessed a keen sense of competitiveness which existed and displayed itself long before he broke upon the national scene some 16 years ago. Fondly known for many years in our State as "the fighting judge," George Wallace has earned the undying admiration of millions of Americans for his devotion to both the spirit and letter of the Constitution of the United States. His courageous opposition to civil rights legislation advocated by both sincere and designing individuals and to related Supreme Court decisions were predicated upon his opposition to abuses of Federal executive and judicial power. I think it can in truth be said that George Wallace's fights were right in line with Daniel Webster's profound assertion that "whatever government is not a government of laws is a government of despotism, let it be called what it may."

If there is one person in this Nation whom people identify with the cause of returning the Federal Government to its rightful place of being a government of carefully enumerated, carefully delegated, and strictly limited powers, that person is George C. Wallace of Alabama.

Madam President, although Governor Wallace is perhaps known for his nationwide races for the Presidency and his numerous battles to keep governmental power within the boundaries prescribed for it by the Constitution, it would be the height of folly if these facets of his career should obscure or detract from his tremendous achievements as Governor of Alabama.

With all his national and international reputation, Governor Wallace has always stood first and foremost with the people of Alabama in the development of their resources and in the building of their economic strength by advancing Alabama's industry, agriculture, and education.

Alabama today is taking a leading part in the South's industrial revolution. Much of this phenomenal growth can be directly attributed to a law which permits the issuance of industrial development bonds by local communities. This law was authored by George Wallace while serving in the Alabama State Legislature as a representative from Barbour County. In addition, adherence to his no-tax-increase policy has proved to be an industrial bonanza in new plant investments and the creation of thousands of new jobs in our State in recent years. Under the dynamic leadership of Governor Wallace, Alabama has led all Southeastern States in new and expanded business for 5 consecutive years and, according to official U.S. Department of Commerce calculations of personal income, Alabama is currently ranked 15th among the fastest growing States in the Nation.

George Wallace has always been vigilant in safeguarding the rights of the States and communities to direct their own educational programs. Equally important, however, has been the growth and improvement of quality education in Alabama under his administration. This has always been one of Governor Wallace's most consistent goals. Through his powerful leadership and persistent support, funds for education have doubled and doubled again while George Wallace has served as Governor of Alabama. He has also championed better pay and improved status for teachers.

Madam President, of the many outstanding accomplishments of Governor Wallace, perhaps that with the broadest effect today was the establishment and financing of a statewide system of junior colleges and trade schools in our State. Today, Alabama is dotted with 29 junior colleges and trade schools, which have permitted thousands of Alabamians to receive a college education and technical training or to improve occupational skills which they otherwise could not have afforded.

I count my friendship with George Wallace as a true and deeply valued and cherished one. The people of Alabama are proud to have had a man of the stature of George Wallace as their Governor and spokesman. There has never been any question where George Wallace stands on public issues. He has always stood on the side of the people, and he has always been willing to stand up and be counted.

The people of Alabama know this. They have always trusted him, relied on him, and given him the confidence of their votes and support.

Governor Wallace's voluntary retirement from compaigning for elective office is at once both a source of sadness and happiness to his multitude of friends and admirers. They are sad because they know they are losing an effective and

dedicated defender of the fundamental freedoms upon which this Nation was founded. Yet, they are happy because they are witnessing the release of the exacting and heavy burdens of responsibility from this good and sacrificial servant. I join this multiude in expressing our heartfelt gratitude and affection to Governor Wallace for the many years of devoted and sacrificial service which he has given the people of Alabama and our Nation.

Are there requests for time on the leadership time?

Mr. DOLE. Yes.

Mr. ALLEN. I yield the balance of both leaders' time to the distinguished Senator from Kansas (Mr. DOLE).

S. 3090 AND S. 3091—AFRICAN CHALLENGE: TIME FOR AMERICA TO ACT

Mr. DOLE. Madam President, the recent invasion of the nation of Zaire, in central Africa, has been a matter of alarm and concern to our Government and to much of the rest of the world. It is the second such invasion of Zaire's Shaba province by insurgents based in nearby Marxist Angola. Last year, with the help of the French and Moroccan Governments, Zaire was able to successfully repel the invasion. This time, faced with a larger attack force, and with Moroccan troops involved elsewhere, it is less certain that Zaire can resist the armed aggression against her southern province.

As we witness one challenge after another to the remaining non-Communist countries on the African continent, one is forced to pose the question: "When will the United States come to the aid of her allies in Africa?" Zaire, as the largest non-Communist nation in Africa, is seriously jeopardized and cries out for aid from her allies in Europe, Asia, and North America.

The Senator from Kansas believes it is time—indeed, past time—for the United States to express its unequivocal support for its friends on the African continent. It is not yet clear whether the Angola-based insurgency is Communist-inspired, although one might well assume that it is. Last year, during the earlier invasion by the same guerrilla forces, President Carter confirmed that the rebels "have been trained within Angola by the Cubans." Our best intelligence reports indicate that 20,000 Cubans still shore up the Marxist government in Angola, and they have incentive for aiding and supporting an insurgency directed against Zaire.

But whether or not the insurgency is Communist-inspired, the point is simply this: The United States can no longer turn its head and cross its fingers, in the simple hope that our allies can resist external pressures without our assistance.

LEGISLATIVE OBSTACLES

Reports yesterday indicated that President Carter has expressed frustration about statutory limitations on his ability to go to the aid of our friends in Africa. In fact, he is experiencing the hamstrings of ill-advised congressional restraints on Executive action. It is clear that many of the statutory restraints which have frustrated President Carter with respect to Africa were implemented by a Democratic Congress during the Republican administrations earlier in this decade. They were partisan efforts to prevent Republican Presidents from exercising judicious authority in providing aid to our African allies.

Now, the tables are turned, and in the context of present conditions, it is clear that the old legislative roadblocks must be repealed or modified.

INTRODUCE TWO MEASURES

Madam President, for that reason, I am today introducing two bills which would eliminate some of the most blatant obstacles to our extension of aid to Zaire. In my opinion, the Congress should move quickly on these proposals, so that the President may exercise proper authority in assisting our friends in Africa.

First, I propose to modify the so-called Clark amendment to the 1976 International Security Assistance and Arms Export Control Act, which was sponsored by Mr. CLARK of Iowa, to specifically exempt those nations in Africa which are attempting to defend their territory against attack. Clearly, section 404 of the 1976 act is worded in such a vague and ambiguous manner as to prevent U.S. military aid to almost any nation in the world, given certain constructions. Adopted in the context of the congressional debate over the war in Angola, the provision is, in my opinion, extremely shortsighted and ill-advised. Some have suggested that it be repealed altogether. However, so that there may be no misunderstanding about the intentions of the Senator from Kansas, I propose only to modify the provision so that nations such as Zaire, which are subject to external or internal attacks, may receive appropriate military and paramilitary aid from the United States.

Second, I propose to eliminate altogether section 25 of the 1977 International Security Assistance Act, which establishes a reporting requirement for any aid to Zaire during fiscal year 1978. The provision mandates time-consuming presidential reports to Congres prior to the furnishing of such aid. It also requires a Presidential certification that the assistance is "important to the national security interests of the United States." While there may be some virtue to this provision, in the abstract, it presents practical complications to the President's ability to act quickly under present circumstances.

There are other provisions as well, adopted in shortsighted haste, which should be reviewed for their impact on present foreign policy capabilities. Perhaps the administration will take the initiative n proposing repeal or modification of those provisions, directed at President Carter's predecessors. Congress should move swiftly to consider these proposals on their individual merits.

Clearly, there must be a judicious balance between congressional and executive authority in the conduct of our foreign policy. Nowhere in the world is the need for this more evident than in the fast-paced developments that wrack the continent of Africa. The President must be able to respond quickly to protect U.S. interests, but with appropriate congressional oversight. I believe the measures I am introducing today will assist that objective.

I ask unanimous consent that the texts of both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 404 of the International Security Assistance and Arms Export Control Act of 1976 is amended by adding at the end thereof the following:

"(e) Notwithstanding any other provision of this section, nothing in this section precludes the United States from providing assistance to any country in Africa for the purpose of defending its territory against any act of aggression or armed attack which, directly or indirectly, originated in Angola.".

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 25 of the International Security Assistance Act of 1977 is repealed.

S. 3092—HUMANE METHODS OF SLAUGHTER ACT OF 1978

Mr. DOLE. Madam President, today I am introducing the Humane Methods of Slaughter Act of 1978, a bill to amend the Federal Meat Inspection Act to require that meat inspected and approved under that act be produced only from livestock slaughtered in accordance with humane methods.

Twenty years ago, over considerable opposition, Congress passed the Humane Slaughter Act of 1958, applying its requirements only to slaughterers who wished to sell meat to the Government. It was hoped that voluntary compliance by others would follow, as the meat industry began to realize that humane slaughter is not only right, but it is good business.

Since then, slaughterers have learned that use of humane methods reduces losses from bruise and other damage to frightened animals. Humane slaughtering promotes efficient production and lessens the risk of injury to slaughterhouse employees.

Now it is time to extend humane slaughter requirements to cover all meat subject to the Federal Meat Inspection Act. The bill I introduce today is designed to accomplish this goal and at the same time propose solutions to some of the problems identified in recent House Agriculture Committee hearings on similar legislation.

The bill would amend the Federal Meat Inspection Act to prohibit slaughter, or handling in connection with slaughter, in any manner not in accordance with humane methods specified in the Humane Slaughter Act of 1958, or designated by the Secretary of Agriculture to be humane. The existing exemption of religious ritual slaughter is maintained.

By adding inhumane slaughter activities to the prohibitions section of the

Federal Meat Inspection Act, the bill applies the act's existing penalty provisions instead of requiring condemnation and destruction of meat not in compliance. Crimial and administrative enforcement actions will provide a more appropriate deterrent than wasting food that is otherwise wholesome and acceptable.

The bill also prohibits importation of inhumanely slaughtered meat from foreign countries. It has been suggested that such a provision is an unwarranted imposition of our values upon other nations. But most foreign meat inspection systems certified to export meat to the United States already require the use of humane slaughter methods. At a time when human rights considerations are playing a growing role in our international relations, there should be no objection to this somewhat more narrow expression of our national concern for other living creatures.

The bill's effective date provisions are intended to prevent undue hardship to slaughterhouses, both here and abroad, in making changes in equipment and plant layout needed to achieve compliance with the new requirements. Under this bill, slaughterhouses will have 1 year to prepare, plus up to 6 months of additional time, to be granted by the Secretary upon application.

The bill will not increase costs to the Department of Agriculture since enforcement can be carried out by existing inspection personnel.

Madam President, the time has come for the United States to require that all meat, not just Government meat, be produced from animals that did not die in fear and pain.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon, with statements therein limited to 3 minutes.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

NEW YORK CITY'S FUTURE IN GARBAGE—ONE OF THE NATION'S BEST GARBAGE SOURCES OF ENERGY

Mr. PROXMIRE. Madam President, at other times I have spoken about the economic prospects of New York City, in connection with the fact the Senate will have to consider in the next few weeks whether or not to renew the assistance to New York City. In that connection, I have talked about whether New York has a brighter economic future than many people realize. Foreign investment and the establishment of foreign businesses of all kinds is expanding rapidly in this country and will grow even faster in the future providing tax paying jobs.

In recent years, 60 percent of that has gone to New York City. It is likely to increase even more rapidly in coming years, and that will help New York.

New York City has lost some corporate headquarters, but still has an overwhelming advantage over other cities in financial, legal, accounting and other businesses supporting corporate headquarters.

New York City has 6 of the 10 biggest banks in the country. It is certainly the financial center of this country.

In communications, it has all three of the television networks.

In entertainment, it is well-known to be the No. 1 spot in this country.

In advertising, it has an overwhelming proportion of the big advertising firms.

But I would like to speak briefly this morning, Madam President, about something some people think may be humorous, but I think is very serious. That is, that New York has a great advantage in garbage.

We all know that garbage can be a problem. In New York, it can be a great advantage.

A recent article in the New York Times point out and I quote:

> Some of the finest garbage in the world for producing energy is available in New York and it can be used for that purpose. If gathered together, turned into relatively cheap energy and directed toward depressed manufacturing industries, could become one of the region's most valuable economic-development tools.

It is pointed out that while this is processed in other parts of the country and more than 200 places in Europe, in New York it is particularly useful for two reasons.

One, "it is produced in huge amounts in a relatively compact area, Thus collection and transportation costs are not as great as in diffused, low-density cities."

Two, "New York's garbage contains a relatively high concentration of dry paper products and plastics, which means its usable energy content may be significantly higher than" it is elsewhere.

Furthermore, Madam President, as pointed out, "there is no other region in the country where the industrial sector's power requirements and the amount of power that could conceivably be generated from garbage are so close."

"By concentrating it, we could make a sizable dent in the energy costs for the entire industrial sector," which obviously they need.

"The New York-northeastern New Jersey metropolitan area remains the Nation's largest manufacturing center despite years of decline. Soaring energy costs are among the major reasons why hundreds of industrial plants have closed or moved out of the area. A sensible use of the city's garbage as an energy raw material in the future and help labor."

Madam President, I ask unanimous consent that this article in the New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GARBAGE INTO ENERGY: NOW A SELLER'S MARKET

(By James P. Sterba)

In idle moments, when he gazes down upon New York from his office on the 67th floor at 1 World Trade Center, Peter Goldmark's thoughts often turn to garbage.

While most New Yorkers continue to regard their refuse as little more than the sanitation truck's burden, Mr. Goldmark, executive director of the Port Authority of New York and New Jersey, calls it "some of the finest garbage in the world" for producing energy. He wants all of it that he can get.

Mr. Goldmark is not alone. To his distress, enterpreneurs are now intensively vying for municipal waste from all over the New York metropolitan region. According to Anthony T. Vaccarello, the Sanitation Commissioner. New York City alone has received more than 100 offers to take some or all of the 21,580 tons its trucks collect daily.

IMPORTANT QUESTION FOR CITY

For the Koch administration, "resource recovery issues" have become important. The city's nine landfill disposal sites are filling up, and offers for the city's garbage are piling up.

Last week, for token salaries of $1 a year each, Mayor Koch hired two private consultants, Richard L. Sigal and Robert E. Randol, to help answer what the Mayor posed as the basic question:

"To whom do we give our garbage?"

Mr. Goldmark says the city should have saved the $2. The answer to the Mayor's question, he says, is easy: He'll take all the garbage New York can produce. In fact, Mr. Goldmark has suggested in recent speeches that the Port Authority would like to corner the market on all of the burnable refuse produced within a 25-mile radius of the Statute of Liberty, estimated to total 30,000 tons a day.

That garbage, he asserts, if gathered together, turned into relatively cheap energy and directed toward depressed manufacturing industries, could become one of the region's most valuable economic-development tools.

CONTRACTS BEING SIGNED

Mr. Goldmark's idea differs from a myriad of other proposals in that he would aim the energy at an entire sector of the regional economy instead of at just a few companies that contract for it early.

He stresses that his notion is still in the "idea stage" and that it would eventually require an enormous amount of regional cooperation as well as approval from the State Legislature in Trenton and Albany. But he has assigned a Port Authority task force to pursue the idea, he said, because he believes timing has become "critical."

The problem, he says, is that the garbage is already being frittered away in small amounts as local municipalities contract to dispose of it in anticipation of the post-landfill era that will begin in the early 1980's. Newark recently signed a long-term disposal contract, for example.

"Right now you can go to any city hall within 25 miles and find people signing contracts or making proposals to take garbage," Mr. Goldmark said. "Once it's diffused. it will be very hard to recapture it as an overall economic development tool."

As an energy source, New York's refuse is particularly attractive for several reasons, says Saverio Cappello, an economic planner for the Port Authority.

First, it is produced in huge amounts in a relatively compact area. Thus collection and transportation costs are not as great as in diffused, low-density cities.

Second, New York's garbage contains a relatively high concentration of dry paper products and plastics, which means its unable energy content may be significantly higher than in other cities where moist organic materials, like leaves, make up a larger portion. In Tokyo, for example, an estimated total of 30 percent of the garbage by weight is water.

As an economic-development tool, the energy produced from the garbage would be particularly effective when concentrated on

this region's industrial sector, Mr. Goldmark said.

"There is no other region in the country where the industrial sector's power requirements and the amount of power that could conceivably be generated from garbage are so close," he said. "If we produced electricity and just fed it into Consolidated Edison's grid, everybody's electric bills might go down a few cents and the effect would be a big yawn. By concentrating it, we could make a sizable dent in the energy costs for the entire industrial sector, which, heaven knows, needs the help."

The New York-Northeastern New Jersey metropolitan area remains the nation's largest manufacturing center despite years of decline. Soaring energy costs are among the major reasons why hundreds of industrial plants have closed or moved out of the area.

Yet because of its mix of light industries, the manufacturing sector uses only 5 to 6 percent of the total region's energy supply, compared with roughly 30 percent used by manufacturers nationwide.

APPRECIABLE SAVINGS FOR INDUSTRY

Instead of high energy users, such as steelmakers, automobile producers and petrochemical formulators, the New York area's manufacturing mix is made up of a variety of relatively light energy users, such as apparel makers, printers, metal fabricators, electrical equipment makers and producers of household goods.

Thus for high energy users in Houston or Los Angeles, for example, the amount of energy generated from garbage would not make a significant dent in the demand or the price, Mr. Goldmark said. Here it may be possible to supply as much as half of the manufacturing sector's needs at a cost competitive with other regions. Industries in the New York area currently pay two to three times as much for energy as their counterparts in Houston and Los Angeles.

To keep costs down, local municipal governments would have to continue to pay a fee to dispose of their refuse. But instead of paying for landfill costs, which now range from $3.50 a ton to more than $20 in the region, the city would use that fee to pay for and maintain plants to burn the refuse and covert it to electricity.

The technology for turning waste into electricity has been used in European cities for more than 20 years. According to a recent survey, only six of the 262 waste-conversion plants in the world are in the United States.

Consolidated Edison offered three years ago to build such a facility in New York. But, according to Charles F. Luce, the utility's chairman, the city has been unable to find a site on which to build it. Neighborhood groups, he said, all say: "Put it somewhere else."

GENOCIDE TREATY BEST MEANS FOR FIGHTING GENOCIDE

Mr. PROXMIRE. Madam President, for many years, I have urged the Senate to act on the ratification of the Genocide Convention. This treaty has had the support of every President since Truman, the American Bar Association, and countless organizations in this country. In fact, the goals of the treaty—the prevention and punishment of genocide—meet with universal approval. Even those who oppose the treaty agree that genocide is an abomination that should be eliminated.

Why then, is this treaty opposed? One of the main arguments used by opponents to ratification of the treaty is that it will be used against citizens of this country. They claim that unjust charges will be trumped up against Americans. For example, it has been speculated that normal wartime operations might be labeled genocidal by propagandistic governments. Or, simple domestic examples of discrimination might be construed to be genocidal. It has been alleged that Americans will not be protected against these charges.

In fact, nothing could be further from the truth. The treaty is carefully worded to preclude these actions from the category of genocidal crimes. Charges of genocide are only valid when the intent to destroy an entire group is present. This distinguishes genocide from homicide, in that any action against one individual does not constitute genocide. It rules out discrimination which does not contribute to the destruction of a group. And it rules out normal wartime combat, which is directed against the opposition forces, not against an ethnic, national, or racial group.

Since the treaty has been carefully designed to include only those examples which are truly genocidal. I urge the immediate ratification of the Genocide Treaty.

CALENDAR ORDER

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that no items on page 32 of the Calendar, Resolutions, and Motions Over Under the Rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

S. 3067—CIVIL RIGHTS COMMISSION ACT OF 1978

The PRESIDING OFFICER. The Senate having convened following an adjournment, S. 3067 will now have its second reading.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3067) to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes.

Mr. ROBERT C. BYRD. Madam President, on behalf of Mr. BAYH, I object to any further action on this measure.

The PRESIDING OFFICER. Further proceedings having been objected to, the bill will go to the calendar.

LABOR LAW REFORM ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 8410, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedure under such Act.

The Senate resumed consideration of the bill.

ORDER FOR RECESS TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF THE UNFINISHED BUSINESS NO LATER THAN 12 NOON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, and after any orders for the recognition of Senators, the Senate resume consideration of the unfinished business, but at no later than 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR LABOR LAW REFORM

Mr. WILLIAMS. Madam President, as the Senate debates the Labor Law Reform bill, I think it is important for all Senators to know what this bill is intended to do.

This bill is an effort to make the labor laws of our land work, and work effectively for the benefit of the people. Forty-three years ago, we promised the workers of America the right to join together and bargain collectively for their mutual aid and benefit, or to refrain from doing so.

To countless workers, however, this promise has been a hollow one. The procedures under the law are complex, and needless complexity has delayed justice. Under today's law the remedies for unfair labor practices are not calculated to encourage quick compliance. Workers suffer while the vindication of their rights is delayed.

To understand the abuses which the Labor Law Reform bill is intended to correct, I will over the course of the debate present actual cases which clearly show how poorly current law protects the working men and women of our country and why this legislation is so urgently needed.

These are actual cases, Mr. President. These are working men and women who have found the right to bargain collectively—a right which we in the Congress created in 1935—at best illusory.

WHY AMERICA'S WORKERS NEED LABOR LAW REFORM CHAPTER ONE

Bernard Mings, a Vietnam veteran, went to work at the Ingersoll-Rand Corp. in Campbellsville, Ky. in April of 1973. In January of 1976, Mings and nine fellow workers became active in a campaign to obtain representation for employees in the plant. On March 1, he asked a coworker to sign a card, requesting an election to determine whether Mings and his fellow workers would be represented by a union. On March 3, 1976, Mings was fired. The union filed an unfair labor practice charge with the National Labor Relations Board on behalf of Mings and his fellow workers on March 17, 1976.

On October 19 and 20, 1976, 7 months after his discharge, Mings got a hearing before an administrative law judge of the National Labor Relations Board. Four months after the hearing ended, on February 24, 1977, the administrative law judge issued a decision in Mings' favor stating that he was unlawfully discharged—an unfair labor practice by the employer. Had the employer then complied with the decision, Mings would have been reinstated at his old job. But, instead the employer appealed to the full National Labor Relations Board, which did not decide the case until June, 1977, nearly 16 months after Mings was fired. The Board agreeing with the law judge found that the discharge violated the National Labor Relations Act, and ordered the company to reinstate Mings.

The company again refused to comply, and as a result, the Board was required to seek enforcement of its order in the Federal court of appeals. The court has not yet decided the case, and Mings has not yet been reinstated by Ingersoll-Rand. Madam President, more than 26 months has elapsed since this discharge—a discharge twice found to have been unlawful.

For more than 20 months after his discharge Mings was unable to find other employment. Finally, in December of 1977, he found part-time work in a bakery owned by his mother-in-law. He uses this income and the small amount of money he receives from his week end National Guard duty to support himself and his family.

Madam President, it is now more than 2 years since Bernard Mings was discharged by his employer. The question of whether he is entitled to reinstatement is not yet decided. Meanwhile, he has struggled to support himself and his family.

We must reform our labor laws to insure that workers like Bernard Mings will not endure the indignities of long periods of unemployment while they seek to have their rights assured—while they wait to have our laws enforced.

Under the labor law reform bill, Mings would have been eligible for temporary reinstatement, and he could have been back on the job and productive while his rights were being adjudicated.

It is cases like Bernard Mings' that labor law reform is all about.

I will have other cases to highlight the specific provisions of this bill—not only in this area, where the remedies under present law obviously do not reach the wronged person, but also in the areas of procedural reform.

I yield the floor at this time.

Mr. HATCH. Mr. President, I ask unanimous consent that Randy Holmgren of my staff be accorded the privileges of the floor during the pendency of debate and any votes thereon on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Cynthia Gulley, of my staff, be granted the privileges of the floor during the debate and votes on this legislation.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. WALLOP. Mr. President, at times it is difficult to quarrel with simplistic pronouncements as to labor abuses that exist all over the country. In fact, those abuses exist on both sides, labor and management, and in most respects, I see nothing in this bill that is really addressed to the actual welfare of working men and women in this country.

I see this bill as nothing but a vehicle designed to make it unnecessary for the labor kings, the big labor leaders of this country, who exist insulated from any democratic process ever devised, to exist without competing for the interests and the support of working people. The labor bosses seek to control a segment of economic and political power in this country that they find failing them, sliding away right now, for the simple reason that they do not serve the people they profess to serve.

The abuses of organized crime, which has infiltrated the highest levels of organized labor, are a disgrace to the American public and to the working men and women of this country. For us to sit here and say that we seek to do something to enhance the power of these people is an appalling statement of where this Congress is seeking to go. We really should be addressing ourselves to the specific problems of working men and women in this country, and I see nothing in this bill that is really designed to do that. On the contrary, I think it is designed to make it essentially impossible for the employers of this country to deal directly with their employees in a manner that is satisfactory to both sides.

There are abuses by employers, and no one denies that. There are however, many more abuses by the powerful labor chieftains of this country—labor chieftains so powerful that they can laugh at people who challenge their credentials, who seek to challenge them in an election for the leadership of a union and have them thrown out on their ear, as Mr. Fitzsimmons did in the convention at Las Vegas last year—mock a man and curse a man for even suggesting that he might be a leader of that union. It is an appalling statement.

We see nothing in this bill—at no level—to deal with that kind of abuse. So one can only conclude that this is some kind of acquiescence, some kind of repayment, as it were, to the power that has been garnered by the labor forces in this country.

It is really an unhappy circumstance when we are forced into a debate such as this, which ends up wallowing in cliches. On one side we talk about labor, on the other side we talk about management, and at no time do we talk about human beings.

It is a great problem. One draws his conclusion as to what labor is. One sits here and thinks that when you talk labor and resist this bill, somehow or other you are against the interests of the working men and women of this country, and nothing could be further from the truth. Yet, that cliche fills the whole world; and on the face of it, it would seem to mean that you are in opposition to the aspirations of working men and women.

On the other side, people talk about management as though there were no people involved in management, as though there were no human beings, no interest involved in it. Guess what? There are interest and people represented at every level.

There are people who make decisions in good faith, and there are people who make decisions in bad faith. But to take this whole thing and assume that all management in America operates in bad faith with their employees is an appalling simplification.

The plain fact is that most of American workers and most of American management exists quite comfortably and in harmony with one another.

In my State in Wyoming we have had a right to work State since the early 1960's. There have been some management abuses of that privilege. There have been some labor union abuses of the prohibition against coercion of membership.

But, by and large, our State has existed with a higher wage level, with a more interesting prosperity than exists over most of the rest of this Nation. We have had a succession of labor elections in recent years and with one exception the workmen in Wyoming have chosen a management relationship with an in-plant union. They have not affiliated themselves with the national unions for the very kind of reasons that I suggest here. There was no independence and no freedom at that time.

Mr. President, I would like to say that what concerns me most about what appears to be the argument in front of us is the so-called cliche, the comfortable ability that we, in politics, apparently have, and which the rest of the country shares with us in this era of fast foods and TV dinners. It is apparent to me that if somebody wants to go to McDonald's and order a Big Mac, before he leaves home he knows what the place is going to look like, what the hamburger is going to taste like, and what the cost of it is going to be. He simply has in his mind an assumption of a meal, and that is what we are doing here when we talk of labor and when we talk of management.

I would like to bring back and piece together the concept that I think all of us share, although difficult, to the kind of reaction one gets in debates like this on the floor, in recognizing that we are talking about human beings, not companies, not labor unions. We are talking about people who work and live with their union membership, and I think it is fair to say that the union movement in the country did serve and does serve a continuing purpose.

I think it is also unfair to go at a so-called labor reform with the idea in mind that you have got one side with white hats and the other side with black hats, and that management is all black hats and that these labor people are riding across the country on white horses with shining spirit and good will in their eyes, because it just is not that way.

Most of the unions in this country have a poor record when it comes to racism and sexism. Most of the unions in the country do not represent workers when it comes to that kind of thing.

They do not recognize and represent the interests, the broad interests, of the working men and women of this country. They represent the specific interests of the very few, some of which you have to belong to and have had your parents belong to before you can even enter into an apprenticeship, and finally a membership in one of those unions. That I do not think is right, and I see nothing in the legislation in front of us that seeks to deal with those kinds of problems in the union movement.

So it is not labor reform, it is labor access that we are talking about here. The Senator from New York is quite correct when he says there are very real fears out here that the small businesses of this country that employ 10, 12, 13, or 14 people will not be able to stand up to the decisions of a National Labor Relations Board.

They would not dare, they have not got the resources to dare, to challenge a ruling of this board as it is constituted, with the reforms that are sought to be placed in here. It is going to be impossible for a person in small business to sit back and run the risk of being accused of an unfair labor practice, to pay the kind of fines that are going to be on his or her horizon, to pay the kinds of back wages and awards that are going to be levied. He simply will not be able to do it, and he will have to acquiesce to any labor proposals that are put to him.

The larger corporations in this country, which is often the way that legislation passes through here, will be less affected than will the smaller ones, and gradually what we are doing is making it more and more impossible for the small entrepreneur in this country, for the risk-takers in this country, and for those whom they would employ in this country, to exist. They are being supplanted by larger and larger employers all over the country.

Government is getting bigger, employers are getting bigger, and if this goes, unions are getting bigger, all to the detriment of the small people in this country.

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. WALLOP. I would be happy to yield to my good friend from New Jersey for a question.

Mr. WILLIAMS. I know the Senator is expressing grave concern that there will be an adverse impact on small business as a result of this legislation; is that correct?

Mr. WALLOP. That is very much my fear.

Mr. WILLIAMS. I just wondered what the Senator's understanding and impression is of the present coverage under the National Labor Relations Act of small business.

Mr. WALLOP. The present coverage is different from the present practice; is that not correct? Small businesses are covered, but the practice has been that they would not——

Mr. WILLIAMS. Let us then deal with the present practice of the National Labor Relations Board in taking jurisdiction of small business. What is the Senator's understanding of it?

Mr. HATCH. Mr. President, will the Senator yield?

Mr. WALLOP. I would be happy to yield for a question to my friend from Utah.

Mr. WILLIAMS. As long as I can have the answer of the Senator from Wyoming to the question. Could the Senator wait on that? Just on this one question I would like to ask the Senator from Wyoming.

Mr. WALLOP. Your question is what is the present coverage?

Mr. WILLIAMS. The present practice, yes.

Mr. WALLOP. Well, the practice is different from the coverage, and that is what we are addressing here. The practice has been that the National Labor Relations Board would not deal in most small businesses. But the potential—one of the reasons, as I interpret it, why we seek to enlarge the board is so they can deal with more businesses.

Mr. WILLIAMS. That is a misunderstanding in the mind of the Senator from Wyoming. There is no intention to change the present practice. As the Senator correctly said, most small business is not, under present practice, covered under the provisions of the National Labor Relations Act, by the National Labor Relations Board.

Mr. WALLOP. Let us put it exactly as it is. Most is covered under the law, but most is not dealt with.

Mr. WILLIAMS. Exactly; and there is no change contemplated under the bill, and nothing to be expected from the Board's practice.

Mr. WALLOP. I would remind my friend from New Jersey that the Board is composed of human beings, not cast in concrete, and the decisions it makes, as long as it makes decisions within its entitlement, cannot be challenged.

Mr. WILLIAMS. I will tell you this: The authority largely emanates from this body, from Congress.

Mr. WALLOP. I know, and that concerns me most, because the authority it is sought to give is unlimited.

Mr. WILLIAMS. There is no intention in this bill or at this time of changing the practices of the National Labor Relations Board in terms of those businesses over which it takes jurisdiction, and I would look with disfavor on any changes.

We might draw our colleague from New York (Mr. JAVITS), the ranking minority member of the committee and the co-leader on this bill, into this colloquy, to inquire as to whether or not the Senator from New York has any different thoughts.

Mr. JAVITS. No, Mr. President——

Mr. HATCH. Will the Senator from Wyoming yield to me? Who has the floor, Mr. President?

Mr. WALLOP. As a matter of courtesy to my friend from New Jersey, I yield to the Senator from New York for purposes of replying to the Senator from New Jersey.

Mr. JAVITS. I thank my friend from Wyoming. Of course, Senator HATCH will have his opportunity, and I will say nothing which would anticipate his views.

Not only would I agree with the view expressed by the Senator from New Jersey, but I would be seriously interested in an amendment which would do something about establishing this in law, as an amendment to this bill. I do not know whether it can be adequately dealt with here, or dealt with at all, but I certainly would consider any such amendment with the greatest care.

Mr. WILLIAMS. I thank the Senator from Wyoming for yielding for that question.

Mr. WALLOP. Mr. President, I thank both the Senator from New York and the Senator from New Jersey.

I think before any Senate bill should go forward, it has to be dealt with as a matter of law and not as a matter of concept, because, given the authority to do it and given the joy with which the regulatory agencies of this country go after enhanced power, I can only see this bill as representing a threat, unless it is in fact proscribed by law.

With that, I yield for the purposes of a question, without relinquishing the floor, to my friend from Utah.

Mr. HATCH. Mr. President, I am a little bit shocked that my friend from New Jersey couched his question in this way, because I think it misled those who were listening concerning the truth that there was a law that applied here, and I think my friend from New Jersey knows it.

Most of small business from a numerical standpoint, 78 percent, is not covered. Let me retract that. All small business is covered. All business is covered under the National Labor Relations Act. There is no one that is exempt, not even sole proprietors. Even businesses with less than three employees. Everyone is covered.

But by Board ruling, because they know as a practical matter nobody is going to unionize a sole proprietor and nobody is going to put a lot of time and effort and expense into unionizing—I ask the Senator from Wyoming whether he is aware of this, that no union would put the effort into organizing units of less than two or three employees, because the monetary economics are not there.

By Board ruling, 76 percent of all employees in our society are covered by the National Labor Relations Act. By Board ruling; that is the significant statistic, and everybody knows it. Although the act covers every business, the Board has said, with regard—let us read it:

> The Board's present jurisdictional standards, which relate to the employer's outflow or inflow or gross volume of business, normally on an annual basis, are:
>
> 1. Non-retail: $50,000 or more outflow or inflow, direct or indirect. . . .
>
> a. Direct outflow refers to goods shipped or service furnished by an employer directly outside the State.
>
> b. Indirect outflow refers to sales within the state to users meeting any standard except solely an indirect inflow or indirect outflow standard.

In other words, the only businesses, although there are almost innumerable small businesses that are sole proprietorships and businesses involving so few employees that it does not justify unionization, the Board says they are not going

to consider, under this law, even though the law considers all of them, businesses that have an inflow or an outflow of less than $50,000 a year.

Mr. WALLOP. I would say to the Senator from Utah, in response to his question to me on that point, that I am aware of it. I wonder if the proponents of this bill have any awareness of how small $50,000 outflow is? There is practically no business in this country where anyone is earning a living that is less than $50,000. If they are, they have an awfully high margin in this day and age.

Mr. HATCH. The Senator from Wyoming has put his finger right on the nail here. If he will yield for a further question so that we will have this thing put to bed, as I see it, labor is attempting to sell this bill both as a bill "that will not hurt anybody or harm anybody" and also has characterized it as the most important labor legislation ever, and also in the last 30 years.

Returning to the matter of the Board's jurisdiction, the second part of that jurisdiction is with regard to retail merchandising, as follows:

2. Retail: All retail enterprises which fall within the Board's statutory jurisdiction and do a gross annual volume of business of at least $500,000.

You have to be an awfully small retail business to have an inflow or an outflow of less than $500,000, and that is the point that has to be made.

Mr. WALLOP. The point is that, again, we are not discussing profits, we are just discussing gross, is that not correct?

Mr. HATCH. You are talking about more than gross. You are talking about whatever they spend for the products they are going to sell; that even figures into it, which cuts it down even more.

That shows that the half-truths labor has been using all over this country to justify this bill, in particular with reference to small business, are exactly that. The other part of that, the businesses which are so small the unions do not want to unionize them because the economic margin is not there, everybody else is covered, and 76 percent of all employees are covered. That is the important jurisdictional thing here. To even have it implied that it is otherwise, I think, does not help or serve anybody.

Mr. WALLOP. I recognize that, and I recognize it expresses the real fears of everybody about the possible effect this legislation might have. But for this bill to have been characterized in such a way as "does not help anybody and does not hurt anybody" would seem to belie our need to be debating it. We might just as well abandon it here today and go on to something that will help somebody.

Mr. WILLIAMS. Mr. President, that is not the real subject we ought to debate.

Mr. WALLOP. I yield to the Senator from New Jersey for the purpose of asking a question, without losing my right to the floor.

Mr. WILLIAMS. This bill obviously is designed to help those people who have no adequate remedies, when the law hurts them. If a person has been fired for union activity, he has been harmed if he has no remedy at law. I think of the case of Bernard Mings, fired 2 days after he sought to sign a card asking for an election.

Mr. WALLOP. Could I ask the Senator what his question is?

Mr. WILLIAMS. My observation here is—and I have intruded a little, perhaps, on the rules of debate; I was just making a comment rather than a question. The comment was that nobody is trying to minimize this bill and its effect. The areas that it reaches are not many. The areas where there are unfair labor practices found——

Mr. WALLOP. The problem is that we only hear one side.

Mr. WILLIAMS (continuing). Are very important, and I will tell you why. The law, after this bill has been enacted, will be a far more balanced law in terms of remedies.

Right now, where the union is found to have violated the law, the remedies are very effective for the employer. Some of the worst abuses of labor in the marketplace are secondary boycotts, those hot cargo agreements, and illegally picketing for recognition.

The employer has a remedy in each of those which is effective. He can go into court and get an injunction enjoining the illegal union activities. Because the remedy is effective, the cases that are brought under these provisions are very few.

Mr. WALLOP. I would suggest exactly the opposite is the truth of this matter. A great many of the lawyers in this country are panic stricken when it comes to that kind of a confrontation and they accede rather than go to the National Labor Relations Board. Organized crime comes out of the work force. Look at what happened in the coal strike-——

Mr. WILLIAMS. But I would say to my colleague——

Mr. WALLOP. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Wyoming does have the floor.

Mr. WALLOP. During the coal strike, there was in excess of $10 million in destruction of private property, huge machines destroyed, and people being shot at for engaging in commerce. The Secretary of Labor made the statement, the incredible statement, that it had generally been a peaceful strike and no action was brought.

That is the kind of thing where no remedy is available. That is why one says that there are certain things, like the secondary boycotts, when they are there, which are obvious. But there are the not so obvious, the small things that slip underneath, the blackmail that exists in this movement, that do not have remedies and we do not seek to address them in this bill.

I yield to my colleague from Utah without losing my right to the floor.

Mr. HATCH. I think the Senator from Wyoming has made a very important point. This bill is so one-sided that, in effect, it does not do what the proponents of the bill say it will do. It does not take care of the wildcat strikes. It does not take care of mass picketing, union violence, planned sabotage, pension fund ripoffs, the racketeering control of unionization that is occurring all over this country, which the Governmental Affairs Committee is looking into right now. It is astounding what they are coming up with.

It does not take care of dues ripoff, indiscriminate fining of union members, illegal secondary boycotts.

It does not provide for a secret ballot in terminations of strikes where men can vote whether they want to stay out or whether a man sitting here in Washington, because of his powerful position, can determine whether or not they will end the strike.

It does not take care of unlawful economic boycotts which have disrupted many innocent businesses in America.

I think the indiscriminate fining of union members and high-productivity fining are ills which should be cured.

We can go on and on with what this so-called "reform" does not do. I think the distinguished Senator from Wyoming is very, very right in what he says. If we want one good illustration from the bill, if the remedies are so balanced, why does not the so-called "make whole" remedy apply to a union's unfair practice of bargaining in bad faith, which occurs all the time? There are thousands of cases like this each year.

Mr. WILLIAMS. It does.

Mr. HATCH. It does not. I do not think so.

The point I am trying to make is that there are literally hundreds of illustrations where this bill does not correct union abuse, and I have to add that it does not really correct management abuse either.

I just want to make sure that Senator WILLIAMS, in his comment that it does cover the 8(b)(3) violations, is correct. If it does, I would like to know about it. I would like to hear about it. Does the Senator say it covers 8(b)(3) violations?

Mr. WILLIAMS. When the unfair labor practice is committed by the union it does apply. Where there is a refusal to bargain whether by an employer or the union, the back pay remedy is the same.

On the other matter, I want to say, in the employer's injunction remedies, the three categories I mentioned, secondary boycott, recognition and hot cargo, I can relieve the feelings of the Senator from Wyoming that employers are fearful of going to the Board on this. Those injunctions are issued by the district court. That is where they get their injunction.

Mr. WALLOP. Mr. President, I misspoke myself when I said they were fearful to go to the court. But they are equally fearful in many instances, to my personal knowledge, of going to the court. While they can obtain either injunctive relief or actual relief, they frequently buy a larger problem than is solved. That is one of the concerns, that remedies are just not available to the average small businessman.

That is again what happens, that people begin to confuse the cliches. We are talking about union and union violence, and then talking about management. Everyone always thinks in terms of the biggest in the country because they are the most obvious in the

country. What we are really talking about is that which is not the most obvious unless you happen to be it, and then it is very obvious, and that is one of the smaller corporations, the smaller employers, the smaller members of the union group. Those are the places where the unseen people of this country labor under the unfair practices that exist.

I am talking now about union workers who have no voice in how their union runs; who have no say and cannot be heard; who cannot even get in to vote. I am speaking of these people. They have no remedies. That is one of the worst problems that I see in the union movement today, the absolute absence of any form of democracy and any form of free access to the power structures that we have in the rest of the country where they can obtain seats in the Senate obtain seats in the House, become mayors, city councilmen, and other things Unions do not share that in most instances.

I am sure anyone who takes an objective look at the union movement today will see only that they have the initial vote to seek representation and that is about the last majoh piece of democratic action they see during their lifetime as a union member. I see nothing in this bill which deals with those kinds of problems as they exist in the country today.

Mr. HATCH. Will the distinguished Senator allow me to ask a question of the distinguished chairman of the committee? I want to make sure this is on the record.

Mr. WALLOP. Yes, without losing my right to the floor.

Mr. HATCH. I ask the distinguished Senator from New Jersey, does the "make-whole" remedy apply to a section 8(b)(3) violation? I would like to have a yes or no on that.

Mr. WILLIAMS. I refer to the bill, page 15:

"(3)(A) In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative selected or designated by a majority of the employees in the bargaining unit has taken place, the Board may enter an order pursuant to paragraph (1) of this subsection which includes an award to the employees in that unit of compensation for the delay in bargaining caused by the unfair labor practice in an amount equal to the difference per hour during the period of delay between (i) the wages and other benefits such employees were receiving at the time of the unfair labor practice increased by a percentage equal to the change in wages and other benefits stated in the Bureau of Labor Statistics' average wage and benefits settlements, quarterly report of major collective-bargaining settlements, for the quarter in which the delay began and (ii) the wages and other benefits actually received by such employees during that period.

Mr. HATCH. Is that yes or no to my question?

Mr. WILLIAMS. That is the answer, there it is.

Mr. HATCH. Can the Senator answer it yes or no? Does the "make whole" provision in this bill apply to section 8(b)(3) violations; in other words, violations by the unions?

Mr. WILLIAMS. I said yes. I said it earlier, I have said it twice, I will say it three times. "Make-whole" is applicable in a case in which the board determines that there has been bad faith bargaining prior to the entry into the first collective bargaining contract between the employer and the representative of the employees—prior to the first contract.

Mr. HATCH. I am glad to hear that.

Mr. WALLOP. Could I seek to determine if the Senator from New Jersey has any knowledge where the Labor Relations Board has ever made an award to employees because of an unfair labor practice on the part of the union?

Mr. WILLIAMS. That is the whole point we are making here. Right now, the law leaves the wronged parties without remedy, whether it is the employer who refuses to bargain or the employee's agent, the union, that refuses to bargain. The time during which they refuse to bargain on the contract brings forth no remedy in terms of compensation to the workers for what they would have gotten if there had been honest, earnest, good-faith bargaining. The remedy is not there. This bill supplies it, and it is even-handed and applies equally against the employer and against the union.

Mr. WALLOP. Would the Senator contemplate that this could be used, for instance, if a group of employees sought to end a strike and the union leaders had decided that it was not what they wanted, to end the strike? In other words, if the employees wanted to end it, would they be entitled to some kind of compensation from the union if the union refused to end the strike?

Mr. WILLIAMS. A strike is not necessarily a collective bargaining situation. This remedy is for the refusal to bargain, to sit at the table. In those cases, the answer is yes, it would be used against either way—against the party that refused to bargain in good faith.

Mr. WALLOP. Assuming that the employees felt the bargaining had gotten them where they wanted, but the union leaders did not feel that it got them where they wanted to be and they refused to end the bargaining. As far as the employees are concerned, the bargaining is over. What happens then?

Mr. WILLIAMS. When the union is out of step with the membership, we know what happens. We saw it in the coal strike. When the union is out of step with the feeling of the workers they represent, you know what happens and I know what happens. There are Members that I have talked to in this body that have an opinion about the nature of agency; about the relationship between a union, and the workers that are members of the union. Some Members feel that if the workers elect the union to be their bargaining agent, that bargaining agent should have all the authority to enter the contract.

Right now, the constitutions of some unions provide that. But some union constitutions require that on agreement has to be ratified by the members of the union in a ratification election.

There is a lot of sympathy for doing it the Senator's way and giving the total authority to the agent and taking it away from the members. Right now, basic and ultimate authority in most union constitutions resides with the electorate, the members of the union, the people that elected to have a union in the first place.

Mr. HATCH. Will the Senator yield?

Mr. WALLOP. I am happy to yield.

Mr. HATCH. I want to make sure this is clear, because one of the things that has caused me to want to establish this on this floor this day is that it works both ways. Literally, if I have interpreted the distinguished Senator from New Jersey correctly, the "make-whole" remedy will apply against either the employer or the union, or both, I suppose, with regard to—well, in this case, it would apply against the union with regard to a section 8(b)(3) violation.

The thing that threw us off was the committee report that talks only about the employer violating bargaining during an initial contract negotiation. So, just to make it abundantly clear from a legislative history standpoint, this bill provides, if I understand the disguished Senator from New Jersey correctly, this provision, the "make-whole" provision, applies just as strongly to an 8(b)(3) violation as it does to an employer violation pursuant to the terms of this bill. Is that correct or is it not correct?

Mr. WILLIAMS. The provisions against failure to bargain in good faith run equally against employer and union.

Mr. HATCH. So the 8(b)(3) violation would be covered by the "make-whole" remedy?

Mr. WILLIAMS. Failure to bargain, yes.

Mr. HATCH. I thank the distinguished Senator from New Jersey.

Mr. WILLIAMS. We have made progress through this discussion and, as I indicated, maybe 20 minutes ago, because of the misunderstandings that are abroad on what this bill does and does not do, I suggest that we can be grateful for the debate that we have had. I said it might take 2 weeks to get all of this clarified before final passage. Maybe that is a little modest in terms of the time it will take.

Mr. HATCH. I think that may be slightly modest, but one never knows.

Mr. WALLOP. Mr. President, it is advantageous to determine these things. I have to say that, having read the report, I share the concerns of the Senator from Utah, because the report indulges itself in those misunderstandings. The report deals in terms of union and management and is slanted as though this bill were designed against management. One can scarcely read the report and draw any other conclusion. Therefore, when one reads it, one reads a slant that is appallingly antimanagement, and one has to begin to wonder where we seek to go in this country.

I guess that is why the Senator from Wyoming has so many concerns about this bill, because, having read that report, it does not, in all honesty, give any indication that we are seeking to right reforms of the abuse of the powers of unions as well as reforms of the abuse of the privileges of management. If the bill could be made to do that, then perhaps

the Senator from Wyoming would begin to look more happily toward certain of the provisions that it contains.

I suggest, however, that it will be a substantially more vast bill should it undertake that. Yet, maybe that is the thing that this Senate ought to begin to undertake, to look at both sides of this equation equally. Because, plainly, it matters not one tinker's little bit, not one of the smallest iotas, what we do about labor reform if it all goes to labor and they strangle the economy of this country.

Then labor will have no place to work except for this almighty powerful Government, which spews out of its maw an increasing deficit to take care of the opportunities that do not exist we in this body could have created, if we had, in our zeal, not lost sight of the fact that this is a country that belongs to the people in it and not to the power brokers that seek to exist in it and rule it. One can only draw that conclusion when we see the bias that goes into the language that exists in this report.

Maybe we could set aside the report and, with debate and amendments, redraw the intent and purpose of this bill. Should that be so, the Senator from Wyoming will join in any attempt to do it. I find it an unlikely occurrence, I should say, that we would get that kind of broad look at the problems.

For some reason or other, the union leaders of this country basically seek to enhance the economic and political power role that they have at the expense of the American workers, and eventually at the expense, I think, of the American economy. Certainly, the great employers of this country, who are not the huge industries, but the small businesses of America will ultimately suffer.

When those things go, then so, too, will the great strength, productivity, ingenuity, and vibrancy of this country.

So the Senator from Wyoming expresses his concern, and will express more specifically those concerns as we go along.

I am happy at this moment to yield to my colleague, the senior Senator from Wyoming, whose wisdom, sense, and experience in these matters goes back to the time when the State saw fit to enact the right-to-work law and saw fit to launch itself on a period of productivity, employment, peace, and harmony that is unmatched in its previous history.

(The following proceedings occurred during Mr. WALLOP's remarks and are printed at this point in the RECORD by unanimous consent.)

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from Wyoming may yield to the Senator from Kansas without losing his right to the floor, and that my statement follow his.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I yield to the Senator from Kansas under those circumstances without losing my right to the floor and without considering what I have said so far as having been my speech.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I appreciate the Senator yielding.

I wish to state, as I indicated yesterday, that I would try, in several days of short statements on the floor, to take a look at some of the key provisions of the so-called labor reform bill and then try to address those key provisions and analyze them objectively. It is my hope that we might be able then, as we get into the debate later on this week, next week, and thereafter, to have for the record an analysis as some of the opponents of the so-called labor law reform view it. If, during the upcoming debate, we realize we have been wrong in our analysis, if we are not accurate, if we are not objective in our analysis, then the proponents of the so-called labor reform legislation will at least understand how we view and how we perceive the legislation. If we are not accurate, if we are not correct, or if there is a different view, we will be able to debate the differences and hopefully address the real problems and concerns of both sides.

Yesterday I talked about timing of elections, rulemaking power, and equal access. Today I wish to discuss just very briefly three other sections, the so-called free speech, debarment, and the back pay remedies.

FREE SPEECH

Under section 8(c) of the act, the often referred to free speech provision, the Board has a wide degree of discretion in establishing various rules and procedures for regulating an employer's and union's speeches during elections.

Under section 6 of the bill, the Board is authorized to issue and enforce rules applicable to campaigning during the 48-hour period preceding an election.

ANALYSIS

Mr. President, while the free speech provision in the bill does not represent a serious encroachment on the current law, the Senate report places recent Board cases on this subject in jeopardy. According to the Senate report—pages 27—the Board would be given "the power to police such tactics as last minute material misrepresentations and captive audience speeches to the extent that the agency deems necessary."

Case law on this subject, however, substantially conflicts with the position that the Board would take under the Senate report. Under a new standard formulated in Shopping Kart Food Market, Inc., 228 N.L.R.B. 190 (1977), the Board no longer will police the truthfulness of noncoercive campaign rhetoric.

This position is an outgrowth of the difficulties the Board encountered in making determinations regarding the materiality of particular misrepresentations under the former Hollywood Ceramics Co., Inc., 140 N.L.R.B. 221 (1962), test. Since the Board was unable to reach uniform and consistent results, it abandoned its former standards.

As perceived by numerous Federal circuit courts of appeals in ruling on Board decisions in this area, one of the difficulties under the former standard was the Board's abuse of its discretion in its treatment of campaign misrepresentations to favor unions over employers. The courts, therefore, felt compelled to caution the Board that "[i]t should hardly need saying that this (Hollywood Ceramics Standard) no less applies to material misrepresentation by a union than by an employer." *NLRB* v. *Lord Baltimore Press, Inc.*, 370 F. 2d 397, 401–02 (8th CIR. 1966).

In any event, the Board has chosen to reduce its role in policing free speech. To the extent that the current position of the Board would be changed, as outlined by the Senate report, extensive and unnecessary litigation is anticipated.

Finally, there is no justification for limiting free speech during the 48-hour period. In light of the restrictive time period accorded to employers to conduct their campaigns, the 48-hour limitation constitutes an unwarranted infringement of the employer's freedom of expression.

BILL USES GOVERNMENT AS STRONG ARM OF UNION

The provisions under this bill providing new remedies for violators constitute extreme sanctions. The Senator from Kansas feels these proposals clearly reflect the viewpoints of those who think that the only unremedied abuses are against unions. They are designed for one purpose only, and that is punishment.

Such relief contradicts the Supreme Court decisions interpreting the Board's remedial authority which prohibited several Board orders that were punitive or confiscatory (*Republic Steel Corp.* v. *NLRB*, 311 U.S.C., 7, 10–11 (1940); *NLRB* v. *Seven-Up Bottling Co.*, 344 U.S.C. 344, 349 (1953)); or where "a patent attempt to achieve ends other than those which can fairly be said to effectuate the policies of the act." *Virginia Electric & Power Co.* v. *NLRB*, 319 U.S.C. 533, 540 (1943).

An examination of the provisions containing deterrents in S. 2467 reveals the identical problem concerning an inadequate study of the problem or the solutions. According to the Board's 42d annual report, an inordinately high number of violations are committed by small businesses. However, a list of these violators will bear little, if any, correlation with a list of companies with meaningful Government contracts. Moreover, as in the example of a noted textile manufacturer, Government contracts only constitute approximately $5 million in comparison to a figure of $800 million in sales in a recent fiscal year. Obviously, Government contracts are not a significant part of its business. One wonders, therefore, how effective debarment will be for most violators of the act.

For these same reasons, it is likely that other remedies under S. 2467 will not accomplish the goals of this legislation. Some of these remedies—debarment, time and one-half and make-whole—are largely ineffectual.

Mr. President, in addition to what I have stated, it seems to this Senator that we should also review the backpay remedy and the so-called debarment provisions, provisions that will prove to be controversial as we debate this bill.

BACK PAY REMEDY

Under the current law, there is a provision for back pay which is computed

according to the employee's wage rate. An employee's interim earnings are deducted from the total salary he would have received absent the employer's unfair labor practice. However, unless an employee makes a good faith effort to find interim employment, he will not be eligible to receive a back pay award.

Under section 9 of the bill, which amends section 10(c) of the act, employees who lose their jobs as a result of the company's unfair labor practices may receive a 150-percent back pay remedy less any wages actually earned by the employee. This remedy would apply in the following situations: Where employees are seeking representation by a labor organization, in a decertification or deauthorization election and prior to the signing of an initial collective bargaining agreement.

ANALYSIS

For the reasons outlined above, the back pay scheme under the bill will probably not constitute an effective remedy, with the exception that on certain small businesses it will have a disastrous effect. Most importantly, since no duty of mitigation is imposed upon the employee, providing for mitigation serves no real purpose. In other words, they do not have to find a job or be looking for a job.

The necessity for imposing a duty to mitigate is based upon the common sense principle that an employee should make a bona fide attempt to reduce the amount of damages by the employer by seeking comparable employment. Thus, the employee may not remain idle; he must seek other comparable employment and, if there are no other jobs available, he must remain in the labor market.

And I submit that that is another matter of considerable controversy.

DEBARMENT

Under the current law under the National Labor Relations Act, there is no provision for debarment.

Under section 9 of this bill, which amends section 10(c) of the act, companies or labor organizations found to be in willful violation of a Board or court order may be debarred. This debarment procedure is initiated by the Board which makes a recommendation to the Secretary of Labor. While a 3-year period is the designated time interval for debarment, this provision gives the Secretary of Labor discretion in determining the debarment period.

ANALYSIS

There is no doubt about it, there cannot be any argument that debarment is fundamentally punitive. That is the purpose of it. Chief among the problems resulting from this new remedy is the fact that debarment would be profoundly counterproductive to the goal of S. 2467 to protect workers' rights because of the simple fact that debarment would, in many cases, mean the loss of jobs for those employees who would be working on the contract. It obviously makes little sense to punish the worker for the employer's acts, even in cases where unfair labor practices by recalcitrant employers are willful and repeated.

The experience of the Office of Federal Contract Compliance Programs (OFCCP) illustrates why debarment should not be implemented, or at the very least, why debarment should not be implemented at this time. The difficulties within the OFCCP became so severe that a special task force was assembled to develop constructive suggestions leading to a more workable program. That task force has just recently issued a report in September 1977, on its findings entitled "Preliminary Report on the Revitalization of the Federal Contract Compliance Program." The report is less than complimentary. In referring to the lack of standards or guidelines within the OFCCP, the report acknowledges that, "until such time as OFCCP codifies and demonstrates its ability to require rigid adherence by contract officers to reasonably definitive and objective standards for compliance decisions the fears of contractors will remain somewhat justified."

The debarment provisions is also without any qualifying language as to its application. As presently constructed, an entire corporation may be barred from receiving Government contracts even though only one of its affiliates or divisions is found guilty of a willful violation. Such a result is an overkill and is directly contrary to Board precedent which has developed several tests in analyzing whether two or more companies can be considered a "single employer." These tests include an analysis as to whether there is interdependence of operations, common ownership and control, and common direction of labor relations policies. These tests could serve as a useful guide rather than following the current "shotgun" approach.

Mr. President, it also appears that the sponsors of debarment contemplate that the Board will cease having contempt power. Under the current law, the Board may seek a contempt order in the Federal district court compelling the respondent to comply with a former Board ruling. Under this section, however, the Board is imbued with the authority to seek debarment after determining that the respondent has willfully violated a final order. The difficulty with this scheme is the lengthy 6-month period of time it usually takes for an administrative law judge to reach a decision together with the additional 6-month period of time it usually takes the Board to reach a decision on appeal. The end result may, perhaps, be stated more graphically by the suggestion that, by providing relief according to the administrative law judge route as a substitute for contempt power, you might increase delays on the order of a thousand percent. Moreover, Federal district courts are much speedier than administrative law judge proceedings and are empowered to give much greater relief in terms of possible sentences, fines, and the like, than an administrative law judge.

Supporters of debarment also fail to consider the Board's success in bringing contempt charges against violators of the act. Throughout its history, the Board's record of bringing contempt charges against repeated or willful violators of a Board order is impeccable. By the same token, there are a number of extraordinary remedies available to the Board in dealing with the very small percentage of persistent offenders.

In sum, Mr. President, the Senator from Kansas believes that debarment represents a complete and unwarranted change in philosophy of the act. Since there is a very real possibility that it will result in idling more workers, it profoundly contradicts the avowed goal of this bill which, as I understand, is to protect the workers' rights.

For the reasons set forth today and for the reasons the Senator from Kansas and others will outline on tomorrow, the next day, the next week, and the week after that, or whenever, it seems to me that we need to make the record. We need to lay it on the table and analyze it. As I have stated previously, if our analysis is incorrect, then the opponents of the legislation have an opportunity to say in all good faith—and no one questions their good faith—that you do not interpret this provision correctly.

If so, I think it will do a lot to narrow some of the issues in this debate.

I thank my distinguished colleague from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Kansas. I must say I hope that he gets responses to the questions, analyses and interpretations he seeks, because only then can we fairly say we have been in a debate. If not, if it is going to be a matter of simply saying "we have the votes and we do not have to answer" then I do not think either the working men and women of the country or the country itself will have been served. So I sincerely hope he gets those answers.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. WALLOP. I yield to the Senator from New York.

Mr. JAVITS. I will say to my colleague that I have never been known around here for disrespecting any Senator's opinion, and I, for one, will consider most seriously the creative thoughts, the suggestions, either critical or affirmative, in terms of amendments, of all of my colleagues, Republican or Democrat.

I realize the real worry on this side. I frankly do not believe that my colleagues on the Republican side have enlisted a lot of mercenaries in order to try to defeat this bill.

I think there are real worries out there, and I intend to treat very seriously, and I believe that is my colleague, Senator WILLIAMS' intention, with these disquiets, and to do our utmost to fashion a bill which will reduce the fears that have been mentioned.

I do not know what the Senator will put in the RECORD, but whatever it is I promise you to take it most seriously and to do my best to deal with it.

Mr. DOLE. Mr. President, if the Senator will yield briefly——

Mr. WALLOP. I will yield to the Senator from Kansas.

Mr. DOLE (continuing). I appreciate the comments of my distinguished colleague from New York, who is an expert in this area.

What the Senator from Kansas will attempt to do in the next 3 or 4 days will be to take the provisions which he deems important and make an analysis and give the Senator's staff and others a chance to take a look. Maybe I do not interpret those sections properly, and that is the purpose. I appreciate the response.

Mr. JAVITS. We appreciate the purpose. We will not let the Senator make the issue. We will answer questions that are proper questions. But I want the Senator to know that I will do that in the utmost good faith as a lawyer and as a Senator.

Mr. DOLE. I thank the Senator.

(Conclusion of earlier proceedings.)

Mr. WALLOP. I am happy to yield to my friend from Wyoming.

(Mr. HODGES assumed the chair.)

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Wyoming for his very generous remarks.

Let me say first of all that I appreciate, as I am certain most people in Wyoming do and as I believe most people in the United States will come to appreciate, the good sense, the perception, the understanding of what makes this country work and click and operate and produce as it has done so successfully for such a long period of time.

For Senators who may not know, Wyoming has a very interesting background. People think of us today, I suppose, as the cowboy State because of the emblem on the license plate, and they think of us as an agricultural and as a livestock State because those are the things one is most likely to see in making his first visit to the State of Wyoming.

Only slowly do they come to understand that Wyoming is, indeed, a State blessed in many respects. We are an energy State. We produce a significant amount of oil and gas that comes to the lower-48. We are an important supplier of uranium. We have some of the most important coal reserves to be found anywhere within the Powder River Basin, which includes parts of Wyoming as well as other States, and some of the most significant and most easily mined coal reserves to be found anywhere in the world.

But what is not understood always is that we have had a long, interesting and varied history that includes the building of the Trans-Continental railroad, the opening of coal mines along the way to supply the energy for the movement westward of that railroad through Wyoming until the lines from the West and East were first joined in Utah at Promontory Point.

We have had labor trouble in Wyoming, because of the coal mines we have had. Our history includes some chapters that we are not proud of. The way we have treated some minorities in the past represents an unhappy chapter of Wyoming history that we do not boast about. The treatment of some Chinese who were brought in to help break a strike is one such example of the labor unrest we have had in Wyoming.

I mention these facts not to try to paint us lily white at all, because we are not. We are typical, I suspect, of the experiences that many States have gone through.

But I also call attention to this varied and interesting and colorful past of Wyoming to help people understand that when I became Governor of Wyoming we enacted into law a right-to-work law. For a long time this movement to pass a right-to-work law in Wyoming was given bipartisan cosponsorship, as my distinguished colleague from Wyoming knows. But at the particular time that I became Governor of Wyoming, to our discredit, the Republican Party decided it had enough power in both the House and Senate to pass a right-to-work bill.

So it was done on a one-party basis despite the fact that there were a number of Democrats who in times past had indicated a willingness to support and an eagerness to help pass that kind of legislation.

All of a sudden, I found myself in the vortex of some emotions that were swirling about the State. We had people come in from other States, labor organizers, making predictions about what, surely, would happen to Wyoming if we passed the right-to-work law. We had other groups, some of which were based in the State and some of which came into Wyoming saying how much improved things would be if we passed the right-to-work law.

There were predictions by labor organizers that wages would drop in Wyoming, unemployment would increase, we would lose our talented and skilled workers to other States as they sought to remove themselves from a State that had no better sense than to pass a right-to-work law. I heard all these things.

When the bill was finally enacted into law and while it had initially only Republican support in being presented, it was passed, if I recall correctly, perhaps with some Democrats supporting it, as well.

Interestingly enough, and I make this point, the Democratic platform from 1963 on in Wyoming has contained a plank calling for the repeal of right-to-work.

Just last week I was back in Wyoming attending the Republican State Convention, and just last week, at the same time, the Democrats, many of whom are good friends of mine, were involved in their State Democratic Convention, and there was a proposal made and supported on the floor calling for the deletion in the Democratic platform of the right-to-work plank as a law that should be stricken from the books.

The argument that was made in support of deleting from the Democratic platform the program calling for the repeal of right-to-work in Wyoming was that a number of able Democratic candidates for the State legislature were defeated because that part of the Democratic platform was unacceptable to a majority of the voters.

Mr. President, this is not Republican propaganda. I am stating what the Republicans said. We did not say anything about right-to-work. I do not know what eventually may have come of the resolution, but there was a rejection by the Platform Committee, in the Republican platform, of our often repeated statement that we support right-to-work We think it is a nonissue any more, and we thought it was redundant. We thought there was no point in saying one more time, as a few believed we should, that we support right-to-work. It is accepted in the State. But I am talking about the Democratic platform. I am talking about what knowledgeable Democrats in Wyoming recognized.

To quote one of the spokesmen—I cannot say it precisely, but this is essentially it—he said: "This plank in our platform calling for repeal of right-to-work laws in Wyoming hangs as an albatross around the necks of candidates for the State legislature from the Democratic Party."

Why do they say this? They are realists. They know what is going on. They are well aware of the fact that Wyoming has an unequaled climate now in which people can work.

Our personal income has risen more sharply in Wyoming than it has in almost any other State. There are fewer people unemployed in Wyoming—the last time I checked—a fewer percentage of unemployed qualified workers, than in any other State.

Despite the predictions and the prognostications made to me when I was Governor of Wyoming back in 1963 that the passage of the right-to-work law would cause workers to flee Wyoming, exactly the opposite has happened. Workers have come into Wyoming. There are good jobs there. There are well-paying jobs there. Communities are growing. Activity of all kinds has been on the move upward.

As a matter of fact, the only negative aspect to Wyoming's economic picture in recent years has been the deplorable situation on farms and ranches which has been brought about not by right-to-work. It has not been influenced by right-to-work one way or another. It has been brought about by virtue of the fact that farm and ranch income has plummeted, as the distinguished occupant of the chair, the Senator from Arkansas (Mr. HODGES), recognizes.

In 1973, the average income on the typical farm and ranch in Wyoming—and these are USDA figures—was $14,788. That is what the farmer and his wife and family had left over to compensate them for all their personal efforts after the bills had been paid—$14,788 in 1973. By 1976, that figure had dropped to $241. I did not say $2,410, Mr. President. I said $241. That is all the average farmer and rancher in Wyoming had left over after he had paid his bills, after he had paid his employees, after he had paid his taxes to the county and to the State. That is the only sad part of the economic picture of Wyoming.

I am sure Senators can understand why I have been concerned, when Mr. Bosworth, on the President's Council—I think he is to study and make recommendations to the President of the United States with respect to inflation and other concerns—recommended a few weeks ago that one of the ways to combat inflation in this country is to reduce the cost of living by lowering the

cost of food in America. He thought that could best be done—and his suggestion was specific—by our importing more beef and more red meat into America.

I was concerned about that, because I happen to know a little about the cow business. My banker does not think I do. He says: "It's perfectly obvious, when I look at your financial statement, that you don't know anything about it. You're losing money, and yet you're still in the business."

Anyway, I think I know a little about that. I used to be president of the Wyoming Stock Growers Association. At one time, I was president of the American National Cattlemen's Association.

Obviously, although the holding of those positions does not ascribe any intelligence to the speaker, I must observe that it has been a fact—one that I have observed—that the typical cowman in this country never has wanted to have the Government into his business. We have not been subsidized. The corngowers and the cottongrowers and other people in agriculture over the years have been subsidized. As we can recall, those of us who are old enough—and I suspect that would not include everyone in the Chamber at the moment, by all means—but those of us who are old enough can recall back in World War II days. I think in 1945, when there was real concern about the ability of the U.S. farms to produce enough food and fiber for the successful continuance of our war effort and to provide at the same time the food necessary for our allies around the world, many of whose lands were rendered unusable for farming, whose farms had been stripped of all help. In order to insure that we might have the necessary outpouring of agricultural products to meet the challenge, the Congress of the United States wisely passed a law guaranteeing price supports for wheat.

It is true that there were not any able-bodied young workers on the farms and ranches—or few indeed—in the United States at that time. We had the greatest outpouring of wheat that ever had been seen. It amazed the world. It even amazed us.

This came about because the Congress of the United States seized upon a well-known economic fact of life, and that is, if you want to guarantee a result that can be predicted, insofar as production goes, all you have to do is to guarantee a profit—and that is what we did. We guaranteed a profit for wheat, and the outpouring of wheat was phenomenal.

I could talk a long time about that facet of agricultural economics. I shall not do that. I called attention to what we had done as a nation, in insuring that we had enough wheat to bring to a successful conclusion World War II, insofar as food was concerned, simply to illustrate that we all know that since 1930, when the Government got into the business of supporting different kinds of agricultural products, it learned a lesson that is an old one. This lesson has been known for centuries: If you guarantee somebody a profit, you are going to have more production than you may want, more than you can afford to pay for. That is exactly what happened in the United States.

So, with a guarantee of profit, inevitably must come controls in order to insure that the taxpayers of the country are not going to pay for a lot more of something than they need. It is that simple.

I was talikng about the cow business, and I was saying that the typical cattleman in this country had observed what had happened on the farms of America, and he knew that it was not too long after we started supporting prices that everyone wanted to get in on a good thing. If you can have someone guarantee you that all you are going to have to do in order to be guaranteed a profit is to get into the business, there will be lots of people getting into the business, and that is exactly what was happening. Cattlemen did not want that. They would not have minded higher prices. I would not have minded higher prices nor would anyone else in the business these last few years have minded higher prices.

But we did not want some bureaucrat telling us what to do. And there are a lot of good bureaucrats. It has been my pleasure to know a lot in this town, and I will say, by and large, I have had to change my mind about the people who serve silently, skillfully, and ably for Government. It is simply this: Most people who work for Government are decent, honest, and dedicated individuals trying to do their best. That is not the impression most people have around the country. If you have had trouble with Government, if someone has told you what you must do, it is awfully easy to join the chorus of those who denounce faceless bureaucrats. I cannot do that any more. I used to do it. I used to be a participant in the clamor of those who were saying if we could just get rid of these bureaucrats we would be better off.

What I do know is that if you have laws and if they are going to work and if they include paying prices over and above what the market place would support for the products you produce, sooner or later someone is going to have to blow the whistle, and the bureaucrats have been blowing the whistle. They have no other choice but to blow the whistle. They had to blow the whistle because the law said there shall be some limits.

We have tried several ways to impose those limits. One was by imposing acreage controls. But lots of people think that if you are not smart enough to do anything else, you could always be a farmer. There has been an old cliche that I think may have started in Europe. I understand in Germany when you call someone a farmer that is considered a term implying considerable derogation. I suppose in this country it is not unusual for lots of people to think that a farmer does not have to be too smart in order to make a living. Maybe it comes about because he is presumed to have a garden, he is presumed to have an opportunity that is denied most urban dwellers to take advantage of good old mother nature to put some food on the table. But nevertheless, the fact is that farmers respond, as does anyone else, given an economic set of facts that makes it profitable to do certain things.

The cattlemen of America did not want to have Government tell them how many cows they can run. They did not want to have Government come onto their ranches and tell them: "You are going to keep this pasture here out of production insofar as meat is concerned. You cannot raise cattle on it." We did not want to have Government telling us, in short, how to run our business.

Now, I referred to my past role as a member of some livestock organizations simply to point out that I think I know. I believe I know. I am certain I know what the average rancher thinks about this business. So, we did not want to have the help that might come in the short term from a Government-financed program that would raise the prices. So we suffered along as we saw our average ranch incomes plummet from 1973 when they stood at $14,786 down to $241 net for the whole farmer ranch, average, USDA figures, in 1976.

We needed help. But we were willing to wait until the economic facts of life turned things around, and indeed they have started finally to turn around.

So I was distressed when Mr. Bosworth suggested that we ought to be importing more meat into the United States. I thought that he might have been a little more evenhanded and a little fairer to the livestock industry to say to the American people: "You have had a great thing going for you for 4 years; you have been able to buy hamburger and steak and any kind of meat about that you wanted to buy at really basement bargain prices." That was what the facts were. In the United States, the average customer, the average consumer, spends I think about 17 percent of his take-home pay for food. There is not any other country in the world that starts to approach the bargain we have on food in the United States. There is not another country in the world that lives as well. There is not another country in the world that has the wide range of food products available for purchase on the shelves of grocery stores that we have here.

I was raised in western Wyoming, and I can recall the time that the first green thing we saw, the first green thing we ate in the spring was water cress. I am told that the Hayden expedition, when it went up to see what had been purchased to explore Yellowstone Park and to get into the more difficult inaccessible areas of the Louisiana Purchase, recognized that those who would follow would need something green to eat. So they dropped water cress seeds in those great springs that we have in the West, some of which are on the ranch that I owe money on to the bank. That is why I am interested in the price of cows getting a little bit better.

The first thing that we ate in the spring was water cress. There were not any roads open. We could not afford to pay for fruit to be shipped in from southern California or from Mexico or garden produce from Florida as is true now. We had meat, potatoes, rutabagas, carrots, and things that could be kept in the cellar under sand in the winter-

time. But we got along all right. I am not complaining. We were lucky. My father and mother were very great citizens. I do not deserve the inheritance I have because I do not measure up to the dedication that their lives demonstrated in seeing first that they took care of themselves and they took care of their children; and if that concept could be expanded upon today, I should think that Government would have fewer problems than it has today.

But suffice it to say that the average American today eats exceedingly well and he has more money left over. He has a greater percentage of his income left over than any other person on the face of the Earth to live well. And that is true in Wyoming. It is true in great measure in Wyoming. And it is true in Wyoming that workers there find jobs readily available. They find wages high. They find employers considerate and working conditions good. And they find all of these things in the State that has a right-to-work law. So I am not persuaded by the arguments that I hear on the floor here today that we need a labor reform law. I have talked to a number of people in Wyoming. We have had letters from a number of people.

We have asked what will this law do for Wyoming? We have asked union representatives that question, and they are hard pressed to give us any answers. They cannot call attention specifically to very much in this bill that makes sense to a Wyoming worker because all he has got to do is look around to see how relatively well off he is as compared to workers elsewhere.

I think our labor laws are not perfect. I have felt that way for some time. I have not been privileged to hear all of the debate on this bill, and I by no means am an expert on the bill. But I do have a few feelings that I think may be worthy of reflection that I would like to offer.

Senator Paul Fannin of Arizona, a Member of this body for 12 years, and I proposed some changes in the law. I think it can be documented without any question of a doubt that the violence and threats to life and to property come in far greater measure today from unions and union leaders than from employers in America today.

While I have not, as an individual, been engaged in those kinds of activities that would give me the ability to speak from first-hand knowledge about that fact, I do know some things that have gone on.

One of my brothers-in-law joined a union. He did not want to join the union, but he concluded he had better join the union if he wanted to get a job, and if he wanted to be sure that he did not have something happen to his personal property or to himself.

I can recite other cases. One of the situations in western Wyoming involves or involved a man who chose not to join a union, and in Wyoming they have that right. Despite repeated attempts by union organizers to get him to join, he steadfastly refused to join.

Finally one morning the union was persuasive. The story goes that as he came to work he found himself surrounded by 20 of his fellow workers and, in essence, they said to him, "Do you want to join the union this morning or do you want someone to be calling your wife later on today saying that you had apparently fallen down a mine shaft, because your body was picked up some 600 feet below the surface?"

He joined the union.

Mr. WILLIAMS. Mr. President, will the Senator yield at that point for a question?

Mr. HANSEN. I would be happy to yield.

Mr. WILLIAMS. Was that in Wyoming?

Mr. HANSEN. Yes.

Mr. WILLIAMS. Is there any possibility that that kind of conduct is excluded in any way from criminal law? Is not that a crime clear and simple? Could not law enforcement reach out and take that man by the scruff of the neck and haul him into court and give him a trial? If he made that kind of threat, that is the worst kind of crime. Do you mean to tell me that the Wyoming law would not reach that?

Mr. HANSEN. I did not say that Wyoming law did not reach that. I say to my good friend from New Jersey what I have reported to him is what I understand has happened.

Now I am going to say to the Senator, sure, the Wyoming law, if these facts could be brought into court, could reach that. But, you know, I do not think my good friend from New Jersey is naive enough to suggest for a moment that these kinds of things do not happen.

Mr. WILLIAMS. Of course, they happen, and we have tough criminal law. We have a bill here that is not criminal law. There are no penalties, there is nothing punitive in this. This is a remedial law to make that great combination of labor-management work. When there are any threats of that kind of action, we have abundant criminal law. That is not our province here.

Mr. HANSEN. All right. Let me ask my friend from New Jersey where was the law enforcement when trucks were being shot at, when coal was being dumped on highways, when all kinds of trouble was taking place? If the law works, and if it is in place, and if what I say is not true, how did it happen that things broke down, as they did earlier this year?

Mr. WILLIAMS. All I can say is if those who are guilty of these atrocious actions are not prosecuted, that is a failure. If the violation is within the Federal area, is within the whole establishment under the Attorney General, the U.S. attorneys——

Mr. HANSEN. Let us be sure we understand about whom the Senator is talking. He is talking about Griffin Bell, the Attorney General of the United States? Is the Senator condemning him?

Mr. WILLIAMS. No, no.

Mr. HANSEN. I am sorry.

Mr. WILLIAMS. I am saying if there is a failure of enforcement, if it is a Federal case it is a failure of the Federal criminal justice establishment. If it is a State matter it is a failure of State criminal enforcement.

My only point is it has nothing to do with the subject matter that is before the Senate now.

Mr. HANSEN. I suppose what my good friend from New Jersey is saying—and I apologize if I sounded a little vehement, but I do get worked up, because I know, as I am certain my good friend—and he is my good friend, and he is an admired man, as indeed he deserves to be—knows as well as I know that the abuses that take place today involving working people come in far greater number and with far greater frequency as a result of union activity and the efforts made to expand union dominance in labor fields than they come from the other side.

I do not say, and I am not charging, that this bill does not reach into some of these areas. But what I am saying is that Paul Fannin and I tried unsuccessfully to give the workers of this country an opportunity—only an opportunity—to vote by secret ballot if they wanted to say that a strike had gone on long enough, if they wanted to say that, "we are willing to accept the terms that have been offered by management."

I do not recall my friend from New Jersey then saying he thought that was a good idea. I do not recall that he said, nor do I believe the Senator from New York (Mr. JAVITS), one of my very distinguished and esteemed friends, a very knowledgeable person and, I think, one of the persons who participates in an informed and effective way on more pieces of legislation on the Senate floor than any man I know—at least that is my feeling, and I have nothing but the highest regard for him, and I have nothing but the highest regard for my friend from New Jersey—but I do not recall their saying that "this bill proposed by Paul Fannin and CLIFF HANSEN has some merit."

I do not recall that there were any leaders in labor coming forward and saying, "this seems to be well within the democratic process."

I do not think we found much help. So I am just taking this opportunity, Mr. President, to say let us not close our eyes to some of the real issues in America today. You know, I learned long ago if you want to pass a bill, the first thing to do is to give it a sexy name, and one of the sexy names is reform.

Who can be against reform? Generally, the connotation reform has is that things are going to be made better, we are not going to turn the clock back, we are not going to do something wrong, we are going to make it better. That is about what reform means.

All I am saying is that there could be a lot of merit in this bill. I do not doubt that at all. But I just wanted to have my moment on the stage to address some other issues that I think should also be of concern to most Americans—some concerns that I have, that I happen to know something about.

It is all well and good to say, "There are laws on the books that prevent this from happening." There were laws on

the books that said the members of the postal union could not strike.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. WILLIAMS. To receive a measure of acclaim and applause from the Senator from New Jersey? I am particularly pleased that I heard the Senator's speech, and as one from a metropolitan State it was particularly informative in certain aspects of the——

Mr. HANSEN. Do you mean the part I have already given, or what I am about to give?

Mr. WILLIAMS. No, no, the part of your speech dealing with the farm economy, and the forces that will encourage production and the problems we will face in the farm economy. As a long ago farmer, as a kid, it took me back to a life that I loved, the life of the farm.

Mr. HANSEN. I will say to my good friend from New Jersey—and I will be happy to yield further to him—you know, I had illusions at one time that I might like to study law, and the dean of the college of law in Wyoming interviewed me. I had had about 3½ years of college work, and he made a very flattering observation to me after looking over my credits and my academic interests and everything. He said to me, "Cliff, I think you will make a greater farmer."

So I did not study law. I suspect that he may have been very charitable in giving me that accolade and predicting a great future for me in agriculture. But, as a former colleague of ours used to say, Milward Simpson——

Mr. WILLIAMS. I remember him well.

Mr. HANSEN. Who was a Member of this body from my State:

I was selected as the man most likely to sack seed.

That is why I did not try the law.

I yield to the Senator from New Jersey.

Mr. WILLIAMS. I appreciate the courtesy of the Senator from Wyoming. In the earlier remarks the Senator made as to the situation in Wyoming with respect to section 14b and right-to-work, I want to make sure the RECORD reflects at this point that that section of the law is not involved in the bill that is before us. There are no efforts to deal with it, to change it, to repeal it, to tighten it; it is not a part of this bill. But it was interesting to hear the interpretation of its application in a 14b right-to-work State, Wyoming, and I appreciated that also.

Mr. HANSEN. I thank my good friend from New Jersey. For those who may not know, he and I agree on far more issues than we disagree on. I am very pleased and proud to have him join me, as has the distinguished senior Senator from New York (Mr. JAVITS), in a bill to change some of our tax laws in a way that I think will be exceedingly helpful in the generation of capital, which I believe holds the key to expanded employment opportunities in this country. I would be derelict indeed if I were not to express now my appreciation to both of our distinguished colleagues on the floor involved with me in that issue; and let me hasten to add also that I am aware that this law, or rather I should say the bill now before the Senate, being considered and debated—perhaps those who may read what I have said may wonder what relevance there may have been in those observations with regard to this bill, because I do understand that 14b is not one of the issues here.

But I do want to say, Mr. President, that there are a number of issues in this complex society of ours, and I do not suppose we could discuss them all if we were to spend several days here—and I would not doubt at all but that we may indeed be spending several days here.

There are things that I would like to have changed. I think one of the things that ought to be changed is the opportunity that I would hope at some time may be afforded to members of unions to decide if they want to terminate a strike, and to give them that opportunity by secret ballot.

I underscore those words "by secret ballot," because I think without a doubt, if we are honest with ourselves, we must recognize that few indeed will be those members of a union possessed of sufficient courage and with the necessary detachment, considering their own well-being and the well-being of members of their families, to incur the animosity of union leaders and goons who sometimes, contrary to the motivations of most members of the labor force in this country—who are decent, law-abiding, God-fearing citizens—there are those few who will carry out the work and designs of union leaders to accomplish purposes that are achievable only by clearly illegal means. That represents the sort of activity that I earlier alluded to when I spoke about truck drivers being shot at.

It is not exclusively in the coal fields, by any means. I remember a few years ago a farm organization, I believe it was—well, I hesitate to say how the union members referred to themselves and their particular organization, but they were determined that they were going to raise the price of agricultural products, if by no other means, by keeping products from moving to market.

They were active in the West. They actually overturned some cattle trucks, some people were shot, and there was property damage as a result of their insane desire to have their way despite the fact that it was clearly illegal.

They, too, are the exception rather than the rule of the kind of behavior that we have learned to expect from farm people or from coal miners or anybody else. But there are those who do that, and because it is a fact, I understand full well why a laboring man is not about to publicly express a sentiment in contradiction of what the union is calling for.

That is the reason, Mr. President, that Paul Fannin and I tried to have an amendment made in our labor laws which would give workers, the people who have come to know that they are going to get their bread by the sweat of their brows, and they know that while there are some kinds of relief and help available when they are out on strike, I think by and large they would far sooner be at work, contributing to America's production, helping satisfy human needs, than to have an enforced idleness imposed upon them and have to rely upon welfare and social organizations that understandably would be concerned with the absence of income and the devastating effects it has upon their wives and families.

But they know better, Mr. President, than to take actions publicly that will incur the wrath and the indignation of union leaders.

They know what sometimes happens to people. They read about Yablonsky. They have seen people in their own ranks who had unfortunate accidents occur to them simply because what they wanted to do did not accord with what was the union plan.

I am pleased that in one respect we have this focus of interest upon labor law reform. I wish it were a bill that I could enthusiastically support because I recognize, as does the distinguished Senator from New Jersey and the distinguished Senator from New York, that changes are necessary and should be made.

Before we have concluded considering this legislation, I would hope that we would give our friends on each side of the aisle—and this is one of those issues that does not divide itself between Democrats and Republicans by any means as it cuts across the full spectrum of Senate membership—a chance to examine some of these other issues which address the valid and legitimate concerns of working men and women in this country to see that we give them an opportunity to express themselves in a manner which will be reflective of their deeply held personal views and, at the same time, not expose them to risks of injury either to themselves, their families, or their properties.

I think, if I may say so, these are pretty basic issues. As my good friend from New Jersey said, we do have laws on the books, seemingly, that can be used. There is no doubt about that. It is against the law to kill a man; it is against the law to harm him; it is against the law to threaten him.

Mr. President, I will be happy to yield to my good friend from South Carolina without losing my right to the floor.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that a member of my staff, Ashley Thrift, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank my colleague from Wyoming. He is making an outstanding presentation and I associate myself with his remarks.

Mr. HANSEN. I am deeply grateful to my good friend from South Carolina.

Mr. President, I was talking about some rights I think we should extend early on to workers.

We are proud of our country. We are proud of the rights, opportunities, and privileges that we have, despite the fact that we may not have them as widely held and shared, as I wish were the case. We continue to be, nonetheless, the envy of most of the rest of the world, because while we have not reached utopia we

have come so much closer to it than is true with most of the people throughout the world today. It is understandable that they would look upon America and upon the Statue of Liberty in New York harbor as symbols of hope and as an ideal, a goal, that they, too, might well see emulated in their own countries.

We are never going to have a perfect society. I know that. Everybody here knows that. I do think the proposal that Senator FANNIN and I made has a lot of merit.

It is difficult. Not many people have the courage to stand as one of our distinguished colleagues did just recently, the Senator from Connecticut, and to speak out as clearly as he did.

I would just have to say that if there should be a second edition of "Profiles in Courage." Mr. President, I would have to cast my vote for the distinguished Senator from Connecticut for his innate, basic honesty.

I do not at all mean to say that he was right and somebody else was wrong. I am not saying that. All I am saying is that I believe Senator ABE RIBICOFF demonstrated some of the greatest courage I have seen shown on this Senate floor since I have been here. I admire him and I greatly respect him as an individual. I respect people of Jewish origin for the important contribution they have made to America.

It is understandable that they would have influence far and away beyond the proportion that their numbers represent in the total population of the United States because, by and large, their perception, their ability, and their dedication certainly command the respect that they so richly deserve.

Mr. President, I would hope that before we get through we can persuade the sponsors of this bill to look at the whole picture. In my mind, what is wrong with this particular piece of legislation is that it has singled out myopically one narrow part of the bigger labor picture. It seeks to address some of the wrongs. I do not at all deny that there are wrongs. I do not deny at all that, insofar as it has been able, management has seized upon opportunities to change things or to influence decisions to their advantage. I grant that. But I think we would be deluding ourselves if we were to believe for a moment that there are not even greater concerns which should be addressed.

I cannot believe, for example, that there were not a lot of people in this country in past strikes, which have occurred not only in the coalfields but in transportation, in any part of our industrial activity we want to look at, who would have decided it is time to stop, it is time to say, "We have done our best in trying to move the balance toward our side, and though we have not gotten it as far over as we think is right it is time to stop and consider that the other factors that have to be weighed are going to tip the scale in balance and that we had better, as we say, knock it off and go back to work."

I think that is a decision that has personally been reached by many workers in this country, members of organized labor, but it did not become a fact for one reason only: They did not dare to incur the wrath of the leaders of organized labor. They did not dare go against the seemingly visible tide. They did not have, in a word, the right to express themselves by secret ballot.

That is one of the reasons that I am concerned about the conclusion reached by the judge in examining the J. P. Stevens case, and saying, obviously the workers wanted to belong to a union or why would they have petitioned for the right to vote on union organization?

To those who reach, as did one judge, that conclusion, I can say only the reason is very simple. If a union organizer is around and if you think it may not be healthy for you as an individual, and may not be beneficial to members of your family, to incur the hostility of a union organizer, it is a pretty simple thing to say, "I would like to see a vote." But it does not follow at all that, if you say that, you can be counted upon to vote for the imposition of a union organization which would include you as one of its members.

We have learned, long ago, to the envy of the Russians and of all of those countries that have only one man's name on the ballot, that we have the unique opportunity in the United States of expressing safely and securely, in the protection of a voting booth, that no one knows how we vote. That is all Paul Fannin and I were hoping to give to the workers of America. If there is anything undemocratic about that, if there is anything antiunion about that, I do not understand it.

I can say this: I know that, in Wyoming, the Democratic Party, or at least some of its members—and I do not know what finally happened, because I left before their convention was over. I do not know what happened, but I should know how they disposed of that plank. As I said earlier, ever since I, as Governor of Wyoming, signed the right-to-work law in that State, the Democratic Party has consistently had, as part of its platform, the removal of right-to-work.

So I approach my conclusion at about the same place I started it, and probably the same ears are listening who heard me say it earlier. It is not the representatives in Wyoming but some influential members, thinking members, of the Democratic Party, who are saying, "Let us get rid of calling for the repeal of right-to-work in Wyoming, because it is an albatross around our necks. It prevents capable, popular members of our party from being elected to the State legislature."

What they were saying, Mr. President, in essence, was that the people of Wyoming like right-to-work. They like the opportunity that our people have of saying whether they are going to belong to a union or whether they are not going to belong to it.

I say if we want to make this bill before us now more popular, one that I might try my best to help get passed into law—and I am not going to promise this, but my feeling at the moment is that we would sure move a long way in that direction if it were to include a provision that periodically, during a strike, rank-and-file union members would have a right by secret ballot to express their feelings on the desirability of concluding a strike.

I thank my colleague from Wyoming for his courtesy in permitting me to express some views.

Mr. WALLOP. As is always the case, Mr. President, my senior colleague has circumscribed this whole argument with the sense of decency and respect toward working people and their employers in America that they deserve. He and I look at this bill as something that is not directed toward employees interest but toward the interests of a rather elite class of rulers, who have long limousines and penthouse dining rooms with waiters in black ties and little towels over their arms. These leaders do not know, any longer—if they once did, and some of them did once—what it is like to be a working man in this country. I think Senator HANSEN has shown today that his interests are with the people whose hands make this country move and whose backs and brains are responsible for the prosperity that we now enjoy. To turn control of that great group of this country's strength over to such a small group of people to manipulate would be a great mistake for the future of this country.

I thank my colleague from Wyoming. He has described this problem and, as we go along and debate this issue and begin to get into amendments, I shall join with him in an amendment he once offered with Senator FANNIN. If the amendment is turned down, we can only suppose what he and I and others have said on this floor to be true. That this is not a bill in the interest of the working people of this country, but a bill to enhance the power of a very small clique of people who would abuse that power at the expense of the working people of this country.

The Senator from Wyoming understands that the Senator from Nebraska has some remarks he would like to make in a few minutes on this. In the meantime, it strikes me that if we are going to get some use out of this dialog and this debate, we could expect and should begin to expect some answers, perhaps even prior to the time that we introduce such an amendment regarding the possibility of a worker's secret ballot to conclude a strike. I see no reason why such a thing should elicit any resistance.

Yes, the indication was, a little earlier, when we worked around the edges of that argument, the Senator from New Jersey suggested that this was not the place to have such a piece of labor reform. It makes one wonder truly what is reform, if we can honestly call this an attempt at reform, or is it so narrowly directed, is it going down such a small tunnel that it only enhances the power brokers of the movement and not the rights of the workers themselves?

One can tell tales, as the Senator from New Jersey did, and it is a sad tale, about the worker who has lost his job for 2 years. We can deal with that and should deal with that. Nobody has denied, least

of all my colleague, that there are problems in management. What we have not received from the proponents of this bill is an admission that there are problems in unions and problems in the abuse of power that they possess. So, until that happens, it strikes me that this cannot be called labor reform, but only a power-enhancing mechanism.

Until there is recognition that we have problems on both sides, in the abuse of power that unions possess, in the abuse of their desire to accumulate more wealth, more power, more voting power in this country, until we recognize that there are people who do blow up coal mining machines, who do shoot at people who legitimately haul coal for a living who happen to be on the other side of an issue, who do have raids on the pension funds of the workers of the country—who do all of those things—when we recognize it, then we shall have labor reform. Until that time, it scarcely is worthy of the title of reform. It really is a piece of special interest legislation as long as we refuse to recognize that there are more than just problems with management in this country. There are significant problems.

(Mr. ABOUREZK assumed the chair.)

Mr. WALLOP. The worst part of it is that there are those who suffer because of these problems, those workmen who get fired or abused by their management or by their unions, those workers who have some kind of peculiar lower rank in the eyes of whoever happen to be local union bosses and therefore do not have a full day's work like some other person right beside him, who, for some reason or other, had incurred the favor of the leadership. Until we can recognize these problems, we are not involved in an exercise in reform.

That becomes something in the nature of a charade. It is a problem we have in the Senate from time to time and in the Congress of the United States that we label something with a pretty name. Labor reform sounds really like motherhood. Who can be against it when we get right down to it?

So we give it a pretty title and give it a scurrilous and subversive direction underneath. One only has to read the report that accompanies this bill to know that is what this exercise is.

The report, line after line, page after page, speaks of nothing but management. How to punish management for this abuse and that abuse. How to get at management. How to do this. How to do that. At no place in the report, is addressed the abuses within the labor movement. Yet, we call it reform.

It is ridiculous that we should be expected to sit here and be required to vote on something with the title called reform, to be put in the posture of being antilabor because we are sitting here voting against labor reform, when those very workers are sometimes more victimized by their unions than they are by their management.

But there is no mention of that in this report.

So what do we do? Those of us who are opposed to this and sit here and try to engage in this dialog with some meaningful purpose are cast in the role of those who create the problem, those who ride the purple hills with the black hats on, opposed to working men and women, of this country, when nothing could be farther from the truth.

To call this bill reform is one of the sad exercises we will have during the whole course of this debate.

What I would like to steer us off is these cliches that cast people in black hats and white hats because, frankly, the very structure that it takes right now puts those of us who oppose this bill in the appearance of accusing those members of the union movement in America as having black hats. I do not think that is my purpose. I know it is not my colleague's purpose.

Yet, the structures of this debate, because of those who have designed this label, make it necessary that we sit here and accuse back and forth instead of really dealing with the problems which working men and women and management have in this country with the power brokers and the power structures.

I do not know when it will end. As a matter of fact, I suspect it will not end. The opponents of this bill just will not see that there are legitimate sides that can be represented from the opposing point of view without being antiworkman, or antilabor, without categorizing the whole of people who belong in this country to the union movement, without somehow or other characterizing them as being wrong in belonging to it, and that is not the point. Yet, that is where the argument basically comes, because we have no one field in which to play.

I do not see how anyone can question the pride that a given worker takes in his union. I do not. Many people have grown up in that movement, have joined it, believe in it, and want to continue. There is nothing in this country now that would prevent anyone from doing it or even expanding it.

But what is happening? It is really interesting, what is happening right now is that they have gotten so comfortable in their seat of power, those labor bosses, the big bosses in this country, that they no longer compete as business has to compete in the marketplace for the sale and production of its products. They no longer compete for the minds and loyalties of workmen in this country. They want them handed to them. They want an indentured situation where they do not have to go out and work for members.

If the union movement declined slightly, it is not because the labor laws are inadequate, because they grew under those labor laws to where they are today. If membership is declining, it is because unions no longer serve the people they seek to serve, and, until they do, no amount of labor reform is going to be sufficient.

How can we call this reform? To hand people solutions and lives, plus the control of employees' working conditions, over to a group of leaders who will not even go out and compete for the honor of serving them is a sad day, indeed.

I just do not know how we again get cast in this role of trying to do something in the name of reform. This is not reform and does nothing for those very people that this pretty title would have the world believe are being served by it.

So we have a pretty title and a rather bleak play. I do not question the motives of the authors. I know the Senator from New York and the Senator from New Jersey feel very strongly that they are trying to accomplish something on behalf of the working people of this country. But I suspect that those who have caught their ears are not the working people of this country. They are those who have the power in large numbers who have caught their ear.

Much of the propaganda that has come from this power and disseminated down to the rank-and-file members is the same propaganda that has captured the ears and imaginations of those who are the proponents of this bill. So their motives are decent motives, entirely decent, and I do not question them.

But if we could look at the effects and the real world of holding a job, at the real world of belonging to some unions in this country, the real world of dealing with some unions in this country, as well as the real world of dealing with some employers in this country; and the real world of dealing with the practical problems of fairness and unfairness, decency and indecency, violence and the lack of violence, respect and the lack of respect, if we could get down to that point, then we could call this thing labor reform. Then we would do something on behalf of this country.

But until we do, I guess we are stuck with what we have, and we play on the field that is the playing field, with the lines where the chalk is. This bill is what we sit inside.

It is too bad, because many of the opportunities we have to do something decent will be proscribed by the very chalk lines that are drawn around the arguments we are undertaking as of yesterday.

Where that leads us is to a place called never. We sit here and fiddle. We sit and fiddle, talking about things that in the long run will not help. While we procrastinate, while we do this, we would be better off, I think, talking about how we would get a generation of young people to work in this country. We would be much better off doing that than we ever would dealing with providing more power into the hands of those who already manipulate too much of it in this country.

The Cervantes quotation in the advertisement, in a recent issue of Newsweek, of the Group W broadcasting companies, speaks as follows:

> On the street, by and by, one arrives at the house of never.

This is our by and by, and this is our means of procrastinating and setting aside dealing with the real problems of labor and management in this country—real problems of getting a job in this country.

One of those is the unemployment of America's youth. While we fiddle with this, that Rome burns. We may be in the process of losing an entire generation of

the productive minds and capabilities of the young people in this country.

We have done as much as we could by way of saying that it was almost impossible for them to have a job when we passed the minimum wage bill and did not even understand that those were not competing against union workers for jobs. Those young people were trying some way or another to enhance their income or buy a car or do something else, and who had no job skills, could not be recognized as being less able to earn the full minimum wage for a given period of time.

This is not going to do anything for employment in America. Yet, unemployment, especially among the young and among the minorities, is a far greater problem than anything this bill seeks to address. Yet, the very same unions which want us to do this resisted anything we tried to do by way of providing an opportunity for the unskilled labor pool of America to be employed. That is what we are doing here.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. WALLOP. I am happy to yield.

Mr. HANSEN. I could not agree more with the Senator.

I recall, clearly and poignantly, the truly great speech made by the distinguished junior Senator from California. Because of his perception, because of his direct involvement in academia, his association over a period of time with young people, he understands more clearly than many of us what the problems are of young people in this country.

I just want to take this opportunity to underscore the point that my colleague is making. Here is another example of the strong influence that unions have had in America, which continues, that has to be, on any count a person would want to make, not in the best interests of the United States.

The Senator from California made the point that young people with few marketable skills, with little previous work experience, need most of all the chance to get a job. Often, their ability to continue in the educational process will be dependent upon their part-time work. So he very properly proposed that the minimum wage be amended. He had several different ideas, any one of which I thought had great merit, that the minimum wage law be amended so as to accommodate this need by young Americans, to permit them the opportunity to go to work, to learn what the real world is about, and to get involved in taking care of themsleves.

Not only does that apply across the board so far as young people in America are concerned; but, even more significantly, it applies to minority groups; and the figures were overwhelming. Identify, if you choose, all the minorities in this country, and their rate of unemployment, their inability to get jobs, to get the first job, is a striking fact. Yet, the union influence in the Senate of the United States denied our passing the kind of law that could have resulted in getting young people and members of minorities to work in private employment.

I simply wanted to compliment the Senator.

Mr. WALLOP. What else is so sad is that I well recall the resistance that the union leaders had to any modification of that minimum wage scale, for the very reasons that my colleagues state.

Guess what? Union members have children who do not have job skills, who have to go into that lower wage pool to start out. So, while those people were resisting that, apparently in the name of their rank and file members, they never told them that the other side of that story was they were making it difficult for their children to go to work and prosper and grow in this country as well. That is why I do not think we should be wasting our time with this "reform" until we deal with this very specific problem.

On this street, we are getting to the house of never, with respect to the generation of young people in America, when their opportunity to progress in this society and to have the same kinds of opportunities we had are going by the wayside.

I thank my colleague from Wyoming, and I yield to the Senator from Nebraska.

Mr. JAVITS. Mr. President, will the Senator answer one question?

Mr. WALLOP. I will be happy to do so.

Mr. JAVITS. I want the Senator from Nebraska to go ahead.

I will be very interested, I say to my colleague, when a bill comes before us, already reported by the Human Resources Committee, to deal with the problems of youth employment as we have already in the youth employment bill.

I hope that in the interim—I think it is a legitimate hope—Senator WALLOP will study very carefully the bill on CETA, the Comprehensive Employment and Training Act, which has just come out of our committee. I do not know how the Senator voted or what he did about the previous youth employment bill, which put up $1.5 billion for youth employment, for 1 year. I hope the Senator will study those things carefully. I think he would be a marvelous recruit to join in the struggle to create jobs for youth.

One last thing I hope the Senator will think over, and that is that there are 93 million people in our country who are gainfully employed, of whom, in round figures, approximately 83 million are not in public employment or are not unemployed. There are 6 million unemployed. Does he not think, in all fairness, that if we see a deep inequity and injustice to the 83 million employed, the Senate should take a little time to discuss and consider that?

I say to my colleague that I hope he will assimilate his attitude toward this bill with his attitude toward tax bills and many other bills in which, I have little doubt, he has said and will say, "Now, let's stick to the particular problem. Let's not roam all over the lot and try to reform everything."

Mr. President, the Senator thinks he has a donnybrook in this one. You should see the donnybrook you would have if you tried to amend the whole body of labor law and collective bargaining.

Finally, Mr. President, I think this also is very important: I am the first one to say—I have said it time and again already in this debate, and I will say it time and again—that there are as many rascals in labor as in business. But we should be just as chary in speaking of labor as we are in speaking of business. I feel that way, and I act that way, and I have done so in all the years I have been in this Chamber.

No one knows better than I the sincerity and dedication to our country and its best values of these four Senators who are in the Chamber: Senator WALLOP, Senator HATCH, Senator CURTIS, and Senator HANSEN. I assure them that I am listening very, very carefully. But I do hope that, as they wish us to consider everything they say, they also will consider everything we say.

Mr. LUGAR. Mr. President, will the Senator yield for a question?

Mr. WALLOP. I am happy to yield.

Mr. LUGAR. I ask this question of the Senator from Wyoming: During the very interesting colloquy and debate we have been enjoying in the past few minutes—and it is now approximately 2:30—is it not true that all the Senators now on the floor are of the minority party? I simply ask the Senator from Wyoming to observe those present in the Chamber, with the exception of the present occupant of the chair, the distinguished Senator from South Dakota (Mr. ABOUREZK). It occurs to me that we are having an interesting colloquy among the members of a very vital party in our country and that probably the country should be informed of that.

I pose that question to the Senator: Does he observe any others in the Chamber, with the exception of the occupant of the chair, who are of the majority party?

Mr. WALLOP. I cannot observe any members of the majority party on the floor other than the distinguished Senator from South Dakota, who occupies the chair. He, I assume, is there by virtue——

The PRESIDING OFFICER. Will the Senator suspend?

The Chair will say that that is enough. [Laughter.]

Mr. JAVITS. I was going to say that.

Mr. LUGAR. I thank the Chair.

Mr. CURTIS. Mr. President, will the Senator yield to me for further reply to this question?

Mr. WALLOP. I am happy to yield.

Mr. CURTIS. There is a very basic reason for this. That is because the Members of the minority party are trustful. If there were four or five Members of the majority party over there and no Members of the minority party, the word would get out over Capitol Hill and the leadership would say get someone in here to watch the floor or something will happen and great public damage would come from what they might slip through at that time. But because of the high standards of the Members of the minority party, their reputation for integrity, honesty, and trustworthiness it is per-

fectly safe for the majority party to go on.

As a matter of fact, it is nothing new. It is nothing new. For weeks and weeks we have debated here various subjects, and no one listens to the debate. The bells ring. They get the party line, come in and vote us down. As a matter of fact, they are a little drunk with power. We have had one party control of Congress almost for a half century with the exception of two brief periods of 2 years each, and it is a lopsided control, 62 to 38.

Of course, no voter with much sense of balance is going to vote this fall to make it 63 and 37 or 60 and 40.

So, the question the Senator raises is quite understandable. The pattern of procedure here is for the majority party not to listen to the debates but come in with power when the roll is called and, second, it is perfectly all right for them to be absent because they can trust us.

I thank the Senator for yielding.

Mr. WALLOP. I know that the jungle telegraph has gotten out and suddenly we are graced with the presence of a Member of the majority party, my distinguished colleague from New York.

Mr. MOYNIHAN. Mr. President, if the Senator will yield for a unanimous-consent request, I ask unanimous consent that Miss Judith Bardacke and Dr. Frank Askin, of my staff, be allowed the privileges of the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I say to my good friend and fellow freshman I served a great many watches in the U.S. Navy and I was taught to be 5 minutes early on deck, and I arrived 2 minutes late for which I apologize to the minority and which I hope my youthful training will henceforth assert itself and the Senator will have an attentive listener and I hope equally attentive rebutter.

Mr. WALLOP. I thank my colleague from New York.

The point of fact is we were having a pretty good time here. The Senator kind of came in and broke up the caucus.

But as is often the case in one of these things when Senators of such knowledge and awareness of the issue at hand are discussing business on the floor, the wrong Senators are in church. The true believers were here. It is like a bunch of old cowboys sitting and talking about the price of beef. All of them know it is not any good, but the housewife back in my colleague's State is fully aware that the price of beef is up but she is not aware of why?

But be that as it may, we nearly had it solved but unfortunately the jungle telegraph got out and the word is back. So I guess I will now yield to my colleague from Nebraska for further information and hope that some of the right Senators do come to church and hear his inspired message.

Mr. CURTIS. I thank my distinguished friend.

Mr. President, I seek recognition in my own right.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. At this hour are we under a rule of germaneness?

The PRESIDING OFFICER. We are not under a rule of germaneness.

Mr. CURTIS. I thank the Chair.

THE PRESIDENT OF TAIWAN

Mr. CURTIS. Mr. President, I wish to say something about the inauguration of the new President of Taiwan.

It is rather humiliating to the Senator from Nebraska, and I am sure to a great many others, that the President of the United States has not sent a representative to Taiwan for the inauguration of their President. Their new President, Chiang Ching-kuo is a most distinguished man, dedicated to the cause of freedom and private enterprise. Taiwan is a friend of the United States. Of all of the nations of the world, they lead in the per capita purchase of the products of the United States. They can be counted on on the side of freedom in the struggle with communism.

It is true Ambassador Unger will represent the President. He is already there. I have met him. I have a high regard for him. He will perform his office well. He will, however, be under direction of the State Department.

This inauguration deserves an emissary sent by the President of the United States to represent him and the entire country.

To fail to do this is not only a blunder it is not good practice. It is not civil treatment to that country. As a matter of fact, throughout the history of our country we have honored other countries at their inaugurations and their special days by the President of the United States sending someone to carry the greetings and the congratulations of this country to the head of the government that is being inaugurated.

This has been done many times when the country is quite insignificant from the standpoint of world powers. It has been done when we criticized and disagreed with the country and maybe even with the individual to be inaugurated. But here is one of our friends. It is not right that this be handled in such a manner.

Mr. President, it cannot be said that our desired relations with Mainland China are such that we ought to snub Taiwan.

Mr. President. there may be some who think that the snub of Taiwan in connection with their inauguration is justified under the overall and strong desire on the part of some to move toward closer relations with Mainland China.

My reply to that is Mainland China does not expect such a thing, and it is not necessary. Now, they may say so, just like they say they follow the party line and say that the United States should get out of Korea. But, as a matter of fact, they do not want us to. They want us there as a buffer to the Russians.

So they follow the party line and they say, "Yes, the United States should break its treaty with Taiwan, sever relations and recognize us." Well, my guess is they do not believe any such thing. But that is the party line.

My basis for saying that is that I spent 2 weeks in Mainland China. I talked with many of their officials. They would tell us how important it was that we ought to break our treaty with Taiwan and recognize that Taiwan belonged to them as a prerequisite to any improved relations with Mainland China. But before they ended that conversation they would say, "Well, that is a minor issue. Our big issue is resistance against Russia, and on that we must unite."

Any listener would interpret that as indicating that as long as they talk that way, we can improve our relations with mainland China and we can attempt to get more trade without betraying our sturdy and dependable ally of Taiwan. So I am sorry that my country has not rendered to Taiwan the recognition and honor that we should have rendered with reference to the inauguration of their President.

RULE OF GERMANENESS

(The following proceedings occurred during the foregoing remarks by Mr. CURTIS.)

The PRESIDING OFFICER (Mr. ABOUREZK). If the Senator will suspend just for a second, after checking the rulebook, the rule of germaneness applies until the hour of 2:57 p.m. Since the morning business was terminated at 11:57 a.m., the debate must be germane to the pending business for a period of 3 hours.

So until that point the debate must be——

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator be allowed to proceed out of order notwithstanding the rule of germaneness.

The PRESIDING OFFICER. There has been a unanimous-consent request for the Senator from Nebraska to proceed without the rule of germaneness.

Without objection, it is so ordered.

Mr. CURTIS. I thank the Chair and my friend from Texas.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CURTIS. Yes, I will. But I was aware that there was such a rule and I did not know the hour that it expired today. For that reason I sought permission first. It was not the intention of the Senator from Nebraska to violate the rule.

I am now happy to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I would certainly want the Senator to proceed to speak out of order if he wishes, but the rule of germaneness does not apply—the 3 hours do not run from the close of morning business.

The PRESIDING OFFICER. If the Senator will suspend for just a moment.

Mr. ROBERT C. BYRD. Today during the order for the recognition of the majority leader, which is a standing order, the Senate transacted some business. The 3 hours run from that point and not from

the later point which the Chair mentioned, the close of morning business.

The PRESIDING OFFICER. The rule states—it is rule VIII, section 3:

At the conclusion of the morning hour or after the unfinished business or pending business has first been laid . . .

Mr. ROBERT C. BYRD. Or pending business has first been laid before the Senate. So the business first laid before the Senate was the bill passed by unanimous consent during the first 5 minutes that we were in session.

The PRESIDING OFFICER. We are checking the time on that. The Senator is correct. We have checked the time. That bill was passed at 11:35 a.m.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. So the Senator from Nebraska does not need unanimous consent to be nongermane. He can be as nongermane as he wants to.

Mr. ROBERT C. BYRD. That is exactly correct. But I wanted the RECORD to show that the running of the 3 hours does not start at the close of morning business in the event that other business had been transacted prior to that time. I thought that I should make that statement for the RECORD, and the Chair has sustained my position.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I merely do this so that in the future the Chair will not be advised wrongly by the Assistant Parliamentarian, and that is without any reflection on the Assistant Parliamentarian. We all have to learn the rules, and some of us sometimes slip up, myself included. But——

The PRESIDING OFFICER. The Chair would advise the distinguished majority leader that he appreciates the correction, and would hope that in any future cases the majority leader would also abide by the rules.

[Laughter.]

Mr. ROBERT C. BYRD. Well, Mr. President, the majority leader attempts to abide by the rules at all times, but when I do not, I would appreciate it if the RECORD will show that I am out of order so that in subsequent times we can proceed in accordance with the rules.

Would the Chair rule I am out of order?

The PRESIDING OFFICER. The distinguished majority leader is not out of order at this point. He has been in the past.

[Laughter.]

Mr. ROBERT C. BYRD. I thank the Chair, and I thank the distinguished Senator from Nebraska.

The PRESIDING OFFICER. I think the majority leader was correct, and he corrected my mistake. It was not the Assistant Parliamentarian. I was reading the rulebook myself and, perhaps——

Mr. ROBERT C. BYRD. The Chair is very generous.

Mr. CURTIS. Mr. President, I thank the distinguished majority leader, and I thank the Chair. I am particularly grateful that my speech is in accordance with the rules of the Senate, and I trust that my remarks have been legitimatized ab initio because it is a pretty good speech.

[Conclusion of earlier proceedings.]

Mr. MOYNIHAN. Mr. President, will the Senator yield for a coment?

Mr. CURTIS. I would be happy to yield.

Mr. MOYNIHAN. I have listened with attention to what the Senator has said, and I would like to associate myself with his remarks and his judgment and, perhaps, particularly with the insight he offers as to the distinction between what the Government of mainland China says and what it thinks; that the Government there is, as any government, constrained by certain traditions of rhetoric, and finds some advantage in that, but reality also imposes itself, and I have had the privilege to serve as Ambassador to India and as Permanent Representative of the United States at the United Nations, where I found it was almost the only uniformity in the foreign policy of the People's Republic of China that they meant something different from what they said, and would so communicate, and as I gather the Senator from Nebraska learned about the Chinese view, the mainland Chinese view, about our situation and position in South Korea, where they will thunder at the United Nations against our presence but say to us, "Surely, you are not going to leave."

There is a tradition, perhaps more Chinese than American, here. I do not want to comment on that, but certainly it is an observed pattern.

What are they to think of us in the fact that a President of Taiwan is inaugurated, a government with which we exchange ambassadors, a government with which we have had the closest relationship for 30 years, and we do not show up? Would they not ask themselves—in comparable circumstances would they not show up? Of course they would. And, indeed, would they not do so if only in order to have something to trade at some later date when they are asked not to?

The Senator from Nebraska has made a point of greater wisdom than the brevity of his remarks might indicate, and I would like to express my appreciation for his having done so.

Mr. CURTIS. I thank my distinguished friend very much. I yield to the distinguished Senator from Texas.

Mr. TOWER. I thank the Senator for yielding.

Mr. President, I simply want to associate myself with the remarks made by the Senator from Nebraska. I wonder what kind of perception it is likely to leave in the eyes of the rest of the world if we really turn our backs on an old, reliable, and trusted ally, regardless of the attitudes of others toward the Nationalist government, or regardless of their attitudes toward Peking. I think even those countries that do not recognize the government in Taipei and recognize the government in Peking, who are friends of ours, would have some concern about our reliability as an ally should we turn our backs on Taiwan; and I think the distinguished Senator from Nebraska has performed a service in focusing attention on this matter.

Mr. CURTIS. Mr. President, I thank my distinguished friends for their contribution to this discussion. I am sure that there will be many nations represented in Taiwan, and I regret that the emissary of the President is not there.

Mr. President, I shall proceed now to express some of my ideas in reference to the matter now pending.

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of H.R. 8410.

Mr. CURTIS. Mr. President, we consider today Senate bill 2467, the Labor Reform Act. The title itself is a misnomer, for although this bill purports to be a reform of previous labor law legislation, it is in reality not a piece of reform legislation, but rather a virtual giveaway of power to organized labor. If the Congress passes into law this legislation, the existing balance of power between management and the labor unions cannot be maintained. If this legislation is passed then there is no question that the powers and privileges of union orgnaizers will be unfairly increased.

The Congress, through various legislation passed in this century, has sought to protect the rights and interests of the American worker as well as the rights and interests of management. At this time in our debate on this legislation, it would behoove us to review the labor law legislation which is now the law of the land. This legislation has enabled our Nation to successfully reconcile differences between labor and management. While many of our allies have suffered through crippling periods of labor unrest, the laws which have governed our own labor relations have been successful in establishing principles for governing the conduct of labor and management. These principles have effectively governed labor relations and I believe that they remain fair and just both to labor and to management.

Prior to 1935, Congress had passed several legislative acts designed to enhance the position of organized labor. Though some of these statutes remain in effect to this day, Congress did not enact comprehensive legislation defining and regulating labor-management relations until 1935 when the Wagner Act was passed. That act has been labeled the "Magna Carta" of the American labor movement, since it was the initial comprehensive approach by Congress to the problem of labor-management relations. The plan and purpose of the act was expressed clearly and succinctly by President Roosevelt in his remarks after signing the measure into law:

This act defines, as a part of our substantive law, the right of self-organization of employees in industry for the purpose of collective bargaining, and provides methods by which the Government can safeguard that legal right. It establishes a National Labor Relations Board to hear and determine cases in which it is charged that this legal right is abridged or denied, and to hold fair elections to ascertain who are the chosen representatives of employees.

A better relationship between labor and management is the high purpose of this act. By assuring the employees the right of collective bargaining it fosters the development of the employment contract on a sound and equitable basis. By providing an orderly procedure for determining who is entitled to represent the employees, it aims to remove one of the chief causes of

wasteful economic strife. By preventing practices which tend to destroy the independence of labor, it seeks for every worker within its scope, that freedom of choice and action which is justly his * * *

The basic purpose of the Wagner Act is to protect employees in their freedom to act in concert in dealing with their employers and to select representatives of their own choosing. The act guarantees employees the right to engage in certain concerted activities or to refrain from engaging in these activities on their behalf. Furthermore, employers are prohibited from engaging in certain activities that might interfere with the exercise of the rights of employees. This prohibited conduct is classified as "unfair labor practices"; employers or labor organizations found guilty may be required to pay back wages or give other remedies to employees as well as to cease and desist from further violations.

The protection which the Wagner Act sought for employees was to be achieved by the prohibition of these unfair labor practices. First, employers were prohibited from interfering with, restraining, or coercing employees in the exercise of their rights to organize, bargain collectively, and engage in other concerted activities for their mutual aid and protection. Second, employers were prohibited to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. Third, employers were prohibited from encouraging or discouraging membership in any labor organization by discrimination with regard to hiring or tenure or conditions of employment. Fourth, employers were prohibited from discharging or otherwise discriminating against an employee because he has filed charges or given testimony under the Wagner Act. And, last, employers were prohibited from refusing to bargain collectively with the majority representative of his employees.

The Wagner Act created the National Labor Relations Board and charged it with the responsibility for the administration and enforcement of the act. The Board's functions were essentially of a dual nature—first, the Board was responsible for the conducting of elections to ascertain the chosen representatives of employees, and, second, the Board was responsible for hearing and determining cases in which employees' legal rights of self-organization for the purpose of collective bargaining was abridged or denied.

Through the establishment of guidelines governing labor-mangement relations and the creation of a mechanism to regulate and enforce these guidelines, the Wagner Act provided a partial answer to the changing problem of labor relations. Supporters of the legislation recognized that the modern industrial environment rendered obsolete the concept of individual bargaining as the regulator of labor relations.

Social and economic change had necessitated a vehicle for collective bargaining. Proponents of the measure felt that through the modus operandi of collective bargaining, democracy would be extended to the workplace of America. No longer would America's working men be completely subject to the authoritarian control of their bosses with no channels for the expression of grievances. Rather, with the Wagner Act now the law of the land a mechanism was established so that America's workers and bosses could settle their disputes in a harmonious fashion.

However, Congress saw yet another reason requiring passage of the Wagner Act. Passage of the act, these distinguished leaders believed, would result in a diminution in the number of strikes affecting various industries in the Nation, since the workers would have recourse to collective bargaining. In explanation of this premise, the Wagner Act declared that:

Experience has proved that protection by law of the right to employees to organize and bargain collectively safeguards commerce from injury . . . By encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or working conditions.

The Members of Congress felt that the collective bargaining process, once firmly established within the economy, could serve as a bridge to industrial harmony.

On the basis of these observations, Congress set forth the public policy of the United States in the Wagner Act:

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedures of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own chosing, for the purpose of determining the terms and conditions of their employment or other mutual aid or protection.

In the 12 years that followed the passage of the Wagner Act, many Members of Congress as well as many members of the business community felt that the balance in labor-management relations had become too weighted in favor of the unions. There was a widespread conviction that the workers needed protection against the unfair practices of unions and that the public needed protection, as well, from the extended work stoppages caused by some labor disputes.

(Mr. MELCHER assumed the Chair).

Mr. CURTIS. Following the passage of the Wagner Act, the labor movement was characterized by a period of unprecedented growth. In 1935, there were less than 4 million members of labor unions; by 1940, union membership had grown to almost 9 million; and by 1945 membership approached 15 million. In that year alone, 4,985 strikes occurred, of even greater importance was the unprecedented level of lost production—116 million man-days of production lost in that year alone.

Though the Wagner Act had been enacted into law by Congress for sound reasons, obviously there was an urgent need to readjust the balance of power between labor and management. Accordingly, President Truman requested special legislation by Congress to deal with this outbreak of crippling national strikes. Congress responded with a comprehensive labor law package; the package offered by Congress exceeded the request made by President Truman; the bill passed by the Congress dealt not with just Presidential authority to halt in the public interest crippling national strikes, but also the Congress updated the Wagner Act, attempting to more favorably balance the state of relations between labor and management by placing curbs on the abuses of power by unions.

Taft-Hartley did not remove the protection that the Wagner Act had provided for the American workingman; rather, it provided further protection for the workers by specifying rights and responsibilities for unions, which would govern the manner in which the Nation's unions dealt with both their members and with employers. A major innovation of Taft-Hartley was the introduction of union unfair labor practices just as the Wagner Act had introduced management unfair labor practices.

Taft-Hartley forbids a labor organization or its agent to perform the following: First, labor organizations are forbidden to restrain or coerce employees in the exercise of their rights to organize and bargain collectively or to refrain from any or all such activities and are forbidden to coerce an employer in the choice of his bargaining representative.

Second, unions are prohibited to cause or attempt to cause an employer to discriminate against an employee because of his membership or lack of membership in a labor organization except under a duly authorized union shop agreement.

Third, unions are prohibited from refusing to bargain collectively with an employer if it is the representative of his employees.

Fourth, unions are prohibited to engage in, or induce or encourage the employees or any employer to engage in, a strike or concerted refusal in the course of employment to handle any goods or perform any services with an object of:

Forcing any employer or self-employed person to join any labor or employer organization, or to cease doing business with any other person—secondary boycotts;

Forcing any other employer to recognize or bargain with a labor organization which has not been certified by the Board as the representative of his employees;

Forcing any employer to recognize or bargain with a labor organization when another has been certified by the Board as the representative of his employees; and

Forcing any employer to assign particular work to employees in a particular labor organization, trade, craft, or class—jurisdictional disputes.

Fifth, unions are prohibited from requiring employees covered by a union shop agreement to pay initiation fees which the Board finds excessive or discriminating. And last, unions may not cause or attempt to cause any employer to pay money or other things of value, in the nature of an exaction for services not performed or not to be performed.

Taft-Hartley amended but did not replace the Wagner Act. The employer unfair labor practices specified by the Wagner Act were continued virtually verbatim in Taft-Hartley. The significant change was that the closed shop was prohibited. Also, the freedom of the parties to authorize the union shop was narrowed. It was the intent of Congress

in effecting these changes in the law to allow workers greater freedom of choice in determining representation status free from the interference of both union and employer.

In addition to the inclusion of union unfair labor practices, Taft-Hartley made other efforts to balance the scales of collective bargaining and to insure that the alleged injustices of the period between 1935 and 1947 would not continue. Taft-Hartley, in contrast to the Wagner Act, recognized the need to protect the rights of individual employees against labor organizations. It explicitly amended the 1935 legislation to give a majority of employees the right to refrain from as well as engage in collective bargaining activities. Taft-Hartley thus dealt more completely with the question of individual freedoms of the American workers.

In yet another area of the Taft-Hartley legislation, employers, for the first time, were given collective bargaining rights. Thus, although employers were still required to recognize and bargain with properly certified unions, they were allowed to express fully their views on union organization, as long as there was no threat of reprisal or force or promise of benefit. Taft-Hartley gave the same rights to employers that the Wagner Act had given to the workingman. In so doing, the scales of justice for workingman and management were more equitably balanced. And, last, Taft-Hartley provided one other protection for the worker against abuses of power by unions. The act, responding to criticisms of the conduct of the internal affairs of unions, contained provisions that were designed to counter the effects in some unions of a lack of democratic procedures and the incidence of financial irregularities. By the inclusions of these provisions regulating union affairs, Congress established the concept that such regulation was in the public interest as well as protection of the rights of union members.

During the 12-year period following the passage of Taft-Hartley, the internal affairs of some unions became increasingly an object of public criticism. Allegations were made concerning possible misuse of union funds, abuse of union democratic procedures, and extortionate picketing and boycotting. In response to these continuing allegations of union corruption, the Senate appointed a Select Committee on Improper Activities in the labor or management field, more commonly known as the McClellan Committee. As a result of the hearings of the McClellan Committee, the Senate passed, in 1959, the Labor-Management Reporting and Disclosure Act, commonly referred to as the Landrum-Griffin Act. The Landrum-Griffin Act, responding to the allegations of union corruption, established further provisions governing union management. Through this legislation Congress sought to protect further the rights of America's workingmen by curtailing the incidence of corrupt practices within unions. The act sought to achieve this result through these provisions:

First, the law made it a crime to picket for purposes of extortion, made it a crime to embezzle, steal, or otherwise misappropriate union funds, and made it a crime for a union officer handling union moneys not to be bonded. Furthermore, Landrum-Griffin permitted members of unions to file suit in Federal or State courts for damages or an accounting in cases where a union officer was alleged to have violated his trust relative to union funds or property.

The law prohibited payments, except legitimate wages and normal benefits, by employers or middlemen to union representatives. Union officials who were convicted of felonies or of violations of trusteeship and reporting provisions of the law were barred from holding office for 5 years after a conviction.

In the area of labor-management reporting, the law required unions to adopt and register constitutions and bylaws with the Secretary of Labor. Unions were also required to provide the Secretary with other information concerning their financial and organizational structure.

Landrum-Griffin required that all unions file annual reports with the Secretary of Labor listing assets and liabilities, income and its sources, and certain payments and loans. This information was also to be made available to any union member on request.

The act required that annual reports be made on possible conflict of interest payments or other transactions involving union officers and employees or their families with employers or employer middlemen. Employers making payments beyond normal wages and fringe benefits to union members or representatives were likewise required to report the details of such payments to the Secretary of Labor. All these reports were also required to be made available for public inspection. The act also made the failure to file such reports a criminal offense.

Landrum-Griffin required local unions to conduct secret ballot elections for union officers at least once every 3 years, and provided similar requirements for national unions and intermediate bodies. Certain election safeguards are specified.

Finally, Landrum-Griffin set out a "bill of rights" which included in its provisions the following: Guarantee to members of equal rights and privileges in the nominating and voting process; prohibition against unions raising dues or initiation fees or making secret assessments except by secret ballot majority vote; a bar against a union's preventing members from appearing before any governmental, judicial, legislative, or administrative proceedings, or from suing the union; requirement that a member be given written charges and a full and fair hearing before disciplinary action is taken against him by a union; requirement that unions furnish members with copies of collective bargaining contracts; and a provision for a union member whose rights under the "bill of rights" section are infringed to file a Federal suit for relief.

Through its passage of the Landrum-Griffin Act, the Congress had once again acted to protect the rights of the workingman. Since the passage of the Wagner Act in 1935, Congress had revised that law, after careful consideration, so as to balance properly the respective powers of management and of the labor unions. Foremost in the intentions of Congress has always been the desire to properly balance the rights and responsibilities of these parties, insuring at all times that management and the workingman can work harmoniously for the mutual benefit of both.

The Senate is now faced with a decision on yet another Labor Reform Act. The proponents of the Labor Reform Act of 1978 suggest that this act will contribute to the proper balance between labor and management. I contend that the proper balance between labor and management has been met and that this act will tip the scales in favor of unions, with unfavorable results to the American economy, to the American workingman and to the businesses of our Nation.

The laws governing labor-management relations have served our Nation well over the last four decades. During this period, Congress has acted, as it should, with careful deliberation. The distinguished Members of the previous Congresses who considered the Wagner Act, the Taft-Hartley Act and the Landrum-Griffin Act realized that the establishment of provisions governing the relations between labor and management must be taken with the utmost respect and awareness of the delicate interaction between these parties, of the respective rights of the parties, and of the repercussions inherent in any alteration of the balance of power between labor and management. The business community holds sincere and well-founded objections to many of the provisions of the LRA. As an indication of their concern, I refer my distinguished colleagues to the testimony of Mr. R. Heath Larry, chairman of the board of the National Association of Manufacturers, before the Subcommittee on Labor-Management Relations of the House Committee on Education and Labor in the course of hearings on pending labor legislation, including H.R. 8410, the proposed Labor Reform Act of 1978. I quote from Mr. Larry's testimony:

> Speaking for American industry, the NAM strongly supports the existing labor laws which guarantee to workers the opportunity to determine whether or not they want union representation, free of pressure from either a union or employer. The NAM also supports the duty and responsibility of an employer to bargain in good faith with a union freely chosen by employees.
>
> But, at the same time, NAM believes that employees, in the course of making their choice on whether or not to select a bargaining representative, must be guaranteed the opportunity to make a sound, reasoned, and informed decision on the issue. And, just as importantly, we believe that an employer should be guaranteed as much a right to persuade, in a noncoercive fashion, his employees that they do not need a union as union leaders have to persuade them otherwise.

Mr. Larry, referring to the proposed revisions of the Nation's labor laws, continues—

> These features, if enacted into law, would not only seriously impair the right of employers to resist union organization in a

lawful manner, but would sacrifice the supposedly unfettered right of employees to choose whether to engage in or refrain from union activity. Whatever their intent may be, the result will be to foist unions on employees. They would do this by transforming the NLRA from what is now, on the whole, a balanced framework for labor/management relations into a tool for advancing the already formidable power possessed by organized labor. They would dramatically alter the nature and intent of our labor laws to provide unions a free rein in their organizing and collective bargaining efforts and simultaneously render employers and employees defenseless against those efforts. It is an outcome which we find totally incompatible with this country's time-tested labor policies, which properly seek to achieve a balance in labor/management relations.

The stated goals of H.R. 8410 are expeditiousness and fairness. The authors of the bill attempt to justify their efforts at legislative overhaul by pointing to the delay they see in the adjudication of election and unfair labor practice cases, and by focusing on what they feel are the ineffectual remedies to deter the flagrant violator. "Justice delayed," they argue, "is justice denied."

Fairness, though, must not be sacrified for the sake of expeditiousness; and, in our view, H.R. 8410 would do just that. For instance, imposition of arbitrary time limits for a representation election, as is recommended in H.R. 8410, would assure that, in many cases, employees will not be informed on the issues surrounding the election, or even on the mechanism of the election procedure. In other cases, it would mean that elections would have to be held before the procedural issues, sometimes so critical to the outcome, can be resolved. The entire thrust of the proposal, then, is to virtually eliminate the employer and employees as parties to the campaign, and to grant unions the maximum power to control the election propaganda and the time of the vote.

In another example, while the remedy provisions of H.R. 8410 emphasize the predominant motivation for the legislation is to punish the small number of recalcitrant employers that have most vigorously fought union organization, they instead work to penalize employees as well as employers. This is clearly demonstrated by the procedures incorporated to require contract debarment as a remedy; for the primary effect of that remedy will be to eliminate the jobs of employees involved.

With respect to the remedy provisions of H.R. 8410, let us make one observation in more general terms. We believe that the Congress should be most wary about changing a statute that, until now, has only remedial powers, into one that has penal powers. We strongly recommend against the adoption of any of such provisions as contained in H.R. 8410. But, if Congress is going to give any serious thought to this area, the time is appropriate to give some thought in a companion direction. And that is to define and provide recompense to employers and their employees when their business and their jobs are seriously injured by unlawful conduct by unions.

To be sure, the matter of flagrant violators and the expeditiousness of both representative and unfair practice proceedings are worthy objectives that deserve very careful and considerable attention. But, indeed, they have already been receiving it—both by the labor law section of the American Bar Association and by a special task force of labor law specialists, on which both union and management representatives were called together by the chairman of the NLRB to offer recommendations on those issues. Some of their recommends are worthy of consideration by this committee.

When the Wagner Act was adopted 42 years ago, the Congress declared it to be public policy to favor union organization and encourage collective bargaining. When the law was first written, the general belief was that such a policy would not only prevent strikes, but would increase output and reduce the cost of goods and services.

But, more often than not, just the opposite has been the case. Whatever the merits of collective bargaining—and they are many—they do not involve a notable record either in improving the efficiency in which manpower is deployed or in achieving noninflationary settlements. Restrictive work rules and wasteful work practices mandated by unions frequently retard the productivity of American businesses. Large scale wage and benefit increases negotiated by unions often far exceed any subsequent increases in productivity among the members they represent.

There are, of course, a few exceptions, and some unions are much more constructive than others. But our basic assertion is unimpeachable.

This Nation, of course, has been greatly concerned, of late, about inflation. The President himself has wisely sensed the necessity to provide every encouragement for bringing inflation under control. But no one who is even reasonably concerned with inflation and economic efficiency should want to throw a fair balance into one which would tend to expand union representation beyond the point where free expression and employee free choice demonstrates that it is wanted.

The NAM vigorously opposes any amendments to the NLRB which it believes will simply serve to further union powers at the expense of due process and individual rights and through the imposition of unreasonable penalties on employers and employees. A fundamental revamping of this Nation's labor laws as is proposed in H.R. 8410 is an unwarranted, extreme response to the circumstances, and becomes all the more untenable when considered in light of the compromise of human rights that it would entail.

Fellow Senators, as you consider the provisions of this act, I ask you to consider the history of labor law legislation in this country. Be ever aware of the cautious deliberation of the Senate during the last four decades in devising a just and equitable balance between the rights of unions and the workingmen they represent and the rights of business. In the words of Mr. Larry's appeal to the House subcommittee:

If the Congress is once again going to consider what can be properly called labor law reform, we hope that it can approach the subject thoughtfully and deliberately. Justice delayed may be justice denied. But steamrolled justice is almost always justice denied. Do not be tempted, in the course of your efforts, to sacrifice the rights of employers and employees, and the tenuous balance that presently exists in our labor/management relations.

Mr. President, it is my hope that this measure will not be enacted. We must keep in mind the very basic and inherent rights of the men and women who toil. We also must keep in mind the very basic and inherent right of employers who make jobs possible. None of us would ever want to do anything that would interfere with the rights of employees in a given place to get together and talk about things and decide that they want to organize. They have a right to do that. That right is protected by law.

However, Mr. President, there are no inherent rights of labor organizers involved. Labor organizers seek to recruit members and to collect dues so that they can receive salaries and exert power. Their rights are not identical to the rights of working men and women. This measure is not in behalf of working men and women but is tilted in favor of those who want to recruit working men and women into their camp so that they might collect dues and assert power.

Again I say that while union organizers serve a valid and good and justifiable purpose, when their conduct is in accord with all laws and rules of ethics, they have no inherent right in the sense that the men and women who work and the management which provides the job have in the particular business.

Mr. President, I yield the floor.

(Mr. SARBANES assumed the chair.)

Mr. MOYNIHAN. Mr. President, first, I compliment the Senator from Nebraska on what is so characteristically a vigorously stated and seriously propounded point of view which has won him the respect in this Chamber which can be accorded to but few men in each generation. He knows I feel that way, even though I have to disagree with his position.

Mr. CURTIS. Mr. President, I thank my distinguished friend. We always appreciate those remarks, especially when they come from a Senator of the eminence and distinction of the Senator from New York.

Mr. MOYNIHAN. I thank the Senator.

Mr. President, it has to be a moment of strongly felt emotion for the junior Senator from New York to speak to the question of labor law in America. I was a young man in the city of New York at the time the Wagner Act was enacted, at a time of great distress in the city, as in the Nation and in the world.

I am proud that this extraordinary legislation was the work of Senator Robert F. Wagner, of New York, one of the great political leaders of the Democratic Party at that time, a man whose home was in the Yorkville section of Manhattan, and whose work has been carried on so brilliantly by his successor in the third class of Senators, Senator JACOB JAVITS, of the West Side of New York, who has been for many years the ranking minority member of the Committee on Labor and Public Welfare, now the Human Resources Committee—both men represent a golden tradition of our State.

It is with great respect that I address myself to this issue. In a spirit of irony, I call attention to certain continuities in opposition to this legislation from the extreme left, from the totalitarian left. One can learn something of the true import of liberal legislation when one sees how it is feared and dreaded by the totalitarians, either of the left or, if there be any—there are none in this Chamber—of the right.

It was a distinct fact of the Wagner Act of 1935 that no group opposed it with such vehemence, with such disregard for truth, with such utter intention to destroy, and a desperate fearing of what might be constructed, as did the Communist Party of the United States. A Communist Party statement in 1935 said:

The Wagner Board to be established by this bill will be a weapon to destroy the power which the workers have gained through their economic organization by outlawing strikes, establishing compulsory arbitration and increasing company unions.

The Communist Party, true to their conviction—The worse the better—tried to prevent the Wagner Act, in an era when they had a lot more power than they do today. They had power in the trade union movement in those days and got more as a result of the organizing that followed.

Therefore, it does not surprise one that, in a kind of perverse apostolic succession, the Marxists-Leninists of this age, such as are left—and there are a great many more in the world today, even if there may be fewer in the United States—are just as much opposed to this bill in 1978 as they were to the original bill of 1935.

I take the liberty of reading a passage from a journal, "The Workers' Advocate," which is the newspaper of the Central Organization of U.S. Marxists-Leninists, published in Chicago. The headline: "Combat the Growing Fascism of the Carter Administration! Down With 'Labor Reform Act of 1977.'"

The article reads, in part:

It is a curious fact that at the present time, under the Carter administration, every new attack on the working class is announced as a great victory for labor. Such is the case with Carter's so-called "Labor Reform Act". Carter and the other self-proclaimed "friends of labor", along with the labor traitors like George Meany of the AFL–CIO and Douglas Fraser of the UAW, make lying claims that this law will make it possible for the working class to use the government bureaucracy to help it carry through the organizing of the unorganized workers.

Mr. President, I ask unanimous consent to have the first page of this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMBAT THE GROWING FASCISM OF THE CARTER ADMINISTRATION! DOWN WITH "LABOR REFORM ACT OF 1977": REPRESSION OF THE WORKERS' MOVEMENT BY THE "FRIENDS OF LABOR"!

It is a curious fact that at the present time, under the Carter administration, every new attack on the working class is announced as a great victory for labor. Such is the case with Carter's so-called "Labor Reform Act". Carter and the other self-proclaimed "friends of labor", along with the labor traitors like George Meany of the AFL–CIO and Douglas Fraser of the UAW, make lying claims that this law will make it possible for the working class to use the government bureaucracy to help it carry through the organizing of the unorganized workers. When the bill was passed in the House of Representatives on October 6 (it will be voted on in the Senate early in 1978), it was hailed far and wide as a "major victory" and a "political comeback for labor forces". But this is all lying propaganda, political deception, meant to hoodwink the working class and "restore confidence" in the capitalist government. In fact this bill, as amended and passed in the House:

(1) does nothing to repeal any section of the fascist Taft-Hartley Act or any other anti-labor law;

(2) strengthens existing anti-labor laws and provides for a series of exceptionally severe regulations against the workers' movement, including forcing unions to pay double back-pay to any scab for every day he is unable to cross a picket line, forcing unions to allow employers to send representatives (labor spies) to union meetings, outlawing roving (stranger) pickets and wildcat strikes, prohibiting even talking about striking to a worker covered by a contract with either a written or an "implied" (!!) no-strike clause, etc.;

(3) enlarges and streamlines the government's administrative apparatus so that the capitalist government can more quickly and flexibly suppress the worker's movement; and

(4) grants a small number of minor "reforms", all of which are on minor matters and are subject to innumerable exceptions, qualifications and interpretations by the government bureaucracy.

The "Democrats" and the top labor hacks are trying to prettify the "Labor Reform Act" as a "reform". But it is actually part of the growing fascism in the U.S. It is nothing but a new and more severe Taft-Hartley Act. Carter and the Democrats are the monopoly capitalists' main tool for the deception of the workers and the oppressed nationalities. The "Democrats" present themselves as the "party of the workers and the minorities". They blame all life's evils on the Republicans, who are more open in their role as reactionary tools of monopoly capitalism. But today, with a "Democratic" President and big "Democratic" majorities in both houses of Congress, the millenium has not arrived, the promised "recovery" from the economic crisis is nowhere in sight, and there is no change from the Ford-Nixon administration. No, there is change—Carter is pushing through fascist legislation that is worse than the original models of these bills proposed by Nixon. These fascist bills will intensify the class war in the U.S. to the extreme. Now is the time for all the oppressed masses to throw away illusions and prepare for struggle!

THE "LABOR REFORM ACT" PROVIDES FOR EXCEPTIONALLY SEVERE MEASURES AGAINST THE WORKERS' MOVEMENT

In order to provide "labor peace" and turn the entire working class into servile, broken wretches ready to accept any cut in wages and the most dangerous working conditions, the "Labor Reform Act" provides for fascist suppression of the workers' movement. The capitalists want to shift the burden of the economic crisis onto the backs of the workers, and for this reason they are trying to suppress the workers' movement.

A) The Act outlaws wildcat strikes and roving pickets. In this way the Act seeks to liquidate all the struggles of the workers that take place outside of the government-regulated legal trade unions. The Act seeks to reinforce the hold of the top trade union bureaucrats over the mass of workers. All struggles that begin to break out of the entangling web of the government's rules and regulations are outlawed. The bill even gives the capitalist kangaroo-courts the right to order injunctions, and hence fines and jail sentences, against those who even so much as talk (called "induce or encourage") to another worker about walking off the job where the workers have a contract with a no-strike clause, even if that clause is not even written down but just "implied".

The workers resort to wildcat strikes because their official strikes are outlawed and the trade union channels blocked. The capitalists block the trade union channels by use of both fascist labor laws and also by their labor lieutenants, the top trade union hacks. The capitalists not only suppress strikes directly with scabs, troops and injunctions, they also use the top trade union hacks to sell out and destroy the struggles from within. Despite these vile maneuvers of the capitalists and the labor traitors, the workers have never resigned themselves to being slaves to the monopoly capitalist dictators. The workers' movement is breaking out into a number of mass struggles. The giant is stirring, breaking the puny legal shackles and sending its false friends running. When the official trade union channels have been closed, the workers' struggles have not stopped but have broken through into wildcat strikes and other forms of struggle. This is sending the capitalists into a panic.

An example of this is the struggle in the coal fields. Every major struggle of the coal miners is attacked through injunctions, fines and jailings of the striking miners. Even to accomplish such an apparently modest goal as to organize one single coal mine, the Blue Diamond Coal Company's Justus Mine in Stearns, Kentucky, the miners are forced to resort to armed struggle. The top trade union bureaucrats like Miller and Boyle before him have collaborated with the capitalists. In the last contract in 1974 Miller sold out the miners' legal right to strike over safety conditions, violations of the contract by the employers, etc. But the miners did not lie down and play dead. With their official trade union channels blocked, they turned to a tremendous number of wildcat strikes. In 1975 and 1976 they even organized national wildcat strikes of 60,000 and 100,000 respectively, demanding that the government and courts stop their repression. With proletarian ingenuity, the miners developed their roving picket movement to organize their movement outside the official trade union channels. The miners' movement is a powerful part of the whole workers' movement and, according to bourgeois statistics, it leads the entire workers' movement in strikes.

Mr. MOYNIHAN. Mr. President, the record of these things should include some knowledge of who really is against these laws and what they fear. What the Communists always have feared in this country, since they became an active force about 60 years ago, is that the American workers should organize themselves freely into democratic trade unions and advance their well-being. There is no premise of Communist doctrine which can be so uniformly observed throughout the world and throughout their period in modern history as the doctrine—the worse the better. They always seek to prevent progress, in the perverse but perhaps not mistaken judgment that progress is their enemy.

It is our successes in progress, in liberal and intelligent directions, which has made the United States, Great Britain, Canada, and a few other countries singular as nations without any serious Marxist-Leninist opposition to the principal parties—in our case, the Republican Party and the Democratic Party.

Mr. President, I wish also to introduce, simply because the mood of reflection is on me, a thought from the groups that have supported such legislation. One of the principal advocates at the time in 1935 was Msgr. John Ryan, who was the head of the Social Action Committee of the U.S. Catholic Conference here in Washington then, a great friend of labor, and a student of social issues. He campaigned so carefully and so effectively to say that the Wagner Act is good legislation; it will succeed. It responds to fundamental moral claims which modern industrial societies give rise to, in consequence of the disjunction of workers and their

families from the normal associations of land, of small shops, of ownership of the means of production, the great alienation of the modern age.

Therefore, I was struck recently by a column which has been written and is yet to appear, such that I will take the privilege of making it, releasing it ahead of its own release time, by Msgr. George G. Higgins, who is the successor to Msgr. Ryan. Rarely has such succession so happy a sequence of different men, different in many of their qualities but so singular in their attachment to central beliefs and principles as that which led Monsignor Ryan to be followed by Monsignor Higgins, who has for 30 years stood for principle and truth in labor relations, in race relations, in issues of social justice throughout this country, whether it be blacks demanding their rights in Selma, Ala., in the 1960's, or grape workers asking to be recognized in the Imperial Valley in California in the late 1960's, or whether the people involved be well known and national in their recognition or obscure and unknown. He has been there.

He has borne witness. He has taken part, and he has commented, and he has not always been wrong. A few men in our time have been as right.

This is what Monsignor Higgins writes. He says:

The Labor Law Reform Bill, which recently passed the House with 90 votes to spare, went to the floor of the Senate on May 15. Opponents of the bill, knowing that they don't have the votes to stop it in the Senate, have cynically determined to try to thwart the will of the majority by engaging in a filibuster which could conceivably paralyze the Senate for many weeks and effectively prevent it from taking care of other pressing business. In the end, of course, cloture will be invoked and the filibuster will be broken. Opponents of the bill have already announced, however, that they will then resort to other diversionary tactics in a last desperate effort to delay—and, if possible, prevent—its enactment. This they will do by introducing an endless series of amendments in the hope that the Senate leadership will eventually get tired of the debate and decide not to call for a vote on the bill, thus permitting it to die on the floor.

This is a vain hope on the part of the minority. Both President Carter and the Senate Majority Leader, Senator Byrd, have announced that they are in this fight to the finish and are determined to get a vote on the bill no matter how long it may take to do so. It is a safe bet, then, that the bill will be passed without crippling amendments before the end of the current session.

There is something almost irrational about the minority's desperate effort to kill the Labor Law Reform Bill. If this were a radical measure designed to make substantive prolabor changes in existing labor law, one would not be surprised if its opponents were to resort to almost any tactic, including the filibuster, to try to prevent its coming to a vote. In fact, however, S. 2467 doesn't fit that description at all. To the contrary, it's an extremely moderate bill designed not to change the existing labor relations law (the so-called Wagner Act of 1935, as amended twice during the intervening years), but simply to guarantee prompt union elections under the law and to provide realistic remedies for the victims of those employers who willfully break the law. In short, the bill provides unions with no additional rights and deprives employers of none of the rights they now possess under the law. It is designed solely and simply to take the profit out of disobeying the law and would have no effect whatsoever on those employers—the majority, by far—who are in compliance with the law.

Mr. HATCH. Will the Senator yield for a question?

Mr. MOYNIHAN. The Senator is happy to yield.

Mr. HATCH. Do I understand the Senator is quoting the monsignor?

Mr. MOYNIHAN. Msgr. George G. Higgins.

Mr. HATCH. I see. Listening to that comment, I think he has some misconceptions about this bill, and I think he might be rather put to stick with religion about which he might know a great deal, but this bill, I have to admit, he does not know very much about.

Mr. MOYNIHAN. Will my good friend, the Senator from Utah, state in what particular he feels that Monsignor Higgins is wrong because we can always ask him either to enlighten me or to enlighten the Senator?

Mr. HATCH. I will be delighted to be enlightened by him, but I am afraid the message would be apocryphal no matter what he did.

All I can say is everything he has said with regard to this bill——

Mr. MOYNIHAN. In the Senator's view is not the case?

Mr. HATCH. Let me put it this way. Everything he has said with regard to this bill has ignored the fact that this bill does not help the workman. This bill is an easy organizing bill. This bill does have pressure put on management and on employees without enough facts or circumstances through the vote and impound procedure of this bill. This bill will help to do away with the voluntary compliance and agreements that make the board such an efficient agency of Government.

This bill provides for interference with the rights of free speech, which businessmen should have, on their own premises, at their own time, to their own employees, by forcing upon them, if they talk about unionization, on their own premises, at their own time, to their own employees, to allow the union organizers to come in and preach unionization at the employer's expense on his time, on his premises, to his employees, even though there are all kinds of beneficial methodologies already available to the organizer.

This bill provides for inordinately stacking the National Labor Relations Board, and I think it is very difficult to escape from that conclusion on the facts and the circumstances. And this bill rather than being the modest itty-bitty bill that does not help anybody and does not hurt anybody, which is what we have heard from the labor union leaders lately, this bill becomes—well, it changes 43 years of free, fair, and open labor-management relations in a free and fair collective bargaining system and turns the remedial nature of this bill upside down—and keep in mind in the past we have had a minimum of Federal Government interference—and injects the Federal Government into the process to intimidate employers and employees alike through heinous approaches such as Federal contract debarment, which has been decried by the Administrative Conference of the United States of America as the most extreme, not modest, extreme of all remedies, and has been denounced by them. In other words, this bill, rather than being the modest bill which our learned ecclesiastical friend has described, is an extreme bill which is unfair and weights the battle inordinately in favor of our big labor Washingtonian leaders here in Washington.

In the final analysis it does not benefit really the very union people and union workers throughout America for whom it is purportedly designed.

I can go a little further: The "make-whole" remedy, instead of being fair, is hardly a modest remedy, and requires—and I think this is important, especially for our friend, the Monsignor to understand—that instead of making the man whole, based upon the average wage paid in the community he comes from, from a reasonable, fair, and practical standpoint, they make the small businessman whole based upon the highest wage settlement in our society today or units of more than 5,000 employees. Now that is not what I call a modest approach, a reasonable approach.

I might also add, and I think maybe on this particular point, since the distinguished Senator has asked me to mention a few things with which I disagree with the distinguished ecclesiastical person, the Monsignor in this particular case, he seems to decry the fact that extended educational dialog is a bad thing because it thwarts the will of the majority.

Well, I am not so sure there is a majority here, but we surely want to make sure that everybody in America understands what is going on here. I say with particularity that one of the great newspapers of America, one which I do not think anybody can say in probusiness or prolabor, I think a paper that does a basically good job, and that is the Washington Star, in its Sunday, May 14, 1978, editorial—and without burdening the distinguished Senator from New York, who is my friend and for whom I have high regard, and I am sure I have high regard for the Monsignor also, and I will be more than happy to listen to him on matters involving religion—in this matter it is apparent he does not know much about or at least does not know much about it, and I may be wrong but I do not think so, this particular editorial in the Washington Star, dated Sunday, May 14, 1978, concludes with this paragraph, and I will not burden the distinguished Senator with the whole editorial, although I would like to read the whole editorial——

Mr. MOYNIHAN. Perhaps the Senator will put the whole editorial in the RECORD.

Mr. HATCH. I will later—in fact I will do it now. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SHOWDOWN ON LABOR "REFORM" BILL

Few pieces of legislation have produced such intense lobbying as the labor "reform" act before the Senate.

Millions of pieces of mail have flooded Senate offices as a result of the grass-roots letter and postcard writing campaign waged by organized labor on one side and business interests on the other. Representatives of both groups have buttonholed senators with increasing regularity and zeal. The battle has been fought in company and union newsletters. Advertisements have been bought in news publications to enlist public support for one side or the other.

The intensity of the campaign belies the portrayal of the measure by spokesmen of organized labor, and the Carter administration which supports the bill, as nothing more than "fine tuning" of the National Labor Relation Act. If the legislation has so little potential impact, why are unions fighting so hard for it and business so hard against it?

This bill is one that union leaders want above all from the 95th Congress. Their efforts on behalf of common situs picketing, increased minimum wages, revision of the Hatch Act and other items on their legislative agenda pale beside the work they have put into getting the labor "reform" bill passed.

Why do they want it so badly? It will make it easier to organize non-union workers. A major campaign to organize the South is in the wings waiting for the bill to become law.

Union leaders hope the legislation will reverse the trend that has seen union membership slide in the past 20 years from 35 percent of the nonfarm work force to less than 25 percent. They hope it will help the non-union shops—unions won only 46 percent of such elections held in 1977, compared to 61 percent 20 years ago.

What is the "fine tuning" to be accomplished by the bill?

It would speed up organizing elections giving employers less time to plan and carry out campaigns against unionization.

It would open places of work to union organizers. If an employer campaigned against unionization on his own premises, equal access would have to be granted to union organizers.

Penalties would be increased for "unfair labor practices" by employers. For example, if the National Labor Relations Board—a board accused by many businessmen of being titled toward unions—decides that an employer has fired an employee for union activities, the employer could be required to pay the employee back pay equal to 150 percent of his salary. That's 50 percent higher than the existing law, which is designed to make an employee financially whole, not to act as a deterrent to keep employers in line.

Employers who willfully violate final NLRB orders could be barred from receiving government contracts, which would penalize not only employers but employees whose jobs might be jeopardized by such action.

If the employer of a newly organized shop was found by the NLRB not to have bargained in good faith, the NLRB could order a wage increase based on the average wages won nationally by bargaining units at similar plants.

Employers argue—rightly so, in our opinion—that taken as a whole the "reform" bill would give the National Labor Relations Act an unwarranted tilt in labor's favor, would discourage employers from opposing unionization and would intrude government into the collective bargaining process to an unhealthy degree.

A bill similar to the one before the Senate has already passed the House. Senate opponents, lacking enough votes to kill it outright, hope to talk it to death in a filibuster. The tactic is justified.

Mr. HATCH. The last paragraph states:

A bill similar to the one before the Senate has already passed the House. Senate opponents, lacking enough votes to kill it outright, hope to talk it to death in a filibuster. The tactic is justified.

I would submit that it is justified.

Mr. MOYNIHAN. I think the Senator from Utah knows that there is nothing he has done or will do which is not in accord with the rules of the Senate, and which are accordingly justified. One may have a different opinion about whether it is wise or whether it is desirable.

Mr. HATCH. That I would respect because I can believe it. But the thing that bothers me, my dear friend, is this constant decrying by labor in Washington, which is the major source of the decrying, of the use of the extended debate procedure, and the reason they decry it is because they know they have a majority in the Senate that is more than likely to vote for it, and in the House, and they have had that for 42 of the last 46 years, and is precisely the reason why they should not have any more power back here in Washington.

Mr. MOYNIHAN. I cannot agree that the Senate, which adopted the Taft-Hartley Act or, for that matter, Landrum-Griffin, was entirely an instrument——

Mr. HATCH. As the Senator will notice I said 42 of the last 46 years. There was a period when it was not in control, and that is the point.

Mr. MOYNIHAN. I would like to ask the Senator from Utah to listen to me for a moment.

Mr. HATCH. I would be glad to.

Mr. MOYNIHAN. We are in somewhat of an ecclesiastical mode. I invoked Monsignor Higgins; the Senator from Utah invoked Mr. Yoder of the Washington Star.

My difficulty is I have an inordinate regard for both of these persons. But let me invoke the U.S. Court of Appeals for the Second Circuit, which last August in the case of NLRB against J. P. Stevens & Co., recited the long list of labor law violations by Stevens.

The Second Circuit Court said the case

raises grave doubts about the ability of the courts to make the provisions of the Federal labor law work in the face of persistent violations.

Mr. President, this is the point I would like to make: That this legislation is designed to make the existing law work. It in no significant manner changes existing law.

I would like the Senator from Utah, although it is not always persuasive, to agree that in these matters the good opinion of informed persons commands attention, makes a claim on us. When we find men and women, whom we normally think of as well-informed and well-intentioned, saying this or that, we listen to them.

Now, it happens that I have been involved with the labor movement for a long time. I suppose I should declare my interest in that now. I joined my first trade union when I was 16 years of age, I joined the United Steel Workers in Long Island City. I was an officer of the Government Employees Organizing Committee of the CIO. I worked for a long time in North River Piers in New York. I did not join the trade union then because in those days only married men were allowed into the ILA, which was not inappropriate.

I came to Washington as an assistant to Arthur Goldberg, then Secretary of Labor, and became an Assistant Secretary of Labor under President Kennedy; worked under President Johnson; later served in the administration of Presidents Nixon and Ford. Did the Senator from Utah wish to say something?

Mr. HATCH. Mr. President, will the Senator yield for a moment because I have to leave the floor, and I have to leave in the middle of this stimulating statment by the distinguished Senator from New York, but I think the record should show at this point I was also born in the labor union movement. I was raised in that movement. As a matter of fact, I have great respect for it, and I do not think anybody who knows me would deny that.

I started in a formal apprenticeship program at age 16 and became a journeyman apprentice in the wood, wire, and metal lathers program in the Wood, Wire, and Metal Lathers Union of the AFL–CIO and I worked in the construction trades for 10 years.

Mr. MOYNIHAN. None better.

Mr. HATCH. None better. It was a tough job, and you had to work in it, and I am proud of it. I had to work, as did the distinguished Senator from New York. Our lives were not easy. I had to work through high school as well as college and law school.

Mr. MOYNIHAN. And it did not do us any harm.

Mr. HATCH. It did not do us a bit of harm.

I think our divergence of viewpoints here primarily is not because we disbelieve in the trade union movement. I do not. It is because of the thrust of this bill.

Mr. MOYNIHAN. I am glad the Senator from Utah makes this clear. It is important.

Mr. HATCH. I am, because the Senator gave me the time.

Mr. MOYNIHAN. Before the Senator leaves the Chamber I want to say that it does make a certain claim on our attention when Arthur Goldberg, Secretary of Labor under Kennedy, Willard Wirtz, Secretary of Labor under Presidents Kennedy and Johnson, Peter Brennan, Secretary of Labor under President Nixon; George Shultz, Secretary of Labor under President Nixon; James Hodgson, Secretary of Labor under President Nixon; John T. Dunlop, Secretary of Labor under President Ford, and W. J. Usery, Secretary of Labor under President Ford—and that goes back 20 years—are all for this bill.

Mr. HATCH. Will the distinguished Senator yield?

Mr. MOYNIHAN. Of course, I yield for a question.

Mr. HATCH. The only point I would make would be the one that Secretaries of Labor might have more credibility

than the monsignor, although neither you nor I would take away from the monsignor on ecclesiastical matters. But I do not think those gentlemen would have been Secretaries of Labor unless they had been pro-labor, because they would have had to be compatible, it seems to me, with labor or they would not have been there to begin with, and everyone in America knows that.

All I am saying is that I have not seen too many astute American people saying this bill is the fair, modest, wonderful approach and proposal that the labor leaders throughout the country and here in Washington have tried to tell the public it is. And it just plain is not; that is the problem.

Mr. MOYNIHAN. The Senator has his own views on these matters, and I thank him for them. But when Arthur Goldberg, Willard Wirtz, George Schultz, Jim Hodgson, Peter Brennan, John Dunlop, and Bill Usery, Secretaries of Labor under four administrations, two Democratic and two Republican, all stand up and say this is good law, this is a sensible change, this will uphold something precious to us—our whole system of collective bargaining—when that happens, they command respect; and if I may say so, when George Higgins says something is a good bill in the field of labor, he has seen it from a different perspective, but with no less authority.

But, Mr. President, those who oppose this bill truly are trying to change our labor system of collective bargaining, backing away from the policy which has been in place since 1935. And I fear that we can do so by legitimating, through the defeat of this legislation, what has until now been an illegitimate gamble in America, which is the refusal of employers in certain distinct regions of the United States to accede to this national policy.

The rift of the Wagner Act does not run the length and breadth of the American Republic, and we all know it. And one of the reasons why it does not is that there are those regions in which there has been sufficient employer opposition and community support for that opposition to prevent the laws of the United States from being observed. That is not the first time this has happened, and it was not only one region in which it has happened.

With respect to different matters, throughout our history there have been, in different sections of the country, places which respectively refused to carry out national policy. But after 43 years from the time the Wagner Act became the law of the land—and not just the law of the States which have a condition of intelligent and fair collective bargaining where they permit it to become the law of the land—that after all these years this is now a civil rights issue. Civil rights are effectively and constructively being denied Americans in jurisdictions where the Federal law is opposed and effectively obstructed; and it makes a play, for just a little time, on our indignation.

We are going to be fairminded in this debate, but we are not going to oppose something as precious as association This is the right of every American citizen. It is the kind of right which the court of appeals for the second circuit said are flagrantly violated by J. P. Stevens Co., and in which the court said the laws are not working.

This is not the kind of legislation designed to change the objects of the Wagner Act; it is designed to achieve those objects. We shall stand on this floor and say that and document it, and do so over and over again, until at long last the will of the majority of the Senate and of Congress is worked, and this bill becomes law. And when it does, the day will dawn after it—as the day dawned after the Panama Canal Treaty was ratified—and those unreasonable fears and anxieties as to the outcome will find the Sun will come up, life will go on, and little will have changed except that people who ought to be friends will be a little friendlier; people who think the United States ought to stand for rights in the world will have yet more reason to think that this is so.

This is legislation designed to insure that the rights given to American working men in 1935 will in fact be acknowledged. It is a voting rights bill, Mr. President. It is to insure the right to vote by secret ballot for collective representation. It is a civil rights bill. It is a bill that says the right to strike cannot be violated with impunity by people who possess greater force.

This is a bill that will make us a little prouder of what we have done this year. If you wonder why it took us so long to do it, remember that in 43 years since the enactment of the Wagner Act, this is the first time that changes have been made in that act which can be described as being advantageous to the workers' side of the labor-management negotiations. The first time in 43 years.

We passed the Taft-Hartley Act, which is clearly hostile to labor in purpose and intent, and in function—the organizing efforts of labor were impeded and defeated. We passed the Landrum-Griffin Act, which responded to genuine problems. There are problems in labor organizations as in business organizations, government, or any large organizations; but the tone of the Landrum-Griffin Act was punitive.

Now, for the first time in 43 years, we are going to amend this law so as to give labor a greater opportunity to exercise the rights granted it in one of the great enactments, one of the great statutes of American social history. It is true, New Yorkers are properly proud of its having been the work of Senator Robert F. Wagner—a work which has been carried on with such devotion and such capacity to stay the course as that exhibited by his great successor from the opposite party, Senator JACOB JAVITS.

Mr. President, we come to this floor calm in the conviction of the possessed, but not less determined. I opened my remarks this afternoon by saying that none was more vicious and bitter to the opposition to the Wagner Act of 1935 than the Communist Party, because they saw in it a threat to themselves. And what was that threat? The threat of a stable industrial society in America, a labor-management world of justice, accommodation, and confidence. Ask one of the great companies that feared labor organization in 1935 if they would dream of doing without it today. Of course they would not.

They would not. They have learned that management is much more effective working with a coherent body of workers who have freely chosen to be represented and have people who can speak for them all.

The Marxist-Leninists are opposing the bill today, this bill, for the same reasons. The worse the better, they say today.

That is not the tradition of the American liberalism, either Republican or Democratic. It is not our experience. It is not for nothing that this democracy grows more stronger as the centuries go by, and it will be stronger yet, though not by any quantum changes. This is not large legislation, but this is keeping faith with the principles of social policy that came to this country in the course of the New Deal and which have strengthened it, made it a better country, in the generations since.

I thank the Chair.

The PRESIDING OFFICER (Mr. PELL). The Senator from New York.

Mr. JAVITS. Mr. President, I would first like to thank my colleague for his not only pleasing, but touching reference to Robert F. Wagner, Sr., to my mind one of the very great legislators in the history of our country.

Knowing PAT MOYNIHAN as I do, he is not given to easy pleasantries just to impress a colleague. I am very pleased and flattered.

More than that, I believe our colleague has put his finger on a very perceptive point in the zealous enthusiasm for opposing this bill, because allegedly it adversely affects small businesses.

The failure to realize the orderliness, the stability, and the justness of labor relations is an enormously important element in the life of this country. We are all individual Americans and we are all equal. There are millions of small businessmen who are the heart and blood of the private enterprise system of this country, but so also are the millions of workers. They are also individual Americans and in terms of their own labor power, they are entrepreneurs. Their morale, their productivity, are critical to both the security and to the success of this country.

We must not forget in that equation how indispensable they are to American life, especially when we realize that the whole scale of wages, salaries, and fringe benefits, and the whole weight of labor morale, are heavily positioned not only upon those who belong to unions but what those workers who do belong to unions represent to the rest of the workers in the United States, so many of whom are unorganized.

While Senator MOYNIHAN does us the honor of being with us in the defense of this bill, I would like to say a word about small business.

There is a very interesting piece in the Wall Street Journal today which says:

Business lobby gains more power as it rides antigovernment tide. It uses sophisticated members to marshal grass roots, fight labor-law change. The problems of "overkill."

Mr. President, I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSINESS LOBBY GAINS MORE POWER AS IT RIDES ANTIGOVERNMENT TIDE

(By Robert W. Merry and Albert R. Hunt)

WASHINGTON.—When business groups began roaming the halls of Congress in search of help in killing the labor-law-revision bill now before the Senate, they soon discovered the wavering vote of Florida's Democratic Sen. Lawton Chiles. Sen. Chiles doesn't like the bill, which is designed to ease the way for unions' efforts to organize workers. But neither does he like the filibuster technique, which is the way the bill's opponents aim to kill the measure.

Like about 10 other Senators whose votes are still considered question marks, Sen. Chiles has been the object of an intense lobbying campaign. At one point, he mentioned to a group of corporate executives—"just in passing," according to an aide—that he had heard from more big-business leaders than small-business entrepreneurs. The result was immediate.

"As if by magic"—in the words of one business lobbyist—the big companies stopped sending their executives to Sen. Chiles's door. In their stead came a stream of small Florida entrepreneurs, appearing in groups of 25 and carrying dire arguments about the measure's threat to their livelihoods.

THE MAGIC OF CORPORATE JETS

But it wasn't magic that carried those small-business representatives to Washington. It was the corporate jets of Florida's big businesses—which, like businesses large and small throughout the country, are involved in a lobbying campaign that is more sophisticated, better coordinated and more extensive than any other in recent memory.

"I can't remember when we last experienced a lobbying effort like this," a Chiles aide says. "It's so well-structured, so well-organized, and I don't think they missed a single possible opponent of that bill in our state."

Sen. Chile's experience, duplicated in scores of other Senate offices in recent months, focuses attention on a business lobbying machine that seems more adept than ever at marshaling its arguments, presenting them forcefully to Congress and turning them into legislative victories.

RIDING AN ANTIGOVERNMENT WAVE

Much of business's success results from sophisticated techniques that mobilize small-business troops in the hinterlands, riding a wave of antigovernment sentiment in the country. Whatever the cause, during the 95th Congress business has scored a number of impressive victories that seemed impossible 16 months ago, when Jimmy Carter moved into the White House and Congress began its work dominated two-to-one by Democrats.

Led by such well-known groups as the Business Roundtable and the U.S. Chamber of Commerce, the business forces have defeated bills to broaden picketing rights of construction workers, to create a consumer-protection agency and to allow class-action suits against companies violating Federal Trade Commission orders.

Although most of the business victories have been defensive—staving off liberal or labor initiatives—business groups have also been putting across their views in such broad areas as tax and energy policy. "I never recall hearing from so many business lobbyists on so many issues; what's more, some of them are damn good," laments a leading liberal legislator.

RISKY PREDICTIONS

It's still uncertain whether business's new strength in Congress will translate into a victory on the labor-law bill, which cleared the House last fall and reached the Senate floor yesterday. The only chance for killing the bill is a successful filibuster, and the advance vote tallies of both sides are so close as to make predictions risky.

And, of course, organized labor hasn't been sitting back idly as business lobbyists plied the congressional waters. The union lobbying effort has also been intense, making use of traditional Washington techniques as well as an extensive grass-roots campaign. "No Senator can vote against that bill claiming he never heard from us," an AFL-CIO official says.

Essentially, the bill is designed to speed the process by which unions organize new members through representation elections and to stiffen penalties against employers who illegally thwart employes' desires to join unions. Union officials say the bill is needed to end illegal antiunion tactics by employers, but business groups argue that the stiffer penalities and speedup provisions would intimidate employers during organizing efforts.

Whichever argument prevails in the Senate, business has clearly come a long way as a lobbying force in the past year and a half. The mobilization began with the 1976 election and the knowledge that Republican Gerald Ford would no longer be on hand to block liberal legislation. "We suddenly realized we would be fighting for our lives," one corporate lobbyist recalls.

"When they lost the Republican veto, they realized they had to do it themselves," says Mark Green, head of Ralph Nader's lobbying arm, Congress Watch, and a regular opponent of the business forces. "If the business groups tried to arouse all their constituencies when the Republicans were in power, it would have been greeted with a big yawn. But when the Business Roundtable and Chamber of Commerce saber-rattle and yell about a Democratic President and a two-to-one Democratic Congress, then their constituents get aroused and roll up their sleeves."

Those two organizations, of course, are far from the full strength of the business lobby; it is a large and diverse group. Along with the Chamber of Commerce there are other old-line outfits. such as the National Association of Manufacturers, trade associations and the Washington offices of major corporations.

To this longtime establishment, the four-year-old Roundtable has been an important addition. This confederation of 180 chief executives of blue-chip corporations can quickly assemble research material on almost any topic, and it often produces business leaders to lobby with individual legislators.

Less publicized but every bit as important is the emergence of politically savvy groups combining business and political techniques, such as computerizing of membership lists and "grass-roots" mailings to lawmakers.

One effective operator is James D. McKevitt, a tough-minded former Republican Congressman from Colorado who now heads the Washington operations of the National Federation of Independent Business. This small-business group has its half-million membership list broken down according to congressional district and type of business; computer printouts even show whether the members know their Congressmen personally.

The newer, more influential business lobbyists have seized on what Victor Kamber, an AFL-CIO official calls "a new veneer and a new ally." The "veneer," according to Mr. Kamber, is small business. The new ally is the cluster of conservative groups that pioneered many techniques for raising political funds and generating grass-roots support.

When most of the business forces get together, as they did on the picketing-rights and consumer-protection bills and as they are doing now on labor-law revision, it is a politically potent alliance.

Reinforcing this legislative influence is an invaluable asset: money, in the form of election campaign contributions. The number of business-oriented political-action committees making gifts to selected candidates has increased sixfold in the past four years. "Without the huge growth in political-action committees, business certainly wouldn't be having as much success in Congress," says Fred Wertheimer, vice president of Common Cause, the self-styled citizens' lobbying group; that sentiment is echoed privately by scores of lawmakers.

"OVERKILL" AND A LACK OF CREDIBILITY

For all their successes, however, some problems are arising for the business lobbyists. One may be "overkill." On the labor-laws revision, one undecided Senator recently declared that "I've already discounted the 14,000 letters I'm going to get against this bill."

Another hindrance for business, according to some lawmakers, can be lack of credibility. They find arguments made by business lobbyists sometimes shrill or even deceptive. During the battle over the consumer agency, for example, many business groups "screamed about the pages upon pages of government regulations that the consumer agency would have produced and warned that it would become another OSHA," asserts Rep. David Obey, a Wisconsin Democrat who voted against creating the consumer agency. "In fact, the proposed agency would have had no authority whatsoever to issue such regulations." Rep. Obey, who voted for labor-law revision, charges that some conservative and business groups "are employing the same lying tactics in their campaign against labor-law reform."

Moreover, the alliance of business groups is shaky at times. Differences in priorities and approach are evident and occasionally bitter.

Some of the more astute business lobbyists charge that old-line outfits like the Chamber and the NAM are too bureaucratic and slow and lack the instinct for sophisticated political infighting. "It took us three or four months just to get business to understand that common situs (the picketing-rights bill) was their fight," says a lobbyist who represened building contractors. "We worked harder on the business community during that time than we did on Congress."

Others feel the Business Roundtable is neither as shrewd nor as effective as it is reputed to be. "They're riding our coattails, not vice versa," insists Mr. McKevitt of the small-business federation. "They're too intrigued with the Oval Office; too many of them suck eggs with the President."

THE WOOING OF REP. JENRETTE

But usually the business groups join forces as they did in courting John Jenrette, a moderate South Carolina Democrat, during the picketing-rights fight last year. When the issue first came up in 1975, Rep. Jenrette felt only modest lobbying pressure, but last year "busloads of contractors and businessmen from South Carolina came to Washington to see me," he recalls. "Then, whenever I go home I usually hold an airport news

conference. Well, businessmen would start showing up at these to talk to me about common situs. I've never seen such an effort."

As the voting neared, the South Carolina Democrat had another visitor: Kimball C. Firestone, vice president of Firestone Tire & Rubber Co. "He didn't have a plant in my district, but he made a very impressive case against the bill," Rep. Jenrette remembers.

When the picketing bill was narrowly beaten, 217 to 205, Mr. Jenrette was one of the opponents. Was the business lobbying a factor? "Sure," he replies. "Any display that impressive has to be."

The same lobbying techniques now are being used with added vigor in the labor-law fight. And the new emphasis on home-state pressures means that many business groups—including the Chamber of Commerce and Mr. McKevitt's federation of independent business—make use of businessmen with special access to Senators and Congressmen.

The money factor, combined with political hardball tactics, is evident in this fight. Sen. Bob Packwood opposes labor-law revision but also opposes filibusters. The Oregon Republican heads the GOP Senatorial Campaign Committee and says he has been "threatened by large-scale cutoffs of contributions if I vote to end the filibuster." Nevertheless, Mr. Packwood says he plans to vote to close the debate.

But business groups are more aware than ever that they can't rely exclusively on big shots to press their case. "Big business is a political liability for most Congressmen," says John McCollister, a former Republican Congressman from Nebraska who heads Firestone Tire's Washington operations. "Small business is a political asset."

Sen. Edward Zorinsky, a freshman Democrat from Nebraska, confirms that. When he heard that word had gone out in the business community to keep Washington lobbyists away from him, he was impressed. "Boy, they sure got my number," he said. "Because it's true: When a small-businessman shows me his books to illustrate what he's up against, that's a lot more effective with me than some Washington professional in a three-piece suit."

Thanks to business's new grass-roots sophistication, Sen. Zorinsky and other Senators are getting precisely the treatment that business leaders think they are most susceptible to.

So much so, in fact, that Florida's Sen. Chiles has felt impelled to call a halt to the influx of small-business representatives from his home state. "They were all set to haul up another couple of planeloads," a Chiles aid says. "The Senator had to tell them not to bother. There just wasn't any further point."

Mr. JAVITS. Mr. President, what does this mean? It means that those reactionary interests which, whether it is this bill or any other labor bill, are against trade unionism, are using small businesses at their front.

The fact is that most small business is not covered by this statute and will not be. But, nonetheless, they have all been alarmed over the fact that this is some big labor grab when, as a matter of fact, it is very well known that what this bill deals with are the unorganized workers in areas which represent big business, where plants have been established in areas of our country expressly for the purpose of being located in a climate which is inhospitable to trade unionism.

That is the whole purpose and effect of it, Mr. President. There is no effort to organize small business, nor is this in any way intended to "reach" small business. But the small business community of the country has been rallied in order to try to defeat this bill simply by the fact that they have been scared. They have been scared by the opponents of the bill, not by anything, in my judgment, they have a right to be scared about in the bill itself.

It will be our business, and I will make it my special business, to deal with the problems of small business, not only from the point of view of argument, as I am now, Mr. President, but from the point of view of substance.

I am going to make it my business to see that no small businessman be put in the least trepidation who wants to do his business honestly, who wants to give his employees a fair break, and pursue the democratic processes of his country.

I am going to do my utmost, Mr. President, in the final analysis, to see that this bill, not only when it leaves here but when it comes back here in the conference report, meets those tests.

I think, Mr. President, that the best answer to any campaign, lobbying or any other kind, is truth—truth. The basic facts always speak more eloquently than any argument. I will do my utmost, to the extent that I humanly can, to see that we qualify upon that essential ground.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, history or what has happened in the past, on many occasions provides us with a clear path to the future.

As we continue our debate on the so-called Labor Law Reform Act, I would like to address two issues at this time.

The first issue is to clear the air that the bill we consider today is a complete package of new and novel solutions to labor management problems. The second issue is a look back at the 1977 so-called Labor Law Reform Act to provide a further indepth understanding of the legislation before us today.

THE LABOR LAW REFORM ACT OF 1977: AN HISTORICAL PERSPECTIVE

I. INTRODUCTION

On July 18, 1977, the President transmitted to Congress a number of recommendations to reform existing labor laws. According to the accompanying press release, these reforms are designed to accomplish the following goals: To make the NLRB procedures fairer, prompter, and more predictable; to strengthen NLRB sanctions against those who break the law, and to "preserve the integrity of the Federal contracting process" by withholding Federal contracts from firms that willfully violate NLRB and court orders.[1]

Subsequently, on July 19, 1977, Representative FRANK THOMPSON and Senators HARRISON WILLIAMS and JACOB JAVITS introduced identical bills in Congress designed to implement the President's recommendations. In Senator JAVITS' words:

The bill represents a long overdue revision of our basic labor relations statute, a revision that is necessary if we are to maintain the rights and protections already incorporated in the Act as our national labor relations policy.[2]

The Labor Law Reform Act of 1977 is thus viewed by its proponents as a means of reestablishing the policies and objectives of the original National Labor Relations Act—the Wagner Act—passed 42 years ago, and as the first major reform of labor-management relations law since the enactment of the Labor-Management Relations Act of 1947—the Taft-Hartley Act amendments. Neither premise withstands scrutiny and, in fact, may be misleading in that they create the impression that these so-called reforms are novel approaches designed to correct a perceived substantive or procedural defect in current labor-management relations.

However, as discussed below, an analysis of the legislative history of previous labor law reform acts—that is, Taft-Hartley, hereafter "LMRA"; and the Labor-Management Reporting and Disclosure Act of 1959, hereafter "Landrum-Griffin Act" or "LMRDA"—reveals that several of the current proposed reforms were considered, and rejected, by Congress on numerous occasions. By looking back at the reasons why such measures failed to become law, it may be possible to put the present Reform Act in a different perspective, as well as shed some light on the true reasons behind its introduction.

II. HISTORICAL ANALYSIS OF LABOR LAW REFORM

A. PROCEDURAL REFORMS

A number of the proposals contained in the Labor Law Reform Act of 1977 are designed to alter the structure of the National Labor Relations Board, as well as the procedures followed by the Board in its handling of cases. As more fully discussed in the analysis which follows, each of these procedural reforms have been considered, debated, and ultimately rejected.

1. EXPANSION OF THE BOARD AND SUMMARY AFFIRMANCE

Section 2 of the Reform Act would expand the size of the Board from five to seven members, and would increase their terms from 5 to 7 years. The Board would retain the authority to delegate its decisionmaking powers to three-member panels, with two members constituting a quorum of such panels. Further, the act requires the Board to establish a procedure for summary affirmance of its judges' decisions upon motion of the prevailing party before the judge, to be answered within 30 days of the judge's decision. No other change in present Board practice is contemplated. The proponents of this amendment feel that such changes will enable the Board to handle a greater number of cases more expeditiously, thereby decreasing its current backlog.[3]

The concept of expanding the Board to seven members in order that it might proceed in two separate panels is not a

[1] Presidential Message, at 2 (July 18, 1977).

[2] Press Release on Introduction of S. 1883, at 2 (July 19, 1977).

[3] CONGRESSIONAL RECORD at 23870, 23874 (July 19, 1977).

novel one. However, it was never viewed as a simple solution to alleviate the Board's backlog of cases. Rather, such expansion was proposed in conjunction with other provisions that significantly increased the jurisdiction and powers of the Board to cover matters for which it previously had not been responsible. This was the case in 1947, when Congress decided to correct a basic inequity in the Wagner Act by expanding the Board's jurisdiction to include a number of newly created unfair labor practices applicable to labor organizations. It was also recognized that this new authority over said organizations would require a complete restructuring of the Board to enable it to handle the expected increased caseload in a fair, impartial manner.

In the Senate, a proposed method of achieving this objective included a provision expanding the then three-member Board to seven members. The purpose of this provision was explained as follows:

In order to assist the Board in the *additional duties* that would be placed upon it . . . my bill would increase the membership from three to seven, and also empower the Board to act in sections of not less than three members. . . . I think it only fair to point out that should the Congress create such an enlarged Board, which I think will be absolutely essential if we *broaden the jurisdiction of the Board* to cover unfair labor practices on the part of unions as well as employers, it must have more money to function. . . .

So in fairness to the Board, I want to emphasize the importance of our acting very carefully when we approach our appropriation problems this year in the matter of making available to the [Board], *particularly if we broaden its jurisdiction and give it greater duties and obligations to perform*, sufficient money with which to do the job.[4] (Emphasis added.)

This provision was incorporated into the final version of the Senate bill as part of a major reorganization of the Board's structure, whereby its investigatory and prosecutorial functions were vested in an independent General Counsel transforming the Board into a impartial quasi-judicial body.[5] As explained by Senator Taft, the principal sponsor of the bill:

We have completely revised the nature of the National Labor Relations Board. That is required for the reason that we have created a number of unfair labor practices on the part of unions. The Senate is aware that in the past there have only been unfair labor practices on the part of employers. All action taken has been against employers. The Board has been given a necessary bias because the Board's only job has been to take action against employers. . . This bill designates a number of unfair labor practices on the part of employees and labor unions as being unfair. . . . The result is that it changes the nature of the Board; *it gives it more work to do*, and we have increased the number of members of the Board from three to seven, in order that they may sit in two panels, with three members on each panel. . . Today the Board is behind in its work, and of course *this bill will impose a considerably greater volume of work upon the Board*. . . . I think the very fact that we specify unfair labor practices on the part of unions as well as on the part of employers, will necessarily restore the Board to a more judicial attitude of mind.[6] (Emphasis added.)

Not all Members of the Senate agreed that enlargement of the Board was necessary to enable it to deal with the expected influx of new cases. Thus, it was noted that:

. . . nothing in the hearings indicated, in our opinion any need to enlarge the Board itself. On the contrary, it seems to us that the real need is, by providing adequate appropriations, to permit the Board to employ a staff adequate to the exigencies of its duties. Enlarging the Board in the manner suggested is subject to the danger that it may make the Board unwieldy and interfere with efficient administration, without any legitimate compensating advantages. At most, it should not be expanded beyond five members.[7]

The House apparently agreed with this assessment of the situation for it failed to provide for any expansion of the Board. Rather, the provisions of the House bill abolished the Board and created a new three-member panel whose sole function was to decide cases. An independent Administrator was to carry out the functions of investigation and prosecution.[8]

The conference committee reached a compromise which it felt reconciled the discrepancies between the two bills, yet met the objectives sought to be attained. The agreement retained the Board but increased its membership to five, and delegated to the independent general counsel all except the Board's decision-making authority. It was felt that this increase in membership, in combination with "the provisions dealing with the authority of the general counsel, the provision abolishing the Board's review division, and the provision relating to the trial examiners and their reports effectively limits the Board to the performance of quasi-judicial functions" [9] and would enable it to cope with its expanded jurisdiction and power.[10]

Mr. President, the next time a proposal to expand the Board to seven members was introduced as part of a labor reform measure it, too, was directed at an anticipated increase in the number of cases the Board would be required to handle. Thus in 1959, Congress sought to correct the so-called no man's land problem which disenfranchised thousands of employers and employees from the protection of the Board. This intolerable situation arose due to the Board's refusal to assert jurisdiction over those cases which had only a minimal impact on commerce, coupled with Supreme Court decisions that prevented the States from accepting jurisdiction under the Federal preemption theory.[11] To abate this situation, the House committee bill would have required the Board to assert jurisdiction over all labor-management disputes affecting interstate commerce referred to the Board. Recognizing, however, the enormous increase in cases the Board would hear, the bill also increased the size of the Board from five to seven members and authorized the Board to delegate many of its functions, such as the determination of representation disputes, to regional offices and to the general counsel.[12]

Mr. President, this provision was the subject of much criticism. Thus, one member stated that such expansion and delegation "would perpetuate the present injustice because the addition of two new Board members would not begin to equip the NLRB to assume jurisdiction for almost 200,000 additional business establishments." [13] Another member pointed out similiar deficiencies in the statutory scheme and concluded that "enlarging to seven simply will not do the job." [14] Ultimately, due to the controversy surrounding this and other provisions, a substitute bill was passed by the House deleting the provisions for expanding the Board. This resulted in a conference with the Senate whose bill likewise did not contemplate expansion of the Board. The solution agreed to authorized the Board to cede the "no man's land" cases to the States but simultaneously mandated the Board not to contract its jurisdiction.

Furthermore, the Board was not inhibited from expanding its scope of activity in the future. This was viewed as a "constructive step," one that, in combination with the delegation to its regional directors of the Board's authority to determine certain issues in representation cases, would enable the Board to continue to expand its jurisdiction without any loss of administrative efficiency.[15]

Mr. President, as demonstrated in the above analysis, the Reform Act of 1977, unlike its predecessors, does not propose an expansion of the Board as part of a comprehensive statutory scheme to increase the jurisdiction of the Board or its scope of authority. Indeed, by providing for summary affirmance of ALJ decisions it is possible that less cases will actually receive full Board consideration. Viewed from this perspective, there appears to be no compelling rationale for such expansion at this time.

2. PREHEARING ELECTIONS

Section 5 of the Reform Act of 1977 creates a procedure designed to speed up the election process by setting fixed deadlines for conduct of such elections by the Board. In cases where a petitioning union has obtained authorization cards from a majority in the unit, an election must be held within 15 days. In the case of petitions by employers, employees, or where less than a majority of the unit has signed cards a period of 45 days from petition to election is allowed. Up to 75 days would be per-

[4] Legis. History LMRA of 1947, at 984 (Comments of Senator Morse).

[5] Senate Report No. 105 on S. 1126, Id. at 414–415.

[6] Legis. History LMRA of 1947, at 1011.

[7] Id. at 495, Senate Minority Report No. 105, pt. 2, on S. 1126; see also 1052 (Comment of Senator Murray).

[8] ———.

[9] Id. at 541–542, H. Conf. Rept. No. 510 on H.R. 3020.

[10] Id. at 1537–1538 (remarks of Senator Taft); 1622–1623.

[11] Legislative history of LMRDA of 1959, at 423.

[12] Id. at 776, H. Rept. No. 741 on H.R. 8342.

[13] Id. at 1582 (comment of Mr. Dixon).

[14] Id. at 1579 (comment of Mr. Heistand).

[15] Id. at 1722 (Remarks of Mr. Udall), 940–941, H. Rept. No. 1147 on S. 1555.

mitted in cases presenting issues of exceptional novelty or complexity. Questions concerning the appropriate unit or voter eligibility would be decided by the Board, usually after the election has been held and the vote tallied. In addition, section 3 of the bill would require the Board through a rulemaking procedure, to presumptively determine certain units to be appropriate for an election.

Proposals to allow the Board to conduct an election prior to a determination of the relevant issues have been introduced in the past. Yet even those provisions which appear to be more sensitive to the rights of the concerned parties have never been enacted. An analysis of the reasons for such failure may prove enlightening.

In considering the Taft-Hartley Act amendments to the National Labor Relations Act, the Senate bill contained a rather broad provision giving statutory authority to the Board's practice of conducting elections prior to hearing "where the Board finds no substantial objection to such proceeding is being made. * * * [16] It was contemplated that such hearings would only apply in minor cases, "where no real issue is involved." [17] The House bill contained no similar provision.

However, the House was deeply concerned over the Board's determination of appropriate units. It felt that "the Board often has acted in ways that seem arbitrary * * * and has forced many * * * into units against their will." [18] When the two bills went to conference the Senate provision was dropped. As explained by Senator Taft: [19]

> The conferees dropped from this section a provision authorizing pre-hearing elections. That omission has brought forth the charge that we have thereby greatly impeded the Board in its disposition of representation matters. We have not changed the words of existing law providing a hearing in every case unless waived by stipulation of the parties. *It is the function of hearings in representation cases to determine whether an election may properly be held at the time; and if so, to decide questions of unit and eligibility to vote.* During the last year the Board has tried out a device of holding the election first and then providing the hearing to which the parties were entitled by law. Since its use has been confined to an inconsequential percentage of cases, and *more often than not a subsequent hearing was still necessary* and because the House conferees strenuously objected to its continuance it was omitted from the bill. (Emphasis added).

In considering a number of bills that were introduced in 1959, which would eventually become known as the Landrum-Griffin Act, Congress debated many provisions authorizing pre-hearing elections. The administration bill contained a provision virtually identical to that proposed by the Senate during the Taft-Hartley debates.[20] This provision was rewritten in committee to include additional safeguards against a "quickie election"; however, an amendment was later introduced to substitute the administration's language.[21] In arguing against this amendment, Senator KENNEDY noted that—

> It does not provide for at least thirty days in which both parties can present their viewpoints. A request might be made for an election . . . and the election might be held in 2, 3 or 4 days, a so-called quickie election . . . there should be at least a 30 day interval between the request for an election and the holding of the election.[22]

The committee bill retained Senator KENNEDY's suggestions concerning the 30-day period between the filing of the petition and the election. This provision was explained as follows:

> This provision should make an important contribution to speeding up the handling of a large percentage of election cases and eliminating a considerable amount of unnecessary work now performed by the Board's staff of legal assistants while at the same time *providing full substantive and procedural protection for parties at interest.* . . .
>
> Section 605 would permit representation elections by secret ballot without unnecessary delay accompanying many such cases under present procedures. During the last 19 months of the Wagner Act . . . a form of prehearing election was used by the NLRB. The proceedings authorized by this new section would be similar to the earlier methods employed by the Board but would differ in two major and important respects. First, an election cannot be held under the pending proposal *unless all parties have had the opportunity to present their views at a conference with the responsible officer of the Board.* In 1946 and 1947 the election could be directed without holding the preliminary conference, and the propriety of the procedure could be tested only after the election had been held.
>
> Second, in addition to the opportunity to be heard which section 605 gives every party at the conference, there is a provision for filing a stay of the election with the NLRB. *In 1946 and 1947 the prehearing elections were almost exclusively on behalf of unions seeking representative status. Under the amendment, the prehearing election would be available not only to such unions, but also would be available in cases of petitions by employers and decertification petitions by employees.* . . .
>
> The procedure called for carefully preserves procedural due process and guards against "quickie" elections thus affording protection to employees, employers and unions.[23]

The bill contemplated the following procedure to conduct such elections:

(a) Upon the petition being filed in the regional office, the agent of the Board determines if a consent election can be signed; if not, he can ascertain if there are substantial issues at stake. If there are none, he can then call a joint conference of the parties.

(b) At such conference he may develop further whether there are "substantial issues of fact or law."

(c) Absent substantial issues, a prehearing election could then be directed not sooner than 30 days from the date when the petition was filed.

(d) If one of the parties objected to the procedure he could file an objection with the NLRB to the holding of the election which could not, however, stay the election.

(e) After the election was conducted either party would have the right to insist upon a hearing, the purpose of which would be to require the Board to pass upon the entire record of the case.[24]

Mr. President, although this provision was also subject to the criticism that it still permitted "quickie elections," [25] it passed the Senate with one amendment that extended to 45 days the period between petition and election.[26]

The House bill contained an almost identical provision, with two exceptions. It substituted the original 30-day period for the 45 days in the Senate-passed bill, and authorized such elections only "if the appropriate unit is not in dispute." [27] This latter proviso was attacked, and amendments were introduced to delete it from the bill but were defeated.[28] Eventually, the House substituted a new bill, the Landrum bill, which did not authorize prehearing elections, and this provision was ultimately dropped in conference.

Thus, instead of permitting such elections prior to hearing, the conference bill authorized the Board to delegate to its regional directors its powers to determine the appropriate unit, to investigate, to direct an election and certify the results thereof, but retained the right of Board review over such actions upon an appeal by any interested party. It was felt that this scheme would "enable the NLRB to handle more cases, and to handle them more expeditiously, by decentralizing its supervision of election." [29] However—

> * * * [t]here is not any such thing as reinstating authority or procedure for a quicky election * * * The right to a formal hearing before an election is preserved without limitation or qualification.[30]

In comparing the procedure for prehearing elections under the Reform Act of 1977 with the similar provisions ultimately rejected by Congress in 1959, it is apparent that even minimal safeguards are absent in the proposal. It discriminates in favor of unions in the amount of time allowed for an election, and fails to provide for a preelection conference to determine whether substantial issues are involved. It is a return to the procedure employed by the Board under the Wagner Act and, as such, embodies precisely the deficiencies that have historically motivated Congress to reject such procedures.

3. LIMITATION OF THE SCOPE OF JUDICIAL REVIEW

Section 6 of the Reform Act of 1977 limits judicial review of all issues litigated in a representation case, including questions of fact, to a determination of whether the Board prejudicially violated the procedural requirements of the NLRA or the Administrative Procedure Act, or acted arbitrarily or capriciously or contrary to a specific provision of the

[16] Legis. History LMRA of 1947, at 119, 247.
[17] Id. at 432, Senate Rept. No. 105 on S. 1126.
[18] Id. at 327, H. Rept. No. 245 on H.R. 3020.
[19] Id. at 1625.
[20] Legis. History LMRDA of 1959, at 980, 985.
[21] Id. at 1072.
[22] Id. at 1085.
[23] Id. at 425, 427.
[24] Id. at 395–396.
[25] Id. at 1048 (Comment of Senator Ervin).
[26] Id. at 1253.
[27] Id. at 754, 809.
[28] Id. at 1536.
[29] Id. at 1722 (Remarks of Mr. Udall).
[30] Id. at 1714 (Remarks of Mr. Barden).

act or of the Constitution. A similarly restrictive scope of review is to be applied to Board promulgated election regulations, pursuant to section 3 of the bill. Although apparently aimed at expediting the election process, the net effect is to require the courts to defer to the presumed expertise of the Board in such matters.

The present section 10(e) of the NLRA, requiring Board findings with respect to questions of fact to be supported by substantial evidence, is the result of a 1947 amendment directly traceable to congressional concern over the manner in which courts were reviewing Board decisions and orders. This was the result of the provision in the Wagner Act which made Board findings conclusive "if supported by evidence." Under this scope of review, the House noted:

> * * * [h]owever repugnent to the courts the Board decision may seem, the Act, by making the Board its own Supreme Court so far as its findings of fact are concerned, renders the courts all but powerless to correct Board abuses.[31]

The Senate added:

> There has been some dissatisfaction with what has been viewed as too great a tendency on the part of the courts not to disturb Board findings, even though * * * based on questions of mixed law and fact.[32]

Thus, the avowed purpose of amending section 10(e) was to require a closer review of Board decisions by the courts and to—

> . . . *very materially broaden* the scope of the courts reviewing power."[33] (Emphasis added).

As summarized by Senator Taft:

> In the first place, the evidence must be substantial; in the second place, it must still look substantial when viewed in light of the entire record. That does not go so far as saying that a decision can be reversed on the weight of the evidence. It does not go quite so far as the power given to a circuit court of appeals to review a district-court decision, but it goes a great deal further than the present law, and gives the court greater opportunity to reverse an obviously unjust decision on the part of the National Labor Relations Board.[34]

In the intervening years since 1947, no persuasive reason has emerged to so significantly restrict the scope of judicial review. Indeed, by returning, in effect, to the situation under the Wagner Act, the courts may again express their repugnance to future Board decisions, thereby undermining the confidence in the Board that is deemed vital to labor-management relations.

4. GUARD UNITS

Section 5 of the Reform Act of 1977 would amend section 9(b) of the present act by permitting a bargaining unit of guards to affiliate directly or indirectly with a nonguard union as long as the latter does not represent "nonguard employees of the same employer at the same location." Guard units are permitted under the present act provided that such units do not include nonguard employees nor are they affiliated with a labor organization that admits to membership employees other than guards.

The original NLRA contained no prohibition against including guards in a unit with production employees or against the Board's certifying a guard unit affiliated with a nonguard unit. This omission proved so unsatisfactory that, in considering the Taft-Hartley Act amendments in 1947, the House initially thought that guards should be placed in the same category as supervisors—entirely exempt from NLRA protection on the ground that their duties required a high degree of loyalty to their employer which was incompatible with unionization.

Ultimately, however, a compromise was agreed upon whereby guards could form and join unions as long as such unions were not affiliated directly or indirectly with nonguard unions and as long as guard units did not include nonguard employees.[35] That compromise appears to have well served the interests of both the guards and management over the years. Indeed, although an effort was made in 1959 to permit guard units to affiliate with other nonguard unions, the proferred amendment was not enacted into law.[36]

In view of the successful experience to date with the 1947 provision relating to guards, no change in the status quo is called for. Indeed, the proposal would recreate the very danger that Congress, after due deliberation, eliminated.

B. REMEDIAL REFORMS

The Labor Reform Act of 1977 confers upon the Board the power to impose new penalties upon labor law violators. Under these provisions the Board may prohibit "willful" violators from receiving Federal contracts, may award double back pay to employees found to be illegally discharged, and may award to employees a "make whole" remedy to compensate them when the employer refuses to bargain in good faith. Additionally, the Board would be required to seek an injunction to reinstate an employee who it believes may have been unlawfully discharged during an organization campaign. Although never contemplated previously, the proponents of these reforms feel that they will restore the original intent and purpose of the labor laws. An analysis of the legislative history reveals otherwise.

Throughout its history, the NLRA has always been thought of as a remedial, rather than a punitive statute.[37] The remedies proposed thus signal a dramatic shift in labor policy. In a recent Senate publication, the nature of the Board's orders was described as follows:

> The purpose of the Board's order is remedial—to undo the effect of the unfair labor practices and to direct such action as will dissipate the effect of violators of the Act. In fashioning remedies . . . the Board has broad discretion. The Board ordinarily frames its orders on patterns appropriate to each general type of unfair labor practice, *but the Board may vary the remedy in order to fit it more precisely to the needs of a particular case.* There are no penalties or fines as such under the Act.[38] (Emphasis added).

The above focuses in on the main deficiencies of the proposed remedies. They are clearly penalties, though perhaps not designated as such. But more importantly, they reduce the flexibility of the Board to fashion an appropriate remedial order to fit a particular situation. They assume that all violators of the act have the same degree of culpability which requires a penalty unrelated to the seriousness of the violation, the relative merits of the allegation and the defenses offered, the likelihood of future violations and the violators' past history.

The Senate interpretation noted above is in complete accord with the legislative history of other labor reform acts. Thus, as Senator Taft pointed out:

> The committee did not approach the subject with the idea of recommending or passing a punitive measure . . . We approached the subject from a legal, scientific point of view. We took each of the abuses testified to . . . and tried to find a remedial provision which could finally become enacted into law . . .
>
> There is noting in the bill . . . which punishes anyone . . .[39]

As discussed below, the proposed punitive provisions of the Reform Act of 1977 do not comport with the legislative history of labor law.

1. CONTRACT DEBARMENT

Sections 7 and 8 of the bill provide for institution of complaint proceedings against "any person" charged with willful noncompliance of an existing Board order or court decree enforcing such order. If willful noncompliance is found, the Board would be required to notify the Secretary of Labor, who in turn would notify the Comptroller General to debar "such person" from future Government contracts for 3 years.

During the Taft-Hartley debates in 1947, the House passed a bill that contained a provision strikingly similar to the above in its effect. It stated that in the event the Board should determine an employee or labor organization was guilty of an unfair labor practice, the Board was authorized to deprive them of rights under the act for a period of not more than one year.[40] The Senate bill did not contain a similar provision, and the conference agreement omitted it for the following reasons:

> The House bill . . . *limited the Board in its choice of remedial orders* in cases of unfair labor practices by representatives . . . *by specifying but one type of order the Board might issue.*[41] (Emphasis added.)

Although the inclusion of a similar provision in the Reform Act of 1977

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[31] Legis. History LMRA of 1947, at 332, H. Rept. No. 245 on H.R. 3020.

[32] Id. at 433, S. Rept. No. 105 on S. 1126.

[33] Id. at 566, H. Conf. Rept. No. 510 on H.R. 3020.

[34] Id. at 1014.

[35] Legislative History LMRA of 1947, at 307, 1537, 1541, 1544, 1572.

[36] Legislative History of the LMRDA of 1959, at 1015–16.

[37] Legis. History of LMRA of 1947, at 296, 783, 1001, 1520.

[38] Compilation of Selected Laws Pertaining to Labor Relations (1974) at 50.

[39] Legislative History of LMRA of 1947 at 1520.

[40] Id. at 195, 333. *This penalty applied whether or not the violation was willful.*

[41] Id. at 558.

might make it more equitable, a situation to which unions could hardly object if they still adhere to the mutuality doctrine espoused so vehemently during the 1959 debates on Landrum-Griffin,[42] it would be subject to the same criticism of punitiveness and inflexibility. For similar reasons, the contract debarment provision should be deemed an unacceptable approach to correct labor law violations.

2. "MAKE WHOLE" REMEDY

Section 8 of the bill would authorize the Board to compensate employees for potential wage increases, based on objective criteria such as the Bureau of Labor Statistics index, allegedly lost because of an employer's failure to bargain in good faith. Although it is supposed to encourage good faith collective bargaining, this provision runs contrary to the longstanding principle that the role of Government in private collective bargaining is to bring parties together, but not to dictate the terms they will agree upon. The provision is similar in some respects to compulsory arbitration, but goes even further in that it would dictate a fixed standard as the measure of wage rates to be awarded in every case, regardless of any unique circumstances affecting the particular employer's business. This is a result which, in the past, Congress has taken great pains to avoid.

In considering methods to alleviate the adverse impact of labor disputes on the economy, Congress, in 1947, considered taking an active role in the bargaining process, but concluded that such a step was too drastic. It was noted that—

In dealing with the problem of direct settlement of labor disputes, the committee has considered a great variety of the proposals ranging from compulsory arbitration, the establishment of fact-finding boards, . . . and the imposition of specified waiting periods. In our judgment . . . we do not feel warranted in recommending . . . any such plans . . . It is difficult to see how such a system could be operated indefinitely without compelling the Government to make decisions on economic issues which . . . should be solved by the free play of economic forces.[43]

* * * * *

The theory . . . is that it is not desirable in any economy such as ours for the Federal Government to play a partisan role with respect to disputes between management and labor and that compulsory arbitration is not an effective or desireable method to be employed.[44]

The dangers inherent in such a system did not escape notice. It was pointed out that—

We did not feel that we should put into the law, as a part of the collective-bargaining machinery, an ultimate resort to compulsory arbitration, . . . or to any other action. We feel that it would interfere with the whole process of collective bargaining. If such a remedy is available as a routine remedy, there will always be pressure to resort to it by whichever party thinks it will receive better treatment through such a process than it would receive in collective bargaining, and it will back out of collective bargaining. *It will not make a bona-fide attempt to settle if it thinks it will receive a better deal under the final arbitration which may be provided.*[45] (Emphasis added.)

Similar sentiments were expressed in the House where, quoting from the testimony of the Secretary of Labor, it was noted that—

. . . the existence of compulsory arbitration laws not only eliminates free collective bargaining in situations where the parties are genuinely at odds, but will frequently encourage one or both of the disputants to make only a pretense of bargaining in anticipation of a more favorable award from an arbitrator than would be realizable through their own efforts. The net result would be a weakening of free bargaining and an increasing reliance on the compulsory arbitration procedures.[46]

There is no denying that the "make whole" provision thrusts the Government directly into the collective bargaining process. Its effect is to permit the Board to write the economic terms of the contract based on objective, albeit not necessarily relevant, criteria which, if higher than the employer's offer may encourage the union to reject a good faith offer with the hope that it will receive a better deal from the Board. Given the highly subjective elements that determine a refusal to bargain in good faith, along with the appellate procedure that requires an employer to refuse to bargain in order to contest an election, this result is a distinct possibility. This provision thus embodies precisely the evils Congress envisioned when it refused to disturb the freedom of the parties to negotiate a contract.

3. MANDATORY INJUNCTIONS FOR EMPLOYEE DISCHARGE

Section 10 of the bill would make it mandatory for the Board to seek injunctions whenever a charge is filed alleging a discriminatory discharge during a union organizing campaign or the period of bargaining for an initial contract. Under present law, mandatory injunctions apply to prohibition of certain types of union activity such as secondary strikes and boycotts, unlawful organizational or recognitional picketing and threats of such action, and the making of illegal hot cargo contracts. The Board at present may, but it is not required, to seek an injunction on behalf of a discharged employee. The legislative history provides the reasons for this disparity of treatment.

In 1947, there was heated debate over any provisions that authorized the Board to seek injunctions prior to a determination on the merits. However, it was determined that—

[b]ecause of the nature of certain of these practices, especially jurisdictional disputes, and secondary boycotts . . . additional procedures must be made available under the [Act] in order to adequately protect the public welfare which is inextricably involved in labor disputes. . . . Hence, we have provided that the Board, acting in the public interest and not in vindication of purely private rights, may seek injunctive relief in the case of all types of unfair labor practices and that it shall also seek such relief in the case of strikes and boycotts defined as unfair labor practices." [47]

Although stated in a different context, the following comment is equally applicable to the proposed provision:

It may be anticipated that, if this section become law, the Board would be harassed by demands that it seek immediate injunctive relief if unfair labor practices were alleged by . . . employees. . . .

We feel that expeditious handling is to be obtained by adequate funds to enable the Board to act speedily rather than resort to premature consideration of these matters by the courts.[48]

Thus, it was a clear balancing of public versus private interests that prompted the Congress to adopt the present scheme. The effect of the provision in the Reform Act of 1977 is to upset that balance by placing the Board in the position of having to treat such interests equally, with the result being a necessary diminution in the amount of time the Board can devote to those disputes directly affecting the public interest. The legislative history indicates that the balance should not be disturbed.

III. CONCLUSION

The impact of the Labor Reform Act of 1977 the one we are considering now or we could call it 1978 at this time, if you wish, on existing labor-management relations has received careful attention. The specific provisions of the act have been the subject of much debate and criticism. A thorough analysis of the legislative history of labor law reform shows that the present law governing labor-management relations is the result of careful compromises which have achieved a delicate balance that, with rare exception, provides an atmosphere of stability in such relations. Insofar as the provisions of the so-called Reform Act of 1977 and 1978 upset this balance, it may be said of these acts, from a historical perspective, that it is an idea whose time has passed.

Mr. President, I yield the floor.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that Dr. John Backer of my staff be accorded the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR LAW REFORM: SUBSTANTIVE, NOT PROCEDURAL

Mr. HAYAKAWA. Mr. President, supporters of the Labor Law Reform Act of 1978, apparently relying on the observation by H. L. Mencken that "nobody ever went broke underestimating the intelligence of the American people," are attempting to sell this bill to Congress by claiming that it is merely "procedural" in nature; that it does not create any new rights but simply plugs loopholes in existing laws. Unfortunately, that is simply not the case. Indeed, as demonstrated by the following, the provisions of the bill make significant substantive changes in the law, and in so doing, create heretofore nonexistent rights:

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[42] See, e.g. Legis. History LMRDA of 1959 at 507.

[43] Legis. History LMRA of 1947 at 419–420, S. Rept. No. 105 on S. 1126.

[44] Id. at 434.

[45] Id. at 1008 (Remarks of Senator Taft), 1520.

[46] Id. at 392, H. Minority Rept. No. 245 on H.R. 3020.

[47] Id. at 414, S. Rept. No. 205 on S. 1126.

[48] Id. at 1046 (Comment of Senator Murray).

First, by setting short time periods in which to hold a representation election, based on the number of authorization cards obtained, the bill gives the union the right to determine when an election will be held;

Second, the bill gives unions the right to enter an employer's private property and, on company time, to address employees on the issue of representation, in effect requiring employers to subsidize union organizing;

Third, the bill give unions the right to demand that the NLRB seek immediate reinstatement of any employee allegedly discharged for union activity during an organizing campaign;

Fourth, the bill would permit the Board, through rulemaking, to declare certain units to be appropriate for collective bargaining and to ignore 42 years of precedent wherein substantive law has been applied to the facts of a particular case;

Fifth, the bill gives unions the right to demand, and the NLRB to award, wage and benefit increases to employees as damages for an employer's refusal to bargain in good faith for an initial contract, putting the Government directly into the collective bargaining process;

Sixth, the bill gives illegally discharged employees the right to receive 150 percent of backpay while eliminating the requirement that they seek interim employment; and

Finally, the bill authorizes the NLRB to "blacklist" employers for violating the law by prohibiting them from receiving Government contracts for up to 3 years.

This is a punitive measure against the employers which has not previously been introduced into law. These provisions clearly belie any claim that the bill is only "procedural." Unions are given important new organizing tools, and the NLRB is given extraordinary authority to stampede the election process before employees are fully informed; and, through the imposition of unduly harsh penalties, to effectively diminish an employer's right to appeal representation decisions or to engage in free, unfettered collective bargaining.

Mr. President, in addition to the foregoing remarks, I would like to go back a little in history to union activity as it has affected my own people, namely orientals of Chinese and Japanese ancestry and their history in California at the hands of labor unions.

UNION ACTIVITIES AGAINST CHINESE AND JAPANESE LABOR AT THE TURN OF THE CENTURY

In 1886 Wall Street stockbroker Henry Clews offered his view of the American Dream:

> The Almighty has made this country for the oppressed of other nations. The laboring man in this bounteous and hospitable country has no ground for complaint . . . Under the government of this nation the effort is to elevate the standard of the human race and not to degrade it.

CHINESE IMMIGRATION

This was an invitation and a challenge which was accepted by both Chinese and Japanese, at different periods in American history. Let me go back more than 100 years to the beginning of the immigration of Chinese to the United States, which began just before the California gold rush of 1849. Workers were scarce and the immigration of Chinese laborers was welcomed. Aided by cheap transpacific transportation and exploited both by white employers and Chinese intermediaries, the Chinese laborer became an important segment of the labor force of the American West in general and of California in particular.

Up until 1882 (when the first Chinese Exclusion Act became law), some 375,000 Chinese were recorded as entering the United States. Much of this figure represents multiple entries by the same individuals, so the peak Chinese population in the 19th century was really around 125,000. The Chinese were employed in railroad building (Central Pacific), manufacturing, agriculture, and marginal mining operations.

CHINESE AND THE CENTRAL PACIFIC

In July 1862, President Lincoln signed the first Pacific Railway Act. This law provided for construction of a transcontinental railroad by two corporations—the Union Pacific which would build westward from Council Bluffs, Iowa, and the Central Pacific, which built eastward from Sacramento, Calif.

The obstacles to be overcome seemed almost insuperable: Engineering problems, labor and financial difficulties, the constant struggle with mountain blizzard and desert heat, and the Indians. That the obstacles were overcome must be attributed to the courage and devotion of the thousands of laborers—exsoldiers, Irish immigrants, and Chinese coolies. In fact, at times as many as 20,000 laborers laying as much as 8 miles of track a day were able to finish both the Union and Central Pacific roads in record time.

HOSTILITY TOWARD THE CHINESE

By the end of the 1870's, almost 150,000 Chinese were living in California alone. At that time, their relatively low standard of living, long hours of labor, and tractability were said to constitute a serious menace to native labor. At the same time they aroused racial prejudice by their adherence to the Chinese ways of life and religion, their exotic appearance, customs and language, and their obvious intention to return to China with their savings.

As a result, an anti-Chinese movement developed in the 1870's under the leadership of an Irish immigrant, Denis Kearney, president of the so-called Workingman's Party.

Kearney was a very energetic and robust man of considerable rhetorical powers and of great persuasive powers, and Kearney's anti-Chinese movement became an important element in California politics in the 1860's and 1870's.

The word "racism" did not exist at that time. As a matter of fact, if you look into the Oxford Dictionary, even until 1940 the word used was "racialism," not "racism"; but not even the word "racialism" was common in the 1860's and 1870's. The fact that people should despise Chinese was taken for granted as a fact of human nature.

The anti-Chinese movement solidified the San Francisco-centered trade union movement in California, where the union label was devised to differentiate goods made by white, as opposed to Chinese, workers.

That was the original purpose of the union label, Mr. President—a strictly racist designation. As anti-Chinese sentiment filled the West, the Chinese were systematically persecuted.

The worst outrage was a massacre of 28 Chinese strikebreakers by miners at Rock Springs, Wyo., on September 2, 1885. Before then, in 1877, in a similar situation in a San Francisco riot, 21 Chinese had been killed.

Robert Louis Stevenson reflects the sentiment of the day:

> Of all stupid, ill-feelings, the sentiment of my fellow-Caucasians towards our companions in the Chinese car was the most stupid and the worst. They seemed never to have looked at them, listened to them, or thought of them, but hated them a priori. The Mongols were their enemies in that cruel and treacherous battlefield of money. They could work better and cheaper in half a hundred industries, and hence there was no calumny too idle for the Caucasians to repeat, and even to believe. They declared them hideous vermin and affected a kind of choking in the throat when they beheld them.—Across the Plains, 1879.

CALIFORNIA UNIONS' POLITICAL INFLUENCE

The opening of the railroad failed to bring the expected surge of prosperity to California. As a result, the 1870's were a time of depression and wide-spread unemployment. The demagogic Denis Kearney used this situation to his own advantage and, with the backing of the Workingman's Party of California, demanded the exclusion of Chinese workers. By 1879, his party had enough political influence to elect most of the San Francisco delegates to the State constitutional convention, which produced California's second constitution, ratified in 1879.

Kearney's efforts culminated in discriminatory legislation and a demand for the prohibition of further oriental immigration. In response to what was predominantly a Californian demand, Congress, in 1879, passed the Fifteen Passenger Act, restricting Chinese immigration. This legislation was vetoed by President Rutherford B. Hayes on the ground that it abrogated rights guaranteed to the Chinese by the Burlingame Treaty of 1868. Nevertheless, the Chinese Exclusion Act was enacted in 1882. It suspended Chinese immigration for 10 years. The Chinese Exclusion Act was renewed in 1892 for another 10-year period, and in 1902, the suspension of Chinese immigration was made indefinite.

As a result of this policy of exclusion, the Chinese population of the country declined to 75,000 by 1930.

The story of the Chinese as they were persecuted and hounded from place to place, left without jobs and driven out of their skilled trades by the trade unions, is one of the tragic stories in the State of California. The fact that the Chinese were able to survive this at all and to maintain their integrity and their culture, in spite of everything, is one of the

great tributes to the durability of the Chinese people.

If today you were to visit, for example, the Chinese temples, now a tourist attraction, in Oroville or Weaverville or Marysville, in California, you will know what heart, what courage, what dedication went into the building of those little temples, and what terrible things they had to put up with in order to survive at all. But they did survive.

I cannot help thinking about the Chinese without deep emotion because their problems, the things they went through, were, I would say, considerably more serious than anything the Japanese were exposed to later on. Let me now turn to the question of the Japanese.

EXCLUSION OF THE JAPANESE

Japanese immigration did not become a noticeable phenomenon until some years later. There were less than 25,000 Japanese in the country at the beginning of the 20th century—I was surprised to read that figure and I would have said probably less than 5,000—but when the following decade witnessed an extraordinary upturn in immigration from the Nipponese Empire, the Pacific coast became alarmed and demanded that the policy of exclusion be extended to embrace the Japanese as well as the Chinese.

Mr. President, my father tells me that when I was born in Vancouver, Canada, in 1906, the very same week there was an anti-Japanese riot in Vancouver. The same kind of spirit as was going on in the United States.

Anti-Japanese agitation, which motivated, I am sure, Canadian demagogs no less than Americans, crystallized into discriminatory legislation, and in order to avoid an international crisis, President Roosevelt, in 1907, reached a "gentleman's agreement" with the Japanese Government whereby it pledged itself to continue "the existing policy of discouraging emigration of its subjects of the laboring classes to continental United States."

That is, the Japanese Government officially undertook to limit emigration to this country in order not to exacerbate the anti-Japanese racist feelings prevalent during this period.

Despite this agreement, a small stream of Japanese continued to trickle into the Pacific coast, and between 1911 and 1913 California and other Western States enacted a series of laws designed to prevent Japanese from owning or even leasing real estate. Once again a diplomatic rupture threatened, which required the personal intervention of the Secretary of State.

It is not to be forgotten that very good relations between Japan and the United States had been established from the time of Commodore Perry in 1852 and throughout the period of the whaling ships, throughout the period of trade, during which Japan and Massachusetts became very good friends.

The Boston Museum of Fine Arts has one of the finest Japanese collections in the United States.

That kind of trade and diplomatic recognition of friendship existed at the same time that at the working-class level there was a constant union agitation against the Japanese workers as well as Chinese workers, and this steadily emanated from California.

Ten years later when Congress was assigning mathematical quotas for immigration—an arrangement which would have admitted 246 Japanese a year—it went out of its way specifically to exclude Japan from the operation of the system and to ban Japanese immigration completely.

I would like to emphasize at this point the quota system was based upon a small percentage of the members of that nationality who were already in the United States at the time. If there were so many million Irish or so many hundred thousand Italians, a small percentage of those were permitted to immigrate each year.

Because the Japanese were so very, very few in number, in time, if they had been admitted under the quota, they would have had the right to admit 246 a year, a very, very tiny number. To go out of their way specifically to exclude the operation of the quota system and to ban Japanese from immigration completely, by itself had far more serious consequences to immigration, because American law also made it mandatory that those nationalities which were not admitted by quota could never become citizens of the United States. Therefore, even those who had been legally admitted many, many years before—that is, Japanese immigrants—never could become citizens of the United States. This was not changed, until after the Second World War was over. It took the bloodiness of that great war to heal some of those injustices.

I, myself, Mr. President, would not become an American citizen until 1954, until after the McCarran-Walter Act of 1952, because, although I had been a Canadian citizen, I was Japanese by race and by definition, not naturalizable in the United States, although I had been living in the United States since the early 1930's. By that time, in 1954, when I became a citizen, I was married to an American citizen and had three children who were American citizens, but I was not permitted to become a citizen myself.

These are the results of the anti-oriental agitation, principally emanating from California. California itself determined national policy on the subject of orientals for more than 100 years.

The State Department expostulated in vain against this deliberate affront to a wartime ally. "Our friends in the Senate have in a few minutes spoiled the work of years," said Secretary Charles Evans Hughes, "and done lasting injury to our common country."

Of course, back of all this agitation against the oriental were the trade unions of California.

By its long record of racial prejudice, segregation in schools, prohibition of landholding, and discrimination in immigration, the United States managed to stockpile for itself a formidable arsenal of all ill-will and bitterness among the Japanese people.

This, Mr. President, is part of the background of the profound racialism that has motivated and actuated the labor movement in California, particularly as applied and directed against people of oriental ancestry.

All this would be past history, not worth recalling except for historical research purposes, except for the fact that, in the building trades unions, to this very day, we find very few electricians, plumbers, carpenters, and so on, of Japanese or Chinese extraction. To this very day, as the result of the narrowly defined apprenticeship programs, only one apprentice can be taken in for every five journeymen—and if the journeymen themselves are already white, then, by gosh, they take in one of their own sons or nephews, and somebody who is from outside that group can never get in. The result of these 100 years or more of racialism reflects itself in the trade union membership of California to this very day. That is why all this is not simply a matter of dead history.

Mr. President, the same kind of racism has actuated the American labor movement in its relationship to blacks in America. This is a subject on which I shall expand at some greater length later on. If you will forgive what may seem to be a digression, I should like to explain how jazz was born. This a very strange subject to bring up in this context, but it really is a fact.

Before and during the Civil War and thereafter, there existed in the South, especially in New Orleans, a large class of Negro workmen, skilled workmen, craftsmen, people who were literate, people who could read music and belonged to fraternal societies and burial societies and played band music and marched in the streets in celebration of various events, including funerals, festivals, and charivaris. These black street bands of amateur musicians, who could read music but, during the daytime, were plasterers, masons, cigar makers, hatmakers, and so on, were part of the working elite of a city like New Orleans. After the Civil War and as the union movement grew and grew in the South, what happened was this: The illiterate, lower class Negro, drifting in from the fields, learning to play band instruments and getting jobs in nightclubs and at houses of ill repute, and so on, constituted part of the entertainment life of New Orleans. As the trade unions became stronger and stronger, what happened next was that the white trade unions drove out of their occupations the Negro plasterers, cigar makers, hatmakers, masons, and so on, so that they were unemployed.

The result was that—and this is a very strange phenomenon—for the purposes of making a living, these literate, moderately well-educated amateur musicians, who could read French classical band music, were thrown together with the illiterate musicians, who had come up socially to play in night clubs in the city. The confluence of the literate, music-reading, educated Negro and the black

field Negro, with only his "hollers" and his blues as the background, created that peculiar American music which we know as jazz. That is, jazz is an urbanized folk music.

I say in all seriousness, Mr. President, if you will listen carefully to something like Tiger Rag, you will hear the melodies, the construction, the composition, the forms of French, Belgian, and German band music, but in the rhythms and the way the horns are made to drawl, you will hear the influence of the lower class field Negro. These come together and this is what constitutes jazz.

It is a very happy thing that, out of the injustice of being thrown out of their work, this art form could develop. Nevertheless, it is not to be forgotten that part of the history of the new South after the Civil War is the driving of black craftsmen and skilled workmen out of their crafts into unemployment or into playing in jazz bands or into drifting North; because, at no time, has white trade unionism in the South been friendly or hospitable to the aspirations of the black people.

LABOR LAW REFORM—WHO IS THE VICTIM?

Mr. WILLIAMS. Mr. President, the victims of the abuses of our labor laws provide compelling testimony of the need for labor law reform. Today, Secretary of Labor Ray Marshall pointed out that when a filibuster is used, the victims are the men and women at the bottom of the economic ladder. These are the same men and women who are now victimized when flagrant law violators deny them the rights they have been guaranteed by law.

I ask unanimous consent that the text of Secretary Marshall's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY SECRETARY OF LABOR RAY MARSHALL AT LABOR LAW RALLY, LAFAYETTE PARK, WASHINGTON, D.C.

The name of today's rally is the "Victims' Vigil." I think an equally appropriate name would be the "Salute to Bravery."

In a very real sense those of you who have stood up for your fundamental right to organize and bargain collectively are fighting for the rights of all workers and indeed, the whole country. As the Congress recognized when it passed the NLRA in 1935, we cannot have a stable free democratic prosperous economy unless all major groups share in that prosperity. The right to collective bargaining is essential in a free and democratic society—a fact that is recognized by every industrial democracy in the world. Collective bargaining makes it possible to extend democracy to the work place and makes it possible for workers to protect and promote their interests in the larger society.

Each of the men and women being honored here today represents an individual profile in courage. They risked their jobs, their livelihoods because they believed in every worker's right to try to organize a union. They knew they were taking risks, but they also knew that workers in every age have taken risks in the struggle for their rights.

What makes today's rally so sad is that their risks should have been unnecessary. The battles they are fighting should have been settled with the passage of the Wagner Act in 1935. That landmark legislation is a bill of rights for American workers. The intent of that law was clear.

But the civil rights movement taught us that it is one thing to have rights on paper, it is another thing to have rights in theory. Because of the illegal tactics of a small minority of employers, the rights guaranteed by the Wagner Act have been little more than paper promises.

Respect for the law is the glue that holds a society together. But we have in this country employers who violate the law with virtual impunity. Aided by their high-priced attorneys, these anti-union employers have treated the Wagner Act as little more than a joke. But there is nothing funny when businessmen and lawyers thumb their noses at the law in their efforts to deprive workers of their rights.

Nineteen months ago, the American people elected a new President. For the first time in this decade, we had an Administration who heard your cries, who were moved by your suffering. That's why one of the highest priorities of Jimmy Carter and those of us who are priviledged to serve with him is the passage of labor law reform.

Many of us remember the way the filibuster was used in the Senate to try to stop passage of civil rights legislation. Today, the issue is labor law reform. But, in reality, the principle is similar. It is another struggle between the powerful and the powerless. Each time the filibuster is used, the victims are the men and women at the bottom of the economic ladder. The filibuster is being used to deny the right of the majority of Senators to approve this bill which was passed by an almost 100 vote majority in the House.

The polls indicate that an overwhelming majority of the American people believe in labor unions. They believe in the workers' right to choose. The only thing standing between us and the passage of labor law reform is the delaying tactics of a minority of the United States Senate.

That's why we are here today. We are here to make sure our voices are heard all across the land. Working together we can triumph against the anti-union forces and their shrill campaign against this bill. It will be a difficult struggle, but we have faced hardships and difficulty before.

What unites us is our common sense of outrage against these wholesale violations of the law of the land. What unites us is our common concern for the cause of working people everywhere. What unites us is our awareness that these firings and blacklistings must stop. The goals of the Wagner Act must be upheld. It is time to make government more responsive by doing more for those who need it most rather than—as is too often the case—those who need the least help. It is time that we had justice on the job.

Thank you.

Mr. WILLIAMS. Mr. President, yesterday, during the course of the debate on the labor law reform bill, we heard of massive union lobbying on behalf of this bill. We heard that labor was gearing up a massive lobbying effort to enact legislation which would give them what they have not been able to achieve through organizational efforts.

The impression was that businessmen, large and small, as well as the public and the U.S. Senate were helpless in the face of this big labor steam roller.

It was therefore with great interest that I read the lead front page article in this morning's Wall Street Journal which describes the intense business lobbying which we have all been subjected to in order to defeat the pending labor law reform bill.

The Wall Street Journal is not generally known to be a prolabor newspaper. Yet this article, the work of two distinguished reporters, Robert W. Merry and Albert R. Hunt, states what we have known all along—that certain business groups are engaged in a well-financed intensive campaign to defeat labor law reform.

Mr. Merry and Mr. Hunt describe this Washington coordinated, highly financed, lobbying effort and how it is designed and fine tuned to put maximum pressure on undecided Senators. The authors describe the pressure which has been put on the Senator from Florida (Mr. CHILES) who has not yet decided how he will vote on this bill. According to the article, Senator CHILES had mentioned that although he had heard from numerous large businessmen, he had not heard from many small business entrepreneurs. According to the article, and I quote:

> The result was immediate. "As if by magic"—in the words of one business lobbyist—the big companies stopped sending their executives to Sen. CHILES' door. In their stead came a stream of small Florida entrepreneurs, appearing in groups of 25 and carrying dire arguments about the measure's threat to their livelihoods.

Mr. President, how did this outpouring of spontaneous small business opinion make its way to Senator CHILES. Again, let me quote from the article of the Wall Street Journal:

> But it wasn't magic that carried those small business representatives to Washington. It was the corporate jets of Florida's big businesses—which, like businesses large and small throughout the country, are involved in a lobbying campaign that is more sophisticated, better coordinated and more extensive than any other in recent memory.
>
> "I can't remember when we last experienced a lobbying effort like this," a Chiles aide says. "It's so well structured, so well organized, and I don't think they missed a single possible opponent of that bill in our state."

Mr. President, the conclusion is obvious—the fusilade of small businessmen coming to tell us of their concerns about the labor law reform bill are indeed part of an effort coordinated by large businessmen; part of a comprehensive effort to obfuscate the issues and to defeat the bill.

This lobbying has reached unprecedented proportions. But, the new business lobby is not a stranger to obfuscation. The Journal article describes one of their past efforts, in connection with the consumer protection legislation. Again let me quote the Wall Street Journal's description of this lobbying activity:

> Another hindrance for business, according to some lawmakers, can be lack of credibility. They find arguments made by business lobbyists sometimes shrill or even deceptive, during the battle over the consumer agency, for example, many business groups "screamed about the pages upon pages of government regulations that the consumer agency would have produced and warned that it would become another OSHA," asserts Rep. David Obey, a Wisconsin democrat who voted against creating the consumer agency. "In fact the proposed agency would have had no authority whatsoever to issue such regulations," Rep. Obey, who voted for labor

law revision, charges that some conservative and business groups "are employing the same lying tactics in their campaign against labor law reform."

And when well-coordinated visits from businessmen fail, when computerized mailings fail, and when obfuscation of the facts fail, there is always another tactic available to this business lobby. Again, from the Wall Street Journal:

The money factor, combined with political hardball tactics, is evident in this fight. Sen. Bob Packwood opposes labor law revision but also opposes filibusters. The Oregon Republican heads the GOP senatorial campaign committee and says he has been "threatened by large scale cutoffs of contributions if I vote to end the filibuster." Nevertheless, Mr. Packwood says he plans to vote to close the debate.

Mr. President, there is intensive lobbying efforts underway in connection with this bill. But, it is unfair, indeed inaccurate to allege that union lobbyists are dominating the scene. As all Senators know, there is a well-greased, well-heeled, well-coordinated intensive lobby on the other side. And it is digging in and fighting with all the vigor and dedication that it can muster.

Mr. President, I have great faith that this body will be able to cut through the rhetoric, cut through the obfuscation, and intelligently debate the facts, issues and merits of labor law reform.

Mr. President, I now ask unanimous consent that the article from today's issue of the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COMPANY LINE—BUSINESS LOBBY GAINS MORE POWER AS IT RIDES ANTIGOVERNMENT TIDE

(By Robert W. Merry and Albert R. Hunt)

WASHINGTON.—When business groups began roaming the halls of Congress in search of help in killing the labor-law-revision bill now before the Senate, they soon discovered the wavering vote of Florida's Democratic Sen. Lawton Chiles. Sen. Chiles doesn't like the bill, which is designed to ease the way for unions' efforts to organize workers. But neither does he like the filibuster technique, which is the way the bill's opponents aim to kill the measure.

Like about 10 other Senators whose votes are still considered question marks, Sen. Chiles has been the object of an intense lobbying campaign. At one point, he mentioned to a group of corporate executives—"just in passing," according to an aide—that he had heard from more big-business leaders than small-business entrepreneurs. The result was immediate.

"As if by magic"—in the words of one business lobbyist—the big companies stopped sending their executives to Sen. Chiles's door. In their stead came a stream of small Florida entrepreneurs, appearing in groups of 25 and carrying dire arguments about the measure's threat to their livelihoods.

THE MAGIC OF CORPORATE JETS

But it wasn't magic that carried those small-business representatives to Washington. It was the corporate jets of Florida's big businesses—which, like businesses large and small throughout the country, are involved in a lobbying campaign that is more sophisticated, better coordinated and more extensive than any other in recent memory.

"I can't remember when we last experienced a lobbying effort like this," a Chiles aide says. "It's so well-structured, so well-organized, and I don't think they missed a single possible opponent of that bill in our state."

Sen. Chiles's experience, duplicated in scores of other Senate offices in recent months, focuses attention on a business lobbying machine that seems more adept than ever at marshaling its arguments, presenting them forcefully to Congress and turning them into legislative victories.

RIDING AN ANTIGOVERNMENT WAVE

Much of business's success results from sophisticated techniques that mobilize small-business troops in the hinterland, riding a wave of antigoverment sentiment in the country. Whatever the cause, during the 95th Congress business has scored a number of impressive victories that seemed impossible 16 months ago, when Jimmy Carter moved into the White House and Congress began its work dominated two-to-one by Democrats.

Led by such well-known groups as the Business Roundtable and the U.S. Chamber of Commerce, the business forces have defeated bills to broaden picketing rights of construction workers, to create a consumer-protection agency and to allow class-action suits against companies violating Federal Trade Commission orders.

Although most of the business victories have been defensive—staving off liberal or labor initiatives—business groups have also been putting across their views in such broad areas as tax and energy policy. "I never recall hearing from so many business lobbyists on so many issues; what's more, some of them are damn good," laments a leading liberal legislator.

RISKY PREDICTIONS

It's still uncertain whether business' new strength in Congress will translate into a victory on the labor-law bill, which cleared the House last fall and reached the Senate floor yesterday. The only chance for killing the bill is a successful filibuster, and the advance vote tallies of both sides are so close as to make predictions risky.

And, of course, organized labor hasn't been sitting back idly as business lobbyists plied the congressional waters. The union lobbying effort has also been intense, making use of traditional Washington techniques as well as an extensive grass-roots campaign. "No Senator can vote against that bill claiming he never heard from us," an AFL–CIO official says.

Essentially, the bill is designed to speed the process by which unions organize new members through representation elections and to stiffen penalties against employers who illegally thwart employes' desires to join unions. Union officials say the bill is needed to end illegal antiunion tactics by employers, but business groups argue that the stiffer penalties and speedup provisions would intimidate employers during organizing efforts.

Whichever argument prevails in the Senate, business has clearly come a long way as a lobbying force in the past year and a half. The mobilization began with the 1976 election and the knowledge that Republican Gerald Ford would no longer be on hand to block liberal legislation. "We suddenly realized we would be fighting for our lives," one corporate lobbyist recalls.

"When they lost the Republican veto, they realized they had to do it themselves," says Mark Green, head of Ralph Nader's lobbying arm, Congress Watch, and a regular opponent of the business forces. "If the business groups tried to arouse all their constituencies when the Republicans were in power, it would have been greeted with a big yawn. But when the Business Roundtable and Chamber of Commerce saber-rattle and yell about a Democratic President and a two-to-one Democratic Congress, then their constituents get aroused and roll up their sleeves."

Those two organizations, of course, are far from the full strength of the business lobby; it is a large and diverse group. Along with the Chamber of Commerce there are other old-line outfits, such as the National Association of Manufacturers, trade associations and the Washington offices of major corporations.

To this longtime establishment, the four-year-old Roundtable has been an important addition. This confederation of 180 chief executives of blue-chip corporations can quickly assemble research material on almost any topic, and it often produces business leaders to lobby with individual legislators.

Less publicized but every bit as important is the emergence of politically savvy groups combining business and political techniques, such as computerizing of membership lists and "grass-roots" mailings to lawmakers.

One effective operator is James D. McKevitt, a tough-minded former Republican Congressman from Colorado who now heads the Washington operations of the National Federation of Independent Business. This small-business group has its half-million membership list broken down according to congressional district and type of business; computer printouts even shown whether the members know their Congressmen personally.

The newer, more influential business lobbyists have seized on what Victor Kamber, an AFL–CIO official, calls "a new veneer and a new ally." The "veneer," according to Mr. Kamber, is small business. The new ally is the cluster of conservative groups that pioneered many techniques for raising political funds and generating grass-roots support.

When most of the business forces get together, as they did on the picketing-rights and consumer-protection bills and as they are doing now on labor-law revision, it is a politically potent alliance.

Reinforcing this legislative influence is an invaluable asset: money, in the form of election campaign contributions. The number of business-oriented political-action committees making gifts to selected candidates has increased sixfold in the past four years. "Without the huge growth in political-action committees, business certainly wouldn't be having as much success in Congress," says Fred Wertheimer, vice president of Common Cause, the self-styled citizens' lobbying group; that sentiment is echoed privately by scores of lawmakers.

"OVERKILL" AND LACK OF CREDIBILITY

For all their successes, however, some problems are arising for the business lobbyists. One may be "overkill." On the labor-law revision, one undecided Senator recently declared that "I've already discounted the 14,000 letters I'm going to get against this bill."

Another hindrance for business, according to some lawmakers, can be lack of credibility. They find arguments made by business lobbyists sometimes shrill or even deceptive. During the battle over the consumer agency, for example, many business groups "screamed about the pages upon pages of government regulations that the consumer agency would have produced and warned that it would become another OSHA," asserts Rep. David Obey, a Wisconsin Democrat who voted against creating the consumer agency. "In fact, the proposed agency would have had no authority whatsoever to issue such regulations." Rep. Obey, who voted for labor-law revision, charges that some conservative and business groups "are employing the same lying tactics in their campaign against labor-law reform."

Moreover, the alliance of business groups is shaky at times. Differences in priorities and approach are evident and occasionally bitter.

Some of the more astute business lobbyists charge that old-line outfits like the Chamber and the NAM are too bureaucratic and slow and lack the instinct for sophisticated political infighting. "It took us three or four months just to get business to understand that common situs (the picketing-rights bill) was their fight," says a lobbyist who represented building contractors. "We worked harder on the business community during that time than we did on Congress."

Others feel the Business Roundtable is neither as shrewd nor as effective as it is reputed to be. "They're riding our coattails, not vice versa," insists Mr. McKevitt of the small-business federation. "They're too intrigued with the Oval Office; too many of them suck eggs with the President."

THE WOOING OF REP. JENRETTE

But usually the business groups join forces as they did in courting John Jenrette, a moderate South Carolina Democrat, during the picketing-rights fight last year. When the issue first came up in 1975, Rep. Jenrette felt only modest lobbying pressure, but last year "busloads of contractors and businessmen from South Carolina came to Washington to see me," he recalls. "Then, whenever I go home I usually hold an airport news conference. Well, businessmen would start showing up at these to talk to me about common situs. I've never seen such an effort."

As the voting neared, the South Carolina Democrat had another visitor: Kimball C. Firestone, vice president of Firestone Tire & Rubber Co. "He didn't have a plant in my district, but he made a very impressive case against the bill," Rep. Jenrette remembers.

When the picketing bill was narrowly beaten, 217 to 205, Mr. Jenrette was one of the opponents. Was the business lobbying a factor? "Sure," he replies. "Any display that impressive has to be."

The same lobbying techniques now are being used with added vigor in the labor-law fight. And the new emphasis on home-state pressures means that many business groups—including the Chamber of Commerce and Mr. McKevitt's federation of independent business—make use of businessmen with special access to Senators and Congressmen.

The money factor, combined with political hardball tactics, is evident in this fight. Sen. Bob Packwood opposes labor-law revision but also opposes filibusters. The Oregon Republican heads the GOP Senatorial Campaign Committee and says he has been "threatened by large-scale cutoffs of contributions if I vote to end the filibuster." Nevertheless, Mr. Packwood says he plans to vote to close the debate.

But business groups are more aware than ever that they can't rely exclusively on big shots to press their case. "Big business is a political liability for most Congressmen," says John McCollister, a former Republican Congressman from Nebraska who heads Firestone Tire's Washington operations. "Small business is a political asset."

Sen. Edward Zorinsky, a freshman Democrat from Nebraska, confirms that. When he heard that word had gone out in the business community to keep Washington lobbyists away from him, he was impressed. "Boy, they sure got my number," he said. "Because it's true: When a small-businessman shows me his books to illustrate what he's up against, that's a lot more effective with me than some Washington professional in a three-piece suit."

Thanks to businesses's new grass-roots sophistication, Sen. Zorinsky and other Senators are getting precisely the treatment that business leaders think they are most susceptible to.

So much so, in fact, that Florida's Sen. Chiles has felt impelled to call a halt to the influx of small-business representatives from his home state. "They were all set to haul up another couple of planeloads," a Chiles aide says. "The Senator had to tell them not to bother. There just wasn't any further point."

Mr. WILLIAMS. Mr. President, we have heard a good deal today about the problem of violence which occurs in the course of labor disputes and have been asked how we can call this bill a labor law reform bill without addressing this problem.

The 1935 Senate report on the Wagner Act stated the reasons why the National Labor Relations Board was not given primary jurisdiction to regulate picket line misconduct and violations in terms which I cannot improve upon:

. . . the bill is not a mere police court measure. The remedies against such acts in the State and Federal courts and by the invocation of local police authorities are now adequate, as arrests and labor injunctions in industry throughout the country will attest . . . in addition, the procedure set up in this bill is not nearly so well suited as is existing law to the prevention of such fraud and violence.

Deliberations and hearings by the Board, followed by orders that must be referred to the Federal courts for enforcement, are methods of procedure that could never be sufficiently expeditious to be effective in this connection.

The only results of introducing proposals of this sort into the bill, in the opinion of the committee, would be to overwhelm the Board in every case with countercharges and recriminations that would prevent it from doing the task that needs to be done . . .

Mr. President, there are at present strong comprehensive criminal and civil sanctions under State law to combat violence and coercion which occur during the course of a labor dispute.

The National Labor Relations Act does not supplant State law on the matter of violence, and those State law remedies which are available are much stronger than virtuallyany other remedy under the NLRA. If a union engages in violence during the course of an organizing drive or strike, an injunction is readily available in State court, and State and local courts are more than willing to grant these injunctions.

In addition, victims of improper union conduct have powerful civil remedies available in State courts.

State courts may and do award damages under State tort law for losses to an employer's business that result from union picketing which is accompanied by violence.

State courts may and do award damages to employees who have been kept from work, because of union mass picketing and violence. In some cases, awards have included damages for mental anguish.

Mr. President, as much as we abhor the violent conduct which sometimes occurs in the course of labor disputes, we can at least rest assured that prompt effective remedies are available to the victims of this activity. For this reason, I believe we should not permit this digression to deter us from consideration of the legislation before us.

It is in the area of employees' right to organize and bargain collectively that present remedies are ineffective. It is violations of employee rights that have grown in every year since 1960 and which have increased by over 100 percent since 1964. And it is this area which this bill addresses.

NATIONAL ENERGY POLICY

Mr. TOWER. Mr. President, throughout this past year's debate on national energy policy, a crucial issue has been the extent to which a price-regulated industry can generate sufficient revenues to enable it to make the expenditures necessary to meet our national energy needs.

I have contended from the beginning that the President's proposed national energy plan is designed in a manner which would make it impossible for the oil and gas industry to take the risks and make the capital expenditures necessary. On the other hand, despite widespread evidence to the contrary, Carter administration energy officials in their public pronouncements have continually insisted that economic incentives in the administration's plan are not only adequate but generous.

Through it all, it has been apparent to me that energy policy officials within the administration are more than willing to suppress facts and manipulate information as needed to buttress administration policy prejudices. What appears to be the most recent example of the administration's willingness to manipulate information comes in the form of a recent Department of Energy study designed to combat conclusions contained in a September 1977 Chase Manhattan Bank analysis of projected petroleum industry cash flow and capital expenditure requirements.

The major conclusion of the Chase Manhattan analysis is that a cash flow deficit in the domestic oil and gas producing industry will occur over the 1978 to 1985 period, amounting to almost $40 billion. Using different assumptions, DOE converts that $40 billion deficit into a $96 billion cash surplus. Those DOE figures are way out in left field when compared with some private analyses—and even when compared with some earlier DOE analyses.

I commented on this general matter in a May 15 memorandum to my Republican colleagues. I ask unanimous consent to have printed in the RECORD at this point the text of that memorandum together with a chart comparing some of the recent analyses of petroleum industry cash flow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR REPUBLICAN SENATORS

WASHINGTON, D.C. *May 15, 1978.*

From John G. Tower.

Subject: Can the Oil and Gas Industry generate sufficient cash flow under continued price controls to meet increasing exploration and production expenditures?

A continuing controversy between the Department of Energy and the banking and petroleum industries revolves around the adequacy of cash flow to meet increasing costs of domestic petroleum exploration and production.

Throughout the debate over the proposed National Energy Plan, the Department of Energy has argued that the administration's energy policies contain adequate incentives for domestic exploration and production, and that the industry has and will continue to have a surplus of cash flow to finance its expected capital expenditures.

Sampling analyses of those who have studied this important aspect of our domestic energy future, we find widespread disagreement with the DOE conclusions. A study recently made available to the Senate Finance Committee staff by Chase Manhattan Bank, for examples, states:

"Most of the publicly available studies have concluded that the industry's cash flow is inadequate to finance the investment effort needed to meet the oil and gas production targets of the National Energy Plan without unnecessary and unwise depletion of proven reserves.

"It is very likely that the exploration and production sector would have inadequate after tax cash flow so long as EPCA-imposed crude oil price controls remain in effect. Under the NEP, such price controls would become permanent." [1]

[1] "The Impact of Continued Price Controls and the Crude Oil Equalization Tax on the Imported Oil Requirements of the United States," Chase Manhattan Bank, April 11, 1978.

But criticism of the official DOE position appears even within the Department itself. In a suppressed memorandum to Secretary Schlesinger, the Acting Assistant Secretary for Resource Applications critiques an earlier optimistic estimate by DOE of oil and gas industry cash flow:

"It is our feeling that neither the facts nor the analysis support the conclusions that the NEP's oil and gas prices provide adequate domestic petroleum exploration and development incentives." [2]

A comparison of several cash flow projections for the oil and gas industry (enclosed) reveals the conflicting DOE projections and a few of the many outside analyses which support the view that a cash flow deficit may be expected. Banking and petroleum industry estimates predict a cash flow deficit over the years 1978 through 1985 of $50 to $80 billion. Dissenting DOE projections also fall within this range when such necessary adjustments as corporate dividends and required downstream investments in refining, marketing and transportation are included.

Against these estimates of petroleum industry cash flow deficits,[3] we find the lone pillar of regulatory policy, the Department of Energy, projecting a cash flow *surplus* of $46 billion—a mere $100 billion difference between the official DOE position and the minimum deficit estimated by internal DOE analyses and outside projections! That DOE projection, contained in a recent DOE critique of a September 1977 Chase Manhattan study, contradicts an earlier DOE analyses contained in an internal January 5, 1978, memorandum to Secretary Schlesinger from Assistant Secretary for Policy and Evaluation, Alvin Alm.

A viable domestic petroleum industry remains vital to this country's well being. Promotion of an energy-tax plan which regulates industry into a cash poor position places our economy and security in an unnecessarily vulnerable position of depleting our domestic oil and gas reserves and relying too heavily upon unstable foreign imports.

In short, these analyses generally suggest that the continuation and expansion of price controls on domestic oil and gas, as required under the National Energy Plan, will have serious, adverse economic and national security implications.

[2] "Comments on Policy and Evaluation Memo dated January 5, 1978, 'Petroleum Industry Incentives and Capital Resources needed to Meet NEP Production Goals,' " T. E. Noel memo to Secretary Schlesinger, January 20, 1978.

[3] Provisions for debt repayment and higher finding costs, both of which would markedly increase a projected deficit, have been excluded.

CASH FLOW PROJECTIONS FOR THE OIL AND GAS INDUSTRY, 1978-85

[Billions of 1977 dollars]

	Cash flow	Capital expenditures	Surplus (deficit)	Adjustments	Normalized surplus (deficit) [1]
Chase Manhattan Bank (September 1977)	179.8	221.6 [2]	(41.8)	(36) dividends [3]	(77.8).
Chase Manhattan Bank (Apr. 11, 1978)	302	352		(33) dividends	(83).
Unofficial API (August 1977)	17.2 2 [4]	224 [5]	(51.8)		(51.8).
Department of Energy:					
Planning and evaluation (Jan 5, 1978)	170	150 [2] [6]	Adjusted by resource applications.		(72.8).
Resource applications (Jan 20, 1978)	170 [7]	193.5 [2]	(23.5)	(49.3) dividends [8]	
Energy Information Agency (May 8, 1978)	Not yet developed; estimated at 170.	150 [2] [9]	Unavailable	(49.3) dividends; [8] (38.9) downstream investments.	Estimated at (68).
Finance and tax policy (May 2, 1978)	289.9	194.1 [2]	95.8	(49.3) dividends [8]	46.5.

[1] Excludes provisions for debt repayment and higher finding costs which would reduce a surplus or increase a deficit.
[2] Does not include dividends or debt repayment.
[3] Chase estimates dividends at 20 percent of cash flow.
[4] Includes net debt issued and accounts for dividends paid out.
[5] Assumes 4 yr to bring a new oil field on line.
[6] Does not include downstream investments.
[7] Does not include cash flow from downstream investments (described as "low" by DOE/Planning and Evaluation, p. 8 of Jan. 5, 1978, memorandum).
[8] Projected payout by DOE/Resource Applications (Jan. 20, 1978).
[9] Does not include lease acquisition or downstream investments in transportation and marketing.

SS AS MONITOR

Mr. HARRY F. BYRD, JR. Mr. President, the Associated Press carried a most interesting news item on Monday, May 15. It is datelined Atlanta. It says:

Social Security employees in North Carolina have been used to gather information for Joseph A. Califano, Jr., Secretary of Health, Education and Welfare, in a dispute over desegregation of the University of North Carolina system . . .

Mr. President, that report by the Associated Press came from the Atlanta Journal-Constitution, from its Sunday edition. The article ends by stating that the newspaper, the Atlanta Journal-Constitution, said that it got its first information from a suspicious social security executive who asked to remain anonymous. The last paragraph in the AP story is this:

Strange use of trust fund monies, the unnamed official was quoted. "Big brother is watching you but you just don't know it.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CALIFANO USED SS AS MONITOR IN NORTH CAROLINA

ATLANTA.—Social Security employes in North Carolina have been used to gather information for Joseph A. Califano Jr., secretary of Health, Education and Welfare, in a dispute over desegregation of the University of North Carolina system, according to a published report.

Workers paid from Social Security trust funds were ordered to monitor public reaction in the news media to the threatened cutoff of some federal funds to the 16-campus UNC system, the report said.

The UNC Board of Governors voted last week to accept a desegregation plan backed by Califano to settle the long-running dispute.

Social Security executives in North Carolina and in the Atlanta regional headquarters were called on in March and again in April for priority reports dealing with the desegregation dispute, The Atlanta Journal-Constitution said Sunday.

In a telephone interview from his home Sunday, the regional Social Security commissioner said Social Security executives, with offices in nearly every major city, routinely provide newspaper clippings to HEW in Washington.

"We've always collected news items for HEW. We are the only part of the agency that has local offices in every large city. So if there are any items of interest to the HEW we clip and send them in," said Commissioner Gordon Sherman.

Sherman said the salaries of the Social Security executives come from both the trust funds—money paid by workers for retirement and disability insurance—and general funds appropriated by Congress.

The newspaper said that it got its first information from a suspicious Social Security executive who asked to remain anonymous after the incidents in March.

"Strange use of trust fund monies," the unnamed official was quoted. "Big Brother already is watching you but you just don't know it."

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not more than 2 minutes to consider the nominations on the Executive Calendar beginning with New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations under New Reports be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Daniel M. Friedman, of the District of Columbia, to be Chief judge of the U.S. Court of Claims.

Jack E. Tanner, of Washington, to be U.S. district judge for the eastern and western districts of Washington.

Robert F. Collins, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Ellen B. Burns, of Connecticut, to be U.S. district judge for the district of Connecticut.

Harold H. Greene, of the District of Columbia, to be U.S. district judge for the District of Columbia.

Cristobal C. Duenas, of Guam, to be Judge of the district court of Guam for a term of 8 years.

Leonard B. Sand, of New York, to be U.S. district judge for the southern district of New York.

Alfred Laureta, of Hawaii, to be Judge for the district court for the Northern Mariana Islands for a term of 8 years.

DEPARTMENT OF JUSTICE

Peter J. McLaughlin, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order to move to reconsider en bloc the vote by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMODITY FUTURES TRADING COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a nomination that was reported today, unanimously, I believe, by the Committee on Agriculture, Nutrition and Forestry, and I ask for its immediate consideration.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of David Gay Gartner, of Virginia, to be a commissioner of the Commodity Futures Trading Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted today are as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States stated that on May 16, 1978, he approved and signed the following act:

S. 422. An Act for the relief of the First Baptist Church of Paducah, Ky.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 17, 1978, he presented to the President of the United States the following enrolled bill:

S. 1568. An Act to name the lake located behind Lower Monumental Lock and Dam, Washington, "Lake Herbert G. West."

MESSAGES FROM THE HOUSE

At 11:36 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 920) relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5551. An Act to suspend until the close of June 30, 1980, the duty on 2-Methyl, 4-chlorophenol;

H.R. 11291. An Act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration; and

H.R. 12222. An Act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes.

At 4:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the resolution (S. Con. Res. 80) setting forth the congressional budget for the U.S. Government for the fiscal year 1979.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 12255. An Act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes.

ENROLLED BILL SIGNED

At 5:32 p.m., a message from the House of Representatives, delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 10392. An Act to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 12222. An Act to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes; to the Committee on Foreign Relations.

ORDER TO HOLD BILL AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that when H.R. 39, the Alaska National Interest Lands Conservation Act, is received in the Senate, it be held at the desk for not to exceed 24 hours so that I might consider a motion for a joint referral of that bill.

The PRESIDING OFFICER. Without objection, it so ordered.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-638. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; laid on the table:

"RESOLUTION

"To express the congratulations of the House of Representatives of Puerto Rico, to the Honorable James E. Carter, President of the United States of America, the Senate of the United States of America, and the People of the Republic of Panama, on the ratification of the Panama Canal Transfer Treaty by the Senate of the United States.

"STATEMENT OF MOTIVES

"To trace the history of the Inter-Oceanic Canal which joins the Pacific Ocean and the Atlantic Ocean, called the "Panama Canal", means travelling back in time to the discovery of the Southern seas by Balboa and Simon Bolivar's Great Colombian Age. Those were the men of that age who originally conceived the idea of a great canal which would link the two seas in America. This first conception, however, did not become practical until 1903, when Panama emerged as an independent nation, after a civil war with Colombia. Barely a few days after the Republic was constituted, Panama signed a treaty with the Government of the United States of America.

"We could say, without conflicting with historical facts, that those days also marked the beginning of political strife and claims by the People of Panama to be given the rights over the Canal Zone. This strife, which extended over a span of 73 years of conversations, negotiations and necessary deliberations on various aspects of international politics and security, have ended with the ratification of the Panama Canal Transfer Treaty, by the Senate of the United States of America on April 18 of this year.

"This occasion, which exemplifies jubilation for a Central American people and for all the nations of the world, allows us to single out the example that the United States of America has given all the Governments of the world, in the context that the liberty and sovereignty of the people can become a reality in this age and time.

"The Panama Canal Treaty underlines without any doubt, the continuous efforts and attempts which have always been defended by the North American people to foster the most cordial relations with all of the countries of Latin America, and the iron will of these People in the struggle for world peace. Be it

"Resolved by the House of Representatives of Puerto Rico:

"SECTION 1.—To express, as by these presents is expressed, the congratulations of the House of Representatives of Puerto Rico, to the Honorable James E. Carter, President of the United States of America, the Senate of the United States of America, and the People of the Republic of Panama, for the demonstrated ideal of the unity of America, which was culminated by the ratification of the Panama Canal Transfer Treaty by the Congress of the United States of America.

"SECTION 2.—A copy of this Resolution shall be sent to the Honorable James E. Carter, President of the United States of America, and through the Consulate of Panama in Puerto Rico, to the People of the Republic of Panama, as well as to the Press, radio and television media of Puerto Rico, for general diffusion."

POM-639. A concurrent memorial adopted by the Legislature of the State of Arizona; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT MEMORIAL 1003

"A concurrent memorial urging the Congress of the United States to amend the Reclamation Act of 1902 to eliminate or modify acreage limitations and eliminate residency requirements relating to farmland irrigated with water from Federal reclamation projects

"To the Congress of the United States of America:

"Your memorialist respectfully represents:

"Whereas, in 1902, Congress enacted a Reclamation Act, 32 Stat. 388, to provide irrigation systems for farmlands in the arid West; and

"Whereas, section five of such Act prescribed a limitation of one hundred sixty acres owned by an individual farmer eligible to receive irrigation water from a reclamation project; and

"Whereas, section five of such Act limited sales of such land to bona fide residents residing in the neighborhood of such land; and

"Whereas, such limitations have been only sporadically enforced by the United States Department of the Interior; and

"Whereas, because of the lack of enforcement of such law, many people have acquired legitimate interests in land and water in excess of authorized limits; and

"Whereas, the Department of the Interior, under court order, has proposed regulations which would strictly enforce the limitations in the future and force persons holding excess lands to dispose of them in a manner and to persons dictated by the Department; and

"Whereas, under the proposed regulations, an owner of excess land would be forced to sell it for a price well below its true market value; and

"Whereas, under the proposed regulations, an owner of excess land would be prohibited from even leasing back such lands after disposition; and

"Whereas, because of inflation and the state of commercial agriculture, one hundred sixty acres is an unrealistic limitation on agricultural holdings to the point of being arbitrary and capricious; and

"Whereas, many reclamation statutes provide exceptions to the acreage limitations and such lack of uniformity may raise constitutional questions; and

"Whereas, reclamation systems on Indian reservations contain no such limitation even though most of such land is under long-term lease to non-Indians; and

"Whereas, strict application of the limitations at this late date will be clouded by litigation for years to come; and

"Whereas, across-the-board application of the acreage limitation does not take into consideration substantial economic variations depending on the crop grown, the type of soil, the length of the growing season, the elevation and latitude of the land, the salinity of the water and many other factors; and

"Whereas, the original purposes of the acreage limitation to distribute the benefits of reclamation projects, promote family farms and preclude speculation underwritten by Federal investments are now largely obsolete, moot or nugatory; and

"Whereas, imposition of the residency requirement, not enforced since the Omnibus Adjustment Act of 1926, 44 Stat. 636, would work great hardship on many people who have developed alternative life-styles in reliance on Federal policy; and

"Whereas, in the State of Arizona nearly thirty thousand acres of land would have to be transfererd to comply with the proposed regulations; and

"Whereas, the appearance of unpredictability of Federal policy may and the application of the proposed regulations would severely affect the marketability of all reclamation lands. Wherefore your memorialist, the Senate of the State of Arizona, the

"House of Representatives concurring, prays:

"1. That the Congress of the United States amend the Reclamation Act of 1902 to eliminate the acreage and residency limitations contained in section five of such Act.

"2. That, as an alternative to eliminating the acreage limitation, the Congress of the United States amend such Act to revise the acreage limitation substantially upward and to authorize acreage equivalency provisions to include consideration of farm economics, the cost of operation and viable farm sizes for all crops in all areas affected by the Act.

"3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation."

POM-640. A joint resolution adopted by the Legislature of the State of California; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 76

"Relative to congregate services for the elderly and the handicapped.

"Whereas, a California television station (KGO, Channel 7) televised on January 28 and 29, 1978, a two-hour documentary entitled 'Old Age: Do Not Go Gentle' which set forth the tragic life conditions of many older persons in the United States; and

"Whereas, the documentary proposed that the Congress of the United States enact legislation to do the following:

"(1) Require that all future federally financed public housing projects sponsored by the Department of Housing and Urban Development, wherein the tenants are to be elderly or handicapped, provide congregate services either independently or as available through the Department of Health, Education, and Welfare. Congregate services include housekeeping aid, meal service, personal assistance, ambulatory health care, and other services essential for maintaining independent living and avoiding nonmedical institutionalization.

"(2) Require that such housing provide appropriate space for future establishment of a community day health services and nutrition facility which is designed to provide congregate services to the elderly and the handicapped. Within five years of the enactment of this legislation, the facility shall offer congregate services to the elderly and the handicapped within both the housing project and the project's immediate community.

"(3) Require that the elderly and the handicapped be included in the delivery process for the congregate services; and

"Whereas, the documentary invited bay area residents to register their support of this proposed legislation, and so far more than 167,000 residents have responded by mailing to the KGO television station coupons indicating support; and

"Whereas, older persons in our society need and have a right to a continuum of care and services to allow them a more independent and dignified way of living; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the Congress of the United States to enact and the President to approve such legislation; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-641. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on the Judiciary:

"ENROLLED JOINT RESOLUTION NO. 1

"A joint resolution requesting appropriate action by the Congress, on its own by consent of two-thirds of both Houses or on the application of the legislatures of two-thirds of the several states, to propose an amendment to the Federal Constitution to require that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year, with certain exceptions

"Whereas, with each passing year this Nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now amounts to hundreds of billions of dollars; and

"Whereas, attempts to limit spending, including impoundment of funds by the President of the United States, have resulted in strenuous assertions that the responsibility for appropriations is the constitutional duty of the Congress; and

"Whereas, the annual Federal budget repeatedly demonstrates the unwillingness or inability of both the legislative and executive branches of the Federal government to curtail spending to conform to available revenues; and

"Whereas, the unified budget does not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

"Whereas, the US News and World Report reported on February 25, 1974, that of these nonbudgetary outlays in the amount of $15,600,000,000.00, the sum of $12,900,000,000.00 represents funding of essentially private agencies which provide special services to the Federal government; and

"Whereas, knowledgeable planning and fiscal prudence require that the budget reflect all Federal spending and that the budget be in balance; and

"Whereas, believing that fiscal irresponsibility at the Federal level, with the inflation which results from this policy, is the greatest threat which faces our Nation, we firmly believe that constitutional restraint is necessary to bring the fiscal disciplines needed to reverse this trend; and

"Whereas, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments;

"Now, therefore be is resolved by the legislature of the State of Wyoming, a majority of all members of the two houses, voting separately, concurring herein:

"Section 1. That procedures be instituted in the Congress to add a new Article XXVII to the Constitution of the United States, and that Congress prepare and submit to the several states an amendment to the Constitution of the United States, requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues, excluding any revenues derived from borrowing, for that fiscal year; or

"Section 2. That the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing such an amendment to the Federal Constitution, to be a new Article XXVII.

"Section 3. That the legislatures of each of the several states comprising the United States apply to the Congress requiring it to call a constitutional convention for proposing such an amendment to the Federal Constitution, to be a new Article XXVII.

"Section 4. That the proposed new Article XXVII (or whatever numeral may then be appropriate) read substantially as follows:

"'PROPOSED ARTICLE XXVII

"'The total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of the estimated Federal revenues for that fiscal year, excluding any revenues derived from borrowing; and this prohibition extends to all Federal appropriations and all estimated Federal revenues, excluding any revenues derived from borrowing. The President in submitting budgetary requests and the Congress in enacting appropriation bills shall comply with this Article. If the President proclaims a national emergency, suspending the requirement that the total of all Federal appropriations not exceed the total estimated Federal revenues for a fiscal year, excluding any revenues derived from borrowing, and two-thirds of all Members elected to each House of the Congress concur by Joint Resolution, the total of all Federal appropriations may exceed the total estimated Federal revenues for that fiscal year.'

"Section 5. That copies of this Resolution be transmitted to the President of the United States, the chairmen of the Judiciary Committees of both the Senate and House of Representatives, the chairman of the Joint Committee on Budget Control of the Congress and to each member of the Wyoming Congressional delegation.

"Section 6. That copies of this Joint Resolution be transmitted to the Secretary of State and to the presiding officers of both Houses of the Legislature of each of the other States in the Union, with the request that it be circulated among leaders in the Executive and Legislative branches of the several State governments; and with the further request that each of the other States in the Union join in requiring the Congress of the United States to call a constitutional convention for the purpose of initiating a proposal to amend the Constitution of the United States in substantially the form proposed in this Joint Resolution."

POM-642. A resolution adopted by the Town of Indialantic, Fla., petitioning for a demographic study of Brevard County, Fla., to confirm the need for a U.S. Veterans Administration satellite clinic in Brevard County; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 1826. A bill for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock (Rept. No. 95-896).

S. 2247. A bill for the relief of Eugenia Cortes (Rept. No. 95-897).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 2379. A bill for the relief of Jesusa Novario Romero and Antonio Angeles Romero (Rept. No. 95-898).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 2687. A bill for the relief of Dr. Allan Joseph Cawley (Rept. No. 95-899).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 2237. A bill for the relief of Lee Myong Sook (Rept. No. 95-900).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 455. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3076. Referred to the Committee on the Budget.

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 3994. An act for the relief of Charles P. Abbott (Rept. No. 95-901).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

H.R. 3996. An act for the relief of Mrs. Young Hee Kim Kang, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang (Rept. No. 95-902).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

David Gay Gartner, of Virginia, to be a Commissioner of the Commodity Futures Trading Commission.

(The nomination from the Committee on Agriculture, Nutrition, and Forestry was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE:

S. 3090. A bill to amend the International Security Assistance and Arms Export Control Act of 1976 with respect to the provision of assistance for the defense of certain countries in Africa; to the Committee on Foreign Relations.

S. 3091. A bill to repeal section 25 of the International Security Assistance Act of 1977; to the Committee on Foreign Relations.

S. 3092. A bill to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance wtih humane methods; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HUDDLESTON (for himself and Mr. DECONCINI):

S. 3093. A bill to provide for the seizure, forfeiture, and disposition of vehicles used to illegally transport persons into the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. STONE (for himself, Mr. HOLLINGS, Mr. CHILES, and Mr. NUNN):

S. 3094. A bill to establish a program to develop artificial marine reef fishing for the Gulf of Mexico and the Atlantic Ocean; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON:

S. 3095. A bill to authorize and direct the Secretary of the Interior to suspend retroactively operations and production on oil and gas leases ES 2538 and ES 2539; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. STAFFORD, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. THURMOND, and Mr. HANSEN):

S. 3096. A bill to amend title 38 of the United States Code to authorize contracts with the Republic of the Philippines for the provision of health-care services for Commonwealth Army veterans and new Philippine Scouts, to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines, to impose new requirements with respect to

claims by certain persons residing outside the United States, to modify the circumstances under which contract hospital care and medical services may be furnished outside of the contiguous States, to authorize the provision of care in the United States for the treatment of the service-connected disabilities of certain Filipino veterans, to increase the authorization of appropriations for grants to assist certain health manpower training institutions, and to extend and improve the program of veterans readjustment appropriations in the Federal Government; to extend the VA's authority in Public Law 94–123, as amended, to enter into special-pay agreements with physicians and dentists; to require certain studies to be undertaken; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MARK O. HATFIELD (for himself, Mr. CURTIS, Mr. BURDICK, and Mr. PACKWOOD):

S. 3097. A bill to require the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of the Army to utilize specified procedures in carrying out the Federal reclamation program, the small watershed programs, and the civil works program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MAGNUSON (by request):

S. 3098. A bill to amend the Fishery Conservation Zone Transition Act in order to give effect to the Reciprocal Fisheries Agreement for 1978 between the United States and Canada; to the Committee on Commerce, Science, and Transportation.

By Mr. BAYH (for himself, Mrs. HUMPHREY, Mr. BROOKE, Mr. RIEGLE, Mr. ABOUREZK, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. DURKIN, Mr. GLENN, Mr. GRAVEL, Mr. PAUL G. HATFIELD, Mr. HEINZ, Mr. JAVITS, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MCGOVERN, Mr. METZENBAUM, Mr. PACKWOOD, Mr. RIBICOFF, Mr. SARBANES, Mr. WILLIAMS, and Mr. HASKELL):

S.J. Res. 134. A joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 3090. A bill to amend the International Security Assistance and Arms Export Control Act of 1976 with respect to the provision of assistance for the defense of certain countries in Africa; to the Committee on Foreign Relations.

S. 3091. A bill to repeal section 25 of the International Security Assistance Act of 1977; to the Committee on Foreign Relations.

(The remarks of Mr. DOLE when he introduced the above bills appear elsewhere in today's proceedings.)

By Mr. DOLE:

S. 3092. A bill to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. DOLE when he introduced the above bill appear elsewhere in today's proceedings.)

By Mr. HUDDLESTON (for himself and Mr. DECONCINI):

S. 3093. A bill to provide for the seizure, forfeiture, and disposition of vehicles used to illegally transport persons into the United States, and for other purposes; to the Committee on the Judiciary.

INS SEIZURE OF VEHICLES USED TO SMUGGLE ALIENS

● Mr. HUDDLESTON. Mr. President, a great deal has been said and written about the increasingly serious problem of illegal immigration and the smuggling of illegal aliens across the borders of our country. Major news publications have carried lead articles on the topic and one can rarely read a newspaper without finding some reference to this problem. The importance of the illegal alien issue is further underscored by the fact that it has been studied and debated by congressional committees, Presidential task forces, and numerous special interest groups. The House of Representatives has twice passed legislation to discourage the employment of illegal aliens and the Senate Judiciary Committee is conducting hearings on a new Presidential proposal.

While knowledge of the extent and ramifications of this influx of illegal aliens is somewhat incomplete at this time, we do have sufficient information to know that it is a problem of monumental proportions which has the potential of seriously affecting many facets of our future as a Nation. Estimates place the number of illegal aliens now living in this country between 4 and 8 million. Of this number there are approximately 3.8 million who are employed—many in positions which conceivably could be held by American citizens. If we assume, as the INS believes, that 3.8 million illegal aliens are employed in this country and that they are earning an average hourly wage a little in excess of the minimum wage, then we face the possibility that illegal aliens earn as much as $20 billion each year. The INS has stated that of this amount, nearly $3 billion a year is sent out of this country to dependents living in foreign countries.

Not only do illegal aliens take jobs which could be held by American citizens, many experts believe that they also depress working conditions in the industries in which they are concentrated. Because of their illegal status the workers cannot take the chance of drawing attention to themselves by demanding safe and healthy working conditions.

As we can see by these rough figures, which may be only the tip of the iceberg, illegal aliens have a significant impact on the economy of this country. However, it is even more frightening if we project these figures into the future and increase them on the basis of natural population expansion and a continued unabated flow of illegal aliens. Zero population growth estimates that at current fertility and legal immigration levels, 800 thousand illegal immigrants entering the United States each year would add 80 million to our population within the next 50 years.

The loss of jobs and the depression of working conditions are not the only aspects of this problem. Those that are not employed are possibly living on public welfare programs. Although the full extent of this dependence is unclear, an indication may be found in a recent General Accounting Office report which shows that in five States aliens collect approximately $72 million per year in supplemental security income benefits. Further the presence of these aliens within our borders cost Federal, State, and local governments substantial sums in increased outlays for ordinary community services that must be provided to all residents.

There is another side of the issue which directly affects the well-being and safety of the illegal aliens themselves. While we do not condone the process of illegal entry, we must have some sympathy for these aliens as disadvantaged human beings.

In response to this increased demand for entry and the restrictive measures instituted along our borders to control it, alien smuggling has developed into a large illegal business. The smuggler's, "coyotes" as they are often called, prey upon those seeking a better existence in this country. Aliens are often charged as much as 1-year's wages for transportation, into the United States. Stories of rape, disappearance, and of squalid travel conditions are often associated with these smuggling operations. We have no sympathy for those who use the misery of others for their personal gain and there must be stringent laws available to deter them.

While no single addition to the Federal statutes will totally eliminate this underground travel which is bringing hundreds of thousands of illegal aliens into this country each year, the bill which Senator DECONCINI and I are introducing today would be a step toward removing some of the profit in smuggling aliens. The bill would authorize the designee of the Attorney General to seize vessels, vehicles, and aircraft used to transport aliens into the United States illegally, and would make those vehicles subject to forfeiture. This authority would be limited in certain circumstances involving common carriers or vehicles that had been stolen or used without the owners consent. Existing procedures for exercising seizure and forfeiture and statutes for remission or mitigation of losses by innocent parties would be incorporated into the bill by reference.

The bill is identical to H.R. 11581 introduced in the House of Representatives by Congressman MORRIS UDALL which was drafted in cooperation with various Federal agencies. It is essentially the same as existing law from which the Bureau of Customs derives its authority to seize vehicles used in smuggling contraband into the United States. The statute has been upheld many times by the Federal courts and it seems logical that such authority should be extended to the Immigration and Naturalization Service when the smuggling of aliens is involved. The effectiveness of such authority can be seen by statistics provided by the Bureau of Customs. During fiscal year 1976 the Bureau seized 10,897 passenger vehicles. Of these, 1,059 were actually forfeited. The bureau kept 213 vehicles for its own use and 846 were

transferred to other Government agencies or sold. In the long run the adverse impact of millions of illegal aliens in this country will be substantial and must be reduced by every reasonable means. I believe that the removal of 1,000 vehicles from the alien smuggling trade would substantially help in curtailing this parasitic business.

This authority, which the Immigration and Naturalization Service has sought in the past, would be a reasonable extension of existing law. The INS is fighting an uphill battle in its attempt to close our borders to the increasing flow of aliens. In 1977 the INS apprehended approximately 875,000 illegal aliens. It is obvious from this that the relatively small INS staff is making every effort to deal with this escalating problem and should be given every available tool to work with. The American public is very much in sympathy with this effort as indicated by a Gallup Poll which showed that the American people are in favor of legislation to curb this influx by a margin of six to one.

Any solution to this deteriorating situation must be comprehensive in scope. I believe that the bill I have introduced today should be an intregal part of any approach to the problem of illegal aliens. Our actions on this matter should be swift and certain because it is a problem which will continue to grow in magnitude and importance and may well have a significant impact upon the future standard of living in this country.●

● Mr. DECONCINI. Mr. President, today Senator HUDDLESTON and I are introducing a bill to give the Immigration and Naturalization Service the authority to seize vehicles used to transport illegal aliens. It is an odd quirk in Federal law that, while the Treasury Department has the authority to seize vehicles and other property used to evade the internal revenue laws, there is no similar provision for the Immigration Service. Both the Customs Service and the Border Patrol are charged with enforcement of the law on U.S. borders. It is illogical that the INS is not authorized to seize vehicles to facilitate alien smuggling. This lack of authority is seriously hampering the ability of the INS to dismantle smuggling rings. The following information, supplied by the INS, demonstrates how many vehicles are repeatedly intercepted transporting aliens.

INS INTERCEPTION OF VEHICLES IN THE WESTERN SECTOR

(Fiscal year 1977)

Locale	Vehicles intercepted	Repeaters
Chula Vista	3,600	828
Yuma	920	184
El Centro	562	112
Tucson	409	82
Livermore	14	3
Total	5,605	1,209

These statistics demonstrate the need for INS seizure authority. The legislation provides that vehicles used in the transportation of an alien "shall be subject to seizure." This phrase is intended to give the INS some discretion in the seizure of a vehicle. It is not the purpose of the bill to authorize seizure of the vehicles of legal residents transporting relatives who are illegal aliens already in the country. The bill is aimed at the professional smuggler. This discretionary authority is necessary to allow proper application of the statute.

A second important feature of the bill is the clarification that the Supplemental Rules of Certain Admiralty and Maritime Claims shall apply to actions under the bill. Under the provisions of Supplemental rule C, found in title 28, United States Code, under the rules shall apply tc all actions in rem, actions against property. The parallel provision in the bill serves notice to U.S. attorneys and claimants of the seized property who may not be familiar with seizure actions under Federal law.

Mr. President, the illegal alien problem is receiving long overdue attention in the Congress. This bill is a necessary tool in the battle against the alien traffic. I urge its swift passage. I ask unanimous consent that the complete statistics of INS seizures during fiscal year 1977 and questions proposed by me to Commissioner Castillo and his answers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VEHICLES INTERCEPTED TRANSPORTING ILLEGAL ALIENS*

BORDER PATROL FY–1977

	Vehicles	Repeaters
Western region:		
Chula Vista	3,600	828
Yuma	920	184
El Centro	562	112
Tucson	409	82
Livermore	14	3
Total	5,605	1,209
Southern region:		
El Paso	1,684	336
Marfa	220	22
Del Rio	625	125
Laredo	705	60
McAllen	484	97
New Orleans	72	14
Miami	19	5
Total	3,809	659
Eastern region:		
Houlton	7	0
Swanton	30	0
Buffalo	15	0
Ogdensburg	80	3
Total	132	3
Northern region:		
Blaine	39	0
Havre	26	0
Detroit	6	1
Spokane	12	0
Grand Forks	15	0
Total	98	1
Grand Total	9,644	1,872

*Figures were furnished by CPA at the Sector.

AUTHORITY TO SEIZE VEHICLES

Q. Mr. Commissioner, do you have any figures available indicating how many vehicles were intercepted transporting illegal aliens in the last year?

A. Based on a survey of each Border Patrol sector approximately 9,600 vehicles were intercepted by Service officers transporting undocumented aliens last year.

Q. Can you tell us how many of those vehicles had been previously intercepted and if so how many times?

A. Approximately 1,800 of the vehicles intercepted have been identified as being used more than once. We have also noted registration changes, license plate changes, repainted vehicles and other modifications to alter the outward appearance of repeater vehicles. One particular vehicle apprehended by Border Patrol officers at Chula Vista, California, had been used in a smuggling operation 12 different times since April, 1976.

Q. Under present law the INS does not have statutory authority to seize vehicles, is that correct?

A. Correct, INS does not have statutory authority to seize vehicles.

Q. There are several statutes in Titles 19, 26, and 46 of the United States Code that allow Customs agents to seize vehicles. Which of these provisions would be most useful to INS if we were to grant your agency similar authority? Why?

A. Presently before Congress there is a bill (H.R. 11581) which would amend 8 USC 1324 to include authority for the seizure of any vessel, vehicle or aircraft used in the commission of a violation of Section 274 of the Immigration and Nationality Act. (Smuggling of aliens). We feel this legislation will serve the needs of INS.

By Mr. STONE (for himself, Mr. HOLLINGS, Mr. CHILES, and Mr. NUNN):

S. 3094. A bill to establish a program to develop artificial marine reef fishing for the Gulf of Mexico and the Atlantic Ocean; to the Committee on Commerce, Science, and Transportation.

ARTIFICIAL MARINE REEF FISHING ACT OF 1978

● Mr. STONE. Mr. President, today I am introducing legislation that would establish a program to develop artificial marine reef fishing for the Gulf of Mexico and the Atlantic Ocean. I am very pleased that Senators HOLLINGS, CHILES, and NUNN have joined with me in cosponsoring this legislation.

Recreational fishing is one of Florida's major industries and is important to the economy of every coastal State. Recreational fishing is not only a popular sport but also a significant food source. The National Marine Fisheries Service estimated that in 1970 about 1.6 billion pounds of edible fish were caught by recreational fishermen, over 30 percent of all the edible fish caught that year.

Artificial reefs serve as breeding grounds for small fish, that in turn attract larger fish. These reefs can be built from a variety of materials, such as old automobile tires. Therefore, the construction of these reefs would not only attract fish but in many cases put waste materials to a good use.

Under this legislation, the Secretary of Commerce, acting through the National Marine Fisheries Service, would be authorized to make grants to the States to cover 75 percent of the cost of developing artificial reefs in the State waters. The sites of these reefs would be determined after consultations between

the Secretary and the individual fishery management councils that were established by the Fishery Conservation and Management Act of 1976. The reefs would be located in nonproductive waters and would have to comply with all applicable Federal and State laws and regulations. This bill would authorize $2.5 million annually for the next 5 years to build these reefs and administer the program.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Artificial Marine Reef Fishing Act of 1978".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Recreational fishing in the Gulf of Mexico and the Atlantic Ocean is important to harvesting of protein for human consumption.

(2) There is an existing need to develop a uniform network of artificial fisheries habitats in the Gulf of Mexico and the Atlantic Ocean for the increased availability of fish for the recreational fishing industry.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to establish a network of artificial fisheries habitats in the Gulf of Mexico and the Atlantic Ocean;

(2) to enhance recreational fishing and further avoid conflicts between commercial and recreational user groups;

(3) to provide for financial assistance to qualifying States for the implementation of a program to develop artificial marine fisheries habitats;

(4) to encourage the use of appropriate Federal surplus properties as artificial reef materials; and

(5) to promote cooperative agreements between salvage companies and the Federal government to provide transportation of vessels or material to the site of approved reefs.

SEC. 3. PROGRAM.

(a) AUTHORIZATION.—The Secretary of Commerce, acting through the National Marine Fisheries Service, is authorized (1) to make grants to the States listed in paragraphs (1), (2), (3), and (5) of section 302 (a) of the Fishery Conservation and Management Act of 1976 to cover 75 per centum of the cost of developing artificial marine fisheries in the territorial waters of such States for the purposes of this Act; and (2) to develop such habitats in the fishery conservation zone off the coasts of such States for such purposes.

(b) REQUIREMENTS.—Such habitats shall—

(1) be located in nonproductive bottoms as determined by the Secretary after consultation with the appropriate regional fishery management councils established pursuant to such section 302 (a);

(2) comply with all applicable Federal and State laws and regulations; and

(3) comply with regulations established by the Secretary of Commerce in order to best carry out the purposes of this Act after consultation with such regional councils.

SEC. 4. FISHERY MANAGEMENT COUNCILS ADVISORY AUTHORITY.

Each fishery management council established pursuant to paragraphs (1), (2), (3), and (5) of section 302(a) of the Fishery Conservation and Management Act of 1976 shall establish and recommend to the Secretary or the appropriate State a fishery management plan for each habitat established pursuant to this Act in the region of such council.

SEC. 5. AUTHORIZATIONS.

There is authorized to be appropriated not to exceed $2,500,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years, for the purpose of carrying out the provisions of this Act. Amount so appropriated shall remain available until expended. Five per centum of the amount so appropriated for each fiscal year shall be available to the Secretary for administering the provisions of this Act.

By Mr. CRANSTON (for himself, Mr. STAFFORD, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. THURMOND, and Mr. HANSEN):

S. 3096. A bill to amend title 38 of the United States Code to authorize contracts with the Republic of the Philippines for the provision of health-care services for Commonwealth Army veterans and new Philippine Scouts, to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines, to impose new requirements with respect to claims by certain persons residing outside the United States, to modify the circumstances under which contract hospital care and medical services may be furnished outside of the contiguous States, to authorize the provision of care in the United States for the treatment of the service-connected disabilities of certain Filipino veterans, to increase the authorization of appropriations for grants to assist certain health manpower training institutions, and to extend and improve the program of veterans readjustment appropriations in the Federal Government; to extend the VA's authority in Public Law 94–123, as amended, to enter into special-pay agreements with physicians and dentists; to require certain studies to be undertaken; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' PROGRAMS EXTENSION ACT OF 1978

● Mr. CRANSTON. Mr. President, on Monday I reported from the Committee on Veterans' Affairs H.R. 5029, with an amendment in the nature of a substitute, a bill to amend title 38 of the United States Code to authorize contracts with the Republic of the Philippines for the provision of health-care services for Commonwealth Army veterns and new Philippine Scouts, to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines, to impose new requirements with respect to claims by certain persons residing outside the United States, to modify the circumstances under which contract hospital care and medical services may be furnished outside of the contiguous States, to authorize the provision of care in the United States for the treatment of the service-connected disabilities of certain Filipino veterans, to increase the authorization of appropriations for grants to assist certain health manpower training institutions, and to extend and improve the program of veterans readjustment appointments in the Federal Government; to extend the VA's authority in Public Law 94–123, as amended, to enter into special-pay agreements with physicians and dentists; to require certain studies to be undertaken; and for other purposes.

All members of the Committee wished to have the opportunity to cosponsor this legislation, the proposed Veterans' Programs Extension Act of 1978. Thus, I am today introducing the provisions of that measure in a clean bill with the cosponsorship of all members of the Veterans' Affairs Committee.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, along with a summary of the Senate committee provisions of H.R. 5029 as reported and the bill I am introducing today.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 3096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Programs Extension Act of 1978".

TITLE I—EXTENSION OF CERTAIN PROGRAMS IN THE REPUBLIC OF THE PHILIPPINES

SEC. 101. Section 230(b) of title 38, United State Code, is amended by striking out "June 30, 1978." and inserting in lieu thereof "September 30, 1981.".

SEC. 102. (a) Section 624(c) of title 38, United States Code, is amended by striking out "Veterans Memorial Hospital" and inserting in lieu thereof "Veterans Memorial Medical Center".

(b) Section 632 of such title is amended by—

(1) striking out "Veterans Memorial Hospital" each time it appears and inserting in lieu thereof "Veterans Memorial Medical Center";

(2) striking out "June 30, 1978," and inserting in lieu thereof "September 30, 1983," in the material preceding clause (1) of subsection (a);

(3) inserting "furnished prior to October 1, 1979," after "care" the first time it appears in clause (2) of subsection (a);

(4) inserting before the semicolon at the end of clause (3) of subsection (a) "and paid or to be paid for by the United States under this subsection";

(5) inserting before the semicolon at the end of clause (4) of subsection (a) a comma and "except that, in cases in which hospitalization was not primarily for a service-connected disability, the United States may not provide for such payments for nursing home care furnished after September 30, 1979";

(6) striking out "July 1, 1978," in subsection (b) and inserting in lieu thereof "October 1, 1983,"; and

(7) striking out "five years" and "June 30, 1978" in the material preceding clause (1) of subsection (d) and inserting in lieu thereof "period" and "September 30, 1980", respectively.

TITLE II—BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

SEC. 201. Paragraph (4) of section 101 of title 38, United States Code, is amended by—

(1) inserting "(A)" before "The" and redesignating clauses (A), (B), and (C) within such paragraph as clauses (i), (ii), and (iii), respectively; and

(2) inserting at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A)

of this paragraph, in the case of an adoption under the laws of any country other than the United States (including the possessions, territories, and Commonwealths of the United States)—

"(i) a person residing outside any of the States during the lifetime of a veteran (including for purposes of this subparagraph a Commonwealth, Army veteran or 'New' Philippine Scout, as defined in section 1766 of this title) shall not be considered a legally adopted child of such veteran unless such person—

"(I) was less than eighteen years of age at the time of adoption;

"(II) is receiving one-half or more of such person's annual support from such veteran;

"(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

"(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

"(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

"(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

"(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph."

SEC. 202. Section 107 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section and, notwithstanding the provisions of subchapter VII of chapter 35 of this title, no benefits under chapter 11, 13, or 35 of this title shall be paid to any person by virtue of the provisions of either such subsection or such subchapter on the basis of a claim by such person for initial eligibility for any such benefits filed on or after October 1, 1979, if, on the basis of prior claims filed by such person, such initial eligibility had been disallowed more than once.

SEC. 203. (a) The Administrator of Veterans' Affairs shall carry out a comprehensive study of benefits payable under the provisions of title 38, United States Code, to persons who reside outside the fifty States and the District of Columbia. The Administrator shall include in such study—

(1) an analysis of the issues involved in the payment of such benefits to persons who reside outside the fifty States and the District of Columbia, together with analyses of such aspects of the economy of each foreign country and each territory, possession, and Commonwealth of the United States in which a substantial number of persons receiving such benefits reside as are relevant to such issues (such as the rate of inflation, the standard of living, and health care, educational, housing, and burial costs);

(2) an analysis of the issues involved in the payment of such benefits as the result of adoptions under laws other than the laws of any of the fifty States or the District of Columbia;

(3) an analysis of the amounts and method of payment of benefits payable to persons entitled, by virtue of sections 107 and 1765 of such title, to benefits under chapters 11, 13, and 35 of such title;

(4) estimates of the present and future costs of paying monetary benefits under such title to persons described in clauses (1) and (3) of this subsection;

(5) an evaluation of the desirability of continuing to maintain the Veterans' Administration Regional Office in the Republic of the Philippines, taking into consideration (A) the current and expected future workloads of such office, (B) the estimated cost in fiscal years 1981 through 1985 of continuing to maintain such regional office, (C) the feasibility and desirability of transferring appropriate functions of such regional office to the United States Embassy in the Republic of the Philippines, and (D) a provisional plan, which the Administrator shall develop, for the closing of such office and so transferring such functions, together with cost estimates for fiscal years 1981 through 1985 for the implementation of such plan assuming that such office is closed prior to October 1, 1981; and

(6) an evaluation of the effects of the amendments to such title made by sections 201 and 202 of this Act.

(b) Not later than February 1, 1980, the Administrator shall report to the Congress and the President on the results of such study together with the Administrator's recommendations for resolving the issues to be analyzed and evaluated in such study.

TITLE III—HEALTH CARE AMENDMENTS

SEC. 301. Subclause (v) of clause (C) of section 601(4) of title 38, United States Code, is amended to read as follows: "(v) hospital care, and medical services which will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at Veterans' Administration expense in Government and private facilities in each such noncontiguous State (except in the Commonwealth of Puerto Rico and in the Virgin Islands) shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but authority under this subclause shall expire on December 31, 1980, in the case of each noncontiguous State (except Alaska and Hawaii).".

SEC. 302. Clause (3) of section 612(i) of title 38, United States Code, is amended by inserting "(including the conduct of an examination to determine eligibility for service-connected compensation under chapter 11 of this title)" before the period.

SEC. 303. (a) Subchapter IV of chapter 17 of title 38, United States Code, is amended by redesignating section 634 as 635 and inserting after section 633 the following new section:

"§ 634. Hospital and nursing home care and medical services in the United States

"The Administrator, within the limits of Veterans' Administration facilities, may furnish to a Commonwealth Army veteran or new Philippine Scout hospital and nursing home care and medical services for the treatment of a service-connected disability of such veteran or Scout.".

(b) The table of sections at the beginning of chapter 17 of such title is amended by striking out

"634. Definitions."

and inserting in lieu thereof

"634. Hospital and nursing home care and medical services in the United States.
"635. Definitions.".

SEC. 304. (a) Not later than October 1, 1979, the Administrator of Veterans' Affairs shall submit to the Congress and the President a report on the furnishing by the Veterans' Administration of hospital care and medical services in the Commonwealth of Puerto Rico and in the Virgin Islands. The Administrator shall include in such report—

(1) a comprehensive assessment of the health-care needs of veterans in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) a detailed report on the hospital care and medical services which were furnished or are planned to be furnished to veterans there during fiscal years 1975 through 1981, with breakdowns according to the numbers of veterans being treated, the facilities at which such care and services are furnished, and the extent to which such care and services are furnished for the treatment of service-connected disabilities and to veterans with service-connected disabilities rated at 50 per centum or more; and

(3) recommendations as to how such health-care needs can best be addressed within the existing authority of the Veterans' Administration, and what additional authority, if any, is necessary and desirable to meet such needs.

Recommendations under clause (3) of this subsection shall be made only after taking into consideration—

(A) the extent of poverty in the Commonwealth of Puerto Rico and in the Virgin Islands;

(B) alternative sources of health-care services that would be available to such veterans being furnished such services there by the Veterans' Administration if the services so furnished by the Veterans' Administration for non-service-connected disabilities were substantially reduced;

(C) the equitable distribution of Veterans' Administration health-care resources; and

(D) the priority attaching to the care and treatment of service-connected disabilities.

(b) Not later than March 1, 1979, and annually thereafter, the Chief Medical Director of the Veterans' Administration shall submit to the appropriate committees of the Congress, through the Administrator of Veterans' Affairs, a full report on the implementation of section 601(4)(C)(1) of title 38, United States Code (as amended by section 301 of this Act), including the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in the categories described in the following provisions of such title: sections 601(4)(C)(v) (as so amended), 610(a), 612(a), 612(f)(1)(A), 612(f)(1)(B), 612(f)(2), and 612(g).

SEC. 305. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 669), as amended, is amended by striking out "September 30, 1978." and inserting in lieu thereof "September 30, 1979.".

SEC. 306. Section 5082 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) There is further authorized to be appropriated for fiscal year 1979 for carrying out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Administrator has entered into agreements under subchapter I of this chapter supplemental grants for which the Administrator had, prior to May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Administrator prior to May 1, 1978, under grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such subchapters III and IV until the full amounts

for which applications had been so approved have been obligated under such subchapter I.".

SEC. 307. Section 611 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) The Administrator may, in the discretion of the Administrator, enter into a contract with any organization recognized under section 3402 of this title to furnish, on a reimbursable basis, as prescribed by the Administrator, emergency medical services at a national convention of such organization to individuals attending such convention except that reimbursement shall not be required to the extent that eligible veterans receiving such services would otherwise be eligible for medical services from the Veterans' Administration under this chapter.".

TITLE IV—VETERANS READJUSTMENT APPOINTMENTS AND PENSION REFORM IMPLEMENTATION

SEC. 401. Section 2014 of title 38, United States Code, is amended by—

(1) amending subsection (b) to read as follows:

"(b) To further this policy, veterans of the Vietnam era shall be eligible, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970) and in accordance with regulations which the Civil Service Commission (or successor authority) shall prescribe, for veterans readjustment appointments, and subsequent career-conditional appointments, except that such an appointment (1) may be made in the case of any veteran of the Vietnam era up to and including the level GS–7 or its equivalent, (2) may be made in the case of any veteran of the Vietnam era who is a disabled veteran without limitation as to completion of more than fourteen years of education, and (3) may be made at any time prior to October 1, 1981.";

(2) striking out all after "subsection (b) of this section and" in subsection (d) and inserting in lieu thereof a comma and "with breakdowns for disabled and other veterans, the following information: The number and grade levels of such appointments; the number of appointees converted or terminated, with a breakdown according to categories of causes for termination; the number of such terminations initiated by the department, agency, or instrumentality and by the veteran; descriptions of the education and training programs in which appointees under subsection (b) of this section are participating; and the results of the plans required under subsection (c) of this section."; and

(3) inserting "subsections (a) and (c) of" after "in" in subsection (f).

SEC. 402. For the purpose of enabling the Administrator of Veterans' Affairs to carry out, with maximum efficiency, during the first one-year period following the date of its enactment, any Act enacted after June 1, 1978, with an effective date prior to October 1, 1979, establishing a new program of benefits under chapter 15 of title 38, United States Code, including the conduct of a program of public information designed to advise fully and fairly all persons who may be affected by the provisions of such Act of its implications for them, without impairing the efficiency of the Veterans' Administration in carrying out its other programs and responsibilities, there is authorized to be appropriated $5,000,000 for fiscal year 1979.

SEC. 403. (a) For the purpose of carrying out the studies required under sections 203 and 304(a) of this Act, there is authorized to be appropriated $350,000 for fiscal year 1979.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

SUMMARY OF H.R. 5029 AS REPORTED AND CLEAN BILL, S. 3096

The Committee substitute for H.R. 5029 has four titles: I—Extension of certain programs in the Republic of the Philippines; II—Benefits payable to persons residing outside the United States; III—Health-care amendments; and IV—Veterans' readjustment appointments and new pension program implementation.

Title I: *Extension of Certain Programs in the Republic of the Philippines.*—This title includes provisions that would:

1. Extend for 3 years, until September 30, 1981, the VA's authority under section 230 (b) of title 38, United States Code, to maintain a regional office in the Republic of the Philippines.

2. Extend for 5 years, until September 30, 1983, the VA's authority under section 632 (a) (1) of title 38, to reimburse the Veterans Memorial Medical Center for hospital and nursing home care and medical services for the treatment of the service-connected disabilities of Commonwealth Army veterans and new Philippine Scouts.

3. Extend for 1 year, until September 30, 1979, the VA's authority, under section 632 (a) (2), to reimburse the Veterans Memorial Medical Center for hospital care for the treatment of non-service-connected disabilities of Commonwealth Army veterans and new Philippine Scouts and limit payment for nursing home care furnished to Commonwealth Army veterans and new Philippine Scouts after September 30, 1979, to those cases in which there was a period of preceding hospitalization that was primarily for the treatment of a service-connected disability.

4. Clarify that payment for travel expenses in connection with hospital care or medical services furnished to a Commonwealth Army veteran or new Philippine Scout may only be made if such care is paid or to be paid for by the VA, and change all references in chapter 17 to the Veterans Memorial Hospital in the Philippines to the name by which it is now known, the "Veterans Memorial Medical Center".

5. Extend for 5 years, until October 1, 1983, the annual $2 million limitation on payments authorized under section 632(b).

6. Extend for 2 years, until September 30, 1980, the authorizations of annual appropriations for grants to the Veterans Memorial Medical Center for training of health service personnel ($50,000) and for replacement and upgrading of equipment and rehabilitation of the physical plant ($50,000).

Title II: *Benefits Payable to Persons Residing Outside the United tSates.*—This title includes provisions that would:

(1) Require, in order for VA benefits to be paid to or on behalf of a child residing outside the United States, based on the adoption of such child by a veteran under the laws of a foreign country, that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of such child's annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with the child's natural parent, unless the natural parent is the veteran's spouse. After the veteran's death, such an adoption would be recognized for VA benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for at least 1 year prior to the veteran's death.

(2) Prohibit VA benefits from being paid on the basis of a claim filed on or after October 1, 1979, by a person seeking to establish initial eligibility to benefits based on the active-duty service of a Philippine Commonwealth Army veteran or new Philippine Scout if a claim for the same benefits by that person has been previously disallowed more than once.

(3) Require the VA to submit to the President and the Congress, by February 1, 1980, a report of a comprehensive study, together with the VA's recommendations, on various issues involved in the payment of VA benefits to persons residing outside the fifty States and the District of Columbia—including economic issues, issues related to adoptive relationships under foreign laws, issues involved in the amount and method of payment of benefits payable to certain persons in the Philippines, issues relating to the continued operation of a VA regional office in the Philippines, and the effects of the provisions described in points (1) and (2) above; and require that the report include estimates of the present and future costs of benefits payable to persons residing outside the fifty States and the District of Columbia.

Title III: *Health Care Amendments.*—This title includes provisions that would:

1. Extend for 1 year, through fiscal year 1979, the VA's authority to enter into special-pay agreements with physicians and dentists under section 4118 of title 38.

2. Authorize additional appropriations necessary to meet shortfalls in appropriations available to fund approved grants and applications for the health manpower training institutions grant program under chapter 82 of title 38.

3. Authorize the provision of contract hospital care and outpatient treatment of non-service-connected disabilities as will obviate the need for hospital admissions in Alaska, Hawaii, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, so long as the annually determined hospital patient load and incidence of the provision of medical services at VA expense (except in Puerto Rico and the Virgin Islands) is consistent with such levels of hospital care and medical services, respectively, furnished by the VA in the 48 contiguous States. This authority would be extended, as so modified, to December 31, 1980, except that it would be made permanent with respect to Alaska and Hawaii.

4. Clarify that the conduct of examinations to determine entitlement to service-connected compensation has the same priority in the use of outpatient medical services as the treatment of veterans with service-connected disabilities for their other disabilities.

5. Authorize the provision of hospital care, nursing home care, and medical services in the United States to Commonwealth Army veterans and new Philippine Scouts for the treatment of their service-connected disabilities.

6. Authorize the Administrator to enter into contracts with organizations recognized under section 3402 to provide emergency medical services at national conventions of such organizations and receive reimbursement for such services, except to the extent that the recipients of such services are otherwise eligible under chapter 17 of title 38 to receive them.

7. Require the VA to prepare and submit to the President and Congress by October 1, 1979, a report assessing the health-care needs of veterans in Puerto Rico and the Virgin Islands, describing the health-care services furnished such veterans, and recommending how the health-care needs of such veterans should be addressed.

8. Require the VA to prepare and submit to the President and Congress by March 1, 1979, and annually thereafter, a detailed report on the VA's use of its contract care authorities.

Title IV: *Veterans Readjustment Appointments and Pension Reform Implementation.*— This title includes provisions that would:

1. Extend for 39 months, from June 30,

1978, until September 30, 1981, the period during which certain Vietnam-era veterans may receive veterans readjustment appointments (VRA's) in the Federal Government under section 2014(b) of title 38 (noncompetitive, 2-year appointments up to grade level GS–5 made, within 1 year after separation, of Vietnam-era veterans with 14 or less years of education). In addition to extending the VRA program, the requirement that the VRA appointment be made during the veteran's first year after separation would be eliminated, and eligibility would be restored to all those whose eligibility had expired because they had been separated for more than 1 year; eligibility would be conferred on Vietnam-era veterans separated from active duty prior to April 10, 1969; the level of authorized appointments would be raised from GS–5 to GS–7; the 14-year-education limitation would be eliminated for certain disabled Vietnam-era veterans; and the reporting requirements regarding the use of the VRA authority would be expanded.

2. Authorize, in contemplation of the enactment of a pension measure based on S. 2384 and H.R. 10173, ordered reported by the Senate and House Committees on Veterans' Affairs, respectively, the appropriation of $5,000,000 in fiscal year 1979 to implement the provisions of any law enacted after June 1, 1978, with an effective date prior to October 1, 1979, providing for a new program of pension benefits for veterans and survivors.

3. Authorize the appropriation of $350,000 in fiscal year 1979 for purposes of preparing and submitting the reports required under titles II and III of the bill.●

By Mr. MARK O. HATFIELD (for himself, Mr. CURTIS, Mr. BURDICK, and Mr. PACKWOOD):

S. 3097. A bill to require the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of the Army to utilize specified procedures in carrying out the Federal Reclamation Program, the Small Watershed Program, and the Civil Works Program, and for other purposes; to the Committee on Environment and Public Works.

● Mr. MARK O. HATFIELD. Mr. President, the Federal program for conservation and development of our Nation's water resources will not proceed much further without establishment by Congress of a national policy. The planning process is presently governed by a patchwork quilt of old statutes, committee reports, floor colloquies, executive orders and in-house memoranda; and this process increasingly is producing plans lacking in relevance to perceived public needs. Too often it does not produce anything at all.

Congress, I believe, should establish a set of objectives and guidelines to govern the planning process of the Federal water resource agencies, and assure that the planning proceed promptly according to standards which do not change with the whim of every new administrator. We should also assure that implementation, once committed, proceed promptly. We can no longer afford the uncertainties, the delays, the lost opportunities and the outright mistakes that plague our efforts today. And we cannot afford to keep piecemealing our way through this policy vacuum.

The President, obviously, is also unhappy with the water planning status quo. However, I am already convinced his review, now underway, and his forthcoming recommendations will not come close to matching the congressional sentiment about the future role of the Federal Government in water conservation and development. Therefore, I am introducing this bill as a positive alternative, and one I hope to make a focus of hearings which will undoubtedly follow the delivery of his recommendations.

This legislation is designed to regularize the Federal water development planning process, expedite it, eliminate its present incongruities and orient it toward objectives, including conservation of the water resource, that will be readily understandable and widely supportable. Specifically, it will:

First. Require that the planning process (of the Corps of Engineers, Bureau of Reclamation, and Soil Conservation Service) produce a feasibility report which describes fully the problems in the project area associated with each of five planning objectives, which will be: First, national economic development; second, regional development; third, environmental quality; fourth, social well-being; and fifth, conservation of the water resource.

Second. Define the allowable purposes or benefits of water resources development as energy projection, flood control, municipal and industrial water supply, recreation, irrigation, water conservation, water quality improvement, fish and wildlife enhancement, and local economic development.

Third. Require that the feasibility report display three benefit and cost accounts, associated with the objectives of national economic development, regional development, and environmental quality; show three maximizations (three project alternatives) for this account system; and show a recommended project of some balance among the five planning objectives, fully considering noneconomic concerns.

Fourth. Establish that all purposes will have accountable benefits for display in the system of three accounts; and that the costs associated with providing for these purposes will be nonreimbursable to the Federal Government, with the following exceptions: Energy (to be repaid in full with interest over the life of the energy-producing facility), municipal and industrial water (to be repaid in full with interest over the life of the project), irrigation (to be repaid according to existing law), and part of recreation and fish and wildlife enhancement features.

Fifth. Provide that all benefits and costs calculated for display in the system of three accounts utilize current dollars; and where such benefits or costs are based on values derived from past studies of any kind, that these values be inflated, by whatever price index most closely reflects the increase in similar values in the economy, in order to arrive at current dollars.

Sixth. Create for the three-account display system a method of reporting economic viability in terms of the internal rate of return on the project investment ("internal rate of return" defined to be that planning interest, or "discount," rate at which the benefits over the life of the project equal the costs).

Seventh. Establish the interest rate for reimbursable costs at the internal rate of return, but not to exceed the current rate for the longest-term marketable securities of the U.S. Treasury at the time of completion of the feasibility report by the initial reporting officer.

Eighth. Provide that in the evaluation of hydroelectric power development, the feasibility document will determine a cost of producing power from an equivalent alternative thermal (or other) generating source based on: first, the estimated cost of planning and constructing the alternative plant, in constant dollars, if it were constructed at the same time in the future as the hydroelectric plant to which it is being compared; second, the estimated cost of the alternative plant meeting all environmental, safety and operational standards in effect in the area at the time of initial plant operation; and third, the annual operating cost of the alternative plant, including fuel costs estimated at the expected market prices of the fuel over the period of the comparison, discounted for inflation.

Ninth. Create standing authority for the three agencies to conduct both appraisal/reconnaissance and feasibility level investigations.

Tenth. Establish a one-step authorization procedure, whereby Congress will review the project plans at the conclusion of the feasibility investigation, authorize advance engineering and design and construction in a single act, and provide for their additional review for possible modifications to the authorization should advance engineering and design produce significant departures from the project described in the feasibility report.

In closing I would only say to my colleagues that I view this legislation as nothing less than an effort to restore credibility to a Federal function I believe will become critically important as we move into an era that will see us reaching for answers to water resource questions more difficult than we have ever faced in the past.

Mr. President, I ask unanimous consent that the text of this bill and a section-by-section explanation I have prepared appear in the RECORD following my remarks today.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a)(1) The Secretary of the Interior, through the Bureau of Reclamation, the Secretary of Agriculture, through the Soil Conservation Service, and the Secretary of the Army, through the Chief of Engineers (hereinafter referred to as the "Secretaries") are authorized to conduct investigations for water resource development projects within their respective jurisdictions. Investigations may be undertaken for water resource development projects for the purpose of providing benefits in the areas of energy production, flood control, municipal and industrial water supply, water conservation, recreation, irrigation, navigation, water quality improvement, fish and wildlife

enhancement, and local economic development, and local economic development. Investigations shall be initiated at the discretion of the Secretaries or upon the request of Congress.

(2) The Secretaries may, for each investigation undertaken within their respective jurisdictions, conduct first a general appraisal study of the nature of the water resource problems in the study area and the kinds of Federal participation in solutions that would be possible, prior to proceeding with a detailed feasibility investigation as described in subsection (b), in order to determine whether proceeding with such detailed feasibility investigation is advisable.

(b)(1) The Secretaries shall, for each detailed feasibility investigation undertaken within their respective jurisdictions, prepare a feasibility report to be submitted to the Congress describing and analyzing the water resource problems of the area with respect to the following five planning objectives: national economic development, regional development, water resource conservation, environmental quality, and social well-being.

(2) Feasibility reports prepared pursuant to this subsection shall include a proposal, recommended by the appropriate Secretary, which either provides a solution to the water resource problems of the study area which fully considers the five project planning objectives specified in paragraph (1) or recommends no Federal project. In addition, the feasibility report shall include three alternative proposals. One alternative shall describe a project which will provide a solution to the water resource problems of the study area which places maximum emphasis on furthering the objective of national economic development. The second alternative proposal shall provide a solution to the water resource problems of the study area which maximizes the objective of regional development. The third alternative proposal shall provide a solution to the water resource problems of the study area which maximizes the objective of environmental quality.

(3) For each of the four proposals required pursuant to paragraph (2), the feasibility report shall—

(A) specify, in dollars, the value of project benefits and costs attributable to providing for each of the water resource development project purposes of energy production, flood control, municipal and industrial water supply, water conservation, recreation, irrigation, navigation, water quality improvement, fish and wildlife enhancement, and local economic development;

(B) include, in dollar amounts, the full value of the benefits to the area of the project due to economic transfers from another area to the area of the project;

(C) describe the economic viability of the project based upon the internal rate of return of the project, which shall be defined as the interest rate at which the benefits over the first 50 years of the life of the project equal the cost; and

(D) adjust the dollar value of all benefits and costs which are based upon studies or investigations conducted prior to the date of submission of the feasibility report to the Congress to equivalent dollar values on an economic reporting date which is within 6 months of the date of submission of such report, through the use of price indices most closely reflecting the increases in similar benefits and costs from the dates of preparation of such studies or investigations to the economic reporting date.

(4) The feasibility report required pursuant to this subsection shall include, in the case of a project for the development of hydroelectric power, a determination of the cost of producing power from an alternative equivalent generating source. The determination of the cost of such an alternative power source shall be based upon an analysis of—

(A) the cost, in dollars, of constructing the alternative power source during the same time period in which the proposed hydroelectric power source is to be constructed;

(B) the amount, in dollars, that it would be necessary to expend in order that such alternative power source would meet all environmental, safety, and operational standards in effect in the region in which the project is located on the projected date for initial operation of the project; and

(C) the annual operating cost of such alternative power source, including an estimate of the fuel costs for operating such alternative power source during the life of the project.

(c) The scope of review of the Board of Engineers for Rivers and Harbors for water resource development projects planned by the Secretary of the Army pursuant to the provisions of this section shall be limited to an examination of the technical engineering aspects of such projects.

SEC. 2. (a) For water resource development projects planned in accordance with the provisions of section 1, the United States shall be reimbursed—

(1) for not less than 100 percent of the costs attributable to the purpose of providing benefits in the area of energy production, plus, interest on such costs calculated over the first 50 years of the life of the energy producing facility;

(2) for not less than 100 percent of the costs attributable to the purpose of providing benefits in the area of municipal and industrial water supply, plus interest on such cost calculated over the first 50 years of the life of the project;

(3) for 50 percent of the separable costs allocated to construction, and 100 percent of the operation and maintenance, of recreation facilities beyond those minimum facilities necessary for public access to and use of the project;

(4) for 25 percent of the separable costs allocated to construction, and 100 percent of the operation and maintenance, of fish and wildlife enhancement facilities beyond those minimum facilities necessary to achieve the basic enhancement purpose;

(5) for costs allocated to providing for irrigation, in accordance with existing policies governing repayment of reclamation projects;

(b) The interest rate to be charged on the reimbursable costs of a water resource development project under paragraphs (1) and (2) of subsection (a) shall be equal to the internal rate of return of such project, as defined in section 1(b)(3)(C), but not greater than the average yield for long-term marketable securities of the United States Treasury during the full fiscal year prior to the date of completion of the feasibility report required pursuant to section 1(b).

(c) In preparing the feasibility reports required under section 1(b), the Secretaries shall specify the dollar amounts, if any, that the United States is to be reimbursed for costs attributable to one or more purposes of a project.

SEC. 3. (a) The provisions of sections 1 and 2 shall apply to all water resource development projects for which detailed feasibility investigations have not been initiated at the date of enactment of this Act.

(b) Nothing in this Act shall be construed to require additional authorizations for water resource development projects authorized prior to the date of enactment of this Act.

SEC. 4. The Congress finds, in that authorizations for water resource development projects shall be based upon the feasibility reports prepared pursuant to section 1, that—

(1) appropriations for the advance engineering and design and construction phases of such projects should be authorized in a single Act; and

(2) such projects should be reviewed by the Congress at the completion of the advance engineering and design phase for the purpose of modifying the authorization of appropriations for such projects only if the advance engineering and design studies reveal significant differences from the project described in the feasibility report or the authorizing statute.

SECTION-BY-SECTION EXPLANATION

Sec. 1. (a) It is presently cumbersome for the water resource agencies to respond to local requests to analyze an area's water needs and assess the possibilities for Federal participation in solutions because of the need to obtain Congressional authorization for individual feasibility investigations, with the exception of the small-project standing authorities referred to in Sec. 3 (b). Within their budgets for conducting such investigations, these agencies would be freed to respond to such requests by Sec. 1 (a). Their first look at a water-related problem generally consists of an "appraisal" or "reconnaissance" survey designed to determine whether Federal assistance is likely to be feasible, with detailed studies leading to a report to Congress coming after an appraisal indicates such likelihood. Part (a) also specifies the allowable purposes of water projects, which are unchanged from the present missions of the agencies with the exception of addition of water conservation.

Sec. 1. (b)(1). Ostensibly, four objectives presently govern water planning, but in reality if it does not appear that the "national economic development" economic analysis will not yield a benefit-to-cost ratio above unity the agency will not complete an assessment of the water problems of the area. This practice effectively ignores the other three objectives and does not give Congress the information it needs to evaluate an Administration recommendation concerning a project possibility. This subpart adds conservation as a general objective of water planning. Subsequent subparts assure that all objectives will receive due consideration in water planning.

Sec. 1. (b)(2). This bill does not attempt to straightjacket the Administration in the recommendation of projects—on the contrary, the planners' flexibility is enhanced. This bill *does* attempt to require that the planning process realistically and completely evaluate the need for and the benefits from water-related projects. In order to improve the ability of the Congress (which finally must decide whether to authorize a project and determine what its features will be) to evaluate a feasibility report, this subpart requires several specific exercises in the planning process. It requires that the range of opportunities for addressing the water problems of an area be shown by providing a description of a project which would maximize the national economic contribution, one which would maximize regional economic development, and one which would maximize environmental quality. It requires that a recommended project be similarly displayed, one which fully considers the noneconomic as well as the economic objectives.

Sec. 1(b)(3)(A) This subpart insures that in the economic analysis all quantifiable benefits and costs of a project are actually attributed to it.

Sec. 1(b)(3)(B) This subpart specifies that economic transfer benefits will be displayed in the analysis and fully credited to the project.

Sec. 1(b)(3)(C) Traditionally, the end result of the economic analysis has been the all-important benefit-to-cost ratio, for which computation the allowable NED benefits, annualized and discounted over the expected project life, are divided by total costs of construction and operation. Presently, if this ratio does not exceed unity, the project is scrapped, no matter what value it

may have to regional development, environmental quality, or social well-being, and despite their status as planning objectives. This subpart seeks to replace the ratio as the final determiner of economic feasibility by a more flexible system that will show the actual return on the taxpayers' investment. This system recognizes that the acceptability to the Administration or to Congress of a project returning 3% or 6% or 10% may well hinge on the type of features and benefits it presents. Environmental enhancement features, for example, have tended to drag projects down under traditional feasibility analysis; but the Congress may decide under the system prescribed here that 3% is adequate for such projects which otherwise would be scuttled for falling below unity in the benefit-to-cost analysis at the present arbitrarily established interest rate of 6⅞%.

Sec. 1(b)(3)(D) This subpart assures that all values cranked into the economic analysis will be current, or at least the closest estimates of current worth that can be determined by inflating values from those last reported by researchers in the appropriate fields.

Sec. 1(b)(4) This subpart assures that hydro-power benefits will be accorded full value in relation to alternative means of generating such power, including values associated with the environmental problems of whatever may be the least-cost alternative.

Sec. 1(c) This part removes Army civil works policy determinations from the Board of Engineers for Rivers and Harbors, leaving policy review in the hands of the Secretary of the Army and higher levels in the Administration. The value of the Board's review is that it brings the combined engineering expertise of several Division Engineers to bear on the technical aspects of project proposals. Doubling their role to that of policy committee for the Administration adds an unnecessary layer to this aspect of the review.

Sec. 2(a). This part requires reimbursement by local sponsors to the Federal Treasury for certain project purposes—power, municipal and industrial water, irrigation, and certain aspects of recreation and fish and wildlife features. The major departure from existing practice is in recreation and fish and wildlife enhancement. This part reflects the intent of, and is compatible with, S. 2054. I believe the development of recreational opportunities ought to be an important national purpose, not simply an afterthought of water planning; and that more of the cost of constructing and operating such recreational developments should be borne Federally. This recognizes that Federal water projects, which are generally of a scope beyond the ability of locals to undertake often involve recreational developments similarly large in scope and much greater than local in their draw of recreationists.

Sec. 2(b). This part sets an interest ceiling for reimbursements to the Treasury that reflects the current long-term cost of Federal borrowing.

Sec. 3(a). This part states that the new planning procedures need not be applied to any planning effort which has progressed beyond the appraisal/reconnaissance phase.

Sec. 3(b). This part exempts the standing small-project authorities from any requirement of further Congressional action in the approval of projects. These standing authorities are for small flood protection works, snagging and clearing of river channels, beach erosion and emergency streambank protection, small navigation improvements, the small reclamation program, and the small watershed ("PL 566") program.

Sec. 4. This section expresses Congressional preference for a one-step authorization procedure, whereby Congress will review the project plans at the conclusion of the feasibility investigation, authorize advance engineering and design and construction in a single act, and provide for their additional review for possible modifications to the authorization should AF & D produce significant departures from the project described in the feasibility report.●

By Mr. MAGNUSON (by request):

S. 3098. A bill to amend the Fishery Conservation Zone Transition Act in order to give effect to the Reciprocal Fisheries Agreement for 1978 between the United States and Canada; to the Committee on Commerce, Science, and Transportation.

● Mr. MAGNUSON. Mr. President, the bill I am introducing today would amend the Fishery Conservation Zone Transition Act in order to implement the 1978 Reciprocal Fisheries Agreement between the United States and Canada.

The bill would implement this 1-year agreement and would provide for the maintenance of reciprocal fishing rights between the United States and Canada until the comprehensive United States-Canadian negotiations can be completed at the end of this year.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Fishery Conservation Zone Transition Act (Public Law 95–73; 91 Stat. 283) is amended to read as follows:

"(a) CONGRESSIONAL APPROVAL.— The Congress hereby approves the Reciprocal Fisheries Agreement for 1978 between the Government of the United States and the Government of Canada (hereinafter in this section referred to as the 'Agreement') as contained in the message to Congress from the President of the United States dated May 1, 1978. The Agreement shall be in force and effect with respect to the United States from January 1, 1978, until such later date in 1978 as may be determined pursuant to the terms of the Agreement.". ●

By Mr. BAYH (for himself, Mrs. HUMPHREY, Mr. BROOKE, Mr. RIEGLE, Mr. ABOUREZK, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. DURKIN, Mr. GLENN, Mr. GRAVEL, Mr. PAUL G. HATFIELD, Mr. HEINZ, Mr. JAVITS, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MCGOVERN, Mr. METZENBAUM, Mr. PACKWOOD, Mr. RIBICOFF, Mr. SARBANES, Mr. WILLIAMS, and Mr. HASKELL):

S. J. Res. 134. A joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

EXTENDING THE DEADLINE FOR RATIFYING THE ERA

● Mr. BAYH. Mr. President, on behalf of myself and 23 cosponsors including Senators HUMPHREY, BROOKE, RIEGLE, CASE, CRANSTON, DURKIN, GLENN, GRAVEL, PAUL G. HATFIELD, HEINZ, JAVITS, KENNEDY, LEAHY, MATHIAS, MCGOVERN, METZENBAUM, PACKWOOD, RIBICOFF, SARBANES, WILLIAMS, and HASKELL, I am introducing a joint resolution which will extend for another 7 years, the deadline for ratification of the equal rights amendment to the Constitution. Unless Congress extends the current deadline, it will expire on March 22, 1979.

As a recognition of the need to make equality under the law a reality for the women of our Nation, Congress in 1972 overwhelmingly passed the equal rights amendment to the Constitution. As part of what had become a custom since 1917, Congress included in the preamble to the amendment a 7-year time limitation for ratification by State legislatures. This arbitrary time period of 7 years was adopted by the Congress in the assumption that it would be a reasonable time period to assure full and open debate on such an important question as the legal equality of women. No one in the Congress at that time could foresee that parliamentary tactics by a recalcitrant few would prevent the equal rights amendment from even reaching the floor for a vote in the bodies of some State legislatures.

The ERA has now been ratified by 35 of the necessary 38 States. Those States which have ratified include: Hawaii, New Hampshire, Nebraska, Delaware, Iowa, Idaho, Kansas, Texas, Tennessee, Alaska, Rhode Island, New Jersey, Wisconsin, Colorado, West Virginia, New York, Michigan, Maryland, Kentucky, Massachusetts, Pennsylvania, California, Wyoming, South Dakota, Oregon, Minnesota, New Mexico, Vermont, Connecticut, Washington, Maine, Montana, Ohio, North Dakota, and Indiana. These States represent over three-quarters of the population of the United States.

The need for the ERA has not diminished since its enactment in 1972. Public opinion polls continue to show that a large majority of people in this Nation, as well as a majority in many of the unratified States support ratification of the ERA. Those of us in the Congress who led the initial effort to secure congressional enactment of the ERA are unwilling to let the tactics of a few deprive American women their right to legal equality. It is for that reason that we are now seeking to further the intent of the Congress in assuring a reasonable time for debate by extending the ratification period for another 7 years.

1. CAN CONGRESS EXTEND THE DEADLINE UNDER THE CONSTITUTION?

The resolution I am introducing today is identical to House Joint Resolution 638, introduced in the House of Representatives on October 26, 1977. During the first session of the 95th Congress, the House Civil and Constitutional Rights Subcommittee held 3 days of hearings on the legal issue of whether Congress had the authority to lengthen the period of ratification for a proposed constitutional amendment.

There was little disagreement among legal scholars testifying at these hearings that Congress does, indeed, have the power to extend such a deadline. While Congress has never before extended a time period for ratification, its authority to do so is clearly established

under both *Dillon* v. *Gloss*, 256 U.S. 368 (1921) and *Coleman* v. *Miller*, 307 U.S. 433 (1939). In Dillon the court states:

Whether a definitive period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time period may be avoided is, in our opinion, a matter of detail which the Congress may determine as an incident of its power to designate the mode of ratification. (id at 375).

In order to further elaborate on the legal question of whether Congress has the power to extend, I would like to ask unanimous consent that testimony supporting this contention from the Department of Justice be inserted in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JOHN M. HARMON

Mr. Chirman and members of the Subcommittee: I am pleased to appear before this Subcommittee to discuss what, at least to me, are difficult and complex constitutional questions raised by H.J. Res. 638. That resolution would extend the period available to the States for ratification of the proposed Equal Rights Amendment (ERA) until March 22, 1986.

I should state at the outset that, while the Administration has publicly taken a position supporting an extension such as the one contemplated on H.J. Res. 638, the purpose of my appearance before this Subcommittee is not to discuss the merits of the proposed extension but rather to provide whatever legal advice I can regarding the constitutional issues raised by this resolution.

As you may be aware, in my capacity as Assistant Attorney General for the Office of Legal Counsel, I have already given my opinion to Robert Lipshutz, Counsel to the President, on the constitutionality of Congress' extending the time period available for ratification of the ERA. That opinion was issued October 31, 1977, and is appended to this statement. I would ask, Mr. Chairman, that the opinion be considered as a formal part of my statement.

Before addressing the constitutional questions raised by the resolution, I would first make several introductory observations. First, I see as essentially separate matters whether H.J. Res. 638 is constitutional and whether the issues it raises are susceptible to judicial resolution. In my view, it is important in any discussion of these issues to avoid a suggestion that because the 95th Congress or a successor Congress may have the final word on their resolution, the constitutionality of this resolution becomes an easier or an avoidable question. Secondly, I think that the lack of authoritative judicial precedent or guidance from the language of the Constitution itself makes it difficult to conclude with certainty that H.J. Res. 638 is or is not constitutional. Finally, even though I think that the determination whether this resolution is constitutional does not turn on whether an extension would free ratifying States to "rescind" their ratifications, I address that question in some detail because I feel that discussion of this question may be helpful in the general debate over this resolution.

On the main question before this Subcommittee, it is my opinion that Congress does have the power to extend the ratification period for the ERA. The Supreme Court recognized in *Dillon* v. *Gloss*, 256 U.S. 368 (1921) that as an incident to the Article V power to propose amendments to the Constitution, Congress has the power and responsibility to assure that the amendment has been ratified "within some reasonable time after the proposal." *Dillon* v. *Gloss*, 256 U.S., at 375, and that the amendment reflects the reasonable contemporaneous "expression of the approbation of the people" in the three-fourths of the States. *Id.* However, it is clear that the Court considered the question of timeliness of ratification to be one of several "subsidiary matters of detail," *Dillon* v. *Gloss*, 256 U.S. at 376, necessarily delegated to Congress as an incident of the ratification process which do not go to the substance of the proposed amendment.

Congress did have the power to make the time period for ratification a substantive part of the amendment by including a time limit in the text of the amendment itself as was the case with the Eighteenth, Twentieth, Twenty-first, and Twenty-second Amendments. Had the 7-year time limit been placed in the text of the ERA, it is arguable that this Congress could not extend the time limit without beginning the ratification process anew.

However, the 92d Congress did not put a time limit in the text of the ERA but rather stated in the proposing resolution that the States should have at least 7 years to consider ratification of the amendment.

By placing the time period in the proposing resolution rather than in the text of the amenment, the 92d Congress effectively decided that the proposal should remain viable for at least 7 years without barring a subsequent Congress from making a more informed judgment at a later time as to the reasonableness of the time period for ratification of the ERA. Indeed, as a matter of logic, the determination whether circumstances are such that the ratification can be said to have been reasonably contemporaneous would be better made by the Congress in session when the ratification occurs than by the proposing Congress. Only the later Congress can make the determination, referred to by Chief Justice Hughes in *Coleman*, whether the condition which prompted the proposal of an amendment have "so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it." 307 U.S., at 453. In sum, I conclude that the 95th Congress, on the basis of a record presumably more substantial than that before the 92d Congress, may determine that an extension of the time limit is reasonable and thereby extend the period during which the States may consider ratification of the ERA.

With regard to the question whether the resolution to extend the period must be approved by a two-thirds vote in each House or whether a simple majority is constitutionally sufficient, it is my opinion that a two-thirds vote is not required. This conclusion follows from the holdings in *Dillon* and *Coleman* v. *Miller*, 307 U.S. 433 (1939), first, that a constitutional amendment may only become law if it has been ratified "within some reasonable time after the proposal," *Dillon* v. *Gloss*, 256 U.S., at 375, and second, that the Constitution commits to Congress both the power and the duty to decide whether that implied condition of reasonably contemporaneous ratification has been satisfied. *Dillon* v. *Gloss*, 256 U.S., at 375–76; *Coleman* v. *Miller*, 307 U.S., at 454, 456, 458–59. Congress must have the ability to make the required determination. A requirement of a two-thirds vote to accept or reject the purported ratification of a constitutional amendment could frustrate the amendment process as the failure to obtain the two-thirds vote would not resolve the question committed by the Court in *Coleman* to the Congress. Under the decision in *Coleman* it is the responsibility of Congress to determine whether a proposed amendment has been ratified.

Moreover, a requirement of a two-thirds majority would be incompatible with the operating principle of our Constitution that those cases in which a greater than majority vote are to be required are clearly contemplated and made explicit in unmistakable language.

Finally, with respect to the possible effect of the extension on the power of the States to rescind prior ratification, it is my opinion that the extension would not give rise to any right of rescession and furthermore that Congress cannot give to the States a right to rescind by any means short of amending Article V of the Constitution. The proposition was advanced by James Madison during the debates in the States over adoption of the Constitution that a State's ratification must be unconditional and irrevocable. Article V gives to the States the power to ratify a proposed amendment, but not the power to reject. This proposition has been consistently accepted by every Congress which has faced a question as to the validity of a State's ratification. In 1926 a resolution was introduced in the Senate to propose an amendment to Article V to give the States the power to rescind a prior ratification of a constitutional amendment at any time before the amendment had been accepted by three-fourths of the States. That resolution failed. Under the consistent interpretation of Article V of the Constitution, it is my view that a State which has once ratified an amendment is powerless to rescind that ratification and that the sole power to review a State's ratification at a later date to determine if it still reflects the reasonably contemporaneous approval of the proposed amendment by the required number of States is vested in the Congress. *Coleman* v. *Miller*, 307 U.S., at 454, 456, 458–59.

There is serious question whether a court would undertake to settle these issues. The Supreme Court held in *Coleman* that Article V vested in the Congress the authority and responsibility to determine whether a proposed amendment has been duly ratified. That case dealt with the question of the timeliness of ratification as well as the validity of a State's ratification after a prior vote of rejection. The resolution before this Subcommittee raises additional questions, different questions going to the very essence of the amending process. For that reason and in light of more recent Supreme Court decisions narrowly limiting the scope of the political question doctrine, it is far from clear that the Court today would say that these questions concerning the interpretation and application of Article V are exclusively reserved to the Congress. However, the possibility of judicial review cannot and should not relieve the Congress of its duty to assure itself that its actions are consistent with the Constitution.

In conclusion, there are no easy answers to the difficult constitutional questions presented by this resolution. It is my view that the resolution is constitutional; Congress has the power to extend the time period for consideration of the ERA. The sole responsibility for the exercise of that power is yours.

I will be pleased to try to respond to your questions.

MEMORANDUM FOR HONORABLE ROBERT J. LIPSHUTZ

Subject: Constitutionality of Extending the Time Period for Ratification of the Proposed Equal Rights Amendment.

This responds to your request for our opinion regarding the constitutionality of extending the period, presently scheduled to expire on March 22, 1979, for ratification by the States of the proposed Equal Rights Amendment.

In the course of addressing this general question, we have identified a number of discrete questions that we will discuss. Briefly, our views are as follows: (1) no

authority suggests persuasively that an extension of seven years would be *per se* unconstitutional; (2) congressional action to extend the deadline for ratification can take the form of a concurrent resolution subject to majority vote of a quorum of each House; (3) we do not think that an extension would empower the States which have ratified the ERA prior to the extension to rescind that ratification during the extension period; (4) we doubt Congress may extend a right to rescind to States during the seven-year extension period; and (5) we believe that at least some of these issues would probably be held to present justiciable controversies in appropriate cases.

Before addressing these questions, we would first make several introductory observations. First, we see as essentially separate matters whether H.J. Res. 638 is constitutional and whether the issues it raises are susceptible to judicial resolution. In our view, it is important in any discussion of these issues to avoid a suggestion that because the 95th Congress or a successor Congress may have the final word on their resolution, the constitutionality of this resolution becomes an easier or an avoidable question. Secondly, we think that the lack of authoritative judicial precedent or guidance from the language of the Constitution itself makes it difficult to conclude with certainty that H.J. Res. 638 is or is not constitutional. Finally, even though we think that the determination whether this resolution is constitutional does not turn on whether an extension would free ratifying States to "rescind" their ratifications, we address that question in some detail because we feel that discussion of this question may be helpful in the general debate over this resolution.

I. BACKGROUND

The two documents most relevant to our inquiry are H.J. Res. 208, 92d Cong., 2d Sess. (1972), which proposed to the several States the adoption of the ERA, and Article V of the Constitution, which sets forth the procedures for amending the Constitution. The text of the resolution is as follows:

House Joint Resolution 208

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"Section 3. This amendment shall take effect two years after the date of ratification." [1]

On March 24, 1972, certified copies of the full text of this joint resolution were transmitted to the Governors of the 50 states by the Acting Administrator of the General Services Administration with a request that each Governor submit it "to the legislature of your state for such action as it may take" and requesting also that a "certified copy of such action be sent to the Administrator of [GSA]. . . ." *See* 1 U.S.C. § 106b. As of this date, thirty-five states have submitted certifications to GSA of ratification of ERA by their respective legislatures.[2]

Article V, the sole provision of the Constitution dealing with the amendment process, reads as follows:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner effect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article V does not on its face contain any requirement that an amendment, once proposed by Congress, must be ratified within a specific time period or that Congress may establish a time period in which the States will be empowered to ratify a proposed amendment. In *Dillon* v. *Gloss*, 256, U.S. 368 (1921), the Supreme Court addressed both these issues.

In *Dillon*, a defendant convicted of an offense under a statute passed by Congress to enforce the Eighteenth (Prohibition) Amendment, contended, *inter alia*, that Congress had no power to set a time limit for ratification and that, as a consequence, the Amendment itself was void because Congress had placed a seven-year limit on ratification in § 3 of the Amendment.[3] In rejecting this argument, the Court stated:

"Of the power of Congress, keeping within reasonable limits, to fix a definite period for the ratification we entertain no doubt. As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require; and Article V is no exception to the rule. Whether a definite period for ratification shall be fixed so that all may know what it is and speculation on what is a reasonable time may be avoided, is, in our opinion, a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification. It is not questioned that seven years, the period fixed in this instance, was reasonable, if power existed to fix a definite time; nor could it well be questioned considering the periods within which prior amendments were ratified. 256 U.S., at 375–76" (footnote omitted).

After *Dillon*, the Supreme Court has had only one occasion to address the question of congressional power under Art. V to establish the time frame for ratification. That case, *Coleman* v. *Miller*, 307 U.S. 433 (1939), involved, *inter alia*, the claim that the "Child Labor Amendment," proposed by Congress in June, 1924 without Congress having set a time limit for ratification, could no longer be ratified by the Kansas legislature in 1937 because some 13 years had elapsed since its submission to the States. In response to the contention that 13 years was an "unreasonable" period of time, the Court stated:

"Our decision that the Congress has the power under Article V to fix a reasonable limit of time for ratification in proposing an amendment proceeds upon the assumption that the question, what is a reasonable time, lies within the congressional province. *If it be deemed that such a question is an open one when the limit has not been fixed in advance*, we think that it should also be regarded as an open one for the consideration of the Congress when, in the presence of certified ratifications by three-fourths of the States, the time arrives for the promulgation of the adoption of the amendment. That decision by the Congress, in its control of the action of the Secretary of State, of the question whether the amendment had been adopted within a reasonable time would not be subject to review by the courts. *Id.*, at 454" (emphasis added).[4]

Because no time limit had been set by Congress in the proposed Child Labor Amendment involved in *Coleman*, it may be properly inferred from the quotation above that the establishment of a time limit by Congress proposing an amendment would not leave open the question of what is a reasonable period. Certainly if a time limit had expired before an intervening Congress had taken action to extend that limit, a strong argument could be made that the only constitutional means of reviving a proposed amendment would be to propose the amendment anew by two-thirds vote of each House and thereby begin the ratification process anew.

Additionally, if the proposing Congress had fixed a specific time limit within the text of the proposed amendment itself, a strong argument could be made that any attempt to modify or extend that period would constitute an amendment to the proposed amendment, requiring the ratification process to begin again.[5]

Even assuming *arguendo* that H.J. Res. 638 would be unconstitutional had the seven-year limit been included within the text of the ERA itself, it can nevertheless be viewed as constitutional if the placing of the limitation within what we shall refer to as the "proposing clause" permits a different result. From an analytical viewpoint, we think that respectable arguments can be made on both sides of this question.

An argument against the constitutionality of H.J. Res. 638 might be based on the following analysis: As suggested by the language of the *Coleman* opinion, the question of a time limit is no longer open once a time limit is imposed by the proposing Congress. Furthermore, Art. V itself can be viewed as envisioning a process whereby Congress proposes an amendment and is divested of any power once the amendment is submitted to the States for ratification,[6] other than possibly the power declared in *Coleman* to judge whether ratification has occurred. Also, it can be argued that no distinction should be made between the placing of a time limit in the text of a proposed amendment and placing it in the proposing clause; to do so is to elevate form over substance. Finally, it is not unreasonable to say that States having ratified a proposed amendment with a set time period have done so in the expectation that a necessary three-fourths of the States would do so within the established limit or else the proposed amendment would fail of adoption.

An argument favoring the constitutionality of H.J. Res. 638 might proceed as follows: *Dillon* and *Coleman* confirm the power of Congress to establish a "reasonable" time in which ratification may occur and, therefore, an extension of a time once established is constitutional if the extended period is reasonable. If, under *Coleman*, a Congress years after an amendment has been proposed has the power to determine the reasonableness of the intervening time period, there is no reason to conclude that a Congress in the position of the 95th may not determine, at a specific point in time, that an amendment is still viable and will be so for a reasonable number of years in the future.

Presented with these arguments without more, we would find it difficult indeed to

Footnotes at end of article.

choose between the two. We take as given from *Dillon* and *Coleman* that whatever power the 95th Congress may have to extend the seven-year limitation must be implied from Article V itself, and we think it fairly clear that such power may be implied unless the action of the 92d Congress must be viewed as binding on all future Congresses, including the 95th and the 96th, the latter being the Congress during whose life the initial seven-year period will actually expire. In our view, the soundest approach to resolving this question is to rely to the greatest extent possible on the historical understanding of the Congresses that have made use of the time limitation device.

II. HISTORIC PRACTICE REGARDING TIME-LIMITING CLAUSES

Although the placing of time limits for ratification in proposed amendments was considered in the 65th Congress,[6a] the first occasion for its actual inclusion was in the Eighteenth Amendment. In that amendment, the limitation appears as section 3 and reads as follows:

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

As pointed out by the Court in *Dillon*, this provision was included in part because of expressed Congressional concern that other amendments proposed much earlier in the history of the Republic might still be subject to ratification. Such a possibility concerned the 65th Congress because it generally agreed, as did the *Dillon* court subsequently, that some reasonable time period for ratification was implicit in Art. V itself. *See Dillon* v. *Gloss*, 256 U.S., at 372–73. Although the question was not focused on generally in House debate, at least one of the participants observed that "the [seven-year] limitation here is in the article that is to be submitted and is not a separate proposition. Hence, when it is voted upon by the States and adopted it is as much a valid article and amendment as [the substance of the amendment itself]." [7]

In the Senate, fuller consideration was given to the question of the power of Congress to place a time limit on ratification. In response to the argument that Congress had no power to impose a limitation on the ratification period, several senators argued that the apparent absence of such a power in Art. V would be overcome and such a power would be recognized as part of the Constitution should three-fourths of the States ratify within the then six-year period. 55 Cong. Rec. 5650 (1917) (remarks of Sen. Promerene); *id.*, at 5659 (remarks of Sen. Sheppard). The debate in the Senate also indicated general agreement that the power of Congress to set such a limit would be subjected to judicial review and that failure of ratification by three-fourths of the States within the fixed time period would most probably require the resubmission of the amendment by a future Congress. *Id.*

When the next Congress came to propose the Nineteenth Amendment, congressional fears expressed in section 3 of the proposed Eighteenth Amendment were apparently put aside. The issue apparently never arose until an attempt to include a seven-year limit was made and, without debate, rejected.[8]

When the Congress proposed the Twentieth Amendment by S.J. Res. 14 in 1932, a seven-year limitation was written into the text of the proposed amendment itself, now section 6 of that Amendment, in language virtually identical to that contained in section 3 of the Eighteenth Amendment quoted *supra*.[9] On the floor of the Senate, section 6 was explained as follows:

"In effect it [section 6] is the same provision that was in the prohibition [Eighteenth] amendment to the Constitution." [10]

During House consideration of S.J. Res. 14, Congressman Celler of New York proposed that a seven-year limitation, then not in the resolution, be added to what he described as the "preamble," or proposing clause, of the amendment. In doing so, he quoted at length from *Dillon* v. *Gloss*, *supra*.[11]

Celler's proposed amendment to S.J. Res. 14 drew immediate criticism from his colleagues. Congressman Jeffers, apparently not favorably disposed to any limit, refused to debate its wisdom:

"Because I think it is very clear that it [Celler's proposal] is out of place where it is being offered; but if the amendment has any virtue. . . . I think it should be offered at the end of the resolution as an additional section, and then if it should be adopted it would be a part of the constitutional amendment.

"As it is now offered it would only be a part of the proposal clause of the constitutional amendment but would not be in the constitutional amendment.

• • • • •

"If the gentleman wants his amendment in the Constitution, it should go in as a new section. or section 6. As he has now offered it, it would be of no avail . . . ." [12]

Another of Mr. Celler's colleagues, Mr. Ramsyer, intending himself to amend S.J. Res. 14 to include a seven-year limitation for ratification, indicated his agreement with Mr. Jeffers as to the question of where the limit should be placed:

"The eighteenth amendment carried that 7-year provision as section 3, and it was that provision that the Supreme Court [in *Dillon*] held to be valid . . . .

"Section 6 goes to the entire article, as to how it shall take effect. It appears in the eighteenth amendment as the last section of the amendment . . . . I am confident that is the place for it." [13]

Congressman Celler, after this discussion, withdrew his amendment.[14]

When Congress proposed what became the Twenty-First Amendment, it included as section 3 of that amendment language virtually identical to that in the Eighteenth and Twentieth Amendments.[15] Comments on the floor of the Senate included statements that "the Congress which submits an amendment has the power to fix the terms upon which it may be considered," 76 Cong. Rec. 4152 (1933), and "after Congress adopts the manner of ratification, by legislatures or conventions, it has no more role to play." *Id.*, at 4164. *See also*, 55 Cong. Rec. 5652 (1917).

The Twenty-second Amendment likewise contained a seven-year limitation in section 2 of the amendment patterned after prior limitations. Senator McClellan noted that "a period of 7 years' time is given, under the terms of the joint resolution [for] the amendment to be ratified . . . ." 93 Cong. Res. 1800 (1947).

The Twenty-third Amendment, proposed in 1960, for the first time did not include a seven-year limitation within the text of the amendment itself. Instead, the seven-year limitation was contained in the proposing clause, which read as follows:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution *only if* ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress . . . . (emphasis added).

The history of the Twenty-third Amendment is lengthy, as pointed out in hearings conducted by Subcommittee No. 5 of the House Committee on the Judiciary chaired by Congressman Celler. Early proposals to grant the District of Columbia voting power in the Electoral College would have amended Art. IV, § 3 of the Constitution directly.[16] In 1940 and 1941, amendments were reported out of committee containing seven-year limitations in the text of the proposed amendments.[17]

The House report on the amendment issued by Congressman Celler as Chairman of the full Committee on the Judiciary, explained the limitation as follows:

"The resolution . . . consists of two parts. The first part provides by its terms that the resolution [sic] shall be valid as a part of the Constitution only if ratified by the legislatures of three-fourths of the States within 7 years after it has been submitted to them by the Congress.[8]"

Footnote 8 to the report read as follows:

"Congress first adopted the 7-year limitation provision in proposing the 18th amendment to the Constitution. It did so because, at that time, several proposed constitutional amendments already submitted to the States for ratification had long laid dormant but were nevertheless subject to being resurrected and acted upon by the several States. (See *Dillon* v. *Gloss*, 256 U.S. 368, 373 (1921).

"The first 10 amendments to the Constitution were ratified by the necessary number of States within 10 months, 20 days of their submission by the Congress. According to a statement in *Coleman* v. *Miller*, 307 U.S. 433, 453 (1939), the average time for ratification of amendments 10–21 has been computed to be 1 year, 6 months, 13 days; 3 years, 6 months, 25 days has been the longest time used in ratifying. The 22d amendment was ratified in 3 years, 11 months, 7 days." (See also *Dillon* v. *Gloss*, 256 U.S. 368, 372; Constitution of the United States, S. Doc. 170, 82d Cong., p. 39).

H.R. Rep. No. 1698, 86th Cong., 2d Sess. 4 (1960). During the debate in the House over the resolution, it was said that "the critical hurdle will be to secure the approval of three-fourths of the State legislatures on the proposed amendment within the 7-year period." 106 Cong. Rec. 12570 (1960). *See also id.*, at 12559, 12561–63, 12571.

The Twenty-fourth Amendment included a proposing clause identical to that of the Twenty-third Amendment. The House report on the proposed amendment stated: "This resolution requires, of course, ratification of the legislatures of three-fourths of the several states within 7 years from the date of its submission by the Congress." [18]

When the Twenty-fifth Amendment was proposed in the 89th Congress, the seven-year limitation once again appeared in the proposing clause in language identical to that of the Twenty-sixth Amendment and that in H.J. Res. 208 proposing the ERA. This language eliminated the phrase "only if" and simply announced that the amendment would be valid "when ratified . . . within seven years. . . ." The reports issued regarding the Twenty-fifth [19] and Twenty-sixth [20] Amendments add nothing to our consideration of the time limitation.

The Senate Report on the ERA, in its "Sectional Analysis" of H.J. Res. 208, states concerning the "resolution" or proposing clause that:

"This is the traditional form of a joint resolution proposing a constitutional amendment for ratification by the States. The seven-year time limitation assures that a ratification reflects the contemporaneous views of the people. It has been included in every amendment added to the Constitution in the last 50 years. It is interesting to note that the longest period of time ever taken to ratify a proposed amendment was less than 4 years. The power and responsibility of Congress to impose a reasonable time limit for ratification of constitutional amendments was

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made clear in both *Dillon* v. *Gloss* 256 U.S. 368 (1921), and *Coleman* v. *Miller* 307 U.S. 433 (1931)."[21]

In addition to this analysis in the Senate report, comments on the floor of the House and Senate generally assumed that the seven-year period was a limitation on the time in which ratification could occur. Thus, Congresswoman Griffiths, after describing the limit as "customary," went on to say that "I think it is perfectly proper to have the 7-year statute so that it should not be hanging over our head forever." 117 Cong. Rec. 35814–15 (1971). Senator Hartke, a supporter of the resolution, stated his view that "if there is such a delay [beyond seven years], then we must begin the entire process once again." 118 Cong. Rec. 9552 (1972). *See also id.*, at 9576 (remarks of Sen. Cook).

III. THE BINDING NATURE OF THE SEVEN-YEAR LIMIT IN H.J. RES. 208

The history of congressional use of a seven-year limitation demonstrates that Congress moved from inclusion of the limit in the text of proposed amendments to including it within the proposing clauses with and without the "only if" phrase without ever indicating any intent to change the substance of their actions. The one occasion on which Congress actually considered the possible differences between placement of the limit within or without the text of a proposed amendment, the only expressed view was that the limit would be to "no avail" were it placed without the amendment. And as recently as the debate over the ERA, the limit was viewed as a "statute." 117 Cong. Rec. 35814–15 (1971). Thus, when H.J. Res. 208 came before the Congress for consideration, it is not at all surprising that some members indicated their belief that the amendment process would have to begin anew were ratification not achieved within the seven-year limit.

We think there are sound reasons to view any substantive or procedural details placed in a proposing clause for an amendment as subject to modification by a succeeding Congress. First, as demonstrated above, on the only occasion on which Congress itself has directly considered this question, the only views expressed were consistent with this position.

Secondly, as the Court noted in *Dillon* v. *Gloss*, 256 U.S.C., at 373, "An examination of Article V discloses that it is intended to invest Congress with a wide range of power in proposing amendments." Thus, Congress' power under Art. V consists of more than simply proposing amendments: it includes the power to establish the details of how an amendment, once proposed, is to be acted upon by the several States.

As the *Dillon* Court noted, the substantive Art. V power to propose constitutional amendments is subject only to two limitations, one being the two-thirds vote requirement and the other relating to amendments that would deprive a state of its equal suffrage in the Senate without its consent. *Dillon* v. *Gloss*, 256 U.S.C., at 373–74. There is nothing in the text of Art. V which would bar subsequent Congresses from taking action with respect to the details of the ratification process as distinguished from the substantive amendment itself while the amendment is being considered by the States.

We conclude that the 95th Congress, under Art. V, can act to extend the seven-year limitation period placed by the 92d Congress in the proposing clause of the ERA. The 92d Congress had the power to make the seven-year limit a part of the substantive amendment by placing the limit within the text of the ERA itself. The fact remains that it did not do so. We think our conclusion that a time limit fixed in a proposing clause should not be viewed as immutable is supported by the nature of the decision made by the 92d Congress and that which would be made by the 95th Congress were H.J. Res. 638 to be adopted.

The nature of that decision is, we think, accurately described by the opinion of the Court in *Coleman*, 307 U.S., at 453, as follows:

"The question of a reasonable time in many cases would involve . . . an appraisal of a great variety of relevant conditions, political, social and economic. . . ."

The Court in *Dillon*, discussing the time limit from a somewhat different perspective, concluded that:

"An alteration of the Constitution proposed today has relation to the sentiment and the felt needs of today, and . . . if not ratified early while that sentiment may fairly be supposed to exist, it ought to be regarded as waived, and not again to be voted upon, unless a second time proposed by Congress."

256 U.S., at 375, *quoting Jameson on Constitutional Conventions* § 585 (4th ed.). As a matter of logic, it seems to us that what constitutes a reasonable period of time for ratification of an amendment would normally be best decided not by a proposing Congress but by the Congress in session when the necessary three-fourths of the States have ratified a proposed amendment. This is so because the limit imposed by the proposing Congress is, at best, predictive, whereas a Congress presented with ratifications by three-fourths of the States is better able to base its decision concerning viability of the amendment on concrete evidence. Indeed, as indicated above, the seven-year figure adopted by Congress in proposing the Eighteenth Amendment achieved, partly by virtue of its approval in *Dillon* v. *Gloss*, a talismanic significance that has never been examined in connection with the proposal of any amendments since that have included the same limit. In short, we think it is quite reasonable to accord the seven-year limit in the ERA only the deference that the express language of the limit requires, namely, that the ERA will be viable for at least seven years. We therefore think that the 95th Congress, on the basis of a record presumably more substantial than that built by the 92d Congress, may extend the time limit if such an extension be deemed "reasonable."[22]

We would, however, make two additional points in this regard. First, assuming that Congress may extend the time period for a reasonable length of time, questions arise as to the form such an extension should take and the vote required in each House to pass an extension.

With regard to the question of form, it is our view that H. J. Res. 638 need not be presented to the President for his approval. It has long been established that the President has no role to play in the amendment process.[23] *Hollingsworth* v. *Virginia*, 3 Dall. 378 (1798).[24]

The second, and we would readily acknowledge more difficult, question is whether the resolution to extend the period must be approved by a two-thirds vote in each House or whether a simple majority is constitutionally sufficient. Several considerations dictate the conclusion that a super-majority vote is not required. We begin our analysis with the same two Supreme Court precedents which have guided our consideration of the other questions addressed in this opinion: *Dillon* and *Coleman*. While those decisions may be subject to varying interpretations in some respects, we think that they establish two propositions which are no longer open to question.

The first proposition is that implied within Article V is the condition that a constitutional amendment may only become law if it has been ratified "within some reasonable time after the proposal." *Dillon* v. *Gloss*, 256 U.S., at 375. The Court reasoned that inherent in the amending process is the assumption that any amendment will reflect the reasonably contemporaneous "expression of the approbation of the people" in three-fourths of the states. *Id.*

The second proposition—which is suggested in *Dillon* and unmistakably affirmed in the opinions of both Chief Justice Hughes and Mr. Justice Black in *Coleman*—is that the Constitution commits to Congress the authority and the duty to decide whether that implied condition of reasonable contemporaneousness has been satisfied. *Dillon* v. *Gloss*, 256 U.S., at 375–76; *Coleman* v. *Miller*, 307 U.S., at 454, 456, 458–59.[25] Furthermore, it is clear that Congress may make this determination after the amendment has been proposed and has been submitted to the States. Indeed, as we have suggested earlier, it would be appropriate—and some would contend mandatorily required—for Congress to assess the reasonableness of the time period at the end of the process when ratifications have been submitted by the requisite number of States. *Coleman* v. *Miller*, 307 U.S., at 454, 456. As Chief Justice Hughes reasoned, it is at this time that Congress may most accurately assess whether the conditions which prompted the proposal of an amendment have "so far changed since the submission as to make the proposal no longer responsive to the conception which inspired it," or whether to the contrary those conditions "were such as to intensify the feeling of need and the appropriateness of the proposed remedial action." 307 U.S., at 453.

If these two propositions are correct we think it must follow that Congress must have the ability to make the required determination. We can readily conceive of circumstances, however, in which a requirement of two-thirds approval for any decision made under Article V would deprive Congress of the ability to resolve the reasonableness question. Suppose, for example, that Congress had placed no time limitation in the proposing resolution for some amendment and that the approval of the thirty-eight States was received many, many years after the matter was first committed to the States.[26] Congress would have, at that time, a duty to decide whether too much time had passed, but if a resolution concluding that an unreasonably long period had elapsed would require a two-thirds vote, the amendment might well become law even though a majority of Congress viewed it as inconsistent with the condition implied in Article V.

We think that common sense would dictate a strong presumption against the conclusion that the Constitution has conferred a duty upon the Legislative Branch but at the same time has imposed a super-majority requirement that could prevent it from performing that duty. Indeed, even a cursory review of the other constitutional provisions which impose super-majority requirements demonstrates that in every case the question to be addressed by Congress is clearly specified and the consequence of a failure of Congress to muster the requisite number was clearly foreseen and contempted. Thus, for example, with respect to the approval of treaties (Art. II, §2), the Constitution makes plain that the question to be put to the Senate is whether the treaty is to be approved and the consequence of a failure to attain a two-thirds vote is clear. Similarly, with respect to trials after impeachment (Art. I, §3), the Constitution makes clear both that the Senate must have two-thirds concurring in the conviction and that in the absence of such a vote the impeachment will not stand. The same is true of all other

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super-majortity provisions.[27] What emerges from a review of these provisions, we think is that the apparent intent of the Drafters of our Constitution (and of its amendments) was that where matters involving the Congress are concerned all decisions are to be governed by the democratic principle of majority rule, save those rare cases in which a greater burden was clearly contemplated, deemed appropriate, and made explicit in unmistakable language. Thomas Jefferson may have said it best: "The voice of the majority decides; for the *res majors partis* is the law of all councils, elections, & c., where not otherwise expressly provided." [28]

The suggestion that two-thirds of both Houses must concur in order to decide whether a reasonable time has passed, we think, is incompatible with the Constitution's pattern of narrowly and carefully defined super-majority requirements. Whatever one says about the notions underlying Article V, it cannot be concluded that the Framers intended to, and expressed a desire to impose a two-thirds requirement on such "subsidiary matters of detail." *"Dillon* v. *Gloss*, 256 U.S. at 376. We think it especially plain that such a requirement could not have been intended with respect to the timeliness question. The Framers contemplated that it should be difficult to alter the Constitution. In light of that premise it is simply not reasonable to conclude that they could also have intended that State ratifications would be accorded a standing of presumptive timeliness that could only be defeated by a two-third vote.[29]

On the face of Article V, unlike each of the other two-thirds approval provisions of the Constitution, it is simply not possible to tell what questions, other than the proposal question itself, Congress is to answer. Nor is it at all clear that the consequences of a negative vote on any subsidiary questions were understood. Finally, then, a majority vote must be accepted for the determination of reasonable timeliness. And, if Congress can determine reasonable timeliness by majority vote as the thirty-eighth ratification comes in, it may also decide by a majority vote to extend the time previously announced.

Our view is bolstered by the few scattered historical precedents which our research and the research of others has unearthed. We have found no evidence that questions dealing with the so-called subsidiary questions have ever been thought by members of Congress to require a two-thirds vote. Thus, when the Fourteenth Amendment ratification questions, which we will discuss more fully in our treatment of the rescission issue, were presented to Congress in 1868 there is no indication that Congress felt itself bound to resolve those questions by a two-thirds vote.[30] Similarly, there is no evidence that the resolution introduced to resolve the same questions arising out of the adoption of the Fifteenth Amendment was thought to require two-thirds approval.[31] *See* 91 Cong. Globe 3124 (1870). More recently, Congress has taken up consideration of a bill introduced by former Senator Ervin which outlined procedures to govern the State convention method of amending the Constitution. S. 215, 92d Cong., 1st Sess. (1971). The bill, which contained provisions dealing with the time periods in which the States could act under the convention approach, passed the Senate by a wide margin. Again, however, there is no indication that anyone in the Senate considered that the bill would be subject to the two-thirds approval requirement.[32] Where, as here, the answer to important questions of Constitutional law are not readily apparent from the text of the Constitution, such congressional precedents are entitled to weight.

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While, for these reasons, we conclude that no more than a majority vote is required for extension, it might be conceded that the issue is not free from doubt. We recognize that this may be the only instance in which Congress is empowered to take action (apart from purely internal "housekeeping" matters) without either the constraint of a two-thirds vote requirement or the safeguard of a Presidential veto. We also acknowledge that it may be contended that this conclusion would allow a majority of one Congress to set aside actions that required the concurrence of two-thirds of some prior Congress.[33] Despite these considerations, however, we think that the controlling Supreme Court precedents, the historical examples, and the basic framework of the Constitution admit ultimately of no other response.

IV. THE REASONABLENESS OF H.J. RES. 638'S SEVEN-YEAR EXTENSION

In discussing whether the seven-year extension in H.J. Res. 638 is reasonable in the constitutional sense, we begin by embracing the position of the *Dillon* Court that the passage of time between proposal and final ratification by the requisite three-fourths of the States could be so great as to generate serious doubts as to whether a proposed amendment should be proclaimed as part of the Constitution. Passing the question whether such doubts could be resolved by the judiciary in an appropriate case, see *Coleman* v. *Miller*, supra, the fact remains that the Court's unanimous opinion in *Dillon* v. *Gloss* is the only extant judicial authority on this issue.

In *Dillon*, the Court unequivocally stated that a seven-year period could not be regarded as unreasonable "considering the periods within which prior amendments were ratified." 256 U.S., at 376. At the time *Dillon* was decided, all 17 amendments previously ratified had been ratified within four years of their proposal. *Id.*, at 372. Since *Dillon* was decided, the eight amendments ratified by the States have likewise been ratified within four years, the longest period being three years and 11 months (Twenty-second Amendment) and the shortest being four months (the Twenty-sixth Amendment).

As our historical review has disclosed, the seven-year limitation "approved" in *Dillon* has been given talismanic significance by the Congress, which has, with one exception placed that limitation on every subsequent amendment that was eventually ratified. The Court's opinion in *Dillon* obviously abscribes no special significance to the seven-year limitation. The apparent thrust of the opinion is that one factor to be considered is the time period in which other amendments have been ratified. Although the Court does not elaborate on this point, we think it may well have intended to recognize Justice Story's following comment on the ratification process:

"Time is thus allowed and ample time for deliberation, both in proposing and ratifying amendments. They cannot be carried by surprise, or intrigue, or artifice. Indeed, years may elapse before a deliberate judgment may be passed upon them . . ." [34]

The Court in *Coleman* took a somewhat different approach to the question of reasonableness. Instead of drawing a comparison between the time taken to ratify other amendments and the time (13 years) since proposal of the Child Labor Amendment, the Court suggested that the constitutional viability of an amendment might well turn on "an appraisal of a great variety of relevant conditions, political, social and economic . . ." 307 U.S., at 453.

In our view, both of these factors should be taken into account by Congress in its consideration of the constitutionality of H.J. Res. 638. It should be obvious that achieving a balance between ensuring that any amendment reflects the "felt needs of today," and ensuring that adequate time is available to the States for thorough deliberation of the complex issues raised by the ERA, is finally a matter for the judgment of Congress. Should this Congress determine by majority vote of each House that the conditions which brought about the proposal of the ERA by the 92d Congress continue to exist and that an extension of seven years is not substantially out of line with the historical experience regarding prior ratifications, H.J. Res. 638 may, in our view, constitutionally be adopted assuming that the seven-year limitation placed on ratification by the 92d Congress is not to be viewed as binding. For reasons stated *supra*, we do not think that that seven-year limitation must be viewed as binding.

IV. THE POSSIBLE EFFECT OF H.J. RES. 638 ON THE POWER OF STATES TO RESCIND PRIOR RATIFICATIONS

A separate question raised by H.J. Res. 638 is whether an extension of the time period available for ratification by the States would empower them to rescind prior ratifications during the extension period. This question could conceivably arise in one of two situations. First, under the joint resolution as presently drafted, the question would be whether an extension without more would somehow trigger a right of rescission derived from Art. V itself. Second, were H.J. Res. 638 amended specifically to confer a right of rescission on the States, would it be constitutional.

We assume for the purposes of addressing these questions that if a State having ratified an amendment could constitutionally rescind that ratification during the initial seven-year period, that power would continue unabated through any extension period that might be adopted. Thus, the rescission question raised by H.J. Res. 638 might conveniently be cast as whether, assuming States may not rescind during the initial seven-year period, may they nevertheless be constitutionally empowered to do so (1) by virtue of Art. V or (2) congressional action taken pursuant to Art. V?

Because we think that the answer to these questions is dependent to a great extent on the resolution of whether States may rescind during the initial seven-year period, we turn first to that question.

The text of Art. V itself provides no conclusive answer to whether States may rescind their ratification of a proposed amendment prior to its being ratified by three-fourths of the States.[35] It will be noted that Art. V does speak only in positive terms of ratification of a proposed amendment, giving the States the power to ratify a proposed amendment but not the power to reject. Thus, as a textual matter, it is arguable that only affirmative acts taken in the proposal or ratification process have any constitutional significance and that such acts are to be regarded as final. *See* Burdick, *Law of the American Constitution, supra*, at 43.

The sole expression we have been able to find regarding the probable intent of the Framers on this question is that of James Madison. During the ratification debates in the State of New York, it had been suggested that New York ratify the Constitution on the condition that certain amendments proposed by the New York Convention would be adopted.[36] Alexander Hamilton, who objected to such a conditional ratification, sought Madison's views. Madison's reply was made in a letter, quoted in full in the margin,[37] in which he stated that—

"The Constitution requires an adoption in toto and for ever. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In

short any condition whatever must viciate the ratification."

Although this statement was made with regard to Art. VII of the Constitution, which required ratification by nine of the States to "establish" the Constitution among those States, we see nothing to suggest that Madison's reasoning should not be applied with equal force to proposed constitutional amendments. Perhaps more importantly, an examination of the history of ratification of the Constitution and amendments thereto demonstrates uniform application and general acceptance of this position taken by Madison—ratification must be unconditional and irrevocable.

A. The historical acceptance of Madison's principle

The New York Convention, after rejecting a proposal to ratify the Constitution conditionally, ratified the Constitution, substituting the words "fullest confidence" for the words "on condition." II J. Elliot's Debates 411–13 (1854).[38]

During this early period it was also recognized that a State, after having refused to ratify the Constitution, could thereafter ratify it. Thus, North Carolina's ratification of the Constitution in 1789 was taken as proper even though it had "rejected" the Constitution in 1788. See Warren, The Making of the Constitution 820 (1928). This principle was shortly thereafter extended to the Art. V amendment process when Pennsylvania ratified a proposed (but never adopted) amendment in 1791 after having refused to ratify it in 1970.[39] The available records of the Second Congress indicate that there was no comment whatsoever regarding Pennsylvania's actions when notice of it was transmitted to the Senate by President Washington. See 3 Annals of Congress 15 (1791).

Thus, from an early date in our constitutional history it appears to have been accepted that the act of ratification, once taken by a State, was final and that States could ratify amendments after having "rejected" them.

These questions were not raised again until the Civil War Amendments were going through the ratification process. The first of these, the Thirteenth Amendment, had been "rejected" by the Kentucky legislature in 1865 by a resolution then presented to the Governor by the legislature. Although he took the position that the resolution did not require his assent,[40] he commented on the resolution as follows:

"Rejection by the present Legislative Assembly only remits the question to the people and the succeeding legislature. Rejection no more precludes future ratification than refusal to adopt any other measure would preclude the action of your successors. When ratified by the legislatures of three-fourths of the several States, the question will be finally withdrawn, and not before. Until ratified it will remain an open question for the ratification of the legislatures of the several States. When ratified by the legislature of a State, it will be final as to such State; and, when ratified by the legislatures of three-fourths of the several States, will be final as to all. Nothing but ratification forecloses the right of action. When ratified all power is expended. Until ratified the right to ratify remains." [41]

Both the rescission and subsequent ratification questions were presented together in connection with the ratification of the Fourteenth Amendment. By the middle of July, 1868, twenty-nine States had ratified that amendment. At that time there were thirty-seven States, twenty-eight thus constituting the majority of three-quarters required by the Constitution. However, two of those twenty-nine States, North and South Carolina, previously failed to ratify it and then reversed themselves; [42] in two others, Ohio and New Jersey, the legislatures had passed resolutions withdrawing their prior ratification of the Amendment. On July 8, 1868, the Senate adopted a resolution requesting the Secretary of State to transmit to the Senate a list of the States whose legislatures had adopted the Amendment. 81 Cong. Globe 3857 (1868). On July 15, 1868, the President transmitted to the Senate the report of the Secretary of State in compliance with that resolution. The report drew attention to the resolutions of the legislatures of New Jersey and Ohio purporting to withdraw their ratifications. *Id.*, at 4070. On July 18, 1868, Senator Sherman introduced a Joint Resolution declaring that the Fourteenth Amendment had been ratified. *Id.*, at 4197.

Two days later, July 20, 1868, Secretary of State Seward published a document in which he recited by name the 29 States which had ratified the Amendment, including those which had sought to revoke their ratification and those which originally had rejected it. 15 Stat. 706. With respect to New Jersey and Ohio, he observed:

"And whereas it further appears from official documents on file in this Department that the legislatures of two of the States first above enumerated, to wit, Ohio and New Jersey, have since passed resolutions respectively withdrawing the consent of each of said States to the aforesaid amendment; and whereas it is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said two States, or of either of them, to the aforesaid amendment . . ."

He then certified that—

"if the resolutions of the legislatures of Ohio and New Jersey ratifying the aforesaid amendment are to be deemed as remaining of full force and effect, notwithstanding the subsequent resolutions of the legislatures of those States, which purport to withdraw the consent of said States from such ratification, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has become valid, to all intents and purposes, as a part of the Constitution of the United States."

He thus indicated that the effectiveness of the amendment was contingent on the power of the State legislatures to withdraw their consent from the ratification.

The following day, July 21, 1868, Congress adopted the Sherman resolution, supra, as a concurrent resolution not presented to the President.[43] 81 Cong. Globe 4266, 4295–96 (1868). That resolution stated that whereas the Fourteenth Amendment had been ratified by the legislatures of 29 States, counting among them North Carolina, South Carolina, New Jersey and Ohio, the Amendment was "hereby declared to be a part of the Constitution of the United States and it shall be duly promulgated as such by the Secretary of State."

On the same day, Georgia, which previously had rejected the Amendment, ratified it. 15 Stat. 708. Rumors, the authenticity of which were questioned, of that ratification reached the House of Representatives during its deliberation on the Sherman resolution. In view of the questionable nature of that information, the House did not amend the resolution so as to include Georgia among the ratifying States. 81 Cong. Globe 4296 (1818).

On July 28, 1868, Secretary Seward, in compliance with the Sherman resolution, unconditionally certified that the Fourteenth Amendment had become valid to all intents and purposes as a part of the Constitution of the United States. 15 Stat. 708. He listed New Jersey, Ohio, Georgia and the two Carolinas among the ratifying States.

As the result of the ratification of the Amendment by Georgia, it had been approved by twenty-eight i.e., the requisite number of States, even if New Jersey and Ohio were disregarded. This consideration, however, did not render the congressional determination academic. First, the congressional decision must be read in the light of the situation which existed when it was made. At that time, Congress had not received official notice of Georgia's ratification of the amendment. Therefore, the ratifications of New Jersey and Ohio were necessary to carry it. Secondly, it should also be noted that the adoption of the Amendment required not only the inclusion of the States which had adopted the amendment and then sought to repudiate their ratification (New Jersey and Ohio) but also that of the States which first had rejected the Amendment and then ratified it (North and South Carolina, and subsequently Georgia). The Fourteenth Amendment thus could not have been adopted without the ratifications of States which originally had rejected it.

The adoption of the Fifteenth Amendment involved problems analogous to those which arose on the occasion of the adoption of the Fourteenth Amendment. In this case, however, the Amendment was published and certified by the Secretary of State without congressional guidance.

By the middle of February 1870, the Fifteenth Amendment had been ratified by 30 States, one more than the required number. Two of them, however, Ohio and Georgia, had originally rejected it. Mathews, *Legislation and Judicial History of the Fifteenth Amendment* 65–67 & n. 45 (1909). Also, New York rescinded its ratification in January 1870. The amendment therefore could be considered adopted only if the States which first had rejected it were counted or if the rescission by New York were considered to be without effect.

Congress was aware of these problems but was unable to take any action on them.[44] Thus, the New York resolutions rescinding the ratification of the Amendment were referred by the Senate to the Committee on the Revision of the Laws on January 11, 1870. 88 Cong. Globe 377 (1870). The Committee reported back on February 22, 1870, with the recommendation that the New York resolutions be indefinitely postponed. A spectacular debate ensued between Senator Conkling of New York and Senator Davis of Kentucky, 89 Cong. Globe 1477–81 (1870), but it does not appear that the Senate took any action on the report. On February 21, 1870, a resolution was introduced in the Senate declaring that the Fifteenth Amendment had become valid. The resolution was referred to a Committee, id., at 1444. The Committee submitted its report on April 18, 90 Cong. Globe 2738 (1870) and the resolution was passed over on the motion of its sponsor, 91 Cong. Globe 3124 (1870). On March 3, 1870, the Senate adopted a resolution requesting the Secretary of State to advise it of the States which had ratified the Amendment, 89 Cong. Globe 1653 (1870). The response from the Secretary is unknown.

Finally, on March 30, 1870, President Grant sent Congress a message advising it of the promulgation of the Fifteenth Amendment by the Secretary of State. 90 Cong. Globe 2298 (1870). The certificate of the Secretary of State, 16 Stat. 1131, listed twenty-nine States, including Ohio and New York but excluding Georgia, as having ratified the Amendment, and continued:

"And, further, that the States whose legislatures have so ratified the said proposed amendment constitute three-fourths of the whole number of States in the United States.

"And further, that it appears from an official document on file in this Department that the legislature of the State of New York has since passed resolutions claiming to withdraw the said ratification of the said amend-

Footnotes at end of article.

ment which had been made by the legislature of that State, and of which official notice had been filed in this Department.

"And, further, that it appears from an official document on file in this Department that the legislature of Georgia has by resolution ratified the said proposed amendment. . . ."

The statement "that the States whose legislatures have so ratified the said proposed amendment constitute three-fourths of the whole number of States" tends to indicate that the Secretary of State did not recognize the withdrawal of New York to have been effective. The separate enumeration of Georgia seems to have served the same purpose, because the ratification of New York would not have been required if Georgia had been included in the list of ratifying States. The separate listing of Georgia could not have been due to the last minute ratification by that State. The proclamation was dated March 30, 1870. Georgia had ratified the Amendment on February 2, 1870, followed by Iowa (February 3, 1870), Nebraska (February 17, 1870) and Texas (February 18, 1870). *See* U.S.C.A. Constitution, Amendment XV, Historical Note. The last three States were included in the first list of ratifying States.

The House of Representatives signified its approval of the promulgation of the Fifteenth (and Fourteenth) Amendment by adopting on July 11, 1870, a resolution to the effect that the amendment had become valid as a part of the Constitution. 93 Cong. Globe 5441 (1870).[43] No similar action was taken in the Senate, except, of course, for its later adoption of legislation implementing the Amendment.

The only pertinent judicial announcement of that period is a dictum in *White* v. *Hart*, 13 Wall. 646, 649 (1871) to the effect that the validity of the adoption of the Fourteenth and Fifteenth Amendments by Georgia was a political question not subject to judicial scrutiny. The Court said:

"Upon the same grounds she might deny the validity of her ratification of the constitutional amendments. The action of Congress upon the subject cannot be inquired into. The case is clearly one in which the judicial is bound to follow the action of the political department of the government, and is concluded by it (citing *Luther* v. *Borden*, 7 Howard, 43, 47, 57; *Rose* v. *Himely*, 4 Cranch 272; *Gelston* v. *Hoyt*, 3 Wheaton, 324 *Id.* 634; *Williams* v. *The Suffolk Ins. Co.*, 13 Peters, 420)."

The issue whether a State can change the position by its legislature with respect to a constitutional amendment also arose in various degrees in connection with the adoption of the Sixteenth, Eighteenth, and Nineteenth Amendments. In none of these instances did the Secretary of State refer the matter to Congress.

Arkansas, which originally had rejected the Sixteenth Amendment, subsequently ratified it. The certificate of the Secretary of State lists Arkansas without comment among the ratifying States. 37 Stat. (Pt. II) 1785. It is, however, not apparent whether the approval of that State was required to obtain the necessary number of ratifications. S. Doc. 314, 76th Cong., 3d Sess. 25 (1940).

The issue whether ratification by the State legislature was final arose indirectly in connection with an attempt in Maine to subject the ratification of the Eighteenth Amendment by the State legislature to the State's initiative and referendum procedures. The Maine Supreme Court held that the amendment could not be subjected to a referendum. *Opinion of the Justices*, 118 Me. 544 (1919). One of the reasons for the decision was the consideration that, under the precedents established in connection with the adoption of the Fourteenth and Fifteenth Amendments, the legislation ratifying an amendment was final and could not be rescinded. *Id.*, at 548–49.[46]

The Nineteenth Amendment was ratified by the State of Tennessee on August 18, 1920. On August 26, 1920, the Secretary of State issued his certificate declaring that the amendment had been adopted by the required number of States, including Tennessee, 41 Stat. (Pt. II) 1823. Five days later, the Tennessee legislature sought to rescind the resolution adopting the amendment on the ground that it had been approved in the absence of a quorum and in violation of constitution procedural safeguards. The Secretary of State disregarded the resolution of rescission. *See* 65 Cong. Rec. 4491–92 (1924) (Remarks of Sen. Wadsworth); *Clements* v. *Roberts*, 144 Tenn. 129 (1920); *Leser* v. *Board of Registry*, 139 Md. 46, 71–73 (1921), *aff'd sub. nom, Leser* v. *Garnett*, 258 U.S. 130, 137 (1922).

Thereafter, Senator Wadsworth of New York and Congressman Garrett of Tennessee introduced an amendment to Article V of the Constitution. The part of that proposal pertinent here would have provided that

"until three-fourths of the States have ratified or more than one-fourth of the States have rejected or defeated a proposed amendment, any State may change its vote." [47]

The proposal thus would have overturned by constitutional amendment the rule postulated by Madison and established in connection with the Civil War Amendments by enabling a State to rescind its ratification of an amendment until the time when the amendment becomes effective; and by preventing a State which had rejected an amendment from changing its position once more than a quarter of the States had rejected the amendment.

Both sponsors of the proposal conceded that these provisions were contrary to existing law; indeed both conceded that their proposals were designed to remedy what they considered to be a defect in the Constitution. Thus Senator Wadsworth stated, 65 Cong. Rec. 4492 (1924):

"It is apparent that under Article V, as now drawn, no State can change its vote from the affirmative to the negative in the matter of a constitutional amendment. Once ratified by a State, that State can not change, even though it does so before a sufficient number of States have ratified so as to insert the amendment in the Constitution itself. Tennessee tried to change. It cannot be done under Article V.

"Mr. WALSH of Massachusetts. Mr. President, having once rejected, can it change?"

"Mr. WADSWORTH. Yes; the legislature of a State may change from the negative to the affirmative at any time."

In the House of Representatives Congressman Garrett explained this part of the proposed amendment, 66 Cong. Rec. at 2159:

"The third proposition or change is that which gives a State that has ratified a chance to reconsider, provided it be done before its action in conjunction with that of others has become law.

"A State which has said 'no' may now change and say 'yes.' What can be the injustice in permitting a corollary whereby it may, within reasonable time limits, change from 'yes' to 'no'?

* * * * *

"In practice, therefore, it may be said—and I think it is generally regarded to be—the law that a State may reconsider and change a rejection, but may not reconsider and change a ratification.

* * * * *

"I believe and undertake to maintain that there is no more reason in governmental ethics why an affirmative act should not have the right of reconsideration than a negative prior to the time when the affirmative act actually makes law, and hence the third proposed change."

The Wadsworth-Garrett proposal apparently never got to a vote in either House.

The question whether a State can change a position taken with respect to a constitutional amendment arose again in connection with the Child Labor Amendment. That amendment had been submitted to the States in 1924. In the following year it appeared that more than one-fourth of the States had affirmatively rejected it. Congressman Garrett thereupon introduced a resolution which would have required the Secretary of State to report to Congress the action reported to him by the States regarding the amendment. 67 Cong. Rec. 576 (1925). Supporters of the amendment opposed the resolution because they feared that it was designed to lay the foundation for the claim that the amendment had been irretrievably defeated. *Id.*, at 1505–06 (1926). Congressman Garrett stated, *id.*, at 1506, that he had "no doubt that it is within the power of the legislature of any State that has acted on the amendment adversely to reconsider its action and act favorably, if it chooses to do so within the next year or two, for I imagine the Supreme Court would hold that was within a reasonable time." [48]

The resolution passed, *id.*, at 1507, and the Secretary of State submitted his report on February 9, 1926, which indicated that the amendment had been ratified in 4 States, affirmatively rejected in 13, failed ratification in both Houses in 3, and that some adverse action had been taken in some form by one House in 6 States. *Id.*, at 3801. No action was taken on that report.

The tide turned, however, in the 1930's, when an ever-increasing number of States, including many who had previously rejected the amendment, began to ratify it.[49] The question whether a State could ratify the amendment after its legislature had once rejected it was subsequently presented in *Coleman* v. *Miller*, 307 U.S. 433 (1939), and its companion case, *Chandler* v. *Wise*, 307 U.S. 474 (1939).

In 1925, the Kansas Legislature rejected the Child Labor Amendment and sent a certified copy of that action to the United States Secretary of State. In 1937, the Kansas Legislature adopted a resolution ratifying the amendment by a vote of 21–20, with the Lieutenant Governor casting the decisive vote. Several outvoted Kansas legislators thereupon instituted mandamus proceedings against the Secretary of the State Senate designed to prevent the ratification resolution from becoming effective. The complaint was based, *inter alia*, on the arguments (a) that the State of Kansas had once rejected the amendment, and (b) that the amendment, having been rejected by both Houses of the legislatures of 26 States and having been ratified only in five States between 1924 and 1927, had failed of ratification within a reasonable period and thus no longer was viable. *Coleman* v. *Miller*, 307 U.S., at 435–36.[50] The Supreme Court of Kansas denied the writ. *Coleman* v. *Miller*, 146 Kan. 390 (1937). That court, relying on the precedent of the Civil War Amendments, held:

"It is generally agreed by lawyers, statesmen and publicists who have debated this question that a state legislature which has rejected an amendment proposed by Congress may later reconsider its action and give its approval, but that a ratification once given cannot be withdrawn. (At 400).

* * * * *

"It would seem, then, that a state legislature which has rejected an amendment proposed by Congress may later reconsider its action and give its approval. (Willoughby on the Constitution, sec. 329a.).

"In a release from the Department of State under date of April 20, 1935, attached as an

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exhibit to plaintiff's petition in this case, giving the status of the child-labor amendment, it appears that in five states, Indiana, Minnesota, New Hampshire, Pennsylvania and Utah, after the proposed amendment had been rejected, each of the States later adopted a resolution of ratification. When these states rejected the amendment, was their power with reference to the proposed amendment exhausted? If so, the subsequent ratification would be void. Is it to be seriously argued that the Secretary of State could not count these five States in making up the total number of States necessary to adopt the amendment?

"Thus it appears to be an historical fact that many States have rejected proposed amendments, and have later ratified them. (At 401).

"From the foregoing and from historical precedents, it is also true that where a State has once ratified an amendment it has no power thereafter to withdraw such ratification. To hold otherwise would make Article 5 of the Federal Constitution read that the amendment should be valid 'when ratified by three-fourths of the States, each adhering to its vote until three-fourths of all the legislatures shall have voted to ratify.'

"It is clear, then, both on principle and authority, that a proposed amendment once rejected by the legislature of a State may by later action of the same legislature be ratified; and *that when a proposed amendment has once been ratified the power to act on the proposed amendment ceases to exist.*" (At 403) (emphasis added).

The Supreme Court of the United States affirmed the decision of the Supreme Court of Kansas in an unusually complicated ruling. *See* note 4, *supra*.

The opinion of the Court, written by Chief Justice Hughes and on this issue actually joined by Justices Stone and Reed, and presumably joined by Justices Black, Roberts, Frankfurther and Douglas,[51] recited the historic precedent established on the occasion of the adoption of the Fourteenth and Fifteenth Amendments and observed that this "decision by the political departments of the Government as to the validity of the adoption of the Fourteenth Amendment has been accepted." 307 U.S., at 450

The question whether a State has the power to change its position with regard to the adoption of a constitutional amendment does not seem to have become a serious issue in connection with any of the later amendments submitted to the States.

The problem, however, did arise indirectly in connection with legislation designed to establish procedures for calling constitutional conventions. In that context the Senate committee reports conceded that under existing law a State could not rescind its ratification of a constitutional amendment but took the position that the law should be "changed." [52] The bills therefore provided in effect that a State could rescind its ratification of a proposed constitutional amendment until it had been validly adoped. Both bills passed the Senate but died in the House of Representatives.[53]

B. The application of Madison's principle

When the Supreme Court held in *Dillon* v. *Gloss*, *supra*, that Congress has implied power under Article V to set a time period for ratification of a proposed amendment, it was writing on what was virtually *tabula rasa*. Likewise, in approaching the question whether Congress may extend a limitation once set, we think that historical understanding, while informative, cannot be thought of as conclusive.

With regard to whether a State might rescind during an "extention" period there is certainly a temptation to assume that the question may be approached in the same manner because, no extension ever having been contemplated, it follows that the question of rescission during such a period could not have been contemplated. Were we to take such an approach, we could perhaps be easily persuaded by the argument that "[t]he extension of time for ratification but not for rescisison would be . . . grotesque . . ." [54]

That argument appears to be that failure to provide for rescission would permit an amendment to be ratified without the "contemporaneous consensus" required by the Constitution (presumably required by Article V as interpreted in *Dillon* v. *Gloss*, *supra*). This lack of a "contemporaneous consensus" would, under this view, perhaps be evidenced by several or many attempted rescissions by States that would give a reasonable man reason to think that no consensus existed.

That analysis confuses two issues that should, we think, be sharply differentiated in the consideration of H.J. Res. 638. First is the issue whether the period of 14 years proposed in H.J. Res. 638 is "reasonable" in view of the interpretation placed on Art. V in *Dillon* v. *Gloss* and with which we are in agreement. If 14 years or possibly a lesser period is, in the judgment of Congress, "reasonable," then the question of the power of States to rescind in the last seven years of the 14-year period is irrelevant. The second issue is, of course, whether the States may rescind a prior ratification during the extension period because the will of its people has in fact changed since initial ratification. This argument would appear to reduce to the proposition that a seven-year extension can be viewed as "reasonable" only if no substantial number of States actually attempt to rescind their ratifications during the extension period. Under this view, the power to rescind functions as a sort of escape valve permitting the States themselves to determine what is or what is not a "reasonable" period of time by acts of rescission.

We are unable to agree with that analysis. In our view, the lesson of history, including prior congressional interpretation of Art. V with regard to the Fourteenth Amendment, is that States may not rescind a ratification. And we think *Dillion* v. *Gloss* and *Coleman* v. *Miller* are equally dispositive in rejecting any possibility that States, rather than Congress, are to have the final say concerning whether an amendment has been ratified within a "reasonable" time.

In our view, the most persuasive argument that Art. V permits rescission during an extension period is predicated on a notion that State legislatures may have relied on the seven-year period established in H.J. Res. 208 by assuming that they would be held to their ratification for a seven-year period and no longer. We have examined the certifications of ratification submitted to GSA by the 35 States having ratified the ERA and are unable to conclude that such reliance is indicated, at least on the face of those documents. More importantly, we think that such a concept of "reliance" is essentially no different, in kind, from the proposal before the New York Convention to ratify the Constitution on a *conditional* basis an act that James Madison viewed as invalid. We say "no different in kind" because, from a purely analytical point of view, the only difference would be that Congress' act of setting a seven-year limit in H.J. Res. 208 or in H.J. Res. 638 would have to be viewed as equivalent to Congress' extending to the States a right to ratify an amendment conditionally. We think that the whole thrust of history is that Art. V, as interpreted, does not permit States to rescind or otherwise place conditions upon their ratifications. If we are correct in this view, we think it follows that such a power can be granted only by an amendment to Art. V itself.

V. THE POLITICAL QUESTION DOCTRINE

Although we think that the constitutional questions raised by H. J. Res. 638 should be addressed on their merits without reference to the likelihood that the courts will finally resolve any or all of them, we recognize that the difficulty of those questions coupled with the uncertainty we (and presumably others) entertain with regard to our resolution of them can give rise to congressional interest in this question.

Prior to the decision in *Coleman* v. *Miller*, the Court consistently entertained and resolved questions arising out of the amendment and ratification process.[55] In *Coleman* itself, we think that a majority [56] of the Court squarely held that the effect of prior rejection on ratification was a political question not justiciable in the courts and that the same majority took the same view of the effect of rescission on final ratification by three-fourths of the States. We see no reason why the Court would change its prior position on the political nature of these questions unless perhaps if this aspect of *Coleman* were premised on the understanding that the answers to these questions had been firmly settled by history and were not subject to reversal by a future Congress.

There was, however, no clear majority in *Coleman*, as pointed out by Justice Black in his concurring opinion, for the position that courts could never review the question of reasonableness. Thus, we are not at all certain that the question of the reasonableness of the seven-year extension might not be subjected to judicial review in an appropriate case, particularly were ratification by the requisite three-fourths of the States to be obtained toward the end of the 14-year period.

We think that decisions of the Supreme Court subsequent to *Coleman*,[57] as well as the cases cited in note 55, *supra*, indicate that the questions of the power of Congress to extend a ratification, the vote by which such an extension must be adopted, and perhaps whether Congress might confer on the States a right to rescind [58] are more likely to be viewed as justiciable controversies in appropriate cases. We take this view because these questions do not appear to present situations in which there is either a textually demonstrable commitment of their resolution to the Congress or there are no judicially discoverable standards by which to resolve the questions presented.

FOOTNOTES

[1] This resolution was adopted by Congress on March 22, 1972, when the Senate passed unamended the resolution adopted by the House of Representatives on October 12, 1971.

[2] As of this writing GSA is also in receipt of three documents from Tennessee, Idaho, and Nebraska purporting to withdraw or rescind their ratifications previously certified.

[3] The Eighteenth Amendment had in fact been ratified within about 13 months of the time it was proposed by Congress.

[4] The language quoted above, from the opinion of the Court, was the opinion of Chief Justice Hughes joined by Justices Stone and Reed. Justice Black wrote a concurring opinion joined by Justices Roberts, Frankfurter and Douglas, that would have disavowed the assertion in *Dillon* that the courts would under some circumstances ever be able to inject themselves into the type of dispute presented. Justices Butler and McReynolds dissented on the ground that a reasonable time had elapsed since the amendment was proposed. *See* note 51, *infra*.

[5] Although such an argument has some appeal, a contrary conclusion is supported by the analysis of the Court in *Dillon* v. *Gloss*, *supra*. In that case, the seven-year limit had been included in the text of the proposed amendment and the amendment had been

ratified by the requisite number of States in about 13 months. If the Court had viewed the seven-year limit as a substantive part of the amendment, it could have affirmed the limit's validity solely on the basis that it had in any event been ratified as part of the amendment itself and thereby would constitute an amendment to Art. V. Indeed, the brief of the United States in *Dillon* appears to embrace such an argument. *See* Brief for the United States at 5–6. The Court did not, however, decide the case on this proffered ground, suggesting that the Court might not have viewed the seven-year limitation as being a substantive part of the Eighteenth Amendment. *See also* 55 Cong. Rec. 5649 (1917) (remarks of Sen. Stone).

A contrary conclusion is also supported by the Court's decision in the *National Prohibition Cases*, 254 U.S. 350 (1920). In that decision, involving a challenge to the validity of the Eighteenth Amendment, Mr. Justice Van Devanter, in announcing the "conclusions of the Court," *id.*, at 384, purported to set forth the "text" of the Eighteenth Amendment by quoting in full sections 1 and 2 but completely omitting section 3 which contained within it the seven-year limitation imposed for the first time by Congress. *Id.*, at 385. *See Id.*, at 393 (McKenna, J. dissenting).

[6] *See e.g.*, 56 Cong., Rec. 446 (1917) (debate on proposed Eighteenth Amendment):

"Article V expressly provides that once this proposed amendment has gone from the halls of Congress and rests with the States, when ratified by the States it becomes a part of the Constitution."

[6a] *See* remarks of Senator Buckalew, 71 Cong. Globe 2771 (1866); 85 Cong. Globe 912–13, 1040 (1869).

[7] 56 Cong. Rec. 463 (1917).

[8] 58 Cong. Rec. 93 (1919).

[9] The phrase "as provided in the Constitution" was not included in section 6. Otherwise, the sections are identical.

[10] 75 Cong. Rec. 5086 (1932).

[11] "Proposal and ratification . . . are not treated as unrelated acts, but as succeeding steps in a single endeavor. . . ." *Id.*, at 3856, quoting *Dillon* v. *Gloss*, 256 U.S., at 374–75.

[12] *Id.*

[13] *Id.*, at 3856–57.

[14] *Id.*, at 3857.

[15] The notable difference was that ratification was to by conventions in the several states rather than by state legislatures.

[16] *See Hearings on H.J. Res. 529 before Subcommittee No. 5 of the House Committee on the Judiciary* 82 (1960).

[17] *Id.*, at 106–98.

[18] H. Rep. No. 1821, 87th Cong., 2d Sess. 5 (1962).

[19] *See* S. Rep. No. 66, 89th Cong., 1st Sess. (1965); H.R. Rep. No. 554, 89th Cong., 1st Sess. (1965).

[20] S. Rep. No. 26, 92d Cong., 1st Sess. 2 (1971); H.R. Rep. No. 37, 92d Cong., 1st Ses. (1971).

[21] S. Rep. No. 689, 92d Cong., 2d Sess. 20 (1972).

[22] We would comment briefly on the question whether, assuming the 95th Congress may extend the period established by the 92d Congress, the 96th or a subsequent Congress could shorten a period previously established. (We would observe first that the answer to this question would appear also to resolve the question whether Congress might declare a proposed amendment to no longer be viable in the absence of an explicit time limit in that amendment or its proposing clause.) Given the nature of the Congressional determination of "reasonableness" as described in *Dillon* and *Coleman*, it is certainly arguable that any Congress might, on the basis of adequate findings, determine that a proposed amendment is no longer viable because present ratification would not reflect a contemporaneous expression of the people's will. We think, however, that such an argument would have to take into account the historically accepted understanding that Congress may not withdraw an amendment once it has been proposed. *See* Jameson, *A Treatise on Constitutional Conventions*, § 585, p. 634 (1887); Burdick, *The Law of the American Constitution* 39 (1922); Orfield, *Amending the Federal Constitution* 51–52 (1942). Without resolving this obviously complex question, we would additionally note that a Congressional act constituting withdrawal would perhaps run afoul of the logic if not the expressed views of James Madison, discussed at length *infra*, that States may not conditionally ratify a proposed amendment. The scholars cited above at the least assume, as do we, that a Congress could not "cutback" on time available for ratification of a proposed amendment because the membership no longer viewed the proposed amendment as desirable.

[23] It is true that the Executive Branch, by virtue of 1 U.S.C. § 106b and its predecessors dating back to 1818, has performed a ministerial function within the ratification process. We do think that congressional assignment of this function or similar functions to the Executive Branch might well require the approval of the President under Art. 1, § 7, but we think this is quite different from the resolution extending the time period here.

[24] We note that this holding in *Hollingsworth* has been specifically approved in subsequent opinions of the Court. *See, e.g., Hawke* v. *Smith*, 253 U.S. 221, 229–30 (1920). Thus, we see no justification for limiting *Hollingsworth* to its facts.

[25] As we explain in our discussion in the final section of this opinion dealing with the political question doctrine, there remains some doubt whether Congress' power to establish a reasonable time is *exclusive*. On the question whether the judiciary may have some role to play, the Court's opinions do leave room for debate; on the question, however, whether the Constitution imposes upon Congress the primary duty to ascertain that amendments have been approved within a reasonable time there is no longer room for doubt. Congress has acknowledged the existence of this "power and responsibility" imposed upon it by Article V. *See* S. Rep. No. 689, 92d Cong., 2d Sess. 20 (1972), quoted in the text at note 21 *supra*.

[26] History has shown us that consideration by the States of proposed amendments long after their introduction is not a far-fetched hypothetical. In at least one case the State of Ohio undertook to consider an amendment some 80 years after it was proposed by Congress. *See Dillon* v. *Gloss*, 256 U.S., at 372. Indeed, it was precisely this type of concern which led the *Dillon* Court to conclude that Congress could impose a time limitation to prevent a State from "resurrecting" a proposed amendment that had "lain dormant for many years." *Id.*, at 373.

[27] *See* Art. 1, § 5 (voting to expel a member of Congress); Art. 1, § 7 (override of veto); 14th Amendment, § 3 (removal of disability of members of Congress); 25th Amendment (Presidential resumption of power after disability).

[28] Jefferson's Manual of Parliamentary Practice § XLI, reprinted in H. Doc. No. 416, 93d Cong., 2d Sess., § 508, p. 257 (1975).

[29] Our view that it is essential that Congress have the ability affirmatively and directly to decide whether the ratification reflects the "contemporaneous" judgment of the states is made the more critical when considered in light of the other conclusion we think compelled under Article V—that a State once having ratified may not rescind. *See* text beginning at page 28 *infra*. The States, in our view, are prohibited directly from announcing their view that conditions no longer warrant passage of an amendment once approved by them. Therefore, unless Congress retains the power to vote "yea" or "nay" on the reasonable timeliness question, a small minority of late-ratifying States coupled with a minority in either House of Congress might force the approval of an amendment no longer deemed appropriate by the majority. We should also add that if this event did occur we would have serious doubt whether the amendment was constitutional.

[30] *See* text beginning at page 33 *infra*. In response to Secretary of State Seward's inquiry, Congress decided by concurrent resolution that the Fourteenth Amendment had been duly ratified by the States. The resolution, S. Res. 166 passed by the 40th Congress, expressed the position of Congress that the Fourteenth Amendment had in fact been ratified by the requisite three-fourths of the States even though two States, Ohio and New Jersey, had purported to rescind their prior ratifications before three-fourths had ratified. The resolution did not indicate on its face whether a two-thirds vote was required during debate in either House on the resolution. The vote in the House for passage was 127 in favor to 33 against, a majority of about four-to-one. 78 Cong. Globe 4266 (1868). Although the vote was not recorded in the Senate, we do know that the resolution was voted on by the Senate after a motion to discharge the resolution from committee was adopted without objection and that the voice vote was presumably not so close as to persuade any opponents of the resolution to call for a recorded vote. *Id.*, at 4230.

[31] *See* text beginning at page 36 *infra*. We hesitate to read too much into the historical evidence surrounding the Fourteenth and Fifteenth Amendments. While it is true that resolutions adopted in both cases contained no designation that a two-thirds majority would be required for approval, and while the recordation that the resolutions had been approved contains no indication that they had been embraced by two-thirds of each House, it does appear that the votes were never close. Indeed, by voice vote or otherwise, the vote in each House was in excess of two-thirds. Nevertheless, we think it not unreasonable to conclude that if members of Congress had recognized a two-thirds requirement there would have been some indication of that fact in the historical record.

[32] To our knowledge, the Ervin bill never came to the floor of the House for a vote. The bill also provided for congressional action by majority vote of each House, not subject to the veto power of the President, regarding details concerning the calling of a constitutional convention by the States. *See* §§ 6(a) and 11(b)(1) of S. 215.

[33] As we have suggested earlier, *see* note 22 *supra*, we doubt whether—either by majority or two-thirds—Congress could so shorten the time as effectively to withdraw the question from the States. Additionally, it is our view that the original time limitation need not, as a constitutional matter, have been set by a two-thirds vote. For the same reasons set forth above, we would conclude that the time period is a "subsidiary" detail which Congress could prescribe by majority vote as an incident to proposing an amendment.

We would also state that we gain little guidance from parsing of the words of Article V itself. Grammarians might differ over whether the two-thirds requirement modifies only the first clause, the first and second, or the entire sentence. Given our presumption against reading supermajority requirements broadly, however, we do conclude that the wording of the Article itself does not compel extension of the two-thirds vote to all issues which might conceivably arise under the amending power. Finally, it should be noted that our review of the debates and other contemporaneous history, surrounding

the constitutional convention has not disclosed any substantial evidence of the Framer's thoughts on this question.

[34] II Story, *Commentaries on the Constitution* 600 (5th ed.) as quoted in brief for the United States as *amicus curiae* in *Coleman* v. *Miller, supra*, at 27–28.

[35] We do not think anyone could seriously doubt that a State's rescission of its ratification subsequent to adoption of an amendment would be a meaningless act.

[36] V Papers of Alexander Hamilton 147, 177 (Syrett ed. 1961).

[37] The full text of Madison's letter is as follows:

["From James Madison [1]]

N. York, *Sunday Evening,*

[July 20, 1788] [2]

"My Dear Sir: Yours of yesterday is this instant come to hand and I have but a few minutes to answer it. I am sorry that your situation obliges you to listen to propositions of the nature you describe. My opinion is that a reservation of a right to withdraw if amendments be not decided on under the form of the Constitution within a certain time, is a conditional ratification, that it does not make N. York a member of the New Union, and consequently that [3] she could not be received on that plan. Compacts must be reciprocal, this principle would not in such a case be preserved. The Constitution requires an adoption *in toto* and *for ever*. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short any *condition* whatever must viciate the ratification. What the new Congress by virtue of the power to admit new States, may be able disposed to do in such a case, I do not enquire as I suppose that is not the material point at present. I have not a moment to add more. Know my fervent wishes for your success and happiness.

Js. Madison.

"This idea of reserving right to withdraw was started at Richmd & considered as a conditional ratification which was itself considered as worse than a rejection: 1. In JCHW, I, 465, this letter is dated 'Sunday Evening.' After serving in the Virginia Ratifying Convention, Madison had resumed his seat in the Continental Congress. 2. This letter was written on the day after H wrote to Madison, July 19, 1788. 3. In MS, 'that that.' "

[38] The Convention also defeated a motion reserving to the State of New York a right to withdraw from the Union after a certain number of years, unless the amendments proposed previously were submitted to a general convention. II J. Elliot's Debates 412 (1854). It is not apparent whether Madison's letter was brought to the attention of the N.Y. Convention. Madison's letter, *supra*, however, indicates that the mails between New York, where Madison served on the Continental Congress, and Poughkeepsie, the seat of the New York Convention, took only a day. Hence, it is likely that Madison's letter of July 20 was utilized during the crucial debates in the New York Convention on July 23, 1788.

[39] *See* Ames, *Amendments to the Constitution of the United States, reprinted in* H. Doc. 353, 54th Cong., 2d Sess. (pt. 2) 300 n. 4 and 320 (1891).

[40] Jameson, note 22 *supra*, at 630.

[41] *Id.*, quoting Acts General Assembly, Ky., 1865, p. 157.

[42] This figure is based on the recitals of the Proclamation of July 28, 1968, 15 Stat. 708. According to the Brief of the United States as *amicus curiae* in *Coleman* v. *Miller, supra* at 14, the Amendment had been rejected prior to ratification by seven States: Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina and South Carolina, which, with the exception of Georgia, had ratified it prior to July 20, 1968.

[43] The submission by Congress of a constitutional amendment to the States need not be presented to the President (*Hollingsworth* v. *Virginia, supra*). It therefore would appear that a congressional determination as to whether an amendment has been adopted by the requisite number of States can be passed as a concurrent resolution which is not presented to the President. *See also* note 24 *supra*.

[44] *See* Note, 49 Ind. L. J. 147, 151 (1973).

[45] On April 11, 1870, the House adopted a resolution authorizing the celebration of the adoption of the amendment in the Hall of the House of Representatives. 90 Cong. Globe 2586–2587 (1870).

[46] In *Hawke* v. *Smith*, 253 U.S. 221 (1920), the Supreme Court reached the same result but for other reasons.

[47] 65 Cong. Rec. 4493 (1924). *See also id.*, at 2152–53.

[48] This statement was based in part on *Dillon* v. *Gloss*, 256 U.S. 368 (1921).

[49] *See Coleman* v. *Miller*, 307 U.S., at 473 (*Chronology of Child Labor Amendment*, footnote to dissenting opinion of Butler, J.), and the *amicus curiae* brief filed by the United States in *Coleman* v. *Miller*, note 34 *supra*, Appendices A and B.

[50] The Child Labor Amendment, as noted *supra*, had no provision requiring its adoption within a specific period of time. This proposed amendment was never actually ratified by three-fourths of the States.

[51] On this particular point, we think that the opinion of Chief Justice Hughes must rightly be thought of as an opinion of the Court as it is described at its outset. We say this because Justice Black and those joining his concurring opinion clearly reached the merits of the issues raised, 307 U.S., at 456 (under "compulsion" of the court's holding on the standing question) and also indicated that his disagreement with Hughes' opinion was limited to aspects of Hughes' opinion not relevant to the present discussion, *id.*, at 458.

[52] "The question of whether a State may rescind an application once made has not been decided by any precedent, nor is there any authority on the question. It is one for Congress to answer, Congress previously has taken the position that having once ratified an amendment, a State may not rescind.

The committee is of the view that the former ratification rule should not control this question and, further, should be changed with respect to ratifications. Since a two-thirds concensus among the States in a given period of time is necessary to call a convention, obviously the fact that a State has changed its mind is pertinent. An application is not a final action. A State is always free, of course, to reject a proposed amendment. Of course, once the constitutional requirement of petitions from two-thirds of the States has been met and the amendment machinery is set in motion, these considerations no longer hold, and rescission is no longer possible. On the basis of the same reasoning, a State should be permitted to retract its ratification, or to ratify a proposed amendment it previously rejected. Of course, once the amendment is a part of the Constitution, this power does not exist." S. Rep. No. 336, 92d Cong., 1st Sess. 14 (1971); S. Rep. No. 293, 93d Cong., 1st Sess. 14 (1973).

[53] The latest congressional recognition of the rule that a state cannot rescind its ratification of a constitutional amendment of which we are aware is Senator Bayh's statement on the floor of the Senate, delivered on Mar. 6, 1974:

"Mr. Bayh. Mr. President, one of the questions which has aroused considerable interest with respect to the proposed 27th amendment to the Constitution has been whether a State once it has ratified the amendment may later change its mind and rescind its ratification. The issue was first raised by the State of Nebraska which has now rescinded its earlier ratification. Several other states, in addition, have similar rescission resolutions pending before their State legislatures.

"I am firmly convinced that, once a State legislature has exercised the powers given it by article V of the Congress, it has exhausted its powers in this regard and may not later go back and change its mind." 120 Congressional Record 5574 (1974).

[54] Statement of Charles L. Black, Jr., Sterling Professor of Law, Yale University, on Extension of Time for Action on Amendments for the States, Oct. 12, 1977.

[55] *See Hollingsworth* v. *Virginia, supra; Dillon* v. *Gloss, supra, Hawke* v. *Smith, supra; The National Prohibition Cases, supra; Leser* v. *Garnett, supra; United States* v. *Sprague, supra*.

[56] *See* note 51, *supra*.

[57] *E.g., Baker* v. *Carr*, 369 U.S. 186 (1962); *Powell* v. *McCormack*, 395 U.S. 486 (1969).

[58] Even assuming that the question of the effect of a rescission is non-justiciable under *Coleman*, as we do, it is possible that the Court would take a different approach were H.J. Res. 638 to be amended to provide explicitly for such a right to rescind. This is so because the power of Congress to grant such a right to the States by statute would perhaps be placed on a different footing.

2. ARE WE CHANGING THE RULES IN THE MIDDLE OF THE GAME?

Mr. BAYH. Mr. President, there have been some original supporters of the ERA who question the wisdom of an extension of the ratification period on the grounds that it would appear to be changing the rules in the middle of the game. In response, I think we need to point out that the "rule" has been a changing one. Before the 18th amendment, there was no time limitation at all on pending constitutional amendments. Congress began the custom of attaching time limitations to assure that the issue being raised by the amendment was a "timely" one. There are few today who would deny that equal rights for women does not remain as a timely issue.

The question at issue here is not whether we are changing the rules in the middle of the game, but whether the original time frame itself was indeed fair and reasonable. Those of us who have closely observed the ratification process must conclude that seven years is not reasonable nor fair to the issue at hand.

Last January Ellen Goodman in a column appearing in the Washington Post provided an answer to those who raise the "fairness" question of changing the rules. I ask unanimous consent that her article appear in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Jan. 31, 1978]

The Name of the (ERA) Game Is Politics

(By Ellen Goodman)

Boston.—As the movement to extend the deadline for ratification of the Equal Rights Amendment gains momentum, I keep hearing pro-ERA forces accused of "trying to change the rules in the middle of the game."

I am well aware that women are generally held up to the purest standards that can dance on the head of a pedestal. But this is ridiculous. The name of the ERA game is,

after all, politics. These people are not trying to change the rules; they are trying to use them to win. Which is the point of the game.

The ERA was passed by Congress in 1972. There was nothing especially sacred about the seven-year limitation for state ratification. "Seven" was the number arrived at, not by tarot cards or the Constitution, but by custom and political compromise.

At the time, ERA supporters agreed to this figure despite the warnings of old hands like Alice Paul. They felt as hopeful as Martha Griffiths, who probably remembers every night before she goes to sleep that she once said, "Personally, I have no fears that this amendment will be ratified . . . as quickly as the 18-year-old vote."

Now, led by the National Organization of Women, they are trying the perfectly legal tactic of urging the Congress to extend the limit for seven more (and final) years. This extension is the prerogative of the Congress. It is well within the rule book known as the Constitution.

But what bothers me most about the whole "rules of the game" chatter is the sheer chutzpah of the chatterers. It is the ERA opponents who should be thrown into the penalty box.

While the pro-ERA forces have been playing chess, their opposite numbers have been playing rugby. It was the pros who behaved like good little GooGoos, targeting their candidates, signing nomination papers and getting the votes out—just like it says in government classes. If the fix hadn't been in, the ERA would have passed its last three states months ago.

In Nevada, 11 state legislators who were elected on pro-ERA platforms went sheepishly over to the other side at the first cry of "Red Rover." Eight of them (may their debts swell and block their gateway to paradise) accepted pro-ERA campaign contributions.

This charming athletic display was reenacted in Florida. There, the women voted out the anti-ERAs and voted in the pros, and then watched as the two pivotal "yes" votes turned into "no's."

The Illinois rematch, on the other hand, looked like something created by Dick Tuck from his bag of tricks. Twice the ERA gathered a majority vote in the state legislature. In any other state, that simple majority would have meant passage. But in Illinois, you need a three-fifths majority under the new state constitution although—excuse me while I break into hives—this rule is generally considered unconstitutional.

As Ellie Smeal, president of NOW, puts it: "We were ignored in the election process." Speak to me not of rule-rigging.

Only in the past year have the pro-ERA forces learned the effectiveness of end runs around politics. The "conventions boycott" in nonratified states has been deliciously successful. This vision of clout has done the amendment more good than all the "due process."

But we still are in a situation in which the "will of the majority" has been thwarted by a handful of legislators. A full two-thirds of the states have passed this amendment. A majority of people polled—including those in unratified states—are in favor of it. The younger population overwhelmingly supports it. Yet it is in great danger of failing.

Some crucial state legislatures won't even meet again to vote until after March 1979. Perhaps the most potent problem facing passage before the deadline is the deadline itself. During the Florida fight, buttons sprang up with the slogan "ERA Won't Go Away." The pro-ERA people were aware that the opposition tactic was to convince legislators that if they held firm one more time, the amendment would just disappear.

The ERA won't go away. But if it fails to meet the deadline, it could become part of the collective consciousness of women in this country. They would realize that they had experienced disappointment and betrayal precisely because they believed—not wisely but too well—in the game.

The pro-ERA people wouldn't be purists if they neglected to press for extension. They'd be pure fools.

Mr. BAYH. Mr. President, I would urge all my colleagues who supported the ERA when it passed the Congress in 1972, as well as my new colleagues who support the principle of legal equality for women to join with those of us seeking to extend the ratification deadline for another 7 years.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That not withstanding any provision of House Joint Resolution 208 of the Ninety-second Congress, second session, to the contrary, the article of amendment proposed to the States in such joint resolution shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within fourteen years from the date of the submission by the Congress to the States of such proposed article of amendment.●

● Mr. ABOUREZK. Mr. President, I am pleased to cosponsor this legislation to extend the ratification period for the equal rights amendment to the U.S. Constitution.

I think it is vitally important to extend the discussion period on this amendment. Most of the constitutional amendments in the past were not assigned a time limit for ratification by the States. Moreover, it was not the intent of Congress to limit this debate. I am continually amazed by the opposition to an amendment that merely says people should have equal rights. From this hysteria, I can only conclude that the Bill of Rights would be construed as a menace to morality and rejected if submited today for ratification.

Equal rights are something American women should have had all along something they did have at one time in this country, and something that was slowly taken away from them by men passing laws which specifically discriminated against women.

It is shocking that the 1970's could resurrect the repressive mentality that prevented women from having the right to vote until the 19th amendment was adopted.

By adopting this legislation, we can facilitate the process of guaranteeing equal rights to women under the Constitution. By ignoring this opportunity, we give our consent to a system that continues to hold women down.

As a nation of progress, we have an obligation to show the world that we are the leader in promoting human growth through equal rights.●

● Mr. BROOKE. Mr. President, Congress, in passing the equal rights amendment in 1972, recognized the urgent need to guarantee constitutional equality for women. During the 6 years following passage, 35 States, representing three-fourths of the Nation's population, have concurred and have ratified the ERA.

With less than 11 months remaining under the original deadline for ratification set by congressional legislation, the need for the equal rights amendment is stronger than ever. Indeed, recent Supreme Court decisions, limiting remedies for discrimination based on sex, have underscored dramatically the arguments in support of granting explicit and full rights under the Constitution. Without a constitutional amendment, women will continue to be, perhaps for generations to come, victims of injustice and subjected to economic dependence.

Public support for ratification of the equal rights amendment also remains as strong as ever. Recent national polls show a decided majority of the American people in favor of ratification, even in many of those States which have not ratified the amendment.

Because of the demonstrated need for the equal rights amendment and because of its overwhelming public support, I have long been confident that the States would ratify the ERA by March 22, 1979. But, regrettably, it now appears doubtful that the requisite 38 States will ratify it by that deadline. A realistic examination reveals that in a number of States, opponents of ERA, as in the past, may not even allow a vote on ratification. And, indeed, in several crucial States, the legislatures do not even convene again until after March of 1979.

Thus this unfortunate situation compels us to introduce legislation which would extend the deadline for ratification. Such an extension would afford more time for debate and provide an opportunity for the unratified States to vote on whether to ratify the ERA.

I fervently hope that the passage of the ERA extension will serve only as a form of insurance policy and that it will never have to go into effect. Indeed I pray that it will be a catalyst for State action, signaling State legislatures that they cannot avoid the issue and that, sooner or later, they will have to vote on the merits of the equal rights amendment.

Some have argued that passage of this legislation would "change the rules in the middle of the game." But clearly, as so many constitutional scholars have concluded, Congress has the discretion and the prerogative to extend the period within which ratification may occur. And, as Laurence Tribe, professor of constitutional law at Harvard University, has said:

A Constitutional amendment is far too serious to see who beats who to the finish line . . . It's more than a game.

Mr. President, it took us 72 years to win for women the constitutional right to vote. And for 55 years we have fought for constitutional equality. We cannot pause now. We cannot now place a time limit on our quest to secure one of the

most fundamental human rights of this century.

Our cause is right. Our cause is just. And our cause shall prevail.

Mr. President, I urge my colleagues to expeditiously pass this important legislation.●

ADDITIONAL COSPONSORS

S. 2507

At the request of Mr. ANDERSON, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 2507, a bill to authorize the Smithsonian to acquire the Museum of African Art, and for other purposes.

S. 3067

At the request of Mr. BAYH, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3067, the Civil Rights Commission Act of 1978.

SENATE JOINT RESOLUTION 132

At the request of Mr. ANDERSON, the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S.J. Res. 132, to establish a Presidential Commission to develop plans for a memorial to the victims of the Holocaust.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. CURTIS, the Senator from North Dakota (Mr. YOUNG), the Senator from New Hampshire (Mr. DURKIN). the Senators from Utah (Mr. HATCH and Mr. GARN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of S. Con. Res. 68, expressing the sense of the Congress on the Baltic States question.

SENATE RESOLUTION 455—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 455

Resolved, that pursuant to Section 402(c) of the Congressional Budget Act of 1974, the provisions of Section 402(a) of such Act are waived with respect to the consideration of S. 3076, a bill to authorize fiscal year 1979 appropriations for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes. Such waiver is necessary because the bill also contains supplemental fiscal year 1978 authorizations for two purposes: (1) the payment of arrearages of $37,275,000 in the assessed U.S. contribution to UNESCO (section 108); and (2) an additional grant of $10,468,000 to Radio Free Europe/Radio Liberty, Inc. to provide for the continuation of Radio operations until the end of this fiscal year by compensating for the unexpectedly sharp fall in the international value of the U.S. dollar (section 301).

For neither purpose was it possible to report authorizing legislation by May 15, 1977. As regards UNESCO, it was not clear by that date that that organization had substantially reduced its politicized, anti-Israel activities; it was thus not appropriate at that time to end the cut-back on U.S. contributions to UNESCO begun in 1975. As regards RFE/RL, Inc., funds were provided in the original fiscal year 1978 authorization to compensate for a possible depreciation in the relative value of the dollar, but in recent months the actual depreciation exceeded that allowance by a considerable margin, rendering RFE/RL, Inc. unable to fulfill its planned level of operations without a supplemental grant.

SENATE RESOLUTION 456—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. BAYH submitted the following resolution, which was referred to the Committee on the Budget:

S. RES. 456

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3067, a bill to extend the Commission for five years, to authorize necessary appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes. Such waiver is necessary in order to insure that the Commission on Civil Rights will be able to carry out its statutory duties during the fiscal year 1979. The monies to be appropriated are sufficiently small that the consideration of S. 3067 will not significantly affect the Congressional budget. That while the Committee on the Judiciary has engaged in a substantial effort to consider the bill beginning in December, 1977, there is sufficient reason to believe that the Committee will not report the bill during the present Congress. Thus, both the Committee and the Senate will be prevented from complying with the Congressional Budget Act with respect to the May 15 deadline and from giving timely attention to the authorization of appropriations for the U.S. Commission on Civil Rights.

AMENDMENTS SUBMITTED FOR PRINTING

LABOR LAW REFORM ACT OF 1978—H.R. 8410

AMENDMENTS NOS. 2177 THROUGH 2188

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 12 amendments intended to be proposed by him to the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

AMENDMENTS NOS. 2189 THROUGH 2216

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted 28 amendments intended to be proposed by him to the bill (H.R. 8410), supra.

DEFENSE PROCUREMENT AUTHORIZATIONS—S. 2571

AMENDMENT NO. 2217

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (S. 2571), to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes.

FOREIGN ASSISTANCE AND ARMS EXPORT CONTROL AMENDMENTS—S. 3075

AMENDMENT NO. 2218

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment to the bill (S. 3075) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

ADDITIONAL STATEMENTS

MUSEUM OF AFRICAN ART

● Mr. ANDERSON. Mr. President, I want to extend my special thanks to my colleague, Senator HUMPHREY, and to Warren Robbins, the Director of the Museum of African Art, for their assistance in yesterday's passage of S. 2507, which would allow the Smithsonian Institute to aquire the museum. As the 31 cosponsors of the bill are aware, Senator Hubert Humphrey asked me to introduce this legislation in his place. Characteristically, Hubert granted a favor by asking one, because my new acquaintance with the African Art Museum's programs and collection has been an extremely enriching one for me.

A number of our colleagues can speak with authority about the museum's vitality and imagination since we have been fortunate enough to have it located only a few blocks from the Capitol. This vitality enables Americans to genuinely share in the African culture, where art has always been an integral part of life. In Africa each man, woman, and child is the artist, and each village is the canvas. Through the museum, with its craft demonstrations, tours, and performances, art reaches us in the same personal, active, participatory way.

Mr. President, the museum's collection consists of over 7,000 objects of traditional African art, and its archives contain the donated films of the world-renowned Life photographer, Eliot Elisofan. In addition, the museum conducts a vigorous education program of university classes, education television and symposia.

The importance of African art to the American black experience has found an expression through these and other museum programs since its creation, and the positive, concrete way in which they promote interracial understandings and harmony has won the museum impressive recognition and support. Its art objects and photos have delighted students from kindergartners to postgraduates and in many ways the promise for human rights in this country is reflected in the appreciation their faces show.

Acquisition of the Museum of African Art by the Smithsonian will add permanence and stability to the museum's programs and recognize it as a national institution. Such stability would insure the donation of private collections valued at several million dollars. These collections, if received, would make Washington unquestionably the principal center in the world for the display and study of African art, an important fact in view of this city's large diplomatic community, the high proportion of African students in its colleges, and its 76 percent black population.

For the Smithsonian, acquisition would introduce African art, which represents one of the major art traditions, into programs already rich in European, American, and Near and Far Eastern art.

Filling this gap would add a new dimension to our national cultural life, and extend to millions of Americans a special gift of heritage and enrichment.●

FINANCIAL STATEMENT OF SENATOR DOMENICI

● Mr. DOMENICI. Mr. President, every year since my election to this distinguished body, I have released information through the RECORD and the news media of my State concerning my personal financial holdings and my income taxes for the previous year.

It has now happened that the Senate has voted in new disclosure laws that give our constituents more information about our holdings, and possible conflict of interest situations. However, I believe that further disclosure would be healthy for this body and, as my part in moving even further toward full disclosure, I am again today inserting in the RECORD information about my financial holdings and from my Federal income tax statement for this past year.

I would note, Mr. President, that I engaged in no business ventures last year. I have not entered into any business ventures and, at the time of my election, severed my relationship with my old law firm in my home State entirely.

I ask unanimous consent, Mr. President, that my personal financial statement and income tax information be printed in the RECORD.

PERSONAL FINANCE STATEMENT

FEDERAL INCOME TAX INFORMATION FOR 1977

Income: $66,068 (Senate salary of $55,350; interest of $1,531; state and local tax refunds of $1,057; income from D. & V. Land Company, a family partnership, $1,272; honoraria, $5,900; Senatorial Campaign Committee account, $952).

Gross Adjusted Income: $63,942, after a $2,116 adjustment for excess of expenses over reimbursements for office and travel expenses associated with official Senate duty.

Itemized deduction: $18,655, including New Mexico income and property taxes of $5,676; interest payments of $1,665; and contributions of $2,037.

Payment of a total of $19,808 in federal, state, and local taxes.

PERSONAL NET WORTH STATEMENT

Gross Assets: Cash on hand, $17,500; cash value of life insurance, $500; securities, $23,766 (Bank of America, $1,766; Edith Land Company, $22,000); household goods, $8,000; 1978 Chevette and 1974 Plymouth, $5,000; real estate and family trust holdings, $242,246.62 (home in Rockville, Maryland, $125,000; 1/10th interest in Kent Investment Company; real estate in Rio Puerco, New Mexico, $35,000; D. & V. Partnership, $24,423; mausoleum crypt, $1,490; Domenici, et al., holdings at Navajo Lake, San Juan County, New Mexico, $7,000; interest in the trust of the will of C. Domenici, my late father, $49,333.62).

Liabilities: Real estate mortgage on my Rockville, Maryland home (through the District of Columbia National Bank) of $62,143; debt to Albuquerque National Bank, $20,200; and contract account to orthodonist, $2,000, for a total of liabilities of $84,343.

Net worth: $212,669.62.

Since entering the Senate I have conducted six business transactions—sale of my home in Albuquerque, the sale of four lots in the city, sale of a parcel of land in that city, the purchase of my Rockville, Maryland, home, and sale of land at Montgomery and Pennsylvania in Albuquerque in 1975 and 1976. I have engaged in no other business ventures.●

HOBART JACKSON

● Mr. CHURCH. Mr. President, I was deeply saddened to learn that Hobart Jackson—one of the giants in the field of aging—died on Wednesday, May 10.

Hobart was a pioneer and leader in gerontology for many years. As chairman of the Committee on Aging, I had a firsthand opportunity to see him at work in his quiet and effective way. Hobart served the committee unselfishly and with distinction as a witness, an advisory committee member, and in other capacities.

His list of other accomplishments are long and impressive, including:

The founder of the National Caucus on the Black Aged in 1971;

The immediate past chairman of the board of the National Caucus on the Black Aged;

The chief executive officer of Stephen Smith Geriatric Center, the oldest facility providing care and service for black older persons;

A member of the Federal Council on the Aging;

A member of the executive committee of the White House Conference on Aging in 1971;

The first director of the National Center on Black Aged;

A vice president of the American Association of Homes for the Aging; and

A fellow of the Gerontological Society.

In each case, he performed his duties with dedication and honor. And, these have been the trademark of Hobart Jackson throughout his life.

On May 1, the National Caucus on the Black Aged and the National Center on Black Aged paid tribute to him.

He was further honored when the District of Columbia Council proclaimed May 1 as Hobart Jackson Day.

In addition, the National Caucus on the Black Aged and the National Center on Black Aged established Hobart Jackson scholarship funds for minority students in the field of aging.

I admired and respected Hobart Jackson. His career may have been cut short. But his work will live on as a model for others.

On behalf of the Committee on Aging, I wish to extend my sincere condolences to his wife and family.

I submit for the RECORD two items from the services conducted in tribute to Mr. Jackson on Sunday, May 14, at the Calvin United Presbyterian Church, Philadelphia.

The material follows:

HOBART CALVIN JACKSON

THE OBITUARY

Hobart Calvin Jackson was born August 1, 1916 in Chattanooga, Tennessee, son of Lavinia Nichols and William F. Jackson. He matriculated in the public schools of Chattanooga and was a cum laude graduate of Morehouse College, Atlanta, Georgia. He later earned an MS. S. degree from the Bryn Mawr School of Social Administration and Research.

In 1949 he became administrator of Stephen Smith Home for the Aged. Under his guidance the Home grew from a 44 bed facility to a Geriatric Center composed of The Home for the Aged, the Cunningham Infirmary, the Stephen Smith Towers and two satellite multi-purpose centers—Smith Shephard and Smith-Pinn. He was named Executive Vice President and Director of Stephen Smith Geriatric Center in 1974. As a culmination of his efforts a beautiful 180 bed new building is ready for occupancy on the corner of Belmont and Girard Avenues.

His accomplishments in the field of geriatrics were many and broad. His voice will be sorely missed by the old, the poor, the black aged and aging in this country.

He served on commissions or task forces under three presidents, four governors of the Commonwealth and four mayors of the City of Philadelphia. He was an able and eloquent speaker and his writings appeared in numerous periodicals.

Among his many distinguished affiliations he was a fellow of the Gerontological Society, founder and past president of the National Caucus on the Black Aged, and the National Center on the Black Aged. Other affiliations include the NAACP, the National Urban League, the UNCF and other professional and civic organizations. He was a member of the Federal Council on Aging and testified before Committees of both houses of Congress. He was a Ruling Elder at his church and a faithful member.

He was married to the former Elaine Bethel of Oklahoma City for thirty-nine years. There are three children, a son, Hobart, Jr., an associate professor in the School of Architecture, University of Kansas at Lawrence; a daughter, Dale Brown, a Systems Engineer with IBM in New Orleans, a daughter, Marlene Jones, Senior Chemist with Hercules Incorporated, Wilmington, Delaware. There are two grandchildren, Michael and Keila Brown, three nephews, an uncle, two aunts, many cousins and a host of friends who also mourn his passing.

THE ORDER OF SERVICE

Processional.

Invocation: Reverend Kermit E. Overton, First African Presbyterian Church.

Hymn: Faith of Our Fathers, 267.

Old Testament Scripture: Ecclesiastes, 3:1–14; Reverend Walter D. Bowen.

New Testament Scripture: Romans, 12:1–21; Reverend Carroll D. Jenkins, Associate Executive Philadelphia Presbytery.

Solo: George Young.

Resolutions: The Board—Stephen Smith Home for Aged.

Remarks: Reverend Bobby Joe Saucer, Dean, Morehouse School of Religion, Board, National Caucus on Black Aged.

Acknowledgements: Mr. Junius Rhone.

The Choir—"How Great Thou Art".

Eulogy: Reverend Charles E. Olewine, Calvin United Presbyterian Church.

Hymn: Men of Morehouse.

Benediction: Reverend Allbert F. Campbell, Mt. Carmel Baptist Church.

Recessional.●

TAX INDEXATION: STEMMING THE TIDE OF "TAXFLATION"

● Mr. GRIFFIN. Mr. President, the Senate's Finance Committee's Subcommittee on Taxation and Debt Management recently held hearings on legislation to "index" Federal income tax rates. This is a subject in which I have been interested, and I ask that a statement I presented to the subcommittee be printed in the RECORD.

The statement follows:

STATEMENT BY U.S. SENATOR ROBERT P. GRIFFIN

Mr. Chairman, I wish to commend the Subcommittee for holding hearings on the tax indexation bill (S. 2738) that Senators Dole, McClure and I are sponsoring. I appreciate this opportunity to testify in support of one of the most helpful steps Congress could take to ease the staggering tax burden on American workers.

I long have been a strong supporter of the indexation concept. As the Subcommittee may recall, almost exactly a year ago—on April 28, 1977—I offered a tax indexation amendment during Senate consideration of the Tax Reduction and Simplification Act. I called it an "inflation neutralizer" because it would have helped to buffer wage earners from the harsh, hidden tax impact of inflation by automatically adjusting personal income rates, the personal exemption, and the standard deduction to reflect increases in the cost of living.

Unfortunately, the Senate defeated my amendment by a vote of 24 to 64—although it did have the support of all the Minority members of the Senate Finance Committee. The next day, I introduced the amendment as a bill—S. 1431—and it is pending before your Committee along with the bill we are considering today.

I support tax indexation because I believe it would be an effective antidote to one of the most serious ailments affecting the American economy—I refer to that curious condition that economists are now calling "taxflation."

We all know the symptoms. Relentless inflation forces wages to rise, supposedly to keep pace—but then comes the rude awakening as wage earners find that their bigger paychecks not only buy no more, but also are subjected to heavier income taxes.

That's the "double whammy" of taxflation. For millions of Americans, particularly those of low and middle income, it means paying more real taxes on less real income.

That's because their added earnings, even though eroded by inflation, are taxed at ever-higher rates since our tax laws are blind to the shrinking value of the dollar.

As Senator Buckley has so ably pointed out, if a taxpayer doubles his nominal income from $10,000 to $20,000 between now and 1988 just to keep up with an average 7 per cent inflation rate, he would have no more real money to spend. And yet his federal tax bill—from being bumped into higher brackets—would more than double!

Obviously, the only beneficiary of this situation is the Federal government—which, at current inflation rates, rakes in about $6 billion every year in added revenues from taxes on these inflated wages.

This "windfall profit" to the government amounts to a nonlegislated tax hike every year, and in effect represents a direct reward to Washington for the inflation it is at least partially responsible for producing in the first place through excessive and unnecessary spending.

Frankly, I find it unconscionable for the government—in addition to promoting policies that fuel inflation—to profiteer from its impact at the expense of American taxpayers. Tax indexation would be an essential first step toward helping the government kick the inflation habit.

By automatically adjusting tax rates to reflect cost of living increases, indexation would remove the government's profit incentive for pursuing inflationary policies. And, equally as important, the extra earnings American workers receive just to keep up with inflation would stay in their pockets rather than swelling IRS coffers.

That's why I call tax indexation an "inflation neutralizer." It simply would offset the impact of inflation on American wage earners by insuring that—unless their income grows faster than the cost of living—their federal income tax rate will stay constant.

Increasingly, American workers find themselves mired in financial quicksand. Like a man trying to climb a ladder in a bog, the average wage earner finds that every step he tries to take up the economic ladder only settles it deeper into the ground—so that every rung he thinks he climbs up is really a step down.

Taxpayers too often find that the pay increases they receive turn out to be illusionary. For, as the worker's pay goes up, three things occur: First, larger and larger portions of his income become taxable; then, a larger chunk becomes taxable at the highest marginal rate in his current tax bracket; and finally, he gets bumped into the next tax bracket.

It's no wonder that American taxpayers are as baffled as Alice must have been in Wonderland when the Red Queen said to her: "Here, you see, it takes all the running you can do to keep in the same place. If you want to go somewhere else, you must run twice as fast as that."

Just how serious this situation is was underscored by Senator Dole in introducing S. 2738, when he pointed out that the number of taxpayers in the 30 per cent-plus brackets has increased six-fold in the last 15 years!

Mr. Chairman, it's no coincidence that the cost of living has doubled in that time. As I pointed out earlier, inflation pushes up wages, which pushes wage earners into high tax brackets.

And unless we break that cycle now, the situation will only get worse. We need to remember that with an average inflation rate of 7 per cent, prices double in 10 years—and with inflation now above 8 per cent and still climbing, the CPI may well redouble within the decade.

Let me offer some examples of what's in store without tax indexation.

A taxpayer who earned $15,000 in 1977 will have to earn $16,200 in 1978 just to break even at 8 per cent inflation. But that's before the IRS tax bite. If he does earn $16,200 in 1978, his real tax liability will be increased by about $260—so, in reality, although his purchasing power in 1978 is only *equal* to that of 1977, he has in fact sustained an actual loss of $260!

The situation becomes more pronounced as workers move higher up the income ladder. A family with a $30,000 yearly income in 1977 will have to earn $32,400 in 1978 to keep pace with our projected inflation rate. However, at $32,400, the family's tax bill—and their *real* income loss—will rise by about $850.

This is pretty grim news for taxpayers trying to balance their family budgets. But it is not only personal income that inflation ratchets into higher tax brackets. The taxflation impact is felt across the tax spectrum—in capital gains taxes, corporate taxes, pension contribution limitations, the earned income credit, the tax credit for the elderly, and the child care tax credit.

If we enact a tax indexation bill, we can save taxpayers from these very real losses, and at least allow them to keep up with the cost of living. Our hypothetical $15,000-a-year taxpayer would be able to keep his $260, and the $30,000-a-year family would be $850 better off.

When examples such as those I mentioned are cited, I must say that it is no surprise to me to see media reports of a pending American "tax revolt." The anger, frustration and disillusionment taxpayers justifiably feel—and that I hear about all the time from my constituents—is certainly understandable. It is up to those of us in government to provide a measure of tax relief that is meaningful and predictable.

While tax cuts are certainly desirable—and I support efforts here in Congress to cut taxes—they are not the whole answer. Too often, tax cuts are determined by the prevailing political winds. That is why, despite five legislated tax cuts in the past decade, the actual tax bill of many Americans—as a percentage of personal income—has increased rather than decreased.

The reason for this is that inflation has eroded the impact of those five tax cuts. Because of inflation—and the sporadic, patchwork approach to tax cuts taken by Congress in the past—a tax cut isn't really a tax cut at all. It may help for the year it's enacted, but when the inflationary spiral starts again, the benefits are lost.

To emphasize this point, I would cite a study conducted by the Joint Committee on Taxation, which showed that government tax revenues rise at 1.65 times the rate of the cost of living. Translated to individual taxpayers, that means that for roughly every 10 percent rise in income, their taxes—on the average—go up by 16½ percent! The difference represents the windfall profit government receives from the inflation it helps to generate.

Indexing tax rates to inflation would remedy this by providing taxpayers with the assurance that the pay raises they receive just to keep up with the cost of living will not be taken away by the government in higher taxes. In addition, indexing would insure that any tax cuts we enact this year—or in future years—will be tax cuts that really mean something, not mere illusions.

I realize, Mr. Chairman, that there are differences of opinion as to the specific form that tax indexation should take—and that there are differences as well as to whether it should be attempted at all.

I am sure that there will be vigorous arguments made—as there have been in the past—that the government "can't afford" the loss in revenue that would result which, as I indicated earlier, would be about $6 billion or more every year.

But these revenues are artificial revenues that the government has no business collecting. They are, in effect, hidden tax hikes on which Congress has never voted.

If we are serious about wanting to fight inflation, we can—and must—start by getting serious about reducing Federal expenditures. And I can think of no better way to start than by ending the government's inflation profit through tax indexation.

By continuing our indulgence in this form of hidden taxation, we are draining money out of the economy, causing the Gross National Production to grow less than it should, and thus actually reducing Federal revenues.

Indexing would help stabilize not only the tax system but the economy as well, and in the long run save the government billions of dollars more than it costs.

I do not pretend, Mr. Chairman, that tax indexation is the sole solution to ridding our selves of the inflationary demons that beset us. But, it is a major first step that we ought to take.

I would add that tax indexation, like so many other issues, is a case where the people are ahead of their elected representatives. When I introduced my indexing bill last year, I was gratified to see the responsive chord it struck. Newspapers all over Michigan editorialized on it favorably, and I have received countless expressions of support for the concept.

In closing, I would only say that this Congress must provide tax relief to the American people. Another tax cut may help in the short run—and I believe it is needed—but we must also take action now to insure that wage earners do not continue to be hit with the "double whammy" of inflation and higher taxes in the future.

We should take action now to take American taxpayers off the taxflation treadmill once and for all.

I urge the members of this Committee and all of my colleagues in both Houses of Congress to work hard in the closing months of this session to enact a tax indexation bill.●

LESSON IN COURAGE

● Mr. ANDERSON. Mr. President, recently I had the opportunity to assist in making arrangements for a special exhibition volleyball match at the U.S. Military Academy. On Saturday evening, May 6, 1978, an extraordinary volleyball team from Beit Halochem (Tel Aviv, Israel) competed against the Army's interscholastic team. Our cadets played against a group of disabled Israeli war veterans who won the gold medal in the 1976 World Handicapped Games. These Israelis are arm and leg amputees who have overcome crippling injuries through rehabilitation.

The members of the volleyball team from Beit Halochem have shown incredible courage and perseverance in going on to earn an international reputation for athletic excellence. The team conducted a 2-week East Coast tour which began last April 23. The tour was sponsored by the U.S. Committee Sports for Israel with whose professional staff and officers I cooperated in organizing the West Point game.

I wish to extend my gratitude to Commandant Goodpaster, Colonel Weihle, and Major Clark of the U.S. Military Academy for their extremely generous efforts in facilitating arrangements for the Israelis' visit to West Point. Through their good offices, this event was made most memorable.

Mr. Nat Holman, president of USCSFI, best summarized the feelings of all those who had the privilege to view the team in competition during their recent tour. At a reception for the players at the Israeli Embassy in Washington, Mr. Holman said of the team members:

They're a lesson in courage.●

ROLLING BACK SOCIAL SECURITY TAXES

● Mr. HAYAKAWA. Mr. President, last week, the House Ways and Means Committee voted 19 to 18 to rollback the social security tax increases most of them had voted in favor of last year. Now, many of them wish to see part of the program financed through the use of general revenues.

I have given this considerable thought and am quite disturbed by it.

It seems that this vote for a rollback is not so much for the good of their constituents; rather it is an attempt to save their own political lives.

As one who voted against the conference report, I myself see many weaknesses in the new legislation and in the entire program as well. There is a general feeling that the course taken may have been improper. Although various pieces of legislation have been introduced as corrective action, they all appear to be of a short-term nature.

The proposal to finance part of the program through the use of general revenues is of particular concern to me. Where on earth is the money going to come from? We are already operating our budget at a deficit of around $50 billion.

If the rollback is to be for 2 years only, 1979 and 1980, while we await the completed studies Congress itself asked for, I see no reason for such legislation at all. Besides, once we start funding a portion of the system through the general fund, I fear it would be almost impossible to reverse that action.

During hearings recently held by the Social Security Subcommittee of the Senate Finance Committee, Mr. Robert Ball, a former commissioner of social security, pointed out that if changes are made, they must be done so keeping in mind that social security is a compact between a worker and the U.S. Government. It should be kept stable to provide future benefits, and should not be hampered by short-term changes. I agree with this completely. There can be little or no stability when funding comes from a $50 billion deficit.

Mr. Ball also pointed out that the higher taxes are going for later payments of higher benefits. For example, given our current rate of inflation, a "comfortable" benefit of $10,000 a year today would not be nearly enough to live on 30 years from now.

The vote by the Ways and Means Committee was induced by widespread criticism from the electorate of the new social security legislation. The criticism reflects the general lack of understanding that most contributors have of the system. It appears that many Congressmen are no more knowledgeable than much of the public. Therefore, I concur with Mr. Ball and urge Congress for the good of the public and the health of the social security system, not to enact more legislation in 1978, but to wait at least until reports which Congress has commissioned are completed and reviewed.

The well-being of the social security system should not be jeopardized just to insure a Congressman's reelection.●

SENATOR SASSER ANNOUNCES BILL OF RIGHTS FOR OLDER AMERICANS

● Mr. CHURCH. Mr. President, I would like to commend my colleague, JIM SASSER, for his effective actions on behalf of aged and aging Americans. He is a strong and able advocate for older persons.

On April 30, he addressed the Governor's Conference on Aging in Nashville. He called for a 10-point bill of rights for aging Americans and focused on many of the most important issues facing senior citizens today.

His speech, it seems to me, provides a valuable insight into the most pressing issues affecting older Americans. I also believe that his points are timely and well taken.

For these reasons, Mr. President, I submit for the RECORD the text of Mr. SASSER's remarks for consideration by Members of the Senate and the American people.

The remarks follow:

GOVERNOR'S CONFERENCE ON AGING

I'm delighted to have this opportunity to join all of you in participating in the Governor's Conference on Aging.

I'm happy to be here because I feel very strongly that we must address the problems of the elderly in a more realistic manner.

I know that a lot of progress has been made in this area.

With Social Security and Medicare and Medicaid and the Older Americans Act, we have moved out of the dark ages in programs for the aging.

But we are far from achieving the golden age in program achievement and delivery—so that the golden years of our older people will not be years of despair, depression, and isolation, as they are now for so many elderly people.

Our older people are tormented by the red tape of needless government regulations and by the mindless delays caused by an insensitive bureaucracy.

Many letters which I receive from older people reflect their frustration—even their desperation.

With your permission I would like to quote from a typical letter, without naming the writer, of course.

This person wrote concerning her application for Social Security disability benefits.

"It took me 20 months to receive these benefits. Why can't some of the red tape be cut to speed up this process? I had to depend on friends and relatives to feed and support me during the 20 months. Some of these disabled may not be as fortunate as me to have friends who can, and will help them."

This elderly woman went on to say:

"Some of the government employees make you feel as though you're asking for charity or that the money is coming out of their pockets. I am just now regaining some of the pride that I lost during the 20 months."

This is the type of agony that some older people must endure because of inefficient, time-consuming procedures in many areas of the federal government.

This is not always true. There are many concerned and dedicated individuals in the federal service.

But it is true too often.

And often it is the tangled and intertwined regulations, procedures and guidelines that cause the delays rather than federal employees.

Another letter from an elderly person said the following—

"The regulations and guidelines of the

whole Medicare program should be reviewed and revised. Most senior citizens are deprived of needed assistance because of these rigid guidelines. Lots of seriously ill patients live isolated lives with no one to care for them at home. Yet they are not eligible for nursing home care."

This, of course, gets into the issue of home health care.

A recent study by the General Accounting Office said in effect that it would be cheaper in the long run to establish a rational system of home health care for the aged than to institutionalize those who have some health or medical problem that could be treated at home.

We simply must improve our system of home health care.

During my campaign I pledged to assist our older people in realizing the basic necessities of life, at the very least.

I pledged to help them achieve at the very least, a life of dignity—with an adequate income, decent housing, and health care that is of high quality and that they can afford.

Now, as your U.S. Senator, I feel it's my responsibility to uphold that pledge I made as a candidate.

I am a cosponsor of the extension of the Older Americans Act for 1978.

This Act with its revisions represents another step down the road to delivering the care the elderly deserve.

This Act is another mile in the long road to health, honor and dignity—an Act which, if passed, will help to provide nutrition, transportation, community employment and other services that are needed.

When I spoke to you in 1976, I promised you that I would devote my time to lifting the oppression of mandatory retirement. I am pleased to be able to tell you that the mandatory age for retirement has been raised to seventy. I supported this measure fully and worked hard for its passage. As Tom Henry and Mrs. Clint Pickens looked on, the President signed the Bill on April 7 of this year. I am proud that I had a part in the passage of this Bill. It gives you all a little more freedom now than you had this time last year. I am proud that I can stand before you today and say to you, "I promised that I would relieve this oppression, and I have helped to do it."

And during that same speech in 1976, I promised that I would seek to change Title V of the Older Americans Act. Title V limits funding for new senior citizens centers to the acquisition or renovation of existing structures. This provision hampers the use of federal funds in many rural areas here in Tennessee. Many counties don't have senior centers because no already existing suitable building can be located.

I'm pleased to report to you today that the extension of the Older Americans Act which I have cosponsored would remedy this problem. The new bill allows for limited construction of senior centers in areas that lack facilities to be renovated. This reform will help us reach my goal—the goal of having at least one senior center in every county of the State.

And I can tell you this—I will continue to fulfill other campaign promises that I made, and I will not despair if the successes are not quick or easy. Together you and I beat the retirement age problem and together we can defeat other problems.

Congress has considered some of these problems already. Last year, I supported a Bill to provide semi-annual Social Security adjustments. This Bill passed the Senate but the provision was dropped in conference at the insistence of the House.

As I indicated in the Congressional Record, semi-annual cost-of-living increases are an idea which is humane, which makes common sense and which translates more clearly Congressional intention that our senior citizens must not have these benefits decimated by inflation.

Likewise, I support the principle of increased Social Security payments, just as I supported the Bill to make our Social Security system sound and solvent.

Frankly, I think that what our older people need as a beacon of hope—and what our nation needs as a measure of its devotion to our elderly—is what would amount to a Bill of Rights for our older people.

These would be objectives toward which we would strive and work and always keep before us—moving toward these goals in an orderly and responsible manner.

This Bill of Rights should include such objectives as—

(1) Protection against inflation which robs the elderly of a piece of each dollar they spend.

(2) Adequate and affordable health care, in the elderly persons homes where feasible and appropriate. In hospitals—extended care facilities and nursing homes where required.

(3) A guarantee of decency and dignity in life, without having to ask for charity.

(4) Comfortable housing at a reasonable cost.

(5) Assurance that their applications for assistance will be processed in an efficient and responsive manner, rather than dragged out for months on end because of some technicality.

(6) The right to meet in senior citizen centers across the country where they can enjoy each other's company and draw strength and courage from the association.

(7) Assurance of nutritious food for those who cannot afford to buy such food.

(8) The right to earn a reasonable income and still draw Social Security they have earned.

(9) The right to work until age 70 without being subjected to age discrimination, directly or indirectly.

(10) The right to walk our streets without fear of being mugged or killed by criminals who prey on the elderly.

These are some of the rights I believe our older people deserve.

We are a wealthy nation.

We can send men to the moon.

We can build jet planes that travel faster than the speed of sound.

We can build computers that can work faster than the human mind.

We can build missiles that can travel thousands of miles and impact on target.

Yes, we can do all those things.

And, if we can do those things with costs of billions and billions, we can also assist our older friends achieve their brithright of dignity and tranquility.

The Older Americans Act provides a wide range of services including—

Some forms of home health care.

Transportation facilities within certain limitations.

Homemaker services.

Nutrition programs.

Multipurpose senior centers to assist elderly people in utilizing services available.

Payment of older people who serve in the senior community service corps.

The people who will benefit from the extension of this Act are the people who built our cities and towns and factories and schools—the builders of the last generation.

They are the people who fought our wars and won our freedoms—again and again.

So this Act shows that we understand our obligation to our older people—and represents a partial fulfillment of our commitment to meet that obligation.

A fundamental duty of our government is to fulfill its obligation to America's senior citizens. And I intend to do what I can to see that we do meet that commitment.

In the words of John Fitzgerald Kennedy: "The energy, the faith, the devotion, which we bring to this endeavor will light our country and all who serve it, and the glow from that fire can truly light the world."●

CONSUMER PRODUCT SAFETY COMMISSION ADVISORY COMMITTEES

● Mr. ANDERSON. Mr. President, Minnesota has been proud to have one of its noted residents, Mr. Allen Saeks, serving on the Consumer Product Safety Commission (CPSC) advisory council since 1974. In 1976, Mr. Saeks was elected as the council's chairman.

Hearings held last September before the House Subcommittee on Consumer Protection and Finance dealt with the efficient and effective operation of the CPSC. Mr. Saeks testified at those hearings on September 24, 1977.

CPSC reauthorization bills have recently been reported out of committees in both the Senate and House. Mr. Saeks' testimony gives an important insight into the workings of the CPSC which should be kept in mind when reauthorization legislation comes to the floor. Therefore, I ask that the text of Mr. Saeks' testimony be printed in the RECORD.

The material follows:

STATEMENT OF ALLEN I. SAEKS FOR HOUSE COMMITTEES ON CONSUMER PROTECTION AND FINANCE AND ON OVERSIGHT AND INVESTIGATIONS

Mr. Chairman, I am pleased to accept the invitation of the Subcommittees to discuss certain aspects of the Consumer Product Safety Commission's implementation and administration of the Consumer Product Safety Act. My name is Allen Saeks. I reside ir. Minneapolis, Minnesota where I practice law and also serve as outside Legal Counsel to the Minnesota Public Interest Research Group (MPIRG). Since July 1974, I have served as a consumer representative on the Advisory Council of the Consumer Product Safety Commisison. Since February, 1976, I have served as the elected member Chairman of the Advisory Council. Although I am Chairman of the Council, I do not appear on behalf of the Council but rather am here only to express my own personal views as a consumer representative on the Council.

As one who lives some distance from Washington and does not deal with or observe the Commission on a day-to-day basis, my knowledge of the Commission is of necessity limited to my experience on the Advisory Council. As is provided by statute, the Advisory Council is comprised of 15 members with 5 selected from Federal and State governmental agencies, 5 represent consumer product industries and 5 are selected as consumer representatives. In my view, the Commission's selections of Advisory Council members have, with perhaps only one exception, been excellent ones. Recently the Commission received over 1,200 applications for openings on all three of its advisory committees. It is apparent from the most recent selections to the Advisory Council, which include a former United States Senator, that a good deal of care and attention is now paid to making the selections.

The Commission conceded in its 1978 Budget Request to the Congress that there is no evidence that either the Advisory Council or the other two advisory committees which advise the Commission (the Technical Advisory Committee on Poison Prevention Packaging and the National Advisory

Committee for the Flammable Fabrics Act) have been utilized effectively as an independent research and assessment resource. Unfortunately, I must agree with that conclusion.

Shortly after it was established, the Advisory Council organized itself into a number of subcommittees which were equally balanced among industry, government and consumer representatives. The result was that the members were able to develop a certain amount of expertise in specific subject areas in which the Commission was interested such as, for example, standards, bans and recalls, information and education. In addition, the Council members were given a good number of significant issues to discuss and to comment upon. At the outset, meetings of the Advisory Council were called approximately every two months.

More recently, the subcommittees have been abolished, the Advisory Council is permitted to meet no more often than the statutory minimum of four times a year, and, at least in my judgment, the issues presently being presented to the Council for discussion and comment are not as important or as significant as they once were. Yet, the issues the Commission faces today are more important and urgent than they were previously. In addition, fuller resource support and encouragement of Council members' ideas and advice have been generally, though not always, lacking.

Under the imminent hazard provisions to be found in Section 12 of the Act, the Commission may consult the Advisory Council in determining whether to commence an action under this provision and to request the Council's recommendations as to the type of temporary or permanent relief which should be sought in order to protect the public. However, such recommendations must be made within one week of the request. Under § 12(d)(3) of the Act, the Advisory Council may also conduct hearings if it deems them to be necessary or appropriate in advising the Commission with respect to an imminent hazard determination. Unfortunately, the hearing provision is not practicable because of the one-week statutory limit in which the Council must submit its recommendations to the Commission. Faced with what are obvious difficulties in consulting an Advisory Council of 15 members who are scattered throughout the country within an understandably short period of time, the Advisory Council, on its own initiative, has worked out procedures that would allow informal as well as formal consultation to take place by mail or by means of telephonic communications within a short time interval. The procedures worked out by the Council were recommended to the Commission and found by it in July, 1975 to be generally acceptable, and indicated it would try implementation of the procedures when the occasion arose.

Subsequent to their adoption, the Commission has had at least three occasions on which to utilize these procedures. These were in the cases of the Baitcatcher Worm Probe, which was ultimately resolved by a consent agreement, the automatic baseball pitching machine, and the "Zipper" amusement park ride. In none of these instances did the Commission choose to consult with the Council. In the case of the worm probe there appeared to be a period of several weeks during which the Commission was considering whether to move on this electrical shock hazard. Presumably some formal or informal consultation with the Council could have taken place during that time. Just recently, the Commission appears to be moving much more quickly when a potential imminent hazard comes to its attention. In the case of the Zipper amusement park ride, the Commission has moved quite expeditiously. In this instance, as well as in the case of the automatic baseball pitching machines, I, as member Chairman of the Council, was notified of the Commission's action only at the same time as, or following the issuance of, a press release to the news media. However, in the case of the Zipper, the members of the Council were furnished with relevant written background data immediately following the Commission's decision to proceed against the product in the United States District Court.

Doubtless, a good argument can be made that taking any amount of time, no matter how brief, to consult with the Advisory Council could unnecessarily delay the court action that is immediately needed to protect persons from serious injury or death. Even putting that aside, however, the statutory provision suggests that consultation is appropriate not only with respect to whether to commence an imminent hazard action, but also with respect to "the type of temporary or permanent relief which may be necessary to protect the public." In this respect, the Advisory Council could fill a meaningful role. For example, a consumer representative could provide recommendations as to how the court might best order a manufacturer to communicate to consumers by news media or otherwise the nature of the hazard to be avoided with the dangerous product. An industry representative might be able to suggest a means by which the products could be most effectively recalled without causing needless economic losses to companies in the distribution chain who have no direct responsibility for manufacture of the dangerous product. In spite of these possibilities, no consultation of the Council in this latter regard has been pursued by the Commission.

In summary, the Commission has not, in my judgment, sufficiently utilized the capabilities, knowledge and diversified experience of the Advisory Council members. I find no indication of any desire to consult with the Council or any of its members on any kind of an ongoing or regular basis apart from the four two-day meetings required by law. If my conclusion is correct, it raises a question as to whether the value of the Advisory Council to the Commission is worth the cost to the taxpayers of maintaining it.

A somewhat related issue that has come up for discussion at our Advisory Council meetings, as well as at meetings of the other two statutory advisory committees, is the question of whether the three advisory committees should be consolidated into one committee. Although a majority of the then members of our Council did not agree with me when the issue was discussed some months ago, I feel rather strongly that under the present policy of attempting to reduce the number of advisory committees in the federal government and considering the extent to which our Advisory Council is being used by the Commission, certain economies, efficiencies and benefits could be realized by consolidating the three advisory committees into one committee. It has been estimated that the cost of running each of the three advisory committees, exclusive of staff support, approximates $34,000 per year. The estimated cost of operating the Advisory Council alone, including staff support, is $70,000 per year. I understand the Commission is presently considering a proposal to consolidate or merge the advisory committees. Should they be consolidated, expertise in the areas of flammable fabrics and poison prevention packaging could be maintained through formation of subcommittees of the consolidated council. Also, if necessary to accommodate adequately the specialties in flammable fabrics and poison prevention packaging, the council membership could be expanded to 21 from 15 members thereby still permitting a 7 member balance among each of consumer, industry and government representatives. Some of the funds saved as a result of the consolidation could be utilized to hold at least bi-monthly meetings of the consolidated council. This would still result in total meetings to which the Commissioners and staff have been committed being reduced from 12 to 6. Members of the Advisory Council have repeatedly pointed out, and I agree completely, that effective contributions by members cannot be maintained unless meetings are held more frequently than quarterly.

Finally, with respect to all three advisory committees, I believe the Commission should immediately, if it has not already done so, undertake a study of how, if at all, the Commission can better utilize the committees. Should the Commission conclude that no meaningful role may be played by them, I would hope it would report that fact to the Congress. I personally see a need for an Advisory Council. However, if the Commission chooses not to utilize it, I would urge that the Congress abolish it.

Although I understand there will be several other knowledgeable witnesses discussing the offeror process in great depth. I would like to make but a few comments with regard to the offeror process insofar as it related indirectly to the activities of the Advisory Council. It has frankly been difficult in the last year or so for me to follow with any depth of study the development of CPSC standards through the offeror process. When the Advisory Council had a subcommittee on standards, the concentrated focus on standards development by the members of that subcommittee during Advisory Council meetings, and between meetings, enabled the Council as a whole to appraise the effectiveness of the offeror process. Following the elimination of the Council's subcommittees, it has been difficult to keep meaningfully informed on the development of mandatory standards by the Commission. Consequently, the Council members have not recently been in as good a position effectively to advise the Commission on the offeror process or on standards development generally. To the best of my recollection, we were able to follow the development of the architectural glass standard and the matchbook standard with some continuous attention and a little depth. In both of these instances, I found that upon completion of the work done by the offerors, the standard that was produced was, in the first instance, not responsive to the stipulations set out in the request for offers. Generally, I have the impression that, with exceptions, what has been proposed by offerors in some cases is little more than the industry voluntary standards previously in existence. In the architectural glass standard proceeding, it appeared that one of the earlier drafts of the proposed standard contained design requirements which could have resulted in a stiffling of innovation and lessening of competition in that particular industry. Fortunately, the Commissioners at that time recognized the problem and sent the proposed standard back for redirection to prevent such potential ill effects from occurring.

I personally have very serious doubts as to whether the offeror process can ever work as presently provided by statute. Whenever an industry trade group has been the offeror, I have been troubled as to whether there has been *meaningful* consumer participation in the development of the standard. I have never been completely satisfied on this subject with respect to the architectural glass standard. With respect to the matchbook standard, I am aware of a small businessman and inventor of an innovative type of matchbook who could not participate in the offeror process though he eagerly sought to do so. Hopefully, new and more favorable attitudes toward consumer and small business participation in standards-making will

make consumer participation less of a token or cosmetic exercise and more of a meaningful process.

The Commission staff has recently prepared an excellent evaluation of the offeror process. Perhaps certain improvements undertaken as a result of that evaluation may suggest maintaining the existing process at least through completion of the miniature Christmas tree lights standard now in process. However, a meaningful decision on whether or not to retain the offeror process in its present form should not be postponed any longer following the experience with that standard. My own view at this time is that the Commission should now be permitted to experiment with a standards development mechanism whereby the Commission, and not an outside party, would manage the development of standards "in-house" with the industries concerned, as well as consumers, impacting equally upon the development process.

There is one troubling aspect to the apparent unworkability of the offeror process and the accelerating criticism of it that has been generated. As the Commissioners become frustrated in their sincere efforts to develop meaningful mandatory standards expeditiously while being subjected to criticism both by industry and consumer groups, I observe an accelerating drift toward reliance on voluntary industry standards by the Commission.

The members of the Subcommittees are doubtless familiar with the many abuses that have traditionally occurred and continue to occur in the development of voluntary industry standards. Most troublesome, of course, is the lack of assurance in the development of many voluntary industry standards that there has been meaningful consumer participation. Almost equally troublesome is the potentially anti-competitive ramifications arising from some voluntary standards. While certain industry groups utilizing so-called "consumer sounding boards" in voluntary standards-making seek thereby to cast a pacifying calm upon those who criticize the absence of consumer input and democratic processes in the development of voluntary standards, the type of consumers participating on such "sounding boards", the motivations and interests of such persons, and the question of how meaningful their participation is in the development process has not as yet been answered to my satisfaction.●

ACQUISITION OF THE FREDERICK DOUGLASS MUSEUM OF AFRICAN ART BY THE SMITHSONIAN INSTITUTION

● Mrs. HUMPHREY. Mr. President, yesterday my colleagues favorably considered S. 2507, legislation to make the Museum of African Art, which is devoted to black art and culture, a part of the Smithsonian Institution.

S. 2507 was introduced by Senator ANDERSON and myself on behalf of my late husband, Hubert. Hubert supported and participated directly and actively in the museum's development, believing that there was a genuine and very special need for such an institution in Washington and the Nation.

The Frederick Douglass Museum of African Art was started in 1964 by Warren Robbins, a former Foreign Service officer. The museum is devoted exclusively to fostering public understanding of Africa's traditional art and its creative contributions to mankind. The museum's collection consists of over 7,000 objects of traditional African art, and its archives contain the donated films and photos of the world-renowned life photographer Eliot Elisofon. In addition, the museum conducts a vigorous education program of university classes, educational television and symposia.

I strongly believe that the museum is a unique and vital educational institution for our country. It will be a fine and important addition to the Smithsonian, providing a dimension and degree of excellence which are wholly consistent with the goals of the Smithsonian Institution.

The Museum of African Art's financial survival can be assured only through support as a national museum. But beyond budgetary considerations, there are two other very important reasons for the affiliation. The first is that the museum would be bringing to the Smithsonian what is already one of the largest collections of African art in the United States. In addition, probable future bequests from three or four of the major private collections in the world to the museum are in the offing if the museum can demonstrate that it has the stability and the facilities to properly accommodate, conserve, and display these collections. The Smithsonian would provide this wherewithal, including substantial scholarly expertise, conservation resources, and management staff. As part of the Smithsonian, the museum would without any question become the principal center in the world for the display and study of traditional African art, an important fact in view of Washington, D.C., large diplomatic community, the high proportion of African students in its colleges, and its 76 percent black population.

For many people, the Museum of African Art has been their first acquaintance with a museum of any kind. I personally believe that it is extremely important to foster among America's black population a stronger response to museums as repositories of our heritage. Museum visitation figures for black Americans are very low, but the Museum of African Art has begun to make significant inroads.

I commend the members of the Committee on Rules and Administration who share my concern over the fate of the Frederick Douglass townhouses which have housed the museum since its conception. I share the committee's desire to preserve the home of Frederick Douglass, one of America's finest black orators and statesmen, as a symbol of respect to our black community by recommending that it become a public shrine under the administration of the National Park Service.

With the passage of this legislation, the Senate has assured the continuation of the goals, function and purpose of the Museum of African Art—to reveal the esthetic significance of African art, as one of the great creative traditions of mankind; to help replace myth and misconception with valid scientific and historical insight about African culture; and to provide proper representation for the African heritage in the spectrum of museums in the Nation's Capital.●

HUBERT H. HUMPHREY: POLITICAL SCIENTIST

● Mr. ANDERSON. Mr. President, in the months following the death of our colleague, Hubert Humphrey, the Nation has witnessed an outpouring of affection for him. It hardly bears repeating that his was a style which touched the lives of millions, and that he thought of himself primarily as a teacher and a political scientist rather than as a politician.

An excellent personal account of Hubert's life as a political scientist by his long-time friend Max M. Kampelman appeared in a recent issue of Political Science. Mr. Kampelman was legislative counsel to the late Senator from 1949 to 1955. This article is a warm and amusing account of the evolution of the political philosophy and personality of Hubert Humphrey, from his early years as a teacher of political science through his career as mayor of Minneapolis, U.S. Senator from Minnesota, and Vice President.

I believe that Mr. Kampelman's vivid account will be of interest to my colleagues as well as to the American people, especially since it includes vignettes which help to dramatize the way in which his political philosophy was manifested in his daily interactions with those around him. I ask that the article to which I have referred be printed in the RECORD:

The article follows:

HUBERT H. HUMPHREY: POLITICAL SCIENTIST

(By Max M. Kampelman)

(NOTE.—The author, a senior partner in a Washington, D.C., law firm, served as legislative counsel to Senator Humphrey from 1949 to 1955. He has taught political science at the University of Minnesota, Bennington College, Howard University and Claremont Colleges. From 1956 to 1968, he served as Treasurer of the American Political Science Association.)

When Hubert H. Humphrey died on January 13, America lost one of its most dedicated teachers and political scientists, as well as one of its best public servants. To political scientists who knew Hubert Humphrey personally, or who worked closely with him—and there were many hundreds of us—it will be widely accepted that he looked upon his major role in life to be that of a teacher and not only a politician aiming to achieve power to carry out his system of values.

This will not be a memorial in the usual sense of that word. The President and Vice President have appropriately and eloquently spoken the words that fit a eulogy and in doing so spoke for many millions of Americans. There is also a kind of weariness in me that does not want to add even more words to those already spoken by the professional word speakers and writers of the media, many of whose public tributes in January were in stark contrast to their previous evaluations.

Nor will this be an analysis of Hubert Humphrey as a public man. His own splendid autobiography, *The Education of a Public Man* (published by Doubleday, 1976), presents that picture vividly and with utter candor. Furthermore, Jeane Kirkpatrick has elsewhere analyzed the public man and his contributions to the American society in a

brilliant and perceptive essay that dare not be emulated. This paper will instead be a personal portrait in the form of anecdotes and comments resulting from more than 30 years of friendship and collegiality.

The core of Hubert Humphrey's personality and system of values was his commitment to democracy. A religious man, he believed in the fatherhood of God, however defined, and the brotherhood of Man which followed from that article of faith. On one occasion, when we were both scheduled to speak before the same Jewish audience, he heard me define the great historical contributions of the ancient Hebrew tribes as the rejection of primitive idolatry and a belief in many gods for a new belief that there was only one God. In analyzing the revolutionary implications of that message, I pointed out that this created a powerful driving force which became the essence of political democracy. At the conclusion of the evening, Hubert came over to say that I had caught the very roots of his beliefs.

Those who followed Hubert Humphrey's career know that to this cause of human brotherhood he committed every fiber of his being. It was a two-tiered cause. It expressed itself in broad legislative and administrative programs for civil rights. But it also had a personal dimension to it. He had to treat people as his brothers and sisters no matter how sharp their political differences. This explains why he was so forgiving of people who deserved less of him.

Democracy, which was the only form of government deserving of governing children of God, had to rest on an informed awareness by the electorate and that required teaching and learning. It was no accident that Humphrey turned to workers education under the WPA as his vehicle for expression in the period following his graduate studies in political science. Nor was it an accident that he returned to the university teaching of political science after his defeat for the presidency in 1968 and prior to his return to the Senate in 1970.

Much has been said about Hubert Humphrey's capacity to speak at length. He knew of that criticism. One of his greatest irritations was constantly being reminded of it. The way he handled the irritation was by poking fun at himself, such as by quoting his wife, Muriel, to the effect, "A speech, dear, need not be eternal to be immortal," but he never did fully understand the criticism or appreciate it. Issues were important and should, in a democracy, be discussed thoroughly and not superficially. He grew up before television in the tradition where political speechmaking was an event in the community. How else other than by talking and teaching and explaining could there be an understanding of the issues by the electorate and how else could democracy function? And that required talking and explaining. The formula was simple: "You tell them what you are going to tell them; you then tell them; and then you tell them what you told them."

While watching and listening to the memorial services for Hubert in the Rotunda of the Capitol and in Minnesota and while being surrounded by the television and radio discussion programs and special events featuring details of his life, I could not help but feel a sense of satisfaction in knowing that during that week his message, his face and his voice reached more of us than ever before during his lifetime. A teacher, Hubert Humphrey, during that week, had the nation as his classroom and the American people as his attentive students.

Hubert Humphrey and I first met in 1945. He had just been elected Mayor of Minneapolis and I was about to become an instructor with the University of Minnesota's Department of Political Science. The younger members of the department would occasionally meet on a Saturday evening for talk, food, and fellowship. Art Naftalin, who was then the Mayor's secretary and later to become Mayor on his own before finally returning to the faculty, would attend; and Hubert made a point of attending as many of these functions as he could after his last mayoralty function of the night. The spirit of friendship that he felt for the members of the Political Science Department, many of whom had been instrumental forces in his election and in his total career, was very strong. He felt a personal kinship with them as well as an immense sense of satisfaction from the intellectual exchanges that would be an integral part of those evenings.

There was one night in Mitzi and Herb McClosky's apartment. The street light in front of the house had gone out. When Humphrey appeared, Carrol Hawkins began an ideological attack on the Mayor, for whom he had a deep personal affection, claiming that such a reckless disregard for the public interest could not take place under socialism. That started it. Hubert took the offensive saying that even Norman Thomas knew better than that. Social democracy was fine; but socialism was fraught with danger. The debate went on with all of its ramifications, as I recall, into the early hours. Then I remember, after we moved to Washington, bringing Norman Thomas into the office to meet Humphrey. There was an immediate spark of mutual admiration and respect. Up until then, Norman had felt that it was a mistake for me to leave teaching and get seduced by the fleshpots of Democratic Party politics.

I remember another social gathering of the faculty. At least one of our group, a Jew, was strongly opposed to the establishment of a Jewish state in Palestine. The Zionist in the group was Hubert filled with emotion and compassion.

Watching over this relationship between Humphrey and the political science profession was Evron Kirkpatrick, my faculty advisor, who had served as Hubert's teacher, advisor and good friend when Hubert was a student at the University. Kirk watched over his brood with a caring and attentive eye. Hubert was a particular favorite. It was Kirk who urged Charles Hyneman and the Department of Political Science at Louisiana State University to bring Hubert to LSU on a graduate fellowship. It was Kirk who guided the WPA days, the early teaching at Macalester College and the 1943 and 1945 political campaigns for Mayor. And Kirk was around for all of Hubert's life.

It was also Kirk's former students who were selected in the early days to work with Humphrey. Arthur Naftalin, one of those students, joined with Hubert and Kirk in planning and executing the first mayoralty campaign in 1943, the one that took an unknown political science teacher into a runoff election where he was a close second. When Art in 1947 decided he would return to the University and complete his doctoral requirements, his replacement was George Demetriou, who was in the process of completing his doctoral studies with Kirk. George did not want to go to Washington with Humphrey and the suggestions were then made for me to join the Senator's staff. I had just left Minnesota to take on a teaching assignment at Bennington College and agreed at the outset to spend our three-month winter vacation period with Hubert and his longtime aide Bill Simms, in Washington. One of the key questions in my mind was how a personal relationship could withstand the change to an employer-employee relationship. The doubts were quickly resolved as I saw Hubert eager for assistance, cooperative, respectful, willing to lessen and even to share the excitement and glory. I stayed on for six and a half years.

There were other political scientists in addition to those mentioned who played active early roles in Humphrey's politics: Ted Mitau and Dorothy Jacobson at Macalester; Howard Penniman at the University of Minnesota; Scott Johnson at Hamline; and when the politics turned national, there would be Austin Ranney, Jack Peltason, Warren Miller, Richard Scammon, Charles Hagen, John Roche, Herbert McClosky, Norton Long, Nelson Polsby, Charles Gilbert, and Martin Lipset. And in the position of wise sage there was Humphrey's Louisiana State advisor, Charles Hyneman; and the distinguished chairman of the Minnesota Department of Political Science, William Anderson, whose kind encouragement and continued loyalty did much to enrich Humphrey's career and whose emphasis on local and state government played an important role in formulating Hubert's later leadership in the study of intergovernmental relations.

As a new mayor, Humphrey faced two major substantive problems. The city had developed the reputation of being the crime center of the Midwest, succeeding Chicago. And, as he was assuming office, the *Nation* had an article by Carey McWilliams calling Minneapolis the capital of anti-semitism in America. Given his political science training, it was to be expected that the new mayor would look to experts for guidance.

The crime problem was tackled by elevating a tough detective with FBI schooling to serve as Chief of Police with a promise of full backing from the Mayor. Within three years, Minneapolis was recognized as a "clean city" by the appropriate law enforcement groups of the country. The biographies and Humphrey's own autobiographical *Memoirs* have explained the toughness of purpose and courage of action that helped make this dramatic turnabout. A personal experience, however, illustrates a basic tenet of Humphrey's tenure of office, community and group involvement as a support for the chief executive in a "weak mayor" form of government.

While visiting the city hall after classes one day, I noticed that Humphrey was addressing a group in his conference room. He had called a meeting of tavern owners and their wives. He acknowledged that "entrapment" by the police had been prevalent in Minneapolis with minors sent in to buy drinks. This was frequently an opening for bribery. His proposal was simple. He was determined to make the police force honest; the dishonest were to be fired; he wanted the city council to raise police salaries to acceptable levels. There would be no more "entrapment," he promised, but he requested the tavern owners to go to the city council and request a voluntary increase in their license fees, the increase to be applied directly for higher police salaries. At one point, he directed his plea to the wives, saying in effect: "Don't you want your husbands to be involved in a legitimate business that doesn't bribe policemen so that you don't have to be ashamed of what your husbands are doing in the eyes of your children?" By the end of this session, the tavern owners voted to cooperate and, indeed, much to the surprise of many, went to City Hall with their request. Humphrey, from that point on, could always count on many of the tavern owners for support throughout his political career.

This emphasis on group and community involvement was a hallmark of Humphrey's philosophy of local government. It was an integral part of his program to meet the civil rights challenge that he faced. He knew that there were not many blacks or Jews in the community, but that there was a problem. He had been exposed to some social scientists from Fisk University who had developed a community self-survey tool. The idea was for every part of the city to look at itself in the

mirror. Humphrey appointed scores of community-wide citizen groups. Bankers were asked to look at their internal practices; the realtors at theirs; the merchants at theirs; the teachers at theirs, etc. His theory was very much like Gunnar Myrdal's: "If they like what they see in the mirror when they compare it to their American ideals, fine. If not, they will want to bring about a change." He was right. Minneapolis became the first city to create a Fair Employment Practices Commission. It seemed as if everybody—trade unionists, academicians, bankers, industrialists, merchants—was involved in one or another committee appointed by the Mayor. In 1948, as he was leaving the mayoralty to go to Washington, in stark contrast to the 1945 article by Carey McWilliams, Minneapolis won the annual Brotherhood Award of the National Conference of Christians and Jews.

Humphrey was happy as a mayor. His early years in the Senate were frustrating ones as he tried to accommodate himself to the change from a chief executive who could act decisively and see the immediate results of his leadership to the role of a legislator who might never see the results of his efforts and who can produce results only after long debate and persuation. In later years, I would often hear doubts of many who would question Humphrey's executive capacity to administer or be decisive as they critically evaluated his qualifications for the Presidency. Those of us who remembered him as mayor had no doubts.

The Presidency was in mind even in the early days. In early 1948, the big question was whether to run for the Senate or for Governor. Hubert's advisors seemed more concerned than he. The politically "wise" among us all said that if Humphrey ever wanted to be President, he had to run for Governor, because no Senator could be chosen a Presidential candidate. "Hell," he responded, "you fellows also told me that no one ever moved any place after being mayor."

There was a constant rebellion against turning himself into someone he was not, or into something he was not comfortable with. Television became an object of irritation and concern as advisors would urge activities that would be "better television." How often I heard the refrain of advisors, "Forget about the audience in front of you; think only about the TV cameras." But he could never forget about the audience in front of him. They were there in the flesh, his friends, to be persuaded. These people he could see and the television audience he could not.

One day The New York Times caught a candid photograph of Hubert at a session of the Foreign Relations Committee. It was a great picture. He looked thoughtful and it was always so difficult to get a good picture of Hubert published which didn't have him talking. I looked carefully. He wore glasses in this photo and was listening. Suddenly, the insight. With the glasses, he looked studious. People who read and think wear glasses. Here was a way to undercut criticism that he talks too much. As a studious man, he has a great deal to say. Furthermore, audience attention would be drawn to the glasses and not to the protruding chin or to the small moving mouth. I had it! Hubert was among the wisest and most truly profound of public servants, and yet the public did not know it. This was our solution. I quickly went to Humphrey. The idea made sense to him, but he remained skeptical. "It isn't as if you don't need glasses," I argued. "This is not artificial. You do need them. Why don't you wear them all the time instead of just when you are doing close works?" No promises from him and no performance.

I didn't give up. In 1968, preparing for the Democratic Party Convention, we were fortunate enough to get the assistance of Dr. Ernest Dichter, who volunteered and said he would like to help. He was the psychologist who made a good living telling toothpaste companies what color they should use on their packages to help their sales. I presented the problem to him. He was skeptical too, but agreed to make a survey. He used a photo of Hubert with glasses and one without. There was no name identification. "What kind of man do you think this is?" was the question. After some weeks, a surprised Dichter came in and said, "You were right." The man with the glasses elicited a much more positive response than the man without. Here was the proof. We presented it to the Vice President. By now, he was using his glasses somewhat more frequently, but still not on television and not for photographs. Why? I don't know why. But I think part of it was that it might appear to be manipulative and he would not be a partly to such a manipulation for political gain. People would have to accept him for what he was or not at all.

Did he want to be President? Of course he did, down deep to the narrow. But I became convinced in later years that he was also afraid of it and could never quite believe that he could attain it. From the very first days I met Hubert in 1945, as I have just indicated, his friends thought of the Presidency as a real possibility for him. As early as 1952, with the Democrats undecided between a reluctant Stevenson, an aging Barkley and an uninspired Harriman, Brien McMahon, the Senator from Connecticut who pioneered in the atomic energy field, concluded that Humphrey should be the candidate. He and the Democratic leader in Connecticut, John Bailey, went to see Humphrey about it, but it was too early and Hubert knew it. Furthermore, his job in 1952 was to get a strong civil rights plank through the Convention by acclamation and end the trauma of the 1948 walkout by the South.

By 1956 there was serious talk of Humphrey for Vice President. We were at the Mayflower Hotel at a Congressional dinner. Hubert, as I recall, was Chairman and Adlai Stevenson was the speaker. A quiet whisper between the two. At the end of the dinner, a signal from Hubert to join him upstairs. There we were, the two of us together in a room with an exhausted Adlai Stevenson changing into bedclothes. His trusted friend, Bill Blair, and Jim Finnegan, his political manager, were in the room. "Whom do you think I should have as my running mate?" was Adlai's question. Down the list we went, analyzing each name. Finally, we came to the point, with Stevenson asserting that he wanted to choose a Vice President who was qualified to step in as President as well as a man who could help him politically. And Hubert Humphrey, he unequivocally said, was that man. What he wanted us to do was arrange for some of the Southerners to tell him that Hubert would be acceptable. The task was easy. The revered Walter George of Georgia had already told Humphrey he favored him. Lyndon Johnson had offered to help. So had Sam Rayburn, John Sparkman and Brooks Hays. We left the hotel with stars in the skies and in our eyes.

But it was not to be. Without warning, a change of signals, the Convention was thrown open. Stevenson's opponent for the nomination, Estes Kefauver, who had a committed and organized cadre of delegates at the Convention, became the Vice Presidential nominee. Stevenson must have known this would be the inevitable result. Humphrey and I, in the bitterness of the night, recalled the intense negative feelings about Kefauver and his qualifications that had been expressed by Stevenson in the secrecy of the Mayflower suite.

But it was only a matter of weeks and Hubert was strenuously campaigning for the ticket and insuring that, though the country might go for Eisenhower, Humphrey's friends and supporters would vote Democratic. And these two men, Humphrey and Stevenson, became strong, firm friends. When Stevenson would feel low, it was Hubert to whom he would go. It was Hubert, too, who firmed up the Kennedy appointment of Stevenson as Ambassador to the United Nations.

There is no need to report about 1960 and 1964. Much has been written about those campaigns. What I shall never forget about 1964, however, other than the thrill of victory, was an evening at home. We were holding a strategy session at my home prior to the Atlantic City Convention. Humphrey attended very few of these sessions, but he planned to attend this one and we needed him. The Senate was working late and he was hours late in joining us. It was after 10:00 p.m. when he finally arrived. But he ignored our impatience. "How are the kids?" was his first question and while we fumed and waited in the living room, he bounded up the stars to visit each of our five children in his or her bedroom. Politics could wait. Children came first. Only his staff could know how many senators, ambassadors, and other high public officials were kept waiting over the years as Humphrey would run across a high school group in the corridors of the Senate Office Building.

An incident comes to mind about 1968. With the opening of the Convention, it was clear that the nomination would be Humphrey's but what would it be worth? Johnson was behaving like a stuck bull. He wanted Hubert to be the nominee, but he also didn't want to give up the Presidency. The pain for the man must have been awful. His party was meeting in convention and his best friends did not want him to attend for fear of personal embarrassment and repudiation. Hubert, always loyal, a friend, thoroughly sympathetic and understanding of the anguish, did not want to add to troubles.

To many of us it seemed clear that something dramatic and meaningful had to be done for the electorate to evaluate Humphrey for the person he was and for the President he would make. Herb McClosky and Kirk had presented persuasive material on this score. A plan evolved. I cleared it with Larry O'Brien, campaign manager. On the second day of the Convention, I took Humphrey aside in his bedroom and presented him with a memorandum. The idea was not new to him because it had been suggested by others, but this was the moment of decision. I knew full well that Hubert would never repudiate Johnson and Vietnam and I would not have supported his doing so. What I proposed was simple:

He would be nominated on Wednesday night. He would then immediately go to the floor of the Convention and dramatically announce with his acceptance that the future health of our democracy depended upon the defeat of Richard Nixon. This required full-time effort without diversion or diminution of energy. The issues had to be brought to the attention of the nation and the task would be a strenuous one calling for a united Democratic Party. Fortunately, the Constitution had just been amended so that a vacancy in the office of Vice President could be immediately filled. He was, therefore, resigning as Vice President so he could devote full-time to the campaign. The President would then select a replacement to be confirmed by the Senate. The speech, I continued, should be one filled with praise for Johnson and his role as President.

To me, the argument was persuasive, the logic unchallengable, and the politics guaranteed of success. But for Hubert, there was no need even to spend a moment considering it. It would not be right, he said, and he would not do it. He was elected as Vice President to serve for four years and he would do

so. He would also remain loyal to the President, who was desperately trying to bring the war to a close. It was his Constitutional responsibility to do so as well as his personal commitment. He knew the campaign would be difficult, but he would give it his all. He would explain himself and campaign on the issues. He was Johnson's Vice President. The people knew it. The people would decide. The people, of course, did decide, narrowly, and soon came to regret it. In two years Hubert was back in the Senate.

Reference must now be made again to the frustration of the early years in the Senate, intensified by the open hostility of the Senate Republican-Southern Coalition power structure, who were joined, on occasion, by Northern Democrat's as well who feared Hubert's brashness and liberal aggressiveness. Hubert liked to be liked. These people did not know him, other than through the civil rights speech to the 1948 Democratic Convention and the cover of Time showing a tornado coming out of the Midwest. And they did not like him. Humphrey needed to come to grips with this reality and its frustration if he was to function. The technique of how to do so evolved. He had been among the founding members of Americans for Democratic Action in 1947. His leadership in Minnesota of the fight against Communist control of the labor movement and of the Democratic Farmer Labor Party fitted into a pattern of liberal anti-communism that was gaining strength within the CIO and the Democratic Party. The ADA was the vehicle.

In the early months of 1949, Humphrey was asked to accept the national chairmanship of ADA. Here seemed to be the solution. Instead of thinking of himself as a young liberal freshman Senator from Minnesota, he had to think of himself as a national liberal leader of a vital and growing power force in American politics with strong support from organized labor He now had a national constituency and once he came to accept and feel that reality the adjustment became easier.

Simultaneously, Humphrey set about to do what always came natural to him, namely, work carefully and conscientiously at his job and attempt to cultivate close, personal relationships with those with whom he was associated.

This required him to master the rules of the Senate and to master the substance of those legislative problems in which he was to take an interest. Very early, for example, he found that efforts were made to embarrass him by asking him detailed questions when he spoke on the Senate floor. The fact that Humphrey mastered the substance of the issues began the process of persuading his colleagues that he was a serious legislator.

Much has been made of the fact that Humphrey attacked Harry Byrd's Committee on Nonessential Expenditures and that as a result of that attack he was publicly humiliated by most of the members of the Senate. There is no doubt but that this experience hurt and irritated Humphrey immensely. On the other hand, he was firmly persuaded in his own mind that he was right on the issue and he never forgot that both Paul Douglas and the conservative Millard Tydings of Maryland stood by him during the debate. Humphrey took the defeat graciously and with good humor. At the conclusion of the verbal onslaught against him, he went over to Harry Byrd to congratulate him and to shake his hand. I later heard from other members of the Senate that Humphrey climbed a notch in their estimation by that gesture. When, a few years later, the Byrd committee was abolished, Humphrey felt personally vindicated and made a point of noting that vindication in the Congressional Record.

If there was a single early debate on the Senate floor that served to raise Humphrey's stature, it was his effort to close tax loopholes in 1951. For years, tax legislation was the exclusive prerogative of the Senate Finance Committee, whose chairmanship would rotate between Walter George of Georgia and Eugene Milliken of Colorado, both considered among the most powerful of the Senate, from opposing political parties but with similar conservative political convictions. There was not a single liberal on the Senate Finance Committee and Humphrey noted that fact well, given his belief that power in the economy was very much affected by fiscal, monetary and tax policy.

Our preparation for the debate lasted nearly a month. A small group of discreet tax lawyers and economists from inside and outside of government was assembled, who prepared the briefing papers and was then available for Humphrey's questions. In turn, they cross-examined him on each one of the loophole-closing amendments he would propose, attempting to anticipate the arguments of the Finance Committee members. The preparation was well worth it. All the Humphrey-Douglas amendments were defeated, but a new spirit of respect developed for Humphrey who led the fight. At the conclusion of the debate which took days, both Milliken and George came to where Humphrey was sitting, in itself a mark of respect, and there was a three-way hug and embrace.

The friendship that developed at this point between George and Humphrey was noted by the body. In 1954, George offered to help Humphrey's re-election campaign and personally communicated with some of his banking friends in the area to help his friend, acknowledging with a stiff smile that he knew a public endorsement might be counterproductive. In 1956, as we have already noted, he quietly urged Stevenson to select Humphrey as his running mate.

A vignette now comes to mind. Shortly after the tax debate, I found myself using the phones on the edges of the Democratic Senate Cloakroom. Much to my embarrassment, I could hear the booming voice of Walter George in the private cloakroom talking about Humphrey with some of his Southern colleagues. "You know," said George, "that young fellow really believes in this civil rights business." I had two quick insights. This sincerity was obviously a tribute to Humphrey, but equally important was a new awareness in me that the Southern segregationists were themselves sincere and found it difficult to believe that pro-civil rights activity was anything other than vote-seeking rather than principle. Humphrey's sincerity was a surprise to them and a tribute to him. It made later legislative progress in civil rights much more possible.

Hubert's tongue, which often got him in trouble outside the Senate as it became identified with loquaciousness, soon became an asset in the Senate. The criticism that he spoke on too many subjects disappeared as it became known that he spoke with sincerity and a command of the subject matter. He was also entertaining with his ability spontaneously to create and express vivid images to make a point. To listen to Humphrey in debate, was frequently to hear the Senate in laughter and enjoyment. He was also always courteous to his opponents, although his quick, rapier-like arguments and responses could hurt, particularly where the opposition was sharp or unkind.

There were two Senators whom Hubert loved and respected, Paul Douglas and Herbert Lehman. Douglas and he had come to the Senate together and the older Professor of Economics was looked up to by his younger colleague with reverence. Lehman joined the Senate later and Humphrey felt honored to be in the same body with that associate of Franklin Roosevelt's whose career had been such an illustrious one. But Lehman was growing old and showing it. On one occasion, Robert Kerr of Oklahoma, a brilliant debater in his own right, started to make fun of a Lehman mispronunciation of the word "depreciation" on the floor. Humphrey was in the debate like a flash and, as one veteran Senate observer later told me, there was blood all over Kerr's face from Humphrey's attacks against what he perceived to be Kerr's cruelty. That, too, brought respect to Hubert and everlasting loyalty from Lehman.

But it was the growing fellowship and alliance between Humphrey and Texas Senator Lyndon B. Johnson that had its greatest impact on Hubert's career. Johnson, shrewd and calculating, knew that his own ambition to be the Sam Rayburn of the Senate and perhaps a potential Presidential candidate depended upon a window to the liberal community. Humphrey knew that he needed an ambassador with the Southern camp. The men liked each other and neither could abide what they considered to be the pretentions of the eastern elite establishment. Both had been teachers. Both had early populist roots and felt close to the Roosevelt New Deal. The alliance began in 1950.

After the 1952 elections, with the defeat of the Senate Democratic leadership, Johnson phoned Humphrey for support in his quest to become Senate Minority Leader. Hubert gently refused, saying that he was committed to the elder James Murray of Montana who had agreed to put his name up for the office as a way of assembling a respectable liberal vote. It was expected that Johnson would win. Johnson then told Humphrey that a number of the same Senators who were urging Murray to run had already pledged their support to him. He named names. In the weeks to come, as the Senate gathered for the new session, Hubert investigated and found that Johnson was right. The duplicity puzzled him, but it was real. He did not want Murray to be embarrassed or the liberals to come up with a very weak showing.

There was concern outside of the Senate among liberal groups that Johnson's southern and conservative identification made him a poor symbolic leader of the Democrats. It proved to be a very delicate period for Hubert. Johnson wanted unanimous support. Humphrey was finally able to arrange for that unanimous support and to prevent Murray from being embarrassed, but with an understanding that the liberals would now be appointed for the first time to the Finance Committee and to the leadership committees.

The growing alliance between Humphrey and Johnson nearly produced effective civil rights legislation in 1954. Humphrey kept urging Johnson that if he had any national ambitions at all or wanted to become a national leader, it was necessary for him to think in terms of national issues and not simply of his Texas constituency. Both agreed civil rights was an area for that activity. I was asked to work with George Reedy, one of Johnson's assistants, to come up with an innovative legislative approach to civil rights. Johnson began working with Richard Russell and other Southern Senators. What we looked for was legislation free of the old controversial and stereotyped symbols. With the Supreme Court decision in Brown v. The Board of Education, however, and Eisenhower's public dissent from that decision, the Southern Democratic Senators could no longer do anything other than fight public school desegregation. Johnson reluctantly reported to Humphrey that the progress he had made was now down the drain and that they would

have to put the issue aside for the time being. It had to wait until he was President in 1964 when he asked Hubert to serve as floor leader for the legislation.

The alliance had many peculiarities attached to it. Johnson resented the fact that Humphrey would be asked to speak to national liberal groups around the country. He would murmur to me and to others that Humphrey was going out making the speeches, but that he, Johnson, was working to get the legislative votes for the liberal programs. Indeed, in the period of the Eisenhower administration, the Democrats in the Senate had an impressive liberal voting record, including issues of tax reform, social and labor legislation. From Humphrey's point of view, the alliance was working. From Johnson's view, the alliance was also working because he was developing a national reputation and gaining liberal acceptance. Johnson would complain to Humphrey about his "bomb-thrower" allies and Hubert would respond with references to LBJ's "fascists"; and they worked well together.

This relationship, of course, then led to developments that are already in the history books and need not be repeated here.

There was one important piece of legislation identified with Humphrey's name that caused him great grief among many liberals. The Joe McCarthy period was a troublesome period for him. Hubert had quietly and effectively defended a number of individuals, including some Senate staff members, who were unjustly accused of being Communists. His good friend, Senator William Benton of Connecticut, had taken on McCarthy as a personal fight, comfortable with his own impressive financial and political resources. But privately he urged Humphrey not to join the Senate debate. Humphrey's anti-communist credentials from the days of 1946–1948 when he defeated the Communists within the Democratic Farmer Labor Party in Minnesota, were clear. Hubert felt that anti-communism was a liberal issue in that totalitarianism was the enemy of liberalism. He regretted the fact that the liberals, since the 1948 anti-Wallace days, had abandoned the public fight against totalitarianism of the left and had relinquished the area to the reactionaries who did not understand the problem or how to meet it and would gain politically from the public's concern.

For many months we discussed the problem. Professor Thomas Cook of Johns Hopkins, his old friend Professor Ben Lippincott of Minnesota, Judge Charles Wyznasky of Massachusetts—all had written that a democracy had a right to defend itself against those who would destroy it from within.

Hubert was obviously no novice to political philosophy, had read a great deal and was inclined to accept the philosophical and pragmatic basis for their conclusion. But what to do? When? How to do it?

A bill was before Congress with negative civil liberties overtones dealing with security investigations in private employment. We began discussions with Tom Harris, a labor attorney assigned by organized labor to monitor and oppose the bill. Out of the discussions came a legislative proposal based on an opinion by Judge Learned Hand of the United States Court of Appeals for the Second District to the effect that the Communist Party was not a legal political party. It was rather part of an international conspiracy to overthrow the government of the United States by force and violence. If participating in such a conspiracy would be made a crime, then those accused of the crime could sue for libel if falsely charged or if charges were brought against them, could face their accusers and defend themselves in court, in sharp contrast to the practices of the day.

When Senator Wayne Morse of Oregon, former law school dean, whom Hubert greatly admired, approved the approach and asked to be a co-sponsor, Hubert decided to proceed. Paul Douglas asked to join, as did Herbert Lehman. The amendment in the nature of a substitute for the original McCarran Bill was introduced. But McCarren shrewdly accepted it as an amendment to the bill rather than as a substitute for it. It was then further amended in conference. The legislation that passed had very little relationship to the original Humphrey amendment, but the attacks against Hubert from within the liberal community began and, I suspect, he was never forgiven by those whose sensitivities against any anti-communist legislation is a strong one. Professor Carl Auerbach, an ADA national officer, wrote a law review article while he was at the University of Wisconsin, strongly supporting the philosophy and purpose of the Humphrey legislative effort, but it never permeated through most of the liberal community.

Working with Hubert Humphrey was a great privilege and a tremendous learning opportunity. There were also special moments of incredulity and one now comes to mind.

Hubert had been in Minnesota and was returning on a Wednesday morning. I was vaguely aware that he was due back about noon and had an afternoon speaking engagement in Washington. At about 11:00 a.m., Hubert was on the telephone from the Detroit airport. His plane was temporarily grounded in a snowstorm, but was expected to depart soon. An hour later, another call, but this time with the news that there would be no departures from Detroit for a few hours. Would I take the speaking engagement? Did he have a text? No, he said. Where was the talk and what time? It was to be in two hours at the National Cathedral. He and Cabot Lodge were scheduled to speak, a Republican and a Democrat, but not debate and not at the same time. By now, I hesitatingly asked the subject matter. "God, Man and the Hydrogen Bomb," was the response and didn't I know it was Ash Wednesday, said Hubert. Emphasizing on the phone that I was neither biologically nor culturally qualified to serve as his substitute in that forum obviously made no impact on him. What choice did we have? None.

Throughout all of these days in the Senate, even with the growing national attention, the political science profession and the American Political Science Association remained close to Hubert. There was inner pleasure when he learned from Ralph Bunche, then President of our Association, that Kirk had been persuaded to leave the State Department and become Executive Director of the Association. Up until then, Hubert, who had joined APSA in 1943 and maintained his membership continuously, attended national conventions regularly and was often asked to participate in session discussions. With Kirk's selection, however, an intimacy with the Association began.

When Hubert became a Vice President of the APSA in 1955, he was as overjoyed and proud as if he'd been elected to national political office. Indeed, he referred to it in his political speechmaking with humor and with pride for years thereafter.

The APSA was also always present in the Humphrey office from the days when the Congressional Fellowship Program began. In 1977, I attended a reunion party of fellows in the Senate at which Humphrey, already ill was made an Honorary Congressional Fellow, the third such individual to be so honored. At the celebration, it was reported that more than 30 fellows had served in his office including political scientists—Charles H. Backstrom, Robert Healy, Eugene Eidenberg, Charles P. Henry, Robert Kerr, Mark A. Siegal, John G. Stewart, James A. Thurber, and George von der Muhll. Some of those fellows went on to work ably for Humphrey as Senator and Vice President. He had also, over the years, served as an active member of the Advisory Committee of the Program.

In 1959, the affection and respect of our profession for Hubert was expressed in his being awarded, with the advice of the Washington press corps, the APSA Congressional Distinguished Service Award.

No one person can entirely understand another and it is presumptuous to believe that I fully understand Hubert Humphrey. But I have had the immense good fortune to be a part of his life and he of mine. Certainly, no one ever taught me more.

Yes, he suffered many disappointments. There was anguish. There were moments of resentment and despair as he was often the victim of pettiness and envy. But he had an impressive capacity to forgive those who deserved less from him and he had an immense energy for work. These and his love for learning and teaching gave him strength and courage. The disappointments never came close to matching the overwhelming joys and satisfactions.

Much was made of Hubert Humphrey's optimism. His 1968 campaign announcement speech with references to the "politics of joy" and the "pursuit of happiness" brought him criticism. But to Humphrey, happiness was the pursuit of excellence, the stretching of one's brain and heart to the farthest reaches of one's potential. The effort to matter, to attain, to strive—this was the real pursuit of happiness.

In closing these reminiscences, there comes to mind a brief exchange with Hubert immediately after the death of his father, a man whose commitment to Tom Paine, Thomas Jefferson, and Woodrow Wilson played a crucial role in Hubert's early development. At lunch one day he surprised me by saying in essence: "Now that Dad is dead I wonder what effect that will have on my ability to stay honest to my conscience." He reminded me that his father, who read the Minneapolis newspapers regularly, would never hesitate to telephone if there was an adverse report or question raised. One day, for example, a newspaper reported that Hubert had broken bread with Minneapolis bankers. The next morning's telephone call from his father in South Dakota was a strong warning that Hubert not succumb to the flatteries and attractions of these men of wealth, reminding Hubert how many farmers were foreclosed by bankers during the Depression. A year or so later Humphrey and I were on a train to Philadelphia and I reminded him of his concern. "Dad is still looking over my shoulder," he replied.

To Hubert H. Humphrey, political scientist; author; B.A., University of Minnesota, 1939; M.A., Louisiana State University, 1940; Teaching Assistant, LSU, 1939–1940; Teaching Assistant, University of Minnesota, 1940–1941; Visiting Professor, Macalester College, 1943–1944; Professor of Political Science, Macalester College, and University Professor, University of Minnesota, 1969–1972—to Hubert H. Humphrey, our colleague, goodbye and thanks.

THE HUMPHREY INSTITUTE OF PUBLIC AFFAIRS AT THE UNIVERSITY OF MINNESOTA

(By Frank J. Sorauf)

In fall of 1977 the Hubert H. Humphrey Institute of Public Affairs became the successor to the School of Public Affairs at the University of Minnesota. (The School was itself the successor to a distinguished public administration program.) Like its predecessors it offers graduate training to individuals entering the public service in a number of ways: administrative positions, elective office, private or voluntary organizations, and citizen activity. Unlike its predecessors, of course, it draws a sense of purpose and mission from the career of a great public servant and citizen of the nation.

The public fund-raising campaign for the Institute also began in the fall of 1977. Of the goal of $20 million some $8 million has already been raised; a Congressional appropriation of $5 million would raise the total significantly. The funds contributed will be used for two broad purposes. Some will go for a new home for the Humphrey Institute. Present plans place the building near the central mall of the University, but with a view overlooking the Mississippi River and toward downtown Minneapolis. Included in the building will be a visitor center and space for exhibits on the Humphrey career. The remainder of the funds will endow the programs of the Institute—in fellowships, professorial chairs, stipends for visiting experts and scholars, and funds for research, for example.

The increased resources will expand and strengthen the programs of the Institute in a number of ways. The graduate program in public affairs will, of course, remain a major commitment. The Institute will at the same time expand its research and instructional emphasis in various public policy areas, drawing both on new staff and on the existing expertise in the rest of the University. A new Center for Policy Studies will bring together research on legislative politics and on a number of policy fields to which Hubert Humphrey made significant contributions—policy issues in food and agriculture, civil and human rights, and social welfare legislation, for example. Finally, the increased endowment will permit the Institute to expand its community outreach and service programs. It will assure new activity in mid-career training, in workshops for public officials and their staffs, and in the public discussion of major policy questions.

Contributions to the Humphrey Institute can be sent to: Hubert Humphrey Institute, P.O. Box HHH, Minneapolis, Minnesota 55440. All gifts are tax deductible.●

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA—TAXATION WITHOUT REPRESENTATION

● Mr. KENNEDY. Mr. President, since the days of the Revolutionary War, a fundamental principle of our Nation has been the rejection of taxation without representation.

Yet, today, two centuries after America was founded, the citizens of the District of Columbia are forced to endure the unfair burden of such taxation. As citizens of the United States, the 700,000 residents of Washington, D.C. are obliged to pay large amounts in taxes each year to the Federal Government. Yet these citizens are denied representation in Congress, which writes the Nation's tax laws.

The Library of Congress has prepared a table summarizing Federal tax payments from each of the 50 States and the District of Columbia. The table, based on concepts developed by the Tax Foundation, Inc., shows dramatically the degree to which the District of Columbia bears the burden of taxation without representation.

According to the table, residents of the District paid $1.2 billion in taxes to the Federal Government in fiscal year 1976, the most recent year for which data are available. That amount is greater than the taxes paid by 11 States—Alaska, Delaware, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Vermont, and Wyoming. Each of these States is represented in Congress by two Senators and by either one or two Members of the House of Representatives, depending on the population of the State. The citizens of these States, therefore, have a voice in the way they are taxed by the Federal Government. But the citizens of the District of Columbia have no such voice.

If the Federal tax burden is calculated on a per capita basis, the comparison becomes even more stark. For District of Columbia residents, the per capita tax burden is $1,692.31, or $327 above the national average. Only three other States have a higher per capita tax burden; in 47 of the 50 States, the Federal tax burden is smaller than in the District of Columbia.

Mr. President, these figures provide a compelling argument for granting representation in Congress to the District of Columbia. House Joint Resolution 554, now on the Senate Calendar, would enable the District to elect Members of both the Senate and the House of Representatives. It deserves to be enacted, so that at last we can end a serious blight on our contemporary democracy, the burden of taxation without representation that has existed so long and so unfairly for the citizens of the Nation's Capital.

The table follows:

FEDERAL TAX BURDENS OF THE STATES AND THE DISTRICT OF COLUMBIA

State	Total Federal tax payment	Per capita Federal tax payment
Alabama	$3,618,568,000	$994.11
Alaska	875,460,000	2,340.80
Arizona	2,684,744,000	1,198.01
Arkansas	2,071,922,000	984.29
California	32,392,020,000	1,516.55
Colorado	3,443,476,000	1,344.06
Connecticut	5,340,306,000	1,717.69
Delaware	953,006,000	1,657.50
District of Columbia	1,196,462,000	1,692.31
Florida	10,914,068,000	1,307.23
Georgia	5,515,398,000	1,114.22
Hawaii	1,313,190,000	1,495.66
Idaho	904,642,000	1,100.54
Illinois	18,005,294,000	1,615.56
Indiana	6,945,316,000	1,308.46
Iowa	3,997,934,000	1,394.95
Kansas	3,180,838,000	1,385.99
Kentucky	3,676,932,000	1,078.91
Louisiana	4,173,026,000	1,091.27
Maine	1,138,098,000	1,069.64
Maryland	6,478,404,000	1,567.48
Massachusetts	8,316,870,000	1,430.98
Michigan	12,840,080,000	1,409.76
Minnesota	5,194,396,000	1,317.37
Mississippi	1,984,376,000	845.13
Missouri	5,982,310,000	1,253.36
Montana	904,642,000	1,206.19
Nebraska	2,188,650,000	1,412.94
Nevada	1,021,370,000	1,702.28
New Hampshire	1,050,552,000	1,285.87
New Jersey	12,314,804,000	1,678.91
New Mexico	1,225,644,000	1,060.25
New York	27,927,174,000	1,544.64
North Carolina	5,923,946,000	1,085.97
North Dakota	817,096,000	1,276.71
Ohio	14,415,908,000	1,345.65
Oklahoma	3,297,566,000	1,203.05
Oregon	3,122,474,000	1,353.48
Pennslyvania	16,429,466,000	1,385.17
Rhode Island	1,284,008,000	1,382.14
South Carolina	2,830,654,000	999.52
South Dakota	758,732,000	1,109.26
Tennessee	4,844,212,000	1,155.03
Texas	16,020,918,000	1,295.98
Utah	1,313,190,000	1,080.81
Vermont	525,276,000	1,108.18
Virginia	6,595,132,000	1,317.18
Washington	5,340,306,000	1,491.29
West Virginia	1,984,376,000	1,096.34
Wisconsin	5,953,128,000	1,294.44
Wyoming	583,640,000	1,523.86
Total	291,820,000,000	[1] 1,364.62

[1] U.S. average. ●

SPEECH BY U.S. AMBASSADOR TO MEXICO PATRICK J. LUCEY AT CREIGHTON UNIVERSITY

● Mr. ANDERSON. Mr. President, on February 25, 1978, U.S. Ambassador to Mexico Patrick J. Lucey fulfilled Hubert Humphrey's commitment to address the students of Creighton University. Ambassador Lucey spoke of our obligation to conserve our natural resources for future generations and shared with the students his special perspective on our changing relationship with Mexico.

Ambassador Lucey and I worked closely while we were Governors of neighboring States. He is a dedicated public servant and it was natural for Hubert Humphrey to turn to him when it became apparent that the Senator could not fulfill his commitment to speak. Ambassador Lucey's message is timely and deserves our thoughtful consideration.

I ask that the text of Ambassador Lucey's remarks be printed in the RECORD.

The remarks follow:

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There is a longstanding rule in American political circles: Always invite your speaker early. If you procrastinate, he or she probably will have made another commitment, or—even worse—your speaker will assume he's your second choice. And no one really wants to be a substitute, or hardly anyone. There are, of course, exceptions to all rules. This evening is a case in point. I can think of no higher honor than to be chosen as a substitute for the late Senator Hubert H. Humphrey. And that honor means even more to me because of the fact that I was invited here tonight not only by my good friend Father Kelley, but by Senator Humphrey himself.

It was typical of the Senator to be concerned right up to the last moment of his life over any inconvenience his fatal illness might cause his friends. He could have simply dismissed from his mind his commitment to speak here at Creighton this evening, and everyone would have understood. But no, he viewed it as his obligation to find a replacement. I am proud to stand here in the place of the man about whom President Carter said: "From time to time our nation is blessed by the presence of men and women who bear the mark of greatness, who help us see a better vision of what we can become—Hubert Humphrey was such a man." And about whom Fritz Mondale, his successor in the Senate and ultimately in the Vice Presidency, said: "He taught us all how to hope and how to love, how to win and how to lose; he taught us how to live and finally he taught us how to die."

May I suggest that you all rise and join me in a moment of silent prayer for the repose of the soul of this man who smiled as he went forth in the battle for man's right to enjoy the reality of his dreams, and the fruits of his labor.

Thank you.

Last October Washington tradition was shattered. The House of Representatives offered Hubert Humphrey its podium—the only time a United States Senator had ever stood there—as it paid him an unprecedented tribute.

When Congressman Mo Udall rose to present Hubert Humphrey to his colleagues, he described Hubert as the man who always seemed to have more solutions than there were problems. Never at a loss for a witty retort, Senator Humphrey charged that his friend was being unfair, that it simply seemed that he offered more solutions than

there were problems because he saw problems coming down the road before others perceived them.

In the spirit of Hubert Humphrey, I would like to use this occasion to "look down the road" and talk with you about some of the ways our world is changing and about the far-reaching consequences I believe these changes will have. For those of us gathered here today, the impact will be dramatic. For future generations of Americans, it will be even more profound.

Changes already underway will affect our access as individuals to the very essentials of life itself—food, clothing, shelter, health, education, energy, work opportunities and leisure. These same changes will affect in an equally significant way, relationships between and among the nations of the world.

All of us understand the basic laws of supply and demand. As demand increases for any item, the item becomes more costly unless supply increases as well. But if supply is finite and demand cannot be curbed, sooner or later the item disappears from the marketplace altogether.

During the sixties, Americans developed an understanding of the finite supply of many of the world's most important natural resources. Conservation and re-cycling became words of frequent use, and social and political movements of considerable force. But it was not until 1973 that the consequences of resource shortages were made painfully and emphatically clear, as some members of OPEC withheld from the marketplace the lifeblood of our modern industrial society—petroleum.

How will the future be dramatically different? It will be different in part because we will have depleted the earth's supply of some of our most essential natural resources. And although a true crisis is already upon us, few Americans seem willing to accept this frightening, but indisputable truth.

We have indeed begun to focus attention on the problem. We have, in a very modest way, begun to curb our collective appetite. But despite the unrelenting efforts of many of our most distinguished national leaders, all of this seems to be proceeding at a leisurely, if not a lethargic pace. Nero fiddled while Rome burned. Americans seem intent upon fiddling around with gas guzzling cars while the petroleum we must have to heat our homes and factories is in short supply. And we pamper our automobiles with unnecessary washings, while water for drinking and food production is wanting.

But if knowing that our supply of vital natural resources is disappearing has failed to jolt us into a new reality, an even more disturbing shock is yet in store. Actually not a shock, but an explosion—an explosion of people, and with it an explosion of demand.

It took all of the time from when human life first appeared on this planet until into the 1940's for the population of the world to reach 2 billion. In the last years 2 billion more people were added. And unless something dramatic and almost unimaginable occurs, it is likely that in fewer than forty years, the number of people sharing our world's resources will exceed eight billion.

The presence of additional billions of people will not be the only significant population change, however. It is also important to understand the way in which the distribution of the world's population will also be different. By the end of this century fully eighty percent of the world's population will be living on three continents—Asia, Africa and South America. In Latin America alone, there will be about 440 million people. And just two decades into the 21st century, it is possible that Mexico, a country with less than one-third of the present U.S. population, one-fifth of our land area, and one-sixth of our food resources, would have well in excess of 200 million people. That is to say, in about the year 2025, Mexico could have as many citizens as its neighbor to the north, the United States.

Throughout most of our history, as the world's population has swelled additional food has been provided by bringing more acres under cultivation. Agronomists now say there is little new land to cultivate. And according to Nobel Laureate Dr. Norman Borlaug, we will need to double food production worldwide in the next forty years just to maintain the standard of daily consumption presently available to the world's population.

The situation is by no means hopeless. New research and technology, expanded use of the resources of the sea and courageous political decisions about more productive use of cultivatable lands can make it possible for us to feed the expanded family of man. But it must also be recognized that the problem with regard to food production is the same kind of problem that must also be faced with regard to shelter, health care, education, and all other basic human needs.

Each of you in this audience will undoubtedly have an involvement in harnessing modern technology to help meet these needs for an expanded world population—as farmers, as scientists, as engineers, or as prudent household managers. Some of you have already made a significant contribution in meeting the challenge of this Herculean task.

I would like to focus your attention, if I may, however, on a different but equally important role that each of you can also assume. It is the role of helping to create within the United States a climate of opinion that will allow the development of a more enlightened, more sensible and more realistic national policy toward our relations with our world neighbors.

Let me illustrate my point by talking about the United States and Mexico. Although it has been fashionable for U.S. officials and citizens to talk about a "good neighbor" policy with Mexico or a "special relationship," we have not traditionally approached issues of mutual importance with a sense that the futures of our two peoples are inevitably bound together and interdependent.

The reasons are not hard to understand. Fifteen or twenty years ago Mexico's population was of modest size, its commercial and cultural relationships with the United States less pronounced and its role in international affairs less considerable. Changes in all of these circumstances occurred incrementally during the decade of the sixties and the early years of the 70's. But for most Americans, the distraction of an ill-advised Asian war, a domestic political scandal and a necessary focus on the Middle East made it unlikely that these important changes in Mexico would be understood. And they were neither noted nor acted upon.

During this time, Mexico's economy grew by an impressive 6 per cent per year. This growth financed industrial and technological progress which helped establish an advanced, diversified and sophisticated economy with export sales now totalling more than 4 billion dollars annually. And urbanization, the handmaiden of industrialization, also took place, bringing along with it all of the benefits and challenges which accompany the concentration of large populations in confined areas. This includes the challenge of planning for the future of Mexico's capital city, which already has some 13 million people and is growing at a rate which makes inevitable its future claim to be the world's largest metropolis.

In agriculture the changes have also been consequential. Mexico, one of the source countries of the Green Revolution, has increased its production of basic farm crops and exported new technology to developing countries around the world. (You might be interested to know, for example, that research efforts completed in Mexico to improve the yield of wheat permits this planet to support 200 million people who could not otherwise survive.)

For tourists, Mexico may still be the land of mariachis and margaritas—tourism is now a multi-billion dollar industry in Mexico. But it is certainly more important to understand that it is also a land ripe with the raw materials of energy. Mexico's known oil reserves are presently pegged at 16 billion barrels—well in excess of the reserves of Alaska's North Slope. Experts believe that proven, probable, and possible reserves are in the range of 60 to 130 billion barrels. Even if the lower estimates are correct, Mexico will be among the three largest oil producing countries in the world.

Mexico's known oil, natural gas, and uranium deposits plus its expanding coal sector and its geo-thermal energy potential represent an enviable wealth of natural resources that augur well for Mexico's further economic and social development.

In addition to the astounding series of changes within Mexico in recent years, the way the United States and Mexico are linked together has changed as well. The raw statistics of commerce are illustrative. They reveal that Mexico is presently our fourth largest trading partner.

But a different kind of data is vastly more important. There are presently 16 million Hispanic citizens in the United States. It is estimated that in the next ten years, Hispanic-Americans will surpass Black-Americans as our country's largest ethnic minority. As we look to the future, in virtually all regions of the United States, more and more American citizens will trace their roots to lands in the south. And there will be increasing evidence of Hispanic influence on American social and cultural behavior.

Any of you who have spent time in the American Southwest have no doubt discovered the extent to which life along our almost 2,000 mile common border has become integrated. Air and water pollution, epidemic diseases and crime have never recognized international boundaries; but they do lend themselves to cooperative efforts at eradication. A fine arts center in Mexicali and a museum in Tucson enrich the life of citizens on both sides of the border.

In truth, the interdependence between our two countries has reached a point where it is no longer possible for the United States to take action which might have a harmful effect on Mexico without also harming itself—and vice versa.

Earlier in my remarks I expressed the hope that each of you would accept a responsibility to help create a more enlightened, more sensible and more realistic national policy toward our world neighbors. I am convinced that the interdependency I have described between the United States and Mexico is true only to a lesser extent, and only by degrees of difference, between the United States and all of the members of the world community of nations. As a result, there has never been a time in our history when every important decision made by our citizens and by our government have had such inevitable and unavoidable international consequence.

In a world that will be almost twice as populous at the turn of the century, in a world where traditional distinctions between "the haves" and "the have nots" will no longer be tolerated, in a world where numerous countries could have the capacity to detonate nuclear weapons, in a world where wealth may ultimately be as much a function of scarce natural resources as traditional GNP—in such a world, what are the values that we as people and we as a nation are going to hold dear?

I believe that a new American President

has begun to answer that question and that he has done so with wisdom, with foresight and with courage. Internationally, he has made known America's paramount interest in helping all of the world's people to enjoy the basic rights and freedoms which are vital to self-fulfillment. He has labored vigorously to secure support for a new Canal Treaty in Panama that will put an end to an intolerable vestige of American colonialism and substitute in its place an arrangement that is fair and proper. He has pursued an enlightened policy of freer international trade. He has mounted the bully-pulpit of the Presidency in an effort to seek approval for a comprehensive national energy and resource conservation plan. And in concert with the President of Mexico, he has begun a necessary, serious and continuing collaboration about the ways two major world powers who share a common democratic spirit can work together to bring about a better life for citizens of both countries and throughout the world.

Presidents can lead, but they cannot prevail without the strength that can only be derived from the support of the people. Each of you has choices to make every day about how you will concern yourself with the responsibilities all of us must come to accept in a newly emerging world order. Whether it means curbing your conspicuous consumption of petroleum products, lobbying your Senator to ratify a treaty, supporting the human rights of people at home or abroad, or developing a better understanding of those with whom our future is inextricably linked. You can make a difference. You must make a difference.

Ten years ago Hubert Humphrey spoke to the people of Mexico. His words to them conveyed a message that he had offered to other people in other parts of the globe as well. He said:

"Our hopes are your hopes, our aspirations are your aspirations. We seek, as you do, a peaceful hemisphere in which people and nations may devote themselves . . . to the work of free men."

There is no more noble or important banner for you to rally behind than the banner that Hubert Humphrey raised high. Ten years ago, it was matter of choice. Today, it is a question of survival.

Thank you.●

THE SMITHSONIAN'S ACQUISITION OF THE MUSEUM OF AFRICAN ART

Mr. KENNEDY. Mr. President, I am very pleased about the Senate's passage yesterday of S. 2507, to authorize the Smithsonian Institution's acquisition of the African Art Museum. In 1976, I joined many of my Senate colleagues in a letter to the Smithsonian Board of Regents favoring the museum's acquisition. And more recently, I cosponsored S. 2507, to accomplish this action.

There are several reasons for my interest in the legislation. First of all, the bill was a special concern of our late colleague Senator Hubert Humphrey. As a founding trustee of the museum, he envisioned the important role the African Art Museum could play in helping all Americans understand and appreciate the traditional arts of Africa. Of equal importance, he recognized the museum's crucial role in fostering understanding between the African and American people.

Second, as a member of the Senate Subcommittee on Education, Arts and Humanities, I have a special interest in the museum's role as a valuable educational and cultural facility. Since its founding, the museum's holdings of sculptures, textiles, and photo archives, along with its imaginative educational programs, have introduced Americans of all races to the beauty and mysteries of traditional African art. Under the inspired directorship of Warren Robbins—a Massachusetts native—the museum has given thousands of Americans a special opportunity to experience and appreciate the importance of African culture to the American black experience.

Third, acquisition of the museum by the Smithsonian will help assure the permanence and stability of the museum's collections and educational programs. In addition, the acquisition will assure a proper place for Africa art along side of the other great art traditions of the world, which are already well represented in the Smithsonian.

Therefore, I feel that final passage of this legislation will help foster increased understanding between the Africa and American people, along with demonstrating an expanded national interest in the important role of art education and a recognition of the varied and vital art traditions of the African nations. The legislation has my enthusiastic support and I urge my colleagues in the House to favorably consider the bill, as well.

TROUBLE IN AFRICA

● Mr. GARN. Mr. President, the headlines are full of tales of trouble in Africa. The Ethiopians are invading Eritrea, rebel troops have launched another attack into Zaire, from staging areas in Angola. Terrorist pressure on Rhodesia and South Africa continues and accelerates.

To the north and east, a pro-Soviet rebel group has taken over Afghanistan, and Israel fights a life-and-death struggle with the Palestine Liberation Organization, whose lifeblood is supplied by Iron Curtain countries. Those same vassal states of the Soviet Union nourish with money and arms the Red Brigades, whose brutal terrorism appears on the point of ushering in a Communist government in Italy.

The Carter administration is "concerned."

Well might they be concerned, Mr. President, but why the sudden panic? Not that much has changed. This administration assured us that the Cubans were a "stabilizing" force in Africa; this administration went to Notre Dame to tell us that we were "now free of that inordinate fear of communism" which had directed our foreign policy for so long; this administration expressed no "concern" when our allies in southern Africa came under attack from Marxist terrorists. In fact, the Marxists were urged, by word and deed, by this administration, not to agree to the "internal" settlement agreed to by leaders both black and white in Rhodesia, leaders who represents upward of 90 percent of the total population; this administration invited the Soviets back into the Middle East conflict, after they had been cast out by the principals in that conflict, at considerable political cost to themselves; this administration continues to negotiate at Geneva with the Soviets, quietly accepting provisions to a strategic arms limitation agreement which rest on the implicit assumption that the Soviets negotiate in the same way we do, that their standards of international conduct are the same as ours; this administration proposed and continues to push for a withdrawal of U.S. troops from Korea; this administration pursues "normalization" with Communist China, a misbegotten policy fathered by a President of my own political party but misbegotten nonetheless; this administration cozies up to Communist and Socialist leaders in Europe, to the detriment of political parties dedicated to democracy and freedom.

Again I ask, Mr. President: What has changed?

Is it because these events have exploded onto the pages of the Washington Post and New York Times? Is that the source of this administration's information about what is going on in the world? Can they have been deaf to the warnings that have come from all around the world? Most recently, these warnings have come from the Saudis, no doubt to bolster their arguments in favor of airplane purchases, but they have come from every world leader in public speeches and private messages.

The fact is, Mr. President, that the Soviets have no interest in peace in this world. They are well suited by the present course of events especially since the major power of the Western world is led by a man who, when faced by a crisis, orders a "major review" of African policy. This is the same man whose toughest speech on the Communist threat was undercut when he sent a State Department aide to reassure the Soviet Ambassador that the Wake Forest speech was for domestic consumption only. Now he wants his hands untied. He wants unreasonable restrictions removed from his ability to commit troops and money in reaction to military threats to U.S. interests around the world.

Well, Mr. President, I am sympathetic. I happen to think that Congress is ill-suited to the conduct of foreign policy, and that it should be executed by the executive branch. But I will tell you this, Mr. President, I have more confidence in the Congress than I have in this administration. This administration has shown not an ounce of understanding of international reality. It has undercut its friends and rewarded its enemies since the day it took office. I am reluctant to give this administration a free hand in foreign policy, and will remain reluctant until I see some evidence that things have changed downtown, that they have figured out that the sun has come up, and are prepared to deal realistically with the threats to our interests around the world.

Now obviously, Mr. President, statements like those I have just made prompt the question, "OK, Senator GARN, it is easy to criticize, but what specifically would you have the President do?" Well, I am going to list several concrete actions

that he ought to take now, immediately. These are actions which would demonstrate some self-assurance, some understanding of the connections between different parts of the world, and would signal our attention to resume the role of leader of the free world. President Carter should immediately:

Recognize the new government of Rhodesia, which represents all legitimate parties to the controversy;

Lift the arms embargo against South Africa;

Fire Paul Warnke, as a signal of an intention to negotiate a realistic SALT treaty; better yet, suspend SALT talks until the Soviets get out of the Horn of Africa;

Cancel the withdrawl of troops from Korea;

Resume production of the neutron bomb and the B–1 bomber;

Send an official representative to the inauguration of Chiang Ching-kuo as President of China, and reschedule Zbigniew Brzezinski's trip to Communist China to a time less obviously insulting to our Nationalist allies;

Break off any actions toward normalization of relations with Castro's Cuba and increase the military force level at Guantanamo.

There is absolutely no reason to think that actions of this kind would be displeasing to the American people. Quite the contrary is true. They might offend some of the dovecote here in the Senate, but they appear to me to be policy actions long overdue, in the direction of peace and stability in the world, and eminently justified by what is going on in the world. They would also reflect a grasp of the basics of foreign policy, and might lead to some votes for revisions in the War Powers Act.●

A CULTURAL EXCHANGE

● Mr. KENNEDY. Mr. President, on May 12 the Boston Globe had an editorial praising the invitation from the People's Republic of China to Seiji Ozawa of the Boston Symphony Orchestra to go to Peking and work with the Central Philharmonic Orchestra. This news is particularly important as it continues the efforts initiated during my trip to China when my wife, Joan, and I were able to obtain agreement from the Peking Philharmonic Orchestra to send some of their musicians to join the Boston Symphony this summer in Tanglewood. I ask that this article be printed in the RECORD.

The article follows:

A CULTURAL EXCHANGE

The omens for increased contact and freedom in the arts are enhanced by the news that the People's Republic of China has invited Seiji Ozawa of the Boston Symphony Orchestra to spend a week in Peking working with musicians and conducting public performances by the Central Philharmonic Orchestra. The invitation is one more mark of the increasing changes that have taken place in China since the death of Mao Tse-tung in September 1976 and the arrest of the Gang of Four a month later.

During the 10-year cultural revolution and particularly in recent years when Mao's wife and colleagues dominated policy, Western artists and musicians were condemned as "running dogs of imperialism." Now Beethoven's Eighth Symphony is played on the train from the Great Wall to Peking. An otherwise folkloric concert in Canton includes a rendition of Mozart's Little Night Music.

In March and again on May 1, the government issued selected classics in Chinese and Western literature that had been unavailable for a decade. And people lined up for hours outside Shanghai bookstores to buy such books as "Tom Sawyer," "Anna Karenina," "Don Quixote," "The Forsyte Saga," "The Merchant of Venice," "Les Miserables" and "Robinson Crusoe" at prices ranging from 16 cents to $1.50. One of the more expensive items was a selection of modern opera from Latin America. In a speech on April 24, Deputy Prime Minister Teng Hsiao-ping underscored the importance of new university entrance exams designed to select "those who are outstanding."

Culture as we know it appears to be back in favor. And, as the Chinese repaint the old pagodas and reopen art museums, they also seem anxious to reopen the door to culture from the West. The exchange and learning process in which Ozawa will take part is welcome.●

NATIONAL TRANSPORTATION WEEK

● Mr. BAYH. Mr. President, the week of May 15 to May 22 has been designated as National Transportation Week. This is the week in which we all acknowledge the untiring efforts of the many American citizens who strive to improve our transportation system.

In conjunction with that effort, I would like to take this opportunity to congratulate the members of the Michiana Chapter of Delta Nu Alpha Faternity for convening the first transportation seminar in the city of South Bend, Ind., on May 17, 1978. I would like to extend a special congratulations to Dennis L. Klingerman, president of the local DNA chapter, as well as Leonard Kanczuzewski and William Anderson, the cochairmen of this event for the amount of time and effort they put into making this a successful seminar.

I am certain that the information generated and exchanged will be beneficial to the transportation industry and to the American people. So to the pioneers in this field I say keep up the good work and rest assured that I will do everything possible to be of assistance to you in your future endeavors.●

SPECIAL OLYMPICS

Mr. KENNEDY. Mr. President as we begin the debate over the Labor Law Reform bill, I think we should keep in mind the many endeavors in which unions are engaged. There is no finer example of the work that is being done to make America a better place to live than the efforts that the International Association of Machinists and the National Football League Players Association are making in support of the Special Olympics. William W. Winpisinger, the president of the IAM, and Ed Garvey, the executive director of the NFL Players Association, men of great decency and energy, recently put together the Fifth Annual NFL Awards Banquet. The proceeds of that dinner, attended by over 1,000 people, mostly from unions around town, are being used by the National Special Olympics.

I want to highlight the names of the fine athletes who have also contributed so much, both to the success of the dinner and to the Special Olympics program in general. The honorary chairmen of the event were Len Hauss, Larry Brown, Ray Schoenke, Sonny Jurgensen, Billy Kilmer, and Brig Owens.

Mr. President, I would like to submit the organizers' release for the RECORD.

The article follows:

LABOR AND THE SPECIAL OLYMPICS

Under the joint auspices of the National Football League Players Association and the International Association of Machinists and Aerospace Workers, the Fifth Annual Awards Banquet was recently held in Washington, D.C., for the purpose of raising funds for the Special Olympics.

Special Olympics is an international program of physical fitness, sports training, and athletic competition for mentally retarded children and adults. Over 700,000 mentally retarded individuals took part in 1977.

The primary purpose of Special Olympics is to contribute to the physical, social, and psychological development of mentally retarded participants. Through successful experiences in sports, they gain confidence and build a positive self-image associated with success rather than failure.

The Joseph P. Kennedy, Jr. Foundation created Special Olympics and sponsors the program internationally. The program is operated by Special Olympics, Incorporated, a non-profit, charitable organization located in Washington, D.C., with Eunice Kennedy Shriver as President.

In his welcoming address, Edward Garvey, Executive Director of the National Football League Players Association, pointed out that "This is labor's night to work for charity, and we are pleased that we are joining in a major fund-raising event with Special Olympics, a program that is closely related to athletics and competition."

The members of the Committee on Arrangement for Annual Gala Affairs are Eunice Kennedy Shriver, President of International Olympics, Incorporated; Edward R. Garvey, Executive Director of the National Football League Players Association; and William W. Winpisinger, International President of the International Association of Machinists and Aerospace Workers.

Numerous rehabilitation centers, including the Kennedy Foundation in Washington, D.C., are established throughout the country in helping the handicapped to return to their families and to make them productive members of their communities. Rehabilitation is the broad program through which highly trained people strive to restore the handicapped to their greatest physical, mental, social, and economic potential.

Rehabilitation centers usually offer all of the professional services required for the complete program of rehabilitation of the handicapped. Vocationally-oriented rehabilitation centers have physicians and therapists on their staffs, but their emphasis is placed on giving training in different work areas. They are somewhat like training schools where the handicapped can take such courses as beauty culture, tailoring, auto mechanics, carpentry, shoe repairing, and secretarial work.

Some general hospitals have rehabilitation units so the rehabilitation program can begin while the patient is still hospitalized.

There are many government-supported programs for the education of handicapped children. The children may participate in special classes in the regular public schools or they may attend special schools, such as those for the deaf, the blind, the retarded, the emotionally disturbed, and the orthopedically handicapped.

There are several agencies, both private and public, throughout the United States. Private agencies, which are established to help the handicapped, are usually voluntary, nonprofit organizations dedicated to patient treatment, fund raising, education, research, or a combination of these. They range from small, local groups—possibly concentrating on giving assistance to a single individual—to national and international organizations—attempting to get aid for all people with a particular handicap.

On the federal level, many agencies have been established and much legislation has been enacted for the welfare of the handicapped. The Vocational Rehabilitation Acts provided federal funds for the vocational rehabilitation of disabled civilians.

On the state level, there are also many agencies to assist the handicapped. Each state's crippled children's committee or division service registers disabled children and gives financial assistance for medical care and rehabilitation services. Vocational rehabilitation does assist handicapped people of working age to serve medical services, and, through vocational counseling, helps guide them to the best employment area and helps find them employment.

Workmen's compensation does provide for financial assistance for the rehabilitation of anyone injured on the job.

GEORGE WALLACE

● Mr. DOLE. Mr. President, last night Governor Wallace announced that he would not be a candidate for the U.S. Senate in the fall elections. I do not know the reasons behind Governor Wallace's decision not to seek election to the Senate, but I do know that he is a man of remarkable spirit and determination.

In the last few years, he has worked tirelessly to serve the citizens of Alabama and to fight for those causes he believed in. The assassination attempt which left him paralyzed in both legs did not curtail his ambition nor slow him down for long. After recovery, Mr. Wallace was back on the campaign trail proving once again that it is one's ability—not one's disability—which counts.

I admire Governor Wallace for living out this philosophy and know that millions of handicapped Americans view him as living proof that the disabled do have a place in society. Moreover, that place is not shut in the home or tucked away in an institution, but it is in the mainstream of society, wherever it might flow.

More than anything else, the handicapped are fighting for the opportunity to be normal. Governor Wallace serves as a fine example, for he did not allow his disability to interfere with his work or his aspirations. He made the necessary adjustments and resumed his normal activities.

Today the handicapped have broken new ground—some 30 million disabled Americans are learning to press forward for equal opportunities in education, employment, and recreation. In a movement of this magnitude, George Wallace has distinguished himself as a leader and as a man of great determination.

I wish for Governor Wallace a bright future, and just wanted to take this opportunity to express my admiration for his accomplishments.●

SAM MILLER AND THE NEWARK MUSEUM: A DECADE OF SPLENDID SERVICE TO ART

● Mr. WILLIAMS. Mr. President, my home State is blessed with one of the finest museums in America which is directed by one of the Nation's great authorities on modern art. Samuel C. Miller, director of the Newark Museum, recently celebrated his 10th anniversary at that splendid institution and his many triumphs and achievements were recorded by the Star-Ledger of Newark, N.J., in a fine article by Monica Maske.

Because Sam Miller's many efforts have been directed at making quality art more accessible to the elderly and schoolchildren as well as the general public, I thought it would be appropriate to call attention to his great work and commend him for his dedication to enhancing the arts and humanities.

Mr. President, I ask that the article from the Star-Ledger of April 30, 1978, be printed in the RECORD.

The article follows:

A DECADE OF SPLENDID SERVICE TO ART

Shortly after Samuel C. Miller took over as director of the Newark Museum on May 1, 1968, a newspaper account noted that the hallmark of the Miller regime would be the recently acquired sculpture by David Smith, one of America's foremost artists.

The sculpture—three rectangles topped by a circle—was fashioned in stainless steel, polished by friction to reflect the sunlight in swirling, wavy ridges.

If the David Smith was a hallmark of Miller, so too was the location chosen for its display, the garden behind the museum, a hitherto private area essentially closed to the general public. Only a few Victorian-era plaster casts and statues stood in the garden at the time.

Tomorrow, on his 10th anniversary as director of the Newark Museum, the sculpture garden and the David Smith sculpture, which is its centerpiece, will continue to be Miller's symbol of quality and achievement.

But just as the stainless steel sculpture has weathered much in the past decade—as well as brought immeasurable pleasure to countless visitors to the museum's "oasis" of a garden—so too has Miller.

Seated in his office on the second floor of the Ballantine House behind a 19th Century reproduction of an ornate Louis XV desk, Miller highlighted those 10 years.

It began with a crisis. In February 1969, the Newark City Council, during Mayor Hugh Addonizio's administration, announced that the city had run out of money to support the operating budget of the Newark Museum and Library.

"There was a blizzard that year," Miller recalled. "I was at Princeton, in a motel, snowed in. I phoned my secretary and asked her if anything new had turned up. She said, well yes, here's something. We're closing April 1."

The crisis was reduced when the city council restored the appropriations and the state, under Gov. Richard J. Hughes, legislated an emergency grant for the museum, a grant that has been extended ever since through the State Department of Education.

The incident, Miller says, "showed the strength of the museum's board of trustees, their support of me as the new director and the fact that the museum was a statewide institution.

"Out of that crisis came the recognition that the Newark Museum was one of the state's leading cultural resources."

Another result was a broadened base of support. The museum's $1.5 million operating budget (which is distinct from the private money used for acquisitions) breaks down to two-thirds support from the City of Newark, one-third support from the state as well as additional moneys from Essex County.

If the new director and the city got off on a shaky start, the relationship couldn't be more solid and mutually supportive today.

On top of its appropriation for the museum's operating budget, the City of Newark, under Mayor Kenneth A. Gibson, provided $1.1 million between 1972 and 1976 through its Capital Projects Program for restorations, repairs and improvements which have brought even more renown to the Newark Museum.

Foremost among these capital projects was the award-winning restoration of the Ballantine House, a Victorian townhouse built by the son of the beer magnate which stands adjacent to the museum on Washington Street.

Interior refinishing as well as the repair and cleaning of the exterior of the handsome house was accomplished with the financial assistance of the city.

And that restoration gave the museum the opportunity to bring out of storage so many items. The furnishings assembled on the restored first floor of the Ballantine House "show the depth of the Newark Museum's collections," Miller said.

The 18 city-funded capitol projects also included improvements in storage, repair of the skylight and new lighting in the main court of the museum, climate control in the North Gallery, renovation of the children's lunch room and restoration of the carriage house.

Beyond the physical improvements, Miller is especially proud of a number of art shows and festivals held at the museum in the past decade.

He called the nine-month exhibit of the Art of Africa in 1969, a show accompanied by a two-week festival of African culture, "a breakthrough in community relations."

In 1971, a five-month show of the work of contemporary black artists, both local and national, was unique in the country because it included works that had been shown during the museum's pioneering exhibit of black artists in 1944.

And in September, 1975, Miller opened a permanent gallery of African Art on the first floor of the museum.

The Newark Museum's collection of Tibetan art is world-famous and an exhibit of these items in 1973 "for the first time showed the strength of our collection," he said.

"The international reputation was reinforced when 35 of our Tibetan pieces were chosen for a major show at the Louvre and National Gallery in Paris and the Haus der Kunst in Munich in 1977."

And 56 of the museum's 18th and 19th Century American paintings were exhibited at the M. Knoedler & Co. Galleries in Manhattan in April last year, "showing New York our world of paintings."

In the museum library stands a stack of scrapbooks nearly four and a half feet high which chronicle all the other shows, exhibitions and festivals held in the past 10 years.

But the final proof of Miller's achievements as director comes from the public. And the Newark Museum last year set an all-time record high in attendance when 231,000 men, women and children passed through its portals. The 1977 attendance represented a 12½ per cent increase over 1976.

Miller and his wife, Rosetta Averill Miller, a native of South Carolina, are committed both publicly and privately to the success of the museum. Miller credits his wife with the spark behind the trustees ball held in 1976. And the couple often host visiting art societies in their Mount Prospect Avenue home.

Miller's first wife, Nell Schoellkopf Ely, who died in 1972, was also a great supporter of the Newark Museum. In her memory, her family donated the money for the restoration of the trustees room on the third floor of the museum, a project "Nell was interested in doing herself."

A native of Roseburg, Ore., and the first member of his family "not in the cattle business," Miller has achieved success not only for himself but for the museum.

He is the first to credit the museum's board of trustees, the City of Newark as well as the state and county support, the grants from the National Endowment for the Arts and the many other generous benefactors.

For Samuel C. Miller, the fifth director of the 69-year-old museum founded by John Cotton Dana, the past decade has been an "extremely rich experience" and as multifaceted as the David Smith sculpture in the museum garden.●

CIVIL SERVICE REFORM

Mr. STEVENS. Mr. President, on May 13, 1978, the distinguished senior Senator from Maryland spoke before the California Republican League in Los Angeles, Calif. His talk, entitled "Civil Service Reform: One Step Forward, Two Steps Back," contains a great deal of thought concerning civil service reform, which I hope the members of the Senate will note. I especially hope those involved with the Civil Service Reorganization Plan and Civil Service Reform Act will heed Senator MATHIAS' advice. Mr. President, I ask unanimous consent to have printed in the RECORD the excellent and thoughtful speech by Senator CHARLES MCC. MATHIAS, Jr.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

CIVIL SERVICE REFORM: ONE STEP FORWARD, TWO STEPS BACK

I'm delighted to be here for the spring convention of the California Republican League. But, frankly, I'm worried. I'm very much worried about the effect California has on visiting politicians.

Take President Carter, for example. When he came out here a couple of weeks ago, the latest Gallup poll showed his popularity at an all time low. Only 39 percent approved of the way he was handling his job, whereas three months earlier 55 percent had been favorable.

Now you'd think that nose-dive in popular support would suggest to the President the need to win friends and influence people. But, it seems to have had the opposite effect. Instead of wooing support on his California trip, the President lashed out at doctors and lawyers as a class, blaming them for much of what's wrong in the world today. It was a kamikaze attack, where everyone lost something.

We have more than enough problems as a nation without our President rousing one group against another. What the country requires of its President is constructive programs, not destructive speeches. We need a leader, working to bring people together in a common purpose, not a cheerleader, working the basest emotions of the crowd.

From the national point of view the President's performance was unfortunate and ill-advised. From the point of view of the Republican Party, it could be disastrous.

The greatest disservice President Carter could do the Republican Party would be to self-destruct so fast and so completely that he looks like an easy mark. If visions of sugarplums dance in our heads every time President Carter "mis-speaks" himself, we'll be in serious trouble. We have no reason to rejoice because the President seems to have pulled the plug on himself. The faster he sinks, the graver the danger to the Republican Party.

We urgently need to put our own house in order and I am encouraged about much of what is being done now to broaden the party and to bring it back to the people. But, what worries me is that Carter will begin to look so soft to us that we will neglect the reforms that are necessary to our own survival as a political force.

We must not let overconfidence seduce us into savoring the fruits of a victory we haven't won. We must devote our attention and our energy to what's going on here and now, so that, ultimately, we will earn a victory worth savoring.

An area I am particularly concerned about right now is civil service reform. Just about everyone agrees that the federal government is ripe for a major overhaul. The trouble is, we don't all agree on how to go about it.

Back in 1949, the first Hoover Commission found that:

. . . the United States is paying heavily for a lack of order, a lack of clear lines of authority and responsibility, and a lack of effective organization in the executive branch . . . We must reorganize the executive branch to give it the simplicity of structure, the unity of purpose, and the clear line of executive authority that was originally intended under the Constitution.

Now, almost 30 years later, the burden of the bureaucracy has become almost unbearable. In a recent survey of taxpayer attitudes, 72 percent of those polled said they had reached the "breaking point" on taxes. Obviously, the bureaucratic morass that masquerades as the executive branch of government must be cut down.

To his credit, President Carter has recognized this need. But, in my opinion, many of the changes he proposes to make in the federal personnel system—both through a reorganization plan and in specific legislation—would endanger the effectiveness and the impartiality of our civil service. In fact, if the President's plan is adopted and if he attempts to repeal the Hatch Act, as he has said he will, then I think we're going to end up with the most partisan and politicized federal establishment since General Grant's administration when the "whiskey ring" defrauded the government of millions of dollars.

Most people don't realize it, but civil service reform doesn't just affect Washington. It has nationwide significance. Fewer than 15 percent of our more than two million federal employees live and work in the Washington metropolitan area. In fact, there are barely twice as many civil servants in the Washington area as there are right here in California. So, as you can see, the question of making the civil service vulnerable to political manipulation hits close to home—no matter where home is.

Two aspects of civil service reform are of particular concern. The first, and most important, is what the country gets out of the civil service in terms of work production. Secondly, (and this influences the work produced by the civil service) we must be concerned with the conditions under which civil servants work.

We should ask ourselves if the President's reforms mean that civil servants will have to work with a political sword of Damocles poised above their heads. Will they feel that every national election will jeopardize their job security?

I think they will. And I think they will have good reason, if the President's plan goes through.

When the President announced his civil service reforms, he talked a lot about how difficult it is, under present law, to fire inadequate civil servants. Specifically, he complained that in 1976 only 226 federal employees, out of more than two million, had been fired for incompetence and inefficiency. He thought his plan would improve this situation—that it would make it easier to prune the dead wood.

A couple of weeks later, thanks to some good investigative reporting by the Washington Star, Presidential Press Secretary Jody Powell had to recant for his boss. Powell acknowledged that the President's figure on firings had been way off the mark. In fact, there had been upwards of 17,000 dismissals for cause in 1976, said Powell, not just 226.

The President, it seems, "mis-spoke" a mouthful. And I can only wonder why, and worry about what motivated him. The incident reminded me of the late Alben Barkley, who used to define a bureaucrat as "a Democrat who holds some office that a Republican wants." I'm afraid that's pretty close to President Carter's definition too, except with the party roles reversed.

For months now, the Administration has been carrying on a nationwide campaign to convince the American people and the Congress that all of Carter's proposed changes are good and should be adopted.

As a result, criticism of the Civil Service System has snowballed dramatically. With it, pressure to acquiesce in all the President's proposals has grown. To the extent that this campaign forces us to see the flaws in our Civil Service System, it is very healthy. But to the extent that it stampedes us into hasty judgment, it is both unhealthy and dangerous.

We don't have time to go into all the fine print, but I would like to take a few minutes to point out the major defects I see in the President's proposals.

The President proposes to split the Civil Service Commission into two agencies. One—the Merit System Protection Board—would handle employee appeals from agency actions, investigate alleged violations of merit principles, and protect "whistle blowers" from reprisals. It would be the watchdog of the merit system. The other agency—the Office of Personnel Management—would be the President's advisor and policy leader for personnel management. It would also perform all the regular operations of the Civil Service Commission not assigned to the Merit System Protection Board.

These are the problems I have with this plan:

First, it greatly increases the opportunities for manipulating the civil service for personal or political favoritism, because personnel policy would be made solely by the Administrator of the Office of Personnel Management, who is appointed by the President and serves at his pleasure. (Three Civil Service Commissioners, appointed on a bipartisan basis with overlapping terms, now share this responsibility.)

Second, although daily operations of the central personnel agency should be, as they are now, the responsibility of one person, an administrator who makes personnel policy and directs operations as well would pose a powerful threat to the merit system.

Third, the Office of Personnel Management would be exempt from the Sunshine Act because it applies only to government entities composed of more than one person. The President's own campaign statement gives us a hint of how bad that is. He said: "We need an all-inclusive Sunshine Law . . . (T)here is no reason for secret meetings of regulatory agencies, other executive departments or congressional committees."

Fourth, the Merit System Protection Board, with three members appointed on a bipartisan basis by the President and removable only for cause, is intended to protect against merit abuses, but it lacks the clear mandate, the authority and the resources to carry out this responsibility. Nor can it be an effective watchdog of merit principles, as the President proposes, since it does not

have to report the results of regular, frequent inspections either to the Congress or to the President. Regrettably, this watchdog has few teeth and its very short leash is fastened to the White House.

The President also hopes to legislate a number of changes which I think would seriously impair the quality and performance of the civil service.

For example, he plans to delegate significant authority to the agencies to examine applicants. This would turn the clock back to before 1965 when civil service examining was done in almost 1,000 different places. During that period, the federal government was inundated with complaints from all over the country about job applicants not being examined fairly, professionally or promptly. Complaints dropped sharply after 1965 when the examination system was centralized.

To increase the responsiveness of the agencies, the President proposes that his appointees be given sweeping authority to transfer, promote and demote many top career people and replace them with other career executives, or even with political appointees.

In this proposal, the President has made the same mistake as many of his predecessors. Every new administration charges into office full of ideas and immediately suspects the federal establishment of trying to slow it down. We have all heard horror stories of bureaucratic delay and inefficiency, and many of them are true. But I've been around Washington for nearly 20 years now which is long enough to learn that bureaucracy is made up of sedimentary layers, like the volcanic ash that buried Pompeii and the blown dust that once covered the Parthenon. But stir it up with good ideas and it responds. It will even produce some astonishingly valuable artifacts.

With rare exceptions, career executives have reached the top by repeatedly proving their ability to perform well under difficult conditions. They are the glue that holds the government together in times of political transition. They are our ancestral memory. We tamper with their status at our peril.

In 1955, in the final days of the second Hoover Commission, a newspaper reporter asked Mr. Hoover:

If you were granted the right to have one (of the Commission's 314 recommendations) accepted, and only one, which one would you pick?

Without hesitation, Mr. Hoover replied:

I would pick the recommendation for the setting up of a senior civil service.

He went on to explain:

Government cannot be any better than the men and women who make it function. Our greatest problem is to get the kind of men and women the government needs and to keep them in government . . .

We must make civil service so attractive, so secure, so free from frustrations, so dignified, that the right kind of men and women will make it a career. Then we can have the kind of government that the United States needs and should have.

To that I say, Amen.

President Carter's reform proposals take us in the opposite direction. They undermine the time-honored role of the career executive to provide dispassionate, sometimes critical advice, without fear of reprisal. They would send a clear signal to career civil servants that, if they don't want to be shipped out, they'd better shut up.

I'm not talking behind the President's back. Last week I spent some time with Alan Campbell, who is Chairman of the Civil Service Commission. I went over all of this with him. I told him that we must prevent fear from becoming a part of the lives of our civil servants.

In announcing his reorganization plans the President told the press:

Before I became President, I realized and was warned that dealing with the federal bureaucracy would be one of the worst problems I would have to face. It has been even worse than I had anticipated. Of all the steps that we can take to make government more efficient and effective, reforming the civil service system is the most important of all.

If the President is sincere about this reform, I think he'd better take some of his plan back to the drawing boards. Otherwise, he may find he has resurrected a monster far worse than the bureaucracy. Before insisting on his current proposals, the President would do well to reflect on Lincoln's problems with office seekers:

Historians of the era make frequent reference to the problem (and Lincoln's) vexation. They paint a ludicrous picture of the President having to elbow his way through crowds of job seekers clamoring for his attention in the White House corridors when he was en route from his office to dinner. Once, when Lincoln was suffering from an attack of smallpox, he asked an assistant to invite the job seekers in for, at least, he had something he could give to all of them.

NATIONAL TRAILS SYSTEM ACT

Mr. STEVENS. Mr. President, I am pleased to cosponsor S. 2974, a bill to amend the National Trails System Act by establishing an historic trails category and designating therein several historic routes. The legislation now under consideration encompasses several other bills which have been introduced during the 95th Congress. One of those, introduced by Senator GRAVEL and me, would establish the Iditarod Trail in Alaska as an historic trail. I am pleased that S. 2974 includes the Iditarod Trail as well as the Oregon Trail, the Morman Pioneer Trail, and the Lewis and Clark Trail. Each is worthy of inclusion in the new historic trail classification that S. 2974 would create.

The National Trails System Act directed the Secretary of the Interior to study gold rush routes in Alaska to determine their suitability for inclusion in the system. Among those studied was the Iditarod Trail. The Bureau of Outdoor Recreation report on the Iditarod concluded that:

The entire Seward to Nome route, including appropriate branch, alternate, and Iditarod Sled Dog Race Routes, and related sites should be designated as a National Trail System.

More recently the Department of the Interior transmitted to Congress for its consideration a report entitled, "The Iditarod Trail (Seward to Nome and Other Gold Rush Trails)." The report recommends congressional designation of the Iditarod as a National Historic Trail. As the Department did not include draft legislation with their recommendation, the bill being considered today provides an excellent opportunity to recognize and protect this historic route.

The Iditarod Trail ran from tidewater at the ice-free port of Seward, across the Kenai Peninsula, through the Chugach Mountains, across the Susitna River Valley, through the massive Alaska range, across the Kuskokwim and Innoko River country to the Yukon River, down the Unalakleet River to the coast of Norton Sound and then across the sound to Nome.

Although the line is popularly known as the Iditarod Trail, only a part of it served the Iditarod gold fields. The proposed national historic trail now under review incorporates trails which served gold strikes in several areas of Alaska during different periods. I am providing for the RECORD copies of maps which illustrate the different lines included in the Iditarod Trail. These maps appeared in the study completed by the Department of the Interior. (Special note.—These maps appear on pages 27–28 in study report.)

The history of the Iditarod predates the rush for minerals. There is evidence that the trail was used as far back as 6000 B.C. The Iyateyet site, on Cape Denbigh Peninsula in the Norton Sound region, dates to that period with evidence indicating that the first Americans may have lived there. The English explorer, Vancouver, used portions of the Iditarod in 1794 and reported signs of the trail's being used hundreds of years prior to his visit. Russian fur trappers and traders also used segments of the trail to ply their trade in Alaska.

More recent uses of the Iditarod Trail, of course, included the travels of gold seekers who came to Alaska seeking their fortunes and meeting their future. The trail we seek to protect includes the routes used by these early Alaskans in the Hope and Sunrise areas in 1888. The trail served for year-round transportation of mail, supplies, travelers, and of course, adventurous tourists during the famous Klondike Stampede of 1898. In 1907 and 1908, gold discoveries in the interior of Alaska occurred which resulted in W. L. Goodwin of the Alaska Road Commission surveying a winter trail from Seward to Nome along the already well-traveled route. The last major gold rush in the United States occurred following a discovery near the Iditarod River. The strike prompted the Alaska Road Commission to permanently mark and clear the trail explored by Goodwin in 1910. That trail is a major portion of the route that would be included in this bill.

The Iditarod Trail is well over 2,000 miles long. Because of its length it offers a variety of climate, terrain, scenergy, wildlife, recreation, and historic resources that can be found in few other places in the United States. The trail crosses mountains, tundra, river ice, and even glaciers. Yet despite its length and diversity all but a small portion of the trail is in public ownership. The State of Alaska owns only a small segment near Anchorage. Even after the Alaskan Natives receive title for their land under the terms of the Alaska Native Claims Settlement Act, less than 300 miles of the trail will be in private ownership.

The trail serves many Alaskans even though long stretches are only passable in the winter season. The Crow Pass Trail through the Chugach Mountains north of Girdwood is maintained by the U.S. Forest Service, as is the 22-mile Johnson Pass Trail on the Kenai Peninsula. A 20-mile winter ski trail exists over Indian Creek Pass and has been improved by the State of Alaska Division

of Parks to accommodate summer hikers. The Girl Scout Council of Anchorage in 1975 reestablished another 20-mile section in the Chugach State Park. Public and State commitment to the trail is strong.

During the winter months the trail is used as a vital link between Native villages. Residents along the Iditarod use the trail for subsistence hunting and fishing activities. In addition, the 1,049-mile Iditarod Trail dog sled race is run annually.

This event recreates the dramatic rush by Alaskans to get badly needed medicine to the town of Nome in 1925 when a diphtheria epidemic threatened the entire population of that area. A relay of the precious serum 674 miles from 20 dog mushers and their teams rushed Nenana to Nome in a record time of 127½ hours during the cruelest winter weather conditions.

So this trail has a great historical and cultural significance to Alaska and the rest of the United States. But this committee should not ignore the vital role that the trail still plays in the lives of Alaskans. In addition to its recreation potential, it still provides a transportation route for people who would otherwise be isolated.

The law as now written does not provide for any designation or protection of historic trails, therefore, a new category is needed to protect those trails which, although not available for intensive recreation uses, are still vital parts of America's past. In order to qualify as an historic trail, the route must be established by historical use and be significant because of such use; must have had a far-reaching effect on broad patterns of culture; and, must offer significant potential for recreational use as a trail or at historic sites. The Iditarod Trail, representing a major transportation route for the last great American gold rush and the migration routes of the first Americans, is eminently suitable for such designation.

It is important to note that the Department of the Interior found that the Iditarod did not qualify as a national scenic trail due to large stretches of the route having very low potential as developed hiking trails. Large portions of the trail are used by off-road vehicles, having functioning railroads and developed roads. As the Iditarod bisects the entire State, it is vital that future transporation and utility corridors not be prohibited.

Section 7(c) of the National Trails System Act should be modified to allow use of the trail for recreation and normal transportation. I echo my colleagues' sentiment on this issue. This legislation cannot be used to impede or prohibit the normal upgrading of existing transportation systems which would be designated as part of the historic trail or to block the development of new transportation or utility systems across or along portions of the Iditarod.

S. 2974 appears to deal with this issue in an acceptable manner. However, we need to consider the possible impact that section 4(f) of the National Transportation Act might have on future development. Although individual sites along the trail may warrant protection under this section, long segments of the Iditarod must not be included.

In conclusion, I would like to reiterate my endorsement of the legislation before this committee. I also urge the Members to consider the inclusion of bodies of water and roads in the trail system to insure that off-road vehicle use be permitted and right-of-way across Federal lands be retained for possible future surface transportation needs. This measure offers an opportunity to recognize the important historic and recreational values of the Iditarod Trail and I support prompt action on this measure.

ORDER FOR RECESS TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized on tomorrow, the following Senators be recognized, each for not to exceed 15 minutes: Mr. STENNIS, Mr. DANFORTH, and Mr. BAKER, and that the Senate then resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR FRIDAY, MAY 19, 1978, AND TUESDAY, MAY 23, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, May 19, and Tuesday, May 23, after the two leaders or their designees have been recognized under the standing order, Mr. DANFORTH and Mr. BAKER be recognized for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. WILLIAMS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and at 5:55 p.m. the Senate recessed until tomorrow, Thursday, May 18, 1978, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate, May 17, 1978.

DEPARTMENT OF JUSTICE

Russell T. Baker, Jr., of Maryland, to be U.S. attorney for the district of Maryland for the term of 4 years, vice Jervis S. Finney, resigning

IN THE AIR FORCE

The following officers for temporary appointment in the U.S. Air Force to the grades indicated, under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Richard Carr, [redacted] (colonel, Regular Air Force, chaplain), U.S. Air Force.

To be brigadier general

Col. Jeremiah J. Rodell, [redacted] (colonel, Regular Air Force, chaplain), U.S. Air Force.

REPRESENTATIVES TO UNITED NATIONS SPECIAL SESSION

The following-named persons to be Representatives of the United States of America to the Tenth Special Session of the General Assembly of the United Nations Devoted to Disarmament:

Andrew J. Young, of Georgia.

W. Averall Harriman, of New York.

George McGovern, U.S. Senator from the State of South Dakota.

Charles W. Whalen, Jr., U.S. Representative from the State of Ohio.

Paul Newman, of Connecticut.

The following-named persons to be Alternate Representatives of the United States of America to the Tenth Special Session of the General Assembly of the United Nations Devoted to Disarmament:

Adrian S. Fisher, of the District of Columbia.

James F. Leonard, Jr., of New York.

Charles McC. Mathias, U.S. Senator from the State of Maryland.

Paul Simon, U.S. Representative from the State of Illinois.

Marjorie Craig Benton, of Illinois.

THE JUDICIARY

Shane Devine, of New Hampshire, to be U.S. district judge for the district of New Hampshire, vice Hugh H. Bownes, elevated.

FARM CREDIT ADMINISTRATION

The following-named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for the terms indicated:

For a term expiring March 31, 1984

George Warren Lacey, of Montana, vice E. Riddell Lage, term expired.

John D. Naill, Jr., of Arkansas, vice Melvin E. Sims, term expired.

For the remainder of the term of 6 years expiring March 31, 1979

Dwight L. Tripp, Jr., of Maine, vice Luther W. Jennejahn, deceased.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be members of the National Commission on Libraries and Information Science for the terms indicated:

For a term expiring July 19, 1981

Robert W. Burns, Jr., of Colorado, vice Andrew A. Aines, term expired.

Horace E. Tate, of Georgia, vice Catherine D. Scott, term expired.

For a term expiring July 19, 1982

Joan Helene Gross, of New York, vice Ralph A. Renick, term expired.

Clara Stanton Jones, of Michigan, vice Louis A. Lerner, term expired.

Frances Healy Naftalin, of Minnesota, vice Martin Goland, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate, May 17, 1978:

DEPARTMENT OF JUSTICE

Peter J. McLaughlin, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years.

COMMODITY FUTURES TRADING COMMISSION

David Gay Gartner, of Virginia, to be a Commissioner of the Commodity Futures

Trading Commission for the term expiring April 13, 1982.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Daniel M. Friedman, of the District of Columbia, to be chief judge of the U.S. Court of Claims.

Jack E. Tanner, of Washington, to be U.S. district judge for the eastern and western districts of Washington.

Robert F. Collins, of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

Ellen B. Burns, of Connecticut, to be U.S. district judge for the district of Connecticut.

Harold H. Greene, of the District of Columbia, to be U.S. district judge for the District of Columbia.

Cristobal C. Duenas, of Guam, to be judge of the District Court of Guam for a term of 8 years.

Leonard B. Sand, of New York, to be U.S. district judge for the southern district of New York.

Alfred Laureta, of Hawaii, to be judge for the district court for the Northern Mariana Islands for a term of 8 years.

HOUSE OF REPRESENTATIVES—*Wednesday, May 17, 1978*

The House met at 10 o'clock a.m.

Rabbi Albert Plotkin, senior rabbi of Temple Beth Israel, Phoenix, Ariz., offered the following prayer:

Almighty and merciful God, we ask Thy blessings upon this great House of Representatives, its devoted and consecrated servants, that they may ever be the guardians of our rights and liberties, so they may hold a beacon light of hope for the Nation.

Give them the courage to make decisions with clean hands and upright spirits. Cause them not to be disheartened or discouraged by the crisis they face, but make them grow stronger by facing the challenges, moving forward to build our Nation on the foundations of justice and righteousness. Imbue them with wisdom so the work of their hands will bring harmony and peace in a world we pray may be at peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair understands that our guest chaplain is uniquely honored as being the first chaplain that the minority leader, the gentleman from Arizona (Mr. RHODES), has ever asked in his 26 years of public service in this Congress to be his guest to offer the prayer.

The Chair joins the minority leader in welcoming and thanking our distinguished guest.

RABBI ALBERT PLOTKIN

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I am proud to welcome Rabbi Albert Plotkin to the House Chamber. He has been rabbi of Temple Beth Israel in Phoenix for the past 23 years. It is true that he is the first resident of the First District in Arizona who has ever given a prayer here in the House of Representatives.

I am particularly proud to be able to introduce my good friend for so many years. Rabbi Plotkin is an outstanding leader of the community. He is president of the North Phoenix Corporate Ministry, which is a social service organization formed by seven Jewish, Catholic, and Protestant congregations. He has served as chaplain of the Arizona State Senate, and he teaches classes at Arizona State University in Tempe. Several organizations in Phoenix have recognized Rabbi Plotkin's contributions by naming him their "Man of the Year."

I would also like to point out something which I think will be of interest to everybody. Rabbi Plotkin is a graduate of Notre Dame University. He has the distinction of being the only rabbi who is a graduate of Notre Dame University.

All Members of the House, I am sure, join me in thanking Rabbi Plotkin for being with us today and delivering his inspirational prayer.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 10392. An act to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11232. An act to authorize appropriations to carry out the Standard Reference Data Act.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission.

ISRAEL'S SURVIVAL NOT IMPERILED BE MIDEAST ARMS SALES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, various interpretations are being placed upon the Senate's approval of the Mideast arms sales.

If strengthening of Egypt and of Saudi Arabia's ability to resist potential aggression from Iraq and from Soviet and Cuban surrogates in Ethiopia is understood as increased U.S. concern for peace and stability on the African Continent, it is well that it should be.

But it would be unfortunate in the extreme if this action were misread by any as a lessening in the slightest degree of our absolute insistence upon preservation of the integrity of Israel.

Let me assert in no uncertain terms that the U.S. Congress remains fully and firmly committed to the survival and independence of Israel—to Israel's right to exist, its right to exist in peace, its right to exist permanently.

In developing a mutuality of interest with the moderate Arab States, we must insist, as part of the understanding, that Egypt, Saudi Arabia, and Israel enter into a mutual nonaggression pact—and that Saudi Arabia should join Egypt and Israel at the peace conference table and assert its influence upon such other moderate states as Jordan and Lebanon to do the same.

CENSUS BUREAU PLANS "IDENTIFICATION SURVEY" OF FARMERS

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, one good thing you can say about the Census Bureau is that they provide us with advance notice when they go on one of their rampages.

Yesterday I received advance notice that the Census Bureau plans to mail out 3,443,000 survey forms to farmers, ranchers, suspected farmers, suspected ranchers, and others thought to be involved in one way or another with agriculture. The purpose of these survey forms is to provide information to be used in compiling a list to use in sending out questionnaires about farming.

Mr. Speaker, in this year of the economic census during which over 3 million survey forms have been mailed to business concerns demanding under penalty of law detailed economic information, we should be wary of plans of which the agriculture "identification survey" is a harbinger. It is worth noting that the Census Bureau emphasizes that a response is required by law even to this

"identification survey." If this year is the year to "pity the poor businessman" then we should feel fairly warned that next year will be the year to "pity the poor farmer." But we should do more than pity, we should act.

It is, after all, pursuant to acts of the Congress that this Bureau makes these demands of American citizens. I have been informed that it takes many hours to fill out some of these forms. If it only took an hour for each form to be filled out, the 3 million economic census forms represent 3 million hours of uncompensated work Americans are required to perform for their Government. Lest that strike anyone as a small cost for information, 3 million hours represents 375,000 workdays, or 75,000 workweeks or over 1,400 workyears—more than 14 work centuries.

We should consider ourselves well warned and we should pass the warning on to the farmers of America. Who knows, this might just be the thing that provides the impetus for success of a farmers' strike.

DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS FOR FISCAL YEAR 1979

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11686) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WEISS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 4, not voting 75, as follows:

[Roll No. 324]

YEAS—355

Addabbo	Bennett	Burleson, Tex.
Akaka	Bevill	Burlison, Mo.
Alexander	Biaggi	Burton, Phillip
Allen	Bingham	Butler
Ammerman	Blanchard	Byron
Anderson, Calif.	Blouin	Caputo
	Boland	Carney
Anderson, Ill.	Bolling	Carr
Andrews, N.C.	Bonior	Cavanaugh
Andrews, N. Dak.	Bonker	Cederberg
	Bowen	Chappell
Annunzio	Brademas	Clausen, Don H.
Applegate	Breaux	
Archer	Breckinridge	Clawson, Del
Armstrong	Brinkley	Cleveland
Ashbrook	Brodhead	Cohen
Ashley	Brooks	Coleman
Badham	Broomfield	Collins, Ill.
Bafalis	Brown, Calif.	Collins, Tex.
Baldus	Brown, Mich.	Conable
Barnard	Brown, Ohio	Conte
Bauman	Broyhill	Corcoran
Beard, R.I.	Buchanan	Corman
Beard, Tenn.	Burgener	Cornell
Bedell	Burke, Fla.	Cornwell
Benjamin	Burke, Mass.	Cotter
Coughlin	Ireland	Preyer
Cunningham	Jacobs	Price
D'Amours	Jeffords	Pritchard
Daniel, Dan	Jenkins	Pursell
Daniel, R. W.	Johnson, Calif.	Quie
Danielson	Johnson, Colo.	Quillen
Davis	Jones, N.C.	Rahall
de la Garza	Jones, Okla.	Railsback
Delaney	Jones, Tenn.	Rangel
Derrick	Jordan	Regula
Derwinski	Kastenmeier	Reuss
Devine	Kazen	Rhodes
Dickinson	Kemp	Richmond
Dicks	Ketchum	Risenhoover
Dodd	Keys	Roberts
Dornan	Kildee	Robinson
Downey	Kindness	Roe
Drinan	Krebs	Rogers
Duncan, Oreg.	LaFalce	Roncalio
Duncan, Tenn.	Lagomarsino	Rooney
Early	Latta	Rosenthal
Eckhardt	Le Fante	Rostenkowski
Edgar	Leach	Rousselot
Edwards, Ala.	Lederer	Rudd
Edwards, Calif.	Leggett	Ruppe
Emery	Lehman	Russo
English	Lent	Ryan
Erlenborn	Levitas	Santini
Ertel	Lloyd, Calif.	Satterfield
Evans, Colo.	Lloyd, Tenn.	Sawyer
Evans, Del.	Long, La.	Schroeder
Evans, Ga.	Long, Md.	Schulze
Evans, Ind.	Lujan	Sebelius
Fary	Luken	Seiberling
Fascell	McClory	Sharp
Fenwick	McCormack	Shipley
Findley	McDonald	Shuster
Fish	McFall	Sikes
Fisher	McHugh	Simon
Fithian	McKay	Sisk
Flippo	McKinney	Skelton
Flood	Madigan	Smith, Iowa
Florio	Maguire	Smith, Nebr.
Flowers	Mahon	Snyder
Flynt	Mann	Solarz
Foley	Markey	Spellman
Ford, Mich.	Marks	Spence
Ford, Tenn.	Marlenee	St Germain
Forsythe	Marriott	Stangeland
Fountain	Martin	Stanton
Fowler	Mathis	Stark
Fraser	Mazzoli	Steed
Frenzel	Metcalfe	Steers
Fuqua	Meyner	Steiger
Gammage	Michel	Stockman
Garcia	Milford	Stratton
Gephardt	Miller, Calif.	Studds
Giaimo	Miller, Ohio	Stump
Gibbons	Mineta	Symms
Gilman	Minish	Taylor
Ginn	Mitchell, N.Y.	Thompson
Glickman	Moakley	Thone
Gonzalez	Mollohan	Traxler
Goodling	Montgomery	Treen
Gore	Moore	Trible
Gradison	Moorhead, Calif.	Tsongas
Grassley		Udall
Green	Moorhead, Pa.	Ullman
Gudger	Moss	Van Deerlin
Guyer	Motti	Vander Jagt
Hagedorn	Murphy, Ill.	Volkmer
Hamilton	Murtha	Waggonner
Hammer-schmidt	Myers, Gary	Walgren
	Myers, John	Walker
Hanley	Natcher	Walsh
Hannaford	Neal	Wampler
Hansen	Nedzi	Watkins
Harkin	Nichols	Waxman
Harris	Nolan	Weaver
Harsha	Nowak	Weiss
Hawkins	Oberstar	White
Hefner	Obey	Whitehurst
Heftel	Ottinger	Whitley
Hightower	Panetta	Wilson, Tex.
Hillis	Patten	Winn
Holland	Patterson	Wirth
Hollenbeck	Pease	Wydler
Holt	Pepper	Wylie
Holtzman	Perkins	Yates
Horton	Pettis	Yatron
Howard	Pickle	Young, Fla.
Hughes	Pike	Young, Mo.
Hyde	Poage	Zablocki
Ichord	Pressler	Zeferetti

NAYS—4

Mattox	Quayle	Wilson, Bob
Mitchell, Md.		

NOT VOTING—75

Abdnor	Bellenson	Chisholm
Ambro	Boggs	Clay
Aspin	Burke, Calif.	Cochran
AuCoin	Burton, John	Conyers
Baucus	Carter	Crane
Dellums	Lott	Runnels
Dent	Lundine	Sarasin
Diggs	McCloskey	Scheuer
Dingell	McDade	Skubitz
Edwards, Okla.	McEwen	Slack
Eilberg	Meeds	Staggers
Frey	Mikulski	Stokes
Gaydos	Mikva	Teague
Goldwater	Moffett	Thornton
Hall	Murphy, N.Y.	Tucker
Harrington	Murphy, Pa.	Vanik
Heckler	Myers, Michael	Vento
Hubbard	Nix	Whalen
Huckaby	O'Brien	Whitten
Jenrette	Oakar	Wiggins
Kasten	Pattison	Wilson, C. H.
Kelly	Rinaldo	Wolff
Kostmayer	Rodino	Wright
Krueger	Rose	Young, Alaska
Livingston	Roybal	Young, Tex.

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair requests the gentleman (Mr. HUGHES) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11686, with Mr. HUGHES (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Tuesday, May 16, 1978, all time for general debate had expired. Title II had been considered as having been read and open to amendment at any point. Pending was an amendment offered by the gentleman from New York (Mr. WEISS).

Without objection, the Clerk will again read the amendment.

There was no objection.

The Clerk reread the amendment.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this month's edition of the authoritative periodical "Scientific American," contains an exceptionally informative article discussing the enhanced radiation warhead ("neutron bomb") issue in all its aspects—military, political, biological, and humanitarian. The author, Fred M. Kaplan, is a fellow of the arms control project at the Center for International Studies of the MIT and is the author of numerous articles and reviews on United States and Russian defense policy.

The articles' overall conclusion is certainly in line with the decision by President Carter not to order production of this weapon at this time. It further supports the position taken by those of us who believe that the production of these weapons would be a military as well as a political mistake and that their use would be an unmitigated disaster from every standpoint.

As summarized by the author:

The enhanced-radiation warhead is a particularly dangerous weapon insofar as it might mislead anyone into believing that its deployment would make it possible for nuclear warfare to be safely limited and tightly controlled; in this sense its very deployment could lower the threshold separating conventional warfare from nuclear warfare. Enhanced-radiation weapons are no more (and perhaps they are less) "humane" than chemical weapons, whose first use has long been outlawed by international treaty. Moreover,

the enhanced-radiation warhead has little more military utility than any other type of low-yield nuclear weapon. Finally, to the extent that the U.S.S.R. believes the U.S. will use enhanced-radiation weapons in a European ground war, their deployment invites a preemptive Russian nuclear attack in any extremely tense situation, perhaps as the first move in a European war. In any event there is no reason to believe the enhanced-radiation warhead would in any way diminish the likelihood that a European-theater nuclear war would escalate to an all-out nuclear war, or that its introduction would somehow moderate the probable response of the U.S.S.R.

The article brings out a number of important aspects not generally recognized thus far in the debates on this weapon. First, it points out that the concept of using the neutron warhead as a tactical weapon was explored as early as the 1950's and that its development was finally dropped as a result of Department of Defense studies in the 1960's that indicated that building up NATO's nonnuclear war-fighting capability was preferable to reliance on tactical nuclear weapons. These studies, initiated by Secretary of Defense Robert McNamara, led to the conclusion that in any European theater of war the use of tactical nuclear weapons would carry the grave risk of escalation to strategic nuclear war; that it would probably favor the U.S.S.R., and that it would bring the death of millions of civilians.

As the detailed discussion in the article indicates, the basic conclusions of the 1960 studies are still valid today, and even more applicable to the neutron warhead than to other tactical "nukes." The author points out that if these weapons are to be significantly useful, they will require "a barrage of many hundreds or even thousands of nuclear weapons." He further notes that neutron radiation is far more damaging to human beings than other types of radiation from atomic weapons and that because of the highly urbanized character of the region of West Germany where a NATO neutron counterattack would be launched, the counterattack alone would kill several million civilians and NATO combatants—not counting deaths caused by probable Russian nuclear retaliation. This would be another example of the kind of tactics classically described by the American officer in Vietnam who said, "We had to destroy the village to save it." Only here we would be destroying a huge part of West Germany, and its inhabitants, in order to "save" it. There has to be a better way.

The author further points out that most enemy tankmen exposed to neutron radiation would remain alive for hours, days, or even weeks and thereby could continue to fight until replacements arrived. He concludes that with the latest antitank weapons and certain readily attainable improvements in tactical deployment, NATO forces are fully capable of defending Western Europe without resort to nuclear weapons, and at a far lower cost.

Mr. Chairman, I believe everyone interested in this important subject will wish to read this outstanding Scientific American analysis of the neutron warhead issue. Therefore, I intend to place the full text in the extensions of remarks.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I want to commend the gentleman from Ohio for his remarks and I want the gentleman to know also that, although we have a great tendency to talk about enhanced neutron weapons, as a defensive weapon, it is also an offensive weapon. When we first talked about it in the early sixties, the Russians were working on developing it. The American military and civilian people were concerned about it being a great offensive weapon on the part of the Russians. Obviously, its proponents use whatever argument is convenient at the time, without being concerned about the ultimate consequence. If one side uses the neutron weapon, the other side will, and we will be on the road to mutual annihilation.

Mr. SEIBERLING. The article points out that we already have fantastically effective nonnuclear antitank weapons and that to rely on them would be far more credible, and far more effective, than the neutron weapon, and also would be far less costly.

There is no sense spending billions of dollars on a far more dangerous and expensive weapon when we have a more viable alternative in our hands.

The Scientific American article also points out, among other things, that the Russians, if they attack with their 20,000 tanks, would necessitate a response with thousands of neutron weapons to have any significant effect and this would negate the very point made by the proponents of the weapon that they have a narrower radius of blast damage than conventional tactical weapons. By the time you use thousands of neutron warheads all across West Germany, you will have wiped out any significant advantage from that viewpoint.

Mr. Chairman, I recommend that all Members concerned about this issue read the May issue of Scientific American. It is an eye opener.

Mr. SIMON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise with some reluctance, not because of the lack of merit of the cause, but because I happen to be in opposition to the dean of my delegation (Mr. PRICE) who has contributed immensely to this Nation, to the House; all of us are grateful to the gentleman from Illinois (Mr. PRICE) for his great service. But it does seem to me that the neutron bomb, the ERW, whatever you want to call it, poses special questions.

No. 1 is the military. As has just been pointed out by my colleague, the gentleman from Ohio (Mr. SEIBERLING), this was for military reasons rejected in the 1960's.

One of the things we have to keep in mind is that from the effects of a neutron bomb we have immediate death or death within a few minutes of from 7 to 16 percent of those persons who are in the radiation area; then we have about 40 percent who know they will die in a relatively short time, but whose military equipment is still in perfect functioning order.

From a strategic and tactical point of view, the last thing we want is someone on the other side who knows death is inevitable and who can be completely reckless in the use of a weapon. So from a military viewpoint I do not think it makes sense.

Morally, I think war is bad enough, but to have a weapon that involves slow death for massive numbers raises even greater moral questions about the whole issue. Finally, from a security perspective we have to ask ourselves the question: How much security do we want until we get to the point where we have insecurity as a result of having so much security?

Does any Member here believe that if we go ahead with the neutron bomb, the Soviets and others will not? Of course, they will. Somehow there has to be some self-restraint, and we ought to be exercising it.

Candidly, I am not optimistic that the amendment offered by the gentleman from New York (Mr. WEISS) is going to carry, but it is important to raise the question, because I hope one of these days we are going to come to our senses and say this is not the direction we want to go as a nation and as a world.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the gentleman from Illinois (Mr. SIMON) makes a point that concerns many of us greatly.

At one time this country was the only country that had atomic weapons; is that not correct?

Mr. SIMON. That is correct.

Mr. VOLKMER. Look where we are now and consider what we have given to our children and their children forever and ever in this world. What they have is the knowledge that perhaps one day somewhere one person can start a holocaust to end the world. They have to live with that. People born today will have to live their whole lives with the knowledge that that can occur.

Are we now going to escalate this by adopting another weapon that can kill maybe a little more efficiently, but kill a fewer at a time? When are we really going to get civilized to the point where we are going to say we will foster love and hope rather than death? That is what concerns me.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I am pleased to yield to the dean of my delegation.

Mr. PRICE. Mr. Chairman, the gentleman asks a very good question. If the gentleman will recall, at the beginning of the atomic age we thought we were the only ones in the picture. It was hardly a matter of months before we found out we were not.

I do not think that we are the only ones in this picture now. I would say that even if we go ahead with our development, we will not be the only ones who have the same type of weapons. That may change within a few months.

Mr. SIMON. Mr. Chairman, the dean of my delegation knows infinitely more about defense matters than I do.

But today I would rather be adopting a resolution calling on the President to lead us toward an agreement among all nations that we are not going to have any neutron weapons. That direction provides much greater security for our Nation and for the world.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am going to try to clarify some of the misconceptions that are obviously apparent in this discussion on the neutron warhead.

This is not a new weapon. It is a weapon that was developed many, many years ago. It was, in fact, a "dud" because it did not create a blast, as most bombs do; it merely gave off radiation, and it did not tear down buildings, bridges, and structures of that type. So it was discarded after the initial experiments directed toward building a destructive weapon.

We talk about giving the Russians a new weapon or bringing a new weapon into existence.

Do our colleagues realize that the Russians right now have already exploded and, obviously, have in their inventory a 58-megaton nuclear bomb? That is 58,000 times as big as this warhead we are speaking about, and it is a dirty bomb. It is a bomb that cannot only kill people by radiation, but it can create fallout which covers a vast area of thousands of miles and could kill probably a thousand times as many people as this particular defensive warhead would do. This neutron warhead is a defensive weapon. No wonder the Russians do not want it. They are worried about it because they do not want to have to worry about defending against this particular type of weapon. They are massing tanks right now in Europe, about 4 to 1 on the western front over what the NATO forces have. And this is a weapon system that they are very much afraid about because it will be aimed right at those tanks.

The Committee on Armed Services was in Russia about a month ago, and it was really almost pathetic to see the Chairman of the Joint Chiefs and the intourist guides all saying, "Oh, you cannot build this weapon because it will kill men, women, and children." Well, what do they think their weapons system they have right now will do? It will kill men, women, and children about 40,000 times more effectively than this particular system.

All we want is a system that our troops and that our allies and NATO can use against oncoming tanks or artillery or military forces that are attacking our country. We do not have to blow up Germany or blow up Austria, or wherever the Russians may deploy their forces.

No wonder the Russians do not want us to have it. They can build this in a minute. There is no real secret how to build this weapon. No wonder they do not want us to have it. They do not want us to have a neutron weapon. This is a defensive weapon. What will it defend against? It will defend against their forces. Believe me, when we see what is happening, the acceleration of the Russian forces even now, this is really the only effective weapon that is being planned against that.

Mr. Chairman, I would hope my colleagues would vote against this amendment.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out to the gentleman the statement of the late Senator Thomas Dodd, which he made in February 1963, on the floor of the other body, in which he said:

> How blind to say that the neutron bomb would not alter the balance of power. The nation that has it can destroy opposing armies without risk of fallout or damage to property of friend or foe. The nation that does not have it will be faced with the choice between surrender or starting an all-out nuclear war.

Will the gentleman tell me, in the event that we use it, what does he think the Russians will do in return? Will they surrender or start an all-out thermonuclear war?

Mr. BOB WILSON. I will say to the gentleman that I think they will think twice about starting a war, knowing that we have this in our arsenal.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I will tell the gentleman what will happen. We will use it in retaliation for whatever the Russians used against us first.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleagues for yielding.

I did not originally favor the neutron bomb. It seemed to me a hideous idea.

We went to the White House, and I was convinced by our President that it was our duty to support increased funds for development of this weapon.

Now I find myself in the middle, but I remember that when Harry Truman was faced with Dr. Oppenheimer telling him that it was the unanimous opinion of the scientists that the hydrogen bomb should not be built because it would engulf us in a maelstrom affecting the whole planet, Harry Truman said, "If the Russians can make it, where would we be. Go ahead, make it."

The CHAIRMAN pro tempore (Mr. HUGHES). The time of the gentleman from California (Mr. BOB WILSON) has expired.

(On request of Mr. ROBERT W. DANIEL, JR., and by unanimous consent, Mr. BOB WILSON was allowed to proceed for 1 additional minute.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I think the gentleman has made a very good point.

As long as we are reviewing the historical perspective of enhanced radiation weapons, it might be useful to remember that in 1970 we deployed an enhanced radiation weapon in the Sprint antiballistic-missile system.

Why was an ER weapon deployed? Because it would have been detonated over the United States. The idea was to destroy reentry vehicles coming in without destroying Americans and their property with blast and heat.

The same situation obtains in Germany. The ER warhead is a means of killing Soviet armor crews without blowing up much of West Germany.

Mr. BOB WILSON. Mr. Chairman, I just want to make one point in conclusion.

This amendment denies to the President the right to make his decision on the production of this weapon and to come to the Congress and tell us about it. We have already given the President the only authority in existing law today to produce this particular type of weapon. We are not abdicating any of our responsibility. The law already says that only the President can make that decision.

Mr. Chairman, what this amendment tries to do is to take that decision away from the President; and I do not think we should do it.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. BOB WILSON) has again expired.

(On request of Mr. HILLIS and by unanimous consent, Mr. BOB WILSON was allowed to proceed for 2 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I am happy to yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I rise in support of and would like to associate myself with the gentleman's remarks.

Mr. Chairman, I ask the gentleman this question: Is it not a fact that this is basically a tactical defensive weapon, to be employed primarily against massed armor?

Mr. BOB WILSON. There is no question that it is a tactical defensive weapon. It is not an offensive weapon. We would not use this kind of weapon if we decided we were going to try to knock out another country. We would use a regular nuclear warhead or a conventional warhead.

Mr. HILLIS. Interestingly, I recall the fact that in World War II days when the Germans massed their most advanced technology at that time in the war against the Russians, they employed about 4,000 tanks and brought the Russians to the brink of disaster within 6 months.

Today the Soviet inventory is over 40,000 tanks, 10 times the number which Hitler employed against them, and roughly twice what we have. Is that not true, that against the NATO forces they have a ratio of 2 to 1?

Mr. BOB WILSON. That is true.

Mr. HILLIS. And 4 to 1 in their total inventory.

That is the reason for the need for this

type of counterbalancing defensive weapons system, is it not?

Mr. BOB WILSON. That is true completely.

Mr. HILLIS. I just wanted to bring those facts out, Mr. Chairman, in support of the gentleman's statement because it seems to me that we have one of two choices: That is, to build a great deal more armored vehicles and match tank for tank or deploy a defense against tanks.

Mr. BOB WILSON. Mr. Chairman, I thank the gentleman.

I would just like to say that this is the only weapons system I know of which the Russians are really afraid of, the only one that has real prospects for us. I think that fact alone commends it to us for consideration.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the Weiss amendment.

I think we ought to be aware of exactly what this amendment does. I think the gentleman from California (Mr. BOB WILSON) has pointed it out clearly, but it ought to be emphasized.

We are not really being asked to vote here on whether we are for the neutron bomb or against the neutron bomb. We are being asked to restrict the President of the United States and to tie the hands of the President of the United States.

Mr. Chairman, the Weiss amendment would eliminate the wording that appears at the bottom of page 11, which says:

> . . . unless the President certifies to the Congress that the production of such weapons is in the national interest and submits a report to the Congress stating his reasons for such production.

Why should we want to take that right away from the President of the United States? Why should we want to put obstacles in his path? The President has decided that the neutron weapon should be temporarily deferred in an effort to try to achieve some kind of diplomatic concession on the part of the Soviet Union in response to that great act of restraint by the President of the United States.

My friend from Illinois (Mr. SIMON) says that we ought to exercise more restraint. Well, we are the ones who have been exercising restraint in this matter for a number of years, and we have not seen very much reciprocal restraint on the other side. But, here is an example of the President's exercising restraint.

Every responsible military leader, and I think every responsible political leader, with perhaps one exception, has urged the President to go ahead with the neutron bomb, but he has said no. He wants to exercise restraint and he wants to ask the Russians to come up with some matching concession. I happen to think that is a mistake.

Our committee was in the Soviet Union over Easter. We met with some of the top defense people, and I think that everybody who was on that trip came away with the impression that the Russians are not going to give any concessions that they do not have to give, and they are certainly not going to give any concessions for a weapon that we are not even going to build.

However, the President is the President, and he has made that decision. It may well be that at some point down the line the President will begin to recognize that he is not going to get any concessions from the Soviet Union. Mr. Brezhnev sneered at and ridiculed the President's decision by saying, "Yes, if you do not build it we will give you a concession. We will not build it either."

I dare say they have not built it, and I am not sure they can build it in the very near future either. So, why should we tie the President's hands? It may well be that an emergency will come along when the President will decide that it is a very vital thing after all to have this defensive weapon in the hands of our NATO troops, and will want to go ahead and proceed with it.

Are we going to say, "Oh, no, Mr. President, you cannot do that. You have got to come up here; you have got to go through all this rinkydink of getting a congressional resolution adopted in the House and in the Senate, and we are going to have another cliffhanger like the Panama Canal or some of these other matters."

In matters of this kind, we ought not to tie the hands of the President. I am surprised that the gentleman from New York would suggest that we ought to tie his hands.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman very much for yielding to me.

Mr. Chairman, I know that consistency is not one of the great virtues of any of us, but I just wondered what the gentleman's position was on the question of tying the President's hands when we were dealing with the B–1 bomber issue.

Mr. STRATTON. Well, I am talking about this particular situation. The President has made a decision which I think goes in the right direction and is in the national interest. If he begins to appreciate the fact that the Russians are not going to make any concession, and they have already made it clear that they are not going to make any concession, he may well change his mind. And I believe in redemption. I think the President ought to have an opportunity to change his mind, as the gentlewoman from New Jersey has told us a moment ago that she has changed her mind, because I think the President may recognize that if he changes his mind, he is going to be protecting our forces in NATO.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to my friend from California.

Mr. LAGOMARSINO. I think the gentleman makes the point very well, that unless there is something to trade we are going to get no concessions from the Russians whatsoever. I personally believe that the President made a mistake in deferring deployment of the enhanced radiation weapon, but he did so. As my friend the gentleman in the well pointed out, he has made that decision.

The CHAIRMAN pro tempore (Mr. HUGHES). The time of the gentleman from New York has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent Mr. STRATTON was allowed to proceed for 1 additional minute.)

Mr. LAGOMARSINO. If we tie the President's hands now on this, not only are the Russians going to be laughing at us even more than they already are, but we are going to take away from the President the opportunity he still has to proceed with production or to at least get something in return. The worst thing we have been doing is making concessions in defense without getting anything in return.

Mr. STRATTON. The gentleman is absolutely correct. The classic case of this, of course, is the anti-ballistic missile. I remember back in 1967, when Secretary McNamara found out that the Russians were in the process of building an ABM.

He asked President Johnson for the right to go to Glassboro, N.J., to sit down with Mr. Kosygin and whoever else was in the leadership at that time, I have forgotten whom, and tell him that it made no sense for the Russians to go ahead with the ABM because if they built it then we would build it too and there would be a lot of expenditure of money made on both sides, but there would be no improvement in security on either side. The Russians absolutely ignored Mr. McNamara's logic. I do not know how they could have withstood his logic but they did.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. McNamara was a pretty bright guy and he used a lot of logic but it did not sell with Mr. Kosygin. It was not until the United States finally went ahead and built our own ABM that the Russians changed their minds and decided to negotiate a treaty to eliminate the ABM. They do not give anything away in return for something that does not exist. The sooner we recognize that, Mr. Chairman, the better off we will all be.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding to me.

I want to call the gentleman's attention to what we are really doing and what the Weiss amendment proposes to do.

We have on page 11 of the bill section 209 which starts out with a prohibition that says:

> No funds authorized to be appropriated by this Act may be used for the production of enhanced radiation weapons . . .

Then it brings in the exception, it says:

> . . . unless the President certifies to the Congress that the production of such weapons is in the national interest . . .

All we are offering is that the exception be removed.

Mr. STRATTON. That is exactly what I am complaining about.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield further?

Mr. STRATTON. I yield further to the gentleman from New York.

Mr. WEISS. Mr. Chairman, the gentleman forgets that this is not an appropriation measure, so in fact the President or the committee would have to come back and request an appropriation of funds but, even more than that, the Democratic Study Group on behest of the committee yesterday circulated among the Members of the House a statement, with a special bulletin that said that there are no moneys authorized to be appropriated in this measure for the enhanced radiation weapons.

If in fact there is no authorization here, then it does not cost anything to remove what is surplusage. The committee and the gentleman are trying to have it both ways and I think it should not be done.

Mr. STRATTON. The thing the gentleman from New York (Mr. WEISS) is trying to do is to kill the neutron weapon completely and totally, and then if the President or anybody else thinks that we do need the neutron weapon he will have to come back to the Congress with an authorization bill and then get an appropriation bill and in the process put up with all of the arguments and objections of the gentleman from New York (Mr. WEISS) and his colleagues.

If the gentleman has been paying any attention to what has been going on in NATO lately, particularly what Senator NUNN has been saying when he pointed out that the Russians now have the ability to make a surprise attack on Western Europe, then I say it might well be that they could exercise that capability within the period of time of this legislation. And if the President then wants to change his mind and go ahead and produce the neutron weapon for defensive purposes against such an attack he would have his hands tied. He would manifestly not be able to act in time.

That is what the gentleman's amendment would do and that is why I object to it.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. PATTISON of New York. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. PATTISON of New York. Mr. Chairman, it is a rare occasion when I speak out in favor of the development of an additional weapons system. However, I am on record as a supporter of enhanced radiation weapons, and I would like to take this opportunity to outline my position on this issue.

I support the development of enhanced radiation weapons, but not because I believe they will help the United States win a major war with the Soviet Union. First of all, I do not believe such a war can be won by either side. On the contrary, I support development of these weapons because I believe they will deter the Soviet Union from launching an attack on Western Europe which would inevitably and quickly escalate into a full-scale nuclear confrontation.

Second, we must recognize that the neutron warhead is only useful as a defensive weapon. It is designed for use in repelling an attack on friendly soil, and its use will not result in the extensive damage which would be caused by our present tactical nuclear weapons.

I do not mean to take an alarmist position over the buildup of Soviet forces. We should not assume that because the Russians have amassed superior conventional armies that they necessarily intend to use those armies against the West. Remember that the Soviets have extensive, hostile borders. Our NATO forces are stationed in Europe purely as a deterrent against the Warsaw Pact. On the other hand, Soviet troops in the area have two missions: They must not only act as a deterrent to a perceived threat from the West, but they also maintain Russian dominance over the Eastern European satellites. Without approving of Soviet aims, it is important that we look at this situation objectively.

But just because the threat of invasion is not imminent, this does not mean that we will not need enhanced radiation weapons at some future date.

Therefore, my concern is not with matching the Soviet buildup, rather I support the enhanced radiation weapon as a method of convincing the Soviet Union of our long-term commitment to the defense of Western Europe.

We need an effective defensive weapon which the Soviets believe we will use in the event of attack. At this point, the Warsaw Pact forces have three times as many tanks as the NATO forces, and they are superior in most other conventional forces. We cannot ignore a continued, long-term buildup of Soviet military power in Europe if we are to continue to lead the Western alliance. Faced with this situation, I see no alternative to enhanced radiation weapons. The costs of increasing our conventional forces in the coming years to the point where they will pose a credible deterrent are greater than we and our allies can afford. Nor do I see our present tactical nuclear weapons as viable alternatives. Their use would involve saving Western Europe from Soviet aggression by destroying it.

Therefore, we may find ourselves in a situation where the Soviets perceive that an attack on Western Europe could succeed. It is quite possible that they could, at some point, perceive us as unable to defend Europe with conventional forces and unwilling to defend Europe with nuclear weapons.

I do not believe such a perception will ever be correct. A Soviet invasion of Western Europe would result in our taking any step necessary to repel that invasion, and there is no doubt in my mind that nuclear war would result. We should, therefore, make sure that the Soviets understand our resolve.

If we have a weapon which could effectively counteract Soviet conventional superiority, and if the Soviets believe we will use this weapon, then there is less chance that the Soviet Union will ever seriously consider launching an attack, and the probability of a resulting nuclear holocaust is diminished. The enhanced radiation warhead is such a weapon, and I support its development. President Carter has only deferred production. We should leave him the option of continuing research and development, so that it will be available for deployment at a future date.

Mr. DOWNEY. Mr. Chairman, this has been a difficult issue for me since I rise in opposition to the amendment offered by my colleague the gentleman from New York (Mr. WEISS). I think the language in the bill is satisfactory. But I rise in order to raise the issue that this is another bargaining chip that can be used and, in addition to that, to give an opportunity to my friend the gentleman from New York (Mr. WEISS) and other Members to respond to this argument so that we can have a full discussion on it.

Mr. Chairman, there are certain realities about the strategic arena and tactical situation both in NATO and with the Soviets that I believe we should comment upon.

First of all, as to the strategic balance, it appears to me, from my study of the situation, that the Soviets have embarked since 1962 on an effort to catch up with what has been clearly and continues to be, in my opinion, a position of the United States of strategic superiority.

That is not true of the NATO theater, however. Within the last decade the Soviets have spent a great deal of time and energy building up their tank forces, prepositioning troops and stores in Eastern Europe.

There are a couple of reasons why they might do this. First of all, they may be doing it for the reason that my friend, the gentleman from New York (Mr. STRATTON) suggested, that they want to have a surprise attack. I rate the chances of this, as I once told the gentleman from California (Mr. DELLUMS) as 10 to the minus 7th because people fight wars and make surprise attacks if there is something to be gained. But a Soviet invasion of Western Europe at this time, or any time in the future, would leave them little in the way of hard economic value to be gained.

The second reason why the Soviets may be building up, and I think the far more creditable reason is that they are concerned about the strength and viability of their Warsaw Pact Alliance. Clearly the Soviets have to be concerned about the interest and dedication of Polish and Czechoslovakian divisions, or Romanian divisions, to fight in the event of a war, should NATO become provocative, and it would be my feeling that a lot of this buildup is to shore up a weak-

ening, and in some instances, in my opinion, a very tenuous Warsaw Pact Alliance.

The third reason the Soviets might be building up—and again I think part of this reason is valid—is that they seek to extract from the NATO Alliance or the United States at some time of crisis some diplomatic or political concession because they have an absolute superiority of forces. I think that is a real possibility.

The fourth reason is the traditional Soviet fear, since that corridor has been a traditional invasion route since time immemorial, to protect themselves against any military eventuality.

What role does the neutron bomb play in this? I think if one could go to the White House and sit down and speak with President Carter, he probably shares the concerns that my friend, the gentleman from New York (Mr. WEISS) has about escalating the arms race. I think his instincts on these weapons are important, valid, and the sort of thing that we should be thankful for having a President who has these instincts.

But I think that the mistake in this instance is that we have already gone through research and development with this weapon. We have already begun to build, and while we have not deployed it, it is a weapon that remains in our arsenal. The question we should ask ourselves is if by negotiating with the Russians, who may at some future time change their minds and want to negotiate on the weapon, can we extract a concession from the Soviets not to deploy the SS–20, remove a tank division from the Warsaw Pact, or to move back some of their troops. If we can do this—and I cannot suggest that we can—it would seem to me that would be to the Soviets' interest and in our interest. It would be a mutual reduction in the balance of terror in that area, and I suspect it will also pave the way in the future for more meaningful talks on the MBFR. So if one is to vote against the Weiss amendment, I hope we do not believe that the Russians are frightened of this weapon, because I do not believe they are. Rather, if we can extract something from them and gain a temporary halt to this mutual madness, it would seem to me in our interest to do that.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 5 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

I would in the interest of time rise in support of the Weiss amendment. I do not believe in the bargaining-chip philosophy. I do not really believe that we can trust those Communist Russians if they say that they are afraid of this bomb, as they have said to some of the members of the Committee on Armed Services. Why should we trust them if they say they are afraid, when we do not trust them when they say they want peace?

I would like to ask the gentleman a question. Maybe someone else can answer it. Where it says that the President must certify to the Congress his weapons in the national interest, first of all, I would hope we would only build weapons—whatever he does—in the national interest. But is that a certification under penalty of perjury? Does he have to have it notarized? Does anyone know how the Presidential certification would work?

Mr. DOWNEY. I can only respond to the gentleman by saying that that language appears to be the sort of language that tends to mollify those of us who might be concerned about this weapon. I do not know that it means anything other than the President of the United States says that it is in the national interest. That he can do at any time, in any case.

Mr. JOHN L. BURTON. I think the constitutional oath requires him to do things in the national interest. The point I am trying to make is that I think that little hook is not big enough to hang one's hat on. I do not know, but I guess he might have a notary in the White House who might make it more meaningful, because in effect if he certifies it as being in the public or national interest and it is not, it might be an impeachable offense.

One can go for the bomb or not. I just do not think these little hedgings can do much to take away from what really the issue is, and the issue is that this bomb will have a tendency to make the possibility of nuclear war, which will be the destruction of the human race, a little more probable.

Mr. DOWNEY. Let me just engage the gentleman on the point I was trying to raise. The Soviets have developed what is known as the killer satellite. What would be the gentleman's reaction if we could say to the Soviets, "Look, we know you have the killer satellite, which basically is a joke. It is too expensive to operate. It is not reliable. What if we were able to trade the killer satellite for the neutron bomb?"

Would not that make some sense?

Mr. JOHN L. BURTON. Neither makes sense. What we are saying is that we should spend the taxpayers' money and throw it away, when the American people and the Congress never knew about it. If the Russians are dumb enough to spend money on something too expensive and that will not work, it does not follow that we have to spend money on something as a bargaining chip on a weapon as expensive as that.

I think we have to get away from arming ourselves and then saying, "Let's back away a little bit more on this bargaining chip."

Mr. DOWNEY. My friend, the gentleman from California, raises a very fundamental question, that is, what is the validity, if any, of unilateral restraint. All I am saying is that I think there is validity to unilateral restraint, but on this issue we have really gone beyond unilateral restraint. The President has made a decision to unilaterally restrain our deployment while leaving the way open to bargain with the Soviets.

Mr. JOHN L. BURTON. Is not the B–1 bomber a bargaining chip? We talk about the Soviets being in Eastern Europe. I think a lot of us forgot that is where they are. I would rather have them in Eastern Europe than in western Kansas.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the gentleman has been talking a lot about bargaining chips. I just wonder if the gentleman has reflected on the fact that we talked about bargaining chips in the past with MIRV and MARV. We have had MIRV's deployed for about a decade. We have MARV's in the R. & D. stage. Both are destabilizing in their impact on our security, relative to what we could have had if both sides had not developed them.

Is it not true when we talk about bargaining chips, rather than about the merits of any weapon itself, that there can be two possible results: One, is that you succeed in bargaining out something, and that is advantageous; the other possibility is that you fail. If you fail, my question is, Are you not then stuck with the decision to go ahead, whatever the demerits of the weapons proposal might be?

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. MAGUIRE, and by unanimous consent, Mr. DOWNEY was allowed to proceed for an additional 4 minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield further?

Mr. DOWNEY. I yield.

Mr. MAGUIRE. Second, do we not have the danger of becoming bemused with our own arguments about marginal advantages of this or that weapons system while ignoring some fundamentals? In this case it is the threshold factor, the blurring of the distinction between nonnuclear and nuclear weapons, which could be terribly serious if, in fact, we end up either by default as a result of a failed bargaining effort, or by intention, going ahead eventually in the development of these weapons. Would the gentleman respond to those two points?

Mr. DOWNEY. The gentleman raises two excellent points and, of course, he is historically accurate when the gentleman refers to the MIRV's; had we negotiated with the Russians on this point we would not be in a position to have our Minutemen silos threatened and in turn threaten their silo field.

Mr. MAGUIRE. I think we end up less secure in our position than we had been.

Mr. DOWNEY. Absolutely. The gentleman is also correct, it seems to me, when he makes the statement that once we do offer it and then if in fact it is rejected, we are committed to going ahead.

Mr. MAGUIRE. Does the gentleman accept that—even if the weapon itself makes no sense from the standpoint of national security?

Mr. DOWNEY. I do not accept the underlying assumption that the weapons

system does not make sense. The argument about this weapons system being used on the eastern front or the battlefields of Western Europe is preposterous, mainly because once neutron bombs are exploded in West Germany or possibly in Eastern Europe, then there will be wholesale nuclear confrontation.

So the argument the gentleman makes with respect to the threshold is, it seems to me, not a valid one. The fact is that once we begin deploying nuclear weapons and once we begin using them, then we run the risk of having a nuclear holocaust. So the argument as to whether or not this replaces dirty or more lethal and more destructive tactical weapons is a marginal one to say the least.

I do not think this neutron weapon is to be put in that category, and I do not see it as bringing us closer to the threshold.

Mr. MAGUIRE. The gentleman will agree that it blurs the distinction between nonnuclear and nuclear weapons, does he not?

Mr. DOWNEY. Only marginally, I would say to my friend, the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, if the gentleman will yield further, may I ask one final question?

Mr. DOWNEY. Certainly.

Mr. MAGUIRE. Would it not be possible to conceive of a situation in which the Soviet Union—regardless of what they are saying, and I do not see why we should take it at face value—might really prefer in the Western European theater to have these weapons so that if they invade they would not suffer the loss of the economic base and materiel in Western Europe, to which the gentleman earlier referred?

Mr. DOWNEY. That is conceivable if we accept the argument that we could on the battlefield wage a limited nuclear war. That is the "second fire break" theory, that on a battlefield in Western Europe both sides would be free to use nuclear weapons but would not escalate beyond the battlefield.

I postulated that theory, and it has, I concluded, varying degrees of validity.

In direct answer to the question asked by the gentleman from New Jersey (Mr. MAGUIRE), if the Russians postulated an attack and wanted to take over the West with the slightest amount of political and economic damage, possibly the deployment and use of neutron weapons would be acceptable to them.

Mr. MAGUIRE. The argument the gentleman from New York (Mr. DOWNEY) puts forth that the threshold theory is not relevant fails at the point it becomes obvious we are going over the threshold. Up to that point the gentleman's argument may be valid, but once we get to the threshold it seems to me the argument that we should not blur that distinction is reinforced. If we get to the threshold, the danger is inherent and the distinction is blurred; and if we then go over the precipice, the gentleman's argument becomes very weak indeed.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, on the question raised that the Russians are not giving up anything by their refusal or failure to go ahead with producing their own neutron bomb, does the gentleman recall reading or hearing the statements that were made back in the early 1960's on this subject? I refer specifically to Senator Dodd's statement.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. DOWNEY) has expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield further?

Mr. DOWNEY. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, if I may continue, the concern that Senator Dodd and some of the others who felt as he did had at that time was that the Russians appeared to be months or perhaps years—in any event, it was a very short period—away from having been ready to produce their own neutron bomb. All the scientific research and evidence pointed toward that, and there is no question about the fact that the neutron bomb they referred to was the same instrumentality we are talking about now. The concern at that time was that it could be used and would be used by the Russians as an offensive weapon.

Mr. Chairman, I quote from the statement by Senator Dodd to which I referred, as follows:

> I find it worrisome in the extreme to know that they may now possess, or will soon possess, the very weapon which could assist them immeasurably toward realizing their goals, for this weapon would permit them to achieve the coveted prize of Western Europe with an intact urban-industrial fabric, instead of battering it to rubble with atomic or hydrogen bombs, or even with high explosives, as was the case in World War II.

Now, Mr. Chairman, in light of that statement, let me continue.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. Not at this time.

Mr. ROUSSELOT. Mr. Chairman, I ask the gentleman to yield for a point of information. When was that statement by Senator Dodd made?

Mr. MAGUIRE. Mr. Chairman, the gentleman from California (Mr. ROUSSELOT) is out of order.

The CHAIRMAN. The Chair will state that the gentleman from New York (Mr. DOWNEY) has the time, and the gentleman from New York (Mr. WEISS) has the floor.

Mr. WEISS. Mr. Chairman, I will say to my good friend in the well, the gentleman from New York (Mr. DOWNEY) that that was a statement that the late Senator Dodd made on February 21, 1963, on the floor of the U.S. Senate.

In light of that statement, does the gentleman not feel that the mutual self-restraint exercised by both sides since then has had inherent worth and value to the future survival of the world?

Mr. DOWNEY. Mr. Chairman, to the last point, let me say the gentleman, I think, anticipates my answer, and it is an emphatic "yes." Of course, mutual self-restraint makes a very big difference to the security of our Nation and to the security of the Soviets and to world stability in general.

I do not want to sound like a hardliner here, and I do not think I am. But I think we should take a look at the history of NATO, at least the last 10 years. It has not been an area where the Soviets have restrained themselves.

The CHAIRMAN pro tempore. The time of the genteman from New York (Mr. DOWNEY) has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. Mr. Chairman, we are talking tactically now. I would say to my friend, the gentleman from New York, that alliance, the Warsaw Pact alliance, and the Soviet buildup has clearly not been marked by restraint. We have made—and I am not so sure our efforts have been as strong as they should have been—real efforts in the MBFR to achieve some real progress. The Soviets have been darned reluctant to do that. In this particular area, as opposed to the strategic—which I would argue much differently—the Soviets have not shown a whole lot of restraint, and so I would like to offer them the opportunity to do so.

So far as punching holes in terms of the firebreak theory, I think we have a fundamental disagreement.

Mr. WEISS. Would the gentleman agree that if the Russians had the neutron bomb and we did not, would we in fact be arguing it was a great weapon of offensive means or purposes?

Mr. DOWNEY. I suspect we probably would.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. Chairman, I apologize to my colleague, the gentleman from New York (Mr. WEISS) for interrupting his statement but the point I wanted to make at that time was that the statement he quoted of the late Senator Dodd of Connecticut was made in 1963. That certainly is outdated as it relates to the subject we are discussing here today, as I see it.

First of all, our decisionmaking process on the radiation weapon was started up, basically, in 1970, so I do not really agree that that statement of the late Senator is applicable to today's discussion.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I would like to say to the gentleman that I thought his argument was excellent and deep. I do not think there are holes in it, and I would concur in the comments he made.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. DOWNEY) has again expired.

(On request of Mr. WHITE and by unanimous consent, Mr. DOWNEY was allowed to proceed for 1 additional minute.)

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, I would like to ask the gentleman this question: If the Russians were experimenting with the neutron bomb in the 1960's, and there is evidence of the tremendous amounts of money that have been expended on offensive weapons, if they regard it as an offensive weapon would not they have had it by now and had it in their arsenal? And is it not really true that it is truly a defensive weapon that is necessary for the NATO troops against the massive armored attack the Soviets would use if they launched an attack?

Mr. DOWNEY. I can only respond that I do not know what the Russians were thinking or what they would have done, and I am not in a position to judge their military deployment at the time. All I can suggest to the gentleman is that in 1963 the Soviet Union was a decade or two away from even achieving the ability to do that, simply because they are still a decade or two away from achieving various other techniques.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. DOWNEY) has again expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. DOWNEY was allowed to proceed for 1 additional minute.)

Mr. WHITE. Mr. Chairman, if the gentleman will yield for 20 seconds more, is it not a fact that with this weapon 14 inches of damp earth is adequate to protect defending troops from being affected by the neutron bomb?

Mr. DOWNEY. It may be.

Ms. HOLTZMAN. Mr. Chairman will the gentleman yield?

Mr. DOWNEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

Mr. Chairman, is it the gentleman's position in support of this neutron bomb that we are incapable of fighting and winning a conventional war in Europe?

Mr. DOWNEY. No.

Ms. HOLTZMAN. Then why do we need this bomb?

Mr. DOWNEY. As I stated before—and let me say most emphatically—if we had to fight a conventional war in NATO today, I am not so sanguine about the outcome.

Ms. HOLTZMAN. What is the gentleman's answer then? Can we win a conventional war or can we not right now?

Mr. DOWNEY. In honesty, I will say to the gentlewoman, it would not be in the Russian interest or in our interest to wage a conventional war.

Ms. HOLTZMAN. Is it the gentleman's answer that we can win a conventional war in Europe?

Mr. DOWNEY. I would not be answering the gentlewoman honestly if I said I thought we could win a conventional war in Europe. I am not sure that we could.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have had very interesting debate here. I think we have pretty well exhausted it. But there were a couple of facts that I would like to bring out that I think are very pertinent here. One of the things that disturbs the Soviets most is the possibility that we will deploy the enhanced radiation neutron warhead. It is not a bomb.

The thing is—and we know this is so—we received over 30,000 petitions which have been mailed to the House of Representatives and have come to our committee. We know of their concern. Our committee visited there just last month, and this matter came up repeatedly. They ask us repeatedly why we persist in developing a neutron warhead.

The fact is they are concerned because this is, in fact, a real deterrent. In our briefings we have been told that we are looking at a 4-to-1 disparity in our tanks compared to Russian tanks, 4-to-1. We are outnumbered in artillery, in men, in tanks, in all of the conventional weapons of war.

In looking at what we are faced with, we know that we cannot win in a conventional war because if it is brought about by surprise attack, we do not have the prepositioning of men, material, and equipment there to handle a massive Soviet threat.

The point is that at the present time we can use our in-place tactical nuclear weapons on about 30 percent of the countryside without obliterating cities and so forth. If we go to an enhanced radiation warhead, it will by more than 200 percent increase the areas over which we can deploy tactical nuclear weapons and not have to worry about killing helpless, innocent civilians and destroying buildings unnecessarily and needlessly.

For that reason, because of our ability to use the weapon in so many more places without all of the collateral damage, that fact makes it a much more useful weapon, and it makes it much more of a deterrent. Moreover, it would give greater cause for the Russians to pause and reconsider before starting a conventional holocaust.

Mr. Chairman, we have unilaterally decided that we will pull out our troops in Korea. There was no quid pro quo. The President said we would do this with nothing in return.

We were told in committee that during the SALT talks of the prior administration there was an offer made that if we would not produce and deploy the B–1 bomber, perhaps the Russians would not build and deploy the Backfire bomber. The previous administration rejected this offer.

Then this administration unilaterally, with no quid pro quo, said, "We are not going to build the B–1 bomber," and today the Russians we know have over 100 Backfire bombers and are producing them at the rate of 30 per year. These are strategic weapons. No doubt the Russians can reach this country with strategic nuclear weapons. The only question is, Must they refuel to get back home?

Again, we canceled the B–1 bomber and got nothing in return.

Now what the proponents of this amendment would suggest is that we tie the President's hands. He has already halted production, but we are going to write into law that he cannot go into production under any circumstances.

What do we get in return for this? Again, nothing.

Mr. Chairman, the least we can do is not legally bind the President so that we cannot even negotiate and get some concession in return. I think we would be indeed foolish to do away with this option so that we cannot even negotiate based upon it, and I would certainly hope that the amendment is turned down.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I only asked the gentleman to yield so that we could have a further moment of debate on the whole question of a conventional war in Europe.

The gentleman stated—and I thought he was rather emphatic on this point—that the Russians, if they launched a surprise attack, obviously, after some maneuvering and then moving into Western Europe, could defeat the NATO forces. I am not so sure that I agree with that statement. I do not think the Russians could do that.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. DICKINSON was allowed to proceed for 1 additional minute.)

Mr. DICKINSON. Mr. Chairman, the gentleman from New York (Mr. DOWNEY) and I can differ in good faith on this matter, but the gentleman and I have both seen the military studies. General Holloway and others believe that the contrary is true. They believe a surprise attack launched now, with the full impact of the Warsaw Pact nations, would mean that we would be hard put to stop them, and it might even be impossible to stop them before we could reply effectively.

Mr. DOWNEY. If the gentleman will yield further, Mr. Chairman, all I am saying is that the history of Russian military tactics is not to launch surprise attacks, but to mass their forces and proceed in such a way that they could mass the greatest amount of their resources. That would give their forces plenty of time to prepare for an assault.

As the gentleman well knows, the studies also indicate that the attacker is at a severe disadvantage. He puts his armor in jeopardy from air attacks; he puts his troops in jeopardy from air attacks. I suppose that if he is the attacker he would not be so sure.

Mr. DICKINSON. The gentleman is assuming a lack of flexibility on the part of the Soviets that I cannot assume.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield briefly?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding to me.

Mr. Chairman, I find the question posed by the Weiss amendment a difficult one. The arguments presented by Mr. WEISS and Mr. SEIBERLING and others are very persuasive, but so too are the contrary arguments presented by such Members as Mr. DOWNEY.

In September, when Mr. WEISS offered a similar amendment, I finally voted against it after listening to the debate. I did so primarily because I felt the neutron bomb would add substantially to the West's deterrent against aggressive Soviet behavior in Central Europe.

Since that time, however, the Carter administration position has changed. While the administration is still asking the Congress to authorize production of the neutron bomb should the President find it necessary, Carter's decision to defer production of the weapon reveals, at the very least, an extreme reluctance to embark on production of a new kind of weapon and thus risk escalation of the arms race.

This decision tips the balance for me, against the committee bill and for the Weiss amendment, and I shall vote accordingly.

If the President should change his mind again and decide that production of the neutron bomb should proceed, he can come back to the Congress and ask for that authority. I for one will keep an open mind on the question of what action the Congress should take at that time.

Mr. DELLUMS. Mr. Chairman, I would begin by again congratulating my distinguished colleague from New York for bringing this extraordinarily important issue before this body for the purposes of debate and the making of a decision. It seems to me that by virtue of the fact that President Carter saw fit to defer production of this weapon, that that only attests to the gentleman's competency and understanding, certainly in part.

If, as was suggested by my distinguished colleague from New York (Mr. STRATTON) this amendment would end for all time the enhanced radiation warhead, or what is commonly referred to as the neutron bomb, then I am overwhelmingly in support of this amendment. It seems to me that there are two important questions that have to be answered in order that we here on the floor of the Congress can make a decision either for or against this amendment: Is it needed? Is it dangerous?

First, to the question of whether or not it is needed, several of my colleagues have walked into the well and said that we need this weapon as an antitank weapon. My response to that is that in the most recent Yom Kippur War in 1973, approximately 5,000 tanks were destroyed with nonenhanced radiation weapons; in fact, with conventional weapons. It seems to me that if 5,000 tanks could be destroyed in the Middle East without the neutron bomb, then how can anyone walk into the well and intelligently and rationally argue that we need a neutron bomb to destroy 5,000 or 6,000 tanks in another theater? I think that is absurd.

Second, the other question is whether or not we need it as a blue chip in bargaining. I think my distinguished colleague from California (Mr. JOHN L. BURTON) and my distinguished colleague from New Jersey (Mr. MAGUIRE) have argued eloquently against the notion of the blue chip concept. This argument has been used many times in the past on such systems as the MIRV and MaRV.

Ten or 15 years later, we still have not gone to the table to negotiate these absurd weapons. As a matter of fact, arms controllers have stated that this is an arms controller's nightmare, so why give the arms controllers nightmares as a blue chip to place on the negotiating table?

Further on the question of need, it is stated that we need these weapons in NATO because of the extraordinarily dangerous potential of war. It is the position of this Nation, that the probability of war in NATO between the United States and the Soviet Union, or between NATO and the Warsaw Pact, is somewhere between zero and one.

My point is this: If there is no urgency with respect to war in NATO, then why is there such great urgency about developing a warhead specifically for NATO? Again, the logic, the intelligence, the rationality of that argument defies understanding.

It certainly goes past this particular gentleman.

To the question of whether it is dangerous, first of all, let us go to the smaller point and that is that this bomb after explosion would produce approximately 150 "rads," which is three times what we consider as dangerous. Therefore it would not only be dangerous to the enemy, it more than likely would be dangerous to our own troops.

Finally, I think the most incredible danger is that it does indeed blur the distinction between nuclear and conventional weaponry and I believe it lowers the nuclear threshold.

Let me continue on and give you my argument on that: The United States and the Soviet Union today have, combined, an explosive capability amounting to between 10 tons, or more, of TNT for every man, woman, and child that lives on the face of the Earth. We have an incredible nuclear power and, at the same time, we are not throwing any bombs at each other, these other great big dirty nuclear bombs. Therefore, if you want to build a smaller, clean, nondangerous bomb, it would seem to me, on the basis of rational thought, we are making the neutron weapon thinkable and acceptable, which, in my humble opinion, is wrong. Ultimately and inevitably, according to every single person that I have talked to with respect to the possibility of war in the NATO countries has indicated that if it starts out as a conventional war that within a matter of days, a very short period of time, it would escalate to a global strategic world war. And anyone who believes that this would not involve the big, dirty nuclear bombs if we were to fire an enhanced radiation warhead are wrong.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. ALLEN. Mr. Chairman, will the gentleman yield for a question?

Mr. DELLUMS. Not now, let me finish my statement and then I will be glad to yield to the gentleman from Tennessee.

As I was saying, Mr. Chairman, if anyone here on the floor believes we could fire an enhanced radiation warhead neutron bomb and not assume that it would escalate into a global strategic war is living in a never-never land.

Every single person that I have talked to has indicated that it would escalate in an extraordinary fashion.

I think this is dangerous. I think it does lower the nuclear threshold. Why build a clean bomb if you are not considering its use.

If you want to enhance the credibility of the American people in the world then it seems to me that we should stop the development of this new generation of weapons that does indeed blur the distinction between nuclear and conventional warfare.

Finally, Mr. Chairman, one of my colleagues, in response to a question that was raised by the gentleman from New York, the author of the amendment, Mr. WEISS, said that we should do to the Russians what the Russians do to us. Several Members on the floor applauded, which was no shock to me, as often we applaud extraordinary statements on the floor of the Congress. Then I looked up in the galleries and I say the applause being given by young children to that comment. That indeed was frightening to see that. It seems to me that we as Members of the House of Representatives, representatives of the people, have in no way communicated to the American people the awesome potential of this weapon for children to applaud the possible destruction of the world.

It seems to me that we have gone through the Vietnam war with all of the death and destruction that it involved, and it did not teach anyone a lesson. We did not develop any new values. We did not develop any great respect for human life and we certainly did not develop the ability to say to the American people that some of the things we do place us further in danger. I think certainly with respect to this bomb that we do not understand the level of danger that this weapon would perpetrate upon us and the world.

I think that we ought to accept our responsibility as representatives of our people and stand up and point out what the dangers are.

I hope we vote to strike down any funds for the use of the neutron bomb because in my estimation it will endanger the future of the world.

Now I will be happy to yield to my colleague, the gentleman from Tennessee (Mr. ALLEN).

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. DOWNEY, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. ALLEN. Mr. Chairman, I thank the distinguished gentleman in the well Mr. DELLUMS for yielding to me. I would ask whether the gentleman can tell me whether or not he knows, or whether or not any other Member of this body knows and can tell me whether or not the President of the United States, our Commander in Chief, is asking for this authority in this bill?

Mr. DELLUMS. I would suggest that the gentleman ask the chairman.

Mr. ICHORD. Mr. Chairman, if the gentleman will yield, I would explain to the gentleman from Tennessee (Mr. ALLEN) that the President of the United States is definitely asking for the language in this bill. The President of the United States has made the decision not to deploy at this particular time the enhanced radiation device. We have been using the term "neutron bomb," which is completely out of date—and it is not a neutron bomb. It is an enhanced radiation warhead. What this language would give the President is the opportunity to change his mind. This is where the bargaining chip comes in. The President would still have to come back to the Congress and ask for a reprograming. That is why the argument of the gentleman from New York (Mr. DOWNEY) is so valid. It does give the President the option and a so-called bargaining chip in order to obtain, I hope, a mutual balanced force reduction.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague, the gentleman from New York, the author of the amendment, for a response.

Mr. WEISS. I appreciate the gentleman's yielding.

In response to a question that was put to the gentleman by the gentleman from Tennessee (Mr. ALLEN), I want to read, because it is the only way to do it accurately, the DSG correction that was printed at the request of the committee. It says:

"The DSG Legislative Report for the Week of May 15 incorrectly states that H.R. 11686, Energy Department National Security Authorization For FY 1979, contains funds for the production of neutron weapons. In fact, the bill does not"—and the word "not" is underlined—"contain such funds. Therefore on page 18 of the report under the heading Neutron Weapons, the first sentence should read:

"In accordance with President Carter's decision to defer a decision on production of neutron weapons, the bill does not contain funds for production of these weapons, but does authorize funds to further develop and produce the missile warheads and artillery shells which could be converted to deliver neutron weapons."

What we are trying to do here with this amendment is, to put that thought into the language of the legislation so that the committee cannot have it both ways, and on the one hand say, "No, there are no funds in here," but on the other hand say to the President, "Yes, you can spend funds so long as you certify." That is the clearest answer I can give to the gentleman.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Illinois.

Mr. PRICE. I thank the gentleman for yielding.

I think we ought to put the record straight. Here is what we are voting on in the final paragraph of the bill:

No funds authorized to be appropriated by this Act may be used for the production of enhanced radiation weapons unless the President certifies to the Congress that the production of such weapons is in the national interest and submits a report to the Congress stating his reasons for such production.

There has to be action on the part of the President to initiate any production.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Would the distinguished chairman of the Committee on Armed Services then advise this Committee? Are there or are there not funds in this authorization measure for the production of neutron weapons?

Mr. PRICE. If the gentleman from California would yield; there are no funds in this bill for the production of enhanced radiation weapons.

Mr. WEISS. Mr. Chairman, will the gentleman yield further?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. WEISS. Then where would the money come from that the President of the United States would have the authorization to request for the production of neutron weapons?

Mr. PRICE. If the gentleman from California would yield, that may be some subsequent action. Let me read this to the gentleman.

"There is no Presidential request now before the Congress for production of the "neutron bomb."

There is no authorization in the bill, or in the committee's report for production of the "neutron bomb." There is less than $15 million in the bill for R&D to maintain the enhanced radiation option.

The President has not made a production decision on the neutron bomb.

The President wants to retain an option to produce "neutron" weapons and the flexibility to make such a decision based on the needs of NATO, and not on overblown emotional arguments.

These are the "facts" and my purpose in stating them is to make them available so that we can all start from the same place in forming an opinion on this amendment."

Mr. WEISS. If the gentleman from California would yield further, then if the President has to request further sums, he could at that same time request further authorization. I submit that if there are, in fact, no moneys in here, there is no loss in doing what I suggest in the amendment, which is to strike that extraneous language which can only confuse the world.

Mr. DELLUMS. I agree with my colleague.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

The gentleman and I have spent many hours in talking about this in private, and I think it might be appropriate if we allow the chamber to be privy to some of the things that we have talked about.

One of the things that the gentleman has suggested is that the use of the neutron bomb, the neutron warhead, would lead to wholesale nuclear war.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(At the request of Mr. DOWNEY, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DOWNEY. Mr. Chairman, if the gentleman will yield further, that the use of the neutron warhead would lead to wholesale nuclear war. I believe on that point we are in agreement.

Mr. DELLUMS. The gentleman said we are in agreement on that point?

Mr. DOWNEY. We are in agreement. When we deal with neutron weapons to fight a war in Europe, we take away the reality of using weapons and deal with ethereal notions of the use of power and the use of force to extract political advantage. Would it not be in our interest to not deploy this weapon, but seek to get an agreement with the Soviets that they not employ their SS–20, so that the mutual security of both sides would be enhanced.

I think the gentleman and I agree more than we disagree. I think we are shading the meaning when we say we are not going to use this weapon, we are not going to war, where the Soviets will try to extract an advantage from us. That is what I am hoping, that we do not go to war. That is more the heart of the issue than the rhetoric we hear here about 50-megaton bombs. I do not believe it will be used. If it is, it will be the end of all of us.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman. As the gentleman knows, this is the gentleman's strongest and most credible argument, obviously, in the area of judgment. I do not have the answer to that, except to say to the gentleman that it seems to me that within the framework of the mutual reduction of forces discussions, we have to find a way to handle the nature of our presence in Europe through MBFR. We have struggled with the MBFR and it has never got off dead center. I am not at all sure that the gentleman's proposition would enhance that any more. I think it would complicate the situation even further; but that is my particular judgment.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

Mr. DOWNEY. Mr. Chairman, I ask unanimous consent that the gentleman

from California be allowed to proceed for an additional 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BRINKLEY. Mr. Chairman, reserving the right to object, will this be the last request?

Mr. DOWNEY. Yes. I just wanted the gentleman to finish the question.

Mr. BRINKLEY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for withholding the objection.

Mr. Chairman, I would say, finally, that with respect to NATO, the judgment of this Member is that the issues involved in Europe at this point are not military issues. They are political issues. It would seem to me it would not take a military solution to the problems, but it would take a political solution. The problems we have in the NATO nations have developed through other forms of politics, other forms of government. They are questions that have to be dealt with politically. I just believe that if we try to handle the problems in Europe with military solutions, we will creep further into a military holocaust. I do not think putting the enhanced radiation bomb in Europe will correct the situation. We have not done it with MBFR and I do not think we will do it with the enhanced radiation warhead.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. BURGENER. The gentleman feels this nuclear tactical weapon will lower the threshold and encourage the chance of a nuclear holocaust?

Mr. DELLUMS. Yes; from all the assessments I have, if a war starts in Europe even with conventional weapons, not tactical, it would escalate.

Mr. BURGENER. The genlteman would opt for removing all nuclear warheads from shells that are already there?

Mr. DELLUMS. That is extremely dangerous, yes.

Mr. BURGENER. The gentleman would favor removing them?

Mr. DELLUMS. Within 72 hours, we have plans to go to nuclear war and I think that would spell the destruction of the world.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I do not want to take the gentleman's time because I realize it is short, but I would like to just state that before the Committee on Armed Services, Mr. Warnke was asked about lowering the threshold and when questioned by Mr. NEDZI, Mr. Warnke said:

I say a neutron bomb, it seems to me, neither significantly lowers the nuclear threshold, nor does it——

Mr. NEDZI. Why doesn't it? It is a nuclear weapon, isn't it?

Mr. WARNKE. I say it doesn't lower the nuclear threshold.

Mr. NEDZI. Why not?

Mr. WARNKE. I think what the nuclear threshold depends on is the fear of retaliation.

In other words, that you don't begin to use nuclear weapons because you recognize the other side will respond.

Here is our chief negotiator speaking and I think that should be made a part of the record here.

Mr. BRINKLEY. Mr. Chairman, I would like to make several points that do not relate directly, first of all, to the enhanced radiation warhead.

First of all, our colleague, the gentleman from California, mentioned the lessons of Vietnam. There are two dimensions to those lessons. First, we have experienced the tragic holocaust in Cambodia. In a recent Atlanta Constitution "Armed Forces Week" political cartoon we see the eloquent words prepared for delivery by then President John F. Kennedy to have been delivered in Dallas, Tex., on November 22, 1963:

"If we are strong—

The words read—

our strength will speak for itself. If we are weak, words will be of no help.

That is one of the lessons from Vietnam and that is one of the problems being experienced in Cambodia, Africa, and other parts of Europe. All we seek to do is strengthen the hands of the Commander in Chief of our country.

In section 209 of this bill, there are two scenarios, as I see it, in NATO. Should we be invaded by the Warsaw Pact countries, now we could respond with the nuclear tactical warheads. If we should have the enhanced radiation warhead to use in response, we could be responding with that.

I ask, which would cause the most damage to people? Obviously, the one we have today, in place, would cause the most damage to people, if we count our allies and adversaries in the mortality column.

Therefore, it seems to me that the responses of Mr. Warnke to questions from Chairman NEDZI of our committee, to the effect that the neutron bomb would not lower the nuclear threshold, is an accurate one.

Mr. Chairman, could I have the attention of the gentleman from New York (Mr. WEISS) and ask the gentleman if in his judgment we responded with the missile we have in place today, compared with the missile we could have in place, namely, the enhanced radiation projectile and taking into account the greater casualty figures with the one we have today, if that would not raise, rather than lower the nuclear threshold?

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, the response I must give to the gentleman is the response that was given by both Secretary of Defense Harold Brown at his confirmation hearings and by the President of the United States on July 12 at a press conference. They were both asked basically the same question. I quote the President's statement, as follows:

My guess is . . . that the first use of atomic weapons might very well quickly lead to a rapid and uncontrolled escalation in the use of even more powerful weapons with possibly a world-wide holocaust resulting.

What the President is saying is that once we start using nuclear weapons, we start going down the path toward total escalation or nuclear war.

The danger of the neutron bomb is that since it seem to blur the distinction between nuclear weaponry and conventional weaponry, it is in fact more likely to be used, and, therefore, the threshold of nuclear war is lowered, and it brings us closer to global nuclear warfare.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. BRINKLEY) has expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. BRINKLEY was allowed to proceed for 3 additional minutes.)

Mr. BRINKLEY. Mr. Chairman, the response of the Secretary of Defense was with relation to any atomic or enhanced radiation projectile; it did not relate specifically to the enhanced radiation missile, did it?

Mr. WEISS. No. But, if the gentleman will yield further, the President's statement which I read was specifically in response to a question concerning the neutron bomb. That was the subject of the question asked on July 12, 1977.

I should say in further response to the specific question the gentleman raised, because I think it is a fair question, that one of the things that has gotten lost in the course of all this debate is that point which I think is very effectively set forth in the citation of the article to which I referred earlier and is the basis of the argument of many of my colleagues. That is that we are not talking about the single use of one single enhanced radiation weapon or neutron bomb.

What is being talked about in military terms is the massive use of these weapons in the counterattack echelons of tanks that are spread out across the landscape, so by the time they get through using massive numbers of neutron bombs and recognizing that the accuracy ratio is about 50 percent of those neutron bombs, they would hit within 450 meters of their targets. The fact then is that they would have the entire countryside probably just as devasted as if in fact they were using nonenhanced radiation nuclear weapons.

Mr. BRINKLEY. If the gentleman will withhold at that point, it seems to me that the intent of Secretary Brown in that earlier conversation the gentleman related was that any use of any nuclear attack bomb or vehicle would lead to escalation, to which the gentleman referred. Also, the chief arms negotiator for this country, Mr. Warnke, says that the enhanced radiation warhead would not blur the difference between nuclear

weaponry and conventional weaponry. It would seem to me, and I think to many of us, that it would heighten the threshold instead of lowering it, because it would result in less casualties rather than more.

Mr. LLOYD of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have gone on much too long on this amendment, and I recognize that in all probability my words will not change the attitudes nor the votes of those who are sitting in this Chamber. But I feel compelled to try to bring into perspective what we are doing here.

We have from the gentleman from New York, who, with great fervor, great emotion, is presenting an amendment. Unfortunately, none of us fully understand this weapons system and its application. But as a result of our being here, we must indeed make a decision. I think the importance of the decision here is that we keep in the arsenal or weaponry the greatest number of weapons at the disposal of those who may well have to fight, to be available to them in the event of that happening. I think that what we are missing here is that this weapon is not the ultimate weapon. It certainly is not on the scale of the application of the first atomic weapons at Hiroshima and Nagasaki. If it were used in any war today, it would not be on that scale. And when you speak about the weapon to which you have been referring as an ultimate weapon, it is not an ultimate weapon. There will be another generation and another generation. I would like to find a weapon or a methodology which would indeed reduce the necessity of war. But so far in the history of man we have been unable to produce that kind of a situation. I think to say if we do nothing, all will disappear is the foolish approach.

However, what I would ask my colleagues to do is to say to themselves, do I wish to deny the total arsenal of weaponry available to young men, and women, too, who may be called upon to fight in the next war? That is what this is all about.

Possession, in and of its own right, is sufficient intimidation to insure that we will not have to go into that war.

Mr. Chairman, I would say to the gentleman from New York (Mr. WEISS) that I believe this premise just as firmly and just as strongly as he feels his position. That is the reason we ought to give serious consideration before we take another weapon out of the hands of those who will be required to fight, and that fight will surely occur if, indeed, we continue to disarm unilaterally. That is exactly what has been going on.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I thank the gentleman for yielding.

First, I would like to say that I think his words are well chosen; and the point he makes is a very strong one.

I would point out to the gentleman the fact that about a month ago I took a trip to the Soviet Union. In the course of that trip, we stopped at Geneva and spoke to our SALT negotiators together with some of the Russian negotiators. The one thing that the Soviet people talked to me about is that they did not want the United States of America to build a neutron weapon. That they do not want us to do. We should get the message from that.

They did not worry about many of the other weapons we are building; but that one point they made over and over again. It is pretty obvious that that is the one weapon which can seriously change the balance of forces in Western Europe and make a difference with respect to Soviet power there, undermining their position of overwhelming strength.

Again, they told us what they do not want us to do. I think each one of us can think for a few minutes and realize why. Then if we decide not to do the one thing that really could seriously affect their power position in Western Europe, we would really be going against the interests of our country.

That is why I think General Singlaub was right when he called the decision not to build this weapon, particularly on a unilateral basis, ridiculous. It is a ridiculous decision. I agree with him.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LLOYD) has expired.

(On request of Mr. DORNAN and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I hope the vote on this issue is imminent, and I think it is.

I just wanted to ask the gentleman if he sees in this issue—because I want to associate myself with his remarks about unilateral disarmament—another effort of those in this House who see themselves as a disarmament lobby to take a defensive weapons system that has been misnamed and use it as a way—and I will concede sincerity in their position—to disarm our country further. I guess in the best sense they say to people, in the words of St. Francis of Assissi, "let's sow love instead of hatred," and that if we stop producing all of our weapons and turn our swords into plowshares, for the first time in recorded history determined enemy will respond by also disarming.

Does the gentleman see a straight and simple disarmament lobby effort here?

Mr. LLOYD of California. I do not know what the motivations of my colleagues are. I am only concerned about what the results are. That is what scares me.

Mr. DORNAN. May I make the observation that of the 31 people sponsoring this amendment, all but one, the gentlewoman from California (Mrs. BURKE), voted against the B–1 bomber on every one of 5 votes last year and this, if they were in attendance, both before and after President Carter's terrible June 30 axing of that defense weapons system.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LLOYD) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. LLOYD of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Will the distinguished gentleman yield further?

Mr. LLOYD of California. I yield to the gentleman from California.

Mr. DORNAN. To repeat, Mr. Chairman, all but one of these 31 sponsors, the gentlewoman from California (Mrs. BURKE), voted against the B–1 bomber; and all but 1 colleague, the only Member of the minority among the 31, the distinguished gentleman from Maryland (Mr. STEERS), voted against the nuclear *Nimitz* class carrier, the CV–71. Only 3 of the 31 Members voted against troop reductions throughout the world, including of course, South Korea and even our NATO troop commitment levels.

I sympathize with some of the similarities between this weapon and biological warfare. Nevertheless, I see this amendment as another piece-by-piece effort toward dismantling our whole defense structure.

For example the gentleman from California (Mr. DELLUMS) would support a total disarmament process, possibly with the best of motives; but I believe the naivete of unilateral disarmament flies in the face of what the gentleman from California (Mr. LLOYD) just said and of George Washington's warning that "the only way to keep the peace is to prepare for war."

Mr. LLOYD of California. Mr. Chairman, I agree with the gentleman's comment about Washington.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's yielding.

I simply wanted to commend him for his refusal to attribute motives such as the one just implied by the gentleman from California (Mr. DORNAN).

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. LLOYD of California. I yield to my colleague from California.

Mr. DELLUMS. I thank my distinguished colleague for yielding to me. I can only respond to the gentleman from California (Mr. DORNAN) that there is no probability at all. I think that my motives are extremely fine motives. All I am suggesting that our priorities are all wrong, and the nature of our perception of the world has to change.

I come here the same way the gentleman from California comes. I have a constituency which elected me to come here. I resent any effort to impugn my motives whatsoever. I am here fighting for the values and priorities I believe in as strongly as does the gentleman from California.

Mr. DORNAN. Mr. Chairman, I associated the gentleman with the love of Saint Francis of Assisi, which I did sincerely. I do not think that impugns his motives.

But, I repeat here is an occasion where we must ask ourselves, is this going to be the first time in all of recorded history where Christ's words to turn the other cheek will succeed in a political sense rather than in a self-perfecting personal and spiritual sense. We cannot be cavalier with other citizens' safety, security, liberty, and future. The head of a home or the head of a free nation has a moral obligation to defend from political rape or from a very real torture and genocide those entrusted to his or her protection.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the gentleman from New York for offering this amendment and opening up this great debate. The one thing that I am convinced of, the one thing that I know, is that every Member of this body, every person who has spoken, is dedicated through and through to the strength of this great Nation. We differ, and in this debate we have clarified our differences, on how to make this great Nation stronger. If this debate has done nothing else, it has taught us what our strategic forces are and what forces abroad in the world we face.

But, it has revealed something far more awesome. This debate has revealed the stark reality of the dilemma that we face in the world today; the dilemma that, in order to build a stronger Nation to defend ourselves, we move inexorably to the nuclear holocaust and the end of civilization. That dilemma is stark in this debate.

We see the Russians moving in Africa and in the Middle East, and we see their forces in Europe, and we feel impelled to stop this march, as we must. And yet, some confrontation down the line, as we attempt to make this world stable and keep another nation from overwhelming it and us, will lead to nuclear holocaust just as surely as we are sitting here now.

And so, I ask myself—I probe deep in my heart—because I want a strong America, and every vote I cast in this body, whether it be against the B–1 bomber because I think the funds can be used better in other areas of our defense to build a strong America—I ask myself in my heart where we stop on the road to nuclear holocaust. I have no good answer other than to say that the neutron bomb, or enhanced radiation weapon, is at least a place to start, as debate has made clear to me that it makes nuclear devastation more possible without as surely guaranteeing our defense, and I intend to vote for the Weiss amendment for this reason.

Mr. HARRINGTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. HARRINGTON. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, nothing has changed with respect to the folly of producing the neutron bomb since our last consideration of this matter, except that the President has now formally declared his reservations about proceeding, an exceedingly wise decision. The President thought the matter of sufficient concern that he made his decision despite disruption to ongoing plans in NATO to utilize this weapons system. Since the President has available to him all the national security information produced by the Government, this should give proponents of the bomb serious pause and cause them to also reconsider their positions.

The neutron bomb fits the addage humorously applied in days gone by to a previous weaponry lesson, the antiballistic missile (ABM) in which it was said, "the ABM is like a civil servant—it won't work and you can't fire it.

The neutron bomb won't work because of the Soviet possession of nuclear weaponry. No general in his right mind is going to fire a neutron bomb—or any of the tactical nuclear weapons—at the Russians, knowing that they can issue a deadly nuclear response. They'd never take that foolish risk of giving the Russians a nuclear advantage—they'd fire strategic nuclear weapons instead in the hope of preventing a Russian nuclear response. So, the neutron bomb will have no deterrent effect and its production would be a collossal waste of the taxpayers money.

Furthermore, as has been pointed out so ably by my colleague from New York (Mr. WEISS) who has provided such able leadership on this amendment, production aid deployment of the neutron bomb would seriously erode the balance between nuclear and conventional weapons.

For both these important reasons, the amendment should be adopted.

Mr. HARRINGTON. Mr. Chairman, since I do not think my observations will adversely affect the fate of the amendment offered by the gentleman from New York, I hope that he will suffer them, knowing my intention of supporting his concept and his amendment.

I say this because, fundamentally, I view the vote on this particular weapons system as no more than another dreary footnote to the predictable debate on arms build up and proliferation that we have heard for the last 30 years. Consequently, our success or failure today may have little bearing, I think, on some of the broader issues involved.

We may all speculate on the state of leadership in this country and around the world. I want to suggest, however, that about a month ago the President had a chance to do what we do not often see in our lifetimes; that is, he had the opportunity to reverse the direction taken collectively by this country and others in building more lethal and more humanly destructive weapons, and to draw the line at the neutron bomb.

True leadership initiative, such as we have seen in Egypt's head of state's visit to Israel, or such as we have witnessed when Willie Brandt moved to normalize relations with East Germany and Russia, has the power to move us and other members of the global community profoundly and to effect change that seems barely possible at the time. These acts of leadership arrested the curiosity of the world and perhaps attracted the interest of the President such that he came to the brink of a similar decision—a decision to reverse a whole global trend, thought to be irreversible, of creating deadlier and more easily usable nuclear weapons. And I cannot help but feel that this major change of direction, this assumption of leadership to effect profound change, is what the whole argument is about.

I will give all the ground they desire to the technicians, to the experts, to the doubt raisers, and to those who sell fear in order to win their point. They have won for generations, and they will probably win today. But I ask you again, when you consider this amendment, to reflect on where this weapons system will ultimately get us.

On a fundamental level, the amendment of the gentleman from New York (Mr. WEISS) an amendment with which I wish to identify myself, raises the basic question of what we are doing, what means are at our disposal, and most important, what risks we are ready to take to change the predetermined order of things. For facing up to this challenge, for bold innovative change, and for true leadership in the armament debate, I give to us, in this Chamber today, an "F" for failure.

If we reject this amendment, we are still going to have our "security," and we are still going to have all the armaments that are at our disposal, but we, in the House of Representatives, in a country that professes to provide moral, intellectual, fiscal, and philosophical leadership, will have done nothing to change our self-destructive course. The amendment offered by the gentleman from New York, to prohibit the use of any funds to produce or deploy neutron weapons, does have the potential to reverse our direction. And I would urge you today, not to be drawn in by these technicians' arguments, which we have heard ad infinitum in dreary, predictable fashion, but rather to reflect on whether the neutron bomb is not just one more step in the direction of guaranteeing not only the external destruction of mankind, but the disintegration of a process we take for granted.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PHILLIP BURTON, and by unanimous consent, Mr. HARRINGTON was allowed to proceed for 30 additional seconds.)

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. HARRINGTON. I yield to the gentleman from California.

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

I would like to commend my colleague in the well for his most senitive and thoughtful statement. I fully associate myself with his remarks, and I join with him in urging our colleagues to support our colleague, the gentleman from New York, Mr. WEISS, in this effort.

Mr. HARRINGTON. I yield back the remainder of my time.

Mr. QUAYLE. Mr. Chairman, I move to strike the requisite number of words. I will be very brief, Mr. Chairman.

I have been a casual observer, since I am not a member of the Committee on Armed Services, to this very interesting debate. I would say that the most interesting or appealing argument in favor of the amendment would be that it would

lower the nuclear threshold and that we could eventually get into a nuclear holocaust. On the other hand, I would say that the most viable argument in opposition to the amendment would be that we ought to use this as a blue chip or a bargaining chip and we should not unilaterally do this until we get some sort of reciprocal agreement from the Soviet Union, in reference particularly to the tanks or the SS–20. I think in relation to the first argument, which I think is probably the strongest argument of the proponents, I would like to repeat a statement from Mr. Warnke during testimony that was mentioned briefly on the floor about the nuclear threshold in relation to the neutron bomb. I do not consider Mr. Warnke to be pronuclear or a hardliner in any sense of the imagination, and I would just repeat for the House, at the conclusion of this debate and my statements, that he says that the neutron bomb would not significantly lower the nuclear threshold. He says:

I think what the nuclear threshold depends on is the fear of retaliation.

So in essence this would not, what a lot of the proponents have been talking about, significantly or even lower the nuclear threshold. So I would say that could possibly be a mistake on the part of the proponents. The second contention and argument is that it would be a significant bargaining tool to try to get lateral concessions from the Soviet Union and the United States in the area of NATO, and by having those concessions bilaterally rather than unilaterally, both sides would be better off in the future, as would future generations.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

The United States was just given "F" on a report card in its efforts for peace. I would submit that we should get an "A" double plus. I look at our participation in the World Bank, the Inter-American Development Bank, the African Development Fund, the Asian Development Bank, the Peace Corps, food-for-peace, foreign aid all over the globe, the abandonment of the B–1, the deferral of the neutron bomb, the deferral of the MX missile, all of these initiatives for peace, and what do we get in return? We get Afghanistan being taken over in a Communist coup 1 week after Cyrus Vance leaves Moscow; we see the client state of the Soviet Union, Cuba, marching all over Africa with 46,000 troops there, and in Yemen, and we see the Soviets in force in Cuba 90 miles off the coast of Florida—and we get an "F" for peace. That is a report card that ought to be torn up, in my judgment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I would concur with my colleague, the gentleman from Indiana (Mr. QUAYLE), and with the remarks made by my colleague, the gentleman from Illinois (Mr. HYDE) 100 percent.

One of the missing ingredients is, What would the Soviet Union get on their report card? I would suggest they would get an X, Y, or Z on any scale.

My friend and colleague, the gentleman from California (Mr. DELLUMS), to whom I always listen intently, indicated that we are talking about political solutions. Let us be candid about it. The Soviet Union has used military means for political solutions for the past 60 years. They will continue to do that, and we cannot separate the political from the military when we are dealing with that country.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the May 10 "Dear Colleague" letter from our colleagues Messrs. MAGUIRE, CONYERS, OTTINGER, WEISS, DELLUMS, MITCHELL, SEIBERLING, EDWARDS, and Ms. HOLTZMAN calls for the deletion of all funds for the "production and deployment of the neutron bomb."

For the reasons set down below, this amendment should not be adopted in the interests of national security.

First, let us review the situation as it presently exists concerning neutron bomb production under the conditions specified in H.R. 11686 which is before us. Under section 209, no funds authorized in the bill can be utilized for such production unless certain certifications are provided to the Congress by the President. And we have no such request before us. Therefore, unless and until these certifications are submitted, no production can take place.

The President, in accordance with the provisions of this bill, must provide the Congress with the reasons why production of the weapon is necessary for our national security. This procedure, which has been preceded by a great deal of debate and legislative review, provides every reasonable assurance that a production step is justified. In fact, the addition of any additional encumbrances to restrict taking a step which is determined to be in the national interest, as the proposed amendment would do, could bring about completely unacceptable conditions concerning our national security.

Although the points raised in the letter have been debated in this Chamber before, it may be of value to briefly respond to them again at this time.

The letter of our esteemed colleagues alleged that the enhanced radiation weapon would increase the probability of nuclear war. This weapon is strictly a defensive weapon uniquely designed for effectiveness in a counterattack situation. In its simplest terms, the rationale calls for the initiation of a hostile act by an enemy. In other words, this weapon has no function in the initiation of hostilities which must precede considerations of any acts of escalation.

Accordingly, the most effective and direct way to control the escalation of any hostility is to deter the initiation of a hostile act. This is, by design, a function which the enhanced radiation weapon can perform. The use of the weapon against attacking superior conventional forces using, for example, massive forces of tanks, is more effective and plausible than with any other weapon. This is the specific purpose for which the enhanced radiation weapon was designed. The obvious effect on a potential aggressor is to deter his initiation of hostilities.

The committee has in the case of the enhanced radiation weapon special information on how the Soviet Union views this weapon. A group of us visited the Soviet Union about a month ago. No Soviet official with whom we talked did not take advantage of the opportunity to induce us not to proceed with enhanced radiation weapons. As indicated in the media and by the large amounts of correspondence the committee has received from Soviet Bloc nations, there is a worldwide effort to induce us not to deploy this weapon. This attitude can come from only one fact: the weapon has great credibility for neutralizing their present military superiority in the conventional forces facing NATO. In other words, this fact is clearly appreciated and, therefore, they know that if they take a step to initiate hostilities, the consequences could be dire to their goals. It is not often that we can obtain such positive evidence of the deterrent value of a weapon.

In summary, we must start devoting more attention to facilitating decisions and actions which promote our national security interests. In many instances we are overwhelming procedures and actions which are critical to our security and welfare with repetitious and unnecessary steps. Such actions could have dire consequences on our national interests by injecting crippling delays. In my view, this is what the proposed amendment would do and, therefore, I urge its defeat.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have listened to this debate, and I am deeply distressed at the idea that we would continue to embark on the creation of the neutron bomb. The arguments that have been advanced in its support are completely illogical.

Many Members have conceded that our present tactical nuclear weapons are unusable because they will provoke in response the use of similar nuclear weapons and will lead, therefore, to nuclear holocaust and destruction of the world. Others, including the President of the United States, have conceded that the use of the neutron bomb will lead to the same result, and that it is equally unusable.

How, then, can the neutron bomb be a bargaining chip? How, then, can anybody, including the Russians, take this weapon seriously, if it is unusable? Why should they give up any usable weapon system for our agreeing to give up an unusable weapon? I think that argu-

ment about its being a bargaining chip is illogical and baseless.

I think what is worse is the message that we send to the world when we talk about this weapon. Instead of trying to deal with the problem of reducing the chances of nuclear holocaust, we tell the world we are embarking on production of a brand new nuclear weapon.

We are also embarking on the use of a weapon system that will severely endanger our own troops. Make no mistake about it, we are going to destroy the Russians or the invaders, whoever they may be with the neutron bomb, but we will be destroying our own troops at the same time.

This is a bankrupt military policy, as well as a bankrupt political policy.

The message our production of the bomb gives to the world is also distressing for another reason. We have seen recent events that are deeply disturbing in Europe. We have seen the political chaos in Italy. We have seen the brutal and horrible murder of the former leader of the Italian Government, Mr. Moro. We have seen turmoil in France, we have seen turmoil in Spain and Portugal. But what are our policies to deal with these problems? Our policy is to create a new weapon.

I say to the Members of this House that we continually point our weapons east and we think we have resolved the problems of Europe and elsewhere, but the problems are taking place behind our lines and we have no policy to deal with them. The problems cannot be solved by the neutron bomb.

Mr. Chairman, we are deluding ourselves as to the effect of this weapon in enhancing the power and the strength of this country. We show our military, political and moral weakness when we support the creation of one neutron bomb.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Ms. HOLTZMAN. I yield to my colleague, the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentlewoman for yielding.

We recently saw the production, "Holocaust," on television, and it was well that we did. We watched "Holocaust," and it reminded us of that unspeakable period in history.

I submit, along with Santayana, that "those who do not read history are condemned to relive it." I submit that if there had not been a Munich and if there had not been an appeasement of Hitler, there might not have been a holocaust. I hate to see us relive this bit of history vis-a-vis the Soviet Union.

If the gentlewoman will yield for just one more sentence, I think there are those who feel that if our military services were armed with bows and arrows, it would be provocative to the Soviet Union unless they had rubber tips.

Ms. HOLTZMAN. Mr. Chairman, I will say to my colleague that I agree with him on the issue of appeasement. My point is that I do not see the neutron bomb as a weapon that shows any strength, because it is unusable—ultimately the use of this weapon will lead to nuclear holocaust.

Who are we kidding?

Mr. Chairman, that is my answer to the gentleman. I am concerned about the issue of appeasement, but this is not the way to deal with it.

● Mr. EDWARDS of California. Mr. Chairman, I feel very strongly that the House should adopt the amendment being offered today to delete all funds for the production and deployment of the neutron bomb from the Department of Energy national security authorization.

I joined with many of my colleagues in applauding the President's recent decision to defer production and deployment of this insane weapon. I believe his action was a judicious one, and one which represents an important step in slowing the world arms race. It signals the commitment of our President to arms reduction and can only encourage other nations to reassess their own arms policies.

In light of the President's decision, it simply does not make sense to me that we should be considering today a bill which authorizes funds for the neutron bomb—surely one of the most inhumane and despicable weapons ever devised.

Many people will raise the argument that our development of the neutron bomb can serve as a "bargaining chip" in our arms negotiations with the Soviet Union. But the history of recent decades shows that this type of reasoning is specious. There is no reason to believe that our production of the neutron bomb would serve to intimidate the Soviet Union or any other nation. It can only provide them with the incentive to develop even more horrendous weapons.

Let us not focus our attention on the Soviet Union in our consideration of this amendment. The United States is the pivotal factor in the debate over whether the world will proceed along the path of détente and arms limitations or whether we will choose to proceed along the path which calls for the continued escalation of arms and creation of a world environment which is suspicious, dangerous, and ultimately destructive.

If the Congress votes to authorize funding for the neutron bomb, we must take the responsibility for further escalating the nuclear arms race. Let us, instead, show mankind that we can turn away from the path of aggression and violence and take the giant step toward world peace with the cancellation of this deplorable weapon. Let us show our fellow Americans that we have the knowledge and wisdom here in Congress to choose the path of peace. If we are truly interested in peace, it is our obligation and moral duty to vote today to delete funds for the neutron bomb.

I strongly urge my colleagues to vote in favor of this amendment.●

Mr. STARK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sure that we have all heard about all there is to be said concerning the Weiss amendment. I speak in support of the amendment. I think that is our only humane vote.

We all know how to kill. This country can kill with an efficiency and a capacity never known in the world, and we can kill 10 times more than what the Russians can kill.

So if we want to forget about the future of our children and our grandchildren, we should vote against the Weiss amendment. If we want to deal with the question of humanity, we should vote for the Weiss amendment.

There is one additional matter that has not been covered by the "killers" and "warmongers" among us, and that is that there are 6,200 jobs involved. Six thousand of those 6,200 jobs are jobs of my constituents. I submit to the Members that those people are embarrassed by the amount of effort, the great scientific knowledge, and the innovative industrial capacity of the Lawrence Livermore Radiation Lab that goes toward killing people.

We are holding up using that unique interdisciplinary resource from developing better medical, technical, clean air products, processes, shale, and geothermal development—all the wonderful things with which the Members of this body ought to be concerned. We are just throwing money away devising weapons systems that are useless and inhumane, when we could be dealing with the responsible business of making this a fit world for the future citizens who may never live to see it.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am puzzled by this whole argument. It seems to me a very unimportant amendment. I cannot understand the heat that it has roused. We are not here dealing with large sums that are going to be devoted to the neutron bomb. The amendment is simply denying to the President, by putting a period after the word "weapons," the right to come to Congress when he feels it is in the national interest to do something about the bomb.

Two things have struck me, though, as interesting; one was the comment of the sponsor that this would confuse the world. The other was the very able dissertation by the gentleman from New York (Mr. DOWNEY). I think the gentleman is right. I am puzzled that people say, "What is the use of neutron bombs?" Does anyone think in this Chamber that if we did not have one single neutron bomb the world would not be in trouble if Russia had them all?

One of the great beauties of the nuclear weapon, if you want to put such a horrible object under such a cover, is that we have not had war between the two great powers. We have had peace. That is a great thing.

Now, I do not like the neutron bomb. As I say, I was only persuaded last year to vote against the Weiss amendment by the President of the United States and I am not sure I will do it again, since he has so lightly tossed it away; but as I understand, the suggestion did not come from the White House that we should remove from him the burden of reporting to the Congress about the need

for this weapon. It comes solely from the gentleman from New York. In fact, that whole section that clearly prohibits the use of any funds for enhanced radiation warheads was an addition of the committee, and not a measure that the White House itself had requested.

Now, let us look for a minute to the effects of voting for the amendment, as I do not think we will. What does it say to the world? It says to the world that despite the fact that we obviously have in the White House a President who is not trigger happy, who is not all gung-ho for every single one of these weapons, who has advised against the B–1 bomber, who had advised that he is going to toss away the neutron bomb, we are nevertheless suggesting that he is so irresponsible that we must deny the alternative to come before Congress and ask us in the national interest for the development of the neutron bomb.

Why, there is nothing irresponsible about the President of the United States in that regard. We are not dealing with a mad man. I cannot understand all the excitement here.

The gentleman from New York wants me to yield. I am sorry. The gentleman has had plenty of time and we have heard so many of the arguments of the gentleman from New York, and they are good. I cannot yield.

There is too much heat here. All we are saying in this addition to the bill is that no funds shall be used to produce these enhanced weapons. I would not vote for it now if large sums were devoted to that end; but all we are doing with this unimportant little amendment is to insist the President will not have the right to come before Congress and tell us it is in the national interest to do so.

In fact, all we are going to say to the world is, "Look, you do not have to worry about the United States or what the President says, because Congress is determined to strip the President of the power even to come back to them and report."

We are not going to confuse the world, as the gentleman has suggested. We are going to make it clear that Congress is determined to strip the President of the United States even of the right to come to Congress when he feels it is in the public interest and in the defense of our country. I think we will not confuse. It will be all too clear. I think it will be a very grave error.

Mr. WEISS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I want to say what I am sure the gentleman knows: That I consider her to be one of the most eloquent voices for concern and compassion and peace in this entire body. But I do not want to respond to the question as to whether this is an important amendment.

Mrs. FENWICK. Mr. Chairman, could I just say "thank you" to the gentleman for not numbering me among the killers and warmongerers to which a previous speaker made reference.

Mr. WEISS. I would never do that.

The CHAIRMAN pro tempore. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(On request of Mr. WEISS and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, if the gentlewoman will yield further, I would like to say that my amendment does not ask that the President be deprived of the right to come to Congress and ask to go forward with production of the neutron bomb. What this bill seeks to do however, is to have it both ways. In the first instance, it says that none of the funds authorized can be used—not requested, but used—for the production of the neutron bomb unless the President certifies that it is in the national interest. What I am saying is that it may be perfectly OK for the President to come and spell out a case, and then this House can act on an authorization or on an appropriation measure. But the way this language currently reads, this House would not have anything to say about it. The President and the Appropriations Committee would be given a blank check.

Mrs. FENWICK. Mr. Chairman, I see the gentleman's point. What the amendment says is that we do not trust the President, and that is not a good thing to be saying to the world. It is not a good message to send.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentlewoman for yielding, and I commend her on her statement.

Mr. Chairman, let me say that I oppose the use of neutron bombs and the production and the development of neutron bombs, just as I feel the same way about biological warfare and poisoned gas. I am glad, however, that we have a supply of poisoned gas that is a deterrent.

In our system of government I believe we deal with both the legislative and the executive branch, and it is the President who negotiates the SALT agreements, and the President must be involved in making the statement. Therefore, I think the language of the bill is proper.

As much as I do not want to use the neutron bomb, I believe it is the proper way we must move ahead. Therefore, if we are to continue with our system of government, with the dual responsibility of Congress and the Executive, we need the language here. It would only be if the President certified it was necessary, and he would come to the Congress and the Congress would be involved.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment to delete funds for enhanced radiation weapons.

I am surprised that after 1 year of hassle, the opponents of enhanced radiation weapons still have not learned the proper nomenclature. Others, too, have trouble with nomenclature.

I have in my hand a letter which I will read:

Congress of the United States:

LADIES AND GENTLEMEN: Referring to the 29,000 resolutions and statements already sent to you, the Peace Council of the German Democratic Republic takes the liberty of conveying you further 1,500 resolutions and statements of protest by the population of the German Democratic Republic against the planned production of the neutron bomb by the USA.

Respectfully yours,

W. BOHME, *Secretary.*

Can you believe that the East Germans mailed us over 30,000 petitions?

What are the German Communists concerned about? Do they fear that the enhanced radiation weapon will bring Europe to the "brink of nuclear holocaust" as stated in the "Dear Colleague" letter, or would it prevent the holocaust that would result from the capture of Western Europe intact by Warsaw Pact forces?

How could a 1-kiloton weapon escalate the arms race when the Soviets over the past few years have emplaced hundreds of SS–20 mobile missiles with reentry vehicle yields in the high kiloton to megaton range, all aimed at NATO from positions in Mother Russia.

The East Germans should really worry about the fallout that would come from the SS–20, the Frog, the Scud, and the other nuclear missiles aimed at NATO. I remind you that the enhanced radiation weapons were designed to minimize fallout so that even the East Germans would not be hurt—except those East Germans in tanks headed toward Heidelberg.

I am certain that the President has a pretty good idea of the difference between a conventional weapon, a standard nuclear weapon, and an enhanced radiation weapon. I consider it a slur and an insult to the President—since he is the only one who can order the use of nuclear weapons—to state, as the "Dear Colleague" letter does, and I quote, "the neutron bomb blurs the critical distinction between nuclear and conventional armaments." An apology to the President is in order.

Finally, I would ask again, why are our colleagues so fearful of a 1-kiloton weapon when we learned recently that the Soviets made a new demand in the SALT negotiations—they want to build and test a new missile to carry a 20-megaton warhead aimed at the United States. Why?

I ask—who has installed four new missile systems in the last few years?

I ask—who is producing a new supersonic bomber at the rate of 25 to 35 a year which can reach any part of the United States on one-way flights?

I ask—who has installed new submarine launched missiles capable of reaching U.S. soil practically from dockside?

Am I to believe that the future production and deployment of a 1 kiloton defensive weapon with delivery system ranges from 20 to 50 miles can upset world balance while all these new Soviet systems aimed at us and at NATO can have no effect?

Mr. Chairman, I strongly oppose this amendment and recommend its defeat.

Mr. LEGGETT. Mr. Chairman, it is always difficult for me to be placed in a position in opposition to the procurement of weapons of warfare. Throughout my congressional career, I have adopted a

policy of attempting to limit war by limiting means for war. I have recognized over the years, however, that the apparently obvious course of action in limiting weapons does not always lead to a lessening of a possibility of war. So it is with the enhanced radiation warhead.

The gentleman from New York is asking the House to delete all funds for this weapon. The question really comes down to what are we trying to do? Are we getting involved in a radically new overall system? We have got to keep in mind exactly what we are doing.

The bottom line in all of this really is a thing called balance of power.

Today we have chosen not to provide a balance with the Soviets in conventional weaponry. Mark that. This was a conscious decision. We have decided we do not want 58 divisions. We cannot support it. We do not want 30,000 tanks. To begin with, we could not build them. We do not want 5 million men under arms in the central theater of Europe. We cannot afford it and neither can our NATO allies.

So what we decided to do is to confuse the defense. We have said it is our national policy not to start a war. The Soviets have said it is their national policy not to start a war.

It remains a fact that the Soviets today do have 30,000 tanks. They are the ones that build all the pontoon bridges that cross all the rivers; we are not. They are the ones developing all the mechanized vehicles; we are not. If it comes to another World War III or IV, we are not going to be able to have the support line of ships we had during World War II, because all of the ships are going to be sunk in just about the first 3 to 6 months of any kind of war.

So what we need, then, is a credible balance of power.

I would like to explore with you for a moment the often-heard proposition that a weapon designed solely for killing people while minimizing collateral damage to property is morally indefensible. On the surface, such a statement is irresistible. However, let us face it, all nuclear weapons can kill; all wars and indiscriminate killings for political ends are morally repugnant.

But let us look at this issue more closely. Published statements indicate that we have about 7,000 conventional tactical nuclear warheads forward deployed in NATO, primarily along the central front in West Germany. Most of these warheads are within the 20 to 50 kiloton range. Although these tactical nuclear weapons represent immense striking power, grave doubts exist over whether or not these weapons could ever be used to accomplish their mission. It is true that our existing tactical nuclear weapons have the power to stop a Soviet thrust along the central front if used in quantity; however, even if our own response were limited to 20-kiloton artillery projectives, the collateral damage to friendly territory, troops, and civilian population would be immense. Cities and towns would be destroyed or badly damaged. Large and persistent radioactive zones would be created, rendering a piece of territory uninhabitable for months afterward. And civilian casualties would most certainly run into the millions. What we contemplate, then, is throwing a large medicine ball over our shouldler when all this is actually required is a well aimed dart. In effect, we would be destroying NATO in order to save it. Thus, our tactical deterrent does not appear credible in Europe today.

Many critics of the enhanced radiation warhead would have us believe that a cleaner, more precisely targetable nuclear weapon that kills fewer civilians is somehow less moral than our present dirtier and more indiscriminate tactical nuclear warheads. This strikes me as sheer idiocy. In another sense, though, it is all madness since there appears to be little comfort or kindness in the manner of killing with nuclear weapons—whether with dirty weapons that kill indiscriminately over wide areas or clean weapons that incisively kill battlefield troops with a lethal bombardment of high energy neutrons. At issue, however, is which weapon presents the most credible threat to an enemy contemplating a surprise attack. I do not think there is any serious disagreement over the fact that the enhanced radiation warhead is clearly the greater deterrent to Soviet and Warsaw Pact planners. After all, this warhead is designed to make it possible for NATO forces to defend Western Europe against a Soviet or Warsaw Pact invasion without having to destroy Europe in the process.

So, Mr. Chairman, we are once again debating whether the United States will, in fact, remain in a position to keep available for possible future use the enhanced radiation warhead option. It is with some small amount of reluctance that I have opposed the amendment we are discussing. I want to emphasize, however, that that amount is small. At a time of great debates over needless defense projects, it is clear to me that the enhanced radiation warhead does not fall into that category.

● Mr. RICHMOND. Mr. Chairman, I rise in support of the amendment to prohibit the use of any funds to produce or deploy neutron weapons.

The President has already announced his decision to defer the production and deployment of these deadly weapons.

If the United States were to produce or deploy neutron weapons—bombs, missile warheads, artillery shells—it would, of necessity, encourage the Soviet Union to further escalate the nuclear arms race.

If the United States were to produce or deploy these terrible weapons it would bring the world closer to the brink of nuclear holocaust.

Today we are presented with an opportunity to eliminate these risks.

By eliminating the funding for these weapons from the legislation before us, we can take a vital step back from the threshold of nuclear war.

I urge my colleagues to approve this amendment.●

● Mr. STEERS. Mr. Chairman, I rise in support of the amendment which I am cosponsoring. The greatest threat to the security of this Nation and the entire world is the danger of a nuclear holocaust, and the threshold of such a disaster would be lowered significantly if enhanced radiation warheads are deployed in large numbers as is planned.

I do not view these weapons as more horrible than conventional nuclear warheads, but when a nuclear weapon is developed to be used as a limited nuclear response to a large conventional attack, I shudder at the possibilities. I do not think that nuclear weapons can be used as anything but a doomsday device, guaranteeing our security through mutual assured destruction. Enhanced radiation weapons flirt with the self-destruction of this planet.

I think that it is wise to strengthen our conventional response capabilities in Europe, but I think it is extremely foolish to build enhanced radiation weapons for the same purpose. I urge my colleagues to support the amendment offered by the distinguished gentleman from New York (Mr. WEISS).

I voted against the Weiss amendment in its earlier version, because at that time the amendment would have barred further research and development in the enhanced radiation area, and I believe we should not shut off experimentation in so important and rapidly changing an area. The present version bars production only.●

● Mr. PRESSLER. Mr. Chairman, I am opposed to the development of the neutron bomb but I do think our potential technology should be available as a bargaining chit in the SALT talks. I voted for the Weiss amendment today for the following reasons:

First. The 45-day 2-House veto was not in today's bill as it was in the earlier bill;

Second. The present Weiss amendment simply halts production, but does not aim at all research and development; and

Third. The congressional leadership is very misleading on describing this bill. They say there is no money in the bill for the neutron bomb—but the bill's language is extremely ambivalent. This deeply concerns me. I commend Mr. WEISS for his effort at clarifying the situation.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 90, noes 306, not voting 38, as follows:

[Roll No. 325]

AYES—90

Addabbo	Blouin	Chisholm
Anderson, Calif.	Bonior	Clay
	Bonker	Collins, Ill.
Baldus	Brodhead	Cornell
Bedell	Brown, Calif.	Dellums
Beilenson	Burton, John	Diggs
Biaggi	Burton, Phillip	Drinan
Bingham	Cavanaugh	Early

Eckhardt	Markey	Roybal
Edgar	Marlenee	Schroeder
Edwards, Calif.	Mazzoli	Seiberling
Eilberg	Metcalfe	Sharp
Ford, Tenn.	Mikulski	Simon
Forsythe	Miller, Calif.	St Germain
Fraser	Mineta	Stark
Garcia	Mitchell, Md.	Steers
Glickman	Moakley	Studds
Hannaford	Nolan	Thompson
Harkin	Nowak	Tsongas
Harrington	Oakar	Udall
Hawkins	Oberstar	Vanik
Holtzman	Ottinger	Volkmer
Jacobs	Panetta	Walgren
Kastenmeier	Pease	Waxman
Keys	Pressler	Weaver
Kildee	Pursell	Weiss
Kostmayer	Rahall	Wirth
Lehman	Rangel	Wolff
Lundine	Reuss	Yates
McHugh	Richmond	
Maguire	Rosenthal	

NOES—306

Abdnor	Derwinski	Jenrette
Akaka	Devine	Johnson, Calif.
Alexander	Dickinson	Johnson, Colo.
Allen	Dicks	Jones, N.C.
Ambro	Dingell	Jones, Okla.
Ammerman	Dodd	Jones, Tenn.
Anderson, Ill.	Dornan	Jordan
Andrews, N.C.	Downey	Kazen
Andrews, N. Dak.	Duncan, Oreg.	Kelly
	Duncan, Tenn.	Kemp
Annunzio	Edwards, Ala.	Ketchum
Applegate	Edwards, Okla.	Krebs
Archer	Emery	Krueger
Armstrong	English	LaFalce
Ashbrook	Erlenborn	Lagomarsino
Ashley	Ertel	Latta
Aspin	Evans, Colo.	Le Fante
Badham	Evans, Del.	Leach
Bafalis	Evans, Ga.	Lederer
Barnard	Evans, Ind.	Leggett
Bauman	Fary	Lent
Beard, R.I.	Fascell	Levitas
Beard, Tenn.	Fenwick	Livingston
Benjamin	Findley	Lloyd, Calif.
Bennett	Fish	Lloyd, Tenn.
Bevill	Fisher	Long, La.
Blanchard	Fithian	Long, Md.
Boggs	Flippo	Lott
Boland	Flood	Lujan
Bolling	Florio	Luken
Bowen	Flowers	McClory
Brademas	Flynt	McCormack
Breaux	Foley	McDonald
Breckinridge	Ford, Mich.	McEwen
Brinkley	Fountain	McFall
* Brooks	Fowler	McKay
Broomfield	Frenzel	McKinney
Brown, Mich.	Fuqua	Madigan
Brown, Ohio	Gammage	Mahon
Broyhill	Gephardt	Mann
Buchanan	Giaimo	Marks
Burgener	Gibbons	Marriott
Burke, Fla.	Gilman	Martin
Burke, Mass.	Ginn	Mathis
Burleson, Tex.	Gonzalez	Mattox
Burlison, Mo.	Goodling	Meeds
Butler	Gore	Meyner
Byron	Gradison	Michel
Caputo	Grassley	Milford
Carney	Green	Miller, Ohio
Carr	Gudger	Minish
Cederberg	Guyer	Mitchell, N.Y.
Chappell	Hagedorn	Mollohan
Clausen, Don H.	Hall	Montgomery
	Hamilton	Moore
Clawson, Del	Hammer-schmidt	Moorhead, Calif.
Cleveland		
Cohen	Hanley	Moorhead, Pa.
Coleman	Hansen	Moss
Collins, Tex.	Harris	Mottl
Conable	Harsha	Murphy, Ill.
Conte	Heckler	Murtha
Corcoran	Hefner	Myers, Gary
Corman	Heftel	Myers, John
Cornwell	Hightower	Natcher
Cotter	Hillis	Neal
Coughlin	Hollenbeck	Nedzi
Cunningham	Holt	Nichols
D'Amours	Horton	Obey
Daniel, Dan	Howard	O'Brien
Daniel, R. W.	Hubbard	Patten
Danielson	Hughes	Patterson
Davis	Hyde	Pattison
de la Garza	Ichord	Pepper
Delaney	Ireland	Perkins
Dent	Jeffords	Pettis
Derrick	Jenkins	Pickle
Pike	Schulze	Trible
Poage	Sebelius	Ullman
Preyer	Shipley	Van Deerlin
Price	Shuster	Vander Jagt
Pritchard	Sikes	Vento
Quayle	Sisk	Waggonner
Quie	Skelton	Walker
Quillen	Skubitz	Walsh
Railsback	Slack	Wampler
Regula	Smith, Iowa	Watkins
Rhodes	Smith, Nebr.	White
Rinaldo	Snyder	Whitehurst
Risenhoover	Solarz	Whitley
Roberts	Spellman	Wiggins
Robinson	Spence	Wilson, Bob
Roe	Staggers	Winn
Rogers	Stangeland	Wright
Rose	Stanton	Wydler
Rostenkowski	Steed	Wylie
Rousselot	Steiger	Yatron
Rudd	Stratton	Young, Alaska
Ruppe	Stump	Young, Fla.
Russo	Symms	Young, Mo.
Ryan	Taylor	Zablocki
Santini	Thone	Zeferetti
Satterfield	Traxler	
Sawyer	Treen	

NOT VOTING—38

AuCoin	Kindness	Sarasin
Baucus	McCloskey	Scheuer
Burke, Calif.	McDade	Stockman
Carter	Mikva	Stokes
Cochran	Moffett	Teague
Conyers	Murphy, N.Y.	Thornton
Crane	Murphy, Pa.	Tucker
Frey	Myers, Michael	Whalen
Gaydos	Nix	Whitten
Goldwater	Rodino	Wilson, C. H.
Holland	Roncalio	Wilson, Tex.
Huckaby	Rooney	Young, Tex.
Kasten	Runnels	

The Clerk announced the following pairs:

On this vote:

Mr. Stokes for, with Mr. Baucus against.

Mr. Conyers for, with Mr. Huckaby against.

Mr. Moffett for, with Mr. McDade against.

Mrs. Burke of California for, with Mr. Kindness against.

Mr. GARY A. MYERS and Mr. OBEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DODD

Mr. DODD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DODD: Page 11, line 21, strike out the period and insert in lieu thereof ", except that such production may not then take place if during the 45-day period beginning on the date such report is submitted to the Congress the Congress adopts a concurrent resolution disapproving such production.".

Mr. DODD. Mr. Chairman, I rise to offer an amendment to the DOE national security authorization bill. My amendment is to allow Congress by concurrent resolution, to disapprove production of neutron warheads within 45 days after the President has certified to Congress that production of these weapons is in the national interest.

The purpose of my amendment is straightforward. It is to allow Congress to exercise its constitutional responsibility to the American people, and to itself, to participate fully in decisions by the United States which could have profound national security and foreign policy implications.

At the same time, my amendment would not prematurely deny to our Nation or to our NATO allies any military or deterrent advantages possibly offered by production and deployment of neutron warheads should the President decide to go ahead. My amendment would simply give Congress a voice in such a significant decision.

As many Members know, a provision allowing for a concurrent congressional veto of a decision to produce and deploy neutron warheads is included in Public Law 95–96, the ERDA Appropriation Act for fiscal year 1978. I believe that we should now reaffirm our belief that Congress has an appropriate role to play in any decision on the production and deployment of neutron warheads by including the same provision in the fiscal year 1979 DOE national security authorization bill.

My amendment is not intended to express congressional opposition to neutron warheads. Congressional support or opposition should come in the 45-day period which my amendment will provide. The President decided to defer the production of these weapons little over 5 weeks ago. But should he decide later to proceed, the international military and political situations may have changed a great deal. Congress should be allowed to participate in a production decision shortly after Presidential certification so that it is aware of all the factors in the international arena at the time of the decision.

My amendment is designed to give us the opportunity to deal with these weapons in the most responsible and timely manner possible. It is intended to focus congressional debate on these warheads, to allow proper time for a full airing of the issues on both sides, and to demonstrate that the Congress expects to be a full and equal partner in our Government's decisionmaking process.

There remains a significant division of opinion among our NATO allies, as well as here at home, over the military and political desirability of deploying neutron warheads in Europe. Congress should be allowed an opportunity to assess these factors if the President decides on production and deployment.

I believe that a 45-day delay in production (if that is the decision), is a very small price to pay if Congress is to fully and responsibly exercise its role in national security policymaking and authorizing funds.

I urge my colleagues to insure that Congress is able to exercise its proper role in a matter that has such profound military and political implications by supporting my amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I thank the gentleman for yielding. I merely wanted to observe that a moment ago the gentleman referred to the fact that there is precedent for the type of provision that the gentleman is suggesting by the amendment and that, indeed, in last year's defense appropriation bill such a provision was included.

At that time it was a bipartisan effort. In the other body, I am informed it was proposed by the majority and the minority leaders of that body.

Mr. Chairman, in the same spirit of bipartisanship, I would like to commend the gentleman from Connecticut for offering this amendment and urge its adoption.

Mr. DODD. Mr. Chairman, I thank the gentleman from Illinois.

ANNOUNCEMENT OF SLIDE PRESENTATION ON ALASKA LANDS BILL

(By unanimous consent, Mr. SEIBERLING was allowed to speak out of order.)

Mr. SEIBERLING. Mr. Chairman, the the Alaska lands bill is going to come up this afternoon and for those of us who are interested, the Committee on the Interior has put together a 15-minute slide show with sound and script and everything. It is being run continuously in room H–137, right below the Chamber here. I thought the Members would like that to be called to their attention.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to ask the gentleman, is this the same film we have seen over a period of eighteen and a half months, put together by the gentleman from Ohio and others?

Mr. SEIBERLING. No, it is not. It is a 15-minute film that the Subcommittee on Alaska Lands put together recently using some of my slides and some others, using the tapes of the actual hearings and that sort of thing.

Mr. YOUNG of Alaska. It is the one I have seen?

Mr. SEIBERLING. Yes.

Mr. YOUNG of Alaska. Well, if I can just state for the gentleman's benefit and the Members of the body, it is a very well done job. It is a little slanted, but it is an excellent presentation and I want to compliment the gentleman from Ohio and the gentleman's staff. In looking at it, just remember it is one side of the story. It is very pretty and well done. They did a great job. I just do not agree with it.

Mr. SEIBERLING. Many of the issues are slanted, because the gentleman's own State is so magnificent, there cannot help but be that impression.

Mr. YOUNG of Alaska. Mr. Chairman, I appreciate that. I urge everyone to go see it.

Mr. PRICE. Mr. Chairman, I rise in opposition to the amendment.

This amendment, of course, speaks for itself. I do not regard the amendment as necessary. There is plenty of safeguard in the legislation now before us, and I recommend that the House do not accept this amendment.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the amendment that the gentleman from Connecticut (Mr. DODD) has offered and which has been supported by the gentleman from Illinois (Mr. ANDERSON) is a very simple modified version of the amendment that is currently part of the law and which was adopted last year in the other body at behest of Senators BAKER and BYRD.

All this amendment says is that before production of the neutron bomb can go forward, after certification by the President there has to be an occasion for a two-House veto, within a 45-day period.

It seems to me, Mr. Chairman, that on a matter as momentous as this issue is, given the great national and international concern about it, this House would not willingly want to thrust away its responsibilities to review and to have the occasion with the concurrence of the other body to disapprove the President's decision.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I thank the gentleman from New York (Mr. WEISS) for his comments.

I will point out as well that as the bill reads right now, its only requirement would be that there be a report filed with the Congress, but it does not provide a vehicle, as we do here, to give the Congress an opportunity to express its will.

Without providing that specific mechanism, there is no guarantee whatsoever that we would have in this body the opportunity to engage in the kind of debate that we have conducted over the past 4 hours concerning this issue.

Mr. Chairman, that is the reason for the specific language that is included in this amendment.

Mr. WEISS. Mr. Chairman, I commend the gentleman for offering his amendment. It is a very conservative proposal.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I shall be very brief because I think the distinguished gentleman from Illinois (Mr. PRICE) has covered the matter adequately, and the issue is quite straightforward. This amendment would be an unnecessary encumbrance on the President at a time when he might have decided that speed was necessary in the production of enhanced radiation weapons.

Mr. Chairman, I would say that we should have faith in the President and allow him to make his decision in this matter and proceed with production, if that is his decision.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Connecticut (Mr. DODD).

The question was taken; and on a division (demanded by Mr. DODD) there were—ayes 12, noes 54.

Mr. DODD. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count. Ninety-five Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Connecticut (Mr. DODD) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The SPEAKER. Are there further amendments?

Mr. DODD. Mr. Chairman, I ask for a recount on the question of ordering a recorded vote.

The CHAIRMAN pro tempore. The Chair counted all Members who were standing at the time, and counted only 13 Members standing.

Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. HUGHES, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11686) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes, pursuant to House Resolution 1174, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 46, not voting 40, as follows:

[Roll No. 326]

YEAS—348

Abdnor	Andrews, N.C.	Badham
Addabbo	Andrews, N. Dak.	Bafalis
Akaka	Annunzio	Barnard
Alexander	Applegate	Bauman
Allen	Archer	Beard, R.I.
Ambro	Armstrong	Beard, Tenn.
Ammerman	Ashbrook	Benjamin
Anderson, Calif.	Ashley	Bennett
Anderson, Ill.	Aspin	Bevill
		Biaggi

Bingham	Ginn	Montgomery
Blanchard	Glickman	Moore
Blouin	Gonzalez	Moorhead, Calif.
Boggs	Goodling	Moorhead, Pa.
Boland	Gore	Moss
Bolling	Gradison	Mottl
Bonker	Grassley	Murphy, Ill.
Bowen	Green	Murtha
Brademas	Gudger	Myers, Gary
Breaux	Guyer	Myers, John
Breckinridge	Hagedorn	Natcher
Brinkley	Hall	Neal
Brooks	Hamilton	Nedzi
Broomfield	Hammer-schmidt	Nichols
Brown, Mich.	Hanley	Nowak
Brown, Ohio	Hannaford	O'Brien
Broyhill	Hansen	Oberstar
Buchanan	Harkin	Obey
Burgener	Harris	Panetta
Burke, Fla.	Harsha	Patten
Burke, Mass.	Hawkins	Patterson
Burleson, Tex.	Heckler	Pease
Burlison, Mo.	Hefner	Pepper
Butler	Heftel	Perkins
Byron	Hightower	Pettis
Caputo	Hillis	Pickle
Carney	Hollenbeck	Pike
Carr	Holt	Poage
Cavanaugh	Horton	Pressler
Cederberg	Howard	Preyer
Chappell	Hubbard	Price
Clausen, Don H.	Hughes	Pritchard
Clawson, Del	Hyde	Pursell
Cleveland	Ichord	Quayle
Cohen	Ireland	Quie
Coleman	Jacobs	Quillen
Collins, Tex.	Jeffords	Railsback
Conable	Jenkins	Regula
Conte	Jenrette	Rhodes
Corcoran	Johnson, Calif.	Rinaldo
Corman	Johnson, Colo.	Risenhoover
Cornwell	Jones, N.C.	Roberts
Cotter	Jones, Okla.	Robinson
Coughlin	Jones, Tenn.	Roe
Cunningham	Jordan	Rogers
D'Amours	Kazen	Roncalio
Daniel, Dan	Kelly	Rose
Daniel, R. W.	Kemp	Rostenkowski
Danielson	Ketchum	Rousselot
Davis	Keys	Rudd
de la Garza	Kostmayer	Russo
Delaney	Krebs	Ryan
Dent	Krueger	Santini
Derrick	LaFalce	Satterfield
Derwinski	Lagomarsino	Sawyer
Devine	Latta	Schulze
Dickinson	Le Fante	Sebelius
Dicks	Leach	Sharp
Dingell	Lederer	Shipley
Dodd	Leggett	Shuster
Dornan	Lehman	Sikes
Downey	Lent	Simon
Duncan, Oreg.	Levitas	Sisk
Duncan, Tenn.	Livingston	Skelton
Eckhardt	Lloyd, Calif.	Skubitz
Edwards, Ala.	Lloyd, Tenn.	Slack
Edwards, Okla.	Long, La.	Smith, Iowa
Eilberg	Long, Md.	Smith, Nebr.
Emery	Lott	Snyder
English	Lujan	Solarz
Erlenborn	Luken	Spellman
Ertel	Lundine	Spence
Evans, Colo.	McClory	St Germain
Evans, Del.	McCormack	Staggers
Evans, Ga.	McDonald	Stangeland
Evans, Ind.	McEwen	Stanton
Fary	McFall	Steed
Fascell	McHugh	Steers
Fenwick	McKay	Steiger
Findley	McKinney	Stratton
Fish	Madigan	Stump
Fisher	Mahon	Symms
Fithian	Mann	Taylor
Flippo	Marks	Thone
Flood	Marlenee	Treen
Florio	Marriott	Trible
Flowers	Martin	Tsongas
Flynt	Mathis	Udall
Foley	Mattox	Ullman
Ford, Tenn.	Mazzoli	Van Deerlin
Fountain	Meeds	Vander Jagt
Fowler	Meyner	Vanik
Fraser	Michel	Vento
Frenzel	Milford	Volkmer
Fuqua	Miller, Ohio	Waggonner
Gammage	Mineta	Walgren
Gephardt	Minish	Walker
Giaimo	Mitchell, N.Y.	Walsh
Gibbons	Moakley	Wampler
Gilman	Mollohan	Watkins
Waxman	Winn	Yatron
White	Wirth	Young, Alaska
Whitehurst	Wolff	Young, Fla.
Whitley	Wright	Young, Mo.
Wiggins	Wydler	Zablocki
Wilson, Bob	Wylie	Zeferetti
Wilson, Tex.	Yates	

NAYS—46

Baldus	Edwards, Calif.	Pattison
Bedell	Forsythe	Rahall
Bellenson	Garcia	Rangel
Bonior	Harrington	Reuss
Brown, Calif.	Holtzman	Richmond
Burton, John	Kastenmeier	Rosenthal
Burton, Phillip	Kildee	Roybal
Chisholm	Maguire	Schroeder
Clay	Markey	Seiberling
Collins, Ill.	Metcalfe	Stark
Cornell	Mikulski	Studds
Dellums	Miller, Calif.	Thompson
Diggs	Mitchell, Md.	Weaver
Drinan	Nolan	Weiss
Early	Oakar	
Edgar	Ottinger	

NOT VOTING—40

AuCoin	Kasten	Sarasin
Baucus	Kindness	Scheuer
Brodhead	McCloskey	Stockman
Burke, Calif.	McDade	Stokes
Carter	Mikva	Teague
Cochran	Moffett	Thornton
Conyers	Murphy, N.Y.	Traxler
Crane	Murphy, Pa.	Tucker
Ford, Mich.	Myers, Michael	Whalen
Frey	Nix	Whitten
Gaydos	Rodino	Wilson, C. H.
Goldwater	Rooney	Young, Tex.
Holland	Runnels	
Huckaby	Ruppe	

The Clerk announced the following pairs:

On this vote:

Mr. Rooney for, with Mr. Stokes against.
Mr. Baucus for, with Mr. Conyers against.
Mr. Rodino for, with Mr. Moffett against.

Until further notice:

Mr. Michael O. Myers with Mr. Whitten.
Mr. Murphy of New York with Mr. Nix.
Mrs. Burke of California with Mr. Holland.
Mr. AuCoin with Mr. Thornton.
Mr. Ford of Michigan with Mr. Scheuer.
Mr. Traxler with Mr. Tucker.
Mr. Charles H. Wilson of California with Mr. Carter.
Mr. Gaydos with Mr. Whalen.
Mr. Huckaby with Mr. Kasten.
Mr. Teague with Mr. Stockman.
Mr. Runnels with Mr. McDade.
Mr. Brodhead with Mr. McCloskey.
Mr. Murphy of Pennsylvania with Mr. Kindness.
Mr. Mikva with Mr. Ruppe.
Mr. Frey with Mr. Sarasin.

Mrs. COLLINS of Illinois and Mr. MAGUIRE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the votes was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed, H.R. 11686.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADVANCED ENERGY TECHNOLOGIES AND ENERGY CONSERVATION, DEVELOPMENT, AND DEMONSTRATION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET THIS AFTERNOON AND TOMORROW MORNING WHILE THE HOUSE IS IN SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Advanced Energy Technologies and Energy Conservation, Development, and Demonstration of the Committee on Science and Technology be allowed to meet this afternoon and tomorrow morning during the time that the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Washington assure us that it will be for hearing purposes only and there will be no markup of any bill?

Mr. McCORMACK. Mr. Speaker, if the gentleman will yield, the purpose of these hearings is to receive testimony on the photovoltaic energy bill. There is no markup.

Mr. ROUSSELOT. I appreciate the gentleman's explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

MAY 17 IS NORDIC INDEPENDENCE DAY

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, Kan du glemme gamele Norge Aldrig jeg dag glemme kan Med du står da klippe Borge Duermine fedresland.

Today is Syttende Mai—Norwegian Constitution Day. One hundred sixty-four years ago today, the Norwegians declared their independence.

In 1380, Haakon the VI was Norway's King. His wife, Margrette, was the daughter of the King of Denmark. When Margrette's father died, she became the ruler of Denmark. When Haakon, her husband, died, she then became the ruler of both countries. Denmark soon became the center of power. And in 1536 Denmark declared Norway a Danish province.

During this time, Norway began exporting large amounts of lumber and other natural resources to Western Europe. To transfer their products, Norway developed its great shipping industry.

In 1807, during the Napoleonic Wars, Denmark allied with France against Great Britain. Great Britain had been one of Norway's largest importers. The people were upset to see such a potentially large drop in trade. To make matters worse, Great Britain blockaded Nor-

wegian ports, cutting them off from Denmark.

Norway began to manage its own affairs. Soon it began to secretly trade with the British.

Denmark was defeated in 1813 by Great Britain's ally, Sweden. To penalize Denmark for siding with the French, the Treaty of Kiel, specified that Norway was to be ceded to Sweden.

The Norwegians did not recognize the Treaty of Kiel. And in 1814, they elected an assembly to draw up a constitution, which was adopted May 17.

In an attempt to hang on to their new acquisition, Swedish forces attacked. Norway was plunged into a war for its independence.

Norway followed much the same path as the United States. It was a colony ruled by a country with little concern for the people of that colony. They experienced freedom, a thing so dear, that it forced them into a battle for their independence.

On this day, Syttende Mai—the 17th of May, I wish to salute Norway, and the ideal of freedom, which both our countries hold so dear. It is a proud day for Norwegians who can look back over their history with pride. We in this country, owe a great deal to the Vikings who first set eyes on North America in 1000 A.D., and our early Norwegian settlers, whose beliefs, integrity, and sense of exploration have helped make the United States the greatest country in the world.

So, it is with great pride that I say enthusiastically, Happy Syttende Mai.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 80, FIRST CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 80) setting forth the congressional budget for the U.S. Government for the fiscal year 1979, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will read the conference report.

The Clerk read the conference report.

(For conference report and statement, see proceedings of the House of May 15, 1978.)

The SPEAKER pro tempore. The Clerk will report the Senate amendment to the House amendment.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $447,900,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $24,700,000,000.

(2) the appropriate level of total new budget authority is $568,850,000,000.

(3) the appropriate level of total budget outlays is $498,800,000,000.

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $50,900,000,000 and

(5) the appropriate level of the public debt is $849,100,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $97,100,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301 (a) (2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $128,700,000,000;
(B) Outlays, $115,700,000,000.
(2) International Affairs (150):
(A) New budget authority, $12,800,000,000;
(B) Outlays, $6,900,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,200,000,000;
(B) Outlays, $5,000,000,000.
(4) Energy (270):
(A) New budget authority, $10,400,000,000;
(B) Outlays, $9,800,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $13,000,000,000;
(B) Outlays, $12,200,000,000.
(6) Agriculture (350):
(A) New budget authority, $13,600,000,000;
(B) Outlays, $8,300,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,900,000,000;
(B) Outlays, $3,600,000,000.
(8) Transportation (400):
(A) New budget authority, $20,300,000,000;
(B) Outlays, $17,800,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $11,100,000,000;
(B) Outlays, $9,000,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $33,000,000,000;
(B) Outlays, $31,400,000,000.
(11) Health (550):
(A) New budget authority, $52,550,000,000;
(B) Outlays, $8,300,000,000.
(12) Income Security (600):
(A) New budget authority, $193,100,000,000;
(B) Outlays, $160,200,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,300,000,000;
(B) Outlays, $21,000,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,300,000,000;
(B) Outlays, $4,200,000,000.
(15) General Government (800):
(A) New budget authority, $4,100,000,000;
(B) Outlays, $4,100,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,700,000,000;
(B) Outlays, $9,600,000,000.
(17) Interest (900):
(A) New budget authority, $47,000,000,000.
(B) Outlays, $47,000,000,000.
(18) Allowances (920):
(A) New budget authority, $800,000,000;
(B) Outlays, $800,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority,—$17,300,000,000;
(B) Outlays,—$17,300,000,000.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman tell us in what parliamentary form this budget comes before us? Are we dealing with a conference report or a motion to agree to the Senate amendment with an amendment?

Mr. GIAIMO. We are in technical disagreement on the conference report, because of the questions of scope, both as to the aggregates and as to the functional categories.

We have before us an amendment to the House amendment to the original Senate resolution. The amendment to the House amendment is the substitute amendment which was agreed upon in conference by the conferees.

It is our intention to move to concur in the Senate amendment to the House amendment.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, it is my recollection that when the Budget Act was originally passed, the law contemplated bringing before the House a conference report, parts of which could be attacked through the ordinary parliamentary rules of the House, so that individual changes made in the conference report could be dealt with. It appears to me the parliamentary avenue the gentleman has chosen to bring this before us precludes the rights of Members of the House and forces us to swallow the whole thing in one gulp without adequate deliberation and a chance to work our will.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, does this result in us not having the statutory period of time to debate the conference report?

Mr. BAUMAN. The full 5 hours the Budget Act allows.

Mr. GIAIMO. Mr. Speaker, if the gentleman will yield, not 5 hours, we have 1 hour, as I understand the parliamentary situation.

Mr. CONABLE. Why is it brought up in this way, Mr. Chairman?

Mr. GIAIMO. As I understand the rules, this is the only way it can be brought up and it has been done in this way in the past.

Mr. CONABLE. Why do we have the 5-hour rule statutorily, if it has been brought up under a 1-hour rule in the past?

Mr. GIAIMO. The 5-hour rule provides where the conference report is not in technical disagreement, because of questions of scope.

Mr. CONABLE. Mr. Speaker, if the gentleman will yield further, is it in technical disagreement, because so many of the items in dispute between the House and the Senate were settled outside the parameters set by the two bodies?

Mr. GIAIMO. Either above or below the parameters.

Mr. CONABLE. Then when we make such a settlement, we always avoid the statutory requirement of 5 hours of debate; is that the conclusion?

Mr. GIAIMO. The gentleman can draw whatever inference he wishes.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I think it is still worth making the point. We debated the target resolution for 4 days. Throughout that procedure we heard charges that the budget process had become a farce, that it was all an exercise in futility and that it was a circus. Now we come back and are offered a parliamentary motion that circumvents the rules of the House and does not allow us to attack individual categories of spending or actions of the conferees. This appears to confirm the charges and again calls into question the entire budget process.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves that the House concur in the Senate amendment to the House amendment.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. GIAIMO) is recognized for 1 hour.

Mr. GIAIMO. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), for the purposes of debate only, pending which I yield myself such time as I may consume.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on Senate Concurrent Resolution 80.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GIAIMO. Mr. Speaker, I rise in strong support of the conference report on the first budget resolution for fiscal year 1979. The conference report, as Members know, was adopted Monday night by the Senate by voice vote. Its adoption by the House will clear the way for the House's consideration of all spending bills for the coming fiscal year. As Members also know, under the Budget Act, no appropriation, or entitlement, or revenue bills may be considered until the first budget resolution is in place.

I should emphasize that this resolution proposes only targets. It does not impose ceilings of any kind. A spending ceiling and a revenue floor will be set later in the year in the second budget resolution for fiscal year 1979. The targets being set today will serve in the meantime to guide the House in its consideration of spending and revenue bills, but they will in no way bind our actions.

The major difference between the conference report and the first budget resolution for fiscal year 1979 adopted by the House last week is a substantially reduced deficit. The conference agreement projects a deficit of $50.9 billion—$7 billion below the deficit in the House-passed resolution and about $10 billion below the deficit contained in the President's budget submitted in January.

The reduced deficit, I believe, constitutes prudent and moderate fiscal policy at a time of general economic recovery. As Senator MUSKIE and I said after our recent meeting with the President, "the lower deficit will signal Congress determination to maintain fiscal discipline, reduce inflationary pressures, ease the pressures on capital markets, and maintain the integrity of the American dollar as a reserve asset."

The reduced deficit is made possible by conference agreement on an increase in revenues of $4.9 billion and a reduction in outlays of $2.1 billion. More than half of the outlay reduction is accounted for by the reduced cost of the recently passed Emergency Agricultural Act of 1978.

On the revenue side, the conference accepted the House recommendation for tax reductions of $19.4 billion, but agreed to the January 1, 1979, effective date as contained in the Senate budget resolution, instead of October 1, 1978, the beginning of the fiscal year.

This 3-month shift in the effective date will reduce the fiscal year 1979 impact of the tax cuts to $15 billion. The components of any tax reduction, of course, will be determined by the Committee on Ways and Means, the Senate Finance Committee, and the Congress but nothing in the conference agreement precludes a reduction in social security taxes, as recommended in the House resolution.

The House Budget Committee continues to believe that reductions in social security payroll taxes can contribute directly to anti-inflation efforts, since the employers' share of such taxes is traditionally passed on to consumers in the form of higher prices. We believe that a combination of social security and individual and corporate reductions can help maintain the momentum of economic recovery without exerting inflationary pressures.

As the conference report states, the revenue level assumes the following:

Extension through fiscal year 1979 of temporary income tax reductions of $8.3 billion; additional general tax reductions in fiscal year 1979 of $15 billion to become effective January 1, 1979, and specific structural tax law changes which would reduce fiscal year 1979 revenues by $1.4 billion. These changes include a tuition tax credit, a targeted employment tax credit, and could include energy legislation and other miscellaneous provisions.

As Members know, the economic environment has changed substantially in the 5 months since the preparation of the President's budget and tax proposals at the end of 1977. Inflation has risen dangerously, and unemployment has fallen more than expected. Monetary policy has become more restrictive. And interest rates have risen in response to the fears of higher inflation and weakness of the dollar.

In light of these circumstances, the President and the chairmen of the House and Senate Budget Committees agreed last week that a lower Federal deficit, made possible for the most part by the lower tax reductions I have outlined, is the most appropriate and desirable fiscal policy.

The following, then, are the major budget aggregates agreed to in conference:

Budget authority: $568.9 billion, about $700 million below the House resolution.

Outlays: $499 billion, about $2.1 billion below the House resolution.

Revenues: $448 billion, about $4.9 billion above the House resolution.

Deficit: $50.9 billion, about $7 billion below the House resolution.

While agreement in conference on revenues came relatively easy, the discussions on the spending side were prolonged, and conferees were confronted more than once with the possibility of a breakdown and stalemate.

As happens often in budget negotiations, the issue came down essentially to the need to balance the Nation's defense requirements with important human needs as reflected in a number of human resources programs. I believe that balance is maintained in the conference agreement.

The most difficult conference problem was resolution of the targets for function 050—defense—and function 500—education, training, employment, and social services, which became linked in the proposals and counterproposals of the two sides.

The conference agreement is as follows:

Function 050: Budget authority of $128.8 billion and outlays of $115.7 billion.

Function 500: Budget authority of $33 billion and outlays of $31.4 billion.

Overall, the result the conference accepted was closer to the targets in the House resolution than in the Senate's.

The Senate receded to the House outlay figure in both functions. The conference split the budget authority target in defense. In budget authority for function 500, the House came down by $1.1 billion, but the Senate went up by $1.4 billion.

Given the adamant position of the Senate conferees on a higher budget authority target for defense, and given the unwillingness of the House conferees to make trade-offs in function 500 which could damage important education and jobs programs, the agreement was the only one possible. The apparent alternative was stalemate. That would have meant delay in consideration of revenue and spending bills. And it would have meant a new conference with the Senate's hand in the proceedings now considerably strengthened by overwhelming adoption of the conference report in that body.

The conference agreement leaves intact the provisions in the House resolu-

tion to fund major human resources programs at increased levels.

Education programs are targeted at $14.4 billion. This is the House level for education minus one-half of the funding for the proposed Middle-Income Student Assistance Act. The conference agreement includes one-half of House amounts for that program and for tuition tax credits, pending final congressional action on this issue. An adjustment based on congressional action can be made in the second budget resolution for fiscal year 1979.

Employment and training assistance program targets would maintain program levels anticipated in the budget resolution as passed by the House, including 725,000 public service jobs. Overall, the conference substitute provides $10.1 billion for direct employment-generating programs, sufficient to provide more than 1 million man-years of service in fiscal year 1979.

The conference substitute includes $19.2 billion in outlays for major urban programs, an increase of $3.8 billion, or 25 percent, over anticipated fiscal year 1978 outlays. This represents a substantial increase over the President's budget, which proposed an 18-percent increase. The conference substitute retains a substantial increase over the President's proposals for major urban initiatives, except the proposed national development bank. Legislation for this program has not yet been submitted and is not likely to be enacted this year. The conference substitute therefore deletes funds for the banks' initial capitalization and operating expenses in fiscal year 1979.

The conference agreement provides $193.1 billion in budget authority and $160.2 billion for function 600—income security—the largest of the 19 budget functions. The conference report notes that the targets accommodate $400 million in budget authority and in outlays for fiscal relief to States for public assistance.

As I noted earlier, more than half of the outlay reduction from the House-passed resolution to the conference substitute is accounted for by the reduced cost of recently enacted agriculture legislation.

The outlay change assumes a reduction of $1.8 billion for the smaller actual level of the Emergency Agricultural Act of 1978. Smaller net outlays for other new agriculture initiatives, and a reduction of $300 million to conform to the most recent Congressional Budget Office estimate of dairy price supports at 80 percent of parity. The conference substitute provides sufficient outlays to accommodate the latest Congressional Budget Office estimate for Commodity Credit Corporation price supports and an additional $700 million beyond the Emergency Agriculture Act of 1978 for an assumed intermediate commodity credit program and international emergency wheat reserve program.

For veterans benefits and services, the conference substitute provides budget authority of $21.3 billion and outlays of $21 billion. Overall, all but $287 million of the $1 billion added to the House resolution by the Roberts amendment is included. These amounts are sufficient to accommodate pension reform, cost-of-living increases, and other improvements in veterans compensation benefits for service-disabled veterans and such other new entitlement initiatives as the Congress deems desirable within the total for new entitlements of $1.4 billion. The substitute also accommodates an increase in appropriations for veterans health programs of $150 million above the amounts requested by the President under current law.

In summary, the compromises worked out in conference, I believe, were reasonable and realistic. In all functions, the differences between the House- and Senate-passed resolutions were sufficiently narrow to preserve the major assumptions and provisions of both resolutions. On the outlay side, the House targets were raised in five major functions—international affairs, energy, natural resources and environment, income security, and general purpose fiscal assistance. House outlay targets were decreased in five major functions—agriculture, commerce and housing credit, transportation, community and regional development, and veterans. The House outlay targets remain virtually the same in six other major functions—defense; education, training, employment, and social services; health; administration of justice; general science, space and technology; and general government.

Mr. Speaker, in many ways this has been a difficult budget resolution. It was adopted, as members will recall, after protracted debate on the floor and after consideration of a record number of amendments—26 in all. The conference began the day following House passage and stretched over three often difficult days.

I bring the conference substitute to the floor of the House 2 days after the traditional May 15 deadline because both floor consideration and the conference took considerably longer than anticipated.

Nonetheless, I believe we have produced a sound and a strong budget resolution to guide us in our spending and tax choices over the next several months. The fiscal policy contained in the conference substitute is designed to achieve two paramount economic goals: First, to maintain a healthy rate of economic growth in order to move closer to fuller utilization of manpower and capital resources; and second, to do so in a manner that helps restrain inflationary pressures. Enactment of legislation assumed in the totals, together with a supportive monetary policy, will provide the balanced expansion necessary to move the Nation toward these goals, which all of us and the American people share.

Mr. Speaker, I urge adoption of the conference substitute, and I ask to insert in the RECORD at this point an attachment including a chart further explaining the conference report:

COMMITTEE ON THE BUDGET: FISCAL YEAR 1979—FIRST BUDGET RESOLUTION CONFERENCE AGREEMENT

[In millions of dollars]

	House passed [1]	Senate passed	Conference agreement	Conference agreement over/under House passed
Revenues	443,023	443,300	447,900	+4,877
Budget authority	569,508	566,100	568,850	−658
Outlays	500,885	498,900	498,800	−2,085
Deficit	57,862	55,600	50,900	−6,962
Debt subject to limit	856,062	853,800	849,100	−6,962
050 National defense:				
Budget authority	127,439	129,800	128,700	1,261
Outlays	115,679	116,600	115,700	21
150 International affairs:				
Budget authority	10,990	12,800	12,800	1,810
Outlays	6,600	7,200	6,900	300
250 General science, space, and technology:				
Budget authority	5,216	5,200	5,200	−16
Outlays	5,027	5,000	5,000	−27
270 Energy:				
Budget authority	9,494	10,200	10,400	906
Outlays	9,252	10,100	9,800	548
300 Natural resources and environment:				
Budget authority	13,464	13,700	13,600	136
Outlays	12,013	12,500	12,200	187
503 Agriculture:				
Budget authority	12,297	12,400	12,300	3
Outlays	10,492	7,800	8,300	−2,192
370 Commerce and housing credit:				
Budget authority	6,000	5,900	5,900	−100
Outlays	3,700	3,600	3,600	−100
400 Transportation:				
Budget authority	[2] 20,561	19,500	20,300	−261
Outlays	[2] 18,114	17,500	17,800	−314
450 Community and regional development:				
Budget authority	15,251	10,400	11,100	−4,151
Outlays	10,291	9,000	9,000	−1,291
500 Education, training, employment, and social services:				
Budget authority	34,090	31,600	33,000	−1,090
Outlays	31,429	31,200	31,400	−29
550—Health:				
Budget authority	52,282	52,700	52,550	268
Outlays	49,550	49,500	49,500	−50
600 Income security:				
Budget authority	192,750	192,500	193,100	350
Outlays	159,339	159,900	160,200	861
700 Veterans benefits and services:				
Budget authority	21,730	21,000	21,300	−430
Outlays	21,315	20,800	21,000	−315
750 Administration of justice:				
Budget authority	4,200	4,300	4,300	100
Outlays	4,214	4,200	4,200	−14

Footnotes at end of table.

COMMITTEE ON THE BUDGET: FISCAL YEAR 1979—FIRST BUDGET RESOLUTION CONFERENCE AGREEMENT—Continued

[In millions of dollars]

	House passed [1]	Senate passed	Conference agreement	Conference agreement over/under House passed
800 General government:				
Budget authority	[2] 4,097	4,100	4,100	3
Outlays	[2] 4,134	4,100	4,100	−34
850 General purpose fiscal assistance:				
Budget authority	9,098	9,700	9,700	602
Outlays	9,237	9,600	9,600	363
900 Interest:				
Budget authority	47,000	46,800	47,000	----------
Outlays	47,000	46,800	47,000	----------
920 Allowances:				
Budget authority	1,050	700	800	−250
Outlays	1,000	700	800	−200
950 Undistributed offsetting receipts:				
Budget authority	−17,500	−17,200	−17,300	200
Outlays	−17,500	−17,200	−17,300	200

[1] 201–197 as of May 10, 1978.
[2] These functions have been rounded to reflect effect of amendment.

Note: Detail may not add to totals due to rounding.

FIRST BUDGET RESOLUTION, FISCAL YEAR 1979

MAJOR DIFFERENCES BETWEEN HOUSE-PASSED AND CONFERENCE AGREEMENT

[In billions of dollars]

	Budget authority	Outlays
House passed	569.5	500.9
050: National defense: Increased budget authority for assumed higher defense program level (outlays remain at the House-passed level)	+1.3	----------
150 International affairs:		
Budget authority includes $1.8 billion for supplementary financing facility of the IMF (Witteveen Facility)	+1.8	----------
Half-way compromise on outlays (will provide for covering higher estimates for financial assistance to Israel)	----------	+0.3
270 Energy:		
Transfer of GNMA home weatherization and solar loan programs from function 370 and public housing retrofit program from function 600	+.7	(1)
Eliminate assumption for increased uranium enrichment fees	+.2	+.2
Compromise on outlays for other energy programs	----------	+.3
350 Agriculture: Reflection of current estimates for recently passed Agricultural Act of 1978; for maintaining dairy price supports at 80 percent of parity; and for other new initiatives	----------	−2.2
450 Community and regional development:		
Eliminate assumption for National Development Bank	−2.0	−.1
Transfer of supplementary fiscal assistance and state incentive grants to function 850	−.6	−.4
Fiscal relief transferred to function 600	−.4	−.4
Reduction of accelerated Public Works program	−1.0	−.2
500 Education, training, employment and social services:		
Half-funding of provision for middle-income student assistance pending authorization of a proposal	−.7	----------
Reestimates for employment and training programs	−.4	----------
350 Health: Increases for discretionary health programs	+.3	(1)
600 Income security:		
Transfer of public housing retrofit program to function 270	−.2	----------
Defer possible expenditures from crude oil equalization tax rebate to second resolution	−.4	−.4
Earned income tax credit treated as expenditure	+.9	+.9
Fiscal relief transferred from function 450	+.4	+.4
Lower social security benefit reform	----------	+.1
Reestimates	−.4	−.2
700 Veterans benefits and services: Lower assumptions for veterans health programs	−.4	−.3
850 General purpose fiscal assistance: Transfer of State incentive supplementary fiscal assistance from function 550	+.6	+.4
920 Allowances: Assume 5½ pay cap and 20 percent absorption	−.3	−.2
950 Undistributed offsetting receipts:		
Less offset from interest on trust funds	+.2	+.2
All other, net	−.2	−.5
Total, Conference agreement	568.9	498.8

[1] Less than $100 million.

Explanation of Conference Agreement on First Budget Resolution—Fiscal Year 1979

050 NATIONAL DEFENSE

The Senate resolution provided budget authority of $129.8 billion and outlays of $116.6 billion. The House amendment provided budget authority of $127.4 billion and outlays of $115.7 billion.

The conference agreement provides budget authority of $128.7 billion and outlays of $115.7 billion.

The budget authority in the conference agreement is approximately midway between the Senate and House targets and $300 million over the President's request. In outlays the conference agreement is the same as the House target—$900 million below the Senate level.

150 INTERNATIONAL AFFAIRS

The conference agreement provides $12.8 billion in budget authority and $6.9 billion in outlays for International Affairs, an increase of $1.8 billion in budget authority and $300 million in outlays over the House resolution. The increase in budget authority anticipates the possibility that funds for U.S. participation in the Supplementary Financing Facility (Witteveen Facility) of the International Monetary Fund will be appropriated in fiscal year 1979.

The outlay level agreed to represents half the difference between the House and Senate resolutions and will provide for the increase in outlays now estimated for security assistance for Israel.

250 GENERAL SCIENCE, SPACE, AND TECHNOLOGY

The conference agreement provides budget authority of $5.2 billion and outlays of $5.0 billion. These amounts are essentially the amounts in both the House and Senate resolutions.

270 ENERGY

The conference agreement provides $10.4 billion in budget authority and $9.8 billion in outlays. The House resolution had provided $9.5 billion in budget authority and $9.3 billion in outlays.

The conferees agreed to targets which could accommodate the energy program levels anticipated in the House Resolution. The conferees agreed to transfer allowances made in the House Resolution for GNMA weatherization, and solar loan programs in Function 370, as well as an allowance made in Function 600 for a HUD public housing unit retrofit program to the energy function (Function 270). In addition, the conferees accepted the Senate assumption that the President's proposal to increase uranium enrichment fees would not be enacted. The conferees agreed to evenly split the remaining outlay differences. Further, the conferees agreed to revenue targets that could accommodate the House-passed energy tax bill.

300 NATURAL RESOURCES AND ENVIRONMENT

The conference agreement provides budget authority of $13.6 billion and outlays of $12.2 billion. This represents an increase of $136 million in budget authority and $187 million in outlays above the House passed resolution and a decrease of $100 million in budget authority and $300 million in outlays from the Senate resolution. In budget authority, the conference agreement approximates the mid-point between the House and Senate resolutions. In outlays, the conference agreement takes into account the current outlays estimates for a number of miscellaneous programs in this functional category.

350 AGRICULTURE

The conference agreement includes budget authority of $12.3 billion and outlays of $8.3 billion. The budget authority is $100 million lower than the Senate resolution and $3 million higher than the House resolution and $2,192 million lower in outlays than the House resolution.

The budget authority change from the House resolution results from rounding.

The outlay change from the House resolution assumes a reduction of $1.8 billion for the actual level of the recently passed Emergency Agricultural Act of 1978 and a lower level of net outlays at $0.1 billion for other new agriculture initiatives, and a reduction of $300 million to recognize the most recent Congressional Budget Office (CBO) estimate of dairy price supports at 80 perecnt of parity.

The conference agreement provides outlays to accommodate CBO's latest estimate for Commodity Credit Corporation price supports, funding for dairy supports at 80 per-

cent of parity, and an additional $700 million over the recently passed Emergency Agriculture Act of 1978 for an assumed intermediate commodity credit program and international emergency wheat reserve program.

370 COMMERCE AND HOUSING CREDIT

The conference agreement provides $5.9 billion in budget authority and $3.6 billion in outlays for programs of commerce and housing credit, $100 million less than the House resolution in each case.

The proposed program of low-income energy-conservation loans included in the House resolution in this function has been transferred to function 270, Energy. In its place, the conferees accepted $500 million of budget authority for continuation of the GNMA targeted tandem mortgage commitment program in assistance of low-income housing. The conference agreement includes sufficient funds for implementation of pending legislation to establish a National Consumer Cooperative Bank.

400 TRANSPORTATION

The conference agreement provides $20,300 million in budget authority and $17,800 million in outlays for Federal transportation programs. The agreement reflects an increase of $800 million in budget authority from the Senate position and a decrease of some $300 million in budget authority from the House position. In total outlays the proposed level is midway between the levels in the House and Senate resolutions.

The conference agrement provides $8,400 million in budget authority and $7.400 million in outlays for highways, $3,550 million in budget authority and $2,600 million in outlays for mass transportation, $3,850 million in budget authority and $3,400 million in outlays for air transportation, and $4,500 million in budget authority and $4,400 million in outlays for all other programs.

The mass transportation funding provides for operating, capital and commuter program increases: the original Senate mark is increased by $350 million in budget authority and $300 million in outlays. Highway construction and maintenance program increases over the Senate involve an estimated $250 million in budget authority with a $44 million decrease in outlays from the original Senate mark. The air transportation funding level represents increases of $300 million in budget authority and $85 million in outlays to the Senate mark. The funding level for all other programs reflects an increase of $100 million in budget authority from the Senate mark and a decrease of $52 million in outlays.

450 COMMUNITY AND REGIONAL DEVELOPMENT

The conference agreement provides $11,100 million in budget authority and $9,000 million in outlays for programs of community and regional development. The House resolution included $15,251 million in budget authority and outlays of $10,291 million. The changes reflect several major assumptions: (1) transfer to function 850, General Purpose Fiscal Assistance, of $640 million in budget authority and $425 million in outlays for State incentive grants and supplementary fiscal assistance; (2) transfer of $400 million in budget authority and outlays for fiscal relief for welfare costs to function 600, Income Security; (3) a reduction of $1,000 million in budget authority and $200 million in outlays for local public works; (4) postponing $1.9 billion of budget authority for the proposed National Development Bank; (5) an increase of $379 million in budget authority and $171 million in outlays for disaster assistance; and (6) a number of relatively small reductions in other programs totalling $200 million in budget authority and outlays.

The amounts will provide for new urban initiatives and additional assistance to hard-pressed State and local governments including increased funds for labor-intensive public works, social services, and rehabilitation loans.

500 EDUCATION, TRAINING, EMPLOYMENT AND SOCIAL SERVICES

The conference agreement provides budget authority of $33.0 billion and outlays of $31.4 billion.

The agreement provides half of the necessary funding for both the Middle-Income Student Assistance Act and tuition tax credits, pending final Congressional determination of the design of assistance to middle-income students. Accordingly, the House assumes a reduction of $700 million for the proposed Middle-Income Student Assistance Act and a reduction of $300 million in the tuition tax credit revenue allowance.

With this exception, the conference agreement preserves the House increases for education programs.

Employment and training assistance programs are provided sufficient funds to achieve program levels anticipated in the House Resolution, including maintaining the summer youth employment program at the Fiscal Year 1978 level of 1.2 million jobs, raising Job Corps allowances, and providing 725,000 public service jobs.

New entitlement authority of $1,106 million includes $250 million for an increase in the Title XX social services ceiling from $2.5 billion to $2.9 billion ($150 million in new entitlement authority for this purpose is included in Function 450 with the urban initiatives), $808 million for reauthorization of the vocational rehabilitation State grants with adjustments for inflation, and $48 million for guaranteed student loans.

550 HEALTH

The conference agreement provides budget authority of $52.55 billion and outlays of $49.5 billion for Health. These amounts represent an increase of $268 million in budget authority and a reduction of $50 million in outlays from the House resolution.

For the Medicare program, the agreement provides budget authority of $31.9 billion and outlays of $29.4 billion. The outlay total includes savings of $748 million from legislation to control hospital costs, expand home dialysis services, and improve auditing procedures. An additional $100 million is provided for benefit improvements such as expanded home health services.

The agreement includes a general fund payment of $7.5 billion to the Hospital Insurance trust fund to offset the loss in revenues resulting from the reduction assumed in Social Security taxes.

For the Medicaid program, the agreement provides budget authority and outlays of $11.7 billion. The totals for the program include savings of $144 million to be achieved through legislation to control hospital costs, improve audits of hospitals and other providers, and strengthen controls over clinical laboratories. The program totals also include $329 million for legislation to expand the child health assessment program, extend Medicaid coverage to low-income pregnant women, and increase payments to Guam, Puerto Rico and the Virgin Islands. (The net new entitlement authority included in the agreement for the Medicaid program is $185 million.) In addition, the agreement assumes savings of $272 million from administrative actions to improve eligibility determinations, eliminate billing errors and increase collections from private insurance firms who are obligated to pay for Medicaid beneficiaries.

For all health programs other than Medicare and Medicaid, the agreement provides budget authority of $8.95 billion and outlays of $8.4 billion.

600 INCOME SECURITY

For Income Security programs, the House resolution included $192,750 million in budget authority and $159,339 million in outlays. The conference agreement includes $193,100 million in budget authority and $160,200 million in outlays. The increase of $350 million in budget authority and $861 million in outlays over the House resolution includes the following changes:

Fiscal Relief.—The conference agreement transfers $400 million in budget authority and outlays from Function 450: Community and Regional Development to Function 600: Income Security to accommodate fiscal relief to States from public assistance costs.

Energy Legislation.—The conference agreement transfers to Function 270: Energy, the $210 million in budget authority which was included in the House resolution for energy-conserving improvements to public housing projects. Because of uncertainties regarding the effective date of the crude oil equalization tax, the conference substitute does not include the $433 million in budget authority and outlays for rebates in excess of tax liabilities which were assumed in the House resolution. Once the crude oil equalization tax is enacted, appropriate adjustments will be recommended in the Second Budget Resolution.

Accounting Treatment of Earned Income Credit.—The conference agreement includes $900 million in budget authority and outlays to reflect the current law costs of the earned income tax credit as an expenditure, not a revenue loss. This treatment is consistent with the House position on this issue last year.

Social Security Benefit Reforms.—The conference agreement includes outlay savings of $150 million which the House targets as savings from social security benefit reforms. The House resolution included savings of $264 million.

Public Assistance Amendments of 1977 (H.R. 7200).—The conference agreement adjusts the cost of this House-passed bill to assume a January 1, 1979, implementation of the extension of the supplemental security income (SSI) program to Puerto Rico, Guam, and the Virgin Islands. This adjustment reduces budget authority and outlays by $47 million.

Civil Service Retirement.—The conference agreement includes the cost of S. 666, a bill providing for early retirement of certain non-Indian employees of the Bureau of Indian Affairs. The cost of this bill was included in the House resolution. In addition, the conference agreement includes $9.2 million in budget authority and $4 million in outlays to accommodate legislation to provide liberalized retirement benefits to certain Federal employees in the Panama Canal Zone.

Adjustments in Estimates.—Technical adjustments in a number of programs to reflect more recent data reduce the budget authority by $269 million and outlays by $77 million.

700 VETERANS BENEFITS AND SERVICES

The conference agreement provides budget authority of $21.3 billion and outlays of $21.0 billion.

Overall, the conference agreement preserves all except $287 million of the $1,019 million Roberts Amendment.

These amounts are sufficient to accommodate pension reform, cost-of-living increases and other improvements in veterans compensation benefits for service-disabled veterans and such other new entitlement initiatives as the authorizing committees and the Congress deem desirable within the total for new entitlements of $1.417 billion.

The agreement accommodates an increase in appropriations for veterans health programs of $150 million above amounts requested by the President under current law

750 ADMINISTRATION OF JUSTICE

The conference agreement provides $4,300 million in budget authority and $4,200 million in outlays for this function, $100 million in budget authority above the House resolution. The additional amounts would accommodate new judiciary or law enforcement initiatives.

800 GENERAL GOVERNMENT

The conference agreement includes $4.1 billion of budget authority and $4.1 billion of outlays, the same levels as contained in the House Resolution.

850 GENERAL PURPOSE FISCAL ASSISTANCE

The conference agreement provides $9,700 million in budget authority and $9,600 million in outlays. The House resolution included $9,100 million in budget authority and $9,200 million in outlays. The increases in the agreement reflect transfer of funds for two activities in Function 450, Community and Regional Development, in the House resolution: $440 million in budget authority and $300 million in outlays for the proposed supplementary fiscal assistance program, and $200 million in budget authority and $125 million in outlays for the proposed State incentive grant program.

900 INTEREST

The conference agreement contains $47.0 billion in budget authority and outlays for interest, the same as that contained in the House resolution.

920 ALLOWANCES

The conference agreement includes $0.8 billion in budget authority and outlays for Federal employee pay raises. This assumes that the President will implement his proposed intention to limit Federal employee pay raises to 5½ percent, and further assumes that 20 percent of pay-increase costs will be absorbed through savings in operating expenses.

950 UNDISTRIBUTED OFFSETTING RECEIPTS

The conference agreement includes $17.3 billion for undistributed offsetting receipts. This figure, $0.2 billion less than the House estimate, reflects a reestimate of receipts of interest by government trust funds.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, it is with some feeling of sorrow that I rise to oppose this motion. However, I do so because I think it is completely inadequate for the needs of the country.

In the first place, we still have a $51 billion deficit. It is the third largest in our history, even though the economy is now generally conceded to be in the fourth year of recovery. It is an inflationary budget. It is one that will not serve the best interests of the economy of this country or the economy of the world.

But that is not the only problem. The conference report also fails to take into consideration the fact that taxes for the people of this country are going up in the next fiscal year. The so-called tax cut in the conference report of $15 billion is completely inadequate because the impact of inflation, upon our progressive income tax, will create what we call "taxflation" and take $14 billion of it back from the American people in the next fiscal year.

There also is $9 billion in higher social security taxes which will be paid in the next fiscal year. That gives us a net increase of $88 billion, and that does not take into consideration any new energy taxes, if and when the conferees on the energy bill finally get around to bringing something out of the conference. So, let no one misunderstand the situation. If a Member votes in favor of this conference report, he or she is voting for a tax increase for the American people, and for a $51 billion deficit in the next fiscal year. I cannot believe that the people back home are going to like the results of either of those actions.

There are no real cuts in this budget. There is a technical reestimate downward of $2 billion for agriculture, but it is just an estimate. I dare say that unless the price of agricultural products goes up rather more precipitately than most people believe it will, it will be found necessary to recapture that $2 billion to pay the benefits which will accrue to the American farmer under the laws of the land.

The Republican substitute which was set forth by the gentlewoman from Maryland (Mrs. HOLT), provided for a deficit which is considerably lower than the deficit provided for in this conference report. Her plan encompassed the tax cuts which we on our side consider absolutely essential, particularly those which will assist in capital formation.

I see absolutely nothing in this conference report that takes into consideration one of the most crying needs of this country in the next few years, the capital formation necessary to expand the industrial plant to provide the energy facilities this country must have to be less dependent on foreign nations so far as energy is concerned. There is nothing like that.

We Republicans have a 5-year plan. We have a plan that would balance the budget in fiscal year 1983 or 1984. In the majority conference report, there are charts which seem to indicate that somewhere out in the 1985 to 1986 area there may be a balanced budget. But I would like to point out to the Members, Mr. Speaker, that the Republican plan would balance that budget at a revenue intake which is somewhere around 18 percent of the gross national product. As I read the projections of the majority plan, the budget is balanced at a take in revenue of some 25 percent of the gross national product.

Again, I submit to the Members that this points out a basic difference between the two political parties. I must say that it is no accident that we have not been able to work together as two parties on this. It is not through politics; it is because we do have rather basic, very basic, differences of philosophy insofar as the economy is concerned and insofar as the effect which the budget has on that economy is concerned.

So, I think it is absolutely necessary that we vote down the motion and recommit this bill to the conference committee; so it can then bring out a report which is more realistic in its taxing and spending figures.

It is absolutely imperative that this country—not only the citizens of the country but the citizens of the world—be put on notice once and for all that this Congress means business about balancing the budget and about doing the things which are necessary to set the sails of this economy of ours on a course for real—and I mean real—peace and prosperity in the years to come. We should do it this year. We should begin this year, and the best way to do that is to vote no on the motion and send this bill back to conference.

Mr. GIAIMO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise with strong reservations about the conference report. Although I appreciate and applaud the overall reduction in outlays and in the deficit I cannot support a reordering of priorities which results in a large increase in the amount allocated for defense.

Mr. Speaker, as chairman of the Budget Committee's Task Force on National Defense, I can assure you that we devoted great time and effort in arriving at the total for the national defense function. Within the time allowed between the submission of the President's budget and committee markup of the first budget resolution, we held a considerable number of hearings with representatives of each of the armed services, as well as with the Secretary of Defense and his principal assistants. We studied the available data and we took into consideration the latest CBO and executive branch spending estimates and outlay projections for the coming year. Based on the task force efforts, I recommend a reduction of $2 billion in budget authority below the President's budget. The chairman of our committee recommended a reduction of only $1 billion during our first resolution markup. My amendment to stay with the task force recommendation was narrowly defeated: In fact, it lost by only 1 vote—12 to 11.

Last week, when we brought the resolution to the floor, defense spending was once again hotly debated. At that time a strong effort was made to increase the defense estimates. The advocates of higher defense spending insisted that the House resolution figure was too low and proposed an amendment which would have raised the total by $2.4 billion.

I spoke against that amendment at that time, Mr. Speaker, for the same reasons that I had proposed a lower figure in committee and for the same reasons that I oppose a higher total now. The reason is, Mr. Speaker, that there is no justification for adding to the President's budget figure. As the information developed by our task force indicated there is in fact many reasons to support a decrease in the total. The single largest item indicating a lower total is, of course, the slippage in the schedule of the Trident submarine. That single item, Mr. Speaker, means that the defense total can be reduced by almost $1 billion. In addition, our task force hearings developed a number of other soft areas which

indicated that the defense total could be reduced without affecting national defense.

However, as our report stated, we recognized the pressures for new items and assumed that corresponding decreases would be made in the existing programs to maintain the recommended levels. So we opposed the amendment to increase the defense totals during floor consideration of our first budget resolution. And that amendment was overwhelmingly defeated. It was defeated, Mr. Speaker, because this House recognized at that time that there was no justification for it. The totals recommended in the House resolution were recognized as adequate to provide for national defense. That funding level would provide for an overall level of real growth in national defense of 2 percent and a real increase in our NATO effort of 3 percent. It would provide for modernization and continued growth in our tactical air forces and our land forces. It would provide for the research required to continue development of our strategic Triad, and it would provide adequate funding to provide for the shipbuilding efforts which are possible and prudent within the constraints imposed upon us by the backlog, and schedule slippages we currently face in our shipbuilding facilities. In short, Mr. Speaker, the House resolution number was the right number for defense and should have been included in this conference report.

But this conference total adds to the House number. It goes more than halfway to the Senate total, and it provides a funding total far in excess of anything which could be justified by any of the data I have seen concerning defense spending requirements for fiscal year 1979.

It is higher than the defense task force recommendation, it is higher than the House Budget Committee recommendation, and it is far higher than the budget resolution total approved by this House only a few days ago.

Mr. Speaker, I recognize that accommodations are sometimes necessary to achieve conference agreements, but this national defense total is so grossly at variance with requirements that there is no way I can support it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GIAIMO. I yield an additional 30 seconds to the gentleman from California.

Mr. Speaker, if the gentleman will yield, let me say we compromised the budget authority figure between the House and Senate by splitting it down the middle.

Mr. LEGGETT. It appears to be such.

Mr. GIAIMO. Which is $300 million from the President's figures. We compromised the outlay amount at the House figure, which was $900 million below the Senate, at $115.6 billion.

Mr. LEGGETT. As I read what our colleague Senator MUSKIE, the chairman of the Senate conferees stated yesterday after the conference report was approved, he said the bill is $2 billion above the President's budget in the defense function.

Mr. LATTA. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, at the outset of my remarks, I wish to include the figures agreed to in the conference and agreed to without my vote. They are as follows:

COMMITTEE ON THE BUDGET: FISCAL YEAR 1979—FIRST BUDGET RESOLUTION CONFERENCE AGREEMENT

[In millions of dollars]

		House passed [1]	Senate passed	Conference agreement	Conference agreement over/under House passed
	Revenues	443,023	443,300	447,900	+4,877
	Budget authority	569,508	566,100	568,850	−658
	Outlays	500,885	498,900	498,800	−2,085
	Deficit	57,862	55,600	50,900	−6,962
	Debt subject to limit	856,062	853,800	849,100	−6,962
050	National defense:				
	Budget authority	127,439	129,800	128,700	1,261
	Outlays	115,679	116,600	115,700	21
150	International affairs:				
	Budget authority	10,990	12,800	12,800	1,810
	Outlays	6,600	7,200	6,900	300
250	General science, space, and technology:				
	Budget authority	5,216	5,200	5,200	−16
	Outlays	5,027	5,000	5,000	−27
270	Energy:				
	Budget authority	9,494	10,200	10,400	906
	Outlays	9,252	10,100	9,800	548
300	Natural resources and environment:				
	Budget authority	13,464	13,700	13,600	136
	Outlays	12,013	12,500	12,200	187
350	Agriculture:				
	Budget authority	12,297	12,400	12,300	3
	Outlays	10,492	7,800	4,300	−2,192
370	Commerce and housing credit:				
	Budget authority	6,000	5,900	5,900	−100
	Outlays	3,700	3,600	3,600	−100
400	Transportation:				
	Budget authority	[2] 20,561	19,500	20,300	−261
	Outlays	[2] 18,114	17,500	17,800	−314
450	Community and regional development Budget authority	15,251	10,400	11,100	−4,150
	Outlays	10,291	9,000	9,000	−1,290
500	Education, training, employment, and social services:				
	Budget authority	34,090	31,600	33,000	−1,090
	Outlays	31,429	31,200	31,400	−29
550	Health:				
	Budget authority	52,282	52,700	52,550	268
	Outlays	49,550	49,500	49,500	−50
600	Income security:				
	Budget authority	192,750	192,500	193,100	350
	Outlays	159,339	159,900	160,200	861
700	Veterans benefits and services:				
	Budget authority	21,730	21,000	21,300	−430
	Outlays	21,315	20,800	21,000	−315
750	Administration of justice:				
	Budget authority	4,200	4,300	4,300	100
	Outlays	4,214	4,200	4,200	−14
800	General government:				
	Budget authority	[2] 4,097	4,100	4,100	3
	Outlays	[2] 4,134	4,100	4,100	−34
850	General purpose fiscal assistance:				
	Budget authority	9,098	9,700	9,700	602
	Outlays	9,237	9,600	9,600	363
900	Interest:				
	Budget authority	47,000	46,800	47,000	----------
	Outlays	47,000	46,800	47,000	----------
920	Allowances:				
	Budget authority	1,050	700	800	−250
	Outlays	1,000	700	800	−200
950	Undistributed offsetting receipts:				
	Budget authority	−17,500	−17,200	−17,300	200
	Outlays	−17,500	−17,200	−17,300	200

[1] 201–197 as of May 10, 1978.
[2] These functions have been rounded to reflect effect of amendment.

Note: Detail may not add to totals due to rounding.

Mr. Speaker, this conference report should be returned to the committee with instructions to reduce Government spending. I repeat, it should be returned with instructions to cut spending; to cut the deficit for fiscal year 1979 and to cut the size of the projected national debt in 1979.

On numerous occasions this House last week came within a vote or two, or three or four, of reducing spending by substantial amounts. It was clearly the will of a majority of the House to reduce a bloated deficit by cutting spending. That makes sense because this budget increases spending by almost 11 percent from the 1978 levels and increases the national debt by 15 percent, from $738 billion to $849 billion. But the conferees went the other way. Realizing the deficit was too large, the conference trimmed the deficit by raising taxes, or cutting back on the amount of the tax reduction promised by Carter to the American people, not by cutting spending. Of course, the deficit is still hopelessly large—$51 billion, the third largest in our history. And the tax cut is not what it appears to be. I do not think the Members of the House or the American people will be fooled by the size of the tax cut as there is more to this scheme than meets the eye. We actually have only a $15 billion tax cut. In 1979, taxes will rise by about $23 billion, $14 billion of that increase coming through inflation and $8 billion from new social security taxes.

I understand the 2-to-1 Democrat-controlled Committee on Ways and

Means has just reversed itself on this issue and there is no relief in sight for the American people on social security taxes next year.

Thus, next year under this proposal, taxes actually go up $8 billion. Never before has Congress let the income tax rise to where it is taking more than 12 cents of every taxable dollar. In the past when inflation drove taxes up over the 12-cent mark, Congress cut back taxes to the 11-cent mark. This budget breaks that tradition and deliberately lets the income tax burden rise to a record high 12.7 cents.

We should not be fooled by those who would tell us that this budget resolution cannot be reduced on the spending site. Does anybody in this body honestly believe that there is no fat in a half-trillion-dollar budget? Does anyone in this body honestly believe that the committee exhausted all the avenues for cuts that could be made by taking $2 billion from agriculture? Remember, spending has increased an average over the last three budgets by 11 percent per year, and, thus, it produced the second, third, and fourth biggest deficits in our history—the second, third, and fourth biggest deficits in our history, and I want to emphasize that fact. Is it any wonder that the House has difficulty passing a budget resolution of this kind, especially when the economy is in a strong recovery, and inflation is running at a 10-percent rate?

Let us not be misled by those who would tell us today that this budget resolution is the best that can be produced, and if we vote against it we are voting against the budget process. This certainly is not true. I read the will of the House, based on 2 weeks of floor deliberations and numerous rollcalls, as being for spending cuts—spending cuts. It certainly is the will of the American people, and especially so when the choice is between less spending and higher taxes. The Budget Act specifically provides that the resolution can be returned to committee and revised. By defeating this resolution, we would be sending word to the conferees that we want less spending and less inflation. The American people would welcome our action.

Let me say the Members probably received in their offices this week a copy of Business Week magazine. I am not very proud, being a Member of this body, of what is pictured on its cover—a picture of the Capitol dome—and printed below it the following: "A Special Report: The Great Government Inflation Machine"—under the Capitol dome. That paints a pretty clear picture for the American people and they will get the message as to who is responsible for inflation. Can we have a half-trillion dollar's worth of Government spending in 1 year without more inflation? Your vote will be for or against more inflation.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I simply want to take this time to explain my vote. My main concern is one of process. The fact is that on function 500 for education and training there is no major difference in policy between the House and Senate. The major difference has been that the Senate produced a $450 million cut in estimates for public service employment because they said there was going to be a $2 billion spring supplemental in the present fiscal year for jobs.

The fact is that without that assumption the Senate would have been above the House in function 500, once the middle-income student assistance issue was put to rest, because the Senate added money for the WIN program and several other of their pet projects. They financed those add-ons by making two assumptions. Everyone around here knows that one of them is incorrect.

The House Committee on Appropriations knows that there will be no 1978 supplemental for jobs. The Senate Committee on Appropriations knows there will be no 1978 supplemental appropriation for jobs. Even the Committee on Education and Labor would not support such a supplemental, because it would be funded through the old authorization which has been discredited in so many ways, and which has been blamed for the charge of rampant substitution on public service jobs all over the country. And even if a supplemental for 1978 were offered, our Budget Committee chairman would have no choice but to raise a point of order against it, because it would exceed the target for the present fiscal year. Yet one of the two assumptions on which this resolution is based in function 500 is that that will happen.

If I voted for this resolution, I would be accepting, at least in part, the Senate's irrational assumptions, and I simply cannot do that. There are those who say that the budget process is not real—that we are merely performing a bookkeeping function. I disagree with that, but even if it were so, at least we ought to perform that bookkeeping function well, but thanks to the Senate's intransigence we have not been able to.

That is a major reason why I am voting against this resolution.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONABLE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I oppose this conference report and plan to vote against it. This will not be the first time. I do not apologize for my position.

Republicans have fairly consistently opposed budget resolutions since enactment of the Congressional Budget Act. Though we strongly advocated creation of the budget process, the process has not been working.

Instead of curbing escalating spending, taxes and deficits, the budget process has encouraged all three to grow prodigiously. If approved, Senate Concurrent Resolution 80 will target the third highest postwar—World War II—deficit, exceeded only by those of 1977 and 1978. In 1977, 1978, and 1979 spending will have increased at an annual rate of 11 percent and taxes by 13 percent.

This conference report is a dose of the wrong medicine at the wrong time. This is a time for restraint. Democrats and Republicans seem to have trouble deciding what constitutes an appropriate measure of restraint. We agree that a relatively smaller deficit is needed now that a post recessionary economic recovery is well under way. But we sharply disagree on how that deficit should be achieved.

The conference report has closed the gap between revenues and outlays in the worst possible way—by increasing taxes. While this would produce a smaller deficit than last year's, it would do so at the price of pushing spending and taxes to record levels in an economy that is already flirting with double-digit inflation. Business Week magazine this week says the degree of stimulus contemplated for the upcoming year "has been matched only in 1968 and 1972, both years that preceded sharp spurts in the inflation rate and in 1975 when the economy was in deep recession." We just do not need this kind of budget this year.

Republicans offered an alternative during our debate last week. We would have made this year's budget the first step of a 5-year plan to break the self-perpetuating momentum of spending. Our plan would narrow the gap between spending and taxes by gradually slowing the growth rate of both, thereby achieving a balanced budget by fiscal 1983 at about 18.6 percent of GNP, a lower percentage than either spending or taxes today. We were not talking about spending cuts; we just wanted to slow the dizzying upward thrust of spending that has turned our Government into an "inflation machine."

Our proposal came within a hairbreadth of passing the House. Yesterday's Wall Street Journal editorial details some of the desperate tactics employed by the majority leadership to turn what appeared to be a vote for our plan into a defeat. Majority party votes were rallied instead for the spending increases that are now being used to justify accompanying revenue increases.

I expect that during the course of today's debate, the minority party will be charged with not acting in a responsible manner. But after last week's tactics here on the floor to prevent the House from reducing the spending levels projected by the concurrent resolution, such a charge rings hollow.

We may also be accused of not playing the budget game according to the rules. That is because we have attempted to follow the underlying philosophy behind the Budget Act. We have earnestly tried to focus on the aggregates of fiscal policy rather than succumbing to the intricate details of individual programs, each with their various constituencies pleading for

special generosity. Playing the budget game under the rules followed by the Democratic leadership this year, the Congress has scored a win for big government and a loss for the American people.

Supporters of the conference report are pleased with the "modest" $51 billion deficit it targets as the goal for fiscal 1979. If the revenues set forth in the resolution succeed in serving as a blueprint for congressional action on tax policy, however, the country will soon conclude that the cosmetic reduction in the deficit was not worth the price.

This deficit was tortuously arrived at after 3 days in conference. But for all its agonizing, the conference committee never seriously considered the option of holding spending increases to a rate that would permit reducing the deficit at lower levels of taxation than those prevailing today. The conference quickly accepted, with minimal and cursory explanation and even less discussion, the deal worked out at the White House to pay for excessive spending increases by trimming the proposed tax "cut" so much that taxes for most people will go up next year. This may be what the majority characterizes as "restraint" but most taxpayers will probably feel differently come April 15.

In 1979, taxpayers already face a substantial, built-in tax increase—some $13.5 billion—due to inflation's effects under our graduated income tax system. Another $8.5 billion will be extracted from them under scheduled social security tax increases. This $22 billion automatic increase cannot be offset by the $15 billion tax cut projected in the conference report. This gloomy projection becomes even darker when projections of actual increases in tax burden are considered. I have a table illustrating the substantial tax increases at various income levels if Congress sticks to the $15 billion tax "cut" envisioned in this conference report.

Assuming the unlikely possibility that all $15 billion were targeted on individual income tax reductions, and distributed so as to maintain approximately the present distribution of tax burden among income classes, we see that between 1977 and 1979, one-earner families of four would pay considerably higher taxes under the tax "cut" in the budget resolution when social security taxes and inflation are taken into account. Families with 1977 incomes of $6,000 would see their tax burden go up by $186. For families with 1976 incomes of $10,000, taxes will increase by almost $300. Similarly, families with $15,000 in 1977 would be tapped for $415 more; those with $20,000 for $696 and those at $25,000 for $789. These, I admit, are approximations of the effects of a tax change of the magnitude envisioned in Senate Concurrent Resolution 80, and the actual changes enacted might vary by a few percentage points in either direction depending on inflation rates and how Congress structures a tax cut and any accompanying reforms. But the message is clear: If implemented, this budget resolution means higher taxes for most taxpayers. If the "cut" in personal income taxes is smaller, because of the need to enact corporate tax changes, the results will be even more devastating.

TAX INCREASES UNDER $15 BILLION AND $10 BILLION TAX CUTS

1977 income	$6,000	$10,000	$15,000	$20,000	$25,000
1979 income with cost-of-living increases of 7 percent in 1978, 6 percent in 1979	$6,805	$11,342	$17,013	$22,684	$28,355
Social security tax increase 1977–79 under present law	66	110	165	426	439
Increase in tax liability for a family of 4 under a $10 billion tax "cut" with reforms [1] 1977–79 (approximate figures)	120	185	355	460	640
Total income and social security tax increase after inflation 1977–79	186	295	520	886	1,079
Increase in tax liability for a family of 4 under a $15 billion tax "cut"—no reform (approximate figures)	120	185	250	270	439
Total income and social security increase after inflation 1977–79	186	295	415	696	789

[1] Repeal of State and local gasoline, sales and personal property taxes and increase in ZBA of $400 for joints, $200 for others.

The rules of the debate today allow us only two options—accept this conference report or reject it. A responsible, constructive approach to the fiscal 1979 budget will not be available unless we vote down this resolution and send it back to conference.

If the resolution passes, we can expect that later this year President Carter will take to the television to appeal to Americans to tighten belts and make the personal sacrifices needed during a period of raging inflation and major economic uncertainty. He will probably try to convince us that doing without a real tax cut is an unavoidable necessity.

We can avoid this specter if we return to the rules of the budget process as they were originally conceived. We need to concentrate on targeting budget aggregates in terms of fiscal policy, on reducing spending rather than increasing taxes in order to bring the deficit under control.

There is no less responsible course of action for Congress at this point than to adopt this conference report. Such action would threaten the American people with tax increases they cannot afford and stoke an overheated economy with fuel it does not need.

Despite the May 15 deadline, we can accommodate another week's delay in order to agree on a budget policy that trims Government spending and taxing increases. Stand up for the taxpayers. Defy the leadership. Vote down the conference report. We can do better.

Mr. GIAIMO. Mr. Speaker, I yield 1 minute, for purposes of debate only, to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I have deep reservations about part of this budget resolution; notwithstanding them, however, it is my intention to vote for the resolution.

Those of us who are concerned about adequate budget room for jobs, education, the handicapped, the aging—in short, the priorities reflected in the target for function 500—view with dismay the cut of $1.1 billion from function 500.

The conferees tell us the cut is only "technical" and program levels for jobs contemplated in the House-passed resolution have not been disturbed. The fact remains, however, that the target for education programs in the education division of HEW built into the function 500 total is substantially lower than Labor-HEW bill as reported by Mr. FLOOD'S subcommittee.

I know the House conferees did their best to maintain the House position. But what has happened is a trade off—more budget room for an already adequate defense function and less for the already inadequate education, employment, and social services. The conferees say we may have the best deal possible. But to quote my good friend PAUL SIMON who quoted Voltaire during the budget debate last week, "the best is the enemy of the good."

The difficulty I see in accepting the conference report with the low priority for function 500 is not in the House but in the other body where targets are not guidelines but only a fraction short of ceilings. When the spending bills relevant to function 500 are considered in the other body, its Budget Committee will not refrain from attacking them on the grounds of their exceeding the target.

Notwithstanding my reservations I shall vote for the resolution in the hope that the House conferees will resist strongly further increases in military spending at the expense of badly needed social programs.

Mr. GIAIMO. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ROBERTS), for the purpose of debate only.

Mr. ROBERTS. Mr. Speaker, I rise in support of the conference substitute, but I do so reluctantly because of the reductions accepted by the conferees for veterans' benefits and services.

As my colleagues know, the House-passed resolution contained $21.7 billion in budget authority and $21.3 billion in outlays. These targets were established by an overwhelming vote of 362 to 33 by Members of the House.

The conference substitute represents a reduction from the House-passed resolution of $430 million in budget authority and $315 million in outlays. Although the numbers do not show it, we have been informed by Budget Committee staff that the targets provided are sufficient to accommodate pension reform, cost-of-living increases and other improvements in veterans compensation benefits for service-disabled veterans and such other new entitlement initiatives as the Committee on Veterans' Affairs and the Congress deem desirable within the total for new entitlements of $1.417 billion. However, the CBO estimates that the House pension bill would save $122 mil-

lion in the health and income security functions. Neither body assumed these savings in the first budget resolution. For scorekeeping against the first budget resolution, the House nets these savings in the veterans function against CBO estimates of possible fiscal year 1979 supplemental requirements for the existing veterans pension program. There is, therefore, more funding available for new veterans entitlement initiatives than is apparent given the reductions from the House-passed resolution.

Mr. Speaker, we will still be about $100 million short in new entitlement authority from the $1 billion, $531 million included in the House-passed resolution. This means that we will probably be unable to provide any new initiatives in education and training during this session of the Congress, and I want to be sure all Members understand this.

The chairman of the Budget Committee has assured me that in the second resolution, by which time an enacted pension bill is expected, CBO will reestimate the savings to health and income security programs from the final pension reform bill, and they will be reflected in the appropriate functions. I am told that at that time, CBO will also reestimate the cost of all entitlement programs, including veterans' benefits, and these reestimates will be incorporated in the second budget resolution. If this does occur, the expected savings may be reallocated to the education and training subfunction for new entitlement purposes.

Mr. Speaker, in addition to the entitlement shortfall, the amount accepted by the conferees is about $187 million less than the amount included in the House-passed resolution for VA medical care, medical and prosthetic research, medical construction and grants for the construction of State extended care facilities. This will adversely impact on veterans throughout the country. In summary, the budget authority amounts included in the so-called Roberts amendment and in the conference agreement compare as follows:

[In billions of dollars]

	Roberts amendment	Conference	Difference
New entitlements	$0.732	$0.632	—$0.100
Health appropriations	.287	.100	—.100
Total	1.019	.732	—.287

Mr. Speaker, although I am disappointed that we will be unable to do some of the things we wanted for our veterans, I support the resolution. I know the conference with the Senate was not easy. Agreements reached in any conference are always difficult. BOB GIAIMO, the distinguished chairman of the Committee on the Budget, has done a commendable job under the circumstances. He and I have disagreed over the years on a number of issues. However, he has always listened and tried to resolve differences as best he could. I thank the gentleman for the way he has labored to keep the deficit as low as possible and for his willingness to compromise.

Mr. Speaker, I also want to thank Alair Townsend of the Budget Committee staff for working with us at the staff level.

She continues to do an outstanding job for the Committee on the Budget.

Finally, Mr. Speaker, I want to thank the members of our own committee for their cooperation and support in behalf of our efforts. I am especially grateful to DAVE SATTERFIELD, OLIN E. "TIGER" TEAGUE, G. V. "SONNY" MONTGOMERY, CHARLIE CARNEY, and JACK BRINKLEY.

I also want to personally thank the distinguished gentleman from Arkansas, the very able ranking minority member of our committee, JOHN PAUL HAMMERSCHMIDT. He is outstanding. I am very grateful for the cooperation and hard work of MARGARET HECKLER, CHALMERS WYLIE, JIM ABDNOR, and ELWOOD HILLIS.

Mr. Speaker, all our Members have been a tremendous help to me and I want the veterans throughout the country to know that we labor in their behalf in a bipartisan manner.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

I wish to point out that I also rise in support of the conference substitute, but I would like to ask the chairman of the Committee on Veterans' Affairs this question:

Does the gentleman feel there are enough funds here to take care of the cost-of-living increase for the veterans in service-connected and also non-service-connected categories?

Mr. ROBERTS. Mr. Speaker, the answer is "yes," including the pension reforms that the gentleman will bring up next week.

Mr. MONTGOMERY. Under the Pension Reform Act which the Members of Congress are vitally interested in, there are enough funds to correct the problem we have had with the social security situation, and also to move some of these pensioners out of the poverty level.

Mr. ROBERTS. The gentleman is correct.

Mr. MONTGOMERY. There are funds to help the aged needy World War I veteran who has reached the age of 80? The gentleman does feel comfortable in the belief that there are sufficient funds for these purposes?

Mr. ROBERTS. The gentleman is correct. The Budget Committee staff has assured me these items will be covered. There is a flow-back that cuts through the deficit.

Mr. Speaker, I also want to express my appreciation to the distinguished minority members of our committee for their efforts.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the chairman of the Committee on the Budget.

Mr. GIAIMO. Mr. Speaker, I want to express my gratitude and appreciation to the gentleman from Texas and to the gentleman from Mississippi (Mr. MONTGOMERY), both of whom are distinguished members of the Committee on Veterans' Affairs, for helping us to work out a reasonable compromise and protecting the interests of veterans.

Mr. LATTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, I rise in opposition to the conference report. It is a blueprint for high inflation, heavy taxation, and slower economic growth. It means that Federal spending will continue to advance at a rate of 10 percent a year. It means that Federal spending will have doubled in just 6 years.

This is a budget that totally ignores the desperate appeals from families that are sick of being plundered unmercifully by a Congress that erodes their standard of living and threatens their aspirations. I wanted to demonstrate to the American people that we were going to change the trend.

There have been some peculiar antics on display through this budget process. Members who have spent years voting for every extravagance were suddenly expressing alarm about the size of the projected deficit in this 1979 budget.

Then their purpose became very clear. To prevent the deficit from soaring over $60 billion, they eliminated all hope for tax relief, but continued spending at a runaway pace. The minimum tax cut offered here today is totally inadequate to offset inflation and the economic damage imposed by current and past inflation. The net effect is a tax increase.

A variety of arguments and excuses are being put forth to justify this budget, but here is the truth of the matter: It allows an intolerable increase in spending, promises higher taxes, and deficit spending will continue at more than $50 billion a year.

There should be no mystery about the cause of inflation. It is not workers asking for higher pay to help them cope. It is not businessmen asking for higher prices to cover costs. It is the extremely rapid growth rate of Government spending.

Huge amounts of our financial resources are being transferred from the productive sector of the economy to the Government sector. Everybody knows that Government spending stimulates consumer demand, but Government produces nothing that people want to buy. Productive industries that produce the good and services of real value are severely handicapped by the awesome and growing burden of Government. Here are the factors that cause inflation.

Two weeks ago I stood on this floor and offered a substitute budget resolution that would have reduced the growth rate of Federal spending to less than 8 percent a year. It also allowed a substantial tax reduction instead of the meaningless token being put forth here today.

My amendment would have won if the majority leadership of this House had not intervened. It lost by only six votes, and then only after several Members had been pressured to change their votes.

Instead, what we have today is this miserable spend-inflate-tax document that emerges from the House-Senate conference. The best thing we can do is defeat it. I know that I could never give my assent to such a thing.

I have a final suggestion for the chairman of the House Budget Committee. He complains that Republicans and conservatives never vote for budget resolutions, that it is impossible for him to work with us to achieve reductions in spending.

I challenge the chairman to make an offer, such as reducing this bloated budget by 2 percent in total spending. He has never made such an offer through this long and difficult budget process.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Speaker, I submit that the majority leadership does not want to exercise any restraint in the size of this budget. As evidence of that I point to the fact that we had a very interesting amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

That amendment would have restrained the growth in the budget. We still would have had growth, but it would have restrained it to 7½ percent, which would have kept up with inflation. That amendment failed narrowly, by a vote of 197 to 203, after eight vote switches in the well.

Then we had an amednment offered by the gentleman from Virginia (Mr. FISHER). That was a very modest but a very important amendment. It provided a 2-percent reduction in overall spending, which would still have left the growth rate at some 9 percent, well ahead of inflation. This was a modest proposal but a very important one, because of the message it would have sent to the American people, and particularly to prospective investors, whose risk capital would provide real and lasting economic growth and jobs.

That amendment failed narrowly by a vote of 195 to 203, with 16 vote switches in the well. There is nothing wrong with switching votes in the well; the rules provide for it, and we all do it at one time or another. However, it means that the leadership desperately wanted no restraint in spending, because it was the majority leadership pleading for the vote switches.

Mr. Speaker, that is really my basic point. This shows, I think, the bankruptcy of the budget process. Until and unless we are willing to consider budget spending and revenues in the aggregate first, bearing in mind what the national interest demands in terms of the economy, and then going down the "wish" list of all the important functions, knowing that if we increase one, we must take it from another—because that is the old-fashioned way we all balance our family budgets, and it is the old-fashioned way every successful business operates—we will never have any restraint, and we will then, of course, have to turn to the taxpayer to set fiscal policy. That is what we are doing in this budget by asking for more and more taxes.

I am hopeful that next year—perhaps even in the next resolution this year—we can change our ways; but certainly next year I appeal to my colleagues to work on the idea of setting aggregates in spending and revenues before we begin to go down the 19 spending categories, because a very compelling case could be made for any one of them. But with spending limits adopted first, we will think long and hard before we add to one, knowing we must take away from another.

So I ask that we reject this conference report and not turn to the taxpayer to set fiscal policy with higher taxes.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I cannot support this resolution because it goes in exactly the opposite direction from which the American people have told us by a national referendum that they want us to go. Again, I point out to my colleagues from the chart before you that there have been over 1,000 cities, counties, and school districts this past year, which have had a referendum on debt increases, and as the map shows voters in over 550 local units of Government have turned down such increases. Yet in this conference resolution on the budget, the House is being asked to increase the debt very substantially. That will cost each of our 230,000 working constituents in each congressional district and an increase in their share of the national debt and taxes to boot. I point out again that if we vote for this resolution we mandate by national policy a substantial increase in taxes. Some of the tax increases for 1979 will be automatic. If the Members vote for this resolution then they are voting for a substantial tax increase policy for 1979. So this budget resolution is a reaffirmation of spend and spend and spend, and tax and tax and tax. If that is what your constituents are saying to you, vote for this resolution. On the other hand if your constituents are saying, "We want restraint in spending"—then we should vote this resolution down and go back to conference.

Mr. Speaker, I think the American people have said to us in a lot of ways, "Stop that trend." We clearly do not stop that irresponsible trend with this conference resolution. We are told by the advocates of this resolution, "Oh, this add-on deficit is only $50.9 billion." That is going to add a substantial amount of debt and interest charges that the Treasury will have to go out and borrow to add to an already huge national debt. This will be the third largest add-on debt in history.

So I appeal to my colleagues. Look at this chart before you. It shows a family of four, earning $10,000; a family of four earning $17,000; and a family of four earning $25,000. See what has happened to their family taxes during the last several years. Those family taxes have gone up substantially. If the Members want to increase those taxes, vote for this resolution, because that is the policy they will be establishing.

Do not be fooled by the fiscal year 1979 budget conference report. Just compare the following aggregate figures:

	1978	House passed	Conference report
Revenues	400.5	443.0	447.9
Budget Authority	500.8	569.5	568.9
Outlays	453.5	500.9	498.8
Deficit	53.0	57.9	50.9
Debt	737.8	856.0	849.1

The majority members of the conference of this House, have failed on all accounts to address the real economic problems of our country—large deficits, unrestrained spending, and high taxes. Regretfully, this conference report clearly demonstrates once again that nothing has changed—it is business as usual and the American people have lost.

Majority members of the Budget Committee will try to tell us that they have been fiscally responsible—revenues are now at $447.9 billion, outlays at $498.8 billion and the deficit has been reduced to $50.9 billion. The opposite is true and a closer look at these figures prompts the question: "At whose expense? The outlay figure in the conference report is $2 billion below the House-passed bill, but what they will fail to let you know is that that "savings" comes from downward reestimates in agriculture, not from restraining the increases on any of the great social welfare programs now on the books. To the contrary, spending in function 500, education, training, employment, and social services, is up 18 percent over last year; spending in function 550, health, is up 13.3 percent; and, spending in function 600, income security is up 9.3 percent. In such "temporary" programs as CETA, accelerated public works and countercyclical revenue sharing, we have added another $10 billion to the 1978 figure—hardly a restraint by anyone's standards.

In addition to the $2 billion mentioned above, the deficit is achieved by taking from the 94 million working taxpayers of this country the tax rate reductions they have been led to believe would occur. Under the administration's original budget proposal, taxpayers would have received $25 billion in reductions. Last week, the Democrat-controlled Congress reduced that even further to $19.7 billion. Today, those of you who vote for this budget resolution will be able to return to your districts, look your constituents squarely in the eye, and inform them that they will now receive a paltry $15.7 billion in tax rate reductions. Coupled with this terrific figure is the additional "good news"—major legislated and unlegislated Federal taxes are scheduled to increase in 1979 to $23.1 billion ($8.5 billion rise in social security taxes, a $1.1 billion energy tax package and a $13.5 billion automatic tax increase resulting from inflation. Simple arithmetic will show a resulting net increase of $7.4 bil-

lion to America's taxpayers. Let me repeat—under this conference report, your taxes and your constituents will increase $7.4 billion in fiscal year 1979.

Mr. Speaker, the current tax rate structure in the United States has acted as a disincentive to economic growth and production, discouraged entrepreneurial activity and stood in the way of vigorous economic activity. Marginal tax rates go from 14 percent, on incomes above $2,200 for a single person up to 70 percent on incomes above $102,200. Thus, as an individual's income rise, whether through real growth in the economy or through hard work, the tax system takes progressively more out of each dollar earned. In other words, as we work harder and longer, the Government takes an ever-increasing portion of our hard-earned dollars and cents. In 1976, Federal income taxes took 11.3 cents out of every taxable dollar. Under the provisions of this conference report on the fiscal year 1979 budget, Federal income taxes will take 12.7 cents.

What is the solution? It is not to be found in this conference report. It is not the majority's same old wornout theories—spend and spend, and tax and tax. It was and still is what I put before this body last week—a balanced budget. It is a positive approach, like mine, which provides for restraints in increases—but increases nonetheless. It is a resolution, like mine, which provides true tax rate reductions of $29.7 billion—not tax increases. If my substitute had been enacted, and 170 of us through it should have been, we could have increased incentive, investment, and capital formation. A 30-percent across-the-board tax cut phased in over 3 years would have resulted in an expanded tax base, increased revenues, higher GNP, more jobs, and real economic growth. History, as seen through the Kennedy tax cuts and the Truman spending cuts, has proven the correctness of my approach. Next year, at this time, I am confident that a majority of you will share that same view.

Join me in voting down this conference report.

Mr. GIAIMO. Mr. Speaker, I yield 3 minutes, for the purposes of debate only, to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, we have heard a lot of political oratory. Let me just give the Members a few facts.

No. 1, restraint on spending. We are down, in this conference committee report, $6.9 billion in the deficit.

No. 2, we hear about the House giving in to the Senate. In fact, the fight is on budget authority. The Senate gave to the House $2.7 billion and we gave to the Senate $658 million. So it is 4 to 1 in our favor.

No. 3, I hear from some of my colleagues—it has not been mentioned in debate—that we are moving up in defense, we are not moving up in education. In fact, the real growth, in terms of increase is in education. Assuming there is no increase in function 500, it is 4.4 percent, while the real increase in defense is 3 percent.

On function 500, education and training, let me point to this chart because I think it will clarify something. This is where we started: The House started at $34 billion, the Senate at $31.6 billion. We ended up after a great struggle at $33 billion, much more favorable to the House than to the Senate, plus we have an understanding that if the middle-income administration proposals sponsored by our colleague, the gentleman from Michigan (Mr. FORD) passes, there will be an increment of $700 million.

Mr. Speaker, the problem of the CETA funds which our colleague, the gentleman from Wisconsin (Mr. OBEY), pointed to is something else I want to mention. There is some discrepancy between the CBO figures and the Department of Labor figures, about a $400 million discrepancy. If, in fact, an increment is needed greater than included by the conference, then that can be added. If we add those two factors—middle income assistance and CETA—another $1.1 billion, would be added and we end up almost precisely where the House started.

Mr. Speaker, I suggest to those Members who are criticizing the position that we have taken in the conference committee that we have won the ball game. We have prevailed, and I do not understand why we do not then support the product of that conference committee. The product is a good, solid, substantial one. If my friends over here on the left side of the asile really believe what they are saying about restraining spending and cutting back on deficits, Mr. Speaker, this is their opportunity to do something about it by voting "yes."

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, this is a travesty on the budget process. It is a travesty, perhaps, on a travesty, but it is a travesty.

The conferees admit that the amendment before us goes outside the scope of the conference. It disregards the very clearly expressed will of the House and of the Senate.

Mr. Speaker, if the conferees can ignore the clearly expressed will of the House and of the Senate, what is the purpose of the whole budget process? Why did we have 4 long days of debate and amendments in this House if, when the conference report comes back to us, it proposes an amendment that ignores the will of the House?

Mr. Speaker, let me be very clear and specific on an instance. This House included in the budget resolution $635 million for tuition tax credits. The Senate included $500 million. The amendment before us ignores the will of the House and the Senate and includes only $300 million.

Mr. Speaker, what was the purpose of the House when it expressed its will in a vote of 227 to 136 to include $635 million for tuition tax credits? Should that not bind the conferees on the position of the House?

What was the purpose of the Senate in including $500 million for tuition tax credits? Should not that bind this conference? They can go between those two figures, but they cannot go below them. However, that is what they have done in ignoring the whole budget process and in making a travesty out of that process.

Mr. Speaker, when this issue was debated on this floor, the distinguished chairman of the Committee on the Budget said as follows:

> Our business today is to make sure that whatever Congress decides it will do, we will have ample provision in the budget.

Yet, in the conference they cut back on that provision in the budget.

The distinguished chairman also said the following:

> We have had a discussion here which I think makes clear that we will not thwart what the gentleman (Mr. COUGHLIN) wants when we get to conference.

However, Mr. Speaker, that is exactly what is being done by this procedure. If we are going to have a budget process, indeed, if we are going to have a legislative process, we cannot ignore the will of the Members in this Chamber; we cannot have something far different dictated to us by the leadership or the administration or handed to us for an up-or-down vote which ignores what this House did when it passed the budget resolution.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, the representations of those speaking in support of the conference report on the budget resolution must assume their colleagues are a bunch of "dummies."

How, in heavens name, can this House be sold on approving this charade, on the theory that the planned deficit is smaller, when in reality clever manipulation, coupled with legislative legerdemain, puts enough smoke in the air to confuse even the most astute.

What did they do? Well, let us spell it out in simple terms—understandable to people who do not qualify as professional economists:

The House planned deficit was $57.9 billion. Conference report $50.9 billion. Smaller deficit by $7 billion? Wrong. There were no spending cuts. But there was a tax increase by $7.4 billion.

The 1979 taxpayers already face a $23.1 billion tax increase. How do I figure? Simply add 10 percent inflation of $13.5 billion, plus the social security tax increase the majority of you voted for—$8.5 billion, plus the $1.1 obligated in the energy legislation. Add it up, friends, and you will find a glorious $23.1 billion.

Now, take the new or latest tax cut—$15.7 billion—and we still come out with a tax increase on the American people in the amount of $7.4 billion.

We have the third largest post war deficit, with inflation running at 10 percent and in 1979 income tax rates will

rise to our all-time record high of 12.7 cents of every taxable dollar.

This Congress will have to share the blame with President Carter for the annual increase in spending for each year of 11 percent and tax increase of 12 percent. There is no way to hide this from the folks back home. They are entitled to know what Congress is doing to them.

All Members would be well-served to read the special report in Business Week of May 22, 1978, entitled "The Great Government Inflation Machine." A brief summary follows:

Inflation in the U.S. is again at a dangerously high level—with wholesale and consumer prices both rising at double-digit rates and with prices of some goods and services advancing at close to triple-digit rates. The grim fact is that the country is caught in the grip of the worst, most prolonged, and most pernicious inflation in its history. Inflation has reached the point where it is destroying the nation's efforts to achieve solid economic growth, is wrecking the financial markets, and is blasting the retirement hopes of everyone over 65 years of age.

One symptom of the current disease is that big business and big labor are raising prices and wages in an effort to stay whole. But the real villain is the Federal Government, which has been running huge deficits for years. What makes Government's inflation engine so dangerous is that many of the measures Washington is taking to alleviate the painful impact of price increases on one segment or the other of the economy only make the inflation more virulent.

Thus, to ease the pinch on people at the bottom of the income scale, the Carter Administration has increased the minimum wage—and guaranteed another burst of inflation. To offset the higher costs of fertilizer and farm machinery to agriculture, the Administration has boosted farm supports—shoving food prices up sharply. And to help out pensioners who see their retirement pay shrinking away, Congress has raised mandatory corporate and individual contributions to Social Security—adding another percentage point or so to the rate of inflation.

There is no easy way to control inflation. To cure it requires first understanding the fundamental cause and how it is manifesting itself. Solving inflation will take a long period of government self-restraint, a reduction of expectations by everyone, and a determination by elected officials not to buy votes with government spending.

Mr. GIAIMO. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FISHER), for purposes of debate only.

Mr. FISHER. Mr. Speaker, regarding the point made on the tuition aid a little while ago, the conference report on the budget provides, on the revenue side, $300 million for this purpose; and on the expenditure side, $700 million, a total of $1 billion, which is well over what I think one of the preceding speakers had in mind. It will have to be determined later on in the coming months exactly how to provide this aid.

To highlight the conference report, the conference recommendations compared to the House-passed bill would call for $2 billion less in outlays, $5 billion more in revenues, and $7 billion less in deficit. The principal compromise, as the Members know, was on the two major functions, defense and education.

Within the parameters of the House and Senate versions, this I believe is an acceptable compromise on these two functions. Compromises worked out for other functions are also reasonable.

As the Members know, I greatly preferred a larger reduction in outlays—$10 billion instead of $2 billion. The Members will recall my effort in this matter, which was defeated at the last minute only by a prodigious effort by the leadership. If we turn this conference report down, however it seems to me almost certain the conferees will come back again with higher, not lower, outlays. The House will want more for education and the Senate will want more for defense, and this will mean a higher deficit and a greater inflationary effect.

Therefore, despite my misgivings about the high level of outlays and the inflationary consequences, I have to come to the realistic conclusion that this is the best solution we are likely to have at this time on the first budget resolution. I urge my colleagues to support the resolution and to vote "aye."

This will establish targets and guidelines for the appropriation and authorization processes and votes during the several months ahead. I hope we will hold spending actions in these votes even below the guidelines we set today. Then in September we will have another and final go at the problem of establishing a practical, anti-inflationary, restrained budget for next year.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in opposition to this conference report because I think it is both unfair and unrealistic; and I regret, Mr. Speaker, that the parliamentary situation is such that Members will be denied the right to have separate votes on the various functional categories that are contained in the conference report.

The Budget Committee, Mr. Speaker, has chosen to cut materially only one function, and that is agriculture.

From an original figure of $12.2 billion, the conferees have slashed nearly $4 billion to drop the agricultural function to $8.3 billion.

Mr. Speaker, I contend that this is unfair to agriculture, and particularly agricultural research because this needs at least a modest boost just to keep up with the rest of the budget. It is unrealistic because the projections for actual outlays from the President to the Office of Management and to the Congressional Budget Office, and beyond, are focused more accurately on a $9.3 billion to $9.5 billion outlay level. On top of this, the President signed the new farm bill this week and that legislation will add perhaps another $600 million, at least, to the wheat program outlays in fiscal year 1979.

If the unrealistic $8.3 billion figure is left unchallenged in this conference report, I am sure that we will hear our friends from outside the agricultural community bemoan the "budget busting" farmers next year.

Sure, the unrealistic budget will be busted because it is not big enough now.

Therefore, Mr. Speaker, I intend to vote against this conference report in order to let the conferees meet again and come up with a more realistic set of figures for agriculture. I urge all my colleagues from agricultural districts to do the same—lest we all be unfairly tagged next year as "budget busters."

I think for far too many years Congress has been robbing such agricultural functions as research, extension, teaching, soil and water conservation, and others, to such an extent that the Department of Agriculture cannot perform their mission properly, and have not been given adequate funds to properly manage the resources of our great national forests. It is about time we gave due recognition to the creators of wealth in this country. If every segment of the American economy had done as much to increase their productivity as has agriculture then perhaps we would not be faced with this ruinous inflation and perhaps we would not have the staggering deficit in our balance of payments.

Again I urge the Members of the House to send this conference report back to conference and to urge the conferees to give more adequate and favorable consideration to the American farmers.

● Mr. THONE. Mr. Speaker, I rise in opposition to Senate Concurrent Resolution No. 80, the conference report on the first budget resolution.

The deficit figure in this proposed budget amounts to about 51 billions of dollars. Now, since this figure is about 10 billions of dollars less than the deficit proposed by President Carter, some Members are congratulating themselves on showing some restraint.

Members of the House, we must face up to the fact that the deficit is not smaller because of any cut in proposed spending. The coming deficit has been made smaller only by planning on extracting more money from Mr. and Mrs. John Q. Taxpayer than was contemplated several months ago.

Mr. Speaker, we must reject this resolution. We must instruct the conferees to provide some genuine cuts in spending. We must provide the citizens with relief from the higher tax brackets that inflation has forced upon them.

We must not let this proposed budget be passed off as one of moderation. It is outrageous. The Federal funds deficit in this proposed budget will be the worst in our Nation's history. This Congress is showing no responsibility for fiscal sanity, whatsoever.

President Carter has appointed Ambassador Robert Strauss as the Nation's chief inflation fighter. The Ambassador is a very able man, but he can run around the Nation jawboning management and labor without any significant results. That is because the chief cause of inflation is centered in the budgets adopted here in Congress.

Ambassador Strauss is exhorting the management and labor firemen to pour water on the fires of inflation, while the President's budget and the budget adopted by the majority in this body

amounts to gasoline poured on the flames.

The citizens of America will not believe that the majority in Congress is serious about fighting inflation unless we reject this resolution.●

● Mr. KEMP. Mr. Speaker, I am deeply concerned that the budget resolution before the House today proves once again that the budget process is a failure as a means of controlling spending. Instead of restraining the various committees from excessive spending by setting an overall spending limit, we have in fact sanctified an even higher level of spending than would otherwise have occurred. This is because deficits are now sanctioned ahead of time, before the actual appropriations process. These deficits are seen not as an unavoidable error but as a scientifically derived economic stabilization mechanism. We are told that deficits must remain high lest the economy sag into a recession. And when inflationary pressures force the Congress to cut back on fiscal stimulus it is advocated that we cut back on tax reduction, rather than by cutting excessive spending.

One reason why I believe that this always happens, and why spending and deficits are going up at an even faster rate under the budget process than before, is because of the Congressional Budget Office.

For a long time I have been very concerned about the analyses produced by the Congressional Budget Office. It appears to me that because of the way it produces such analyses that certain biases are introduced which inevitably favor one policy over another. In particular I am concerned by the fact that CBO's analyses invariably favor increased Government spending in lieu of tax reduction as a means of stimulating employment and economic growth.

As an example of what I am talking about appears in a recent CBO study entitled, "Understanding Fiscal Policy." I am sure that this paper was not written for the sole purpose of discrediting efforts in Congress to cut tax rates across the board, but if this were the purpose it is hard to see how the results would be any different.

For example, on page 17 there are 4 charts which show the comparative impact of a $10 billion increase in Government purchases, a $10 billion increase in public services employment expenditures, and a $10 billion cut in personal taxes. The charts show quite clearly that increases in spending for public service employment or Government purchases are the preferred option.

The reason why this result occurs is not difficult to figure out. It results from reliance upon Keynesian economic theory and large-scale econometric models which are based almost entirely on Keynesian assumptions. In fact, the CBO paper relies entirely upon the two most Keynesian econometric models, DRI and Wharton, while ignoring the possible results from other models, such as Chase Econometrics' model, which are somewhat less Keynesian-oriented.

According to the Keynesian assumptions underlying the models, the demand side of the economy is considered to be preeminent. In other words, it is assumed that goods are produced, and therefore people employed, only in response to a higher demand for those goods. But factors which influence the quantity of goods available, including relative prices, costs of production, et cetera, are totally ignored. They are ignored partly because they are not understood. The CBO report makes this clear when it says:

> Among the least understood effects of fiscal policy are any influences on personal incentives to work and to save.

Thus it is assumed that any Government policy which adds to aggregate demand by increasing the Government deficit will lead to a supply response as consumers demand more goods. It is further assumed that inflation cannot result from such an action as long as there is unused productive capacity in the economy. Therefore, under Keynesian logic, it is impossible to ever have rising prices during a recession. Needless to say, recent experience makes such an assumption ridiculous. Yet it underlies so much of CBO's policy prescriptions.

Conversely, Government policies which would aid in the creation of supply through increased savings or marginal incentive for workers are uniformly seen as negative by CBO. This follows logically from the demand orientation at CBO. For clearly if savings is increased this means that aggregate demand is reduced. Yet where else is the economy to get the capital with which to produce the machinery, the equipment, the factories, et cetera, that will employ the workers and produce the goods the economy needs? It will not come from the tooth-fairy, that is for sure. Unless someone foregoes some current consumption through savings and investment, there will be no capital, no machines, and no factories. As Prof. Paul Samuelson of MIT has said:

> To the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation.

This brings us to the question of work incentive. Why the Keynesians think people work is somewhat of a mystery. If one reads "Keynes' General Theory" it would appear that people work only for gross nominal income, without regard to their aftertax real income. Thus Keynes developed what is known as the money illusion to fool workers into thinking they are getting higher incomes when in fact they are not. As Keynes wrote:

> Whilst workers will usually resist a reduction of money-wages, it is not their practice to withdraw their labor whenever there is a rise in the price of wage-goods. It is sometimes said that it would be illogical for labor to resist a reduction of money-wages but not to resist a reduction of real wages. . . . But, whether logical or illogical, experience shows that this is how labor in fact behaves.

Obviously this is an absurd generalization about how workers behave, which is disproven by the cost-of-living adjustments labor has demanded and received. Yet this assumption about how labor behaves survives in the form of the Phillips curve, which says that the cure for unemployment is inflation and the cure for inflation is unemployment. This pernicious doctrine is responsible for the roller-coaster economic policy this country has followed since the Depression.

When unemployment goes up the Government pumps up demand, by increasing the budget deficit and the money supply, leading to inflation, which is supposed to reduce real wages and cause more workers to be hired. In fact, it simply aggravates labor strife, raises personal taxes, overstates corporate profits and raises corporate taxes due to underdepreciation and false inventory profits, reduces investment, and lowers employment even as prices rise. At that point, the Keynesians have nothing to offer except wage and price controls.

If one were to take a contrary view, however, that workers work and producers produce and investors invest not for nominal income but for real aftertax income, one would get a very different set of policy prescriptions. One would view taxation as the fundamental barrier to production and employment. By creating a wedge between a worker's gross wages and his aftertax reward, taxes increase the total cost of employment while reducing workers' incentive. And inflation, by pushing people up into higher tax brackets, exacerbates this situation, instead of relieving it.

Such a view is totally foreign to the CBO, which is why it is totally incapable of differentiating between various kinds of personal tax cuts. It is all the same to CBO's models whether a tax cut is accomplished through a tax rebate, a tax credit, a tax rate reduction, or some other device. All they do is increase disposable income, allowing people to buy more and pump up demand. Yet it is quite obvious that there are vast differences between various kinds of tax cuts. The only extent to which this is recognized by CBO is to say that rebates work faster than changes in tax rates or tax deductions.

Clearly, however, a reduction in tax rates will alter the relative costs of work versus leisure, and savings versus consumption. An increase in tax rates will make leisure relatively more attractive than work, because a worker keeps relatively less and less of what he earns. A reduction in tax rates, therefore, will increase work incentive, because a worker will be allowed to keep more and more of what he produces. Thus a reduction in marginal tax rates will have a totally different effect from, say, a tax rebate, which leaves all relative prices unchanged.

If this is true, then we ought to be able to examine different kinds of tax cuts and see different results. Since the Kennedy tax cut of 1964 was largely a tax rate reduction, whereas more recent tax reductions were not, there should be some significant difference between the results of these various tax cuts. CBO dealt with this problem by comparing the 1964 tax cut with the 1975 tax cut and

concluded that the results were the same, in that they both created about 750,000 jobs.

The way CBO arrived at this conclusion I find most interesting. It does so by comparing actual economic data with an econometric simulation of what would have happened in the absence of a tax cut in 1964 and 1975. What CBO fails to show, however, is how the econometric models simulated the tax cut itself. In other words, if the tax cuts were fed through the models how closely would the results conform to what actually happened? It seems to me that this would be a rather important check on the value of forecasts showing no tax cut. My impression is that the model results would show little if any relation to actual events. Chase Econometrics, for example, has informed me that when a simulation of the 1964 tax cut was done with its model it consistently overestimated the impact on the deficit while underestimating revenue feedback from expansion of the economy. This supports the view held by some economists that the 1964 tax cut financed itself in increased revenue and higher savings and investment, while other tax cuts have not because they were demand oriented rather than supply oriented.

CBO, of course, denies this possibility:

Some have claimed that the tax cut provided so much economic stimulus that the increased revenues and reduced income support outlays resulting from higher incomes more than offset the direct costs of the tax cut in foregone revenues. According to the models, this was not the case.

Unfortunately, had CBO gone back to predictions made by the Treasury in 1964 of the revenue loss which would result from the tax cut and compared it with the actual results it would have come up with these figures:

Federal reserve gains from tax rate reduction—1963–68

[In billions of dollars]

	1963	1964	1965	1966	1967	1968	Total
Treasury-estimated revenue losses	−2.4	−5.2	−13.3	−20.0	−23.7	−24.4	−89.0
Actual revenue gains	+7.0	+6.0	+4.0	+14.0	+19.0	+4.0	+54.0
Difference in estimates							$143.0

Furthermore, the Kennedy administration fully expected that its tax rate reduction plan would lead to increased revenues. Indeed, section 1 of the Revenue Act of 1964 itself declared:

It is the sense of Congress that the tax reduction provided by the bill, through stimulation of the economy, will, after a brief transition period, raise (rather than lower) revenues.

And Prof. Walter Heller, who was chairman of the Council of Economic Advisors at this time, has said:

What happened to the tax cut is difficult to pin down but insofar as we are able to isolate it, it did seem to have a tremendously stimulative effect, a multiplied effect on the economy. It was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within 1 year the revenues into the Federal Treasury were already above what they had been before the tax cut. . . . Did it pay for itself in increased revenues? I think the evidence is very strong that it did.

Therefore I believe that CBO's casual assertion that the 1964 and 1975 tax cuts had similar effects is nonsense. This view is certainly supported by observation. Does anyone really believe that this country experienced anything close to the prosperity of the mid-1960's following the 1975 tax cut? Of course not. Economic conditions got worse, not better. After the 1964 tax cut we experienced the greatest, most sustained economic expansion this country has ever seen.

The fact is that all tax cuts are not created equally.

In order to judge a tax cut's impact on growth and inflation, we have to know what the cut will do to GNP and saving. To finance itself without causing inflation, a tax cut can do three things:

First. It can increase GNP, which is the tax base, and get back revenues to offset some or all of the initial cut.

Second. If it reduces marginal tax rates, it can cause existing savings and investment funds to switch out of tax shelters and nontaxable uses into taxable uses, raising the tax base and revenue. This probably also raises GNP by shifting saving and investment from low yield but sheltered projects into straightforward high yield activities.

Third. By reducing tax rates, the tax cut makes saving more rewarding after taxes, and raises the total amount of saving being done. Chase Econometrics forecasts a sharp rise in saving if tax rates are reduced. Some of this saving will go to buy the bonds the Treasury will sell to cover any deficit remaining from the tax cut. Any excess will be used to increase net investment and growth.

As long as revenues rise to offset the tax cut, or as long as savings rise by enough to cover any added debt, the Federal Reserve does not have to buy even one additional Treasury bill, and does not have to add one cent to the money supply.

In fact, Chase Econometrics and Dr. Norman Ture both estimate that savings will rise enough from the tax rate reductions found in the Kemp-Roth bill to cover any added deficit and to still leave enough saving left over to increase net investment by about one-third, delivering an enormous boost to real growth.

Thus, Kemp-Roth is not inflationary. It is self-financing three ways. The CBO has forgotten why inflation occurs, and has no way to distinguish between a tax cut which alters incentives, reduces the use of tax shelters, and stimulates savings and investment, and one which simply cuts Federal revenue and forces the Federal Reserve to create money to buy Treasury debt.

Last, I would note that I am not alone in my criticism of the CBO. Recently, two prominent economists, Profs. David Meiselman and Paul Craig Roberts, raised similar points in a paper entitled, "The Political Economy of the Congressional Budget Office." In this paper they go into considerable depth in analyzing the assumptions which underly CBO's analyses. For example, Meiselman and Roberts say:

In the main, the CBO analyses tend to have a deja vu quality, because they largely are derived from extreme and relatively unsophisticated Keynesian models, which have generally been superceded by advances in economic science and econometrics over at least the past ten or fifteen years. . . . In keeping with Keynesian focus on short-run stabilization, there is no long run even in the studies that claim to be analyses of long run issues. In all cases, saving impairs economic performance and growth.

They go on to say:

Thus, the CBO's long run analysis has demand without supply, inflation without money, interest rates without capital, output without inputs, employment without wage and a capital market, and investment without saving or any change in the capital stock. There are static expectations throughout; either nobody ever learns anything, or people just don't give a damn. More than twenty years after the consumption analyses of Friedman and Modigliani and Brumberg, consumption spending is taken to depend on current disposable income. In addition, households only spend current income; they cannot or do not borrow. They essentially have no assets, and no capital management decisions.

Hence I would argue that CBO's analyses are not worth very much in terms of formulating economic policy. I would hope that CBO could begin to make itself more useful by at least attempting to integrate some alternative assumptions into its analyses and making clear what the limitations and biases of its projections are. If this is not done it will continue to fuel a belief by many Members of Congress that CBO is really not an objective research organization but just another arm of the liberal wing of the Democratic Party.●

● Mr. MATTOX. Mr. Speaker, I rise in support of the conference agreement.

However, I learned this morning that the House Ways and Means Committee has chosen to disregard the social security tax reduction recommended by the House of Representatives in the first budget resolution. They have disregarded the Democratic Caucus' recommendation for a social security tax rollback which was passed by a 3-to-1 vote.

I find it difficult to believe that a standing committee of the House—on such an important and critical issue—would fail to allow the full House to make a decision.

I intend—and I hope that a number of you will join me—in continuing to push for a social security tax reduction and a revision of the social security system that will return it to a wage-related basis.

I consider this the most important issue before this body and I am voting for the conference agreement with the understanding that a social security tax rollback is the appropriate target for our future actions.●

Mr. ANDERSON of Illinois. Mr. Speaker, we are witness today to the second act of an open-eyed conspiracy

to defraud the American taxpayer. If brought to fruition, this conspiracy will fleece every man, woman, and child in this country an average of $50 in disposable income.

Last December, Congress staged the first act of this great tax ripoff by voting to raise an additional $227 billion in payroll taxes over the next 10 years. How—you ask—were the American people duped into this plan?

Simple. They were promised that Congress would pass offsetting tax cuts this year. Last December, I said on this floor:

> We are being asked to consider the immediate passage of a conference report that will raise $227 billion in more taxes over the next ten years. At the same time, we are being asked to wait for income tax cuts that are intended to offset the payroll tax increases.
>
> In other words, the American taxpayers are not being asked to take the bitter with the sweet. They are being asked to take the bitter now and to wait for the vague promises of tax relief to be realized later.

Let us see what happened to that promise. We are acting today on a budget resolution that ostensibly reduces tax revenues by $15 billion in the next fiscal year. But, when that so-called tax reduction is balanced against the tax increases arising from inflation and social security hikes, we discover that there is a net tax increase of nearly $10 billion.

In other words, the American taxpayer is about to fall victim to the old "bait and switch" tactic; for the proposed tax cut is not as advertised. If "truth in advertising" laws applied to Congress, the headlines might read tomorrow "Congress Budgets a $10 Billion Tax Increase."

But we have been told that if we reduce the tax cut we will help stop inflation. Wrong. The way to stop inflation is to cut spending. You do not stop inflation by increasing the real tax burden. That prescription is like the old medical cure-all of bleeding the patient. Instead of applying leeches we apply higher taxes. I say that its time to throw away the old quack remedies.

What is even more disturbing about this reduced tax cut is that the Federal Reserve Chairman, G. William Miller, said this past weekend that the reduced tax cut would take the pressure off monetary policy. Does that mean we are going to have an easier monetary policy? How much easier can it get? During the latest 4-week period the basic money supply rose at an annual rate of 22 percent. That is inflationary—the printing presses are rolling.

Let me summarize. This budget resolution will do two things:

First. Raise the real tax burden on the American people; and

Second. Persuade the Federal Reserve that its all right to relax monetary policy.

Would not it be far better for Congress to pass a meaningful tax cut and for the Federal Reserve to increase its vigilance. I think so. But that is not what this budget resolution does. Under this resolution, the American taxpayer will get the worst of both worlds: higher taxes and higher inflation.

On the subject of inflation, let me remind this body that—contrary to popular opinion—there are two inflation fighters in this town—and I do not mean the former chairman of the Democratic National Committee or the present director of the Council on Wage-Price Stability—I mean Congress and the Federal Reserve. If the latter two institutions fail to discharge their duties properly there will be no hope of retarding inflation—not even from the flimsy, flailing of the executive jawbone. Well, thus far the Congress has not discharged its duty. We rejected this past week several attempts to reduce Federal spending. The result: a half trillion dollar budget. This resolution is not just a budget buster—it is an inflation booster.

Mr. GIAIMO. Mr. Speaker, I yield 4 minutes to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, we passed this resolution last week by only a four-vote margin. If we let it come apart today, we will have failed the American people in one of the most important responsibilities they have placed upon our shoulders. We will have demonstrated our inability to legislate and our ability only to quarrel and quibble.

It has been amusing today to hear some of the rationalizations by which Members are sending home press releases explaining their individized reasons for being against the budget. Some say, "More for agriculture." Some say, "More for education." Some say, "More for research." Some say, "More for jobs." Some say, "More for defense." And everybody says, "Too much deficit."

This budget resolution, just like any budget resolution, by its very nature must be not only a compromise but a series of compromises.

Henry Clay said:

> Let no one who is not above the frailties of our common nature despise compromise . . . It is the cement that holds the Union together.

I would remind my colleagues of the liberal persuasion that this budget contains more money for jobs, more money for education, more money for useful social services than was contained in the President's recommendation, and more than was contained in the Senate version.

I would remind my colleagues who are concerned about the defense of this country that this budget resolution contains more money for the armed services than was approved originally in the House.

For those of us who are concerned about inflation—the primary concern of the American public, we are told—I would remind all of us that this budget resolution represents $10 billion less in budget deficit—$10 billion less in budget deficit—than was originally recommended by the President.

Of course, each one of us can find something to object to in it. Any one of us can find someplace we would like to spend more, someplace we would like to spend less. The question is whether, so insisting, we shall let the House of Representatives disintegrate upon the shoals of partisanship and petty self-aggrandizement, or whether we shall demonstrate our ability to legislate. That is the question here.

Kevin Phillips, writing in a recent edition of Harper's magazine, decries what he calls the "Balkanization of America," the disintegration of the essential unity of this country into polarized and mutually hostile camps, each willing to bring down the structure of the whole in order to insist upon its own specialized ends. This has been called by Robert Nesbitt "the twilight of authority." He fears that the United States, far more importantly than losing military leadership, is losing its essential unity as a Nation—what the Spanish call "civismo" what the Romans called "civitas," what Toynbee referred to as a nation's élan vital.

The essential ability of the country to come together finally when all have had their say—now is the time for that. This is the test. This is the supreme test of our ability as a body to legislate, now that everybody has had his say.

The Constitution does not guarantee that everybody will get his way. The guarantee is only that each may have his say. We all have had our say, and now we have the budget resolution before us. Bite the bullet; show a sense of responsibility to face up now to the consequences of the individual choices we have made; and recognize that this, with all its imperfections, is the best that we have been able to do.

The members of the Committee on the Budget have exercised genuine restraint. They faithfully have represented in the conference the wishes of the House. Those members of the Committee on the Budget are the choices of you, you, you, and you. We chose them for this task. We put it on their backs. All of them now have had their chance. All of them, and all of us, have had our say. And now we come to the final moment of truth.

The question is not whether we can find something to object to in the budget. Of course, we can. I can find a dozen things I would rather see different. The question is whether this body has the sense of responsibility to legislate in the interests of this country. Let us approve this budget resolution, so that then we can move on to the fulfillment of those goals for which the American public awaits.

● Mr. OTTINGER. Mr. Speaker, once again, I am opposing final passage of the budget because it represents such a severe distortion of what I regard as our national priorities. It contains far too much money for wasteful defense, space, and high technology energy expenditures, and far too little for addressing urban needs, creating jobs, and relieving the overburdened property taxpayer by providing reform and a Federal takeover of welfare costs and increasing Federal support of public education.

The failure of the "Transfer Resolution" offered by my friend from Maryland (Mr. MITCHELL) typifies my objections to the budget we are offered. Not only did the majority of my colleagues choose not to transfer the direly needed

funds to meet human needs; the majority of my colleagues chose, instead, to transfer $300 million more funds to the Pentagon than the Pentagon requested and to remove $1.1 billion from Education and Social Services.

We are told we should vote for passage to preserve the budget process, regardless of disagreement with priorities. I cannot do this. The budget process was established as the principal vehicle for setting national priorities. Indeed, it is the only opportunity to reduce expenditures in one area of Federal programs in order to be able to finance increases in areas considered of higher priority.

The process, as I see it in practice, has been principally a vehicle for holding down expenditures for essential human needs, while giving the big corporations whatever they want through defense, space, and energy budgets. In my opinion, if the process were destroyed it would be a small loss. But, I don't think that defeat of the budget would have that result. The committee would return with a new budget. In that event, I think it vital that the budget fail as much from negative votes by those concerned about human needs and the local taxpayer as from the negative votes of those ultraconservatives who want to see programs for the cities, health, education and the like destroyed and the military/industrial monster fed even larger chunks of the taxpayer's dollar.

In the final analysis, I just cannot bring myself to vote for a budget in which I do not believe—a budget which I feel perpetuates the Government's grossly distorted spending priorities. The strength of the United States depends far more on a healthy economy, educated children and a livable environment than it does on greater production of excessive numbers of nuclear weapons.

In my mind, this is a budget prescribing continued deterioration of American society, and this undermines our security, I cannot support it.●

● Ms. HOLTZMAN. Mr. Speaker, I oppose the conference report on Senate Concurrent Resolution 80, the first concurrent resolution on the budget for fiscal year 1979. I do so reluctantly because the resolution funds important urban programs which I worked hard to include, such as increases in Federal support for mass transit, public works including rehabilitation of public facilities, countercyclical revenue sharing, and $400 million to pay for an increased Federal takeover of State and local welfare costs.

Nonetheless, the conference report contains undesirable features. The compromise agreed on by the conference committee is substantially different from the original budget resolution which passed the House several days ago. The conferees agreed to increase defense spending by $1.3 billion in budget authority over the $127.4 billion provided in the House resolution. This is on top of an increase of $12.1 billion over last year. The conferees also agreed to decrease funds for education, training, unemployment, and social services by almost $1.1 billion in budget authority to $33 billion from the original House figure of $34.1 billion. The conferees thus chose priorities that emphasized military spending at the expense of important social programs, including programs for the most needy segments of our population: the aged, disabled, poor, and unemployed.

The additional $1.3 billion for the military is simply not needed. Even the President's budget called for $300 million less than is provided in this conference report. According to current estimates, the Department of Defense will not even be able to spend its 1978 appropriation fully and a spending shortfall of almost $4 billion is projected. In addition, the Department of Defense is expected to have over $82 billion in its "pipeline" of unexpended balances by the end of fiscal year 1979. The $82 billion in the pipeline is larger than our entire defense budget for 1974. Plainly, the extra $1.3 billion will add nothing to the security of this Nation.

Finally, it is important that we understand what we mean by "national security." There will never be real national security when people are afraid to walk the streets of many of our cities at night, when millions of Americans are unemployed, and when health care, literacy, and an overall standard of living are forced to take a back seat because of continued wasteful increases in the military budget. We cannot afford unnecessary military spending just as we cannot afford to ignore these social problems any longer.●

Mr. GIAIMO. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 201, nays 198, not voting 35, as follows:

[Roll No. 327]

YEAS—201

Akaka	Breckinridge	Drinan
Alexander	Brinkley	Duncan, Oreg.
Ambro	Brodhead	Eckhardt
Ammerman	Brooks	Edgar
Anderson, Calif.	Burke, Mass.	Eilberg
Andrews, N.C.	Burleson, Tex.	English
Annunzio	Burlison, Mo.	Evans, Colo.
Applegate	Byron	Fary
Ashley	Carney	Fascell
Aspin	Chappell	Fisher
Barnard	Chisholm	Flippo
Beard, R.I.	Clay	Flood
Beilenson	Collins, Ill.	Florio
Benjamin	Conte	Flowers
Bennett	Corman	Flynt
Bevill	Cornwell	Foley
Biaggi	Cotter	Ford, Mich.
Bingham	D'Amours	Ford, Tenn.
Blanchard	Danielson	Fowler
Boggs	de la Garza	Fraser
Boland	Delaney	Fuqua
Bolling	Derrick	Garcia
Bonior	Dicks	Gaydos
Bowen	Diggs	Gephardt
Brademas	Dingell	Giaimo
	Dodd	Ginn
Gonzalez	Mikulski	Santini
Gore	Milford	Seiberling
Hall	Mineta	Sharp
Hamilton	Minish	Shipley
Hanley	Moakley	Sikes
Hannaford	Mollohan	Simon
Harrington	Montgomery	Sisk
Hawkins	Moorhead, Pa.	Skelton
Hefner	Moss	Slack
Heftel	Murphy, Ill.	Smith, Iowa
Hightower	Murtha	Solarz
Howard	Natcher	Spellman
Hubbard	Nedzi	St Germain
Hughes	Nichols	Staggers
Jenkins	Nowak	Steed
Jenrette	Oberstar	Steers
Johnson, Calif.	Panetta	Stratton
Jones, N.C.	Patten	Studds
Jones, Okla.	Patterson	Thompson
Jones, Tenn.	Pattison	Traxler
Jordan	Pease	Tsongas
Kazen	Pepper	Udall
Krebs	Perkins	Ullman
Lederer	Pickle	Van Deerlin
Le Fante	Poage	Vanik
Lehman	Preyer	Volkmer
Lloyd, Calif.	Price	Waggonner
Lloyd, Tenn.	Rahall	Walgren
Long, La.	Rangel	Watkins
Long, Md.	Reuss	Waxman
Luken	Richmond	White
McCormack	Risenhoover	Wilson, Tex.
McFall	Roberts	Wirth
McKay	Roe	Wolff
Maguire	Rogers	Wright
Mahon	Roncalio	Yates
Mann	Rooney	Yatron
Mattox	Rose	Young, Mo.
Mazzoli	Rosenthal	Zablocki
Meeds	Rostenkowski	Zeferetti
Metcalfe	Roybal	
Meyner	Ryan	

NAYS—198

Abdnor	Evans, Del.	McEwen
Addabbo	Evans, Ga.	McHugh
Allen	Evans, Ind.	McKinney
Anderson, Ill.	Fenwick	Madigan
Andrews, N. Dak.	Findley	Markey
Archer	Fithian	Marks
Armstrong	Fish	Marlenee
Ashbrook	Forsythe	Marriott
Badham	Fountain	Martin
Bafalis	Frenzel	Mathis
Baldus	Gammage	Michel
Bauman	Gibbons	Miller, Calif.
Beard, Tenn.	Gilman	Miller, Ohio
Bedell	Glickman	Mitchell, Md.
Blouin	Goldwater	Mitchell, N.Y.
Breaux	Goodling	Moffett
Broomfield	Gradison	Moore
Brown, Calif.	Grassley	Moorhead, Calif.
Brown, Mich.	Green	Mottl
Brown, Ohio	Gudger	Myers, Gary
Broyhill	Guyer	Myers, John
Buchanan	Hagedorn	Neal
Burgener	Hammer-schmidt	Nolan
Burke, Fla.	Hansen	O'Brien
Burton, John	Harkin	Oakar
Burton, Phillip	Harris	Obey
Butler	Harsha	Ottinger
Caputo	Heckler	Pettis
Carr	Hillis	Pike
Cavanaugh	Hollenbeck	Pritchard
Cederberg	Holt	Pursell
Clausen, Don H.	Holtzman	Quayle
Clawson, Del	Horton	Quie
Cleveland	Hyde	Quillen
Cohen	Ichord	Railsback
Coleman	Ireland	Regula
Collins, Tex.	Jacobs	Rhodes
Conable	Jeffords	Rinaldo
Corcoran	Johnson, Colo.	Robinson
Cornell	Kastenmeier	Rousselot
Coughlin	Kelly	Rudd
Cunningham	Kemp	Ruppe
Daniel, Dan	Ketchum	Russo
Daniel, R. W.	Keys	Satterfield
Davis	Kildee	Sawyer
Dellums	Kostmayer	Schroeder
Derwinski	Krueger	Schulze
Devine	LaFalce	Sebelius
Dickinson	Lagomarsino	Shuster
Dornan	Latta	Skubitz
Downey	Leach	Smith, Nebr.
Duncan, Tenn.	Leggett	Snyder
Early	Lent	Spence
Edwards, Ala.	Levitas	Stangeland
Edwards, Calif.	Livingston	Stanton
Edwards, Okla.	Lott	Stark
Emery	Lujan	Steiger
Erlenborn	Lundine	Stump
Ertel	McClory	Symms
	McDonald	Taylor

Thone	Wampler	Winn
Treen	Weaver	Wydler
Trible	Weiss	Wylie
Vander Jagt	Whitehurst	Young, Alaska
Vento	Whitley	Young, Fla.
Walker	Wiggins	
Walsh	Wilson, Bob	

NOT VOTING—35

AuCoin	Kasten	Sarasin
Baucus	Kindness	Scheuer
Bonker	McCloskey	Stockman
Burke, Calif.	McDade	Stokes
Carter	Mikva	Teague
Cochran	Murphy, N.Y.	Thornton
Conyers	Murphy, Pa.	Tucker
Crane	Myers, Michael	Whalen
Dent	Nix	Whitten
Frey	Pressler	Wilson, C. H.
Holland	Rodino	Young, Tex.
Huckaby	Runnels	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. AuCoin against.
Mr. Stokes for, with Mr. Huckaby against.
Mr. Baucus for, with Mrs. Burke of California against.
Mr. Michael O. Myers for, with Mr. Conyers against.
Mr. Murphy of New York for, with Mr. Runnels against.
Mr. Mikva for, with Mr. McDade against.
Mr. Rodino for, with Mr. Kindness against.
Mr. Nix for, with Mr. Kasten against.
Mr. Bonker for, with Mr. Crane against.
Mr. Dent for, with Mr. Carter against.
Mr. Charles H. Wilson of California for, with Mr. McCloskey against.

Until further notice:

Mr. Scheuer with Mr. Cochran of Mississippi.
Mr. Murphy of Pennsylvania with Mr. Frey.
Mr. Holland with Mr. Pressler.
Mr. Whitten with Mr. Whalen.
Mr. Thornton with Mr. Sarasin.
Mr. Tucker with Mr. Stockman.

Mr. SEIBERLING and Mr. BURKE of Massachusetts changed their vote from "nay" to "yea."

Mr. FOUNTAIN and Mr. BURKE of Florida changed their vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPROPRIATIONS SCHEDULE

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, I wish to take this time to advise the House as to the status of the appropriations business of the session and as to the schedule for considering the bills in the House of Representatives.

Mr. Speaker, since the President submitted his budget in January, the Committee on Appropriations has been heavily engaged conducting hearings on the numerous programs and activities of the various departments and agencies of government. Last month we began the process of subcommittee markups.

Next Monday, May 22, the full Committee on Appropriations will begin to consider the regular annual appropriation bills for fiscal year 1979. We plan to handle the bills at about the rate of two per day. We plan to report all the bills that have been approved to the House on Thursday, June 1 or Friday, June 2 in accordance with the provisions of the Congressional Budget Act. On Tuesday, June 6, we are scheduled to appear before the Rules Committee concerning problems with the lack of enacted authorizations for appropirations.

I wish to alert Members that we will begin to bring the appropriation bills to the floor on Wednesday, June 7. I have conferred with the Speaker and others and the Speaker has approved a schedule where the House will meet Mondays through Fridays during June to consider and vote on appropriation bills and amendments thereto.

While it is impossible to state precisely when each appropriation bill will come to the floor, we presently anticipate a schedule about as follows:

On Wednesday, June 7, the House meets at 10 a.m. We plan to consider first the Treasury-Postal Service bill and then the Interior bill. Then on Thursday and Friday we would consider the big Labor-Health, Education, and Welfare bill. I anticipate that there will be votes on amendments and final passage on the Labor-HEW bill on Friday, June 9.

On the following Monday, June 12, we would call up the State-Justice-Commerce-Judiciary bill and on Tuesday, June 13, we would consider the Public Works appropriation bill. Then on Wednesday, June 14, we would have the legislative bill and the HUD-independent agencies bill. On Thursday, June 15, we would consider the Foreign Assistance bill and on Friday June 16, the Transportation bill. The Agriculture bill and military construction bill will be considered early the following week.

Mr. Speaker, this schedule accounts for 11 of the 13 regular appropriation bills. With respect to the Defense bill, we are in the midst of markup sessions. We hope to bring this bill to the floor in late June.

The committee has concluded hearings on the District of Columbia bill and is awaiting transmission of a budget amendment which is pending at the Office of Management and Budget. Because of this delay it is uncertain whether we can bring this bill to the House.

In developing this schedule, we have conferred with those in the other body and have undertaken to bring before the House early in the schedule those bills which the other body can consider shortly after House passage. It is our hope to move forward with meetings of committees of conference and possibly bring some conference reports to the House before the Independence Day recess.

We recognize that this a rugged schedule. And we recognize that bills could move more rapidly or more slowly through the House than now envisioned. Members can appreciate that it is impossible to predict precisely how long individual bills and amendments might be debated.

Inevitably, some adjustments in the schedule will be necessary, but it is the plan to meet and vote on significant matters on Mondays through Fridays during this period.

So, Mr. Speaker, I just felt this matter was of sufficient import to warrant taking the time of the House.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement:

The Chair would like to emphasize the remarks of the gentleman from Texas (Mr. MAHON), chairman of the Committee on Appropriations. We appreciate that there are many primaries going on, and we have done everything we could possibly do to help in that regard.

The Chair would like to put all Members on notice that on Friday, May 19, 1978, there will be a session. There will not be a session on Friday, May 26.

When the House returns on May 31, we will meet on Friday, June 2; on Friday, June 9; on Friday, June 16; and Friday, June 23.

That is the schedule that the House must adhere to in order to complete the bills and to comply with the Budget Act.

PERMISSION FOR SUBCOMMITTEE ON THE CITY OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT DURING THE 5-MINUTE RULE ON FRIDAY, MAY 19, 1978, AND FRIDAY, MAY 26, 1978

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs may be permitted to sit during proceedings of the House under the 5-minute rule on Friday, May 19, 1978, and Friday, May 26, 1978.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON TOMORROW, THURSDAY, MAY 18, 1978

Mr. JOHN L. BURTON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Activities and Transportation of the Committee on Government Operations may be permitted to sit tomorrow during the 5-minute rule, Thursday, May 18, 1978, for the purpose of hearings only.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from California (Mr. JOHN L. BURTON) assure us that there will be no markup on the legislation?

Mr. JOHN L. BURTON. Mr. Speaker, if the gentleman will yield, there will be no markup whatsoever.

Mr. ROUSSELOT. I thank the gentleman, Mr. Speaker, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SLIDE SHOW PRESENTATION ON ALASKA

(Mr. SEIBERLING asked and without objection was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I would just like to bring to the attention of the Members that later in the day we will be voting on the Alaska bill and I just thought the Members would like to know that in room 137 we have a 15 minute, continuously running, slide show, with soundtrack excerpts from our committee hearings. I feel that Members who have not been to Alaska will find it very, very worthwhile. Even the gentleman from Alaska (Mr. YOUNG) agrees that it is well worth seeing.

APPROPRIATIONS BILL AGAIN TO BE CONSIDERED PRIOR TO AUTHORIZATION BILLS

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I take this time to observe that the schedule that has just been announced by the chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON) and commented upon by yourself, indicates again that we are going to take up these appropriation bills before the authorization bills are passed in most instances, and I wish to express my concern about that.

I would like to ask the Speaker whether he has in mind the possibility of rule changes that would prevent this occurring and that authorizations would be passed prior to the appropriations being taken up?

The present situation makes a mockery of the authorization process because the appropriation committees are forced to virtually ignore the work of the authorizing committees in taking their action.

So I would like to inquire if in the future we might not look into a procedure whereby we can get the authorization bills taken up before the Committees on Appropriation act.

The SPEAKER. The Chair will state that he is sure the gentleman from New York (Mr. OTTINGER) realizes and appreciates the rules of the House, as does the Speaker, and recognizes the fact that the House has the duty of expediting certain pieces of legislation and that it is important to be adjourned by October 1. The Chair will state that the Chair is going to do the best he can under those circumstances.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8099, RELATING TO SETTLEMENT BETWEEN THE UNITED STATES AND THE AK-CHIN INDIAN COMMUNITY OF CERTAIN WATER CLAIMS

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1200), on the resolution (H. Res. 1187) providing for consideration of the bill H.R. 8099 relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 12641, TEMPORARY PUBLIC DEBT LIMIT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1176 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1176

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12641) to provide for a temporary increase in the public debt limit, and all points of order against said bill for failure to comply with the provisions of clause 5 of rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means and said amendments shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Louisiana, (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the usual 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1176 provides for the consideration of H.R. 12641, a bill to provide for a temporary increase in the public debt limit through September 30, 1979.

This rule provides for 1 hour of general debate and waives points of order against the bill for failure to comply with the provisions of clause 5 of rule 21. Clause 5 of rule 21 prohibits appropriations in any measure reported by a committee not having jurisdiction to report appropriations. H.R. 12641 does not contain language expressly appropriating funds; by increasing the public debt limit it does have the effect of increasing the appropriation to pay interest on the debt.

The rule makes in order amendments offered by the Committee on Ways and Means and such amendments shall not be subject to amendment. The Ways and Means Committee has authorized its chairman to offer an amendment to conform the public debt limit in H.R. 12641 to the public debt limit established in the conference report on the first concurrent budget resolution.

When the bill is considered in the House, the Committee on Ways and Means will offer an amendment changing the temporary limit to $449.1 billion for a total of $849.1 billion, thereby conforming the public debt limit level though fiscal year 1979 to that level in the conference report on the first concurrent resolution on the budget which the House has just adopted.

Mr. Speaker, Members will recall that on March 7 the House considered H.R. 11180, a bill to increase the debt limit. Title II of that bill proposed to change the way the Congress would set the public debt limit from a public law to that figure contained in the most recently adopted concurrent budget resolution. Because it amended the Congressional Budget and Impoundment Control Act of 1974, title II of H.R. 11180 was referred to the Committee on Rules.

The Subcommittee on Rules and Organization of the House held a hearing on this proposal, and because of unresolved constitutional questions, recommended to the full Committee on Rules that the rule on H.R. 11180 provide for an amendment striking title II from the bill when it was considered by the House. This was done so that the subcommittee might give further consideration to the proposal.

The subcommittee has since held three hearings on amendments to the Congressional Budget and Impoundment Control Act, including the proposal to establish the public debt limit in the concurrent budget resolution. Testimony has been heard from Members of Congress; the Comptroller General of the United States; representatives of the Department of Justice, the Office of Management and Budget, and the Congressional Budget Office; and two eminent constitutional scholars. These witnesses agree that serious constitutional questions exist in establishing the public debt limit in a measure that is not presented to the President for his approval or veto.

While the subcommittee has not yet reported on this issue, I believe that I speak for most, if not all, of the members of the subcommittee and full committee, in supporting the concept of conforming the public debt limitation to that level the Congress has agreed upon when adopting the budget resolution conference report. It just seems to me that it makes the entire congressional budget process more meaningful if the debt limit enacted into public law is the same debt limit agreed upon when we adopt the overall congressional budget.

I want to commend the Committee on Ways and Means for bringing this bill to the floor today. By scheduling this bill immediately following the adoption of the conference report, we can accomplish the objective of the earlier proposal of H.R. 11180. This solution is possible because of the cooperation of numerous Members of Congress—especially the members of the Committee on Ways and Means and its chairman and ranking minority member.

Mr. Speaker, I urge the adoption of House Resolution 1176 so that we may consider H.R. 12641.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the House and the American people should take note of what we are about to do. We are being asked to increase the ceiling on the na-

tional debt by $97.1 billion in one single year. We are being asked to increase the debt limit from $752 billion to $849.1 billion.

Mr. Speaker, the House just passed the budget resolution and its proponents tried to indicate on the majority side that all this spending really did not bring on greater deficits and more inflation; all we had to do was to keep on spending and spending.

Mr. Speaker, I think it is proper that we bring up this resolution at this time following the passage of the budget resolution, to bring home to the American people what has been happening in this Congress just during the seventies—just during the seventies. Members can find this little document, which is the Temporary Public Debt Limit Report accompanying H.R. 12641, at the desk. I suggest you turn to the second page and see where the debt ceiling stood at the beginning of the seventies. On June 30, 1970, it was $377 billion. Now, that means that the debt will increase from then to now by a half trillion dollars—a half trillion dollars. These figures are staggering when we consider the fact it took this country 167 years to compile a $100 billion debt; but yet just since June 30, 1970, we will see that debt limit increase by a half trillion dollars.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, while I share the concern of my leader, the gentleman from Ohio, that the galloping aggregates in this national debt are seri- support for the rule and for bringing this matter up at this time under these circumstances. I think the Committee on Rules has been very responsible in permitting this happy juxtaposition of these two unhappy events.

Mr. LATTA. Mr. Speaker, I thank the gentleman from New York for those comments.

I do not think there is any question about the rule being adopted, but I think it is time to pause and take into account what has been happening. The gentleman from Texas just announced that the appropriation bills are going to be coming forward in June. We can do something then by reducing these appropriation bills and reducing them substantially. Unless we do, before the eighties arrive we are going to have a trillion dollars worth of debt—a trillion dollars worth of debt to pass on to our children and our grandchildren plus the interest.

Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 320, nays 77, not voting 37, as follows:

[Roll No. 328]

YEAS—320

Abdnor	Fary	Madigan
Addabbo	Fascell	Maguire
Akaka	Fenwick	Mahon
Alexander	Findley	Mann
Allen	Fish	Markey
Ambro	Fisher	Marks
Ammerman	Fithian	Marriott
Anderson, Ill.	Flippo	Martin
Andrews, N.C.	Flood	Mattox
Annunzio	Florio	Mazzoli
Applegate	Flowers	Meeds
Ashley	Flynt	Metcalfe
Aspin	Foley	Meyner
Baldus	Ford, Mich.	Michel
Barnard	Ford, Tenn.	Mikulski
Beard, R.I.	Forsythe	Milford
Bedell	Fountain	Mineta
Bellenson	Fowler	Minish
Benjamin	Fraser	Mitchell, N.Y.
Bennett	Frenzel	Moakley
Bevill	Fuqua	Moffett
Biaggi	Garcia	Mollohan
Bingham	Gaydos	Montgomery
Blanchard	Gephardt	Moorhead, Pa.
Blouin	Giaimo	Moss
Boggs	Gibbons	Murphy, Ill.
Boland	Gilman	Murphy, Pa.
Bolling	Ginn	Murtha
Bonior	Glickman	Myers, Gary
Bonker	Gonzalez	Myers, Michael
Bowen	Gore	Natcher
Breaux	Gradison	Nedzi
Breckinridge	Green	Nichols
Brinkley	Gudger	Nolan
Brodhead	Guyer	Nowak
Brooks	Hagedorn	O'Brien
Brown, Calif.	Hall	Oakar
Brown, Mich.	Hamilton	Oberstar
Brown, Ohio	Hanley	Obey
Buchanan	Hannaford	Ottinger
Burgener	Harkin	Panetta
Burke, Mass.	Harrington	Patten
Burleson, Tex.	Harris	Patterson
Burlison, Mo.	Hawkins	Pattison
Burton, John	Heckler	Pease
Burton, Phillip	Hefner	Pepper
Butler	Heftel	Perkins
Byron	Hightower	Pettis
Carney	Hollenbeck	Pickle
Carr	Holtzman	Pike
Cavanaugh	Horton	Poage
Cederberg	Howard	Preyer
Chappell	Hughes	Price
Chisholm	Hyde	Pritchard
Clay	Ireland	Pursell
Cleveland	Jeffords	Quie
Cohen	Jenkins	Rahall
Conable	Jenrette	Railsback
Conte	Johnson, Calif.	Regula
Corcoran	Johnson, Colo.	Reuss
Corman	Jones, N.C.	Rhodes
Cornell	Jones, Okla.	Richmond
Cornwell	Jones, Tenn.	Rinaldo
Cotter	Jordan	Risenhoover
Cunningham	Kastenmeier	Roberts
D'Amours	Kazen	Roe
Daniel, Dan	Ketchum	Rogers
Danielson	Keys	Roncalio
de la Garza	Kildee	Rooney
Delaney	Kostmayer	Rose
Dellums	Krebs	Rosenthal
Derrick	Krueger	Rostenkowski
Derwinski	LaFalce	Roybal
Dickinson	Le Fante	Ruppe
Dicks	Lederer	Ryan
Dingell	Leggett	Santini
Dodd	Lehman	Sawyer
Dornan	Levitas	Schroeder
Downey	Livingston	Schulze
Drinan	Lloyd, Calif.	Sebelius
Duncan, Oreg.	Lloyd, Tenn.	Seiberling
Eckhardt	Long, La.	Sharp
Edgar	Long, Md.	Shipley
Edwards, Ala.	Luken	Sikes
Edwards, Calif.	Lundine	Simon
Eilberg	McClory	Sisk
Emery	McCormack	Skelton
Erlenborn	McEwen	Skubitz
Ertel	McFall	Slack
Evans, Colo.	McHugh	Smith, Iowa
Evans, Del.	McKay	Smith, Nebr.
Evans, Ind.	McKinney	Solarz
Spellman	Tsongas	White
St Germain	Udall	Whitehurst
Staggers	Ullman	Whitley
Stanton	Van Deerlin	Wiggins
Stark	Vander Jagt	Wilson, Bob
Steed	Vanik	Wilson, Tex.
Steers	Vento	Winn
Steiger	Volkmer	Wirth
Stratton	Waggonner	Wolff
Studds	Walgren	Wright
Thompson	Walsh	Yates
Thone	Watkins	Young, Mo.
Traxler	Waxman	Zablocki
Treen	Weaver	Zeferetti
Trible	Weiss	

NAYS—77

Anderson, Calif.	Goldwater	Myers, John
Andrews, N. Dak.	Goodling	Neal
Archer	Grassley	Pressler
Armstrong	Hammer-schmidt	Quayle
Ashbrook	Hansen	Quillen
Badham	Harsha	Robinson
Bafalis	Hillis	Rousselot
Bauman	Holt	Rudd
Broomfield	Hubbard	Russo
Broyhill	Ichord	Satterfield
Burke, Fla.	Jacobs	Shuster
Caputo	Kelly	Snyder
Clausen, Don H.	Kemp	Spence
Clawson, Del	Lagomarsino	Stangeland
Coleman	Latta	Stump
Collins, Tex.	Leach	Symms
Coughlin	Lent	Taylor
Daniel, R. W.	Lott	Walker
Davis	Lujan	Wampler
Devine	McDonald	Wydler
Duncan, Tenn.	Marlenee	Wylie
Early	Mathis	Yatron
Edwards, Okla.	Miller, Calif.	Young, Alaska
English	Miller, Ohio	Young, Fla.
Evans, Ga.	Moore	
Gammage	Moorhead, Calif.	
	Mottl	

NOT VOTING—37

AuCoin	Holland	Sarasin
Baucus	Huckaby	Scheuer
Beard, Tenn.	Kasten	Stockman
Brademas	Kindness	Stokes
Burke, Calif.	McCloskey	Teague
Carter	McDade	Thornton
Cochran	Mikva	Tucker
Collins, Ill.	Mitchell, Md.	Whalen
Conyers	Murphy, N.Y.	Whitten
Crane	Nix	Wilson, C. H.
Dent	Rangel	Young, Tex.
Diggs	Rodino	
Frey	Runnels	

The Clerk announced the following pairs:

Mr. Teague with Mr. Runnels.
Mr. Stokes with Mr. McDade.
Mr. Baucus with Mr. Kindness.
Mr. AuCoin with Mr. Kasten.
Mr. Diggs with Mr. Crane.
Mr. Brademas with Mr. Carter.
Mr. Murphy of New York with Mr. McCloskey.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Nix with Mr. Frey.
Mr. Charles H. Wilson of California with Mr. Dent.
Mr. Huckaby with Mr. Whalen.
Mrs. Burke of California with Mr. Sarasin.
Mr. Conyers with Mr. Stockman.
Mr. Whitten with Mr. Scheuer.
Mr. Thornton with Mr. Holland.
Mrs. Collins of Illinois with Mr. Mikva.
Mr. Rangel with Mr. Tucker.
Mr. Mitchell of Maryland with Mr. Beard of Tennessee.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee

on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, may we know what these reports are?

Mr. BOLLING. Mr. Speaker, the reports provide for consideration of the following bills:

H.R. 10729, Maritime Appropriation Authorization Act for fiscal year 1979; and

H.R. 12481, authorizing appropriations for certain insular areas of the United States, and for other purposes.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10929, DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1202), on the resolution (H. Res. 1188) providing for consideration of the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes, which was referred to the House Calendar and ordered to be printed.

TEMPORARY PUBLIC DEBT LIMIT

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12641) to provide for a temporary increase in the public debt limit.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12641, with Mr. DELANEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the public debt limit now is $752 billion, and this limit applies to the outstanding public debt through July 31, 1978.

This bill, H.R. 12641, and the committee amendment will make two changes in the public debt limit. The bill extends the period when the debt will apply through fiscal year 1979. The committee amendment increases the level of the debt limit to $849.1 billion.

With this bill, the public debt limit will be increased by $97.1 billion over the present limit. Of this total, $17.2 billion applies to the remainder of fiscal year 1978, the 2-month period between the expiration of the present $752 billion limit on July 31, 1978, and the end of this fiscal year on September 30. The rest of the increase, $79.9 billion applies to the new fiscal year 1979. The amount of new debt financing covers the anticipated budget deficit and the amount of Treasury financing of Federal credit programs through the Federal Financing Bank.

As a result of the amended bill, the public debt limit will be increased to $849.1 billion through fiscal year 1979. The change will set the new limit at the level which the House has just approved in the conference report on the first budget resolution for fiscal year 1979. The bill also makes that limit available for the period that was covered in the resolution. The conferees on the budget resolution have taken into account the President's change in his proposed tax program in determining the appropriate limit for the public debt through fiscal year 1979.

The Committee on Ways and Means is trying to implement a constitutional and practical procedure for setting a public debt limit which conforms with the most recently approved concurrent resolution on the budget. Since the budget resolution expresses the will of Congress about the next fiscal year, the statutory public debt limit should agree with the resolution.

Two months ago, the Committee on Ways and Means brought a public debt limit bill to the House floor in which the committee sought to establish a new procedure under which the public debt limit would be the same amount which Congress set in its most recently approved budget resolution. The House refused to approve that procedure because a question was raised about the constitutionality of changing the debt limit in a resolution that would not be signed by the President. Since then, the Rules Committee has held hearings during which the issue of constitutionality was raised by the Justice Department and other witnesses. Clearly an alternative approach is needed.

Today we are trying to realize the same objective by using a bill which requires the President to express his approval of the action with his signature. By having the House consider legislation, which requires a Presidential signature, immediately after approval of the conference report on the budget resolution, we are coming as close as possible to treating the bill and the resolution as a single legislative entity.

I urge the House to approve this bill. It provides a needed change in the public debt limit. The bill takes us to the first step in bringing the procedure for setting the public debt limit into the budget process, and that process is given further recognition for the importance which it represents.

An increase of $17.9 billion is needed in the debt limit for the remainder of fiscal year 1978, above the present limit of $752 billion, to bring the total for fiscal year 1978 to $769.2 billion.

The increase in the public debt limit for fiscal year 1979 is the sum of three adjustments. The unified budget deficit is $50.9 billion; the Federal Financing Bank needs $12.5 billion to finance its purchases of loans and guarantees made by other Federal agencies, and the trust funds surplus is $16.5 billion which legally must be invested in securities issued by the Federal Government. These three items add to $79.9 billion which raise the end of fiscal year 1978 debt to $769.2 billion to $849.1 billion at the end of fiscal year 1979. The table shows the addition:

[In billions]

Public debt at end of fiscal year 1978	$769.2
Plus fiscal year 1979 adjustments:	
Unified budget deficit	50.9
Trust funds surplus	16.5
Federal Financing Bank needs	12.5
Increase of debt in fiscal year 1979	79.9
Public debt at end of fiscal year 1979	849.1

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the bill, but applaud the timing. I appreciate the cooperation of all concerned in bringing it up immediately after the passage of the budget conference report. This timing represents an improvement in our procedures. The leadership is in effect giving the House an opportunity to be consistent in what I consider its misguided zeal to convert the Federal Government into an inflation machine. Delaying this vote even for a few days might give some a chance for the deplorable but by now traditional gamesmanship of voting against the $849.1 billion public debt level that they have just made inevitable for next year. I wish the substance of this measure were as felicitous as its timing.

Mr. Chairman, I opposed the conference report we have just agreed to. Inherent in that report is the public debt level that results from the ill-advised spending and tax targets contained in the budget resolution. My objection to those targets compels me to oppose this bill as well. They are cut from the same cloth; but those of you who enacted these targets now have a chance to confirm your conviction that you took the right course. You vote for this debt limit—it accommodates the budget resolution you have just enacted.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman, I am sure, would not be a party to fraud of any type and I know no members of the Committee on Ways and Means who would be, either.

Mr. CONABLE. Fraud requires intent; certainly there is no intent of fraud.

Mr. BAUMAN. I hope there is no intent.

I am reading from House Report 95–1130. That is the report accompanying the pending bill, is it not?

Mr. CONABLE. I believe it is, yes.

Mr. BAUMAN. The last paragraph of that report says:

> . . . the committee states that the debt limitation change of itself is not expected to have an inflationary impact on prices and in costs in the operation of the national economy.

Does the gentleman feel that is a valid statement?

Mr. CONABLE. The debt limit is simply confirming what has been a seriously inflationary act in passage of the budget that we have just passed. I have never given great significance to the debt ceiling increase. Of course, government borrowing of money in excessive amounts itself becomes an inflationary act and to that extent the gentleman is making a very valid point.

Mr. BAUMAN. So that the report is certainly not accurate? There is indeed a connection between the national debt and inflation.

Mr. CONABLE. In this report the report is not quite accurate, that is correct.

Mr. JOHN T. MYERS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Chairman, on page 5 of the report in table 6, the expected deficit by the end of this fiscal year is $771 billion. Is that figure still in the ball park?

Mr. CONABLE. I believe that is still in the ball park. In fact, in our conference report we were dealing only with the impact on the debt ceiling of the spending and taxing targets for the next fiscal year. We have the period between July when our present temporary debt limit expires and the beginning of the fiscal year on October 1 to account for as well.

Mr. JOHN T. MYERS. Mr. Chairman, if the gentleman will yield further, what is bothering me from the action taken just previously on the budget, we were told the expected deficit by the end of the next fiscal year would be $849 billion.

Mr. CONABLE. Yes.

Mr. JOHN T. MYERS. Now, if you subtract from the $849 billion the $771 billion going into the new fiscal year, we come up with a $78 billion deficit, not the $50 billion deficit that we were told during the budget debate.

Mr. CONABLE. That is correct. There are some items subject to the debt ceiling which are off budget and there is also the borrowing the Government does from itself because of the run-up in trust funds. Thus, the figures are correct, although they do not appear to be, as a result of the unified budget and as a result of some of the borrowings which are subject to the debt ceiling, but not actually included in the budget.

Mr. JOHN T. MYERS. Well, the only comment I make to the gentleman from Maryland, this may not be fraud, but it is misrepresentation, when actually the addition to the debt that the taxpayers are going to pay in debt services will be $78 billion and probably more.

Mr. CONABLE. We have some problems of definition in determining what the impact of the unified budget is and what shall be considered on budget or off budget.

Mr. JOHN T. MYERS. So it is likely that the action take previously will add $100 billion to the national debt by the end of fiscal 1979.

Mr. CONABLE. Very close to $100 billion and that is the effect. There is no fraud here.

Mr. JOHN T. MYERS. But misrepresentation.

Mr. CONABLE. Yes. Clearly, the American people would be misled if they relied only on the naked figures and did not understand some of the complex accounting figures which are now embodied in the law.

Mr. JOHN T. MYERS. It may be complex, but it means debt and more inflation for the people of our country.

Mr. CONABLE. That is correct.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, is the gentleman aware that we are about to accept or reject a new ceiling because of the Federal borrowing and that the interest projected for this borrowing for fiscal year 1979 will be about $50 billion?

Mr. CONABLE. I would say it would be at least that much. Clearly, the interest rate is likely to be volatile during this period of time and if anything, we have erred on the conservative side.

Mr. BURGENER. And as the debt rolls over, we rob Peter to pay Paul. And as the debt rolls over, it rolls over at a higher interest rate each year. The interest must be paid in cash. But to put it in perspective, the interest payment each day is substantially larger than the daily cost of all the imported oil we bring in from OPEC.

Mr. CONABLE. What a lugubrious statistic.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

The question I have could perhaps be answered by the chairman of the full committee.

If when we come back with the second budget resolution and we have penetrated the budget ceiling, as we often do, will we then have to come back with another debt ceiling bill, say, in September or October?

Mr. ULLMAN. Mr. Chairman, if the gentleman from New York (Mr. CONABLE) will yield, that may be necessary or it may not.

The figure for spending will probably be higher, and the deficit figure will probably be a little higher. In that instance all this would do at the end of the next fiscal year is squeeze us a little tighter. If that happens and if this carries through the fiscal year, we could let it go and carry it on to the end of the year and then act at that time.

But certainly if the budget were out of balance anymore than suggested in this budget resolution, it would require some additional action before September 30, 1979.

Mr. CONABLE. Mr. Chairman, if I may add something to that observation, it seems to me that the variables in this are very substantial, and we are, of course, projecting the debt ceiling more than a year in advance.

I would be awfully surprised if we were able to make do with this for the entire fiscal year period. I trust that if there is not to be some review after the second budget resolution, we will follow the same procedure next year at budget time, when the first budget resolution is up for consideration, and make some effort to accommodate the debt ceiling at that time for the successive fiscal year.

Mr. KETCHUM. Mr. Chairman, if the gentleman will yield further, would there be just the remotest possibility, if this body restrained itself by September and, by some stroke of genius, we did not spend as much as the budget called for, that we could come in and reduce the debt ceiling? Could that ever happen?

Mr. CONABLE. That is always possible.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, nothing would delight us more, and I hope we have that opportunity.

Mr. KETCHUM. Mr. Chairman, I hope we are delighted.

Mr. CONABLE. Mr. Chairman, that is always possible, I will say to the gentleman from California (Mr. KETCHUM), but I suspect that, instead of reducing the debt ceiling, we would be inclined to breath a sigh of relief and find it easier to accommodate possible additional future spending figures.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I wonder if the gentleman's memory stretches back far enough to that year in which the Congress was not asked to increase the debt ceiling. Can the gentleman tell us when the most recent year was that we had such a happy circumstance?

Mr. CONABLE. Mr. Chairman, I cannot recall that exactly, but I suspect that one of the Founding Fathers was then occupying the Presidency. However, I may be wrong.

Mr. Chairman, I have no further requests for time, and I yield back the balance.

● Mr. GRASSLEY. Mr. Chairman, the measure now before the House of Repre-

sentatives (H.R. 12641) should be defeated. It would increase and extend the "temporary public debt limit" to approximately $850 billion. This figure reflects the projected fiscal year 1979 deficit set by the conference report on the first concurrent budget resolution which just passed. Incidentally, I believe that this first budget resolution for fiscal year 1979 should have been defeated. My reasoning is simple. I don't think that a $50 billion deficit for the upcoming fiscal year is a desirable target. It is not something that we should be shooting for.

In any event, Mr. Chairman, H.R. 12641 as amended would set the national debt ceiling at $850 billion through September 30, 1979. Presumably at that time we will, in the name of fiscal integrity and in the spirit of the Congressional Budget and Impoundment Control Act, be called upon to increase the quote temporary unquote debt limit even further.

Now, the national debt is a fascinating thing. It is very intriguing. We all know that the current statutory permanent limitation is $400 billion. This was set in 1971 and has not been increased since then. However, in order to finance continued deficit spending, it is necessary to enact a temporary limitation. These temporary limitations expire periodically and congressional action is required. Four different bills, each of which would have increased the temporary debt ceiling or extended expiration date or both, have come before the 95th Congress. To put the matter before us today in perspective, and for historical purposes, I present the following information for the RECORD:

1. H.R. 8655: Provides that the public debt limitation is to be 775 billion dollars through September 30, 1978. Defeated (180–201) on September 19, 1977.

2. H.R. 9290: Provides that the public debt limitation is to be 773 billion dollars through September 30, 1978. Passed (213–202) on September 28, 1977. Subsequent conference report, providing a debt ceiling of 752 billion dollars through March 31, 1978, passed (223–194) on October 4, 1977.

3. H.R. 11180: Provides that the public debt limitation is to be 824 billion dollars through March 31, 1979. Defeated (165–248) on March 7, 1978.

4. H.R. 11518: Provides that the public debt limitation of 752 billion dollars be extended through July 31, 1978. Passed (233–172) on March 21, 1978.

So now we are considering H.R. 12641. This would, as I said, set the public debt ceiling at approximately $850 billion through September 30, 1979.

There are just a couple of observations that I would like to make. The first is that I can well appreciate the desire of the more prolific spenders in the House to avoid a recorded vote on increasing the national debt in July of this an election year. A couple extra months to confuse the issue and prepare rationalizations would come in handy.

Second, I would ask that my colleagues at least try to remain consistent in voting on national debt increases. If it is bad to raise the ceiling to $775 billion on September 19, 1977, then, I would think that a limitation of $773 billion would be equally abhorrent on September 28, 1977.

Finally, I would just like to advise my colleagues that on page 10 of the committee report accompanying H.R. 12641, we are told that the committee does not believe that—

. . . changes made by this bill in the debt limit will result in any costs either in the current fiscal year or in any of the 5 fiscal years following that year. The Treasury Department agrees with this statement.

It would seem to me that the Federal Government is going to have to pay some interest on the borrowed money we are living off. If there will be no additional costs, I can only conclude that those persons holding Government bonds and securities will receive no interest payments this year. Has anyone told them yet?●

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means, and said amendments shall not be subject to amendment.

The bill is as follows:

H.R. 12641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the period beginning on the date of the enactment of this Act and ending on September 30, 1979, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $352,000,000,000.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of October 4, 1977, entitled "An Act to increase the temporary debt limit, and for other purposes" (Public Law 95–120), is hereby repealed.

The CHAIRMAN. Are there any amendments offered by the Committee on Ways and Means?

AMENDMENT OFFERED BY MR. ULLMAN

Mr. ULLMAN. Mr. Chairman, I offer an amendment.

Amendment offered by Mr. ULLMAN: On the first page, line 7, strike out "$352,000,000,000" and insert in lieu thereof "$449,100,000,000".

Mr. ULLMAN. Mr. Chairman, this is the committee amendment to which I referred. The amendment puts into place the figure represented by the Budget Act, and this makes the debt ceiling correspond with the action we took on the budget resolution.

Mr. CONABLE. Mr. Chairman, I rise in support of the amendment.

This amendment actually activates the procedure which, I think, represents a considerable improvement in our handling of the debt ceiling. I think this is a necessary amendment, and I do support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. ULLMAN).

The amendment was agreed to.

The CHAIRMAN. If there are no further amendments offered by the Committee on Ways and Means, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DELANEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12641), to provide for a temporary increase in the public debt limit, pursuant to House Resolution 1176, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 167, nays 228, not voting 39, as follows:

[Roll No. 329]

YEAS—167

Addabbo	Edwards, Calif.	Milford
Akaka	Eilberg	Miller, Calif.
Alexander	Evans, Colo.	Mineta
Ambro	Fary	Moakley
Ammerman	Fascell	Mollohan
Annunzio	Findley	Moorhead, Pa.
Applegate	Fisher	Moss
Ashley	Flood	Murphy, Ill.
Aspin	Foley	Murphy, N.Y.
Baldus	Ford, Mich.	Murphy, Pa.
Beard, R.I.	Ford, Tenn.	Murtha
Bedell	Fraser	Myers, Michael
Beilenson	Garcia	Natcher
Bennett	Gephardt	Nedzi
Bevill	Giaimo	Oberstar
Biaggi	Gonzalez	Obey
Bingham	Hamilton	Ottinger
Blanchard	Hannaford	Patten
Boggs	Harrington	Patterson
Boland	Hawkins	Pease
Bolling	Holtzman	Pepper
Bonior	Howard	Perkins
Bonker	Jenkins	Pickle
Breckinridge	Johnson, Calif.	Preyer
Brodhead	Jones, N.C.	Price
Brooks	Jones, Okla.	Reuss
Brown, Calif.	Jordan	Richmond
Burke, Mass.	Kastenmeier	Roberts
Burleson, Tex.	Kazen	Roe
Burlison, Mo.	Kildee	Roncalio
Burton, Phillip	Krebs	Rooney
Carney	Krueger	Rose
Chisholm	Le Fante	Rosenthal
Clay	Lederer	Rostenkowski
Conte	Leggett	Roybal
Corman	Lehman	Ryan
Cornell	Long, La.	Seiberling
Cotter	Long, Md.	Sharp
Danielson	Lundine	Shipley
Delaney	McCormack	Simon
Dellums	McFall	Sisk
Derwinski	McHugh	Slack
Dicks	McKay	Smith, Iowa
Dingell	McKinney	Solarz
Dodd	Mahon	Spellman
Downey	Markey	St Germain
Drinan	Mattox	Staggers
Duncan, Oreg.	Meeds	Stark
Eckhardt	Metcalfe	Steed
Edgar	Meyner	Steers

Stratton	Van Deerlin	Wilson, Tex.
Studds	Vanik	Wirth
Thompson	Waggonner	Wright
Tsongas	Watkins	Yates
Udall	Waxman	Zablocki
Ullman	Weiss	

NAYS—228

Abdnor	Fuqua	Moorhead, Calif.
Allen	Gammage	Mottl
Anderson, Calif.	Gaydos	Myers, Gary
Anderson, Ill.	Gibbons	Myers, John
Andrews, N.C.	Gilman	Neal
Andrews, N. Dak.	Ginn	Nichols
Archer	Glickman	Nolan
Armstrong	Goldwater	Nowak
Ashbrook	Goodling	O'Brien
Badham	Gore	Oakar
Bafalis	Gradison	Panetta
Barnard	Grassley	Pettis
Bauman	Green	Pike
Benjamin	Gudger	Poage
Blouin	Hagedorn	Pressler
Bowen	Hall	Pritchard
Breaux	Hammer-schmidt	Pursell
Brinkley	Hanley	Quayle
Broomfield	Hansen	Quie
Brown, Mich.	Harkin	Quillen
Brown, Ohio	Harris	Rahall
Broyhill	Harsha	Railsback
Buchanan	Heckler	Regula
Burgener	Hefner	Rhodes
Burke, Fla.	Heftel	Rinaldo
Burton, John	Hightower	Risenhoover
Butler	Hillis	Robinson
Byron	Hollenbeck	Rogers
Caputo	Holt	Rousselot
Carr	Horton	Rudd
Cavanaugh	Hubbard	Ruppe
Cederberg	Hughes	Russo
Chappell	Hyde	Santini
Clausen, Don H.	Ichord	Satterfield
Clawson, Del	Ireland	Sawyer
Cleveland	Jacobs	Schroeder
Cohen	Jeffords	Schulze
Coleman	Jenrette	Sebelius
Collins, Tex.	Johnson, Colo.	Shuster
Conable	Jones, Tenn.	Sikes
Corcoran	Kelly	Skelton
Cornwell	Kemp	Skubitz
Coughlin	Ketchum	Smith, Nebr.
Cunningham	Keys	Snyder
D'Amours	Kostmayer	Spence
Daniel, Dan	LaFalce	Stangeland
Daniel, R. W.	Lagomarsino	Stanton
Davis	Latta	Steiger
de la Garza	Leach	Stump
Derrick	Lent	Symms
Devine	Levitas	Taylor
Dickinson	Livingston	Thone
Dornan	Lloyd, Calif.	Traxler
Duncan, Tenn.	Lloyd, Tenn.	Treen
Early	Lott	Trible
Edwards, Ala.	Lujan	Vander Jagt
Edwards, Okla.	Luken	Volkmer
Emery	McClory	Walgren
English	McDonald	Walker
Erlenborn	McEwen	Walsh
Ertel	Madigan	Wampler
Evans, Del.	Maguire	Weaver
Evans, Ga.	Mann	White
Evans, Ind.	Marks	Whitehurst
Fenwick	Marlenee	Whitley
Fish	Marriott	Wiggins
Fithian	Martin	Wilson, Bob
Flippo	Mathis	Winn
Florio	Mazzoli	Wolff
Flowers	Michel	Wydler
Flynt	Mikulski	Wylie
Forsythe	Miller, Ohio	Yatron
Fountain	Minish	Young, Alaska
Fowler	Mitchell, N.Y.	Young, Fla.
Frenzel	Moffett	Young, Mo.
	Montgomery	Zeferetti
	Moore	

NOT VOTING—39

AuCoin	Guyer	Runnels
Baucus	Holland	Sarasin
Beard, Tenn.	Huckaby	Scheuer
Brademas	Kasten	Stockman
Burke, Calif.	Kindness	Stokes
Carter	McCloskey	Teague
Cochran	McDade	Thornton
Collins, Ill.	Mikva	Tucker
Conyers	Mitchell, Md.	Vento
Crane	Nix	Whalen
Dent	Pattison	Whitten
Diggs	Rangel	Wilson, C. H.
Frey	Rodino	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mrs. Burke of California for, with Mr. Baucus against.

Mr. Brademas for, with Mr. Runnels against.

Mr. Dent for, with Mr. Beard of Tennessee against.

Mr. Rodino for, with Mr. Sarasin against.

Mr. Mitchell of Maryland for, with Mr. Carter against.

Mr. Teague for, with Mr. McDade against.

Mr. Huckaby for, with Mr. Kindness against.

Mr. Rangel for, with Mr. Cochran of Mississippi against.

Mr. Nix for, with Mr. McCloskey against.

Mrs. Collins of Illinois for, with Mr. Guyer against.

Mr. Stokes for, with Mr. Frey against.

Mr. Diggs for, with Mr. Kasten against.

Until further notice:

Mr. Mikva with Mr. Conyers.

Mr. Pattison of New York with Mr. Holland.

Mr. Vento with Mr. Scheuer.

Mr. Whitten with Mr. Crane.

Mr. Charles H. Wilson of California with Mr. Thornton.

Mr. Tucker with Mr. Whalen.

So the bill was not passed.

The result of the vote was announced as above recorded.

PERSONAL STATEMENT

Mr. PRESSLER. Mr. Speaker, I missed rollcall No. 327. Had I been present, I would have voted "no."

PROVIDING FOR CONSIDERATION OF H.R. 39, ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1978

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1186 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1186

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scienic Rivers and National Wilderness Preservation Systems, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, and one hour to be equally divided and controlled by the chairman and ranking minority members of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in italic in the bill, it shall be in order to consider the text of the bill H.R. 12625 if offered as an amendment in the nature of a substitute for the bill, said substitute shall be read for amendment under the five-minute rule as an original bill by titles instead of by sections, and all points of order against said substitute or any amendment in the nature of a substitute offered thereto for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. It shall be in order to consider as amendments to said substitute provisions contained in the text of the bill H.R. 39 as introduced, in the text of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill H.R. 39, and in the text of the amendments recommended by the Committee on Merchant Marine and Fisheries now printed in the bill H.R. 39, and all points of order against said amendments for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby wavied. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1186 provides for the consideration of H.R. 39, the Alaska National Interest Lands Conservation Act of 1978. This resolution provides for an open rule with 3 hours of general debate; 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries.

The resolution also waives points of order that may be brought against H.R. 39 as introduced for failure to comply with sections 401(a) of the Budget Act. Although the Budget Act violations have been cured in the committee substitute, it is necessary to include these waivers in the resolution since the committee substitute is being considered as an amendment to the bill as introduced. The resolution also waives section 402 (a) of the Budget Act for failure to comply with the May 15 deadline for reporting authorizing legislation.

In addition, the resolution provides that in lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in italic in the bill, it shall be in order to consider the text of the bill H.R. 12625 if offered as an amendment in the nature of a substitute for the bill. The resolution provides that the bill be read for amendment by titles instead of by sections.

It waives all points of order against the substitute or any amendment in the nature of a substitute offered thereto for failure to comply with the provisions of clause 7 of rule 16 (the germaneness

rule) and clause 5 of rule 21 (the rule governing how appropriations are made.)

These waivers are necessary because some of the amendments in the nature of a substitute contain provisions that are nongermane to the text of the bill H.R. 39 as introduced; and certain provisions of the amendments in the nature of a substitute permit the reprograming of funds which normally is done in appropriations bills.

The resolution would also provide that it shall be in order to consider as amendments to the substitute provisions contained in the text of the bill H.R. 39 as introduced, in the text of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill H.R. 39, and in the text of the amendments recommended by the Committee on Merchant Marine and Fisheries now printed in the bill H.R. 39, and waives all points of order against these amendments for failure to comply with the provisions of clause 7, rule 16 and clause 5, rule 21.

Finally, the resolution provides for one motion to recommit with or without instructions.

Mr. Speaker, this resolution was purposely designed to insure that Members would have every opportunity to debate and to amend this very important and controversial piece of legislation. I believe we have achieved our purpose. This resolution permits virtually all issues that were considered by the two committees of jurisdiction to be considered.

It is somewhat unusual that the Rules Committee should go to the extent we have in this resolution to insure free and unrestricted consideration of a bill. However, as our committee sat through 2 days of hearings on this bill, it became very clear to us that opinions on policies established in this proposal varied widely.

For this reason, our committee felt it was of supreme importance that amendments be permitted to the bill which related in any way to the Alaska land issue regardless of whether they had been a part of the original bill or any of the substitutes. We believe all Members should be able to make their case to the full House without any restrictions on the right to offer amendments.

Mr. Speaker, H.R. 12625, the Alaska National Interest Conservation Act, designates approximately 102 million acres in the State of Alaska to existing units of our four established land conservation systems—National Park, National Wildlife Refuge, National Forest, and National Wild and Scenic Rivers—and classifies 66 million acres as wilderness.

The enactment of this legislation will be the final major step in the disposition of the 375 million acres of Federal Land in Alaska. It should be noted that this legislation will authorize the State of Alaska to overselect by 25 percent the 104 million acres of land entitled by the Alaska Statehood Act of 1958. It will speed up the lands transfers under both the Statehood Act and the Alaska Natives Claims Settlement Act, while it also will allow an additional 10 years for the State to make its selections—to 1994.

As you know, this bill is the consensus reached on this issue by the Committees on the Interior and Merchant Marine and Fisheries. It is the most important piece of environmental legislation to be considered by this Congress, and it should be noted that it provides significant, major compromises in critical areas of concern, such as jobs, resources, conservation, and economic growth.

To summarize only a few of the compromise provisions, the boundaries were designed to eliminate resource conflicts whenever possible—the one exception and remaining point of controversy is the Arctic wilderness area. In response to the concern for job loss and economic development, the 66 million acres classified as wilderness is less than half the original number in response to concern for jobs and economic development, and wildlife refuge lands are authorized to be open to oil and gas leasing. To reiterate statistics with which I am sure you are familiar, the legislation is designed so that 95 percent of all favorable or high potential oil and gas lands will be open to possible development and are outside the boundaries of restricted areas, and 70 percent of lands with low- and high-mineral potential are outside boundaries as well.

The scope of this legislation is broad, the issues are complex, and the need for the Congress to take responsible action apparent. This bill is historic in its response to the unique conservation opportunities afforded by the Alaska lands.

Mr. Speaker, I request that we adopt House Resolution 1186 so that we may proceed to the consideration of the bill.

FURTHER LEGISLATIVE PROGRAM

The SPEAKER. The Chair will make the following announcement in order that the Members may know what the schedule is for the remainder of the day:

It is proposed that the House will complete consideration of the rule, and if the rule is adopted, the House will then go into general debate on the Alaska lands bill, which is scheduled for 3 hours. At the conclusion of general debate, we will go into the 5-minute rule. The Chair understands the substitute amendment will then be offered, and at that time the committee will rise.

The Chair makes this announcement in order that consideration of the bill may be expedited and that the Members may know how to schedule their time.

Mr. UDALL. Mr. Speaker, if the gentleman will yield to me, I have discussed this schedule with the Speaker, and this is acceptable to the managers of the bill on the part of both the committees involved, with the understanding that the text of H.R. 12625, which is the so-called consensus substitute, will be offered by the gentleman from California (Mr. LEGGETT), and that the gentleman from Washington (Mr. MEEDS) will then have the opportunity to offer a substitute for that bill which is printed in the RECORD. Then at that point, without any debate, the committee would rise.

Mr. Speaker, that is our understanding.

Mr. SYMMS. Mr. Speaker, if the gentleman will yield, the problem I would foresee with this schedule is that this is probably the most important land bill ever to come before the Congress, and this is an invitation to all the Members to leave and not be here for the general debate. I think that is unfortunate for our colleague, the gentleman from Alaska (Mr. YOUNG), who has so much to say about this bill.

The SPEAKER. The Chair will advise the Members that the Members are on notice that there could be a quorum call, and that when the committee goes into the 5-minute rule, after the substitute amendments have been offered, the committee will rise at that particular time.

The Chair recognizes the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker the Committee on Rules met all day on May 11 and for a full half day on May 16 so that we could hear from 11 witnesses on the subject of the Alaska National Interest Lands Conservation Act of 1978. After all that time, it only took about 5 minutes to debate and vote on the procedural issue—this rule. I do not suggest that listening to the merits of legislation is not necessary for the Rules Committee. What I am suggesting is that we should have devoted more time to consider what is being offered to this House today in the way of a rule resolution.

With all due respect to the gentleman from Connecticut, the author of this resolution, the rule is a procedural disaster. Despite the good intentions of the gentleman in attempting to accommodate anyone and everyone during the amending process on this highly controversial measure, the rule makes any substitute in order notwithstanding the germaneness rule or the rule against appropriations in a legislative measure.

It is all things to all men.

Under the terms of the resolution, sections 401(a) and 402(a) of the Congressional Budget Act are waived. These sections contain prohibitions against consideration of a bill, resolution, or amendment which does not make spending authority subject to appropriation acts and against consideration of a bill or resolution not reported prior to the May 15 deadline, respectively.

H.R. 39 is made in order first. Three hours of debate are granted, 2 hours for the Interior and Insular Affairs Committee and 1 hour for the Merchant Marine and Fisheries Committee. Next, H.R. 12625, the so-called compromise bill on which no hearings have ever been held, is made in order as an amendment in the nature of a substitute and is to be read for amendment by titles instead of by sections. All points of order

against H.R. 12625 or any amendment in the nature of a substitute to it—and I underscore "any amendment in the nature of a substitute"—for failure to comply with clause 7 of rule XVI, the germaneness rule, and clause 5 of rule XXI, appropriations in a legislative measure, are waived.

The rule then makes in order as amendments to H.R. 12625 provisions contained in the text of H.R. 39 as introduced, in the text of the Interior and Insular Affairs Committee substitute now printed in H.R. 39, and in the text of the amendments recommended by the Merchant Marine and Fisheries Committee now printed in H.R. 39. The germaneness rule and the rule against appropriations in legislation are waived against all these provisions.

At the conclusion of the amending process there is a motion to recommit with or without instructions. Should this rule be adopted, we may very well make use of this provision.

Regardless of whether you are for or against this bill on its merits, you should oppose this procedure. The reason is that it will permit the House to take up a substitute to be used as a vehicle, which substitute has never been considered by any committee, and then entertain any and all substitutes to that substitute whether they are germane or not and whether they appropriate money or not. It is difficult for me to conceive of a more confusing and chaotic set of circumstances.

Yesterday in committee we heard some comments about one of the duties of the Rules Committee being to hold back legislation from the floor which was not ready for consideration by the full House. These comments were made, and I think sincerely, from the majority side—a side from which I have not heard such remarks since the days of the chairmanship of the gentleman from Mississippi, Bill Colmer. It was refreshing to hear, Mr. Speaker, and I believe worthy of note.

As far as the bill is concerned, every version, with the possible exception of the substitute to be offered by the gentleman from Washington, is totally out of balance. It is inconceivable to me that we need to withhold from energy and mineral development lands in Alaska comprising an area the size of the State of California.

Why is it that Americans love to stab ourselves in the back when it comes to national security matters?

Conservation of those treasures given to us by the Good Lord is our duty. There is no question in my mind on that premise. However, in our efforts to accomplish such a goal let us not overdo it to the extent of jeopardizing the welfare and safety of the United States for years to come.

Mr. Speaker, this bill is opposed by Alaska's two Senators, its Governor, and its Congressman because it is not good for Alaska. I say it is not good for America. I am against the bill, and I urge the defeat of the rule at this time.

Mr. Speaker, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I am opposed to the rule that was granted by the Committee on Rules. It is an open-ended rule that waives all points of order and all points of germaneness.

Mr. Speaker, if the Members want to vote on many different things during this process, they will have the possibility of doing so.

It was not my intent nor did I write the rule. I appeared before the Committee on Rules and objected to H.R. 39, as written, and the consensus bill, as written. Both bills, as far as I am concerned, as I said in the Committee on Rules and I will say to the Members today, are turkeys. With no disrespect for that great Thanksgiving bird which we all indulge in, they are both turkeys. They are bills that are being portrayed by those people out in the hallway and in Members' offices and through phone calls and letters as being good legislation. They are telling us that this is our chance to do something right for a change for the environment.

Mr. Speaker, I am saying that both bills, as they evolved from this committee, have great magnitude or size. If we take H.R. 39, we probably have 124 million to 125 million acres of land, and the consensus bill has the same amount of acreage approximately. The difference, though, in the consensus bill is that there are 66 million acres of wilderness, instant wilderness, without going through the wilderness process. The rest of the acreage is in a totally restricted classification.

Mr. Speaker, I want to compliment the gentlemen of the full committee and of the subcommittee in that they have made a certain bending of the rules for the wilderness concept so that certain things can happen.

For example, the State will receive 105 million acres; but they are going to be told where they can select those acres of land. Under the Statehood Act, we have the right to select the land. There is also a question about access. Yet, they say the State will have this opportunity and that there has been progress made in these pieces of turkeys, if we want to call them that.

More than that, Mr. Speaker, each Member in this room is going to be affected by this piece of legislation.

Mr. Speaker, we are told that 90 percent of the oil and gas area is still open for exploration and development. That is true, but it is like one's heart. One's heart takes up less than 10 percent of his body, but without the heart, one cannot go very far.

Mr. Speaker, I have offered the environmental group standing out in the hall with their little buttons a direct exchange. I will give them 200 million acres of land if they let me take the 147 million acres that was originally in H.R. 39.

They say, "We cannot do that because those are the pristine areas."

However, there are also areas that have their uses. Those uses must be for this Nation, for recreational purposes, for oil and gas, for all the 31 minerals which we import today. They are on the same acreage of which they speak when they call it a great pristine area.

Some of the Members may have heard through their contacts with environmental groups that I am classified as the "great raper and developer." That is a misnomer.

Mr. Speaker, our State has taken care of the land. We were the guardians of the land. The only environmenal damage to my State has been done by the U.S. Government. This body right here, in 1973, passed the pipeline bill because we were faced with an oil embargo. We told them to build it in 3 years. It cost us $10 billion, and we suffered environmental damage. Moreover, today we have a glut of oil on the west coast.

Mr. Speaker, as an Alaskan and as an American, I say that is not the proper way to do things.

I have heard people say, "Let us salt these resources away. We will need them in the future." I am saying that that is well and good; but if we do not plan how that land shall be taken, when it shall be taken, and how it shall be taken, then we have done a great environmenal disservice to the State of Alaska and to this Nation.

Mr. Speaker, as far as the rule goes—and I am supposed to be speaking on the rule—I did not attempt to write the rule; but I do believe that the rule is so broad that through the process of amending, there is a strong possibility we will get the opportunity to vote on abortions again, on gun control, or on the B–1 bomber, little pet projects, with perhaps a little tax revision.

The SPEAKER pro tempore. (Mr. VANIK). The time of the gentleman from Alaska has expired.

Mr. LOTT. Mr. Speaker, I yield one additional minute to the gentleman from Alaska (Mr. YOUNG).

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, perhaps we ought to have a vote on putting in the public lands in the State of Arizona also.

Mr. YOUNG of Alaska. We may have the opportunity to do that, I will say that.

Mr. Speaker, I will say that I support wilderness areas, and I have offered many times a concensus idea. They could take 50 million acres of land—they already have 31 million acres, and with what was originally in the Alaska Conservation Act—but because of the pressure we are faced with today, tomorrow, and perhaps Friday, we are setting aside 123 million acres.

If the Members want to do away with this piece of legislation today, they will vote against the rule.

Mr. DODD. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise in support of House Resolution 1186.

I believe that the Rules Committee has proposed a fair and reasonable rule which will facilitate debate on this im-

portant issue without foreclosing any Member from offering any amendment to this legislation.

As most Members know, the Alaska lands bill was referred to, and considered by, two committees. The Interior Committee reported out their version of H.R. 39 on April 7, and the Merchant Marine and Fisheries Committee reported its amendments to the floor of the House on May 4. Both committees have worked long and hard on this legislation. Both committees have held hearings in both Washington, D.C., and Alaska, and both committees have traveled throughout the State.

Not surprisingly, although our respective committees agreed about many aspects of this legislation, we disagreed about many aspects as well. The bill reported by the Merchant Marine and Fisheries Committee represented a substantial revision of those elements of the Interior Committee bill which fell within the jurisdiction of our committee. The Merchant Marine and Fisheries Committee bill adopted an entirely new title on wildlife refuges and on the management of subsistence hunting and fishing, and it substantially amended those portions of the wilderness title which applied to wildlife refuges.

Rather than fight each and every one of these amendments out on the floor with the Interior Committee, Chairman Murphy and I sat down with the majority leadership of the Interior Committee and the Subcommittee on Oversight and Alaska Lands in an attempt to develop a compromise text from which both committees and the membership of the House could work. We did manage to agree on a compromise text which we introduced as H.R. 12625, along with colleague FORSYTHE, on May 9. It is this text that the Rules Committee proposes to make in order as the original text for purposes of amendment.

H.R. 12625 is a compromise bill. It amalgamates provisions from both committee versions of H.R. 39. It does not include all of the merchant marine amendments, nor does it include all of the provisions adopted by the Interior Committee.

It should be emphasized that H.R. 12625 is not a mysterious new bill which has not been considered by either committee. The bill is merely a conglomeration of the work of both committees. In general, the bill includes all of the Interior Committee provisions on parks and preserves and wild and scenic rivers, and nearly all of the merchant marine provisions on wildlife refuges. The bill includes the proposed Park and Forest wilderness areas proposed by the Interior Committee and the proposed refuge wilderness areas proposed by the Merchant Marine Committee. It adopts the merchant marine amendment to the subsistence title of the bill. H.R. 12625 closes parks, preserves and refuges to hardrock mining, but permits oil and gas leasing within refuges as provided in existing law (National Wildlife Refuge Administration Act of 1966).

H.R. 12625 is not perfect. It is, however, the best and most efficient vehicle to work from for purposes of amendment. Although the leadership of the two committees agreed that H.R. 12625 is the best vehicle to work from on the floor, we did not agree on each and every provision in the bill. Both committees intend to offer a limited number of amendments to the consensus bill which were adopted in committee. On our part, we intend to offer only three amendments to the compromise text.

The Alaska lands issue represents the greatest conservation issue ever considered by the House. I believe that the proposed rule will provide for fair and effective debate on this most important issue.

It has been stated by one of the previous speakers that no hearings were held on this legislation. To the contrary, we held many hearings. The only difference is that for purposes of debate we struck out the three provisions that were in dispute in H.R. 39, as amended by the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries. We are planning to offer those three amendments that are in dispute as committee amendments.

I believe that that should really cause no confusion. If we had done it the other way and we had H.R. 39 before us on the floor and our committee then was presenting some 60 amendments, we would be charged with writing a bill on the floor of the House of Representatives.

So I believe, while the procedures are strange, sequential referrals are also not usual in the House, and that this is the best procedure.

Allegations have been made that we are waiving the germaneness rule. I would respond by saying that we are not waiving anything extraordinary in this bill. All we intended to do with the language, which was not possible to do in the Committee on Rules, was to make totally in order, as a substitute, the Meeds substitute bill that was presented in the Committee on Interior and Insular Affairs. I may support parts of that, but I do not think it is confusing at all. I think the rule should be supported.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker and Members of the House, I voted for this rule yesterday in the Committee on Rules and I support it here on the floor this afternoon.

I think that the gentleman from Alaska spoke with his usual candor and commendable frankness when he closed his remarks a few minutes ago by saying that if you want to do away with this piece of legislation you will vote against this rule. I am here in the well this afternoon because I do not want to do away with this piece of legislation.

I feel a responsibility to my children and their children after them, to do something to preserve the absolutely priceless heritage that we have in this, I think, loveliest of all States of the Union.

Admittedly this rule is wider in its waiver of the germaneness rule than perhaps any other rule that has come to the floor of the House in a long time and yet I think that when you are dealing with a subject as vast as the one in consideration this afternoon, a territory more than twice, they tell me, the size of the State Texas—and what is ever bigger than the State of Texas—a territory larger than France, West and East Germany combined, it is necessary.

There are sharp differences of opinion in what the committee has done and it seemed to a majority of us on the Committee on Rules that, in fairness and in equity, we ought to give the very widest latitude to all of the interested parties in this Chamber to offer their substitutes and their perfecting amendments to those substitutes so that everyone could be heard on this truly monumental piece of legislation.

I would like to comment on the argument that we would be engaging in a fruitless exercise if we adopt this rule, particularly because two Senators, one a Democrat and one a Republican, two members of the other Chamber, object to this bill. Well, you know, I am reminded of an article that I read the other evening in, I think it is, the current issue of Harper's magazine, called "The Balkanization of America," that discussed the fact that with the rise of ethnicity, regionalism and factionalism in our country that we have literally lost the ability that we once had to deal with issues as national issues so as to get the kind of national consensus we need to move forward. The bill that this rule would make in order is a clear example of a national issue where we need a truly national approach.

That article, incidentally, was written —and it is a splendid piece of research— by a very distinguished author, Kevin Phillips. I find it a fascinating diagnosis of some of the ills affecting our body politic today.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LOTT. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Let me, then, say in conclusion I do not think that this Chamber that has always been proud of its coequal status should allow two Members of the other body, even if they do represent a State, to hold in hostage action by this Chamber on this very important bill.

Let me close also by paying tribute to the gentleman from Alaska (Mr. YOUNG). He is not simply a mindless developer. He does love the land. He does love his State, and I pay him great tribute and great credit for working as hard and as effectively on this legislation as I have ever seen any Member of this body on either side of the aisle work on any bill. The fact that I disagree with him on the particulars of this bill does not in any way lessen my appreciation for him or my admiration for the work that he has done to try to bring a piece of legislation out that we could accept.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I think that the gentleman from Illinois (Mr. ANDERSON) made one comment that I certainly agree with, and that is that there are sharp differences of opinion on this legislation. This is a piece of legislation which we have heard many, many Members say will not become law but which has been manipulated by special-interest groups so that it will come before this House and many Members will have to make a decision to vote on it with a limited amount of opportunity to study what really is at stake.

Back home in the garden clubs and the conservation clubs many people believe that this is wonderful to lock up vast sections of Alaska, preserve our heritage, not realizing how much land we are talking about. Many of these people have very sincere motives, I am sure, but what we are talking about is an area that is about twice, 2½ times the size of the State of Idaho, five times the State of Ohio. What do we do when we lock it up? We remove it from the ability of prospectors and miners and lumbermen, people and so forth, to go in and extract nonfuel and fuel minerals from the surface of the Earth, or remove trees from the Earth, and renewable resources.

In the real world, Mr. Speaker, all new wealth comes from either the sea or the land, and if we continue to remove those parts of the sea and the land from people's ability to produce new wealth, what happens is we end up with everyone trying to run a laundry and no one making new shirts. After awhile we wear out all the shirts. That is one of our problems in America.

I would like to give the Members some statistics. The United States currently imports 50 percent of our petroleum, 98 percent of our manganese, 96 percent of our cobalt, 95 percent of our titanium, 94 percent of our bauxite-aluminum, 92 percent of our chromium, and 90 percent of our tin, to name the top 8. The reason I make that point is that the two charts we see before the House here show the major 31 nonfuel minerals that are essential to run a highly technical society like we live in, a highly civilized society, and we are the major importers. As the Members can see, the red part is the part we are importing. I would invite the Members, before they cast a vote on this rule, to come down and look at this and compare this, then, with our adversaries, the Soviet Union, and how much they import of the same minerals. They are the major exporters of the same minerals we are the major importers of, most of these resources are found in Alaska.

I think the reason this is significant is because, as the Members know the control of the world seaways are going from the U.S. Navy to the Soviet Navy in a gradual process, and it becomes more and more important for America to maintain our resource sovereignty and our ability to produce both petroleum, coal, uranium, and the other nonfuel minerals that are so important.

Additionally, there is one other point. The gentleman from Oregon (Mr. WEAVER), who is on his feet, and I serve together on the Subcommittee on Forests of the Committee on Agriculture. There we are receiving reports of a great deal of work done in the Scandinavian countries with arctic forest land. The advocates of this bill are saying, you are not putting away any forests because they are up North. They do not grow very fast anyway. That is not the case. There are many aspects as to why this rule should be voted down.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of the rule for the consideration of this vital piece of land conservation legislation.

Mr. Speaker, regardless of how you view it, this proposal that we will be considering represents the last opportunity we will ever have to preserve a land rich in spectacular scenery, and a land which possesses untold abundance of fish and wildlife. Make no mistake about it, this proposal is our last opportunity to save a piece of our heritage for the benefit of this and future generations.

We once scoffed at this vast area, calling it "Seward's folly," and "Seward's icebox." But, as shown by the interest in this proposal, we have come a long way; we have realized what this spectacular region means to us, and should mean to our succeeding generations. If we succumb to the special interests that only wish to rape the land; to extract the resources at the expense of the beauty and wildlife of the region, then, we all have been the victim. The victim, because this land belongs to all of us now, a land so rich in beauty and splendor that it is hard to describe.

The value of the region is not only in the resources it holds, but in the beauty and wildlife it affords all who see. The resources will always be there, and if the national interest dictates that we extract the resources, then we can always reverse the policy annunciated in this proposal and allow for the orderly development. However, if we bypass this golden opportunity to preserve this magnificant land, thus allowing for the region to be scarred with the imprint of man's irresponsible development, we can never reverse this permanent scar. The damage will be done. The last remaining frontier will be lost in man's rush to fully extract all available resources.

I submit that we are not in such a mineral-short, or energy-short situation that merits such a massive, destructive undertaking. I urge my colleagues to support the rule, thus affording us with this last, golden opportunity to "save ourselves from ourselves." The proposal is urgently needed, and I, therefore, urge the adoption of the rule.

Mr. DODD. Mr. Speaker, I yield 1 minute to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I rise in support of an affirmative vote for the rule and believe this is probably the most important legislation affecting conservation since Teddy Roosevelt was President, since the Forest Service and national parks were created. I know of no other legislation to which I have given harder work, possibly with the exception of the strip mining bill, than the Alaska bill. The committee worked here and in Alaska, often into late hours, day after day.

We have done a good job trying to balance industry and environment in this most important matter.

I commend the conference chairman of the Republican Party, the gentleman from Illinois (Mr. ANDERSON). This might damage his chances to stay here, but I feel he is one of the outstanding leaders of Congress. His reference to the Kevin Phillips article in Harpers was wonderful.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, whether one is for or against dealing legislatively with the issue of Alaskan lands, I think one in good faith can oppose the extraordinary rule that is before us. There has been some allusion by several Members to the scope and the manner in which this legislation is to be considered if this rule is adopted.

I call attention of the Members to the provision on page 2 making in order the substitute amendment, which I understand will be offered by the gentleman from California (Mr. LEGGETT). I read:

> All points of order against said substitute or any amendment in the nature of a substitute offered thereto for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived.

The latter waiver deals with the prohibition against appropriations in a legislative bill and it is waived from time to time; but the first waiver mentioned there is of the most extraordinary kind. I do not know how many Members of this body have ever longed to be in the other body. It must be an excruciating experience to have that perverse longing; but the other body has no rule of germaneness and at least for the duration of this bill, if we debate it under this rule, we will have that same dubious privilege. We will no longer have the rule of germaneness which has served this House since 1789. Now, that is an ancient precedent to throw into the ash can by adopting a rule of this broad nature.

What do I mean? I mean once the substitute is offered, there is nothing to prevent any Member from offering his own substitute containing an antibusing amendment, a gun control amendment, a Panama Canal disapproval amendment, a public financing of elections amendment. Mavbe that is what the gentleman from Illinois (Mr. ANDERSON) had in mind when the gentleman said he

supported this unusual rule. And nothing can prevent the offering of such amendments if this rule passes.

This will probably be one of the most interesting debates we have ever had. If you have been concerned with having to learn the catalog of wilderness areas, national forests and all the political divisions of Alaska, you will have to study an awful lot of other issues as well. That is the stark parliamentary possibility before us.

I have heard through the floor gravevine with which we are all familiar since it operates effectively on the floor what really will happen is that the Chair will control recognition of Members and those who should be recognized will be recognized, others will not. Well, if that is, indeed, the undemocratic way the precedents of the House are discarded it will be a most difficult debate, I might say.

I do not think the substitute will be offered tonight. If it is, it may be read in its entirety. But I will say, this is not the proper way to legislate on a most important issue of natural resources located within one of the 50 sovereign States of the Union. Alaska is not a township or a county, it is a sovereign State, the largest State, and we ought to consider its problems under the proper rules of the House.

I call the attention of the Members to the dates on these bills. H.R. 39 was introduced on January 4, 1977. That is how long this bill has been before the two committees involved, the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries.

The bill was the subject of very heated debate, prolonged debate, and the gentleman from Alaska (Mr. YOUNG), our fine riverboat captain, who represents those good folks up there in the great north country, fought his battles in these committees, and he thought he had lost some and won some.

Then we had suddenly at the last moment, on May 9, 1978, received H.R. 12625. We talk about two Members of the other body dictating to this body. I do not know who wrote this bill. It has five names on it. Suddenly it appears, and it is said to be the preferred substitute that we must consider because of action in the Committee on Rules. Let me say to the folks that we will have a good time in consideration.

If you want to discard the House rules and the precedents and more than 200 years of parliamentary history, you can do it, but I think that is the wrong way to legislate.

Mr. Speaker, purely on parliamentary grounds, we should oppose this rule.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, Cannon's Precedents states:

One of the functions of the rule requiring germaneness is to preclude consideration of legislation which has not been considered in committee and for this reason the rule should be invoked with particular strictness against amendments proposing substitutes for an entire bill.

For an amendment to be germane means that it must be relevant to the subject matter of the bill. The object of the rule requiring amendments to be germane is in the interest of orderly procedure and good legislation. The purpose of the germaneness rule is to prevent hasty and ill-considered legislation and to prevent propositions being offered for the consideration by this House which might not reasonably have been anticipated.

Under this "wide-open" rule waiving the rule of germaneness, we could conceivably have a test vote or referendum in this House on every issue we did not get to consider when we read for amendment our first concurrent resolution on the budget. Those of us who have been frustrated with closed rules on tax bills may want to offer a social security tax solution as a substitute for this bill. After all, that affects every State, not just Alaska.

We might get a clean shot at tuition tax credits.

How about an up-to-date reading to guide the energy conferees on natural gas deregulation or on gas pricing?

Maybe there is some merit in again providing our veterans with homesteading privileges in Alaska. What could be more germane?

This is an unprecedented rule, and I fear for what its adoption today might lead to in the future.

As pointed out by our distinguished colleague, the gentleman from Mississippi (Mr. LOTT) the rule itself is a Wilderness vehicle with too many unpredictables. We now have not only the prospect of a highly controversial bill to consider but also a highly controversial rule. It ought to be preserved on the Alaskan ice for some future time when a better bill can be brought to us for consideration in the House.

Mr. DODD. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I expect to have a lot to say on the merits of this bill as the debate proceeds today and tomorrow, but I want to talk now just about the rule, if I may, for a moment.

The opponents to this bill know that they do not have much chance to defeat it when it comes to the House floor. They knew they did not have much of a chance to defeat it or water it down to any great extent in committee, so from time to time we have had tactics of delay and confusion. We are seeing three of them today as we are getting ready to vote on the rule. There are three aspects of confusion that are being thrown around the Chamber, and I will hit them very quickly.

No. 1 is the argument that we have a brandnew bill, one that has had no hearings, and that we are bringing it up in an outrageous and unprecedented fashion without following the rules procedurally.

We got into this box because of a sequential chain of events. We had this bill in committee for a year and a half, and we held more detailed hearings on this bill than on any other bill in the history of this Congress, with the gentleman from Ohio (Mr. SEIBERLING) presiding. We wrote a bill—and it was a long bill—and then it went to the Committee on Merchant Marine and Fisheries.

Dozens of changes were made in committee by the Committee on Merchant Marine and Fisheries.

When we got to the Committee on Rules with our bill and with the other bill, we would have been hit with a barrage of Members saying, "What's wrong with you? Why do you bring us all these amendments? It is confusing. Why can't you get down to it and consider the two bills and blend the provisions of both bills?"

The gentleman from New York (Mr. MURPHY), the gentleman from Ohio (Mr. SEIBERLING), the gentleman from California (Mr. LEGGETT), the gentleman from New Jersey (Mr. FORSYTHE), myself, and the members of the staffs of the two committees blended the provisions of the two bills. Every single provision in this bill, the text of which will be offered as a substitute, was heard by one or two of the committees and was voted on by one or both of the committees. So there is nothing new here; it is just a blending of the bills.

And the "kicker" on this is that the gentleman from Alaska, DON YOUNG, who is an honorable gentleman and who fought us hard—and, of course, he is fighting for his State—was present after we had a day of this, and one of the members of the Committee on Rules finally said, "Mr. YOUNG, which bill would you prefer as a markup vehicle? Which would you prefer?"

He said, "I would like to have H.R. 12625 as a markup vehicle," and that put an end to that kind of argument in the Committee on Rules.

I know he does not like either bill or either rule, or any rule at all. But he was asked if he had to have a preference and he had to go to the floor with some kind of a rule, would the markup be the consensus bill or the Interior bill, and he said he wanted the consensus bill.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I will confirm that, with the idea that I have always been forthright and honest. But a turkey is a turkey is a turkey.

Mr. UDALL. I understand.

No. 2, red herring. We are told that no matter what we do this year, there is not going to be a bill, because it cannot pass both Houses of Congress.

Since when does this House, if it has any dignity or any regard for its reputation, refuse to act because it may not be approved by the other body or—for that matter—be vetoed by the President.

This is not an Alaska pork barrel bill.

I do not own the Grand Canyon. A bill to turn over the Grand Canyon to the developers would not be just my concern. It would be a concern of people throughout the country. It would not be appropriate for any Members of this body or

of the entire Congress to exercise a veto over important national issues merely because of the interests or objections of those representing a particular area or State. The people of the United States own more land in the State of Alaska than two areas the size of Texas so this is a national issue and not a local issue. I earnestly believe that Members on both sides of the Capitol will see the merits of this legislation and will act accordingly. And I am confident, that Alaska lands legislation can be enacted into law this year so that you and I, and your children and grandchildren and my children and grandchildren will be able to know that a part of our great natural heritage located in the State of Alaska will be protected and preserved for the enjoyment and edification of all people for all time.

On December 18, this year, all of these lands we are talking about go back into the inventory. On December 19—and you can argue about the technicalities—you can have bulldozers chewing up the land that ought to be in national parks—the lands that even the gentleman from Alaska (Mr. YOUNG) believes should be in national parks. There is a cutoff period; Congress was given 5 years to act on this legislation; it expires on December 19. And that is why no person in or out of Congress ought to be telling this body or the other body what to do.

The newest story this afternoon is that a waiver of germaneness is somehow going to require us in the next 48 hours to vote on the expulsion of Idaho from the United States, to vote on the B–1 bomber, on the Panama Canal, abortion, and busing.

The intention of the Committee on Rules was crystal clear.

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. UDALL) has expired.

Mr. DODD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the gentleman who knows most about this, next to the gentleman from Ohio (Mr. SEIBERLING), is the gentleman from Washington (Mr. MEEDS), and he has labored for years on Alaska. He had an amendment he wanted to offer as an amendment in the nature of a substitute. There was a little section in there that, technically, was not germane, at least that argument could be made. We wanted the gentleman from Washington (Mr. MEEDS) to have an opportunity to offer his substitute if he wished. So language was included in this rule which was designed to assure him this opportunity. I think the intention of the Committee on Rules was clear. There was no intention to open this bill to issues other than issues having to do with Alaskan lands. Hopefully the Members will honor that intention and the Chair will use all powers he may have to protect the Members against amendments which are clearly not relevant to this measure. To the extent it is in my power, I give my word flatly that steps will be taken to see that the Members are not voting on all of these extraneous issues. I believe we have power to do that, under the appropriate parliamentary procedures and those procedures will be employed. So let us vote on the merits of the rule. This is the most important resource legislation we will ever vote on, if we serve here for 20 years. It involves huge areas of land. One could only compare this with what Theodore Roosevelt did on the national forests. Do not be talked into voting down the rule on account of some of these red herrings.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Speaker, in the gentleman's very articulate examples of his position, I did not hear him say, but will he please tell the House, how the Governor of Alaska feels and how the State legislature in Alaska feels?

Mr. UDALL. They have done a nice little dance around the bonfire, and one cannot be seen in polite social circles unless he hates Messrs. UDALL, SEIBERLING, and LEGGETT, this bill, and everything connected with it.

However, when we went to Alaska and talked to the people for 3 weeks and asked them to testify, it was 50 to 50. Alaskan citizens were coming in and saying, "For God's sake, protect our lives up here. Don't let the developers or anyone else ruin it all. Save some for future generations."

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. VANIK). Without objection, the previous question is ordered on the resolution.

PARLIAMENTARY INQUIRIES

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. I direct the attention of the Chair to page 2, line 15, of the pending rule, which says that any substitute may be offered and it will not be subject to clause 7 of rule XVI.

Does that provision not mean that if the rule is adopted, any substitute amendment regarding any subject can be offered to the substitute which the bill makes in order, the only limitation being the time restrictions that may be imposed or the Chair's right to recognize Members? In other words, any amendment of any substance can be adopted; is that not correct?

The SPEAKER pro tempore. The Chair will state that points of order are waived against any amendment in the nature of a substitute for the substitute made in order as an original bill.

Mr. BAUMAN. And no germaneness rule will apply to those amendments; is that correct?

The SPEAKER pro tempore. The Chair will state that is correct.

Mr. BAUMAN. I thank the Chair and withdraw my reservation of objection.

Mr. UDALL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. UDALL. Mr. Speaker, this waiver applies, as the Chair has just stated, only to substitutes, not to ordinary amendments; is that correct?

The SPEAKER pro tempore. The Chair will state it applies to amendments in the nature of a substitute.

Mr. UDALL. The Chair will tell us, will he not, that the rules and customs of the House would ordinarily indicate that the floor managers of the bill or members of the appropriate committees would be recognized ahead of other Members in case there were more than one substitute to be offered?

The SPEAKER pro tempore. The Chair will state that recognition of Members will be under the control of the Chair at the time that the House is in the Committee of the Whole.

Mr. BAUMAN. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. I would like to ask the Chair whether it is not true, under the precedents of the House, that any member of either committee has a right to be recognized to offer amendments; of course, the chairman and ranking minority member first and other Members after that, may be recognized to offer amendments, so that no restriction is imposed on any Member's right to offer amendments under this rule?

The SPEAKER pro tempore. The Chair will state that the gentleman has correctly stated the general principles relating to recognition.

Mr. BAUMAN. I thank the Chair.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 354, nays 42, not voting 38, as follows:

[Roll No. 330]

YEAS—354

Abdnor	Bafalis	Brooks
Addabbo	Baldus	Broomfield
Akaka	Barnard	Brown, Calif.
Alexander	Beard, R.I.	Brown, Mich.
Allen	Bedell	Buchanan
Ambro	Beilenson	Burgener
Ammerman	Benjamin	Burke, Fla.
Anderson, Calif.	Bennett	Burke, Mass.
	Bingham	Burlison, Mo.
Anderson, Ill.	Blanchard	Burton, John
Andrews, N.C.	Blouin	Burton, Phillip
Andrews, N. Dak.	Boggs	Butler
	Boland	Byron
Annunzio	Bolling	Caputo
Applegate	Bonior	Carney
Archer	Bonker	Carr
Armstrong	Breckinridge	Cavanaugh
Ashley	Brinkley	Cederberg
Aspin	Brodhead	Chappell

Chisholm	Holland	Panetta
Clausen, Don H.	Hollenbeck	Patten
Clay	Holtzman	Patterson
Cleveland	Horton	Pease
Cohen	Howard	Pepper
Coleman	Hubbard	Perkins
Collins, Tex.	Hughes	Pettis
Conable	Hyde	Pickle
Conte	Ichord	Pike
Corcoran	Ireland	Poage
Corman	Jacobs	Pressler
Cornell	Jeffords	Preyer
Cornwell	Jenkins	Price
Cotter	Jenrette	Pritchard
Coughlin	Johnson, Calif.	Pursell
Cunningham	Johnson, Colo.	Quayle
D'Amours	Jones, N.C.	Quie
Daniel, Dan	Jones, Okla.	Quillen
Daniel, R. W.	Jones, Tenn.	Rahall
Danielson	Jordan	Railsback
Davis	Kastenmeier	Rangel
de la Garza	Kazen	Regula
Delaney	Kelly	Reuss
Dellums	Keys	Richmond
Dent	Kildee	Rinaldo
Derrick	Kostmayer	Roe
Derwinski	Krebs	Rogers
Devine	Krueger	Roncalio
Dicks	LaFalce	Rooney
Dingell	Lagomarsino	Rose
Dodd	Latta	Rosenthal
Downey	Le Fante	Rostenkowski
Drinan	Leach	Roybal
Duncan, Oreg.	Lederer	Ruppe
Early	Leggett	Russo
Eckhardt	Lehman	Ryan
Edgar	Lent	Santini
Edwards, Ala.	Levitas	Sawyer
Edwards, Calif.	Livingston	Schroeder
Eilberg	Lloyd, Calif.	Schulze
Emery	Lloyd, Tenn.	Sebelius
English	Long, La.	Seiberling
Erlenborn	Long, Md.	Sharp
Ertel	Lujan	Shipley
Evans, Colo.	Luken	Sikes
Evans, Del.	Lundine	Simon
Evans, Ga.	McClory	Sisk
Evans, Ind.	McCormack	Skelton
Fary	McEwen	Skubitz
Fascell	McFall	Slack
Fenwick	McHugh	Smith, Iowa
Findley	McKay	Smith, Nebr.
Fish	McKinney	Snyder
Fisher	Madigan	Solarz
Fithian	Maguire	Spellman
Flippo	Mahon	Spence
Flood	Mann	St Germain
Florio	Markey	Staggers
Flowers	Marks	Stanton
Flynt	Marlenee	Stark
Foley	Marriott	Steed
Ford, Mich.	Martin	Steers
Ford, Tenn.	Mathis	Steiger
Forsythe	Mattox	Stratton
Fountain	Mazzoli	Studds
Fowler	Metcalfe	Thompson
Fraser	Meyner	Thone
Frenzel	Mikulski	Traxler
Fuqua	Milford	Treen
Gammage	Miller, Calif.	Trible
Garcia	Miller, Ohio	Tsongas
Gaydos	Mineta	Udall
Gephardt	Minish	Ullman
Giaimo	Mitchell, Md.	Van Deerlin
Gibbons	Mitchell, N.Y.	Vander Jagt
Gilman	Moakley	Vanik
Ginn	Moffett	Vento
Glickman	Mollohan	Volkmer
Goldwater	Moore	Walgren
Gonzalez	Moorhead, Calif.	Walker
Goodling	Moorhead, Pa.	Walsh
Gore	Moss	Waxman
Gradison	Mottl	Weaver
Green	Murphy, Ill.	Weiss
Gudger	Murphy, N.Y.	Whalen
Hamilton	Murphy, Pa.	White
Hammer-schmidt	Murtha	Whitehurst
Hanley	Myers, Gary	Whitley
Hannaford	Myers, John	Wilson, Tex.
Harkin	Myers, Michael	Winn
Harrington	Natcher	Wirth
Harris	Neal	Wolff
Harsha	Nedzi	Wright
Hawkins	Nichols	Wydler
Heckler	Nolan	Wylie
Hefner	Nowak	Yates
Heftel	O'Brien	Yatron
Hightower	Oberstar	Young, Mo.
Hillis	Obey	Zablocki
	Ottinger	Zeferetti

NAYS—42

Ashbrook	Hagedorn	Rudd
Badham	Hall	Satterfield
Bauman	Hansen	Shuster
Bowen	Holt	Stangeland
Breaux	Ketchum	Stump
Brown, Ohio	Lott	Symms
Broyhill	McDonald	Taylor
Burleson, Tex.	Meeds	Waggonner
Clawson, Del	Michel	Wampler
Crane	Montgomery	Watkins
Dickinson	Rhodes	Wiggins
Dornan	Risenhoover	Wilson, Bob
Edwards, Okla.	Robinson	Young, Alaska
Grassley	Rousselot	Young, Fla.

NOT VOTING—38

AuCoin	Frey	Rodino
Baucus	Guyer	Runnels
Beard, Tenn.	Huckaby	Sarasin
Bevill	Kasten	Scheuer
Biaggi	Kemp	Stockman
Brademas	Kindness	Stokes
Burke, Calif.	McCloskey	Teague
Carter	McDade	Thornton
Cochran	Mikva	Tucker
Collins, Ill.	Nix	Whitten
Conyers	Oakar	Wilson, C. H.
Diggs	Pattison	Young, Tex.
Duncan, Tenn.	Roberts	

The clerk announced the following pairs:

Mr. Rodino with Mr. Roberts.
Mr. Baucus with Mr. Scheuer.
Mr. AuCoin with Mr. Pattison of New York.
Mr. Teague with Mr. Thornton.
Mr. Huckaby with Mr. McCloskey.
Mrs. Burke of California with Mr. Sarasin.
Mr. Biaggi with Mr. McDade.
Mr. Brademas with Mr. Kindness.
Mr. Nix with Mr. Cochran of Mississippi.
Mr. Stokes with Mr. Tucker.
Mr. Diggs with Mr. Kasten.
Mr. Charles H. Wilson of California with Mr. Carter.
Mr. Whitten with Mr. Runnels.
Mr. Mikva with Mr. Beard of Tennessee.
Mr. Conyers with Mr. Duncan of Tennessee.
Mr. Bevill with Mr. Guyer.
Mrs. Collins of Illinois with Mr. Kemp.
Ms. Oakar with Mr. Stockman.

Messrs. WHITE, DENT, KELLY, and RAILSBACK changed their vote from "nay" to "yea."

Mr. DICKINSON changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATON OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT ON THURSDAY, MAY 18, 1978, DURING 5-MINUTE RULE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs may be permitted to sit on Thursday, May 18, 1978, while the House is meeting under the 5-minute rule for the purpose of marking up H.R. 9486, to authorize a contribution by the United States to the tin buffer stock established under the Fifth International Tin Agreement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that no other business besides this will be taken up?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, if the gentleman will yield, that will be the only business.

Mr. ROUSSELOT. And the markup is so important that Members can pass up the opportunity to listen to our distinguished colleague, the gentleman from Arizona, on this great Land Reform Act?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I can assure the gentleman that the meeting is to be in the Capitol, so that we will be able to dispose of the bill very promptly and participate as fully as possible in the debate.

Mr. ROUSSELOT. And be able to hear all the bells ringing?

Mr. MOORHEAD of Pennsylvania. And be able to get in here very promptly.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERSONAL EXPLANATION

Mr. DAN DANIEL. Mr. Speaker, on rollcall No. 36 on Friday, May 12, I am recorded as not having answered to the quorum call.

Actually, I was on the floor and did respond to the call, although the system must not have recorded the insertion of my card. It will be noted that 11 minutes later I was properly recorded on a vote.

I will appreciate note being made of my presence.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers, and National Wilderness Preservation System, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 39, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

POINT OF ORDER

MR. ASHBROOK. Mr. Chairman, I have a point of order.

Under rule XXI, the bill must be read. I see no waiver of that provision in the rule that we adopted.

The CHAIRMAN. The Chair will state that he will put the unanimous-consent request to the Committee.

Mr. ASHBROOK. I thank the Chair.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I was somewhat distressed over the fact that our colleague, the gentleman from Arizona (Mr. UDALL) indicated during the discussion of this rule that the leadership had ways of preventing some of us who think we have clear rights to offer amendments to this bill from offering amendments. I would be most interested to see how he could get around rule XXI as one of his first little ways of showing his leadership.

So, Mr. Chairman, I will object to that unanimous-consent request.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk proceeded to read the bill.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that I may be permitted to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the bill.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that I may be permitted to speak out of order in order to make an announcement.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, what is the subject of the announcement going to be?

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, I just want to tell those Members who have not seen our little 15-minute slide show on Alaska being held in room H–137, that it is still going on.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, that is a fine slide show, and I hope it continues.

Mr. Chairman, I object.

The CHAIRMAN. The Clerk will read.

The Clerk continued the reading of the bill.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill on its first reading be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the bill.

The Clerk concluded the reading of the bill.

Mr. STUDDS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 331]

Allen	Duncan, Oreg.	Moakley
Ambro	Duncan, Tenn.	Moss
Anderson, Ill.	Edwards, Ala.	Mottl
Andrews, N.C.	Edwards, Calif.	Nichols
Andrews, N. Dak.	English	Nix
	Erlenborn	O'Brien
Archer	Evans, Colo.	Oakar
Armstrong	Evans, Ga.	Patterson
AuCoin	Flood	Pattison
Badham	Fountain	Pepper
Baldus	Fraser	Perkins
Baucus	Frey	Pike
Beard, R.I.	Fuqua	Poage
Beard, Tenn.	Garcia	Rangel
Bevill	Giaimo	Rhodes
Biaggi	Gibbons	Risenhoover
Boland	Goodling	Roberts
Bolling	Green	Rodino
Bonior	Hanley	Rooney
Brademas	Harkin	Rosenthal
Breckinridge	Harsha	Runnels
Brodhead	Hawkins	Russo
Broomfield	Heckler	Ryan
Brown, Calif.	Holt	Santini
Brown, Mich.	Howard	Sarasin
Burke, Calif.	Huckaby	Satterfield
Burton, John	Ichord	Scheuer
Burton, Phillip	Jacobs	Schulze
Byron	Jones, Okla.	Shipley
Carney	Kasten	Shuster
Carter	Kastenmeier	Sikes
Cederberg	Kemp	Skubitz
Chappell	Keys	Slack
Chisholm	Kindness	Solarz
Clay	LaFalce	Staggers
Cochran	Lehman	Stockman
Coleman	Lloyd, Calif.	Stokes
Collins, Ill.	McCloskey	Teague
Conyers	McDade	Thornton
Corman	McDonald	Tsongas
Cornwell	Markey	Tucker
Coughlin	Marks	Watkins
Daniel, Dan	Mathis	Waxman
Davis	Meyner	Whitten
Dent	Mikulski	Wiggins
Dickinson	Mikva	Wilson, C. H.
Dicks	Milford	Wydler
Diggs	Miller, Calif.	Yates
Dodd	Mitchell, Md.	Young, Tex.
Downey	Mitchell, N.Y.	Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 39, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 285 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 1 hour; the gentleman from Alaska (Mr. YOUNG) will be recognized for 1 hour; the gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I take just a moment to advise my colleagues of the situation we are in and what we, the managers of the bill, propose to do about it. This is one of the most important bills of this decade. We are in a situation in the House where important bills are now being scheduled every week. In order to accommodate the Members, the leadership had announced earlier that we would finish the 3 hours of general debate tonight, after which the so-called consensus substitute made in order by the rule would be offered by the gentleman from California (Mr. LEGGETT), to that the substitute proposed by the gentleman from Washington (Mr. MEEDS) would be offered. Once we reach this point in the record, the Committee would rise.

The Chair asked for the usual unanimous consent that we dispense with the first reading of the bill, and my friend, the distinguished gentleman from Ohio (Mr. ASHBROOK), objected to that, so we had to go through a rather lengthy first reading of the bill.

The trouble tonight centers around an inadvertent provision in the rule. The Committee on Rules intended to make in order as a new substitute text the provisions of H.R. 12625. To that, it was agreed that amendments of the two committees should be in order, so the rule provided that amendments could be offered on behalf of the Committee on Merchant Marine or the Committee on Interior and Insular Affairs without regard to the technicalities of the rules of germaneness or the rules prohibiting appropriations in an authorizing bill.

Everyone understood—and we understood—that the gentleman from Washington (Mr. MEEDS), who worked long and hard on his substitute, wanted the same privilege. To this end, it was agreed that the germaneness requirement should also be waived with respect to his substitute. Unfortunately, as written, the rule seems broader than was intended.

I understand my friend, the gentleman from Ohio, is desirous of settling some old scores—not with me. I admire the gentleman greatly, and I do not think I have ever had any differences with him, but he insists on what he sees as a loophole to present the House with some totally unrelated matter during the course of this debate. I apparently offended him during debate on the rule by suggesting that, as one of the floor managers of the bill, I intended to use all of the rules of the House and all of the precedents given with regard to recognition to see that the Members of this House are not afflicted in this Alaska lands debate with voting on a variety of irrelevant issues from gun control, and the Panama Canal, to abortion, a declaration of war, or whatever any Member might have on his mind. I intend to keep that pledge.

So where we are tonight is that, as far as I am concerned, we are going to finish this bill. We are going to finish it this week. These are serious issues. The gentleman from Alaska with his State are deeply involved in this. I would hope that we could have really enlightened general debate. I have some things I wanted to say to the House, but in light of this, it looks as though, if objection is going to be made to dispensing with the reading of the committee substitute and to the reading of the substitute of the gentleman from Washington (Mr. MEEDS) then we are going to be here until midnight.

I do not know that anything is going to be accomplished by that and as far as I am concerned we are going to proceed in the regular order. We are going to get all the general debate completed tonight. We are going to get the two substitutes before the House tonight and we will stay here as long as necessary tomorrow and Friday, if need be, to finish this bill.

I renew my pledge to the Members. They are not going to be forced to vote, if I have anything to do with it, on a lot of extraneous, emotional issues. I think it is unfair to this House, which we all admire and love and respect, to be put in a situation because of some inadvertent wording, when everyone understands the intention. Really, I think it is going to hurt the gentleman from Alaska in the gentleman's attempt to modify the bill and it will hurt all of us in trying to get the country a good and a balanced bill.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I join the gentleman from Arizona in imploring that we get a good general debate on this issue. It is a complex issue. There are a lot of different positions on it. It is going to be difficult enough to understand it. If we can have a good general debate, it will help everyone, without being hindered with the use of rules, to require reading and other things like that; so I implore my friend, the gentleman from Ohio, and others, to give us the kind of time we need for a good general debate.

Mr. UDALL. Mr. Chairman, I thank the gentleman from Washington. As far as I am concerned, if it is understood that we are going to read two very long substitutes, I will simply hand my remarks in. I do not think anybody will be here to hear them.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. UDALL. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, I am going to encourage everyone else to insert their remarks and yield back their time and get through the general debate as fast as possible, so we can be enlightened by listening to the Clerk read.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would simply add that what my colleague, the gentleman from Arizona has said, is 100 percent correct. In the past years that I have been here, roughly 18, I know of no time that my colleague from Arizona has taken any action that would cause the actions the gentleman from Ohio used tonight. The gentleman from Arizona indicated that the gentleman may have offended me during the discussion that we have had on the rule. I do not believe I was offended. I have been around here long enough to know that the rules usually are fine when they work the way the leadership wants them, but when there is some loophole, then the rules are wrong.

I refer back to the Labor Reform Act. I was taken off my feet on a number of occasions, because of a very narrowly written rule, where you could not take two words out of an amendment because of having to be printed in the RECORD. I have been victimized over the years by the rules on a number of occasions.

I say as candidly as I can, it is no fault of the gentleman from Arizona that the rule in this particular case does make in order amendments that many of us would like to offer. The gentleman from Arizona wants to prevent that.

I think the gentleman from Arizona is candid to say that the leadership will make every effort to prevent those amendments being offered. In the spirit of that, let us proceed with the debate and see how it comes out.

Mr. UDALL. Mr. Chairman, let me say, I want a full and open debate, but I may be forced tomorrow to take appropriate steps within the rules if we are put in the position of heading off gun control or some of these other unrelated amendments that are being suggested—amendments which would be clearly nongermane under the rules of the House. I am going to be forced to offer my own substitute after the substitute of the gentleman from Washington (Mr. MEEDS) is disposed of—if it is disposed of as I think it will be. That will shut off inappropriate and unrelated amendments within the rules and in compliance with the rule on this bill. I do not want to preclude the gentleman from Alaska having an opportunity to present his amendments so I am hoping that reason will prevail in this Chamber. I want every Member to have every chance to talk on this Alaska bill and I hope we can get on with it.

Mr. Chairman, I am pleased to have joined with my colleague, the gentleman from Ohio (Mr. SEIBERLING) and with the distinguished chairman of the Committee on Merchant Marine and Fisheries (Mr. MURPHY of New York) and our colleague from California (Mr. LEGGETT) and our colleague the gentleman from New Jersey (Mr. FORSYTHE) in introducing a new consensus version of H.R. 39, the Alaska National Interest Lands Conservation Act of 1978.

HISTORY IN EVERY VOTE

The challenge of conservation we face on our Federal domain in Alaska is enormous: Surely the greatest land and wildlife conservation opportunity ever to be placed before the House of Representatives. In a way not generally true of the day-to-day legislation which comes before this body, H.R. 39 poses an opportunity of historic dimensions. As long as any of us serve in this House, we shall vote on no more vital, more far-reaching, more memorable conservation measure.

As others have said, this will indeed, be the land and wildlife conservation vote of the century.

Since we passed the Alaska Native Claims Settlement Act in 1971, the executive branch—under administrations of both political persuasions—has been carrying out our mandate for a thorough review of the conservation opportunities on federally owned lands across the subcontinent of Alaska. Both administrations have been caught up in the truly historic nature of this great challenge. Secretary Rogers C. B. Morton sent up a basic package of proposals for new national parks, wildlife refuges, wild and scenic rivers, and national forests. The Carter administration, with personal leadership from the President and Secretaries Cecil Andrus and Bob Bergland has provided updated and amended proposals.

Working with these proposals, the Committee on Interior and Insular Affairs recognized that in this 95th Congress it would face the unparalleled challenge of producing a package of park, refuge, river, and wilderness legislation unmatched in our history.

THE SEIBERLING SUBCOMMITTEE

To that end, we established an entirely new Subcommittee on General Oversight and Alaska Lands, chaired by Congressman JOHN SEIBERLING. We could not have selected a more dedicated, more thorough chairman, nor one with a clearer vision of the national interest in this question.

What ensued has been the most complete, most thorough review any conservation bill has ever received. Commensurate with the scale and reach of the Alaskan lands issue, the Seiberling subcommittee set out to build a record in depth, not only on the details of each proposal and of the many special administrative questions involved, but also on the views of the people of Alaska and the American people who, in common, are the owners and trustees of these Federal lands in Alaska. Here, at this desk, is the hearing record we have built.

In all, the Seiberling subcommittee spent 25 days in Alaska, and individual members made additional trips as well. Day-long public hearings were held in five regional centers across the "lower 48 States," in Washington, D.C., in Chicago, in Atlanta, in Denver, and in Seattle. About 1,000 witnesses were heard. Every shade of opinion was expressed, but the overwhelming weight of opinion (4 to 1) favored our original bill, H.R. 39.

THE PEOPLE SUPPORT H.R. 39

What is absolutely clear as a result of these regional hearings is that American people in every region of the "lower 48" attach the utmost importance to the fate of their lands in Alaska and care deeply that we in the Congress make careful, thoughtful decisions which reflect the national interest in these federally owned lands.

Following these "lower 48" regional hearings, Chairman SEIBERLING took the subcommittee to Alaska—not for 1 day of regional hearings, nor for a week of hearings limited to the big towns, but for 25 days of hearings and less formal, but transcribed "town meetings" from the cities of Anchorage, Fairbanks, and Juneau to the medium-sized towns of Sitka and Ketchikan, to the villages of Bethel and Kotzebue and Togiak, and on to far-smaller Native villages and gathering places in the "bush." We reached not only the leaders of Government and of industry in Alaska, but also the common people: The workers

in the mill towns of southeast Alaska, and the Native peoples who maintain their subsistence, lifestyle and culture, living close to the land.

THE VIEW OF ALASKANS

It will interest my colleagues to know that opinion on this legislation—on the largest, most inclusive, all-wilderness version of H.R. 39 as originally introduced, before it was sealed down, was sharply and rather evenly divided across Alaska. As is true in other States where the frontier passed only recently, opinions on growth, preservation, balance, and development were strongly held, and of great diversity. Support for H.R. 39 was as strong and widespread as was the opposition. Many Alaskans told us above all to protect the land and the way of life as it exists today. That, to them, is Alaska.

What resulted from this intensive and farflung field review and public hearing process was an absolutely thorough record unmatched in the annals of the Committee on Interior and Insular Affairs. I know of no conservation measure ever laid before this House which has been as fully studied, and as carefully refined.

On the basis of this record, the subcommittee proceeded to mark up the bill, in a process which was as detailed and as thoroughgoing as the hearings had been. Every shade of opinion was expressed, every viewpoint had full opportunity to be heard. Dozens of amendments were offered, altering area boundaries and fine tuning each administrative provision. The same process was continued in an equally intensive markup in the full committee.

A COMPROMISE ALREADY

Mr. Chairman, what emerged from the work of the Committee on Interior and Insular Affairs was a much amended, much refined—and I must add—much compromised version of H.R. 39. Boundaries of units were cut back, sometimes severely. Protection for certain areas was severely compromised in the name of balance with development concerns. The extent of the wilderness designations within the new parks and new refuges and within existing national forests in southeast Alaska was cut in half.

On April 4, the Committee on Interior and Insular Affairs ordered H.R. 39, as amended, reported, by a vote of 32 to 13. Prior to that approval, the committee had beaten back a much weaker substitute bill offered by Mr. MEEDS, but had adopted many individual amendments.

The result is a balanced bill which will allow the continued economic growth of Alaska. Under H.R. 39 as reported by the Interior Committee:

66 percent of the land in Alaska will be owned by the State or by Native corporations, open to a wide variety of uses.

70 percent of the lands with metallic mineral potential in Alaska will be outside conservation system units.

80 percent of the lands in Alaska will be open to possible development.

90 percent of the land in Alaska could be open to sport hunting.

100 percent of all high potential oil and gas lands in Alaska will be open to possible development, and 95 percent of those lands are entirely outside the boundaries of the legislation.

100 percent of all federal lands in Alaska will be open to mineral assessment including core drilling for geologic information by the Department of the Interior.

Some lands with economic potential will be closed to development by H.R. 39. They remain in the legislation because of extremely high habitat, scientific, scenic, and recreation resources incompatible with even carefully planned economic development.

The bill was then sequentially referred to the Merchant Marine Committee. The Merchant Marine Committee, through the strong leadership of Mr. MURPHY, Mr. LEGGETT, and Mr. FORSYTHE, reported their version of H.R. 39, by a unanimous voice vote, on May 4.

To avoid the chaos and confusion that often results when two different committees report different versions of a bill to the House, I and the other cosponsors of this legislation, representing the leadership of the two committees, have agreed upon one vehicle we feel should be used as the starting point in the floor debate on H.R. 39. This bill, H.R. 12625, is not intended to circumvent the normal congressional legislative process, it is merely introduced as a way to expedite the House's consideration of the Alaska National Interest Lands Conservation Act. Nor is it meant to solve or create jurisdictional disputes between our two committees. I think it would be useful to our colleagues to summarize the contents of this measure:

First. Conservation system units:

The consensus bill would add approximately 100 million acres to the existing units in Alaska of the National Park, National Wildlife Refuge, Wild and Scenic River, and National Forest Systems. The National Park System and Wild and Scenic River System units are the same as proposed in H.R. 39 as reported by the Committee on Interior and Insular Affairs. The National Wildlife Refuge System units are essentially those reported by the Committee on Merchant Marine and Fisheries except that the redesignation of the National Petroleum Reserve as a wildlife refuge is omitted. The National Forest System additions are those reported by the Committee on Interior and Insular Affairs, except that the acreage has been adjusted to reflect the fact that certain lands in the Copper River delta (proposed by the Interior Committee to be added to the Chugach National Forest) are designated a new National Wildlife Refuge.

Second. Wilderness:

The wilderness areas designated within other conservation system units are identical to those reported by the Committee on Interior and Insular Affairs, except that wilderness areas within the National Wildlife Refuge System are reduced to conform to those reported by the Committee on Merchant Marine and Fisheries.

Third. Mineral claims and access:

The bill reflects generally the position taken by the Committee on Merchant Marine and Fisheries regarding access to minerals within conservation system units: All units are withdrawn from entry under the Mining Law of 1872, and from the Mineral Leasing Act. However, the Secretary is authorized to permit oil and gas leasing in the nonwilderness parts of National Wildlife Refuge System units, if he determines that this is compatible with the purposes for which those units are established. The package does not include the minerals access provisions found in title IX of the bill as reported by the Committee on Interior and Insular Affairs.

Fourth. Subsistence:

The bill includes the basic provisions for protection of rural Alaskans dependent on subsistence uses of the resources of the public lands as reported by the Committee on Interior and Insular Affairs, with the modifications worked out by the Committee on Merchant Marine and Fisheries.

Fifth. Cooperation among land managers:

The bill includes provisions for cooperation among land managers in Alaska as reported by the Committee on Interior and Insular Affairs.

Sixth. Land transfers and administrative provisions:

The bill includes the provisions reported by the Committee on Interior and Insular Affairs for speeding up the transfers of land to the Natives of Alaska and to the State, as provided in the Alaska Native Claims Settlement Act and the Alaska Statehood Act; and also the various administrative, technical, and other provisions of the bill as reported by the Committee on Interior and Insular Affairs.

Mr. Chairman, I believe that this package provides a responsible, effective, and balanced basis for the House to consider this most important legislation, which merits the support of all Members of the House.

Mr. Chairman, the Alaska National Interest Lands Conservation Act is a very complex piece of legislation. I feel it is necessary at this point to touch on some of the major issues involved in this bill.

THE ISSUE OF "STATES RIGHTS"

Let us just put this issue in its proper perspective: Here we have the most significant, the most historic, the most far-reaching land and wildlife conservation legislation ever placed before this body. We should not be surprised to find every narrow, privileged interest coming in here to try to get some of this land.

Have we in this Congress been unfair to the State of Alaska and its people? Do they have some special claim to more of our Federal land in Alaska that all of your constituents own?

Frankly, I am getting a bit tired of the special pleading of some voices in the State of Alaska. The simple fact is that the United States has been more generous with that State than with any other State in the Union.

First, the United States bought Alaska from the Russians in 1867—and the taxpayers of the rest of the country paid for that.

Then Alaska was admitted to the Union in equality with every other State. But we went way, way beyond equality: the United States gave Alaska the larg-

est, richest statehood land grant in history. The United States gave Alaska a whole California—104 million acres. And Alaska got it right off the top, with priority selection opportunity to high-grade the best, richest lands, to mine them, to log them, to do anything they wanted with them. In contrast, my home State Arizona, received only 10 million acres at statehood.

You in Alaska have Prudhoe Bay, not the taxpayers and Treasury of the rest of the country. You have been up and down every valley in Alaska, using every bit of resource data you can get to pick out the very best.

Then we lifted the great uncertainty over your future in Alaska by settling the legitimate land claims of the first Alaskans, the proud Native Indians, Eskimos, and Aleuts. We settled their claims with Federal land and a lot of Federal money.

And, of course, we go beyond that year after year, every time we pass a budget and appropriate the tax revenues of all the American people around here. We give you in Alaska a large share—by more than twice as much over any other State—of the per capita Federal expenditures in this whole country. Truly, we have given Alaska a kind of "most-favored-State" status.

We have been fair to the State of Alaska—far, far fairer than to any other State in the Union. There is no basis what so ever for any feeling of obligation or "states rights" to this most favored State.

Certainly the views of Alaskans are important in this whole debate and I want to assure my colleagues here today that we have modified this bill to accommodate, to the fullest extent possible, the wishes of the State of Alaska.

FISH AND WILDLIFE MANAGEMENT

Of all the many issues evolving around the Alaska d–2 question, probably none has been subjected to more inaccurate rhetoric than the issue of "States rights" in "managing" fish and wildlife.

Assertions have been made that by setting aside national parks, national preserves, and national wildlife refuges from the public lands of Alaska, the Congress would be abrogating "States rights" in "managing" fish and wildlife populations located within conservation system unit boundaries. (This assertion focuses on "management" for sport hunting and fishing purposes, but subsistence uses on public lands also is included). In this context, the term management means "harvest" (hunting or fishing) not habitat "management" (manipulation, administration, and so forth).

Despite rhetoric to the contrary, the real issue in Alaska—the last of the frontier States—is not one of land ownership or land dedication or management, but rather an issue of who is to regulate the taking of fish and wildlife on public lands in Alaska—the Federal Government or the State. And, the issue is more precise than fish and wildlife generally since there is no argument over Federal supremacy in regulating migratory bird populations. Rather, the issue is confined to so-called "resident" species of wildlife. There is no argument that the State has the responsibility for regulating the taking of fish and wildlife on nonpublic; that is, State and private lands.

The question of "States rights" in managing fish and wildlife is based on the proposition that the State of Alaska "owns" the fish and wildlife within its borders. Yet, authority over regulating harvest of fish and wildlife populations in the United States is rooted in ancient tradition—beginning with the Romans and furthered by English antecedents—in that fish and wildlife, like air and the oceans, are "owned" by no one and become "property" only when someone captures or kills them. While some States claim that history gives them the "right" to regulate fish and wildlife populations within their borders and that the citizens of the State "own" wildlife located within State boundaries, ownership should not be a question in the d–2 debate since all American citizens "own" them on the public lands. The question is who has the authority to regulate harvest of fish and wildlife on public lands; harvest being the means by which an animal becomes "owned" by the "taker."

To repeat, the State of Alaska asserts that ownership over fish and wildlife within its boundaries is vested in the State. However, a definitive review of the legal background to this question reveals several Supreme Court decisions which have held otherwise.

1920 MISSOURI VERSUS HOLLAND

A treaty with Great Britain for the protection of migratory birds was concluded in 1916. Legislation implementing the treaty was enacted in 1918. The State of Missouri challenged the constitutionality of the act by seeking to restrain a U.S. game warden, Roy Holland, from enforcing the act in that State. The Federal Government argued that the treaty and implementing legislation took precedence over any conflicting State power of regulation, because of the Constitution's supremacy clause. The Supreme Court disposed of Missouri's ownership argument by stating:

> The State . . . found its claim of exclusive authority upon an assertion of title. . . . No doubt it is true that as between a State and its inhabitants the State may regulate the killing and sale of such birds but it does not follow that its authority is exclusive of paramount powers. To put the claim of the State upon title is to lean upon a slender reed. Wild birds are not in the possession of anyone, and possession is the beginning of ownership. . . .
>
> . . . But for the treaty and the statute there soon might be no birds for any powers to deal with. We see nothing in the Constitution that compels that Government to sit by while a food supply is cut off and the protectors of our forests and our crops are destroyed. It is not sufficient to rely upon the states. The reliance is vain . . .

Missouri versus Holland established beyond question the supremacy of the treaty making power of the Federal Government as a source of authority for regulation of wildlife taking by the Federal Government. This decision is the principal reason why there is little conflict today relative to regulating migratory bird harvest by sport hunters on public and other lands in the United States. (In actual practice all States now participate annually in setting of Federal regulations governing hunting of migratory birds, and most adopt Federal regulations as State law for enforcement purposes. States can be more restrictive, but not more liberal, than Federal regulations).

1928 HUNT VERSUS UNITED STATES

The Secretary of Agriculture, ultimately responsible for administration of the national forests, directed that excess deer be removed from the Kaibab National Forest, Ariz., because of harm to the forest due to overbrowsing. State officials arrested employees who were carrying out the Secretary's directive by removal (shooting) of mule deer. The United States brought suit to enjoin the State from enforcing its own game laws which prohibited taking of deer "out of season" and other restrictions. The Supreme Court ruled that—

> The power of the United States to thus protect its lands and property does not admit of doubt, . . . the game laws or any other statute of the State notwithstanding.

In 1940, the Hunt decision was extended to lands which had been acquired for national forest purposes (mainly in the eastern United States) in Chalk versus United States.

Thus, the property clause of the Constitution was interpreted by the Supreme Court in the affirmative as a source of authority for Federal regulation of wildlife on Federal lands.

1969 NEW MEXICO STATE GAME COMMISSION VERSUS UDALL

The Secretary of the Interior directed the killing of deer in Carlsbad Caverns National Park for research purposes, without a showing of existing depredation by deer and without compliance with State game laws.

The Udall decision (10th Circuit) obviated the need for a clear showing of damage to Federal land before wildlife removal would be permitted. The Court upheld the Secretary's research program, because of his necessary power to determine which animals "may be detrimental to the use of the park."

1976 KLEPPE VERSUS NEW MEXICO

The Supreme Court decision in this case is a definitive pronouncement on Federal authority to regulate wildlife as conferred by the property clause of the Constitution.

The Wild Free-Roaming Horses and Burros Act declared such animals to be "an integral part of the natural system of the public lands" and directed the Secretaries of Interior and Agriculture "to protect and manage them as components of the public lands." New Mexico authorities removed a number of burros from Federal land and sold them. The Bureau of Land Management demanded their return and the State sued the Secretary of the Interior to have the act declared unconstitutional. The Supreme Court, in an unanimous decision, noted that "the furtherest reaches of the power granted by the property clause have not yet been definitely resolved," but that power "necessarily included the power to regulate and protect the wildlife living there."

The above decision of the Supreme

Court ratified a 1964 controversial opinion of the Solicitor, Department of the Interior. The opinion, in response to a request from the Fish and Wildlife Service for a determination of the Secretary's authority to regulate hunting and fishing in the National Wildlife Refuge System, declared that the United States "has constitutional power to enact laws and regulations controlling and protecting—(its) lands, including the—resident species of wildlife situated on such lands, and that this authority is superior to that of a State."

At the present time, and ever since the 1964 Interior Department Solicitor's opinion, sport hunting and fishing has been a cooperative Federal-State program on national wildlife refuge lands. Not all units of the National Wildlife Refuge System are open to sport hunting or fishing, but when a decision is reached to open an area (jointly with the State or singly by the Secretary) to sport hunting generally (all species) or to single wildlife species, the Secretary issues regulations guiding such activities. State hunting and fishing regulations are incorporated as part of the Secretary's regulations or are used as a basis for the regulations. Just as any other landowner, the Secretary's regulations may be more restrictive, but are not more liberal than State regulations.

The objective of H.R. 39 is to maintain the status quo of the above process, whereby the Secretary retains the responsibility for determining whether a national wildlife refuge area or national preserve should be opened, deciding when, and by what means sport hunting or fishing should or should not take place, and cooperating with the State of Alaska (State regulations, licenses, enforcement, et cetera) to achieve these ends.

There is no Federal law which grants any State the authority to administer fish and wildlife resources outright on public lands. Title VII of H.R. 39 is the first legislative expression of the Congress which grants the State unprecedented right to regulate the taking of fish and wildlife for subsistence purposes on the public lands, with Federal oversight at a minimum.

The U.S. Forest Service and the Bureau of Land Management have a long history of managing fish and wildlife cooperatively with the States. The U.S. Fish and Wildlife Service works closely with the States when opening a unit of the National Wildlife Refuge System (National Wildlife Refuge System units and national preserves are closed to hunting or fishing until opened by the Secretary.)

There is no reason why this cooperative spirit cannot be pursued in regulation of sport hunting and fishing on the public lands in Alaska, while still preserving the responsibilities of the State and the rights of the Federal Government granted by the Constitution.

With the exception of allowing the State, under certain conditions, to regulate subsistence activities as related to fish and wildlife populations, it is not our intent to change existing laws or existing authorities by which the regulation of sport hunting and fishing is carried out in the National Park, National Wildlife Refuge, Wild and Scenic Rivers, or National Wilderness Preservation Systems.

For more information on this important subject I direct my colleagues to page 218 of House Report No. 95–1045, part I.

SECTION 22(e) OF ANCSA

Pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act, Native Village Corporations are entitled to select the surface estate of only three townships (69,120 acres) from a National Wildlife Refuge System unit in existence prior to December 18, 1971. The Native Regional Corporations are not permitted to select lands within any such units. Further, section 22(e) of ANCSA requires the Secretary of the Interior to replace all lands conveyed to Native Village Corporations by adding public lands elsewhere in the State to the National Wildlife Refuge System. Although the precise number of acres to be replaced will not be known until such time as Native village lands have been actually conveyed (as proposed by the bill being debated today), between 2 and 3 million acres have been selected by Native Village Corporations within existing National Wildlife Refuge areas.

The concept of providing a right to the Secretary to add other public lands as a replacement for lands and values lost was a carefully struck bargain and an integral part of the Native Claims Settlement Act and was reaffirmed by the Congress in 1976 with passage of Public Law 94–204. As I recall, both the House- and Senate-passed bills contained language to provide for replacement of lands selected by Native groups in wildlife refuges, and the conference committee adopted a version similar to that first proposed by the late Senator Lee Metcalf (Democrat of Montana).

The legislative history of ANCSA is clear that the provisions of section 17(d)(2) and section 22(e) of the Settlement Act are intended to serve two separate and distinct purposes: First, the "d–2" public lands contain national significant wildlife and wildlife habitats deserving to be added to the National Wildlife Refuge System; and second, the section 22(e) public lands are intended to replace lands and values of an individual unit of the system. The first deals with a system as a whole, while the second deals with the specific units and the lost values of those units.

In summary, Mr. Chairman, we stand here today with a good bill, a bill of which we can all be proud. H.R. 39 represents perhaps the most ambitious conservation initiative since Theodore Roosevelt established our great national forests at the turn of the century, yet at the same time it is a very reasonable piece of legislation. Two-thirds of the State will still be open to a wide variety of uses basically unaffected by the act. Ninety percent of the State will be open to continued sport hunting. Provisions are included in the bill to accommodate the orderly development of future transportation routes.

There are some who remain vehemently opposed to this legislation—in any form. Regardless of the concessions that have been made, and the areas deleted to avoid possible future conflicts, there are those still unwilling to reexamine the shortcomings of their narrow viewpoints. Perhaps we would not be so concerned about Alaska if it were a different time and a different place, if we still had other Alaskas to develop and exploit. Yet everyone readily admits that there are no more Alaskas, there are no more opportunities after this. And so every Member of the House must ask themselves when the final decisions are made here today: Have we as a Nation learned anything? Have we been sufficiently enlightened by our past mistakes in the "lower 48"? Or have we forgotten the lessons of Appalachia, the devastated landscapes, the 50,000 miles of once pristine rivers now rendered useless? Have we forgotten the timber barons of another era who left us with millions of acres of denuded forests? Have we forgotten the buffalo whose limitless number were decimated to the brink of extinction in one short decade?

I would like to think that we have learned; that our Nation is still great enough to have it both ways. We can set aside the last remaining vast areas of wilderness to meet our obligations to present and future generations of Americans and yet be responsible and flexible enough to insure that there are enough multiple-use lands available to meet our needs for minerals, timber, and other valuable resources.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not involved in this question of the rule. I urged the Members in this body to vote against the rule. It was and still is a bad rule.

I am assured that the chairman of the full committee, who is the manager of the bill on the other side, will do everything in his power to see that nothing that is not germane to the Alaskan Lands Act is brought forth on this floor. I cannot argue whether he has that authority, that right, or that power. I am not a parliamentarian.

I will agree that this is probably the most important single land issue that this Congress will ever face. I hope that any differences of opinion regarding the parliamentary process utilized to consider this legislation will not be reflective upon this Member.

I hope that my colleagues will understand that when the chairman of the committee says he does not want to preclude my opportunity to improve this piece of legislation, if I have an assurance from the chairman of the full committee and from the chairman of the subcommittee that a few minor amendments which I will offer will be accepted. I would feel a lot better about going home tonight.

If I had the assurance that those amendments which will be offered by the Committee on Merchant Marine and Fisheries—and I refer to those amend-

ments that were adopted by one committee, voted on by the full committee, and deleted by the consensus bill—would be considered and adopted on the floor of the House, I would sleep a lot better tonight, if I ever get to sleep.

If I were assured that the citizens and all those little people out there with their backpacks were satisfied with this consensus bill, I might sleep a little better tonight.

But right now, if we look at this situation, we find they are out there saying, "Mr. so-and-so, please introduce a bill or an amendment to this legislation that will preclude the State from selecting its land."

I know that my good chairman of the subcommittee, who has five amendments to offer, is going to try to take away what we adopted in the Committee on Interior and Insular Affairs, amendments that we were successful in getting adopted as a result of our efforts in the hearings, and if I were sure they would be defeated, I would sleep better tonight.

This piece of legislation we are faced with tonight, tomorrow, Friday, and perhaps Saturday is one that we are going to have to live with for many, many years.

My good friend, the chairman of the committee, has said that he is going to submit his comments for the record, and I will probably not read all my comments. In fact, I have not read any so far.

Just to give the Members an idea of what we are doing tonight, in this bill, H.R. 39, as written, assuming that the bill of the gentleman from Washington (Mr. MEEDS) is not adopted as a substitute, we are going to set aside for single-use, unit purposes approximately 123 million acres. Now, for some reason most of us in this room have been told that this is a bill for people.

Mr. Chairman, 10 years ago the Alaskan environment was called "the hostile environment." Today it is being called "the fragile ecology." They talk about the fragile flora and fauna.

To my knowledge, it still gets to be 79° below zero in my home town. I do not think many of the Members ever saw it that cold. To my knowledge, the bears still eat you if they catch you, and to my knowledge, if you float down a river in a canoe when the ice is going out, you are going to get it smashed.

So as far as its being a fragile environment, that is untrue. It is still a hostile environment.

Alaskans have taken care of that environment by accepting it and living with it. Alaskans have asked the Members of this Congress and the people of this Nation to understand that we are the guardians of the environment and we have taken care of the environment, but we have asked them to consider the history of the State of Alaska.

First, we were purchased from Russia. No one went to Alaska. Do the Members realize that in 1892 there were less than 3,000 white people in the State of Alaska? There were 85,000 native people.

Then we struck gold. The same area which is now being proclaimed as a pristine environment had people and a population of up to 100,000 and 90,000, and the native population decreased to approximately 25,000 because of influenza.

Then the gold was gone, and the people left. Then we went through the period of the war when this Congress built the Alcan Highway and destroyed the great, vast environmental area, drilled wells, and we are still cleaning up from the military's efforts in defending the Aleutian chain. We are still cleaning up in those areas.

And then they left. And then Alaska decided maybe we would be better off if we were a State and we would have some control over our destiny. So we came to the Congress and we worked hard to become a State. We have Members on this floor of the House right today who voted for the Statehood Act. President Eisenhower signed it, and the people of Alaska ratified it because we made an agreement between the U.S. Congress and the people of Alaska, and in that agreement it was said that the State would have the right, for economic reasons and for the benefit of the people of Alaska, to 105 million acres of land. Yes, the most generous settlement in all history of public domain. But it was decided by this Congress that that was what was needed for an economic base. We had 25 years in which to pick that land, with no restrictions. McKinley Park and a few refuges were the only places we could not pick, but we tried to do what was sound, and we picked approximately 26 million acres of land.

Lo and behold, in 1968, we had a famous Secretary of the Interior, a man named Stewart—not Seward, who bought Alaska, but Stewart Udall. And may I say that this is no reflection upon our good chairman, and it is really no reflection upon his brother. His brother operated in total ignorance. I cannot accuse the chairman of this. The last act of Stewart's days in office he froze the State of Alaska, precluded the State from receiving its land. And so we had to sue, and we did. We won up to 75 million acres of land, but yet we have only received title to 26 million acres.

Let us go a little bit further. Then we had the great pipeline battle. We had the Alaskan Native Land Claims prior to that, and it was passed. Remember, we gave the Natives 44 million acres but they only have received title to 3 million acres of land. In that bill we still made it perfectly clear that the State would have the right to select its remaining lands where they so wished, as long as they were not in the reserve area.

Mr. Morton came down with his recommendation of 80 million acres. My good friend, the chairman, had a little amendment, and up to 80 million acres were to be for wild and scenic lands. Secretary Morton came down with 82 million acres. I would accuse him of opening the door a little bit because, like the good chairman says, it was the camel's nose under the tent. The bill did not go, anyway, because there supposedly was not any rush. And then, lo and behold, there was a bill introduced, H.R. 39. That bill even took land that the State had already selected. But the Members saw the wisdom of taking that out. And now we have a "consensus" bill and a bill, H.R. 39, that says, "We will give you your full entitlement of 105 million acres, but we are going to tell you where you are going to get them. You no longer have the right to select the lands that you wish to have."

Ironically, the State had already identified many of these lands, and it was precluded from selecting them because Stewart Udall said it could not.

And the lines were drawn in this bill and block 10 million of State selections. All the State wants is 5 million acres out of 120 million acres. Five million acres of State's right. That is the crux of the real objection to this bill, so far as the State goes. The rest of it is going to affect you—the wilderness, the lack of gas, the lack of oil, the lack of bauxite, tin, tungsten, chrome, cobalt.

That is going to affect the Members, but the real crux to Alaskans is that this Congress which passed us into that situation in 1958 is saying now, "State of Alaska, we did not really mean it. We have decided that this land is better for the Nation and not for you.

Mr. Chairman, I ask the Members in this room to think about themselves and each one of their States. It is hard for you from Ohio, from New York, and from New Jersey because you have never had the "privilege" of having Federal lands all around you. You have never had the worry of the State and Federal Government going back on their word.

Mr. Chairman, how would any of the Members feel—I know how the Western people would feel—at having the Government say to them, "Really you are not that important anymore. We want to tell you where you can select your land."

Mr. Chairman, I will have an amendment that will take care of that little problem of 5 million acres. It will be opposed, I am sure. By no means do I think that many of the Members on the floor will not oppose it; and I understand their objections to it. It will be opposed by the Cynthia Wilsons and all my little friends out here who are wearing those nice little caribou badges; but that is morally wrong and legally wrong.

Mr. Chairman, I implore my colleagues to take into consideration the needs and necessities and the moral and legal rights of my people and my State of Alaska.

The gentleman from Washington (Mr. MEEDS) has recognized this in his bill. There is no one who knows more about Alaska than myself and the gentleman from Ohio (Mr. SEIBERLING) and Mr. MEEDS. He truly knows about Alaska, and he recognizes the problem because he served on the Native Land Claims Conference. He recognizes the intent, and he thinks it is wrong.

Mr. Chairman, I am going to support the Meeds substitute. It only has 90 million acres of land in it, only 90 million. There are 33 million acres of it that are wilderness. The rest is still owned by the

Secretary of the Interior and the U.S. Government, the people of America.

Mr. Chairman, contrary to what the good chairman of the full committee has said, there are no bulldozers waiting in high gear to tear the State up because the land is frozen and it can still be frozen.

The second bill has more in it to work with. There is no big rush. The only people who say there is a rush are those people wearing those little badges. They know that if they can get their hands on this land, they have this Nation where they want it, dependent upon the nations which export to us.

Mr. Chairman, I implore the Members to consider that on behalf of their constituents and also consider that the State of Alaska has a right to those lands and will be granted those lands under the amendment which I will propose.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I want to thank the gentleman for a very eloquent statement. It was a most moving statement.

I want to ask the gentleman this question: The population of Alaska is presently around 400,000 people, is it not?

Mr. YOUNG of Alaska. It is 405,000.

Mr. WEAVER. And the State has already received and is going to receive, for State lands alone, 104 million acres. Does that not amount to over 200 acres per person in Alaska which the State has already received?

Mr. YOUNG of Alaska. I wish there were more.

Mr. WEAVER. If each individual Alaskan already has 200 or more acres, I think the people in New Jersey, Rhode Island, and other States would envy Alaskans for what they already have; is that not so?

Mr. YOUNG of Alaska. May I say that we have not received title nor been able to complete our selections. If the gentleman listened to my plea, I am asking for those lands I spoke about before, the 5 million acres. That is our right. That will take care of all the problems of the State of Alaska, and the access provision will be taken care of.

The rest of the bill is going to affect everyone directly. The people in New Jersey do not live by bread alone. They must have jobs, they must have energy, they must have housing, and they must have security. People only receive that from the earth. No one else can provide it. We can thank God for that.

This is our decision today, and this body has to pass on this on behalf of all constituents in the future if the State receives this land.

Mr. Chairman, I will urge the Members to accept the amendment which I will offer.

The way the bill is written, the State will have use of most of the land; but the effect is going to be upon everyone. If a bill of this magnitude goes through, the effect will be upon everybody.

Mr. WEAVER. If the gentleman will yield further, Mr. Chairman, is not approximately 80 percent of the minerals open and available for development?

Mr. YOUNG of Alaska. That is the comment the gentleman will hear, and it is a good argument to convey to this body and all of its Members. However, 80 or 90 percent may be outside the areas of the wilderness.

One's heart, as I said before, only makes up less than 5 percent of his body. Oil is not where one wants it to be. It is where it is at. Copper and tin and cobalt is not where one wants them to be. They are where they are at.

Mr. Chairman, I am convinced that we are dealing with this legislation in a maze of ignorance.

The comment will be made that there are no hard rock mines today in Alaska, and that is right. There was no oil in 1968 because the price of oil abroad was approximately $1.85 per barrel. It went to $7, and the pipeline became feasible. I will tell the Members, all things will reach the price of economic reality.

If I can carry this on a little further, those that say that this is an environmental bill, and especially those on the Alaska Coalition made up of all the outsiders, are only thinking of today, not tomorrow. You must plan and you must organize, because whether you like it or not, we are a consuming nation and a consuming world.

I can foresee my State—hopefully, I will be in heaven, although some people will wish that I was in hell, but hopefully it will not happen when I can see it—when this Congress will be asked by its constituents, whom this Congress represents, to solve the problems of dependency on minerals and oil and relieve the unemployment, and this Congress will react just like it did on the oil line and will say, "Where is it?"

It is in the Arctic Wildlife Range; it is in the Brooks Range; it is in the Alaska Peninsula; it is in the Seward Peninsula; it is there. Then, they are going to take my State and they will destroy it. That will happen even though the Members that support this bill say, "When we need them, we will go get them."

That is a terrible thing to say—"When we need them we will go get them." Why do we not plan it out, organize it out, figure it out?

Mr. WEAVER. When the oil is taken out of the ground and burned up it is gone, and no future generation will ever see it again. But, in those areas now that I want to help preserve for my daughters and their families, the oil will still be there.

Mr. YOUNG of Alaska. May I ask the gentleman a question? Has he ever been to my great State of Alaska?

Then, I will say that I hope that his children and his grandchildren have more wisdom than the gentleman and do go to Alaska.

Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I said earlier that I was going to yield back my time and urge others to do so. My friend from Alaska has made an effective presentation, and I want to take a few minutes to give those who are here at this late hour some basics about this debate we will be voting on today and tomorrow.

This, as I said earlier, is the most important resource decision Members will ever make in their lifetimes. The only thing that even compares with this is when Theodore Roosevelt—a great Republican conservationist, I might say—set aside the national forests when people were tearing them down and burning them up and it was, "Cut out and get out." It is that big.

The area of Alaska is as big as that of the territory of Idaho, Colorado, Montana, Utah, all the way down through New Mexico and Arizona. We are talking about an area of that size. We originated the national parks idea, and we have had a system for 105 years, starting with Yellowstone. In this one bill, we are talking about more than doubling the size of our entire National Parks System. So it is very important that we act wisely. It is very important that we do it right this time around. It is very important that we not leave more inholdings.

When California became a State there were 2 million acres of redwoods. Many of these tremendous trees that many people see today were there when Christ was born. We could have had a beautiful redwood park without spending a dime, just by signing a name on an executive proclamation or by an act of Congress. Instead, we are spending $400 million this year to round out a miserably inadequate Redwood National Park because we did not do it right, because we did not have the vision.

We have got mining claims and inholdings in the Grand Canyon and Yellowstone, and these are national parks. We can do it right this time. We are trying to avoid the problems that have plagued the "lower 48".

Someone once asked a fellow whose wife weighed 190 pounds if that bothered him and he said, "No, there is more there to love."

Well, you know in Alaska there is enough for everybody to love, the loggers, the miners, the timber people, the backpackers, and the nature lovers and people who just love a national park. It is so big, it is so large, there is so much grandeur, that we can have it both ways.

The real test of this legislation and the test that I ask you to submit to yourselves in the next couple of days as we debate this matter is: Is it an unfair bill? Did the committee come up with a bill that errs on the side of antigrowth and lockup, or did we do a job we can be proud of so that we can have an economic base for Alaska, for the use of the minerals that America needs and so that we can get the oil and gas that the whole country is going to need and that the gentleman from Alaska DON YOUNG talks about.

That is the real guts and the bottom line question.

Mr. Chairman, I want to take about 2 minutes with some charts to show the Members what we are doing and to try to answer this whole charge of "lockup" if I may.

Alaska is a huge area. As I said, it is twice the size of Texas. So, I direct the attention of the Members first to this chart on my right. This shows the 375 million acres of Alaska.

I ask you, first, to consider the question: Have we been fair to the people of Alaska? There are 400,000 people there—fewer people than there are in your own congressional districts. We started out 20 years ago and gave the people of Alaska 105 million acres of land. That is called State land on the chart. That is equal to the whole State of California in size. And if you are talking about "lockup" let me say that on all that State land they can dam it, they can drill it, they can dig it, they can pave it, they can drill for oil and gas, they can do anything they want to do.

We then came along in 1971 with a bill for the Alaska Native and the gentleman from Washington (Mr. MEEDS) and I were on the conference and the gentleman from Washington (Mr. MEEDS) was the moving sponsor. The Natives said, "We are Alaskans, also; we need land, too." So we gave the Natives land, some 44 million acres of land.

Who got to select the land? We just did not give them the dregs. We said to the State of Alaska, as DON YOUNG told you, "You go out and pick the land."

Guess who picked Prudhoe Bay with all of its oil and gas? Do you know who picked the agricultural land and the best timberland and who decided what land would be selected?

So you have 149 million acres of land, for these 400,000 people to drill, and dig and develop any way they want to do it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. UDALL. Mr. Chairman, I yield myself 3 additional minutes.

Now, that is not all. There are the BLM lands. That is the other part there on the chart. Those are the Federal use lands. Do you know who uses them? The people who live there, the loggers, the ranchers, the miners. That is not "locked up."

Then there are the national forests. Here is a big chunk of land also, 24 million acres. Again, here, of course the multiple use principle is applied and the local people get the benefit.

And so now we come to the lockup. Let us look at the so-called lockup and there you have existing national parks of about 6 or 7 million acres. And then we created about 44 million acres of new national parks. Is that "locked up"? Yes, but they ought to be locked up. They ought to be locked up for the use of future generations like the Grand Canyon, Yellowstone Park, Yosemite, Mt. Rainier, and the Canyonlands National Park.

Then there are the game refuges—existing game refuges of something like 20 million acres—and we add another 50 million acres in new game refuges. These are the nesting areas for many of our migrating waterfowl. When we hear about shooting ducks on Chesapeake Bay, or in the potholes of South Dakota; those ducks probably have nested someplace up in Alaska.

So, when they tell you that we have "locked up" the land and that we are not fair, and when they tell you that there is not any balance in this bill, just take a hard look at the facts.

Let me summarize with just a couple of statistics.

I want to make one point, first, and that is that this is the most generous land settlement in the history of this country, 105 million acres went to the State of Alaska.

For instance, take my own State of Arizona, when Arizona became a State, the State said, "We need land, but the Federal Government owns everything." So they gave us 10 million acres.

We gave Alaska not 10 million, not 40 million, not 80 million, we gave them 105 million acres and to that, we added 44 million acres for the Natives.

Let me give you some multiple figures to nail these facts down.

Of the multiple-use lands, State, Natives, national forests, and BLM, 65 percent of the State is open to these multiple uses and open for development. We had the USGS of the Department of the Interior make surveys and maps showing the lands having the highest mineral potential. Obviously, we do not know. Sometimes we find minerals where we never suspect them. But these people were pretty good, and we asked them, show us on the map the most likely places where valuable minerals are going to be found. And when we get all through with this bill, 66 percent of those areas are outside the boundaries. It will keep them drilling for another 70 years, pawing over that, and then maybe we will have to open up the rest of them.

Oil and gas geologists have a way of finding out the likely oil and gas areas, and the lands with the high oil and gas potential, guess how many are outside. Guess how many are outside. Ninety-five percent of all the likely potential oil and gas, plus all the offshore lands, are outside. The Secretary can lease all the offshore lands where there are very likely prospects for oil and gas.

Sport hunting—the gentleman from Michigan (Mr. DINGELL), and others are worried about that. Ninety percent of the whole State is open for sport hunting. So I get a little upset about this lockup argument. This is a balanced bill.

I think of what Churchill said after the Battle of Britain. Hitler had said after conquering France and the Lowlands, that they were going to wring Britain's neck like a chicken. And when the Battle of Britain was won, Churchill repeated Hitler's statement and said, "Some neck, some chicken."

We have let the people of Alaska and the people of the United States have the things they need and at the same time discharged our debt to the future generations. We have got a good, balanced bill, and we need the Members' help.

The CHAIRMAN. The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. At this time, Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, the gentleman from Arizona (Mr. UDALL) one of my very, very favorite people, is a hard act to follow. I just hope that when this is all over, we can get together and play golf again.

Let me at the outset compliment both the gentleman from Arizona (Mr. UDALL), and the gentleman from Ohio (Mr. SEIBERLING)—and also the gentleman from Alaska (Mr. YOUNG). They have been the main protagonist in this long and sometimes bitter battle. All of them, however, have, I think, gained a great deal of knowledge of Alaska, and all are trying to do those things which they feel are in the best interests of the people of their States and the people of this Nation. The only people who really discourage me in this whole business of the Alaska lands problem are those people who impugn the motives of any of the individuals involved in this. They have all been extremely helpful, have worked hard, and have espoused the positions for which they have heartfelt sincerity. I hope this debate can continue in that light.

Let me also suggest that I feel honored and proud to have been involved with all of them and with others in this House before in a long history of involvement in legislation affecting the State of Alaska.

The terribly difficult problem we have with this legislation is that Alaska is so large, it is so beautiful, it is so diverse that the entire State almost could be qualified for either Wild and Scenic Rivers, or Wilderness, or Parks, or Recreation Lands. It is a veritable candy shop of environmental goodies. It is like a child walking into a candy shop and just being overwhelmed. Those who have been to Alaska know how difficult this important decision is, so let us approach this debate on not whether we put certain areas of Alaska into certain systems, but how. I think those of goodwill on all sides really want to resolve this question and resolve it for the best interests of all Americans.

We happen to disagree, the gentleman from Arizona (Mr. UDALL), the gentleman from Ohio (Mr. SEIBERLING), myself and others, on the "how".

It is my contention that H.R. 12625 and H.R. 39 place too much of Alaska in single purpose management lands and I say, "Yes, Mo," I will have to say it, "lock it up," take it away from multiple use.

We talked about parks, the State, and the private land and the BLM land, the national forests, the national parks, the wildlife refuges; but the gentleman did not say anything about the ultimate lockup, wilderness, 67 million acres of this State would be put in wilderness classification. That is the ultimate lock-up, more so than anyone of these things which the gentleman mentioned here.

One hundred and twenty-three million acres of Alaska is placed either in wilderness or in wilderness studies, and land which is placed in wilderness studies is treated during the study period of wilderness.

There are 67½ million acres in H.R. 12625 in actual wilderness. Another 56 million acres are in study. In H.R. 39, 74 million acres are in wilderness and 41 million acres are in wilderness study, how we cut it, we come up with 123 million acres of Alaska in which there is to be no new development.

Now, nobody is going to dispute that. Nobody is going to dispute that because they cannot dispute it.

Let us just get some idea what 123 million acres is. For those of you from California, it is almost 23 million acres larger than your own State, which is the second largest State in the Union. It is almost as large as Texas. It is an area 20 times the size of the State of Massachusetts, over 20, almost 22 times the State of Massachusetts, in which there is not going to be any new development, almost one-third, 32 percent of the entire State of Alaska upon which there can be no new development. Now, I call that some lock-up, because that is precisely what it is.

All of the rest of the United States of America, all of the rest of it has only 14½ million acres of wilderness, 14½ million acres. By this one bill, we will increase the wilderness over 500 percent in the United States and 6 times the total wilderness area of all the other States of the Union will be located in Alaska, 6 times on one-fifth of the land mass of the entire United States.

Eighteen percent of the entire State of Alaska will be in wilderness and another 13 or 14 percent in wilderness study, effectively removed from any new development.

In terms of other States, Wyoming is the top State, with 3.5 percent of its land mass in wilderness.

Now, perhaps there ought to be more. I think there should be more, and I am not saying that we should not increase the wilderness and we should not have a lot of wilderness in Alaska. But to effectively prevent any new growth or new development on one-third of the State, I think, goes too far.

This wilderness designation also prevents other things. It prevents oil and gas exploration, and it just happens to prevent oil and gas exploration in the top location of the United States—the place which has been mentioned as the most potential in the continental limits of the United States—the Arctic Wildlife Refuge. The Arctic Wildlife Refuge is placed in a wilderness category, and admittedly it is placed there to prevent gas and oil exploration.

I say that gas and oil exploration can be carried out there. It can be carried out in an environmentally sound way so as not to harm the ecology. It can be carried out in a way so as not to disrupt the caribou calving and the caribou migration, and we can find out what kind of gas and oil reserves we have in Prudhoe Bay.

If we do that in the Arctic Wildlife Refuge—and it is, incidentally, 70 miles east of Prudhoe Bay—then we can make an intelligent decision. If we find out we have gas and oil there, we may not want to put it in a wildlife refuge; we may want to exploit it. That is the decision we should make.

But we should not act out of ignorance, and that is what we are doing today. We are acting without the knowledge of what is actually there, despite the fact that it is the top prospect for gas and oil development.

Wilderness also prevents some other things. It prevents timber harvesting. The figures are changing daily, and we may have some new ones tomorrow on this aspect of it. But the combination of this bill and other environmental requirements and our obligation in fulfilling the requirements of the Alaska Native Claims Settlement Act will reduce the annual allowable cut in the Tongass National Forest—and that is the largest national forest in the world—from 1,221 million board feet annually to approximately 300 million to 400 million board feet. That is a two-thirds reduction in timber available for harvest in the Tongass National Forest. It will leave available for cutting somewhere in the neighborhood of 110 million to 115 million board feet, less than the 5-year average of cut in southeast Alaska.

This means people are going to lose jobs. This is not future jobs, although it will cause the loss of those, too. This is actually existing jobs today, jobs in the timber industry.

Unemployment is presently 16 percent in southeast Alaska. This will add another 6 percent to that figure.

The worst thing about all of this wilderness designation is that it has been placed in this status largely without the processes we set up and follow to determine where wilderness areas ought to be designated. Approximately 10 million acres of this 74 million or 66 million acres of wilderness have actually been studied and recommended through the administrative process for wilderness designation. That is the process, incidentally, which we established in the Wilderness Act of 1963. That is one-sixth of the area, not quite one-seventh, that has actually been studied. Yet by the legislative sweep of a pen we are asked to put 66 million or 74 million acres in wilderness without proper studies.

That process is going on right now. This just shows us what problems we get into. The process of studying wilderness in the Tongass National Forest is going on right now. That is why I say the figures are changing daily. We are getting new figures all the time about the impact on the timber industry of establishing wilderness areas. They are figures, incidentally, which indicate that this may be more serious than I have so far indicated.

They say, "Well, when we get our study finished, we will give the figures to the Senate, and they will correct any problems we have with the House bill." They will be finished with their study, incidentally, in December of this year.

They do not have their figures yet. I say that is a very poor way to legislate, particularly in view of the fact that the Alaskan Native Claims Settlement Act never even mentioned wilderness. There was no mandate that we would even be dealing with wilderness in this legislation.

Wilderness in this bill also prevents mineral exploration and extraction. Under H.R. 12625 there can be no entry, under the mining laws of 1872, or mineral leasing. So for all practical purposes, about 123-million acres are out of bounds, out of bounds for hard rock mineral exploration and development—123 million acres. Again, I say we can do that exploration, we can do it with environmental concern. We could get in there and find out, before we lock these places up, and then we can make a decision. But we will not know if we pass this bill in its present form. We ought to find out and then make the decision.

Let me just conclude by saying that I think we all know that this is a kind of cheap vote for most of us. Alaska is way off up there in the North somewhere, and our constituents, if they care at all, are probably wanting it to remain in a relatively pristine state. But I ask the Members to try to view this matter as an Alaskan. How would you like Congress to effectively prevent any development in one-third of your State?

I am certainly not known in this body as a State's righter. But I think we can go too far. I think we will go too far if we adopt the proposal before us now.

I intend to offer an alternative which will preserve for the benefit of all Americans almost as much area as the bills before us. It will preserve it in such a way that Alaska can prosper and develop and enjoy, with its sister States, a reasonable chance to direct its own destiny.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. LEGGETT. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his statement thus far. I think that we see alike on a lot of issues on Alaska. But I do think we ought to clarify one thing, and perhaps the gentleman did not catch it.

In the amendments that we made over in the Committee on Merchant Marine and Fisheries, we did provide that, the wilderness study areas, would be managed as any other wildlife refuge. And we do anticipate oil and gas leasing in refuges where it is possible and, hopefully, some kind of mineral activity.

Mr. MEEDS. Mr. Chairman, the gentleman will notice I did not say "oil and gas." I am aware of that provision that can take place in certain parts of wildlife refuges if the director wishes it to take place.

Mr. LEGGETT. I understand.

Mr. MEEDS. I am aware of that. But for all purposes, there will be no hard rock mineral exploration or development in any of those areas under the combination of the deletion of title IX of the committee bill, which is the consensus bill, and section 1205 of the bill which effectively prevents it.

Mr. LEGGETT. The gentleman is aware that the committee, in this combination bill, is obligated to offer back, with full support and enthusiasm, the

original amended bill that passed out of our committee, which does allow for a leasing of hard rock minerals. I have that amendment prepared.

Mr. MEEDS. That will be an improvement, I will tell the gentleman; but the present status is as I stated it.

Mr. LEGGETT. I understand.

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may

Mr. Chairman, I would like to commend the committee process in handling this very vital piece of legislation. The legislation was jointly referred both to the Committee on Interior and Insular Affairs and to the Committee on Merchant Marine and Fisheries.

Within a certain given time period, we were able to cooperatively bring to the body a piece of legislation that I think certainly represents the best efforts of both committees.

Mr. Chairman, I would like to particularly commend the chairman, the gentleman from Arizona (Mr. UDALL) and our other chairman, the gentleman from Ohio (Mr. SEIBERLING), for their very extensive efforts. I would also like to point out that the gentleman from Alaska (Mr. YOUNG), both a member of the Committee on Merchant Marine and Fisheries and of the Committee on Interior and Insular Affairs, has well and ably represented the interests of his State and also has been of tremendous help to both committees, particularly the Committee on Merchant Marine and Fisheries, in its deliberations.

The gentleman from California (Mr. LEGGETT), who chairs the subcommittee which worked so diligently and long and who has been a member of that subcommittee through the 7 years that the Committee on Merchant Marine and Fisheries has been considering this legislation, certainly deserves a great deal of commendation on his work. And the gentleman from New Jersey (Mr. FORSYTHE) has been of inestimable assistance in his diligence to the subcommittee. He tirelessly worked endless hours both in Alaska and at the hearings here in Washington.

Mr. Chairman, it is not very often that the House has an opportunity to express itself on a single piece of legislation that has such a potential importance to future generations of Americans. Without a doubt, the Alaska National Interest Lands Conservation Act represents the greatest single land conservation measure ever considered by the House.

This legislation represents the last stage of a 20-year effort to provide for the management of 375 million acres in the largest State in the Union. In 1958, Congress passed the first stage of this effort—the Alaska Statehood Act. That law created the State of Alaska and granted the State the right to select 105 million acres of land—over three times the size of the State of New York. Not surprisingly, until the land freeze in 1966, the State of Alaska proceeded to select the most economically important lands in the State. It is no accident that the State of Alaska managed to select Prudhoe Bay as part of its 105 million acre entitlement.

In 1971, Congress passed the second stage of this process—the Alaska Native Claims Settlement Act. That act granted the natives of Alaska the right to select 44 million acres of land in addition to a cash settlement of one billion dollars. Again to a great extent, the natives were allowed to select some of the most valuable land in the State.

Now, we are embarking on the third and final stage of the 20-year effort to dispose of Alaska's lands. The previous acts have provided for the State, and they have provided for the State's aboriginals. Now it is time to provide for the other 200 million Americans.

I believe that all Americans will be affected by what we do in this legislation—whether they ever step foot in the State or not. First, there is the obvious economic importance of the State to the Nation as a whole. Alaska is suspected to contain a veritable storehouse of mineral resources which can aid in the maintenance of a healthy and stable American economy. Alaska contains much more than mineral resources, however. The waters off the coast of Alaska contain some of the most productive fishing areas within our recently implemented 200-mile fishing zone. Sixteen percent of the world's supply of red salmon migrate through the waters of one Alaskan bay. Alaskan waters support a substantial commercial fishery for a variety of shellfish and finfish. The commercial fishing industry in the State has flourished since the passage of the 200-Mile Act, and I suspect it will continue to grow and develop.

Second, and not so obviously, Alaska provides habitat for a wide variety of wildlife species which migrate throughout the country. A significant percentage of the migratory waterfowl found within the Continental United States originates from feeding in nesting grounds in the State of Alaska. Virtually every State in the Union provides winter habitat for migratory birds that summer in Alaska.

Third, Alaska is our last great frontier. Two hundred years ago. nearly all of this Nation was wild. Since then, we have grown and expanded into the greatest nation in the world. In the process, however, we have lost much of what attracted our forefathers to this country in the first place. I do not want to turn back the clock. I do not want to prohibit development in the State of Alaska. I do want to insure that 50 or 100 years from now a portion of the American frontier will remain available for our grandchildren to appreciate and enjoy.

The Committee on Merchant Marine and Fisheries has worked long and hard on this legislation. We have held hearings in Washington, and we have held hearings in Alaska. In fact, the consideration of the (d)(2) issue by this committee goes all the way back to the 92d Congress. The bill before the House today represents the final product of a 7-year effort by the Merchant Marine and Fisheries Committee to protect the wildlife resources of the State of Alaska.

The amendments reported by the Merchant Marine Committee will insure protection for the most significant wildlife areas in the State without precluding continued economic development in the State. As I have already mentioned, to a great extent, the State and the Natives have already selected some of the most economically valuable areas in the State. If the consensus bill becomes law, in addition to the 149 million acres of State and Native land available for development, there will be another 100 million acres of Federal land open to multiple uses including mining, mineral leasing, and logging.

What is more—all of the nonwilderness wildlife refuges in the State will be available for oil and gas development if the Secretary determines that such development can be compatible with the refuge. We know from our experience in the Kenai Moose Range in Alaska, the Delta National Wildlife Refuge in Louisiana, and other areas, that oil and gas development can be carried out within wildlife refuges without doing damage to the wildlife resources.

At the appropriate time, we intend to offer the so-called consensus bill, H.R. 12625, as an amendment in the nature of a substitute to H.R. 39. This is a bill which was developed by the majority leadership of the two committees in an attempt to facilitate the floor debate on this important issue.

The consensus bill frankly represents a compromise between the two committee versions of H.R. 39, but it does contain nearly all of the merchant marine amendments to H.R. 39. The bill is not perfect, however, and we intend to offer several amendments which were adopted in committee, but were deleted from the consensus text. These amendments would permit hard rock mining in refuges and provide for cooperative management of the Bristol Bay area.

If these amendments are adopted, I believe that we will have produced a product which all of us can go forward and support. At this time, I will yield to the gentleman from California (Mr. LEGGETT), the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. Chairman, at this time I yield such time as he may consume to the very distinguished chairman of the Subcommittee on Wildlife and Conservation. the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I thank the chairman for yielding to me.

Mr. Chairman, I believe that we should clarify at the outset that we are not locking up in our bill, or in the way we intend to perfect our bill, anything like 125 million acres. What we say in our legislation is that about 20 million acres of the refuge lands ought to be classified as wilderness.

As I understand, there are some 42 million acres of wilderness that are otherwise classified as parks, and inevitably I think we have about 65 million acres of wilderness in the State of Alaska under the Merchant Marine bill, which includes both parks and refuges. I think we have also to keep in mind that, as this chart here shows, we have given

to the State of Alaska for its own purposes perhaps only 28 percent of the State, but in realistic terms we have given the State of Alaska an area the size of the State of California for them to do whatever they want to do with it. In addition, they have available 44 million acres of land that will be owned by Alaska's Natives. This land is going to be used for developmental purposes and for something probably other than just trailing whales and hunting caribou.

In addition, we have 81 million acres of BLM lands which generally are as available to Alaskans as they are to people in other States. So, we have roughly pretty nearly 2½ times the size of the State of California available for development in that grand and great State of Alaska.

I would point out that the State of California down here only has about 8.8 million acres available to that State government. As I understand, in the State of Alaska there are only 600,000 acres that are currently in private ownership. As a result, I do not really believe that, based on any kind of extrapolation of past development, we are locking this area up in any way, shape, or form.

Mr. Chairman, I rise in support of this legislation, the Alaska National Interest Lands Conservation Act of 1978, as the largest single land and wildlife conservation measure ever considered by this body. Our committee has worked for over a year on this issue, off and on for 5 years, and more. We have held numerous hearings in Washington, D.C., as well as several weeks of hearings all over the State of Alaska.

We heard everyone who wanted to be heard on this issue, in Juneau, Fairbanks, Barter Island, Kotzebue, Nome, Bethel, Salmon River, Kodiak, and Anchorage.

The committee developed a number of substantial amendments to the bill reported by the Committee on Interior and Insular Affairs. These amendments would provide for real protection for Alaska's nationally and internationally significant fish and wildlife resources, without precluding economic development in the State.

Many of our amendments were included in the consensus bill, which, by the way, I will be offering as an amendment in the nature of a substitute as soon as I am entitled to do that.

The complete list of Merchant Marine and Fisheries amendments would provide the following.

The amendments would designate 77 million acres of new and expanded national wildlife refuges in Alaska. The Committee on Interior and Insular Affairs had designated 51 million acres in that State. The major difference between the two committees is that we have recommended the designation of the existing North Slope as a national wildlife refuge, subject to the petroleum production program authorized under the Pet. 4 Act. We also expanded the boundaries of several units, notably the Selawik Refuge and the Innoko Refuge. In addition, we established a wildlife refuge in the Copper River Delta area in the south central part of Alaska, a part of which the Committee on Interior and Insular Affairs had added to the Chugach National Forest.

In general, the committee attempted to establish boundaries which included whole hydrographic boundaries to the maximum extent possible. We did this so that we do not run into the major management problems in these areas in the future.

The committee attempted to avoid, wherever possible, conflicts with those areas that the State had expressed an interest in selecting within its 105 million-acre entitlement.

I believe we were very considerate with our colleague, the aggressive DON YOUNG of Fort Yukon and we gave very serious consideration to virtually every single amendment that he offered and we adopted many of them.

Whether we can buy 5 million acres of inchoate new State lands, I am rather skeptical, but I do hope that serious amendments can be offered that we can look at. I intend to sit here on the floor and listen to the merits of the amendments. I would hope the Members who do not listen to the debate will not necessarily rubber stamp each amendment that is presented on this floor depending upon which side they may have been on when we passed the rule.

The Governor of the State presented the committee with a list of five areas within refuges that were the most important State interest areas. The committee provided the State with an opportunity to select four of these five areas. These areas included 900,000 acres in the proposed Yukon Flats Refuge, which the State wants for land settlement and agriculture, land at the entrance to the State along the Alaska Highway, land for a regional center in the southwestern portion of the State, and land in the Iliamna watershed which is the most productive salmon spawning habitat in the world.

I read in a headline in the Anchorage Times that "lobbying in Washington pays off," so you cannot say that our bill is totally anathema to the Alaskans. I believe we brought out of our committee a good and proper bill. No one asked for a recorded vote but I frankly did not hear any nays, so it seemed that we had a high degree of unanimity on the committee on which I serve.

The committee proposed the designation of 20 million acres of wilderness within new and existing units of the National Wildlife Refuge System. The Committee on Insular and Interior Affairs had recommended some 28.5 million acres within wildlife refuges. Thus, we deleted 8.5 million acres of wilderness proposed by the Committee on Interior and Insular Affairs for wildlife refuges that we thought perhaps could be interpreted as possibly blocking or otherwise not fully justified in our view.

Twenty million acres is four million acres more wilderness than currently exists in the entire United States.

In general, we attempted to designate wilderness in those areas that have been specifically studied for areas, or those areas that have well-recognized wilderness values. These include the Arctic Range, which includes the calving grounds for our last great caribou herd. We deleted those provisions that allowed for Federal drilling during a particular study period. We thought that that was not in anybody's interest. Certainly the drillers from Texas and other States were not interested in the Government doing drilling up there, and certainly the caribou that were calving there apparently had little interest in that activity. I think at the proper time there is going to be an amendment offered that is going to allow for proper assessment in these areas, and it is not going to allow for production, but it is going to allow for a degree of core drilling, and I believe that is going to be in the interests of everyone, and certainly I will support it.

Our committee adopted amendments which would permit both mining and mineral leasing within the nonwilderness portions of the national wildlife refuges. Under the amendments, the Secretary of the Interior would be authorized to permit hardrock mining and oil and gas development if he determines that they are compatible with the purposes of the wildlife refuge. This provision essentially restates existing law for the National Wildlife Refuge System. We have discovered in the lower 48 that oil and gas development can be compatible with the conservation of fish and wildlife under certain circumstances. There is ongoing oil and gas development on the Kenai National Moose Range in Alaska today, and nearly everyone admits that this development has had no adverse impact on the famous Kenai moose.

The Interior Committee had developed a very different approach to mineral development within conservation system units. The Interior Committee title 9 mineral process—that we excepted from such refuges, and this whole provision was taken out of the consensus bill—would provide for mineral development within conservation system units only after a complex series of Secretarial findings and congressional ratification. The Secretary would have to find that, one, there is a national need for substantial additional sources of the mineral applied for; two, that such national need could not be met from resources elsewhere in the United States or using currently available domestic sources, including conservation recycling; three, that such national need outweighs the potential adverse impacts on the conservation unit; and, four, that the area is likely to contain the mineral resources.

Then, of course, we need action by Congress. As the Members can see, these would be elaborate findings, indeed. On top of this, we would, as I indicated, need congressional action, and, as a practical matter, such kind of development under those circumstances would just not occur.

We felt this procedure was cumber-

some. Instead, we essentially went back to existing law for mineral development in wildlife refuges, only allowing those for leasing, not an acquisition of the fee title by drillers or hard-rock mineral developers.

The committee adopted a substitute for the Interior Committee's subsistence title, and, of course, our committee kept the essential framework of the Interior Committee's subsistence title, but eliminated the more onerous provisions of the Interior Committee's version. Under our amendment—which I might state is supported by the State of Alaska, by Natives, by conservationists, by hunters, trappers, and all people who have acquainted their views with our committee—generally Alaska has the responsibility for the fish and game laws for the State of Alaska, as it should. Subsistence users in Alaska are granted a preference to the fish and wildlife resources in this State. There is no controversy about that. Most significantly, our amendment provides the State of Alaska will continue to have the authority to manage subsistence uses in the State. The Federal Government does have the authority to oversee the State's management practices and close public lands to subsistence and nonsubsistence public use. It is a relatively complicated provision, I guess, but it does provide that we do not come to Washington every other week to solve the subsistence problems of the Eskimos and Indians in the complex State of Alaska. This was one of the important compromises that we were able to work out in our committee, and, as the Members know, there is no argument here on the floor. Certainly I do not intend to stimulate an argument by bringing up the subject, but I do point up that that is one of the salutary benefits of developing a consensus bill prior to the time we come here. I think we are saving an awful lot of time in the amending process.

Mr. Chairman, I yield back the remainder of my time.

Mr. FORSYTHE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, section 17(d)(2) of the Alaska Native Claims Settlement Act authorized the Secretary to withdraw "up to but not to exceed 80 million acres" for study and possible inclusion in the national park, forest, wildlife refuge and wild and scenic rivers systems. Secretary Morton's 1973 recommendations, based on 2 years of intensive study and the only environmental impact statements done on Alaska lands, contained 19 million acres of new forest lands which included three new interior forests. The Forest Service studies have indicated over 40 million acres of Alaska suited for multiple-use management and this finding was upheld by Secretary Bergland's 1977 D-2 recommendation to the President.

Nevertheless, H.R. 12625 includes less than 3 million acres—over half of which are rock and ice fields—as additions to existing forests and no interior forest designations. It is unconscionable that the value of multiplie-use management under the Forest Service in interior Alaska has been totally ignored by this bill.

WHY INTERIOR FORESTS?

Multiple-use.—The primary reason for forest classification is multiple-use management. Commercial timber is not the only reason for creating new national forests as Congress has made clear in the Multiple Use Sustained Yield Act of 1960, the Resources Planning Act 1974, and the Naticnal Forest Management Act of 1976. More importantly where several important values co-exist such as wildlife, minerals, agriculture potential, recreation, and so forth, management by a multiple-use agency insures that all are considered. In contrast, the Park Service would focus solely on recreation. Since the national concerns in Alaska involve recreation, wildlife, minerals, energy, scenery, timber, and so forth, multiple-use management is clearly in the national interest.

Commercial forest lands.—All available studies indicate that there are over 20 million acres of commercial timber lands in interior Alaska. The bulk of these lands occur in the Yukon River Drainage. Although some studies done by environmental economists discounted the potential of these lands, more recent studies indicate important timber values in interior Alaska.

An August 1977 independent study by a University of Helsinki team found that: First, "the full potential of interior Alaska's forested lands have been largely underestimated" and second, there exist "valuable forest resources in interior Alaska, suitable for multiple-use forestry on a sustained yield basis." The Forest Service has reached similar conclusions through its studies. The existence of such timber lands indicates a need for forestry management.

Local economics.—No timber development in interior Alaska will be of national significance in the near future. Nevertheless, creation of a local timber industry can yield significant economic benefits in Alaska. For example, 80 percent of the wood products used in Fairbanks come from the lower 48. This is despite Fairbanks' proximity to the Yukon-Porcupine area and the Nowitna area which are important interior timber zones.

Native corporations have also expressed interest in local timber development. Unfortunately, Native land holdings are too small and contain insufficient timber on which to establish a long term local forest products economy. If, however, the lands were to be surrounded or abutted by national forest lands, cooperative agreements could be worked out to assure a thriving local timber industry based on sustained yield under the aegis of the U.S. Forest Service.

Wildlife.—Proper forestry management can provide improved wildlife habitat particularly for important species like moose. The Fish and Wildlife Service has long used timber cuttings and controlled burning to improve moose habitat in the existing Kenai Moose Range. Moreover, one recent evaluation of forestry and wildlife concluded:

> Management of the forest can, in most cases, result in increases of game animals and there is no contradiction with water yield or most recreation uses.

In addition the Forest Service is well suited to engage in wildlife management and has been widely commended for its waterfowl management program in the Copper River Delta of Alaska.

If this bill is to designate Federal lands in Alaska for the national interest, multiple use must be recognized. The values in Alaska are varied and land designations which recognize only backpacking and wildlife protection do not serve the needs of Alaskans and all Americans. We can correct this deficiency by reclassifying certain areas as units of the National Forest System.

Mr. FORSYTHE. Mr. Chairman, I yield 1 minute to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, today is an historic day, as we are about to make the most important land conservation decision in recent history. I was extremely proud to be a cosponsor of H.R. 39, the Alaska National Interest Lands Conservation Act, and I am equally proud to speak in favor of the new consensus position reached by the Interior and Merchant Marine Committees.

This is an extraordinary piece of legislation. It is so special because it reflects a cautious and balanced approach, and I congratulate my colleagues, Mr. UDALL of Arizona, Mr. SEIBERLING of Ohio, and the Merchant Marine Committee for their hard work and dedication in developing an approach which I believe appropriately addresses the needs of the Nation, the needs of Alaska, and the needs of future generations. The Interior Committee especially should be commended for the thoroughness with which they approached their task. The public participation process in designing this bill was unprecedented, with the committee hearing from over 1,000 Alaskan witnesses at hearings and town meetings throughout that State, as well as scores of other witnesses from over 40 other States.

While the main thrust of this legislation is to protect and preserve the last great vestige of our wilderness heritage, numerous concessions were made, giving the benefit of the doubt in many instances to those who maintained that development should take priority over conservation. The committee certainly has not been insensitive to other needs. Quite the opposite, they have been judicious and even overly conservative in many of the decisions they have made.

The U.S. Geological Survey has identified some 38 million acres of onshore land which has high potential for oil and gas development. Of that total, only 1.9 million acres are within the boundaries covered by the bill, and that acreage is in the extremely sensitive Arctic Wild-

life Range. Thus, we are speaking about roughly 5 percent of the high potential oil- and gas-bearing areas being removed from development at this time.

As the President noted, the Arctic Wildlife Range should be the last place for us to start drilling for oil and gas, and we know that should the need arise in the future for expanded exploration, Congress can act to allow such efforts. The Arctic Wildlife Range is a particularly crucial wildlife habitat, and I am pleased that the consensus agreement restores full wilderness protection to this vital area.

The bill also redraws the conservation unit boundaries so as to minimize potential conflicts with mineral and mining claims. The bill specifically protects all valid existing mining rights, access to them, and the right to develop them no matter where they are. The contention that this legislation would "lock-up" Alaska and prevent mineral development is, in my view, overstated. A study by the Joint Federal-State Land Use Planning Commission for Alaska concludes:

> Future mineral supplies for the United States do not seem in jeopardy as a result of d(2) classification nor does the State's economy seem adversely affected.

A more recent study by the same Commission outlines the extremely high costs of mineral development in Alaska, which places those minerals at a competitive disadvantage with resources elsewhere, and reinforces the 1977 Brookings Institution study which concludes that high development costs may prevent most mining in Alaska indefinitely. But nonetheless, the committees have chosen the responsible course and insured that two-thirds of all the lands in Alaska having metallic mineral potential are outside the boundaries of the proposed conservation units.

While the consensus agreement is a well balanced approach, I believe it is necessary for us to make some improvements in certain areas of this legislation. Of particular concern to me is the Misty Fjords area of the Tongass National Forest in southeast Alaska. As I noted in a letter to my colleagues earlier this week, this area was denied wilderness protection. This area of over 2 million acres is one of the most superb wilderness resources in the State. Wilderness protection for the Misty Fjords area was deleted from the original H.R. 39 principally because of an alleged impact on timber industry jobs. However, the fact is that data shows there will be sufficient room for economic growth in the timber and other industries in southeast Alaska if the Misty Fjords is designated wilderness.

I would also urge my colleagues to support the amendment to be proposed by the Interior Committee which will restore about 8 million acres of wilderness in certain wildilfe refuge designations throughout the State. I do not believe that there are any valid wildlife management purposes served by the deletion of this acreage, and I concur with the concern of the Interior Committee that each of these refuges should have a segment of untouched habitat to insure protection of wildlife and the resources they are dependent upon.

I also hope the Members will support an amendment to redraw the boundary between the park and preserve portion of the Wrangells–St. Elias National Park and Preserve. During Interior Committee mark-up the boundary was designated such that the majority of the Dall sheep habitat would be located in the preserve and left open to hunting. I believe it would be more appropriate to strike a balance and redraw the boundary so that half of the habitat falls within the park area.

I will be supporting additional amendments designed to strengthen the various features of the bill, especially those dealing with the national park designations. I firmly believe these amendments are necessary to adequately balance the need for conservation and economic development. I urge my colleagues to join me in supporting the strengthening amendments, opposing the weakening amendments, and voting for passage of this landmark piece of legislation.

Mr. Chairman, I urge support of this bill.

Mr. FORSYTHE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the past year the Committees on Interior and Merchant Marine and Fisheries have conducted extensive hearings on H.R. 39. The consensus bill before us today, H.R. 12625 contains the best elements of the bills reported by the two committees. While I agree very heartily with many of the problems that my friend, the gentleman from Alaska (Mr. YOUNG) has, I do not think there is any way that this bill is going to be prevented from coming to the floor. Therefore, to me it was important to try to arrive at something that would be hopefully legislation we could see go through the Senate.

The rumors I hear from the other body do disturb me, but that is something we will have to watch down the road.

I do support the Merchant Marine and Fisheries Committee amendments which will be offered to H.R. 12625 and beyond that I generally expect to resist any other amendments.

I hope that we do not tear apart this relatively basic agreement that has been arrived at by the leadership on the majority side of the two committees and which I then did support.

Mr. Chairman, the Alaska National Interest Lands Conservation Act of 1978, is one of the most important conservation issues facing this Congress.

At one time, the richness and grandeur of Alaska were known only to the Eskimo, Indian, and Aleut Natives who roamed the great land with the seasons, the runs of salmon, and the migrations of caribou, ducks and geese. It was not until 1741 that Russian sailing expeditions discovered this magnificent land and since that time each wave of fortune-seekers has left its detrimental mark.

Although inaccessibility has protected much of this vast wilderness area until now, an ever-increasing population and the pressure for development indicate there is a definite need to enact legislation now which will protect those resources of national international significance for future generations of Americans.

The Committee on Merchant Marine and Fisheries is especially concerned with the responsibility of protecting those fish and wildlife species which thrive in Alaska's vastness. Many of these species are found nowhere else in North America or in the world; and many of our endangered and threatened species are found successfully reproducing in these entire ecosystems virtually untouched by man until recently.

Protecting wildlife habitat in Alaska is especially important to conserving the highly migratory species of fishes, birds, and mammals, both aquatic and terrestrial, of national and international significance. Flocks of migratory birds from all over the world set their course for Alaska each spring and fly almost nonstop to their traditional breeding grounds. Four areas in Alaska are focal points for great masses of these birds—the Yukon-Kuskokwin Delta, the Koyukuk-Innoko region, the Yukon Flats, and the Selawik area. There are also many other smaller areas of equal importance to these birds.

Birds are not the only migratory wildlife dependent on Alaska's lands and waters. The rivers and streams are the lifelines of millions of fish that migrate from the salt water of the vast oceans to the brackish water of the estuaries and then into the fresh water to spawn—some traveling nearly 2,000 miles up the rivers to the streams of their origin. Protecting the salmon is particularly important to the people along the rivers and sea. The salmon offspring that migrate down the rivers also maintain Alaska's fisheries industry which constitutes a large part of the economy of the State. A major source of this fishery resource is the network of rivers, streams, and lakes in the Bristol Bay area—which is the world's largest producer of sockeye salmon—averaging more than 12 million fish annually. This area also offers some of the finest sport fishing in the State—for rainbow trout, grayling, northern pike, mackinaw, and other species.

Alaska is also the scene of another important migration phenomenon—caribou on the move. The two largest herds in North America cover thousands of square miles in their yearly wanderings on the North Slope. To the caribou, migration across these vast areas is essential to their continuing existence. Lichens—rugged alpine plants of the Arctic—which are a very important part of the caribou's diet—take so many years to grow that, unless the herd moves continually, the thousands of caribou would destroy their own food source. Any kind of development activity within such fragile habitat could adversely affect the natural stability and continued productivity of the caribou.

Alaska is important to many other species of wildlife found throughout the State—including the great brown bear, grizzly bear, polar bear, black bear, the

moose, mountain sheep and goats, and furbearers, to mention just a few.

Our committee has spent many hours, days, weeks, and months receiving testimony, traveling throughout the State of Alaska, and conducting research in an attempt to resolve the many issues and problems associated with legislation of this magnitude. Although we have not been able to satisfy all the needs and concerns expressed to our committee by the thousands of Americans who have shown their interest in one way or another, the legislation before you today is a product of several years of work by the two committees which have given considerable time and attention to these issues.

H.R. 12625 is a compromise version of the amendments adopted by the Committee on Merchant Marine and Fisheries and H.R. 39, as reported by the Committee on Interior and Insular Affairs. Although we were not able to work out all our differences and will offer some amendments, I feel H.R. 12625 is superior to H.R. 39 in that it contains several important provisions adopted by our committee for more effective and comprehensive management of the national wildlife refuges in Alaska.

For example, H.R. 12625 would require the Secretary to prepare comprehensive conservation plans for each refuge. Such plans will identify and describe the fish and wildlife populations and habitats, other special values of the refuge, and any significant problems which may adversely affect these resources and values. Although this type of plan is not presently required in the lower 48 States, the committee feels this provision is necessary to provide the kind of comprehensive planning necessary for the effective conservation of fish and wildlife and their habitats in these refuges.

Another important provision of H.R. 12625 is that the first 6 seaward miles off each coastal refuge—except the Kenai National Wildlife Refuge—is designated as seaward area subject to cooperative management by the Departments of the Interior and Commerce, and the State of Alaska. No one will deny that the waters adjacent to the coastal refuges are an integral part of the refuge. Each of these refuges was proposed primarily because of the coastal fish and wildlife resources which use the coastal waters extensively for feeding, courting, nesting, rearing young, and staging—and consequently are extremely vulnerable to disturbance. This provision does not extend the refuge boundary to 6 miles, but rather encourages cooperative management of the seaward area through a plan developed by all three parties which will emphasize conservation of the fish and wildlife resources and the marine ecosystem. This mechanism for managing the seaward area is an attempt to provide coordination and cooperation between the existing overlapping jurisdictions of the various parties in the area.

Several witnesses who testified before the Subcommittee on Fisheries and Wildlife Conservation and the Environment expressed their concern over the caribou herds in Alaska. H.R. 12625 directs the Secretary to conduct a study of the caribou herds north of the Yukon River in order to determine their migration patterns, reproduction rates, critical habitat, and the effect of development on the herds.

We also adopted in the compromise version our committee's proposed substitute to title VII of H.R. 39 dealing with subsistence. When our committee heard testimony on H.R. 39 as reported by the Committee on Interior, many witnesses expressed their concern over title VII and the majority felt that the State of Alaska—Not the Federal Government—would be in the best position to effectively manage the subsistence taking of fish and wildlife resources in the State. We rewrote the subsistence title with the help of several interested parties, adopting the basic structure of title VII, but making several important changes..

H.R. 12625 authorizes the State to regulate the taking of fish and wildlife on public lands in Alaska, but only pursuant to the development and implementation of a management plan. Such a plan would be subject to certain guidelines and would provide a system of regulating and monitoring the taking of fish and wildlife, would provide preference for subsistence uses over other consumptive uses, and would develop a procedure for local participation in the program through the establishment of local and regional councils which could offer advice and make recommendations for improvement of the program.

Another change the committee has adopted provides that the Secretary would not be permitted to suspend the State's management program and take over the management of subsistence uses on public lands; however, the Secretary is permitted to temporarily close the public lands to hunting and fishing if he determines that the State is not properly implementing its subsistence management plan, and that the State actions threaten the fish and wildlife populations on the public lands or compromises the ability of subsistence users to satisfy their needs. The Secretary will only be permitted to close the public lands for 60 days, during which time the State has the opportunity to appeal the closure.

Title VII, as contained in H.R. 12625, has the support of our committee, the Interior Committee, representatives of the Natives, the Alaska Coalition, the State of Alaska and the International Association of Fish and Wildlife Agencies.

Mr. Chairman, the future of Alaska depends on this important legislation and I urge my colleagues to join me in supporting H.R. 12625 with amendments.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, I rise in strong and enthusiastic support of H.R. 39, and urge that it be passed without amendments which would weaken or gut this vital legislation. We have the opportunity to set aside such lands only once, and we cannot afford to miss that chance. Both the Interior and the Merchant Marine and Fisheries Committees subjected this bill to rigorous examination in order to attain the fairest possible balance between Federal lands and lands open to State development, a balance which would be imperiled by weakening amendments.

Throughout the proceedings in the Merchant Marine and Fisheries Committee, on which I serve, I actively sought to at least maintain, and often to strengthen, certain provisions of H.R. 39. In particular, I felt that proposed deletions of wilderness acreage in wildlife refuges would be detrimental and contrary to the spirit in which this bill was drafted.

In the Merchant Marine and Fisheries Committee, I introduced an amendment to restore wilderness deleted in the Andreafsky region of the Yukon Delta National Wildlife Range. This area contains numerous species in need of areas undisturbed by man, among them wolf, wolverine, a remnant caribou herd, grizzly bear, and the bristle-thighed curlew, a bird so rare that 90 percent of its total world population nests here. I understand that an amendment will be offered by one of my colleagues to restore wilderness designation in wildlife refuges, including the wilderness in the Andreafsky region, and I strongly support this amendment.

Unfortunately, the designation of an area as "wilderness" seems to be quite frequently misunderstood. The Wilderness Act which Congress passed in 1964, after 8 years of intense debate, defined wilderness as an area "in contrast with those areas where man and his own works dominate the landscape * * * where the Earth and its community of life are untrammeled by man." Areas assigned wilderness designation are lands within national park, wildlife refuge, and forest systems—not additional Federal acreage, as some have erroneously claimed. A wilderness designation does not "lock up" these lands or prohibit public access. Although public use of wilderness areas is secondary to the preservation of the wildlife, such activities as hunting, fishing, use of aircraft and motorboats—where already established—and control of fire, insects, and disease are permitted in wildlife refuge wilderness areas.

Alaska is truly the last vast area of wilderness in this country which, only 200 years ago, was itself little more than a spectacular and near total wilderness. When the Wilderness Act of 1964 was passed, development interests and hunters had long-since depleted, and often eliminated, much of the "lower 48's" wildlife. In these States, whose wildlife had, for better or worse, already adjusted to the presence of man, simple wildlife refuge designation—without wilderness—may have been sufficient. However, in order to maintain the abundance of wildlife in Alaska—including many species no longer found in the lower 48—only a wilderness designation within a wildlife refuge system can provide the necessary protection. Many

species in Alaska, according to professional wildlife biologists, need a wilderness designation simply to survive.

Again, I would like to emphasize that wilderness designations would not effect the careful balance between Federal and State lands achieved in H.R. 39. A wilderness designation can apply only to lands already in the Federal park, refuge, or forest systems.

In general, the supporters of H.R. 39 have been willing to make compromises, but have begun to realize that each compromise made represents a weakening of the bill and only leads to calls for further compromise. I urge that, at the very least, H.R. 39, or the consensus bill, pass intact. Moreover, I strongly urge that the amendment to restore wildlife refuge wilderness designations be adopted. This unique, historic opportunity must not be missed.

Mr. UDALL. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I have often sat in the House and looked up above the Speaker's rostrum to read the remarks of Daniel Webster engraved there. They say:

> Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests and see whether we also in our day and generation may not perform something worthy to be remembered.

Let me repeat: See whether we also may not perform something worthy to be remembered.

We Americans of all States of our Nation owe a great debt to those who have so dedicated themselves. We owe a debt to all those in the Alaska coalition who have worked so hard and given unstintingly of themselves, with very little remuneration, if any at all, to preserve some of this great State and some part of this great Nation.

We owe a debt to these people that will be remembered. We owe a debt to those in the House of Representatives who epitomize this effort, to the great chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), for his outstanding work, and to the gentleman from Ohio (Mr. SEIBERLING). I have been in awe of the work of the gentleman from Ohio (Mr. SEIBERLING) as he led the subcommittee.

And I applaud the efforts of the gentleman from Alaska (Mr. YOUNG), who knows his State so well and who has done such a very fine job of representing his constituents in what he believes to be the proper uses of Alaskan land.

The remark of the gentleman from Alaska (Mr. YOUNG) that I have not been to Alaska is not completely accurate, because I have flown over Alaska and seen its wonders from the air. His statement is, however, essentially true, but I would point out that if one is from Oregon, one does not feel compelled to go to many other places to see nature's wonders.

So I will speak for those in our Nation who will not be able to journey to Alaska but who want to know that its wonders are there. I know that it would give these people for whom I speak comfort in their hearts to know that Alaska's beauties, at least some of them, remain unimpaired.

I would like also to speak for future generations yet unborn who, only if we keep some of these lands as we received them from the Creator, will get to see them in their natural state.

And I speak to those who wish to develop Alaska's resources. We all, of course, use the energy and the materials that come from all the resources we have in our land that we have developed. I would like to think, though, for example, that we could have a little bit of the oil—the oil that it took nature hundreds of millions of years to accumulate—for my daughters and their children and for your children and grandchildren and not use it up in one century in one gigantic binge of squandering and waste. The oil will stay there. It will not go away. It will be gone only if we burn it up.

As to multiple use, we must realize that a national park is a multiple use, that a game refuge is a multiple use, and that wilderness is a multiple use. For the uses of these go the ways of the protection of water, of soil, of wildlife, and of scientific research, of hunting and fishing, of exploring and learning. These are the many multiple uses that are surely not the least important in our time.

Mr. Chairman, I thank all those who have worked so hard to bring us this great opportunity to be remembered.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding this time to me.

I would be remiss if I did not take this opportunity to commend the distinguished gentleman from Alaska (Mr. YOUNG) for the tremendous efforts he has made and thank him for the hard work he has put into this issue. I have watched him carry on these efforts for more than a year now, and I have seen his work in the subcommittee on which I have the privilege to serve.

I would like also to commend the gentleman from Washington (Mr. MEEDS) for the great efforts he has made and for the wisdom he has projected.

This is an emotional issue, and I liken it to an emotional issue because it is like a Federal policeman wrenching control of a State from its citizens. Really it is more like a Federal policeman ripping a baby from its mother's arms.

It is that emotional. But I suggested, once, to the chairman of the committee, the distinguished gentleman from Arizona, and my friend, the distinguished gentleman from California (Mr. DEL CLAWSON) that our own forefathers were moving around the Territory of Arizona at a time when Arizona was at about the same degree of development that Alaska is today. And had the Federal policemen come in at that time, our forefathers would have ripped the rifle off of the wall and probably would have been successful in stopping them, at least for a time.

Mr. Chairman, H.R. 39 began as a bill that was drafted entirely from one narrow and extreme point of view.

After many months of grueling work in our committee, it was revised and considerably improved.

However, this bill now before us is still hopelessly imbalanced.

It totally ignores many legitimate concerns of the people of the State of Alaska and our Nation as a whole.

I strongly support preservation and protection of our public lands in Alaska. But I am adamantly opposed to simply locking them up on a wholesale basis, under single, narrow use categories, particularly wilderness.

What we are doing now is more than determining the fate of land in Alaska.

If it were that simple, this bill would have passed long ago with little or no concern.

We have had intense controversy over this legislation, because we are really dealing with the fate of people—the people of Alaska and the people of our Nation—and their enjoyment and use of land.

Thus far, the goal of H.R. 39 has been to preserve as much of Alaska untouched by man as possible, for the benefit of those yet to come.

The goal has been to preserve its current natural beauty and conditions—to bank the resources for the future.

Many years ago, we recognized the need to preserve and protect the public lands of our Nation.

We then sensibly chose to implement a management plan, based on the principle of multiple uses.

I believe that this principle is as valid today, and that it is critical to our Nation's continued economic well-being and security.

I believe that H.R. 39 can achieve an acceptable balance only through amendments which provide for continuing enlightened management of public lands in Alaska, and withdrawing only those lands of truly critical environmental concern.

As it now stands, I am particularly distressed with the extent to which lands are to be withdrawn from mineral exploration and extraction.

The lands involved are those which appear to hold the greatest potential for producing those minerals of economic and strategic importance to the United States.

We have finally been willing to recognize our energy crisis, and to pledge some positive action to overcome it.

Our energy dilemma has caused a flurry of panic to restore energy self-sufficiency, and to remove ourselves from the clutches of foreign dependency.

However, we have not yet been able to admit that the same crisis exists with minerals.

A mineral crisis is here. And its impact on our national economy and security is just as great as the shortage of energy, if not greater.

With minerals, we find few opportunities to develop alternatives.

Mr. Chairman, I strongly believe that we can leave our grandchildren and their

grandchildren both the beauty of the land in Alaska, and the use of its resources that are necessary for a people's total well-being.

We can do this with legislation that is more reasonable, more sensible, and much less restrictive than the legislation now before us.

I urge my colleagues to join in a bipartisan effort to put H.R. 39 in balance. Otherwise, this bill must be defeated.

Mr. UDALL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am going to yield, in just a moment, to the gentleman from Ohio (Mr. SEIBERLING) and I want to say that the smartest thing I have ever done as chairman of the Committee on Interior and Insular Affairs was to participate in the designation of the gentleman from Ohio, Mr. JOHN SEIBERLING, as chairman of the Subcommittee on General Oversight and Alaska Lands. This gentleman has one of the most remarkable minds I have ever encountered.

He is the most diligent, hard-working person I think I have seen around here in a long time. He has put together an incredibly talented staff, and this bill has had the most thorough consideration of any bill in my memory in the House.

Mr. Chairman, I am very proud to yield 10 minutes to the gentleman from Ohio (Mr. SEIBERLING), who is the real author and craftsman of this bill now before us.

Mr. SEIBERLING. Mr. Chairman, at this point I ought to quit right now while I am ahead. I am sure some Members would applaud that thought.

Mr. Chairman and members of the committee, let me say, first of all, that this has been a marvelous experience for those of us on the Committee on Interior and Insular Affairs who had the privilege to work on this landmark legislation.

If something like this bill passes, then throughout the rest of time, as long as this Nation endures, it is probably going to be looked upon as the greatest conservation measure that has ever been passed out of the Congress.

Mr. Chairman, I think we are all indebted to the distinguished gentleman from Arizona (Mr. UDALL) for having put section 17(d)(2) in the Alaska Native Claims Settlement Act. He had some help, but he was one of the authors of it. That section made it necessary for the Congress, not later than this year, to face up to what was going to be done with the Alaskan lands. I would like to say that the membership and staffs of the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries worked with exceptional patience and gave exceptional attention to this legislation. I say that not only about those on the majority side, but those on the minority side, too.

Mr. Chairman, particularly with respect to the gentleman from Alaska (Mr. YOUNG), let me say this: He and I started out from opposite poles, not only geographically, but in our approach to this kind of problem. It is in no small measure due to his tremendous devotion to the interests of the people of his State, as he sees their interests, and to his skill as a legislator and politician, that we have a balanced bill before us today. Of course, he thinks it ought to be balanced a little more on one side, and I happen to think it should be balanced a little more on the other side.

However, Mr. Chairman, let me say this: Not only has he gotten 115 of his amendments adopted in the two committees, but long before the bill was marked up by our subcommittee last January, a great many of the changes that we wrote into the markup vehicle were the result of matters that had been brought to the subcommittee's attention, and to my personal attention, by the gentleman from Alaska (Mr. YOUNG).

Mr. Chairman, let me just recite a few of them. One of the things that he pointed out was that even though we had a subsistence provision in our bill, it must not be based upon race, that even though we have a commitment to the Natives of Alaska, we must honor that commitment in such a way that we do not set them apart and above other people similarly situated.

After a great deal of work and travail, we managed to work out a subsistence provision that does protect their rights and is nevertheless, not based on race.

Mr. Chairman, I said to the Natives when I was in Alaska that as far as I was concerned, the trail of broken promises was going to stop right here. I think title VII of our bill, as it emerged from the two committees, attains that objective. It also meets the concerns of the State. In fact, it adopts the State administration's own ideas with respect to the management of the system, and it expressly grants the State authority to regulate the taking of fish and game on Federal lands as well as on State lands.

Another thing which the gentleman from Alaska (Mr. YOUNG) brought to our attention was the fact that it would not be enough to grant to the State all of these lands unless we made sure that they could get access to them. And so we worked out another title in the bill, as well as some other sections, which I think take care of that problem.

He also expressed concern about the fact that the Natives and the other inhabitants of Alaska had traditionally exercised transportation privileges, and other privileges on Federal lands. And so we worked out provisions that I think protect those privileges even in wilderness areas.

Mr. Chairman, I could go on at some length; but I simply want to cite these as some examples of the extent to which this bill was shaped by the concerns of the gentleman from Alaska (Mr. YOUNG).

I might say also that we tried, at his urging, and as far as we could do so without violating sound management principles, to draw the boundaries of these units so as not to conflict with State interests in making its land selections.

Now, on the question of State selections, I think it is important that we understand the legal situation as it exists. With the enactment of the Alaska Native Claims Settlement Act in 1971, the State was given the right to select Federal lands except where the lands were legally withdrawn from selection prior to the State making its selection. The act also gave the State the right to identify an interest in Federal lands even though they had been withdrawn for selection by Native village or regional corporations, or pursuant to subsection 17(d)(2), for possible national interest selection by Congress.

I would like to read to the Members an extract from paragraph 17(d)(2)(E):

> Notwithstanding any other provision of this subsection, initial identification of lands desired to be selected by the State pursuant to the Alaska Statehood Act and by the Regional Corporations may be made within any area pursuant to this subsection (d), but such lands shall not be tentatively approved or patented so long as the withdrawals of such areas remain in effect . . .

Skipping some irrelevant material, the quote continues:

> In the event Congress enacts legislation setting aside any areas withdrawn under the provisions of this subsection which the Regional Corporations or the State desired to select, then other unreserved public lands shall be made available for alternative selection by the Regional Corporations and the State.

Now, what the State has done is to identify for possible selection some of the lands that are set aside in this bill, many of which were withdrawn by the Secretary. It is our position and the position of the Interior Department that until such time as the Congress has acted this year, the State does not have a right to make selections from lands which have been withdrawn by the Secretary except to the extent that they selected lands prior to the withdrawals. On the other hand the bill would affirm and implement all valid State selections. So there is no conflict between this bill and State selections. There is a conflict between this bill and the States desires with respect to Federal lands within the conservation areas which the State has identified for possible selection, but is not legally entitled to select at the present time.

Mr. YOUNG has indicated that there are 5 million acres he would like to delete from these conservation units in order that the State could select them. That is a matter for this House to decide, and we will debate that, presumably tomorrow.

I would like to say one other thing about the land we are dealing with. This is not basically a conflict between the State's right to select land and the Federal Government's right to classify land. The basic conflict is between differing points of view as to how the remaining Federal lands are to be managed and how they are to be classified for management purposes. Again, it is up to the House to decide what it thinks ought to be done with these Federal lands.

But, I would like to point out that if this bill, as it is written today, is passed without a change, there will be

250 million acres of State, Native, and Federal land wide open to multiple use of all kinds. Two hundred fifty million acres is 65 percent of the State of Alaska. It is an area of land equal in size to the States of Texas, Ohio, Indiana, and Illinois combined. That is what will be available to the residents of Alaska and the whole country for development and exploitation.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. UDALL. Mr. Chairman, I yield 3 additional minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Now, we have tried diligently to work out means of protecting the State's and the Nation's interests in development of that land. When we get to the 5-minute rule, I will present a map showing how we have drawn the boundaries so that approximately 65 percent of all of the areas of mineral potential are outside the boundaries of the proposed conservation lands. If we add to that Native selected lands and State lands that will be inside some of these boundaries, which they will still have a right to hang on to and to exploit and develop, we come up with about 68 or 69 percent. We believe this to be a fair balance for the State and for the interests of the whole American people in the resources of Alaska.

In striking this balance, we also realized that wilderness itself is a resource, a fact that I believe is becoming more and more generally recognized. This was ably brought out at a conference held, appropriately, in Alaska in May 1976, sponsored by the School of Mineral Industry at the University of Alaska, Fairbanks. The subject of the conference was "Land Policies and Mineral Development in Alaska" and included participants from the government of the State of Alaska, the U.S. Department of Interior, the oil and mining industries, and others. One of the participants, Celia Hunter, a member of the Federal-State Joint Land Use Planning Commission, had this to say about designating some land as wilderness:

> The conventional wisdom regarding these designations is described quite accurately by Krutilla, in his economic treatise titled "The Economics of Natural Environments":
>
> In the general American view, no less than among land economists, the belief has persisted until recently that wilderness, wildlands, and "unimproved resources" had no value. Nash indicates that wilderness represented a negative value in the minds of Americans in the seventeenth and eighteenth centuries and the concept of the "valueless character of land in nature" has persisted into the present and even exists to some extent among resource managers charged with the responsibility for the preservation of wildlands and related resources.
>
> Changing these attitudes is a slow business, but our increasing knowledge about natural processes and the interdependence of all life, including human beings, upon the maintenance of a viable and functioning natural system, a "living land," is beginning to influence even hardheaded business planning. Human survival is at stake here, for the lessons we can learn from undisturbed nature may be a matter of life or death.

Now I might say, for the benefit of the gentleman from the State of Washington (Mr. MEEDS), who worked with us long and diligently and whose knowledge about Alaska I recognize and respect, that in his own State, 42 percent of the Okanogan National Forest is wilderness and 19 percent of the Wenatchee National Forest. Yet the largest national forest in the whole country, the Tongass National Forests in southeast Alaska, has zero wilderness. Even with the wilderness designations in this bill, only 15 percent of the Tongass would be designated wilderness and 80 percent of its timber would be available for harvesting.

The gentleman from Arizona (Mr. UDALL) and I made a pledge when we held hearings in southeast Alaska last July that we would not support any provision in this bill which would eliminate one single job in southeast Alaska. And in my view we have more than lived up to that pledge. And what the gentleman from Washington (Mr. MEEDS) did not tell us about the latest information that is coming out of the Forest Service's review of its statistics—and, incidentally, they will be refining them for the next 5 years and the next 100 years—the latest information is that there is even more commercial timber available in southeast Alaska than was thought to be the case when we reported out the bill, as set forth on page 163 of our committee report.

Let me just say one final thing, because I think it is important to take a look at the overall goals of this legislation. About a year and a half ago the Harris poll conducted a survey as to the concerns of the American people, and the thing that concerned them more than anything else, more than the oil shortage, more than unemployment, more than inflation or taxes or the problems of the cities, was the quality of life and the decline in the quality of life. Not the gross national product, but the quality, the heritage of America, the heritage of our wilderness, the heritage of our clean air and water, the heritage of a land in which young people can grow up feeling that they can still enjoy it as their forefathers did.

The CHAIRMAN. The time of the gentleman has expired.

Mr. UDALL. I yield 1 additional minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I believe we have in this legislation an opportunity to preserve for all America something that they will cherish. I happen to live in a district where the press is much different from that in Alaska. I get editorials saying, "We think it is wonderful that Congressman SEIBERLING is trying to save for us some of Alaska," even though they know and I know that we must also work on our very serious problems there in Ohio.

Let me say also that many of those who support this legislation know that they may never get to Alaska. The gentleman from Oregon (Mr. WEAVER), a strong supporter, just stated he has never been to Alaska. I hope he has that privilege some day. Witnesses who came before our committee said they had never been to Alaska and probably never would, but they said, whether they did or not, they just wanted to live knowing that somewhere there were large areas where the land would remain largely untouched by man, where the air would still be clear, the water still clean, and where wildlife still existed as it did when our forefathers pioneered this land. Through this legislation we can give them that assurance. There is no other way.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Chairman, I rise in strong support of the consensus bill.

President Eisenhower established the existing Arctic National Wildlife Range in 1960 "for the purposes of preserving unique wildlife, wilderness and recreational values." The nearly pristine Wildlife Range provides critical habitat for internationally-significant wildlife including caribou, polar bears, muskox, snow geese, and millions of waterfowl, shorebirds, and songbirds. About 5 percent of Alaska's sedimentary basins with oil and gas potential lie under the Wildlife Range's coastal plain—the same area that is the centuries-old calving grounds of the 110,000-animal Porcupine caribou herd.

The leadership of the Interior and Merchant Marine Committees, along with the Carter administration, agree that wilderness status for the Wildlife Range is the only certain way to protect the wide-ranging caribou from the adverse effects of oil and gas exploration and development. North America's leading caribou experts agree that experience with caribou and developments elsewhere, including along the trans-Alaska oil pipeline, indicate their extreme sensitivity to disturbance—they are wilderness animals.

Although caribou are not on the coastal plain during the winter months, a winter oil and gas exploration program is no safeguard. The structures and scars of such a program may remain yearround, and wildlife such as denning polar bears or the reintroduced muskox, which are present during the winter months, are easily disturbed.

The Wildlife Range is the only sizable part of the Alaska arctic slope not slated for development, and it is the only area where, in less than 100 miles, one can traverse a cross-section of landforms from the Brooks Range to the barrier islands of the Beaufort Sea. Drilling rigs, airstrips, communications towers, and gravel pits—visible for miles over the flat coastal plain—would mar this unique experience for generations.

Recognizing the international significance of this region's wildlife and wilderness, and especially the importance of caribou to subsistence hunters, Canada is considering establishing a wilderness national park which would abut the existing wildlife range. Such action would realize a longtime dream for the creation of an International Arctic Wildlife Range.

For the United States to jeopardize the

wildlife range's wildlife populations and scar its unique wilderness would be a breach of trust to the people of both nations.

Secretary Andrus has concluded that if we must explore and develop the suspected petroleum resources of the existing Arctic National Wildlife Range, let it be the last place we turn to.

I concur with the Secretary and urge my colleagues to support wilderness status for the expanded wildlife range, with no oil and gas survey in the coastal plain of the existing wildlife range.

Mr. UDALL. Mr. Chairman, I have three speakers, and then I hope we can get on with the reading of the bill.

The CHAIRMAN. The Chair will recognize the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The Chair will state that the gentleman from Alaska (Mr. YOUNG) has 19 minutes remaining.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 10 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding. I would like to commend our colleague the gentleman from Alaska (Mr. YOUNG) upon the very fine work he has done in trying to keep the resources of his State available to the people of this country.

We heard a very interesting quotation earlier in the debate in this chamber by Daniel Webster, and I would just like to remind my colleagues that where at the end it says that it is honed we will each perform something worthy to be remembered, that quote starts out by saying, "Let us develop the resources of our land."

Within interior Alaska there are 15 identified oil and gas basins with undetermined potential. Unfortunately, H.R. 39/H.R. 12625 proposes to place over 30 million acres which overlay these basins in parks, preserves, refuges, and wilderness areas. Given the current structure of the bill, this effectively places this vast acreage totally off-limits to any wise development and serious assessment of resource potential.

Proponents of H.R. 39 used to retort that the "unlock" process in title IX will permit opening up these areas. Unfortunately, even a cursory reading of its cumbersome seven-step process indicates that it is unworkable; Special findings, environmental impact statements, two House congressional approvals within 120 days, and separate exploration and development permits, among other steps, render it impractical. As one Democratic member of the Interior Committee put it—the idea that this process will ever work is a "devastating fiction".

Now, of course, title IX has been eliminated and the myth of unlocking these areas has been destroyed. What H.R. 12625 presents us is approximately 70 million acres posted totally off-limits to oil and gas work. It purports to allow development on 35 million acres of nonwilderness refuges. However, entry into these areas is at the complete discretion of the Secretary. Currently, if one applies to enter a wildlife refuge for oil and gas, one receives a terse reply that the Secretary has taken no action to determine the compatibility of oil and gas operations with the wildlife pursuant to the Refuge Administration Act. This latter act has been on the books since 1966 and the inaction by the Department is indicative of what will happen to similar oil and gas applications in Alaska Refuges. It is likely, therefore, that nonwilderness refuges will never be opened even for essential hydrocarbon development.

Even so, backers of H.R. 39 will argue that these interior basins are not important anyway—USGS has devalued them. Unfortunately, there is hardly any data available to evaluate these basins in any manner. A grand total of 16 wells have been drilled in interior Alaska, eight in one basin alone. Nine of the basins have never been drilled and the amount of available geophysical data is miniscule. Frankly, Congress, the administration, and the industry are all in the dark when it comes to the oil and gas potential of interior Alaska. When dealing with the area in the United States with the greatest oil and gas potential, legislating in the dark is senseless.

Mr. SYMMS. I thank the gentleman from Oklahoma very much for his comments. I would say that I share his point of view. I would like also to join with those who have complimented the gentleman from Alaska for the excellent job that he has done in trying to present the Alaskans' point of view. I think it is interesting when we hear all of the debate, and I know that the gentleman from Ohio and the gentleman from Arizona are certainly very sincere in their efforts in what they are trying to do for the people in Alaska, but I think the problem is it is interesting to note that the Alaska Legislature voted unanimously in the House, and by but one vote in the Senate to oppose this legislation. The Governor of the State, who is a known conservationist as is the gentleman from Alaska (Mr. YOUNG) opposes this bill, as do Mr. GRAVEL and Mr. STEVENS. So the people of Alaska are not nearly as interested in passing this legislation as one might think. Maybe it is because the people of Alaska have, as the gentleman from Alaska (Mr. YOUNG) said, learned to live with the environment, and they know that people are a very important part of the environment also.

We hear a great many stories about how tragic it was that the great State of Minnesota was logged off, cut and run, using the common expression that our distinguished chairman, the gentleman from Arizona, likes to use in referring to Minnesota. But I would just say to the Members of this body that at the time that the Minnesota forests were logged off, America was capital starved, but we had people who were energetic and willing to move West, building a strong country, building the railroads to open up the West, building the industries that made America a country that was able to go out and overcome poverty, sickness, and disease around the world. It is true they used some forestry practices that were not as good as they should have been. However, most of those forests have grown back today. They could have grown back faster with a better variety of trees and better forest management such as we use today. But the point is they are now back and timber is recovered on a recyclable basis. A renewable resource to provide wood and fiber for this country.

The redwood trees, we have heard a lot about the redwood trees, and we just have locked more redwood trees up this year. There are more people in Humboldt County, Calif., now out of work. There will be less redwood furniture built for senior citizens to sit in and enjoy because we are now denying access to these resources. We are about to do the same thing on a much larger scale to Alaska.

In 1890 the same U.S. Government that is now telling people what is in Alaska, when they really do not know, said there was no oil and gas in Texas. You have to prospect. That is what a prospector is for. He goes out, looks, and works for years to find out what resources are available.

Fortunately for those of us here today, the wildcatters from the State of Texas did not believe the U.S. Government. They went prospecting for oil anyway and look what they found. They are now discovering oil in my State of Idaho. Now they are finding oil and gas in Idaho. Now they are finding oil and gas in Idaho in the Overshift in eastern Idaho and western Wyoming. I could go on and on giving more such examples.

I think the point is that this is the largest land grab the Congress has ever tried to foist upon the American people. In southeast Alaska the Government reported that there were no minerals. Private companies however, found the biggest molybdenum deposit in the entire United States.

In the bills before us, we will present, through wilderness designation, any further development of this highly favorable area.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Perhaps the gentleman has forgotten that we deleted the whole 2.5 million acres of the Misty Fiords from the wilderness designations, including U.S. Borax Co.'s molybdenum deposit.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, that statement that it has been deleted from the bill is correct; but mineral entry is precluded in the way the bill is written. Section 607(g) makes it clear there is no

further mineral entry in that section. The Mollmount area will be protected, that one mine; but the rest of the area is closed to mining.

Mr. SEIBERLING. That is correct, but I want to make it clear we are not in any way affecting the ability of the U.S. Borax Co. to open its prospective molybdenum, if it so desires. It is not in any wilderness area.

Mr. SYMMS. I might say, the gentleman from Ohio and I have discussed this many times, that it is also possible, technically, to mine in a wilderness area in accordance with section 4(d) of the Wilderness Act; but as a practical matter, there is no mineral extraction going on in the wilderness areas of the Lower Continental United States in an area which equals all the land east of the Mississippi, that has been removed from mineral exploration and extraction in the United States. Then we wonder why we have a mineral shortage. The Department of the Interior estimates that 66 percent of all mineral lands are in outside areas, designated by these bills, but 70 percent of the areas that are highly favorable, and I refer to the orange map, the overlay that was before the committee, 70 percent of them are classified so as to prevent even exploration. So it is slightly misleading, it is more than slightly misleading to say that 66 percent of the mineral is outside. The most economical part is in fact being placed out of reach.

I would like to convey a conversation between the Ambassador from Russia and the president of the American Mining Congress, Mr. Allen Overton. When they were visiting Alaska, the Ambassador said in discussing Alaska:

> Mr. Overton, it is incredible and it certainly was incredible to me that we ever sold you Americans Alaska. We regret it very much.

Mr. Overton said:

> Well, there is one thing about it. We Americans aren't doing a darn thing with it.

I think that is very true. In Siberia the Soviets are opening up their mineral fields and they have a lower potential than we have in Alaska.

In the Yukon Province of Canada they are opening up mineral fields.

What is happening in the United States? We are putting them in wilderness.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I would like to ask the gentleman, how many active mines do we have operating in Alaska at this time?

Mr. SYMMS. I think there are no operating mines in Alaska at the present time. Alaska is a young State. They do not have any idea what they have.

Mr. RUDD. Do they have any mines operating in Siberia across the peninsula?

Mr. SYMMS. I cannot give the gentleman the exact figures. They are starting to open up minerals in Siberia at a lower grade.

I would refer to the charts we had on the floor earlier today to point out that in the United States that of the major 31 minerals, we are the major importers of almost all of them except a few, cement, pumice and copper; but in the Soviet Union they are major exporters and we are importing in some cases from them.

Mr. RUDD. Mr. Chairman, if the gentleman will yield further, I will defer to the gentleman from Alaska; but the point is well taken. There are no operating mines for the same type of trade, when right across the straits in Siberia they are opening up all sorts of mines in quantity.

Mr. YOUNG of Alaska. Actually 56 mines have been opened up in Siberia in the last 10 years.

The CHAIRMAN. The time of the gentleman from Idaho (Mr. SYMMS) has expired.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 additional minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I understand the gentleman said 56 mines were opened in the last 10 years.

Mr. Chairman, I think the point is very well taken. For example, just to give the committee the benefit of one example, Alaska's Brooks Range is not only a vast wild area but sits atop what many regard as the finest mineral province in Alaska. A recent study by the Stanford Research Institute identified seven Alaskan mineral prospects which are likely to be developed in the near future; three of the seven are in the Brooks Range. One of these discoveries has an assessed metals value of $7 billion.

What does this $7 billion mean? This is talking about jobs and opportunities and the ability of America to remain a sovereign Nation.

Overall the Brooks Range mineral belt is estimated to have commercially valuable deposits of 12 critical minerals: Chrominum, nickel, zinc, lead, copper, molybdenum, silver, iron, titanium, gold, tin, and platinum. The mineral zone occurs on both the south and north sides of the range and stretches for over 650 miles across north Alaska.

Coincidentally, this is being set aside.

H.R. 39 and H.R. 12625 proposes to create 25 million acres of parks, refuges, and wilderness areas in the Brooks Range which will encompass 550 miles of the 650 mile chain. In contrast, the State of Alaska and mineral interests are seeking to reduce the park, refuge, and wilderness acreage by 3 or 4 million acres which will leave approximately 250 miles of the mineral zone open to entry. To put it in perspective, "developers" are supporting efforts which will put over 30 million acres or 70 percent of the range in protective status—this hardly seem to be unbalanced against conservation interests.

Given our growing reliance on imported minerals and continued trade deficits, the national interest demands that some significant portion of one of Alaska's best resource areas be left open. Protecting 70 percent and opening 30 percent appears to be the least we should do to assure domestic mineral supplies.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I am happy to yield to my colleague, the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, we checked and found that six of the seven deposits that were used as a basis for the report of the so-called Stanford Research Institute were outside the boundaries of the units provided in this bill. The seventh is on Admiralty Island, but since it is a prior existing right, that is protected by the provisions of the bill if they desire to develop it.

What is more, let me read from page 15 of their report, what it says about these potential "mines":

> Even though the production of minerals from the seven Alaskan mines is substantial, it is unlikely that it would have any significant beneficial effect on the Nation's supply of critical imported materials.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much.

Admiralty Island is, I believe, an island that is now being classified. It was at one time used for forest removal purposes, and now the trees have grown back and it is back in a wilderness state.

Mr. SEIBERLING. In some places that is true, yes.

Mr. SYMMS. I think that is the fact.

Mr. Chairman, I know the gentleman from Ohio (Mr. SEIBERLING) is very sincere in what he is saying, but we do not know where the minerals are until we dig for them, and it takes tremendous capital formation to develop a modern mine in our society. We are precluding that option in this bill for future generations of Americans.

Mr. Chairman, I think the point is that the part of the equation that is being missed in this legislation is this: Where do people fit into the environment?

As we use these minerals to build our society and as technology increases, then the lower-grade minerals become minable because technology increases. So the reserves can grow; they do not shrink.

We are not to the bottom of the barrel. Over 75 percent of all the oil wells drilled in the world have been drilled in the continental lower 48 States of the United States. So we are not yet to the bottom of the barrel. We do not know what is down the road with respect to fusion, with respect to fission and new reactors, and we are almost at the point where we can develop perpetual motion machines.

We do not know what potential is right over the horizon, but we cannot develop that potential if we preclude modern American from the opportunity of using the resources that are necessary to build a modern civilization.

Mr. Chairman, if we do this, if we continue to lock up land, we will be denying future generations of Americans the opportunities that those of us here today have had in the past.

It is unfortunate that the Tongass wilderness designations in the bill conflict with the major mineralized areas in southeast Alaska. Recent independent studies indicate that three particularly affected discoveries are of major national importance and that the mineral prospects of adjacent areas can also be nationally significant. At a time when oil and mineral imports have pushed the

U.S. balance-of-trade deficit to nearly $30 billion, areas containing important minerals warrant extra attention from Congress.

The major finds in southeast are the Greens Creek zinc-silver-lead deposit on Admiralty Island, the Bohemia Basin nickel-cobalt-copper find on Yakobi Island, and the Quartz Hill molybdenum discovery in Misty Fiords. Each of these specific deposits is affected by a special land designation and the adjacent lands with high mineral prospects are completely locked up and withdrawn from mineral entry per section 607(g) and 607(k).

The Greens Creek find on the northwest part of Admiralty Island is a valuable zinc-silver-lead deposit. Assays indicate ores with 10 percent zinc, 3.3 percent lead, and 9.5 ounces of silver per ton. There are at least 2 million tons of these rich ores already identified and up to 10 million additional tons. When developed in the late 1980's, it is expected to generate annual gross revenues of $20 million plus.

There are also other mineral interests on Admiralty Island. Just south of the Greens Creek find are the Pyrola claims which have similar potential. On the south end of the island, two ventures have established geologists' camps which are prospecting the Pybus Bay and Gambier Bay areas; both camps have discovered significant geochemical anamolies indicating possibly important mineral deposits.

Admiralty Island's status is a delicate issue since wilderness designation for it may be regarded as the one of the primary goals of the environmentalists. It is ironic, however, that this same island has been logged extensively since the 1890's and been home to three salmon canneries which now are closed. Like most of southeast Alaska, it may be wild but it is not virgin.

The Bohemia Basin nickel-cobalt-copper deposit on Yakobi Island is the second major find. All Yakobi Island is part of the 420,000 acre West Chichagof-Yakobi Wilderness except for a 6,000-acre "hole in the donut" encompassing the mineral find. This 6,000 acre "hole" is designated a "Potential Wilderness" and unless, first, all claims are patented, second, all environmental impact statements are completed, third, controls have been imposed "that will prevent any environmental damage to the adjacent wilderness and nearby waters," and fourth, commercial production of minerals has commenced by January 1, 1985, the area becomes wilderness. It is virtually impossible to adhere to this arbitrary schedule which insures the elimination of this claim. Moreover, one lawsuit will surely kill it.

Most of Yakobi Island and the northern portion of West Chichagof Island are underlain by the same mineral belt which has produced the Bohemia Basin find and the massive nickel deposit that underlies the Brady Glacier in Glacier Bay Monument. Since the area is likely to contain strategically important minerals, placing it in wilderness and withdrawing it from mineral entry is not in the national interest. Particularly since we import virtually all of our nickel and cobalt supplies.

Lastly, the Quartz Hill molybdenum find is in the special Misty Fiords area. This 2.3 million acre is no longer designated wilderness, but mineral entry is prohibited.

The entire area, especially the southern and northern portions of the Misty Fiords region are highly mineralized. Existing mining claims in the area already cover finds of cobalt, copper, gold, lead, molybdenum, silver, tungsten, and zinc. Since the area does contain important minerals, it makes no sense to completely lock it up and prevent mineral entry while permitting other activities such as logging to continue.

Although the Tongass Forest encompasses over 16 million acres this bill manages to designate wilderness or withdraw from mineral entry the three precise areas which offer highest mineral potential. This senseless and counterprodutive overlay is indicative of the poor fashion in which this measure has been put together.

Congress can wait a mere 7 months and receive the full fruits of the Forest Service's multiyear Tongass land use management plan—TLUMP, and have the information available to designate ample wilderness without these conflicts. Or Congress could act to draw more careful boundaries which protect critical wilderness values without foreclosing on mineral development. For example, the West Chichagof Wilderness could be estabilshed as a 300,000-acre unit or in the Misty Fiords, a 500,000-acre Granite Fiords Wilderness unit could be created and cause few if any conflicts. If this bill is to represent all national interests, Congress should either reduce these wilderness areas to minimize conflicts or postpone its decision a few short months and act on good solid information.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO), a distinguished member of our committee.

Mr. RONCALIO. Mr. Chairman, if this legislation were to be defeated by the truth, I would feel quite healthy and wholesome and go about this without complaint. But to have it defeated by misrepresentation, fraud, phony charges, and false arguments is really kind of shocking to a man of maturity and a man with some degree of good conscience.

I refer to the very references to the lodes in the Brooks Range that were protected by many different methods, and this protection came about through the efforts of a specific group to get it out, and Anaconda asked for this in the last days of our hearings. We spent a year and a half listening to people on these special requests.

I went personally on a helicopter of the U.S. Borax Co. to see the mines they worked, and we saw the result of the mining efforts which are now beginning, but there will not be much mining for 10 years, the way they are going.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. Mr. Chairman, I only have a limited amount of time, so I will not yield unless the gentleman can give me more time.

Mr. YOUNG of Alaska. Mr. Chairman, I would be happy to yield additional time to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Then I will be delighted to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, again let me restate the fact that I compliment the gentleman from Wyoming (Mr. RONCALIO) for going to Alaska and flying over its beautiful fjords.

We are protecting mineral claims because they are legal claims, but in reality there will be no further claims on these lands of which we speak. And that is not fraud; that is a fact.

Mr. RONCALIO. Mr. Chairman, I am not saying that all claims are fraud or that everything that has been done is fradulent. It is true that much that has been said in the last hour or so has not been very factual.

Mr. Chairman, I now refer to a full page ad in yesterday's paper saying that in the wilderness we could no longer use airplanes nor could we use motorboats. The fact is that that is misrepresentation. There are at least nine wilderness areas in the United States in many States where they can use airplanes and motorboats, and they can do that in that State.

Mr. Chairman, I include a partial list of wilderness areas with current aircraft/motorboat use, as follows:

WILDERNESS WITH CURRENT AIRCRAFT/MOTORBOAT USE

Okefenokee Wilderness, Okefenokee National Wildlife Refuge, Georgia.

Chassahowitzka Wilderness, Chassahowitzka National Wildlife Refuge, Florida.

Florida Keys Wilderness, Florida Keys National Wildlife Refuge, Florida.

Breton Island Wilderness, Breton Island National Wildlife Refuge, Louisiana.

Wild Rogue, Siskiyou National Forest, Oregon.

Selway-Bitterroot Wilderness, Bitterroot and Clearwater National Forests, Idaho/Montana.

Bob Marshall Wilderness, Flathead National Forest, Montana.

St. Marks Wilderness, St. Marks National Wildlife Refuge, Florida.

Lacassine Wilderness, Lacassine National Wildlife Refuge, Louisiana.

Lake Woodruff Wilderness, Lake Woodruff National Wildlife Refuge, Florida.

Big Lake Wilderness, Big Lake National Wildlife Refuge, Arkansas.

Fort Niobrara Wilderness, Fort Niobrara National Wildlife Refuge, Nebraska.

Red Rock Lakes Wilderness, Red Rock Lakes National Wildlife Refuge, Montana.

(NOTE.—This is a partial list only.)

Mr. Chairman, I want the record to show that we have 18 Members on the floor of the House at this time—18 Members out of 435. We have more employees of the House in the Chamber than we have Members tonight.

So really who cares much what we say at this hour of 20 minutes to 9 on this evening. But I do want to say to my friend, the gentleman from Alaska, Mr.

DON YOUNG, with whom I worked since Nick Begich, his predecessor, did not come back from a trip to Alaska.

The CHAIRMAN. The time of the gentleman from Wyoming (Mr. RONCALIO) has expired.

(By unanimous consent, Mr. RONCALIO was allowed to proceed for 1 additional minute.)

Mr. RONCALIO. Mr. Chairman, I want to say to the gentleman from Alaska, Mr. DON YOUNG, what I would have said to Nick Begich and Hale Boggs, whose memorial service I attended in Anchorage and to all of the people who love that beloved land, we will not get a better bill than we have now. The gentleman may think he will get a better bill in the next Congress, but he will not.

The young people of America want to preserve their heritage. I have more people in Wyoming, young and old, who want this legislation than I have who do not want it, and I believe that is true in every State in the Union. I think the bargain is a good one. I have voted against the gentleman from Alaska on some amendments and I have voted with the gentleman on about a half dozen amendments over the years.

Mr. YOUNG of Alaska. If the gentleman will yield, the gentleman has voted with me on some of my amendments, and he has voted against me on some other amendments. Hopefully, he sees the wisdom now of voting with me tomorrow.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, even in Alaska the majority of those who testified in our hearings favored this legislation. When the State legislature conducted a survey last year, they found, according to reports I have seen in the Alaskan newspapers, that 61 percent of the people of Alaska, when asked, "Would you favor setting aside large areas in Alaska for parks and wildlife refuges even if you could never get to them?", answered "yes."

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, that is the type of falsehood that deeply disturbs me. Simply, the poll that was taken by the State legislature was a poll which said, "Do you support this idea of setting aside areas for people's use?" And 60 percent said, "Yes." But they said, also, with access, with roads, with different stipulations put into the deal. It was misinterpreted by only one of those questions. I myself have supported 50 million acres. I, myself. So when someone says, "Even those in Alaska support it by 60 percent," it is the covenants and the covenants are what are important to the State of Alaska.

Mr. RONCALIO. Mr. Chairman, I rise in strong support of H.R. 39. There is one point which is of critical importance and needs to be stressed. And this is, that the bill we are considering today takes great pains to address the problems of access to, in, and across, the wilderness areas established by the bill.

It was with a sense of disbelief that I noticed the full page ad in yesterday's Washington Post placed by the Committee for Management of Alaska Lands—or as it is better known, CMAL. This advertisement urges a vote against H.R. 39 on the grounds that its wilderness provisions deny access to these areas by the majority of potential users. This is false and deserves rebuttal.

First, the ad alleges that airplane landings are prohibited in wilderness. This is disturbing because the proponents of the ad have either failed to read the Wilderness Act itself and the special provisions of H.R. 39, or are deliberately misrepresenting the facts. As proof of this I would cite section 4(d)(1) of the Wilderness Act of 1964 which clearly permits, and I quote "the use of aircraft or motorboats, where these uses have already become estabilshed * * *". In this regard, it should be noted that aircraft access and motorboat use are common means of access to wilderness areas in existing units of the wilderness system in the lower 48 States.

Second, the ad completely overlooks sections 607, 709, 1002, 1003, and 1202 of H.R. 39. These sections permit, among other things: the use of motorboats and even snowmobiles in Alaskan wilderness areas for subsistence hunting and fishing; the use of "customary patterns and modes of travel across such units"; "continued public access to areas conveyed to the State"; and general public access.

Third, section 607 of the bill carefully permits aquaculture facilities, existing and future public cabins, commercial services—such as guided hunting and fishing, pack trips, et cetera—and commercial fishing activities in wilderness areas. It further directs the Secretaries to absolutely allow hunting and fishing in wilderness areas, subject to the Secretaries' usual discretion to designate areas where no hunting or fishing will be allowed.

Fourth, section 4(d)(4) of the Wilderness Act allows the President to, and I quote, "authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation work, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial."

I mention these facts because our committee took great pains in the drafting of H.R. 39 to insure that access to the wilderness areas would not be denied. Many of us, including myself, journeyed to Alaska for the H.R. 39 hearings last summer, and were impressed by the fact that access to many areas in Alaska is available only by airplane, motorboat, or nonmotorized transportation. As such, we promised the people of Alaska that aircraft and motorboat access would not be curtailed, and we have specifically fulfilled this promise by special provisions in H.R. 39 which complement and reinforce the general provisions of the Wilderness Act of 1964.

In spite of this, the Committee for Management of Alaska Lands' advertisement persists in misinforming the public as to the impact of H.R. 39's wilderness designations on access and hunting and fishing. I strongly reject their irresponsible contentions, and state here and now for the record, that any careful reading of the Wilderness Act and H.R. 39 will show that the wilderness areas created by H.R. 39 will not impair hunting and fishing, nor traditional access by airplane or motorboats.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, the Alaska Lands proposals are the product of an intense deliberation and analysis by the respective committees.

MORRIS UDALL, JOHN SEIBERLING, JOHN MURPHY, and BOB LEGGETT are to be commended for the dedicated manner in which they have labored to accomplish what was set out as a congressional mandate in the Alaskan Native Selection Act.

Working with JOHN SEIBERLING and other members of the Subcommittee on Alaska Lands and Oversight has been a considerable task, I am pleased that the record and deliberations have focused on all the issues that touched this subject, because as we look at issues to be faced during the debate of this bill, we have explored them in detail.

It boils down to a number of key points that are significant and should be considered by the Members of this House.

Federal ownership of land in Alaska will be a fact of life for sometime into the future and a reasonable management of the resources is a mandate that we should embrace.

The basic management tools in many instances have proved the effectiveness and should be in place to provide the stability that is needed in Federal Alaskan land management. Basically these systems already in existence have the flexibility to afford commonsense approach to the interests of all Americans.

So much of Alaska, with its tremendous natural and mineral values has been preserved in an ecologically sound manner by barriers which today and in the future will not exist, these barriers of transportation, lack of demand, and high unit costs are being broken.

We cannot rely upon the de facto concept of preservation and prudent use of the resource to dominate in the near future. Decisions must, indeed, be made, and better that it is accomplished in a public forum such as is provided here today than based upon the aimless appetite of want, demand, and crisis.

We are providing a significant economic base for the future growth of Alaska in these proposals, and needs of America, but we are also making significant commitments for preservation and in my judgment a balance has been attained in spirit and purpose. While I feel slight modifications are desirable and warranted, those that counter with the criticism of "lockup" are just not facing the facts.

The proposal makes every effort to avoid conflict where possible and effect

is evident on the charts and graphs before this body.

Where conflict exists, it exists because a decision was made that the wise use of the resources and land was to preserve a significant ecosystem.

They were not arbitrary decisions or conceived to frustrate, but rather to provide the most economical utilization of the resources and the greatest benefit to our country.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, H.R. 39 and H.R. 12625 will have serious adverse effects on Alaskan, national and international sport hunting in Alaska.

I hope that my concerns can be taken care of as this legislation is considered and voted on.

The National Park Service distributed data summaries acknowledging that up to 31 percent of the total statewide recreational harvest of big game animals in Alaska comes from areas destined for National Park Service management. Of this, up to 17 percent of the statewide harvest is to be placed under national park status, and eventually closed to sport hunting.

This legislation proposes to include under park service management up to 60 percent of the Dall sheep, 11 percent of the mountain goat, 26 percent of the moose, 31 percent of the brown bear, 15 percent of the black bear, 34 percent of the caribou, and 24 percent of the bison utilization on a statewide basis. This not only includes such a high percentage of the statewide use of Alaska's big game resources, but a good portion of the State's finest quality hunting areas. Because other national park values also are included in the subalpine, alpine and mountainous area of Alaska, a disproportionately high percentage of big game species and populations are included within park boundaries. Most of the above species tend to be found in these areas in the early fall—the traditional sport hunting period.

While there are those who would argue that sport hunting is incompatible with environmental protection and sound wildlife management, quite the contrary is true. Properly controlled sport hunting has long been recognized as an effective tool for wildlife management. This form of recreation is generally compatible with the purposes for which all the national interest lands units are established. As the major concentration of recreational hunters occurs for a maximum of 2 to 3 months in the fall, there is minimal conflict with other recreational pursuits. Similarly, even during the peak of hunting activities, the impact is minimal as the hunters distribute themselves over millions of acres.

National and Alaskan sportsmen can look forward to severe reductions in hunting opportunities on the approximately 44 million acres of prime wildlife areas selected by Natives under the Native Claims Settlement Act. In addition, severe reductions due to access restrictions can be expected in over 60-plus million acres of wilderness areas and almost 2 million acres of wild and scenic rivers. Coupled with over 50.186 million acres of the State (134 percent of the State) proposed for park service management, we can look forward to vast areas being closed to hunting or severely restricted. Under H.R. 39, approximately 34.311 million acres (26.775 million acres of new areas) of Alaska (9.1 percent of the State) will be included in national parks or monuments which will eventually be totally closed to the recreational hunter.

Recreational and commercial uses of fish and wildlife are of critical importance to the national sportsman and Alaskans—most of whom are economically or spiritually dependent on these resources for the maintenance of their unique lifestyles.

National and Alaskan sportsmen carry the brunt of funding sport fish and game programs in Alaska. In 1977, over $4 million were collected in Alaska license and tag fees alone.

The thousands of commercial fishermen, hundreds of active guides and outfitters, innumerable transportation businesses, sporting goods stores and associates logistic suppliers all contribute to the annual multimillion-dollar economic base related to our renewable fish and wildlife resources. Significant losses of fishing, hunting, and trapping opportunities will seriously affect this existing revenue production and any growth potential in the future.

Loss of high-quality hunting areas will only place more competition in remaining areas resulting in a deteriorating quality of experience in these areas. In addition, loss of critical sport hunting areas will place more pressures on subsistence areas and resources. Last, curtailing quality sport hunting is against the grain of national interest legislation.

The Committee on Interior and Insular Affairs has spoken to the hunting issue and recognized this valid use of renewable fish and wildlife resources by accepting some revisions to partially accommodate Alaskan and national sportsmen. The proposed legislation advocates, however, a complex 20-year grandfather rights monopoly for established guides within proposed parks, rather than treating the question of legitimate recreational sport hunting directly.

It should be emphasized that the highest value of many of the hunting areas now being considered for inclusion in national parks is not the number of animals harvested, but rather the quality of the experience and the hunting opportunity. Some of the highest quality hunting areas in the State are included in the park boundaries. Quality in this case may include remoteness, scenery, variety of species, uncrowded conditions, availability of some trophy species, accessibility for local residents, relatively long seasons, combinations of hunting and fishing, plus more primitive-type conditions.

It is important that crucial sport hunting areas be left open. Hunting is the important form of recreation in Alaska, attracts numerous out-of-Staters, and is not environmentally damaging. There are compelling reasons to permit hunting and open high-quality areas; there are no compelling reasons to shut off these lands.

Mr. UDALL. Mr. Chairman, I have no further requests for time and reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Chairman, I thank the gentleman for yielding.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

Just a few moments ago, at about 8:40 p.m. this evening, the gentleman from Wyoming made the point that there were only approximately 18 Members on the floor of the House at that time.

I would like to point out that because the rules of the House prevent us from using any parliamentary motion to require the Members' presence on the floor at this time, I am just taking this opportunity to establish for the record that this gentleman from Florida was present when the gentleman from Wyoming made that point.

Mr. KELLY. Mr. Chairman, I would like to try to get some answers to some questions I have in this matter.

I understand that what we are really trying to do here is that we are setting aside something for posterity, meaning that we want the young people of America to have something in the future. Therefore, the way we did this was that we picked out all of the land that looked like it had nothing on it, and we saved that for them.

Is that what I understand to be the situation and that the really good lands are opened up to mining immediately, but those that appear not to have any merit we are saving for posterity? Did I understand that correctly?

Mr. YOUNG of Alaska. If the gentleman will yield, Mr. Chairman, the gentleman, I think, has it the other way around.

If he wants the real answer, I have offered the environmental groups 200 million acres of the best land in the State. It is the lower grade mineral lands and energy lands, but for some reason, the area they did take does have a high degree of interest.

I think there is a real difference of opinion.

Mr. KELLY. Was not the suggestion made that they took the lands that looked like they had the best prospects for minerals and made them available for mining?

Mr. YOUNG of Alaska. That is what has been said, but whether it is reality, I do not know.

Mr. KELLY. And they left for posterity that which had little or no prospect for the future; is that correct?

Mr. YOUNG of Alaska. That is what I understand.

Mr. KELLY. I do not understand how that is going to help posterity, but they are not going to vote.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for his ability to make the point that the best lands have been locked up and the lands with the least potential were left for people to try to find something in.

I might say to the gentleman that when the good Lord put the minerals on the Earth, he did not intend to have people drawing lines arbitrarily across the surface of the Earth and telling the mining engineers, "You have to mine over here. Of course, the minerals are not over here, but you go out and mine where they are not." It makes it very difficult to produce the minerals that are necessary for our continued sovereignty and security.

I would say also to my colleague from Wyoming, whom I have enjoyed knowing and working with for these last 5 years in the Congress, that I believe really just the opposite of what he says will be true. As people become more enlightened and more aware that we can have preservation and conservation of our beautiful country and still use the resources, then they will want less wilderness and more classifications which allow for multiple use.

The CHAIRMAN. The time of the gentleman from Alaska has expired.

● Mr. LONG of Louisiana. Mr. Chairman, this legislation represents a well-researched effort to balance the disparate interests which seek to protect and preserve Alaska's fragile wilderness areas while allowing access for resource and economic development.

The committee substitute adds more than 100 million acres in Alaska to existing units of the national park, national wildlife refuge, wild and scenic rivers and national forest systems. Importantly, it also authorizes oil and gas leasing in wildlife refuges. It provides that two-thirds of all of the areas having metallic mineral potential are now outside of the boundaries of the conservation lands as drawn by H.R. 12625. The bill also permits access to 95 percent of the State's potential oil and gas deposits.

Further, the bill returns land control to the State of Alaska and Alaskan Natives, removing it from the Federal bureaucracy; and it establishes procedures for building transportation routes through conservation lands. It assures protection of valid existing rights and mineral claims and protects all timber jobs in southeast Alaska.

Conservation is critical to our future, and this is our only chance to preserve complete wilderness ecosystems. The bill allows for the creation of 10 new national parks and preserves, establishes 12 new national wildlife refuges, expands the 2 existing Alaskan national forests by 2.7 million acres, and makes 25 additions to the wild and scenic rivers system. It must be remembered that the lands can always be developed in the future if their resources are found to be vital; however, once they are developed, their fragile environmental systems may never be restored.●

● Mr. SIMON. Mr. Chairman, today the House is considering one of the most important land conservation measures of this century, the Alaska National Interest Lands Conservation Act. The bill (H.R. 39), the product of a year and a half of effort by the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries, caps many other years of studies by the Department of the Interior, the Department of Agriculture, the Federal-State Land Use Planning Commission for Alaska, and numerous scientific, educational, academic, and other organizations and groups.

This bill, sponsored by Chairman UDALL and Representative JOHN SEIBERLING and many other Members of the House, is a top conservation priority of the President, and has the backing of all the major conservation and environmental organizations, as well as such other groups as the United Auto Workers, the United Mine Workers, and the Oil, Chemical, and Atomic Workers (AFL–CIO).

I have recently received a copy of a resolution which has been unanimously adopted by the Student Senate of Southern Illinois University's Carbondale Campus, expressing "overwhelming support" for H.R. 39 and its companion bill, S. 1500. For the benefit of all our colleagues, I am here having reprinted in the RECORD the text of that resolution:

SUPPORT OF ALASKA WILDERNESS LEGISLATION

Whereas: H.R. 39 will designate over 80 million acres of national interest lands in Alaska as National Parks, National Wildlife Refuges, Wild & Scenic Rivers, and Wilderness Preserves.

Whereas: The demand for natural resources (e.g., oil, timber, minerals, etc.) in conjunction with urban and industrial growth pose a threat to the maintenance of the pristine quality of these lands.

Whereas: H.R. 39 will soon be acted on in the Merchant Marines & Fisheries Committee and will reach the floor of the U.S. House of Representatives around the first of May.

Whereas: Now is an appropriate time for the SIU–C Student Senate to express their position on behalf of the Student Body to be communicated to Honorable Paul Simon (Illinois 24th Congressional District,) Representative Tip O'Neill (House Majority Leader,) and Mr. Cecil Andrus (Secretary of the Department of Interior.)

Whereas: Senator Henry Jackson has sponsored an identical bill in the U.S. Senate (S. 1500), therefore, it would be appropriate to send copies of this resolution to Illinois Senators Adlai Stevenson and Charles Percy, as well as Robert Byrd (Senate Majority Leader,) and Senator Jackson.

Therefore be it resolved that: The Student Senate on behalf of the SIU–C Student Body gives its overwhelming support for H.R. 39, and S. 1500.●

Mr. FINDLEY. Mr. Chairman, today the House is given a unique opportunity to preserve the last remaining untouched, unspoiled wilderness area of our Nation—Alaska. The passage of H.R. 39, the Alaska National Interest Lands Conservation Act, is one of the most far-reaching land and wilderness measures ever to come before the Congress. After hearing testimony from over 2,000 witnesses, representing all sides of the issue, and after making several trips to the State in order to get a firsthand look at those areas to be included in the bill, the House Interior and Insular Affairs Committee, along with the help of the House Merchant Marine and Fisheries Committee, has produced a bill, H.R. 39, that strikes an important balance between preserving forever 95 million acres of nearly virgin wilderness and that of controlled growth and development. This balance will endure if we in the House seize this opportunity and pass this major environmental bill.

The enactment of this legislation is the final step in the disposition of the 375 million acres of Federal land in Alaska. Under the Statehood Act of 1958, Alaska was allowed to choose 104 million acres with the greatest potential for State development. Prudhoe Bay, for example, is owned by the State. Under the Native Claims Settlement Act of 1971, the Federal Government granted Alaska's Indians, Eskimos, and Aleuts 44 million acres which comprised much of their ancestoral lands. With passage of H.R. 39, we can preserve those remaining areas of Alaska that exhibit some of nature's most beautiful and animal abundant areas.

This bill will place 95 million acres into the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System, all without any cost to the taxpayers. The land contemplated for wilderness protection already belongs to the Federal Government and there will be no acquisition costs. The bill is unique, then, in that it is a rare bargain for taxpayers.

This bill is also unique in that it will surely stimulate economic development in the State in terms of oil and mineral exploration, timber harvesting, and tourism. Long and careful study has enabled the committee to omit from the comprehensive plan those resource laden areas having high value as sources of minerals, fossil fuels, and timber. It has been estimated that 70 percent of the most promising areas for mineral development lie outside the boundaries of the bill, and nearly 90 percent of those areas having the greatest potential for oil and gas development are excluded.

What remains is judiciously chosen land, the inclusion of which in the national wilderness system will help stimulate tourism by protecting for generations some of the most beautiful and scenic territory in our country.

This bill is indeed unique. It will preserve those areas of Alaska that are unrivaled for their natural beauty, support of wildlife, and unspoiled spendor. It also permits for controlled growth and development. It is a bill that has unusual scope and importance. I hope my colleagues in the House will join me in passing this bill.

Mr. KASTENMEIER. Mr. Chairman, the Alaska National Interest Lands Conservation Act is a bold initiative which offers us one of those rare opportunities to act decisively by permanently preserving, as living monuments, the virgin realm of millions of acres of forest, mountain, glacier, and stream in which waterfowl and mammals live undisturbed by mankind.

At issue, today, is how much of Alaska, and what specific areas should be protected in national parks, wildlife refuges, wilderness, and wild and scenic rivers.

The House Interior Subcommittee on General Oversight and Alaska Lands, under the chairmanship of our able colleague from Ohio, JOHN SEIBERLING, had labored long and hard to answer this question. Every effort was made to accommodate all views.

H.R. 39, which I have cosponsored, is one of the most important conservation measures which has ever been considered by any Congress. As originally introduced, H.R. 39 would have set aside 114 million acres of Alaska for national parks, wildlife refuges, and wild and scenic rivers. About 142 million acres would have been designated as wilderness.

The Alaska National Interest Lands Conservation Act was hotly contested in the Interior Committee. Compromise followed compromise in order to preserve the basic purposes of H.R. 39. The overall acreage for national parks, wildlife refuges, and wild and scenic rivers was reduced to about 95 million acres, and wilderness designated lands were cut from the 142 milion acres to about 74 million.

Yet, H.R. 39 does create 10 new national parks and expands the boundaries of three existing ones. Ten new wildlife refuges will be established and four existing ones will be expanded. Ten rivers will be designated as part of our national system of wild and scenic rivers and another 14 will be added to the study category for possible inclusion in the system.

Efforts will be made on the House floor to restore some areas that were deleted by the Interior Committee. The substitute that will be offered by the Interior and Merchant Marine and Fisheries Committees calls for adding approximately 102 million acres to the various conservation units. About 66 million acres will be set aside as wilderness. I hope that we can restore the nearly 9 million acres of wilderness that were cut from H.R. 39. Also, there are certain areas, such as Misty Fjords region in the Tongass National Forest, that deserve wilderness designation.

Notwithstanding the numerous concessions already made, however, those special interests that seek to exploit Alaska for economic purposes will press for cutting still more acreage from the bill. It should be noted that once Alaska's undisturbed natural features are despoiled, they can never again be returned to the splendor and grandeur of their original state. I do not believe that the majority of Americans want to discover that many of the magnificent Alaskan features have been ravaged by those concerned solely with greed and profits. We have compromised enough with this legislation, and I urge a rejection of every attempt which seeks to delete any acreage from this bill.

Mr. Chairman, we must remember that each generation of Americans is a temporary guardian of our natural heritage, and we must exercise our stewardship over our land in a wise and careful manner. What we do here today will benefit Americans not only of the present generation but for all times. The Alaska National Interest Lands Conservation Act is a farsighted, monumental piece of legislation. It also is a symbol of America's reverence for the foundations of her greatness, and by preserving the great natural treasures of Alaska, we will bequeath to our descendants a stunning legacy.

● Mr. SKUBITZ. Mr. Chairman, H.R. 39 represented over 1½ years of concerted efforts on behalf of subcommittee and full committees of which there were eight subcommittee hearings; nine field hearings ranging from Atlanta, Ga., to Fairbanks, Alaska; numerous briefing sessions; 14 days of subcommittee markup which was then reported to full committee, amended; 9 days of full committee markup and reported out as amended, with sequential referral to the House Merchant Marine and Fisheries Committee.

There have been substantive, numerous differences in the Interior Committee's version and the Merchant Marine and Fisheries version of this legislation. The chairman of these committees have worked out agreements on these differences. However, I am not in agreement with deleting the Arctic National Wildlife Range from the "special study area" as proposed in the Interior Committee version of H.R. 39. This mandates Federal exploration for oil and gas. I do favor the 900,000-acre Yukon Flats agricultural area in H.R. 12625 and would like to see it expanded.

Regardless of the many hearings and markups relative to H.R. 39 these past 18 months, we now have a so-called consensus bill. H.R. 12625, with the possibility of another substitute bill. By consensus, I mean a consensus of the Democrat members of the Interior and the Merchant Marine Committees. There has never been a review by either committee of the so-called consensus bill.

I supported the Interior Committee bill—I cannot at this moment pass judgment on the consensus bill. However, if it has not made any substantive changes in the bill reported by the Interior Committee, I shall support it.●

Mr. FRASER. Mr. Chairman, H.R. 39, the Alaska National Interest Lands Act, is perhaps the greatest conservation challenge faced by the Congress in this century. If passed, it will protect magnificent lands in the form of national parks, wildlife refuges, wild and scenic rivers and wildernesses for future generations of Americans. At the same time, this bill will expedite the process of conveying certain land to the Alaskan people and the State of Alaska.

During the committee deliberations on this matter, there were many changes made to the original bill. Several of these changes have led to a stronger piece of legislation, but numerous concessions were made which unnecessarily place particular interests above the national interest. In order to secure an enduring heritage of unspoiled environments in the State of Alaska for the American people of this and future generations, it is imperative that we, as Members of the House, restore the strength of this bill as a historical benchmark for future generations by correcting some of the weakening deletions and changes that occurred during H.R. 39's legislative development.

In particular I encourage improvement in four areas:

First. The 2.3 million acre Misty Fjords area in the Tongass National Forest in southeast Alaska should be restored to wilderness status in order to protect its majestic fjords, shorelines, cliffs, and muskeg.

Second. Given the vast scale of Alaskan lands outside of the park that will be available for both commercial and sport taking of game, a grandfather clause relating to commercial trapping and hunting guide services should be eliminated.

Third. The Wrangell-St. Elias National Park Unit should be expanded to protect the dall sheep habitat which is now left open for hunting. At least half of this habitat should be included to protect this significant wildlife population and to provide park visitors with viewing opportunities.

Fourth. Approximately 9 million acres of wildlife refuge wilderness which were deleted should be restored to protect whole ecosystems—including critical habitats for thousands of migratory birds.

The Congress has been extremely generous to the State of Alaska in its original statehood grant of 105 million acres of Federal lands and also generous to the Alaskan Natives through the 1971 Native claims settlement of $1 billion and 44 million acres.

In its farsighted vision, the Alaska National Interest Lands Act is in its scope, as momentous as the establishment of the first national park at Yellowstone a century ago.

● Mr. RHODES. Mr. Chairman, I believe it is important that we act responsively in protecting the beautiful heritage of our environment for our children and future generations. I also believe that we have the responsibility to make rational decisions about our natural resources in order to assure their availability for economic growth now and for the future. Unfortunately, as it currently comes before us, H.R. 39 does not strike the kind of reasoned balance we need in considering these two important elements.

It seems to me that H.R. 39 is an overactive, premature effort to lock up vast areas of land without proper reflection and deliberation. Alaska land will not run away. The Secretary of Interior maintains control over the land and its use now, and he will continue to do so: there is no need to act in haste.

During the debate today we have heard of the vast amount of natural resources available in Alaska. The importance of this natural wealth to our Nation is underscored by the fact that both Canada and Russia are currently producing essential minerals and other resources from the same geological formations in their territory adjacent to Alaska. We are all aware of our balance-

of-payments problems stemming from our heavy reliance on foreign oil. But few realize that we are also importing large quantities of basic minerals and natural resources essential to our economy—imports which drain money from our domestic economy, add to our balance-of-payment problems, and which are essential in all levels of production.

Without sufficient consideration of the long-range economic impact, H.R. 39 would unilaterally lock up essential mineral resources—permanently. I do not believe that this approach represents the kind of forward thinking, long-range approach we should take in balancing our national needs. Traditionally we have made "multiple use" of our public lands in order to preserve the best of our natural beauty without excluding use of the land for other purposes. H.R. 39 completely and unrealistically ignores the "multiple use" concept.

In addition, I believe that we should not enact H.R. 39 until we find a way to honor our national commitment in the 1958 Statehood Act which gave Alaska the right to choose 104 million acres of land. The State of Alaska has only been able to select a small portion of its rightful land and the bill before us would reduce the State's right to land from a "selection" to a mere claiming of leftovers. I believe we owe the State of Alaska more than mere scraps tossed from the Federal table.

Let me cite an example of the point I am trying to make. The State of Alaska has identified 10 million acres it wishes to select as part of its land. The bill before us includes that land and would prevent the State of Alaska from selecting it. There is plenty of other land available within the State for the Federal Government to preserve without precluding the State of Alaska from making its rightful selection.

As I mentioned, there is no reason to act in haste on this bill—the land is not going anywhere and it is already under the control of the Secretary of Interior. There is plenty of room for compromise, but also the potential for making a great mistake if we act in blind disregard of our future economic needs.

I urge my colleagues to support the amendments offered by my colleague Mr. YOUNG, to provide equity to the people of Alaska, and to help shape this bill so that it preserves the natural and wild beauty of our land, while not excluding permanently the opportunity to explore and inventory the mineral wealth of Alaska and—should it be needed in the future—to use those resources to keep our Nation and our economy strong.●

● Mr. PEASE. Mr. Chairman, those who have experienced the beauty of the Alaskan wilderness firsthand always report that it defies adequate description. Therefore, it seems to me that some of the best advice about the wildlands of the North came from Henry Gannett, the famous American cartographer. Seventy-five years ago Gannett made this suggestion to anyone considering visiting Alaska:

If you are old, go by all means; but if you are young, stay away until you grow older. The scenery of Alaska is so much grander than anything else of the kind in the world that, once beheld, all other scenery becomes flat and insipid. It is not well to dull one's capacity for such enjoyment by seeing the finest first.

Present-day adventurers have confirmed the wisdom of Gannett's words over and over again. Clearly the wilderness itself is Alaska's most valuable resource. Soon we will have the opportunity to protect that resource in the national interest. By passing the Alaska National Interest Lands Conservation Act (H.R. 39), we can preserve our country's last great wilderness in its natural state and at the same time leave plenty of room for development in Alaska. Mr. Speaker, to an increasing number of Americans the availability of wilderness has become a basic necessity. I intend to give my support to H.R. 39 and to the inclusion of sufficient wilderness areas in the bill.●

● Mr. SAWYER. Mr. Chairman, I wish to express my support for the Alaska National Interest Lands Conservation Act. As this measure comes before the House we will be called upon to make far-reaching decisions affecting not only the State of Alaska and its Native peoples, but affecting Federal lands owned by all the people of the United States.

H.R. 39 is a complex piece of legislation, and as many have remarked, one of the most significant conservation measures of our era. It is a bill that has sparked much controversy and stirred the interest of citizens all across the country. Some 2,000 people have testified on this bill and many thousands of others have expressed their views in letters and telegrams. Though Alaska is beyond the reach of most of the citizens of the United States, this issue has touched upon fundamental concerns for protecting cherished natural values, for insuring that a part of our environment will remain wild and untamed by man.

The House Interior and Merchant Marine Committees are to be commended for their excellent work in producing legislation that is a true compromise between those that would push for maximum development of Alaska's resources and those who want maximum protection of natural values. While no interest group will be completely satisfied with this measure, it merits broad support as an eminently reasonable and balanced approach to the disposition of the national interest lands.

Alaska's most beautiful and ecologically valuable areas will be preserved largely intact, yet the State and Native peoples will have ample opportunity in other areas to develop oil, mineral, and other extractable resources to the benefit of their economy. It is gratifying that the Interior Committee has so successfully averted many potential conflicts between conservation and development in Alaska. Under the provisions of H.R. 39 we are able to accomplish both goals. Furthermore, this bill will not place undue fiscal burdens on the Federal Government or the taxpayer. Appropriations over the next 5 years are quite reasonable considering the magnitude of this legislative proposal. For this reason also, H.R. 39 has won by support.

From a conservation standpoint, H.R. 39 is a commendable measure because it makes every effort to protect entire ecosystems rather than drawing arbitrary boundaries around particular mountains, river valleys, forested basins, or tundra-covered hills. We cannot simply isolate and protect small units of the Alaskan environment and expect to maintain the wildness of this great land.

The caribou, the wolf, and the grizzly bear roam over vast expanses—disrupt one part of their habitat and a whole species may be endangered. Millions of waterfowl and migratory birds from all over the continent return to Alaska each spring to nest and bear their young and they too cannot be confined to refuges that are put together piecemeal. To protect the quality of Alaska's lakes and rivers we must also protect their headwaters and insure that entire drainage systems will remain largely undisturbed by man's activities. Alaska is renowned for its excellent fisheries—trout and salmon abound and provide sustenance for other wildlife such as the grizzly bear as well as recreational pleasure for people. Particularly in southeast Alaska, the commercial fisheries are an important contribution to the economy and must be protected.

We will never again have an opportunity to preserve a land as vast and diverse, as wild and as beautiful as Alaska. It is a modern-day link with America's great history of the frontier and a worthy heritage to pass on to future generations. Mr. Chairman, H.R. 39 is a good measure that has deservedly won broad-based support. Some interests would still like to see this bill weakened, but this would be a mistake and would in the long run, work to the detriment of the people of this Nation and to the residents of Alaska as well as to its wildlife and wildlands. Therefore, I urge that this House give its support to a strong H.R. 39 that will provide comprehensive and lasting protection for Alaska's national interest lands.●

● Mr. FISHER. Mr. Chairman, the Alaska National Interest Lands Conservation Act (H.R. 39) is without doubt one of the major pieces of conservation and land use legislation in the history of the Republic. If the bill becomes law, it will rank in national importance with the Homestead Act of more than a century ago, the establishment of the first national park at Yellowstone in the 1870's, the Reclamation Act of 1902, and other historic and far-reaching land laws. I listened attentively to the nearly 2 days of House debate on H.R. 39 and want to offer a few comments on the subject.

I approach this bill from a background and a perspective which is probably unique among House Members. I lived and worked in Alaska for several years when I was younger, took part in numerous resource surveys and studies pertaining to Alaska, wrote a Ph. D. thesis on the economic development of Alaska, worked for Senator Ernest Gruening when he was Governor of the

territory of Alaska, was a close friend and neighbor in Juneau of Senator Bob Bartlett, who was the first senior Senator from Alaska and before that for a long time a delegate in the House, and over the years have followed the fortunes of Alaska and written a good deal about it. I have hunted deer on Admiralty Island, gone fishing out from Homer in Cook Inlet, made studies of agricultural potentials in the Matanuska Valley, hiked in Mount McKinley National Park, spent some days on the Yukon River in a small boat, and even panned for gold out from Fairbanks as a weekend activity. I took some part in the statehood movement, have participated in the annual Alaska science conferences, lectured at the University of Alaska, and supervised many research projects having to do with Alaskan resources.

I cite these personal experiences simply to make clear that I do have a unique background and perspective on this bill. Out of this experience I want to make two principal points.

First, with regard to the "lockup" of resources, particularly mineral resources, that some Members think this bill will entail, I simply want to remind you that what Congress locks up Congress can unlock. The key turns both ways in the lock, and Congress holds the key. As a result of resources investigations, in which I have participated in other parts of the country, I can say that this charge against resource protection and conservation legislation is a familiar charge. Naturally private developers will want the maximum of free access to land, water, minerals, and other resources. Within some framework of orderly development procedures, they want license to go ahead, and this is understandable. Citizens more generally, whether in Alaska or in other States, have a divided interest: they want cheaper agriculture, timber, fish, minerals, and other products, and they also want the benefits of outdoor recreation, sport fishing and hunting, and wilderness. The two interests frequently conflict and compromises or balances have to be struck.

In my view, a good compromise and balance is achieved in H.R. 39, and more particularly in the similar substitute under the designation of the consensus bill—a consensus between leaders of the Interior and Insular Affairs Committee and the Merchant Marine and Fisheries Committee. Around 56 percent of the enormous land area of Alaska will be available for development; these are the 105 million acres of State land plus the 44 million acres of Native corporation land, once these acres have been selected. In addition there are 82 million acres of land that would remain under the jurisdiction of the Bureau of Land Management, appropriate parts of which in the normal course will be open for grazing, timber cutting, and other uses. Furthermore, most of the national forest land, some 24 million acres, will be subject to appropriate timber harvesting. Hardrock mining under this bill will continue to be eligible on 70 or more percent of the lands with some mineral potential which remain outside the conservation systems. These acreages which can be developed so far exceed the number of acres now in development or that conceivably will be in development in the next couple of decades that it is hard to imagine that resource and economic development activities in Alaska will be hampered in the slightest degree by the reservations and restrictions in this bill for a long time ahead.

What the bill will do by designating enlarged wilderness areas not only in the national parks created in the bill but in the wildlife refuges and other protected areas, is to prevent private development from being located anywhere and everywhere without regard to any orderly progression of economic development. In short, developers will have all the land and resources they could possibly work on for many years to come under this bill.

The second principal point I want to make coming out of my experience in Alaska and in resource studies generally is this: When the question comes down to whether a little more protection, reservation, and conservation would be desirable, or whether a little more resource development would be better, I would say lean toward protection and conservation and the postponing of development unless a strong and compelling case can be made for development now or in the near future. This is the conservative approach, the conservation approach. It says, do not open land and resources up to helter-skelter, here-and-there development. True conservatives, it seems to me, whether Republicans or Democrats, in cases like the Alaska land question should choose to restrain and guide the forces of economic development in a sensible and practical way. The amount of land that by the bill would be assigned to wilderness and, therefore, not open to ordinary forms of development, comes to about 66 million acres. This is an enormous amount of land but only about 17 percent of the total land area of Alaska. For the most part it is located in the remoter parts, off the beaten track, and would not be economically feasible for development for many years, if ever. It would be much better, in my judgment, to classify these lands as wilderness and incorporate them in national parks—which are not open for development anyway—national forests, national wildlife refuges, and scenic rivers and waterways. The substitute bill under immediate consideration does just this.

I cannot speak in detail about all of the areas specified in the bill for protection in various ways. But I think I am in a position to make the general points I have made. The bill in no sense locks up land and its resources for all time. This is a phony charge that has been used over and over again through our national history. The bill would protect large amounts of Alaska land from immediate and near-term development and would insure an orderly process, under broad congressional authority, for opening any parcels of land for subsequent development. And that is all the bill does.

And finally, as I have said, my long experience with these matters leads me to the persuasion that when in doubt it is wiser to lean toward protection, conservation, and postponing development unless a very powerful case can be made to the contrary. This case, I believe, has not been made and, therefore, the Congress would do well to pass the bill preserving Alaska. I think future generations will be grateful to us if we do.●

● Ms. MIKULSKI. Mr. Chairman, the votes on H.R. 39 are of direct importance to Marylanders as well as people in every other part of this Nation. Our colleague and Interior Committee chairman, Mr. UDALL, who introduced the original H.R. 39, has called the Alaskan public lands issue "the most important land conservation bill which this House will consider during this Congress and perhaps during our lifetime." Secretary of Interior Cecil D. Andrus has said it is "the most important conservation program in the history of this Nation."

This bill would do much more than preserve approximately 100 million acres of public lands in Alaska as national parks, national wild and scenic rivers, national wildlife refugees, and national forest wildernesses. The action that we take on this measure will have direct impacts on the resources of the lower 48 States and Hawaii as well.

A striking illustration of this fact is the relationship between the great waterfowl nurseries in Alaska and the rest of the Nation.

A recent article in the opinion section of the Baltimore Sun highlighted the fact that thousands of waterfowl and other birds that winter in Maryland and other East coast areas return each spring to the Yukon Flats, Yukon Delta, and other east coast areas return each spring that are proposed for protection under H.R. 39. Other examples easily could be drawn for any region in the country as birds migrate between Alaska and every State in the lower 48 with the exception of Maine.

According to U.S. Fish and Wildlife Service reports, Alaskan wildlife habitats support more than 12 million waterfowl. This number represents about one-fifth of the total continental fall flight of waterfowl entering the United States—not counting millions of other kinds of migratory birds. In fact, Alaska is a focal point for birds streaming in from three continents. The flats of the middle Yukon and the delta at its mouth are the two richest waterfowl-producing habitats in all Alaska. Waterfowl from both areas disperse over the four flyways of our Nation. Nevertheless, development pressures within the State of Alaska threaten even these critical refuge proposals.

As the figures in the Sun article point out, through Alaska's Statehood Act of 1958 and the Alaska Native Claims Settlement Act of 1971, the 400,000 residents of the State already own or will soon complete selection of a larger portion of the State than that proposed for protection in the national interest. In fact, Congress has entitled Alaska to choose 104 million acres of public lands, representing by far the most generous

State land grant in our Nation's history. Most of the State's selections are completed and Alaskans can select the remainder of them in such a fashion that well over nine-tenths of the land grant would not conflict at all with the proposals in H.R. 39.

Mr. Chairman, considering those facts, the movement by State interests to delete wildlands within proposed conservation units such as Yukon Flats seem grossly unfair. The fate of these public lands clearly is critical to Marylanders and to people around the United States.

I understand that many of the proposed State selections are strategically located. In the Yukon Flats, for instance, the State has identified several tracts that provide key wildlife habitat for agriculture and other development, even though scientists and economists say that environmental conditions and energy requirements make the agricultural value of this area dubious. Moreover, the State already has most of the best agricultural lands in Alaska, according to an Alaska Department of Natural Resources analysis. And, Native corporations have selected half of those lands in the Yukon Flats with the area's best agricultural potential.

Yet various proposals now before the House call for guaranteeing agricultural development of 1 million acres in the Yukon Flats. The State would prefer to see a part of the western end of the refuge deleted altogether from the bill. In testing the speculative agricultural value of this area, the State would endanger wetlands needed for waterfowl nesting and thus affect the populations of these birds that migrate to the lower 48 States and Hawaii. Further, because the uplands marked for agriculture lie at the top of a watershed, runoff from the land clearing, fertilizers and pesticides, and irrigation systems would disrupt high-density nesting areas outside the tract in question.

These proposals, then, ignore the whole purpose of H.R. 39—to protect complete ecosystems as much as possible. In the Yukon Flats, that means rejecting State deletions and protecting major water sources as wilderness.●

There being no further requests for time, pursuant to the rule it shall be in order to consider by titles the text of the bill H.R. 12625 if offered as an amendment in the nature of a substitute for the original bill for the purpose of amendment. It shall be in order to consider as amendments to H.R. 12625 the provisions contained in the text of H.R. 39 as introduced, as reported by the Committee on Interior and Insular Affairs and as reported by the Committee on Merchant Marine and Fisheries.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska National Interest Lands Conservation Act".

PREFERENTIAL MOTION OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer a preferential motion.

The Clerk read the preferential motion as follows:

Mr. ASHBROOK moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Ohio (Mr. ASHBROOK) is recognized for 5 minutes.

Mr. ASHBROOK. Mr. Chairman, I do not need 5 minutes for this. I think the motion speaks for itself, and I do not want to delay things.

Therefore, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Arizona wish to be recognized?

The question is on the preferential motion offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 332]

Allen	Byron	Fisher
Ambro	Carney	Flippo
Andrews, N.C.	Carter	Flood
Annunzio	Cederberg	Florio
Applegate	Chappell	Foley
Archer	Chisholm	Ford, Mich.
Armstrong	Clay	Fowler
Ashley	Cochran	Fraser
Aspin	Coleman	Frey
AuCoin	Collins, Ill.	Fuqua
Badham	Conte	Garcia
Bafalis	Conyers	Giaimo
Barnard	Corman	Gibbons
Baucus	Cornwell	Goldwater
Beard, Tenn.	Cotter	Goodling
Bevill	Coughlin	Hagedorn
Biaggi	Daniel, R. W.	Hall
Bingham	Davis	Hammer-schmidt
Blouin	Dellums	Harrington
Boggs	Dent	Harsha
Boland	Dicks	Hawkins
Bolling	Diggs	Heckler
Bowen	Dingell	Hefner
Brademas	Dodd	Hightower
Breaux	Duncan, Oreg.	Hillis
Breckinridge	Duncan, Tenn.	Holland
Brinkley	Early	Holt
Brodhead	Eckhardt	Horton
Brooks	Edwards, Ala.	Howard
Broomfield	Edwards, Calif.	Hubbard
Brown, Calif.	Eilberg	Huckaby
Brown, Mich.	English	Jacobs
Burgener	Erlenborn	Jeffords
Burke, Calif.	Ertel	Jenkins
Burke, Mass.	Evans, Colo.	Jenrette
Burleson, Tex.	Evans, Ga.	Johnson, Colo.
Burton, John	Findley	Jordan
Burton, Phillip	Fish	Kasten
Kastenmeier	Moss	Sikes
Kemp	Mottl	Sisk
Keys	Murphy, Ill.	Skubitz
Kindness	Murphy, Pa.	Slack
Kostmayer	Myers, Gary	Smith, Nebr.
Krueger	Myers, Michael	Solarz
LaFalce	Nedzi	Spellman
Le Fante	Nichols	St Germain
Leach	Nix	Staggers
Lederer	Nolan	Stanton
Lehman	Nowak	Stark
Lent	O'Brien	Steed
Levitas	Oakar	Steiger
Livingston	Obey	Stockman
Long, La.	Ottinger	Stokes
Long, Md.	Pattison	Teague
Lott	Pease	Thompson
Luken	Pepper	Thone
McClory	Pettis	Thornton
McCloskey	Pike	Traxler
McCormack	Poage	Treen
McDade	Price	Trible
McDonald	Pritchard	Tsongas
McEwen	Pursell	Tucker
McFall	Quayle	Ullman
McKinney	Quillen	Van Deerlin
Madigan	Rahall	Vander Jagt
Mahon	Railsback	Vanik
Mann	Rangel	Wampler
Markey	Regula	Watkins
Marks	Reuss	Waxman
Marriott	Rhodes	Whalen
Martin	Richmond	White
Mathis	Roberts	Whitehurst
Mazzoli	Rodino	Whitley
Metcalfe	Rogers	Whitten
Meyner	Rooney	Wiggins
Michel	Rosenthal	Wilson, Bob
Mikulski	Runnels	Wilson, C. H.
Miller, Calif.	Ruppe	Wilson, Tex.
Mitchell, Md.	Russo	Wirth
Mitchell, N.Y.	Ryan	Wolff
Moakley	Santini	Wydler
Moffett	Sarasin	Yates
Mollohan	Satterfield	Yatron
Montgomery	Scheuer	Young, Mo.
Moorhead, Calif.	Schroeder	Young, Tex.
Moorhead, Pa.	Schulze	Zablocki
	Shipley	Zeferetti
	Shuster	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 39, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 173 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

PREFERENTIAL MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. UDALL moves that the Committee do now rise.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Arizona (Mr. UDALL).

The preferential motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 39, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

VIGIL FOR FREEDOM

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I am very pleased to join with my distinguished colleagues, Representatives WILLIAM BRODHEAD and JOSHUA EILBERG, in a vigil for freedom in recognition of the many Soviet Jewish refuseniks who, because of their desire to emigrate to Israel and to be reunited there with their families, have been subject to unreasonable and unjustified harassment or imprisonment.

This vigil for freedom is a continuation of Helsinki's unfulfilled promise and the orphans of exodus vigils on the House floor which took place over the past 2 years. It is the hope of those of us who participate in these vigils to bring to the attention of our colleagues, as well as all others who are concerned about human rights and adhere to the Helsinki Final Act and the International Declaration of Human Rights, the plight of the Soviet refusenik.

One such refusenik is Mr. Grigory Goldstein who has been accused of a so-called parasitic way of life.

Grigory Goldstein, born in 1931, doctor of technology, the author of many inventions and published articles, worked 17 years in his profession. He served for 7 years as the head of the scientific laboratory of the Tbilisi branch of the Mendeleev Research Institute of Meteorology. In 1971, Mr. Goldstein, along with his brother, Isai, applied for permits to emigrate to Israel. Their requests were immediately refused, allegedly on the basis of their possessing secret information. However, for the 7 years that Mr. Goldstein worked in the field of meteorology, at no time, was the work he did considered secret.

I would like to share with my colleagues the account of Mr. Goldstein's plight as recorded by his cohort on the Georgian Helsinki monitoring group, Andrei Sakharov.

Goldstein is accused under article 234 of the Georgian Criminal Code which charges him with systematic vagabondage and begging, as well as a parasitic way of life for a long period of time. A decree issued by the Georgian Supreme Soviet Presidium explains that it means living longer than 4 months on what was not earned and evasion of publicly useful labor. The article of the Code is incompatible with international agreements prohibiting compulsory labor and gives way to illegalities and reprisals against people unfavorable in the eyes of the authorities. That is exactly what happened to Goldstein—as well as many others. Goldstein was not allowed to teach, different kinds of employment were proposed to him which would have created new obstacles to his emigration because of "secrecy consideration" connected with these jobs. Meanwhile, his refusal to accept the proposals in interpreted by the authorities as "evasion from publicly useful labor." While doing this, the authorities ignore the fact that Goldstein has no illegal or unearned sources of income. The authorities apparently cannot admit even the possibility of the fact that an unmarried man being paid a high—according to Soviet standards—salary during 17 years can save enough to live on the savings alone over the course of several years.

Grigory Goldstein has a mother and family in Israel who are waiting for the Soviet authorities to allow Mr. Goldstein's emigration. It is my hope that the Soviet Union will live up to its Helsinki pledge and will allow Mr. Goldstein to be reunited with his family in Israel by dropping these trumped up charges against him and will do the same for all the other refuseniks wishing to emigrate to Israel to be reunited with their families.

CARTER'S DEPARTMENT OF EDUCATION PROPOSAL RISKS A BUREAUCRATIC CIVIL WAR

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, for a year, the Secretary of Health, Education, and Welfare has held out against the creation of a new Department of Education. When President Carter finally made his request for this new Cabinet post official, Secretary Califano naturally had to go along with the idea. But anyone who thinks that the fight is now over knows absolutely nothing about the realities of bureaucratic life. If a Department of Education is created, it will be the start of the longest, most expensive bureaucratic power struggle in this country's history.

Almost every Federal education program involves welfare, health, or both. Can anyone imagine Mr. Califano, as Secretary of the Health, Education, and Welfare Department, giving the huge new education for the handicapped program to the new Department of Education without a fight? He will insist that handicapped education is as much a health and welfare-related program as it is purely educational, and he has thousands of taxpayer-financed lawyers and bureaucrats to fight for his right to control it.

The same is true of job retraining programs, which are largely aimed at getting people off of welfare. There will be a long and bitter fight for jurisdiction over that program and many others.

How costly will this battle be to taxpayers? According to Robert Townshend, "When the conflict between State and Defense Department was at its peak, it was rumored that 20 percent of the employees in each Department were there just to throw memo grenades at each other." There is simply no way that taxpayers can avoid paying for an army of bureaucrats fighting for power if a new Department of Education is created.

When I say "armies," I am not exaggerating. There are presently over 156,000 bureaucrats in the Department of Health, Education, and Welfare. The combined employment of the Department of Education and the Department of Health and Welfare will be a great deal larger. Twenty percent of that total will therefore mean that at least 31,000 bureaucrats may be expected to be involved in the battle for control between the two bureaucratic empires. Most of the world's armies number less than 31,000 and certainly cost less than our highly paid bureaucrats. The British, American and French armies at the Battle of Yorktown were fewer—and again far cheaper—than those 31,000 bureaucratic soldiers in the impending jurisdictional war will be.

I might add that it will not be easy to attempt to formulate and carry out coherent education programs in the middle of a bureaucratic battleground. Our educational system is already in a state of crisis, and our Federal educational programs have already been disastrous enough in their failures. We simply cannot afford to add a constant fight for power to the crushing load of problems burdening the system at present. Our taxpayers have suffered enough, and our children have suffered enough. Let us at least spare them this.

In the battle of these bureaucratic armies, the taxpayer is sure to be the cannon fodder.

A NEW HOLOCAUST RAGES

The SPEAKER pro tempore. Under a previous order of the House. the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, a new holocaust is raging, this time in Cambodia.

It appears certain that between 500,000 and 2 million Cambodians—out of a total population of only 7 million—have been executed, starved or worked to death, died of disease or been killed while trying to flee.

And it will claim the lives of thousands and thousands more, unless immediate and worldwide pressure is brought to bear.

This matter must be dealt with, and the impetus for dealing with it ought to be obvious. I say this for two reasons.

First, this country has just sat, in record numbers, before its television sets and watched a program, "Holocaust," on the extermination of millions of Jews during the Second World War. That program evoked many emotions and many thoughts. But certainly the one which must have run through the minds of almost everyone was this: Could it happen again and without a public outcry of such intensity as to stop it.

Unless we do something about what is going on in Cambodia today, our inaction will answer that question. And the answer will be, "Yes," for it is going on this very hour.

Second, the administration has said it was making human rights a keystone of American foreign policy, and while I might disagree on the relative priorities given by the administration between country X or country Y, I support that emphasis. The importance of freedom ought to be the moral substance of American foreign policy. It ought also to be the beacon of our moral defense of the West.

Yet if there is any double standard that is emerging on this issue in America today it is shown by the deafening silence on what is going on in Cambodia. That silence is an outrage against humanity, for it turns its back on that humanity.

As it pertains to the slaughter and carnage in Cambodia today, I ask these questions:

Where is an outcry on this slaughter in the halls of the United Nations, its General Assembly, its Security Council? Silence.

Where is an outcry in the capitals of the nations, in their presidential chambers, in their parliaments? Very little.

Where is an outcry on television, on the radio, in the print media? Very little.

Where is an outcry in the Halls of Congress, its Senate, its House, its foreign relations and international relations committees? Very little.

Where are the marches, protests, and demonstrations of the late 1960's and early 1970's about the destruction of human life? None.

I am not generally an "I-told-you-so" person. I believe in looking to the problems of the present and the future.

But many of us in Congress told our colleagues, the American people, and the world community what was going to happen if Cambodia fell. And what has happened as a result of that fall—because our pleas fell on deaf ears or on minds with other agendas—gives us this problem, not only of the immediate past but also of the present and future.

If the policymakers of the decision to abandon Cambodia can learn anything by this one experience, then it is well worth dwelling on what their policy brought about. They bear guilt for what has happened, whether they acknowledge it or not, whether they rationalize it away or not.

The points I am making here today were made in recent days in two ways worthy of the careful reading and reflection of every Member of Congress, sitting in these Halls when Cambodia was abandoned or sitting in these Halls today. They bear the same reading and reflection by those in government, in the media, in any role or place at that time or now.

The two contributions were made by Smith Hempstone, a Washington-based nationally syndicated columnist, and by Battle Line, edited by John D. Lofton, Jr.

The Hempstone article, which appeared in the Washington Post this past Sunday, and I commend the Post for having featured it, puts this question of Cambodia into perspective. It shows the double standards which exist. It shows the silence and from whence it comes. It shows the fate of the Cambodian people in great degree because of that silence.

The Battle Line articles, appearing in that magazine's current issue, show not only what has happened in Cambodia since it fell, but why it fell. It talks specifically of the positions taken by the policymakers and influencers of policy in the United States. It talks of positions taken and words stated right here in the Chamber of the House of Representatives. Listen my friends. We cannot continue to chop away millions of people's lives and liberty to buy the hollow peace that means simply the absence of war, for by logic, we can eliminate war and armed hostility totally by complete subjugation to slavery.

It has been Eastern Europe, most of Asia, much of Africa, a part of Latin America. Will it be Western Europe, Israel, the rest of Africa, more of Latin America, all of Asia tomorrow?

These items follow:

[From the Washington Post, May 7, 1978]

THE NEED TO BEAR WITNESS TO CAMBODIA'S HOLOCAUST

(By Smith Hempstone)

An estimated 120 million Americans recently spent 9½ hours watching a four-part NBC "docudrama" detailing the inhuman persecution of Europe's Jews by the Nazis.

A haunting theme running through the portrayal was the indifference of men of good will elsewhere to the fate of the Jews. Some who knew or suspected what was happening didn't care; others simply refused to believe the evidence.

The question on many lips after "Holocaust" was this: Could the extermination of a helpless people take place again without the world rising up in righteous indignation? The answer demonstrably is that it could. Indeed, while we drink our Sunday coffee, another holocaust is taking place today, this time in Cambodia. But it is not chic to be Cambodian, there is no Khmer lobby in Washington, and the public outcry against this policy of genocide is not, shall we say, deafening.

Not a dissident sparrow can fall in Chile, Brazil, South Korea, Iran or South Africa—all ruled by right-wing authoritarian regimes—without touching off a cacophony of indignant accusation and ideological handwringing. But hundreds of thousands of Cambodians can be murdered by a faceless Marxist regime, or simply worked to death in the paddies, without eliciting so much as a peep of disapproval from the Rev. William Sloane Coffin or Jane Fonda.

The campuses of America roiled with protest in 1970 when U.S. troops, at the invitation of the Cambodian government, attacked North Vietnamese units using that country as a sanctuary and staging area. But the draft is a thing of the past, and there are no chanting demonstrators to protest the autogenocide of the Cambodian people by Communist Party leader Pol Pot, who makes Caligula look Jeffersonian when it comes to concern for human rights.

It is true that President Carter on April 21, three years after the fall of Phnom Penh and nearly 16 months after his inauguration, finally got around to castigating Cambodia as "the worst violator of human rights in the world today."

But where was the president for the previous year, when Cambodians were dying by the tens of thousands? Did it really take him that long to learn of "abuses that include mass killings, inhuman treatment of the supporters of the previous government ... the total suppression of recognized political and religious freedoms, as well as deprivation of food and health care"? Or did he have to see "Holocaust" to be reminded of the "obligation of every member of the international community to protest the policies of this or any nation which cruelly and systematically violates the right of its people to enjoy life and basic human dignities"?

And is that where it stops? Will the president say no more? Will the Congress do nothing? Will we not try to persuade those with influence over Cambodia, particularly the Chinese, to urge the Cambodians to alleviate the slaughter?

Nobody, including Mr. Carter, knows how many people have died since Phnom Penh, abandoned to its fate by its U.S. allies, fell to the Communist Khmer Rouge on April 17, 1975.

Western newsmen are not allowed into the death camp known as "Democratic Kampuchea." Cambodia permits only nine nations (eight of them Marxist; the exception is Egypt) to maintain embassies in Phnom Penh. And diplomats assigned to these missions, with the sole exception of the Chinese, are virtually prisoners in their embassies. They are not allowed to travel or to speak to nongovernment Khmers, and their meals are brought to them by truck every day.

It is nearly as difficult and far more dangerous to try to leave Cambodia than to enter it. Border areas have been depopulated to a depth of 25 miles and mined, with patrols shooting on sight anyone found near the frontier. Charles H. Twining Jr., the State Department's principal Cambodia-watcher, estimates that only 1 out of every 5 Cambodians who try to flee survives.

In such a closed society, projections about the number who have died necessarily are based largely on reports by the 15,000 refugees and defectors who have managed to reach Thailand. Refugee accounts always have to be treated with caution: By definition, refugees are prejudiced against the regime, and can only have known what went on in a specific place at a certain time (by the same token and for the same reason, some Americans in the 1930s refused to believe what Jews who escaped Nazi Germany said was going on there).

But the pattern and dimensions of this tragedy are reasonably clear. It appears certain that between 500,000 and 2 million Cambodians, out of a total population of 7 million, have been executed, starved or worked to death, died of disease or been killed while trying to flee over the past three years (600,000 others died during the war, many of them victims of American bombing).

Let us be more charitable to Pol Pot than he deserves. Let us assume the refugees' tales are exaggerated. Take the low figure of 500,000 dead. That means 1 out of every 14 Cambodians has lost his life over the past three years.

If one day Cambodia should again become free, and some Khmer should ask why so many remained silent in the face of this act of genocide, it will not be good enough to say, as some did about the extermination of the European Jews, "I never knew."

In the days immediately after the fall of Phnom Penh, before the curtain of silence fell over Cambodia, Sydney Schanberg of the New York Times wrote a gripping, eyewitness account of the expulsion of "perhaps 4 million" Cambodians from the cities into the countryside. Neither the sick, the halt, the lame nor the blind were spared this death march, wrote Schanberg, whose account later was confirmed by another eyewitness, the

Rev. Francois Ponchaud, author of "Cambodia, Year Zero":

"No one has been excluded. Even the very old, the very young, the sick and the wounded have been forced onto the roads. Some clearly will not be strong enough to survive.

"Hospitals jammed with wounded were emptied, right down to the last patient. They went limping, crawling on crutches, carried on relatives' backs, wheeled on their hospital beds."

Like the Jews of "Holocaust," the people of Phnom Penh, its population down from 2 million to 20,000 after the exodus, were not being marched off for delousing and a shower. Their Via Dolorosa led into the jungle, where they were to be put to work without tools, medicine or supplies, carving out new collective farms. Those who could not keep up were clubbed to death by their guards, or left to die of hunger and thirst beside the trail.

Those who survived the death marches found a life of endless toil on low rations awaiting them, with death the penalty for deviation. It was not just Lon Nol's officer corps and their families, the plutocracy, the intelligentsia or even the bourgeoisie who were murdered, although these, of course, were the first to go. It was anyone who had had the slightest connection with the previous regime, down to the rank of private, anyone who was too old, young or frail to be of service to the state, anyone with enough backbone to protest or question what was happening.

Some Americans find it difficult to believe the enormity of the Cambodian disaster because it seems to have so little logic behind it. What is to be gained by murdering simple people guilty of no crime other than that of having been at the wrong place at the wrong time?

Pol Pot and Deputy Prime Minister Ieng Sary, who are married to sisters, are French-educated Marxists, xenophobes with an abiding hatred for everything Western and everyone associated with the royal or republican regimes, millennialists who seek to create a new, purified Khmer man, freed of the taint of capitalist corruption. And if a million or two people have to die in the process of making human reality conform to their own distorted abstraction, so be it. After all, they have the examples of China and the Soviet Union to guide them in such matters.

Some Americans who are prepared to concede that something unpleasant has been going on in Cambodia these past three years excuse their lack of protest on the ground that nothing can be done to prevent it.

It is true that neither the United States in particular nor the West in general has much influence with Pol Pot's regime, which refuses to accept even humanitarian aid. But Peking does have a certain amount of leverage in Phnom Penh, and the Chinese ought to be publicly urged to use it to ease the rein of terror.

Beyond this, there is the matter of bearing witness. One may not be able to triumph over evil, but one need not remain silent in its presence. President Carter might speak up more than once on the subject. He might instruct Andrew Young to walk out of the United Nations General Assembly whenever the representative of "Democratic Kampuchea" rises to speak. At every time and in every available forum, those who speak for the United States could call on the conscience of the world to condemn those who commit such atrocities. Finally, Congress, as the Canadian House of Commons already has done, might adopt a motion of protest against the policies of this Southeast Asia tyranny.

Perhaps none of this would save lives. But if we do not do something, if we do not try, it will be stark evidence that we still have not learned the lessons of the Holocaust.

OLDER AMERICANS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 10 minutes.

Mr. COHEN. Mr. Speaker, on Monday, I was one of those who joined in support of legislation reauthorizing the Older Americans Act. However, I did so with some misgiving that I cannot in good conscience let pass unmentioned.

The Older Americans Act has been the Federal charter for setting forth national objectives for the well-being of older persons. The legislation passed yesterday ir.-sures that this policy will be carried forward for another 3 years.

Since its inception in 1965, the Act has been amended several times. Those amendments have done much to assist in the transformation of policy objectives into concrete programs which have unquestionable value. I believe the bill approved yesterday continues that fine trend. In particular, I want to associate myself with two provisions of the bill which were drawn from legislation authored by myself and Mr. PEPPER.

The first deals with the need to strengthen and expand the nursing home ombudsman program carried out under title III. This is the one successful effort of the Federal Government to focus attention upon the troubles of institutionalized persons. While all but one State has instituted an ombudsman program, the lack of statutory authorization and a guaranteed place in the appropriations process has inhibited the program from achieving its full potential. Nevertheless, even with minimal funding, the projects which have been developed have served to respond to citizens complaints, resolve resident grievances, and initiate meaningful home reform. A survey of nursing home ombudsman programs completed earlier this year by the National Paralegal Institute through an Administration on Aging grant revealed that these projects have been extremely active.

Let me share with you the experience of my own State of Maine, where the nursing home ombudsman program has been operational since 1974. We have one full-time nursing home ombudsman and eight local volunteers who have investigated nearly 400 resident complaints including, for example, financial problems, food complaints, and physical abuse. They have resolved complaints from my constituents which were directed to my office. The project has published a consumers' guide to nursing homes in Maine and has been instrumental in changing State policies regarding the reimbursement and regulation of Maine's nursing homes.

In addition, the project has documented complaints serious enough to warrant the closing of one nursing home and has encouraged the introduction and enactment of legislation regarding reimbursement of rehabilitative services, physician certification of nursing home deaths, guardianship, income maintenance for institutionalized elderly, and wage scales for nursing home staff.

If documentation on a State level results in such reform as I have seen in Maine, I contend that the Federal Government and its billion-dollar investment in long-term care could be well served by the program amendments which are contained in the committee's bill.

These amendments should make it clear that we are committed to a strong, independent ombudsman program.

The scope and title of the program are expanded to include other long-term care facilities. The Select Committee on Aging, of which I am a member, has documented resident abuse in adult care homes and demonstrated the need to expand the ombudsman program to the elderly citizens who reside there, as well as in nursing homes.

The long-term care ombudsman program would become a requirement of the State plan mandated under the Older Americans Act. This change would entitle all the States and territories to funds to continue the existence of worthwhile programs or to establish them where none currently exist.

The goal of the program is redefined from one limited to program development to one charged with operating statewide systems for receiving, investigating, and resolving complaints received from residents of long-term care facilities or others in their behalf.

Federal funds available for the program would be increased fourfold from $1 million to $4 million. In a recent survey of State ombudsmen, they expressed their need for more adequate funding to support staff and broader programing. Three-fourths of those responding identified lack of funding as a major prohibitive factor in their program initiatives.

In addition to supporting strong State programs, this section of the bill assures a continuum of advocacy from the individual local complaint to major Federal policy reform by compelling AoA either directly or through contracts to existing national resources to develop a data collection and issue identification system.

Finally, the Federal Government is authorized to provide technical assistance and training to expand and improve the States programs. Recommendations presented by the National Association of Ombudsmen/Advocates for the elderly highlight this need.

In light of these amendments, I would regard any initiative by the Administration on Aging to limit the autonomy of the program to be inconsistent with congressional intent.

The second provision of the committee bill which I would like to bring to the attention of my colleagues is one of two long-term care demonstration grants authorized under this bill. This provision gives the Commissioner authority to make grants for projects designed to establish community long-term care projects which assess the health and social needs of chronically ill or disabled older persons, arrange for the most appropriate form of care, and reassess those needs periodically to facilitate changes in services when necessary.

At least 11 reports released within the last 14 months attest to the need for a program of multidisciplinary assessment and case management. More than a dozen programs, including medicare, medicaid, title XX social services, and the Older Americans Act, provide long-term medical or supportive services for the elderly. Each of these programs has a different set of eligibility requirements and income limits, and often they are governed by conflicting regulations. This proliferation and fragmentation in existing long-term care and social services has frustrated the elderly in their quest for appropriate assistance. Earlier this year, the House Aging Committee received testimony which emphasizes this point:

The focus of service oversight and control for the older adult has to rest with someone who both understands the total person and the total health care system. The physician with his or her demanding schedule, understands the medical needs of the patient, but often has neither the time nor the expertise to cope with non-medical patient needs of systemic coordination of health care providers and reimbursement mechanisms.

Independent control of the older adult in the health care system has to be relinquished. A joint, cooperative effort must be mandated. We must not make the older adult the pawn of the various segments of the health care system, whether they be in an institutional or home care setting. A single system must be established which does not have a vested interest in service provision and which can advocate for the consumer, both by assessing need, monitoring quantity, and evaluating quality care, such a system must work with the existing agencies and institutions in a spirit of cooperation, while maintaining an ongoing accountability to the individual receiving service.

I would like to take this opportunity to publicly express my thanks to Mr. JEFFORDS and Mr. BIAGGI who spearheaded the effort to incorporate this grant program within the committee's bill.

Unfortunately, because of the severe time constraints imposed on the committee by the May 15 deadline of the Congressional Budget Act, the final bill was not as clear on some points as I would have liked. For example, many of my colleagues may be somewhat confused by the presence of two long-term care demonstration grant programs. I had hoped to prepare some clarifying amendments which would have pointed out the differences in the thrust of these two programs. Quite frankly, I was frustrated in this effort by the undue haste with which this important piece of legislation was brought to the floor. Nevertheless, I hope to take these few moments to state my understanding of some confusing points about the two initiatives I have just mentioned and about the ombudsman program.

With regard to the ombudsman program, the provision which concerns access to records refers, I believe, to medical records. Documentation points out the need to protect the autonomy of the ombudsman program from the strong lobbying interests or the unwillingness of States to have advocacy groups challenge their bureaucracy. As a result, the ombudsman program would be housed within the State unit on aging, or with the approval of the State, another public or private nonprofit organization which would not be accountable to regulatory agencies, the industry, and special interest groups, but to older people AoA is charged to serve. Should such an organization be selected to administer the program, it is my understanding that such organization would assume the operating responsibilities outlined on page 122 beginning at line 4. Furthermore, I would assume that the committee means to insert the word "directly" after "subpart" on page 151, line 12, when describing how the program may be contracted out.

With respect to the long-term care programs, the program described in section 423 differs from that of section 422 in several important respects. Chiefly, the funds authorized under section 423 are not intended to pay for direct services. And, while I can appreciate the necessity to reduce some of the verbiage from the original Jeffords amendment to accommodate its inclusion in the committee bill, I fear some clarity may have been lost as to the exact objective of these grants. The amendment which was set before the members of the House Education and Labor Committee clearly stated that programs supported under this section would be expected to assess the needs of individual persons for health and social services; develop a service plan for each individual; arrange for the most appropriate form of care, whether provided in institutional or non-institutional settings; monitor and evaluate the adequacy of services; and reassess needs periodically and facilitate changes in service where necessary. At this point, I would like to associate myself with Mr. PEPPER in the remarks he made yesterday with respect to section 423.

I believe any piece of legislation carrying a $4 billion price tag deserves some debate. With a little patience, we could have transformed this good bill into an outstanding piece of legislation.

THE FEDERAL INCOME TAX BURDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, this year the average taxpayer works until May 11—131 days—to pay Federal, State, and local taxes. Things were not always so bleak.

In 1914, in its initial stages, the personal income tax burden rested on only 357,515 people, less than one-half of 1 percent of the population at that time; tax rates ranged from 1 to 7 percent. Last year, with tax rates ranging from 14 to 70 percent, 82 million Americans—36 percent of the population—paid $486.4 billion in Federal taxes; $16.7 billion more than they spent on the three basic necessities of food, clothing, and housing. Between 1914 and 1975 the population grew 120 percent, but the number of individual income tax returns grew by 23,800 percent.

Increasingly, polls indicate that more and more Americans feel their taxes are too high; a look at the distribution of the Federal income tax burden reveals the source of this dissatisfaction.

The following table was prepared by the Tax Foundation from data published by the Internal Revenue Service Statistics of Income:

Percent of total taxes paid by high- and low-income taxpayers 1970 and 1975

Adjusted gross income class	Income level		Percent of tax paid		Percent change
	1970	1975	1970	1975	1970–75
Highest 1 percent	$43,249 or more	$59,338 or more	17.6	18.7	+1.1
Highest 5 percent	20,867 or more	29,272 or more	34.1	36.6	+2.5
Highest 10 percent	16,965 or more	23,420 or more	45.0	48.7	+3.7
Highest 25 percent	11,467 or more	15,898 or more	68.3	72.0	+3.7
Highest 25 percent	6,919 or more	8,931 or more	89.7	92.9	+3.2
Lowest 50 percent	6,918 or more	8,930 or more	10.3	7.1	−3.2
Lowest 25 percent	3,157 or more	4,044 or more	.9	.4	−.5
Lowest 10 percent	1,259 or more	1,527 or more	.1	.1	0

The table shows that in 1975:

The bottom 50 percent of taxpayers account for only 7 percent of the total personal income tax collections.

Taxpayers in the lowest 25 percent account for less than 0.5 percent of the personal income tax collected by the Government.

The lowest 10 percent of taxpayers paid only one-tenth of 1 percent of the total tax bill.

Those in the top 25 percent, taxpayers earning $15,898 or more, paid 72 percent of total personal income taxes.

The top 10 percent of taxpayers, those earning $23,420 or more, paid nearly half the total tax bill.

Taxpayers with incomes in the top 5 percent, those with adjusted gross incomes to $29,272 or more, paid over one-third the total personal income taxes collected by the Federal Government.

Taxpayers whose incomes placed them in the top 1 percent paid more than 2½ times the total taxes collected from the bottom 50 percent.

The table also shows that since 1970 the tax burden has shifted further away from the lower brackets.

In 1970 the bottom 50 percent paid

10.3 percent of total income taxes, and the top 50 percent paid 89.7 percent.

By 1975 the bottom's share had declined to 7.1 percent, while the burden carried by the top had risen to 92.9 percent.

FEDERAL VERSUS STATE AND LOCAL TAXES

Clearly the Federal income tax is progressive, but this increased progressivity in the Federal income tax has been offset by the rising share of the tax burden going to State and local taxes.

As a result, the total tax burden—Federal, State, and local—still is proportional for most of the Nation's households. Everyone in the $8,000 to $50,000 categories paid roughly 30 to 32 percent of his income in taxes in 1975.

Percent of total Government revenues—Federal versus State and local

[In percent]

	1942	1975
Federal	60.7	55.3
State and local	39.3	44.7

This total tax burden, Federal, State, and local, is growing in absolute terms. Over the past 10 years the average wage has risen 77.3 percent, the Consumer Price Index 75.4 percent, and the tax burden 144 percent. On a per capita basis, Americans paid $1,014 in taxes in 1966, and $2,261 in 1976, resulting in the 144 percent increase in the tax burden. This increase exceeded the 126.6 percent growth in GNP and the 119.2 percent growth in total national income over the same period.

NOT SO SANGUINE OUTLOOK

The Congressional Budget Office has estimated that the total amount of tax dollars the Federal Government will collect in the next 3 years will almost double from $130.8 billion in 1976 to $252 billion in 1980.

The Office of Management and Budget has said that an average family of four that earned $17,300 in 1976 can expect to earn $20,970 by 1981, a rise of 15 percent, but during that same period income taxes will increase 30 percent.

A Library of Congress study has pointed out that Federal income taxes will increase considerably as a percentage of the average family's income.

Also, the taxpayer has inflation and rising social security taxes to contend with. Under our progressive income tax system, inflation and growth push taxpayers into higher tax brackets, automatically forcing people to pay a higher percentage of their income in taxes. Since the 1964 tax cut, inflation has outstripped tax reductions for most income groups.●

UNITED STATES-CHINA RELATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 10 minutes.

● Mr. GOLDWATER. Mr. Speaker, can anyone in this Chamber reasonably explain what is happening to America's foreign policy? Every time I turn around, I find this administration taking pot shots at our allies and rewarding our avowed enemies. Even some of the traditional liberal columnists are wondering aloud about the direction, or lack of direction, of our foreign policy.

I find it absolutely inconceivable and unconscionable that our State Department would blandly ignore the inauguration of President-elect Chiang Ching-Kuo as President of the Republic of China. Yet, on the day this inauguration takes place, we have Brzezinski over in Communist China on some mission of dubious import.

Maybe the world is mad. Maybe ethics and values in foreign policy is a pipe dream. Maybe it is time in history to kick our allies and cavort with our enemies. But I will tell you this, it has been tried before. It was tried in Munich and it got us World War II. While we play pattycake with Russia in these worthless SALT talks, the Russians are arming to the teeth and exporting communism as fast as Andrew Young can say the presence of communism in Africa is a "stabilizing" influence.

What do we have against the people of Taiwan? They want to be our friends. They help us in time of war and trade with us in time of both peace and war. They are among the most industrious and productive people in the world. They deal with us in a straight forward manner and extend the hand of friendship. And, what do we do? We send Brzezinski to one of the most notoriously tyrannical regimes in the history of the world—Communist China.

Well, I am not afraid to salute President Chiang on his inauguration. He has my best wishes and admiration. His country is a great one with a noble and decent people. I am just sorry—profoundly sorry—that the U.S. Government as represented by the current administration, is in such a terrible phase of its history that it fails to recognize this fact.●

CHIANG CHING-KUO, NEW PRESIDENT OF REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, Mr. DERWINSKI, is recognized for 60 minutes.

Mr. DERWINSKI. Mr. Speaker, this Saturday Chiang Ching-Kuo will become the new President of the Republic of China (ROC). Given the fact that the Republic of China is a longstanding and loyal ally, one would think that the United States would be represented by a special envoy and/or official delegation at such an inaugural ceremony. Indeed, diplomatic protocol dictates that kind of representation. That is the customary way a civilized administration treats its friends.

I regret to report, however, that the administration has decided against sending anybody to the inauguration. Further, by a shocking coincidence, the President's National Security Adviser, Dr. Zbigniew Brzezinski, has elected to be in Peking the day of Chiang Ching-Kuo's inaugural. Such a gesture is apparently calculated to downplay our relationship with the ROC while simultaneously currying the Communists' favor. But what has Taipei done to deserve such effrontery? Does the new American diplomacy require us to show more courtesy and sensitivity to a Communist dictatorship than a staunch ally?

As I have indicated on a number of occasions in recent months, I cannot understand why there is any great urgency to normalize our relations with the People's Republic of China (PRC). The administration's policymakers must be continually reminded of the consequences of abrogating a security pact with a loyal and long-time ally to pacify Red Chinese pressure. How would such a move be interpreted by our other friends in Asia and elsewhere whose economic and security interests are very closely linked to ours? What, for example, would that say about the depth of our defense commitments to Japan, South Korea, Israel, and our NATO allies? Not much, I am afraid. Many of these nations are already concerned about our ability and desire to come to their assistance in a time of need. Establishing relations with Peking at the expense of Taipei will do nothing to allay those fears. As the Washington Star noted in a discerning editorial on the normalization question some months ago, "abandoning allies under pressure never looks good to anybody."

The administration's human rights crusade has provoked worldwide interest. It has also provoked considerable controversy, principally because it is continually fluctuating between being highly moralistic and pragmatic. Hopefully, with respect to the "normalization" question, the human rights factor will weigh heavily in the administration's considerations. The President must ponder the morality of negotiating any agreement that could lead to the consignment of 17 million people to a way of life very few of them want or deserve.

Taiwan today is a viable state with a thriving economy. Its citizens enjoy freedoms only dreamed of on the mainland. By any yardstick, and particularly with respect to economics and human rights, the Republic of China looks like Utopia in comparison to its tyrannical Communist counterpart.

If the administration, therefore, accedes to Peking's conditions for normalization and thereby risks Taiwan becoming a canton of a Communist dictatorship with a deplorable human rights record, I doubt if the President's human rights campaign could be taken seriously. Such a possibility should be sufficient incentive to resist the pressure to alter the current diplomatic status quo with the PRC.

Also, Mr. Speaker, I wish to take this opportunity to congratulate President Chiang Ching-Kuo on his inauguration as President of the Republic of China. I share his belief that the day will come when all the people of China will be free from the yoke of communism, and with

the rebirth of freedom on the mainland will come the full blossoming of the talents and strength of character of the Chinese people.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I commend the gentleman from Illinois (Mr. DERWINSKI), a senior member of the International Relations Committee, for taking this time to discuss the administration's disturbing China policy.

I share his concerns over the President's apparent efforts to repudiate our valued friends, the free Chinese of the Republic of China.

It is a deep insult for the President to send his National Security Adviser, Zbigniew Brzezinski to Peking at the same time that inaugural ceremonies for a new government are taking place in Taipei.

To double the outrage, the President does not intend to send a high-level delegation to the inauguration of President Chiang Ching-kuo, to represent our people at that important event.

I wonder if President Carter realizes the meaning of this action to other world powers?

Does he not recognize that the United States and the entire free world stand to suffer the most dire consequences from this administration's repudiation of longstanding U.S. allies who are threatened by imperalistic Communist powers?

This action, along with other foreign policy mistakes of recent months, can only signal to the Communist Chinese that pacifism, weakness, and appeasement are reigning in the United States.

The Communist Chinese already know that the President has done nothing to maintain the balance of power in Africa in the face of blatant armed aggression by 40,000 Soviet-backed Cuban mercenaries throughout that continent.

Moreover, the administration's docile acceptance of the Soviet Union's recent takeover of Afghanistan is further evidence for Peking that the United States, under its current leadership, is paralyzed by an isolationist, Pacific spirit.

This sends to the militant faction in Communist China the omnious message that the United States will remain silent and uninvolved in the event that Peking initiates an armed takeover of Taiwan.

Such an eventuality, in light of the valiant sacrifices of the Republic of China to defend freedom alongside American forces, is a moral outrage.

Senator GOLDWATER stated:

This entire scenaro is making a mockery of our leadership, and of the American people, throughout the world.

Senator BARRY GOLDWATER, commenting on this situation in the U.S. Senate last week, asked one of the most pertinent questions with respect to the President's supposed allegiance to the cause of human rights.

Senator GOLDWATER stated—

It is a well-known fact that Communist China has the worst record on human rights of any nation on Earth. If President Carter cannot see the contradiction between his repeated claim of support for the advancement of human rights around the world and his failure to have a high-ranking member of his administration attend the inauguration of the new President of the free Chinese people, then his entire human rights campaign is without substance.

Our senior Senator correctly noted that:

There is probably no regime in history which has ever committed such atrocities against human rights on a massive scale as have the Red Chinese, and the idea of legitimizing their outrages at the expense of one of our country's most dependable allies is absurd.

Can it be that President Carter has never heard of the mass public trials and executions of millions of innocent people by the Red Chinese?

Can it be that he, a pastoral President, has never heard of the total annihilation of religion in the most populated area of the globe by the Chinese Communists?

Is it possible that Mr. Carter does not know of the imprisonment of some 20 million or more political prisoners in so-called labor reform camps by the Communists on the China mainland?

These poor persons have been arbitrarily imprisoned for no more reason than that they may have fallen asleep during a monotonous political indoctrination session. Or they may have been jailed for failing to denounce a neighbor for his bad thoughts.

Mr. Speaker, I agree with Senator Goldwater's sound conclusion in this matter. He said—

If Jimmy Carter wants to keep faith with his many pledges to promote human rights and freedom, then I urge him to drop the hypocrisy from his foreign policy. I call on Mr. Carter to see his error in allowing Mr. Brzezinsky to be in Red China on the same day that the President is inauguarated in the Republic of China, without at least sending from this country a top official from his Cabinet or higher to represent him at the inauguration.

Mr. President, until this unwise and improper decision is corrected, I shall continue to protest this terrible insensitivity to America's friend and valued ally, the free Chinese people on Taiwan, in the strongest terms possible. I cannot believe Mr. Carter's decision was accidental, and if it was, there is still time to change it.

If Mr. Carter means what he says about human rights, he will change direction in this matter. Otherwise, he will lose the people.

Again, Mr. Speaker, I thank the distinguished gentleman from Illinois (Mr. DERWINSKI) for taking this time to discuss this vital issue. And I join with my colleagues in urging the Preident to reappraise his unwise foreign policy actions.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I am happy to yield to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I thank the gentleman from Illinois (Mr. DERWINSKI) for yielding me this time and I wish to associate myself with the remarks of my able colleague and to commend him for his leadership on this issue. I, too, think it is extremely unfortunate that the administration is taking so little notice of such an important event. The people and the Government of the Republic of China have been a staunch friend of America for many, many years. They are an example of what a free nation can do in terms of the economy. I regret keenly that our administration is not sending the proper delegation to this very important event.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from Illinois (Mr. DERWINSKI) for yielding me this time.

I wish to say that I agree with the statement made by the gentleman and that I wish to associate myself with his remarks.

I also believe that it is very unseemly for our administration not to recognize this important event that is taking place in the capital of our long term allies, the Republic of China. I would hope in the future that that oversight, if that is what it is, will be changed and we can extend to our allies the proper recognition that they deserve.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois (Mr. DERWINSKI) for yielding me this time and I want to commend the gentleman who is one of our ranking members in the House Committee on International Relations, for taking this time on the floor of the House to bring to our attention the inauguration of the new leader of the Republic of China.

While our administration has not given appropriate recognition of this important event, there are certainly millions of Americans who recognize the importance of the Republic of China as a strong ally of our Nation. I want to join with my colleagues in wishing well the new leader of the Republic of China and hope that eventually we will see one China and a free China.

● Mr. KEMP. Mr. Speaker, the Republic of China on Taiwan is a longstanding and loyal ally of the United States. It has stood by us in the two wars in Asia during the past 30 years, the war in Korea and the war in Vietnam. It is also a major trading partner of ours, as well as a country to whose future we are bound through a mutual security treaty. And it is a country which stands in marked contrast with the China of the mainland, the Peoples Republic of China, or as we used to call it, Communist China.

That contrast is in many ways. The most obvious is the degree of individual, personal freedom, for it does not exist on the mainland. The mainland government is a totalitarian one, consisting of one political party and only officially approved thought. The mainland is backward, the 20th century has reached only a few in terms of economic condition. Taiwan, by contrast, is one of the world's showplaces of economic achievement.

A few words must be said about the contrast in the economies of the two Chinas. How many times have we heard from proponents of mainland China just

how much better off people there are today than the way before the country took over. That is the most misleading comment, observation possible. For today and the era preceding the takeover by the Communists are not the points of comparison. China had been decimated by a prolonged war against the Japanese, one started by the Japanese invasion through Manchuria. After Japan was defeated by the allies, China was torn apart by a civil war, a war started and perpetrated by the Communist insurgents and guerrillas under Mao Tse-tung. In short, China was both crippled by two prolonged wars, fought on its soil and against its people, disrupting any kind of economic progress. The material, economic progress on the mainland since the late 1940's, when the Communist government took over, does stand in contrast to what it was then. That's understandable, for there have been nearly 30 years of relative peace and the devotion of resources to that progress.

But the point of comparison ought to be between economic progress on the mainland today and economic progress on Taiwan today. That contrast shows a still backward, poor, undercapitalized, heavily taxed mainland economy. And it shows a vibrant, rapidly growing economy on Taiwan, an economy from which benefits are reaching every level of society, for the rising tide of the Taiwanese economy is lifting all its boats. Everyone is better off. And the Republic of China on Taiwan has been able to assure this economic security for its people without sacrificing their human rights, the excuse used by the apologists for mainland China in trying to explain away its lack of human rights—that those rights had to be made subservient to economic necessities.

That is why I cannot understand what the administration is doing with respect to these two Chinas. Instead of standing by an ally and friend, instead of standing by the country which has demonstrated the greatest regard for human rights, instead of standing by a proven trading partner, this Administration is pursuing a policy of simultaneously cowering to mainland China's aspirations and insulting our friends.

This Saturday the Republic of China will inaugurate a new President, Chiang Ching-Kuo. It is customary diplomatic protocol for the United States to send a special representative or official delegation to attend such functions, but no official representatives of the United States will be present in Taipei on May 20. Vice President MONDALE has just toured the western Pacific, stopping about everywhere except Taipei. National Security Advisor to the President, Dr. Zbigniew K. Brezezinski, will be in Peking on the mainland that day. When you add up the countries visited by the Vice President and those visited by the National Security Adviser, which include South Korea and Japan as well, you get every capital in the western Pacific, in East Asia, except Taipei.

How is the Administration, how is this country, to have any credibility in the world community in speaking on the importance of human rights to our foreign policy, when we kow-tow to mainland China's ambitions, in light of its terrifying repression, and turn our backs on those of Taiwan? I suggest if the President wonders why he is confusing people, at home and abroad, he look at the double standards in his policies.

Last week I took it up myself to circulate a letter to President Carter making points similar to those made here today. That letter was signed by many of my colleagues, and I think it merits the attention of everyone here today. I enter it into the record of our proceedings, so that it might become a part of the history of our relations with China, so that the future can read that some of us still believed in human rights.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 10, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are deeply concerned about the possibility that American policy in East Asia may be dangerously misconstrued as a consequence of the nature and timing of the forthcoming visit of the Assistant to the President for National Security Affairs Zbigniew Brzezinski to Peking. As you know, the date of Dr. Brzezinski's visit coincides with the date of the inauguration of the President of the Republic of China, Chiang Ching-Kuo.

The unfortunate coincidence of these two events is compounded by reports of the content of such important planning documents as Presidential Review Memorandum 24 which imply a substantial change in this government's attitude toward the Republic of China. Any statements which could be construed as either downgrading our diplomatic posture with Taipei, or suggesting Administration interest in abrogating the Mutual Defense Treaty of 1954 would have adverse consequences in the Congress. Moreover we are persuaded that such a destabilizing policy change on the part of the United States would have repercussions with allied nations far beyond the region.

The Republic of China is one of the most successful non-Communist nations in the world today. The economic model it provides to the Third World is worthy of emulation elsewhere. The enormous success we have witnessed has been possible because of the diligence of the Chinese people, and the stable security environment provided by the Mutual Defense Treaty. The economic growth of the Republic of China and the U.S. security guarantee has been responsible for nearly three decades of tranquility in the region. We are concerned that the Brzezinski mission may be cause for questioning the U.S. commitment, and hence, destabilize rather than stabilize the area.

We urge you to reaffirm the U.S. commitment to the Mutual Defense Treaty with the Republic of China, so that continued peace in Asia may be assured, and to rethink the timing of the trip by Dr. Brzezinski in that context. In conclusion, I would hope that Vice President Mondale could represent you at the inauguration.

Sincerely,

Sam Stratton, Robin Beard, Edward Derwinski, Bob Bauman, Mickey Edwards, Henson Moore, Henry Hyde, John Murphy, Bill Young, Skip Bafalis, Bill Frenzel, Bill Wampler, James Abdnor, Bill Armstrong.

Jack F. Kemp, Trent Lott, Bill Chappell, Phil Crane, Jim Broyhill, Paul Trible, Clarence Brown, Dave Satterfield, Bill Ketchum, Bob Walker, J. K. Robinson, Steve Symms, Dan Quayle.

I wish also to include in the proceedings two extremely valuable, cogently argued editorial comments, the first by George W. Ball, the Under Secretary of State from 1961 to 1966, and the second from the pages of The Washington Star. They follow:

[From the New York Times, Aug. 24, 1977]

AGAINST "CRAVENLY YIELDING" TO PEKING

(By George W. Ball)

Were Secretary of State Cyrus R. Vance to agree in Peking that the United States would break relations with the Nationalist Government in Taiwan in return for *de jure* relations with the People's Republic, he would make nonsense of the Carter Administration's commitment to morality in foreign policy. Yet some academic China-watchers, amateurs of *realpolitik*, now advocate that cynical course on the ground that the "normalization" of relations with Peking (which involves the "de-normalization" of relations with Taiwan) is necessary to sustain a Peking-Washington counter to Soviet expansionism.

Throughout history our views about China have often been distorted by fantasy, and this argument is no exception. The Peking Government does not love us for our beautiful eyes, nor would it respect us for cravenly yielding to its wishes: it is interested in conducting limited diplomatic business for one reason only—that we are an enemy of its enemy, the Soviet Union.

So it is fatuous to argue, as some China specialists do, that because we are making the leaders in Peking "impatient" by frustrating their designs on Taiwan, they will run frantically into the embrace of Moscow. In fact, they will maintain whatever relations with us best serve their interests, and it matters little whether those relations are technically defined as *de facto* or *de jure*.

What difference does it make if our outpost in Peking is a liaison mission with little official acess or an embassy with little official access—as is true of all foreign embassies to the People's Republic?

But if we would gain little from pushing Taiwan overboard, what would we lose? Well, self-respect for one thing. We would be acting out of character in pursuing the sordid diplomacy of the 18th century when the reversal of alliances was standard procedure.

Nor could we repudiate our security treaty with the Nationalist Government without critically diminishing the confidence of Japan, Korea and other Asian countries in our other commitments.

The time-honored standards for diplomatic recognition require that a government have control of its territory, the support of its people, and meet its international obligations. The Taiwan Government unquestionably control Formosa and the Pescadores. It has kept its commitments; and, if it is not a model of democracy, the 17 million people of Taiwan would certainly prefer the mildly authoritarian system of the Nationalist Government to the totalitarian anthill of the People's Republic and absorption by a country with a standard of living only one-third their own.

Thus, the honest course is to reaffirm our recognition of the Nationalist Government as having sovereignty over Formosa and the Pescadores, explicitly stating that we do not recognize its claims to the mainland. Moreover, we should make clear that we will continue to support the Taiwan Government only if it stops discriminating against the Formosans who settled there centuries be-

fore the advent of Chiang Kai-shek in 1949. If—as seems unlikely—this qualified position would lead Taiwan to sever its relations with us, so be it.

At the same time, while disregarding the "one-China" or "two-China" theology and the studied ambiguities of the Shanghai Communiqué, which President Nixon signed in 1972, we should assert that the Government of the People's Republic meets the test of recognition with regard to the mainland but not Formosa or the Pescadores, and offer recognition on that basis. That Peking would reject this should not deter us. Our policy would accord with the facts and established diplomatic practice and we would be true to our announced principles.

All of this should be undertaken in the context of a total policy—to regain the "face" we have lost by a demeaning posture of kowtowing.

During the last five years, in addition to the current Vance trip, there were nine visits by Henry A. Kissinger to Peking, while two American Presidents also made the arduous pilgrimage to that far-off capital. Meanwhile, not one Chinese official of any standing has deigned to visit us barbarians in Washington. Are we, or are we not, vassals of the Middle Kingdom? We certainly act as though we were.

[From the Washington Star, July 11, 1977]

TAIWAN AS A PAWN

Everything President Carter and the State Department say about relations with the People's Republic of China, as well as everything they don't say, sounds more and more like the United States abandoning Taiwan. And, true to the rule every country but ours seems to follow, the more accommodating we become, the sterner the People's Republic grows on the subject.

That ominous word "liberation" is in the air.

The 16 million people of Taiwan, of course, have other words for that: "aggression," "invasion," "betrayal" to begin with.

It is a situation full or ironies. The leaders of the People's Republic of China have obvious reasons for wanting to do just what they say they want to do, which is to incorporate Taiwan into the Communist Chinese state. Taiwan's industrial capability, widely recognized as a wonder of development comparable only to the post-World War II Japanese achievement, would be a distinct benefit to the faltering economy of the mainland. But material gain is perhaps less important than the prestige value of taking over Taiwan.

The leadership of Hua Kuo-feng is still imperfectly consolidated after the purge of the radical element identified with Chairman Mao's widow, Chiang Ching, which seems to have involved a gang of considerably more than four. Diversion of public attention to an external enemy always helps to solidify control at home. So does a conspicuous triumph.

Whether it happened by force or not, taking over Taiwan would be a show of strength to impress the world. It would be seen as a humbling of the United States, which had made so many promises to Taiwan, as well as a vindication of communism in general and Communist Chinese power in particular.

This is where more of the ironies set in. Among those who would not be pleased to see such a flaunting of Chinese might would be the Soviet Union. It is even possible that, with the United States standing aside, the Soviets might divert some of the arms their interests no longer call for in Indochina to the Taiwan defenses, simply as a means of forestalling their great rival's advancement.

Such a possibility could make the Hua government reluctant to invade Taiwan. And, even if Taiwan had neither American nor Soviet equipment and other aids, its own defenses and spirit are in good repair. An invasion by liberators from the mainland could fail. As the Bay of Pigs so eloquently testified, it can happen.

At best, a successful invasion of Taiwan would involve Peking in a sticky situation. The USSR's embarrassments over Hungary and Czechoslovakia have lingered; furthermore, it's likely that it would take considerably more bloodshed to overturn the entrenched government in Taipeh than to put down a few disorganized Hungarian Freedom Fighters.

As for the possibility of a negotiated reunification of the two Chinas, it's remote. The only carrot Peking could dangle would be autonomy and a chance to keep the fruits of its superior energy and skill. Not much chance there, ideological passion being what it is. The only stick would be cutting off Taiwanese trade. Peking has already done much of what can be done on that one, strongarming, for example, Japanese firms to forego doing business with Taiwan as the price of doing business with mainland China. It would just about have to be invasion.

And, with all the hazards weighed, the main inducement for invasion may be that American readiness to give in to anything Peking asks in order to arrive at full diplomatic relations has maneuvered the People's Republic Chinese into a posture of such belligerence. Even that's not the final irony, though. The final irony is that it's so hard to think of anything we will gain by abandoning Taiwan that we couldn't have without disavowing a long friendship and a lot of high-sounding pledges.

Trade? The Chinese are as eager for it as the American companies. Good will in the Third World? Looking weak next to a large Marxist nation won't win us points with a small one. And abandoning allies under pressure never looks good to anybody.

Nobody proposes that we spend troops to Taiwan or so involve ourselves in its defense that we risk another Vietnam. All that's required by honor and self-interest is use our bargaining strengths in the current negotiations to assert Taiwan's right to exist outside Peking's control, or at least to make its own terms for reunification. There's still time.●

● Mr. HAGEDORN. Mr. Speaker, it is unfortunate that we should even have to be speaking in this Chamber on this particular occasion. But circumstances require it. We must do what lies within our power to counteract the impression left by official American policy toward the inauguration of President Chiang Ching-kuo on May 20. The Carter administration has refused to send an official representative to this occasion, slighting and humiliating one of our oldest and best allies.

The record of the United States in Asia over the last few years has not been one to make an American who loves his country very proud. We backed out of our solemn commitments to Vietnam and our moral commitment to Cambodia, and abandoned them—in Cambodia's case at least—to a holocaust which rivals that inflicted by Adolf Hitler. In the case of Vietnam and Cambodia, however, we at least had the excuse of intense political pressure at home and military pressure in the field—even though this cannot justify what we did there.

Now, however, there is no political pressure at home—since most opinion polls show overwhelming support for the Republic of China among the American people at large. Indeed, very recently WRC radio in the Nation's Capital took a poll of its listeners and discovered that 97 percent of them believe that we should maintain our diplomatic relations with Taipei and honor our defense commitments to the island republic. That is higher than most polls show, to be sure, but most polls indicate that somewhere in the vicinity of 70–80 percent of the American people stand by our ally. I suspect, though, that a poll taken at the State Department would probably reverse those figures.

Moreover, Mr. Speaker, we are under no real military pressure to abandon Taiwan. The armies of the ROC are well-equipped and trained, and know why they must fight; the PRC is in no position to attempt to invade the island, and might fear the impact such an invasion might have upon its own people. And yet we find ourselves on the verge of withdrawing diplomatic recognition from the Republic of China, and ending our military commitments to it. This time there simply is no excuse for such behavior, and any such action would be an act of the profoundest immorality.

Mr. Speaker, let me dwell just a moment on the topic of the Republic of China as our ally. Those who are a little older remember how valiantly President Chiang Kai-shek fought against the invading Japanese armies since 1937, bearing the brunt of the Pacific war alone for 4 years; how he stayed with us through the Second World War; how, even though we betrayed him in 1949, he remained faithful to us during the Korean conflict and the Vietnam war. But this alliance is not just a matter of the past, even the relatively near past. Even today the Republic of China is seeking to do what she can to help us. She does not come to us repeatedly with requests for assistance, but rather seeks to be of what assistance she can to us.

The February issue of the China Letter, published by the Committee for a Free China here in Washington, summarizes the most recent effort on the part of the ROC to be of assistance to the United States by using its trade surplus to purchase agricultural and industrial products from us. Thus, on January 11 of this year, an ROC Purchasing Mission in San Francisco began signing contracts for $50 million in industrial equipment. Next it went to Portland, Ore., where it contracted for $3 million worth of wheat, and then on to Seattle, where it arranged to purchase $2.7 million worth of barley. In Montana the mission bought $10 million worth of wheat, and in Nebraska $20.5 million worth of corn.

The ROC mission then went on to other States, including Iowa and Illinois, and announced that it would begin purchasing citrus fruit from the United States even though it produces quite enough for itself. The total purchases of the ROC mission came to something like $250 million.

Mr. Speaker let me quote the China Letter on the overall importance of this entire mission:

The effort scored a number of "firsts" of

which all Americans should be aware. It was the first time any nation in the world which enjoys a favorable trade of balance with the United States ever voluntarily sought, to such an extent, to improve the U.S. position with respect to the trade imbalance by going on a state-by-state shopping spree. It was the first time any nation looked at the difficulties besetting American agriculture with its accumulations of excess production and said, in effect: "We'll buy as much as we can to help make your farmers healthy again." It was the first time a mission from a foreign nation appeared with such precision in so many state capitals to open contract bids and sign purchase agreements in a manner designed to provide an economic and psychological "lift" to the business and political community.

I think that is a rather fair assessment of the significance of the Republic of China's recent actions toward us, and it could be extended to cover the ROC's attitude toward us over many years.

The only thing that one can conclude from all this is that the formulators of American foreign policy have their priorities precisely inverted. And I trust the American people will repudiate that foreign policy—in Asia at least—at the first opportunity.●

● Mr. ROBERT W. DANIEL JR. Mr. Speaker, my colleagues and I are addressing the House today because of our deep concern that the United States, following a needlessly strict interpretation of the so-called Shanghai Communique of 1972, may have set its course steadily toward what I would consider a disastrous misstep in our foreign policy: The withdrawal of diplomatic recognition of the Republic of China in a misguided effort to curry favor with the despotic regime which rules today in Peking.

Frequently enough even those who strongly support the Republic of China tend to doubt that we would ever go so far as to betray our old friend and ally outright. But I am afraid that we need only look at the history of the years since 1972 to see the succession of small steps and gestures designed to undermine the prestige of the Republic of China, to denigrate it in the eyes of the American public and the world. And all these small steps will in the end lead to a long journey, I am afraid: The absolutely unjustifiable and morally indefensible abandonment of one of our oldest and staunchest allies in Asia.

Mr. Speaker, the attitude of the U.S. Government toward the inauguration on May 20 of Chiang Ching-kuo as President of the Republic of China is but another step in that logical progression toward derecognition of the Republic of China. Coupled with that is the utterly gratuitous humiliation—it is humiliating both to us and to the Republic of China, I might say—of Mr. Brzezinski's journey to Peking precisely at the time of the inauguration. We do not know who suggested this time for the trip, but it obviously is a calculated insult, and it is a shameful commentary on us that we would even participate in it.

I might note here in passing that in all the time since President Nixon's dramatic and unfortunate visit to Peking in 1972, no high-level Chinese official has deigned to visit the United States. Instead President Ford and the chief foreign policy advisers of the President of the United States have made that long journey to Peking. So what Dr. Kissinger used to call the "choreography" of our foreign policy is clear: We send our envoys to Communist China to sue for its favor, we are the "client state," we deliberately place ourselves in a position of symbolic inferiority—in a word, we humiliate ourselves. But the most appalling thing about all of this is that most of the time American officials do not even seem to realize what a position of inferiority and humility they are assuming. But if we do not have sense enough to realize it, we may be sure that the countries of Asia, whether Communist or free, do recognize it. They are intelligent enough to read the signals, and the signals point to the decline of the United States in Asia.

Mr. Brzezinski may or may not realize the awkwardness of his position when he is in Peking on May 20, but he at least instinctively knows what sort of rhetoric to use in speaking of Asian affairs. Let me take a speech he delivered less than a month ago, on April 27, to the Japan society. This particular speech dealt primarily with United States-Japanese relations, but in the course of it Mr. Brzezinski gave a rather bland overview of our linkages with various countries of Asia. Although he makes the ritual denial that the United States is withdrawing from Asia, he goes on to talk of our planned withdrawal from Korea, and also of "measured efforts to develop constructive relationships with Indochina."

But the most indicative item in this portion of the speech lies in what Mr. Brzezinski does not say: In his survey of Asian affairs he says not a word about our relationship to our ally the Republic of China. It is as if that country and its people had become an "uncountry," neatly deposited in the memory hole: We simply cease to talk about it, or even to think about it any more than we can avoid.

On the other hand, Mr. Speaker, Mr. Brzezinski becomes almost effusive—relatively speaking—when he dwells on Communist China. Here is what he had to say about that in his speech of April 27:

> The American-Chinese relationship is a central element of our global policy. We shall endeavor to expand our relations with the People's Republic of China. It is important that we make progress in normalizing relations with China, and we shall consult with the Chinese on major international matters that are of importance to us both.

All that is phrased in the language of international relations, but its moral import is sickening. Indeed, except for the phrase about "normalizing relations," it should be a statement about our relations with the Republic of China. Instead, it is said of one of the most totalitarian regimes on the face of the Earth.

Mr. Brzezinski's speech of April 27 is a distressing example of how twisted and distorted our international priorities have become. It is up to us, the representatives of the American people, and to the American people themselves to make it clear to functionaries like Mr. Brzezinski that we will not stand for such treatment of our allies. The question of our relationship with China is a crucial one, though not in the way Mr. Brzezinski thinks. And the way in which we handle that relationship will say a great deal about us as a nation.●

● Mr. BURKE of Florida. Mr. Speaker, I rise to address the issue which our good friend and colleague, Mr. DERWINSKI, has brought to the attention of this Body. That issue is the visit to the Peoples Republic of China (PRC) of Zbigniew Brzezinski, and his presence in Peking, on the very day a good friend and ally, the Republic of China (ROC) is inaugurating its President.

To my knowledge, no American official is going to be in Taipei to honor Chiang Ching-Kuo on his inauguration.

If this is true, and I hope it is not, then it is indeed a sad day when the administration cannot even pay respect to a friend. Chiang Ching-Kuo has done more to give the people of Taiwan a voice and a place in their government than his father before him. He is the present and, for some time to come, the future of the Republic of China on Taiwan. We should show our respect, especially since we are still Allies by treaty and, one would hope, still friends out of common decency and loyalty. I do not think the leaders of the Peoples Republic of China diplomatically or politically would expect us to do otherwise.

There are reports that Mr. Brzezinski is visiting in China to seek greater Chinese activity in Africa to counter the Soviets there. I wonder, Mr. Speaker, what the price of greater Chinese participation in an area so far afield might be? Hasty extension of the United States of full diplomatic relations to Peking, on their terms? Cutting off Taiwan from further U.S. support?

Mr. Speaker, the administration prevailed in its ill-advised plan to sell jets to Saudia Arabia and Egypt, and to give away the Panama Canal, based on the track record to date, I am ready to believe that the President would trade the Republic of China for help in Africa.

It is particularly tragic that Mr. Brzezinski has timed his visit to Peking with hat in hand, to get help in a situation which the administration through misguided policies and inaction helped to create.

Mr. Speaker, I am saddened by the spectacle of Cubans running rampant in the African continent proportionally far more involved there than the United States was proportionately in its days of troop deployment to Vietnam. Meanwhile, despite the increased numbers and activities of those troops, and Castro's promises to the contrary notwithstanding, we have merely made noises. In fact, we continue to honor an agreement to exchange interest sections and fishing agreements, and paid little attention last summer when Cuban gunboats detained American fishing and pleasure boats on

the high seas for no apparent reason. And now, after we fail even to take the steps available to us to deal with the Cuban menace—suspension of all agreements until better behavior is evidenced, for one—we ask the Chinese to give us a hand at the price of a friend's head. Mr. Speaker, do we have so many friends in the world that we can sell them off to buy diplomatic victories for the Carter administration?

It is sad when we stoop so low as a deliberate noncelebration of an important day in the life of our friends in the Republic of China. Calculated insults are poor diplomatic tools for a great power. Let us never forget that how we get something shapes what we get. Without loyalty and decency, slickness and cleverness will only buy us trouble.●

● Mr. SYMMS. Mr. Speaker, I wish to commend my colleague ED DERWINSKI for arranging for this special order on United States-China relations.

The United States is at a very important period in its history when it must decide what kind and how much of a role it wishes to play in international politics. I hope that our country will continue to set an example for the rest of the free world by preserving the institutions that we have fought so hard to maintain over the years, and that we will support our allies in their efforts to maintain peace and security.

The Republic of China (ROC) has been a very loyal ally to the United States and has worked to stabilize east Asia and the Pacific by building a prosperous and free economy. The ROC was able to develop economically after the Communist takeover on the Mainland because of its Mutual Security Treaty with the United States which offered it some protection against possible aggression from the Mainland. The Mutual Security Treaty is still in effect, but could be terminated if the United States completely normalized relations with the People's Republic of China (PRC).

When the United Nations switched its recognition from the ROC to the PRC, most countries followed suit by breaking their diplomatic relations with the ROC and recognizing PRC. And if the United States were to terminate diplomatic relations and its Mutual Security Treaty, the ROC would be completely isolated. The next largest country after the United States which still recognizes the ROC is South Korea.

It is important that the United States continue strong diplomatic ties with the ROC and maintain the Mutual Security Treaty. Not only is the ROC a major trading partner of the United States and the Pacific nations, but it is also a very strategic area important to both of the Communist superpowers. If the United States departs from Taiwan, a vacuum will be created. Some power will fill that vacuum, either the Soviet Union or the PRC. And when one of those Communist powers tries to exert its influence on the ROC, it will be very difficult to avoid a major confrontation.

Therefore, the United States should continue to support the Republic of China.

I wish to commend the Idaho State Senate which passed a Joint Memorial on March 8, 1978, calling for the United States to maintain diplomatic relations and the mutual defense treaty with the Republic of China. I also wish to congratulate President Chiang Ching-Kuo of the Republic of China on the occasion of his inauguration.

I regret that our administration will not be sending a representative to attend the inauguration ceremonies for Chiang Ching-Kuo. I feel that this is a gross error on our part to disregard this loyal ally.●

● Mr. GOODLING. Mr. Speaker, for over 30 years the United States has maintained close ties with the Republic of China. The Nationalist Government on Taiwan has made great strides in transforming this small underdeveloped agrarian country into the strong and viable economic and political power it is today. The legendary Chiang Kai-shek, well-known for his valuable contributions to this end, died in April 1975.

On May 20, Taiwan will make its second smooth leadership transition since that time. Chiang Ching-kuo, son of the generalissimo, and the overwhelming favorite of the Taiwanese people, will be inaugurated as the new President of the Republic of China. According to accepted diplomatic protocol, the United States would express its congratulations to our long-standing friend and ally by assigning a special representative or official delegation to attend the inaguration.

And yet, the President has made no such plans. Instead, President Carter's Assistant for National Security Affairs, Mr. Brzezinski, is scheduled to be present in Peking, the People's Republic of China, on the same day. In diplomatic terms, the signal could hardly be clearer. Mr. Carter, in yet another symbolic gesture, is showing evidence of a dangerous shift in our foreign policy with regard to the China situation. One can only hope that this action is as hollow and meaningless as Mr. Carter's previous displays of petty symbolism but, we should not be left to hopes, wishes, and uncertainties.

The President can, and should, belay my fears, and the fears of others, by taking a more balanced approach and assigning an official delegation to represent the United States at the historic inauguration of President-elect Chiang Ching-kuo in Taiwan on May 20. American foreign policy cannot be allowed to founder on the waves of uncertainty, rather it must be clear and consistent. We must support our friends and allies while at the same time cautiously encouraging increased contact with, and exposure to, those of differing ideologies and political systems. We should not make overtures to Peking at the expense of Taiwan.●

● Mr. RHODES. Mr. Speaker, the United States has had a long and harmonious relationship as friend and ally with Taiwan, a bastion of freedom and hope in Asia. Today, it is an important and growing economic center, a home for millions of Chinese who choose not to live under the repression of communism.

The timing of the visit to Red China by Zbigniew Brzezinski is unfortunate, especially when the Carter administration pointedly is consorting with the Chinese Reds while ignoring the inauguration of Chiang Ching-kuo as President of Taiwan.

This seems to signal a downgrading of our longtime friends in Taiwan, in acordance with the expressed wishes of the Communists who run mainland China. There is comment that this is a calculated shrewd maneuver to play the Red collosi China and Russia against each other. The tragedy is that no agreement with any Communist nation is worth any more than the whims of the leaders who sign it.

I believe it is a mistake to snub Taiwan on the occasion of its inauguration of a new leader. I sent a personal letter of congratulations to President-elect Chiang and want to repeat my best wishes to the new President and the Republic of China.●

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EQUAL CREDIT OPPORTUNITY ACT OF 1975 A MAJOR FACTOR IN RECENT HOUSING BOOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, opponents of the Equal Credit Opportunity Act of 1975 argued this legislation would reduce credit availability, produce chaos in the lending institutions and pose a threat to consumers.

I submit evidence today that just the reverse has proved true and the ECOA, which banned credit discrimination on the basis of sex, race, marital status, or national origin, has played a pivotal role in allowing young families to overcome the escalating home prices and rising mortgage rates plaguing today's housing market.

The Advance Mortgage Corp. has just released a quarterly housing trends survey of 17 major U.S. markets which clearly points out the increased mortgaging power of two-income families today can be directly accredited to the ECOA.

Due to a provision of the ECOA allowing a working wife's income to be counted toward mortgage eligibility under the same standards as her husband's, this survey shows that the mortgaging power of two-income families has been increased by 40 to 60 percent.

I offer this information to those who were skeptical of this legislation and to those who argued that the ECOA would result in increased liability on the part of the lending institutions.

Mr. Speaker, I submit that this survey proves that the reverse has been the case and the ECOA has been instrumental in supporting the housing industry, the lending institutions and the consumers themselves.

In a Washington Star article of May 12, Robert J. Mylod, president of the Advance Mortgage Corp., explained how the ECOA significantly increased the mortgaging power of two-income families.

"Prior to ECOA, most mortgage lenders counted little or none of the earnings of a wife of childbearing age," Mylod said. "Now 100 percent of both incomes may be counted in qualifying for a mortgage."

The article continued, "In the past 5 years, disposable income of the median American family grew less than half as much as the costs, including financing, of new housing. But the mortgage-availability income of families with a full-time working wife of childbearing age has grown considerably more than these costs—because of the ECOA—even though their real income appears to have grown no faster than that of families in general.

"Mylod drew the conclusion, 'Had there been no ECOA, it is very likely that either the runaway in housing prices or the boom in single-family sales would have been cut short by early 1977.' "

There are now 20 million families with both husband and wife in the labor force. AMC researchers maintain that approximately 5 million of these women are under 40 and employed full time year round, and another 1½ million married women under 40 work full time between 26 to 50 weeks a year. These two groups have gained the most from the ECOA and these groups are growing at a combined rate of about 400,000 annually.

According to the Star article, "In 1972, the median new home price was 2½ times the median-family income. That was a ratio attractive enough to produce the best year for single-family-home sales.

"In 1977, this ratio rose to 3.1 times the median income of families where only the husband was employed. But it was only 2.1 times the median income of families if both the husband and wife worked full time.

"Single income families, therefore, are being priced out of the market or forced to settle for much less home than they could have bought in the early 1970's—unless they can buy with the profit from the sale of a previous home.

"On the other hand," Mylod said, "even the further rises in mortgage rate and home prices that are expected this year will not put a significant dent in the demand of young two-income families as long as the mortgage money is available."

Mr. Speaker, I am submitting the Washington Star article in its entirety to further clarify the positive results of the Equal Credit Opportunity Act of 1975:

FEMINISM CREDITED AS HOUSING AID

Revolutions sometimes have unforeseen economic effects.

The feminist revolution, for example, has been a contributing factor—perhaps the largest single factor—in the current housing boom. It has helped make today's housing market exceptionally tolerant of escalating home prices and rising mortgage rates, according to the quarterly survey of housing trends in 17 major markets by the Advance Mortgage Corp.

"One of the results of the equal rights movement," says AMC President Robert J. Mylod, "was the passage of the Equal Credit Opportunity Act of 1975. One of its provisions required that a working wife's income be counted toward mortgage eligibility under the same standards as her husband's."

That, he explained, increased the mortgaging power of millions of two-income families by 40 to 60 percent and, in some cases, much more.

"It also made mortgages much more available to single women, although the impact of this change is hard to quantify," Mylod added. "It may be no more than coincidence, but the act became effective in late 1975, and the current single-family housing boom and escalation in home prices began in 1976.

The percentage of households in which both husband and wife work has increased only moderately in recent years, and the relative income of the working wife does not appear to have increased at all.

"The significant change," he maintained, "is that 100 percent of both incomes may now be counted in qualifying for a mortgage where prior to ECOA most mortgage lenders counted little or none of the earnings of a wife of childbearing age."

In the past five years, disposable income of the median American family grew less than half as much as the costs, including financing, of new housing. But the mortgage-available income of families with a full-time working wife of childbearing age has grown considerably more than these costs—because of ECOA—even though their real income appears to have grown no faster than that of families in general.

Mylod drew the conclusion: "Had there been no ECOA, it is very likely that either the runaway in house prices or the boom in single-family sales would have been cut short by early 1977."

In 1972, the median new-house price was 2½ times the median family income. That was a ratio attractive enough to produce the best year for single-family home sales until 1976–1977.

In 1977, this ratio rose to 3.1 times the median income of families where only the husband was employed. But it was only 2.1 times the median income of families if both husband and wife worked full time.

Single-income families, therefore, are being priced out of the market or forced to settle for much less home than they could have bought in the early '70s—unless they can buy with the profit from the sale of a previous home.

On the other hand, Mylod said, even the further rises in mortgage rate and home prices that are expected this year will not put a significant dent in the demand of young two-income families as long as mortgage money is available.

The effect of ECOA was a one-time rise in mortgage power for the families affected, he admitted, and a continued runaway in housing costs eventually would catch up with this gain. Therefore, costs much either level off or sales would decline.

Existing home prices, he predicted, will level off sooner than new home prices.

There are now 20 million families with both husband and wife in the labor force. AMC researchers estimate that in nearly 5 million of these the wife is under 40 and employed full time the year around. In another 1½ million families a wife under 40 works full time between 26 and 50 weeks a year.

These two groups—the ones who gained most from ECOA—are growing at a combined rate of about 400,000 a year.

In last year's market, the largest ever for both new and existing homes, there were only about 1½ million first-time buyers. It seems, therefore, that the housing market can draw on a substantial reservoir of two-income young families for some time to come.

AMC added that there are 5 million families with young working wives whose contribution is too small to have much impact on home-buying power. Where the wife works only part-time or works full-time less than half the year, the median income is less than 15 percent of her husband's. Most lenders are still reluctant to count income from such marginal employment.

There are 7 million more families in which the working wife is over childbearing age. Even before ECOA, income of these wives was generally counted on the same basis as their husbands'. And there are another 15 million unmarried women workers and some 4½ million women heads of families.

Prior to ECOA there was no clear pattern on the mortgageability of these women. In general, there was reluctance to lend to any single applicants and, even more so, to a single woman. ECOA banned discrimination on the basis of marital status as well as on sex.

However, only the upper tier of this group can be a significant home market factor. The 1977 median income of full-time year-round women workers was only $8,700—a fifth of the median existing-home price, and barely over a sixth of the new-home price. The median income of all working women was only $4,600.

The percentage of working wives in the labor force is still increasing, though not as fast as in the 1960s. Between 1972 and 1977, there was an increase of 2 million in the number of families with both husband and wife in the labor force. The total number of husband-wife families increased only 1½ million.

The percentage of working husband-and-wife families among all husband-wife families increased from 38 percent in 1972 to 41 percent in 1977.

But this trend appears to be leveling off. Most of the gain took place between 1972 and 1975. In the 1960s, the percentage of two-worker couples increased almost 1 percent a year.

Another effect of ECOA, Mylod said, is the erosion of the traditional role of interest rates as the discipline of the housing market. Interest changes of as much as ½ percent had almost no effect on demand last year and show almost no discernible effect so far this year.

This is a sharp change from the previous pattern. From immediately after World War II until at least the mid-60s, the housing market could be turned off and on by fairly small changes in interest rate.

This wasn't because so many buyers made a conscious decision to wait for lower rates. Rather, it was because buyers who were marginal before no longer could qualify for a mortgage when the rates went up, and they became eligible again when the rates went down.

But the families who benefitted most by the new ECOA standards now qualify for so much more home than they could a few years ago that even fairly large jumps in interest rate appear to have small impact.●

WAYS AND MEANS TRADE SUBCOMMITTEE TO HOLD HEARINGS ON INTERNATIONAL SUGAR AGREEMENT LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, the Subcommittee on Trade will conduct a public hearing on proposals introduced in the House implementing the International Sugar Agreement (ISA) and other trade proposals (import fees, tariffs, and quotas) designed to affect the price of imported sugar. The hearing will be held on the first available date—after May 24—provided by the full Ways and Means Committee for the purpose of subcommittee hearings. As soon as such date is announced by the full committee, the subcommittee will announce the time and place of the hearing.

Testimony will be received on:

H.R. 12486 by Mr. DE LA GARZA, et al., H.R. 12492 by Mr. LEDERER, et al., and a bill being prepared by the administration and described in testimony before the Senate Finance Committee on May 11 by Mr. Howard W. Hjort, Director of Economics, Policy Analysis and Budget, USDA.

Officials from interested executive branch agencies will be the first witnesses. Testimony will be received by the subcommittee from the interested public following the appearance of the executive branch witnesses.

Witnesses are on notice that in order to provide more time for questioning and discussion, the oral presentation of written statements will be limited to 5 minutes strictly, to be followed immediately by questioning. The full statement will be included in the RECORD. Also, in lieu of personal appearance, any interested persons or organizations may file a written statement for inclusion in the printed RECORD.

Requests to be heard must be received by the close of business Monday, May 22. The request should be addressed to John M. Martin, Jr., chief counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building, Washington, D.C. 20515; telephone (202) 225–3625.

In this instance, it is requested that persons scheduled to appear and testify submit 30 copies of their prepared statement to the committee office, room 1102 Longworth House Office Building by the close of the day prior to the hearing. These copies are for the use of the subcommittee members and staff. Persons who wish their statement distributed to the press should bring 70 additional copies to the hearing.

Persons submitting a written statement in lieu of a personal appearance should submit at least three copies of their statement by the close of business of the day of the hearing. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and the interested public, they may submit at least 70 additional copies for this purpose if provided to the committee during the course of the public hearing.

Each statement to be presented to the subcommittee or any written statement submitted for the record must contain the following information:

First. The name, full address and capacity in which the witness will appear;

Second. The list of persons or organizations the witness represents and in the case of associations and organizations their address or addresses, their total membership and where possible, a membership list; and

Three. A topical outline or summary of the comments and recommendations in the full statement.

Mr. Speaker, to better explain the administration's position. I would like to include in the RECORD at this point a portion of the testimony of Howard W. Hjort, Director of Economics, Policy Analysis and Budget, of the U.S. Department of Agriculture on S. 2990—identical to the de la Garza bill—before the Subcommittee on Tourism and Sugar of the Senate Finance Committee on May 11:

In brief, we propose as an alternative to S. 2940—(a) beginning with the 1978 crop, "established price"; (b) an escalation formula which is fair and realistic in terms of costs of production, which would be called the "established price" (b) an escalation formula which conforms to (and is essentially the same as) the formula which now applies to wheat, corn and cotton under the Food and Agriculture Act of 1977; (c) establishment of a minimum market price objective, which would be lower than the established price; (d) authority for payments to producers, either through processors or directly to producers, to make up the difference; (e) authority to impose import fees without the 50-percent-of-value limitation which is now prescribed in our existing authority; [1] and (f) standby authority to impose import quotas, in addition to fees, as necessary to cope with unexpected situations.

We project that the established price would initially be 14.05 cents a pound, raw value. The minimum market price objective would be 13.5 cents a pound. For the 1978 crop, we would in fact still be required to carry out the existing loan program legislation (the so-called de la Garza amendment), unless it is superseded by new legislation. We currently estimate that the loan rate will be about 14.4 cents per pound, raw value. But, under our proposal, the established price of 14.05 cents would be the price which would be escalated using the formula which applies to other crops under the 1977 Act. We estimate that this would increase annually by nearly one cent a pound. The difference between the established price and the market price objective, I repeat, would be made up by payments. Producers would have reasonable support and consumer prices would be kept from inflating.

So long as the price of foreign sugar remains below the objectives of our domestic program, border protection will be necessary. We propose to use import fees for that purpose. These would be adjusted quarterly, if necessary. We would regard the import fees as a temporary device to assure attainment of our domestic price objectives during an interim period until the ISA has had a chance to become fully effective in raising world prices to satisfactory levels. We should make clear our intention to progressively reduce the fees as increases in world prices permit, the aim being to eliminate them completely. Thereafter, when conditions permitted, we would hope to reduce the import duty to the statutory minimum.

We are preparing proposed amendatory language which would modify S. 2990 to provide for the domestic program which I have briefly outlined. We will provide it to the Subcommittee as soon as possible, hopefully by early next week. The delay reflects mainly matters of precision in drafting, to insure that we have the necessary and correct legal language. It does not reflect any indecision in the Administration as to the nature of the program or what the program should be. That has been decided. If there are questions, I will try to answer them.

I would like to close my remarks by stressing again, as I did at the beginning, the necessity for Senate approval of United States participation in the International Sugar Agreement. This is the only means by which we can hope to get the corrections and adjustments in the world supply and price situation. The more quickly we ratify the ISA, the better able we will be to cope with our domestic problems and operate a sound, rational domestic sugar program which serves the needs and interests of producers and consumers alike. Ratification of ISA should be accomplished on its own merits and not be delayed because of debate or differences concerning the nature of the domestic program. The better answer may simply be separate legislation.●

[1] Section 22(b) of the Agricultural Adjustment Act of 1933, as Reenacted and Amended.

TIME IS RUNNING OUT FOR WORLD WAR I VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ANDERSON), is recognized for 20 minutes.

Mr. ANDERSON of California. Mr. Speaker, a clear majority of the Members of this House have now joined me in sponsoring legislataion for a monthly pension for veterans of World War I.

Fifty of these Representatives went with me to present testimony before Congressman G. V. MONTGOMERY's Veterans' Affairs Subcommittee on February 7.

Evidently our statements fell on deaf ears. The Pension Subcommittee of Veterns' Affairs reported a pension reform bill that dooms over 400,000 World War I veterans to a life of near poverty. Even though these men and women are in their 80's and live from day to day wondering if they will eat today or have medicine tomorrow, the Veterans' Committee in effect told them: "We can't afford you."

Mr. Speaker, I submit that the Government owes these men and women not merely a pension; it owes them its very existence. These veterans did not ask, "will it cost me too much?" When our Nation sent out its call for men and women "to make the world safe for democracy."

No, these veterans marched off nearly 5 million strong. And yes, many marched off never to see these United States again.

Now, over 60 years later, less than 600,000 of the 4,750,000 World War I veterans survive. Indeed, even as I speak today, over 200 of these valiant soldiers will die. Nearly 100,000 die each year.

Mr. Speaker, I ask you how many more must die on incomes far less than the amount we raised our own salaries last year? Even you yourself told the World War I Barracks in Massachusetts that you would vote for this urgently needed legislation.

Fourteen of the 28 members of the Veterans' Affairs Committee showed their commitment by cosponsoring my bill, H.R. 9000 this session. This brought the total sponsorship to 219.

Mr. Speaker, are we to believe that you, our Speaker, and a bipartisan majority of this House's Members can be ignored by the leadership of the Veterans' Committee?

This committee intends to bring its pension reform bill, H.R. 10173, to the House floor for a vote on the suspension calendar. This prohibits me or any of our other cosponsors from offering any amendments to the committee's bill.

In effect, this procedure forces us to take the bill as it is or not at all. This action also forces those of us who are truly committed to improving the plight of our First World War veterans into a dilemma.

On the one hand, we have Mr. MONTGOMERY's committee bill, H.R. 10173, which has several good features such as the one that attaches veteran pension increases to those granted social security recipients. This long-overdue provision keeps the Government from giving with one hand and taking with the other.

On the other hand, however, we see the blatant omission of the majority of the World War I veterans from the provisions of the bill.

For example, H.R. 10173 does almost nothing for the widows of World War I veterans, nor does it help the over 400,000 World War I veterans who have outside annual incomes over $4,000 but are receiving no monthly veterans payment. This is 60 percent of all surviving World War I veterans.

The failure of our House Veterans Affairs Committee to respond to the explicit will of a majority of the Members of this House forces us to but two alternatives: Defeat the reform bill and send it back to committee and hope that it is amended by adding H.R. 9000, or lobby the Senate to correct our committee's failure to act. Both options have their drawbacks.

I, for one, would hate to defeat H.R. 10173 under suspension. For I am not all that certain that it would be brought back to the House floor for another vote. I strongly feel that if it were not for the continuous pressure exerted by our 219 cosponsors, the committee might never have passed H.R. 10173 in the first place. But in the same regard, if the bill is not what we want, shouldn't we send it back for corrections?

The other option would connote not only a dereliction of our duty but would also once again make the Senate the body of Congress that responds to the will of the people. We all hear stories that Representatives are closer to the people because we stand for election every 2 years. Can this possibly be true if we allow the Senate to act first on this legislation? I think not.

At their national convention last year, 24 State American Legion departments voted to endorse H.R. 9000. I am certain that their membership will look very closely to see where their Representatives stood when the chips were down.

Mr. Speaker, I ask that a listing of these American Legion departments and the numbers of their membership by State be inserted in the RECORD at this point.

ATTACHMENT A

AMERICAN LEGION DEPARTMENTS VOTING IN FAVOR OF WWI PENSION RESOLUTION AT THE 1977 NATIONAL AMERICAN LEGION CONVENTIONS

American Legion Department:	*Membership by State*
Alabama	28,523
Arizona	19,726
Arkansas	31,032
California	118,816
Colorado	19,123
Connecticut	28,655
Delaware	4,908
Florida	58,889
Illinois	170,344
Kansas	60,963
Kentucky	29,995
Maine	22,782
Massachusetts	69,764
Michigan	74,176
Mississippi	25,553
Misouri	60,030
Montana	12,389
Nevada	3,548
New Mexico	9,852
Oklahoma	39,148
Pennsylvania	254,410
Texas	76,188
Utah	7,159
Wyoming	8,388

The Veterans of Foreign Wars Organization supports H.R. 9000. I include their resolution.

ATTACHMENT B

RESOLUTION NO. 624—WORLD WAR I PENSION

Whereas, the Veterans of World War I gave of themselves in defense of our country are now growing fewer in number each year; and

Whereas, the only consideration given to them by this country was the payment of a bonus in the early 1930's; and

Whereas, the average age of World War I veterans is past 80; and

Whereas a grateful nation should show its lasting gratitude to the few remaining veterans of World War I; now, therefore

Be it resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that we go on record as favoring and in support of a pension for remaining World War I veterans and widows; and

Be it further resolved, that a copy of this resolution be sent to the President of the United States, members of Congress and to the National Headquarters, Veterans of World War I, U.S.A.

Adopted by the 78th National Convention of the Veterans of Foreign Wars of the United States held in Minneapolis, Minnesota, August 19–26, 1977.

The National Senior Citizens Council presented an excellent statement to the Veterans' Subcommittee endorsing a pension for World War I veterans. I include a copy of their testimony at this point.

ATTACHMENT C

FEBRUARY 24, 1978.

The Hon. G. V. MONTGOMERY,
Chairman, Subcommittee on Compensation, Pension and Insurance, 335 Cannon House Office Building, Washington, D.C.

DEAR CHAIRMAN MONTGOMERY: The National Council of Senior Citizens would like to submit comments for the record on H.R. 9000, the World War I Pension Act of 1978. NCSC is a membership organization of 3,800 senior citizens clubs around the country representing over three million elderly Americans. Among our members are many who served their country courageously in World War I. Today these older veterans, to whom the country owes so much, have been swept up in a tide that has engulfed millions who reach old age—poverty. Poverty is an epidemic in this country among the old; those living on fixed incomes fight a daily battle to keep pace with ever increasing demands on their pocketbooks.

Although poverty among the elderly is a widespread phenomona affecting some 6,500,000 older Americans, the statistics concerning older veterans are truly frightening. Four hundred thousand of the 700,000 World War I veterans alive today have yearly incomes of $5,000 or less. Fifty-seven percent of all World War I veterans are existing at or within 125 percent of the official poverty level. This compares to a national near-poverty rate for all Americans over 65 of about 25 percent.

The debt this country owes to all its veterans cannot easily be repaid. But legislation, such as that pending before this Committee, certainly moves in the right direction. The current eligibility limitations on veterans pensions are so restrictive that only 42 percent of the 700,000 World War I veterans actually collect pensions. If a veteran has an annual income of $3,600—a figure only slightly above the poverty level for an aged couple—he is automatically disqualified from collecting his pension. We find that these restrictions are inequitable. These pensions are not the result of government largess, but are an earned right and should be made available to those who qualify. We do not object to some ceiling for income eligibility and the $15,000 ceiling included in H.R. 9000 is reasonable. But to cut off a pension from a veteran whose outside income exceeds the poverty level is simply unfair, because it ignores the actual basis of eligibility—service to one's country with the concurrent loss of personal opportunities.

In consideration of this legislation, one fact that must be brought out is that there remains only 700,000 World War I veterans, and on average, about 100,000 die each year. Each of these veterans, certain surviving spouses and dependents, would be eligible for a monthly pension of $150. However, by 1985 few, if any, World War I veterans will be alive, not very many widows will still be alive, and almost all dependents will be too old to quaify. Thus, if nothing at all is done, the problem could rectify itself in short order. However, few would suggest that we follow this cold, insensitive approach. To those who would argue against passage of this legislation on the basis of cost, we say the cost would be relatively low, the program would be of limited duration, and for each year of the program's operation the costs would diminish.

The World War I veteran did not have either veterans home mortgage insurance or G.I. Bill benefits; this presents a persuasive argument in support of this legislation, simply as a matter of equity. An American veteran should be held in the highest esteem and should be treated with dignity and respect. Providing an income supplement as proposed by H.R. 9000 is the least we can do.

We appreciate this opportunity to submit our comments for the record, and we sincerely hope that this legislation will be enacted promptly.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

In addition, I ask that a breakdown showing the number of World War I veterans living in each State appear in the RECORD.

ATTACHMENT D

SURVIVING WORLD WAR I VETERANS, BY STATE, AS OF MARCH, 1977 (IN THOUSANDS)

Alabama	10
Alaska	[1]
Arizona	9
Arkansas	10
California	75
Colorado	8
Connecticut	11
Delaware	1
D.C	3
Florida	53
Georgia	12
Hawaii	1
Idaho	3
Illinois	41
Indiana	19
Iowa	14
Kansas	11
Kentucky	12
Louisiana	11
Maine	5
Maryland	12
Massachusetts	25
Michigan	28
Minnesota	17
Mississippi	8
Missouri	22
Montana	3
Nebraska	7
Nevada	2
New Hampshire	3
New Jersey	27
New Mexico	3
New York	68
North Carolina	14
North Dakota	2
Ohio	36
Oklahoma	13
Oregon	11
Pennsylvania	46
Rhode Island	4
South Carolina	6
South Dakota	4
Tennessee	14
Texas	39
Utah	3
Vermont	2
Virginia	14
Washington	14
West Virginia	8
Wisconsin	19
Wyoming	2
P.R. and outside U.S.	9
Total	794

[1] Less than 500.
Source: Veterans' Administration.

Mr. Speaker, before the House schedules a vote on H.R. 10173, I would like to address two final points. The first is the cost of my bill, H.R. 9000, as compared to the Montgomery bill, H.R. 10173. The second is the justification for a World War I pension.

THE COST OF H.R. 9000

When asked to comment on H.R. 55 and H.R. 9000, the Veterans' Administration (VA) stated their opposition to both bills and, in effect, said that any Member who supported them was being irresponsible.

Mr. Speaker, I can not speak for all the 219 cosponsors, but I hope that you would join me in expressing our displeasure for that statement from the VA. As members who both would vote for the bill, you and I should be saddened to hear that the agency asked by Congress to look out for the needs and interests of our veterans has evidently deserted those of the First World War and has become but an extension and lackey of the Office of Management and Budget (OMB). I include the VA's arrogant comments at this point.

[Veterans Administration Comments on H.R. 55 (No. 49)]

COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., July 12, 1977.

Hon RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a report on H.R. 55, 95th Congress.

The purpose of the bill is to authorize the payment of service pensions at a monthly rate of $150 to veterans of World War I and their surviving spouses and children. Under this measure, such service pension benefits are to be paid to eligible beneficiaries in addition to any disability or death pension payable under the current applicable pension program.

Under chapter 15 of title 38, United States Code, non-service-connected disability pension is payable to veterans of the Mexican border period, World War I and later war periods, and non-service-connected death pension is payable to their surviving spouses and children. For veterans there are requirements of permanent and total disability and of financial need. Financial need standards must also be met for surviving spouses and children to qualify for benefits. Service requirements generally are a discharge under conditions other than dishonorable after 90 days of service during a period of war, or less if discharged for a service-connected disability.

Benefits are provided on a sliding scale according to income and family status, with the greatest amount of pension payable to those with the greatest need. Basic disability pension rates for veterans range from $5 to $209 per month with a maximum annual income limitation as high as $4,760, according to number of dependents. The applicable monthly rate is increased by $155 if the veteran is in need of the regular aid and attendance of another person, or by $57 if such veteran is permanently housebound but not entitled to the aid and attendance allowance.

Additionally, where a veteran's entitlement to pension is denied or terminated because of income in excess of the statutory limitation, and such person is in need of aid and attendance, the monthly aid and attendance allowance is paid at a reduced rate but not if the veteran's annual income exceeds the applicable limitation by more than $500. Furthermore, the rate of pension otherwise payable to a veteran is increased by 25 percent upon his attaining age 78.

The death pension rate for a surviving spouse without a child ranges from $5 to $125 per month, with a maximum annual income limitation of $3,540. In the case of a surviving spouse with one child, the monthly rate can go as high as $149, with a maximum annual income limitation of $4,760. There is an allowance of $24 per month for each additional child. The basic monthly rate is increased by $74 if the surviving spouse is in need of regular aid and attendance. For children, where no surviving spouse is entitled, monthly death pension of $57 is payable for one child, and $24 for each additional child, the total payable in equal shares. There is an unearned annual income limitation of $2,890 applicable to a child where no surviving spouse is entitled.

Consistent with the philosophy of need underlying the program, payments from all sources, with certain statutory exceptions, are considered in determining annual income. All income of a spouse, which is reasonably available to the veteran in excess of whichever is greater, $1,200 or the total earned income of the spouse, is considered income of the veteran except in hardship cases. Further, in all pension cases, payment is not made if the corpus of the claimant's estate (net worth) is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for the claimant's maintenance.

The rates of pension and limitations on annual income are different with respect to persons who were receiving pension on June 30, 1960, and who continue to receive benefits under that prior system pursuant to the savings provisions of section 9(b) of the Veterans' Pension Act of 1959 (Public Law 86-211).

H.R. 55 proposes to pay a service pension to World War I veterans and their surviving spouses and children in addition to, and not in lieu of, any current law pension which may be payable. It would not impose a financial need requirement for eligibility. The sole requirement for entitlement would be the World War I service of the veteran. Pension would be paid simply on the basis of service, with no requirement of disability and without regard to financial need. This would give World War I veterans and their surviving dependents an advantage not given to veterans of subsequent periods of war. It should also be noted that title 38 already gives implicit preferential treatment to World War I veterans by virtue of section 610(a)(4) which makes any veteran over 65 eligible for Veterans' Administration hospital or nursing care for non-service-connected disabilities without consideration of ability to pay. There is also implicit preference to World War I veterans in that pension otherwise payable is increased by 25 percent on attaining age 78.

It is possible that, if H.R. 55 were enacted, a World War I veteran's pension could far exceed the compensation payable to a veteran seriously disabled by a service-connected disability. It would likewise provide a surviving spouse or child of a World War I veteran with benefits in excess of the compensation or pension received by many veterans of later wars.

Enactment of H.R. 55 would reverse a long-standing government policy of standards of disability and financial need which have existed since the inception of the pension program for World War I service more than 40 years ago. During this period Congress has on numerous occasions studied and revised the pension program applying to World War I and later periods. In each instance, the Congress liberalized the pension programs and retained the underlying principles of disability, financial needs and wartime service. Further, we believe the statutory instructions given last year to the Veterans' Administration by Congress to study the current

pension program also rejects a non-need based pension. As you know, pursuant to section 404 of Public Law 94-432 the Veterans' Administration is in this study charged to recommend a "more equitable non-service-connected pension program" which is to be accomplished by examination of:

(6) Alternative proposals which—

(A) assure a level of income for eligible veterans at or above the national minimum standard of need;

(B) treat similarly circumstanced pensioners alike; and

(C) provide the greatest amount of assistance to those with the greatest amount of need.

We do not believe that enactment of H.R. 55 would meet any of the criteria listed above. The bulk of expenditures mandated by this bill would not go to eligible veterans who are currently below national minimum standard of need but, instead, would be distributed to those who currently do not qualify for pension because their income exceeds maximum allowable income limits. Second, this measure clearly would not treat similarly circumstanced pensioners alike. The proposed elimination of the needs test for pension assistance for World War I veteran group would be inequitable and would discriminate against other classes of current or potential beneficiaries. Third, the measure would not provide the greatest amount of assistance to those with the greatest amount of need; rather it would be retrogressive in its distribution of benefits by providing assistance to those who clearly have less demonstrated need for it. In short, we believe the longstanding requirements of disability and financial need for entitlement to pension are reasonable. Moreover, there does not appear to be a valid reason why veterans of World War I should receive a special pension not based on need or disability. They have received practically all of the benefits available to veterans of later wars. This includes death compensation, dependency and indemnity compensation, pension, insurance, nursing home care, invalid lifts, drugs, vocational rehabilitation, housing for disabled, burial allowance and preference in federal employment. Of course it is true that they had no entitlement to readjustment assistance, since that program was first authorized for veterans at the close of World War II, long after World War I veterans had reentered civilian life and readjusted from their military experience. Nevertheless, it should be noted that only World War I veterans received adjusted compensation (a "bonus"), while such a benefit was not afforded veterans of any subsequent wars.

The enactment of H.R. 55 would establish a program so favorable to World War I veterans and their dependents that it would be discriminatory towards veterans of later wars. We strongly disagree with the assumption that certain periods of service are implicitly more worthy than others.

The estimated 5-year cost of H.R. 55, if enacted, is in excess of $14 billion, broken down as follows:

Fiscal year—	*Cost (in thousands)*
1978	$2,484,484
1979	3,113,255
1980	2,997,194
1981	2,817,466
1982	2,664,076

Enactment of this bill, with the cost magnitude indicated above, would demonstrate a high degree of fiscal irresponsibility (particularly considering the inequitable distribution of such benefits) and would have an adverse effect on the veterans' and survivors' compensation programs for service-connected disabilities.

In view of the foregoing, the Veterans Administration strongly opposes enactment of H.R. 55.

This will also serve as a reply to your requests for reports on H.R. 1459, H.R. 1808, H.R. 2767, H.R. 2805, H.R. 3125, H.R. 7547 and H.R. 7560, all of which are identical with HR. 55, and on H.R. 2747, H.R. 3559 and H.R. 4629, which are similar in purpose to H.R. 55, except that the $150 monthly service pension provided by H.R. 2747 and H.R. 3559 extends only to veterans and widows of World War I, whereas H.R. 4629 authorizes a $150 monthly service pension only for veterans of World War I.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

MAX CLELAND,
Administrator.

[Veterans' Administration Comments on H.R. 9000 Update of Comments on H.R. 55 (No. 76)]

COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., January 3, 1978.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of November 15, 1977, concerning our cost estimates for H.R. 55 and H.R. 9000, 95th Congress, particularly the lack of sufficient difference in first-year costs to account for the differences in the two bills. As you indicated, the disparity is largley due to the point of time in which the estimates were prepared. In addition, certain differences in methodologies and assumptions were used.

H.R. 55 and H.R. 9000, 95th Congress, propose to pay a $150 monthly service pension to World War I veterans, widows and eligible children. H.R. 55 proposes to pay the service pension in addition to whatever pension a beneficiary is currently receiving, with no changes to the current income limits. H.R. 9000 proposes to pay the service pension in lieu of whatever pension the beneficiary is currently receiving and imposes a $15,000 income ceiling, above which no pension is to bo paid.

H.R. 55 was introduced January 4, 1977, and the cost estimate was made assuming an effective date of October 1, 1977. The cost was computed using an estimated total population of 1,810,300 World War I veterans, widows and eligible children. It was assumed that not all the potential recipients would apply for and receive benefits beginning October 1, 1977. Instead, an average annual payment of $1,350, representing an average on-roll time of three-quarter year, was used, yielding a total 1-year cost of $2.4 billion. When a 9-month cost was requested, the $2.4 billion full-year cost was multiplied by three-quarters, yielding the $1.8 billion estimate.

H.R. 9000 was introduced September 8, 1977, and subsequently a cost estimate was made assuming an effective date of January 1, 1978. The cost was computed using the same estimated population of 1,810,300 World War I veterans, widows and eligible children. This was reduced by 212,800 to account for those assumed not switching from the present pension program—those whose Veteran's Administration payments make it unwise to do so, those ineligible due to an annual income exceeding $15,000, and children terminating because of age. The cost was then computed for a three-quarter-year period. January through September 1978. Accessions were handled on the same basis, i.e., cost for the entire 9 months was used.

The assumptions was made for H.R. 9000 that all eligible recipients would apply on or near January 1, 1978, and receive a full 9 months of benefits. In contrast, the assumption for H.R. 55 caseloads and cost was that the caseload would be distributed over the first full year, giving an average three-quarter-year cost. Therefore, the differences in assumptions are the major reason for the similar cost estimates, although the provisions of the two proposals are not exactly identical.

The cost estimate previously submitted for H.R. 55 was $1,832.6 million for the first three-quarter year. The cost estimate previously submitted for H.R. 9000 was $1,767.4 million for the first three-quarter year.

A 5-year cost estimate for both H.R. 55 and H.R. 9000 with the assumptions for H.R. 55 revised to match those of H.R. 9000 follows. These cost estimates are based on pension rates currently in effect. Also shown is the difference in cost of the two proposals.

[Cost in millions of dollars]

Fiscal year	H.R. 55	H.R. 9000	Difference
1978 (¾ yr)	$2,443.5	$1,767.4	$676.1
1979	3,111.8	2,254.6	857.2
1980	2,996.6	2,203.4	793.2
1981	2,817.4	2,122.6	694.8
1982	2,664.0	2,024.2	639.8
Total	14,033.3	10,372.2	3,661.1

I trust that the foregoing has been responsive to your inquiry.

Sincererly,

MAX CLELAND, *Administrator.*

I again submit that the VA and OMB owe these veterans not merely a pension, they and, indeed, we all, owe them our very existence. Where are our priorities when we can rebuild West Germany, Japan, and most of Europe and pump billions of dollars of relief into foreign nations and then not be able to divert enough money to let our World War I veterans die without wondering from where their next meal would come.

Unlike H.R. 101730, the cost of our bill would terminate when these World War I veterans, who now are in their eighty's die. Each year's cost would be less than the first. Mr. MONTGOMERY's bill will increase in cost each year without end as the World War II veterans reach 80, as the Korean war veterans reach 80, and, yes, as our Vietnam veterans reach their eighty's.

Mr. Speaker, Members of the House, we will soon be asked to swallow a bill that will obligate the Treasury for billions and billions of dollars with no end. If only the Veterans' Affairs Committee would have amended Mr. MONTGOMERY's bill with H.R. 9000, we could do so much more for our veterans of the First World War.

But since this did not happen, the majority of this House are faced with a dilemma: Accept the bill as is, or defeat it under suspension. If only the Veterans' Committee would choose to go

the normal route, possibly our Committee on Rules would allow H.R. 9000 to be offered as an amendment to H.R. 10173.

Mr. Speaker, when we consider the fact that over 16 million Americans served during World War II, 8 million during the Korean conflict, and nearly 10 million in Vietnam, we are faced with over 34 million potential veterans, not to mention dependents, eligible for the benefit contained in H.R. 10173.

Take for example the part of H.R. 10173 that was added as an amendment during the full committee markup. The spirit behind this amendment was a desire to help the World War I veterans.

Since almost all World War I veterans are at least 80, an amendment was accepted to give 80-year-old veterans who are on pension about $70 extra a month.

This amendment passed under the desire to help the aging and needy First World War veterans.

In 23 years, however, assuming a yearly inflation rate of just 5 percent, this $70 will translate into $215. Need we take the chance and indeed incur the obligation of paying millions of veterans $215 per month with no end in sight when we only wanted to take care of the 600,000 surviving World War I veterans? This is a decision each Member of this House must make.

We are now beginning to get some estimates of what these two bills will cost in the future.

Cost by fiscal year, in millions of dollars

H.R. 9000:	
1979	2,049
1983	1,801
1985	1,600
1990	1,100
1995	400
2000	----
1979–2000*	20,628
H.R. 10173:	
1979	959
1983	3,183
1985	5,350
1990	6,300
1995	7,706
2000	10,070
1979–2000*	101,378

* Cost, in millions of dollars, from 1979 through 2000, inclusive.

In 1979, H.R. 9000 carries a price of $2 billion.

In 1983, just 4 years later, this figure drops to $1.8 billion.

Let us contrast this with the veterans' committee bill.

In 1979, H.R. 10173 would cost about half what the "World War I Pension Act" costs. But in 1983, when the World War I bill carries a cost of $1.8 billion, H.R. 10173 will have risen to over $3 billion.

Just 7 years later, the committee's bill has climbed to $6.3 billion per year while H.R. 9000 has fallen to $1.1 billion.

Taking these figures to the year 2000, we find the World War I bill costing nothing and H.R. 10173 reaching $10 billion per year.

In 21 years after enactment, H.R. 10173, the committee's bill, will have cost a total of over $101 billion. H.R. 9000 totals $20.6 billion.

Though I congratulate the committee on their efforts to assist a small portion of the nearly 700,000 surviving veterans of World War I, I have to ask myself if it is not excessive, spending $101 billion when H.R. 9000 does a much better job at one-fifth the cost.

It should be noted that this data is based on figures provided by the congressional budget office and OMB, and reflects age expectancy projections provided by the U.S. Administration on Aging. Every effort has been made to have these figures reflect a more conservative "minimum possible cost" of the two bills.

One can easily see that while the cost of H.R. 9000 drops rapidly and terminates by 2000, the Veterans' Affairs Committee bill soars in cost with no end in sight as veterans of later wars cash in on the benefits contained in H.R. 10173—benefits that were meant to address the problems of the veterans of World War I.

JUSTIFICATION FOR H.R. 9000

As a matter of equity and to make up for the fact that the World War I veterans survived the most severe of times of this Nation's history with no more compensation for their service than $60 and train fare home from the war, I firmly believe that H.R. 9000 is long overdue.

Though they knew they themselves would gain nothing, the veterans of World War I were nevertheless out fighting for home loans, VA hospitals, GI educational assistance, and the other benefits that we veterans of later wars took for granted.

And now that they are in need, we are being instructed to tell them that they should go away and die and leave us alone because "we cannot afford them."

Mr. Speaker, it has been said that "Old soldiers just fade away." We all know that this is not true. Because of this, I will never stop my efforts to get this equity for the men and women who served so valiantly during our Nation's time of need, and are now themselves in need.

Three hundred and twenty-nine Members voted last session to add $500 million to the Veterans' Affairs Committee budget to partially fund H.R. 9000. I only hope that those Members who truly want a "World War I Pension Act" will capture this opportunity to communicate their support to the committee's leadership.

At least, Mr. Speaker, those of us truly committed to improving the plight of these men and women should write the committee's chairman, RAY ROBERTS, and ask him to bring this bill to rules and request a modified-open rule that would allow us to vote our consciences on H.R. 9000 as an amendment to the committee bill.

I applaud the 218 Members who have thus far joined me in cosponsoring this urgently needed bill and I include an alphabetical listing of their names in the RECORD at this point:

COSPONSORS OF A WORLD WAR I PENSION

Daniel Akaka, Clifford Allen, Glenn Anderson, John Anderson, Mark Andrews, Douglas Applegate, John Ashbrook, Les Aspin, Les AuCoin, Robert Badham, L. A. Bafalis, Max Baucus, Robert Bauman, Edward Beard, Berkley Bedell, Tom Bevill, Mario Biaggi.

Michael Blouin, David Bonior, David Bowen, Jack Brinkley, William Brodhead, Garry Brown, George Brown, John Buchanan, Clair Burgener, James Burke.

Yvonne B. Burke, Charles Carney, Bob Carr, Tim Lee Carter, Elford Cederberg, Shirley Chisholm, Don Clausen.

Thad Cochran, William Cohen, Cardiss Collins, Silvio Conte, John Conyers, Tom Corcoran, James Corman, Robert Cornell, David Cornwell, Baltasar Corrada, Lawrence Coughlin, Philip Crane, John Cunningham, Norman D'Amours, Mendel Davis, E de la Garza, Ronald Dellums, Ron de Lugo, Norman Dicks, Charles Diggs.

Robert Drinan, John Duncan, Robert Edgar, Mickey Edwards, Joshua Eilberg, David Emery, Glenn English, Allen Ertel, John Fary, Dante Fascell, Hamilton Fish, Jr., Floyd Fithian, Daniel Flood, James Florio, Walter Flowers, Harold Ford, Donald Fraser.

Louis Frey, Jr., Don Fuqua, Robert Giaimo, Sam Gibbons, Benjamin Gilman, Bo Ginn, Dan Glickman, Henry Gonzalez, Tennyson Guyer, Tom Hagedorn, Lee Hamilton, Mark Hannaford, Tom Harkin, Michael Harrington, William Harsha, Augustus Hawkins, Margaret Heckler.

Cecil Heftel, Jack Hightower, Harold Hollenbeck, Marjorie Holt, Frank Horton, James Howard, William Hughes, Henry Hyde, Andy Ireland, Andrew Jacobs, James Jeffords, John Jenrette, Harold Johnson, Walter Jones, Richard Kelly, Jack Kemp.

William Ketchum, Dale Kildee, Thomas Kindness, John Krebs, Robert Krueger, Robert Lagomarsino, Jim Leach, Raymond Lederer, Joseph Le Fante, William Lehman, Norman Lent, Marilyn Lloyd, Clarence Long, Gillis Long, Trent Lott, Thomas Luken, Stanley Lundine.

Paul McCloskey, Mike McCormack, Joseph McDade, John McFall, Stewart McKinney, Ron Marlenee, James Martin, Dawson Mathis, Romano Mazzoli, Lloyd Meeds, Barbara Mikulski, Clarence Miller, George Miller, Norman Mineta, Joseph Minish, Donald Mitchell.

Parren Mitchell, Joe Moakley, Anthony Moffett, Robert Mollohan, Carlos Moorhead, Ronald Mottl, Austin Murphy, John Murphy, John Murtha, Gary Myers, William Natcher, Stephen Neal, Lucien Nedzi, Bill Nichols, Robert Nix.

Mary Rose Oakar, George O'Brien, Richard Ottinger, Leon Panetta, Jerry Patterson, Claude Pepper, Carl Perkins, Larry Pressler, Melvin Price, Joel Pritchard, Carl Pursell, James Quillen, Nick Joe Rahall, Tom Railsback, Ted Risenhoover, Robert Roe, Paul Rogers.

Edward Roybal, Philip Ruppe, Marty Russo, Leo Ryan, Harold Sawyer, Richard Schulze, Keith Sebelius, Philip Sharp, Robert Sikes, Paul Simon, B. F. Sisk, Ike Skelton, Joe Skubitz, John Slack, Gladys Spellman, Floyd Spence.

Harley Staggers, Tom Steed, Newton Steers, William Steiger, Dave Stockman, Bob Stump, Gene Taylor, Charles Thone, Bob Traxler, Paul Trible, Paul Tsongas, Guy Vander Jagt, Bruce Vento, Harold Volkmer, Doug Walgren, Robert Walker.

William Walsh, William Wampler, Wes Watkins, Henry Waxman, James Weaver, William Whitehurst, Jamie Whitten, Charles Wilson, Charles H. Wilson, Larry Winn, Lester Wolff, Gus Yatron, C. W. Bill Young.

Don Young, Robert Young, Clement Zablocki, Leo Zeferetti.

Mr. Speaker, our Nation owes its very existence to these veterans. For every day we delay action, yet another 200 die.

In about 20 years, when the final history of World War I is written, will the last line in the book be, "They died before getting a pension."

LEGISLATION TO AMEND COMMODITY EXCHANGE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. JONES) is recognized for 10 minutes.

● Mr. JONES of Tennessee. Mr. Speaker, after several months of hard work by the House Agriculture Committee, we have now reported to the Congress a 3-year extension for the Commodity Futures Trading Commission.

As many of you know, the Commission would have expired September 30, 1978, under the "sunset" provision included in the 1974 CFTC Act. The Subcommittee on Conservation and Credit began our review by soliciting views and opinions on the Commission, its activities, and problems in December 1977. With the help of other reviews and investigations conducted by the House Appropriations Committee and the General Accounting Office, we have put together a bill which addresses the industry, regulatory, and other problems which have surfaced.

With the changes incorporated in H.R. 10285 plus the additional funding for which Chairman WHITTEN has indicated his support, I am confident the Commission will quickly get its operation in order and clearly focused at creating a climate of confidence in commodity futures trading resulting from competent and effective regulation.

For the benefit of my colleagues, I want to provide this summary of the bill:

SUMMARY

H.R. 10285, as amended, amends the Commodity Exchange Act so as to—

(1) Extend the authorization for appropriations to carry out the Act for the period October 1, 1978, through September 30, 1981, in the amount of such sums as Congress may appropriate.

(2) Prohibit commodity option transactions unless expressly permitted under rules and regulations adopted after the date of enactment of the bill and after notice and opportunity for a hearing. Excepted would be (a) trade option transactions expressly permitted by Commission regulations issued before or after enactment of the bill, and (b) dealer option transactions authorized under rules and regulations issued pursuant to expedited procedures after enactment of the bill. Any dealer exemption would be limited to the U.S. domiciliaries and persons engaged in the business on May 1, 1978. Rules and regulations on options would be subject to veto by either House of Congress within ten days after issuance.

(3) Require the Commission to obtain the views of the Treasury Department, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission on matters relating to their areas of responsibility and, in particular, require that prior to designating a board of trade as a contract market for a futures contract on a security issued or guaranteed by the United States, the Commission must solicit the views of the Treasury Department and the Board of Governors of the Federal Reserve System and in any action regarding such securities take into consideration the comments of these agencies and the effect such actions may have on the debt financing requirements of the United States.

(4) Authorize the States to investigate or prosecute in civil actions violations of the Act and of section 217 of the Commodity Futures Trading Commission Act (relating to leverage contracts) in Federal district courts. Violations by designated contract markets or boards of trade would be excepted as would violations involving futures contracts traded on a designated contract market or licensed boards of trade which the State would be authorized to prosecute in a civil action under the parens patriae doctrine. States would continue to have authority to investigate and prosecute violations of State criminal statutes.

(5) Authorize the President to appoint one of the Commissioners (sitting or newly appointed) as Chairman of the Commodity Futures Trading Commission, subject to Senate confirmation, who would serve at the pleasure of the President; and the Chairman is to serve as chief administrative officer of the Commission.

(6) Expressly authorize the Commission, in its discretion, to approve a plan for any futures association or associations which it may register that would require persons eligible for membership to become members of at least one such association if the Commission determines such a rule is necessary to achieve the objectives of the Act.

(7) Authorize (but not require) the Commission to permit a contract market to delegate its responsibilities to a registered futures association to provide arbitration procedures for settlement of customer claims and grievances against any member or employee provided such association has rules for such procedures.

(8) Exclude from the definition of the term "commodity trading advisor" certain dealers (such as feed dealers) and sellers of cash commodities and nonprofit general farm organizations which provide advice on the sale and purchase of cash commodities.

(9) Authorize the Commission to prescribe the terms and conditions under which funds and property of customers commingled and deposited under section 4d(2) of the Act may be commingled and deposited with any other money, securities and property received by a futures commission merchant and required by the Commission to be separately accounted for and treated as belonging to a customer.

(10) Limit the Commission from publicly disclosing or publishing data or information that, with respect to particular traders, discloses their names, market positions, and business transactions, until such information has been disclosed publicly in a judicial or Congressional proceeding. Other amendments prohibit the Commission from disclosing certain commodity transactions and trading positions under other situations.

(11) Remove the authority of the Commission "to publish" the open market positions of any traders when the Commission communicates with a committee or officer of any contract market about a transaction or market operation which in the judgment of the Commission may be disrupting a market.

(12) Authorize the Commission to require fingerprints of applicants for registration as futures commission merchants (or persons associated with them), floor brokers, commodity trading advisors and others.

(13) Classify as felonies the knowing commission of certain unlawful acts which under current law are misdemeanors (for instance, violations of section 4, 4b, 4h and 4o(1)), as well as knowingly making a false or misleading statement of a material fact in any registration application or report filed with the Commission.

(14) Make clear that reparations proceedings may be brought against any person who is registered or should be registered under the Act, who violates the Act or the Commission's regulations. The amendment also provides that reparations cases which qualify for expedited treatment by the Commission would extend to those where damages do not exceed $5,000 (formerly $2,500).

(15) Establish the Commission's power to administer oaths, to subpena witnesses, and to take related actions for the purpose of conducting investigations—independent of the authority currently in the Act which is tied to the Interstate Commerce Act. This amendment also authorizes the Commission to invoke the authority of Federal courts to enforce its subpenas.

(16) Provide for a hearing on the record for Commission refusal, suspension or revocation of a contract market designation. Also the amendment provides for a hearing on the record by the Commission prior to issuing a cease and desist order or imposing a civil money penalty against a contract market for violating provisions of the Act or Commission regulations.

(17) Make clear that the antifraud provisions of the Act apply to all commodity trading advisors and commodity pool operators whether or not they are registered.

(18) Extend the time to six months (from 30 days) within which registration of a commodity trading advisor and commodity pool operator becomes effective after the Commission's receipt of an application.

(19) Provide that registrations of commodity trading advisors and commodity pool advisors shall expire—in not less than one year—on such dates as the Commission may prescribe (not June 30 each year); authorize the Commission to prescribe the period of registration—not less than one year—for associated persons (now two years if the Commission takes no action); and provide that the registration of each futures commission merchant and floor broker expires on December 31 of the year in which it was issued or at such other time, not less than one year from the issuance of the registration, as the Commission may prescribe.

(20) Require the Commission's prior approval of board of trade rules regarding exchange of futures in connection with cash commodity transactions or of futures for cash commodities, or of transfer trades or office trades.

(21) Repeal the requirement that the executive director of the Commission be confirmed by the Senate.

(22) Clarify the responsibilities of the Chairman and the executive and administrative functions of the Commission.

(23) Prohibit Commissioners and certain Commission employees (GS–16 and above) from making any appearance before the Commission on behalf of any person on any matter (other than the United States) for one year after the termination of service with the Commission—effective four months after enactment of the bill.●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I was in Houston to address the annual meeting

of the Municipal Finance Officers of America on the social security system. Had I been present, I would have voted as follows:

Rollcall No. 324—Resolve into Committee on H.R. 11686, "Yes";

Rollcall No. 325, the Weiss amendment to H.R. 11686, "yes";

Rollcall No. 326, final passage of H.R. 11686, "no";

Rollcall No. 327, Senate Concurrent Resolution 88, "yes";

Rollcall No. 328, agree to consider H.R. 12641, "yes";

Rollcall No. 329, final passage of H.R. 12641, "yes"; and

Rollcall No. 330, rule on H.R. 39, House Resolution 1186, "yes."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. RODINO, (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HYDE) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.

Mr. COHEN, for 10 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

Mr. GOLDWATER, for 10 minutes today.

Mr. DERWINSKI, for 60 minutes today.

(The following Members (at the request of Mr. EVANS of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. ANDERSON of California, for 20 minutes, today.

Mr. ALEXANDER, for 15 minutes, today.

Mr. JONES of Tennessee, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BINGHAM, to revise and extend his remarks during the colloquy with Mr. DELLUMS.

Mr. EDWARDS of California, to revise and extend his remarks during debate on the Weiss amendment to be inserted immediately after the remarks of Ms. HOLTZMAN.

(The following Members (at the request of Mr. HYDE) and to include extraneous matter:)

Mr. SARASIN.

Mr. LAGOMARSINO.

Mr. RUPPE.

Mr. FINDLEY.

Mr. WYDLER.

Mr. CUNNINGHAM.

Mr. KEMP in four instances.

Mr. WHITEHURST.

Mr. STEERS.

Mr. COHEN in two instances.

Mr. KETCHUM.

Mr. FRENZEL in two instances.

Mrs. HOLT.

Mr. BROWN of Ohio in two instances.

Mr. BURKE of Florida.

Mr. GOLDWATER.

Mr. EDWARDS of Oklahoma.

Mr. ASHBROOK in three instances.

Mr. GREEN.

Mr. MARLENEE.

Mr. PRESSLER.

(The following Members (at the request of Mr. EVANS of Indiana) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. STOKES in five instances.

Mr. EDWARDS of California in two instances.

Mr. D'AMOURS in two instances.

Mr. MAGUIRE.

Mr. AMBRO.

Mr. HAMILTON.

Mr. LUKEN in two instances.

Mr. CARNEY.

Mr. OTTINGER.

Mr. BRODHEAD.

Mr. LEGGETT in two instances.

Mr. FOWLER.

Mr. MAZZOLI.

Mr. VANIK.

Mr. RYAN in two instances.

Mr. DAN DANIEL.

Mr. MCDONALD in five instances.

Mr. EDGAR.

Mr. SIMON.

Mr. BURKE of Massachusetts.

Mr. ULLMAN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 10392. An act to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

ADJOURNMENT

Mr. EVANS of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Thursday, May 18, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4183. A letter from the Secretary of Transportation, transmitting a report on a violation of the Antideficiency Act of the U.S. Coast Guard, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

4184. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Iran (transmittal No. 78-40), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4185. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment and services to Iran (transmittal No. 78-50), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4186. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense services to Iran (transmittal No. 78-52), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4187. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to Japan (transmittal No. 78-54), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4188. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment and services to Japan (transmittal No. 78-55), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4189. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1977, pursuant to section 10(a) of the Gold Reserve Act of 1934, as amended (84 Stat. 1659); to the Committee on Banking, Finance and Urban Affairs.

4190. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions with Communist countries supported by Eximbank during April, 1978; to the Committee on Banking, Finance and Urban Affairs.

4191. A letter from the Inspector General, Department of Health, Education, and Welfare, transmitting the fourth quarterly report on the activities of his office, pursuant to section 204(b) of Public Law 94-505; to the Committee on Government Operations.

4192. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a revised final annual report on the Federal Power Commission's activities under the Freedom of Information Act, covering the period January 1 through September 30, 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4193. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Iran

(transmittal No. 78-40), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4194. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Iran (transmittal No. 78-50), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4195. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense services to Iran (transmittal No. 78-52), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4196. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Japan (transmittal No. 78-54), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4197. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Japan (transmittal No. 78-55), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4198. A letter from the director, National Legislative Commission, The American Legion, transmitting the audited financial statements of the organization for calendar year 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4199. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting reports covering the quarters ended December 31, 1977, and March 31, 1978, on the Commission's hiring and promotion of minorities and women, pursuant to section 201(h) of the Energy Reorganization Act of 1974, as amended (91 Stat. 1482); to the Committee on Post Office and Civil Service.

4200. A letter from the Comptroller General of the United States, transmitting a report on the supply of physicians in the United States (HRD-77-92, May 16, 1978); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Supplemental report on H.R. 10909 (Rept. No. 95-1004, Pt. II). Ordered to be printed.

Mr. SISK: Committee on Rules. House Resolution 1187. Resolution providing for the consideration of H.R. 8099. A bill relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States. (Rept. No. 95-1200). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1188. Resolution providing for the consideration of H.R. 10929. A bill to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes (Rept. No. 95-1202). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 1190. Resolution providing for the consideration of H.R. 10729. A bill to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes (Rept. No. 95-1203). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 1191. Resolution providing for the consideration of H.R. 12481. A bill to authorize appropriations for certain insular areas of the United States, and for other purposes (Rept. No. 95-1204). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. LEHMAN: Committee on Post Office and Civil Service. H.R. 11253. A bill to amend title 13, United States Code, to provide for the review of Federal authority for the collection of statistical information, to require certain information to be included in committee reports accompanying legislation in which there is provided Federal authority for the collection of information, and for other purposes; with amendment (Rept. No. 95-1201, Pt. I). Referred to the Committee on Rules for a period ending not later than June 23, 1978 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee under clause 1(q), rule X, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON (for himself, Mr. BROOKS, Mr. HORTON, Mr. FASCELL, Mr. ERLENBORN, Mr. PREYER, Mr. HARRINGTON, Mr. JENRETTE, Mr. WALKER, and Mr. STANGELAND):

H.R. 12744. A bill to authorize the permanent establishment of a system of Federal Information Centers; to the Committee on Government Operations.

By Mr. PHILLIP BURTON (for himself, Mr. FRASER, Mr. DELLUMS, Mr. STEERS, Mr. MIKVA, Mr. CORCORAN of Illinois, Mr. LEACH, Mr. EDWARDS of California, Mr. MAZZOLI, and Mr. MOFFETT):

H.R. 12745. A bill to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area National Recreation Area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CARR:

H.R. 12746. A bill to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes; to the Committee on Armed Services.

By Mrs. COLLINS of Illinois (for herself, Mr. MARKEY, Mr. DOWNEY, Mr. STUDDS, Mr. PEASE, Mr. SOLARZ, Mr. ROSENTHAL, Mr. HARRINGTON, Mrs. MEYNER, Mr. RYAN, Mr. BRADEMAS, Mr. SIMON, Mr. STEERS, Mr. TSONGAS, Mr. EDWARDS of California, Mr. BEDELL, Mr. MITCHELL of Maryland, Mr. JENRETTE, Mr. MURPHY of Pennsylvania, Mr. RANGEL, Mr. EILBERG, Mr. BLOUIN, Mr. BONIOR, Mrs. CHISHOLM, and Mr. STOKES):

H.R. 12747. A bill to prohibit the export of certain militarily significant items to the Republic of South Africa and to provide for notification to the Congress of the proposed issuance of a validated license for an export to the Republic of South Africa, with each House of Congress being able to prevent the issuance of any such license by adoption of a resolution of disapproval; to the Committee on International Relations.

By Mrs. COLLINS of Illinois (for herself, Ms. HOLTZMAN, Mr. CONYERS, Mr. DELLUMS, Mr. WAXMAN, Mr. OTTINGER, Mr. MOFFETT, Mrs. BURKE of California, Mr. CLAY, Mr. GARCIA and Mr. BONKER):

H.R. 12748. A bill to prohibit the export of certain militarily significant items to the Republic of South Africa and to provide for notification to the Congress of the proposed issuance of a validated license for an export to the Republic of South Africa, with each House of Congress being able to prevent the issuance of any such license by adoption of a resolution of disapproval; to the Committee on International Relations.

By Mr. FAUNTROY (for himself, Mr. DIGGS, and Mr. MCKINNEY):

H.R. 12749. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the payment of revenue bonds issued by the Council of the District of Columbia for the activities of a housing finance authority; to the Committee on the District of Columbia.

By Mr. FINDLEY:

H.R. 12750. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the purchase and installation of certain teletypewriters for use by individuals who are blind or deaf or whose speech is impaired and to allow certain individuals who are deaf an additional income tax exemption; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. ANNUNZIO, and Mr. RICHMOND):

H.R. 12751. A bill to amend title I of the Higher Education Act of 1965 to establish a system of grants for urban universities; to the Committee on Education and Labor.

By Mr. GIBBONS:

H.R. 12752. A bill to repeal the statutory authority to impose quotas on certain imported meat and meat products; to the Committee on Ways and Means.

By Mr. IRELAND (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BEDELL, Mr. BEVILL, Mr. BLOUIN, Mr. BURGENER, Mr. BURKE of Florida, Mr. CAVANAUGH, Mr. CEDERBERG, Mr. COHEN, Mr. CORNWELL, Mr. CORRADA, Mr. CUNNINGHAM, Mr. DICKS, Mr. EDGAR, Mr. ERTEL, Mr. EVANS of Georgia, Mr. FUQUA, Mr. GUYER, Mrs. HECKLER, Mr. HEFTEL, Mr. HUCKABY, Mr. LAFALCE, and Mr. LAGOMARSINO):

H.R. 12753. A bill to amend the Small Business Act to provide regulatory flexibility for small business in certain instances so that the effect of regulation matches the size of business regulated; to the Committee on Small Business.

By Mr. IRELAND (for himself, Mr. LE FANTE, Mr. LEDERER, Mr. LEHMAN, Mrs. LLOYD of Tennessee, Mr. LOTT, Mr. LUKEN, Mr. MARRIOTT, Ms. MIKULSKI, Mr. MILLER of Ohio, Mr. MOTTL, Mr. NEAL, Mr. NOLAN, Mr. OTTINGER, Mr. PEASE, Mr. PEPPER, Mr. QUIE, Mr. SEBELIUS, Mr. SIKES, Mr. SKELTON, Mr. STEED, Mr. STUMP, Mr. THONE, Mr. VOLKMER, and Mr. WAMPLER):

H.R. 12754. A bill to amend the Small Business Act to provide regulatory flexibility for small business in certain instances so that the effect of regulation matches the size of business regulated; to the Committee on Small Business.

By Mrs. LLOYD of Tennessee:

H.R. 12755. A bill to permit individuals and their relatives to supplement medicaid payments for skilled nursing facility services and intermediate care facility services provided under title XIX of the Social Security Act; to the Committee on Interstate and Foreign Commerce.

By Mr. MAGUIRE (for himself and Mr. STEIGER):

H.R. 12756. A bill to amend the Higher Education Act of 1965 to raise the limits on insured loans for undergraduate students, to allow lenders to use a Government service administered by the Commissioner of Education and the Secretary of the Treasury for the collection of such loans, and for other purposes; to the Committee on Education and Labor.

By Mr. MOTTL (for himself and Mr. FITHIAN):

H.R. 12757. A bill to reduce the amount of paperwork required by Federal agencies and to increase congressional awareness of the increase in paperwork required by bills and joint resolutions under consideration by Congress; jointly, to the Committees on Government Operations, and Rules.

By Mr. PATTERSON of California (for himself, Mr. EDWARDS of California, Mr. HANNAFORD, Mr. LLOYD of California, Mr. MINETA, Mr. SISK, and Mr. RYAN):

H.R. 12758. A bill to provide for reimbursement to States experiencing high rates of insured unemployment; to the Committee on Ways and Means.

My Mr. RONCALIO:

H.R. 12759. A bill to amend section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977 to clarify the exchange provision in the alluvial valley floor prohibition; to the Committee on Interior and Insular Affairs.

H.R. 12760. A bill to amend the Internal Revenue Code of 1954 to disregard, in the valuation for estate tax purposes of certain items created by the decedent during his life, any amount which would not have been capital gain if such item had been sold by the decedent at its fair market value; to the Committee on Ways and Means.

By Mr. RONCALIO (for himself and Mrs. SCHROEDER):

H.R. 12761. A bill to amend the Federal Coal Leasing Amendments Act of 1975 (Public Law 94-377; 30 U.S.C. 181 et seq.); to the Committee on Interior and Insular Affairs.

By Mr. SEIBERLING:

H.R. 12762. A bill to amend the Internal Revenue Code of 1954 to provide that a taxpayer may, with respect to any pollution control facility used in connection with a plant or other property in operation before January 1, 1971 elect a 12-month amortization of such facility or a 20-percent investment tax credit; to the Committee on Ways and Means.

By Mrs. SMITH of Nebraska:

H.R. 12763. A bill to authorize the establishment of the Trails West National Historical Park in the State of Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STARK (for himself, Mr. SOLARZ, Mr. LE FANTE, Mr. HANSEN, Mr. BAFALIS, Mr. RANGEL, Mr. GLICKMAN, Mr. GREEN, Mr. DOWNEY, Mr. JACOBS, Mr. WEISS, and Mr. GILMAN):

H.R. 12764. A bill to amend title XVI of the Social Security Act to provide that an individual who applies for supplemental security benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding 5 years; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. MURPHY of Illinois, and Mr. PRESSLER):

H.R. 12765. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Ways and Means.

By Mr. WHITLEY:

H.R. 12766. A bill to provide that any application for a passport for a minor must be accompanied by a sworn oath or affirmation by a parent or legal guardian that removal of the minor from the United States will not violate a child custody order; to the Committee on International Relations.

By Mrs. BOGGS (for herself, Mrs. BURKE of California, Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. HAWKINS, Miss JORDAN, Mr. NIX, Mr. RANGEL, and Mr. STOKES):

H.R. 12767. A bill to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes; to the Committee on House Administration.

By Mr. CRANE:

H.R. 12768. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Education and Labor.

By Mr. FLORIO:

H.R. 12769. A bill to provide for Government guaranties of private loans to certain privately owned, publicly used general aviation airports for improvements to such airports in order to foster the development and use of such airports, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. RANGEL:

H.R. 12770. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts received as prizes in connection with the New York State olympic lottery; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself and Mr. CHARLES WILSON of Texas):

H.R. 12771. A bill to establish a National Zoological Foundation; to the Committee on Merchant Marine and Fisheries.

By Mr. COLEMAN:

H.J. Res. 916. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. DORNAN (for himself, Mr. ASHBROOK, Mr. ROUSSELOT, Mrs. HOLT, Mr. MATHIS, Mr. MAZZOLI, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. HILLIS, Mr. WINN, Mr. KINDNESS, Mr. EDGAR, Mr. FLORIO, Mr. LAFALCE, Mr. ICHORD, Mr. HORTON, Mr. HYDE, Mr. GUYER, Mr. DON H. CLAUSEN, Mr. EMERY, Mr. KEMP, Mr. CORCORAN of Illinois, Mr. SEBELIUS, Mr. ABDNOR, and Mrs. SMITH of Nebraska):

H.J. Res. 917. Joint resolution requesting the President and Ambassador Andrew Young to counter Cambodian atrocities; to the Committee on International Relations.

By Mr. MOORE (for himself and Mr. ROGERS):

H.J. Res. 918. Joint resolution designating July 1, 1978, as "National Free Enterprise Day"; to the Committee on Post Office and Civil Service.

By Mr. MOTTL (for himself, Mr. KETCHUM, and Mr. COLLINS of Texas):

H.J. Res. 919. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of judges of the district courts of the United States; to the Committee on the Judiciary

By Mr. ROGERS:

H.J. Res. 920. Joint resolution to authorize and request the President to proclaim the month of May 1978 as "National Car Care Month"; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, Mr. FRASER, Mr. ROSENTHAL, Mr. WOLFF, Mr. BINGHAM, Mr. RYAN, Mr. SOLARZ, Mr. BONKER, Mr. STUDDS, Mr. PEASE, Mr. BEILENSON, Mr. CAVANAUGH, Mr. BUCHANAN, Mr. WINN, Mr. LAGOMARSINO, Mr. YATES, Mr. SIMON, Mrs. FENWICK, Mr. ROUSSELOT, Mr. LEHMAN, Mr. PEPPER, and Mr. DODD):

H. Con. Res. 624. Concurrent resolution expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups To Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express U.S. opposition to the imprisonment of members of the Soviet Helsinki Groups; to the Committee on International Relations.

By Mr. FINDLEY (for himself, Mr. BURKE of Florida, Mr. GEPHARDT, GOODLING, Mr. GREEN, and Mr. SYMMS):

H. Res. 1189. Resolution to recognize Bob Hope on his 75th birthday celebration; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

405. By the SPEAKER: Memorial of the Legislature of the State of New York, relative to billeting the Army's 2d Infantry Division at Fort Drum, N.Y., as it is phased out of Korea; to the Committee on Armed Services.

406. Also, memorial of the Legislature of the State of Kansas, requesting that Congress propose, or call a convention for the purpose of proposing, an amendment to the Constitution requiring that Federal budgets be balanced; to the Committee on the Judiciary.

407. Also, memorial of the Legislature of the State of Hawaii, relative to Federal financing of public assistance programs; to the Committee on Ways and Means.

408. Also, memorial of the House of Representatives of the State of Hawaii, relative to Federal financing of public assistance programs; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUCOIN:

H.R. 12772. A bill to facilitate the exchange of certain lands in the State of Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BOLAND:

H.R. 12773. A bill for the relief of Chunchai Letasz; to the Committee on the Judiciary.

By Mr. BREAUX:

H.R. 12774. A bill for the relief of Hikmat Koussa; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

466. By the SPEAKER: petition of the city council, Mount Vernon, N.Y., relative to reduction of the military budget and increases in human resources programs and tax relief; to the Committee on the Budget.

467. Also, petition of the Aerospace Medical Association, Washington, D.C., relative to relieving physicians and others from liability for damages resulting from on-the-scene emergency care rendered aboard aircraft; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 39

By Mr. ASHBROOK:

Strike all after the enacting clause and insert in lieu thereof, the following new language:

REGULATIONS ON FIREARMS

SEC. . (a) Subsection 923(g) of title 18, United States Code, is amended by striking out the first two sentences and inserting in lieu thereof the following: "Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition on the premises of such licensed importer, licensed manufacturer, licensed dealer, and licensed collector."

(b) No regulations of the Secretary of the Treasury issued under section 923(g) of title 18, United States Code, may go into effect after March 16, 1978.

Strike all after the enacting clause and insert in lieu thereof, the following new language:

REGULATIONS ON FIREARMS

SEC. . Subsection 926 of title 18, United States Code, is amended as follows: After "regulations." add "No rules or regulations issued by the Secretary after March 16, 1978 shall be of any force or effect."

By Mr. KETCHUM:

Strike all after the enacting clause of H.R. 39 and substitute the following provisions:

TITLE I—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

SEC. 101. The following area is hereby established as a unit of the National Park System and, subject to valid existing rights, shall be administered by the Secretary of the Interior under the laws governing the administration of such units:

(1) Those acres of public domain lands as listed in table 7, page 10 of the publication entitled "Public Land Statistics 1976" by the United States Department of the Interior, Bureau of Land Management, which correspond with the area designated by the arabic numeral "2" on the map found on page 944 of the publication "1977 Official Congressional Directory, 95th Congress, 1st Session" printed by the Government Printing Office.

TITLE II—DESIGNATION OF WILDERNESS WITHIN THE NATIONAL PARK SYSTEM

SEC. 201. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Those lands which comprise the National Park unit as established by title I, section 101(1) of this Act.

By Mr. SANTINI:

Page 192, after line 9, insert the following new section and renumber the following sections accordingly:

MINERAL ASSESSMENT PROGRAMS IN ALASKA; PRESIDENTIAL REPORT

SEC. 903. (a) MINERAL ASSESSMENTS.—The Secretary of the Internor shall, to the full extent of his authority, continue mineral assessment programs in the State of Alaska in order to expand the data base with respect to the mineral potential of all public lands in Alaska. Such programs may include, but shall not be limited to, techniques such as side-looking radar imagery and core drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. In carrying out such programs, the Secretary—

(1) is authorized to study and conduct assessments of the oil, gas, and other mineral potential of all public lands in Alaska,

(2) shall establish priorities for accelerated assessment with respect to minerals for which there is a high potential on such public lands, and

(3) is authorized to enter into contracts with public or private entities to carry out such programs.

(b) REGULATIONS.—Activities carried out on conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the area or biological or ecological systems in the area, and

(2) which is compatible with the purposes for which such units are established.

(c) PRESIDENTIAL REPORT.—On or before October 1, 1979, the President shall submit to the Congress a proposal for the establishment of a procedure for evaluating applications by individuals wishing to carry out mineral exploration or extraction on those lands included within the boundaries of the various conservation system units in Alaska. Such proposal shall provide for the approval of applications only in those cases where the applicant is able to demonstrate that such exploration or extraction would be in the best interests of the United States. The proposal shall include provisions which will insure that any such operations shall be carried out, to the maximum extent feasible, in a manner not inconsistent with the purposes for which the affected units were established. Upon submission of such a recommendation, the President shall also transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the Bureau of Mines and any other Federal agency which may have such information.

And make the necessary conforming changes in the table of contents.

By Mr. UDALL:

Strike all after the enacting clause of text of H.R. 12625 (Leggett amendment) and in lieu thereof insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Alaska National Interest Lands Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINDINGS, POLICY, AND DEFINITIONS

Sec. 101. Findings.
Sec. 102. Policy.
Sec. 103. Definitions.

TITLE II—NATIONAL PARK SYSTEM

Sec. 201. Establishment of new areas.
Sec. 202. Additions to existing areas.
Sec. 203. Administrative provisions.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 301. Definitions.
Sec. 302. Purposes of refuges.
Sec. 303. Administration of refuges.
Sec. 304. Establishment of refuges.
Sec. 305. Cooperative management agreements.
Sec. 306. Barren Ground Caribou Study.
Sec. 307. Miscellaneous provisions.

TITLE IV—NATIONAL FOREST SYSTEM

Sec. 401. Additions to national forests.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

Sec. 501. Additions to the National Wild and Scenic Rivers System.
Sec. 502. Potential additions.
Sec. 503. Administrative provisions.
Sec. 504. Wulik River.

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

Sec. 601. Findings and purposes.
Sec. 602. Designation of wilderness within the National Park System.
Sec. 603. Designation of wilderness study within units of the National Park System.
Sec. 604. Designation of wilderness within the National Wildlife Refuge System.
Sec. 605. Wilderness reviews within conservation system units other than National Park System units.
Sec. 606. Designation of wilderness within the National Forest System.
Sec. 607. Special provisions.
Sec. 608. Administration.
Sec. 609. Acquisition authority.

TITLE VII—SUBSISTENCE

Sec. 701. Findings.
Sec. 702. Policy.
Sec. 703. Definition.
Sec. 704. State regulation.
Sec. 705. Enforcement duties of Secretary of the Interior.
Sec. 706. Cooperative arrangements.
Sec. 707 Subsistence and land use decisions.
Sec. 708. Access.
Sec. 709. Snowmobiles and motorboats.
Sec. 710. Research.
Sec. 711. Periodic reports.
Sec. 712. Regulations.
Sec. 713. Other laws.
Sec. 714. Limitations.
Sec. 715. Reimbursement to the State.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

Sec. 801. Conveyances to village corporations.
Sec. 802. Other conveyances to Native Corporations.
Sec. 803. Administrative provisions.
Sec. 804. Tax moratorium extension.
Sec. 805. State selections and conveyances.
Sec. 806. Alaska Native Land Bank.
Sec. 807. Protection of Native Lands in contingency areas under timber sales.

Sec. 808. Use of protraction surveys.
Sec. 809. Action to enforce; jurisdiction.
Sec. 810. National Environmental Policy Act.
Sec. 811. Technical amendments to Public Law 94-204.

TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

Sec. 901. Purposes.
Sec. 902. Use permits under existing authorities.
Sec. 903. Use permits under new authority.
Sec. 904. Coordination of right-of-way requirements.
Sec. 905. Congressional approval procedure.
Sec. 906. Issuance of permits.

TITLE X—COORDINATION

Sec. 1001. Alaska Advisory Coordinating Council.
Sec. 1002. Functions of the council.
Sec. 1003. Cooperative agreements.
Sec. 1004. Termination.

TITLE XI—ADMINISTRATIVE PROVISIONS

Sec. 1101. Land acquisitions and exchanges.
Sec. 1102. Access.
Sec. 1103. Archeological and paleontological sites.
Sec. 1104. Cooperative information centers.
Sec. 1105. Administrative sites and visitor facilities.
Sec. 1106. Revenue-producing visitor services.
Sec. 1107. Local hire.
Sec. 1108. Management plans.
Sec. 1109. Taking of fish and wildlife.
Sec. 1110. Maps.
Sec. 1111. Major Federal actions.
Sec. 1112. Congressional review.

TITLE XII—MISCELLANEOUS

Sec. 1201. Iditarod National Historic Trail.
Sec. 1202. Klondike Gold Rush National Historical Park.
Sec. 1203. Navigation aids and other facilities.
Sec. 1204. National petroleum reserve in Alaska.
Sec. 1205. Withdrawals, mineral rights.
Sec. 1206. Scenic highway study.
Sec. 1207. Bureau of Land Management Land Reviews.
Sec. 1208. Authorization for appropriation.

TITLE XIII—MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

Sec. 1301. Purposes.
Sec. 1302. Definitions.
Sec. 1303. Continuation of mineral assessment programs in Alaska.
Sec. 1304. Existing mining claims and mineral leasing rights in conservation system units.
Sec. 1305. Areas subject to the minerals access process.
Sec. 1306. Initiation of the minerals access process by application or Secretarial motion.
Sec. 1307. Recommendations of the Secretary to Congress.
Sec. 1308. Congressional approval procedure.
Sec. 1309. Exploration permits and development and extension leases.
Sec. 1310. Permit and lease regulations.
Sec. 1311. Miscellaneous provisions.

TITLE XIV—MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

Sec. 1401. Purposes.
Sec. 1402. Definitions.
Sec. 1403. Continuation of mineral assessment programs in Alaska.
Sec. 1404. Existing mining claims and mineral leasing rights in conservation system units.
Sec. 1405. Areas subject to the minerals access process.
Sec. 1406. Initiation of the minerals access process by application or Secretarial motion.
Sec. 1407. Recommendations of the Secretary to Congress.
Sec. 1408. Congressional approval procedure
Sec. 1409. Exploration permits and development and extension leases.
Sec. 1410. Permit and lease regulations.
Sec. 1411. Miscellaneous provisions.

TITLE XV—ALASKA PENINSULA AND BRISTOL BAY COOPERATIVE STUDY REGION

Sec. 1501. Cooperative Study.

TITLE I—FINDINGS, POLICY, AND DEFINITIONS

FINDINGS

SEC. 101. Congress finds and declares that—

(1) through passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act, the Congress established policies for the disposition of the public lands in Alaska and provided for future economic, social, and cultural development in Alaska and for the fair and just settlement of claims of Natives and Native groups based on aboriginal land claims, while reserving decision as to which of the public lands in Alaska should be reserved in the national interest;

(2) a prompt and thorough resolution of the status of the public lands in the State of Alaska, in accordance with established congressional policies, is in the best interests of all the people of the United States including residents of Alaska;

(3) certain public lands in the State of Alaska contain nationally and internationally significant scenic, historic, archeological, paleontological, scientific, cultural, recreational, wildlife, and wilderness resources, and these public lands represent a remarkable diversity of undisturbed ecosystems, including some not found elsewhere;

(4) wilderness is a distinguishing characteristic of public lands in Alaska, which affords an unrivaled opportunity for experiencing vast areas of land essentially unaltered by man's activities, and merits preservation for the benefit of future generations; but such wilderness is increasingly being altered and reduced by activities and intrusions associated with national and international demands for energy, mineral, and timber resources and other incompatible activities;

(5) several wildlife species, including species which are threatened, endangered, or depleted in other parts of the Nation and the world, are dependent for their survival on the maintenance of appropriate natural habitats on the public lands in the State of Alaska;

(6) selective representation of the diverse natural communities, including pristine, free-flowing rivers, on public land in the State of Alaska should be preserved as units of Federal land management conservation systems for the benefit of present and future generations; and

(7) at the accelerated pace of population growth, settlement and related consumption of raw materials, the world is losing natural habitats and associated values at an alarming rate, and therefore the wilderness and the wilderness habitats of certain public lands in Alaska assume global importance since they are among the few remaining areas of such vast extent and their permanent protection is a reasonable and attainable national objective.

POLICY

SEC. 102. In order to secure for the American people of this and future generations an enduring heritage of untrammeled environments in the State of Alaska and to aid in the fulfillment of international conservation commitments of the United States, it is hereby declared to be the policy of the Congress that—

(1) it is necessary to immediately designate public lands in Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers, National Forest, National Trails, and National Wilderness Preservation Systems, which systems shall, in combination—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems including but not limited to extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems;

(C) protect and preserve cultural values of Native and non-Native peoples and conserve renewable resources related to their subsistence needs;

(D) provide for the maintenance of sound populations of, and habitat for, fish and wildlife, including those species dependent on vast undeveloped areas, of inestimable value to the citizens of Alaska and the Nation;

(E) provide opportunities for compatible outdoor public recreation, protect and interpret historic, paleontological, and archeological sites, maintain wilderness resource values and related multiple watershed, flora, fauna, recreational, and subsistence resource values, and preserve free flowing rivers and associated resources;

(F) maintain opportunities for scientific research in undistributed ecosystems; and

(G) provide for the management of multiple values in a manner which will permit utilization of natural resources, where appropriate, consistent with sound ecological principles;

(2) in the planning, management, and administration of these conservation system units—

(A) intangible values shall be considered on an equal basis with quantifiable values;

(B) sound ecological principles shall be adhered to; and

(C) full public participation shall be encouraged;

(3) the public should have access to the public lands in Alaska, including access to those public lands which constitute conservation systems units, consistent with the purposes for which those units are established;

(4) those persons now dependent upon subsistence uses of the public lands in Alaska should be enabled to continue in that lifestyle, to the extent they may choose to do so and to the extent that the renewable resources of those public lands permit such uses to be continued and, within conservation system units, in a matter consistent with the purposes for which the units are established or expanded; and

(5) in carrying cut the provisions of this Act, the Secretary and other officers of the Federal Government are to give continuing consideration to the interest of the State of Alaska and its subdivisions and the Native Corporations in maintaining a viable economy and providing employment for citizens of Alaska.

DEFINITIONS

SEC. 103. As used in this Act—

(1) The term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means land the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved and validly selected under section 6(g) of the Alaska Statehood Act and lands which have been validly selected by the State as part of its entitlements under—

(i) the Alaska Mental Health Enabling Act (70 Stat. 709);

(ii) the Act entitled "An Act to reserve lands to the Territory of Alaska for educational uses, and for other purposes", approved March 4, 1915 (38 Stat. 1214); or

(iii) sections 6(a) and 6(b) of the Alaska Statehood Act;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(4) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(5) The term "take" or "taking", as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(6) The term "plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

(7) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(8) The terms "administer" or "administration" and "manage" or "management", as used with respect to any land within a conservation system unit, means the operation, restoration, protection, maintenance, use, and preservation of lands within such unit, based on applied research and sound ecological principles, in accordance with the purposes for which such unit was established or expanded.

(9) The term "Native Corporation" means any Regional Corporation, any Village Corporation, and any Urban Corporation.

(10) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(11) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(12) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act) and

(13) The term "Native land" means land owned by a Native Corporation or any Native group (as defined in section 3(d) of the Alaska Native Claims Settlement Act) and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(14) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(15) The term "national preserve" means a unit of the National Park System in Alaska administered and managed in the same manner as a national park, except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes shall be allowed in a national preserve under appropriate regulation.

(16) The term "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890) except as expressly modified by this Act.

(17) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339).

(18) The term "State" means the State of Alaska.

(19) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

(20) The term "Alaska Native Claims Settlement Act" means the Act entitled "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688).

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

SEC. 201. The following areas are hereby established as units of the National Park System and, subject to valid existing rights, shall be administered by the Secretary under the laws governing the administration of such units and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately three hundred and fifty thousand acres of public lands, and Aniakchak National Preserve, containing approximately one hundred and sixty thousand acres public lands, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978. The monument and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: To preserve and maintain the Aniakchak Caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams in their natural state; to maintain natural water quality and quantity; to study, interpret, and assure continuation of the natural processes of biological succession; to protect habitat for and populations of fish and wildlife, including but not limited to grizzly bear, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for compatible outdoor recreation and environmental educational activities.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and eighty thousand acres of public lands, as generally depicted on a map entitled "Bering Land Bridge National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve, protect, and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, and other geologic processes; to provide for acheological and palentological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between the North American and the Asian continents; to maintain natural water quality and quantity; to protect habitat for, and populations of, fish and wildlife, including but not limited to marine mammals, grizzly bear, moose, wolf, and internationally significant populations of migratory birds; to continue reindeer grazing use including facilities and equipment necessary to conduct this operation; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide for compatible outdoor recreation and environmental education activities.

(3) Cape Krusenstern National Monument, containing approximately one hundred and ninety thousand acres of public lands, and Cape Krusenstern National Preserve, containing approximately three hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Cape Krusenstern National Monument and Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to protect and interpret a series of archeological sites depicting every known cultural period in Arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for and populations of marine mammals, birds, and other fish and wildlife resources; to maintain natural water quality and quantity; to protect the viability of subsistence resources; and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(4) Gates of the Arctic National Park, containing approximately eight million and fifty thousand acres of public lands, and Gates of the Arctic National Preserve, containing approximately sixty thousand acres of public lands, as generally depicted on a map entitled "Gates of the Arctic National Park and Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the undeveloped character of the park, including opportunities for visitors to experience solitude, and the environmental integrity and scenic beauty of the mountains, foothills, forelands, rivers, lakes, and other natural features; to maintain natural water quantity and quality; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental educational activities.

(5) Kenai Fjords National Park, containing approximately four hundred and twenty thousand acres of public lands, as generally

depicted on a map entitled "Kenai Fjords National Park", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to maintain unimpaired the scenic and environmental integrity of the Harding icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including, but not limited to, seals, sea lions, other marine mammals, and marine and other birds, and to maintain their hauling and breeding areas in their natural state; to provide opportunities for continued subsistence uses; and, in a manner consistent with the foregoing, to provide opportunities for sightseeing, nature study, ski touring, hiking, and similar outdoor recreation and environmental education activities.

(6) Kobuk Valley National Park, containing approximately one million six hundred and seventy thousand acres of public lands, as generally depicted on a map entitled "Kobuk Valley National Park", dated March 1978, which park shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the Boreal Forest, and the Great Kobuk Sand Dunes, in their undeveloped state; to maintain natural water quality and quantity within the area; to protect and interpret, in cooperation with Native Alaskans, Onion Portage and other archeological sites associated with Native cultures; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(7) Lake Clark National Park, containing approximately two million three hundred and ninety-five thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million and ninety-five thousand acres of public lands, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated March 1978. The Park and Preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: to protect the watersheds necessary for perpetuation of the salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, free flowing rivers, lakes, waterfalls, and alpine meadows in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of all fish and wildlife, including but not limited to the Mulchatna caribou herd, Dall sheep, grizzly bear, bald eagle, and peregrine falcon; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible public uses and other compatible outdoor recreation and environmental education activities.

(8) Noatak National Preserve, containing approximately six million and eighty thousand acres of public lands, as generally depicted on a map entitled "Noatak National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activities and development; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife; including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, waterfowl, raptors, and other species of birds; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for scientific research, and compatible outdoor recreation and environmental education activities. The Secretary shall establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve. All lands located east of the centerline of the main channel of the Noatak River which are—

(A) within—

(i) any area withdrawn under the Alaska Native Claims Settlement Act for selection by the Village of Noatak, and

(ii) any village deficiency withdrawal under section 11(a)(3)(A) of such Act which is adjacent to the area described in subparagraph (i) of this paragraph,

(B) adjacent to public lands within a unit of the National Park System as designated under this Act, and

(C) not conveyed to such Village or other Native Corporation before the final conveyance date,

shall, on such final conveyance date, be added to, and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the proceeding sentence the term "final conveyance date" means the date of the conveyance of lands under the Alaska Native Claims Settlement Act, or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (A).

(9) Wrangell-Saint Elias National Park, containing approximately eight million six hundred and seventy thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately three million three hundred and eighty thousand acres of public lands, as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated March 1978. The park and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: to preserve and maintain unimpaired the scenic beauty and quality of glacial systems, high mountain peaks, foothills, lakes and streams, and coastal landscape and valleys in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to marine mammals, caribou, grizzly bear, Dall sheep, moose, wolves, and trumpeter swans and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(10) Yukon-Charley Rivers National Preserve, containing approximately one million six hundred and eighty-three thousand acres of public lands, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to maintain the environmental integrity of the Charley River basin, including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and use, including scientific study; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area, and to provide opportunities for compatible outdoor recreational and environmental education.

ADDITIONS TO EXISTING AREAS

SEC. 202. The following units of the National Park System are hereby expanded and redesignated:

(1) Mount McKinley National Park by the addition of an area containing approximately three million three hundred and fifty thousand acres of public land. An additional four hundred thousand acres shall be designated as the "Denali National Preserve". Both the park and preserve shall be managed by the National Park Service under applicable laws. The boundaries of these areas shall be as generally depicted on a map entitled "Denali National Park and Preserve", dated March 1978. The park and preserve shall be managed for the purposes of protecting the entire mountain massif and additional scenic mountain peaks, glaciers, foothills, valleys, and formation; to protect habitat for and populations of fish and wildlife, including but not limited to moose, caribou, Dall sheep, bears, and wolves; to maintain natural water quality and quantity; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the north addition for continuation of previously established subsistence uses. The park is hereby redesignated as "Denali National Park",, but this shall in no way be construed as changing the name of Mount McKinley itself. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine.

(2) Glacier Bay National Monument by the addition of an area containing approximately five hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Glacier Bay National Park", dated March 1978; furthermore, the Glacier Bay National Monument is hereby redesignated the Glacier Bay National Park, which shall be managed for the purposes of preserving and protecting the northwest slope of Mount Fairweather, portions of the Alsek River, fish and wildlife habitat, migration routes, and populations; to maintain natural water quality and quantity; to protect mature biological communities unaffected by recent glaciation; to protect the viability of subsistence resources and provide the oppor-

tunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the addition for continuation of previously established subsistence uses.

(3) Katmai National Monument by the addition of an area containing approximately one million one hundred and thirty thousand acres of public lands and an area of approximatel two hundred and ten thousand acres of public land designated as the Katmai National Preserve, as generally depicted on a map entitled "Katmai National Park and Preserve", dated March 1978, for the purposes of protecting high concentrations of Alaskan brown bear and denning areas, and habitat for other fish and wildlife; to maintain the diversity of natural values and the environmental integrity of the area, including its rivers, lakes, and watersheds; to maintain unimpaired the natural water quality and quantity for significant salmon populations; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the Alagnak addition for continuation of previously established subsistence uses. Furthermore, the monument is hereby redesignated as "Katmai National Park".

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) GENERAL RULES.—The Secretary shall administer the lands, waters, and interests therein added to existing units, or established by the foregoing sections of this title, as new units of the National Park System in accordance with the provisions of law applicable to the National Park System and the provisions of section 1202(b) respecting travel, the provisions of section 1209 respecting the taking of fish and wildlife, and other applicable provisions of this Act.

(b) KATMAI AND GLACIER BAY.—Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate.

(c) VALID NATIVE SELECTIONS; GATES OF THE ARCTIC AND KILLIK.—Valid Native selections or nominations of lands within boundaries of the Gates of the Arctic National Park and within the boundaries of the segment of the Killik River designated a wild river, as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and title VIII of this Act.

(d) VALID NATIVE SELECTIONS; WRANGELL-SAINT ELIAS.—Valid Native selections or nominations of lands within boundaries of the Wrangell-Saint Elias National Park and Preserve, as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and title VIII of this Act.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to insure, to the maximum extent practicable, the health, preservation, and enhancement of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information and education, extension services, propagation, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it exists on the day before the date of the enactment of this Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 304;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

PURPOSES OF REFUGES

SEC. 302. The major purposes of each refuge are—

(1) to conserve the fish and wildlife within the refuge which are designated in section 304 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife and plants, within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and plants;

(3) to insure, to the maximum extent practicable and in a manner consistent with the purpose set forth in paragraph (1), water quality and water quantity within the refuge; and

(4) to protect, maintain, or enhance, in a manner consistent with the purpose set forth in paragraph (1), any special value of the refuge specified in section 304, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, or scenic value of the refuge.

ADMINISTRATION OF REFUGES

SEC. 303. (a) IN GENERAL.—Each refuge shall be administered by the Secretary, subject to valid existing rights, to achieve the major purposes set forth in section 302 and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, and this Act.

(b) USES PERMITTED WITHIN REFUGES.—(1) The Secretary shall administer each refuge in order to provide opportunity for subsistence uses pursuant to title VII of this Act, but only to the extent that the provision of such opportunity is compatible with the major purposes of the refuge set forth in section 302.

(2) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose, described in such section 4 (d) unless such use (including, but not limited to, any oil and gas leasing permitted under paragraph (3)) or purpose is compatible with the major purposes of the refuge set forth in section 302 and with the provision of opportunity for subsistence uses under paragraph (1). The Secretary shall prescribe such regulations, and impose such terms and conditions, as may be necessary and appropriate to ensure that activities carried out under such use or easement are so compatible.

(3) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. The Secretary, however, may permit oil and gas leasing on such lands, except in wilderness, consistent with the National Wildlife Refuge System Administration Act of 1966.

(c) REFUGE CONSERVATION PLANS.—(1) The Secretary shall prepare, and from time to time revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the significant fish and wildlife resources of the refuge and of other important fish and wildlife within the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, mineral, scenic, or wilderness values of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1105 and 1106;

(D) present and potential requirements for access with respect to the refuge, as provided for in section 1102; and

(E) significant problems which may adversely affect the populations and habitats identified and described under subparagraph (A).

(3) Each plan shall—

(A) based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values,

(ii) specify the programs for conserving fish and wildlife, and the programs relating to the values referred to in paragraph (2)(B), proposed to be implemented with each such area, and

(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

(B) set forth those opportunities which will be provided within the refuge for recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the major purposes of the refuge.

(4) In order to insure that the terms and conditions of cooperative management agreements which may be entered into under section 305 with respect to the refuge are appropriate, the Secretary may treat, but only for purposes of preparing the plan, land that is within, or near or adjacent to, the refuge as being within the boundary of the refuge.

(5) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of Native villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan of revisions.

(6) Before adopting a plan for any refuge, the Secretary shall publish notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public views and comment on the plan.

(7) The Secretary shall by regulation implement each plan prepared under this subsection.

(8) With respect to refuges established or redesignated by section 304, the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date; and

(C) all refuges within seven years after such date.

With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment.

(d) AREAS SEAWARD OF COASTAL REFUGES.—(1) For purposes of this subsection—

(A) The term "coastal refuge" means any refuge (other than the Kenai National Wildlife Refuge) any part of which is on the coast.

(B) The term "plan" means a comprehensive cooperative management plan described in paragraph (4).

(C) The term "seaward area" means, with respect to any coastal refuge, that area seaward of each coastal portion of the refuge, the inner boundary of which area is the line of mean high tide and the outer boundary of which is a line drawn in such a manner that each point on it is six geographical miles from the base line from which the territorial sea is measured.

(2) Nothing in this section shall be construed as having the effect of including any seaward area within the boundary of any refuge.

(3)(A) There is established the Seaward Area Management Planning Committee (hereinafter referred to in this subsection as the "Committee"). The Committee shall be composed of four members as follows:

(i) A representative of the Secretary appointed from the United States Fish and Wildlife Service.

(ii) A representative of the Secretary of Commerce appointed from the National Oceanic and Atmospheric Administration.

(iii) Two representatives appointed by the Governor of the State.

The President and the Governor may each appoint to the Committee such number of observers as each deems appropriate.

(B) While away from their homes or regular places of business incident to attending Committee meetings, each observer appointed by the President shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(C) On such basis as may be mutually agreeable, the Secretary, the Secretary of Commerce, and the Governor of the State shall provide such staff and administrative and technical support services as are necessary and appropriate to enable the Committee to carry out its functions.

(4)(A) The Committee may prepare, and from time to time revise, a comprehensive cooperative management plan for each seaward area. The Committee may adopt, and revise, a plan only after the Secretary, the Secretary of Commerce, and the Governor have each approved the plan or revision. Such plan shall set forth those procedures and actions which will be implemented respectively by the Secretary, the Secretary of Commerce, and the State to assure that the major purposes of the coastal refuge are achieved within the seaward area and that the marine ecosystem within such area is conserved. Such action shall include, but not be limited to, the administration, in a manner compatible with the major purposes of the refuge and the conserving of the marine ecosystem, of laws for which the Secretary, the Secretary of Commerce, and the State are responsible respectively and which regulate activities carried out within the seaward area including, but not limited to, laws regulating the exploration for, and the extraction of, resources from lands under the waters of such area.

(B) In preparing any plan or revision thereto, the Committee shall provide opportunity for public views and comment.

(C) After the adoption by the Committee of any plan or revisions, the Secretary, the Secretary of Commerce, and the Governor of the State shall issue such regulations, and take such other measures as may be appropriate, to implement the plan or revision with respect to those functions under the plan which are within their respective jurisdictions.

(D) Any party to a plan may withdraw from participation in the plan by submitting written notice thereof to the other parties not less than ninety days before the date of withdrawal. Upon the withdrawal of any party, the plan shall cease to have force and effect.

(5) During any time in which a plan is not in effect with respect to the seaward area of any coastal refuge, the Secretary and the Secretary of Commerce shall administer laws, for which each is responsible, within the seaward area in a manner compatible with the major purposes of such refuge and the conserving of the marine ecosystem.

(6) The head of each Federal department or agency (other than the Department of the Interior and the Department of Commerce) which regulates activities within or over any seaward area (including, but not limited to, aircraft and vessel operation) which affect, or may affect, the carrying out of the major purposes of the refuge, or the conserving of the marine ecosystem, within the seaward area shall—

(A) if no plan is in effect with respect to such area, cooperate with the Secretary and the Secretary of Commerce in insuring, to the maximum extent practicable, that such activities are carried out within such area in a manner compatible with the major purposes of such refuge and the conserving of the marine ecosystem; or

(B) if a plan is in effect with respect to such area, cooperate with the Secretary, the Secretary of Commerce, and the State in insuring, to the maximum extent practicable, that such activities are carried out in a manner consistent with the plan.

(7) Notwithstanding any other provision of this subsection, to the extent that any plan or its implementation includes the management of the coastal zone as defined by the State pursuant to section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454), the plan shall be consistent with, and may be incorporated in, the coastal zone management program being developed or administered by the State pursuant to section 305 or section 306, as the case may be, of such Act.

(8) Nothing in this subsection shall be construed as affecting in any manner—

(A) the right or title of the State to submerged lands provided under section 6(m) of the Alaska Statehood Act;

(B) the jurisdiction of the State within the territorial sea, except as the State may otherwise agree under, and for the effective period of, a plan; or

(C) the application of section 307 of the Coastal Zone Management Act of 1972 with respect to the conducting or supporting of activities directly affecting the coastal zone of the State by any Federal agency, the undertaking of any development project in the coastal zone of the State by any Federal agency, or the granting by any Federal agency of a license or permit to any person to conduct an activity affecting land or water uses within the coastal zone of the State.

(9)(A) This subsection shall not affect, and no plan may affect—

(i) the administration and the implementation of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.); or

(ii) the right of passage of vessels through any seaward area for purposes of carrying out fishing under such Act within or beyond such area.

(10) No plan may provide for any procedure or action which is contrary to, or inconsistent with, Federal laws governing the conservation or protection of fish and wildlife.

ESTABLISHMENT OF REFUGES

SEC. 304. (a) ESTABLISHMENT.—The following are established as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of the approximately five hundred thousand acres containing the Aleutian Islands, Bering Sea, Bogoslof, Chamisso, Forester Island, Hazy Islands, Pribilof (Walrus and Otter Islands and Sea Lion Rocks), Saint Lazaria, Semidi, Simenof, Sutwik, and Tuxedni National Wildlife Refuges (each of which shall be administered as an identifiable subunit of the Alaska Maritime National Wildlife Refuge) and of the public lands generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated April 1978, including—

(i) Cape Lisburne, Cape Thompson, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Stolbi Rock, Egg Island, the Shumagin Islands, the Barren Islands, Middleton Island, Latex Rocks, Harbor Island, Granite Island, Pye Island, the Chiswell Islands, and those portions of King Island, the Punik Islands, and the Trinity Islands not otherwise conveyed under the Alaska Native Claims Settlement Act; and

(ii) all islands, islets, rocks, reefs, spits, and spires or portions thereof, which are off the coast of Alaska, are public lands, and are not conveyed under the Alaska Statehood Act or the Alaska Native Claims Settlement Act or not reserved for inclusion within the National Forest System or the National Park System.

(B) The significant fish and wildlife resources of the refuge are marine mammals and marine birds and other migratory birds.

(C) Archeological resources are a special value of the refuge.

(D) The Secretary shall negotiate with the applicable Native Corporations, pursuant to section 1101(f), for the conveyance of public lands or the provision of other valuable consideration, or both, to such Corporations in exchange for the selection rights or title to the bird cliffs of Saint Paul and Saint George Islands. If the exchange is agreed upon, the Alaska Maritime National Wildlife Refuge shall include the bird cliffs of Saint Paul and Saint George Islands.

(2) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately one million, five hundred and seventy thousand acres of public lands generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge, dated April 1978.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmonoids, the Alaska Peninsula caribou herd, moose, migratory birds, and marine mammals.

(C) Active volcanoes, the Pavlov Mountains, Nelson Lagoon, coastlines, and recreation are special values of the refuge.

(3) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall

consist of all lands within the existing Arctic National Wildlife Range and of the approximately nine million nine hundred thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, and peregrine falcons and other migratory birds.

(C) Representative unspoiled Arctic physiographic regions and recreation are special values of the refuge.

(4) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million ninety thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmon, and the Alaska Peninsula caribou herd.

(C) Volcanoes and the bear-denning islands of Becharof Lake are special values of the refuge.

(5) COPPER RIVER NATIONAL WILDLIFE REFUGE.—(A) The Copper River National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Copper River National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are bears, Dall sheep, migratory birds, salmon, and marine mammals.

(C) Scenic mountains, coastal wetlands, and glaciers are special values of the refuge.

(6) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately two million seven hundred and eighty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(7) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and fifty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, and furbearers.

(C) Sithylemenkat Lake is a special value of the refuge.

(8) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of all lands within the existing Kenai National Moose Range and of the approximately two hundred and fifty thousand acres of public lands generally depicted on the map entitled "Kenai National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are mountain goats, moose, bears, salmon, Dall sheep, and migratory birds.

(C) Recreation is a special value of the refuge.

(9) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of the approximately one hundred thousand acres of those public lands within the existing Kodiak National Wildlife Refuge, and of all other public lands, except the Barren Islands, lying within the boundary of the Kodiak Island Borough, generally depicted on the map entitled "Kodiak National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are Kodiak brown bears, salmon, marine mammals, and migratory birds.

(C) Nothing in this paragraph shall abrogate any existing Forest Service timber contract, prohibit the Secretary from exchanging lands under section 1101(f), or revoke existing cabin leases on the public lands added to the existing refuge by this paragraph.

(10) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million six hundred and fifty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge," dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Nogahabara sand dunes are a special value of the refuge.

(11) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million five hundred and sixty thousand acres of public lands generally depicted on the map entitled "Nowitna National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, peregrine falcons, moose, and martens and other furbearers.

(C) The Nowitna Wild River is a special value of the refuge and that segment of the river described in section 501(a)(23) shall be managed as a part of the refuge.

(12) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately three million three hundred and seventy thousand acres of public lands generally depicted on the map entitled "Selawik National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are peregrine falcons and other migratory birds, the Western Arctic caribou herd, salmon, and shellfish.

(C) Archeological resources and paleontological resources are special values of the refuge.

(D) Selawik River is a special value of the refuge and shall be managed as a wild river from its headwaters to the Kugarak River. Detailed boundaries and development plans for the segment of the river lying outside and east of the refuge boundary shall be prepared in accordance with section 501(b) and such segment shall thereafter be managed as a part of the refuge.

(E) Notwithstanding any other provision of this title, application may be made to the Secretary for the granting of an easement through the Selawik National Wildlife Refuge or the Koyukuk National Wildlife Refuge, or part of both such refuges, for a road, railway, or pipeline to be used for the transportation from the Ambler River mineral belt to Norton Sound of minerals extracted in commerical quantities. If the Secretary finds, after notice and opportunity for agency hearing, that there exists no feasible and prudent alternative route for such a road, railway, or pipeline that would be less damaging to the environment than a route through either or parts of both of such refuges, the Secretary shall deem the construction and use of such a road, railway, or pipeline to be compatible with the major purposes of the refuge concerned and shall grant an easement through such refuge for the minimum right-of-way necessary for the road, railway, or pipeline, subject to such terms and conditions as the Secretary deems necessary and appropriate to insure that its construction and use will be carried out in a manner which will minimize adverse effects on fish and wildlife and their habitats.

(13) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and seventy-six thousand acres of public lands generally depicted on the map entitled "Tetlin National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds.

(C) The Secretary shall convey to the State, under section 6 of the Alaska Statehood Act, land validly selected by the State northeast of the Alaska Highway in township 11 north 23 east, Copper River Meridian, Alaska; except that such land shall not be considered to be validly selected unless the State agrees to accept the conveyance of the land with a covenant which requires the State to use the land as a State park, to protect the watershed of the Scottie Creek drainage, and to conserve the fish and wildlife within the park, but such covenant may not prohibit the construction and operation of a visitors information center.

(14) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of all lands within the existing Cape Newenham National Wildlife Refuge and of the approximately three million two hundred thousand acres of public lands generally depicted on the map entitled "Togiak National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are large mammals, salmonoids, marine mammals, and migratory birds.

(15) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of all lands within the existing Clarence Rhode National Wildlife Range and the Hazen Bay and Nunivak National Wildlife Refuges and of the approximately thirteen million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, marine mammals, musk-oxen, and salmonoids.

(16) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately nine million four hundred thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, the Porcupine caribou herd, moose, and wolves, wolverines, and other furbearers, and salmon.

(b) OTHER SIGNIFICANT FISH AND WILDLIFE RESOURCES.—The significant fish and wildlife resources of the Izembek National Wildlife Range (which is hereby designated as the Izembek National Wildlife Refuge), are migratory birds, brown bears and salmonoids.

COOPERATIVE MANAGEMENT AGREEMENTS

SEC. 305. (a) IN GENERAL.— The Secretary shall undertake to enter into a cooperative management agreement with any Native Corporation, the State, any political subdivision of the State, or any other person owning land which is located within, or adjacent or near to, any refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner in a manner compatible with the major purposes of the refuge to which such land pertains and in a manner which will not diminish opportunities for subsistence uses in the refuge.

(b) TERMS AND CONDITIONS.—Each agreement shall—

(1) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (a);

(2) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out

the obligations of the Secretary under the agreement;

(3) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(4) set forth those services or other consideration which the Secretary agrees to provide to the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(5) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals set forth in subsection (a); and

(6) specify the effective period of the agreement.

BARREN-GROUND CARIBOU STUDY

SEC. 307. The Congress finds that barren-ground caribou are a migratory species deserving special protection and that the Western Arctic and Porcupine herds of such caribou are of national and international significance. The Secretary shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, a study of the barren-ground caribou herds north of the Yukon River in order to determine the migration patterns, reproduction rates, and habitat (including calving and feeding areas) that are critical to their natural stability and continued productivity, and the effects on the herds of development by man, predation, and disease. The Secretary, acting through the Secretary of State and in consultation with the Governor, shall initiate negotiations with the Government of Canada as soon as possible for the purpose of entering into a treaty to protect the Porcupine caribou herd and its habitat.

MISCELLANEOUS PROVISIONS

SEC. 308. (a) PRIOR AUTHORITIES.—All proclamations, Executive Orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established by section 304, be included within such refuge.

(2) All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

(3) The designation of any existing unit of the National Wildlife Refuge System which is included within any refuge established by section 304, or which is redesignated by such section, is withdrawn.

TITLE IV—NATIONAL FOREST SYSTEM

ADDITIONS TO NATIONAL FORESTS

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres, as generally depicted on a map entitled "Additions to the Tongass National Forest" dated March 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1210.

(2) Chugach National Forest by the addition of two areas, Nellie Juan and College Fjord, containing approximately one million two hundred and ninety thousand acres, as generally depicted on a map entitled "Additions to the Chugach National Forest" dated March 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1210.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 501. (a) ADDITIONS.—Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraphs at the end thereof:

"(16) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian downstream to the southern boundary of the Yukon Flats National Wildlife Range; approximately 160,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(17) DELTA, ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids, approximately 75,000 acres; to be classified as a recreational river area except for the segment from the Tangle Lakes area to a point opposite milepost 212 on the Richardson Highway which shall be classified as a wild river area; to be administered by the Secretary of the Interior.

"(18) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuck; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; approximately 320,000 acres; to be administered by the Secretary of the Interior and to be classified as a scenic river area except for the Wade Creek segment which shall be classified as a recreational river area and the following segments which shall be classified as wild river areas: Mosquito Fork downstream from the vicinity of Kechumstuck to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek. The classification of such segments of the Fortymile as wild river areas shall not preclude such access across such river segments as the Secretary determines to be reasonably necessary to permit commercial development of asbestos deposits in the North Fork drainage.

"(19) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; approximately 165,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(20) ALAGNAK, ALASKA.—The segment from where the river crosses the western boundary of the Katmai National Preserve (in township 12 south, range 38 west) to the western boundary of township 13 south, range 43 west, not including lands within the Katmai National Park; approximately 120,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(21) KILLIK, ALASKA.—From the northern boundary of the Gates of the Arctic National Park to the confluence with the Colville River; approximately 152,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(22) NOATAK, ALASKA.—The segment from the southern boundary of the Noatak National Preserve at the north boundary of township 27 north, range 18 west, Kateel River meridian to the mean high tide line; approximately 80,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(23) NOWITNA, ALASKA.—The segment from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to the southern boundary of the Nowitna National Wildlife Range; approximately 230,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(24) UNALAKLEET, ALASKA.—From the headwaters in township 13 south, range 3 west, Kateel River meridian, extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; approximately 110,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(25) YUKON (RAMPARTS SECTION), ALASKA.—The segment from the east boundary of township 12 north, range 11 west, to the west boundary of township 4 north, range 19 west, Fairbanks meridian, approximately 275,000 acres; to be classified as a scenic river area and to be administered by the Secretary of the Interior.

"(26) The portions of the following rivers which form the boundary of, or are within, any national preserve in Alaska: Alagnak, Aniakchak (including its major tributaries), Charley (including its major tributaries), Chilikadrotna, Chitina, Mulchatna, and Noatak; each to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(27) The portions of the following rivers which form the boundary of, or are within, any national wildlife refuge in Alaska: Nowitna, Porcupine, Sheenjek, Andreafsky, Ivishak, Kanektok, Kisaralik, and Wind; each to be classified as a wild river area and to be administered by the Secretary of the Interior.".

(b) BOUNDARIES AND DEVELOPMENT PLANS.—Section 3(b) of the Wild and Scenic Rivers Act is amended by striking out "(b) The agency" and substituting "(b)(1) Except as otherwise provided in this Act, the agency" and by adding the following new paragraph at the end thereof:

"(2) For those rivers in Alaska listed in paragraphs (16) through (21) and (24) and (25) of subsection (a), the detailed boundaries referred to in this section shall be established, and the development plans prepared and published, within such period after the date of the enactment of this paragraph as is specified in the following list:

One year: Delta, Fortymile, and Gulkana.

Two years: Birch Creek and Yukon (Ramparts section).

Three years: Killik.

Four years: Unalakleet.

The detailed boundaries for the rivers listed in paragraphs (22), (23), (26), and (27) of subsection (a) shall be established, and the development plans for such rivers shall be prepared and published, at the same time as, and in coordination with—

(A) the submission to the Congress of the applicable management plan under section 1108 of the Alaska National Interest Lands Conservation Act (in the case of a river associated with a national preserve), or

(B) the preparation of the applicable conservation plan under section 303(c) of such Act (in the case of a river associated with a national wildlife refuge).

In the case of the rivers listed in paragraphs (16) through (27), in lieu of the acreage limitation specified in paragraph (1) of this subsection such boundaries may include an area extending up to two miles from the ordinary high water mark on both sides of each such river. There shall not be included within such boundaries lands selected by Native Corporations or other valid rights of Alaskan Natives to lands without the consent of such Corporations or Natives if such valid rights were in existence immediately before the date of the enactment of this paragraph, except to the extent any such selection or right may hereafter be relinquished."

POTENTIAL ADDITIONS

SEC. 502. (a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act is amended by inserting after paragraph (58) the following new paragraphs:

"(59) Colville, Alaska.

"(60) Copper (Iliamna), Alaska.

"(61) Copper, Alaska: The segment from the confluence with the Chitina downstream to the mean high tide line in the Chugach National Forest.

"(62) Etivluk-Nigu, Alaska.

"(63) Holitna-Hoholitna, Alaska.

"(64) Ikpikpuk, Alaska.

"(65) Koyuk, Alaska.

"(66) Kuskokwim (Middle), Alaska: The segment between McGrath and Stoney River.

"(67) Melozitna, Alaska.

"(68) Mulchatna, Alaska: The segment from the southwest boundary of the Lake Clark National Preserve to the confluence with the Nushagak River.

"(69) Nelchina-Tazlina, Alaska.

"(70) Nuyakuk, Alaska.

"(71) Situk, Alaska.

"(72) Utukok, Alaska.

"(73) Squirrel, Alaska.

(b) STUDY PERIOD.—Section 5(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) The studies of the rivers listed in paragraphs (59) through (73) shall be completed and reports thereon submitted—

"(A) for no less than five of such rivers within three years.

"(B) for no less than ten of such rivers within four years, and

"(C) for all of the remaining such rivers within five years,

after the date of enactment of this paragraph. The preceding sentence shall not apply to the rivers listed in paragraphs (59), (62), (64), and (72), and studies of such rivers shall be completed, and reports submitted not later than the time when the report in section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) is required to be submitted.".

(c) NPRA STUDY.—For date of submission of NPRA study, see section 1204.

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) COOPERATIVE AGREEMENTS.—Section 10(e) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "In the case of rivers listed in paragraphs (16) through (27) of section 3(a), the Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining such rivers to assure that the purpose of designating such rivers as wild and scenic rivers under this Act is served to the greatest extent feasible.".

(b) MINING AND MINERAL LEASING; DESIGNATED RIVERS.—Section 9(a) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank or are situated within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (16) through (27) of section 3(a) are hereby withdrawn, subject to valid existing rights, during the period before establishment of the boundaries of such river from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto. Upon establishment of the boundaries of a river, such withdrawal shall apply only to areas which are within the boundaries of the river, as established under section 3(b).".

(c) MINING AND MINERAL LEASING; STUDY RIVERS.—Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (73) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.".

(d) INTERRELATIONSHIP OF APPLICABLE LAWS.—Section 10 of such Act is amended by inserting in the second sentence of section 10(c) before "and in the case of" the following: "(and the Acts under which particular national parks or preserves or wildlife ranges and refuges are established or enlarged)" and by striking out "these Acts" and substituting "this Act and such other Acts".

(e) SNOWMOBILES.—Section 10 of such Act is amended by adding the following new subsection at the end thereof:

"(f) In the case of the rivers referred to in paragraphs (16) through (27) of section 3(b), during periods of adequate snow cover and frozen river conditions, the use of snowmobiles shall be permitted by the Secretary, subject to such reasonable regulations as he deems necessary and appropriate. Such use shall be permitted only for customary travel, transportation, and subsistence purposes by local residents and by authorized subsistence users, as was occurring on or before January 1, 1977.".

(f) ACQUISITION AUTHORITY.—Section 6 of such Act is amended by adding the following new subsection at the end thereof:

"(h) In the case of the rivers in Alaska listed in paragraphs (16) through (27), the provisions of section 1101 of the Alaska National Interest Lands Conservation Act shall apply in lieu of the provisions of this section.".

(g) PUBLIC LAND LAWS.—Section 8(b) of such Act is amending by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or banks, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (73) of section 5(a) are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.".

WULIK RIVER

SEC. 504. The Secretary is authorized and directed to promulgate such regulations as may be necessary to protect the water quality and quantity of, and to prevent substantial adverse environmental degradation of, the Wulik River. Any such regulations shall be coordinated with, and shall not be more stringent than, the applicable requirements under the Federal Water Pollution Control Act.

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

FINDINGS AND PURPOSES

SEC. 601. The Congress finds and declares that it is in the national interest that certain public lands in the State of Alaska within previously established units of the National Park, National Wildlife Refuge, and National Forest Systems and certain additions made to such systems by this Act be designated as wilderness and therefore as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness for the benefit of all the American people of present and future generations. The Congress further finds that certain other public lands within such national conservation systems are of evident wilderness resource value but require more thorough study prior to designation as wilderness.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL PARK SYSTEM

SEC. 602. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Aniakchak National Monument and Preserve, Alaska, which comprise approximately two hundred and ninety thousand acres, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978, and which shall be known as Aniakchak Wilderness.

(2) Certain lands in Bering Land Bridge National Preserve, Alaska, which comprise approximately seven hundred thousand acres, as generally depicted on a map entitled "Bering Land Bridge National Preserve", dated March 1978, and which shall be known as Bering Land Bridge Wilderness.

(3) Certain lands in Denali National Park and Preserve, Alaska, which comprise approximately five million four hundred and ten thousand acres, as generally depicted on a map entitled "Denali National Park and Preserve", dated March 1978, and which shall be known as Denali Wilderness.

(4) Certain lands in Gates of the Arctic National Park, Alaska, which comprise approximately eight million fifty thousand acres, as generally depicted on a map entitled "Gates of the Arctic National Park", dated March 1978, and which shall be known as Gates of the Arctic Wilderness.

(5) Certain lands in Glacier Bay National Park, Alaska which comprise approximately two million eight hundred and twenty thousand acres, as generally depicted on a map entitled "Glacier Bay National Park", dated March 1978, and which shall be known as Glacier Bay Wilderness.

(6) Certain lands in Katmai National Park and Preserve, Alaska, which comprise approximately three million six hundred and thirty thousand acres, as generally depicted on a map entitled "Katmai National Park

and Preserve", dated March 1978, and which shall be known as Katmai Wilderness.

(7) Certain lands in Kenai Fjords National Park, Alaska, which comprise approximately three hundred and forty thousand acres, as generally depicted on a map entitled "Kenai Fjords National Park", dated March 1978, and which shall be known as Kenai Fjords Wilderness.

(8) Certain lands in Kobuk Valley National Park, Alaska, which comprise approximately one million one hundred and forty thousand acres, as generally depicted on a map entitled "Kobuk Valley National Park", dated March 1978, and which shall be known as Kobuk Valley Wilderness.

(9) Certain lands in Lake Clark National Park and Preserve, Alaska, which comprise approximately two million six hundred and twenty thousand acres, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated March 1978, and which shall be known as Lake Clark Wilderness.

(10) Certain lands in Noatak National Preserve, Alaska, which comprise approximately six million eighty thousand acres, as generally depicted on a map entitled "Naotak National Preserve", dated March 1978, and which shall be known as Noatak Wilderness.

(11) Certain lands in Wrangell-Saint Elias National Park and Preserve, Alaska, which comprise approximately nine million five hundred and seventy thousand acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated March 1978, and which shall be known as Wrangell-Saint Elias Wilderness. Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(12) Certain lands in Yukon-Charley National Preserve, Alaska, which comprise approximately one million and forty thousand acres, as generally depicted on a map entitled "Yukon-Charley National Preserve," dated March 1978, and which shall be known as Yukon-Charley Wilderness.

DESIGNATION OF WILDERNESS STUDY WITHIN UNITS OF THE NATIONAL PARK SYSTEM

SEC. 603. In furtherance of the purposes of the Wilderness Act, the Secretary of the Interior shall review the nondesignated wilderness within the boundaries of each unit of the National Park System as established or as expanded by this Act, and shall report to the President and the Congress in accordance with section 3(c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all roadless areas within these boundaries for preservation as wilderness. Any subsequent designation as wilderness shall be accomplished in accordance with such subsections of the Wilderness Act. Recommendations for such units shall be submitted to the Congress on such basis that—

(1) no less than four are submitted within two years,

(2) no less than eight within three years, and

(3) all within four years after the date of enactment of this Act.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 604. In furtherance of the purposes of the Wilderness Act, and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain land in the Alaska Maritime National Wildlife Refuge comprising approximately two million nine hundred and ten thousand acres, as generally depicted on a map entitled "Alaska Maritime National Wildlife Refuge", date April 1978, and which shall be known as Alaska Maritime Wilderness, Aleutian Islands Wilderness, Unimak Wilderness, and Semidi Wilderness.

(2) Certain land in the Arctic National Wildlife Refuge comprising approximately thirteen million one hundred and thirty thousand acres, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated April 1978, and which shall be known as Arctic Wilderness.

(3) Certain land in the Becharof National Wildlife Refuge comprising approximately four hundred thousand acres, as generally depicted on a map entitled "Becharof National Wildlife Refuge", dated April 1978, and which shall be known as Becharof Wilderness.

(4) Certain land in the Innoko National Wildlife Refuge, comprising approximately one million two hundred and forty thousand acres, as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated April 1978, and which shall be known as Innoko Wilderness.

(5) Certain land in the Izembek National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Izembek National Wildlife Refuge", dated April 1978, and which shall be known as Izembek Wilderness.

(6) Certain land in the Kanuti National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Kanuti National Wildlife Refuge", dated April 1978, and which shall be known as Kanuti Wilderness.

(7) Certain land in the Kenai National Wildlife Refuge, comprising approximately one million four hundred and thirteen thousand acres, as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated April 1978, and which shall be known as Kenai Wilderness.

(8) Certain land in the Selawik National Wildlife Refuge, comprising approximately two hundred and forty thousand acres, as generally depicted on a map entitled "Selawik National Wildlife Refuge", dated April 1978, and which shall be known as Selawik Wilderness.

WILDERNESS REVIEWS WITHIN CONSERVATION SYSTEM UNITS OTHER THAN NATIONAL PARK SYSTEM UNITS

SEC. 605. (a) WILDERNESS REVIEW.—In furtherance of the purposes of the Wilderness Act and in accordance with the provisions of section 3(d) of that Act relating to public notice, public hearings, and review by State and other agencies, the Secretary of the Interior shall review, as to suitability or nonsuitability for preservation as wilderness, all lands within the conservation system units, other than those areas to be reviewed under section 603 and those areas designated as wilderness by this Act.

(b) DATES.—The Secretary of the Interior shall conduct his reviews, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3(c) and (d) of the Wilderness Act. The Secretary shall complete his reviews and the President shall advise the Congress of his recommendations with respect to no less than one-third of areas within three years after the date of enactment of this Act and with respect to the other two-thirds within seven years afer such date of enactment, except that the reviews required thereunder with respect to units of the National Wildlife Refuge System shall—

(1) be complete at the same time as the conservation plans for the units concerned are prepared under section 303(c), and

(2) be coordinated with such plans.

The Secretary shall give at least ninety days advance public notice of any hearing or other public meeting concerning such areas. Any recommendation of the President to the effect that such area or a portion thereof should be designated as wilderness shall become effective only if so provided by an Act of Congress.

(c) EFFECT ON NATIONAL WILDLIFE REFUGES.—Nothing in this section shall be construed as affecting the administration of any unit of the National Wildlife Refuge System in accordance with title III until Congress otherwise provides in taking action on any Presidential recommendation made under subsection (b).

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 606. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Chugach National Forest, Alaska including lands added to such forest under section 401, which comprise approximately six hundred and ninety-six thousand acres (excluding lands of the village corporation for the village of Chenega), as generally depicted on a map entitled "Nellie Juan Wilderness", dated March 1978, and which shall be known as the Nellie Juan Wilderness.

(2) Certain lands in the Chugach National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately eight hundred and forty-seven thousand acres (excluding lands of the village corporation for the village of Tatitlek), as generally depicted on a map entitled "College Fjord Wilderness", dated March 1978, and which shall be known as College Fjord Wilderness.

(3) Certain lands in the Tongass National Forest, Alaska including lands added to such forest under section 401, which comprise about four hundred and ninety thousand acres as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated March 1978, and which shall be known as the Stikine-LeConte Wilderness.

(4) Certain lands in the Tongass National Forest, Alaska, which comprise approximately four hundred and twenty thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated March 1978, and which shall be known as the West Chichagof-Yakobi Wilderness, except that the area comprising approximately six thousand acres as depicted on the above map as "Potential Wilderness" is designated as wilderness ten years from the date of enactment of this Act, unless before that date the Secretary has determined through written findings on the record that holders of mining claims in that area have met all the requirements for issuance of a patent, that proper environmental impact statements have been made available to the public, that satisfactory controls have been established which will prevent any environmental damage to the adjacent wilderness and nearby waters, and that commercial production of minerals has commenced.

(5) Certain lands in the Tongass National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately three hundred and fifty thousand acres (excluding lands of Yak-Tat-Kwan Native Village Corporation and the village of Yakutat), as generally depicted on a map entitled "Yakutat Wilderness", dated March 1978, and which shall

be known as the Yakutat Wilderness. Use of previously existing primitive fish campsites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary of Agriculture deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(6) Certain lands in the Tongass National Forest, Alaska, which comprise approximately one million one hundred and sixteen thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated March 1978, and which shall be known as Admiralty Island Wilderness and which shall be managed in accordance with the following provisions, among others:

(A) The Secretary of Agriculture is authorized to acquire, in accordance with the provisions of section 1101 of this Act, any lands, waters, and surface and subsurface interests therein which are located within the boundaries of the Admiralty Island Wilderness. Lands held or reserved for the Angoon Community Association under the provisions of the Act of June 18, 1934 (48 Stat. 984), specifically those lands withdrawn under Public Land Order 593, may only be acquired with the consent of the Angoon Community Association.

(B) Permits issued by the Forest Service, before the date of the enactment of this Act, for a dwelling or campsite in the Admiralty Island Wilderness shall expire not later than ten years after the date of enactment of this Act. The Special Use Permit for Thayer Lake Lodge shall be renewed as necessary for the longest of either (i) fifteen years after the date of enactment of this Act, or (ii) the lifetime of the permittee or the surviving spouse, whoever lives longer, so long as the management of the Lodge remains consistent with the purposes of the Admiralty Island Wilderness.

(C) Historic sites on Admiralty Island which have been identified and selected under section 14(h)(1) of the Alaska Native Claims Settlement Act shall be included within the boundaries of the Admiralty Island Wilderness. The deed or deeds conveying such sites shall contain covenants, within the intent and purposes of this Act, preserving such sites in their natural condition and preventing timber development. Landownership of such historic sites shall remain in perpetual ownership of the stockholders of SEAlaska Corporation; except that if, in its subdivisions of the portion of two million acres of land allocated to the southeast region pursuant to section 14(h)(1) of the Alaska Native Claims Settlement Act, SEAlaska Corporation does not include all of the historic sites on Admiralty Island as determined by the Tlingit community of Admiralty Island, then Kootznoowoo, Incorporated, as representative of such community, may identify additional lands within the boundaries of the wilderness area as having important cultural and historic significance and the Secretary shall take appropriate action to preserve and protect such cultural and historic values.

(D) Under no circumstances shall the Secretary of Agriculture or any of his authorized officers or designees, permit educational, charitable, or nonprofit organizations or institutions, public or private museums, galleries, societies, associations or groups, private persons, Federal, State, or local agencies or any of their subdivisions access to the historical sites referred to in subparagraph (C) for archeological or anthropological research without the express, written consent of Kootznoowoo, Incorporated, as representative of the Tlingit community of Admiralty Island.

(E) The Secretary is authorized to enter into cooperative agreements with Kootznoowoo, Incorporated, for the establishment of research programs related to preservation of cultural resources of Admiralty Island on public and private lands.

(F) Within five years after the date of enactment of this Act and in accordance with the provisions of sections 1108, the Secretary shall prepare a management plan for the Admiralty Island Wilderness.

(G) As provided under section 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture is specifically authorized and directed, if the shareholders of Kootznoowoo, Incorporated, so elect, to exchange the timber rights to those lands selected for the village of Angoon under section 16 of the Alaska Native Claims Settlement Act for timber rights elsewhere within the Tongass National Forest in areas not designated as wilderness or wilderness study under this Act or other provisions of law. If the shareholders of Kootznoowoo, Incorporated, so elect, the timber rights to lands selected by that Corporation under section 16 of the Alaska Native Claims Settlement Act shall be conveyed to the Secretary of Agriculture. Within one year after such conveyance, the Secretary of Agriculture shall convey to Kootznoowoo, Incorporated, timber rights under this section which are of equal value to those conveyed to the Secretary. The conveyance of timber rights to the Secretary of Agriculture shall be conditioned upon the conveyance to Kootznoowoo, Incorporated, by the Secretary of Agriculture of timber rights of equal value under this section, except that if within one year after conveyance of timber rights to the Secretary of Agriculture, he cannot identify timber rights of equal value by mutual agreement, Kootznoowoo, Incorporated, at its election, may either rescind the conveyance or identify not more than twenty-three thousand and forty acres of land within the Tongass National Forest otherwise available for exchange under this paragraph and timber rights in lands so identified shall then be conveyed to Kootznoowoo, Incorporated, by the Secretary of Agriculture. Timber on Admiralty Island with respect to which the Secretary of Agriculture acquires title under this paragraph shall not be sold or otherwise cut or disturbed, except for subsistence uses or as otherwise provided by this Act. Notwithstanding the provisions of section 21(c) of the Alaska Native Claims Settlement Act, for the purposes of these timber rights exchange, the basis of valuation of the timber rights granted Kootznoowoo, Incorporated, shall be the highest average market value of timber in Alaska sold by the Secretary during any one of the twenty years preceding the conveyance.

(H) As provided under sections 21(c), 21(d), and 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture may acquire by purchase the timber rights of Kootznoowoo, Incorporated, which are to be exchanged pursuant to subparagraph (G) of this paragraph. The Secretary may acquire, pursuant to section 1101 of this Act, scenic easements on lands on Admiralty Island which may be appropriate to protect the natural and other values of Admiralty Island.

(I) In order for the Secretary of Agriculture to proceed as expeditiously as possible, lands withdrawn for selection by the Angoon Corporation pursuant to the Alaska Native Claims Settlement Act shall remain open to selection by Kootznoowoo, Incorporated. Lands not so selected by Kootznoowoo, Incorporated, shall become a part of the Admiralty Island Wilderness.

(J) In satisfaction of the rights of the Natives of Juneau and Sitka as provided by section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture shall designate alternative lands of equal or greater timber value located in southeast Alaska other than Admiralty Island for the benefit of Goldbelt, Incorporated, and Shee Atika, Incorporated. For purposes of this section, corporations formed pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act shall be considered as Village Corporations formed pursuant to section 16 of that Act. Upon notice that any such land is acceptable to Goldbelt, Incorporated, or Shee Atika, Incorporated, the Secretary shall immediately convey the surface estate in such land to such corporation and shall immediately convey the subsurface estate to the SEAlaska Corporation. As a condition to such conveyance, Goldbelt, Incorporated, or Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island and SEAlaska Corporation shall release any claim to subsurface right on Admiralty Island which corresponds to the land selection rights so released by Goldbelt, Incorporated, or Shee Atika, Incorporated. In studying lands for designation as alternative selection lands under this subparagraph, the Secretary shall also attempt to locate national forest lands not on Admiralty Island suitable for an exchange of timber interests with Kootznoowoo, Incorporated, under subparagraph (G). Nothing in this section shall be construed to affect any valid rights which Goldbelt, Incorporated, and Shee Atika, Incorporated, may have on Admiralty Island pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act nor shall it in any way be deemed to compel Goldbelt, Incorporated, or Shee Atika, Incorporated, to surrender any rights they may have on Admiralty Island prior to their voluntary acceptance of other land.

(K) Effective beginning October 1, 1978, the Secretary of the Interior shall pay all court costs and reasonable attorneys' fees incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act.

SPECIAL PROVISIONS

SEC. 607. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) FIRE; INSECTS; AND DISEASE.—Such measures may be taken as the Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desirable to maintain the wilderness character of the area.

(c) AQUACULTURE.—In accord with principles of sound fisheries management, and in a manner which will protect and preserve wilderness resources, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, is authorized to permit fishery research, management, enhancement, and rehabilitation activities within wilderness and wilderness study areas designated by this Act, except that only fishery research may be authorized in such areas within units of the National Park System, as he determines to be necessary and desirable to study, manage, protect, restore, augment, or sustain indigenous fish populations. Developments for any such activities shall involve only those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. In constructing such facilities and structures, no significant alteration to the natural contours of the terrain and no permanent roads shall be permitted. Reasonable access, including temporary use of motorized equipment, shall be permitted in further-

ance of research, management, rehabilitation, and enhancement activities subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area. Fishery research activities permitted within units of the National Park System shall only be undertaken in a manner that is consistent with the purposes for which such units are established or expanded. The construction or erection of permanent structures in support of these activities in wilderness or wilderness study areas within units of the National Park System shall not be permitted.

(d) CERTAIN FISH HATCHERY, FISHPASS, AND OTHER SITES.—(1) Those certain fish hatchery and fishpass sites identified on the maps of the Nellie Juan Wilderness, Stikine-LeConte Wilderness, and the West Chichago-Yakobi Wilderness as "Potential Wilderness Areas" are designated as wilderness effective ten years after the date of enactment of this Act, unless during the ten-year period the Secretary of Agriculture authorizes development of a fish hatchery or fishpass in any such potential wilderness area. The Secretary shall manage each such area pursuant to the Wilderness Act until he authorizes such development or until the end of the ten-year period specified in the preceding sentence. Any fish hatchery or fishpass authorized for any such area shall be constructed, managed, and operated in a manner that minimizes any adverse impacts on the wilderness character of the adjacent wilderness.

(2) Those fish incubator sites identified on the map of Kenai Wilderness as "Potential Wilderness Areas" are designated as wilderness effective ten years after the date of enactment of this Act, unless during the ten-year period the Secretary authorizes development of a fish incubator in any such potential wilderness area. The Secretary shall manage each such area pursuant to the Wilderness Act until he authorizes such development or until the end of the ten-year period specified in the preceding sentence. Any fish incubator authorized for any such area shall be constructed, managed, and operated in a manner that minimizes any adverse impacts on the wilderness character of the adjacent wilderness.

(e) EXISTING CABINS.—Previously existing public use cabins within national forest wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(f) NEW CABINS.—Within national forest wilderness designated by this Act, the Secretary is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape.

(g) COMMERCIAL SERVICES.—Commercial services may be performed within the wilderness designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purpose of the areas.

(h) WITHDRAWALS.—Subject to valid existing rights, national forest wilderness established by this Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including, in both cases, all amendments thereto, and from any right of mineral entry which would otherwise have been available hereafter under the Wilderness Act or any other provision of law.

(i) TAKING OF FISH AND WILDLIFE.—Within national forest wilderness designated by this Act, the Secretary of Agriculture shall permit taking of fish and wildlife on lands under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska, except that the Secretary may designate zones where, and establish periods when, no taking of fish and wildlife shall be permitted for reasons of public safety, administration, public use and enjoyment, or protection of subsistence activities and except that the taking of wildlife shall be prohibited in the Pack Creek and Swan Cove area, within the boundaries of Pack Creek Research Natural Areas in the Admiralty Island Wilderness.

(j) COMMERCIAL FISHERIES.—In accordance with principles of sound fisheries management, the Secretary is authorized to permit commercial fisheries actvilities within wilderness designated by this Act, except within national parks.

(k) MISTY FJORDS.—Subject to valid existing rights, those certain lands in the Tongass National Forest, Alaska, which comprise approximately two million three hundred and forty thousand acres, as generally depicted on a map entitled "Misty Fjords Area" dated March 1978, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

ADMINISTRATION

SEC. 608. (a) IN GENERAL.—Except as otherwise expressly provided for in this Act, wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 602, 603, and 604 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

(b) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber on relevant lands within such units.

ACQUISITION AUTHORITY

SEC. 609. The Secretary of Agriculture is authorized, in accordance with the provisions of section 1101, to acquire privately owned land within the boundary of any area designated as wilderness within the national forest by this Act.

TITLE VII—SUBSISTENCE

FINDINGS

SEC. 701. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic, and cultural existence;

(2) the continuation of the opportunity for subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic, and traditional existence;

(3) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses;

(4) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(5) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and provide for continued subsistence uses on public lands by Alaska Natives and other Alaska residents; and

(6) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of substance uses on the public lands in Alaska.

POLICY

SEC. 702. It is hereby declared to be the policy of Congress that—

(1) management policies on the public lands in Alaska are to cause the least adverse impact possible on rural people who traditionally and consistently depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, the purpose of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency and the rate at which acculturation or adjustment to a nonsubsistence way of life may take place;

(2) nonwasteful subsistence use of fish and wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the natural stability and continued productivity of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for nonwasteful subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

DEFINITION

SEC. 703. As used in this Act, the term "subsistence uses" means the noncommercial (except as provided under paragraph (2)) customary and traditional utilization within the State of wild, renewable resources for—

(1) direct personal or family use for food, shelter, fuel, clothing, tools, or transportation;

(2) the making and selling of handicraft articles (including clothing), but only out of nonedible by-products of fish and wildlife taken for such personal or family use; or

(3) customary trade, barter, or sharing among subsistence users for personal or family use.

STATE REGULATION

SEC. 704. IN GENERAL.—Except as otherwise provided by this Act and other Federal laws, the State may regulate, in a manner consistent with the policies set forth in section 702, the taking of fish and wildlife on public lands for subsistence uses by developing and implementing a subsistence management program which meets the requirements set forth in subsection (b).

(b) STATE PROGRAM REQUIREMENTS.—The subsistence management program of the State shall include at least the following elements:

(1) The maintenance of the natural stability and continued productivity of fish and wildlife populations which are on public lands and which are the subject of subsistence uses.

(2) A system capable of regulating and monitoring subsistence uses and other consumptive uses of such populations to ensure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(3) A grievance procedure whereby any local council or regional council, required to be established under paragraph (6), which determines that the State is not in compliance, in whole or in part, with the State subsistence management program can obtain timely review of such determination by, and obtain appropriate relief from, the State agency referred to in paragraph (5)(A) or any other State rulemaking authority.

(4) The establishment of not less than five management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. The number and boundaries of the management regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated.

(5) State laws or regulations which—

(A) provide for the regulation by a professionally staffed agency of the taking of fish and wildlife populations on the public lands for subsistence uses, provide that such agency have an administrative structure compatible with the provisions of this section, and provide for an agency which has adequate enforcement authority;

(B) provide preference for nonwasteful subsistence uses by local residents over other consumptive uses of fish and wildlife populations on the public lands; and

(C) provide, whenever it is necessary to restrict the taking of such populations on public lands for subsistence uses in order to protect their natural stability and continued productivity, or to continue such uses, for the establishment of appropriate restrictions and limitations on, and preferences for, such uses which shall be based on—

(i) customary and direct dependence upon the populations as the mainstay of livelihood,

(ii) local residency, and

(iii) the availability of alternative resources.

(6) A system of local and regional fish and wildlife councils within each management region established pursuant; to paragraph (4). Each regional council shall be composed of residents of the region concerned and shall have the following functions:

(A) The review, development, and evaluation of proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife within such region.

(B) The provision of a forum for the expression of opinions and recommendations by persons interested in any phase of fish and wildlife conservation and utilization.

(C) The taking of appropriate action to ensure local and regional participation in the decision-making process affecting the taking of fish and wildlife populations on public lands within the region for subsistence uses.

(D) The preparation of a recommended subsistence management plan for such region which shall be submitted to the State agency referred to in paragraph (5)(A). The plan shall be updated annually and shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations necessary to implement the plan.

The local councils within each management region shall provide advice to, and shall assist, the regional council with respect to carrying out the functions set forth in this paragraph.

(7) The assignment of adequate and necessary qualified staff to the regional councils and the timely distribution of all available relevant technical and scientific support data to the local councils and regional councils.

(8) A requirement that the State agency referred to in paragraph (5)(A) or any other State rulemaking authority shall be guided by the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses and shall implement such recommendations unless the agency or authority, after a public hearing, determines that any such recommendation is not supported by substantial evidence presented at the hearing, violates recognized scientific principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.

ENFORCEMENT DUTIES OF SECRETARY

SEC. 705. (a) REVIEW BY THE SECRETARY.—The Secretary shall monitor the State subsistence management program and the implementation of such program. If the Secretary, after notice and hearing, determines that the program or its implementation is not in compliance with this title, the Secretary shall so notify the State and shall indicate changes in the program or its implementation which he considers necessary to bring the State into compliance.

(b) REVIEW BY LOCAL AND REGIONAL COUNCILS.—If a local council or regional council required to be established under section 704(b)(6) determines that the State is not in compliance, in whole or in part, with the State subsistence management program, such council shall notify the Secretary in writing outlining the factual basis for such determination and detailing efforts which have been made to obtain timely relief through the grievance procedure referred to in section 704(b)(3). If the Secretary finds that based upon the representations of the council there is cause to believe that the State is not in compliance, in whole or in part, with the State program and that such council has failed to obtain timely relief through the State grievance procedure, he shall investigate and report publicly on the results of his investigation. If such results support the contention of the council, the Secretary shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

(c) HEARINGS AND CLOSURES.—If the State fails—(1) to implement a subsistence management program within eighteen months after the date of the enactment of this Act or by such later date as the Secretary deems reasonable; or

(2) to make, after a reasonable date, the changes in the subsistence management program or its implementation as indicated by the Secretary under subsection (a) or (b);

and the Secretary determines that such failure threatens the natural stability and continued productivity of the fish and wildlife populations on public lands in the area concerned, or the ability of subsistence-dependent Alaska residents in such area to satisfy their subsistence needs, the Secretary may close the public lands in such area to all consumptive uses except subsistence uses by local residents. The Secretary shall afford the State an opportunity to appeal such closure. Within thirty days after receipt of notice of such appeal, the Secretary shall afford the State a public hearing and, within thirty days after such hearing, shall make his final decision on such appeal. Unless the Secretary affirmatively establishes that the State is not in compliance with this title or with subsistence management program, and that the resulting threat determined under the preceding sentence exists, the Secretary shall revoke the closure. If the Secretary establishes that the State is not in such compliance, and that such resulting threat does exist, he may continue the closure, in whole or in part, until the State adopts measures complying with the Secretary's determination, or until such threat is otherwise ameliorated.

(d) EMERGENCY AUTHORITY.—(1) Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses if necessary for reasons of public safety, administration, or to assure the natural stability and continued productivity of one or more fish or wildlife populations on such lands which are subject to such uses. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the natural stability and continued productivity of one or more fish and wildlife populations on such lands which are subject to such uses, the Secretary may immediately close the public lands, or any portion thereof, to subsistence uses and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after adequate notice and public hearing, that such closure should be extended.

(2) If after notice to the State under subsection (a) or (b), the Secretary determines that extraordinary measures must be taken to protect public welfare, he may open public lands, or any portion thereof, to subsistence uses by local residents and publish the reasons justifying such action in the Federal Register. Such emergency action shall be effective when made, but shall not extend for a period of time greater than sixty days, or until such time as the threat to the public welfare which necessitated such action has been resolved, whichever time first occurs.

COOPERATIVE ARRANGEMENTS

SEC. 706. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 707. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands

under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on the subsistence needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the State agency referred to in section 704(b)(5) and the appropriate local councils and regional councils required to be established under section 704(b)(6) if such councils have been established,

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purpose of such use, occupancy, or other disposition, and (C) adequate steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

ACCESS

SEC. 708. The Secretary shall ensure that persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resources on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 709. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes, subject to such regulations as are necessary to prevent abuse, waste, or damage to fish and wildlife, habitat, or other natural values.

RESEARCH

SEC. 710. The Secretary of the Interior, acting through the United States Fish and Wildlife Service and in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence activities on the public lands, seek data from, consult with and utilize the special knowledge of subsistence users; and make the results of such research available to the State, the local councils and regional councils required to be established under section 704(b)(6), subsistence users, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 711. Within four years after the date of the enactment of this Act, and within every three-year period thereafter, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 705(a);

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local councils and regional councils required to be established under section 704(b)(6), and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

SEC. 712. Each Secretary shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

OTHER LAWS

SEC. 713. Nothing in this title shall be deemed to modify or repeal the provisions of any Federal law governing the conservation or protection of fish and wildlife.

LIMITATIONS

SEC. 714. (a) NO PROPERTY RIGHT; LEVELS OF USE.—Nothing in this title shall be construed as granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring during the ten-year period before January 1, 1978. No privilege which may be granted by the State to any individual with respect to subsistence uses under the State subsistence management program may be assigned to any other individual.

(b) CLOSED AREAS; HABITAT.—Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (whether or not within any conservation system unit) if any such use was not permitted on the date of the enactment of this Act or as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands.

REIMBURSEMENT TO THE STATE

SEC. 715. (a) AUTHORITY.—The Secretary of the Interior may reimburse the State wildlife agency, from funds appropriated to the Department of the Interior, for reasonable costs relating to the establishment and operation of the local councils and regional councils required to be established under section 704(b)(6). Such reimbursement may not exceed 50 percentum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this section shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior. The Secretary shall ensure that such grants, payments, or other sums are expended in a manner consistent with the policies set forth in section 702.

(b) LIMITATION.—Total payments to the State under this section shall not exceed the sum of $5,000,000 in any one fiscal year.

(c) REVIEWS.—The Secretary of the Interior shall periodically review the financial aspects of implementing the State program and shall advise the Congress at least once in every five years as to whether or not the maximum amount of payments specified in subsection (b) is adequate for proper implementation of the State program.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCES TO VILLAGE CORPORATIONS

SEC. 801. (a) "CORE" TOWNSHIPS, ETC.—(1) Except to the extent that conveyance of a surface estate would be inconsistent with section 22(l) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(1)(A) or 16(a) of such Act in which all or any part of such village is located. As used in this paragraph the term "Native village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

(2) There is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act all of the right, title, and interest of the United States in and to the estates in a reserve which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act.

(3) There is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraph (1) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate all of the right, title, and interest of the United States in and to such subsurface estate.

(b) DOCUMENTS.—As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (a) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of enactment of this Act, or on the date of eligibility determination if subsequent thereto, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) RECONVEYANCES; DISPUTES.—A Village Corporation's obligation to recovery lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent under subsection (b) of this section or under such Act. For purposes of sections 14(c), 14(f), and 22(g) of the Alaska Native Claims Settlement Act, interim conveyances and patents issued pursuant to this Act shall have the same effect as if issued pursuant to sections 14(a) and 14(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

(d) EXISTING RIGHTS.—Except as otherwise expressly provided in this Act, the provisions of the first two sentences of section 14(g) of the Alaska Native Claims Settlement Act shall apply to all conveyances made by operation of section 801 or 802 of this Act as if such conveyances were made under the Alaska Native Claims Settlement Act.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) EXPEDITED PROCEDURES; SELECTION PRIORITIES.—If a Native Corporation entitled to receive land under the Alaska Native Claims Settlement Act elects to utilize the expedited conveyance procedure provided by this section, then, within one hundred and eighty days after the date of enactment

of this Act or after the date of its eligibility determination, such Corporation shall file with the Secretary a document or documents which lists in order of preference such Corporation's priorities for the conveyance of all or any part of the amount of lands which such Corporation has selected under the Alaska Native Claims Settlement Act. Any Native Corporation not electing to utilize such expedited procedure shall receive conveyance of its total entitlement under the Alaska Native Claims Settlement Act.

(2) An election to utilize the expedited conveyance procedure provided by this section shall not affect the rights of the Native Corporation making such election under the Alaska Native Claims Settlement Act except to the extent such Corporation receives a conveyance by operation of this Act.

(b) PRIORITY SELECTION AND CONVEYANCE PROCESS.—(1) Within one hundred and eighty days after the date on which a list of priorities is filed by a Native Corporation under subsection (a) of this section or an amendment to such list of priorities is filed under paragraph (2) of this subsection, the Secretary shall—

(A) determine whether each land selection contained in such list is valid under the Alaska Native Claims Settlement Act and publish such determination in the Federal Register; and

(B) publish in the Federal Register his best estimate of the total amount of land that such Corporation is entitled to receive under the Alaska Native Claims Settlement Act.

If the Secretary is unable to determine the total amount of the land entitlement of such Corporation under subparagraph (B), he shall, at least every six months thereafter, redetermine his best estimate of the total amount of such entitlement and publish in the Federal Register such estimate as redetermined. The Secretary shall continue to make such redeterminations until he is able to determine and publish the total amount of such land entitlement.

(2) For a period of thirty days after each date on which the Secretary publishes under paragraph (1) of this subsection an estimate of the total amount of land a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, the Corporation may file with the Secretary a document or documents amending or supplementing the priorities previously filed with the Secretary with respect to any land for which no conveyance has yet taken place, and thereafter conveyances under paragraph a (3) or (6) of this subsection shall take place in accordance with such amended priorities. In the event that a Native Corporation files under the preceding sentence amended priorities with respect to any land which has also been validly selected by any other Native Corporation, such other Corporation similarly may, during the same thirty-day period, file amended priorities with respect to such selected land and any other land not previously conveyed which such other Corporation previously designated as lower priority than such selected land, and thereafter conveyances to such other Corporation under paragraph (3) or (6) of this subsection shall take place in accordance with such amended priorities.

(3) Except as provided in section 803(b), on the forty-fifth day following each date on which the Secretary publishes under paragraph (1) of this subsection an estimate of the total amount of land which a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, there are hereby conveyed to and vested in such Corporation all of the right, title, and interest of the United States in and to those lands—

(A) which were validly selected by such Corporation under the Alaska Native Claims Settlement Act and not validly selected by one or more other Native Corporations under such Act;

(B) which are of the highest priority contained in the list of priorities filed by such Corporation; and

(C) which have a cumulative acreage which is equal to such estimate and does not exceed the total acreage contained in the list of priorities filed by such Corporation—

(i) reduced by the cumulative acreage of lands previously conveyed to such Corporation by operation of this subsection or under the Alaska Native Claims Settlement Act; and

(ii) reduced as provided in paragraphs (4) and (5) of this subsection.

(4) In any case in which the Secretary determines under paragraph (1)(A)—

(A) that a land selection contained in the list of priorities filed by a Native Corporation is invalid under the Alaska Native Claims Settlement Act, and

(B) that the cumulative total of acreages of land selections contained in such list of higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation, or (ii) the total acreage contained in such list of priorities, whichever is less,

the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in paragraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(5) In any case in which the Secretary, before the date of conveyance of lands to a Native Corporation by operation of paragraph (3), determines—

(A) that a valid land section contained in the list of priorities filed by a Native Corporation has also been validly selected under the Alaska Native Claims Settlement Act by one or more other Native Corporations,

(B) that the cumulative total of acreages of land selections contained in such list as higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation, or (ii) the total acreage contained in such list of priorities, whichever is less,

the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in paragraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(6) Whenever the Secretary receives in writing—

(A) the acceptance by a Native Corporation of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection,

(B) the results of a final decision on an action filed by a Native Corporation contesting the validity of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(C) the provisions of a final settlement or the results of a final decision on a dispute over whether a Native Corporation is entitled under the Alaska Native Claims Settlement Act to receive conveyance of lands which were the subject of a determination by the Secretary under paragraph (5) of this subsection,

all of the right, title, and interest of the United States in and to any lands which the concerned Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act as a result of the concerned acceptance, decision, or settlement are hereby conveyed to and vested in such Corporation.

(7) Within ninety days after the date of a conveyance by operation of paragraph (3) or (6) of this subsection, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) LIMITATION.—Nothing in this section shall be construed as applying to lands conveyed by section 801(a) of this Act.

(d) DEFINITION.—Notwithstanding the provisions of section 103(9), for purposes of this section and sections 801(c), 803, 805(d), and 809 of this title, the term "Native Corporation" means any Village Corporation, any Regional Corporation, any Urban Corporation, and any Native group as such term is defined in section 3(d) of the Alaska Native Claims Settlement Act.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) LIMITATIONS CONCERNING EASEMENTS, ETC. ON "CORE" TOWNSHIP LANDS.—Notwithstanding any other provision of law, no conveyance of lands by operation of section 801(a) of this Act shall be subject to a lease, contract, permit, right-of-way, or easement, except a lease, contract, permit, right-of-way, or easement of a type required to be reserved pursuant to section 14(g) of the Alaska Native Claims Settlement Act.

(b) LIMITATIONS CONCERNING EASEMENTS ON OTHER LANDS.—With respect to lands (other than those lands conveyed by operation of section 801(a) of this Act) conveyed to Native Corporations on or after the date of enactment of this Act, the Secretary shall only reserve those easements which are described in section 14(g) or 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on the compactness of Native lands, on lifestyles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are essential for the purpose or purposes for which the easement is reserved.

(c) ACQUISITION OF FUTURE EASEMENTS.—Whenever after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. In determining whether to acquire an easement under this subsection, the Secretary shall be guided by the principles listed in paragraphs (1) and (2) of subsection (b) of this section.

(d) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were filed but not approved and issued on or before January 1, 1970, on lands selected by and conveyed before, on, or after the date of enactment of this Act to Native Corpora-

tions as part of their entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

(e) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

TAX MORATORIUM EXTENSION

SEC. 804. Section 21(d) of the Alaska Native Claims Settlement Act is amended by striking out "after the date of enactment of this Act" and inserting in lieu thereof "after the date of issuance of an interim conveyance or patent for those interests to such individual, group, or Corporation".

STATE SELECTIONS AND CONVEYANCES

SEC. 805. (a) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years" and, as to future State land selections, by repeal of the second proviso, regarding Presidential approval of land selections north and west of the line described in section 10 of such Act.

(c) SCHOOL LANDS SETTLEMENT.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), including claims to surveyed lands which were within Federal reservations or withdrawals at the time Alaska became a State, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands in Alaska.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of section 6 (j) and (k) of the Alaska Statehood Act.

(d) PRIOR TENTATIVE APPROVALS.—(1) All tentative approvals of the State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(e) PRIOR STATE SELECTIONS.—(1) All existing valid State land selections made pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. All right, title, and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(3) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(5) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(f) FUTURE "TOP FILINGS".—Subject to valid existing and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Aalska Statehood Act or subsection (c) of this section, for lands which are not, on the date of filing of such applications, available lands within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of such section 6 (a) or (b) regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(g) RIGHT TO OVERSELECT.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order or conveyance, in blocs no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocs necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (c) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (b) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(h) CONVEYANCE OF SPECIFIED LANDS.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (m) of this section, which lie within those townships outside the boundaries of conservation system units established, designated, or expanded by this Act, which are specified in the list of State Selection Interest Lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled " ", dated 1978.

(i) LIMITATION ON CONVEYANCES OF SPECIFIED LANDS; TENTATIVE APPROVAL; SURVEYS.—(1) Lands identified in subsection (h) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (m) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in sub-

section (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(j) ADJUDICATION.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (h) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (c) of this section, or other law, prior to the issuance of tentative approval.

(k) CLARIFICATION OF LAND STATUS OUTSIDE UNITS.—As to lands outside the boundaries of a conservation system unit, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (h) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (c) of this section:

(1) Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection.

(2) Withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act.

(3) Classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987).

(4) Classifications or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(l) INTERIM PROVISIONS.—Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State—

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Setttlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) EXISTING RIGHTS.—(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States.

(2) Where prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United State or a contract, lease, license, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permitter, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States, unless the agency responsible for administration waives such administration.

(5) Nothing herein shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(n) EXTINGUISHMENT OF CERTAIN TIME EXTENSIONS.—Any extensions of time periods granted to the State pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a), (b) and (c) of this section shall hereafter be applicable to State selections.

(o) EFFECT ON THIRD-PARTY RIGHTS.—Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94-204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94-456), or section 3 of the Act of November 15, 1977 (Public Law 95-178). Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(p) STATUS OF LANDS WITHIN UNITS.—(1) Notwithstanding any other provision of law, any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit shall be administered in accordance with the laws applicable to such unit.

ALASKA NATIVE LAND BANK

SEC. 806. (a) ESTABLISHMENT; AGREEMENTS.—In order to enhance the quantity and quality of Alaska's renewable resources, there is hereby established the Alaska Native Land Bank Program. All Native Corporations, and all other persons or groups who have received or will receive lands or interests in lands pursuant to the Alaska Native Claims Settlement Act or this Act are hereby authorized to enter into a written agreement with an appropriate State agency designated by the Governor of Alaska as the agent to administer such Program or with the Secretary of the Interior or his designee if the lands to be made subject to the provisions of subsection (b) are within the boundaries of a conservation system unit or if the State declines to participate in such Program. Such agreement shall provide that all or part of the undeveloped and unimproved land holdings of any Native Corporation, as specified by such Corporation, shall be subject to the provisions of subsection (b). No agreement under this section shall be construed as affecting any land or any right or interest in land of any corporation or person not a party to such agreement.

(b) TERMS OF AGREEMENTS.—Each agreement referred to in subsection (a) shall have an initial term of not less than ten years, with provision for renewal for additional periods of not less than five years. Such agreement shall provide that during its term—

(1) the landowner or landowners shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement and shall not permit development or improvements on such lands, unless otherwise provided in section 14(c) of the Alaska Native Claims Settlement Act;

(2) the renewable resources of such lands shall be available only for subsistence uses or such other uses as are not detrimental to subsistence uses;

(3) if the surface landowner so consents, such lands may be made available for local recreational use; and

(4) all or part of the lands subject to the agreement may be withdrawn from the Alaska Native Land Bank Program not earlier than ninety days after the landowner or landowners—

(A) submit written notice thereof to the State agency referred to in subsection (a) or the Secretary, as appropriate, and

(B) pay all Federal, State, and local property taxes and assessments which would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the State or local taxing agency.

Such agreement shall contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement.

(c) RESTRICTIONS.—Each agreement entered into under this section shall constitute a restriction against alienation imposed by the United States upon the land subject to the agreement; so long as the parties to the agreement are in full compliance with the agreement, lands subject to such agreement shall not be subject to any of the following—

(1) adverse possession,

(2) taxation by the United States, any State, or any political subdivision of a State, and

(3) any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or any officer, director, or stockholder of any such Corporation.

Except as provided in the preceding sentence, nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(d) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance with the agreement.

(e) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which (1) applies to any land which is subject to an agreement, and (2) was entered into before the day on which the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 807. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15" and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of title VIII of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under this Act, no land in such a contingency area that has been withdrawn for selection by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION SURVEYS

SEC. 808. With the agreement of the party to whom a patent is to be issued under this title, the Alaska Native Claims Settlement Act, or the Alaska Statehood Act, the Secretary may base such patent on protraction surveys in lieu of field surveys.

ACTION TO ENFORCE; JURISDICTION

SEC. 809. For a period of three years after the date of enactment of this Act, any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by a Native Corporation to enforce the provisions of this title and to award appropriate attorney and witness fees and other costs of the litigation to the prevailing party, except that determinations under sections 802 and 803(b) of this title shall be subject to review only in an action brought by an aggrieved Native Corporation.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 810. The National Environmental Policy Act of 1969 shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement before any conveyance of land by operation of section 801 or 802 of this Act, the reservation of an easement pursuant to the Alaska Native Claims Settlement Act or this Act, or any other determination made or action taken pursuant to this title. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act.

TECHNICAL AMENDMENTS TO PUBLIC LAW 94-204

SEC. 811. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S.M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 36;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, section 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 901. The purposes of this title are to—

(1) recognize the uniqueness of the size of Alaska and the undeveloped condition of Alaska's transportation and utility network and to recognize that the future needs for transportation and utility systems in Alaska would best be provided for through a carefully considered, orderly process under existing authorities and under the procedures established in this title;

(2) recognize the existing authorities of the Secretary to grant rights-of-way for transportation and utility systems under generally applicable provisions of law in the case of public lands within conservation systems units in the State of Alaska, and

(3) establish procedures for the approval or disapproval of applications for such rights-of-way which the Secretary has no authority to approve or disapprove under such generally applicable provisions of law.

USE PERMITS UNDER EXISTING AUTHORITIES

SEC. 902. (a) GENERALLY APPLICABLE LAWS.—Except as may be otherwise provided in the following provisions of this title, any law or rule of law generally applicable to units of the National Park, Wilderness Preservation, Wild and Scenic Rivers, and Wildlife Refuge Systems, regarding rights-of-way (including use permits, leases, and licenses) for a transportation or utility system (including but not limited to roads and highways, oil, gas, and water pipelines, and utility transmission and communication systems) shall apply to all units of any conservation systems in Alaska in the same manner as such law or rule of law applies to units of such systems elsewhere.

(b) ADMINISTRATION OF WILDERNESS.—In the case of wilderness areas in Alaska, the Secretary may exercise his authorities under the Wilderness Act, consistent with section 4(c) of such Act, to provide access to wilderness areas for the administration of the area for the purpose of such Act (including measures required in emergencies involving the health and safety of persons within the area).

USE PERMITS UNDER NEW AUTHORITY

SEC. 903. (a) GENERAL.—If the Secretary has no authority under any other law or rule of law including section 1102 of this Act, to determine whether applications from a Federal, State, or local agency, or any private person or organization for rights-of-way on public lands within a conservation system unit in Alaska for a transportation or utility system should be granted or denied, an application from such a person, organization, or other entity for such a right-of-way shall be considered and processed as provided in the following provisions of this title.

(b) FORM OF APPLICATIONS.—Applications submitted under this section shall be in such form, and shall contain such information, as may be required by the Secretary. Any such application for a right-of-way for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920 shall, to the extent appropriate as determined by the Secretary, be in the same form, and contain the same information, as required for an application for a right-of-way under such section 28.

(c) OIL AND GAS PIPELINES ACROSS RIVERS AND TRAILS.—In the case of an application referred to in subsection (a) for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, if the route for such pipeline would cross any area within the boundaries of the Iditarod Trail or a wild and scenic river in Alaska administered by the Secretary of the Interior, and if the Secretary determines, after notice and opportunity for hearing, that there exists no economically feasible alternative route which would not cross such area, he may grant a right-of-way for such pipeline in the manner provided in section 28 of the Mineral Leasing Act of 1920 and subject to the conditions referred to in section 906 (c) of this Act, except that for such purposes, the first sentence of section 28(b)(1) of the Mineral Leasing Act of 1920 shall not apply.

(d) SYSTEMS CAUSING LITTLE ADVERSE IMPACT.—In the case of an application referred to in subsection (a) concerning a transportation or utility system across public lands within a conservation system unit (other

than a wilderness area), if an environmental impact statement for that section of the right-of-way crossing such unit would not have been required under the National Environmental Policy Act of 1969, the Secretary may grant a use permit for the right-of-way if he determines, after notice and opportunity for comment, that such right-of-way—

(A) would not result in a significant adverse effect on the conservation system unit, and

(B) would be compatible with the purposes for which the unit was established and the purposes of this Act.

(e) TRANSMITTAL OF SECRETARIAL RECOMMENDATION.—In the case of an application for a right-of-way referred to in subsection (a) which the Secretary does not have the authority to grant or deny undersubsection (c) or (d), not later than one year after his receipt of the application, the Secretary shall transmit a recommendation to the Congress respecting whether or not the application for a right-of-way should be granted. Before making such a recommendation, the Secretary shall weigh the local, regional, State, and national interests involved, and determine—

(1) whether the approval of such application is in the public interest,

(2) whether there is an economically feasible and prudent alternative to the granting of the right-of-way through the conservation system unit subject to the application, and

(3) whether the transportation or utility system subject to the application can be constructed, operated, and maintained in a manner compatible with the purposes for which the affected conservation system unit was established and the purposes of this Act.

(f) ITEMS TRANSMITTED WITH RECOMMENDATION.—Together with his transmission to Congress of any recommendation under subsection (e), the Secretary shall transmit—

(1) the application for the right-of-way to which such recommendation applies:

(2) a report setting forth the detailed explanation of the basis for his determinations and recommendation under subsection (e);

(3) an environmental impact statement which complies with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 in any case in which such statement is required under such Act; and

(4) where applicable, the conditions and stipulations under which the use of a recommended right-of-way will be permitted if approved by the Congress, and the extent and duration thereof.

The conditions and stipulations referred to in paragraph (4) shall be designed to ensure that the right-of-way is utilized in a manner compatible, to the maximum extent feasible, with the purposes for which the affected conservation system unit was established and the purposes of this Act and shall contain provisions necessary to minimize environmental harm to the unit.

(g) ENVIRONMENTAL IMPACT STATEMENT.—In the case of any recommendation under this title for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the Secretary may, when he deems it desirable, include such a statement in his transmittal to the Congress. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to applications under this title in the same manner and to the same extent as such provisions apply to applications relating to the public lands referred to in such section 304.

COORDINATION OF RIGHT-OF-WAY REQUIREMENTS

SEC. 904. When an application for a right-of-way referred to in section 902 or 903 is for a transportation or utility system through both Federal lands within, and outside of, a conservation system unit, the Secretary shall coordinate his authorities under other applicable Federal laws in a manner consistent with this title for the purposes of—

(1) assuring consistent treatment of such application;

(2) preparing only one complete environmental impact statement;

(3) avoiding duplication and inconsistent requirements and determinations;

(4) minimizing costs to the applicant and the Government; and

(5) maximizing intergovernmental coordination.

CONGRESSIONAL APPROVAL PROCEDURES

SEC. 905. (a) DATE OF RECEIPT.—Any recommendation of the Secretary submitted to Congress under section 903 shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(b) JOINT RESOLUTION.—Any application transmitted to Congress under section 903 shall be deemed approved only upon enactment of a joint resolution by the Senate and House of Representatives approving such application within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such application.

(c) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(d) EXPEDITED CONGRESSIONAL REVIEW.—(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application submitted to the Secretary of the Interior for a right of way for under this title, across submitted to the Congress on , 19 .": the first blank space therein to be filled in with the appropriate transportation or utility system, the second blank space therein to be filled in with the name of the appropriate conservation system unit in Alaska referred to in , and the third blank space therein to be filled with the date on which the Secretary submits the application to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 with respect to the application.

(3) A resolution once introduced with respect to such application shall be referred to one or more committees (and all resolutions with respect to the same application shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to an application has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such application which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same application) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same application.

(5)(A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier than sixty days after the date of receipt of the application to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such one hundred and twenty-day period, to consider any other resolution respecting the same application.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedures relating to a resolution shall be decided without debate.

ISSUANCE OF PERMITS

SEC. 906. (a) ISSUANCE.—In any case in which an application for a right-of-way on public lands within a conservation system unit in Alaska has been approved by the Congress under this title, the Secretary shall, immediately following the enactment of the joint resolution of congressional approval, issue a use permit for such right-of-way subject to the requirements of this section.

(b) PAYMENT.—Unless Congress otherwise directs, no permit pursuant to a recommendation approved by Congress under this title for a right-of-way may be granted across public lands within a conservation system unit in Alaska unless the permittee pays to the United States an amount equal to the fair market value of such right-of-way.

(c) PIPELINE PERMITS.—In the case of pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a permit granted under this section or section 903(c) shall be issued in the same manner as a right-of-way is

granted under such section 28, and the provisions of subsections (c) through (j), (l) through (r), and (v) through (y) of such section 28 shall apply to permits under this section or section 903(c) in the same manner and to the same extent as to rights-of-way under such section 28. Any such permit under this section or under section 903(c) for such a pipeline which crosses any area within the boundaries of a wild and scenic river shall also be subject to such conditions as may be necessary to assure that the stream flow of such river is not interfered with or impeded and that such pipeline is located and constructed in an environmentally and esthetically sound manner.

TITLE X—COORDINATION

ALASKA ADVISORY COORDINATING COUNCIL

SEC. 1001. (a) ESTABLISHMENT.—There is hereby established an Alaska Advisory Coordinating Council (hereinafter in this title referred to as the "Council"). The Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, and Heritage Conservation and Recreation Service;

(2) if the State complies with the requirements of subsection (d), the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, and Environmental Conservation and the head of the State agency referred to in section 704(c)(3)(A);

(3) one member appointed by the Governnor from recommendations submitted by Village Corporations; and

(4) one member appointed by the Governor from recommendations submitted by Regional Corporations.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made. The Secretary shall designate one of the heads of the Alaska offices of the Federal agencies referred to in paragraph (1) as Chairman of the Council.

(b) EXECUTIVE DIRECTOR.—The Council shall have an Executive Director who shall be appointed by the Secretary and who shall be compensated at a rate established by the Secretary but not in excess of that provided for level V of the Executive Schedule contained in title 5, United States Code. The Executive Director shall appoint and fix the compensation of such additional staff the Council approves.

(c) COMPENSATION AND EXPENSES.—Members of the Council who are Federal or State employees shall receive no additional compensation for service on the Council. Members of the Council who are not Federal or State employees shall receive the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (as contained in title 5, United States Code) for each day during which they are engaged in the performance of duties for the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) CONDITIONAL MEMBERS.—The directors of the Alaska departments referred to in subsection (a)(2) shall be members of the Council only if the State contributes annually funds, staff, and property to Council which is equivalent in value to 35 percent of the Council's annual expenses for such items. The Federal agencies referred to in subsection (a)(1) shall contribute, in addition to fund, staff, and property, if any, contributed by the State, such funds, staff, and property as may be necessary. Staff detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Executive Director during any period such staff is so detailed.

(e) MEETING; AUTHORITIES; REPORTS.—The Council shall meet at the call of the Chairman, but not less than twice each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. The Chairman shall submit a report of each meeting or hearing, together with any recommendations the Council finds appropriate, to the Secretary, the Governor of Alaska, the head of each Regional Corporation, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Secretary shall submit to Congress in writing, a report on the activities of the Council during the previous year, together with his recommendations, if any, for legislation in furtherance of the purposes of this section.

(f) RULES.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteeen days prior to the date when any meeting of the Council is to take place the Chairman shall provide public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

FUNCTIONS OF THE COUNCIL

SEC. 1002. The Council shall conduct studies and advise the Secretary, other Federal agencies, the State, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

COOPERATIVE AGREEMENTS

SEC. 1003. (a) GENERAL PROVISIONS.—The Council may, with the concurrence of the members having administrative jurisdiction over the lands and waters and fish and wildlife resources therein, recommended cooperative planning and management zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members. Federal members of the Council appointed under section 901(a) are authorlife resources therein, recommend cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(b) TECHNICAL ASSISTANCE.—With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with subsection (a), the Secretary may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the coooperative agreement and would be in the public interest.

TERMINATIONS

SEC. 1004. Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Secretary shall submit in writing to the Congress a report on the accomplishments of the Council together with his recommendation and the recommendation, if any, of the Governor of Alaska, as to whether the Council should be extended or any other recommendations for legislation or other action which the Secretary determines should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

TITLE XI—ADMINISTRATIVE PROVISIONS

LAND ACQUISITIONS AND EXCHANGES

SEC. 1101. (a) GENERAL AUTHORITY.—Except as otherwise provided in this Act, the Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit. Any such land owned by the State, a political subdivision of the State, or a Native Corporation which has Natives as a majority of its stockholders may only be acquired for such purposes with the consent of the State, such political subdivision of the State, or such Native Corporation, as the case may be.

(b) IMPROVED PROPERTY.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(c) RETAINED RIGHTS.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs, and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) DEFINITION.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1978 (hereinafter in this section referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use,

together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any struc-

tures accessory thereto which were so used on or before January 1, 1978, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(e) CONSIDERATION OF HARDSHIP.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(f) EXCHANGE AUTHORITY.—In acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in the Alaska Native Claims Settlement Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(g) ACQUIRED LANDS PART OF UNIT.—All lands, water, and interests therein acquired by the Secretary and located within the boundaries of any conservation system unit shall become part of such unit and subject to the laws and regulations applicable to such unit.

(h) SCENIC EASEMENTS.—The Secretary shall reserve or acquire all scenic easements which he determines to be necessary to protect the scenic and natural values of (1) Sukakpak Mountain and the other public lands within the area heretofore reserved for utility transmission systems, or (2) the public lands within the area described in section 1206(a). Scenic easements reserved or acquired under this subsection shall not unduly interfere with the construction, operation, or maintenance of any authorized utility transportation system or other authorized facility or development. In acquiring scenic easements pursuant to this subsection, the Secretary may utilize his authority under subsection (f) of this section or section 22(f) of the Alaska Native Claims Settlement Act.

ACCESS

SEC. 1102. (a) GENERAL PROVISIONS.—The Secretary shall take all possible actions within or outside the boundaries of conservation system units as may from time to time be necessary, including acquiring or providing easements or other interests in lands in accordance with the provisions of section 1101, to carry out any one or more of the following purposes, consistent with the purposes for which the concerned conservation system units were established, designated, or expanded:

(1) providing access to subsistence lands for purposes of subsistence uses under this Act;

(2) providing access for purposes of administering units of the National Park, National Wildlife Refuge, National Forest, or Wild and Scenic Rivers Systems established or expanded by this Act;

(3) providing public access to conservation system units, consistent with the purposes for which the units are established, designated, or expanded; and

(4) ensuring continued public access to areas conveyed to the State, particularly in cases where such areas are enclosed by one or more conservation system units.

(b) CUSTOMARY MODES OF TRAVEL.—Except as otherwise provided in section 10(f) of the Wild and Scenic Rivers Act or section 709 of this Act, in administering the conservation system units in Alaska, the Secretary shall permit the continuation of customary patterns and modes of travel across such units. Such travel may be conditioned by such reasonable regulations as the Secretary shall promulgate to assure that such travel is consistent with the purposes for which such unit was established. Before promulgating regulations under this section, the Secretary shall give at least sixty days public notice of the proposed regulations, including publication of the proposed regulations in a newspaper or newspapers having general circulation in each State judicial district in Alaska where the unit or units affected by the proposed regulations are located, and shall hold a public hearing or hearings concerning the proposed regulations at one or more locations convenient to the unit or units affected.

(c) SPECIAL ACCESS RIGHTS.—In any case in which State owned or privately owned land (including Native land) or a valid mining claim or other valid occupancy is effectively surrounded by public lands within one or more conservation system units, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the values of such unit or units.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

SEC. 1103. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the conservation system units described in section 201(2), 201(6), and 201(10), the Secretary of the Interior may acquire, by purchase, donation, or exchange any significant archeological or paleontological site in Alaska located outside of any such unit and containing resources which are closely associated with such unit. If any such site is so acquired, it shall be included in and managed as part of such unit. Property owned by a State or unit of local government may be acquired under this section only by donation or exchange. Not more than seven thousand five hundred acres of land may be acquired under this section for inclusion in a single conservation system unit. Before acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed acquisition in the Federal Register.

COOPERATIVE INFORMATION CENTERS

SEC. 1104. (a) ALASKA HIGHWAY CENTER.—The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of Federal or other land at a site adjacent to the Alaska Highway, an information and education center for visitors to Alaska. The Secretary shall seek participation in the program planning, construction, and operation of the center from appropriate agencies of the State and representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so.

(b) ESTABLISHMENT OF OTHER CENTERS.—The Secretary of the Interior is authorized to establish in both Anchorage and Fairbanks, Alaska, an information and education center for visitors to Alaska, and the Secretary of Agriculture is authorized to establish in Juneau, Alaska, Ketchikan, Alaska, or Sitka, Alaska, another such information and education center. Each Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska, and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alaska Highway Center. Before establishing any such center in any such city, the concerned Secretary shall notify the appropriate committees of the Congress of his intention to do so. Each Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in the concerned city, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) ADMINISTRATION.—Any centers and facilities established under this section shall be administered under applicable laws and in accordance with such special regulations as the Secretary may promulgate.

ADMINISTRATIVE SITES AND VISITORS FACILITIES

SEC. 1105. (a) ESTABLISHMENT.—In conformity with the comprehensive conservation plans prepared under section 303(c), management plans prepared under section 1108, and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish administrative sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purpose;

(2) the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purpose; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and

with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered with the Secretary into agreements the terms of which assure the continued use of such buildings and facilities to carry out the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1106. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any person who, on or before January 1, 1978, was engaged in adequately providing any type of visitor service within any area established or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act; and

(2) shall give preference to persons whom he determines, by rule, are local residents.

(c) DEFINITIONS.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit including such services as providing food, accommodations, transportation, tours, and guides.

LOCAL HIRE

SEC. 1107. (a) PROGRAM.—The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws, or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) REPORTS.—Within one year after the date of the enactment of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

MANAGEMENT PLANS

SEC. 1108. (a) SUBMISSION OF PLANS.—Within five years after the date of the enactment of this Act, the Secretary shall submit, in writing, to the appropriate committees of the Congress plans for managing each of the conservation system units established or expanded by title II of this Act. At any time after submitting a plan under this subsection, the Secretary may revise such plan in accordance with the provisions of this section.

(b) COORDINATION.—The Secretary shall coordinate the development and preparation of management plans for conservation system units which have similar characteristics.

(c) PLAN REQUIREMENTS.—Each plan described in subsection (a) shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned conservation system unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of the areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(d) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for native Alaskans residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(e) HEARING AND PARTICIPATION.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Advisory Coordinating Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will significantly be affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

(f) ADVICE AND REPORTS.—During the period beginning on the date of the enactment of this Act and ending on the date the final plan described in subsection (a) is submitted to the appropriate committees of the Congress referred to in subsection (a), the Secretary—

(1) shall keep such committees advised of the status of the plans described in subsection (a), of activities being carried out under this section, and of any information which the Department of the Interior has pertaining to any conservation system unit; and

(2) shall, at least once every twelve months, submit to such committees a report indicating the status of the plans described in subsection (a), particular problems being encountered with respect to developing such plans and managing conservation system units, and the anticipated date of submission of such plans.

TAKING OF FISH AND WILDLIFE

SEC. 1109. (a) NATIONAL PARK SYSTEM.—All areas of the National Park System in the State shall be closed to the taking of fish and wildlife, except—

(1) for the taking of fish and wildlife for those subsistence uses authorized under title VII of this Act;

(2) for fishing authorized by the Secretary and carried out in accordance with applicable laws of the United States and the State; and

(3) for the taking of fish and wildlife for sport and other purposes which the Secretary may, by regulation, permit within areas established by or under this Act as national preserves and which is carried out in accordance with applicable laws of the United States and the State.

(b) OTHER CONSERVATION SYSTEM UNITS.—The taking of fish and wildlife in all conservation system units, other than those units in the National Park System, shall be subject to applicable provisions of Federal and State law.

(c) SPORT HUNTING GUIDE SERVICES.—Notwithstanding any other provision of this Act or other law to the contrary, with respect to any public lands within the Katmai National Park, Denali National Park, Gates of the Arctic National Park, or Wrangell-Saint Elias National Park which were on January 1, 1978, legally used by any person for sport hunting guide services pursuant to a lease, permit, or license lawfully issued or authorized by any agency of the United States or the State of Alaska, the Secretary shall, if he finds that

economic hardship would occur to such person if such uses were immediately terminated, offer to such person the option of (A) a permit for such person to continue in the exercise of such use on such lands in accordance with paragraph (2) of this subsection; or (B) subject to the provisions of section 1106 (including preferences provided by such subsection), a contractual right to furnish revenue-producing visitor services, other than for the taking of fish and wildlife on such lands.

(2) Any permit issued pursuant to subparagraph (A) of paragraph (1) of this subsection shall—

(A) be effective for a period not to exceed—

(i) twenty years from the date of enactment of this Act, or

(ii) the lifetime of the individual guide receiving such permit,

whichever is shorter;

(B) not authorize the person to whom it is issued to guide during any one year more hunters than the average annual number of hunters guided by such person during the three years immediately preceding the date of enactment of this Act, or to take more of a particular wildlife species during any one year than the average annual number of such species reported taken from the same area by parties guided by such person during such three-year period;

(C) contain such other terms and conditions as the Secretary deems necessary in furtherance of the purposes of the relevant conservation system unit, including such reasonable limitations or prohibitions which the Secretary may from time to time impose on the taking of wildlife during such periods and within such areas as the Secretary may designate or on the means by which fish and wildlife may be taken; and

(D) shall be terminated by the Secretary without compensation for failure of such person to exercise such use in accordance with the terms and conditions of the permit or for failure to exercise such use in accordance with applicable provisions of Federal or State law.

The Secretary is authorized to require such data and information from permit applicants as he deems necessary to support a finding of economic hardship and to impose appropriate permit restrictions as required by this subsection. Nothing in this subsection shall be deemed to create a compensable right in any public lands. It is the express intention of the Congress that the taking of wildlife except for subsistence uses in the units of the National Park System in Alaska, other than national preserves, be discontined within twenty years after the date of enactment of this Act.

(d) NONSUBSISTENCE TRAPPERS.—Notwithstanding any other provision of this Act or other law to the contrary with respect to any public lands within the Cape Krusenstern National Monument, Denali National Park, or Kubuk Valley National Park which were on January 1, 1978, legally used by any person for traplines pursuant to a lease, permit, or license lawfully issued or authorized by any agency of the United States or the State of Alaska, the Secretary is authorized, if he finds that economic hardship would occur to such person if such uses were immediately terminated to permit such person to continue in the exercise of such use on such lands for a period not to exceed twenty years from the date of enactment of this Act or the lifetime of the individual receiving such permit, whichever is shorter. Any such permit shall—

(1) contain such terms and conditions as the Secretary deems necessary and determines to be consistent with the purposes of the affected conservation system unit, including such reasonable limitations or prohibitions which the Secretary may from time to time impose on the taking of wildlife during such periods and within such areas as the Secretary may designate;

(2) contain reasonable limitations or prohibitions on the means by which wildlife may be taken;

(3) entitle the person to whom it is issued to take during any one year no more wildlife of any species than the average annual number of that species taken by such person during the three years immediately preceding the date of enactment of this Act; and

(4) be terminated by the Secretary without compensation for failure to exercise such use in accordance with its terms and conditions or for failure to exercise such use in accordance with applicable provisions of Federal or State law.

The Secretary is authorized to require such data and information from permit applicants as is necessary to support a finding of economic hardship and to impose appropriate permit restrictions as required by this subsection. Nothing in this subsection nor any permit issued hereunder shall be deemed to create a compensable right in any public lands. It is the express intention of the Congress that trapping, except for subsistence purposes, within units of the National Park System in Alaska, other than national preserves, shall be discontinued within twenty years after the date of enactment of this Act.

MAPS

SEC. 1110. As soon as practicable after the date of enactment of this Act, a map and legal description of each conservation system unit, including each wilderness study area and each wilderness area, shall be filed with the appropriate committees of the Congress. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the appropriate offices of (1) the Director of the National Park Service, (2) the Director of the United States Fish and Wildlife Service, and (3) the Chief of the United States Forest Service, and appropriate offices of the Alaska field directors of such services. Following publication of notice in the Federal Register and reasonable notice in writing to the appropriate committees of the Congress of his intention to do so, the Secretary may make minor adjustments in the boundaries of any of the conservation system units. Whenever possible, such adjusted boundaries shall follow hydrographic divides or embrace other key topographic features in all cases where straight line map boundaries approximate such features.

MAJOR FEDERAL ACTION

SEC. 1111. No action concerning any conservation system unit in Alaska which is a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 may be taken by the Secretary unless, in addition to meeting the other requirements of such Act, a report explaining in detail the action (and the basis and reason therefor) and an environmental impact statement concerning such action, have been submitted to the appropriate committees of the Congress at least sixty days prior to the commencement of such action.

CONGRESSIONAL REVIEW

SEC. 1112. The provisions of section 551 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163) shall apply to all regulations issued by the Secretary pursuant to this Act, except that the term "energy action" shall be treated as a reference to regulations promulgated by the Secretary under this Act and any reference to the "President" shall be treated as a reference to the Secretary.

TITLE XII—MISCELLANEOUS

ITIDAROD NATIONAL HISTORIC TRAIL

SEC. 1201. (a) AMENDMENT OF NATIONAL TRAILS SYSTEM ACT.—Section 5(a) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end thereof:

"(4) The Iditarod National Historic Trail, including the main route (approximately one thousand one hundred miles) and branch segments (approximately nine hundred and thirty miles), extending from Seward to Nome, Alaska, following the route depicted on the maps, identified as 'Seward-Nome Trail' in the Department of the Interior Iditarod Trail study reported dated , 1977; except (A) that while this paragraph will commemorate the entire route of the Iditarod Trail by designation as the Iditarod National Historic Trail, only those segments which are within the exterior boundaries of federally administered areas and which meet the national historic trail criteria established in this Act, are established initially as components of the Iditarod National Historic Trail, (B) that the Secretary of the Interior may designate lands outside of the exterior boundaries of federally administered areas as segments of the Iditarod National Historic Trail upon application from concerned State and local government agencies or concerned persons involved if such segments meet the national historic trails criteria established in this Act and such criteria supplementary thereto as the Secretary may prescribe and are administered by such agencies or persons without expenses to the United States, and (C) that not withstanding the provisions of section 7(c) the use of snowmobiles on segments of the Iditarod National Historic Trail will be permitted in accordance with regulations prescribed by the appropriate Secretary.".

(b) RESPONSIBILITIES OF SECERTARY.—The responsibility for coordination of Iditarod National Historic Trail matters shall rest with the Secretary on consultation with the heads of other Federal and State agencies where lands administered by them are involved. Such responsibilities shall include the following:

(1) Selecting the specific trail route, as provided for in section 7(a) of the National Trails System Act, within three years after the date of enactment of this Act.

(2) Developing a plan and guidelines for the acquisition, development, management, and maintenance of the trail with the advice and assistance of other Federal, State, and local agencies and organizations. Such plan and guidelines shall include at least provisions for the acquisition, retention, or dedication of significant historic sites and for a right-of-way or easement along most or all of the route to protect historic values and segments for potential future recreational trail development and to ensure continued public travel along the various trail segments.

KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

SEC. 1202. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes" approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1203. (a) EXISTING FACILITIES.—(1) Within the conservation system units, reasonable access to, and operation and mainte-

nance of, existing air and water navigation aids and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to the National Park Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate.

(2) Notwithstanding any other provision of this Act, reasonable access to, and operation and maintenance of, existing facilities for national defense purposes, and related air and water navigation aids, within or adjacent to conservation system units shall continue in accordance with the laws and regulations governing such facilities.

(3) Nothing in the Wilderness Act shall be deemed to prohibit, within wilderness areas, the carrying out of access, establishment, operation, and maintenance activities described in paragraphs (1) and (2).

(b) NEW NAVIGATION AIDS AND FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance; and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

NATIONAL PETROLEUM RESERVE IN ALASKA

SEC. 1204. (a) MANAGEMENT.—Notwithstanding any contrary provision of the Naval Petroleum Reserves Production Act of 1976, during the review of land dedications pursuant to section 105(c) of such Act, and, until Congress has determined otherwise the Secretary shall manage the National Petroleum Reserve in Alaska in such manner as to permit the continuation of established subsistence uses and to preserve scenic, historical, archeological, recreational, fish and wildlife, wilderness, and other surface values.

(b) AMENDMENTS TO NAVAL PETROLEUM RESOURCES PRODUCTION ACT OF 1976.—Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501–6507) is amended—

(1) by inserting "archeological and paleontological," immediately after "historical," in paragraph (1)(B); and

(2) by striking out "within three years after the date of enactment of this title" in paragraph (3) thereof and inserting in lieu thereof "on the same date as the study under subsection (b)".

WITHDRAWALS; MINERAL RIGHTS

SEC. 1205. (a) Subject to valid existing rights, all public lands within the boundaries of any conservation system unit in Alaska are withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States, except as otherwise specifically provided in this Act. All withdrawals and reservations of land for powersite purposes within the boundaries of a conservation system units are hereby rescinded. In the case of lands in Alaska outside the boundaries of any such unit, if an applicant for any Native allotment within any withdrawal or reservation for powersite purposes has complied with all applicable requirements, the Secretary may—

(1) grant the application for such allotment, and

(2) make an appropriate conveyance of land to such applicant,

as if the Secretary had declared such lands open to location, entry, or selection under section 24 of the Federal Power Act (16 U.S.C. 818), subject to the reservations specified in such section.

(b) MINERAL CLAIMS AND LEASES.—(1) After the date of enactment of this Act, any person who is the holder, on the date of the enactment of this Act, of any valid existing mineral claim or lease on public lands located within the boundaries of any conservation system unit in Alaska may carry out activities related to the exercise of rights under such claim or lease in accordance with regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which such unit was established.

(2) The regulations of the Secretary which were in effect for any area before the date of the enactment of this Act and which are applicable to the activities referred to in paragraph (1) shall continue in effect notwithstanding the inclusion of the affected area in a conservation system unit until regulations under paragraph (1) of this subsection take effect.

(c) RECORDATION OF CLAIMS.—Except for mining claims on lands subject to the Mining in the Parks Act (90 Stat. 1342; 16 U.S.C. 1901 and following), all mining claims on public lands which lie within the boundaries of any conservation system unit are subject to the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

(d) REMEDY FOR PROPERTY LOSS.—The holder of any patented or unpatented mining claim, or any mineral lease, which lies within the boundaries of any conservation system unit in Alaska who believes he has suffered a loss by operation of this section, or by orders or regulations issued pursuant thereto, many bring an action in the United States District Court for Alaska to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

SCENIC HIGHWAY STUDY

SEC. 1206. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the "Denali Highway" between Cantwell and Paxson, the "Richardson Highway" and "Edgerton Highway" between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) COOPERATION; NOTICE; HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and with the owners of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) PERIOD OF WITHDRAWAL.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1207. Notwithstanding any other provison of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provision of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94–258).

AUTHORIZATION FOR APPROPRIATION

SEC. 1208. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such

amounts as are provided in advance in appropriation Acts.

TITLE XIII MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 1301. The purposes of this title are to provide for—

(1) the expansion of the minerals data base for all public lands in Alaska through the continuation of mineral assessment programs,

(2) the protection of, and the carrying out of activities related to, valid existing mineral rights within conservation system units in Alaska, and

(3) procedures and decisionmaking processes respecting the exploration for, and development and extraction of, minerals from certain conservation system units in the State of Alaska.

DEFINITIONS

SEC. 1302. For purposes of this title—

(1) the term "mineral" includes any mineral or mineral fuel to which the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the Mineral Leasing Act of 1920 (30 U.S.C. 181 and following), or the Mining Law of 1872 (30 U.S.C. 22 and following) apply, including oil, gas, coal, oil shale, and uranium; and

(2) the term "resource" means any concentration of naturally occurring minerals in or on the earth's crust in such form and location that extraction of a commodity is currently or potentially commercially feasible.

CONTINUATION OF MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 1303. (a) MINERAL ASSESSMENTS.—The Secretary of the Interior shall, to the full extent of his authority, continue mineral assessment programs in the State of Alaska in order to expand the data base with respect to the mineral potential of all public lands in Alaska. Such programs may include, but shall not be limited to, techniques such as sidelooking radar imagery and core drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. In carrying out such programs, the Secretary—

(1) is authorized to study and conduct assessments of the oil, gas, and other mineral potential of all public lands in Alaska.

(2) shall establish priorities for accelerated assessments with respect to minerals for which there is a high potential on such public lands, and

(3) is authorized to enter into contracts with public or private entities to carry out such programs.

(b) REGULATIONS.—Activities carried out on conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the area or biological or ecological systems in the area, and

(2) which is compatible with the purposes for which such units are established.

EXISTING MINING CLAIMS AND MINERAL LEASING RIGHTS IN CONSERVATION SYSTEM UNITS

SEC. 1304. (a) MINERAL CLAIMS AND LEASES.—(1) After the date of enactment of this Act, any person who is the holder, on the date of the enactment of this Act, of any valid existing mineral claim or lease on public lands located within the boundaries of any conservation system unit in Alaska may carry out activities related to the exercise of rights under such claim or lease in accordance with regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which such unit was established.

(2) The regulations of the Secretary which were in effect for any area before the date of the enactment of this Act and which are applicable to the activities referred to in paragraph (1) shall continue in effect notwithstanding the inclusion of the affected area in a conservation system unit until regulations under paragraph (1) of this subsection take effect.

(b) RECORDATION OF CLAIMS.—Except for mining claims on lands subject to the Mining in the Parks Act (90 Stat. 1342; 16 U.S.C. 1901 and following), all mining claims on public lands which lie within the boundaries of any conservation system unit are subject to the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 16 U.S.C. ——).

(c) REMEDY FOR PROPERTY LOSS.—The holder of any patented or unpatented mining claim, and the holder of any mineral lease, which lies within the boundaries of any conservation system unit in Alaska who believes he has suffered a loss by operation of this section, or by orders or regulations issued pursuant thereto, may bring an action in the United States District Court for Alaska to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

AREAS SUBJECT TO THE MINERALS ACCESS PROCESS

SEC. 1305. The process contained in the following sections of this title, respecting access to minerals, shall apply only to public lands within the following areas in Alaska—

(1) national preserves, except for portions designated as wilderness, and

(2) the Misty Fjords area (as described in section 607(k)) within the Tongass National Forest.

For purposes of this title (but not for purposes of any other provision of this Act) the Misty Fjords area described in paragraph (2) shall be treated as a conservation system unit. Except for mineral development and extraction under claims or leases in effect on the date of the enactment of this Act (as provided for in section 1304), mineral exploration and development and extraction may be carried out on public lands within the exterior boundaries of such conservation system units only in accordance with this section and the following provisions of this title.

INITIATION OF THE MINERALS ACCESS PROCESS BY APPLICATION OR SECRETARIAL MOTION

SEC. 1306. PROCESSING OF APPLICATIONS.—(a) The Secretary shall receive and consider applications to explore for, and develop and extract, a particular mineral or minerals on any area within conservation system units referred to in section 1305. The application shall be in such form and contain such information as may be required under regulations promulgated by the Secretary. Such regulations shall require the application to include—

(1) a reasonably specific plan for the exploration, and to the extent feasible, for the development and extraction applied for, and

(2) a specific description of the area to which such application applies.

Upon receipt of an application under this subsection, the Secretary shall publish notice thereof in the Federal Register. Such notice shall include identification of the applicant and of the mineral or minerals to which the application applies, the area description referred to in paragraph (2), notice of where copies of the application (including the plan referred to in paragraph (1)) shall be available for public inspection, and such other information as the Secretary deems appropriate.

(b) APPLICATION SELECTION PROCESS.— Regulations under subsection (a) shall provide for the consideration by the Secretary of all applications for exploration, development, and extraction for minerals in any such area which are filed within ninety days following his publication of notice with respect to the first such application. If more than one application for an area is received with respect to a particular mineral or minerals during such ninety-day period, the Secretary shall select from among such applicants the highest responsible qualified bidder by competitive bidding. No application shall be received and considered by the Secretary under subsection (a) with respect to the exploration for, and development and extraction of, a mineral or minerals in any area after the Secretary has published notice of his intention to make a determination under section 1307 with respect to the exploration for, and development and extraction of, such mineral or minerals in such areas unless and until—

(1) the Secretary fails to transmit a recommendation to explore for and develop and extract, such mineral or minerals in such area, or

(2) the one hundred and twenty-day period referred to in section 1308 has expired without congressional approval of such recommendation transmitted by the Secretary.

(c) APPLICATIONS IN RESPONSE TO SECRETARIAL ACTION.—The Secretary may make a recommendation for the exploration for, and development and extraction of a mineral or minerals in any area on his own motion under section 1307 if an application has not been received under subsection (a) with respect to such mineral or minerals in such area. Before making such a recommendation on his own motion, he shall—

(1) publish public notice of his intention to make a determination under section 1307 with respect to such mineral or minerals in such area, and

(2) establish a ninety-day period for the acceptance of applications to explore for, and develop, and extract such mineral or minerals in such area.

Such period shall begin on the publication of such notice. The Secretary shall select from among applicants the highest responsible qualified bidder by competitive bidding.

RECOMMENDATIONS OF THE SECRETARY TO CONGRESS

SEC. 1307. (a) SECRETARIAL DECISION.—Not later than fourteen months following the termination of the ninety-day period referred to in section 906 (b) or (c), whichever is applicable, the Secretary shall either—

(1) transmit to the Congress a recommendation for exploration for, and development and extraction of such mineral or minerals in the area concerned and publish notice of such transmittal in the Federal Register; or

(2) publish notice in the Federal Register that he will not transmit a recommendation.

A recommendation transmitted to the Congress under this section shall be based on the application selected, to the extent appropriate, as determined by the Secretary. No recommendation of the Secretary under this section may be transmitted to the Congress before ninety days after publication of notice of his intention to submit such recommendation.

(b) SECRETARIAL FINDINGS.—In response to an application under section 906(a), the Secretary shall make, and if no such application has been received as provided in section 906 (a) and (b) the Secretary on his own motion under section 906(c) may make, and transmit to the Congress as provided in subsection (a)(1) of this section, a recommen-

dation for the exploration for, and development and extraction of, a mineral or minerals in an area referred to in section 905 if he finds that, based on the information available to him—

(1) there is, or is reasonably anticipated to be within the ensuing fifteen years, a national need for substantial additional sources of such mineral or minerals;

(2) such national need for such mineral or minerals cannot be adequately met in an economically feasible manner by using currently available technology to extract or develop the mineral or minerals from resources elsewhere in the United States, using other currently available domestic sources (including conservation and recycling) or using known practical alternative materials or processes;

(3) such national need outweighs the potential adverse environmental impacts on the conservation system unit which are likely to result from such exploration, development, and extraction; and

(4) the area subject to the recommendation is likely to contain a resource of such mineral or minerals.

(c) JUDICIAL REVIEW LIMITATION.—No court of the United States shall have jurisdiction to issue to any person any injunction, stay, or other relief which would have the effect of preventing or delaying the transmission by the Secretary to Congress as a recommendation under this section. The enactment of a joint resolution under section 908 approving the findings of the Secretary shall be conclusive as to the legal and factual sufficiency of the findings made by the Secretary under this section with respect to such resolution, and following the enactment of such resolution no court shall have jurisdiction to consider questions respecting the sufficiency of such findings.

(d) ENVIRONMENTAL IMPACT STATEMENTS.—If the Secretary transmits a recommendation to the Congress under this section, in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, he shall include such a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the Secretary may, if he deems it desirable, include such a statement in this transmittal to the Congress. The Secretary shall also include in such transmittal a detailed report setting forth the factual data and other information which form the bases for his recommendation and for his findings under subsection (b). The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to applications under this title in the same manner and to the same extent as such provisions apply to applications relating to the public lands referred to in such section 304.

CONGRESSIONAL APPROVAL PROCEDURE

SEC. 1308. (a) DATE OF RECEIPT.—Any recommendation of the Secretary submitted to Congress under section 1307 shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(b) JOINT RESOLUTION.—Any recommendation under section 1307 shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(c) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(d) EXPEDITED CONGRESSIONAL REVIEW.—(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the Secretary of the Interior for the exploration for, and development and extraction of, from submitted to the Congress on , 19 ."; the first blank space therein to be filled in with the appropriate mineral or minerals, the second blank space therein to be filled in with the name of the appropriate conservation system unit in Alaska referred to in section 1305, and the third blank space therein to be filled with the date on which the Secretary submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(3) A resolution once introduced with respect to such Secretarial recommendation shall be referred to one or more committees (and all resolutions with respect to the same Secretarial recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Secretarial recommendation has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Secretarial recommendation which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Secretarial recommendation) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Secretarial recommendation.

(5)(A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier than sixty days after the date of receipt of the Secretary's recommendation to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such one hundred and twenty-day period, to consider any other resolution respecting the same Secretarial recommendation.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedures relating to a resolution shall be decided without debate.

EXPLORATION PERMITS AND DEVELOPMENT AND EXTRACTION LEASES

SEC. 1309. (a) EXPLORATION PERMITS.—The Secretary shall promulgate regulations which require exploration permits for exploration for minerals in areas within conservation system units in Alaska opened for such exploration under the process provided in section 1308. Such a permit shall be issued to the applicant under section 1306 whose application was the subject of the recommendation approved under section 1308. Such permits shall be for a five-year period (but may be extended by the Secretary for one additional five-year period).

(b) PREFERENCE RIGHT TO DEVELOPMENT AND EXTRACTION LEASE.—Permits issued under regulations under subsection (a) for exploration of any mineral or minerals in areas opened to such exploration under section 908 shall provide that if the holder of such permit provides sufficient information to satisfy the Secretary that a valuable deposit of such mineral or minerals which makes a significant contribution to meeting the national need referred to in section 1307(b) has been discovered by him in the area subject to the exploration permit, the Secretary shall, if requested, issue to the holder of such exploration permit a lease for the development and extraction of such mineral or minerals from so much of such area as the Secretary determines is necessary in order to carry out such development and extraction.

(c) DEFERRED PREFERENCE RIGHT TO LEASE.—If, in carrying out exploration activities under an exploration permit issued under this section, the holder of such permit discovers a deposit of any mineral or minerals which the Secretary determines would make a significant contribution to meeting the national need referred to in section 1307(b), but the Secretary determines that such deposit is not, at the time of discovery, a valuable deposit at the time of such discovery, such permit holder shall be offered a deferred preference right to a lease for the development and extraction of such mineral or minerals at such time (not in excess of fifteen years from the time such right is offered) that the Secretary determines, upon application by the holder of such permit, that such deposit is a valuable deposit which makes a significant contribution to meeting the national need referred to in section 1307(b).

(d) LEASE FOR OTHER MINERALS.—If, in carrying out exploration under an exploration permit issued under this section, the holder of such permit discovers in the area subject to such permit a valuable deposit of any mineral or minerals which are not covered by the recommendation approved by the Congress under section 1308 such permit holder shall be granted the right-of-first-refusal for a lease to develop and extract such mineral or minerals at such time as such area is opened under the process contained in this title to development and extraction of such mineral or minerals and the Secretary determines that such deposit will make a significant contribution to meeting the national need referred to in section 1307(b) and in such recommendation.

(e) ASSOCIATED MINERALS.—In determining whether or not a deposit of any mineral or minerals is a valuable deposit the Secretary shall take into account associated minerals which may be removed pursuant to section 1310(4).

PERMIT AND LEASE REGULATIONS

SEC. 1310. If approved as provided in section 1308, the exploration for, and development and extraction of, any mineral on a conservation system unit in Alaska shall be carried out in accordance with regulations promulgated by the Secretary. Such regulations shall be promulgated within sixty days following the date of the enactment of the joint resolution approving such recommendation and shall provide for the exploration for, and development and extraction of, such mineral on the basis of such permits and leases as the Secretary deems appropriate and consistent with this Act. Such regulations shall include provisions—

(1) specifying the terms of a lease or permit and a fee and royalty schedule including terms requiring diligent development, operation, and production (which terms shall remain unchanged during the period such lease or permit is in effect);

(2) ensuring that all activities under any lease or permit are compatible, to the maximum extent feasible, with the purposes for which the unit was established and consistent with the findings of national need made by the Secretary under section 1307 and approved by the Congress under section 1308;

(3) requiring (A) that the adverse impact of all activities relating to any such lease or permit on the natural character of the area and on biological and ecological systems in the area be no greater than necessary to carry out the authorized exploration, development, and extraction, and (B) the reclamation of the affected area to its state prior to exploration to the maximum extent feasible using currently available technology; and

(4) permitting the lessee or permittee to remove associated minerals to the extent that such removal does not result in any substantial additional adverse environmental effects.

MISCELLANEOUS PROVISIONS

SEC. 1311. (a) SITE SPECIFIC ENVIRONMENTAL IMPACT STATEMENT.—If an environmental impact statement under the National Environmental Policy Act was prepared in connection with the recommendation submitted by the Secretary to the Congress and if such statement adequately covered and considered the activity to be carried out pursuant to a lease or permit under sections 1309 and 1310, no supplemental or site specific environmental impact statement shall be required in connection with the issuance of such lease or permit. If such environmental impact statement prepared in connection with such recomemndation (and plan) did not adequately cover and consider such activity such a supplemental or site specific statement shall be prepared as may be required by the National Environmental Policy Act. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2765; 16 U.S.C. ——) shall apply to any such supplemental or site specific statement in the same manner as is provided in section 1307(d) with respect to the original statement.

(b) LEASE SALE.—Nothing in this section shall be construed to prohibit the sale or transfer of any lease under this subsection.

H.R. 10929

By Mr. CARR:

Strike out all after the enacting clause and insert the following:

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1979 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,017,800,000; for the Navy and Marine Corps, $4,078,800,000; for the Air Force, $6,897,700,000.

MISSILES

For missiles: for the Army, $773,200,000; for the Navy, $1,553,600,000; for the Marine Corps, $23,100,000; for the Air Force, $1,676,800,000.

NAVAL VESSELS

For naval vessels: for the Navy, $3,712,400,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $1,532,500,000; for the Marine Corps, $21,700,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $364,100,000.

OTHER WEAPONS

For other weapons: for the Army, $104,100,000; for the Navy, $129,800,000; for the Marine Corps, $28,000,000; for the Air Force, $300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated during the fiscal year 1979 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $2,721,400,000;

For the Navy (including the Marine Corps, $4,495,912,000;

For the Air Force, $4,339,100,000; and

For the Defense Agencies, $917,000,000, of which $27,600,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

TITLE III—ACTIVE FORCES

SEC. 301. For the fiscal year beginning October 1, 1978, and ending September 30, 1979, each component of the Armed Forces is authorized and end strength for active duty personnel as follows:

(1) The Army 771,700;

(2) The Navy, 521,700;

(3) The Marine Corps, 190,000;

(4) The Air Force, 565,600.

SEC. 302. (a) The computation of the annually authorized end strength for the active military personnel of any component of the Armed Forces for any fiscal year shall include all personnel of that Armed Forces component on active duty who are paid by or through that component's active military personnel appropriation, subject to the exclusions contained in subsection (b).

(b) In computing the authorized end strength for the active duty personnel of any component of the Armed Forces for any fiscal year, there shall not be included—

(1) civil works officers;

(2) members paid from appropriations for the Reserve Components;

(3) Reserves ordered to active duty in time of war, or national emergency declared by Congress or the President after January 1, 1978;

(4) units and members of the Selected Reserve ordered to active duty (other than for training) under section 673b of title 10, United States Code;

(5) members of the Army National Guard or members of the Air National Guard called into Federal service under sections 3500 or 8500 of title 10, United States Code;

(6) members of the militia of any State called into Federal service under chapter 15 of title 10, United States Code;

(7) Reserves ordered to temporary active duty for administration of the Reserves who are covered by section 678 of title 10, United States Code;

(8) Reserves on active duty filling positions in accordance with the provisions of section 265 of title 10, United States Code; and

(9) Reserves on active duty for training.

(c) Title 10, United States Code, is amended—

(1) by striking out ", but shall not be counted against any prescribed military strengths" in section 2114(b);

(2) by striking out clauses (1) and (5) in subsection (a) and clauses (1) and (4) in subsection (b) of section 3201;

(3) by repealing section 3230 and by striking out the corresponding item for that section in the chapter analysis of chapter 331;

(4) by repealing sections 5415 and 5416 and by striking out the corresponding items for those sections from the chapter analysis of chapter 531;

(5) by striking out clauses (1), (2), and (6) in subsection (a) and clauses (1) and (4) in subsection (b) of section 8201; and

(6) by repealing section 8230 and by striking out the corresponding item for that section in the chapter analysis of chapter 831.

(d) Section 625(b) of the Department of Energy Organization Act (91 Stat. 598) is amended by striking out the second sentence.

TITLE IV—RESERVE FORCES

SEC. 401 (a) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Selected Reserve of each Reserve component of the Armed Forces shall be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 363,000;

(2) The Army Reserve, 196,700;

(3) The Naval Reserve, 51,400;

(4) The Marine Corps Reserve, 33,000;

(5) The Air National Guard of the United States, 92,400;

(6) The Air Force Reserve, 53,200;

(7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year; and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the

total authorized strength of such units and by the total number of such individual members.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department of Defense is authorized an end strength for civilian personnel of 1,007,531.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy, including the Marine Corps, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the authorized end strength for civilian personnel there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized in subsection (a) of this section but such additional number may not exceed 1¼ per centum of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. For the fiscal year beginning October 1, 1978, and ending September 30, 1979, each component of the Armed Forces is authorized an average military training student load as follows:

(1) The Army, 67,843;
(2) The Navy, 58,086;
(3) The Marine Corps, 21,324;
(4) The Air Force, 44,917;
(5) The Army National Guard of the United States, 11,793;
(6) The Army Reserve, 5,959;
(7) The Naval Reserve, 991;
(8) The Marine Corps Reserve, 3,074;
(9) The Air National Guard of the United States, 2,471; and
(10) The Air Force Reserve, 1,184.

TITLE VII—DEFENSE CIVIL PREPAREDNESS AGENCY

SEC. 701. Funds are hereby authorized to be appropriated during the fiscal year 1979 for carrying out the purposes of the Federal Civil Defense Act of 1950, as amended, for the Defense Civil Preparedness Agency, in the amount of $96,500,000.

This Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

By Mr. CORNWELL:

TITLE V—CIVILIAN PERSONNEL

Page 24, line 18: delete 1¼, and insert 2.

By Mr. HILLIS:

Page 38, after line 9, add the following new section:

CEILING FOR PAYMENTS TO PHYSICIANS UNDER CHAMPUS

SEC. 812. (a)(1) Section 1079 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Payment of a charge for physician services for which a claim is submitted under a plan contracted for under subsection (a) may be denied because the charge is in excess of a predetermined charge level based upon customary charges made for similar services in the same locality only to the extent that such charge is in excess of the charge level that, on the basis of statistical data and methodology acceptable to the Secretary of Defense, in consultation with the Secretary of Health, Education, and Welfare, is equivalent to the 90th percentile of the customary charges made for similar services in the same locality during the last preceding calendar year elapsing before the start of the twelve-month period (beginning July 1 of each year) in which the claim for the payment is submitted.".

(2) Section 1086 of such title is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 1079(h) of this title shall apply to payments for physician services under a plan contracted for under subsection (a).".

(b) The amendments made by subsection (a) shall apply with respect to claims submitted for payment for services provided on or after the first day of the first calendar year beginning after the date of enactment of this Act.

By Mr. SKELTON:

TITLE VII—CIVIL DEFENSE

On page 27, immediately after Line 23 insert the following new section:

"SEC. 702. (a) From the sum authorized to be appropriated to the Defense Civil Preparedness Agency pursuant to Section 701 of this act, the sum of $200,000 shall be used for a study of the special civil defense needs of areas which contain significant elements of the United States' strategic nuclear retaliatory forces.

(b) The study provided for in subsection (a) of this section shall include, but not be limited to, the following information:

(1) An identification of areas in the United States which because they contain significant elements of the United States' strategic nuclear retaliatory forces are prime targets in case of a nuclear attack.

(2) A determination of what civil defense evacuation and shelter plans and warning systems are now available or are proposed to be available to these areas.

(3) An evaluation of the effectiveness of these existing evacuation and shelter plans and warning systems.

(4) A determination of the feasibility of establishing more effective evacuation and shelter plans and warning systems for these areas, and a determination of the potential costs and methods of financing.

(5) A detailed analysis of the specific effects of a nuclear attack on each of these areas.

(6) A determination of the need for educating and the most effective methods of educating the public in these areas on civil defense matters.

(c) The study required by this section shall be complete, and copies filed with the Committees on Armed Services of the Senate and House of Representatives, before April 1, 1979.

EXTENSIONS OF REMARKS

WARPLANES PACKAGE SHOULD HAVE BEEN SHOT DOWN

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. FRENZEL. Mr. Speaker, in my judgment, the warplanes package approved by the Senate Monday is dangerously flawed in conception, timing and structure.

If our Government is really committed to bringing about a just and lasting peace in the Middle East, one must seriously question the logic of this weapons sale at this time.

The administration's contention, that distributing advanced weaponry is conducive to peace, simply does not make sense.

To make matters worse, the administration has timed this sale at a time when peace negotiations are stalled. Rather than offering an incentive to the Egyptians to resume the discussions, the administration, by submitting the warplanes package at this time, is rewarding them for not negotiating.

One must also question the timing of the plane sale to Saudi Arabia—one of the most influential voices in the Arab world—and a country which has done little to promote peace in the Middle East. It has not joined the more radical Arab States in attacking the peace efforts of President Sadat, but it has failed to endorse openly President Sadat's efforts. Saudi Arabia's failure to commend Sadat publicly has weakened Egypts standing in the Arab world and the chances for peace.

Even if the Saudis have supported Sadat privately, this stands in sharp contrast to their public support of the PLO. In 1976, Saudi Arabia provided in excess of $40 million to the military arm

of the PLO. They have also provided assistance to other branches of the terrorist organization. Publicly, the Saudis have praised PLO terrorist missions against civilians, including the March 11 "Sabbath Massacre" in which 41 persons died.

Clearly, the administration's timing is off in presenting this package at this time. This deal should be postponed to emphasize to Egypt and Saudi Arabia that the United States is displeased with their hesitancy to make decisive and public movements toward negotiating for peace with Israel.

In addition to the timing of this sale, I find the administration's unprecedented insistence that sale of arms to Israel be contingent on arms for Arabs, unwise and unjustified. The congressional veto was intended to apply on a sale-by-sale basis, not for consolidated packages.

In 1975, when Israel agreed to enter the Sinai II agreements, the United States made a commitment to supply advanced fighter-bombers to Israel. Israel agreed, returned territory to Egypt, and in return has had her airplane request reduced. Now Israel is told her arms will only be delivered if the Arabs also receive weapons. Is it any surprise that Israel is hesitant to further withdraw from her territory?

While the Arab nations can and do receive weapons from many nations, including Russia, Israel can only look to America for her security needs.

This sale touches on another aspect of Israel's security, namely, the use of the Saudi weapons against Israel. The F–15 would be capable of striking at Israel within 6 minutes of leaving Saudi Arabia at Tabuq airfield. The Saudis would have us believe that the F–15 would only be used in defense against aggressive neighbors but in light of recent history, this statement is hard to believe. During the Yom Kippur war, the Saudis transferred soldiers, jeeps, halftracks, artillery, anti-aircraft units and helicopters to Egypt, Jordan, and Syria. It is possible that F–15's could be transferred.

The Saudis also claim that they will not train pilots of other Arab nations to fly the F–15. In light of recent history, this is also hard to believe. In 1975. the Saudis ignored American law and trained Egyptians to fly and maintain American F–5 fighters. Since the Saudis are buying F–15 flight simulators there is legitimate cause for concern that Israel's security is dangerously being risked by this proposed sale.

Turning to a different aspect of this sale, the administration's fear that America has neglected Saudi Arabia's military needs is difficult to understand in light of the more than $15 billion in total arms sales we have provided them since 1973.

One must also contemplate the wisdom of providing America's best fighter to a country where Soviet access cannot be ruled out. The F–15's radar is said to be "a decade ahead of anything else," according to one Air Force general. It is the fastest—2½ times the speed of sound—longest range—2,878 miles—fighter in the U.S. arsenal.

It may not be prudent to provide this advanced aircraft to Saudi Arabia, a country who just 3 years ago had its leader assassinated; a country where, according to former Army Counterintelligence Officer Tom Gervasi, "security is loose * * * some of its airport technicians are Syrian, Iraqi, and Palestinian aliens who could be Soviet sympathizers."

It is hard to see how the sale can have any effect except to make negotiating for a final peace settlement more difficult. The Israelis have no incentive to bargain. The last time they made an agreement at our request, we reneged on our promise. The Arab nations have no incentives, either. We send them arms anyway.

This package is a threat to our security, to Israel, and to peace in the embattled Middle East.●

NATIONAL HEALTH INSURANCE

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. BROWN of Ohio. Mr. Speaker, the Marion-Union Counties Committee of my Seventh Ohio Congressional Youth Advisory Council recently completed its study of national health insurance proposals. The members of the committee included: Chris McCord, chairman; Christy Fisher, secretary; Marcus Albernaz, Marty Harrison, Tom Haviland, Dave Hesse, Kathy Knapp, Lisa Mead, David Miller, Jill Reasoner, and Sheryl Zug. The following is the report which they submitted to me.

National Health Insurance

In America today, we are told, only death and taxes are inevitable. But aside from these, there are a number of things which, if not inevitable, occur with alarming frequency. One of these is the need for medical care. Nearly every American, at some time in his life, will require the services of a doctor, dentist, optometrist, specialist, or hospital. All of these services are essential for the health of the public, and of society. And all are expensive. Currently, 133 billion dollars are spent each year for health care in the U.S. By 1980, this figure will be 223 billion.

The expense of health care has driven most Americans to purchase health insurance to protect themselves from the financial ruin that can accompany major medical expenses. Most, but not all. Any health insurance policy costs money; good health insurance costs more than many can pay. Some who cannot purchase quality health insurance buy instead limited or low quality insurance; others rely on Medicare or Medicaid; many do without altogether.

These people represent an alarming percentage of America's population. Of America's 215 million citizens, 50 million have limited insurance, 26 million depend solely on Medicare, 18 million have no health protection of any form. Ninety-four million people, almost half of America, daily face economic disaster from medical expenses. These people clearly require some form of assistance. And in recent years, the form most often proposed is national health insurance.

Eighteen Proposals

Most people have vague and confused ideas of what exactly is meant by the phrase "national health insurance." This is scarcely surprising, as in the last year alone, Congress has seen eighteen different national health insurance proposals placed before it. The systems proposed within this maelstrom of legislation range from total reconstruction of the health system in America to federal assistance for health expenses above $2,000.

These proposals represent the particular interests of their sponsors and supporters. These include the AFL–CIO, United Mine Workers, American Medical Association, Health Insurance Association of America, and American Hospital Association. Yet diverse as they are, all of these bills tend to fall within two basic categories. Therefore, only the categories, and the most attractive bills within each, will be considered.

The first category calls for a complete restructuring of health services and finances, similar to those existing in Europe and Canada. In America, this type of proposal is best known, and represented, by the Health Security Act, known as the Kennedy-Corman bill, also known as H.R. 21.

This system, by far the most innovative ever seen in the United States, calls for federal financing of all health care in this country. Private insurers would be replaced by agencies of the Department of Health, Education, and Welfare, who would regulate and administer payment of health providers (the legal term for doctors, hospitals, etc.). The entire system, as part of the federal government, would be budgeted by Congress. Its budget would be limited to a percentage of the gross national product, and would thereby contain the escalating costs of health care. The system would operate on a regional basis, supervised by a national council. If a particular region threatened to exceed its allocation, payment of all providers in the region would be reduced to levels which would meet the budget.

All Would Belong

All Americans would belong automatically to the system, and would therefore no longer need to purchase insurance, or pay for medical services. Providers would be paid by the federal government, and it (the government) would in turn finance the system through a 3.5% tax on employers' payrolls; a 1% tax on employees' wages; and a 2.5% tax on self-employed and unearned income. All current federal health systems, such as Medicare and Medicaid, would be abolished and their funding used in the new system.

The bill would establish minimum standards for subscribing providers, and establish health service costs through collective bargaining between providers and the government. Hospitals and Health Maintenance Organizations would be allocated funds by the regional boards at the beginning of the fiscal year, and like the region, would operate within that allocation. Private practitioners would be paid by salary, capitation (agreeing to treat a certain number of people at a set rate per person), or fee-for-service.

Support of the Kennedy-Corman bill has been loud and long, and has been limited of late to labor unions and consumer activists. These people could potentially receive unlimited health care for less than they pay now. Opposition to the bill comes from health providers and big business (who will gain little or nothing and will pay for the privilege). They point to a number of serious difficulties in establishing such a system.

High Cost

The projected cost to the Federal Government of the Kennedy-Corman bill would be 248 billion dollars annually, five times the amount it now spends. Studies by the Department of Health, Education, and Welfare indicate that the proposed system of financing would not cover the costs of the bill. Money would then have to be appropriated by Congress. This would leave the medical welfare of the Nation at the mercy of an

Appropriations Committee continually beset with many urgent requests for money. In the face of such competition for funding, there is no guarantee that health systems would receive the necessary funding. This expense would also drive a government 700 billion dollars in the red even further in debt.

On a regional level, once the yearly budget has been allocated, no further money would be available. If a region spends all of its money, it ceases to pay for health treatment, and that region no longer receives health care. And even while the money lasts, the bureaucracy required to pay each bill will induce wastage, fraud, higher prices, and more of doctors' time spent on paperwork rather than patients.

The establishment of such a system would mean the end of organizations such as Blue Cross and Blue Shield. And with the end of these businesses, and private health insurers, would come the unemployment of the several thousand employees of such organizations.

The greatest opposition to the Kennedy-Corman bill, however, is emotional. Many Americans (48 percent by an NBC poll) are opposed, on an almost instinctive level, to the thought of government control of a private industry. They are afraid of bureaucracy, of socialism. While this opposition is often irrational, it is still important, and should not be discounted. The American Medical Association has made it clear that no national health insurance act will succeed without their support, and that they do not support the Health Security Act.

* * * * *

The expense of health care would continue to be paid by those receiving the services; rather than by those who pay the highest taxes, which is the result of the tax-based Kennedy-Corman plan. Both health provision and health insurance would remain free enterprise systems, allowing better and more innovative services. And finally, most Americans, who already own adequate insurance, would be completely unaffected by this legislation, and those who need better insurance would be able to purchase it at an affordable cost.

SUPPORT H.R. 1818

Therefore, we, the Marion-Union Counties Committee of Congressman Brown's Congressional Youth Advisory Council recommend the adoption of House of Representatives bill 1818.●

OLDER AMERICANS ACT AMENDMENTS OF 1978

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. SARASIN. Mr. Speaker, on Monday of this week the House passed the Comprehensive Older Americans Act Amendments of 1978 by a vote of 361 to 6. As a cosponsor of this legislation I am delighted that the House gave its full support to this reauthorization. As a member of the Education and Labor Committee which has legislative jurisdiction over aging, and the Select Committee on Aging, I enthusiastically endorse the direction this legislation gives for senior citizen programs.

In particular, I support the increased emphasis that this bill places on senior centers. Congress wanted multipurpose senior centers "to provide a focal point in communities for the development and delivery of services * * *." Although title V became law in 1973, first-time funding for the program did not take place until 1976 when $20 million was appropriated as part of the fiscal year 1976 supplemental appropriations bill; for fiscal year 1978, $40 million was appropriated. Through an amendment I offered in committee, which passed unanimously, the authorization provided in fiscal 1979—$80 million, fiscal 1980—$100 million, and in fiscal 1981—$120 million for multipurpose senior centers.

Moreover, several other recommendations have increased the effectiveness of these centers. The bill provides funds for new construction of senior centers in communities where there are no structures available. Multipurpose senior centers may now also be acquired through leasing; staffing and operation are also authorized.

These amendments will also make it easier to acquire senior centers and will help to establish senior centers as real focal points in the lives of older Americans.

Mr. Speaker, the Subcommittee on Human Services of the Select Committee on Aging, on which I am ranking minority member, is very interested in the future of aging. We have learned through our foresight hearings that, as recently as 4 years ago, more than 7 million Americans over 60 wanted to participate in senior centers and could not. Today, 3,100 new centers are still needed. With our Nation "greying" as fast as it is, this need will become even more acute. This year's Older Americans Act Amendments, especially those sections that enhance the role of multipurpose senior centers, goes a long way today to meet the needs of tomorrow's elderly.●

A FAIRER TEST OF SUPPORT FOR PUBLIC FINANCING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. MAZZOLI. Mr. Speaker, when H.R. 11983, the Federal Election Commission (FEC) annual authorization bill, comes to the floor for a vote, a move will be made to defeat the previous question in order to amend the rule so that a version of the Foley-Conable public financing amendment can be made in order.

I strongly support this effort and I urge the defeat of the previous question.

The House recently debated the rule providing for the consideration of H.R. 11315, the Federal Election Campaign Act amendments of 1978. This bill was to have served as a vehicle for the adoption of partial public financing of House campaigns.

However, H.R. 11315 was a highly partisan and unfair measure which would have had devastating effects on the two-party system. A vote against consideration of the bill most assuredly was not a vote against public financing, though some so characterize it.

In my judgment, a vote against the rule to H.R. 11315 was simply a vote against bad legislation.

A clearer, fairer test of a Member's attitude toward public financing of House races will come in the vote on the previous question on the rule to the FEC authorization bill.

Those who vote against the previous question will be friends of public financing. Those who vote for the question will not be friends of public financing.

Mr. Speaker, I have supported partial public financing of congressional campaigns for all the years I have served in the House.

I think public financing is in the public interest. I hope the House defeats the previous question on the rule to H.R. 11983 so we can take a record vote on public financing.●

CONGRESSMAN ANNUNZIO COMMENDED BY COLLEAGUES FOR REPRESENTATION AT ALDO MORO MEMORIAL SERVICES

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. BURKE of Massachusetts. Mr. Speaker, last Saturday, May 12, our good friend and colleague, Congressman FRANK ANNUNZIO, represented the President of the United States at memorial services for Aldo Moro in Rome at the Basilica of Saint John Latern. The Congress had just passed, unanmiously, a resolution sponsored by Congressman ANNUNZIO, myself, and many others, which said in part:

Aldo Moro will go down in the history of mankind's struggle against tyranny as a noble and compassionate exponent of freedom's ideals who died in the belief that the better instincts in human beings will triumph in dignity and liberty.

The brutal assassination of Aldo Moro sent shock waves throughout the world and was a bitter and sad event for Italy itself. United States participation in memorial services certainly signaled our deep and abiding concern for the Italian people and their grief over this tragic event. I quote from the departure statement of the distinguished American delegation:

Aldo Moro died as a captive soldier in the defense of Western democracy. Now all of us, his fellow believers in that cause, must ensure that his death was not in vain—by working to strengthen the ties that bind the Western Alliance in which he believed.

As we return home, we do so with a renewed determination to strengtheen those ties; with a renewed sense of Italy's importance as a friend and ally; with admiration for Prime Minister Andreotti and with deepened feelings for the Italian people.

Mr. Speaker, the House of Representatives was exceptionally well-represented by the distinguished presence of our colleague, FRANK ANNUNZIO. I think it is a great testimonial to Congressman ANNUNZIO's statesmanship—his thorough understanding of world events and their meaning—that he was chosen by the

President to represent him on this delicate occasion filled with sadness for the Italian people. Congressman ANNUNZIO represented us with dignity, respect, and as a true representative of the U.S. Government. For this we owe him a great debt of gratitude. We are indeed fortunate to have a man of his caliber among us.

In addition to our esteemed colleague, the American delegation representing the President included: Secretary of Health, Education, and Welfare Joseph Califano, Senator PETE V. DOMENICI of New Mexico, Ambassador to Italy Richard Gardner, and Deputy Assistant Secretary of State for European Affairs Robert Barbour.●

FRAUD AGAINST THE GOVERNMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for May 17, 1978, into the CONGRESSIONAL RECORD:

FRAUD AGAINST THE GOVERNMENT

In recent conversations with me many Hoosiers have shown a great concern about fraud in the programs of the federal government.

Events of the last few months have only served to heighten that concern. In April it was announced that the Department of Health, Education, and Welfare lost $1 billion last year—seven-tenths of 1% of its $148 billion budget—through outright fraud and abuse. In early May the General Services Administration was hit by a scandal involving contracts to repair federal buildings. Fraud and abuse in all federal programs may cost as much as $12 billion per year, according to the experts. Although there are no precise figures on the total amount lost, it is apparent that the federal government has become a major victim of white-collar crime.

The fraud occurs in many ways. There is the small abuse of the food stamp program by the recipient who lies about his income, the multi-million dollar swindle in a government grain transaction, the embezzlement of thousands in federal funds intended for subway construction, the billing under Medicare of seven tonsillectomies for a single patient, the collection of "widow's benefits" by the daughter of a Civil War widow who had died 20 years before, the use of scrap metal by a military construction firm whose contract calls for new material, and the receipt of government benefit checks by a vocational education school for students who never attend classes. Besides simple deception, many other schemes are employed to cheat the government. Kickbacks, bribes and improper bidding procedures are just a few. So fraud against the government is more than the welfare mother who puts misleading information on a benefit application. It is the unlawful activity of thousands of people—many of them well-educated, middle-class citizens—who enter into an agreement with the government and then steal all they can.

Fraud comes about for several reasons. Federal administrators handle money that belongs to no one because it comes from everyone, so they may handle it carelessly. Sometimes there are insufficient controls on how the money is spent, with the result that oversight is very lax in some instances. There is a severe shortage of manpower to prosecute those who commit fraud, and the sheer size and complexity of federal programs make the job even more difficult. Split jurisdiction is also a problem since the state and local governments which run many federal programs tend to have other law enforcement priorities. There is no immediate victim of federal fraud, no public outcry and very little chance of the offender's being apprehended. Bureaucrats are not as vigorous in rooting out fraud as they might be because they may believe that the discovery of corruption will damage their careers and the programs they administer.

All this fraud is more than just a violation of the law. It indicates a feeling among people that the theft of public money really does not matter. The true impact of fraud is to subvert federal programs and to undermine the integrity of the democratic system and the people's confidence in it. Fraud encourages people to think that their government is inept. It angers them because it represents a complete waste of their hard-earned tax dollars. It may cause them to withdraw their support of the worthy objectives of federal programs.

A series of dramatic congressional hearings and critical audits by government accounting offices has brought about an increased awareness of the extent of fraud in federal programs. The hearings and audits have also shown that the government has not yet established effective mechanisms to detect and prevent fraud and abuse. In fact, the government's defenses are very thin. For example, last year there were only four inspectors assigned to seek out fraud in the $6 billion federal highway program. The Veterans Administration had only one auditor for every $238 million it spent. The Department of Labor devoted only one-hundredth of 1 percent of its budget to investigate abuse. With defenses like these, it is surprising that fraud is not more prevalent.

Fortunately, there are signs that the government is moving to reduce the waste of tax dollars from fraud and abuse. Legislation now progressing through Congress would establish a semi-autonomous office of inspector general in 12 federal agencies which together spend more than $100 billion annually. The inspectors general would audit agency programs without the burden of responsibility for program operation. They would also more than pay for themselves through the revenues they would recover. Several other government agencies are setting up offices of special investigators, and grants are being made to local prosecutors to improve their ability to crack down on fraud. Finally, the Federal Bureau of Investigation and the United States District Attorneys are increasing the human and financial resources they commit to detect and prosecute the theft of public funds.

A new sensitivity to the problem of fraud is needed, as are better methods for the detection and prosecution of abuse. Prevention, too, must get more emphasis. Old programs have to be changed so that they are less subject to abuse. New programs must have safeguards built into them from the start.●

INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. DERRICK. Mr. Speaker, on May 12, during consideration of the International Development and Food Assistance Act, the House voted on the amendment offered by Mr. JOHNSON to exclude tobacco from the food-for-peace program. At the time the vote came up, I was engaged in a meeting of the House-Senate conference committee on the first budget resolution and it was necessary for me to rush to the floor in order not to miss the vote. In my haste, I inadvertently recorded my vote in favor of the Johnson amendment, when in fact it was my intent to vote in opposition. I am therefore taking this opportunity to make it clear that I do not favor the exclusion of tobacco from the list of commodities available for purchase under the food-for-peace program.●

NEW AIRCRAFT LANDING SYSTEM WINS INTERNATIONAL APPROVAL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. HUGHES. Mr. Speaker, on April 19, one of the most significant decisions in recent aviation history was made in Montreal, Canada.

On that day, the International Civil Aviation Organization (ICAO), an affiliate of the United Nations, selected a new microwave aircraft landing guidance system as the prototype for airports around the world.

I call this event to my colleagues' attention because the microwave landing system which was selected was tested, evaluated and refined at the National Aviation Facilities Experimental Center (NAFEC) in south Jersey.

The ICAO's endorsement of the microwave landing system was a major victory for both NAFEC and the entire United States. For 4 months leading up to the vote, a team of experts from NAFEC traveled across five continents to conduct a series of operational demonstrations in nearly a dozen airports. NAFEC officials reported throughout the trip that many of the countries they visited were deeply impressed with the performance of the new guidance system.

The NAFEC officials were not alone, however, in their pursuit of the ICAO endorsement. During the same period, a team of experts representing the United Kingdom's British Doppler signal system mounted a fierce effort to win ICAO backing for their system. A tense rivalry developed, only to be concluded with the ICAO's vote of 39–24 in favor of the U.S. microwave landing system.

The all-weather microwave landing system is formally known as the time reference scannning beam system. It involves the use of high-frequency equipment which enables aircraft to land at foggy or rain-obscured runways with tremendous accuracy. It is considered to be far more accurate than conventional landing systems, which use ordinary radio frequencies that are more prone to distortion.

Two versions of the system were tested and further developed at NAFEC. One is

exclusively designed for small airports, and was first tested at the Cape May County airport in September 1977. The other is for use at international airports. Under the IAOC's instructions, the new landing system will become the standard for airports around the world by 1990.

That is a great tribute to the United States and Australia, which jointly developed the system. It is also continuing evidence of the outstanding work which is being performed by the aviation engineers, technicians, pilots and others who are employed at NAFEC.●

PROPOSED AIDS FOR THE DEAF

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. FINDLEY. Mr. Speaker, today I am introducing a bill to help the millions of Americans who are deaf or have serious hearing impairments. This bill has a dual purpose: It provides a tax credit to those deaf individuals who wish to buy and install a teletypewriter (known as a TTY) which can enable the deaf to communicate over the telephone with other hearing and nonhearing people. Second, the bill provides hearing-impaired individuals a $750 tax exemption similar to the exemption already allowed blind people.

The tax credit that is established by this bill is important because millions of people with severe hearing handicaps do not have the ability to use a regular telephone. With the use of a TTY, those people could communicate with others just as the vast majority of Americans do everyday over the telephone. TTY's look like typewriters and can be coupled with a telephone to transmit a typed message electronically to a similar device located anywhere in the country. There is only one drawback to these machines: their cost.

To purchase a TTY can cost anywhere from $225 to as much as $600 for just one unit. Few deaf people, whose incomes are generally far below the nonhandicapped, can afford that amount of money. Yet a TTY is just as vital to them as a regular phone is to the rest of us. It allows them to contact their local police and fire officials, friends and neighbors, and enjoy the great convenience that everyone else takes for granted.

The second provision of this bill is of equal importance to the deaf. Many handicapped individuals have to incur extra costs that nonhandicapped people never even consider. For example, many deaf individuals need to have the use of hearing-ear dogs, but because of the high cost of training such animals, most must forego them. Also deaf people usually have to pay for certain educational services that they need either to graduate from school or for job advancement. These extraordinary expenses certainly justify the special tax exemption similar to that currently available to the blind.

Both of these proposals are designed to give deaf and hearing-impaired individuals the opportunity to live a life free of the restraints imposed upon them because of their disability. It is incumbent upon the Congress to provide individuals the tools which will enable them to lead normal, useful lives.●

YURI ORLOV AND THE INJUSTICES OF SOVIET JUSTICE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. BINGHAM, Mr. Speaker, this week marked the beginning of the trial of Yuri Orlov, a 53-year-old physicist and leader of the Moscow Group To Promote Observance of the Helsinki Agreements in the U.S.S.R.

The charges being brought against him are serious ones—"anti-Soviet agitation" and specifically, according to one source, "selling slanderous material" to the West. Those charges carry with them a maximum sentence of 7 years imprisonment and 5 years internal exile.

His crime is organizing a small group in Moscow in May 1976, to research and report on Soviet nonimplementation of the 1975 Helsinki agreements. As a result of those activities, Mr. Orlov was arrested over 15 months ago and kept in complete isolation until his appearance at the trial on Monday.

None of the 50 friends and supporters of Mr. Orlov, none of the 20 Western reporters, nor the one American diplomat who waited outside were allowed to enter the courtroom. None of the 11 witnesses Mr. Orlov had requested be questioned were allowed to appear. None of the evidence the state had gathered against Orlov was shown at the proceedings. The British lawyer Orlov had asked to represent him was not allowed to enter the Soviet Union. And the prosecution has based its case on several of the group's reports which were written, according to the prosecuting attorneys, with the purpose of weakening or subverting the Soviet state.

I would like to reprint one of those reports to demonstrate the type of information the Soviet authorities so terribly fear. If justice means punishing people for acting in conformity with international pledges, if justice means destroying a person's life because he has written the truth, I protest, in the strongest terms, that false concept of justice and urge the Soviet authorities to be lenient in their treatment of Mr. Orlov and the other Helsinki group members awaiting their trials:

The report follows:

THE VILLAGE OF ILINKA

DECEMBER 18, 1976.

In the previous documents of the Group, we have described the numerous Soviet violations of the section of the Agreement dealing with reuniting of families and freedom of emigration. Such violations (like many others) are of more obvious and gross character in little, unknown settlements. In particular, this phenomenon is best illustrated by the fate of Jewish families of the village of Ilinka, Kazanski Selsovet, Talovski Region, Voronezski Oblast.

We accidentally learned about the existence of a Jewish settlement in the heart of rural Russia. For centuries the inhabitants of Ilinka had managed to preserve their Jewish tenor of life and religion.

In June, 1976, three Muscovites, Vladimir Slepak, Anatoly Shcharansky (members of the Group) and Sanya Lipavsky, attempted to visit this village and talk to its inhabitants. But they had subsequently learned that it was not so easy to accomplish this goal. They were seized within three kilometers from the village and, after two days of briefings by the local officials, they were searched and thrown out of the area. Selsovet Chairman V. Lebedev told them that "the atmosphere in the village is very strained and unhealthy and that Selsovet (Village Soviet) would not allow anybody to interfere in the affairs of the village."

What did V. Lebedev mean by "strained and unhealthy atmosphere?"

In 1974, a few families from Ilinka managed to leave for Israel. Soon after their departure, the local authorities had announced that in the future they would no longer tolerate the departure of the residents of Ilinka. They backed their statement by saying that they did not recognize the residents of Ilinka as Jews.

From that time on, about 50 families are awaiting invitations, submission of which is required for applying for an exit visa. All of these invitations were mailed from Israel and are now kept in the desk of the kolhoz (collective village) Chairman, V. Tarasov who, from time to time, shows them to the kolhoz members and says: "Don't even hope to receive them because you have no business going to Israel."

Despite this, many families had managed to receive the invitations through relatives residing in other parts of the USSR (sometimes 1,000 kilometers away). This is also not an easy solution, for the local authorities have practically isolated Ilinka from the outside world. For instance, this is how the families of five farmers, one of them the family of Grigory Efimovich Varnavisky, who for almost two years attempted to leave for Israel to reunite with his sister, received their invitations.

Varnaviski's son-in-law, who lives in Toliaty, had managed to receive their invitations in his name and set off to take them to Ilinka. He was caught by militia, but he managed to escape. In an hour, when he was caught again and searched, he had already given the invitations to someone from Ilinka who, in turn, delivered them to the addresses.

But even those fortunate enough to obtain their invitations often are unable to apply for exit visas for the kolhoz chairman simply does not write the recommendations required by the Department of Visa and Registrations. (The conditions of the kolhoz residents are most unfavorable for they do not have passports and therefore are unable to change their place of residence or leave their kolhoz.) Because of this, Debora Jakovlevna Matveeva, with her husband and seven children, are unable to apply for exit visas.

From the example of the treatment of the Jews of Ilinka, we once again observe gross violation of the Helsinki Agreement, namely the reunification of families, freedom of communication and decent treatment of rights of the minorities.

ANATOLY SHCHARANSKY,
VLADIMIR SLEPAK,
LUDMILA ALEKSEEVA,
MALVA LANDA,
ALEXANDER KORCHAK,
YURI ORLOV,
Chairman.●

WHY SO MANY LAWS TURN OUT TO BE LEMONS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. WHITEHURST. Mr. Speaker, the following article, written by associate editor Caroline E. Mayer, appeared in the May 22, 1978, issue of U.S. News and World Report, and I think it should be read and taken to heart by every Member and by all other congressional personnel charged with the responsibility of assisting in the legislative process.

It is a thoughtful, as well as thought-provoking, commentary, and I would add one further point that Ms. Mayer has omitted: the fact that Congress also sometimes manages to produce laws that are in direct conflict with other laws; the Privacy Act and the Freedom of Information Act are cases in point.

I commend it to my colleagues and their staffs:

WHY SO MANY LAWS TURN OUT TO BE LEMONS

To the growing list of gripes people have about Congress, add one more: well-intentioned laws that do greater harm than good.

As legislators reach deeper and deeper into almost every pocket of American life, they often end up creating needless headaches for federal bureaucrats and the public alike.

The catalog of laws that have gone awry ranges from major consumer and environmental measures to relatively minor statutes. A look at this legislation shows the many ways in which lawmakers can compound a problem they are trying to solve or create new problems in place of old.

APPLIANCE WARRANTIES

In steering a bill through Congress, for example, it is frequently necessary to make significant compromises in it.

If the compromises are too sweeping, however, they can make the law meaningless or even harmful.

That's what many consumers say happened to the Magnuson-Moss Warranty Act enacted in 1975. Its purpose: to give greater protection to the purchasers of defective cars or appliances.

Backers of the legislation didn't have the muscle to push through a flat requirement that all major appliances carry strong warranties. So they left it up to the manufacturer to decide whether to offer a warranty. The catch was that if a firm chose to offer a "full warranty" on a product, it would be compelled to repair any defect in it within a reasonable time and without charge.

As it turns out, this rule is giving consumers less protection instead of more.

Many manufacturers have been unwilling to offer guarantees as broad as the sponsors of the law hoped they would. The companies have dropped their previous "full warranty" on products in favor of a "limited warranty"—a less-stringent guarantee allowed by the law.

What's more, some manufacturers are put off by the negative implications carried by the term "limited warranty," and have stopped offering warranties altogether—perfectly legal under the law.

FOREIGN-OWNED AIRPLANES

Laws also sometimes misfire because of the busyness of those who draft them. Tight deadlines leave legislators and their staffs with little time to think through all of the ramifications of a bill.

Late last year, for example, Congress voted to give foreigners living in the U.S. and foreign-controlled corporations operating in the U.S. one of the few rights still denied them—the right to own an airplane.

The bill was an amendment to the Federal Aviation Act. In the rush to pass it before adjourning for the year, House and Senate conferees inadvertently added language that had the effect of making the planes used overseas by major U.S. commercial carriers, such as Pan American World Airways and Trans-World Airlines, ineligible for U.S. registration.

The error was not discovered until after President Carter signed the measure last November. Two months later, red-faced lawmakers quietly approved a statute correcting what was described as "a drafting ambiguity."

BIAS AGAINST HANDICAPPED

Congress also can create problems by passing laws that are so general that they provide little guidance to the bureaucrats charged with implementing them. In this way, difficult and politically sensitive questions sometimes are dumped into the laps of unelected officials.

This was the case in 1973 when Congress ordered the Department of Health, Education, and Welfare to ban discrimination against the handicapped. The directive seemed simple enough at first. Added at the last minute in a Senate debate, it said federal funds must be withheld from institutions that discriminate against an "otherwise qualified handicapped" person.

But HEW was soon to discover that there was much more to that one-sentence provision than immediately met the eye.

For one thing, who was an "otherwise qualified handicapped" person? Should this include alcoholics and drug addicts as well as the deaf, blind and mentally retarded? HEW had to seek the advice of the Justice Department, which decided two weeks before the rules were issued that alcoholics and drug addicts should be included.

Because the law was imprecise, it took HEW more than three years to write an adequate set of regulations.

TRUTH IN LENDING

At other times, Congress errs by weighing down legislation with so many specific requirements that bureaucrats and the public alike are drowned in red tape.

That is a complaint often made about the Truth in Lending Act, which seeks to insure that consumers will be fully informed in advance of the finance charges to be paid for cars, refrigerators and other goods bought on credit.

In the view of critics, the law requires such detailed disclosure by creditors that consumer-credit applicants are buried under a thicket of legal jargon that is easily misunderstood.

The truth-in-lending statute also makes it harder for consumers to shop round for the best credit terms, according to its critics. It provides that if businesses advertise credit terms, they must disclose all possibilities, not just the most favorable terms they offer. The purpose was to prevent misleading advertisements. A more conspicuous result, however, is that many creditors don't advertise their credit terms at all.

Congress is now trying to correct the situation. On May 10, the Senate approved a measure that would simplify the information the consumer receives and give businesses more flexibility in advertising their credit options.

SPEEDY TRIALS

Writing strict deadlines for action into a law also can backfire. That's what Congress is finding out about the Speedy Trial Act of 1974.

This law sets a series of deadlines by which a federal defendant must be arraigned and tried after indictment. By July, 1979, the time limits now being phased in would permit no more than 100 days to elapse between an arrest and trial.

The current time limit between arrest and trial is 175 days. Yet judges and lawyers complain that even these intermediate limits are too rigid.

The Speedy Trial Act was conceived as a formula for both the faster disposition of cases and a higher level of justice. But defense lawyers contend that they don't have enough time to prepare an adequate defense, especially in complicated white-collar-crime cases.

Prosecutors, at the same time, report that the inflexible deadlines are forcing them to delay arrests and ignore some criminals they would otherwise be prosecuting. Judges assert that the law is overworking them and causing long delays in civil cases.

55-MPH SPEED LIMIT

Congress also can enact an ineffective law by making the penalties for disobeying it either too weak or too strong.

The penalty provided for states that refuse to enforce the 55-mile-per-hour speed limit is a case in point. "The only sanction is to cut off all of the state's highway funds," says Linda Kamm, general counsel of the Department of Transportation. "That's such a severe remedy that the administration finds it difficult to invoke. As a result, the law goes unenforced."

DOT is pressing Congress to empower it to use lesser sanctions.

TYPOGRAPHICAL ERRORS

As if these difficulties were not enough, typographical errors plague many laws.

Many such errors can be found in appropriations measures where too few or too many zeros can make a difference of millions of dollars. Usually—but not always—typographical errors are easily and quickly corrected.

In the 1976 Tax Reform Act, Congress intended to set a six-month holding period for long-term capital gains on agricultural commodities and a 12-month holding period for nonagricultural goods. But a typographical error made all commodities subject to the six-month holding period.

The mistake is costing the Treasury millions, but correcting it is proving to be difficult. The shorter the holding period for capital gains, the sooner commodity traders can realize and use their profits. Consequently, the futures industry is lobbying lawmakers to keep the law the way it is.

From every sign, there is scant hope that the flood of bad laws will abate anytime soon. As one congressional aide puts it, "Mistakes are endemic to a process in which you have hundreds of thousands of words spewed out a year, all dealing with complex laws."

Actually, the number of bills passed by Congress each year hasn't grown in the last decade—223 last year, compared with 249 in 1967. But legislation is more complex than ever and the workload of lawmakers a lot bigger. To handle the crush, committee staffs have ballooned and taken on a larger role in legislating. "Most staffers judge their success by how many bills they get passed. Since many aides are inexperienced, a lot of bills are not terribly well considered," one executive-department official complains.

GLUT OF SUBCOMMITTEES

Some experts also blame the proliferation of subcommittees in recent years. They now number well over 250. "The subcommittees have increased the opportunity for unskillful people—staff aides and members—to pass bills," says Representative Richard Bolling (D-Mo.), a veteran reformer.

The trend toward amending bills on the House and Senate floor often is a source of trouble, too.

"There is a much looser atmosphere in putting a bill together today," reports Norman Ornstein, a former Capitol Hill aide who is now an associate professor of political science at Catholic University in Washington, D.C. "Many more amendments are being offered and accepted by the House and Senate during floor debate. While that makes Congress more open, it encourages sloppiness in legislating, because you can't be as careful on the floor as in committee. You can't take 435 people and have them put together a fragile, complex piece of legislation."

Ornstein's prediction: "It's likely that bad laws will become even more prevalent in the years ahead."●

JESSICA KATZ

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Ms. HOLTZMAN. Mr. Speaker, Jessica Katz is a 7-month-old child living in the Soviet Union who is suffering from a rare disease known as malabsorption syndrome. Thus far, authorities in the Soviet Union have callously refused to allow Jessica to come to the United States where she could receive the immediate treatment she needs to save her life. Many of us in the Congress have already communicated our concern for Jessica to Soviet officials; I hope the Soviets will agree to a life-saving trip abroad.

Editorials in both the New York Times and the New York Daily News of May 16 discuss Jessica's plight. I commend them to my colleagues' attention.

The text follows:

[From the New York Times, May 16, 1978]

MUST JESSICA DIE?

Does the Soviet Union employ experts whose only function is to advise on behavior that will make the Kremlin look monstrous? What other explanation can there be for the heartlessness displayed by the Soviet bureaucracy in the case of the seven-month-old Jessica Katz of Moscow. The baby suffers from a serious intestinal ailment that threatens her life. She has survived so far only because of special food sent from the United States. Soviet doctors admit the case baffles them, but a group of doctors at Harvard Medical School think they can help Jessica if she is allowed to come here for treatment. The reason given by the Soviet Foreign Affairs Ministry for refusing permission is that "there is no agreement between the U.S.S.R. and the U.S. Department of Health, Education and Welfare on exchange of patients." For this must Jessica die?

[From the New York Daily News, May 16, 1978]

WHAT PRICE A LIFE

Seven-months-old Jessica Katz is slowly dying from a rare disease in Moscow. The Soviet Union won't allow her parents to bring her to the U.S., where she probably could be saved, because her mother knows "state secrets." The mother denies it.

It's heartwarming that the Carter administration, two American hospitals and hundreds of individuals, including about 80 Congressmen, are pleading Jessica's case. So far, no luck.

But we find it hard to believe that, even in the cold totalitarian scheme of things, a baby's life could mean nothing. We urge Jessica's friends here to step up the pressure on Moscow.●

MR. NATHANIEL C. LEE OF YOUNGSTOWN, OHIO, TO BE HONORED FOR OUTSTANDING COMMUNITY AND CIVIL RIGHTS WORK

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. CARNEY. Mr. Speaker, on June 4, 1978, I will have the pleasure of attending a testimonial dinner for Nathaniel C. Lee, one of Youngstown, Ohio's most outstanding citizens. The dinner, to be held at the Mahoning Country Club, will honor Mr. Lee for his more than 30 years of involvement in civil rights for blacks.

Delivering testimonials at the dinner will be Roland Alexander, president of the Youngstown NAACP; Charles Richard, superintendent of employee relations, Youngstown United States Steel plant; Nathaniel Jones, chief counsel for the NAACP; and many others. I also intend to make a statement attesting to Mr. Lee's extraordinary achievements. The Honorable J. Phillip Richley, mayor of Youngstown, and John T. Smith, international representative and administrative aide to the vice president for human affairs, United Steelworkers of America, will also participate in the tribute to Nathaniel C. Lee.

Mr. Lee, a native of Jackson, Miss., came to Youngstown over 45 years ago after receiving his bachelor of arts degree from Clark College in Atlanta, Ga., in 1926.

He has been active in the civil rights movement both on the job and in community and national organizations.

Mr. Lee first became involved in civil rights in 1948 when he broke the color barrier against Negroes in apprenticeship training at the Ohio United States Steel works. As a member of the United Steelworkers of America (U.S.W.A.), he served as the local union treasurer for 13 years. In addition, he was a member of the Ohio AFL–CIO Civil Rights Committee for 20 years. While a member of this committee, he chaired the Ohio Committee for Civil Rights Legislation, which facilitated the passage of the Ohio Fair Employment Practices Commission and Fair Housing Laws.

Mr. Lee's community civil rights involvement led to his 1969 appointment as the first black member of the Youngstown Board of Health. Prior to his 4-year term on the board, Mr. Lee was generally credited with the desegregation of the Youngstown municipal swimming pools.

In addition to his job-related and community-based civil rights activities, Mr. Lee has perhaps scored the greatest success in his participation in the National Association for the Advancement of Colored People (NAACP). During his 18-year presidency of the Youngstown NAACP, he is credited with many civil rights advances for blacks, among them: The opening of the regular obituary columns in the local newspaper for black undertakers; the opening of the society pages of the local newspaper to black citizens; the enforcement of public accommodation laws in Youngstown, and expanded employment for blacks in retail stores in the greater Youngstown area. In addition to his post with the Youngstown NAACP, Mr. Lee was also president of the Ohio Conference of NAACP branches for 6 years.

Mr. Lee's many years of community service have resulted in many awards being bestowed upon him for his work. His accomplishments were recognized when he received the John Chase Award for Human Rights as early as 1961. In 1962, he was awarded the A. Phillip Randolph Civil Rights Plaque, and in 1966, the B'nai B'rith honored him with their brotherhood award for human relations. The Cleveland, Ohio, Zeta Omega Chapter voted him Omega Man of the Year for 1967. The 55th Grand Conclave of the Omega Psi Phi Fraternity awarded him a 40-year plaque in 1973, and in 1975, the Youngstown Board of Health presented him with a certificate of appreciation for his outstanding service.

In 1977, the Youngstown NAACP presented Mr. Lee with both the dedication and leadership plaque and the Ladies Auxiliary Appreciation Plaque. In the same year, he received the Ohio AFL–CIO Contribution to Labor Movement Award. As a tribute to his leadership in civil rights, the Nathaniel C. Lee Ohio NAACP Scholarship Fund was established in 1977.

During his many years of civil rights work, Mr. Lee found the time to organize and conduct the Dunbar Choral Society, which sang and promoted concerts in the Youngstown area for more than 25 years. A former member of the board of directors of the Youngstown Area Community Action Council, he presently serves on the boards of trustees for the Youngstown Area Development Corporation and the Youngstown Boys Club.

Mr. Lee is an active member of the Third Baptist Church, and is married to the former Vivian Cloyd. They have one son, Nathaniel C. Lee, Jr., a captain in the U.S. Air Force.

Mr. Speaker. Mr. Lee is obviously an outstanding citizen of Youngstown, and his accomplishments in the field of civil rights for blacks—as well as his activities in other areas of community life—set an example for all of us. I want to take this opportunity to commend him for his many years of service to our community, and to wish him continued success in his endeavors. When his many friends join in honoring him, I will be there.●

ROBERT PINNEY WINS AWARD

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. KETCHUM. Mr. Speaker, at this time I would like to share with my col-

leagues the outstanding achievements of my constituent, Mr. Robert Pinney. For several years, Bob Pinney has served as news director of station KLOA in Ridgecrest, Calif. Throughout that time, his efforts have exemplified responsible, unbiased community-minded newscasting. These fine reporting efforts have just been appropriately recognized: For the second year in a row, Bob has received the John Swett Award, presented by the California Teachers' Association to honor an outstanding contribution to education. Bob Pinney's excellence in reporting speaks for itself concerning all areas of interest to the community. I am most pleased that his efforts regarding educational news have been rewarded in this manner, and am even more pleased to add my own words of commendation for a job well done.●

CONGRESSIONAL SALUTE TO CHEVIOT ELEMENTARY SCHOOL IN COMMEMORATION OF 50 YEARS OF OUTSTANDING AND DEDICATED SERVICE TO THE CITY OF CHEVIOT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. LUKEN. Mr. Speaker, on Sunday, May 21, the city of Cheviot and many residents of Hamilton County will join together to celebrate the 50th anniversary of the founding of Cheviot Elementary School.

Cheviot was founded in 1926 and its first principal was Mr. L. P. Stewart. In 1944 a committee was organized to improve the building. In 1952, when a fire destroyed the cafeteria, the committee's work was thrust to the front as new additions became imperative. A total of $363,879 was spent to build a new cafeteria, a gymnasium, several classrooms, and a science wing. In 1964, new colony buildings were installed to meet the rising enrollment.

Today, Cheviot school can boast of many accomplishments and an enrollment of 501 students. Much of the school's success can be attributed to the dedicated service of Miss Callie Trinkle, principal of Cheviot elementary from 1943–69.

Recently, history was made at Cheviot school when one of their students, Peter Lusenhop, a sixth-grader, won the local, regional and State oratorical award from the Fraternal Order of Eagles (Cheviot-Aerie 2197) for his speech on "God, Flag, and Country."

The fact that after 50 years Cheviot school is still operating successfully, is a tribute not only to the many people who at one time or another attended this school, but also to the administrators, educators, and personnel. It is these people who have strived so diligently to progressively maintain a quality academic environment to nurture the intellectual and technical skills of thousands of students since 1926.

Mr. Speaker, I am pleased to have this opportunity to congratulate Cheviot Elementary School for a job well done for 50 years and I urge my colleagues to join me in commemorating this event and wishing the alumni, teachers, administrators, and city of Cheviot continued success for at least another 50 years.●

AN OPEN LETTER TO THE PRESIDENT

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. COHEN. Mr. Speaker, Rabbi Harry K. Sky of the Temple Beth El Congregation of Portland, Maine, is a man of many profound insights who is not afraid to speak his mind when difficult circumstances require strong leadership. Recently, Rabbi Sky sent to President Carter an open letter in which he thoughtfully comments on the reasons for and the nature of America's strong commitment to Israel, and emphasizes the urgent need to lower our voices as we continue to seek effective means for insuring Israel's security and for securing a lasting Middle East peace. For the benefit of my colleagues and the RECORD's executive branch readership, I insert Rabbi Sky's open letter at this point:

AN OPEN LETTER TO PRESIDENT CARTER

DEAR MR. PRESIDENT: I thank you for inviting me to the reception at the White House on May 1. I appreciated the opportunity of sharing the afternoon with you and Mrs. Carter and Prime Minister and Mrs. Begin. It was an interesting afternoon in the company of many of my colleagues and illustrious lay leaders of the American Jewish community.

We were very moved by your words of support for the State of Israel. We were grateful that you recognized the sense of hurt we Jews have felt throughout our history. Your offer to establish a commission for the erection of a memorial to the Holocaust victims is of great significance to us.

But, Mr. President, there is a dimension to Jewish existence that sometimes is overlooked by well-meaning non-Jews. Above all else we consider ourselves to be a people. A people, in our eyes, is a family; therefore, a Jew—wherever he or she may be—is our brother and sister. Central to our existence as a people is the state of Israel, for it symbolizes the home away from home. Our roots are there, our history began there, and during the tragic twentieth century it was the only country where our troubled and anguished souls could find peace.

We do not treat Israel's existence lightly. And if we ever suspect a threat to its existence, our response is visceral. We appreciate your statements of pledge and support for the state of Israel. The extreme statement you made on Monday, pledging eternal support for the state of Israel, roused great emotion among those of us who were present. But, Mr. President, it troubles us when your fine statements are mitigated by those who surround you. We're disturbed when your spokesmen explain away your statements of support. When interviews given by you are interpreted by your ambassadors to the state of Egypt, thus weakening your support of Israeli positions, we wonder which is correct—the original or the interpretation.

I realize the difficulty of your position and understand the political realities of your office. Perhaps, Mr. President, it would be wiser if less were said publicly. Many of us would like to be of help in this process of accommodation in which your office is now involved. We'd like to share our ideas with you and perhaps suggest a direction to be followed. We hope such opportunities will arise.

Until that time, I wish you and Mrs. Carter well, and may God give you strength in your work.

Sincerely,

RABBI HARRY Z. SKY, D.D.●

BIG FIRMS AND INCOME TAXES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following article by Art Pine which appeared in the May 6, 1978, Washington Post. The article discusses tax burdens and payments by corporations:

[From the Washington Post, May 6, 1978]

TREASURY FINDS BIG FIRMS PAY HIGHER TAX RATES

(By Art Pine)

The Treasury Department released a study yesterday concluding that large corporations pay much higher tax rates than is generally believed.

The study said that corporations with assets over $1 million paid between 39 percent and 46 percent of their income in taxes on the average in 1972, the year examined.

Large manufacturing concerns such as auto companies paid slightly less than 42 percent in taxes. Banks were the lowest of the groups surveyed, at slightly more than 19 percent. Treasury said the reason bank taxes were low is because banks have tax exempt income, such as bonds, and receive large tax breaks in the form of artificial bad debt reductions.

The report, which Treasury described as "the most comprehensive set of such computations" it has prepared, appears to contradict the conclusions of several recent congressional studies.

Sen. Gaylord Nelson (D-Wis.), chairman of the Senate Small Business Committee, has published studies by his staff that contend that many small and medium size businesses pay a higher tax rate than larger ones.

And Rep. Charles A. Vanik (D-Ohio), a member of the House Ways and Means Committee, annually issues a report claiming that dozens of big corporations pay extremely low effective tax rates—often less than 1 percent.

While not specifically citing the Vanik and Nelson studies, the Treasury report cautions that "much mischief may be done" by using the methods of computation the two congressmen employ, and branded their conclusions "misconceptions."

The document noted that in both cases, the lawmakers had reached their conclusions by comparing the taxes a firm pays the United States to its worldwide income, and by basing their calculations on techniques used in accounting.

By contrast, the Tresaury study compared worldwide taxes to worldwide income and used definitions and techniques that apply specifically to tax law. The Treasury said the other methods tend to distort the results.

The Treasury report showed these major conclusions:

Despite "common misconceptions," a compilation of actual tax returns filed by corporations shows big companies generally pay higher effective tax rates than do smaller businesses. The study showed that corporations with assets of less than $1 million paid taxes that amounted to between 20.6 percent and 34.3 percent of their income. Those over $1 million paid between 39.7 percent and 46.2 percent.

Large manufacturing firms, such as auto companies, paid the highest effective tax rates among 19 major categories of industry, with an effective rate of 41.9 percent.

The industry with the lowest effective tax rate was banking, which paid 19.4 percent of its income in taxes. Others included wholesale and retail trade, 38.8 percent; services, 31.6 percent and real estate, 28.9 percent. The petroleum and natural gas industries were listed as paying an effective tax rate of 59.4 percent. But Treasury tax experts said that was bloated by foreign royalties and other payments. The rate is closer to 24.7 percent.

The pattern remains the same whether the study compares U.S. taxes paid to U.S. income, or worldwide taxes to worldwide income. It is only when U.S. taxes are compared to worldwide income—erroneously, Treasury argues—that distortion results.

The group of corporations with assets of less than $1 million—generally classified as smaller businesses—accounts for 75 percent of the firms subject to the U.S. corporate tax.

Nelson apparently misread the Treasury study as confirming what his earlier staff studies had shown and issued a press release, summarized in the Congressional Record, contending that it vindicated him.

But a tax expert familiar with both studies said Nelson apparently had looked only at a line in the report that compared U.S. taxes paid to worldwide income—just what the Treasury warned against.

The source said Nelson "mislabeled" the Treasury figures.

The Treasury study was based on actual tax returns that corporations filed on 1972 earnings, after the firms claimed the investment tax credit. Officials said updating to include recent tax law changes would not alter the findings.●

THE ADMINISTRATION'S ARMS SALE PACKAGE—A GRAVE MISTAKE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. AMBRO. Mr. Speaker, it is with a deep sense of disappointment, and even with a feeling of deep frustration, that I rise this afternoon to express my strong disagreement with the proposed arms sale to Egypt and Saudi Arabia, which will now go forward as the administration had originally planned.

I feel that the confirmation of these sales is a violation of a solemn promise made to the Israeli Government to provide F–15 and F–16 aircraft in exchange for withdrawal from the Mittla and Giddi Passes and the Abu Rudais oil fields in the Sinai; it is a reward to President Sadat for the nonconclusion of a peace-agreement; and it is a case of capitulation to Saudi Arabian blackmail on oil prices. It is sad day, when the most powerful nation on Earth takes these actions.

Since the other body acted in a negative fashion on the Resolution of Disapproval before it yesterday, this matter will, of course, not be brought to the House floor for further consideration. Needless to say, if it had been, I would most assuredly have voted to disapprove the sales of advanced offensive-type aircraft to Egypt and Saudi Arabia on the grounds that this constitutes a grave threat to Israeli security, and, as such, is likely to deter and delay the peacemaking process.

Mr. Speaker, we have been repeatedly told by a variety of administration spokesmen, including the President himself, that this sale will not harm Israel, that it will indeed help Israel in her quest for peace, and that it is not a manifestation of any alteration in that "special relationship" that has been the cornerstone of American foreign policy in the Middle East for the past 30 years. As I stand before my colleagues today, I can only pray that the administration is correct and that sometime in the future, we are not standing here in the well of the House expressing our profound regret over another Yom Kippur type invasion or other aggressive action taken against Israel with the very weapons that the United States has agreed to provide.●

COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. ROYBAL. Mr. Speaker, I would like to take this opportunity to make a few remarks about the Comprehensive Older Americans Act Amendments of 1978, the legislation which reauthorized the Older Americans Act—the principal statute aimed at improving the welfare and enhancing the quality of life of this Nation's 23 million elderly citizens.

The Committee on Education and Labor, its Subcommittee on Select Education, and the guiding force behind the reauthorization process, the Select Committee on Aging—of which I am a member—deserve our praise for their diligence in endeavoring to improve the operation of Older Americans Act programs. This package of amendments promises to maximize the quantity and quality of supportive services while simultaneously minimizing the cost to taxpayers. I would like especially to commend those changes, such as the consolidation of titles III, V, and VII, aimed at reducing the fragmentation of social services. I am also pleased with the increased authorization levels for all programs; the availability of funds for limited new construction, staffing, and operation of multipurpose senior citizens centers; the separate authorizations for home-delivered meals; the new authorization for a major long-term care initiative to develop a single entry-point system for the frail elderly; and the separate authorizations for the legal services and nursing home ombudsman programs.

Despite these welcome modifications in the act, I am disappointed that several recommendations advanced by the Select Committee on Aging, which are of crucial importance to the poor and minority elderly, were not addressed in the legislation. I regret that the bill was considered under suspension of the rules, allowing Members no opportunity to offer amendments which I believe would ultimately make Older Americans Act programs more responsive to those senior citizens most in need of Federal assistance. I feel very strongly that those recommendations designed to channel Older Americans Act funds to those communities with large numbers of poor and minority elderly persons should have been included. During the reauthorization process, I advocated including the following provisions which were omitted from the legislation: First, placing responsibility for affirmative action—already outlined in the act—within area agencies on aging for all programs covered in area plans; second, the creation, within the Administration on Aging, of an Office of Affirmative Action and Minority Affairs; third, the designation of moneys to assist in the training of minority persons who are employed or preparing for employment in gerontology and related fields; fourth, a set-aside of a certain amount of research funds for the study of minority aging issues and the utilization of minority researchers and institutions to conduct and implement this research whenever possible; and, most importantly, fifth, the distribution to States by a formula which takes into account the factor of poverty (which parallels closely the factor of minority elderly).

I am aware that many of my colleagues in Congress assert that the Older Americans Act was enacted to serve the needs of all elderly persons, regardless of income and the special hardships known to be experienced by the minority elderly in securing supportive services. However, I have a different conception of the proper role of Government in promoting the welfare of the elderly. I believe that, given our limited financial resources, the Government should tackle our most pressing problems first, including addressing the requirements of our most needy elderly. Our goal should be to widen the gap between the cost to the Government of providing supportive services and the benefits accruing to recipients, with the latter outweighing the former by as great a margin as possible. This will insure the optimal allocation of Federal resources as well as improve target efficiency in reaching as many of our needy elderly as possible. Therefore, to accomplish these objectives, Older Americans Act funds should first be applied to meeting the needs of our poor elderly and those further, or doubly, disadvantaged by language and cultural barriers.

Another omission of the legislation which indirectly affects the minority elderly is worthy of comment. And that is the lack of provision for a mechanism whereby local governments and mu-

nicipalities, which have populations of 200,000 or more, or which contain 15 percent of a State's population age 60 or over, and which have established offices on aging, can be designated, at their option, as area agencies on aging (AAA's) with delegative authority. The present system with the States having the sole authority to create AAA's leaves too much unnecessary discretionary power within the State Offices on Aging. Designation of cities of at least 200,000 population would allow for a significant increase in political power of communities with a large number of poor and minority elderly persons who often do not receive the benefits and services they are entitled to. It would also allow greater public accountability, better targeting of resources to communities with a large number of elderly persons, and ultimately permit improved performance of AAA's, with a greater opportunity for the staff to develop expertise in handling aging issues. I am convinced that this provision would have been accepted by the full House of Representatives had I or another Member been allowed to introduce such an amendment on the floor.●

MAY AS NATIONAL CAR CARE MONTH

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. ROGERS. Mr. Speaker, I am introducing today legislation to authorize and request the President to declare the month of May 1978 as "National Car Care Month."

The purpose of the resolution is to call for the observance of a month of activities across the country designed to foster conscientious care and maintenance of automobiles.

It is well known that a substantial number of the traffic fatalities and serious injuries occurring each year result from mechanical failure which could be avoided by proper care.

We now know that substantial energy savings can be had simply by keeping cars properly tuned, and suspension and steering systems and tires properly maintained.

I have been particularly impressed with recent studies which have indicated the substantial reductions in air pollution which can be achieved through proper maintenance and care. For example, in a study by the Environmental Protection Agency in November 1977, of 300 low mileage 1975 and 1976 model year cars, EPA found that 60 percent failed to meet the Clean Air Act standard for carbon monoxide. Of these, 80 percent passed the test after proper adjustment of the idle air-fuel mixture and the choke setting. And a study of some 2,000 cars in the New Jersey repair project report indicated that when the cars overdue for a tuneup were serviced, reductions of 45 percent in CO and 55 percent in HC emissions were achieved.●

SLOVAK WORLD CONGRESS

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. BRODHEAD. Mr. Speaker, the Slovak World Congress is meeting here in Washington this week. A speech by Dr. Eugen Loebl, chief advisor to the group, eloquently expresses many of the concerns and aspirations of the people of the captive nations. I would like to share this speech with my colleagues.

REMARKS BY DR. EUGEN LOEBL

There are situations in the life of an individual in which the whole complexity of an age is reflected. May I refer to such a situation? I was sentenced to life imprisonment in the famous Slansky trial, the biggest anti-semitic trial in the history of Europe. One day I was brought into a cell, my cell mate was Sano Mach, the former Minister of the Interior of the Slovak Republic, also sentenced to life imprisonment. But while I was sentenced because I was a Jew, Mach was sentenced because he was anti-Jewish. The same regime was the prosecutor and the judge in both cases.

Mach told me once that if he could relive his life he would again fight for the self-determination of his nation. Yet one thing he would not repeat. He deeply regretted his share in the persecution of Jews which was an absolute contradiction of his Christianity. Although he could not forgive himself, he hoped that God would forgive him. I told him in turn that if I could relive my life I would repeat my fight to humanize society which naturally implies the right of self-determination of our Slovak nation. I confessed my sin as that of choosing the marxist avenue, and my guilt that of de-humanizing society, and promised that if I were lucky enough to survive the ordeal I would fight for human rights which is to say I would fight against Marxism. This episode of two prisoners unable to recognize their guilt or begin to repent until their lives were virtually in ruins reflects the tragedy of all times; particularly of Slovaks and Jews, and I happen to be both.

The most human and democratic principle of self-determination of nations was not applied in the first Czecho-Slovak Republic created in 1918, though it was the most democratic regime in central Europe. Moreover it was not well accepted by other democratic powers in Europe. Just the opposite was the case and in due course the appeasing governments of France and Great Britain sacrificed Czecho-Slovakia to Hitler in the mistaken hope of buying a few years of peace. It was the tragic fate of the political leaders of Slovakia in the late thirties that their burning desire for political autonomy was finally granted by Hitler as a consequence of the Munich appeasement which was unfortunately supported by the Western allies. The leaders of the new Slovakia were Christians, for whom autonomy under Hitler posed the need for a painful decision; to rule themselves under Nazi philosophy or to reject the opportunity and run the certain risk of genocide for their nation.

Perhaps another episode will throw some light on the political climate of those days. After the Slovakian Republic had been established, my brother was entrusted by the Jewish community to petition President Tiso to ask him for liberal treatment of Jews. Dr. Tiso gave his assurance and asked my brother, among others, what he himself planned to do. Learning of his intention to emigrate, Dr. Tiso agreed this was a wise decision and added, "We must expect heavy gales over our country and Europe, and who knows who will survive them." These were indeed prophetic words.

Unfortunately, the defeat of Hitlerism was not in itself a victory for humanism. Territorial aggrandizement, colonization of Eastern Europe, and even anti-semitism rose to unprecedented levels in the reconstituted Czecho-Slovakia which was established at the end of the war, but which immediately fell under the influence of the Soviet Union. A modest attempt to create a society with a human face was met by the Russian military occupation of the lands of Czechs and Slovaks. Notwithstanding this regressive treatment, the Soviet Union has since been rewarded by detente, massive economic help, and its imperialistic aggrandizement has been approved by Helsinki.

Please understand the role of the Slovak World Congress in this context. We do not have the mandate of our nation, we do not have any power, and naturally we realize that to ask the world to fight for our liberation at the risk of a new world war would be both senseless and irresponsible. So what are we doing? What is our aim?

These questions have been the topic of long discussions. One thing is clear. The roots of our tragedy are not only very deep, but are also the same roots from which most of the world's tragedies spring. We share the view of a growing number of committed people who feel that the world civilization is in danger. This is a common threat not only of those countries which are under Soviet domination, but also to those countries which take their freedom for granted and believe it can be maintained without a struggle. Friend or foe stand on the same brink of disaster. And yet, the solution and the way ahead is clear for those who have eyes to see. Considering our own history as well as the history of our civilization, we find that peace, prosperity and the spirit of man's humanity to man have, over the years, been the direct reward of those nations which accept and apply the Judeo-Christian philosophy of man. Conversely, whenever the imperatives of this philosophy have been violated, crises and tragedies result and the light of civilization begins to fade.

None are more conscious of this fact than those of us who, when we held political power, were guilty of violating the sacred tenets of Judeo-Christian philosophy. But this is not the time for self-recrimination or self-flagellation. The duty of those who have sinned and survived is to profit from their mistakes, and offer their experience to the new generation who are threatened with even graver problems. By such activity we may atone in some small way for our past transgressions. We are deeply convinced that our civilization can only be saved if we return wholeheartedly to its source, and project its principles throughout our contemporary society.

Against this background, the major aim of the Slovak World Congress is to project this philosophy into the three planes of its activity. First, with regard to our nationalism, it must be human, free of chauvanism and hatred and be mainly concerned with the right of our nation for self-determination. This means that the free nation, and not the exile, will determine its future.

Second, regarding foreign policy, we are convinced that this must be based on the principle of the right of self-determination. A wide ranging application of this principle throughout the enslaved territories of Eastern Europe and in the Soviet Union would force the Soviets into a defensive position and serve to check their imperialistic expansion. Recent events in Armenia and Georgia strongly support this view.

The third plane of activity of our Congress relates to the socio-economic system. Our

objective must be to project the principles of Judeo-Christian philosophy into all phases of economic activity and theory and offer a clear cut, humane alternative to Marxism.

To this end, our President, Stephen Roman, and I have co-authored a book entitled "The Responsible Society". In this we present for general consideration our views on the great issues of the day and submit proposals for a new politico-economic framework founded on Judeo-Christian principles, within which to seek solutions and build a better society. It is our pleasure to present each of you with a copy of this book.

100 years ago Slovaks began finding their way to the United States of America, a land of freedom and great opportunity. They and their children became good American citizens without losing their Slovak identity or love of homeland. Since the end of the last war, three waves of Slovak exiles have found a safe haven, freedom and a chance for a new life in this great country. The glory of the World Slovak Congress is the point of focus it provides for all those Slovaks who have fled enslavement and are anxious to re-establish regimes of freedom and decency based on the Judeo-Christian ethic not only in their homeland, but throughout the world. Let me repeat, it is the sincere hope of our president and myself that in presenting our views on these great issues, we will contribute in a small way to their solutions.

On a personal note, I am grateful to have this opportunity to pledge once again my wholehearted support for those seeking to save our civilization and my willingness to pass along in all humility some of the lessons learned in the crucible of bitter and tragic experiences of bygone days.

We welcome the policy of the United States of America as far as Human Rights are concerned. We would emphasize that in Czecho-Slovakia and in Eastern Europe the pre-condition of Human Rights is the right of self determination.

The policy of self determination would mobilize the countless allies, in the oppressed nations, and would force the Soviet Union to give up its imperialist aims. This would mean real peace policy.●

GENERAL AVIATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

Mr. FLORIO. Mr. Speaker, I would like to bring to the attention of Congress a bill which I have today introduced which would provide guaranteed loans to owners of publicly used airports which are privately owned.

There are approximately 2,600 of these airports nationwide which provide a needed service to their surrounding communities. General aviation includes all aviation services except scheduled passenger operations. General aviation encompasses everything from crop dusting in small aircraft to passenger and cargo charters in large aircraft. It includes 98 percent of all registered civil aircraft and 95 percent of all airports.

The privately owned general aviation airports are fighting against competition from municipally owned airports, high local and State taxes, operating expenses, and, most significantly, high costs for capital improvements.

This legislation provides guaranteed loans so that the owners of these vital airports can make capital improvements. There is no cost to the Federal Government. It is merely an insurance program for the lender.

These airports provide the same service as do municipally owned airports, without any of the same benefits from the Government. I believe that we should take a serious look at their problems and do what we can to rectify the inequities.

U.N. CONFERENCE OF THE SEA

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. RUPPE. Mr. Speaker, the Seventh Session of the Third United Nations Conference on the Law of the Sea has been meeting in Geneva since March 28. After 3 weeks of debate over organization and procedure, the delegates got down to detailed negotiations with the goal of producing a proposed treaty. Those negotiations have been completed and we are now waiting to see if the amendments to the existing text will be accepted by the Conference.

During the last week, a member of the minority staff of the Merchant Marine and Fisheries Committee attended the Conference. Although a final assessment of the work of the Conference is premature at this time, his report of the state of play as of the last week is a helpful background document which can be used to evaluate the progress which may be achieved this year at the Conference. Therefore, I would like to insert his report in the RECORD at this point:

SEVENTH SESSION OF THE LAW OF THE SEA CONFERENCE, MAY 12 STATUS REPORT

With one week remaining, Ambassador Richardson is optimistic that a "package" of amendments to the Informal Composite Negotiating Text (ICNT) will be put before the Conference for debate on Wednesday, May 17.

The purpose of this debate will be to ascertain if the proposals—developed in small Negotiating Groups dealing with "hard core" unresolved issues—command consensus support and therefore should be incorporated into the Revised ICNT. If incorporated, these amendments will improve the "unacceptable" ICNT. However, this will not be a final text as several important issues will remain unresolved.

At this time, however, it is a matter of speculation whether this event will occur what will be in the package if it is presented, and whether the ICNT will be revised. Under the rules of the Conference, promulgated after lengthy debate, the work of the Negotiating Groups must be referred to the Plenary by each Committee Chairman. Furthermore, no changes can be made to the ICNT unless the proposals have been "presented to the Plenary and found, from the widespread and substantial support prevailing in the Plenary, to offer a substantially improved prospect of a consensus."

These procedural rules were developed to prevent another unilateral insertion of new, unnegotiated articles, in the text by a Committee Chairman. Although this possibility is foreclosed, each Committee Chairman has discretionary authority to prevent the work of the Negotiating Groups from being discussed in Plenary and therefore inserted into the ICNT, by referring the issue back to his Committee.

Further complicating the possibility of revising the ICNT is the fact that the Group of 77 (G–77) has not caucused on the proposals of the Negotiating Groups, and has not taken a position on the amendments. The G–77 is scheduled to meet to discuss the proposals on Monday and Tuesday, May 15 and 16.

Although there are a number of events which could prevent the package of amendments from going to the floor or limit the scope of the package, Richardson is optimistic because most of the Negotiating Groups were headed by moderates from the G–77. These Delegates have an interest in ensuring that the amendments formulated by them are supported by the G–77 and are referred by the Committee Chairman to the Plenary. Richardson also believes that the G–77 can be controlled by the moderates who support the amendments.

The scope of the package which will be presented to the Plenary is uncertain. Although it is generally assumed that it will contain only those provisions specifically debated during the session and previously promulgated by the Negotiating Groups, the Conference rules do not preclude a Plenary discussion of other amendments which may have only received limited attention. Understanding that the Conference decided that "The Plenary should aim at the completion of all substantive discussions for the production of a draft convention at the seventh session" it is possible that a draft convention will be laid on the table on a "take it or leave it" basis on Wednesday.

There is precedent for such a package deal. During the last session, the Chairmen of the Second and Third Committees agreed to a proposal of the Castenada Group and put it into the ICNT. This compromise regarding the status of the Economic Zone and the rights and duties of coastal states therein, was moved quickly through the two Committees, and has held together.●

ARTISTS' ESTATE TAXES

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. RONCALIO. Mr. Speaker, many artists are being forced to destroy their works of art, or their heirs must sell the estate because of the exhorbitant, and inequitable tax burden of inheriting works of art.

Under present law, individuals may be taxed up to 70 percent on "passive" income—or that income derived from dividends, royalties, and interest where no physical effort produced the income. Unfortunately, inherited works of art are classified as "passive" income.

I commend my colleague, FRED RICHMOND, for his bill to correct this inequity and offer my support for this corrective legislation by introducing a duplicate bill. The measure provides that, when an artist dies, his artwork, manuscripts, compositions, and similar material will, for estate tax purposes only, be valued at the cost of the materials in the work but not at its market value.

There is certainly no justification for leaving heirs virtually no option but to sell inherited artworks.●

THE ATLANTA UNIVERSITY CENTER

HON. WYCHE FOWLER, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. FOWLER. Mr. Speaker, the 5th District of Georgia, which I represent, is the proud home of six internationally acclaimed and respected institutions for higher education known collectively as the Atlanta University Center. Included in the center are schools which have attracted students from all over the country and all over the world: Morris Brown, Morehouse College, Clark College, Spelman College, the Inter-Denominational Theological Seminary, and the Atlanta University Graduate School.

Before 1965, it was virtually impossible for black students to enroll in any college other than those which were predominantly black. Much of today's national black leadership attended one of the schools at Atlanta University.

Today, inflation is taking its toll on many colleges and universities across the country and some of the smaller black institutions are having a particularly difficult time surviving.

The Atlanta Constitution, my "hometown" newspaper, sent three of its best reporters, Alexis Scott Reeves, Steven A. Holmes, and Jerry Schwartz to some 14 campuses over a 2-month period to find out how these schools are prospering in an age of tight money and integration.

The outstanding three-part series that resulted from their investigations and travels subsequently was selected by the United Negro College Fund to receive its 1978 Media Appreciation Award. This prestigious award was given to only three other media organizations this year: ABC's "Good Morning America," The Columbus Call and Post, and Essence magazine. The United Negro College Fund is a nonprofit organization which helps support 41 predominantly black private colleges and universities.

For the benefit of my colleagues, I would like to extend my remarks to include the first article in the award-winning Atlanta Constitution series on black colleges in the United States.

The article follows:

WE HAVE "MISSION," BLACK COLLEGES SAY

Xavier University in New Orleans publishes a little pamphlet—black with white lettering.

"There are 253 Catholic colleges in the United States," the cover the pamphlet says. "One is black."

There are 23 schools of veterinary medicine in the United States. One—at Tuskegee Institute in Tuskegee, Ala.—is black.

There are 85 private-university law schools in the United States. One—at Howard University in Washington, D.C.—is black.

Almost every one of the 107 historically black colleges and universities in the United States has a similar distinction. And the president of each college stresses its unique "mission" and reason for being.

Yet to the larger white community, a question persists: Why do black colleges exist when the doors have been opened to blacks at all the colleges in the country?

If that question is asked of a student, teacher or administrator at a predominantly black college, the first response is likely to be a loud laugh—quickly followed by a list of reasons something like this:

There is strong evidence on many fronts that equal opportunity is more slogan than practice on many college campuses. "There may be equal opportunity," said Tuskegee's dean of veterinary medicine, Walter Bowie, "but if that's so, can you tell me why there was not one black freshman at any other veterinary school in the United States last year except Tuskegee? I'll tell you this: It wasn't for lack of trying."

Black high school seniors who are the product of inner-city or rural American schools find themselves at a distinct disadvantage when forced to compete with white graduates or suburban or private schools. Typically, the freshman at a college funded by the United Negro College Fund scores 648 on his college board entrance exam. The average score for freshmen at all U.S. colleges is 903. A perfect score is 1600. The black institutions are uniquely equipped to provide remedial courses designed to bridge that gap.

For many young blacks, especially those who have grown up in predominantly white surroundings, the black college represents a cradle of authentic black American culture they can't find anywhere else. Virtually every important black leader in U.S. history who attended college has been a graduate of one of these institutions. Moreover, the predominantly black institutions continue to take the lead in studies of the black experience.

For Murray Riggins, this was a large part of his reasoning. He wanted to be around black people.

Riggins, a first-year student at Meharry Medical College in Nashville, Tenn., grew up in a predominantly white area of Cincinnati, attending a high school where he was one of the nine blacks in a student body of 238.

"You get tired of being the only one in a given situation," Riggins said. "It was like I was always looked at as a black first, and so I wasn't expected to make it."

When it came time for college, Riggins spurned the overtures of such schools as M.I.T. and headed south—to Morehouse College in Atlanta.

Although the nation's historically black colleges and universities, 92 of which are located in the South, remain troubled by unstable financial bases, relatively poor facilities, stiff competition by white schools for students and faculty, and attempts to dissolve them into nearby white institutions, their enrollments continue to increase.

A recent report by the Institute for Services to Education indicates that while College enrollments declined nationally by 0.7 percent between 1975 and 1976, the number of students at historically black institutions increased by 0.4 percent, to more than 211,000.

Education experts attribute the rise to several factors, including a general increase in the number of blacks attending college.

But according to Lawrence V. Barclay, minority affairs officer for the College Entrance Examination Board, there may also have been a lessening in recruitment of blacks by predominantly white institutions beginning several years ago, and, he said, it seems "even more so today. . . ."

Barclay cites the reaction of major universities to the ending of a special Ford Foundation program as an example of the schools' diminished recruitment drives.

According to Barclay, the foundation underwrote up to 80 percent of the financial needs of "outstanding" minority graduates of two-year colleges who wanted to attend four-year school. "While Ford was underwriting the program, 53 percent of the students were accepted," Barclay said. "However, once Ford stopped the money, we still made a roster of outstanding graduates available to these schools. Now acceptances are down to 22 percent."

And according to some black administrators, recruitment efforts will slacken even more as administrators of major universities keep close tabs on the Allan Bakke reverse-discrimination case currently before the U.S. Supreme Court.

Bakke charges that he was denied admission to the University of California Medical School at Davis while less-qualified minority applicants were accepted under a separate and special set of admission standards.

"The so-called openness of the white institutions is a myth and a well-propagated one," said Fisk University President Dr. Walter Leonard, whose Nashville, Tenn., school is one of the oldest black colleges in the South.

Look at the number of blacks who enter white institutions, and then look at the number who actually graduate, and you will see how much of a myth it is."

The enrollment of black students in predominantly white schools has been skyrocketing in recent years. Black enrollment in the mainstream colleges shot from 282,000 in 1966–67 to more than 1 million in 1976–77.

That 1977 figure means that there are five times more black students in white schools than there are in all the black schools in the U.S.

Still, the black institutions grant a disproportionate share of degrees. In 1974, more than 40 per cent of all blacks who earned college degrees earned them at a black school, according to statistics compiled by a Washington, D.C. research organization.

Precise figures on dropout rates are difficult to come by. However, the U.S. Census Bureau estimates that while 43 percent of all whites who entered college in 1971 dropped out by 1974, 59.1 percent of the blacks who entered the same year left before graduation.

Even more significant, black educators say, is the number of students who transfer to their schools from white universities.

Although he conceded that he did not have precise statistics to bolster his point, Academic Dean Edward Riley of Atlanta's Spelman College insisted that the majority of the transfers to his school "come from predominantly white institutions."

"In a white university, you can't really get involved with those extra things that make college life enjoyable," said Bryan William, who left predominantly white Southern Illinois University in Carbondale, Ill., for Nashville and Tennessee State University. "Here, everything fits you."

Or, as Denise Welborn, a freshman at Hampton Institute in Hampton, Va., put it, "I didn't need the social strain. It's bad enough dealing with academics."

Money runs a close second to racial pride and the feeling of being "at home" when it comes to reasons for opting for a black school.

Coming from generally poor backgrounds, many students at black colleges simply cannot afford to go to white schools, where tuition tends to be higher. Black educators say the problem of finances becomes even more acute as white universities cut back on the amount of financial-aid funds for blacks and other minorities.

"I transferred here because of lack of money," said Deborah Palmer, a third-year pharmacy student at Jackson State University in Jackson, Miss., who originally went to the University of Mississippi. "I have a child to support, and it would have been a hassle to go back to Ole Miss."

Another important reason for the appeal of black colleges is their relaxed admissions standards and a general policy of bending over backwards to keep students from flunking out.

A report compiled by the United Negro College Fund indicated that freshmen enter-

ing the fund's 41 member institutions score nearly 250 points lower on the Scholastic Aptitude Test than the national average in 1976.

However, most admissions officers at black colleges say test scores are given less weight at their institutions than at white schools. "Test scores may tell us a student's skill level, but they give little indication how well he will do once he gets here," said George Pruitt, vice president in charge of student affairs at Tennessee State.

And once the students are in, the schools try hard to keep them there.

"We have a high repeat rate," said Meharry's Dr. Thomas W. Johnson Sr., assistant dean for student affairs. "We try to salvage our students. What difference does it make if a student has to take a course over again? The important thing is that he learns it."

Black colleges also exert a tremendous pull in the country's black communities.

"The teacher, the preacher, the doctors, all the role models in the community, went to black colleges because when they went to school there was no place else you could go," said Gary Bussey, acting admissions director at Morehouse.

"When the people you respect tell you where they went to school, that has to make a little bit of difference when you make your choice."

But despite the continued popularity of black colleges, the institutions face critical problems in the future.

While fighting to maintain fiscal solvency, they must continue to defend their existence to a society that increasingly is viewing them as relics.

"People come to us and say, 'Isn't Dillard an anachronism? You're reporting a 90 per cent black student body,'" said Daniel C. Thompson, the school's vice president for academic affairs. "The answer we used to give is that the black schools were always segregated institutions but they were never segregating institutions. Well, that sounds kind of hollow now. Students here have brothers and sisters in Harvard or Yale.

As for the public black colleges, many educators fear that increased pressures for them to admit white sudents or merge with nearby white institutions will mean a loss of identity.

"You look at Kentucky State or West Virginia State," said Augustus Bankhead, head of the Faculty Senate at Tennessee State. "You look at them and you wouldn't believe that they're still classified as black schools."

Indeed, the student body at Kentucky State University in Frankfort is 45 percent white, and West Virginia State University, located in Institute, claims a 77.9 percent white student population.

Tennessee State itself is currently under a federal court order to merge with neighboring University of Tennessee at Nashville. When that merger is complete, Tennessee State will retain its name but it will be about 50 percent white.

In Florida, extensive lobbying from blacks and a determined effort by black legislators staved off an attempt to merge Florida A&M University in Tallahassee with Florida State, located in the same city.

Administrators, faculty members and most students at black colleges feel that the notion that their schools are no longer necessary because American society is now integrated is a new argument growing out of the same old base—American racism.

"As Americans, we proudly celebrate other heritages—St. Patrick's Day and other special days—but somehow there is something threatening to American society when we start talking about blacks. The kinship factor is not there," said Howard University Administrator Dr. Carl E. Anderson.

"Keeping the black colleges is not a plea for segregation," said Hill. "It's a plea for pluralism. If you can have a Yeshiva University or a Brandeis or a Notre Dame, then why can't you have a Morehouse, or a Fisk or a Howard or a (North Carolina) A&T?"

If nothing else, educators say these institutions continue to provide both a link with black cultural past and a source of current leaders.

"You can come in here, sit down and look at these Aaron Douglas murals," said Fisk's Leonard, pointing to the walls of his office festooned with the work of the noted black artist. "Where else is a student going to be surrounded by so much of that which is his own?"●

THE HORROR OF CAMBODIA

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mrs. HOLT. Mr. Speaker, on April 17, 1975, Communist forces took control of Cambodia, and began what has become one of the most ruthless episodes of mass murder in the history of the world. Though accurate figures on the destruction are impossible because of the immense numbers involved, estimates of the number of people put to death by the Khmer Rouge guerrillas now in power run between 2.5 and 3 million people.

Between 2.5 and 3 million people. It is as if the combined populations of Wyoming, Vermont, Delaware, Nevada, and the District of Columbia were all suddenly wiped out. And like those populations, the mass executions by the Communists know no limitations based on age or sex. Children, the sick, the elderly, young mothers and whole families have all felt the wrath of the Communist oppressors now in power in Cambodia.

Fear and suspicion are the only emotions left for this once proud people. Everything else has been systematically stripped away by the new regime. The Communists have deliberately tried to expunge family loyalties in order to forcibly substitute new ones—the commune and the state. Refugees claim that their traditional songs, folkways, and even religion have been taken away. Everything, including the dignity of the people, has been sacrificed "for the good of the state."

Those who have survived the initial mass execution live with the threat of death every day. Whole segments of the population have been "reorganized" into compulsory labor communes, with most being forced to work far from their homes. The only reward for meeting the rigid productivity standards in these camps is being allowed to live another day, and punishment for subpar performance is execution.

"Human rights" is a phrase that has been thrown around so much lately it has lost its meaning. Our President is concerned with human rights, and rightfully so, but we must not let a nation's suffering get buried in political rhetoric. The plight of the Cambodians is tragic. The fact that 3 million people could be put to death anywhere is an insult to the entire human race.

It is important that we express our outrage at the Communist terror tactics being used in Cambodia. The wholesale slaughter going on there is horrible beyond words, and it calls for strong protest. At the same time, we must not weaken that protest by decrying the absence of human rights at every opportunity, under every circumstance.

Everyone is familiar with the story of the boy who cried "wolf" once too often. I do not wish to see the cry of "human rights" from the United States become synonymous with that story. The prestige of American opinion is still a potent force in shaping world events. However, if we insist on crying "wolf" at every real or imagined violation of human rights, that prestige will disappear in no time at all.

The Cambodian situation is despicable, and we should protest it with every legitimate channel at our disposal. I have cosponsored a congressional resolution condemning the recent and continuing atrocities of the Communists in Cambodia, and I call on all my colleagues to join me in that effort.

At the same time, let us be certain that future protests are equally legitimate. Human rights is far too important an issue to become the rhetorical tool of any politician.●

PEACE IN MIDDLE EAST

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. LEGGETT. Mr. Speaker, for many weeks that most volatile part of the world, the Middle East, has commanded the attention of my colleagues and the American people. I can think of few issues more difficult or complex than the one faced by the Senate yesterday. Their 54-to-44 vote to reject a resolution barring President Carter from selling advanced aircraft to Israel, Egypt, and Saudi Arabia is to be applauded.

I have been a strong and consistent supporter of Israel since my first day in Congress. The Senate vote was not a defeat for Israel, but a victory. Our commitment to Israel's security has been and remains firm. As a result of yesterday's action, Israel can have full confidence in its ability to insure its own defense and plan for the continued modernization of its air force.

My colleagues will no doubt recall that several years ago, when President Sadat made the decision to end his reliance on Soviet arms and personnel in favor of a closer relationship with the United States, he lost his major supplier of defensive aircraft. Now Egypt, too, will have reasonable assurances of its ability to defend itself.

We are all aware of the key role Saudi Arabia has played in promoting moderation in the Middle East, in world affairs, and in petroleum and financial policies.

The Saudi Government has a pathetically limited air defense and a legitimate requirement to protect their vast oil resources.

To meet the basic security needs of our Middle East allies, the administration will sell Israel 75 F–16's for $1.5 billion and 15 F–15's for $400 million; to Egypt we will sell 50 F–15's for $400 million; to Saudi Arabia we will sell 60 F–15's for $2.5 billion. To better understand the sale, I believe it would be helpful to outline what each aircraft can do and what its primary missions are.

The F–16 will be sold only to Israel. This fine aircraft, produced by the General Dynamics Corp., is a single-seat, single-engine, advanced-lightweight, all-weather, multipurpose fighter. It was designed to permit high sortie rates with rapid turnaround capability, minimum manpower and logistics requirements, and an exceptional air combat maneuvering performance along with a good air-to-surface weapons capability. The F–16 has a combat radius of roughly 600 nautical miles and a top speed in the Mach 2 range.

The F–15 will be sold to Israel and Saudi Arabia. This aircraft, produced by the McDonnell Douglas Corp., is an advanced single-place, fixed-wing, twin-engine aircraft designed specifically as an all-weather air superiority fighter with a secondary air-to-ground mission. It combines advanced radar, fire control, and electronic countermeasure systems with a capability for air-to-air combat. The F–15 has a combat radius of roughly 600 miles and a top speed in excess of mach 2.

The F–5 will be sold only to Egypt. Produced by the Northrop Corp., this durable aircraft is a reliable, easily maintainable, modern, twin-engine, single-place fighter designed with simplicity of operation and minimum support in mind. Its mission is to operate primarily as an air superiority local air defense in a clear air mass environment. A secondary role is that of close air support of ground forces. The F–5 has a combat radius of roughly 250 miles; its top speed is in the mach 1.5 range.

The Israeli requirement for the F–15's and F–16's derives in large part from its need to maintain the kind of qualitative edge that compensates for demographic constraints. This is most desirable, as Israel does not have the manpower to expand its armed forces significantly.

The F–5's we are offering to Egypt are less sophisticated than the advanced aircraft sought by Israel and Saudi Arabia. The F–5 is well suited to the air defense role for which the Egyptians intend it. For Saudi Arabia, the F–15 is the only aircraft currently in the U.S. inventory which meets the Saudi Arabian requirement for a single-seat, twin-engine, all-weather air superiority fighter.

Mr. Speaker, many questions have been raised as to what effect these sales will have on the balance of power and the progress toward peace in the Middle East. I can assure you that these sales will not upset the military balance, but will in fact augment the ability of Israel, Egypt, and Saudi Arabia to defend themselves. These sales will actually have a stabilizing effect on the region. We all know that nations that are secure behind their borders are less likely to take action in anticipation of an attack.

In addition to unrealistic concerns about shifting the balance of power in the Middle East, the substantial opposition generated by the sale of the jets was apparently directed at the prospect of a strong United States-Saudi trade, financial, and strategic relationship. Obviously, opponents found it difficult to recognize that the interests of the United States in the region now include not only the unequivocal security of Israel, but also the significant and growing American stake in the area as a whole.

And even this afternoon, some are saying it would have been better for the United States to declare a moratorium or sharply slow the arms sales to the Middle East, beginning with this sale. In the abstract, I would certainly agree. However, the growing strategic importance of oil reserves and the increasing Soviet-Cuban presence in Africa and the Middle East require Saudi Arabia to upgrade its security arrangements.

A good relationship between the United States and Saudi Arabia is important. It is important to Israel. Israel's well-being depends on the well-being of the United States and the West, and our well-being depends on Saudi oil. We are all tied together, and we have the same adversaries: The Soviet Union and the radical Arabs.

I believe a long-term solution to the issues dividing the various parties in the Middle East will come only when those parties realize the cooperative economic development they can achieve. The economic potential of the region is staggering; hopefully, it will soon become the focus of discussions between the nations and people who have the most to gain from its realization. We should encourage and sponsor such discussions.

It is in our interest to promote an evenhanded approach in the Middle East. It is further incumbent upon us to recognize the role that the Saudi Arabian Government plays in the world economy. This approach is long overdue in this strategic, tumultuous part of the world.

Our effort at maintaining America's commitment to the security and future of Israel should not and does not preclude the United States from acting on behalf of the security of other nations. Building good relationships with both the Arab nations and Israel is not a mutually exclusive proposition.

American foreign policy must continue to be directed toward promoting world peace and economic order by maintaining and strengthening relationships with traditional allies such as Western Europe and Japan, and forming new alliances with Arab nations, Israel, and the developing world.

I ask my colleagues today to join me in commending the Senate for the prompt and forthright manner by which they reached this significant decision, assuring our continued leadership in this most turbulent region.●

AMENDMENT TO SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977 TO FACILITATE THE EXCHANGE OF LANDS FOR LANDS WORTH PRESERVING

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. RONCALIO. Mr. Speaker, I am today introducing a bill to amend section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977 in order to give full force and effect to the alluvial valley floors exchange provision.

The Act prohibits the issuance of a surface coal mining permit to any applicant for Western surface coal where the surface of a proposed mine is located on an alluvial valley floor. There are exceptions to the prohibition where commercial mining has already taken place, or where State permits have already been granted.

The existing law provides that if the above exceptions are not the case, but where "substantial financial and legal commitments were made by the operator prior to January 1, 1977," the Secretary may enter into exchange agreements with an operator. It would seem that this provision permits an exchange, whereas my amendment would direct the exchange if certain conditions are met.

My amendment would: First, Direct the Secretary to grant priority to exchanges of leases and fee where the surface of the lands to be acquired by the United States possess scenic, historic, cultural, wildlife or recreational values which should be preserved and managed for public use and enjoyment.

Second, Permit the Secretary to exchange for additional private lands or leases adjacent to the alluvial valley floor if the lands also possess unique values important to the public interest. In determining boundaries the Secretary is to consider appropriate watershed, ecological, and recreational land use management criteria, as well as the impact of the alluvial valley prohibition on the economics of mining the remaining property, and the value of water and water-rights required.

Third, In determining the value of the operator's fee or leasehold interest the Secretary is to include the value of the legal and financial commitments made by the operator prior to January 1, 1977, in acquiring and developing the property.

Fourth. The amendment authorizes the appropriation of such funds to the Secretary as are necessary to evaluate the leasehold and fee interests of the Federal and private coal.

I am particularly interested in a lease exchange in northern Wyoming that I have been asking the Texas Co. to engage in for better than 4 years. The Texas Co. owns the water, all of the lake of Lake DeSmet, the coalfields immediately in the environs of Lake DeSmet, and the surface on top of the private fee coal in that area. The entire area sits on the very foothills of Cloud Peak Primitive Area,

which is one of the loveliest areas in Wyoming, and one of the few remaining areas qualifying for wilderness designation. To permit strip mining in the very foothills, in my opinion, is a degradation of the very purposes we sought to protect by passing the bill last year. I believe there are at least half-a-dozen other situations in the West where this amendment will have direct application and will be in the public interest. I hope my colleagues will notice this legislation with interest and will measure it for its long range public advantage, particularly the exchange that I have been advocating in Wyoming for quite a few years.●

BUSING, PART II

Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. CUNNINGHAM. Mr. Speaker, I submit for the edification of my colleagues the second part of a special report on busing, recently published by U.S. News & World Report:

BUSING, PART II

NEW YORK: GIVING UP ON INTEGRATION

The nation's biggest city was a pioneer in seeking to get more mixing of blacks and whites in Northern schools. Since 1958, New York has tried a variety of integration experiments, including busing.

But the New York Times recently analyzed the results and concluded that segregation actually has increased.

"Most black and Puerto Rican children now go to schools where there are few whites—and often none at all," the newspaper said. "Nearly half the schools in the city are more than 90 percent nonwhite."

The big problem in New York, as in many other big cities, is that of white middle-class flight from public schools. In 1957, whites made up 68 percent of New York's public-school enrollment. Last year, only 29 percent of the pupils were white. "If the pattern holds," the Times predicts, "the schools will be 14 percent white in 10 years."

According to the Times, many school authorities and elected officials—even black leaders and white liberals—"have simply given up on school desegregation in the city." An areawide desegregation plan to reach into suburbs has been discussed, but its feasibility is doubted.

Parents, both black and white, are complaining that the quality of education in New York's public schools has declined in the period when all the experimentation in integration has been going on. And there is continuing tension in schools that have been racially mixed.

NEW ORLEANS: WHITE FLIGHT CHECKED

In 1954, when the Supreme Court outlawed segregation in schools, the New Orleans public-school enrollment was about half black, half white. Now, the enrollment is almost 82 percent black. And the majority of black pupils attend all-black schools or schools that officials describe as only "minimally white."

"Without question, we have had white flight," says School Superintendent Gene Geisert. "The flight to the suburbs was not just racial, however. For many it had to do with economics, seeking the so-called good life."

New Orleans had a rash of private schools opening in the early 1960s. But most of those have closed, and "we are beyond the white flight now," Geisert says. "We have stabilized the situation."

Also, after a decade of decline, the scholastic-test scores of New Orleans pupils have turned up. "The black students probably have made greater progress in the quality of education because of desegregation," says Geisert. "But the quality did not decrease for the white students."

Henry Williams, a black assistant superintendent, believes the desegregation has been worth its cost, despite the erosion of white enrollment.

"The successes are few, but there are some," says Williams. "Some schools are very desegregated, with stable faculties and good programs. The alternative schools are attracting white students from the private sectors, and we are gaining support. Part of the fallout from all of this has been a commitment from practically every segment of society that integration is the way to go."

ATLANTA: BLACKS TAKE OVER SCHOOLS

There has been no large-scale busing in Atlanta. And yet: This city's public schools that were 59 percent white 10 years ago are now about 90 percent nonwhite.

So many whites have fled since desegregation that officials have given up on ever achieving real integration.

"To what extent can you achieve integration with only 10 percent white enrollment?" asks John A. Minor, Jr., associate superintendent of schools.

While some of the whites who have left Atlanta schools can be tracked to private schools, most are believed to have moved out to what is called the "white doughnut"—the ring of predominantly white suburbs surrounding the city. Although the flight appears to have stabilized, officials do not expect a return of whites in sizable numbers.

Under a compromise between the local NAACP and the school board in 1973, a black was named school superintendent and half the administrators are black. In return, busing is limited and voluntary. Only about 3,700 pupils were bused last year, all of them black.

Despite the compromise, the exodus of whites continued. So now integration efforts are being concentrated on a suit seeking to extend the integration program to include suburbs as well as the city. That would almost inevitably require busing suburban whites into the city and city blacks into the suburbs.

Without an areawide plan, "there's no way to integrate the city schools in Atlanta except in the 20 Northside schools where the busing plan is working beautifully," says Margie Pitts Hames, an attorney prosecuting the suit.

Northside Atlanta Parents for Public Schools (NAPPS) claims credit for retrieving 1,000 children in two years from private schools to the nine public schools where it concentrates its activities. "Now, parents are beginning to believe their children can get a good education in public schools," says NAPPS President Margaret Miller.

WASHINGTON: SCHOOLS RESEGREGATED

After 24 years of desegregation—and resegregation—there are more black pupils in all-black schools in Washington, D.C., today than there were before the schools were first mixed in 1954.

The reason: The capital's schools that were 57 percent black in 1953 are now more than 96 percent black.

White families with children of school age have moved to the predominantly white suburbs or put their children in private schools. White enrollment has declined by 39,452, and today there are only 4,422 whites among 116,117 black pupils in the public schools.

Of those blacks, 60,119 attend 92 schools that contain no whites. In 1953, when Washington schools were totally segregated, there were 57,696 blacks in all-black schools—2,423 fewer than today. In addition to the schools now totally black, there are 60 schools that contain 10 or fewer whites, and 39,686 blacks attend such schools.

Facing these statistics, Washington's School Superintendent Vincent Reed says: "Our concern is not with the racial mix, but to insure quality education for all children."

DALLAS: A RACIAL TURNAROUND

Another story of growing racial isolation is found in Dallas. In 1956, a year after the first integration suit was filed against this city's school system, enrollment was 82 percent white. Today, whites make up only about 38 percent of the public-school population.

Dallas has tried a variety of integration plans, and may soon be required to adopt yet another plan.

Now, it is in its third year of busing. About 17,000 students are bused mandatorily, and another 5,000 rides buses voluntarily to so-called magnet schools designed to attract students from all neighborhoods.

The latest integration plan has cost 13 million dollars in two years—including the purchase of 200 new 72-passenger buses. The plan still leaves schools in one section of the city 98 percent black. So that plan has come under fire. A federal appeals court on April 24 ordered a re-examination of the plan to see if such a heavy concentration of blacks in some schools is really necessary or whether some new desegregation procedures might be feasible to get more racial mixture.

"We just don't have enough whites to go around any more," says one school official.

So, the emphasis in Dallas has shifted. As that official put it: "We don't have just a body-mixing plan. We have an educational plan."

SAN FRANCISCO: A RACIAL CONGLOMERATE

Court-ordered busing as generally conceded to have failed as a solution to San Francisco's problem of racial concentration in schools in a city which is a conglomeration of races and ethnic groups.

In 1971, U.S. Judge Stanley Weigel ordered this city to spread its pupils around so that the racial and ethnic mixture in every school would be roughly proportionate to that in the entire city. No racial or ethnic group in any school could be more than 15 percent larger or smaller than that group's representation in the city as a whole.

Attempting to achieve that racial mix, the city has been busing about 14,000 youngsters to schools outside their neigborhoods, at a cost of 3.65 million dollars a year. But the intent of Judge Weigel's order has not been achieved—72 schools still do not meet his guidelines.

White middle-class parents responded to the busing by either enrolling their children in private schools or fleeing to the suburbs. Many Chinese parents also balked at putting their children on buses, and organized so-called freedom schools in their own neighborhoods.

Result: Total public-school enrollment dropped rapidly. But white enrollment declined the most, until white today make up only about 22 percent of the school population, compared with about 35 percent in 1970.

San Francisco's problem is complicated by the variety of races represented in its population. Blacks make up 28.7 percent of today's school enrollment, 14.3 percent are Spanish-speaking, 20.6 percent are Asians and 8.8 percent are Filipinos, with the other 5.6 percent made up of smaller ethnic groups.

Many black parents oppose the busing because they say their children carry an unfair proportion of the busing burden. They want other races bused into schools in black neighborhoods, as well as blacks bused to other areas.

As a result of the widespread dissatisfaction, School Superintendent Robert Alioto is pushing a new plan for redesigning school attendance, which he hopes the court will permit to begin next autumn.

One proposed change is to raise the permitted ratio of any racial or ethnic group to 45 percent of a school's enrollment. Alioto estimates that his proposal would save taxpayers 1.6 million dollars a year in reduced busing costs.

BOSTON: SOCIAL ISOLATION, TOO

In Boston, three years of court-ordered busing and racial clashes have helped make city schools predominantly black in enrollment and have left parents and officials questioning the quality of education the schools provide.

Thousands of parents, mostly white, have shifted their youngsters from public schools to parochial and suburban institutions. The outflow is leading slowly to not only racial but also social isolation inside the city schools.

In a city whose population is mostly white, only 41 percent of the public-school pupils this year are white. Before busing began in 1974, whites made up more than 60 percent of the school enrollment.

In addition to the racial shift, there has been a sharp drop of 21,000 in total public-school enrollment. Most of the pupils lost were children of middle-class parents. The result, according to School Committee member Kathleen Sullivan, is that: "Some 62 percent of the students now in city schools are members of families eligible for medicaid. This means that we're facing a social isolation, where we're dealing with economically poor students."

Under federal-court orders, Boston is busing about 22,000 pupils to schools outside their neighborhoods. The costs of the desegregation program total about 12 million dollars a year. Besides 4.2 million for transportation, costs include enlarged staffs, expansion of curricula and maintenance of security at strife-torn schools. In addition, it has cost the city police yearly sums ranging from 19 to 30 million dollars to deal with the often-violent resistance of citizens.

Critics blame busing for the enrollment decline. But others point out that Boston schools were losing pupils even before the desegregation order. They say most of the loss is due to the poor quality of education and the increased number of people who can afford suburban homes.

John O'Bryant, a black member of the Boston School Committee, says, "People tend to label the outflow of students as 'white flight,' but I would rather call it economic flight."

The busing has brought a gradual change in the racial balance in many schools. Using the percentage guidelines laid down by the court, 56 schools were found to be "segregated" in 1975. Now, only 22 are so classified.

Programs to improve the quality of education have been started. But, says School Committee member Sullivan: "The real objective of desegregation is to equalize the educational experience of all students, and this has not been realized through the court order."

Mary Ellen Smith, executive director of a citizens' organization called City-Wide Education Coalition, says the busing has succeeded in "mixing the kids up in different schools, but the quality of education is still lagging."

DAYTON: A CITY FREED FROM BUSING

Once started, busing for integration seems never to end.

Dayton, Ohio, may turn out to be one significant exception to that general rule.

A federal judge ruled recently that Dayton could scrap its 2-year-old desegregation program that called for busing about 13,000 pupils.

The judge gave the following reasons:

Under the latest Supreme Court guidelines, racially imbalanced neighborhood schools are not necessarily unconstitutional unless they are the result of discrimination. And, on a review of the evidence ordered by the Supreme Court, the district judge found no proof of deliberate segregation by school authorities in Dayton.

Pending an appeal of the new ruling, the buses in Dayton are still rolling. If the appeal fails, however, Dayton plans to go back to a "freedom of choice" approach that will permit students to attend schools that are located in their own neighborhoods.

The integration program cost Dayton 2.8 million dollars last year. And about 13,000 whites left the public schools after the busing began.

CHARLOTTE: THE MOST THOROUGHLY MIXED

Probably the most thoroughly integrated school system in the entire United States is that which includes the city of Charlotte, N.C., and surrounding Mecklenburg County.

The problem is keeping it that way.

In 1971, a federal judge ordered a complicated pattern of busing children between city and county schools to produce a ratio of approximately 70 whites to 30 blacks in each school.

But almost every year, students have had to be shifted to different schools to maintain that ratio. Next fall, another big shift would move 4,825 children to new schools is scheduled.

Because so many white students have left the public schools, the 70–30 ratio has had to be abandoned, and the new goal is to keep any school enrollment from being more than half black.

The cost of busing 47,000 of the county-wide school system's 79,465 pupils is high: more than 3 million dollars this year.

In addition, busing is time consuming for the children, some of whom spend more than an hour traveling distances up to 21 miles to school.

Keeping to the court-ordered guidelines for the racial mix in each school "is a problem because this is a transient community, and we have a lot of people moving in and out, and our black population lives in a very concentrated area," says School Superintendent J. M. Robinson.

The long-range solution, Robinson suggests, is getting housing for blacks more widely dispersed. That appears to be the only solution to the problem of racial isolation in the schools of most big cities.

THE RACIAL SHIFT NOW UNDER WAY IN BIG-CITY SCHOOLS

Percentage of blacks and other minorities in public-school enrollment—

(In percent)

	1968	1976
Atlanta	61.8	88.8
Baltimore	65.1	75.6
Boston	31.5	55.0
Chicago	62.3	75.0
Cincinnati	43.3	53.2
Cleveland	57.5	62.2
Columbus, Ohio	26.2	32.9
Dallas	38.8	61.9
Denver	34.4	51.4
Detroit	60.7	81.3
Houston	46.7	65.8
Indianapolis	33.7	44.9
Jacksonville	28.2	33.4
Kansas City, Mo.	46.8	65.6
Los Angeles	46.3	63.0
Memphis	53.7	71.2
Miami	41.7	59.0
Milwaukee	27.0	43.7
Nashville	24.2	30.1
New Orleans	68.7	80.8
New York	56.1	69.5
Philadelphia	61.3	68.2
Pittsburgh	39.7	45.9
St. Louis	63.5	71.5
San Antonio	73.1	84.9
San Diego	23.9	34.0
San Francisco	58.8	77.1
Seattle	17.8	32.7
Washington, D.C.	94.4	96.5

Thus, in all these 29 major school systems, the whites make up a smaller share of enrollment than they did 10 years ago.

(NOTE: Minorities include blacks, Hispanics, Asians and American Indians.)

SOURCE: Study by Diane Ravitch, Columbia University.●

THE MARXIST ALLIANCE AGAINST SOUTH AFRICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. McDONALD. Mr. Speaker, the British journalist, Robert Moss, an international authority on Marxist terrorism and subversion has recently visited South West Africa and in the Daily Telegraph of May 8, 1978, reports on the activities of the South West Africa People's Organization (SWAPO), and their Cuban advisers.

In his account of the terrorism that is rapidly escalating in South West Africa, Mr. Moss notes the role of the Anglican church in providing excuses for SWAPO together with aid and succor.

In concluding his article, Mr. Moss reports that the distinguished South African, Gen. Hendrik van den Bergh, chief of the Bureau of State Security has recently been denied a visa to visit the United States for the purpose of discussions with President Carter's national security adviser, Dr. Brzezinski. It is indeed unfortunate for the future of our country and the free world that Communists are allowed near-total access to America under the terms of the Helsinki agreement, while a person of Gen. van den Bergh's stature is denied entry. I propose raising this matter in the strongest possible terms with the National Security Council and the Department of State.

The article by Robert Moss follows, and I commend it to the attention of my colleagues:

[From the Daily Telegraph, May 8, 1978]

THE MARXIST ALLIANCE AGAINST SOUTH AFRICA

(By Robert Moss)

The South Africans followed the example of the Israelis in Lebanon and the Rhodesians in Mozambique by striking deep into Angola last week to attack the headquarters of the Swapo terrorists at Cassinga—codenamed "Moscow" by South West Africa People's Organisation.

I talked with captured terrorists at Oshakati last week—some of them Angolans—who told me how they had been conscripted at gunpoint by Swapo squads and trained at Cassinga, where they claimed to have seen many Cubans.

One of them referred to the Cubans as "town" dwellers, a contemptuous reference to their reluctance to get involved in fighting Unita in Southern Angola.

Before the Cassinga strike, South African military intelligence had built up a picture of urgent Swapo preparations to launch an ambitious terror offensive in the effort to sabotage a peaceful settlement in South West Africa.

INVASION PLANS

Some captured documents referred to the need to train tank and artillery crews—evidence of a longer-term hope to mount a conventional invasion of South West Africa.

Swapo with 3,000-4,000 armed men in Angola (more than 1,000 of them committed to operations against Unita for the benefit of the Cubans and the MPLA), has been able to benefit from Soviet largesse and easy supply lines from the port of Mossamedes and the airfield at Percira da Eca (renamed Onjiva).

Military observers had long been aware that South West Africa's northern border, some 750 miles long, is virtually indefensible. Since it was redrawn in 1928 under French supervision, it has divided the Kwanyama people, one of the largest tribes of the Ovambo nation, and the major support group for Swapo.

17TH PARALLEL

Gen. Hendrik van den Bergh, the head of Bureau of State Security, suggested to the Portuguese before they left Angola that they should go back to the pre-1928 border, along the 17th parallel. The Portuguese refused.

Mr. Piet Botha, South Africa's Defence Minister, is known to have argued strongly over the past few weeks that the security of South West Africa would not be guaranteed under any political arrangement unless Swapo's Angolan bases were destroyed.

If Swapo definitely rejects the Western proposals for a settlement which the South Africans have now accepted—as seems all but certain—the South African Army could be expected to respond to future terrorist attacks by another strike into Angola.

There is a growing conviction among South African ministers and senior Defence officials that the survival of Southern Africa as a whole will depend on pursuing a forward defence policy.

South African intervention in Mozambique could not be ruled out—despite the close economic relationship between the two countries—if the Soviet-Cuban build-up there is intensified.

Meanwhile, inside South West Africa the Anglican church is playing a strangely equivocal role in the run-up to the country's independence.

The Anglican Mission of St. Mary's sprawls under shady trees a few hundred yards from the security fence and no-go zone that divides South West Africa from Angola.

It is a cluster of schoolrooms and students' hostels, with a deserted hospital and a church full of plaster-of-paris effigies of the Stations of the Cross. Someone has thoughtfully painted the faces of all the figures black.

The calm of St. Mary's is deceptive. Very close to here, on Jan. 5, Swapo terrorists seized an Ovambo, Petrus Kandume, who had been acting as an interpreter for the South African Army.

They beheaded him, not by cutting his head off at the neck, but by hacking it off with a knife above the lower jaw. It must have been a slow death. Kandume's body was left tied to the security fence as a warning to others not to help the South Africans.

Swapo terrorists visited St. Mary's on Feb. 21 and took 109 pupils to Angola at gunpoint to be trained in the camps—with codenames like "Vietnam" and "Mongolia"—that Swapo is operating there under the supervision of the Cubans and the MPLA.

MASS ABDUCTION

The South Africans describe this as a mass abduction, but the Rev. Edward Morrow, Vicar-General of the Anglican Church in South West Africa, thinks differently. He told me last week that most of the children went willingly, under the leadership of a Black teacher at the school, "because they thought they would get a better education on the other side."

The road to St. Mary's is frequently mined, and Army patrols never venture along it without sweeping it in advance—unless they are in a hurry. If they are they rattle along strapped into mineproofed lorries called "hippos," whose armour-plating reduces the effect of a blast to a few bruises and burst eardrums.

To visit the mission, I had to hitch a ride in an army helicopter. How Mr. Morrow manages to slip in and out with apparent ease is rather a mystery.

I found Mr. Morrow's views on Swapo and the Five Powers' proposals for the independence of South West Africa that were recently accepted by Mr. Vorster rather startling, since they came from a man of the church.

I asked him what he thought the fate of anti-Swapo Black leaders would be if the 12,000-odd South African troops in South West Africa were withdrawn and the guerrillas seized power. "Swapo is the people of Namibia," he insisted.

RUTHLESS CAMPAIGN

I ventured to point out that even among the Ovambos—the ethnic base of Swapo support—most of the traditional leaders are opposed to Swapo. This is why Swapo has embarked on a ruthless campaign of assassination and intimidation intended to destroy the traditional social structures of Ovambo and kill off an alternative Black leadership.

Over the past year, Swapo has murdered 26 headmen and sub-headmen in the Ovambo country. On April 5 terrorists abducted the entire family, and even the cattle, of a pro-Government headman in the Ombalantu area called Sagarius Jacons.

The planting of a time-bomb in the Legislature building in Ongwediva at the end of April was a calculated attempt to wipe out the entire membership of Pasot Ndjoba's Ovambo Government, which supports the Western proposals and the Democratic Turnhalle Alliance (DTA), the moderate, multiracial grouping that offers a democratic alternative to Swapo.

In March, Swapo terrorists achieved their greatest coup so far by murdering Chief Clemens Kapuuo, the Herero leader who had been expected to emerge as the first Black president of an independent Namibia.

MOST "COLLABORATORS"

So how did the Anglican Vicar-General feel about this chronicle of murder? "You have to look into each specific incident very carefully," Mr. Morrow told me. "You will probably find that most of these people were collaborators."

The implication seemed to be that we should not waste our sympathy on men who have helped the security forces or have aligned themselves with the moves toward a democratic settlement in South West Africa.

I was curious to know whether Mr. Morrow felt that Swapo was a Christian movement. He conceded that it numbered Marxist among its leaders but insisted that it was basically Christian, in the sense that Christians believed that "people should not be treated lower than animals."

Many Swapo leaders, indeed, have church backgrounds, especially in the Lutheran Church. Swapo's national organizer and international secretary are both Lutheran pastors and its vice-chairman (recently demoted), Daniel Tiongagero, is a former editor of the Lutheran magazine Immanuel.

But while many of Swapo's recruits may, as individuals, be Christian believers, there is little about either the ideology or the behaviour the movement that strikes me as Christian.

The captured notebook of a Swapo guerrilla who was being trained as a political commissar, which I have in my possession, is devoted to the theory and practice of "Marxism-Leninism" (sic) and contains the observation that religion is "nothing but a phantastic reflection in mind of people of external forces . . . the church has acted in the interest of the reactionaries."

Swapo has treated its own militants, let alone its opponents "lower than animals." Some 1,000 Swapo members were flung into detention camps in Zambia last year after a feud between the movement's leader, Sam Nujoma, and some of his followers.

It is therefore strange to find that the Anglican Church in South West Africa is giving aid and succour to Swapo.

ROLE OF THE CHURCH

Indeed a newsletter circulated in the country last year over the signature of Colin Winter, the exiled Bishop of Damaraland who is now a familiar figure at demonstrations in London, enjoined the church to help the "freedom fighters" by "sharing food, clothing, blankets and medicine," by "raising funds," and by assisting terrorists wounded—all of which, of course, is unlawful in South West Africa.

Other churches have also helped Swapo, but their spokesmen have at least been more willing, by and large, to condemn terrorist murder. The Anglican Church in South West Africa is strangely silent on this score, which leads me to wonder when—or if—the Church of England will make its views known.

South West Africa has entered an exciting but extremely dangerous phase in which the role of the Church will be of decisive importance.

Some 70 percent, of the country's population—divided into 11 ethnic groups—are Christians and the tutelary role of priests and church workers in explaining the profound changes now taking place, and the meaning of democratic elections, is one that should not be abused to promote the aims of a terrorist movement whose principal spokesman has suggested he does not believe in "one man, one vote."

SECRET BALLOT ALIEN

Under any scenario, holding elections in a country as vast, as ethnically divided and as under-educated as South West Africa, will not be child's play. I found that, for a start, the concept of a secret ballot is totally alien to most non-Whites there.

One Herero chief put it to me this way: "If a man walks across my land how can I tell whether he's a friend or not unless I know which way he voted?" The DTA leaders, in their campaigning, will be in constant danger of assassination.

Despite the security problem and the political uncertainties, South West Africa's precarious experiment in independence could succeed—not least because of the dedication and remarkable human qualities of the present Administrator General Judge Steyn.

It is already plain that the Carter Administration is at last moving back toward a more sensible policy in Southern Africa as a result of developments here.

I hope that the Anglican Church will serve as a midwife in this difficult birth, and not as an assistant abortionist.

U.S. BARS BOSS

In America's dealing with Southern Africa it is a sign of the times that Gen. Hendrik

van den Bergh, chief of BOSS, was recently denied a United States visa. He had wanted to travel to Washington for a lengthy discussion with Dr. Zbigniew Brzezinski, President Carter's National Security Adviser.

Meanwhile, Mr. Percy Qoboza, editor of the now-defunct Black newspaper The World (suppressed last October) who is now running a successor, The Post, told me in Johannesburg that he is about to go to America to receive an honorary doctorate at Tufts University. He hopes to see Dr. Brzezinski as well as his old friend Mr. Andrew Young, American Ambassador to the United Nations.●

CRIME AND PUNISHMENT IN THE 95th CONGRESS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. EDWARDS of California. Mr. Speaker, several years ago the National Commission to Reform the Federal Criminal Laws, also known as the Brown Commission, made a very good start on forming a constructive codification and streamlining of our Federal laws in the criminal area. I was a member of that Commission and have, therefore, taken a special interest in subsequent efforts to codify this large body of law.

In January, the Senate passed S. 1437 as its approach to criminal code reform and presently the House Judiciary Subcommittee on Criminal Justice is in the process of making up a comparable bill.

Unfortunately, both of these measures go much further in expanding Federal criminal jurisdiction than does either the Brown Commission report or present law. Both bills also make significant changes in existing substantive Federal criminal laws and many of these changes are at the direct expense of individual civil liberties. The result is that these bills expand Federal police powers while cutting back on individual rights.

In the May issue of Juris Doctor magazine, John Shattuck and David Landau of the ACLU explain some of the specific problems created by the present criminal code reform bills. In light of the long-term impact which these measures could have on individual rights and Federal criminal jurisdiction, I urge my colleagues to read the article:

IT'S ALIVE!—CONGRESS CLONES S. 1

(By John Shattuck and David Landau)

Comprehensive revision of the federal criminal laws is a prodigious enterprise that has already taken ten troubled and disturbing years. After a good start by the National Commission to Reform the Federal Criminal Law (the "Brown Commission"), the effort was set back by the notorious S. 1, which was drafted by the Nixon Administration and amounted to a wholesale assault on civil liberties. Although Congress rejected S. 1, many of its vestiges remain in H.R. 6869, the proposal passed by the Senate and now pending in the House of Representatives.

The bill is not a codification of existing law. Nor, from a civil liberties point of view, does it meaningfully reform the criminal law. In fact, the greatest threat posed by H.R. 6869 is its significant expansion of the federal criminal law at the expense of constitutional rights. In section after section, the bill either creates new law, broadens existing law, or erodes the rights of defendants. It invites abuse by law enforcement officials and prosecutors and raises serious questions of due process and notice.

The tone of the bill is set by its revision of the time-honored maxim that penal statutes are to be strictly construed. In its place is the principle that criminal statutes should be construed "in accordance with the fair import of their terms to effectuate the general purpose of this title." A compromise Senate floor amendment referring to the rule of strict construction without deleting the language repudiating it does not solve the problem. Because H.R. 6869 would significantly affect First Amendment rights, this revision of the rule of strict construction could have a devastating impact on federal defendants.

Beyond the new rule of construction, most of H.R. 6869's provisions creating new and expanded crimes would effectively give the government further protections against political dissent. For example, a person would be guilty of an offense "if he intentionally obstructs or impairs a government function by defrauding the government" in any manner. This new offense expands existing law to encompass individual as well as group action, and to cover the obstruction of any government function, as well as financial and other tangible government losses resulting from fraudulent schemes. As the Senate Report on the bill notes: "It is designed to fill a gap in existing law by reaching all conduct by which a person intentionally obstructs or impairs a government function by fraudulent means."

It is hardly far-fetched to conclude that a person could be charged with fraudulent obstruction if he used a trick to avoid surveillance by an FBI agent. But this new law could prove far more dangerous than that. It could be used to enforce "official secrecy" against the press if obtaining or publishing classified government information without authorization is interpreted as impairing a government function.

The Senate slightly improved this section by adding a bar to prosecution if the offense was committed "solely for the purpose of disseminating information to the public." But the scope of the bar is severely limited by the word "solely." For instance, if a right-to-life group secretly obtained and then disclosed internal HEW documents about federal abortion funding activities in an attempt to inform the public and to bring pressure to end the funding, the bar to prosecution would not apply. Similarly, if a journalist obtained and published secret documents, he or she would be subject to prosecution if one of the motives for publication was to make money.

Another new crime makes "physical interference" with federal government functions a felony. This includes any obstruction or impairing of "the performance by a federal public servant of an official duty." Under the sweeping terms of this provision it would be up to the prosecutor to determine whether a large demonstration on or near federal grounds interfered with the performance of a federal official.

Moreover, the demonstrators would not have to impair a government function, but only a function of some kind. Virtually every mass demonstration would, at one moment or another, fall within this prohibition. Since even an influx of buses carrying demonstrators might constitute an offense, it would be impossible for demonstrators to predict at what point their behavior might run afoul of the law.

A third area of expansion involves the crime of "hindering law enforcement." This provision consolidates several existing statutes covering misprision of felony and harboring a fugitive, but broadens their language to include other types of behavior that could conceivably "hinder" law enforcement. It provides, in part, "that a person is guilty of an offense if he interferes with, hinders, or delays the apprehension, prosecution or discovery" of another person by "harboring the other person or engaging in conduct in which he knowingly conceals the other person or his identity." In this way, H.R. 6869 sweeps within its scope activity protected by the First Amendment. A reporter, for example, could be prosecuted for refusing to identify a confidential news source, or for destroying notes that reveal the identity of the source, even if a court were to hold that the information was legally privileged. By precluding a defense of privilege, the bill ignores the Supreme Court's 1972 decision in Branzburg v. Hayes, in which the Court held that newsgathering is entitled to some First Amendment protection.

In another disturbing provision, H.R. 6869 would for the first time make it a crime to make a false unsworn oral statement to law enforcement officials. Even though the defendant must have known he was speaking to a law enforcement agent (unless he volunteered the statement or was advised that the making of such a statement was an offense), this section invites abuse. Prosecution for perjury requires close examination of the actual words the defendant used. Since the new offense sets up a "my word against yours" situation between citizens and IRS, FBI, or other law enforcement officials, the unfair advantage of the officer's presumed credibility in the eyes of the jury makes the fabrication of charges a significant danger.

A new crime of "revealing private information submitted for a government purpose" could discourage and even criminalize "whistleblowing" by federal employees. The apparent aim of this section is to assure the reliability of private information given to government agencies by providing that it will remain confidential. As drafted, however, the statute could insulate documentary evidence of official corruption or other wrongdoing—such as cost overruns on government contracts—from scrutiny by Congress, the press, and the general public.

Further restricting First Amendment press and speech freedoms, H.R. 6869 would for the first time create a federal crime based on widely varying "community standards" about obscenity. Since the contemporary community standards to be applied are those generally accepted in the judicial district where the offense occurs, the bill invites a local jury in any district through which material passes by mail or commerce to dictate the standards for the rest of the country. The Senate further complicated the meaning of "community standards"—already a muddy concept at best—by providing that the standards to be applied are those of the "local community in which the obscene material is disseminated." Thus, local obscenity ordinances that are broader than state law could be the basis for federal obscenity prosecutions.

Another new crime, derived from the disorderly conduct section of S. 1, would make it an offense for a person to disobey a "public safety" order "issued in response to a fire, flood, riot or other condition that creates a risk of serious injury to a person or serious damage to property." As originally drafted, this provision would have put in the hands of every federal law enforcement official the authority to disperse a gathering, or to forbid picketing, canvassing, or leafletting whenever he or she felt there was a serious risk of injury to person or property. Controversial organizations could have had their First Amendment rights suspended if police deemed their presence provocative.

As amended by the Senate, the section now grants such authority only to members of the armed forces or militia called out to assist local authorities in quelling disturbances. But the authority remains broad and sets a dangerous precedent. Such sweeping power to curtail First Amendment rights should only be available to the government when martial law has been invoked.

H.R. 6869 would also expand the definition of a criminal "accomplice." To be considered an accomplice, a person would only have to be "aware" that his or her action is "facilitating" a crime, but would not have to intend that the crime be committed. A person who assists in organizing a demonstration could thus be charged as an accomplice if the demonstration later "obstructed a government function." The Senate Report offers no justification for this departure from the traditional criminal law standard for liability of an accomplice—that a person must intend that a crime be completed in order to be charged with aiding and abetting it.

The anti-riot provisions of H.R. 6869 alter current law in three ways. First, to be charged with a riot offense a person no longer has to intend that his or her conduct incite people to "riot" as defined in the bill. As the Senate Report indicates, recklessness is the only state of mind that must be shown—"that the offender was aware of, but disregarded, the risk that his incitement activity would produce a riot." This broad standard of culpability lets law enforcement officials decide who is trying to further a riot and who is trying to limit it. Second, H.R. 6869 creates a new federal offense of leading or giving instructions to others to further a riot—even if the person did not actually incite the riot. Again, the person does not have to intend that his or her actions be "in furtherance of the riot"; the actions must merely have that effect. Third, the bill creates the offense of participating in a riot. To be charged, a person does not have to intend to participate nor even know that a demonstration was, in fact, a riot. This provision would encourage dragnet arrests where police arbitrarily determine that everyone within sight is "engaging in" the disturbance. Many of those arrested may be persons who have committed no culpable act whatsoever or innocent bystanders caught up in unexpected circumstances.

Still another way in which H.R. 6869 threatens civil liberties is through the establishment, for the first time, of a comprehensive approach to the so-called inchoate crimes of attempt, conspiracy, and solicitation. Legal scholars have wrestled long and hard with the problem of when the law may impose sanction against activities which lead up to criminal conduct. The combination of overbroad inchoate and substantive offenses can lead to unjustifiable prosecutions such as the 1968 case against Dr. Benjamin Spock and other outspoken critics of the government for conspiracy to incite draft resistance. In such cases the alleged criminal offense is far removed from any act in itself criminal, and the links connecting the defendants may consist entirely of constitutionally protected speech and association.

H.R. 6869 would give the federal government the first across-the-board criminal attempt statute applicable to all other offenses. Such a statute may have the virtue of uniformity, but do we really want to punish unsuccessful attempts to make a false oral statement, to demonstrate to influence a judicial proceeding, or to disclose government information? Are such prosecutions an intelligent use of limited resources for combatting serious crime?

In defining criminal conspiracy, H.R. 6869 proposes an expansion of the current vague and overbroad law by implicitly eliminating the requirement that a conspirator have the intent to commit the offense. Under the bill, conspiracy occurs when someone "agrees with one or more persons to engage in conduct, the performance of which would constitute a crime or crimes, and he or one of such persons in fact engages in any conduct with intent to effect any objective of the agreement."

In other words, a person could be guilty for engaging in conduct that considered by itself is legal. For example, A and B conspire to rob a bank. A asks C to drive A and B to the bank on the pretext of obtaining a loan. C, ignorant of the robbery plans, drives A and B to the bank. C has now arguably committed a crime by agreeing to engage in conduct, the performance of which would constitute a crime, and engaging in conduct with an intent to effect an objective of the agreement.

The political misuses of conspiracy law have been amply demonstrated in the last few years. The more ordinary abuses against less publicized defendants have been occurring for much longer. One test of any revision of federal criminal law is a willingness to end the abuses of this prosecutorial tool. But in this critical area H.R. 6869 abdicates congressional responsibility.

A related solicitation provision for the first time makes it a crime to "command, entreat, induce or otherwise endeavor to persuade" another person to do something criminal. The "solicitor" need only intend that the conduct occur; he or she need not know that it is in fact a crime. By the terms of this all-embracing provision any discussion of political tactics that might involve breaking the law could be the basis of a criminal prosecution.

In addition to expanding substantive criminal law, H.R. 6869 would considerably broaden federal law enforcement powers by creating new jurisdictional bases for federal prosecution. For example, a crime could be "federalized" if it were committed in connection with another federal crime; state jurisdiction over certain political offenses could be preempted; and interstate commerce could be pressed as a broad justification for federal jurisdiction. While this may not directly affect civil liberties, the expansion of federal police power without a showing of compelling governmental interest would be a dangerous constitutional development.

In at least two ways the bill would also erode Sixth Amendment rights by reducing the role of juries in trying criminal cases. First, jurisdiction would be eliminated as an element of the offense and would therefore be determined by the judge rather than the jury. Second, other important fact issues would be eliminated as elements of the offense and reduced to "grading" questions. For example, the new offense of obstructing a government function by physical interference would be a misdemeanor. But if committed nonviolently in the course of constitutionally protected activity and if it did not "significantly obstruct or impair" a government function, then it would be only an infraction. The judge, not the jury, would determine these critical fact issues.

In assessing the future of criminal code reform, it is important to look at how far we have progressed since S. 1. The answer compelled by H.R. 6869 is "some but not enough." In the final analysis, H.R. 6869 is in many ways disturbingly similar to S. 1 with a few, albeit important, changes. The "official secrets" sections have been eliminated, as have the "Nuremberg defense" for official action and the broad death-penalty provision. The insanity and entrapment defenses have been restored. The Smith Act has been repealed. But these sections were only the tip of the iceberg. As we have seen above, a number of other S. 1 provisions that would severely damage civil liberties remain largely intact in H.R. 6869.

The Senate in passing S. 1437 managed to partially cure a few of the problems. It added such improvements to existing law as a more sensitive rape statute and a stronger civil rights law. On the other hand, several Senate amendments worsened the bill. The worst of these authorized for the first time at the federal level preventive detention of persons charged with murder, rape, kidnapping, armed robbery, and drug trafficking. The Senate sponsors of the bill were likewise obliged to accept reinstatement of the statutory prohibition against using the mails to advertise abortion services, deletion of the definition of "person" so as to leave ambiguous the status of an unborn fetus, and reenactment of the Logan Act barring private individuals from carrying on discussions with foreign officials regarding U.S. foreign relations.

Although the sentencing provisions of S. 1437 were improved on the Senate floor, the Senate bill still creates a significant danger that more prison time will be served than under existing law. H.R. 6869 also contains dangerous sentencing features that were not recommended by the Brown Commission, including a government right to appeal "lenient" sentences, a severe cutback of "good-time" allowances to prisoners, an authorization for judges to bar parole eligibility for the entire length of a prison sentence, and little encouragement of alternatives to incarceration except in the case of non-violent first offenders.

On balance, therefore, H.R. 6869 and S.1437 as passed by the Senate remain serious threats to individual rights and bear a striking resemblance to their predecessor, S.1. The choice facing Congress is whether, for the sake of streamlining the criminal law, it will compromise civil liberties or will finally begin the process of reforming the criminal law. The Senate chose the former. Chairman James Mann and the members of his House Subcommittee on Criminal Justice seem for the moment to have chosen the latter. In careful and deliberate hearings and briefing sessions over the past six months, the subcommittee has been examining the proposed criminal code, line by line. Congress has never before engaged in this process, and it should continue. However, if the final product of their work resembles the present version of the proposed code, it should not be enacted.●

TRIBUTE TO THE MIRIAM OSBORN MEMORIAL HOME

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. OTTINGER. Mr. Speaker, this spring marks the 70th anniversary of the founding of the Miriam Osborn Memorial Home in Rye, N.Y. On April 21, 1908, the home opened its doors to 12 women residents with those in charge agreeing that "every effort has been made to make this institution the finest of its kind in the world—not only a fine institution, but a real home."

Today, 70 years later, this statement remains true as all those who are associated with the home are proud of its fine tradition and service.

Made possible through a bequest of Miriam T. Osborn and incorporated by the passage of a special act of the legislature of the State of New York to provide a home and support for aged women in

needy circumstances, the nonprofit, nondenominational facility has been a home late in life for more than 1,000 women including authors, musicians, teachers, and actresses. Licensed now as a nursing home and health related facility by the State of New York, the home presently serves 136 residents who come from the New York metropolitan area.

During the last decades many changes have taken place in programs and activities along with an overall expansion of facilities. Despite a median age of 85-plus, residents participate in a variety of activities—crafts, painting, ceramics, Bible study, French and Spanish conversation, progressive bridge, audobon and the retired seniors volunteer program. The home contains modern, well-equipped medical facilities and partially sponsors and houses medical research studies on geriatric nutrition; both have received national and international attention in medical circles.

I know that I speak for the Rye community when I thank those involved for the great service they are providing through the Miriam Osborn Home.●

SOLAR INNOVATION IN MAINE

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. COHEN. Mr. Speaker, Maine has long been a leader in the effort to conserve energy. Our people have pioneered in insulation and conservation methods to diminish our State's reliance on expensive imported fossil fuels.

But Maine has not been content with these measures. Enterprising Mainers have developed novel means of harnessing alternative energy resources. Using some recently acquired technical knowledge and a good measure of Yankee ingenuity, two Maine men recently constructed what one expert has called "the simplest, yet most innovative, solar building in the country."

Mr. Speaker, I would like to insert at this point in the RECORD a newspaper article describing this unique building as a reminder to my fellow Members that imagination—not expensive technology—will be our greatest asset in our effort to harness the power of the sun.

The article follows:

[From the New York Times, May 9, 1978]

SOLAR-HEATED SHOP IN MAINE IS CALLED "MOST INNOVATIVE"

ARUNDEL, Me. (UPI)—A heating engineer from Biddeford and a car dealer here have constructed what one expert has called "the simplest, yet most innovative, solar building in the country."

Thomas Gleason, the engineer, and Bernon Madore, co-owner of Weir's Motors, built an 8,000-square-foot building at the auto dealership that they estimated would recoup its $13,000 cost in heating and cooling bill savings.

"It's so elegant and simple, and it works," said Charles Wing, who operates Cornerstone of Brunswick, a school dedicated to teaching energy-efficient home building.

CONSTRUCTION BEGAN IN SPRING

"To my knowledge," said Mr. Wing, "it is the simplest, yet most innovative, solar building in the country." Mr. Wing formerly taught at the Massachusetts Institute of Technology and Bowdoin College and has worked for the National Aeronautics and Space Administration.

Mr. Gleason and Mr. Madore were among his students at the Cornerstone of Brunswick, which teaches home builders and would-be home builders how to make new buildings more energy-efficient and how to fit solar devices on existing buildings.

They began building the structure last spring, without architects, engineers or costly consultants.

Nestled between a car lot and pine woods is a glass, brick and cement building that has been functioning since January as an auto repair shop, part of Weir's Motors on Route 1. The building has been such a success that the men have formed Maine Energy Products to build more such structures.

The building has almost a "passive" solar heating system; there are no moving parts, fans or pumps.

As the sun shines through the windows, its energy is absorbed by a black cement floor. The floor acts as a reservoir, holding heat and letting it slowly escape. The reflective sliding doors keep heat from escaping too quickly. The building is insulated with three inches of urethane and two inches of air trapped between a brick wall and a cement wall.

"We raise and lower the doors as the sun goes across the sky during the day," Mr. Madore said.

BACKUP HEATER FOR WINTER

A backup heater has to be used for about an hour a day on the coldest winter mornings, Mr. Gleason said.

Their design can also reverse the flow of energy and help to keep the building cool in the summer.

Mr. Madore said that the $13,000 construction cost would be made back on savings in heating bills.

The men said that the building had saved them a lot more money than they had expected. They had predicted that the auxiliary oil burner would consume 839 gallons of heating oil from January to March, but the figure for the three-month period was 561 gallons.

Mr. Gleason said that a 6,000-square-foot conventionally heated building on the auto lot burned 3,192 gallons in the same three months.●

ISN'T HALF OF RHODE ISLAND APIECE ENOUGH FOR ALASKANS?

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. BONKER. Mr. Speaker, I would think most people would be satisfied with Federal legislation that guarantees their State:

The most spectacular assemblage of national parks, preserves and wildlife refuges in the Nation, and

A land base for future growth and development equal to about 57 square miles for each and every one of them.

No State outside Alaska has a total land base that even approaches such a per person allotment for current residents. However, the barrage of statistics associated with H.R. 39 is peppered with suggestions that 57 square miles per person is, indeed, not enough for some Alaskans.

The Alaska Native Claims Settlement Act triggered the land allocation process that is culminating now with H.R. 39. ANCSA allows the people of Alaska to select lands on a scale that is unprecedented in modern American experience, 105 million acres for the State of Alaska and another 44 million acres for Native Alaskans. The total, 149 million acres, will be available to meet the needs of the 407,000 residents of Alaska in whatever manner that the State and Native corporations deem best.

This selection process, which is already underway and will be completed regardless of the decisions Congress makes with H.R. 39, will provide the 366,000 acres, or 57 square miles, per Alaskan. In the equivalency terms that seem to be popular in the H.R. 39 debate, the total is near the size of Texas and equals one-half of the area of Rhode Island or nine and one-half times the area of the District of Columbia per Alaskan.

While considering H.R. 39 in the Merchant Marine and Fisheries Committee, this Alaskan allocation was compared with the population and land area of each of the other States. The results, which are shown on the attached table, provide some perspective to the question of who will get what in Alaska. Wyoming tops the list at 152,709 acres per person, or less than half the shares provided Alaskans through their ANCSA selections. My own State of Washington, where living conditions are not crowded, has 11,755 acres per person. The average for the Nation outside Alaska is 8,804 acres per resident.

These comparisons understate Alaska's edge in developable land. On one hand, another 100 million acres of Alaska will quite probably be open to Federal multiple use management under any form that H.R. 39 finally takes. On the other hand, the land data used for the other States do not reflect any reductions for Federal, State and local parks, preserves, wildlife refuges, recreation areas and the like.

ANCSA responds to the interests of Alaskans in Alaska by providing for substantial land selections. H.R. 39 addresses the national interest in the State by establishing national parks, preserves, wildlife refuges and wild and scenic rivers. In drawing precise boundaries for these areas, the Interior and Merchant Marine and Fisheries Committees were guided by the resources involved in each case. Site specific analysis of each proposal, rather than the bill's acreage totals, quite properly guided these decisions.

However, comparing the per resident share of the land Alaskans will get with the land per person that each of the other States now has does lend perspective to the debate and emphasizes an important point: Alaska is big enough to have much land available for everyone.

LAND ACREAGES PER RESIDENT BY STATE

	Population (thousands)[1]	Acres (millions)[2]	Acres/resident
Alaska	407	149	366,093
Alabama	3,690	33	8,943
Arizona	2,296	73	31,794
Arkansas	2,144	33	15,392
California	21,896	100	4,567
Colorado	2,619	66	25,200
Connecticut	3,108	3	965
Delaware	582	1	1,718
District of Columbia	690	.039	56
Florida	8,452	35	4,141
Georgia	5,048	37	7,329
Hawaii	895	4	4,469
Idaho	857	53	61,843
Illinois	11,245	36	3,201
Indiana	5,330	23	4,315
Iowa	2,879	36	12,504
Kansas	2,32e	52	22,355
Kentucky	3,458	25	7,229
Louisiana	3,921	29	7,396
Maine	1,085	20	18,433
Maryland	4,139	6	1,449
Massachusetts	5,782	5	864
Michigan	9,129	36	3,943
Minnesota	3,975	51	12,830
Mississippi	2,389	30	12,557
Missouri	4,801	44	9,164
Montana	761	93	122,207
Nebraska	1,561	48	30,749
Nevada	633	70	110,584
New Hampshire	849	6	7,067
New Jersey	7,329	5	682
New Mexico	1,190	78	65,546
New York	17,924	31	1,729
North Carolina	5,525	31	59,047
North Dakota	653	44	67,381
Ohio	10,701	26	2,429
Oklahoma	2,811	44	15,652
Oregon	2,376	62	26,904
Pennsylvania	11,785	29	2,460
Rhode Island	935	.67	716
South Carolina	2,876	19	6,606
South Dakota	689	49	71,117
Tennessee	4,299	26	6,047
Texas	12,830	168	13,094
Utah	1,268	53	41,798
Vermont	483	6	12,422
Virginia	5,135	25	4,868
Washington	3,658	43	1,755
West Virginia	1,859	15	18,068
Wisconsin	4,651	35	7,525
Wyoming	406	62	152,709
United States (not Alaska)	215,925	1,901	8,804

[1] Bureau of Census, provisional data, July 1, 1977.
[2] For Alaska, State and Native land selections only. For other States, total land area. ●

LIZ CARPENTER SPEAKS OUT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. PICKLE. Mr. Speaker, I am pleased to present to my colleagues the testimony Mrs. Liz Carpenter delivered this morning before the House Judiciary Subcommittee on Civil and Constitutional Rights.

Liz Carpenter is well known to many Washingtonians for her keen perceptions and her ready wit. She has been "back home" in Texas for 2 years but has come before us today to present her views on the proposed extension of time for ratification of the Equal Rights Amendment.

She is a strong advocate and a dynamic spokesperson. Her testimony follows:

TESTIMONY BEFORE HOUSE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS

I am Liz Carpenter of Austin, Texas. I have been a wife and mother and I have known the pain of widowhood. I spent over 34 years of my career life in Washington—from Franklin Roosevelt to Jimmy Carter—as a journalist and later in the Johnson Administration where I have seen politics from both inside and outside the process.

Two years ago, I won a bout with Potomac Fever and surfaced as a born again Texan.

I went home to Texas to spend the rest of my life writing and living a leisurely life—I thought. I can't retire—none of us who believe in the extension of full civil rights to all persons in this country can slow down—until the Equal Rights Amendment is ratified.

The demands for us to speak, to rally, to testify have convinced me that ERA is more alive today than when it was overwhelmingly passed by the Congress in 1972.

I am here today as Co-Chair of ERAmerica, the national alliance of over 200 organizations of men and women—from the American Bar Association to the Girl Scouts to the National Council of Senior Citizens—who support ERA. I have attached a list of the groups supporting ERA to my testimony because I think you will recognize them. They are all from the mainstream of American life and are the groups which have supported most of the progressive measures enacted in this country. And ERA has been a part of both the Republican and Democratic platforms since 1940 and 1944.

I come here also as one who has covered this noble capitol for 16 years, one who watched the march for human rights across your stage and saw Congress fill in the gaps for civil rights legislation in the 60s. I do not believe this Congress will now, or ever, let time run out on Human Rights. There must be no arbitrary barrier to ultimate justice in America. And the clock on Equal Rights for women or for any citzen in this country poses an arbitrary barrier which must not end when the issue is very much alive.

The opponents argue: "Don't change the rules in the middle of the game." Equally under the law for all Americans is not a game. It is a serious issue and deserves the most serious attention of the people of this nation. We have been subjected to too many games in the legislatures where grown men often seem too embarrassed, too inhibited, too impatient to discuss the matter of simple justice for the women of this country.

But the people in this country are just now beginning to inquire and ask for more information, they have been dismayed by the noisy lies about ERA. That is why ERAmerica was created 2 years ago, and we have been racing ever since to catch up for the demand for speakers, meetings, debate. The momentum is at its highest crest now, and there is a high desperation level because Americans realize this is not a women's issue, not a feminist issue, but a simple extension of civil rights to the largest group left out in 1787.

I alone get ten or twelve speaking requests each week for the major groups in the unratified states.

Such groups in the last six weeks as the Alabama Education Association, National Legislative Conference of the Communications Workers of America, the National Association of Women Deans, Administrators and Counselors, Junior Leagues throughout the South and rallies in Chicago, Little Rock and Birmingham by our own coalitions.

Multiply my itinerary with that of Judy Carter, Erma Bombeck, and my Republican colleagues Elly Peterson and Jill Ruckelshaus and Maureen Reagan. Add in the itinerary of Phyllis Schlafly and you know the debate is raging. This is not a dormant issue.

I believe we will have three more states by March 22, 1979, and that is where my priorities are—to get them. But it is going to be a Cliff Hanger and human justice should not be a Cliff Hanger.

Opponents are telling legislators, "hold the line just ten more months and ERA will go away." Some legislators are blind enough to believe it.

But what is at stake here in this Committee today are I believe three questions, Criteria suggested by Justice Hughes in *Coleman* v. *Miller*. And I hope that you will ask yourselves these questions:

Have conditions changed to make the 27th Amendment no longer necessary since it passed Congress in March, 1972? The answer is clearly no.

Is there still an intensity of public feeling and debate? The answer is clearly yes.

Is there still activity in legislative bodies on ratification? The answer lies in the fifteen states which have given ERA short shrift.

A handful of willful and mischievous men—two in Florida, two in North Carolina, 5 in South Carolina seldom more than a dozen anywhere who are blocking passage of ERA—using fun and games to maneuver it, deciding to stall justice toward women as the expendable issue which can be used to barter for political mischief.

The very fact that the going is so rough in these different states, many of which only ratified suffrage a few years ago, is evidence enough that ERA is very much alive.

So here we are with this overwhelming momentum. ERA merits major national news coverage. It is a priority for hundreds of organizations and thousands of individuals who are active in the fight. ERAmerica receives over 500 pieces of mail each week asking for information or volunteering service for the campaign.

We seek every alternative possible to conclude this debate. We speak for a diversity of organizations, each with its own strategy for the prompt ratification of ERA, and countless individuals and the positions they represent. In fairness to these differing strategies, the Members of the Board of ERAmerica have not taken a position on the extension. The extension of the deadline for seven more years is one measure for taking out an added insurance policy. Other methods might place no deadline, as with the first 17 Amendments to the Constitution. You can be sure that if the March 22, 1979 deadline is not met, hundreds of bills will be dropped into your hopper on March 23rd to start the process again. There are other proponents who would go back to the 14th Amendment to spell out unmistakably that discrimination on the basis of sex is included.

Until the Equal Rights Amendment is part of the Constitution of the United States, the battle will go on. Every major poll taken in this country has shown a solid majority of the people support ERA. Over two-thirds of the states have ratified it, 16 states have enacted state Equal Rights Amendments, that kind of mandate cannot and will not go away.

Across the nation, over 100 organizations are showing their commitment to equal rights for all citizens by refusing to hold their conventions in states which have not ratified the Amendment. These conventions bring over 100 million dollars annually to the cities in which they are held. The people making this commitment are scientists—like the American Association for the Advancement of Science—church men and women—like the United Methodist—educators—like the National Education Association—trade unionists like the United Auto Workers. And the Democratic National Committee. As much as they would like to sample the delight of the Windy City, stroll along the French Quarter of New Orleans or sit on the sands of Miami Beach, they're com-

mitted to Equal Rights for all citizens as their first priority.

I believe, for instance, Atlanta would like to host the Democratic Convention. And I suspect that Jimmy Carter would like to have it there, and I know that the Democratic Party would enjoy the Southern hospitality of Atlanta, truly a city of the New South. But it won't happen unless Georgia ratifies the ERA. A recent article in the Washington Star estimates that Atlanta alone could lose 168 million dollars because of this commitment.

I want to applaud these organizations who are the backbone of American life for putting the Equal Rights Amendment where it belongs. It is a matter of simple economic justice. And let me point out that the decisions were made as a solid commitment to ERA. The boycott will go on until the Equal Rights Amendment is ratified. It will not go away on March 22, 1979.

You see, ERA is the last measure needed to fill in the gap of the Constitution, which left discrimination on the basis of sex a very "iffy" catch as catch can issue. Your own Congresswoman Barbara Jordan, speaking of ERA said, "We have a commitment which is not going to be shattered by inanity, ignorance and idiots who would view our cause as one which somehow is violative of the American Dream of Equal Rights for everybody. All we're trying to do is make this government of the United States honest. We only ask that when we stand up and talk about one nation, under God, with liberty and justice for all, we want to be able to look at the flag, put our right hand over our hearts, repeat those words and know that they are true."

Using English Common law, the founding fathers, writing the Constitution in 1787 did not recognize women as citizens but as property and chattel. The power of the ballot was denied to women; it was also denied to Indians, Slaves, the mentally unfit and criminals. In the wake of the civil war, the 13th. 14th and 15th amendments brought minorities into the Constitution. But it took another fifty years for women, black and white, to even get the vote. But that was all that we got.

What is happening in the unratified states? In one state—Mississippi—ERA has never come to the floor in either House. In one state—Alabama—ERA has never had a House floor vote. In one state—Utah—ERA has never been voted on in the Senate. The last House vote in Arizona was in 1975, and in Arkansas the last time the Senate considered ERA was in 1973. Georgia, Louisiana, Oklahoma and Virginia have held ERA in committee. South Carolina has tabled ERA in both houses, only voting on the merits of the issue once, in the House, when it passed 85–0. Illinois adopted a 3/5s majority rule for constitutional amendments, which dealt a blow to ERA, since ERA has passed both houses with a simple majority.

In answer to the question Chairman Edwards asked me to address with my testimony, I do NOT believe ERA has been fully and fairly aired in these states.

Women who have been left out of the political process for so long have only recently become aware of what is happening to them. We cannot be expected to learn in a crash course what men in the political process have learned to understand and often master in 200 years. For instance, in North Carolina in the May 2 Democratic primary, ERA supporters ousted Senator James McDuffie, who has had a hard time deciding whose side he is on. Two years ago, when he campaigned for office with the support and money of ERA proponents, he led the ticket. He even signed a campaign pledge to vote for ERA. But he switched to vote "no" when he thought he was safely inside the halls of the North Carolina Senate. There are other James McDuffies who will not be allowed to make a political joke out of equality for women.

This fall, we will "hang some scalps" to show legislators that they cannot betray our trust.

I have travelled the 15 states which are blocking ERA and have met with many of the "no" voters who are playing games with ERA. Many of you have seen this type in your political life and must agree such mediocrity should not cost women equality. They are:

First. State Representative Postoffice. This is a member who doesn't lead, but is led, who takes the mail and weighs or counts which side can get the most letters in. He doesn't look at the quality of the argument or who generated the letter. And so he doesn't know that many of these letters come from the same people who got writer's cramp trying to impeach Earl Warren.

Second. State Representative Apron Strings. He tells you, "Oh, I voted against it because my wife is against it." Now there isn't one other issue where he would use this to justify a position on a vote. And often, he hasn't even asked her.

Third. State Representative Consensus. He doesn't want to take a stand until "You girls get together." We aren't going to get together anymore than women were together on other issues—including the right to vote. Many who opposed the right to vote for women are using the same trite arguments. Why do we need it? Doesn't it open up unknown dangers? Doesn't it take away our femininity to go into a polling place?

Fourth. State Representative States Rights. This is a man who suffers apoplexy every time the word "Federal or Congress" is mentioned. He looks at the second section of the Amendment, exactly like the second section of the 13th, 14th, 15th, 19th, 23rd, and 24th amendments and thinks there should be something different about the Equal Rights Amendment.

Fifth. State Representative Macho. Here's one for you. He is a dirty old man who grew up as a dirty little boy. He enjoys sensational gossip fed to him by the fear and smear artists; that the ERA will lead to co-ed bathrooms, trench warfare, homosexual marriages: "Play me that old pornograph again," he says as he rails against it. None of these phases exist except in the Representative's mind.

Governors of five states, where ERA has not only been ratified but put into the state constitution, have stated that not one of these allegations has come true.

Sixth. State Representative Master of the Castle. This is the man who never associates with women except in bed or the kitchen and he wants to keep them there because of his own insecurity. He doesn't think marriage is a partnership. What he earns is HIS money. What property he buys is HIS property.

Knowing that this is the kind of man we're up against, we're still committed to continuing debate for however long it takes to ratify the Equal Rights Amendment.

You should understand that since ERA was ratified in Indiana in January, 1977, what we have been up against is that ERA has been traded, bruised and misunderstood. My friend, Erma Bombeck, says that ERA is the most misunderstood few little words since "one size fits all."

In the early days of the campaign, when ERA passed 30 legislatures in the first two years, we were debating ERA on its merits. But since then, it has become a political football, used by a handful of legislators to flex their political muscle against each other.

For example, in North Carolina in 1977, polls showed that 60% of the people supported ERA while only 19 opposed it. The General Assembly passed it and sent it to the Senate, where it clashed head on with an inter-party powerplay by the Senate leadership. Lt. Governor Jimmy Green who wanted to show his political muscle against Governor Hunt who was pro-ERA, held up the vote until two men, including James McDuffie, men who had signed pledges of support for ERA during their campaigns, could be persuaded to switch their votes.

Shortly thereafter, in the Spring of 1977, when ERA came up for a vote in Florida the last things on the minds of the state legislators was equal rights for women. Senator Dempsey Barron, Dean of the Senate, wanted to show his political power. ERA was the highly visible vehicle he chose to do it with. At the start of the session, there were 21 announced votes, the number needed for passage of ERA. Their maneuverings switched votes—among them Senator Ralph Poston who had run for the Senate on a pro-ERA platform. Senator Poston was hurriedly cleared of a conflict of interest charge two days before voting no on ERA. Now, that is an interesting conflict.

Senator Poston should take note of James McDuffie's defeat. It augers ill for him too. The voters of Florida—who favored ERA by 62% with only 19% opposed in a poll taken just before the vote—put him in office to vote yes on ERA and they *will* defeat him because he voted no.

We understand so much more clearly now what we are up against, and this new political awareness will be used in the battle for ERA. You all know that ERA will not cause the break-up of the family. As if a law can regulate a man's love for his wife and family or a wife's loyalty to her husband and children. ERA has nothing to do with co-ed bathrooms and homosexual marriage, yet the opposition continues to spread these lies and appeal to the fears of decent Americans. And it's so easy to be negative, to be against something, rather than to support positive change.

Who needs the Equal Rights Amendment? The United States of America needs it.

How long must women stand outside the door of the Constitution begging to be let in? It took 72 years for suffrage to make its way into law. I am 57 years old and I was only three years old when the ERA was first introduced in Congress. There were 49 years of foot-dragging and an arbitrary time limit of 7 years was set for the most difficult part of the Amendment's realization, its pathway through the 50 state legislatures.

I want the assurance that your daughters and mine will not have to fight this whole battle from beginning to end again. I pray they will not be forced to travel this long circuit, this weary, road, because time ran out on them in 1979.●

UNITED STEELWORKERS SUES FOUNDATIONS FOR INTERFERING WITH UNION INTERNAL ELECTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. McDONALD. Mr. Speaker, the United Steelworkers of America has filed a lawsuit against eight tax-exempt foundations charging them with having funneled money through "laundry" operations to the Steelworkers fight-back machine of Edward Sadlowski, who was defeated in his campaign for president of the USWA last year.

The foundations included the Rockefeller Family Fund, the Samuel J. Rubin Foundation, Field Foundation, New

World Foundation, J. M. Kaplan Fund, the Youth Project, the New York Community Trust, and the Ottinger Foundation. An organization called the Association for Union Democracy is also a defendant.

It is interesting that the Samuel J. Rubin Foundation, Field Foundation, and Youth Project have been particularly active in the last several years in providing massive funds to the projects staffed by U.S. revolutionaries to destroy America's foreign and domestic intelligence agencies. The Youth Project provides money to the Mobilization for Survival, a project set up by the Soviet World Peace Council to pressure the American people and public officials for dangerously lopsided disarmament agreements with the U.S.S.R., and to Morton Halperin's campaign to stop government spying. Previously the Youth Project did the same for Counter-Spy magazine's subsidiaries. Halperin's anti-intelligence projects have received generous funding from the Field Foundation. And Sam Rubin uses large amounts of his tax-exempt fortune to pay the salaries and transportation costs of terrorist and revolutionary leaders from Latin America, Africa, Europe, and the Middle East. Rubin was instrumental in 1976 in tricking some American Jewish leaders into meeting secretly with representatives of the terrorist Palestine Liberation Organization—meetings then made public by the PLO's supporters to bolster the terrorists' cause.

The leaders of the groups which these radical foundations have supported are trying to manipulate legitimate union issues of internal accountability of their leadership in order to purge anti-Communist labor leaders. It was no secret that the Sadlowski campaign was a major part of that anti-Communist effort, and that the Communist Party, U.S.A., and other U.S. Marxist groups were working for his election.

Sadlowski never repudiated the revolutionaries in his fight-back organization; and that he is still on the best of terms with them was evidenced during April by his attendance at the Ninth World Congress in Prague of the Soviet Union's international labor movement front, the World Federation of Trade Unions (WFTU). accompanied by such well-known CPUSA unionists as Ernest DeMaio and Abraham Geinglass. Sadlowski concluded last month by cosponsoring the Communist Party's May Day march in Chicago.

The efforts of the USWA leadership to expose and resist the apparent efforts of a small cabal of the radical rich to use their tax-exempt, taxpayer subsidized foundations to back their faction in an internal union election are to be commended. I would draw the attention of my colleagues to the following article published in the May issue of the USWA newspaper, Steel Labor:

SUE FOUNDATIONS FOR INTERFERENCE IN USWA ELECTIONS

WASHINGTON, D.C.—The United Steelworkers last month brought suit in Federal Court in New York City against eight leading tax-exempt foundations, including The Rockefeller Family Fund, and one recipient organization, for using "employer monies . . . on behalf of candidates for USWA offices in blatant violation of . . . the Labor-Management Reporting and Disclosure Act of 1959," and asserted that the rights of USWA members to freedom of choice without employer interference was being tampered with.

The complaint filed in New York by attorneys for the union on behalf of its International officers and five rank and file members charged that, "these illegal expenditures by the defendant-employers"— The Rockefeller Family Fund, The Samuel J. Rubin Foundation, Inc., The Field Foundation, The New World Foundation, The J. M. Kaplan Fund, The Youth Project, The New York Community Trust, The Ottinger Foundation and The Association for Union Democracy (AUD)—"pose a continuing threat to democracy within the Steelworkers."

Lloyd McBride, president of the USWA, noted that "these named foundations, hold stocks and bonds worth well over $16 million in companies, many of them major corporations, that bargain with the Steelworkers and include some firms such as Tenneco that the NLRB has cited for failing to bargain in good faith with Steelworkers. The USWA is now in its 13th month of strike at Newport News Shipbuilding Company, a major subsidiary of Tenneco."

McBride said that he believed the USWA officers and rank and file members who joined in the suit "were speaking for most of the union's members who, when the full truth of these machinations comes out, will be appalled by the fact that these tax-exempt foundations which, in effect, are subsidized by taxes from the hard-earned wages of Steelworkers and other working people, are trying to manipulate their internal election process." McBride added: "During my campaign I promised to stop the interference of these and other outsiders in our union and I intend to keep my promise."

The USWA's law suit charges a conspiracy by the eight named foundations and one recipient group, the AUD, "and other employers unknown at present to plaintiffs," to use the AUD and others "as conduits through which monies and other assets were laundered for use by or on behalf of the Sadlowski slate" the defeated candidates in the February 1977 Steelworker referendum election.

The suit noted that: "defendants . . . channeled monies and assets to the AUD, and to other conduits as yet unknown, in the guise of ostensibly non-partisan grants. In actuality, however, the monies and assets were intended by all defendants to be used for blatantly partisan activties promoting the Sadlowski slate, and they were so used by AUD and other conduits with the knowledge and prior approval of the other defendants. In this manner, enormous sums were expended by the defendants . . . on behalf of the Sadlowski slate. By making these expenditures, these defendants violated Section 401 (g) of the LMRDA."

Among the instances of partisanship cited in the complaint was the fact that the AUD "recruited and trained over one thousand persons to work as election-day observers throughout the United States on behalf of the Sadlowski slate" and "prepared and printed tens of thousands of copies of an election manual distributed exclusively to Sadlowski slate supporters." The complaint added that, "located in an office adjacent to Sadlowski slate headquarters" in Chicago ". . . these AUD representatives acting on behalf of the Sadlowski slate, held press conferences, monitored rival press conferences, represented the Sadlowski slate at meetings of the candidates, drafted campaign literature, provided day-to-day administrative assistance and support to the Sadlowski slate campaign . . ."

The complaint noted that all of these are "routine campaign expenses incurred by all candidates for union office," but that in this instance the slate of candidates who received the benefit of the foundation's contributions "obtained an unlawful advantage . . . for it did not have to spend lawfully obtained contributions for these purposes and they had more funds available for other campaign purposes."

The complaint also notes that "officers, directors, and managing employees of these defendants made substantial campaign contributions directly to the Sadlowski slate campaign."

The complaint warned that outside intervention by employer money in a union election can result in court battles and other instabilities that can undermine a union's ability to represent its members effectively and can place the union in "turmoil."

USWA President McBride said, "We have good reason to believe from our research that these disclosures are only the tip of the iceberg of foundation intervention in the USWA election and into the affairs of other unions, sometimes creating chaotic situations. I hope this court case reveals the full truth."

McBride concluded: "It's an outrageous violation of democratic principles when a tiny group of non-union foundation executives, masquerading under the noble banner of democracy, can try to use foundation grants to dictate to union workers who should represent them. In the past the old robber barons tried to use the money they exploited from workers to break their unions and today their heirs and beneficiaries, set up in plush foundations, are using their ill-gotten and tax-exempt gains to try to run the unions."

The executive director of the AUD, Herman Benson, was reported in the Washington Post as declaring that the "services were provided to 'guarantee legal rights,' not to promote a political candidate, and denied that the foundation money amounted to employer contributions. 'These are foundations that support liberal causes,' he said."

An attorney-spokesperson for Edward Sadlowski told the Wall Street Journal that the suit "was a transparent effort to intimidate public interest foundations from continuing to assist union-reform groups in seeking fair elections." ●

LOLA HENDRICKS, A NATIONAL ROSE

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. LEGGETT. Mr. Speaker, I would like to call the attention of my colleagues to a most significant honor to be bestowed on Mrs. Lola Hendricks of Vallejo, Calif.

The Vallejo Rose Society will be honoring Mrs. Hendricks, a past president and rose show chairman for many years, at an appreciation luncheon to be held on May 25, 1978.

Mrs. Hendricks is a woman of many distinguished accomplishments. She is a life, master judge of the American Rose Society, having specialized in roses and rose arrangements. She studied floriculture and horticulture. She achieved prominence as a consulting rosarian for the American Rose Society and

frequently conducts lectures on "Roses and Flowers." This remarkable career has included rose and flower judging for the past 20 years and the chairmanship of 18 extremely successful rose shows in the Vallejo area.

Mrs. Hendricks' civic achievements have not been confined only to her excellent service to the rose society but to the entire community. She is past president of the Vallejo Women's Club, Symphony League, Women's Association of the First Presbyterian Church, and member of the ecumenical mission of that church.

Mr. Speaker, this truly rare individual has been recognized for her achievements not only in Vallejo, but throughout the Nation. She is listed in that notable publication, "Personalities of the West and Midwest" in 1970, 1971, and 1972. Furthermore, she has been recognized by the "World Who's Who of Women" in 1973, 1974, and 1975; as well as "Who's Who in California" in 1976.

It is with a distinct pleasure that I ask my colleagues in the U.S. Congress to join me in saluting this most remarkable career and most distinguished individual.●

AHEPA TO CELEBRATE 46TH CONVENTION ON JUNE 17

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. YATRON. Mr. Speaker, I would like to congratulate all of the members of the Pennsylvania and West Virginia chapters of the Order of AHEPA, who will be celebrating their 46th annual district convention on June 17. For almost the last half century, these members have symbolized the enduring links which exist between the achievements of Hellenic civilization as they reflect upon contemporary American society.

These links have given the United States its Government, and the American people their philosophy.

The noble Greek ideal of responsible participation in society is carried forward today in America by members of the AHEPA. Most important, however, are the objectives of the Order of AHEPA. They are a clear reflection of the remarkable qualities of Hellenic civilization which have found their expression in contemporary American life.

Consider, for example, the first five objectives of the AHEPA: To promote and encourage loyalty to country; to teach the fundamental principles of government; to instill an appreciation for the privilege of citizenship; to encourage interest and active participation in all fields of human endeavor; and to oppose political corruption and tyranny.

These objectives, so central to democracy in America, were also central to democracy in ancient Greece. We must all insure that the flow of these ideals continues to serve as a constantly revitalizing current in American Government. As the members of the Pennsylvania and West Virginia chapters of the Order of AHEPA have been very successful in achieving this goal for 46 years, I want to thank all of them and wish them every continued success.●

ROLLCALL OF HEROES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. GOLDWATER. Mr. Speaker, with seemingly increasing speed, another year has passed since we last honored those law enforcement officers who gave the ultimate—their lives—during the performance of their duty.

Once again, the sorrowful task of compiling the list of the fallen has been conscientiously done by Virgil D. Penn, Jr., national chaplain-east, of the Fraternal Order of Police.

This is National Police Memorial Week, so it is especially fitting that we honor those law enforcement officers who have given so much. For my colleagues' interest, I present the words of Chaplain Penn, who movingly describes a scene repeated 78 times this past year:

One by one they came, until they formed groups of law enforcement officers from all the surrounding communities, lined up in formation outside the small church. There, officers of every rank had gathered to pay their last respects to one of their fallen comrades.

As the police band began the solemn strains of "Nearer My God To Thee," the uniformed officers snapped to attention. Members of the deceased officer's department carried their fallen brother into the church.

Too often, this scene has been repeated; the victim has been both the raw recruit, and the highest police official. The criminal does not discriminate among ranks. Despite such hazards, our law enforcement officials walk where angels fear to tread; their dedication and bravery are not exceeded by all the armies of the world. They are really soldiers of peace.

Mr. Speaker, with the deepest sympathy extended to the families of these officers, I now present the 1978 Rollcall of Heroes:

ALABAMA

Oxford, 8–19–77, Capt. William H. Beard.
Dothan, 1–3–78, Sgt. Robert Jackson.

ARKANSAS

Magazine, 6–29–77, Marshall Marvin Richie.
Dermott, 8–29–77, Chief of Police Hubert "Bill" Payne.

CALIFORNIA

El Centro, 4–77, Off. Alan Vickers and Off. Arthur K. Hennessy.
Cal. Hwy. Patrol, 7–9–77, Off. Arthur E. Dunn.
San Pablo, 8–4–77, Off. Robert C. Wheeler.
Los Angeles, 10–20–77, Off. David E. Bailey.
Santa Ann, 11–12–77, Off. Daniel A. Hale.
Los Angeles, 11–25–77, Deputy Didier Hurdle.
West Cobina, 1–14–78, Off. Jay Warren Jackson.
San Francisco, 2–9–78, Off. Robert E. Hooper.
Los Angeles Co., 3–19–78, Deputy Arthur E. Pelino.

CONNECTICUT

Plainsville, 11–21–77, Off. Robert Michael Holcomb.

FLORIDA

Carrabelle, 7–9–77, Off. David Patton.
Clearwater, 7–13–77, Off. Ronald J. Mahoney.
Hernando Co., 2–21–78, Deputy Lonnie C. Coburn.
Coral Gables, 4–2–78, Off. Louis Pena.
Escambia Co., 4–7–78, (Officer's name not given).

GEORGIA

Atlanta, 9–23–77, Off. Barry D. Malear.
Walton Co., 10–11–77, Lt. Michael E. Etchison.

ILLINOIS

Chicago, 9–7–77, Off. James Koumoundouros.
Waukegan, 11–13–77, Sgt. Harry White.
Lee Co., 5–9–77, Deputy Richard B. Fordham.

IOWA

Des Moines, 8–28–77, Off. Dennis Earl Hill.
Des Moines, 4–21–77, Plm. Brian C. Milton.

LOUISIANA

Louisana State Trooper 1st Class Donald C. Cleveland, 7–2–77.
Jefferson Parish, 7–12–77, Merlin Eugene Brune.

MARYLAND

Baltimore, 7–6–77, Off. Charles A. Huckeba.
Maryland State Trooper, 12–12–77, Trooper Gregg Presbury.

MICHIGAN

Lansing, 6–16–77, Off. Mac J. Donnelly, Jr.
Dearborn, 8–28–77, Off. Norbert Melvin Szczygiel.

MINNESOTA

Columbia Hgts., 7–30–77, Off. Curtis J. Ramsdell.

MISSISSIPPI

Natchez, 4–06–78, Det. Danny Ray Burks.

MISSOURI

Rolla, 5–21–77, Sgt. George M. Williams.
Daviess Co., 9–11–77, Sheriff L. S. Houghton.
St. Charles, 10–25–77, Gary Ray Stroud.
Jefferson Co., 4–05–78, Off. Terry T. O'Connell.

NEBRASKA

Nebraska City, 7–09–77, Off. Gary Robert White.
York, 4–2–77, Plm. James M. Richardson II.

NEVADA

Las Vegas, 2–22–78, Off. James R. Rogan.

NEW JERSEY

Newark, 3–01–78, Plm. Arthur L. Williams.

NEW MEXICO

Bosque Farms, 8–18–77, Off. Charles Elwood Wasmer.
Questa, 11–13–77, Off. Ronald Edwin Shores.

NEW YORK

New York City, 4–23–77, Plm. Robert Mandell.
Nassau County, 5–29–77, Plm. Michael J. Kavanagh.
Cheektowaga, 7–01–77, Plm. Robert A. Burgess.
New York City, 8–29–77, Det. Joseph D. Taylor, Jr.
Cheektowaga, 10–20–77, Plm. David Tolama.
Erie Co., 11–05–77, Deputy William Dils.
New York City, 4–02–78, Off. Norman Cerullo.
New York City, 4–02–78, Off. Christie Masone.

NORTH CAROLINA

Four Oaks, 6–03–77, Off. Dennis W. Allen.
Cumberland Co., 9–14–77, Sp. Deputy Lt. R. G. Smith.
Fayetteville, 12–03–77, Off. James J. McConkey.

Wilmington, 4–04–78, Off. T. W. Nunslee.
Roanoke, 5–09–77, Lt. Willard E. Vaughan.

OKLAHOMA

Washita Co., 6–18–77, Deputy Sheriff Clifford Payne.

PENNSYLVANIA

Pa. State Trooper, 8–16–77, Corp. Leo Koscelnick.
Harrisburg, Pa., 4–18–78, Det. John R. Christian.

PUERTO RICO

Puerto Rico, 2–22–77, Plm. Andres R. Carrasquillo.

SOUTH CAROLINA

Colleton Co., 9–19–77, Deputy Tony Breland.
Laurens Co., 9–20–77, Deputy Sherman Massey.

TENNESSEE

Chattanooga, 8–14–77, Plm. Clarence E. Hamler.
Giles Co., 1–24–78, Deputy Sheriff Herbert Slayton.

TEXAS

San Antonio, 8–15–77, Plm. Eloy F. Gonzales.
Fort Worth, 9–06–77, Plm. Jesse Ray Parris.
Newport, 10–06–77, Sgt. Harold Medford.
Longview, 11–22–77, Plm. Marshall J. Sowders, Jr.
Fort Worth, 2–20–78, Texas Ranger Robert Doherty.

VIRGIN ISLANDS

7–30–77, Plm. Wilbur Horatio Frances.

VIRGINIA

Stanley, 4–23–77, Chief of Police Maynard R. Cubbage.

WASHINGTON

Tacoma, 9–09–77, Plm. Larry Leland Frost.
Tenino, 1–18–78, Plm. John Henry Dowies.

WEST VIRGINIA

McDowell Co., 9–18–77, Deputy J. W. Ray.
W. Va. State Police, 1–14–77, Trooper Bruce T. Brown.

WISCONSIN

Menomonee Falls, 8–06–77, Off. John S. Taylor, Jr.
Milwaukee, 11–25–77, Plm. Thomas Randy Kiefer.●

IN RECOGNITION OF GEN. JOHN SINGLAUB

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. EDWARDS of Oklahoma. Mr. Speaker, one of the most fundamental preconditions for the successful maintenance of any constitutional government is the subordination of the military to the civilian branch. For our form of government to endure, we must never forget nor compromise this principle.

For that reason, Mr. Speaker, I cannot question the decision by General Singlaub to retire—a decision which obviously was forced upon him by his superiors under direct orders from the administration. Civilians must make policy, not the military. If an administration is making unwise military decisions, as I am convinced this administration is doing, then corrective action must come from the ballot box rather than from any individual or group of individuals in the Pentagon.

But soldiers have rights, too, Mr. Speaker; they have a right to have their own opinions; to answer rather than evade public questions, and to question decisions their experience and intellect tell them are wrong and dangerous for our country. What each soldier must determine is first, at what point the dictates of his conscience will lead him to disobey his superiors and then, whether he is prepared to accept the consequences of his actions.

After his first brush with the administration General Singlaub obviously knew that his next dispute would be his last, and that his career would be finished. But the general had to speak out again, because he obviously feels so strongly about what he said. So I salute General Singlaub, Mr. Speaker. I salute his candor, his unselfishness, his honor, his courage, and his love for his country.

Equally important, I salute the correctness of what he said. The general was right when he objected to the President's decision to pull American troops out of South Korea. As we now learn General Singlaub was not alone in opposing the President's decision; he was only alone in opposing it publicly. As reported by the Associated Press, the President apparently overruled the recommendations of the Joint Chiefs of Staff in determining that our troops should be withdrawn from Korea.

And yes, General Singlaub was right in speaking out on the President's decision to delay development of the neutron bomb without any corresponding concessions from the Soviets. As we learned from the New York Times Gen. Alexander Haig, the highest ranking American officer in NATO was not even consulted when the President made this decision of such incredible strategic importance to our allies. Must not our allies be wondering why we have even bothered to send General Haig to Europe? Must they not be questioning the sincerity of our promises, the credibility of our commitments?

And, does it not follow that the general was right when he criticized the administration's apparent eagerness to reach a new SALT Treaty even if it must be arrived at by constantly trying to placate the Soviets with new concessions?

As reported in the New York Times the Carter administration has apparently agreed to limit future U.S. cooperation on nuclear weapons with allied governments. This, of course, follows recent administration decisions to: Limit the range of the cruise missile; eliminate the option to produce the B–1 bomber; cut back on development of the MX missile; cut back on development of the Trident submarine and cut back on other critically needed shipbuilding—all major concessions made without any concessions by the Soviets or even a declaration in the massive Soviet military buildup.

We all owe a debt of gratitude to General Singlaub, for he has done the country a tremendous service. I urge my colleagues, the men and women of this Chamber who face no reprisals, but who have a duty to their constituents and to their country, to speak out now.●

ISRAEL'S 30TH ANNIVERSARY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1978

● Mr. GREEN. Mr. Speaker, this May we have been celebrating Israel's 30th birthday. It is a joyous occasion.

In the span of a lifetime or of nations, three decades may not seem like a very long time. However, what makes this event so noteworthy is to look at where the modern State of Israel began, the adversity and conflict which has marked many of its 30 years, and the contributions it has made to its own people and to people around the world. Above all, this tiny country has been a symbol of how a democratic system of government can flourish in a newly found nation despite outside threats to its survival.

Maintenance of a democratic form of government and the building of a nation of immigrants are two common bonds both of our countries share. Perhaps this is why a special relationship has up to this time traditionally existed between the United States and Israel. In reflecting on Israel's 30 years, I have thought about the similarities and differences between the establishment of the United States and the first 30 years of modern Israel.

Starting a new country means finding a common purpose that binds diverse people together. It means finding within that purpose some higher goal for which people are willing to sacrifice individual gratification for the good of the greater community. It also means establishing an official language, and if the country is a democracy, educating the people for citizenship. There is a need for developing a viable economy—planning, allocating resources, establishing trade. Beginning a new nation also involves conflict as the new country establishes values and priorities that often differ from those of the people who inhabited the land before it came into being. This conflict usually results in displacement, if the new culture and the old culture cannot find a common meeting ground. Starting a new country also seems to be intimately connected with violence. This is true in the legends of Biblical and classic antiquity; it is true of most national beginnings in modern political history. This certainly was true of young America, and has been part of the founding of the modern State of Israel.

It is well to remember that America once faced some of the same problems that beset Israel. Even after 200 years, we continue to grapple with the consequences of our solutions to many of those problems. Thus, there is the need for patience with Israel as she struggles to establish herself securely in the world. It also underscores her remarkable domestic achievements throughout that struggle.

Americans started out with a vast country, bounded by two oceans, rich in natural resources. The Israelis began with a wasteland and no natural boundaries. Living on the edge of a desert, water was an immediate problem. In 1948, only 75,000 acres were arable. Today, over half a million acres are under irrigation. This has been accomplished because Israel developed methods to allow for use of 90 percent of her water resources, relying heavily on desalination. Recently, through the use of plastic valves and a new distillation process, Israel has perfected the procedure and reduced the cost of taking salt out of water by 80 percent. Thus, while it took almost 200 years before Americans had to worry about their water supply, Israel was forced to develop a comprehensive water policy in her 11th year.

In Biblical times, Israel was a land of milk and honey, vines and fig trees. The exigencies of modern life call for a more diversified agriculture. She has responded with intensive effort and increased agricultural research. Her products now include a variety of vegetables, ground nuts, tobacco, and a score of exotic fruits. In 1950 she raised only 15 percent of her own wheat. Within only one decade she produced 60 percent and was self-sufficient in poultry and eggs. By 1970, Israeli farmers supplied three-fourths of the country's food and enough cotton for all local needs.

Now that America has begun to worry about its forest lands, we can appreciate the enormous undertaking reforestation represented for young Israel. Her natural forests had been destroyed in the Middle Ages by the nomads and then the Turks. It was necessary to restore and increase indigenous varieties and introduce new ones. Conscious of the desolation that comes through neglect and despoilation, Israel also established laws for the protection of her wildlife as well.

Plagued by war and the problems of a developing nation, Israel nevertheless increased her GNP sixfold in her first three decades. She diversified her production to include consumer goods as well as military hardware, electronics, agricultural machinery and fishing vessels. Nor did Israel build her economy by exploitation. The Government has had an enlightened labor code with rules governing hours of work, paid holidays, employment of women and insurance.

Learning retains its time honored position in Jewish life in the new state and is critical for national survival. Within 1 year of winning independence, Israel instituted free compulsory education for children between the ages of 5 and 14. A small country with limited natural resources, Israel recognized that her own people were her greatest asset, and she has set about to educate them appropriately. Israel has been energetic in tackling the problems of her culturally disadvantaged. She has also established a variety of schools tailored to the special needs of the country and the special interests of the young. There are technical high schools, science high schools, and others that specialize in engineering and the arts.

The Israelis have been eager to share their technical know-how and educational innovations with others. Before the Yom Kippur war, her scientists, teachers, and engineers went into no fewer than 20 African countries offering assistance. So ambitious was her "mini" Peace Corps that today a large number of the physicians, teachers, and engineers in West Africa are Israeli trained.

There are other achievements of our tiny ally in her first 30 years of statehood. But the foregoing should be more than sufficient to illustrate what she has accomplished under the most difficult of circumstances. It boggles the mind to think of what might be achieved if she were allowed to develop in the relative security American geography afforded during our infancy.

But while we salute these achievements in marking Israel's 30th year of independence, let us not forget the differences between July 4, 1776 and May 14, 1943. The Fourth of July marks the birth of a new nation. Israeli Independence Day celebrates the birth of a new nation and the rebirth of a very old nation to whom the Western World owes a great legal, moral, and religious debt. As the television program "Holocaust" recently reminded us, the State of Israel was begun by the lucky survivors of the World War II madness.

Throughout her 30-year history, Israel has sought to maintain her security and establish her right to exist. While close to 30 percent of her Government expenditures have gone to meet defense costs, nonetheless this small nation has made singular contributions to our world's scientific, cultural, and social well-being. This contribution amidst conflict is the real story of Israel, the one which all of us applaud and look upon with tremendous admiration.

However, the fact remains that Israel's position among her Arab neighbors is neither secure nor totally welcome.

In this anniversary year of celebration, we have begun to see the glimmerings of a peace which this world has hoped for since that day in May 30 years ago when the State of Israel was founded. As we offer good wishes to our strong ally and friends, we all hope for her sake—as well as ours and the rest of the world—that we will soon see the end of turmoil in this part of the world.

To Israel, congratulations on your dynamic three decades.●

TAXPAYERS' BILL OF RIGHTS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. COLLINS of Texas. Mr. Speaker, I am proud to introduce H.R. 12593, the "taxpayers' bill of rights" in the House of Representatives. Senator HELMS of North Carolina has introduced an identical bill in the Senate and it is our hope that Congress will consider this important measure as quickly as possible.

The original rules and procedures governing the Internal Revenue Service's dealings with taxpayers were formulated when the income tax first became law in 1913. They have not substantially changed since, however the effect of the national income tax on Americans lives has changed radically. When the Federal Government uses its powers to collect 20 or 30 or 40 percent of American's earnings it is time to provide firm safeguards for the rights of the American taxpayer.

This bill contains the following provisions which will help make certain that taxpayers are treated fairly and equitably:

Requires the publication of clearly written materials outlining the taxpayer's rights in audits, assessments, and appeals. The IRS currently offers only a limited explanation in these areas, and a full notification of the taxpayer's rights is not required.

Requires IRS officials to fully inform taxpayers at the beginning of any audit or meeting that he has the right to have an attorney present and stop the meeting at any time if he decides that he does want counsel. These rights are currently accorded to criminals under the Supreme Court's Miranda decision. For the taxpayers of this country there should be no less.

Provides that a taxpayer can set a reasonable time and place for interviews for IRS agents, rather than being called in at odd and inconvient hours.

Requires the awarding of attorney's fees in tax cases won by the taxpayer. The legal fees involved in presenting a case to the IRS can be staggering. Many times, citizens who know they are correct in a tax case will just cave in to the IRS and pay an extra amount because it is cheaper than a thorough defense. This does a great deal to undermine confidence in our tax system.

Limits IRS investigations to enforcement of the laws under the charge of the IRS. This provision assures that the power of the IRS cannot be used for harassment investigations.

Establishes an assistant commissioner of the IRS for taxpayer's services. Though there is currently a small office within the IRS for taxpayer assistance, it has not been adequate to meet the public's needs. This office will provide accurate information on tax matters as well as intervene for taxpayers as an ombudsman.

Provides for taxpayers assistance orders to postpone seizures or actions by the IRS that would impose undue hardships on citizens.

Authorizes the General Accounting Office to issue an annual report on the efficiency, uniformity, and equity of the administration of internal revenue laws.

The citizens of this country work from January 1 to June 3 to pay 42 cents of every dollar they earn in Federal, State, and local taxes. Then from June 3 to July 1 they work to pay the effects of inflation—8 percent—caused by excessive Federal spending. In the Middle Ages, the serfs had to only turn over one-third of their output to the Lord, but in America today, "free" citizens pay 42 percent of their output to the Government. When this country was founded, what a

citizen earned was his own and what he paid in taxes was his contribution to the good of the country. Today, the Federal Government is increasingly regarding all income as belonging to the state and the amount we are allowed to keep as a gift to the taxpayer.

It is no wonder then that more and more Americans have little faith in government in general and the IRS in particular. The size of the tax bite, the complexity of the tax code, and the sometimes arbitrary administration of it have also contributed to this loss of faith. This bill would help restore some of that faith by aiding taxpayers in their struggle with the complex code and insuring their rights when questions arise.●

SECOND-CLASS CITIZENS

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. DAN DANIEL. Mr. Speaker, it comes as no surprise that this body is sometimes caught in its contradictions. The editor of the Lynchburg News on Friday, May 12, caught us again. I trust that my colleagues will read "Second-Class Citizens" and respectfully request it be printed at this point in the RECORD:

[From the Lynchburg (Va.) News, May 12, 1978]

EX-SERVICEMEN: SECOND-CLASS CITIZENS

As the supreme legislative body of the land, the Congress writes the laws controlling the military forces. It establishes the rates of pay for the various ranks and the fringe benefits, including retirement pensions. As an inducement to get people to sign up and remain in the services for 20 or 30 years, it established not only the length of service requirement for retirement, but the amount of retirement pay.

Lately that same Congress has been criticizing military personnel because they are retiring too young—under policies established by the Congress. They shouldn't be allowed to do that, some Members have been saying; it's not fair. They don't admit that they are to blame; they infer that the servicemen and servicewomen are ripping off the government.

Because the retirement pay established by the Congress is insufficient to support a family even at the poverty level, most servicemen have to find civilian jobs after they retire. Many of them are experienced in the ways of government—after all, they have spent 20 or 30 years in government service. Many apply for government jobs and get them. Lately the Congress has gotten upset about this as well. They call it "double dipping," meaning that ex-servicemen working for the government are collecting two paychecks—one for retirement, the other for present services being rendered.

To penalize retired officers who take jobs, the Congress enacted a "double dipper" law—Section 5532 of Title 5, U.S. Code, which reduces the retired pay of former officers who go to work after retirement.

In many instances, their retirement is forced upon them by laws enacted by the Congress.

Section 5532 applies only to dual compensation. There are two other sections of the U.S. Code which are much more restrictive. Section 801 of Title 37 prohibits the payment of retired pay for three years after retirement to regular officers who are engaged in selling supplies or war materials to the Department of Defense, the Coast Guard, the Environmental Science Services Administration, or the Public Health Service. Any retired officer who engages in selling this material to the government loses his retired pay for three years.

Section 281 of Title 18 bans any retired officer of the Armed Forces from selling anything to the Government, through the Department in whose service he holds a retired status. A retired Naval officer cannot sell to the Navy and a retired Army officer cannot sell to the Army.

These restrictions were brought to light last week by Senator Barry Goldwater (R-Ariz.).

"Why," he asked, are retired regular officers set aside from everyone else in the Federal Government?"

"Why is the man in uniform or formerly in uniform legislated as untrustworthy in retirement when no one else is?"

These laws, you see, apply only to retired officers. They do not apply to anyone else in government service.

They do not apply, Mr. Goldwater noted, to ex-Secretaries of Defense, or of the Army, Navy and Air Force. Neither do they apply to ex-Members of the Congress, who are eligible for lush penisons and benefits and who, more often that not, go to work for the government or for firms doing business with the government. There are no restrictions upon their post-retirement actions. But then, one must remember, they wrote the laws.

There are dozens of former Representatives and Senators who are now working for the government or doing business with the government as employees of private companies or as lobbyists. Several others are representing foreign governments doing business with Washington.

Why, we echo Senator Goldwater, are retired officers singled out for these punitive restrictions, and no one else? Obviously, they are being denied equal treatment under the law—a Constitutional mandate.

Political appointees shuffle out of Washington each year by the hundreds, to take lucrative jobs with private firms doing business with the government. More often than not, these firms are doing business with the department in which the political appointees served. Their contacts and knowledge of Washington ways are obviously considered to be valuable.

This is hypocritical, unfair policy, one more contemptuous slap at the armed forces, whose retirement pay and benefits are far below, on the average, those extended to other government employees and officials. In effect, the policy says, members of the armed forces are second class citizens.

In emergencies, however, they are expected to sacrifice their lives for their country. Members of Congress are not. They are not even expected to fight for their country. More often than not in recent years, they have deliberately sabotaged the efforts of those they have sent into battle, and ordered them not to win.●

REPORT ON 13TH MEETING WITH EUROPEAN PARLIAMENT DELEGATION

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. RYAN. Mr. Speaker, during the Easter congressional recess, I had the honor and distinct privilege of heading up a study mission to Europe and Tunisia. The primary purpose of the trip was to meet with representatives of the European Parliament in Taormina, Italy, in the context of a regular, biannual parliamentary exchange that has been in existence since 1972. Our itinerary also included brief stops in Rome, Tunis, Palermo, and Geneva for a series of briefings and meetings with ranking U.S. and foreign officials in those cities.

Our delegation was cochaired by my distinguished colleagues, the gentleman from Florida (Mr. GIBBONS) and the gentleman from Kansas (Mr. WINN). It also included: The gentleman from California (Mr. CORMAN), the gentleman from Indiana (Mr. FITHIAN), the gentleman from Colorado (Mr. JOHNSON), the gentleman from Mississippi (Mr. LOTT), the gentleman from North Carolina (Mr. MARTIN), and the gentlewoman from California (Mrs. PETTIS).

All of these Members were active and valued participants in the very frank, at times even heated, discussions with our European colleagues on a number of agenda topics which are of vital concern to our respective governments. I am grateful to all members of our delegation for their support and enormously proud to have been associated with them.

Mr. Speaker, a number of serious—and some not-so-serious—questions have been raised of late by our friends in the communications media about whether such exchanges serve a useful purpose. I can only speak with authority about this specific group with which I have served since its inception in 1972; but on the basis of my experience, I can assure Members of this body that my answer is completely affirmative.

It is for this reason that I include in the RECORD at this time a detailed report I have just submitted to the chairman of the Committee on International Relations (Mr. ZABLOCKI) on the purpose of our mission, the policy questions reviewed and discussed at each stop, and the information received and imparted. Any reader of this material will conclude that whatever our contribution may have been—and I believe it was a positive one—the business in which we were engaged was of serious import and directly related to our legislative responsibilities.

Following this report, I am also inserting in the RECORD, without objection, a letter I have received from our Ambassador to the European communities, Hon. Deane R. Hinton, which makes clear how this exchange is regarded by our European colleagues. To his statements, I would only add that it is of equal value to our Member-delegates—both from the standpoint of what they learn during the working sessions and of what they are able to contribute to them.

The issues which our delegation has been discussing on a continuing basis—problems involving nuclear energy and safeguards, international trade, human rights, and our political and security interests in the Mediterranean, among others—are, or should be, of direct concern to all Americans, because all Americans will be affected to some degree by

the decisions which are ultimately reached by the European parliament.

I, therefore, strongly commend this material to the attention of my colleagues and to the members of the press gallery, as well.

The letters follow:

WASHINGTON, D.C., *May 3, 1978.*

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I had the distinct privilege of leading a study mission to Europe and Tunisia during the Easter recess (March 27-April 2). This mission, which was co-chaired by my good friends and distinguished colleagues, Congressmen Sam Gibbons and Larry Winn, Jr., was one of the most informative, substantive, and successful undertakings of its kind, and I would like to take this opportunity to report on it in some detail.

The primary purpose of the trip was to meet with representatives of the European Parliament in the context of a biannual parliamentary exchange that has been in existence since 1972. Our itinerary also included brief visits to Rome, Tunis, Palermo, and Geneva for a series of briefings and meetings with United States and foreign officials in those cities.

In Rome, we conferred with our Ambassador to Italy, Honorable Richard N. Gardner, and with the Commander-in-Chief of NATO's southern forces (AFSOUTH), Admiral Harold Shear. In Tunis, we met with U.S. Ambassador Edward W. Mulcahy and his Country Team, as well as with three high-ranking officials of the Tunisian government. In Palermo, the delegation attended a working luncheon, hosted by the regional government and parliament of Sicily. In Geneva, the delegation attended briefings presented by United States representatives to the Multilateral Trade Negotiations (MTN) and the Strategic Arms Limitation Talks (SALT).

The success of our mission can be measured by the high level of participation by all members of the delegation during the entire trip. Co-chairmen Sam Gibbons and Larry Winn were particularly helpful to me in my first assignment as chairman of the delegation representing the United States Congress in its meetings with the European Parliament. All members of our group, which also included Representatives James C. Corman, Floyd Fithian, James Johnson, Trent Lott, James Martin, and Shirley Pettis, were supportive of one another in our discussions with the European Parliament and formed a cohesive unit throughout the journey.

While our delegation was often on the move, covering five cities in three countries in less than one week, we had a very full program at each stop. Departing early in the morning on March 27, from Andrews Air Force Base, the delegation proceeded to Rome, arriving at 10:00 p.m. local time that same evening. With less than a full day there at the group's disposal, our official program commenced at noon on March 28 with a luncheon hosted by Ambassador Gardner at his official residence, the Villa Taverna, followed by a briefing by him and his staff on the political situation in Italy. Let me point out that the delegation arrived in Rome less than two weeks after the tragic kidnapping of former Italian Prime Minister Aldo Moro, an event which has had a dramatic impact on the Italian political scene. The Ambassador's talk was followed by a report from Admiral Shear on recent military developments in the Mediterranean and NATO's southern flank.

During his presentation, Ambassador Gardner emphasized the economic, political and military importance of Italy to the West, describing it as the "weakest link" in the Atlantic Alliance. He identified three crises in contemporary Italy: the political crisis, the economic crisis, and the social-intellectual crisis.

The political crisis stems from the polarization which has occurred within the Italian political system—leading to the emergence of two dominant forces in parliament: the Christian Democrats and the Communists. The Christian Democratic Party, which has ruled Italy—alone or in coalition—since 1946, cannot presently govern without at least the tacit support of the Italian Communist Party (PCI). In terms of parliamentary voting strength, there exists in Italy today no apparent non-communist alternative to the Christian Democrats. The PCI, for its part, is evidently determined to increase its influence within the government, albeit in evolutionary stages. While the extent and pace of movement in this direction is the subject of intra-party debate, the PCI leadership, for the time being, appears to have settled for participation in the "parliamentary majority" voting for government programs.

The economic crisis, brought about initially by the oil price increases of 1973–74 and the resulting worldwide recession, lingers on as Italy struggles with the twin evils of inflation and unemployment. Among the major factors in Italy's current economic difficulties are an automatic wage escalator clause included in labor contracts and a budget deficit hovering between 20 and 25% of the country's GNP.

The intellectual, social, cultural crisis in Italy remains difficult to define. The declining influence of the Catholic Church has been accompanied by an increase in the influence of Marxist ideology and thought. Social order remains at best precarious and economic ills have accentuated social dislocations, which have been difficult to deal with.

Italy remains an important member of NATO, and U.S. policy has been designed to emphasize the importance of Italy and its political stability for the West and the need to support the economic stability of Italy through a variety of means short of direct economic assistance from the United States.

The major foreign policy concern of the United States with regard to Italy has been the growing role of the PCI in Italian political life and its relationship to the Italian government of Prime Minister Giulio Andreotti. Although the PCI currently has no ministers in the government, it is part of the "parliamentary majority," which allows it to influence and help shape government programs before they are brought to a formal vote in the Chamber of Deputies. Of particular interest to the United States is the extent to which the PCI is committed to democratic practices and is independent of Moscow. U.S. policy-makers will also be carefully weighing the implications of greater and closer cooperation and participation of the PCI in the governing of Italy over the next few months.

Following the Ambassador's briefing, Admiral Shear gave us a detailed assessment of military conditions in southern Europe. His area of military jurisdiction stretches from Gibraltar to Turkey and presents a complex of problems relating to the defense of Europe. His major task is to support and supply NATO activities in the Mediterranean and adjacent land areas, particularly Central Europe, Greece, and Turkey. He emphasized that currently his most serious concern is the deteriorating situation in the Eastern Mediterranean. In effect, neither Greece nor Turkey are full-fledged members of NATO, if for different reasons. Greece has withdrawn from the integrated military command of NATO and is constrained by an increasing neutralist/nationalist sentiment domestically; at the same time, Turkey's economy and military capabilities are rapidly deteriorating, primarily as a consequence of the failure of the United States thus far to lift the embargo on military shipments to Turkey, an embargo imposed in 1974. The situation in the Eastern Mediterranean was touted as the most serious challenge facing the Alliance today. Our objective in that strategic area of the world should be to encourage both Greece and Turkey to become viable and actively participating members of NATO.

Following these briefing sessions in Rome, the delegation immediately departed for Taormina, Sicily, for two days of meetings with representatives of the European Parliament, the 13th such conference since the parliamentary exchange was initiated in 1972.

The location of these meetings was symbolic, as Taormina is located only a few miles from the city of Messina, where the organizational meetings that led to the creation of the European Community were held in 1955.

The proceedings comprised two plenary sessions, one of which covered a political topic, "United States and European Community Policies in the Mediterranean"; the other covered an economic subject, "Growing Difficulties in International Trade." In addition, two concurrent joint working groups, on human rights and nuclear energy, continued in-depth dialogues on these topics which had been initiated at the 11th meeting of the two delegations in 1977.

During the first plenary session on Mediterranean issues, Congressman Winn presented a paper on U.S. interests in the Eastern Mediterranean, while Congressman Fithian summarized a paper written by Senator Paul Sarbanes, who was unable to attend the meetings. Congresswomen Shirley Pettis was an active participant in the discussions, as she highlighted major U.S. security interests throughout the Mediterranean.

The Europeans shared our concern over the deteriorating military effectiveness of NATO's southern flank, the contribution of U.S. policies to that deterioration, and increased Soviet activity in the area. They stressed that the welfare of the Community as a whole is closely linked to the well-being and tranquility of the Mediterranean. They also emphasized that an approach to the Mediterranean which included economic considerations would be necessary ultimately to stabilize the situation, not only in the Eastern Mediterranean, but throughout the entire region. Issues of primordial importance to the Europeans are the enlargement of the Community, with the prospective entry of Greece, Portugal, and Spain into the Community, and the economic impact of enlargement on the special trade relationship of the Community with the Third World.

The future enlargement of the Community from the present nine to a total of twelve, probably beginning in 1980, is one of the most important issues facing the European Community in the coming years. The "southern" and "Mediterranean" scope of this enlargement presents the European Community with a different set of problems than the previous "northern" enlargement in 1972–3, when Ireland, Denmark and the United Kingdom joined the Community. Problems associated with the access of Mediterranean agricultural products to the European Community are only a few of the many issues that will create economic strains and difficult periods of adjustment within the Community.

The enlargement of the Community is an inevitable political development which will have economic consequences for all concerned, including the United States. It will also require structural adjustments in the economies of both present and future Economic Community (EC) members and organizational changes in the institutions of the Community itself. Furthermore, it is clear

that the enlargement of the Community will affect "third" nations with which the Community has economic and other relations, particularly in the Mediterranean (Maghreb and Masreq nations and Israel). Finally, industrialization in the Mediterranean area was suggested as a solution to some of the economic problems of Mediterranean nations.

There was a consensus at the meeting, particularly among the Europeans, that the variety of problems affecting US/EC Mediterranean policies require a broader approach and that economic, political, and military issues are interconnected. U.S. concerns have focused on security relationships, with only peripheral attention being paid to economic problems in the area. However, an agreement emerged from the discussions that both the United States and the European Community must strive collectively to solve these many and diverse problems in order to preserve stability, prosperity and peace in this region of the world.

After the adjournment of the political plenary session, the delegation broke up into two concurrent working groups, one covering human rights, the other, nuclear energy. These working groups, which were established at the 11th meeting of the two institutions in July 1977, resulted from the continuing importance of these topics to both the United States and Europe, and from the desire of both to have a closer, more concentrated look at developments and policies in these areas.

Mr. Gibbons (as co-chairman with Mr. Pierre-Bernard Couste of the European Parliament), Mr. Winn, Mr. Corman, and Mr. Lott represented the U.S. Congress in the human rights working group, while I (as co-chairman, with Mr. Scott-Hopkins of the European Parliament) was joined by Mr. Fithian, Mr. Martin, Mr. Johnson, and Mrs. Pettis, in the nuclear energy working group.

In the human rights working group, the discussion focused upon the effectiveness of various means of action in preventing and redressing human rights violations throughout the world. The major concern of participants from both delegations was how to act in the human rights area while adhering to the universally-accepted principle of non-interference in the internal affairs of individual states. This concern is of particular relevance to the Europeans, who are in the process of renegotiating the Lomé Convention with a large number of Third World states, with a view toward including some sort of human rights reference or clause in a future agreement. While the European Community claims to have the right to make pronouncements identifying and condemning human rights violations in the ACP nations (African, Caribbean, Pacific), which are signatories of the Lomé Convention, there has been an underlying reluctance to do so and a feeling that a great deal of caution should be used when making references to human rights violations in these countries. Furthermore, there has been a great deal of reluctance on the part of ACP nations to accept any sort of human rights clause in a renegotiated Lomé agreement.

The question was raised as to what course should be pursued once a human rights violation is identified. Various methods are available to induce change in the human rights conditions in some states, such as public hearings focusing attention on specific human rights violations; investigative missions; annual reports on human rights violations (on a country-by-country or categorical basis); and termination or curtailment of military or economic assistance programs to nations guilty of human rights violations. For example, proposals were advanced for public pronouncements by the Community on human rights violations in Argentina, site of this year's World Cup (world championship soccer competition).

Other suggestions encompassed joint hearings between the United States and the European Parliament on human rights. (A more specific proposal was made to request the U.S. Congress, via Congressman Donald Fraser, to name a U.S. Congressional representative to a European parliamentary committee designed to investigate human rights violations.)

It is evident that some progress has been made in alleviating human rights violations in certain nations by drawing public attention to them. However, much remains to be accomplished. Furthermore, many questions arise as to the definition of rights to be included on any human rights list, the extent to which progress on human rights conditions should be tied to economic and military aid, what constitutes non-interference in the internal affairs of a state, and how to measure the effectiveness of actions designed to prevent human rights violations.

At the same time that the human rights working group was meeting, the nuclear working group was also holding intense discussions on the costs and benefits of nuclear-generated electrictiy and on the concomitant risks of nuclear weapons proliferation.

I presented a paper at this session which demonstrated that uncertain but potentially enormous fuel cycle costs—such as for waste management and the decommissioning of obsolescent, radioactive nuclear power plants—are not now being considered in the rosy estimates on the economic advantages of nuclear power. Since these costs cannot accurately be included in the rates paid by today's electricity consumers, what we are in effect doing is hanging an albatross around the necks of future generations.

A working document was presented to the group by Mrs. Hanna Walz on the Community's plan of action on radioactive waste, the reprocessing of irradiated nuclear fuels, and the fast breeder reactor option. Mrs. Walz's paper emphasized the need for continued work in all of these areas. Her presentation, though optimistic on future possibilities for all three programs, does accord with current U.S. policies in one essential respect: that is, the paper stresses that the Commission is not asking Member states to make irreversible commitments in any of these three areas at the present time.

Much additional discussion was devoted to the problem of nuclear nonproliferation and to the policies that have so far been proposed for controlling it. Numerous questions were asked about the nature of certain provisions in the newly-enacted Non Proliferation Act. Mr. Fithian argued that the Act itself was not anti-nuclear, but rather blended more effective controls over sensitive technologies with other provisions which actually encouraged the growth and transfer of those parts of the nuclear fuel cycle which could be readily safeguarded. Nor, it was argued, was the U.S. rigidly and adamantly opposed to the breeder concept. Instead, U.S. policy is premised on the view that ample time exists for factoring national security considerations into future breeder designs. The U.S. believes that it is important to consider modification in breeder fuel cycles which can help to make nuclear theft—whether by states or terrorists—more difficult, more costly, more immediately visible, more time-consuming, and consequently less likely to occur at all.

In response to questions regarding EURATOM, Mr. Fithian noted that the bill attempted to accommodate European concerns by means of a number of thoughtfully constructed exemptions and grace periods. Though important questions remained, these exchanges helped to provide some reassurance and clarity.

The members of the working group strongly recommended that the question of safeguards be considered at the next meeting.

The second plenary session, which began in the late afternoon of March 29 and continued throughout the following morning, was devoted to the topic: "Growing Difficulties in International Trade". A variety of issues was covered under this heading, including: the U.S. trade deficit and U.S. oil imports, the falling value of the dollar, and areas of disagreement in the trade negotiations between Europe and the United States, particularly with regard to agricultural trade and trade policies toward the Third World.

In his introductory comments on behalf of the U.S. delegation, Mr. Gibbons outlined some of the international trade issues of major concern to the United States. At the root of the difficulties is the sizable trade deficit incurred by the United States, based primarily on the importation of foreign oil. The fall in value of the dollar has been an immediate consequence. The United States has been particularly disappointed by developments at the MTN in Geneva. While considerable attention has been paid to the removal of tariff barriers, very little seems to have been accomplished with respect to non-tariff barriers, which are perceived as the most restrictive elements in the international trading system, particularly by the United States. Finally, the Europeans were given a frank assessment of the uncertainties surrounding the ultimate passage of a trade agreement by the Congress. Throughout the negotiating and congressional review process, a delicate balance will have to be struck—taking into account both domestic pressures and constraints and world economic requirements.

Throughout the discussions, a common theme was expressed that in spite of disagreements in many policy areas, particularly agricultural trade, protectionist tendencies on both sides of the Atlantic ought to be avoided to the extent possible.

In this connection, Mr. Fithian presented a paper, which he co-authored with Congressman Richard Nolan (who was unable to attend the meetings), entitled "New Rules in Agricultural Trade". The paper focused on the difficulties confronting farmers, both in the United States and in Europe. Trade in grains and dairy products, for example, is particularly crucial to both sides and highly interrelated. It is important, therefore, to avoid the adoption of inflexible positions on such issues, which will merely result in *less* trade and *more* economic hardship for farmers on both continents. The Europeans, while running a large agricultural trade deficit with the United States, generally recognize the need for the United States to export grains to improve its overall balance-of-payments position and avoid the imposition of production limitations. On the other hand, dairy exports from the Community are a major source of income for European farmers and an important component of the Common Agricultural Policy (CAP).

Beyond the specific issue of agricultural trade, the point was made that no trade agreement could be sustained independently from an orderly international monetary system. The falling dollar, which has yet to stabilize on foreign exchange markets, has been creating havoc in international financial markets and trading circles. GATT alone could not be counted upon to resolve the international trading problems. A solution to the chaos in financial markets is a necessary supplement to any trade agreement. The surplus of dollars worldwide has been creating economic difficulties not only in Western Europe, but also in the Third World.

The discussion of economic issues concluded with a reference to the problems of the Third World, whose economic lot has

worsened since the early seventies. In the not-too-distant future, hard decisions would have to be made by the Western industrialized nations regarding Third World imports. Such decisions are necessary not merely to enable developing nations to gain a fairer share of the world's resources and raise their standard of living, but also to prevent the adopting of restrictive policies on the part of many of these nations with regard to their commodity and raw material exports.

The day and a half of meetings with the European Parliament ended with a press conference, held by Mr. Gibbons and the chairman of the European delegation, summarizing the discussions and particularly the Mediterranean focus of those discussions. Meanwhile, at the conclusion of the morning session (March 30), Messrs. Corman, Fithian and I departed for a brief visit to Tunisia, which will be described in further detail below.

The remainder of the delegation remained in Sicily and proceeded to Palermo, the regional capital of Sicily, to meet with officials of the regional government and parliament of Sicily. Sicily is only one of five semi-autonomous "special" regions in Italy. Mr. Winn spoke on behalf of the American delegation during the course of a luncheon hosted by Sicilian regional officials.

With regard to Tunis, I have already outlined in a previous communication to you some of the reasons behind this brief diversion from our original itinerary. Above all, I feel it is important that the United States demonstrate its support for Tunisia's moderate policies in North Africa and the Middle East. It seemed to me that the proximity of Tunisia to the site of our meetings with the European Parliament offered an ideal opportunity to pay a neighborly visit on a long-standing and close friend of the United States in that part of the world, a friend whose strategic location and political independence are of continuing interest to the United States.

Ambassador Edward Mulcahy's briefing touched on the uniqueness both of Tunisia as a nation and of Tunisian-American relations. Tunisia and its people have been influenced by both the Arab and Western cultures (including French and American). Conscious of their Arab roots and attachments, the Tunisian people and their government representatives have traditionally been linked to the West in times of war and peace. Tunisia has modernized rapidly since independence in 1956, and has made wise and efficient use of U.S. and other nation's economic assistance. The country is currently engaged in an ambitious five-year development plan, one goal of which is to phase out completely all foreign economic and military assistance by the end of the five-year period. Its ultimate objective is to "graduate" from LDC status. In fiscal year 1979, Tunisia will receive $25.9 million in economic development assistance and $25 million in military assistance (i.e., FMS credits plus $1.2 million for training) from the United States.

A number of Tunisia's major development problems may, however, be expected to continue after the expiration of the plan. Continuing economic challenges are presented by: (1) the need to attract foreign investment; (2) the need to maintain international creditworthiness; (3) the need to generate foreign exchange; (4) the requirement to maintain a rapid growth rate for the economy, in part to alleviate the serious problem of youth unemployment; and (5) the implementation of a conscious government decision to develop the private sector of the economy.

The political situation has essentially stabilized since the January (1978) riots, with the present government firmly in control. While Tunisian leaders blame a temporary breakdown in the "social compact," which had been negotiated with the trade union leadership, as a major cause of the disorders, they claim the government's authority has been clearly reestablished. However, residual tensions within the labor movement over unresolved economic issues remain factors to be dealt with over the longer term.

Tunisia has a one-party political system (the Socialist-Desourian Party)—with Presidential and parliamentary elections scheduled to take place simultaneously in 1980. Current predictions are for a relatively smooth succession to President Bourguiba, the nation's founder and lifetime chief of state, whose health is presently seriously impaired. Under the constitution, the Prime Minister would succeed as President in the event of an unexpired term and apparently is already making most of the important policy decisions. The basic impression one receives is that stability has returned to Tunisia and that the nation is already embarked on the "post-Bourguiba era". Tunisian-American relations could only be described as excellent, with few noticeable areas of disagreement.

The Ambassador's briefing was followed by a working dinner hosted by Mr. M'Hamed Essaafi, Secretary General for Administration in the Tunisian Ministry of Foreign Affairs.

The next morning, March 31, Mr. Corman, Mr. Fithian and I met with several high-ranking officials of the Tunisian government. Our first visit was with Mr. Ferjani Belhaj Ammar, Vice President of the National Assembly.

The discussion centered around the various components of Tunisian-American relations, ranging from close diplomatic and political relations to tourism, commercial relations, and the work of U.S. Private Voluntary Organizations (Catholic Relief Services, CARE) and the Peace Corps in Tunisia. The Vice President expressed his appreciation for the support provided by the United States not only at the time of Tunisia's struggle for independence but also during the succeeding period—up to and including the present.

Our second meeting, with Acting Foreign Minister Brahim Turki, was a frank discussion of Tunisia's position in the region and its foreign policy concerns. Relations between Tunisia and its immediate neighbors, Algeria and Libya, which have different ideological orientations and foreign policies, were characterized as stable. Tunisia supports President Sadat's peace initiatives, and at the time of our meeting, Foreign Minister Fitouri was just returning from a meeting of foreign ministers of the Arab League in Cairo. Tunisia has also remained neutral on the issue of the Western Sahara.

Tunisia feels confident that it faces no threat from either neighbor. In fact, the hope was expressed that relations could be improved with that most intractable and unpredictable of neighbors, Libya. Relations with the Soviet Union were also described as "good" and officials evinced no apprehension over possible Soviet pressures or attempts to take advantage of the country's strategic situation in the event of domestic instability. Access to port facilities for Soviet ships at Menzel Bourguiba (Bizerte)—which had also been offered to ships of all nations on a non-discriminatory basis—has been limited to minor repairs and reprovisioning, and Soviet visits have been infrequent. Mr. Turki underscored the stability and warmth of the Tunisian-American relationship over the past twenty years.

Our final meeting in Tunis was with Minister of Defense Abdallah Fahrat, who emphasized the necessity of maintaining the U.S.-Tunisian military relationship and the small flow of defensive arms that the United States has provided Tunisia over the past two decades (for example, TOW and Chaparral missiles). Tunisia's military expenditures are extremely limited and are devoted to very minimal defense requirements. About 40 percent of the country's armed forces are professionals, while 60 percent are draftees who remain reservists for a specified period of time after the conclusion of their military service.

Tunisian military strategy on the ground is based on a mobile defense force along the borders, with anti-tank warfare a primary capability.

Those of us participating in the Tunis visit departed early that same afternoon for Palermo, where we picked up the remaining members of our party who had been meeting with representatives of the Sicilian government and parliament. From Palermo, the reunited delegation flew to Geneva. In Geneva, the entire delegation met with the U.S. negotiating teams to the Multilateral Trade Negotiations (MTN) and the Strategic Arms Limitation Talks (SALT) on Saturday morning, April 1.

Ambassador Alonzo McDonald, the Deputy Special Trade Representative in Geneva, gave us a very detailed assessment of the status of the trade negotiations. Despite the apparent complexity and intractability of many of the issues under consideration, he was hopeful that a fair and comprehensive agreement could be negotiated by July of this year. A final text, he predicted, would be submitted to Congress by early 1979.

The Tokyo Round, as this round of trade negotiations is often referred to, covers the following major subjects: tariff reductions, particularly industrial tariffs; agricultural trade barriers, including subsidies and levies; general non-tariff barriers (standards, government procurement, quantitative restrictions, etc.)

Since 1973, the United States has been incurring a slight deficit in non-OPEC trade, but has accumulated substantial surpluses in the trade balance for capital goods (machinery, business equipment, non-farm tractors, and aircraft). U.S. surpluses have also developed in the trade balances for chemical products and textiles. Negative balances have been registered in footwear, non-ferrous metals, iron and steel, and automobiles.

The primary objective in the negotiations is to establish relatively stable international trading relationships among the world's nations, guaranteeing access of their products to foreign markets and improving the rules and regulations governing world trade.

The United States is the largest single agricultural exporter—followed by Canada and Argentina. In 1976, the U.S. share of world agricultural trade was 16.4%, as compared with 14.2% in 1967. Coarse grains constitute the largest export item within that category (amounting to 63% of the world export market in coarse grains in 1976).

Members of our delegation, without exception, were favorably impressed by the competence and toughness of our MTN negotiators, as well as by the enormity of the challenge facing them in that difficult assignment. We believe it is very much in the United States' interest to seek a fair, comprehensive agreement which will have the overall effect of promoting and enlarging world trade, while at the same time taking into account domestic sensitivities which need to be harmonized—and to some degree, compromised—in order to attain general acceptance. The task will not be easy and will confront Congress with some very painful decisions along the way, but the effort is clearly worthwhile.

Following the MTN briefing, our delegation also met with Ambassador Ralph Earle II, U.S. Permanent Representative to SALT, and Lieutenant General Edward Rowny, the Joint Chiefs of Staff representative to these talks. Both gave us their individual views regarding the status of the negotiations and

set forth very clearly those issues which had been agreed upon thus far, as well as those still unresolved.

The details of the SALT briefing cannot, of course, be covered in this unclassified communication. It is possible, however, to present a few general observations and to comment on the character of the briefing itself.

Ambassador Earle opened his remarks by giving a status report on the negotiations. He indicated that although progress had been made, continuing differences exist between the United States and the Soviet Union, especially on the Backfire bomber and cruise missile questions. Earle said that the unresolved issues, though few in number, were proving to be quite difficult. While openly optimistic about the prospects of concluding an agreement with the Soviets, Earle stated categorically that he had never been given a deadline or even so much as a suggestion to hurry.

On several substantive points, differences of opinion were expressed by Ambassador Earle and General Rowny, which provided an interesting balance to the briefing. General Rowny's objections on several occasions seemed to be prompted by the Ambassador's failure to articulate the existing negotiating position, as opposed to presenting the reasons why that position might not be tenable.

Questions of verification and possible violation were specifically reviewed. Ambassador Earle stated that he did not believe the Soviets would sign an agreement only to turn around and violate it. Also discussed was the matter of cost savings as a result of SALT. Here, after some initial divergence of opinion, it was concluded that SALT II, like SALT I, would be unlikely to produce any significant savings. One Member of our delegation noted in this connection that such savings as occurred would likely be channeled into European conventional arms or into other areas of ongoing competition.

In conclusion, Mr. Chairman, I would like to make a few summary observations, which I hope this report has made obvious, perhaps even redundant: This study mission was involved—from beginning to end—in serious business—business which, I might add, has immensely significant implications for U.S. foreign and domestic policies.

All of our delegates were well prepared for their respective assignments and participated fully in the discussions which took place in Taormina. It was a group with which I am exceedingly proud to have been associated.

Let me also say that each of us profited greatly from the briefings and background analyses we received from U.S. diplomatic and military personnel at all stops on our itinerary—both en route to and from the conference site. We are grateful to those individuals for giving us so much of their time and expertise.

With respect to the overall usefulness of the parliamentary exchange with our European colleagues, I believe the letter which I enclose from Ambassador Hinton makes clear the importance attached to it on the European side. To his comments I would merely add that this exchange is of equal value to *our* Members—both in terms of what they learn in the process and in what they are able to contribute. Those adamant and persistent critics of Congressional travel who profess to believe that all such meetings are basically exercises in ceremony and frivolity have obviously never attended a working session of this group.

Finally, without attempting to exaggerate the role or significance of our biannual deliberations, I would merely point out that they deal with issues which impact directly on the lives and fortunes of all Americans.

With personal best wishes, I remain,

Sincerely,

LEO J. RYAN,
Member of Congress.

APRIL 7, 1978.

Hon. LEO J. RYAN,
House of Representatives.

DEAR MR. RYAN: At the conclusion of our meeting on March 14, you asked for my views on the importance of the interchange between Members of Congress and the European Parliament. Since there was not time for me to respond orally, we agreed that I would give you my views in writing.

As you know, the European Community is the world's largest trading bloc and (after Canada) the most important trading partner of the United States. It is the embodiment of European integration within the region and, in recent years, has taken on an increasingly global outlook. As the geographic scope of its interests has widened, its activities have also expanded into a wide variety of economic and political fields. Close relations with the community are therefore central to the successful implementation of U.S. international economic/political policies.

The European Parliament is one of the principal Community instruments for bringing about European unification and for fostering democratic ideals in Europe. The Parliament has already played a significant role in Community affairs. That role will take on an added dimension, in my view and that of most informed Europeans, when (almost certainly in 1979) the European Parliament will be directly elected for the first time by universal suffrage rather than appointed as at present from member state legislatures. I believe that this development will fundamentally enhance its role and influence within the Community, and that direct elections will call for an even closer relationship between the Parliament and Congress.

The U.S. commitment to working closely with the Community, both bilaterally and in multilateral fora, has been given new emphasis by the visits of President Carter to the EC Commission in January 1978 (the first ever call by a U.S. President on the full Commission); Vice President Mondale to the Commission a year earlier; Commission President Roy Jenkins to Washington; Prime Ministers Callaghan, Tindemans, and Jorgensen to Washington in their EC Presidency capacity, and by many other meetings between high-level Administration and EC officials. The level and increasing intensity of these exchanges, which since last May also include the presence of the Commission President at Economic Summits, underscore the importance we attach to close consultation with the Community on such issues as trade and protectionism, the Multilateral Trade Negotations, North/South relations, agriculture, macroeconomic policy and energy.

I believe that maintaining and even upgrading the present interchange between Congress and the Parliament is equally as important as the foregoing Executive Branch efforts. The Parliament includes a cross-section of informed Western European opinion, both geographically and politically. Discussions of current topics with this group should provide a useful barometer of European thinking and, equally importantly, give members of the European Parliament the benefit of a range of U.S. views.

Interchanges between the Parliament and the Congress not only reflect the current concerns and sensitivities among political figures on both sides of the Atlantic, but can give rise to practical understanding of the implications for the two regions of policy in specific areas. While Members of Congress who have participated in these exchanges are better able than I to judge their effectiveness, reports I have received from both sides suggest that such understanding has been improved in areas of mutual concern like trade policy, protectionist pressures, development aid, human rights, and nuclear energy, as well as policies regarding the Eastern Mediterranean, Southern Africa, and East-West relations. Reports that I have received from the European side confirm that your recent meeting in Sicily was an especially useful and productive exchange of views on these important issues.

I know from conversations I have had with members and officials of the European Parliament how highly they value their relationship with Congress. Their interest in this periodic exchange over the past several years extends to the organization and procedural functioning of Congressional bodies—which they are currently studying in connection with restructuring their own administrative format—as well as to the substance of the discussions they have had with Members in Washington and Europe.

I believe that, in view of the increasing importance of the Community and of the European Parliament within the EC, it is vital to build upon current contacts between Congress and the Parliament, just as it is to build upon the close consultative relationship between the U.S. Executive Branch and the non-legislative EC entities. I hope that you will agree, on the basis of your experience with exchanges between Congress and the Parliament, and that you will continue your active role in fostering it.

I hope that this has been responsive to your question, and that you will feel free to ask any further questions you might have. I enjoyed our discussion on March 14, and look forward to continuing it.

Best regards,

DEANE R. HINTON,
Ambassador, U.S. Mission to the European Communities.●

DR. NORMAN FOX

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. RYAN. Mr. Speaker, it is with great sadness that I rise on this occasion to apprise by colleagues of the untimely and unfortunate death of my close friend and associate, Dr. Norman Fox.

Dr. Fox, who died suddently this past Monday night at the age of 66, was both a leader in medicine and an outstanding conservationist. A man dedicated to the preservation and enhancement of San Francisco Bay and its ecologically rich habitat, Norm was a devoted naturalist and bird watcher, and spent much of his career traveling extensively throughout the United States, China, Australia, New Zealand, the Galapagos Islands, and Costa Rica in support of conservation and ecological awareness.

A graduate of Stanford Medical School, Dr. Fox was a past president of the San Mateo Medical Society, a member of the Peninsula Memorial Blood Bank, an adviser to the Peninsula Hospital Explorer Scout Troop 806, and a director of the Sequoia Audubon Society.

I first met Norm through his two children, Jim and Norma, both of whom I taught in high school. That was the beginning of a life-long association: It started on a personal level and grew into a far broader association as we became aware of the interests that we had in common. When I was a member of the California State Legislature, I conferred with Dr. Fox regularly regarding medical issues of significance in California.

Later, his advice on conservation and environmental protection issues was invaluable to me in connection with both State and Federal legislation.

I will miss Norm as a friend and as a person whom I depended upon for advice on medical issues and, most important to us all, issues relevant to the preservation and enhancement of our environment. Speaking on behalf of my constituents in San Mateo County, I wish to extend our sincerest sympathy to Dr. Fox's wife, Eila; his son, Jim; his daughter, Norma; and his three grandchildren. Dr. Fox will indeed be missed by the people of the San Francisco Bay area.●

WALKING INTO A TRAP

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. McDONALD. Mr. Speaker, there has always been the myth circulated that businessmen are the staunchest defenders of private enterprise. This, sadly, is not always the case, and this is particularly true in the case of some of the really large industries. Now that many Members of Congress are suggesting that many of our industries could be deregulated it is surprising to see where the objections come from—mostly from large businessmen. How does this happen? Dr. Gary North suggested how this comes about in a very timely article entitled: "Walking Into A Trap", which appeared in the May issue of the Freeman. His article follows:

WALKING INTO A TRAP

(By Gary North) *

(There is some justification at least in the taunt that many of the pretending defenders of "free enterprise" are in fact defenders of privileges and advocates of government activity in their favor rather than opponents of all privilege. In principle the industrial protectionism and government-supported cartels and the agricultural policies of the conservative groups are not different from the proposals for a more far-reaching direction of economic life sponsored by the socialists. It is an illusion when the more conservative interventionists believe that they will be able to confine these government controls to the particular kinds of which they approve. In a democratic society, at any rate, once the principle is admitted that the government undertakes responsibility for the status and position of particular groups, it is inevitable that this control will be extended to satisfy the aspirations and prejudices of the great masses. There is no hope of a return to a freer system until the leaders of the movement against state control are prepared first to improve upon themselves that discipline of a competive market which they ask the masses to accept.—F. A. Hayek.[1])

The idea that businessmen are strong defenders of the free enterprise system is one which is believed only by those who have never studied the history of private enterprise in the Western, industrial nations. What businessmen are paid to worry about is profit. The problem for the survival of a market economy arises when the voters permit or encourage the expansion of government power to such an extent that private businesses can gain short-term profits through the intervention into the competitive market by state officials. Offer the typical businessman the opportunity to escape the constant pressures of market competition, and few of them are able to withstand the temptation. In fact, they are rewarded for taking the step of calling in the civil government.

The government's officials approve, but more to the point, from the point of view of the businessman's understanding of his role, shareholders and new investors also approve, since the favored enterprise is initially blessed with increased earnings per share. The business leader has his decision confirmed by the crucial standards of reference in the market, namely, rising profits and rising share prices on the stock market. No one pays the entrepreneur to be ideologically pure. Almost everyone pays him to turn a profit.

This being the case, those within the government possess an extremely potent device for expanding political power. By a comprehensive program of direct political intervention into the market, government officials can steadily reduce the opposition of businessmen to the transformation of the market into a bureaucratic regulated, and even centrally-directed organization. Bureaucracy replaces entrepreneurship as the principal form of economic planning. Bureaucrats can use the time-honored pair of motivational approaches: the carrot and the stick. The carrot is by far the most effective device when dealing with profit-seeking businessmen.

Those individual enterprises that are expected to benefit from some new government program have every short-run financial incentive to promote the intervention, while those whose interests are likely to be affected adversely—rival firms, foreign enterprises, and especially consumers—find it expensive to organize their opposition, since the adverse effects are either not recognized as stemming from the particular government program, or else the potential opponents are scattered over too wide an area to be organized inexpensively. The efforts of the potential short-run beneficiaries are concentrated and immediately profitable; the efforts of the potential losers are dispersed and usually ineffective.

The expansion of political power in the market process has been going on in the West for about a century, at least in the modern form of interventionism, starting with the social security legislation of Bismarck's Germany in the 1870's. Governments have evolved a strategy by which whole industries or professions are captured by the bureaucratic state. While this strategy is not the only one used, in peacetime it has proven enormously successful. (Nothing, of course, favors political centralization more than war.) I have outlined this strategy by means of the following analogy:

1. Baiting the trap
2. Setting the trap
3. Springing the trap
4. Skinning the victim

BAITING THE TRAP—EXTRA-MARKET BENEFITS

The politicians enter an otherwise competitive market situation with an offer to promote certain industrial or professional programs. Taxpayers' money is used to finance this program, but it is rare for the potential short-run beneficiaries to reject the offer on these grounds. Certainly, a majority of those who are to be the recipients of the special favor gladly accept it. They see their goals as being part of the public interest, and they view an offer of government aid as being only natural. They see it as their due. Those who refuse to take the special favor risk lower profits in the immediate future, since competitors in the industry or professional association will take the favor. The general attitudes is this one: "If I don't take it, somebody else will." As a statement of fact, rather than principle, it is absolutely correct. Somebody else will.

There are several possible forms in which the aid may come. Industrial groups may receive tariff protection, which is a tax levied on consumers on both sides of a border over which trade had been carried on or over which it might be carried on in the future. Consumers pay higher prices on both sides of the border. There can be no grants of government economic benefits without someone or some group bearing the costs. A tariff is a tax.

For professional groups, another approach is offered. It is usually in the form of licensing, which is a grant of monopoly rents to those inside the protected profession. The profession elects representatives who sit on government boards, or who actually make up the whole board. They can police entry into the profession's ranks by unqualified competitors, meaning those who have not passed certain educational and/or skill requirements established by the board. Most professionals believe that such restrictions on entry are entirely natural for the sake of preserving the present-day standards of practice that the majority of the profession accepts. Like the businessmen, they see these benefits as normal, natural, and altogether beneficial to the public. Result: higher fees and fewer choices.

Another way to buy off almost any industry or professional association is by means of direct grants of money. The government may simply buy products from a company. It may establish government research grants. It may subsidize certain industries directly. In the case of the great railroads in the United States which were built in the 1860's and 1870's, the government offered millions of acres of land to the railroad companies as an incentive to begin and complete construction.

Perhaps the most popular form of subsidy is tax relief. Certain occupations, companies, or organizations receive tax breaks. In an era of growing taxation, this approach has been one of the most effective; the higher the tax level, the more advantageous is tax exemption. The American oil industry was the recipient of multiple tax breaks until quite recently, and they are still substantial.

All of these special favors are adopted in the name of the general welfare of the public. All of them involve the financial incentives for private individuals and firms to conform themselves to the goals set forth by the sponsoring agency, the government. All of them involve the transfer of wealth from consumers and taxpayers to the beneficiaries. All of them involve a temporary suspension of market forces and a redirection of those competitive pressures. All of them necessarily involve a reduction of the sovereignty of the recipients, since they become partially dependent on the government for continued benefits.

In short, the bait is most tempting.

SETTING THE TRAP—EXTRA-MARKET COSTS

The government is a political organization. Its justification is that it is an agency of the popular will, an agent of the public in its political capacity. It is therefore an agency of public defense. The general public is to be protected from adversaries, including domestic adversaries In a limited-government system, this means that those who use fraud or violence against their neighbors are to be penalized In modern interventionist states, the concept of public defense is much broader.

The government cannot lawfully make grants of power or money to any group unless it is in the public interest to do so. In

Footnotes at end of article.

short, the state must police those who are subsidized by the state. The money cannot be used exclusively for the benefit of private citizens. The long arm of the law is at the end of the strings attached to every grant of monopoly power or special favoritism. In theory, every dollar spent by the government must be accounted for, to make sure that the public's interest is upheld in each expenditure. The result, among others, is an endless proliferation of forms.

The state grants a particular group special favors. But it cannot do so randomly. It must have a purpose, officially and unofficially. The official purpose is not nearly so important as the unofficial purpose. The official purpose is offered to calm the public (which must finance the grants) and to make sure that the judiciary does not intervene. The unofficial purpose is almost universally this one: the expansion of political power at the expense of private associations.

Once the grant has been made, the beneficiaries use it for their purposes. The money is spent. Parkinson's Law takes over; expenditures rise so as to equal income. But expenditures are always difficult to reduce, especially in large, bureaucratic organizations. The firms become used to the higher income. The income becomes part of annual forecasts. Managers expect it to continue. After all, they are all agreed that such subsidies are in the national interest. Would the nation (the politicians) revoke their trust? Never! The organization is hooked. It has become dependent on the continued favors, meaning the continued favor, of this state.

Inevitably, one firm or some individual begins to take advantage of his position. He exercises the monopoly grant of power which the state provided for him. He charges a bit too much. He starts running a "factory." Or the firm or individual cuts quality. In short, someone actually begins to milk the system.

THE PATTERNED RESPONSE

Some of us have become cynical over the years. We have so often seen this pattern, and the government's equally patterned response, that we have been inclined to come to a startling conclusion, namely, that the government establishes the system in order that some beneficiary will milk it. That is a primary purpose of the system of government favors.

Once the pattern of "exploitation" is detected by citizens or government officials, not to mention bureaucrats at any level of government, the response is politically inevitable. Someone calls for the government to do something about the unfair use which is being made of the government's trust. Some firm or some professional must be stopped and stopped now. The industry or guild must be policed. The consumer must receive protection from the unscrupulous.

The industry leaders naturally resent this intrusion into the semi-free market. They resent the fact that someone is milking the system. That person, for one thing, is trying to get more than his "fair share" of the booty. Also, he is making the government angry. He is threatening the continuation of the subsidy. He is violating professional standards.

This appeal to professional standards is very important. The government knows what appeals to make, and this is a good one. (The industrialist is not nearly so alert to such violations, since the agreed-upon standards are not so clear.) The ethics of the professional association are at stake. They must be defended. Yet it is extremely expensive to enforce standards on a colleague. Friendships are at stake. Careers are at stake. And countersuits are at stake. Yet a small percentage of incompetents (usually said to be about 3 percent by every representative of the professional association) threaten the semiautonomy of the group. (There is no real autonomy if the government has granted some sort of favor.)

NEED FOR POLICING

The government demands that the industry or professional group police itself. The market as a policeman has been compromised by the original grant of power or money. This compromised policeman—the consumers—cannot enforce its decisions inexpensively, given the government grant. So the government calls on the group to police itself, and it draws up certain standards that should be met. The "partnership" between government and professionals grows strained. So the industry or professional group elects (or more likely accepts) certain spokesmen who will "work with" the other partner. This supposedly will insure that the interests of the government and the favored group will mesh, and that the group will continue to receive its favors. On this point, I can do no better than to quote Enoch Powell, the former M.P. in Great Britain. He makes quite clear what the industry can expect.

They start more than half-beaten, by the very fact that they are, or claim to be, the spokesmen and representatives. It has been their pride and occupation to "represent" industry to the Government. Yet the safest posture for an industry confronted by Socialism would be not to have an organization or spokesmen at all. Instead of being able to coax, browbeat or cajole a few "representative" gentlemen into co-operation, the Government would then, unaided and at arm's length, be obliged to frame and enforce laws to control, manage or expropriate a multitude of separate undertakings—the true picture of private enterprise—with no means of getting at them except the policemen.

Powell is here speaking of an industry which is not on the receiving end of major government favors. If government has the industry on a string, it need not have to resort to the policeman. All it needs to do is to cut off the subsidies, and the whole industry is put into a financial crisis. The existence of the subsidies calls forth the "industry's spokesmen." And to quote Powell, "As soon as 'our President, Lord So-and-So' is in a position to talk about what such-and-such an industry 'wants' or 'thinks' that industry is on the road to the scaffold. . . . The Association of these, the Federation of those, present just that one neck to the Socialist garrotter."[2] Once the government uses the bureaucratic garrotte to strangle the representative of the industry who stands in place of all the members, there is no way out except to repudiate the compromiser who stuck their collective necks into the garrote. If they do not pull out their own necks, they will suffer the same fate.

The professional guild is perhaps the most vulnerable, since the very nature of the "bait," namely, a monopoly position based of guild-policed licensure, creates the very policing organization necessary for the government to impose its will at lowest cost. They can be appealed to on the basis of professional standards and the guild's responsibility to a vaguely defined public, irrespective of the individual professional's ability to satisfy the needs of specfic members of the public.

SPRINGING THE TRAP—EXTRA MARKET CRISIS

More cheaters are discovered. The guild waffles. The cheaters continue to operate. The press scents blood and headlines. Politicians scent blood and votes. When they look into the actual operation of the industry, they find more examples of men or firms that have gouged the public, meaning people who are taking advantage of the very system that the government created—an eminently exploitable system. So the reports of cheating and fraud continue. The reports continue, but no prosecutions are begun by the government, since nothing specifically illegal has been detected. The guild is powerless, obviously, for the same reason. This means that the reports are going to continue. The guild will still be under pressure to do something to stop the causes of the reports. Finally, new laws are called for to clean up the industry, since the industry is seemingly incapable of policing itself.

For professional associations, this is a disaster. Members have been led to believe that there are standards of practice within the profession. Yet these reports keep hitting the front pages. Their self-esteem is challenged. They begin to wonder what has gone wrong. Maybe the reports are correct. Maybe the government needs to do something—not anything drastic, of course, but enough to clean up the temporary mess and let honest men continue to practice. They miss the point: the government's task is to alter the practice of the honest men. The government wants to set all standards and enforce them. There will then be no doubt about who the senior partner is. Bureaucrats want control.

The crisis is not created by the negative reaction of consumers. Businessmen do not find that one morning sales are down 30 percent because the public has decided to walk away from the fraudulent segments of the industry. Professionals do not find their offices empty for weeks on end. In short, it is not the market which drives home the message to the supposedly crisis-bound industry or profession. The critics come from outside the market, probably from those who seldom use the products or services involved, or if they do, who find the products or services quite adequate in their particular cases. But the crisis is no less real, for the public and even members of the associations perceive it as a crisis. This means that the crisis is real politically. "Politically" is what counts in an era which is socialist or interventionist in its economic outlook.

What about the representatives of the industry? Will they co-operate? Powell answers straightforwardly:

You bet they will. They are afraid not to. They are afraid of being pilloried by the Government and its political supporters as "unpatriotic" or simply (damning word) "unco-operative." They feel that the eye of the public will be upon them, and they do not like the adjectives which they foresee would be liberally used inside and outside Parliament—and will be, anyhow, before the end of the day. Of course the line of true patriotism would be the opposite to the one they are going to take. It would be to protest, by all means in their power, short of breaking the law, against every kind of error and nonsense as it comes along, and to oppose in their own industry any measure which does not commend itself to their knowledge and experience. But they shrink from this because, although they have no seats to lose and no voters to offend, it takes courage of a special kind—political courage—to outface authority and the popular cry of the hour. These men have commercial courage, and no doubt physical courage too; but facing the political music is something they have neither been trained nor volunteered for. So they play along with the search for an incomes policy, or export incentives, or whatever else it may be.

And, as Powell points out, "The effect is doubly damaging; for it also hamstrings any politicians who are prepared to raise their voices in protest." The public thinks it strange that industry representatives have not protested the accusations by the government. Apparenlty, the leaders approve of the government's policies. "Thus the co-operators effectively expose the flank of the anti-Socialist opposition and compel it to fall back on positions which are better pro-

Footnotes at end of article.

tected."[3] But not much better protected, he might have added.

Once the crisis is admitted to exist by the leaders, though of course on a much reduced scale—3 per cent of our members, not 20 per cent—the battle is pretty well lost. To clean up that 3 per cent, the government will alter the entire foundation of financing, policing, and pricing of the industry's services. The corruption will escalate, but now it will be a government problem, to be met by even more intervention. More laws can be passed, more penalties handed out, more regulations enforced: the government expands its control relentlessly. The trap has been sprung.

SKINNING THE VICTIMS—EXTRA-MARKET BANKRUPTCY

There are any number of ways that the government can see to it that the former subsidies now become the strait jacket for the former beneficiaries. The most obvious method of control over professional groups is the establishment of government control boards that will enforce standards and price. The government begins to finance the guild more directly. The former monopoly grant now becomes direct payments. But these payments have no strings attached; they are ropes, or even chains. The government sets fees, allocates equipment, and assigns consumers (clients). The government directs the operation of the association through its captive agents, the profession's representatives. Members of the profession are told what they will be paid, the kind of service to be offered, and the quantity of service to be dispensed.

The government also establishes some sort of quality-control standards. These are enforced by quality-control boards made up of compliant members of the profession and representatives of the public (pressure groups) and the government (bureaucrats). These quality-control boards do exactly that: control quality. If quality, meaning cost, starts going up, then they step in and control it. They ration equipment. They set lower standards of care, especially in government hospitals or clinics. They make sure that costs are held down, since the government, not the consumer, is paying the bill. No matter what guild is involved, the government makes sure the "irresponsible quality" is avoided, meaning irresponsibly high quality.

The government forces industries to operate at a loss. The classic example in economic history is the American railroad system. Created by government subsidy, controlled in the name of protecting the consumer, the railroads in the Northeastern part of the U.S., as well as the Midwest, have been strangled to death. The Interstate Commerce Commission was the first Federal regulatory agency in the United States, established in 1887. It was established in the name of protecting the consumer, but as the New Left historian Gabriel Kolko has argued, along with free market economists like Milton Friedman, the result was a freezing out of new competition, since the ICC established rate floors as well as ceilings. So the railroad barons were already in trouble by the late 1880's, despite the millions of dollars in subsidies. The "protection" became a stranglehold, and by the late 1950's, the passenger-carrying railroads were in trouble. By the early 1970's, they were bankrupt. (Long-haul freight railroads are still able to compete.) The government now owns and mismanages many of them (Amtrak, Conrail).

The incomes of the members of the industries and professions that are now directly financed and/or directly policed by the government necessarily fall. Envy is loose in the land. The popular press and television reporters have accomplished their goal. The public will not permit "profiteering." The politicians will not permit it. Prices, wages, and fees are controlled, and work loads increase. Regulatory agencies each claim a piece of the action, and the multiplication of paperwork is endless. The formerly independent producers, who answered directly to the formerly independent consumers, now answer to a multitude of bureaucrats and enraged customers who detect the collapse of productivity on the part of the now-controlled suppliers. Most suppliers lose, most consumers lose, and a real crisis is produced.

Conclusion: Avoid the bait, rely on principle.

The answer, philosophically, is to avoid sniffing at the bait. This must be done on principle. It would help if businessmen understood the chain of events which follows from the acceptance of a government subsidy. Yet even if this chain of events is not understood, men should still be able to recognize a violation of basic moral principle when they see it. They should understand that the coercive power of the state should not be used to benefit one group at the expense of another. Such power is inevitably misused, if not immediately, then ten years or fifty years down the road. The precedent is evil; the results following it will also be evil.

The problem, as indicated by Hayek's statement which introduced this paper, is that businessmen like the seeming safety of a government-restricted market, at least in the early stages, when they are given some power to set standards and direct production. Businessmen can make very good bureuacrats, too. The market is relentless. It forces men to meet the demands of a fickle public. Businessmen think they can find an escape in some sort of government-business partnership. That is the grand illusion.

Those who are offered the subsidy must say no very early. There are strings attached to government money or power, and they become chains if the subsidies are allowed to continue. It is easier to say no before the addiction process begins, before costs rise to meet income levels. The longer a violation of principle continues, the more difficult the "withdrawal" process becomes.

FOOTNOTES

* Dr. North is editor of *Biblical Economics Today*, available free on request: P.O. Box 8567, Durham, N.C. 27707.

[1] F. A. Hayek, *Individualism and Economic Order* (University of Chicago Press, [1948] 1963), pp. 107–08. This is taken from Hayek's address to the Mont Pelerin Society in 1947.

[2] Enoch Powell, *Freedom and Reality* (London: Batsford, 1969), p. 46. It must be understood that Powell is discussing the traditional response of so-called establishment guilds. He does not deny that breakaway splinters from these established guilds might be able to create a minority resistance on the basis of ideology and long-run self-interest.

[3] *Ibid.*, p. 47.

EXPLANATION OF VOTES MISSED ON MAY 12, 1978

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. EDGAR. Mr. Speaker, on Friday, May 12, 1978, I had committee business that required my absence from Washington. As part of my work for the Select Committee on Assassinations, I spent Friday in Memphis, Tenn., and Saturday in Dallas, Tex.

Had I been in Washington, I would have voted as follows on those votes missed:

Roll No. 307: To resolve into the Committee of the Whole House on the State of the Union. Yes.

Roll No. 308: Amendment to H.R. 12222, the International Development and Food Assistance Act of 1978, to make tobacco and tobacco products ineligible for use in the food for peace program. Yes.

Roll No. 309: Substitute amendment to an amendment to H.R. 12222 to prohibit only direct aid to Vietnam, Cambodia, or Cuba. (The original amendment that passed by voice vote, with my support, prohibits funds from being used to aid, directly or indirectly, those countries.) No. ●

KAPPA ALPHA PSI PAYS TRIBUTE TO DR. WILLIAM HENRY GREENE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. STOKES. Mr. Speaker, I rise on this occasion to pay tribute to Dr. William Henry Greene, Jr., of Washington, D.C., who is one of the foremost physicians and fraternity leaders in the Nation. To his medical colleagues, patients, and fraternity brothers in Kappa Alpha Psi, Dr. Greene is a legend in his own time. Not only has he offered succor, comfort, and hope to the thousands of people he has served during his more than 50 years in the medical profession, this noted physician has also befriended numerous young black doctors and guided them through the rigors of medical school. Many of the Nation's leading physicians owe much of their success to the efforts of Dr. Greene.

In addition to his medical career, Dr. Greene has been the standard bearer of Kappa Alpha Psi fraternity. Over the years, he has faithfully and tirelessly worked to obtain those high goals and principals set forth in the charter of this distinguished fraternal organization. Mr. Speaker, throughout their history, black fraternities have remained one of the most effective forums for professional, intellectual, and social contact in the black community. Fraternities such as Kappa Alpha Psi are committed to promoting the social and economic advancement of black Americans and providing greater educational opportunities to our young people.

At this time, Mr. Speaker, I would like to share with you a brief sketch of Dr. Greene's early history and his 56 years of involvement with Kappa Alpha Psi:

WILLIAM HENRY GREENE, M.D.

William Henry Greene, Jr. was born in Sumter, Alabama in 1900 and moved to Muskogee, Oklahoma in 1908. Following his graduation from high school in 1915, he attended Atlanta University, Walden College and Fisk University and eventually matriculated at Howard University. In 1920 he received his Bachelor of Science Degree from Howard University and in 1924, was awarded his Doctor of Medicine Degree from the same institution.

While attending Howard University, he distinguished himself as both a student and an athlete. It was also at Howard University that student Greene developed an interest in the Kappa Alpha Psi Fraternity. Kappa had been started by 10 young men at Indiana University in 1911 who saw the need for a social fraternity at a major university that was unwilling to fully accept them into the mainstream of campus life. Although social in character, Kappa Alpha Psi is the only fraternity that continues to promote the precept of achievement amongst its members. It was this spirit of achievement that prompted student Greene to join the pledge club and culminated with his initiation into the Xi Chapter of Kappa Alpha Psi in November 1922.

Once a member of Kappa Alpha Psi, Dr. Greene recognized that the growth and development of the Fraternity could only be accomplished through hard work and intense dedication to its objectives. He early identified himself as a "brother who was prepared to accept a challenge" and was appointed as Province Polemarch (equivalent to a Regional Vice President) by the late A. Moore Shearin, Grand Polemarch of Kappa Alpha Psi (equivalent to National President) in 1930. Between 1930 and 1951, Dr. Greene served 18 years as Polemarch of the Eastern Province, a region that contained some of the oldest and largest chapter in the Fraternity.

In 1952, he was elected the 15th Grand Polemarch of Kappa Alpha Psi at the 42nd National Meeting in Cleveland, Ohio and was elected to a second term at the 43rd National Meeting in Chicago, Illinois. Under his leadership, Kappa Alpha Psi Fraternity hired its first full time Executive Secretary to manage its affairs on a daily basis; instituted a Life Membership Program that now has over 2,100 fully paid members; established the Elder Watson Diggs Award, the second highest award of the Fraternity; and selected Philadelphia to serve as its National Headquarters City. Dr. Greene chose not to stand for reelection at the 44th National Meeting in Cleveland, Ohio but did continue to provide valuable counsel as a member of the National Board of Directors from 1954 to 1957.

During his 56 year involvement with the Fraternity, Dr. Greene has been cited by local chapters, Provinces and the National Chapter for his contributions to the growth and development of Kappa Alpha Psi. In 1961, he received the Elder Watson Diggs Award at the 50th National Meeting. This Golden Anniversary Convention was held on the campus of Indiana University, the birthplace of Kappa Alpha Psi. Ironically, Dr. Greene, who in 1952 as Grand Polemarch had played a role in establishing the Diggs Award, was one of its first recipients. In 1924, Kappa Alpha Psi established the Laurel Wreath Award. It is the Fraternity's premiere acknowledgement of its members achievements in the advancement of society, in the professions or in service to the Fraternity.

Kappa Alpha Psi Fraternity has truly been an integral part of Dr. Greene's life and will long be remembered as a guiding light of the Fraterity for many years to come. Yet, in addition to his involvement with Kappa Alpha Psi, Dr. Greene has also been extremely active in other areas. For over 50 years, he has been a moving force in Chi Delta Mu, a medical fraternity that has also bestowed its highest awards upon him. He has been a staunch supporter of Howard University where he served as a member of its Board of Trustees and is today one of its Trustee Emereti. Last March his beloved alma mater presented him with its highest award for his humanitarian and philanthropic contributions to mankind. He has been a devout member of the Plymouth Congregational Church for over 35 years. Finally, he has founded or is a member of over 25 social fellowship organizations where he serves in a responsible capacity.

Mr. Speaker, on Saturday, June 3, 1978, the Washington Alumni Chapter of Kappa Alpha Psi will hold a testimonial dinner in honor of Dr. Greene at the Washington Hilton Hotel. Many prominent individuals including fraternity members, family, friends, and professional associates will join in paying tribute to this outstanding individual.

In honor of this event, Mr. Speaker, I would like to take this opportunity to ask that you and my colleagues join me in saluting Dr. William Henry Greene for nearly six decades of meritorious service to the community and Kappa Alpha Psi. To reiterate the words of his fraternity brothers:

William H. Greene, Jr., a black man devoted to the burning spirit of achievement, is indeed a model that all Americans should strive to imitate.●

TUITION ASSISTANCE GUIDE

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. D'AMOURS. Mr. Speaker, the ever-increasing cost of college education is putting a severe strain on the budgets of many American families.

The Library of Congress estimates that in the last decade the cost of a college education has risen between 74 percent and 77 percent while the after-tax income of the average family with college-age children has risen only 66.8 percent.

To help meet these rising costs I have cosponsored legislation to provide a $250 tax credit for college education costs.

In addition, I have cosponsored a bold and innovative new assistance program introduced by Representative MICHAEL HARRINGTON which would create a Federal tuition advance fund out of which students could borrow the cost of their tuition plus $1,000 for room and board, up to a maximum of $5,000 a year.

Upon graduation participating students would repay 2 percent of their income to the tuition advance fund each year unless they earned less than $5,000 that year in which case they would pay nothing that year. Payments would stop at age 65 when the student had paid back 150 percent of what he or she had borrowed—which ever came first.

The default and fraud problems in the existing loan programs would be avoided because repavments would be automaticallv withheld by the IRS like social security payments, and could not be discharged through bankruptcy.

In order to further assist families who are looking for aid to meet the cost of college education I am inserting excerpts from an excellent article written bv Penelope Lemov which outlines a number of Federal and private assistance programs and describes where additional information on these programs can be obtained:

NEED COLLEGE TUITION MONEY? HERE ARE SOME SOURCES

(By Penelope Lemov)

First, it was those college entrance exams, then all the brochures from colleges around the country, then the long application forms and those weekend trips to campus interviews. Now, with high school graduation only weeks away, the long-awaited letter of admission has arrived and your teen-ager is suddenly a college student.

Your warm feeling of success soon becomes mingled with anxiety: College is expensive and, with each passing year, the cost goes higher. You begin to wonder how you're going to pay for the freshman year, let alone four years of higher education.

Don't panic. Help is on the way. Or at least available to those who qualify and don't mind filling out a few forms and divulging their financial circumstances. The help is available in the form of loans, grants, scholarships and federally financed work-study programs. By combining programs, some students have been able to finance 100 percent of the cost of their four-year studies.

Wherever you find the money, you'll need a lot of it. The National Center for Education Statistics reports that tuition and fees for the 1977–1978 school year averaged $575 at public institutions, $2,767 at private institutions. Tuition plus room and board averaged $1,982 at public institutions and $4,363 at private institutions. A realistic budget total also includes $200 for books, $300 to $400 for long-distance transportation and $300 to $400 for personal expenses.

When the College Scholarship Service of the College Entrance Examination Board estimated the current school year's total costs for local higher education institutions, they found it ran $5,800 at George Washington, $6,100 at Georgetown, $4,043 at Howard University, $5,305 at Trinity and $135 at University of District of Columbia.

Further away, an education at Harvard cost $7,650; Yale was $7,175, and Princeton was $7,495.

Lest you be dismayed by the prospect of applying for educational assistance, be assured that you are not alone. It is a very popular thing to do. Cathy Henderson of the Policy Analysis Service of the American Council on Education says about one of every two undergraduates received some form of assistance this year.

Financial assistance officers suggest that any student or family desiring federal, state, private or local aid should apply for every program for which they have even the remotest chance of qualifying. If a student isn't a veteran, he wouldn't apply for funding under the G.I. Bill, of course. But, on the other hand, you shouldn't let your income deter you from applying for other programs, even if the majority of them are based on need, rather than merit.

"Everyone has the right to apply for assistance," Joyce Dunagan, director of the student financial assistance program at George Washington University, pointed out. "I've had families with incomes as high as $90,000 apply; they're a little optimistic, but I'd rather see that than have a $20,000-a-year family not apply because they think they earn too much money to qualify. They're wrong and there are many factors beyond income which affect whether or not a student and his family qualify for aid."

If you are wondering what programs are available and if you qualify for assistance to pay for a college education, the District Weekly has compiled this guide to the federal, state and private programs—what they are, who qualifies for them and how to apply.

DEMONSTRATING NEED

Almost all types of educational aid begin with the filing of a financial statement.

Based on what you report on your application, the U.S. Office of Education will determine if you are eligible for college assistance and, if so, how much.

To begin, fill out a Financial Aid Form (FAF), a Family Financial Statement (FFS) or a Basic Education Opportunities Grant (BEOG) form. The FAF, published by the College Scholastic Service, is the most commonly used form in the East and can be used to apply for all assistance programs. The BEOG form, however, can only be used when applying for the federal BEOG program.

FAF forms are available at high schools, at community agencies or at the financial assistance offices of colleges in the area.

The FAF form asks for details on income, assets, number of children in the family, number of children enrolled in tuition-paying schools, the family's debts (including mortgage), whether the student earned money by working during the summer and the cost of the college the student will be attending.

Based on the answers, a computer will determine how much of college costs the student and his parents should pay ("the family contribution") and the amount of money required in aid.

Because other children enrolled in college are considered in determining needs, a family that doesn't qualify for assistance one year when, for instance, only one child is in college, may qualify the next year when other children are enrolled. Similarly, a family that has spent most of its money over the years for trips to Europe etc., and has little savings might qualify for assistance more easily than a family with the same income which lived less luxuriously and saved its money.

An important point to remember is that even if the Office of Education doesn't consider you needy, you may still receive loans or participate in a work-study program.

If your college plans depend on whether or not you qualify for aid, fill out a form on page 4 of a College Scholarship Service booklet called "Meeting College Costs." This form will let you estimate if you qualify for aid and, if so, how much.

The booklet is available through guidance counselors at high schools, at financial assistance offices of higher education institutions or by writing the Editorial Office, College Entrance Examination Board, 888 Seventh Avenue, New York, N.Y. 10019.

GRANTS AND SCHOLARSHIPS

The federal government will have $2.16 billion to distribute in 1978–1979 through its BEOG program. The funds are earmarked for low-income students. Rarely does a student whose family earns more than $16,000 a year qualify, although extraordinary family size, medical bills or the cost of schooling can help a family with a higher income qualify.

There is a maximum amount of aid students can receive through the BEOG program: If their parents cannot afford to help at all, students may be awarded up to $1,600 or half the cost of a year at the college of their choice, whichever is less. (In 1979–1980, the maximum will be raised to $1,800.)

"In order to qualify for the maximum, the total costs would have to be over $3,200 because of the half-cost limitation," said Diane Sedicum, of the Department of Health, Education and Welfare's Basic Grant Program. "But when we figure the total cost of education, we include tuition, fees, room and board of students living on campus and, if they don't live on campus, $1,100 living expenses, plus $400 allowance for personal expenses. Even if a student is attending a community college at no cost and living at home, he would still have a $1,500 cost of education bill."

To apply for a BEOG, you should file an FAF form with the College Scholarship Service and ask them to forward the results to the BEOG program. Or you can fill out a BEOG form and send it to Basic Grants, P.O. Box B, Iowa City, Iowa 52240. When a favorable report on eligibility is received, the report should be sent to the school the student plans to attend. Copies of the report may be sent to more than one school. The school then awards the money.

There are other federal programs that pay all or part of a college education. Veterans can qualify for education benefits under the G.I. Bill. These benefits are not based on needs but on years of service, number of dependents and number of courses being taken. For applications and information, call 666–7785 in Manchester, and 800–562–5260 outside Manchester (toll-free).

There are college education benefits available under the Social Security Act. Awards under this program are based on a percentage of the Social Security benefits received by a family, not on any consideration of educational expenses. For applications and information, call 666–7607 in the Manchester area, 436–7720 ext. 787 in the Portsmouth area, 224–1938 in the Concord area, 889–1171 ext. 7615 in the Nashua area, and 444–2945 in Carroll County.

If neither BEOG funds nor state funds fill the gap between college costs and ability to pay, students can apply for programs given by the institutions themselves. Institutions often have SEOG (Supplemental Education Opportunity Grant) funds, which are federal monies earmarked for students with exceptional financial need.

Institutions also have their own scholarships or grants, which may be underwritten or endowed by a benefactor. Need is not necessarily a criterion for receiving one of these awards. At George Washington University, for instance, there is an endowed scholarship for a person who neither smokes nor drinks, whose parents never worked for a company that produced alcoholic beverages and who pledges to abstain from alcoholic beverages forever.

"If the need is small and a student has high ability, he might get a Georgetown grant," said Richard Black, of the Georgetown University Student Financial Aid Office. "As a general rule, with BEOG and SEOG, we are talking about low incomes and with Georgetown institutional grants we are talking about need and other relative concepts."

The Public Health Service has an extensive scholarship program for students who want to study to become health professionals. There are scholarships in dentistry, osteopathy, nursing, social work, speech pathology and the like. Students who are awarded the scholarships are obliged to serve two to four years in a locality designated as an underserved healthcare area. The scholarships pay all tuition and fees billed by the schools plus $429 a month in living expenses. The program is based on merit, not need. Application forms became available early this month. For further information on the program or to apply, write Public Health Service Scholarship Program, Center Building, Room 544, 3700 East-West Highway, Hyattsville, Md. 20782.

In addition, there are grant and scholarship programs for specific groups of students. For instance, the Department of Health, Education, and Welfare has a booklet called "A Selected List of Postsecondary Education Opportunities for Minorities and Women," which details financial assistance programs available for students in those categories. The booklet is available by writing HEW, Bureau of Postsecondary Education, Washington, D.C. 20202. It is free.

The National Science Foundation (Room 234, 1800 G St. NW, Washington, D.C. 20550) has a free booklet called "A Selected List of Major Fellowship Opportunities and Aids to Advanced Education for U.S. Citizens."

Columbia University Press publishes "The Foundation Grants Index," which is available at libraries and details various grants available to students.

BPW Foundation administers four scholarships available to "mature women," including the Clairol Scholarship Program for women at least 30 years old who are continuing postsecondary educations to achieve career goals. Scholarships of up to $1,000 are available for full- or part-time study. For more information on this program and for a list of other programs available to women, write Clairol Scholarship Program, 345 Park Ave., New York, N.Y. 10022 or Scholarships Department, BPW Foundation, 2012 Massachusetts Ave., NW, Washington, D.C. 20036.

A helpful reference booklet is "Need a Lift?," published by the American Legion Education and Scholarship Program, P.O. Box 1055, Indianapolis, Ind. 46206. It costs 50 cents.

LOANS

The federal government loan program is based on a fly-now, pay-later theory. Through one of the federally sponsored loan programs, a student and his family can borrow money for a college education and pay it back after the student is graduated.

Students who can demonstrate need (see FAF forms) may qualify for a 3 percent loan (National Direct Student Loan program) administered by higher education institutions or for federal assistance in paying the interest on a 7 percent loan arranged through a bank.

NDSL monies are available to students who are enrolled at least half-time in a participating institution. They may borrow a maximum of $5,000 in four years. Up to $10,000 is available for students in graduate schools.

Repayment begins nine months after graduation; the student may be allowed up to 10 years to repay (if the student leaves school without graduating, the loan is repayable within nine months of leaving school.)

NDSL money generally is reserved for students from lower-income families.

The federally guaranteed student loan program allows students to borrow money at 7 percent. The rate is only 7 percent because the federal government pays the difference between 7 percent and the prime interest rate.

If the student can show need, the federal government will pay the interest on the loan while the student is in school. If the student doesn't qualify for this assistance, he may still qualify for a 7 percent loan, but the bank will probably require interest payments while the student is in school.

"The loan program was established for the middle class," said a higher education administrator. "There are no strict income criteria as in the grant or scholarship programs; they just want to be sure the student has good intentions."

Students from families with adjusted incomes that are as high as $25,000 a year automatically qualify for this assistance. Those with higher incomes may apply and request that the school complete an analysis of need. If the school finds there is need, it can recommend to the lender that the family qualifies for the interest benefit.

There is a formula for determining your adjusted gross income; gross income minus 10 percent minus number of exemptions (which first are multiplied by $750).

Undergraduates may borrow up to $2,500 an academic year. Total loans to students are limited to $7,500 for undergraduates, $15,000 for graduate students.

Repayment begins within a year of graduation or on leaving school and can extend over 10 years, although monthly repayments must be a minimum of $30.

One problem with loan assistance is that a student graduates in debt. One medical student estimated that by the time he was ready to practice, he would owe $30,000.

Another hitch is finding banks or other financial institutions willing to lend the money. "Remember," said an aide at the financial office of a private institution, "that the banks are being asked to loan money to people they ordinarily consider high-risk applicants. Students don't have jobs, have never worked and have no collateral."

In New Hampshire information on the Guaranteed Student Loan Program can be obtained from the New Hampshire Higher Education Assistance Foundation, 143 North Main Street, Concord, New Hampshire 03301. Phone 225–6612.

College Work-Study Programs

"The advantage to a work-study program is that a student pays his way as he goes and isn't facing debt when he graduates," said Black of Georgetown.

Pay as you go may not suit everyone. "We always ask a student if they'd prefer a work-study program to a loan," said Dunagan of George Washington. "But if they are in a difficult pre-med program they may not have the time to work, so they may prefer to borrow and pay back. The kind of job available also influences people. If it's crummy, they might feel they'd rather study."

The popularity of the work-study program is attested to by figures from Georgetown, which show that 150 to 200 students participated in the federal work-study program in 1974, and 800 to 900 students are working in it now.

Under the College Work-Study program, students earn the minimum wage at on-campus jobs such as faculty aid, receptionist, table setting in the dining hall. The federal government pays 80 percent of the program costs.

Some students manage to find stimulating jobs that enhance the educational experience. For instance, George Washington junior Diane Yuhasz, a Chinese major, worked as a secretary in the university Chinese department.

Students are supposed to have financial needs to qualify for the work-study program, but the amount of need required varies from school to school.

In addition, many schools have student employment offices which help a student find an off-campus job regardless of need.●

THE BUSING DISASTER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. ASHBROOK. Mr. Speaker, for years the liberal social planners of our Nation have embraced busing as one of their pet schemes. They have pushed their busing programs despite the overwhelming opposition of the American people.

The cost has been high. The price not only should be measured in terms of millions of dollars. It should also be viewed in terms of the increased racial tension and social turmoil that busing has fostered.

I have consistently tried to stop busing by legislative action. Amendments of mine have been adopted by the House only to be watered down by the Senate or in a House-Senate conference. In addition, corrective legislation that I have sponsored has been blocked by the liberal leadership in Congress.

After years of testing and experimenting it is time that Members of Congress asked themselves whether busing is working. I believe any honest assessment will show that busing is not achieving its goals.

An article in the May 8 U.S. News & World Report is especially revealing. It vividly documents the failure of busing in city after city.

The article observes:

Black pupils today are still racially isolated in most big cities. Schools that have been "desegregated" are turning back toward all-black enrollment . . .

Where busing has been tried, however, it has seldom proved the answer to racial isolation in schools. In some cities, it appears to have made the problem worse.

The liberal social planners have been wrong once again. Busing has failed. Congress should move to end busing without further delay.

Following is the text of the article from the U.S. News & World Report:

24 YEARS OF INTEGRATION: HAS BUSING REALLY WORKED?

(Flight of whites is leaving school enrollments so overwhelmingly black that it is becoming impossible to achieve racial balance in many large cities. A survey shows how a once-bright dream is fading.)

For more than two decades, laws have been passed, school boards sued, hundreds of thousands of pupils bused, many millions of dollars spent—all in an effort to wipe out racial segregation in public schools. And yet—

Black pupils today are still racially isolated in most big cities. Schools that have been "desegregated" are turning back toward all-black enrollment.

When the Supreme Court outlawed racially separate schools in 1954, the dream was of black children and white children studying together in racially integrated schools. That dream has not come true in the big cities. And spreading widely—among blacks as well as whites—are growing doubts that methods tried so far will ever make that dream come true.

No one seems to have found the answer to the problem of racial separation—in neighborhoods or in schools.

These are the findings of a survey by members of the staff of this magazine who covered key cities in all regions of the country. In each city, staff reporters asked: How many black youngsters attended all-black or nearly all-black schools before desegregation efforts began? What is the situation now?

In other words, what has been accomplished by all the furor, the busing and the spending?

Views on the educational results of integration efforts are mixed. But one trend is unmistakably clear: So many white families have been fleeing the cities that white pupils are now heavily outnumbered in the schools of most big cities.

So few whites are left in some cities that, no matter how pupils may be bused around to schools outside their neighborhoods, most schools are bound to be predominantly black, some all black.

In Washington, D.C., more than 96 percent of all public-school pupils are black or members of some other minority group. In Atlanta, the minorities are now 89 percent, in San Antonio 85 percent and in Detroit 82 percent of the total school enrollment.

Federal judges and officials of the Department of Health, Education and Welfare find themselves frustrated in trying to achieve what they call a desirable "racial balance" in such cities.

Busing, though commonly blamed for the flight of whites, turns out to be only one of several factors. Whites have been moving from cities to suburbs for many years, even from cities where there has been no racial busing.

Where busing has been tried, however, it has seldom proved the answer to racial isolation in schools. In some cities, it appears to have made the problem worse.

CITY-SUBURBAN BUSING

One experiment that has worked—in terms of improving racial balance—is that of busing city blacks into the schools of white suburbs and busing suburban whites into black city neighborhoods. Court rulings have limited that approach. But a book soon to be published by the Brookings Institution says that is the only approach that will work "in the long run" for big cities.

Demographic changes "are making lasting integration impossible within these cities' boundaries," says Gary Orfield, author of the Brookings book. So, he concludes, "the suburban boundary line must be crossed."

Following are reports of how desegregation programs have worked, or have failed to work, in 13 key cities.

DETROIT: "BUSING A FLOP"

When U.S. Judge Stephen Roth ruled in 1971 that Detroit's schools were illegally segregated, he said he doubted that the problem could be solved without busing children between the city and its suburbs.

Apparently he was right. After two years of busing only within the city, Detroit schools are still segregated. And statistics show that the entire city school system is continuing to move toward a student population that is almost entirely black.

There are more all-black schools in Detroit now than there were before desegregation. In 1970, there were 30 schools with no white pupils and 11 with no blacks. In 1977, there were 33 all-black schools and one all-white. About 65 percent of Detroit's black students attended schools that were at least 90 percent black.

"Busing in Detroit has been counterproductive and a flop," says Gerald J. O'Neill, a white member of the Board of Education. "How," he asks, "can you desegregate the schools when only a small number of white students are left in the system?"

Since 1970, Detroit city schools have lost 64,552 white pupils. Now, with only 36,165 whites remaining and blacks numbering 185,874, the total school enrollment is 82 percent black, compared with 60 percent in 1970.

As a result, the racial mix in most schools hasn't changed much since the prebusing days. About 75 percent of the black pupils attended schools that were 90 percent or more black in 1970, compared with last year's 65 percent.

That slight change has come at a high cost—an estimated 19.3 million dollars a year in state and U.S. funds.

Also, the split between the races is greater than it was before busing, says Claud Young, national vice president of the Southern Christian Leadership Conferences. "There is total black and white segregation in schools," Young explains. "Blacks and whites stay on opposite ends of the cafeterias and playgrounds. There's no fellowship."

Nevertheless, there are those who feel the busing program has not been a failure. Says Lawrence Washington, president of the Detroit chapter of the National Association for the Advancement of Colored People (NAACP): "Busing has opened up things in the city. And the road to cross-district busing starts with a successful plan in Detroit."

The NAACP intends to continue pushing for cross-district busing between the city's predominantly black schools and the predominantly white suburbs. Such busing was

ordered by Judge Roth in 1971, but the Supreme Court ruled that the suburbs could not be included unless they were proved to have practiced illegal segregation. That's why the busing has been limited to the city.

But, says Joe T. Darden, professor of urban studies at Michigan State University: "Detroit cannot achieve integration in its schools unless there is busing between the city and suburbs. It's the only remedy."

RICHMOND: CITY-ONLY BUSING FAILS

The experience of Richmond, Va., has been similar to that of Detroit. A federal judge in 1972 ruled that busing only within Richmond's city limits was not working, and ordered the busing of pupils between the city and two adjoining counties. But higher courts nullified that order. And city-only busing still isn't working.

Today, Richmond's public-school enrollment is 82 percent black. This means that nearly all black children attend schools that are almost all black.

When desegregation of Richmond schools first began, in 1960, the student body was 55 percent white. What happened to cause the big racial change was that city whites shifted to private schools or to county schools where there are few black pupils.

Now, school officials are putting new emphasis on upgrading city schools to lure back some of the whites who fled the city system.

INDIANAPOLIS: STILL HUNTING FOR AN ANSWER

After 10 years of litigation and five years of busing, there are still 20 all-black schools in Indianapolis, and increased busing is seen as inevitable.

Indianapolis is another of those cities ordered by a U.S. district court to use two-way busing between city and suburbs. But the Supreme Court struck down that order and—as in Detroit and Richmond—busing confined to the city itself has not produced the results that were sought.

All-white schools, which numbered 53 before busing began, have been eliminated. But about 20 all-black schools remain. The elimination of all-black schools is complicated by a decline in white enrollment. Four schools that once were racially mixed have become all black.

The integration program costs about 1 million dollars a year, mostly for the busing of 13,000 pupils, after an initial start-up cost of more than 3 million dollars.

LOUISVILLE: WHERE CITY-SUBURBAN BUSING WORKS

City-suburban busing is getting a test in Louisville, Ky., and surrounding Jefferson County—and it appears to be working.

Before busing began, city schools were 54 percent black and county schools were 95 percent white. Many schools were predominantly of one race.

Now, after three years of busing city blacks to county schools and whites from the county to city schools, black enrollment ranges between 12 and 40 percent in schools throughout the area. Blacks make up only 23 percent of the area's total enrollment.

White flight is not much of a problem. The reason: To escape busing, families have to move clear out of the county or send the children to private schools. About 15,000 pupils are bused at a cost of about 3.5 million dollars yearly.

The busing is not without its problems. Opposition lingers, though it is no longer violent. There has been an increase in racial incidents and student suspensions in schools. "You still see segregation in our cafeterias and at school social events," says Robert Wynkoop, who is in charge of the busing program. "But," he adds, "black and white students are learning to get along."

Educators report that the quality of education has improved, with blacks' grades better and whites' grades changing little, if at all.

Says School Superintendent Ernest Grayson: "We've not only met the requirements of the court order, we've managed to achieve a degree of improvement in black-white understanding."

NEW YORK: GIVING UP ON INTEGRATION

The nation's biggest city was a pioneer in seeking to get more mixing of blacks and whites in Northern schools. Since 1958, New York has tried a variety of integration experiments, including busing.

But the New York Times recently analyzed the results and concluded that segregation actually has increased.

"Most black and Puerto Rican children now go to schools where there are few whites—and often none at all," the newspaper said. "Nearly half the schools in the city are more than 90 percent nonwhite."

The big problem in New York, as in many other big cities, is that of white middle-class flight from public schools. In 1957, whites made up 68 percent of New York's public-school enrollment. Last year, only 29 percent of the pupils were white. "If the pattern holds," the Times predicts, "the schools will be 14 percent white in 10 years."

According to the Times, many school authorities and elected officials—even black leaders and white liberals—"have simply given up on school desegregation in the city." An areawide desegregation plan to reach into suburbs has been discussed, but its feasibility is doubted.

Parents, both black and white, are complaining that the quality of education in New York's public schools has declined in the period when all the experimentation in integration has been going on. And there is continuing tension in schools that have been racially mixed.

NEW ORLEANS: WHITE FLIGHT CHECKED

In 1954, when the Supreme Court outlawed segregation in schools, the New Orleans public-school enrollment was about half black, half white. Now, the enrollment is almost 82 percent black. And the majority of black pupils attend all-black schools or schools that officials describe as only "minimally white."

"Without question, we have had white flight," says School Superintendent Gene Geisert. "The flight to the suburbs was not just racial, however. For many it had to do with economics, seeking the so-called good life."

New Orleans had a rash of private schools opening in the early 1960s. But most of those have closed, and "we are beyond the white flight now," Geisert says. "We have stabilized the situation."

Also, after a decade of decline, the scholastic-test scores of New Orleans pupils have turned up. "The black students probably have made greater progress in the quality of education because of desegregation," says Geisert. "But the quality did not decrease for the white students."

Henry Williams, a black assistant superintendent, believes the desegregation has been worth its cost, despite the erosion of white enrollment.

"The successes are few, but there are some," says Williams. "Some schools are very desegregated, with stable faculties and good programs. The alternative schools are attracting white students from the private sectors, and we are gaining support. Part of the fallout from all of this has been a commitment from practically every segment of society that integration is the way to go."

ATLANTA: BLACKS TAKE OVER SCHOOLS

There has been no large-scale busing in Atlanta. And yet: This city's public schools that were 59 percent white 10 years ago are now about 90 percent nonwhite.

So many whites have fled since desegregation that officials have given up on ever achieving real integration.

"To what extent can you achieve integration with only 10 percent white enrollment?" asks John A. Minor, Jr., associate superintendent of schools.

While some of the whites who have left Atlanta schools can be tracked to private schools, most are believed to have moved out to what is called the "white doughnut"—the ring of predominantly white suburbs surrounding the city. Although the flight appears to have stabilized, officials do not expect a return of whites in sizable numbers.

Under a compromise between the local NAACP and the school board in 1973, a black was named school superintendent and half the administrators are black. In return busing is limited and voluntary. Only about 3,700 pupils were bused last year, all of them black.

Despite the compromise, the exodus of whites continued. So now integration effort are being concentrated on a suit seeking to extend the integration program to include suburbs as well as the city. That would almost inevitably require busing suburban whites into the city and city blacks into the suburbs.

Without an areawide plan, "there's no way to integrate the city schools in Atlanta except in the 20 Northside schools where the busing plan is working beautifully," says Margie Pitts Hames, an attorney prosecuting the suit.

Northside Atlanta Parents for Public Schools (NAPPS) claims credit for retrieving 1,000 children in two years from private schools to the nine public schools where it concentrates its activities. "Now, parents are beginning to believe their children can get a good education in public schools," says NAPPS President Margret Miller.

WASHINGTON: SCHOOLS RESEGREGATED

After 24 years of desegregation—and resegregation—there are more black pupils in all-black schools in Washington, D.C., today than there were before the schools were first mixed in 1954.

The reason: The capital's schools that were 57 percent black in 1953 are now more than 96 percent black.

White families with children of school age have moved to the predominantly white suburbs or put their children in private schools. White enrollment has declined by 39,452, and today there are only 4,422 whites among 116,117 black pupils in the public schools.

Of those black, 60,119 attend 92 schools that contain no whites. In 1953, when Washington schools were totally segregated, there were 57,696 blacks in all-black schools—2,423 fewer than today. In addition to the schools now totally black there are 60 schools that contain 10 or fewer whites, and 39,686 blacks attend such schools.

Facing these statistics, Washington's School Superintendent Vincent Reed says: "Our concern is not with the racial mix, but to insure quality education for all children."

DALLAS: A RACIAL TURNAROUND

Another story of growing racial isolation is found in Dallas. In 1956, a year after the first integration suit was filed against this city's school system, enrollment was 82 percent white. Today, whites make up only about 38 percent of the public-school population.

Dallas has tried a variety of integration plans, and may soon be required to adopt yet another plan.

Now, it is in its third year of busing. About 17,000 students are bused mandatorily, and another 5,000 ride buses voluntarily to so-called magnet schools designed to attract students from all neighborhoods.

The latest integration plan has cost 13 million dollars in two years—including the purchase of 200 new 72-passenger buses. The plan still leaves schools in one section of the city 98 percent black. So that plan has come

under fire. A federal appeals court on April 24 ordered a re-examination of the plan to see if such a heavy concentration of blacks in some schools is really necessary or whether some new desegregation procedures might be feasible to get more racial mixture.

"We just don't have enough whites to go around any more," says one school official.

So, the emphasis in Dallas has shifted. As that official put it: "We don't have just a body-mixing plan. We have an educational plan."

SAN FRANCISCO: A RACIAL CONGLOMERATE

Court-ordered busing is generally conceded to have failed as a solution to San Francisco's problem of racial concentration in schools in a city which is a conglomeration of races and ethnic groups.

In 1971, U.S. Judge Stanley Weigel ordered this city to spread its pupils around so that the racial and ethnic mixture in every school would be roughly proportionate to that in the entire city. No racial or ethnic group in any school could be more than 15 percent larger or smaller than that group's representation in the city as a whole.

Attempting to achieve that racial mix, the city has been busing about 14,000 youngsters to schools outside their neighborhoods, at a cost of 3.65 million dollars a year. But the intent of Judge Weigel's order has not been achieved—72 schools still do not meet his guidelines.

White middle-class parents responded to the busing by either enrolling their children in private schools or fleeing to the suburbs. Many Chinese parents also balked at putting their children on buses, and organized so-called freedom schools in their own neighborhoods.

Result: Total public-school enrollment dropped rapidly. But white enrollment declined the most, until whites today make up only about 22 percent of the school population, compared with about 35 percent in 1970.

San Francisco's problem is complicated by the variety of races represented in its population. Blacks make up 28.7 percent of today's school enrollment, 14.3 percent are Spanish-speaking, 20.6 percent are Asians and 8.8 percent are Filipinos, with the other 5.6 percent made up of smaller ethnic groups.

Many black parents oppose the busing because they say their children carry an unfair proportion of the busing burden. They want other races bused into schools in black neighborhoods, as well as blacks bused to other areas.

As a result of the widespread dissatisfaction, School Superintendent Robert Alioto is pushing a new plan for redesigning school attendance, which he hopes the court will permit to begin next autumn.

One proposed change is to raise the permitted ratio of any racial or ethnic group to 45 percent of a school's enrollment. Alioto estimates that his proposal would save taxpayers 1.6 million dollars a year in reduced busing costs.

BOSTON: SOCIAL ISOLATION, TOO

In Boston, three years of court-ordered busing and racial clashes have helped make city schools predominantly black in enrollment and have left parents and officials questioning the quality of education the schools provide.

Thousands of parents, mostly white, have shifted their youngsters from public schools to parochial and suburban institutions. The outflow is leading slowly to not only racial but also social isolation inside the city schools.

In a city whose population is mostly white, only 41 percent of the public-school pupils this year are white. Before busing began in 1974, whites made up more than 60 percent of the school enrollment.

In addition to the racial shift, there has been a sharp drop of 21,000 in total public-school enrollment. Most of the pupils lost were children of middle-class parents. The result, according to School Committee member Kathleen Sullivan, is that: "Some 62 percent of the students now in city schools are members of families eligible for medicaid. This means that we're facing a social isolation, where we're dealing with economically poor students."

Under federal-court orders, Boston is busing about 22,000 pupils to schools outside their neighborhoods. The costs of the desegregation program total about 12 million dollars a year. Besides 4.2 million for transportation, costs include enlarged staffs, expansion of curricula and maintenance of security at strife-torn schools. In addition, it has cost the city police yearly sums ranging from 19 to 30 million dollars to deal with the often-violent resistance of citizens.

Critics blame busing for the enrollment decline. But others point out that Boston schools were losing pupils even before the desegregation order. They say most of the loss is due to the poor quality of education and the increased number of people who can afford suburban homes.

John O'Bryant, a black member of the Boston School Committee, says, "People tend to label the outflow of students as 'white flight,' but I would rather call it economic flight."

The busing has brought a gradual change in the racial balance in many schools. Using the percentage guidelines laid down by the court, 56 schools were found to be "segregated" in 1975. Now, only 22 are so classified.

Programs to improve the quality of education have been started. But, says School Committee member Sullivan: "The real objective of desegregation is to equalize the educational experience of all students, and this has not been realized through the court order."

Mary Ellen Smith, executive director of a citizens' organization called City-Wide Education Coalition, says the busing has succeeded in "mixing the kids up in different schools, but the quality of education is still lagging."

DAYTON: A CITY FREED FROM BUSING

Once started, busing for integration seems never to end.

Dayton, Ohio, may turn out to be one significant exception to that general rule.

A federal judge ruled recently that Dayton could scrap its 2-year-old desegregation program that called for busing about 13,000 pupils.

The judge gave the following reasons:

Under the latest Supreme Court guidelines, racially imbalanced neighborhood schools are not necessarily unconstitutional unless they are the result of discrimination. And, on a review of the evidence ordered by the Supreme Court, the district judge found no proof of deliberate segregation by school authorities in Dayton.

Pending an appeal of the new ruling, the buses in Dayton are still rolling. If the appeal fails, however, Dayton plans to go back to a "freedom of choice" aproach that will permit students to attend schools that are located in their own neighborhoods.

The integration program cost Dayton 2.8 million dollars last year. And about 13,000 whites left the public schools after the busing began.

CHARLOTTE: THE MOST THOROUGHLY MIXED

Probably the most thoroughly integrated school system in the entire United States is that which includes the city of Charlotte, N.C., and surrounding Mecklenburg County.

The problem is keeping it that way.

In 1971, a federal judge ordered a complicated pattern of busing children between city and county schools to produce a ratio of approximately 70 whites to 30 blacks in each school.

But almost every year, students have had to be shifted to different schools to maintain that ratio. Next fall, another big shift that would move 4,825 children to new schools is scheduled.

Because so many white students have left the public schools, the 70–30 ratio has had to be abandoned, and the new goal is to keep any school enrollment from being more than half black.

The cost of busing 47,000 of the county-wide school system's 79,465 pupils is high: more than 3 million dollars this year.

In addition, busing is time consuming for the children, some of whom spend more than an hour traveling distances up to 21 miles to school.

Keeping to the court-ordered guidelines for the racial mix in each school "is a problem because this is a transient community, and we have a lot of people moving in and out, and our black population lives in a very concentrated area," says School Superintendent J. M. Robinson.

The long-range solution, Robinson suggests, is getting housing for blacks more widely dispersed. That appears to be the only solution to the problem of racial isolation in the schools of most big cities.

The racial shift now under way in big-city schools

PERCENTAGE OF BLACKS AND OTHER MINORITIES IN PUBLIC-SCHOOL ENROLLMENT

[In percent]

	1968	1976
Atlanta	61.8	88.8
Baltimore	65.1	75.6
Boston	31.5	55.0
Chicago	62.3	75.0
Cincinnati	43.3	53.2
Cleveland	57.5	62.2
Columbus, Ohio	26.2	32.9
Dallas	38.8	61.9
Denver	34.4	51.4
Detroit	60.7	81.3
Houston	46.7	65.8
Indianapolis	33.7	44.9
Jacksonville	28.2	33.4
Kansas City, Mo.	46.8	65.6
Los Angeles	46.3	63.0
Memphis	53.7	71.2
Miami	41.7	59.0
Milwaukee	27.0	43.7
Nashville	24.2	30.1
New Orleans	68.7	80.8
New York	56.1	69.5
Philadelphia	61.3	68.2
Pittsburgh	39.7	45.9
St. Louis	63.5	71.5
San Antonio	73.1	84.9
San Diego	23.9	34.0
San Francisco	58.8	77.1
Seattle	17.8	32.7
Washington, D.C.	94.4	96.5

Thus, in all these 29 major school systems, the whites make up a smaller share of enrollment than they did 10 years ago.

NOTE: Minorities include blacks, Hispanics, Asians and American Indians.

Source: Study by Diane Ravitch, Columbia University.●

MR. WYDLER'S MINORITY SUPPLY STRATEGY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. WYDLER. Mr. Speaker, over 3 months ago, the administration promised us a legislative package which addresses the energy supply problem,

an issue sadly neglected in the national energy plan (NEP). This much-ballyhooed initiative, the so-called phase II, has unfortunately been somewhat gutted by the Office of Management and Budget (OMB). My understanding is that what remains for submission to the Congress will be cut down considerably from the Department of Energy (DOE) request. In fact, most of the program which remains merely mirrors the budget initiatives of our Science and Technology Committee (STC).

Today I am proposing a minority supply strategy which is directed to answer in some hard questions and accelerating technology chiefly in fossil and nuclear energy because that is where the action is for our energy future.

I am submitting a description of my program and an outline of the legislative and executive actions which are required to implement it. I intend to follow up by proposing legislation where appropriate and requesting specific executive intervention when legislation is not required. It is a blend of new technology development activity and positive regulatory action.

The program is a mixture of new initiatives, and our committee actions together with several meritorious elements from the original Department of Energy proposal.

NUCLEAR ENERGY

The first major element of my supply approach is nuclear energy. It is puzzling to me that the administration does not even consider the nuclear option to be an integral part of their supply picture. The licensing bill before the Congress to expedite siting and deployment of nuclear powerplants has not even been mentioned by the administration as a part of the phase II initiative.

My nuclear strategy has three major parts: First, breeder reactor development; second, nuclear fuel reprocessing; and third, expeditious deployment of nuclear power plants.

The President has persisted in his opposition to demonstrating fast breeder reactors on the basis of concerns about weapons proliferation. Yet we in the Congress have fought persistently to retain the national commitment to build a breeder reactor plant. If we are to have a long-term supply plan this project must be the cornerstone. I wrote the President on this on my return from Russia earlier this month.

I intend to press for the retention of a commitment to build a breeder reactor plant and demonstrate the technology. Our committee has acted to preserve the Clinch River Breeder Reactor project and I will fight to sustain this on the floor.

This country cannot turn its back on the energy contained in the spent fuel rods from nuclear power plants. In the face of the administration's deferral we must keep the nuclear reprocessing option open. The most logical way to do this is to maintain the Barnwell Nuclear Fuel Plant in standby and demonstrate international safeguards at that site. The new diversion-resistant CIVEX process is a promising avenue to blunting the terrorist threat for weapons proliferation. We have funded this activity in our committee and I will work hard to preserve the program.

I am also concerned at the myopic view that the administration's nuclear licensing bill is not part of a supply strategy. To me it is an important incentive for the cleanest, safest, and most economical way to generate electricity. Let us get on with the nuclear option. I support this bill in concept and will be prepared to amend it in the House to guarantee that plant siting can move ahead in the face of antinuclear zealotry.

FOSSIL

If we are ever going to get off our oil binge we must move the technology for liquids-from-coal across a broad front. Even a major push today would not pay off until the early 1990's.

My program calls for advanced design and system studies for four demonstration plants to allow for a good look at several promising technologies. These planning studies would include risk assessment of scaling up these technologies from the pilot plant stage and consideration of incentives to make them commercially feasible. We must minimize technical risk so that commercialization can be achieved in the early 1990's. Once the demonstration projects are sorted out, the Government share of funding can be tailored to the degree of risk and assets of the private sector. The administration's single focus on solvent refined coal (SRC) with its major plant scale-up is an unfortunate premature narrowing of this option.

I am also calling for the creation of a Liquefaction Mobilization Board to prepare industry's project plans for submission to DOE. I intend to introduce a liquids-from-coal bill which includes these features. The additional funds required would be less than the DOE requested in their initial phase II package mentioned earlier.

In the area of oil recovery it seems to me that a guaranteed purchase of Western shale oil for national security is the proper incentive. I prefer this to a fixed subsidy per barrel because the Department of Defense purchase can be tailored so as to preserve competition. The difference between the guaranteed price and world oil will narrow so that ultimately the cost will be competitive. This shale oil can be used for Air Force jet fuel and to stoke the U.S. Fleet. It makes good sense and I intend to propose it as a separate piece of legislation.

Research and development (R. & D.) for oil from the eastern shales should be pushed. This promising resource has been virtually ignored and this prompted our committee to authorize additional funds in fiscal year 1979 for extracting oil from different eastern shales.

High-leverage techniques for enhanced oil recovery have been funded in another of our committee initiatives in the DOE R. & D. bill. The application of this advanced technology, mainly by independent producers, promises to save several million barrels per day by the 1990's. I am hoping that these add-ons can be preserved thoroughout the congressional deliberations.

Present technologies for coal gasification is the prime example of a program which does not need any Federal spending. What is required is an assurance of regulatory restraint from the Federal Energy Regulatory Commission (FERC). Three demonstration plants utilizing existing technology and western coal can be started today without Federal funding if FERC will provide regulatory incentives so the financial community will invest in these plants. Cost sharing would be 25 percent gas industry and 75 percent financial community. FERC would protect the 75-percent share in case of plant failure. If the plant is a success, companies could recover investment under FERC assurances. In case the plant fails the nature of the company's recovery of investment would depend on whether it was a technical failure or occurred due to Government action. I realize that this approach requires a degree of "regulatory abstinence" which we are not use to experiencing in Federal Government. I also hope that separate legislation would not be required here. FERC has already had time to study these proposed arrangements during phase II discussions. Aspects of this approach have been suggested by both DOE and the gas industry and I believe this proposal has real merit.

I am very disturbed, however, that the limits of present day technology for coal gasification have not been outlined by the administration. This off-the-shelf technology simply does not work on eastern coal. So we must push R. & D. for new second-generation technologies or we will never see gasification plants in half of the country including the Northeast which needs them so badly. I intend to pursue this facet of the program by seeking set-aside DOE R. & D. funding within gasification for these new approaches. We have already put together this program in the Science and Technology Committee.

I believe that the administration's initiatives in R. & D. for unconventional sources of natural gas is a move in the right direction. It is a tragedy, however, that the National Energy Act (NEA) does not provide matching producer incentives to meet our near term gas supply needs. I feel that the promising sources of gas in methane deposits off the gulf, western tight sands, and the Devonian shale and coal seams of the East, Midwest, and Southeast must be pursued vigorously.

The promise of payoff is great from these sources but a regulatory bill which creates 11 new categories of natural gas is a poor match for these initiatives. I'm afraid that the fact the administration backs this NEA proposal indicates it is not serious about increasing domestic supply.

I believe that in the fossil energy program it is time for a warning on the potential negative impact of the Clean Air Act on new coal-burning technologies. EPA's new source performance standards could kill several promising approaches for pollutant removal if they are not carefully drawn. I'm suggesting additional environmental control funding for DOE so that paradoxical situa-

tions can be avoided and the promise of clean burning combustion schemes can be realized.

GEOTHERMAL

The administration has not only ignored geothermal energy completely but slowed its progress by recent actions. They have done this despite the fact that the technology is moving rapidly toward commercialization in certain aspects. Again, our committee added funds for geothermal R. & D. which I intend to pursue through appropriations. We also authorized loan guarantee mechanisms in our fiscal year 1978 bill for geothermal demonstration. I intend to strongly urge DOE to move out using these provisions. This is a regional energy resource found in brine, hot dry rock, and other forms that we cannot afford to overlook.

SOLAR

I am afraid that the solar piece of the energy supply puzzle still does not fit. Solarmania remains rampant across the land and in the Congress. I know it is not terribly popular to say this but solar R. & D. should be judged on the same basis as any other technology development activity. Project goals must be achieved on time and within costs to justify additional funding. I am all for beefing up R. & D. on solar photovoltaics and solar thermal and pushing demonstrating wind machines. However, I am opposed to these massive purchases of solar cells, $100 million in the National Energy Act alone, for technology which may be obsolete next year. When the costs get down large Federal purchases will make some sense.

The solar satellite power system opens up a unique avenue to tapping the Sun's energy with large collectors in space. We have a new bill which directs DO and NASA to undertake research and development which may lead to satellite demonstration of this concept. If solar energy is indeed "motherhood" then this project is a slice of apple pie.

Also, I believe there should be some balance between funding for centralized (that is, solar thermal and central station photovoltaics) against distributed systems. The ocean thermal and wind energy programs have demonstrated some real progress and deserve to be accelerated. I intend to analyze the DOE fiscal year 1980 budget submittal applying my criteria as a test for funding.

I am dismayed that the administration cannot come to grips with strong commitments to solving the supply problem. Anyone in politics understands the need to satisfy the interests of certain constituencies but the administration has done this to a fault. I believe that the program I have outlined makes considerable sense. It may offend people in a variety of camps but it demonstrates a willingness to make some hard choices.●

TAKE THE RESOURCES AND RUN

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 1978

● Mr. MARLENEE. Mr. Speaker, Monday's vote by the House Commerce Committee in favor of the Carter administration's tax plan for higher east coast oil subsidies means we will shortly be confronted with this issue on the floor of the House. It is a controversial subject, and an important one, not only by itself but because it is representative of a larger problem.

The larger issue is one between the "haves" and the "have-nots." That may sound like an old story, but this time the reference is not sociological. The issue is natural resources. The Western States are the "haves," and the Eastern States are the "have-nots." The energy-short East wants access to the abundant resources of the West.

The West is willing to share its resources, but we insist on compensation commensurate with what we have given up: adequate financial compensation, and reclamation measures guaranteeing restoration of the land to its original beauty. We have seen, for example, what coal companies have done to the landscapes of portions of West Virginia and Kentucky when nothing was required of them but to dig up the Earth, grab the coal, and leave. We won't let it happen to us.

The Federal strip mining law, passed in the first session of this Congress, was a beginning. It insures access to the Nation's abundant reserves, but with stringent reclamation requirements.

Further encouraging measures have been implemented. In my own State of Montana, a stringent but fair tax is in effect on coal mined within our borders. The tax does nothing more than adequately compensate us for the intrusion on our resources, our social impacts, and our way of life by the coal companies, almost all of which are headquartered in the Eastern part of the Nation. Yet the coal and power companies scream as if we were depriving them of their "right" to take our resources and run, leaving the areas of Montana they have molested devoid of their resources and beauty.

It is as if a guest came into your home, and then proceeded to extract your treasures while disfiguring you in the process, leaving you disillusioned and destitute.

An editorial in Monday's edition of the Billings Gazette highlights the problem well. I commend it to my colleagues:

BRING ON THE VIOLINS

Carl Bagge of the National Coal Association sang his usual sad song in an appearance in Billings.

Bagge talked about Montana's "oppressive" coal tax, one preventing development.

There's a familiar ring to Bagge's lament. It was heard before the Montana Legislature when a tax of 25 cents a ton was proposed. It was heard again at 50 cents per ton. In fact, the same old lament has been heard every time the state proposes to put any regulation or tax on coal operators.

Bagge makes a major point out of Montana's 30 percent severance tax on coal and cites it as creation of a "hostile atmosphere."

Coal companies constantly harp on Montana's coal tax and frequently refer to the more favorable atmosphere in Wyoming.

In brief, Wyoming's coal severance tax now averages 15 percent, according to its state officials. And, interestingly enough, every time the legislature meets the tax is increased.

Yes, we suspect that under different circumstances on a different platform, Bagge might even claim that Wyoming's coal tax was oppressive when compared to that of Rhode Island.

Mr. Speaker, Montanians and westerners are happy to share our resources with the rest of the Nation. We are, after all, one nation indivisible. But we expect the other States, and the national and multinational companies, to act in a responsible manner. Indeed, we demand that they do.

Our resources are taken by our consent, not by any requirement. We will not prostrate our States for exploitation by any company or State.

Those from the East would do well to remember that they have no more "right" to share in Montana's resources than we in the Northwest have to share in the profits from the tourist trade in Florida in the middle of January.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, May 18, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 19

9:30 a.m.
Armed Services
To meet in closed session to receive testimony on the technical characteristics and military uses of the neutron bomb.
212 Russell Building

3:30 p.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To resume hearings on proposed new criminal code for the District of Columbia.
1224 Dirksen Building

MAY 22

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 2626, the Consumer and Agriculture Protection Act.
324 Russell Building
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To resume hearings on the Federal Government patent policy.
318 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs.
To hold oversight hearings on anti-inflationary proposals.
5302 Dirksen Building
Judiciary
Antitrust and Monopoly Subcommittee
To resume oversight hearings on ICC's price regulation in the motor common carrier industry.
2228 Dirksen Building
10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of George S. Benton, of Maryland, to be Associate Administrator of the National Oceanic and Atmospheric Administration.
235 Russell Building
2:00 p.m.
Appropriations
District of Columbia Subcommittee
To resume hearings on budget estimates for FY 79 for the District of Columbia Government.
1114 Dirksen Building
2:30 p.m.
Energy and Natural Resources
To hold hearings on the proposed constitution for the Territory of Guam.
3110 Dirksen Building
3:00 p.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on anti-inflationary proposals.
5302 Dirksen Building

MAY 23

8:00 a.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on budget estimates for FY 79 for the District of Columbia Government.
1114 Dirksen Building
9:00 a.m.
Agriculture, Nutrition, and Forestry
Agriculture Production, Marketing, and Stabilization of Prices Subcommittee
To continue hearings on S. 2626, the Consumer and Agriculture Protection Act.
324 Russell Building
Select Small Business
Monopoly and Anticompetitive Activities Subcommittee
To continue hearings on the Federal Government patent policy.
6226 Dirksen Building
9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on milk substitutes manufactured and distributed for infant formula use in underdeveloped countries.
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on anti-inflationary proposals.
5302 Dirksen Building
Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building
Environment and Public Works
To hold a business meeting on pending calendar business.
4200 Dirksen Building
3:00 p.m.
Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
EF-100, Capitol

MAY 24

8:00 a.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on budget estimates for FY 79 for the District of Columbia Government.
1114 Dirksen Building
9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue hearings on S. 2626, the Consumer and Agriculture Protection Act.
324 Russell Building
9:30 a.m.
Commerce, Science, and Transportation
Aviation subcommittee
To hold hearings on S. 747, S. 3064, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2900, the proposed Oil Spill Liability Fund and Compensation Act.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2892, proposed New York City Loan Guarantee Act.
5302 Dirksen Building
Energy and Natural Resources
To continue hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building
Foreign Relations
To hold hearings on H.R. 7819, S. 477, S. 478, S. 1256, and S. 1257, bills concerning diplomatic immunity.
4221 Dirksen Building
1:30 p.m.
Conferees
On H.R. 7843, to provide for the appointment of additional Federal circuit and district judges.
S-126, Capitol

MAY 25

9:30 a.m.
Commerce, Science, and Transportation
Aviation subcommittee
To continue hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building
Environment and Public Works
To hold hearings on S. 2995, proposed Union Station Improvement Act.
4200 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings on the U.S. Fish and Wildlife Service.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building
Energy and Natural Resources
Public Lands and Resources Subcommittee
To resume hearings on S. 3046 and S. 707, the proposed Coal Pipeline Act.
3110 Dirksen Building
Select Intelligence
Budget Subcommittee
To meet in closed session to receive testimony on proposed FY 78 supplemental authorizations.
S-407, Capitol
2:00 p.m.
Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
Until 5:00 p.m.
EF-100, Capitol
3:00 p.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2716, the Interstate Land Sales Full Disclosure Act Amendments.
5302 Dirksen Building

MAY 26

10:00 a.m.
Banking, Housing and Urban Affairs
To continue hearings on S. 2716, the Interstate Land Sales Full Disclosure Act Amendments.
5302 Dirksen Building

JUNE 5

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by holding companies and other banks.
5302 Dirksen Building

JUNE 6

9:30 a.m.
Environment and Public Works
To mark up S. 1493, to provide financial and technical assistance to States, local governments, and Indian tribes to manage impacts caused by energy development.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by holding companies and other banks.
5302 Dirksen Building

JUNE 7

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To hold hearings jointly with the Human Resources Subcommittee on Alcoholism and Drug Abuse on S. 2778, and other proposals, to tighten controls on and increase penalties for the manufacture and distribution of the drug PCP (angel dust).
4232 Dirksen Building
10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 22, to remove statutory and regulatory restrictions on broadcasters operation under the Communications Act of 1934.
235 Russell Building

JUNE 8

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 50, the Full Employment and Balanced Growth Act.
5302 Dirksen Building
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 2981, to provide for the expansion of the category of rail lines eligible for rehabilitation, deferred maintenance, and various alternative facilities.
235 Russell Building

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building

JUNE 16

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building
Veterans' Affairs
Housing, Insurance, and Cemeteries Subcommittee
To hold hearings on S. 1643 and H.R. 4341, to eliminate the requirement for inspections of the mobile home manufacturing process by the VA, and S. 1556, authorizing funds through FY 81 to assist States in establishing and maintaining VA cemeteries.
Room to be announced

JUNE 19

10:00 a.m.
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold oversight hearings on the impact of solar energy on rural housing.
5302 Dirksen Building

JUNE 20

10:00 a.m.
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue oversight hearings on the impact of solar energy on rural housing.
5302 Dirksen Building

JUNE 21

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on H.R. 10899, the International Banking Act.
5302 Dirksen Building

JUNE 22

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on H.R. 10899, the International Banking Act.
5302 Dirksen Building

JUNE 23

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2857, proposed Customs Courts Act.
4232 Dirksen Building

JUNE 27

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 2857, proposed Customs Courts Act.
4232 Dirksen Building

CANCELLATIONS

MAY 31

2:00 p.m.
Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
Until 5:00 p.m. EF-100, Capitol

JUNE 1

2:00 p.m.
Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
Until 5:00 p.m. EF-100, Capitol

SENATE—*Thursday, May 18, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable MURIEL HUMPHREY, a Senator from the State of Minnesota.

PRAYER

Rabbi Jacob A. Max, Anshe Emunah-Aitz Chaim, Tifereth Israel Congregation, Randallstown, Md., offered the following prayer:

Let us pray:

God, God of our Fathers

On this blessed day, and every blessed day of our lives, remind us that we, Your children, are created in Your image.

Remind us—lest we forget that You created light and darkness between peace and war, freedom and oppression, hope and despair.

Remind us—lest we forget that You created the heavens and the Earth. Give us wisdom and understanding so that we may raise our eyes and hearts to You so that our steps will not falter and our feet not stumble.

Remind us—lest we forget that You put forth grass and fruit trees on this firmament. Teach us to share Your bounty, each fruit in its season, with those who are hungry.

Remind us—lest we forget that You created the Sun, Moon, and stars. Light our candles so that we can go forth and illuminate the darkness.

Remind us—lest we forget that You created every creature that creepeth, every winged fowl and every fish in the sea. Remind us that we are guardians of these treasures.

Remind us—lest we forget that you created cattle and beasts and man on the same day but not in the same image. Teach us to transcend the animal kingdom by being decent, just, and fair, lest there come a day when the "beasts" will run free.

Remind us—lest we forget that God saw everything that He had made. Behold, it was good. Guide us, Almighty Lord, especially this blessed Senate so that we can proudly look at the fruits of our labor and say, "Behold, it is good".

Remind us Lord—if we forget. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 18, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MURIEL HUMPHREY, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mrs. HUMPHREY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Journal of the proceedings of yesterday be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Committee on Armed Services be authorized to meet today, beginning at 2 p.m., to consider the nominations of Gen. David C. Jones as Chairman of the Joint Chiefs of Staff; Adm. Thomas B. Hayward as Chief of Naval Operations; and Gen. Lew Allen, Jr., as Chief of Staff of the Air Force.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today to continue markup of the Department of Justice authorization bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 735 and 740, which I understand have been cleared on the other side.

Mr. TOWER. That is correct.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPEAL OF OBSOLETE ANIMAL AND PLANT QUARANTINE NOTICE REQUIREMENTS

The bill (S. 286) to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes, was considered, ordered to be en-

grossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act of May 29, 1884 (23 Stat. 32, as amended; 21 U.S.C. 117), is further amended to read as follows: "Any person or persons operating any railroad, or master or owner of any boat or vessel, or owner or custodian of, or person having control over, cattle or other livestock or live poultry who shall knowingly violate the provisions of section 6 of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.".

SEC. 2. Section 1 of the Act of March 3, 1905 (33 Stat. 1264, as amended; 21 U.S.C. 123), is further amended to read as follows: "The Secretary of Agriculture is authorized to quarantine by regulation any State or Territory or the District of Columbia, or any portion of any State or Territory or the District of Columbia, when he shall determine the fact that any animals or live poultry in such State or Territory or District of Columbia are affected with any contagious, infectious, or communicable disease of livestock or poultry or that the contagion of any such disease exists or that vectors which may disseminate any such disease exist in such State or Territory or the District of Columbia.".

SEC. 3. Section 3 of the Act of March 3, 1905 (33 Stat. 1265, as amended; 21 U.S.C. 125), is further amended to read as follows: "It shall be the duty of the Secretary of Agriculture, and he is authorized and directed, when the public safety will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, treatment, handling, and method and manner of delivery and shipment of quarantined animals or live poultry from a quarantined State or Territory or the District of Columbia, and from the quarantined portion of any State or Territory or the District of Columbia, into any other State or Territory or the District of Columbia.".

SEC. 4. Section 8 of the Act of August 20, 1912 (37 Stat. 318, as amended; 7 U.S.C. 161), is further amended by:

(a) deleting the following from the first sentence thereof: "; and the Secretary of Agriculture is directed to give notice of the establishment of such quarantine to common carriers doing business in or through such quarantined area, and shall publish in such newspapers in the quarantined area as he shall select notice of the establishment of quarantine"; and

(b) deleting the following from the fourth sentence thereof: "; and the Secretary of Agriculture shall give notice of such rules and regulations as hereinbefore provided in this section for the notice of the establishment of quarantine".

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–804), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

S. 286 would repeal requirements for publication of newspaper notices, and giving of written notice to railroads and other carriers doing business in infected localities or areas quarantined by the Secretary of Agriculture, of the establishment of quarantines and of the existence of livestock or poultry diseases, or insect infestations.

BACKGROUND AND NEED FOR LEGISLATION

II

The Secretary of Agriculture is required to quarantine any State, Territory, or District of the United States (or any portion thereof) when he determines that the quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not widely prevalent or distributed in the United States.

The Secretary is also required to quarantine any State, Territory, or the District of Columbia when he determines that any animals or live poultry in such State, Territory, or District are affected with any contagious, infectious, or communicable disease of livestock or poultry or that the contagion of any such disease exists or that vectors which may disseminate any such disease exist in such State, Territory, or District.

S. 286 would repeal the requirements in the act of May 29, 1884, the act of March 3, 1905, and the act of August 20, 1912, for publication of notices in newspapers, and giving of written notice to railroads and other carriers doing business in infected localities or areas quarantined by the Secretary, of the establishment of quarantines and of the existence of livestock or poultry diseases, plant diseases, or insect infestations.

II

The Department of Agriculture has found the required methods of public notice to be time consuming, expensive, repetitive, and ineffective.

Sections 552 and 553 of title 5 of the United States Code require that all public notices, such as quarantine notices, be published in the Federal Register. In addition, the Department issues frequent press releases relating to quarantines and similar actions. Federal Register publication and USDA press releases make the notice requirements to carriers and publication of newspaper notices obsolete and duplicative.

The repeal of these requirements will conserve manpower and end an expenditure of funds that no longer serves a useful purpose.

III

S. 286 would also amend the 1905 act to clarify the authority of the Secretary of Agriculture to exercise discretion in deciding whether to quarantine areas under that act. This is in accord with the manner in which the act has been administered for many years.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the enactment of S. 286 would not result in any additional costs but in savings to the Federal Government of approximately $18,000.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

The Senate proceeded to consider the bill (S. 2566) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment on page 4, beginning with line 25, strike through and including page 5, line 9, and insert in lieu thereof the following:

(4) By striking in subsection 17(a) all after the phrase "sums not to exceed" and inserting in lieu thereof ":$2,000,000 for the fiscal year ending September 30, 1979; $2,200,000 each, for the two succeeding fiscal years ending September 30, 1981; and $2,500,000 each for the two succeeding fiscal years ending September 30, 1983."; and by striking in subsection 17(b) all before the proviso, and inserting in lieu thereof, "To carry out implementation of the development plan authorized by section 5 of this Act, there is authorized to be appropriated to the Corporation: $15,000,000 for the fiscal year ending September 30, 1979; $35,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $30,000,000 for the fiscal year ending September 30, 1982; and, $35,000,000 for the fiscal year ending September 30, 1983, and any amount so appropriated shall remain available for obligation until September 30, 1990.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578; 86 Stat. 1266), as amended, is further amended as follows:

(1) By striking—

(a) in paragraph (c) of section 3: "(6) The Commissioner of the District of Columbia;" and by substituting in lieu thereof "(6) The Mayor of the District of Columbia,"; and by inserting "The Mayor in lieu of "The Commissioner" of the District of Columbia, wherever it occurs in this Act;

(b) in paragraph (c) of section 3: "(7) The Chairman, District of Columbia Council;" and by inserting in lieu thereof "(7) The Chairman, Council of the District of Columbia";

(c) in paragraph (g) of section 3: "(8) The Chairman of the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "(8) The Director of the District of Columbia Department of Housing and Community Development.";

(d) in paragraph (a) of section 4: "subchapter 53" and by inserting in lieu thereof "subchapter III of chapter 53";

(e) in paragraph (f) of section 5: "The District of Columbia government, and the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "and the District of Columbia government.";

(f) in paragraph (b) of section 8; "Redevelopment Land Agency" wherever it occurs and by inserting in lieu thereof "government".

(2) By striking in paragraph (10) of section 6 the figure "$50,000,000" and inserting in lieu thereof "$100,000,000" and, by striking in that paragraph the date "June 3, 1980" and inserting in lieu thereof "September 30, 1990".

(3) By redesignating paragraphs "(19)" through "(22)" in section 6 as paragraphs "(21)" through "(24)" and by inserting the following new paragraphs:

"(19) shall request the Council of the District of Columbia, when required for implementation of the development plan, to close any street, road, highway, alley, or any part thereof in the development area. If the title to the street, road, highway, or alley so closed is in the United States, the Mayor of the District of Columbia shall convey the title to the land on behalf of the United States to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative expenses of the action. If the title to the street, road, highway, or alley so closed is not in the United States, the Mayor shall

convey title to the land on behalf of the District of Columbia to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative costs of the action: *Provided*, That if the land would have reverted to a private abutting property owner under otherwise applicable law of the District of Columbia, the Corporation shall pay such owner the fair market value of the land that would have reverted to him.

"(20) may transfer title to, interests in, or jurisdiction over real property which has been acquired by the Corporation and is to be devoted to public uses under the development plan, to any agency of the United States or the District of Columbia. Agencies of the United States or the District of Columbia may accept such transfers under this paragraph, and shall thereafter administer and maintain the property in accordance with the development plan and the terms of any transfer agreement. The Director of National Park Service may transfer title to or interest in public reservations, roadways, spaces, or parks under his jurisdiction within the development area to the Corporation to facilitate implementation of the development plan; and, notwithstanding any other provision of law, the Corporation may utilize such transferred property for any public or private development consistent with the plan.".

(4) By striking in subsection 17(a) all after the phrase "sums not to exceed" and inserting in lieu thereof ": $2,000,000 for the fiscal year ending September 30, 1979; $2,200,000 each, for the two succeeding fiscal years ending September 30, 1981; and $2,500,000 each for the two succeeding fiscal years ending September 30, 1983."; and by striking in subsection 17(b) all before the proviso, and inserting in lieu thereof, "To carry out implementation of the development plan authorized by section 5 of this Act, there is authorized to be appropriated to the Corporation: $15,000,000 for the fiscal year ending September 30, 1979; $35,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $30,000,000 for the fiscal year ending September 30, 1982; and, $35,000,000 for the fiscal year ending September 30, 1983, and any amount so appropriated shall remain available for obligation until September 30, 1990.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–809), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2566, as reported by the committee, would provide for further implementation of the Pennsylvania Avenue plan through a 5-year extension of the authorization for administrative expenses of the Pennsylvania Avenue Development Corporation and for the development funds for public improvements.

In addition, S. 2566 would amend the Corporation's authority to borrow funds from the United States Treasury by increasing the debt ceiling from $50 million to $100 million, and by extending the period for borrowing from the end of fiscal year 1980, to fiscal year 1990.

S. 2566 would also make technical amendments to the Pennsylvania Avenue Development Corporation Act, in order to conform terminology with the District's Home Rule Act.

Finally, section three of S. 2566 would add two new paragraphs to the powers of the Corporation: (1) to facilitate street and alley closing in the development area; and, (2) to permit transfers of ownership and control of public parcels of land and reservations within the development area.

BACKGROUND

In 1972 the Congress established the Pennsylvania Avenue Development Corporation and directed the Corporation to prepare a plan for redeveloping the area adjacent to Pennsylvania Avenue between the Capitol and the White House in a manner suitable to its ceremonial nature and historic past.

On November 19, 1974, the Corporation submitted the completed plan to the Congress. Following a review period of 60 legislative days, the plan became effective on May 19, 1975.

Since its approval, the Corporation has begun to implement the plan. The first acquisition made by the Corporation was the historic Willard Hotel property in January of this year. Since then, the Corporation has purchased the former Kann's Department Store property, and several smaller commercial buildings on Seventh Street (just north of Kann's) which have architectural merit. The Corporation is currently negotiating the acquisition of the former Lansburgh's Department Store building. The Corporation has also purchased the eastern portion of square 491 (just west of the U.S. Courthouse), from the District of Columbia, and simultaneously conveyed a portion of that site to the Government of Canada for their new chancery. The balance of the site was retained by the Corporation for the widened sidewalk on Pennsylvania Avenue and a new park at John Marshall Place.

The Corporation's program of public improvements is now also underway with construction and landscaping taking place in front of the new east wing of the National Gallery of Art. The paving, trees, gratings, and other features now being installed for the Gallery's formal opening in June, are prototypical of the improvements planned for the length of Pennsylvania Avenue. A much larger component of the public improvements program is about to begin at the other end of the development area, between 13th Street and East Executive Drive, also called the Western Sector. There the plan calls for the realinement of streets and the creation of new public open spaces with construction proposed to begin in January 1979.

The Pennsylvania Avenue plan is being implemented by the Corporation with the following funds:

(1) An annual appropriation to pay salaries and expenses for the corporate staff;

(2) Authority to borrow funds from the U.S. Treasury to finance property acquisition and land preparation (The Corporation will repay money borrowed from the Treasury with revenues from reselling or leasing acquired and prepared parcels to private developers.); and

(3) A public development fund which is being used to pay for all public sector activities which include public works, relocation assistance, historic preservation and renovation, landscaping and design of new public open spaces.

COMMITTEE AMENDMENT

The committee adopted a substitute amendment to paragraph 4 of S. 2566 which would provide for a 5-year authorization of both subsection 17(a) (salaries and expenses) and subsection 17(b) (public improvements).

The committee feels that a 5-year authorization would be more appropriate to a program of long-term investment which must rely for its success upon the confidence of the private sector to investing in the proposed development area.

COST AND BUDGETARY CONSIDERATION

In accordance with subsection (a) of section 255 of the Legislative Reorganization Act, the following is a statement of estimated costs which would be incurred in the implementation of S. 2566, as ordered reported.

As amended, S. 2566 authorized the appropriation of $11.4 million over 5 fiscal years starting in fiscal year 1979 for salaries and expenses of the Corporation.

The measure also authorized the appropriation of $140 million over 5 fiscal years starting in fiscal year 1979 for public development funds.

Finally, S. 2566, as amended, would amend the 1972 act to increase the limit on the Corporation's borrowing authority from the U.S. Treasury from $50 million to $100 million, and extends the deadline for such borrowings from 1980 to 1990.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Madam President, I have a request for some of the majority leader's time.

I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Madam President, I thank the majority leader for his courtesy.

HUMAN RIGHTS IN THE U.S.S.R.

Mr. MOYNIHAN. Madam President, I rise at this moment to record the disturbing news from Moscow that Mr. Yuri Orlov, a distinguished Soviet citizen and the head of what has been called the Helsinki monitoring group in Moscow, whose sole purpose was to monitor the behavior of the Soviet Government with respect to commitments made at the Helsinki agreements, has been convicted of anti-Soviet agitation and has been given the maximum sentence of 7 years in prison and 5 years of internal exile, which means Siberia, and that Dr. Andrei Sakharov and his wife were detained by the Soviet police at the trial of Yuri Orlov.

Madam President, these are ominous events. The Soviet Union has known that the world has been watching this trial. The Soviet authorities refused to allow a representative from the U.S. State Department to be present at the trial as observer.

Mr. Sakharov, a Nobel Prize laureate. was treated with the greatest indignity. Mr. Orlov, in almost Stalinist contempt for the accused, was ridiculed and jeered in his trial and he now goes to prison from which he may or may not ever return.

I hope the world might know that the U.S. Senate takes note of this activity and this Senator expresses alarm, which I am sure many would share, at the adamant refusal of the Soviet authorities seemingly to even comprehend what human rights mean in the rest of the world. And one thinks of this in terms of

the recent statement by Secretary Vance, who is a most honorable and attractive man, but who no less in an interview in Time magazine said that when President Carter and Mr. Brezhnev meet he was sure they will find they share the same hopes and aspirations.

What are the hopes and aspirations of the head of the Soviet State that could behave this way—send a man to prison for 7 years, because he sought to exercise the most elemental human right of following the conduct of his own government.

Madam President, just 2 years ago in Jerusalem I had the honor to give the commencement address at the Hebrew University, an occasion to which Dr. Sakharov had been invited to receive an honorary degree, but was not allowed to leave the Soviet Union, and I took the occasion to speak to that matter.

I ask unanimous consent to print that address in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY DANIEL P. MOYNIHAN AT THE CONVOCATION OF THE HEBREW UNIVERSITY

Albert Einstein, one of the founders of The Hebrew University, is said to have remarked that in his life he had only had two ideas really. Which suggests the vast influence in our lives of the few basic conceptions around which they are organized.

There is a sense, I would suggest, in which it may be said that man has had only two basic ideas about mankind. The first, an old idea still so very much alive here in Jerusalem, is the idea, the belief, if you will, the revelation, that there is one God, creator of all things, and most especially of one human race, alike in all the essentials of humanity, joined in a common destiny, equal, one member with another, in the eyes of God, and owing in that measure, the most reverent respect for the humanity of one another.

A second idea, parallel, certainly, with the first, and wholly supportive of it, is that there is a single body of knowledge which is the inheritance and the legacy of all mankind. Is this a Greek idea? Jerusalem and Athens in that never ending tension and attachment? I would not wish to say, save to note that it became an operative idea in the 17th Century, a time when Greek and Hebrew things were much entangled in the Western mind. Out of it came the glorious, the heroic conception that scientific knowledge is held in common for all mankind to cultivate and to share. Sigmund Freud, another founder of the Hebrew University, has told us of the persisting particularity of men. It is possible, he writes in "Civilization and its Discontents" to create a community of love among a group of individuals, but only so long as there are those outside the group who can be hated. Not an optimistic view of mankind. And yet derived in a tradition which was and is beyond either optimism or pessimism, the tradition of science that declares that man in all his manifestations is one, and is to be served, loved and hated alike.

This tradition of science is present here in Jerusalem also. Manifest in the Hebrew University, an institution of world standing, respected the world over by those which are its peer, emulated by those which would be its peer.

To be honored by the Hebrew University is a precious thing for an individual. The world of learning, the world of shared and common effort to advance learning, scarcely knows a greater honor. And as if this were not enough, the Senate of the Hebrew University has yet further enhanced the distinction which one such as I feel on this occasion by the distinction of the company in which this honor is to be received.

Such was our anticipation when the Senate acted some months ago. Such is our experience today. With a single, singular exception, which in no way diminishes this occasion, which indeed vastly enhances its importance, but which withal does profoundly affect it.

For Andrei Sakharov is not here.

Where is he?

He is held in the Soviet Union, Against every principle of the oneness of mankind, the oneness of learning, that regime which for how many decades now, with indomitable vulgarity and inpenetrable indifference to truth proclaimed the universality of its principles, that regime has once more demonstrated its fear, its insularity, its hostility not only to that for which Jerusalem stands, but to the not less glorious truth embodied in the Hebrew University itself.

Sakharov wanted to come. How could he not, a man who so much stands for what the Hebrew University embodies. When he was telephoned from Jerusalem to be told of the Senates' action he responded with the humility which is not merely a posture of the great, but which is in almost profound way an aspect of their greatness, manifestation of their own sense of oneness with the world itself. "Naturally I accept this honor with gratitude," he said. "I think this honor is intended not only for me but for those who stand with me."

Whereupon the telephone call was disconnected. And Sakharov is not here.

Which all the more enhances the importance of this occasion for those of us who are here.

We are here to witness that he is not. We are here to attest to the world and most especially to the rulers of the Soviet Union that we most willingly share our honor and his with those who stand with him. More. That if he should think us fit company we would want it understood that we are among those who stand with him.

Those words come too easily, of course. Those of us who live in the free world—just so: the free world, that collectively of two dozen odd nations whose citizens may come and go as they will and for what they will—those of us who live in the free world and in truth do not know how we ourselves would perform in the face of terror, can only be humble in the presence—or as on this occasion the absence—of one who has truly proved himself. And yet our intention counts and Sakharov himself has testified to this. And so let our intention be clear.

In particular let one thing be clear. The rulers of Soviet Russia, brutalized as they are brutalizing, insulary and often ignorant, the polar opposite of that which they protest with unfailing excess, may nonetheless lay claim to a singular perception which for sophistication and worldliness has no equal in the West. That is the perception that there persists in the West an irrational but at times seemingly indomitable desire to believe what the rulers of Soviet Russia say.

Sakharov has written of this. The one dogma of faith, he observes, "that has always figured in Soviet and pro-Soviet propaganda is the thesis of the uniqueness of the Soviet political and economic system, which (it is claimed) is the prototype for all other countries: the most just, humane, and progressive system, ..." It is a dogma that resists all contrary evidence:

"The more obvious the complete failure to live up most of the promises in that dogma, the more insistently it is maintained. The facts do not compare favorably with the developed capitalist countries; so the need to prop up this dogma, and the hypnosis of blind belief, are among the causes of the secretiveness of Soviet society. * * * For decades, great violence was committed under the banner of this faith in a unique world goal—a violence that Western liberals failed to notice: some out of naivete, others out of indifference, and still others out of cynicism. * * * Vestiges of this blindness still exist, and in our time they have become more dangerous for the West itself. Today an understanding of the real nature of Soviet society—of what is concealed behind the respectable facade—is needed in order to appraise almost any problem of world significance."

There are indeed "vestiges of this blindness." But fewer and fewer. For one great event separates the liberal world of today from the earlier time to which Sakharov refers. This is the event of Sakharov himself, and those who stand with him. True liberals, free minds, even in the prison of Soviet life, they have taught us—some of us who would learn willingly, some who would not—they have taught us that the rulers of the Soviet Union lie. The Russian people themselves now tell this to us, and in the minds eye of the West, the reality of Russian life has been irreversibly revealed.

It is a year now, almost that, from the signing of Helsinki accords, the Final Act of the Conference on Security and Co-Operation in Europe.

In that year it has become unmistakably clear that the West was utterly deceived. The rulers of Soviet Russia solemnly signed an agreement, especially the section on "Co-operation in Humanitarian and Other Fields" which they had not the least intention to abide by. One cannot take them much to task for this. They acted out of the purist Leninist doctrine that when dealing with the bourgeois powers it is both morally correct and politically necessary to lie, to cheat, to dissimulate, to deceive, practices which would succeed by virtue of bourgeois corruption which would end by that class selling the rope with which it would be hung.

Nor perhaps are the governments of the West to be much chastised, if chastised at all. It was surely one last and wholly public effort to test the good intentions of the Communist world. The President of my country made this clear in an address on the occasion. The Prime Minister of Britain was if anything more blunt in his warning that if the Soviets broke faith with the accords they would be instantly held accountable, in a word, that the West was not selling rope to the hangman.

Consider the language of that document:

The participating States . . .

* * * * *

Make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection.

* * * * *

Express their intention now to proceed to the implementation of the following:

* * * * *

The participating States intend to facilitate wider travel by their citizens for personal or professional reasons and to this end they intend in particular. . . . Etc. Etc.

Among other things "in particular" the participating States undertake "To expand and improve at the various levels co-operation and links in the fields of education and science, in particular by * * * encouraging among persons engaged in education and science direct contacts and communications. . . ."

And here we are today, one year later, And Sakharov is not here. Sakharov a member of the Soviet Academy of Sciences, a senior research associate at the academy's Lebedev Physics Institute. Sakharov is not allowed to be here.

He is not here less than a week after the Soviet Communist Party chief, at the conference of European Communist parties in East Berlin had the supreme arrogance to charge the West with failing to abide by the freedom of contacts provisions of the Helsinki accords.

Brezhnev's address if suffused with that "dogma of the faith" of which Sakharov writes, and the equally dogmatic belief that the West will not see through the pretense. ". . . We Communists," he writes, proponants of the most humanitarian, life-asserting world outlook, believe that it is now more important than ever before to pave the way for the relaxation of military tension and to stop the arms race . . . to create . . . the material fabric of peaceful cooperation in Europe, a fabric that would strengthen ties among European peoples and states." The West he says, has nominally agreed to this, but in practice has "adopted an evasive position and obviously do not hurry to take practical steps." He contrasts Soviet practice:

"We in the Soviet Union consider it important that our people should know more about the past and the present of other peoples, have a deeper knowledge of their culture and respect the historical experience and achievements of other countries."

* * * * *

"As to the capitalist states, we have heard many fine words from them about the exchange of cultural values but seen few actions. * * * The deepest of the reasons is that the ruling class in the bourgeois countries does not want the working people in their countries to learn from a first-hand sources the truth about the socialist countries, their social and cultural development, and the political and moral principles of citizens in a socialist society."

It was in truth a virtuoso performance. The master of a hundred million Russian workers—where trade unionism does not exist, beneficiary of all which that "state capitalist" economy, to us Sakharov's term, where the last trade union strike occurred in 1917, daring to suggest that American trade unionists keep Russian trade unionists out of the United States. All this unctuousness in the name of socialism, an honorable term which they have stolen from us just now, but which we will yet liberate from its Soviet prison camp.

But the very obtuseness of the Russian ruler's address should be a cause for unease. Evidently they do indeed continue to rely on blindness in the West. A disastrous miscalculation—which if it persists will be as much the responsibility of the West as of the Soviets themselves. Which is why we ask today: Where is Sakharov? Why is he not here? What do you, the rulers of Russia, fear would come of just those cultural and scientific contacts with the West which you solemnly undertook to facilitate not one year ago.

It was Sakharov, of course, who warned us just this development. Three years ago, in an act which Arthur Schlesinger, Jr., described as "a quite extraordinary display of personal heroism" Sakharov called a group of Western journalists to his apartment in Moscow and warned them that detente could be a trap for the West if the Soviet Union were required to do no more than profess its peacefulness in exchange for Western technological and political support. "Detente without democratization," he said, "would be very dangerous . . ." And that is precisely what we got, and very much the source of our present danger.

All the more then is the urgency—no less a word will do—of making clear to the Soviets—and to the states of Eastern Europe—and to the newly independent Communist parties of Eastern Europe—with which a Helsinki agreement all their own is being negotiated—that we see this.

We see more than this. We see a Soviet Union evidently persuaded of the suicidal complacency and passivity of its adversaries, commenced on a systematic, world wide effort to isolate and discredit the free nations of the world. Those that are left.

Nowhere is this more in evidence than in the United Nations system. Just recently, for example, at UNCTAD IV in Nairobi the Soviet Union with a disregard of public impressions that suggests a near contempt for our capacity to respond, as much as decreed that the developing nations are henceforth to have lesser economic relations with the West. If that is to mean lessened growth in their economies, well so evidently it must be in the interests of the long term working out of the Communist destiny to be masters of the world. And they got away with it! This was the meeting of the United Nations Conference on Tariffs and Trade to which the West proposed a world development bank which would facilitate investment and development in the so-called nonaligned nations, which is to say the poor nations of the world. A vote was taken. The nonaligned abstained. The Communist powers voted no. The bank proposal was defeated. The Soviets at the Seventh Special Session of the United Nations General Assembly last September declared that never having been an imperialist power (sic) they had no obligations to the former colonial world of any kind and could be expected to provide no assistance of any kind. Now in Nairobi, they decreed that neither, in a sense, would the West provide assistance, inasmuch as there must be no competition in that area of the world with the Russian Communists—whose military capacity is now vastly enhanced by the development of the most devastating third world weapons system ever conceived, which is to say the Cuban Gurkhas. Recently, as one hears, departed the Golan Heights, but doubtless to return if the Soviets so desire. Such, after all, is the pride, no less than the fate of mercenaries.

Next week in Costa Rica that increasingly ineffable body, the United Nations Educational, Cultural and Social Organization, UNESCO, will hold a meeting with the innocent enough title "Intergovernmental Conference on Communications Policies." The purpose of this conference, however, is anything but innocent. The purpose is to carry forward an initiative which the Soviet Union and Bylorussian proposed in 1972 to arrange a series of conferences on the "fundamental principles governing the use of the mass media." These principles have now been elaborated in a series of UNESCO documents. Put plain, they are the principles of totalitarian government control of all sources of information. "A communication policy," says one UNESCO working document, "is always inseparable from an ideological framework." And the ideological framework of developing countries, all such documents make clear, must be total resistance to western democratic propaganda as purveyed by the imperialist agencies of Reuters, the Associated Press, and Agence-France Presse. In particular "the respective governments" are asked "to take the necessary steps to ensure that the national news agencies are exclusively empowered to disseminate news from outside the region referring to the internal affairs of each country, in order to avoid the distortion of news that is so frequent on the part of international agencies." In a word nothing is to be read by the citizens of Third World countries about those countries that their governments do not desire them to read. A Third World News Service is to be developed to complete the isolation of these new nations from Western democratic influence—leaving them to choose, one supposes, between Soviet and Chinese totalitarian models of educational, social and cultural development.

The Soviet will in this matter is unbending, and its devices utterly unscrupulous. Two years ago, beginning in UNESCO, and now spread throughout the U.N. system, the Soviets commenced a campaign of slander and hate without its equal in the experience of mankind since the destruction of the Third Reich. Unable, evidently, to deal with the fact that there are Soviet citizens, most especially perhaps among Soviet citizens, most especially perhaps among Soviet Jews, who desire to leave the Soviet Union—and persons such as Sakharov in Russia who will assert their right to emigrate—the Soviet rulers commenced an effort to discredit this movement by an Orwellin inversion of truth which cannot have had its equal even in Nazi era, because it is built on the Nazi experience. Beginning in 1971 in Soviet journals and then, as I have said, in 1974 in United Nations organs, the Soviets began to assert that Jews, far from being victims of the Nazis have become successors to them.

This total untruth, this infamous lie attained a pinnacle of world attention in the resolution adopted last fall by the United Nations General Assembly which declared Zionism to be a form of racism and racial discrimination.

The Soviets clearly were surprised by the narrowness of the vote with which the resolution was finally adopted—in an assembly where they can regularly count to two to one and three to one majorities, and probably they were shaken by the fierceness of the resentment which the resolution aroused in the United States and some other countries of the West. But they were not deterred. Similar charges, no less lies, not less hateful, now routinely are referred to United Nations organs and now routinely adopted, often with only Israeli and American opposition.

This is a doubly ominous event. First, it suggests a moral callousness in the West, or moral weakness, which must alarm us for our own sake. Do we not realize what these resolutions mean? One British writer has realized. Present on the occasion that the Zionism resolution was adopted by the Third Committee of the General Assembly he returned to Britain to write this description:

"There were ghosts haunting the Third Committee that day; the ghosts of Hitler and Goebbels and Julius Streicher, grinning with delight to hear, not only Israel, but Jews as such denounced in language which would have provoked hysterical applause at any Nuremberg rally and justified a special edition of *Der Stürmer*. And there were other ghosts also at the debate; the ghosts of the 6,000,000 dead in Dachau and Sachsenhausen and other extermination camps, listening to the same voices which had cheered and jeered and abused them as they made their way to the gas chambers. For the fundamental thesis advanced by the supporters of the resolution, and approved by the majority of the Third Committee, was that to be a Jew, and to be proud of it, and to be determined to preserve the right to be a Jew, is to be an enemy of the human race.

"After the defeat of the National Socialism, which cost the world millions of lives, and the horrors of the Final Solution, one had thought that such voices had been silenced for ever, at least in any society which even half-pretended to be civilised. The truth is otherwise. Today, the authentic voice of anti-Semitism, strengthened and invigorated by the riches and hatreds of the oil-producing nations, is once again respectable; it has become *salonfähig* and speaks in the best society, and nowhere more blatantly or stridently than in the General Assembly of the United Nations."

Can we live with ourselves if we can live with such events?

But more ominous still is the danger that Soviets will conclude from passivity or silence in the face of attacks on Israel that

the bulk of the West does not see that it is the West itself that is truly under attack.

The matter comes to this. Israel has become a metaphor for democracy in the world. If the Israeli democracy, which persists in the face of the uttermost peril and difficulty, can be discredited, then it can clearly be established that democracy is not a political and cultural system which can survive in a perilous and difficult world. The dustbin of history for us.

And no better proof of our destiny than a seeming incapacity to see what is happening to us. In an old, and altogether elegant Leninist phrase, we are once again being subjected to salami tactics. First one free nation, then another. Slice by slice until the number of free nations is what—half today what it was not ten or fifteen years ago.

But it won't work if we can make the rulers of the Soviet Union understand that we see what Sakharov sees. We will not, Mr. Isaac Babel, practice "the game of silence." The refusal of the Soviet authorities to permit him to come to the Hebrew University today is just one more indication that it has no intention of abiding by the provisions of the Helsinki Declaration, no intention of abandoning its now historic determination to bring about the destruction of liberal society in the world. The hostility to the State of Israel is a product of the same hatred of freedom and the same contempt of human rights which has victimized Sakharov and against which he has waged his heroic struggle.

There was a time when the Soviets feared the West. More and more they seem to treat us with contempt. We cannot much object to that if our behavior is indeed contemptible. Solzhenitisyn spoke to the matter not long ago:

"My warnings, the warnings of others, Sakharov's very grave warning directly from the Soviet Union—these warnings go unheeded, most of them fall, as it were, on the ears of the deaf—people who do not want to hear them. Once I used to hope that experience of life could be handed on nation to nation, and from one person to another . . . But now I am beginning to have doubts about this. Perhaps everyone is fated to live through every experience himself in order to understand."

Perhaps. And yet the whole idea of a university is that this need not be man's fate, that we can learn from one another, can teach one another. And there is not greater responsibility just now, for the fate of the world rests on this learning. Nothing is more certain than if the Soviets conclude from our failure to respond to their obvious intent to discredit and dismember the free world that we are certain to be easy if not indeed willing victims, then indeed the democracies are doomed to repeat their experience of 1939 and mislead the aggressors into the apocalypse.

But we need not. And should we not here and now resolve that we shall not. And is there a better way than to say now to peoples of the world and to the rulers of the Soviet Union that they must not mistake appearances.

For Sakharov is here. And those who stand with him are here.

We are Sakharov.

Mr. MOYNIHAN. I thank the Chair.

I conclude only by saying that I think that throughout the civilized world the admiration for the courage of the Orlovs and the Sakharovs has never been higher nor our fears greater.

I thank the Chair.

ORDER OF BUSINESS

Mr. TOWER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. ALLEN. Madam President, before the distinguished minority leader uses his time, on behalf of the distinguished minority leader and with his permission I yield myself 2 minutes.

ORDER TO HOLD H.R. 5551 AT THE DESK UNTIL MAY 23, 1978

Mr. ALLEN. Madam President, on yesterday H.R. 5551 was ordered held at the desk for not to exceed 48 hours. This is a bill that I am seeking to clear with the Finance Committee. I have discussed it with the distinguished chairman, Mr. LONG, and he wishes to advise with the committee as to the bill. I, therefore, ask unanimous consent that the bill continue to be held at the desk but not beyond Tuesday, May 23, 1978.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. TOWER. Madam President, I ask unanimous consent that the Senator from Arizona (Mr. GOLDWATER), be granted leave of the Senate for personal business from Monday, May 22 through Friday, May 26, 1978.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TRANSFERRING TIME TO CONTROL OF SENATOR DANFORTH

Mr. TOWER. Madam President, I ask unanimous consent that the time allotted to Senator BAKER under the special orders be transferred to the control of Senator DANFORTH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Mississippi (Mr. STENNIS) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Madam President, does the distinguished Senator from Mississippi need any additional time than 15 minutes?

Mr. STENNIS. No.

Mr. TOWER. I am glad to allot him the leadership's remaining time.

Mr. ROBERT C. BYRD. If he does Senator TOWER has the leadership time.

Mr. STENNIS. All right.

I thank the Senator.

Mr. TOWER. Madam President, I ask unanimous consent that whatever remaining time the Republican leadership has be placed under the control of the Senator from Mississippi.

Mr. ROBERT C. BYRD. I thank the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized for not to exceed 25 minutes.

LABOR LAW REFORM ACT OF 1978

Mr. STENNIS. Madam President, may I inquire how much time did the Chair say I had?

The ACTING PRESIDENT pro tempore. Twenty-five minutes.

Mr. STENNIS. Madam President, there is no bill at this session, in my opinion, concerning our domestic affairs, our home affairs, that is more important than this one. It has to do with a very large segment of our people who are highly respected for their dependability and their reliability in connection with their work that they do in the various industrial units of our great Nation, and those are the employees. It has to do with what we broadly call management in the field of industry, and I am referring now, Madam President, to the Labor Reform Act of 1978, which is really the pending matter before the body, even though I am using this time now, asking for this time, at least, in the opening part of the session, because later in the day I am compelled to be on other official duties.

This bill relates also to another very important and highly essential segment of our people. This is the management part of our industry which represents the investment part of our industry. It represents those who own the companies, the corporations, the industries, in whatever legal form they may exist, be they stockholders or originators of the companies or originators of the industry.

The basic principle involved here, I think, is very difficult to arrive at. It is easy to talk about sometimes, but the basis of all of the subject matter of this bill is fairness, the U.S. Government trying to find rules and regulations and ways of conduct in this field that will be fair to both sides, if we may use that term "both sides"—I mean industry and management as well as the employees of industry; a plan or a method of each dealing with the other and each having its rights fairly attended to, considered by the other side as well as by the Government and, in a broad sense, the National Labor Relations Act, which is now about 40 years of age, has been the guiding line for these 40 eventful years between industry and their employees, and it has done a remarkable amount of good.

I studied this bill as an original proposition because it was my duty to, and I made a special promise that I would do it, with the idea of trying to find where the guidelines were that would continue this essential fairness that we have found in a large way in the National Labor Relations Act and in the operations of our economy under it.

After giving that proposal here my special attention, and what I think was a thorough attention, I just could not reach any conclusion whereby I could support the bill. I did not think it was necessary, and I find some of it at least to be punitive in nature. I think it will burden the Nation's workers, consumers, and businesses, too, with an unfair—and I say this regretfully but deliberately—an unbalanced labor law which seems to be designed to increase the membership, the economic and political power of the so-called big labor unions.

Certainly we are not against labor unions as such, and I can see where they have made their contribution, and

that they have a place in our affairs, and certainly they have a big place. But I just think that bigger than any place any group can occupy is the basic fairness that the average American wants to have himself and wants the other man to have, too, particularly when it comes to Government intervention.

I found, too, as I view these things that voluntary compliance to a degree has been the lifeblood of the National Labor Relations Act, and it has served us for more than 40 years now. Under it I give it credit for providing a responsible and a general stability in labor and management.

My memory goes back to the days before we had this act and to some of the bitterness and uncertainty in this vague field, the unknown field, that existed then for labor and management in their relations.

But this act, the present law, has put a premium on the balance, on the equity and fairness and, therefore, has served this Nation well and, I believe, we should leave this well enough alone. It is certainly not perfect, and it never will be and, indeed, it might have a certain amount of conflict and contention that goes with disagreement. But I think when it comes to trying to put it in a straitjacket beyond what the present law does, we create more evils and more harm than we do good.

It has served this Nation well, this present law, and I believe we should leave it alone, and I repeat that for emphasis.

Certainly I do not believe that so-called unionism should be governmentally imposed upon, a force fed upon, our people that belong to this very respectable labor force, and it should not be done through a drastic change in the law, as is proposed here in this act, although I know it is drawn in good faith.

I now want to discuss for the benefit of whatever help it may be, discuss for the record briefly at this time, some of the most objectionable provisions of the bill itself.

I am speaking now, Madam President, from a considerable number of years of dealing with people in fields of conflict. I have been a practicing attorney during those years, and I have been an official a great number of those years. I have really dealt with the realities of life as they are found from day to day. Any practicing attorney in the general practice of law would have those experiences; a trial lawyer in the courtroom, and that was a part of my experience, would have those experiences. I was privileged to be an official in connection with—well, I have been a trial judge for a part of those years, and day after day, week after week, year after year, have heard the trial of cases for various kinds as presented to a trial court.

So I am not just a novice, at least in that field, and it is something that has percolated into my mind and through my experiences over this period of time that I have referred to.

The proponents claim, and I am sure they believe, that under the existing law the election machinery, for instance, of the National Labor Relations Board is too slow. I find that this charge, if it is a charge, is contradicted by the actual facts and figures.

According to the research that was available to me, in fiscal year 1975, for instance, 9,112 Board elections were actually held, and of these, 7,466 or 82 percent were conducted within a period ranging from 12 to 44 days after the petition for the election was actually filed.

Now, that is a very, very reasonable period of time, it seems to me, and certainly the Members of this body are men and a lady who are familiar with election laws and the holding of elections, and the time that can be used and should be used in getting the people involved.

Back to these numbers: In 1,500 of the remaining cases, elections were held in a median time of 75 days in spite of litigation over such issues as the appropriate unit and voter eligibility. In only 47 of the more than 9,000 cases was it necessary for the Board to resolve contested issues. Think of that: In only 47 of the more than 9,000 cases was it necessary for the Board to come in and take part, at least, in resolving contested cases. This is a highly commendable record, and refutes the claim that the existing election machinery is either inefficient or does not match up with employee expectations.

Notwithstanding this, the pending bill would change the law so as to provide rigid timetables for holding elections. If the union has met with a high level of success in its organizing effort at the petition filing stage, and if the petition is signed by a majority of the employees, then the election must be held within 21 to 30 days. If less than a majority but more than 30 percent of the employees sign the petition, then a 45-day time limit is set unless issues of exceptional novelty or complexity are involved. Since unions campaign for months—which they certainly have a right to do—often without the knowledge of the employer, before filing a petition for an election, the effect of the short time provided before an election was held would be to limit and constrain the ability of the employer to communicate with its employees. Even more detrimental to the stability of labor-management relations may be the impact which the expedited election procedure will have upon voluntary compliance by the parties. The effect of this could be that the collective bargaining process will be delayed rather than expedited.

Now, another concern, Madam President:

Another area of great concern to me in the election area is the "equal access" provision. Under the bill the Board would be required to promulgate rules which would give union organizers the right to campaign on company property and on company time whenever the employer stated the company position on union representation on company time or company property. In my judgment, there is something fundamentally and basically wrong with a statute which requires an employer to provide nonemployee union organizers access to its premises merely because it has exercised its constitutional right to express its views to its employees on the question of union representation. Union organizers already have a distinct and built-in advantage in communicating their message to employees. They do not need any additional assistance from the Congress in this narrow field, or from any other Government agency.

As I have said, Madam President, if we fail to maintain a balance which amounts to the essential fairness to which I referred in the beginning, then I think the Government is getting out of line. There is no kind of labor group or management group, either, that have an ideal way of doing things, or can bring about ideal results. There is no panacea for all these matters, but they are inherent in human nature and human activity, and the Government just has no basis or ground to come in and overstep and push others around, whatever group they belong to. It is just not in keeping with the spirit of American Government, and it is not in keeping with the direct language of the Constitution of the United States that deals with the individual's rights, including property rights—and that is one of the rights that belongs to all of us. All of us.

Commendably, those in organized labor certainly do share in the benefits of the ownership of property and the responsibility that goes with it. I remember years ago, here, when a very fine union built a very creditable office building within a stone's throw of the dome of the Capitol, on the Senate side of the Capitol. They did it with their own money, and some protest was expressed and some complaint was made.

I said, "No, no, a thousand times no. They have the right to erect that building." And frankly, I am glad to see them own the building. I am glad they had the money to do it. I was glad to see them own the building, to see them put it up. It all tends to create an added sense of responsibility in the minds and hearts of those who belong to unions, and they have become grown up in their management in a lot of ways, in their investments and in their responsibilities in the American scheme of things. I rejoice to see anyone or any group improve their position for the better, to be more active and constructive in their citizenship rights and responsibilities. That is where we all find our best happiness, I think, is in working and achieving and trying to develop.

Another objectionable feature of H.R. 8410 is the so-called make whole provision. Under existing law, during a preelection or precontract period a company whose employees decide to join a union has no obligation to begin serious negotiations with the union over wages, benefits, and working conditions. It could, however, be forced by the Board to open good faith negotiations. Under H.R. 8410, as reported, the Board would be allowed to award the workers whose employer was found to have refused to bargain seriously a back pay remedy based on wage increases won by other workers during the same period based on the index of collective-bargaining increases. Mr. President, this is a punitive remedy, designed solely, I am afraid, to intimidate the employer, and

is contrary, it seems to me, to the concept of sound collective bargaining. If we are going to step in and go to putting penalties on people's backs in the process of sound collective bargaining, then we are creating discord, not only being unfair but creating discord and misunderstanding and more trouble; and also, in effect, it would allow the Government to dictate and fix the economic terms of the contract.

It would force the employer to bargain under duress and coersion.

I do not want to be misunderstood here at any time about feeling on my part to have an impartiality toward management and labor. I know how a country is sounder and better when they both have a certain amount of prosperity, so-called, and have good working conditions.

I know that that is best for them and it is best for the country.

I know, too, in this inflation, this inflation which I have been saying for some years was the No. 1 problem and, particularly, the No. 1 enemy, so to speak, of this very group, unionized or not unionized, people that have to—as we use that term—work for a living, that inflation is their No. 1 enemy.

This thing could go on and on to the extent it would drive them up the wall. That is, drive them away from their pattern of earning their way and paying their way, and saving some to educate the children, or train the children, and saving some for a rainy day, saving some for the nonproductive years ahead.

I know that, unless there is something wrong, unless we can have them under conditions akin to that, but, by the same token, this inflation has also run us to the employer, unless we are able to do something.

Madam President, another punitive provision of the bill is that which provides for Federal contract debarment or "blacklisting" for up to 3 years for employers found to be willful violators of prior Board or court orders. This would punish the employer without helping the employee in any manner. The irony of this provision is that, by punishing the employer by contract debarment, the remedy might very well result in a significant loss of jobs—resulting from the loss of Government contracts—for the very employees it was designed to protect.

Madam President, there are many other objectionable and punitive provisions of this bill which I will not take time to discuss at this point, but will discuss later. I do want to repeat my belief that passage of this bill would put labor relations in complete disarray and would unnecessarily burden workers, consumers and businesses. This bill is a substantial surrender to big labor and, if passed, would be the first step on the road to forced unionism. It is far more than innocuous labor reform and I hope that the Senate will see fit to deny organized labor the massive power and unfair advantage this bill would give it.

Madam President, I am sorry I ran overtime. I am interested in what I am saying and lost consciousness of time.

Madam President, I do not want to impose at this time on the Senate any further. I want to be heard further on this important matter. At the proper time I will be back on the floor.

Madam President, again I thank the Chair and I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized for not to exceed 30 minutes.

SENATE JOINT RESOLUTION 135—DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. DANFORTH. Madam President, the resolution that I am introducing today, together with 70 of my colleagues, establishes the weekend of or preceding April 29 of each year as "Days of Remembrance of Victims of the Holocaust." The resolution authorizes and requests the President to issue a proclamation each year calling upon the American people to honor the memory of the victims of the Nazi concentration camps and to reflect upon the pernicious nature of bigotry and the danger of tyranny with appropriate ceremonies and prayers. April 29 was the date in 1945 that the 7th U.S. Army liberated the Dachau concentration camp, one of the first concentration camps built by the Nazis. The resolution provides that the "Days of Remembrance" occur during the weekend so that those of us who wish to commemorate those days on our Sabbaths are able to do so.

The horrors of World War II and the inhumanity of the so-called "final solution" is within the personal memory of most of us in the Senate. However, many younger Americans do not have a personal memory of that period. I believe we must keep the memory of the concentration camps vivid; we must not forget the atrocities that were committed. We must not forget the millions of people who were murdered as a part of a planned program of extermination.

Six million Jews as well as millions of others were murdered by the Nazis. When numbers are very large, they often lose their reality. When we talk in terms of millions, it is easy for the mind to glide over the numbers—seeing only impersonal statistics. But to understand the horror of that period, we must realize that the numbers are not just statistics. Each number represents a human being—an individual who had a personal, unique history. Each person killed by the Nazis felt happiness and pain, experienced triumphs and defeats, had a network of family and friends. The victims of the Nazi holocaust were doctors, shopowners, professors, scientists, laborers—in the mainstream of European society. They were fathers, mothers, sisters, brothers. Their crime was the crime of being born who they were and who they were. They could not have escaped their fate any more than you and I can control much of what happens in our own lives.

I have no desire to catalog the acts of brutality perpetrated by the Nazis. However, it is startling to realize that the hatred of the Nazi policymakers was so strong that at the end of the war, when Nazi troops were being defeated on the frontlines, trains carrying people to the concentration camps had priority over trains carrying supplies and troops to the front.

While the atrocities committed by the Nazis are shocking, they are not isolated events in history. The Jews, as a people, have been the object of much persecution throughout history. It is imperative that they never again face the threat of destruction with no homeland to which to turn. But we need only to examine history to realize that the Jews are not the only ones to experience man's inhumanity. As we talk, a holocaust of enormous proportions is occurring in Cambodia.

The refugees who have escaped from Cambodia have begun to report to the rest of the world the dimensions of the Cambodian holocaust: stories of forced marches, mass killings, a rising death toll from beatings, shootings, and starvation. Phnom Penh, a thriving city of 2 million people just a few years ago has been decimated, with fewer than 30,000 still in the city. The victims in this case are not Jews, but former government employees, soldiers, and those with an education. The death toll has been estimated as high as 2.5 million people—out of a total population of 7 million. Here again, the numbers are difficult to grasp but each number represents an individual human being. And it is not just in Cambodia. In Uganda, up to 300,000 people have been ruthlessly murdered since 1971 when Idi Amin took power. And elsewhere in the world there are other persecutions and acts of terrorism.

It is important that at least once a year, we set aside days to reflect upon the horror of these massacres and to recommit ourselves each year to continue to stand up for the rights of the oppressed. However, it is not enough to feel horror at the massacre of millions of people.

The events in Nazi Germany, Cambodia, and Uganda are of a magnitude and degree of cruelty almost impossible to comprehend. However, they are rooted in the same intolerance and bigotry which is present to some degree in most of us. Any time we have ridiculed and degraded others or heard a derisive epithet and said nothing we have engaged in the same meanness of spirit which makes oppression possible.

A democratic form of government which rests on a mutual respect of the ideas of others and which acknowledges the equality of all serves as a check on that meanness of spirit. However, we must be vigilant always against bigotry and tyranny. We should, from time to time, reflect upon the acts of cruelty and oppression that have been committed in the past, and continue to be committed today, recognizing that none of us is truly free until all of us are free. To facilitate such a period of reflection and rededication, I propose with my colleagues the national "Days of Remembrance" set forth in this joint resolution.

I envision the "Days of Remembrance" as serving a twofold purpose. Specifically, it is a time designated each year to remember the Nazi holocaust—the event itself—and the individual people who

suffered horribly—while the entire world watched. More generally, I see the "Days of Remembrance" as a time each year for all of us to reflect upon the Nazi holocaust as a symbol—as a symbol of atrocities that are being committed today. The "Days of Remembrance" should be a time to reconfirm our belief in the equality of all people and to recommit ourselves each year to continue to stand up for the rights of the oppressed.

Madam President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 135

Whereas, less than forty years ago, six million Jews as well as millions of others were murdered in Nazi concentration camps as part of a planned program of extermination;

Whereas the people of the United States of America should always remember the terrible atrocities committed by the Nazis so that they are never repeated;

Whereas the people of the United States should continually rededicate themselves to the principle of equality, recognizing that every act of bigotry is rooted in the same callousness and cruelty of spirit as the acts committed by the Nazis;

Whereas the people of the United States should remain eternally vigilant against all tyranny, recognizing that tyranny provides a breeding ground for bigotry to flourish;

Whereas the memory of the Dachau concentration camp remains a startling symbol of all the destructive acts of the Nazis and more generally, the capacity of people to be cruel, the pernicious quality of bigotry, and the danger of all tyranny; and

Whereas the liberation of Dachau is testimony to the ability of people to overcome cruelty and bigotry through vigilance and resistance; therefore it is hereby

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That, in memory of all those who perished in the Nazi concentration camps and in the hope that Americans will strive always to overcome cruelty and prejudice through vigilance and resistance, the weekend of or preceding April 29 of each year, the anniversary of the days in 1945 when the Dachau concentration camp was liberated by United States armed forces, is hereby designated as "Days of Remembrance of Victims of the Holocaust." The President is authorized and requested to issue a proclamation each year calling upon the people of the United States to remember the atrocities committed by the Nazis and to observe those days with appropriate ceremonies and prayers.

Mr. CHILES. Madam President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. CHILES. Madam President, the resolution we are introducing today will establish an annual weekend of remembrance of some 6 million men, women, and children who suffered and died at the hands of the Nazis. Over 30 years ago on April 29 the U.S. Army liberated the infamous Dachau concentration camp, a place where some of the most heinous crimes in history took place. The weekend of or leading to April 29 would be set aside as a time for Americans to reflect and to pray for the millions of victims of the holocaust.

While the years have diminished the number of Americans who have direct remembrance and experience with those war years, they must not dull our senses to the tremendous tragedy of the holocaust.

Our Nation must never forget how and why these people died. Those who died at the hands of the Nazis were victims of prejudice and bigotry and cruelty. We cannot help but be aware of the millions who continue to suffer even today from individual acts of bigotry and prejudice and those who are persecuted when that prejudice and tyranny resides in the hands of a few in places of power. We must not close our minds and our eyes to the suffering that continues in the world by governments whose acts of cruelty are actions born in bigotry and hatred.

The freedoms enjoyed by every American today are very precious. By remembering the holocaust, we should be painfully aware of how these freedoms can be lost by choosing a course of apathy and indifference when confronted with prejudice and bigotry. The future of our country rests on our ability to maintain those freedoms and to exercise our power and our resistance to individual and concerted acts of cruelty or hatred rooted in prejudice.

Madam President, I congratulate the Senator from Missouri. I am one of the 70 cosponsors of this resolution. I believe the Senator has an outstanding resolution, one that will serve this country well and will serve the world well.

Many times, we talk about tragic events such as the holocaust. We are very concerned about it. The time comes when we even see a television documentary that vividly portrays that event. Everyone has a feeling for the tragic events that took place and the great loss that the world suffered—and certainly that the Jewish people suffered—as a result of the holocaust.

What the Senator has put his finger on is a way of recalling this event, so that over a weekend every year we will have an opportunity, across this Nation, to reflect on that event and to recall it. We hope that an action such as this will prevent an event such as the holocaust from happening again; that it will give us an opportunity to reflect, to apply our resolves so that it will not happen again.

So I congratulate the distinguished Senator, and I am happy to join him in the introduction of this resolution.

Mr. DANFORTH. I thank the Senator from Florida for his comments.

I point out that Senator CHILES and Senator PERCY were two of the three original cosponsors and signers of the "Dear Colleague" letter on this matter. I am very pleased to have the support of Senator CHILES and the support of the 70 Senators who joined as cosponsors of this resolution.

Mr. PROXMIRE. Madam President, will the Senator yield?

Mr. DANFORTH. I yield.

TIME TO ACT ON GENOCIDE

Mr. PROXMIRE. Madam President, I join the Senator from Florida in commending the Senator from Missouri on this excellent day of remembrance resolution.

The Senator from Missouri is absolutely right that we should recall this holocaust to our minds over and over again as the years go on. But I think that what the Senate misses is that we have an opportunity to act on the Genocide Convention. This is exactly what the Genocide Convention is about.

We have been called upon by President Carter, President Nixon, President Ford, President Kennedy, President Truman, and President Eisenhower to act on this convention. The American Bar Association tells us that we should act on it. Every religious organization, Protestant, Catholic, Jewish pleads for the Senate to act.

If we ratify the Genocide Convention, we go on record as a country against genocide. It is time we do that. Then we can take some action and do something besides fall on our knees in prayer—which is fine. Remember, yes indeed. But we should act on genocide as a Senate.

As the Senator has pointed out, people are dying in Uganda and Cambodia under genocidal circumstances. The Senate of the United States not the House of Representatives, not an executive agency, only this body, the Senate, is responsible for action.

For 30 years we have been asked to act on this convention, and it is time we did it.

I thank the Senator from Missouri for his magnificent speech. He is dead right. But I think the Senate should examine its conscience and ask why we do not take some meaningful action which we have been called up to take to stop genocide.

● Mr. JAVITS. Madam President, I am pleased to join Senator DANFORTH and many of my colleagues in introducing today this resolution to proclaim the weekend of April 29 to be "Days of Remembrance of Victims of the Holocaust."

April 29 was the day that allied soldiers liberated the survivors of Dachau, exposing to the world the shameful genocide perpetrated against the Jews of Europe by Hitler's Third Reich. It is most appropriate that the legislative body of our democratic country considers this resolution, for it commemorates the liberation and memorializes the millions who died in this most heinous crime against mankind.

In remembering the past, we must rededicate ourselves to the resistance against tyranny and genocide. The legacy of these martyrs is our commitment to remain ever vigilant in the defense of liberty and human rights throughout the world.

Certainly it sharpens our focus on the need for Senate action on the Genocide Convention which has been languishing without U.S. ratification since 1948. It is shocking, indeed, that the United States has not approved this crucial international convention punishing the barbaric act of genocide, the crime for which there is no equal.

I urge my colleagues to act favorably on the holocaust resolution and on the Genocide Convention thereafter.●

● Mr. KENNEDY. Madam President, it is a privilege to cosponsor this joint resolution which designates 2 days in April

as "American Days of Remembrance of the Victims of the Holocaust." Time will be set aside so that we, and generations to come, will never forget the tyranny and hatred of the Nazis and their systematic and brutal execution of millions of Jews and other minorities.

During those days of remembrance we should look back and consider the steps which have been made to combat bigotry or injustice in all the lands of the world. We should also take this time to look ahead and see how much further we have to go.

I only hope this vision and this remembrance will not be confined to 2 short days in April. The struggle for equality and justice is a never ending one.●

Mr. DANFORTH. I thank the Senator.

Madam President, I reserve the remainder of my time.

ORDER OF BUSINESS

Mr. HOLLINGS addressed the Chair.

The ACTING PRESIDENT pro tempore. There is an order for the Senate to proceed with the unfinished business, if the Senator from Missouri is finished.

Mr. DANFORTH. Madam President, it is my understanding that Senator DOLE wants to use some of the time that was allocated to me. I am looking for him at this point in order to find out how much time he would like.

How much time do I have remaining of my 30 minutes?

The ACTING PRESIDENT pro tempore. The Senator has 11 minutes remaining.

Mr. DANFORTH. How much time does Senator HOLLINGS desire?

Mr. HOLLINGS. I want to proceed on the bill. When I get started, I do not know how much time I will need.

Mr. PROXMIRE. While the Senator from Missouri is waiting for Senator DOLE, I could use some time, if possible.

Mr. DANFORTH. How much time?

Mr. PROXMIRE. I will stop whenever the Senator from Kansas comes to the floor, if that is convenient.

Mr. DANFORTH. On that basis, I yield to the Senator from Wisconsin.

NEW YORK CITY'S ECONOMY-MINDED MAYOR

Mr. PROXMIRE. Mr. President, New York City's new mayor, Ed Koch, showed a tough, economy-minded attitude the other night to a large body of his constituents who wanted him to spend money for their benefit and their interests now. Mayor Koch said "No," and for that he deserves credit.

It is one thing to speak against spending money, in the abstract, and it is not hard to do so. It is another to oppose spending money specifically when it is not in the area of spending that benefits your immediate audience. That is a little more difficult, but not much.

What really tests the mettle of a public official—what determines whether he has the genuine courage of his convictions—is whether he will stand up to those who vote in his election, and when they are crying out to spend money for what they want, and tell them, "No; slow down. The spending you want must be justified, and you have not justified it."

That kind of opposition to spending comes hard. That separates the men from the boys. That is what Mayor Koch did in Queens the other night.

Let me read from a New York Times article reporting this confrontation:

At one point, as the group demands the Mayor press for completion of York College as a learning and business anchor for Jamaica, the Mayor says that he won't act until he sees a coming report on whether it is educationally justified. Do they want him to carry on old policies if they are erroneous? he asks. The crowd buzzes with annoyance, but the Mayor continues confidently, bobbing his head like a wagging finger. "Would you have me spend $140 million . . ."

The audience shouts start: "Yes! Yes!" Mr. Koch goes on: ". . . of your hard-earned tax money . . ." The shouts: "Yes! Yes!" Mr. Koch: ". . . without having a master plan?"

Mr. President, this is the kind of hard, tough, unpopular talk the Mayor of New York needs to deliver over and over again in the city, the kind of leadership the city needs. It is the kind of activity by New York City officials that I think the Senate of the United States welcomes and should recognize and take into consideration as we consider the appeal of New York for continuing the assistance to New York.

Madam President, I ask unanimous consent to have printed in the RECORD an article by Francis X. Clines, published in the New York Times, reporting on this fascinating confrontation between Mayor Koch and some of his constituents.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THUMBS DOWN ON THE EMPEROR

(By Francis X. Clines)

In a way, Mayor Koch has found a perfect mirror-image audience in Queens—sharp, cocky, self-centered and blunt to the point of insult—and we should be happy for him as he thrusts and parries, one against one thousand, the Douglas Fairbanks of urban dialectic.

Shining on the wall of the crowded auditorium is a slide-picture tally of his responses to the acute questions of the 18 church parishes newly aligned as the Queens Citizens Organization. As he responds about housing, education and transportation problems, boxes are checked off on the slide, his answers distilled to the simplest levels: Yes/No/Other.

Clearly, as the organization proclaims, these people are sick of the system and of politicians who qualify things. They have gathered together to pin down the Mayor, monosyllabically, if possible, and to cut his rhetoric off at the pass back to Manhattan.

The sea of faces is heartening. Over 1,000 people gathered like political conventioneers under pikes of identity: "St. Mary Star of the Sea" over there, "Lutheran Atonement" back from the stage. This must be one of the healthiest experiments in city politics at the moment. Even if there is a certain colosseum quality to the proceeding (with, however, the Christians this time wielding thumbs up or down on the Emperor), it is good to see the people out and talking issues.

The Mayor cannot afford to ignore the group, which claims 47,000 families as members. This is a rematch after an initial bristling confrontation in which he walked out of their rigid, rather Socratic forum—which itself is satisfaction for the group in avoiding the usual pat-on-the-hand speeches politicians like to deliver to the middle class. This second time, everything but the shape of the tables has been warily negotiated in advance.

The Mayor arrives precisely as negotiated—8:23 P.M.—and he looks pleasantly brash in a dark suit, sitting absolutely alone before a plush red curtain on the right side of the stage in the Queens College auditorium. In the next 85 minutes, the Mayor gives as good as he gets, and while there is some promise offered on some problems, the main effect seems a catharsis, that of the village standing up to the newest mandarin.

One interesting point about government left unstated in the meeting is the contrast between this scrupulous attempt at grassroots control and the Mayor's proposal, on the previous day in another forum, to cede the ultimate fiscal-review authority of city government to the hands of nonelected monitors for the next 20 years. This accession, to Federal authorities' demands, is part of the city's hope for a fresh line of credit to avoid, once more, whatever elements of formal bankruptcy have been lacking thus far in the strictures of the fiscal crisis.

With this in mind, it is possible to sit through the Mayor's visit and pick at issues that were supposed to have been settled far from Queens in The Federalist Papers: What is a proper majority rule and how is it exercised? There are constituents in Queens with votes and needs; there are lenders in the land with money and demands.

At one point, as the group demands the Mayor press for completion of York College as a learning and business anchor for Jamaica, the Mayor says that he won't act until he sees a coming report on whether it is educationally justified. Do they want him to carry on old policies if they are erroneous? he asks. The crowd buzzes with annoyance, but the Mayor continues confidently, bobbing his head like a wagging finger: "Would you have me spend $140 million .' . ."

The audience shouts start: "Yes Yes!" Mr. Koch goes on: ". . . of your hard-earned tax money . . ." The shouts: "Yes, Yes!" Mr. Koch: ". . . without having a master plan?"

And when the group asks for input before, not after, the plan is set for building a rapid-transit route through Queens to Kennedy International Airport, the Mayor refers them to the existing community board hearing process. That is where you'll have your hearing," he says flatly.

But where are all these master-plan standards and hearing niceties when Manhattan and other powerful precincts get theirs? the people ask contentiously. It is a good toe-to-toe moment, good graphics for the 11 P.M. TV news. But no one asks how the process must be so constitutionally orderly at this level, yet yield so easily for 20 years at the upper levels.

A women from Ridgewood, seated at the "Meet the Press" type of panel confronting the Mayor, sums up what is at stake: "We're asking to be part of the meetings where decisions are made."

Through all this the audience is alive and noisy, and everyone has a scorecard to track the Mayor's hits and errors, as if this were Shea Stadium.

"Why isn't that . . . yes, it's Gabe" a woman says to a companion, distracted by a slash of lamplight. Mr. Pressman is there with his camera crew, the chorus at the catharsis, and he is using the audience as a backdrop as he says something hushed into his mike, his brow knitted conclusively.

At the end, the leaders of this aggressive meeting and the Mayor seem to have battled to an honorable draw, by one visitor's scorecard. But the Rev. Eugene Lynch, president of the organization, disappointed because the Mayor will not promise the group a more regular entree to City Hall, pronounces a different judgment on the evening, reading from what appears to be a prepared statement.

"You have refused a working relationship with us," Father Lynch declared. "You have ignored the people of Queens tonight."

There are hoots of demurral at this in some quarters, and Mayor Koch smiles. He beams a kind of Jeanne d'Arc gratification as the flames of the priest's rhetoric lick about him. At the end, he exits to applause and retreats to Manhattan.

ORDER OF BUSINESS

Mr. PROXMIRE. Madam President, I yield the floor, and I thank the Senator from Missouri for yielding to me.

Mr. DANFORTH. Madam President, I yield to the Senator from Kansas.

Mr. DOLE. I thank my distinguished colleague for yielding.

ALTERNATE CARE FOR TERMINALLY ILL

Mr. DOLE. Madam President the focus of our health care delivery system has been historically directed toward caring and curing. Advancing technology has made longer life a reality for many. Yet as the number of individuals over the age of 65 grows and as the number of patients with terminal illness grows we find that discussions that focus on death and dying have become more frequent. When one considers that there are presently nearly 23 million people 65 years of age or older—and that by 1980 nearly 10 million people both young and old will have terminal cancer, these discussions become even more important.

Individuals such as Dr. Elizabeth Kubler Ross, and newspaper and magazine articles similar to the one written by Victor Zorza and his wife describing the last days of life of their daughter—have brought these subjects into the public eye.

Central to these discussions is the question of what kind of care is more appropriate for the terminally ill? There is growing concern that the acute care hospital no longer provides the most appropriate care.

Most American hospitals are designed to give acute, highly technical and aggressive care, designed to prolong life. This design is a good one, and their successes are ones we should be proud of. However, the needs and problems of the terminally ill are unlike those handled best in this atmosphere. Yet it has been estimated that 80 percent of all deaths in America take place in hospitals or nursing homes and 70 percent of all cancer patients die in hospitals. The percentage of people dying at home, rather than in an institution, has been on the decline.

NEEDS OF TERMINALLY ILL

We must begin to examine how we care for the terminally ill—we must begin to focus our care on what they need and want.

While death looms close at hand we consistently remove their ability to control their own lives long before they are ready to give away this right. More often than not, they are not given a choice on where they want to die, the choice of treatment, and in many instances they are not even told the truth about their illness or prognosis. Traditionally we have not supported the basic human rights of these patients whose needs obviously range from physical to emotional.

In discussions with individuals who are terminally ill and in conversations with their families we hear many of these same unmet needs verbalized time and time again. These needs revolve around self-control, decisionmaking, relief of pain, rights of privacy and the right to know the truth. Alternative forms of care which can address these problems are being sought.

COST OF CARE

These problems are complicated with the tremendous financial burden of terminal care. In a 1973 study by Cancer Care, Inc., it was estimated that the median cost incurred by the families of cancer patients was $19,055, which is 2⅔ times more than the median-family income of $8,000.

Home care is seen as less costly and more responsive to an individual's needs but our society has moved increasingly away from this form of care.

HOME CARE

As society has moved from the extended family of old to the smaller, nuclear family of today, the support systems necessary to care for a terminally ill family member have become less available. This is further complicated by our present reimbursement system which pays for institutional care but not for home care in most instances.

There is a desire on the part of many to look to home care again as a viable resource.

In a south-central Connecticut survey of deaths from cancer, between 1969 and 1971, 67 percent of the patients expressed a desire to die at home as opposed to the 20 percent who did die at home. However, in order for home care to again become a reality we must determine the type of support systems the family and the individual need.

We must also continue to seek out other models of care, for while there is general consensus that for the individual with appropriate support systems, financial means, etc., the best place to die may be at home, there are circumstances, such as the physical condition of the individual, where this is not appropriate.

What appears to be emerging is a sensitivity toward the dying individual and an appreciation for the role of the family and the home in caring for these people. We must seek out forms of treatment that support this movement, and afford the individual the optimum opportunity to make their own decisions.

HOSPICE

The hospice approach to care for the dying is a program of active medical attention whose chief characteristics are the sophisticated management of severe pain and optimum use of home care. Hospice care may be available through home care, outpatient services, or an inpatient program. Care is provided by a multidisciplinary team made of nurses, physicians, and other providers. Psychological, spiritual, and sociological needs are regarded as important to care for as physical complaints.

The most well-known hospice at this time is St. Christopher's in London. Cicely Saunders, a physician and nurse, the founder of St. Christopher's, describes the goals of this program:

The name hospice, "a resting place for travellers or pilgrims," was chosen because this will be something between a hospital and a home, with the skills of the one and the hospitality, warmth, and the time available for the other and beds without invisible parking meters beside them. We aim, above all, to recognize the interest and importance of the individual who must be helped to live until he/she dies and who, as he does so in his own way, will find his/her "own" death with quietness and acceptance. A staff who recognizes this as their criterion of success will not find this work negative or discouraging and will know that it is important, both in its own right and also in all the implications it holds for the rest of medicine and, indeed, the rest of life.

The hospice concept dates back to the middle ages in England, Italy, France, and Germany. A hospice during that time, was frequently run by a religious order and was a place where early "medical" care was provided.

"Hospice" as a place for the final days before death seems to have begun in Dublin, Ireland, sometime during the 19th century. Homes were then followed in England and in France and served as the forerunners of the modern British hospice.

There are presently programs in existence in this country which have many of the same components as the English system.

U.S. HOSPICE EXPERIENCE

We have gained a great deal through our close examination of the British system, but it is difficult to translate accurately from experiences occurring in different societies to our own. For this reason numerous projects have been funded by the National Cancer Institute both in the past and at present. The most well-known project and the first hospice in the United States, was Hospice, Inc., in Branford, Conn.

The Connecticut hospice began in 1973 with a home care program. This program was made possible through donations and a 3-year million-dollar contract from the National Cancer Institute. The project funded "delivery of services by a multidisciplinary health care team to selected cancer patients in the New Haven area who are too ill for aggressive rehabilitation." This hospice had a staff of 15 full-time and 11 part-time members. Care was available on a 24 hour-a-day, 7 day-a-week basis.

A recent survey prepared by Ms. Leda Judd at the request of the Office of Planning, Evaluation, and Legislation, HRA, explains that since the program began it has averaged a caseload of 30 to 35 patients at any one time and a bereavement followup caseload of about the same number. Average length of stay in the home care program for the 325 terminally ill patients cared for in the hospices first 3 years was 3.1 months, during which there was an average of 2 physician home visits, 12 nurse visits, and 2 visits by social workers and other team members. The average cost per home visit was about $28.

Hospice, Inc., is presently planning to build a 44-bed inpatient facility to serve as a backup to the home care component.

OTHER CARE MODELS

There are numerous models of care in addition to this home care system that are being studied.

Free standing Hospice's with no hospital affiliation, free standing facilities with hospital affiliation, special Hospice unit within a hospital, and the Hospice team operating within a hospital, are examples of some of these other systems.

Each has something to offer and each needs to be examined carefully.

The National Cancer Institute has a limited demonstration project ongoing at this time. However, there is no doubt that much more information is necessary before we begin to address the issues of reimbursement. Standards, licensure requirements, staffing, and health planning for Hospice facilities and programs.

CURRENT ACTIVITIES

There is no question in my mind that we should begin discussions on how the Federal Government can appropriately help in the development of these programs. We must move forward certainly but cautiously. Perhaps increasing demonstration projects similar to those presently funded by NCI may be the way to proceed. Demonstrations frequently serve two purposes in that they give date upon which to base long-term solutions and at the same time the demonstrations can be providing care.

But demonstrations are by no means our only option. Other methods should be considered. Perhaps an alliance between the Government and the private sector to examine these programs and the surrounding issues should be encouraged.

BIPARTISAN ISSUE

I believe that care for our terminally ill must be considered to be a serious national issue, one that deserves bipartisan support. In this spirit the Senator from Kansas, the distinguished Senator from Massachusetts, Mr. KENNEDY, and my distinguished colleague from Connecticut, Senator RIBICOFF, have joined together in an effort to bring this matter to your attention.

A meeting to inform Senators about the hospice movement will be held on Wednesday, May 24, 1978. In addition, we have sent a letter to both the General Accounting Office and to the National Cancer Institute in an attempt to secure up-to-date information on the status to the hospice movement in this country.

CONCLUSION

Our experience with the medicaid mills and other unscrupulous health care operation has taught us that we must move with utmost caution in the development of these programs. But move we must—the growth of the hospice movement is a long-range goal—an effort to ameliorate some of the existing conditions for the terminally ill in hospitals is something that must begin today. We must also push our health manpower education system to more fully prepare health professionals to deal with the problems of the terminally ill and of their families.

We must all work together to provide for those in our society who are near death, an environment that recognizes them as an individual: an individual with dignity seeking only to spend their last days and hours peacefully in a manner of their choosing.

There is a great deal of interest in the hospice movement. It is the intent of the Senator from Kansas, together with the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Massachusetts (Mr. KENNEDY), to explore this matter further.

ORDER OF BUSINESS

Mr. HOLLINGS. Madam President, does the Senator yield?

Mr. TOWER. I yield.

Mr. HOLLINGS. If the Senator just had something which would take a moment, I say to the Senator from Texas, I wish to proceed on H.R. 8410, if the Senator had something only for a minute.

Mr. TOWER. I am perfectly willing for the Senator to proceed. I was just going to suggest the absence of a quorum myself.

Mr. HOLLINGS. Excuse me. All right.

Mr. TOWER. I shall be interested in hearing the Senator from South Carolina talk at great length. I always enjoy his speech.

LABOR LAW REFORM ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 8410, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedure under such act.

The Senate resumed consideration of the bill.

Mr. WILLIAMS. Madam President, one of the primary reasons for the Labor Law Reform bill is to assure employees the right to freely and fairly determine whether or not they wish to be represented by a union for the purposes of collective bargaining. This right was enacted into law in 1935 under the provisions of the Wagner Act. In 1935, the intent of the Congress was clear and concise—if a significant number of employees indicated that they were interested in collective bargaining then all of the employees should have the opportunity, in fair and secret elections, to decide whether they want a union to represent them.

This is a right which workers have under current law. We cannot allow complicated bureaucratic procedures to stand in the way of this democratic right.

And yet, that is exactly what has occurred to thousands upon thousands of our Nation's workers.

So that all Members of this body may know the extent to which the current procedures of the National Labor Relations Board can be used and abused to frustrate the right of employees to have a free election, I wish to share with you the story of the employees of Verona Dyestuff Division of Mobay Chemical Corp. This is a true story. These are real people whose statutory rights were frustrated by the election procedures under current law.

As I indicated yesterday, we will, during this extended debate, bring in these particular cases that demonstrate the points that we are making to advance the just cause of this bill.

WHY AMERICA'S WORKERS NEED LABOR LAW REFORM—CHAPTER 2

On October 9, 1975, the United Steelworkers filed a petition seeking an election of the maintenance department employees of the Verona Dyestuff Division of the Mobay Chemical Corp.

On November 26, 1975, the regional director issued a decision and direction of election in the unit of maintenance workers. The employer filed a motion for reconsideration, alleging that the regional director had made errors in factual findings, and contending that a broader unit was appropriate. The regional director denied the motion for reconsideration.

The employer then filed a request for review with the National Labor Relations Board. The employer contended again that the regional director had made erroneous factual findings, and that the Board should review the policy on which the regional director determined the appropriate unit.

On February 11, 1976, the Board granted the request and stayed the scheduled election.

On September 3, 1976, after it had the case for nearly 7 months, the Board issued its decision, affirming the regional director on the issue of the appropriate unit. In doing so, the Board reaffirmed its policy on separate maintenance units which had been first enunciated some 15 years earlier. By the time the Board had issued its decision, nearly a year had passed since the petition was filed.

Think of it. Nearly a year to reassert a rule of law that had been established some 15 years earlier, by raising the issue of the appropriateness of a unit which had been considered appropriate for some 15 years, the employer was able to delay the election which the employees wanted, and to which the law entitles them for more than a year.

Under the labor law reform bill this would not have happened. The appropriate unit would probably have been established by Board rule. The election would have been held promptly, under the time frames established in the bill, and the workers would have had the opportunity to express their choice of whether they wanted a union or not within a reasonable time.

It is cases like that of the employees of Verona Dystuff that labor law reform is all about.

I yield the floor at this time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, I rise to oppose H.R. 8410 with certain sensitivities to employment, industrial development, creation

of jobs, the assault being made upon the section of the country known as the Sun Belt by our Snow Belt brethren, and the totally unfounded statistically information upon which the need for labor reform is premised.

Let me say a word, with respect to having worked in this field. I am not a labor lawyer. In fact, that is one of the great difficulties that we have in the very complex field of labor law practice, that is, a paucity or small number, one might say, of labor law practitioners in my State. That is the very reason, in essence, that small business would be at an unfair disadvantage at the behest of those expert in the field. A small group could come into our particular backyard and prey with this unfair advantage to be given by the Labor Law Reform Act.

Speaking of industry, I have worked for years in that particular field. I know the friends of organized labor in that I have been, in essence, on both sides of the aisle, as one might characterize it. In a general sense they have been my friends, and I have worked very close with them with an endeavor to try to improved the lot of the workers and, if course, politically to improve the lot of Democrats. As chairman of the campaign committee, I worked very closely with the top leadership of the AFL–CIO. I found them very cooperative and very brilliant, very fine gentlemen.

So I do not come with any rancor, bitterness, or suspicion to the individuals themselves. We will never find a better man than Al Barken of the AFL–CIO or our own Lane Kirkland, who was born in Camden, S.C., whose mother recently before her demise lived in Newberry, and I knew her, and I am confident she voted for me.

So we have many friends among the principal proponents of this particular legislation. So what I say is in all due respect to their particular movement, understanding the necessity and wisdom for the right of workers to organize and collectively bargain.

I think it has worked extremely well, in a general sense. The truth of it is that nothing has really been said until the common situs picketing bill was really defeated on the House side.

I have been here for 12 years. We have had the Darlington case for 12 years, and the J. P. Stevens difficulties during those 12 years, but we never needed labor reform. There were other needs, and organized labor realy packaged their demands into a common situs picketing provision which has been defeated before Congress now at least two times, once with a pair of vetoes and more recently by a defeated vote in the House of Representatives. But, thereupon, upon that defeat they came with this particular measure calling it labor reform and saying, "We just cannot have any more of these Darlington cases and we cannot have any more of this labor contempt."

Is there really that frequency or abundance of contempt, or has the Darlington case a chance to be revisited?

I again, with respect to the Darlington case, deplore what occurred there. I think it is well known back in my home State that the owner of that particular industry has financed my opposition in different races, specifically in races to be elected here to the Senate. So I do not have any debt to be paid there, and yet we have to be practical and truthful about the Darlington case. It was a case that brought into issue the cardinal principle of whether a man could own his plant, run it as he saw fit, and then if it did not agree with the particular provisions, in this case, labor practices, whether he had a right to close it down. And it took 8 years to make that decision. During that 8-year period a lot of persons suffered. But he had that legal right and the legal right was upheld by the Supreme Court of the United States.

The Senator from New Jersey can well own Williams Manufacturing Co. and he might not like me coming in as an organizer to do what I would like to do with Williams Manufacturing, and he would say, "Rather than fool around with Hollings, that organizer, I am going to close it down."

That is a fundamental right in the United States with the ownership of a particular industry unless the Supreme Court said there was a common design to chill union activity at other installations.

So, having been ordered to pay the workers during that period of time, and the principle having been well-founded, you have not had any industries being closed down, because not many owners are that affluent and that individual-minded as to act in that particular fashion. So there is nothing really here of so-called reform as to correct the Darlington case.

We go immediately then to the proposition of contempt. I was very interested, Mr. President, in talking to a friend recently with whom I served in the South Carolina General Assembly, Mr. Lovic Brooks, formerly of Anderson, and now of Atlanta, Ga., with the Constangy, Brooks & Smith firm, which is a firm of lawyers practicing labor law for the past 40 years. I wanted to go over with a friend that I could communicate with and just find out really what was right and what was wrong, and be objective, because no one likes to just get up and make a tirade and have it include a bunch of unfounded facts, and not have a true feel for what H.R. 8410 is intended to correct.

The one thing that impressed me—and we can go later on into the amendments that I will present at a proper time on this particular bill—but the one thing that impressed me at that time, talking with my friend, he said, "You know, the Constangy firm, with whom I have practiced labor law for over 40 years, has never had a client in contempt." I said, "How is that?" I said, "You represent the majority of the textile corporations of America." It is one of the largest firms, if not the largest labor law practice firm, in the southeast, where the majority of the textile industry is located, where its workers are, where its labor law cases would derive. He said, "We believe in being objective and fair, responding to the proper provisions of the law, and when the court has made an order, to respond to those particular orders, and then knowing the law game as we lawyers do," and referring to other law firms not to be named, of course, he said, "You know, some lawyers will just take advantage and abuse the process."

I said, "Well, there ought to be some kind of statistics on which we could all rely that would show just that, if what you are saying is true, because I thought everybody was in contempt and the law had just broken down and nobody was obeying it."

After all, being up here for the past 12 years I had not been, as I say, attuned to the developments under labor law practice.

So I went to the National Labor Relations Board's most recent report. This green cover document for 1977. This is the 42d annual report. It is a very, very interesting thing because it goes into all kinds of cases, with a rather glowing report of the successes of the NLRB, certainly not any frustrations on account of contempt, because one has only to look and just see some of the statistical material.

For example, the National Labor Relations Board docketed 52,943 cases in 1977, and what occurred? They closed 53,908 cases in 1977.

I look at the Equal Employment Opportunity Commission, where we have their budget here for appropriation, and I am chairman of that subcommittee, and we are trying to work together with the distinguished new chairman on playing catch-up ball because we get more and more behind each year. Thousands and thousands of cases are not handled, and justice delayed, of course, is justice denied.

I see the other cases with the Justice Department; I see the Supreme Court's docket with the Supreme Court in the presentation of its budget, and how they are pleading for an appellate court, and now they are falling behind. I do not see anybody trying to reorganize the court, or the EEOC, and some of the other endeavors of government which have a volume of cases.

But here, unlike other agencies, the NLRB decided more cases than it received, and it was able to reduce its backlog by almost 1,000 cases. That is table 1 at page 266 of this particular report. This is the result of the Board's ability to achieve compliance with the law through settlement rather than litigation. That is what my friend Brooks, the lawyer was talking about. He said the vast volume of misunderstandings, people taken with all the complexities that we now have in the law, could almost be evened out a little more on the other side rather than on the labor side if we wanted to be more fair. This is because there are a lot of restrictions aginst employers that find them easily in contempt, for small businesses—and I will point out later that the majority of these NLRB cases are small businesses in America—are not informed, and they do not have labor expertise and legal judgment to call on.

But in any event, the Board has been able to achieve compliance. Brooks said to me that this comes about through settlement rather than litigation. The vast majority of cases are disposed of without requiring a hearing of any kind.

We are going to hear about and look at the committee's report, and we are going to be able to debate that even further. But few cases ever reached the five-member Board for decision; the vast majority are decided without a hearing of any kind, and even fewer cases reached the NLRB.

Thus, of the 7,602 unfair labor practice cases closed in 1977, 94.4 percent were closed prior to any hearing.

We are hearing bandied about, and we are going to have folks walking the hall with a red, white, and blue ribbon, saying that they are victims, victims, if you please. Mr. President, we speak not only for those—and I represent those within the unions as well as those without the unions, and unfortunately the way this bill is presented by the labor committee it would presume to represent the majority of the workers.

As of 1976, which is the most recent figure that I could find for labor union membership, we find 19,432,000 workers of the workers in the United States, and that is a total work force of 79,443,000. So actually less than 25 percent are supposedly involved in any kind of legislation at all. Others have had a fair chance to consider it, the need for a union, and they are needed and work extremely well in many parts of my State of South Carolina and, more generally, by a majority in my own home county of Charleston. But less than 25 percent have selected union membership or rather 60 million workers with that opportunity have not selected it.

Mr. President, we will in a little while go less and less and less, union labor and that is the problem facing our distinguished friend, Mr. George Meany. This will occur regardless of their procedures, whether or not unions can render service, or whether or not they can inform.

I think one of the most remarkable things that occurred in the 1976 election, that opened the eyes of many of us in the South, was when that southern right-to-work Governor, our friend Jimmy Carter, went up to Pennsylvania, the organized labor State, and carried it over organized labor in a Democratic primary. That tells me something about the labor leadership that they talk about in this country. When our friend Jimmy can go to Pennsylvania—we never would have dreamed that he could even get his name on the ballot, much less carry that State against our distinguished labor loyalist friend, I say most respectfully, the Senator from Washington, SCOOP JACKSON.

So there are other things occurring that the law is not going to apply to. There is no law to change that kind of situation. But there are 75 percent of the workers that should be heard from on the floor of the U.S. Senate, who like to work for their employer and their employer likes to have them work for him.

Now, of the 37,602 unfair labor practice cases closed in 1977, 94.4 percent were closed prior to a hearing; 95.4 percent were closed without requiring any action by the Board itself. Similarly, of the 15,346 representation cases closed, 93.3 percent were decided prior to a Board decision. That is in table 9 on page 286 of the NLRB report.

The above figures hardly demonstrate an inefficient agency or an overworked, overloaded Board, in need of expansion; nor do they support the claim of undue delay in the disposition of cases.

For example, in 1977 the NLRB regional offices processed cases, from the filing of charges to the issuance of complaints, in a median time of 48 days, compared with 55 days in 1976. So you see they are expediting, and they are moving ahead.

Over 85 percent of all unfair labor practice cases, however, are disposed of prior to the issuance of a complaint. These are remarkable figures. In all, we really do not understand: We get the general sense that there is a terrible thing happening. We have got churches that really resent this activity down South, and the civic leaderships, and we have full-page ads in the New York Times and the Washington Post telling us how to live and what to think, and yet we have all the people, every day, with their pocketbooks, with their research, with their leadership, and, yes, with their persons. We are having more and more of them move down South, move down there to live, because they like the climate, and it is not just due to a law one way or the other, but it is due to an environment that has been created through civic leadership, dedication, and most of all, the attitude and aptitude of the work force.

I have competed with every State in this country for the attraction of industry, and we have set the records in our State of South Carolina.

Moreover, it is clear that cases are decided well within the 48-day period. The fact that 94.5 percent of all unfair labor practice cases were closed prior to any hearings indicates the employers are not engaging in delaying tactics, as some have argued. Of the more than 20,000 unfair labor practice cases filed against employers annually, approximately 230 ultimately require court review, and only—Mr. President, if Senators would only listen—only 25 lead to contempt proceedings.

That was the thing that made me decide I have got to take the floor here and really get to the nitty-gritty of this particular problem; and you will find this information on contempt at page 309 of that table in the 1977 report.

On petitions for contempt, there was a total of 29. There were 25 against employers and 4 against unions. And of court orders holding respondent in contempt, 20 against employers and 3 against the unions.

Now, they say that needs national legislation. They say, "We have got an emergency here, we have got to act, we need reform."

I tell you, Mr. President, that that is not the case at all and they know it. What they are really trying to do is, on a falsified basis, or rather a falsified impression, because the facts cannot be falsified, but under a false impression of arbitrary, contemptuous conduct, they are trying to sell their case to have access to the particular plants and cause havoc in my section of the country.

Let me, first, go into how you do compete for industries, and how we have attracted both union and nonunion employers.

The fact of the matter is, as I stated a moment ago, in Charleston County I have had occasion to represent organized labor as a lawyer—not with respect to NLRB activity, but in obtaining a hall for the carpenters' union, working out an agreement for the steelworkers, and doing a few things like that, back some years ago. But the point is that we have the steelworkers, we have the building trades unions. The chairman of the Democratic Party—and I run under his ticket and banner for the U.S. Senate—the chairman of my county party is the distinguished Mr. Cecil Clay, who is the business agent for the building trades in my home county, and one of our most respected citizens.

We have the United Auto Workers, we have the paper and sulfite workers at our paper mill, and we have the longshoremen down at the docks. I venture to say that all the industrial workers in the county in which I live, grow and prosper—and I am either going to prosper politically up here as a U.S. Senator or down there as a practicing attorney, one of the two—and that the majority of the union folks—and well-respected union folks—who became members of unions under the present law, had no difficulty and did not need access, did not need all of these so-called reform provisions. The Government employees at the Navy yard, all of these folks operate, if you please, under the present law in a healthy fashion; and having been in public life now for 30 years, none of them ever mentioned this to me until Washington called and asked them, "Please go by and see your friend Fritz."

There was not anything that was unfair, undue, or needed reform. We do not have contempt cases down there; and, going back to the original point, the law firm that represents the majority of the textile corporations does not have a single client that has ever been found in contempt, in the entire 40-year history.

When I was Governor, one day we got a call on the phone from Mr. David Schwartz, head of Jonathan Logan and Butte-Knit, a large, multinational, distinguished garment manufacturer. You have seen the advertisement of their workers, "We are working for the International Ladies Garment Workers Union." I think it is a fine ditty. I tell my friend it is one of the best I have ever heard.

I am proud of it. They pay garment workers extremely well in South Carolina. I would think better than most other industries. Mr. Schwartz called. He has that same impression that pervades those in the Snow Belt who think they can satisfy their particular ills by not meeting the competition but running away from it or trying to legislate against it.

He said: "I understand, Governor, you had a union."

I said: "You are talking to the Lieutenant Governor who presided over the special session when we brought in an organized paper industry, when we had to change our constitution so they could own over 500 acres and operate economically in the State of South Carolina."

I said: "We will take any industry, any good employer we can find, and whether they organize or do not organize is up to the workers of that particular plant."

So I met Mr. Schwartz. He came down and heard the same thing in the Spartanburg area. Now he is a very convinced and happy employer there with Jonathan Logan and the International Ladies Garment Workers Union. I have worked with their agent, who is another distinguished South Carolinian, Joe Ferguson, and others, in civic endeavors, political endeavors, and otherwise.

So we have a working relationship there. We have watched not only the paper industry and the garment workers, but the largest, of course, is Government employees.

At the navy yard they talk about defense. Charleston Shipyard was so productive the West German Government asked, if you please, for their destroyers in the lend-lease operation to be either repaired or refitted there, those ships donated to the West German Government after World War II. That was because of the fine work product of the organized work force at the Charleston Shipyard, right in my own backyard.

They work very efficiently and very effectively, and all with opportunity, without any so-called labor reform, without any contempt, without any strike time banners on their breasts, or running around the Halls of Congress acting like there is something unfair.

We have had various other ones that I could cite. I think we ought to look at some of the differences, and it is not a wage differential.

I went into the San Francisco area to make a talk to the American Bar Association some 17 years ago. I asked my assistant at that time to get me some cards. I wanted to try to solicit an industry.

They said at San Angelo is Friden Calculator—and they were thinking about branching out in a particular new facility employing thousands of workers—and that I ought to make a call on Friden Calculators.

I went there and it so happens after I rode down the highway 20-some miles to San Angelo the board of directors of Friden Calculators was in session. Mr. Johnston was chairman of that board. He said he had never had a Governor call on him. He welcomed me. I gave him my little pitch and everything else of that kind. He said, "Well, I am sorry, Governor, but we are going over to Holland, to the Brussels section. You know, we have had all kinds of difficulties out here on the west coast and we find that we cannot compete unless we make this particular move."

"Mr. Atkinson, you show the Governor the plant outside."

At the time I thought I did not want to get wound up looking at a plant that I could not get relocated or have any kind of a branch. Atkinson, in showing me around said, "Here are these screw machines punching out these particular pieces for calculators. Under the work rules on the west coast, an operator cannot operate but three of those machines. We are going to Holland where they can operate six of those machines."

He said, "85 percent of the cost of production, Governor, is those punch machines you see there. If we can cut in half 85 percent of the cost of production, we are competitive. We can sell Friden. That is the competition and that is why we are having to move."

In riding back through Burlingame, I saw where they had Smith-Corona, and I thought we ought to call on them to try one more place.

They led me in to see the president of that particular organization, and when I said Governor they thought it was the governor of the Lions Club. They had never had a Governor call on them out there either.

The unions believe it is all wages, you know, but it is business climate.

I called on the head out there. I was ushered in and I said, "I would be delighted to go over our particular program for technical training and everything else in my State of South Carolina, but I understand that out here in the making of calculators, adding machines and otherwise, it takes about 85 percent of the cost of your production on the regular screw machines because under the work rules they can only operate three. Back in South Carolina they operate seven."

He said, "Governor, you sure know a lot about this industry. Where did you learn it?"

I said, "Actually, I do not know much about it but our engineers, our work consultants, and labor-management consultants have studied these industries very, very carefully and have shown us this and everything else. We thought you would be interested."

He said, "This is remarkable. I cannot believe it. We were figuring on going into Ireland because we have a competitor down the road going into Holland. When we looked at the South we did not find any skills of this kind."

He said, "The punch machine we have has just come off the design board so we do not even have our own workers skilled in it."

I said, "Do not worry about it. We will train the workers at the cost of the State government. We think if the State government can levy taxes on the populace in order to teach Latin, foreign languages, science, chemistry, and mathematics, and other courses, government can also teach the technical skills."

I said, "You just give me three instructors and three of those machines and we will build you a plant in 90 days and we will give you 100 skilled employees in 90 days."

He said, "If half of what you say is true we will move there. I just don't believe it."

The rest is history. We got Smith-Corona in Orangeburg, S.C. We trained the people there.

That reminds me, by the way, when I brought in Utica Drop Forge. I want my distinguished friend from New Jersey to particularly listen to this because they also had the idea at that particular time that they were so anti-union that they could not have access to the employees, that they could not get a list of them, that if only they could get a list they would know where they lived and everything else and then they would be able to talk to them. Under the decisions now, of course, they can, but back at this particular time they could not.

When we brought in Utica Drop Forge from Utica, N.Y., the particular locators of that industry gave them the list. They said, "We have a union in Utica and we hope to get the same union down here."

That is what we helped attract.

But I am back to my point of the work rules. I am back to my point, if you please, that they have been padding in certain work practices, that now we have all become multinational and going into international trade, and everything else, and the balance of payments, and we always look at the billions we are losing in exporting jobs.

That is a point well taken by the AFL-CIO, and I worked with them on that. But we have got to work on ourselves, and on some of these work rules, in order to stay competitive here within the United States.

We have got to realize that there is a difference, a differential, between skilled and nonskilled workers.

Many an employer coming to our Southland, or our Sun Belt, if you please, will say categorically that they come there because, yes, "The nonskilled getting nonskilled pay. They get more skilled, they work harder to get the higher pay. The better skilled improve their capabilities and their particular work situation. We can do that down in your backyard."

But in other areas of the Northeast section of the country, particularly, there is no chance, because the union itself, under their contracts, merge right in, the skilled with the nonskilled.

They have got to run like politicians and be reelected at their particular organizational meetings, and what have you. So what they do is merge them in and give benefits that does not respond to productivity.

When we get a better attendance in church down here on the floor, I will go into some more of those advantages we have that do not go to the pay schedule and scab labor and victims of contempt, and all that kind of nonsense, because it does not pay any good industry in the United States to move into that kind of climate.

They cannot operate unless they have the top flight supervisor personnel. We cannot operate, Mr. President, a good industry today unless we have a good educational system.

I will compare the public school system of the State of South Carolina with the city of New York, and the Hudson Institutes' study that reports it has become a jungle. The reason they support

busing up there is, for the Lord's sake, they lock the school grounds every afternoon and escape it.

Escape, because if anybody hangs back, they get knifed, they get raped, they have to close the playgrounds, and everything else.

We will go into that advantage.

If industry comes because of the wonderful school system we are building and participating in, we do not want to destroy it with any kind of tax credit for elementary and secondary education. We are having a hard enough time in all parts.

I notice Cleveland. If we want to put the death knell on public education in America, which we are all trying to rebuild, and go for that tax credit, white flight, segregation, and the ruins of public schools, then we will have time, I am told, in the debate on H.R. 8410 to get into that particular subject.

But the point is, there are many advantages and reasons for people not only investing their dollars in the economic future by coming and moving there, but you cannot move them back to Albany, N.Y.

I want to tell that story with my friend Bob Sloan in the Albany Felt Co. that moved into Saint Stephen, S.C.

That is near the place where the Honorable Mendel Rivers was born, just 3 miles down the road, and if there was a wilderness, it was one when Albany Felt came there.

They took a vote up in the operation in Albany, N.Y., and they said, "We can't get anybody to move down to the sticks."

That is a sophisticated crowd of management. They would go to the theater over the weekend in downtown New York, in the springtime they would fly to Paris and pick out fashions for their wives, and everything else. I know this because they are doing it now from Saint Stephen, S.C.

But what did they do at that particular time?

They said, "All right, we will send 20 of you down and then just have you draw straws, see if 10 are needed after we get it started up, and who the 10 are to hang back in that wilderness."

After that year's period, Mr. Sloan up in Albany told us that they had to fight to find out who of the 10 were going back. All 20 wanted to stay and everybody in Albany wanted to come down and live because of all these other things.

It was not a difference in pay. It was not a difference in pay in Albany and in Saint Stephen. But now, with the airplane and the good travel facilities, and everything else of that kind, good educational facilities in the South, they found the atmosphere and the environment far more pleasant.

So we are bringing in New Yorkers. We are getting smarter every day, more competitive every day. Maybe we can move down some of our Senator friends from the Snow Belt before we are through this particular debate.

Let me go on then. If it is not contempt, if it is not contempt, if you please, Mr. President, if it is not the Darlington case, which has now been settled and there will not be another closing down that we can envision, if there are not more Darlington cases, and other thousands and thousands, only 25 percent employee errors and 4 against employees in the NLRB, what is the justification?

If it is not the pay schedules, then what is really behind this particular measure?

I think it is a serious problem with the union movement in the country. It is a serious problem, and why do I say that?

Well, we only have to look at the table of the labor union membership, and membership as a percent of nonagricultural employment from 1935 to 1976 declined, and this is the Bureau of Labor Statistics.

There is no use going all the way back to the only 3 million workers we had in 1935. But going back to Teddy White in 1960, that got many of us to thinking, more of the Nation in an historical fashion in respect to this economy, industry employment, and the makeup of the voters, voter patterns and voter groups.

I will never forget at that particular time he was talking about over 30 percent of organized labor. Then we keep reading "Making of a President" each year and remembering that particular statistic. I began thinking, how is it getting less and less?

And we find in 1960 they had 17,049,000 of U.S. membership out of a total of 54,-234,000 for 31.4 percent of the work force in organized labor, or union employees.

But by 1976, there were 19,432,000 workers out of a total work force of 79,-443,000, or 24.5 percent of the work force in organized union activity.

Suppose, Mr. President, if you please, we had to go to an annual meeting and we were a chairman of the board and had to report that fact. Suppose we had to report that one. Well, they had an annual meeting and Mr. Meany did report, and at the annual meeting of the AFL-CIO, December 1977, they reported on the particular membership of the AFL-CIO and, generally, of dues-paying union members in the United States.

In 1976 and 1977, for example, organized labor as a whole lost over 760,000 dues-paying members.

Now, we have a problem, let us say, everybody is growing and growing. The Senate is getting bigger. If we can vote it my way, the District will have 2 Senators and we will have 102—everything is growing—rather than 100.

But not this movement. It has got a serious problem.

Mr. Meany reported during the same period a 13.5 million membership of AFL-CIO, lost 500,000, a half-million members. A half-million.

Mr. WILLIAMS. Will the Senator yield for just one observation?

Mr. HOLLINGS. Yes.

Mr. WILLIAMS. I would appreciate it because I am called to another meeting.

Mr. HOLLINGS. I have been called to a meeting, but I am delighted to yield.

Mr. WILLIAMS. This will not be long, I say to the Senator from South Carolina.

First of all, it has been a commendable description of the opportunities for business in the State that the Senator represents with such dignity and distinction, and commendable pride has been expressed very eloquently.

I just get the impression, the flavor, and the atmosphere, however, that the Senator, without saying this specifically, is suggesting that this bill is designed to further the organizing of workers in the South.

Mr. HOLLINGS. No question in my mind. No question in my mind.

Mr. WILLIAMS. Then, I can say there is no question in my mind but that the Senator is dead wrong, because here is what we have: We have a bill that is, No. 1, directed at those situations where the present law is frustrated in its remedies and procedures because of unreasonable and unconscionable delays; and, No. 2, is directed at those who are breaking the law and reaches those law-breakers with what we hope will be remedies as effective as those which we see in other areas of law.

Here are the figures for last year, 1977. The charges that were filed against employers numbered 26,000. Of those 26,000 charges, dividing the Nation into four geographical regions, 12,200, I am ashamed to say, were charges of law-breaking by employers in the Northeast. The Senator from South Carolina can take pride because only 1,035 were charges brought against employers in the Southeast.

Mr. HOLLINGS. Will the distinguished Senator from New Jersey agree, then, to eliminate the access provision totally and stick with that in conference?

Mr. WILLIAMS. Is the Senator suggesting that we who love the South will not have access to the South?

Mr. HOLLINGS. That is right. I do not have access, in my senatorial office——.

Mr. WILLIAMS. We want our access to the southland, where we always retreat when the snow gets too deep.

Mr. HOLLINGS. I want these Senators to go around and see how much EEOC they have in their offices and how much access.

Suppose we had organizers running around the office, meddling around with all the assistant secretaries. We could not operate the office. The one thing we demand, as U.S. Senators, is loyalty. I am the union, and they work me and I work them.

Mr. WILLIAMS. I would like to update the Senator on the provisions that deal with equal employment opportunities in the Senate. The Senator knows where it is.

Mr. HOLLINGS. That is right.

Mr. WILLIAMS. It was in our Committee on Human Resources, and we reported it—the Senator from New York is here—with favorable observations, but without recommendation, because that entire subject matter, most properly—at least, in my judgment—should be considered by those committees that are concerned with the internal organization operation, the administration of our own business.

Mr. HOLLINGS. I think that is right. A man has to have that right in order to run his business.

But will the distinguished Senator do away with access and get into things he is talking about, about northern employers? They got the unions up there without access. Do away with access. Agree to do away with access and keep it out

of the conference report. Do that, and let us get to all these punitive employers.

Mr. WILLIAMS. The Senator makes a suggestion, and I do not take it lightly. Every thought he expresses to me is considered thoroughly.

On these specific questions, I believe we probably will have this bill before us, for full debate, for 2 or 3 weeks; and this is one of the matters we will think through together.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, on behalf of Senator STAFFORD, I ask unanimous consent that Tim Smith, a member of his staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I know that the distinguished Senator from New Jersey is very genuine in his beliefs, and I am equally sincere in mine. We have a difference, and that is not unusual among Senators who represent different areas of the country, with respect to what is for the overall good of the country.

On the surface, this access provision may appear equitable. After all, employees should have a fair opportunity to hear both sides of an issue.

However, union organizers can legally reach the employees in ways that the employer cannot. Many people in this particular field do not understand that. An employer cannot run around knocking on doors. I have heard that. They have called up and said, "Governor, I've got a union man down there who is almost like the devil, is coming and knocking on doors and seeing everybody."

I said, "That's his right. They are going to talk. You can talk to your employees, and they can knock on doors and go to their homes. We have a free country, and both sides are going to be heard."

Union organizers, in trying to drum up support, can and do visit employees in their homes. The employers cannot do so. Union organizers can talk with employees at the plant gates. They can hold organization meetings and rallies. The union can do this before and after any petition for election is filed. The employer can only legally present his side in his own facilities, on company time.

Unions are permitted, by current law, to make extensive promises during an election campaign. Employers are forbidden to make any at all. To permit unions so-called equal time in the employer's facilities gives a clear advantage. What they want to do is to unbalance this thing and give them a clear advantage.

The House bill presumably gives employers equal access at union rallies. This provision is an obvious charade. If it is enacted, we can be sure that management will not be allowed by the NLRB to be present at a union meeting on company premises while the union presents its case. On the other hand, the proposed legislation provides no protection of an employer representative's speech rights at a union rally, where every effort in its organizational attempt, before and after a petition, undoubtedly will be made to disrupt the presentation. It does not have the same restrictions on meeting employees and what it can do to employees that employers do.

This feature of the bill is not an equal access provision at all but it is an unequal access provision. Congress, the NLRB, and the courts, over the years, have developed a delicate balance.

Let me talk about J. P. Stevens and the access in the case of *NLRB* v. *J. P. Stevens* (2 C.A. 1977). This is under the present law.

Mr. GARN. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. GARN. In connection with the points the Senator was making with respect to access and the advantages unions already have over an employer, under present law, I have received the following letter:

DEAR SENATOR: I have a question for you. If your opponent in the next election is allowed to make wild promises, but you can't make even a tiny one; if he is allowed to visit in the homes of the voters, but you can't, and you even have to watch while he can question voters as to how they intend to vote so he can determine where to concentrate his efforts, but you are not allowed to conduct any polls of your own; and if he can decide when to call for an election, while at best you can only argue about the voting procedure, wouldn't you have trouble getting re-elected? This is exactly the great organizing advantage that unions already have under the present law.

Keeping these handicaps in mind, suppose that these new campaign rules are adopted:

1. Every time you or one of your aides talk to a voter about the campaign, you have to notify your opponent and assure that he has equal access and time to talk to the voter.

2. Every time you put up a poster in your campaign headquarters across the state, he gets to put up one beside yours, even though you pay the rent for the space.

3. Every time you hold a fish fry and talk about the campaign, you have to allow your opponent to speak—but you pay for the fish fry and the clean-up afterwards.

4. The day after you leave the country on on a fact finding mission, your opponent files for an election which must be held within 25 to 30 days even though the question of voter eligibility of your campaign workers is still unsettled.

Could you really expect to get re-elected with this kind of handicap? The idea is so unfair that it seems unthinkable. But isn't this exactly what Congress is trying to do to American industry with H.R. 8410 and S. 2467, the so-called "Labor Law Reform Bills"?

I thank the Senator for yielding.

Mr. HOLLINGS. I thank the distinguished Senator. He has been a real leader of thought on this particular measure, and we need that because there is a problem within the labor movement, but it should not be solved on the premise that we have contempt and we have the Darlington cases.

Let me say a word to complete the thought when I was interrupted a moment ago with respect to lawyers because unfortunately I disagree with our President. Unfortunately, I got the feeling that he pulls a poll out of his pocket and finds out who is unpopular and then shoots the wounded. Out on the west coast he found out, according to the most recent poll, that lawyers were unpopular, that he ought to get on them; and then he found out that doctors were unpopular, so he shot them, too.

Yet there is some merit with respect to our distinguished profession. being a lawyer and trying to clean it up, and I find a frustration within the very field of trying to get legal representation for the hungry and poor in America.

What we have found there under the LEEA budget is champertous conduct of promoting litigation.

We go out to the west coast again. I say to my distinguished friend they have 62 law schools that give some kind of law degree, but there are only 20-some accredited. So they have about 40 of these institutions grinding them out to be some sort of paralegals. They begin suing doctors, and they have it so that a poor doctor, a surgeon can hardly go to Los Angeles unless he gets a $25,000 policy for malpractice, regardless of his particular skill and no instance of any accidents or suits, or anything else.

Now they start suing lawyers. They started suing each other. Like cannibals they are eating up each other. And they are trying to jump the budget there $100 million and not to give added representation, if you please, to the poverty stricken in this country, but to start schools upon schools upon schools to take the ill-equipped and unprepared and make them better lawyers because the poor should have just as good representation as the rich.

I have been watching this particular trend, and I must say something with respect to the labor law. We have an aberration in the Stevens situation. There is not any question in my mind.

The distinguished Senator from Michigan was gone. The Constangy firm reported after 40 years of representation of textile clients—they have the majority in Atlanta, Ga., and I read the Senator a letter to emphasize it—they never had one single contempt case of any of their clients, and that struck me because I got to feel good gosh, that renegade crowd, these employers, do not want to listen to the court, they do not want to listen to the ruling; they just appeal everything, and make it burdensome and everything else of that kind. It was a total frustration.

I went over the 1977 NLRB report and of the thousands and thousands of cases there were only 25 in contempt, which verified, and four against, incidentally, unions, but this letter here dated May 18 from Constangy, Brooks, & Smith, attorneys at law, 230 Peachtree Street, Atlanta, Ga.:

DEAR SENATOR HOLLINGS: This is in response to your inquiry concerning the experience of our firm with instances in which a client has been found guilty of willful and repeated violations of the National Labor Relations Act that resulted in contempt actions instigated by the NLRB against such companies.

By way of background, as I indicated to you, our firm is approximately 40 years old and was one of the first firms in the country to devote its entire practice to representing management in labor relations matters. We have offices in four Southern states and over

the years and presently represent a large number of textile clients.

If I may sidetrack just for a minute as an aside, the Senator said that they have the majority of them. I know this firm. I continue:

I think it is fair to say that our firm has represented as many textile companies in union elections as any other law firm.

As I stated to you, this whole issue of needing legal reforms to remedy the situations of repeat and willful violations by companies is an attempt to create litigation based on a false base. Out of the literally hundreds of union campaigns involving textile companies that our firm has handled, we have never had one instance in which a textile company has been the subject of a proceeding by the NLRB for contempt of outstanding NLRB court enforced orders. Our experience certainly does not establish a need for extreme labor law reform when it proves that the NLRB has not even found it necessary to use the harshest remedy it has available, namely, seeking contempt of their orders that have been enforced in the United States Court of Appeals.

Moreover, the statistics of the NLRB amply iudicate that our experience is not unique. Over the last many years there have been literally hundreds of thousands of charges filed against employers by labor organizations. It is interesting to note from the NLRB published annual reports that in 1974, out of the many thousands of cases encountered by NLRB, in that year and in the continuing compliance of cases in former years, the NLRB moved for contempt in only 20 instances, involving both management and unions. In 1975, again, the NLRB moved for contempt in only 20 cases involving both management and unions. In 1976, the NLRB moved for contempt proceedings in only 30 cases involving both management and unions. These figures indicate that the number of contempt proceedings instigated by the NLRB against both employers and union amount to only approximately 1/10 of 1% of all charges filed against employers by unions, not even including those charged filed against unions.

Additionally, it is interesting to note that in its 1976 report the NLRB stated:

"In the 30 contempt cases before the appeals courts, the respondents complied with NLRB orders after the contempt petition had been filed but before decisions by courts."

This statement by the NLRB further establishes that, even in the limited number of extreme cases, it can readily obtain compliance with its decisions and orders by just the filing of contempt proceedings without even the need for concluding contempt litigation and the necessity for contempt orders of the Circuit Courts.

If you need any further information regarding this matter, I will be happy to furnish it.

Yours very truly,

LOVIC A. BROOKS, Jr.

(Mr. McINTYRE assumed the chair.)

Mr. RIEGLE. Mr. President, will the Senator yield briefly?

Mr. HOLLINGS. I yield.

Mr. RIEGLE. I appreciate the Senator reading the letter. I enjoy my friend very much so whenever he speaks I listen carefully and enjoyably, I might say.

Did I understand the Senator to say that this firm had or had not represented J. P. Stevens?

Mr. HOLLINGS. Had not.

Mr. RIEGLE. They had not.

Mr. HOLLINGS. No. I think it is a Charlotte firm that represents them. I have not asked that question, so I cannot give a totally accurate answer, but I was recounting what Lovic Brooks said, and I served in the general assembly with him. I saw him not long ago. I have a lot of confidence in his judgment because he has been a pretty well-rounded fellow, respected as such, and I asked him. I really jumped on him. I said:

I am going down on that Senate floor. I am going to be Exhibit No. 1. I am from South Carolina where they have 28 J. P. Stevens plants. I know the employees well. I get along with them extremely well. I know their management down there. But it looks like I am Exhibit No. 1, and I am going to go down there anyway.

He said:

Well, you are not because we don't have that much contempt.

He went on to tell the story about his clients and how other law firms will induce litigation. And that is what I was about to say about lawyers. Certain lawyers tell them to appeal everything. They have a merry time making a jackass out of their clients. They really are representing themselves and their interests rather than the clients' interests. And we have seen that unfortunately occur from time to time.

I think the J. P. Stevens situation is an aberration. I know industry leadership is disappointed in it, and they have commented to that effect in my presence to J. P. Stevens officials, and everything else.

The fact is we can look at it very closely, Senator, and I think Stevens is doing its dead-level best to settle Roanoke Rapids. But, of course, the Roanoke Rapids case is not in the interests of the union organizers now to settle pending this debate. They would like to keep that going. So whatever offer they make I understand is being turned down. I am sure that will be taken issue with, and we will find out what the truth is.

But I have been told that they would do anything to get rid of that thing now, so that this move there has had some kind of effect. But it is not a real danger when you come and look at the diminution of contempt and how NLRB is working, and working very successfully.

Now, very definitely, we have a move to try to go against small industry. What they are trying here is what the labor movement has not been able to obtain voluntarily, they want to try to obtain this by legislation.

I can go into the majority of the cases here with statistical information and show how they are small cases. In 1977 approximately 75 percent of all representation elections involved bargaining units of 59 or fewer employees; 85 percent involved less than 100 employees; 94 percent less than 200. Now that is from table 11 and 17 of the 1977 NLRB Report.

Of the 8,117 elections with units less than 200 employees, the union won 51 percent.

The provisions of the bill dealing with election procedures, namely regulations defining bargaining units, shortened election periods and so forth, will clearly give unions an advantage at the expense of the employer, to the ultimate detriment of the employee.

I think I am going to have to yield now because I am late for another appointment. But in completing that thought, living as I do in a county and city where the majority of the industrial workers, I would say, are organized, there are obviously very, very competent legal personnel. Some like me have represented unions by checking over and approving an agreement and a pension fund section, and other things of that kind. But the day-to-day decisions of the NLRB, and what you can do and what you cannot do, offhand I do not believe there are but two or three lawyers at the bar, if that many, who would be able to handle these kinds of cases; and veritably they would come in, and they do not hit in a singular fashion, but will go into the orchestration of OSHA, EEOC, and everything else, via the movement itself, but they will hit a small employer with a quick election and all these things, and the poor fellow will have to go to Atlanta to get a lawyer, and everything else of that kind.

He will just say "Whatever it is, I do not want to get into contempt and everything else of that kind," and it will really stultify the economic progress and success made and, thereby, benefit would be lost to both the employee as well as the employer. It would just wreak havoc.

I know the large industries, and I know they have competent legal personnel. I know the union movement, and they have competent legal personnel, and they move in and they are orchestrated, but like a domestic thing you find thousands of cases will develop, and there is no law to stop labor-management disputes.

But do not come in here under the guise of a contemptuous conduct by industry generally to require a need for access and quickened elections and call it labor reform. It is labor conformity, which is what it is designed to do.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. RIEGLE. I know the Senator has another meeting he has to attend, but I have just two quick thoughts: One, with respect to the point you have been making as to whether or not the law basically today is adequate in the sense of sort of resolving matters more or less in an equitable fashion, the U.S. Court of Appeals for the Second Circuit in its decision which held the Stevens Co., about which we spoke just a short time ago, in contempt for the second time, said this, and this is the U.S. Court of Appeals for the Second Circuit speaking:

This case, perhaps destined to be frequently denominated Stevens No. 18 in the long list of Stevens litigation, has been a troubling one not only because of the violations of the right of the employees involved but also because it raises grave doubts about the ability of the courts to make the provisions of the Federal labor law work in the face of persistent violations.

Now, I grant you that this was a statement made——

Mr. HOLLINGS. And the title of that case is, excuse me, which one?

Mr. RIEGLE. That is the J. P. Stevens case. It is the one that the Senator cited earlier, if I am not mistaken.

Mr. HOLLINGS. Yes. All right, go right ahead.

Mr. RIEGLE. But in any event, I only cite that as an example of courts that are, I think, a neutral third party in this matter, and that have been asked to oversee the litigation of it, and have responded to us by saying that basically the laws, as they presently stand, are not, in effect, self-enforcing.

Let me make another point to the Senator which, I think, is even more important, and that is this: I understand the Senator's concern about the effect on small business, and I am very conscious, too, about small business. We have a lot of it in my State as well, some union and some nonunion. I know in my own case I am not interested in stacking the deck one way or the other in terms of how employees want to decide the questions of whether or not they want to unionize a particular company they work with.

But, it seems to me, if you want to look at these power relationships which you were just making reference to, setting aside the big powerful company and the big powerful national and international unions, and coming down to the small firms and to the employees of small firms, it seems to me that the person who probably has the least power on his side is an individual employee in one company.

It is hard for me to imagine an employee in a single company as somehow being more powerful than the employer of that same company. So if we are going to talk about the question of what kind of resources or what kind of inherent strength the parties-at-interest have to work with, it seems to me that the employer of a small company is certainly no less well-equipped or well-armed or fortified to deal with these questions as they arise than a single employee in that company.

It seems to me that that person starts out with even less going for him in terms of whether we have got some inequity in the power relationships here.

Mr. HOLLINGS. It is not that. I will agree with you, that that individual, whether he be employer or employee, has power, and that individual employee, through the exercise of his right under the present law, has organized himself a fine industry, and they are operating in a very productive and successful fashion, barring the Stevens thing that the Senator cited.

The premise is in H.R. 8410 that as a result of that contemptuous conduct that the Senator cited in that particular case we, in the U.S. Senate, should now pass a bill to provide various things, and one of the big provisions that they do not yield on—and I asked the distinguished chairman of the committee a minute ago if they would yield on that and then maybe he and I could get together, if we could just do away with that access, and guarantee that it would not be included in any kind of conference report, that unfair advantage, you know, that a number of amendments——

Mr. RIEGLE. Well now, Senator——

Mr. HOLLINGS. Wait a minute, I am going to complete the thought—a number of amendments might be negotiable. But that is the nonnegotiable item here, access to that property, because he is trying to say to the United States Senate in this debate that we do not have that right. That is false.

Under that same decision the court provided in that contempt proceeding that the union be allowed to make a speech in response to company speeches on union representation in all the Stevens Carolina plants, every one of them in North and South Carolina. That is the present law, without any three readings in the House, without any three readings in the Senate, without any signature by the President of the United States or anything else. That is the law. That is my point here.

If you really get into that kind of situation of contemptuous conduct, the present law allows for it. But in formal proceedings, to just come in and hit it bam-bam, and say every employer is contemptuous and "I can tell whether you are talking or not talking," have a petition filed, you can appeal that petition, and you have to let them in the plant, and they are talking all the time, and you are trying to prove you never have talked, and who talked and who did not talk, you have chaos on the basis of an unfounded premise.

Mr. RIEGLE. Mr. President, will the Senator yield? I must say I heard part of his remarks——

Mr. HOLLINGS. Yes.

Mr. RIEGLE (continuing). And I have not heard all of them today, but I am still not clear on what troubles the Senator about access. In other words, it seems to me that what finally is going to happen is that individual workers are going to have to make private, personal, individual, and independent judgments as to whether or not they want to affiliate with the union or not.

Mr. HOLLINGS. That is right.

Mr. RIEGLE. And the statistics the Senator cited indicated that it is about 50–50, about half the time they choose to vote to affiliate with the union and about half the time they do not.

Mr. HOLLINGS. That is right.

Mr. RIEGLE. I do not understand how——

Mr. HOLLINGS. And they have a 50–50 opportunity to talk to employees, too.

Mr. RIEGLE. I do not understand how the access provisions upset the Senator so much.

Mr. HOLLINGS. Well, they do, I can tell you that. You might never understand it, but I can tell you, I just love you but I do not believe you, I can tell you. They upset me all out of sorts here, I can tell you that. I am going to stay upset on that one because I know what is unfair.

Mr. RIEGLE. Let me just say——

Mr. HOLLINGS. That is absolutely unfair coming in and stopping an operation and mingling around and everything else.

Mr. RIEGLE. Let me be clear about that.

Mr. HOLLINGS. Yes.

Mr. RIEGLE. The bill as written does not provide in any way for the operation of the business to be disrupted.

Mr. HOLLINGS. That is another factor in the question.

Mr. RIEGLE. We talked about it at great length——

Mr. HOLLINGS. If you come in my Senate office and start organizing me, distinguished Senator, you have disrupted my business. I am the Senator from South Carolina, and I believe in the right to organize, and, as I say, the majority of my voters in my home county have kept me in public office for 30 years, union workers, unorganized, and what have you. I respect them and get along with them fine. But I do not know how I am going to run that office now—they had a goat and a bunch of strikers in there the other day—if you come in there with a bunch of organizers, and say you have a chance, I have a chance, and everything else. We have enough nonsensical activity going on now with respect to various newsletters, correspondence, and everything else. If an employer feels "Here is a Senator who wants to, by gosh, say from Washington why they should have access, and mill around on my premises" you can express that very clearly, but it is not going to take.

Mr. RIEGLE. It may not; perhaps the Senator has already made up his mind. But I think he is a reasonable man.

We talked about this at great length in committee, on hypothetical cases, but if you want to come back to the hypothetical you are setting up about organizing a union of your staff, under the circumstances that premised this bill, talking about organizing employees down in cafeterias, which they can do today, and talk to them about any subject under the sun, or in the washroom, there was nothing contemplated to permit that those discussions would take place at the workplace and be disruptive of the operation or of production.

The only thing that gets to the worksite, as I recall the debate, was the question of whether or not there was a captive audience speech; and I do not think there is any problem with that, because the Senator just cited the court's holding regarding that in the Stevens case, if I heard the reference correctly, that there had to be equivalent access in terms of speeches there.

But coming back to your own office, why would you have a problem as to whether your people were talked to or talked to one another about this in the lunchroom or the washroom?

Mr. HOLLINGS. I am trying to bring it into crystal clarity to be understood, so there can be no misunderstanding. A lot of things we provide for, all these forms and things we as Senators had to fill out, if we had to go back to our office and OSHA came around, you and I would be carried off to District Jail. We would be fined under EEOC; and right now the Senate itself is having a tough time about how to handle employees' complaints with respect to fair employment.

We find it so easy to say access to the lunchroom or the washroom. I happen to be on the union organizers side when it comes to access, because I can remember a time, in campaigns, when we used to be able to get in and talk with the workers in the lunch room, the washroom, and in and around the plant. In fact, I tried sneaking around. I have told them, "You will never catch me in the

Matthews plant," so I would go to the top floor, and then down to the first floor, and then the second, and by the time they could catch me I would have been through all the looms.

But every industry now has a parking lot around and a plant within, and they lock out two groups, us politicians and the unions, and if you try to talk to them on the parking lot you are liable to get run over.

But I think an employer, a man running his business, ought to have the right to design his plant, work with his workers, enunciate loyalty and esprit de corps; and how in the name of freedom of speech you can distinguished between me as an employer soliciting an employee against joining a union and at the same time talk about that particular employee's welfare, his benefits, his pay, or his working conditions is beyond me.

I constantly tried to show some attention—we rushed so forward and backward to rollcalls and what have you that it was difficult—to the committee proceedings. But I know I cannot be a good Senator unless I have a good staff. One of the difficulties I have is keeping in contact with all of them, and everything else of that kind. Like everybody running a plant, making the staff feel a part of it and everything else with respect to that kind of thing, if somebody gets sick in my office, I do not know what the holiday period is; somebody else keeps track of all that, and as long as they are happy we run it loosely. But if that is going to be characterized as antiunion activity—and it could easily be done so—I do not want them to join a union, I want them listening to old HOLLINGS rather than Mr. Jones over here, the business agent. If he wants to do all that, let him become the Senator. But I want to be the employer, and I want personal loyalty and personal communications, and the truth of it is, it has gotten so blooming personal, I am working for them rather than they for me, and I would rather I was the employer.

Mr. RIEGLE. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. RIEGLE. The Senator is a unique case, because he is well-endowed in the personality department, and that circumstance would tend to make it work in his office when it would not in others.

But let me make two points. I appreciate the point about access, and your referring to having trouble getting into these plants at campaign time, and what have you.

I started out in the Republican Party, and spent 6 years in the House of Representatives, and I recall going to Labor Day picnics in my district and could not get in, unless I went over the fence. I did that enough times and caught up with enough people so that finally I got elected. I appreciate what the Senator says on that point, but let me read to you from the committee report, very specifically, what we had to say about the point the Senator raised, on page 25 of the report, on this question of access. We laid it out, I think, in your phraseology, very clear:

Where the equal access provisions are triggered by campaigning other than a captive audience speech, the union is not to be given access during working time and in working areas.

That is very clear, it seems to me.

Instead the Board is required to provide the union with an opportunity to discuss the issues with the employees on the employer's premises during non-working time and in such break areas as the cafeteria, lounge and parking lots. When, on the other hand, the employer stops production to address his employees on a group basis, the union will have a right to reply in the same manner.

I do not know how we can be any clearer about it. We say the union is not to be given access during working time in working areas. We took account of the essential concern the Senator had. He is not the only one who has it. The people who are advocates of this bill have the same concern about access being abused in this fashion. We are trying to say nobody has a right——

Mr. HOLLINGS. Are we back to the South and the North, talking about the construction? They may not be built that way in Detroit, but they are built that way in South Carolina.

Anyway, they can get in behind that gate. Maybe we can amend it and say all candidates for public office have this freedom of speech. We have to be able to talk to people during working hours; we cannot disturb them at their homes after working hours, because that would make us lose votes. So the "Freedom of Politics Act," maybe we can put that on it, too, to allow us to go in at the same time as the organizers, because I would like to go in there and give them cards and get their votes.

But, you know, I do not know that you necessarily get that vote. I remember one time there was a particular children's garment operation and they stopped the operation and allowed me to address the employees. The owner did that. We still argue within the political family whether that was smart or not. I do not know whether I got more votes or lost more votes.

We heard conversations. My opponent heard about it. He said that was going to cost the employees; that they would have to make it up; that with that number of employees, with the 5 minutes I took, it would cost $5,000; that it would have to be taken out of their pay; that they would have to work extra to make it up, everything else like that, and right on down the line.

I do not know that that so-called physical access won votes.

I resent the idea of captive employees. That is for another country, not the United States of America.

Mr. RIEGLE. Which side?

Mr. HOLLINGS. I resent anybody calling anybody's workers a captive audience. I take the risk, I own the plant, I invest the money, and I am due some kind of loyalty and appreciation for the job.

There is this group out here who wants to run around with ribbons and have meetings and they think they have a right and I have them captive. They can quit any time. They are not any captive audience. That is wrong.

Mr. RIEGLE. If the Senator will yield, I do not think he is meaning to put the work force, the people who do the work, who produce the products, somehow in a lower status or class than the guy who runs the business. I do not know how you separate the workers from the management. They both have to live on the same boat. Neither can survive without the other. I think it is a question of whether the workers themselves have some rights to express themselves, to campaign as to the pros and cons of a union election, and to decide how they want to vote.

Mr. HOLLINGS. They do it every day in America today, and they do it all over the South.

Mr. RIEGLE. They have some places where they have a hard time doing it, do they not?

Mr. HOLLINGS. They consider it a hard time. We have employers like General Electric who will have some plants organized and some not organized. In Florence, S.C., I bought that landsite for Dupont, and we put in one of the finest plants you have ever seen in South Carolina. At one time it was organized. That was their right under the law. Since that time they have decertified.

You have that movement going back and forth.

You have the situation where employees are isolated and insulated from normal communications in a company town and then the union is allowed equal access. If you have that kind of situation, the present law allows what you are really worried about.

What you are trying to do in this particular bill is to give them an unfair advantage, to unbalance the scales.

Mr. RIEGLE. Where are we doing that?

Mr. HOLLINGS. In access.

Mr. RIEGLE. Where in the access? What specifically are you worried about, the cafeteria, the washroom?

Mr. HOLLINGS. Any place it says access. We can read the report.

Mr. RIEGLE. The report says the union is not to be given access during working time in working areas. I understood the Senator earlier to be worried about that point. We have addressed that point. Is he still worried about it?

Mr. HOLLINGS. I do not want them to have any time in any area.

Mr. RIEGLE. They cannot do it in a cafeteria?

Mr. HOLLINGS. No. A man ought to be able to sit down and eat a meal without being bothered to death. That is why we have the private dining room. If you go in the Senator's room they come up and harass you, or the staff gets to you, or some constituents get to you. One of the little pleasures left is a little boarding house table where you can sit down, not be harassed and not be bothered. You would not vote for that as a Senator, to get rid of that back table.

Mr. RIEGLE. I would have a hard time imagining someone coming up and talking to you that you did not want to talk to you.

Mr. HOLLINGS. It is not whether you want to talk to them or not.

Mr. RIEGLE. It is part of it.

Mr. HOLLINGS. No, it is just when you talk and when you do not talk. You just mentioned it a little while ago and

I think, my gosh, you ought to have some time. Lord knows we love our constituents. But there ought to be somewhere where you can get 15 minutes off and get a bowl of soup. That is what you are trying to destroy. The Presiding Officer knows that. You can see the smile on his face. He is savoring that soup. He comes back. He has not been hassled and harassed. We are more and more coming to that every day, trying to find some place to get the 15 minutes to call our time.

Mr. RIEGLE. There is nothing in this bill that requires anybody to stand still and have to listen to anybody else. More than that, there is nothing in this bill that requires anybody's judgment to be influenced by anything they hear from anybody else. I would suspect, knowing human nature from what I have seen of it, that if somebody came up and began to sort of talk to me and lean on me at a time when I did not want that done and I did not want to engage in that conversation, that would tip me away from their point of view, not toward it.

If I might just say to the Senator, I think we have addressed the very concern that he has, we have addressed the access question. We have done it very specifically, not only in terms of the committee report language but in the legislative history that will be in the minutes of the committee sessions we had.

We went through this in great detail. We talked about a number of different kinds of workplace illustrations to make it absolutely clear that we were not envisioning any kind of invasion of the workplace or an interruption of the work process.

Mr. HOLLINGS. That is like when we had to go back and remake the pension bill and we sat and argued it back and forth, how good the pension bill was, how everybody was covered, getting more covered by the pension, putting stability and validity to it. With all the regulations now everybody is going out of the pension business.

The Congress has started monkeying around and trying to unbalance the scales in a drive of this kind because the House did not pass common situs picketing. You never heard of this and I never heard of it. I have been up here 12 years. Until the House turned down the common situs picketing, we did not get this malarkey about labor reform. That is where we got it from. They said, "By gosh, we are going out of business. The labor movement is down and we have a serious problem and we want to, by gosh, get in legislation what we cannot get voluntarily."

They know it, I know it, and you know it. That is why we resist it here as a group of Senators and hope to kill this bill.

Mr. President, it is long past my time. I have to yield the floor.

Mr. RIEGLE. Mr. President, I yield myself as much time as I require.

First let me say I welcome the chance to engage in colloquy with my good friend from South Carolina to discuss with him his reservations and concerns about this bill. I think we will have a chance to discuss some of these things again.

The point he raises about access is an important point. I understand his concern. I want him to understand that others of us have a sincere interest in exactly that same point. It is not anybody's intent to be disruptive with that provision. What we are looking for is a thoughtful structure and process which provides for equity in these campaign periods, to see to it that both sides are given essentially the same kind of an opportunity to tell their story and to make available the information to the workers, to let them decide one way or another how they want to vote in these elections.

I think what is significant is the fact that if there is a nation anywhere on this globe which is independent minded, it is this country. I do not think workers anywhere are likely to be stampeded by one side or the other on these issues when it comes right down to the conduct of a fair and open election. I would hope that no one here would want anything less than a fair and open election, the chance for the people involved to weigh the arguments on both sides, to make their own independent judgment, and to have a secret ballot election.

All we are speaking to here is the question of the election process, to see to it that both sides are put on a roughly equal footing, so that neither side is able to dominate the process. I think that is very fair and we worked very hard to try to strike that balance.

One of the tests of that is the fact that this bill came out of our committee with not only the majority support of the Democrats, the votes of all the Democrats in the committee, but most of the Republicans—most of the Republicans. If I am not mistaken, Senator SCHWEIKER voted for it, did he not? He voted for the labor law reform bill in committee.

Senator SCHWEIKER is known for a number of things, not the least of which is the fact that he was Governor Reagan's running mate in the last sweepstakes on the Republican side for the Presidency. I must say, I applaud Senator SCHWEIKER's judgment on this issue.

Senator STAFFORD and Senator JAVITS, who was here earlier and will be returning; other Republicans—I think Senator CHAFEE—voted for it. That, by itself, I think, is perhaps the single most powerful argument about the equity and the balance that exists in this legislation, because it is tough for the Senate as a whole to sit down and do the same kind of thorough, far-reaching job on this bill that the committee of jurisdiction can do. That is why we have committees of jurisdiction. That is why we have subcommittees.

I have been privileged to serve on the Labor Subcommittee, which has had responsibility for developing this legislation and bringing it forward. We have spent countless hours on it, debated it, we had hearings on it. We have listened to people of all points of view. We had endless hours of the most serious debate. Then we sat down and went through markup and worked it out and tried to strike a balance so that the deck was stacked for neither side. In effect, what we did was unstack the deck so that everybody had a fair deal here.

When we finally called the roll on this bill, the majority, with four out of six of the Republicans—two-thirds—decided to vote for this bill.

As I say, probably the most significant one, in a sense, is Senator SCHWEIKER, in my judgment. Because obviously, if somebody is concerned from a point of view of some kind of alleged damage to the free enterprise system, it is hard for me to imagine that a person who had passed the litmus test of Governor Reagan from California, as Senator SCHWEIKER did, to become his running mate, was going to stray very far on this particular issue.

Mr. TOWER. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. TOWER. Senator SCHWEIKER did not become Governor Reagan's running mate, because he did not receive the nomination. He was what you call the running mate designate.

Mr. RIEGLE. I accept that slight modification. But he was certainly the anointed Vice President-to-be by Governor Reagan if Governor Reagan had gotten the nomination. There was no guesswork about it. He was very out front about it. So I do not think we disagree on that fact.

The important thing is that Senator SCHWEIKER voted for the labor law reform bill. I hope that some of the Republicans, my good friends here who oppose this bill, who do not serve on the committee, will talk to some of the Republicans on the committee who do support the bill, because there is good reason for it. Adjustments were made, the bill was balanced, it was carefully worked to give us something here that is fair. I do not know any better test of its fairness than the representatives of the Republicans on the committee that voted for it.

I think that is an important point that needs to be looked at.

Mr. President, I have some remarks that I would like to make at this point that set forth in some detail my own position on this measure and I shall do that now if no one else has a particular desire or time problem.

Mr. TOWER. Please be our guest. We would be delighted to listen,

Mr. RIEGLE. I know that my friend from Texas only says that because he is really waiting with rapt anticipation for each thought and each sentence here. I appreciate that interest.

Mr. TOWER. Eagerly waiting to gather up every pearl that drops from the Senator's lips.

Mr. RIEGLE. I think probably the best way to describe this bill, Mr. President and my colleagues, is that it is a bill designed to protect workers' rights. I feel sure that my colleagues in the Senate will, in the end, join me in registering our continued support for the rights of working people in this country. As I have just said, I have had the opportunity to serve on the subcommittee of jurisdiction and the full committee, and we have devoted much of the past year and a half to consideration of dozens of proposals that would affect workers and employers.

None of these bills, in my judgment, is more important than S. 2467, because this particular measure seeks to protect the constitutional rights of workers to speak freely, to associate freely, and to work together to try to improve their own working conditions.

In the past several months, I know all of my colleagues have received thousands, if not tens of thousands, of letters and postcards concerning this bill from advocates on both sides of the issue.

Yet for all of the discussion of the bill in correspondence, in editorials, and in literature from lobbying groups on both sides, I think it is easy to lose track of what this bill is not. It has been clear to me, from the first hearings on this proposal through to the most recent speeches here on the floor, that the opponents of this measure want us to forget what it does not do.

I think, whether by design or by accident, they are interested in having us forget what this bill does not do. So let me review what the bill does not do, because I say frankly that this gets to a lot of the apprehensions I hear in a sort of propaganda barrage, and we might as well just answer it straight away.

This bill does not alter the way in which workers chose a union—by majority vote in a secret ballot election.

It does not change the basic requirement that an employer has in dealing with a union selected by those employees—to bargain in good faith.

It does not expand the jurisdiction of the National Labor Relations Board, which now covers only 22 percent of all business establishments in the United States. These 22 percent—basically moderate and large businesses—employ 75 percent of the country's workers. Most small businesses have been excluded from coverage by the Board, and S. 2467 does not alter this situation.

It does not force one single worker to join a union against his or her will; closed shops have long been illegal in this country, and I for one would oppose bringing them back. Under S. 2467, even in States which permit union shops, and even where an employer and a union have negotiated a contract including a union security clause, workers who conscientiously oppose unions would have the option of contributing to a nonreligious charity or, at the employees' choice, to help defer the costs of grievance arbitration.

Moreover, S. 2467 does not repeal section 14(b) of Taft-Hartley, the so-called right-to-work clause; it does not change the law regarding common situs picketing. In short, S. 2467 does not replace any of the basic elements of our Nation's industrial relations system.

Then I think the question is relevant, why is it so important if it does not change the basic fabric of our labor law in this country? Why are the things in this bill so important to us? They are important because, while our labor relations structure is exceptionally well designed on paper, and while it operates well in most circumstances and with most employers, it has fallen noticeably short in standing up against employers who are determined to oppose unions at all costs, meaning a willingness to ignore the law. In too many of those instances, the law has not served as an effective shield for workers who seek to exercise their rights, which are provided by law.

Mr. President, this bill has justice on its side, and those of us who have studied it carefully over the past months have been persuaded by its clear justification. The labor subcommittee reported the bill unanimously, all three Republicans joining with the five Democrats in support. The full Human Resources Committee also showed strong bipartisan support in reporting the bill by a vote of 13 to 2, with 4 of the 6 Republicans uniting with all 9 Democrats in favor of S. 2467. And last year, of course, the House of Representatives passed an even stronger bill, tougher than this one, by a vote of 256 to 162, with 35 Republicans voting in favor.

Even with that tougher bill, I say to my friends on the Republican side, 35 Republican House Members—not a handful; in fact, a significant fraction—voted in favor of that bill in the House. This proposal has enjoyed strong bipartisan support from the very beginning, and I feel sure that this support will continue until we finally not only beat back the opposition, but pass this bill in the Senate.

There is good reason for this support. S. 2467 is an extremely reasonable bill, aimed solely at correcting the weaknesses that have arisen in our labor relations system over the years. It is not punitive. It is not vindictive. It is not coercive. And the fact that you can hear these terms, and worse, applied to such a modest bill is evidence of how far political rhetoric has fallen in recent years.

Let me just make this point. We have organized lobby organizations that abound in this country. Some are good. Some are not so good. But I have seen time and again the lobby organizations that charge a fat fee to people who belong to them, and very often the people who are subsidizing these lobbies do not get much for their money.

What happens is when an issue comes along, an organized Washington lobbyist can jump on it to justify his existence, to justify his life and his overhead, and bring his members into Washington once or twice a year for an elaborate reception and free drinks for Members of Congress, and all the rest of it. They look for issues just like this that they can take and propagandize, puff up, make bigger than they are, and distort, so they justify their own existence.

I have been here, just like the Senator from South Carolina, in the Congress for 12 years. I have seen this all that time, as I know my colleagues have, whether they want to admit it or not.

Lobby organizations, we think, are doing exactly that sort of thing with this piece of legislation. They are distorting it, puffing it up in large measure just to justify their own existence, and they are scaring the daylights out of business people across the country.

I have heard from a lot of business people in my State who called me, and loaded down with misinformation about this bill. Small businessmen have been terrified by rumors and false allegations about this bill and are calling because they are afraid they will be put out of business.

That is a lot of nonsense. There is absolutely nothing in this bill to cause that to happen and anybody who looks at it carefully knows that. That is why a lot of Republicans voted for it and support it today.

Those are the significant facts. But we have people for hire in this town, running around beating drums, scaring the daylights out of people because it is a dollars and cents proposition for them. They are after members and have to prove they are doing something and that the Government needs to be watched every second, because that is where their profit and net income comes from.

Mr. TOWER. Will the Senator yield?

Mr. RIEGLE. Yes, in just a minute, I would be happy to engage the Senator on this subject.

But this is a fact of life in this town. I am sure the Senator will complain about the fact of ever increasing Government regulation. It is a complaint I share, by the way.

But, who are most responsible for it? All the people that came into town and full-time lobbyists, who feed on that very circumstance and that very problem, too.

They rave about it, but they are part of what creates it and they are not about to pick up and move out of town.

They have exaggerated labor reform law out of all proportion. That would maybe be the equivalent of this stand on this desk I am speaking from, but when we finish hearing some of these paid lobbyists we would think it was the size of the whole Chamber and it is not. It is not.

Mr. TOWER. Will the Senator yield for a question?

Mr. RIEGLE. To cut through the rhetoric, of all the people that apparently have sort of taken an interest, get down and deal with the factual provisions of the bill.

Mr. TOWER. Will the Senator yield for a question?

Mr. RIEGLE. Yes.

Mr. TOWER. Would the Senator from Michigan walk with me in the reception room and count the lobbyists on either side and see if there are not as many labor law lobbyists as there are against the bill?

Mr. RIEGLE. I will say we would find them on both sides on this issue. But I suggest, from what I have been able to see coming back from my home State, that the expressions I have heard from those out there trying to scare the daylights out of the business community, far exceed any of the expressions I have heard by people who are on the labor side of this.

Mr. TOWER. The Senator made an interesting observation and that is that the only reason, or at least that was the suggestion, that certain lobbyists are lobbying against this bill is that they are trying to get members for their constituent organizations and they have to appear to be useful.

I suppose, then, organized labor is not trying to get members for its organization, and I suppose that labor union leaders never, perhaps, ask for more than they can get or make unreasonable demands or foment strife in an effort to make their own job important?

Mr. RIEGLE. I think there is no question but people on the labor side are just as interested in this bill, and I think in many cases for the right reasons. I am not——

Mr. TOWER. Just as interested. My Lord, they put a full court press on the thing. This is the administration payoff to organized labor, that is what it is.

Is the Senator to contend that organized labor is without power, does not operate behind the statutory protections of this country?

Rats.

Mr. RIEGLE. I do not see any evidence of organized labor in this country orchestrating and organizing a filibuster——

Mr. HATCH. Will the Senator yield?

Mr. RIEGLE. In a minute. To delay this issue.

Mr. TOWER. Report out a union antitrust bill, we will see a filibuster in this place.

Mr. RIEGLE. Let me state, I hope, after a chance to debate this on its merits, when we have had an opportunity to discuss it fully—and we have a good start so far, we will have several more days of it—I hope the Senator from Texas and the Senator from Utah and others would agree to vote the bill up or down on its merits.

Mr. HATCH. Will the Senator yield on that point?

Mr. RIEGLE. I hope Senators will be willing to do it.

Yes, I yield.

Mr. HATCH. Some of us feel so strongly that this bill is so bad and so unfair and so grossly unfair that we know we represent the vast majority of the people in this society. So the argument that democracy is being thwarted here is hardly fair.

Let me ask the Senator this. Does the Senator know who said these words?

> We must marshal our resources, coordinate our activities and conduct the most effective lobby effort ever undertaken by the labor movement on May 6, 1978.

Does the Senator know who said that?

Mr. RIEGLE. I know it could be any one of a number of people in the labor movement, talking about the legislation.

Mr. HATCH. George Meany said that. I can tell the Senator right now, if there has been any lobbying, let us not paint the picture it has all been one-sided.

I will say this, hundreds of thousands, if not millions, of small businessmen all over this country are beside themselves, having read the provisions of this bill, which the Senator has characterized as modest.

Mr. RIEGLE. I will not dispute that point. I would say not 1 percent of businessmen that have expressed the concern I heard in my home State have read the bill or had access to it.

Mr. HATCH. Then the Senator's businessmen are not the same as those everywhere else in the country. There has hardly been a small business, trade association or businessman, who has not some knowledge of this bill and deep down does not know how lousy it is.

Mr. RIEGLE. In direct response, let us take a case in point, equal access, discussed earlier with Senator HOLLINGS.

We have spelled this out as clearly as the English language allows.

Mr. HATCH. Yes.

Mr. RIEGLE. Let me finish.

In the committee report, we say:

> Where the equal access provisions are triggered by campaigning other than a captive audience speech, the union is not to be given access during working time and in working areas.

I have yet heard even an opponent of the bill here in the Senate, let alone a business person outside, who has been frightened about this, make a reference to that language.

I suspect people here do not know that language is in this report. I daresay this has not made too much weight on too many businessmen across the country.

Mr. GARN. Will the Senator yield?

Mr. RIEGLE. In a moment.

Mr. HATCH. I will comment on that point.

Mr. RIEGLE. Just let me finish.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. HATCH. We are entitled to ask.

Mr. RIEGLE. Sure. I will yield in a minute. But I will respond to the point of a moment ago.

This is from yesterday's Wall Street Journal. This is not the Daily Worker. This is the Wall Street Journal, the lead article. The headline on the story reads, "Business Lobby Gains More Power as It Rides Antigovernment Tide."

The subheadline: "It Uses Sophisticated Means To Marshal Grass Roots, Fight Labor Law Change." The third subheadline: "The Problems of 'Overkill.'"

Let me read some of this article. It makes reference to Senator LAWTON CHILES of Florida. It says:

> Sen. Chiles doesn't like the bill, which is designed to ease the way for unions' efforts to organize workers. But neither does he like the filibuster technique, which is the way the bill's opponents aim to kill the measure.
>
> Like about 10 other Senators whose votes are still considered question marks, Sen. Chiles has been the object of an intense lobbying campaign. At one point, he mentioned to a group of corporate executives—"just in passing," according to an aide—that he had heard from more big-business leaders than small-business entrepreneurs. The result was immediate.
>
> "As if by magic"—in the words of one business lobbyist—the big companies stopped sending their executives to Sen. Chiles's door. In their stead came a stream of small Florida entrepreneurs, appearing in groups of 25 and carrying dire arguments about the measure's threat to their livelihoods.
>
> THE MAGIC OF CORPORATE JETS
>
> But it wasn't magic that carried those small-business representatives to Washington. It was the corporate jets of Florida's big businesses.

Bear in mind that I am quoting the Wall Street Journal. This is not the figment of somebody's imagination.

Mr. HATCH. I did not think it would be the jets of big labor.

Mr. RIEGLE. I do not yield at this point. Let me finish—

which, like businesses large and small throughout the country, are involved in a lobbying campaign that is more sophisticated, better coordinated and more extensive than any other in recent memory.

"I can't remember when we last experienced a lobbying effort like this," a Chiles aide says. "It's so well-structured, so well-organized, and I don't think they missed a single possible opponent of that bill in our state."

The article goes on. I can read the whole thing. I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 17, 1978]

BUSINESS LOBBY GAINS MORE POWER AS IT RIDES ANTIGOVERNMENT TIDE

(By Robert W. Merry and Albert R. Hunt)

WASHINGTON.—When business groups began roaming the halls of Congress in search of help in killing the labor-law-revision bill now before the Senate, they soon discovered the wavering vote of Florida's Democratic Sen. Lawton Chiles. Sen. Chiles doesn't like the bill, which is designed to ease the way for unions' efforts to organize workers. But neither does he like the filibuster technique, which is the way the bill's opponents aim to kill the measure.

Like about 10 other Senators whose votes are still considered question marks, Sen. Chiles has been the object of an intense lobbying campaign. At one point, he mentioned to a group of corporate executives—"just in passing," according to an aide—that he had heard from more big-business leaders than small-business entrepreneurs. The result was immediate.

"As if my magic"—in the words of one business lobbyist—the big companies stopped sending their executives to Sen. Chile's door. In their stead came a stream of small Florida entrepreneurs, appearing in groups of 25 and carrying dire arguments about the measure's threat to their livelihoods.

THE MAGIC OF CORPORATE JETS

But it wasn't magic that carried those small-business representatives to Washington. It was the corporate jets of Florida's big businesses which, like businesses large and small throughout the country, are involved in a lobbying campaign that is more sophisticated, better coordinated and more extensive than any other in recent memory.

"I can't remember when we last experienced a lobbying effort like this," a Chiles aide says. "It's so well-structured, so well-organized, and I don't think they missed a single possible opponent of that bill in our state."

Sen. Chile's experience, duplicated in scores, of other Senate offices in recent months, focuses attention on a business lobbying machine that seems more adept than ever at marshaling its arguments, presenting them forcefully to Congress and turning them into legislative victories.

RIDING AN ANTIGOVERNMENT WAVE

Much of business's success results from sophisticated techniques that mobilize small-business troops in the hinterlands, riding a wave of antigovernment sentiment in the country. Whatever the cause, during the 95th Congress business has scored a number of impressive victories that seemed impossible 16 months ago, when Jimmy Carter moved into the White House and Congress began its work dominated two-to-one by democrats.

Led by such well-known groups as the Business Roundtable and the U.S. Chamber

of Commerce, the business forces have defeated bills to broaden picketing rights of construction workers, to create a consumer-protection agency and to allow class-action suits against companies violating Federal Trade Commission orders.

Although most of the business victories have been defensive—staving off liberal or labor initiatives—business groups have also been putting across their views in such broad areas as tax and energy policy. "I never recall hearing from so many business lobbyists on so many issues; what's more, some of them are damn good," laments a leading liberal legislator.

RISKY PREDICTIONS

It's still uncertain whether business's new strength in Congress will translate into a victory on the labor-law bill, which cleared the House last fall and reached the Senate floor yesterday. The only chance for killing the bill is a successful filibuster, and the advance vote tallies of both sides are so close as to make predictions risky.

And, of course, organized labor hasn't been sitting back idly as business lobbyists plied the congressional waters. The union lobbying effort has also been intense, making use of traditional Washington techniques as well as an extensive grass-roots campaign. "No Senator can vote against that bill claiming he never heard from us," an AFL-CIO official says.

Essentially, the bill is designed to speed the process by which unions organize new members through representation elections and to stiffen penalties against employers who illegally thwart employes' desires to join unions. Union officials say the bill is needed to end illegal antiunion tactics by employers, but business groups argue that the stiffer penalties and speedup provisions would intimidate employers during organizing efforts.

Whichever argument prevails in the Senate, business has clearly come a long way as a lobbying force in the past year and a half. The mobilization began with the 1976 election and the knowledge that Republican Gerald Ford would no longer be on hand to block liberal legislation. "We suddenly realized we would be fighting for our lives," one corporate lobbyist recalls.

"When they lost the Republican veto, they realized they had to do it themselves," says Mark Green, head of Ralph Nader's lobbying arm, Congress Watch, and a regular opponent of the business forces. "If the business groups tried to arouse all their constituencies when the Republicans were in power, it would have been greeted with a big yawn. But when the Business Roundtable and Chamber of Commerce saber-rattle and yell about a Democratic President and a two-to-one Democratic Congress, then their constituents get aroused and roll up their sleeves."

Those two organizations, of course, are far from the full strength of the business lobby; it is a large and diverse group. Along with the Chamber of Commerce there are other old-line outfits, such as the National Association of Manufacturers, trade associations and the Washington offices of major corporations.

To this longtime establishment, the four-year-old Roundtable has been an important addition. This confederation of 180 chief executives of blue-chip corporations can quickly assemble research material on almost any topic, and it often produces business leaders to lobby with individual legislators.

Less publicized but every bit as important is the emergence of politically savvy groups combining business and political techniques such as computerizing of membership lists and "grass-roots" mailings to lawmakers.

One effective operator is James D. McKevitt, a tough-minded former Republican Congressman from Colorado who now heads the Washington operations of the National Federation of Independent Business. This small-business group has its half-million membership list broken down according to congressional district and type of business; computer printouts even show whether the members know their Congressmen personally.

The newer, more influential business lobbyists have seized on what Victor Kamber, an AFL–CIO official, calls "a new veneer and a new ally." The "veneer," according to Mr. Kamber, is small business. The new ally is the cluster of conservative groups that pioneered many techniques for raising political funds and generating grass-roots support.

When most of the business forces get together, as they did on the picketing-rights and consumer-protection bills and as they are doing now on labor-law revision, it is a politically potent alliance.

Reinforcing this legislative influence is an invaluable asset: money, in the form of election campaign contributions. The number of business-oriented political-action committees making gifts to selected candidates has increased sixfold in the past four years. "Without the huge growth in political-action committees, business certainly wouldn't be having as much success in Congress," says Fred Wertheimer, vice president of Common Cause, the self-styled citizens' lobbying group; that sentiment is echoed privately by scores of lawmakers.

"OVERKILL" AND A LACK OF CREDIBILITY

For all their successes, however, some problems are arising for the business lobbyists. One may be "overkill." On the labor-law revision, one undecided Senator recently declared that "I've already discounted the 14,000 letters I'm going to get against this bill."

Another hindrance for business, according to some lawmakers, can be lack of credibility. They find arguments made by business lobbyists sometimes shrill or even deceptive. During the battle over the consumer agency, for example, many business groups "screamed about the pages upon pages of government regulations that the consumer agency would have produced and warned that it would become another OSHA," asserts Rep. David Obey, a Wisconsin Democrat who voted against creating the consumer agency. "In fact, the proposed agency would have had no authority whatsoever to issue such regulations." Rep. Obey, who voted for labor-law revision, charges that some conservative and business groups "are employing the same lying tactics in their campaign against labor-law reform."

Moreover, the alliance of business groups is shaky at times. Differences in priorities and approach are evident and occasionally bitter.

Some of the more astute busness lobbyists charge that old-line outfits like the Chamber and the NAM are too bureaucratic and slow and lack the instinct for sophisticated political infighting. "It took us three or four months just to get business to understand that common situs (the picketing-rights bill) was their fight," says a lobbyist who represented building contractors. "We worked harder on the business community during that time than we did on Congress."

Others feel the Business Roundtable is neither as shrewd nor as effective as it is reputed to be. "They're riding our coattails, not vice versa," insists Mr. McKevitt of the small-business federation. "They're too intrigued with the Oval Office; too many of them suck eggs with the President."

THE WOOING OF REP. JENRETTE

But usually the business groups join forces as they did in courting John Jenrette, a moderate South Carolina Democrat, during the picketing-rights fight last year. When the issue first came up in 1975, Rep. Jenrette felt only modest lobbying pressure, but last year "busloads of contractors and businessmen from South Carolina came to Washington to see me," he recalls. "Then, whenever I go home I usually hold an airport news conference. Well, businessmen would start showing up at these to talk to me about common situs. I've never seen such an effort."

As the voting neared, the South Carolina Democrat had another visitor: Kimball C. Firestone, vice president of Firestone Tire & Rubber Co. "He didn't have a plant in my district, but he made a very impressive case against the bill," Rep. Jenrette remembers.

When the picketing bill was narrowly beaten, 217 to 205, Mr. Jenrette was one of the opponents. Was the business lobbying a factor? "Sure," he replies. "Any display that impressive has to be."

The same lobbying techniques now are being used with added vigor in the labor-law fight. And the new emphasis on home-state pressures means that many business groups —including the Chamber of Commerce and Mr. McKevitt's federation of independent business—make use of businessmen with special access to Senators and Congressmen.

The money factor, combined with political hardball tactics, is evident in this fight. Sen. Bob Packwood opposes labor-law revision but also opposes filibusters. The Oregon Republican heads the GOP Senatorial Campaign Committee and says he has been "threatened by large-scale cutoffs of contributions if I vote to end the filibuster." Nevertheless, Mr. Packwood says he plans to vote to close the debate.

But business groups are more aware than ever that they can't rely exclusively on big shots to press their case. "Big business is a political liability for most Congressmen," says John McCollister, a former Republican Congressman from Nebraska who heads Firestone Tire's Washington operations. "Small business is a political asset."

Sen. Edward Zorinsky, a freshman Democrat from Nebraska, confirms that. When he heard that word had gone out in the business community to keep Washington lobbyists away from him, he was impressed. "Boy, they sure got my number," he said. "Because it's true: When a small-businessman shows me his books to illustrate what he's up against, that's a lot more effective with me than some Washington professional in a three-piece suit."

Thanks to business's new grass-roots sophistication, Sen. Zorinsky and other Senators are getting precisely the treatment that business leaders think they are most susceptible to.

So much so, in fact, that Florida's Sen. Chiles has felt impelled to call a halt to the influx of small-business representatives from his home state. "They were all set to haul up another couple of planeloads," a Chiles aid says. "The Senator had to tell them not to bother. There just wasn't any further point."

Mr. RIEGLE. I urge my colleagues to read this. I do not know whether the Senator from Utah has read this article.

Mr. HATCH. I have read it. All I can say is, thank goodness, that business is suddenly awakening and starting to fight for its rights for a change, because the Hill is always inundated with lobbyists of labor. I agree that the labor lobby should have its position because it believes in it. How it believes in its position depends on the fact that this bill hurts small business as a whole, is going to be inflationary, and is not going to help society as a whole.

Mr. RIEGLE. I am going to finish this statement in a minute. It runs about 2½ minutes.

Mr. GARN. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. GARN. I cannot help but comment on this issue of lobbyists and how many are outside. In my experience in politics, not just in the Senate but also when I was mayor of Salt Lake City, there is quite a difference in how they lobby. Lobbyists normally came to me and said, "These are the facts, and we are opposed."

It is a shame we cannot get the press to report the unbelievable arm twisting and coercion and pressure applied by organized labor, the absolute threats—"You'll be exterminated, Senator, if you don't do this. We'll turn out our legions"—the disgraceful way organized labor lobbies around this building.

I am sick and tired of hearing Senators say that the Senate of the United States is controlled by business. If it is, business is the most masochistic group of people I have seen, because of this antibusiness Senate of populist-liberals, who continue to want to impose everything and every rule and every regulation.

You talk about our running a filibuster, when a majority of the American people are opposed to this ripoff. I have a telegram which is typical. Talk about threats and intimidation.

We hope you change your mind for the members of Local 2123 feel that if it takes a nationwide strike by all organized labor to pass your bill they are willing to take that chance.

Close down the whole damn country. But we do not have the right to filibuster. Believe me, we are going to, and we are going to talk at great length, and we are going to do everything we can to kill George Meany's little power play, which he cannot get through logic and reason and cannot sell his union movement, cannot sell it at all on its merits. His membership is dropping, so he comes bleeding to his friends in the Senate and the House and says, "Pass me a law that protects me. Pass me a law that gives us by compulsion what we can't win through bargaining, what we can't win through logic."

With his stooges here in the gallery and outside putting the screws on, threatening the Nation with strikes, you had better believe we are going to talk about it at great length.

Mr. RIEGLE. The Senator is free to make whatever characterizations he wants——

Mr. GARN. You know me, and you know I will.

Mr. RIEGLE. I will not yield further. I know he will, and he is free to do that. I do not know that I would make quite the same characterization he does.

Let me read to the Senator another paragraph from the article in yesterday's Wall Street Journal, so he can at least see this with both eyes and not just one. It says:

The money factor, combined with political hardball tactics, is evident in this fight. Sen. Bob Packwood opposes labor-law revision but also opposes filibusters. The Oregon Republican heads the GOP Senatorial campaign Committee and says he has been "threatened by large-scale cutoffs of contributions if I vote to end the filibuster." Nevertheless, Mr. Packwood says he plans to vote to close the debate.

That is an illustration of somebody in your party, who sits on your side of the aisle, which contains a threat that he has received of the kind that you made an allegation about, and which has come from the other side. This is in yesterday's Wall Street Journal. Are you concerned about that?

Mr. GARN. I do not doubt that that exists. There is no doubt about it. You can pull out examples. But let us not kid ourselves about the way big organized labor operates.

It is amazing to me how we have heard for 2 or 3 days the abuses and violations of employees' rights by business. We have heard nothing about shootings and turning over trucks—not just a violation of the law in letting people meet and organize.

The unbelievable violations of organized labor when they do not get their way over business—look at the coal strike, violating the Taft Hartley law, violating all kinds of laws. Did this Senate do anything to control those abuses?

Mr. RIEGLE. I hope the Senator is not suggesting that there is anything in this bill that justifies or gives anybody the legal right to exercise——

Mr. GARN. I am suggesting——

The PRESIDING OFFICER (Mr. SASSER). The Senator from Michigan has has the floor.

Mr. RIEGLE. Mr. President, I was in the middle of a statement which I want to complete. However, it is important to note that the bill we have before us does not condone illegal acts. It does not foster them. If anything, the thrust of the bill is to try to put a stop to some denials of existing rights, and therefore it is an effort to try to stop some illegal activity rather than to start any.

Mr. GARN. But only on the side of business, not labor.

Mr. RIEGLE. Continuing with my remarks, Mr. President.

There is good reason for this support, S. 2467 is an extremely reasonable bill, aimed solely at correcting the weaknesses that have arisen in our labor relations system over the years. It is not punitive. It is not vindictive. It is not coercive. And the fact that you can hear these terms, and worse, applied to such a modest bill is evidence of how far political rhetoric has fallen in recent years.

All of my colleagues have heard the provisions of this bill summarized over and over agin, usually with moans and dire predictions following each point. I suggest that the list is, in fact, quite reasonable, which is why it has been endorsed by the administration, the House of Representatives, and the Human Resources Committee:

Adding two new members to the NLRB, as first suggested by Senator Robert Taft in 1949—a person who served in a very distinguished way on the Republican side of the aisle in the Senate, for a long time.

Directing the Board to establish a procedure for summary affirmance of routine decisions by administrative law judges.

Providing law clerks to administrative law judges, so that they can handle their workload and process it in more timely fashion.

Establishing a deadline for appealing NLRB decisions, after which the decisions would become enforceable if not appealed.

Calling for preliminary injunctions reinstating workers illegally discharged for exercise of their legal rights.

Increasing remedies—though still less than under the Fair Labor Standards Act—for workers illegally fired for union activities.

Providing for expedited elections within 30 days after a majority of the workers—50 percent plus—in a clearly appropriate bargaining unit request an election.

Setting forth by rulemaking the NLRB's presumptive bargaining units.

Providing access to working premises for union organizers only when employers present antiunion propaganda on such working premises.

Providing, for the first time, an economic incentive for employers to meet their legal obligation to bargain with a union which has won an election.

Halting the practice of rewarding labor law violators with Government contracts while they continue to break Federal law.

Strengthening the right of security guards to freely choose their own bargaining agent, so long as no potential conflict of loyalties arises.

This is not a short list; the Wagner Act has been in place for 43 years, and a number of inadequacies have emerged. The list is modest in scope, however, and I have been astonished at the passion of the opposition it has evoked. I suspect that any bill that had the misfortune to be labeled "pro-labor," no matter how minor its impact, would have the same reception by some of its opponents. For the radical fringes of the pro-business lobby, perhaps it is a matter of principle, to oppose anything that comes down the track that provides any improvement in this process as it relates to workers exercising their legal rights.

And they are right. S. 2467 is, indeed, a matter of principle—the principle that workers have a right to speak their minds, to join together for their common good, and to be protected from employment discrimination when they do so within the boundarics of law. Since 1935, the Federal Government has proclaimed that no worker may be penalized because he or she works for or against a union. This labor reform bill is designed to enforce that guarantee.

The bill is designed for one purpose, and that is to make sure that that guarantee is real and that it works.

It is as simple as that. And despite all of the torrent of words, emotion, and passion that will inundate this place for weeks into the future, the hard cold facts of the matter are contained in the bill itself, and in the accompanying committee report, in its rational, fair, carefully balanced provisions.

I refer anyone who has concern about it to make reference to the earlier part of my remarks today about what the bill does not do and instead to concentrate not on the misinformation that has been distributed about the bill but on the basic specifics of the bill and what the bill does.

We have a good work product here, and the committee has a right to be proud of it. While there are some legitimate differences of opinion as we go down the road, this is an essential step. To saddle it with characterization of any particular individual or group on one side or another would not do this serious piece of work justice.

So I hope that while that may be part of the normal flow of debate here and the characterizations that tend to come out in a heated debate we in the end not lose sight of the fact that we are talking about something that is profoundly important that goes right to the question of equity, fairness, and protection of people's rights. That is why this is an essential piece of legislation that I think has to be passed.

I yield the floor at this point.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Miss Nancy Barrow, of my staff, be accorded the privilege of the floor during debate and vote on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, will the Senator yield for another unanimous-consent request?

Mr. CHAFEE. I yield.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that Craig Polhemus, of my staff, likewise be accorded the privilege of the floor during debate and votes on this issue until it is completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator yield for another unanimous-consent request?

Mr. CHAFEE. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold and Martha Jones, of my staff, be accorded the privilege of the floor during debate and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, will the Senator yield for another unanimous-consent request?

Mr. CHAFEE. I yield.

Mr. HATCH. Mr. President, I ask unanimous consent that Margo Carlisle, of Senator McCLURE's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFFEE. Mr. President, I wish to ask a few questions of the Senator from Michigan, who previously spoke on this, and I regret I was not able to hear his entire remarks.

But it seems to me that this piece of legislation, that is before us, is portrayed as a piece of legislation that corrects some of the procedural difficulties that have arisen and have been, in fact, exploited by those who are trying to avoid the purposes of the original Wagner Act. Of course, it is frequently cited that the villain of the piece is J. P. Stevens and that through the use of high-priced legal talent, skilled maneuvering in the courts, they have prevented those who have voted for a union from achieving that right which they have legitimately achieved.

Basically, as I understand it, that is it.

Let me quote from the Senator from New York who spoke on the merits of this piece of legislation.

"It is a moderate bill which attempts nothing more than to put a stop to the continuing erosion of existing rights and protection" through the courts, through legal maneuverings. Is that about it?

Mr. RIEGLE. I think the Senator has made an excellent summary statement about what the bill is and does, and I think it is important to continue to stress that point because if one listens to other descriptions of it one gets the notion of something that is very different than the bill we actually have before us.

Mr. CHAFEE. Here is another quote from the speech by the senior Senator from New York:

> Passage will tell the business community that the rights of workers to organize or to decline organization will be protected fully, that there will be no profit in law avoidance and if employees choose a union to learn to deal with it and to live with it amicably.

Mr. President, I have no quarrel with that, and I believe that if a group of workers vote for a union there should not be these incessant delays that are placed in front of them.

Here is where I wish to ask my question of the Senator from Michigan. Will he not concede that this bill goes way beyond that in two particular points? First, the reduction for the maximum time in which elections are held? I have had, as I believe the Senator from Michigan has had, scores of proponents of this legislation write and come through my office, and never has one suggested that the maximum time for holding an election of 45 days is delay or procrastination or flouting of the law. So my first question is: Why in the world are the proponents of this legislation pushing for reduction of the maximum time in which elections may be held, not to the time of 45 days, which is the median time, but originally as the bill came in I believe it was 15 days, was it not? Within 15 days an election must be held. That was stretched out to 21 days in the House bill.

Mr. HATCH. Twenty-five days.

Mr. CHAFEE. Twenty-five days. And only was that extended in the Human Resources Committee on which the Senator from Michigan is a member. It was extended to 30 days by an 8-to-7 vote. Is it not so, I ask, that in shortening that period to this very brief period way below the median time we are going beyond the goals on which this measure is presented to the Senate and, indeed, to the country?

Mr. RIEGLE. Let me try to respond to the Senator on that point because obviously there are a number of points of view on the question of how long a time period should be established for the election process to go on, but I indicate that in order to qualify for the shorter, 21- to 30-day period, which is in our bill, there are two qualifying tests, and this I think is of key importance.

First of all, 50 percent of the workers, or more, have to sign cards indicating that they want an election. In other words, you have a clear majority of the work force that have said by signing the card that they want to have an election, and it could be 51 percent or it could be 70 percent. But the point is they have indicated they want to have an election. So you have a clear expression, a signed expression of majority support.

Mr. CHAFEE. If I may interrupt one point there, the Senator from Michigan is knowledgeable in these areas, and he knows as do I, and I believe everyone who is at all familiar with labor negotiations and bargaining, I would say "never," or if the word "never" is perhaps not the correct word, "hardly ever" does a union group come seeking an election without having 50 percent. We all know that. No one comes without 50 percent of the signatures.

Mr. RIEGLE. Well, let me say to the Senator that is not my understanding. My understanding is that there are a number of elections that are sought where less than 50 percent have requested it. Because here—I should even be more precise, it is not just that 50 percent indicate they want an election; it is that they are expressing a preference for a bargaining unit to be established, and that is what really is the trigger in terms of whether or not the 21- to 30-day period becomes applicable. So you have that hurdle, first of all, that qualifying test. That to me is significant.

In other words, I myself would feel differently if you had something less than a majority of workers who come forward and said they were requesting the opportunity to have a union bargaining in their behalf.

The second test is that the question of the bargaining unit itself is settled. In other words, that is not an argument of dispute as to whether or not the kind of bargaining unit being sought is appropriate to that situation, so that question as well is out of the way. In other words, the situation is a clean situation.

It says then that in that situation the vote would occur no sooner than 21 days and no longer than 30 days.

The Senator is correct in the instance of the House of Representatives. In their bill it said 25 days, which essentially falls very nearly in the middle of our 21- to 30-day period. If less than 50 percent of the workers have indicated that they want to have a union represent them and, therefore, initiate this election process, if less than 50 percent are involved, then the time period is 45 days. In other words, it must take place within 45 days. That. of course, runs very close to our current median of 46.

Then you run into the case of instances where there are complex issues

involved, where it can take as long as 75 days to get those situations settled.

But let me remind the Senator there is no particular hard magic to the legislative process. As he himself points out, there was discussion about this, there was give and take; there was a vote as to what the time period would be. Some people started out with a shorter period, and we finally settled on the 21- to 30-day period.

What does the Senator want to propose in this regard? I mean, is it his feeling that 25 days or 27 days or some other figure is really more appropriate or is it just a concern as to whether this is a sufficient time?

Mr. CHAFEE. My concern is that the objective we are trying for is to let the issues be discussed, to make it as fair as possible. I, at the appropriate time, will submit an amendment that will provide indeed for it to be 45 days. If the Senator wants to accept that amendment—of course, I have not submitted it yet—but if he indicates he is agreeable to it, I will submit it now.

Mr. RIEGLE. Let me suggest to you, if I may, that there always has been a debate in this country as to how long one needs for an election period. Some people think you need more time, some people think election periods now are sometimes too long. But I am wondering why the Senator would feel in a case where 50 percent of the employees have indicated that they want to have a union represent them and, therefore, an election is the appropriate step, there is no dispute as to the unit that would be representing the unit, why the campaign itself needs to take 45 days?

Mr. CHAFEE. Well, first of all, I think we have to define what we are talking about here. I think when the Senator says when 50 percent of the people sign the cards that that means that 50 percent of them want a union to represent them he, in fact, is making a mistake. In election after election they have had over 50 percent of the people sign the cards, and in election after election the union has been roundly defeated. I think you know and I know that the whole purpose of the secret ballot and the reason why the proposal in the House was rejected even by the most ardent prolabor people was that if you get 55 percent of the people to sign cards you do not even bother to have an election.

As, perhaps, the Senator will recall, that was presented by Chairman Thompson and was part of the original labor package—

> Don't waste time with all these elections. If you have 55 percent of the people sign then obviously over half of the people want the union, so you save the time and trouble and energy of election and just certify the union.

Well, we know that time and time again where elections have been held you have had as high as 70 percent of the people sign cards and, indeed, they have come in with way less than that. I am fresh from an election right in our home State where the Electric Boat Division of General Dynamics received the required number of signatures, over 50 percent, for a plant of some 8,000 people and when the dust settled they got 34 percent of the vote. This is not atypical; this is rather typical.

So to say that there is no problem, get on with the election when people have signed these cards, they sign them under—I do not want to say duress, and I do not think it is duress—but when somebody comes to you and asks you to sign school committee nomination papers for X, Y, or your neighbor, you are going to sign them. You are not the kind of fellow who is not going to sign nomination petitions for somebody. You are a fine fellow, go ahead. But that does not mean you are going to vote for him.

This is the situation we have here. Nobody wants to turn down the union organizer who comes and says, "Will you sign?" Of course, I will sign. It does not mean I will vote for it.

Mr. RIEGLE. Mr. President, if the Senator will yield, I do not know whether we can generalize usefully or not about that.

I would suspect that you would get all kinds of responses when you are a person who is soliciting in behalf of trying to get people to sign cards in a given company situation. I suspect that some people may sign because they do not want to have to say "No" or they may sign because they support your position. I think some may say, "I am sorry, I do not sign petitions." I mean, I have heard an awful lot of people say that. If there is anything loose in the country today I think it is an unwillingness for people to sign petitions. I have seen a lot of people participating in petition drives in airports and supermarkets, and so forth, trying to stop somebody, trying to get people to sign, and they get the brushoff.

So I do not know if we can generalize to the point where we can draw an inference that says when 50 percent or more of the work force indicate that they would desire to have the process go forward that we can draw any conclusion one way or the other.

Mr. CHAFEE. I think we can generalize to this extent: I think we can safely say that no union will go to an election nowadays without having over 50 percent. You can check with your experts, your advisers, and you let me know if any union goes to an election without over 50 percent of the signatures on the cards.

Furthermore, the next fact you should get from your advisers, and I would be glad to do some research in this myself, but I am absolutely confident that—well, one of the reasons we are here is that the unions are not winning elections and not only do they get the 50 percent of the signatures but they do not win the elections or adequately enough in their judgment.

Mr. RIEGLE. Let me just read one item which I think bears on this. I do not know that anybody will be able to marshal enough technical factual information to win this argument, if it can be won one way or the other. This is a book "Union Representation Elections Law in Reality," by three authors, Herman, Goldberg, and Gettman.

On page 132, under a heading called "Card Signing as an Indication of Employee Choice," they say as follows, and they have done a lot of research on this question, and their summary response is to this effect:

> The data demonstrate that card signing is an accurate indicator of employee choice at the time the card is signed. Forty-six percent of the voters signed union authorization cards. Of those, 82 percent reported that they wanted union representation at the time that they signed their card. Fourteen percent said they were uncertain, and 4 percent said that they did not want union representation.

The authors go on to say:

> Card signing is a reasonably accurate predicter of voting. Seventy-two percent of the card signers voted for union representation, 79 percent of the noncard signers voted against union representation.

But to come back to your main question, as to how long it takes to conduct an election when you have had an indication by the majority of the workers that they would like to have this process go forward, I think it would be useful—I do not know that we can do it now, but I think it would be useful, during the course of this debate over the days ahead, to try to talk through the question of what is a reasonable time period to conduct an election in that situation. I mean, is 3 weeks sufficient? Is 4 weeks sufficient? We are in the 3- to 4-week range now. The House made it 25 days; that is in the 3½-week range. The Senator is suggesting 45 days. But I do not know that any of us know why 45 days, necessarily, would be better in this case than 20, 30, or some other figure.

But I appreciate the point the Senator raised, and I think that is one we ought to discuss more fully as we go down the road on it.

Mr. CHAFEE. I have had scores of industry people come through my office, big business, little business, and medium business, and of the rational ones that I have talked to—and I think most of them have been pretty rational, in that they want the act—on this particular point, I have never had any of them ask for 100 days or 90 days, but I have consistently had them ask for what is the median now, 45 days. So I think it is well if we examine that part.

But, now, getting back to my second question—and my question, again, is based on a premise of this bill that is before us—the basis being, as I quote from the Senator from New York, that "this bill does nothing more than put a stop to the continued erosion of existing rights and practices."

Here is my question: If we are trying to meet the J. P. Stevens situation, if we are trying to overcome these delays, this use of high-powered legal talent, all these subterfuges, if you like, going to court and appealing, and battling it every inch of the way, so that finally people drop of exhaustion, why is there present in this bill a section that has nothing to do with delays, nothing to do with curing the J. P. Stevens problem, and that is, why do we have the provision there of equal access? What does that have to do with legal subterfuges in order to delay?

Mr. RIEGLE. Well, I do not know that the point ought to be to try to relate

those two, one for one, each to the other. In other words, it seems to me that the problem of delays is a lot different than the problem of whether or not, in a sense, you are creating conditions where a fair election can take place, and where you have an opportunity for a full exchange of information for both sides to have a fair say, and to conduct an election in a form in which, when you come to the time for the vote to be taken, both sides have had a fair and equal chance to tell their story and state their case.

I do not know that we ought to try to make some connection one with the other. It seems to me we want both those things.

In other words, we want a reasonable time period that is neither too short nor too long, and we also want a process where information can be disseminated and workers can debate, hear both sides, and end up making their own individual judgment and finally cast a secret ballot as to what it is they prefer.

Mr. CHAFEE. I would refer again to the Senator from New York's speech, which it seems to me is the principal piece, to date anyway, on this measure. In it he says:

> . . . it would not change the substantive rights of unions with respect to their bargaining relationship with management.

He also says:

> The ultimate purpose of the unfair labor practice provisions of the NLRA is to create a climate which will encourage voluntary compliance with the prohibitions stated in the act.

In other words, the whole thrust of this is to overcome these unquestionably unfair and indeed illegal management delays. That is how the bill has been portrayed to the country: "No harm; it does not change the relationship between business and labor."

But in fact it does, because it has gone into a whole new area that previously was not an area that was granted to the union: namely, the union now has the right to come into management's plant, on to his property. It has the right to address the workers and to say, well, it is merely part of an educational process. If management gets the people into the cafeteria at 10 o'clock on Tuesday, and talks about the union organizing effort and what all this means from 10 o'clock until 10:45 or so, the following Tuesday labor can come in and talk to them from 10 o'clock until 10:45, on management's property.

This is an entirely new right that is given to the unions. Never before have they had anything like this; and, indeed, it does substantively change the rights of the two parties. Because there is a key difference in the way both of these parties can address the people.

We all know, and the Senator from Michigan knows as well as anybody, having considerable familiarity with this area, that management can only talk very, very carefully to the people that are assembled there. They can make no promises, they can hold out no hopes that "If this union is defeated, you will receive more vacations from me," or "more beneficent management," nothing like that.

On the other hand, when the labor people come in to speak, they speak unfettered. They can promise anything. They can tell them that in Pawtucket, R.I., they are going to get the same salaries they get out in Detroit.

Now, we know they are not going to get that. But he can promise it. He can promise them the Moon, and there is nothing that can be done about it.

Now, this is not a fair and equal chance; and so, first of all, I think it ought to be made clear by the proponents of the measure that this is not just merely a bill to straighten out some procedural problems that have arisen but a bill that goes way beyond the existing law and, indeed, gives labor rights that management does not have presently, and in the views of many who come before us and talk with us, it tilts the scale way in favor of labor.

Mr. RIEGLE. Let me, if I may, try to respond to the Senator's concern in this area, and let me make one reference which I think it is important to make at this point in the RECORD, to the committee report that accompanies the bill. On page 25, where we discussed the practice of equal access as it is anticipated and provided for in the bill, I want to quote just one paragraph, which reads as follows:

> Where the equal access provisions are triggered by campaigning other than a captive audience speech, the union is not to be given access during working time and in working areas.

The Senator will recall, I might say parenthetically, that in committee we discussed that at great length. There are a lot of hypotheticals that are loaded down in the committee record when this issue was debated. But to continue quoting from the report:

> Instead the Board is required to provide the union with an opportunity to discuss the issues with the employees on the employer's premises during nonworking time and in such break areas as the cafeteria, lounge and parking lots. When, on the other hand, the employer stops production to address his employees on a group basis, the union will have a right to reply in the same manner.

Of course, that is essentially the captive audience situation about which I think there has been general agreement.

So, you see, we have been very careful to define what we speak about as opportunity for access. But it seems to me it comes down to the question of why we are talking about access. We are talking about it, it seems to me, because an election is going to be held, or there is going to be an effort made to try to persuade people to have an election for representational purposes.

Mr. HATCH. Will the Senator yield at that point?

Mr. RIEGLE. Yes, I yield.

Mr. HATCH. The access will start at any time there is a showing of interest. Any time there is a showing of interest. It does not have to be for an election. I just want to correct the position of the distinguished Senator on that particular point.

Let me ask the distinguished Senator from Michigan a question which I think is important.

First, let me add that any time a union files a showing of interest with the board, they have to have, I believe, 10 percent. Then it is hardly an election situation, but that triggers equal access.

Let me ask the distinguished Senator from Michigan this question: How does he define what is or is not a captive audience?

We have all read the paragraph referred to, but I would like the Senator to define for me what is or is not a captive audience.

The Senator might also consider another question: With a stacked board, which some say is 4-to-1 in favor of labor now, or at least 3-to-2, but which would be 6-to-1 or at the very least 5-to-2, assuming this bill passes, how is an conversation by any supervisor or any manager of a business not going to be construed as a captive audience situation which triggers equal access, meaning that the union organizers have a right to come on the premises, at the businessman's time and expense and talk to his employees, just because he has exercised free speech? What is fair about that?

Mr. RIEGLE. If I can respond to the Senator, I do not think that will be much of a problem at all. We are quite clear about that in the committee report. In terms of what qualifies as a captive audience speech, referring to the committee report language, which I think is correct, on page 25, we say:

> Thus, if an employer addresses his employees at a mass meeting or in small groups during working hours and on company premises, the union will have the right to address the employees at a similar meeting during working hours and on company premises.

In other words, if the management of the business creates a situation where the process of the work is stopped or a captive audience meeting is required to take place, a mass meeting of all the workers, the union has the right to the same access to the same audience under the same conditions to tell their side of the story.

Mr. HATCH. The Senator does not think for a minute, I ask the distinguished Senator from Michigan, that an employer has much of a chance of just talking to his employees or a small group of his employees without the equal access provision being triggered with a stacked board or without a stacked board, with the present board.

Mr. RIEGLE. First of all, we have all different kinds of employer situations. I assume first we want to talk about small businesses here. I think normally there is quite a bit of contact between management or the employer, if you will, and the employees.

Mr. HATCH. There is under present law, but under this law if a manager or the owner of a business, or even a supervisor under the managers direction, talks to the employees or a segment of the employees, you do not think for a minute that the NLRB will not trigger equal access, do you?

Mr. RIEGLE. First, I think it is very clear that if the employee himself goes to see the management to talk about the issue, that would not trigger it. There is no question about that.

Mr. HATCH. That is not my point.

Mr. RIEGLE. That is my point. I am saying that that is at least one illustration I can think of where, in answer to your question, would it trigger equal access. I would say no, it would not. The employees are free to talk to management any time they want at whatever length they want, are they not? Is your understanding the same as mine on that point?

Mr. HATCH. I think so. I hope neither this or any other bill would interfere with that right of the employee.

Mr. RIEGLE. There is that right and that does not trigger equal access.

Mr. HATCH. But that is not the point. The point is why should an employer who exercises his right of free speech to talk to his employees about unionization, when there has been a showing of interest in unionization filed with the board, have to, under any circumstances, barring illegality and total unfair conduct, which is already covered by present law—why should he have to subsidize the unionization of his business by allowing the union organizers to come on at his time and his expense to speak to his employees and, if I might finish the question, is it not true that even under the present board, let alone a stacked board, that equal access would be triggered under those circumstances?

Mr. RIEGLE. Let me say to the Senator that, first of all, when we talk about subsidizing the right of the other side, that somehow it is sort of a rigged vote, I do not know on what basis the Senator makes that kind of an assumption. First of all, the judgment that the workers would reach as to whether or not they want to vote for or against a union is something they are going to do in their own mind. There is a secret ballot process. I do not see how one side over and above the other side is going to have any more strength or leverage in somehow impacting the private personal judgment of a worker who is going to cast a vote in a sealed ballot election.

Mr. HATCH. Then why have this provision?

Mr. RIEGLE. Well, only to insure that you are going to have some kind of a reasonable process where both sides, in the issue of election, can be heard, and information from both sides can be heard.

Mr. HATCH. Why penalize the employer?

Mr. RIEGLE. How is the employer penalized?

Mr. HATCH. Because he has to stop his work on his premises and in his time allow the union organizer to come on and speak to his employers. Why not make the union, if you want to be fair, pay for that, and pay for the loss of work?

Mr. RIEGLE. First of all, as you well know, we are not giving the unions the right to stop work, are we?

Mr. HATCH. Yes.

Mr. RIEGLE. No, we are not.

Mr. HATCH. What do you think it is?

Mr. RIEGLE. The employer must first make the decision to stop production and make a captive audience speech.

Mr. HATCH. I asked the distinguished Senator what a captive audience was.

Mr. RIEGLE. We said that in the report.

Mr. HATCH. May I finish? I submit to the distinguished Senator that what is wrong with this bill, and that language is not very clear—as a matter of fact, it is ambiguous as it can be, because with a stacked Board, or even with the present Board weighted as it is in favor of labor, and I am not sure it should not be—even with the present Board I suggest to the distinguished Senator that anytime after a showing of interest has been filed with the Board, anytime that the employer or the businessman or his supervisor or the manager of that business speaks to his employees, exercising his right of free speech, and his time and his expense, to his employees on his premises, he is going to have to open up those premises at his expense and allow the union organizers to come on the premises and preach unionization to his employees. I am saying if you want to be fair, why do we not make the unions pay for the loss of business, the loss of sales, the loss of shutting down that business caused by that, especially since the unions right now have the right to have their representatives who work for the employer talk about unionization all over the plant; especially since they can make any promise they want?

Mr. RIEGLE. I have to challenge that statement.

Mr. HATCH. It is true.

Mr. RIEGLE. We are very clear about not turning the workplace over to union organizers.

I do not want the Senator to be confused about it.

Mr. HATCH. I am not confused about it. I know what happens in these areas. I would like an answer to my question: Define for me what is a captive audience.

Mr. RIEGLE. Let me again make a reference to the committee report.

Mr. HATCH. The report is ambiguous.

Mr. RIEGLE. It may be ambiguous to you and may not be to me. Let us start there. The Senator from Utah was there, and he knows this question was debated at some length.

Again, reading on page 25, let us continue:

> Situations in which access will be permitted are to be distinguished from casual encounters by employees with supervisors or other employer representatives which occur on an unplanned, sporadic basis and which do not have the purpose or effect of presenting the employer's position on union representation in a systematic manner. Such conversations do not generate a right to reply by the union.

That would clearly, it seems to me, allow intermittent conversations. It would allow all instances where the employees were to initiate a contact with management. It certainly gives management the same right, it seems to me, to talk about this in cafeterias, in rest areas, in washrooms and so forth, gives the representatives of management the right to talk just as is true for the people on the union side.

Mr. HATCH. If I could add, unless, under the present Board, or under a stacked board, they find that this was not a casual encounter, which the Senator knows they are going to find.

Let us assume that they do not. Let us go to the more important question. If there is a captive audience situation found because the employer is exercising his rights of free speech to speak to his employees on his premises on his time at his expense, and that triggers equal access, what is fair about making the employer pay for a mandated, legislated right of the union to come on his premises on his time and at his expense and preach unionism to the employees?

Why should not the union have to pay for that, if that is what has to be? I do not agree that is what has to be, but let us assume it does.

Mr. RIEGLE. The answer has to be, in fairness, in making sure that both sides——

Mr. HATCH. Fairness to whom?

Mr. RIEGLE. I am going to finish. The Senator asked me a question I am going to try to respond.

The question is to try to provide a fair opportunity for both sides to be heard. We tried to construct this in such a fashion and that is done.

The example the Senator gives is one where the manager of the business comes out, stops the operation, and creates a captive audience. You add to that; you say, well, he ought to have that right, because it is his business.

Mr. HATCH. It is his business, his money.

Mr. RIEGLE. His business, his time and so forth. I guess when you say that, you mean, in effect, employees are not part of the business, either. I happen to think they are. I do not think they are totally devoid of rights.

Mr. HATCH. No, they are not. They can talk all they want to.

Mr. RIEGLE. If I may, when he comes in to make a captive audience speech, what we are saying is this: In coming in and stopping the work process and making that speech and telling his side of the story when you have an electioneering process going on, the other side should have an opportunity in the same situation to presumably, I would hope, at the same time. One group can speak for 15 minutes and the other group can speak for 15 minutes.

This is my question to the Senator: What is wrong with that? What are you afraid of? Why is it that you are afraid to have the other side have an opportunity to say their say for 15 minutes? What is it you are afraid somebody is going to hear?

Mr. HATCH. May I answer?

Mr. RIEGLE. I would appreciate it.

Mr. HATCH. I am not afraid at all.

Mr. RIEGLE. Then what do you think is going to happen?

Mr. HATCH. Let me answer. I am not afraid at all. What I want is fairness and justice. I do not want that businessman to have to subsidize the union-

ization of his own business. I want the union to have to sell its story without having these employees delivered over to them.

Mr. RIEGLE. Wait a second. That makes a profound presumption about the judgment process of the people there.

Mr. HATCH. Let me finish.

Mr. RIEGLE. You make the workers sound like they do not have minds of their own. That is nonsense. You were one of these people yourself at one time. I have heard you say that repeatedly.

Mr. HATCH. I still am.

Mr. RIEGLE. Having heard that, I do not see how you can make the presumption that working people out there are going to let somebody else make up their minds for them. I do not understand what scares you about giving both sides of the story.

Mr. HATCH. Nothing frightens me. What bothers me is that you will not answer my question.

If it is fair for the employer, who exercises his right of free speech, to have to open up his plant to let the union organizers come on at the employer's expense, why do we not make it totally fair and have the unions pay for the time and the costs they have incurred by coming on and demanding the right of equal access under this bill?

Mr. RIEGLE. I must say to the Senator, I am not sure I understand where the costs come from. By allowing the people who are the spokespersons in behalf of the union organizing——

Mr. HATCH. Let us start with loss of production.

Mr. RIEGLE (continuing). To have access—no, we carefully protect continuity of production. I am addressing now the fact that they are allowed to go to talk about the issue in the washroom.

Mr. HATCH. What do you mean, you deliberately prohibit them?

Mr. RIEGLE. They are allowed to talk to them in the cafeteria, in the parking lot. I do not see how that costs management a cent.

Mr. HATCH. We are not talking about that. We are talking about the true equal access situation, where the management tells its story.

Mr. RIEGLE. The captive audience.

Mr. HATCH. Let us talk about the captive audience, which I think you will have to agree will be defined by the National Labor Relations Board, and if it is stacked, it is going to be defined always against business.

Let me just say this to you: What is wrong, in the captive audience situation, if the union wants to come on and shut down the business for equal time that the management has talked to its employees in exercise of its free speech—what is wrong with forcing the union to pay for that loss of production if they want to do that?

I am not sure that we should do that, but I am saying if we want to be fair, and if we want to protect the employees and if we want to protect the business and if we want to protect the union and be equal across the board, why should not the union have to pay for that lost production?

Mr. RIEGLE. The Senator can put it in that form.

Mr. HATCH. It is the only form to put it in.

Mr. RIEGLE. That is to your way of thinking, but that is not the only form it can be put in to my way of thinking.

There is another way of looking at this problem. That, as I see it, is in the sense of what constitutes a fair and equitable election process. I might say to the Senator, I have been through this in my own family situation.

My grandfather is a printer. He has a printing company in my hometown of Flint, Mich. For many, many years, that printing company was a nonunion printing company. It was a source of some controversy in the community because he had strong feelings about it and the work force declined to unionize and so forth. A matter of 4 or 5 years ago, the workers in the plant made a different decision. They went through a unionizing effort and the secret ballot vote was to authorize a union, and, today, it is a union plant. So I have seen this up close myself.

In the terms of the basic question of access and the basic question of information, I think you passed very lightly over the argument that the management can come out, they can stop the operation, and line everybody up. Workers in that situation really have no choice but to listen, do they?

Mr. HATCH. Under my——

Mr. RIEGLE. I am trying to respond. I listened to the Senator. Let me tell how I see it.

All the workers are lined up there and they are compelled, are they not, by the situation that is at hand to stand there or sit there and listen to what management has to say?

Mr. HATCH. Are they not bound to listen to the union?

Mr. RIEGLE. Is that not correct?

Mr. HATCH. Are they not also bound to listen to the union——

Mr. RIEGLE. No; they are not.

Mr. HATCH. Sure they are.

Mr. RIEGLE. How are they?

Mr. HATCH. They have to listen to the union organizer.

Mr. RIEGLE. No; they do not, because today, the union organizer does not have the right to stop the process and create a captive audience situation.

Mr. HATCH. He does under this bill.

Mr. RIEGLE. If someone does not want to talk to the union organizer, they can say, look, I am not listening.

Mr. HATCH. You are wrong. Under this bill, he has the right to talk to them.

Mr. RIEGLE. He does not have the right to compel the worker to stop and listen. That is the difference. The employer does have the right.

Mr. HATCH. Now the employer does. After this bill, he will not.

Mr. RIEGLE. I beg your pardon. He will indeed have that right——

Mr. HATCH. So long as he allows the same right to union organizers.

Mr. RIEGLE. As he should, in my judgment. The worker is not asking to hear that story if the management is saying, "Look, you are going to have to stand there and listen to what I have to say whether you want to hear it or not or agree with me or not." What we are saying is the essence of a fair election process is if one side is going to stop the operation to do that, the other side ought to have a chance to have them hear its story.

Mr. HATCH. And the employers will have to listen to the other side.

Mr. RIEGLE. But the union cannot trigger that. They cannot cause that to happen. The only person who can cause that to happen is the employer. If the employer does not want the union——

Mr. HATCH. Does the employer have the right to go to the employee's home?

Mr. RIEGLE. He has exactly the same right.

Mr. HATCH. Oh, does he? Does he have a right to go to the employees' homes like the union does? Does he have a right to make a promise like the union does, without charge of unfair employment practices?

Mr. RIEGLE. The answer is "no."

Mr. HATCH. Then where is the fairness?

Mr. RIEGLE. I do not think that is the point.

Mr. HATCH. Sure, it is.

Mr. RIEGLE. I think the point is this: We are talking about equal access in the workplace.

Mr. HATCH. You want to limit it just to that, not give equal access to the employers, to sell just one side?

Mr. RIEGLE. The employee, I might say, is free not to listen to anybody he does not want to listen to.

Mr. HATCH. He can shut off his hearing.

Mr. RIEGLE. What you are asking me to believe is that you as a worker, if somebody comes up to you and wants to talk about a subject that you do not want to hear about, you are not going to tell him to buzz off. That is nonsense. I know you better than that. I know my own workers better than that. If they do not want to talk to somebody on a subject or hear them on that subject, anywhere we want to talk about—in the parking lot of the workplace, in the cafeteria, out on the street, in the supermarket, at their home—they are not going to take the time to do it, quite frankly.

Mr. HATCH. Can we get back to the basic question I asked the Senator about 15 or 20 minutes ago?

That is, if the employer in exercising his rights of free speech—if the Senator from Michigan will listen—if the employer in exercising his rights of free speech, speaks to his employee on his premises, after a showing of interest has been filed with a board and equal access is triggered, so that the union organizers have a right to come onto his premises, why then in the interests of freedom and justice and fairness, why then if the unions want that right should they not pay for the loss of production to that employer?

I would like an answer.

Mr. RIEGLE. I really think that is a false way to put the argument.

Mr. HATCH. I do not.

Mr. RIEGLE. I really do not think that is the issue. The issue here is the question of how we conduct a fair election,

what constitutes a fair election. We are recognizing that each has certain things going for them and that the management has the great advantage, if they should decide to come in and on the basis of unilateral decision shut down the operation, when they have all the workers there in place and make them listen to their side of the argument.

Mr. HATCH. Why should management have to shut down the operation and pay for it and have a union organizer——

Mr. RIEGLE. It is very simple. It is a question of election fairness.

Mr. HATCH. Why should not management have the right to go to the homes of the employees and have a right to make the same outrageous promises a union can make?

Let us be fair and not go just half the way.

Mr. RIEGLE. The point is, I really think the issue of the union, the employee's home, the residence issue, is really a red herring, because obviously——

Mr. HATCH. Why is it?

Mr. RIEGLE. The employee of the company is in his own home. If the employee wants to talk to management—if management makes it known they are available to be talked to on the issue, willing to have somebody talk to them about it, if the employee wants to initiate interest in having somebody come, why are they not free to do that?

Mr. HATCH. They cannot. If the employee invites them in their home, they cannot go in in this period. That is the law. What is fair about that?

That is why small businessmen all over this country are up in arms. They know it is not fair. I know it is not fair. I think everybody knows it is not fair. And trying to justify the subsidization of his own plant, of unionization of his own plant, on the basis of fairness, I think is a lack of reason.

Mr. RIEGLE. I would have to say that if the employee were to invite the employer or supervisor to talk about the issue in his home, or invite him out to dinner, that they are free to do so.

Mr. HATCH. That is not correct.

Mr. RIEGLE. Then we have a difference of opinion on that issue.

Mr. HATCH. The labor law is this, they are not allowed in an election proceeding to go to their homes. It is that simple. They are not allowed to promise a benefit or a threat or coerce activity. The unions are. What is fair about that?

But nobody seems to bring that up. Nothing in this bill takes care of those evils of unfairness and, should I say, equality.

Mr. RIEGLE. We have a difference of opinion on that.

Mr. HATCH. Then I would suggest the Senator read some of the cases in this area and we will not have a difference of opinion then because he will agree with me.

Mr. RIEGLE. The point is that we have a difference of opinion. I do not know if we can settle it now.

Mr. HATCH. Could the Senator answer the question? I will ask it one more time, and that is——

Mr. RIEGLE. If I may, let me say to the Senator from Utah that I have enjoyed this.

Mr. HATCH. I have enjoyed it.

Mr. RIEGLE. I have enjoyed the debate with the Senator and I look forward to many more pleasant days like this.

I have a situation where I am due elsewhere at the moment. The chairman of the committee has returned and, if I may, I would like to yield to him.

I am jealous that I have to surrender this opportunity to engage in this discussion, but we will have another chance.

Mr. HATCH. I am sure we will. I will be delighted to chat with the distinguished chairman.

Mr. WILLIAMS. I made a promise to the Senator from Texas that I would be here for his speech. I know he is waiting.

Mr. HATCH. I am happy to yield to the Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, I do not want to appear overeager to speak. Therefore, if there are others who would like to carry on, I would be delighted to have them do so. I could learn much more by listening to others than from delivering my own remarks.

Mr. RIEGLE. Will the Senator yield for a unanimous-consent request for a moment?

Mr. TOWER. I yield to the Senator from Michigan for that purpose with the understanding I do not lose my right to the floor.

Mr. RIEGLE. Mr. President, I ask unanimous consent that Mr. Jim Humphreys of my staff be granted privilege of the floor during the debate and votes, until we resolve this issue.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

The Senator from Texas.

Mr. TOWER. Mr. President, I ask unanimous consent that Pam Turner of my staff be granted privilege of the floor during the debate on H.R. 8410, on amendments thereto, and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, a few weeks ago I received a letter from Andrew Biemiller, director of the department of legislation for the AFL–CIO. He wrote to comment on a proposed strategy to be used by opponents of the labor law reform bill.

Mr. Biemiller's assessment was an interesting one.

Since I am among those who oppose this bill, and since Mr. Biemiller and I have had few occasions to agree on matters of labor policy, I read his letter carefully. One paragraph in particular struck me as noteworthy and it is worth sharing with my colleagues. Mr. Biemiller wrote:

> It is also obvious, that opponents of S. 2467 have no intention of debating the legislation on its merits, but rather intend to raise an emotional smokescreen in a desperate attempt to defeat this modest legislation to improve the operations of the nation's labor law. Indeed, nowhere in the "battle plan" is there a single item attempting to factually address point by point, the substance of the bill.

Well, Mr. Biemiller is guilty of the very accusations of emotionalism and overrection he writes of. Opponents of this legislation, unhesitatingly, have argued the merits of each provision, and this Senator, among many others—contrary to Mr. Biemiller's observations—has taken every opportunity to discuss, with any and all, each and every provision. I have shared platforms to debate specific provisions, and many of my colleagues have done likewise. It is because we understand the specific provisions so implicitly, Mr. President, and because we have debated each one at length, that so much opposition to this legislation exists.

Mr. Biemiller also described the bill in his letter as "this modest legislation." Modest, Mr. President! Modest is hardly the word I would use to describe S. 2467, or we have now accepted the House number, H.R. 8410. This legislation over the months has generated more mail than just about any other issue I can recall during my 17 years in the Senate. It rivals the Panama Canal measure, and they brought that in by the truckload.

Both organized labor and employer groups are actively involved in the debate. Newspapers nationwide have devoted considerable news and editorial space to the bill's progress, and paid advertising on labor law revisions, I wager, would amount to a staggering sum. This degree of public interest and group involvement seems to suggest that labor law changes of the kind envisioned in this bill are much more than "modest." Andrew Biemiller and I differ in our views with respect to S. 2467. But we do share the same opinion on one point: That is, every provision of this bill should be carefully considered, and that its relative merits should be fully explored by each Member of the Senate.

Today, then, as we proceed with consideration of this labor law reform bill, I encourage my colleagues to join in the debate and to judge this legislation on its merits. If we do, the conclusion will be a foregone one.

In particular, I would admonish my colleagues to consider the net impact this legislation would have on individual employee rights and on their freedoms at the worksite.

Before outlining my specific objections to the bill, I would like to make some observations which I believe warrant consideration on its unitary effect—that is the net effect of the bill as a whole on labor relations in general. The main provisions of this bill amend two areas of existing labor law: The first being that area pertaining to representation election procedures; and the second to remedies for unfair labor practices. The impact of these combined changes will destroy any impartiality of existing law in these areas, and provide a statutory advantage to organized labor during unionization campaigns and at the bargaining table.

Over and over again, we have heard proponents claim that in reality, S. 2467 will only "speed up and streamline NLRB procedures and guarantee the right of all employees to enjoy the benefits of collective bargaining."

A very basic review of the bill, Mr.

President, shows that the only procedures this bill would speed up are those which work to confer special advantage on organized labor—particularly in the conduct of union representation elections.

No effort is made to assure that employees will be given an opportunity to consider fully each side before casting their ballot, despite the fact that this may well be the most important decision an individual will make in the workplace.

No effort is made to see that employers have adequate time to present their case, or even to know which employers would be included in a bargaining unit prior to the election.

Most everyone is versed on the litany of horror stories about elections which are drawn out for months, or even years. The record makes a factual case to the contrary, however. First of all, 82 percent of union representation elections are currently held within 44 days after the petition is filed. The median time for settling unfair labor practices cases is 55 days. Where dilatory tactics exist, or employees are unjustly fired or mistreated, the perpetrators should be punished. No one disagrees on this point.

The fact is, Mr. President, that remedies exist for such abuses under existing law. There is no justification under the Sun for the kind of legislation we have before us today. It represents yet another example of the Federal Government turning sound and practical law on its head under the guise of reform. Seeking to blunt opposition to the bill from large manufacturing firms which are heavily unionized, proponents claim the legislation will not affect companies who have existing bargaining contracts. This is not true. First of all, very few if any companies are completely organized. New organizing efforts directed at clerical workers and white collar workers, for example, could affect many companies whose production employees may already be covered by bargaining agreements.

Unionized employees will also feel the indirect, but costly effects. The "make-whole" provision is one example. Under this provision the Federal Government would serve, not as an impartial arbiter—as proponents would have us believe—but as advocates for the unions, dictating wage and benefit settlements. Such determinations would be made based on the Bureau of Labor Statistics Average Wage and Benefits Settlements Index—an index for bargaining units of over 5,000 employees. It, therefore, would be of questionable applicability to the Nation's struggling small businesses which operate on small profit margins but which nonetheless would pay wage settlements as if they operated with the assets of a selected few conglomerates—whose employees are represented by the most powerful labor unions in the country.

Under this bill—if we buy proponent's arguments—a wage settlement good enough for General Motors would be good enough for everyone else—large or small—nationwide. This "make-whole" provision, as well as a provision "blacklisting" those companies who "willfully violate" the law exemplify in this legislation the drastic change in the NLRA from a remedial law to a punitive one—punitive, I might add, only for the employer.

We have heard a great deal of rhetoric about the J. P. Stevens case. Oh, business abused its power. It flouted the law. It denied workers the opportunity to join a union. J. P. Stevens, J. P. Stevens—that is all we hear. One abuse, and we have to pass sweeping labor legislation impacting on the entire economy of the United States in order to afford a remedy for the kind of situation that happened in one instance.

Is it not inspiring that we rush to the defense and the assistance of the unions because of a business abuse?

In the 17 years I have been in the Senate, I have never seen any great rush to remedy any abuses by labor unions. I have never seen any rush to correct some of the evils that have been inflicted on the economy by big unions.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. TOWER. Big unions are sacrosanct, they are a sacred cow, and we cannot touch them.

I am delighted to yield to my brilliant colleague from New Jersey, who disappoints me, knowing of his brilliance, that he is on the other side of this argument.

Mr. WILLIAMS. There is the proof we need of the excessiveness of the Senator from Texas. My heart always has been in the right place, I have thought, but I cannot say that I can claim brilliance.

I just want to say that if the Senator had joined the U.S. Senate at the time this Senator did, he would have been here to have added immensely to the national response to unfair labor union practices, and he would have been here to vote in 1959 on the Landrum-Griffin bill, which provided many responses to the record of union abuses at that time.

Of course, Taft-Hartley had done it, also, in its time and, as a matter of fact, with those measures there were certain remedies that were added to the basic labor law of our country, that we are now trying to catch up with in terms of remedies running to employees as remedies against unfair practices by employers.

The Senator knows, I am sure, that the most effective, strong, and decisive remedy of the injunction is available to the employer against the union that is charged with engaging in a secondary boycott, hot cargo agreements, and recognition picketing beyond the legal period of permitted recognition picketing. That is the strongest, most decisive remedy within the law, and it runs to the advantage of the employer against the union.

Mr. TOWER. Of course, there are still a few other things, like stranger picketing, some of the things we ran into during the coal strike.

Mr. WILLIAMS. It is in the bill, I hasten to again advise my friend from Texas. We have a strong stranger picketing injunction provision in the bill.

Mr. TOWER. I think we might take up the question of the effectiveness of the language in the current bill at some point during this debate.

Mr. WILLIAMS. We shall.

Mr. TOWER. I do regret I was not here during the time of the passage of the Landrum-Griffin bill. No, I do not regret it because I would be much older now had I been here.

But in any case, I think that we can provide for the record and intend to provide for the record during the course of this debate some of the things that have been going on that organized labor is responsible for that I think merits some legislative attention by this body.

No one can question, or I do not see how anyone can question, that politically and economically there is no more powerful entity in our society than organized labor. After all, they can operate outside the marketplace, demand and get increases in wages and benefits, reduction in working hours, and anarchronistic work rules.

Right now, let us look at food processing, for example. Four years ago a bushel of wheat cost $5. Bread was 30 cents a loaf. Now a bushel of wheat is $2 and bread is 38 cents a loaf. Where does the increase come? It comes in labor costs. Labor costs in total in the food processing business are greater than the total value of agricultural production in the United States. This is something the consumer is never told about. We start talking about consumer legislation.

There are a number of things that we can talk about in that connection, and at some point during the course of the debate on this issue I wish to engage the Senator from New Jersey in some discussion of those matters.

May I note that the Senator from New Jersey cited an instance of trying to deal with some labor problems of which the last instance was prior to 1961. I think that we have passed a great deal of legislation beneficial to unions, if not directly, indirectly, since that time. I do not recall anything that we have done in that period of time that has enhanced the position of the employer, nor indeed that has protected the consumer against some of the excesses of labor. Nor have we passed any legislation that has relieved business of any burdens. Indeed, we have gone the other way and placed additional burdens on business.

Now, you hit the small businessman with the Occupational Safety and Health Act, environmental protection, this Government regulation, that Government regulation, tripled the social security contribution, and now you are going to weigh in Government with big labor against him.

Boy, if that is not going to be the straw that breaks the camel's back I do not know what it is.

But I shall proceed, and I thank my distinguished friend from New Jersey for his intervention and I look forward to other such interventions during the course of this debate and the fact of his intervention I am sure will be a great inspiration to me to do my homework which I fully intend to do.

We were talking about punitive provisions. This bill is punitive to the employers. That previous legislation was more remedial in thrust. This one is punitive. We are going to punish business now if they do not respond to what

the big labor-big Government team tries to impose on them.

If this one "debarment" provision became the law of the land, many businesses outlawed from obtaining Federal Government contracts for a period of 3 years would, in my view, suffer unjustly. We could kill off businesses with this debarment provision. Their demise would create an economic vise squeezing the life-blood out of many small business concerns everywhere across the country that rely on Government contracts for survival.

I am sure that big business in this country can probably absorb any blows that this legislation will inflict on them. I do not have any qualms about their survivability. But I am concerned about small business, the small businessman confronted now by the combined resources of big labor and big government. An economic malady of this nature would hardly promote increased employment for union members or anyone else for that matter.

Why contradict stated national goals to reduce unemployment with legislation so clearly exacerbating it?

Senate debate on the provisions of S. 2467 could not come at a more opportune time since we have just completed consideration of critical budget resolutions because another aspect of this bill which greatly troubles me is its recognized inflationary impact.

Economist Pierre Rinfret, with the benefit of exhaustive data, concludes that passage of this legislation would "tend to increase the general inflationary trend of the United States, which now appears to be at a base rate of 7 percent, with wholesale and consumer price increases currently hovering around double-digit levels."

Further, Rinfret state:

To the extent that the proposed labor law revisions will facilitate unionization of American industry, they will increase wage costs.

The economic history of this country, Mr. President, makes an emphatic truism of the hypothesis that as prices increase, so do wages.

Mr. Rinfret's study of S. 2467 is very clear on who would shoulder the benefit of increased costs: small business, which presently tends to have a low degree of unionization. These are the businesses which employ 250 or less workers, but which account for 66 percent of total employment in the United States. Mr. Rinfret's conclusions and the implications are worth pondering:

For each 10 percent increase in union membership, the Consumer Price Index would increase by at least 5 index points.

This, Mr. President, would mean a 3-percent increase in the rate of inflation. This, in turn, means that the base rate of inflation, which now appears to be around 7 percent, would rise to 10 percent.

If we then consider findings of the NLRB General Counsel—that its first year operating expense under this bill would total some $30 million—I think the inflationary impact speaks for itself.

Such economic conclusions are all the more disturbing, Mr. President, if we compare rates of productivity with increasing wages and prices since World War II.

As Mr. Rinfret's study reveals, consumer prices, hourly earnings, and unit labor costs have advanced while productivity rates in relation to these indexes have receded.

In Mr. Rinfret's own word:

Inflation has tended to accelerate as productivity increases have tended to decelerate. Higher inflation and lower productivity have been accompanied by an acceleration in average hourly earnings and in unit labor costs.

Mr. President, the Rinfret study of economic impact under provisions of S. 2467 included my own State of Texas. Its impact there would be more pronounced than in most other States he examined. "For each 10 percent increase in labor force unionization," he confirmed "there would be a increase of between 4 and 5 percent in consumer prices" paid by Texans.

And as his study also concluded, this impact would not be restricted to the near-term economy of Texas, but would be felt for years to come.

Mr. President, these arguments in opposition to S. 2467 are rooted in documentable fact, not in the emotionalism members of the labor hierarchy in this country have for so long themselves been prone to. We base our criticisms not on rhetoric, but on reason. This legislation would profoundly impact in very objectionable ways the nature of Labor relations in this country—compromising Government's traditionally impartial role in the arbitration of disputes effectively shackling the hands of businessmen unfairly in the process. What is more, inflation would enlist a new agent provocateur with passage of this legislation, one subverting in profound ways basic national goals seeking an end to cost-push inflation while increasing employment. The people of Texas have said no to this legislation in no uncertain terms—under the name of reform or whatever other guise proponents have utilized.

Contrary to both the spirit and the letter of our basic labor-relations law, this bill will not promote industrial harmoney, but will, in practice, engender hostilities between organized labor and management.

After careful analysis of the bill's provisions, I am inclined to agree that reform is intended only insofar as it will add to the ranks of organized labor.

Now that is its function, to add to the ranks of organized labor. People are beginning to opt out belonging to unions, so the unions come to Congress and say, "Rescue us. A growing number of people do not want to belong to unions, so pass some legislation that is going to put the Federal Government behind our efforts to get more people into the unions."

Now, I cannot accept the excuses of those who justify this bill by claiming that the present law has failed. Failed to do what? Increase union membership?

The NLRA guarantees workers the right to organize and bargain collectively if they so wish. Nowhere in that act, written or implied, is there any guarantee that unions are entitled to a certain percentage of the work force; or that union membership must increase at a certain rate. Let us not fall into this convenient trap of making the NLRA a scapegoat for union organizers' inability to attract and retain members.

The law has not failed. The unions have failed, I think, probably because of an enhanced sophistication on the part of union members in basic economics, because they see some of the acts of organized labor moving to strangle the goose that lays the golden egg, which is economic progress, economic growth.

The preamble of the National Labor Relations Act states that its purpose is to promote the free flow of commerce, to prescribe the legitimate rights of both employees and employers, and to provide orderly and peaceful procedures for preventing the interference by either with the legislative rights of the other. Those objectives have been achieved as our Nation, unlike many others, has been spared, with a few exceptions, from crippling national strikes and labor unrest as our economy has prospered.

Contributing in large measure to that success has been the confidence of management, labor, and the public, wrought by the neutrality of the National Labor Relations Board and the guarantee of due process through established procedures for administrative and judicial review. That confidence will be dispelled by the punitive approach inherent in this bill, devised by organized labor to serve its organizational purposes, devised by organized labor, I might add, in a very artful way.

As stated by President Roosevelt in signing the National Labor Relations Act into law, its acceptance by management, labor, and the public with a sense of sober responsibility and of willing cooperation serves as an important step toward the achievement of justice and peaceful labor relations in industry.

I am not opposed to constructive reform of our existing labor laws. In fact, I have offered several amendments myself over the past 17 years. I do, however, vigorously oppose change which would disturb that delicate balance of rights and obligations so ingrained in our present law. I am disturbed by the administration's support of a bill which supposedly seeks to "reform" what it terms management abuses, but leaves union evils untouched.

I find it difficult to accept a bill which would impose punitive measures upon employers for the commission of unfair labor practices, but ignores correlative punitive measures against unions for similar or more grievous conduct, as in the case of the losses suffered by neutrals in unlawful secondary boycotts.

The distinguished labor commentator, Abe Raskin, in a New York Times article captioned "Organizing Obstacles Are Not Just Legal," wrote——

Mr. WILLIAMS. Mr. President, will the Senator yield one more time?

Mr. TOWER. Yes.

Mr. WILLIAMS. I know I could deal with this later, but I might as well correct things that perhaps understandably would leave a misunderstanding of what this bill really does.

The remedies that are included here run equally, I should say, when there is an unfair labor practice. And an unfair labor practice can be on the part of the employer, or it can be on the part of the union.

Now, debarment has been mentioned. Unions have contracts with the Government. Unions can be charged with and found in violation of the act. They can be debarred from their Federal contracts.

The same is true with "make whole." If the union is charged and found not to have bargained in good faith, the "make whole" provision runs equally against the unions where the union is responsible for discharging an employee the time-and-a-half provision applies. That is in this bill, and I suggest parenthetically to my friend from Texas, if he thinks it is true, that time-and-a-half provision is not punitive at all for a person that is thrown out of work. These days, with inflation what it is, most people are living from week to week, and the first thing they have to do is borrow money for their household expenses if they are fired.

I just wanted to make sure the record is straight on that right in context with the remarks of my good friend the distinguished Senator from Texas.

Mr. TOWER. I am not certain whether that is in the bill or simply mentioned in the report. I would like to have a look at those matters. I understand this was discussed yesterday on the floor.

Mr. WILLIAMS. I will simplify it for my friend. In the bill we were working from, S. 2467—yesterday there was a little confusion on this side of the aisle; the wrong bill number was used.

Mr. TOWER. We are working off the print of S. 2467.

Mr. WILLIAMS. That is it exactly. I want to show the Senator from Texas directly the provision on page 12, section 8:

> Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice,

Then these provisions apply.

"Any person," under the definitions, is either employer or union, evenly applied.

Mr. TOWER. I think the question is, How evenly is that impact on the union as compared to the employer? That is a matter which I think we should go into, and I would be delighted to get into it with the Senator.

Mr. WILLIAMS. Time and a half is time and a half. Debarment applies to a training program. A training contract for a Federal program can be just as important to the union as a Federal contract can be to the producer, or whatever, you see. The provisions are equal.

I am so close to my friend I almost said "John."

Mr. TOWER. Well, that is quite all right, Pete.

In fact, I am not convinced of the equal applicability of the punitive provision to the union as to the employer, and I am not prepared at this point to get into that in depth with the distinguished Senator from New Jersey, but I will certainly be glad to at some point, after I have had an opportunity to review this and also review the colloquy from yesterday, which I understand was very revealing on this point. I have not had an opportunity to read the colloquy from yesterday on this, which I understand raises more questions than it answers in terms of how this actually does impact on the union.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. TOWER. I yield to my distinguished friend from Utah.

Mr. WILLIAMS. Just before that, I would like to say I will meet the distinguished Senator here, same time, same place tomorrow, or even later than tomorrow.

Mr. TOWER. And what are the weapons?

Mr. WILLIAMS. Just a thorough analysis.

Mr. TOWER. Reason, at 20 paces?

Mr. WILLIAMS. Yes, reason.

Mr. HATCH. Will the Senator Yield?

Mr. TOWER. I yield to the Senator from Utah.

Mr. HATCH. I would just like to point out—if I could have the attention of the distinguished Senator from New Jersey, I would like to ask the Senator this:

Now, I will concede that the contract debarment applies both ways. However, let us talk about the effect of application. How much money or business of the unions would be affected if contract debarment was given in every case, contrasted to the case of the business of business?

Mr. WILLIAMS. These are union contracts. I am looking at a list of union contracts for fiscal 1978.

Mr. HATCH. Does this list comprise all of them, with the Government?

Mr. WILLIAMS. I believe——

Mr. HATCH. And they are all on one sheet of paper?

Mr. WILLIAMS. It is a partial list.

Mr. HATCH. Would it be a majority list, or just a small list? Because it looks to me like you just have one sheet of paper.

Mr. WILLIAMS. It is a staggeringly large amount of money, in my judgment. The first one is for $756,000. There are 19 contracts that the Federal Government has entered into with these labor organizations, and when you have a contract, as with the Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers, Express and Station Employees, for $2,381,000, that is a substantial contract.

Mr. HATCH. It is not tremendously substantial when you compare it to the billions of dollars in contracts that the business community has with the Federal Government.

Mr. TOWER. As a matter of fact, when you compare it with the contracts small businesses alone have with the Federal Government, it is a drop in the bucket.

Mr. HATCH. Sure; there are hundreds of thousands of small businesses where you get a contract on just a small piece of paper for $2 million, for example.

We are talking billions of dollars of intimidation by this supposedly equal contract debarment provision which injects the almighty Federal Government into the middle of the collective-bargaining process in spite of the fact that the Administrative Conference of the United States of America came out against the debarment and said it was the most extreme or one of the most extreme remedies which could occur.

Mr. WILLIAMS. Let us settle down and realize that this debarment provision is in many, many acts of law.

Mr. HATCH. It is in 11 statutes, to my knowledge, and hardly ever applied.

Mr. WILLIAMS. The debarment provision in this bill is more flexible, less demanding, than debarment in some of the other statutes because in this bill the authority is there for the Secretary of Labor to relieve an employer or a union from debarment when the violation has been corrected.

Mr. HATCH. Will the distinguished Senator from Texas indulge me for another minute?

Mr. TOWER. I yield further to the Senator from Utah.

Mr. HATCH. I thank the Senator from Texas.

The point that I am making is that this is hardly equal, effective, or fair because there are few union contracts with the Federal Government which could be affected by this debarment provision but there are hundreds of thousands of contracts on the other side which would be affected to the detriment of the employees themselves. What I submit should be the major consideration——

Mr. WILLIAMS. Before we go into this any further, do either of you deny that the provisions apply equally? They might apply to different sums of contract money.

Mr. HATCH. But that is unequal.

Mr. WILLIAMS. But they apply equally. In referring to the training programs mentioned by the Senator from Vermont, in our CETA program we might have legislated more training programs right to the unions, or maybe we would have. Would the Senator go along to increase the equality?

Mr. HATCH. Maybe that is the next step.

Mr. TOWER. I have provided a statement of Anatole France, that "the law, in its majestic quality, forbids the rich as well as the poor to sleep under bridges, to be in the streets, and to steal bread."

As a matter of fact, I suppose it does apply equally with one kind of deterrence, but not in reference to the labor practice on the part of big unions. $36 million? Consider that union assets of this country today total about $5 billion or something like that, and then after all they do is jack up the demand the next time they bargain with the employer to get every everything back.

Mr. WILLIAMS. I think we have exhausted this. We agree the provisions are equal. You say the incidence of im-

pact is unequal. Probably we could figure this out to see what $2 million to a union means in terms of its resources and compare it with J. P. Stevens who got $115 million of Federal contracts, what that means in terms of Stevens' total business figure. So we have established at least one thing. The other will have to be further refined by the economists on our staff.

Mr. STAFFORD. Will the distinguished Senator yield to me for a brief comment?

Mr. TOWER. I yield.

Mr. STAFFORD. I was listening, of course, with great interest to the debate, and the proposed statute in question. It did occur to me that in the course of the debate nobody pointed out that there was no impact of this statute upon any law-abiding corporation or any law-abiding union, for that matter.

I thank the Senator for yielding.

Mr. TOWER. As I started to say earlier, Mr. Raskin wrote:

> Most unions have got out of the habit of organizing in the years since World War II. To the extent that they have acquired new members, outside the Civil Service and health fields, it has been primarily through union shop contracts and other kinds of "push button unionism" in which the employer delivers over workers.

He went on to say:

> In some of the country's most prestigious companies, such as International Business Machines, Inc., labor long ago abandoned organizing efforts because the wages, benefits, and working conditions were far ahead of those in unionized plants.

It is, therefore, both unwise and unfair to ascribe organized labor's failings to the National Labor Relations Act or its administration by the National Labor Relations Board. It is unwise and unfair to subvert the right of those who wish to refrain from organizing and bargaining collectively, to the right of those who wish to do so. And, it is unwise and unfair to erode basic principles of due process and property to advance the cause of union officials.

In short, this bill is wrong in what it seeks to achieve, and ill-conceived and imprudent in the means by which it would accomplish its objectives.

For example, subsection 3(a) of the National Labor Relations Act would be amended to add two additional members to the National Labor Relations Board and to extend the term of each member to 7 years. The ostensible purpose of this provision is to lessen the caseload of Board members and thus shorten the period within which final determination by the Board is made.

In reality, however, the provision is a thinly veiled attempt to pack the Board with members inclined to the union's point of view.

The bill does provide that no more than a majority of the Board members shall be of the same political party. This would assure that the President would not use his appointive power to pack the Board with those who would be most often expected to rule in labor's favor. Nevertheless, public confidence in the impartiality of the board would as much be undermined by the thoughtless use of such appointive power, as it would by the abuse thereof.

Mr. WILLIAMS. Will the Senator yield at that point?

Mr. TOWER. Yes.

Mr. WILLIAMS. The Senator is speaking prospectively, but I think this is an appropriate time to point out that President Carter has had two opportunities during his administration to appoint members to the National Labor Relations Board. I know it is easy for opponents of this bill to say pack with one-sided thinking, prolabor. But here is what happened in the two appointments he had. John Fanning, long-time member of the National Labor Relations Board, appointed by President Dwight David Eisenhower, reappointed by President Jimmy Carter; next appointment, an opening on the Board, appointed to the Board a long-time career person with the National Labor Relations Board; party ideology unknown to me. All I know is he is a career person deep in the administrative business of the National Labor Relations Board.

Nobody is suggesting a warped prolabor attitude in his work on the Board for better than 20 years, including as a staffer. So this gives us, by this President, the quality of his thinking and what goes into selection to this Board. I agree, no hardened ideology.

Mr. TOWER. Well, as the Senator brought out, it is prospective, and I have far less confidence than the Senator from New Jersey that the additional members of the Board are going to be totally objective. They are sure not going to be proemployer.

Mr. WILLIAMS. If I can say this to the Senator, there has never been a union lawyer appointed to the National Labor Relations Board. There have been many, many out of management law background.

Mr. HATCH. How long has John Fanning been on the Board?

Mr. WILLIAMS. Since President Eisenhower.

Mr. HATCH. It has been almost 30 years.

Mr. WILLIAMS. And he has been reappointed.

Mr. HATCH. Do you know of any probusiness decision he has ever participated in or has written?

Mr. WILLIAMS. I do not know.

Mr. HATCH. Is it not true that this is the first time in the history of the National Labor Relations Board under this President's regime that Murphy, a Republican nominee, was pushed out as Chairman——

Mr. WILLIAMS. Blame not Presidents.

Mr. HATCH. Who else do you blame?

Mr. WILLIAMS. Blame me if you want to.

Mr. HATCH. I would not blame you. We know you are better than that.

Mr. WILLIAMS. Tell Senator TOWER that we have written it into continuing permanence that there will be no political imbalance beyond 4 to 3 or, as it is now, 3 to 2.

Mr. TOWER. Let us be realistic. It is a virtual certainty that nobody much is going to be confirmed to that Board unless they carry with them the imprimatur of organized labor, because organized labor enjoys right considerable influence around here.

Actually, the two-party provision does not protect anybody against anything, because the President can ignore the recommendations made by the Republican leadership and appoint any Republican he wants to. He can be very selective about the Republican he appoints.

Mr. WILLIAMS. And with advice and consent, I respectfully suggest, there is a great deal of authority here to block anybody who is not acceptable to either one——

Mr. TOWER. You mean with 38 of us? What can 38 of us block against 62, when we are confronted by the tyranny of the majority that rolls over us at every opportunity?

Mr. WILLIAMS. Even two vocal Members within this body made it necessary to change direction on one potential nominee to the National Labor Relations Board within recent history.

Mr. TOWER. Well, as the Senator points out, it is prospecting, but any realistic assessment of this thing indicates that there are not going to be any proemployer people appointed to that Board.

Mr. WILLIAMS. Let us not have pro this or pro that, as we have had in the past.

Mr. TOWER. When one considers that in fiscal year 1976 NLRB orders in contested cases represented only 3.6 percent of the Board's caseload, it is evident that the addition of two additional members would encumber, rather than expedite, the decisional process. Both Chairman John Fanning and former Chairman Betty Southard Murphy are on record as opposing an increase in the number of Board members, although Chairman Fanning has apparently had a recent change of heart.

Under present practices, decisions of a three-member panel are circulated to the two nonparticipating members. The staffs of each member must review the decision and, if either of the two nonpanel members wishes, the case will be considered by the entire five-member Board. The increase of the Board to seven members would merely require the examination of proposed decisions by the two additional members and their staffs, and may well result in a requirement that more cases receive consideration by the full Board.

In the view of former Chairman Murphy, and that earlier expressed by Chairman Fanning, the problem is at the administrative law judge level and the regional office level, created, by such factors as the 8 to 14 month delay in getting Civil Service Commission approval for filling administrative law judge vacancies, cuts in travel funds, and the lack of an adequate staff at all levels.

None of those problems will be corrected by this legislation and, in fact, it may compound them. Obviously, as Chairman Fanning has stated, it will require that each new member be given an adequate staff, adding to the Board's already large budget. Indeed, the Board's general counsel, in a cost impact study dated December 29, 1977, estimates that

the total cost of this bill will add $30 million to the NLRB's budget in the first year alone.

In addition, that same study concludes that litigation will increase, not decrease, if this bill becomes law. Increased litigation will mean longer, not shorter, delays. Strange that an administration pledged to limit Government expenditures would find this additional cost tolerable. Furthermore, the cost may not end here. I cannot help but wonder whether in future years, should the balance change, Congress will again be called upon to add two members, or three, or four—whatever number organized labor may consider necessary to restore its preeminence.

It has been brought to my attention that each member of the NLRB has 20 attorneys to advise and assist in handling cases. By way of comparison, Supreme Court Justices have only three law clerks to assist them.

The addition of Board members will not expedite case handling. What it will do is sow fields for the reversal of longstanding precedents, particularly in the area of the NLRA's secondary boycott and hot cargo provisions. Having been unable to achieve their goals in these areas, organized labor is undoubtedly anticipating better times before a new, expanded Board. Let me turn now to those provisions which amend section 6 of the act to require the Board to establish rules governing certain activities in the representation election process.

The use of rulemaking in this manner is totally objectionable, and will wreak havoc with existing Board procedures and precedents in representation cases.

I might point out here, that under present law, the Board already has rulemaking authority, but has repeatedly and wisely refused to do so. Recognizing the absurdity of trying to establish concise rules governing unique and changing workplace conditions, former NLRB Chairman McCulloch said that the use of rulemaking is a "cumbersome process * * * that necessarily impedes the law's ability to respond quickly and accurately to changing industrial practices."

In 1971, the Board specifically denied a request from the American Association of University Professors for rules governing representation cases involving faculty members in colleges and universities. At that time the Board said:

> The Board considers that the petition properly points out that the Board's unit determinations in this area should take into account certain practices and organizational structures which do not parallel the traditional practices and organizational structures in private industry. The Board's information to date, however, suggests that here is also a great variety in this regard within the academic community, and also that the practice and structures in universities and colleges are undergoing a period of change and experimentation. The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adapting its approach to a highly pluralistic and fluid set of conditions.

Certainly this same rationale applies in this case. The notion that bargaining unit determinations and voter eligibility should be established by rigid rules is unworkable, unfair, and will undoubtedly spawn increased litigation.

If we are sincerely interested in preserving industrial harmony, then it is necessary to examine each factual situation on a case-by-case basis. What is appropriate for a large employer may be inappropriate for a small employer. Despite the argument that simple-plant units are "plainly appropriate" and "approved as a matter of course by the Board," the Board has recognized in many situations that these presumptively appropriate units cannot be utilized in a particular factual context.

Labor law is simply not susceptible to such a simplistic approach. That fact is evident from Chairman Fanning's recent statement before the other body, where he emphasized that regardless of the expansion of Board rulemaking power, it would be wise to preserve the Board's case adjudication approach to questions of the appropriateness of units, employee eligibility to vote, rules governing the conduct that will cause an election to be set aside, "and other matters."

In viewing the wisdom of holding elections while such issues are outstanding, we should consider how upsetting it will be to harmony within the workplace to have a union obtain a majority through the election process, only to have the Board subsequently refuse to certify the results because of a lack of jurisdiction, the fact that the unit is inappropriate or that a group of employees participated in the election who were not eligible to do so.

Furthermore, there is the possibility that existing bargaining units could be affected by unit rules, if they did not correspond to the Board's specifications.

One of the more infamous sections of this bill, especially among my constituents in Texas, is the so-called "equal access" language, which would also be determined by rulemaking. Let me stress here that the only access which would be "equal" under this bill is that to the employer's time and property.

Once outside the workplace, union organizers would continue to enjoy existing campaign advantages, such as talking with employees in their homes, which are not available to employers. Because of these existing advantages to labor organizations, the NLRB has never held as a general rule that equal access is necessary in election campaigns.

Despite the record, this bill would require an employer to grant "equal time" in his place of business and on company time, to union spokesmen when the employer has communicated with his employees during worktime or on the employer's premises. This provision is totally unnecessary and an unreasonable violation of individual property rights.

Furthermore, this "equal access" applies regardless of whether or not a petition for election has been filed, so long as there is a "showing of interest" in having such an election among the employers. There is no indication in the bill as to what constitutes this "required showing of interest." The committee report estimates that this could be "10 percent or at least 3 percent" of employees in the unit, but then goes on to say that this "test is to be used as a rule of thumb only." Nor is there any indication as to how such showing of interest would be demonstrated.

This vagueness will undoubtedly lead to increased objections to elections, and controversy as to whether equal time and facilities were indeed provided by the employer. This provision will be unpalatable to most employers particularly those having a small number of employees, as is the case in the overwhelming majority of board elections. For example, nearly 70 percent of all elections held in 1976 involved bargaining units of 50 or fewer employees.

Thought must be given to the relationship between the parties after the election, should the union be successful. Animosities created during the campaign stage may well permeate that relationship, leading to industrial strife, and, again, more cases for the Board to decide.

I note with interest that the prohibition against the employer visiting employees in their homes is not removed by this bill, nor is the requirement that the employer furnish the union with a list of the names and addresses of its employees. Also unchanged are the restrictions upon certain employer statements which, in the interest of the so-called laboratory conditions, require an employer to measure each word or contact lest he endanger the results of the election and be subjected to a rerun, or even worse, an order to bargain with the union without an election having been held.

Obviously, a union is not without its supporters and leaders within the employer's place of business. Solicitation and the distribution of literature must be permitted during nonworking time, within the plant. To permit union spokesmen into the plant for the purpose of addressing employees will certainly engender friction, and could well result in verbal or physical altercations. It is simply an idea whose time has not come; and if its purpose is to advance union organizing efforts, the proponents of this bill may find that it will have exactly the opposite effect.

Rather than open their plants to union spokesmen, many employers will choose not to speak to their employees on company time and property. The exercise of that choice, together with the quickie election procedures provided by this bill, will further serve to accomplish big labor's plan to stampede employees into labor organizations before they have an opportunity to make an informed choice.

Finally, it appears that this provision may prove to be unconstitutional. The Supreme Court, in *NLRB* v. *Babcock and Wilcox Co.*, 351 U.S. 105 (1956), upheld an employer's refusal to permit nonemployee union organizers access to private company property. In that case, the court held that the Labor Board could not require union access to a park-

ing lot because of the availability of other means of communicating with the employees.

Again in 1972, the court in *Central Hardware Company* v. *NLRB*, 407 U.S. 539, upheld the principle expressed in Babcock by refusing union organizers access to a parking lot, even though the parking lot was open to the public.

The standard followed by the courts would indicate that union access is not required for convenience, but only in cases of necessity, where it can be demonstrated that the union is unable to contact employees through any other available means of communication.

Another provision of the pending bill which concerns me is the timetable which has been set for holding elections.

The Senate has heard the testimony of many witnesses who have shown that organized labor has painted a false picture of the Board's performance in the representation area. In fiscal 1976 the Board conducted 8,638 conclusive representation elections, of which unions won 4,159, or 48 percent Eighty percent of these elections were conducted by stipulation or consent. Board decisions in representation cases were issued in only 645 instances. In addition, 80 percent of all elections were held within a median of 45 days, and 99.5 percent of all elections within a median time of 75 days.

On several of my trips back to Texas, I have asked those knowledgeable in the labor law field about the validity of these charges. Among the responses, I received the following information from an attorney who practices in the south Texas area:

In Laredo, a wholesaler was petitioned by the union on February 2, 1978, and the election was held by NLRB on March 31, 1978. Less than 60 days elapsed between the date of the filing of the petition and the date of the holding of the election, which certified the union as the bargaining representative.

A San Antonio manufacturer received a request from a union on June 9, 1977. NLRB held a hearing on the appropriateness of the bargaining unit, and the election was held on August 12. Here again, approximately 2 months elapsed betweeen the filing of the petition and the election. In this case, the union was not chosen to represent the employees.

Another San Antonio firm was petitioned by the union on April 26, 1977. A question arose as to the appropriatencss of the bargaining unit and a hearing was held. On July 1, 1977, the election was held and the union certified as the majority representative. Here is an example where even though legal questions existed as to the appropriate bargaining unit, the NLRB still held the election within 65 days of the filing of the petition.

At a manufacturing concern located approximately mid-way between Houston and San Antonio, an AFL–CIO union requested an election on April 19, 1978. That election will be held on June 16 with less than 2 months having elapsed between the petition and the election.

Mr. President, these are just a few of the many examples which have been cited to me from my own State, and while I have no doubt that there are exceptional cases which may take longer, I find it hard to accept the contention that the present law creates unreasonable delays with respect to the holding of union representation elections.

The catalyst for a quickie election under the bill's provisions would be whether the union had cards signed by a majority of employees in the unit for which it sought representation rights. The Supreme Court, in its Gissel Packing Co., decision, recognized the infirmity of cards as a barometer of employee sentiment. Nevertheless, the Court held that cards "though admittedly inferior to the election process," could adequately reflect employee sentiment "when that process has been impeded (by an employer's unfair labor practices)." Under this bill, however, an employer could adhere strictly to the Board's rules for election conduct and still be propelled into an election for which he is unprepared, and his employees uninformed, within 21 days after the filing of the petition.

Let us pause for a moment to consider what evil is to be corrected here. First, unions have always had an advantage in seeking the procedures of the Board to resolve questions of representation. Thus, a union can petition for an election whenever it wishes to do so. Obviously, it petitions when it feels it has gained sufficient strength to be victorious. However, an employer and his employees may have to endure an organizational effort for months, perhaps years, without recourse to the Board unless a demand for recognition has been made.

In addition, under the equal access provision, the employer could be under an indefinite and lengthy obligation to turn over his workplace to the union any time he opens his mouth on the subject of unionization. The area of employer legitimate free speech has been so circumscribed that there is little an employer can legally do or say during the campaign. Nevertheless, should his employees reject the union through the free exercise of their ballot, they and the employer can be exposed to another campaign the following year, and presumably the year after, and the year after that.

Is a labor organization required to give the employer notice of its organizational efforts under this bill? Of course not. While they are going about the usually clandestine business of signing cards, the employer is most often in the dark, not even realizing that an organizational effort is in progress. It is interesting to note in this regard that Prof. Stephen Goldberg, the same source upon whom the Senate committee so boldly relies for justifying the equal access language, also did some work in this area. In this study, Goldberg evaluated 18 elections to determine the proportion of authorization cards signed before the employer became aware of the organizational drive. The results are most interesting. In 10 of the elections, all cards were signed before the employer became aware of the drive; and in 4 elections, 50 to 75 percent of the cards were signed without the employer's knowledge.

As a result of this information, Professor Goldberg concludes that "it appears, then, that in most elections the employer does not know about the card-signing drive in time to respond before a majority of the cards have been signed." It is interesting to this Senator that the committee seems so anxious to cite Professor Goldberg when his findings coincide with their own intent, and less willing to tout his work when it contradicts their own. In my view, this simply reinforces the one-sided nature of the pending bill.

Nevertheless, this bill would expect that within 21 days the employer will be able to retain counsel, and counsel will be able to acquaint himself with the workplace, employee complement, unit problems, and campaign issues involved. Moreover, within that same period, despite the dreadful unreliability of the mails and the limitations imposed by this bill upon the use of his own plant to present his side of the issue, the employer is expected to be able to mount an effective campaign. Obviously, the answer is that the proponents of this bill do not desire an effective campaign by the employer, and if this provision of the bill is enacted they will certainly have achieved that purpose.

It would be well to pause a moment to consider what is the nature of the campaign most employers mount.

Given the laboratory conditions insisted upon by the Board and the employer's fear of upsetting the results of the election, he is restricted to matters of an educational nature. For example, in a typical campaign it is pointed out that an employee who signed a card is not legally or morally bound to vote for the union. Employees have a right to know that, but many of them do not because they have not been told by the union organizer. Second, the employer will point out that the election will be decided by a majority of those who actually vote in the election, rather than a majority of those eligible to do so. Accordingly, he will normally urge employees to exercise their voting privilege. Third, he will talk about the cost of unionism, including dues, fees, and possible assessments and fines. Finally, he will point out the benefits that have been achieved without a union.

Certainly, if the Senator were to closely examine the campaigns conducted by employers in the last year, it would find few examples of improper employer conduct. In fact, in fiscal 1977 only 156 elections or 1.7 percent of the 8,899 elections conducted were set aside because of misconduct by either party; and in 40 percent of the cases where objections were filed, it was the employer objecting to union misconduct.

An employer is entitled to a full and fair opporutnity to present its side of the story, and often to correct the misrepresentations of union organizers. Employees who will be bound by union decisions, and perhaps compelled to join union organizations by contract, are en-

titled to a full opportunity to cast an informed vote. There is no law that says that unions must win a greater percentage of elections than they lose. The efforts of some members of this body to rush to the rescue of George Meany, and others, ignore the obvious desire of many employees to remain nonunion and to enjoy the benefits of the modern workplace without the cost of unions and the loss of wages and work opportunities through strikes.

In fiscal 1976, unions lost the right of representation of 15,303 employees through decertification elections. Along with the dramatic change in the percentage of elections won or lost by unions over the years, unions have been losing members through the back door, either by way of decertification, the elimination of jobs or the removal of the employer itself from the marketplace.

In other words, the problem is not only that unions cannot win elections or that unions are now losing substantially more elections than they did in the past. Rather, the problem is also that unions are unable to offset their losses because of disenchantment of employees with their performance.

If unions are to maintain the respect of working men and women, let them first clean their own house by restoring confidence in union-dominated pension and welfare funds, by eliminating coercive tactics in the organizing of employees, and by negotiating with reason and diligence rather than by resorting to unnecessary and destructive strikes and picketing.

This bill would apparently also severely restrict objections to the conduct of an election, by limiting such objections to a violation of rules promulgated by the Board. Specifically removed from the bill is an objection to the conduct of an election in 21 days when, under the criteria established by the bill it should have been conducted under the 45- or 75-day standard.

The provisions of proposed section 6(a) are already without administrative control. For example, there is not limitation on the age of cards, and there is no requirement that the Board ascertain that the card majority was obtained without improper conduct or coercion. Indeed, under this bill in some cases the Board will defer a determination as to the appropriateness of the unit. It is therefore difficult to understand how the Board can ascertain that the union did, in fact, have a majority in the unit ultimately found to be appropriate.

Furthermore, absent the right to object, the employer will have been forced to an expedited election within 21 days, even though it was subsequently determined that the operative factor, namely, the union's majority status in the appropriate unit, did not exist, or was founded upon fraudulent cards.

Clearly, the grounds for review provided in section 6(d) are much too restrictive. Furthermore, as already indicated, the certification of the Board may only be tested through provisions of section 10(e) of 10(f) of the act, meaning that an employer must first refuse to bargain with the union and be exposed to the make-whole remedy provided by the amendment to section 10(c)(3) of the act.

Obviously, these provisions are not intended to have the employer think twice before commiting a violation of the act, but rather to limit the exercise of his discretion in determining whether to avail himself of his basic right of due process. Thus, as with all special interest legislation of this nature, this bill carries in its wake an erosion of basic democratic principles and fundamental concepts of justice.

Another monstrosity is that provision of the bill which would permit a labor organization representing nonguard employees to represent in-house guards, provided they did not do so at the same location of the employer.

Presently the act precludes the inclusion of guards in a unit with other employees, or the certification of a union as the representative of guards if that union admits to membership or is affiliated with an organization which admits to membership, employees other than guards.

The purpose of this provision of the law is evident. It insures that during strikes or labor unrest plant guards can be relied upon to protect the employer's property without being confronted with a division of loyalty between the employer and dissatisfied fellow union members. This provision of the bill, if enacted, would indeed encourage violence upon the picket line by encouraging the tolerance by guards of misconduct, either out of misplaced loyalty to their fellow union members or fear of reprisal by the union for the faithful performance of their duties.

The fact that their labor organization did not represent nonguard employees at the particular location being struck affords little protection from this obvious potential conflict of interest. The labor organization representing guards may represent employees of the same employer at a different location. Even if this is not the case, guards may be placed under pressure by their union officers and representatives who may be otherwise supporting the strike, either because of a sense of union brotherhood or because of the desire to attain similar goals.

Let us assume for example that guards at a particular plant are represented by the Teamsters, and the Teamsters are supporting the strike by refusing to make deliveries to or receive shipments from the plant. Obviously, the interest of the guards would then be clearly alined with the striking nonguard employees. In NLRB against Jones & Laughlin Steel Corp., the Court of Appeals for the Sixth Circuit, in discussing plant guards, concluded:

> They have a private obligation to their employer and an obligation to the community as sworn, bonded and commissioned police officers. In case of industrial unrest, strikes on the part of the production employees, the obligations of the plant guard to the municipality and State would be incompatible with their obligations to the union which, since it represents production employees, authorizes and directs a strike.

The conditions which lead Congress to the conclusion that guards should receive special treatment under the act are as valid today as they were 30 years ago when the Taft-Hartley Act became law. Nothing happened in that period to justify the change which this provision of the bill would bring about.

S. 2467 would also limit the time for filing a petition for review of an order of the Board to 30 days after the issuance of such order. The effect of this provision is to make Board orders self-enforcing in the absence of a timely filed petition for review. Passage of this provision would most likely result in increased time necessary to process the average case. Under the present law, respondent has an adequate opportunity to determine whether it will comply with the order of the Board before the case reaches the Court of Appeals. Important issues are frequently left to the compliance stage of the proceeding before the Board.

Of particular importance is the determination of the amount of back pay due to an individual discriminatee, a determination which is almost always left to the compliance stage of the Board's proceedings. A 30-day time limit on filing a petition for review would not afford adequate time for a respondent to determine its liability in a particular case, and still make the decision whether the case should be appealed. Consequently, appeals would be routinely filed, continuing the litigation process when a sufficient period following issuance of the Board's order could have resulted in compliance.

Furthermore, the necessity to appeal to the courts in order to protect one's rights is going to have a particularly devastating impact upon small employers, who are not in a position to afford the expensive legal costs involved in litigation.

In fiscal 1976 only 250 NLRB-related cases were decided by U.S. Courts of Appeal. Obviously, there is no delay at the appellate court level to warrant such an infringement upon the right of a respondent to adequately determine whether an appeal from the order of the Board should be taken.

The punitive thrust of these proposed amendments is evidenced by that provision which would require that willful violators of the act be debarred from Federal contracts for a period of up to 3 years. The Washington Post, in an editorial in its March 15, 1978 edition, correctly referred to this provision as Government blacklisting. Strangely enough, this provision would penalize those employees whom it is supposedly designed to protect. Many firms depend for their existence upon Government contracts. For example, if a weapons company manufacturing weapons to be used by the Armed Forces suffered disbarment from Government contracts, it may indeed be unable to survive. Consequently, the firm's employees, rather than deriving job security from the protections of the National Labor Relations Act, would be deprived of a livelihood through the operation of its provisions.

Penalizing employees performing Government work for the transgressions of their employer serves no useful purpose, and will not encourage willing compliance with the principles of the National Labor Relations Act by employers. Moreover, it disturbs that delicate balance which we believe to be so essential to peaceful industrial relations by imposing severe penalties upon selected employers, while permitting flagrant and repeated violations by labor organizations who incur no particular congressional wrath, and remain subject simply to the present notice-posting and other inconsequential remedial provisions of the National Labor Relations Board.

Public confidence in the National Labor Relations Board depends upon an even administration of the statute—one which condemns with equal vigor the transgressions of both management and labor. The present authority of the board to seek injunctive relief in such circumstances is adequate where appropriately utilized. I believe, therefore, that this provision of S. 2467, forcing the NLRB to seek injunctive relief, would not achieve its apparent purposes and would be inconsistent with the basic philosophy of the National Labor Relations Act.

The 150 percent backpay provision is equally offensive and contrary to the philosophy of the National Labor Relations Act. The ultimate payment of 150 percent backpay would have no impact upon the campaign.

Even a random or cursory examination of section 8(a)(3) and 8(b)(2) cases reveals few, if any, flagrant or readily discernable violations. Rather, the finding of an unfair labor practice normally requires an examination of the respondent's motive or intent, as drawn from subtle inferences or reflected circumstantial evidence. Difficult credibility resolutions are often reqired to determine whether a violation has indeed been established.

Often violations are attributable to or established from the acts of subordinates, who either are not conscious that their conduct constitutes a violation, or who proceed under a misplaced zeal to protect what they envision as the rights of their company or union superiors. Therefore, this provision of the bill will not only be difficult or imposible to administer fairly, but will unduly restrain an employer, who indeed does have just cause for the termination of an employee without regard to the employer's union activity.

Even the present remedial features of the act invoke what is in reality a double monetary penalty upon the employer who discriminates against an employee because of that employee's involvement in union or protected activities. The discharge of such an individual exposes the employer not only to liability for backpay and interest, but also for the expense inherent in the hiring of a replacement and in the employment of counsel to defend its action before the Board. Would the imposition of 150 percent or even 300 percent damages be any more of a deterrent? I doubt it. Moreover, this particular penalty by S. 2467 would fall unevenly upon various employers, depending upon their ability to afford the 150 percent backpay remedy.

Experience has demonstrated that the greatest deterrent to the commission of unfair labor practices of this nature is the reinstatement and notice-posting provisions of the Board's present remedies and their impact upon the work force or union membership. Punitive damages may, but probably will not, deter a conscious wrongdoer. They will, however, indiscriminately punish an employer found guilty by a subtle analysis of circumstantial evidence and one who commits the violation not by design, but by ignorance of the law or by a mistake of judgment.

The make-whole remedy in refusal to bargain cases is cut from the same cloth. Again, lack of good-faith bargaining requires the Board to make a subjective analysis that is often inaccurate. Furthermore, who is to say what gains would have been achieved even had the parties bargained in good faith. To apply indexes applicable to employers with thousands of employees to small employers is ludicrous.

Finally, I note with consternation the absence of any penalty proposed by the bill where a union bargains in bad faith. Are not employees of the employer injured by such conduct? Should not the union be required under those circumstances to reimburse those employees for the unlawful delay? Obviously, however, that is not the intention of the so-called Labor Law Reform Act of 1978. It is, in fact, designed to stampede employees into labor organizations and to impose such punitive measures upon employers as to violate their right to due process and to bargain in good faith with the lawful representative of their employees without fear of excessive penalties which the bill imposes upon them alone.

The National Labor Relations Act has for over 42 years served the Nation well. The National Labor Relations Board remains a model for other agencies. This legislation, therefore, like the common situs bill, is not only unnecessary, but destructive, and I urge my colleagues to reject it in its totality.

(The following occurred during Mr. TOWER's address.)

Mr. TOWER. Mr. President, I ask unanimous consent that the remainder of my remarks be included in the RECORD as if read.

Mr. WILLIAMS. Mr. President, reserving the right to object, is there a copy available to be read before tomorrow's RECORD is available?

Mr. TOWER. Yes. I will be glad to provide the Senator from New Jersey with a complete copy.

Mr. WILLIAMS. Fine; I have no objection.

Mr. TOWER. I was just going to allow others to speak. This is simply to accommodate other Senators.

Mr. WILLIAMS. I simply wanted to read the Senator's speech.

Mr. TOWER. I am delighted and flattered that the Senator from New Jersey wants to read my speech, and I assure him that I will have a copy for him. I will even sign it personally, with appropriate remarks.

Mr. WILLIAMS. In that case, I have no objection at all to the Senator's request.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier remarks.)

Mr. TOWER. Mr. President, I have had requests from other Senators. The Senator from North Carolina has requested time first. If the Senator from Louisiana would forbear, the Senator from North Carolina would like to proceed.

Mr. LONG. Mr. President, could we, again, ask consent that the Senator from North Carolina be recognized for 12 minutes and ask that the Senator from Louisiana be recognized for 15 minutes? Both of us are anxious to make a statement.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from North Carolina be recognized for not to exceed 12 minutes and the Senator from Louisiana thereafter be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. ALLEN). Without the Senator from Texas losing his right to the floor?

Mr. TOWER. Without my losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair recognizes the Senator from North Carolina (Mr. MORGAN) for not to exceed 12 minutes.

Mr. MORGAN. Mr. President, I thank my colleague from Texas. I do wish to make a very brief statement this afternoon on the bill that is pending before the Senate.

Ever since the introduction of the so-called labor reform bill, which is now pending, and since its introduction in the House, I believe last July, I have spent a great deal of my time exploring the ins and outs of labor law and the current status of labor-management relations. This has been a difficult bill for me to deal with, because my inclination has never been to stand in the way of needed reform. After reviewing the legislation and exploring the issues with many constituents and the leadership of business and unions, as well as with many employees in my home State of North Carolina, I announce my opposition to this measure and I am still opposed to it.

Mr. President, I want to say, here and now, that I am going to try in the next few days to discuss this bill before us on the merits. I hope that my colleagues and the people in the administration will do likewise, but I want to say that I read in yesterday's paper Secretary Marshall's statement in which he characterized those who opposed the bill as obstructionists, the kind, he said, who obstructed civil rights activities through all the sixties. I want to say to Mr. Marshall that I resent his statement. I think it is most demagogic.

I do not know what Dr. Marshall's credentials are for serving as Secretary of Labor. I certainly never heard of him as being any great participant in the governmental processes. I do not question his ability or his wisdom, but I question his judgment in discussing the labor reform bill in that terminology. I hope, Mr. President, that we shall hear less of him, or less of that kind of discussion, during the weeks to come as we debate this. If

we do not, I expect, Mr. President, to address the subject again.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MORGAN. I am happy to yield.

Mr. LONG. Mr. President, I hope the Senator will not feel too unkindly toward Mr. Marshall because of just one thing that Mr. Marshall might have said. I urge the Senator to consider Mr. Marshall's entire record. He is a very fine, honorable person. He was born in Louisiana, he came up among the right kind of people. I know his dear old mama and daddy did all they could to point him in the right direction. If he has gone astray on just one statement, I hope the Senator will be charitable because, after all, everybody makes a little mistake or a slip of the tongue now and then. I have done it myself.

I hope the Senator will be charitable to a former Louisianian and present Texan who came up here to render a service. He is doing the best he can. It might not be perfect, but I remind the Senator of that old sign in a ballroom down in my area. It says:

Please don't shoot the piano player, he is doing the best he can.

Mr. MORGAN. I hope he was not doing the best he can. I hope he can do better than that. I am not passing judgment on his credentials. I am condemning his judgment in making such a statement. If he is not doing the best he can and it gets a little better than that in the future, I shall try not to pass judgment on him. In all fairness, I think it was a pretty demagogic statement and I hope he will apologize to the people who oppose this bill for making that statement.

Many people have spoken here of their concern with the working man for improving the condition of the workplace. This feeling has always been close to my life. I come from a rural part of North Carolina and my family was raised as a working family. I am familiar with the working conditions of the South. When my parents were children, the State of North Carolina did not see its way clear to enact a law that would limit child labor to less than 12 hours a day for those under the age of 12. The reason for this was a fear that such a move would unduly burden the free enterprise system.

My mother, as a child of 12 years, worked in a textile mill. Conditions were not good and it was in part because there was not a union involved.

When this Senator says that he brings to this body an open mind on labor matters, I hope that you can believe it. I think you should. It is with an open mind and with a willingness to see change come that I am committed to oppose this bill. Simply put, Mr. President, I think this is a poor bill. It will not do the job it was intended to do and, indeed, it may create more problems than it cures.

In my estimation, any reform legislation should address three issues: First, is there a need for reform; second, are the processes and procedures of the reform workable; and third, will the proposed reforms do the job for which they were created?

In just about every section, H.R. 8410 and S. 2467 fail to meet at least one of these tests, if not more than one.

Before addressing the specifics, let me touch on my analysis of the reasons behind this bill and why I find it so perplexing.

I have always been interested in the source of this bill. In most cases, I find that a public need exists and a public outcry emerges and, in response to this established need, Congress acts to serve the people by creating new laws. The opposite appears to be the case with the labor law reform bill. It was the introduction of this bill on the House side that appears to have created a public interest and, from that time on, we have seen one of the biggest confrontations to take place in Washington over a piece of legislation. I have not seen a genuine public debate; I have seen a high-pressured, Washington-based lobby campaign which I do not believe reflects the feelings of the people of this country.

Recently Secretary Marshall stated that the major reason for this legislation was because there are six, I repeat, six violators of the labor laws who can be considered major offenders.

Let me say that this was an interview in the Washington Star which I read and, if I recall, he was asked the question, if it was not true that six major violators were the cause or in back of this legislation. I do not remember his exact language, but this I am sure of, he did not deny that or correct it.

If this is the case, then I do not see a need for legislative reform. I see a need for more effective action under existing laws before we need to approach such sweeping reforms as contained in this bill. I believe that current laws provide an adequate vehicle for processing cases as quickly as possible and for bringing law violators into line.

ATTACK ON THE SOUTH

Mr. President, I can state one reason this bill is being pushed hard by its supporters. This bill is a concerted effort to direct an attack upon the South. By that I mean, this bill along with a few others we have seen in this Congress is aimed at stopping the economic growth and progress that is being made in the South. The attempt is one which seeks to equalize the South, to bring conditions there down to the level they have reached in other areas of the country.

Mr. THOMPSON, who introduced this bill on the House side, stated on July 19, 1977:

I believe this bill will go a long way toward insuring the right of working people to organize and bargain collectively as was guaranteed them so long ago. I believe that particularly in the South, where opposition to union organizing has been most virulent, this bill will make it more difficult for recalcitrant employers to frustrate and defeat their employees' rights.

Mr. President, any employer has the right to resist union organizing efforts. This alone is insufficient reason to make major changes in the law. The real reason is to attempt to stop the flow of industry from the Northeast to other areas of the country. I believe that the intentions of this bill are clear.

Even clearer were the remarks of Congressman WEISS of New York who stated on the floor of the House:

For those of us in the Northeast, labor law reform is not only a just solution to collective bargaining problems, but a path to economic revitalization as well. We must recognize that when plants in the South and the Southwest are brought into the 20th Century of labor relations and are made to pay their workers decently, fewer firms in the Snow Belt will seek to escape to the Sun Belt.

There was a whispering campaign during the House bill, when it was considered, "Don't worry about this bill, it's only going to affect the South."

William Buckley, the conservative columnist, quoted on the Senate floor time and again throughout the Panama Canal debate as being a responsible conservative, stated that while the migration to the South was prompted at one time by the existence of cheap labor, that rationale no longer exists. The advantage of moving to the South has been the lower number of unions which has resulted in fewer incidental expenses according to Mr. Buckley.

PRODUCTIVITY, NOT UNIONS

Mr. President, the real reason industry has come to the South in my mind is not cheap labor or an absence of unions, indeed, many companies have brought unions with them. Some have brought them into North Carolina. The real reason is the productivity of our southern workers. I believe that the American work ethic survives in its strongest fashion in the South and greater productivity is the best evidence of this.

Let me give an example. Recently a large pharmaceutical company came by my office to pay a courtesy call and to tell me that they would soon be opening a new facility in our State. I decided to play the devil's advocate and stated that I was not sure I wanted their industry if it meant they were going to bring a lot of outside people into North Carolina. The company president was taken aback. Quite the opposite he informed me. The reason the company wanted to come to North Carolina was to secure the services of our North Carolina workers.

He told me that the productivity of their plant in North Carolina was the highest of any of their plants in the whole world.

Indeed, the company wanted to export to its other operations as many North Carolinians as possible. This story is not only a source of pride to me but it speaks to the real dilemma posed by the labor law reform bill.

What this bill intends to do is to cure the ills of certain parts of the country by exporting them to the South. In other words, if you are miserable, make the other guy miserable as well. That is hardly the best or most direct approach.

SUMMARY

I am not concerned about compulsory unionism or other horror stories that have been presented during the debate. I am concerned about the spirit and intent of the so-called labor law reform bill.

If the motivations behind the labor law reform bill are to insulate certain areas of our country and protect their

industries, let me state now that this bill will not do the job. What it will do is to alienate and harden the feelings of many people. This bill will appeal to the radical on both the union and business sides. Personally, I do not want to see that. I do not want to see it because the whipping boy in all of this is the National Labor Relations Act and the NLRB, two institutions which have served, despite occasional criticism, to do an effective job in regulating our labor-management relations.

Mr. President, I would like to address the specifics of this bill in detail and I shall do so at a later time. I did want to let the Senate know my feelings on this bill. I have yet to see any arguments to convince me otherwise. I welcome the opportunity to discuss this issue on the floor of the Senate and I will be listening to both sides.

In my review of the legislation, I have been and shall continue to be guided by the words of Mr. George Meany who said most eloquently in a Labor Day address in 1977 that:

> The nation's labor law should not take sides but rather should provide a reasonable framework and code of conduct under which labor and management can resolve their differences.

I can assure you, at least in my opinion, that this bill does not meet that test.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Louisiana (Mr. LONG) for 15 minutes.

S. 3105—CATASTROPHIC HEALTH INSURANCE AND MEDICAL ASSISTANCE REFORM ACT OF 1978

Mr. LONG. Mr. President, on behalf of myself, Senator RIBICOFF, Senator TALMADGE, and Senator DOLE, I am reintroducing today proposed legislation which represents a major step forward toward the provision of adequate protection against the high costs of health care. This bill represents a middle-of-the-road approach toward meeting the health care financing needs of the American people.

Our purpose in introducing this bill at this time is to have before the Congress and the American people a legitimate national health insurance approach developed by the Congress. This is not the administration's proposal nor that of any special interest group. It is our legislation.

The Catastrophic Health Insurance and Medical Assistance Reform Act of 1978 is designed to accomplish three objectives. First, to develop a means of assuring all Americans that they will not be bankrupted by the devastating effects of serious illness. Second, to eliminate the widespread inequities of the medicaid program by replacing it with a program providing equal benefits to all Americans at the lower end of the income scale. Third, the provisions of the bill would assure the actual availability of adequate basic private health insurance to many millions of hard-working, middle-income Americans as a floor of protection above which they would be covered by catastrophic health insurance.

The thrust of the bill is to assign a large area of responsibility to the private health insurance industry of this country, establishing benchmarks against which the success of their efforts will be measured. Obviously, to the extent private health insurance effectively meets the basic needs of a large segment of our population, further expansion of governmental programs would not be necessary.

To those of us who have worked with medicare, medicaid, and the other Federal health care financing programs, it has become quite clear that there are limits to the Governments' administrative capacity. It seemed to us rather foolhardy to pile upon that limited capacity further responsibility which could not be met effectively. Therefore, we have consciously chosen an approach which, in the areas of catastrophic health insurance and basic private health insurance, builds upon the strengths of the private sector while correcting weaknesses.

The Long-Ribicoff-Talmadge-Dole health insurance proposal has three essential parts. The proposal is incremental—that is, each part is phased in over a period of time in the interest of administrative efficiency and manageable new costs.

The first part consists of catastrophic insurance coverage for all Americans. Each year, hundreds of thousands of Americans are stricken by catastrophic illnesses or accidents. In addition to suffering the terrible physical consequences of these events, these individuals and their families often suffer the often devastating financial effects of those illnesses.

The bill would establish a catastrophic health insurance program, effective January 1, 1980, which would cover all American citizens after they had incurred medical expenses of $2,000 or had been hospitalized for 60 days. The benefits covered under the program would be the same as those covered under the medicare program, without any upper limits on hospital days.

The bill provides an option: An employer can either choose to cover his employees for catastrophic costs through private health insurance, or, alternatively, he can choose to obtain such coverage through the Federal program. Our expectation is that the vast majority of employers would choose to obtain such coverage through private health insurers. The Federal program would serve primarily to insure those who are not in a permanent employment situation. Under the bill, the private catastrophic program would have to be fully as comprehensive as the public can.

The public catastrophic program would be administered by the Health Care Financing Administration using carriers and intermediaries as in the present medicare program. Private catastrophic programs would, of course, be administered by the private insurance companies.

The catastrophic program would be financed through a 1-percent payroll tax on employers. There would be no tax on employees. Employers who choose the private insurance option would subtract from their 1 percent payroll tax liability approved premiums paid for private catastrophic insurance policies. In addition, all employers would receive a 50-percent tax credit (or rebate) against their overall 1 percent payroll tax liability. This would be in lieu of a deduction for catastrophic health insurance premiums and would tend to equalize treatment between small employers and large employers.

The second part of the bill consists of an entirely new basic health benefits program for low-income individuals and families. While most middle-income families can afford and can obtain reasonably adequate private health insurance coverage toward the costs of their first 60 days of hospitalization and first $2,000 of medical expenses, many millions of low-income individuals and families cannot afford or do not have such basic private health insurance protection available to them.

The present Federal-State program providing health benefits to the poor—medicaid—does not generally cover low-income workers who are not on welfare. It is basically provided only to welfare families and, even then, benefit and eligibility levels vary substantially and significantly from State to State. In most States medicaid is limited to poor, aged, blind, and disabled persons or fatherless families.

Because of economic difficulties, some States have, and others are considering, cutbacks in already inadequate medicaid programs.

Today, for example, in one State a disabled person with $1,800 annual income might not be eligible for medicaid; whereas, in another State, he would be. Further, that same disabled person might be covered for only 15 days of hospitalization under medicaid in one State, while in another he would be eligible for unlimited hospitalization. That just does not make sense.

Aside from those obvious inequities in treatment of the poor, there is another inequity developing with implementation of the supplemental security income plan for aged, blind, and disabled persons, where thousands of people in a State would be eligible for medicaid and other thousands in the same State, with the same income, would not. And in no State is medicaid coverage available to a hard-working couple or small intact family with low income.

The new program which we propose would provide, effective October 1, 1980, basic health benefits coverage with uniform national eligibility standards for all low-income individuals and families, whether they are on welfare or working. It would thereby eliminate the major inequities in the current medicaid program. It would be administered by the Health Care Financing Administration.

Coverage under the new program would be available to all individuals and families with annual incomes at or below the following levels: First, an individual with income at or under $3,000; second, a two-person family with income at or under $4,200; and third, a

family of four with an income at or under $5,400. For each family member above the first four, the eligibility limit is increased by $400. In addition, families with incomes slightly above the eligibility levels would be eligible for benefits if their medical expenses reduced their income to these levels. For example, a family of four with an income of $6,000 would become eligible after they had expended $600 for medical expenses, including any health insurance premiums.

We expect to review this dollar-for-dollar "spend-down" to make sure that it does not create a "notch" problem and, thus, a disincentive to employment. If that were the effect, we would anticipate modifying the "spend-down" accordingly.

Of course, no person presently eligible for medicaid would lose entitlement to benefits because of the new program.

The basic benefits provided under the low-income plan are designed to mesh with the deductibles under the catastrophic program.

The benefits covered by the plan would include 60 days of hospital care and all medically necessary physicians' services, laboratory and X-ray services, home health services and care in skilled nursing homes and intermediate care facilities. A copayment of $3 would be required on patient-initiated services, such as visits to a doctor's office, but copayment could not exceed $30 per individual or family during a year. These copayments would not apply to well-baby care or with respect to family planning services.

The plan would also afford catastrophic insurance coverage to those low-income families who are not covered under the catastrophic plan.

States would be free to provide additional benefits—such as drugs and dental services—with the Federal Government assuming one-half of the costs.

For millions of older Americans with low incomes, the Long-Ribicoff-Talmadge-Dole bill would pick up their part B medicare premiums—$8.20 per month—as well as paying their medicare deductibles and coinsurance amounts. In addition, it would provide them with all medically necessary hospital, skilled nursing facility, and intermediate care facility services. Home health care would also be available without limitation.

Mr. President, the low-income plan would not only help the poor, it would aid hospitals, physicians, and State governments. With respect to hospitals, the program would call for reimbursement at medicare levels—rather than at the often substandard medicaid rates. With respect to State governments, the plan would afford very substantial fiscal relief. States would make a fixed contribution toward the cost of the low-income plan based upon each State's level of spending for medicaid and general assistance health care in the year prior to the effective date of the plan. For example, if a State spent $100 million of its own funds under medicaid for the types of care covered under the new low-income plan, it would contribute that $100 million to the low-income fund during the first and in each succeeding year. In addition, the State would contribute 50 percent of the estimated amount of State and local expenditures in the year before the low-income plan effective date for health care services to people ineligible for medicaid, but who would be eligible for those types of services under the new low-income plan.

Mr. President, the third part of our bill consists of a new and voluntary certification program for private basic health insurance policies. With this new program, private insurers could, of their own volition, submit any or all of their basic health insurance policies to the Secretary for certification. This certification would be based upon certain minimum criteria specified in the bill relating to adequacy of coverage, ratio of benefits paid to premium income and conditions of eligibility.

Insurers could advertise the certification in promoting their policies. Three years after enactment of this bill, carriers and intermediaries under the medicare program would be expected to offer one or more certified policies to the general public in areas where they sold policies.

In addition, the bill contains provisions designed to facilitate arrangements whereby basic health insurance policies meeting minimum standards could be offered through private insurance "pools" established by groups of private insurers.

The bill also directs the Secretary of Health, Education, and Welfare to report to Congress after 3 years as to the extent to which private health insurance meeting the criteria is actually and generally available in each State.

In any area of the country where certified basic health insurance was not generally and actually available to the entire population, the Secretary is also authorized to make such coverage available at cost through social security.

Mr. President, this bill does not constitute a "be all—end all" approach, but it does provide an opportunity to provide significant assistance to many millions by closing major gaps in the financing of essential health care. We believe that careful building and improving upon the present system through this major initiative is the only feasible alternative to the potentially disruptive and bankrupting effects involved in proposals which would radically alter and almost scrap existing structure and mechanisms. The variables are too uncontrollable and the chances of error too great for us to risk the magnitude of any mistakes in the total takeover approach. What Senators RIBICOFF, TALMADGE, DOLE, and I propose to do is what we know needs to be done and can be done.

We firmly believe that the thrust of the Catastrophic Health Insurance and Medical Assistance Reform Act is the direction in which we should proceed. Senators RIBICOFF, TALMADGE, DOLE, and I expect that our proposal will certainly benefit from additional constructive efforts during the course of legislative consideration.

Most estimates of the different parts of this package vary. For that reason, we will await a new estimate from the Department of Health, Education, and Welfare for working purposes. There is no point, however, in playing a "numbers" game. The American people and the Congress are entitled to as accurate an estimate as is possible of the catastrophic insurance and federalized medicaid parts of our proposal. Both will involve billions of dollars in additional Federal funds. Make no mistake. None of the national health insurance proposals come cheap. There is no free lunch. Our proposal does, however, meet real needs, and is capable of being implemented in whole, or part, as necessary funding becomes available.

Mr. President, I ask unanimous consent that the bill and a summary description be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 3105

A bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness, by replacing the medicaid program with a Federal medical assistance plan for low-income people, and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Catastrophic Health Insurance and Medical Assistance Reform Act".

TITLE I—CATASTROPHIC ILLNESS INSURANCE

AMENDMENTS TO SOCIAL SECURITY ACT

SEC. 101. (a) The Social Security Act is amended by adding after title XX the following new title:

"TITLE XXI—CATASTROPHIC HEALTH INSURANCE PROGRAM

"PURPOSE OF TITLE

"SEC. 2101. The insurance program established by this title is designed to provide protection to all individuals who are citizens or permanent residents of the United States against the costs of high-cost catastrophic illness. Each such individual will be provided such protection either under the Federal plan established by part A of this title, or under an employer plan or a self-employed plan approved under part B of this title.

"PART A—FEDERAL PLAN

"ELIGIBLE INDIVIDUALS

"SEC. 2102. (a) Every individual who—

"(1) is a resident of the United States, and

"(2) is a citizen of, or an alien lawfully admitted for permanent residence in, the United States, or an alien otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

shall (subject to section 2107) be entitled to catastrophic health insurance benefits provided by this part for any period which commences on or after January 1, 1980, and with respect to which he is not covered by an employer plan approved under part B.

"(b) For purposes of subsection (a), entitlement of an individual to catastrophic health insurance benefits under this part shall consist of entitlement to have payment made, under and subject to the limitations in this title, to him or on his behalf for the

services described in section 2103(a) which are furnished to him in the United States (or outside the United States in the case of services specified in section 1814(f)).

"SCOPE OF BENEFITS

"SEC. 2103. (a) The benefits provided to an individual by the insurance program established by this part shall consist of entitlement to have payment made (subject to the provisions of this part) on his behalf or to him for—

"(1) hospital and related services (as defined in subsection (c)(1)) which are furnished to such individual during a period with respect to which he has met the deductible imposed by section 2104(b), and

"(2) medical and other health services (as defined in subsection (c)(2)) which are furnished to such individual during a period with respect to which he has met the deductible imposed by section 2104(c).

"(b) Payment authorized under this part for any service covered hereunder shall be made to the person to whom payment for such service would be made under title XVIII, if such service were furnished to an individual who was covered therefor under title XVIII.

"(c)(1) The term 'hospital and related services' means—

"(A) inpatient hospital services (as defined in section 1861(b)),

"(B) post-hospital extended care services (as defined in section 1861(i)), and

"(C) home health services (as defined in section 1861(m)).

"(2) The term 'medical and other health services' means—

"(A) medical and other health services (as defined in section 1861(s)),

"(B) home health services (as defined in section 1861(m)), and

"(C) outpatient physical therapy services (as defined in section 1861(p)).

"(d) Notwithstanding the preceding provisions of this section, no payment may be made with respect to—

"(1) expenses incurred for items or services, if pursuant to section 1862 (a), (b), or (d) payment may not be made with respect to such items or services under title XVIII, or

"(2) expenses incurred for post-hospital extended care services furnished to an individual on any day during any calendar year, if, prior to such day, there have been furnished to such individual for 100 days during such year such services with respect to which benefits under this part are payable.

"PAYMENT AND DEDUCTIBLE

"SEC. 2104. (a)(1) Payment of benefits under this part with respect to expenses incurred by an insured individual shall be made from the Federal Catastrophic Health Insurance Trust Fund.

"(2) For purposes of payment of benefits under this part with respect to expenses incurred for health services furnished to any insured individual, there shall be taken into account—

"(A) in case of expenses incurred for hospital and related services (as defined in section 2103(c)(1)), only so much of such expenses as are incurred for such services furnished during a period with respect to which the deductible imposed by subsection (b) is met, and

"(B) in case of expenses incurred for medical and other health services (as defined in section 2103(c)(2)) only so much of such expenses as are incurred for such services furnished during a period with respect to which the deductible imposed by subsection (c) is met;

and, with respect to the services to which the expenses so taken into account are attributable, there shall be paid (except where inconsistent with the provisions or purposes of this part) an amount which shall be equal to (and determined in the same manner as) the amount which would have been payable for such service under title XVIII in the case of an individual entitled to have payment made with respect thereto under such title (as determined without regard to any provision of such title relating to deductibles or copayments).

"(b) The deductible imposed by this subsection with respect to expenses incurred for hospital and related services (as defined in section 2103(c)(1)) shall be met by an insured individual—

"(1) for the period, in the calendar year, which commences on the day following the 60th day, during the calendar year and the last 3 months of the preceding calendar year, in which such individual received inpatient hospital services; and

"(2) for the period, in the calendar year, which is prior to the first consecutive 90-day period therein in which such individual is neither an inpatient in a hospital nor an inpatient in a skilled nursing facility, but only if the first day for which such services in the calendar year occurs not later than 90 days after the last day with respect to which benefits were payable under this part on account of inpatient hospital services furnished to him in the preceding calendar year.

"(c)(1) The deductible imposed by this subsection with respect to expenses incurred for medical and other health services (as defined in section 2103(c)(2)) shall be met by an insured individual—

"(A) for the period, in the calendar year, which occurs after such individual has incurred, during such year and the last 3 months of the preceding calendar year, expenses (including expenses deemed under paragraph (2) to be incurred by him, but excluding amounts required to be excluded under paragraph (3)) for such services of $2,000 (or, if higher, the amount determined under paragraph (4)); and

"(B) for the period, in the calendar year, which occurs prior to the first 90-day period therein during which such individual incurs for such services expenses (including expenses deemed under paragraph (2) to be incurred by him) the aggregate of which is less than $500 (or, if greater, the amount determined under paragraph (5)), but only if (i) during the last 3 months of the preceding calendar year, such individual incurred for such services expenses (including expenses deemed under paragraph (2) to be incurred by the individual) of at least $500 (or, if greater, the amount determined under paragraph (5)), and (ii) such individual had met (by reason of the application of clause (A)) for a period in the preceding calendar year the deductible imposed by this paragraph.

"(2) (A) In determining, for purposes of clauses (A) and (B) of paragraph (1), the amount of expenses incurred by an individual for medical and other health services furnished during any period, there shall be deemed to have been incurred by such individual any expenses incurred for such services furnished during such period to each other member of such individual's family, but only if such other member is (i) the spouse of the individual, (ii) a dependent of such individual, (iii) the person (or the spouse of the person) of whom such individual is a dependent, or (iv) a person who is a dependent of the same person of whom such individual is a dependent.

"(B) For purposes of subparagraph (A)—

"(i) the term 'dependent' shall have the meaning assigned to it by regulations of the Secretary;

"(ii) the term 'family' means two or more individuals who are (I) related by blood, marriage or adoption, and (II) living in a place of residence maintained by one or more of them as his or their own home (and for purposes of this clause, a child under age 22 who is absent from home for the purpose of attending an educational institution as a full-time student shall be deemed while so absent to be living in such place of residence); and

"(iii) the term 'member', when used in reference to a family means an individual described in clause (ii).

"(3) In determining, for purposes of paragraph (1) (A), the amount of expenses incurred (or deemed to be incurred) by an individual for medical and other health services in any calendar year, there shall be disregarded all amounts in excess of $500 incurred in connection with the treatment of mental, psychoneurotic, or personality disorders of such individual.

"(4) The Secretary shall, between July 1 and October 1 of 1977 and of each year thereafter, determine and promulgate the deductible which shall be applicable for purposes of paragraph (1)(A) in the succeeding calendar year. Such deductible shall be equal to whichever of the following is the higher:

"(A) $2,000, or

"(B) $2,000 mutiplied by the ratio of the component of the Consumer Price Index, prepared by the Department of Labor for June of the year in which such determination is made and promulgated, which represents fees for physician services to such component of such Consumer Price Index for the month of June 1976, with such product, if not a multiple of $100, being rounded to the nearest multiple of $100.

"(5) The Secretary shall between July 1 and October of 1980 and of each year thereafter, determine and promulgate the amount which shall be applicable for purposes of paragraph (1)(B) in the succeeding calendar year. Such amount shall be equal to whichever of the following is the higher:

"(A) $500, or

"(B) $500 multiplied by the ratio of the component of the Consumer Price Index, prepared by the Department of Labor for June of the year in which such determination is made and promulgated, which represents fees for physician services to such component of such Consumer Price Index for the month of June 1980, with such product, if not a multiple of $50, being rounded to the nearest multiple of $50.

"(e)(1) Payment for services under this title shall also be subject to the limitations described in section 1812 (e) and section 1833(e).

"(2) Payment under this part with respect to expenses incurred in connection with the treatment of mental, psychoneurotic, and personality disorders shall not be made unless such treatment consists of 'mental health care services' (as defined in paragraph (3)).

"(3) As used in paragraph (1) the term 'mental health care services' includes only care and services for mental conditions—

"(A) which, if provided on an inpatient basis, consist of a course of active care and treatment provided in and by an accredited medical institution (as determined by the Secretary),

"(B) which, if provided on a partial hospitalization basis, are provided (i) in and by an accredited medical institution (as determined by the Secretary), or (ii) in and by a qualified community mental health center (as determined in accordance with regulations of the Secretary),

"(C) which, if provided on an outpatient basis, are—

"(i) provided by a qualified community mental health center (as determined in accordance with regulations of the Secretary), or

"(ii) provided by a psychiatrist;
except that such term does not include any outpatient services provided by a psychiatrist, during a 12-month period, for purposes of diagnosis or treatment of acute psychosis in excess of (I) five visits, plus (II) such additional visits as shall have been approved in advance by an appropriate professional review mechanism upon a finding that, in the absence of such additional visits, the patient will require institutional care.

"(f)(1) Payment under this part with respect to expenses incurred for blood, blood products, and procedures and courses of treatment which are either experimental or unusually extensive or complex shall be subject to standards and criteria imposed by the Secretary pursuant to paragraph (2).

"(2) The Secretary shall by regulations prescribe standards and criteria designed to assure that services consisting of the furnishing of blood or blood products or the application of procedures or courses of treatment, referred to in paragraph (1), for which payment may be made under this part will be provided only when, and to the extent that, such services are appropriate to the health care needs of the patient.

"(g) Payment under this part may not be made for extended care services furnished to an individual during any period for which such individual is entitled to hospital insurance benefits under part A of title XVIII.

"CONDITIONS OF AND LIMITATIONS ON PAYMENT FOR SERVICES

"SEC. 2105. (a) To the extent that payment may be made for services described in section 2103(a)(1), the provisions of sections 1814, 1815, 1816, 1833(f), and 1835 shall apply.

"(b) To the extent that payment may be made for services described in section 2103(a)(2), the provisions of section 1842 shall apply.

"APPLICABILITY OF CERTAIN PROVISIONS OF, OR RELATING TO, TITLE XVIII

"SEC. 2106. (a) The provisions of section 1861 (except subsections (a) and (y)), 1866, 1867, 1869, 1870, 1871, 1872, 1873, 1874, and 1875 shall apply with respect to this part to the same extent as they are applicable with respect to title XVIII.

"(b) The provisions of section 402(a) of the Social Security Amendments of 1967 and the provisions of section 222(a) of the Social Security Amendments of 1972 shall be applicable to this part to the same extent as they are applicable to title XVIII.

"TREATMENT OF BENEFITS UNDER OTHER PROGRAMS

"SEC. 2107. Any amount otherwise payable under this part with respect to any item or service furnished to an individual shall not be denied or reduced because a benefit with respect to such item or service has been paid or is payable under any other public or private insurance or health benefits plan. Notwithstanding any other provision of law, payment shall not be made with respect to any item or service furnished to any individual under the Medical Assistance Plan for Low-Income People established by title XIX or the insurance program established by part A or B of title XVIII, if such individual is (or, upon filing a proper claim, would be) entitled to have payment made under this part with respect to such item or service.

"CONTRIBUTIONS WITH RESPECT TO STATE AND LOCAL EMPLOYEES; APPROVED STATE LAWS

"SEC. 2108. (a) Contributions for the financial support of the catastrophic health insurance program established by this part shall be made by employers which are States (or political subdivisions thereof) in the manner prescribed under a State law approved by the Secretary of the Treasury under subsection (b).

"(b)(1) The Secretary of the Treasury shall approve a State law for purposes of this section only if such law—

"(A) provides that the State will pay into the Treasury, with respect to wages paid to employees of the State and employees of all political subdivisions of the State, amounts equal to the amounts which such State would be liable to pay with respect to the wages of such employees under the catastrophic health insurance protection tax imposed by section 3111(c) of the Internal Revenue Code of 1954 if such State were a private employer and all such employees were employed by it,

"(B) provides that any amounts so payable shall be paid at the same time and subject to the same conditions as taxes imposed by such section 3111(c) in the case of a private employer,

"(C) is in such form and contains such other provisions as the Secretary of the Treasury shall by regulations provide, and

"(D) becomes effective on January 1, 1980.

"(2) At the earliest practicable date after the State law of any State has been approved by the Secretary of the Treasury, he shall certify to the Secretary of Health, Education, and Welfare that such State law has been approved.

"(3) If the Secretary of the Treasury finds, after reasonable notice and opportunity for hearing to a State, that—

"(A) the State law of such State, theretofore approved by him, has been repealed, or amended so that it no longer meets the requirements imposed by paragraph (1), or

"(B) the State has not substantially complied with its obligations to make contributions into the Treasury in accordance with the requirements imposed under paragraph (1),

he shall withdraw the certification of such State law theretofore approved by him and shall so notify the Secretary of Health, Education, and Welfare.

"FEDERAL CATASTROPHIC HEALTH INSURANCE TRUST FUND

"SEC. 2109. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the Federal Catastrophic Health Insurance Trust Fund (hereinafter in this section referred to as the 'trust fund'). The trust fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the trust fund for the fiscal year ending September 30, 1980, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

"(1) the taxes imposed by section 3111(c) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code after December 31, 1976, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports;

"(2) the taxes imposed by section 1401(c) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegates on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such return; and

"(3) the contributions made by States pursuant to State laws approved under section 2108.

The amount appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the trust fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than taxes specified in such sentence.

"(b) With respect to the trust fund, there is hereby created a body to be known as the 'board of trustees of the trust fund' (hereinafter in this section referred to as the 'board of trustees'), composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the board of trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Administrator of the Health Care Financing Administration shall serve as the secretary of the board of trustees. The board of trustees shall meet not less frequently than once each calendar year. It shall be the duty of the board of trustees to—

"(1) hold the trust fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the trust fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the board is of the opinion that the amount of the trust fund is unduly small; and

"(4) review the general policies followed in managing the trust fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the trust fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the trust fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the trust fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the trust fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purpose for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the trust fund. Such obligations issued for purchase by the trust fund shall have maturities fixed with due regard for the needs of the trust fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on

all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the trust fund (except public debt obligations issued exclusively to the trust fund) may be sold by the Managing Trustee at the market price, and such public debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

"(f) There are authorized to be appropriated to the trust fund from time to time such sums as the Secretary of Health, Education, and Welfare deems necessary for any fiscal year, on account of—

"(1) payment made or to be made during such fiscal year from the trust fund with respect to individuals who are entitled to benefits under part A of title XVIII or are eligible for health benefits provided under title XIX,

"(2) the administrative expenses attributable to providing benefits under this part to individuals referred to in paragraph (1), and

"(3) any loss in interest to the trust fund resulting from the payment of such amounts,

in order to place the trust fund in the same position at the end of such fiscal year in which it would have been if the individual referred to in paragraph (1) were not entitled to the benefits provided under this part.

"(g) There shall be transferred periodically (but not less often than once each fiscal year) to the trust fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments pursuant to section 1870(b) of this Act as made applicable to this title by section 2106.

"(h) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g)(1).

"MEANING OF 'STATE', 'UNITED STATES'

"SEC. 2110. As used in this part—

"(a) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(b) the term 'United States', when used in a geographical sense, means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"PART B—EMPLOYER PLANS, AND SELF-EMPLOYED PLANS

"EFFECT OF COVERAGE

"SEC. 2120. Any individual who would otherwise be eligible for benefits under part A of this title shall not be eligible for such benefits during any period for which he is covered under an employer plan or a self-employed plan approved by the Secretary under this part, but shall instead be entitled to the benefits provided under such approved plan.

"DEFINITIONS

"SEC. 2121. For purposes of this part—

"(a) The term 'employer plan' means—

"(1) an insurance policy, contract, or other arrangement entered into between an employer and a carrier under which the carrier, in consideration of premiums or other periodic payments, undertakes to provide, pay for, or reimburse the costs of, health services received by those of the employer's employees (and those of the family members of such employees) who are covered by the plan, or

"(2) a plan under which the employer, as a self-insured employer (as defined in subsection (d)), undertakes to provide, pay for, or reimburse the costs of, health care services received by those of the employer's employees (and those of the family members of such employees) who are covered by the plan.

"(b) The term 'self-employed plan' means an insurance policy, contract, or other arrangement entered into between a self-employed individual and a carrier under which such carrier, in consideration of premiums or other periodic payments, undertakes to provide, pay for, or reimburse the costs of, health services received by such individual (and those of the family members of such individual who are covered by the plan).

"(c) The term 'carrier' means a voluntary association, corporation, partnership, or other nongovernmental organization which is engaged in providing, paying for, or reimbursing the costs of, health services under insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements, in consideration of premiums or other periodic charges payable to the carrier.

"(d) The term 'self-insured employer' means an employer who (either through outside administrators, including carriers, or otherwise) engages, without insurance arrangements with a carrier, to provide, pay for, or reimburse the costs of, health services for some or all of his employees.

"(e) The term 'employer' includes a State (or political subdivision thereof) and the Federal Government.

"APPROVAL OF PLANS

"SEC. 2122. (a)(1) In order for an employer plan or a self-employed plan to be approved by the Secretary under this part—

"(A) such plan, in the case of any plan other than an employer plan of a self-insured employer, must be a plan offered by a carrier which is approved by the Secretary pursuant to subsection (c);

"(B) the coverage provided under such plan must include, but shall not be limited to, a package of benefits, which (in terms of scope of benefits and the conditions of payment thereof) is the same as that provided by the Federal catastrophic health insurance benefits plan established by part A; except that the requirement imposed by this clause shall not be construed to (i) make applicable to the plan (or its administration) the provisions of sections 1862 (b) or (d), 1815, 1816, 1842, 1866, 1869, 1870, 1972, or 2104(a)(1), and the carrier offering such plan may utilize, in the administration of the plan, payment and provider arrangements of the kind which are employed by it in connection with the administration of health insurance policies or plans which are not approved under this part, (ii) require that such plan provide coverage for any occupational injury or disease or for any item or service for which any benefit is payable under a workmen's compensation law of the United States or a State, and (iii) preclude the plan from making the benefits offered thereunder subject to provision for coordination of benefits provided under other plans (including the Federal plan established under part A), if such provision for coordination of benefits is approved by the Secretary as being consistent with prevailing practice within the health insurance industry for the coordination of benefits;

"(C) such plan (in the case of an employer plan) (i) must cover all of the employees of such employer (other than employees who perform service for less than 25 hours per week, temporary employees, or employees who are entitled, under section 226, to hospital insurance benefits under part A of title XVIII), and (ii) may, at the option of the employer, cover all of the employees of the employer;

"(D) such plan must cover the spouse and dependent family members of any employee (in the case of an employer plan) or self-employed individual (in the case of a self-employed plan) covered by the plan;

"(E) such plan (in the case of an employer plan) must not require or permit any financial participation in the cost of the plan by any individual covered thereunder;

"(F) such plan (in the case of an employer plan) must provide that coverage (in the case of a new employee, his spouse, and dependent family members) will begin not later than the first day of the first calendar month which commences more than 30 days after the date the employee's employment commences, and that coverage of an employee (and of members of his family who are covered by the plan) will not be terminated by reason of the separation of the employee from his employment by such employer prior to 90 days after the date of such separation, or (if earlier) the first day after the date on which such employee first obtains coverage under another employer plan approved under this part;

"(G) such plan, in the case of any employer plan (other than an employer plan of a self-insured employer) must be a plan under which there are available to the employer arrangements for the pooling of risks under the plan by which his employees are covered and under the plans by which employees of other employers are covered so that the premium or other periodic charge payable therefor to the carrier are determined on a class basis either (i) without regard to the payments or reimbursements for health services received by the employer's employees (and family members of such employees) covered by the plan, or (ii) without regard to the payments or reimbursements for health services received by the employer's employees (and family members of such employees) in excess of a specified amount agreed to between the employer and the carrier of payments or reimbursements as to any one individual or family and under which the premium or other periodic charge made under such arrangement is specifically identified to the purchaser;

"(H) the premium or other periodic charge imposed for the pooling arrangements described in clause (G) shall (in case of any plan other than an employer plan of a self-insured employer) be stated, to the employer or self-employed individual subscribing to the plan, in annual (or more frequent) billings or renewal notices which shall be expressed in such a manner as to facilitate a comparison of such premium or charge with the amount allowable on account of such plan as a tax credit under section 1403 or section 3114, as the case may be, of the Internal Revenue Code of 1954.

"(2) In any case where, pursuant to one or more collective bargaining agreements, health insurance responsibilities for one or more groups (but not all) of the employees of an employer have been placed with a labor organization, the Secretary may waive the requirement imposed by paragraph (1)(C)(i) with respect to such group or groups

of the employer's employees for such period as may be necessary to enable the employer and labor organizations with which he has collective bargaining agreements a reasonable opportunity so to arrange health insurance coverage of the employees of the employer as to meet the requirement imposed by paragraph (1)(C)(i). The Secretary shall provide technical assistance to, and recommend procedures to be employed by, such employer and such organizations in meeting such requirement.

"(3) Approval of the Secretary of any plan (other than an employer plan of a self-insured employer) shall not be denied because such plan is provided under arrangements with carriers involving the plans of two or more employers in the same industry or under a trust or trade association arrangement.

"(b)(1) No employer plan or self-employed plan shall be approved by the Secretary except on the basis of an application for approval submitted by the employer or self-employed individual (or by a carrier on such person's behalf) to the Secretary, which application shall be in such form and contain such information and assurances as the Secretary shall by regulations require.

"(2) Applications for approval may contain provision for recommendations of approval, by the insurance department or similar agency of the State involved; and the Secretary may employ any such recommendations as a basis for expediting approval of the application with respect to which such recommendations are made.

"(3)(A) The Secretary shall not approve any application of an employer plan by a self-insured employer unless such application contains or is supported by proof and assurances satisfactory to the Secretary that the employer has the financial ability to discharge his obligations under the plan and has the administrative ability effectively to discharge such obligations.

"(B) The Secretary may, as a condition of approval of an employer plan by a self-insured employer, require the employer to deposit in a depository designated by the Secretary either an indemnity bond or securities (at the option of the employer) of a kind and in an amount determined by the Secretary, and subject to such conditions as the Secretary may prescribe (which shall include authorization to the Secretary in case of default of the employer's obligations to provide benefits under the plan to sell any of such securities sufficient to discharge such obligations or to bring suit upon such bonds to procure the prompt discharge of such obligations).

"(c)(1) As used in this section—

"(A) the term 'catastrophic health insurance' means a health insurance policy or plan which provides the coverage which is required pursuant to subsection (a)(1)(B); and

"(B) the term 'carrier' includes any nonprofit hospital or medical service corporation.

"(2)(A) In order for a carrier to be approved by the Secretary under this subsection, the carrier must—

"(i) offer, in each State in which such carrier does health insurance business, catastrophic health insurance to all individuals and groups on an annual or shorter contract basis, with the option of the policyholder to renew at the expiration of the term of the policy, and with provision that the coverage so offered will not be discontinued or denied in the case of any individual or group except for failure to make timely payment of premium therefor;

"(ii) provide claims determination procedures with respect to catastrophic health insurance benefits which (I) comply with the requirements imposed by section 503 of the Employee Retirement Income Security Act of 1974 and the regulations issued thereunder by the Secretary of Labor and (II) are consistent with those employed by the carrier in its noncatastrophic health insurance business and which in general are at least as favorable to claimants as those employed under the Federal plan established by part A; and

"(iii) operate in accordance with procedures satisfactory to the Secretary for meeting its obligations with respect to policies of catastrophic health insurance and for disposition of unearned premiums on such polices in the event of the discontinuance of such policies or the withdrawal of its status as an approved carrier by the Secretary.

"(B) In order to better enable carriers to meet the requirements imposed by subparagraph (A)(ii), the Secretary shall provide to carriers, offering approved plans under this part, reasonable access to claim data developed under the Federal plan established by part A.

"(d) Approval of a plan by the Secretary under this section shall not have the effect of causing such plan to be a 'governmental plan', as that term is employed in and for purposes of title I of the Employee Retirement Income Security Act of 1974, if such plan would, in the absence of such approval, not be a 'governmental plan', as that term is so employed.

"(e)(1) It shall not be unlawful, under any antitrust law, for any carrier or group of carriers to enter into or participate in any pool, reinsurance, or other residual market arrangement, or for any carrier to carry on any activity which is necessary or appropriate to discharge its functions under any such arrangement, if and to the extent that, such arrangement and the activities taken pursuant thereto are confined to the offering and administration of plans approved by the Secretary under this section.

"(2) As used in paragraph (1), the term 'antitrust law' means the Federal Trade Commission Act, each statute referred to in section 4 of that Act (15 U.S.C. 44) as an Antitrust Act, any other statute of the United States in pari materia, and any law of any State or political subdivision thereof which prohibits or restrains contracts, combinations, or other arrangements in restraint of trade.

"CERTIFICATIONS TO THE SECRETARY OF THE TREASURY

"SEC. 2123. (a) Whenever the Secretary approves, or withdraws approval of, any employer plan or self-employed plan under this part, he shall submit a certification of his action to the Secretary of the Treasury.

"(b)(1) The Secretary shall, prior to January 1, of each calendar year, certify to the Secretary of the Treasury the Table of Values of Catastrophic Health Insurance Coverage which shall be in effect for such calendar year, together with such additional data as may be needed by the Secretary of the Treasury in connection with the administration of sections 42, 1403, and 3114 of the Internal Revenue Code of 1954.

"(2) The table of values referred to in paragraph (1) shall be developed, for each calendar year, by the Secretary and shall, except for such adjustments as the Secretary shall deem to be necessary, be the same as the Table of Values of Catastrophic Health Insurance Coverage which is prepared and recommended to the Secretary for such year by the Actuarial Committee established pursuant to section 2124.

"(3) Such table of values developed by the Secretary shall be made available to all carriers who offer catastrophic health insurance plans approved under section 2122 and to all other interested persons.

"ACTUARIAL COMMITTEE

"SEC. 2124. (a)(1) There is hereby established an Actuarial Committee which shall consist of five individuals, who are not otherwise in the employ of the United States, appointed by the Secretary.

"(2)(A) Members of the Committee shall be persons who are qualified to perform the functions and duties of the Committee. No individual shall be a member of the Committee unless he (i) is enrolled, or meets the conditions for enrollment (other than those relating to pension experience), as an actuary in the Joint Board for the Enrollment of Actuaries established by section 3041 of the Employee Retirement Income Security Act of 1974, and (ii) has significant actuarial experience in the field of health insurance.

"(B) At no time shall more than two members of the Committee be in the employ of a carrier (as defined in section 2122(c)(1)(B)) which does health insurance business.

"(3) Members of the Committee shall serve for terms of 4 years, except that of those first appointed, one shall be appointed for a term of 1 year, one shall be appointed for a term of 2 years, one shall be appointed for a term of 3 years, and two shall be appointed for terms of 4 years. A member may be reappointed, but no member may serve for more than 2 successive terms. A member appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor. A majority of the members of the Committee shall constitute a quorum thereof and action taken by the Committee shall be by majority vote of those present and voting. The Secretary shall, from time to time, designate a member of the Committee to serve as Chairman thereof.

"(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as may be required to enable the Committee to carry out its duties and functions.

"(b)(1) Members of the Committee shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Committee.

"(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(c) Section 14(a) of the Federal Advisory Committee Act shall not apply to the Actuarial Committee established pursuant to this section.

"(d)(1) It shall be the duty and function of the Committee to prepare and recommend to the Secretary, not later than October 1 of each year, a Table of Values of Catastrophic Health Insurance Coverage which shall be in effect for the calendar year commencing on the following January 1.

"(2) Such table of values shall establish, for each State, the actuarial value of one year's catastrophic health insurance coverage for one individual, as estimated for the calendar year for which such table of values is to be in effect, and shall be designed (with the use of a table of adjustment factors) to enable employers, carriers, and others involved with plans approved under section 2122 to determine the actuarial value of the catastrophic health insurance coverage provided under any such plan.

"(3) The value of catastrophic health insurance coverage shall be established by the Committee according to the best data and information available to it on the basis of the expected costs or charges for health care services, the expected utilization of health care services by all persons having such

coverage, the expected administration and claim payment expenses (including an allowance for risk) applicable to plans providing such coverage, and such other information as the Committee determines to be relevant. In establishing such value of coverage in any State, the Committee shall employ appropriate adjustment factors, which shall be applied uniformly within the State, to reflect significant cost differences related to geographic variations and the age and dependency characteristics of individuals covered under plans providing such coverage.

"(4) The term 'catastrophic health insurance', as used in this section, means health insurance provided under plans approved under section 2122 which provides that minimum coverage necessary to meet the requirement imposed in section 2122(a)(1)(B).

"(e)(1) The Committee shall have the further duty (A) of reviewing (by random claim or data sample or otherwise) the marketing and rating practices of plans approved under section 2122 with a view to determining whether such practices unduly or inappropriately restrict, for particular groups, the availability of coverage under plans approved under such section, and (B) upon request of the Secretary of the Treasury, to assist him in establishing procedures designed to assure the proper administration of sections 42, 1403, and 3114 of the Internal Revenue Code of 1954.

"(2) The Committee shall report to the Secretary its findings resulting from its review functions, together with such recommendations as it may have based on such findings.

(b) Section 201(g) of the Social Security Act is amended by—

(1) inserting after "title XVIII" the first time it appears the following: "and the Federal Catastrophic Health Insurance Trust Fund established by title XXI"; and

(2) inserting after "title XVIII" each time it appears therein after the first time the following: "and title XXI".

AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

SEC. 102. (a)(1) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of social security tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) CATASTROPHIC HEALTH INSURANCE.—In addition to the taxes imposed by the preceding subsections, there shall be imposed for each taxable year which begins after December 31, 1979, on the self-employment income of every individual a tax which is equal to 1 percent of the amount of the self-employment income of such individual for such taxable year."

(2) Such Code is further amended by (A) redesignating section 1403 thereof (relating to miscellaneous provisions) as section 1404, and (B) by adding after section 1402 thereof the following new section:

"SEC. 1403. CREDIT AGAINST CATASTROPHIC HEALTH INSURANCE TAX.

"(a) ACTUARIAL VALUE OF CATASTROPHIC HEALTH INSURANCE COVERAGE UNDER APPROVED PLANS FOR THE SELF-EMPLOYED.—If, during any part of the taxable year the taxpayer has secured for himself (or for himself and members of his family) catastrophic health insurance coverage under a plan which is approved by the Secretary of Health, Education, and Welfare under section 2122 of the Social Security Act, the taxpayer may, to the extent provided in this subsection and subsection (b), credit against the tax imposed by section 1401(c) for such taxable year an amount equal to the actuarial value of such coverage, as determined under the appropriate Table of Values of Catastrophic Health Insurance Coverage certified by such Secretary pursuant to section 2123(b) of such Act.

"(b) LIMIT ON CREDITS.—The total credits allowed a taxpayer under this section shall not exceed 100 percent of the tax against which such credits are allowable.".

(3) The table of sections for chapter 2 of subtitle A of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1403. Credit against catastrophic health insurance tax.
"Sec. 1404. Miscellaneous provisions.".

(b)(1) Section 3111 of such Code (relating to rate of social security tax on employers) is amended by adding at the end thereof the following new subsection:

"(c) CATASTROPHIC HEALTH INSURANCE.—

"(1) In addition to the taxes imposed by the preceding subsections, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 1 percent of the wages (as defined in section 3121(a)) paid after December 31, 1979, by him with respect to employment (as defined in paragraph (2)).

"(2) The term 'employment', as used in paragraph (1), shall have the same meaning as when that term is used for purposes of subsections (a) and (b), except that the provisions of section 3121(b) shall be applied without regard to the exclusions specified in paragraphs (5), (6), (8), and (9) thereof.".

(2) Such Code is further amended by adding after section 3113 thereof the following new section:

"SEC. 3114. CREDIT AGAINST CATASTROPHIC HEALTH INSURANCE TAX.

"(a) ACTUARIAL VALUE OF CATASTROPHIC HEALTH INSURANCE COVERAGE FOR EMPLOYEES UNDER APPROVED EMPLOYER PLANS.—If, during any period the taxpayer has secured for any or all of his employees (or for any or all of his employees and family members of such employees) catastrophic health insurance coverage under an employer plan approved by the Secertary of Health, Education, and Welfare under section 2122 of the Social Security Act, the taxpayer may, to the extent provided in this subsection and subsection (b), credit against the tax imposed by section 3111(c) for such period an amount equal to the actuarial value of such coverage, as determined under the appropriate Table of Values of Catastrophic Health Insurance Coverage certified by such Secretary pursuant to section 2123(b) of such Act.

"(b) LIMIT ON CREDITS.—The total credits allowed to a taxpayer under this section shall not exceed 100 percent of the tax against which such credits are allowable.

"(c) PAYMENTS BY STATES.—For purposes of this section, any State which has a State law approved by the Secretary of the Treasury under section 2108 of the Social Security Act shall be deemed to be a taxpayer to which the tax imposed by section 3111(c) applies, and any payments which such State is obligated to make to the Treasury pursuant to such State law shall be deemed to be an obligation to pay such tax.".

(3) The table of sections for subchapter B of chapter 21 of subtitle C of such Code is amended by adding immediately after the last item the following:

"Sec. 3114. Credit against catastrophic health insurance tax.".

(c)(1)(A) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by renumbering section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. CATASTROPHIC HEALTH INSURANCE TAX.

"There shall be allowed to the taxpayer, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 50 percent of the aggregate of the amounts of the tax, imposed by sections 1401(c) and 3111(c), paid by the taxpayer during the taxable year. For purposes of this section, any credit allowed the taxpayer for the taxable year under section 1403 shall be regarded as an amount of the tax, imposed by section 1401(c), paid by the taxpayer for the taxable year; and any credit allowed the taxpayer for the taxable year under section 3114 shall be regarded as an amount of the tax, imposed by section 3111(c), paid by the taxpayer for the taxable year. Any amounts allowed as a credit under this section shall not be allowed as a deduction under section 164. A State which, for the taxable year, has made contributions pursuant to a State law approved under section 2108 of the Social Security Act shall be regarded as a taxpayer for purposes of this section.".

(B) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Catastrophic health insurance tax.
"Sec. 43. Overpayment of tax.".

(2) Section 6201(a)(4) of such Code (relating to assessment authority) is amended by—

(A) inserting "or 42" after "section 39" in the caption of such sections; and

(B) striking out "oil," and inserting in lieu thereof "oil) or section 42 (relating to catastrophic health insurance tax),".

(3) Section 6401(b) of such Code (relating to excessive credits) is amended by—

(A) inserting after "lubricating oil)" the following: ", and 42 (relating to catastrophic health insurance tax),"; and

(B) striking out "sections 31 and 39" and inserting in lieu thereof "sections 31, 39, and 42".

TITLE II—MEDICAL ASSISTANCE PLAN FOR LOW-INCOME PEOPLE

SEC. 201. (a) Effective October 1, 1980, title XIX of the Social Security Act is amended to read as follows:

"TITLE XIX—MEDICAL ASSISTANCE PLAN FOR LOW-INCOME PEOPLE

"PART A—GENERAL PROVISIONS

"PURPOSE

"SEC. 1901. It is the purpose of this title to provide, for low-income individuals and members of low-income families, assistance toward the costs of necessary hospital, skilled nursing facility, medical, and other health care services.

"FREE CHOICE BY PATIENT GUARANTEED

"SEC. 1902. Any individual entitled to benefits under this title may obtain health services provided hereunder from any institution, agency, or person qualified to participate under this title in accordance with reimbursement and service requirements if such institution, agency, or person undertakes to provide him such services. The provisions of the preceding sentence shall not be applicable in the jurisdiction of Puerto Rico, the Virgin Islands, or Guam for any period with respect to which there is in effect an election (submitted to the Secretary in such form and manner as he shall by regulations prescribe) by the Governor of such jurisdiction that such provisions not be applicable to such jurisdiction.

"OPTION OF INDIVIDUALS TO OBTAIN OTHER HEALTH INSURANCE PROTECTION

"SEC. 1903. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or securing (through collective bargaining or otherwise), protection against the cost of any health services.

"PART B—DESCRIPTION OF MEDICAL ASSISTANCE PLAN

"ELIGIBLE INDIVIDUALS

"SEC. 1910. (a) Every 'medicaid eligible' (as defined in section 1916(a)) shall be eligible for the health benefits provided under this title in the manner prescribed by section 1916. Every individual who—

"(1) is (A) a low-income individual, or (B) a member of a low-income family,

"(2) is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act), and

"(3) has filed (in the case of a low-income individual), or has had filed in his behalf by an appropriate person an application under this title (filed in such form and manner and containing such information as the Secretary shall by regulations prescribe),

shall be eligible for the health benefits provided under this title for the benefit period (as determined under subsection (d)(2)) to which such application is applicable; except that no such individual shall be entitled to such benefits on account of services received by him during any period with respect to which he does not meet the condition imposed by paragraph (2) of this subsection.

"(b) Whenever the Secretary approves any application (referred to in subsection (a)(3)), he shall issue a health benefits card to each individual who, by reason of such application, is eligible for a benefit period to the health benefits provided by this title. Such benefits card which shall be used to assist in identifying an eligible individual, shall identify the individual or family member to whom it is issued (by name, sex, age, and social security account number and such other criteria as the Secretary shall by regulations prescribe) as being eligible for such benefits for such period.

"(c) An application (referred to in subsection (a)(3)) on behalf of the members of a low-income family shall be filed by the head of such family or by such other appropriate person as the Secretary shall by regulations specify.

"(d)(1)(A) Any application (referred to in subsection (a)(3)) shall be filed with respect to—

"(i) the coverage year in which the application is filed, or

"(ii) the coverage year immediately following the coverage year in which the application is filed and which begins not later than 60 days after the date on which such application is filed.

"(B) As used in this subsection and section 1911, the term 'coverage year' means the 12-month period beginning April 1 of any year.

"(2) The benefit period of any individual resulting from the filing of an application (referred to in subsection (a)(3)), shall commence—

"(A) on the first day of the first month in which the application is filed, or

"(B) if earlier, the first day of the third month prior to the month in which the application is filed and in which such individual or the family of which he is a member first met the conditions imposed by section 1910(a)(1) and (2),

and shall end on whichever of the following is earlier—

"(C) the close of the coverage year with respect to which such application is filed, or

"(D) such date as may be specified in regulations of the Secretary (promulgated in accordance with the provisions of section 1911(d)), if such individual, prior to the date referred to in clause (C), ceases to meet the applicable condition imposed by subsection (a)(1), or fails to submit reports which the Secretary deems to be necessary or useful to enable him to determine whether such individual continues to meet the conditions imposed by subsection (a)(1) and (2);

except that, if on the date that any individual's benefit period would (as determined under the preceding provisions of this paragraph) end, such individual is an inpatient in a health care institution (which is a hospital, skilled nursing facility, or intermediate care facility) participating under title XVIII or this title, such individual's benefit period shall not end until the day following the first day, after such date, that such individual either is no longer an inpatient in or no longer requires care in such an institution.

"DETERMINATIONS OF ELIGIBILITY

"SEC. 1911. (a) Whenever an application (referred to in section 1910(a)(3)) has been filed by or on behalf of an individual or on behalf of the members of a family, the determination of whether such individual or such family meets the applicable condition imposed by section 1910(a)(1)(A) or (B) shall be based on the actual income of the individual or family for the 2-month period immediately preceding the date of filing of the application and the prospective income of the individual or family for the 2-month period immediately following such date.

"(b) An individual shall be deemed, for purposes of subsection (a), to have no income for the 2-month period immediately preceding the date of the filing of an application (referred to in section 1910(a)(3)) if—

"(1) at the time such application is filed by such individual, he is not a member of a family, and

"(2) during all of such 2-month period (A) such individual was a member of a family, (B) was not regularly employed, and (C) was not the head of such family.

"(c) The Secretary, in determining (for purposes of subsection (a)) the prospective income of any individual or family, may take into account current income (if any) and other relevant factors (including, in appropriate cases, actual income for preceding periods).

"(d) An individual (referred to in section 1910(d)(2)(D)) shall be deemed not to have ceased to meet the applicable condition imposed by section 1910(a)(1) in a current coverage year because the income of such individual or of the family of which he is a member, as the case may be, has increased, if such income, as so increased, does not exceed 120 per centum of the maximum amount of income which such individual (or such family) can receive while still being a 'low-income' individual or family (as the case may be). The preceding sentence shall apply also to decreases in family income maximums brought about by a diminution in the number of members thereof, except that a diminution in the number of members of a family of not more than one such member during a benefit period shall not affect the eligibility of the remaining members of such for not more than 60 days during a benefit period.

"SCOPE OF BENEFITS

"SEC. 1912. The benefits provided to an individual eligible in any benefit period under this title shall consist of eligibility to have payment made (subject to the provisions of this title) on his behalf for—

"(a) necessary inpatient hospital services for not more than 60 days during a benefit period;

"(b) medical and other health services;

"(c) skilled nursing facility services;

"(d) home health services;

"(e) intermediate care services;

"(f) mental health care services;

"(g) pre-natal and well-baby care;

"(h) family planning counseling, services, and supplies;

"(i) in the case of eligible chidlren under age 18, early and periodic screening, diagnosis, and treatment; and

"(j) payment of any premium imposed under part B of title XVIII for coverage under the insurance program established by such part;

and to have reimbursement made to him in an amount equal to one-half of the amount (i) of the actuarial value, as determined under the appropriate Table of Values of Catastrophic Health Insurance Coverage certified by the Secretary pursuant to section 2123(b), of catastrophic health insurance coverage for any period for such individual (or such individual and family members) under a self-employed plan approved by the Secretary under section 2122, and (ii) paid by such indiviual (and by family members) or taxes imposed on his or their self-employment income by section 1401(c) of the Internal Revenue Code of 1954.

"COPAYMENT REQUIREMENTS

"SEC. 1913. (a)(1) Any individual or family who, for any coverage year, is eligible for the health benefits provided by this title shall be responsible for the first $3 of the cost incurred for a visit for physicians' services (other than as an inpatient) if such visit is not for the purpose of securing appropriate well-baby care, family planning services, or services described in section 1912(i). Such $3 copayment shall be applicable only to each of the first ten visits of any individual or family for physicians' services. In the case of an individual covered under title XVIII, the copayment or deductible requirements of this section shall apply to the extent they are less than the copayment required under title XVIII.

"(2) In the case of any individual who—

"(A) is, for any benefit period, entitled to the health benefits provided under this title,

"(B) is not a member of a family or is a member of a family all of whose members meet the requirements of subparagraph (C),

"(C) for a continuous period in excess of 60 days (whether or not in the same benefit period), is an inpatient in an institution which is a hospital, skilled nursing facility, or intermediate care facility,

there shall be imposed in each month (which begins after such period) in which he is an inpatient in such an institution a special copayment, with respect to health care services in such institution to which he is entitled under this title during each month, equal to the amount by which his cash income for such month exceeds $50.

"(b) The amount payable under this title with respect to physicians' services where a copayment is required by subsection (a)(1) or (a)(2) shall be reduced by an amount (if any) equal to the copayment imposed.

"RESIDUAL NATURE OF BENEFITS

"SEC. 1914. Amounts otherwise payable under this title with respect to any item or service specified in clauses (a) through (i) of section 1912 provided to an individual during any benefit period shall be reduced by the amount which is paid (or upon claim by the individual, or a person claiming on his behalf, would be payable) under any other public or private insurance or health care benefits plan by which such individual is covered (including the insurance program established by title XVIII, the program established by part A of title XXI, and any workmen's compensation law) except that payments under this title shall be primary in the case of a State program designed to supplement (through higher income tests) the eligibility of this program.

"SPECIAL PROVISIONS RELATING TO MEDICAID ELIGIBLES

"SEC. 1915. (a) For purposes of this section and the first sentence of section 1910(a), the term 'medicaid eligible' means an individual (whether as a member of a fam-

ily or otherwise) who, for any month after December 1976 and prior to July 1977 was determined to be eligible for assistance under a State plan approved under title XIX (as in effect prior to July 1, 1977).

"(b) Notwithstanding any other provision of this title, any individual who is a medicaid eligible shall (subject to subsection (c)) be eligible for the health insurance provided by this title for any period after September 1980 if, for such period, such individual—

"(1) meets the requirements imposed (or deemed by Federal law to be imposed) as a condition of eligibility for assistance under the State plan under which his status as a medicaid eligible is established, as such plan was in effect for September 1980,

"(2) does not meet such requirements but would meet such requirements except for the amount of his income (or the income of the family of which he is a member), if his income (or the income of the family of which he is a member) does not exceed 105 per centum of the maximum applicable income standard imposed as a condition of eligibility under such requirements as in effect for September 1979, or (if greater) for September 1980,

except that no individual shall, by reason of the provisions of this subsection, be deemed to be eligible for health benefits under this title unless such individual meets the requirements of section 1910(a)(2) and there has been filed (in the manner provided by section 1910(a)(3)) by or on behalf of such individual an application for benefits under this title with respect to such period.

"PART C—CONDITIONS AND LIMITATIONS ON PAYMENT, AND ADMINISTRATION

"BASIS FOR PAYMENT FOR HEALTH SERVICES

"SEC. 1920. (a) Except as is otherwise provided in subsection (d), covered health care services provided to individuals insured under this title shall, in the case such services are provided by a provider of service (as defined in section 1861(u)) or an intermediate care facility, be paid for on the basis of the reasonable cost subject to the limitations otherwise provided under title XVIII for such services and, in the case such services are provided by a person (other than a provider of service or an intermediate care facility), be paid on the basis of the reasonable charge (subject to the limitations with respect thereto imposed under title XVIII).

"(b) In the event that such amounts are not payable due to the failure of the individual or family to enroll in a health insurance plan for which he or such family was otherwise eligible, and to the extent such coverage would have been in effect during the benefits period, and in which his or such family's premium or rate liability was 25 per centum or less (or failure to enroll in part B of title XVIII) amounts otherwise payable under this title shall be reduced by not more than $250 in a benefit period.

"(c) As used in subsection (a), the term 'reasonable cost' shall have the same meaning as when such term is employed in title XVIII.

"(d)(1) To the extent that the regulations of the Secretary promulgated pursuant to paragraph (2) are applicable to a skilled nursing facility or an intermediate care facility, covered services furnished by such facility shall be paid on the cost-related basis established under such regulations rather than on the basis of reasonable cost.

"(2) In the interest of the efficient and economical administration of this title, the Secretary shall promulgate regulations under which covered services furnished by all or one or more types or classes of skilled nursing facilities or intermediate care facilities in any area (consisting of one or more States) will be paid for on a reasonable cost-related basis, as determined in accordance with methods and standards prescribed in such regulations.

"CONDITIONS OF AND LIMITATION ON PAYMENT FOR SERVICES

"SEC. 1921. (a) Services and the payment therefor under this title are subject to the same conditions and limitations as those imposed by sections 1814, 1834, and 1835 with respect to services, and the payment therefor, provided under title XVIII.

"(b) No payment shall be made under this title to any person on account of any health care service furnished by such person to an individual who is covered under this title for such service unless such person accepts the amount of such payment, together with any co-payment required under secion 1913 with respect to such service, as payment in full for such service. Whenever payment under this title is made in supplementation of a payment made under any insurance program (whether public or private) for a service, the amount of the payment under this title shall not be in excess of the amount which would be paid had such service been provided under this title, and no person accepting such payment as payment for such service shall charge any amount in excess of the amount so paid to the indvidual receiving such service.

"(c) If any eligible individual (as determined under section 1910) who is a low-income individual or a member of a low-income family (as determined without regard to section 1932) is enrolled in—

"(1) a health maintenance organization which meets the applicable requirements of section 1876, or

"(2) an organization which (A) provides medical and other health services (or arranges for their availability) on a prepayment basis, and (B) receives and prior to September 1, 1973, received, payments under part B of title XVIII under the authority contained in section 1833(a)(1)(A), the Secretary may, in lieu of making payments for health benefits on behalf of such individual as provided in other provisions of this title, make payment therefor in the manner authorized by section 1876 for any period, during which he is so enrolled, and for which he is such an eligible individual.

"(c) Payments under this title may not be made for services provided by any group practice unit unless such unit meets the applicable requirements of section 1876.

"ADMINISTRATION AND QUALITY CONTROL

"SEC. 1922. (a) The provisions of this title shall (subject to the provisions of section 102(b)) be administered by the Secretary.

"(b) The provisions of title XVIII (and other provisions of law applicable to the health insurance programs established by such title, including part B of title XI), relating to utilization and professional review and conditions of participation required with respect to persons or providers of health services under title XVIII, shall be applicable to all health services provided under this title.

"(c) To the maximum extent practicable, the Secretary, in the administration of this title, shall utilize and otherwise coordinate with the procedures employed in the administration of the health insurance programs established by title XVIII (including the procedures for certification of providers of service), and shall have the same authority (except as otherwise specifically provided) as that conferred upon him with respect to the administration of the insurance programs established by title XVIII.

"REQUIREMENTS FOR CARRIERS AND INTERMEDIARIES

"SEC. 1923. (a) The Secretary, in the administration of this title, shall, whenever he determines that the interests of quality of service to eligible individuals or program economy, or efficiency of administration would be furthered, require consolidation of activities on the part of carriers (utilized pursuant to authority contained in section 1842) and agencies or organizations (utilized pursuant to authority contained in section 1816) in geographic regions with minimum size populations of individuals covered under this title and under the insurance programs established by title XVIII.

"(b) No private carrier or other organization shall after the 3-year period which commences on the date of enactment of this section, be utilized in the administration of this title or title XVIII unless such carrier or other organization is an 'approved carrier' under section 1505.

"MEDICAL COVERAGE TRUST FUND

"SEC. 1924. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the Medical Coverage Trust Fund (hereinafter in this section referred to as the 'Tust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in sections 1925 and 1926.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Trustees to—

"(1) hold the Trust Fund;

"(2) report to the Congress not later than the first day of July of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of disbursements to be made from the Trust Fund during the current coverage year and each of the next 2 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments of benefits provided for in this title, and the payments with respect to administrative expenses in accordance with section 201(g)(1).

"STATE CONTRIBUTIONS TO MEDICAL COVERAGE TRUST FUND, AND TO CATASTROPHIC HEALTH INSURANCE TRUST FUND

"SEC. 1925. (a) In order for individuals residing in any State to receive for any period benefits under the insurance program estab-

lished by part A of title XXI or the benefits provided by this title, there must be in effect for such period a State law approved by the Secretary under section 2108 and an agreement between such State and the Secretary entered into under this section.

"(b) Any agreement between the Secretary and a State under this section shall provide that the State will (subject to subsection (c)) pay, with respect to each fiscal year for which such agreement is in effect, to the Secretary of the Treasury at such time or times as may be specified in the agreement, an amount equal to—

"(1) in case such State is a State which (for the fiscal year ending September 30, 1976, or September 30, 1977, had in effect a State plan approved under title XIX, as in effect prior to the effective date of the program established by this title) the sum of the following:

"(A) an amount equal to (i) the total amount expended from non-Federal funds for the purpose of providing (under such State plan to persons eligible under such plan) services of the types for which coverage is provided by this title, for the four-quarter period ending September 30, 1979, or (ii) if greater, the total amount expended from non-Federal funds for such purpose for the four-quarter period ending September 30, 1980, plus

"(B) an amount equal to one-half of (i) the total amount expended (as determined by the Secretary) from non-Federal public funds for the purpose of providing, for individuals not covered under such plan but who are eligible under this title, services of the types for which coverage is provided by this title, for the four-quarter period ending September 30, 1978, or (ii) if greater, the total amount expended (as determined by the Secretary) from non-Federal funds for such purpose for the four-quarter period ending September 30, 1980; and

"(2) in case such State did not, for the fiscal year ending September 30, 1979, or September 30, 1980, have in effect a State plan referred to in paragraph (1), (A) the total amount expended (as determined by the Secretary) from non-Federal funds for the purpose of providing services of the types for which coverage is provided by this title for persons eligible under this title, for the four-quarter period ending September 30, 1979, or (B) if greater, the total amount expended (as determined by the Secretary) from non-Federal funds for such purpose for the four-quarter period ending September 30, 1980.

"(c) The amount payable by any State under subsection (b) with respect to a coverage year shall be reduced by an amount equal to one-half of the amount expended by such State during such coverage year from non-Federal funds in providing to individuals in such State services of a type—

"(1) which is not covered under this title, but

"(2) with respect to the cost of which there could have been Federal finacial participation under title XIX (as in effect prior to the effective date of the program established by this title) if such type of service had been included in a State's plan approved under such title XIX.

"(d) Amounts paid to the Secretary of the Treasury under this section shall be deposited by him in the Medical Coverage Trust Fund.

"APPROPRIATIONS TO MEDICAL COVERAGE TRUST FUND

"SEC. 1926. There are authorized to be appropriated for each fiscal year to the Medical Coverage Trust Fund such sums as may be necessary to carry out the program established by this title.

"MINIMUM PAYMENTS

"SEC. 1927. If the amount payable to an insured individual at any particular time as benefits under this title is less than $5, no payment shall be made to him until such time as the payment to which he is entitled as such benefits is $5 or more.

"OPTOMETRISTS' SERVICES PROVIDED IN CERTAIN STATES

"SEC. 1928. In the case of any State which—

"(1) does not provide for the payment of optometrists' services furnished to individuals who are eligible for benefits under the medical assistance plan for low-income people established by this title,

"(2) during all or some part of the 2-year period ending on the effective date of such medical assistance plan, did provide, under its State plan approved under title XIX (as in effect prior to such effective date), payment of optometrists' services,

the term 'physicians' services', as employed in such medical assistance plan established by this title, shall, with respect to individuals residing in such State, be deemed to include any service which is furnished by an optometrist, if—

"(3) such service is one which an optometrist is legally authorized to perform,

"(4) such service would constitute 'physicians' services', as that term is employed in such medical assistance plan established by this title, if it had been performed by a physician.

"PART D—DEFINITIONS AND MISCELLANEOUS PROVISIONS

"MEANING OF 'LOW-INCOME INDIVIDUAL' AND 'MEMBER OF A LOW-INCOME FAMILY'

"SEC. 1930. (a) For purposes of section 1910(a)(1)(A), the term 'low-income individual' means an individual—

"(1) who is not a member of a family (as determined under subsection (b)(1)), and

"(2) whose income is at a rate of not more than $3,000 for the calendar year 1979 or any calendar year thereafter.

"(b) For purposes of section 1910(a)(1)(B)—

"(1) the term 'family' means two or more individuals who are—

"(A) related by blood, marriage, or adoption, and

"(B) living in a place of residence maintained by one or more of them as his or their own home;

"(2) the term 'member', when used in reference to a family, means an individual described in paragraph (1), and

"(3) the term 'low-income', when used in reference to a family, means a family, the aggregate income of all the members of which is at a rate of not more than—

"(A) in case there are only two members of such family, $4,200, or

"(B) in case there are only three members of such family, $4,800, or

"(C) in case there are only four members of such family, $5,400, or

"(D) in case there are more than four members of such family, an amount equal to $5,400 plus $400 for each member of such family in excess of four.

"(c) The Secretary may prescribe the circumstances under which, consistent with the purposes of this title and in the same manner as authorized in section 1611(d), the gross income of an individual or family from a trade or business (including farming) will be considered sufficiently large to cause such individual or family not to be regarded as a 'low-income individual', or a 'low-income family', even though such individual's or family's income does not exceed the applicable dollar amount prescribed in subsection (a)(2) or (b)(3).

"(d) In the case of jurisdictions of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, the amounts set forth in subsection (b)(3)(A), (B), (C), and (D) shall each be deemed to be reduced to such amount as the Secretary determines to be appropriate to assure that the ratio of individuals and families in any such jurisdiction who meet the criteria for low income (for purposes of this title) to the total population of such jurisdiction is not greater than the ratio of individuals in that State of the United States which has the highest such ratio of individuals who meet such criteria to the total population of such State.

"MEANING OF 'INCOME'

"SEC. 1931. (a) For purposes of this title, 'income' means (subject to subsection (b)) both earned income and unearned income; and—

"(1) 'earned income' means only—

"(A) wages as determined under section 203(f)(5)(C); and

"(B) 'net earnings from self-employment', as defined in section 211 (without application of the second and third sentences following subsection (a)(10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

"(2) 'unearned income' means all other income, including—

"(A) support and maintenance furnished in cash,

"(B) any payments received as an annuity, pension, retirement, or disability benefit; including veterans' compensation and pensions; workmen's compensation payments; old-age, survivors, and disability insurance benefits; railroad retirement annuities and pensions; and unemployment insurance benefits,

"(C) cash gifts, support and alimony payments, and inheritances, and

"(D) rents, dividends, interest, and royalties.

"(b)(1) In determining, for purposes of this section, the income of any individual or family, for any period of time, there shall be excluded—

"(A) the aggregate value of any cash gifts which do not exceed $240, if such period of time is equal to 12 months, or, if such period of time is less than 12 months, then an amount which bears the same ratio to $240 as such period bears to 12 months, and

"(b) any scholarship, grant, fellowship, or loan received for use in paying for tuition, books, and related fees at any educational (including technical or vocational education) institution.

"(2) For purposes of paragraph (1) and subsection (a)—

"(A) a loan of $240 or more (or aggregate thereof) shall be regarded as a gift if such loan—

"(i) is unsecured (or is without adequate security), or

"(ii) has no maturity date; and

"(B) in the case of a loan which—

"(i) bears no interest, or

"(ii) bears interest at a rate which is not more than one-half of the prevailing rate of interest imposed with respect to similar loans, the recipient of such loan shall be regarded as having received, as a gift, an amount, with respect to any period of time, equal to the excess of—

"(iii) the amount of interest which would have been payable by him, with respect to such period, on such loan if such loan bore a rate of interest equal to the prevailing rate of interest imposed (as of the time such loan was made) with respect to similar loans, over

"(iv) the amount of interest (if any) payable by him, with respect to such period, on such loan.

"SPEND-DOWN REQUIREMENT

"SEC. 1932. (a) For purposes of determining eligibility, the amount of the income of any individual or family (as determined under section 1931) shall be reduced by an amount equal to such individual's or family's incurred health care expenses to the extent

such expenses constitute a legal obligation and are not payable by any other third party payor (whether public or private) (as determined under subsection (b)), for the benefit period with respect to which such individual's or family's income is determined.

"(b)(1) The term 'health care expenses', when applied to any individual or family, means (subject to paragraphs (2) and (3)) reasonable expenditures by or on behalf of such individual or the members of such family (as the case may be) for any of the following:

"(A) inpatient hospital services (including services in an institution for tuberculosis or mental diseases),

"(B) outpatient hospital services,

"(C) other laboratory and X-ray services,

"(D) skilled nursing facility services,

"(E) physicians' services furnished by a physician (as defined in section 1861(r)(1)), whether furnished in the office, the patient's home, a hospital, or a skilled nursing facility, or elsewhere,

"(F) optometrists' and podiatrists' services,

"(G) home health services,

"(H) private duty nursing services,

"(I) clinic services,

"(J) dental services,

"(K) physical therapy, speech, pathology, and audiology services,

"(L) prescribed drugs, dentures, durable medical equipment and related supplies, and prosthetic devices, and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist,

"(M) other rehabilitation services,

"(N) intermediate care facility services,

"(O) inpatient psychiatric hospital services,

"(P) health insurance premiums, or

"(Q) ambulance service.

"(2) For purposes of paragraph (1), the expenditure for any item or service specified therein means—

"(A) in case payment for such item or service has been made prior to the time the determination of health care expenses (which includes such item or service) is made, the amount actually paid for such item or service,

"(B) in case payment for such item or service has not been made at such time and such item or service is of a type which is covered under the health coverage plan established by this title, whichever of the following is the lesser:

"(i) the actual charge for such item or service, or

"(ii) the reasonable charge or reasonable cost (as the case may be) for such item or service as determined under this title when such item or service is provided as an item or service covered under such health plan.

"(3) The term 'health care expenses' also includes an amount equal to one-half of the amount (A) of insurance premiums paid by or on behalf of an individual for catastrophic health insurance coverage for such individual (or for such individual and family members) under a self-employed plan approved by the Secretary under section 2122, and (B) paid by an individual as taxes imposed on his self-employment income by section 1401(c) of the Internal Revenue Code of 1954.

"(c) The health care expenses (as determined under the preceding provisions of this section) may, in the case of any individual, be determined on a prospective basis for any future period for which such individual's income (or the income of the family of which an individual is a member) is determined, but only if such individual is determined (in accordance with regulations of the Secretary) to be an individual who, on the basis of his recent past medical history, can be expected, for such future period to require inpatient institutional care for all or a substantial part of such future period.

"INPATIENT HOSPITAL SERVICES

"SEC. 1933. For purposes of this title, the term 'inpatient hospital services' shall have the meaning assigned to such term by section 1861(b).

"HOSPITAL

"SEC. 1934. For purposes of this title, the term 'hospital' means an institution which meets the requirements set forth in clauses (1) through (9) of section 1861(c).

"MEDICAL AND OTHER HEALTH SERVICES

"SEC. 1935. For purposes of this title, the term 'medical and other health services' shall have the meaning assigned to such term in so much of section 1861(s) as precedes the last sentence thereof; except that such term shall include (1) such physician's and other services, diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests as are involved in providing appropriate well-baby care (as determined in accordance with regulations of the Secretary) and (2) outpatient rehabilitation services.

"SKILLED NURSING FACILITY SERVICES

"SEC. 1936. For purposes of this title, the term 'skilled nursing facility services' means the items and services which (1) are described in clauses (1) through (7) of section 1861(h), and (2) are furnished by a skilled nursing facility; excluding, however, any item of service if it would not be included under section 1861(b), if furnished to an inpatient of a hospital.

"SKILLED NURSING FACILITY

"SEC. 1937. For purposes of this title, the term 'skilled nursing facility' means an institution (or a distinct part of an institution) which meets the criteria set forth in section 1861(j).

"HOME HEALTH SERVICES

"SEC. 1938. For purposes of this title, the term 'home health services' shall have the meaning assigned to such term in section 1861(m); except that the term 'skilled nursing facility', as used in clause (7) of such section, shall be deemed to include a skilled nursing facility (as defined in section 1937); except that such term shall not include any term or service if it would not be included under section 1932 if furnished to an inpatient of a hospital.

"HOME HEALTH AGENCY

"SEC. 1939. For purposes of this title, the term 'home health agency' shall have the meaning assigned to such term in section 1861(o).

"PHYSICIANS' SERVICES

"SEC. 1940. For purposes of this title, the term 'physicians' services' means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services which are included within the definition of inpatient hospital services).

"PHYSICIAN

"SEC. 1941. For purposes of this title, the term 'physician' shall have the meaning assigned to such term in section 1861(r)(1).

"MEANING OF CERTAIN OTHER TERMS

"SEC. 1942. For purposes of this title, any term which—

"(1) is defined in section 1861;

"(2) is employed in provisions which, by reference, are used in defining any of the terms defined in sections 1932 through 1940; and

"(3) is not otherwise defined in this section;

shall, in sofar as such term is applicable to the provisions of this title and except as the Secretary (in order to carry out the purposes of this title) shall otherwise by regulations provide, have the meaning assigned to it in section 1861.

"INTERMEDIATE CARE FACILITY

"SEC. 1943. (a) For purposes of this title, the term 'intermediate care facility' means an institution which (1) is licensed under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities, (2) meets such standards prescribed by the Secretary as he finds appropriate for the proper provision of such care, and (3) meets such standards of safety and sanitation as are established under regulations of the Secretary in addition to those applicable to nursing facilities under State law.

"(b) The term 'intermediate care facility' also includes—

"(1) any skilled nursing facility or hospital which meets the requirements of subsection (a);

"(2) a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the Secretary;

"(3) any institution which is located on an Indian reservation, if such institution is certified by the Secretary as meeting the requirements of clauses (2) and (3) of subsection (a) and providing the care and services required under clause (1) of such subsection; and

"(4) with respect to intermediate care services described in section 1944(b), the public institution (or distinct part thereof) providing such services.

"INTERMEDIATE CARE SERVICES

"SEC. 1944. (a) For purposes of this title, the term 'intermediate care services' means services provided by an intermediate care facility to an inpatient thereof, but only if (1) such individual meets the conditions referred to in section 1943(a), and (2) such services are required to meet the needs of such individual because of such condition.

"(b) The term 'intermediate care services' also includes services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions, but only if—

"(1) the primary purpose of such institution (or distinct part thereof) is to provide health or rehabilitative services for mentally retarded individuals and which meet such standards as may be prescribed by the Secretary; and

"(2) the mentally retarded individual with respect to whom a request for payment under this title is made is receiving active treatment under a program of active treatment designed to meet the needs of such individual.

"MENTAL HEALTH CARE SERVICES

"SEC. 1945. (a) The term 'mental health care services' includes only care and services for mental conditions—

"(1) which, if provided on an inpatient basis, consist of a course of active care and treatment provided in and by an accredited medical institution (as determined by the Secretary),

"(2) which, if provided on a partial hospitalization basis, are provided (A) in and by an accredited medical institution (as determined by the Secretary), or (B) in and by a qualified community mental health center (as determined in accordance with regulations of the Secretary), or

"(3) which, if provided on an outpatient basis, are—

"(A) provided by a qualified community mental health center (as determined in accordance with regulations of the Secretary), or

"(B) provided by a psychiatrist;

except that such term shall not include any outpatient services provided by a psychiatrist, during any 12-month period, for purposes of diagnosis or treatment of acute psychosis in excess of (i) five visits, plus (ii) such additional visits as shall have been approved in advance by an appropriate professional review mechanism upon a finding that, in the absence of such additional visits, the patient will require institutional care.

"(b)(1) The term 'mental health services', in the case of services provided on an outpatient basis by a qualified mental health center (as determined in accordance with regulations of the Secretary) or by a psychiatrist, includes any drug which is prescribed for a patient by the physician under whose direction such patient is receiving such services, but only if—

"(A) such drug is included on the list (referred to in paragraph (2)) and is prescribed in accordance with the criteria indicated in such list, and

"(B) such physician determines that unless such patient receives such drug, such patient can reasonably be expected to require institutional care.

"(2) The Secretary is authorized (after consultation with appropriate professional individuals and organizations) to compile and publish (and from time to time revise) a list of drugs which he has determined to be effective in the treatment of various mental conditions. Such list shall indicate, with respect to each drug included therein, the particular mental conditions with respect to which such drug is effective, and the appropriate dosage (in terms of quantity and intervals at which such drug shall be administered) of such drug.

"OUTPATIENT REHABILITATION SERVICES

"SEC. 1946. (a) For purposes of this title, the term 'outpatient rehabilitation services' means physical therapy, speech pathology, occupational therapy, and medical-social services furnished by a provider of services, a clinic, rehabilitation agency (including a single service rehabilitation agency), or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency, to an individual as an outpatient—

"(1) who is under the care of a physician, and

"(2) with respect to whom a plan prescribing the type, amount, and duration of such services that are to be furnished to such individual has been established, and is periodically reviewed by a physician;

excluding, however—

"(3) any item of service if it would not be included under 'inpatient hospital services' if furnished to an inpatient in a hospital; and

"(4) any such service—

"(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

"(i) provides an adequate program of such services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify,

"(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists or speech pathologists (as may be appropriate) to govern the services (referred to in clause (i)) it provides,

"(iii) maintains clinical records on all patients,

"(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

"(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

"(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary. The term 'outpatient rehabilitative services' also includes rehabilitation services furnished an individual by a physical therapist or speech pathologist (in his office or in such individual's home) who meets licensing and other standards prescribed by the Secretary in regulations, otherwise than under an arrangement with and under the supervision of a provider of services, clinic, rehabilitation agency, or public health agency, if the furnishing of such services meets such conditions relating to health and safety as the Secretary may find necessary.

"PROHIBITION AGAINST EXCLUSION BY EMPLOYERS OF CERTAIN EMPLOYEES FROM COVERAGE UNDER GROUP HEALTH INSURANCE PLANS

"SEC. 1947. (a) If any employer provided for some or all of his employees coverage under a group health insurance plan, it shall be unlawful for such employer to exclude from coverage under such plan any employee of such employer if—

"(1) such employee belongs to a category of employees who would ordinarily be eligible for coverage under such plan, and

"(2) such employee is excluded from coverage under such plan because of the coverage provided under this title.

"(b) Any person violating the provisions of subsection (a) shall be fined not more than $10,000 and imprisoned for not more than one year.".

(b)(1) Section 201(i)(1) of the Social Security Act is amended by striking out "and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof "the Federal Supplementary Medical Insurance Trust Fund, and the Medical Coverage Trust Fund".

(2) Section 201(g)(1)(A) of such Act is amended—

(A) by inserting "the Medical Coverage Trust Fund, and" immediately after "shall include also", and

(B) by inserting "title XIX," immediately after "title XVI," wherever it appears therein.

TITLE III—PRIVATE BASIC HEALTH INSURANCE CERTIFICATION PROGRAM

SEC. 301. The Social Security Act is amended by adding after title XIV thereof the following new title:

"TITLE XV—PRIVATE BASIC HEALTH INSURANCE CERTIFICATION

"PURPOSE

"SEC. 1501. It is the purpose of this title to encourage and facilitate the availability to the public of private basic health insurance coverage at a reasonable premium charge by—

"(a) establishing a procedure whereby health insurance policies offered by private insurers may be certified by the Secretary as meeting minimum standards with respect to adequacy of coverage, conditions of payment, opportunity for enrollment, and reasonableness of premium charges.

"(b) facilitating arrangements whereby basic health insurance policies meeting such standards can be offered through pools of private insurers, and

"(c) encouraging States, through their laws and regulations pertaining to the health insurance industry, to facilitate the offering, within the State, of such basic health insurance coverage by carriers doing health insurance business within the State.

"CERTIFICATION OF BASIC PRIVATE HEALTH INSURANCE POLICIES

"SEC. 1502. (a) Any insurer which desires to have a health insurance policy certified for use in one or more States specified by the insurer may (in accordance with regulations of the Secretary) provide to the Secretary, for his examination and certification, any health insurance policy.

"(b)(1) If the Secretary, after examining any such policy and evaluating any data submitted in connection with such policy, determines that such policy meets the standards prescribed in section 1504, he shall certify such policy for use in each State which has in effect a basic health insurance facilitation program (as defined in section 1510).

"(2)(A) The certification by the Secretary of any such policy shall be conditioned upon such policy's continuing to meet the standards prescribed in section 1504; and no policy shall be deemed to have been certified by the Secretary under this title for any period for which it fails to meet such standards.

"(B) The Secretary shall establish procedures whereby any insurer having secured the Secretary's certification of any policy offered by such insurer shall from time to time provide to the Secretary (i) relevant data with respect to such policy in order for the Secretary to determine whether such policy continues to meet the standards prescribed in section 1504, and (ii) such data and information as the Secretary may require in order to assure proper coordination of the administration of titles XIX and XXI.

"(c) Notwithstanding the preceding provisions of this section, the Secretary shall not certify any health insurance policy of any insurer for use in any State unless such insurer furnishes assurances satisfactory to the Secretary that such insurer (whether as a member of a health reinsurance or other residual market arrangement or otherwise) will make generally available, in each geographic area of the State in which the insurer does health insurance business, to all individuals and family members the following two health insurance policies: (i) a policy which meets the standards of section 1504, and (ii) a policy which, if it were issued in combination with a plan meeting the minimum coverage necessary to meet the requirement imposed by section 2122(a)(1)(B), would, in the aggregate, meet the standards of section 1504.

"UTILIZATION OF STATE AGENCIES FOR CERTIFICATION OF POLICIES

"SEC. 1503. If any State has in effect a basic health insurance facilitation program (as defined in section 1510), the Secretary shall, if such State is willing to do so, enter into an agreement with such State whereby the agency responsible for the regulation of the health insurance industry within such State will, on behalf of the Secretary, make such determinations regarding whether basic health insurance policies meet the requirements for certification under this title, as may be specified by the Secretary. Such agreement shall provide that the agency will be reimbursed for its reasonable expenses incurred in carrying out activities specified in the agreement.

"STANDARDS WITH RESPECT TO BASIC HEALTH INSURANCE POLICIES

"SEC. 1504. (a) The Secretary shall not certify under this title any insurance policy of-

fered (or to be offered) by an insurer unless he finds that—

"(1) such policy provides—

"(A) inpatient hospital coverage (without any deductible in excess of $100 or copayment by the insured person) for at least 60 days during any policy year,

"(B) medical coverage which shall include home, office, hospital, and other institutional care provided by physicians,

"(C) with respect to medical coverage, that—

"(i) subject to clauses (ii) and (iii), payment in full shall be made with respect to not less than the first $2,000 of reasonable expenses incurred by any insured person for any policy year for services with respect to which coverage applies,

"(ii) the copayment required of any insured person with respect to such reasonable expenses shall not exceed 20 per centum thereof, and

"(iii) in the case of any deductible applicable to the payment of such reasonable expenses for any benefit year or benefit period of not less than 12-months' duration, such deductible shall not exceed $50 for any insured person, and that, for purposes of computing such deductible for any calendar, policy, or other fixed benefit year or period, the insured person shall be given credit for any deductible applied toward such expenses for the last 3 months of the preceding policy year,

"(D) in case such policy is a group policy, there will be no exclusion from coverage or limitation on payment on account of any medical condition (including any preexisting condition) or any waiting period prior to the beginning of coverage with respect to any such condition,

"(E) in case such policy is an individual policy (including a policy for an individual and members of his family), there will be no exclusion from coverage on account of any medical condition (including any preexisting condition) other than pregnancy, and there will be no waiting period prior to the beginning of coverage with respect to any preexisting condition which is greater than 90 days after the date the policy is issued,

"(F) in case such policy covers an individual and members of his family, coverage will be provided for all dependent unmarried children in the family under age 22, and coverage will be automatically extended, at birth to any newborn and upon adoption to any newly adopted, child of such individual or his spouse,

"(G) in case such policy is a group policy which covers all or a certain category of employees of any employer, that—

"(i) coverage will not be terminated with respect to any employee (and members of such employee's family, if such policy covers such members) because of the termination of such employee's employment prior to the expiration of 31 days after the date of such termination,

"(ii) the insurer offering such policy will afford to any employee covered by such policy whose employment has been terminated a reasonable opportunity to secure, from such insurer a basic private health insurance policy which has been approved under this title,

"(iii) there will be a periodic open enrollment period of at least 31 days (which shall occur not less often than once during each policy year) in which all eligible employees, who are not covered by such policy because of failure to elect coverage at the time of initial employment or during previous open enrollment periods, can secure coverage thereunder,

"(2) the premium charge for such policy is such that there is not an unreasonable ratio of expenses to premiums (as determined under subsection (d)); and

"(3) there is established an appropriate (but different) premium rate for such policy when it is offered to cover (A) a single individual, (B) a married couple, or (C) a family.

"(b) The Secretary, in determining whether any comprehensive prepaid group practice plan is eligible for certification under this section, shall, in lieu of the standards imposed by subsection (a), develop and apply criteria which assure that such plan meets requirements which are, on an actuarial and benefit basis, at least equivalent to such standards.

"(c) Notwithstanding the provisions of subsections (a) and (b), the Secretary shall not withhold approval under this title of any health insurance policy solely because such policy excludes—

"(1) charges for services or supplies in connection with an occupational disease or injury,

"(2) items or services for which the insured individual furnished such items or services has no legal obligation to pay, and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for,

"(3) any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service, under a workmen's compensation law or plan of the United States or a State,

"(4) charges for services or supplies with respect to which benefits are provided under title XVIII or title XXI,

"(5) items or services which are not reasonable and necessary for the diagnosis or treatment of illness or injury, pregnancy, or to improve the functioning of a malformed body member,

"(6) charges for care, treatment, services, or supplies, provided to any individual, to the extent that the payment of benefits with respect thereto is prohibited by any applicable law of the jurisdiction in which such individual is residing at the time he receives such care, treatment, services, or supplies,

"(7) charges for care, treatment, or supplies provided to any individual, to the extent that they are not reasonably priced (except that, for purposes of this paragraph, the charge for any item or service shall be deemed to be reasonable, if such charge is not in excess of the allowable charge therefor under title XVIII or XXI),

"(8) charges in connection with routine physical checkups,

"(9) expenses incurred for items or services, where such expenses are for cosmetic surgery or are incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member,

"(10) charges made by a hospital for the professional services of any resident physician or intern to the extent that such charges are in excess of the actual cost incurred by the hospital in providing such services,

"(11) charges for the professional services of a psychiatrist to the extent that such charges exceed $400 in a policy year, or

"(12) amounts which represent deductible and coinsurance provisions and which generally result in aggregate benefit coverage which is at least equal to the actuarial equivalent of the benefit coverage resulting from the application of the deductible and coinsurance provisions in section 1504(a)(1).

"(d)(1) With respect to policies submitted to the Secretary for his certification under this title, the Secretary shall establish (after considering the size of the groups to be covered by any such policy and the nature of the insurer) appropriate reasonable ratios of expenses to premiums imposed for coverage thereunder. In the case of individual policies such ratios shall be the same as those established by the Secretary for group policies covering the smallest groups. After making an initial determination with respect to any such policy, the Secretary shall periodically thereafter review and make a redetermination of such ratios based on actual expenses thereunder and the actual premium charges made for the period with respect to which the review is made, in order to determine whether such policy continues to meet the requirements for certification.

"(2) In determining the appropriate reasonable ratio of expenses to premiums imposed with respect to any particular health insurace policy offered by an insurer, the Secretary shall, in his determinations of such ratio, give consideration to the average ratio, with respect to group policies generally underwritten by insurers (classified on the basis of nonprofit or profitmaking) with respect to policies excluding those which are not certified under this title.

"APPROVED CARRIER

"SEC. 1505. For purposes of sections 1923(b), 1816, and 1842, an 'approved carrier' is an insurer which the Secretary has found (1) to offer one or more health insurance policies approved under section 1502 to the general public in each geographic or normal service area in which such insurer offers health insurance policies (including any which are not approved under this title) and (2) to employ effective procedures and practices designed to assure, through means consistent with efficient practices within the insurance industry, appropriate controls of utilization of health care services and the costs and charges imposed therefor with respect to which it will financially participate.

"ANTITRUST EXEMPTION

SEC. 1506. (a) It shall not be unlawful under any antitrust law for any insurer to enter into any contract, combination, or other arrangement with any other insurer or group of insurers for the sole purpose of establishing or participating in an insurance pool, reinsurance, or other residual market, arrangement whereby there will be offered to the public health insurance policies approved under section 1502, if such contract, combination, or other arrangement is approved by the Secretary, as being consistent with the purposes of this title, before any party to the contract combination, or other arrangement has carried out any activity, or refrained from carrying out any activity, under its terms (other than such activity as may be necessary to negotiate the contract, combination, or other arrangement and to apply for approval of the same under this section). The Secretary shall not approve any contract, combination, or other arrangement under which the parties thereto agree to act in a manner which constitutes a violation of any such law for which no exemption is provided under the preceding sentence or for purposes other than the purposes for which the exemption contained in the preceding sentence is established. Nothing contained in this subsection shall exempt from any antitrust law any predatory pricing or practice, or any other conduct in the otherwise exempt activities of two or more such insurers under a contract, combination, or other arrangment approved under this section which would be unlawful under any such law if engaged in by only one insurer.

"(b) For purposes of this section, the term 'antitrust law' means the Federal Trade Commission Act, each statute referred to in section 4 of that Act (15 U.S.C. 44) as an Antitrust Act, any other statute of the United States in pari materia, and any law of any State or political subdivision thereof which prohibits or restrains contracts, combinations, or other arrangements in restraint of trade.

"ESTABLISHMENT OF EMBLEM TO INDICATE CERTIFICATION

"SEC. 1507. (a) The Secretary shall cause to be designed an appropriate emblem which

may be used as an indication that certification of an insurance policy under this title has been made by the Secretary; and any insurer which has secured certification of an insurance policy by the Secretary under this title may have printed thereon such emblem, and may, in advertising such policy to potential subscribers, state that such policy has received such a certification.

"REPORT TO CONGRESS

"SEC. 1508. The Secretary shall, at the earliest practicable date (but not later than 60 days) after the expiration of the three-year period which commences on the date of enactment of this section, submit to the Congress a report indicating (1) the extent to which basic private health insurance policies certified by the Secretary under this title are actually and generally available to the residents of each State, and (2) the extent to which residents in each State are covered by such policies.

"DUTY OF SECRETARY TO MAKE AVAILABLE INDIVIDUAL AND FAMILY HEALTH INSURANCE POLICIES ON A COST BASIS

"SEC. 1509. (a) The Secretary shall offer a standard health insurance policy, which meets the applicable criteria prescribed under this title with respect to approved basic health insurance policies, to individuals, married couples, and families living in any State (1) which does not have in effect a basic health insurance facilitation program (as found by the Secretary under section 1510, and (2) in which there is not actually and generally available one or more approved basic health insurance policies approved under this title.

"(b) The premiums imposed under any such policy shall be in an amount designed to cover the costs (inclusive of administrative costs and appropriate reserves which will be incurred in furnishing the benefits provided in the policy.

"(c) No such policy shall be offered in any area prior to the expiration of the 3-year period which commences on the date of enactment of this title.

"(d) Premiums collected by the Secretary for insurance policies offered by him under this section shall be deposited in an Insurance Revolving Fund, and moneys in such fund shall be available, without fiscal year limitation, for the payment of claims under such policies.

"(e) For the purpose of providing a contingency reserve for the insurance program established by this section, there is authorized to be appropriated such sums as may be necessary; and any sums appropriate for such purpose shall remain available for the purpose of making repayable advances (without interest) to the Insurance Revolving Fund authorized to be established under subsection (d).

"(f) The Secretary, in making payment for services covered under any insurance policy issued pursuant to this section, shall utilize the payments methodology and administrative mechanism employed by him for making payment for services covered under the insurance programs established by title XVIII.

"BASIC HEALTH INSURANCE FACILITATION PROGRAM

"SEC. 1510. (a) For purposes of this title, a State shall be regarded as having in effect a basic health insurance facilitation program only if the Secretary, after examining the pertinent laws and regulations of such State governing the doing of health insurance business within the State by carriers, determines that such laws and regulations—

"(1) require the establishment of one or more health reinsurance or other residual market arrangement to be utilized by such carriers in connection with the offering within the State of basic health insurance policies which meet the standards for certification by the Secretary established by this title,

"(2) require all such carriers to be members of a health reinsurance or other residual market arrangement and provide that losses, under any such arrangement, will be shared by all members thereof on a pro rata basis in proportion to their respective shares of the total health insurance premium earned in the State during the calendar year,

"(3) provide that premiums charged for policies issued to individuals or family members under any such health reinsurance or other residual market arrangement shall not be less than 125 per centum nor more than 150 per centum of the average group rate for the same coverage under a group policy covering ten lives, and

"(4) otherwise encourage and facilitate the offering of such policies within the State by all carriers doing health insurance business therein on a basis which is fair and equitable to each such carrier.

"(b) The Secretary is authorized, upon the request of any State, to provide appropriate technical assistance to aid the State in developing a program which meets the conditions prescribed in subsection (a).".

TITLE IV—AMENDMENTS TO THE MEDICARE PROGRAM IMMUNIZATIONS

SEC. 401. (a) Section 1861(s) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (8),

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and",

(3) by inserting immediately after paragraph (9) the following new paragraph:

"(10) such immunizations as the Secretary determines are appropriate, but only if provided on a scheduled allowance basis (as determined under regulations of the Secretary).", and

(4) by redesignating paragraphs (10) through (13) as paragraphs (11) through (14), respectively.

(b) Section 1864(a) of such Act is amended by striking out "paragraph (10) and (11)" and inserting in lieu thereof "paragraphs (12) and (13)".

(c) Section 1862(a)(7) of such Act is amended by inserting immediately after "(7)" the following: "except as provided in section 1861(s)(10),".

(d) The amendments made by this section shall apply only with respect to services furnished on or after the first day of the month following the month in which this section is enacted.

MENTAL HEALTH SERVICES

SEC. 402. (a) Section 1833 (c) of the Social Security Act is amended—

(1) by striking out "$312.50" and inserting in lieu thereof "$500", and

(2) by striking out "62½ per centum" and inserting in lieu thereof "80 per centum".

(b) Section 1812 of such Act is amended—

(1) by striking out subsection (c) thereof,

(2) in subsection (b) thereof, by striking out "(subject to subsection (c))", and

(3) in subsection (e) thereof, by striking out "subsections (b), (c), and (d)" and inserting in lieu thereof "subsections (b) and (d)".

(c) The amendments made by subsection (a) shall be effective only with respect to services furnished after December 31, 1979. The amendments made by subsection (b) shall be effective only with respect to services furnished after December 31, 1980.

AMOUNT OF PREMIUMS FOR HOSPITAL INSURANCE COVERAGE

SEC. 403. (a)(1) The second sentence of 1818(d)(2) of the Social Security Act is amended by striking out "Such amount shall be equal to $33, multiplied by" and inserting in lieu thereof "Such amount shall be equal to 50 per centum of the product of $33 multiplied by".

(2) The amendment made by paragraph (1) shall be applicable in the case of premiums imposed on and after July 1, 1978.

(b) In addition to other moneys appropriated to the Federal Hospital Insurance Trust Fund, there shall be appropriated from time to time, with respect to periods commencing after June 30, 1978, amounts equal to 100 per centum of the amounts deposited in such Fund pursuant to section 1818(f) of the Social Security Act from premiums payable for such period.

PAYMENT FOR EXTENDED CARE

SEC. 404. Section 1861(v)(E) of the Social Security Act is amended to read as follows:

"(E)(i) In the case of services furnished by a skilled nursing facility with respect to which payment for services furnished under title XIX is made on a cost-related basis pursuant to the provisions of section 1920(d)(2), such regulations may provide for the use of rates which are the same as the rates obtaining for such services under title XIX (except that such rates may be increased by the Secretary on a class or size of institution, or on a geographical basis by a percentage factor not in excess of 10 per centum to take into account determinable items or services or other requirements under this title not otherwise included in the computation of such rates under title XIX): *Provided*, That no such regulations shall become effective prior to the 60th day following the date on which the Secretary submits to the Congress a copy thereof together with a full and complete description of the methodology which would be employed in the determination of rates pursuant thereto, and by evaluation by the secretary and by the Comptroller General of such methodology in terms of the extent to which the employment thereof will promote the efficient and economical administration of this title and equitable treatment to and between skilled nursing facilities furnishing services for which payment may be made hereunder.".

EXTENSION OF COVERAGE UNDER RENAL DISEASE PROGRAM

SEC. 405. Section 226(e) of the Social Security Act is amended by adding at the end thereof the following: "For purposes of the preceding sentence, any individual, who on or after the date of enactment of this sentence fails to meet the condition imposed by clause (2) of such sentence, shall be deemed to meet such condition. There are authorized to be appropriated, from time to time, to the Federal Hospital Insurance Trust Fund and to the Federal Supplementary Medical Insurance Trust Fund such sums as may be necessary (as based on estimates of the Secretary) to place each such Fund in the same financial conditions that it would have occupied had the preceding sentence not been enacted.".

TITLE V—GENERAL PROVISIONS RELATING TO HEALTH INSURANCE UNDER SOCIAL SECURITY ACT

ENCOURAGEMENT OF PHILANTHROPIC SUPPORT FOR HEALTH CARE

SEC. 501. Part A of title XI of the Social Security Act is amended by adding after section 1131 the following new section:

"ENCOURAGEMENT OF PHILANTHROPIC SUPPORT FOR HEALTH CARE

"SEC. 1132. (a) It is the policy of the Congress that philanthropic support for health care be encouraged and expanded, especially in support of experimental and innovative efforts to improve the health care delivery system and access to health care services.

"(b) For purposes of determining, under title XVIII, XIX, or XXI, the reasonable costs of any service furnished by a provider of health services—

"(1) unrestricted grants, gifts, and income from endowments shall not be deducted from the operating costs of such provider,

"(2) grants, gifts, and endowment income designated by a donor for paying specific operating costs of such provider shall be deducted from the particular operating costs or group of costs involved, and

"(3) investment income of such provider which is from gifts or grants shall not be used to reduce the interest expense of such provider unless such income is from an unrestricted gift or grant and is commingled with other funds, and, in no event shall any such interest expense be reduced below zero by any such investment income.".

FACT SHEET—LONG-RIBICOFF-TALMADGE CATASTROPHIC HEALTH INSURANCE AND MEDICAL ASSISTANCE REFORM ACT OF 1978

TITLE I—CATASTROPHIC HEALTH INSURANCE

Part A—Public plan

Eligibility

All legal residents in the United States not covered by the private plan described in Part B below. Therefore, the public plan would pick up those who do not choose private insurance coverage, the unemployed, welfare recipients, and the aged.

Benefits

Federally-administered trust fund pays for medical bills after a family has incurred $2,000 of medical bills in a year. Hospital costs would be paid for after a person has incurred 60 days of hospital costs. The $2,000 deductible and the 60-day deductible are entirely separate. If a person were to meet the hospital deductible alone he would be eligible only for the hospital benefits. Similarly, if a family were to meet only the $2,000 deductible, it would be eligible only for medical benefits.

Administration

Program would be administered by the Health Care Financing Administration parallel to the administration of Medicare.

Financing

Employers would be liable for a tax of one percent on payroll. However, a tax credit equal to 50 percent of this amount paid would be allowed.

Part B—Private insurance option

Eligibility

An employer could elect to have all of his employees and their dependents covered under a qualified private catastrophic insurance plan as an alternative to coverage under the public plan.

Benefits

Private catastrophic plan would have benefits identical to those in the public plan. Benefits beyond those required could be sold by private insurers.

Administration

Private catastrophic plan would be administered by a qualified private insurance company of the employer's choice.

Financing

Employer's premium for private catastrophic would be deducted from his one percent payroll tax liability. In addition, the employer would be eligible for the tax credit of 50 percent of his one percent payroll tax liability.

Effective date

January 1, 1980.

TITLE II—MEDICAL ASSISTANCE PLAN

Replaces Medicaid with a uniform national program of medical benefits for low-income persons administered by the Health Care Financing Administration.

Eligibility—Million people

All persons now receiving Medicaid benefits.

All individuals and families having an annual income at or below the following levels:

$3,000 for an individual;

$4,200 for a two-person family;

$4,800 for a three-person family;

$5,400 for a four-person family;

And $400 additional for each additional family member.

Families with incomes above these levels would become eligible if they spend enough on medical care to reduce their income to the eligibility levels. Thus, a family of four with $6,000 would become eligible if it spent $600 for medical care.

Benefits

Provides hospital care for up to 60 days and all skilled nursing facility care, intermediate facility care and home health services.

Also covers physicians services, X-ray, laboratory, prenatal and well-baby care, family planning counseling services and supplies, periodic screening, diagnosis and treatment for children under 18, inpatient mental health care that consists of active care and treatment in a medically accredited institution and outpatient care in a qualified community health center. Outpatient psychiatric services would be limited to five visits related to "crisis" intervention, and additional visits could be authorized upon finding that in their absence the patient would require institutionalization or be severely dysfunctional.

The plan would also pay the $8.20 monthly (effective July 1, 1978) Part B Medicare premium for persons eligible for this Title.

Copayments and Deductibles

Copayment is $3 for each of first 10 visits to doctor per family (but no copayments for visits for well-baby care and family planning services).

Payments to Health Care Providers and Administration

Same as Medicare (reasonable costs for institutions, reasonable charges for physicians).

Payments made under the program would have to be accepted as payment in full, and there could be no additional charges to patient.

Benefits reduced to patients by $250 if they have failed to enroll in an employer-employee plan in which employer pays 75 percent or more of the premium cost.

Financing

States would have to pay no more than they did for Medicaid in the year prior to this Title's effective date plus one-half of what they paid for medical services for those not covered by Medicaid. Thus States would be held harmless against costs or caseloads.

Effective Date

October 1, 1980.

TITLE III

Establishes a voluntry certification program for private basic health insurance to encourage the availability of adequate private health insurance.

Insurer could submit policy to HEW Secretary for certification. Certification is based on adequacy of coverage, conditions of eligibility, actual availability. Certified policies would be advertised as such.

Criteria for Certification of Policies

Must provide 60 days of hospital care and coverage of medical bills up to $2,000. (This meshes with catastrophic plan.)

Limits on deductibles and copayments.

Ban on exclusions, waivers of liability and waiting periods in group policies, and with respect to individual policies, a limit on medical exclusion to pre-existing pregnancy and waiting periods for other pre-existing conditions to not more than 90 days.

At least one annual open enrollment period.

Reasonable ratios of benefit payments to premiums defined in terms of average ratios for group policies generally written by insurers.

Incentives to Provide Certified Policies

For three years from effective date of act, Secretary of HEW studies progress of insurers in making certified policies actually and generally available to the population.

After that time no insurer could serve as a Medicare carrier or intermediary unless it offered one or more certified policies to the general public in each geographic or service area in which it did business.

Additionally, at that time, Secretary of HEW would be authorized to make basic coverage available at cost through Social Security in any area of the country where certified basic health insurance was not available.

Insurance Pooling

Contains an anti-trust exemption under which insurers could enter into contracts or arrangements for the sole purpose of establishing insurance "pool" arrangements in order to offer to the general public certified health insurance policies. Such pools allow proportionate sharing of risks and rewards.

SUMMARY OF THE CATASTROPHIC HEALTH INSURANCE AND MEDICAL ASSISTANCE REFORM ACT OF 1978

Description

A. *General Approach.*—The bill would provide catastrophic health insurance protection, effective January 1, 1980, for all legal U.S. residents through one of the following plans: (1) a Federally-administered public plan for the unemployed, welfare recipients, the aged, and persons who do not opt for private insurance coverage, and (2) a private catastrophic insurance plan allowed as an option for employers and the self-employed, who would be required under the terms of the bill to provide and pay the full cost of such catastrophic protection for their employees. Benefits would be similar to those currently covered under Medicare, but would be subject to payment by the beneficiary of the first 60 days of hospital care and the first $2,000 in medical expenses. The program would be financed through a one percent tax on the payroll of employers, with 50 percent of the amount paid as payroll tax allowed as a tax credit. Employers opting for a private plan would have the amount of their premiums deducted from their one percent payroll tax liability. They would also be eligible for a 50 percent tax credit on both the total amount of premiums paid for catastrophic coverage and any remaining Federal payroll tax liability after the premiums have been deducted.

In addition, effective October 1, 1980, the bill would replace Medicaid with a uniform, national program of medical benefits for low-income persons, administered by the Department of H.E.W. The bill further provides for a voluntary Federal certification program for basic private health insurance to encourage private insurers to make such basic coverage (supplemental to the catastrophic program) available in all areas of the country. If private insurers failed to make certified basic private health insurance available in any State, the Secretary of H.E.W. would be empowered, three years after the enactment of the program, to offer a standard health insurance policy to individuals and families living in that State.

B. *People Covered.*—Under the Catastrophic Health Insurance Plan, every individual who is a resident citizen or a lawfully-admitted resident alien would be entitled to catastrophic health insurance benefits under either the public plan or the private plan for employers and the self-employed. All employers, including Federal, State and local governments, would be required to provide for all their full-time employees (who work more than 25 hours per week) and their em-

ployees' spouses and dependent family members, the health insurance protection as specified in the bill. At their option, employers could also include part-time and temporary employees. An employer would be obligated to continue coverage for 90 days after an employee left his employment unless the employee obtained coverage under another employer plan. Federal, State and local governments would be considered employers for purposes of the catastrophic program.

The unemployed, welfare recipients, the aged, and all others not covered under an employer or self-employed private catastrophic plan would be covered under the public plan.

The Medical Assistance Plan for low-income persons would be available to all persons eligible for Medicaid benefits and to all individuals and families having an annual income at or below the following levels:

$3,000—for an individual;
$4,200—for a two-person family;
$4,800—for a three-person family;
$5,400—for a four-person family; and
$400—additional for each additional family member.

Families with incomes above these levels would become eligible if they spent enough on medical care to reduce their income to the eligibility levels. Thus, a family of four with an income of $6,000 would become eligible if it spent $600 for medical care.

C. *Scope of Benefits.*—The Catastrophic Plan would cover the same kinds of services as currently provided under Parts A and B of Medicare, except that there would be no upper limitation on hospital days or home health visits. Present Medicare coverage under Part A includes 90 days of hospital care, plus an additional lifetime reserve of 60 hospital days; 100 days of post-hospital extended care; and 100 home health visits during the year following discharge from a hospital or skilled nursing facility. Part B coverage includes physicians' services, 100 home health visits annually, laboratory and X-ray services, outpatient physical therapy services, and other medical and health services such as medical supplies, appliances and equipment, and ambulance services.

Benefits excluded from Medicare would also be excluded under this program. Medicare's limitation on skilled nursing care would also be retained. The Catastrophic Plan would apply different limits on inpatient and outpatient mental health services than those currently applicable under Medicare (i.e., presently a 190-day lifetime maximum in psychiatric hospitals, $250 maximum payable for outpatient mental health care). The Catastrophic Plan would cover (1) unlimited inpatient mental health services, consisting of a course of active care and treatment provided in an accredited medical institution; (2) unlimited mental health care services provided on a partial hospitalization basis by an accredited medical institution or qualified community mental health center; (3) unlimited outpatient services provided by a qualified community mental health center; and (4) visits to a privately practicing psychiatrist during any 12-month period, unless additional visits have been approved in advance by an appropriate professional review mechanism on the grounds that the patient would require institutional care in the absence of such additional outpatient visits.

Unlike Medicare which provides basic insurance coverage, the Catastrophic Health Insurance Plan would provide institutional benefits only after an individual had first been hospitalized for a total of 60 days in one year (this feature of the program is called the "hospital deductible"), and medical benefits only after an individual or a family had incurred medical expenses of $2,000 for physicians' services, home health visits, physical therapy services, laboratory and X-ray, and other covered medical and health services (this "medical deductible" would be dynamic in character, adjusted annually to reflect changes in the Consumer Price Index and other economic factors). The Plan would have a deductible carryover feature under which days spent in a hospital in the last three months of one calendar year could be counted toward satisfaction of the hospital deductible in the following calendar year; similarly, covered medical expenses incurred in the last three months of one calendar year could be counted toward meeting the $2,000 medical deductible for the next year. Once the hospital and medical deductibles had been met, the individual would not be charged for services covered under the program. However, following the first period of any 90 consecutive days during which the individual incurred less than $500 in medical expenses, catastrophic benefits would temporarily terminate until such time as the individual once again satisfied the medical deductible by incurring $2,000 in additional medical expenses. Similarly, following the first consecutive 90-day period during which an individual was neither an inpatient in a hospital nor an inpatient in a skill nursing facility, the individual would once again be liable for the 60-day hospital deductible applicable to catastrophic benefits.

The Medical Assistance Plan for the low-income would cover the following benefits, generally without any limit on the amount of services or any cost-sharing required, except as indicated:

Inpatient hospital services—60 days in benefit period.

All medically-necessary skilled nursing facility care, intermediate facility care, and home health services.

Physicians' services—$3 copayment for each of first ten outpatient visits per family, except no charge for visits for well-baby care, family planning, and periodic exams for children under age 18.

Laboratory and X-ray services.
Prenatal and well-baby care.
Family planning, counseling, and supplies.
Periodic screening, diagnosis and treatment for children under age 18.
Outpatient physical therapy.
Immunizations and pap smears.
Medical supplies and appliances.
Ambulance services.

Mental health care services as follows: (1) on an inpatient basis—if provided in an accredited institution, services are included in the hospital inpatient benefit if the service constitutes active care and treatment; (2) on a partial hospitalization basis—if provided by an accredited institution or qualified community mental health center; (3) on an outpatient basis—without limit if provided by a community mental health center, limited to five visits if provided otherwise (e.g., by a psychiatrist) with additional visits subject to approval by a professional review organization. Benefit includes approved drugs when necessary to avoid hospitalization.

The Medical Assistance Plan would also pay the Medicare Part B premium for eligible individuals and would reimburse an individual for one-half of the amount of the actuarial value of catastrophic health insurance coverage paid by such individual under a self-employed plan or deducted as taxes from his self-employment income.

A special copayment requirement would apply to individuals who are not a member of a family after the 60th continuous day spent in a long-term care facility. The amount of this copayment would be equal to the amount of the patient's monthly income, less $50. (A similar requirement would apply in a situation where all members of a family have a stay exceeding 60 days.)

D. *Administration.*—The public Catastrophic Insurance Plan would be administered by the Health Care Financing Administration in a manner parallel to the administration of Medicare. The private Catastrophic Plan would be administered by a qualified private insurance carrier of the employers' choice. The Secretary of H.E.W. would be responsible for approving the employer plans and the self-employed plans administered through private carriers. To be approved as a carrier for private catastrophic insurance, an insurance carrier would have to comply with various Federal requirements, including a requirement that the carrier establish claims determination procedures which comply with section 503 of the Employee Retirement Income Security Act of 1974 and are consistent with those procedures employed by the carrier in its non-catastrophic health insurance business. To assist carriers in meeting this requirement, the Secretary would allow carriers reasonable access to claims data developed under Medicare's hospital insurance program. Carriers would also be exempted from certain antitrust laws as they might otherwise pertain to a group of carriers entering into a pool, reinsurance, or other residual market arrangement.

The Medical Assistance Plan for the low-income would be administered by the Secretary of H.E.W. Individuals eligible for benefits under the program would be issued a health benefits card indicating that their application for benefits had been filed and approved for a given benefit period. The Secretary would utilize private carriers as fiscal intermediaries responsible for administration of claims and payments to providers of services. The bill also provides that the Secretary could require the consolidation of the activities of these carriers in areas with small populations if necessary to improve quality and efficiency. Three years after the enactment of the program, no private carrier or other organization could be utilized under the Medical Assistance Plan or Medicare unless it was approved and certified under the Voluntary Certification Program established under the bill.

E. *Financing.*—The Catastrophic Health Insurance Plan would be financed through a one percent tax on the payroll of employers and the income of the self-employed now subject to the Social Security tax. No employee contribution would be allowed. Amounts collected as taxes would be deposited in a Federal Catastrophic Health Insurance Trust Fund. An employer or self-employed individual who opted for a private, rather than public, catastrophic health insurance plan would have the amount of the premium for private coverage deducted from his one percent payroll tax liability; he would, however, remain liable for payment to the Federal Government of any difference between the amount paid as premiums for a private plan and the one percent Federal tax liability. Publicly-insured employers and self-employed individuals would be eligible for a catastrophic health insurance tax credit equal to 50 percent of the amount paid as payroll tax liability. Similarly, private-insured employers and self-employed persons would also be eligible for a 50 percent tax credit on the amount paid for private catastrophic insurance premiums, as well as a 50 percent tax credit on any additional amount paid to meet the one percent Federal payroll tax liability.

Employers and self-employed persons opting for private coverage would pay premiums directly to the carriers. The bill requires that the employer plans administered through private carriers must make available to the employer certain arrangements for the pooling of risks among various employee groups of different employers, so that premiums can be determined on a class, rather than an individual, basis.

Each year a five-member Federal Actuarial Committee would prepare a Table of Values of Catastrophic Health Insurance Coverage for the following year, indicating the actuarial value of one year's catastrophic health insurance coverage for one individual. This Table could be used by the employer as a guideline by which to evaluate the actuarial value of catastrophic health insurance coverage (and the premium charged therefor) offered through private carriers. The Committee would also review the marketing and rating practices of private carriers providing employer and self-employed plans for catastrophic insurance.

The Medical Assistance Plan would be financed from general revenues, just as the Federal share of the current Medicaid program is now financed, and also with State funds. A Medical Assistance Trust Fund would be established to make payments for benefits under the program. States would contirbute a fixed amount which would be equivalent to their total expenditures from State funds under Medicaid for the types of benefits covered under this plan during the year prior to the effective date of this program. Additionally, a State would also pay 50 percent of the estimated amount that the State and local governments had expended in the same base year for provision of these types of services to people not covered under Medicaid who would, however, be covered under the new Medical Assistance Plan. State contributions in future years would be limited to the initial contribution amount.

To encourage States to offer optional services not covered under the Medical Assistance Plan, the State contribution would be reduced by an amount equal to one-half the amount expended by the States from non-Federal funds in providing types of services not covered under this program, but which would have been matched under the Medicaid program (such as drugs, dental services, etc.), provided, however, that the State had actually included such types of services under its Medicaid plan prior to the effective date of the new program.

F. *Payments to/Standards for/providers of services.*—Providers of services under the Catastrophic Insurance Plan and the Medical Assistance Plan would be reimbursed on the same basis as under Medicare. Reimbursement controls would include the payment of audited "reasonable costs" to participating institutions and agencies, and "reasonable charges" to practitioners and other suppliers. Payments to skilled nursing facilities and intermediate care facilities would be reimbursed on a "cost-related" basis.

Payments made under the Medical Assistance Plan, along with any required copayment from the patient, would have to be accepted by providers and practitioners as payment in full for the services rendered, and no persons accepting such payment could charge additional amounts for these services.

Both programs would apply the same standards for providers of services as under Medicare. Both plans would also incorporate the quality, health and safety standards, and utilization controls which exist in the Medicare program, including review of services by institutional utilization review committees and Professional Standards Review Organizations (PSRO's).

G. *Effect on Other Government Programs.*—The Catastrophic Insurance Plan would supplement benefits provided under Medicare for persons covered by that program. The Medical Assistance Plan would replace the existing Medicaid program. The Catastrophic Insuance Plan would always be the primary payor in cases where an individual was also entitled to have payment made under either Medicare or the Medical Assistance Plan. Nor could payments under the Catastrophic Plan be denied or reduced because benefits for services covered under that plan were also payable, or had been paid, under any other public or private insurance or health benefits plan.

H. *Other Major Provisions.*—

(1) *Voluntary Certification Program for Private Basic Health Insurance.*—The bill establishes a program whereby private health insurers could, at their option, submit one or more basic health insurance policies to H.E.W. for certification. Certification would be based upon certain minimum criteria with respect to adequacy of coverage, conditions of eligibility, actual availability of the policy, and reasonableness of premiums to expenses. Certtified policies could then be used in each State which has in effect a basic health insurance facilitation program approved by the Secretary of H.E.W. State Agencies could also be used for certification on basic health insurance polices in States having an approved basic health insurance facilitation program. In addition to offering certified basic policies, a private carrier, in order to be "approved", would have to employ effective procedures designed to assure appropriate utilization and cost controls with regard to health services insured under its policies.

Three years after the start of the program, no insurer could serve as a carrier or intermediary for either Medicare or the new Medical Assistance Plan unless it offered one or more certified policies to the general public in each geographic area or service area in which it did business. The bill would facilitate establishment of insurance pool arrangements in order to make such certified policies available to the general public with a proportionate sharing of risks and rewards among participating insurers.

(2) *Government-sponsored Standard Health Insurance Policies on a Cost Basis.*—Three years after the start of the program, the Secretary of H.E.W. would be required to offer a standard health insurance policy providing basic health benefits to individuals and families living in any State which had neither a basic health insurance facilitation program nor approved basic health insurance policies actually available through private carriers. Premiums charged for such policies would be designed to cover costs, including administrative costs and reserves.

(3) *Amendments to Medicare.*—Makes several amendments to the existing Medicare program, designed to (a) allow coverage of immunizations on a scheduled allowance basis; (b) increase the dollar amount payable for mental health services under Part B; (c) adjust the amount of premiums for hospital insurance coverage payable for uninsured individuals not otherwise eligible for Medicare; (d) clarify provisions relating to payment for extended care services on a cost-related basis; and (e) extend coverage under the renal disease program to all individuals with kidney disease, regardless of insured status for purposes of Social Security benefits.

(4) *Philanthropic Support for Health Care.*—Includes provisions designed to encourage philanthropic support for health care, especially in support of experimental and innovative efforts to improve the delivery system.

Mr. RIBICOFF. Mr. President, today I join with the distinguished chairman of the Senate Finance Committee (Mr. LONG) in introducing the Catastrophic Health Insurance and Medical Assistance Reform Act of 1978.

It has been almost 5 years since we first presented our health insurance idea to the Senate. We felt then, and we still feel, that this proposal is realistic and workable; that it meets the important needs of the American people at a cost they can afford.

This legislation takes an incremental approach. Our program recognizes the capabilities and strengths in the private sector. It also recognizes the weaknesses. I do not believe that the American people are prepared to shift all health spending to the public sector. We cannot evaluate the possible effects such a major shift might have.

I believe that we must make realistic assumptions about the Federal Government's ability to administer and to pay for any program. Today the Federal deficit is just under $60 billion. Inflation is a major threat again. The American people cannot afford a $100 billion health plan.

Moreover, Congress and the American people are beginning to doubt the ability of Government to provide every service and to administer massive programs. We cannot wave a wand and produce a functioning comprehensive national health insurance system. If the last 10 to 15 years have taught us anything, it should have been that implementation is crucial; and that it is difficult.

It is far better to set our sights on a proposal which can be implemented properly—and soon—than to attempt a giant step which is doomed to failure.

Let us meet our pressing health needs first, building on our experiences with medicare and medicaid. We can expand the program as needs grow and as we are actually able to implement it.

"All or nothing" is not the appropriate approach to national health insurance. Today we do not have the financial or administrative capability to administer cradle-to-grave national health insurance. But there are legitimate needs which must be met.

Today the average American family spends 10 percent of its income on health care. Health care costs present a growing problem to the American people. This is especially true for our low-income population. However, you do not have to be poor to be staggered by health costs.

Almost anyone can find his life savings depleted; his house sold out from under him; educational opportunities for his children lost—all because of a major illness or injury. A medical catastrophe can reduce a middle-income family to poverty. And for most, health insurance does not provide adequate protection.

In developing our proposal we have consulted with every sector of the health care industry—consumers, physicians, insurers, hospitals, administrators, labor leaders, and others. All of them have contributed and all of them have had constructive suggestions.

We believe our bill best meets the needs of the American people and provides a workable and financially realistic mechanism. It is not perfect. No proposal is. In the months ahead we look forward to receiving constructive suggestions. Certainly we will be work-

ing with the President over the next year.

The Long-Ribicoff bill represents an approach which has attracted broad bipartisan support. The three parts of the proposal—catastrophic, low income, and private health insurance standards—are all designed to bring about availability, equity and adequacy of insurance coverage through building upon the existing system.

The bill is phased in so as to keep new costs manageable and administration possible. This will prevent overwhelming the administrative system. Title I takes effect January 1, 1980. Title II takes effect October 1, 1980. There would be no budgetary impact until fiscal year 1980 when the catastrophic portion of the bill takes effect.

The bill is divided into three basic sections.

Title I protects all Americans against the large or catastrophic costs associated with prolonged illness, disease or injury. In effect, it places a ceiling on almost every American family's medical costs. We have an obligation to assure that no one goes into bankruptcy because of prolonged illness or injury. Under this title a family's medical costs would be assumed by the social security fund once it had incurred 60 days of hospital costs and/or $2,000 of medical bills. An employer would have the option to buy a catastrophic plan in the private sector.

Title II establishes a medical assistance plan with a uniform national program of medical benefits for low-income persons. It replaces the costly, inefficient, and inadequate Federal-State medicaid programs and provides health protection for 34 million Americans, including 12 million working poor persons who were ineligible for medicaid. The coverage of this plan would provide basic benefits to mesh with the catastrophic program. That is, this program would pay for the first $2,000 and 60 days of hospital and the catastrophic plan would assume costs above those limits. By requiring the States to pay only what they paid for medicaid in the year prior to enactment, States will save millions of dollars. Without this bill their costs would have continued to climb.

Title III of this bill makes it possible for any other American not eligible for the low-income plan to purchase at a reasonable price a private insurance policy. It sets standards for these policies to assure that they mesh with the catastrophic program. Insurers who elect to participate in this program and whose policies meet the basic standards set in this bill would be eligible to have their policies certified as meeting the proper standards. The Secretary of Health, Education, and Welfare would study the operation of this title for 3 years to see if this insurance was being made available. Any insurer not meeting the standards after 3 years would be ineligible to serve as a medicare carrier or intermediary. In addition, if a private policy meeting these standards is not available after 3 years, a similar policy would be made available at cost from the Social Security Administration.

TITLE I—CATASTROPHIC HEALTH INSURANCE PROGRAM

The catastrophic health insurance proposal provides health insurance once a family has incurred $2,000 of medical costs or 60 days of hospital coverage.

It is intended to supplement private health insurance which many Americans have today in one form or another. For those who do not have such basic coverage, a second title provides coverage for the poor and a third title in the bill would make available to everyone a private health insurance policy at reasonable cost. Today 37.5 million Americans have only basic health insurance but no major medical. They have inadequate protection against catastrophic expenses.

The catastrophic insurance title is modeled on the medicare experience.

Basically, the bill would provide protection to all those who are currently and fully insured under social security, their spouses and dependents, and to all social security beneficiaries. This year we have expanded coverage so that those not now covered under social security would also be protected.

Federal employees remain eligible for major medical catastrophic protection under the Federal Employees Health Benefit Act, and State and local employees could buy into the catastrophic program established under this bill.

It contains deductibles of $2,000 per family for physicians' benefits and 60 days hospitalization deductible per individual for hospitalization benefits. In other words, benefits would be payable for a family's medical bills beyond $2,000 and hospitalization would be covered from the 61st day of an individual's hospitalization.

The types of services covered under the catastrophic plan would be similar to those currently covered under parts A and B of medicare except that there would be no limitation on hospital days or home health visits.

Present medicare part A coverage includes 90 days of hospital care, 100 days of posthospital extended care, and 100 home health visits. Present part B coverage include physician's services, laboratory and X-ray services, physical therapy services, and other medical and health items and services. Unlike medicare which provides basic insurance coverage, people would be responsible for payment for the first 60 days of hospital care and the first $2,000 in medical expenses in a year.

Families could insure themselves through the use of present private health insurance arrangements against their basic health care costs, including the first 60 days of hospitalization and the first $2,000 of medical bills. For those families without the resources to obtain this basic private health insurance coverage, I believe the Federal Government should play a role in assuring availability of such basic coverage, as we already do for many of the poor through medicaid. Title II of the bill assures this basic coverage for the poor and title III provides it for the nonpoor.

The catastrophic program would be administered along with medicare by the Social Security Administration, and it would incorporate all of medicare's quality, cost, and utilization controls.

Under a new provision of our bill, we have provided an option with respect to catastrophic health insurance which allows employers to opt for insurance by a qualified health insurance plan, if he chooses not to take the social security administered plan. In order to qualify, the private plan must offer benefits which are at a minimum identical with those available under the public plan.

Under the private option, the catastrophic plan would be administered by the private insurance company of the employer's choice.

The employer's premium for private catastrophic would be deducted from his 1-percent payroll tax liability. In addition, the employer would be eligible for the tax credit of 50 percent of his 1-percent payroll tax liability.

The private option for catastrophic insurance was developed to recognize two significant factors. First, private catastrophic health insurance coverage is growing rapidly and need not be displaced where it is adequate. Second, at a time of $70 billion deficits it is the more prudent course to develop a health insurance plan with as small an impact on the Federal budget as possible.

TITLE II—MEDICAL ASSISTANCE PLAN

While title I protects virtually all Americans against medical costs above $2,000 medical bills and/or 60 days of hospital care, most Americans cannot even afford to spend those amounts. Titles II and III address themselves to this problem.

For low-income Americans the problem of paying for medical care is especially acute. While approximately three-quarters of the American people are covered by some form of health insurance, the poor and the minority groups are less likely to have health insurance.

There are 19 million people with incomes under $10,000 who have only individual protection. And many of these individual policies are woefully inadequate.

Title II of the bill would establish a medical assistance plan, effective October 1, 1980, for low-income individuals and families. The plan would provide federally administered basic health benefits coverage with uniform national eligibility standards.

The basic benefits provided under the plan are designed to mesh with those under the catastrophic health insurance plan. It is aimed in large part at providing coverage to low-income working individuals and families, in addition to replacing the current medicaid program.

This means the working poor who are not now covered by medicaid, would have health insurance protection. It would eliminate the present inequities in medicaid whereby people with the same income and needs are eligible for medicaid in one State but ineligible in another, as well as the extensive variations in benefits between States. The administra-

tion would be more efficient and more adequate both from the provider's side and the patient's side. The plan would also result in substantial fiscal relief to State and local governments whose expenditures would be fixed at no higher than what they spent under medicaid during the year prior to the effective date of this program.

ELIGIBILITY

Coverage would be available to all individuals and families having an income at or below the following levels: $3,000 for an individual; $4,200 for a two-person family; $4,800 for a three-person family; $5,400 for a four-person family; and $400 additional for each additional family member.

To be eligible for benefits, persons would have to be resident citizens of the United States or aliens lawfully admitted for permanent residence, or otherwise legally residing in the United States.

Eligible individuals would file an application—or have an application filed in their behalf. Upon approval of an application, each individual would be issued a health benefits eligibility card.

To enhance administrative simplicity, eligibility would be certified on an annual basis with a coverage year generally beginning on April 1, and with the income determinations generally being upon the previous year's income. Provisions are included to allow entrance into the program, where appropriate, at any point during the year. In such cases, eligibility would be redetermined on the following April 1. In addition, the plan provides for prospective earnings estimates, where appropriate, in determination of eligibility.

Individuals' or families' eligibility would generally continue throughout the coverage year unless their income increased to more than 20 percent above the eligibility level. In determining eligibility, a family is defined as two or more individuals related by blood, marriage or adoption, and residing in a place maintained by one or more of them as their home. Also, in determining eligibility, income would include both earned and unearned income, including welfare payments, pensions, or social security payments, support and alimony payments, gifts, rents, dividends, and interest. The plan includes lesser income limits for Puerto Rico, the Virgin Islands, and Guam. Additionally, there would be special rules established by the Secretary to deal with cases where the gross income of an individual or family from a trade or business—including farming—would be considered sufficiently large to cause the family not to be regarded as "low income."

The plan contains a "grandfather" provision to guarantee that no current medicaid recipient would be disadvantaged by this program.

BENEFITS

The plan would cover medically necessary inpatient hospital services for up to 60 days during a benefit period, as well as all medically necessary skilled nursing facility care, intermediate facility care, and home health services. Additionally, the plan would cover all medically necessary medical and other health services—including physicians' services and laboratory and X-ray services—as well as prenatal and well-baby care, family planning counseling services and supplies and, for children under 18, periodic screening, diagnosis, and treatment. Additionally, the plan would make payments for part B medicare premiums for eligible individuals.

Mental health care would be covered on an inpatient basis to the extent that it consisted of active care and treatment provided in an accredited medical institution, and outpatient mental health services would be covered without limitation if provided in a qualified community mental health center. Additionally, the plan would cover up to five visits to a psychiatrist. Additional visits would be authorized upon a finding that the patient would require institutionalization in the absence of such care.

For individuals who are also entitled to benefits under the catastrophic health insurance plan, the medical assistance plan would pay any coinsurance required under the catastrophic plan. For persons not eligible for benefits under the catastrophic plan, the medical assistance plan would make payments for benefits covered under the catastrophic plan. The plan would also cover routine immunizations.

DEDUCTIBLES AND COINSURANCE

In view of the fact that the medical assistance plan is aimed at providing benefits to individuals and families without adequate resources to purchase medical care, there would generally be no deductible or coinsurance payments required.

However, to assist in controlling patient-initiated utilization, there would be a $3 per visit copayment for each of the first 10 outpatient physicians' visits per family, but no copayment would be applicable for visits for well-baby care and family planning services.

There would be one other circumstance in which a copayment would be required. This would be applicable in those situations where a person, without dependents, is in a long-term care facility for more than 60 days. In such cases, the individual—usually an elderly person in a nursing home—would retain $50 of his monthly income and any income in excess of $50 would be required as a copayment.

PAYMENTS AND ADMINISTRATION

Payments made to providers and practitioners under this program would be subject to the same reimbursement, quality, health and safety standards, and utilization controls as are applicable under the medicare program. Reimbursement controls would limit payments to not more than audited "reasonable costs" to participating institutions and agencies, and reasonable charges" to practitioners and other suppliers.

Payments made under this program, along with any required copayment, would have to be accepted by providers and practitioners as payment in full for the services rendered, and no person accepting such payment could charge amounts in excess of the payment for the individual receiving the service.

Benefits under the program would be residual and amounts payable under this program would be reduced by amounts payable under any other public or private insurance plan under which the individual was covered with the exception of a State program designed to supplement this program.

In addition, amounts otherwise payable under this program would be reduced by not more than $250 in a benefit period if an eligible employed individual failed to enroll in an employer-sponsored health insurance plan for which the employer paid 75 percent or more of the premium cost. No employer could exclude an otherwise eligible employee from participation in a health insurance plan solely on account of the employee's eligibility for benefits under the medical assistance plan.

The utilization and quality of services would be reviewed by utilization review committees established in hospitals and skilled nursing facilities, and by the Professional Standards Review Organizations established under Public Law 92–603.

The program utilizes the same administrative mechanisms used for the administration of medicare, including where appropriate, medicare's carriers, intermediaries, and public health agencies. The program also would encompass use of medicare's statutory quality standards, in that the same conditions of participation which apply to institutions participating in medicare would apply to those institutions participating in this program.

Primary policy, operating and general administrative responsibility for the program is specifically assigned to the Social Security Administration, basically involving personnel and facilities employed in the Bureau of Health Insurance.

FINANCING

The low-income plan would be financed from general revenues, just as the Federal share of the current medicaid program is now financed, and also with State funds. A medical assistance trust fund would be established to make payments for benefits under the program. The fund would receive appropriations from general revenues and State contributions.

States would contribute a fixed amount which would be equivalent to their total expenditures from State funds under medicaid for the types of benefits covered under this plan during the year prior to the effective date of this program. Additionally, a State would also pay 50 percent of the estimated amount that the State and local governments had expended in that same base year for provision of these types of services to people not covered under medicaid who would, however, be covered under the new plan. State contributions in future years would be limited to the initial contribution amount.

The State contribution would be reduced by an amount equal to one-half the amount expended by the State from

non-Federal funds in providing types of services not covered under this program, but which could have been matched under the medicaid program. This provision would encourage States to offer or to continue providing optional services, such as drugs, dental services, and eyeglasses.

TITLE III

While title I protects all Americans against extraordinarily high health bills and title II provides basic health care for low-income families, title III assures the availability of private health insurance coverage to the rest of the population. While the private health insurance industry has made strides in recent years in making better insurance protection more widely available to more Americans, more needs to be done to encourage this expansion.

For those people not eligible for the low-income plan we propose to assure that a private health insurance policy is available at a reasonable rate to anyone who wishes to purchase it.

Title III, therefore, describes a model basic private health insurance policy which meshes with the catastrophic program and establishes a mechanism whereby companies can voluntarily have their policies certified by the Secretary of HEW as meeting at least the minimum definition of adequate basic health insurance.

The standards for such a package would include coverage for 60 days of hospital care, $2,000 of medical expenses. Other criteria ban exclusions, waivers of liability and waiting periods in group policies and, with respect to individual policies, limit medical exclusion to preexisting pregnancy and waiting periods for other preexisting conditions to not more than 90 days. Additional requirements deal with opportunities for enrollment including at least an annual open enrollment period.

The Government-certified policies would have to be sold at reasonable rates. In determining reasonableness the primary factor would be the ratio of benefits paid out to premiums collected. Reasonable ratios of benefit payments to premiums or defined in terms of average ratios for group policies generally underwritten by insurers.

While these standards provide needed flexibility in rate determination by insurers they would put an end to the health policies which pay out only 30 or 40 cents for each dollar of premium collected.

No one could be denied the opportunity to buy a policy because of preexisting conditions or because he or she is a bad risk. In order to facilitate the offering of such policies the insurers would be authorized to offer such policies on a "pooled" basis with a proportionate sharing of risks and rewards.

During the first 3 years of the operation of title III the Secretary of HEW would study the extent to which private health insurance meeting the definition of adequacy is actually and generally available. He would report his findings to Congress.

After that date no company or organization could serve as a medicare carrier or intermediary unless it offered a policy certified by the Secretary as meeting the model definition.

This title, then, would encourage private health insurers to upgrade their pay-out ratio, thus making available better private health insurance to the average person.

And it would provide the Congress in 3 years with an accurate picture of the extent to which private health insurance is providing adequate coverage to the general population.

The private health insurance industry will have a real incentive and real standards toward which they can work in meeting the needs of the majority of the population who are presently covered for better or worse under private health insurance.

Title III is a means of saying to the broad population that it is our expectation and hope that private health insurance will provide the opportunity to secure insurance coverage for the first 60 days of hospitalization and the first $2,000 of medical expenses, after which the Government catastrophic health insurance program would take over.

I believe that this legislation is a major step in protecting all Americans against rising health costs. It puts a ceiling on every American's medical bills, assures health protection to those who cannot afford it and encourages the private health insurance industry to make available the best possible policies at reasonable rates. At the same time it allows employees the flexibility necessary to bargain with their employers for broad health care protection.

We can wait no longer to reform our health care system. We have the opportunity today to make health care a right for all Americans—not just a privilege for the few.

I join my distinguished colleague, the chairman of the Senate Finance Committee in urging the Members of this body to help us make health care reform a reality.

Mr. TALMADGE. Mr. President, I am pleased to join with Senators LONG, RIBICOFF, and DOLE in reintroducing the catastrophic Health Insurance and Medical Assistance Reform Act.

This bill calls for catastrophic health insurance for all Americans, along with a federalized medicaid program and standards for private health insurance.

It is a measured, incremental approach which addresses the major concerns and unmet needs with respect to health care services in this country.

While I am pleased that the catastrophic health insurance and medical assistance reform proposal is again before the Congress, I continue to be concerned over the need to properly manage our existing health care financing programs and the need to get the Federal budget under control to permit the necessary funding before action is taken on this proposal by the Congress.

I look forward to continuing work on our cost control problems so that we may address catastrophic health costs and medical assistance reform.

Mr. DOLE. Mr. President, as a cosponsor I speak in support of the bill introduced by the distinguished Senator from Louisiana (Mr. LONG), the Catastrophic Health Insurance and Medical Assistance Reform Act of 1978. I can support this proposal as a fiscally responsible way of attacking some of the most important problems in the American health care system today. First, the bill would protect our citizens against the devastating financial impact of catastrophic illness or accident. Second, the bill would replace the perennially troubled medicaid program with a uniform, national program of medical benefits for low-income persons. Finally, this proposal provides for a voluntary Federal certification program for basic private health insurance to encourage private insurers to make such basic coverage available in all areas of the country to supplement the catastrophic program.

Title I of the bill, which creates the catastrophic insurance program, is a particularly important step to consider at this time. Catastrophic illness and accidents can strike anyone at any time, and the fear of the disabling or even fatal illness or injury should not always be accompanied by the fear of the crippling financial burden of the cost of treatment. Progress in medical care and technology in recent years has been inextricably linked with skyrocketing increases in the cost of medical care. The costs of the more sophisticated techniques used in the treatment of catastrophic illnesses are particularly high.

The complex medical care necessary for the treatment of such conditions as spinal cord injury, stroke, severe burns, and the various cancers, is terribly expensive, and well beyond the financial reach of all but the very wealthiest of our citizens. It is simply not right that a family work for a lifetime only to lose everything when a catastrophic illness strikes.

The Congressional Budget Office, in a 1977 report, outlined the inadequacy of the three major sources of assistance in meeting the cost of health care: private insurance, public programs, and tax subsidies. These sources do significantly reduce the percentage of medical expenses that are paid directly by the consumer and thus the incidence of costs that are catastrophic to the person involved. The problems that remain, however, are crucial. For instance, coverage is uneven. An estimated 18 million persons, according to CBO, are totally without protection under either private insurance or public programs. Certain services are excluded from coverage by many public and private insurance plans or are insured inadequately. Some insurance plans do not adequately cover high expenses. The CBO estimates that 37 million persons are covered under insurance plans that do not adequately cover high expenses or long hospital stays. Finally, tax subsidies, which are fairly effective in mitigating the impact of high out-of-pocket expenses of middle-income families when insurance is inadequate, provide only marginal assistance to lower-income families.

CBO estimates for 1978 show some 18 million persons who are uninsured, 19 million persons in families with incomes of less than $10,000 who hold only individual private policies, 26 million aged and disabled persons on medicare, and 37.5 million persons with basic hospital insurance with no major medical coverage—all less than adequate protection against catastrophic costs.

Every family in this country needs and deserves protection against the costs of catastrophic illness and I see this bill as the best approach at the present time to provide it.

The title II program, which would replace medicaid with an entirely new basic health benefits program for low-income individuals and families, would help to correct some of the inequities of that program, such as the State-by-State variations in eligibility and benefits. The need for reform in this program has been evident for some time.

The title III provisions for certification of private basic health insurance plans will facilitate the offering of such plans through insurance pools and encourage States to facilitate the offering of such plans. Under this provision, it will be possible for any person not eligible for coverage under the title II medical assistance program to get a good, Government-certified insurance policy at a reasonable price. Insurers who choose to have their policies certified can use their certification in their advertising.

All in all, this bill is a realistic approach to dealing with some of our most pressing health needs and at a cost we can afford. There is a great temptation to do more with a national health plan, to attempt to provide all types of health care to nearly everyone, but this is a much more reasonable approach.

I myself have several further concerns in the provision of health care and am in the process of developing several legislative initiatives which I hope to present in the near future, to supplement those presented in this bill.

First, I think we can do more in the area of preventive health care. There are many things the people of this country could do and should be encouraged and taught to do to enhance their own good health and forestall the need for more expensive utilization of the health care system. We can learn to take better care of ourselves so that we do not need to go to the doctor or the hospital for care. But we need to provide incentives to individuals and to industry to promote these activities in addition to providing funds for State projects and programs.

The second area of concern I am working on with my colleagues Senators RIBICOFF and KENNEDY, is the care of the terminally ill, specifically the hospice movement. I have been very impressed with what I have been reading and hearing about the success of hospices in this and other countries in dealing with the special problems and needs of those who are dying and the problems of their families. I am encouraged with the possibilities of an expension of the hospice movement in this country.

CONCLUSION

The proposal being introduced today is familiar to many of you and while recognizing that it may not address all the health problems of the citizens in this country who have little or no health insurance, it is a beginning upon which future discussions can certainly be based.

I look forward to working with my distinguished colleagues, Senators LONG, RIBICOFF, and TALMADGE in the coming months as we seek solutions to the problems of access, cost and reimbursement in our health care system.

Mr. LONG. Mr. President, I send the bill to the desk and I ask unanimous consent for appropriate reference to the Committee on Finance for the bill to which I made reference.

The PRESIDING OFFICER. Without objection, the bill will be received and referred as requested.

Mr. LONG. I thank the distinguished Senator.

SENATE OFFICE BUILDING COMMISSION APPROVES HART BUILDING SOLAR FEASIBILITY STUDY

Mr. PERCY. Mr. President, I am very pleased that the Senate Office Building Commission yesterday authorized and instructed the Architect of the Capitol to study the feasibility of installing solar collectors on the roof of the new Hart Senate Office Building. I would like to thank Mr. George White, the Architect of the Capitol, for his interest in this project, and for speaking in favor of it in the commission meeting. I would also like to applaud my colleagues on the commission for approving the study at a meeting in which they were under heavy pressure to trim the budget. I think they recognized that for no more than $20,000 a solar feasibility study might well identify a way to save millions of dollars over the lifetime of the building.

The Architect of the Capitol recently completed a study which determined that solar energy equipment installed on the Rayburn Building and House Office Building Annex No. 2 would pay for itself in lowered energy costs in 16 years or less. Considering how long we expect the Hart Building to last, if a solar system paid for itself that quickly, the energy and dollar savings over the lifetime of the building would be considerable.

On March 13, as part of the Solar Coalition's package of legislation, Senator HART and I introduced Senate Resolution 414 requesting the Architect to study the possibility of installing solar collectors on the Hart Building. Twenty-eight of our colleagues cosponsored this resolution. Yesterday's commission action marks the successful culmination of Senate Resolution 414.

Mr. President, I look forward now to the completion of the study, when we will have the information to decide whether to proceed with the actual installation of solar equipment.

A TRIBUTE TO MOTHER'S DAY

Mr. PERCY. Mr. President, I recently received a letter from one of my constituents, Mrs. Lucy Person of Downers Grove, Ill., in which she enclosed a poem written by her daughter, Amy, as a tribute to Mother's Day. Although Mother's Day has passed, I think that Amy, who is 14 years old, well expresses the unique relationship that exists between parents and children. I ask unanimous consent that Amy Person's poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

May your marriage, like a candle, grow more beautiful as it continues onward.
These three candles represent the fruits of your labor, Amy, Maria and Nancy.
Although they were created from you—like all candles are created from a common base—they are different in their own ways.
Their flames burn bright and look up to yours, they must burn in their own light.
Accepted in their own beauty, everyone in this family will burn in their own special spark.
Be proud, for these kids have grown in your light, to their own height which is as strong as any flame.

LABOR LAW REFORM ACT OF 1977

The Senate continued with the consideration of H.R. 8410.

Mr. HATCH. Mr. President, I ask unanimous consent that Mrs. Ruby Swallow of my staff be permitted access to the floor during the debate on this matter.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

Mr. HATCH. Mr. President, as drafted and reported out of the Senate Human Resources Committee, S. 2467, now called H.R. 8410, will upset the balance of labor relations at the expense of individual worker's freedom of choice. And, to that extent, stability in labor relations will be seriously undermined for union and nonunion employees alike. Since industrial strife and labor unrest will likely result if this bill is enacted, this legislation profoundly contradicts the avowed goals of its sponsors.

Many of the difficulties surrounding S. 2467 stem from a failure by its sponsors to remedy the weaknesses they perceive in current labor laws with precise carefully drawn legislation. The prepreeminent concern, of course, is to obtain legislation that is fair and workable. In our view, however, the proposed bill satisfies none of these criteria. In its present form, this bill simply turns the clock back to the days of the Wagner Act of 1935 which resulted in abuses by labor organizations, and ultimately was amended in 1947, by the Taft-Hartley Act. As presently constituted, if S. 2467 is enacted, employees will suffer, employers will suffer and, above all, the public will suffer.

Under the Taft-Hartley Act, employees achieved substantial gains While that legislation attempted to create an equi-

table balance between employers and labor organizations, employee rights remained the paramount concern. This bill, however, does little for the protection of employee rights and, in fact, would result in an undermining of an employee's right to refrain from engaging in union activity.

The significance of an employee's informed choice in selecting a union to be bargaining agent should be at the forefront of this legislation. However, the bill completely skirts this issue and would have exactly the opposite effect. Employee free choice is not something that should be sacrificed in the name of expediency.

One of the key problems with this legislation is that there are numerous sections of this bill wholly unrelated to the stated purposes. It is self-evident that the real purpose of these provisions is to provide union organizers with greater advantages over employers during representation campaigns. This conclusion is borne out by figures published by the Bureau of Labor Statistics indicating that organized labor lost 800,000 dues paying members between 1974 and 1976. Similarly, according to the Board's Annual Report, in 54 percent of the elections conducted in fiscal 1977, workers rejected union representation. These statistics reveal the eroding position of organized labor and the genesis of the demands voiced by officials of international labor unions in seeking congressional assistance to help stem the tide of declining membership.

In sum, in contrast to prior labor legislation, this bill does not provide an appropriate balance between the rights of labor and management. While much has been made of the assertion that the bill is intended to equalize the positions of labor and management, even a cursory analysis shows this claim to be specious.

I note the distinguished Senator from Vermont (Mr. STAFFORD) is here. I believe he desires to make a statement. I would be happy to interrupt my remarks to enable him to proceed.

Mr. STAFFORD. I appreciate the Senator yielding. I do have some remarks which I would like to make at this time. While I am getting ready to do that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, as a member of the Subcommittee on Labor which helped to draft the legislation now before us, I want to take this opportunity to explain to the Senate my reasons for supporting it.

I want to make it clear at the outset that although I share the authorship of the bill as it was reported, I am not irrevocably committed to it exactly as it now is written. Although I do not presently intend to offer any amendments myself, I shall listen to those that are presented and will have no hesitation in supporting those that seem to me to improve the legislation.

The key word, it seems to me, in considering this bill, is balance. The National Labor Relations Act was intended to maintain a balance between labor and management. It became clear during the labor subcommittee's hearings on the bill, however, that the balance over the years has become weighted too far against workers. The purpose of S. 2467 is to restore this balance and, in my opinion, the bill will do this.

The opposition has spread about misinformation and distortion on such a scale and with such frequency that one can conclude only that its intention is to attack and wound trade unionism itself through any means it can find. This objective I totally reject.

The opposition has been effective, however, in stirring up and alarming large segments of the business population. It is for that reason that I welcome this lengthy debate so that the truth may be stated clearly. While I am willing always to debate public policies on the basis of genuine differences, let us therefore avoid innuendos and distortion and keep this debate on a level worthy of the highest traditions of this body.

Many persons have come to me in great alarm, for instance, because they have been told that the bill would do things, sometimes utterly outlandish things, which it just would not do.

One group told me that the bill would abolish secret ballot elections among workers on the question of union representation. One man told me:

> Senator, the union organizer only has to get a few cards signed and the union is voted in and the employer may not know anything about it until it is done.

Of course, this bill does not even hint at such a thing.

Others have claimed that it would ruin the small businessman, which it would not. Indeed, the great majority of small business is presently excluded from coverage under the National Labor Relations Act through administrative decision of the Board. The legislation would make no change in that and, if anything is done on the floor in this regard, it would be to enact the Board's administrative decisions and policy in this area into law.

Some claim the bill would force employers to open their plants at any time to union organizers and let them propagandize the workers on company time and at company expense. That would be an outrage if true—but it is not true. The union organizing team would be entitled to access to the company's property only after the employer had triggered this provision by campaigning his workers in a captive audience situation during working hours. The union could not disrupt production and would gain only that access which would balance the access enjoyed by the employer on the issues involved in the campaign.

It should be understood that what the committee did in placing this provision in the bill was only to give force to a legal right already established and affirmed by the U.S. Supreme Court.

This decision is cited in the committee report on page 24:

> The Supreme Court has made clear that in balancing the conflicting interests of a speaker to compel others to listen, with that of his potential audience to choose whether or not to listen, the latter must prevail. Lehman v. City of Shaker Heights, 418 U.S. 298,304 (opinion of Blackmun, J.).

It is only elemental democracy that the employee have equal access to the arguments of each side before he casts his secret ballot. Surely, a citizen should have the same right in his employment decisions that he does in choosing among candidates to represent him in Government.

The bill, by the way, would give the employer the same right to access to union property under the same conditions.

In each case, the conditions of the access would be controlled by the Board.

The details of the bill have been well set forth by the chairman and the ranking minority member of the committee. I applaud their work in crafting this legislation and I support them.

It would be clearly understood that the basic purpose of the law is to protect the right of the American worker freely to decide whether he or she wishes to join a labor union.

Nothing in this bill would alter that.

Case after case was presented to the committee in witness to the fact that the balance sought by the law had been skewed against the worker.

Examples of companies that have violated worker rights and utilized the cumbersome procedures of the law to obstruct elections are cited in the committee report. The senior Senator from New York (Mr. JAVITS) and our chairman (Mr. WILLIAMS) listed numerous others in their statements opening this debate on May 16. I will not repeat them, but they make the record clear.

We need this bill to restore the capacity of the law to carry out the mandate Congress itself enacted in 1947 to bring equity and fairness to labor-management relations in this country.

The statement is often made that across the country there are only a handful of companies that are the troublemakers. The big labor organizations themselves have singled out the J. P. Stevens Co. as a particular villain, and in this case, rightly so. The question is asked, why, then, remake the whole national labor law just to take care of a few wrongdoers who can be reached through the present mechanisms, anyway?

My answer is that the record is full of wrongdoers; the list is not limited to just a few. Furthermore, I know full well that if the list had on it only one name and that name were the J. P. Stevens Co. and the Congress blinked at the wrongdoing of that company and turned aside, there are waiting to seize on and follow the Stevens example unnumbered packs of lawyers already watching and ready to advise their clientele how best to imitate the Stevens game.

That game is not the game of orderly labor-management relations; it is not even good business.

That Stevens is not the only example on the list, that there are many and growing examples of offending employers, are reflected also in the statistics provided by the National Labor Relations Board.

Board figures show that, in the past 10 years, while the level of union organizing activity held steady, litigations of unfair labor practices charges rose from 1,585 cases in 1966 to 3,345 cases in 1976.

As a result, the median time from the issuance of an unfair labor practice complaint to the issuance of a Board decision has grown to 1 year. That is the median time, which means that half the reported cases take longer than a year.

Beyond the cases actually reported in these figures, the statistics reflect a disturbing increase in the level of confrontation between management and labor. We can only guess at the actual dimension because an unknown amount of friction between worker and employer goes unreported and does not reach the formal level of the Board or any other procedure of record.

So these figures are ominous and portray, I think, the growing inability of the law to accommodate and resolve the disputes which it was enacted to do.

As the committee report points out, it is an axiom of law enforcement that "where quick, certain and strong remedies have been provided, the number of violations tends to be small and stable, but where such remedies are not provided, the number of violations tends to increase as it becomes understood that it is profitable to violate the law."

That appears to describe the situation as it has been developing with respect to the National Labor Relations Act over the past dozen years or so.

To achieve this purpose this bill proceeds in logical fashion to:

First. Provide broader and prompter protection for employees who are illegally persecuted for pro-union activities;

Second. Insure timely and orderly representational elections upon proper petition by employees; and

Third. Establish better procedures for the Board to speed up handling of complaints.

In subcommittee, I offered the amendment which, modified by the Senator from Wisconsin (Mr. NELSON), established the limits of no less than 21 days and no more than 30 days within which a representational election must be held once notice of a proper petition had been filed with an employer.

There is one point about this bill which has come up during the developing controversy which suggests that it is intended by one section of the country for use as an economic weapon against other sections. My good friend, the distinguished and able Senator from North Carolina (Mr. HELMS) explicitly stated this during the opening day's debate. This position maintains that the bill was crafted by members from highly unionized States to use against the so-called Sunbelt States of the South and West in the belief that it would bring high wage rates to the Sunbelt and so stem the march of industry and jobs from the Northern and Midwestern States to the Southern and Western ones.

I want to make it plain that it is not in any way this Senator's intention and I do not think that theory makes a great deal of sense, in any event.

The people in my part of the country are both union and nonunion. The work force in New England is both union and nonunion. It is skilled and inventive and hard-working and productive.

The mills and factories did not go South because of the cheap and docile labor there. They went because their plants up North wore out and because they often got excellent tax breaks and publicly financed facilities; they went because their fuel costs were lower. Labor costs were not a major factor. Most managers I have talked to recognize that labor costs would tend to equalize over a period of time, in any event.

In fact, those who moved South gave up certain advantages when they went South. They did not have the large supply of skilled workers they had in the North; they would have to develop that. They would be farther from the markets and the great eastern ports, transportation would cost more. They would have to adjust to different styles of living.

Mr. President, no, I assure my colleagues from the South and West that my support of this measure is in no way meant as an economic attack on their States. I have before stated publicly my total rejection of the notion of regional warfare that blows around here every now and then. I will have nothing to do with it.

I shall vote for this bill because it will be good for people in all parts of the country. It will reduce labor-management conflict. It will heal the wounds that develop in the absence of order and authority and justice when exploitation leads to grumbling and grumbling to friction and friction to open conflict, and misunderstandings and grievances, real or imagined, pile up on all sides until open hatred breaks out and public safety is threatened. This bill is a just bill and will promote peace and productivity, not oppose them.

Mr. President, let us have our full debate, but then let us vote it into law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, it was suggested this morning the fact that the National Labor Relations Board initiated only 29 contempt proceedings last year suggests there is little evidence that employers are systematically violating the law and that there is thus no need for this legislation.

Contempt is a powerful remedy and few are willing to risk having that remedy imposed. It is not the 29 contempt proceedings that indicate the need for labor law reform. It is the persistent growth year after year of violations of employee rights that demonstrate the fact that current remedies are inadequate. There is no reason for an illegally discharged employee to wait 2 to 3 years for a court order which requires his reinstatement and then another year or two for a contempt order in order for him to get his job back.

Over 90 percent of the charges now filed with the Board against employers allege violations of the act's prohibitions against discrimination and refusal to bargain. One-third of those charges have been found meritorious. Complaints issued against employers have increased by over 100 percent since 1964.

The important figure is not the 29 contempt proceedings. It is the 7,200 workers whose rights were violated by employers last year. It is the 4,500 workers who were illegally fired last year for engaging in lawful union activities. It is the 1,000 workers who had to wait more than 1 year before being reinstated.

These are the figures and statistics that demonstrate the need for labor law reform.

LABOR LAW REFORM—THE CIVIL RIGHTS OF WORKERS

Mr. President, 43 years ago we enacted the Wagner Act, a vital law designed to assure the rights of workers to freely associate for collective bargaining. This law was in many respects the basic civil rights law of the workplace. We sometimes forget that this law as conceived guaranteed rights not to unions or to companies, but to employees. Secretary of Labor Ray Marshall recently underscored the importance of labor law reform as a civil rights measure in a speech before the NAACP legal defense fund. He pointed out that like other fundamental civil rights, it is destructive to the fabric of society to have rights that are guaranteed in theory, but denied in practice.

I ask unanimous consent that the text of Secretary Marshall's remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SECRETARY OF LABOR RAY MARSHALL

It is a deep honor to be asked to speak before the group that probably did more than any other organization to end racial segregation in America.

I know the fight is far from over. I know that it is not time to rest on our laurels. But every once in a while I like to take a deep breath and reflect on how far we have come in the less than quarter of a century since Brown v. Board of Education.

One of my favorite indications of how times have changed was a little item that ran in the Wall Street Journal shortly after I became Secretary of Labor. The article talked about my appointment of Ernie Green as Assistant Secretary for Employment and Training. Ernie, as many of you know, was one of the handful of students who integrated Little Rock High School. The item contrasted the appointment of Ernie Green with the decision of Orville Faubus to take

a job as a bank teller because he was having trouble making ends meet.

Despite the vast changes that were triggered by the civil rights movement, there is still some truth to that old French saying, "The more things change, the more they remain the same."

It is with an intense sense of deja vu that most of my time today has been spent worrying about a Senate filibuster. We all know the role that the filibuster played during the 1950's and 1960's as a way for an embattled—and, in retrospect, a thoroughly discredited—minority to delay the passage of needed civil rights legislation. At the time, many of us said that never again would we allow a minority to tie up the Senate through this kind of dilatory tactic.

Times changed and issues changed. Some liberals became interested in the filibuster as a way to block legislation that they didn't like. Meanwhile, we managed to reduce the number of Senators needed to invoke cloture. But the filibuster lived on as those who battled it in the past turned their attention elsewhere.

Today marks the beginning of Senate debate on labor law reform. It is clear that the majority of the Senate wants to approve this legislation that passed the House by almost a 100-vote margin. Polls indicate that a majority of Americans approve of this effort to protect the rights of workers to decide whether or not they want union representation.

The only thing standing in the way of Senate passage of this important legislation is a filibuster. While not normally presented in these terms, labor law reform is, in effect, a civil rights measure. Like civil rights legislation, it is designed to protect the powerless against the powerful. Its purpose is to protect those at the bottom of the economic ladder against those who find it more convenient to disobey the law than obey it.

When union organizers are thwarted by illegal tactics, it is often black workers who disproportionately suffer as a result. Recalcitrant employers, aided by high-priced lawyers, often engage in filibuster-like tactics to delay and deny union representation elections. I don't have to tell you how destructive it is to the fabric of society to have rights that are guaranteed in theory, but denied in practice.

These should be familiar themes to the NAACP Legal Defense Fund. Much of the progress of the last generation has come through the alliance of the civil rights movement and the labor movement. Labor unions have proven to be a major force in the battle to give black workers economic equity in our society. In the building trades, for example, about twenty percent of the new apprentices are blacks and other minorities.

I think we have the votes to invoke cloture and pass labor law reform. But I also think that this fight should remind us of the dangers still posed by the filibuster. The whole legislative process is stymied when a minority can thwart the will of the majority. And, somehow the filibuster always becomes the weapon when the issue is protecting the rights of the powerless.

On another topic, I would like to mention an issue that, at first glance, seems far removed from the concerns of the NAACP Legal Defense Fund. That issue is President Carter's proposal to reform the civil service system.

For the last 16 months, I have been a government administrator and I have seen all the ways in which the inflexibilities of the current system stand in the way of efficient and effective government. It may be called the merit system, but, in practice, all too often it works to reward mediocrity and to stifle initiative and responsibility.

There is a reason why I think this issue is relevant to our mutual concerns this afternoon. We are in an era when fiscal realities limit the funds that are available for domestic programs. This places an important responsibility on all of us in the Administration to spend what money is available as effectively as possible.

Sometimes, the government's personnel policies stand in the way of this kind of effectiveness. There are parts of the Labor Department, for example, that desperately cry out for fresh blood and new approaches. But the realities of the current civil service system place severe limits on what can be done to revive tired bureaucracies.

I believe that most of the people we have working in the Labor Department are dedicated and competent. But we have evolved a system that prevents their being used effectively. Unless the system is changed, while guaranteeing fairness and equity, we all lose. Dedicated Federal workers lose as they are slowly transformed into unimaginative time-servers. Government administrators lose as they are frustrated in their efforts to bring about change. And, the people served by government programs suffer through mediocrity and wasted resources. That's why we need civil service reform.

One issue that continues to concern me is the evolving class stratifications within the black community. It is abundantly clear that a large number of blacks have benefitted greatly from the programs of the last 15 years. These are blacks who are entering law and medical schools. These are blacks who are prospering in careers and trades which would have been closed to them a generation ago. We have gone beyond tokenism. But there is still a sizable segment of the black community who have been left behind and often forgotten.

There are the blacks and other minorities who you don't hear about except once a month when the unemployment rate is announced. One of the major accomplishments of the Carter Administration has been the dramatic drop in the unemployment rate over the last 18 months. Unemployment was 8.0 percent on election day 1976, today it is 6.0 percent. But the drop in black unemployment has been far less dramatic and this problem continues to concern us.

It is impossible to be complacent about unemployment when 35.3 percent of black teenagers are jobless and almost 10 percent of black adults are in the same category, even though this is better than the 40 percent jobless rate for black teenagers last summer. The realities behind these statistics are causing us to take steps to target our jobs and training programs on those most in need. The Youth Employment and Demonstration Projects Act, which passed Congress last summer, should have a considerable effect on black teen-age unemployment.

Before I discuss these programs in more detail, I would like to indicate that I believe we have made more progress in the battle against black unemployment than the aggregate numbers might indicate.

There are now 700,000 more blacks with jobs today than there were a year ago. In April 1977, the ratio of blacks with jobs to the black working age population was 50.9 percent. Today, it is at 53.0 percent. There have been similar gains in terms of black labor force participation. One reason the unemployment rate for blacks has not dropped more rapidly is the large number of blacks now looking for work who had left the labor force a year or two ago out of discouragement.

Figures like these should not be used to deny that we still have a serious problem. But the trend represented by these figures indicates that the vastly expanded commitment of the Carter Administration to jobs and training programs is being felt in the black community. Throughout the first half of 1977, black unemployment was rising as white unemployment was falling. For a while, these figures provided telling evidence that when it came to jobs we still had two separate, and unequal Americas.

But there has been a strong reversal in the various indices of black unemployment in the last eight months. One hundred thousand additional blacks found jobs between March and April of this year. The expansion of our public service jobs program has made a significant contribution to the growth of black employment in the last eight months. While not solving the problem, these figures provide strong evidence that we are on the right track.

Currently, the Congress is considering legislation that would extend the CETA program through Fscal Year 1980. We have built on the lessons of the last year to find ways to further improve our jobs and training programs. An important element in this program is "targeting"—which is bureaucratic short-hand for aiming our programs at those groups who need help the most.

The CETA program began as an effort to help America recover from the last recession. At first, the eligibility requirements were loose and many of the jobs went to those who could have easily found employment in a normal economy. President Carter's Economic Stimulus Package not only expanded this program but it also took significant steps to target CETA on the disadvantaged and the long-term unemployed. CETA reauthorization will carry this process further and enable us to reach disadvantaged blacks who have lost hope of ever sharing in the fruits of our economy.

Many of the unemployment problems of specific groups in our economy are small enough to be highly manageable. Black teenagers represent a prime example. Although they have a shockingly high unemployment rate, their numbers are relatively small. Today, there are about 350,000 unemployed black teenagers in the entire country. When fully implemented our new youth programs alone will provide jobs and training opportunities for about 150,000 young workers. Young people also will participate in our other employment and training programs. Many of the participants in these programs will be blacks and other minorities. It doesn't take very elaborate mental arithmetic to sense what a potential impact these programs will have on black teen-age unemployment.

For a long time, America did not address its social problems because we lacked the will. During the 1960's we developed the will, but often failed because we did not know how to effectively use our resources. Today, when it comes to jobs, I think we have both the commitment and the capacity. And, I believe that at the end of four years the results will be striking.

Thank you.

Mr. WILLIAMS. Mr. President, I want to raise a point, not for myself, but for the Senator from Utah. I would hesitate to raise it without his being here, but there is something that appears under his masthead that I think he should know about.

So if his staff on the floor could advise him, wherever he is, that I think, in my judgment, he has been wronged, I want to have him here as I indicate what has appeared under his publicity masthead.

The Senator from Utah is now here and I did want to point this out, that this appears under the masthead of the Senator from Utah. I will have to quote it in full.

During the debate on the floor, Senator HATCH was able to blaze a new trail in relationships between unions and their members. In debate involving Senator HATCH and

Senator MALCOLM WALLOP (R-Wyo.) in opposition to the bill's sponsor, Senator HARRISON WILLIAMS (D-N.J.), HATCH was able to establish that strict "make-whole" remedies would apply, not only to small business, but also to labor unions. HATCH said, "I was really surprised. Nothing in the Human Resources Committee report or hearings on this bill suggested that unfair labor practice penalties would apply equally to management and labor. But now, after Senator WILLIAMS' concession, it appears that any working man that is mistreated by a labor union could go to the National Labor Relations Board and demand back payment of lost wages from the union."

The record, I am sure, is so very clear. This all developed when the charge was made over there that this was a grievously unequal law, that there were remedies in here that ran against the employer and not against the unions.

I read the bill and the bill is even remedy in either direction and I pointed that out. Where there is an unfair labor practice engaged in by the employer, the remedy runs against the employer. Where there is an unfair labor practice engaged in by the union, the remedy runs against the union.

And I did say, thank goodness for the debate, that evidently this, if understood, has not been so stated, the evenness, because we hear that this is a one-sided bill. I pointed this all out.

Now it is suggesting under this banner of the Senator from Utah that this is some kind of concession that was developed.

It is no concession. It is the bill. It was in the beginning, it is now, and it always will be an evenhanded bill.

When the union is wrong under this bill, the remedy goes right at them for the worker's benefit. The union pays the remedy.

When the employer is wrong, the remedy runs against the employer and he pays the remedy under the bill.

I just wanted to point that out to my colleague from Utah, that, whoever printed it, he should know it was under his banner and I wanted to make sure this was corrected in time.

Mr. HATCH. Will the Senator yield?

Mr. WILLIAMS. In the Senator's interest.

Mr. HATCH. Will the Senator yield for a comment?

Mr. WILLIAMS. I yield the floor.

Mr. HATCH. I appreciate the distinguished Senator from New Jersey's comment that he is interested in my interests, and I believe he truly is.

I have not seen that press release. But I am happy to see again a reaffirmation that this bill applies both ways. In other words, the make-whole remedy is going to apply to the 8(b)(3) situations.

Let me explain how it works in labor law. This may be why this particular news release was put out.

The way it works, certainly, if it is not carefully spelled out in the bill, which it is not, that when they come before the Board to have it apply equally against the unions and, specifically, in this case in the 8(b)(3) situation, which I do not think is clearly spelled out in the committee report or in the bill, that is why we raised this yesterday and I was delighted to find that the distinguished Senator from New Jersey has now made it abundantly clear, so there is no question about it, in the 8(b)(3) type liability which is not mentioned specifically in the committee report or in the bill, there is no question it applies equally for the bad faith conduct of the unions.

The way it works is, since there are those who say the Board is stacked 4 to 1 against business, or in the very least 3 to 2 against business, if it is not specifically spelled out that the 8(b)(3) type violations are also covered by this bill, then when it comes to the Board, assuming that this interesting and I think very important colloquy between my good friend from New Jersey and myself had not occurred yesterday. I think most reasonable labor lawyers would agree with my assertion, that since 8(b)(3) was not mentioned it would be very unlikely the Board would have applied it fairly and across the board.

That is why that colloquy was so important. I still have not read this press release, but if that is what the press release says, I think we have just established a fairness aspect; and I compliment the distinguished Senator from New Jersey for making this abundantly clear to everybody in America.

The National Labor Relations Board in the future should be bound by this educational dialog and this legislative record that we have made, henceforth, so that it canot skip around this 8(b)(3) unionism bad-faith approach, and it will have to apply it against the unions if they, in turn, act in bad faith—which, incidentally, I do not believe ever would have happened had it not been for the honesty, the integrity, the good explanation, and the good efforts of the distinguished Senator from New Jersey.

I, for one, applaud him on the floor of the Senate. I am very pleased that he has spoken with such candor. I am pleased that he again has reiterated that position today. I am pleased that, with his vast knowledge of labor law, he acknowledges that this is the way this bill will be applied.

Mr. WILLIAMS. This is ridiculous. It is not acknowledging that is what the bill is. It is clear on its face. We also sat around in the committee, and no one questioned this. It was there. Some things are so clear that even the Senator did not raise it.

Mr. HATCH. I will say this: It is clear now, and I am very appreciative.

Mr. WILLIAMS. It is just as clear today as when I advised you the day before that it was clear.

Mr. HATCH. If it was the day before yesterday, I am grateful for that colloquy because I did not think it was clear up to that time, and labor experts told me it was not. It was not clear to me or to them. I think that now it is abundantly clear.

Mr. WILLIAMS. It was clear to everybody.

Mr. HATCH. That may be, but I suggest to you that had we not corrected it the day before yesterday and again today, it would not be clear for the Board, either, and they would find against the applicability of the mutuality of that remedy in the 8(b)(3) cases.

Mr. WILLIAMS. That is a most unreasonable statement. The language is clear in law——

Mr. HATCH. Show me where it says 8(b)(3) violations.

Show me in the committee report where it says that 8(b)(3) violations are covered by this bill. If you can show that to me, I will concede that it is ridiculous. But if you cannot show that to me, then it is not ridiculous. Can you show that to me? Is it in the bill?

Mr. WILLIAMS. I did it the other day. It is 8(b)(3), and we will supply it to you again. We really should not be running a law school here.

Mr. HATCH. The reason I went to law school was to find out how many ways you can avoid having the National Labor Relations Board avoid what is supposedly clearly spelled out.

I ask the distinguished Senator from New Jersey: Is 8(b)(3), in this context of make-whole remedies, spelled out in the bill?

Mr. WILLIAMS. How would you apply this language:

> In a case in which the Board determines that an unlawful refusal to bargain prior to the entry into the first collective-bargaining contract between the employer and the representative—

In such a case, what would you say it would mean to you?

Mr. HATCH. I would say this applies to 8(b)(3) violations as well, which this bill does not do. Now it is clear, through legislative history, and the Senator from New Jersey has made it clear.

Is there anything in the report that says so?

Mr. WILLIAMS. The law and the cases are there to say that this applies equally to unfair labor charges against the union and as against the employer.

Mr. HATCH. How do the cases say that, since the cases do not talk about a prospective bill?

Mr. WILLIAMS. About the refusal to bargain.

Mr. HATCH. We are talking about the new make-whole remedy in this bill.

Mr. WILLIAMS. The one case the Senator could refer to, an 8(b)(3) case, is *American Colloid and Teamsters Local 749*, 195 NLRB 474. This was a refusal to sign a contract after ratification by the membership. This was found to be an 8(b)(3).

Mr. HATCH. 8(b)(3) cases apply here, but now we have a new remedy called the make-whole remedy.

Mr. WILLIAMS. This remedy fits right into 8(b)(3).

Mr. HATCH. If it does, then I compliment the Senator again, because he has clarified it once more; and there should be no question for any NLRB determiner in the future that, should this bill be passed, the make-whole remedy provided in this bill should apply in the 8(b)(3) violations.

Mr. WILLIAMS. That is what I told you the other day. Now you say that you have a concession. I told you that is what the bill says. It is clear. It is not subject to obfuscation. Now we have again written into the RECORD, for certain, and we

will not have any problems with this any more, I take it.

Mr. HATCH. I hope not. I compliment you for it.

Mr. WILLIAMS. You should ask your staff about the release.

Mr. HATCH. I will compliment them as well, because, from what you said about the release, it is correct.

In any event, the point I am making is that had we not spelled that out on the floor of the Senate, I do not believe that the Board would have found that this applied equally to 8(b)(3) violations. Now it will.

Mr. WILLIAMS. You know why it really had to be spelled out: because the charges have been made that this bill is all loaded on one side against the employer, for the unions. It is clear on its face, in the bill, that that is not true. Yet, we have seen this printed all over the land, in millions of communications, that it is a prounion, compulsory union bill, and all the other extreme statements that do not describe this bill.

When that developed with the Senator from Wyoming the other day, again here on the floor, I was grateful at the time for the debate so that we could straighten it out, so that that multimillion-dollar campaign of misrepresentation here can be exposed.

Mr. HATCH. I am very appreciative of the statement of the Senator from New Jersey. I will agree that now that he has elucidated this matter with regard to the make-whole remedy, it is fair both ways, especially since they will apply to 8(b)(3) violations.

I hope the Senator is not saying every other aspect of this bill is equally as beneficial to business as labor——

Mr. WILLIAMS. Not beneficial. I say the remedies we have in there are equally applied on either side of the equation.

Mr. HATCH. That is a little different from the distinguished Senator's earlier statement that the extreme talk around this country is that this bill is antibusiness and that it is not.

Mr. WILLIAMS. I did not say that at all.

Mr. HATCH. That is what I interpreted you to say. Maybe I am wrong.

Mr. WILLIAMS. I said the publicity says that it is a one-sided bill, only running against business, and no mention is made of the fact that all remedies run to unfair labor practices. Unions can be charged and found in violation, as well as the employer.

Mr. HATCH. You think that the remedy imposing the "make-whole" remedy providing for back payments——

Mr. WILLIAMS. Time and a half?

Mr. HATCH. No. That remedy providing that the employees have to be paid pursuant to wage settlements reached with 5,000 or more employees is fair to small business. That is a remedy. I do not think that is equally fair. Do you?

Mr. WILLIAMS. I say the remedy is equal.

Mr. HATCH. How is that equal, to impose on small business the highest wages?

Mr. WILLIAMS. I thought you meant between union and employer. The same remedy is available, whether it is an employer or a union. Now you want to shift to whether it is an appropriate remedy for small business as with respect to big business. That is another issue.

Mr. HATCH. I want to talk as to whether it is fair at all and whether it is equal in application.

What you are saying is that a union which commits an unfair labor practice that requires a backpay award, based upon 5,000 or more employees, may have to pay the union's employees that much—that the small businesses, the hundreds of thousands if not millions of small businesses, will have to pay that.

Mr. WILLIAMS. The same remedy is provided here.

Mr. HATCH. You call that equality?

Mr. WILLIAMS. The remedy is the same. The impact would vary, and that will be discussion for amendments later, with respect to small business.

Mr. HATCH. The only point I am making is that I compliment the Senator from New Jersey for his comments with regard to straightening out the 8(b)(3) question so that nobody can misunderstand it at this point, although I think it is very ambiguous in the bill, very ambiguous in the committee language, and not clearly delineated to the extent that the National Labor Relations Board, which is weighted in favor of labor, could very easily slide off and say it applies only against business.

Mr. WILLIAMS. No chance.

Mr. HATCH. I agree. Because of the fair and competent remarks of the Senator from New Jersey, that is no longer possible.

Mr. WILLIAMS. It originated here in an interpretation for those who have been explaining this bill through their agencies of communication as the bill is. That is why I say I am glad for the debate.

Mr. HATCH. I am, also, because I found in a number of instances that the NLRB decides on very narrowly construed issues, especially when it may benefit labor in contrast with business and especially with regard to small business. So I am very pleased to have had this dialog. I think it is a correct dialog, and I think the distinguished Senator from New Jersey has served his country well and served this bill well.

Mr. WILLIAMS. I thank the Senator.

I wonder if the Senator will agree with this statement.

The bill you have before you here this evening is a bill that will put more small businesses out of business than anything else that Congress has ever done in the last 50 years.

Mr. HATCH. I believe that approaches the truth. I think this bill is devastating to small business. Dr. Rinfret says it. Small business says it. Yes, I think that is true.

Mr. WILLIAMS. That was said on June 19, 1935, by Representative Blanton of Texas, and he said it when the Wagner Act was being debated.

Mr. HATCH. I am not debating the Wagner Act but debating this act.

Mr. WILLIAMS. It was after the Wagner Act that small businesses mushroomed, tripled, quadrupled.

Your idea today is the idea that Blanton had in 1935, and I tried to explain that this is not a bill that is going to crush small business because 78 percent of small business is not even covered in the National Labor Relations Act.

Mr. HATCH. I remind the distinguished Senator from New Jersey of a couple things. One, when Blanton said that he said it against the Wagner Act. It was not a quickie act. It did not have equal election packages. It did not pack the National Labor Relations Board. It did not have punitive remedies. It is a far cry from this particular bill.

Mr. WILLIAMS. Our bill does not change the Wagner Act.

Mr. HATCH. I say it does apply to this bill.

Mr. WILLIAMS. On election and bargaining, that was the foundation law.

Mr. HATCH. But it did not say you had to hold an election within a constrained period of time and it did not say that an employer who exercises free speech on his premises at his time, at his expense, had to then open up the premises.

Mr. WILLIAMS. That is why we are here because it did not.

Mr. HATCH. That is right. That is why I say this bill, as did the Office of Advocacy of the Small Business Administration, as has Dr. Rinfret, as has any number of any authorities, will crush small business and hurt it seriously, that is, if the full impact of this bill is felt and if this bill is passed in its present form. So there is a considerable difference between this bill and the original Wagner Act which I find no fault with. But this bill puts a lot of arbitrary constraints in the field of labor-management relations that have never existed and all basically in favor of labor.

This bill is so one sided that that is why millions of small businessmen are upset all across this country.

Mr. WILLIAMS. We are where it all started the other day when I had to point out to the Senator that it is not one sided. We do not have to go through this again, I hope. All the remedies apply where there is unfair labor practices against unfair employers and unfair unions.

Mr. HATCH. Let us correct one other comment.

Mr. WILLIAMS. That is where we started out 2 days ago.

Mr. HATCH. If we could correct one other comment from the distinguished Senator from New Jersey, he said—and I think this is what labor has been misleading the public on—that 78 percent of all businesses are not covered by this bill, but 76 percent of all employees are. About the only businesses that are not covered are those that are sole proprietorships and businesses involving very few employees, so few that it is not worth the effort or the time for labor to organize them.

So let us talk about how many employees are in the company.

Mr. WILLIAMS. I wish to pause and ask—I know the Senator used this sole proprietorship as the——

Mr. HATCH. Not just sole proprietorship.

Mr. WILLIAMS. You keep saying that. Those are the small businesses that are not included in the jurisdiction of the National Labor Relations Board.

Mr. HATCH. Including all small businesses that do not have enough employees to justify unionization. That is true.

Mr. WILLIAMS. And do not have a gross volume. It does not have anything to do with sole proprietorship or mom and pop stores or small businesses.

Mr. HATCH. Sure it does.

Mr. WILLIAMS. It is the size of the business activity, not the nature of the legal entity, whether it is a sole proprietorship or a corporation. This keeps coming back, coming back to sole proprietorship. That has not anything to do with it. The legal nature of the business entity has nothing to do with the jurisdictional levels that the Board has established under its rules. It is a size, amount of business test that they apply.

Mr. HATCH. Let me see if I can clarify this to the Senator.

Mr. WILLIAMS. Seventy-eight percent overall of all small business are not covered under this bill, not covered under the National Labor Relations Board.

Mr. HATCH. Let me see if I can clarify that. Will not the Senator agree that 76 percent of all employees are covered by this bill? Seventy-six percent, which is the appropriate statistic. Is that not true?

Mr. WILLIAMS. I think 22 percent of the employers employ about 75 percent of the employees.

Mr. HATCH. Are covered by this bill?

Mr. WILLIAMS. They are. That is correct.

Mr. HATCH. Does the Senator not think that that is the significant statistic?

Mr. WILLIAMS. I am not the one who says small business is going to be crushed. I am just saying to those who think small business is going to be crushed 72 percent of the small businesses are not even covered. They are not even touched.

Mr. HATCH. The Senator said 78 percent before.

Mr. WILLIAMS. They cannot be crushed if they are not even covered.

Mr. HATCH. Let me say this to the distinguished Senator, since I do have the floor: I say that I believe that the Senator's statistic that 78 percent of businesses are not covered by this bill is correct, and the reason it is correct is sole proprietorships and business with so few employees that they did not justify unionization make up the vast majority of 78 percent of all businesses. The significant statistic is how many employees are covered in this, and that is the statistic the distinguished Senator from New Jersey has admitted is 76 percent, and that is the significant statistic.

Mr. WILLIAMS. All right. Then we can withdraw from the drumbeat of opposition to this bill that, and I think Senator WALLOP, the Senator from Wyoming, did agree finally in our discussions yesterday or the day before that it is not right to say small business will be totally crushed when most of the small businesses are not covered.

Mr. HATCH. I do not think anyone said small business is going to be totally crushed.

Mr. WILLIAMS. You said it.

Mr. HATCH. I said small business will be crushed by this bill. It does not mean totally crushed. All I can say is this: Small business is certainly not going to be helped and small businesses know it, and that is why millions of them are raising such a fuss all over this country.

Mr. WILLIAMS. Is 250 employees a small business?

Mr. HATCH. Yes.

Mr. WILLIAMS. I wish to include in the RECORD at this point some of the businesses of less than 250 employees that suggest to me that the Board is right in looking at the volume of business.

Mr. President, during the debate on the labor law reform bill yesterday, the Senator from Utah (Mr. HATCH) suggested that this bill would have a devastating effect on small business.

This bill will have no more effect on small business than does current law. But it is interesting to discuss just what is considered a small business.

The measurements of a small business are imprecise at best. The Senator from Utah (Mr. HATCH) did suggest a measure, however. He said that a business which employed 250 people must be considered a small business by any measure.

Well, we have done some research. For example, the Cleveland Metal Abrasive Co., a Rhode Island corporation has an annual volume of $22 million. It manufactures metal abrasives, and employs 250 workers.

The Export Oil Field Supply Co. of New York had annual sales of $15 million. It employs 30 people.

Here is the Appalachian Life Insurance Co. of West Virginia that did $14 million worth of business last year with 70 employees.

Mr. HATCH. The Senator does not consider that big industry?

Mr. WILLIAMS. Seventy employees and $14 million is not small in my life.

Mr. HATCH. It certainly is not big when you consider the billion dollar businesses in society.

Mr. WILLIAMS. A Maine company which manufactures shoe materials and woven textiles. the Foss Manufacturing Co. employs 185 people and had annual sales of $20 million.

The Hartford Provision Co. of Connecticut, a meat packing firm had an annual volume of $51 million. It has 240 employees.

Mr. President, these are not small businesses. They are large companies. As we discuss the question of small business, I think that these figures show us that the number of employees is not by itself dispositive of the question of whether a firm is a large or a small business.

Mr. President, in calendar year 1975, 96 businesses which employed 10 or fewer workers each received more than $10 million in Federal Government contracts. In that year, a total of 475 businesses which employed fewer than 100 workers each received more than $10 million in Federal prime contracts.

That is 475 businesses with at least $10 million in volume in one year—each one of which employed fewer than 100 workers.

Mr. President, businesses with $10 million in Government contracts in a single year are not small businesses.

The list is long, although I think when we talk about small business we should recognize what we are talking about.

Mr. HATCH. I wish to do that. Let me just suggest to the distinguished Senator from New Jersey that I listed 350 trade associations representing small businesses the other day that say they represented 4 million small businessmen.

There are 4 million people who were in small businesses. I think there may be some businesses that have such a high volume that, with less than 259 employees, they can be characterized as small business. I do not think $10 million, I do not think $14 million, and I do not think $20 million are big business. I think $3 billion, $4 billion, $5 billion, $6 billion are big business. That is a characteristic. But even though hundreds of thousands, if not millions, are less than $10 million, they will be drastically affected by this.

Let us talk about statistics with regard to elections. Ninety-eight percent of all union elections are held in businesses of less than 400 employees; 75 percent of all union elections are held in businesses of less than 100 employees; and 50 percent of all union elections are held in businesses of less than 50 employees.

Now you tell me whether this bill is fair to small business with quickie elections, equal access, packing the Board, punitive remedies, Federal contract debarment, double backpay or time-and-a-half backpay, whichever it may be and, last but not least, the "make-whole" remedy based upon the highest wages paid in society today in businesses all over America that cannot make those payments. If that is fair that is not what I have been led to believe is fair.

Let me just say this, Mr. President: I believe that we have an elucidation from the distinguished Senator from New Jersey which is very beneficial for the future determination of whether or not the "make-whole" remedy applies both ways, and especially in 8(b)(3) type cases, and I want to compliment the distinguished Senator from New Jersey (Mr. WILLIAMS) for making that so abundantly clear on the floor because I can assure those who study labor law that the Board would construe the fact that 8(b)(3) is not mentioned in the bill or anywhere in the committee report, and I doubt seriously if they should in the future if this bill is passed, if they would apply it in the future to 8(b)(3) violations rather than the way it is written up in the report.

Mr. WILLIAMS. No, no. You have not learned. That is not an accurate description of what we finally worked out in 3 days of hard labor——

Mr. HATCH. I believe it is——

Mr. WILLIAMS (continuing). Trying to get into the minds of those who want to think of this as an unfair and uneven bill that the law provides for remedies

against employers and against unions, and we now know, all of us, even those who should have known before, because it was in the bill in the committee that we all sat on, it has been there all the way through, and there is nothing new that has been added in this debate except the illumination of what the bill is for those who have made the grand, great, excessive and unrepresentative statements. We have had this bill before our committee a long time, you know. We made some changes reflecting some of the ideas that were in a bill introduced by the Senator from Utah: free speech, religious objection.

Mr. HATCH. Yes, you put those two in and left the other six out.

Mr. WILLIAMS. We did not need the others because the others were fair on their face, that they applied equally.

Mr. HATCH. The employee bill-of-rights provisions were very fair on their fact and should have been in this bill.

But let us just say this. I am not finding fault with the distinguished Senator from New Jersey.

Mr. WILLIAMS. We had to, just as I had to point it out to the Senator here on the floor—it was put into a press release under his banner, a statement of misrepresentation—I had to point that out. That is what started this colloquy.

Mr. HATCH. Is the Senator accusing me of misrepresenting the facts in that matter?

Mr. WILLIAMS. In that statement it is misrepresented.

Mr. HATCH. You are not accusing me of misrepresenting?

Mr. WILLIAMS. No, because you claimed you had not seen it.

Mr. HATCH. I do not claim it is a misrepresentation because, as I said——

Mr. WILLIAMS. You got a concession out of me?

Mr. HATCH. There is nothing in this bill that discusses 8(b)(3). There is nothing in the committee report that mentions 8(b)(3). I dare the Senator to show me where it is.

Mr. WILLIAMS. That it is in the bill which will be in the law.

Mr. HATCH. Why do we not just write it in the law that it covers 8(b)(3) violations? My point is that you have through legislation——

Mr. WILLIAMS. There is nothing wrong with writing provisions in the law in more than one way, but it is right there now.

Mr. HATCH. Well, I accept it that the legislative record has been more than abundantly established on this point. I am pleased to have it, and I made the point because it was not in the bill, because it was not in the committee report, and because the NLRB has been construing labor law in a favorable manner toward labor, and particularly the current Chairman. I made the point that because it is not there they would narrowly construe it and probably would not have had this "make-whole" remedy apply to 8(b)(3) legislation, prior to the elucidation made by the Senator from New Jersey.

Mr. WILLIAMS. That is what I started out to say. The Senator's discussion starts with his first statement that it is not in the bill. It is in the bill.

Mr. HATCH. I accept that. I am grateful to have that understanding because I certainly did not have it until the other day.

Mr. WILLIAMS. Agreed.

Mr. HATCH. OK.

Mr. DOLE. Mr. President, with respect to the so-called Labor Law Reform Act of 1978, I would like to continue to outline two more major provisions, the make-whole remedy and preliminary injunction provisions, that are of significant concern to me and to many of my colleagues. In the past 2 days the Senator from Kansas has outlined and offered analysis on the provisions that covered timing of elections, rulemaking powers, equal access, free speech, back-pay remedy, and debarment.

Mr. President, before I go any further, the Senator from Kansas would like to note that this is the third day of what could be many days, weeks, or even months of debate on this important matter. I, for one, am particularly interested in what my colleagues have to say about this matter and look forward to their participation. I further believe, that all those Senators who are serious about addressing this matter in the best interest of all the people of this country, and I frankly believe all of my colleagues are, will participate in this important debate. I believe the Senate will stand to benefit greatly from the informative debate and be much closer to better understanding the weaknesses and strengths contained in this bill.

Mr. President, as I stated several days ago, my perception of this bill is that it will dramatically alter the balance of labor relations at the expense of individual workers' freedom of choice. Furthermore, I believe that the normal stability in labor relations will be seriously undermined for union and nonunion employees alike.

MAKE-WHOLE REMEDIES

In particular, Mr. President, under the current law, there is no provision for a "make-whole remedy." Under section 9 of the bill, which amends section 10(c) of the act, the Board may award in cases where there has been an unlawful refusal to bargain before entering into the first contract, compensation to union employeees for the delay caused by the unfair labor practice. The amount shall be measured by the difference between the wages and other benefits actually received by such employees during the period of delay, and the wages and fringe benefits the employees were receiving at the time of the unfair labor practice multiplied by the percentage of change in wages and other benefits stated in the Bureau of Labor Statistics, average wage and benefits settlements, quarterly report of major collective bargaining settlements, for the quarter in which the delay began.

ANALYSIS

The "make-whole" remedy under this bill represents a fundamental shift in board policy concerning collective bargaining. Succinctly stated, that policy which dates back to the days of the Wagner Act of 1935 has been for the parties to reach their own agreement without Government interference with respect to the terms of the settlement. It is also yet another example of a punitive remedy being assessed against the employer. The make-whole remedy will result in the Government writing contracts for the employer and, the entire process of free collective bargaining which is the cornerstone of labor-management relations will be overturned.

Since the Board will, in effect, become a third party in all negotiations, this governmental intrusion into rights becomes precedented.

A key factor which the committee failed to consider is that the United States in comparison to developed countries with free trade union movement, ranks among the lowest in terms of percentage of available work days lost to labor disputes. It is clear, therefore, that prior to overhauling the process of free collective bargaining, which has worked exceptionally well over a period of 40 years, that the need and proposed benefits of the change be clearly demonstrated. This factor must be coupled with the findings in a recent study on the economic impact of the make-whole remedy that "the make-whole provisions * * * appear to use an extreme settlement solution and appear to be inequitable, unfair, and to violate the spirit of fair play which is the essence of American legislation. These amendments, as proposed, could result in an unfair economic advantage for large trade unions and for large businesses." Thus, not only is this provision an inflationary one, but it might accelerate the exportation of jobs and those industries that are already besieged by foreign competition.

Moreover, it is difficult to understand why the average wage and benefit settlements index is an appropriate standard to penalize employers whose wage rates may be less than the index. An analysis of the companies comprising this index, which includes representatives from the telephone, steel, automobile, aluminum, and rubber industries, reveals three common characteristics: They are oligopolies; they are capital intensive, as opposed to labor intensive; and, they are industries in which unions have historically had a stronghold indicating a total disparity in leverage. Thus, by definition, these settlements will be significantly greater than the normal first contracts with a small employer.

A case in point is the recently negotiated coal contract which has been costed out over a 3-year period to a 41-percent increase in salary. Since the contract is front loaded, which entails a greater salary increase during the first 2 years than in the final year, the first-year salary increase may be as high as 15 or 16 percent. Similarly, in a report recently released by the Department of Labor, agreements covering 5,000 or more workers had increases in total compensation—wages and fringe benefits combined—of 14.6 percent.

There can be little question that a salary increase of that size to most small

businesses would be devastating. The index is hardly relevant for most employers because it only covers wage and benefit settlements for units containing over 5,000 employees, whereas most Board units contain fewer than 50 employees. Hence, it does not provide an equitable or economically viable basis of comparison.

Mr. President, a further problem in this area concerns the committee's insistence that benefits be considered as well as wages. According to a highly complicated formula set out in the Senate report, one must attempt to place a cost figure on benefit plans "[i]n situations where the only compensation to the bargaining unit employees is in the form of wages." The simple answer to this proposition is that costing out benefits is a terribly complex process which entails placing dollar figures on such intangibles as holidays, vacations, pensions, health and welfare plans, and the like. It is perfectly obvious that unless another more feasible approach is taken, decisions on this subject will be arbitrary at best.

The make-whole remedy is particularly inappropriate because a refusal-to-bargain charge by the National Labor Relations Board which arises out of delays occurring before the signing of a first contract is often a minor, technical violation of the act. Moreover, any unilateral change by an employer with respect to mandatory subjects of bargaining may violate section 8(a)(5) of the act. Thus, if a company decides to require its employees to wear respirators based on preliminary findings by the Occupational Safety and Health Commission that a certain product has potential toxic effects, this unilateral action may result in a section 8(a)(5) violation irrespective of management's good intentions. Similarly, an employer may violate the act if he refuses during negotiations to allow a union representative to examine his books and records with particular reference to the unit costs and profit margins.

The case law on this subject shows that employers acting in complete good faith are oftentimes found in violation of section 8(a)(5). The imposition of such a drastic remedy in this context is totally unfair and is disproportionate to the violation that it is designed to cure.

The make-whole remedy will also eliminate the employer's only effective method under existing law of appealing adverse decisions in cases where bargaining units are determined. Under current practice, an employer must refuse to bargain with a union if he wishes to seek appellate court review of what he considers an erroneous bargaining unit determination or an objection to the election. If the court rules against the employer, the Board may then issue a bargaining order as a remedy. Thus, the well-settled practice of challenging bargaining unit determinations would be effectively eliminated because the employer will be deterred from seeking court review since he risks a more severe sanction.

The make-whole remedy directly contradicts precedent thwarting efforts of the Labor Board to interfere in the bargaining process. There are several Supreme Court rulings prohibiting the Board from compelling settlement of disputes over the terms of a contract. The Court has repeatedly held that the right to bargain does not entail the right to insist on a position free from economic disadvantage.

PRELIMINARY INJUNCTIONS

Under the current act, the Board has discretionary authority to seek injunctive relief to reinstate a discriminatorily discharged employee.

Section 11 of the Senate bill, which amends section 10(1) of the act, requires the Board to petition for a temporary injunction to reinstate a discriminatorily discharged employee. Only cases occurring in a representational campaign before the first contract is signed or during a campaign to deauthorize or decertify a union, would trigger this mandatory action.

ANALYSIS

The necessity of amending section 10(1) of the act is highly doubtful because other sanctions are more than adequate deterrent to recalcitrant employers. Injunctive relief is time-consuming and duplicative since it requires the aggrieved party to appear before an administrative law judge and a Federal district court judge. Furthermore, in light of the prediction by the General Counsel of the Board of a "dramatic increase in the number of 10(1) petitions," it is perfectly apparent that it is not feasible to implement this provision. A final factor weighing strongly against this provision is that nearly all discharge cases depend on credibility resolutions which, in turn, necessitate a full hearing so that the demeanor of the witness can be properly evaluated. Since Board attorneys under this provision will be entitled to proceed directly in the Federal district court on the basis of a "reasonable cause" determination that the charge is true, Federal district judges will be forced to render decisions without the benefit of the in-court testimony of the appropriate witnesses. In sum, this provision is unnecessary and will further clog the Board and the courts at a substantial expense.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mrs. HUMPHREY) announced that on today, May 18, 1978, she signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

H.R. 10392. An act to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SASSER, from the Committee on Governmental Affairs, with amendments and an amendment to the title:

H.R. 2931. An act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts (Rept. No. 95-903).

By Mr. SASSER, from the Committee on Governmental Affairs, with an amendment:

H.R. 3447. An act to amend chapter 83 of title 5, United States Code, to grant an annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity, and to eliminate the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant (Rept. No. 95-904).

H.R. 3755. An act to provide for the reinstatement of civil service retirement survivor annuities for certain widows and widowers whose remarriages occurred before July 18, 1966, and for other purposes (Rept. No. 95-905).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

George H. Lowe, of New York, to be U.S. Attorney for the Northern District of New York.

(The nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. KENNEDY (by request):

S. 3099. A bill to revise and extend the provisions of law concerned with health services and health research; to the Committee on Human Resources.

By Mr. DECONCINI (for himself and Mr. BUMPERS):

S. 3100. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review and for other purposes; to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 3101. A bill to amend title 38, United States Code, to authorize a pilot program

for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

S. 3102. A bill to amend title 38 of the United States Code in order to extend the authority of the Administrator to make grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JAVITS (for himself, Mr. SCHWEIKER, and Mrs. HUMPHREY):

S. 3103. A bill to amend the Public Health Service Act to provide for the advancement of international cooperation and assistance in health and for other purposes; to the Committee on Human Resources.

By Mr. PELL (for himself and Mr. KENNEDY):

S. 3104. A bill to establish a National Institute for Physical Fitness and Sports Medicine; to the Committee on Human Resources.

By Mr. LONG (for himself, Mr. RIBICOFF, Mr. TALMADGE, and Mr. DOLE):

S. 3105. A bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness, by replacing the medicaid program with a Federal medical assistance plan for low-income people, and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. ANDERSON, Mr. BAKER, Mr. BAYH, Mr. BENTSEN, Mr. BIDEN, Mr. BROOKE, Mr. HARRY F. BYRD, Mr. CANNON, Mr. CASE, Mr. CHAFEE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CURTIS, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. EAGLETON, Mr. GLENN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HASKELL, Mr. HATCH, Mr. MARK O. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HUDDLESTON, Mrs. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MELCHER, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. STAFFORD, Mr. STEVENS, Mr. STEVENSON, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, Mr. YOUNG, and Mr. ZORINSKY):

S.J. Res. 135. A joint resolution designating the weekend of April 29 of each year as "Days of Remembrance of Victims of the Holocaust"; to the Committee on Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI (for himself and Mr. BUMPERS):

S. 3100. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review and for other purposes; to the Committee on the Judiciary.

SUPREME COURT JURISDICTION ACT OF 1978

● Mr. DECONCINI. Mr. President, I am pleased today to introduce the Supreme Court Jurisdiction Act of 1978, a bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review and for other purposes.

The bill has three major thrusts:

First, the bill would repeal title 28, United States Code, section 1252, which permits appeal to the Supreme Court from a finding by a Federal district or appellate court that an act of Congress is unconstitutional. Appeal under section 1252 lies only in civil actions to which the United States is a party. If the section is set aside, review via certiorari would become available. See title 28, United States Code, section 1254(1).

Second, the bill would strike title 28, United States Code, section 1254(2) from the judicial code, thus eliminating appeals of right from a Federal circuit court finding that a State statute is unconstitutional. Again, certiorari would be available under title 28, United States Code, section 1254(1) for a case which now falls within section 1254(2).

Third, the measure would delete title 28, United States Code, section 1257 (1) and (2). Section 1257(1) authorizes appeals to the Supreme Court from certain State court decisions that Federal statutes and treaties are unconstitutional. Section 1257(2) permits appeals from State findings that State statutes are valid under Federal law. If these two provisions were removed from the code, certiorari would become available for these cases through the current title 28, United States Code, section 1257(3), which would survive.

Prior to 1925 the majority of the Supreme Court's docket was comprised of cases brought under the Court's obligatory appellate jurisdiction. In that year Congress provided for certiorari, or discretionary, review of most lower court decisions. However, review of decisions of three-judge district courts and certain other decisions remained mandatory; and, as the caseloads of these courts gradually increased, so did the mandatory docket of the Supreme Court.

A study conducted for the Supreme Court reveals that in the 1972–73 term 424 cases were decided on the merits. Of these cases, 293 came to the Court via the obligatory route.

Legislative changes since 1973 have altered this picture. For example, Public Law 93–258 amended the Expediting Act and Public Law 94–381 altered the jurisdiction of three-judge courts. New data indicate there were 311 cases on the obligatory appellate docket in the 1976 term. One-hundred and fifty-nine of these cases came from State courts, 123 from three-judge district courts, 11 from single-judge district courts, and 18 from the courts of appeals.

Of these 311 cases 211 were decided on the merits and 100 were dismissed for lack of a substantial Federal question or because of some procedural defect. Of the cases decided on the merits, 56 were the subject of oral argument.

Significantly, obligatory cases are forming an increasingly larger percentage of all cases decided on the merits. In 1942 they comprised 28 percent of all cases decided on the merits. By 1976 that figure had climbed to 47 percent.

It is our view, and the view of many others, that there is little justification for the obligatory appellate jurisdiction. Certainly there are categories of cases which annually produce questions of such magnitude that it is important that the Supreme Court review them. But such questions regularly appear in its certiorari docket as well.

It should be stressed that taking the appellate docket cases and placing them in the certiorari docket will not significantly reduce the caseload of the Court. While it can be expected that some cases which the Court would have been obligated to hear under the present system would not be the subject of petitions for certiorari, it seems likely that petitions would be filed for most of these cases. What the change would do is to allow the Court to concentrate its efforts on the most important cases before it. Since two-thirds of all appellate docket cases are decided on the merits and, therefore, have some form of precedential value the Court must necessarily spend more time on those cases than it does on denials of certiorari, which have no precedential value. Under this proposal the Court would be able to concentrate all of its decisional time on cases which it regards as significant.

Among those who have advocated the elimination of the Court's obligatory appellate jurisdiction are Chief Justice Warren Burger, Justice Thurgood Marshall, Justice Harry Blackmun, and Justice Louis Powell. See Commission on Revision of the Federal Appellate Court System, "Structure and Internal Procedures: Recommendations for Change," 172–188 (1975). Academic supporters of the concept include Prof. Paul Freund (Harvard), former dean of Harvard Law School and former Solicitor General Erwin Griswold, Prof. Geoffrey Hazard (Yale), and Prof. Charles Alan Wright (Texas).

In addition, the Department of Justice has previously taken a position favoring the elimination of obligatory appellate jurisdiction. See Department of Justice Committee on Revision of the Federal Judicial System, "The Needs of the Federal Courts," 11–13 (1977). The study group on the caseload of the Supreme Court strongly advocated the same change. See, Federal Judicial Center, "Report of the Study Group on the Caseload of the Supreme Court," 25–38 (1972). The Commission on Revision of the Federal Appellate Court System chaired by then Senator Roman Hruska also proposed some relief from the obligatory appellate jurisdiction burden. See "Structure and Internal Procedures: Recommendations for Change," pages 32–35. (1975).

I am indebted to Attorney General Bell and specifically his Office for the Improvements of the Administration of Justice for the work they have put into developing and perfecting the legislation I am introducing today. I would also like to acknowledge the prior work that Senator BUMPERS has devoted to the same subject which resulted to his introduction last year of S. 83. It is my intent to schedule hearings in the very near future on both of these bills. I sup-

port the concept embodied in the bills and intend to report a bill to the Senate following the full consideration of the issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Supreme Court Jurisdiction Act of 1978".

SEC. 2. Section 1252 of title 28, United States Code, is repealed.

SEC. 3. Section 1254 of title 28, United States Code, is amended by deleting subsection (2), by redesignating subsection (3) as subsection (2) and by deleting "appeal;" from the title.

SEC. 4. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari.

"Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States.

"For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

SEC. 5. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari.

"Final judgments or decreees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Comomnwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution, treaties, or statutes of, or commission held or authority exercised under, the United States.".

SEC. 6. The analysis at the beginning of chapter 81 of title 28, United States Code, is amended to read as follows:

"Chapter 81—SUPREME COURT

"Sec.

"1251. Original jurisdiction.

"1252. Repealed.

"1253. Direct appeals from decisions of three-judge courts.

"1254. Court of appeals; certiorari; certified questions.

"1255. Court of Claims; certiorari; certified questions.

"1256. Court of Customs and Patent Appeals; certiorari.

"1257. State courts; certiorari.

"1258. Supreme Court of Puerto Rico; certiorari.".

SEC. 7. Section 314 of the Federal Election Campaign Act of 1971, as added by section 208(a) of the Federal Election Campaign Act Amendments of 1974, as redesignated and amended (2 U.S.C. 437h), is amended:

(a) by deleting subsection (b); and

(b) by redesignating subsection (c) as subsection (b).

SEC. 8. Section 2 of the Act of May 18, 1928 (25 U.S.C. 652) is amended by deleting ", with the right of either party to appeal to the Supreme Court of the United States.".

SEC. 9. Subsection (d) of Section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by deleting the last sentence.●

By Mr. CRANSTON (by request):

S. 3101. A bill to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 3101, a bill to amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes. I ask unanimous consent that the bill, the letter of transmittal, a section-by-section analysis of the bill, and changes in existing law which would be made by the bill be printed in the RECORD.

There being no objection, the bill and the material were ordered to be printed in the RECORD, as follows:

S. 3101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter II of chapter 17 of title 38, United States Code, is amended by inserting at the end of such subchapter the following new section:

"§ 620A. Treatment and rehabilitation in private facilities for alcohol or drug dependence or abuse; pilot program

"(a) The Administrator, in carrying out his responsibilities to furnish hospital, nursing home domiciliary care and medical and rehabilitative services under this chapter, is authorized to conduct a pilot program for a period of three years, under which the Administrator may contract for the treatment of eligible veterans suffering from alcohol or drug dependence or abuse disabilities in halfway houses, therapeutic communities, or psychiatric residential treatment centers. Such pilot programs shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate both the medical advantages and cost effectiveness, or lack thereof, of furnishing care to veterans with alcohol and drug dependence or abuse disabilities both in contract facilities, as authorized by this section and in VA-operated facilities.

"(b) The Administrator or designee shall, prior to placing any veteran in a contract facility as authorized by this section, certify the validity and effectiveness of the program operated by such facility for the purpose for which such veteran is to be placed therein."

SEC. 2. The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting after "620. Transfers for nursing home care." the following:

"620A. Treatment and rehabilitation in private facilities for alcohol or drug dependence or abuse; pilot program.".

WASHINGTON, D.C.,
May 11, 1978.

HON. WALTER MONDALE,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes", with the request that it be introduced so that it may be considered for enactment.

The VA now treats the medical consequences of both alcohol abuse and drug abuse in its hospitals. Furthermore, the VA has long recognized alcoholism as a treatable condition. Alcoholism treatment units have in fact been established at 73 VA medical facilities and 15 more alcohol units are requested in our 1979 budget. Almost 100,000 veterans received treatment for alcoholism and related problems in fiscal year 1976. In addition, there are more than 50 VA drug treatment units operating now, with a capacity to treat approximately 29,500 patients annually.

Despite the recent growth of VA programs for treatment of drug and alcohol abuse, the VA believes additional legislative authorities may help VA respond to the needs of certain alcohol and drug-dependent veterans. For example, successful treatment outcomes for veterans sometimes can only be achieved if treatment is provided to the veteran and other members of his family by the same source of care, e.g., care obtained contract from a halfway house or other civilian institution. Also, in certain areas lacking a similar VA alcohol or drug treatment modality, it might be desirable to assist veterans needing such care through placements with community programs.

The draft bill would address these needs by authorizing the establishment of a broadened treatment and rehabilitation program on a pilot basis for veterans suffering from alcohol or drug dependence. A new range of treatment modalities would be provided, including the use of private halfway houses and psychiatric residential treatment centers on a contract basis, as complements to the Veterans Administration's own facilities.

Post-hospital care for alcohol and drug dependence throughout the nation is increasingly being furnished in halfway houses, therapeutic communities, and residential treatment centers. At present, however, the VA is limited to contracting for such care only for veterans with service-connected disabilities.

To remedy this limitation, this draft bill would authorize VA to contract for these externally based modalities of care without regard to whether the veteran's disability was service-connected. While we anticipate that the availability of these additional optional modalities of care will enhance the overall quality level of services delivered to the veterans concerned, we do believe that this effort must be evaluated after an initial period of time in order to closely examine the cost-effectiveness and efficacy of treatment obtained through contracting. Therefore, we propose that this program be authorized on a pilot basis for three years. During this time, we will evaluate the program and submit our findings and recommendations regarding it in time for consideration of program continuity.

We wish to note that general policy on the issue addressed in the enclosed draft

bill is that care should be provided, to the extent possible, in VA-operated facilities. At the same time it is recognized that there are situations, such as the need for family care or care where a VA program is not available, where to meet our medical obligations to particular categories of veterans, treatment in private facilities should be obtained on a contractual basis.

Our clear intention is to use these modalities only for therapeutic purposes. In addition to the proposed statutory requirement to limit placements to those facilities which VA has certified, we intend to develop regulations which explicitly call for these facilities to be used for a time-limited period and for a valid treatment regime only. In this manner, we hope to avoid the sort of situation which would result in the long-term use of taxpayers funds for housing or shelter purposes only.

It is estimated that enactment of this draft bill would result in a cost of approximately $2.4 million the first fiscal year, $8.2 million the second year, and $6.3 million for the third and final year.

We were advised by the Office of Management and Budget that there is no objection to the submission of this draft legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

MAX CLELAND,
Administrator.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL

A bill "To amend title 38, United States Code, to authorize a pilot program for the treatment and rehabilitation of veterans with alcohol or drug-dependent disabilities, and for other purposes."

SECTION 1

The draft bill adds a new section 620A to chapter 17. Subsection (a) of the bill would authorize the establishment of a broadened treatment and rehabilitation program on a pilot basis for veterans suffering from alcohol or drug dependence. A broader range of treatment modalities than now provided under title 38 in VA-operated facilities would be authorized, including the use of private halfway houses, therapeutic communities and psychiatric residential treatment centers on a contract basis for veterans suffering from alcohol or drug dependence or abuse disabilities. The draft bill accordingly would authorize VA to contract for these externally based modalities of care without regard to whether the veteran's disability was service-connected. Such care would be made available on a pilot basis.

Subsection (a) would require that prior to placing any veteran in a contract facility as authorized by this section, the Administrator or his designee certify the validity and effectiveness of the program operated by the contract facility for purpose for which the veteran is to be placed therein.

SECTION 2

This amends the table of sections at the beginning of chapter 17 of title 38 to reflect the addition of the new section 620A.

Changes in existing law made by the draft bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is italicized, and existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

PART II—GENERAL BENEFITS

* * * * *

CHAPTER 17—HOSPITAL, NURSING HOME DOMICILIARY, AND MEDICAL CARE

* * * * *

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

610. Eligibility for hospital, nursing home and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for medical treatment.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; Seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. Invalid lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care.
620.A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.

* * * * *

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

* * * * *

§ 620. Transfers for nursing home care.

* * * * *

§ 620A. *Treatment and rehabilitation in private facilities for alcohol or drug dependence or abuse; pilot program.*

(a) *The Administrator, in carrying out his responsibilities to furnish hospital, nursing home, domiciliary care and medical and rehabilitative services under this chapter, is authorized to conduct a pilot program for a period of three years, under which the Administrator may contract for the treatment of eligible veterans suffering from alcohol or drug dependence or abuse disabilities in halfway houses, therapeutic communities, or psychiatric residential treatment centers. Such pilot programs shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate both the medical advantages and cost effectiveness, or lack thereof, of furnishing care to veterans with alcohol and drug dependence or abuse disabilities both in contract facilities, as authorized above, and in VA-operated facilities.*

(b) *The Administrator or designee shall, prior to placing any veteran in a contract facility as authorized by this section, certify the validity and effectiveness of the program operated by such facility for the purpose for which such veteran is to be placed therein."*●

* * * * *

By Mr. CRANSTON (by request):

S. 3102. A bill to amend title 38 of the United States Code in order to extend the authority of the Administrator to make grants to the States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 3102, a bill to amend title 38 of the United States Code, in order to extend the authority of the Administrator to make grants to States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes. I ask unanimous consent that the bill, the letter of transmittal, a section-by-section analysis of the bill, and changes in existing law which would be made by the bill, be printed in the RECORD.

There being no objection, the bill and the material were ordered to be printed in the RECORD, as follows:

S. 3102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5033(a) is amended by striking out "$15,000,000 for the fiscal year ending September 30, 1978, and a like sum for the succeeding fiscal year" and inserting in lieu thereof "such sums as may be necessary for each fiscal year through the fiscal year ending September 30, 1984".

SEC. 2. Section 5025(d)(2) is amended by striking out "one-third of the amount appropriated" and inserting in lieu thereof "$6,000,000".

WASHINGTON, D.C.,
May 4, 1978.

Hon. WALTER MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38 of the United States Code in order to extend the authority of the Administrator to make grants to States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes", with the request that it be introduced in order that it may be considered for enactment.

The proposal would amend section 5033 of title 38, United States Code, to extend the program of grants to States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and would authorize an appropriation of such sums as may be necessary annually for fiscal years 1980 through 1984, to carry out such a program.

The proposal would also amend section 5035(d)(2), as amended by Public Law 95–62, to provide that no one State may receive in any fiscal year in the aggregate more than $6,000,000 for the above purposes.

The State home program has long been recognized as a high-quality, cost-efficient alternative to the provision of extended care in VA facilities. It is an important step in dealing with the medical needs of our elderly veterans. It began on August 27, 1888, with the enactment of an Act to provide aid to State or territorial homes for the support of disabled soldiers and sailors of the United States. In 1939, the law was amended to extend assistance to hospital care provided in State homes. In 1964, Public Law 88–450 extended Federal assistance to State homes to include nursing home care, and separate per diem payments were established for each level of care, namely, domiciliary, nursing home, and hospital care.

Public Law 91–178 authorized a separate per diem rate for State home hospital care and established a grant-assistance program providing 50 percent Federal funding for the remodeling of existing hospital and domiciliary facilities. The statute authorized annual appropriation for such grants of $5 million. Public Law 93–82 raised the maximum amount of VA participation in individual projects in both the nursing home and the domiciliary and hospital facility programs from 50 to 65 percent.

Since 1964, the VA has provided grants in excess of $54,000,000 to 22 States for nursing home construction, expansion, and remodeling projects. Since the 1969 enactment of authority for domiciliary and hospital remodeling grants in Public Law 91–178, the

VA has provided 16 States with $9,000,000 for domiciliary and hospital facility remodeling projects.

Present VA facilities are not adequate to cope with the special needs of today's elderly veterans. The VA's 88 nursing homes are filled to capacity with long waiting lists for admission to most of them. The same is true of the 16 VA domiciliaries. Some State nursing homes and domiciliaries are also running at near capacity. It is clear that much needs to be done to prepare for the increasing number of elderly veterans (about threefold in 15 years) who will require extended care before the next decade has passed.

As mentioned above, Public Law 95–62 provided that no one State may receive in any fiscal year in the aggregate more than one-third of the amount appropriated to carry out the purposes of the State homes program. This language was inserted to foreclose the possibility of inequitably large grants to a few States. However, this restriction, as currently framed, can prove impractical and detrimental to the implementation of an effective program. For example, if no more than $5,000,000 is appropriated in one fiscal year, the restriction poses an impediment which may frustrate entirely the purpose of the appropriation. In such a situation, any one State would be limited to a grant of $1,667,000 for that fiscal year. In many instances, this limitation on VA assistance would limit the scope of a project to the extent that it would not be feasible or cost effective to undertake the project. This is particularly true where new construction is contemplated. In addition, the amount of future grants would be rendered uncertain since the amount to be appropriated would not be known. This problem would be overcome by the proposed amendment which would permit any one State to receive up to a maximum of $6,000,000 in any one fiscal year. This would allow for realistic construction planning not only for the fiscal year in question, but also for subsequent fiscal years.

Since it is impossible to predict what funds may be appropriated for the State home program, we are unable to project the five-year cost to the Veterans Administration of implementing the program. Therefore, the actual cost will depend on the level of appropriations.

We were advised by the Office of Management and Budget that there is no objection to the submission of this draft legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

MAX CLELAND,
Administrator.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL

A bill to amend title 38 of the United States Code in order to extend the authority of the Administrator to make grants to States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes.

Section 1 of the draft bill would amend section 5033 of title 38, United States Code, to extend the program of grants to States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care to eligible veterans, and would authorize an appropriation of such sums as may be necessary annually for fiscal years 1980 through 1984. Such funds were authorized for fiscal years 1978 and 1979.

Section 2 would amend section 5035(d)(2) of title 38 to provide that no one State may receive in any one fiscal year more than $6,000,000 in the aggregate for carrying out the program. Section 5035(d)(2) enacted by Public Law 95–62, dated July 5, 1977, currently provides that no one State may receive in any fiscal year in the aggregate more than one-third of the amount appropriated in such fiscal year. As currently phrased, this restriction has the effect of obstructing implementation of an effective program. In many instances, this limitation on VA assistance would limit the scope of a project to the extent that it would not be feasible or cost effective to undertake the project. The proposed amendment would allow for realistic construction planning not only for the fiscal year in question, but also for subsequent fiscal years.

CHANGES IN EXISTING LAW MADE BY DRAFT BILL

Changes in existing law made by this bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is italicized, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

* * * * *

Subchapter III—State Home Facilities for Furnishing Domiciliary, Nursing Home, and Hospital Care

* * * * *

§ 5033. Authorization of appropriations [1]

(a) There is hereby authorized to be appropriated [$15,000,000 for the fiscal year ending September 30, 1978, and like sum for the succeeding fiscal year] *such sums as may be necessary for each fiscal year through the fiscal year ending September 30, 1984.*

Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes and meeting the requirements of this subchapter.

* * * * *

§ 5035. Applications with respect to projects: payments

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(2) No one State may receive in any fiscal year in the aggregate under this subchapter more than [one-third of the amount appropriated] *$6,000,000* for carrying out this subchapter in such fiscal year.●

* * * * *

By Mr. JAVITS (for himself, Mr. SCHWEIKER, and Mrs. HUMPHREY):

S. 3103. A bill to amend the Public Health Service Act to provide for the advancement of international cooperation and assistance in health and for other purposes; to the Committee on Human Resources.

INTERNATIONAL HEALTH ACT OF 1978

● Mr. JAVITS. Mr. President, the purpose of my remarks today is to announce a new legislative initiative, the International Health Act of 1978, aimed at revitalizing Federal programs to meet effectively the health needs of developing nations.

I am joined, as primary cosponsor in this effort, by Senator RICHARD S. SCHWEIKER of Pennsylvania, who is the ranking minority member on the Foreign Operations Subcommittee of the Senate Appropriations Committee as well as ranking minority member of the Human Resources Subcommittee on Health and Scientific Research, to which this legislation ultimately will be referred.

Also, I am grateful that Mrs. HUMPHREY has also joined us since this bill establishes a Hubert H. Humphrey International Development Center to commemorate the memory of the late Senator.

Extensive efforts have been undertaken in Washington during the past year, both in and out of Government, to assess our international health activities. Last November the White House released a 500-page survey by Dr. Peter Bourne cataloging these efforts. Simultaneously a review of international health activities within the Department of Health, Education, and Welfare was reported in December by Secretary Joseph Califano. Finally, coincident with these two in-house efforts, the Congress asked that a study of international health activities be conducted by the Institute of Medicine in the National Academy of Sciences. This report has just been received from the Academy. These efforts have all culminated in 1978, making this the "year of international health."

I am heartened by this recent national interest, since it was 7 years ago that I introduced S. 3023, the International Health Agency Act of 1971, the last major attempt until the present to make a significant Federal commitment to international health activities in a coordinated and comprehensive manner.

As ranking minority member of the Human Resources Committee and a senior member of the Foreign Relations Committee, the International Health Act of 1978 will address issues that have been cornerstones of my service in the U.S. Senate—international diplomacy and health—which ultimately are reflected in the human rights of all peoples and the prosperity of all nations.

I fear that the barrage of staggering statistics of death and disease in faraway places has had such a numbing effect on our sensitivities and awareness that they represent mere numbers, rather than a chilling reflection of human tragedy on a global scale.

As an example, it is useful to examine the health data on children in developing countries. Every year 15.6 million children under the age of 5 die, almost all of them in the less developed nations. Stop to think for a moment—that is nearly twice the population of New York City—it is five times the number of children born in the United States each year.

What is even more astounding than this statistic is that in most cases the causes of these deaths are preventable or curable. For example, pneumonia and diphtheria, caused by ordinary bacteria and viruses in malnourished children, account for at least half of these deaths. The remainder die of a wide variety of specifically pathogenic bacteria, viruses, and parasites. Again, such conditions are almost totally preventable or curable.

These statistics represent what is known to us all: That the health of chil-

dren is central to our concerns, both at home and abroad. In fact, my own domestic legislative priorities reflect this belief. I am the author of the National Health Insurance for Mothers and Children Act, which would focus comprehensive health benefits on that sector of the population in which is our greatest promise for promoting and maintaining good health. In addition, I am the sponsor of numerous pieces of legislation in the areas of primary care, genetic diseases, nutrition, family planning, and adolescent health services and pregnancy prevention, all of which contribute to the well-being and development of our Nation's children and youth.

In addition to these special problems of children, millions of people have no access to safe drinking water or waste disposal systems, malnutrition remains widespread, and in many underdeveloped nations rapid population growth outdistances social and economic progress.

While we take solace in achievements such as the elimination of smallpox by the World Health Organization and other international health agencies, we find, on the other hand, that after a similar global effort was launched two decades ago to control malaria, that disease is again on the rise. The death rate is now over 1.5 million per year, a 50-percent increase from a decade ago when the incidence of malaria reached its lowest point in modern history.

The strengths of the U.S. international health effort are well known and generally agreed upon. We are preeminent in biomedical research, including research into diseases of international significance. Moreover, disease control and surveillance has been an area where success has repeatedly been demonstrated, most recently in control of smallpox. Further, despite some well-publicized failings, our developmental assistance program has made great contributions to the health of the Third World. Finally, it is generally agreed that our contributions to international and multilateral funding agencies and programs (such as the tropical disease research program, which we are supporting now at a commitment level of $21.5 million over 5 years) is a valuable approach which should be continued and expanded.

Unfortunately, not all our programs have been so successful nor have they, in fact, been adequately supported. The shortcomings of our international health program which most concern me are:

First, the disorganization of international health activities within the Federal Government. In 1977 there were 22 Federal agencies which spent $522 million on international health and related health activities. Of this amount, $322 million is spent on bilateral programs and projects; $103 million goes to multilateral organizations such as the U.N. family and the Organization for Economic Cooperation and Development; $54 million goes to international development lending institutions such as the World Bank and the African Development Bank; and $43 million is spent by NASA on health-related projects. Of the $522 million spent in these various categories, about $400 million goes to the developing nations. In addition, five agencies spend $669 million to deliver health services to U.S. nationals (and some others) abroad, most of which ($632 million) is spent on DOD health facilities and services for military personnel.

Further, a look at individual agencies responsible for international health within HEW leads to some concern, both as to the effectiveness of their programs and as to the integration of these activities with other units of the same department. Accordingly, there would appear to be significant justification for the restructuring of current governmental activities in international health and, most particularly, within HEW. In addition, some mechanism must be established to assure that both now and in the future there is a clear evaluation of our investments in the area of international health by the Federal Government.

A second concern relates to the need to strengthen international health program activities within the Federal Government, particularly HEW. The Fogarty International Center, which is responsible for coordination of our biomedical research effort with other nations, has suffered from a steady decline of support since it was established in 1968. As other research activities have grown rapidly, support of research into the tropical diseases has not kept pace, either relatively or in terms of need. Manpower development and institutional support have lagged significantly in the international health field, only to be stimulated in times of international conflict involving the United States. Clearly some means is needed to stabilize support for international health programing and to provide a receptive home for these activities.

This brings me to my third and final concern about our current approach to international health activities in government. That is, we have no adequate mechanism in the current structure for dealing adequately with private voluntary organizations, either in this country or abroad. Too often we find the private voluntary organizations (PVO's) inadequately coordinated, both among themselves and in relation to the Federal Government. Moreover, PVO's frequently experience program potential which far exceeds their capacity to respond. Whereas channels have been made available for Government assistance to flow through the PVO's in areas such as disaster relief and feeding programs, there is no systematic manner by which such assistance can be provided in a relatively apolitical context over a long period of time.

A parallel but related problem is that there is inadequate mechanism today for foreign institutions, be they nonprofit private entities or governmental organizations, to receive support for small projects in a reasonably short period of time and with a minimum of redtape. Specifically, what I have in mind here are programs relating to research and demonstration of new ideas. These kinds of activities can be supported with relatively small funding levels and are often best accomplished in an environment that is free of political linkages to the foreign policy objectives of the U.S. Government.

It has been my consistent concern through the years that some method be found to assure that limited grants-in-aid could be made to institutions in the overseas setting, as well as to our own private voluntary organizations. without compromising the political independence of the recipient entities. Once again, I emphasize that these projects should be restricted to relatively modest programs in research and program development, with major program implementation left to that agency best equipped to administer such activities, the Agency for International Development.

Let me assure you that I do not believe the three areas of concern which I have listed represent all that is wrong with international health within Government or within HEW. Rather, they are concerns which I feel can be addressed by the Senate's Human Resources Committee in the relatively near future. At the same time any effort to rationalize international health activities in HEW should be done in concert with a more comprehensive review of international health activities elsewhere in Government.

Having outlined for you my basic concerns about international health activities within Government, I would like now to describe the major provisions of the International Health Act of 1978, which addresses these issues.

With respect to the lack of coordination within the Federal Government I am proposing several changes:

The bill provides for the establishment of Intragovernmental Coordinating Committee to be appointed by the President. This committee, composed of the Secretaries of HEW, Defense, State, Commerce, Agriculture, and Treasury, the Administrator of the Agency for International Development, the Director of ACTION, and the Director of the newly proposed Hubert H. Humphrey International Development Center, is to be chaired by an individual designated by the President and will have the responsibility for coordinating all international health activities in the Federal Government.

My bill would significantly upgrade the international health emphasis in HEW by establishing by statute the Office of International Health headed by a Deputy Assistant Secretary for International Health headed by a Deputy Assistant Secretary for International Health. The review of all international health budgets and programs within the Department would be assigned to this office.

The bill would consolidate activities currently dispersed throughout the Department, by moving the Fogarty International Center from NIH to the Office of International Health and broadening its mandate for service. We would, of course, expect the current biomedical re-

search functions of the Center to be maintained at the NIH campus.

Finally, the bill would establish a means of tracking and assessing all international health expenditures within the Government by requiring the General Accounting Office to establish a Government-wide system.

In order to strengthen our international health activities I am proposing the following program initiatives:

The organization of a cadre of manpower trained in international health and available for service when needed. This would be accomplished by:

First. Establishment of an International Health Service. Designed to accommodate no more than 75 to 100 individuals per year, the International Health Service will have as its mission the assignment of U.S. health professionals to foreign institutions to assist in manpower training, research and selected forms of direct service. It should be emphasized that, unlike the Peace Corps and National Health Service Corps, the International Health Service will have as its primary mission the development of trained professionals within the United States who can respond to international health needs as they arise. Provision is made in the bill for the integration of these individuals into U.S. institutions with international health service and study programs.

Second. Establishment of a new educational program to stimulate undergraduate health science students to become more active in international health through overseas travel and new course development. Also, implementation of financial support to postgraduate students for a period of one or more years in studies relating to international health.

Third. Establishment of a new program of core institutional support independent of specific grants or contracts for research and training. First, provision is made for international health center grants, which will be directed toward major international health service and teaching programs throughout the country. Emphasis will be placed on a broad-based capability to deal with a variety of international health problems. Applications may be considered from both individual institutions and consortia of institutions in the same area or region. It is anticipated that from 6 to 10 centers would be funded annually at a level of aproximately $500,000 each.

Another kind of activity which would be supported is the development of international health programs. While they may be located in an individual health science school within an institution, these programs should serve as a focal point for international health activities throughout that institution and feature one or more contributions unique to that institution. It is anticipated that from 25 to 30 such programs will be funded annually at a level of approximately $100,000 each.

Finally, I propose a new initiative in tropical medicine. I have had a historic concern with the needs of the developing world, particularly as it relates to the great scourges of mankind, the tropical diseases. Every effort which I have made in the past in international health has stressed this concern. In this bill, we provide for additional resources to go to the Center for Disease Control in Atlanta and to the National Institute for Allergy and Infectious Diseases in Bethesda, for the development of tropical disease research and control programs. To support this activity $6 million is directed in the first year to the Center for Disease Control and $5 million to the National Institute for Allergy and Infectious Diseases.

The last major area addressed by this bill is in regard to the need for a more effective way of relating the Government to the PVO's in the United States, on the one hand, and to both nongovernmental and governmental programs overseas on the other. It is here that we propose to create a structure to deal with the problems of the PVO's and to respond to the needs for developmental and research assistance on a limited basis to overseas agencies and institutions. In recommending this kind of approach some years ago, Dr. Kevin Cahill stated:

> I suggest that what is needed is a more complete separation between the assistance which deals with basic human needs—health, education, and food—and other types of economic assistance. This could be accomplished best by a private professional organization, responsible for furthering health programs abroad, yet financed in large measure by grants from the United States Government.

It is in this spirit that the bill I am introducing proposes a Hubert H. Humphrey International Health Development Center.

Such agencies have been successfully implemented elsewhere. The International Development Research Centre in Canada is an outstanding example. Currently operating on a budget of some $33 million, with approximately $5 million of this devoted to health, the IDRC has only two principal ties with the Canadian Government: First, through an annual appropriation by the Parliament; second, through its board, which is appointed by the Prime Minister. Apart from this it operates independently of Canadian missions overseas and serves as an important supplement to Canada's own developmental assistance program.

The Brookings Institution, in its report entitled "An Assessment of Development Assistance Strategies" released October 6, 1977, calls for the development of a new International Development Foundation. This Foundation, while more broadly focused than the proposed Humphrey International Development Center, would, in the words of the Brookings report, "be an autonomous, permanent National Science Foundation." Such a model might well be the logical evolutionary objective of the Center being proposed today, expanding its mission beyond health-related concerns. Perhaps the most relevant model of such an organization within the United States is the Inter-American Foundation, an organization devoted to strengthening the bonds of friendship and understanding among peoples in the Western Hemisphere through self-help efforts and the wider participation of people in recipient countries through the democratic process.

These constitute the basic provisions of the International Health Act of 1978. There are other features to this bill, including reform of the existing Public Health Service Act as it addresses PHS authority for action in foreign settings. In essence, however, my bill speaks to three major areas of concern: The restructuring of international health activities within the Federal Government, the establishment of new initiatives in international health (especially within HEW), and the organization of a new quasi-governmental agency which will be free to deal more effectively with PVO's and small developmental projects overseas.

The Institute of Medicine has just reported to the Congress the results of its study in this area. The three major recommendations are:

First. The Congress should authorize HEW to undertake broad research and development and related activities in international health.

Second. The Congress should provide the U.S. foreign aid program with authority to enter into long-term flexible relationships with U.S. academic institutions.

Third. The executive branch should establish an organizational mechanism to be responsible for international health policy development, program planning, and coordination.

Given that my bill, which I described, is directed primarily at international health activities within HEW, I feel we have come quite close to dealing with the three general recommendations of the Institute of Medicine.

Regarding the World Health Organization, the United States currently contributes slightly over $40 million a year to their activities, which include the following: Health planning, health services delivery, nutrition, family planning, environmental sanitation, and communicable disease control (tropical diseases). The largest category of assistance is in the area of tropical disease. In fact during Secretary Califano's recent trip to the WHO meeting in Geneva, he pledged that the United States would commit more than $20 million over the next 5 years to WHO's special program of training and research in the tropical diseases (TDR). He also indicated that the United States would support efforts with the World Health Organization in developing a Global Epidemic Surveillance Service, a worldwide immunization program for children, improvements in drinking water safety and basic sanitation, nutrition, and environmental health programs.

My legislation will permit additional cooperation in funding in the area of NIH and CDC activities with WHO as it relates to basic research and tropical diseases. Also the cadre of international health manpower that would be developed under your legislation could be used in WHO field stations around the world and to assist developing countries in developing their own manpower needs.

AID funds would be used primarily for water supply and sanitation and other developmental projects in these nations, as opposed to HEW funds.

In a world of cultures that are divided by hunger and disease, basic human rights for all cannot yet be achieved. I am hopeful, however, that this new initiative in international health that I have proposed can be the foundation for a revitalized commitment on the part of the United States to the attainment of man's most basic human right for all peoples—the right to live.

Some may wonder why we, as a nation, should make this effort when there are problems of cost, quality, and availability of medical services in our own health care system. Today, just as the world is one economic market; it is also one epidemiological community, and disease knows no geographic boundaries. But more important, if our Nation is to be truly great it will be measured best by the acts it performs for the benefit of all mankind—for the gift of health is the greatest gift of all.

In addition, as the ranking minority member of the Senate Human Resources Committee and an active participant in its Subcommittee on Health and Scientific Research, I have long promoted legislative programs to overcome our own Nation's medical care crisis in the areas of personnel, medical facilities, research and development, and financial access. Now it is time to share the fruits of these efforts with many nations.

Last, it is important to remember that in addition to medicine it is essential to deal with problems of poverty, population control, nutrition, housing, environment, and education. Thus, it is possible that through a conscious melding of diplomatic and health assistance developing nations can achieve greater economic and political stability.

As I indicated earlier in my remarks, 1978 apparently is to be the year of international health, because of the increased attention by the current administration and the Congress. This increased awareness, combined with the coming International Year of the Child, provides an excellent opportunity for all of us in Government and the private sector who share these concerns to accelerate our efforts in international health.

As we all know, the children of the world represent the greatest hope of mankind; but we should never forget also that despair may be even more dramatically reflected by the unmet needs of children.

It is my hope that the Congress will commemorate the International Year of the Child by the enactment of the International Health Act of 1978, and a renewed effort by this Nation selflessly to share with all nations the benefits of our knowledge and prosperity in order to meet the most basic human need of all: good health.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a telegram from the National Council for International Health supporting this legislation. I am very grateful for their input in developing this initiative. Also, I ask unanimous consent that a summary and a section-by-section analysis of the bill and the bill itself be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

TELEGRAM

The following two resolutions were passed.

Resolution One.—The National Council for International Health and the General Assembly for International Health meeting in New York on May 15–17 expressed our interests in an endorsement of the following principles which we consider important in new legislation.

1. Having better coordination of U.S. intra-governmental activities in international health.

2. Providing for expanded funding for research U.S. and international manpower development and institutional strengthening in international health.

3. Emphasizing the importance of demonstration in applied research.

4. Assisting voluntary agencies and other non-profit organizations in international health activities, we express our enthusiastic cooperation in efforts to insure the passage of appropriate legislation to achieve these purposes.

Resolution Two.—The National Council for International Health and the General Assembly for International Health meeting in New York on May 15–17 expressed their profound appreciation for the initiatives taken by Senators Javits and Schweiker and their staff in developing legislation to strengthen and advance activities to improve the health of the poor in developing countries.

S. 3103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Health Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress declares that—

(1) disease and disability are the common enemies of all mankind;

(2) the survival of mankind in a complex world depends upon a sharing of knowledge with regard to health problems without regard to national boundaries and political subdivisions;

(3) in the scientific and technological world of today the well-being of the American people is inseparable from that of other peoples;

(b) The Congress finds that—

(1) in order to assure the good health of all people, increased emphasis on the provision of basic environmental and health services, health manpower development, institutional support, medical research and surveillance, especially with regard to the tropical diseases, and experimentation into the organization and delivery of health care, is required;

(2) so that current and future international health programs may be more effectively administered, reorganization of international health responsibilities within government is required, while mechanisms need to be established for the control of such programs and for the clarification of current efforts in the international health field; and

(3) for the purpose of conducting health services research and initiating pilot programs in the overseas setting, while coordinating United States Government efforts with those of private voluntary organizations, an independent nongovernmental entity is needed.

(c) It is the purpose of this Act to establish the mechanisms to coordinate and support health activities at the international level.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

SEC. 3. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVIII—INTERNATIONAL HEALTH

"DEFINITIONS

"SEC. 1901. For the purposes of this title the term—

"(1) 'international health' means any collaborative activity in the field of health conducted by two or more countries or carried out in the United States for the express purpose of addressing world health problems, as articulated by the World Health Organization and other generally recognized international agencies, through disease control (including preventive medicine and biomedical research), measures to promote general health (including nutrition and environmental control), health services delivery, manpower development, and the strengthening of institutions, both domestic and foreign, which contribute to the enhancement of the health of all people, especially those in the developing world;

"(2) 'Department' means the Department of Health, Education, and Welfare;

"(3) 'Secretary' means the Secretary of Health, Education, and Welfare; and

"(4) 'Office' means the Office of International Health established under section 1803.

"INTRA-GOVERNMENTAL COORDINATING COMMITTEE ON INTERNATIONAL HEALTH

"Sec. 1802. (a) The President shall establish an Intra-Governmental Coordinating Committee on International Health (hereinafter referred to as the 'Committee').

"(b) The Committee shall consist of the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, the Administrator of the Agency for International Development, the Director of ACTION, and the Director of the Hubert H. Humphrey International Health Development Center. The President shall appoint a chairperson to serve at the pleasure of the President.

"(c) It shall be the duty of the Committee to identify and coordinate all international health activities by any entity of the Federal Government, and report annually to the President on the total United States program in international health.

"OFFICE OF INTERNATIONAL HEALTH

"Sec. 1803. (a) There is established within the Department an Office of International Health. The Office shall be headed by a Deputy Assistant Secretary for International Health, appointed by the Secretary. Notwithstanding the Act of June 14, 1948 (relating to the acceptance of membership for the United States in the World Health Organization) and subject to the provisions of section 5533(a) of title 5, United States Code (relating to dual pay) such Deputy Assistant Secretary shall concurrently serve as Representative from the United States to the Executive Board of the World Health Organization.

"(b) The Office shall—

"(1) review and make recommendations on all expenditures of the Department relating directly or indirectly to international health;

"(2) establish appropriate policy planning mechanisms and monitor program development activities for all Department programs relating to international health;

"(3) be responsible for relations with health agencies in other countries with

regard to international health activities involving the Department;

"(4) assess and recommend appropriate technology for the implementation of international health programs of the Department;

"(5) establish and maintain information systems adequate to monitor all international health activities within the Department; and

"(6) develop appropriate international health initiatives on behalf of the Department.

"(c) The Office shall be responsible for the identification and coordination of all training, service, and research activities in international health within the Department as well as the formulation and implementation of Department policy for such activities. These activities shall include—

"(1) basic health services;

"(2) biomedical research;

"(3) clinical research;

"(4) disaster relief;

"(5) rehabilitation;

"(6) information systems and statistics;

"(7) nutrition;

"(8) reproduction, family planning, and demography;

"(9) mental health;

"(10) alcohol and drug abuse;

"(11) disease control and surveillance;

"(12) environmental control;

"(13) consumer protection relating to food and drugs; and

"(14) such other programs as the Secretary shall deem appropriate.

"(d) In carrying out his responsibilities under this Act, the Secretary is authorized to—

"(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

"(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS–18 under section 5332 of title 5, United States Code, including travel time, and allow them while away from their homes or regular place of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"(e) There are authorized to be appropriated to carry out the purposes of this section $4,000,000 for the fiscal year ending September 30, 1980, $4,500,000 for the fiscal year ending September 30, 1981, $5,000,000 for the fiscal year ending September 30, 1982, $5,500,000 for the fiscal year ending September 30, 1983, and $6,000,000 for the fiscal year ending September 30, 1984.

"FOGARTY INTERNATIONAL CENTER FOR HEALTH TRAINING AND RESEARCH

"SEC. 1804. (a) There is established within the Office of International Health (established under section 1803) a center to be known as the Fogarty International Center for Health Training and Research. The Fogarty International Center for Health Training and Research shall be headed by a Director appointed by the Secretary.

"(b) The Fogarty International Center for Health Training and Research shall be responsible for the development and coordination of international health manpower training and research programs within the Department. Activities of such Center shall include—

"(1) administering an international exchange program, in conjunction with other agencies in the Department, to include international research fellowships, senior international fellowships and other established exchange programs in international health;

"(2) serving as a center for the promotion of advanced international studies in coordination with the National Institutes of Health on aspects of biomedical research and the use of biomedical research in health services;

"(3) augment awareness of activities and opportunities in biomedical research and the applications of science to health problems in other countries;

"(4) carrying out an advanced studies program, in conjunction with other agencies in the Department, to include conferences and seminars, a Fogarty Scholars program, geographic health studies and scientific communication;

"(5) administration of the special foreign currency program; and

"(6) such other programs as the Secretary may find necessary.

"(c) The Fogarty International Center for Health Training and Research shall further be responsible for the development and operation of certain specified international health manpower development and institutional support programs as follows:

"(1) Initiation and administration of a program of undergraduate student career awards, which shall be made through health science schools and graduate career awards, which shall be made to individuals, in international health. Undergraduate awards shall be for the support of study in the international setting and for related course development in the recipient institutions. Graduate awards shall be for the support of international health studies (as defined by the Secretary) following other training as a health professional. Student career awards shall concentrate on making international health experiences available to undergraduate and graduate health science students in the context of a career development pattern designed to result in a cadre of health professionals, knowledgable in the public health, clinical or research aspects of international health, upon completion of their training.

"(2) Initiation and administration of a program to be known as the International Health Service, which shall be directed toward the enhancement of public health, clinical and research capacity of foreign institutions engaged in health sciences training and research, through the use of an identified group of health professionals who should commit to a term of service of not less than two years in foreign nations which request such services from the United States Government and which have been identified by the Secretary as being in need of these services. Such program shall be established as a voluntary program within the Department. Provision may be made by the Secretary for continued support of members of the International Health Service for a period of no more than five years following their period of service in the foreign nation, providing that such members shall continue a career in international health in an institution designated by the Secretary as an international health center or an international health program. Such support, if offered, shall be on a declining basis with salary supplementation to be provided by the Center or Program from other funds.

"(3) Initiation and administration of a program to establish and provide core support for international health centers and international health programs in academic institutions throughout the United States. International health centers shall provide for international health services, teaching and research in their host institution, and shall be responsible for developing extensive programs in international health. International health programs shall serve as focal points for international health activities in their institutions and shall target their program efforts in one or more selected areas agreeable to the Secretary. The Secretary shall encourage the development of consortia of these institutions, once identified, and relationships of both Centers and Programs to selected health science institutions outside the United States.

"(d)(1) There are authorized to be appropriated for the purpose of subsection (b), $9,000,000 for the fiscal year ending September 30, 1980, $9,500,000 for the fiscal year ending September 30, 1981, $10,000,000 for the fiscal year ending September 30, 1982, $10,500,000 for the fiscal year ending September 30, 1983, and $11,000,000 for the fiscal year ending September 30, 1984.

"(2) There are authorized to be appropriated for the purposes of paragraph (1) of this subsection (c), $3,000,000 for the fiscal year ending September 30, 1980, $3,500,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, $4,500,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984.

"(3) There are authorized to be appropriated for the purposes of paragraph (2) of this subsection (c), $5,000,000 for the fiscal year ending September 30, 1980, $6,000,000 for the fiscal year ending September 30, 1981, $8,000,000 for the fiscal year ending September 30, 1982, $11,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

"(4) There are authorized to be appropriated for the purposes of paragraph (3) of this subsection (c), $6,000,000 for the fiscal year ending September 30, 1980, $7,500,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, $10,500,000 for the fiscal year ending September 30, 1983, and $12,000,000 for the fiscal year ending September 30, 1984.

"INITIATIVE IN TROPICAL MEDICINE

"SEC. 1805. (a) The Secretary shall provide for an initiative in tropical medicine within the Department. This initiative shall involve increased activity in research and control of selected tropical diseases as identified by the Secretary. In determining which diseases shall be the focus of this initiative, the Secretary shall consult with world health authorities in the field of international health.

"(b) The Secretary shall implement the initiative in tropical medicine with regard to disease control through the Center for Disease Control, in order more effectively to identify outbreaks, institute appropriate control measures, and evaluate new and existing control programs for those diseases selected by the Secretary.

"(c) The Secretary shall implement the initiative in tropical medicine with regard to programs of research through the National Institute of Allergy and Infectious Diseases at the National Institutes of Health, in order to promote development of vaccines, control of insect vectors, and development of new drugs for treatment of those diseases selected by the Secretary.

"(d) There are authorized to be appropriated to carry out the purposes of subsection (b) of this section $6,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, $10,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984.

"(e) There are authorized to be appropriated to carry out the purposes of subsection (c) of this section $5,000,000 for the fiscal year ending September 30, 1980, $6,000,000 for the fiscal year ending September 30, 1981, $7,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984.

"HUBERT H. HUMPHREY INTERNATIONAL HEALTH DEVELOPMENT CENTER

"SEC. 1806. (a) There is established a center to be known as the Hubret H. Humphrey International Health Development Center (hereinafter referred to as the Humphrey Center). The Humphrey Center shall be governed by a Board of 13 members appointed by the President by and with the advice and consent of the Senate.

"(b) It shall be the duty of the Humphrey Center to assist—

"(1) private voluntary organizations in the United States and entities of the Federal Government to coordinate their activities in international health;

"(2)) private voluntary organizations both in the United States and in foreign countries, through a program of grants, to carry out research and demonstration projects in international health; and

"(3) foreign government agencies, through a program of grants, to carry out research and demonstration projects in international health.

"(c)(1) The goals of the Humphrey Center are to initiate, encourage, support, and sponsor field research and demonstration projects specifically directed toward the implementation of improved health care programs in foreign nations. The Humphrey Center shall conduct studies to define the problems of providing health care in the developing regions of the world, the casual factors contributing to ill health in these areas, and the relative effectiveness of alternative programs for applying and adapting scientific, technical, and other knowledge to the economic and social advancement of the developing regions. Emphasis will be primarily on the application of technical knowledge, rather than basic research; on pilot projects, rather than large developmental programs. In achieving its goals the Center may—

"(A) enlist the talents of natural and social scientists and technologists of the United States and other countries;

"(B) assist the developing regions to build up the research capabilities, the innovative skills, and the institutions required to solve their problems;

"(C) encourage generally the coordination of international development research; and

"(D) foster cooperation in research on development problems between the developed and developing regions for their mutual benefit.

"(2) The Humphrey Center, in furtherance of its goals, may exercise any or all of the following powers to—

"(A) establish, maintain, and operate information and data centers and facilities for health services research and other activities relevant to its goals;

"(B) initiate and carry out health services research and technical development, including the establishment and operation of any pilot program or project, to the point where the appropriate results of such research and development can be applied;

"(C) support or assist health services research by governments, by international, public, or private organizations, and agencies, or by individuals;

"(D) enter into contracts or agreements with governments, with international, public, or private organizations, and agencies, or with individuals;

"(E) give recognition, by such means as the Humphrey Center deems appropriate, for outstanding contributions to international development by international, public, or private organizations, and agencies, or by individuals, and publish and otherwise disseminate scientific, technical, or other information;

"(F) sponsor or support conferences, seminars, and other meetings;

"(G) acquire and hold real property or any interest therein and alienate the same at pleasure;

"(H) acquire any property, money, or securities by gift, bequest or otherwise, and hold, expend, invest, administer, or dispose of any such property, money, or securities subject to the terms, if any, upon which such property, money, or securities is given, bequeathed or otherwise made available to the Humphrey Center;

"(I) expend, for the purposes of this Act, any money appropriated for the work of the Humphrey Center or received by the Center through the conduct of its operations; and

"(J) do such other things as are conducive to the carrying out of its goals and the exercise of the powers of the Humphrey Center.

"(d) The Humphrey Center, with the consent of any department, establishment, or corporate or other instrumentality of the Federal Government, may utilize and act through any such department, establishment, or instrumentality. The Humphrey Center may, with such consent, utilize the information, services, facilities, and personnel of any such department, establishment, or instrumentality, on a reimbursable basis. Each such department, establishment, and instrumentality is authorized to furnish any such assistance to the Humphrey Center upon written request from the Director.

"(e) The Secretary of State shall be informed by the Center Director of all grants and contracts proposed to be awarded by the Center and may, within 15 days upon receipt of such notice, cancel any such award, if, in his judgment, to proceed with such award would result in serious harm to the foreign policy interests of the United States.

"(f)(1) The Director of the Humphrey Center shall be appointed by the President for a term of five years and shall be a member of the Board.

"(2) Each of the other members of the Board shall be appointed by the President for a term of three years with staggered terms so that four new members are appointed each year.

"(3) The Director and any other retiring member is eligible for reappointment to the Humphrey Center in the same or another capacity for no more than one additional term unless there is a break in service of not less than one year.

"(4) The Board shall elect one of the members to be Vice-Director of the Humphrey Center.

"(5) In the event of the absence or incapacity of the Director, or if the office of Director is vacant, the Vice-Director of the Humphrey Center has and may exercise and perform all the duties and functions of the Director until a new Director has been appointed by the President.

"(6) Not more than three members of the Board may be employees of the United States.

"(7) At least nine of the members appointed to the Board must have experience in the field of international development and experience or training in the natural or social sciences or technology.

"(g)(1) There is established an Advisory Board to the Center, composed of 13 members, all of whom are foreign residents, each representing a different foreign nation.

"(2) The members of the Advisory Board shall be appointed by the Center Director, after consultation with members of the Board.

"(3) The Advisory Board shall perform such duties as the Board of Directors may assign.

"(h)(1) There is established in the Treasury of the United States the International Health Development Fund. The Fund shall be administered by the Humphrey Center, without the requirement of annual authorizations.

"(2) The purpose of the Fund is to provide capital which is necessary to furnish financial assistance to make grants to private voluntary organizations within and without the United States and to foreign governmental agencies for projects in international health and such other financial needs as the Council approves, in accordance with the provisions of this section.

"(3) In order to achieve the objectives and to carry out the purposes of the Fund, the Director may—

"(A) make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary or appropriate to carry out the purposes or provisions of this section;

"(B) prescribe and impose fees and charges for services by the Humphrey Center pursuant to this section;

"(C) sue and be sued, complain, and defend, in any State, Federal, or other court;

"(D) acquire, take, hold, own, deal with, and dispose of, any property; and

"(E) determine, in accordance with appropriations, the amounts to be withdrawn from the Fund and the manner in which such withdrawals shall be effected.

"(4) There shall be deposited in the Fund—

"(A) sums appropriated under this Act;

"(B) any sums or assets received as donations; and

"(C) income and gains realized from the investment of funds appropriated under this Act and the obligations or securities comprising such investments.

"(5) The Director shall deposit moneys of the Fund with any Federal Reserve Bank, any depository of public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

"(6) There is authorized to be appropriated for the purposes of the Fund $25,000,000 for the fiscal year ending September 30, 1980, $30,000,000 for the fiscal year ending September 30, 1981, $35,000,000 for the fiscal year ending September 30, 1982, $40,000,000 for the fiscal year ending September 30, 1983, and $45,000,000 for the fiscal year ending September 30, 1984.".

INTERNATIONAL COOPERATION

SEC. 4. (a) Section 307 of the Public Health Service Act (42 U.S.C. 2421) is amended by striking "health services research" wherever it appears, and substituting "health services research, development, and demonstration".

(b) Section 307(b) of such Act is amended by—

(1) striking "and" after paragraph (6);

(2) redesignating paragraph (7) as paragraph (9); and

(3) inserting the following after paragraph (6):

"(7) Make grants and contracts to public institutions or agencies; to nonprofit agencies and institutions in the United States and cooperating foreign countries and to multilateral international organizations to assist in the conduct of cooperative programs in health research, health services research, annd programs in the development and demonstration of the use of health statistics in cooperating foreign countries.

"(8) Pay the cost of health insurance for foreign participants and accompanying dependents in any program authorized under this section of the Act while such participants and dependents are in the United

States and its territories for the purpose of participating in such programs.".

(c) Section 307(a) of such Act is amended by striking the parenthetical expression.

STUDY OF FEDERAL HEALTH EXPENDITURES IN INTERNATIONAL HEALTH

SEC. 5. The General Accounting Office shall conduct a study of all Federal international health expenditures. In conducting such study, the General Accounting Office shall develop and implement to the extent feasible in each Federal entity a system for the continuing identification and accounting for all international health expenditures. The General Accounting Office shall prepare a report for Congress on the results of such study within 2 years after the date of enactment of this Act.

S. 3103 INTERNATIONAL HEALTH ACT OF 1978

BILL SUMMARY

The following initiatives are provided for in the Act:

1. The establishment of a Intra-Governmental Coordinating Committee on International Health. The Committee is composed of the Secretaries of State, Defense, Agriculture, Treasury, Health, Commerce, Education and Welfare, and the Directors of ACTION and the Hubert H. Humphrey International Health Development Center established by this bill. The committee is established in order to coordinate and report to the President all Federal international health activities.

2. The establishment of an Office of International Health headed by a new Deputy Assistant Secretary of International Health under the Department of Health, Education and Welfare (DHEW). The mission of the new office is to establish and monitor policy planning and development activities related to international health. To achieve this the office is given broad new responsibilities, including review and comment authority over all international health programs and expenditures in the Department. In addition to new functions, activities of the office will encompass 14 basic activities already assigned to the Office of International Health. Four million dollars will be appropriated for the office in fiscal year 1980 with subsequent annual increases of $500,000 through fiscal year 1984. (This represents current policy funding.)

3. The establishment of a Fogarty International Health Center for Health Training and Research under the Office of International Health, DHEW. (This represents an administrative transfer from NIH plus program expansion.) The center is responsible for the development and coordination of international health manpower training and research programs. The center is also responsible for initiating international health manpower and institutional support programs. A specific program known as the International Health Service will be initiated. A total of $23,000,000 is appropriated for the activities of the center in fiscal year 1980 ($9,000,000 of which represents current policy) with subsequent annual increases of $3,500,000 through fiscal year 1982; $5,500,000 in fiscal year 1983; and $6,500,000 in fiscal year 1984.

4. Development of a tropical medicine initiative under DHEW. The program will increase emphasis on research relating to the control of major tropical diseases and will be implemented through the Center for Disease Control and the National Institute of Allergy and Infectious Diseases. A total of $11,000,000 is appropriated for this activity in fiscal year 1980 with subsequent annual increases of $3,000,000 through fiscal year 1983 and $6,000,000 in fiscal year 1984.

5. The establishment of a Hubert H. Humphrey International Development Center. The mission of the center is to assist private and voluntary organizations in the United States in their coordination of international health activities and to sponsor such organizations and foreign agencies through a program of grants in order to carry out research and demonstration projects in international health. The center will have a board of directors appointed by the President, with annual appropriations by the Congress. It will be structured to assure rapid response to funding requests by eligible applicants, with an emphasis on research into health related problems of developing regions of the world. Also provided for is the establishment of an International Health Fund in the Treasury of the United States. A total of $25,000,000 is authorized to be appropriated for purposes of the Fund in fiscal year 1980 with subsequent annual increases of $5,000,000 thereafter through fiscal year 1984.

6. Amendments to the Public Health Service Act (section 307) and to title 5 of the United States Code as related to issues of international health cooperation; and the establishment of a Deputy Assistant Secretary for International Health.

7. A provision for a General Accounting Office (GAO) study of all Federal international health expenditures. In conducting such a study, GAO will develop and implement in each Federal entity a system for identifying and accounting for all international health expenditures. The report will be submitted to the Congress within 2 years after enactment of the International Health Act of 1978.

SECTION-BY-SECTION ANALYSIS OF S. 3103

TITLE

Provides that the Act is cited as the "International Health Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

Sec. 2(a): The Congress declares that:

(1) Disease and disability are the common enemies of all mankind;

(2) The survival of mankind depends upon a sharing of knowledge with regard to health problems without regard to national boundaries and political subdivisions;

(3) In the scientific and technological world of today the well-being of the American people is inseparable from that of other peoples;

(b) The Congress finds that—

(1) In order to assure the good health of all people, increased emphasis on the provision of basic environmental health services, health manpower development, institutional support, medical research and surveillance, especially with regard to the tropical diseases, and experimentation into the organization and delivery of health care is required;

(2) So that current and future international health programs may be more effectively administered, reorganization of international health responsibilities within government is required, while mechanisms need to be established for the control of such programs and for the clarification of current efforts in the international heath field; and

(3) For the purpose of conducting health services research and initiating pilot programs in the overseas setting, while coordinating United States Government efforts with those of private voluntary organizations, a new, independent nongovernmental entity is needed.

(c) It is the purpose of the control of this Act to establish the mechanisms to coordinate and support health activities at the international level.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

Sec. 3. The Public Health Service Act is amended by adding the new title: "Title XVIII—International Health".

DEFINITIONS

Sec. 1801. The following terms are defined:

(1) "International health" means any collaborative activity in the field of health conducted by two or more countries in a foreign country or carried out in the United States for the specific purpose of addressing world health problems through disease control (including preventive medicine and biomedical research), measures to promote general health (including nutrition and environmental control) health services delivery, manpower development, and the strengthening of institutions, both domestic and foreign, which contribute to the enhancement of the health of all people, especially those in the developing world.

(2) "Department" means the Department of Health, Education, and Welfare; and

(3) "Secretary" means the Secretary of Health, Education, and Welfare.

INTRA-GOVERNMENTAL COORDINATING COMMITTEE ON INTERNATIONAL HEALTH

Sec. 1802. (a) Provides that the President establish a Intra-Governmental Coordinating Committee on International Health (referred to as the "Committee").

(b) The Committee would consist of the Secretary of State, the Secretary of Defense, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, the Administrator of the Agency for International Development, the Director of ACTION, and the Director of the Hubert H. Humphrey International Health Development Center. The President shall appoint a chairperson of the Committee.

(c) Provides for the Committee to coordinate and report annually to the President all international health activities by the Federal Government and the total United States program in international health.

OFFICE OF INTERNATIONAL HEALTH

Sec. 1803. (a) Provides for the establishment within the Department of an Office of International Health. The Office of International Health shall be headed by a Deputy Assistant Secretary for International Health, appointed by the Secretary, who will concurrently serve as a representative from the United States to the executive board of the World Health Organization.

(b) Provides that the Office of International Health:

(1) Review and make recommendations on all expenditures of the Department relating directly or indirectly to international health;

(2) Establish policy planning mechanisms and monitor program and development activities for all Department programs relating to international health;

(3) Be responsible for relations with health agencies in other countries with regard to international health activities involving the Department;

(4) Assess and recommend appropriate technologies for the implementation of international health programs of the Department;

(5) Establish and maintain information systems to monitor all international health initiatives on behalf of the Department.

(6) Develop appropriate international health initiatives on behalf of the Department.

(c) Provides that the Office shall be responsible for the coordination of all training, service, and research activities in international health within the Department as well as the formulation and implementation of Department policy. Activities include—

(1) basic health services;

(2) biomedical research;

(3) clinical research;

(4) disaster relief;

(5) rehabilitation;

(6) information systems and statistics;

(7) nutrition;

(8) reproduction, family planning, and demography;
(9) mental health;
(10) alcohol and drug abuse;
(11) disease control and surveilance;
(12) environmental control;
(13) consumer protection relating to food and drugs; and
(14 other programs as the Secretary deems appropriate.

(d) Provides that in carrying out responsibilities under the Act, the Secretary is authorized to—

(1) Use the services, facilities, and personnel of consenting agencies, with or without reimbursement; accept and use the services, facilities, and personnel of any consenting agency of a State or political subdivision with reimbursement; and

(2) Employ experts and consultants or organizations authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate employed individuals at rates not in excess of the rate specified for grade GS–18 including travel-time, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence).

(e) provides that there be authorized to be appropriated to carry out the purposes of this section:

$4,000,000 for the fiscal year ending September 30, 1980;
$4,500,000 for the fiscal year ending September 30, 1981;
$5,000,000 for the fiscal year ending September 30, 1982;
$5,500,000 for the fiscal year ending September 30, 1983; and
$6,000,000 for the fiscal year ending September 30, 1984.

FOGARTY INTERNATIONAL CENTER FOR HEALTH TRAINING AND RESEARCH

SEC. 1804. (a) Provides for the establishment within the Office of International Health (established under section 5) a center to be known as the Fogarty International Center for Health Training and Research. The Center shall be headed by a Director appointed by the Secretary.

(b) The Fogarty International Center for Health Training and Research shall be responsible for the development and coordination of international health manpower training and research programs. Activities of the center shall include—

(1) Administering an international exchange program, in conjunction with other agencies in the Department, to include international research fellowships, senior international fellowships and other established exchange programs in international health;

(2) Serving as a center for the promotion of advanced international studies in coordination with the National Institutes of Health on aspects of biomedical research and the use of biomedical research in health services;

(3) Augmenting awareness of activities and opportunities in biomedical research and the applications of science to health problems in other countries;

(4) Carrying out an advanced studies program to include conferences and seminars, a Fogarty Scholars program, geographic health studies and scientific communciations;

(5) Administration of the special foreign currency program; and

(6) Such other programs as the Secretary may find necessary.

(c) The Fogarty International Center shall further be responsible for initiating certain specified international health manpower and institutional support programs as follows:

(1) Initiation and administration of a program of undergraduate and graduate student career awards through health science schools in the United States. Student career awards shall concentrate on making international health experiences available to undergraduate and graduate health science students in the context of a career development pattern designed to result in a cadre of health professionals, knowledgeable in either the public health, clinical or research aspects of international health.

(2) Initiation and administration of a program directed toward the enhancement of the public health clinical and research capacities of foreign institutions engaged in health sciences training and research, through the use of an identified group of health professionals who shall serve no less than two years in settings outside the United States which request such services from the United States Government and which have been identified by the Secretary as being in need of their services. This program shall be known as the International Health Service and it shall be established as a voluntary program within the department. Provision may be made by the Secretary for continued support of members of the International Health Service for a period of no more than five years following their period of service in the foreign setting, providing that such members shall continue a career in international health in an institution designated by the Secretary as an International Health Center or an International Health Program. Such support, if offered, shall be on a declining basis with salary supplementation to be provided by the Center or Program from other funds.

(3) Initiation and administration of a program to establish and provide core support for a number of International Health Centers and International Health Programs in academic institutions throughout the United States. International Health Centers shall provide for international health services, teaching, and research in their host institution, and shall be responsible for developing extensive programs in international health. International Health Programs shall serve as focal points for international health activities in their institutions and shall target their program efforts in one or more selected areas agreeable to the Secretary. The Secretary shall encourage the development of consortia of these institutions, once identified, and relationships of both centers and programs to selected health science institutions outside the United States.

(d) (1) There are authorized to be appropriated for the purpose of subsection (b):

$9,000,000 for the fiscal year ending September 30, 1980;
$9,500,000 for the fiscal year ending September 30, 1981;
$10,000,000 for the fiscal year ending September 30, 1982;
$10,500,000 for the fiscal year ending September 30, 1983; and
$11,000,000 for the fiscal year ending September 30, 1984.

(2) Provides for authorization of appropriations for the purposes of paragraph (1) of subsection (c):

$3,000,000 for the fiscal year ending September 30, 1980;
$3,500,000 for the fiscal year ending September 30, 1981;
$4,000,000 for the fiscal year ending September 30, 1982;
$4,500,000 for the fiscal year ending September 30, 1983; and
$5,000,000 for the fiscal year ending September 30, 1984.

(3) Provides for authorization of appropriations for the purpose paragraph (2) of subsection (c):

$5,000,000 for the fiscal year ending September 30, 1980;
$6,000,000 for the fiscal year ending September 30, 1981;
$8,000,000 for the fiscal year ending September 30, 1982;
$11,000,000 for the fiscal year ending September 30, 1983; and
$15,000,000 for the fiscal year ending September 30, 1984.

(4) Provides for authorization of appropriations for the purpose of paragraph (3) of subsection (c):

$6,000,000 for the fiscal year ending September 30, 1980;
$7,500,000 for the fiscal year ending September 30, 1981;
$9,000,000 for the fiscal year ending September 30, 1982;
$10,500,000 for the fiscal year ending September 30, 1983; and
$12,000,000 for the fiscal year ending September 30, 1984.

INITIATIVE IN TROPICAL MEDICINE

Sec. 1805. (a) Provides for an initiative by the Secretary in tropical medicine within the Department. The initiative shall involve increased activity in research and control of selected tropical diseases as identified by the Secretary. In determining which diseases shall be the focus of this initiative, the Secretary shall consult with world health authorities in the field of international health.

(b) Provides for implementation of the initiative in tropical medicine with regard to disease control by the Secretary through the Center for Disease Control in order to more effectively identify outbreaks, institute appropriate control measures, and evaluate new and existing control programs for those diseases selected by the Secretary.

(c) Provides for implementation of the initiative in tropical medicine by the Secretary with regard to programs of research in order to promote through the National Institute of Allergy and Infectious Diseases at the National Institutes of Health the development of vaccines, control of insect vectors, and development of new drugs for treatment of those diseases selected by the Secretary.

(d) Provides for authorization of appropriations to carry out the purposes of subsection (b) of this section:

$6,000,000 for the fiscal year ending September 30, 1980;
$8,000,000 for the fiscal year ending September 30, 1981;
$9,000,000 for the fiscal year ending September 30, 1982;
$10,000,000 for the fiscal year ending September 30, 1983; and
$14,000,000 for the fiscal year ending September 30, 1984.

(e) Provides for authorization of appropriations to carry out the purposes of subsection (c) of this section:

$5,000,000 for the fiscal year ending September 30, 1980;
$6,000,000 for the fiscal year ending September 30, 1981;
$7,000,000 for the fiscal year ending September 30, 1982;
$8,000,000 for the fiscal year ending September 30, 1983; and
$9,000,000 for the fiscal year ending September 30, 1984.

HUBERT H. HUMPHREY INTERNATIONAL HEALTH DEVELOPMENT CENTER

Sec. 1806. (a) Provides for the establishment of a center to be known as the Hubert H. Humphrey International Health Development Center (referred to as the Humphrey Center). The Humphrey Center shall be governed by a Board of 13 members appointed by the President by and with the advice and consent of the Senate.

(b) Provides that it shall be the duty of the Humphrey Center to assist—

(1) Private voluntary organizations in the United States and entities of the Federal Government to coordinate their activities in international health;

(2) Private voluntary organizations both in the United States and in foreign countries, through a program of grants, to carry

out research and demonstration projects in international health; and

(3) Foreign government agencies through a program of grants, to carry out research and demonstration projects in international health.

(c)(1) The goals of the Humphrey Center are to initiate, encourage, support, sponsor field and research and demonstration projects specifically directed toward the implementation of improved health care programs in the foreign setting. This will include studies to define the problems of providing health care in the developing regions of the world, the causal factors contributing to ill health in these areas, and the relative effectiveness of alternative programs for applying and adapting scientific, technical, and other knowledge to the economic and social advancement of the developing regions. Emphasis will be primarily on the application of technical knowledge, rather than basic research; on pilot projects, rather than large developmental programs. In achieving its goals the Center may—

(A) Enlist the talents of natural and social scientists and technologies of the United States and other countries:

(B) Assist the developing regions to build up the research capabilities, the innovative skills, and the institutions required to solve their problems;

(C) Encourage the coordination of international development research; and

(D) Foster cooperation in research on development problems between the developed and developing regions.

(2) The Humphrey Center may exercise any or all of the following powers in the United States or elsewhere. It has the power to—

(A) Establish, maintain, and operate information and data centers and facilities for health services research and other activities relevant to its goals;

(B) Initiate and carry out health research, research and technical development, including the establishment and operation of any pilot program or project, to the point where the appropriate results of research and development can be applied;

(C) Support or assist health services research by governments, by international, public, or private organizations, by agencies or by individuals;

(D) Enter into contracts or agreements with governments; international, public, or private organizations; agencies; or with individuals;

(E) Give recognition for outstanding contributions to international development by international, public, or private organizations, and agencies, or by individuals, and publish and otherwise disseminate scientific, technical, or other information;

(F) Sponsor or support conferences, seminars, and other meetings;

(G) Acquire and hold real property or any interest therein and alienate the same at pleasure;

(H) Acquire any property, money, or securities by gift, bequest or otherwise, and hold, expend, invest, administer, or dispose of any such property, money, or securities;

(I) Expend, any money appropriated for the work of the Humphrey Center; and

(J) Do such other things as are conducive to the carrying out of goals and the exercise of the powers of the Humphrey Center.

(d) Provides that the Humphrey Center may utilize and act through any consenting department, establishment, or instrumentality. The Humphrey Center may utilize the information, services, facilities, and personnel of any consenting entity on a reimbursable basis. Each such entity is authorized to furnish any such assistance to the Humphrey Center upon written request from the Director.

(e) The Secretary of State shall be informed by the Center Director of all grants and contracts proposed to be awarded by the Center and may, within 15 days upon receipt of such notice, cancel any such award, if, in his judgment, to procede with such award would result in serious harm to the foreign policy interests of the United States.

(f)(1) Provides that the Director of the Humphrey Center be appointed by the President for a term of five years and shall be a member of the Board.

(2) Each of the other members of the Board shall be appointed by the President for a term of three years with staggered terms so that four new members are appointed each year.

(3) The Director and any other retiring member is eligible for reappointment to the Humphrey Center in the same or another capacity for no more than one additional term unless there is a break in service of not less than one year.

(4) Provides that the Board shall elect one of the members to be Director of the Humphrey Center.

(5) In the event of the absence or incapacity of the Chairman, or if the office of Director is vacant, the Director of the Humphrey Center has and may exercise and perform all the duties and functions of the Chairman until a new chairman has been appointed by the President.

(6) Not more than three members of the Board may be employees of the United States.

(7) At least nine of the members appointed to the Board must have experience in the field of international development or experience or training in the natural or social sciences or technology.

(g) There shall be established an Advisory Board to the Center, this board to be composed of foreign nationals and to function as provided for by the Board of Directors of the Center.

(h)(1) Provides for the establishment in the Treasury of the United States the International Health Development Fund. The fund shall be administered by the Humphrey Center, without the requirement of annual authorizations.

(2) The purpose of the fund is to provide capital which is necessary to furnish financial assistance to make grants to private voluntary organizations both inside and outside the United States and to foreign agencies for projects in international health and such other financial needs as the Council approves.

(3) In order to achieve the objectives and to carry out the purposes of the fund, the Director may—

(A) Make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary to carry out the purposes or provisions of this section;

(B) Prescribe and impose fees and charges for services by the Humphrey Center pursuant to this section;

(C) Sue and be sued, complain, and defend, in any State, Federal, or other court;

(D) Acquire, take, hold, own, deal with, and dispose of, any property; and

(E) Determine, in accordance with appropriations, the amounts to be withdrawn from the fund and the manner in which such withdrawals shall be effected.

(4) Provides that there be deposited in the fund—

(A) Sums appropriated under this Act;

(B) Any sums or assets received as donations; and

(C) Income and gains realized from the investment of funds appropriated under this Act and the obligations or securities comprising such investments.

(5) Provides that the Director deposit moneys of the fund with any Federal Reserve Bank, any depository of public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(6) Provides for authorization of appropriations for the purposes of the fund:

$25,000,000 for the fiscal year ending September 30, 1980;

$30,000,000 for the fiscal year ending September 30, 1981;

$35,000,000 for the fiscal year ending September 30, 1982;

$40,000,000 for the fiscal year ending September 30, 1983; and

$45,000,000 for the fiscal year ending September 30, 1984.

INTERNATIONAL COOPERATION

Sec. 4. (a) Provides that section 307 of the Public Health Service Act (42 U.S.C. 2421) be amended by striking "health services research" wherever it appears, and substituting "health services research, development, and demonstration".

(b) Section 307(b) of such Act is amended by—

(1) striking "and" after paragraph (6);

(2) redesignating paragraph (7) as paragraph (9); and

(3) inserting the following after paragraph (6):

"(7) Make grants and contracts to public institutions or agencies; to nonprofit agencies and institutions in the United States and cooperating foreign countries and to multilateral international organizations to assist in the conduct of cooperative programs in health research, health services research, and programs in the development and demonstration of the use of health statistics in cooperating foreign countries."

(8) Pay the cost of health insurance for foreign participants and accompanying dependents in any program authorized under this section of the Act which such participants and dependents are in the United States and its territories for the purpose of participating in such programs."

(c) Section 307(a) of such Act is amended by striking the parenthetical expression.

STUDY OF FEDERAL HEALTH EXPENDITURES IN INTERNATIONAL HEALTH

Sec. 5. Provides that the General Accounting Office conduct a study of all Federal international health expenditures. In conducting such study, the General Accounting Office shall develop and implement to the extent feasible in each Federal entity a system for the continuing identification and accounting for all international health expenditures. The General Accounting Office shall prepare a report for Congress on the results of such study within two years after the date of enactment of this Act.●

● Mr. SCHWEIKER. Mr. President, I am today joining Senator JAVITS in sponsoring the International Health Act of 1978.

In considering this bill, the Subcommittee on Health and Scientific Research, of which I am the ranking Republican, will consider how the vast array of governmental programs in over 20 different Federal agencies can be coordinated into a comprehensive strategy to improve the health of persons throughout the world. As with any activity involving our Government overseas, international health is inexorably linked with the foreign policy of the United States. It is therefore essential that our international health efforts are conducted with the knowledge and approval of those responsible for defining and implementing our foreign policy. The Intra-Governmental Coordinating Committee proposed in this bill is

an important step towards insuring the linking of our health policy with our foreign policy.

The bill establishes three important new programs within the Department of Health, Education, and Welfare to improve the capability of American institutions and personnel to deal effectively with international health problems. The strengths of the American research community would be focused through the Center for Disease Control and the National Institute of Allergy and Infectious Diseases on particular problems in tropical medicine.

I am aware that there is a need for a mechanism to deal promptly with requests from foreign governments or private voluntary organizations both here and abroad for assistance in foreign health projects. This need can perhaps best be served by a small group of individuals with practical experience in international health or development. The Hubert H. Humphrey International Development Center is a first step toward establishing a body to meet this need. I believe, however, that perhaps the functions of this center may be incorporated into an existing governmental or quasi-governmental organization in an effort to build on existing experience in the field of international health and development.

As the subcommittee considers this bill, I would hope that public officials and other concerned citizens will work with us to assure the development of an international health strategy consistent with the goals of American foreign policy.●

By Mr. PELL (for himself and Mr. KENNEDY):

S. 3104. A bill to establish a National Institute for Physical Fitness and Sports Medicine; to the Committee on Human Resources.

NATIONAL INSTITUTE FOR PHYSICAL FITNESS AND SPORTS MEDICINE ACT 1978

● Mr. PELL. Mr. President, today I am introducing legislation to enrich and improve our national standard of health through the promotion of improved personal physical fitness.

Many Americans live sedentary lives, characterized by driving short distances in their cars, sitting at home watching television, poor dietary habits revolving around an increasing dependence on convenience and junk foods, a lack of exercise, and an ignorance of the most important facts of good health and nutrition.

As a Nation, we would much rather sit inside and watch football, tennis, or golf on television than go outside for the same period of time and play some touch football, a tennis match, or nine holes of golf. We raise our children to sit inside, and we let the television babysit them with hours of skiing or basketball, instead of helping them to get outside and learn how to ski or how to shoot a basket.

There has recently been an encouraging increase in the participation rates for some activities like jogging, bicycling, and cross-country skiing, but the sad fact is that many Americans do not regularly participate in any sort of physical fitness activities and that our national level of awareness of the importance and techniques of physical fitness is low.

This general apathy toward physical fitness is surprising in a nation in which professional and interscholastic athletics play so great a part of our cultural life. Millions of schoolchildren from first grade through college engage in interscholastic sports every week, but many of these are not what we now recognize to be lifetime sports. In fact, within this sports program there is a serious problem of athletic injuries, and a special branch of science, sports medicine, has been developed to cope with problems of training and athletic development and injuries, which are unique to this field.

I believe that we should focus on the problem of poor national physical fitness, and also on the parallel problem of athletic injuries, and the legislation I have introduced today would accomplish these goals.

I believe that a National Institute for Physical Fitness and Sports Medicine, located within the National Institutes of Health, will do a great deal to improve our national standard of health.

My legislation provides for the Institute to support research and demonstration projects into the nature of physical fitness and the best means for encouraging the development of physical fitness among our citizens. I expect the Institute to explore the development of physical fitness programs on-the-job for the millions of American workers who do not now have access to such programs. In the few instances where private business has tried this novel approach, physical fitness programs have been shown to improve health and productivity and cut down on time off the job. This legislation also instructs the Institute to fully explore the relationship between nutrition and physical fitness with the goal of developing models of nutritional awareness as part of a comprehensive physical fitness development program.

The institute is also charged with the responsibility of communicating and disseminating the information it has about physical fitness in the widest and most practical manner to the American people, and I would expect that it would carefully develop and utilize modern methods of television and mass communication to get the message across that physical fitness and proper nutrition are essential for good health.

The institute has a special responsibility to groups of our citizens who often are left out of the mainstream in traditional physical fitness programs. Senior citizens and handicapped individuals must be involved and considered and helped with the development of good nutrition and physical fitness habits. Their special needs are a real priority of the institute.

Finally, the institute will serve as a focus for the developing science of sports medicine and will encourage the coordination and development of research and teaching in this field, as well as encouraging the dissemination of this information through insuring that certified sports medicine practitioners and athletic trainers become more widely available in our school systems.

Mr. President, our Nation's health is not nearly as good as it should be, and the cost of health care is still not under control. Preventative care, proper nutrition, and improved physical fitness can combine to measurably improve our level of health and the quality of life in our country, and this legislation will serve to focus and enrich our national awareness and level of physical fitness and nutrition.●

By Mr. LONG (for himself, Mr. RIBICOFF, Mr. TALMADGE, and Mr. DOLE):

S. 3105. A bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness, by replacing the medicaid program with a Federal medical assistance plan for low-income people, and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes; to the Committee on Finance.

(The remarks of Mr. LONG when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. DANFORTH (for himself, Mr. ANDERSON, Mr. BAKER, Mr. BAYH, Mr. BENTSEN, Mr. BIDEN, Mr. BROOKE, Mr. HARRY F. BYRD, Mr. CANNON, Mr. CASE, Mr. CHAFEE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. CURTIS, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. EAGLETON, Mr. GLENN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HASKELL, Mr. HATCH, Mr. MARK O. HATFIELD, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HUDDLESTON, Mrs. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MELCHER, Mr. METZENBAUM, Mr. MORGAN, Mr. MOYNIHAN, Mr. MUSKIE, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. STAFFORD, Mr. STEVENS, Mr. STEVENSON, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. WEICKER, Mr. WILLIAMS, Mr. YOUNG, and Mr. ZORINSKY):

Senate Joint Resolution 135. A joint resolution designating the weekend of April 29 of each year as "Days of Remembrance of Victims of the Holocaust"; to the Committee on the Judiciary.

(The remarks of Mr. DANFORTH when he introduced the joint resolution appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 514

At the request of Mr. RIBICOFF, the Senator from Oregon (Mr. MARK O. HATFIELD) was added as a cosponsor of S. 514, to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care.

S. 1967

At the request of Mr. ROBERT C. BYRD, the Senator from Georgia (Mr. NUNN) and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of S. 1967, a bill relating to the method of reporting social security contributions by State and local units of government.

S. 1996

At the request of Mr. STAFFORD, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 1996, a bill amending title 10 of the United States Code relating to survivor benefits for retirees of the Reserve Forces.

S. 2410

At the request of Mr. KENNEDY, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2410, a bill to amend the Public Health Service Act for health planning and health resources development.

S. 2843

At the request of Mr. HELMS, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2843, the Gold Medallion Act.

SENATE JOINT RESOLUTION 134

At the request of Mr. BAYH, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 134, to extend the deadline for ratification of the Equal Rights Amendment.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. CASE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Concurrent Resolution 70, urging that the United States continue working to bring about a peaceful settlement in Rhodesia.

SENATE CONCURRENT RESOLUTION 87—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE NATIONAL AIR QUALITY STANDARD FOR PHOTOCHEMICAL OXIDANTS

Mr. BENTSEN (for himself and Mr. TOWER) submitted the following concurrent resolution, which was referred to the Committee on Environment and Public Works:

S. CON. RES. 87

Whereas, the Congress, through enactment of the Clean Air Act Amendments of 1970, directed the Administrator the Environmental Protection Agency to promulgate national ambient air quality standards; and

Whereas, the Clean Air Act Amendments of 1970 established deadlines for the attainment of the standards promulgated by the Administrator and required the implementation of all measures necessary to attain the standards by the required dates; and

Whereas, the attainment dates established by the Clean Air Act Amendments of 1970 have passed and, despite the application of stringent control measures by many States, violations of the photochemical oxidant standard remain pervasive nationwide; and

Whereas, the Environmental Protection Agency has acknowledged that substantial control efforts in the various States have not resulted in significant progress toward attainment of the photochemical oxidant standard; and

Whereas, it is becoming apparent that the photochemical oxidant standard is attainable only, if at all, through application of controls which will have profound detrimental effects on the economy and mobility of the citizens of this Nation; and

Whereas, reliable scientific data indicate that the photochemical oxidant standard is substantially more restrictive than necessary to protect public health; and

Whereas, the Clean Air Act Amendments of 1977 extended the time allowed for attainment of the standards and created a National Commission on Air Quality and an Independent Scientific Review Committee for the purpose of reporting to Congress on the propriety of the national ambient air quality standards promulgated by the Administrator: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that:

(1) In passing the Clean Air Act and subsequent amendments, Congress intended that the national ambient air quality standards set by the Administrator of the Environmental Protection Agency pursuant to the Act be both reasonable and attainable.

(2) It is inappropriate and misleads the American people to require imposition of extremely costly controls in purported efforts to reach unattainable and unnecessarily restrictive environmental standards.

(3) The Administrator of the Environmental Protection Agency should reconsider and revise, in accordance with the propositions outlined in paragraph (1) and (2), the national ambient air quality standard for photochemical oxidants, taking into consideration studies to be performed by the National Commission on Air Quality and the Independent Scientific Review Committee which will be created pursuant to the Clean Air Act Amendments of 1977.

(4) In the interim, the Administrator should continue the application of reasonable air pollution control measures, taking into consideration to the maximum extent allowable under law emission reductions previously achieved through existing State programs.

● Mr. BENTSEN. Mr. President, last year, when the Senate considered amendments to the Clean Air Act, I was among those who voted for these major revisions. I did so because, on balance, I believed the bill was a responsible and much needed measure. I did not believe, however, that the bill squarely faced the important question of nonattainment, particularly as it relates to the oxidant standard. In my view, this is one of the most serious issues confronting those who, like myself, want to see the Clean Air Act work effectively.

During committee consideration of this bill, I sponsored an amendment to allow a State to use a workable alternative to the "offset policy," which EPA promulgated in December 1976. Under that policy, a State can allow new industrial sources to locate in so-called "nonattainment areas"—areas which have not "attained" the standards for individual pollutants, if the industrial source seeking to locate and "offset" its emissions by finding a reduction in emissions from other sources in the region which will more than match its own pollution.

In my view, the "offset policy" is manifestly unworkable. It is not, in fact, a clean air policy at all, but merely a numbers game, which is an evasion of EPA's and a State's responsibility to improve the quality of the air.

In the first place, "offset" makes pollution a marketable commodity, increasing the value of dirty plants, which have not taken the trouble to move aggressively on emissions reductions. Proponents of "offset" claim that these polluters deserve to be closed down anyway and that they can only offer their pollution at a discount. Nonetheless, the fact remains that "offset" makes it public policy to reward those who have chosen to defy the law. And I simply do not believe that the ends of clean air justify the Federal Government endorsing that kind of a cynical reward and punishment program. This has and will continue to breed disrespect for the Clean Air Act.

In the second place, even if we assume that the ends of the act were worth a policy which pays off polluters, it is quite clear that offset will not achieve the ends for which it is designed. As EPA has structured offset, it only applies to plants emitting more than 100 tons of pollutants per year. That means that hundreds and hundreds of smaller polluters, those emitting 80 or 90 or 95 tons of pollutants, can move into a nonattainment area without being subject to offsets. Therefore, while the offset is being applied to the so-called major polluters, whatever advantages may accrue under that policy, which are highly doubtful to begin with, could be more than canceled out by the actions of other parties with no relationship to the offset agreement.

The prudence of the offset policy is especially questionable as it applies to the highly controversial oxidant standard. Evidence indicates that other pollutants, with the possible exception of particulates, are more easily controllable, either because we know their sources or because they are relatively stable in the atmosphere.

With oxidants, however, we know very little. Even those who preach offset will agree. We do not know what combination of sunlight, hydrocarbons, nitrogen oxide, natural background sources, and the like will contribute to specific oxidant levels. We do know, however, that the control strategy EPA has adopted; namely, rigid controls of hydrocarbons, cannot be cited as a valid linear control strategy.

The oxidant standard, which is 0.08 part per million, not to be exceeded more than 2 hours a year, is measured by sampling ozone in the atmosphere. An article in the March 23, 1977, edition of the Washington Post noted that:

Ozone is a pungent, unstable, pale blue gas about which even the relative handful of ozone experts in the world know relatively little.

The article concludes with the following.

The implication was plain: Government and industry might be successful in reducing the ozone level in every smokestack and exhaust pipe, but they would never, apparently, bring the ozone level of many States down to the target levels of the standards.

The Texas Air Board reports that changes in climatology more than any other factor, accounted for the high oxidant levels on the gulf coast. Other evidence is abundant. Oxidant readings in the Gulf of Mexico have exceeded the standard; oxidant readings on the top of Whiteface Mountain in Vermont have exceeded the standard; readings 75 miles from "non-attainment" Houston have frequently been higher than Houston. All of these examples build to an inescapable conclusion: the control of oxidants is a highly complicated and technical matter, which does not lend itself to the simplistic solution offered in the Clean Air Act.

Nonetheless, despite the pyramiding of facts and the growing judgment of experts that we do not know enough about oxidants and that we cannot attain the standard in many areas of the country, the Congress has proceeded on the basis that it is wise to legislate an impossible requirement on the theory that the States can then be taken to court and sued for noncompliance. According to this theory, which we have followed for too long, if we legislate the impossible, that will be a lever to compel States to do the possible.

I cannot accept this logic or approach. Establishing unrealistic deadlines or standards will not result in clean air, but rather will result in a lack of respect for the law and the process that created it.

My suggestion to confront the oxidant question and to provide an alternative to an unworkable offset policy was to offer a tough and realistic option to that policy. It provided that a State wishing to clean up without offset would have to meet three criteria:

First. It would have to have a complete inventory of existing sources of emissions, with a listing of their type and quantity;

Second. It would have to have an enforecable permit program as strict as that now in law; and

Third. It would have to show, on an annual basis, an incremental reduction in emissions so as to make reasonable further progress toward attainment of the applicable standards.

Reasonable further progress was closely defined to mean assured attainment in advance for all pollutants but oxidants, and a movement toward attainment for the oxidant standard. Moreover, the rate of reduction was to be determined by the administrator, not the States, and was nailed down in report language to assure that reductions did not mean minimal reductions, but reductions based on the extent to which an area exceeded the standard.

My amendment embodying many of these concepts was initially adopted on a 7-to-6 vote, but later modified on an 8-to-6 vote to include languuage removing the "reasonable further progress" terminology and requiring a State, in order to qualify for the option, to "provide for attainment" in advance. This requirement has effectively prevented States from exercising the option, since it cannot be demonstrated, as I indicated earlier, that any particular level of hydrocarbon reductions will automatically lead to lower oxidant levels.

The clean air law, as it presently is written, presents a twin disadvantage: in the first instance, it will retard economic growth, and in the second, it will not offer an effective method for cleaning up the air. That does not impress me as a rational approach to the serious problems of air pollution.

In the State of Texas, 15 counties have recently been designated as nonattainment areas for oxidants. Several of these counties are located in rural parts of the States, with no major industrial activities or sources of emissions. Not only are there no apparent reasons for the high oxidant levels, but there are no significant pollution sources against which these communities can offset future emissions. For these rural areas, there can be no future economic growth or industrial development.

Because Texas has accumulated more data than most States on air quality in both urban and rural areas, it is among the first to feel the sting of an unworkable enforcement policy. As other States move forward with their air monitoring programs, they too will be affected by this "Catch 22" provision, and new voices will be added to the call for reform.

In areas that are nonattainment for oxidants, the problems with the offset policy have been further compounded by the establishment of a standard that appears to be neither attainable nor clearly linked to measurable public health requirements. Efforts by EPA to enforce offset against this standard have further weakened public confidence in the law and in the agency responsible for its enforcement.

Because I believe the present standard for oxidants is unjustifiably restrictive, I am pleased to join with my fellow members of the Texas congressional delegation in sponsoring a concurrent resolution expressing the sense of the Congress that—

First. National ambient air standards should be both reasonable and attainable;

Second. The standard for photochemical oxidants should be reviewed by the National Commission on Air Quality and an Independent Scientific Review Committee; and

Third. In the interim the administrator should continue the use of reasonable air pollution control measures, taking into consideration reductions previously achieved through State programs.

Clearly, its time to squarely confront the offset issue. It is not a popular one to raise; it is highly emotional and it calls into question many of the control strategies we have been utilizing for several years. We must move beyond the slogans and conventional beliefs to look objectively at our goals and the methods we are using to pursue them. But until Congress responds by reconsidering amendments to the Clean Air Act, we must take whatever measures are possible to ease the adverse impacts of the current policy. I believe the adoption of the resolution I introduce today will significantly improve the effective implementation of the clean air laws, and will ease the unreasonable burden that has been imposed on communities throughout the Nation.●

SENATE CONCURRENT RESOLUTION 88—SUBMISSION OF A CONCURRENT RESOLUTION ON SOVIET TRIAL OF HUMAN RIGHTS ACTIVISTS

Mr. PELL (for himself, Mr. CASE, Mr. CLARK, Mr. DOLE, Mr. STONE, Mr. LEAHY, and Mr. BAYH) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations.

S. CON. RES. 88

Whereas, the Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms; and

Whereas, the signatory states have pledged themselves to "fulfill in good faith their obligations under international law"; and

Whereas, the Universal Declaration of Human Rights guarantees to all the rights of freedom of thought, conscience, religion, opinion, and expression; and

Whereas, the International Covenant on Civil and Political Rights guarantees that everyone shall have the right to freedom of thought, conscience and religion and the right to hold opinions without interference; and

Whereas, the Soviet Union signed the CSCE Final Act, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights; and

Whereas, Principle VII of the Final Act specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights and Principle IX confirms the relevant and positive role by individuals in the implementation of the Final Act's provisions; and

Whereas, acting in conformity with these confirmed rights, individuals in the Soviet Union formed the Public Groups to Promote Observance of the Helsinki Agreement in the U.S.S.R. and sought, through those Groups in Moscow, Ukraine, Lithuania, Georgia and Armenia, to call the attention of public opinion, their own government and other Final Act signatories to documented violations of human rights by compiling and issuing open, thorough reports on official practices toward religious believers, persons seeking to rejoin or visit relatives abroad, persons confined in mental hospitals because of their political beliefs, persons confined in prisons, prison camps or internal exile because of their efforts to express such beliefs or disseminate their views and information, and minority groups seeking cultural and political rights in the Soviet Union; and

Whereas, twenty-two members of the Public Groups and their affiliates have been punished merely for their activities and participation in the Groups—two, Pyotr Grigorenko and Tomas Venclova were stripped of citizenship while abroad and thus banished from their homeland; another, Malva Landa, had been sent into internal exile; and nineteen others, Eduard Arutyunyan, Zviad Gamsakhurdia, Aleksandr Ginzburg, Grigory Goldshtein, Ambartsum Khlgatyan, Merab Kostava, Levko Lukyanenko, Myroslav Marynovych, Mykola Matusevych, Robert Nazar-

yan, Yuri Orlov, Viktoras Petkus, Aleksandr Podrabinek, Viktor Rtskhiladze, Mykola Rudenko, Feliks Serebrov, Anatoly Shcharansky, Oleksiy Tykhy, and Pyotr Vins are presently imprisoned; and

Whereas, Soviet authorities have already tried and convicted several Public Group members and their associates for their activities in promoting the standards of the Helsinki Final Act; and

Whereas, Yuri Orlov, the leader and founding member of the Moscow Group, was convicted this week in the Soviet capital for such activities and sentenced to seven years in prison camp and five years in internal exile, and Zviad Gamsakhurdia and Merab Kostava, two founding members of the Georgian Group, were brought to trial in Tbilisi this week as well to face similar charges; and

Whereas, the activities of the Public Group and their members should be protected and not punished in accordance with the Helsinki Final Act, the Universal Declaration and the International Covenant; and

Whereas, the arrests and trials of all the members of these groups call into question the intention of the Soviet Union to adhere in good faith to the International treaties and agreements to which it is a party; Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in conformity with the Helsinki Final Act, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and basic standards of justice, the unjustly imprisoned members and affiliates of the Soviet Helsinki Groups should be granted their freedom and allowed to pursue their lawful activities in behalf of basic human rights without further harassment, and

Be it further resolved, That the Congress urges the President, the Secretary of State and other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to the imprisonment of the Helsinki Group members, and

Be it further resolved, That a copy of this resolution be transmitted to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the U.S.S.R.

● Mr. PELL. Mr. President, the concurrent resolution which I and six of my colleagues are pleased to submit today is, in one respect, like the 1975 Helsinki accord with which it deals. Neither document has the binding force of law. Both are simply declarations of intent, but they carry great political weight.

The Soviet Union has already damaged its international standing by disregarding many provisions of the Final Act of the Conference on Security and Cooperation in Europe. The Soviet Union will also damage the development of normal U.S.-U.S.S.R. relations if it continues to punish Soviet citizens for engaging in activities which their government pledged in the Helsinki accord to respect.

The resolution, though lengthy, is simple. It calls on the leadership of the Soviet Union to cease the vicious campaign of repression begun more than a year ago against the courageous individuals in Moscow, Ukraine, Lithuania, Georgia, and Armenia who have worked to have their own government implement the human rights promises it made at Helsinki. Their efforts to publicize violations of the Helsinki accord—violations, in effect, of international standards of human rights—have been treated by Soviet police and courts as criminal activities. But what can be criminal, under any reasonable standard of justice, in the open discussion of such issues as the right to travel, the right to receive mail and telephone calls, the right to be free from arbitrary search, arrest or forcible psychiatric confinement, the right to practice a religious faith, the right to preserve an ethnic minority's culture and language?

If the 22 members of the Soviet Helsinki Watch imprisoned by Soviet authorities in the last 15 months had conducted their activities secretively, perhaps one could see in their work a plot against the regime. But theirs was at worst a conspiracy of conscience. And the unjust sentences already imposed on some of them, the unconscionably long detention of others, must rest instead on the consciences of Soviet leaders.

This week in the Soviet capital the head of the Moscow Helsinki Watch, Prof. Yuri Orlov, was convicted and sentenced to 7 years in prison camp and 5 years in internal exile in a courtroom to which no outside observers were admitted. His wife, who was allowed to attend, was harassed every time she attempted to make even a sketchy record of the proceeding. Soviet authorities treated the trial as though it dealt with state secrets, when, in fact, their only reason for hiding the workings of their justice from the world must be their own shame at the injustice they are perpetrating.

When Professor Orlov joined in founding the Moscow Public Group to Promote Observance of the Helsinki Agreement in the U.S.S.R. in May, 1976, he appealed to all the other Helsinki signatories to protect him and his colleagues from the repression he foresaw. These were his words:

The problems of security in today's world are inseparable from humanitarian problems. This is the evident rationale for the humanitarian provisions of the Final Act. And why all peoples and all governments have an interest in their fulfillment. If the collection and transmission of information on violations of these provisions are classified as crimes against the State then this undermines the very basis of the accords and deprives them of real content and internal consistency. Therefore I appeal to the governments and parliaments of all the States participating in the European Conference including the USSR. I ask them to take steps which will protect the Moscow Group's right to function in a reasonable and constructive fashion in conformity with its stated purpose. I ask them to protect the members of the Group against persecution.

With this resolution the Congress of the United States calls on the Soviet leaders to end that persecution. It calls on the President of the United States to continue the protests our Government has registered over that persecution. The resolution is needed and timely. I urge its speedy approval.●

Mr. DOLE. Madam President, as a member of the Commission on Security and Cooperation in Europe, and as a cosponsor of a concurrent resolution which will be introduced by the distinguished Senator from Rhode Island (Mr. PELL), I want to give my wholehearted support to this resolution.

The trial of Yuri Orlov, the leader and founding member of the First Helsinki Watch Group has just been concluded and the "court" has just handed down its 12-year sentence for Mr. Orlov. Everything about the trial has been a mockery of justice and in total disregard of every international human rights agreement that the Soviet Union has signed.

HELSINKI FINAL ACT PROVISIONS IGNORED

Mr. Orlov and the other members of the Helsinki Watch Groups have been involved in none other than a courageous public effort to promote the aims of the Final Act, as set forth in principle 7 of the Basket I Declaration of Principles which calls the states to:

Promote and encourage the effective exercise of civil, political, economic, social, cultural, and other rights and freedoms.

Their actions are also supported by principle 9, entitled Cooperation Among States, which confirms the relevant and positive role individuals and organizations, as well as governments can play in reaching the goals of the Final Act.

TRIAL VIOLATES SOVIET CONSTITUTION

But even if the Soviet Union wanted to ignore its international agreements and commitments, one would think that it would abide by its own much-touted constitution. Article 49 of the Constitution states "persecution for criticisms is prohibited" and article 51 declares that "citizens of the U.S.S.R. have the right to associate in public organizations that promote their political activity and initiative and satisfaction of their various interest. Public organizations are guaranteed conditions for successfully performing the functions defined in their rules." Apparently the Soviet constitutional rights do not extend to all citizens equally.

That the Soviets barred reporters, dissidents and a U.S. observer from entering the courtroom on the first day of the trial was not surprising. However, we see that the most basic rights of a defendant were violated and even standards of common decency were not followed. Throughout the trial, Mr. Orlov was denied the right to call witnesses on his behalf. His own attempts to cross-examine state witnesses were denied, and even his closing statement was interrupted by the presiding judge and State-selected listeners with jeers and laughter.

Undoubtedly, Zviad Gamaskhurida and Marab Kostavam have received an equally fair hearing in Tbilisi, Georgia, where their trial is in progress.

TREATMENT OF MRS. ORLOV DISGRACEFUL

The treatment of Mrs. Orlov during this time has been nothing less than disgraceful. The indignities she has had to endure at the hands of the Soviet police are of the lowest order. The manner in which they were carried out bring to mind the best traditions of the Nazi regime.

In attempting to analyze and understand the Soviet motivation for these trials, I am convinced there is a direct

correlation between the conference on security and cooperation in Europe and the trial. I believe that had the United States and other Western nations insisted on including a human rights provision in the concluding statement that came out of Belgrade, we would not be seeing these trials today.

SERIOUS QUESTIONS OF FUTURE U.S.-SOVIET COOPERATION

The Soviet Union considers the bland statement as a victory for its position and a sign of weakness on the part of the West in its commitment to human rights. This is a dangerous and erroneous conclusion for the Soviets to arrive at. It can lead to serious miscalculations on their part and could endanger many future cooperative ventures.

If the Soviet Union is indeed serious about détente and cooperation with us, its actions to date have not reflected this desire. Deeds speak louder than words and those of the past few days bring the desirability of cooperation with the Soviet Union in any field under serious question.

● Mr. CASE. Mr. President, Yuri Orlov has been tried and convicted in a Moscow City court under two Soviet statutes, one calling for a conviction for "anti-Soviet agitation" and another calling for conviction for "anti-Soviet propaganda."

Between the two statutes, under Soviet law the one concerned with anti-Soviet agitation is the more serious. The prosecutor in the case has asked for a severe sentence in light of the Orlov conviction. He has called for 7 years imprisonment and an additional 5 years in exile in the U.S.S.R. While the city court may recommend a different sentence, it is likely there will be a jail term for Mr. Orlov.

Mr. Orlov claimed he acted pursuant to the Helsinki agreements which promised certain rights and privileges to citizens of the signatory powers. However, in his presentation in the court, Mr. Orlov was not permitted to call witnesses or to establish that documents he had written, some four in number, were consistent with the Helsinki accords.

In most Western countries, and particularly in the United States, when confronted with conflicting rules and prescriptions, courts usually impose the test of what a "reasonable man" would do under such circumstances. When and if it can be established that a person acted on the basis of what the law was perceived to be, and if the person can document such action consistent with the law, then he may be deemed to have met the test at hand.

With regard to Yuri Orlov, the evidence seems to be that he was not permitted to defend himself along conventional lines, nor was he permitted to raise before the court the matter of law involving the Helsinki accords. As a consequence, it is fair to say that even under Soviet procedures he was not given his rights.

The action against Yuri Orlov is indeed a serious one, for his conviction, if it is not reversed, undermines the intent and purpose of the Helsinki agreements. After sentencing, Mr. Orlov does have a right of appeal—and in this case, because of its significance, the case may be moved on an immediate basis to the Supreme Soviet for final adjudication.

It seems to me that as signatories to the Helsinki accords which pledge us as well as the U.S.S.R. to adhere to certain procedures and standards, that the Supreme Soviet should allow Mr. Orlov to present his case fully based on the apparent conflict of law between certain Soviet statutes on "agitation" and "propaganda," and the Helsinki accords. Should the Supreme Soviet fail to allow an appeal to be taken on this basis, then observance of the Helsinki agreements by the U.S.S.R. must be called into serious question.

Because of specific American interest in this matter, as a signatory state to the Helsinki agreements, I would urge the President to urge the Soviet authorities to allow an appeal to be taken on this basis. It would seem to me that on the well accepted principle of international law of "comity between states" that the U.S.S.R. should acquiesce in this request.

In addition, should the appeal not be allowed on the basis of this conflict in law, it seems to me that matter must be raised by all the signatory powers to the Helsinki agreement.

My hope is that the Soviet Union will not carry on actions against Mr. Orlov which so clearly seem to contravene the spirit, intent, and letter of the Helsinki accords. Mr. Orlov, as is well known, was the founder of the first public group in the U.S.S.R. to "Promote Observance of the Helsinki Accords." Our stake in this matter runs as deeply as does his own.●

TRIAL OF YURI ORLOV

Mr. BAYH. Mr. President, reports from the U.S.S.R. of the sentencing of human rights advocate Yuri Orlov to 7 years' hard labor and 5 years internal exile has angered and saddened people the world over who are committed to the cause of human dignity and freedom. The mistreatment and harassment of Mrs. Orlov can likewise only be deplored. The incredible spectacle of Nobel Prize winner Andrei Sakharov being rushed away by Soviet police suggests as well the contempt Moscow must hold international opinion.

Let us hope, Mr. President, that the conclusion of this first proceeding against the Helsinki Watch Group is not an indication of what lies ahead for Alexander Ginzburg and Anatoly Shcharansky and other Soviet citizens whose only "crime" has been to insist that their country abide by the principles contained in the Helsinki Accords. Regrettably, if the history of past political trials in the Soviet Union is any indication of future performance by Soviet authorities, I fear the Orlov trial is a harbinger of future proceedings.

What is going on now in the Soviet Union must be condemned without hesitation or equivocation. We must act quickly to put the Senate on record to this end, and I am proud to join with several of my colleagues today in sponsoring a resolution calling for the release of these brave individuals in order that they might be allowed to resume their lawful activities. In addition, I would hope that the President will denounce the Orlov trial and the Soviet court's harsh sentence.

Perhaps the Soviet authorities believe they are asserting the sovereignty of the U.S.S.R. by sanctioning the brutal treatment of Nobel Prize winners. They are wrong.

Perhaps Moscow truly believes that refusing to permit the emigration of Jews and other ethnic groups can destroy the will of these people to join friends and loved ones in Israel and elsewhere. They are wrong.

It could be that the Kremlin thinks that by sentencing to prison men like Yuri Orlov and Anatoly Shcharansky they can incarcerate their ideas as well. They are wrong.

And it could be that the Soviet Union thinks that we do not really mean what we say about human rights and that we in the West are pursuing, in the words of Solzhenitsyn, "prosperity at any price." They could not be more wrong.

More than anything else, the Soviet Union must understand that we are a people of values as well as interests. Those interests are not served when our basic values as a Nation are outraged. To say anything less to the Kremlin at this point in our relations would be to mislead them and ourselves in our efforts to improve those relations.

AMENDMENTS SUBMITTED FOR PRINTING

LABOR LAW REFORM ACT OF 1978—H.R. 8410

AMENDMENTS NOS. 2219 THROUGH 2222

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI submitted four amendments intended to be proposed by him to the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

AMENDMENTS NO. 2223

(Ordered to be printed and to lie on the table.)

Mr. INOUYE (for himself and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 8410), supra.

● Mr. INOUYE. Mr. President, I am submitting an amendment to H.R. 8410, a bill to amend the National Labor Relations Act, designed to assure the people of my State, and of the other U.S. offshore areas, that essential maritime transportation services will be continued in the event of any prolonged labor dispute in the future.

Since World War II, some 4 years' time has been lost through transportation strikes affecting Hawaii. Of the eight disruptions involved, only one was a labor dispute centered in Hawaii. The remainder involved disputes on the west coast between unions and management over which we, in Hawaii, had scant influence or control.

This effort to secure essential shipping services is not a new one. In 1975, after extensive debate and consideration

in both the Commerce Committee and the Labor and Public Welfare Committee the Senate, by a vote of 58 to 39, passed a similar, but somewhat more restrictive bill. Unfortunately, the House failed to act favorably on that measure. Certain modifications were made in that measure in response to criticism heard at that time, and it was reintroduced as S. 23 at the beginning of this Congress. I am introducing the provisions of S. 23 with modifications at this time because the threat of interruptions in our transportation lifeline continues to be a number one concern of the people of my State and the other U.S. island areas.

It is untenable for the residents of island "States" to continue to live under the constant threat of shipping disruptions resulting from labor disputes many hundreds or thousands of miles away and in the resolution of which they have no influence. The recent east coast and gulf coast shipping dispute demonstrated the vulnerability of Puerto Rico and our Caribbean islands to severe economic dislocation as well. They have, therefore, been included in my amendment.

It is clear to all that any prolonged interruption of maritime transportation, upon which the residents of these areas are almost totally dependent for food, energy supplies, and other necessities, constitutes an unacceptable threat to their economic well-being, their health, and their safety. The measure which I am introducing as an amendment to H.R. 8410 provides for an equitable and reasonable means by which any U.S. district court, upon application of the chief executive officer of the affected offshore area, and upon finding that the strike or lockout meets the conditions set forth in the measure, can enjoin that portion of the strike or lockout which interrupts normal shipping between the mainland and the affected jurisdiction.

I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2223

On page 22, strike Section 14 and insert in lieu thereof the following:

SEC. 14. To provide for the normal flow of maritime interstate commerce between Hawaii, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, Puerto Rico or the Virgin Islands and the mainland and to prevent certain interruptions thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hawaii and United States Islands Surface Commerce Act of 1978".

SEC. 2. The Congress hereby makes the following findings:

(a) that the unique geographical situation of the State of Hawaii and of the territories of Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, Puerto Rico, and the Virgin Islands which are physically isolated and separated often by thousands of miles of water from both Alaska and the forty-eight contiguous States, generates a unique dependence on ocean shipping as a means for maintaining normal commerce between any of the United States islands and the rest of the United States;

(b) that disruption of the normal flow of maritime interstate commerce which results from a strike or lockout affecting the longshore or maritime industries imperils the health or well-being of the people of the United States islands;

(c) that the people of the United States islands have frequently been innocent third parties in, and suffered enduring harm from, disruptions in maritime interstate commerce described in subsection (b);

(d) that a disruption described in subsection (b) means suffering for the people of the United States islands comparable to that which the people of any other State would suffer if all domestic surface transportation serving such State were halted, thereby constructing a barrier around such State and preventing both the entry and exit of all goods transported thereto and therefrom by rail, truck, ship, barge, and any other means of interstate surface commerce, permitting only extremely expensive long distance air transport into and out of such State;

(e) that the use of present Federal emergency dispute procedures for resolving disputes affecting the west coast longshore or maritime industries has not prevented serious disruptions in the normal flow of maritime commerce which has imperiled the health and well-being of the people of the United States islands; and

(f) that provision for the continuation of normal maritime interstate commerce between mainland ports and the United States islands is necessary in order to protect the health and well-being of the people of the United States islands.

SEC. 3. (a) No strike or lockout in the longshore or maritime industries in the mainland States which imperils the health or well-being of the people of any United States island shall be permitted to interrupt normal shipping from any port on the mainland to any United States island, or from any United States island to any port on the mainland for a period of one hundred and twenty days.

(b) The Governor of Hawaii, Guam, American Samoa, the Northern Marianas, Puerto Rico, the Virgin Islands or the High Commissioner of the Trust Territory of the Pacific Islands, or the designated representative of any such Governor or of such Commissioner (if such a strike or lockout interrupts normal shipping of any United States island where such Governor or High Commissioner is the executive) may petition any United States district court having jurisdiction of the parties to any disruption described in section 2(b) of this Act to enjoin that part of any strike or lockout or continuation thereof which interrupts normal shipping between the mainland and any United States island, and if the court finds that such strike or lockout meets the condition described in section 3(a) the court shall have jurisdiction to enjoin that part of any such strike or lockout or continuation thereof which interrupts normal shipping between the mainland and any United States island, and to make such other orders as may be appropriate, in accordance with the provisions of this section. Any such injunction and temporary restraining order shall in the aggregate remain in effect one hundred and twenty days unless discharged prior to expiration of such period with discontinuance of the disruption of maritime interstate commerce.

SEC. 4. (a) Any employee (the terms or conditions of whose position of employment are governed by the agreement entered into between the employer and the labor organization prior to such strike or lockout described in section 3(a) of this Act) who performs work or services for his employer during the term of the injunction or temporary restraining order referred to in section 3(b) shall perform such work or service pursuant to wages, hours, and other terms and conditions of employment of the last agreement between such employer and labor organization prior to such strike or lockout.

(b) Each employee shall receive additional wages for performing work or services described in subsection (a) to fully compensate him for the difference between the hourly wage he actually was paid for performing such work or services and the hourly wage he would have been paid under the agreement which resolves the labor dispute had it been in effect.

SEC. 5. The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101–115), shall not apply to any injunction issued under section 3(b) of this Act.

SEC. 6. For the purposes of this Act—

(a) the term "interrupt normal shipping" means—

(1) a refusal to permit the receipt or processing of cargo or its loading aboard a ship at a port on the mainland if such cargo is destined for use in Hawaii or any United States island; or

(2) a refusal to permit the unloading of cargo from a ship or its processing and delivery at a port on the mainland if such cargo was shipped from Hawaii or any United States island; or

(3) a refusal to operate (or to permit the operation of) a ship from a port on the mainland with cargo destined for use in any United States island or a ship from Hawaii or any United States island with cargo destined for a port on the mainland;

(b) the term "strike" has the same meaning as it has in section 501(2) of the Labor Management Relations Act, 1947; and

(c) the terms "employer", "employee", and "labor organization" have the same meanings as such terms have in section 2 (2), (3), and (5), respectively, of the National Labor Relations Act.

(d) the term "United States island" means the State of Hawaii, Guam, American Samoa, the Northern Marianas, Puerto Rico, the Virgin Islands or the Trust Territory of the Pacific Islands.

(e) the term "mainland" means any port or ports located in the contiguous forty-eight States.

(f) the term "maritime interstate commerce" means that cargo destined for use in or shipped from any United States island from or to the mainland by surface transportation.

SEC. 7. The provisions of section 3 of this Act shall take effect on the date of its enactment unless a strike or lockout in the longshore or maritime industry on the mainland is occurring on such date of enactment, in which case such provisions shall take effect on the fifth day after such date of enactment.●

AMENDMENTS NOS. 2224 THROUGH 2226

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted three amendments intended to be proposed by him to the bill (H.R. 8410), supra.

● Mr. BELLMON. Mr. President, trade unions have been a constructive force in furthering the American dream of an improved quality of life for all citizens since the 1800's.

Aside from winning improvement in wages, the collective bargaining process has achieved a larger degree of safety

on the job, a bigger measure of good health for the employee and a greater consistency in the work force to the benefit of the employer.

As my colleagues know, we are a Nation of many publics—publics which oftentimes are at cross purposes. However, the strength of our Nation for these past two centuries has been its ability to hear the requests of these different publics, to realize the similarities in these requests and to effect solutions which are acceptable to all parties.

In coming to these compromises, we have been aided by trade unions which have served as the effective voice of an important segment of our society.

The three amendments I introduce today are designed to reform certain aspects of trade unions which I believe interfere with the unions' ability to serve as that voice at all times.

The rank-and-file workers who are trade unionists make important contributions to our national policy. The Nation cannot afford to lose trade unionists' opinions because their collective voice, the unions, may have become too insulated from everyday realities, too large to respond swiftly or unable to understand the needs and desires of workers.

The original idea of trade unionism is superb. I offer these amendments so that labor will not evolve to a point that is far from the original purpose.

My first amendment would require approval by the rank-and-file membership of any increase in salary for union officials whose salary, allowance and reimbursable expenses exceeds that of the President of the United States. The members of unions ought to be protected from the monetary appetites of their leaders. This measure does not prevent salary increases, but it does give union members a greater voice in how their dues are spent.

The second amendment I introduce today is similar in purpose to the first. It would allow a union official to receive compensation for only one official position in a union. It would end what has been called "double-dipping" or "legal embezzlement" among some union officials. This is the practice of accepting salaries from more than one union or from the local, State, and national levels of the organization all at the same time. The money paid to these double-dippers—ranging into the hundreds of thousands of dollars—does not aid the workers' struggle to improve their lot. It merely lines the pockets of certain officials who should have higher purposes in mind.

The underlying theme of each of these two amendments has been to give more control to the individual members of the trade unions through greater control of the checkbook. My third amendment also seeks to increase the power of individual union members, but it approaches this goal in a different manner.

I alluded earlier to the growing size of some unions. These behemoth organizations cannot respond to the requests of individual workers or even to those of individual locals with any speed. They have a dampening effect on innovation in the labor-management relationship and in the internal workings of the union because of their size. They have an unfair advantage over persons who want to try something new. They do not welcome dissent with traditional methods as has been seen in recent years.

For these reasons, I submit an amendment which would remove the limitations on applying anti-trust law to trade unions.

Mr. President, I believe these changes would give the rank-and-file members of labor unions greater control and a larger voice in the operation of these organizations. These amendments, I believe, would help to prevent the alienation of this significant segment of our population from our informal decision-making process.●

NOTICE OF HEARING

SUBCOMMITTEE ON ARMS CONTROL, OCEANS, AND INTERNATIONAL ENVIRONMENT

● Mr. PELL. Mr. President, the Subcommittee on Arms Control, Oceans, and International Environment will hold an open hearing next week on the proposed shipment of enriched uranium to fuel the reactors at the Indian Tarapur Atomic Power Station. The hearing will be held at 2:30 p.m., Wednesday, May 24, 1978, in room 4221, Dirksen Senate Office Building.

Following a review of the proposed export, the four Nuclear Regulatory Commissioners tied, two to two, in their decision. Accordingly, the proposed export went to the President for decision, and, on April 27, he signed an Executive order approving the export. Under the Nuclear Non-Proliferation Act of 1978, the Congress may, within 60 days of continuous session of the President's decision, pass a concurrent resolution objecting to the sale.

The purpose of the hearing is to explore the pertinent issues with the Nuclear Regulatory Commissioners, representatives of the executive branch, and nongovernmental witnesses. Following that hearing, and an executive session with Central Intelligence Agency representatives, the subcommittee will make its recommendation to the committee. In mid-June, the committee will report to the Senate with a recommendation of approval or disapproval.●

ADDITIONAL STATEMENTS

MIDEAST ARMS SALES

● Mr. CASE. Mr. President, one of the arguments made for the sale of 60 F–15's to Saudi Arabia and 50 F–5's to Egypt was that the approval was necessary to court what are described as moderate Arab leaders during the peace process.

My own view is that the sale of so many planes at this time is an obstacle to peace. It is now up to the administration to take the initiative.

As the Washington Post—a newspaper which supported the sale—commented in an editorial:

The Carter administration, having argued for the warplane proposal on grounds that it would facilitate the search for peace, has an especially heavy responsibility to demonstrate, with its Arab partners as with its old Israeli friend, that that is so.

Columnist James Reston, who also supported the sale, suggests that "much depends on whether Mr. Carter is able to get Mr. Sadat back to the negotiation table."

I ask to place both articles in the RECORD.

The articles follow:

LET THE MIDEAST PEACE TALKS RESUME

Senate approval of the president's Mideast warplane package reflects much more than the gathering weight of Arab oil and money. At least since 1973 successive administrations have felt that the best way to end the region's deadly cycle of war and to launch a process leading toward peace is for the United States to make itself equally useful and trusted on both sides. It is that effort that the Senate has now endorsed. To see it as abandonment of Israel or appeasement of the Arabs, as some partisans of both do, misses the point. Israel has lost its "special relationship" with the United States, if by that is meant the Israeli regional monopoly on access to modern American arms. But it has not lost its claim on special American concern for its security and welfare. As did its immediate predecessors, the Carter administration believes the United States can best honor that obligation by reinforcing the more moderate states and tendencies in the Arab world, even as it continues to uphold Israel. We agree.

As much as the administration tries to express friendship for Israelis and Arabs in terms that are *not* mutually exclusive, many people, of different persuasions, persist in thinking—or hoping—that a choice must be made. That is the spirit in which the Senate vote is seen as a defeat for Israel. We would argue that in a real and long-term sense the United States remains deeply committed to Israeli security, as bruised and fearful as many Israelis currently feel. The result is surely, however, a costly defeat for the Israel lobby as a political force in Congress—a defeat deserving to be read as evidence that, popular myth and Arab apprehension notwithstanding, there are definite limits to the political power that American elements partial to Israel can bring to bear. The lobby has not been broken. But the Senate has confirmed the disposition of the executive branch to look at Mideast questions from the viewpoint of their overall effects.

The notion is now circulating that the United States should take a quick and demonstrative step to bolster Israel—to ease its general discomfiture and give its moderates something they can use to show Israeli skeptics that the American connection is still working. Some American legislators are already talking of providing Israel, say, 75 more F16's. It might well be a good idea to work more closely with Israel on its long-term security requirements—though hardly in categories so politically volatile as warplanes. But what is surely a better idea is to renew attention to that negotiating process, which has been languishing since Egypt quit the table four months ago.

Two considerations are relevant. The first is that, after the plane fight, President Carter is in a strong position to ask Egypt to return to the table and start negotiating on the only proposals—Israel's—on the table. If President Sadat pulled out of the talks in January to induce the United States to apply more pressure on Israel, then he entirely succeeded. Mr. Carter went head-to-head with Prime Minister Begin in March, and got the planes for Egypt and Saudi Arabia in May. Egypt should resume negotiations.

The second new element is that Mr. Begin and Mr. Dayan, in their most recent Washington visits, responded to American urging

and undertook to start discussing Israel's proposals in a form—emphasizing arrangements on the ground rather than absolute principles—that Egypt might find more negotiable. One does not have to think there is magic in the new form to believe that it is vastly better for Israelis and Egyptians to engage quietly in detailed talks across a table than to continue the sterile routine of rhetorical confrontation at a distance.

The Carter administration, having argued for the warplane proposal on grounds that it would facilitate the search for peace, has an especially heavy responsibility to demonstrate, with its new Arab partners as with its old Israeli friend, that that is so.

THE DANGERS OF "VICTORY"

We will see now what President Carter, President Sadat and the royal family in Saudi Arabia do with their so-called "victory" on the Middle East planes deal. The dangers of "victory" now are very real.

Actually, there was no "victory" for anybody on the central question of a general peace settlement in the Middle East, but merely a temporary tactical adjustment of political forces in Washington on the side issue of these particular planes, at this particular time, to these three particular countries.

Nothing could destroy the "peace process" started by Mr. Sadat at the Knesset in Jerusalem more quickly than any effort by Cairo, Riyadh and Amman to interpret the Senate vote as a rebuke to Israel and a major switch of United States policy in favor of the "moderate Arabs."

There is something to this theory, but not much. Mr. Carter did feel that, if the vote on the planes went against him, his control over the foreign policy of the United States would have been gravely weakened, not only in the Middle East, but in Europe, Moscow, Peking and Africa.

This is quite different, however, from assuming that the President and the Senate have made a fundamenttal reappraisal of their relations with the state of Israel. A defeat for Mr. Carter on this issue would have been a major strategic and political event of worldwide importance, but the vote in favor of his proposal on this very limited issue merely revives the question of talking peace again and bringing Mr. Sadat back to the negotiating table.

Accordingly, it will be interesting to see how Mr. Sadat reacts personally to all this. If he goes back to the philosophy of his Knesset speech, there might be a chance of a step-by-step compromise of the West Bank and Palestinian questions, but if he thinks there has been a fundamental change in Washington, with Jimmy Carter and the Senate on his side against the Israelis, he will misjudge the whole debate in the Senate and lose the particular personal magic he brought to the peace initiative.

This is not a time to put more pressure on the Israelis. Prime Minister Begin has misjudged the mood of this country and even of the Senate. Three years ago, in a different controversy between Jerusalem and Washington, 76 United States senators warned President Ford and Secretary Kissinger not to put too much pressure on Israel—making Mr. Kissinger wonder who was in charge of the foreign policy of this country. But the mood is different now, and Mr. Carter is very different.

It would be hard to overestimate his opposition to Mr. Begin's insistence on putting Israeli settlements in captured Arab territory when Washington was trying to find a compromise; or his resentment of Moshe Dayan's public attacks on his promises and, as Mr. Carter saw it, on his integrity. The Israeli campaign against the Carter commitment to sell planes to Egypt and Saudi Arabia added to this fundamental feeling in the White House that the President's control of American foreign policy was being challenged by the Israelis through their friends in Congress.

But now that the planes issue has been settled, there is really no resentment here against Israel. The debate on the planes is regarded by Mr. Carter as an unfortunate intrusion into the peace process, though in a way he forced it at this time by his promise to the Saudis early this year.

Even at the end of the debate on the planes in the Senate, it was not made quite clear what really divided Washington and Jerusalem. The military question was important mainly on the assumption that a negotiated general settlement or compromise was impossible.

On the military side, assuming failure of a compromise on the West Bank and the Palestinians, the Israelis had a powerful argument. It was not that they could not handle F-15 planes in Saudi Arabia—in a war, or just before a war, they could probably have destroyed them within an hour or less, at Tabuk near the Israeli border or anywhere else. But modern planes in Saudi Arabia represented one more potentially hostile front that would have to be watched as well as the Egyptian front, the Jordanian front, the Syrian front, the Iraqi front, and the Palestinian guerrillas operating out of Lebanon.

What really troubled the Israelis primarily, however, was not even this addition of a "fifth front" but the loss of their "special relationship" with the United States. The Israelis, not unnaturally, are acting like a rejected lover. Washington is saying it will always be faithful but is interested in others, and "let's be friends."

Washington is also saying, we know this hurts, but it's in Israel's best interests because this new friendship with the moderate Arabs is the way to make peace, for now we can talk to President Sadat and King Hussein and the Saudis in different terms and get the "peace process" going again.

Israeli officials here say Mr. Begin is ready for this, despite the vote in the Senate, but much depends on whether Mr. Carter is able to get Mr. Sadat back to the negotiating table.●

REVERSE ANNUITY MORTGAGES

● Mr. CHURCH. Mr. President, as chairman of the Senate Committee on Aging, I have devoted special attention to improving federally assisted housing for the elderly. For example, I cosponsored S. 2691 with Senator WILLIAMS on March 8 to assist the growing number of frail elderly to remain in their apartments, and avoid unnecessary and costly institutionalization, through the provision of "congregate" services such as meals, housekeeping, and personal care assistance.

However, most older Americans do not live in Government-aided housing but in the community at large. About 70 percent own their homes, which are generally free and clear of debt. The total equity they have built up in their dwellings is estimated to be at least $90 billion. Despite this illusion of wealth, older Americans are faced by shelter problems which may be building toward crisis proportions. Rising property tax assessments, higher fuel costs, expensive maintenance requirements, and general inflation, all combine to produce a need for additional income.

Yet the elderly's "home equity" is usually unavailable to them unless they are willing to sell the homes they worked so hard to buy. Persons over 65 cannot obtain a 20- or 30-year traditional second mortagge. The only options open to many older homeowners are forced sale, doing without necessities, or forgoing home maintenance.

This need not be the case. The Federal Home Loan Bank Board (FHLBB) has extensively studied a proposed new mortgage instrument, known as the reverse annuity mortgage (RAM). RAM's permit the older homeowner to convert part or all of his home equity into a series of monthly payments. Certain types of RAM's also provide insurance against the outliving of one's resources. In effect, the operation of a RAM is like a normal annuity, with a savings and loan institution making a loan, secured by the home, to purchase the annuity. The annuitant's estate would be responsible for settling that debt in probate.

RAM's have been available in England for over a decade, and are permitted in other European nations. It is high time that this means of helping the elderly to help themselves—and of redressing the discrimination they currently face in the mortgage market—be authorized in the United States. FHLBB's studies reached the conclusions that RAM's "can provide a fundamental financial service of major social significance," "are entirely feasible," and face complications "of form rather than substance."

I strongly believe that Congress should consider legislation to authorize savings and loan institutions to provide RAM's to older Americans. Moreover, the FHLBB should be required to approve and regulate RAM's under statutory language specifically assuring adequate safeguards for older homeowners. In particular, sufficient and understandable information must be furnished to the prospective purchaser, and interest must be calculated in a reasonable manner.

Other actions may be required to insure widespread availability. The Committee on Finance may need to determine whether current tax treatment of RAM's would discourage their use. A Federal insurance program for lenders may also be required. And State and local governments may need to reexamine their estate, property tax, and banking laws. Nonetheless, these are problems of detail rather than of great substance, and should not prove difficult to overcome if officials at all levels make a commitment to providing this financial option to older homeowners.

Mr. President, America's elderly have great pride. They do not look to Washington for special treatment or handouts. They ask only that we listen to their concerns and assist them in meeting their problems. Authorizing the availability of reverse annuity mortgages may be a practical and effective approach to improve their economic well-being.●

DNA REVISITED

● Mr. SCHMITT. Mr. President, the Senate presently has before it legislation

which would allow the Federal Government to regulate private, public, and industrial research in recombinant DNA (S. 1217). However, a large and growing number of persons involved in the field of scientific research and in the environmental area are questioning the wisdom of adding this unnecessary burden on this most fertile field of investigation. The most recent researcher-environmentalist to speak out on this issue is Dr. J. D. Watson, director of the Cold Spring Harbor Laboratory in New York State, and a winner of a 1962 Nobel Prize in medicine for his work on the structure of DNA. Dr. Watson, writing in the Washington Post on Sunday, May 14, 1978, urges a relaxation of the guidelines that the scientists imposed on themselves for recombinant DNA experimentation. As he points out, there never was, nor is there now any trace of evidence that any of these experiments pose a threat to those who do them, much less to the general public.

In this regard, I call my colleagues' attention to S. 2267, a bill to establish a 2-year National Science Policy Commission to study and recommend alternative approaches to policies dealing with potentially hazardous materials.

I request that Dr. Watson's article be printed in the RECORD.

The article follows:

THE NOBELIST VS. THE FILM STAR—RESTRICTIONS ON DNA RESEARCH ATTACKED

(By J. D. Watson)

Until the last year, I never thought much about my allegiances. My parents were for Roosevelt and against the spoilage of our land by senseless land speculators or industrial giants who put steel mills where there had been sand dunes and the prairie warbler had nested. People who went on bird trips or camped in the national forests and wanted to save Mineral King were the right sort, while those who owned big yachts or stripped the rolling fields of Ohio for coal were the bad guys whom we must get laws to stop. So it was natural to make out a modest check whenever Robert Redford or some equally fine fellow asked you to help him defend the environment and fight the polluters who would give us more cancer.

Now, however, I must confess that I didn't respond to Robert Redford's latest appeal. It is not that I am against him as a folk hero, but, though he must be unaware, he and I are, for practical purposes real enemies. For some of the money he raises for the Environmental Defense Fund is being used to try stop the experiments we do with "recombinant DNA."

This test-tube-made genetic material now provides an incredibly powerful means to find out what human genes are like. And in so doing it will give us important new ways to think say, about our immune systems, or how our blood cells are made or the nature of the genes that go out of control when cencer arises.

This being so, I most certainly am a Friend of DNA and want work with recombinant DNA to go as fast as possible. In the old days, this impulse would generally be viewed as good for the earth. Now, however, there exists highly vocal groups who think I'm a danger to the world. The Friends of the Earth, the Sierra Club and the Natural Resources Defense Council, as well as the Environmental Defense Fund, all say that our experiments pose a realistic threat to our way of life and must be constrained by their new breed of environmental lawyers.

All this initially surprised me, since I had always regarded environmentalists as among our most intelligent pubic groups and thought that the original rules for work with recombinant DNA which had come out of the 1975 Asilomar Conference should more than reassure them. Particularly since I found those guidelines a terrible overkill and probably not at all necessary.

My fellow DNA workers wanted, however, to act more than clean and certainly to give the impression of being responsible citizens. So they suggested that we largely work with specifically enfeebled organisms that would not live well outside our test tubes. And when, after Asilomar, the matter was taken up by the National Institutes of Health, they in turn wanted to look like the perfect guardian of our health, and so the guidelines which we now have to live with became more than tough. In fact, they effectively blocked most of the better experiments that directly relate to cancer.

As a result, the DNA community is now very unhappy working under harsh rules we do not believe necessary and which waste vast sums of sorely needed research funds. We now want to relax greatly the guidelines we imposed upon ourselves.

Unfortunately, we find this task to be much more complicated than their original drafting. Our main problem is that in our original statements about recombinant DNA, we kept referring to "potential dangers." Instead we should have said "conjectural dangers," since there was, and still is, not a trace of evidence that any of the experiments pose a threat to those who do them, much less to the general public.

In being so linguistically sloppy, we gave a long awaited opening to two groups which were out to embarrass us. The first consists of disgrunted long-out-of-productive-science biochemists, who use any opportunity to say bad things about how the effects of modern science are carried out. The other is a tiny, though noisy, group of Boston-based academic leftists who fantasize that the rich will finally subjugate the masses by giving them bad genes manufactured by recombinant DNA methodologies. This is a mad idea which I suspect they are too intelligent really to believe. It must be a tactical move in their zany campaign to convince the Boston poor to rise up against the elitist imperialism of MIT and Harvard.

We never expected, however, that we would be branded as polluters by the environmental movement. For until recombinant DNA came along, we always thought we were on their side.

After all, who wants to see our planet not fit for our children to inherit? When they went to court to block DDT or keep the skies of Monument Valley blue, we could only applaud. So why now are we on opposite sides? Can we have on blinders, and can our self interest as scientists not allow us to see how indifferent we are to the harm we may do? Might, in fact, the professional environmentalists present arguments that we just can't face up to?

I feel strongly this is not the case. Compared to almost any other object which starts with the letter D, DNA is very safe indeed. Far better to worry about daggers, or dynamite, or dogs, or dieldrin, or dioxin or drunken drivers, than to draw up Rube Goldberg schemes on how our laboratory-made DNA will lead to the extinction of the human race.

The strains of viruses and cells we work with in the laboratory generally are not pathogenic for man, and all we know about infectious diseases makes it unlikely that the addition of a little foreign DNA will create any danger for those who work with recombinant DNA-bearing bacteria. Even if no special guidelines existed, and we only employed the standard microbiological practices of routine sterilization, we should have no reason to be concerned for our health. Equally important, we should not worry that our experiments will profoundly alter evolution by creating bizarre life forms unlike any seen before. DNA is frequently carried from one species to another by viruses, and the global evolutionary impact of our experiments must be negligible compared to naturally occurring DNA transfers.

If this is so, how can we explain the enthusiasm with which so many professional environmentalists wish to shut us down?

The answer, I fear, is that such groups thrive on bad news, and, the more the public worries about the environment, the more likely we are to keep providing them with the funds that they need to keep their organizations growing. So if they do not watch themselves, they will always opt for the worst possible scenario.

For the short term this may give them more recruits, but I worry about the long-term effect. No one will benefit if we perceive the credibility of our environmental movements to be no better than that of the most troglodytic of our industrial firms.

If what they say about DNA is nonsense, do we have any compelling reason to listen to them when they come out against pesticides that give us shiny apples or tell us that the waters of the Mississippi are likely to give us cancer? I would like someone to set me right on such matters, but whom to trust now is not that clear.●

SMALL BUSINESS TAXES AND INVESTMENT: TIME FOR CHANGE

● Mr. CHURCH. Mr. President, I am pleased to join Senator GAYLORD NELSON, chairman of the Senate Small Business Committee, in support of legislation to provide a graduated income tax rate for small business, and a new and simplified system for depreciation to encourage small business investments.

For many years I have felt that the corporate tax structure does not treat small businesses fairly. Tax changes enacted in 1975 for small business represent the only progressive tax rate action taken in the last 25 years. In my view, they did not go nearly far enough.

This year, the Congress has received tax reduction recommendations from President Carter which offer us the vehicle to do a better job. That could be done, Mr. President, by adopting the graduated system Senator NELSON has proposed. I ask that a table comparing present tax rates, the Carter administration's proposal and the Nelson bill, S. 2669, be printed at this point in the RECORD.

The table follows:

COMPARISON OF CURRENT CORPORATE TAX RATES, ADMINISTRATION AND NELSON PROPOSALS

[In percent]

Corporation taxable income	Current law	Administration proposal	Nelson bill
0 to $25,000	20	18	15
$25,000 to $50,000	22	20	20
$50,000 to $100,000	48	44	30
$100,000 to $150,000	48	44	40
Above $150,000	48	44	45

Mr. CHURCH. As the table indicates, the administration package would reduce all business tax rates, but it would leave unchanged the basic disparity among

them. S. 2669, on the other hand, would create a graduated rate structure geared more precisely to business size, in terms of taxable income. In addition, Mr. President, by eliminating only 1 percent from the reduction the President has proposed for large corporations, S. 2669 would balance its benefits for small business against a fairer share of revenues from these bigger companies.

Mr. President, I enlisted in the tax reform fight many, many years ago, and I have long advocated a graduated tax rate system as a vital part of any reform effort. I believe that the time for enactment of such a system has come, and I commend Senator NELSON and the Small Business Committee on their work.

Another important area that the committee has attacked is paperwork and redtape, and the profusion and confusion of Government requirements which assault small businessmen in almost every facet of their daily operations. Government forms are a nightmare, Mr. President, but the burdens of the Tax Code are even more confounding.

Perhaps the most incomprehensible of all tax provisions is depreciation. Large corporations easily maintain banks of tax experts to take advantage of the multiplicity of depreciation schedules that have proliferated over the years. These advantages and incentives are also offered to small businessmen, but without the necessary tax expertise; they are confounded by small print which must make the offer of these benefits seem like the rings on a merry-go-round.

The depreciation alternative that Senator NELSON has proposed would exorcise this demon from the Tax Code. S. 2742 is perfectly plain: It would allow all smaller businesses to write off up to $100,000 for new equipment over 3 years, using the simplest straight-line depreciation method.

Statistics show that smaller businesses do not take advantage of the various depreciation schedules as had been anticipated when they were adopted. This situation exists even with the investment tax credit, which has always been posed as a small business benefit. The Congressional Joint Tax Committee reports in this regard that 76.1 percent of the investment credit is taken by firms with over $100 million in assets, while those firms with less than $100,000 account for only 0.8 percent.

Furthermore. Mr. President, the reason these benefits have failed small enterprises is amply demonstrated by the fact that a table listing the useful lives of property for depreciation covers 20 pages. S. 2742 would eliminate these pages by making all types of machinery and equipment subject to a uniform 3-year life for most smaller businesses, up to $100,000 annually.

The basic goal of depreciation schedules and investment credits is capital formation. A graduated rate and simplified depreciation would make for fairer treatment of small businesses and assist in capital formation, as well. I urge their adoption by the Senate.●

SENATE JOINT RESOLUTION 134—EXTENDING THE DEADLINE FOR RATIFYING THE ERA

● Mr. RIEGLE. Mr. President, I join today with Senators BAYH, HUMPHREY, BROOKE, and others in introducing a resolution to extend for 7 years the period for ratification of the Equal Rights Amendment. House Joint Resolution 208 granting women equal rights will expire on March 22, 1979.

The ERA has thus far been ratified by 35 States, with only three more needed to make it the 27th amendment to the Constitution. This is vital human rights legislation affecting the future of all American women. Only this effort can remove the last formal barriers of discrimination that face women in our society.

It is the fundamental right of every citizen in our country to be protected by the Constitution. A country which prides itself on being the greatest democracy in the world can no longer afford to withhold full citizenship from one-half of its population—women.

There are numerous examples to illustrate that full citizenship is not granted to women. In a 1977 ruling, the U.S. Supreme Court allowed a public technological school in Philadelphia to deny admittance to Susan Vorshheimer on account of her sex. The passage of the Equal Rights Amendment will not permit such injustices to occur, so that equal educational opportunities will be available to all women.

Another illustration concerns median earnings of men and women. A study compiled by the Bureau of the Census shows that women who hold full-time, year-round jobs earn only about 60 percent of the median earnings of men who also hold full-time, year-round positions. This inequality will persist until equality of treatment is mandated by the Constitution.

There are many misconceptions surrounding the effects of the ERA. Emotions have been aroused by the suggestions of unisex restrooms, an end to alimony payments, women fighting on the front lines during wartime, and being forced to go to work outside of the home. These concerns have no basis in fact.

The issue involved in the ERA is freedom of choice. There is no intention of forcing women to change their lifestyles. The ERA will protect those women who choose to enter the work force by not permitting women to be paid 60 percent of what a man is paid to perform that same job.

Public support for the ERA remains as strong today as it was in 1972. Every major poll shows that the majority of the population is in favor of ratification of the ERA. Over 200 organizations, including women's, civil rights, and religious groups; organized labor; the Democratic and Republican parties; five former Presidents, and President Carter have endorsed the ERA. Over 120 organizations have decided to join in the economic boycott of the unratified States by not holding their conventions in those States.

There has been some debate as to the constitutionality of extending the period of ratification. The time limit of 7 years was established in the preamble to House Joint Resolution 208 as passed on March 22, 1972, which states:

> . . . The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress . . .

The 7-year deadline was imposed as a matter of tradition. Article V of the Constitution gives Congress the authority to propose amendments to the Constitution, and provides that they shall be ratified within a "reasonable time." It does not mention how long that "reasonable time" period should be, and does not state that Congress may impose a deadline. A 7-year time limit was first imposed by the Congress on the 18th amendment in 1917, and has traditionally been included in succeeding constitutional amendments.

Due to the controversy surrounding the ERA and the wealth of propaganda and misinformation put out concerning its effects, the ratification process has taken significantly longer than in the past. It is "reasonable" to me to allow additional time for consideration of the ERA by the remaining States.

Further, during hearings last November by the House Judiciary Subcommittee on Civil and Constitutional Rights, Mr. John M. Harmon testified on behalf of the Department of Justice that an extension of the ratification date would be constitutional, in the opinion of the Department. He noted that since the deadline is in the preamble, and not in the actual amendment text, that it was not a substantive part of the Equal Rights Amendment.

There are thousands of Americans from all walks of life who are dedicated to the passage of the ERA, and are willing to continue to work toward its passage. These pro-ERA forces are directing their energies toward long-term solutions, such as electing State senators and State representatives who are totally committed to the ERA, and not subject to a change in political climate.

I have contacted President Carter to urge his even more active support for this extension. The House of Representatives is moving forward on an extension resolution, with committee hearings continuing this week. We cannot allow the Equal Rights Amendment to die for lack of ratification time, and I urge my colleagues to support this resolution.●

CONGRESSIONAL HONESTY

● Mr. CHURCH. Mr. President, my eye was struck recently by a column in the Washington Star by Charles Bartlett on the subject of congressional honesty, the demand for congressional reforms, and the implications of many of the reforms

now upon us—especially the limitation on outside earned income.

Mr. Bartlett's point about the crucial importance of public disclosure is especially valid—and timely, for both the House and Senate are now in the process of seeing the first mandated disclosures of income, assets and liabilities in the history of Congress. Disclosure is a practice I have long advocated, and one I have voluntarily imposed upon myself for years.

Mr. Bartlett writes that "Disclosure is an immense concession, a form of nakedness which most private citizens would not endure. But the legislators are willing to go further in mortgaging their rights as citizens to erase the damage done by a deviant handful."

But he then points out that "there is no * * * need for an earnings limitation that will demean senators and representatives to a clerk-like status. The reform would make life in Congress most attractive to people who possess the cushion of unearned income and thus pull the system away from representative democracy."

The double standard of requiring a limitation on earned, but not on unearned income, is one that I have long opposed. As Mr. Bartlett notes, "the risk of quibbling reforms is that they may further discourage the willingness of intelligent people to make the sacrifices that are involved."

I ask that the column be printed in the RECORD.

The column follows:

[From the Washington Star, May 9, 1978]

MORE HONESTY IN CONGRESS THAN OUT

(By Charles Bartlett)

Failing some move to restore balance to the popular perception of Congress, it seems possible that the citizenry might one day rise in Biblical wrath against the Hill.

In their anxiety to revive respect for their institution, the majority of members who make things hum are being frustrated by a small minority whose deficiencies keep exploding like firecrackers in a courtroom. The explosions drown out the purposeful hum because scandal is livelier than the business of making laws.

Two figures concerned with justifying their entanglements with the law, Bobby Baker and Rep. Charles Diggs, D-Mich., have exploited the confusion to its ultimate absurdity by insisting they were unfairly singled out for punishment because they have only done what everyone else does. They present themselves as martyrs to a morality that doesn't exist in Congress.

Baker, in his post-prison writings, goes further. He draws a picture of Senate life, and of the senators to whom he was closest, that will cause the most jaundiced eyes to blink. His sordid, bitter reminiscences are a worm's eye view, but they will certainly not discourage those who tend to view the Senate as a colony of moral lepers.

This is not fair. It is true that Baker was a fixer in an era in which campaign funds were passed about like monopoly money by senators like Robert Kerr of Oklahoma. But the late Sen. Paul Douglas, a moral man and shrewd politician, was also part of this era. He was right when he said in 1966, "The level of honesty is a good deal higher in the Senate than the general level in our society." He would be right in saying it today.

When Jonathan Swift's Gulliver recounted the rigors of being elected to the British House of Commons to the King of Brobbingnag, the smart ruler asked if these "zealous gentlemen could have any views of refunding themselves for the charges and troubles they were at." The inconveniences of political life are more formidable than ever and the temptations are constant. Almost everyone comes to Congress in pursuit of power and excitement, but very few come with high hopes of "refunding themselves."

Douglas maintained that if the government assumed the basic costs of campaigns and if members were obliged to disclose their assets and income, the remaining risks of corruption in the legislature would be minimal. Congress has moved far in this direction. Disclosure is already the rule, and a public financing law seems likely in the next Congress.

Disclosure is an immense concession, a form of nakedness which most private citizens would not endure. But the legislators have been willing to go further in mortgaging their rights as citizens to erase the damage done by a deviant handful. A sense that they may have gone too far is evidenced by the House's readiness to reconsider a rule which may soon require them all to limit their outside earnings to 15 per cent of their salaries, or $8,625.

No district wants a legislator whose prime concern is his law practice, and this can be a problem in a House containing 212 lawyers. But disclosure gives meaning to the old tradition that the boundaries of a member's conduct are set by his voters. There is no added need for an earnings limitation that will demean senators and representatives to a clerk-like status. The reform would make life in Congress most attractive to people who possess the cushion of unearned incomes and thus pull the system away from representative democracy.

Life in Congress already requires a special kind of mentality; the risk of quibbling reforms is that they may further discourage the willingness of intelligent people to make reforms is that they may further discourage between the pluses and minuses is already precarious.

So the nation needs to be wary of denigrating Congress to the point of exaggeration and of hobbling its members to a point at which it really will become a parliament of fools.●

TENSION RISES IN BHUTTO CASE

● Mr. CHURCH. Mr. President, the former Prime Minister of Pakistan, Zulfiqar Ali Bhutto, has been sentenced to death by the high court in Lahore. I have no way of knowing whether Mr. Bhutto is innocent or guilty, as charged. But, whatever the merits of the case against him, when an overthrown Prime Minister is sentenced to death in a case brought by the government which forcibly drove him from office, serious doubts naturally arise about the legitimacy of the process. Without impugning the courts of Pakistan, the character of the current regime, as well as the method by which it seized power, cannot help but cast a cloud upon Bhutto's trial and death sentence. Indeed, the severity of the punishment might well serve to discredit the government itself. Many people, within and without Pakistan, may be led to question the present government's legitimacy and whether it has submitted itself to the rule of law.

Examples of these repercussions can be found in an article by Simon Winchester, which appeared in the Washington Post on May 16, 1978. I ask that the article be printed in the RECORD.

The article follows:

BHUTTO ATTACKS JUDGE; TENSION SEEN MOUNTING

(By Simon Winchester)

LAHORE, PAKISTAN.—In a move certain to increase political tension here, former Prime Minister Zulfiqar Ali Bhutto has accused the country's chief justice of conflict of interest and called on him to withdraw from consideration of Bhutto's appeal of his death sentence.

In a letter to Chief Justice Anwar ul-Haq, Bhutto charged that by accepting the position of acting president of Pakistan, the judge has caused "irreparable loss to the country." The appeal hearing on Bhutto's sentence is to begin Saturday.

As tension built up over the possibility that Bhutto may be hanged, plans were made to move the former prime minister to a police training school near Rawalpindi—the seat of the Supreme Court—on Wednesday. Police and troops have been ordered to prepare for possible violent demonstrations there.

News of Bhutto's letter to the chief justice was not published by the government-controlled press, but Pakistanis undoubtedly will hear of it from foreign broadcasts.

Bhutto's charges go to the heart of the government's defense of the handling of his care—its insistence that the country's judiciary is fair and impartial.

The Lahore High Court's guilty verdict and death sentence, imposed March 18 after a four-month trial, caused a storm of criticism both here and abroad. Bhutto was convicted of conspiracy in the murder of a political opponent.

Yesterday, Amnesty International, the London-based human rights group, added its criticism. A report on conditions in Pakistan, published in London, suggested that "all safeguards against . . . political factors [affecting] the circumstances of the trial" may not have been taken into account.

The report, based on a visit to Pakistan by a two-member Amnesty team in January, also condemned the use of public floggings and the practice of trying civilians before military courts.

Bhutto's letter charged that Chief Justice Anwar ul-Haq had criticized the Bhutto government on several occasions, was close to the judge who sentenced Bhutto, and was too closely identified with the military government that overthrew Bhutto, headed by Gen. Mohammed Zia ul-Haq.

Bhutto said that by accepting an appointment as acting president, the chief justice had "institutionally fused the office of the president and the chief justice into one."

Bhutto's lawyer, Yahya Bakhtiar said there seemed to be "no chance at all" that the judge would withdraw from the case.

Mr. CHURCH. Mr. President, it is for these reasons that I hope clemency is granted former Prime Minister Bhutto, and the death penalty withdrawn.●

LOCOMOTIVES TO CONVOYS: THE SEARCH FOR A VIABLE FOREIGN ECONOMIC POLICY

● Mr. CHURCH. Mr. President, on May 15, 1978, at the Homestead in Virginia, I delivered an address to the 56th annual meeting of the Bankers' Association for Foreign Trade on the subject of international trade, the dollar, and related tax policy. Inasmuch as these are subjects of current concern to the world community, which seriously affect relations with our major allies, I ask that

the text of my address be printed in the RECORD.

The address follows:

LOCOMOTIVES TO CONVOYS: THE SEARCH FOR A VIABLE FOREIGN ECONOMIC POLICY

(By Senator FRANK CHURCH)

I am extremely pleased to be here today to address this distinguished gathering of international financial experts. I am somewhat surprised that a Member of the Senate Foreign Relations Committee should have been invited to speak to you about international trade, the dollar and other economic issues. These are subjects that have traditionally been the primary concern of the Committees on Banking and Finance. The fact that I am here may be a reflection of a heightened awareness that politics cannot be separated from economics and that the state of our foreign relations is, in large measure, a function of the international economy.

This fact was brought home with dramatic force in 1973, when the price of oil was suddenly quadrupled and huge amounts of capital began to move out of the consuming nations into the treasuries of the OPEC governments. Our attitude toward economic issues has not been the same since.

It is the politics as well as the economics of the present situation that I wish to address. For I am deeply concerned today—not only about the weakened state of the world economy, but also about the inability of the major Western countries to find a common solution to the problem.

Sharp disagreement over economic policies has become a major source of political dissension among the Western nations—and here I include Japan. During the past year and a half, we have seen a long series of summits, OECD ministerials, IMF meetings, and bilateral consultations to discuss economic problems. All with the same results: our leaders enter speaking optimistically of "interdependence" and "cooperation" and then emerge, grim faced and empty handed. National economic growth targets have been agreed upon but not met; trade imbalances have worsened, not improved.

Diplomatic relations among the main protagonists, Germany, Japan and the U.S., have taken on distinctly strained overtones. Mutual recriminations and finger pointing have reached the point where it is hard to say which is likely to be more tense, a U.S. arms summit with the Russians, or the next economic summit with our major trading partners and closest allies.

The tremendous drain on purchasing power in the highly oil dependent industrial nations has caused a dramatic slowdown in the rate of economic growth in Western Europe, Japan, and the U.S. Many lesser developed countries, LDC's, managed at first to paper over the problems resulting from the 1973 oil price increase with heavy borrowing from the private banks. But growing concern in the capital markets over the buildup of LDC deficits is making it increasingly difficult to pile new debt on top of old. Many developing countries are being forced into making drastic cutbacks.

Soon after taking up residence in the White House, President Carter launched an international initiative to reverse this downward economic spiral. The new Administration sought to convince our major trading partners that global economic erosion could only be reversed if the strongest industrial nations, Germany, Japan and the U.S., stimulated their own economies to a high level of activity. This was to be done through increased government spending and tax cuts. Faster growth in these countries, it was argued, would then lead to greater demand for imports, thus stimulating export growth in other, weaker economies. Hence, Germany, Japan and the U.S. would act as three "locomotives" to pull the rest of the world out of the economic slump.

Implicit in the President's proposal was that Germany and Japan should be willing to move into current account deficit, or at least reduce their large surpluses, in order to take some of the balance of payments pressure off weaker industrial countries like Italy and Spain, and the LDC's.

The Administration's international economic strategy, however, has not really brought the Germans and the Japanese aboard. Both governments agreed half-heartedly at the OECD Ministerial meeting last summer to certain coordinated national growth targets for 1977. Although these targets were substantially below what we had suggested, only the U.S. among the "big three" came close to meeting its target. Thanks to strong stimulative measures undertaken by the Carter Administration, the U.S. economy started growing again last year, with the Gross National Product rising by almost 5 percent, while the unemployment rate has dropped from its postwar high of 9.1 percent in mid-1975, to about 6 percent today. The large gap between actual production and available capacity in the manufacturing sector has been closed to 5 percent.

Germany and Japan, on the other hand, continued to pursue a policy of slow growth, with the German economy expanding only 2.5 percent last year and Japan at less than half its historic average of over 10 percent. In both countries, unemployment has increased slightly while excess productive capacity is 9 percent in Germany and almost 20 percent in Japan.

The two major problems that have plagued the U.S. economy this year—our swelling trade deficit and the dramatic decline of the dollar—are largely a consequence of the fact that the U.S. Government's implementation of the "locomotive theory" has been effective, but unilateral.

The disparity in growth rates among the large industrial countries has had its greatest impact on their respective trading accounts. Because the U.S. has been growing more rapidly than its trading partners, our demand for imports has risen more rapidly than their demand for our exports. The result was a staggering $25 billion U.S. trade deficit. Of this, $9 billion was with Japan, and $1.2 billion with Germany. These two countries, on the other hand, had a combined current account surplus of some $19 billion. Meanwhile, recovery in the U.S. has also stimulated oil consumption—at a time when our domestic production of oil has started to decline. Oil imports alone last year added some $45 billion to the U.S. import bill.

This huge U.S. trade deficit and, in particular, our growing appetite for foreign oil, has created a crisis of confidence in the dollar. Since May of last year, the dollar has depreciated 15 percent against the deutchemark and 24 percent against the yen.

One might have expected that this depreciation would lead to a reduction in our trade deficit. Instead, it seems only to have fueled domestic inflation. One reason is that American corporate executives have not chosen to take full advantage of the depreciation.

For example, the rapid depreciation of the dollar during the last eight months, particularly against the currencies of Detroit's two most serious competitors in the small car market, Germany and Japan, has offered American auto makers an unexpected opportunity to recapture small car markets lost to imports. But rather than seizing this opportunity to recapture their lost competitors, Ford, General Motors, Chrysler and American Motors have used the depreciation as an excuse for raising their own prices on small cars—thus squandering the opportunity to recapture their lost dominance of the American market, while adding further to the inflationary spiral. In the last five months, all four U.S. auto makers have announced significant price increases on their sub-compacts. The Ford Motor Company specifically stated that it was doing so in response to higher prices charged for imports. In effect, much of the price advantage the auto industry might have gained from the dollar's depreciation is being frittered away by a combination of greed and short-sightedness.

If this pattern of behavior is followed by other U.S. manufacturers, the dollar depreciation will contribute little to the solution of the U.S. trade problem.

Germany, Japan, and the U.S. now seem farther away than ever from a common economic policy. We are putting heavy pressure on the others to reduce their huge trade surpluses, particularly with the U.S. They, in turn, complain bitterly that we have been pursuing a policy of "benign neglect" with regard to the dollar and our prodigious appetite for imported oil.

However desirable it may be, I am frankly skeptical that this policy gap can be closed any time soon. I wonder whether it is wise for the U.S. to continue to expend more diplomatic capital on trying to force the German and Japanese Governments to do what they are clearly unwilling and, perhaps, unable to do. The constant bickering over economic policy may soon spill over into other vital areas of common political and defense interests.

The Germans are totally preoccupied with inflation. And this is understandable, given their experience with hyperinflation in the inter-war period. Both the government and the general public seem willing to accept a very modest rate of growth and a higher level of unemployment in return for stable prices. So long as there is a strong domestic concensus on this point, external pressure from the U.S. is unlikely to lead to a change in direction.

Despite Japanese assurances to the contrary, it is equally unlikely that that country will do much to eliminate its large trade surplus. The Japanese economy is uniquely export-oriented. And the sudden jump in foreign oil prices, on which Japan depends for 70 percent of its energy needs, has reinforced the Japanese emphasis on exports. And with an enormous 20 percent spare productive capacity already in the manufacturing sector, any drastic reduction in exports would only send the Japanese economy into a tailspin.

The Japanese Government has made an effort in the recent trade talks with the U.S. Special Trade Representative, Robert Strauss, to placate the U.S. But Japan's concessions under the so-called Strauss Agreement are little more than placating gestures. The projected 10 percent cutback in steel exports to the U.S. and the 40 percent cut in the sale of color television sets, will mean, at most, a reduction of only $700 million in Japanese exports. Tokyo has also pledged to hold auto sales in the U.S. to last year's level. That may not hold. In any case, 1977 was a banner year for Japanese auto sales in this country, with a 36 percent increase over the previous year.

Japanese concessions on the import side are equally modest. They have promised to buy large quantities of enriched uranium, non-ferrous metals and commercial aircraft from us. But all these items will mean only a one-shot increase in U.S. exports. It would have been far more significant if, instead, they had agreed to reduce their special tariff fees and quotas on imported food products, and other carriers that keep out foreign merchandise.

When an economy of $700 billion Gross National Product has imports of only $15 billion in manufactured goods, there is a lot of room for improvement.

Therefore, while I am in basic agreement that Germany and Japan should do more, I am not optimistic that they can be convinced to do so.

Changing course comes hard for them, as it does for us. A less expansionary policy in the U.S. might reduce our trade deficit and help restore international confidence in the dollar. But this could be done only at the risk of giving the world economy another downward twist.

No one disagrees that the U.S. must somehow bring its rate of energy consumption under control and stop the surge in oil imports. We are truly profligate in our energy habits, particularly in our consumption of gasoline. Far more than in any other society, the American style of living is built around the automobile. It is not only that we like to drive cars; at this point there is no alternative. Our patterns of work and play, the structure of our cities, the style of our rural life, are all based upon universal access to the automobile. Making fundamental changes in an established way of life isn't easy, and it won't happen overnight.

On other fronts, however, energy conservation has taken hold to a surprising degree. The most recent figures show that domestic energy consumption grew at only 2 percent in 1977, despite the economic upswing, compared to 5 percent the year before. Apparently, the public is ahead of the government in this regard and is moving to conserve energy even in the absence of a national energy policy.

The problem is that our gains on the conservation of fuel are being outpaced by the decline in domestic oil production. Even with the Alaskan fields coming on stream, domestic production last year dropped 100,000 barrels a day. Alaskan oil will result in only a slight increase over the next five years. Hence, our oil import bill will probably continue to rise until alternative domestic sources of energy can be developed.

However, the high level of American oil imports is not the only problem. The competitive position of our home-based industry in world markets has eroded badly over the past decade.

What we need, I believe, is a recapitalization of private industry in this country. Since 1969, productivity in our manufacturing sector has actually declined. Why? Because we have not been putting back into production enough of what we have been taking out. Compared to other industrial countries, our reinvestment performance has been dismal. While Japan has been plowing an average 35 percent of its GNP back into capital expenditures and Germany 26 percent, the U.S. has been putting back an average of only 18 percent.

Even industries which have shown modest productivity gains have not kept pace with their foreign competitors. The steel industry is a case in point.

While the Germans and the Japanese have adopted the most efficient and technologically advanced means of production, many U.S. steel plants have been allowed to decline into obsolescense. The comparisons are shocking. From 1964 to 1975, per man hour output in the U.S. steel industry increased by only 17.5 percent, while the Common Market countries raised their productivity by 89.5 percent, and Japan increased hers by 166 percent!

It's no wonder our outmoded and inefficient steel industry can't compete either at home or abroad.

American agriculture is the one sector in which productivity has shown significant gains. It is no coincidence, then, that agriculture is also our most successful export industry.

Rejuvenation of American industry could spur our economic growth without fueling inflation and, in addition, help cure our balance of payments problem.

In order for this to take place, better incentives must be provided for the investment of risk capital in this country. One reason our record has been so poor during the last decade, is that our risk capital is being taxed to death. Excessive personal income taxes, brought on by an inflation which keeps ratching taxpayers into higher brackets, are squeezing middle and upper income earners out of the investment market. In addition, the rising capital gains tax has made investment risks increasingly less attractive, even for those people who can still afford them. The combination of the two is driving money out of productive investment and into tax-free bonds and other tax shelters. High tax rates are not only choking off investments: they may even be reducing the flow of revenue to the Treasury. For example, in 1968, when the capital gains tax rate was only 25 percent, the tax drew in $7.2 billion in revenue. Last year, at rates that can reach as high as 50%, it produced only $8 billion in revenue. And capital gains revenue, as a percent of total taxes, has dropped from 9.3 percent in 1968 to only 4.5 percent in 1975.

The post-war economic boom in Germany, I am told, was due in large part to the fact that the Adenauer government decided to ignore the advice of most German economists and proceeded to make drastic cuts in taxes. The capital thus freed, fueled new economic activity which, in turn, provided more revenue, not less, to the public treasuries.

More recently, in our own country, the Kennedy tax cuts enacted in 1964, produced a surge of non-inflationary growth. Unfortunately, this went all but unnoticed, as it was quickly dissipated by the onset of the Vietnam War.

The tax cut remedy has worked before, and I think it high time we tried it again. For if we continue to squeeze the private sector with ever higher taxes, we will choke free enterprise to death.

I would recommend, first, that the capital gains tax be reduced from its present maximum rate of up to 50 percent, to the old rate of 25 percent. The result, I believe, would be salutory for both the economy and the Treasury.

Second, the maximum rate of taxation on individual income, whether earned or unearned, should be reduced to 48 percent. No American citizen should have to pay a higher rate of income tax than General Motors. Within a short time, I believe the loss of revenue to the Government would be more than replenished through the increased economic activity stimulated by the cut.

A clear decision on this issue would, moreover, eliminate much of the uncertainty in the business community that is also holding back investment. Rather than expending so much effort and diplomatic capital in a futile campaign to bring the German and Japanese governments around to our point of view, it's time we focused on the fundamental economic shortcomings of our own country.

Let us declare an economic detente with Germany and Japan. Let them proceed with the policies they regard as best, while we undertake to bolster our own competitive position in the world marketplace.

In the end, that may bring us closer together—both politically and economically—far sooner than any "locomotive" they are unwilling to board.●

WATERWAY USER CHARGES: THE CHICAGO SUN-TIMES SAYS: "VETO THE ALTON DAM PACKAGE"

● Mr. DOMENICI. Mr. President, the Chicago Sun-Times recently carried an editorial stating that newspaper's strong support for a veto of what it termed the "piddling" waterway user fee recently adopted by the Senate. While the editorial fails to mention the effective work Senator STEVENSON gave to the administration-backed proposal earlier this month, I believe the editorial states the basic logic for waterway user charges.

There is one other point that needs to be raised about this bill of many flaws. Neither the House bill nor the Senate bill, whether through design or through a drafting error, would recover a dime in barge fuel taxes. Both bills collect the fuel tax only on those waterways listed in "Section 103" of the bill. Section 103 lists no waterways. It is section 104 that actually lists the waterways.

Mr. President, I ask that the Sun-Times editorial be printed in the RECORD.

The editorial follows:

[From the Chicago Sun-Times, May 12, 1978]

VETO THE ALTON DAM PACKAGE

For more than a year, the barge lobby has gone full steam ahead to defeat responsible moves in Congress to impose user fees on the nation's waterways. And now the lobby has won a stunning victory—an 88-to-13 stampede in the Senate for a piddling fee.

Prospects for a similar token fee in the House are strong, too. Thus, the final bill produced by congressional conferees is also likely to be a mere nod to taxpayers but a low, respectful kowtow to barge interests.

In that event, President Carter has a promise to keep—a veto.

A year ago, Transportation Sec. Brock Adams made it clear that substantial user fees were the litmus test of administration support for Army Corps of Engineers plans to rebuild the Alton (Ill.) Locks and Dam 26. The project, questionable in the first place, would be a downright gift to waterway users without imposition of hefty fees.

Barge operators—with the aid of Sen. Adlai E. Stevenson III (D-Ill)—fought. They hammered against fee plans suggested by Sen. Pete V. Domenici (R-N.M.).

Through the battle, though, Domenici's logic remained persuasive: Projects like Alton (with its $400-million-plus price tag) should have part of the cost borne by the businesses that profit from them. Otherwise, with barges getting a free ride, rail cargo carriers would continue to be penalized.

Then followed a wild series of amendments and compromises on the size of the fees and the method of collection. Yet the principle remained intact—indeed, it was strengthened when it became the linchpin in an appropriation bill for more than $2 billion in various waterway improvements.

Unfortunatley, Sen. Russell B. Long (D-La.), a Senate powerhouse who has long used part of that power in the barge lobby's behalf, then gutted the user-fee section, substituting a much weaker proposal.

His arm-twisting persuaded anxious senators that they could have their pet projects without passing some share of the costs directly along to waterway users. Some fees would stand. But none would be pegged directly to the size of project expenditures. The 88-13 vote was the result.

That tally amounts to a flat challenge to the Carter administration.

Adams has warned that the Long bill doesn't measure up to administration requirements. He predicts a veto. We hope he's right, despite fears that members of Congress eager for the public-works plums in the bill will try to cajole the President.

Carter should stand firm.●

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA—THE NONPRECEDENT OF THE VIRGINIA RETROCESSION

● Mr. KENNEDY. Mr. President, House Joint Resolution 554, which is now on the Senate Calendar, would remedy a long injustice by granting to the citizens of the District of Columbia the same basic right of our democracy that is enjoyed by many other citizens—the right to send their own elected representatives to the Senate and the House of Representatives.

It is sometimes argued, however, that voting representation for the people of the District should not be achieved by independent representation in Congress, but by alternative methods linking the District in various ways to the State of Maryland. But there are serious objections to these alternatives, which go by the names of "full retrocession,"—ceding the District's territory back to Maryland—or "partial retrocession"—allowing District citizens to vote in Maryland elections.

The District of Columbia has not been a part of Maryland since 1788, when the territory that now comprises the District was ceded by Maryland to the Federal Government. Over the past two centuries, the District has developed its own community and its own interests, separate and apart from Maryland, and it deserves representation in its own right, not in an artificial union with the State of Maryland.

Those who favor retrocession draw on the fact that under the different circumstances of the mid-19th century, the territory ceded by the State of Virginia to the Federal Government in 1780, which formed roughly one-third of the original District, was ceded back to Virginia by Congress in 1846.

Recently, I asked the Library of Congress to analyze the circumstances surrounding the 1846 retrocession to Virginia. The preamble to the Act of 1846 recites the view that the Federal Government had not used the Virginia portion of the District and would probably never need it. The preamble also referred to the fact that a few months earlier, the Virginia legislature had enacted legislation accepting the retrocession.

The Library of Congress analysis also indicates that the retrocession was directly affected by the political, social, and economic factors of the time, particularly the resentment of the citizens of the town of Alexandria over their inclusion in the District. A major additional factor was the struggle between the slave-holding eastern regions of Virginia and the western portions of the State for control of the Virginia legislature. Neither retrocession nor any other measure could resolve the enormous pressures that were building in this period. As the Civil War began, the State of West Virginia was created from the western counties of Virginia and was admitted to the Union in 1863.

Seen in historical perspective, the retrocession of the Virginia portion of the District in 1846 is not a precedent for action today on the issue of voting representation in Congress for the District of Columbia.

In fact, there is a much more obvious and recent precedent which argues strongly in favor of independent representation in Congress for the District of Columbia, rather than in combination with Maryland or any other State. That precedent is the 23d amendment, which was ratified in 1961 and which gave citizens of the District the right to vote in Presidential elections. Recently, I asked the Library of Congress whether the concept of retrocession—allowing District residents to vote in Maryland Presidential elections, instead of giving the District independent representation in the electoral college—was considered as a possible alternative during the debates on the 23d amendment. The Library of Congress has informed me:

> To our knowledge, there was no mention of retrocession to Maryland or any related alternative arrangement during discussion of the 23d Amendment in Congress—either in the hearing records or during floor debate.

Thus, Congress overwhelmingly recognized in 1961 that there was no justification for tying the District to Maryland for purposes of voting in Presidential elections. There is no justification today for tying the District to Maryland for purposes of voting in Senate and House elections, and there is no real likelihood that the State of Maryland would accept such an arrangement, even if Congress tried to attempt it.

Mr. President, the Library of Congress study also cites a number of additional factors involved in the 1846 retrocession, relating to the unique circumstances of that action and its lack of relevance to modern times. I believe the analysis will be of interest to all of us, and I ask that it may be printed in the RECORD. I also ask that an article from the "Record of the Columbia Historical Society" in 1909 on the Virginia retrocession may be printed in the CONGRESSIONAL RECORD, as well as the act of Congress in 1846 ceding the Virginia portion of the District back to the State of Virginia.

The material follows:

THE LIBRARY OF CONGRESS,
Congressional Research Service.

THE 1846 RETROCESSION OF ALEXANDRIA COUNTY FROM THE DISTRICT OF COLUMBIA TO VIRGINIA

An examination of the circumstances under which Alexandria County, once a part of the District of Columbia,[1] was retroceded to the Commonwealth of Virginia,[2] embraces not only matters of disfranchisement, but also consideration of the Virginia slave trade and the eventual secession of West Virginia from the Commonwealth.

Reasons for the retrocession of Alexandria County, offered in the preamble to the 1846 Act, express the sense of Congress that no more of the ten-miles square territory authorized by the Constitution than is necessary and proper for the seat of government ought to be held for that purpose; that the portion ceded by Virginia had not been, nor was it likely to be, necessary for the seat of government; and that the State of Virginia had passed an act[3] accepting the return of Alexandria County whenever Congress might retrocede it.

Earlier attempts to attain retrocession in 1840 and 1841, had likely failed for lack of evidence that the Virginia Assembly supported the measure. The third time, Alexandrians won the approval of the Virginia Assembly after declaring that their businesses were paralyzed and many of their laborers were migrating out of the area.

"Why the Commonwealth was willing to reclaim a section in such economic straits might be hard to understand had Alexandria not been an important center for the slave trade; two pro-slavery members added to the Virginia Assembly would certainly strengthen the position of tidewater planters in their intensifying political struggle with piedmont and mountain county farmers."[4]

Various arguments for retrocession were cited by a committee of citizens of Alexandria in their petition to Congress[5]: by way of preface, these were offered as ". . . some of the consideration which impel [us] greatly to desire to return to the State of Virginia, from which, in an evil hour, [we] were separated." The first reason is expressed as an appeal to Congress regarding their lack of suffrage.

"We maintain that all government (politically considered) but self-government is bad, and that without some radical change, time, instead of making a bad government better, will make it worse; that whatever power is exercised independently of the will of the people, expressed individually or through their representatives, is a despotism. When we remind the committee that we are a disfranchised people, deprived of all those political rights and privileges so dear to an American citizen, and the possession of which is so well calculated to elevate and dignify the human character; that the exclusive jurisdiction which Congress possesses over us, however wisely and moderately exercised, is a despotism, we are almost inclined to say nothing more, as we cannot doubt but that our feelings, under such circumstances, will meet with the ready sympathy of every member of Congress."

The second reason was that they were a burden to the Federal government.

". . . Regardless of these evils, we should be willing to continue in this state of vassalage, and sacrifice ourselves for the good of our country, could we perceive any substantial benefit resulting therefrom to the rest of the Union. . . We are a useless and even a burdensome appendage to the general government. The appropriations for this support of the judicial system of the District of Columbia has been a subject of serious complaint, amounting, we believe, as to much as fifty thousand dollars per annum. By retroceding the town and county of Alexandria, this amount would be greatly diminished, and there would be considerable saving in the diminished time that Congress would feel it incumbent on them to bestow on the affairs of the District."

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[1] By the Act of July 16, 1870, 1 Stat. 130.

[2] By the Act of July 9, 1846, 9 Stat. 35.

[3] The Act of February 3, 1846.

[4] Green, Constance M. Washington: Village and Capital, 1800–1878. Princeton, Princeton University Press, 1962, p. 174.

[5] U.S. Congress. House. Committee for the District of Columbia. Retrocession of Alexandria to Virginia; Report to accompany H.R. 259, 29th Congres, 1st session. February 25, 1846. Report No. 325: 5–9.

The third reason was that, of the two counties that formed the District, theirs received an unequal share of appropriations from Congress for public improvements.

". . . Our condition is essentially different from, and far worse than, that of our neighbors on the northern side of the Potomac. . . They are in some measure compensated for the loss of their political rights by benefits resulting from the large expenditure of public money among them."

The fourth reason was that they were forced to live under an antiquated code of laws that Congress had not found time to revise.

". . . While every State in the Union has been amending and improving its civil and penal codes, . . . few changes have been made in our laws. The laws of Virginia, as they exist on the 27th of February, 1801 . . . are still in force with us. We are yet governed by antiquated English statutes—repealed, even there, half century ago."

Anticipating constitutional objections, the committee of Alexandrians devoted the remainder of their petition to refuting possible constitutional arguments against retrocession.[6]

Representative R. M. T. Hunter, Chairman of the House Committee on the District of Columbia, and also a Virginian, presented the case for retrocesssion[7] to the Committee of the Whole House. Mr. Hunter offered seven reasons to justify the retrocession. First, since the limit on size for the seat of government as provided in the Constitution was to be no more than ten miles square, the quantity to be used for the seat of government within this limit was left entirely to Congressional discretion. Therefore, ". . . considerations of economy, in relation to the public time and money, obviously suggest the expediency of retaining no more territory than may be enough for such purposes."

The second reason was the—

". . . obvious propriety of depriving no more of our people of political rights and privileges that may be indispensable for the purposes of safety and securty in the seat of government . . . We have been proud to believe that it was a great object in our mission to enjoy these rights ourselves, and by our example to increase the value placed upon them by the residue of mankind . . . It is our glory, that to a great extent our example has taught it; but how shall we answer for our mission, if without necessity we deprive a portion of our own people of these very rights, which in the face of the world we have declared to be inestimable?"

Third, Representative Hunter pointed to a unique relationship between the States and the District that did not otherwise exist among any of the States. The Constitution guaranteed to citizens of each State the same "privileges and immunities of citizens in the Several States," yet there could be no such guarantee between the residents of the District and those of any State.

He envisioned controversies arising from the situation in which fugitives from justice, fleeing to or from the District, would lack judicial protection. Fourth, a less populous, less diverse seat of government would diminish the likelihood of the Federal government granting powers to the District government that were denied the Federal government but reserved to the States. He suggested that the District government might be authorized to charter a United States Bank—an act some believed unconstitutional—and extend its operation to the States. The fifth reason for retrocession was to decrease the potential political influence of District residents on the Federal government. Sixth, retrocession would benefit the remaining portion of the District by eliminating the sectional opposition between the two counties that prevented the revision of a uniform code of laws acceptable to both. Seventh, the people of Alexandria had moral, political and financial interests at stake. Not only had they lost their political rights, but since the time of cession they had received barely more in appropriations than they had paid in taxes. With dwindling commerce, and access to the Northern section of the Potomac River cut off by an early Act of Congress that precluded the Alexandria port from becoming a flourishing center of trade, Alexandria would have been financially better off had it remained part of Virginia.

The issue of disfranchisement and voting rights for the residents of Alexandria received less attention during the debate on the House floor[8] than did the question of Congressional interference in the internal politics of Virginia. At issue in the Virginia Legislature was an oft-defeated measure calling for a constitutional convention, adjusting the basis for representation and then reapportionment. Political sentiment was so strong that it divided the eastern and western portions of the State. During the House debate, Representative Payne acknowledged that Congress had been aware that a conflict had existed ". . . almost from the beginning of that government down to the present day, on the subject of the right of suffrage. This was not a party question, but an eastern and western question in Virginia; and that State was now on the very point of calling a convention, the object of which was to extend the right of suffrage and equalize the right of representation in the counties. As things now stand, eastern Virginia controls the political power of that State, with a population vastly inferior to western Virginia. This bill proposed to add 2,500 to 3,000 voters to the eastern side of Virginia, the influence of all whom would be thrown against western Virginia, whose object is to extend the right of suffrage, and have a convention."

Representative Payne at one point alleged that the purpose of the retrocession was to foist upon the Federal government the million dollar debt of the corporation of Alexandria. He offered an amendment to add a section, providing that Congress would not pay any claim from any resident of Alexandria against the corporation debt. His amendment was adopted without discussion and the final vote on passage was taken: 96 in favor and 65 opposed.

Historians differ as to whether the controversy concerned the right to suffrage or control of the State legislature. The reapportionment issue was to determine whether representation in the Virginia Assembly should be on the basis of white population only or on a mixed basis (a combination of State revenue and white population). Since the western portion had a greater white population, it favored that basis because it could gain control over the legislature. The eastern portion had six times as many slaves as the western portion, and favored the mixed basis because it would strengthen eastern control of the legislature.

The eastern portion, however, objected to excessive taxation. The convention in 1851 resolved the dissension by decreeing apportionment for the House of Delegates to be on the white basis, and in the Senate to be on an arbitrary basis that was not wholly satisfactory to either side. Thus, while the matter seemed to be resolved, the western portion's several attempts to secede from Virginia over the questions of slavery and "manhood" suffrage were finally successful in 1863 with the creation of West Virginia.

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[From "Records of the Columbia Historical Society," Washington, D.C., Volume 12 (1909)]

"THE VIRGINIA PORTION OF THE DISTRICT OF OF COLUMBIA"

(By Amos B. Casselman)

The subject of this paper may be regarded as interesting, not only because of the facts of local and general interest to which it refers, but also because of the controversies which have grown out of it. The retrocession to the state of Virginia, by an act of Congress, in 1846, of her portion of the District of Columbia, was at that time, and has been since, the subject of spirited controversy; it being contended that the act was unconstitutional, and, aside from this objection, that it was unwise, the result of purely local influences, and was wholly unjustified by any public interest, or by any just conception of the probable future growth and expansion of the National Capital. The principal purpose of this paper, which assumes only to deal with familiar facts of history, is to weigh and consider those facts in their relation to this controversy touching the constitutionality and wisdom of the act of retrocession, by which the District of Columbia lost a third part of its small area.

Preliminary to this question, it is pertinent to the subject to refer to the original selection of the District of Columbia to become the seat of government, and to the strenuous rivalry and contention of sections and states to secure the location.

The choice and location of the present seat of government were determined in connection with the foundation of the government under the constitution. The convention which framed the constitution deemed it necessary as a part of their work to make some provision for a federal capital. In the debates on the subject it was suggested that the capitol ought not to be located in the same city with the capitol of any state, or in any large commercial city; but the latter suggestion was withdrawn, because it was known that both Philadelphia and New York would endeavor to secure it; and the convention decided to leave the choice of location to Congress. The subsequent controversy in Congress over the location showed the wisdom of this action on the part of the convention, a controversy which, had it occurred in the constitutional convention, might have defeated its object, and prevented the adoption of a constitution, or the formation of that union under which we live.

When the first congress, in 1790, took the subject up, there developed at once the first manifestation of sectional rivalry between North and South to secure the location. This rivalry of the sections developed an intensity hardly understood at this time, and seemed to threaten the stability of the new government. The choice lay between three localities: the Delaware, the Susquehanna and the Potomac, with a majority of both houses of Congress favoring one of the northern streams. The House voted in favor of Wright's Ferry, on the Susquehanna, which was said to be thirty-five miles above lower navigation. The Senate substituted Germantown, on the Delaware, and the House concurred in the amendment, but owing to some minor differences the bill never became a law. The vote was on sectional lines, and the North outnumbered the South, but the latter was unwilling to yield. Madison boldly declared that could Virginia have foreseen the action of Congress on this subject that state would not have become a member of the Union. Fortunately the controversy was

[6] Its constitutionality was upheld by the Supreme Court thirty years later in *Phillips v. Payne*, 92 U.S. 130 (1876).

[7] Hunter, R. M. T. Retrocession of Alexandria to Virginia. Reports in the House. Congressional Globe, Appendix. v. 15.2. May 8, 1846: 894–898.

[8] Congressional Globe, v. 15.1. Retrocession of Alexandria. May 8, 1846: [Debate and vote in the House] 778–781.

ended by a compromise, which was effected through the joint efforts of those two great rival leaders, Hamilton and Jefferson, by which sufficient northern votes were changed in favor of the location on the Potomac, thus causing its selection.

The act of Congress approved July 16, 1790, provided for a location on the River Potomac between the mouth of the Eastern Branch and the Connococheague, to be determined by three commissioners to be appointed for the purpose by the President, and "who shall, under the direction of the President, survey and by proper metes and bounds define and limit" the said district of territory. The commissioners, who were appointed by the President, were required to perform their duties under his direction; hence the selection, within the limits defined, was virtually left to Washington. The act did not specify whether the district should be located on one side or both sides of the Potomac. But the terms of the act of Congress, as well as of the constitutional provision, provide for a district in the form of a square; hence, if the capital city should be located on a river, and at or near the center of a square, it would necessarily embrace territory on both sides of the river. The constitution provides also for the acceptance of territory from "particular states"—in the plural. So the district, as located, was formed in the manner manifestly intended both by Congress and the constitution, by embracing territory in the form of a square, from two states lying on opposite sides of the river.

The act of Congress was definite only in providing that the district should be located on the River Potomac between the two specified points—the mouth of the Eastern Branch and the Connococheague, which are about sixty-five miles apart on an air line. Congress had rejected every city or large town that had been proposed—New York, Philadelphia, Baltimore, Lancaster, York, Wilmington, Alexandria, and decided in favor of a rural district in the interior, free and apart from any city or business metropolis.

Just above the mouth of the Connococheague a district ten miles square could have been formed to embrace territory from three states; and a location at that point was regarded with much favor, and was recommended by the act of cession of the Virginia Legislature, enacted December 3, 1789. The preamble to that act contains, among other clauses, the following:

"And whereas it appears to this assembly that a situation combining all the considerations and advantages before recited may be had on the banks of the River Potomac, above tide water, . . . where in a location ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland and Virginia may participate in such location."

So, while Virginia ceded ten miles square to be located at the pleasure of Congress, it expressly recommended the Connococheague as a suitable location; and that locality received a good deal of attention in the discussion, its long Indian name being made a point of ridicule by those who opposed it. Washington visited Williamsport, at the mouth of the Connococheague, and Hagerstown, near by, in October, 1790, but he evidently did not regard the locality with much favor.

Aside from all other considerations, the chief and predominating influence that determined the location was the personal preference of Washington, who decided in favor of a location as near as possible to his country estate at Mount Vernon, and which included the neighboring town of Alexandria; notwithstanding the important and significant fact that the latter was outside of the limits prescribed by the act of Congress.

It was natural that Washington should thus have a strong personal bias in favor of the locality chosen. Alexandria, his home town, eight miles from Mount Vernon, was in Washington's day a place of commercial and political importance. It was a commercial port from which he had shipped to England many cargoes of tobacco from his Mount Vernon plantation. It was here in 1755 that General Braddock disembarked his British regulars, on his expedition against the French and Indians. Irving describes how Washington, then living in retirement at Mount Vernon, viewed with pleasure and admiration the transports bearing the British army, as their sails carried them up the Potomac, and mounting his horse, rode over to Alexandria where he accepted from General Braddock an appointment to serve on his staff. He there met also the council of colonial governors convened to meet and confer with General Braddock. Washington was always closely identified with the local interests of this vicinity, then included in Fairfax County. He had represented the county in the House of Burgesses; commanded its militia; taken an active interest in all its political contests, engaging on one occasion at Alexandria in a personal encounter with William Payne, in an election dispute, in which it is recorded that Washington got the worst of it. He served as vestryman for three churches of the county—at Alexandria, Pohick and Falls Church. On the completion of Christ Church at Alexandria, in 1773, he was one of ten who bought pews; and his pew, with that later owned by Robert E. Lee, are reverently cared for in that historic house of worship. In 1788 Washington was chosen and served as master of his masonic lodge at Alexandria. He was, therefore, at the time of his election as President of the United States, the master of his lodge in that town, which still preserves the Bible, chair, gavel and other ornaments and furniture of the lodge which were then in use, and an original painting of Washington in his masonic regalia, all held in reverence by his successors and brethren of the masonic fraternity. When in 1789 Washington set out to assume the office of President, his neighbors of Alexandria gave him a public dinner, and presented him an address in which they extolled him as a neighbor and friend, and to which he responded in like terms with expressions of personal affection and regard.

These familiar facts of history explain Washington's preference and partiality for the location chosen by him for the seat of government. They aid in explaining its exact boundaries, which were determined by fixing the first corner. This first corner was fixed by Washington in the manner announced by him in his proclamation dated January 24, 1791, in the following language:

"Now, therefore, . . . I do hereby declare and make known that the location of one part of the said district of ten miles square shall be found by running four lines of experiment in the following manner; that is to say: running from the courthouse in Alexandria, Virginia, due southwest half a mile, and thence a due southeast course 'till it shall strike Hunting Creek, to fix the beginning of said four lines of experiment."

The site of this first corner has recently been located by the Geological Survey in the wall of an old mill; but the stone itself, which was laid on April 15, 1791, with masonic ceremonies, to mark the site, has disappeared, or is concealed in the old wall.

The location chosen by Washington, as above stated, was not the location which had been designated or authorized by Congress. On the contrary, Washington disregarded the act of Congress, in order to include Alexandria within the District, and made necessary an amendment to the original act of location which Congress subsequently adopted. The facts are shown by his proclamation. It provides, as stated, for establishing the first corner of the square just below the town of Alexandria, directs the commissioners to run their four lines of experiment from that beginning, and declares and makes known the acceptance as "one part" of the district, of so much of the square, so designated, as lay above the mouth of the Eastern Branch; "reserving" the survey and location of the "remaining part" of the district to be made thereafter agreeably to law.

No doubt Washington felt assured that Congress would ratify his action. Perhaps he had consulted the leaders. The fact is that his action left Congress virtually nothing else to do. Having accepted two thirds of a designated square as "one part" of the seat of government, which acceptance was final and in accordance with law, so far as that "part" was concerned, Congress could hardly do otherwise than amend the law so as to authorize the acceptance of the remaining third of the square. Had Washington designed to coerce Congress, he could not have taken means better adapted to that end; and he did not escape censure and criticism for his alleged partiality in selecting the site chosen by him for the seat of government. His attorney general, Edmund Randolph, attacked him savagely in a pamphlet on this account; but Randolph was discredited, and his pamphlet itself appears to have been lost in oblivion.

To one not wholly familiar with the subject, the question might suggest itself: Why did not Washington choose Alexandria as the site for the capital? The topography is not inferior in natural advantages to the site chosen. Bishop Meade, in his "History of the Old Churches and Families of Virginia," referring to the town of Alexandria, says:

"So promising was it at the close of the war that its claims were weighed in the balance with those of Washington as the seat of the National Government. It is thought that, but for the unwillingness of Washington to seem partial to Virginia, Alexandria would have been the chosen spot, and that on the first range of hills overlooking the town the public buildings would have been erected."

The conclusion stated by Bishop Meade appears to be without foundation. The reason Washington did not choose Alexandria as the site for the national capital was that he had no authority or power to do so. Congress had expressly rejected that town when it was proposed. He did so far ignore the act of Congress as to locate one third of the ten miles square outside of the prescribed limits, and that stretch of authority Congress ratified. But it may well be doubted that Congress would have ratified the selection of Alexandria as the site for the capital after it had expressly rejected that location. Alexandria was included in the corner of the District of Columbia, contrary to the original purpose and act of Congress, through the personal influence of Washington and through his executive power as President. It was added or tacked on to the district by an amendatory act, followed by a supplemental proclamation of the President. The incident shows that executive power was not less potent or active than it has been since. But whatever expectations of benefit to the town may have been entertained at that time, they were never realized but soon abandoned.

The choice and location of the seat of government were thus determined after much difficulty, contention and a bitter rivalry of sections, of states, and of cities to secure it. Yet, hardly had the location been occupied

by the government, before the local residents therein began to manifest their dissatisfaction and to appeal and petition to Congress and to the states for the retrocession of their territory. The first efforts for retrocession were made by the residents of Georgetown in 1803. A bill to retrocede to the State of Maryland her portion of the District was introduced in Congress and received 26 votes in the affirmative. The effort for retrocession was renewed the next year, in 1804, and again in 1818 and 1834. The act of 1790, locating the seat of government, did not take effect until Congress enacted laws for its government, and as the time for its occupancy by the government was postponed ten years, or until 1800, the territory ceded still remained under the jurisdiction of Maryland and Virginia, respectively, up to 1801, and the residents continued to enjoy the privileges of citizenship in those states, and voted in the presidential elections up to 1800. But as soon as the law enacted by Congress in 1801 brought them under the exclusive legislation of Congress, with loss of the rights of citizenship in the states, they at once began to lament their loss of political rights, and to agitate for retrocession.

The movement which culminated in 1846 in the retrocession of Alexandria County began with the citizens of the town of Alexandria; the country part of the District was opposed to retrocession.

The reasons urged in favor of the retrocession of Alexandria County are found in petitions and memorials, in the congressional proceedings, and in the preamble to the act of Congress. The chief reasons were two: First, that the United States did not need Alexandria County for the purposes of the seat of government; the public buildings were all erected on the north side of the river, as required by law, none on the south side; and it was declared that so far as could be foreseen, the United States would never need that part of the District for the purposes of the seat of government. Secondly: that the people of Alexandria had failed to derive or share in the benefits which had been enjoyed by the residents of the Maryland portion of the District, in the disbursements for public improvements, etc., while, on the other hand, they were deprived of those political rights incident to citizenship in a state. Their petition to Congress is pathetic in describing their hard condition, deprived of being Virginians on the one hand, or of equal advantages with residents of the Maryland part of the District on the other. The preamble to the act of retrocession recites only one reason, and is as follows:

"Whereas no more territory ought to be held under the exclusive legislation given to Congress over the District which is the seat of the General Government than may be necessary and proper for the purposes of such a seat; and whereas, experience hath shown that the portion of the District of Columbia ceded to the United States by the State of Virginia has not been, nor is ever likely to be, necessary for that purpose; and whereas, the State of Virginia, by an act passed, etc., etc., . . . hath signified her willingness to take back this said territory ceded as aforesaid; therefore—

"Be it enacted, etc. . . ."

Briefly, therefore, the act of retrocession was enacted as a favor to the citizens of the town of Alexandria, a favor based on the declaration of Congress that the United States did not need that territory.

Concerning the reasons thus assigned in support of the measure it may be said that they seem insufficient to justify the act, even if true. If it were true that the United States had no especial need for this territory, that would hardly seem a sufficient reason for giving it away. Nations, or individuals, are not in the habit of giving away valuable territory because they do not need it. In this instance it seems more surprising because the thing given away was part of a small territory, none too large, which, after the most active competition and bitter rivalry and contention, had been set apart as the seat of government.

But in the short period since that act, the United States has found it necessary to become the owner of two square miles of this territory, for use as a military post, a national cemetery, signal corps station, an agricultural experiment farm, etc., and will doubtless need still further acquisitions of this territory. So one of the principal reasons alleged has been demonstrated to be untrue.

Concerning the other principal reason stated, namely, that the people of Alexandria were deprived of the privileges of citizenship in a state, that was equally true of the Maryland portion of the District and is true now of many thousands of men of voting age in Washington City, a number constantly increasing with the growth of the Capital. Furthermore, that condition was fully understood when this territory was selected and set apart to become the seat of government. It is a condition incident to the district set apart under the constitution to be under the exclusive legislation of Congress. The attitude of the Alexandrians and their friends in 1846 was in striking contrast with that of their ancestors in 1790, when Virginia and the South (quite like the North, in that respect) seemed willing to make any sacrifice to obtain the capital for their section. Virginia and Maryland each tendered to the United States ten miles square of its territory, to be located anywhere within the state, at the pleasure of Congress. Richmond, or Baltimore, would have been ceded, unhesitatingly, and no objection was suggested that the inhabitants would lose the right of voters in a state. But in 1846 it was urged as a pathetic grievance by the people of Alexandria that, through the action of their ancestors, and of Washington, they, "in an evil hour" had been included within the District of Columbia. The effort to get Alexandria out of the district was as stenuous as the previous effort to have it included within.

That the act of retrocession was enacted as a favor to the Alexandrians, and not to subserve any public interest, is illustrated by the provision that it should not become effective until ratified by vote of the people of the county. This is the only instance in the history of the United States government of the initiative and referendum. The act was referred to 985 voters in Alexandria County. Five commissioners appointed by President Polk held the election at the Court House and took the vote viva voce, and published the names of all who voted for and against the act, 763 voting for and 222 against it. Thereupon the President issued his proclamation declaring retrocession duly ratified and consummated.

The people of Alexandria County, residing outside of the town, were opposed to retrocession, and after the election, filed with the legislature of Virginia a memorial protesting against the constitutionality of the act. Their protest, which, of course, was unavailing, is as follows:

"MEMORIAL OF THE CITIZENS OF THE COUNTRY PART OF ALEXANDRIA COUNTY TO THE VIRGINIA HOUSE OF ASSEMBLY

"The respectful memorial of the undersigned citizens of the country part of the county of Alexandria, late of the District of Columbia, to the house of assembly of the commonwealth of Virginia, sheweth:

"That on behalf of ourselves and of a large majority of our fellow-citizens of the rural portion of the county of Alexandria, we solemnly and respectfully protest against the act of retrocession passed by the Congress of the United States, at the first session of the 29th congress, retroceding, under certain conditions, the country aforesaid to the commonwealth of Virginia, for the reasons following, namely:

"That the country portion of the inhabitants of said county were not consulted upon the matter of retrocession, or advised of the intention to seek a change of our allegiance, the whole proceeding having been concocted and determined upon in secret meeting of the corporation of Alexandria, an irresponsible body, having no manner of right to act upon the subject:

"That we believe the legislature of the commonwealth have been misinformed with respect to the wishes of the citizens of the country portion of the county, as well as of many of the town of Alexandria itself:

"That the act of retrocession is an act in clear and obvious hostility to the spirit and provisions of the constitution of the United States, and beyond the possibility of honest doubt, null and void·

"That therefore we respectfully invoke the senate and house of assembly to disregard and give no countenance or heed to any so-called commissioners or representatives pretending or purporting to speak for and in behalf of the citizens of the county of Alexandria, and more especially of the citizens of the country part of the same:

"That we further respectfully request the legislature of the said commonwealth to suspend all further action in relation to said county until the constitutionality or unconstitutionality of said act of retrocession by the congress of the United States can be determined by the authority legitimately charged with the same; it being the fixed purpose and intention of your memorialists, and a majority of the citizens of the country part of the county, as well as others, citizens of the town of Alexandria, to bring without delay the question of said constitutionality or unconstitutionality before the supreme court of the United States:

"That your memorialists, in common with numerous citizens of good education and great experience, skilled and learned in the law, do by force of the plain and obvious dictates of the constitution of the United States, as well as of the acts of original cession by the states of Virginia and Maryland, deem and consider the whole District of Columbia, or federal ten miles square, to be a perfect unit, undivided and indivisible, and so deeming and considering, they are constrained to conclude that even if the congress of the United States had a constitutional power to cede, said congress must cede the whole and not a part:

"That lastly, your memoralists, penetrated with a deep regard for the great principles of constitutional republican freedom, cannot behold with feelings other than painful, the severe blow dealt by said act of retrocession, at one of the chief principles upon which are built the liberties of our common country, namely, that whereby the fairly expressed will of a majority shall be taken as law, inasmuch as the congress in said act of retrocession allowed to a small minority of the citizens of the District of Columbia the decision of a question of paramount importance to the whole thus virtually establishing a precedent equally novel and dangerous, whereby a minority is empowered to rule the majority.

"County of Alexandria, December 2, 1846.

"Signed,

"WALTER S. ALEXANDER,
"ANTHONY R. FRASER,
"WESLEY CARLIN,
"HENRY HARDY,
"RICHARD SOTHORON,
"NICHOLAS FEBREY,
"SAMUEL BIRCH,
"HORATIO BALL,
"WASH. T. HARPER,

Committee of nine, acting by order and in behalf of the citizens of the country part of Alexandria county.

"Accessit, WILLIAM H. PRENTISS."

Had the act of retrocession been limited to the town of Alexandria and its immediate environs, and not included the county as a whole, there could have been little serious objection to it. The preamble to such an act could have truly recited that the original design and act of Congress excluded Alexandria from the location; that the wisdom of such exclusion had been demonstrated by experience and time; that the United States could never need the town of Alexandria for the purposes of the seat of government, nor derive any benefit from its retention; and that to detach and retrocede it to Virginia would in fact restore the District of Columbia more nearly to its original design. But Congress, it seems, could not or did not choose to discriminate. They saw no distinction between retroceding the town in the corner and the whole thirty-six square miles of Alexandria County, which included the outskirts and environs, the very threshold, of the national capital.

Two main objections have been urged against the act of retrocession: first, the objection to its constitutionality, and, second, that it was against the public interest. Those who have opposed the act appear to have overlooked the most serious objection to it—the objection, not against retroceding the town of Alexandria, but against the unnecessary retrocession of the whole county, which despoiled the seat of government of a necessary part of its small territory. This plain and obvious objection that the act granted too much, has hardly been noticed or mentioned. The truth is plain that the act did not receive that intelligent consideration which its importance demanded.

Mr. Albert Shaw, in an article in his magazine, the *Review of Reviews*, gives forcible expression to his objections to the act in which he says:

"We have reason to be thankful that the federal district was chosen and the lines of the new capital city laid down while Washington was President, and while American public men were gifted with the sense of historic vision and proportion. A generation or two later everything would have been done on a mean scale and in a shortsighted manner. This is illustrated by what actually happened in 1846. There arose a movement to secure a recession back to Virginia of that part of the federal district on the west side of the Potomac. Because it was not needed for federal purposes in the illustrious year of our Lord 1846, it seemed wholly impossible for the people then in control of our destinies to rise to the conception that it might be needed at some future time. The question was submitted to a vote of the inhabitants of that part of the district.

"Nine hundred and eighty-five people went to the polls, 222 of them to sustain the views of George Washington and show their faith in the future, and 763 of them to vote that they preferred to be citizens of Alexandria county, Va., rather than of the federal district of Columbia. To be sure, it is not so strange that the inhabitants should have voted that way as that Congress should have been so petty and supine as to have mutilated a federal possession that Washington and his colleagues had secured with such painstaking, and with such noble faith in the future both of the country and of its capital city. Naturally enough, some of the citizens of Alexandria were ambitious to participate in Virginia politics. The country had passed through a very exciting campaign when William Henry Harrison was elected in 1840, and a still more exciting one when James K. Polk defeated Henry Clay in 1844. Doubtless the men of Alexandria disliked the political limitations under which they had no direct part in the political activities of that boisterous period.

"It cannot be said that up to the present moment the development of the city of Washington has been greatly hampered by the loss of Alexandria county. But the time will come when it will be perceived that President James K. Polk, who issued the proclamation of transfer on September 7, 1846, ought to have vetoed the whole proceeding. The United States government maintains on the Virginia side of the river the military post of Fort Meyer and the great national cemetery at Arlington. The rapid growth of public institutions in and about Washington, together with that of population, will soon make it evident that the territory on the west side of the river ought to be controlled and developed, as respects its street system and its various appointments, by the same enlightened and generous authority that has beautified what remains of the federal district, and made it a source of pleasure and pride to the whole nation."

It is unquestionably true, as Mr. Shaw states, that at either a later or an earlier period in our history the act of retrocession, in the form in which it passed, would have been impossible.

That the act was unconstitutional has been affirmed and denied by eminent lawyers both in and out of Congress. The question has never been expressly decided, though an effort was made in 1875 to obtain a decision thereon by the Supreme Court. To that end a suit was brought by eminent counsel on behalf of a citizen of Alexandria County against the tax collector, designed expressly to test the question. The court, however, avoided an express decision whether the act of retrocession was constitutional, but held that the plaintiff as a citizen of that county was estopped from denying it. The court held that as the United States and the state of Virginia were the parties to the act of retrocession and that, as these parties were satisfied and had long acquiesced in the transfer of the county, without objection or protest, it was not competent for a private litigant to question the constitutionality of the act; and further, that the act involving the cession of territory being the exercise of political power could not be reviewed by the courts, at least, at the instance of a private citizen. So the effort to secure a decision from that court failed of its purpose.

In 1896 this question was considered by the Senate Committee on the District of Columbia. At the instance of that committee, the Senate had appointed the Park Commission to plan the future development of the city with reference to parks, boulevards, etc., and as incidental to this subject, attention was drawn to the Virginia environs of the capital. Accordingly, the chairman of that committee, Senator McMillan, introduced and the Senate adopted a resolution of inquiry addressed to the Attorney General, requesting his opinion touching the constitutionality of the act of retrocession, and as to what steps would be necessary to regain that territory to the District. The attorney general's response to said resolution is as follows:

"DEPARTMENT OF JUSTICE,
"Washington, D.C., January 15, 1897.

"Sir: In response to a resolution of the Senate adopted December 17, 1896, whereby the Attorney-General is instructed to report to the Senate—

" 'First, what proportion the present holdings of the United States in the State of Virginia and within the former limits of the District of Columbia bear to the whole territory originally ceded by that State to the United States; secondly, by virtue of what legislation the Virginia portion of the original District was retroceded to the said State; thirdly, whether the constitutionality of such acts of retrocession has been judicially determined; fourthly, what legislation is necessary again to secure to the Government exclusive jurisdiction over either the whole or a part of such territory originally included in the District of Columbia as is now embraced in the State of Virginia—'

I have the honor to submit the following statement, in which an attempt is made to answer the several inquiries contained in the resolution, in the order in which they appear:

"(1) In regard to the area of territory, lying within the former limits of the District of Columbia, which was ceded to the United States by the State of Virginia, I find it stated in the American Encyclopedia, Vol. VI, page 150, that such area embraced 36 square miles. This is understood to include the entire territory, both land and water, over which Virginia had jurisdiction at the time of the cession. Information derived from other sources places the area of land at about 29 square miles. I have no means of verifying the corrections of these figures, but they substantially agree with what I understand is commonly taken to be the extent of the territory in question, namely, that it embraced about one-third of the District of Columbia as it originally stood.

"So far as I am advised, the lands within the limits of the territory ceded as above, which are at present owned by the United States, comprise what is known as the "Arlington estate," to contain about 1,100 acres, and two or three small parcels containing together not over 5 acres, the whole of the lands thus owned having an area of less than 2 square miles.

"According to the foregoing, the holdings of the United States within the territory ceded by Virginia as aforesaid constitute, approximately, about one-eighteenth thereof.

"(2) The "Virginia portion of the original District" was retroceded by the act of Congress of July 9, 1846, chapter 35, entitled "An act to retrocedde the county of Alexandria, in the District of Columbia, to the State of Virginia" (9 Stat. L., 35). This act provided that, with the assent of the people of the county and town of Alexandria to be ascertained as therein prescribed—"all of that portion of the District of Columbia ceded to the United States by the State of Virginia, and all the rights and jurisdiction therewith ceded over the same, be, and the same are hereby, ceded and forever relinquished to the State of Virginia, in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside therein."

"The act further provided that it should not be in force until after the assent of the people of said county and town should be given thereto in the mode prescribed, namely, by a vote to be there taken; and that if a majority of the votes cast should be in favor of accepting its provisions, the act should in that case (and not otherwise) be in full force; and it thereupon became the duty of the President to inform the governor of Virginia that the act "is in full force and effect, and to make proclamation of the fact." The result of the poll, which was taken on the 1st and 2d days of September, 1846, showing a majority in favor of the act, proclamation of the fact was made by the President on the 7th of that month (9 Stat. L., 1000).

"Previous to the legislation of Congress above mentioned, the general assembly of Virginia, by an act passed February 3, 1846, had provided—"that so soon as the Congress of the United States shall by law recede to the Commonwealth of Virginia the said county of Alexandria, and relinquish their exclusive jurisdiction, as well of territory as of persons residing or to reside thereon, the same shall be reannexed to the said Commonwealth, and constitute a portion thereof, subject to such reservation and provisions

respecting the public property of the United States, as Congress may enact in their act of recession. (Acts of Virginia, 1845–46, p. 50.)"

"The two acts hereinabove referred to—the act of the general assembly of Virginia of February 3, 1846, and the act of Congress of July 9, 1846—constitute the whole of the legislation by which the retrocession was effected.

"(3) The constitutionality of said acts of retrocession has not, so far as I am advised, been judicially determined. In the case of Phillips *v.* Payne, which was heard by the Supreme Court of the United States at its October term, 1875 (see 92 U. S. Rep., 130), an effort was made by the plaintiff to raise the question of the constitutionality of said act of July 9, 1846, and have it decided by that court. But the court declined to pass upon it, holding that, under the circumstances of the case, the plaintiff was estopped from raising the point, and the judgment of the court accordingly went off on other grounds not involving the validity of such act.

"(4) The answer to the question "what legislation is necessary again to secure to the Government exclusive jurisdiction over either the whole or a part" of the retroceded territory is, I think, indicated in the Constitution (see Art. I, sec. 8, par. 17); it is the cession of the territory by the State and an acceptance thereof by Congress. Inasmuch as this inquiry here apparently assumes the validity of the act of retrocession, since otherwise no legislation for the purpose therein mentioned would be necessary, I deem it proper to state that my response thereto is not intended as an expression of opinion upon that point.

"I have the honor to be, very respectfully,

"JUDSON HARMON,
"Attorney-General.

"THE PRESIDENT OF THE SENATE."

The attorney general, it may be observed, expressed no opinion as to whether the act of retrocession was constitutional. It might be said that he avoided the question; and the subject was not further pursued by the Senate or the Committee.

In 1902 the following joint resolution was introduced in both houses of Congress:

"JOINT RESOLUTION

"Directing the Attorney-General to bring suit to determine the constitutionality of the retrocession of that portion of the original District of Columbia which was ceded to the United States by the State of Virginia.

"Whereas for purposes of military defense, public parks, sanitary safeguards and improvements, police protection, control of river shores, and the general welfare of the city and suburbs of Washington; it is desirable that the city and county of Alexandria should be restored to the control of the government of the District of Columbia; and

"Whereas the interests of the United States also require that the establishment of the seat of government shall not be subject to be permanently modified or impaired by the action of any one or two of the coordinate branches of the Government; and

"Whereas it is just and equitable that the State of Virginia may be compensated for the loss of revenues incident to the restoration of Alexandria city and county to the exclusive jurisdiction of the United States; and

"Whereas it is also desirable that the Supreme Court may speedily determine the legality of the cession of part of the seat of government of the United States to the State of Virginia, the Supreme Court having decreed that such cession can be adjudicated only in a case between the United States and the State of Virginia: Therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney-General be, and he is hereby, directed to bring such suit or other proceeding at law or in equity, on behalf of the United States against the State of Virginia, or otherwise as may, in his judgment, seem appropriate to ascertain and determine if the cession of part of the District of Columbia to the State of Virginia in eighteen hundred and forty-six was lawful and constitutional; and if said cession shall be decreed to be unconstitutional, and Alexandria city and county are thereby restored to the jurisdiction of the United States, to ascertain and report to Congress what sum will, in his judgment, be a fair and just amount to be paid by the United States to the State of Virginia in lieu and place of the revenues said State now receives for the support of the State government from the said city and county."

This resolution was referred in the Senate to the Judiciary Committee by whom, through its chairman, Senator Hoar of Massachusetts, it was adversely reported. The material portion of the Judiciary Committee's report is as follows:

"It seems to the Committee that it is not expedient that this act of retrocession should be set aside by Congress, even if Congress have the power to do so, without the consent of Virginia. . . .

"As to the suggestion that the retrocession was unconstitutional, it seems to us the answer is that from the nature of the case it is a political and not a judicial question, and that it has been settled by the political authorities alone competent to decide it. . . .

"If it be desirable that Alexandria become a part of the District of Columbia again, the only way to accomplish it will be to open negotiations with Virginia and get her consent. (Luther *vs.* Borden, 7 How., 1.)

"The Committee, therefore, report adversely and recommend that the resolution be indefinitely postponed."

It will thus be observed that, while there has been no express judicial determination touching the constitutionality of the act of retrocession, the question has, in fact, been formally considered by the Supreme Court in 1875, by the attorney general in 1896, and by the very able Judiciary Committee of the Senate in 1902; and that all have seemingly and tacitly agreed that the act of retrocession should be regarded as an accepted fact, a *fait accompli,* not to be reopened or disturbed.

Whatever differences of opinion, therefore, may have existed or may now exist, touching the constitutional authority of Congress to retrocede this territory to Virginia, the question, it seems, has become purely academic, like the question of the right of secession or of nullification. Time and acquiescence have settled it and the question is no longer open. No doubt, the United States might, if it so desired, raise the question and have it judicially determined by the Supreme Court. But to do so now would seem like an act of self-stultification, and the government has given ample evidence that it has no such purpose.

The Attorney general, in his opinion, and the Senate Judiciary Committee, in its report, as above cited, both suggest that if it is deemed desirable to regain this territory, in whole or in part, the proper way to do it is to open negotiations with the state of Virginia and gain her consent—the method prescribed by the constitution for the acquisition of territory. It would seem that this simple method ought to have received more serious consideration than has thus far been shown to it. When the Senate District Committee had this subject under consideration, in 1896, its discussion in committee excited much interest on the part of members and especially those from the state of Virginia. Representatives of that state expressed the opinion that their state would vigorously oppose any effort to reopen the question of retrocession, by legal proceedings, or otherwise to question the constitutionality of that act. Suggestion was made for the restoration to the district of a small strip of territory immediately opposite Washington city, which would embrace the two square miles of territory already owned by the United States—the military post and the national cemetery, thus restoring to the United States jurisdiction over the Virginia bank of the river, the approaches to its bridges, the adjacent drives and highways, and over the Virginia marshes opposite the city which must be dredged and reclaimed for the proper sanitation of the national capital. To this suggestion, it is said, there was no objection; and it was believed and stated that the state of Virginia would offer no objection to ceding to the United States a strip of territory sufficient to meet the needs of the government, and it seems rather surprising that this was not adopted at the time, as a happy solution of the question.

This brings the controversy down to a recent date. The conclusions which have been already indicated appear sufficiently obvious, and require but a brief restatement, as follows:

First, that the change of location of the District, as originally designed in 1790, by which the town of Alexandria was added to and included within the District, was ill-advised and a mistake, as demonstrated by experience, whether viewed with reference to local or public interests. Such inclusion could be of no permanent benefit, either to the people of Alexandria or to the capital.

Secondly, had the act of 1846 retroceded to Virginia the town of Alexandria only, with its own immediate environs or suburbs, such an act would have wisely corrected the previous mistake and could have occasioned no serious controversy then or since; for it was the people of the county outside of the town who in 1846 were opposed to retrocession. But the act as passed took from the national capital territory which constitutes the southern threshold of the city, and a portion of which has since been found needful for the purposes of the seat of government.

Thirdly: Nevertheless the act of retrocession has long been accepted as final, and can not now be repealed, nor can it now be invalidated by any judicial proceedings. Constitutional or not, the question can hardly be reopened. But, on the other hand, there is nothing to prevent the United States from regaining so much of the territory referred to as it ought justly to have for the purposes of the seat of government, by a new cession from the state of Virginia of that portion which lies immediately adjacent to Washington city. A straight line drawn anywhere west of Fort Myer would restore the District to a parallelogram, and embrace all needed territory.* Nor could there be any serious obstacle in the way of such acquisition. The state of Virginia could offer no valid objection. That State is under moral obligation to the people of the United States in respect to this territory, which it could not gainsay or ignore. Nor is it probable that Virginia would be disposed to withhold consent to a reasonable proposition, on this subject. Her Senators and public men have declared that the state would not object to ceding a necessary part of the territory referred to. Such an arrangement, therefore, seems to be dependent, chiefly, on the wish and pleasure of the government of

* A better line would be one drawn from the mouth of the Four Mile Run to its intersection with the old line near the Theological Seminary. This short line would restore the whole county except the small corner extending from Alexandria to Four Mile Run.

the United States. The people of all the states have a proper pride and interest in their capital. That the United States should exercise jurisdiction over the immediate environs of the national capital, on both sides of the Potomac, seems hardly to require argument. While it is seldom possible to completely divorce such a question from local and temporary interests, it must be manifest that the questions herein referred to affect the public interests of the whole people of the United States, and of future generations, and not alone those of this day, or of this immediate locality. Up to this time the efforts that have been made to secure reconsideration of this subject have been unproductive of any substantial results. Such efforts can succeed when they are so directed as to commend themselves to intelligent public sentiment, and, ultimately, to the approval of the government of the United States, as well as of the state of Virginia.

ACT OF JULY 9, 1846, 9 STAT. 53, AN ACT TO RETROCEDE THE COUNTY OF ALEXANDRIA, IN THE DISTRICT OF COLUMBIA, TO THE STATE OF VIRGINIA

Whereas, no more territory ought to be held under the exclusive legislation given to Congress over the District which is the seat of the General Government than may be necessary and proper for the purposes of such a seat; and whereas, experience hath shown that the portion of the District of Columbia ceded to the United States by the State of Virginia has not been, nor is ever likely to be, necessary for that purpose; and whereas, the State of Virginia, by an act passed on the third day of February, eighteen hundred and forty-six, entitled "An act accepting by the State of Virginia the County of Alexandria, in the District of Columbia, when the same shall be receded by the Congress of the United States," hath signified her willingness to take back the said territory ceded as aforesaid: Therefore—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with the assent of the people of the county and town of Alexandria, to be ascertained as hereinafter prescribed, all of that portion of the District of Columbia ceded to the United States by the State of Virginia, and all the rights and jurisdiction therewith ceded over the same, be, and the same are hereby, ceded and forever relinquished to the State of Virginia, in full and absolute right and jurisdiction, as well of soil as of persons residing or to reside thereon.

SEC. 2. *And be it further enacted*, That nothing herein contained shall be construed to vest in the State of Virginia any right of property in the custom-house and post-office of the United States within the town of Alexandria, or in the soil of the territory hereby receded, so as to affect the rights of individuals or corporations therein, otherwise than as the same shall or may be transferred by such individuals or corporations to the State of Virginia.

SEC. 3. *And be it further enacted*, That the jurisdiction and laws now existing in the said territory, ceded to the United States by the State of Virginia, as aforesaid, over the persons and property of individuals therein residing, shall not cease or determine until the State of Virginia shall hereafter provide, by law, for the extension of her jurisdiction and judicial system over the said territory hereby receded.

SEC. 4. *And be it further enacted*, That this act shall not be in force until after the assent of the people of the county and town of Alexandria shall be given to it in the mode hereinafter provided. Immediately after the close of the present session of Congress, the President of the United States shall appoint five commissioners, (any three of whom may act,) citizens of the said town or county of Alexandria, and freeholders within the same, who shall be sworn, before some justice of the peace in and for the said town or county, to discharge the duties hereby imposed upon them faithfully, impartially, and to the best of their ability. These commissioners, or any of them, shall proceed within ten days after they are notified of their appointment, to fix upon the time, place, and manner, of taking the vote within the town or county of Alexandria, and shall give notice of the same by advertisement in the newspapers of the said town. And on the day and at the place so appointed, every free white male citizen of the United States, who shall have resided in said county of Alexandria for six months preceding the time when he offers his vote, insane persons and paupers excepted, shall vote *viva voce* upon the question of accepting or rejecting the provisions of this act. The said commissioners shall preside when this vote is taken, and decide all questions arising in relation to the right of voting under this act. Within three days after this vote is taken as aforesaid, the said commissioners shall make out three statements of the result of this poll, upon oath, and under their seals. Of these, one shall be transmitted to the President of the United States, one to the Governor of the Commonwealth of Virginia, and one shall be deposited in the clerk's office of the county court of Alexandria. If a majority of the ing the provisions of this act, then it shall votes so given shall be cast against acceptbe void and of no effect; but if a majority of the said votes should be in favor of accepting the provisions of this act, then this act shall be in full force, and it shall be the duty of the President of the United States to inform the Governor of Virginia that this act is in full force and effect, and to make proclamation of the fact.

SEC. 5. *And be it further enacted*, That, in such case, the right of property in the half-square in Alexandria on which stands the courthouse, bounded by Columbus, Queen, and Princess Streets, and the half square on which stands the jail, bounded by Princess, St. Asaph, and Pitt Streets, shall be conveyed to the Governor of Virginia, and his successors, for the use of the county and corporation of Alexandria forever; and the Solicitor of the Treasury of the United States is hereby authorized and required, in the name and on the behalf of the United States, to make all the proper and necessary conveyances for that purpose.

SEC. 6. *And be it further enacted*, That Congress will in no event assume and pay the debt, or any part thereof, now due by the corporation of the city of Alexandria.

Approved, July 9, 1846.●

TUITION TAX CREDITS

● Mr. DOMENICI. Mr. President, as the cost of postsecondary education increases, the Congress has increased student aid to enable more students to have access to higher education. The major student aid program, the basic educational opportunity grant, which I have supported on the floor of the Senate and in Budget Committee, serves primarily students from poor and lower middle-class families.

For the past several years I have supported efforts to provide tuition assistance to middle-class families as well, since the cost of postsecondary education often works a hardship on such families. I have supported a bill introduced by Senator ROTH, which provides tuition tax credits to offset the costs of higher education.

Recently, the discussion of tuition tax credits has been expanded to include provision for tuition assistance for elementary and secondary private school students. I believe the issue of tuition assistance is really two very distinct issues, and that consideration of a tax credit for higher education should not be clouded by the controversial proposal to provide such assistance to private schooo: students.

For this reason, I argued for separation of the issues in Budget Committee markup in early April of this year when the revenue floor for fiscal year 1979 was discussed. My strategy was first to separate the issues. The Budget Committee members agreed that the two types of tuition tax credits should be considered separately.

In Budget Committee I supported a refundable tuition tax credit for higher education for full-time students. The Budget Committee as a whole also voted to allow a revenue figure which accommodates a higher education tuition tax credit. The committee as a whole made no assumption with respect to a tax credit for elementary and secondary school tuition.●

CONSERVATION SERVICE CITATION—ANTOINETTE F. DOWNING

● Mr. PELL. Mr. President, yesterday afternoon the Department of the Interior presented their awards for outstanding service both with and for the Department, at the 45th honor awards convocation.

Receiving one of just seven Conservation Service Awards which were presented at that time was a very good and close friend, Mrs. Antoinette Downing of Providence, R.I. Mrs. Downing has been extremely active and vital in the field of historic preservation for over 40 years, and currently is serving as chairwoman of the Rhode Island Historical Preservation Commission. Mrs. Downing was the prime mover behind the creation of the preservation programs for Providence and Newport, R.I., and has as well been active in many other programs to preserve our important cultural values in this Nation.

The award received by Mrs. Downing is not only very much deserved, but indeed, long overdue.

I ask that the citation which appeared in the convocation program, outlining the history of Mrs. Downing's outstanding service in this area, be printed in the RECORD.

The citation follows:

CITATION FOR CONSERVATION SERVICE—ANTOINETTE F. DOWNING

THE SECRETARY OF THE INTERIOR,
Washington.

In recognition of her significant role in advancing the principles of historic preservation and saving important segments of America's natural and man-made beauty.

For more than 40 years as a leading advocate and working professional in the field of preservation, Antoinette Downing has been in the forefront of the national effort to preserve important examples of our visual heritage. She has developed principles to

guide others in their own enriching careers in conserving the Nation's cultural landscape. She was the driving force behind the creation of the preservation programs for Newport and Providence, Rhode Island. She never retreated from difficult struggles to protect significant cultural values. Mrs. Downing's preservation experience bridged the time span from the Historic Sites Act of 1935, making historic preservation a national policy, to the National Historic Preservation Act of 1966, expanding the range of historic preservation programs. Because of her broad knowledge of the history of preservation and its principles, Mr. Downing's advice has been widely sought by individuals and organizations. As a member of the Board of Trustees, Mrs. Downing has been active in numerous programs of the National Trust for Historic Preservation, and in the forming of national preservation philosophy. As a member of the New England Advisory Committee of the National Park Service, her advice has aided the National Park Service in protecting both natural and man-made features, which form a composite of her exceptional professional judgment, and her desire to find and utilize effective preservation techniques, while respecting the contributions of the past, Mrs. Antoinette Downing is granted the Conservation Service Award of the Department of the Interior.

CECIL D. ANDRUS,
Secretary of the Interior.●

SUPPORT FOR S. 2388: EDUCATIONAL ASSISTANCE PROGRAMS

● Mr. DOMENICI. Mr. President, today I am announcing my support for S. 2388. This measure, which was introduced by Senator PACKWOOD, will amend the Internal Revenue Code of 1954 to provide for the exclusion from taxable gross income of certain employer educational assistance programs.

Recent IRS rulings require employees to declare tuition payments or training provided by an employer as personal income subject to taxation if the assistance is not related to the current job. Mr. President, I believe these present IRS regulations are in conflict with the Federal Government's commitment to improve employment opportunities for Americans. The regulations especially discriminate against unskilled labor, lower income employees, members of minority groups and women. These groups of people are more likely to have low-paying undesirable jobs with no avenue for promotion without additional training, and are less likely to participate in a training program if additional money is withheld from their checks to cover the Federal tax imposed on the value of training.

Training provided by employers is often crucial to increasing productivity or implementing technological advances in industry. To require employees to pay taxes on training in essence penalizes the employee for participating in self-improvement programs, and undermines employer efforts to increase morale, productivity, and skill levels of employees.

S. 2388 will encourage employees to take advantage of opportunities for self-improvement provided by employers since the bill provides that employees would not be liable for Federal income tax on the cost of tuition assistance provided by their employers. The bill will also eliminate administrative confusion, inequities, and inconsistencies resulting from current Internal Revenue Service interpretation and enforcement of tax law.

The Finance Committee has held hearings, and 30 organizations representing education, labor, industry, and women's groups have endorsed the bill. Mr. President, I am pleased to join a number of my colleagues in cosponsoring this legislation, and urge other Members of the Senate to support this bill which will result in greater productivity of our Nation's work force.●

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Walter M. Heen, of Hawaii, to be U.S. attorney for the district of Hawaii for the term of 4 years vice Harold M. Fong.

Ishmael A. Meyers, of the Virgin Islands, to be U.S. attorney for the district of the Virgin Islands for the term of 4 years vice Julio A. Brady, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, May 25, 1978, any representations or objections they may wish to present concerning the above nominations with further statement whether it is their intention to appear at any hearing which may be scheduled.●

THE ORLOV TRIAL

Mr. PERCY. Mr. President, it is with great sadness that we read of the trial and sentencing of Yuri Orlov, the Soviet citizen who helped organize the group monitoring Soviet compliance with the human rights provisions of the Helsinki Accords.

Frankly, it seems to me that the Soviet Union is making a futile effort to stifle dissent in that country. The trial and sentencing of Yuri Orlov will not stifle dissent. Freedom of thought and expression cannot be confined to a prison cell. For every dissenter jailed, a thousand more will speak. Dissent will contine as long as Soviet citizens are subjected to the indignities inflicted on Orlov and his wife.

Orlov's trial and sentencing dramatically illustrate that after 60 years of rule the Soviet regime is still too insecure to tolerate dissent. The continued harassment and imprisonment of dissenting citizens is a harsh reminder of Soviet disregard for human rights.

The treatment of Yuri Orlov offends the sense of justice of people throughout the world, further alienates the Communist parties of Western Europe from Moscow and puts new strains on détente.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. DECONCINI). The Chair, on behalf of the Vice President, pursuant to Executive Order 12022, as amended on April 7, 1978, recommends the following Senators for appointment by the President of the United States, to the National Commission for the Review of Antitrust Laws and Procedures: The Senator from Massachusetts (Mr. KENNEDY), the Senator from North Carolina (Mr. MORGAN), the Senator from Ohio (Mr. METZENBAUM), the Senator from South Carolina (Mr. THURMOND), and the Senator from New York (Mr. JAVITS).

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I believe there are three measures on the calendar which are ready to be passed by unanimous consent on this side of the aisle, at least it shows that here, Calendar Orders Nos. 730, 744, and 745. I ask unanimous consent that the Senate proceed to the consideration of those three.

Mr. BAKER. If the majority leader will yield to me for just a moment, I will reserve for that purpose only to advise him that those items are also cleared on this side except in respect to Calendar Order 730 on which I have a notation that the distinguished Senator from New Mexico (Mr. SCHMITT) has a statement. So I will ask unanimous consent at the appropriate time that his statement be included appropriately in the RECORD.

Mr. ROBERT C. BYRD. I overlooked one other measure, Calendar Order No. 749.

Mr. BAKER. If the majority leader will yield, that also was cleared on our calendar and we are prepared to proceed to its consideration.

Mr. ROBERT C. BYRD. I thank the minority leader. If we may then proceed.

NASA AUTHORIZATIONS, 1979

The Senate proceeded to consider the bill (H.R. 11401) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike out all after the enacting clause and insert the following:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1978,

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,443,300,000;

(2) Space flight operations, $318,900,000;

(3) Expendable launch vehicles, $76,500,000;

(4) Physics and astronomy, $285,500,000;

(5) Lunar and planetary exploration, $187,100,000;

(6) Life sciences, $42,600,000;

(7) Space applications, $274,300,000;

(8) Technology utilization, $9,100,000;

(9) Aeronautical research and technology, $264,100,000;

(10) Space research and technology, $111,300,000;

(11) Energy technology applications, $4,000,000; and

(12) Tracking and data acquisition, $305,400,000;

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Modification of unitary plan wind tunnel, Ames Research Center, $5,390,000;

(2) Modification of 3.5-foot wind tunnel, Ames Research Center, $1,870,000;

(3) Modification of 12-foot pressure wind tunnel, Ames Research Center, $2,510,000;

(4) Modifications and additions for logistic and supply functions, Goddard Space Flight Center, $5,640,000;

(5) Modifications and addition to the space flight operations facility, Jet Propulsion Laboratory, $3,060,000;

(6) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $1,570,000;

(7) Modifications for utility control system, Langley Research Center, $1,980,000;

(8) Rehabilitation of unitary plan wind tunnel, Langley Research Center, $4,520,000;

(9) Construction of research analysis center, Lewis Research Center, $6,140,000;

(10) Large aeronautical facility: construction of national transonic facility, Langley Research Center, $24,500,000;

(11) Large aeronautical facility: modification of 40- by 80-foot subsonic wind tunnel, Ames Research Center, $31,600,000;

(12) Space Shuttle facilities at various locations as follows:

(A) Modifications to launch complex 39, John F. Kennedy Space Center, $13,570,000;

(B) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $13,980,000;

(C) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol Plant, Wasatch, Utah, $1,920,000;

(D) Minor Shuttle-unique projects, various locations, $1,600,000;

(13) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $17,800,000;

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,200,000; and

(15) Facility planning and design not otherwise provided for, $10,650,000;

(c) For "Research and program management", $914,000,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval of authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $25,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of $50,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (15) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines the deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee, unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473) is amended—

(1) by inserting "(1)" after "(b)" in the subsection which was added by section 15(c) of Public Law 94-413; and

(2) by redesignating the subsection which was added by section 4 of Public Law 93-409 (and redesignated by section 15(c) of Public Law 94-413) as paragraph (2) of subsection (b).

SEC. 7. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1979".

The amendment was agreed to.

● Mr. STEVENSON. Mr. President, H.R. 11401 authorizes appropriations of $4,388,600,000 to the National Aeronautics and Space Administration for fiscal year 1979. This amount, recommended by the Committee on Commerce, Science, and Transportation, is $17 million above the amount requested in the President's budget and $26.7 million below the amount approved by the House in its action on H.R. 11401.

In the interest of time, I submit the summary of the bill presented in Senate Report 95–799 and a table summarizing the committee's budget recommendations be inserted in the RECORD at this point.

The summary follows:

SUMMARY

The NASA budget request for fiscal year 1979 totals $4,371,600,000, of which $3,305,100,000 is for Research and Development, $152,500,000 is for the Construction of Facilities, and $914 million is for Research and Program Management.

The House has approved a total of $4,415,300,000, an amount $43,700,000 above the request, of which $3,353,800,000 is for Research and Development, $147,500,000 is for Construction of Facilities, and $914 million is for Research and Program Management.

The committee recommends that a total of $4,388,600,000 be authorized to be appropriated for NASA's fiscal year 1979 programs, an amount $17 million above the request. Of the total amount recommended by the committee: $3,322,100,000 is for Research and Development programs, which is $17 million above the request and $31,700,000 below the amount approved by the House; $152,500,000 is for Construction of Facilities, which is identical to NASA's request and $5 million above the House-approved amount; and $914 million is for Research and Program Management, which is identical to the request and to the amount approved by the House.

The $17 million recommended by the committee over NASA's request is directed to the future needs of the Nation in space and energy as follows:

(1) $4 million to initiate production of a fifth Space Shuttle orbiter;

(2) $10 million for advanced studies and technology development directed to exploiting the capabilities of the Space Shuttle;

(3) $2 million to study man's response to long duration space flight, and;

(4) $1 million to enhance the identification of energy technologies in NASA.

The committee's recommendation is $324,460,000 above the amount available to NASA for fiscal year 1978, an increase of 0.4 percent after allowing for the effects of inflation. As in recent years, the fiscal year 1979 NASA authorization recommended by the committee represents less than 1 percent of the total new budget authority recommended by the President and the Congressional Budget Committees.

In evaluating the NASA budget request for fiscal year 1979, the committee has reviewed carefully the programs approved by the Congress in prior years and has tried to maintain NASA's capability to contribute to the national research and technology base, an essential facor in advancing scientific and technical knowledge, increasing national productivity and responding to current and emerging national needs. As a consequence, the bill recommended by the committee supports research and development projects currently underway and some important new starts. These starts, all within the space function, are:

(1) A 25 KW power module to be used in conjunction with the Space Shuttle to provide additional electric power for experiments and other on-orbit operations;

(2) The Solar Polar Mission, a joint NASA-European Space Agency mission to study the Polar regions of the Sun to enhance our understanding of the Sun's influence on the Earth's environment;

(3) The Solar Mesospheric Explorer to study the chemistry of the upper stratosphere and mesosphere, especially the ozone in these regions;

(4) An Earth Radiation Budget Satellite System to measure temporal and spatial variations in the radiation heat balance of the Earth, a major factor in creating atmospheric winds and ocean currents; and

(5) A Halogen Occultation Experiment to assess the role of chlorine in stratospheric chemistry as it affects the ozone layer which protects the Earth from Ultraviolet radiation.

Each of these new starts is a multiyear project which can be supported without major impact on the NASA budget in subsequent years.

The bill provides funding for the continuing development of the Space Shuttle, the principal element of the national space transportation system. The system is designed to reduce the cost of space operations and to provide a versatile capability to explore and use space to meet national and international needs. As it did last year, the committee is recommending a five-orbiter fleet, notwithstanding the administration's proposal for a four-orbiter fleet with an option, open to fiscal year 1981 to purchase a fifth orbiter. After careful consideration of this issue, the committee found the acquisition of a five-orbiter fleet to be a prudent and sensible decision and one necessary to meet civilian and defense needs in the most economical way. The committee, therefore added $4 million to the Space Shuttle program to initiate the production of a fifth orbiter.

During the past year the Space Shuttle main engine has experienced development problems. As a consequence, the committee requested an independent technical review of this program which was made by an ad hoc Committee of the Assembly of Engineering, National Research Council, National Academy of Sciences. The ad hoc committee found the development of the Shuttle main engine to be a challenging task; it recognized that engineering problems were being experienced during the engine's development and testing. However, the ad hoc committee reported that the engine's design was basically sound and that a safe and reliable main engine should be developed. The ad hoc committee also proposed certain changes in the engine's development and testing program which NASA accepted. In the ad hoc committee's view, the schedule for the first manned orbital flight, presently scheduled for mid-1979, should be reviewed in late summer or early fall after additional engine test data are available.

The committee's recommendation also supports major projects in space science and applications approved in prior years such as the Solar Maximum Mission, the Space Telescope, the Galileo (Jupiter orbiter/probe) mission, the Pioneer/Venus mission, the Voyager mission, the Landsat D mission, and significant efforts in earthquake monitoring and forecasting, ocean condition monitoring and forecasting, environmental quality monitoring, weather observation and forecasting, climate research, materials processing, and space communications. Each of these initiatives is dedicated to the expansion of knowledge about the universe and the Earth's space environment and, in turn, the application of this knowledge to the solution of problems on Earth.

The NASA aeronautics program recommended by the committee supports research and development projects in all of the major classes of aeronautical vehicles; these include conventional takeoff and landing aircraft, rotorcraft, general aviation aircraft including aerial applications technology, short takeoff and landing aircraft, supersonic cruise aircraft, and high performance aircraft. In the area of conventional takeoff and landing aircraft, the major effort continues to be on aircraft energy efficiency technology with the goal of providing by the early 1980's the technological advances that will lead to a major reduction in aircraft fuel requirements. It should also be noted that two major new research facilities are under construction: modification of the 40-by 80-foot subsonic wind tunnels at the Ames Research Center and construction of the National Transonic Facility at the Langley Research Center. When completed in the early 1980's, these two facilities, in conjunction with the Aeropropulsion Systems Test Facility being funded through the Department of the Air Force, will be among the best aeronautical research facilities in the world and, combined with other NASA research capabilities, should enable the United States to maintain its world leadership in aeronautics.

In addition to these major undertakings, the committee's recommendation will also provide funds for a number of smaller but important scientific research and technology development tasks in both space and aeronautics. In sum, these recommendations provide for a balanced program of present activities and for maintaining the scientific and technical base necessary for undertaking future initiatives that will build on and extend the knowledge being acquired. Also, this budget will continue a highly constructive and successful program of international space cooperation involving more than 60 nations, all of whom participate in the program on a reimbursable or *quid pro quo* basis.

The construction of facilities authorization recommendation is about $10 million below fiscal year 1978. Of the amount recommended, $76,530,000 is for aeronautical facilities, and $31,070,000 for Space Shuttle facilities related particularly to launch and production requirements. About $7.6 million are for support facilities at the Langley Research Center and Goddard Space Flight Center and about $5 million to modify and enlarge the space flight operations facility and provide seismic protection in nine buildings at the Jet Propulsion Laboratory. $17.8 million is recommended for 55 individual facility rehabilitation and modification projects, under $500,000 each, at various NASA installations as part of a continuing program to offset the cumulative effects of wear and deterioration on the NASA physical plant which has an estimated value of about $6.1 billion. $4,200,000 is also recommended for construction of minor facilities and additions to existing facilities, with a limitation of $250,000 on each individual project. Finally, $10,650,000 is recommended to support the day-to-day facility planning and design activities associated with maintaining the NASA physical plant and for planning and design of large, complex facilities requiring long-range and detailed engineering efforts.

The committee's recommendation for research and program management reflects a personnel level of 23,237 for fiscal year 1979; this is 500 positions below that authorized in fiscal year 1978. About 76 percent of the funds for research and program management is for personnel and related costs. The remaining 24 percent is divided among facility services, technical services, administrative support and travel. It is the committee's view that the long-term health of the U.S. aeronautics and space program depends on NASA's skilled and committed civil service personnel. In view of the significant reduction in personnel during 1978, further reductions are unwarranted.

The committee also considered several legislative amendments as discussed later in this report under the "Legislative changes." Two of the amendments are technical in nature and the third deletes the authorization of appropriations for NASA for fiscal year 1980 which will be the subject of a separate authorization bill next year.

The Subcommittee on Science, Technology and Space held hearings on this bill on Feb-

ruary 21, 22, 28, March 1, 7, 8, and 16. On March 31, in a separate hearing, the subcommittee received the report of the ad hoc committee of the Assembly of Engineering, National Research Council on the technical status of the Space Shuttle main engine. During the course of these hearings, the subcommittee heard testimony from NASA, the Department of Defense, the Department of Energy and from other members and organizations of the scientific and engineering community representing the general public. Statements for the record were received from other Government agencies conducting space and space-related programs that have significant relationships with NASA in research and development activities.

The Subcommittee on Science, Technology and Space met on April 14, 1978, to prepare its recommendations to the full committee. The Committee on Commerce, Science, and Transportation met on April 25, 1978, marked up the bill, and ordered the bill reported.

CONGRESSIONAL ADJUSTMENTS TO NASA REQUEST FOR FISCAL YEAR 1979—SUMMARY

Fiscal year 1979	Budget request	House action	Senate committee action
Research and development:			
Space Shuttle	$1,439,300,000	$1,443,300,000	$1,443,300,000
Space flight operations	311,900,000	308,900,000	318,900,000
Expendable launch vehicles	76,500,000	71,500,000	76,500,000
Physics and astronomy	285,500,000	285,500,000	285,500,000
Lunar and planetary exploration	187,100,000	187,100,000	187,100,000
Life sciences	40,600,000	40,600,000	42,600,000
Space applications	274,300,000	288,300,000	274,300,000
Technology utilization	9,100,000	14,600,000	9,100,000
Aeronautical research and technology	264,100,000	292,300,000	264,100,000
Research and development—Continued			
Space research and technology	108,300,000	111,300,000	111,300,000
Energy technology applications	3,000,000	6,000,000	4,000,000
Tracking and data acquisition	305,400,000	304,400,000	305,400,000
Total	3,305,100,000	3,353,800,000	3,322,100,000
Construction of facilities	152,500,000	147,500,000	152,500,000
Research and program management	914,000,000	914,000,000	914,000,000
Grand total	4,371,600,000	4,415,300,000	4,388,600,000

Mr. STEVENSON. Mr. President, this NASA authorization bill provides for continued development and extensive ground testing of the Space Shuttle proceeding toward the first manned flight test in mid-1979. This flight schedule is contingent upon successful completion of the main engine development progam. For the past 18 months, the main engine has encountered a series of technical problems which has delayed accumulation of the specified amount of running time prior to the first manned orbital flight test. Concern about the engine test delays caused the Subcommittee on Science, Technology and Space to request an independent assessment of the engine program by the Assembly of Engineering of the National Research Council. The Assembly's ad hoc committee, chaired by Dr. Eugene E. Covert, professor of aeronautics and astronautics, MIT, concluded that a safe and reliable engine should result, but that the readiness for a first flight by mid-1979 would depend upon engine test experience during the next several months. A further evaluation will be made by the council this fall. The engine delay notwithstanding, the shuttle program passed a major milestone in 1977 with the successful completion of the approach and landing test series.

The science and applications aspects of the space research and development program have progressed well in the past year, and NASA has continued to increase its aeronautical research efforts over a broad spectrum of aircraft needs with particular attention to technology for more fuel efficient commercial transports. Details of these progams are found in the committee's report.

Mr. President, almost 20 years ago on July 29, 1958, the National Aeronautics and Space Act of 1958 was enacted. This legislation responded to events in the world which clearly cast the United States in an inferior posture in space technology—an unacceptable role for a nation with our scientific and engineering capabilities and our responsibilities as a world leader. As I stated in an address before the Senate on October 4 last year, the 20th anniversary of the space age, we have made great progress in space technology; we have become a leader; and NASA and the country have done a commendable job in carrying out the policy and meeting the objectives established by Congress in 1958.

I am, however, concerned for the future. We made a forward-looking decision in 1972 in initiating development of a modern, efficient, and economical space transportation system, the Space Shuttle. This system will allow us to continue to explore space, but of more importance, to exploit our knowledge and our new capabilities in directly benefiting humanity. In ways we cannot now begin to fully comprehend, we are about to enter a period where space-based systems will help solve a host of Earth-based problems. This is the opportunity which the Space Shuttle affords this country.

Today, however, as other nations aggressively pursue space initiatives, I detect a reluctance on our part to establish future goals and clear directions that will assure our leadership 5, 10, 15, and 20 years from now. Our present course, if not altered, may well cost us the leadership posture in space science and technology that we have attained—at no small expense. We are on the verge of frittering away this unique opportunity.

Mr. President, in February the Subcommittee on Science, Technology, and Space sponsored a 1-day symposium on the future of space science and space applications. Some of the country's most informed experts in these two areas participated in the symposium. Their testimony reinforced the subcommittee's belief of the need to establish specific goals for the U.S. space program during the decade of the 1980's.

I prepared an introduction to the printed report of this symposium. In this introduction I attempted to describe in general terms a reasonable and realistic approach to designing a U.S. space program for the next decade.

I submit the introduction for the RECORD.

The introduction follows:

INTRODUCTION TO SYMPOSIUM ON THE FUTURE OF SPACE SCIENCE AND SPACE APPLICATIONS

Twenty years ago the United States launched its first space satellite, Explorer I. Later that year Congress passed the National Aeronautics and Space Act of 1958 establishing the basic institutions and policies which would direct the U.S. space program for the next two decades.

The success of the U.S. space program has surpassed anything that the authors of the National Space Act probably imagined. While most people think primarily of the breathtaking successes of the Apollo Moon landing program, the longer term legacy of the first 20 years is found in the expansion of knowledge about our planet, our solar system, and the universe, and in the development of useful space technologies that will help solve problems on Earth related to water, food, energy, pollution, and climate. Finally, and perhaps of most importance, the Nation's space effort has given us a new perspective on the fragility of man's place in the universe, on the unity of the human species, and a glimpse of the potential for human achievement that exists in space.

Historians of Earth in the next millennium are likely to remember the United States principally for its initial leadership in space exploration. Leaving the confines of our planet to travel, explore, and do useful work in space is a dividing line in human experience that will stand throughout recorded time. We can be proud of these accomplishments. But we should be thinking far more creatively than we are of ways to build on these beginnings.

The Nation's third decade in space corresponds to the advent of the Space Shuttle, the world's first reusable manned space vehicle. The prospect of conducting routine trips to low Earth orbit aboard the Shuttle is a significant step. We will be able to plan and execute space activities in ways not feasible with expendable rockets. New applications in communications; remote sensing of the Earth's resources; energy production; and monitoring of weather, climate, and the environment are within reach. The ease and relative economy of Shuttle flights hold equal promise for scientific activities to unlock mysteries of the solar system, the galaxies, and the cosmos.

This opportunity is real. But the harsh truth is that our present efforts to plan the Nation's future in space lack the foresight and dedication that characterized the decisions made 20 years ago. Of course, there are useful and important projects underway, such as the fourth generation of Landsat remote sensing satellites planned for 1981 and the Space Telescope to be launched in 1983. However, these activities are diminished by the absence of any longer term goals and commitments.

Today the planning process for the U.S. space program is little more than the product of annual battles between Congress and the Office of Management and Budget over specific line items in the Federal budget. This process is almost immune to establishing longer run purposes and directions. In addi-

tion, no concerted effort is being made to devise the new institutional arrangements which will be necessary to manage a maturing and operational space program as distinguished from the experimental R. & D. projects of the first 20 years. We are on the verge of frittering away the unique opportunities which the Shuttle affords.

This Symposium on the Future of Space Science and Space Applications, convened by the Subcommittee on Science, Technology, and Space, was organized to provide Congress with a clearer perspective of the choices for the U.S. space program during the Shuttle era. Participants in the symposium were selected from among the Nation's experts in space science and applications, including representatives from Government, the academic community, and the private sector.

The executive branch has been attempting for more than 1 year to develop a comprehensive statement of U.S. space policy. Although one hopes that this process will soon conclude with the formulation of specific goals for the United States in the coming decades—just as the decisions in the late 1950's and early 1960's initiated the activities of the last 20 years—Congress has the responsibility to express its views, through legislation if necessary.

I personally believe that we can responsibly commit this country to developing by the mid-1980's a Global Information System that would tie together the data gathered by remote sensing, environmental, and meteorological satellites. Coupled with improved methods for analyzing and transmitting this information to Earth, the Global Information System would provide the international community with invaluable knowledge, about such critical problems as drought, energy shortages, pollution, famine, and natural and man-made disasters. Enhanced communication techniques using large antenna in space would provide a host of new services. The experience gained in developing these systems, including the construction of large structures in space, would be directly applicable to more advanced projects, such as space-based energy systems and space industrialization. Equally realistic goals, such as understanding the interaction between the Sun and Earth and completing initial exploration of the solar system by the end of the century, can be identified for the space sciences. I also believe we should explore the feasibility of establishing a quasi-governmental institution for managing all of this country's activities in space once they move beyond the reach and development stage.

In large measure these goals can be achieved within NASA's present budget levels adjusted for inflation. The decline of development costs for the Space Shuttle will make available additional funds for application and science projects. The missing ingredients are simply the willingness to establish such goals and the determination to focus the Nation's space program in these new directions. In these circumstances, Congress has the duty to act.

One danger must be noted. If space becomes the locale for the next round in the military arms race, much of this peaceful development will be foreclosed. In addition, the balance of terror between the nuclear superpowers will have achieved a new and more frightening dimension. For this reason, it is essential that the United States and the Soviet Union begin negotiations immediately to find ways of stopping military competition in space, and that these bilateral talks be expanded at the appropriate time to include all nations capable of operating in space.

Many of these opportunities and dangers are discussed in the symposium which follows. I commend this discussion to my colleagues in Congress and to the public.

ADLAI E. STEVENSON,
Chairman, Subcommittee on Science, Technology, and Space.

Mr. STEVENSON. Mr. President, some people believe that this kind of space program inevitably will lead to large budget increases for NASA. This is not the case. For the past several years, a substantial portion of the NASA budget—about $1 billion—has been for development of the Space Shuttle. These funding requirements are now declining and will cease altogether by fiscal year 1981. In other words, we are beginning a period when additional resources can be available for space science and space applications within a NASA budget that remains essentially level, adjusted for inflation. It is, however, important that priorities for these resources be established so that we can proceed in a sensible and cost-effective way.

Let me be clear: I am not advocating a new round of space spectaculars for their own sake. To the contrary, I am suggesting that it is time to identify explicit goals in space science and space applications—goals which emphasize direct benefits to mankind—using and building upon the capability which we have acquired in the Space Shuttle.

For these reasons, the committee has recommended a continuation of the program adopted last year to proceed with a five-orbiter shuttle fleet. After investing substantial sums in shuttle development, we must provide the equipment this country will need into the 1990's to maintain its leadership in space and to capitalize fully on the unique opportunities which the space environment now offers.

The Soviet Union is supporting a very active program in space, in both military and civilian missions. Their recent record-breaking Soyuz mission is only the first indication of this accelerated Soviet effort. We should not be surprised, for example, if the Soviets move to a permanently manned space station in the near future. There are also reports that the Soviets are developing their own space shuttle. At the same time, Europe and Japan are mounting impressive space programs which will compete effectively with the Space Shuttle during the 1980's. We are rapidly losing our technical leadership in space communications to Europe and Japan. Europe and the Soviets are beginning new programs in remote-sensing from space, an area where the United States has always been preeminent.

In other words, within the next 5 years we could find ourselves once again in an inferior position not unlike the situation during the late 1950's when the Soviet Union shocked the world with the launch of Sputnik. In these circumstances it makes sense—economically, politically, and scientifically—to maintain our present position of leadership through a responsible but forward looking space program instead of permitting the United States to fall behind and then to initiate an expensive catchup effort.

Mr. President, the committee examined the NASA budget request from this perspective. A total of $10 million was added in two categories related to advanced planning, space flight operations and space research and technology. We believe the total budget is constrained but responsible. It is sensibly balanced between space activities and aeronautics. In my view this is a good bill which supports a program of importance to the United States. I believe H.R. 11401 merits the support of my colleagues.

● Mr. SCHMITT. Mr. President, America is emotionally and economically ready for a new long-range space commitment.

This is the inescapable conclusion I have come to after over 2 years of intense philosophical discussion with young Americans across the country. These young people sense the movement of civilization into the solar system and want to be part of that movement. The Apollo-like excitement is still there, but now, in the space generations, there is an even stronger sense of continuity and of a future "out there."

The feeling among the young Americans that free men and women must be part of the new solar system civilization, overshadows other supporting arguments for space activities. Although the Nation's space efforts will always contribute many times their cost to the national defense, employment and productivity, foreign policy, new resources, and new knowledge, the vision of a perpetual frontier, a new arena for individual freedom and initiative is what stimulates the imagination of the young.

The elements of a national space commitment that appeal to young Americans include:

First, a commitment to the exploration of other planets by Americans within the working lifetime of those now alive, that is, close to the turn of the century.

Second, a commitment to the creation of a near-Earth civilization including space universities, hospitals, factories, solar powerplants, and lunar and asteroid mines.

Third, a commitment to the establishment of a world information system including telecommunications, educational and medical services, resource evaluation, and weather and climate prediction.

Fourth, a commitment to the study of the stars, the Sun and its planets, and to basic research in physics and space biology that will form the foundation for the star treks of future generations.

A commitment to the future, a commitment to the peaceful exploration of the universe by young Americans, is one of the most important commitments our generation can make to our children.

While a space policy has yet to be declared by the administration, the Soviet Union accelerates their ambitious space program. While the U.S. program stretches out with lean budgets and deferred program starts, the Soviet Union seems to recognize the inherent psychological, technical, military, and political value of man in space and embarks on ever-more expanding programs. The Soviets use all of our results which are openly published, while we have very limited access to their results. We could use more cooperation in space efforts with the U.S.S.R. while we exercise more prudent exposure to our technology. While the Soviets use civilians from the Iron Curtain countries to participate in their

manned space probes, the United States should aggressively pursue a space policy to assure that the free peoples of the world are at the leading edge of space technology.

Mr. President, H.R. 11401, the fiscal year 1979 NASA authorization bill, is presently before the Senate. I was privileged to participate in 7 days of hearings on this authorization bill held by the Subcommittee on Science, Technology, and Space during the months of February and March. On March 25, the subcommittee held a markup session and added a total of $13 million to the President's request. The additional funds included $4 million for the option to purchase the fifth orbiter, $3 million for the advanced program section of space flight operations, $2 million for life sciences, $3 million for the systems technology section of space research and technology, and $1 million for the technology identification and verification section of energy technology applications.

On April 25 the full Committee on Commerce, Science, and Transportation held a markup session and added an additional $4 million to the advanced program section of space flight operations.

Mr. President, in the fiscal year 1978 NASA authorization hearings a strong case was made for a five-orbiter fleet of Space Shuttles, which was supported by the Congress. In the fiscal year 1979 NASA authorization hearings we heard a Presidentially backed plan for a four-orbiter fleet of Space Shuttles. It is my belief and the belief of the subcommittee and the full committee that the $4 million for the option to purchase the fifth orbiter should be included in the fiscal year 1979 authorization bill that we now have before us. If the decision to build the fifth orbiter is put off until the 1981 budget, the cost will be $235 million more than it would be if the decision were made now. Also, with a four-orbiter fleet, the loss of one orbiter could severely limit the use of the Space Shuttle for civilian space projects since the DOD payloads would have higher priority in many instances. Thus the enormous benefits of the scientific and technological advances of these space flights could be lost or indefinitely delayed.

The advanced programs section of the space flight operations is a second area that the committee added funds. The additional $7 million would support systems studies and technology identification and advancement which is designed to exploit the Space Shuttle's unique capabilities to conduct new and imaginative space science applications programs. With the additional funding, the committee specifically authorizes NASA to initiate development of the 25 Kw power module for on-orbit Space Shuttle operations and experiments.

There are several programs not funded in the fiscal year 1979 NASA authorization that deserved consideration. Among these is the Lunar Polar Orbiter which would add greatly to our knowledge of the Moon and the stereosat concept for Earth resources surveying. Both of these programs would increase our knowledge of satellite monitoring of resources and pay substantial dividends, in the case of stereosat, by locating possible new energy and minerals deposits.

The NASA program of energy technology identification and verification activities should be continued. Even though the DOE is responsible for energy R. & D., NASA has a long history of expertise in the energy field having designed and developed many types of energy and conservation technologies for the manned lunar missions and for Earth satellites and planetary probes. Energy technology funding is utilized by NASA to identify and verify those technologies which have potential for making a contribution to the national energy effort. These initiatives are presented to the Department of Energy for evaluation. As a result of this very low-cost activity and NASA's technical capabilities, NASA conducts reimbursable work for DOE exceeding $100 million annually. DOE has assigned to NASA responsibilities in wind energy systems, heat engine technology, electric, and hybrid vehicle systems, low-cost silicon solar arrays, photovoltaic tests, and applications, solar heating and cooling systems, energy storage systems, solar thermal electric systems, and advanced cogeneration technology.

Mr. President, this NASA authorization for fiscal year 1979 is a tight budget for this most important time in space science and space competition. The development of a reusable vehicle for Earth to near Earth orbit is now an essential step for the future. This single development alone will allow us to make greater use of space to serve man on Earth as well as offer more and more opportunity for Americans in space. Successful development and testing of the Space Shuttle will lead man to expand his use of space for weightless/vacuum manufacturing and scientific experiments (in a Spacelab that can be operated in space and returned to Earth), it will allow him to repair satellites in space or to return them to Earth for repair if need be, and if needed the shuttle can be a rescue ship for victims of possible space accidents.

Mr. President, I want to thank the members of the Subcommittee on Science, Technology and Space, and especially the chairman of the subcommittee, the distinguished Senator from Illinois, Senator STEVENSON, who so ably chaired the hearings on this bill. I would also like to thank the members of the Commerce, Science, and Transportation Committee who supported this bill. I recommend that H.R. 11401, the fiscal year 1979 NASA authorization bill be passed by the Congress.●

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOWELL NATIONAL HISTORICAL PARK

The Senate proceeded to consider the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 4, line 1, after "PARK" insert "AND PRESERVATION DISTRICT";

On page 5, beginning with line 22, strike through and including page 6, line 7, and insert in lieu thereof the following:

(b) No Federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent wtih the standards and criteria established pursuant to section 302 (e) of this Act and will not have an adverse effect on the resources of the park or preservation district.

On page 6, line 17, strike "for fiscal years ending on or after September 30, 1979";

On page 6, line 21, strike "for all fiscal years";

On page 7, line 2, strike "for all fiscal years";

On page 7, beginning with line 10, insert the following:

(b) No funds shall be authorized pursuant to this section prior to October 1, 1978.

On page 7, line 12, strike "(b)" and insert "(c)";

On page 7, beginning with line 14, insert the following:

(d)(1) Within 60 days after the date of the enactment of this Act, and on each subsequent October 1 and March 1, the Secretary shall submit to the Congress a statement certifying the aggregate amount of money expended by the Commonwealth of Massachusetts, the city of Lowell, and by any nonprofit entity for activities in the city of Lowell consistent with the purpose of this Act during the period beginning on January 1, 1974, and ending on the date such statement is submitted.

(2) The aggregate amount of funds made available by the Secretary to the Commission from funds appropriated under subsection (a)(2) of this section may not exceed the amount certified by the Secretary in the most recent statement submitted to the Congress under paragraph (1) of this subsection.

On page 8, line 16, strike "designated for acquisition" and insert "identified";

On page 8, line 20, strike "designates" and insert "identifies";

On page 9, line 5, strike "designates" and insert "identifies";

On page 10, line 4, strike "shall" and insert "is authorized to";

On page 10, line 10, strike "with the consent of the owner" and insert "by donation";

On page 12, line 20, strike "may be" and insert "the Secretary deems";

On page 13, line 15, strike "(a)";

On page 13, line 19, strike "(1)" and insert "(a)";

On page 14, line 4, strike "(2)" and insert "(b)";

On page 14, line 5, strike "(A)" and insert "(1)";

On page 14, line 8, strike "(B)" and insert "(2)";

On page 14, line 10, strike "(3)(A)" and insert "(c)(1)";

On page 14, line 11, strike "(3)(A)" and insert "(c)(1)";

On page 14, line 17, strike "both the Secretary and" and insert "either the Secretary or";

On page 14, line 20, strike "(B)" and insert "(2)";

On page 14, line 21, strike "(A)" and insert "(1)";

On page 14, line 25, strike "both the Secretary and" and insert "either the Secretary or";

On page 15, line 3, strike "(4)" and insert "(d)";

On page 15, line 4, strike "(A)" and insert "(1)";

On page 15, line 7, strike "(B)" and insert "(2)";

On page 18, line 18, strike "considered" and insert "the Secretary deems";

On page 16, line 18, strike "DISTRICT";

On page 17, line 15, after "of" insert "Commerce and who shall be an employee of the Department of";

On page 17, line 18, after "of" insert "Transportation and who shall be an employee of the Department of";

On page 17, line 22, after "Development" insert "and who shall be an employee of the Department of Housing and Urban Development";

On page 18, line 1, after "Department of" insert "the";

On page 18, line 2, after "preservation" insert "and who shall be an employee of the Department of the Interior";

On page 20, beginning with line 11, insert the following:

(i) The Commission established pursuant to this Act, shall cease to exist ten years from the date of enactment of this Act.

On page 21, line 19, after "Register" insert "and shall forward copies of the approved plan to the Congress";

On page 21, beginning with line 24, strike through and including page 22, line 14, and insert in lieu thereof the following:

(6) No changes other than minor revisions may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except minor revisions in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

On page 23, beginning with line 3, strike through and including line 6, and insert in lieu thereof the following:

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission may request to carry out any activity specified in paragraph (3) of this section. However, no funds shall be made available under this paragraph unless a proposal describing such activity is reviewed and approved by the Secretary.

(3) The Commission may request funds from the Secretary to—

On page 23, line 17, strike "Designated" and insert "identified";

On page 26, line 3, strike "Designate" and insert "identify";

On page 27, line 4, strike "designated" and insert "identified";

On page 28, line 15, after "Laws" insert "and hereinafter referred to as the 'corporation' ";

On page 29, line 2, strike "without interest" and insert "and any additional amounts accruing to the corporation pursuant to this subsection excepting those amounts expended by the corporation for reasonable administrative expenses";

On page 31, beginning with line 19, strike through and including page 32, line 25, and insert in lieu thereof the following:

(b)(1) The Commission may make grants to owners of property described in section 302(d)(1) of this Act for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act.

(2) The Commission, with the approval of the Secretary, may make grants to any person or any public or private entity to provide for (i) educational and cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other services the Commission considers necessary to carry out the purposes of this Act.

(3) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purpose for which the grant may be used, and any other condition the Commission considers appropriate. The Commission shall be entitled, under the terms of any grant agreement, to recover from the recipient any funds used in a manner inconsistent with such grant agreement.

On page 33, line 22, after "Commission" insert "with the advice of the Secretary";

On page 35, line 7, after the period, insert "No lands or interests therein may be acquired by the Commission by condemnation without the approval of the Secretary.";

On page 35, line 16, after "Commission" insert a comma and "with the approval of the Secretary,";

On page 35, beginning with line 21, strike through and including page 36, line 4, and insert in lieu thereof the following:

(c) Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts, the Commission, with the approval of the Secretary, may sell, donate, lease, or in any other manner the Commission and the Secretary deem appropriate make available to the Commonwealth any property which the Commission has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by the Commonwealth in a manner consistent with the purpose of this Act.

On page 37, line 21, after "Act" insert a semicolon and *"Provided, however,* That the Commission may not acquire lands or interests thereon pursuant to this subsection by condemnation".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third tiime, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–813), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 11662, as reported by the Committee on Energy and Natural Resources, is to establish the Lowell National Historical Park in Massachusetts. A preservation district associated with the park is also established, and a commission consisting of Federal, State, and local members is created to administer and protect the preservation district and the historical park in connection with the National Park service.

BACKGROUND AND NEED

The city of Lowell was founded in 1822 at a site on the Merrimack River almost 30 miles north of Boston. The city's developers brought together for the first time some of the most advanced ideas of the day in the areas of power generation, industrial and transportation technology, production control, capital formation, scientific research, and social organization. Because Lowell was a new city, it could be planned for mass production, unencumbered by an existing urban fabric or an entrenched lifestyle. As a result, Lowell became this Nation's first great industrial city, and the way of life that evolved there contained the germ of our modern industrial society.

Lowell transformed the textile industry by perfecting the system of creating finished products from raw materials at one location. Before the development of the Lowell system only a small part of the production process was carried out within a given factory. The majority of Lowell's early work force was made up of young, single women who came from all over New England. They were attracted to Lowell by the good wages, its religious tone, and its educational opportunities.

After 1850, immigrants of many nationalities began flooding into the city. Many were forced from their homes by economic disasters. Irish, British, French-Canadians, and later, Greeks, Poles, and Portuguese replaced Yankee mill girls as the chief source of labor. By 1900, only 20 percent of the city's 100,000 inhabitants were native born of native parents. Different groups resided in segregated areas and developed distinct cultures that enabled them to adjust to urban, industrial life. These working-class, ethnic neighborhoods still evolve and flourish in Lowell and their traditions are an important historic and cultural resource.

Local preservation efforts began 12 years ago, when a Model Cities community group produced a set of objectives aimed at revitalizing the city through the rediscovery of its heritage. This theme has since been adopted as the cornerstone for private, city, and State development in Lowell and has resulted in a financial commitment of more than $50 million.

In October 1972, the Lowell City Council adopted a resolution designating the historical park concept as the focal point for local planning efforts. The City Development Authority took the lead with other local agencies in insuring that every major community improvement project was not only consistent with but supportive of the urban park concept. Since 1975, the city has spent more than $12 million for projects either integral to or supportive of the historical park. The Commonwealth of Massachusetts has spent or pledged more than $10 million toward the development of the Lowell Heritage State Park, a project aimed at preserving and developing the recreational potential of Lowell's canal system and riverbanks.

In January 1977 the congressionally mandated Lowell Historic Canal District Commission unanimously recommended the creation of a Lowell National Park. The commission also proposed a detailed plan for the preservation and interpretation of Lowell's resources. A living national park, it was stated, would offer an extraordinary opportunity for Americans to explore the roots of their own culture while rediscovering a much neglected part of the Nation's history.

LEGISLATIVE HISTORY

Public Law 93–645 established by the Lowell Historic Canal District Commission and directed that the commission prepare a plan for the preservation, interpretation, development, and public use of the historic, cultural, and architectural resources of the areas. The preservation strategy in H.R. 11662, as ordered reported, generally reflects the report of this commission.

H.R. 11662 was favorably reported from the House Interior and Insular Affairs Committee on March 30, 1976. The measure passed the House on April 11, 1978, by a vote of 326 to 76.

The Senate Parks and Recreation Subcommittee conducted a hearing on the Senate

version of the legislation, S. 2817, on April 6, 1978.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 18, 1978, by majority vote of a quorum present, recommended that the Senate pass H.R. 11662, if amended as described herein. Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes of the committee during consideration of H.R. 11662.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HAZARDOUS MATERIALS TRANSPORTATION ACT AUTHORIZATION, 1979

The Senate proceeded to consider the bill (S. 1896) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by—

(1) striking out "and" immediately after "1976,"; and

(2) inserting ", and not to exceed $5,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–814), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of this legislation is to amend the Hazardous Materials Transportation Act to provide an authorization of $5 million in fiscal year 1979 for the Department of Transportation hazardous materials transportation safety activities for fiscal year 1979.

BACKGROUND AND NEED

In passing the Hazardous Materials Transportation Act, Congress reorganized and revamped the Federal Government's regulatory program for the transportation of hazardous materials in commerce. This legislation evolved as a result of a series of hazardous material transportation catastrophes, and was intended to improve the regulatory and enforcement authority of the Secretary of Transportation to adequately protect the Nation against the risks to life and property which are inherent in the transportation of hazardous materials in commerce.

In recent years the Department of Transportation has noted a steady rise in reported incidents involving the release of hazardous materials being transported in commerce. In recent months, a series of hazardous material incidents causing death and injury have further underscored the importance of the Federal Government's role in increasing its ability to adequately regulate the transportation of hazardous materials.

COMMITTEE ACTION

On April 18, 1978, the Committee on Commerce, Science, and Transportation held a hearing on S. 1896, a bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979. Principal witnesses who testified concerning the legislation were Leon Santman, Acting Director of the Materials Transportation Bureau (MTB) of the Department of Transportation, and James B. King, Chairman of the National Transportation Safety Board (NTSB).

The Department of Transportation witness testified that the Secretary of Transportation, in a recent reorganization of his immediate offices, has consolidated technical and research functions and placed the Materials Transportation Bureau in a new Research and Special Programs Directorate. The Department indicated that this reorganization should strengthen the Department of Transportation program concerning the transportation of hazardous materials. The Committee intends to periodically review the effects of this reorganization to examine whether the MTB has in fact been strengthened by this administrative change. Department testimony dealt primarily with administrative changes, enforcement efforts, exemptions, training activities, international and inter-agency liaison, and budgetary concerns of the MTB's Office of Hazardous Materials Operations (OHMO).

The Department of Transportation testimony indicated that not all provisions of the Hazardous Materials Transportation Act (Public Law 93–633) have been implemented. The committee recognized the efforts of Secretary of Transportation Brock Adams in his attempt to consolidate and improve the Department's hazardous material transportation regulations. MTB should continue its activities on the international and interagency aspects of hazardous material transportation. The Department is further encouraged to continue those activities designed to improve the coordination of Federal and State activities and regulations that affect the transportation of hazardous materials.

NTSB Chairman James King in his testimony stressed the following five major areas of concern relative to the MTB programs in the area of hazardous materials:

1. MTB has not published safety guidelines to identify accident risks before incident occur;

2. The MTB has not established a central data system to provide information and advice to firefighters and local emergency response personnel;

3. MTB has not registered bulk carriers of hazardous materials;

4. The MTB has not established precise guidelines relative to exemption procedures; and

5. MTB has not played a leadership role in developing new emergency response techniques.

With respect to Chairman King's concern over MTB's failure to adopt and publish safety guidelines to identify accident risks before incidents occur, the committee notes that several analytical techniques have been developed to identify these major risks. MTB should give serious considerations to the publication of guidelines describing methods available for conducting safety analysis that would discover accident risks before major accidents occur.

The committee received testimony indicating that the Department of Transportation has not yet implemented section 109(d)(2) of the Hazardous Materials Transportation Act. This provision would authorize a central reporting and data system to provide information for meeting emergencies connected with the transportation of hazardous materials. Although nongovernmental emergency information systems presently exist, it is unclear whether such systems are adequate to meet the responsibilities of the Department of Transportation in this area. Chairman King stated that "None of the many parties publishing emergency handling information has enough data to evaluate the usefulness of their information". He further noted that safety lessons learned by MTB are not currently shared with local firefighters and emergency response officials who are exposed to the greatest personal dangers when an accident does occur. MTB should carefully evaluate any emergency information systems it currently utilizes to determine whether such systems adequately meet the needs of the Department in this area.

The committee also heard testimony from the NTSB regarding the congressional mandate to establish a comprehensive registration program under section 106 of the Hazardous Materials Transportation Act. To date, that mandate has not been fulfilled. For example, the Department does not require registration of bulk carriers of hazardous materials. MTB is encouraged to seriously consider the NTSB recommendation that bulk carriers be placed under its registration program. The committee notes that MTB has not registered bulk carriers of liquified petroleum gas (LPG). In view of the tremendous potential for harm posed by this material, the MTB should consider placing those carriers under its registration program.

Chairman King also testified that MTB's procedures for granting exemptions are not in accordance with the congressional intent contained in section 107 of the Hazardous Materials Transportation Act. He indicated his belief that "exemptions have become an economic free for all." The committee encourages MTB to evaluate its current exemption procedure to determine whether further improvements, particularly in the area of safety analysis, are warranted.

NTSB Chairman King also suggested that MTB has assumed only a minimal role in the area of emergency response to accidents involving hazardous materials. The committee requests that MTB evaluate its performance in this area to determine whether greater leadership initiatives are warranted in developing new emergency response techniques.

A further area of concern to the committee is whether the Department of Transportation is making adequate use of its authority to assess penalties for violation of hazardous material transportation regulations. Most of the Department's fines fall substantially below the $10,000 maximum authorized by Congress. For example, in 1977, the Federal Aviation Administration collected an average civil penalty of $705 for violation of the hazardous material transportation regulations. Similar fines collected by the Federal Highway Administration, by the Federal Railroad Administration, and by the Research and Special Programs Directorate (MTB) average $2,805, $1,667, and $550 respectively. The Department should evaluate its penalty assessment policy to determine whether that authority is being adequately utilized.

The committee received information from the Department of Transportation which indicates that the number of MTB hazardous materials compliance inspections have recently decreased in many areas. The committee encourages MTB, and all modal administrations, to conduct a continued and vigorous inspection program to assure compliance with the Hazardous Materials Transportation Act.

In light of the numerous deficiencies in the MTB program, the committee intends to

carefully monitor the progress of the Department in improving its performance in these important areas. In providing a 1-year authorization level of $5 million, the committee fully expects significant improvements to be made by the Department in the next year.

In providing an authorization level of $5 million, the committee recognizes that there are areas within the jurisdiction of MTB that may require additional funds over those requested in the $3.727 million fiscal year 1979 budget request to Congress. The committee feels that this authorization is sufficiently higher than the President's request to permit those additional expenditures, should the need arise. Specific areas where additional appropriations may be needed, according to the Department of Transportation, include the following:

1. Accident investigation: In the event of a continued rise in incidents involving hazardous materials during fiscal year 1979, the Department estimates that it may need additional resources for the purpose of investigation, examination, and testing of the equipment and materials involved.

2. The Department of Transportation emergency response system for hazardous materials: The Department of Transportation feels there may be some need to change its informal relationship with the Manufacturing Chemists Association (MCA) to provide assistance to the MCA for operating the Chemical Transportation Emergency Center (Chemtrec). Additionally, the Department may see the need to establish and operate an emergency center to provide hazardous information warnings, and guidance, in chemical transportation emergencies.

3. Public hearings: The Department of Transportation is frequently called upon to hold field hearings on a proposed rule or regulation. In the event that the Department feels a particular rulemaking procedure would require additional public participation, supplemental funds may be needed to conduct such hearings.

4. Withdrawal of delegations of authority: The Bureau of Explosives Association of American Railroads, has performed certain hazardous materials testing and approval functions under delegations of authority which predate Department of Transportation responsibility in this area. MTB plans a phased withdrawal of the remaining delegations of authority, and may need additional funds should an accelerated withdrawal schedule become necessary.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

The Senate proceeded to consider the bill (H.R. 11657) to authorize appropriations to carry out the Central, Western, and South Pacific Fisheries Development Act until the close of fiscal year 1983, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike out all after the enacting clause and insert the following:

That the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e—758e–5) is amended as follows:

(1) Section 2 of such Act (16 U.S.C. 758e) is amended by inserting "with the Pacific Tuna Development Foundation or other agency or organization," immediately after "contract,".

(2) Section 3 of such Act (16 U.S.C. 758–1) is amended by (A) inserting "the Secretary of State," immediately after "Interior,"; (B) inserting "the Commonwealth of the Northern Mariana Islands," immediately after the "Trust Territories of the Pacific Islands,"; (C) striking out "and" immediately after "institutions,"; and (D) inserting ", and all appropriate member nations of a South Pacific regional fishery agency (hereinafter referred to in this Act as the 'agency'), if such an agency is formed" immediately after "industry".

(3) Such Act is further amended by inserting immediately after section 3 thereof the following:

"SEC. 4. In adidtion ot the authority granted in section 2, the Secretary, in consultation with representatives of all interested member nations of the agency, and those parties set forth in section 3, may establish in accordance with section 2, a cooperative program for the development of tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean to be submitted to the President and the Congress within one year following official formation of the agency. The Secretary shall make available to all interested member nations of the agency the results and findings of research or development projects carried out under this Act.".

(4) Sections 4, 5, 6, and 7 of such Act are redesignated sections 5, 6, 7, and 8, respectively.

SEC. 2. Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 768e–5), as redesignated, is amended by—

(1) placing the amendment made to such section by the Act of July 6, 1976 (relating to authorizations of appropriations for such Fisheries Development Act) immediately after "June 30, 1976, the sum of $3,000,000"; and

(2) striking out "$3,000,000," the second place it then appears in such section, and inserting in lieu thereof "$4,000,000, and for each of the fiscal years 1980, 1981, and 1982, the sums of $5,000,000,".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The PRESIDING OFFICER. Without objection, the title amendment is agreed to.

The title amendment is as follows:

A bill to amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the United States fisheries development effort, and to cooperate in the formation and research of the South Pacific regional fishery agency, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–818), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

This legislation has two principal purposes. One is to reauthorize the Central, Western, and South Pacific Fisheries Development Act in order to continue the present programs being carried out under that act. The other purpose is to provide a mechanism for the United States to work closely with the 12 nations in the South Pacific which are in the process of claiming 200 mile fishery zones, and are thereby encompassing more than 7 million square miles of ocean and potentially rich fishing area. This bill would provide for the cooperative development of the tuna and other fishery resources in that vast area.

BACKGROUND AND NEEDS

In February 1970, the Pacific Islands Development Commission (PIDC) was created for the purpose of assisting in the development of the tuna resources of the Central, Western, and South Pacific Ocean. The Commission, consisting of the chief executives of the Governments of Hawaii, American Samoa, Guam, and the Trust Territory of the Pacific Islands, perceived the need to diversify the economic base of the region by using available natural resources.

In February 1972, the Congress enacted the Central, Western, and South Pacific Fisheries Development Act in support of the Commission's efforts.

The Secretary of Commerce is authorized under that act to carry out, directly or by contract, a program for the development of the tuna and other latent fisheries resources of the area. The program includes: exploration for, and stock assessment of, tuna and other fish; improvement of harvesting techniques; gear development; biological resource monitoring; and an economic evaluation of the potential for tuna and other fisheries. This program is presently carried out by the Pacific Tuna Development Foundation (PTDF).

Although the act became effective in 1972, the tuna program was not initiated by the Department of Commerce until fiscal year 1975. Even when it was initiated, the Department did not request appropriations under the 1972 act but rather obtained funds for the program from the so-called Saltonstall-Kennedy trust fund (15 U.S.C. 713c–3). These Federal funds are being supplemented by contributions from the members of the PIDC and the tuna industry. The current authorization of Public Law 92–444 expires on September 30, 1979. However, because the Saltonstall-Kennedy trust fund is being used to capacity for other purposes, this bill is necessary to continue this worthwhile program.

Of critical importance is the current international jurisdictional developments in the South Pacific area. At the present time, the nations of the South Pacific are asserting jurisdiction over fisheries resources out to 200 miles, and are establishing an organization, tentatively entitled the South Pacific Regional Fishery Agency, to oversee the management of the species within this area. The new 200-mile jurisdictional assertion will add an estimated 7 million square miles of exclusive fishery zones to existing territorial waters. The nations involved include Australia, the Cook Islands, Fiji, the Gilbert Islands, Nauru, New Zealand, Niue, Papua, New Guinea, the Solomons, Tonga, Tuvalu, and Western Samoa. The United States and its trust territories are not members of the parent South Pacific forum; however, negotiations are presently underway which will attempt to bring the United States into this regional fishery agency.

This bill will demonstrate the interest and commitment of the Congress in developing the fishery resources of the South and Western Pacific area. Should the United States become a member of a South Pacific regional fishery agency, this bill would authorize the Secretary of Commerce, in consultation with representatives of all member nations of the agency, the Secretary of State, and the industry, to develop and carry out a program for research and development of fisheries resources of the region. Such a program would

have as its objective not only increasing the capacity to harvest and to understand the species in the area, but also to develop the resources of the area and to facilitate bringing increased economic benefits to all the member nations through increased availability of fishery resources. It is contemplated that the Secretary would work closely with the member nations of the agency, as well as the other enumerated parties, in seeking to maximize the benefits which may result from such development efforts.

In addition to these economic and developmental benefits, this bill, by expanding the availability of tuna in the Central, Western, and South Pacific, should offer relief to the United States tuna fleet, which is now facing an uncertain future in the eastern Pacific Ocean.

A further advantage of the Central, Western, and South Pacific tuna stocks is that the principal species, skipjack, is not associated with porpoise populations, and even the yellowfin do not have the same relationship with porpoises as the yellowfin in the Eastern Pacific. Thus, development of these tuna fisheries will not exacerbate the tuna-porpoise problem, but on the contrary, may offer some relief.

The committee held hearings on S. 2878, the Senate bill, and the bill received the unanimous support of the State Department, the Department of Commerce, the tuna industry, and the Pacific Tuna Development Foundation. The committee thus reported H.R. 11657, with an amendment in the nature of a substitute.

SUMMARY OF THE BILL

Section 7(1) of the bill amends section 2 of the Central, Western, and South Pacific Fisheries Development Act and states that the Secretary of Commerce may carry out the development programs under this act by contracting with the Pacific Tuna Development Foundation or another agency or organization. The PTDF has expended significant sums and effort in the fisheries research programs carried out under this act and has been very successful with such programs; however, the committee also recognized the need for the Secretary to have considerable flexibility in choosing whom to contract with for any given project.

Section 1(2) amends section 3 of the act by requiring the Secretary of Commerce, in carrying out the purposes of the act, to consult with the Secretary of State, the Commonwealth of the Northern Mariana Islands, and all appropriate member nations of the South Pacific regional fishery agency in addition to the parties the Secretary is presently required to consult with. The committee intends that the Secretary have discretion in determining which research, development, or other programs under this act would make it appropriate to consult with which nations. The intent of this provision is to insure that all patries, whom the Secretary determines ahve a legitimate and significant interest in any program carried out under this act, be consulted in the development of the program and prior to the program's implementation.

Section 1(3) of the bill establishes a new mechanism authorizing the Secretary of Commerce, in consultation with representatives of all interested member nations of a South Pacific regional fishery agency, and all other parties enumerated in section 3 of the act, to develop and carry out a program for research and development of the fishery resources of the region. This provision is to insure that, if the United States becomes a member of a South Pacific regional fishery agency, then the Secretary can immediately begin a coordinated and cooperative development program for the area. As previously mentioned, the Secretary would work closely with the interested and affected South Pacific nations in such a program. Accordingly, this new section also provides that the Secretary shall make available to all interested member nations of the agency the results and findings of research or development projects carried out under the act and this bill.

Section 1(4) redesignated sections 4, 5, 6 and 7 of the act sections 5, 6, 7, and 8 respectively.

Section 2 of this bill authorizes appropriations of $4 million for fiscal year 1979, and $5 million for fiscal years 1980, 1981, and 1982. These authorizations would cover both the existing programs being carried out under the act and any new programs established under this bill or the act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR MONDAY, MAY 22, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next Mr. TALMADGE be recognized for not to exceed 15 minutes after the two leaders are recognized under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, after the two leaders are recognized under the standing order tomorrow, I believe Mr. DANFORTH and Mr. BAKER are going to be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair. Mr. President, I ask unanimous consent that Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate then resume consideration of the unfinished business or at no later than 11 a.m. tomorrow that the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:01 p.m. the Senate recessed until tomorrow, Friday, May 19, 1978, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, May 18, 1978*

The House met at 10 o'clock a.m.

Rev. Herman L. Heim, United Presbyterian Residence, Woodbury, N.Y., offered the following prayer:

Almighty and merciful God, we come with grateful and penitent hearts to Your altar of prayer, as together these representatives of our Nation face the demanding concerns of their office.

May all proceedings of this historic House begin, continue, and end in Thee, knowing full well that what they do, in wisdom and good conscience, will affect the daily lives of untold millions. Refresh their faith, that the tensions of office may not break their spirits.

Fill them with compassion to open gates to a new life for the multitudes now enduring sickness, privation, exploitation, fear, and frustration.

Then grant them, O God, the reward of "well done, good and faithful servants."

In the name of that one whose compassion made all men rejoice. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. DANIELSON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 333]

Ammerman	Downey	McHugh
Andrews, N.C.	Edgar	Madigan
Archer	Evans, Colo.	Mann
Armstrong	Evans, Ga.	Markey
AuCoin	Fountain	Mathis
Baucus	Frenzel	Meyner
Bedell	Frey	Michel
Breckinridge	Garcia	Mikva
Brodhead	Gibbons	Mitchell, Md.
Brown, Mich.	Gudger	Murphy, N.Y.
Burke, Calif.	Hall	Neal
Burton, John	Harris	Nichols
Carter	Harsha	Nix
Chappell	Heckler	Oakar
Chisholm	Hightower	Ottinger
Clausen, Don H.	Holland	Patterson
	Howard	Pursell
Clay	Kasten	Rinaldo
Cochran	Kastenmeier	Roberts
Collins, Ill.	Krueger	Roncallo
Dellums	Latta	Runnels
Dent	McCloskey	Santini
Diggs	McCormack	Sarasin
Dornan	McDade	Satterfield

Scheuer	Teague	Watkins
Shuster	Thornton	Waxman
Sisk	Tsongas	Whitten
Staggers	Tucker	Wiggins
Stark	Vanik	Wilson, C. H.
Stokes	Walsh	Young, Tex.

The SPEAKER. On this rollcall 345 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REV. HERMAN L. HEIM

(Mr. AMBRO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AMBRO. Mr. Speaker, this morning I have the distinct honor of presenting to the House of Representatives the Reverend Herman L. Heim, who I have invited to Washington to deliver today's opening prayer.

Reverend Heim, a resident of New York's Third Congressional District, is the executive vice president of the United Presbyterian Home at Syosset, Inc., a voluntary not-for-profit skilled nursing and health care facility serving the aged, particularly the ill and frail.

Reverend Heim, born in Frackville, Pa., shares with his family a long tradition of caring for the elderly. Mrs. Heim is a registered nurse and former director of the nursing service at the United Presbyterian Home. Reverend Heim's son is also the executive director of a Nursing Home in Ossining, N.Y. During his 18 years at the United Presbyterian Home, Reverend Heim has been an innovative leader in its tremendous growth and expansion from a 22-bed, 1-building facility to a 31-acre accommodation for 365 residents and 246 patients.

Through his daily visits, prayer meetings, and counseling at the United Presbyterian Home, Reverend Heim has clearly established his commitment to the spiritual well-being of its residents, patients, and their families and has truly enriched their lives.

Because of Reverend Heim's deep concern for the elderly, he is here with us today to help us observe Older Americans Month, a time when this Nation honors its older men and women who have contributed so much to our Nation. Today in America we have more than 30 million people over the age of 60—a number which grows by half a million every year. One of the great challenges we face is how we can most effectively utilize the great national resource that Older Americans represent. Much of the progress we now enjoy is due to their earlier efforts, but we must not neglect the vital contributions older Americans can continue to make to our homes, families, and communities.

Since the theme for this year's tribute is "Older Americans and the Family," we must focus not only on our natural family but on our national family as well. Today we honor senior citizens and recognize their contributions, but let us also reach out to those living isolated lives and bring them into the mainstream. Let us make known the needs of older persons and strengthen support for programs on their behalf. We have made significant advances in recent years on behalf of older Americans, but we have much to do—in health care, housing, social service, and employment—before the economic and social equity of our older Americans is insured.

We owe a profound debt of gratitude to those Americans who worked long and hard. Let us honor our older citizens by finding ways to assure that their lives will continue to be useful and productive—that the rich promise of American life is available to all.

PERMISSION FOR SUBCOMMITTEE ON INVESTIGATIONS AND REVIEW OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET TODAY DURING THE 5-MINUTE RULE

Mr. CORNWELL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Investigations and Review of the Committee on Public Works and Transportation be allowed to meet today under the 5-minute rule for the purpose of taking testimony only on the Federal disaster relief program.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, last night, as I am sure the gentleman knows since he was here, there were 173 of us here who were told by Mr. UDALL that this legislation H.R. 39—the Alaska National Interest Lands Conservation Act—is the most important bill we will consider this year. Why would the gentleman's subcommittee want to meet in the middle of this supposedly important legislation? I think that would be offensive to the Committee on Interior and Insular Affairs that has given us this so-called, great piece of legislation.

Mr. CORNWELL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Indiana.

Mr. CORNWELL. I thank the gentleman for yielding.

I might tell the gentleman we have been meeting for 2 days before this, and we expect to be finished by 12 o'clock noon today.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman can assure us that his subcommittee will in no way take up any legislation; there will be hearings only?

Mr. CORNWELL. If the gentleman would yield further, absolutely. I can give the gentleman my fullest guarantee, sir.

Mr. ROUSSELOT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

RESOLUTION CONDEMNING THE IDI AMIN REGIME

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise today to share some truly good news with my colleagues in the House. On Wednesday of this week the Committee on International Relations reported out unanimously a resolution sponsored by my colleague, the gentleman from Washington (Mr. BONKER) and myself condemning Idi Amin's murderous regime in Uganda, and calling on the administration to support, among other things, a coffee boycott.

Later that same afternoon the Folger Coffee Company said that it would voluntarily cease buying Ugandan coffee. Yesterday two other coffee companies, the Nestle Co. and General Foods, which markets Maxwell House Coffee, announced the same thing, which effectively cuts off the market for Ugandan coffee from three major processors in the United States. That is great news, indeed, for the Ugandan people who have suffered far too long under Idi Amin.

CASTRO'S THREAT TO FREEDOM IN AFRICA

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, earlier this week I pointed out information from our State Department that Cuba had imported 45,000 personnel, mainly military, in 10 nations of Africa.

This action in remote Africa on the part of the Communist dictator Castro emphasizes the danger this Communist regime constitutes to the cause of freedom in Africa. The same threat from this evil force hangs over Latin America and our own country. With the power of the Soviet Union behind him and his own aggressive communistic designs Castro is determined to spread his reach and to extend his power in many parts of the world. The United States has always been too tolerant of and indulgent toward Castro's aggressiveness. We should demand that the United Nations exercise its power to curb Soviet Castro's conquest. We must determine that we are going to take a hard line as we should have been taking all along toward Castro and his brutal, aggressive policy. We should sever any relations with him and his wicked regime. We should stop trade and tourism between the United States and Cuba as we were committed to do. We should stop Castro's Communist propaganda from coming into our country. We should already have done that long ago. The time is now to assert our resistance to Castro's communistic aggression wherever it may appear. Otherwise this monster will grow, his power increase, his menace will rise and the danger will be ever greater and his containment more difficult. The time for our country to act upon this danger is now and to act effectively. I call upon the President and the State Department now to speak out with force and determination against Castro's aggression and to call upon the United Nations and the

nations of the free world to join us in curbing this sinister evil force before more people and more areas of the world shall fall victims as have the people of Cuba to his conquest and to his terror.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO CONTINUE BUSINESS TODAY WHILE THE HOUSE IS IN SESSION

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries be permitted to continue business while the House is in session today on the markup of the bill, H.R. 39.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us, first of all, why, if the gentleman's subcommittee is a component part of the Committee on Merchant Marine and Fisheries, you would want to meet today in direct conflict with the House debate on H.R. 39? That committee on Merchant Marine and Fisheries presently is a participant with joint jurisdiction for this very bill. We are told by the chairman of the Committee on the Interior that it is the "most important piece of legislation" we will consider this year.

How can the gentleman's subcommittee possibly meet during this moment in history and take Members away from the House floor today?

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the distinguished gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for the question. It gives me an opportunity to state that the members of the Committee on Merchant Marine and Fisheries are thoroughly familiar with the contents of this legislation. We expect it will be lengthy in its consideration today and there will be any number of Members that will be here at different times of the day.

I do not think the gentleman from California expects that all Members of the House should be present during deliberations, as is traditional. They will be able to be informed by the staff and by the new television instrument we have.

But as far as the type of problems H.R. 39 deals with, I think we can deal with that and then find ourselves back on this floor to participate with the gentleman in very serious deliberations over this very important matter.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us, first of all, that the committee will not meet beyond 12 o'clock?

Mr. BIAGGI. I would appreciate it if the gentleman said 12:30.

Mr. ROUSSELOT. I certainly want to get along with the gentleman. It is known we become more liberal the longer we are here.

Mr. Speaker, will the gentleman assure us it will not go beyond 12:30?

Mr. BIAGGI. Yes, I can give that assurance.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the second problem I have is that a distinguished member of the subcommittee, the gentleman from Alaska (Mr. YOUNG) obviously has to be here on the floor to defend the position of his State. The gentleman from Alaska (Mr. YOUNG) is a member of your subcommittee and obviously cannot be both places at once.

Mr. YOUNG needs to be here on the floor during this lengthy debate according to the chairman of the committee, my distinguished colleague, the gentleman from Arizona (Mr. UDALL).

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my colleague, the gentleman from New York.

Mr. BIAGGI. The gentleman from Alaska (Mr. YOUNG) is a most important member of the committee and has made a substantial contribution.

Mr. ROUSSELOT. I am glad the gentleman recognizes that.

Mr. BIAGGI. The gentleman from Alaska (Mr. YOUNG) has made substantial contributions. He is familiar with the provisions of the legislation, H.R. 39.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman assure us that no other legislation besides the bill he mentioned to me privately will be taken up?

Mr. BIAGGI. Yes, I can give that assurance.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be delighted to yield to my distinguished colleague, the gentleman from New Jersey (Mr. THOMPSON), the chairman of that great Committee on House Administration that keeps raising salaries for our overworked staff.

Mr. THOMPSON. Mr. Speaker, I do not have any control over salaries. I told the gentleman that in response to his innumerable requests for a raise.

Mr. Speaker, if the gentleman will yield further, I just wonder if there is any subcommittee that we can allow permission to sit in order to get the gentleman from California (Mr. ROUSSELOT) off the floor so that we can get on with this very important bill.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I did not ask the gentleman for a salary raise. I referred only to those other fringe benefits.

Mr. THOMPSON. Look, I got the gentleman everything but the beta max he was fighting for.

Mr. ROUSSELOT. I am looking forward to receiving that so I can record the gentleman's speeches on the floor.

Mr. THOMPSON. First the gentleman asked for television cables, and I gave him those. Now he has a television set, and now he wants a beta max so he can record himself here and go back to his office and laugh in private.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, it is not that I am going to tape my own speeches. I know what I say here on the floor. I want to be able to tape the gentleman from New Jersey's speeches. History demands they be recorded.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE "FLIP-FLOPS" ON SOCIAL SECURITY RESTRUCTURING

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to inform the House that the Committee on Ways and Means did the biggest flip-flop in the history of the country. With 180 Members of this House indicating that they want legislation on this floor dealing with general revenues and social security for the restructuring of social security, the committee has the bill bottled up, and the members of the committee are hoping it dies.

Let me tell them that we will fight them on the beaches, we will fight them in the streets, and we will fight them in the alleys. We are going to get that bill out here come hell or high water.

BIGGEST FLIP-FLOP IN HISTORY

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I hate to differ with my good friend and colleague, the gentleman from Massachusetts (Mr. BURKE), about the biggest flip-flop in history. His candidate is only the second biggest flip-flop in history. The biggest flip-flop in history also occurred yesterday, but it happened on the House floor. Yesterday must have been the day for it, because on rollcall 327, the House of Representatives voted by 201 to 198 for the first concurrent budget resolution. The Members will recall that that budget resolution called for a $51 billion deficit. On rollcall 329, which I believe occurred approximately 1 hour and 27 minutes after rollcall 327, there were 58 Members of the House on the Democratic side who voted for the budget resolution—and its deficit—who voted against raising the debt limit.

I think it is well known that if there is a deficit—such as this $51 billion deficit—it has to be financed. That is the meaning of the word "deficit." You do not take in as much in revenue as you spend in outgo. There is only one way to finance it, and that is by borrowing it; and you cannot borrow if you get up beyond the debt limit.

So I suggest, Mr. Speaker, that this is the greatest flip-flop in history, and it occurred on yesterday, a day which will live in infamy.

THE TRUTH ABOUT TAX "CUTS"

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, yesterday morning the Ways and Means Committee, by a 16-to-21 vote, refused to report legislation to cut the growth of social security payroll taxes in half next year.

Yesterday afternoon, the House passed a concurrent resolution on the budget for fiscal 1979 which projects a $15 billion tax "cut" for individual and corporate income taxes instead of the $25 billion cut originally requested by the President.

The impact of these back-to-back actions is to sock American taxpayers with heavy tax increases. Social security taxes will cost another $8.5 billion next year. Inflation will increase income taxes by an estimated $13.5 billion. Thus, just to offset these two factors would cost $22 billion. A cut of $15 billion leaves $7 billion to be absorbed by individual and corporate taxpayers. Stated differently, the $15 billion "cut" means that taxes will go up by $7 billion.

To demonstrate what this means for individual taxpayers, look at the example of a one-earner family of four earning $15,000 in 1977. After a cost-of-living increase of 7 percent in 1978 and 6 percent in 1979, their income will have risen to $17,013. Because of inflation, however, this higher income will buy no more than the $15,000 did in 1977. But because of the increased social security tax rate in 1979 applied to their higher income, their social security taxes will be $165 higher in 1979 than in 1977. Even with a $15 billion cut in individual income taxes, their Federal income tax bill will be approximately $250 higher since they have hit a higher bracket. Their State and local taxes will undoubtedly also increase. The increased Federal tax bill alone will total $415 more in 1979 than it did in 1977. Since on the average their income has increased only enough to keep pace with inflation, this will mean that their real income will have declined.

This example is not a fairy tale. We are on an inflationary course that will make stories like this come true for tens of millions of taxpayers next year. We may say that we are cutting taxes, but taxpayers will know the truth: Taxes are going up.

INDIVIDUAL TAX RELIEF ACT OF 1978

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am, today, reintroducing the Individual Tax Relief Act of 1978 (H.R. 10755). Twenty of my colleagues, both Republicans and Democrats, have indicated their support for these tax changes by becoming cosponsors of the bill.

The impact of tax policy on our economy is being actively considered not only in the Congress but in the Nation at large. It is important to remember that the tax system provides the funds which make possible almost all Government spending. As a result, proposed changes to the existing law should be well considered.

The Individual Tax Relief Act of 1978 was conceived in response to testimony presented before the Ways and Means Committee, constituent input and general observation. I was amazed to learn from the Commissioner of IRS, for instance, that the IRS overwithholds approximately $30 billion from American taxpayers each year. I propose that interest on the overwithholding be paid to taxpayers in order to deny the Treasury this interest-free loan.

Inflation robs us in many subtle ways. Taxpayers are forced into higher percentage brackets each year and pay more tax. My research indicates that an annual inflation adjustment—indexing—is the way to correct this practice. At present, the Government actually benefits from inflation by collecting a greater percentage of a taxpayer's income.

Inequities such as these breed contempt for our system of taxation. I must hasten to remind my colleagues that our system of taxation functions upon the principle of voluntary compliance. Respect for the system is essential to its operation. I urge my colleagues to help restore respect to the tax system by supporting and cosponsoring the Individual Tax Relief Act of 1978.

RESTRICTING THE LEVEL OF CIVIL SERVICE EMPLOYMENT

(Mr. LEACH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH. Mr. Speaker, I would like to bring to the attention of my colleagues a bill I am introducing today which seeks to limit, by statute, the number of civilian employees in the executive branch.

In January 1977, total Federal civilian employment stood at 2,771,000. A short year later Federal employment had risen by 15,000. In other words, in less than a year the Carter administration has increased Federal employment by a margin greater than the population of Fort Madison, Iowa.

The President stated during his 1976 campaign for the White House that he would halt the growth of Government and that through reorganization he would decrease the number of Federal bureaucracies. Unfortunately, if the past is a guide to the future, Mr. Carter as Governor of Georgia cut down the number of State departments and agencies, but substantially increased the number of State employees. I would hope the Georgia employment model would not serve as administrative precedent for this administration.

The bill I am offering today would enact into law a statutory ceiling on the number of Federal employees corresponding to the number of such employees at the outset of this administration in January 1977. The legislation further permits the President 1 full year in which to attain that goal and directs him to insure that no increase in procuring outside services occurs as a result of the cap on Federal employment. The statutory ceiling on employees would remain in effect for the duration of this administration.

Mr. Speaker, as a member of the House Post Office and Civil Service Committee which is currently reviewing the President's civil service reform bill, it is my intention to offer my proposal as an amendment to that bill at the appropriate time. I would urge my colleagues to support this effort to curb the Federal bureaucracy and to consider a restraint on new Federal employment to be a prerequisite for support of the administration's approach to civil service reform.

THE SANCTIONS AGAINST UGANDA

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Florida. Mr. Speaker, when our colleague, the gentleman from Ohio (Mr. PEASE) reported this morning on how economic sanctions were being laid in against Uganda and Idi Amin, I shared his enthusiasm, and I understood his enthusiasm.

Mr. Speaker, since this is the day for flip-flops, though, I was quite confused as to why he so strongly supports these types of sanctions against Idi Amin and Uganda, and he apparently supports limiting any U.S. aid directly to Uganda and Idi Amin; but I still question why he so strongly takes the well to oppose placing economic sanctions and aid limitations against Uganda through the United Nations or the World Bank.

Whether it is a flip-flop or not, I am not exactly sure; but in my opinion, placing sanctions against Idi Amin is good, whether it is directly, whether it is through the nonpurchase of coffee, or whether it is through United Nations grants or World Bank loans to Idi Amin.

EXPRESSING SURPRISE AND OUTRAGE THAT U.S. CONFERENCE OF MAYORS IS SPONSORING AN OFFICIAL TRIP TO CUBA

(Mr. KETCHUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. KETCHUM. Mr. Speaker, it seems strange to me that while we object to the Cuban presence in Africa and while the President of the United States is entertaining President Kaunda of Zambia, who harbors Cubans in his country, and when President Kaunda tells us that Cubans are only in African countries by invitation that we would even think of reopening any sort of negotiations on trade with Cuba.

It comes as a complete surprise to me, and I have a certain amount of outrage at the knowledge that the U.S. Conference of Mayors is sponsoring an official trip to Cuba. I think that the citizens of the United States should ask their mayors who is paying the bill.

Mr. Speaker, I place in the RECORD at this point a memorandum from John

Gunther, executive director of the U.S. Conference of Mayors on this official trip to Cuba, as follows:

U.S. CONFERENCE OF MAYORS
Washington, D.C., May 11, 1978.

Re USCM official trip to Cuba, June 21–18, 1978.

To: Mayors and city officials.
From: John Gunther, executive director.

The purpose of this notice is to advise you that there are still vacancies available for the U.S. Conference of Mayors official visit to Cuba. As I indicated in my previous notice, after many months of negotiations with the Cuban authorities we received an invitation for an official visit to Cuba. The Conference of Mayors has chartered a 100 passenger Southern Airways plane. Seats are still available. The plane will leave Atlanta on Wednesday, June 21 at the conclusion of the Annual Conference and return to Atlanta on Wednesday, June 28. Attached you will find an official itinerary for the trip.

Total cost for the trip per person is $495. This amount includes round trip air transportation, deluxe and first class hotels in Cuba including meals. Transfers from airport to hotel and back including porterage and all transportation within Cuba is also included.

Reservations are open to all Mayors, local officials, and local staff and families. We urge you to send in your reservation immediately.

KUDOS TO THE GENTLEMAN FROM OHIO (MR. PEASE) ON HIS STAND WITH RESPECT TO SANCTIONS AGAINST UGANDA

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I rise today to commend my colleague, the gentleman from Ohio (Mr. PEASE).

Even though Mr. PEASE has mentioned to us today the great satisfaction he feels in seeing voluntary sanctions against dictator Idi Amin by these major coffee companies, I am afraid that most Members of this House are unaware of the long hours that the Congressman and his staff have put in to bring moral pressure to bear on these major food and coffee corporations to convince them of the wisdom in cutting off the mass murderer Amin from the civilized world. I had the good luck to cross paths at the Kennedy Center last November with a major coffee corporation president. I found myself in line behind him and used the opportunity to press him on when he was going to act on the request of the gentleman from Ohio (Mr. PEASE) and myself to cut off this bloody coffee money to Uganda, which Amin used to fund his murderous secret police in a genocide against the Acoli and Bugandi tribes. The president of this company turned to me and said that it was a bad policy for American companies to influence foreign policy. I asked him if that would have been his corporate stand during the 1930's when Adolf Hitler was building the crematoria for the "final solution," the genocide of 6 million Jews. He had no response.

Mr. Speaker, when is the State Department going to demand the departure from the District of Columbia and our shores of Idi Amin's Charge d'Affaire. This representative for a moral madman hangs around Capitol Hill, tells lies to cover up the outrageous slaughter in Uganda. He speaks for a vicious dictator who is engaged in genocide, period. Let's pass a resolution to get him out of our country.

Again, Mr. Speaker, I cannot find the words to properly express my high regard for the gentleman from Ohio (Mr. PEASE), who is to be commended for probably saving thousands of lives in the future, but let us not forget over 250 Christian missionaries who courageously remain in Uganda under constant and very real threat of martyrdom. As the distinguished journalist and radio commentator Patrick Buchanan forcefully recommended yesterday, let us send pictures of downtown Berlin, circa 1945, to Dictator Amin and threaten swift and overwhelming retribution including hanging him as a war criminal if he harms one single servant of God. Remember our July 4th '76 bicentennial present from Israel, the Entebbe Commando Raid? It is possible to demand respect.

THE SOVIET TRIAL OF YURI ORLOV IS A MOCKERY

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. LEVITAS. Mr. Speaker, let us not allow this day to pass without calling to the attention of the House and the Nation and the world the mockery called a trial in the Soviet Union of the Soviet physicist, Yuri Orlov, who yesterday was convicted and sentenced to 7 years at hard labor for doing the very thing we take for granted in this country, speaking out and criticizing his Government.

This "trial" with its predictable outcome was a charade. It contained a handpicked judge and a hand-picked jeering crowd. The friends of the defendant were prohibited from observing or speaking on his behalf. After the trial, his wife and sons were ignominously searched. Tape recorders were taken from the sons, and Mrs. Orlov was forced to strip and be searched by three KGB agents.

Let us keep this event in our minds lest we forget the difference between their form of government and our form of government.

Let us remember that that which we take for granted is that which can be the cause of sending a man to jail in the Soviet Union.

Let us keep in mind this mockery that occurred in the Soviet Union, and keep remembering it so that those people who are speaking out behind the Iron Curtain will not be forgotten.

REQUEST FOR CONSIDERATION OF HOUSE RESOLUTION 1192 EXPRESSING SENSE OF CONGRESS AGAINST TRANSFER OF ANYTHING OF VALUE TO REPUBLIC OF KOREA UNTIL TESTIMONY OF KIM DONG JO IS PRODUCED

Mr. WRIGHT. Mr. Speaker, I send a resolution (H. Res. 1192), to the desk and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1192

Whereas the House of Representatives, by resolution dated October 31, 1977 (H. Res. 868), expressed by unanimous vote its sense "that the Government of the Republic of Korea should cooperate fully and without reservation with the Committee on Standards of Official Conduct and with its special counsel to provide complete access to all facts relevant to" the investigation being conducted by the committee pursuant to H. Res. 252; and

Whereas the Government of the Republic of Korea has withheld cooperation from the committtee by refusing to make available the testimony of Kim Dong Jo, a former ambassador to the United States from the Republic of Korea and a material witness in the aforesaid investigation, notwithstanding the willingness of the committee to accept such testimony under conditions consistent with international practice and, in particular, the principle of comity between allies;

Whereas information made public at hearings conducted by the committee establishes that the investigation cannot be completed as to some persons without the testimony of Kim Dong, Jo, who has in his possession information pertinent to the committee's inquiry; and

Whereas a complete investigation is necessary for the committee to discharge its responsibilities and is indispensable to the fulfillment of the obligation of the House of Representatives to the public: Now, therefore, be it

Resolved, that it is the sense of the House of Representatives that until such time as Kim Dong Jo is made available for examination under oath, authorization for the transfer of anything of value, directly or indirectly, to the Republic of Korea and appropriation of funds for transfer, directly or indirectly, to the Republic of Korea for nonmilitary purposes should be approved by the House of Representatives only where the refusal to so approve such authorization or appropriation would imperil the national security of the United States or the territorial integrity of the Republic of Korea: And be it further

Resolved, that it is the sense of the House of Representatives that the refusal of the United States to transfer things of value or funds, directly or indirectly, to the Republic of Korea for non-military purposes would not, under present circumstances, imperil the national security of the United States or the territorial integrity of the Republic of Korea.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent for immediate consideration of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

Mr. Speaker, the House was not informed that this resolution was to come up today. The gentleman from Maryland, through the kindness of the minority leader, has one of the few copies available. I have tried to understand the full meaning of the convoluted language contained in the resolve clauses.

It seems to me that if the United States withholds aid to the Republic of Korea we could seriously damage the people in that country. At the very least, if we are going to pass a resolution of this nature, the House should have copies available to the Members for some time in advance

so that we can debate all its terms and understand what it does.

The House voted on this very issue of aid to Korea a few days ago, and expressed overwhelming disapproval of the very position this resolution takes. I do not know whether this hasty consideration is planned to satisfy Mr. Jaworski or what, but it is not the proper way to legislate.

All I am saying is that, I might well vote in favor of this or a similar resolution, but I want to know exactly what aid is being cut off, how it will affect Korea's security, and whether or not it achieves its alleged purpose. It is not really necessary to do anything today. We ought to have the time to consider this issue dispassionately and while fully informed.

Therefore, I may be constrained to object.

The SPEAKER. The gentleman appreciates the fact that this is subject to 1 hour's debate, and that copies are being mimeographed as quickly as possible?

Mr. BAUMAN. The gentleman appreciates that.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I think the hour's debate certainly would divulge to the fullest extent all the issues contained in this resolution so that no Member would be in doubt as to its precise wording and its absolute meaning.

Beyond that, it differs in several important respects from the action to which the gentleman referred as having been taken a few days ago The first is that it is an official resolution, reported unanimously on yesterday afternoon by the Committee on Standards of Official Conduct. The second difference is that this is, as properly it should be in my opinion, a sense of the Congress resolution. It gives official notice and sets forth in clear terms those conditions under which we feel that the largesse and assistance of the United States should be conditioned upon the cooperation of the Government of the Republic of Korea.

Under these circumstances, and given the assurances of the Committee on Standards of Official Conduct, and its chief counsel, Mr. Jaworski, I would plead with the gentleman to withdraw his reservation of objection and thus permit the House to work its will and to express itself on this important matter today.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I thank the gentleman for yielding. I share the gentleman's concern over the hasty consideration of this resolution. The Xerox copy I have before me has as the sponsor, and his name is stricken, the gentleman from Georgia (Mr. FLYNT) and the name of the gentleman from Texas (Mr. WRIGHT) is substituted, which makes it all the more apparent that haste was the keynote of this legislative process.

I cannot understand what is the rush. I did notice some headlines about Mr. Jaworski which suggested that he is in a pique because of the failure of the House to approve an amendment offered by one of our colleagues the other day. But we are going to meet tomorrow and we will be in session Monday and Tuesday and it would seem to me entirely possible that a printed copy be available, that we have the benefit of a committee report, if not the hearings.

I have further concern that this touches directly on questions of foreign policy and I see no indication whatever that the Committee on International Relations has had a chance to look at it much less have hearings. I see no name of any member of the Committee on International Relations listed as a cosponsor of the resolution.

Further, the resolving clauses seem to be a strange mixture in that the first one says that:

> * * * authorization for the transfer of anything of value * * * should be approved * * * only where the refusal to so approve such authorization or appropriation would imperil the national security of the United States. * * *

Then the second resolving clause seems to settle the question on which the question is raised in the first; the second resolving clause settles the question, as I see it.

> * * * that the refusal of the United States to transfer things of value or funds * * * would not * * * imperil the national security. * * *

It would appear to me that the drafting is very poor and I would think the House could profit by at least 24 hours delay to consolidate those last two resolving clauses. That would be the proper way. There was a time years ago that we adopted a new procedure under which various committees would have the right of referral. Clearly this resolution goes to questions which are largely within the concern of the Committee on International Relations, and I think that this is a prime example of where referral of legislation should occur.

The Committee on Standards of Official Conduct perhaps has no desire to go into certain other international aspects of this resolution. That is entirely possible, but that does not relieve the legislative committee that is charged with foreign policy responsibilities of exercising its own authority in this field.

I hope the gentleman from Maryland (Mr. BAUMAN) will object.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

In response to the comments which have been made by my friend, the gentleman from Illinois (Mr. FINDLEY), this resolution has been very carefully worded. It was not hastily put together. Its wording was considered and approved unanimously on yesterday by the Committee on Standards of Official Conduct. It was in minor degrees altered so as to accommodate the legitimate foreign policy objectives of the United States which include not only the security of the United States but the territorial integrity of the Republic of Korea. It seems to me for all of these reasons, and because of the imperative necessity that this House make abundantly clear its intent to develop all of the information necessary in order that this investigation may be a thorough and complete and in every sense a credible investigation, we should act today and not further delay this proceeding.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

I am fascinated by this procedure, because we did have a similar vote—although I realize this resolution is slightly different from the one we voted on, the Caputo amendment to the Budget Resolution, and I know my distinguished majority leader knows that very well because he voted against the Caputo amendment—and how is this different?

Mr. WRIGHT. Mr. Speaker, would the gentleman yield for a response to that question?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

It differs in several respects. First of all, it differs in that it has been written in conjunction and collaboration with the minority leader and the majority leader and the Speaker of the United States House of Representatives, and with the chief counsel of the Committee on Standards of Official Conduct.

Second, it has been examined thoroughly and approved in all of its particulars unanimously by both sides, Republican and Democratic, of the membership of the Committe on Standards of Official Conduct.

Third, and significantly, not only does it give a message that is clear and unambiguous to the Republic of Korea as to our desires and our insistence upon developing all of the information pertinent to this investigation, to which we feel we are entitled. Beyond that, it leaves no doubt in the minds of the North Koreans that we are by no means abrogating nor abandoning our dedication of the territorial integrity of South Korea.

This, it seems to me, is a very important difference. We have not left to chance any potential misinterpretation such as occurred tragically in 1950 when the North Koreans misconstrued actions of the U.S. Congress as giving an invitation for them to launch an invasion which cost precious American blood and the lives and blood of many others from many other nations. So we have tried assiduously to avoid that. We have tried to make abundantly clear precisely what the conditions of our considerations are, and we have tried to do it in a restrained, moderate and prudent way. It differs in those respects.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, I yield to the minority leader.

Mr. RHODES. I thank the gentleman from Maryland for yielding.

I think that we should put this resolution in proper context. I can understand the consternation of the members of the Committee on International Relations in the fact that they were not informed of this resolution, and we are not privy to its provisions. I am appalled that that occurred. I am sorry that it occurred, but, nevertheless, I think it is important to look beyond that unfortunate occurrence at just what the resolution does.

The resolution states that it is the sense of the Congress that economic aid to Korea can be cut off in the event of one thing—that Korea refuses to make Kim Dong Jo available for examination under oath. If the Republic of Korea makes Kim Dong Jo available for examination under oath, then absolutely nothing happens insofar as this resolution is concerned. If they do not make him available, then they are put on notice that the Congress may in the future cut off economic aid to Korea. That is all this does.

I regret that there has obviously not been what I would call the proper preparation made for consideration of this bill, and I am sorry that appropriate committees and Members were not notified or aware of the resolution. Nevertheless, I do feel it is very important that we proceed with the resolution as expeditiously as possible. The leadership on both sides—at least this Member of the leadership on our side—and the Speaker and the majority leader, were informed by the counsel of the Committee on Standards of Official Conduct that he, the special counsel, felt it was absolutely imperative in order to close the investigation on the matters involving Korea that Kim Dong Jo's testimony under oath be procured.

I personally feel, and I think that I am joined by all of the Members of this House, that it is absolutely imperative for the well-being of the Republic, for the reputation of the House of Representatives that this investigation do proceed to a point at which the special counsel, one of the most prominent lawyers in the United States, can say in all candor to the people of the country what has occurred, and that no more occurred as far as he was able to determine. He cannot now say that. I suggest the only way that we can possibly have him to do that is by adopting this resolution.

While, as I say, I do regret the fact that we probably have not touched all the bases that should have been touched, I hope the gentleman from Maryland will withdraw the reservation.

Mr. BAUMAN. Mr. Speaker, I yield to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, may I have the attention of the distinguished majority leader? I was wondering if the gentleman could advise the House if the Department of State was asked to express any opinion or provide any information or advice on the handling of this resolution?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, I will be glad to respond to that. My response is that I personally have discussed this with representatives of the Department of State and with the Secretary of State. I have been advised, as I am sure all Members would so be advised, that a former ambassador of a foreign country under the Geneva Convention enjoys what is known as diplomatic immunity.

Now, what that means, of course, is that he is immune from prosecution by the United States for any deed or act he may have committed while serving as ambassador of that foreign country. In no way would our request infringe or abridge or deny the diplomatic immunity to which he is entitled under international law. We do not seek to place him in legal jeopardy. All this resolution does is to call upon him for a voluntary appearance, not necessarily in this country, but rather, as the last of the "whereas" clauses on the first page makes clear, under conditions that are consonant with international comity. It asks him to do so voluntarily.

Mr. DERWINSKI. Mr. Speaker, may I at that point restate the question. The gentleman has just added details that are not in the resolution. For example, the gentleman just advised that this interview under oath presumably could take place any place. I do not see that in the resolution.

The reason I posed the question about the Department of State is that I have been led to believe that the position taken by the Republic of Korea that its former ambassador would not have to be subject under diplomatic immunity to this questioning is that our Department of State supported that position, fearful of precedents that may haunt our former diplomats. That is why I think we ought to clarify whether this resolution has the full support of the Department of State, with the awareness there of all the possible implications.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further for a response to that comment, it would seem normal to me that these responses and these comments might properly have taken place and, indeed, should take place under the procedures of debate. But so long as the reservation of objection is being considered, let me respond that in the last resolving clause of the first page of this resolution reads as follows:

> Whereas the Government of the Republic of Korea has withheld cooperation from the committee by refusing to make available the testimony of Kim Dong Jo, a former ambassador to the United States from the Republic of Korea and a material witness in the aforesaid investigation, notwithstanding the willingness of the committee to accept such testimony under conditions consistent with internaitonal practice and, in particular, the principle of comity between allies;

Now, the gentleman from Illinois is a member of the Committee on International Relations and the gentleman understands exactly what that means, just as it would be understood by the Secretary of State and others familiar with the practices and constraints of international law.

Mr. DERWINSKI. Mr. Speaker, I certainly do not presume to speak for the Department of State, especially when the majority leader is handling this special resolution, and I want to reemphasize that. But my understanding is that the Department of State has supported the position taken by the Government of Korea because they are looking ahead to their own responsibilities. They fear that many of our present and former diplomats could well be subject to harassment or interrogation by political officials of many other States.

Often when there is a little upheaval in some country our CIA or our military are blamed for it. Can you imagine the double-edged sword that might be created all over the world if some tinhorn government wants to call in our former ambassadors for questioning and they would use this as a precedent for such action?

Mr. Speaker, I have my doubts about what we are doing here.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield on that point?

Mr. BAUMAN. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, to the extent it may assuage the gentleman's concern, let me report to the gentleman that, according to my information, the State Department of the United States, the Secretary of State personally, and indeed the President of the United States, not once but on repeated occasions, have implored the Government of the Republic of Korea to make available Kim Dong Jo for the answering of questions by this House committee. Those efforts have been unavailing.

Mr. DERWINSKI. Mr. Speaker, I was hoping the gentleman would not haul the poor President into this: He is in enough trouble.

Let me ask one final question. Has the Secretary of State seen this resolution in this form? If so did he understand fully that the House was proceeding without committee activity and without a report from the State Department? Did he understand the full parliamentary procedure or the lack of it?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield for a response?

Mr. BAUMAN. I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, I cannot say to the gentleman with any certainty that the Secretary of State has seen this language. I am not certain that he has, nor am I certain that he has not. I cannot in all honesty bespeak his support nor claim his endorsement for the wording of this resolution.

I will simply report to the gentleman that I have discussed the matter with the Secretary of State, and beyond that I think I should say that this is a matter for the U.S. House of Representatives.

It is upon our body that a cloud of suspicion has been cast by alleged acts purported committed by representatives of a foreign government. It is not the State Department that is cast under a cloud of suspicion, it is the U.S. Congress, and it seems to me that we owe nothing less to the American public than to defend the honor of this institution by leaving no stone unturned whatsoever

in our efforts to get all the pertinent information so that this investigation can be concluded.

I am informed that this is the one and only remaining witness necessary to the total conclusion of the investigation, but that without his testimony certain facts will forever be unknown. I am further advised that this is the only remaining avenue by which we might be able to persuade that government, which has been a friend of the United States in the past and is a friend of the United States today, to recognize the seriousness of the feeling of the Congress of the United States that this cloud must be removed, that the facts must be divulged, that the public must be informed, and that no relevant question shall be allowed to remain unanswered.

Mr. DERWINSKI. Mr. Speaker, I completely concur with the distinguished majority leader that there has been a cloud over the Congress. I completely concur that this cloud should be cleared up. I completely concur with his intent that the issue be properly and fully resolved on the record.

But I also ask a very innocent question: Do two wrongs make a right, and are we not in our legitimate zeal creating a situation that will become a major problem in the future for our country and for our Department of State?

Mr. Speaker, I wish some Members would direct themselves to the long-term implications of this situation.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, I thank the gentleman for yielding.

I concur wholly with what our majority leader has said. However, there are certain aspects of the situation here that I think should be cleared up.

Since this matter of assistance to Korea as well as other countries under the jurisdiction of the authorizing committee comes before my subcommittee, I requested information from the Department of State on this very subject. It is true that we have to do everything possible to get this testimony, and I think that Kim Dong Jo should be here. I think he should be here to clear up this problem once and for all, and I think we should do everything possible in this body to bring that man to this country or at least at the service of the Committee on Standards of Official Conduct.

However, there are circumstances that go beyond this that do not impact upon the security of Korea, which, although I am concerned about, I am not as concerned about them as I am concerned about our own Nation.

I read to the Members from the statement by the Secretary of State:

> While the immunity provided by the Convention may be waived by the diplomat's sending state, pressure—direct or indirect—by the United States to force another state to waive such immunity would establish a dangerous precedent. It would have serious implications for the protection of our own diplomats, and for our ability to conduct foreign relations on the basis of reciprocity.

Mr. Speaker, what I am saying here is that I find absolutely nothing wrong with this resolution, except the threat or the coercion that is extended by this resolution upon another nation.

The State Department goes on to say:

> The essence of the principles embodied in the Vienna Convention have been the basis for relations between states since the emergence of the modern nation state system. It is important that the affairs of the United States are conducted in a manner which fully respects these fundamental principles of international law.

And that is the first part of this resolution, in the "Whereas" clause, which does address itself very directly with policies and conditions consistent with international practices and, in particular, the principle of comity between allies.

There is absolutely nothing on this resolution in the first part. However, where the threat comes in is on the withdrawal of any aid as a part and parcel of this resolution. This then impacts very seriously upon our ability to do business throughout the rest of the world. If other nations of the world attempt to destroy our credibility in places where there are perhaps some questions, it will impact very severely upon the ability of our Nation to conduct any relations with any other nations in the world.

Therefore, I must say that I agree with the gentleman from Maryland, in saying that we should have further time to be able to adjust ourselves to the various problems involved in this resolution.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Speaker, I just want to second what the gentleman from New York (Mr. WOLFF) has said. I think the important question is the security of our own country. We are interested in Korea, not because of its security primarily, but because of what its falling into Communist hands would do to our own security.

As the gentleman from New York (Mr. WOLFF) has said, while we might try in this resolution to separate the security aspect of aid from the nonsecurity aspects of aid, that is something that cannot really be done very effectively, and the posing of this kind of a threat to cut off any kind of aid to one of our strongest allies can only serve to jeopardize our own security.

I think this is an ill-advised resolution. We can proceed by other means to get the testimony of Mr. Kim and I believe we should.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, I want to add that the problem the gentleman from Maryland has regarding this resolution has been touched upon by the gentleman fom New York (Mr. STRATTON). The gentleman from Maryland, like most Members of this House, has voted not once, but several times, to fund not one, but two, current investigations of the Korean scandals, one by the Committee on Standards of Official Conduct and one by the Committee on International Affairs, and voted in favor of a resolution to express the intent of the Congress to reveal all the facts after a proper investigation. The gentleman has also voted consistently against cutting off economic and military aid to an anti-Communist ally, one of the few we have left in Asia, the Republic of Korea.

Mr. Speaker, we have before us a resolution that seems to say that the future House position will be that all aid to Korea will be cut off unless it impairs the security of the United States or the territorial integrity of Korea. What does that mean? What aid is to cut off? And the gentleman from Texas seems also to imply that the Secretary of State agrees with him in this position. Does that mean that what is a sense of the House resolution, by and of itself, is to be implemented immediately by the Secretary of State?

I think it might be better if we left this decision up to the House when we vote on specific bills and authorizations and let the evidence to support such a cut off be presented in due course. But with the notice we have, few copies available, I do not think the resolution will be hurt if it were to lay over 24 hours and we can vote when we get the information necessary.

Mr. Speaker, I am willing to yield and go on forever here, if the Speaker wants to indulge me, but I will be constrained to object.

● Mr. FRENZEL. Mr. Speaker, I strongly support the passage of this resolution which would cut off economic aid to the Republic of Korea, except in cases of emergency which threaten the territorial integrity of Korea, or the national security of this country, until Korea allows Kim Dong Jo to come to the United States and testify under oath. I regret that it was objected to today, and hope it will be speedily passed in the future.

Kim is alleged to have passed out about $400,000 in $10,000 and $20,000 payments to Congressmen. These payoffs may not have occurred, but I believe strongly the Congress has the obligation to complete the Koreagate investigation. The testimony of Kim is the only way to complete it.

There are other players in the drama. Tongsun Park has already testified that he dispensed about $400,000. One other person was supposed to give out $600,000, but he apparently kept the money. Maybe Kim did, too.

Much of the Park money was alleged to have been "campaign contributions." Only one former member of Congress has been convicted, and one other indictment is pending. There may be many members involved. There may be none. But our obligation is clear. We must complete, as thoroughly as possible, this investigation.

And while we are involved in the clean-up in this investigation, our Standards of Official Conduct Committee ought to be moving into its investigation of other members as well. Two of our colleagues have been accused of violations of our rules or our law, and it is in their best interests and our own, to complete that investigation, too.●

Mr. WRIGHT. Mr. Speaker, in view of the concerns and the reservations raised by Members of the House, I ask unanimous consent to withdraw this resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement:

This resolution will be called up under suspension on next Tuesday.

PROMOTING OBSERVANCE OF HELSINKI AGREEMENT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 624) expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the public groups to promote observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express U.S. opposition to the imprisonment of members of the Soviet Helsinki groups, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman explain basically why it is necessary to bring this concurrent resolution up under unanimous-consent request and then, second, what the concurrent resolution is?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to the distinguished chairman, the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

It is my intention to explain the concurrent resolution in my remarks and to recognize any Member who desires to speak on the concurrent resolution if the unanimous-consent request is granted.

I might point out to the gentleman that he is a cosponsor of the concurrent resolution.

Mr. ROUSSELOT. I know I am, but in view of the debate on the previous request for a unanimous consent, it was my feeling that the House should have a complete understanding of the bill being offered.

Mr. ZABLOCKI. And I know he does not sign his name or agree to cosponsor a resolution unless he knows what it is in it.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I was just asking that the full House have an understanding of what the issue is. You are correct in saying that I do not agree to cosponsor legislation unless I know what it is.

Has the committee considered this concurrent resolution?

Mr. ZABLOCKI. No; the committee has not considered the concurrent resolution.

But while the committee has not considered it, I think it is very timely. As you know, Mr. Yuri Orlov was convicted and sentenced to 7 years in prison last night in the Soviet Union. I think that the House should express its disappointment and displeasure over the fact that the Soviet Union is not living up to the Helsinki accord which it has agreed to as quickly as possible.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, the gentleman can assure us that the majority and minority members of this committee are aware of this resolution and there is no great objection to it; is that correct?

Mr. ZABLOCKI. There is no objection to it; no.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I confirm what the distinguished chairman, the gentleman from Wisconsin (Mr. ZABLOCKI), has said. The concurrent resolution is cosponsored by a number of members of the committee on both sides of the aisle, and I think the majority of the committee is well aware of and is supportive of the resolution.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I, as a cosponsor of this concurrent resolution, believe that it is an important resolution. I support the resolution. However, I felt, in view of the last colloquy we had on another unanimous-consent request, that it should be understood by the full House that a majority of the members of the committee feel it is now appropriate to bring this up.

To the best of the knowledge of the chairman (Mr. ZABLOCKI), there is no objection or major question raised by any member of the Committee on International Relations or any position that needs to be protected; is that correct?

Mr. ZABLOCKI. If the gentleman will yield further, that is correct.

There is bipartisan support for it by a majority of the members of the committee.

This morning an additional House concurrent resolution was introduced with 15 cosponsors. There are now over 40 Members who have cosponsored this particular concurrent resolution.

Mr. ROUSSELOT. Can the gentleman assure us that we will have a vote on this issue?

Mr. ZABLOCKI. If a vote is asked for.

Mr. ROUSSELOT. Will the chairman ask for the vote?

Mr. ZABLOCKI. I will ask for a vote.

Mr. ROUSSELOT. I thank the gentleman.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I want to point out that our colleague from New York (Mr. GILMAN) circulated an identical resolution (H. Con. Res. 625). The gentleman from New York has some 18 cosponsors, I believe, from this side of the aisle, many of whom are members of the committee.

Mr. ROUSSELOT. I appreciate my distinguished colleague's remarks. I am aware of Mr. GILMAN's support on this important resolution, and agree with him that it should be brought up immediately.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 624

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law";

Whereas the Universal Declaration of Human Rights guarantees to all the rights of freedom of thought, conscience, religion, opinion, and expression;

Whereas the International Covenant on Civil and Political Rights guarantees that everyone shall have the right to freedom of thought, conscience, and religion, and the right to hold opinions without interference;

Whereas the Soviet Union signed the Final Act of the Conference on Cooperation and Security in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Principle VII of the Final Act specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights and Principle IX confirms the relevant and positive role individuals play in the implementation of the provisions of the Final Act;

Whereas, acting in conformity with these confirmed rights, individuals in the Soviet Union formed the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics and sought, through those Groups in Moscow, the Ukraine, Lithuania, Georgia, and Armenia, to call the attention of public opinion, their own government, and other Final Act signatories to documented violations of human rights by compiling and issuing open, through reports on official practices toward religious believers, persons seeking to rejoin or visit relatives abroad, persons confined in mental hospitals because of their political beliefs, persons confined in prisons, prison camps, or internal exile because of their efforts to express such beliefs or disseminate their views and information, and minority groups seeking cultural and political rights in the Soviet Union;

Whereas twenty-two members of the Helsinki Groups and their affiliates have been punished merely for their activities and participation in those Groups: two, Pyotr Grigorenko and Tomas Venclova, were stripped of citizenship while abroad and thus banished from their homeland; one, Malva Landa, has been sent into internal exile; and nineteen others, Eduard Arutyunyan, Zviad Gamsakhurdia, Aleksandr Ginzburg, Grigory Goldshtein, Ambartsum Khigatyan, Merab Kostava, Levko Lukyanenko, Myroslav Marynovych, Mykola Matusevych, Robert Nazaryan, Yuri Orlov, Viktoras Petkus, Aleksandr Podrabinek, Viktor Rtskhiladze,

Mykola Rudenko, Feliks Serebrov, Anatoly Shcharansky, Oleksiy Tykhy, and Pyotr Vins, are presently imprisoned;

Whereas Soviet authorities have already tried and convicted several members of the Helsinki Groups and their associates for their activities in promoting the standards of the Helsinki Final Act;

Whereas Yuri Orlov, the leader and founding member of the Moscow Group, was brought to trial this week in the Soviet capital for such activities, and Zviad Gamsakhurdia and Merab Kostava, two founding members of the Georgian Group, were brought to trial in Tbilisi the same day to face similar charges;

Whereas the activities of the Helsinki Groups and their members should be protected, not punished, in accordance with the Helsinki Final Act, the Universal Declaration, and the International Covenant; and

Whereas the arrests and trials of the members of these Groups call into question the intention of the Soviet Union to adhere in good faith to the international treaties and agreements to which it is a party: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, in conformity with the Helsinki Final Act, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and basic standards of justice, the unjustly imprisoned members and affiliates of the Soviet Helsinki Groups should be granted their freedom and allowed to pursue their lawful activities on behalf of basic human rights without further harassment.

SEC. 2. The Congress urges the President, the Secretary of State, and other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to the imprisonment of members of the Helsinki Groups.

SEC. 3. The Clerk of the House of Representatives shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

The SPEAKER. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 624, expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of public groups to promote observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express U.S. opposition to the imprisonment of members of the Soviet Helsinki groups.

Mr. Speaker, 2 years ago this month a group of Soviet citizens embarked on the path of conscience and civic responsibility. They formed what has come to be known as the Helsinki Watch, a group dedicated to monitoring their government's implementation of the promises given by 35 states—the United States included—in the August 1975, Final Act of the Conference on Security and Cooperation in Europe.

That Helsinki accord might have passed relatively unnoticed but for that initiative in Moscow. To the majority of Western commentators the complex, nonbinding agreement had seemed a relatively unimportant compromise of Eastern interest in consolidating Communist political stability with Western insistence on openness and flexibility in the development of détente. The Moscow Helsinki Watch, quickly joined by similar citizens' groups in Ukraine, Lithuania, Georgia, and Armenia, however, perceived the real novelty and enduring value of the accord: The promise it held that states would conform their domestic conduct to international standards of human rights.

The splendid contribution of the Soviet Helsinki Watch was the effort to make others take that promise seriously. By the simple, straightforward, and completely open device of documenting problems of human hights behavior in their own society, they stimulated an international discussion of such issues in the Helsinki context. Every report they filed—and the total now runs close to 40, amounting to several hundred pages—was mailed to the Soviet Government at the same time it was released to Western correspondents in the U.S.S.R. and sent to officials of the other signatory states.

This was no secret conspiracy, no subversive plot against the stability or prestige of the Soviet regime. No bombs were thrown; no arms were cached; no violence was fomented. Rather—like a public-interest group in any open society—the Soviet Helsinki Watch sought simply to make its views known to as wide an audience as possible, to share with others the disturbing information it had gathered, to stimulate public opinion to prod responsible officials at home and abroad to reexamine and reform their human rights performance.

For that effort 22 members of the Helsinki Watch or its affiliated groups have undergone savage repression. The first were arrested in February 1977. The most recent was jailed this week. Some have already been tried and convicted, typically in courtrooms closed alike to sympathetic witnesses and to impartial observers. Now, this week, the founder of the first group, physicist Yuri Orlov, has been put on trial in Moscow and sentenced to 7 years in prison camp and 5 years in internal exile after more than 15 months of isolation from his family and friends. In the Georgian capital of Tbilisi, Zviad Gamsakhurdia and Merab Kostava, two founding members of the Georgian public group to promote observance of the Helsinki Agreement in the U.S.S.R., were also brought to trial on the same day as Professor Orlov.

It is time to say to the Soviet authorities: "Enough!" It is time to make them see that their callous indifference to the civil rights of their own people—rights which are a matter of international agreement—calls into question their good faith as participants in détente. It is time to awaken them to the fact that by disregarding one set of international undertakings—those they gave in the Helsinki accord—they undermine their reliability in all such undertakings.

The concurrent resolution introduced yesterday on the Soviet Helsinki Watch should be taken by Soviet officials as such a warning. It is more than just an expression of concern over the unjust treatment of 22 courageous individuals. It is a timely reminder that the Congress of the United States perceives, as Martin Luther King did, that "injustice anywhere is a threat to justice everywhere." I am proud to sponsor this resolution and hopeful that it will help relations between the United States and the Soviet Union to develop toward a stable détente, rooted in mutual respect for human rights everywhere.

Mr. Speaker, the Soviet Union has demonstrated that they were indeed not sincere in signing the Helsinki accord in sincerity and in honesty. We cannot trust them in any other agreement that we will have with them.

Mr. Speaker, I urge the adoption of the resolution.

I now yield to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Speaker, I rise to compliment the gentleman from Wisconsin, the chairman of our committee.

● Mr. Speaker, I would like to compliment Chairman ZABLOCKI for his initiative in bringing House Concurrent Resolution 624 to the floor for immediate consideration.

When the final act of the Helsinki Conference on Security and Cooperation in Europe was completed in 1975 it raised humanitarian hopes among people throughout the world. Many considered the completion of the conference as a truly outstanding achievement—a landmark in worldwide diplomacy.

At this time, however, progress in the very important humanitarian area of the agreement—known as "Basket Three"—has been disturbingly disappointing. Just this week, Yuri Orlov, founder of a group to monitor violations of the Helsinki Accords in the Soviet Union, was labeled a traitor and a spy and has been sentenced to 7 years imprisonment followed by 5 years of internal exile. Moreover, following the trial of her husband, Irina Orlov was stripped of her clothing before three Soviet security men.

In the past year, numerous members of such human rights monitoring groups as the Helsinki Watch and the Ukranian Public Group have undergone continued Russian repression, harassment, and even arrest. In February, 1977, for example, Kykola Rudenko, a writer and poet, and a leader of the Ukranian Public Group, was arrested by the Soviet Secret Police. This arrest was quickly followed by the arrests of two more group members.

To be sure, all these bedeviled activities are indicative of the continued Soviet policy of outrageous and humiliating harassment of people who wish to

simply guarantee the dignity and the rights of individuals.

More importantly, I believe that these heartless Soviet activities strongly undermine the spirit of detente and in particular—the spirit of international agreements to which the Soviets are signatories.

The Soviets' continued suppression of individual freedoms—in violation of the Helsinki accords—their manifest escalation of the arms race—their activities in Africa—should make us all aware of their lack of good faith and their true intentions. I believe that we must, therefore, to the fullest extent possible, not only express our deepest concerns for the continued Soviet repression of dissidents, but also for these ongoing Soviet activities which jeopardize the spirit of international agreements which are signed to provide for the maintenance of peace, security, and cooperation throughout the world.

I urge my colleagues to join me in supporting House Concurrent Resolution 624.●

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of House Concurrent Resolution 624 and House Concurrent Resolution 625, resolution introduced by the distinguished chairman of the International Relations Committee, the gentleman from Wisconsin (Mr. ZABLOCKI), stating that it is the sense of Congress that the unjustly imprisoned members of affiliates of the Soviet Helsinki monitoring groups should be granted their freedom. These resolutions eloquently point out how Soviet actions against such individuals clearly violate the Universal Declaration of Human Rights guarantees, the Helsinki Final Act, as well as the International Covenant on Civil and Political Rights.

Just this week the systematic Soviet repression manifested itself against an individual who has been continually victimized and degraded by the Soviet authorities.

That victim's name is Dr. Yuri Orlov. His "crime" is slandering the Soviet Union and fostering "anti-Soviet agitation and propaganda." He has been tried and found guilty. Dr. Orlov now faces up to 7 years in a prison camp and 5 more years of internal exile.

The Soviet Union would have preferred to have this dissident's trial, and the hearings for two of Dr. Orlov's colleagues, Anatoly Scharansky and Alexander Ginzbert, not publicized. But thanks to our free press and thanks to individuals throughout the world who will not allow Dr. Orlov meet his fate without bringing his cause to light, the Soviets have failed.

The situation surrounding this gentleman's case is ludicrous. It is incomprehensible to those of us fortunate enough to reside in a democracy. To all members of the world community who respect and cherish freedom, this utter disdain for human rights in the U.S.S.R. is appalling.

Dr. Orlov, a Soviet nuclear physicist, acting under the guarantees of the 1975 Helsinki accords which were signed by Soviet authorities, founded a group in 1976 to monitor the Soviet's compliance with the Helsinki accords. In the past 2 years, that group has initiated more than 20 reports alleging Soviet human rights violations including religious repression, use of psychiatric hospitals as political prisons, and continued refusal to allow reunification of families by emigration.

Apparently it does not matter to the Soviets whether any of those allegations have any merit. What does matter to them is that they were said in public, and in the Soviet society, as stifling as it is, the mere utterance of critical facts of the status of human rights behind the Iron Curtain is punishable by severe prison sentences.

The Orlov trial, this first in a series of trials of dissident leaders, is intended to stifle the human rights movement by treating its leaders as common criminals.

The trial is also a challenge to the Helsinki accords and a warning to the West to stop meddling in the Soviets "internal affairs." And what should have been a firm response by our administration came across like a wet noodle:

WASHINGTON (UPI) 05-05:30 PED.—The State Department today said it has received no cooperation from the Soviet Union on its request to send observers to the Trial in Moscow of Soviet Dissident Yuri Orlov.

The United States also expressed its concern over the trial, but declined to connect that concern with any other part of the Soviet-American Relations.

The State Department confirmed the United States had asked to send observers to the trial of Orlov and two Georgian dissidents, Zviad Gamsakkirida and Merav Kostava, in Tbilisi.

The Georgians, like Orlov, are being tried under article 70 of the Soviet Criminal Code on a specific charge of Anti-Soviet Activities.

State Department spokesman Hoding Carter said "We did not receive cooperation" in the request for U.S. Observers.

Asked whether the Soviet Actions would have any impact on the forthcoming arms talks between Soviet foreign minister Andrei Gromoyko and Secretary of State Cyrus Vance, Hoding Carter said, "We do not see any linkage, but we are concerned about people fulfilling their rights and being brought to trial for doing nothing more than that."

The Kremlin's sorry display of Soviet justice during the course of the Orlov trial should awaken the world to the Soviet's disdain for human rights.

Kevin Klose, who has been covering the trial for the Washington Post Foreign Service, reported:

• • • "The courtroom was packed with hand picked offifficial spectators • • • western reporters and an American Diplomat assigned by the U.S. Embassy to observe the Trial, were barred from the courtroom • • • Mrs. Orlov was not allowed to take any notes • • • The atmosphere turned ugly at the heavily controlled trial • • • with his state-approved audience jeering him inside the courtroom and police harassing and scuffling with Western reporters outside • • • Orlov was repeatedly silenced by the Prosecutor and the Presiding Judge prevented him from questioning State evidence against him and again prohibited him from calling witnesses in his own defense • • •

Concerned constituents have asked what impact American public opinion can have on the outcome of the Orlov trial. Some question why Americans should become involved in this isolated trial in a far off land.

The answers are obvious. The abuse of civil rights, whether it be in the Soviet Union, in Africa, or here in our own Nation, indirectly diminishes and erodes everyone's freedom. If human rights are allowed to be abused in the Soviet Union, they can also be abrogated here at home and in other nations. The plight and predicament of our downtrodden fellow man in the U.S.S.R. gives us cause to fight strenuously and publicly on their behalf.

As long as there are some free nations and some free men and women the case of Dr. Orlov and his colleagues will not be forgotten.

Accordingly, I urge my colleagues to support House Concurrent Resolution 624 and 625 sending a clear signal to the Soviet Union that this Congress, vehemently opposes the harassment and imprisonment of members of the Helsinki monitoring groups.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I rise to commend the gentleman from Wisconsin, the distinguished chairman of the Committee on International Relations, for sponsoring this very timely and important resolution so that we do not forget what is going on in the Soviet courts and particularly with this trial, which is by all standards a mockery. I rise in strong support of the resolution.

Mr. Speaker, we, the members of the Commission on Security and Cooperation in Europe, have been following the activities of the Public Groups to Promote Observance of the Helsinki Agreement in the U.S.S.R. since their inception in May 1976. The principled and fearless membership of these groups unexpectedly heightened our awareness of American as well as universal ideals and freedoms. Their selfless concern with the implementation of the lofty principles enshrined in the Helsinki Final Act—for the benefit of all their fellow citizens and the enhancement of the quality of life in the Soviet Union—has aroused sincere admiration in anyone who, for even just a moment, has pondered the goals of the public groups, goals which stand illuminated on the backdrop of Soviet reality.

We silently have hoped and vocally have encouraged that the Soviet Union live up to its responsibility before the international community with regard to the lawful activities of their citizens active in the struggle for human rights. In

failing to do so, Soviet authorities are violating the spirit and letter of not one, but several international agreements to which it is signatory: the Helsinki Final Act, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights. The goals of these valorous Soviet citizens and their right to pursue these goals are the very essence of these documents.

We are gravely discouraged, stunned and appalled with the attitude the Soviet Government evidently has decided to undertake with regard to the members of the Helsinki Watch Groups: at the present time, the trial of the founder of the first group in Moscow, Yuri Orlov, is in session. Monday, May 15, also witnessed the trials of Zviad Gamsakhurdia and Merab Kostava of the Georgian group in Tbilisi. The 19 additional members of these groups from Moscow, Kiev, Tbilisi, Yerevan, and Vilnius have fallen sacrifice to shattering reprisals, ranging from deprivation of citizenship and internal exile to 12-year sentences involving arrest and exile under harsh living conditions.

The Soviet Government, in undertaking such actions, must realize that it is first of all discrediting itself in the international community of nations. A power which violates international agreements made in good faith cannot expect to instill a sense of trust in its partners; nor can it pick and choose the agreements to which it is convenient and expedient to adhere. I know that I reflect the will of the American people and my fellow Members of Congress when I firmly urge the Soviet Government to free the imprisoned Helsinki group members. If this were done, we would regain the sense of trust so vital to the detente process in all its manifestations.

Therefore, I fully support the House concurrent resolution which expresses the sense of Congress that the Soviet authorities free all members of Helsinki Monitors now in prison, and that the President and all other appropriate branches of the U.S. Government continue to express, at every suitable opportunity and in the strongest terms, their opposition to the treatment of these Soviet citizens who are being punished unjustly.

Mr. ZABLOCKI. Mr. Speaker, in addition to that, I would like to take just 1 minute to make clear that I am deeply grateful and appreciate the initiative that the gentleman from Florida (Mr. FASCELL) has taken in preparing this resolution. He has served as Chairman of Helsinki Commission since its organization. He has done yeoman work there and has been diligently following through on insuring that the objectives of the Helsinki Final Act are not forgotten by any participant.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Certainly the gentleman from Wisconsin has brought a timely topic to the Members of the House. I hate to enter a discordant note, but it seems to me that our memory is fleeting. Just a few moments ago this House, through the colloquy of several Members with the majority leader, persuaded him to withdraw a resolution which touched upon foreign policy which had not had the benefit of any hearings before the Committee on International Relations. Now we have another resolution of foreign policy. If it has had the advantage of hearings, I am not aware of it.

Here, again, I think it is well for us to adhere strictly to procedure in considering even resolutions that have a dated character. I would hope that in the future the International Relations Committee would see fit to insist upon hearings before resolutions of a foreign-policy nature are brought before the House.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

Mr. Speaker, I would commend the gentleman for bringing the resolution to the House because of the urgency of trials now in progress, because of the mischievous nature of those trials, and the unthinkable results of the Orlov trial. I think that the chairman did well to call upon the House for immediate expression.

While I rise in support of this resolution, I do so with deep regret—regret that a resolution of this type is necessary. What is happening in the Soviet Union today is no less than a blatant attempt to subvert the commitments of Helsinki, and the Universal Declaration on Human Rights, not to mention the Soviet Constitution.

As each courageous Helsinki monitor steps forward to protest the gross and continuing violations, he or she is either arrested, sent to a psychiatric hospital or exiled.

We have been reading of the trial of Yuri Orlov and the unconscionable conditions under which it is being held. Can the Soviet Government actually believe that this mockery of justice is a free and open trial or that the world will view it as such?

Can anyone really believe that a government which would hold an Anatoly Shcharansky in prison for more than a year without trial is upholding its promises to assist family reunification, protect the right to religious expression or the right even to monitor compliance with the Helsinki Final Act.

What we are seeking in the Soviet Union today is not just sporadic attempts to silence those voices who speak for the many. It is a systematic effort, in Moscow, in the Ukraine, in Soviet Georgia, in Armenia, in Lithuania to silence once and for all those voices crying out in the wilderness to the world for help.

I personally know of no individual Helsinki monitor who has not felt the heavy paw of the Soviet bear upon his or her back be it in the form of arrests, threats, cut telephone lines or harassment, merely for attempting to call attention to the fact that the Soviet Government is not complying with the promises it made at Helsinki.

For this body to remain indifferent to the bravery and self-sacrifice of those Soviet citizens who aid the work of the Helsinki monitors, would be to concur in the massive suppression of rights which is taking place in the Soviet Union today.

Through the adoption of this resolution we will send a message to the Soviet Government that this performance is unacceptable and we will send a message of hope and encouragement to the Soviet people that their efforts on behalf of their own basic rights will not go unrecognized.

The Soviet Government has said it is complying with the Helsinki Final Act. I can think of no greater symbol of that compliance than the release the 22 members of the Public Groups To Promote Observance of the Helsinki Agreements in the U.S.S.R.

The failure of the Soviet Government to do so will say to the world, "our signature on paper cannot be expected to become realities in the world." Such a signal is certainly something which our Government must consider in any future negotiations with the Government of the U.S.S.R.

Mr. Speaker, it was my privilege to serve along with the gentleman from Florida (Mr. FASCELL) in the followup conference in Belgrade on the Helsinki Final Act as a delegate there, and then to serve as a delegate to the recent United Nations Human Rights Commission meeting in Geneva. At both of these places the Soviet delegation made much of the fact that they had incorporated the principles of the Helsinki Final Act into the new Constitution of the Soviet Union.

I think these trials indicate how seriously they take their own promises on paper in that Constitution and they appear to be saying to the world that they are empty promises and meaningless words. It is time for them to make their actions in line with what the basic law of their new Constitution calls for in the protection of human rights.

Mr. Speaker, I commend the gentleman from Wisconsin for bringing the attention of the Congress and the attention of the world to this very gross violation of human rights.

Mr. ZABLOCKI. Mr. Speaker, earlier, I commended the gentleman from Florida (Mr. FASCELL) for his labors and contributions on behalf of the Helsinki Commission. At this time I would also like to commend the gentleman from Alabama

(Mr. BUCHANAN), who has also been most helpful. He did an outstanding job in representing our country at the recent Belgrade Conference on the Final Act.

I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I, too, want to join with all my colleagues in complimenting the gentleman from Wisconsin (Mr. ZABLOCKI), the gentleman from Florida (Mr. FASCELL), and the gentleman from Alabama (Mr. BUCHANAN) and join them in urging the House for swift passage of this resolution.

It is no secret—and it should not be—that many Members of this Congress had, and still have, misgivings over the Helsinki agreement. I think that, without exception, these misgivings involved the question of whether the promised quid pro quo would become a reality.

There were some who felt that the concessions given to the Soviet Union were justified by the promises of demonstrated respect for human rights for the residents of the captive nations. There were others that were convinced that the promises would never be anything but empty rhetoric.

Nonetheless, Mr. Speaker, whether we eventually supported or opposed the Helsinki agreement, I submit that both bodies of this Congress were unanimous in their hopes that prayers that the agreement would draw renewed world attention to and respect for the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

As is so aptly pointed out in the resolution before us, however, the hopes and aspirations raised by the Helsinki agreement have been cruelly rebuffed by the current and recent past events in the Soviet Union.

Not only has the Soviet Government failed to abide by the Helsinki agreement and the humanitarian documents it was meant to foster, the Soviet leadership has seen fit to prosecute and punish, without any respect for universally recognized principles of due process, those who have seen fit to exercise their individual rights under the agreement to insure official conformity with the agreement.

Year after year, Mr. Speaker, Members of this Congress have risen on the floor during Captive Nations Week to bemoan the plight of, to praise the courage of, and to offer hope to freedom loving people who live under the shadow of the Soviet bear and within the confines of the Iron Curtain. With the signing of the Helsinki agreement, we thought we were moving forward to the time when a special week of observance for the Capitive Nations would no longer be needed or even appropriate.

How bitterly ironic it is that a major world power, a self-proclaimed champion of the people, a willing and eager signatory to the agreement, has seen fit to use the agreement against the very people and the specific rights it was meant to protect. I submit, Mr. Speaker, that seldom since the fall of the Third Reich have we seen such a mockery made of the concept of international cooperation, world brotherhood, and multinational commitment to human rights and dignity.

Under the circumstances, an expression of acquiescence would be shameful; an expression of disappointment would be inadequate; and even an expression of outrage would be an understatement.

As members of the legislative body of the world's greatest and most powerful democracy, and as elected representatives of a people who demand and enjoy the universally recognized principles of liberty, it is incumbent upon us to speak out, today, loudly and clearly. We can do just that by passing immediately and overwhemingly the resolution before us.

Mr. ZABLOCKI. Mr Speaker, I yield to the gentleman from Illinois (Mr. DERWINSKI).

Mr. ZABLOCKI. Mr. Speaker, I yield to the gentleman from New York (Mr. BINGHAM).

● Mr. BINGHAM. Mr. Speaker, I rise in support of the resolution.

I am appalled at word that a Soviet court has sentenced Yuri Orlov, organizer of the Helsinki monitoring group, to 7 years of hard labor and 5 additional years of "internal exile." I suppose the harsh sentence should have been expected, as it quickly became apparent from the start of the trial that the proceedings were those of a "kangaroo court."

The trial was closed to the public with only spectators handpicked by the prosecution permitted inside. Incredibly, Orlov was not permitted to call witnesses for the defense. Andrei Sakharov was among those turned away by the zealous authorities. In the trial's last moments, Orlov's summation was interrupted repeatedly by well-orchestrated shouts of "traitor" and "spy" by the courtroom crowd. Orlov was not permitted to finish but was cut off after a half hour. After leaving the courthouse Mrs. Orlov was apprehended and stripped naked by guards supposedly looking for hidden weapons or documents. One can go on and on. Suffice it to say that the entire proceeding was a travesty of justice.

Other show trials are expected soon. Aleksandr Podrabinek, who has worked on the Working Commission to Investigate the Abuse of Psychiatry for Political Purposes, has been arrested for refusing to give testimony against Orlov. In Tbilsi, Zviad Gamsakhurdia, noted specialist in English language and American literature and leader of the Georgian Group, and his colleague, musicologist Merab Kostava, are under prosecution for "slandering the Soviet state." The trials of Aleksandr Ginsburg and of the Helsinki agreement, we thought Anatoly Scharansky are expected soon.

Mr. Speaker, I join Chairman ZABLOCKI, my colleagues of the Helsinki Commission and others in offering this concurrent resolution expressing our outrage at the persecution of the Soviet Helsinki monitors. I can only hope that the Soviet Government understands the depth of our anger and disgust. It must not be forgotten that only 3 years ago representatives of the Soviet Union affixed their signatures to the Helsinki Final Act, the very document Orlov, Shcharansky and the rest are imprisoned for trying to enforce. Soviet disregard of the Helsinki agreement can only lead many Americans to question the value of any bilateral or multilateral agreement with the Soviet Union. That would be unfortunate for the United States and it would be unfortunate for the Soviet Union. But it is that kind of reaction the Soviets are courting in their persecution of the Helsinki monitors and various representatives of the Soviet minority groups. I urge the Government of the Soviet Union to reconsider its course befor irreversible damage is done.●

Mr. DERWINSKI. Mr. Speaker, I would like to point out that the details in the resolution and the points so powerfully made by the gentleman from Wisconsin are absolutely true. We should keep in mind that one of the great tragedies of our time is the intense Russification by the Soviet authorities of non-Russian peoples in the U.S.S.R. Just a few weeks ago there were attempts to eradicate Armenian and Georgian languages in those states in the U.S.S.R.

We also know of the efforts to deprive the Latvians, the Lithuanians and Estonians and others of their national heritage.

Mr. Speaker, these trials are also a deliberate attempt to stamp out what little religion is left in the U.S.S.R. Christians, Jews, and Muslims are persecuted for their religious beliefs.

I also commend the gentleman from Florida (Mr. FASCELL) and the Commission the gentleman chaired for keeping the proper spotlight on the conference in Belgrade, pointing out the failure of that body to properly emphasize the denial of human rights behind the Iron Curtain.

● Mr. DRINAN. Mr. Speaker, I rise in support of House Concurrent Resolution 624, urging the President to continue to express to the Soviet Government the outrage of the American people at the persecution of Soviet citizens who formed a group to monitor the U.S.S.R.'s compliance with the Helsinki Agreement.

Today, another verdict was rendered in the Soviet Government's continuing, brutal repression of individuals whose only crime has been to express opinions critical of the Government. Yuri Orlov, a 53-year-old physicist and chairman of the Moscow Group to Promote Observance of the Helsinki Agreements in the U.S.S.R., was convicted of "anti-Soviet agitation" and received the maximum sentence of 7 years imprisonment and 5 years in internal exile. Mr. Orlov was imprisoned for 15 months before he finally came to trial on Monday, May 15.

The trial of Mr. Orlov was a travesty of justice, and calls to mind the notorious "show trials" of the Stalin era. Mr.

Orlov was burdened with a defense attorney not of his own choosing; Mr. Orlov was not permitted to call witnesses in his own behalf or to speak without repeated interruptions and calls for silence from the trial judge; no Western reporters or representatives from the U.S. Embassy were permitted inside the courtroom; and supporters and friends of Mr. Orlov outside the court were subjected to harassment by police and other onlookers, including physical assaults and anti-Semitic taunts.

It has now become apparent that the Soviet authorities have decided that they will ignore criticism from the West and proceed with their brutal repression of the dissident movement. Only such a decision can explain the gratuitous violence and repression which occured in the trial of Yuri Orlov. His wife was forced to remove her clothing for a search prior to entering the courtroom. The Orlov family car was chased and bumped by three carloads of KGB agents. And today, several sympathizers with Orlov's plight were arrested, including Andrei Sakharov, winner of the Nobel Peace Prize.

How far will the Soviets carry their campaign against the Helsinki Monitoring Group? Will this new wave of repression spread beyond the group? At this point, no one can say. It is clear, however, that we must continue to protest these actions in the most vigorous way we can. We have no other alternative.

Two other members of the Helsinki Monitoring Group, Alexander Ginsburg and Anatoly Scharansky, also face trial. Mr. Scharansky is charged with the most serious offense: treason against the state. This crime is punishable by any number of years in prison, up to life, or by execution. The International Committee for the Release of Anatoly Scharansky, which I am proud to chair, has been working for his release ever since his arrest in March of last year. Mr. Scharansky's only offenses were membership in the monitoring group and a desire to emigrate to Israel. The nature and the result of the trial of Yuri Orlov this week are profoundly disturbing precedents for Mr. Scharansky and Mr. Ginzberg and all others who might become victims of what is clearly a new chapter of repression and brutality by the Soviet Government.

This resolution which I am sure we will adopt today places the House of Representatives on record as backing firm action by the President to protest the U.S.S.R.'s persecution of any individual who voices any statement critical of the Government or in support of the right to emigrate. I hope that President Carter will speak firmly to express to the Soviet authorities the sense of outrage and dismay at the U.S.S.R.'s actions felt by all Americans.●

Mr. SKUBITZ. Mr. Speaker, it was my good fortune to attend the International Parliamentarian Union Conference in Vienna during the first week in May.

I rise at this time to bring to the attention of my colleagues the results of that important international conference. This conference brought together European, Canadian, and American parliamentarians to discuss security and cooperation in Europe.

As many of my colleagues know, I have not been enthusiastic about attending international meetings. In fact, during more than 16 years in Congress, I never attended any until this month. Several weeks ago, some colleagues whom I respect highly persuaded me to represent the U.S. Congress at the Interparliamentary Union meeting in Vienna.

This one experience has taught me that we must be willing to make some reasonable sacrifices to attend these IPU meetings. I learned that congressional representation is both necessary and beneficial for U.S. interests. To a large degree, the willingness of the United States to perform a responsible role in international affairs is measured by the attendance and full participation of Members of this body at such sessions as the one in Vienna. Let me briefly outline the purpose and consequences of this IPU meeting.

The meeting in Vienna was a special IPU meeting convened to give European and North American parliamentarians an opportunity to review progress toward implementation of the Helsinki Final Act and, in particular an opportunity to review the outcome of the intergovernmental meeting recently concluded in Belgrade. If you read the May 17 International Relations Committee report on that meeting, you know that many critical matters were discussed. You would also know that a number of our colleagues were part of the U.S. delegation. DANTE FASCELL as Chairman of the Commission on Security and Cooperation in Europe, was vice chairman along with Senator Claiborne PELL of the U.S. delegation at Belgrade. The distinguished former Supreme Court Justice Arthur J. Goldberg headed the U.S. delegation.

At the Belgrade meeting, the U.S. group took the lead in pressing the Soviet Union to implement the human contacts and human rights provisions of the Helsinki Agreement.

Although debate lasted in Belgrade for about 5 months, the meeting ended with a very limited concluding document. In contrast, the Vienna meeting of parliamentarians did produce agreements in major areas and an important and comprehensive statement was passed.

At the beginning of the Vienna meeting, prospects for agreements that reflected positions supported by the United States were not good due to the delayed participation of the U.S. delegation. Most European countries and Canada had at least four members of their parliaments in attendance to set out positions and file draft resolutions and amendments. The Soviet Union sent five members, headed by Mr. Chitikov, Chairman of the principal house of the Soviet Parliament, the Council of the Union of the U.S.S.R. Supreme Soviet.

Four parliamentarians from each country were needed in order that each country might be fully represented in the committee meetings.

The United States sent two Congressmen, DEL CLAWSON and myself. But because of the press of legislative business, we were forced to arrive late. The only other countries with as few as two delegates were Iceland and Ireland. Bulgaria, Romania, East Germany, Czechoslovakia, Yugoslavia had their full compliment of representatives.

Let me explain why our participation was needed at this conference. Upon our arrival in Vienna, we were greeted with a resolution tabled by the Soviet delegation that unqualifyingly condemned the development of the neutron bomb. Another Soviet resolution wanted the IPU to brand Radio Liberty, which the U.S. Congress supports, as subversive and dishonest. In response to this accusation, I responded as follows:

Mr. Chairman: I was surprised by the charge made by my Soviet colleagues that Radio Liberty was a subversive organization broadcasting lies to his country in violation of the Helsinki Final Act.

Let me say to my colleague that Radio Liberty is supported by the Congress as an effort to make vital information available, where it is withheld, either deliberately or otherwise, by the Soviet government from its people.

We have taken precautions to see that Radio Liberty reports the truth and as accurately as possible. To label a difference of opinion in interpretation of a deed as a lie carries with it the charge of a deliberate act.

The Final Act calls for all citizens to have access to all information. The USSR is then the one violating the Helsinki Final Act by jamming Radio Liberty and we hope they will recognize the violation and use their rubles for a more useful purpose in improving the quality of life for her people.

As a result of these remarks and of Congressman CLAWSON's work in another committee we succeeded in eliminating these Soviet resolutions.

If the United States had not been represented, and we had stayed at home, a very different outcome might have occurred. I do not think we can expect other countries, each of which has its own problems, to take on the U.S.S.R. on our behalf, especially when we do not even show enough interest to take part in the meeting. Without active U.S. participation in Vienna, the Soviet resolutions might well have been adopted and cited in other debates—in the U.N., in subsequent meetings of the IPU—as international opinion against U.S. programs and policies. European and very probably U.S. newspapers would proclaim that European parliamentarians condemn the U.S. development of the neutron bomb and condemn Radio Liberty.

European parliamentarians could, moreover, feel that the U.S. Congress feels no responsibility for, or indeed in-

terest in the Helsinki Final Act, an act that serves as the basis for improvement of humanitarian activity and for increase in information and cultural exchange in Europe.

Perhaps most important, European and Canadian parliamentarians would have felt that the U.S. Congress considered that relations with their fellow parliamentarians was not worth a week's time. I do not think that is our attitude. We can always find some way for a few of us to get away. We should not let fear of unjust press criticism, or anything else, make us neglect this important aspect of our responsibility here in Congress.

From my point of view, the Vienna meeting was a success and greatly increased the goal of improved security and cooperation in Europe. More important than the outcome of the debate in Vienna, however, will be the efforts we who participated in their will make to further implementation of the goals agreed upon. I stressed this point in a final speech which I was permitted to make. I said:

Mr. President and fellow delegates, I am not a member of the committee in the U.S. Congress that has jurisdiction over matters relating to national security or foreign relations. So this is the first time that I have attended a conference on this nature.

I hope you will therefore forgive me for taking the time to make a few observations. But first, on behalf of my delegation, I would like to express our thanks and appreciation to the Austrian Government for its cordial hospitality and for making this visit a memorable occasion, however one would expect this of the Austrian people. They are by nature a cordial, hospitable, considerate people.

And to you, the delegates to this meeting, my thanks and appreciation for strengthening my belief that we do have the ability, and I hope the resolution, to settle our problems around the conference table rather than by force.

After all, there are no winners in war, only losers. And unfortunately, the greatest losers are those who have no real voice in decision making.

As most of you know, my delegation arrived late, but this was not due to a lack of interest in either IPU or CSCE.

During the first few days in May, the House of Representatives had before it for consideration our congressional legislative budget. During an election year it is very difficult to be absent and not vote and then explain such action to those who elect you to office.

I have studied the reports on the opening sessions, supplemented by additional comments from our staff who were present. My delegation will also report on this meeting and its results to the U.S. Congress.

I am sure that my Congress will be interested in the document prepared by this IPU meeting. In my humble opinion, it is vitally important that the members of all parliaments be interested in this document and the Helsinki Final Act.

The need for this interest struck me with particular force during the wonderful trip which our Austrian hosts provided for us on Sunday. During the trip, we heard performances by choirs of young children in two different towns. These innocent children have their whole lives ahead of them. The nature and quality of their lives and the lives of their counterparts in all the countries of the world depend to a considerable extent on what we do in connection with the matters discussed during this Vienna meeting. Let me stress that I refer to what we do and not just what we say.

Given the different languages, different systems of government. the different social and cultural backgrounds of our countries, it is remarkable that we here, and our governments in Geneva were able to reach so much agreement on important items.

Of course, the document is not ideal. Good, but not ideal. For instance, in the provision relating to human contacts, the reunification of families, and marriages between persons of different States, we use the term "as expeditiously as possible" which has no precise meaning. I would much prefer that we set a time certain, say 3 months. That should be an adequate period of time and is definite.

But, at least we have lighted a candle and better to "light one candle than curse the darkness."

The fact that we have agreed, however, means little unless we do something definite about these matters. Neither the Helsinki Final Act nor our document will accomplish anything unless all of our National Governments implement their provisions.

We parliamentarians represent our peoples directly. In most cases we are elected as their representatives for the performances of our governments. We should take home with us a determination to act. We should use our reviewing powers to press our governments to live up to the Helsinki Final Act. We should insist that our governments participate fully in the Helsinki process, particularly the meetings to review implementation by all countries. Finally. but very importantly, we should move to enact legislation if necessary for carrying out our commitments.

I have lived through World War I and World War II, a Great Depression, Vietnam, and Korea. The people of the world cry out for peace; for a world free of hunger; free of fear; a world where nations, regardless of size, are treated as equals; where the rights of man, the dignity of man is respected by all regardless of nationality, race, religion, sex.

All these things can come to pass, if we as legislative branches have the will to act.

I would also like to include in the record at this point the final resolution adopted by the 30 countries that attended the Vienna IPU meeting. In some areas this resolution reflects agreement that has not been achieved in other conferences. It, for example, request parliaments and government to take all measures to insure respect for human rights and fundamental freedoms by all States, which constitutes one of the bases for a profound improvement of their mutual relations." At the Belgrade intergovernmental meeting, statements on human rights were not possible. The resolution contains a provision that calls for initiatives by parliaments and governments of participating states on family contacts and meetings and on reunification of families. It calls on parliaments and governments of participants to improve the circulation of, access to, and exchange of information, cooperation in the field of information as well as working conditions for journalists.

I would like to remind my colleagues that these provisions were agreed to by all participants including those from Eastern Europe and the Soviet Union.

It is my hope that this resolution, agreed to by the participants at the Vienna meeting, will now be taken and used. The resolution is evidence of unanimous European, Canadian, and American desire that forward progress be made to improve human contacts and in cultural and informational exchange. It calls for concrete measures to improve European security and for greater cooperation in the fields of economics, science and technology, the environment, and in education.

The final resolution, adopted in Vienna, should make efforts to press for such progress in the United Nations and in later conferences on the Helsinki Final Act ever more possible. In particular, the results of this conference should further aid efforts in Madrid in 1980 at the next intergovernmental meeting on security and cooperation in Europe to find agreement that eluded the conferees at the past meeting in Belgrade.

THIRD INTER-PARLIAMENTARY CONFERENCE ON EUROPEAN COOPERATION AND SECURITY MAY 9, 1978

FINAL RESOLUTION

The IIIrd Inter-Parliamentary Conference on European Cooperation and Security,

Reaffirming the principles and recommendations contained in the Final Acts of the Ist and IInd Inter-Parliamentary Conferences on European Cooperation and Security adopted on January 31, 1973, in Helsinki and on February 6, 1975, in Belgrade respectively,

Stressing the great political importance of the successful conclusion of the Conference on Security and Cooperation in Europe* which has inaugurated a new phase in the efforts of the participating States to contribute to the deepening of the process of détente, improving relations between them, ensuring conditions in which their peoples can live in a state of real and lasting peace, and creating a climate of confidence, mutual understanding and justice,

Determined to contribute to implementing the provisions seeking to make détente and rapprochement both a continuing and an increasingly viable and comprehensive

*The word "Europe" as used in this text implies, where appropriate, the inculsion of the United States of America and Canada as participating countries.

process, universal in scope, as set down in the Final Act of the CSCE,

Noting the efforts undertaken so far to implement all the provisions of the Final Act of the Conference on Security and Co-operation in Europe, as well as the results of the follow-up Meeting of the Conference on Security and Cooperation in Europe held in Belgrade in 1977/78, while stressing the need for active preparation of the follow-up Meeting to be held in Madrid in 1980,

Considering that the Belgrade Meeting established a useful basis for the continuation of the process of multilateral cooperation initiated by the CSCE and *stating* at the same time that it is vitally important to continue efforts to reach agreements on the practical implementation of the Helsinki Final Act,

Aware of the close links existing between peace and security in Europe, the Mediterranean area and in the world as a whole,

Emphasizing that the establishment of real security in Europe is not possible without détente and without adopting effective measures to stop the arms race and to initiate disarmament and, in the first place, nuclear disarmament,

Convinced that Parliaments have an important role to play in the process of strengthening security and improving co-operation in Europe,

1. Welcomes the constructive approach of all delegations to the work of the IIIrd European Inter-Parliamentary Conference, in Vienna, and considers that maximum publicity should be given in all the participating countries to these Concluding Resolutions, thus making a significant contribution to the propagation of the spirit of Helsinki;

2. Requests Parliaments and Governments of the participating States of the Conference on Security and Co-operation in Europe to intensify their efforts to implement fully, unilaterally, bilaterally and multilaterally all the provisions of the Final Act of the Conference on Security and Co-operation in Europe;

3. Requests the National Groups participating at this Conference:

(a) To submit these Concluding Resolutions to members of their Parliaments and Governments;

(b) To make all necessary steps in order to implement the recommendations contained in these Concluding Resolutions;

(c) To propose or suggest within their respective Parliaments further measures to stimulate the implementation of the provisions of the Helsinki Final Act, as well as other additional measures to strengthen security and develop co-operation in Europe;

(d) To inform the Inter-Parliamentary Council of the actions taken in accordance with the above provisions.

I. Questions relating to security in Europe

The Conference,

Reaffirming its commitment to peace, security and justice and the continuing development of friendly relations and cooperation,

Deeply convinced that the nations of all European countries, Canada and the United States of America, as well as the nations of the whole world, are vitally interested in further strengthening and deepening the process of détente in Europe and the world,

Recognizing the importance of the 10 principles set forth in the Final Act of the Conference on Security and Co-operation in Europe which are all of primary significance,

Stressing the importance of Inter-Parliamentary Conferences on European co-operation and security, and convinced that, by expressing the aspirations of the persons constituting the peoples that they represent, they contribute to strengthening security and peace in Europe,

Noting the determination of the participating States of the Conference on Security and Co-operation in Europe to strengthen confidence among them and thus to contribute to increasing stability and security in the world,

Mindful of the complementary nature of the political and military aspects of European security,

Deeply concerned at the particularly serious implications for peace, security and co-operation in Europe and the whole world entailed by the unprecedented magnitude of the arms race and the existence on the European continent of a very large concentration of armed forces, of nuclear armaments and weapons,

Noting with concern the lack of progress in efforts aimed at lessening military confrontation and promoting disarmament,

1. Calls on the States participating in the CSCE to progress in the most comprehensive and consistent manner in the application of the following ten principles as set forth in the Final Act of the CSCE, which are for them a valuable code of conduct and a basis for the democratization of their mutual relations and their relations with all other States:

I. Sovereign equality, respect for the rights inherent in sovereignty;

II. Refraining from the threat or use of force;

III. Inviolability of frontiers;

IV. Territorial integrity of States;

V. Peaceful settlements of disputes;

VI. Non-intervention in internal affairs;

VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief;

VIII. Equal rights and self-determination of peoples;

IX. Co-operation among States;

X. Fulfilment in good faith of obligations under international law;

2. Welcomes the decisions of the Belgrade Meeting to convene a meeting of experts starting on October 31, 1978, at Montreaux, which will pursue the examination and elaboration of a generally acceptable method for the peaceful settlement of disputes aimed at complementing existing methods, and appeals to the Governments of all the States participating in the CSCE to continue their efforts with a view to achieving the earliest possible establishment of this system of settlement;

3. Calls on Parliaments and Governments of the participating States to continue to develop good neighbourly relations between their countries in all fields, with a view to deepening mutual knowledge and understanding and thus to strengthening European security and co-operation;

4. Calls on the Parliaments and Governments of the participating States to take appropriate measures to ensure the personal safety of representatives or nationals of a State on the territory of another State;

5. Urges the Parliaments and Governments of the participating States to co-operate within the framework of international law in view of combating and suppressing all acts of international terrorism as well as to support all actions within the framework of the United Nations for the conclusion of generally acceptable and effective instruments against international terrorism;

6. Calls upon the Parliaments and Governments of the participating States to exert efforts for the implementation of the confidence-building measures set out in the CSCE Final Act, as well as for enlarging these measures, namely to make additional efforts to further develop the practice of notifying military manoeuvres and to provide for appropriate conditions for the participation of observers at military manoeuvres, to take the necessary steps for the study, in conformity with the Final Act, of the question of notifying major military movements and of other confidence-building measures as well as to provide appropriate information, all these measures being a contribution to further strengthening confidence and increasing security and stability;

7. Calls upon Parliaments and Governments of the participating States, in accordance with their respective competences, to take effective steps towards halting the arms race, to facilitate the adoption of concrete measures for military disengagement in Europe, and to intensify their efforts at the regional level with a view to progressing towards disarmament under international control;

8. Recommends that immediate steps towards these objectives be taken in Euprope, where major military potentials are concentrated and to intensify efforts aiming at attaining substantial reduction of the number of forces in central Europe;

9. Calls on the Parliaments and Governments of the participating States, to suggest within the context of Parliaments and all other appropriate contexts, urgent measures to prevent the production or deployment in Europe of all means, old or new, of mass destruction;

10. Calls upon National Groups to lend their full support through national Parliaments and Governments to worldwide disarmament measures both in the United Nations and other disarmament for, and, in particular, to the Special Session of the United Nations General Assembly on Disarmament, to be held in 1978;

11. Requests Parliaments and Governments to take all measures to ensure respect for human rights and fundamental freedoms by all States, which constitutes one of the bases for a profound improvement of their mutual relations.

II. Co-operation in the field of economics, of science and technology and of the environment

The Conference,

Considering that the development of co-operation in the field of economics, science and technology and of the environment, provides advantages to all participating States and their peoples, contributes to strengthening peace and security on the continent and in the world as a whole and constitutes an important factor of détente,

Noting the will of the participating States of the Conference on Security and Co-operation in Europe to intensify such co-operation between one another, irrespective of their systems,

Convinced that the growing world-wide economic interdependence calls for increasing new common and effective efforts towards the solution of major world economic problems such as food, energy, commodities, monetary and financial problems, and therefore emphasizes the need for promoting stable and equitable international economic relations, thus contributing to the continuous and diversified economic development of all countries,

Convinced of the need for further measures to increase co-operation in the abovementioned fields,

Taking into account the work already undertaken by relevant international organizations and wishing to take advantage of the possibilities offered by these organizations, in particular by the United Nations Eco-

nomic Commission for Europe (ECE), to implement the provisions of the Helsinki Final Act,

Invites Parliaments and Governments:

(a) To intensify their efforts with a view to ensuring an economic co-operation, a dynamic development of trade and the diversification of its structure;

(b) To endeavour to accelerate the process of reduction or progressive elimination of all kinds of obstacles, and especially not to create any new obstacles on the way of economic co-operation, taking into account the varying degree of progress achieved, and, to this end, to intensify the multilateral work going on in this field including that in the ECE;

(c) To make further efforts aimed at wider participation of small and medium sized firms, including trading companies, in trade and industrial co-operation, further reduction of obstacles to business travel and improvement, where necessary, of telecommunications and postal services;

(d) To see to it that statistical information permits comparability, is as specific as possible, supplemented by corresponding data in absolute terms, available as quickly as possible and that a nomenclature is used which ensures continuity in the monitoring of changes;

(e) To encourage publicity campaigns by exporters aimed to satisfy the needs of users;

(f) To encourage efforts to identify new forms of industrial co-operation, including such as may be suitable for joint activities in international markets, to contribute further to the simplification of the procedures and techniques of negotiations of industrial co-operation agreements, and to intensify the exchange of all kinds of information in this field;

(g) To make further efforts to improve conditions for the development of industrial co-operation, including the further improvement of facilities and accommodation for foreign personnel involved in industrial co-operation projects;

(h) To promote and support the holding, as soon as possible, within the framework of the ECE, of expert meetings with a view to the elaboration by means of detailed exchanges of information and views, of an energy balance for Europe, and to formulate on this basis proposals for the possible areas and forms of future co-operation in the field of energy;

(i) To encourage more advanced forms of scientific and technological co-operation attaching particular importance to the question concerning the study and transfer of the achievements of contemporary science and technology, as well as various contacts between scientists and technicians;

(j) To support the holding, within the framework of the ECE, of a high level meeting on the environment as an important contribution to the protection and improvement of the environment; particularly in order to ensure better protection of European coastlines against oil pollution;

(k) To exert influence on their Governments so that they make a substantial contribution to the preparation and proceedings of the European regional meeting (June 1978) convened in Bucharest to elaborate the Programme Action of the World Conference on science and technology to be held at Vienna in 1979;

(l) To promote and support the holding of expert meetings, within the framework of the ECE, at which the possibility of an all European inland waterway concept should be examined by means of an exchange of information and experience;

(m) To recommend that adequate measures should be taken to avoid discrimination between national and foreign workers in order to ensure that the latter enjoy the same working, social and cultural rights and to exert efforts for the complete and accelerated fulfillment of the obligations arising from the existing agreements on the status of migrant workers and, as a whole, for the realization of the provisions of the Final Act of the CSCE relating to migrant workers;

(n) To favour the use of wordings when concluding bilateral agreements and protocols concerning co-operation in the abovementioned fields which would further the practical application of the relevant texts of the Final Act;

(o) To take into account the different levels of development and the interest of those European countries which are developing from the economic point of view;

(p) To give full consideration to the interdependence existing between the economic development of the European countries and the developing countries throughout the world, with a view to establishing a more balanced international economic order;

(q) To continue to support the ECE in its work for the multilateral implementation of the relevant provisions of the Final Act of the Conference on Security and Co-operation in Europe and to take in this spirit further initiatives to increase co-operation in the ECE;

Expresses a favourable opinion as to the holding in 1979 of an Inter-Parliamentary Symposium on the environment in Europe, in co-operation with the UN Economic Commission for Europe and other organizations and with the participation of experts.

Section on Questions relating to Security and Co-operation in the Mediterranean

The Conference,

Convinced that the process of improving security should not be limited to Europe but should be extended to other parts of the world, and particularly the Mediterranean,

Mindful of the importance of the geographical, cultural, economic and politcal links of the participating States with the non-participating Mediterranean States,

Convinced of the mutually beneficial nature which the development of relations between participating States and non-participating Mediterranean States can have for security and co-operation in Europe and the Mediterranean,

Taking note with satisfaction of the presence as observers at the Conference of several non-participating Mediterranean countries and having taken due account of their contribution to its work,

1. Calls on Parliaments and Governments:

(a) To promote security and stability in the Mediterranean as a whole through the development of relations with the non-participating Mediterranean States, based on the ten principles set out in the Helsinki Final Act;

(b) To undertake efforts to eliminate the sources of existing tension and conflicts in the Mediterranean and to transform that region into a zone of peace and co-operation between the participating States as well as between them and the non-participating Mediterranean States;

(c) To study the possibility and means of including the Mediterranean within the scope of confidence-building measures, and achieving the reduction of military forces and nuclear and conventional weapons deployed in the Mediterranean basin;

(d) To promote, also in the politcal, social and cultural fields, the development and increase of contracts and confrences between the countries participating in the CSCE and non-participating Mediterranean countries;

(e) To promote security and stability in the Mediterranean region as a whole through the development of economic relations between the countries participating in the CSCE and the non-participating Mediterranean States, based on the ten principles set out in the Helsinki Final Act;

(f) To foster the development of co-operative relations in the economic, technological and scientific fields between the countries participating in the CSCE and the non-Participating Mediterranean States;

(g) To contribute fully to the preparations of the expert meeting in Valletta in 1979, and to participate in that meeting which will be convened within the framework of the CSCE, co-ordinating and establishing organized forms of co-operation in the Mediterranean;

2. Stresses the need for the signatory States which have not yet ratified the Barcelona Convention and its attached Protocols to ratify it so that it may be implemented rapidly;

3. Recommends to the Inter-Parliamentary Union's Sub-Committee for the Study of the Means to Control the Pollution of the Mediterranean Sea which will meet at Athens in October to give urgent consideration to all the various aspects of the problem of Mediterranean pollution and requests the Inter-Parliamentary Union to support its action and work of that Sub-Committee.

III. Co-operation in humanitarian and other fields

The Conference,

Bearing in mind that increasd cultural and educational exchanges, broader dissemination of information, contacts between people, and the solution of humanitarian problems, with full respect for the Helsinki principles guiding the relations between participating States, will contribute to the strengthening of peace and understanding among peoples and to the spiritual enrichment of the human personality without distinction as to race, sex, language, religion or national origin.

Noting with satisfaction that some progress has been made in co-operation in humanitarian and other fields,

Convinced that further efforts are needed to implement fully the relevant provisions of the Final Act of the Conference on Security and Co-operation in Europe in the fields of human contacts, information, culture, and education,

Stressing the role and activity, in these fields, of persons, Governments and international and regional governmental and non-governmental institutions, particularly the activity carried out by UNESCO, calls for appropriate initiatives to be undertaken to this end by Parliaments and Governments of the participating States of the Conference on Security and Co-operation in Europe, in particular:

A. Human contacts.—(1) To ensure that applications relating to contacts and regular meetings on the basis of family ties, reunification of families and marriage between citizens of different States will be resolved in a positive and humanitarian spirit as expeditiously as possible, and that applicants and members of their families continue to enjoy the same rights concerning, inter alia, their legal, social, and professional status, and be submitted to the same obligations;

(ii) To provide adequate information as to the procedures to be followed by applicants in the above-mentioned fields

(iii) To continue to lower gradually the fees charged in connection with applications and official travel documents, including passports, so as to ensure that they are at a moderate level;

(iv) Further to facilitate wider travel by their citizens for personal and professional reasons, through reducing requirements for travel documents as well as for exit and entry visas, where they exist;

(v) To encourage contracts among governmental and non-governmental organizations, as well as among young people and youth-organizations, inter alia, through study-visits, seminars, symposia, cultural and other meetings;

B. Information.—Further to improve the circulation of, access to and exchange of information, co-operation in the field of information, as well as working conditions for journalists by, inter alia:

(a) Facilitating further the importation, sale and subscription of newspapers and periodicals by making full use of the provisions contained in the Final Act of the Conference on Security and Co-operation in Europe;

(b) Encouraging and facilitating further bilateral and multilateral co-operation among press agencies and radio and television organizations in Europe and on a larger scale;

(c) Simplifying further existing requirements for foreign journalists to enter and leave, as well as to stay and travel within, a participating State, with the technical equipment and documentation necessary for their work;

(d) Contributing to the further creation of favourable conditions for the work of foreign journalists carried out in line with their professional activity, inter alia, access to sources;

(e) Recommending that the competent authorities in countries where foreign press clubs do not yet exist consider favourably the creation of such clubs in their capitals;

(f) Encouraging efforts towards further dissemination of the full text of the Final Act of the Conference on Security and Co-operation in Europe to the widest possible public through information media;

C. *Culture.*—(i) To promote co-operation and contacts among institutions, organizations and persons as well as fuller mutual access by all to the achievements—work, experience, and performing arts—in the various fields of culture of their countries;

(ii) To encourage translation of works published in the languages of the other participating States, particularly from those languages which are less widely spread or studied, and to stimulate the organized study of the languages and civilizations of the European countries in teaching establishments;

(iii) To encourage unilateral, bilateral and multilateral actions aimed at a more comprehensive acquaintance with the culture of the participating States, based on the full respect for all cultures, without any discrimination, including those of national minorities, in conformity with the provisions of the Helsinki Final Act; to facilitate the holding of colloquia, symposia and other meetings of persons engaged in cultural or scientific activities, with a view to deepening mutual knowledge of the spiritual heritage of each country and to extending exchanges of ideas and contacts among persons working in the field of art and culture, teachers, scientific research workers, students and pupils;

D. *Education.*—(i) To expand and improve at the various levels co-operation and links in the fields of education and science as well as to improve access for students and scholars of the participating States to each other's educational, cultural and scientific institutions and to continue efforts for the implementation of the principle of the equivalents of diplomats and documents, as well as scientific degrees and titles, on the basis of bilateral and multilateral agreements among States, or educational organizations and institutions;

(ii) To promote, as far as possible, joint efforts for the education of migrant workers and their children in their native language and about their own culture;

(iii) To ensure for scholars, teachers and students improved possibilities for making use of libraries and archives open for public use through encouraging the exchange of bibliographies, catalogues and lists of archival materials;

(iv) To support national authorities in contributing to the success of the meeting of experts on the holding of the "Scientific Forum" (Bonn, June 1978);

(v) To continue and increase the co-operation of participating States in the fields of culture and education within UNESCO, with a view to implementing the relevant provisions of the Helsinki Final Act.

IV. Follow-up to the conference

The Conference,

Wishing to see national Parliaments contribute to further détente and the strengthening of security in Europe,

1. Recommends parliamentarians to strengthen the bilateral sections in existence within the National Groups and within member Parliaments of Europe, Canada and the United States of America and to promote the creation of new sections in order to form a network of interparliamentary contacts aimed at promoting détente and implementing the provisions of the Helsinki Final Act and the recommendations of the three Inter-Parliamentary Conferences on European Co-operation and Security organized by the Union;

2. Recommends that these bilateral contacts take the form, *inter alia*, of working meetings concerning specific provisions of the Helsinki Final Act which are of common interest to the countries concerned and chosen by mutual agreement;

3. Calls on the National Groups to communicate the results of these contacts and their follow-up to the Union's Secretariat which, acting as a clearing house, would in turn transmit this information to the other National Groups of Europe, Canada and the United States of America;

4. Recommends that the Inter-Parliamentary Union organize symposia which bring together representatives of the Groups concerned as well as officials and experts, on specific subjects arising from the Helsinki Final Act, including the Inter-Parliamentary Symposium on Environment in Europe mentioned in section (b) above;

5. Recommends that parliamentarians participate in other meetings and discussions concerning the implementation of the recommendations of the Helsinki Final Act or the Inter-Parliamentary Union European Conferences;

6. Recommends that the European National Groups and those of the United States of America and Canada continue to meet on the occasion of the statutory sessions of the Inter-Parliamentary Union and that the Secretary General prepare for these meetings synopses of the information received on the implementation, at the parliamentary level, of the provisions of the Helsinki Final Act;

7. Recommends that a further Inter-Parliamentary Conference on European Co-operation and Security be organized by the Inter-Parliamentary Union on dates and in a place to be decided by consensus by the European National Groups and those of Canada and the United States of America;

8. Calls on the Inter-Parliamentary Council to take all appropriate measures for the convening of the meetings provided for in these Concluding Resolutions and to authorize the Secretary General to promote the application of the above provisions and to assist the Groups in their efforts to that end.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 35, as follows:

[Roll No. 334]

YEAS—399

Abdnor	Brooks	de la Garza
Addabbo	Broomfield	Delaney
Akaka	Brown, Calif.	Dellums
Alexander	Brown, Mich.	Derrick
Allen	Brown, Ohio	Derwinski
Ambro	Broyhill	Devine
Ammerman	Buchanan	Dickinson
Anderson, Calif.	Burgener	Dicks
	Burke, Fla.	Diggs
Anderson, Ill.	Burke, Mass.	Dingell
Andrews, N.C.	Burleson, Tex.	Dodd
Andrews, N. Dak.	Burlison, Mo.	Dornan
	Burton, Phillip	Drinan
Annunzio	Butler	Duncan, Oreg.
Applegate	Byron	Duncan, Tenn.
Archer	Caputo	Early
Armstrong	Carney	Eckhardt
Ashbrook	Carr	Edwards, Ala.
Ashley	Cavanaugh	Edwards, Calif.
Aspin	Cederberg	Edwards, Okla.
Badham	Chappell	Eilberg
Bafalis	Chisholm	Emery
Baldus	Clausen, Don H.	English
Barnard		Erlenborn
Bauman	Clawson, Del	Ertel
Beard, R.I.	Clay	Evans, Colo.
Beard, Tenn.	Cleveland	Evans, Del.
Bedell	Cohen	Evans, Ga.
Beilenson	Coleman	Evans, Ind.
Benjamin	Collins, Ill.	Fary
Bennett	Collins, Tex.	Fascell
Bevill	Conable	Fenwick
Biaggi	Conte	Findley
Bingham	Conyers	Fish
Blanchard	Corcoran	Fisher
Blouin	Corman	Fithian
Boggs	Cornell	Flippo
Boland	Cotter	Flood
Bolling	Coughlin	Florio
Bonior	Crane	Flowers
Bonker	Cunningham	Flynt
Bowen	D'Amours	Foley
Brademas	Daniel, Dan	Ford, Mich.
Breaux	Daniel, R. W.	Ford, Tenn.
Brinkley	Danielson	Forsythe
Brodhead	Davis	Fountain

Fowler	McClory	Rodino
Fraser	McCormack	Roe
Frenzel	McDade	Rogers
Fuqua	McDonald	Roncalio
Gammage	McEwen	Rooney
Garcia	McFall	Rose
Gaydos	McHugh	Rosenthal
Gephardt	McKay	Rostenkowski
Giaimo	McKinney	Rousselot
Gibbons	Madigan	Roybal
Gilman	Maguire	Rudd
Ginn	Mahon	Ruppe
Glickman	Mann	Russo
Goldwater	Markey	Ryan
Gonzalez	Marks	Santini
Goodling	Marlenee	Satterfield
Gore	Marriott	Sawyer
Gradison	Martin	Schroeder
Grassley	Mathis	Sebelius
Green	Mattox	Seiberling
Gudger	Mazzoli	Sharp
Guyer	Meeds	Shipley
Hagedorn	Metcalfe	Shuster
Hall	Meyner	Sikes
Hamilton	Mikulski	Simon
Hammer-schmidt	Mikva	Sisk
	Milford	Skelton
Hanley	Miller, Calif.	Skubitz
Hannaford	Miller, Ohio	Slack
Hansen	Mineta	Smith, Iowa
Harkin	Minish	Smith, Nebr.
Harrington	Mitchell, N.Y.	Snyder
Harris	Moakley	Solarz
Harsha	Moffett	Spellman
Hawkins	Mollohan	Spence
Heckler	Montgomery	St Germain
Hefner	Moore	Staggers
Heftel	Moorhead, Calif.	Stangeland
Hightower		Stanton
Hillis	Moorhead, Pa.	Stark
Hollenbeck	Moss	Steed
Holt	Mottl	Steers
Holtzman	Murphy, Ill.	Steiger
Horton	Murphy, N.Y.	Stockman
Howard	Murphy, Pa.	Stratton
Hubbard	Murtha	Studds
Huckaby	Myers, Gary	Stump
Hughes	Myers, John	Symms
Hyde	Myers, Michael	Taylor
Ichord	Natcher	Thompson
Ireland	Neal	Thone
Jacobs	Nedzi	Traxler
Jeffords	Nichols	Treen
Jenkins	Nolan	Trible
Jenrette	Nowak	Udall
Johnson, Calif.	O'Brien	Ullman
Jones, N.C.	Oakar	Van Deerlin
Jones, Tenn.	Oberstar	Vander Jagt
Jordan	Obey	Vanik
Kastenmeier	Ottinger	Vento
Kazen	Panetta	Volkmer
Kelly	Patten	Waggonner
Kemp	Patterson	Walgren
Ketchum	Pattison	Walker
Keys	Pease	Wampler
Kildee	Pepper	Waxman
Kindness	Perkins	Weaver
Kostmayer	Pettis	Weiss
Krebs	Pickle	Whalen
Krueger	Pike	White
LaFalce	Poage	Whitehurst
Lagomarsino	Pressler	Whitley
Latta	Preyer	Wiggins
Le Fante	Price	Wilson, Bob
Leach	Pritchard	Wilson, Tex.
Lederer	Pursell	Winn
Leggett	Quayle	Wirth
Lehman	Quie	Wolff
Lent	Quillen	Wright
Levitas	Rahall	Wydler
Livingston	Railsback	Wylie
Lloyd, Calif.	Rangel	Yates
Lloyd, Tenn.	Regula	Yatron
Long, La.	Reuss	Young, Alaska
Long, Md.	Rhodes	Young, Fla.
Lott	Richmond	Young, Mo.
Lujan	Rinaldo	Zablocki
Luken	Risenhoover	Zeferetti
Lundine	Robinson	

NAYS—0

NOT VOTING—35

AuCoin	Downey	Mitchell, Md.
Baucus	Edgar	Nix
Breckinridge	Frey	Roberts
Burke, Calif.	Holland	Runnels
Burton, John	Johnson, Colo.	Sarasin
Carter	Jones, Okla.	Scheuer
Cochran	Kasten	Schulze
Cornwell	McCloskey	Stokes
Dent	Michel	Teague
Thornton	Walsh	Wilson, C. H.
Tsongas	Watkins	Young, Tex.
Tucker	Whitten	

The Clerk announced the following pairs:

Mr. John L. Burton with Mr. Carter.
Mr. Roberts with Mr. Kasten.
Mr. Mitchell of Maryland with Mr. Schulze.
Mr. Teague with Mr. Frey.
Mr. Charles H. Wilson of California with Mr. McCloskey.
Mr. Jones of Oklahoma with Mr. Whitten.
Mr. Baucus with Mr. Nix.
Mr. AuCoin with Mr. Tsongas.
Mr. Breckinridge with Mr. Edgar.
Mrs. Burke of California with Mr. Cochran of Mississippi.
Mr. Cornwell with Mr. Runnels.
Mr. Stokes with Mr. Sarasin.
Mr. Downey with Mr. Thornton.
Mr. Dent with Mr. Walsh.
Mr. Holland with Mr. Watkins.
Mr. Scheuer with Mr. Tucker.

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENT TO THE PREAMBLE

Mr. FASCELL. Mr. Speaker, I offer an amendment to the preamble of the concurrent resolution.

The Clerk read the preamble of the concurrent resolution.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The Clerk will report the amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble: Strike out the paragraph on page 4, lines 3 through 8, and insert the following:

Whereas Yuri Orlov, the leader and founding member or the Moscow Group, was convicted this week in the Soviet Capital for such activities and sentenced to seven years in prison camp and five years in internal exile, and Zviad Gamsakhurdia and Merab Kostava, two founding members of the Georgian Group, were brought to trial in Tbilisi this week as well to face similar charges;

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 12602, MILITARY CONSTRUCTION AUTHORIZATION FOR FISCAL YEAR 1979

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1205), on the resolution (H. Res. 1192) providing for consideration of the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 39, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on yesterday Wednesday, May 17, 1978, all time for general debate had expired, the Clerk had read through line 4 on page 1 of the bill, and pending was a preferential motion offered by the gentleman from Ohio (Mr. ASHBROOK) on which a recorded vote had been demanded.

Without objection, the Clerk will rereport the preferential motion.

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I ask unanimous consent to withdraw the preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LEGGETT

Mr. LEGGETT. Mr. Chairman, I offer an amendment in the nature of a substitute, the text of H.R. 12625.

The CHAIRMAN. The Clerk will read the amendment in the nature of a substitute by titles.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LEGGETT: Strike out all after the enacting clause and insert in lieu thereof the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Alaska National Interest Lands Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINDINGS, POLICY, AND DEFINITIONS

Sec. 101. Findings.
Sec. 102. Policy.
Sec. 103. Definitions.

TITLE II—NATIONAL PARK SYSTEM

Sec. 201. Establishment of new areas.
Sec. 202. Additions to existing areas.
Sec. 203. Administrative provisions.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 301. Definitions.
Sec. 302. Purposes of refuges.
Sec. 303. Administration of refuges.
Sec. 304. Establishment of refuges.
Sec. 305. Cooperative management agreements.
Sec. 306. Barren Ground Caribou Study.
Sec. 307. Miscellaneous provisions.

TITLE IV—NATIONAL FOREST SYSTEM

Sec. 401. Additions to national forests.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM
Sec. 501. Additions to the National Wild and Scenic Rivers System.
Sec. 502. Potential additions.
Sec. 503. Administrative provisions.
Sec. 504. Wulik River.
TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS
Sec. 601. Findings and purposes.
Sec. 602. Designation of wilderness within the National Park System.
Sec. 603. Designation of wilderness study within units of the National Park System.
Sec. 604. Designation of wilderness within the National Wildlife Refuge System.
Sec. 605. Wilderness reviews within conservation system units other than National Park System units.
Sec. 606. Designation of wilderness within the National Forest System.
Sec. 607. Special provisions.
Sec. 608. Administration.
Sec. 609. Acquisition authority.
TITLE VII—SUBSISTENCE
Sec. 701. Findings.
Sec. 702. Policy.
Sec. 703. Definition.
Sec. 704. State regulation.
Sec. 705. Enforcement duties of Secretary of the Interior.
Sec. 706. Cooperative arrangements.
Sec. 707. Subsistence and land use decisions.
Sec. 708. Access.
Sec. 709. Snowmobiles and motorboats.
Sec. 710. Research.
Sec. 711. Periodic reports.
Sec. 712. Regulations.
Sec. 713. Other laws.
Sec. 714. Limitations.
Sec. 715. Reimbursement to the State.
TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT
Sec. 801. Conveyances to village corporations.
Sec. 802. Other conveyances to Native Corporations.
Sec. 803. Administrative provisions.
Sec. 804. Tax moratorium extension.
Sec. 805. State selections and conveyances.
Sec. 806. Alaska Native Land Bank.
Sec. 807. Protection of Native Lands in contingency areas under timber sales.
Sec. 808. Use of protraction surveys.
Sec. 809. Action to enforce; jurisdiction.
Sec. 810. National Environmental Policy Act.
Sec. 811. Technical amendments to Public Law 94-204.
TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS
Sec. 901. Purposes.
Sec. 902. Use permits under existing authorities.
Sec. 903. Use permits under new authority.
Sec. 904. Coordination of right-of-way requirements.
Sec. 905. Congressional approval procedure.
Sec 906. Issuance of permits.
TITLE X—COORDINATION
Sec. 1001. Alaska Advisory Coordinating Council.
Sec. 1002. Functions of the council.
Sec. 1003. Cooperative agreements.
Sec. 1004. Termination.
TITLE XI—ADMINISTRATIVE PROVISIONS
Sec. 1101. Land acquisitions and exchanges.
Sec. 1102. Access.
Sec. 1103. Archeological and paleontological sites.
Sec. 1104. Cooperative information centers.
Sec. 1105. Administrative sites and visitor facilities.
Sec. 1106. Revenue-producing visitor services.
Sec. 1107. Local hire.
Sec. 1108. Management plans
Sec. 1109. Taking of fish and wildlife.
Sec. 1110. Maps.
Sec. 1111. Major Federal actions.
Sec. 1112. Congressional review.
TITLE XII—MISCELLANEOUS
Sec. 1201. Iditarod National Historic Trail.
Sec. 1202. Klondike Gold Rush National Historical Park.
Sec. 1203. Navigation aids and other facilities.
Sec. 1204. National petroleum reserve in Alaska.
Sec. 1205. Withdrawals, mineral rights.
Sec. 1206. Scenic highway study.
Sec. 1207. Bureau of Land Management Land Reviews.
Sec. 1208. Authorization for appropriation.

Mr. LEGGETT (during the reading). Mr. Chairman, I ask unanimous consent that section 1 of the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Does the gentleman ask unanimous consent that the table of contents be considered as read?

Mr. LEGGETT. I ask unanimous consent that section 1, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, can the gentleman from California (Mr. LEGGETT) assure us that there will be no attempts to speed up consideration of this legislation or to cut off debate, even though his unanimous consent request relates only to one section?

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield I can assure the gentleman that there is no intention on anybody's part, by the managers of the committee, to cut off the debate.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, it has been my purpose all along to see that we had full debate. I assure the gentleman that if we have cooperation on this side of the aisle, we will try to move along.

Mr. ROUSSELOT. We want to offer nothing but appropriate amendments.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland (Mr. BAUMAN), a member of the Committee on Merchant Marine and Fisheries as well as a member of the Committee on the Interior.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would like to ask my good friend and colleague, the gentleman from Arizona a question, and I am serious in asking it. Yesterday the gentleman from Arizona (Mr. UDALL) on two separate occasions made it very plain that it was his purpose to prevent the operation of the rule as it was written because he felt that it was a technical error that allowed nongermaneness to creep in. I understand that feeling of the gentleman, and I also understand that he may or may not, depending upon the cooperation of the Chair, have at his command certain parliamentary procedures to present those defenses. But from what I have heard this morning coming through the grapevine, there may be attempts made by some Members of the majority if the Meeds substitute fails to offer still another Udall substitute and thus preclude all amendments, including legitimate amendments from the Committee on Merchant Marine and Fisheries, or amendments that the gentleman from Alaska (Mr. YOUNG) might want to offer.

I can understand the gentleman's desire to prevent consideration of amendments concerning gun control and other extraneous issues, but if the plan is as I described it then I can assure the gentleman from Arizona (Mr. UDALL) that we are going to read everything completely all day long unless we have adequate assurances.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, I think we have the makings of an agreement. I am pledged to do two things, one, to use every legitimate defense to prevent the Members from spending their time on the consideration of amendments involving such items as gun control, abortion, the B-1 bomber, and all those things.

Second, I am pledged to a full, fair, open, and complete debate on all amendments that have anything to do with the Alsaka lands, and I will carry out that pledge if the gentleman and his colleagues over here will cooperate.

Mr. BAUMAN. If the gentleman from California will yield further, I cannot, obviously, give that assurance for anyone but myself, but the concern that I have is that if at some point the Meeds substitute fails, other amendments are going to be offered, and there may be several—I do not know what the gentleman from Alaska has in mind or the Members of the Committee of the Whole—but I would hope that at that point we could have a guarantee that there would be no cutting off of debate and that legitimate, germane amendments will be permitted to be considered.

Mr. UDALL. Precisely. Let me say, frankly, to the gentleman what my position is. The script we have put together here was that when section 1 of the Leggett amendment, the consensus substitute, was read, the gentleman from Washington (Mr. MEEDS) would offer his substitute, but that I would offer a substitute for the Meeds amendment, and we would then have foreclosed these nongermane things that we have been talking about. But it would also be understood that both sides, the Meeds and the Udall substitutes, would be open. As long as anybody has serious amendments, we would be prepared to stay here and take them and discuss those serious amendments.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Maryland will state it.

Mr. BAUMAN. At that point have we gotten into amendments in the third degree, or would amendments to both the pending substitutes be in order?

The CHAIRMAN. Perfecting amendments to the Meeds amendment if offered or amendments to a substitute thereto would be in order.

Mr. BAUMAN. But no further amendments in the nature of a substitute would be in order at that point?

The CHAIRMAN. That is correct.

Mr. UDALL. We would resolve the first part of my dilemma. No outside extraneous things would come in. The second part of my agreement with the gentleman would be that no attempt would be made to foreclose debate on serious Alaskan issues, period. We would not do that without consulting with the gentleman and having a full and fair debate.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, I yield to my distinguished colleague, the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Just so we can put this in perspective, the scenario is that the gentleman from California (Mr. LEGGETT) will offer his committee substitute. The gentleman from Washington (Mr. MEEDS), in turn will offer the Meeds substitute. We will fully debate the Meeds substitute and amend it, if it should be amended.

Mr. UDALL. No, the gentleman misses one part of this, if the gentleman from California will yield.

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. UDALL. The gentleman from California cannot speak for other Members. There are great pressures on other Members to offer busing amendments, and that sort of thing. I would propose to offer a total substitute for the Meeds amendment which would foreclose that possibility. We can all rest easily. We are going to have debate on Alaska, but both the Udall and the Meeds substitutes could be perfected by amendment, and that process I do not want to foreclose, slow down, or cut off.

Mr. YOUNG of Alaska. If the gentleman from California will yield further, the Parliamentarian will agree that we are not in the third phase, and that any amendments that are printed in the Journal and that are relevant and relative to the Alaska National Lands will not be precluded.

Mr. UDALL. Indeed, including all the amendments of the gentleman from Alaska. He ought to have the right to offer those he wants to offer, and I would join him in further protecting that right.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to the gentleman form Maryland.

Mr. BAUMAN. I think the committee ought to understand exactly what the gentleman from Arizona is proposing. He is in effect forcing us by the offering of yet another substitute at this late hour to amend that substitute alone. That will have to be perfected first, and one assumes that if it is perfected and adopted, it wipes out the gentleman from Washington's substitute.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. UDALL. I am advised that the parliamentary preference is that the main amendment, the Meed's amendment, get priority and could be perfected first, after which the substitute I have could be perfected before the committee chooses between those two, so we are not going to try to foreclose any opportunity to have the gentleman from Washington (Mr. MEEDS) perfect his amendment as much as he desires, or as much as the Members desire.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. I would like to put the parliamentary inquiry to the Chair, whether, indeed, that is the parliamentary situation.

The CHAIRMAN. Perfecting amendments to the Meeds' amendment if offered will be voted on first, and the amendments to the Udall substitute offered would be voted upon.

Mr. UDALL. If the gentleman from California would yield further, the order of both, when we have finally perfected both of them, will be that the question is on the Udall substitute first. That is my understanding.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to the distinguished gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I have discussed this with the gentleman from Arizona (Mr. UDALL) and the Parliamentarian, and the situation in which I find myself is that my substitute may not be able to be voted on in total if the Udall proposal is perfected and voted upon.

I would advise the Member from California and other Members that I am prepared to offer two amendments to the Udall proposal which will do what my substitute would do.

Mr. SYMMS. Mr. Chairman, will the gentleman from California yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Idaho, a member of the Committee on Interior and Insular Affairs.

Mr. SYMMS. Mr. Chairman, does the gentleman from Washington believe we will get a clear up or down vote on the so-called Meeds bill, on the main parts of it?

I can see the scenario if the amendment of the gentleman from Arizona passes. The Members will be precluded from voting on the amendment of the gentleman from Washington.

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, that eventuality could occur, that there would not be a clear up or down vote on the Meeds substitute. Under this procedure, to guard against the possibility that the substance of what I am proposing will not be a clear up or down vote, I have broken my substitute in two pieces and will offer amendments both to title VI and title IX, which is the primary distinction of the proposal which I have.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, confusion reigns.

We are not going to get a chance to vote on the gentleman's substitute, as originally proposed before the subcommittee and as drafted by the gentleman from Washington, if I understand this correctly.

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, as the gentleman from Alaska knows, the basic differences in my substitute and in both committee bills and in the new one the gentleman will propose lies in the wilderness and mineral entry. Therefore, I would propose amendments to title VI and title IX. I would prefer to have my substitute considered as an entire matter; but I recognize the parliamentary situation in which we find ourselves. It is unfortunate, but I do not want to subject the Members of the House to a lot of nongermane amendments.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, let me suggest to the gentleman from Alaska that the gentleman has one further protection if the gentleman does not get the time the gentleman wants. As floor manager on the minority, the gentleman can offer a motion to recommit with instructions to include the amendment at the end of the debate.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, I am aware of that parliamentary situation as part of the rule.

Can the gentleman assure me that the gentleman from Washington will not be hindered in offering his two titles?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, we will cooperate in seeing that the gentleman has that opportunity and that the gentleman from Alaska has that opportunity. We want a full and open debate.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to the distinguished gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, let me ask, why there will not be an opportunity for the House to have a vote on the Meeds substitute? Why is this occurring?

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I think what the gentleman from Arizona (Mr. UDALL) needs to explain is, Why is he so insistent on amending the Meeds amendment? Why cannot we vote it up or down separate from the Udall substitute?

Mr. UDALL. Mr. Chairman, if the gentleman will yield further, there are 435 Members in the House. Because of this inadvertent wording of the rule, unless I offer this foreclosing amendment,

a substitute for the Meeds substitute, we will be here hanging all day by a thread that somebody can offer nongermane amendments. By disposing of the Meeds amendment, we dispose of busing, gun control, and all other nongermane amendments.

Mr. Chairman, will the gentleman yield further?

Mr. ROUSSELOT. Mr. Chairman, I am glad to yield further.

Mr. UDALL. Mr. Chairman, would a unanimous consent request be in order that under the proceedings under the 5-minute rule no additional substitute amendment for the entire bill would be in order, unless it were germane to H.R. 39 or to the Meeds substitute?

In that case, I would not have to offer the substitute, my substitute, and we can vote up or down on the Meeds amendment.

Mr. ROUSSELOT. Mr. Chairman, I think that is all nice. Why did we not provide for that position in the rule?

Mr. UDALL. We should have.

The CHAIRMAN. The Chair will respond to the point raised by the gentleman from Arizona (Mr. UDALL) in his parliamentary inquiry. The Chair is advised that the Committee of the Whole cannot amend the rule by unanimous consent.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I was going to make that observation myself, and now it is not necessary.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, perhaps I can solve the dilemma by promising that I will offer my substitute at the end of the reading. I can do that, and I will put that in the form of a parliamentary inquiry.

At the end of all debate I can change one word and reoffer the amendment as a substitute, I believe. I will put that in the form of a parliamentary inquiry.

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, can the Chair advise us on the suggestion of the gentleman from Washington (Mr. MEEDS)?

The CHAIRMAN. That is possible if no other amendment in the nature of a substitute has been adopted in the meantime.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman, I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, in the event another amendment in the nature of a substitute is offered before I am recognized—and I do not think that is very likely—I would then ask the minority to submit the Meeds substitute in a motion to recommit.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, we are interested in making sure that all parties are heard. Evidently no other Member wishes to be heard.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. LEGGETT)?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MEEDS:

Strike all after the enacting clause and insert:

This Act, togtther with the following table of contents, shall be cited as the "Alaska National Interest Lands Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings, policy, boundaries, maps.

TITLE I—NATIONAL PARK SYSTEM

Sec. 101. Establishment of new areas.
Sec. 102. Additions to existing areas.
Sec. 103. Administrative provisions.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 201. Establishment of new areas.
Sec. 202. Additions to existing areas.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN THE NATIONAL PARK SYSTEM

Sec. 301. Designation of additions to the national wild and scenic rivers system.
Sec. 302. Administrative provisions.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 303. Designation of additions.
Sec. 304. Administrative provisions.

PART C—WILD AND SCENIC RIVERS OUTSIDE NATIONAL WILDLIFE REFUGES AND PARKS

Sec. 305. Designation.
Sec. 306. Study rivers.
Sec. 307. Administrative provisions.

TITLE IV—NATIONAL FOREST SYSTEM

Sec. 401. Additions to existing areas.

TITLE V—DESIGNATION OF WILDERNESS AREAS

Sec. 501. Designation of wilderness areas.
Sec. 502. Wilderness study and administration.

TITLE VI—SUBSISTENCE; FISH AND WILDLIFE MANAGEMENT

Sec. 601. Findings.
Sec. 602. Policy.
Sec. 603. Definition.
Sec. 604. State regulation.
Sec. 605. Enforcement duties of Secretary of the Interior.
Sec. 606. Cooperative arrangements.
Sec. 607. Subsistence and land use decisions.
Sec. 608. Access.
Sec. 609. Snowmobiles and motorboats.
Sec. 610. Research.
Sec. 611. Periodic reports.
Sec. 612. Regulations.
Sec. 613. Other laws.
Sec. 614. Limitations.
Sec. 615. Reimbursement to the State.

TITLE VII—COOPERATIVE STUDY AND PLANNING COMMISSION

Sec. 701. Establishment of commission; joint planning areas.

TITLE VIII—IMPLEMENTATION OF ALASKA STATEHOOD ACT

Sec. 801. Other conveyances to Native Corporations.
Sec. 802. Other conveyances to Native Corporations.
Sec. 803. Administrative provisions.
Sec. 804. State selections and conveyances.
Sec. 805. Alaska Native land bank.
Sec. 806. Protection of Native lands in contingency areas under timber sales.
Sec. 807. Use of protraction surveys.
Sec. 808. Action to enforce; jurisdiction.

TITLE IX—MINERAL STUDY, EXPLORATION AND EXTRACTION IN CONSERVATION SYSTEM UNITS

Sec. 901. General geologic investigations and mineral assessment programs in Alaska.
Sec. 902. Mineral exploration and extraction programs for conservation system units in Alaska.
Sec. 903. Permit for exploration and extraction.
Sec. 904. Existing mineral claims and mineral leasing rights in conservation system units.

TITLE X—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

Sec. 1001. Imposes.
Sec. 1002. Use permits under existing authorities.
Sec. 1003. Use permits under new authority.
Sec. 1004. Coordination of right-of-way requirements.
Sec. 1005. Congressional approval procedure.
Sec. 1006. Issuance of permits.

TITLE XI—GENERAL ADMINISTRATIVE PROVISIONS

Sec. 1101. Withdrawal from mining and mineral leasing.
Sec. 1102. Certain lands.
Sec. 1103. Acquisition.
Sec. 1104. Administrative sites.
Sec. 1005. Native lands and corporations; public services.
Sec. 1106. Agency planning assistance.
Sec. 1107. Unit management plans.
Sec. 1108. Capital improvements; non-Federal lands.
Sec. 1109. State land exchanges.
Sec. 1110. Local hire.
Sec. 1111. Navigation facilities.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Iditarod National Historic Trial.
Sec. 1202. Klondike Gold Rush National Historical Park.
Sec. 1203. Application of mining in the parks law to the National Refuge System.
Sec. 1204. Cooperative information center.
Sec. 1205. Bureau of Land Management Land Reviews.

TITLE XIII—APPROPRIATIONS

Sec. 1301. Authorization.

SEC. 2. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain wildlands and rivers in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in title I are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in title II are, subject to valid existing rights, hereby declared to be units of the National Wildlife Refuge System; the areas described in title III are, subject to valid existing rights, hereby declared to be units of the National Wild and

Scenic Rivers System; lands described in title IV are, subject to valid existing rights, added to units of the National Forest System; and lands designated in title V are subject to valid existing rights, hereby declared to be units of the National Wilderness Preservation System.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitate for, resident and nonresident wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystem; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c)(1) Areas established in titles I, II, and IV of this Act shall, subject to valid existing rights, comprise the lands, waters, and interests therein within the boundaries generally depicted on the maps bearing the following designations:

Title I—National Park System—
Aniakchak National Monument/Preserve, numbered ;
Bering Land Bridge National Preserve, numbered ;
Cape Krusenstern National Monument, numbered ;
Denali National Park/Preserve numbered ;
Gates of the Arctic National Park, numbered ;
Glacier Bay National Park, numbered ;
Katmai National Park, numbered ;
Kenai Fjords National Park, numbered ;
Kobuk Valley National Park/Preserve, numbered ;
Lake Clark National Park/Preserve, numbered ;
Noatak National Ecological Preserve, numbered ;
Wrangell-St. Elias National Park/Preserve, numbered ; and
Yukon-Charley Rivers National Preserve, numbered .

Title II—National Wildlife Refuge System—
Alaska Marine Resources, numbered ;
Arctic, numbered ;
Cape Newenham, numbered ;
Innoko, numbered ;
Kanuti, numbered ;
Kenai, numbered ;
Koyukuk, numbered ;
Nowitna, numbered ;
Selawik, numbered ;
Tetlin, numbered ;
Yukon Delta, numbered ;
Yukon Flats, numbered ;

The boundaries of areas added to the National Park and Wildlife Refuge Systems shall, in coastal areas, not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

Title IV—National Forest System—
Chugach National Forest additions:
Copper River, numbered ;
Nellie Juan, numbered ; and
College Fjord, numbered .
Tongass National Forest additions:
Yakutat, numbered ;
Juneau Ice Field, numbered ; and
Kates Needle, numbered .

(2) The maps described in paragraph (1), of this subsection shall be on file and available for public inspection in the office of the Secretary of the Interior (hereafter referred to as the "Secretary"), except that the maps depicting additions to the National Forest System shall be on file in the office of the Secretary of Agriculture.

(3) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act in the four traditional national conservation systems and the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible, boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features. Following reasonable notice in writing to the Congress of his intention to do so, the Secretary or the Secretary of Agriculture, as appropriate, may make minor adjustments in the boundaries of the areas added to or established as units of the National Park, Wildlife Refuge, Wild and Scenic Rivers, and National Forest Systems by this Act.

TITLE I—NATIONAL PARK SYSTEM

Part A—Establishment of New Areas

Sec. 101. (a) The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such units and under the provisions of this Act:

(1) Gates of the Arctic National Park, containing approximately seven million nine hundred and fifty thousand acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the environmental integrity and scenic beauty of the mountains, forestlands, rivers, lakes, and other natural features; to protect habitat for and populations of fish and wildlife, including but not limited to, caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds; and in a manner consistent with the foregoing, to provide opportunities for water recreation on wild rivers and lakes, hiking, camping, and other outdoor recreation activities.

(2) Yukon-Charley Rivers National Preserve, containing approximately one million four hundred and ninety thousand acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, including streams, lakes, and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves; to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area; and in a manner consistent with the foregoing, provide opportunities for water recreation on the Yukon, Charley and other rivers, hiking, camping, and other outdoor recreation activities.

(3) Kobuk Valley National Park, containing approximately 610,000 acres of Federal lands, and Kobuk Valley National Preserve, containing approximately 1,100,000 acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in its undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; and in a manner consistent with the foregoing, to provide opportunities for hiking, camping, river recreation, and other outdoor recreation activities.

(4) Cape Krusenstern National Monument, containing approximately two hundred and twenty-six thousand acres of Federal lands and Cape Krusenstern National Preserve containing approximately one hundred and ninety thousand acres of Federal lands, which shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect and interpret a series of beach ridges and process of beach outbuilding; to protect seals and other marine mammals, birds, and other wildlife and fish resources and their habitats; and in a manner consistent with the foregoing, to provide opportunities for outdoor recreation activities.

(5) Wrangell-Saint Elias National Park, containing approximately 8,670,000 acres of Federal lands, and Wrangell-Saint Elias National Preserve, containing approximately 3,380,000 acres of Federal lands. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, waterfalls, valleys, and coastal landscapes in their natural state; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, grizzly bear, Dall sheep, mountain goats, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and in a manner consistent with the foregoing, to provide opportunities for camping and hiking, river recreation, and other outdoor recreation activities.

(6) Lake Clark National Park, containing approximately 2,280,000 acres of Federal lands, and Lake Clark National Preserve, containing approximately 750,000 acres of Federal lands. The park and preserve shall be managed for the following purposes, among others: To protect watershed values necessary for perpetuation of the salmon fishery in Bristol Bay and other fisheries; to maintain unimpaired the scenic beauty and quality and portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; to protect habitat for and populations of fish and wildlife including but not limited to the Mulchatna caribou herd, Dall sheep, grizzly bear, wolves, bald eagle, peregrine falcon; and in a manner consistent with the foregoing, to provide opportunities for water recreation, nature study, sightseeing, hiking, camping, and other outdoor recreation activities.

(7) Kenai Fjords National Park, containing approximately 420,000 acres of Federal lands, which shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding icefield and its outflowing glaciers, and coastal fjords, peninsulas and islands in their natural state; to protect seals, sea lions, other marine mammals, and marine and other birds and maintain their hauling and breeding areas in their natural state free of human activity which is disruptive to their natural processes; and in a manner consistent with the foregoing, to provide opportunities for sightseeing, nature study, touring, hiking, and other outdoor recreation activities.

(8) Aniakchak National Monument, containing approximately 340,000 acres of Federal lands, and Aniakchak National Preserve, containing approximately 160,000 acres of Federal lands. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of ecological succession; to protect habitat for and populations of fish and wildlife, including but not limited to grizzly bear, wolves, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for river running, hiking, and other outdoor recreation activities.

(9) Bering Land Bridge National Preserve, containing approximately 2,480,000 acres of Federal land, which shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, coastal barrier islands, lagoons and estuaries, volcanic lava flows, ash explosions, frost phenomena and other geological processes; to protect habitat for internationally significant populations of migratory birds; to protect the resources and provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of, fish and wildlife including but not limited to marine mammals, grizzly bear, moose, and wolf; and in a manner consistent with the foregoing, to provide opportunities for outdoor recreation activities.

(10) Noatak National Ecological Preserve, containing approximately 6,080,000 acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands, streams, and lakes within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for and populations of fish and wildlife, including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect migration routes for the Arctic caribou herd; and in a manner consistent with the foregoing, to provide opportunities for scientific research, river recreation, and for hiking, camping, and other outdoor recreation activities.

PART B—ADDITIONS TO EXISTING AREAS

SEC. 102. (a) The following units of the National Park System are hereby expanded:

(1) Mount McKinley National Park by the addition of an area containing approximately 2,610,000 acres of Federal land, and establishment of Denali National Preserve containing approximately 770,000 acres of Federal land, for the purposes of containing and protecting the entire mountain massif and glacial systems, and additional scenic mountain peaks and formations; of further protecting moose, caribou, Dall sheep, wolves, grizzly bear, other wildlife and their habitat; furthermore, (A) the park is hereby redesignated as "Denali National Park", (B) that portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary with the concurrence of the Secretary of Transportation, may determine, and (C) with respect to the Federal lands and any lands conveyed to the State of Alaska lying between Moose Creek and Bearpaw River and the extended boundary of Denali National Park to the east, it is the express intent of the Congress that these lands be managed in a manner generally supportive of the purposes of Denali National Park and Preserve. However, mineral exploration and development shall be allowed and conducted in accordance with the laws of the United States and the State of Alaska. Hunting and trapping on Federal lands within this area shall be prohibited except to the degree subsistence activities may be allowed on adjoining parklands.

(2) Katmai National Monument by the addition of areas containing approximately 1,130,000 acres of Federal land to further the purposes of protecting high concentrations of grizzly (brown) bear and their denning areas and habitat for other wildlife; maintenance of unimpaired water habitats for significant salmon populations; and to complete or contain areas of scenic, geological, watershed, and recreational values; furthermore, the monument is hereby redesignated as "Katmai National Park".

(3) Glacier Bay National Monument by the addition of an area containing approximately 550,000 acres of Federal land for the purposes of protecting portions of the Alsek River, animal habitat and migration routes; and portions of the Fairweather Range including the northwest slope of Mount Fairweather; furthermore, the monument is hereby redesignated as "Glacier Bay National Park".

PART C—ADMINISTRATIVE PROVISIONS

SEC. 103. (a) The Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as new areas of the National Park System, pursuant to this Act and the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535) except that hunting may be permitted under the provisions of title VI; and all proclamations and Executive orders reserving lands, waters, and interests therein for the former Katmai and Glacier Bay National Monuments shall remain in full force and effect, except to the extent they may be inconsistent with the Alaska Native Claims Settlement Act or the purposes of any unit established or expanded by this Act, and in such case the provisions of this Act shall prevail. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate. Valid Native selections or nominations of lands within the Gates of the Arctic National Park and within the Wrangell-Saint Elias National Park and Preserve are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act.

(b) Permits and rights-of-way shall be granted for access for transportation and utility facilities across that portion of the Gates of the Arctic National Park containing the upper Kobuk River below the upper canyon and across the Kobuk Valley National Park upon findings of need. The Secretary is authorized to issue permits for rights-of-way for such facilities in accordance with existing law, and he is further authorized to issue permits for rights-of-way for roads and pipelines with respect to those two parks in accordance with this subsection, subject to such terms and conditions as he deems desirable in furtherance of the purposes of the affected park. In determining need, the Secretary of the Interior shall consider, among other things, statewide and regional transportation plans, alternative routes, and modes of access; the feasibility of including different transportation or utility functions, or both, in the same corridor; short- and long-term social, economic, and environmental impacts; and the measures that should be instituted to ameliorate adverse impacts.

(c) In Wrangell-Saint Elias National Park, use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the primitive character, water quality, and fish and wildlife values of the area.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SEC. 201. (a) The following areas are hereby established as units of the National Wildlife Refuge System and shall be administered by the Secretary pursuant to the provisions of law governing the administration of such units and under the provisions of this Act;

(1) Selawik National Wildlife Refuge, containing approximately 1,970,000 acres of Federal land, which shall be managed for the following purposes, among others: To protect the crossroads habitats of the Asiatic and North American Flyways, with their significant populations of snow geese, ducks and swans, sandhill cranes, and shorebirds; to protect habitat for and populations of fish and wildlife, including but not limited to caribou on the lands and sheefish in the waters; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities and for continued subsistence uses.

(2) Yukon Flats National Wildlife Refuge, containing approximately 8,030,000 acres of Federal land, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the Yukon River within the area; to protect habitat for nationally significant fall flights of ducks and geese; to protect habitat for and population of fish and wildlife, including but not limited to other birds, moose, wolves, bears, furbearers, and salmon; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these resources, and for continued subsistence uses.

(3) Innoko National Wildlife Refuge, containing approximately 3,190,000 acres of Federal lands, which shall be managed for the following purposes, among others: To assure continued high levels of waterfowl production, including ducks, geese, and swans; to protect habitat for and populations of fish and wildlife, including but not limited to the numerous bird species, moose, and the Beaver Mountain caribou herd, beaver, and salmon; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to permit hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(4) Koyukuk National Wildlife Refuge containing approximately 3,720,000 acres of Federal land, which shall be managed for the

following purposes, among others: Maintenance of habitats to assure continued high level fall flights of ducks and geese; to protect habitat for and populations of fish and wildlife, including but not limited to moose and furbearers; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these wildlife resources, including continued subsistence uses.

(5) Alaska Marine Resources National Wildlife Refuge, containing approximately 330,000 acres of Federal land: (i) which shall be managed for the purposes of protecting internationally significant marine birds and mammals and the land, water, and other marine resources on which they rely, perpetuating other indigenous fish and wildlife resources of the coastal marine environment, and providing for national and international research on marine resources; and (ii) which shall consist of the following specifically described units together with all other publicly owned lands of the United States consisting of islands, islets, rocks, reefs, spires, and designated capes in the coastal waters and adjacent seas of Alaska among other unnamed areas:

Chukchi Sea unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge;

Bering Sea unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands and Sea Lion Rocks) National Wildlife Refuges, Hagemeister Island, Fairway Rock, King Island, Sledge Island, Bluff Unit, Besboro Island, Egg Island, and the Punuk Islands;

Aleutian Islands unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other Federal lands in the Aleutian Islands;

Alaska Peninsula unit—Simeonof and Semidi National Wildlife Refuges, all other Federal islands, islets, rocks, et cetera, lying south of the Alaska Peninsula between Katmai National Monument and False Pass are encompassed within the Alaska Peninsula study area referred to in section 101(i).

Gulf of Alaska unit—including the existing Forester Island, Hazy Islands, Saint Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor, Pye, and Chiswell Islands, and islands, islets, rocks, or spires surrounding Kodiak and Afognak Islands, and all other Federal lands in the Gulf of Alaska reserved for purposes of classification under section 17(d)(1) of the Alaska Native Claims Settlement Act, excluding lands within the National Forest System.

(6) Kanuti National Wildlife Refuge, containing approximately 1,240,000 acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate nationally significant migratory waterfowl and mammal populations and the lands and waters of the Kanuti area; to protect habitat for and populations of fish and wildlife, including but not limited to these waterfowl, other birds, moose and furbearers, and caribou; and in a manner consisent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the wildlife resources, including continued subsistence uses.

(7) Nowitna National Wildlife Refuge, containing approximately 1,330,000 acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate the nationally significant waterfowl utilizing the lands and waters of the Nowitna area; to protect habitat for and populations of fish and wildlife, including but not limited to waterfowl, other migratory birds, mammals, and migrating chum, coho, chinook, and other fish populations; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the fish and wildlife resources, including continued subsistence uses.

(8) Tetlin National Wildlife Refuge, containing approximately 700,000 acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate the fall flight of ducks from this area; to assure maximum opportunities for successful nesting of canvas-back ducks; to protect the habitat for and populations of fish and wildlife, including but not limited to the Fortymile and Mentasta caribou herds and the calving ground of the Chisana caribou herd, waterfowl, and other birds, large mammals, and furbearers; to provide a variety of opportunities for interpretive, educational, and scientific fish and wildlife oriented recreational uses; and in a manner consistent with the conservation and protection of such fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to fish and wildlife, including continued subsistence uses. Regardless of any requirement that a study be conducted of areas within the Tetlin National Wildlife Refuge in accordance with subsections 3 (c) and (d) of the Wilderness Act, permits and rights-of-way for pipelines and other facilities and activities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976 are hereby authorized.

PART B—ADDITIONS TO EXISTING AREAS

SEC. 202. (a) The following units of the National Wildlife Refuge System are hereby expanded:

(1) Clarence Rhode National Wildlife Range and Hazen Bay National Wildlife Refuge by the addition of an area containing approximately 12,830,000 acres of Federal lands; furthermore, the Clarence Rhode National Wildlife Range, Hazen Bay National Wildlife Refuge, and additions are hereby redesignated as the Yukon Delta National Wildlife Refuge, which shall be managed for the following purposes, among others: To perpetuate the significant fall flights of ducks, swans, and geese, including large numbers of emperor geese, cackling geese, and large numbers of black brant; to perpetuate significant numbers of shorebirds and waterbirds, including the bristle-thighed curlew; to protect habitat for and populations of fish and wildlife, including but not limited to the internationally significant migratory bird, fish, and marine mammal resources; to maintain the environmental integrity of rivers and lakes; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(2) Arctic National Wildlife Range by the addition of an area containing approximately 7,870,000 acres of Federal land for furthering the purposes, among others: of protecting habitat for, and internationally significant populations of, caribou and migratory birds; perpetuating other migratory and resident fish and wildlife populations; protecting representative Arctic life zones and their primitive character; and in a manner consistent with the foregoing to provide continued opportunity for wildlife and wildland oriented recreational and subsistence uses.

(3) Kenai National Moose Refuge, by the addition of areas containing approximately 250,000 acres of Federal land to further the purposes of the existing Kenai National Moose Range (hereby redesignated as a refuge), which refuge shall be managed for the following purposes, among others: To perpetuate a nationally significant population of moose; to protect habitat for and populations of fish and wildlife, including but not limited to moose and other mammals and waterfowl; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for wildlife oriented recreation.

(4) Cape Newenham National Wildlife Refuge by the addition of an area containing approximately 3,310,000 acres of Federal land; furthermore, the Cape Newenham National Wildlife Refuge and additions are hereby redesignated as the Togiak National Wildlife Refuge, which shall be managed for the purposes, among others, of: protecting habitat for and populations of fish and wildlife including but not limited to the large populations of waterfowl, as well as marine birds and mammals associated with the Cape Newenham area; and in a manner consistent with the conservation and protection of these fish and wildlife and habitat, to permit hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(b) All proclamations, Executive orders, public land orders, and similar actions reserving any lands, waters, or interests therein for refuge purposes within the boundaries of the areas designated as, or added to, units of the National Wildlife Refuge System by this Act shall remain in full force and effect as to such lands, waters, and interests therein thereby reserved; where the purposes of any such action are inconsistent with the purposes of any unit established by this Act, in such case the purposes of such unit set forth in this Act shall prevail. Any funds available on the effective date of this section for the purposes of any reservation shall continue to be available for the purposes of the unit established by this Act.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

SEC. 301. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraphs at the end thereof:

"(16). ALATNA, ALASKA.—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(17). ANIAKCHAK, ALASKA.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

"(18). BREMNER, ALASKA.—The main stem, and the North, South, and Middle Forks within the Wrangell-Saint Elias National Park; to be administered by the Secretary of the Interior.

"(19). CHARLEY, ALASKA.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

"(20). CHILIKADROTNA, ALASKA.—That portion of the river within the Lake Clark National Park/Preserve; to be administered by the Secretary of the Interior.

"(21). CHITINA, ALASKA.—That portion of the river within the Wrangell-St. Elias National Park/Preserve; to be administered by the Secretary of the Interior.

"(22). COOPER, ALASKA.—That portion of the river (upper reach) within the Wrangell-

Saint Elias National Park/Preserve; to be administered by the Secretary of the Interior.

"(23). JOHN, ALASKA.—That portion of the river within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(24). KILLIK, ALASKA.—That portion of the river including its major tributary, Easter Creek, within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(25). KOBUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(26). MULCHATNA, ALASKA.—That portion within the Lake Clark National Park/Preserve; to be administered by the Secretary of the Interior.

"(27). NOATAK, ALASKA.—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Ecological Preserve; to be administered by the Secretary of the Interior.

"(28). NORTH FORK OF THE KOYUYUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(29). TINAYGUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(30). TLIKAKILA, ALASKA.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.".

ADMINISTRATIVE PROVISIONS

SEC. 302. (a) The river segments designated in section 301 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments listed in section 301. The provisions of title VI of this Act shall supersede those of section 13 (a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

DESIGNATION

SEC. 303. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraphs at the end thereof:

"(31). ANDREAFSKY, ALASKA.—That portion from its source, including all headwaters, and similarly the East Fork; to be administered by the Secretary of the Interior.

"(32). IVISHAK, ALASKA.—That portion from its source including all headwaters and an unnamed tributary to Porcupine Lake, within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(33). KANEKTOK, ALASKA.—That portion from Kagati Lake to a point sixteen miles above the mouth; to be administered by the Secretary of the Interior.

"(34). KISARALIK, ALASKA.—From the headwaters to where the river leaves Federal lands in township 8 north, range 64 west; to be administered by the Secretary of the Interior.

"(35). NOWITNA, ALASKA.—The segment within the Nowitna National Wildlife Refuge downstream to its confluence with the Yukon River; to be administered by the Secretary of the Interior.

"(36). PORCUPINE, ALASKA.—The segment within the Yukon Flats National Wildlife Refuge and Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(37). SHEENJEK, ALASKA.—The segment within the Yukon Flats National Wildlife Refuge and Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(38). WIND, ALASKA.—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, range 21 east, to the mouth; to be administered by the Secretary of the Interior.".

ADMINISTRATIVE PROVISIONS

SEC. 304. (a) The river segments designated in section 303 of this title are hereby classified and designated and shall be administered as wild river areas within National Wildlife Refuges.

(b) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act, the boundaries of the river segments referred to in section 303 of this title may include up to one mile from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act, the Secretary shall establish boundaries of the river segments referred to in section 303 of this title within three years after the date of enactment of this title.

(c) The provisions of section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments referred to in section 303 of this title.

PART C—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

DESIGNATION

SEC. 305 Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following paragraphs at the end thereof:

"(39). ALAGNAK, ALASKA.—The portion beginning at the source and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"(40). BIRCH CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the North Fork downstream to its intersection with the Steese Highway; to be administered by the Secretary of the Interior.

"(41). DELTA, ALASKA.—The segment from the headwaters to Black Rapids Glacier; to be administered by the Secretary of the Interior.

"(42). FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"(43). GULKANA, ALASKA.—The main stem from Paxson Lake to Sourdough and the entire West and Middle Forks; to be administered by the Secretary of the Interior.

"(44). NOWITNA, ALASKA.—The segment from the point where the river crosses the west boundary of section 6, township 17 south, range 22 east, Fairbanks Principal Meridian, downstream to the southern boundary of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(45). UNALAKLEET, ALASKA.—The segment of the main stem beginning at 159 degrees 21 minutes 06.156 seconds west longitude approximately six miles from the headwaters extending downstream sixty miles to 160 degrees 19 minutes 15.031 seconds west longitude in the vicinity of the confluence of the Chiroskey River; to be administered by the Secretary of the Interior.

DESIGNATION FOR STUDY

SEC. 306 Section 5(a) of the Wild and Scenic Rivers Act is amended as follows:

(a) After paragraph (58) insert the following new paragraphs:

"(59) Beaver, Alaska.
"(60) Colville, Alaska.
"(61) Copper (Iliamna), Alaska.
"(62) Copper (from Slana to mouth), Alaska.
"(63) Holitna-Hoholitna, Alaska.
"(64) Killik, Alaska (segment from Gates of the Arctic National Park to the Colville River).
"(65) Koyuk, Alaska.
"(66) Melozitna, Alaska.
"(67) Nelchina-Tazlina, Alaska.
"(68) Nuyakuk, Alaska.
"(69) Situk, Alaska.
"(70) Stikine, Alaska.
"(71) Utukok, Alaska.".

(b) The studies of the rivers in paragraphs (59) through (71) shall be completed and reports transmitted thereon not later than five full fiscal years from date of enactment of this subsection.

ADMINISTRATIVE PROVISIONS

SEC. 307. (a) The Alagnak, Andreafsky, Birch Creek, Gulkana, Ivishak, Kanektok, Kisaralik, Nowitna, Porcupine, Sheenjek, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork; Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, and the segment of the Copper (Wrangell) component from its source to the North boundary of the Wrangell-Saint Elias National Park/Preserve, designated in section 305 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The Wade Creek unit of the Fortymile component is classified and designated and shall be administered as a recreational river area, pursuant to such Act. The remaining segments of the Delta and Fortymile components are classified and designated and shall be administered as scenic river areas, pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commerical development of asbestos deposits in the North Fork drainage.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within one year after the date of enactment of this title with respect to the Alagnak, Birch Creek, Delta, and Gulkana components; within two years with respect to the Fortymile components; within three years with respect to the Nowitna, Porcupine and Sheenjek components; and within four years with respect to the Andreafsky, Ivishak, Kanektok, Kisaralik and Unalakleet

components. The detailed plan for each river (i) may include establishment of detailed boundaries not to exceed one mile from the mean high water level on either side of the river segments, and (ii) shall include the establishment of a corridor based essentially on line-of-sight from the river within which the Secretary determines that minerals should continue to be withdrawn.

(c) Notwithstanding any provisions of the Wild and Scenic Rivers Act to the contrary, an area extending one mile from the mean high water level on either side of the river segments referred to in section 305 of this title is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto, pending establishment of the detailed boundaries provided for in subsection (b).

(d) The provisions of this title specifying average maximum permissible corridors for individual components shall supersede any provisions to the contrary of the Wild and Scenic Rivers Act.

(e) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands within the line-of-sight corridor established pursuant to subsection (b) included in any component or part of a component designated by this section as a wild river area are effective upon the establishment of such corridor, withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases amendments thereto. The Secretary is authorized to open the remainder of the lands within the detailed boundaries of the river segment to mining and mineral leasing subject to such regulations as he may prescribe.

(f) The Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining the wild and scenic rivers established by this title to assure that the purpose of such reservations are served to the greatest extent feasible.

(g) Notwithstanding any other provision of law or of this Act to the contrary, with respect to components of rivers herein designated and administered by the Secretary outside the boundaries of units of the National Park and Wild Refuge Systems, the Secretary may (i) grant access for oil and gas pipelines in accordance with the Mineral Leasing Act of 1920; (ii) permit, subject to such terms and conditions as he deems necessary, access for roads across, through, or over such river components; and (iii) permit the continued use of Federal lands, waters, and interests therein for customary and traditional transportation purposes and those required under existing international treaties.

(h) Valid Native selections or nominations of lands within the Killik or other river corridors designated as wild, scenic, recreational, or for study by this title, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act.

TITLE IV—NATIONAL FOREST SYSTEM

SEC. 401. (a) So as to include entire units of local topography within the Tongass and Chugach National Forests in Alaska, there are hereby transferred to the Tongass National Forest approximately 1,444,000 acres of public lands in three units adjacent to the present boundary generally depicted on a map entitled "Potential NFS Additions in Alaska, dated ". There are hereby transferred to the Chugach National Forest approximately 1,465,000 acres of public lands in two units adjacent to the present boundary generally depicted on a map entitled "Potential NFS Additions in Alaska, dated ". Both maps shall be on file in accordance with the provisions of subsection 2(c) of this Act.

(b) There are hereby transferred to the Chugach National Forest some 900,000 acres of public lands adjacent to the present boundary extending northward along the Copper River as depicted on a map entitled "Copper River Additions to the Chugach National Forest" dated , which shall be on file in accordance with the provisions of subsection 2(c) of this Act. The Secretary of Agriculture shall manage the Copper River Additions and adjacent lands in the Copper River Delta in accordance with the Forest and Rangelands Renewable Resources Planning Act of 1974, as amended, under land management plans which provide for adequate protection of significant wildlife values and utilization of other resource values which do not substantially interfere with such wildlife values. Sensitive treatment shall be given to the location and nature of any surface transportation facilities found necessary in the area with respect to wildlife, scenic, and primitive values.

TITLE V—DESIGNATION OF WILDERNESS AREAS AND WILDERNESS STUDY AREA PROVISIONS

DESIGNATION OF WILDERNESS AREAS

SEC. 501. (a) In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the lands, water, and interests within the boundaries depicted as "Proposed Wilderness" on the maps referred to in this section are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

National Park System

(1) Glacier Bay Wilderness of approximately 2,740,000 acres as generally depicted on a map entitled "Glacier Bay National Park", and dated January 1978.

(2) Katmai Wilderness of approximately 3,630,000 acres as generally depicted on a map entitled "Katmai National Park and Preserve", dated January 1978.

(3) Denali Wilderness of approximately 4,440,000 acres as generally depicted on a map entitled "Denali National Park and Preserve", dated January 1978.

(4) Gates of the Arctic Wilderness of approximately 8,000,000 acres as generally depicted on a map entitled "Gates of the Arctic National Park", January 1978.

(5) Kenai Fjords Wilderness of approximately 340,000 acres as generally depicted on a map entitled "Kenai Fjords National Park", dated January 1978.

(6) Lake Clark Wilderness of approximately 2,600,000 acres as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated January 1978.

(7) Wrangell-Saint Elias Wilderness of approximately 7,740,000 acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated January 1978.

Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the primitive character, water quality, and fish and wildlife value of the area.

National Wildlife Refuge System

(1) Kenai Wilderness of approximately 1,300,000 acres; and

(2) Alaska Marine Resources Wilderness of approximately 2,470,000 acres.

Aleutian Islands Wilderness, 1,300,000 acres;

Unimak Wilderness, 913,975 acres;

Semidi Wilderness, 251,860 acres.

(b) Lands designated as wilderness by this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act and as herein supplemented governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(c) In consideration of customary means of travel, limited transportation facilities, and the extensive areas involved in Alaska, use of snow machines, motorboats, or aircraft lands, where such use has become established, shall be permitted subject to wilderness management plans and reasonable restriction as appropriate or subject to subsistence activities in accordance with the provisions of title VI.

(d) The Secretary is authorized to undertake directly or permit fish stocking, enhancement, rehabilitation, and development activities and the development of aquaculture sites within the wilderness areas designated by this Act, in accordance with the provisions of section 502(b)(3).

(e) In accordance with the principles of sound fisheries management, the Secretary is authorized to permit commercial fisheries activities within wilderness areas designated by this Act, except within national parks.

WILDERNESS STUDY AND ADMINISTRATION

SEC. 502. (a) Within seven years from the effective date of this section, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommenations as to the suitability or nonsuitability of any area within the units of the National Park System and National Wildlife Refuge System, other than the units referred to in section 501, established or to which lands are added by titles II and III of this Act, for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with the Wilderness Act. With regard to the designation of wilderness areas in the Tongass and Chugach National Forests, the Secretary of Agriculture shall recommend to the President and the President to the Congress, no later than January 30, 1979, areas for preservation as wilderness that total no less than 6,500,000 acres.

(b) It is the express intent of the Congress that the appropriate Secretary make diligent effort to complete his review and submit recommendations to the President as to the suitability or nonsuitability of areas for preservation as wilderness with respect to the maximum practicable acreage of land within the period of time referred to in subsection (a) of this section giving due consideration to the mineral assessment provisions of this Act. Pending the designation by the Congress of any such area as wilderness—

(1) such measures may be taken as the appropriate Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desir-

able to maintain the wilderness character of the area;

(2) customary patterns of travel, including customary use of aircraft, motorboats, and snowmobiles where such use has already become established, shall be permitted to continue in areas subject to wilderness study, subject only to such reasonable restrictions as the appropriate Secretary determines are necessary to prevent abuse, waste, or damage to terrain and to protect the continued viability of fish and wildlife resources, except—

(A) where such uses were, on January 1, 1977, prohibited by law or regulation;

(B) that use of snowmobiles for subsistence purposes may be permitted to the extent authorized by title VI; and

(C) that snowmobiles may not be used when snow cover and other weather conditions are such that there would be resulting damage to the terrain;

(3) in accordance with principles of sound fisheries management, the appropriate Secretary is authorized to permit or undertake directly fish stocking, enhancement, rehabilitation, and development activities and the development of aquaculture sites within areas subject to review for suitability or nonsuitability as wilderness, as he determines to be necessary and desirable to restore, augment, or sustain native fish populations. Structures for any such aquaculture site shall consist of only minimal facilities essential to the aquacultural operations; such facilities shall be constructed at such locations and in such manner as to blend into the natural character of the area. In constructing such structures no significant alteration to the natural contours of the terrain shall be permitted. Reasonable access including possible motorized access, may be permitted for necessary access in conjunction with activities undertaken pursuant to this section. In addition, such reasonable access may be provided for the evaluation of sites needed for fisheries enhancement, rehabilitation, and development and for the construction, operation, and maintenance of projects authorized by the appropriate Secretary;

(4) previously existing public use cabins within areas made subject to wilderness study by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the appropriate Secretary deems necessary to preserve the primitive character of the area;

(5) within areas made subject to wilderness study by this Act, the appropriate Secretary is authorized to construct and maintain a limited number of new cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety, for the protection and preservation of the primitive character of the area, or as may be necessary to meet requirements for the administration of the area; all such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding landscape;

(6) the appropriate Secretary may establish a reservation system and charge a reasonable fee for the use and occupancy of wilderness study area cabins or shelters in areas made subject to wilderness study;

(7) commercial services may be performed within the areas made subject to wilderness study by this Act to the extent necessary for activities which are proper for realizing the recreational or other purposes for the areas;

(8) exploration for, and extraction of minerals, including oil and gas, may be permitted in accordance with title IX of this Act; and

(9) the appropriate Secretary is authorized to develop, on not more than 1,000 acres within each unit, facilities needed for the administration and management of each unit in accordance with a general management plan for the area and following public notification.

TITLE VI—SUBSISTENCE; FISH AND WILDLIFE MANAGEMENT

FINDINGS

SEC. 601. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic, and cultural existence;

(2) the continuation of the opportunity for subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic, and traditional existence;

(3) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses;

(4) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(5) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and provide for continued subsistence uses on public lands by Alaska Natives and other Alaska residents; and

(6) the national interest in the proper regulation protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 602. It is hereby declared to be the policy of Congress that—

(1) management policies on the public lands in Alaska are to cause the least adverse impact possible on rural people who traditionally and consistently depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, the purpose of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency and the rate at which acculturation or adjustment to a nonsubsistence way of life may take place;

(2) nonwasteful subsistence use of wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for nonwasteful subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

DEFINITION

SEC. 603. As used in this Act, the term "subsistence uses" means the noncommercial (except as provided under paragraph (2)) customary and traditional utilization within the State of wild, renewable resources for—

(1) direct personal or family use for food, shelter, fuel, clothing, tools, or transportation;

(2) the making and selling of handicraft articles (including clothing), but only out of nonedible byproducts of fish and wildlife taken for such personal or family use; or

(3) customary trade, barter, or sharing among subsistence users for personal or family use.

STATE REGULATION

SEC. 604. Except as otherwise provided by this Act and other Federal laws, the State may regulate, in a manner consistent with the policies set forth in section 602, the taking of fish and wildlife on public lands for subsistence uses by developing and implementing a subsistence management program which meets the requirements set forth in subsection (b).

(b) The subsistence management program of the State shall include at least the following elements:

(1) The maintenance of the natural stability and continued productivity of fish and wildlife populations which are on public lands and which are the subject of subsistence uses.

(2) A system capable of regulating and monitoring subsistence uses and other consumptive uses of such populations to ensure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(3) A grievance procedure whereby any local council or regional council, required to be established under paragraph (6), which determines that the State is not in compliance, in whole or in part, with the State subsistence management program can obtain timely review of such determination by, and obtain appropriate relief from, the State agency referred to in paragraph (5)(A) or any other State rulemaking authority.

(4) The establishment of not less than five management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. The number and boundaries of the management regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated.

(5) State laws or regulations which—

(A) provide for the regulation by a professionally staffed agency of the taking of fish and wildlife populations on the public lands for subsistence uses, provide that such agency have an administrative structure com-

patible with the provisions of this section, and provide for an agency which has adequate enforcement authority;

(B) provide preference for nonwasteful subsistence uses by local residents over other consumptive uses of fish and wildlife populations on the public lands; and

(C) provide, whenever it is necessary to restrict the taking of such populations on public lands for subsistence uses in order to protect their natural stability and continued productivity, or to continue such uses, for the establishment of appropriate restrictions and limitations on, and preferences for, such uses which shall be based on—

(i) customary and direct dependence upon the populations as the mainstay of livelihood,

(ii) local residency, and

(iii) the availability of alternative resources.

(6) A system of local and regional fish and wildlife councils within each management region established pursuant to paragraph (4). Each regional council shall be composed of residents of the region concerned and shall have the following functions:

(A) The review, development, and evaluation of proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife within such region.

(B) The provision of a forum for the expression of opinions and recommendations by persons interested in any phase of fish and wildlife conservation and utilization.

(C) The taking of appropriate action to ensure local and regional participation in the decisionmaking process affecting the taking of fish and wildlife populations on public lands within the region for subsistence uses.

(D) The preparation of a recommended subsistence management plan for such region which shall be submitted to the State agency referred to in paragraph (5)(A). The plan shall be updated annually and shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations necessary to implement the plan.

The local councils within each management region shall provide advice to, and shall assist, the regional council with respect to carrying out the functions set forth in this paragraph.

(7) The assignment of adequate and necessary qualified staff to the regional councils and the timely distribution of all available relevant technical and scientific support data to the local councils and regional councils.

(8) A requirement that the State agency referred to in paragraph (5)(A) or any other State rulemaking authority shall be guided by the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses and shall implement such recommendations unless the agency or authority, after a public hearing, determines that any such recommendation is not supported by substantial evidence presented at the hearing, violates recognized scientific principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.

ENFORCEMENT DUTIES OF SECRETARY OF THE INTERIOR

SEC. 605. (a) The Secretary shall monitor the State subsistence management program and the implementation of such program. If the Secretary, after notice and hearing, determines that the program or its implementation is not in compliance with this title, the Secretary shall so notify the State and shall indicate changes in the program or its implementation which he considers necessary to bring the State into compliance.

(b) If a local council or regional council required to be established under section 604(b)(6) determines that the State is not in compliance, in whole or in part, with the State subsistence management program, such council shall notify the Secretary in writing outlining the factual basis for such determination and detailing efforts which have been made to obtain timely relief through the grievance procedure referred to in section 604(b)(3). If the Secretary finds that based upon the representations of the council there is cause to believe that the State is not in compliance, in whole or in part, with the State program and that such council has failed to obtain timely relief through the State grievance procedure, he shall investigate and report publicly on the results of his investigation. If such results support the contention of the council, the Secretary shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

(c) If the State fails—

(1) to implement a subsistence management program within eighteen months after the date of the enactment of this Act or by such later date as the Secretary deems reasonable; or

(2) to make, after a reasonable date, the changes in the subsistence management program or its implementation as indicated by the Secretary under subsection (a) or (b);

and the Secretary determines that such failure threatens the natural stability and continued productivity of the fish and wildlife populations on public lands in the area concerned, or the ability of subsistence-dependent Alaska residents in such area to satisfy their subsistence needs, the Secretary may close the public lands in such area to all consumptive uses except subsistence uses by local residents. The Secretary shall afford the State an opportunity to appeal such closure. Within thirty days after receipt of notice of such appeal, the Secretary shall afford the State a public hearing and, within thirty days after such hearing, shall make his final decision on such appeal. Unless the Secretary affirmatively establishes that the State is not in compliance with this title or with the subsistence management program, and that the resulting threat determined under the preceding sentence exists, the Secretary shall revoke the closure. If the Secretary establishes that the State is not in such compliance, and that such resulting threat does exist, he may continue the closure, is whole or in part, until the State adopts measures complying with the Secretary's determination, or until such threat is otherwise ameliorated.

(d)(1) Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses if necessary for reasons of public safety, administration, or to assure the natural stability and continued productivity of one or more fish or wildlife populations on such lands which are subject to such uses. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the natural stability and continued productivity of one or more fish and wildlife populations on such lands which are subject to such uses, the Secretary may immediately close the public lands, or any portion thereof, to subsistence uses and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after adequate notice and public hearing, that such closure should be extended.

(2) If after notice to the State under subsection (a) or (b), the Secretary determines that extraordinary measures must be taken to protect public welfare, he may open public lands, or any portion thereof, to subsistence uses by local residents and publish the reasons justifying such action in the Federal Register. Such emergency action shall be effective when made, but shall not extend for a period of time greater than sixty days, or until such time as the threat to the public welfare which necessitated such action has been resolved, whichever time first occurs.

COOPERATIVE ARRANGEMENTS

SEC. 606. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 607. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on the subsistence needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the State agency referred to in section 604(b)(5) and the appropriate local councils and regional councils required to be established under section 604(b)(6) if such councils have been established.

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) adequate steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

ACCESS

SEC. 608. The Secretary shall ensure that persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resources on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 609. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes or snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purpose, subject to such regulations as are necessary to prevent abuse, waste, or damage to fish and wildlife, habitat, or other natural values.

RESEARCH

SEC. 610. The Secretary, acting through the United States Fish and Wildlife Service and in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence activities on the public lands, seek data from, consult with and utilize the special knowledge of subsistence users; and make the results of such research available to the State, the local councils and regional councils required to be established under section 604(b)(6), subsistence users, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 611. Within four years after the date of the enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 605(a);

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local councils and regional councils required to be established under section 604(b)(6), and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

SEC. 612. The Secretary and the Secretary of Agriculture shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

OTHER LAWS

SEC. 613. Nothing in this title shall be deemed to modify or repeal the provisions of any Federal law governing the conservation or protection of fish and wildlife.

LIMITATIONS

SEC. 614. (a) Nothing in this title shall be construed as granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring during the ten-year period before January 1, 1978. No privilege which may be granted by the State to any individual with respect to subsistence uses under the State subsistence management program may be assigned to any other individual.

(b) Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (whether or not within any conservation system unit) if any such use was not permitted on the date of the enactment of this Act or as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands.

REIMBURSEMENT TO THE STATE

SEC. 615. (a) The Secretary may reimburse the State wildlife agency, from funds appropriated to the Department of the Interior, for reasonable costs relating to the establishment and operation of the local councils and regional councils required to be established under section 604(b)(6). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this section shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior. The Secretary shall ensure that such grants, payments, or other sums are expended in a manner consistent with the policies set forth in section 602.

(b) Total payments to the State under this section shall not exceed the sum of $5,000,000 in any one fiscal year.

(c) The Secretary shall periodically review the financial aspects of implementing the State program and shall advise the Congress at least one in every five years as to whether or not the maximum amount of payments specified in subsection (b) is adequate for proper implementation of the State program.

TITLE VII—COOPERATIVE STUDY AND PLANNING COMMISSION

SEC. 701. (a) There is hereby established the Alaska Cooperative Study and Planning Commission (hereinafter referred to as the "Commission"). The Commission shall consist of the directors of the Bureau of Outdoor Recreation, National Park Service, Fish and Wildlife Service, Bureau of Land Management, and the Chief of the Forest Service, and to the extent that the State of Alaska shall concur in accordance with subsection (d), five members appointed by the Governor of Alaska (hereinafter referred to as the "Governor"), together with three public members, appointed by the Secretary from recommendations submitted to him by Native Village and Regional Corporations. There shall be two cochairmen, including one as the State shall prescribe and one chosen by lot from among the Federal members, who shall serve as cochairman for one year; thereafter the Federal cochairmanship shall revolve annually in the order listed in the second sentence of this subsection.

(b) Members of the Commission who are Federal employees shall receive no additional compensation for service on the Commission. Public members of the Commission shall receive the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (as contained in title 5, United States Code) for each day during which they are engaged in the performance of duties for the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(c) The Commission shall have an Executive Director who shall be appoined by the Secretary with the majority consent of the Commission and who shall be compensated at a rate established by the Secretary but not in excess of that provided for level V of the Executive Schedule contained in title 5, United States Code. The Executive Director shall appoint and fix the compensation of such additional staff the Commission approves.

(d) As an express condition to participation in the work of the Commission, the State of Alaska shall agree to contribute funds equal to 35 per centum of the Commission's annual operating expenses, including funds, staff and property as may be found necessary by the Commission in carrying out its functions. The Federal agencies together shall annually contribute funds equal to 65 per centum of the Commission's annual operating expenses, including funds, staff and property as may be found necessary by the Commission in carrying out its functions.

(e) The Commission shall meet at the call of the cochairmen, but not less than once each calendar year. In addition, the Commission may, for the purpose of carrying out the provisions in this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Commission deems advisable. The cochairmen shall submit a report of each meeting or hearing, together with any recommendations the Commission deems appropriate, to the Secretary, the Governor of Alaska, and the head of each Native Regional Corporation.

(f) The Commission shall adopt such internal rules of procedure and organization as it deems necessary. All Commission meetings shall be open to the public and at least thirty days prior to the date when any meeting of the Commission is to take place the cochairmen shall provide public notice in the Federal Register and in newspapers of general circulation in various areas throughout Alaska; and shall be subject to the provisions of the Federal Advisory Committee Act.

(g) The function of the Commission shall be to coordinate, review, or conduct studies and advise the Secretary and the Secretary of Agriculture, other Federal agencies, the State of Alaska, and Native Corporations with respect to ongoing, planned, and proposed land and resource uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agriculture development, coastal zone management, and such other matters as may be submitted for advice by the members.

(h) The Commission may, with the concurrence of the members having administrative jurisdiction over the lands and waters and fish and wildlife resources therein, recommend cooperative planning and man-

agement of lands or resources where the actions by one member materially affect the management of lands or resources by another member or members. Federal members of the Commission are hereby authorized and encouraged to enter into cooperative agreements with other Federal members and with State and Native members providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(i) In addition to its functions as set forth above, the Commission shall study and investigate ongoing and potential uses of lands and waters within the areas generally depicted as "Alaska Peninsula Study Area", "Iliamna Lake—Wood-Tikchik—Bristol Bay Study Area", "Wrangell-Saint Elias National Preserve Study Area", and "Tetlin Study Area", on the map entitled " ", numbered , and dated , which shall be on file and available in the same manner as the maps referred to in section 2 of this Act. The designated areas shall be administered by the agency or agencies presently managing them, unless changed by the operation of this Act. The managing agency shall exercise a high degree of environmental concern in the administration of these lands pending completion of the study. Within three years from the date of approval of this Act, the Commission shall prepare and adopt a plan for the management of resources within each of the study areas depicted on the foregoing map. Each plan shall include the proposed classification of lands, waters, and resources for appropriate uses, and any recommended land exchanges which might help further national, State, and private interests. Such classification shall be binding upon the landowner or the agency having administrative jurisdiction over the land only if such owner or agency representative agrees, within the limits of applicable law and appropriations, to be bound by the classification proposed by the Commission: *Provided,* That in the absence of such agreement the land owner or agency representative have no vote on the adoption of the plan.

TITLE VIII—IMPLEMENTATION OF ALASKA CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCE OF CORE TOWNSHIP LANDS AND OF NATIVE RESERVES

SEC. 801. (a)(1) For each Village Corporation for a Native Village which, by the date of enactment of this Act—

(A) had been determined to be eligible under the Alaska Native Claims Settlement Act (hereinafter in this title referred to as the "Settlement Act") by the Secretary; and

(B) such eligibility determination is not the subject of existing litigation in a court of competent jurisdiction; and

(C) did not elect pursuant to section 19(b) of the Settlement Act to receive fee title to a former Native Reserve,

subject to valid existing rights, there is hereby conveyed to and vested in each Village Corporation referred to in the paragraph all of the right, title, and interest of the United States in and to the surface estate in the land and submerged lands under water areas within the township or townships in which all or any part of such Village is located.

(2) The conveyance under paragraph (1) shall not include such lands and waters which on December 18, 1971, were—

(A) appropriated by or reserved for defense purposes, other than Naval Petroleum Reserve Numbered 4 (now National Petroleum Reserve—Alaska), or that are within the National Park System; or

(B) appropriated by or reserved for the use and benefit of a Federal agency, except the reservation for a national wildlife refuge or a national forest; or

(C) embraced in a disposal entry, including but not limited to a homestead, trade and manufacturing site or mining claim, of record with the Bureau of Land Management and not relinquished or finally rejected as invalid on the date of this Act; or

(D) within two miles from the boundary of any home rule or first-class city or which are within six miles from the boundary of Ketchikan, as those boundaries existed on December 18, 1971, except as provided by the Secretary's regulations as 43 CFR 2650.6(a); or

(E) reserved to or validly selected by the State of Alaska (or Territory, as appropriate) under the Act of March 4, 1915 (38 Stat. 1214), as amended, the Act of January 21, 1929 (45 Stat. 1091), or the Act of July 28, 1956 (70 Stat. 709) and such selections or reservations were not revoked, relinquished, or determined invalid; or

(F) submerged lands under navigable waters conveyed to the State of Alaska by the Alaska Statehood Act of 1959 (hereinafter in this title referred to as the "Statehood Act").

(3) No conveyance in this subsection shall consist of more tha 69,120 acres, or, in the case of a Village Corporation for a Native Village listed in section 16(a) of the Settlement Act, consist of lands validly selected by the State of Alaska under the Statehood Act or exceed 23,040 acres of land, including submerged lands.

(4) Where two or more Village Corporations are entitled to the same land, including submerged lands, by virtue of the same township or townships embracing all or part of the Native Villages, the conveyance made by this subsection shall not be effective until an arbitration decision, as required by section 12(e) of the Settlement Act, or other binding agreement between or among the Corporation is filled with the Secretary in accordance with regulations promulgated by the Secretary. Within thirty days of receipt of such decision or agreement the Secretary shall publish notice of such decision or agreement in the Federal Register. Effective with such publication in the Federal Register, title to the lands, including submerged lands, conveyed by this subsection shall vest in each Village Corporation as specified in the decision or agreement.

(5) Lands excluded from conveyance by this subsection may thereafter be conveyed to the appropriate Corporation where the Secretary determines such lands are available to such Corporation under the Settlement Act: *Provided,* That such additional conveyance does not exceed the entitlement of that Corporation.

(6) Except where such lands, including submerged lands, are within Naval Petroleum Reserve Numbered 4 or a unit of the National Wildlife Refuge System, as a result of a conveyance of the surface estate to a Village Corporation by subsection (a), there is hereby conveyed to and vested in each Regional Corporation all of the right, title, and interest of the United States in and to the subsurface estate to which the Regional Corporation would have been entitled to pursuant to section 14(f) of the Settlement Act.

(7) All conveyances made by this subsection shall be subject to the terms and conditions of sections 14(c), 14(f), 14(g), 15, 16(b), 17(b)(2), and 22(c), (d), (g), (j), (k), and (l) of the Settlement Act as if such conveyances had otherwise been made under the Settlement Act.

(8) Nothing herein shall be deemed to vest any new rights to the Corporation formed for the Native Village of Klukwan, which Corporation shall receive those rights granted to it by Public Law 94-204 (Stat.), as amended by Public Law 94-456 (90 Stat. 1334).

(b)(1) For each Village Corporation for a Native Village which, by the date of enactment of this Act—

(A) had been determined to be eligible under the Settlement Act by the Secretary; and

(B) such eligibility determination is not the subject of existing litigation in a court of competent jurisdiction; and

(C) which, under the provisions of section 19(b) of the Settlement Act, elected to receive fee title to a former Native Reserve, subject to valid existing rights, there is hereby conveyed to and vested in each Village Corporation in this paragraph all of the right, title, and interest of the United States in and to the land, including submerged lands, in the Reserve, as such Reserve existed as of the date of enactment of the Settlement Act, in which the Village is located, except those lands that on December 18, 1971, were appropriated by or reserved for a specific Federal installation.

(2) Conveyances made by this subsection shall be subject to the terms and conditions of sections 14(c), 14(g), 17(b)(2), 22(c), 22(d), and 22(j) of the Settlement Act as if such conveyance had otherwise been made under the Settlement Act.

(3) Nothing herein shall be deemed to vest any new rights to the Corporation formed for the Native Village of Klukwan which shall receive those rights granted to it by Public Law 94-204 (Stat.), as amended by Public Law 94-456 (90 Stat. 1934).

(c)(1) As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to subsections (a) and (b) interim conveyances or patents to the estate or estates conveyed to such corporation by such subsections, but title shall be deemed to have passed on the date of enactment of this Act, except where subsection (a)(4) of this section applies, for which title shall be deemed to have passed on the date of the publication of the decision or agreement in the Federal Register, notwithstanding any delay in the issuance of the interim conveyances or patents.

(2) For a period of three years, but in no case after patent has issued, from the date of enactment of this Act, the Secretary may identify and reserve those easements, pursuant to section 17(b) of the Settlement Act, he determines are necessary to provide access between or among non-Native owned lands or points of public use, such as airports and docks, within the lands conveyed by subsections (a) and (b) and such access, transportation, and utility easements that the Secretary determines necessary between public access points within the lands conveyed by subsections (a) and (b) and publicly owned lands and resources located outside of such lands. The Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably and actually necessary.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) In addition to lands conveyed in accordance with section 801, there are hereby granted to each Native Corporation formed pursuant to the Alaska Native Claims Settlement Act and to each Native Group (as defined in section 3(d) of such Act) qualified to receive land under such Act all those other lands which they are entitled to receive under such Act, to the extent such lands have been selected as of the date of enactment of this Act.

(b) For purposes of this section, all those lands specified in the document entitled " ", which sets forth the selections of each Native Corporation or group and which was submitted under date of to the House Committee on Interior and Insular Affairs, shall be deemed to be the lands to be conveyed to such corporations to the extent of entitlement.

(c) As soon as possible after the date of enactment of this Act, the Secretary shall issue interim conveyances or patents, conforming to the requirements of the Alaska Native Claims Settlement Act, for the lands described in this section. As to any such lands for which interim conveyances or patents have not been issued within three years after the date of enactment of this Act any Native Corporation or group may thereafter apply to any appropriate Federal district court for an appropriate order confirming the conveyance of any such lands, free and clear of any reservations of easements, other than those easements required to be reserved pursuant to section 14(g) and section 17(b) of the Alaska Native Claims Settlement Act or pursuant to this Act.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) In identifying and reserving easements required pursuant to section 17(b) of the Alaska Native Claims Settlement Act, to be reserved on lands conveyed to Village and Regional Corporations, the Secretary shall be guided by the following principles:

(1) all easements shall be designed so as to minimize their impact on the compactness and integrity of Native lands: and

(2) each easement shall be specifically located and limited and shall include only such areas as are essential for the purpose or purposes for which the easement is reserved.

(b) In every case where, after conveyances have been made pursuant to this Act or to the Alaska Native Claims Settlement Act, the Secretary determines an easement not reserved at the time of conveyance is required for any lawful purpose, he is authorized to acquire such easement in accordance with any applicable provisions of law. The acquisition of such easements shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. In acquiring any such easement, the Secretary shall be guided by the principles set forth in this section.

(c) The National Environment Policy Act of 1969 shall not be construed in whole or part as requiring the preparation or submission of an environmental impact statement before withdrawal or conveyance of land to Natives and Native Corporations, or a decision to reserve or not to reserve any easements thereon, under the Settlement Act or this Act.

STATE SELECTIONS AND CONVEYANCES

SEC. 804. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years" and, as to future State land selections, by repeal of the second proviso, regarding Presidential approval of land selections north and west of the line described in section 10 of such Act.

(c)(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), including claims to surveyed lands which were within Federal reservations or withdrawals at the time Alaska became a State, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands in Alaska.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of section 6 (j) and (k) of the Alaska Statehood Act.

(d)(1) All tentative approvals of the State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(e)(1) All existing valid State land selections made pursuant to the Alaska Statehood Act are hereby confirmed subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(2) As soon as practicable after the date of enactment of this Act the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. All right, title, and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(3) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(5) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(f) Subject to valid existing and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (c) of this section, for lands which are not, on the date of filing of such applications, available lands within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of such section 6 (a) or (b) regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriations from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(g)(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selection for that grant which have not been tentatively approved in desired priority order of conveyance, in blocs no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative

approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocs necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selection of land filed under the Alaska Statehood Act or subsection (c) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (b) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his disecretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(h) In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (m) of this section, which lie within those townships outside the boundaries of conservation system units established, designated, or expanded by this Act, which are specified in the list of State Selection Interest Lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled " ", dated 1978.

(i)(1) Lands identified in subsection (h) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (m) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(j) Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (h) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (c) of this section, or other law, prior to the issuance of tentative approval.

(k) As to lands outside the boundaries of a conservation system unit, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vaacnt, unappropriated, and unreserved lands for the purposes of subsection (h) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (c) of this section:

(1) Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection.

(2) Withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act.

(3) Classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987).

(4) Classifications or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(l)(1) Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State the Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way easement or trespass the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way or easement which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m)(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States.

(2) Where prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, license, permit, right-of-way, or easement has been issued for the lands the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permitter, or grantor, in any such contracts, leases, licenses, permits rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States, unless the agency responsible for administration waives such administration.

(5) Nothing herein shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(n) Any extensions of time periods granted to the State pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a), (b) and (c) of this section shall hereafter be applicable to State selections.

(o) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94-204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94-456), or section 3 of the Act of November 15, 1977 (Public Law 95-178). Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(p)(1) Notwithstanding any other provision of law, any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act and within the bound-

aries of any conservation system unit shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit shall be administered in accordance with the laws applicable to such unit.

ALASKA NATIVE LAND BANK

SEC. 805. (a) In order to enhance the quantity and quality of Alaska's renewable resources, there is hereby established the Alaska Native Land Bank Program. All Native Corporations are hereby authorized to enter into a written agreement with an appropriate State agency designated by the Governor of Alaska as the agent to administer such Program or with the Secretary of the Interior or his designee if the State declines to participate in such Program. Such agreement shall provide that up to 90 percent of the undeveloped and unimproved land holdings of any Native Corporation, as specified by such Corporation, shall be subject to the provisions of subsection (b). In any case in which the surface and subsurface estates in any lands are held by different Native Corporations, no agreement affecting such lands shall be effective unless all such Corporations enter into such agreements.

(b) Each agreement referred to in subsection (a) shall have an initial term of not less than ten years, with provision for renewal for additional periods of not less than five years. Such agreement shall provide that during its term—

(1) the landowner or landowners shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement and shall not permit development or improvements on such lands;

(2) the renewable resources of such lands shall be available only for subsistence uses or such other uses as are not detrimental to subsistence uses;

(3) if the surface landowner so consents, such lands may be made available for local recreational use; and

(4) all or part of the lands subject to the agreement may be withdrawn from the Alaska Native Land Bank Program after the landowner or landowners—

(A) submit written notice thereof to the State agency referred to in subsection (a) or the Secretary if the State has declined to participate in such Program, and

(B) pay all State and local property taxes and assessments which would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the State or local taxing agency.

Such agreement shall contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement.

(c) Each agreement entered into under this section shall constitute a restriction against alienation imposed by the United States upon the land subject to the agreement; so long as the parties to the agreement are in full compliance with the agreement, lands subject to such agreement shall not be subject to any of the following—

(1) adverse possession,

(2) taxation by the United States, any State, or any political subdivision of a State, and

(3) any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or any officer, director, or stockholder of any such Corporation.

Except as provided in the preceding sentence, nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(d) The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance with the agreement.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 806. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of title VIII of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under this Act, no land in such a contingency area that has been withdrawn for selection by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION SURVEYS

SEC. 807. With the agreement of the party to whom a patent is to be issued under this title, the Alaska Native Claims Settlement Act, or the Alaska Statehood Act, the Secretary may base such patent on protraction surveys in lieu of field surveys.

ACTION TO ENFORCE; JURISDICTION

SEC. 808. For a period of three years after the date of enactment of this Act, any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by a Native Corporation to enforce the provisions of this title and to award appropriate attorney and witness fees and other costs of the litigation to the prevailing party, except that determinations under sections 802 and 803(b) of this title shall be subject to review only in an action brought by an aggrieved Native Corporation.

TECHNICAL AMENDMENTS TO PUBLIC LAW 94-204

SEC. 809. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S.M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 36;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16:

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE IX—MINERAL STUDY, EXPLORATION, AND EXTRACTION IN CONSERVATION SYSTEM UNITS

GENERAL GEOLOGIC INVESTIGATIONS AND MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 901. (a) Nothing in this Act, the Wilderness Act, or any other provision of law shall be construed to prevent the Secretary from carrying out mineral assessment programs and general geologic investigatory programs in the State of Alaska. In the case of areas within units of a conservation system in Alaska, such programs shall be carried out only in accordance with guidelines which shall be promulgated by the appropriate Secretary. Such guidelines shall insure that the activties carried out pursuant to such programs in such areas are carried out in a manner which is environmentally sound and consistent with the purposes for which such areas are established as units of a conservation system. Such guidelines shall insure that such activities are the minimum necessary for carrying out such programs and do not result in any lasting environmental impact which appreciably alters the natural character of the land.

MINERAL EXPLORATION AND EXTRACTION PROGRAMS FOR CONSERVATION SYSTEM UNITS IN ALASKA

SEC. 902. In all areas, established, enlarged, or added to by this Act except national parks or monuments, designated wilderness areas, and additions to the Wild and Scenic Rivers System, the Secretary shall study, or grant permits for study or both to determine the liquid and gaseous hydrocarbon, and other mineral potential of the areas under his jurisdiction and to determine whether further exploration and extraction activties may be reasonably conducted in the areas in a manner consistent with the purposes for which each area was established. The Secretary in issuing study or subsequent exploration permits shall do so for established or negotiated tracts or areas of a reasonable size to lessen impact on the conservation system unit as well as provide a reasonable opportunity for interested parties.

The Secretary shall authorize mapping of the surface or subsurface (or both) by aerial, mechanical, physical, or other reasonable techniques physical entry and examination, geophysical activities, and other methods of

evaluation. If any surface feature in any such area is altered substantially as a result of any such activity, the same shall be restored substantially to its original condition, promptly after conclusion of such study, by the person involved therewith.

PERMITS FOR EXPLORATION AND EXTRACTION

SEC. 903. (a) If, based upon the information obtained by any study conducted under sections 901 and 902 of this title, the Secretary determines that exploration for and extraction of liquid and gaseous hydrocarbons or metallic or other minerals, within such areas may be conducted in a manner consistent with the purposes for which the area was or is established and that any surface altered substantially by such activities may be substantially restored to its original condition, he shall issue permits for further exploration and extraction. In the course of issuance of all permits, the Secretary may set boundaries within which such activities are to be permitted in order to avoid conflict to the degree appropriate with known scenic, habitat, or other natural or historical values or concerns of high interest within the conservation units named in section 902(b) during the period they are subject to wilderness studies or subsequently in areas not recommended for or designated wilderness.

(b)(1) If the Secretary determines, based on the information obtained as a result of a study permit, granted in accordance with subsection (a) of this section, that such areas or portions of such areas should be open to further exploration and extraction for minerals other than liquid or gaseous hydrocarbons, the study permittee shall be given the right of first acceptance or refusal to receive the exploration and extraction permit. If the exploration and study permittee refuses the offer, the Secretary shall offer the lands for lease on the basis of competitive bidding.

(2) If, as a result of information obtained by study or any means other than a study permit, the Secretary determines that exploration for and extraction of liquid and gaseous hydrocarbons, or other minerals should be permitted, the Secretary shall offer the lands for lease on the basis of competitive bidding.

(c) Prior to the issuance of any permit for extraction of minerals the Secretary shall submit the proposed permit to the Congress, with a detailed statement setting forth the basis for his determination. The permit for extraction shall be issued pursuant to this section unless either the Senate or the House of Representatives shall by resolution have disapproved the same within one hundred and twenty legislative days of its submission.

(d) Within sixty days after the effective date of such determination, the Secretary shall initiate the procedure in accordance with subsection (b) of this section for the awarding of appropriate exploration and extraction permits.

(e) The Secretary shall issue regulations to implement sections 902 and 903, which regulations shall include provisions for—

(1) the issuance of any permit for exploration and extraction, including the competitively biddable factor(s); and distinguishing procedures where appropriate between liquid and gaseous hydrocarbons and other minerals; including tract size;

(2) the duration, assignment, and renewal of any permit;

(3) the establishment of a fee and royalty schedule for issuance and maintenance of permits;

(4) other terms under which any such permit shall be issued;

(5) stipulations to reasonably ensure that all activities undertaken under any permits shall for the protection of the land, wildlife, and other natural and historical features be consistent with the purposes for which the respective area was or is established;

(6) removal of liquid or gaseous hydrocarbons and other minerals; and

(7) provisions for general access, storage, removal, and transportation of liquid and gaseous hydrocarbons or other minerals extracted under any such permit, including roadways, storage sites, processing operations, water lines, pipelines, communications, and similar facilities.

(f) Except for those matters to which the Freedom of Information Act does not apply, section 552(b) of title 5, United States Code, any information made available to the Secretary by an applicant or permittee under this section shall be available to the public.

EXISTING MINERAL CLAIMS AND MINERAL LEASING RIGHTS IN CONSERVATION SYSTEM UNITS

SEC. 904. (a) Administration and regulation of the exercise of rights under existing valid mineral claims and leases within all new or enlarged existing units within the National Park System established by this Act in Alaska, shall be governed by the provisions of the Mining in Parks Act (Public Law 94–429).

(b) Administration and regulation of the exercise of rights under existing valid mineral claims and leases within new or enlarged existing national wildlife refuges established by this Act in Alaska, shall be governed in accordance with the following:

The provisions of sections 2 and 8 of Public Law 94–429 (16 U.S.C. 1902, 1907), are hereby extended to all units of the National Wildlife Refuge System established or enlarged by this Act. For the purposes of this section, the term "National Wildlife Refuge System" shall be substituted for the term "National Park System" and the Act of October 15, 1966, as amended (16 U.S.C. 668dd, et seq.) for the Act of August 25, 1916, as amended (16 U.S.C. 1), wherever those terms appear in sections 2 and 8 of Public Law 94–429.

TITLE X—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 1001. The purposes of this title are to—

(1) recognize the uniqueness of the size of Alaska and the undeveloped conditions of Alaska's transportation and utility network and to recognize that the future needs for transportation and utility systems in Alaska would best be provided for through a carefully considered, orderly process under existing authorities and under the procedures established in this title;

(2) recognize the existing authorities of the Secretary to grant rights-of-way for transportation and utility systems under generally applicable provisions of law in the case of public lands within conservation systems units in the State of Alaska; and

(3) establish procedures for the approval or disapproval of applications for such rights-of-way which the Secretary has no authority to approve or disapprove under such generally applicable provisions of law.

USE PERMITS UNDER EXISTING AUTHORITIES

SEC. 1002. (a) Except as may be otherwise provided in the following provisions of this title, any law or rule of law generally applicable to units of the National Park, Wilderness Preservation, Wild and Scenic Rivers and Wildlife Refuge Systems, regarding rights-of-way (including use permits, leases, and licenses) for a transportation or utility system (including but not limited to roads and highways, oil, gas, and water pipelines, and utility transmission and communications systems) shall apply to all units of any conservation systems in Alaska in the same manner as such law or rule of law applies to units of such systems elsewhere.

(b) In the case of wilderness areas in Alaska, the Secretary may exercise his authorities under the Wilderness Act, consistent with section 4(c) of such Act, to provide access to wilderness areas for the administration of the area for the purpose of such Act (including measures required in emergencies involving the health and safety of persons within the area).

USE PERMITS UNDER NEW AUTHORITY

SEC. 1003. (a) If the Secretary has no authority under any other law or rule of law to determine whether applications from a Federal, State, or local agency, or any private person or organization for rights-of-way on public lands within a conservation system unit in Alaska for a transportation or utility system should be granted or denied, an application from such a person, organization, or other entity for such a right-of-way shall be considered and processed as provided in the following provisions of this title.

(b) Applications submitted under this section shall be in such form, and shall contain such information, as may be required by the Secretary. Any such application for a right-of-way for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920 shall, to the extent appropriate as determined by the Secretary, be in the same form, and contain the same information, as required for an application for a right-of-way under such section 28.

(c) In the case of an application referred to in subsection (a) for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, if the route for such pipeline would cross any area within the boundaries of the Iditarod Trail or a wild and scenic river in Alaska administered by the Secretary of the Interior, and if the Secretary determines, after notice and opportunity for hearing, that there exists no economically feasible alternative route which would not cross such area, he may grant a right-of-way for such pipeline in the manner provided in section 28 of the Mineral Leasing Act of 1920 and subject to the conditions referred to in section 1006(c) of this Act, except that for such purposes, the first sentence of section 28(b)(1) of the Mineral Leasing Act of 1920 shall not apply.

(d) In the case of an application referred to in subsection (a) concerning a transportation or utility system across public lands within a conservation system unit (other than a wilderness area), if an environmental impact statement for that section of the right-of-way crossing such unit would not have been required under the National Environmental Policy Act of 1969, the Secretary may grant a use permit for the right-of-way if he determines, after notice and opportunity for comment, that such right-of-way—

(A) would not result in a significant adverse effect on the conservation system unit, and

(B) would be compatible with the purposes for which the unit was established and the purposes of this Act.

(e) In the case of an application for a right-of-way referred to in subsection (a) which the Secretary does not have the au-

thority to grant or deny under subsection (c) or (d), not later than one year after his receipt of the application, the Secretary shall transmit a recommendation to the Congress respecting whether or not the application for a right-of-way should be granted. Before making such a recommendation, the Secretary shall weigh the local, regional, State and national interests involved, and determine—

(1) whether the approval of such application is in the public interest,

(2) whether there is an economically feasible and prudent alternative to the granting of the right-of-way through the conservation system unit subject to the application, and

(3) whether the transportation or utility system subject to the application can be constructed, operated, and maintained in a manner compatible with the purposes for which the affected conservation system unit was established and the purposes of this Act.

(f) Together with his transmission to Congress of any recommendation under subsection (e), the Secretary shall transmit—

(1) the application for the right-of-way to which such recommendation applies,

(2) a report setting forth the detailed explanation of the basis for his determinations and recommendation under subsection (e),

(3) an environmental impact statement which complies with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 in any case in which such statement is required under such Act; and

(4) where applicable, the conditions and stipulations under which the use of a recommended right-of-way will be permitted if approved by the Congress, and the extent and duration thereof.

The conditions and stipulations referred to in paragraph (4) shall be designed to ensure that the right-of-way is utilized in a manner compatible, to the maximum extent feasible, with the purposes for which the affected conservation system unit was established and the purposes of this Act and shall contain provisions necessary to minimize environmental harm to the unit.

(g) In the case of any recommendation under this title for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the Secretary may, when he deems it desirable, include such a statement in his transmittal to the Congress. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to applications under this title in the same manner and to the same extent as such provisions apply to applications relating to the public lands referred to in such section 304.

COORDINATION OF RIGHT-OF-WAY REQUIREMENTS

SEC. 1004. When an application for a right-of-way referred to in section 1002 or 1003 is for a transportation or utility system through both Federal lands within, and outside of, a conservation system unit, the Secretary shall coordinate his authorities under other applicable Federal laws in a manner consistent with this title for the purposes of—

(1) assuring consistent treatment of such application;

(2) preparing only one complete environmental impact statement;

(3) avoiding duplication and inconsistent requirements and determinations;

(4) minimizing costs to the applicant and the Government; and

(5) maximizing intergovernmental coordination.

CONGRESSIONAL APPROVAL PROCEDURE

SEC. 1005. (a) Any recommendation of the Secretary submitted to Congress under section 1003 shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(b) Any application transmitted to Congress under section 1003 shall be deemed approved only upon enactment of a joint resolution by the Senate and House of Representatives approving such application within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such application.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution that the House of Representatives and Senate approve the recommendation of the Secretary of the Interior on an application submitted to the Secretary under this title. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(3) A resolution once introduced with respect to such Secretarial recommendation shall be referred to one or more committees (and all resolutions with respect to the same Secretarial recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Secretarial recommendation had been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Secretarial recommendation which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Secretarial recommendation) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Secretarial recommendation.

(5)(A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier that sixty days after the date of receipt of the Secretary's recommendation to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such one hundred and twenty-day period, to consider any other resolution respecting the same Secretarial recommendation.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedures relating to a resolution shall be decided without debate.

ISSUANCE OF PERMITS

SEC. 1006. (a) In any case in which an application for a right-of-way on public lands within a conservation system unit in Alaska has been approved by the Congress under this title, the Secretary shall, immediately following the enactment of the joint resolution of congressional approval, issue a use permit for such right-of-way subject to the requirements of this section.

(b) Unless Congress otherwise directs, no permit pursuant to a recommendation approved by Congress under this title for a right-of-way may be granted across public lands within a conservation system unit in Alaska unless the permittee pays to the United States an amount equal to the fair market value of such right-of-way.

(c) In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a permit granted under this section or section 1003(c) shall be issued in the same manner as a right-of-way is granted under such section 28, and the provisions of subsections (c) through (j), (l) through (r), and (v) through (y) of such section 28 shall apply to permits under this section or section 1003(c) in the same manner and to the same extent as to rights-of-way under such section 28. Any such permit under this section or under section 1003(c) for such a pipeline which crosses any area within the boundaries of a wild and scenic river shall also be subject to such conditions as may be necessary to assure that the stream flow of such river is not interfered with or impeded and that such pipeline is located and constructed in an environmentally and aesthetically sound manner.

TITLE XI—GENERAL ADMINISTRATIVE PROVISIONS

WITHDRAWAL FROM MINING AND MINERAL LEASING

SEC. 1101. All lands designated by this Act as units of the National Park System, National Wildlife Refuge System, and, notwithstanding the provisions of section 9(a)(ii) of the Wild and Scenic Rivers Act, wild rivers, as provided in section 307(e) of this Act, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, except as provided for in title IX or as otherwise specifically provided in this Act. Any and all withdrawals and reservations for power site purposes applicable to the Federal lands and interests therein within the boundaries of any unit of the National Park, Wildlife Refuge, or Wild and Scenic Rivers Systems referred to in titles I through III of this Act are hereby rescinded to the extent of such applicability.

CERTAIN LANDS

SEC. 1102. (a) All lands within the areas added to existing units or established by titles I, II, III, and IV of this Act, which are subject to selection or selected by Native Corporations under the terms of the Alaska Native Claims Settlement Act, and which are not selected by or conveyed to those Corporations under the terms of that Act are hereby added to and incorporated within the appropriate area, to be administered under the terms of this Act, at such time as the relinquishment of Native rights becomes final: *Provided*, That if the lands in such areas are contiguous to a boundary of the area, or contiguous to State or Native selections that are contiguous to a boundary, the State of Alaska shall have ninety days in which to select such lands formerly subject to selection or selected by a Native Corporation, beginning at such time as the relinquishment becomes final, as aforesaid. State selections under this subsection shall be in furtherance of the State's entitlement under the Alaska Statehood Act.

(b) With respect to valid Native and State selections and Native and State-owned lands which are either within or immediately adjacent to the boundaries of the areas added to or established by this Act as units of conservation systems—

(1) valid Native selections and Native-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the chief executive officer of the concerned Native corporation during the one-year period from the date of approval of this Act that any such lands should be excluded;

(2) valid State selections and State-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the Governor of the State during the one-year period from the date of approval of this Act that any such lands should be excluded.

(c) Nothing in the foregoing subsection (b) shall prohibit the acquisition by the Secretary, after the one-year period from the date of approval of this Act, of valid Native and State selections and Native and State-owned lands formerly within the boundaries depicted on the maps referred to in section 2 of this Act, with the consent of the owner. Property so acquired shall thereupon become part of the area from which it was excluded, subject to the laws and regulations applicable thereto.

ACQUISITION

SEC. 1103. Within the boundaries of the units of the national conservation systems and classifications established by or pursuant to this Act, the Secretary or the Secretary of Agriculture with respect to national forests may acquire lands and interests in lands within areas placed under their respective jurisdiction by donations, purchase, exchange, or otherwise.

ADMINISTRATIVE SITES

SEC. 1104. The Secretary may establish administrative sites or visitor facilities outside the boundaries of any area established under this Act, or protect any significant archeological sites outside the boundaries of the areas described in section 101(a)(2), section 101(a)(3), and section 101(a)(9) of this Act. For these purposes he may establish on Federal lands or acquire other lands not to exceed one thousand acres for administrative and visitor facilities for each area, and no more than seven thousand acres for archeological or paleontological sites outside the boundaries of each of the areas referred to herein: *Provided*, That no such administrative site, visitor facility, or archeological site may be established on National Forest System lands without the concurrence of the Secretary of Agriculture.

NATIVE LANDS AND CORPORATIONS; PUBLIC SERVICES

SEC. 1105. (a) The Secretary shall, with the concurrence of the Native Corporation involved, attempt to locate administrative sites and visitor facilities for areas established under this Act on adjacent Native-owned lands, wherever possible and desirable.

(b) Notwithstanding any other provision of law, before entering into any contract for the provision of revenue-producing visitor services, the Secretary shall grant the village and/or regional corporations most directly affected the first right of refusal to provide such services within the unit under such terms and conditions as he may by agreement prescribe.

AGENCY MINING ASSISTANCE

SEC. 1106. The Secretary shall direct the Fish and Wildlife Service to participate, where appropriate, in fish and wildlife studies and resource planning on units authorized by this Act as components of the National Park and Wild and Scenic Rivers System. The Secretary shall also direct the National Park Service, where appropriate, to participate in recreation planning, interpretation, historic resources protection, and ecological research on areas authorized by this Act as units of the National Wildlife Refuge and Wild and Scenic Rivers Systems.

UNIT MANAGEMENT PLANS

SEC. 1107. Except as otherwise provided, within five years from the effective date of this section, the Secretary shall formulate (and he may from time to time revise) a detailed resource management and use plan for each unit of the systems established in titles I and II of this Act. Where units of the National Wildlife Refuge System and the National Park System include important biological and physical characteristics which control the natural occurrence and the management of fish and wildlife and their habitat, and include scenic, historical, and archeological resources within each unit, a single plan shall be developed for the management and use of such resources. Each plan shall identify management practices, which the Secretary shall adopt and implement, that will accomplish the specific purposes of the areas set forth in titles I and II. The Secretary shall formulate each plan and any revision thereof only after holding one or more public hearings in the vicinity of the affected unit or units, and only after consultation with the appropriate agencies of the State of Alaska.

CAPITAL IMPROVEMENTS ON NON-FEDERAL LANDS

SEC. 1108. Notwithstanding any other provision of law, the Secretary is authorized to construct, operate, and maintain, with funds appropriated for the purposes of this Act, such permanent and temporary buildings and facilities as he deems appropriate to provide visitor services and for administrative purposes, and lands within and outside the boundaries of the units established by this Act, without regard to whether title to the underlying land is in the United States: *Provided*, That in the case of buildings and facilities constructed on non-Federal land, the owner shall have entered into a cooperative agreement with the Secretary, the terms of which shall assure the continued use of such buidings and facilities for the purposes of this action.

STATE LAND EXCHANGES

SEC. 1109. In the exercise of his authority to acquire lands, waters, and interests therein for the purposes of this Act, the Secretary may utilize the provisions of subsection 22(f) of the Alaska Native Claims Settlement Act, as amended. Property acquired within the boundaries of the areas added to the four conservation systems by this Act shall become part of the area within which it is located, and subject to the laws and regulations applicable to such area.

LOCAL HIRE

SEC. 1110. (a) The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) may be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience;

(2) any such provisions which provides an employment preference to any other class of applicant in such selection; and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Within one year after the date of approval of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

NAVIGATION FACILITIES

SEC. 1111. Within areas added to the National Park System, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, air and water navigation aids and related facilities shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance

with the laws and regulations governing such facilities notwithstanding any other provisions of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation, and maintenance within wilderness areas designated by this Act.

TITLE XII—MISCELLANEOUS PROVISIONS

IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1201. (a) Section 5(a) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end of said section:

"(4) The Iditarod National Historic Trail, including the main route (approximately one thousand one hundred miles) and ranch segments (approximately nine hundred and thirty miles), extending from Seward to Nome, Alaska, following the route depicted on the maps, identified as "Seward-Nome Trail" in the Department of the Interior Iditarod Trail study report dated ————, 1977: *Provided*, (A) That while this Act will commemorate the entire route of the Iditarod Trail by designation as the Iditarod National Historic Trail, only those segments which are within the exterior boundaries of federally administered areas and which meet the national historic trail criteria established in this Act, are established initially as components of the Iditarod National Historic Trail, and (B) that the Secretary of Interior may designate lands outside of the exterior boundaries of federally administered areas as segments of the Iditarod National Historic Trail upon application from State or local government agencies or private interests involved if such segments meet the National historic trails criteria established in this Act and such criteria supplementary thereto as the Secretary may prescribe, and are administered by such agencies or interests without expense to the United States, and (C) that notwithstanding the provisions of section 7(c) of the National Trails System Act, the use of motorized vehicles on segments of the Iditarod National Historic Trail will be permitted in accordance with regulations prescribed by the appropriate Secretary.".

(b) The responsibility for coordination of Iditarod National Historic Trail matters shall rest with the Secretary in consultation with the heads of other Federal and State agencies where lands administered by them are involved. Such responsibilities shall include:

(1) Selecting the specific trail route, as provided for in section 7(a) of the National Trails System Act, within three years after the date of enactment of this section.

(2) Developing a plan and guidelines for the acquisition, development, management and maintenance of the trail with the advice and assistance of other Federal, State, and local agencies and organizations; such plan and guidelines to include provisions for the acquisition, retention, or dedication of significant historic sites and for a right-of-way or easement along most or all of the route to protect historic values and segments for potential future recreational trail development and to insure continued public travel along the various trail segments.

KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

SEC. 1202. The Act approved June 30, 1976 (90 Stat. 717), providing for the establishment of the Klondike Gold Rush National Historical Park, is amended by revising the second sentence of subsection (b)(1) of the first section to read as follows: "Lands or interest in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange: *Provided*, That notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), the State may include the minerals in any such transaction.".

APPLICATION OF MINING IN THE PARK LAND TO THE NATIONAL REFUGE SYSTEM

SEC. 1203. The provision of sections 2 and 8 of Public Law 94-429 (16 U.S.C. 1902, 1908), are hereby extended to all units of the National Wildlife Refuge System established by this Act. For the purposes of this section, the term "National Wildlife Refuge System" shall be substituted for the term "National Park System" and the Act of October 15, 1966 (16 U.S.C. 668dd et seq.) for the Act of August 25, 1916, as amended (16 U.S.C. 1), wherever those terms appear in sections 2 and 8 of Public Law 94-429.

COOPERATIVE INFORMATION CENTER

SEC. 1204. The Secretary is authorized, in consultation with other Federal agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land, at a site adjacent to the Alaska Highway. For the purposes of this investigation, the Secretary shall seek participation in the program planning, or operation of the center (or both) from approrpiate agencies of the State of Alaska and representatives of Native groups in Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1205. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94-258).

TITLE XIII—APPROPRIATIONS

AUTHORIZATION

SEC. 1301. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978. No authority to enter into contracts or to make payments under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The gentleman from Washington (Mr. MEEDS) is recognized for 5 minutes.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me for the purpose of offering a substitute?

Mr. MEEDS. Mr. Chairman, I yield to the gentleman from Arizona for the purpose of offering a substitute.

The CHAIRMAN. The Chair will state that the gentleman from Washington (Mr. MEEDS) can yield back his time, and then the Chair will recognize the gentleman from Arizona (Mr. UDALL).

Mr. MEEDS. Mr. Chairman, I yield back the balance of my time at this time.

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS:

Strike all after the enacting clause of text of H.R. 12625 (Leggett amendment) and in lieu thereof insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Alaska National Interest Lands Conservation Act".

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TITLE I—FINDINGS, POLICY, AND DEFINITIONS

FINDINGS

SEC. 101. Congress finds and declares that—

(1) through passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act, the Congress established policies for the disposition of the public lands in Alaska and provided for future economic, social, and cultural development in Alaska and for the fair and just settlement of claims of Natives and Native groups based on aboriginal land claims, while reserving decision as to which of the public lands in Alaska should be reserved in the national interest;

(2) a prompt and thorough resolution of the status of the public lands in the State of Alaska, in accordance with established congressional policies, is in the best interests of all the people of the United States including residents of Alaska;

(3) certain public lands in the State of Alaska contain nationally and internationally significant scenic, historic, archeological, paleontological, scientific, cultural, recreational, wildlife, and wilderness resources, and these public lands represent a remarkable diversity of undisturbed ecosystems, including some not found elsewhere;

(4) wilderness is a distinguishing characteristic of public lands in Alaska, which affords an unrivaled opportunity for experiencing vast areas of land essentially unaltered by man's activities, and merits preservation for the benefit of future generations; but such wilderness is increasingly being altered and reduced by activities and intrusions associated with national and international demands for energy, mineral, and timber resources and other incompatible activities;

(5) several wildlife species, including species which are threatened, endangered, or depleted in other parts of the Nation and the world, are dependent for their survival on the maintenance of appropriate natural habitats on the public lands in the State of Alaska;

(6) selective representation of the diverse natural communities, including pristine, free-flowing rivers, on public land in the State of Alaska should be preserved as units of Federal land management conservation systems for the benefit of present and future generations; and

(7) at the accelerated pace of population growth, settlement and related consumption of raw materials, the world is losing natural habitats and associated values at an alarming rate, and therefore the wilderness and the wilderness habitats of certain public lands in Alaska assume global importance since they are among the few remaining areas of such vast extent and their permanent protection is a reasonable and attainable national objective.

POLICY

SEC. 102. In order to secure for the American people of this and future generations an enduring heritage of untrammeled environments in the State of Alaska and to aid in the fulfillment of international conservation commitments of the United States, it is hereby declared to be the policy of the Congress that—

(1) it is necessary to immediately designate public lands in Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers, National Forest, National Trails, and National Wilderness Preservation Systems, which systems shall, in combination—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems including but not limited to extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems;

(C) protect and preserve cultural values of Native and non-Native peoples and conserve renewable resources related to their subsistence needs;

(D) provide for the maintenance of sound populations of, and habitat for, fish and wildlife, including those species dependent on vast undeveloped areas, of inestimable value to the citizens of Alaska and the Nation;

(E) provide opportunities for compatible outdoor public recreation, protect and interpret historic, paleontological, and archeological sites, maintain wilderness resource values and related multiple watershed, flora, fauna, recreational, and subsistence resource values, and preserve free flowing rivers and associated resources;

(F) maintain opportunities for scientific research in undistributed ecosystems; and

(G) provide for the management of multiple values in a manner which will permit utilization of natural resources, where appropriate, consistent with sound ecological principles;

(2) in the planning, management, and administration of these conservation system units—

(A) intangible values shall be considered on an equal basis with quantifiable values;

(B) sound ecological principles shall be adhered to; and

(C) full public participation shall be encouraged;

(3) the public should have access to the public lands in Alaska, including access to those public lands which constitute conservation systems units, consistent with the purposes for which those units are established;

(4) those persons now dependent upon subsistence uses of the public lands in Alaska should be enabled to continue in that lifestyle, to the extent they may choose to do so and to the extent that the renewable resources of those public lands permit such uses to be continued and, within conservation system units, in a matter consistent with the purposes for which the units are established or expanded; and

(5) in carrying out the provisions of this Act, the Secretary and other officers of the Federal Government are to give continuing consideration to the interest of the State of

Alaska and its subdivisions and the Native Corporations in maintaining a viable economy and providing employment for citizens of Alaska.

DEFINITIONS

SEC. 103. As used in this Act—

(1) The term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means land the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved and validly selected under section 6(g) of the Alaska Statehood Act and lands which have been validly selected by the State as part of its entitlements under—

(i) the Alaska Mental Health Enabling Act (70 Stat. 709);

(ii) the Act entitled "An Act to reserve lands to the Territory of Alaska for educational uses, and for other purposes", approved March 4, 1915 (38 Stat. 1214); or

(iii) sections 6(a) and 6(b) of the Alaska Statehood Act;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(4) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(5) The term "take" or "taking", as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(6) The term "plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

(7) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(8) The terms "administer" or "administration" and "manage" or "management", as used with respect to any land within a conservation system unit, means the operation, restoration, protection, maintenance, use, and preservation of lands within such unit, based on applied research and sound ecological principles, in accordance with the purposes for which such unit was established or expanded.

(9) The term "Native Corporation" means any Regional Corporation, any Village Corporation, and any Urban Corporation.

(10) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(11) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(12) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act.

(13) The term "Native land" means land owned by a Native Corporation or any Native group (as defined in section 3(d) of the Alaska Native Claims Settlement Act) and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(14) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(15) The term "national preserve" means a unit of the National Park System in Alaska administered and managed in the same manner as a national park, except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes shall be allowed in a national preserve under appropriate regulation.

(16) The term "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890) except as expressly modified by this Act.

(17) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339).

(18) The term "State" means the State of Alaska.

(19) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

(20) The term "Alaska Native Claims Settlement Act" means the Act entitled "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688).

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

SEC. 201. The following areas are hereby established as units of the National Park System and, subject to valid existing rights, shall be administered by the Secretary under the laws governing the administration of such units and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately three hundred and fifty thousand acres of public lands, and Aniakchak National Preserve, containing approximately one hundred and sixty thousand acres public lands, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978. The monument and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: To preserve and maintain the Aniakchak Caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams in their natural state; to maintain natural water quality and quantity; to study, interpret, and assure continuation of the natural processes of biological succession; to protect habitat for and populations of fish and wildlife, including but not limited to grizzly bear, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for compatible outdoor recreation and environmental educational activities.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and eighty thousand acres of public lands, as generally depicted on a map entitled "Bering Land Bridge National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve, protect, and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, and other geologic processes; to provide for acheological and palentological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between the North American and the Asian continents; to maintain natural water quality and quantity; to protect habitat for, and populations of, fish and wildlife, including but not limited to marine mammals, grizzly bear, moose, wolf, and internationally significant populations of migratory birds; to continue reindeer grazing use including facilities and equipment necessary to conduct this operation; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide for compatible outdoor recreation and environmental education activities.

(3) Cape Krusenstern National Monument, containing approximately one hundred and ninety thousand acres of public lands, and Cape Krusenstern National Preserve, containing approximately three hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Cape Krusenstern National Monument and Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to protect and interpret a series of archeological sites depicting every known cultural period in Arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for and populations of marine mammals, birds, and other fish and wildlife resources; to maintain natural water quality and quantity; to protect the viability of subsistence resources; and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(4) Gates of the Arctic National Park, containing approximately eight million and fifty thousand acres of public lands, and Gates of the Arctic National Preserve, containing approximately sixty thousand acres of public lands, as generally depicted on a map entitled "Gates of the Arctic National Park and Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the undeveloped character of the park, including opportunities for visitors to experience solitude, and the environmental integrity and scenic beauty of the mountains, foothills, forelands, rivers, lakes, and other natural features; to maintain natural water quantity and quality; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide op-

portunities for compatible outdoor recreation and environmental educational activities.

(5) Kenai Fjords National Park, containing approximately four hundred and twenty thousand acres of public lands, as generally depicted on a map entitled "Kenai Fjords National Park", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to maintain unimpaired the scenic and environmental integrity of the Harding icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including, but not limited to, seals, sea lions, other marine mammals, and marine and other birds, and to maintain their hauling and breeding areas in their natural state; to provide opportunities for continued subsistence uses; and, in a manner consistent with the foregoing, to provide opportunities for sightseeing, nature study, ski touring, hiking, and similar outdoor recreation and environmental education activities.

(6) Kobuk Valley National Park, containing approximately one million six hundred and seventy thousand acres of public lands, as generally depicted on a map entitled "Kobuk Valley National Park", dated March 1978, which park shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the Boreal Forest, and the Great Kobuk Sand Dunes, in their undeveloped state; to maintain natural water quality and quantity within the area; to protect and interpret, in cooperation with Native Alaskans, Onion Portage and other archeological sites associated with Native cultures; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(7) Lake Clark National Park, containing approximately two million three hundred and ninety-five thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million and ninety-five thousand acres of public lands, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated March 1978. The Park and Preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: to protect the watersheds necessary for perpetuation of the salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, free flowing rivers, lakes, waterfalls, and alpine meadows in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of all fish and wildlife, including but not limited to the Mulchatna caribou herd, Dall sheep, grizzly bear, bald eagle, and peregrine falcon; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible public uses and other compatible outdoor recreation and environmental education activities.

(8) Noatak National Preserve, containing approximately six million and eighty thousand acres of public lands, as generally depicted on a map entitled "Noatak National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activities and development; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife; including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, waterfowl, raptors, and other species of birds; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for scientific research, and compatible outdoor recreation and environmental education activities. The Secretary shall establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve. All lands located east of the centerline of the main channel of the Noatak River which are—

(A) within—

(i) any area withdrawn under the Alaska Native Claims Settlement Act for selection by the Village of Noatak, and

(ii) any village deficiency withdrawal under section 11(a)(3)(A) of such Act which is adjacent to the area described in subparagraph (i) of this paragraph,

(B) adjacent to public lands within a unit of the National Park System as designated under this Act, and

(C) not conveyed to such Village or other Native Corporation before the final conveyance date,

shall, on such final conveyance date, be added to, and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the proceeding sentence the term "final conveyance date" means the date of the conveyance of lands under the Alaska Native Claims Settlement Act, or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (A).

(9) Wrangell-Saint Elias National Park, containing approximately eight million six hundred and seventy thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately three million three hundred and eighty thousand acres of public lands, as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated March 1978. The park and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: to preserve and maintain unimpaired the scenic beauty and quality of glacial systems, high mountain peaks, foothills, lakes and streams, and coastal landscape and valleys in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to marine mammals, caribou, grizzly bear, Dall sheep, moose, wolves, and trumpeter swans and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(10) Yukon-Charley Rivers National Preserve, containing approximately one million six hundred and eighty-three thousand acres of public lands, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to maintain the environmental integrity of the Charley River basin, including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and use, including scientific study; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area, and to provide opportunities for compatible outdoor recreational and environmental education.

ADDITIONS TO EXISTING AREAS

SEC. 202. The following units of the National Park System are hereby expanded and redesignated:

(1) Mount McKinley National Park by the addition of an area containing approximately three million three hundred and fifty thousand acres of public land. An additional four hundred thousand acres shall be designated as the "Denali National Preserve". Both the park and preserve shall be managed by the National Park Service under applicable laws. The boundaries of these areas shall be as generally depicted on a map entitled "Denali National Park and Preserve", dated March 1978. The park and preserve shall be managed for the purposes of protecting the entire mountain massif and additional scenic mountain peaks, glaciers, foothills, valleys, and formation; to protect habitat for and populations of fish and wildlife, including but not limited to moose, caribou, Dall sheep, bears, and wolves; to maintain natural water quality and quantity; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the north addition for continuation of previously established subsistence uses. The park is hereby redesignated as "Denali National Park", but this shall in no way be construed as changing the name of Mount McKinley itself. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine.

(2) Glacier Bay National Monument by the addition of an area containing approximately five hundred and fifty thousand acres of public lands, as generally depicted on a map entitled "Glacier Bay National Park", dated March 1978; furthermore, the Glacier Bay National Monument is hereby redesignated the Glacier Bay National Park, which shall be managed for the purposes of preserving and protecting the northwest slope of Mount Fairweather, portions of the Alsek River, fish and wildlife habitat, migration routes, and populations; to maintain natural water quality and quantity; to protect mature biological communities unaffected by recent glaciation; to protect the viability of subsistence resources and provide the oppor-

tunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the addition for continuation of previously established subsistence uses.

(3) Katmai National Monument by the addition of an area containing approximately one million one hundred and thirty thousand acres of public lands and an area of approximately two hundred and ten thousand acres of public land designated as the Katmai National Preserve, as generally depicted on a map entitled "Katmai National Park and Preserve", dated March 1978, for the purposes of protecting high concentrations of Alaskan brown bear and denning areas, and habitat for other fish and wildlife; to maintain the diversity of natural values and the environmental integrity of the area, including its rivers, lakes, and watersheds; to maintain unimpaired the natural water quality and quantity for significant salmon populations; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the Alagnak addition for continuation of previously established subsistence uses. Furthermore, the monument is hereby redesignated as "Katmai National Park".

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) GENERAL RULES.—The Secretary shall administer the lands, waters, and interests therein added to existing units, or established by the foregoing sections of this title, as new units of the National Park System in accordance with the provisions of law applicable to the National Park System and the provisions of section 1202(b) respecting travel, the provisions of section 1209 respecting the taking of fish and wildlife, and other applicable provisions of this Act.

(b) KATMAI AND GLACIER BAY.—Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate.

(c) VALID NATIVE SELECTIONS; GATES OF THE ARCTIC AND KILLIK.—Valid Native selections or nominations of lands within boundaries of the Gates of the Arctic National Park and within the boundaries of the segment of the Killik River designated a wild river, as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and title VIII of this Act.

(d) VALID NATIVE SELECTIONS; WRANGELL-SAINT ELIAS.—Valid Native selections or nominations of lands within boundaries of the Wrangell-Saint Elias National Park and Preserve, as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and title VIII of this Act.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to insure, to the maximum extent practicable, the health, preservation, and enhancement of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information and education, extension services, propagation, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it exists on the day before the date of the enactment of this Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 304;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

PURPOSES OF REFUGES

SEC. 302. The major purposes of each refuge are—

(1) to conserve the fish and wildlife within the refuge which are designated in section 304 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife and plants, within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and plants;

(3) to insure, to the maximum extent practicable and in a manner consistent with the purpose set forth in paragraph (1), water quality and water quantity within the refuge; and

(4) to protect, maintain, or enhance, in a manner consistent with the purpose set forth in paragraph (1), any special value of the refuge specified in section 304, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, or scenic value of the refuge.

ADMINISTRATION OF REFUGES

SEC. 303. (a) IN GENERAL.—Each refuge shall be administered by the Secretary, subject to valid existing rights, to achieve the major purposes set forth in section 302 and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, and this Act.

(b) USES PERMITTED WITHIN REFUGES.—(1) The Secretary shall administer each refuge in order to provide opportunity for subsistence uses pursuant to title VII of this Act, but only to the extent that the provision of such opportunity is compatible with the major purposes of the refuge set forth in section 302.

(2) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose, described in such section 4 (d) unless such use (including, but not limited to, any oil and gas leasing permitted under paragraph (3)) or purpose is compatible with the major purposes of the refuge set forth in section 302 and with the provision of opportunity for subsistence uses under paragraph (1). The Secretary shall prescribe such regulations, and impose such terms and conditions, as may be necessary and appropriate to insure that activities carried out under such use or easement are so compatible.

(3) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. The Secretary, however, may permit oil and gas leasing on such lands, except in wilderness, consistent with the National Wildlife Refuge System Administration Act of 1966.

(c) REFUGE CONSERVATION PLANS.—(1) The Secretary shall prepare, and from time to time revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the significant fish and wildlife resources of the refuge and of other important fish and wildlife within the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, mineral, scenic, or wilderness values of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1105 and 1106;

(D) present and potential requirements for access with respect to the refuge, as provided for in section 1102; and

(E) significant problems which may adversely affect the populations and habitats identified and described under subparagraph (A).

(3) Each plan shall—

(A) based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values,

(ii) specify the programs for conserving fish and wildlife, and the programs relating to the values referred to in paragraph (2)(B), proposed to be implemented with each such area, and

(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

(B) set forth those opportunities which will be provided within the refuge for recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the major purposes of the refuge.

(4) In order to insure that the terms and conditions of cooperative management agreements which may be entered into under section 305 with respect to the refuge are appropriate, the Secretary may treat, but only for purposes of preparing the plan, land that is within, or near or adjacent to, the refuge as being within the boundary of the refuge.

(5) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of Native villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan of revisions.

(6) Before adopting a plan for any refuge, the Secretary shall publish notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public views and comment on the plan.

(7) The Secretary shall by regulation implement each plan prepared under this subsection.

(8) With respect to refuges established or redesignated by section 304, the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date; and

(C) all refuges within seven years after such date.

With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment.

(d) AREAS SEAWARD OF COASTAL REFUGES.—(1) For purposes of this subsection—

(A) The term "coastal refuge" means any refuge (other than the Kenai National Wildlife Refuge) any part of which is on the coast.

(B) The term "plan" means a comprehensive cooperative management plan described in paragraph (4).

(C) The term "seaward area" means, with respect to any coastal refuge, that area seaward of each coastal portion of the refuge, the inner boundary of which area is the line of mean high tide and the outer boundary of which is a line drawn in such a manner that each point on it is six geographical miles from the base line from which the territorial sea is measured.

(2) Nothing in this section shall be construed as having the effect of including any seaward area within the boundary of any refuge.

(3)(A) There is established the Seaward Area Management Planning Committee (hereinafter referred to in this subsection as the "Committee"). The Committee shall be composed of four members as follows:

(i) A representative of the Secretary appointed from the United States Fish and Wildlife Service.

(ii) A representative of the Secretary of Commerce appointed from the National Oceanic and Atmospheric Administration.

(iii) Two representatives appointed by the Governor of the State.

The President and the Governor may each appoint to the Committee such number of observers as each deems appropriate.

(B) While away from their homes or regular places of business incident to attending Committee meetings, each observer appointed by the President shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(C) On such basis as may be mutually agreeable, the Secretary, the Secretary of Commerce, and the Governor of the State shall provide such staff and administrative and technical support services as are necessary and appropriate to enable the Committee to carry out its functions.

(4)(A) The Committee may prepare, and from time to time revise, a comprehensive cooperative management plan for each seaward area. The Committee may adopt, and revise, a plan only after the Secretary, the Secretary of Commerce, and the Governor have each approved the plan or revision. Such plan shall set forth those procedures and actions which will be implemented respectively by the Secretary, the Secretary of Commerce, and the State to assure that the major purposes of the coastal refuge are achieved within the seaward area and that the marine ecosystem within such area is conserved. Such action shall include, but not be limited to, the administration, in a manner compatible with the major purposes of the refuge and the conserving of the marine ecosystem, of laws for which the Secretary, the Secretary of Commerce, and the State are responsible respectively and which regulate activities carried out within the seaward area including, but not limited to, laws regulating the exploration for, and the extraction of, resources from lands under the waters of such area.

(B) In preparing any plan or revision thereto, the Committee shall provide opportunity for public views and comment.

(C) After the adoption by the Committee of any plan or revisions, the Secretary, the Secretary of Commerce, and the Governor of the State shall issue such regulations, and take such other measures as may be appropriate, to implement the plan or revision with respect to those functions under the plan which are within their respective jurisdictions.

(D) Any party to a plan may withdraw from participation in the plan by submitting written notice thereof to the other parties not less than ninety days before the date of withdrawal. Upon the withdrawal of any party, the plan shall cease to have force and effect.

(5) During any time in which a plan is not in effect with respect to the seaward area of any coastal refuge, the Secretary and the Secretary of Commerce shall administer laws, for which each is responsible, within the seaward area in a manner compatible with the major purposes of such refuge and the conserving of the marine ecosystem.

(6) The head of each Federal department or agency (other than the Department of the Interior and the Department of Commerce) which regulates activities within or over any seaward area (including, but not limited to, aircraft and vessel operation) which affect, or may affect, the carrying out of the major purposes of the refuge, or the conserving of the marine ecosystem, within the seaward area shall—

(A) if no plan is in effect with respect to such area, cooperate with the Secretary and the Secretary of Commerce in insuring, to the maximum extent practicable, that such activities are carried out within such area in a manner compatible with the major purposes of such refuge and the conserving of the marine ecosystem; or

(B) if a plan is in effect with respect to such area, cooperate with the Secretary, the Secretary of Commerce, and the State in insuring, to the maximum extent practicable, that such activities are carried out in a manner consistent with the plan.

(7) Notwithstanding any other provision of this subsection, to the extent that any plan or its implementation includes the management of the coastal zone as defined by the State pursuant to section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454), the plan shall be consistent with, and may be incorporated in, the coastal zone management program being developed or administered by the State pursuant to section 305 or section 306, as the case may be, of such Act.

(8) Nothing in this subsection shall be construed as affecting in any manner—

(A) the right or title of the State to submerged lands provided under section 6(m) of the Alaska Statehood Act;

(B) the jurisdiction of the State within the territorial sea, except as the State may otherwise agree under, and for the effective period of, a plan; or

(C) the application of section 307 of the Coastal Zone Management Act of 1972 with respect to the conducting or supporting of activities directly affecting the coastal zone of the State by any Federal agency, the undertaking of any development project in the coastal zone of the State by any Federal agency, or the granting by any Federal agency of a license or permit to any person to conduct an activity affecting land or water uses within the coastal zone of the State.

(9)(A) This subsection shall not affect, and no plan may affect—

(i) the administration and the implementation of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.); or

(ii) the right of passage of vessels through any seaward area for purposes of carrying out fishing under such Act within or beyond such area.

(10) No plan may provide for any procedure or action which is contrary to, or inconsistent with, Federal laws governing the conservation or protection of fish and wildlife.

ESTABLISHMENT OF REFUGES

SEC. 304. (a) ESTABLISHMENT.—The following are established as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of the approximately five hundred thousand acres containing the Aleutian Islands, Bering Sea, Bogoslof, Chamisso, Forester Island, Hazy Islands, Pribilof (Walrus and Otter Islands and Sea Lion Rocks), Saint Lazaria, Semidi, Simenof, Sutwik, and Tuxedni National Wildlife Refuges (each of which shall be administered as an identifiable subunit of the Alaska Maritime National Wildlife Refuge) and of the public lands generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated April 1978, including—

(i) Cape Lisburne, Cape Thompson, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Stolbi Rock, Egg Island, the Shumagin Islands, the Barren Islands, Middleton Island, Latex Rocks, Harbor Island, Granite Island, Pye Island, the Chiswell Islands, and those portions of King Island, the Punik Islands, and the Trinity Islands not otherwise conveyed under the Alaska Native Claims Settlement Act; and

(ii) all islands, islets, rocks, reefs, spits, and spires or portions thereof, which are off the coast of Alaska, are public lands, and are not conveyed under the Alaska Statehood Act or the Alaska Native Claims Settlement Act or not reserved for inclusion within the National Forest System or the National Park System.

(B) The significant fish and wildlife resources of the refuge are marine mammals and marine birds and other migratory birds.

(C) Archeological resources are a special value of the refuge.

(D) The Secretary shall negotiate with the applicable Native Corporations, pursuant to section 1101(f), for the conveyance of public lands or the provision of other valuable consideration, or both, to such Corporations in exchange for the selection rights or title to the bird cliffs of Saint Paul and Saint George Islands. If the exchange is agreed upon, the Alaska Maritime National Wildlife Refuge shall include the bird cliffs of Saint Paul and Saint George Islands.

(2) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately one million, five hundred and seventy thousand acres of public lands generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmonoids, the Alaska Peninsula caribou herd, moose, migratory birds, and marine mammals.

(C) Active volcanoes, the Pavlov Mountains, Nelson Lagoon, coastlines, and recreation are special values of the refuge.

(3) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall

consist of all lands within the existing Arctic National Wildlife Range and of the approximately nine million nine hundred thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, and peregrine falcons and other migratory birds.

(C) Representative unspoiled Arctic physiographic regions and recreation are special values of the refuge.

(4) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million ninety thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmon, and the Alaska Peninsula caribou herd.

(C) Volcanoes and the bear-denning islands of Becharof Lake are special values of the refuge.

(5) COPPER RIVER NATIONAL WILDLIFE REFUGE.—(A) The Copper River National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Copper River National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are bears, Dall sheep, migratory birds, salmon, and marine mammals.

(C) Scenic mountains, coastal wetlands, and glaciers are special values of the refuge.

(6) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately two million seven hundred and eighty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(7) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and fifty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, and furbearers.

(C) Sithylemenkat Lake is a special value of the refuge.

(8) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of all lands within the existing Kenai National Moose Range and of the approximately two hundred and fifty thousand acres of public lands generally depicted on the map entitled "Kenai National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are mountain goats, moose, bears, salmon, Dall sheep, and migratory birds.

(C) Recreation is a special value of the refuge.

(9) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of the approximately one hundred thousand acres of those public lands within the existing Kodiak National Wildlife Refuge, and of all other public lands, except the Barren Islands, lying within the boundary of the Kodiak Island Borough, generally depicted on the map entitled "Kodiak National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are Kodiak brown bears, salmon, marine mammals, and migratory birds.

(C) Nothing in this paragraph shall abrogate any existing Forest Service timber contract, prohibit the Secretary from exchanging lands under section 1101(f), or revoke existing cabin leases on the public lands added to the existing refuge by this paragraph.

(10) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million six hundred and fifty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge," dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Nogahabara sand dunes are a special value of the refuge.

(11, NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million five hundred and sixty thousand acres of public lands generally depicted on the map entitled "Nowitna National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, peregrine falcons, moose, and martens and other furbearers.

(C) The Nowitna Wild River is a special value of the refuge and that segment of the river described in section 501(a)(23) shall be managed as a part of the refuge.

(12) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately three million three hundred and seventy thousand acres of public lands generally depicted on the map entitled "Selawik National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are peregrine falcons and other migratory birds, the Western Arctic caribou herd, salmon, and shellfish.

(C) Archeological resources and paleontological resources are special values of the refuge.

(D) Selawik River is a special value of the refuge and shall be managed as a wild river from its headwaters to the Kugarak River. Detailed boundaries and development plans for the segment of the river lying outside and east of the refuge boundary shall be prepared in accordance with section 501(b) and such segment shall thereafter be managed as a part of the refuge.

(E) Notwithstanding any other provision of this title, application may be made to the Secretary for the granting of an easement through the Selawik National Wildlife Refuge or the Koyukuk National Wildlife Refuge, or part of both such refuges, for a road, railway, or pipeline to be used for the transportation from the Ambler River mineral belt to Norton Sound of minerals extracted in commerical quantities. If the Secretary finds, after notice and opportunity for agency hearing, that there exists no feasible and prudent alternative route for such a road, railway, or pipeline that would be less damaging to the environment than a route through either or parts of both of such refuges, the Secretary shall deem the construction and use of such a road, railway, or pipeline to be compatible with the major purposes of the refuge concerned and shall grant an easement through such refuge for the minimum right-of-way necessary for the road, railway, or pipeline, subject to such terms and conditions as the Secretary deems necessary and appropriate to insure that its construction and use will be carried out in a manner which will minimize adverse effects on fish and wildlife and their habitats.

(13) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and seventy-six thousand acres of public lands generally depicted on the map entitled "Tetlin National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds.

(C) The Secretary shall convey to the State, under section 6 of the Alaska Statehood Act, land validly selected by the State northeast of the Alaska Highway in township 11 north 23 east, Copper River Meridian, Alaska; except that such land shall not be considered to be validly selected unless the State agrees to accept the conveyance of the land with a covenant which requires the State to use the land as a State park, to protect the watershed of the Scottie Creek drainage, and to conserve the fish and wildlife within the park, but such covenant may not prohibit the construction and operation of a visitors information center.

(14) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of all lands within the existing Cape Newenham National Wildlife Refuge and of the approximately three million two hundred thousand acres of public lands generally depicted on the map entitled "Togiak National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife resources of the refuge are large mammals, salmonoids, marine mammals, and migratory birds.

(15) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of all lands within the existing Clarence Rhode National Wildlife Range and the Hazen Bay and Nunivak National Wildlife Refuges and of the approximately thirteen million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, marine mammals, musk-oxen, and salmonoids.

(16) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately nine million four hundred thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, the Porcupine caribou herd, moose, and wolves, wolverines, and other furbearers, and salmon.

(b) OTHER SIGNIFICANT FISH AND WILDLIFE RESOURCES.—The significant fish and wildlife resources of the Izembek National Wildlife Range (which is hereby designated as the Izembek National Wildlife Refuge), are migratory birds, brown bears and salmonoids.

COOPERATIVE MANAGEMENT AGREEMENTS

SEC. 305. (a) IN GENERAL.— The Secretary shall undertake to enter into a cooperative management agreement with any Native Corporation, the State, any political subdivision of the State, or any other person owning land which is located within, or adjacent or near to, any refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner in a manner compatible with the major purposes of the refuge to which such land pertains and in a manner which will not diminish opportunities for subsistence uses in the refuge.

(b) TERMS AND CONDITIONS.—Each agreement shall—

(1) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (a);

(2) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out

the obligations of the Secretary under the argeement;

(3) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(4) set forth those services or other consideration which the Secretary agrees to provide to the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(5) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals set forth in subsection (a); and

(6) specify the effective period of the agreement.

BARREN-GROUND CARIBOU STUDY

SEC. 307. The Congress finds that barren-ground caribou are a migratory species deserving special protection and that the Western Arctic and Porcupine herds of such caribou are of national and international significance. The Secretary shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, a study of the barren-ground caribou herds north of the Yukon River in order to determine the migration patterns, reproduction rates, and habitat (including calving and feeding areas) that are critical to their natural stability and continued productivity, and the effects on the herds of development by man, predation, and disease. The Secretary, acting through the Secretary of State and in consultation with the Governor, shall initiate negotiations with the Government of Canada as soon as possible for the purpose of entering into a treaty to protect the Porcupine caribou herd and its habitat.

MISCELLANEOUS PROVISIONS

SEC. 308. (a) PRIOR AUTHORITIES.—All proclamations, Executive Orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established by section 304, be included within such refuge.

(2) All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

(3) The designation of any existing unit of the National Wildlife Refuge System which is included within any refuge established by section 304, or which is redesignated by such section, is withdrawn.

TITLE IV—NATIONAL FOREST SYSTEM

ADDITIONS TO NATIONAL FORESTS

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres, as generally depicted on a map entitled "Additions to the Tongass National Forest" dated March 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1210.

(2) Chugach National Forest by the addition of two areas, Nellie Juan and College Fjord, containing approximately one million two hundred and ninety thousand acres, as generally depicted on a map entitled "Additions to the Chugach National Forest" dated March 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1210.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 501. (a) ADDITIONS.—Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraphs at the end thereof:

"(16) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian downstream to the southern boundary of the Yukon Flats National Wildlife Range; approximately 160,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(17) DELTA, ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids, approximately 75,000 acres; to be classified as a recreational river area except for the segment from the Tangle Lakes area to a point opposite milepost 212 on the Richardson Highway which shall be classified as a wild river area; to be administered by the Secretary of the Interior.

"(18) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuck; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; approximately 320,000 acres; to be administered by the Secretary of the Interior and to be classified as a scenic river area except for the Wade Creek segment which shall be classified as a recreational river area and the following segments which shall be classified as wild river areas: Mosquito Fork downstream from the vicinity of Kechumstuck to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek. The classification of such segments of the Fortymile as wild river areas shall not preclude such access across such river segments as the Secretary determines to be reasonably necessary to permit commercial development of asbestos deposits in the North Fork drainage.

"(19) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; approximately 165,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(20) ALAGNAK, ALASKA.—The segment from where the river crosses the western boundary of the Katmai National Preserve (in township 12 south, range 38 west) to the western boundary of township 13 south, range 43 west, not including lands within the Katmai National Park; approximately 120,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(21) KILLIK, ALASKA.—From the northern boundary of the Gates of the Arctic National Park to the confluence with the Colville River; approximately 152,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(22) NOATAK, ALASKA.—The segment from the southern boundary of the Noatak National Preserve at the north boundary of township 27 north, range 18 west, Kateel River meridian to the mean high tide line; approximately 80,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(23) NOWITNA, ALASKA.—The segment from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to the southern boundary of the Nowitna National Wildlife Range; approximately 230,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(24) UNALAKLEET, ALASKA.—From the headwaters in township 13 south, range 3 west, Kateel River meridian, extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; approximately 110,000 acres; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(25) YUKON (RAMPARTS SECTION), ALASKA.—The segment from the east boundary of township 12 north, range 11 west, to the west boundary of township 4 north, range 19 west, Fairbanks meridian, approximately 275,000 acres; to be classified as a scenic river area and to be administered by the Secretary of the Interior.

"(26) The portions of the following rivers which form the boundary of, or are within, any national preserve in Alaska: Alagnak, Aniakchak (including its major tributaries), Charley (including its major tributaries), Chilikadrotna, Chitina, Mulchatna, and Noatak; each to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(27) The portions of the following rivers which form the boundary of, or are within, any national wildlife refuge in Alaska: Nowitna, Porcupine, Sheenjek, Andreafsky, Ivishak, Kanektok, Kisaralik, and Wind; each to be classified as a wild river area and to be administered by the Secretary of the Interior.".

(b) BOUNDARIES AND DEVELOPMENT PLANS.—Section 3(b) of the Wild and Scenic Rivers Act is amended by striking out "(b) The agency" and substituting "(b)(1) Except as otherwise provided in this Act, the agency" and by adding the following new paragraph at the end thereof:

"(2) For those rivers in Alaska listed in paragraphs (16) through (21) and (24) and (25) of subsection (a), the detailed boundaries referred to in this section shall be established, and the development plans prepared and published, within such period after the date of the enactment of this paragraph as is specified in the following list:

One year: Delta, Fortymile, and Gulkana.

Two years: Birch Creek and Yukon (Ramparts section).

Three years: Killik.

Four years: Unalakleet.

The detailed boundaries for the rivers listed in paragraphs (22), (23), (26), and (27) of subsection (a) shall be established, and the development plans for such rivers shall be prepared and published, at the same time as, and in coordination with—

(A) the submission to the Congress of the applicable management plan under section 1108 of the Alaska National Interest Lands Conservation Act (in the case of a river associated with a national preserve), or

(B) the preparation of the applicable conservation plan under section 303(c) of such Act (in the case of a river associated with a national wildlife refuge).

In the case of the rivers listed in paragraphs (16) through (27), in lieu of the acreage limitation specified in paragraph (1) of this subsection such boundaries may include an area extending up to two miles from the ordinary high water mark on both sides of each such river. There shall not be included within such boundaries lands selected by Native Corporations or other valid rights of Alaskan Natives to lands without the consent of such Corporations or Natives if such valid rights were in existence immediately before the date of the enactment of this paragraph, except to the extent any such selection or right may hereafter be relinquished."

POTENTIAL ADDITIONS

SEC. 502. (a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act is amended by inserting after paragraph (58) the following new paragraphs:

"(59) Colville, Alaska.

"(60) Copper (Iliamna), Alaska.

"(61) Copper, Alaska: The segment from the confluence with the Chitina downstream to the mean high tide line in the Chugach National Forest.

"(62) Etivluk-Nigu, Alaska.

"(63) Holitna-Hoholitna, Alaska.

"(64) Ikpikpuk, Alaska.

"(65) Koyuk, Alaska.

"(66) Kuskokwim (Middle), Alaska: The segment between McGrath and Stoney River.

"(67) Melozitna, Alaska.

"(68) Mulchatna, Alaska: The segment from the southwest boundary of the Lake Clark National Preserve to the confluence with the Nushagak River.

"(69) Nelchina-Tazlina, Alaska.

"(70) Nuyakuk, Alaska.

"(71) Situk, Alaska.

"(72) Utukok, Alaska.

"(73) Squirrel, Alaska.

(b) STUDY PERIOD.—Section 5(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) The studies of the rivers listed in paragraphs (59) through (73) shall be completed and reports thereon submitted—

"(A) for no less than five of such rivers within three years.

"(B) for no less than ten of such rivers within four years, and

"(C) for all of the remaining such rivers within five years,

after the date of enactment of this paragraph. The preceding sentence shall not apply to the rivers listed in paragraphs (59), (62), (64), and (72), and studies of such rivers shall be completed, and reports submitted not later than the time when the report in section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) is required to be submitted.".

(c) NPRA STUDY.—For date of submission of NPRA study, see section 1204.

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) COOPERATIVE AGREEMENTS.—Section 10(e) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "In the case of rivers listed in paragraphs (16) through (27) of section 3(a), the Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining such rivers to assure that the purpose of designating such rivers as wild and scenic rivers under this Act is served to the greatest extent feasible.".

(b) MINING AND MINERAL LEASING; DESIGNATED RIVERS.—Section 9(a) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank or are situated within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (16) through (27) of section 3(a) are hereby withdrawn, subject to valid existing rights, during the period before establishment of the boundaries of such river from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto. Upon establishment of the boundaries of a river, such withdrawal shall apply only to areas which are within the boundaries of the river, as established under section 3(b).".

(c) MINING AND MINERAL LEASING; STUDY RIVERS.—Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (73) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.".

(d) INTERRELATIONSHIP OF APPLICABLE LAWS.—Section 10 of such Act is amended by inserting in the second sentence of section 10(c) before "and in the case of" the following: "(and the Acts under which particular national parks or preserves or wildlife ranges and refuges are established or enlarged)" and by striking out "these Acts" and substituting "this Act and such other Acts".

(e) SNOWMOBILES.—Section 10 of such Act is amended by adding the following new subsection at the end thereof:

"(f) In the case of the rivers referred to in paragraphs (16) through (27) of section 3 (b), during periods of adequate snow cover and frozen river conditions, the use of snowmobiles shall be permitted by the Secretary, subject to such reasonable regulations as he deems necessary and appropriate. Such use shall be permitted only for customary travel, transportation, and subsistence purposes by local residents and by authorized subsistence users, as was occurring on or before January 1, 1977.".

(f) ACQUISITION AUTHORITY.—Section 6 of such Act is amended by adding the following new subsection at the end thereof:

"(h) In the case of the rivers in Alaska listed in paragraphs (16) through (27), the provisions of section 1101 of the Alaska National Interest Lands Conservation Act shall apply in lieu of the provisions of this section.".

(g) PUBLIC LAND LAWS.—Section 8(b) of such Act is amending by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or banks, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (73) of section 5(a) are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7 (b) of this Act.".

WULIK RIVER

SEC. 504. The Secretary is authorized and directed to promulgate such regulations as may be necessary to protect the water quality and quantity of, and to prevent substantial adverse environmental degradation of, the Wulik River. Any such regulations shall be coordinated with, and shall not be more stringent than, the applicable requirements under the Federal Water Pollution Control Act.

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

FINDINGS AND PURPOSES

SEC. 601. The Congress finds and declares that it is in the national interest that certain public lands in the State of Alaska within previously established units of the National Park, National Wildlife Refuge, and National Forest Systems and certain additions made to such systems by this Act be designated as wilderness and therefore as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness for the benefit of all the American people of present and future generations. The Congress further finds that certain other public lands within such national conservation systems are of evident wilderness resource value but require more thorough study prior to designation as wilderness.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL PARK SYSTEM

SEC. 602. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Aniakchak National Monument and Preserve, Alaska, which comprise approximately two hundred and ninety thousand acres, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978, and which shall be known as Aniakchak Wilderness.

(2) Certain lands in Bering Land Bridge National Preserve, Alaska, which comprise approximately seven hundred thousand acres, as generally depicted on a map entitled "Bering Land Bridge National Preserve", dated March 1978, and which shall be known as Bering Land Bridge Wilderness.

(3) Certain lands in Denali National Park and Preserve, Alaska, which comprise approximately five million four hundred and ten thousand acres, as generally depicted on a map entitled "Denali National Park and Preserve", dated March 1978, and which shall be known as Denali Wilderness.

(4) Certain lands in Gates of the Arctic National Park, Alaska, which comprise approximately eight million fifty thousand acres, as generally depicted on a map entitled "Gates of the Arctic National Park", dated March 1978, and which shall be known as Gates of the Arctic Wilderness.

(5) Certain lands in Glacier Bay National Park, Alaska which comprise approximately two million eight hundred and twenty thousand acres, as generally depicted on a map entitled "Glacier Bay National Park", dated March 1978, and which shall be known as Glacier Bay Wilderness.

(6) Certain lands in Katmai National Park and Preserve, Alaska, which comprise approximately three million six hundred and thirty thousand acres, as generally depicted on a map entitled "Katmai National Park

and Preserve", dated March 1978, and which shall be known as Katmai Wilderness.

(7) Certain lands in Kenai Fjords National Park, Alaska, which comprise approximately three hundred and forty thousand acres, as generally depicted on a map entitled "Kenai Fjords National Park", dated March 1978, and which shall be known as Kenai Fjords Wilderness.

(8) Certain lands in Kobuk Valley National Park, Alaska, which comprise approximately one million one hundred and forty thousand acres, as generally depicted on a map entitled "Kobuk Valley National Park", dated March 1978, and which shall be known as Kobuk Valley Wilderness.

(9) Certain lands in Lake Clark National Park and Preserve, Alaska, which comprise approximately two million six hundred and twenty thousand acres, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated March 1978, and which shall be known as Lake Clark Wilderness.

(10) Certain lands in Noatak National Preserve, Alaska, which comprise approximately six million eighty thousand acres, as generally depicted on a map entitled "Noatak National Preserve", dated March 1978, and which shall be known as Noatak Wilderness.

(11) Certain lands in Wrangell-Saint Elias National Park and Preserve, Alaska, which comprise approximately nine million five hundred and seventy thousand acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated March 1978, and which shall be known as Wrangell-Saint Elias Wilderness. Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(12) Certain lands in Yukon-Charley National Preserve, Alaska, which comprise approximately one million and forty thousand acres, as generally depicted on a map entitled "Yukon-Charley National Preserve," dated March 1978, and which shall be known as Yukon-Charley Wilderness.

DESIGNATION OF WILDERNESS STUDY WITHIN UNITS OF THE NATIONAL PARK SYSTEM

SEC. 603. In furtherance of the purposes of the Wilderness Act, the Secretary of the Interior shall review the nondesignated wilderness within the boundaries of each unit of the National Park System as established or as expanded by this Act, and shall report to the President and the Congress in accordance with sections 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all roadless areas within these boundaries for preservation as wilderness. Any subsequent designation as wilderness shall be accomplished in accordance with such subsections of the Wilderness Act. Recommendations for such units shall be submitted to the Congress on such basis that—

(1) no less than four are submitted within two years,

(2) no less than eight within three years, and

(3) all within four years after the date of enactment of this Act.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 604. In furtherance of the purposes of the Wilderness Act, and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain land in the Alaska Maritime National Wildlife Refuge comprising approximately two million nine hundred and ten thousand acres, as generally depicted on a map entitled "Alaska Maritime National Wildlife Refuge", date April 1978, and which shall be known as Alaska Maritime Wilderness, Aleutian Islands Wilderness, Unimak Wilderness, and Semidi Wilderness.

(2) Certain land in the Arctic National Wildlife Refuge comprising approximately thirteen million one hundred and thirty thousand acres, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated April 1978, and which shall be known as Arctic Wilderness.

(3) Certain land in the Becharof National Wildlife Refuge comprising approximately four hundred thousand acres, as generally depicted on a map entitled "Becharof National Wildlife Refuge", dated April 1978, and which shall be known as Becharof Wilderness.

(4) Certain land in the Innoko National Wildlife Refuge, comprising approximately one million two hundred and forty thousand acres, as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated April 1978, and which shall be known as Innoko Wilderness.

(5) Certain land in the Izembek National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Izembek National Wildlife Refuge", dated April 1978, and which shall be known as Izembek Wilderness.

(6) Certain land in the Kanuti National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Kanuti National Wildlife Refuge", dated April 1978, and which shall be known as Kanuti Wilderness.

(7) Certain land in the Kenai National Wildlife Refuge, comprising approximately one million four hundred and thirteen thousand acres, as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated April 1978, and which shall be known as Kenai Wilderness.

(8) Certain land in the Selawik National Wildlife Refuge, comprising approximately two hundred and forty thousand acres, as generally depicted on a map entitled "Selawik National Wildlife Refuge", dated April 1978, and which shall be known as Selawik Wilderness.

WILDERNESS REVIEWS WITHIN CONSERVATION SYSTEM UNITS OTHER THAN NATIONAL PARK SYSTEM UNITS

SEC. 605. (a) WILDERNESS REVIEW.—In furtherance of the purposes of the Wilderness Act and in accordance with the provisions of section 3(d) of that Act relating to public notice, public hearings, and review by State and other agencies, the Secretary of the Interior shall review, as to suitability or nonsuitability for preservation as wilderness, all lands within the conservation system units, other than those areas to be reviewed under section 603 and those areas designated as wilderness by this Act.

(b) DATES.—The Secretary of the Interior shall conduct his reviews, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act. The Secretary shall complete his reviews and the President shall advise the Congress of his recommendations with respect to no less than one-third of areas within three years after the date of enactment of this Act and with respect to the other two-thirds within seven years after such date of enactment, except that the reviews required thereunder with respect to units of the National Wildlife Refuge System shall—

(1) be complete at the same time as the conservation plans for the units concerned are prepared under section 303(c), and

(2) be coordinated with such plans.

The Secretary shall give at least ninety days advance public notice of any hearing or other public meeting concerning such areas. Any recommendation of the President to the effect that such area or a portion thereof should be designated as wilderness shall become effective only if so provided by an Act of Congress.

(c) EFFECT ON NATIONAL WILDLIFE REFUGES.—Nothing in this section shall be construed as affecting the administration of any unit of the National Wildlife Refuge System in accordance with title III until Congress otherwise provides in taking action on any Presidential recommendation made under subsection (b).

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 606. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Chugach National Forest, Alaska including lands added to such forest under section 401, which comprise approximately six hundred and ninety-six thousand acres (excluding lands of the village corporation for the village of Chenega), as generally depicted on a map entitled "Nellie Juan Wilderness", dated March 1978, and which shall be known as the Nellie Juan Wilderness.

(2) Certain lands in the Chugach National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately eight hundred and forty-seven thousand acres (excluding lands of the village corporation for the village of Tatitlek), as generally depicted on a map entitled "College Fjord Wilderness", dated March 1978, and which shall be known as College Fjord Wilderness.

(3) Certain lands in the Tongass National Forest, Alaska including lands added to such forest under section 401, which comprise about four hundred and ninety thousand acres as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated March 1978, and which shall be known as the Stikine-LeConte Wilderness.

(4) Certain lands in the Tongass National Forest, Alaska, which comprise approximately four hundred and twenty thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated March 1978, and which shall be known as the West Chichagof-Yakobi Wilderness, except that the area comprising approximately six thousand acres as depicted on the above map as "Potential Wilderness" is designated as wilderness ten years from the date of enactment of this Act, unless before that date the Secretary has determined through written findings on the record that holders of mining claims in that area have met all the requirements for issuance of a patent, that proper environmental impact statements have been made available to the public, that satisfactory controls have been established which will prevent any environmental damage to the adjacent wilderness and nearby waters, and that commercial production of minerals has commenced.

(5) Certain lands in the Tongass National Forest, Alaska, including lands added to such forest under section 401, which comprise approximately three hundred and fifty thousand acres (excluding lands of Yak-Tat-Kwan Native Village Corporation and the village of Yakutat), as generally depicted on a map entitled "Yakutat Wilderness", dated March 1978, and which shall

be known as the Yakutat Wilderness. Use of previously existing primitive fish campsites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary of Agriculture deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(6) Certain lands in the Tongass National Forest, Alaska, which comprise approximately one million one hundred and sixteen thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated March 1978, and which shall be known as Admiralty Island Wilderness and which shall be managed in accordance with the following provisions, among others:

(A) The Secretary of Agriculture is authorized to acquire, in accordance with the provisions of section 1101 of this Act, any lands, waters, and surface and subsurface interests therein which are located within the boundaries of the Admiralty Island Wilderness. Lands held or reserved for the Angoon Community Association under the provisions of the Act of June 18, 1934 (48 Stat. 984), specifically those lands withdrawn under Public Land Order 593, may only be acquired with the consent of the Angoon Community Association.

(B) Permits issued by the Forest Service, before the date of the enactment of this Act, for a dwelling or campsite in the Admiralty Island Wilderness shall expire not later than ten years after the date of enactment of this Act. The Special Use Permit for Thayer Lake Lodge shall be renewed as necessary for the longest of either (i) fifteen years after the date of enactment of this Act, or (ii) the lifetime of the permittee or the surviving spouse, whoever lives longer, so long as the management of the Lodge remains consistent with the purposes of the Admiralty Island Wilderness.

(C) Historic sites on Admiralty Island which have been identified and selected under section 14(h)(1) of the Alaska Native Claims Settlement Act shall be included within the boundaries of the Admiralty Island Wilderness. The deed or deeds conveying such sites shall contain covenants, within the intent and purposes of this Act, preserving such sites in their natural condition and preventing timber development. Landownership of such historic sites shall remain in perpetual ownership of the stockholders of SEAlaska Corporation; except that if, in its subdivisions of the portion of two million acres of land allocated to the southeast region pursuant to section 14(h)(1) of the Alaska Native Claims Settlement Act, SEAlaska Corporation does not include all of the historic sites on Admiralty Island as determined by the Tlingit community of Admiralty Island, then Kootznoowoo, Incorporated, as representative of such community, may identify additional lands within the boundaries of the wilderness area as having important cultural and historic significance and the Secretary shall take appropriate action to preserve and protect such cultural and historic values.

(D) Under no circumstances shall the Secretary of Agriculture or any of his authorized officers or designees, permit educational, charitable, or nonprofit organizations or institutions, public or private museums, galleries, societies, associations or groups, private persons, Federal, State, or local agencies or any of their subdivisions access to the historical sites referred to in subparagraph (C) for archeological or anthropological research without the express, written consent of Kootznoowoo, Incorporated, as representative of the Tlingit community of Admiralty Island.

(E) The Secretary is authorized to enter into cooperative agreements with Kootznoowoo, Incorporated, for the establishment of research programs related to preservation of cultural resources of Admiralty Island on public and private lands.

(F) Within five years after the date of enactment of this Act and in accordance with the provisions of sections 1108, the Secretary shall prepare a management plan for the Admiralty Island Wilderness.

(G) As provided under section 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture is specifically authorized and directed, if the shareholders of Kootznoowoo, Incorporated, so elect, to exchange the timber rights to those lands selected for the village of Angoon under section 16 of the Alaska Native Claims Settlement Act for timber rights elsewhere within the Tongass National Forest in areas not designated as wilderness or wilderness study under this Act or other provisions of law. If the shareholders of Kootznoowoo, Incorporated, so elect, the timber rights to lands selected by that Corporation under section 16 of the Alaska Native Claims Settlement Act shall be conveyed to the Secretary of Agriculture. Within one year after such conveyance, the Secretary of Agriculture shall convey to Kootznoowoo, Incorporated, timber rights under this section which are of equal value to those conveyed to the Secretary. The conveyance of timber rights to the Secretary of Agriculture shall be conditioned upon the conveyance to Kootznoowoo, Incorporated, by the Secretary of Agriculture of timber rights of equal value under this section, except that if within one year after conveyance of timber rights to the Secretary of Agriculture, he cannot identify timber rights of equal value by mutual agreement, Kootznoowoo, Incorporated, at its election, may either rescind the conveyance or identify not more than twenty-three thousand and forty acres of land within the Tongass National Forest otherwise available for exchange under this paragraph and timber rights in lands so identified shall then be conveyed to Kootznoowoo, Incorporated, by the Secretary of Agriculture. Timber on Admiralty Island with respect to which the Secretary of Agriculture acquires title under this paragraph shall not be sold or otherwise cut or disturbed, except for subsistence uses or as otherwise provided by this Act. Notwithstanding the provisions of section 21(c) of the Alaska Native Claims Settlement Act, for the purposes of these timber rights exchange, the basis of valuation of the timber rights granted Kootznoowoo, Incorporated, shall be the highest average market value of timber in Alaska sold by the Secretary during any one of the twenty years preceding the conveyance.

(H) As provided under sections 21(c), 21(d), and 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture may acquire by purchase the timber rights of Kootznoowoo, Incorporated, which are to be exchanged pursuant to subparagraph (G) of this paragraph. The Secretary may acquire, pursuant to section 1101 of this Act, scenic easements on lands on Admiralty Island which may be appropriate to protect the natural and other values of Admiralty Island.

(I) In order for the Secretary of Agriculture to proceed as expeditiously as possible, lands withdrawn for selection by the Angoon Corporation pursuant to the Alaska Native Claims Settlement Act shall remain open to selection by Kootznoowoo, Incorporated. Lands not so selected by Kootznoowoo, Incorporated, shall become a part of the Admiralty Island Wilderness.

(J) In satisfaction of the rights of the Natives of Juneau and Sitka as provided by section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture shall designate alternative lands of equal or greater timber value located in southeast Alaska other than Admiralty Island for the benefit of Goldbelt, Incorporated, and Shee Atika, Incorporated. For purposes of this section, corporations formed pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act shall be considered as Village Corporations formed pursuant to section 16 of that Act. Upon notice that any such land is acceptable to Goldbelt, Incorporated, or Shee Atika, Incorporated, the Secretary shall immediately convey the surface estate in such land to such corporation and shall immediately convey the subsurface estate to the SEAlaska Corporation. As a condition to such conveyance, Goldbelt, Incorporated, or Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island and SEAlaska Corporation shall release any claim to subsurface right on Admiralty Island which corresponds to the land selection rights so released by Goldbelt, Incorporated, or Shee Atika, Incorporated. In studying lands for designation as alternative selection lands under this subparagraph, the Secretary shall also attempt to locate national forest lands not on Admiralty Island suitable for an exchange of timber interests with Kootznoowoo, Incorporated, under subparagraph (G). Nothing in this section shall be construed to affect any valid rights which Goldbelt, Incorporated, and Shee Atika, Incorporated, may have on Admiralty Island pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act nor shall it in any way be deemed to compel Goldbelt, Incorporated, or Shee Atika, Incorporated, to surrender any rights they may have on Admiralty Island prior to their voluntary acceptance of other land.

(K) Effective beginning October 1, 1978, the Secretary of the Interior shall pay all court costs and reasonable attorneys' fees incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act.

SPECIAL PROVISIONS

SEC. 607. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) FIRE; INSECTS; AND DISEASE.—Such measures may be taken as the Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desirable to maintain the wilderness character of the area.

(c) AQUACULTURE.—In accord with principles of sound fisheries management, and in a manner which will protect and preserve wilderness resources, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, is authorized to permit fishery research, management, enhancement, and rehabilitation activities within wilderness and wilderness study areas designated by this Act, except that only fishery research may be authorized in such areas within units of the National Park System, as he determines to be necessary and desirable to study, manage, protect, restore, augment, or sustain indigenous fish populations. Developments for any such activities shall involve only those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. In constructing such facilities and structures, no significant alteration to the natural contours of the terrain and no permanent roads shall be permitted. Reasonable access, including temporary use of motorized equipment, shall be permitted in further-

ance of research, management, rehabilitation, and enhancement activities subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area. Fishery research activities permitted within units of the National Park System shall only be undertaken in a manner that is consistent with the purposes for which such units are established or expanded. The construction or erection of permanent structures in support of these activities in wilderness or wilderness study areas within units of the National Park System shall not be permitted.

(d) CERTAIN FISH HATCHERY, FISHPASS, AND OTHER SITES.—(1) Those certain fish hatchery and fishpass sites identified on the maps of the Nellie Juan Wilderness, Stikine-LeConte Wilderness, and the West Chichago-Yakobi Wilderness as "Potential Wilderness Areas" are designated as wilderness effective ten years after the date of enactment of this Act, unless during the ten-year period the Secretary of Agriculture authorizes development of a fish hatchery or fishpass in any such potential wilderness area. The Secretary shall manage each such area pursuant to the Wilderness Act until he authorizes such development or until the end of the ten-year period specified in the preceding sentence. Any fish hatchery or fishpass authorized for any such area shall be constructed, managed, and operated in a manner that minimizes any adverse impacts on the wilderness character of the adjacent wilderness.

(2) Those fish incubator sites identified on the map of Kenai Wilderness as "Potential Wilderness Areas" are designated as wilderness effective ten years after the date of enactment of this Act, unless during the ten-year period the Secretary authorizes development of a fish incubator in any such potential wilderness area. The Secretary shall manage each such area pursuant to the Wilderness Act until he authorizes such development or until the end of the ten-year period specified in the preceding sentence. Any fish incubator authorized for any such area shall be constructed, managed, and operated in a manner that minimizes any adverse impacts on the wilderness character of the adjacent wilderness.

(e) EXISTING CABINS.—Previously existing public use cabins within national forest wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(f) NEW CABINS.—Within national forest wilderness designated by this Act, the Secretary is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape.

(g) COMMERCIAL SERVICES.—Commercial services may be performed within the wilderness designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purpose of the areas.

(h) WITHDRAWALS.—Subject to valid existing rights, national forest wilderness established by this Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including, in both cases, all amendments thereto, and from any right of mineral entry which would otherwise have been available hereafter under the Wilderness Act or any other provision of law.

(i) TAKING OF FISH AND WILDLIFE.—Within national forest wilderness designated by this Act, the Secretary of Agriculture shall permit taking of fish and wildlife on lands under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska, except that the Secretary may designate zones where, and establish periods when, no taking of fish and wildlife shall be permitted for reasons of public safety, administration, public use and enjoyment; or protection of subsistence activities and except that the taking of wildlife shall be prohibited in the Pack Creek and Swan Cove area, within the boundaries of Pack Creek Research Natural Areas in the Admiralty Island Wilderness.

(j) COMMERCIAL FISHERIES.—In accordance with principles of sound fisheries management, the Secretary is authorized to permit commercial fisheries activities within wilderness designated by this Act, except within national parks.

(k) MISTY FJORDS.—Subject to valid existing rights, those certain lands in the Tongass National Forest, Alaska, which comprise approximately two million three hundred and forty thousand acres, as generally depicted on a map entitled "Misty Fjords Area" dated March 1978, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

ADMINISTRATION

SEC. 608. (a) IN GENERAL.—Except as otherwise expressly provided for in this Act, wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 602, 603, and 604 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

(b) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber on relevant lands within such units.

ACQUISITION AUTHORITY

SEC. 609. The Secretary of Agriculture is authorized, in accordance with the provisions of section 1101, to acquire privately owned land within the boundary of any area designated as wilderness within the national forest by this Act.

TITLE VII—SUBSISTENCE

FINDINGS

SEC. 701. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic, and cultural existence;

(2) the continuation of the opportunity for subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic, and traditional existence;

(3) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses;

(4) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(5) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and provide for continued subsistence uses on public lands by Alaska Natives and other Alaska residents; and

(6) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of substance uses on the public lands in Alaska.

POLICY

SEC. 702. It is hereby declared to be the policy of Congress that—

(1) management policies on the public lands in Alaska are to cause the least adverse impact possible on rural people who traditionally and consistently depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, the purpose of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency and the rate at which acculturation or adjustment to a nonsubsistence way of life may take place;

(2) nonwasteful subsistence use of fish and wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the natural stability and continued productivity of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for nonwasteful subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

DEFINITION

SEC. 703. As used in this Act, the term "subsistence uses" means the noncommercial (except as provided under paragraph (2)) customary and traditional utilization within the State of wild, renewable resources for—

(1) direct personal or family use for food, shelter, fuel, clothing, tools, or transportation;

(2) the making and selling of handicraft articles (including clothing), but only out of nonedible by-products of fish and wildlife taken for such personal or family use; or

(3) customary trade, barter, or sharing among subsistence users for personal or family use.

STATE REGULATION

SEC. 704. IN GENERAL.—Except as otherwise provided by this Act and other Federal laws, the State may regulate, in a manner consistent with the policies set forth in section 702, the taking of fish and wildlife on public lands for subsistence uses by developing and implementing a subsistence management program which meets the requirements set forth in subsection (b).

(b) STATE PROGRAM REQUIREMENTS.—The subsistence management program of the State shall include at least the following elements:

(1) The maintenance of the natural stability and continued productivity of fish and wildlife populations which are on public lands and which are the subject of subsistence uses.

(2) A system capable of regulating and monitoring subsistence uses and other consumptive uses of such populations to ensure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(3) A grievance procedure whereby any local council or regional council, required to be established under paragraph (6), which determines that the State is not in compliance, in whole or in part, with the State subsistence management program can obtain timely review of such determination by, and obtain appropriate relief from, the State agency referred to in paragraph (5)(A) or any other State rulemaking authority.

(4) The establishment of not less than five management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. The number and boundaries of the management regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated.

(5) State laws or regulations which—

(A) provide for the regulation by a professionally staffed agency of the taking of fish and wildlife populations on the public lands for subsistence uses, provide that such agency have an administrative structure compatible with the provisions of this section, and provide for an agency which has adequate enforcement authority;

(B) provide preference for nonwasteful subsistence uses by local residents over other consumptive uses of fish and wildlife populations on the public lands; and

(C) provide, whenever it is necessary to restrict the taking of such populations on public lands for subsistence uses in order to protect their natural stability and continued productivity, or to continue such uses, for the establishment of appropriate restrictions and limitations on, and preferences for, such uses which shall be based on—

(i) customary and direct dependence upon the populations as the mainstay of livelihood,

(ii) local residency, and

(iii) the availability of alternative resources.

(6) A system of local and regional fish and wildlife councils within each management region established pursuant to paragraph (4). Each regional council shall be composed of residents of the region concerned and shall have the following functions:

(A) The review, development, and evaluation of proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife within such region.

(B) The provision of a forum for the expression of opinions and recommendations by persons interested in any phase of fish and wildlife conservation and utilization.

(C) The taking of appropriate action to ensure local and regional participation in the decision-making process affecting the taking of fish and wildlife populations on public lands within the region for subsistence uses.

(D) The preparation of a recommended subsistence management plan for such region which shall be submitted to the State agency referred to in paragraph (5)(A). The plan shall be updated annually and shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations necessary to implement the plan.

The local councils within each management region shall provide advice to, and shall assist, the regional council with respect to carrying out the functions set forth in this paragraph.

(7) The assignment of adequate and necessary qualified staff to the regional councils and the timely distribution of all available relevant technical and scientific support data to the local councils and regional councils.

(8) A requirement that the State agency referred to in paragraph (5)(A) or any other State rulemaking authority shall be guided by the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses and shall implement such recommendations unless the agency or authority, after a public hearing, determines that any such recommendation is not supported by substantial evidence presented at the hearing, violates recognized scientific principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.

ENFORCEMENT DUTIES OF SECRETARY

SEC. 705. (a) REVIEW BY THE SECRETARY.—The Secretary shall monitor the State subsistence management program and the implementation of such program. If the Secretary, after notice and hearing, determines that the program or its implementation is not in compliance with this title, the Secretary shall so notify the State and shall indicate changes in the program or its implementation which he considers necessary to bring the State into compliance.

(b) REVIEW BY LOCAL AND REGIONAL COUNCILS.—If a local council or regional council required to be established under section 704(b)(6) determines that the State is not in compliance, in whole or in part, with the State subsistence management program, such council shall notify the Secretary in writing outlining the factual basis for such determination and detailing efforts which have been made to obtain timely relief through the grievance procedure referred to in section 704(b)(3). If the Secretary finds that based upon the representations of the council there is cause to believe that the State is not in compliance, in whole or in part, with the State program and that such council has failed to obtain timely relief through the State grievance procedure, he shall investigate and report publicly on the results of his investigation. If such results support the contention of the council, the Secretary shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

(c) HEARINGS AND CLOSURES.—If the State fails—(1) to implement a subsistence management program within eighteen months after the date of the enactment of this Act or by such later date as the Secretary deems reasonable; or

(2) to make, after a reasonable date, the changes in the subsistence management program or its implementation as indicated by the Secretary under subsection (a) or (b);

and the Secretary determines that such failure threatens the natural stability and continued productivity of the fish and wildlife populations on public lands in the area concerned, or the ability of subsistence-dependent Alaska residents in such area to satisfy their subsistence needs, the Secretary may close the public lands in such area to all consumptive uses except subsistence uses by local residents. The Secretary shall afford the State an opportunity to appeal such closure. Within thirty days after receipt of notice of such appeal, the Secretary shall afford the State a public hearing and, within thirty days after such hearing, shall make his final decision on such appeal. Unless the Secretary affirmatively establishes that the State is not in compliance with this title or with subsistence management program, and that the resulting threat determined under the preceding sentence exists, the Secretary shall revoke the closure. If the Secretary establishes that the State is not in such compliance, and that such resulting threat does exist, he may continue the closure, in whole or in part, until the State adopts measures complying with the Secretary's determination, or until such threat is otherwise ameliorated.

(d) EMERGENCY AUTHORITY.—(1) Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses if necessary for reasons of public safety, administration, or to assure the natural stability and continued productivity of one or more fish or wildlife populations on such lands which are subject to such uses. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the natural stability and continued productivity of one or more fish and wildlife populations on such lands which are subject to such uses, the Secretary may immediately close the public lands, or any portion thereof, to subsistence uses and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after adequate notice and public hearing, that such closure should be extended.

(2) If after notice to the State under subsection (a) or (b), the Secretary determines that extraordinary measures must be taken to protect public welfare, he may open public lands, or any portion thereof, to subsistence uses by local residents and publish the reasons justifying such action in the Federal Register. Such emergency action shall be effective when made, but shall not extend for a period of time greater than sixty days, or until such time as the threat to the public welfare which necessitated such action has been resolved, whichever time first occurs.

COOPERATIVE ARRANGEMENTS

SEC. 706. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 707. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands

under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on the subsistence needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the State agency referred to in section 704(b)(5) and the appropriate local councils and regional councils required to be established under section 704(b)(6) if such councils have been established,

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purpose of such use, occupancy, or other disposition, and (C) adequate steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

ACCESS

SEC. 708. The Secretary shall ensure that persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resources on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 709. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes, subject to such regulations as are necessary to prevent abuse, waste, or damage to fish and wildlife, habitat, or other natural values.

RESEARCH

SEC. 710. The Secretary of the Interior, acting through the United States Fish and Wildlife Service and in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence activities on the public lands, seek data from, consult with and utilize the special knowledge of subsistence users; and make the results of such research available to the State, the local councils and regional councils required to be established under section 704(b)(6), subsistence users, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 711. Within four years after the date of the enactment of this Act, and within every three-year period thereafter, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 705(a);

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local councils and regional councils required to be established under section 704(b)(6), and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

SEC. 712. Each Secretary shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

OTHER LAWS

SEC. 713. Nothing in this title shall be deemed to modify or repeal the provisions of any Federal law governing the conservation or protection of fish and wildlife.

LIMITATIONS

SEC. 714. (a) NO PROPERTY RIGHT; LEVELS OF USE.—Nothing in this title shall be construed as granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring during the ten-year period before January 1, 1978. No privilege which may be granted by the State to any individual with respect to subsistence uses under the State subsistence management program may be assigned to any other individual.

(b) CLOSED AREAS; HABITAT.—Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (whether or not within any conservation system unit) if any such use was not permitted on the date of the enactment of this Act or as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands.

REIMBURSEMENT TO THE STATE

SEC. 715. (a) AUTHORITY.—The Secretary of the Interior may reimburse the State wildlife agency, from funds appropriated to the Department of the Interior, for reasonable costs relating to the establishment and operation of the local councils and regional councils required to be established under section 704(b)(6). Such reimbursement may not exceed 50 percentum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this section shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior. The Secretary shall ensure that such grants, payments, or other sums are expended in a manner consistent with the policies set forth in section 702.

(b) LIMITATION.—Total payments to the State under this section shall not exceed the sum of $5,000,000 in any one fiscal year.

(c) REVIEWS.—The Secretary of the Interior shall periodically review the financial aspects of implementing the State program and shall advise the Congress at least once in every five years as to whether or not the maximum amount of payments specified in subsection (b) is adequate for proper implementation of the State program.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCES TO VILLAGE CORPORATIONS

SEC. 801. (a) "CORE" TOWNSHIPS, ETC.—(1) Except to the extent that conveyance of a surface estate would be inconsistent with section 22(l) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(1)(A) or 16(a) of such Act in which all or any part of such village is located. As used in this paragraph the term "Native village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

(2) There is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act all of the right, title, and interest of the United States in and to the estates in a reserve which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act.

(3) There is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraph (1) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate all of the right, title, and interest of the United States in and to such subsurface estate.

(b) DOCUMENTS.—As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (a) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of enactment of this Act, or on the date of eligibility determination if subsequent thereto, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) RECONVEYANCES; DISPUTES.—A Village Corporation's obligation to recovery lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent under subsection (b) of this section or under such Act. For purposes of sections 14(c), 14(f), and 22(g) of the Alaska Native Claims Settlement Act, interim conveyances and patents issued pursuant to this Act shall have the same effect as if issued pursuant to sections 14(a) and 14(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

(d) EXISTING RIGHTS.—Except as otherwise expressly provided in this Act, the provisions of the first two sentences of section 14(g) of the Alaska Native Claims Settlement Act shall apply to all conveyances made by operation of section 801 or 802 of this Act as if such conveyances were made under the Alaska Native Claims Settlement Act.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) EXPEDITED PROCEDURES; SELECTION PRIORITIES.—If a Native Corporation entitled to receive land under the Alaska Native Claims Settlement Act elects to utilize the expedited conveyance procedure provided by this section, then, within one hundred and eighty days after the date of enactment

of this Act or after the date of its eligibility determination, such Corporation shall file with the Secretary a document or documents which lists in order of preference such Corporation's priorities for the conveyance of all or any part of the amount of lands which such Corporation has selected under the Alaska Native Claims Settlement Act. Any Native Corporation not electing to utilize such expedited procedure shall receive conveyance of its total entitlement under the Alaska Native Claims Settlement Act.

(2) An election to utilize the expedited conveyance procedure provided by this section shall not affect the rights of the Native Corporation making such election under the Alaska Native Claims Settlement Act except to the extent such Corporation receives a conveyance by operation of this Act.

(b) PRIORITY SELECTION AND CONVEYANCE PROCESS.—(1) Within one hundred and eighty days after the date on which a list of priorities is filed by a Native Corporation under subsection (a) of this section or an amendment to such list of priorities is filed under paragraph (2) of this subsection, the Secretary shall—

(A) determine whether each land selection contained in such list is valid under the Alaska Native Claims Settlement Act and publish such determination in the Federal Register; and

(B) publish in the Federal Register his best estimate of the total amount of land that such Corporation is entitled to receive under the Alaska Native Claims Settlement Act.

If the Secretary is unable to determine the total amount of the land entitlement of such Corporation under subparagraph (B), he shall, at least every six months thereafter, redetermine his best estimate of the total amount of such entitlement and publish in the Federal Register such estimate as redetermined. The Secretary shall continue to make such redeterminations until he is able to determine and publish the total amount of such land entitlement.

(2) For a period of thirty days after each date on which the Secretary publishes under paragraph (1) of this subsection an estimate of the total amount of land a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, the Corporation may file with the Secretary a document or documents amending or supplementing the priorities previously filed with the Secretary with respect to any land for which no conveyance has yet taken place, and thereafter conveyances under paragraph a (3) or (6) of this subsection shall take place in accordance with such amended priorities. In the event that a Native Corporation files under the preceding sentence amended priorities with respect to any land which has also been validly selected by any other Native Corporation, such other Corporation similarly may, during the same thirty-day period, file amended priorities with respect to such selected land and any other land not previously conveyed which such other Corporation previously designated as lower priority than such selected land, and thereafter conveyances to such other Corporation under paragraph (3) or (6) of this subsection shall take place in accordance with such amended priorities.

(3) Except as provided in section 803(b), on the forty-fifth day following each date on which the Secretary publishes under paragraph (1) of this subsection an estimate of the total amount of land which a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, there are hereby conveyed to and vested in such Corporation all of the right, title, and interest of the United States in and to those lands—

(A) which were validly selected by such Corporation under the Alaska Native Claims Settlement Act and not validly selected by one or more other Native Corporations under such Act;

(B) which are of the highest priority contained in the list of priorities filed by such Corporation; and

(C) which have a cumulative acreage which is equal to such estimate and does not exceed the total acreage contained in the list of priorities filed by such Corporation—

(i) reduced by the cumulative acreage of lands previously conveyed to such Corporation by operation of this subsection or under the Alaska Native Claims Settlement Act; and

(ii) reduced as provided in paragraphs (4) and (5) of this subsection.

(4) In any case in which the Secretary determines under paragraph (1)(A)—

(A) that a land selection contained in the list of priorities filed by a Native Corporation is invalid under the Alaska Native Claims Settlement Act, and

(B) that the cumulative total of acreages of land selections contained in such list of higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation, or (ii) the total acreage contained in such list of priorities, whichever is less,

the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in paragraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(5) In any case in which the Secretary, before the date of conveyance of lands to a Native Corporation by operation of paragraph (3), determines—

(A) that a valid land section contained in the list of priorities filed by a Native Corporation has also been validly selected under the Alaska Native Claims Settlement Act by one or more other Native Corporations,

(B) that the cumulative total of acreages of land selections contained in such list as higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation, or (ii) the total acreage contained in such list of priorities, whichever is less,

the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in paragraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(6) Whenever the Secretary receives in writing—

(A) the acceptance by a Native Corporation of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection,

(B) the results of a final decision on an action filed by a Native Corporation contesting the validity of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(C) the provisions of a final settlement or the results of a final decision on a dispute over whether a Native Corporation is entitled under the Alaska Native Claims Settlement Act to receive conveyance of lands which were the subject of a determination by the Secretary under paragraph (5) of this subsection,

all of the right, title, and interest of the United States in and to any lands which the concerned Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act as a result of the concerned acceptance, decision, or settlement are hereby conveyed to and vested in such Corporation.

(7) Within ninety days after the date of a conveyance by operation of paragraph (3) or (6) of this subsection, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) LIMITATION.—Nothing in this section shall be construed as applying to lands conveyed by section 801(a) of this Act.

(d) DEFINITION.—Notwithstanding the provisions of section 103(9), for purposes of this section and sections 801(c), 803, 805(d), and 809 of this title, the term "Native Corporation" means any Village Corporation, any Regional Corporation, any Urban Corporation, and any Native group as such term is defined in section 3(d) of the Alaska Native Claims Settlement Act.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) LIMITATIONS CONCERNING EASEMENTS. ETC. ON "CORE" TOWNSHIP LANDS.—Notwithstanding any other provision of law, no conveyance of lands by operation of section 801(a) of this Act shall be subject to a lease, contract, permit, right-of-way, or easement, except a lease, contract, permit, right-of-way, or easement of a type required to be reserved pursuant to section 14(g) of the Alaska Native Claims Settlement Act.

(b) LIMITATIONS CONCERNING EASEMENTS ON OTHER LANDS.—With respect to lands (other than those lands conveyed by operation of section 801(a) of this Act) conveyed to Native Corporations on or after the date of enactment of this Act, the Secretary shall only reserve those easements which are described in section 14(g) or 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on the compactness of Native lands, on lifestyles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are essential for the purpose or purposes for which the easement is reserved.

(c) ACQUISITION OF FUTURE EASEMENTS.—Whenever after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. In determining whether to acquire an easement under this subsection, the Secretary shall be guided by the principles listed in paragraphs (1) and (2) of subsection (b) of this section.

(d) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were filed but not approved and issued on or before January 1, 1970, on lands selected by and conveyed before, on, or after the date of enactment of this Act to Native Corpora-

tions as part of their entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

(e) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

TAX MORATORIUM EXTENSION

SEC. 804. Section 21(d) of the Alaska Native Claims Settlement Act is amended by striking out "after the date of enactment of this Act" and inserting in lieu thereof "after the date of issuance of an interim conveyance or patent for those interests to such individual, group, or Corporation".

STATE SELECTIONS AND CONVEYANCES

SEC. 805. (a) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years" and, as to future State land selections, by repeal of the second proviso, regarding Presidential approval of land selections north and west of the line described in section 10 of such Act.

(c) SCHOOL LANDS SETTLEMENT.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), including claims to surveyed lands which were within Federal reservations or withdrawals at the time Alaska became a State, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands in Alaska.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of section 6 (j) and (k) of the Alaska Statehood Act.

(d) PRIOR TENTATIVE APPROVALS.—(1) All tentative approvals of the State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(e) PRIOR STATE SELECTIONS.—(1) All existing valid State land selections made pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. All right, title, and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(3) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(5) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(f) FUTURE "TOP FILINGS".—Subject to valid existing and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Aalska Statehood Act or subsection (c) of this section, for lands which are not, on the date of filing of such applications, available lands within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of such section 6 (a) or (b) regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(g) RIGHT TO OVERSELECT.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order or conveyance, in blocs no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocs necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (c) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (b) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(h) CONVEYANCE OF SPECIFIED LANDS.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (m) of this section, which lie within those townships outside the boundaries of conservation system units established, designated, or expanded by this Act, which are specified in the list of State Selection Interest Lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled " ", dated 1978.

(i) LIMITATION ON CONVEYANCES OF SPECIFIED LANDS; TENTATIVE APPROVAL; SURVEYS.—(1) Lands identified in subsection (h) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (m) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in sub-

section (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(j) ADJUDICATION.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (h) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (c) of this section, or other law, prior to the issuance of tentative approval.

(k) CLARIFICATION OF LAND STATUS OUTSIDE UNITS.—As to lands outside the boundaries of a conservation system unit, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (h) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (c) of this section:

(1) Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection.

(2) Withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act.

(3) Classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987).

(4) Classifications or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(l) INTERIM PROVISIONS.—Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State—

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act of the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) EXISTING RIGHTS.—(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States.

(2) Where prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, license, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permitter, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States, unless the agency responsible for administration waives such administration.

(5) Nothing herein shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(n) EXTINGUISHMENT OF CERTAIN TIME EXTENSIONS.—Any extensions of time periods granted to the State pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a), (b) and (c) of this section shall hereafter be applicable to State selections.

(o) EFFECT ON THIRD-PARTY RIGHTS.—Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94-204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94-456), or section 3 of the Act of November 15, 1977 (Public Law 95-178). Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(p) STATUS OF LANDS WITHIN UNITS.—(1) Notwithstanding any other provision of law, any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit shall be administered in accordance with the laws applicable to such unit.

ALASKA NATIVE LAND BANK

SEC. 806. (a) ESTABLISHMENT; AGREEMENTS.—In order to enhance the quantity and quality of Alaska's renewable resources, there is hereby established the Alaska Native Land Bank Program. All Native Corporations, and all other persons or groups who have received or will receive lands or interests in lands pursuant to the Alaska Native Claims Settlement Act or this Act are hereby authorized to enter into a written agreement with an appropriate State agency designated by the Governor of Alaska as the agent to administer such Program or with the Secretary of the Interior or his designee if the lands to be made subject to the provisions of subsection (b) are within the boundaries of a conservation system unit or if the State declines to participate in such Program. Such agreement shall provide that all or part of the undeveloped and unimproved land holdings of any Native Corporation, as specified by such Corporation, shall be subject to the provisions of subsection (b). No agreement under this section shall be construed as affecting any land or any right or interest in land of any corporation or person not a party to such agreement.

(b) TERMS OF AGREEMENTS.—Each agreement referred to in subsection (a) shall have an initial term of not less than ten years, with provision for renewal for additional periods of not less than five years. Such agreement shall provide that during its term—

(1) the landowner or landowners shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement and shall not permit development or improvements on such lands, unless otherwise provided in section 14(c) of the Alaska Native Claims Settlement Act;

(2) the renewable resources of such lands shall be available only for subsistence uses or such other uses as are not detrimental to subsistence uses;

(3) if the surface landowner so consents, such lands may be made available for local recreational use; and

(4) all or part of the lands subject to the agreement may be withdrawn from the Alaska Native Land Bank Program not earlier than ninety days after the landowner or landowners—

(A) submit written notice thereof to the State agency referred to in subsection (a) or the Secretary, as appropriate, and

(B) pay all Federal, State, and local property taxes and assessments which would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the State or local taxing agency.

Such agreement shall contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement.

(c) RESTRICTIONS.—Each agreement entered into under this section shall constitute a restriction against alienation imposed by the United States upon the land subject to the agreement; so long as the parties to the agreement are in full compliance with the agreement, lands subject to such agreement shall not be subject to any of the following—

(1) adverse possession,

(2) taxation by the United States, any State, or any political subdivision of a State, and

(3) any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or any officer, director, or stockholder of any such Corporation.

Except as provided in the preceding sentence, nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(d) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance with the agreement.

(e) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which (1) applies to any land which is subject to an agreement, and (2) was entered into before the day on which the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 807. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15" and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of title VIII of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under this Act, no land in such a contingency area that has been withdrawn for selection by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION SURVEYS

SEC. 808. With the agreement of the party to whom a patent is to be issued under this title, the Alaska Native Claims Settlement Act, or the Alaska Statehood Act, the Secretary may base such patent on protraction surveys in lieu of field surveys.

ACTION TO ENFORCE; JURISDICTION

SEC. 809. For a period of three years after the date of enactment of this Act, any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by a Native Corporation to enforce the provisions of this title and to award appropriate attorney and witness fees and other costs of the litigation to the prevailing party, except that determinations under sections 802 and 803(b) of this title shall be subject to review only in an action brought by an aggrieved Native Corporation.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 810. The National Environmental Policy Act of 1969 shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement before any conveyance of land by operation of section 801 or 802 of this Act, the reservation of an easement pursuant to the Alaska Native Claims Settlement Act or this Act, or any other determination made or action taken pursuant to this title. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act.

TECHNICAL AMENDMENTS TO PUBLIC LAW 94-204

SEC. 811. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S.M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 36;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, section 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 901. The purposes of this title are to—

(1) recognize the uniqueness of the size of Alaska and the undeveloped condition of Alaska's transportation and utility network and to recognize that the future needs for transportation and utility systems in Alaska would best be provided for through a carefully considered, orderly process under existing authorities and under the procedures established in this title;

(2) recognize the existing authorities of the Secretary to grant rights-of-way for transportation and utility systems under generally applicable provisions of law in the case of public lands within conservation systems units in the State of Alaska, and

(3) establish procedures for the approval or disapproval of applications for such rights-of-way which the Secretary has no authority to approve or disapprove under such generally applicable provisions of law.

USE PERMITS UNDER EXISTING AUTHORITIES

SEC. 902. (a) GENERALLY APPLICABLE LAWS.—Except as may be otherwise provided in the following provisions of this title, any law or rule of law generally applicable to units of the National Park, Wilderness Preservation, Wild and Scenic Rivers, and Wildlife Refuge Systems, regarding rights-of-way (including use permits, leases, and licenses) for a transportation or utility system (including but not limited to roads and highways, oil, gas, and water pipelines, and utility transmission and communication systems) shall apply to all units of any conservation systems in Alaska in the same manner as such law or rule of law applies to units of such systems elsewhere.

(b) ADMINISTRATION OF WILDERNESS.—In the case of wilderness areas in Alaska, the Secretary may exercise his authorities under the Wilderness Act, consistent with section 4(c) of such Act, to provide access to wilderness areas for the administration of the area for the purpose of such Act (including measures required in emergencies involving the health and safety of persons within the area).

USE PERMITS UNDER NEW AUTHORITY

SEC. 903. (a) GENERAL.—If the Secretary has no authority under any other law or rule of law including section 1102 of this Act, to determine whether applications from a Federal, State, or local agency, or any private person or organization for rights-of-way on public lands within a conservation system unit in Alaska for a transportation or utility system should be granted or denied, an application from such a person, organization, or other entity for such a right-of-way shall be considered and processed as provided in the following provisions of this title.

(b) FORM OF APPLICATIONS.—Applications submitted under this section shall be in such form, and shall contain such information, as may be required by the Secretary. Any such application for a right-of-way for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920 shall, to the extent appropriate as determined by the Secretary, be in the same form, and contain the same information, as required for an application for a right-of-way under such section 28.

(c) OIL AND GAS PIPELINES ACROSS RIVERS AND TRAILS.—In the case of an application referred to in subsection (a) for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, if the route for such pipeline would cross any area within the boundaries of the Iditarod Trail or a wild and scenic river in Alaska administered by the Secretary of the Interior, and if the Secretary determines, after notice and opportunity for hearing, that there exists no economically feasible alternative route which would not cross such area, he may grant a right-of-way for such pipeline in the manner provided in section 28 of the Mineral Leasing Act of 1920 and subject to the conditions referred to in section 906(c) of this Act, except that for such purposes, the first sentence of section 28(b)(1) of the Mineral Leasing Act of 1920 shall not apply.

(d) SYSTEMS CAUSING LITTLE ADVERSE IMPACT.—In the case of an application referred to in subsection (a) concerning a transportation or utility system across public lands within a conservation system unit (other

than a wilderness area), if an environmental impact statement for that section of the right-of-way crossing such unit would not have been required under the National Environmental Policy Act of 1969, the Secretary may grant a use permit for the right-of-way if he determines, after notice and opportunity for comment, that such right-of-way—

(A) would not result in a significant adverse effect on the conservation system unit, and

(B) would be compatible with the purposes for which the unit was established and the purposes of this Act.

(e) TRANSMITTAL OF SECRETARIAL RECOMMENDATION.—In the case of an application for a right-of-way referred to in subsection (a) which the Secretary does not have the authority to grant or deny under subsection (c) or (d), not later than one year after his receipt of the application, the Secretary shall transmit a recommendation to the Congress respecting whether or not the application for a right-of-way should be granted. Before making such a recommendation, the Secretary shall weigh the local, regional, State, and national interests involved, and determine—

(1) whether the approval of such application is in the public interest,

(2) whether there is an economically feasible and prudent alternative to the granting of the right-of-way through the conservation system unit subject to the application, and

(3) whether the transportation or utility system subject to the application can be constructed, operated, and maintained in a manner compatible with the purposes for which the affected conservation system unit was established and the purposes of this Act.

(f) ITEMS TRANSMITTED WITH RECOMMENDATION.—Together with his transmission to Congress of any recommendation under subsection (e), the Secretary shall transmit—

(1) the application for the right-of-way to which such recommendation applies:

(2) a report setting forth the detailed explanation of the basis for his determinations and recommendation under subsection (e);

(3) an environmental impact statement which complies with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 in any case in which such statement is required under such Act; and

(4) where applicable, the conditions and stipulations under which the use of a recommended right-of-way will be permitted if approved by the Congress, and the extent and duration thereof.

The conditions and stipulations referred to in paragraph (4) shall be designed to ensure that the right-of-way is utilized in a manner compatible, to the maximum extent feasible, with the purposes for which the affected conservation system unit was established and the purposes of this Act and shall contain provisions necessary to minimize environmental harm to the unit.

(g) ENVIRONMENTAL IMPACT STATEMENT.—In the case of any recommendation under this title for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the Secretary may, when he deems it desirable, include such a statement in his transmittal to the Congress. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to applications under this title in the same manner and to the same extent as such provisions apply to applications relating to the public lands referred to in such section 304.

COORDINATION OF RIGHT-OF-WAY REQUIREMENTS

SEC. 904. When an application for a right-of-way referred to in section 902 or 903 is for a transportation or utility system through both Federal lands within, and outside of, a conservation system unit, the Secretary shall coordinate his authorities under other applicable Federal laws in a manner consistent with this title for the purposes of—

(1) assuring consistent treatment of such application;

(2) preparing only one complete environmental impact statement;

(3) avoiding duplication and inconsistent requirements and determinations;

(4) minimizing costs to the applicant and the Government; and

(5) maximizing intergovernmental coordination.

CONGRESSIONAL APPROVAL PROCEDURES

SEC. 905. (a) DATE OF RECEIPT.—Any recommendation of the Secretary submitted to Congress under section 903 shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(b) JOINT RESOLUTION.—Any application transmitted to Congress under section 903 shall be deemed approved only upon enactment of a joint resolution by the Senate and House of Representatives approving such application within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such application.

(c) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(d) EXPEDITED CONGRESSIONAL REVIEW.—(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application submitted to the Secretary of the Interior for a right-of-way for under this title, across submitted to the Congress on , 19 .''; the first blank space therein to be filled in with the appropriate transportation or utility system, the second blank space therein to be filled in with the name of the appropriate conservation system unit in Alaska referred to in , and the third blank space therein to be filled with the date on which the Secretary submits the application to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 with respect to the application.

(3) A resolution once introduced with respect to such application shall be referred to one or more committees (and all resolutions with respect to the same application shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to an application has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such application which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same application) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same application.

(5)(A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier than sixty days after the date of receipt of the application to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such one hundred and twenty-day period, to consider any other resolution respecting the same application.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedures relating to a resolution shall be decided without debate.

ISSUANCE OF PERMITS

SEC. 906. (a) ISSUANCE.—In any case in which an application for a right-of-way on public lands within a conservation system unit in Alaska has been approved by the Congress under this title, the Secretary shall, immediately following the enactment of the joint resolution of congressional approval, issue a use permit for such right-of-way subject to the requirements of this section.

(b) PAYMENT.—Unless Congress otherwise directs, no permit pursuant to a recommendation approved by Congress under this title for a right-of-way may be granted across public lands within a conservation system unit in Alaska unless the permittee pays to the United States an amount equal to the fair market value of such right-of-way.

(c) PIPELINE PERMITS.—In the case of pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a permit granted under this section or section 903(c) shall be issued in the same manner as a right-of-way is

granted under such section 28, and the provisions of subsections (c) through (j), (l) through (r), and (v) through (y) of such section 28 shall apply to permits under this section or section 903(c) in the same manner and to the same extent as to rights-of-way under such section 28. Any such permit under this section or under section 903(c) for such a pipeline which crosses any area within the boundaries of a wild and scenic river shall also be subject to such conditions as may be necessary to assure that the stream flow of such river is not interfered with or impeded and that such pipeline is located and constructed in an environmentally and esthetically sound manner.

TITLE X—COORDINATION

ALASKA ADVISORY COORDINATING COUNCIL

SEC. 1001. (a) ESTABLISHMENT.—There is hereby established an Alaska Advisory Coordinating Council (hereinafter in this title referred to as the "Council"). The Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, and Heritage Conservation and Recreation Service;

(2) if the State complies with the requirements of subsection (d), the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, and Environmental Conservation and the head of the State agency referred to in section 704(c)(3)(A);

(3) one member appointed by the Governor from recommendations submitted by Village Corporations; and

(4) one member appointed by the Governor from recommendations submitted by Regional Corporations.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made. The Secretary shall designate one of the heads of the Alaska offices of the Federal agencies referred to in paragraph (1) as Chairman of the Council.

(b) EXECUTIVE DIRECTOR.—The Council shall have an Executive Director who shall be appointed by the Secretary and who shall be compensated at a rate established by the Secretary but not in excess of that provided for level V of the Executive Schedule contained in title 5, United States Code. The Executive Director shall appoint and fix the compensation of such additional staff the Council approves.

(c) COMPENSATION AND EXPENSES.—Members of the Council who are Federal or State employees shall receive no additional compensation for service on the Council. Members of the Council who are not Federal or State employees shall receive the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (as contained in title 5, United States Code) for each day during which they are engaged in the performance of duties for the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) CONDITIONAL MEMBERS.—The directors of the Alaska departments referred to in subsection (a)(2) shall be members of the Council only if the State contributes annually funds, staff, and property to Council which is equivalent in value to 35 percent of the Council's annual expenses for such items. The Federal agencies referred to in subsection (a)(1) shall contribute, in addition to fund, staff, and property, if any, contributed by the State, such funds, staff, and property as may be necessary. Staff detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Executive Director during any period such staff is so detailed.

(e) MEETING; AUTHORITIES; REPORTS.—The Council shall meet at the call of the Chairman, but not less than twice each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. The Chairman shall submit a report of each meeting or hearing, together with any recommendations the Council finds appropriate, to the Secretary, the Governor of Alaska, the head of each Regional Corporation, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Secretary shall submit to Congress in writing, a report on the activities of the Council during the previous year, together with his recommendations, if any, for legislation in furtherance of the purposes of this section.

(f) RULES.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteeen days prior to the date when any meeting of the Council is to take place the Chairman shall provide public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

FUNCTIONS OF THE COUNCIL

SEC. 1002. The Council shall conduct studies and advise the Secretary, other Federal agencies, the State, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

COOPERATIVE AGREEMENTS

SEC. 1003. (a) GENERAL PROVISIONS.—The Council may, with the concurrence of the members having administrative jurisdiction over the lands and waters and fish and wildlife resources therein, recommended cooperative planning and management zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members. Federal members of the Council appointed under section 901(a) are authorlife resources therein, recommend cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(b) TECHNICAL ASSISTANCE.—With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with subsection (a), the Secretary may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the coooperative agreement and would be in the public interest.

TERMINATIONS

SEC. 1004. Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Secretary shall submit in writing to the Congress a report on the accomplishments of the Council together with his recommendation and the recommendation, if any, of the Governor of Alaska, as to whether the Council should be extended or any other recommendations for legislation or other action which the Secretary determines should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

TITLE XI—ADMINISTRATIVE PROVISIONS

LAND ACQUISITIONS AND EXCHANGES

SEC. 1101. (a) GENERAL AUTHORITY.—Except as otherwise provided in this Act, the Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit. Any such land owned by the State, a political subdivision of the State, or a Native Corporation which has Natives as a majority of its stockholders may only be acquired for such purposes with the consent of the State, such political subdivision of the State, or such Native Corporation, as the case may be.

(b) IMPROVED PROPERTY.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(c) RETAINED RIGHTS.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs, and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) DEFINITION.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1978 (hereinafter in this section referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use,

together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any struc-

tures accessory thereto which were so used on or before January 1, 1978, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(e) CONSIDERATION OF HARDSHIP.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(f) EXCHANGE AUTHORITY.—In acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in the Alaska Native Claims Settlement Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(g) ACQUIRED LANDS PART OF UNIT.—All lands, water, and interests therein acquired by the Secretary and located within the boundaries of any conservation system unit shall become part of such unit and subject to the laws and regulations applicable to such unit.

(h) SCENIC EASEMENTS.—The Secretary shall reserve or acquire all scenic easements which he determines to be necessary to protect the scenic and natural values of (1) Sukakpak Mountain and the other public lands within the area heretofore reserved for utility transmission systems, or (2) the public lands within the area described in section 1206(a). Scenic easements reserved or acquired under this subsection shall not unduly interfere with the construction, operation, or maintenance of any authorized utility transportation system or other authorized facility or development. In acquiring scenic easements pursuant to this subsection, the Secretary may utilize his authority under subsection (f) of this section or section 22(f) of the Alaska Native Claims Settlement Act.

ACCESS

SEC. 1102. (a) GENERAL PROVISIONS.—The Secretary shall take all possible actions within or outside the boundaries of conservation system units as may from time to time be necessary, including acquiring or providing easements or other interests in lands in accordance with the provisions of section 1101, to carry out any one or more of the following purposes, consistent with the purposes for which the concerned conservation system units were established, designated, or expanded:

(1) providing access to subsistence lands for purposes of subsistence uses under this Act;

(2) providing access for purposes of administering units of the National Park, National Wildlife Refuge, National Forest, or Wild and Scenic Rivers Systems established or expanded by this Act;

(3) providing public access to conservation system units, consistent with the purposes for which the units are established, designated, or expanded; and

(4) ensuring continued public access to areas conveyed to the State, particularly in cases where such areas are enclosed by one or more conservation system units.

(b) CUSTOMARY MODES OF TRAVEL.—Except as otherwise provided in section 10(f) of the Wild and Scenic Rivers Act or section 709 of this Act, in administering the conservation system units in Alaska, the Secretary shall permit the continuation of customary patterns and modes of travel across such units. Such travel may be conditioned by such reasonable regulations as the Secretary shall promulgate to assure that such travel is consistent with the purposes for which such unit was established. Before promulgating regulations under this section, the Secretary shall give at least sixty days public notice of the proposed regulations, including publication of the proposed regulations in a newspaper or newspapers having general circulation in each State judicial district in Alaska where the unit or units affected by the proposed regulations are located, and shall hold a public hearing or hearings concerning the proposed regulations at one or more locations convenient to the unit or units affected.

(c) SPECIAL ACCESS RIGHTS.—In any case in which State owned or privately owned land (including Native land) or a valid mining claim or other valid occupancy is effectively surrounded by public lands within one or more conservation system units, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the values of such unit or units.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

SEC. 1103. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the conservation system units described in section 201(2), 201(6), and 201(10), the Secretary of the Interior may acquire, by purchase, donation, or exchange any significant archeological or paleontological site in Alaska located outside of any such unit and containing resources which are closely associated with such unit. If any such site is so acquired, it shall be included in and managed as part of such unit. Property owned by a State or unit of local government may be acquired under this section only by donation or exchange. Not more than seven thousand five hundred acres of land may be acquired under this section for inclusion in a single conservation system unit. Before acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed acquisition in the Federal Register.

COOPERATIVE INFORMATION CENTERS

SEC. 1104. (a) ALASKA HIGHWAY CENTER.—The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of Federal or other land at a site adjacent to the Alaska Highway, an information and education center for visitors to Alaska. The Secretary shall seek participation in the program planning, construction, and operation of the center from appropriate agencies of the State and representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so.

(b) ESTABLISHMENT OF OTHER CENTERS.—The Secretary of the Interior is authorized to establish in both Anchorage and Fairbanks, Alaska, an information and education center for visitors to Alaska, and the Secretary of Agriculture is authorized to establish in Juneau, Alaska, Ketchikan, Alaska, or Sitka, Alaska, another such information and education center. Each Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska, and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alaska Highway Center. Before establishing any such center in any such city, the concerned Secretary shall notify the appropriate committees of the Congress of his intention to do so. Each Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in the concerned city, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) ADMINISTRATION.—Any centers and facilities established under this section shall be administered under applicable laws and in accordance with such special regulations as the Secretary may promulgate.

ADMINISTRATIVE SITES AND VISITORS FACILITIES

SEC. 1105. (a) ESTABLISHMENT.—In conformity with the comprehensive conservation plans prepared under section 303(c), management plans prepared under section 1108, and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish administrative sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purpose;

(2) the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purpose; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and

with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered with the Secretary into agreements the terms of which assure the continued use of such buildings and facilities to carry out the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1106. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any person who, on or before January 1, 1978, was engaged in adequately providing any type of visitor service within any area established or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act; and

(2) shall give preference to persons whom he determines, by rule, are local residents.

(c) DEFINITIONS.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit including such services as providing food, accommodations, transportation, tours, and guides.

LOCAL HIRE

SEC. 1107. (a) PROGRAM.—The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws, or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) REPORTS.—Within one year after the date of the enactment of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

MANAGEMENT PLANS

SEC. 1108. (a) SUBMISSION OF PLANS.—Within five years after the date of the enactment of this Act, the Secretary shall submit, in writing, to the appropriate committees of the Congress plans for managing each of the conservation system units established or expanded by title II of this Act. At any time after submitting a plan under this subsection, the Secretary may revise such plan in accordance with the provisions of this section.

(b) COORDINATION.—The Secretary shall coordinate the development and preparation of management plans for conservation system units which have similar characteristics.

(c) PLAN REQUIREMENTS.—Each plan described in subsection (a) shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned conservation system unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of the areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(d) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for native Alaskans residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(e) HEARING AND PARTICIPATION.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Advisory Coordinating Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will significantly be affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

(f) ADVICE AND REPORTS.—During the period beginning on the date of the enactment of this Act and ending on the date the final plan described in subsection (a) is submitted to the appropriate committees of the Congress referred to in subsection (a), the Secretary—

(1) shall keep such committees advised of the status of the plans described in subsection (a), of activities being carried out under this section, and of any information which the Department of the Interior has pertaining to any conservation system unit; and

(2) shall, at least once every twelve months, submit to such committees a report indicating the status of the plans described in subsection (a), particular problems being encountered with respect to developing such plans and managing conservation system units, and the anticipated date of submission of such plans.

TAKING OF FISH AND WILDLIFE

SEC. 1109. (a) NATIONAL PARK SYSTEM.—All areas of the National Park System in the State shall be closed to the taking of fish and wildlife, except—

(1) for the taking of fish and wildlife for those subsistence uses authorized under title VII of this Act;

(2) for fishing authorized by the Secretary and carried out in accordance with applicable laws of the United States and the State; and

(3) for the taking of fish and wildlife for sport and other purposes which the Secretary may, by regulation, permit within areas established by or under this Act as national preserves and which is carried out in accordance with applicable laws of the United States and the State.

(b) OTHER CONSERVATION SYSTEM UNITS.—The taking of fish and wildlife in all conservation system units, other than those units in the National Park System, shall be subject to applicable provisions of Federal and State law.

(c) SPORT HUNTING GUIDE SERVICES.—Notwithstanding any other provision of this Act or other law to the contrary, with respect to any public lands within the Katmai National Park, Denali National Park, Gates of the Arctic National Park, or Wrangell-Saint Elias National Park which were on January 1, 1978, legally used by any person for sport hunting guide services pursuant to a lease, permit, or license lawfully issued or authorized by any agency of the United States or the State of Alaska, the Secretary shall, if he finds that

economic hardship would occur to such person if such uses were immediately terminated, offer to such person the option of (A) a permit for such person to continue in the exercise of such use on such lands in accordance with paragraph (2) of this subsection; or (B) subject to the provisions of section 1106 (including preferences provided by such subsection), a contractual right to furnish revenue-producing visitor services, other than for the taking of fish and wildlife on such lands.

(2) Any permit issued pursuant to subparagraph (A) of paragraph (1) of this subsection shall—

(A) be effective for a period not to exceed—

(i) twenty years from the date of enactment of this Act, or

(ii) the lifetime of the individual guide receiving such permit,

whichever is shorter;

(B) not authorize the person to whom it is issued to guide during any one year more hunters than the average annual number of hunters guided by such person during the three years immediately preceding the date of enactment of this Act, or to take more of a particular wildlife species during any one year than the average annual number of such species reported taken from the same area by parties guided by such person during such three-year period;

(C) contain such other terms and conditions as the Secretary deems necessary in furtherance of the purposes of the relevant conservation system unit, including such reasonable limitations or prohibitions which the Secretary may from time to time impose on the taking of wildlife during such periods and within such areas as the Secretary may designate or on the means by which fish and wildlife may be taken; and

(D) shall be terminated by the Secretary without compensation for failure of such person to exercise such use in accordance with the terms and conditions of the permit or for failure to exercise such use in accordance with applicable provisions of Federal or State law.

The Secretary is authorized to require such data and information from permit applicants as he deems necessary to support a finding of economic hardship and to impose appropriate permit restrictions as required by this subsection. Nothing in this subsection shall be deemed to create a compensable right in any public lands. It is the express intention of the Congress that the taking of wildlife except for subsistence uses in the units of the National Park System in Alaska, other than national preserves, be discontined within twenty years after the date of enactment of this Act.

(d) NONSUBSISTENCE TRAPPERS.—Notwithstanding any other provision of this Act or other law to the contrary with respect to any public lands within the Cape Krusenstern National Monument, Denali National Park, or Kubuk Valley National Park which were on January 1, 1978, legally used by any person for traplines pursuant to a lease, permit, or license lawfully issued or authorized by any agency of the United States or the State of Alaska, the Secretary is authorized, if he finds that economic hardship would occur to such person if such uses were immediately terminated to permit such person to continue in the exercise of such use on such lands for a period not to exceed twenty years from the date of enactment of this Act or the lifetime of the individual receiving such permit, whichever is shorter. Any such permit shall—

(1) contain such terms and conditions as the Secretary deems necessary and determines to be consistent with the purposes of the affected conservation system unit, including such reasonable limitations or prohibitions which the Secretary may from time to time impose on the taking of wildlife during such periods and within such areas as the Secretary may designate;

(2) contain reasonable limitations or prohibitions on the means by which wildlife may be taken;

(3) entitle the person to whom it is issued to take during any one year no more wildlife of any species than the average annual number of that species taken by such person during the three years immediately preceding the date of enactment of this Act; and

(4) be terminated by the Secretary without compensation for failure to exercise such use in accordance with its terms and conditions or for failure to exercise such use in accordance with applicable provisions of Federal or State law.

The Secretary is authorized to require such data and information from permit applicants as is necessary to support a finding of economic hardship and to impose appropriate permit restrictions as required by this subsection. Nothing in this subsection nor any permit issued hereunder shall be deemed to create a compensable right in any public lands. It is the express intention of the Congress that trapping, except for subsistence purposes, within units of the National Park System in Alaska, other than national preserves, shall be discontinued within twenty years after the date of enactment of this Act.

MAPS

SEC. 1110. As soon as practicable after the date of enactment of this Act, a map and legal description of each conservation system unit, including each wilderness study area and each wilderness area, shall be filed with the appropriate committees of the Congress. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the appropriate offices of (1) the Director of the National Park Service, (2) the Director of the United States Fish and Wildlife Service, and (3) the Chief of the United States Forest Service, and appropriate offices of the Alaska field directors of such services. Following publication of notice in the Federal Register and reasonable notice in writing to the appropriate committees of the Congress of his intention to do so, the Secretary may make minor adjustments in the boundaries of any of the conservation system units. Whenever possible, such adjusted boundaries shall follow hydrographic divides or embrace other key topographic features in all cases where straight line map boundaries approximate such features.

MAJOR FEDERAL ACTION

SEC. 1111. No action concerning any conservation system unit in Alaska which is a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 may be taken by the Secretary unless, in addition to meeting the other requirements of such Act, a report explaining in detail the action (and the basis and reason therefor) and an environmental impact statement concerning such action, have been submitted to the appropriate committees of the Congress at least sixty days prior to the commencement of such action.

CONGRESSIONAL REVIEW

SEC. 1112. The provisions of section 551 of the Energy Policy and Conservation Act of 1975 (Public Law 94–163) shall apply to all regulations issued by the Secretary pursuant to this Act, except that the term "energy action" shall be treated as a reference to regulations promulgated by the Secretary under this Act and any reference to the "President" shall be treated as a reference to the Secretary.

TITLE XII—MISCELLANEOUS

IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1201. (a) AMENDMENT OF NATIONAL TRAILS SYSIEM ACT.—Section 5(a) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end tnereof:

"(4) The Iditarod National Historic Trail, including the main route (approximately one thousand one hundred miles) and branch segments (approximately nine hundred and thirty miles), extending from Seward to Nome, Alaska, following the route depicted on the maps, identified as 'Seward-Nome Trail' in the Department of the Interior Iditarod Trail study reported dated , 1977; except (A) that while this paragraph will commemorate the entire route of the Iditarod Trail by designation as the Iditarod National Historic Trail, only those segments which are within the exterior boundaries of federally administered areas and which meet the national historic trail criteria established in this Act, are established initially as components of the Iditarod National Historic Trail, (B) that the Secretary of the Interior may designate lands outside of the exterior boundaries of federally administered areas as segments of the Iditarod National Historic Trail upon application from concerned State and local government agencies or concerned persons involved if such segments meet the national historic trails criteria established in this Act and such criteria supplementary thereto as the Secretary may prescribe and are administered by such agencies or persons without expenses to the United States, and (C) that not withstanding the provisions of section 7(c) the use of snowmobiles on segments of the Iditarod National Historic Trail will be permitted in accordance with regulations prescribed by the appropriate Secretary.".

(b) RESPONSIBILITIES OF SECERTARY.—The responsibility for coordination of Iditarod National Historic Trail matters shall rest with the Secretary on consultation with the heads of other Federal and State agencies where lands administered by them are involved. Such responsibilities shall include the following:

(1) Selecting the specific trail route, as provided for in section 7(a) of the National Trails System Act, within three years after the date of enactment of this Act.

(2) Developing a plan and guidelines for the acquisition, development, management, and maintenance of the trail with the advice and assistance of other Federal, State, and local agencies and organizations. Such plan and guidelines shall include at least provisions for the acquisition, retention, or dedication of significant historic sites and for a right-of-way or easement along most or all of the route to protect historic values and segments for potential future recreational trail development and to ensure continued public travel along the various trail segments.

KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

SEC. 1202. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes" approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1203. (a) EXISTING FACILITIES.—(1) Within the conservation system units, reasonable access to, and operation and mainte-

nance of, existing air and water navigation aids and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to the National Park Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate.

(2) Notwithstanding any other provision of this Act, reasonable access to, and operation and maintenance of, existing facilities for national defense purposes, and related air and water navigation aids, within or adjacent to conservation system units shall continue in accordance with the laws and regulations governing such facilities.

(3) Nothing in the Wilderness Act shall be deemed to prohibit, within wilderness areas, the carrying out of access, establishment, operation, and maintenance activities described in paragraphs (1) and (2).

(b) NEW NAVIGATION AIDS AND FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance; and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

NATIONAL PETROLEUM RESERVE IN ALASKA

SEC. 1204. (a) MANAGEMENT.—Notwithstanding any contrary provision of the Naval Petroleum Reserves Production Act of 1976, during the review of land dedications pursuant to section 105(c) of such Act, and, until Congress has determined otherwise the Secretary shall manage the National Petroleum Reserve in Alaska in such manner as to permit the continuation of established subsistence uses and to preserve scenic, historical, archeological, recreational, fish and wildlife, wilderness, and other surface values.

(b) AMENDMENTS TO NAVAL PETROLEUM RESOURCES PRODUCTION ACT OF 1976.—Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501–6507) is amended—

(1) by inserting "archeological and paleontological," immediately after "historical," in paragraph (1)(B); and

(2) by striking out "within three years after the date of enactment of this title" in paragraph (3) thereof and inserting in lieu thereof "on the same date as the study under subsection (b)".

WITHDRAWALS; MINERAL RIGHTS

SEC. 1205. (a) Subject to valid existing rights, all public lands within the boundaries of any conservation system unit in Alaska are withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States, except as otherwise specifically provided in this Act. All withdrawals and reservations of land for powersite purposes within the boundaries of a conservation system units are hereby rescinded. In the case of lands in Alaska outside the boundaries of any such unit, if an applicant for any Native allotment within any withdrawal or reservation for powersite purposes has complied with all applicable requirements, the Secretary may—

(1) grant the application for such allotment, and

(2) make an appropriate conveyance of land to such applicant,

as if the Secretary had declared such lands open to location, entry, or selection under section 24 of the Federal Power Act (16 U.S.C. 818), subject to the reservations specified in such section.

(b) MINERAL CLAIMS AND LEASES.—(1) After the date of enactment of this Act, any person who is the holder, on the date of the enactment of this Act, of any valid existing mineral claim or lease on public lands located within the boundaries of any conservation system unit in Alaska may carry out activities related to the exercise of rights under such claim or lease in accordance with regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which such unit was established.

(2) The regulations of the Secretary which were in effect for any area before the date of the enactment of this Act and which are applicable to the activities referred to in paragraph (1) shall continue in effect notwithstanding the inclusion of the affected area in a conservation system unit until regulations under paragraph (1) of this subsection take effect.

(c) RECORDATION OF CLAIMS.—Except for mining claims on lands subject to the Mining in the Parks Act (90 Stat. 1342; 16 U.S.C. 1901 and following), all mining claims on public lands which lie within the boundaries of any conservation system unit are subject to the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

(d) REMEDY FOR PROPERTY LOSS.—The holder of any patented or unpatented mining claim, or any mineral lease, which lies within the boundaries of any conservation system unit in Alaska who believes he has suffered a loss by operation of this section, or by orders or regulations issued pursuant thereto, many bring an action in the United States District Court for Alaska to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

SCENIC HIGHWAY STUDY

SEC. 1206. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the "Denali Highway" between Cantwell and Paxson, the "Richardson Highway" and "Edgerton Highway" between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) COOPERATION; NOTICE; HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and with the owners of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) PERIOD OF WITHDRAWAL.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1207. Notwithstanding any other provison of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provision of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94–258).

AUTHORIZATION FOR APPROPRIATION

SEC. 1208. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such

amounts as are provided in advance in appropriation Acts.

TITLE XIII MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 1301. The purposes of this title are to provide for—

(1) the expansion of the minerals data base for all public lands in Alaska through the continuation of mineral assessment programs,

(2) the protection of, and the carrying out of activities related to, valid existing mineral rights within conservation system units in Alaska, and

(3) procedures and decisionmaking processes respecting the exploration for, and development and extraction of, minerals from certain conservation system units in the State of Alaska.

DEFINITIONS

SEC. 1302. For purposes of this title—

(1) the term "mineral" includes any mineral or mineral fuel to which the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the Mineral Leasing Act of 1920 (30 U.S.C. 181 and following), or the Mining Law of 1872 (30 U.S.C. 22 and following) apply, including oil, gas, coal, oil shale, and uranium; and

(2) the term "resource" means any concentration of naturally occurring minerals in or on the earth's crust in such form and location that extraction of a commodity is currently or potentially commercially feasible.

CONTINUATION OF MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 1303. (a) MINERAL ASSESSMENTS.—The Secretary of the Interior shall, to the full extent of his authority, continue mineral assessment programs in the State of Alaska in order to expand the data base with respect to the mineral potential of all public lands in Alaska. Such programs may include, but shall not be limited to, techniques such as sidelooking radar imagery and core drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. In carrying out such programs, the Secretary—

(1) is authorized to study and conduct assessments of the oil, gas, and other mineral potential of all public lands in Alaska.

(2) shall establish priorities for accelerated assessments with respect to minerals for which there is a high potential on such public lands, and

(3) is authorized to enter into contracts with public or private entities to carry out such programs.

(b) REGULATIONS.—Activities carried out on conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the area or biological or ecological systems in the area, and

(2) which is compatible with the purposes for which such units are established.

EXISTING MINING CLAIMS AND MINERAL LEASING RIGHTS IN CONSERVATION SYSTEM UNITS

SEC 1304. (a) MINERAL CLAIMS AND LEASES.—(1) After the date of enactment of this Act, any person who is the holder, on the date of the enactment of this Act, of any valid existing mineral claim or lease on public lands located within the boundaries of any conservation system unit in Alaska may carry out activities related to the exercise of rights under such claim or lease in accordance with regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which such unit was established.

(2) The regulations of the Secretary which were in effect for any area before the date of the enactment of this Act and which are applicable to the activities referred to in paragraph (1) shall continue in effect notwithstanding the inclusion of the affected area in a conservation system unit until regulations under paragraph (1) of this subsection take effect.

(b) RECORDATION OF CLAIMS.—Except for mining claims on lands subject to the Mining in the Parks Act (90 Stat. 1342; 16 U.S.C. 1901 and following), all mining claims on public lands which lie within the boundaries of any conservation system unit are subject to the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 16 U.S.C. ——).

(c) REMEDY FOR PROPERTY LOSS.—The holder of any patented or unpatented mining claim, and the holder of any mineral lease, which lies within the boundaries of any conservation system unit in Alaska who believes he has suffered a loss by operation of this section, or by orders or regulations issued pursuant thereto, may bring an action in the United States District Court for Alaska to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

AREAS SUBJECT TO THE MINERALS ACCESS PROCESS

SEC. 1305. The process contained in the following sections of this title, respecting access to minerals, shall apply only to public lands within the following areas in Alaska—

(1) national preserves, except for portions designated as wilderness, and

(2) the Misty Fjords area (as described in section 607(k)) within the Tongass National Forest.

For purposes of this title (but not for purposes of any other provision of this Act) the Misty Fjords area described in paragraph (2) shall be treated as a conservation system unit. Except for mineral development and extraction under claims or leases in effect on the date of the enactment of this Act (as provided for in section 1304), mineral exploration and development and extraction may be carried out on public lands within the exterior boundaries of such conservation system units only in accordance with this section and the following provisions of this title.

INITIATION OF THE MINERALS ACCESS PROCESS BY APPLICATION OR SECRETARIAL MOTION

SEC. 1306. PROCESSING OF APPLICATIONS.—(a) The Secretary shall receive and consider applications to explore for, and develop and extract, a particular mineral or minerals on any area within conservation system units referred to in section 1305. The application shall be in such form and contain such information as may be required under regulations promulgated by the Secretary. Such regulations shall require the application to include—

(1) a reasonably specific plan for the exploration, and to the extent feasible, for the development and extraction applied for, and

(2) a specific description of the area to which such application applies.

Upon receipt of an application under this subsection, the Secretary shall publish notice thereof in the Federal Register. Such notice shall include identification of the applicant and of the mineral or minerals to which the application applies, the area description referred to in paragraph (2), notice of where copies of the application (including the plan referred to in paragraph (1)) shall be available for public inspection, and such other information as the Secretary deems appropriate.

(b) APPLICATION SELECTION PROCESS.— Regulations under subsection (a) shall provide for the consideration by the Secretary of all applications for exploration, development, and extraction for minerals in any such area which are filed within ninety days following his publication of notice with respect to the first such application. If more than one application for an area is received with respect to a particular mineral or minerals during such ninety-day period, the Secretary shall select from among such applicants the highest responsible qualified bidder by competitive bidding. No application shall be received and considered by the Secretary under subsection (a) with respect to the exploration for, and development and extraction of, a mineral or minerals in any area after the Secretary has published notice of his intention to make a determination under section 1307 with respect to the exploration for, and development and extraction of, such mineral or minerals in such areas unless and until—

(1) the Secretary fails to transmit a recommendation to explore for and develop and extract, such mineral or minerals in such area, or

(2) the one hundred and twenty-day period referred to in section 1308 has expired without congressional approval of such recommendation transmitted by the Secretary.

(c) APPLICATIONS IN RESPONSE TO SECRETARIAL ACTION.—The Secretary may make a recommendation for the exploration for, and development and extraction of a mineral or minerals in any area on his own motion under section 1307 if an application has not been received under subsection (a) with respect to such mineral or minerals in such area. Before making such a recommendation on his own motion, he shall—

(1) publish public notice of his intention to make a determination under section 1307 with respect to such mineral or minerals in such area, and

(2) establish a ninety-day period for the acceptance of applications to explore for, and develop, and extract such mineral or minerals in such area.

Such period shall begin on the publication of such notice. The Secretary shall select from among applicants the highest responsible qualified bidder by competitive bidding.

RECOMMENDATIONS OF THE SECRETARY TO CONGRESS

SEC. 1307. (a) SECRETARIAL DECISION.—Not later than fourteen months following the termination of the ninety-day period referred to in section 906 (b) or (c), whichever is applicable, the Secretary shall either—

(1) transmit to the Congress a recommendation for exploration for, and development and extraction of such mineral or minerals in the area concerned and publish notice of such transmittal in the Federal Register; or

(2) publish notice in the Federal Register that he will not transmit a recommendation.

A recommendation transmitted to the Congress under this section shall be based on the application selected, to the extent appropriate, as determined by the Secretary. No recommendation of the Secretary under this section may be transmitted to the Congress before ninety days after publication of notice of his intention to submit such recommendation.

(b) SECRETARIAL FINDINGS.—In response to an application under section 906(a), the Secretary shall make, and if no such application has been received as provided in section 906 (a) and (b) the Secretary on his own motion under section 906(c) may make, and transmit to the Congress as provided in subsection (a)(1) of this section, a recommen-

dation for the exploration for, and development and extraction of, a mineral or minerals in an area referred to in section 905 if he finds that, based on the information available to him—

(1) there is, or is reasonably anticipated to be within the ensuing fifteen years, a national need for substantial additional sources of such mineral or minerals;

(2) such national need for such mineral or minerals cannot be adequately met in an economically feasible manner by using currently available technology to extract or develop the mineral or minerals from resources elsewhere in the United States, using other currently available domestic sources (including conservation and recycling) or using known practical alternative materials or processes;

(3) such national need outweighs the potential adverse environmental impacts on the conservation system unit which are likely to result from such exploration, development, and extraction; and

(4) the area subject to the recommendation is likely to contain a resource of such mineral or minerals.

(c) JUDICIAL REVIEW LIMITATION.—No court of the United States shall have jurisdiction to issue to any person any injunction, stay, or other relief which would have the effect of preventing or delaying the transmission by the Secretary to Congress as a recommendation under this section. The enactment of a joint resolution under section 908 approving the findings of the Secretary shall be conclusive as to the legal and factual sufficiency of the findings made by the Secretary under this section with respect to such resolution, and following the enactment of such resolution no court shall have jurisdiction to consider questions respecting the sufficiency of such findings.

(d) ENVIRONMENTAL IMPACT STATEMENTS.—If the Secretary transmits a recommendation to the Congress under this section, in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, he shall include such a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the Secretary may, if he deems it desirable, include such a statement in this transmittal to the Congress. The Secretary shall also include in such transmittal a detailed report setting forth the factual data and other information which form the bases for his recommendation and for his findings under subsection (b). The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to applications under this title in the same manner and to the same extent as such provisions apply to applications relating to the public lands referred to in such section 304.

CONGRESSIONAL APPROVAL PROCEDURE

SEC. 1308. (a) DATE OF RECEIPT.—Any recommendation of the Secretary submitted to Congress under section 1307 shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(b) JOINT RESOLUTION.—Any recommendation under section 1307 shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(c) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(d) EXPEDITED CONGRESSIONAL REVIEW.—(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the Secretary of the Interior for the exploration for, and development and extraction of, from submitted to the Congress on , 19 ."; the first blank space therein to be filled in with the appropriate mineral or minerals, the second blank space therein to be filled in with the name of the appropriate conservation system unit in Alaska referred to in section 1305, and the third blank space therein to be filled with the date on which the Secretary submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(3) A resolution once introduced with respect to such Secretarial recommendation shall be referred to one or more committees (and all resolutions with respect to the same Secretarial recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Secretarial recommendation has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Secretarial recommendation which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Secretarial recommendation) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Secretarial recommendation.

(5)(A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier than sixty days after the date of receipt of the Secretary's recommendation to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such one hundred and twenty-day period, to consider any other resolution respecting the same Secretarial recommendation.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedures relating to a resolution shall be decided without debate.

EXPLORATION PERMITS AND DEVELOPMENT AND EXTRACTION LEASES

SEC. 1309. (a) EXPLORATION PERMITS.—The Secretary shall promulgate regulations which require exploration permits for exploration for minerals in areas within conservation system units in Alaska opened for such exploration under the process provided in section 1308. Such a permit shall be issued to the applicant under section 1306 whose application was the subject of the recommendation approved under section 1308. Such permits shall be for a five-year period (but may be extended by the Secretary for one additional five-year period).

(b) PREFERENCE RIGHT TO DEVELOPMENT AND EXTRACTION LEASE.—Permits issued under regulations under subsection (a) for exploration of any mineral or minerals in areas opened to such exploration under section 908 shall provide that if the holder of such permit provides sufficient information to satisfy the Secretary that a valuable deposit of such mineral or minerals which makes a significant contribution to meeting the national need referred to in section 1307(b) has been discovered by him in the area subject to the exploration permit, the Secretary shall, if requested, issue to the holder of such exploration permit a lease for the development and extraction of such mineral or minerals from so much of such area as the Secretary determines is necessary in order to carry out such development and extraction.

(c) DEFERRED PREFERENCE RIGHT TO LEASE.—If, in carrying out exploration activities under an exploration permit issued under this section, the holder of such permit discovers a deposit of any mineral or minerals which the Secretary determines would make a significant contribution to meeting the national need referred to in section 1307(b), but the Secretary determines that such deposit is not, at the time of discovery, a valuable deposit at the time of such discovery, such permit holder shall be offered a deferred preference right to a lease for the development and extraction of such mineral or minerals at such time (not in excess of fifteen years from the time such right is offered) that the Secretary determines, upon application by the holder of such permit, that such deposit is a valuable deposit which makes a significant contribution to meeting the national need referred to in section 1307(b).

(d) LEASE FOR OTHER MINERALS.—If, in carrying out exploration under an exploration permit issued under this section, the holder of such permit discovers in the area subject to such permit a valuable deposit of any mineral or minerals which are not covered by the recommendation approved by the Congress under section 1308 such permit holder shall be granted the right-of-first-refusal for a lease to develop and extract such mineral or minerals at such time as such area is opened under the process contained in this title to development and extraction of such mineral or minerals and the Secretary determines that such deposit will make a significant contribution to meeting the national need referred to in section 1307(b) and in such recommendation.

(e) ASSOCIATED MINERALS.—In determining whether or not a deposit of any mineral or minerals is a valuable deposit the Secretary shall take into account associated minerals which may be removed pursuant to section 1310(4).

PERMIT AND LEASE REGULATIONS

SEC. 1310. If approved as provided in section 1308, the exploration for, and development and extraction of, any mineral on a conservation system unit in Alaska shall be carried out in accordance with regulations promulgated by the Secretary. Such regulations shall be promulgated within sixty days following the date of the enactment of the joint resolution approving such recommendation and shall provide for the exploration for, and development and extraction of, such mineral on the basis of such permits and leases as the Secretary deems appropriate and consistent with this Act. Such regulations shall include provisions—

(1) specifying the terms of a lease or permit and a fee and royalty schedule including terms requiring diligent development, operation, and production (which terms shall remain unchanged during the period such lease or permit is in effect);

(2) ensuring that all activities under any lease or permit are compatible, to the maximum extent feasible, with the purposes for which the unit was established and consistent with the findings of national need made by the Secretary under section 1307 and approved by the Congress under section 1308;

(3) requiring (A) that the adverse impact of all activities relating to any such lease or permit on the natural character of the area and on biological and ecological systems in the area be no greater than necessary to carry out the authorized exploration, development, and extraction, and (B) the reclamation of the affected area to its state prior to exploration to the maximum extent feasible using currently available technology; and

(4) permitting the lessee or permittee to remove associated minerals to the extent that such removal does not result in any substantial additional adverse environmental effects.

MISCELLANEOUS PROVISIONS

SEC. 1311. (a) SITE SPECIFIC ENVIRONMENTAL IMPACT STATEMENT.—If an environmental impact statement under the National Environmental Policy Act was prepared in connection with the recommendation submitted by the Secretary to the Congress and if such statement adequately covered and considered the activity to be carried out pursuant to a lease or permit under sections 1309 and 1310, no supplemental or site specific environmental impact statement shall be required in connection with the issuance of such lease or permit. If such environmental impact statement prepared in connection with such recommendation (and plan) did not adequately cover and consider such activity such a supplemental or site specific statement shall be prepared as may be required by the National Environmental Policy Act. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2765; 16 U.S.C. ——) shall apply to any such supplemental or site specific statement in the same manner as is provided in section 1307(d) with respect to the original statement.

(b) LEASE SALE.—Nothing in this section shall be construed to prohibit the sale or transfer of any lease under this subsection.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Arizona (Mr. UDALL) assure us that the procedure to which we have just agreed will now be followed exactly? The gentleman from Alaska (Mr. YOUNG). The gentleman from Maryland (Mr. BAUMAN), and I will make a positive effort to discourage amendments that are nongermane. That will be our part of the agreement.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, as I understand it, with the Udall substitute now pending to the Meeds substitute, we have foreclosed these outside, extraneous, non-Alaska issues we are concerned about, and we can now have a full, fair, and open debate on the matter at hand.

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, the gentleman will make no attempt to quickly shut down debate?

Mr. UDALL. Mr. Chairman, we will confer with the gentleman and take no action until we have discussed the matter thoroughly.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to my colleague, the gentleman from California a former member of the Interior Committee.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

I would ask the chairman of the Committee on Interior and Insular Affairs if his substitute in any way dramatically changes the substitute offered by the gentleman from Washington (Mr. MEEDS)?

Mr. UDALL. Mr. Chairman, will the gentleman yield to me?

Mr. ROUSSELOT. I am glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the pending Udall substitute is essentially the consensus bill, H.R. 12625, with two changes: It puts title IX back in. That is the mining title with regard to mining in the preserve. It also puts back in the mineral assessment provision. We were going to offer that anyway.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to my colleague, the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the gentleman for yielding.

Not being privy to the actions of the Committee on Interior and Insular Affairs nor to the numerical sequence of the bills, I again ask my question of the gentleman from Arizona (Mr. UDALL):

Does the substitute in any way dramatically change the substitute offered by the gentleman from Washington (Mr. MEEDS)?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, there are serious differences between the Udall substitute and the Meeds substitute. The most important part of the debate is going to be centered around the differences between those two substitutes. That is what it is all about. They are both before the House. In effect, if we adopt the Udall substitute, we will reject the Meeds substitute; if we adopt the Meeds substitute, we will in effect reject the Udall substitute.

That will be the next vote. If we adopt the Udall substitute, in effect we reject the Meeds amendment when we finally get to that point.

Mr. KETCHUM. I thank the gentleman for his clarification.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, we had many months of hearings and much discussion in committee and I think it is interesting that we considered and heard from our constituents on H.R. 39, and then when we got to the floor yesterday we found we had another bill, and now we find today that there is still another one, different from what we had yesterday. Frankly, Mr. Chairman, it seems like a poor way to run a railroad.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, I agree with the gentleman from Oklahoma, and that is one of the reasons so many of us opposed what we considered to be a terrible rule yesterday. It was not, because we were against having this item brought to the House floor, but because all points of order were waived and nongermaine amendments were made possible. My colleague, the gentleman from Arizona, has now fully acknowledged it is a terrible rule. We are still in the position of operating under that terrible rule. My concern is that there is going to be a substantial amount of confusion on this issue, because there are now so many conflicting substitutes and amendments before us. The House may not have time, even though the gentleman from Arizona (Mr. UDALL) and the gentleman from Washington (Mr. MEEDS) have agreed that there will be adequate discussion between the two different versions that they are offering, to genuinely understand all the ramifications of these many substitutes. But as both members of the Committee have admitted, this is a highly technical bill. There were two committees involved in its drafting process. It is, I think, a difficult position in which to put the whole

House, especially when we are talking about such grandiose numbers in acres that are involved. In this case we are considering proposed Federal land use for acreage more expensive and larger in size than any State in the Union.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is poor procedure. I want to congratulate and thank the gentleman from Ohio (Mr. ASHBROOK) and the great peacemaker, the gentleman from California (Mr. ROUSSELOT), and the others who have enabled us to get out of this box. I hope we will learn from it and that we will have a better procedure the next time around. But the final vote will come on H.R. 39.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I deeply regret that the gentleman from Arizona (Mr. UDALL) did not mention the peacemaker from Maryland.

Mr. UDALL. If the gentleman will yield, the gentleman from Maryland played a key role, and the gentleman is one of the most valuable members of the committee. I just wish he would see the light and vote with us in a while.

Mr. BAUMAN. My, how we do go on.

Mr. Chairman, would the gentleman from Arizona, who is a great reformer of House rules and procedure, join me in an investigation of the drafting staff on the Committee on Rules? I do not know where the fault lies in the problem that faces us. I do not think it was the gentleman's fault. But it seems to me, with the magnificent salaries we pay staff around here, we should not be in a position like this. We as Members must accept the responsibility. Somebody ought to clean up their act.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation, as the "peacemaker."

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona (Mr. UDALL) that the amendment offered as a substitute for the amendment in the nature of a substitute be considered as read and printed in the RECORD?

There was no objection.

Mr. LEGGETT. Mr. Chairman, I rise in support of the Udall substitute.

Mr. Chairman, I rise in support of the amendment in the nature of a substitute. This is the so-called consensus bill that has been developed by the majority leadership in an attempt to facilitate the floor debate on this important issue.

This bill proposes to designate 54 million acres of new and expanded wildlife refuges in the State of Alaska—more than doubling the existing acreage of the entire National Wildlife Refuge System. In addition, the bill would designate over 42 million acres of new national parks, 3 million acres of new national forests, and almost 2 million acres of wild and scenic rivers in the State. I will confine my comments to the wildlife refuge provisions of the bill which were developed by the Committee on Merchant Marine and Fisheries.

The acreage proposed for wildlife refuges in this amndment is large—there is no question about it. But Alaska is an extremely large State. It is also our last real frontier. I believe that this legislation strikes an adequate balance between the need to preserve a portion of this last frontier, and the need to provide for contnued economic development in the State.

Development is going to come to the State of Alaska. Nothing in this bill is going to stop it. If this bill becomes law, there will be nearly 250 million acres in the State outside of conservation system units and open for some kind of development. This acreage includes the 149 million acres of land that will be owned by the State of Alaska and Native corporations. To a great extent, the State and the Natives have already selected some of the choice real estate. It also includes 100 million acres of BLM and nonwilderness Forest Service land which will be open to multiple uses including mining, mineral leasing, and logging.

In addition, all of the nonwilderness wildlife refuges in the State will be available for oil and gas development if the Secretary determines that such development can be compatible with the refuge. We know from our experience in the Kenai Moose Range in Alaska; the Delta National Wildlife Refuge in Louisiana, and other areas, that oil and gas development can be carried out within wildlife refuges without doing damage to the wildlife resources.

We know that Alaska has great economic potential. Prudhoe Bay demonstrated that. What is not so widely known is that the wildlife resources of the State are equally important to the Nation as a whole. Just take the migratory birds of Alaska. A significant percentage of the migratory waterfowl found within the continental United States originates from feeding and nesting grounds in Alaska. The several million waterfowl hunters in this country benefit very directly every waterfowl season from the wildlife refuges in Alaska. Virtually every State in the Union provides winter habitat for migratory birds that summer in Alaska. If we permit Alaska's wetland habitat to be destroyed, these birds will simply no longer be around for all of us to enjoy and appreciate.

Alaskan wildlife, of course, is not limited to migratory birds. The same land and water that supports millions of birds also provides habitat for a broad spectrum of mammals from the lemming to the moose. Alaskan waters support several species of whales and other marine mammals, as well as a priceless commercial fishing industry. Sixteen percent of the world's red salmon, for example, migrate through the waters of one Alaskan bay, and spawn along the State's inland streams and lakes.

The Committee on Merchant Marine and Fisheries has worked long and hard on this legislation. We have held hearings in Washington, and we have held hearings in Alaska. The bill before us today represents over a solid year of work by the Merchant Marine Committee.

I believe that the two committees have brought a very balanced proposal to the House. The amendment in the nature of a substitute includes nearly all of the provisions adopted by the Merchant Marine and Fisheries Committee.

The amendment would designate 54 million acres of national wildlife refuges in the State. These are the most significant wildlife areas in the entire State. The designations include a 9-million-acre addition to the Arctic National Wildlife Range which provides habitat for the country's last great caribou herd and numerous other species; a 13-million-acre Yukon Delta Refuge which is a nesting area for 170 different species of migratory birds; and a 9.4-million-acre Yukon Flats Refuge which is the most productive waterfowl nesting area in the entire State. The provisions would also establish an Alaskan Peninsula Refuge which would provide habitat for large populations of brown bears, moose, and caribou and a Copper River Refuge which is an important migratory bird and anadromous fish area.

All of the areas proposed in our amendments have well-recognized fish and wildlife values. We attempted to keep the boundaries sufficiently large to offer lasting protection for these areas, but we also attempted to accommodate the interests of the State whenever possible.

The Governor of Alaska presented me with a list of the State's top five interest areas that fell within our proposals. We deleted four of those five from our boundaries.

First, 900,000 acres in the proposed Yukon Flats National Wildlife Refuge. The State requested lands around the town of Circle for land settlement and lands in the western portion of the proposal for agriculture purposes;

Second, land in the Iliamna watershed. The State vigorously opposed the designation of a refuge in the Iliamna watershed even though this area rates as the most important anadromous fish area in the State. The committee did not establish a refuge around Iliamna;

Third, land within the Tetlin Refuge along the Alaska Highway. The State requested a small amount of land at the entrance of the State for the development of a visitor center and State park. Even though this land included some of the highest density waterfowl habitat in the refuge, the committee agreed to permit the State to select land in this area;

Fourth, land around Bethel in the southwest portion of the State. The State requested land within the proposed Yukon Delta Refuge in the southwest portion of the State. The committee granted this request.

The only area requested by the Governor that the committee did not grant to the State was in the proposed Nowitna Refuge. In this area, the committee decided that State selections in this area would do violence to a refuge which provides habitat for numerous species of waterfowl along with the endangered peregrine falcon.

In general, I would say that we were exceedingly fair to the State. They came in and asked for five areas, and received four of them.

The amendment in the nature of a substitute adopted the Merchant Marine wilderness amendment. Our committee proposed the designation of 20 million acres of wilderness within new and existing wildlife refuges. The major component of this wilderness is the 13-million-acre proposal in the Arctic National Wildlife Refuge. In general, the committee attempted to limit wilderness designations to those areas that have been specifically studied for wilderness, or those areas that have well-recognized wilderness values. We did not attempt to establish a wilderness area in each and every refuge. We just did not feel that a wilderness designation is necessary in each and every instance to provide protection for the fish and wildlife species.

The Interior Committee had proposed 28.5 million acres of wilderness within refuges. Thus, the amendment in the nature of a substitute deleted 8.5 million acres of wilderness proposed by the Interior Committee.

The amendment in the nature of a substitute includes most of the Merchant Marine provisions on mining and mineral leasing within wildlife refuges. The amendment authorizes the Secretary to permit oil and gas development within wildlife refuges when he determines it is compatible with the refuge. The amendment would not permit hardrock mining within refuges, as the Merchant Marine Committee had allowed, but we intend to offer an amendment reinstating the committee position. The Merchant Marine amendments had provided that hardrock mining could be permitted within refuges under a leasing system if the Secretary determines that the mining can be carried out in a compatible manner.

The amendment in the nature of a substitute includes the Merchant Marine amendments to the subsistence title. Our subsistence title reaffirms the State's right to manage subsistence uses of fish and wildlife. The Secretary would not be permitted to suspend that right, although he would be permitted to close public lands under certain circumstances to insure protection for the fish and wildlife resources.

The compromise bill is just that—a compromise. It is not a perfect bill. We intend to offer three amendments which were adopted in committee, but which were deleted from the compromise text. These amendments would provide for cooperative management of the Bristol Bay area, permit hardrock mining in refuges, and establish an additional national wildlife refuge in the State.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding.

My understanding of the situation is that the gentleman from Alaska (Mr. YOUNG) has several amendments to the Udall substitute which he intends to offer. For those Members who are interested in supporting the position of the gentleman from Alaska (Mr. YOUNG) in the offering of those specific amendments, he will now attempt to amend the Udall substitute and try to perfect it in the hope that this action can occur before we get to the vote on the Meeds substitute.

So, I merely take this time to give the gentleman from Alaska an opportunity to prepare his amendments. I thank the gentleman for yielding to me.

Mr. YOUNG of Alaska. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee on the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Washington (Mr. MEEDS) is recognized.

(By unanimous consent, Mr. MEEDS was allowed to proceed for an additional 5 minutes.)

Mr. MEEDS. Mr. Chairman, those few of you who were here yesterday will recall that I discussed what I considered to be deficiencies in H.R. 12625 and H.R. 39. I assume the same deficiencies, although I have not had an opportunity to look at the latest moving target, the same deficiencies exist in that proposal also.

I would like to talk today for some time about proposed remedies. First, I would like to point out that there is much in these proposals that is identical. While this debate is going to get heated today, while people will be very concerned about their positions, on balance we are going to find out there is a lot of similarity in all these bills, a lot of similarity.

First of all, let me point out that in total new areas going into these four systems, the substitute which I am offering and which is before us now will place approximately 95 million acres in the four systems.

H.R. 12625, which is the basic document here, proposes 102 million acres.

H.R. 39, which emerged from the Committee on the Interior, proposes 98½ million acres.

The administration proposed 93 million acres. So there is a lot of similarity and not too much difference when we are dealing with those high figures, and 5 million or 10 million acres, give or take a few hundred thousand, do not make that much difference.

But the boundaries of the substitute which I propose for parks, for national wildlife refuges, for wild and scenic rivers. and for other things are almost identical with the same boundaries proposed in the administration's proposal, in H.R. 39, and in H.R. 12625 as they pertain to the North. That is just in the North. There are some substantial differences in southeast Alaska which I shall talk about.

There are other provisions such as conveyancing and the way the State and Native lands are treated, and they are almost identical or very similar in all the proposals.

So we may ask: What is all the fuss about? Why all the dispute? Well, there are major differences.

There are two major differences in my proposal and in the committee bills on both sides, and these are with regard to wilderness areas and with regard to minerals and hydrocarbon exploration and development. My contention is that wilderness is being used in the committee bills and in the proposed Udall substitute as a method of locking up Alaska.

With regard to wilderness and wilderness studies, when we have a wilderness study in an area, it has to be treated as wilderness during the period of that study, and that means for 7 years in this instance.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield on that point?

Mr. MEEDS. I will yield after I have finished, if I may.

Mr. Chairman, the total of wilderness and wilderness study in these proposals we are considering here is approximately 123 million acres. That is an area almost as large as Texas. It is larger by 23 million acres than the State of California, and as I pointed out yesterday, it is as large as about 22 Massachusetts. That means for all intents and purposes that there will be no new development on one-third of the total land mass of the State of Alaska. There would be no new development at all.

And I made this point yesterday: That I wish the Members could put themselves in the place of Alaskans and consider their own State for a moment as being curtailed from further development on one-third of its total land mass. That is what they are facing in Alaska.

My substitute will change that. It puts 33 million acres in wilderness. That is still about 10 percent of the State. The rest of the land that remains in the bill is for wilderness study. But there are some different provisions which will allow some variations in the wilderness study.

This is, as far as the north is concerned, almost identical with the administration's proposal. In fact, almost all the lines for national parks, monuments,

refuges, and preserves in the north are the same in my bill as in the committee bill and in the administration's bill. I put wilderness in all parks and national monuments in the north, and I put wilderness in all the other areas of Alaska which have been studied for wilderness. Where the studies have been completed and recommendations have been made for wilderness, my bill puts it in wilderness.

Mr. Chairman, that is the major problem with H.R. 39 and the other bills we are considering here. All of them, without exception, put vast areas of Alaska into wilderness without the proper studies being made.

As I say, there have been about 10 million acres studied and recommended in Alaska for wilderness inclusion, and the other bills end up variously with between 65 million and 74 million acres in wilderness.

Frankly, the completion of these studies would really avoid some of the problems that we are now seeing. Let us look at southeast Alaska, for instance, where the Tongass National Forest is located. There is a study going on there right now for classifying large areas of the Tongass National Forest as wilderness. That study will be completed in December of this year, and the recommendations will be made. Hearings have been held, and environmental impact statements have been filed. The whole gamut of wilderness procedures has been followed and gone through.

But H.R. 39 and the other bills propose to short circuit that process and put into instant wilderness classification almost 3 million acres in southeast Alaska.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I would like to commend the gentleman from Washington (Mr. MEEDS) on offering his substitute.

Is it not true that these studies which are underway in the Tongass National Forest, and other areas, will not make these areas subject to immediate development if they are allowed to continue?

Does not the Forest Service have full authority to maintain these areas while studies are being considered so that Congress can decide later if it wishes to include them in a wilderness area or areas?

Mr. MEEDS. The gentleman is exactly correct. The process going on in the Tongass National Forest is the same as the RARE 2 procedures going on in the other parts of the country, in which the areas are to be protected during the time of the study.

Mr. FOLEY. We do not have to act now on the Udall substitute and on the other amendments in order to protect these areas?

Mr. MEEDS. The gentleman is absolutely correct.

In addition to that, the situation is that these lands are under protection at the present time and they will be protected during this study period. The study period will be completed in December, and we will have the recommendations of the Secretary in January. That is why my bill mandates that the Secretary recommend or the President recommend to the Congress no less than 6½ million acres of wilderness in southeast Alaska when studies are completed. Confidentially, they will tell you that they will come up with that kind of a recommendation. But the wilderness areas are going to be in different places than they are in these bills. They are not going to take entire timbered islands, they are not going to take some of the best timber in all of southeast Alaska and put it in wilderness, and yet there will be some timbered areas.

So this substitute, I think, is a much more responsible approach to the wilderness in the national forest in southeast Alaska.

Wilderness has also been used to stop exploration for oil and gas. And the sponsors of these bills will admit that the reason the Arctic Wildlife Refuge is placed in wilderness status is to stop exploration for oil and gas. The Arctic Wildlife Refuge is acknowledged as the top prospect for oil and gas exploration in the entire continental United States—the top prospect. And yet, under these bills, under every one of them, the Arctic Wildlife Refuge, by being placed in wilderness, would be out of bounds for oil and gas exploration.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(By unanimous consent, Mr. MEEDS was allowed to proceed for 3 additional minutes.)

Mr. MEEDS. Mr. Chairman, I contend we can go in there—and experts will tell you this—and do the exploration and do it at a time of the year when it will not interfere with the calving of the caribou, and do it in an ecologically sound manner so that the earth can be returned and the geology will not be disturbed unduly. We can find out what is up there. And I say that is what we ought to do. Rather than legislating in ignorance, we ought to find out what is there and then make some decisions—some intelligent decisions—about that.

My substitute, by deleting wilderness classification for the Arctic Wildlife Refuge, would allow that kind of exploration. The combination of wilderness classification and other provisions in these bills effectively stops hard rock mineral exploration and development on 123 million acres of Alaska, one-third of the entire State.

Mr. Chairman, I am not a fan of those who want to dig and despoil and mine everything that they can find. I probably have as good a record as anybody in this House in trying to prevent that. However, again, we simply cannot lock up 123 million acres when we need the minerals that we do in this country. The Members will be shown charts showing how scarce minerals are; and I say again that we can do it in an ecologically sound manner. We can explore, find out what is there, and then make these decisions.

Finally, Mr. Chairman, I would suggest that my real fear is that by the overzealousness in cutting out mineral exploration and development of wilderness areas, we have the result of an excess here. As I told the Committee, the American people have a tendency to respond to excesses with further excesses. Therefore, those who really want to preserve substantial parts of Alaska may be the victims of a violent reaction in the future, resulting in the reckless withdrawal of many of the areas we really ought to be protecting. I think everybody would agree that they should be protected in the future.

Therefore, Mr. Chairman, my contention is that we have a beautiful opportunity to do it right the first time, and that is what I think my substitute amendment does.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I appreciate the gentleman's yielding.

Just so that we can keep our record straight. I do not know whether the gentleman has had a chance to read, on page 76, our wilderness study provision which affects the 54 million acres.

Mr. MEEDS. Mr. Chairman, which bill is the gentleman referring to now? There are three of them.

Mr. LEGGETT. It is page 76 on all of the bills.

Mr. MEEDS. It is page 76 on all of the bills; all right.

Mr. LEGGETT. Yes. I appreciate the fact that the gentleman might be somewhat confused.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(On request of Mr. LEGGETT and by unanimous consent, Mr. MEEDS was allowed to proceed for 4 additional minutes.)

Mr. LEGGETT. Mr. Chairman, will the gentleman yield further?

Mr. MEEDS. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, on page 76 it says the following:

> Nothing in this section shall be construed as affecting the administration of any unit of the National Wildlife Refuge System in accordance with title III until Congress otherwise provides in taking action on any Presidential recommendation made under subsection (b).

The gentleman will remember that under subsection (b) it does call for the Secretary to reply within 3 years, I believe, on one-third of the areas being studied, and in 7 years on the balance of the two-thirds. Therefore, what we intended by this amendment, which is really virtually unassailable, is that this study area not be considered as instant wilderness and that the Secretary have full discretion to conduct whatever is allowed by this bill in that area. Thus, this provision will permit discretionary oil leasing in refuges by the Secretary.

In addition to that, the Udall mineral assessment provision, which is now in the title XIII, which we refer to as title IX, does provide that the Secretary of the Interior shall, to the full extent of his authority, continue mineral assess-

ment programs in the State of Alaska in order to expand the data base with respect to the mineral potential of all public lands in Alaska. Such programs may include, but shall not be limited to techniques such as imagery and core drilling for geographic formations, notwithstanding any restriction on such drillings under the Wilderness Act. In carrying on such programs, the Secretary, one, shall initiate a study and conduct a study of the oil and gas and other mineral production.

Mr. MEEDS. Mr. Chairman, may I reclaim my time.

Mr. LEGGETT. I will get the gentleman more time.

Mr. MEEDS. Mr. Chairman, if the gentleman will just go with me to H.R. 12625, at page 190, section 1205, he will find it says the following:

Subject to valid existing rights, all public lands within the boundaries of any conservation system unit in Alaska are withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

Does the gentleman see that?

Mr. LEGGETT. I see that, and I also see, on lines 9 and 10 of page 190, that it says, "except as otherwise specifically provided in this Act."

What I am reading is "otherwise specifically provided."

Mr. MEEDS. Where does it say "otherwise?"

Mr. LEGGETT. I am just reading the "otherwise."

Mr. MEEDS. The gentleman is reading another bill now.

Mr. LEGGETT. No. I am reading the Udall substitute.

Mr. MEEDS. All right. That is another one.

Mr. LEGGETT. That is the bill that we are going to try to perfect here today. This says the following:

In carrying out such programs, the Secretary is authorized to study and conduct assessments of the oil and gas and other mineral potential of such public lands.

The gentleman has to keep in mind that we have talked about core drilling.

Mr. MEEDS. Therefore, an assessment procedure has been put in this, and I think that is a step in the right direction.

What I am saying is that my title IX is much better than that insofar as it allows even development after the Secretary makes sure that the areas are protected, and that provision simply does not exist in that substitute.

Mr. LEGGETT. It could be that the gentleman's title IX is great. I have not had a chance to study that.

Mr. MEEDS. My title IX has been available for a number of days—in fact, weeks—which is more than I can say for this.

Mr. LEGGETT. Well, the gentleman did not come to our committee and offer his title IX. Certainly, Mr. SEIBERLING was over there in daily attendance, seeing that we were doing it correctly.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(At the request of Mr. LEGGETT and by unanimous consent Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mr. LEGGETT. If I could continue reading,

The Secretary shall establish priorities for accelerated assessments with respect to minerals for which there is a high potential on such public lands.

Of course, Mr. SANTINI has indicated that there are lots of minerals with high possibilities.

Mr. MEEDS. Which lands is the gentleman talking about?

Mr. LEGGETT. This is all public lands, including the wilderness lands.

Mr. MEEDS. Including parks?

Mr. LEGGETT. Including parks.

Mr. MEEDS. Does the gentleman mean that this provision, that the Secretary can allow mining in parks——

Mr. LEGGETT. We are talking about mineral assessments.

Mr. MEEDS. But the gentleman just read something about allowing development.

Mr. LEGGETT. "* * * and shall establish priorities for accelerated assessments with respect to minerals for which there is a high potential on such public lands; and 3) is authorized to enter into contracts with public and private entities."

They can get Standard Oil out there to go ahead and carry out a contract and do a mineral assessment under the bill that has been offered by my colleague from Arizona, which we are trying to perfect.

Mr. MEEDS. Even in national parks?

Mr. LEGGETT. As I understand it.

Mr. MEEDS. Even in national parks?

Mr. LEGGETT. In all the public lands throughout Alaska.

Mr. MEEDS. I think that is unfortunate. I think there should be a decision now as to whether we are going to have parks in Alaska, and we ought not to allow mining or exploration for minerals in those national parks.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I would be delighted to yield to the gentleman from Ohio.

Mr. SEIBERLING. The provision in the Udall substitute is identical to the title IX provision in this regard in the Interior Committee bill, which provided for advanced mineral assessment in all areas of Alaska, with the Secretary mandated to set the priorities on the basis of what he thinks are the importance of the minerals.

Mr. MEEDS. I just have to say that I am much more conservationist minded than the people who drafted this legislation, because in my bill I do not allow for mining and mineral assessment in national parks or monuments. I do not think we ought to be doing it.

Mr. SEIBERLING. The Udall substitute does not allow mining either in national parks, but it does provide for mineral assessment by the Interior Department.

Mr. MEEDS. I do not even allow for mineral assessment in national parks, and I do not think we ought to be in national parks attempting to find that out. That is the trouble we get into when we put such vast areas in these circumstances. We make a decision and then we have to make an exception. That is one of the problems I have had with this legislation all along, that we are covering such vast areas that we end up making exceptions which we will later regret, because they will degrade the kinds of standards we have for wilderness areas in national parks.

AMENDMENT OFFERED BY MR. LAGOMARSINO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO to the amendment in the nature of a substitute offered by Mr. MEEDS: On page 125, after line 3, insert the following new section:

CONGRESSIONAL REVIEW

SEC. 1112. The provisions of section 551 of the Energy Policy and Conservation Act of 1975 (Public Law 94–163) shall apply to all regulations issued by the Secretary pursuant to this Act, except that the term "energy action" shall be treated as a reference to regulations promulgated by the Secretary under this Act and any reference to the "President" shall be treated as a reference to the Secretary.

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman and my colleagues, this amendment is the congressional veto amendment that we have put in so many pieces of legislation on this floor. I might point out that this amendment is contained, with exact language, is already contained in all three of the other substitute amendments, consensus, Udall, and H.R. 39. It was inserted in H.R. 39 during committee consideration. It has been picked up from there and put in the other pieces of legislation.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I have looked at the amendment. I notice that it is in the other pieces of legislation. I think it is a good addition, and I would be delighted to accept it.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, we have no objection to this amendment.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, we have no objection to the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, the minority side has no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

Mr. Chairman, I will try to be brief.

Let me say that the Meeds amendment in the nature of a substitute, in essentially the same form, was presented in the Subcommittee on General Oversight and Alaskan Lands, which I chair. After extensive discussion and debate it was voted down by a vote, as I recall, of 10 to 7—perhaps it was even a larger majority that voted it down.

The amendment in the nature of a substitute was again offered, with certain modifications, in the full Committee on Interior and Insular Affairs and was again voted down, by a vote of 24 to 20 after very intense debate.

The point made by the gentleman from Washington, Mr. MEEDS as far as southeast Alaska is concerned, is that since under the RARE–2 program the U.S. Forest Service is studying this area to determine what areas might be recommended as wilderness areas, that we should wait for the administrative procedures to be completed and then Congress should act.

Now he, interestingly enough, takes the opposite position with respect to the Arctic Wildlife Refuge, because there a study has been done. I refer you to page 147 of the report of the Committee on Interior and Insular Affairs, and it reads as follows, and I quote:

> The Committee carefully considered the fact that the existing wildlife range was established by Public Land Order "For the purpose of preserving unique wildlife, *wilderness* and recreational values . . ."; that the environmental impact statement concerning the range and certain proposed adidtions thereto submitted to the Congress in December, 1973, by Secretary Rogers C. B. Morton made clear that "As required by the Wilderness Act . . . the Arctic National Wildlife Range has been studied to determine its suitability for inclusion in the National Wilderness Preservation System. Findings indicated the entire wildlife range has high wilderness values, but an Act of Congress is necessary to designate the range as a wilderness area."; and that the present Administration has recommended that this existing unit be designated as wilderness.

So a study has been made. And then the gentleman says, Ah, but we should not put that in a wilderness category because we might want to later take a look to see if there is some oil there or some other choice minerals. And yet when we get to the point where there has not been a wilderness study completed, he says we should wait.

Well, as I see it, the gentleman cannot have it both ways.

I would like to point out one other thing and that is concerning the Department of Agriculture and its support of the wilderness designation in southeast Alaska.

Mr. MEEDS. Mr. Chairman, would the gentleman yield before we leave that subject of wildlife?

Mr. SEIBERLING. Yes, I will be glad to yield to the gentleman.

Mr. MEEDS. Mr. Chairman, I would ask the gentleman from Ohio (Mr. SEIBERLING) can the gentleman tell us, without fear of contradiction, that a complete environmental impact statement was filed, that public hearings were held, as the process requires, for the inclusion of the Arctic Wildlife Refuge in a wilderness?

Mr. SEIBERLING. It is my understanding that all of the administrative processes were completed but that it was never filed and finalized in the form of public hearings, because the study required under sections 17(d)(2) of ANCSA took its place.

Mr. MEEDS. In other words, all of the processes were not completed. That is what I said and I stand by what I said, the Arctic Wildlife Refuge was never finally studied as a wilderness refuge under the procedures that were established.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. All of the internal administrative processes were completed.

Furthermore, the D–2 study was completed in 1973, then this committee had its own hearings, very exhaustive hearings, all over this country as well as Alaska. We heard over 2,000 witnesses. We heard people from the Department of Agriculture, the Department of the Interior, and the various agencies therein, and we listened to the people of Alaska. You can look at the committee table at all of the different studies that were made by the executive branch, of the areas covered by this bill, including the Arctic Wildlife Range, plus a stack, the highest stack there, of 17 printed volumes of hearings by this committee. I say to the Members that this Congress has the information, and our committee had the information and so did the Committee on Merchant Marine and Fisheries, on the basis of which they could make an intelligent decision about the Arctic Wildlife Range as well as southeast Alaska.

Let me just make one other point. The Department of Agriculture, which includes the National Forest Service, not only supports our wilderness proposals in southeast Alaska but recommends even more be placed in wilderness. Despite their recommendations, we deleted the proposed Mistyc Fiords Wilderness Area in the Tongass National Forest in order to make crystal clear that there would be no negative impact on existing jobs in southeast Alaska. We deleted that area just to have a sure cushion of timber availabiltiy. However, I suggest that the record, prior to this administration, of the National Forest Service protecting southeast Alaska is a very sorry one. That is why we decided to go to these great lengths to find out what the facts are, to get the latest information from the Department and the National Forest Service, to make a decision to present to this House for its action.

Mr. SYMMS. Mr. Chairman, would the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Despite all of the flowing rhetoric of the gentleman from Ohio, the fact remains that the point that the gentleman from Washington made for the Members here is an in-house report within the Department, and there were never any special hearings on the Arctic Range and Wildlife Refuge.

Mr. SEIBERLING. All of these reports are in-house reports of the Department. The Morton withdrawals are not based on public hearings though they are based on a great deal of work with people residing in the affected areas. The whole concept of 17(d)(2) was that after the administration completed this process, then it was the Congress that was going to carry out the necessary hearings, and other legislative investigations, and that is exactly what we did. Now we are presenting the facts to the House, and there is no reason on earth why we have to say, Oh, well, the executive branch has not held hearings; therefore, we cannot act. That, of course, is nonsense.

As a matter of fact, the executive branch in most of the areas that have been designated wilderness did not conduct complete studies. Three-fourths of the wilderness areas in this country, in terms of acres, and half of them in terms of units, were created by an act of Congress without a wilderness review and study, and that includes wilderness in the State of Washington.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

I just want to say that I stand in awe of the work of the chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING). The hearings that he held, the investigations that he made in Alaska, as I watched them, were monumental, and I know of nothing in my term in Congress to match the work that the distinguished chairman has done on this bill.

Mr. SEIBERLING. I thank the gentleman. We have been told that these were the most extensive hearings since the Civil Rights Acts of the 1960's. So it cannot be said that this has not been ade-

quately reviewed. We have the most recent and up-to-date information, not only in timber availability but in minerals, and on other matters. There is no need to wait until a bunch of bureaucrats get finished perfecting their information. They will be perfecting information forever, as we well know. We can act now, and we should act now.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MEEDS, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I am sure the gentleman will agree with me that if 3 million acres of the Tongass National Forest were withdrawn from other multiple uses and dedicated to timber cutting only, without public hearings on that issue, the conservationists would go up in smoke, and the gentleman and I would be right along with them; Would we not?

Mr. SEIBERLING. Of course the gentleman is absolutely right.

Mr. MEEDS. That is what has happened in this instance. Much of this has gone without public hearings, has gone without environmental statements as it should have, and has been put in wilderness classification, a single purpose which maybe the gentleman and I would agree with, but without the public involvement.

Mr. SEIBERLING. Does not the gentleman see the distinction between an irrevocable act and one that is not? If we put land in wilderness, or a national park, or a refuge, that is not an irreversible decision. The Congress can turn around 1 year or 5 years later and change it, as the gentleman just finished pointing out. But if we cut all the timber the wilderness is gone, and if we dig out all the minerals, they are gone and the true lockup has taken place. So the gentleman is comparing apples and oranges when he makes that analogy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Meeds proposal. I have worked with both the substitute and the original bill from the Committee on Merchant Marine and Fisheries and I have worked on the Interior Committee. I have worked closely with the gentleman from Washington on the Committee on the Interior on the gentleman's substitute. The substitute which the gentleman is proposing today has only 90 million acres in it, 10 million more than what those volumes represent, 10 million acres more than the volumes placed before us today and referred to as the great research that has been done.

There is actually in the Meeds substitute 33 million acres of wilderness, but in those volumes before us there is no recommended wilderness.

I think those who believe in the Wilderness Act as I do, should be very careful about instantaneously creating wilderness, which has become a habit with us in the past few years because some special interest group says it should be a wilderness, without proper hearings, without proper input and understanding of the impact on people, the loss of jobs, and all the other factors.

I want to compliment the gentleman from Washington, with the understanding that even though the gentleman's bill is greater than what was in the Morton proposal, but it recognizes that we do not know what we are doing.

The gentleman does recognize those areas that are the crown jewels should be set aside and should not be violated. The gentleman recognizes that. I think I should compliment the gentleman on that.

I think we have to understand that if the gentleman's substitute is not adopted, it precludes this body from ever actually finding out what are in these areas in which we offer the substitute bill of the gentleman from Arizona (Mr. UDALL).

Now, it has been said that the substitute of the gentleman from Arizona (Mr. UDALL) contains a process in which they will assess how many minerals are there. I want to again stress that to my knowledge the USGS or the Bureau of Mines have never actually found or developed a mine—never. They have indicated there is a possibility, but it has been through intensive private industry research that found these minerals of which we speak.

A case in point is Pet-4 last year. A year ago the Congress passed a bill that said the Government would go in and drill and return a study to tell us how much oil is in Pet-4. It was estimated at 36 billion barrels of oil. The Government has gone into Pet-4, drilled 17 wells, and they have not found one thing. Some people say that proves, including this present Secretary, that there is no oil there; but he forgets to tell us that the Government has told the drilling contractor when to stop drilling, where to drill and how much to drill.

It has cost the taxpayers $152 million to find nothing. Let us think about another thing: Twenty-three million acres, 17 wells drilled, and the Government says there is no oil there. I do not feel comfortable with that, and the Members should not either.

I think the proposal offered by the gentleman from Washington (Mr. MEEDS) about the oil and gas on the Arctic Game Range is an important one. I disagree with the intent, though, very honestly, because I think we ought to have a study made not of the wilderness, but we ought to go in and find out what the situation is with the caribou herd in the Prudhoe Bay Area—it provides us a classic lab. Then after 10 years we should go in and explore for gas and oil. If we can drill without any disruption of the area, we should go in and drill for that oil and gas so we may have it available for the people of the United States.

Mr. Chairman, I urge my colleagues to consider the Meeds substitute because I believe it is a realistic approach to the problem we have faced all through these periods of markup. Some people have been saying there have not been hearings on the Meeds substitute. The fact is there have been just as many hearings on the Meeds substitute as there have been on any substitute we have before us today.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, as I understand the legislative situation now before the House, the gentleman from Alaska (Mr. YOUNG), who represents that very large State, is supporting the Meeds substitute on the basis of the promises made by this Congress when Alaska became a State.

The CHAIRMAN. The time of the gentleman from Alaska has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, if I may continue and if the gentleman will yield further, on the basis of that previous action by the Congress, the gentleman feels that the Meeds substitute would be more in keeping with that commitment made by Congress; is that correct?

Mr. YOUNG of Alaska. The Meeds substitute keeps totally with the commitment of this Congress. It is in keeping with the promises given us under the Statehood Act of 1958.

Mr. ROUSSELOT. So, then, on the basis of what is now before us, those of us who want to support that previous commitment by this Congress to the State of Alaska in 1958, we should vote down the Udall substitute, which is now the third or forth version the gentleman from Arizona (Mr. UDALL) has had? We should vote down that substitute, and then we should have an opportunity to get to consideration of the Meeds substitute; is that correct?

Mr. YOUNG of Alaska. That is the correct procedure, yes, and we should support the Meeds substitute.

If the Meeds amendments are offered as the gentleman from Washington (Mr. MEEDS) suggested earlier in the day instead of the total substitute, those two amendments do not take care of all the problems of the State of Alaska; it takes care of just a few of them. In that event I will have additional amendments to offer.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's explanation.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, for purposes of clarification to the Members, the Alaska Native Claims Settlement Act was initially enacted, I believe, in 1971. When they set forth the so-called D–2 section which called for the study, evaluation, and classification, as a result of the D–2 study, as I recall, the language of the legislation stated that it

would be up to or not to exceed 80 million acres.

Could the gentleman give us the benefit of his understanding of the situation, as to whether or not the Meeds proposal coincides with this or the Udall proposal coincides with that provision? Or does either one of them go beyond it, or what is the situation?

Mr. YOUNG of Alaska. They all go beyond the original intent of this Congress in the Claims Act.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has again expired.

(On request of Mr. DON H. CLAUSEN, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Section 17 (d)(2) of the ANSKA Act is very clear. It states that the up to 80 million acres could be recommended by the Secretary for four systems: Forestry, wild and scenic rivers, refuges, and parks. There was no provision for wilderness at all.

Now, before us today are bills that are contrary to the original intent of this Congress. Of all the bills before us today, the one that comes closest to the original intent of Congress is, of course, the Meeds substitute.

Mr. DON H. CLAUSEN. And as I understand it, that provides for over 90 million acres.

Mr. YOUNG of Alaska. Approximately 91 million or 92 million acres of land.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman.

AMENDMENTS OFFERED BY MR. LEGGETT TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. LEGGETT. Mr. Chairman, I offer amendments to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. LEGGETT to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 48, between lines 2 and 3 insert the following:

(11) NORTH SLOPE NATIONAL WILDLIFE REFUGE.—(A) The North Slope National Wildlife Refuge shall consist of those public lands comprising, on the date of the enactment of this Act, the National Petroleum Reserve in Alaska.

(B) The significant fish and wildlife resources of the refuge are raptors and other migratory birds, polar bears, barren-ground grizzly bears, wolves, marine mammals, and the western Arctic caribou herd.

(C) Teshekpuk Lake and the Utukok River caribou calving grounds are special values of the refuge.

(D) Nothing in this title shall be construed as repealing or otherwise affecting in any manner the functions of the Secretary set forth in sections 104 and 105 of the Naval Petroleum Reserves Production Act of 1976 (relating to the exploration for petroleum on, and the supply of certain petroleum from, the land included under this paragraph within the refuge and to studies required with respect to such lands).

Conforming amendments: Redesignate paragraphs 11 through 16 of section 304 as paragraphs 12 through 17, respectively.

Page 189, strike out line 8 and all that follows thereafter down through line 3 on page 190 and insert the following:

AMENDMENTS TO NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976

SEC. 1204. Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501–6507) is amended—

(1) by inserting "and the Committee on Merchant Marine and Fisheries of the House" immediately after "House of Representatives" each place it appears in section 104(d) and section 105(b)(2) and (c)(3); and

(2) by further amending section 105(c)—

(A) by inserting "archeological, paleontological,'" immediately after "historical," in paragraph (1)(B), and

(B) by striking out "within three years after the date of enactment of this title" in paragraph (3) and inserting in lieu thereof "on the same date as the study under subsection (b)".

In the table of contents, strike out:

"Sec. 1204. National petroleum reserve in Alaska,"

and insert

"Sec. 1204. Amendments to Naval Petroleum Reserves Production Act of 1976."

Mr. LEGGETT. Mr. Chairman, I have a committee amendment at the desk. This amendment, which was reported unanimously out of the Committee on Merchant Marine and Fisheries, would designate the National Petroleum Reserve in Alaska as the North Slope National Wildlife Refuge.

This designation would not affect in any way the ongoing oil and gas exploration or the land use studies required under the Naval Petroleum Reserves Production Act of 1976. The extensive and diverse wildlife resources of this area have long been recognized as nationally significant. The committee wanted to insure that the oil exploration program would continue but that the wildlife resources would be under the professional management of the U.S. Fish and Wildlife Service.

The western arctic caribou herd, once the largest in North America, has been reduced in the last 5 years from an estimated 250,000 animals to the present 75,000. Apparently, this crash resulted from a combination of overhunting, mismanagement, and a natural cyclical decline which had a devastating effect on the Native villages of the North Slope which depend on the caribou herd as a major source of protein.

It is essential to protect the habitat of this herd if this herd is to increase to its former size, its habitat must be protected. The continued use of its traditional calving grounds in the Utukok River drainage is especially vital to the survival of the herd. The Teshekpuk Lake area is important to the western arctic herd and to millions of waterfowl as well. Such areas must be managed by professional biologists. Drilling activities should be allowed only during the winter months when the wildlife has migrated south and the tundra is frozen.

The Colville River is another area that deserves special protection. Its cliffs and bluffs support the highest nesting concentrations in North America of the endangered peregrine falcon.

The northern part of the proposed refuge provides habitat for 5 million shorebirds; over 1 million ducks; 100,000 geese; 1,000 whistling swans; and other waterbirds. It contains the only nesting area in Alaska for the snow goose. In the fall, hundreds of thousands of geese concentrate here before beginning their long migration to the lower 48 States.

Under the Naval Petroleum Reserves Production Act of 1976, there can be no production of petroleum from the reserve until authorized by an act of Congress. If, at the conclusion of the present studies, the Secretary should recommend such production and the Congress should authorize it, production could proceed under a refuge designation. The National Wildlife Refgue System Administration Act is sufficiently flexible to allow oil and gas leasing as long as all possible precautions are taken to protect the wildlife.

In the meantime, if this amendment is enacted, the fabulous wildlife resources of the North Slope will be assured of all possible protection while the petroleum exploration program continues.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the amendment is acceptable to the managers on behalf of the Committee on Interior and Insular Affairs, and we can get a vote on it, assuming the other side does not want to extend the discussion.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to my colleague, the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I have no intention to extend the discussion. I wish to have some clarification.

The local residents of this area oppose this classification, primarily because they are worried that by reclassifying it from BLM land to refuge, there would possibly be an impediment on their ability to develop an economic base on their lands which are in holdings.

Can the gentleman or gentlemen assure me that there is no way by which this would be in any conflict insofar as their ability to develop their gas and oil and their tourism industry and whatever it may be is concerned?

Mr. LEGGETT. Certainly, it is not our intention to obstruct the Natives in that regard at all; and certainly if we can develop in this area a refuge and restore the caribou herds, and if, under the Udall bill, we allow hunting and fishing in these areas which we fully want to do, certainly it would seem to me that the economic viability of the area would, in fact, be restored in that regard.

Mr. YOUNG of Alaska. If the gentleman will yield further, it is very romantic to think that the people of the great north are going to live just off meat alone.

That was not the intent of the bill we are working on today, as far as Alaska goes.

Moreover, as the gentleman from Arizona (Mr. UDALL) well knows, it is within this area we speak of that there are in-holding Native lands that have high potential for oil and gas.

My specific question to anyone who can answer it is this: Does this in any way impede their ability to develop those fields and transport that product to a market?

Mr. LEGGETT. The answer to that would be "No." We are going to be developing all kinds of cooperative agreements with Natives on their holdings all over the State of Alaska. It is not our intention to lock up in any respect any minerals that might be developed.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(On request of Mr. YOUNG of Alaska and by unanimous consent, Mr. LEGGETT was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield further?

Mr. LEGGETT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman is being very nice in this matter—and I appreciate that—when he speaks of protecting the rights of those people.

As the gentleman well knows, I supported this position in the Committee on Merchant Marine and Fisheries because I think it is an argument between two agencies as to who is going to manage the area.

May I say that we received telegrams and letters indicating a great deal of concern all the way through these hearings and all the way through the testimony. However, I do not want to be put in a position where we are working out cooperative agreements with these Natives if I should have 25,000 or 100,000 acres, and I have an oilwell here, and I want to drill it; but the Federal Government comes in and says, "You cannot drill it."

Where is my economic base then?

Mr. LEGGETT. If we have Native inholdings that are totally surrounded by BLM lands or private lands or whatever, unless one gets specially created easements, by implication, he is going to have to develop some kind of agreement with a person on the outside to get himself out.

It is not the intention of this amendment to obstruct any of the Natives in any of their development programs whatsoever.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Arizona, the chairman of the committee.

Mr. UDALL. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Alaska (Mr. YOUNG) and with his concerns.

Clearly, the bill cannot take away Native inholdings or vested rights. The amendment does not intend to.

We have provisions in the bill for land exchanges and that sort of thing to be carried out.

I am sensitive to the charge of "lock-up."

This is a national petroleum reserve. By putting up a sign up here and saying, "This is now a wildlife refuge and it is going to be administered by the Fish and Wildlife Service instead of the Bureau of Land Management," the gentleman does not intend by his amendment to in any way restrict the exploration, discovery, and production of oil now provided by law, in my opinion. This will all go forward with the same force and effect so that we will not lock up any oil and gas in any way by the gentleman's amendment, will we?

Mr. LEGGETT. Certainly not.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 2 additional minutes.)

Mr. LEGGETT. Mr. Chairman, I am as concerned about the outcroppings of oil on Navy Pet 4 as is anybody in this room. I would think we ought to find out from whence that oil comes. We have been unable to discover the source at this point. Undoubtedly, this program, Navy Pet 4, is in an area that engulfs, in large part, that 10 percent top oil-potential area in Alaska.

We recognize that. We do not intend by this amendment to interfere with the program.

What we want to do is have a management program to restore one of the greatest natural resources in the State of Alaska, and that is the tremendous western Arctic caribou herd as well as hundreds of species of migratory birds, polar bears and a variety of other mammals.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman's amendment is an excellent one. Basically, as I understand it, what it does is change the management of the area from one agency of the Interior Department to another, from the BLM to the Fish and Wildlife Service. Interestingly enough, the Natives in other parts of Alaska have come and asked to have wildlife refuges extended around the Native selection lands, because they feel that will give better protection to the wildlife and other subsistence resources.

But, I just want to call the gentleman's attention to page 166 of the Udall substitute, paragraph C, which provides:

> In any case in which State owned or privately owned land (including Native land) or a valid mining claim or other valid occupancy is effectively surrounded by public lands within one or more conservation system units, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the values of such unit or units.

We have taken care of that in the most categorical way in order to assure State and private ownership access. I see no problem at all.

Mr. FORSYTHE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. The purpose of this amendment is to designate the existing national petroleum reserve in Alaska as the North Slope Refuge. The reserve is noted for its extensive fish and wildlife resources—especially the western Arctic caribou herd which has suffered a drastic decline in population in the last 5 years. Other important species include migratory birds, raptors, wolves, wolverines, grizzly bears, and marine mammals.

The amendment does not propose to change the ongoing oil and gas exploration or the study of the resources of the reserve authorized by the Naval Petroleum Reserves Production Act of 1976. It only changes the management jurisdiction from the Bureau of Land Management to the Fish and Wildlife Service in order to protect the fish and wildlife species which are the primary value of the area.

The committee recognizes that the reserve has outstanding archeological, scenic, and natural values of national park caliber, and we do not intend to preclude the eventual designation of a national park unit if the Secretary makes such a recommendation after the study is completed, and if Congress concurs. The land use plan called for in section 105(c) of the Naval Petroleum Reserves Production Act of 1976 will be the basis for the refuge conservation plan required in this act, and the Natives will be involved in the planning process. It should be noted that the North Slope borough officials have called repeatedly for the designation of the entire North Slope as a wildlife refuge.

I, therefore, urge my colleagues to join me in supporting this amendment.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am reluctant to oppose this amendment because the gentleman from Alaska, in whose State this is located, is not opposing it; the other members of my own committee, the Committee on Interior and Insular Affairs, are supporting it, and some of the members of the Committee on Merchant Marine and Fisheries, whom I respect, are supporting it. So, I am not going to force a vote on it.

But, I do want to point out what we are doing. With all this talk about putting it into the hands of the administrating agency to protect the wildlife, I simply want to remind this House that we are talking about 22 million acres, an area the size of the State of Indiana, which up until recently was known to have the greatest potential for producing oil outside of Prudhoe Bay of any area in the United States.

An exploratory program has gone on there in which I think some 19 holes have been drilled. They have not been successful in finding oil. Now, 19 holes on 22 million acres of land is not a "hole hell of a lot". In fact, it is very small. I suggest that they have just begun to explore.

I know we talk about placing it in a wildlife area to protect the caribou and whistling swans and some other things, and that is what is going to take primacy. I do not know, maybe that is what should take primacy, but it seems to me that we ought to accelerate and at least to get some better idea of whether or not there is that quantity of oil in the Petroleum Reserve No. 4. I think, unfortunately, the adoption of this amendment will impede that process.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I would be delighted to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, as I understand the amendment, it does not in any way change the program of oil exploration that is going on now. If it does, then I might have second thoughts about the amendment. I would ask the gentleman from California (Mr. LEGGETT) if his understanding is that it makes any change in that program?

Mr. MEEDS. I will yield to the gentleman from California (Mr. LEGGETT) in just one moment, but first let me point out that if it is not going to change the regime, why do we need this amendment?

Now I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman. I appreciate the gentleman yielding to me.

The thing is, you know, you might ask: What is going on in those 22 million acres at the present time? BLM has control of it. BLM has about 100 people up there in the entire State of Alaska at the present time. They already have this petroleum program that is currently operating.

Mr. MEEDS. Which they are trying to get out of?

Mr. LEGGETT. Because it is, admittedly, limited and perhaps not accurate. What we need is more management people. It does not do you any good to merely put marks on paper. It is not going to make any difference to the wildlife in a given area. Our committee does not have a lot of control over what BLM does, but all we are concerned about is developing a management program in areas that will support wildlife whether they be military bases or whatever. And I might add that there has been a tremendous program developed for wildlife on military bases

Mr. MEEDS. I think I can ask the gentleman a question which I believe will decide this one way or another. If it was deemed, under the present regime, to drill a hole in a certain area to look for oil and it was also felt to be inimicable to the caribou herd, then the present regime, it is my understanding, could go ahead and drill for oil. Would that also happen if the regime changes?

Mr. LEGGETT. As I understand it, the law would be exactly the same, there is however protection for wildlife given under existing law and under the law as amended.

Mr. MEEDS. So the prime purpose then, even under the new regime, is to develop this for oil and oil potential?

Mr. LEGGETT. I think that is true.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I share the gentleman's concern and I would oppose this violently if there were any attempt to change the priorities. As I understand it, it says this is a national petroleum reserve and we are going out now to find petroleum. We are turning it over to the U.S. Fish & Wildlife Service for managing. It is hoped they can do both, but if there is a conflict the original project will continue.

Mr. MEEDS. I thank the gentleman and I think this has been a helpful discussion.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Washington (Mr. MEEDS) to continue on with this colloquy. The gentleman from Arizona (Mr. UDALL) makes the point this is a national petroleum reserve and there is going to be oil and gas exploration under either regime, or is this not a "Catch-22" situation?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, under both, my understanding of this amendment is we now have something called a national petroleum reserve that is primarily to be managed to see if we can locate and keep in reserve and use it at the proper time, the oil found through this exploration, if we can find it. It is now managed by the BLM. The only change the amendment makes, as I understand it, it would now be managed by the Fish and Wildlife Service whose primary function would be to continue the oil and gas exploration program but also to see if we can do it in a way not to harm but to help the wildlife.

Mr. MEEDS. Mr. Chairman, will the gentleman from Idaho yield?

Mr. SYMMS. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

I would like to ask one further question of the gentleman from Arizona or the gentleman from California. It is my understanding that under section 1205 of the bill, which is the same in both bills, the areas will be withdrawn from mineral entry. Will these 22 million acres be available for mineral entry under the 1872 mining law?

Mr. LEGGETT. If the gentleman from Idaho will yield, as I understand, at the present time under existing law the area is withdrawn for operation of the Mining Act of 1872.

Mr. MEEDS. It is withdrawn?

Mr. LEGGETT. It is withdrawn.

Mr. UDALL. If the gentleman from Idaho will yield, my understanding is that it is already withdrawn, and this makes no change.

Mr. SYMMS. If I could recover my time, I would just like to ask another question of the chairman. It is my understanding that in a game refuge, under the right circumstances, a private entrepreneur could look for oil and gas, but this is not the case here.

Mr. UDALL. If the gentleman will yield, it is not my amendment, but the primary purpose of that area is to look for oil and gas and to find reserves.

Mr. SYMMS. But it is only the Government that is looking; it is not private entrepreneurs.

Mr. UDALL. The Department of the Interior has a program now where they contract out, and this does not change that program.

Mr. SYMMS. Is it not true that those people tell them when to drill, where to drill, and how deep to drill, so if they get in any area where they start finding oil, they stop the drilling?

Mr. UDALL. The amendment does not seek to change that at all.

Mr. SYMMS. So in effect this amendment is a "Catch-22" where people who like hot showers will not be able to count on these 22 million acres to warm up the water?

Mr. UDALL. The gentleman is going to support it. They are trying to see if at the same time we cannot get some people in there who know fish and wildlife, and without harming or slowing down, or restricting the oil and gas exploration in any way, they are giving the caribou a chance to come back.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. LEGGETT. I thank the gentleman for yielding.

As I understand, there is an existing program on these 22 million acres where they have announced they want to drill about 26 holes, which is determined by budget limitations.

Mr. SYMMS. Twenty-six or nineteen?

Mr. LEGGETT. They have drilled already some 17, and those have all been dry holes. As I understand, before any development can take place under the Petroleum Act under which they are conducting exploration, before any development can take place they have got to come back to Congress.

The question the gentleman ought to ask is, Does this amendment in any way intend to limit further discretion of Congress in allowing production, if anything may be discovered at a later date? The answer is "No." Does this amendment in any way intend to inhibit any program that the Secretary determines is reasonable to develop under the existing law? The answer to that is "No." Does this legislation give authority to the Secretary and require him to maintain compatible wildlife up there and develop those herds and wildlife programs? The answer is "Yes." So there is no "Catch-22." There is no secret program. It passed out of our own committee unanimously. It is a large acreage, but, believe me, there is nobody up there managing it, and we need to get somebody up there taking care of it.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Just to make the record clear, if this amendment is adopted, we transfer the

management from the Bureau of Land Management to the Fish and Wildlife Service under a refuge classification. Under the Refuge Administration Act, oil and gas exploration can be conducted as long as they are compatible with the purposes of the refuge.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. If the gentleman will yield further, it does not preclude the Secretary of the Interior from allowing this area to be developed or to be explored, or to have seismic work done on it, as long as he finds it compatible, and he can allow it to be done with private industry. We are not locked into any Government oil program.

Mr. SYMMS. If the gentleman from Alaska is correct in his assumption—and I assume he is—then I think this would be a very healthy amendment.

I will ask the chairman of the subcommittee, the author of the amendment, if he agrees with this, because I think this is very important for the legislative record.

Mr. LEGGETT. If the gentleman will yield, whatever contracts can be made with private industry at the present time under the existing law can be made with this amendment.

Mr. YOUNG of Alaska. If the gentleman from Idaho would yield further for clarification, if these 22 million acres become refuge lands, the Refuge Administration Act applies to it.

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for an additional 2 minutes.)

Mr. SYMMS. Mr. Chairman, I yield to my colleague, the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, as I understand, counsel advises me that we have specific provisions that the NPR Act overrides all other mineral provisions and that act will be paramount as far as exploration, drilling, and so forth, that the gentleman is interested in.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, for other clarification, there may be a "Catch-22" unbeknownst to me. If the National Petroleum Reserve Act was only to apply until the study was done and then the President was to make a recommendation on that, if his recommendation is that there is no oil there, does that preclude the Refuge Administration Act from being applied if the Secretary at a later date decides that oil and gas are, in fact, available within the NPR?

Mr. LEGGETT. The regular law will take effect and what the gentleman implies will take place. There will be authority to continue a drilling program there.

Mr. YOUNG of Alaska. Mr. Chairman, with that understanding, that if this becomes a refuge, then it will be open, if it is compatible with wildlife, then I will accept the amendment.

Mr. LEGGETT. That is correct.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is important to get in the RECORD under Public Law 94–250 that by April 5, 1981, the Secretary is required to make a report to the Congress on the results of the explorations that have been conducted as mandated by that law. So at that time the Congress will have the facts as derived from the studies and the explorations made by the Interior Department and will then be in a position to act on the basis of those findings. They can either mandate that further exploration take place or that the area be opened up to private exploration or some other solution; so I do not think this amendment changes that in any way, shape or form; but merely, as the gentleman from California pointed out, changes the management regime as far as the surface values are concerned. It does not in any way prevent or impair or alter the mandate in Public Law 94–250.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. LEGGETT) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

So the amendments to the amendment offered as a substitute for the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 10, section 103(3)(A)(iii), line 7, insert after "6(b)" "and 6(m)".

Mr. YOUNG of Alaska. Mr. Chairman, this is an amendment to amend the definition to protect State's rights to submerged lands. We have consulted with the majority. I hope they will accept it; but this is a rather technical amendment designed only to guarantee in statute what has been orally agreed to throughout markup in both the Interior and Merchant Marine Committees. The pending bill excludes lands selected by the State of Alaska under sections 6(a, 6(b), and 6(g) of the Statehood Act from the definition of "public lands." Since those provisions creating parks, refuges, et cetera, include all "public lands," the State land exception in the definition is to prevent Federal revocation of these State lands.

However, those sections creating the conservation system units also refer to "waters therein." Very early in markup I questioned whether this reference affected the State's right to submerged lands and navigable bodies of water per the Submerged Lands Act. Every time I raised this point, the drafters of this legislation continually assured me that no existing States rights or lands were being adversely affected.

Despite these repeated assurances, attorneys for the State of Alaska remain extremely concerned. They maintain that since the State's rights under the Submerged Lands Act, which were granted in section 6(m) of the Statehood Act are not specifically referenced in the definition provision, problems are likely to arise. Moreover, since other State rights under sections 6 (a), (b), and (g) are specifically protected, the exclusion of the State's rights per section 6(m) of the Statehood Act may be read as a congressional decision not to uphold this particular aspect of the Statehood Act.

Accordingly, this amendment merely adds a reference to section 6(m) in section 103 of H.R. 12625. This does not change any boundaries, affect any proposed unit, or expand the rights of the State. It only guaranteed in the law what has been commonly understood throughout the 14 months of deliberation on this measure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS:

TITLE II—NATIONAL PARK SYSTEM

On page 16, revise lines 10 through 16 to read as follows:

"(3) Cape Krusenstern National Monument, containing approximately five hundred and forty thousand acres of public lands, as generally depicted on a map entitled 'Cape Krusenstern National Monument,' dated May 1978, which".

Mr. KOSTMAYER. Mr. Chairman, the purpose of this amendment is to make the entire Cape Krusenstern area a national monument, rather than split-

ting the area into a monument and preserve. This amendment adds no new acreage, but merely combines the bill's proposed monument and preserve into one Cape Krusenstern National Monument consisting of approximately 540,000 acres.

The Interior Committee originally split Cape Krusenstern into a monument and preserve in order to allow for commercial trapping in the preserve area. Since that time the National Park Service field office has determined that there are only two commercial trappers located in this area. This is obviously not a significant number of trappers and since the trappers are "grandfathered" under the bill in title XI, there is no real justification for designating the northern portion of the extremely historic and important Cape Krusenstern area as a preserve rather than a park.

The archeological significance of this area has long been recognized, and it is certainly deserving of park designation. The beach ridges of the entire area are of high archeological significance. Cape Krusenstern includes examples of arctic coastal tundra and geological features now unrepresented in the National Park system. Designation as a national monument would encourage scientific study and increase national awareness of the prehistoric Eskimo, and would emphasize the importance of past and present Eskimo adaptations to the arctic environment. The monument will also perpetuate opportunities for the Eskimos' subsistence lifestyle and economy.

I might add, Mr. Chairman, that there are no significant minerals in this area, nor are there any mining claims. In addition, there is absolutely no conflict with regional or native village selection involved in changing this designation from preserve to park.

In fact, Northwest Alaska Natives Association supports my amendment. The administration feels very strongly that this area should be designated and managed as a national monument, and I urge my colleagues to adopt this amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to make one point primarily for clarification, and if I may, I will ask the gentleman some questions.

It is my understanding the gentleman from Pennsylvania (Mr. KOSTMAYER) has correspondence from Alaska showing that there is support for this amendment?

Mr. KOSTMAYER. Mr. Chairman, if the gentleman will yield, I do. The gentleman is correct.

Mr. YOUNG of Alaska. May I ask with whom the gentleman had contact?

Mr. KOSTMAYER. John Shiveley of the Northwest Alaskan Natives Association.

Mr. YOUNG of Alaska. John Shiveley. How recent was that correspondence?

Mr. KOSTMAYER. Within the last week.

Mr. YOUNG of Alaska. Within the last week.

Is it also the gentleman's feeling that the trapping rights of those people who live there are protected totally, and that if this goes back into a park, there will be no inhibitions placed on their ability to maintain their way of life?

Mr. KOSTMAYER. That is right.

Mr. YOUNG of Alaska. Mr. Chairman, is it the gentleman's intent, if this amendment is adopted, that any activities, including trapping, that have been taking place in this area would be continued, and there would be no bureaucratic "little guy with a Smokey" hat" telling them they could not do certain things?

Mr. KOSTMAYER. That is correct.

Mr. YOUNG of Alaska. Mr. Chairman, I do not object to the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER). The amendment seeks to remove the Mount McKinley National Park, consisting of 400,000 acres, and the Cape Krusenstern National Park, consisting of 350,000 acres from the designation "preserve." Mr. Chairman, this designation is a little-known category, mainly because we only have two preserves in existence in the lower 48, those being the Big Cypress and Big Thicket. However, the designation "preserve" carries with it the right of the visitors to engage in hunting activities. By removing these two parks from this designation, we will be protecting the calving grounds of the McKinley Caribou herd. The McKinley Park would be reserved for the hopeful rebuilding of this threatened herd, whose numbers now dip below 1,000.

The amendment will not terminate the minimal mining claims for selected locations within these two parks, since the other provisions of the bill retain the claims in "full force." Thus, the amendment does not inflict any personal, financial hardship on the temporary inhabitants of the parks.

Mr. Chairman, as I understand the original intent of the "preserve" designation for the Cape Krusenstern area was in order to protect the livelihood of the commercial trappers operating in the area. At present, there are only two commercial trappers operating in this park. However, again because of other provisions of the bill, these trappers will be protected from any threats of termination of their livelihood for a period of 20 years from the date of enactment.

Mr. Chairman, the amendment seeks to conform with the intent of the legislation before us, that of preserving the land so designated for this and future generations enjoyment. The amendment will not inflict additional hardships on the hunting advocates who journey to Alaska. Certainly 90 percent of the total land of Alaska designated for hunting activities is most generous. I submit that this amendment will further the worthy goals of the reported bills, and thus should be adopted by this body.

Mr. Chairman, I urge the adoption of the amendment offered by the gentleman from Pennsylvania.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. (Mr. KOSTMAYER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. YOUNG of Alaska. Mr. Chairman, I offer amendments to the amendment offered as a substitute for the amendment in the nature of a substitute, and I ask unanimous consent that they may be considered en bloc.

These amendments Nos. 2 through 14 and No. 36 relate to the State's selection of lands priority of 4½ million acres.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS:

TITLE II—GATES TO THE ARCTIC—STATE SELECTION

Page 17, section 201(4) line 10 strike "eight million and fifty thousand" and insert in lieu thereof "seven million eight hundred and fifty thousand" and on lines 11 thru 13 strike "Gates of the Arctic National Preserve containing approximately sixty thousand acres of public lands".

TITLE II—LAKE CLARK—STATE SELECTION

Page 20, section 201(7) lines 2 and 3 strike "one million and ninety five thousand" and insert in lieu of "eight hundred and forty five thousand".

TITLE II—NOATAK—STATE SELECTION

Page 21, section 201(8) line 2 strike "six million and eighty thousand" and insert in lieu of "five million nine hundred and thirty thousand".

TITLE II—WRANGELLS—STATE SELECTION

Page 23, section 201(9) line 9 strike "three hundred and eighty thousand."

TITLE II—YUKON/CHARLEY—STATE SELECTION

Page 24, section 201(10) lines 5 and 6 strike "one million six hundred and eighty three" and insert in lieu of "one million four hundred and eighty".

TITLE II—McKINLEY—STATE SELECTION

Page 25, section 202(1) line 8 strike "and fifty" and on line 9 strike "four hundred thousand" and insert in lieu of "two hundred and fifty thousand".

TITLE II—KATMAI—STATE SELECTION

Page 27, section 202(3) lines 3 thru 6 strike "and an area of approximately two hundred and ten thousand acres of public land designated as the Katmai National Preserve," and on line 7 strike "and Preserve".

TITLE III—ARCTIC RANGE—STATE SELECTION

Page 44, section 304(3)(A) line 10 strike "nine million" and insert in lieu thereof "eight million".

TITLE III—INNOKO—STATE SELECTION

Page 45, section 304(6)(A) line 21 strike "two Million seven hundred and eighty thousand" and insert in lieu thereof "two million four hundred and sixty thousand."

TITLE III—NOWITNA—STATE SELECTION

Page 48, section 304(11)(A) line 5 strike "five hundred and sixty" and insert in lieu of "three hundred and thirty".

TITLE III—SELAWIK—STATE SELECTION

Page 48, section 304(12)(A) line 19 strike "seventy thousand".

TITLE III—TOGIAK—STATE SELECTION

Page 51, section 304(14)(A) line 8 strike "three million two hundred thousand" and insert of "two million five hundred and thirty thousand".

TITLE III—YUKON FLATS—STATE SELECTION

Page 52, section 304(16)(A) lines 3 and 4 strike "nine million four hundred thousand" and insert in lieu of "eight million six hundred and fifty thousand".

TITLE II—BERING LAND BRIDGE—STATE SELECTION

Page 15, section 201(2) lines 11 and 12 strike "four hundred and eighty" and insert in lieu of "three hundred and fifty".

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska that the amendments be considered en bloc?

There was no objection.

Mr. SYMMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair is not in a position to recognize the gentleman from Idaho (Mr. SYMMS) at this point, since we have already had one quorum call.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, this is the amendment that I spoke on yesterday about the State's selection of lands. Twenty years ago the people of Alaska made a compact with the United States and this Congress to become a State. Statehood was a long and cherished dream, and it was thought that statehood was the only way to end the abuses that the Territory of Alaska suffered at the hands of the Federal managers. I am sorry to say that statehood did not terminate our status as a colony. We are still ruled largely by Washington, and the passage of the pending legislation is the grossest example of the type of situation forced on the citizens of Alaska by this Congress and this Government for years.

Mr. Chairman, the amendment which I have just proposed will grant to the State of Alaska approximately 5 million acres. There are a few thousand acres slipped between the cracks. Before 4½ million and 5½ million acres. But I have a map before me which will show specifically the locations which the State had already selected but was not granted title to because of the land freeze which we spoke of yesterday. Let me remind my colleagues that none of these lands are in holdings. I want to remind my colleagues that what I am attempting to do here is to write a piece of legislation that will be, frankly, one that possibly, just possibly, able to fly.

One thing we must remember is that the State of Alaska feels as if this Congress has broken its word. And believe me, I honestly believe the legislation before us, without this amendment, does exactly that.

I have heard comments from staffers and other members of the committee that out of the 10 million acres the State wants it can have 250,000 acres. To me that is not enough.

I can show the Members on the map, very quickly, the areas, to show how small these areas are. The small areas are two or three townships. There is one over here of two townships, 46,000 acres of land. The biggest one of all is this Arctic wildlife area and the Arctic game area. That is the biggest. This is approximately 1 million acres of land. I can assure you the Members that I had this in the full Committee on Interior and Insular Affairs. I made an agreement with the full committee that if I were to receive that at that time, there would be no other amendments in the Committee on Interior and Insular Affairs to change the boundaries of the areas.

Consequently, though, during discussions later on, the Committee on Merchant Marine and Fisheries decided to drop that area out and put it back in the refuge. That is what happened.

The rest of the areas, as the Members may have noticed, are all adjacent to already State-selected lands. If anybody says that these lands are in-holding, they are not in-holdings. They are lands the State has identified and wants.

There are no lands inside these large park or wilderness areas and we are not attempting to select within them. All we are attempting to do is to select these lands adjacent to the State lands right now.

Ironically, as I mentioned before, the Morton proposal recognized the State's rights; and then this bill came along and, conveniently, the lands along here are not recognized as State lands.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, may I ask the gentleman this question: These 14 amendments which the gentleman is now offering en bloc are with respect to the 5 million acres the gentleman referred to last night in the debate under the rule; is that correct?

Mr. YOUNG of Alaska. They are exactly the same.

Mr. RONCALIO. If I vote for these 14 amendments which include up to 5 million acres, will the gentleman accept the rest of this bill and vote for it?

Mr. YOUNG of Alaska. Let us put it this way: I made a statement yesterday that if this bill was adopted, and if my State-selected lands were granted, I would not support the bill; but I would not actively oppose it either.

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Alaska. Mr. Chairman, we have here an area called the White Mountains. Fairbanks is right here. The State wants that piece of land because it is adjacent to a large population center, and they want it for recreational purposes. It is one of the few areas that has a road into it.

Originally the State said, "If the refuge gets it and they use it for recerational purposes, there is really no problem." However, then they had public input, and the people of Alaska feel that we are going to have it for recreational purposes, why not let the State government run it? Why let the Federal Government run it? It is our land.

I think that is a valid right and that it is right for them to say, "If we want it for recreational purposes, it should not be under Uncle Sam."

It is the same situation here on this portion along the Yukon River (Yukon-Charley). It is a small area, very honestly, but an area that also has accessibility by road. It is an area also which the people of Alaska feel that they should be able to go to to enjoy.

Then what happens? The Federal Government wants it, and it can preclude the people of Alaska from having a summer home there.

With respect to the Chitina River area down here, really there is no objection to that; but somebody in the Interior Department said, "We have to have that area."

I cannot find out the reason for that.

Why does the State want it? There is access to it. It is adjacent to acreage and to an area which can be utilized, I think, in a worthwhile way, enabling people to use it.

That is one of the reasons I think the State feels very strongly about it.

Mr. Chairman, I can only tell my colleagues that these amendments en bloc are probably the most crucial amendments to the State of Alaska. If these lands are removed, we will have done a great deal for this bill. However, if this spear still exists when this bill passes, then I can assure the Members that it is going to be a long way down the road because this Member who represents the State of Alaska must continue to fight this legislation.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment.

I think that this amendment, as an amendment en bloc, must be very forcefully resisted and for various reasons, which I will try to elaborate upon.

In the debate last night which was attended by some 20 people, I pointed out the legal situation with respect to the right of the State to select lands within the areas that we have indicated have national interests, and that is set

forth on page 14163 of yesterday's RECORD.

The situation is basically this, and I do not think my ears heard correctly or else the gentleman from Alaska (Mr. YOUNG) misspoke himself. I thought I heard him say that all of these areas or some of them, at least, were areas where the State had selected land prior to the time they were withdrawn by the Secretary. Of course, I do not believe that is the case, and I wonder whether the gentleman would clarify that.

Mr. YOUNG of Alaska. Again, the gentleman in his usual worthy manner is not representing what the facts are.

Mr. SEIBERLING. I asked the question. I did not represent anything.

Mr. YOUNG of Alaska. I am saying the State was precluded from selecting these lands, and they were identified, because Stewart Udall froze the area. But, they were showing a definite interest in these lands. They did not just come out of the sky, I say to my friend.

Mr. SEIBERLING. That answers my question. The gentleman is correct except for one thing. It was not only Stewart Udall; it was the Congress of the United States when it passed the Alaskan Native Claims Settlement Act, which said that the State cannot select lands in areas that are withdrawn for purposes of national interest. They can identify an interest in selecting them, but once they have been withdrawn for national consideration by the Congress, they cannot then be selected by the State until such time as the Congress acts, or until that time expires, which it will on December 18, 1978.

Now, I would like to get down to the specifics of these proposals. It is a very interesting thing that if we look at the map underneath this overlay, we will find that the yellow townships, which are the areas in which the State has indicated it has an interest in selecting, are always smaller than the red lines on the map. The reason is, as I understand it from my staff, that Mr. YOUNG's staff decided to have a little extra margin just in case his acreage figures were not correct. After what happened in our committee when there was an error of some 600,000 acres in what he intended and what his amendment proposed up in this area, I can understand why he has drawn these areas rather large.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, again I say that I respect my good friend from Ohio. No one has ever surveyed this State; no one knows where the boundaries are. In every one of these areas such as the Wind River, we described the boundaries topographically. We did not know how many acres, and that is how we went through the whole bill. Lo and behold, I offered an amendment, and foolishly I said 450,000 acres, but I described the physical boundaries.

My good friend, the chairman, said, "You did not say that," but all the way through the rest of the bill they used the same type of language. What is good for the goose apparently is not good for the gander. The chairman prevailed because he is on the majority side, and we lost, but in reality the amendment which I offered was 1 million acres, the way it was drawn, because we know what the boundaries are.

Mr. SEIBERLING. I thank the gentleman for his clarification. I do not agree with it completely, but it is basically the idea.

Let me just point out one other thing while we are on this subject. The State of Alaska has flip-flopped on this issue all over the lot. After Mr. YOUNG made such an issue of this Chandalar region up here in the committee, and made all kinds of statements about how absolutely vital it was, the State told him that they were not interested in it. When he got to the Committee on Merchant Marine and Fisheries, he dropped it out entirely, and instead made some changes in the Yukon Flats, which the committee accepted, and which we are going to accept.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. SEIBERLING was allowed to proceed for 5 additional minutes.)

Mr. SEIBERLING. Now, the State comes back to us and they say that, well, they have changed their minds again, and they would like to have some of this land up here. I would like to point out with respect to the White Mountains that the State had originally indicated an interest in that, and when their team came down from the land office of the State of Alaska they said, well, if you are going to put that in the wildlife refuge, then we are not interested in that. We would rather use up our credit somewhere else. The only reason we want to select that is because we want a recreation area for the people of the Fairbanks region.

Now, they have turned around again and say that they want to change their minds.

I suggest, Mr. Chairman, that we are here dealing with a piece of national legislation and that the Federal Government and the Congress have the right, under existing law, to decide whether these areas are going to be set aside as national interest lands or not. We have described the boundaries in an effort to protect entire ecological systems. The Chandalar Region is one; the White Mountains are another. The consensus bill, the Udall substitute, includes the entire Noatak Basin in a national preserve and overlays it with a wilderness. That particular basin is the largest river basin in the entire Arctic, in all of North America, that is not significantly impacted by man's efforts and by development.

And then the gentleman from Alaska (Mr. YOUNG) proposes what appears to be only a little, tiny incursion. It may be tiny by Alaskan standards, maybe 50,000 acres, but it brings it over the watershed into the basin. The reason why the gentleman wants to do that is because in this watershed there are some mineral deposits lying on the west side of the divide. In order to accommodate the mining interests that were interested in those deposits, the Interior Committee not only took them out of the bill, we took out a wild and scenic river that we had there so that they could have access and transportation routes and so that there would not be any possible conflict. Now, the gentleman from Alaska (Mr. YOUNG) having lost in committee to make incursions in that watershed, is trying to do it here. And that is understandable. That is part of the process.

But, let me say that this particular valley is so important, this basin, as a benchmark to use as a pristine system against which to measure the impacts on others in North America that are being developed, particularly in the Arctic itself, that the United Nations have declared it a part of the world's Biosphere Reserve. This does not have any legal effect, but it is an indication of the importance of Noatak River Basin to the world.

There are some other changes here which I will not go into detail on except to say that I discussed with the gentleman from Alaska (Mr. YOUNG) and with the gentleman from Arizona (Mr. UDALL) and with the gentleman from California (Mr. LEGGETT) the possibility that we could accept some of those changes. If this blanket effort to carve 5 million acres out of the national interest lands is voted down, we will sit down with the gentleman from Alaska (Mr. YOUNG) and try to work out some accommodations in certain areas. But I suggest that this wholesale approach, this effort to get another big slice of the salami on lands that the State does not have a legal right to take, ought to be defeated. And I hope it will be.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

Mr. Chairman, I think that this is a very incredible position that my colleague, the gentleman from Ohio (Mr. SEIBERLING), is taking. I know the gentleman is sincere in his efforts, but I believe that what the people of the State of Alaska are asking for is the continuation of what happened under statehood. The State of Alaska has a right under the Statehood Act to select another 30 million acres in its original statehood grant. The idea of not allowing them 5 million acres reminds me of the old days of feudal rights or feudalism, when the king used to take away the lands from the peasants, and tell them whether they could or could not use those lands, what to plant, when to plant, and so forth, and now it would appear that we have made a complete circle; that is, mankind has, and we are now back again to the days of feudalism, we the feudal lords in Washington, D.C., are dictating to the people of Alaska.

The State of Alaska has the right to select another 30 million acres of its Statehood grant. Unfortunately such selection is now blocked by the pattern of Federal withdrawals. Since this bill has become an omnibus Alaska lands bill, the State has identified lands where it wants to pick its remaining entitlement. The State's desire, as expressed by Governor Hammond, is that boundaries be drawn to leave out State interest areas and permit subsequent selection. The State's "selection interest land"

package covers nearly 40 million acres in 60 some different units.

These selection interest areas were identified by use of the State's computerized resource assessment which has rated every township in Alaska according to 11 criteria which include agriculture, human habitation, oil and gas, fisheries, wildlife, minerals, forestry, transportation, et cetera. Based on best available data, each township was graded on a 1 to 10 scale for each of the criterion. The State used these ratings to identify for selection a cross section of the most valuable lands in Alaska.

SELECTION INTERESTS AND CONFLICTS

Total conflict between the proposed conservation units and the State interest lands amounts to less than 5 million acres. Hence, if the State were totally accommodated, new parks, refuges, et cetera, in the bill would be over 92 million acres or an area three times the size of New York State.

However, many of the conflicts occur only on the periphery of the proposed units. For example, granting the State its priority selections in the Noatak Preserve would reduce that proposed 6.1 million acre unit by 0.15 million acres, in the Arctic Wildlife Range the 18 million acre unit would be reduced by 1.0 million acres and the 12 million acre proposed Wrangells unit would be diminished by 0.39 million acres. Obviously, there are some areas where the conflicts are more severe. But on the whole, surgical boundary changes will accommodate the important State interests. Lastly, there has been concern that the State is trying to select too many lands under a D–2 withdrawal. Of the whole 41 million acre selection interest package, only 5.5 million acres of D–2 land are affected. The remaining lands are D–1 lands or lands the State would like if the Natives do not choose them. The reason the conflict with proposed refuges and parks is 9 million is that the H.R. 39/12625 boundaries take in large parcels of land which are D–1, Native, and State lands—something not envisioned by section 17(d)(2).

Frankly, the State of Alaska was promised a free hand in land choices by the Statehood Act. However, this promise has never been redeemed and is being trampled on by this pending legislation. The Congress can partially honor its promise of 20 years ago and permit the State to make its high priority land selections.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

The gentleman from Ohio said the State did not have the legal right to select these lands. The State has the legal right under the Statehood Act. It has the moral right by the obligation of this Congress under the Native Land Claims Act. He even said the State had the right to identify, but they could not receive patent or title because of the Claims Act itself where the Natives are to receive their lands first, and at that time they would be allowed to select lands. None of these lands have conflicts, to my knowledge, with the Native selection. These lands were outside the boundaries prior to this bill. Again, I think even the fairness of 5 million acres is obvious. Actually it is four point seven hundred thousand versus a bill that has 123 million acres in it.

By the way, Mr. Chairman, there are 146 million acres now, which puts us right back to H.R. 39. That is one big chunk of land, and all I am asking is for the 5 million acres.

As far as conflicts to the ecosystems, the States already have land up in the Arctic Range, but they need the other to wrap it totally together. I think morally this body has an obligation to my State. If we see fit not to come to agreement with that, I think that we are doing a disservice to my State and, frankly, to this body, the Congress.

Mr. UDALL. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, when I listen to my friend, the gentleman from Alaska, I am reminded of the ancient Biblical cry of Cain and Abel, "Am I my brother's keeper?" Now the cry is of the Udall land freeze. I hope we do not have to have another one. If this amendment is really bad enough, it suggests something to me of the value of our committee system. How can the ordinary member of this Committee of the Whole sit here and pass judgment on 14 boundary changes? The fact is that the gentleman from Alaska (Mr. YOUNG) fought the fight in the Interior Commitee. He fought the fight in the Committee on Merchant Marine and Fisheries. He won 85 amendments in our committee.

I started out in my original H.R. 39 with 116 million acres going into these conservation systems. We cut out 20 million, and most of it was in boundary changes in areas like the gentleman is talking about. Now he wants to come back to the floor and nibble away at us for another 5 million acres. There is not any question but what the State of Alaska is going to get its 105 million acres. The question is whether we are going to let the Chitna River Valley here get in a new national park. The Nation has spent hundreds of millions of dollars buying up holdings in national parks. With this amendment we are going to create a $60 million incursion in the Wrangels National Park when the State already has got some of the choicest land.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, we already have lands in these areas and these red spots which represent State interest areas are adjacent to State lands. There are no holdings. All these are in boundary changes. I stress this and I totally recommend it.

Mr. UDALL. It depends on your purpose. If I draw a line from that door out there and back to the door, you can say it is not an incursion, it is not an inholding, it is actually connected to the outside chamber, but it is an inholding. All that Chitina River Valley you want to give the State is right in the middle of a national park.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield further, is the gentleman telling me now that there are already inholding in the Wrangells National Park; is the gentleman going to buy those out?

Mr. UDALL. I hope some day we will get rid of the inholdings, but I do not want to create additional ones.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to point out that the Secretary has authority to negotiate land exchanges with the State, so that some of the existing inholdings can be eventually exchanged with the State for lands outside these units. I would also like to point out that the State of Alaska has stated that under the Statehood Act the State has the right to select 105 million acres without restriction, and that is absolutely true; but what was not stated is that the Alaska Native Claims Settlement Act was a settlement of the State's conflicts with its own residents, the Natives, and the land freeze was part of that. The Natives had threatened to sue to block the development of State oil in Prudhoe Bay unless their claims were satisfied. So the Federal Government, to satisfy the claims of the residents of Alaska against the State of Alaska, said we will give them 44 million more acres of Federal land. As a result of that deal, the State agreed to the other provisions of the Alaska Native Claims Settlement Act and that included the right of the Federal Government to have priority in selecting some of these national interest lands.

Now, that is the present arrangement that the State is a party to. Let us not have all these tears about the poor State getting deprived of something to which it is entitled.

Mr. UDALL. I am willing to negotiate with the State on these areas, as the gentleman from Ohio (Mr. SEIBERLING) says.

We have to work with the Senate also and we may have to take some whacks from the Senate as well; but the floor is not the place for this.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, the point is that the people of Alaska have worked on this selection. We are making some long-term decisions on the floor today, and many with very little knowledge. On the other hand, the people of Alaska know what they are doing up there, and have indicated their selection preference as is their right.

For us not to accept the Young amendment is to deny the people of Alaska having any say-so on the very vital selections of part of their State.

The CHAIRMAN. The time of the gentleman from Arizona has again expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. UDALL was

allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, I would like to point out these amendments go way beyond even what the State asked for in the Chandalar region and in the White Mountains and some other areas. The gentleman has probably added 1 million or more acres beyond what the State has asked for.

Mr. Chairman, I ask what the basis for that is. Maybe the gentleman from Alaska (Mr. YOUNG) can tell us.

Mr. YOUNG of Alaska. Mr. Chairman, this has reference to the differences between the acreages, and these recommendations were made by our so-called Commissioner of Natural Resources. I agree with the gentleman from Ohio (Mr. SEIBERLING) that pinning it down is a difficult task to accomplish.

These recommendations were made, and I base all the boundaries on watershed principles, not artificial townships. I think this is something that has to be faced. We are not drawing these boundaries on a hex board; we are following the natural boundaries. If we want to be accurate, we have to follow the natural boundaries and watershed principles.

Mr. SEIBERLING. Mr. Chairman, if the gentleman from Arizona (Mr. UDALL) will yield further, let me say that our lines also follow natural boundaries.

Mr. UDALL. Mr. Chairman, this is an important amendment. It is a crippling amendment, and it ought to be defeated.

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I know that I do not agree with all the provisions that are listed in the Young amendment, but I do believe in the principle. I think the State of Alaska has been pushed around for too much as we have considered these issues. On the subject of State land selection, I feel very strongly that they have been put off far too long.

Mr. Chairman, throughout the D–2 debate serious misconceptions and errors regarding State land selections have been aired as facts. Many proponents of the pending bill continually assert that the State's 105 million acre land entitlement has permitted it to choose the finest resource lands in Alaska. Since the State already has these choice lands, these people assert, Congress can afford to set aside vast areas in single use management units without adverse economic and resource impacts. In reality, the State has never been able to select lands freely in Alaska, since the mid-1960's, a combination of administrative edicts and laws have effectively blocked State land selections; and the State has been forced to take third priority in many areas open to selection. Moreover, H.R. 39/12625 seeks to further restrict the State's ability to select the lands to which it is entitled per the Statehood Act.

A brief background of Alaskan history will clearly illustrate how the State's land selection rights have been contravened. In 1958, the Statehood Act authorized Alaska to choose 105 million acres of unreserved Federal lands and it was given a 25-year period to make its choices. At that time, only 83 million acres of reserved Federal lands were off-limits to the State; the State had the legal right, therefore, to select from the remaining 293 million acres. Very early in the 1960's, selections proceeded slowly as the State was studying the land to take advantage of the 25-year time period and make the best choices.

LAND FREEZE

Simultaneously, efforts to settle the aboriginal claims of Alaska's Natives increased and resulted in a 1966 administrative land freeze issued by Secretary of the Interior Stewart Udall. When the land freeze was formalized in January 1, 1969 (Public Land Order 4582), the State has selected a total of 26 million acres or only one-quarter of its entitlement.

The freeze on State selections was lifted for 90 days after the Alaska Native Claims Settlement Act (ANCSA) was enacted. The State acted quickly in this short period and selected approximately 70 million acres of land in about 20 large blocks. However, the Secretary of Interior was determined to withdraw many of these areas from State selection pursuant to sections 17 (d)(1) and (d)(2) of ANCSA.

D–2 WITHDRAWALS

Litigation ensued which was followed by an out-of-court settlement in late 1972; which revoked 28 million acres of State selections. Much of the acreage the State lost is now incorporated in the Department's D–2 withdrawals. At the close of 1972, therefore, the State had selected 96 million acres of which only 68 million were left standing by the Interior Department.

Interior followed this action with its D–1, D–2, and Native selection withdrawals. D–1 withdrawals total about 80 million acres, all of which are off-limits to State selection until classification efforts are complete and the "public interest" in these lands is determined. D–2 withdrawals amount to 67 million acres and are technically exempted from State selection until the D–2 process is finished. Approximately 85 million acres have been withdrawn for Native selection of which the Natives are entitled to 44 million acres. While Interior is determining which 44 million acres the Natives will get, the entire 85-million-acre block is also off-limits to the State.

The result of all these actions has been to reduce the pool of lands open to selection from 290 million acres to near zero. Since State selections now amount to 75 million acres, of which only 21 million acres have been actually transferred to the State, the State's ability to freely select its remaining 30 million acre entitlement is constrained. And if the blil is enacted, the Natives will complete their settlement, the Federal Government will take what it wants pursuant to D–1 and D–2, and the State will be allowed to fulfill its entitlement from the leftovers—hardly what was promised by the Statehood Act.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment, and I would like to point out two things:

First of all, if the Meeds substitute is adopted, this will not be a problem because it is largely taken care of in the Meeds proposal. This was considered and adopted in that proposal rather early on.

It was adopted because I think it is fair. An understanding of the history of Alaska is somewhat necessary to understand why this needs to be done now to be fair. When we purchased Alaska from Russia, the aboriginal rights of the Natives were reserved in the treaty of purchase. They were reserved, and the gentleman from Arizona (Mr. UDALL) often overlooks this fact, but the aboriginal rights of the Natives were reserved from the language in the original document down through the language in the Statehood Act.

Although the rights were not given, they were still reserved in every instrument that dealt with Alaska.

In 1959 we passed the Statehood Act, and we gave the State of Alaska 104 million acres of Federal domain. That was a most generous settlement, as the gentleman from Arizona (Mr. UDALL) points out.

At the same time we did not settle the aboriginal rights of the Alaskan Natives. Now, I hate to do this again, but the brother of the gentleman from Arizona (Mr. UDALL), recognizing that, imposed a land freeze so that the State of Alaska could not take any more lands until such time as the Natives' aboriginal rights were settled.

The gentleman from Arizona (Mr. UDALL) and I, along with others, sat down and drafted legislation. It was passed, and in 1971 we settled the aboriginal rights of the Natives. We gave them 44 million acres in return for those aboriginal rights, and we put them ahead of the State in their selection.

We said, "You take these. The State cannot select any more. The Natives will make their selections first." In the Alaska Native Claims Settlement Act, we also put the Federal purpose ahead of the State. We said the lands withdrawn under the D–2 provisions of this act will take precedence. The State can indicate an interest, but only an interest. They cannot make a selection, and the Congress will settle those differences on D–2 lands.

Up to this point, we have been fair. But then the Secretary came along and overlaid almost everything with another withdrawal on D–1 lands, which are discretionary withdrawals of the Secretary, under another section of the act, which allowed him to withdraw that land. And he then put that ahead of the State. So we have now given the State in 1959 the right to withdraw and take some 104 million acres, and then we put them at the back of the line time after time after time. Two-thirds of the lands which the gentleman from Alaska has in this proposal are D–1 withdrawals, which is clearly, in my estimation, breaking our word to the State of Alaska, clearly breaking our word.

Another million and some odd are D–2. I kind of agree with the gentleman from Arizona that we probably ought not be trying to legislate on a section or township here on the floor. But we tried to sit down and do this with other members of the committee and we were unable to do so. I think for the State of Alaska to get out of the D–2 selection, which the Congress was to make the decision on, one-eightieth is not all that bad. If we here in our wisdom decide that they should have one-eightieth of all of the D–2 withdrawals, that is not so bad.

I suggest we should support the amendment offered by the gentleman from Alaska, to be fair and to keep our word to the people of the State of Alaska.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the biggest single piece, the Chandalar region, is D–2. The Wrangell-Saint Elias is D–2. And possibly some of the others are D–2.

Mr. MEEDS. I have to disagree with the gentleman. The figures I have, approximately 820,000 acres on the parks are D–1.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(By unanimous consent, Mr. MEEDS was allowed to proceed for 1 additional minute.)

Mr. MEEDS. Mr. Chairman, 910,000 acres are D–2. And of the refuges, 420,000 acres are D–2; 2.55 million acres are D–1. I think probably the Chandalar is D–1. In fact, I am sure it is.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, the Chandalar lands are D–1 lands. There is a conflict in some of the smaller areas. Most of the majority are D–1 lands.

Mr. SEIBERLING. If the gentleman will yield, the figures he just read, I mentally tallied them up, and it is 2½ million of the 5 million acres which are D–2 acres.

Mr. MEEDS. No, 1.33 million.

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(On request of Mr. SEIBERLING and by unanimous consent, Mr. MEEDS was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I have not had time to seek out the precise figures, but I will take the gentleman's figures as being reasonably correct. Let me point out, though, this is no way for us to make decisions of this magnitude.

When we were deciding this in the subcommittee and in the full committee, we had huge scale maps of each area; and we could pinpoint very precisely where the boundaries were. Here we have a very small map with things done with a very, very broad brush.

At least half of the Chandalar and half of some of the other areas go way beyond the State's request; and we do not have the faintest idea as to where these boundaries are in actuality.

Mr. MEEDS. Mr. Chairman, I would like to reclaim my time.

I just remind the gentleman that time after time after time the gentleman from Alaska (Mr. YOUNG) and myself asked, in the name of fairness, in that committee, particularly with respect to the D–1 lands, that the committee not overlay and take these D–1 lands which the State really ought to have an opportunity to take. Time after time after time, the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Arizona (Mr. UDALL) overrode us with their proxies; and that is why we are here now. I agree with the gentleman that we should not be here. That decision should have been in the committee rooms where we had the large-scale maps and where we could be better informed.

I am simply saying that we should have drawn the principle that the D–1 withdrawals would not in any instance override the State because it was not the intent of the Alaska Native Claims Settlement Act, which I worked on, that they override the State interest.

The second thing is that we should have given the State some D–2 selections.

Mr. SEIBERLING. All I can say is that that is exactly what we did. We carved out 20 million acres. We did a lot of that in order to accommodate the State's desires. We sat down with them and went over their maps, but they want another big slice of salami, and the gentleman from Alaska (Mr. YOUNG) has asked for even a bigger slice than the State wants.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, 20 million acres, did he say? How magnanimous.

The acreage here is already State-patented lands. The gentleman knows full well that there would have been a court action which would have made everything very, very small.

I will admit that I won some amendments, but the State has only been able to receive 1 million acres of land as to which they had some conflict, and that is all.

Mr. MEEDS. The original bill, H.R. 39, overrides State selections; it overrides Native selections; and it overrides every other kind of selection.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, if the Members will indulge me for just a moment, I wish to advocate a cause beyond the scope of the immediate amendment and to take every opportunity I can to pursue it. This relates to the general minerals issue.

Mr. Chairman, there was considerable debate, in the absence of many Members, last evening. The charts in the well graphically display what the President of the United States read in June of last year when he characterized as "alarming" this Nation's dependency upon imported minerals.

Mr. Chairman, I would today like to discuss with the Members the problem of one mineral. That is cobalt. As the Bureau of Mines chart demonstrates with respect to cobalt, we are 98 percent dependent upon imports.

What country supplies cobalt? Zaire. Since 1972 our country has not mined cobalt in the U.S.A. There is cobalt in Alaska, probably some very important potential for cobalt in Alaska.

Those Members who take time out from their labors to read newspapers will observe that there is a little fracas going on in the country of Zaire. Zaire supplies 70 percent of our cobalt.

One week before the invasion of Zaire, Russia purchased on the world market 300 tons of cobalt. That is 2 weeks ago.

Cobalt, when Russia purchased it, was $6.86 a pound. Cobalt on the London market this morning is at $19 a pound.

There are only 200 pounds left in the London commodity market. As we deliberate on the future of our Nation, about such irrelevant subjects as hardrock minerals, we ought to realize that cobalt is one of the principal hardening ingredients in steel. Every jet plane has 50 pounds of cobalt. Russia has just cornered the world market in cobalt in 2 weeks' time.

We have legislative proposals before us now that do absolutely nothing about facing up to the imminent crisis of this Nation's import reliance on cobalt. That is true of many other vital minerals as well. We continue down this alley of blind, indifferent, oblivion in the expectation that the mineral fairy is going to deliver cobalt to America upon request, demand, or interest. We are facing a hardrock mineral crisis with several indispensable minerals.

We faced an energy mineral crisis in 1973 and 1974. Our legislative proposals, insofar as they address the issue of the nonferrous minerals, are a bloody disaster. In title IX a proposal was created or concocted or devised that the chairman of the subcommittee contends that the mechanism in title is a responsible answer to the mineral issue. Title IX died shortly after its birth when it was taken out of H.R. 12625. Now, as the son of Frankenstein, title IX has been reborn in the new substitute bill that was offered last night. Now, lo and behold, with the birth of the son of H.R. 39 there is an abandonment of the illegitimate child, title IX. Now, we seek to redeem that illegitimate child in the context of another bill or substitute proposal.

Title IX in whatever form does nothing to resolve the issue of minerals access, identification, and recovery. There is no mining in Alaska today. Everybody concedes that. There is no clear and present danger that the perverted, demental, depredators of the earth are going in and profane the earth.

We are told, "Don't worry about it. It is always going to be there. Leave it in the ground." That is an empty and self-destructive promise. In Alaska the irrefutable testimony establishes that it will take from 10 to 22 years to get to the point where we can actually mine the

minerals. This is a fantasyland. We are living in the expectation that the Wizard of Ore is going to provide all our mineral needs.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

(By unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. I plead—I realize that I am pleading a minority cause of momentous proportions, because there is no political sex in silver. Certainly, the fuel mineral advocates have their effective voices all over the place. Try and find one advocate for zinc, lead, copper, or cobalt. Insofar as the pending legislation addresses the problem of minerals, a sad, sad state of legislative affairs. I intend to offer an amendment that will go, I believe, a few steps in the direction of rectifying that omission. But, it will not be any dramatic solution. It will just simply ask that we hold everything in abeyance; that we ask the USGS to go in and continue exploration; and ask the President to come to us as a legislative body and make a recommendation for a mechanism to permit mineral access, exploration and recovery.

That will be the amendment I intend to offer. I will support the gentleman's amendment because I am particularly sensitive about the fact that so many decisions are made for my State in the detached and rarified environs of Washington, D.C.

I hope, above all, that we will give serious consideration to the critical importance of our hard rock mining necessities that are so vital to the Nation.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, let me state that I have always supported the gentleman from Nevada (Mr. SANTINI) in his desire and my desire to stockpile valuable minerals.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WEAVER and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute.)

Mr. WEAVER. I believe we should be building up our supplies of mineral stocks in this country, particularly when many mineral price levels are down, so that we are prepared for possible contingencies.

I would ask the gentleman how come our mining interests did not get the lead on the cobalt instead of the Russians buying the cobalt?

Mr. SANTINI. Perhaps because they did not have any direct communication with the invasionary forces in Zaire. Second, if you take a hard look at the cobalt market worldwide you will find that the United States is not involved as a producer in this marketplace. We are a prostrate purchaser in the marketplace. Russia has a surplus of cobalt and is an exporter. Our purchaser did not get advance warning about the Zaire invasion. Perhaps, by mere coincidence, the Russians were merely lucky in their purchase.

Mr. WEAVER. They did not buy it in Zaire; they bought it in London?

Mr. SANTINI. They did.

Mr. WEAVER. Our mining interests should have been on the ball.

Mr. SANTINI. They did not have advance information that our Russian friends enjoyed.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, does the gentleman know how much cobalt we have in our stockpile?

Mr. SANTINI. Zilch is my information.

Mr. SEIBERLING. We have none in the stockpile?

Mr. SANTINI. We have feathers and opium in our stockpiles but no cobalt.

Mr. SEIBERLING. I would think we ought to check that out, because I find it hard to believe we do not have such strategic metals in the stockpile.

Mr. SANTINI. I will check it for the gentleman.

Mr. SEIBERLING. Second, supposing there was no legislation before us and everybody was free to go up and explore up in Alaska, how long would it take to find and develop cobalt minerals?

Mr. SANTINI. That is a good point. The testimony we have is that, first of all because of the distance involved, and second, because of the capital demand problems, it would take between 10 and 22 years. But, to further answer the gentleman to examine the safety deposit box analogy used in earlier committee hearings, the time to face up to our minerals crisis is now. Dear God, when are we going to start doing something about this crisis? Result may well be that we are defecating in our own nest.

Mr. SEIBERLING. I agree that we have some important minerals we should try to locate and develop, but I would say to the gentleman that title IX is back in this bill.

Mr. SANTINI. Oh, hurrah.

Mr. SEIBERLING. It provides for a complete mineral assessment by the Secretary throughout Alaska.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. SYMMS, and by unanimous consent, Mr. SANTINI was allowed to proceed for 5 additional minutes.)

Mr. SANTINI. Mr. Chairman, if I might respond to the gentleman's expression, yes, there is a process that Rube Goldberg would have been proud of, to go to the Secretary, to go to the President, to go to the legislative bodies, and throughout to do battle with bureaucratic decisionmakers. It is a process that has never proven itself. It will never work. We have never had one word of testimony to support the title IX approval.

I repeat, we have to do something now.

Mr. SEIBERLING. The process that I was referring to, if the gentleman will yield further, was the mineral assessment in the gentleman's own amendment that he proposes to offer, it is identical. All I am saying is that if there are chances of producing cobalt and it is necessary for this Nation to do so, that then we are going to get the Congress to open up those areas wherever they are.

We all know the facts of life.

Mr. SANTINI. Yes; after the roof has caved in on the house.

At what point in time do we face up to the magnitude of this problem and find a responsible solution to that problem? The Rube Goldberg method in title IX is not a solution. It is a miscarriage. It is a further barrier and another frustration. It does nothing to solve the problem.

Mr. SEIBERLING. Just supposing that there is this critical shortage that has been referred to, I do not believe there is any definite proof that we can develop cobalt there today in Alaska.

Mr. SANTINI. Let me say this is one of the richest mineral potential areas that exist, at least in the United States of America. There is cobalt, copper, nickel; they are all being mined in Siberia and in Canada and that same belt runs through the center of Alaska.

Somehow they have got 25 million people in Siberia, who are not all prisoners, removing mineral deposits coming from the same mineral belt. If it exists in Siberia, it exists in Canada. Do you not think it is a rational presumption that these minerals would also exist in Alaska?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Let me just commend the gentleman. He is a real leader in this Congress on the question of mineral shortages. We are going to have hearings because of his initiative very shortly on this question. But I say, Mr. Chairman, we have set aside 70 percent of the most likely mineralized areas in Alaska. In an area as big as Texas, we could get every prospector, every driller, and every miner for the next 50 years, and as far as I am concerned, if we find an indication of valuable strategic minerals anywhere, we are probably going to have to go get them, and let us have the process to do this.

The question I want to ask the gentleman—and it has not much to do with the pending amendment—is the gentleman said we were a bunch of illegitimates when we put title IX in; we were illegitimates when we took it out; and apparently we have done something wrong again when we put it back in. What does the gentleman want us to do?

Mr. SANTINI. I did not mean to reflect upon the legitimacy of the chairman of the full committee, because his legitimacy is certainly not in question. But I do feel emphatically that in legislative consideration of H.R. 39 we are on again, off again, put in, take out, concoct, create, and then return to original form reflects the fact that we bloody well do not know what we are doing on the ques-

tion of hard-rock minerals. We are trying to dream it up and put it together in patchwork fashion here on the House floor, in committee, realizing, as the gentleman from Ohio, the dedicated subcommittee chairman pointed out, we do not know what the devil we have got up there. So we are going to create Rube Goldberg's masterpiece to encourage the private sector and permit the Government to go in and continue to explore. This is consummately contradictory. The on-again off-again program does not make much sense. I would suggest that my amendment, which would simply ask the President to come to Congress in 1981 with an access process, does offer some hope for some sense on this issue.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

To answer the question the gentleman asked, the Inspiration Co. has a claim, a nickel-cobalt-copper find on Yakobi Island. This area is classified as wilderness in this bill, so they will never be able to mine there.

Additionally, there is an article in the Wall Street Journal of Thursday, May 18, which tells the story of the Russians buying cobalt prior to the invasion of the Shaba Province. One can easily see who is calling the shots.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I only rise to ask a question in an area where I am truly uninformed and trying to get an answer. Did I understand the gentleman from Ohio (Mr. SEIBERLING) in the exchange with the gentleman from Nevada in the well (Mr. SANTINI), that nobody is really sure what is in these lands that will be locked up? If that is the case, if there is a feeling or an understanding or a sense that there are vast mineral deposits on which we are as short as we are, the question is whether or not there should not be some effort to inventory what is available there rather than lock them up so that we will never know? Is that a fair question, or could someone explain to me why we are doing it before we know?

Mr. SANTINI. I will be happy to answer the question. First of all, I think it is taken as given that we do not know. Second, it is suggested that at least in one of the substitutes—and it is hard to keep track of all of them—in at least one of the four or five or six substitutes floating around here, there is a provision included by both the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Arizona (Mr. UDALL) that would provide for a minerals inventory process, or at least an accelerated examination by the USGS; but in addition it says no entry "to any private mineral explorers." Almost 100 percent of the active mines of the United States today were discovered as a result of the private prospectors or private initiative rather than Government. The private sectors would have to go through a labyrinth of bureaucratic appeal processes that would make it, as a matter of fact, impossible, impractical, and irrational for anyone to invest one dime in minerals investigation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WEAVER. Reserving the right to object, Mr. Chairman, I think it is time that we get to a vote on the Young amendment. I would ask the gentleman from Nevada (Mr. SANTINI) if he intends to recognize the chairman of the Interior Committee, because the chairman of the Interior Committee has some valuable, factual information to bring to bear.

Mr. SANTINI. I will certainly recognize the gentleman.

Mr. WEAVER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I hope I have not offended the chairman of the committee, but since I was asking unanimous consent, the gentleman yielded to me.

I think I understand the mechanism, the arcane nature of this business of tying up the lands and then seeking to set up a system that nobody can figure out a formula for getting them opened up. I think I know what is being done there. We have had that done in some other energy areas in which I have been involved; but the question still is, is there no inventory, is there no way to find out what is in these lands before we lock them up, because if somebody only suspects there is stuff there, they will be able to get the lands unlocked and to get in and explore? It is sort of like the Outer Continental Shelf, where we are actually trying to keep people from finding things there.

Mr. SANTINI. That is correct.

Mr. UDALL. Mr. Chairman, if the gentleman will yield further, I lost my Sierra Club and Caribou buttons because I offered to take that out of the bill and it is out of the bill and the mining can continue.

We took 20 million acres out of boundaries to exclude mining claims and likewise oil deposits. We have done the best job we can. We have 60 years of exploration before we invade the national parks. Let us look to those places first.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, my concern is not what is taken out and what is developable. My concern is about all this vast area locked up and undevelopable, when the Russians across the straits in Siberia are doing exploring and then making a deal to sell it to us.

Mr. UDALL. Mr. Chairman, the pending amendments are the amendments of the gentleman from Alaska (Mr. YOUNG). I do not want to impose any limitation, but I would like to get a vote. We will have to repeat all this when we get to the amendment of the gentleman from Nevada (Mr. SANTINI).

Mr. Chairman, I ask unanimous consent that all debate on the amendments of the gentleman from Alaska (Mr. YOUNG) cease in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. KETCHUM. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Young amendment.

Before I yield to the gentleman from Alaska, who would like to make some further comment on this debate, I would like to remind the Members of a statement made yesterday. The gentleman from Washington (Mr. MEEDS) made a telling observation about the situation in which we find ourselves; that is, for the Members from 49 other States, the vote on this bill in essence is what in politics is called a cheap shot. If you want to go with the environmentalists, if you want to throw one their way, if you want to vote for Federal action that you would never permit to be done to your State, go ahead, vote for it; or you can try to face the issue fairly and squarely.

I do not think it is too much to say, serving as I do as a member on both committees that handled this legislation, that there probably are not 20 Members in this House that have taken a close look at this legislation from the beginning. I am not one of them, since I do not serve on the subcommittee. So it boils down to whose judgment you accept.

The gentleman from Ohio (Mr. SEIBERLING) is an excellent member of our committee. Rarely do we find ourselves in agreement; although a week ago it happened and we both nearly fainted; but the fact is, the gentleman from Ohio is an extreme environmentalist. I do not use that in the pejorative sense at all. The gentleman has a point of view that has carried in many debates; but the gentleman applies that point of view to this bill. All of us are concerned about the environment, but reason must also apply.

On the other hand, the gentleman from Alaska (Mr. YOUNG) has the job of defending his State, one that is being preserved or carved up or locked up, depending on your viewpoint.

I ask the House to reconsider this amendment which the gentleman from Alaska (Mr. YOUNG) has now offered and which he has characterized as one that will satisfy the State government

of Alaska, the Legislature of Alaska, the gentleman from Alaska, and, I assume, a great many people who live there. At the same time the amendment will not do great violence to the environmental considerations that we as citizens of the other States have concerning Alaska. Let us listen to the gentleman from Alaska (Mr. YOUNG) and cast a vote that will improve this bill. As the gentlemen said, with this amendment the oposition will be largely neutralized.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

The gentleman from Maryland (Mr. BAUMAN) used my name, and I wish he would yield to me.

Mr. BAUMAN. Mr. Chairman, I only used the gentleman's name in paying him a compliment.

Mr. SEIBERLING. I am not sure that I considered it a compliment.

Mr. BAUMAN. Mr. Chairman, I will get some time later for the gentleman. I know that he never has enough time.

First, Mr. Chairman, I yield to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I would like to compliment the gentleman from Maryland (Mr. BAUMAN) on his statement and get back to the subject on which the gentleman from Nevada (Mr. SANTINI) was speaking. That is a subject which is a crucial one to all of us. It is one that we all might have some interest in.

If my amendment is adopted, much of the conflict that could possibly exist on the mineral finds would be eliminated. I think we have in this amendment a chance to do what is morally right and legally right. That is what should be done with this piece of legislation.

I urge my colleagues to put themselves in my position. Put yourselves in your State in my position and see how you would feel if this Congress decided that the President's own State, for instance, the State of Georgia, was the prettiest State in the Union and should be a park, with park rangers assigned. Suppose we in this Congress would do something like that; if we did, then we would have no more Planters peanuts. I do not think anybody would support that concept.

Just in my State alone, with a few people, a population of 400,000 and one Congressman, are we being told: "Alaskans, you are really not that important. This is best for the national interest, not your interest"?

Mr. Chairman, I think we have a legal and a moral obligation to support this amendment and adopt it and make this bill somewhat more palatable than it is right now.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(By unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. Mr. Chairman, I have asked for this additional time so that I may yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am not going to try to characterize myself. The gentleman from Maryland (Mr. BAUMAN) said I am an extreme environmentalist. However, on the amendments I offered to provide a 5-year oil exploration in the Arctic Range, the environmentalists thought I was going too far in the other direction.

I will ask the gentleman, what about the 32 members of the Committee on Interior and Insular Affairs and those members of the Committee on Merchant Marine and Fisheries who unanimously voted these bills out? Are they extreme environmentalists, too?

Mr. BAUMAN. No. Mr. Chairman, in response to the gentleman's question, most of Members were voting by proxy, and many of them were absent most of the time, as was the gentleman from Maryland, who had to be absent because he serves on five subcommittees and two committees.

Their votes in many cases had to be by proxy, and that sadly is the way this House operates nowadays. We all know that and it is unfortunate.

Mr. SEIBERLING. I do not know whether the gentleman was present at the time when the committee voted it out.

Mr. BAUMAN. No; I was not.

Mr. SEIBERLING. But let me inform the gentleman that the bill was not voted out by proxies. The 32-to-13 vote was, to my recollection, an actual vote.

Mr. BAUMAN. Mr. Chairman, our committee rules require that, of course, but most of our markups in the committee and our deliberations in the subcommittee were had by proxy. In fact, the Committee on Interior and Insular Affairs adopted a special rule so it could operate without a quorum for the most part.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I would like to say that 85 of the 89 amendments that the gentleman from Alaska (Mr. YOUNG) offered in the subcommittee were accepted by the subcommittee. Most of them were accepted by me by unanimous consent when no Members but the gentleman from Alaska (Mr. YOUNG) and I were present.

Mr. BAUMAN. And now all he asks is for the 86th amendment to be accepted. Why not go for the extra amendment? This is it.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, that reminds me of a famous historic statement by a figure who is now happily in the past.

The gentleman from Alaska (Mr. YOUNG) would come to me and say, "Now I have only one more amendment I want adopted" and each time he came to me he said, "This is my last territorial demand," then I suggest that this would not be his last. I suggest that when we get to another stage, he would want some more and some more and some more, but we have to try to strike a balance.

Mr. BAUMAN. Mr. Chairman, I can hardly believe my ears. The gentleman from Ohio apparently is comparing the distinguished gentleman from Alaska to Adolf Hitler. That is extremism of the worst kind.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I wish not to belabor this debate any longer. I know the Members want to get on with the vote on it.

We have talked about hard rock; we have talked about other issues, and I would like, if I may, to focus on the amendment.

It is difficult, as the gentleman from Arizona (Mr. UDALL) has indicated, to discuss this type of an amendment on the floor when we are dealing with 14 separate areas in the State of Alaska and 5 million acres. So if I could, I would like to let the Members know just what one of those areas is and how important it is, and I refer to the Arctic National Wildlife Range.

The wilderness area consists of 16 million acres which the gentleman from Alaska (Mr. YOUNG) wishes to change. This is a superlative wilderness and wildlife area, and its resources are internationally recognized. They include the calving ground for America's largest caribou herd.

It is the most heavily used polar bear denning area in the American Arctic. It is a fall staging area for up to 400,000 snow geese. It is the only federally owned, as yet undisturbed, key wildlife habitat on the coastal plains.

Let me indicate the importance that not only this administration but previous administrations have given to this particular area.

President Carter himself made the decision to recommend wilderness designation of the existing range.

In its statement to the Federal Power Commission on Prudhoe Bay gas line routing, the State of Alaska said:

> An intrusion on an untouched area is irreversible, whatever steps are taken to mitigate its effects, an intrusion into the wildlife range would be a tragedy.

That is the State of Alaska.

We have heard people come up into the well and speak about giving the Natives of Alaska a say in these boundary designations, as if they were in support of this amendment.

I recall—maybe the chairman of the Committee on Merchant Marine and Fisheries can correct me if I am wrong—proceeding during the testimony on the Arctic National Wildlife Range, and we received requests from villagers and people in this area, asking that it be kept in the wildlife designation.

The last quote I would like to make is out of the report. We have heard a lot of the brother of the gentleman from Arizona (Mr. UDALL), but let me just quote from Secretary Rogers C. B. Morton, in 1973, on this particular area:

> As required by the Wilderness Act . . . the Arctic National Wildlife Range has been studied to determine its suitability for inclusion in the National Wilderness Preservation System. Findings indicated the entire wildlife range has high wilderness values, but an Act of Congress is necessary to designate the range as a wilderness area.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I respectfully commend the gentleman from Michigan in his endeavors to become an expert on Alaska, but the State lands area about which the gentleman is speaking has no impact on snow geese, no impact on polar bears, no impact on caribou calving grounds. We are speaking of an area in the Chandalar Mountains. There are no polar bears in that region.

Mr. BONIOR. When I made my statement I think I clearly indicated I was talking about the Arctic National Wildlife Range. I agree it does not have any effect on the snow geese, but I do not agree that it has no effect on the caribou.

Mr. YOUNG of Alaska. How about the polar bear?

Mr. BONIOR. On the polar bear, I do not know.

Mr. YOUNG of Alaska. There are no polar bears that far from shore. With all of the progress in the area of integration, the polar bear does not mix with the brown bear and the brown bear does not mix with the polar bear. Possibly we could work on that and it will come about. I am not sure.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, one thing that is being missed in this debate is the fact that these are first priority selections. They had up to 135 million acres. In other words, they are not making a commitment to make this as a selection, these 5 million acres. They are saying how we are to carve the management units we thought about and pondered over. Thev are not making any commitment on this.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened very patiently to all of this debate. I had the privilege at one time of being a Member of the Committee on Interior and Insular Affairs and I regret leaving there: although having listened to this debate, I am not altogether too sad that I left that marvelous committee because it is getting almost like the Committee on Interstate and Foreign Commerce, in that we have to rewrite the bills when they get here.

I listened with great interest to the presentation of the chairman of the committee last night and to the presentation of the gentleman from Alaska (Mr. YOUNG), who is really an expert on the State of Alaska, who has as his district the whole State. I listened with great interest to the presentation of the gentleman from Washington (Mr. MEEDS), for whom I have the greatest respect. I think it was one of the finest presentations I have ever heard on this floor in regard to an environmental piece of legislation.

He made eminent good sense.

I can sympathize at least as much as the gentleman from Nevada, perhaps more, with the gentleman from Alaska (Mr. YOUNG) as this committee assaults, assaults, and assaults his State, because my district and the district of a few others from Western United States has been assaulted in a similar manner.

Mr. Chairman, everyone in this Chamber is an expert on everybody else's district as long as the jobs and the minerals and the natural resources are not in their districts.

I would remonstrate with my friend, the gentleman from Alaska (Mr. YOUNG), after he had been assured or was assured a few moments ago by the chairman of the committee that these things should not take place on this floor and let us come together in the spirit of sweet compromise in the conference committee. I warn the gentleman from Alaska that I fell for that line a few months ago. When we were discussing the highly touted and very sexy endangered American Wilderness Act, and after great deliberations and compromises so that we could bring the bill, which affected my district, to the floor of the House under the Suspension Calendar, after we had agreed on what would happen in the spirit of compromise in the conference committee, 330,000 acres of my district disappeared into an instant wilderness, which has had an airport in it for 20 years.

Mr. Chairman, it would not surprise me a bit if, in the near future, some 10,000 or more aggravated outdoor recreational people invade that new wilderness and tell the Park Service that they can damn well arrest them because they are tired of having their lands eaten away and eaten away and eaten away in the name of environmental integrity.

Mr. Chairman, the gentleman from Alaska (Mr. YOUNG) is the expert on Alaska. He is asking us, on behalf of his district and of his State, to do something for him and for his State. I have been to Alaska a small part to be sure. I talked to members of the legislature there; and with one or two exceptions found them totally in concurrence with the gentleman from Alaska.

Good God, how can anyone do anything else but concur with the man who knows the district better than does anyone in this Chamber?

Mr. Chairman, you will not listen to anyone else apparently because all you have to do is say the word "wilderness" and everybody jumps.

We took 55,000 acres, plus or minus, out of the Redwoods, out of the district of the gentleman from California (Mr. DON H. CLAUSEN). Just a few years back, when they established the Redwood Park, the people said, "We will never be back for any more."

They came back, and they came back in a big way; and 1,000 people in the district of the gentleman from California (Mr. DON H. CLAUSEN) are looking for work. Four hundred people in my district will be looking for work, and we talk about jobs?

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

(By unanimous consent, Mr. KETCHUM was allowed to proceed for 2 additional minutes.)

Mr. KETCHUM. Mr. Chairman, I heard the chairman of the committee tell us that we can run across here and check out the minerals. That is easy.

I just call to the Members' attention that a few short years ago they said there was no oil in Midland, Tex., and that there was no oil in Kern County, two of the biggest producing areas in the United States.

I talked to people in southeast Alaska, and the USGS had told them that there are no important minerals in southeast Alaska.

Mr. Chairman, the U.S. Borax Co. made the biggest molybdenum find in the history of the United States.

I am not castigating the USGS. They could not possibly put enough men out there to do this kind of job. However, let us not lock this State up until we know what we are doing. Let us support the Meeds substitute. It is a reasonable substitute, but first let us support the amendment of the only acknowledged expert on Alaska, the gentleman from Alaska (Mr. YOUNG).

Mr. SISK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is evident after having listened to the debate last night—or part of it—and today, that it is entirely proper that I have announced my retirement. I have been hunting around for the last couple of days trying to verify some statements that were made in some hearings up in Alaska, I believe, if my memory is good, in the fall of 1957 or the fall of 1958. I thought that there undoubtedly was one person still in the Congress who was on that Statehood Committee besides myself. I come to find out that I am in fact the last person left. I went up there with Leo O'Brien, Gracie Post, Wayne Aspinall, and Edith Green, and the brother of our good friend, the chairman of the Committee on Interior and Insular Affairs, Stewart Udall, and others.

We went through a long series of hearings, and I want to qualify myself and say that I am not an expert on Alaska. I duly agree with my good friend from California (Mr. KETCHUM) that in fact our friend (Mr. YOUNG) is probably the only qualified expert there is here. I will give him credit for that.

But, I have really been amazed at some of the statements that are being made and some of the things that are being proposed here. I have great respect for my friend, Mr. UDALL, and his committee; for the gentleman from Ohio (Mr. SEIBERLING), and the material he has sent around, because he has sent some beautiful pictures and I enjoyed looking at them. They remind me of some of the scenes I observed up there 20 years or so ago.

But, you know, everyone in Alaska was not for statehood. There were substantial differences of opinion. We were sent up there actually, by Mr. Rayburn, the Speaker of the House, and other Members of this body, to make a determination of whether in fact the Territory of Alaska was economically qualified to carry its weight as a State in this Union. During the course of my service on the Statehood Committee, we actually brought into this Union two States. That is one of the things I will remember in the years to come as having had a small part in.

One was, of course, making a State of Alaska, and the other was making a State of Hawaii. We went to Hawaii and spent a month there. Our mission at that point in time was to determine whether, in fact, communism dominated Hawaii. There was not a question about the economic ability of Hawaii to maintain itself but whether in fact the Communists would run the State. Well, we came back and we recommended statehood for Hawaii, and it became a State.

But, getting back to the mission that we were sent on, it was to determine the economic facts of life in Alaska. We determined at that time that there is no question but what Alaska would require substantial subsidies during the first 10 or 15 years of statehood. It needed time to develop its resources. It needed time to establish, under the authority given in the Statehood Act, its rights to acquire substantial blocks of land, to determine what it had in the way of minerals, oil and timber resources, fishing resources, recreational resources, all kinds of resources. There was great potential, but they were undeveloped at that time.

I recognize that my time is almost up, but, before I conclude, let me say this—and I respect the committee and I made a commitment between my good friend, the gentleman from Washington (Mr. MEEDS), and my good friend, the gentleman from Arizona (Mr. UDALL), to try to work out some kind of a rule to send this bill down here, because this had been resting up in the Committee on Rules for quite a long while, and I think the time has come when we have to settle this issue as best we can.

I am going to say that I will vote for this amendment offered by the gentleman from Alaska (Mr. YOUNG) and that I will do this as a member of that Statehood Committee.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. SISK was allowed to proceed for 2 additional minutes.)

Mr. SISK. I think it is important for us to remember the kinds of commitments this House made.

And I recognize there are not many Members here now who were here at the time, but the record is here.

I am terribly concerned when I listen to what is going on here today and what went on last night about just what has been done. I think the time has come to sit down with the Alaskan people, the Governor, the legislature, the delegation here, the Senators and the Members of the House of Representatives in trying to work out a reasonable proposal that will permit Alaska to in fact develop its own natural resources and in fact carry its own weight into the future. I am really concerned that there has not been that kind of a discussion.

A little bit ago my good friend the gentleman from Arizona (Mr. UDALL) mentioned the fact that if the amendment offered by the gentleman from Alaska (Mr. YOUNG) is defeated that he is prepared to sit down with him and try to work out something with him. I believe it is a little bit late since we are halfway through this Congress to try to work something out, something that should have been worked out, it seems to me, earlier.

I have very great respect for my good friend the gentleman from Ohio (Mr. SEIBERLING) and I see the gentleman is standing but, I hesitate to yield, because I have been trying here for the last hour and a half to get a little bit of time.

I do think it important and essential at this time to urge, on the part of my colleagues, to realize that in fact commitments were made to the people of Alaska at the time we granted them statehood. So let us not do anything at this point in time that we are going to live to regret.

As I said, I am going to vote for the amendment offered by the gentleman from Alaska (Mr. YOUNG) and then I am going to vote for the substitute amendment offered by the gentleman from Washington (Mr. MEEDS).

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. SISK was allowed to proceed for 1 additional minute.)

Mr. SISK. I thank the gentleman from Ohio (Mr. SEIBERLING) for yielding, and let me say to the gentleman that I will try to wrap this up very soon, but, let me say that I think it is terribly important to adopt the Meeds amendment, because the proposal there does not place such a huge block in new wildernesses and it at least gives some time to study things so that we will know what we are talking about. So I think this is terribly important. I want to say that I do not want to be a party here today to voting for anything that is going to destroy the development of the natural resources of Alaska, that are there, if they are given an ample opportunity to develop them.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, I have to agree with the gentleman from California (Mr. SISK). It would seem to me that an area such as Alaska that has only one Member, deserves just as much consideration as, say, the area from which the gentleman in the well Mr. SISK comes, although his State may be only perhaps half the size of the State of Alaska, but it has the largest population. I think we ought to treat the largest State in size as a State and not like a territory.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. SISK was allowed to proceed for 1 additional minute.)

Mr. SISK. I thank the gentleman for again yielding me this time and I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman has made a very important point and I think the Members are entitled to know that before the administration prepared its proposed amendments to H.R. 39, the boundaries of which are largely followed in the bill that is before us, they sat down for days with the representatives of the State of Alaska and worked out those boundaries so that they would minimize any conflicts with the State.

After that our committee, the staff, and I personally sat down with representatives of the State of Alaska, and after that in the markup the gentleman from Alaska (Mr. YOUNG) got some more changes made to reflect the State's interests. What is more, his proposals here go beyond the present requests of the State of Alaska, in a kind of one-upmanship, so he can show them he has gotten more than they even asked for. I just want the Members to understand that.

Mr. SISK. I appreciate that. I am positive the gentleman is correct. Unfortunately, apparently there is not enough effort or enough willingness to compromise maybe on both sides.

The CHAIRMAN. The time of the gentleman has expired.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendments offered by the gentleman from Alaska (Mr. YOUNG) cease at 3:45 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 30 seconds each.

The Chair recognizes the gentleman from California (Mr. LEGGETT).

(By unanimous consent, Mr. PHILLIP BURTON yielded his time to Mr. LEGGETT.)

Mr. LEGGETT. Mr. Chairman, I necessarily must rise against this amendment. I think it has some good parts. They have not all been explained however. They have not all been discussed on this floor. I think we are prepared maybe to accept some substantial parts that we have already talked about, but we are talking about 13 different increments, 8 increments of a national park, and 6 increments of a refuge area. We have not had the time fully to discuss them, in spite of the fact that we have had a tremendous amount of rhetoric here today. It does not effect any assault on Alaska. It does not affect the redwoods in California. It does not affect the wilderness in the gentleman from California, Mr. KETCHUM'S, district. It does not affect communism. It does not affect the amendment offered by the gentleman from Washington (Mr. MEEDS). It

merely affects the Udall amendment. I think there are some good parts, but it is omnibus. The gentleman when he took his time in the well only had time to discuss one or two amendments. I oppose the amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Messrs. SCHULZE, DON H. CLAUSEN, BAUMAN, KETCHUM, and JOHN T. MYERS yielded their time to Mr. YOUNG of Alaska.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, 30 seconds is not ample time to allow me to argue against the rather absurd logic of my distinguished colleague, the gentleman from California and the gentleman from Maryland, who assume that the other 434 of us who do not live in Alaska do not have a stake in preserving the integrity of the land in Alaska. Perhaps I will have an opportunity to challenge their logic at some other time.

I yield back the remainder of my time.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PATTERSON).

Mr. PATTERSON of California. Mr. Chairman, we have heard a lot about the people of Alaska. I want to note two things that are important for my colleagues to hear. First of all, many of the people of Alaska—and I have been there involved in the two hearings—are divided on this question, and many, many of them—in my opinion, most of them—support even a stronger bill than that which the chairman, the gentleman from Arizona (Mr. UDALL) has proposed in H.R. 39.

Secondly, if we took a vote here today of just the people who are here from Alaska, I know that the vote would be against this amendment.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, this is definitely a State's rights amendment. The Alaska Governor, the House and Senate of the legislative body of the State of Alaska support this position. The Alaska Land Selection Committee worked this out. The township research summaries which were put on a computer to help select these lands are here on the minority table.

This is not a hopscotch amendment. It is the least we can do for the people of Alaska. It is my opinion that the overwhelming majority of the people of Alaska support this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Chairman, I serve on the full committee and on the subcommittee on Alaskan lands. Time after time we have given in to the gentleman from Alaska. Time after time we have compromised on everything the gentleman asked for in the subcommittee and on all the full committee.

I ask now, do not compromise any more. Do not give away what belongs to all the American people. I urge the rejection of the amendment of the gentleman from Alaska.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I think our colleague, the gentleman from California (Mr. SISK) made an excellent point when he said that if we do not vote for this Young amendment we will be breaking faith with the Members who were sent by former Speaker Rayburn to investigate and report back on this issue of land use when Alaska became a State.

That delegation of House Members went to Alaska in 1958 and 1959 and carefully worked and consulted with the people of that then large territory and returned with firm agreements as to the disposition of land after Alaska became a State. We should not back up on that agreed position.

I urge my colleagues to support that original position of the House when Alaska became a State which was a correct one then and I think it is a correct one now. I have listened to this debate. I believe we should support Mr. YOUNG's block of amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

(Mr. MEEDS yielded back the balance of his time.)

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I think we all respect the Member from Alaska, fighting for the economic development of his State, which the gentleman has every right to; but there is a large area of the State which can be explored for minerals. This is Federal land; the people of this country bought it. We can develop what is not in the wilderness and preserve areas. Two-thirds of the land is not wilderness and can be developed.

(By unanimous consent, Mr. SEIBERLING yielded his time to Mr. UDALL).

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I was quite impressed with the remarks of the gentleman from California (Mr. SISK). The gentleman asked us to look at the record of the deliberations of this body when Alaska was made a State, look at the record there; that not only would we be violating the agreement we reached at that time, but if Alaska had not been made a State they would have a right now to go to the U.N. to protest this treatment.

The CHAIRMAN. The Chair recognizes the gentleman from Alaska (Mr. YOUNG) for 3 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, first, let me say, the gentleman from California (Mr. PATTERSON) said he had been to Alaska and he had hearings and Alaska supported it. I do not know who the gentleman was talking to.

There is only one poll that counts and that is me. That is all. I represent that whole State and if I am wrong on this issue, I am not back here next year. Let us face that fact now.

Of course, you say, "We have the State of Alaska down here." I agree. Most of those here are not working and they have nothing better to do and they come down to see this piece of monstrosity.

Second, I want to compliment the gentleman from California (Mr. SISK), because the gentleman is bringing home a point that I was trying to bring home. The old saying that we are from the Frontier State, and we are still the last frontier, a deal is a deal, a handshake is a contract, congressional action is binding. This Congress gave the right to the State of Alaska for economic reasons and for the benefit of its people to select 105 million acres of its choice. I think that is a binding contract. I hope you today in this body fulfill the contract of those Members, of Speaker Sam Rayburn, and the remaining Member, the gentleman from California (Mr. SISK).

And the people of Alaska, the Nordales, the Stokers, the Ringstads, and all those who made my great State what it is, are the ones who worked to get the Statehood Act passed, and they thought this United States of America was an honorable nation. They wanted to be a part of it. Let us not let them down today.

Mr. Chairman, I ask the Members to vote for this amendment. Let us fulfill the provisions of the Statehood Act and get on with this piece of legislation.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, this last statement on the floor was misleading. Alaska is going to get 105 million acres. We are keeping faith with them. We have guaranteed it to them.

But we are not going to give large areas in the middle of a new national park to them. This consists of 14 areas and 5 million acres. Most of the members of this committee have never seen any of them, and yet the gentleman from Alaska is lumping them in 14 amendments and is bringing this to a vote on the floor.

This is part of his procedure. He hacked away at us in committee, and we gave away 20 million acres. The Committee on Merchant Marine and Fisheries gave him some more, and now he is on the floor and wants to whittle away and get another 5 million acres.

That is wrong, and it should not be done.

We have created seven new national parks, and the judgment of the committee will stand. We are going to have further proceedings with the other body and in conference, and we can, if necessary, adjust the boundaries at that time.

Mr. Chairman, it would be a great mistake if we adopt these amendments, because they would seriously cripple the bill.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Alaska (Mr. YOUNG) to the amendment offered by the gentleman

from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The question was taken, and on a division (demanded by Mr. MEEDS) there were—ayes 37, noes 30.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 251, not voting 42, as follows:

[Roll No. 335]

AYES—141

Allen	Goodling	Moorhead, Calif.
Anderson, Ill.	Grassley	Murphy, N.Y.
Andrews, N. Dak.	Guyer	Myers, John
Applegate	Hagedorn	Nichols
Archer	Hall	O'Brien
Armstrong	Hammer-schmidt	Pettis
Ashbrook	Hansen	Pickle
Bafalis	Heftel	Poage
Bauman	Hightower	Pritchard
Beard, Tenn.	Hillis	Railsback
Boggs	Holt	Rhodes
Bowen	Hubbard	Risenhoover
Breaux	Huckaby	Robinson
Broomfield	Hyde	Rousselot
Brown, Ohio	Jenkins	Rudd
Broyhill	Johnson, Calif.	Santini
Burgener	Jones, N.C.	Satterfield
Burleson, Tex.	Jones, Tenn.	Schulze
Butler	Kazen	Sebelius
Cederberg	Kelly	Shuster
Chappell	Kemp	Sikes
Clausen, Don H.	Ketchum	Sisk
Clawson, Del	Kindness	Snyder
Cohen	Lagomarsino	Spence
Collins, Ill.	Latta	Stangeland
Collins, Tex.	Lent	Stanton
Conable	Livingston	Steed
Crane	Lloyd, Tenn.	Steiger
Cunningham	Lott	Stockman
Daniel, Dan	Lujan	Stump
de la Garza	McCormack	Symms
Derwinski	McDonald	Taylor
Devine	McEwen	Treen
Dickinson	McFall	Vander Jagt
Dicks	McKay	Volkmer
Dornan	McKinney	Waggonner
Duncan, Oreg.	Mahon	Walker
Edwards, Okla.	Marriott	Walsh
Emery	Martin	Wampler
Erlenborn	Mathis	Wilson, Bob
Findley	Mazzoli	Winn
Flynt	Meeds	Wydler
Foley	Michel	Young, Alaska
Ford, Tenn.	Milford	Young, Fla.
Forsythe	Miller, Ohio	Young, Mo.
Ginn	Mitchell, N.Y.	Zeferetti
Goldwater	Montgomery	
	Moore	

NOES—251

Abdnor	Brooks	Diggs
Addabbo	Brown, Calif.	Dingell
Akaka	Brown, Mich.	Dodd
Alexander	Buchanan	Drinan
Ambro	Burke, Fla.	Duncan, Tenn.
Ammerman	Burke, Mass.	Early
Anderson, Calif.	Burlison, Mo.	Eckhardt
Andrews, N.C.	Burton, John	Edgar
Annunzio	Burton, Phillip	Edwards, Ala.
Ashley	Byron	Edwards, Calif.
Aspin	Carney	Eilberg
Baldus	Carr	English
Barnard	Cavanaugh	Ertel
Beard, R.I.	Chisholm	Evans, Colo.
Bedell	Clay	Evans, Del.
Beilenson	Coleman	Evans, Ga.
Benjamin	Conte	Evans, Ind.
Bennett	Corcoran	Fary
Bevill	Corman	Fascell
Biaggi	Cornell	Fenwick
Bingham	Cotter	Fish
Blanchard	Coughlin	Fisher
Blouin	D'Amours	Fithian
Boland	Daniel, R. W.	Flippo
Bonior	Danielson	Flood
Bonker	Davis	Florio
Brademas	Delaney	Flowers
Brinkley	Dellums	Ford, Mich.
Brodhead	Dent	Fountain
	Derrick	Fowler
Fraser	Long, La.	Reuss
Frenzel	Long, Md.	Richmond
Fuqua	Luken	Rinaldo
Gammage	Lundine	Roe
Garcia	McClory	Roncalio
Gaydos	McDade	Rooney
Gephardt	McHugh	Rose
Giaimo	Madigan	Rosenthal
Gibbons	Maguire	Rostenkowski
Gilman	Mann	Roybal
Glickman	Markey	Russo
Gonzalez	Marks	Ryan
Gore	Mattox	Sawyer
Gradison	Metcalfe	Schroeder
Green	Meyner	Seiberling
Gudger	Mikulski	Sharp
Hamilton	Miller, Calif.	Shipley
Hanley	Mineta	Simon
Hannaford	Minish	Skelton
Harkin	Mitchell, Md.	Skubitz
Harrington	Moakley	Slack
Harris	Moffett	Smith, Iowa
Harsha	Mollohan	Smith, Nebr.
Hawkins	Moorhead, Pa.	Spellman
Heckler	Moss	St Germain
Hefner	Mottl	Staggers
Holland	Murphy, Ill.	Stark
Hollenbeck	Murphy, Pa.	Steers
Holtzman	Murtha	Stokes
Horton	Myers, Gary	Stratton
Howard	Myers, Michael	Studds
Hughes	Natcher	Thompson
Ichord	Neal	Thone
Ireland	Nedzi	Traxler
Jacobs	Nolan	Trible
Jeffords	Nowak	Udall
Jenrette	Oakar	Van Deerlin
Johnson, Colo.	Oberstar	Vanik
Jones, Okla.	Obey	Vento
Jordan	Ottinger	Walgren
Kastenmeier	Panetta	Waxman
Keys	Patten	Weaver
Kildee	Patterson	Weiss
Kostmayer	Pattison	Whalen
Krebs	Pease	White
Krueger	Perkins	Whitehurst
LaFalce	Pike	Whitley
Le Fante	Preyer	Wilson, Tex.
Leach	Price	Wirth
Lederer	Pursell	Wolff
Leggett	Quillen	Wylie
Lehman	Rahall	Yates
Levitas	Rangel	Yatron
Lloyd, Calif.	Regula	Zablocki

NOT VOTING—42

AuCoin	Kasten	Sarasin
Badham	McCloskey	Scheuer
Baucus	Marlenee	Solarz
Bolling	Mikva	Teague
Breckinridge	Nix	Thornton
Burke, Calif.	Pepper	Tsongas
Caputo	Pressler	Tucker
Carter	Quayle	Ullman
Cleveland	Quie	Watkins
Cochran	Roberts	Whitten
Conyers	Rodino	Wiggins
Cornwell	Rogers	Wilson, C. H.
Downey	Runnels	Wright
Frey	Ruppe	Young, Tex.

Mr. MADIGAN, Mr. ANNUNZIO, Mrs. SMITH of Nebraska, Messrs. MANN, ROBERT W. DANIEL, JR., and PATTEN changed their vote from "aye" to "no."

So the amendments to the amendment offered as a substitute for the amendment in the nature of a substitute were rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Chairman, I was unavoidably detained at the White House at the time of the vote on the Young of Alaska amendments to H.R. 39 in the Committee of the Whole today. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. MEEDS TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MEEDS to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: On page 67, strike line 18 and all that follows through page 92, line 7 and insert in lieu thereof the following:

TITLE VI—DESIGNATION OF WILDERNESS AREAS AND WILDERNESS STUDY AREA PROVISIONS

DESIGNATION OF WILDERNESS AREAS

SEC. 601. (a) In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the lands, waters, and interests within the boundaries depicted as "Proposed Wilderness" on the maps referred to in this section are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

National Park System

(1) Glacier Bay Wilderness of approximately 2,740,000 acres as generally depicted on a map entitled "Glacier Bay National Park", and dated January 1978.

(2) Katmai Wilderness of approximately 3,630,000 acres as generally depicted on a map entitled "Katmai National Park and Preserve", dated January 1978.

(3) Denali Wilderness of approximately 4,440,000 acres as generally depicted on a map entitled "Denali National Park and Preserve", dated January 1978.

(4) Gates of the Arctic Wilderness of approximately 8,000,000 acres as generally depicted on a map entitled "Gates of the Arctic National Park", January 1978.

(5) Kenai Fjords Wilderness of approximately 340,000 acres as generally depicted on on a map entitled "Kenai Fjords National Park", dated January 1978.

(6) Lake Clark Wildlerness of approximately 2,600,000 acres as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated January 1978.

(7) Wrangell–Saint Elias Wilderness of approximately 7,740,000 acres as generally depicted on a map entitled "Wrangell–Saint Elias National Park and Preserve", dated January 1978.

Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the primitive character, water quality, and fish and wildlife values of the area.

National Wildlife Refuge System

(1) Kenai Wilderness of approximately 1,300,000 acres; and

(2) Alaska Marine Resources Wilderness of approximately 2,470,000 acres.

Aleutian Islands Wilderness, 1,300,000 acres;

Unimak Wilderness 913,975 acres;

Semidi Wilderness, 251,860 acres.

(b) Lands designated as wilderness by this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act and as herein supplemented governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(c) In consideration of customary means of travel, limited transportation facilities,

and the extensive areas involved in Alaska, use of snow machines, motorboats, or aircraft lands, where such use has become established, shall be permitted subject to wilderness management plans and reasonable restriction as appropriate or subject to subsistence activities in accordance with the provisions of title VII.

(d) The Secretary is authorized to undertake directly or permit fish stocking, enhancement, rehabilitation, and development activities and the development of aquaculture sites within the wilderness areas designated by this Act, in accordance with the provisions of Section 602(b)(3).

(e) In accordance with the principles of sound fisheries management, the Secretary is authorized to permit commercial fisheries activities within wilderness areas designated by this Act, except within national parks.

WILDERNESS STUDY AND ADMINISTRATION

SEC. 602. (a) Within seven years from the effective date of this section, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the units of the National Park System and National Wildlife Refuge System, other than the units referred to in section 601, established or to which lands are added by titles II and III of this Act, for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with the Wilderness Act. With regard to the designation of wilderness areas in the Tongass and Chugach National Forests, the Secretary of Agriculture shall recommend to the President and the President to the Congress, no later than January 30, 1979, areas for preservation as wilderness that total no less than 6,500,000 acres.

(b) It is the express intent of the Congress that the appropriate Secretary make diligent effort to complete his review and submit recommendations to the President as to the suitability or nonsuitability of areas for preservation as wilderness with respect to the maximum practicable acreage of land within the period of time referred to in subsection (a) of this section giving due consideration to the mineral assessment provisions of this Act. Pending the designation by the Congress of any such area as wilderness—

(1) such measures may be taken as the appropriate Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desirable to maintain the wilderness character of the area;

(2) customary patterns of travel, including customary use of aircraft, motorboats, and snowmobiles where such use has already become established, shall be permitted to continue in areas subject to wilderness study, subject only to such reasonable restrictions as the appropriate Secretary determines are necessary to prevent abuse, waste, or damage to terrain and to protect the continued viability of fish and wildlife resources, except—

(A) where such uses were, on January 1, 1977, prohibited by law or regulation;

(B) that use of snowmobiles for subsistence purposes may be permitted to the extent authorized by title VII; and

(C) that snowmobiles may not be used when snow cover and other weather conditions are such that there would be resulting damage to the terrain;

(3) in accordance with principles of sound fisheries management, the appropriate Secretary is authorized to permit or undertake directly fish stocking, enhancement, rehabilitation, and development activities and the development of aquaculture sites within areas subject to review for suitability or nonsuitability as wilderness, as he determines to be necessary and desirable to restore, augment, or sustain native fish populations. Structures for any such aquaculture site shall consist of only minimal facilities essential to the aquacultural operations; such facilities shall be constructed at such locations and in such manner as to blend into the natural character of the area. In constructing such structures no significant alteration to the natural contours of the terrain shall be permitted. Reasonable access including possible motorized access, may be permitted for necessary access in conjunction with activities undertaken pursuant to this section. In addition, such reasonable access may be provided for the evaluation of sites needed for fisheries enhancement, rehabilitation, and development and for the construction, operation, and maintenance of projects authorized by the appropriate Secretary;

(4) previously existing public use cabins within areas made subject to wilderness study by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the appropriate Secretary deems necessary to preserve the primitive character of the area;

(5) within areas made subject to wilderness study by this Act, the appropriate Secretary is authorized to construct and maintain a limited number of new cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety, for the protection and preservation of the primitive character of the area, or as may be necessary to meet requirements for the administration of the area; all such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding landscape;

(6) the appropriate Secretary may establish a reservation system and charge a reasonable fee for the use and occupancy of wilderness study area cabins or shelters in areas made subject to wilderness study;

(7) commercial services may be performed within the areas made subject to wilderness study by this Act to the extent necessary for activities which are proper for realizing the recreational or other purpose for the areas;

(8) exploration for, and extraction of minerals, including oil and gas, may be permitted in accordance with title IX of this Act; and

(9) the appropriate Secretary is authorized to develop, on or not more than 1,000 acres within each unit, facilities needed for the administration and management of each unit in accordance with a general management plan for the area and following public notification.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MCKAY. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Utah (Mr. MCKAY).

Mr. MCKAY. Mr. Chairman, I appreciate the gentleman yielding to me so that I may engage in a little colloquy with the chairman of the committee. It deals with some of the areas which have been excluded from the bill where it was recognized that there are mineral potentials, but in some cases they have been put in holdings, along with other things, which have been set aside for refugees, et cetera. I believe in your original bill you provided for some access routes through some of these areas to make it economically feasible to get the ores out in the future.

The substitute offered by the other committee removed those in one particular area, I believe the Selawik area where there are several companies that have some potential mineral areas that they are dealing with. I believe you have allowed in the bill that the Secretary can handle this.

I just wanted to get the gentleman to assure us that it is the intent of the committee that there be the corridor to make those claims feasible.

Would the gentleman like to respond?

Mr. MEEDS. The gentleman will, hopefully, respond quickly.

Mr. SEIBERLING. If the gentleman from Washington will yield, let me say the Committee on the Interior was concerned that we provide adequate access across the various national interest lands that are covered by this bill for the State and for the Natives and for private landowners so that they could develop their lands without being impeded by circuitour routes or not allowed to cross some of the Federal units at all. So we put in title IX provisions preserving all the authority of the Secretary to grant access and providing for authority to go to Congress for major access corridors. In addition to that, we provided in paragraph 1102(c) on page 166 that wherever land was effectively surrounded by Federal land—by that we meant it was not feasible or economical to go around the long way—that the Secretary would be mandated to grant access across Federal lands to the extent necessary to permit the owners of the surrounded lands to develop their properties.

Mr. MEEDS. If I may reclaim my time, the answer to the gentleman's question is "Yes."

Mr. SEIBERLING. The answer is not just "Yes." The answer is the gentleman has asked a specific question with respect to the corridor that the Interior Committee created between the Koyukuk and the Selawik Wildlife Refuges, at the request of the gentleman from Wyoming (Mr. RONCALIO). When the bill got over to the Committee on Merchant Marine and Fisheries, they eliminated the corridor, but they expressly provided that the Secretary would grant an access corridor across those lands. The intent of that—and I think the gentleman from California (Mr. LEGGETT) can confirm this—was that the Secretary would not just have authority but that he would be required to grant a corridor when it was requested, and the only flexibility he had was as to selecting the route and imposing the conditions necessary to protect the other values of the refuge.

Mr. MCKAY. I thank the gentleman for his answer.

Mr. MEEDS. Mr. Chairman, I would like to reclaim my time.

Mr. Chairman, the amendment which has just been offered is made necessary because of the parliamentary situation

in which we find ourselves. I will have this amendment, one other, and possibly the substitute which will be offered for that which is before us now. In the event that this amendment and the other amendment which I will offer are accepted, this bill will, I think, at that time be acceptable to me, and I will perhaps not have to offer the substitute at the end.

The first amendment is an amendment affecting wilderness, and this amendment inserts the provisions of the wilderness title, title VI of the Meeds substitute, and replaces that section in the Udall substitute. It is a section which carries with it some 33 million acres of wilderness in this bill. That is approximately 11 percent or 10 percent of the State of Alaska. It provides wilderness for all of the national parks, both those in being in Alaska and those created by this legislation, the same almost identical wilderness configuration as the administration bill, and almost identical to the bill before us for wilderness in the parks.

It also provides for wilderness in all national monuments in Alaska, both those in existence and those created by this bill.

Finally, it provides wilderness in all other areas of Alaska where there has been a complete study, as provided under the Wilderness Act of 1964, an environmental impact statement, public hearings, recommendations; where the whole procedure has been followed and the recommendation has come down for the wilderness, this bill makes that wilderness.

Now, in addition to that, it creates land and wilderness studies. In the Udall bill there are approximately 64½ million acres of wilderness. In this proposal there are 33 million acres of wilderness.

In the Udall bill, there are 65 million acres of study. In this bill there are about 60 million acres of wilderness study.

The provisions of study in this bill, however, are more lenient, so that more things can be done than in the Udall bill.

Perhaps even more important than how much wilderness we have in Alaska is the question of where it is located. That is the major mischief in the Udall proposal.

In the Meeds substitute you will find that the Arctic Wildlife Refuge is not put in wilderness status, No. 1, because there was not a full and complete study and recommendation for it. No. 2, to do it would cut off from further exploration for oil and gas the top prospect in Alaska.

Third, and most importantly, this proposal, the Meeds substitute, mandates that the Secretary and the President recommend wilderness areas after the study is completed for wilderness in southeast Alaska. It does not put instant wilderness in southeast Alaska.

The Udall bill puts about 3 million acres in instant wilderness.

Now, as I said before, there is an ongoing study on wilderness in southeast Alaska which is in process now, which will be completed in December of this year and which will recommend wilderness. That is why it is being done so that the lands of southeast Alaska are protected. At this time the study is being carried out.

We mandate in my proposal that the President consider adding an additional 6½ million acres of wilderness; that can be done after the study brings forth the findings and shows us where it is best to locate that wilderness.

The combination of the Udall bill, the environmental requirements, and fulfilling the Alaska Native Claims Settlement Act, reduces the annual allowable cut in Alaska in the Tongass National Forest from 1,221 million board feet annually to about 373 to 450 million board feet. That is a two-thirds reduction.

Now, I ask those of you from a timber-producing area to think about having your timber base reduced by two-thirds in a period of 2 or 3 years.

This bill will cause the loss of approximately 800 jobs, existing jobs, and perhaps as many as 3,000 prospective jobs.

That is 800 existing jobs. Now, in an area where the unemployment rate is 16 percent presently, to add another 6 percent unemployment is cruel and inhuman punishment. I suggest we ought to wait until the study is finished, and then we can put the wilderness in southeast Alaska in areas where many people already agree it should be without the disruption it would cause.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I am delighted to yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, will the gentleman tell the House how the bill could cost jobs when the allowable cut for timber in the Tongass will remain at a figure in the bill that is higher than the harvest of the last 5 years?

The CHAIRMAN. The time of the gentleman from Washington (Mr. MEEDS) has expired.

(By unanimous consent, Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mr. MEEDS. Mr. Chairman, the gentleman from Oregon (Mr. WEAVER) knows full well that the figures he is using presuppose a number of things.

First of all, and most importantly, they presuppose that the special and marginal cut which is now occurring in Alaska will increase dramatically and drastically in 1 year. The gentleman is from a timber-bearing area, and he knows damn good and well that is not going to happen.

Second, they presuppose a 35 million annual board feet cut from Alaska Native lands which have not even been conveyed to the Natives yet and probably will not be even by the time next year rolls around.

Mr. Chairman, they presuppose a lot of other figures which the gentleman well knows are highly speculative.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, it does not presuppose the Indian figures. As a matter of fact, it presupposes that the Indians will ship as much of the timber that is now shipped out to Japan and not used for American consumption.

Mr. MEEDS. Mr. Chairman, the figures the gentleman is using presuppose a 35 million board-feet cut. That is in the report, and if the gentleman wants to see that, he can find it. That is 35 million board feet for native lands, and the gentleman and I both know that is not going to happen next year or the year after that.

They presuppose further that with the special cut which is now taking place in Alaska, it is twice as costly to remove timber than under the standard cut, and that is going to increase from 9½ percent. Now, that is 60 percent next year, and the gentleman knows that is not going to happen, and I know that is not going to happen.

So the figures the gentleman is using are highly inaccurate and very speculative. I think it is very conservative to say that the loss of approximately 800 to 1,000 jobs will be the immediate and proximate consequence of the passage of this legislation and the other things I mentioned.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as my friend, the gentleman from Washington (Mr. MEEDS), has already said, this is one of the key areas and one of the areas that was very strongly contested both in subcommittee and full committee, as well as in the distinguished Committee on Merchant Marine and Fisheries when the committee considered the bill.

I have a chart that I am going to have brought in, and that will indicate to us what we are doing here.

There are really two separate issues that we have argued about in connection with this bill. One is the acreage game. Last night I talked about how much acreage was going for different purposes, how much to the States, and how much to the Natives.

It has been pretty generally agreed—and I think the gentleman from Alaska (Mr. YOUNG) and the gentleman from Washington (Mr. MEEDS) would agree—that much more critical in the decisions we make than the acreage figures is the kind of uses that are permitted on those acres.

This amendment deals with the central, essential question of how much land in Alaska is going to be put in wilderness. Let us see where we are on that point.

We talk about an extremist's bill and an environmentalist's bill. I introduced this bill at the beginning of this Congress, and we had 146 million acres of instant wilderness included. That was what was proposed. That is what the Friends of Alaska and the Alaska Coalition, the people who have been lobbying us on this bill, wanted.

When we got through in the Committee on Interior and Insular Affairs, we did not have 146 million acres; we had 74 million acres. We had cut the wilderness in half. The request for total wilderness was cut in half.

When the Committee on Merchant

Marine and Fisheries got through with this bill, we were not at 146 million acres, we were not at 74 million acres, but we were down to 65.5 million acres.

What did the gentleman from Washington (Mr. MEEDS) propose to do, in terms of wilderness for Alaska?

He proposes not 146 million acres, not the 74 million acres that we had, not the 65 million acres that the Committee on Merchant Marine and Fisheries wanted, but 33 million acres of wilderness. That is all we get in all of Alaska if we adopt this substitute.

What is more important is where the wilderness is. We are interested but we are not really concerned about protecting the wilderness in national parks. Everybody agrees we do not chop up national parks. But almost every acre of the Meeds wilderness which he is going to give us in that 33 million acres is in the national parks area.

Look at my chart here. This is keyed, if you will, to the 74 million acre figure of the Committee on Interior and Insular Affairs. This is where the wilderness would be. In national forests we have 3.9 million acres. In national parks, 41 million acres. And in the wildlife refuge, 28 million acres.

The wilderness designation in the Meeds substitute would cut out all of the wilderness protection for the Arctic game range.

We talked about the caribou herd. I wonder if the Members have seen this wilderness program put on by ABC about 2 months ago, which showed this tremendous migration of the caribou herd.

This cuts out all wilderness protection for the Arctic game refuge. More important than this, perhaps, at least as important, in southeast Alaska, in the Tongass National Forest, the largest national forest in the whole forest system, we get not a single acre.

The gentleman from Washington (Mr. MEEDS) tells us, "Well, we do not have any instant wilderness in my substitute." He will tell you, "Just in national parks. What we are going to do for you is to study, and later, somewhere down the road, 5 or 10 years from now, when all of the studies are done, then Congress can come back and fight these battles."

The gentleman makes out that somehow this is very sacred, we have a sacred process, that we have never created wilderness before we have gone through this study mechanism.

We passed the endangered wilderness bill this year. We passed the original act in 1964. Each Congress the last few years has added some to the wilderness system. The fact is that the wilderness system now contains 78 areas and 16 million acres. One-half of all of the area and the three-fourths of all of the acreage have been created by the Congress, without the kind of study that has been requested here.

I would point out that these areas have been studied. These areas have been studied by agencies and by our Committee on Merchant Marine and Fisheries. We are in as good a position as we will ever be.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. UDALL) has expired.

(On request of Mr. PHILLIP BURTON and by unanimous consent, Mr. UDALL was allowed to proceed for 3 additional minutes.)

Mr. UDALL. So the important thing is that we do something about wilderness in Alaska now. We have compromised. We have cut back from 146 million acres, back from 74 million acres, back to 65 million acres. The Meeds substitute would cut out all meaningful wilderness areas in our national forests, places like Admiralty Island.

The bald eagle is almost extinct in most of the States. Except around garbage dumps you cannot find bear. On Admiralty Island, where the Natives want wilderness, we have more bald eagles than in all of the rest of the States put together. It will be a bear habitat. Theodore Roosevelt made a famous trip up there three-fourths of a century ago, and he wanted to make a protected wilderness area up there on Admiralty Island.

We get nothing in that area. We get a study and a promise of perhaps something down the road.

Mr. Chairman, this is a key amendment. It ought to be rejected. It is what this bill is all about. The wilderness is what this bill is all about.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to commend the distinguished chairman of the full committee, the gentleman from Arizona (Mr. UDALL).

I fully endorse and subscribe to his remarks. I associate myself with them.

I would urge my colleagues not to accept this hatcheting amendment on the guts of this bill.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

I am always amazed at the eloquence of my good chairman of the full committee and the convincing ways in which he presents the fact that if this bill is not passed, there is going to be some scourge which will come creeping out of the great darkness and destroy all the wilderness and the wildlife.

What is strange to me, Mr. Chairman, is that we have occupied or inhabited for numerous years. approximately 4,000 years, the area in question. This is by men, by the way, not just by the birds and the bees.

Mr. Chairman, the areas of which the gentleman speaks, very honestly, are wilderness areas by nature alone; and they will continue to be wilderness areas by nature alone unless this Congress has a real crunch put upon it.

Mr. Chairman, the amendment offered by the gentleman from Washington, very honestly, picks out those areas which are the crown jewels, and I think we might call them the family jewels, because if we achieve these jewels, that will direct the whole destiny as far as the wilderness goes. However, the bill, as written, takes in approximately, according to the chairman, 147 million acres. I think we start out with 147 million acres of wilderness. That was the position of the committee, and I do not know what gave them the authority which they seem to espouse to be able to say that that is the right thing to do.

Now I understand the committee has gone down to 74 million acres, the Committee on Interior and Insular Affairs. The substitute amendment offered by the gentleman from Arizona has only 65 million acres in it, is that correct? Is that the position of the chairman, that it has 65 million acres in it at this time?

Mr. UDALL. If the gentleman will yield, that is the position we are advocating in the Udall substitute.

The gentleman from Ohio (Mr. SEIBERLING) and I have discussed trying to offer 10 million more acres to get back to the figure of the Committee on Interior and Insular Affairs rather than the consensus bill.

We have not decided what to do about it, but we cut it in half, from 146 to 74 million. Now the amendment of the gentleman from Washington (Mr. MEEDS) cuts that in half.

Mr. YOUNG of Alaska. What I am trying to say is that the position of the chairman of the full committee is that we are working with his substitute bill; and in reality, we have about 64 to 65 million acres of additional wilderness; is that correct?

Mr. UDALL. If the gentleman will yield further, Mr. Chairman, I want to confer with the gentleman from Ohio (Mr. SEIBERLING). We have been considering an amendment to give back 10 million acres to the Committee on Interior and Insular Affairs.

Mr. YOUNG of Alaska. Then the amendment of the gentleman from Washington (Mr. MEEDS) does not cut it in half.

Mr. UDALL. Yes; it cuts it in half if we take the figure of the Committee on Merchant Marine and Fisheries. He has 64 million or 65 million acres. It is not quite half.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman from Washington (Mr. MEEDS) has specifically touched upon the one criterion.

Nothing precludes us from making wilderness at a later date. Once it is wilderness, the door is locked; and I myself have agreed to lock some of those doors in certain crown jewel areas.

In any event, Mr. Chairman, 74 million acres is approximately 23 million acres less than the area of the State of California. I believe it is greater than the area of the State of Arizona. It is an instant wilderness, without any study. The only areas that have been studied in this proposal and which are in the committee print right now are approximately 33 million acres. That is what the gentleman from Washington has in his amendment, 33 million acres of instant wilderness.

Also, it states specifically that the other areas will be studied. They will be explored to see if there are any minerals there; and then if it is found that there are no other uses for them, they again can be brought back to this Congress and offered for designation as wilderness.

Mr. Chairman, I think the amendment has sound merits. I forget what happened to this deliberative body of ours which passed the Wilderness Act. They said there would be no public input and that everything would be taken into consideration. Then we would come back to the Congress and decide what should be done or what should not be done. However, now, because of a small group wearing a little button with a caribou on it, because of that, we are acting under pressure to do something without any knowledge.

Let us permit the studies to be completed. Then let us bring them back, but let us act responsibly.

If nothing happens, where does this land go? This land does not fly off into the wild blue yonder with the bulldozers chasing it. As the gentleman has said, it goes along under the control of the Secretary of the Interior. He can so designate a wilderness area if he wishes.

But, he also can say that maybe we ought to find out what is there.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I find that this is somewhat of a repetition several times over of the same arguments that we had in the Interior Committee, in the subcommittee, and before the Committee on Merchant Marine and Fisheries. I would like to begin by pointing out a little quote, a little excerpt I found from an old magazine I happened to run across last time I was home in Ohio. The magazine was a 1972 issue, and it was written by somebody about a tour of Alaska, who had visited Mount McKinley National Park. He said that he talked to a typical tourist at Mt. McKinley National Park and asked him why he had come; the tourist said, "I came to see Alaska before it was too late."

Now, everybody that I have ever talked to who is an expert on Alaska—and I do not claim to be, although I have spent a lot of time on it in the last few years—agree that the most important and unique feature about Alaska is its wilderness character. It has wilderness on a scale that we do not find anywhere else in this country, and it is an experience that is so amazing and unique that those Members who have not had it do not know what they are missing. But, it is the kind of experience that the pioneers and the discoverers of America must have had when they came upon this vast, unspoiled, pristine land, teeming with magnificant wildlife.

I think one of the best summaries of it was a little excerpt Congressman WHITEHURST put in the RECORD on May 8. It was with reference to this legislation and the importance of wilderness, and here is what he said:

> Wilderness is not only the magnificant wildlife and scenery, of course, but also the many unique forms and special quality of the Alaskan landscape that grip the minds of all who visit there. Robert Marshall, writing about his explorations in the Alaskan wilds, said—
>
> "No comfort, no security, no invention, no brilliant thought which the modern world had to offer could provide half the elation of the days spent in the little-explored, uninhabited world of the arctic wilderness."

I can personally say from my own experience that that is an accurate appreciation of the feeling that one gets. Now, we do not need to read about what outsiders say. Let me read from a couple of letters I received this year from actual residents of Alaska. The first one is dated January 10, from a resident of Anchorage, and I quote:

> The attraction of Alaska is embodied in the word wilderness whether that is interpreted in terms of an escape from the increasing ugliness of the Outside or an opportunity for adventure or for exploitation and development in the sense of the pioneer days of the wild west. Unfortunately the latter attitude if allowed to run its full course will only result in the same abuses which marred our earlier history.

Perhaps we have heard some of that attitude here today. Let me read from another constituent of the Congressman from Alaska, this one living in Homer, Alaska. Here is what she said:

> It is a sad commentary on Alaskan politics that even those representatives in our state legislature who believe in the concept of resource conservation and protection for wild areas—and there are some, to be sure—for the most part were found mouthing utterings in no great way different from those who categorically oppose any attempt to limit, restrict, or even delay the great grab for Alaska's riches.
>
> In an atmosphere charged with the heat of emotion—where anyone, even long-term Alaskans, who opposes the rip-and-tear, get-it-while-you-can approach to development of Alaska is sure to be raked over the coals—your comments and general attitude were a refreshing breeze from the south.
>
> Alaska possesses great wealth, to be sure. And perhaps her greatest wealth lies in her millions of acres of wild, untrammeled, unspoiled land. This is a treasure beyond counting, a treasure once gone never regained, a treasure belonging—as you so rightly have observed—to *all* of the people of the United States.

Mr. YOUNG of Alaska. Will the gentleman yield?

Mr. SEIBERLING. Not at this moment.

Mr. Chairman, I am still quoting from that letter:

> Alaska possesses great wealth. To be sure. And perhaps her greatest wealth lies in her millions of acres of wild, untrammeled, unspoiled land. This is a treasure beyond counting. A treasure once gone never regained. A treasure belonging—as you so rightly have observed—to all of the people of the United States.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 5 additional minutes.)

Mr. SEIBERLING. Now I am happy to yield to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, you know, I never cease to be amazed to have my good chairman of the subcommittee read letters from my constituents.

Undoubtedly there are people in Alaska who do not agree with me in certain areas, but I represent the whole State of Alaska, and let me say that I received some 2,000 letters taking the opposite view to that which the gentleman has just read and that I have received approximately 200 letters like the one the gentleman has read. But, I repeat, there were some 2,000 letters the other way.

I have here a resolution that was passed by the Alaska State Senate which reads:

> *Be it resolved* That the Alaska State Senate formally opposes the provisions of H.R. 39 as originally submitted, the recommended changes proposed by Secretary Andrus, and the committee substitute proposed by Congressman Seiberling, which will designate vast Alaska acreage in single-purpose use systems, precluding the opportunity to further evaluate these areas to satisfy national needs or the opportunity for state selections; and be it
>
> *Further resolved* That the passage of this bill without a careful mineral inventory and guaranteed access provisions; traditional environmental and economic impact studies; provisions for future agricultural development; completion of the selection process by the State and Natives—

Which we defeated a while ago in the wisdom of this House—

> state game management as guaranteed under the Statehood Act; and cooperative federal-state planning and development—

We took out of the consensus bill—

> would be against the best interests of the citizens of the State and nation alike—

With reference to the letter the gentleman just read, let me again say that it never ceases to amaze me about people who are—and perhaps I should not say this—but who are really mealymouthed, they want to say certain things, but they are afraid to say them. That is a sad commentary. But the gentleman has never found me afraid to say what I think. I believe that those persons should go to their representatives and say what they believe. But, if they do not do that then I would like them to stop saying it.

Mr. SEIBERLING. I would say that there is hardly a politician in Alaska who is not afraid, if he believes in wilderness preservation, to say what he believes. That is because the media in Alaska is dominated by the exploitive interests, and many politicians who have different feelings from that will deny it to anybody.

Mr. YOUNG of Alaska. Will the gentleman yield on that?

Mr. SEIBERLING. I will not. The gentleman can obtain some time on his own.

Mr. YOUNG of Alaska. I would merely like the gentleman to expand on the exploitive part and permit me to comment on it.

Mr. SEIBERLING. I will in a minute.

Let me say I am not trying to prove that this person in her letter largely embodies the majority view in Alaska, although I will note that the Anchorage daily newspaper itself, commenting on the resolution that the gentleman just read, pointed out that the bill has taken in many of the points that they raised.

But I would simply get back to my basic point, which was that the citizens of Alaska have their own ideas on this

and understand why wilderness is important. And it is important to all of us.

Let me just say to the gentleman from Washington that the gentleman seems to think it is wonderful that he has 33 million acres of wilderness in the bill but all but about 3 million acres are in the national parks. You do not need wilderness protection inside a national park, for the National Parks are already protected from development. The reason in the first place to put wilderness in the national parks is to protect the wilderness experience and to give some guidelines to the National Park Service itself as to where they should be developed and where they should not.

I offered at some point during the process to take out the wilderness in the national parks if the gentleman from Washington (Mr. MEEDS) will put 33 million acres in the refuges and he declined the offer. That is because the refuges are open to more development, as are the national forests, which are otherwise operated under multiple use. These are areas where you need to designate the parts that ought to remain wild.

Mr. MEEDS would take some wildlife refuges and put them in wilderness, but they are all, with one exception, out on the Aleutian Island chain where very few people will ever see them.

The Kenai Peninsula—he has 1,300,000 acres in wilderness there—is an existing refuge.

Let us take this question of study. I pointed out earlier those stacks of books on the desk here, and in addition the 17-volume hearing record. Those books were studies made by the Department of the Interior on every one of the areas we are talking about as refuges or parks. And we get to the Arctic Wildlife Range on which they completed a wilderness study, but did not have the hearings. The reason they did not have the hearings was because under the Native Claims Settlement Act which came along at that time, they decided to make this big study as a substitute for the final wilderness review process. There, on the table, are the studies that have been made of the Arctic Wildlife Range. So to say it has not been studied and somehow we must wait until we spend millions of dollars making more studies is just failing to look at the facts as they are.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. Now we get to the real tough issue of southeast Alaska. The gentleman has made a categorical statement that this bill with the 2.4 million acres of wilderness that we have in southeast Alaska would cut out 800 jobs, and he has yet to put that together on his own, because the Forest Service says that they will not, and that it will not in effect eliminate any jobs in southeast Alaska.

As recently as 2 days ago the gentleman from Washington (Mr. MEEDS) sat in a meeting with the Deputy Director of the Forest Service who said that there was plenty of leeway in our bill—not only in the timber that was available, but also they were not even going to impose requirements which they are supposed to do under the existing law already about taking marginal and special timber for several years until the industry could gear up with the equipment of the type that is currently used in the lower 48, so that they could take that quantity. What is more, he pointed out that the Forest Service's latest figures indicate that there is even more timber available for commercial use in southeast Alaska than was thought at the time we prepared our committee report and voted on the bill. What we voted on is set forth on page 163 of our committee report.

Let me say that the Members do not need to take it from me. I have here a letter from the legislative director of the United Mine Workers who makes a big plea for preserving wilderness, and he says this:

> This is not an anti-jobs bill. It is forward looking legislation for which future generations will be greatly appreciative. In drafting this legislation, sponsors have made a thorough effort to protect the jobs and economy of Alaska. The UMWA believes they have done a fine job.

Then he goes on to point out what the exploiting philosophy with no wilderness protection has done to Appalachia, where most of his members have to live and work and suffer the 50,000 miles of polluted streams and the 10,000 miles of high walls and erosion and the ugliness and the death of the wildlife. So I would simply say to the Members that this is a very, very important issue. The gentleman from Washington (Mr. MEEDS) does not come to grips with it, and it is time this Congress did. Our bill gives them that opportunity.

Mr. Chairman, I yield back the remainder of my time.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, before I start talking about some of the mineral conflicts in southeast Alaska, I would like to comment on the remarks that the gentleman from Ohio (Mr. SEIBERLING) makes an innuendo about the exploitive interests that control the news media in the State of Alaska. I think it would be well for the Members of this body to remember that it is these so-called exploitive interests that have helped build America so that we are the strongest economic country in the world. The country that has done more to abolish poverty, sickness, disease, and hunger from one end of this world to the other was built by these so-called exploitive interests in the United States of America, that have helped build a free society. It has not been done without fuel and nonfuel minerals, forest products, trees, and renewable resources. Not without all of the necessary resources that come from the face of the Earth that make it possible to go out and do away with poverty and the backward, impoverished type of living where man was the primary beast of burden.

We have now lightened the load greatly on mankind because of the so-called exploitive interests that the gentleman from Ohio continues to talk about.

I would like to make one more comment about the amendment of the gentleman from Washington (Mr. MEEDS). I support the gentleman's amendment, but I think it would be well for the Members of the House to recognize that it calls for 33 million acres of instant wilderness area. That is an area as large as the State of Alabama, for example. That is a fairly good sized country wilderness area. For any of you that have been backpacking and been away from an improved trail or road, if you want to go into a 33-million-acre area, you can go a long ways before running into any people and it can become a very hostile environment when this happens.

But more importantly, it is unfortunate that the Tongass Wilderness designations in the bill conflict with the major mineralized areas in southeast Alaska. Recent independent studies indicate that three particularly affected discoveries are of major national importance and that the mineral prospects of adjacent areas can also be nationally significant. At a time when oil and mineral imports have pushed the U.S. balance-of-trade deficit to nearly $30 billion, areas containing important minerals warrant extra attention from Congress.

The major finds in SE are the Greens Creek zinc-silver-lead deposit on Admiralty Island, the Bohemia Basin nickel-cobalt-copper find on Yakobi Island, and the Quartz Hill molybdenum discovery in Misty Fjords. Each of these specific deposits is affected by a special land designation and the adjacent lands with high mineral prospects are completely locked up and withdrawn from mineral entry per section 607(g) and 607(k).

The Greens Creek find on the northwest part of Admiralty Island is a valuable zinc-silver-lead deposit. Assays indicate ores with 10 percent zinc, 3.3 percent lead, and 9.5 ounces of silver per ton. There are at least 2 million tons of these rich ores already identified and up to 10 million additional tons. When developed in the late 1980's, it is expected to generate annual gross revenues of $20 million plus.

There are also other mineral interests on Admiralty Island. Just south of the Greens Creek find are the Pyrola claims which have similar potential. On the south end of the island, two ventures have established geologists' camps which are prospecting the Pybus Bay and Gambier Bay areas; both camps have discovered significant geochemical anomalies indicating possibly important mineral deposits.

Admiralty Island's status is a delicate issue since wilderness designation for it may be regarded as one of the primary goals of the environmentalists. It is ironic, however, that this same island has been logged extensively since

the 1890's and been home to three salmon canneries which now are closed. Like most of Southeast Alaska, it may be wild but it is not virgin.

The Bohemia Basin nickel-cobalt-copper deposit on Yakobi Island is the second major find. All of Yakobi Island is part of the 420,000 acre West Chichagof-Yakobi Wilderness except for a 6,000-acre "hole in the donut" encompassing the mineral find. This 6,000-acre "hole" is designated a "potential wilderness" and unless (a) all claims are patented, (b) all environmental impact statements are completed, (c) controls have been imposed "that will prevent any environmental damage to the adjacent wilderness and nearby waters," and (d) commercial production of minerals has commenced by January 1, 1985, the area becomes wilderness. It is virtually impossible to adhere to this arbitrary schedule which insures the elimination of this claim. Moreover, one lawsuit will surely kill it.

Most of Yakobi Island and the northern portion of West Chichagof Island are underlain by the same mineral belt which has produced the Bohemia Basin find and the massive nickel deposit that underlies the Brady Glacier in Glacier Bay Monument. Since the area is likely to contain strategically important minerals, placing it in wilderness and withdrawing it from mineral entry is not in the national interest. Particularly since we import virtually all of our nickel and cobalt supplies.

Last, the Quartz Hill molybdenum find is in the special Misty Fiords area. This 2.3 million-acre area is no longer designated wilderness, but mineral entry is prohibited.

The entire area, especially the southern and northern portions of the Misty Fiords region are highly mineralized. Existing mining claims in the area already cover finds of cobalt, copper, gold, lead, molybdenum, silver, tungsten, and zinc. Since the area does contain important minerals, it makes no sense to completely lock it up and prevent mineral entry while permitting other activities such as logging to continue.

Although the Tongass Forest encompasses over 16 million acres this bill manages to designate wilderness or withdraw from mineral entry the three precise areas which offer highest mineral potential. This senseless and counterproductive overlap is indicative of the poor fashion in which this measure has been put together. Congress can wait a mere 7 months and receive the full fruits of the Forest Service's multiyear Tongass Land Management Plan (TLUMP), and have the information available to designate ample wilderness without these conflicts. Or Congress could act to draw more careful boundaries which protect critical wilderness values without foreclosing on mineral development. For example, the West Chichagof Wilderness could be established as a 300,000 acre-unit or in the Misty Fiords, a 500,000-acre Granite Fiords wilderness unit could be created and cause few if any conflicts. If this bill is to represent all national interests, Congress should either reduce these wilderness areas to minimize conflicts or postpone its decision a few short months and act on good solid information.

I might say to the Members that the gentleman from Nevada (Mr. SANTINI) and I have brought in charts that we use quite a bit as we have the opportunity to present this point of view. I wish the Members would look at the situation the United States is in with respect to nonfuel minerals. We are, in fact, in a crisis in nonfuel minerals. The charts are down here to look at showing the dependence we have on foreign countries.

The Meeds bill, although it does not go as far as one should go, goes a lot further toward recognizing the necessity for the United States to at least keep the opportunity open for someone to go out and develop a mine and produce the necessary minerals. Each of these deposits that I mentioned, specific deposits, are affected by special land designations in adjacent areas with high mineral prospects. They are completely locked up from mineral entry.

Mr. Chairman, just for example, I picked the State of Mississippi at random. The lockup of Alaska lands is equivalent to the Federal Government placing a "wilderness—no trespassing" sign on a land 3.7 times greater than the size of Mississippi. No resources would be available from these lands, no vehicle recreation, no timber, transportation, minerals or energy. The needs of Mississippi citizens would be entirely ignored. The lockup of lands in H.R. 39, or whatever proposed compromise bill is before us will do great violence. The Meeds substitute would definitely lessen this violence; but in the State of Mississippi, for example, the State of Mississippi could lose 24,000, up to 42,000, additional barrels of oil per day. This is equivalent to 2,976 gallons of gasoline for the average Mississippi family, each decade, which can power the family automobile over 50,000 miles, and 5,492 gallons of heating fuel, or about 20 percent of an average Mississippi family need for home heating fuel.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

(By unanimous consent, Mr. SYMMS was allowed to proceed for 2 additional minutes.)

Mr. SYMMS. Mr. Chairman, in addition there would be higher taxes because of locked-up Alaskan lands.

There would be higher inflation because of locked-up Alaskan lands.

There would be less family income because of locked-up Alaskan lands. For example, the average Mississippi family could suffer $620 less income from a less healthy and slower growing Mississippi economy if Alaskan lands are locked up.

There would be fewer jobs because of locked-up Alaskan lands. The reliance on higher priced and less reliable oil from abroad and slower growth of the economy caused by Federal energy taxes would result in 7,000 fewer jobs for Mississippi workers. Another way of saying it, keeping Alaskan lands open could mean 7,000 more jobs for Mississippi workers than if the bill, H.R. 39, is passed.

Mr. Chairman, I think the gentleman from Washington (Mr. MEEDS) has offered a bill that is good for the environment. It recognizes that human beings—that is, people, homo sapiens—are the most part of our environment.

It will not do us very much good to try to preserve Alaska for the caribou and for the wolves if the people do not have jobs, if the people are starving. It will not do us any good if people do not have work and suffer from poverty and disease and a lower standard of living all the way around.

Mr. Chairman, I urge the Members to support the gentleman from Washington (Mr. MEEDS) and his position. I have been on the Committee on Interior and Insular Affairs for 5 years with the gentleman from Washington, and he has by all standards earned his credentials as being a proconservationist. I would say this legislation he is offering would before any other Congress be viewed as an extreme land grab by those who want to preserve jobs and those who want to use natural resources.

Mr. Chairman, I urge the Members to take a look at this amendment. It is a very moderate approach, and it does, after all, call for wilderness area that is larger than the entire State of Mississippi.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I do not see the Meeds amendment as a particular gutting amendment. It is a question of balance and judgment, and I think we have to understand that we all tend to exaggerate at times in order to get our point across to this House.

We must keep this in mind: That when we talk about wilderness, we are not talking about totally locking up an area. The wilderness we have defined here, as has been indicated, is a compromise program. It was compromised when it came over from the Committee on Merchant Marine and Fisheries, as far as definitions go.

So that everybody may understand, we are not locking up this 65 million acres. We are allowing hunting and fishing to take place in that area; we are allowing all Native subsistence activities in that area, including the use of snow machines; we are allowing for the development of aquaculture facilities; we are allowing for fish research in parks; and we are allowing access to this area by aircraft and motorboats. That was the way people gained access to virtually every portion of Alaska in the past, by aircraft, motorboat, snow machines, and various kinds of vehicles.

Also, we can move into these areas to control fires, insects, and disease. Grazing has already been established by prior usage, which is going to be allowed under the new definition.

Commercial services to the extent necessary for activities which are proper for realizing recreational or other purposes of the area are allowed under the definition. Other uses to the extent necessary to meet the minimum require-

ments for administration of the area are allowed.

I would remind my colleagues that we also have the mineral assessment provision. Believe it or not, the Standard Oil Co. is under contract, and on page 228 it says that under the mineral assessment we are authorized to enter into contracts with public and private entities to carry out core drilling and associated kinds of activities. That is true for all public lands.

Mr. Chairman, I support the Udall substitute, the so-called consensus bill. I resist changing the wilderness acreage, whether it is increased or decreased. I think we have arrived at a fair compromise.

We looked at the Alaska Maritime area. The Interior Committee had designated 2.9 million acres in that area and the Merchant Marine and Fisheries Committee agreed with that designation.

So far as the Alaska Pennisula with 600,000 acres is concerned, that is going to be in some kind of a cooperative management area if our Committee on Merchant Marine and Fisheries has its way. So we did not change that.

With respect to the Arctic, consisting of 13.13 million acres, we thought that ought to be wilderness because we felt the 22 million acres adjacent to that acreage was roughly the same quality, and that this type of mineral area ought to be explored long before this area would be.

I have asked the oil and gas companies what their program is for the development of Naval Petroleum Reserve 4, better known as Pet 4. I have written to the presidents of every major company, and this is the standard answer we received: "This area is so large that we just cannot come up with a program. It's more than we have ever engaged in, more than we have ever looked at."

So the existing petroleum in Pet 4 is subject to a refuge overlay and this is going to persevere for a number of years.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 3 additional minutes.)

Mr. LEGGETT. Mr. Chairman, to continue, we supported a wilderness area in Becharof, and the gentleman from Alaska wanted a pipeline there. But outside of that, we think pretty much alike on that area.

In the Innoko Area, 1.24 million acres was designated by the Interior Committee, and in large part that is land that is very promotive of migratory waterfowl. It is not usable for much else. We thought that was an excellent area in which to maintain and create the conditions we want.

In Izembek, we had 300,000 acres; in the Kanuti Area there are 300,000 acres; and in the Kenai Area there are 1.4 million acres. We raised the number of acres in the Kenai National Area for so-called pristine wilderness purposes.

We supported the Selawik designation of 240,000 acres; we did not support the Koyukuk calling for 900,000 acres; the Nowitna calling for 480,000 acres; the Tetlin for 100,000 acres; the Togiak for 2.17 million acres; the Yukon Delta for 2.3 million acres; the Yukon Flats for 1.97 million acres.

I intend to support that position. I am going to resist efforts to increase the wilderness here by some 8 million or 9 million acres and, likewise, I feel it is reasonable to resist the amendent offered by my colleague, the gentleman from Washington.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, the gentleman said that we had comments from presidents of companies. They said the area was so vast they did not have any plans for it.

I remember an old story my daddy told me one time. There was a little boy, who happened to go to a movie, and Mae West was in it. And some dirty old man was looking, and he said, "What would you do with that?" And the boy said that it was so big he just did not have any plans for it but he would grow up some day and he probably would not make that statement.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to advise my colleagues that it is our plan, the plan of the floor leaders of the bill, as soon as we can get a vote on the pending Meeds substitute to this title, to move that the committee rise for the evening.

In just a moment I will make the unanimous-consent request, and we will see if we can get a vote in 10 or 15 minutes, giving the remaining Members a chance to be heard.

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, I would like to have a vote on this amendment tonight. I do not believe all of the Members have commented on this amendment.

Mr. UDALL. Mr. Chairman, before I make the request, let me advise the Members that tomorrow the House comes in at 10 o'clock. I know of no other business. We will be back here at 10 o'clock. The leadership has instructed me that we should conclude our business by 3 o'clock, and it will be our hope and our expectation and our effort to try to conclude the bill tomorrow.

If not, we will go into next week.

With that explanation, Mr. Chairman, I now ask unanimous consent that all debate on the pending Meeds amendment and all amendments thereto close at 5:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute each.

The Chair recognizes the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, as one who has felt the impact of legislative effort of this committee from the enactment of the redwood forests bill, I have a genuine concern about the potential job loss as it relates to this particular piece of legislation.

I will not have the time now, but I will incorporate into the record some of the research which I have been furnished by the research people of the Forest Service. That will spell out in specific terms the tremendous job loss that can occur in the Tongass area, and I want to share this material with my colleagues on the floor of the House.

Mr. Chairman, some of the Members are no doubt familiar with the debate on the redwood forests bill. At this point right now we have 700 people out of work in Humboldt County, Calif., as a direct result of that act. The same thing will happen in this area unless we give support to this amendment.

Mr. Chairman, wilderness designations within the Tongass National Forest in southeast Alaska have emerged as one of the major issues in the entire D–2 lands debate. This is indeed ironic since section 17(d)(2) was never designed to deal with already reserved Federal lands or wilderness. A brief reading of 17(d)(2) will reveal that it refers to withdrawing "up to but not to exceed 80 million acres of unreserved Federal lands; the Tongass Forest was created in 1907 and constitutes 16 million acres of already reserved Federal lands. Wilderness designations within an existing forest clearly do not belong in a D–2 lands bill.

Regardless, the bill will have adverse impact on the existing forest products industry and more importantly the people who work there. There is virtual certainty that between 300 and 1,100 timber related jobs will be lost if the bill is enacted.

TIMBER HARVEST AND JOBS

CURRENT SITUATION

Annual potential yield (APY) in the Tongass is now approximately 776 million board feet (MMBF) of timber and the average annual harvest in the 1972–1976 period was 510 MMBF. However, 91 percent of these harvests came from standard commercial timberlands and 9 percent from so-called marginal and special timberlands.

A forest products industry employing about 3,500 people harvests this timber and provides 27 percent of the region's employment. Despite the employment offered by the timber industry, fishing, and the State government, the jobless rate in southeast Alaska exceeds 16 percent.

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Forest Service data indicates that enactment of either bill will reduce the allowable cut by an average of 143 MMBF which permits harvest of up to 633 MMBF. At first glance, this is seemingly adequate to maintain the current cut level. Within this 633 MMBF, however, only 53 percent is standard timber, while 32 percent is special and 15 percent marginal. Right now the industry secures 90 percent of its timber from the standard category and 10 percent special and mar-

ginal. It is also critical to know that the Forest Service estimates that operating costs on these special and marginal lands are 50 percent higher than on standard timberlands. It is clear, therefore, that forcing the industry to rely on these extra costly marginal areas for almost half of its timber constitutes a crippling financial blow.

Let us examine two timber harvest scenarios which are likely to occur if this bill is enacted. Taking 633 million board feet and assuming the industry can harvest all the standard timber and can take 20 percent of the special and marginal stands—which is in excess of the current harvest of these costly stands—total harvest is approximately 395 million board feet; 395 million board feet is 115 million board feet short of the current harvest.

The impact of this shortfall is likely to be catastrophic. There are approximately 10 jobs in southeast Alaska tied to each million board feet of timber. If a 115 million foot shortage occurs, resultant job loss will be around 1,150; 1,150 jobs are nearly 9 percent of total employment in southeast Alaska and when coupled with the existing 16 percent unemployment, the bill's impact is to drive the unemployment rate in southeast Alaska to a devastating 25 percent.

Some critics have maintained that the industry will just have to substantially increase it's harvest on these costly special and marginal areas. However, even if the industry increases it's use of these timbers by over 200 percent—most unlikely given the 50 percent extra operating costs—harvest cannot get much above 475 MMBF. This, of course, remains 35 million board feet short and in turn will generate job loss of about 350.

Economic disruption of this magnitude is too severe a price to pay for instant wilderness in the Tongrass Forest. When one realizes that only 5 million acres in the Tongass are commercial timber, it is possible to create vast wilderness areas without affecting a single timber job. Nevertheless, the drafters of this bill have managed to put 2½ million acres of wilderness in the heart of the commercial timber. The creation of resource conflicts of this nature is tremendously unfair to Alaskans, and clearly not in the national interest.

(By unanimous consent Mr. KOSTMAYER yielded his time to Mr. UDALL.)

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Chairman, one of the major issues that faces our Nation today is that of energy. President Carter asked in his State of the Unoin message that we act to reduce dependence on foreign oil supplies. Our colleagues in the House and the Senate have debated for weeks over what energy policy this Nation should follow. However, the question arises, where do we get the oil to replace that which is now being purchased overseas?

We have an opportunity in this legislation to find the answer to that question. The Arctic National Wildlife Refuge has been conservatively estimated to contain over 4 billion barrels of oil. I say estimated because no one really knows how much is up there. The U.S. Geologic Survey will tell you that they are only 25 percent finished with their studies in the area. Private industry, which is responsible for discovering the huge Prudhoe Bay deposit, has not even had a chance to look. In spite of this, we are being asked to close this area off forever by turning it into a giant 13 million acre wilderness area. Let me remind you that, under wilderness designation, no exploration will ever be conducted.

It is absurd to attempt to close off over 13 million acres, containing an untold amount of oil, without ever having the chance to see what is really there.

I urge my colleagues to support this amendment which will designate 33 million acres as wilderness and leave the door open for study so we can later make a reasoned and responsible decision that will balance our environmental concerns—our very real and proper environmental concerns—with the need to develop our resources for the benefit of all the people, not least among them the poor and disadvantaged who depend on the development of this Nation's energy resources to provide them with jobs and opportunity. When we adopt a policy of no-growth, those who have may or may not keep what they have—but those who have not will continue to have not. And that is why we must balance environment with growth—and that is why we must support this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman and members of the committee, largely through the use of wilderness, one-third of the State of Alaska, if this legislation passes, will be effectively prevented from any new development.

I said last night that this is a cheap vote for most people because Alaska is away off up there somewhere, and most Members do not have to face those constituents. Most of their own constituents probably want to keep it in a pristine state.

However, Mr. Chairman, the fact is that we should look at it from an Alaskan standpoint or from our own standpoint. If the same kind of thing were thrust upon us, how would we like to have one-third of our State effectively prevented from any new development?

Mr. Chairman, it is a mischievous part of this bill to place so much area instantly in wilderness and to provide that kind of lockup and to prevent growth and development for Alaskans. We should not do that to that State.

(By unanimous consent, Mr. JOHNSON of Colorado yielded his time to Mr. YOUNG of Alaska.)

The CHAIRMAN. The Chair recognizes the gentleman from Idaho (Mr. SYMMS).

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding, Mr. Chairman, supporters of instant wilderness in the Tongass Forest in Southeast Alaska have gone through a series of gyrations in an effort to show that there will be no loss of timber related jobs caused by this bill. Unfortunately, for them, the only statistical case put together to support a "no job loss" finding is in error. Its calculations contain two critical mistakes that completely invalidate the finding.

First, such calculations fail to subtract 25 MMBF of timber contained in the five existing wilderness study areas in the Tongass Forest. These areas were administratively designated and timber within them cannot be included in annual allowable cut assessments. Moreover, such areas cannot be simply undesignated because of the National Forest Management Act and associated regulations. Once committed to study, these areas remain in quasi-wilderness status until the study is finished and submitted to Congress.

The second critical error is the inclusion of 35 MMBF of Native timber. Proponents of the bill argue that since the Native corporations are selecting many lands because of timber values, harvest of such timber is probably and should be included in any assessment of the impact of the bill. Superficially, this appears sound. However, the Natives have responded angrily to the concept of using their timber to support the existing industry. A March 13, 1978 letter from John Borbridge, President, Sealaska Native Corporation to the Secretary of Agriculture outlined these concerns.

The Borbridge letter stated that:

> People seem to be justifying (their) positions with respect to instant wilderness in Southeastern Alaska by attributing a substantial portion of the jobs to be created by the Native corporations to be jobs to be taken over by persons who have lost their present timber related jobs due to the imposition of vast wilderness areas on the Tongass National Forest . . . we had always envisioned when the Alaska Native Claims Settlement Act was enacted that one of the major benefits which would accrue to the Native shareowners . . . would be an additional job base so as to provide the opportunity for more jobs to the shareowners of the Native corporations.
>
> Consequently we find it disconcerting that that Secretary of Agriculture should take a position that utilizes the Native corporations' job base as a replacement job base for existing industry, rather than observing the potential for additional jobs by leaving the existing industry's job base supplied solely by the national forest timber.

The letter merely restates what has been accepted policy in the past: Native timber is for Native benefit—not to employ loggers thrown out of work by H.R. 39/12625.

Inclusion of the timber in the wilderness study areas and Native holdings increases the estimated allowable cut by 60 million board feet. This increase coupled with high take from marginal timber appears to provide sufficient timber for the existing industry. Hence, proponents of the bill maintain that the wilderness designations within the Tongass will cause no adverse employment impacts. Nevertheless, it is all too

clear that it is impossible to add timber from existing wilderness study areas and Native timber into the cut estimates. Without the use of these timbers in the calculations, actual allowable cut and harvest levels which are short of current harvest—far enough short that over 1,000 jobs are likely to be lost.

Mr. SYMMS. Mr. Chairman, with the remaining part of my time, I would just say that the instant wilderness in Southeast Alaska is based on the assumption that nothing can be done with the forest lands of Alaska.

This is quite contrary to the truth, there are great strides taking place today, working with renewable resources in forestry in the Scandinavian countries. In Arctic forest lands, it would be tragic for this House to instantly put vast acreages of mineral and forest lands away when, after all, the same people who talk about wanting to develop solar energy will then deny us the use of the greatest solar energy converter of all time, a tree, by putting it in a wilderness area where no one can use it. What we should do is remove those trees from wilderness and use them under good forest management practices.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, if we struck the wilderness from the national parks in accordance with the Meeds proposal, we would end up with 4 million acres, and most of them are out in the Aleutian Islands where nobody will ever see them.

Mr. Chairman, these things can be studied and have been since 1972. One can hardly call that "instant wilderness."

I would just like to ask this House if, after all the work and all the time these committees have put on this bill and after hearing everybody saying that wilderness is the key matter in Alaska—and only 18 percent of it is in wilderness in this bill—we can say to the public and to our constituents that all we could come up with is 4 million acres, one-half of one percent of the land surface of Alaska, for wilderness? I submit that we cannot.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment, which will have the effect of eliminating the wilderness areas of the proposal. This amendment would allow for the mining interest to enter these areas, and remove the resources with the public left with nothing but scarred lands after this operation.

Mr. Chairman, I submit that this is not consistent with the original, worthy merits of this landmark proposal. The designation wilderness is designed to foreclose the mining activities in these areas, thus retaining the land in as natural and undisturbed a state as possible. This will allow for the wildlife to exist virtually untouched by the effects of mankind.

Mr. Chairman, I submit that this redesignation is not necessary. We have heard that roughly 95 percent of the oil and gas potential and 70 percent of the mineral potential are outside the boundaries of the bill.

The proposal offered by the gentleman from Washington would result in the eventual adverse impact on the wildlife existing in these areas, either directly through the exploration and development activity, or through the effects this activity will have on the foliage, water, and other resources that the wildlife is totally dependent upon.

The area that is proposed for wilderness under this bill includes the southeast Alaska lands, which contains some of the best habitats for bear, eagle, salmon, and other wilderness in the country. It also includes some of the most scenic and accessible lands in all of Alaska. We must act now, not next year or sometime in the future, to secure this area for future generations. If we allow this amendment to be approved, and then in the future, decide to reverse ourselves, the damage will have been done. The area will be irreparably harmed.

The wilderness designations have been carefully drawn, and have been compromised in order to appease some of the commercial mining, and oil and gas interests. I submit that we have gone far enough. Before we give away the whole store, I strongly urge my colleagues to reject this additional weakening proposal.

Finally, Mr. Chairman, I would like to remind my colleagues that there is nothing we can do to reverse ourselves once we allow these interests to commence their operations in the lands. However, we can reverse ourselves and allow for these activities in the event we find ourselves in a desperate state in the future which dictates that we redesignate these lands and remove the resources.

Mr. Chairman, I urge the rejection of this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, one thing should be brought to the point: The Meeds amendment on wilderness will allow the proper studies to take place. There was a comment made that we have spent all this time, and the good gentleman from Ohio said that we have spent 18 months or so on this bill. They have all those stacks of volumes and studies. But, to my knowledge, not one of those stacks over there contain one study on southeast Alaska, the area that is directly affected, the area with the most potential for job loss, and yet not one concrete study today in print is there.

Most of the Members have not been to the Tongass National Forest. It is an absolutely beautiful place of old trees, grayheaded old ladies standing there rotting slowly but surely. I have said all along that we must recognize the proper logging practices, but practice them so that the trees will be there in the future.

I happened to have the fortunate opportunity to go see a 195-foot tree felled. That is a big tree, 8½ feet through. It was a beautiful tree, but after it had fallen I walked over to the butt, and there was a 2½-foot rotten space, 28 feet deep into the heart. It was a dying tree.

I am not saying that we should cut them all down, but let us recognize that if we do not cut some, there will not be any in the future. The idea that we are going to save all this for now is not recognizing the future.

I think the Meeds substitute should be voted on. It should be passed, and make all that more compatible with the environment.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, the judgment of the future upon us in this Congress, in this bill, is going to be, in my belief, whether we came out with balance. Did we try to have it both ways? I think on one hand we have given the people of Alaska a generous land settlement. We have saved mineral areas, potential oil areas, timber areas, but this is the other side of the coin. This is whether we are really going to say to Alaska, "What makes that place so special, a good chunk of wilderness?"

We are going to give the caribou a chance to survive, or we are going to let them go the way of the buffalo in the lower 48. We have compromised; we have recompromised; we have compromised again.

We started out asking for 146 million acres. The Committee on the Interior and Insular Affairs cut it to 74 million, more than half. The Meeds proposal now cuts this below half of that, down to 33 million acres. Most of those acres, nearly all of them except for 4 million, are in the national parks that do not need protection anyway. The areas that need protection are in the refuges, the crucial fragile areas, the Arctic game range areas covered in the Interior bill and the Merchant Marine bill.

So, I hope that we will defeat the Meeds substitute for the wilderness title, and then we can conclude our work for today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS) to the amendment offered as a substitute by the gentleman from Arizona (Mr. UDALL) for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The question was taken; and the Chairman being in doubt, the committee divided, and there were—ayes 38, noes 30.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 240, not voting 75, as follows:

[Roll No. 336]

AYES—119

Allen	Beard, Tenn.	Burleson, Tex.
Annunzio	Bowen	Cederberg
Archer	Breaux	Chappell
Ashbrook	Brown, Ohio	Clausen,
Bafalis	Broyhill	Don H.
Bauman	Burgener	Clawson, Del

Collins, Tex.	Jenrette	Pritchard
Crane	Johnson, Calif.	Rahall
Cunningham	Johnson, Colo.	Rhodes
Daniel, Dan	Jones, N.C.	Risenhoover
Daniel, R. W.	Kazen	Robinson
de la Garza	Kelly	Rostenkowski
Delaney	Kemp	Rousselot
Dent	Ketchum	Rudd
Derwinski	Kindness	Russo
Devine	Krueger	Santini
Dickinson	LaFalce	Satterfield
Dicks	Livingston	Schulze
Duncan, Oreg.	Lott	Shuster
Edwards, Ala.	McCormack	Sikes
Edwards, Okla.	McDonald	Sisk
Fary	McFall	Slack
Flynt	McHugh	Snyder
Foley	McKay	Stangeland
Forsythe	Marriott	Stockman
Fountain	Martin	Stump
Gammage	Mathis	Symms
Goldwater	Meeds	Taylor
Goodling	Michel	Treen
Guyer	Miller, Ohio	Waggonner
Hagedorn	Montgomery	Walker
Hall	Moore	Walsh
Hammer-schmidt	Moorhead, Calif.	Wampler
Hansen	Murphy, Ill.	Whitley
Hightower	Nichols	Wilson, Bob
Hillis	O'Brien	Wilson, Tex.
Holland	Oberstar	Young, Alaska
Hubbard	Patten	Young, Fla.
Huckaby	Poage	Young, Mo.
Hyde	Price	Zablocki

NOES—240

Abdnor	English	Lederer
Akaka	Ertel	Leggett
Alexander	Evans, Colo.	Lehman
Ambro	Evans, Del.	Levitas
Ammerman	Evans, Ga.	Lloyd, Calif.
Anderson, Calif.	Evans, Ind.	Lloyd, Tenn.
Anderson, Ill.	Fenwick	Long, Md.
Andrews, N.C.	Findley	Luken
Applegate	Fish	Lundine
Armstrong	Fisher	McClory
Ashley	Fithian	McDade
Aspin	Flippo	McKinney
Baldus	Florio	Madigan
Barnard	Flowers	Maguire
Beard, R.I.	Ford, Mich.	Mahon
Bedell	Ford, Tenn.	Mann
Benjamin	Fowler	Markey
Bennett	Fraser	Marks
Bevill	Frenzel	Mattox
Bingham	Garcia	Mazzoli
Blanchard	Gaydos	Meyner
Blouin	Gephardt	Mikulski
Boggs	Giaimo	Mineta
Bonior	Gibbons	Minish
Bonker	Gilman	Mitchell, Md.
Brademas	Ginn	Mitchell, N.Y.
Brinkley	Glickman	Moakley
Brodhead	Gonzalez	Moffett
Brooks	Gore	Mollohan
Brown, Calif.	Gradison	Moorhead, Pa.
Brown, Mich.	Grassley	Moss
Buchanan	Green	Mottl
Burke, Fla.	Gudger	Murphy, N.Y.
Burke, Mass.	Hamilton	Murphy, Pa.
Burlison, Mo.	Hanley	Murtha
Burton, John	Hannaford	Myers, Gary
Burton, Phillip	Harkin	Myers, John
Byron	Harrington	Myers, Michael
Carr	Harris	Natcher
Cavanaugh	Harsha	Neal
Chisholm	Hawkins	Nedzi
Clay	Hefner	Nolan
Cohen	Heftel	Nowak
Coleman	Hollenbeck	Oakar
Conable	Holt	Obey
Conte	Holtzman	Ottinger
Corcoran	Horton	Panetta
Corman	Howard	Patterson
Cornell	Hughes	Pattison
Cotter	Ichord	Pease
Coughlin	Ireland	Pepper
D'Amours	Jacobs	Perkins
Danielson	Jeffords	Pettis
Davis	Jenkins	Pickle
Dellums	Jones, Okla.	Pike
Derrick	Jones, Tenn.	Preyer
Downey	Jordan	Pursell
Drinan	Kastenmeier	Quillen
Duncan, Tenn.	Keys	Railsback
Early	Kildee	Rangel
Eckhardt	Kostmayer	Regula
Edgar	Krebs	Reuss
Edwards, Calif.	Lagomarsino	Rinaldo
Eilberg	Latta	Roe
Emery	Le Fante	Rogers
	Leach	Roncalio
Rooney	St Germain	Vanik
Rose	Staggers	Vento
Rosenthal	Stanton	Walgren
Roybal	Steed	Waxman
Ryan	Steers	Weaver
Schroeder	Steiger	Whalen
Sebelius	Stokes	Whitehurst
Seiberling	Stratton	Winn
Sharp	Studds	Wirth
Simon	Thompson	Wolff
Skelton	Thone	Wylie
Smith, Iowa	Traxler	Yates
Smith, Nebr.	Trible	Yatron
Spellman	Udall	
Spence	Van Deerlin	

NOT VOTING—75

Addabbo	Erlenborn	Sarasin
Andrews, N. Dak.	Fascell	Sawyer
AuCoin	Flood	Scheuer
Badham	Frey	Shipley
Baucus	Fuqua	Skubitz
Beilenson	Heckler	Solarz
Biaggi	Kasten	Stark
Boland	Lent	Teague
Bolling	Long, La.	Thornton
Breckinridge	Lujan	Tsongas
Broomfield	McCloskey	Tucker
Burke, Calif.	McEwen	Ullman
Butler	Marlenee	Vander Jagt
Caputo	Metcalfe	Volkmer
Carney	Mikva	Watkins
Carter	Milford	Weiss
Cleveland	Miller, Calif.	White
Cochran	Nix	Whitten
Collins, Ill.	Pressler	Wiggins
Conyers	Quayle	Wilson, C. H.
Cornwell	Quie	Wright
Diggs	Richmond	Wydler
Dingell	Roberts	Young, Tex.
Dodd	Rodino	Zeferetti
Dornan	Runnels	
	Ruppe	

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

● Mr. FASCELL. Mr. Chairman, I rise in support of the bill. The establishment of new national parks and refuges in Alaska through the enactment of H.R 12625 is in the best interest of the people of this country. Moreover, the protection of whole ecosystems and the inclusion of sufficient lands to keep them viable in the future is in the best interest of all taxpayers. This is a lesson we learned, almost too late, in Florida. The taxpayers will be spending approximately $200 million for the purchase of lands in Big Cypress.

As the watershed to the Everglades, Big Cypress should have been protected when the park was first established some 55 years ago. Lack of action at that time has resulted in substantial acreage going into private ownership and land prices escalating to their present levels. The same thing happened in California. The Congress has just recently approved the acquisition of 48,000 acres to take in the critical watershed which was left out of the original Redwoods National Park.

In Alaska the lands are nearly all federally owned. They belong to all of us. Thus, in establishing national parks for future generations through enactment of H.R. 12625, the Udall consensus substitute, we have an opportunity to do it right the first time. Some would have us believe that what have been described as "minor boundary adjustments to eliminate mineral conflicts and other economic resource issues" are in our best interest. Through these concessions, it is intended that certain lands will be available for private development.

We have also learned in Florida the consequences of that sort of decisionmaking. When Everglades National Park was established, the agricultural lands in the "Hole-in-the-Doughnut" area were excluded. For many years, this caused concern for the ecological safety of the Everglades due to the effect of runoff from the pesticides used in agricultural activities. Several years ago we finally authorized and appropriated sufficient funds to acquire the remaining inholdings and all of these lands are now part of the national park. Fortunately, it does not appear that any permanent damage occurred. However, we were lucky and we should be careful to learn from such experiences.

It is because of the lessons we have learned in Florida that I support the enactment of H.R. 12625 and intend to support those strengthening amendments that insure the integrity of the national parks and wildlife refuges in Alaska.

Florida may be farther from Alaska than any other State, but Alaska's future is of great interest to the residents of my district. South Florida, like Alaska, has natural environments unique to the United States. In the early part of this century, our national wildlife resources were almost destroyed for economic interests, but we moved to protect those natural assets and established great national parks, several wildlife refuges and, more recently, a new national monument. Much of the land area in my district is either in national park or national wildlife refuge status, and these resources are a national treasure that are the basis of a sound tourism and recreation economy. H.R. 39 will provide the same kinds of opportunity for Alaska.●

● Mr. AMMERMAN. Mr. Chairman, Alaska has been eloquently described as America's last great wilderness frontier. This is an invaluable natural resource and a cornerstone of our Nation's heritage which we have an obligation to safeguard. We can meet that obligation by enacting H.R. 39, the Alaska National Interest Lands Conservation Act. The consensus version of this bill worked out by the Interior and Merchant Marine Committees—H.R. 12625—deserves the support of this House. It is a well-conceived measure that has incorporated the concerns of a diversity of interests. Alaska's future economic health has been assured by leaving two-thirds of the State open for potential development and by excluding areas of particularly high resource value from the boundaries of the H.R. 39 conservation proposals.

We now have a responsibility to secure the future of those Federal lands that are owned by all the citizens of this Nation—Alaska's awesome mountains, broad river valleys, majestic forests, and fragile tundra. Through the creation of new national parks, wildlife refuges and wild and scenic rivers we can guarantee that Alaska's highest priority natural areas will be managed in a way that will protect their important values.

The compromise version of H.R. 39 soon to be voted on by this House will protect some 95 million acres of national interest lands—some 20 million acres less

than in the original version of the bill. Acreage to be designated for wilderness has been slashed in half. I am sure many citizens feel we have already compromised too much in meeting the concerns of development interests. Any further weakening of this bill would seriously undermine the integrity of these conservation proposals and the effort to preserve whole ecosystems so necessary to maintain this wilderness frontier and its myriad wildlife populations.

Mr. Chairman, I will personally support amendments to strengthen the wilderness provisions of H.R. 39. Wilderness designation for qualified areas is the best and most comprehensive form of protection for Alaska's wildlands and wildlife. It is the only way to make certain that Alaska will be a lasting wilderness frontier. The compromise version of H.R. 39 comes dangerously close to giving this essential protection to mere fragments of Alaska's wildlands, leaving the door open for the insidious sort of development pressures that can gradually erode the wild qualities that are the essence of Alaska.

Many misunderstandings and misconceptions are clouding this entire issue of wilderness designation in general and for Alaska's national interest lands in particular. Clarification of a few of these misconceptions would be helpful during consideration of this legislation. Wilderness has often been erroneously criticized as single use management. This is far from the truth as wilderness permits numerous uses and serves a multitude of purposes. Wilderness protects watersheds and water quality, wildlife habitat and scenic landscapes. It preserves natural plant communities and the genetic diversity of complex ecosystems. Wilderness also provides unparalleled opportunities for recreation—not just backpacking, but canoeing, fishing, hunting, birdwatching, snowshoeing and general nature study as well as a chance to experience true solitude and the freedom and challenge of the wilds. A wilderness experience has become a source of physical, mental, and spiritual renewal for people of all ages and outlooks.

Wilderness designation by no means implies a "lockout", although certain activities and developments are specifically barred. However, the Wilderness Act does guarantee individuals access to valid property rights or mining claims within wilderness areas. It also permits use of aircraft or motorboats where their use is already established prior to designation of a wilderness area.

Such uses will continue under H.R. 39 since aircraft, snowmobiles and other forms of mechanized transportation are the most practical means of travel over Alaska's vast distances and are well-established uses. Trails may also be constructed in the wilderness and the Federal agency responsible for managing an area may take whatever administrative actions are necessary for the protection and safety of visitors.

It is a misconception that potential wilderness areas must be put through a formal study process prior to being designated. This is not required by the Wilderness Act, although it is one route through which areas are eventually added to the system. Most of the units proposed for wilderness under H.R. 39 have in fact been reviwed for their suitability under section 17(d)(2) of the Alaska Native Claims Settlement Act or according to the Wilderness Act process. The studies conducted by our Federal land managing agencies show without question that these lands qualify as wilderness and are eminently deserving of permanent protection. Further delay would make a mockery of the process.

I am hopeful that the spectacular Misty Fjords area of southeast Alaska's Tongass National Forest can be reinstated in H.R. 39. Wilderness designation for Misty Fjords and other key areas of the Tongass would not adversely affect the timber economy or employment levels in southeast Alaska and this is a fact supported by Forest Service data. Misty Fjords is an area of superb beauty, and wilderness is its highest and best use as it would protect irreplaceable natural values including salmon fisheries which are important to southeast Alaska's economy.

Unfortunately, there are people who look upon wilderness as a relic of another era, an anachroism in the modern world and a barrier to progress. Nothing could be further from the truth. As the great naturalist and forester Aldo Leopold has written,

> The richest values of wilderness lie not in the days of Daniel Boone, nor even in the present, but rather in the future.

Our Nation's heritage was carved from the wilderness, and as the stresses of the modern world press more closely upon us, we will draw from the wilderness ever greater measures of vitality as a people.

Mr. Chairman, Alaska can make no greater contribution to this Nation than in offering us the opportunity to safeguard this last wilderness frontier as a gift to future generations. I urge passage of a strong H.R. 39 as the best means to this end.●

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation System, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2463. An act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes.

PUBLIC BROADCASTING: LOCAL STATIONS NEED OUR SUPPORT ON FUNDING

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, the Subcommittee on Communications, of which I am a member, has been working on proposals for funding public broadcasting for several months. We have voted on a bill which will renew funding for our public television and radio stations through 1983. I would therefore urge all of my colleagues to take this time to evaluate the service that your local public broadcasting stations offer to your communities. In doing so, I believe you will reach the same conclusion that I have: that public broadcasting is a valuable resource to our communities which deserves our maximum support.

I have seen what public television can do in Cincinnati—what it means to our citizens. Many of them have gone out of their way to tell me of their support for our local public television station, WCET. I hear from all kinds of people in my district: people of all occupations and religions, black and white, old and young alike. That is very important to me.

It is also important to this legislation, because the Federal funds are actually appropriated only if matched by non-Federal funds, such as those contributed to WCET by my constituents. In my district, individuals, local corporations, participants in the annual "Action Auction" and other sources provide a broad financial base for the station. In 1968 local members of WCET contributed less than $50,000. Members last year contributed well over $350,000.

That trend in increased local support, combined with provisions in the new bill, will mean that there will be more assurance that our local stations will have ample funding to continue the high quality of programing we have come to appreciate so much. The new bill lowers the matching funds ratio of local to Federal dollars from 2.5 to 1, to 2 to 1, making it easier for stations to obtain Federal funds while insuring that the principle of requiring local financial support remains.

In committee, Mr. BROWN, Mr. GORE, and I offered an amendment which revised the bill to guarantee local control over how funds are spent. The threat to local flexibility was present in an earlier version of the bill which set mandatory requirements as to how the community service grants should be spent. Our amendment passed, and now your local stations will still be able to spend these funds in a way which will best serve your own communities.

Public television is more than just an entertainment medium. The utilization of public television in schools—both public and private—has become a major resource to our educators. With the assistance of instructional television provided by WCET, a suburban school system plagued by primary grade students reading well below the national average was able to turn the trend around in just 1 year. Now, after a 5-year period, this project has been spotlighted nationally as an example of the contribution that public television can make to the educational process.

The riches added to our lives by public radio and television are, in plain fact, perhaps the most inexpensive investment we would possibly make. That is why I am urging you to consider the value of public broadcasting in your own communities, and to vote for this legislation when it comes to the floor of the House.

ENORMOUS BUILDUP OF CONVENTIONAL AND STRATEGIC FORCES BY U.S.S.R.

(Mr. BOB WILSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BOB WILSON. Mr. Speaker, there is a growing number of our citizens, especially those who have in the past distinguished themselves in military service, who are sounding the alarm with regard to Soviet future intentions.

In almost every case, they point to the enormous buildup of conventional and strategic forces by the U.S.S.R. Not by any intelligent standard of measurement could this enlargement of the Soviet arsenal be construed as solely for their own self-defense.

The most recent of our former military leaders to speak out on this series of phenomenons is former Army Chief of Staff Gen. Matthew B. Ridgway. In a letter to members of the Committee on Present Danger, General Ridgway said that he is growing "increasingly disturbed" over the actions of the administration.

General Ridgway went on to say—

> I am convinced that we are on a collision course with the USSR's leadership and that unless there should be a radical change in its objectives, the outbreak of war is only a matter of time.

In his letter, the general reveals for the first time the existence of a report made in 1947 to General Eisenhower when he was Army Chief of Staff that spelled out fully the U.S.S.R.'s goal of achieving military domination of the world. That report has never been made public.

While not discussing his findings in that report, General Ridgway does note that:

> I was impressed with the emergence of a pattern of Russian objectives, indicating to me the existence of coordinated basic objectives which I enumerated and which have been relentlessly pursued. I concluded that in that report well-know Russian moral codes and conduct indicated capabilities with a high degree of probability of accomplishment of its objectives, under an integrated plan to elevate the U.S.S.R. to the position of the dominant military power in the world.

Ridgway stresses that the report put no time limit on when the Soviets might reach the goal, but instead pointed out that regardless of when attained, that military domination would represent a grave menace to U.S. security and the peace of the world.

In the 30 years since General Ridgway's analysis, there has been an immense change in the power relationship of the United States and U.S.S.R.

He writes:

> That relationship has materially altered to our grave disadvantage, with little or no evidence of national recognition of that ominous change, and more vitally important, of a determined resolve to halt and reserve the trend of that change which still goes on.

General Ridgway concludes by saying:

> The dearth of forceful, courageous leadership leaves me deeply distressed. Surely it cannot be any lack of recognition of the pattern of Russian objectives which have been uniformly revealed and adhered to over the past 30 years.

Mr. Speaker, I could not agree more with the general's analysis of the situation and our present position vis-a-vis the Russians. I only hope that we can turn our national thinking around in time—and not be forced to repeat history.

CREDIT UNION NATIONAL ASSOCIATION PRAISED FOR STANCE ON REVERSE DEBIT TRANSACTIONS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I wish to commend the Credit Union National Association for its recent endorsement of consumer rights to reversibility in electronic funds debit card transactions. Reversibiilty would allow the consumers to stop payment on a debit card transaction.

Mr. Speaker, I applaud CUNA for its stand on this vital issue and its obvious concern for the rights of consumers using such transactions. Not only will the right to reverse transactions guarantee consumers fair credit protection, but it will also encourage them to overcome apprehensions in dealing with this new and rapidly growing system of money transactions.

CUNA, which represents most of the 23,000 credit unions and the 30 million individual members in this country, is the first financial institution to endorse the rights to reverse transfers. The association should be proud of its responsible stance. Consumer groups across the country have long maintained that the protection afforded by reverse transfers is of key concern to consumers and CUNA should also be proud of its responsiveness to the public it represents and serves.

Mr. Speaker, this endorsement is especially timely in relation to the legislation now before us. This morning I introduced, along with a number of cosponsors, a clean bill amending the Consumer Credit Protection Act to guarantee consumers the right to reverse transfers. The Committee on Banking, Finance, and Urban Affairs will meet Tuesday, May 23, to markup the bill.

It is imperative that speedy action is taken on this bill and consumers are given the protection they desperately need in electronic funds transfers.●

CUBAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, May 20 is Cuban Independence Day, the 76th anniversary of that nation's gaining of independence from Spain.

The successful culmination of Cuba's long struggle for freedom is a stirring tribute to the courage and dedication of its people. Unfortunately, our appreciation of this event is marred by the realization that Cuba has again fallen under the oppression of an imperialist power.

While the growing ability of the Soviet Union to dictate the policies of Cuba and its dictator Fidel Castro is cause for concern, it is important that we recall the people's victory in 1902 and recognize the hope that it may portend for the future.

We must never forget the proud heritage of Cuban independence, for it was won only after an arduous effort and great sacrifice by leaders of the revolution. Maximo Gomez, Antonio Maceo, and Jose Marti were among the architects of Cuban independence, and their deeds remain a vivid part of Cuban history.

Jose Marti, called the "Apostle of Cuban Independence," still commands the widespread devotion of the Cuban people, who revere him as the greatest hero of the independence movement. Although he died in battle on May 19, 1895, his death fused the Cuban people into an adamant resolve to win their freedom. The revolution had been his creation, and he remained the first among many martyrs.

In recent years, various comments have been made that the United States should end its policy of opposing the Castro regime in Cuba, drop its economic sanctions, or take other actions to ease relations between our nations. I believe that any change at this time would be unwise, if it would call for the United States to grant concessions while receiving nothing in return.

We support the principles for which Cuba's revolutionary heroes fought so many years ago—the right to self-determination, individual liberty, and democratic government. This cause is mocked

by the Castro regime's policy of military intervention in African nations under orders of the Soviet Union.

Because of mismanagement and the suppression of human rights and ideals, the Castro government has compiled a massive debt to its political benefactor, the Soviet Union. The millions invested by the Soviet Union in maintaining the existing regime are now being repaid with the blood of the Cuban people called up as soldiers to serve the cause of communism in foreign lands.

Just as Cuban independence was not won without many years of effort, the task of restoring liberty to Cuba will not be easy. It will require dedication and support on our part for freedom of Cuba from foreign domination.

The occasion of Cuban Independence Day serves to renew our resolve on behalf of the people of Cuba.●

BUSINESSMEN'S COMMITTEE FOR FEDERALIZATION OF WELFARE LISTS PRINCIPLES TO BE INCORPORATED IN WELFARE REFORM PROPOSAL CONSIDERED BY CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, the Businessmen's Committee for the Federalization of Welfare is a group of corporate executives who believe the Federal Government should assume a larger portion of the cost of welfare. In a recent letter, they listed the principles they feel should be incorporated into any welfare reform proposal which Congress considers.

I commend the letter to my colleagues' attention.

The text follows:

BUSINESSMEN'S COMMITTEE
FOR THE FEDERALIZATION OF WELFARE,
New York, N.Y., April 27, 1978.

Hon. ELIZABETH HOLTZMAN,
1025 House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN HOLTZMAN: In May, 1977, we sent you a list of corporate executives calling for federalization and reform of welfare. Since the President's welfare reform program was proposed, we circulated the following more specific statement.

"The undersigned welcomes President Carter's initiative toward welfare reform and urges that three principles be incorporated in the final reform program:

"1. There must be imediate and substantial fiscal relief to hard-pressed state and local governments, which currently bear a disproportionate share of the nation's welfare expenditures, even in advance of the full gearing in of the President's program.

"2. There must be explicit recognition of the basic principle that poverty is a national problem and that the fiscal burden for welfare and other poverty related programs should be borne by the national economy at an early date.

"3. There must be greater equity among states in both benefit levels for welfare recipients and in the per capita tax burden for welfare expenditures moving toward early national equity."

The list of signators follows. Titles are given as of the date they signed the statement.

Bates, Edward B., President, Connecticut Mutual Life Insurance Co.

Beretta, David, Chairman, Uniroyal, Inc.

Berlinger, George F., George F. Berlinger Investments

Block, Joseph C., Honorary Director, Inland Steel Co.

Brennan, Joseph C., Chairman, Emigrant Savings Bank

Brennan, William R., Jr., President, Harlem Savings Bank

Brittain, Alfred, III, Chairman, Bankers Trust Co.

Cohen, Jerome M., President, Williams Real Estate Co., Inc.

Conklin, George T., Jr., President, Guardian Life Insurance Co. of America.

Crawford, Morris D., Jr., Chairman, The Bowery Savings Bank

Durst, Seymour B., President, The Durst Organization, Inc.

Dyson, Charles H., Chairman, The Dyson-Kissner Corp.

Ekblom, Harry E., Chairman & CEO, European-American Bank & Trust Company.

Ellinghaus, William M., Vice Chairman, American Telephone & Telegraph Co.

Gelb, Arthur, President, The Analytic Sciences Corp. (TASC).

Gelb, Harold S., Citizens Budget Commission, Bronx-Lebanon Hospital Center.

Heiskell, Andrew, Chairman, Time, Inc.

Jesser, Edward A., Jr., Chairman, United Jersey Bank.

Klutznick, Philip M., Partner, Klutznick Investments.

Lefrak, Samuel J., Chairman, Lefrak Organization, Inc.

Llewellyn, J. Bruce, President, FEDCO Food Corp.

Luce, Charles F., Chairman, Consolidated Edison Co. of New York, Inc.

Luntey, Eugene H., President & CEO, The Brooklyn Union Gas Co.

May, William F., Chairman, American Can Co.

McAllister, James P., Chairman, James P. McAllister Associates.

McGrath, John P., Chairman, The East New York Savings Bank.

Mudd, Sidney P., Chairman, New York 7-Up Bottling Co., Inc.

Nathan, Robert R., President, Robert R. Nathan Associates, Inc.

Neal, Alfred C., Past-President, Committee for Economic Development.

O'Brasky, David, Publisher, Esquire Magazine, Inc.

Orr, William P., President, The Lummus Company (except for Item No. 1 in statement).

Patterson, Elimore C., Chairman, Morgan Guaranty Trust Co. of New York.

Pratt, Edmund T., Jr., Chairman, Pfizer, Inc.

Richards, Bernard, President, Alpha Portland Industries, Inc.

Rohatyn, Felix G., General Partner, Lazard Freres & Co.

Rosin, Axel G., Chairman, Book-of-the-Month Club, Inc.

Schiff, John M., Partner, Lehman Brothers-Kuhn Loeb Incorporated.

Schulman, S. J., President, The Westchester County Association, Inc.

Segal, Martin E., Chairman, Martin E. Segal Company.

Shinn, Richard R., President & CEO, Metropolitan Life Insurance Co.

Silverstein, Larry, Partner, Silverstein & Mendik Co.

Stanton, Thomas J., Jr., Chairman, First Jersey National Bank.

Stecker, Robert B., Vice President & General Manager, AT&T Long Lines

Terry, Benjamin P., President, Society for Savings.

Tishman, Robert V., President, Tishman Realty & Construction Co., Inc.

Van Fossan, R. V., President & CEO, Mutual Benefit Life Insurance Co.

Winkelman, Stanley J., Chairman, Winkelman Stores, Inc.

Zeller, Robert G., Chairman, F. Eberstadt & Co., Inc.

Sincerely yours,

MORRIS D. CRAWFORD, Jr.,
Co-Chairman.
ANDREW HEISKELL,
Co-Chairman.
WILLIAM M. ELLINGHAUS,
Co-Chairman.●

ANNOUNCEMENT AS TO VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

● Mr. DANIELSON. Mr. Speaker, due to compelling business in my district, I was absent from one rollcall vote on Thursday, May 11, 1978, and from one quorum call and three rollcall votes on Friday, May 12, 1978. I would like to announce how I would have voted had I been present.

Thursday, May 11, 1978, rollcall No. 305. The House rejected, by a vote of 187 ayes to 187 noes, an amendment to H.R. 12222, International Development and Food Assistance Act of 1978, that sought to limit U.S. aid to Panama to 25 percent of the revenues Panama receives from the canal. I would have voted "No."

Friday, May 12, 1978, rollcall No. 306 was a quorum call. Rollcall No. 307. The House agreed, by a vote of 300 yeas to 6 nays, to resolve itself into the Committee of the Whole. I would have voted "yea."

Rollcall No. 308. The House rejected, by a vote of 126 ayes to 189 noes, an amendment to H.R. 12222, International Development and Food Assistance Act of 1978, that sought to make tobacco and tobacco products ineligible for use in the Food for Peace program. 126 ayes to 189 noes. I would have voted "aye."

Rollcall No. 309. The House rejected, by a vote of 148 ayes to 155 noes, a substitute amendment to H.R. 12222, that sought to prohibit funds from being used to aid directly—but not indirectly—Vietnam, Cambodia, Uganda, or Cuba. I would have voted "aye."●

AUBREY "RED" WAGNER, CHAIRMAN OF THE BOARD, TENNESSEE VALLEY AUTHORITY, RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BEVILL) is recognized for 5 minutes.

● Mr. BEVILL. Mr. Speaker, I would like to call to the attention of my colleagues that today marks the retirement of Mr. Aubrey "Red" Wagner from the Tennessee Valley Authority. Red's retire-

ment brings to an end 44 years of dedicated service to the people of the Tennessee Valley and the Nation.

Red began his service with TVA a year after the Agency was created as an engineering aide in the General Engineering and Geology Division. He was assigned to the navigation program and took part first in the planning and construction of the Tennessee River navigation facilities.

In 1948 he was named chief of the Navigation and Transportation Branch. In that position he was responsible for the general planning of TVA's navigation program which had gained great economic significance to the region because of the newly improved Tennessee waterway.

In 1951 Red became assistant general manager and was made general manager in 1954. As general manager he was the Agency's chief administrative officer. Red served in this position until March 3, 1961, when he was named as a member of the Board of Directors for the term expiring May 18, 1969. In June of 1962, President Kennedy designated him Chairman of the Board. President Nixon subsequently reappointed him to a new term and designated him Chairman in May 1969.

The high level of dedication that Red has given in his service to the people of the Valley and the Nation is a quality that all of us can look to as an example of how a public servant should carry out his responsibilities.

Red's active presence in the affairs of the TVA are certainly going to be missed by all who are concerned about the sound development of our precious resources. Under his leadership, we have seen the Valley grow and prosper in an unparalleled fashion.

I will certainly miss his sound advice and his very warm friendship that I have enjoyed immensely over the years when I have had the opportunity to work with him. I want to take this opportunity to wish Red well as he moves into his much deserved slower pace. I am hopeful that he will keep his friends in mind and stay in touch with us and above all, continue to provide us with his views in the things he knows as well as anyone—the TVA and our natural resources.●

A GIANT OF JOURNALISM

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 5 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, Fred Coonradt has taught at the School of Journalism at the University of Southern California—my alma mater—for the last 30 years, and he taught well. As a champion of press freedom, an expert in libel law, a moving force behind the California Freedom of Information Committee, and above all, as one who understands the duties and responsibilities of the journalist, Fred improved the breed of those who bring us the news.

As a crime and police reporter for the San Francisco Examiner and Los Angeles Daily News in the thirties, he learned his craft from the bottom up. Because, as Fred once said, "People kept dying," he became city editor of the Daily News at the age of 23. As any journalist knows, this kind of experience forever immunizes one to the overly theoretical turn of mind that can reduce a teacher's effectiveness.

After various other jobs in the news business, including work as a stringer for Time magazine and a stint as the only picture editor for the Daily News—then publishing 10 editions a day—Fred decided to give the university life a try. His students will testify to his success.

As a professor, his method was distinguished by his emphasis on the practical aspects of newspaper reporting and publishing. On the assumption that the best way to learn about newspapers was to write one, he would ask his students to shape the wire service copy into a front page. The next day, like all the other editors in the city, the students would check their news judgment against the "competition."

Fred always maintained his interest in, and enthusiasm for, the profession, and kept contact with former students. He remained a member of the news hounds' fraternity even though the university signed his paychecks.

Fred Coonradt's expertise was not limited to the practical aspects of reporting. As the author of articles on the press and libel law, Fred was—and is—the man to see in southern California about touchy situations involving possible libel charges.

In sum, Fred was a professional who taught others the standards of good journalism. Believing that only by free reporting of news could a free society be built, Fred Coonradt did all he could to further both these basic values.

I join with many others in California and across the country in wishing Fred a happy and productive retirement. I am sure he will continue to make his considerable influence felt in the news world.●

"GALLOPING SS TAXES PUT EVER BIGGER BITE ON YOU"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

● Mr. BURKE of Massachusetts. Mr. Speaker, for the edification of my colleagues I would like to include in the RECORD an article by Wendell Coltin which appeared in yesterday's Boston Herald American. Mr. Coltin is an acknowledged expert in the field of national social insurance and regularly reports on the social security and medicare programs.

I would ask my fellow legislators to take 2 or 3 minutes to read Mr. Coltin's piece for this reason: Social security taxes are accelerating at a pace that outstrips both progressive income taxes and wage increases. During the next 12 years these same taxes will increase even faster. We are moving from the sublime to the ridiculous in payroll tax policy. Social security taxes have already gone beyond the pale—next year this excise tax on labor will be 12.26 percent of payroll. Without hesitation I can assure my colleagues that such a tax was never, never even imagined by the planners of the system—even in the 1960's. In only 8 years this tax will jump to 14.3 percent of payroll—more than double the level that the founders of the system felt could be economically and politically justified.

Mr. Speaker, in 1955 the payroll tax rate was 4 percent on $4,200 of earnings—a maximum tax of $84. In 1979 the rate will jump to 6.13 percent on $22,900 of earnings—a maximum tax of $1,403.77. This represents a 1,670-percent increase in the maximum payroll tax contribution for a wage earner. Mr. Coltin rightly points out that this grossly inflated social security tax is now the largest tax for more than half of this country's taxpayers.

I would respectfully ask my colleagues to read Mr. Coltin's piece, to question the continuing validity of further payroll tax increases and to wonder why this representative body cannot get before it any proposals to reduce this unconscionable tax.

The article follows:

GALLOPING SS TAXES PUT EVER BIGGER BITE ON YOU

(By Wendell Coltin)

Twenty-five years ago, the average worker paid only 1.5 percent of his first $3,000 earnings in Social Security taxes.

Seven years ago, payroll taxes ate up 5.2 percent of his first $7,800.

Today, the current generation of wage earners gives $1,070.85 (or 6.05 percent) of their first $17,700 earnings for benefits to current retirees. And retirees are receiving benefits—including cost-of-living increases—never foreseen.

Already, more than half of all Americans now pay more in Social Security taxes than they pay in federal income taxes. For most workers, SS taxes are rising proportionately faster than their income.

And, if unchecked, the future of Social Security taxes promises an even heavier burden.

By the turn of the century, the baby boom kids of the 1940s who needed more classrooms in the 1950s, more jobs in the 1960s and more housing in the 1970s will be retiring.

At the moment, the outlook is rosy for the SS retirement and disability trust funds to meet the needs of the 34 million American retirees now receiving benefits. In their annual report yesterday, the trustees of the SS Trust Fund said the payroll tax increases passed by Congress last December will keep the show going for 52 years. However, they added the system could go broke in the year 2030 when the baby boom kids start collecting.

In addition, the report did not mention moves afoot in Congress to roll back some of the increases voted in December.

Rep. James A. Burke, D.-Mass., long has worked to alleviate the Social Security burden of working taxpayers.

Burke, chairman of the House Subcommittee on Social Security, is the sponsor of

H.R. 10668. The bill calls for one-third of the Social Security program to be financed from the general fund. Employers would pay another third, and the remaining one-third would come from taxes paid by workers.

While Burke and others are offering long-term solutions, there may be some short-term help on the way.

Last week, the House Ways and Means Committee voted 19 to 18 for a reduction in Social Security payroll taxes that could save some workers $122.65 less than they are slated to pay in 1979 and $189.52 less than called for in 1980 under the new law.

The biggest savings would be realized by higher-paid employees, but the change favored by the committee would result in some savings for all employees and their employers.

In April, the House Democrats, meeting in caucus, voted 150 to 57 to adopt a resolution requesting the Ways and Means Committee to roll back the Social Security increases and offset them with input from general revenue. Burke says the committee is moving to meet the caucus mandate by approving a bill to make a moderate tax cut and put some general revenue into the system, but he believes it falls short of what should be done.

At this time, with several proposals having been made, the only certainty is that some relief is on the way. The Ways and Means panel meets again today.

The new tax rate schedules in the 1977 Social Security Amendments amounted to an increase of about $227 billion over the 1979–1987 period.

The higher Social Security taxes "pay off" in higher retirement and disability benefits for workers and their dependents and in higher benefits for survivors of deceased workers. The maximum monthly benefit for a worker retiring at age 65 in 1978 is $459.80 and the 6.5 percent cost-of-living increase will boost it to $489.70 in July checks. The increase takes effect next month.

Traditionally, workers' Social Security taxes have been matched on a 50–50 basis. In 1974, Burke advocated a change from the 50–50 formula to the three-way split and called for a reduction in the tax rate to 3.90 percent. It was then 5.85 percent. He still wants to cut the rate, now 6.05 percent for workers, matched by employers, and up the tax base to $100,000. The rate is due to be 6.13 percent in 1979 and he would cut it to 3.90.

He has stated that workers with earnings of $35,000 and less would realize a reduction in SS taxes if his proposal were adopted.

According to Burke, 152 members of Congress have adopted his proposal.

There are several other proposals to inject general revenue financing into Social Security, to separate the disability benefits and Medicare hospital insurance benefits from Social Security taxes and to finance those programs with general revenue—independent of Social Security.

The Democratic Study Group in the House, (chaired by) Rep. Abner J. Mikva, D.-Ill., reports that more than 200 House Democrats have indicated support for general revenue financing, "because it would shift some of the tax burden from the payroll tax, the most regressive in our system, to the more equitable income tax.

"Many of these members have endorsed one-third general revenue financing of Social Security. Others want to maintain payroll tax financing of the retirement system, but remove medicare and/or disability insurance from Social Security and fund them through general revenues. In addition, a number of Republicans support a proposal to fund one-fourth of Medicare in 1979—and one-half in later years—through general revenue."

Under the Mikva bill—one of three major Democratic proposals for refinancing the SS system—disability insurance and Medicare would be financed through general revenue.

In addition to the Burke and Mikva proposals, another Democratic proposal—the Mattox bill, filed by Rep. Jim Mattox of Texas—would remove only the Medicare program from the system and finance it through general revenues.

The two major Republican proposals for restructuring the Social Security system are the Conable bill, filed by Rep. Barber B. Conable, Jr. of New York, and the Ketchum bill, filed by Rep. William M. Ketchum of California.

The Conable bill would fund one-fourth of the Medicare program in 1979 and one-half of the program thereafter through general revenue.

The Ketchum bill, only one of the five bills that does not involve general revenue financing, mandates Social Security coverage for government employees and gradually increases the minimum age for Social Security retirement benefits.

The following table indicates what the tax rate and wage base would be in 1979 under current law and under each of the proposals; and how much general revenue financing each would require, in billions of dollars.

Proposal	Tax rate (%)	Wage base	Gen. rev. needed (in billions)
Current law	6.13	$22,900	—
Burke	3.90	100,000	$35.3
Mikva	4.33	22,900	36.8
Mattox	5.08	18,900	21.1
Conable	6.05	18,900	3.3
Ketchum	t.05	18,900	—

The Democratic Study Group said, "It is unlikely that a permanent restructuring of the Social Security system, as proposed in the five approaches listed above, will be adopted in 1978. Instead, congressional consideration is focusing on a temporary payroll tax rollback (perhaps for 1979 and 1980), allowing Congress further time to consider a permanent revision.

"Nevertheless, it is likely that the formula chosen for the rollback will reflect the approach of the Mikva-Mattox-Conable bills, using general revenues to pay a portion of the Medicare and Disability Insurance trust funds and leaving the retirement (Old Age and Survivors' Insurance) trust fund to be financed solely through payroll taxes."

The Boston Herald American will publish its sixth Annual Social Security Supplement—Social Security '78—on Tuesday, May 30. The supplement, edited by award-winning Herald American columnist Wendell Coltin, will provide up-to-date facts, figures and news about SS, as well as current and future changes in Social Security, Medicare and Supplementary Security Income.●

THE ECONOMIC RECOVERY ACT OF 1978

(Mr. JENRETTE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JENRETTE. Mr. Speaker, on May 11, 1978, Mr. NOLAN, Mr. STANGELAND, Mr. JONES of North Carolina, Mr. HOLLAND, and myself introduced H.R. 12689, the Economic Recovery Act of 1978. This bill is a direct result of the goals set forth by the American agricultural movement at their recent convention in Oklahoma City.

This bill follows the concepts of the Humphrey-Hawkins bill to mandate national priorities aimed at moving farm families toward the goal of 100 percent of parity of income. This will be done in stages over the next 5 years by establishing farm commodity prices first at 85 percent of the established price based on parity or the price of production, whichever is greater, in 1979; at 90 percent of the established price in 1980, at 95 percent of the established price in 1981, and at 100 percent of the established price in 1982. These prices shall be established by a National Board of Agricultural Governors on a monthly basis for each agricultural commodity.

In order for the public to receive early notice of this bill and to become familiar with its provisions, I ask that its contents be printed in the RECORD at this time.

This bill deserves passage by the Congress.

The bill follows:

H.R. 12689

A bill to provide for the establishment of a board which will establish and administer agricultural production and marketing programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Economic Recovery Act of 1978".

GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the Full Employment and Balanced Growth Act of 1978 mandates economic goals and policies designed to obtain farm income at a rate not less than 100 percent of parity at the market place during the next five years.

(b) Congress further finds that the Full Employment and Balanced Growth Act of 1978 mandates national priority policies and programs aimed at moving farm families toward parity of income by maintaining farm income at a rate not less than 100 percent of parity at the market place after it has been reached.

(c) Congress further finds that in order to implement such economic goals and policies aimed at the improvement of farm income, the Economic Recovery Act of 1978 should be enacted. The Economic Recovery Act, in accordance with the provisions of the Full Employment and Balanced Growth Act of 1978, improves farm income during the next five years by establishing farm commodity prices at 85 percent of the established price—which is based on parity or the cost of production, whichever is greater—in 1979, at 90 percent of the established price in 1980, at 95 percent of the establish price in 1981, and at 100 percent of the established price in 1982.

TITLE I—PRODUCTION AND SALE OF AGRICULTURAL COMMODITIES

PARITY PRICES

SEC. 101. (a)(1) Except as provided in paragraph (2) and notwithstanding any other provision of law, the National Board of Agricultural Governors shall establish a parity price on a monthly basis for each agricultural commodity. Such parity price shall be established within the range between the parity price for such agricultural commodity as determined under the Agricultural Act of 1938 as in effect on February 17, 1938, and as determined under such Act as in effect on January 1, 1978.

(2) The parity price of livestock and milk shall be established at an amount equal to the sum of—

(A) the respective parity prices for livestock and milk as determined under the Agricultural Act of 1938 as in effect on January 1, 1978; and

(B) an amount determined by the Board to reflect the impact of the parity price of corn, as determined under such Act as in effect on February 17, 1938, with respect to livestock and milk.

(b) Any parity price established by the Board under subsection (a) shall be based upon such grade, type, staple, or quality standards as the Board considers necessary.

COMPREHENSIVE COST OF PRODUCTION PRICES

SEC. 102. (a) The Board shall establish a comprehensive cost of production price on a monthly basis for each agricultural commodity. In determining such comprehensive cost of production price, the Board shall include—

(1) variable costs;

(2) costs for labor based upon equivalent industrial wage levels;

(3) farm machinery and equipment ownership costs including current replacement costs of such farm machinery and equipment;

(4) farm overhead costs attributable to the production of the agricultural commodity involved;

(5) a value for the management services provided by the producer of such agricultural commodity;

(6) a value for farm land utilized in the production of such agricultural commodity, except that such value may not be greater than the value of such farm land as valued for estate tax valuation purposes under section 2032(a) of the Internal Revenue Code of 1954; and

(7) such other factors as the Board determines should be included to accurately reflect the cost of producing such agricultural commodity.

(b) The Board shall conduct public hearings prior to the beginning of the planting period of each agricultural commodity to provide producers and other interested parties an opportunity to present testimony regarding the establishment under subsection (a) of the comprehensive cost of production price for the agricultural commodity involved.

(c) Any comprehensive cost of production price established under subsection (a) shall be based upon the efficient production of the agricultural commodity involved.

ESTABLISHED PRICE

SEC. 103. (a) The Board shall determine an established price for each agricultural commodity not less than 180 days before the beginning of the planting period for the agricultural commodity involved, or not less than 180 days before the beginning of the calendar year, whichever is appropriate. The established price for such agricultural commodity shall be equal to the parity price established for such agricultural commodity under section 101, or to the comprehensive cost of production price established under section 102, whichever is greater.

(b) The established price for each agricultural commodity may be adjusted by the Board on the first day of each three-month period occurring after the beginning of the planting period involved. Any such adjustment shall be determined in the same manner in which an established price is determined under subsection (a). Any such adjustment shall be published by the Board in the Federal Register not later than 30 days before such adjustment becomes effective.

NATIONAL PRODUCTION GOALS

SEC. 104. In regard to each calendar year, the Board shall establish a national production goal for each agricultural commodity. Any such national production goal shall be based upon—

(1) the estimated domestic requirements for the agricultural commodity involved, including any requirements under section 106 regarding reserve stocks or under any other program which is established by any Federal law and which requires the acquisition of any agricultural commodity;

(2) the estimated export requirements for such agricultural commodity; and

(3) levels of production of such agricultural commodity which are consistent with any agricultural conservation or soil management program established by the Federal Government.

ACREAGE ALLOTMENTS OR MARKETING QUOTAS

SEC. 105. (a)(1) Not less than 180 days before the beginning of the planting period for each agricultural commodity, or not less than 180 days before the beginning of the calendar year, whichever is appropriate, the Board shall determine, by regulations subject to a producer referendum under section 108, whether acreage allotments or marketing quotas will be issued to each producer of the agricultural commodity involved in order to meet the national production goal established under section 104.

(2)(A) Except as provided in paragraphs (3) and (4) such acreage allotments or marketing quotas shall be allocated to each producer of the agricultural commodity involved based upon the production history of each farm as determined by the Board. In determining the production history of each farm, the Board shall include the average of the highest production during three of the five calendar years preceding the calendar year in which such acreage allotment or marketing quota is allocated. Any adjustment of any acreage allotment or marketing quota shall be made on a pro rata basis among all producers of the agricultural commodity involved.

(B) Except as provided in subparagraph (C), the production history of each farm shall be retained with the land for which such production history is established in any case in which such production history is maintained.

(C) New farmers shall be permitted to retain the livestock production history of the farm involved for three calendar years without having to raise any livestock.

(D) Any producer who maintains any crop rotation program which is part of any conservation program or normal farming practice shall maintain the production history of any crop planted pursuant to any such crop rotation program during the ten calendar years preceding the calendar year in which such acreage allotment or marketing quota is allocated. Subject to the approval of the appropriate county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, such producer may plant any crop included in his crop rotation program during such ten calendar years, except that such production history shall not be exceeded. This subparagraph shall not affect the current normal crop acreage of such producer.

(3) The Board shall establish procedures to adjust acreage allotments or marketing quotas to assure an equitable allocation of such acreage allotments or marketing quotas in any case in which—

(A) a farm has a production history of less than three calendar years;

(B) the Board determines that abnormal climatic variations have adversely affected the production history of a farm; or

(C) a change in farm ownership has affected the production history of a farm.

(4) New farmers shall be given consideration in any allocation of acreage allotments or marketing quotas.

(5) If the Board issues an acreage allotment to any producer, the Board shall allocate marketing quotas to such producers in an amount which is equal to the total production on such allocated acres.

(6) Any acreage allotment or marketing quota shall be allocated by the Board in a manner which will not adversely affect the economy of any county or local community.

(7) All agricultural commodities produced with respect to any acreage allotment or marketing quota allocated under this section shall be produced on the normal crop acreage of the farm involved unless the Board authorizes the producer involved to use acreage other than the normal crop acreage of such farm.

(8) Marketing quotas shall be negotiable on a calendar year basis between producers who are legal residents of the same State: *Provided* That such producers meet the eligibility criteria for membership on the State committees authorized under section 108 (b). Marketing quotas shall not be transferred between States without the approval of such State committees.

(b)(1) In order to determine whether national production goals have been met, the amount of all agricultural commodities produced by any producer shall be recorded with the appropriate office of the Agricultural Stabilization and Conservation Service at the completion of the harvest involved.

(2) All agricultural commodities produced by any producer which exceed the acreage allotments or marketing quotas of such producer for the calendar year involved shall be certified for storage by the Board and stored at the expense of the producer under such terms and conditions as the Board may establish.

(3) Except as provided in section 106(a)(3), all agricultural commodities which are owned and stored by any producer on the date of the enactment of this Act and which exceed the acreage allotments or marketing quotas of such producer for the first calendar year in which acreage allotments or marketing quotas are issued under this Act, shall be certified for storage by the Board and stored at the expense of the producer under such terms and conditions as the Board may establish.

(4) Any such producer may consume, sell, or trade any agricultural commodity stored under paragraph (2), except that the amount of agricultural commodities consumed, sold, or traded in any calendar year shall not exceed the amount authorized by the acreage allotments or marketing quotas of such producer for such calendar year. Any agricultural commodity stored under paragraph (2) may be rotated to facilitate the maintenance of quality of such agricultural commodity.

(5) Notwithstanding any other provision of law, the Secretary is hereby authorized and directed to make loans available to producers for agricultural commodities selected by the Board. Such loans shall be made under such terms and conditions as the Board may recommend to the Secretary and as the Secretary considers appropriate.

(c)(1) Except as provided in paragraphs (2) and (3), no acreage allotment or marketing quota shall be allocated under this section—

(A) to a corporation, partnership, or other legal entity composed of more than one person if a majority interest in such legal entity is held by stockholders, partners, or persons who themselves are not engaged in farming operations as a sole proprietorship; or

(B) to a trust or similar arrangement established by a person who would not otherwise have been eligible for participation under this section.

(2) The provisions of paragraph (1) shall not apply with respect to the following:

(A) Any farmer-owned or farmer-controlled cooperative, corporation, or association which meets the requirements of the

Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291–292), or which meets the provisions of section 15(a) of the Agricultural Marketing Act.

(B) Any family farm corporation, partnership, or other legal entity founded primarily for the purpose of earning income from agricultural production. A majority of the shares must be held by, and a majority of the shareholders must be, close relatives. To qualify, a farm must be lived on or actively operated by one of the related family member stockholders.

(C) An organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from tax under section 501 (a) of such Code.

(3)(A) Any entity which is prohibited from receiving an acreage allotment or marketing quota under paragraph (1) shall be permitted to receive such acreage allotment or marketing quota for the two calendar years following the date of the enactment of this Act.

(B) In any case in which the Board determines that prohibiting any such entity from receiving any such acreage allotment or marketing quota after the period specified in subparagraph (A) would adversely affect the economy of any county or local community, the Board may allocate an acreage allotment or marketing quota to such entity for a period not to exceed five calendar years following the date of the enactment of this Act.

RESERVE STOCKS

SEC. 106. (a)(1) Subject to subsection (c), the Board shall establish and maintain a program to acquire reserve stocks of agricultural commodities selected by the Board. Such reserve stocks shall be in an amount which the Board determines is necessary to carry out its duties under this section.

(2) The Board shall purchase such reserve stocks from producers of the agricultural commodity involved. The Board may enter into an agreement with any producer involved to have such agricultural commodity stored by such producer at rates equal to commercial storage rates for such agricultural commodity, or under such other terms and conditions as the Board considers necessary. In establishing such terms and conditions the Board shall consider transportation costs and the normal pattern of marketing agricultural commodities. Such reserve stocks shall be rotated to facilitate maintenance of quality of such reserve stocks.

(3) Agricultural commodities owned and stored by any producer on the date of the enactment of this Act shall be purchased by the Board if such producer elects to sell such agricultural commodities to the Board. Such commodities shall be purchased by the Board in accordance with the provisions of paragraph (2).

(b)(1) Subject to paragraph (2), reserve stocks may be—

(A) sold only, in any calendar year, in an amount equal to the amount by which the national production goal established under section 104 for any agricultural commodity for such calendar year exceeds the actual production of the agricultural commodity involved for such calendar year;

(B) used only in any case in which the President determines that use of such reserve stocks may relieve the effects of any disaster in any foreign country; or

(C) used only by the Board for use in relieving distress in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands—

(i) with regard to any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974; or

(ii) with regard to a state of civil defense emergency as proclaimed by the President or by both Houses of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950.

(2) In any case in which more than a minimal amount of such reserve stocks, as determined by the Board, are needed for use under paragraph (1), the Board may purchase the needed amount of the agricultural commodities involved from stocks of such agricultural commodity which are stored under section 105(b)(2).

(c)(1) The Board shall establish by regulation the amount of any reserve stock under subsection (a)(1). Any such regulation shall be transmitted to both Houses of the Congress and shall become effective as provided in paragraph (2).

(2)(A) Any regulation issued by the Board under paragraph (1) shall become effective on the first day following the first period of 30 calendar days of continuous session of the Congress after the date on which copies of such regulation are transmitted to each House of the Congress unless, within such period, the two Houses of the Congress adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution stating in substance that the two Houses do not favor such regulation.

(B) For purposes of this subsection—

(i) continuity of session is broken only by an adjournment of the Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which the Congress is in continuous session.

IMPORTED AGRICULTURAL COMMODITIES

SEC. 107. (a) Notwithstanding any other provision of law, the Board shall establish quotas for each agricultural commodity imported into the United States. No such quota shall be in an amount which is greater than the amount by which the domestic consumption of the agricultural commodity involved for the preceding calendar month exceeds the domestic production of such agricultural commodity, including stocks of such agricultural commodity stored under section 105(b)(2), for the preceding calendar month.

(b)(1) Notwithstanding any other provision of law, any agricultural commodity imported into the United States shall be subject to a tariff in an amount which is equal to the difference between the price paid for such agricultural commodity by any person who imports such agricultural commodity and the greater of—

(A) 110 per centum of the established price for such agricultural commodity;

(B) 10 per centum more than the average monthly market price, as determined by the Board, for such agricultural commodity for the month preceding the month in which such agricultural commodity is sold; or

(C) as determined by the Board, the price at which such agricultural commodity is supported in the country in which it was produced.

(2) There is hereby established in the Treasury a fund to be known as the Agricultural Export Fund. The Agricultural Export Fund shall be administered by the Board. Any tariff revenue received under paragraph (1) shall be deposited in the Agricultural Export Fund and credited to the foreign country in which such agricultural commodity was produced. Funds in the Agricultural Export Fund may be used only by such foreign country to purchase any product produced in the United States.

(c) No agricultural commodity produced in the United States may be sold for export at a price which is less than 100 per centum of the established price for such agricultural commodity. This subsection shall not apply to any agricultural commodity sold for export under any food assistance program established by the Federal Government.

(d)(1) Any person who sells for export or executes any agreement to sell for export any agricultural commodity produced in the United States shall submit to the Board the following information:

(A) the price at which such agricultural commodity is sold; and

(B) the terms and conditions of such sale.

(2) Any such information shall be submitted in such form, and in accordance with such procedures, as the Board may require. Any such information shall be submitted to the Board not later than five days after the date of such sale or the execution of such agreement to sell.

(3) Any such information shall be available for public inspection and copying at the office of the Board not later than 15 days after the date of such sale or the execution of such agreement to sell.

(e) Notwithstanding any other provision of law, no agricultural commodity may be imported into the United States if such agricultural commodity does not meet any applicable inspection standard imposed by any Federal law with respect to any agricultural commodity produced in the United States.

PRODUCER REFERENDUMS

SEC. 108. (a)(1) Any regulation proposed by the Board under section 105 regarding acreage allotments or marketing quotas shall be published in the Federal Register and copies of such proposed regulation shall be made available to all producers at the appropriate county office of the Agricultural Stabilization and Conservation Service.

(2) Such proposed regulation shall become effective as specified in such proposed regulation unless within 60 days after the date on which such proposed regulation is published in the Federal Register, 15 percent of the producers whose production would be affected by such proposed regulation petition the Board for a referendum.

(3) The Board shall conduct a referendum in accordance with the provisions of this section in any case in which the required number of petitions are submitted to the Board. Such referendum shall be conducted by the Board not later than 30 days after the date on which the last required petition is received by the Board.

(4) Such referendum shall be conducted by secret ballot. Any producer whose production would be affected by such proposed regulation shall be eligible to vote in such referendum. If a majority of the producers voting in such referendum vote against such proposed regulation, such proposed regulation shall be withdrawn by the Board. If a majority of the producers voting in such referenda vote against both acreage allotments and marketing quotas for the agricultural commodity involved, the provisions of this Act shall not apply to such agricultural commodity.

(b) Section 8(b) of the Soil Conservation and Domestic Allotment Act is amended—

(1) In the sentence beginning "The Secretary shall designate local"—

(A) by inserting "and regional" after "designate local"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof "and each such regional administrative area shall have a director who shall be appointed by the National Board of Agricultural Governors.";

(2) by striking the sentence beginning "In each State there shall be a State committee", and inserting in lieu thereof the following new sentence: "In each State there shall be a State committee composed of three farmers who are legal residents of the State and who are elected by the producers in such state.";

(3) by inserting at the end of such new

sentence the following: "In each such State election producers shall elect two farmers who are legal residents of the State to serve as alternate members of the State committee. Any individual shall be eligible to be elected to serve as a member or alternate member of the State committee, if such individual, as determined by the Secretary, is actively engaged in agricultural production; receives not less than 50 percent of his net income from agricultural production; meets the criteria in section 105(c)(1) of the Economic Recovery Act of 1978 for allocation of acreage allotments or marketing orders; and is not a member of the State committee for the term preceding the term for which such individual is appointed. At the first such State election held on or after the effective date of this sentence, one member and one alternate member of the State committee shall be elected for a term of three years."; and

(4) by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, all State Directors of the Agricultural Stabilization and Conservation Service shall be appointed by the National Board of Agricultural Governors.".

(c) Any county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act may make recommendations to the Board regarding any duty of the Board under this Act. Such recommendations shall be transmitted to the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act which shall transmit such recommendations to the Board.

CONSUMER INFORMATION

SEC. 109. The Federal Trade Commission Act (15 U.S.C. 41–58) is amended—

(1) by redesignating sections 20 and 21 as sections 22 and 23, respectively; and

(2) by inserting after section 19 the following new sections:

"SEC. 20. It shall be an unfair or deceptive act or practice in or affecting commerce within the meaning of section 5(a)(1) for any person, partnership, or corporation engaged in the retail sale of any food product in commerce to sell any such food product in any case in which such person, partnership, or corporation does not display a sign at the point of sale—

"(1) in a manner consistent with rules prescribed by the Commission; and

"(2) containing the amount received by farmers, as determined by the Secretary of Agriculture, for the agricultural commodities which were used to produce the food product involved.

"SEC. 21. It shall be an unfair or deceptive act or practice in or affecting commerce within the meaning of section 5(a)(1) for any person, partnership, or corporation engaged in the retail sale of any food product in commerce to knowingly and willingly sell any such food product in any case in which such food product does not contain a label which conforms with rules prescribed by the Commission and which lists any ingredient in such food product which was imported into the United States.".

PAYMENTS FOR REDUCED PLANTING

SEC. 110. (a) With respect to any producer who reduces his normal crop acreage by more than 50 per centum during 1978 and who reduces the number of acres he plants of any agricultural commodity during 1978 by more than 50 per centum of the number of acres of such agricultural commodity which such producer planted during 1977, the Secretary of Agriculture is hereby authorized to make payments to such producer in an amount which is equal to the net income, as determined by the Board, of such producer for 1978 which is attributable to such agricultural commodity.

(b) The payments authorized in subsection (a) shall be made by the Secretary to any person who meets the requirements of subsection (a) and who submits an application for such payments to the Secretary—

(1) containing such verification as the Secretary may require; and

(2) in such form and in accordance with such procedures as the Secretary may require.

CIVIL PENALTIES

SEC. 111. (a)(1) Except as provided in subsection (b) and in subsection (e), with respect to any agricultural commodity produced in the United States, whoever buys, sells, or trades any such agricultural commodity at a price which is less than 100 percent, or more than 110 percent, of the established price for such agricultural commodity as determined under section 103 shall be subject to a civil penalty assessed by the Board in accordance with the provisions of paragraphs (2) and (3). Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States.

(2) Except as provided in subsection (f), with regard to any person who buys, sells or trades any agricultural commodity at a price which is less than 100 percent of the established price for such agricultural commodity as determined under section 103, any civil penalty assessed by the Board under paragraph (1) with respect to such person shall be in an amount which is equal to twice the difference between such price and 100 percent of such established price.

(3) With regard to any person who buys, sells, or trades any agricultural commodity at a price which is greater than 100 percent of the established price for such agricultural commodity as determined under section 103, any civil penalty assessed by the Board under paragraph (1) with respect to such person shall be in an amount which is equal to twice the difference between such price and 110 percent of such established price.

(b) Subsection (a) shall not apply with respect to—

(1) any person who buys any agricultural commodity for his own consumption;

(2) any agricultural commodity which does not meet any grade, type, staple, or quality standard established by the Board under section 101(b); and

(3) seeds, tobacco, and breeding stock.

(c) In any case in which a civil penalty is assessed against any person under subsection (a) for a second or subsequent violation of subsection (a), such person shall be ineligible to receive any acreage allotment or marketing quota under section 105 during the five calendar years following the date on which the Board assessed a civil penalty for the most recent violation.

(d) With respect to any agricultural commodity produced in the United States, whoever sells, trades, or consumes such agricultural commodity without a marketing quota shall be subject to a civil penalty assessed by the Board. Any such civil penalty shall not exceed $500,000. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States.

(e) The provisions of subsection (a)(1) and subsection (a)(2) shall apply in 1979 to whoever buys, sells, or trades any such agricultural commodity at a price which is less than 85 percent, or more than 110 percent, of the established price for such agricultural commodity as determined under section 103; in 1980 to whoever buys, sells, or trades any such agricultural commodity at a price which is less than 90 percent, or more than 110 percent, of the established price for such agricultural commodity as determined under section 103; and in 1981 to whoever buys, sells, or trades any such agricultural commodity at a price which is less than 95 percent, or more than 110 percent, of the established price for such agricultural commodity as determined under section 103.

(f) Any civil penalty assessed under the provisions of subsection (a)(2) and subsection (e) shall be in an amount which is equal to twice the difference between such price and 85 percent of such established price in 1979, 90 percent of such established price in 1980, and 95 percent of such established price in 1981.

TITLE II—NATIONAL BOARD OF AGRICULTURAL GOVERNORS

ESTABLISHMENT OF BOARD

SEC. 201. There is hereby established a Board to be known as the National Board of Agricultural Governors.

DUTIES OF BOARD

SEC. 202. The Board shall—

(1) establish parity prices under section 101;

(2) establish comprehensive cost of production prices under section 102;

(3) determine established prices under section 103;

(4) establish a national production goal under section 104;

(5) allocate acreage allotments or marketing quotas under section 105;

(6) establish a program to acquire reserve stocks of agricultural commodities under section 106;

(7) establish quotas for imported agricultural commodities under section 107;

(8) conduct proper referendums under section 108;

(9) conduct such public hearings as the Board considers necessary to assure the fair and equitable implementation of this Act;

(10) advise the Special Representative for Trade Negotiations regarding international trade agreement negotiations which pertain to agricultural commodities and regarding other matters and policies affecting the importation of agricultural commodities;

(11) establish and administer all agricultural production and marketing programs of the Federal Government; and

(12) perform such other functions as may be necessary to carry out the provisions of this Act.

MEMBERSHIP

SEC. 203. (a) The Board shall be composed of 57 members as follows:

(1) One member from each State appointed by the President, by and with the advice and consent of the Senate, from a list of three individuals who are nominated for such appointment under paragraph (6).

(2) Two members appointed by the President, by and with the advice and consent of the Senate, from among individuals who belong to organizations which represent the interests of consumers.

(3) Two members appointed by the President, by and with the advice and consent of the Senate, from among individuals who belong to any organized labor union and who represent the interests of organized labor.

(4) Two members appointed by the President, by and with the advice and consent of the Senate, from among individuals who belong to a business organization and who represent the interests of business organizations.

(5) The Secretary of Agriculture shall be a member of the Board but shall have no vote unless the Board is equally divided. The Secretary or his delegate shall attend all meetings of the Board called under subsection (h).

(6) The names of the three individuals elected to serve as members of each State committee under the provisions of section 108(b) shall be submitted to the President for the purposes of appointing members under paragraph (1). The individuals appointed to the Board by the President shall not serve as members of such State committees.

(b)(1) Except as provided in paragraphs (2), (3), and (4), members shall be appointed for terms of three years.

(2) Of the members first appointed—

(A) nineteen shall be appointed for a term of one year;

(B) nineteen shall be appointed for a term of two years;

(C) eighteen shall be appointed for a term of three years; as designated by the President at the time of appointment.

(3) With respect to subsection (a)(2), (a)(3), and (a)(4), not more than one member appointed under each of such subsections shall be appointed to terms which expire in the same year.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) A vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(d) Any member of the Board shall receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule (5 U.S.C. 5315) for each day during which such member is actually engaged in the performance of the duties of the Board.

(e) Any member of the Board shall be allowed travel expenses in the same manner as persons employed intermittently by the Federal Government are allowed travel expenses under section 5703 of title 5, United States Code.

(f) The Board shall elect a chairman and a Vice Chairman from among the members appointed under subsection 203(a)(1).

(g) Twenty-nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(h) The Board shall meet at the call of the Chairman or a majority of the members of the Board.

(i) The Board shall act by affirmative vote of a majority of its members.

DIRECTOR AND STAFF OF BOARD: EXPERTS AND CONSULTANTS

SEC. 204. (a) Subject to such rules as may be adopted by the Board and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Board shall have the power to—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule (5 U.S.C. 5316);

(2) appoint and fix the compensation of such staff personnel as the Board considers necessary; and

(3) procure temporary or intermittent services of experts or consultants, to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Board, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist it in carrying out its duties under this Act.

POWERS OF BOARD

SEC. 205. (a) The Board may, for the purposes of carrying out its duties under this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable. The Board may administer oaths and affirmations to witnesses appearing before the Board.

(b)(1) The Board shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Board. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place af hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy with respect to a subpena issued under paragraph (1), any court of the United States within the judicial district within which the hearing involved is conducted or within the judicial district within which such person is found, resides, or transacts business may upon application by the Board order such person to appear before the Board to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Board shall be served in the manner provided for subpenas issued by a district court of the United States under the Federal Rules of Civil Procedure for the United States district courts.

(4) Any process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(c) When so authorized by the Board, any member or agent of the Board may take any action which the Board is authorized to take by this section.

(d) Subject to section 552a of title 5, United States Code, the Board may secure directly from any Federal agency information, including technical information from the Department of Agriculture, necessary to enable it to carry out its duties under this Act. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Board.

(e) The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(f) The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(g) The Board may prescribe regulations necessary to carry out the provisions of this Act.

TITLE III—GENERAL PROVISIONS

DEFINITIONS

SEC. 301. For purposes of this Act—

(1) the term "Board" means the National Board of Agricultural Governors established in section 201;

(2) the term "Chairman" means the Chairman designated in section 203(j);

(3) the term "concurrent resolution" means a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress does not favor the proposed regulation transmitted to the Congress by the National Board of Agricultural Governors on ----------, regarding reserve stocks of agricultural commodities under section 106(c) of the Economic Recovery Act of 1978.", the blank space being filled with the appropriate date;

(4) the term "established price" means the established price determined under section 103;

(5) the term "planting period" means the period during each year, as determined by the Board, in which an agricultural commodity is normally planted; and

(6) the term "Secretary" means the Secretary of Agriculture.

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 303. The provisions of this Act shall become effective on the date of the enactment of this Act, except that the amendments made by section 109 shall become effective 180 days after such date.●

INFLATION AND TAXES

(Mr. ALEXANDER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, in recent months I have received correspondence from a banker in my district, George Delaney, sharing with me his growing concerns about the effect that inflation is having on the ability of the middle-income American to meet the burden of current tax laws, as well as the impact that inflation is having on business investment spending. I would like to share with my colleagues one such letter and article which I think each would profit from reading:

APRIL 21, 1978.

Hon. BILL ALEXANDER,
Cannon House Office Building,
Washington, D.C.

DEAR BILL: For what it's worth to you, our 20 loan officers have the impression that we made more loans to individuals for the payment of income taxes this year than in any year we recall. I was getting a larger amount of this and wondered about it. On Tuesday, the 18th, one of the installment officers brought it up in our morning meeting and, therefore, we asked others what their impression was on the taxpaying loans and they were all in agreement that it was heavier.

My personal feeling is that it was caused by one or two things: (1) Inflation caused people to use the money, therefore not doing as good a job on their quarterly estimates, and (2) They ended up receiving more dollars in 1977 than they thought they would.

Bill, as you and your colleagues struggle with what to do with taxes, one thing came over to me in many many cases; that is, inflated dollars cause so many of these folks to end up in a higher bracket. This was a shocking situation for me personally. The point is that all of a sudden inflation has caused a growing number of people to automatically find themselves with dollars now being taxed at 35 and 40%. These are not wealthy people. They are people who only three or four years ago would have operated on the basis that anyone paying in the 40% bracket is a doctor or lawyer or someone of substantial means.

Bill, I think as you fellows address this tax problem that the percentage of taxation on these dollars is going to have to be considered. The point is we have rates of tax on dollars that simply do not buy as much as they did years ago when those percentages were included. This is also very true in the taxing of estates. However, increasing the marital deduction of a few years ago helped this matter considerably.

Bill, I have a theory that all of the news media discussion that the public is up in arms over the Social Security Tax. I really believe that what caused this was that this increase came identically the same time the increase in minimum wage. The public is misreading their frustration on their personal income and tying it into the social security when actually what really caused their problem was that in the course of two or three weeks time in December or January, there was a 15% increase in every fast food joint in the country, such as McDonalds. Due to the high percentage of American people that frequent these places, I believe they are interpreting the jump in the take out of their pocketbooks as being caused by Social Security when in reality the minimum

wage effect in fast food places created the problem.

You have got a tough job on this tax situation. I am still very much concerned that the 112 employees we work in combining their salary with their spouse put them in a $20,000 to $25,000 a year income bracket which puts them in an area of a group of people that are paying the vast majority of the taxes but a smaller percentage of the population group.

Yours very truly,

GEORGE F. DELANEY, Jr.,
Executive Vice President.

INFLATION AND TAXES: DISINCENTIVES FOR CAPITAL FORMATION

(By John A. Tatom and James E. Turley)

One of the disappointing features of the current expansion has been the sluggish growth of business investment spending. Businesses appear to be more reluctant to make outlays for purchases of new plant and equipment than was the case in previous periods of economic growth. Since the beginning of the current expansion in early 1975, investment expenditures have grown at a 9.4 percent annual rate, compared to an average 11.8 percent rate for comparable periods in the four previous recoveries.[1] When these dollar outlays are measured in terms of their purchasing power, the differential is even greater: real business investment in plant and equipment has grown at only a 3.7 percent rate during the current expansion, compared to a 7.8 percent average rate in previous expansions.

Numerous factors have been suggested as explanations for this relatively sluggish growth in capital outlays, including the uncertainty over proposed changes in tax and energy policy, the higher replacement cost and lower productivity of capital goods due to higher energy costs since 1974, and general uncertainty about the economic consequences of a new Administration. One factor which has not received its rightful share of publicity, however, is the unusually rapid rate of inflation associated with the current expansion. Inflation, in conjunction with the accounting convention of recording transactions at their historical values, reduces the returns generated by investment projects. In addition, the combined effects of inflation and the personal income tax structure tend to drive up the cost of obtaining the funds necessary for a given capital investment program. Each of these adverse effects of inflation provides a disincentive to business investment. Thus, inflation should be high on the list of culprits responsible for the lackluster performance of business investment spending.

INFLATION'S IMPACT ON INVESTMENT RETURN

In order to discuss the effects of inflation on investment return, it is useful to distinguish between nominal and real rates of return. Nominal measures refer to dollar amounts which use currently prevailing dollar prices as a yardstick. Real measures use a yardstick with a constant purchasing power of the dollar—the dollar value of goods and services is measured in terms of prices which prevailed in some previous or "base" period. In essence, real values measure the extent to which increases in nominal values actually reflect changes in the ability to purchase goods and services. An increase in income from $100 to $120 during a period when prices are rising by 5 percent per period involves a $20 or 20 percent gain in nominal income. However, since this income will command only $15 more in goods and services, real income has increased by only 15 percent.[2] Since real measures are free of distortions produced by using a variable yardstick, real rates of return are examined below.

A series of examples illustrates the adverse impact of inflation on an investment project's real rate of return.[3] The project remains the same in the following examples, but the annual rate of inflation over the life of the project is assumed to change from zero, to 5, and then to 10 percent.

INVESTMENT RETURN WITH NO INFLATION

Suppose that a firm is considering the purchase of an asset which costs $300,000 and is expected to yield an annual before-tax net cash income (the excess of cash receipts over cash expenses) of $100,000 over its expected useful life of 5 years.[4] The firm anticipates that the asset will have no value at the end of its useful life. To simplify the calculations, let the corporate income tax rate be 50 percent. Initially, it is assumed that inflation is nonexistent so that all dollar receipts and outlays over the expected life of the capital asset are also measures with constant purchasing power; any increase or decrease in dollar magnitudes implies a corresponding increase or decrease in the ability to purchase goods and services.

Table I indicates that annual cash flows associated with this project over its expected life. The first column depicts the annual before-tax net cash income of $100,000 generated by the project. On this pretax basis, the inflows serve as a measure of the benefits associated with the project itself, but do not represent a measure of the benefit which the firm will actually receive by acquiring this capital asset. To arrive at such a measure, corporate income taxes must be considered.

Corporate tax rates are intended to be levied on that portion of revenue which exceeds the total cost of operations over a particular period. To determine taxable income on this project, depreciation must be subtracted from the net cash receipts of Column I. Depreciation is the expense associated with the consumption, or wearing out, of a portion of a capital asset over any particular period. Under existing tax law, the firm is not allowed to deduct as an expense the cost of replacing the worn-out portion of the asset. Instead, it may only claim some portion of the original cost of the asset each year as an expense. Over time, total depreciation expenses cannot exceed the original cost of the asset.

The firm in the example is presumed to use straight-line depreciation, which means that an equal amount of the original cost is depreciated each year. Since the asset costs $300,000, the annual depreciation charge (Column II) in each of the 5 years is $60,000. By subtracting this amount from cash receipts in each period, taxable income is derived. The corporate tax liability (Column III) is then determined by applying the corporate tax rate to taxable income. Subtracting this outflow of funds from net cash inflows (Column I), the net cash flow generated by the project and available to the firm is derived. These after-tax flows are shown in Column IV of Table I.

TABLE I.—*Return on a hypothetical investment with zero inflation*

End of year	I Net cash receipts	II Cash receipts not taxed due to depreciation charges	III Taxes paid	IV After-tax cash flow
1	$100,000	$60,000	$20,000	$80,000
2	100,000	60,000	20,000	80,000
3	100,000	60,000	20,000	80,000
4	100,000	60,000	20,000	80,000
5	100,000	60,000	20,000	80,000

IRR = 10.4 percent.

Given the initial cost of the asset, the after-tax flows in Column IV represent a rate of return of 10.4 percent per year. This rate of return may be compared to both the cost of obtaining investment funds (to determine whether or not to invest) and to the returns on alternative asset purchases (to determine how funds should be allocated) [5]

INVESTMENT RETURN WITH SELECTED INFLATION RATES

The project discussed above is now assumed to be generating a return in an environment where the price level is not stable, but rising at selected rates. A rising price level will affect the calculation of investment yield for two reasons. First, a given rate of inflation over the life of an asset will tend to be fully reflected in the pretax net cash receipts. That is, if all prices rise by 5 percent in any particular period, net cash receipts on the same units sold, in general, will also rise by 5 percent. The second reason for recalculating investment return is due to the effect of inflation on the value of the after-tax dollar magnitudes generated each year. In the previous zero-inflation example, after-tax dollar flows (as well as pretax) represented real or constant-price magnitudes. In order to make comparisons with these real flows reported in Table I, the effects of inflation on the after-tax dollar flows have to be removed.

Five Percent Inflation—As indicated in Column I of Table II, the before-tax cash receipts increase by 5 percent in each year. Given this inflation boost, the incoming receipts in the prior example rise from $105,000 after the first year of inflation to $127,628 after the fifth year. Such inflated receipts, however, command no more goods and services than the receipts generated without inflation.

The dollar amount of net cash receipts which is not taxed because of depreciation charges remains the same as without inflation, since only $60,000 per year is permitted for depreciation expenses. Both taxable cash income and taxes paid are greater in each period because of the effects of inflation on the net cash reecipts. The net result is that after-tax dollar inflows are greater than in the zero inflation example, but these receipts represent a diminished command over goods and services. This is indicated in Column V of Table II, which shows the after-tax cash inflows on a constant-dollar basis. A comparison of Table I and II reveals that the real after-tax cash inflows are decreased by the inflation. Accordingly, the yield on this project is lowered 1.9 percentage points to an 8.5 percent rate. This after-tax decline in the project's real return occurs even though the before-tax real yield remains unchanged.

Footnotes at end of article.

TABLE II.—*Return on a hypothetical investment with a 5-percent inflation rate*

End of year	I Net cash receipts [1]	II Cash receipts not taxed due to depreciation charges	III Taxes paid	IV After-tax cash flow	V Purchasing power of after-tax cash flow [2]
1	$105,000	$60,000	$22,500	$82,500	$78,571
2	110,250	60,000	25,125	85,125	77,211
3	115,763	60,000	27,882	87,881	75,915
4	121,501	60,000	30,776	90,775	74,681
5	127,628	60,000	33,814	93,814	73,506

IRR = 8.5 percent.

[1] Derived by applying the 5 percent inflation rate, compounded annually, to the net case receipts in Table I.

[2] Derived by deflating after-tax cash income by the 5 percent inflation rate, compounded annually.

TABLE III.—*Return on a hypothetical investment with a 10-percent inflation rate*

End of year	I Net cash receipts [1]	II Cash receipts not traced due to depreciation charges	III Taxes paid	IV After-tax cash flow	V Purchasing power of after-tax cash flow [2]
1	$110,000	$60,000	$25,000	$85,000	$77,273
2	121,000	60,000	30,500	90,500	74,793
3	133,100	60,000	36,550	96,550	72,539
4	146,410	60,000	43,205	103,205	70,490
5	161,051	60,000	50,526	110,525	68,628

IRR = 6.9 percent.

[1] Derived by applying the 10 percent inflation rate, compounded annually, to the net cash receipts in Table I.

[2] Derived by deflating after-tax cash income by the 10 percent inflation rate, compounded annually.

Ten Percent Inflation—Table III shows how an inflation rate of 10 percent per year over the asset's depreciable life affects the project's yield. Net cash receipts advance with the 10 percent inflation, rising from $110,000 in year one to $161,051 in year five. Again, in terms of the goods and services which can be purchased, these receipts are the same as those of the no-inflation example.

While the depreciation expenses remain the same, nominal taxes and income after taxes are greater than in the 5 percent inflation example. Once again, even though the after-tax income reported in Column IV is increased, this rise in receipts is not sufficient to offset the general increase of prices which prevails over the project's life. Column V shows that on a purchasing-power basis, the cash inflows are considerably lower than those in the previous examples. Accordingly, the yield on this project falls to a 6.9 percent rate—some 3.5 percentage points lower than the return on the project in a non-inflation environment.

THE ADVERSE EFFECTS ON INVESTMENT BEHAVIOR

The source of the reduced real yield on investment is increased taxation associated with fixed nominal depreciation expenses. Even though the real value of cash inflows (before taxes) is insulated from the rate of inflation, the real value of the depreciation expense falls over time, and falls more as the inflation rate rises. This results in faster growth of taxable income—and the outflow of funds for taxes—than would be the case if depreciation expenses reflected the rising price level and replacement cost of capital. In effect, taxes are being levied not only on the income generated by the capital, but also on the capital itself. This taxation reduces the incentive of firms to invest.[6]

In response to such a disincentive, business firms would be expected to alter their behavior, primarily by reducing investment, in order to protect themselves from the adverse effects of inflation. In addition, it is possible to show that the types of investment which firms undertake would be affected. For example, higher inflation rates discourage the adoption of capital intensive technologies, encourage the postponement of replacement investment, and typically discourage the purchase of capital assets with relatively long expected lives in favor of those with relatively short expected lives.[7]

Uncertainty about the future rate of inflation increases the riskiness of an expected income stream. Such riskiness reduces firms' incentives to acquire assets, given their real rate of return and the cost of funds. Recent evidence indicates that inflation uncertainty increases as the rate of inflation rises.[8] Thus, a rise in the rate of inflation expected by firms not only reduces expected rates of return, it also increases risk which further reduces investment incentives and the demand for new capital assets.

INFLATION'S IMPACT ON THE COST OF ACQUIRING INVESTMENT FUNDS

While inflation—operating through the tax system—serves to erode the rate of return on capital goods, it also has an adverse impact on the cost of acquiring investment funds. Again, the tax system plays a crucial role. Given the prevailing tax system, inflation raises the real market rate of interest demanded by individuals in order to supply funds through bond or new equity share purchases, or through retained earnings.[9] The primary determinants of the cost of a given supply of investment funds are (1) the real yield required to induce the general public to forego current consumption in order to make new equity or borrowed funds available and (2) the personal tax treatment of the income received from owning stocks and bonds.

THE TRADE-OFF BETWEEN CURRENT AND FUTURE CONSUMPTION

The first factor which influences the cost of investment funds depends upon individuals' decisions as to whether to direct a portion of current income to savings through, for example, the purchase of stocks and bonds, rather than to consumption. The saving decision involves the postponement of some current consumption for what is expected to be greated future consumption. The expected addition to future consumption opportunities is reflected in the yield obtained from holding stocks and bonds, which is most appropriately measured on a real after-tax basis.

THE TAXATION OF INCOME FROM BONDS AND STOCKS

Two features of the U.S. tax system are of special importance in considering the effects of income taxes on the cost of investment funds for business. First, the taxation of income derived from holdings of stocks and bonds—whether in the form of stock dividends, capital gains, or interest income from bond ownership—is based upon nominal, not real, income.[10] Thus, inflation tends to increase personal taxes by inflating nominal incomes, even if the purchasing power of the income payments remains the same. Such increased taxation is compounded by a second feature of the tax system—progressivity. As inflation raises the dollar incomes from almost all sources, it pushes taxpayers into higher "tax brackets," again regardless of whether the higher incomes represent an increased ability to buy goods and services or to pay taxes.[11] Both features tend to reduce the purchasing power of income received from stocks and bonds. As a result, individuals will have less incentive to supply funds, and an increased incentive to consume now, unless they are compensated for the anticipated losses associated with increases in the inflation rate and inflation-induced taxation.

For example, suppose that in the absence of inflationary expectations and income tax considerations the typical individual is willing to save $1,000 from current income to buy bonds yielding a 4 percent rate of return for one year. Individuals expect to be able to trade $1,000 worth of current consumption goods for $1,040 or 4 percent more of the same goods in a year. The anticipation of inflation does not change the evaluation of present consumption relative to future consumption—at a minimum, a 4 percent increase in the ability to purchase goods one year hence is still demanded. But, if prices are expected to rise over the year, a nominal yield of more than 4 percent is required if the demanded trade-off between current and future consumption is to be achieved.

If, for instance, prices are expected to rise by 5 percent, the dollar prices of future goods will be higher than at the time the bond was purchased. In order to be able to pay the higher prices, lenders will demand a higher nominal interest rate. The nominal yield required to induce individuals to forego $1,000 worth of current consumption would have to rise to 9 percent in order to secure the minimum 4 percent real yield.[12] In essence, individuals will demand the same real rate of return in the face of anticipated inflation; to secure this rate of return, ignoring personal income tax considerations, nominal interest rates must rise by an amount equal to the rise in the expected rate of inflation.

When personal income taxes are included, the effect on the nominal and real interest rates at which funds are supplied is more pronounced. Suppose that the typical individual is in a 20 percent income tax bracket. In the zero-inflation case above, a market (nominal and real) rate of 5 percent on bonds is required in order to yield a 4 percent return after taxes, since 20 percent of the interest income (.2 x 5 percent = 1 percent) is taken by the taxing authority. With the 20 percent tax rate and a 5 percent yield on the bond, individuals are able to trade $1,000 worth of current goods and services for $1,040 or 4 percent more of the same goods and services in a year.

When inflation is expected to run at a 5 percent rate, a higher nominal interest rate on the same $1,000 of lending is required in order to cover the higher prices in the future. In addition, individuals will face an enlarged tax burden in the future due to the

Footnotes at end of article.

higher nominal interest income. Thus, the nominal rate must rise by more than the increase in the anticipated inflation in order to assure a 4 percent real yield after personal taxes. Nominal interest income must rise enough to compensate for the effect of the inflation on the purchasing power of both the interest income and the initial funds supplied. Since taxes are levied on the nominal interest income, the interest return which is necessary to maintain the purchasing power of individuals' orignal capital is taxed as well. To compensate for this real tax burden on capital, taxpayers will demand a higher real market interest rate, before taxes, in order to supply the same funds.

In the example, the nominal market rate must rise from 5 percent (with no inflation and a 20 percent tax rate) to about 11.25 percent (with 5 percent inflation and a 20 percent tax rate) in order to provide the after-tax real yield of 4 percent to the individual. ing power of individuals' original capital is rate of about 11.25 percent per year, 20 percent must be paid in taxes (.2 x 11.25= 2.25) so that the nominal after-tax yield is 9 percent. This is the rate required to yield a 4 percent real rate of return after taxes and to cover the 5 percent loss of purchasing power of the original $1,000. The nominal market rate of 11.25 percent, together with a 5 percent tax rate) in order to provide the after-cent must be paid in taxes (.2 x 11.25 = 2.25) cent) is required to make the bond attractive. Thus, the 5 percentage point rise in inflation raises the real market demanded by lenders from 5 percent to 6.25 percent.

Since the personal income tax is progressive, higher nominal income associated with inflation can push taxpayers into higher tax brackets. Thus, a particular individual, initially in a 20 percent tax bracket, would require an even higher nominal return in order to compensate for this facet of the increased real tax burden. Since nominal interest rates rise by more than the 5 percent advance in the inflation rate in the example above, the real market rate must rise by more than 1.25 percentage points.

Since nominal dividend earnings as well as nominal capital gains are subject to personal income taxes, the required yield on stocks will be affected by anticipated inflation in the same manner as bonds. To supply the same dollar flow of funds, suppliers require compensation for both the anticipated inflation as well as the increased future tax liability which such a higher inflation rate would entail. Because the required nominal market yields on all supplies of funds rise by more than the increase in anticipated inflation, the real rates of interest which individuals require to supply a given amount of funds will rise.[13]

THE MARKET FOR INVESTMENT FUNDS

Firms tend to make capital investments when the expected real after-tax rate of return from an investment equals or exceeds the cost of acquiring the necessary funds. As has been shown, inflation has an adverse impact on both aspects of this criterion. Due to the implicit tax on capital emanating from historical cost depreciation, higher rates of inflation over the life of a project reduce the real after-tax rate of return on investment projects. Projects which would be marginally profitable, with a given cost of funds, become economically unfeasible due to the emergence of inflation, thereby reducing the level of investment demanded by firms.[14] In addition, the same inflation rate, operating through the personal tax system, drives up the real market yields at which investors are willing to supply funds.

The results are depicted in Figure I which shows business' demand for funds and investors' supply of funds at different real market rates. Initially the supply and demand curves are S and D. Additional factors which affect demand or supply, including the inflation rate, are assumed to be given along the curves. Other things equal, investors will supply more funds, the greater is the real market rate of interest. Similarly, businesses demand fewer funds to invest in assets when the real market rate of interest rises. The amount of funds supplied and demanded are equal initially, at the real market interest rate.

For a given real market rate of interest (and cost of funds to business), an increase in the rate of inflation reduces the number of projects which businesses find attractive, thereby reducing their demands for funds. Such a shift in demand is indicated by D' in Figure I. At the same time, the increase in the inflation rate reduces the after-tax real rate of return on equity or bond purchases, given real market yields, reducing the incentives for individuals to supply funds. Such a shift in supply is indicated by the leftward movement of supply to S' in Figure I. The ultimate effect on the real market rate depends upon the change in the relative scarcity of funds in the market place. If the reduction in demand for new funds is matched by an equal reduction in the supply of funds, no change would occur in real market rates, as is indicated in the figure. However, if the supply of funds declines relative to demand, the increase in the scarcity of funds will cause a rise in real market rates.

Regardless of the net effect of inflation on real market rates of return, the analysis indicates that, as a consequence of the U.S. tax system, inflation unambiguously reduces incentives to undertake new investment projects, and therefore business investment spending declines. Such a reduction is indicated in Figure I by the change in investment funds from I to I':

CONCLUSIONS

The U.S. tax system evolved over a period of relatively minor inflation and was not designed to avoid inflation's detrimental effects on economic decisions. As inflation has trended upward and expectations of futures inflation have become widely held, the U.S. tax system has had an increasingly detrimental effect on business investment.

Substantial changes in the tax system would be required to insulate investment decisions from the adverse effects of inflation. The requirements include tying the income levels for personal income tax brackets, as well as deductions and exemptions, to the rate of inflation in order to avoid the disincentives associated with progressivity of the personal income tax. In addition, the personal income tax would have to be altered so as to eliminate the taxation of inflation premiums in interest income from bonds and dividend income from stocks as well as the taxation of inflation-generated capital gains.[15] At the company level, a business would have to be allowed replacement cost depreciation rather than historical cost depreciation to avoid taxing capital as well as income.

The history of tax law alterations in the United States indicates that such a large number of major revisions in corporate and personal income tax laws is most unlikely. Nonetheless, the critically important role of business investment in providing for growth in productivity, employment, and our standard of living hangs in the balance.

Of course, there is an alternative to the massive tax reform suggested here. Fiscal and monetary policies could be adopted to reduce substantially, or even eliminate, inflation and the distortions it creates. Only a noninflationary environment is consistent with the principles of taxation and our existing tax laws.

FOOTNOTES

[1] The postwar recovery beginning in the second quarter of 1958 is excluded since it did not last as long as the current expansion.

[2] This calculation of the real rate is found by subtracting the inflation rate over a period from the nominal rate of increase. The exact measure of the real income gain in the example above provides a slightly different result. Since $120 will buy only $114.29 ($120 ÷1.05) worth of goods and services, measured in the initial period's prices, the real gain could be stated as the simple percentage gain of 14.3 percent.

[3] Considerable work on this problem has been done by George Terborgh, *Essays on Inflation* (Washington, D.C.: Machinery and Allied Products Institute and Council for Technological Advancement, 1971). Also see T. Nicolaus Tideman and Donald P. Tucker, "The Tax Treatment of Business Profits under Inflationary Conditions," in *Inflation and the Income Tax*, ed. Henry J. Aaron (Washington, D.C.: The Brookings Institution, 1976), pp. 33–74.

[4] To avoid problems associated with the measurement of income under the accrual method of accounting, it is assumed that all transactions occur on a cash basis. See Harold Bierman, Jr., and Seymour Smidt, *The Capital Budgeting Decision*, 4th ed. (New York: Macmillian Publishing Co., Inc., 1975), pp. 112–14.

[5] The rate of return on an investment here is the "internal rate of return" (IRR). While the IRR can be used to compare the relative merits of alternative asset purchases, there are situations in which it may lead to an incorrect investment decision. In general, the net present value (NPV) model is preferred for evaluating investment projects. The IRR is used here only because it allows a simpler and more direct presentation of inflation's impact on investment return. For a description and general discussion of the IRR and NPV models, see J. Fred Weston and Eugene F. Brigham, *Managerial Finance*, 5th ed. (Hinsdale, Ill.; The Dryden Press, 1975), pp. 267–75, and Bierman and Smidt, *The Capital Budgeting Decision*, pp. 41–57.

[6] Firms may react by attempting to offset part of the lower yield associated with inflation-induced taxation by increasing the use of accelerated forms of depreciation, such as the "double declining balance" or the "sum-of-the-years-digits" method. However, the presence of an inflation effect is independent of the method of depreciation chosen.

[7] See Charles R. Nelson, "Inflation and Capital Budgeting," *Journal of Finance* (June 1970), pp. 923–31.

[8] See Benjamin Klein, "Our New Monetary Standard: The Measurement and Effects of Price Uncertainty, 1880–1973," *Economic Inquiry* (December 1975), pp. 461–84.

[9] Martin Feldstein, Jerry Green, and Eytan Sheshinski, "Inflation and Taxes in a Growing Economy with Debt and Equity Finance," forthcoming in the *Journal of Political Economy* (April 1978), have formally modeled most of the considerations discussed in this section. They concentrate on the effect of inflation on real *net* rates of return to investors assuming a fixed stock of capital and supply of funds. John Lintner, "Inflation and Security Returns," *Journal of Finance* (May 1975), pp. 259–80, cites statistical evidence uniformly showing that stockholders' net returns, both nominal and real, are negatively related to inflation rates. He also argues that the cost of funds to firms, including debt, may be positively related to inflation rates.

[10] Michael R. Darby, "The Finanical and Tax Effects of Monetary Policy on Interest Rates," *Economic Inquiry* (June 1975), pp. 266–76, has explored some of the implications of personal income taxation for the effect of inflation on interest rates.

[11] The erosion of real income due to inflation in the presence of a progressive income tax is discussed by Nancy Jianakoplos, "Paying More Taxes and Affording It Less," this *Review* (July 1975), pp. 9–13, and Leonall C. Andersen, "So What, It's Only a Five Percent Inflation," this *Review* (May 1977), pp. 21–

23. While the explanation and examples there are in terms of labor income, the analysis for capital income is essentially the same.

[12] The exact nominal interest rate in this instance would have to be 9.2 percent in order to provide the 4 percent real rate of return. All of the nominal interest rates in this section are calculated by simply adding the rate of inflation to the corresponding real interest rate. See fn. 2.

[13] The real cost of funds to firms is also influenced by the corporate income tax treatment of the firm's payments of income to funds suppliers. A firm's nominal interest payments to bondholders are tax deductible expenses while dividend payments or capital gains which accrue through retained earnings are not tax deductible. When the inflation rate is expected to rise, this differential tax treatment creates an incentive for firms to place greater emphasis on the lower cost of debt financing relative to equity. This point has been emphasize by Tideman and Tucker, "The Tax Treatment of Business Profits under Inflationary Conditions."

Attitudes toward debt and its associated risk, however, limit the incentive to switch to debt. As debt becomes a greater proportion of a firm's desired financial structure, creditors and stockholders must be compensated for the increased riskiness of the firm. Thus, the cost of both sources of funds tends to rise by more than that suggested by inflation and tax considerations alone. A discussion of the effects of increased financial risk on a firm's cost of equity and debt may be found in Weston and Brigham, *Managerial Finance*, pp. 604–12 and 636–57.

[14] Hai Hong, "Inflation and the Market Value of the Firm: Theory and Tests," *Journal of Finance* (September 1977), pp. 1031–48, presents supporting statistical evidence of the reduction in the value of firms in an inflationary environment due to tax effects of historical cost depreciation.

[15] Of course, firms would have to be limited to deducting only real interest expenses and not nominal interest payments to eliminate any tax advantage which inflation-induced higher interest payments produce.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ANDREWS of North Dakota (at the request of Mr. RHODES), after 5 p.m. today and the balance of the week, on account of official business.

Mr. SAWYER, for Friday, May 19, 1978, on account of official business in the district.

Mr. THONE (at the request of Mr. RHODES), after 5 p.m. today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RUDD) to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 15 minutes, today.

Mr. HAGEDORN, for 5 minutes, today.

(The following Members (at the request of Mr. GEPHARDT) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

Mr. BEVILL, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JENRETTE, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,478.25.

Mr. ALEXANDER, and to include extraneous matter, not including the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,231.88.

Mr. SKUBITZ, to revise and extend his remarks prior to vote on House Concurrent Resolution 624.

Mr. PEPPER, immediately following the vote on the Young of Alaska amendments to H.R. 39 in the Committee of the Whole today.

(The following Members (at the request of Mr. RUDD) and to include extraneous matter:)

Mr. BOB WILSON in two instances.
Mr. RUDD.
Mr. GILMAN.
Mrs. HECKLER.
Mr. FRENZEL in two instances.
Mr. BURGENER.
Mr. WHITEHURST.
Mr. STEERS.
Mr. ROBINSON.
Mr. MARKS.
Mr. PURSELL.
Mr. DEVINE.
Mr. CEDERBERG.
Mr. HYDE.
Mr. WALSH.
Mr. DERWINSKI.
Mr. LAGOMARSINO in two instances.
Mr. CONABLE.

(The following Members (at the request of Mr. GEPHARDT) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. DOWNEY.
Mr. FASCELL in five instances.
Mr. WAXMAN in two instances.
Mr. JONES of Oklahoma.
Mr. OBERSTAR in two instances.
Mr. ROSENTHAL.
Mr. PATTISON of New York.
Mr. BLANCHARD.
Mr. MICHAEL O. MYERS.
Mr. EILBERG in two instances.
Mr. LEHMAN.
Mr. MCDONALD in five instances.
Mr. ROE.
Mr. HUCKABY.
Mr. VENTO in two instances.
Mr. DENT.
Mr. VANIK in two instances.
Mr. MAGUIRE.
Mr. BAUCUS.
Mrs. LLOYD of Tennessee.
Mr. OTTINGER.
Mr. DICKS.
Mr. DRINAN.
Mr. RISENHOOVER.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 10392. To establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adiourn.

The motion was agreed to; accordingly (at 5 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, May 19, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4201. A letter from the Acting Secretary of Agriculture, transmitting a report on animal welfare enforcement covering the last 9 months of fiscal year 1977, pursuant to section 25 of the Animal Welfare Act (84 Stat. 1565); to the Committee on Agriculture.

4202. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a report on the export expansion facility program for the period July 1, 1977, through March 31, 1978, pursuant to Public Law 90–390; to the Committee on Banking, Finance and Urban Affairs.

4203. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4204. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the receipt of an application for a loan from the West Bench Irrigation District, Montana, pursuant to section 10 of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

4205. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 221–A, *Chippewa Cree Tribe, et al., Plaintiffs* v. *the United States of America, defendant*, pursuant to section 21 of the Indian Claims Commission Act; to the Committee on Interior and Insular Affairs.

4206. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Japan (MC–21–78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4207. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Japan (MC–24–78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4208. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed manufacturing license agreement for the manufacture and assembly of certain military equipment in Japan (MC–22–78), pursuant to section 36(d) of the Arms Export Control Act; to the Committee on International Relations.

4209. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed manufacturing license agreement for the manufacture and assembly of certain military equipment in Japan (MC–23–78), pursuant to section 36 (d) of the Arms Export Control Act; to the Committee on International Relations.

4210. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Robert W. Murphy and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

4211. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Terence A. Todman and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

4212. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his annual report for fiscal year 1977, pursuant to 28 U.S.C. 604(a)(4), together with the reports of the annual and special meetings of the Judicial Conference of the United States held in 1977; to the Committee on the Judiciary.

4213. A letter from the Comptroller General of the United States, transmitting a report on regulation of the commodity futures markets (CED–78–110, May 17, 1978); jointly, to the Committees on Government Operations, and Agriculture.

4214. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the District of Columbia's rent-setting system for public housing and urban renewal properties (GGD–78–50, May 17, 1978); jointly, to the Committees on Government Operations, and the District of Columbia.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TEAGUE: Committee on Science and Technology. H.R. 7749. A bill to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora of the Antarctic Treaty, and for other purposes; with amendment (Rept. No. 95–1031, pt. II). Referred to the Committee on the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1193. Resolution providing for the consideration of H.R. 12602. A bill to authorize certain construction at military installations for fiscal year 1979, and for other purposes. (Rept. No. 95–1205). Referred to the House Calendar.

Mr. FISH Committee on the Judiciary. H.R. 12443. A bill to amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy; with amendment (Rept. No. 95–1206). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 6225. A bill to amend title 5, United States Code, to guarantee to each employee in the executive branch who has completed the probationary or trial period, the right to a hearing, a hearing transcript, and all relevant evidence prior to a final decision of an agency to take certain action against such an employee, and for other purposes; with amendment (Rept. No. 95–1207). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 and of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO (for himself, Mr. REUSS, Mrs. SPELLMAN, Mr. VENTO, Mr. ALLEN, Mr. ST GERMAIN, Mr. MINISH, Mr. FAUNTROY, Mr. WYLIE, and Mrs. FENWICK):

H.R. 12775. A bill to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services; to the Committe on Banking, Finance and Urban Affairs.

By Mr. BEDELL (for himself, Mr. VOLKMER, Mr. FUQUA, Mrs. LLOYD of Tennessee, Mr. LAFALCE, and Mr. BONIOR):

H.R. 12776. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits shall be financed from general revenues rather than through the imposition of employment and self-employment taxes as at present, to adjust the rates of such taxes for old-age and survivors insurance and hospital insurance purposes, to provide for reductions in the amount of such disability benefits to take account of the recipient's need as determined on the basis of his family income, to improve disability determination procedures, and for other purposes; to the Committee on Ways and Means.

By Mr. CEDERBERG:

H.R. 12777. A bill to provide for the establishment of a board which will establish and administer agricultural production and marketing programs, and for other purposes; jointly, to the Committees on Agriculture, International Relations, Interstate and Foreign Commerce, and Ways and Means.

By Mr. COTTER (for himself and Mr. CONABLE):

H.R. 12778. A bill to provide that certain statutory subsistence allowances received by State police officers will not retroactively be included in gross income; to the Committee on Ways and Means.

By Mr. IRELAND (for himself, Mrs. KEYS, and Mr. YATRON):

H.R. 12779. A bill to amend the Small Business Act to provide regulatory flexibility for small business in certain instances so that the effect of regulation matches the size of business regulated; to the Committee on Small Business.

By Mr. LEACH:

H.R. 12780. A bill to establish a temporary maximum limit on the number of individuals employed in the Federal civil service; to the Committee on Post Office and Civil Service.

By Mr. McDONALD:

H.R. 12781. A bill to require the Comptroller General of the United States to audit annually the gold held by the United States on the first day of each fiscal year and to report his findings to the Congress; to the Committee on Government Operations.

H.R. 12782. A bill to provide for the seizure, forfeiture, and disposition of vehicles used to illegally transport persons into the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. McEWEN (for himself, Mrs. BURKE of California, Mr. RANGEL, Mr. PHILLIP BURTON, Mr. WYDLER, Mr. FLOOD, Mr. LLOYD of California, Mr. MOAKLEY, Mr. EILBERG, Mr. ARCHER, Mr. MITCHELL of New York, Mr. MARKS, Mr. BINGHAM, Mr. HORTON, Mr. OTTINGER, Mrs. CHISHOLM, Mr. SCHEUER, Mr. SOLARZ, Mr. GILMAN, Mr. MCHUGH, and Mr. MURPHY of New York):

H.R. 12783. A bill to provide for the striking of national medals by the Lake Placid 1980 Olympic Winter Games, Inc., in commemoration of the XIII Olympic winter games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROGERS:

H.R. 12784. A bill to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. SCHULZE (for himself, Mr. BURGENER, Mrs. COLLINS of Illinois, Mr. DERWINSKI, Mr. DORNAN, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. GUYER, Mr. HALL, Mr. HILLIS, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LOTT, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Ms. OAKAR, Mr. SPENCE, Mr. TREEN, Mr. WHITEHURST, and Mr. YATRON):

H.R. 12785. A bill to amend the Internal Revenue Code of 1954 to reduce individual income taxes; to the Committee on Ways and Means.

By Mr. SKELTON:

H.R. 12786. A bill to require the Defense Civil Preparedness Agency to prepare a study of the special civil defense needs of areas which contain significant elements of the U.S. strategic nuclear ratallatory forces, and for other purposes; to the Committee on Armed Services.

By Mr. THONE:

H.R. 12787. A bill to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 12788. A bill to amend title XVIII of the Social Security Act to remove the special requirements for qualification of for-profit home health agencies under the medicare program; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mr. CONABLE, Mr. DUNCAN of Tennessee, Mr. HOLLAND, Mr. MARTIN, Mr. PICKLE, Mr. RANGEL, Mr. TUCKER, and Mr. VANDER JAGT):

H.R. 12789. A bill to amend the Internal Revenue Code of 1954 to exempt certain taxicabs from the Federal excise taxes on gasoline and other motor fuels; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. DERRICK, Mr. MCCLOSKEY, Mr. MEEDS, Mr. BOB WILSON, and Mr. YOUNG of ALASKA):

H.R. 12790. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. HAGEDORN:

H.R. 12791. A bill to provide for research programs under the Secretary of Agriculture and the Secretary of Energy, to amend the Internal Revenue Code of 1954 to encourage the use of grain-produced ethanol as an alternative fuel for motor vehicles, to provide guaranteed loans for ethanol-producing facilities, and to amend the Clean Air Act to exempt gasoline mixed with ethanol from certain prohibitions, and for other purposes; jointly, to the Committees on Agriculture, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

By Mr. LOTT:

H.R. 12792. A bill to provide for the safeguarding of taxpayer rights, and for other

purposes; to the Committee on Ways and Means.

By Mr. ROE (for himself, Mr. BOWEN, Mr. CLEVELAND, Mr. COHEN, Mr. FLIPPO, Mr. HOLLAND, Mr. JEFFORDS, Mr. SEBELIUS, Mr. SKUBITZ, Mr. SPENCE, Mr. WINN, Mr. YOUNG of Missouri, Mr. BALDUS, Mr. MATHIS, Mr. LOTT, Mr. MONTGOMERY, and Mr. CORCORAN of Illinois):

H.R. 12793. A bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis; to the Committee on Ways and Means.

By Mr. WRIGHT (for himself, Mrs. MEYNER, Mr. DE LA GARZA, Mr. BROOKS, Mr. GILMAN, Mr. GOODLING, Mr. PEASE, Mr. FOWLER, Mr. MURTHA, and Mr. MINISH):

H.J. Res. 921. Joint resolution recognizing the extraordinary success of the North Atlantic Alliance; to the Committee on International Relations.

By Mr. ZABLOCKI (for himself, Mr. FOUNTAIN, Mr. FASCELL, Mr. DIGGS, Mr. FRASER, Mr. ROSENTHAL, Mr. HAMILTON, Mr. WOLFF, Mr. BINGHAM, Mr. YATRON, Mr. RYAN, Mr. SOLARZ, Mr. BONKER, Mr. STUDDS, Mr. IRELAND, Mr. DANIELSON, Mr. CAVANAUGH, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. FINDLEY, Mr. BUCHANAN, Mr. BURKE of Florida, Mr. GUYER, Mr. LAGOMARSINO, and Mrs. PETTIS):

H.J. Res. 922. Joint resolution recognizing the extraordinary success of the North Atlantic Alliance; to the Committee on International Relations.

By Mr. JONES of Oklahoma (for himself, Mr. STEED, Mr. ENGLISH, Mr. RISENHOOVER, Mr. WATKINS, and Mr. EDWARDS of Oklahoma):

H.J. Res. 923. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979; to the Committee on International Relations.

By Mr. MOTTL:

H.J. Res. 924. Joint resolution proposing an amendment to the Constitution of the United States to give citizens of the United States the right to enact and repeal laws by voting on legislation in a national election; to the Committee on the Judiciary.

By Mr. ST GERMAIN (for himself, Mr. ADDABBO, Mr. BENJAMIN, Mr. BRODHEAD, Mr. BROWN of Michigan, Mr. CLAY, Mr. DUNCAN of Oregon, Mr. FRASER, Mr. HOWARD, Mr. JEFFORDS, Mr. KRUEGER, Mr. MCKINNEY, Mr. MEEDS, Mr. MOAKLEY, Ms. OAKAR, Mr. PRICE, Mr. SOLARZ, and Mr. WEISS):

H.J. Res. 925. Joint resolution to declare June 4 through 10, 1978, to be National Neighborhood Week; to the Committee on Post Office and Civil Service.

By Mr. ST GERMAIN (for himself, Mr. BEARD of Rhode Island, Mr. BLANCHARD, Mr. BEILENSON, Mr. BROWN of California, Mr. CAVANAUGH, Mrs. COLLINS of Illinois, Mr. EILBERG, Mr. ERTEL, Mr. GREEN, Mr. JOHNSON of California, Mr. LE FANTE, Mr. LEDERER, Mr. LUKEN, Ms. MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. REUSS, Mr. ROE, Mr. THONE, Mr. VENTO, Mr. YOUNG of Missouri, and Mr. WAXMAN):

H.J. Res. 926. Joint resolution to declare June 4 through 10, 1978, to be National Neighborhood Week; to the Committee on Post Office and Civil Service.

By Mr. ZABLOCKI (for himself, Mr. GILMAN, Mr. DERWINSKI, Mr. BROOMFIELD, Mr. GUYER, Mrs. PETTIS, Mr. GRADISON, Mr. MARKS, Mr. MITCHELL of New York, Mr. HYDE, Mr. ROUSSELOT, Mr. FINDLEY, Mr. DORNAN, Mr. TAYLOR, Mr. CONABLE, Mr. MCEWEN, Mr. HORTON, Mr. JOHN T. MYERS, and Mr. BURKE of Florida):

H. Con. Res. 625. Concurrent resolution expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express U.S. opposition to the imprisonment of members of the Soviet Helsinki Groups; to the Committee on International Relations.

By Mr. FOLEY:

H. Con. Res. 626. Concurrent resolution disapproving proposed regulations of the Department of the Treasury requiring centralized registration of firearms and other matters; jointly, to the Committees on the Judiciary, and Ways and Means.

By Mr. CHARLES WILSON of Texas (for himself, Mr. BROOKS, Mr. BURLESON of Texas, Mr. GAMMAGE, Mr. HALL, Mr. KAZEN, Mr. MATTOX, Mr. POAGE, and Mr. TEAGUE):

H. Con. Res. 627. Concurrent resolution relating to the national air quality standard for photochemical oxidants; to the Committee on Interstate and Foreign Commerce.

By Mr. WRIGHT (for himself, Mr. RHODES, Mr. FLYNT, Mr. SPENCE, Mr. TEAGUE, Mr. QUILLEN, Mr. BENNETT, Mr. QUIE, Mr. HAMILTON, Mr. COCHRAN of Mississippi, Mr. PREYER, Mrs. FENWICK, Mr. FLOWERS, and Mr. CAPUTO):

H. Res. 1192. Resolution expressing the sense of the House that until the testimony of Kim Dong Jo is made available under oath to the Committee on Standards of Official Conduct, the transfer of anything of value to the Republic of Korea for nonmilitary purposes should be made only where the refusal to do so would imperil the national security of the United States or the territorial integrity of the Republic of Korea; and that refusal of the United States to make such transfers, would not, under present circumstances imperil the national security of the United States or the territorial integrity of the Republic of Korea; to the Committee on International Relations.

By Mr. WRIGHT:

H. Res. 1194. Resolution expressing the sense of the House that until the testimony of Kim Dong Jo is made available under oath to the Committee on Standards of Official Conduct, the transfer of anything of value to the Republic of Korea for nonmilitary purposes should be made only where the refusal to do so would imperil the national security of the United States or the territorial integrity of the Republic of Korea; and that refusal of the United States to make such transfers, would not, under present circumstances imperil the national security of the United States or the territorial integrity of the Republic of Korea; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

409. By the SPEAKER: Memorial of the Legislature of the State of Hawaii, relative to agricultural inspection at airports in Hawaii; to the Committee on Agriculture.

410. Also, memorial of the Legislature of the State of Hawaii, relative to Federal agencies operating at international airports and harbors; to the Committee on Public Works and Transportation.

411. Also, memorial of the Legislature of the State of Hawaii, relative to exempting State and local public pension plans from Federal taxation and reporting requirements; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXI,

468. The SPEAKER presented a petition of the Assembly of the Baptist Churches of Puerto Rico, Rio Pedras, Puerto Rico, relative to withdrawal of the Navy from the island of Vieques, which was referred to the Committee on Armed Services.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of April 10, 1978 (page H9363).

H.R. 11001. February 20, 1978. House Administration. Requires the President to adequately record his official acts and names him as the custodian of such records during his term of office. Permits the President to destroy any such records which he determines are of insufficient administrative, historical, or informational value. Requires the Archivist of the United States to take custody of such Presidental records upon the termination of the President's term of office and to make such records available to the public.

Authorizes the President to restrict public access to such records for up to 15 years.

Authorizes either House of Congress to veto regulations promulgated by the Archivist to implement this Act.

H.R. 11002. February 20, 1978. Judiciary. Sets forth procedures for the settlement of contract claims disputes between executive agencies and Government contractors. Authorizes executive agencies to establish contract boards of appeals to which agency decisions may be appealed.

H.R. 11003. February 20, 1978. Post Office and Civil Service. Limits the number and salaries of employees who may be employed at specified salary levels above the basic rate for G–16 of the General Schedule in the White House Office, and the Executive Residence at the White House or by the Vice President, the Domestic Policy Staff, or the Office of Administration.

H.R. 11004. January 20, 1978. Education and Labor. Amends the Higher Education Act of 1965 to revise the standards for determining the family contribution with regard to basic educational opportunity grant amounts authorized by such Act.

H.R. 11005. February 20, 1978. Ways and Means. Amends the Tariff Act of 1930 to authorize appropriations for the United States International Trade Commission for fiscal year 1979.

H.R. 11006. February 21, 1978. Judiciary; Rules. Requires any rule promulgated by a Federal agency to be submitted to Congress accompanied by: (1) an economic impact analysis, (2) a paperwork impact analysis, and (3) a judicial impact analysis disclosing the probable consequences of such rule on the operation, workload, and efficiency of the Federal courts.

Permits such rules having specified penalties or economic impacts to become effective only if approved by both Houses of Congress. Permits other rules to become effective if

not disapproved by either House within 60 days of promulgation. Limits the life of such rules to five years.

H.R. 11007. February 21, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants and enter into contracts for establishing, maintaining, and expanding family planning projects with particular emphasis on adolescents.

H.R. 11008. February 21, 1978. House Administration. Authorizes the Board of Regents of the Smithsonian Institution to acquire the Museum of African Art.

H.R. 11009. February 21, 1978. Veterans' Affairs. Revises certain administrative provisions regarding loans to veterans to purchase mobile homes and mobile home lots.

H.R. 11010. February 21, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 11011. February 21, 1978. Ways and Means. Amends the Internal Revenue Code to revise the social security tax rates established by the Social Security Amendments of 1977.

Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase allocations of employment income and decrease allocations of self-employment income from the Treasury to the Federal Disability Insurance Trust Fund.

Permits the making of loans between the Old-Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund.

H.R. 11012. February 21, 1978. International Relations. Amends the Foreign Relations Authorization Act, fiscal year 1978, to authorize additional appropriations for the Board for International Broadcasting for fiscal year 1978.

H.R. 11013. February 21, 1978. International Relations. Authorizes appropriations for the International Communication Agency for fiscal years 1979 and 1980.

H.R. 11014. February 21, 1978. International Relations. Directs the Consumer Product Safety Commission to (1) carry out a study of the different types of surfacing materials used in playgrounds and determine the relationship between such materials and the occurrence of accidents and injuries at such facilities; and (2) promulgate advisory safety standards for playground equipment.

Requires playground equipment in federally assisted playgrounds to comply with such safety standards.

H.R. 11015. February 21, 1978. Education and Labor. Amends the Higher Education Act of 1965 to establish a $250 minimum basic educational opportunity grant for college students whose adjusted family income does not exceed $25,000.

Sets fourth new guidelines for determining the assets of independent students for purposes of eligibility for basic educational opportunity grants.

Revises certain provisions regarding Federal payments to reduce student loan interest costs under such Act including raising the maximum allowable adjusted family income requirement to $40,000.

H.R. 11016. February 21, 1978. Public Works and Transportation. Directs the Secretary of Transportation to enter into a contract with each State for payment of 100 percent of the costs of repairing highways and surface rails of urban mass transportation systems (other than railroads) which were damaged as a result of the winter weather of 1977–1978.

H.R. 11017. February 21, 1978. Education and Labor. Amends the Rehabilitation Act of 1973 to rescind the authority of the Secretary of Health, Education, and Welfare to designate a type of disability as qualifying as a "severe handicap" for purposes of such Act.

H.R. 11018. February 21, 1978. Judiciary. Establishes a Commission on Federal Judicial Nominations for each Federal judicial district. Directs each such Commission, upon learning of a vacancy in its district for district judge, United States attorney, or United States marshal, to determine, make public, and submit to the President a list of at least three qualified persons. Prohibits any Senator from directly or indirectly proposing potential nominees.

States that it is the sense of Congress that the President should be guided by a Commission's list in making a nomination.

H.R. 11019. February 21, 1978. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for half of the first $500 in tuition paid for each of the taxpayer's dependents, his spouse and himself. Allows an income tax deduction for the first $1,000 paid annually into a qualified higher education trust fund for each of these individuals.

H.R. 11020. February 21, 1978. Agriculture. Declares the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to study, issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 11021. February 21, 1978. Ways and Means. Amends the Tariff Schedules of the United States to eliminate the customs duty on the importation of live worms, if a product of Canada.

H.R. 11022. February 21, 1978. Agriculture. Amends the Food Stamp Act of 1977 to deny eligibility for food stamps to any household including a person participating in a strike or labor dispute which the President determines is causing or substantially contributing to: (1) a critical shortage of any essential resource or strategic material; or (2) unemployment in an industry not directly involved in such strike or labor dispute.

H.R. 11023. February 21, 1978. Ways and Means. Amends the Internal Revenue Code to allow manufacturers placing property eligible for the investment tax credit in designated "labor surplus" areas to take double investment tax credits and depreciation deduction for the property. Doubles the allowable deduction for real property taxes on realty used in connection with this property.

H.R. 11024. February 21, 1978. Judiciary. Amends the Administrative Procedure Act to require Federal agencies to prepare and publish in the Federal Register an economic impact analysis of all proposed and final rules subject to the provisions of the Act.

H.R. 11025. February 21, 1978. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 11026. February 21, 1978. Judiciary. Relieves hospitals and health-care facilities in Health, Education, and Welfare Department Region IV of specified Medicare payments.

H.R. 11027. February 21, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish United States Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities; and (2) to rename Agricultural Attaches Agricultural Counselors, and to require annual reports from them on specified subjects.

Amends the Commodity Credit Corporation Charter Act to require the Corporation to finance export sales of agricultural commodities on credit terms of from three to ten years.

Establishes an Assistant Secretary of Agriculture for Commodity Programs and an Under Secretary of Agriculture for International Affairs.

H.R. 11028. February 21, 1978. Education and Labor. Establishes a national program for the prevention and treatment of family violence through the coordination of existing programs and the provision of assistance to such programs and to the establishment of new programs.

Establishes a Coordinating Council on Family Violence which shall be composed of representatives of specified executive departments and agencies.

Establishes within the ACTION Agency a National Center for Community Action Against Family Violence. Directs the Secretary of Health, Education, and Welfare to provide funds to evaluate programs for the prevention and treatment of family violence.

H.R. 11029. February 21, 1978. Armed Services; International Relations. Directs the Secretary of the Navy to transfer to LIFE International for 15 years the hospital ship U.S.S. Sanctuary (AH–17) to furnish health care to developing nations. Renames such ship the "SS LIFE."

Authorizes appropriations for modification of such ship and for maintenance and operation for fiscal years 1979–1984.

H.R. 11030. February 21, 1978. Armed Services; International Relations. Directs the Secretary of the Navy to transfer to LIFE International for 15 years the hospital ship U.S.S. Sanctuary (AH–17) to furnish health care to developing nations. Renames such ship the SS LIFE.

Authorizes appropriations for modification of such ship and for maintenance and operation for fiscal years 1979–1984.

H.R. 11031. February 21, 1978. Armed Services; International Relations. Directs the Secretary of the Navy to transfer to LIFE International for 15 years the hospital ship U.S.S. Sanctuary (AH–17) to furnish health care to developing nations. Renames such ship the SS LIFE.

Authorizes appropriations for modification of such ship and for maintenance and operation for fiscal years 1979–1984.

H.R. 11032. February 21, 1978. Armed Services; International Relations. Directs the Secretary of the Navy to transfer to LIFE International for 15 years the hospital ship U.S.S. Sanctuary (AH–17) to furnish health care to developing nations. Renames such ship the SS LIFE.

Authorizes appropriations for modification of such ship and for maintenance and operation for fiscal years 1979–1984.

H.R. 11033. February 21 1978. Armed Services. Grants survivor benefits to dependents of present or former members of the armed forces who die before becoming entitled to retired pay for non-regular service.

H.R. 11034. February 21, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agri-

culture from providing for the redemption of stored wheat and feed grains loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 11035. February 18, 1978. Judiciary. Grants a Federal charter to the United States Capitol Historical Society.

H.R. 11036. February 21, 1978. Armed Services. Authorizes the appropriation of funds for specified general and national security programs within the Department of Energy.

H.R. 11037. February 21, 1978. Agriculture. Directs the Secretary of Agriculture: (1) to use specified funds to maintain adequate supplies and prices for perishable agricultural commodities; and (2) to increase periodically the loan rates and target prices for 1977 through 1981 for wheat, feed grains, upland cotton, rice, peanuts, soybeans, and sugar, to reflect cost-of-livng increases granted to individuals in the public and private sector or to reflect increases in the minimum wage.

H.R. 11038. February 21, 1978. Interior and Insular Affairs. Denies payments to a local government by the Secretary of the Interior based on the amount of public lands within the boundaries of such locality when such lands were acquired by a State or local unit of government solely for the purpose of conveyance to the United States.

H.R. 11039. February 21, 1978. Ways and Means. Amends the Internal Revenue Code to allow limited income tax credits for new business property placed and new employees working in high unemployment urban areas.

H.R. 11040. February 21, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grains loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 11041. February 21, 1978. Judiciary; Ways and Means. Authorizes a $543,000,000 appropriation for reimbursing States for expenditures made with respect to services provided by such States under specified titles of the Social Security Act.

Sets forth procedures and time limitations for making claims for reimbursment and maximum amounts which a State may receive for providing services under the Social Security Act.

H.R. 11042. February 21, 1978. Agriculture. Directs the Secretary of Agriculture to provide 100 percent parity price support for each crop year for all agricultural commodities, unless the producers of any commodity disapprove any marketing quota for such commodity.

H.R. 11043. February 21, 1978. Veterans' Affairs. Establishes within the Veterans' Administration the office of Associate Deputy Administrator for Veterans' Employment and transfers to such office certain functions of the Department of Labor regarding veterans' employment, training, and placement.

Amends the Comprehensive Employment and Training Act of 1973 to transfer certain Federal contract requirement responsibilities regarding Vietnam era and disabled veterans from the Secretary of Labor to the Veterans' Administration

H.R. 11044. February 21, 1978. Veterans' Affairs. Provides that the education assistance allowance to a veteran with no dependents incarcerated in a Federal, State, county, or local prison or jail shall be computed on the same basis as that for veterans pursuing a program of education on active duty or on less than a half-time basis.

H.R. 11045. February 21, 1978. Veterans' Affairs. Amends the GI Bill Improvement Act of 1977 to make certain technical changes with regard to veterans' educational assistance.

H.R. 11046. February 21, 1978. Veterans' Affairs. Terminates educational assistance for flight training courses for veterans and correspondence training courses for veterans, spouses, and surviving spouses.

H.R. 11047. February 21, 1978 Agriculture. Amends the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish an Assistant Secretary of Agriculture for agricultural research, extention, and teaching in the food and agricultural sciences.

H.R. 11048. February 2, 1978. Judiciary. Declares four individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11049. February 23, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to two individuals in full settlement of their claims against the United States.

H.R. 11050. February 22, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish United States Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities; and (2) to rename Agricultural Attaches, Agricultural Counselors, and to require annual reports from them on specified subjects.

Amends the Commodity Credit Corporation Charter Act to require the Corporation to finance export sales of agricultural commodities on credit terms of from three to ten years.

Establishes an Assistant Secretary of Agriculture for Commodity Programs and an Under Secretary of Agriculture for International Affairs.

H.R. 11051. February 22, 1978. Interior and Insular Affairs. Amends the Reclamation Authorization Act of 1975 to authorize the Secretary of the Interior to defer repayment of municipal and industrial water supply costs of the Dickinson Unit, North Dakota.

H.R. 11052. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 11053. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations ranging from a 14 percent rate on the first $25,000 in income to a 48 percent rate on income in excess of $100,000,000.

H.R. 11054. February 22, 1978. Merchant Marine and Fisheries. Amends the Federal Boat Safety Act of 1971 to rename such Act the Federal Boat Safety and Security Act of 1978.

Directs the Secretary of the department in which the Coast Guard is operating to prescribe a uniform marine theft reporting system which shall apply to all vessels 16 feet or over in length.

Prescribes criminal penalties for concealing a vessel's identification number.

H.R. 11055. February 22, 1978. Ways and Means. Permits a taxpayer to elect to include target price or disaster loss crop payments received in 1978 in his 1977 income.

H.R. 11056. February 22, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants to medical schools for the planning, development, and operation of approved residency training programs in preventive medicine and to schools of dentistry for planning, developing, and operating approved dental public health programs.

H.R. 11057. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to expand and create tax benefits for United States citizens and resident aliens pertaining to the exclusion of foreign earned income, the computation of taxable income, the deduction of foreign living, travel, moving and education expenses, nonrecognition and gain on residential sales, and the exclusion of employer-supplied food and lodging.

H.R. 11058. February 22, 1978. Rules. Requires that legislation considered by Congress be accompanied by statements assessing the economic and social costs and the expected accomplishments of programs established or authorized by such legislation. Requires that duplicative programs be identified. Requires Federal agencies to annually report to Congress on the extent to which such programs meet their objectives. Prohibits the funding of any program for more than five years. Requires Congress to consider the extent to which any program has met its objectives in the past before considering refunding of such program.

H.R. 11059. February 22, 1978. Judiciary. Revises the method for selection of United States attorneys to establish a United States Attorney Selection Commission for each judicial district. Provides for appointment of commission members by the appropriate State chief executive.

Directs a commission to select and forward to the President and Attorney General a list of four to eight candidates within 90 days of the expiration of the incumbent's term. Requires the President to nominate a commission candidate or to request another list.

Limits U.S. attorneys to two four-year terms.

Restrict the power of the President to unilaterally remove a U.S. attorney.

H.R. 11060. February 22, 1978. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases to one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 11061. February 22, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 11062. February 22, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative postage stamp in honor of the 200th anniversary of the Battle of Monmouth, and/or a postal card to commemorate Molly Pitcher the heroine of such battle.

H.R. 11063. February 22, 1978. Interior and Insular Affairs. Requires the Secretary of Agriculture to study and report to the President findings concerning the suitability of designating specified areas of the Kisatchie National Forest in Louisiana as a wilderness area.

H.R. 11064. February 22, 1978. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to prohibit the licensing of high-level radioactive waste disposal facilities located in areas where there exists an average of more than 15 persons per square mile in a 50-mile radius of the proposed facility.

Allows the governor of the State in question to waive such prohibition.

H.R. 11065. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to expand and create tax benefits for United States citizens and resident aliens pertaining to the exclusion of foreign earned income, the computation of taxable income, the deduction of foreign living, travel, moving and education expenses, nonrecognition and gain on residential sales, and the exclusion of employer-supplied food and lodging.

H.R. 11066. February 22, 1978. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 11067. February 22, 1978. Interior and Insular Affairs. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11068. February 22, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act, and the Internal Revenue Code to finance the payment of disability benefits and hospital insurance benefits through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 11069. February 22, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act, and the Internal Revenue Code to finance the payment of disability benefits and hospital insurance benefits through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 11070. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to exclude individual retirement benefits received under specified individual retirement savings plans, bonds, trusts and annuity contracts to the extent they do not exceed the maximum possible social security old age insurance benefits an individual could have received for the calendar year.

H.R. 11071. February 22, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative stamp honoring General Casimir Pulaski.

H.R. 11072. February 22, 1978. Armed Services. Authorizes appropriations for fiscal year 1979 for the Department of Energy concerning the conservation, development, and use of naval petroleum and oil shale reserves.

H.R. 11073. February 22, 1978. Agriculture. Amends the Commodity Credit Corporation Charter Act to direct the Secretary of Agriculture to furnish Commodity Credit Corporation financing to exporters of commodities who wish to extend deferred payment terms to foreign buyers. Stipulates procedures for and limitations upon such financing.

H.R. 11074. February 22, 1978. Agriculture. Amends the Agricultural Trade Development and Assistance Act of 1954 to direct the Secretary of Agriculture to increase export sales financing by the Commodity Credit Corporation for fiscal year 1978 for commodities sold pursuant to agreements with developing countries.

H.R. 11075. February 22, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to eliminate as a basis of eligibility for child's insurance benefits the provision that a stepchild must be living with a stepparent at the time of such child's application for benefits.

H.R. 11076. February 22, 1978. Post Office and Civil Service. Amends the Department of Energy Organization Act to extend existing reemployment rights of any Federal employees transferred to the Department of Energy until two years after the effective date of this Act.

H.R. 11077. February 22, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to revise: (1) the method of amending health service area boundaries; and (2) the membership of a Health Systems Agency (HSA) governing body.

Permits HSA's to accept contributions from health insurers.

Permits HSA's and State Health Planning and Development Agencies to use funds granted in a fiscal year in the following fiscal years.

Subjects State health plans to the approval of State Governors.

Authorizes the Secretary of Health, Education, and Welfare to make grants to specified hospitals for assistance in discontinuing inappropriate inpatient hospital services.

Extends the authorization of appropriations for specified health planning activities.

H.R. 11078. February 22, 1978. Ways and. Means. Amends the Internal Revenue Code to allow the amortization over a 12-month period of depreciable tangible property which is required to be used in a plant or other facility by the occupational Safety and Health Act of 1970 and which does not have any economic usefulness to the taxpayer.

H.R. 11079. February 22, 1978. Agriculture. Amends the Farm Credit Act of 1971 to extend from seven to 15 years the repayment term for production credit association loans to producers or harvesters of aquatic programs.

H.R. 11080. February 22, 1978. International Relations. Amends the Foreign Assistance Act of 1961 to authorize development assistance grants and loans.

Authorizes appropriations for fiscal year 1979 for certain development assistance programs.

Revises the requirements relating to annual reports to Congress on furnishing foreign assistance.

H.R. 11081. February 22, 1978. Interior and Insular Affairs. Directs the Secretary of the Interior to accept a donation from the National Council for the Encouragement of Patriotism of the property know as the Highway of Flags Servicemen's Memorial in Lake County, Indiana. Directs the Secretary to designate such property as the Highway of Flags National Servicemen's Memorial and to administer it as a national monument.

H.R. 11082. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for a taxpayer or his spouse who is deaf.

H.R. 11083. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to allow certain additional types of trusts to become shareholders in Subchapter S corporations.

H.R. 11084. February 22, 1978. Ways and Means. Amends the Internal Revenue Code to allow political organizations to take the surtax exemption. Allows the Secretary of the Treasury to disallow the exemption to any organization formed to evade taxes by using the exemption.

H.R. 11085. February 22, 1978. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to authorize the Secretary of Housing and Urban Development to make assistance payments for the purpose of aiding any lower-income family in making rental payments with respect to real property on which is located a mobile home owned by such family and utilized by such family as its principal place of residence.

Amends the Housing Authorization Act of 1976 to direct the Department of Health, Education, and Welfare to disregard the value of housing assistance under any State program in determining the eligibility of, or the amount of benefits payable to, any person under Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act.

H.R. 11086. February 22, 1978. Education and Labor. Revises generally the Comprehensive Employment and Training Act of 1973.

Includes among the major revisions (1) consolidation of administrative provisions, (2) simplification of comprehensive employment and training plans, (3) restriction of most comprehensive employment and training services programs to the economically disadvantaged, (4) consolidation of specific youth programs and utilization of uniform eligibility requirements, (5) consolidation of public service employment programs and restriction of public service employment to 78 weeks in a five year period and to the economically disadvantaged, and (6) creation of a program of private job sector initiatives.

H.R. 11087. February 22, 1978. Education and Labor. Amends the Labor Management Relations Act to allow the President in the event of a national emergency labor dispute, to direct the National Labor Relations Board to obtain managements' latest offer and place it directly before employees for approval by secret ballot.

Deems such offer binding upon all parties upon approval by a majority of the employees.

H.R. 11088. February 22, 1978. Science and Technology. Amends the Solar Heating and Cooling Demonstration Act of 1974 by extending from five to eight years the time allotted for the development and demonstration of combined solar heating and cooling systems.

H.R. 11089. February 22, 1978. Interstate and Foreign Commerce. Directs the Secretary of Transportation, in cooperation with the National Railroad Passenger Corporation, to immediately undertake a comprehensive reexamination of the Corporation's route structure from a zero base and to prepare a plan for a route structure which will provide an optimal intercity railroad passenger system based upon current and future market and population requirements.

Restructures the National Railroad Passenger Corporation.

H.R. 11090. February 22, 1978. Rules. Requires the enactment of separate legislation, for appropriations to any Federal agency for employee salaries.

H.R. 11091. February 22, 1978. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 11092.—February 22, 1978. Interior and Insular Affairs. Increases from $500,000 to $1,000,000 the amount authorized to be

appropriated annually for the expenses of the Navajo and Hopi Indian Relocation Commission.

H.R. 11093.—February 22, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 11094.—February 22, 1978.—Veterans' Affairs. Requires the Administrator of Veterans' Affairs to provide two sizes of flags for burial purposes and to permit the next of kin of deceased veterans to select the size desired.

H.R. 11095.—February 22, 1978.—Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provide for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 11096. February 22, 1978. Ways and Means; Agriculture; International Relations; Interstate and Foreign Commerce. Establishes a National Board of Agricultural Producers to: (1) set parity prices for agricultural commodities; (2) establish a national production goal and allocate acreage allotments or marketing quotas; (3) establish a program to acquire reserve stocks of agricultural commodities; (4) establish import quotas; (5) conduct producer referendums on proposed regulations; and (6) establish and administer all agricultural production and marketing programs of the Federal Government.

H.R. 11097. February 22, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11098. February 22, 1978. Judiciary. Authorizes classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 11099. February 22, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11100. February 23, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to establish a new procedure for funding the Corporation for Public Broadcasting, to reorganize the board of directors of such Corporation, and to establish regulations governing the grant programs for public telecommunications.

H.R. 11101. February 23, 1978. Agriculture; International Relations. Authorizes the Secretary of Agriculture, through the Commodity Credit Corporation, to provide intermediate export loans on terms of from three to ten years in order to develop and expand foreign markets for United States agricultural commodities.

H.R. 11102. February 23, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish United States Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities; and (2) to rename Agricultural Attaches Agricultural Counselors, and to require annual reports from them on specified subjects.

H.R. 11103. February 23, 1978. Judiciary. Requires specified minimum prison sentences for any individual who uses or carries firearm during the commission of a Federal felony and for whoever is convicted by a State court of a crime punishable by a term of imprisonment exceeding one year and used or carried a firearm transported in or affecting, interstate or foreign commerce during the commission of such crime.

H.R. 11104. February 23, 1978. Education and Labor. Provides for the funding, construction, planning and operation of Indian community colleges.

H.R. 11105. February 23, 1978. Education and Labor; Judiciary. Amends the Older Americans Act of 1965 to authorize the Commissioner of the Administration on Aging to make grants to States for the purposes of (1) supporting a staff person within the State agency responsible for the delivery of legal services to the elderly, and (2) supporting direct legal services by providing funds to area agencies. Authorizes the Commissioner to make grants to or contract with national resource centers to support organizations providing legal services to the elderly and provide legal advice to the elderly.

H.R. 11106. February 23, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 11107. February 23, 1978. Ways and Means. Amends the Internal Revenue Code to replace the corporate income tax rates with a graduated, five-tier rate schedule, imposing the uppermost (48 percent) marginal rate upon income in excess of $100,000.

H.R. 11108. February 23, 1978. Government Operations. Amends the Buy American Act to require the heads of departments or independent establishments, before determining whether the bid or offered price of a foreign product is reasonable, to adjust such price in accordance with the instructions set forth in this Act.

H.R. 11109. February 23, 1978. Interstate and Foreign Commerce. Creates an Electric Energy Office in the Federal Power Commission to establish and enforce national minimum standards for electric utility rates to be binding upon all utilities and regulatory agencies. Requires that utility rate structures be designed so as to provide lower rates for residential and small business users and to penalize wasteful consumption of electric energy.

H.R. 11110. February 23, 1978. Interior and Insular Affairs. Sets forth the procedure for the acquisition of improved lands within the Indiana Dunes National Lakeshore. Requires the Secretary of the Interior to consult with specified State and Federal officials in the development of an overall scheme concerning the acquisition and development of the lakeshore.

H.R. 11111. February 23, 1978. Education and Labor. Establishes the Congressional Award program in the United States and its territories to recognize and promote youth leadership and excellence in the area of expedition fitness, personal creative development, and public service.

Creates a Congressional Award Board with a Director to supervise such program.

H.R. 11112. February 23, 1978. Judiciary; Rules. Requires that any substantive agency rule be transmitted to the Congress not later than 60 days prior to its proposed effective date. Stipulates that no such rule shall become effective if, within 90 days after such transmitted, Congress enacts a joint resolution stating that it does not favor such rule.

H.R. 11113. February 23, 1978. Public Works and Transportation. Authorizes the Chief of Engineers, under the Secretary of the Army, (1) to construct and maintain park and recreational facilities at water resources development projects, (2) to acquire lands for such purposes, and (3) to construct such facilities on adjacent land held by local interests.

H.R. 11114. February 23, 1978. Agriculture. Directs the Secretary of Agriculture: (1) to use specified funds to maintain adequate supplies and prices for perishable agricultural commodities; and (2) to increase periodically the loan rates and target prices for 1977 through 1981 for wheat, feed grains, upland cotton, rice, peanuts, soybeans, and sugar, to reflect cost-of-living increases granted to individuals in the public and private sector or to reflect increases in the minimum wage.

H.R. 11115. February 23, 1978. Veterans' Affairs. Sets increased flat rates for veterans' non-service-connected disability pension, aid-and-attendance allowance, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires pension applicants to report the income of each spouse and child on account of whom added pension is applied for or received.

H.R. 11116. February 23, 1978. Veterans' Affairs. Provides that Veterans' Administration pension, disability, and indemnity compensation payments to certain war veterans, surviving parents, spouses and children shall not be reduced by the amount of income of the recipient after such recipient reaches age 70.

H.R. 11117. February 23, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require States having agreements for coverage of their employees under the system of insurance established by such Title to make payments and reports on a calendar-quarter basis.

H.R. 11118. February 23, 1978. Interstate and Foreign Commerce. Amends the Hours of Service Act to define the term "designated terminal" as the home terminal or the away from home terminal of a railroad employee.

H.R. 11119. February 23, 1978. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979, 1980, and 1981.

H.R. 11120. February 23, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 11121. February 23, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to enter into annual contributions contracts pursuant to the United States Housing Act of 1937 for the purpose of providing housing for low-income and elderly individuals in a specified area of Odessa, Texas.

H.R. 11122. February 23, 1978. Agriculture. Declares that it is in the public interest to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Establishes the Agricultural Land Review Commission to study, issue research grants, report and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 11123. February 23, 1978. Agriculture. Designates the Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station."

H.R. 11124. February 23, 1978. Rules; Ways and Means. Amends the Second Liberty Bond Act to limit the public debt to the amount specified in the concurrent resolution on the congressional budget most recently adopted.

Amends the Federal Financing Bank Act of 1973 to require that receipts and disbursements of the Federal Financing Bank be included in the Federal Budget.

Directs such Bank to make commitments to purchase and to purchase specified obligations which are guaranteed by Federal agencies.

H.R. 11125. February 23, 1978. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement systems which allow retirement credit to teachers for out-of-State teaching service.

H.R. 11126. February 23, 1978. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified educational functions of various departments and agencies. Creates the Federal Interagency Committee on Education and the National Commission on Education.

H.R. 11127. February 23, 1978. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to increase the annual Federal payment to the District for fiscal years 1979 and thereafter.

H.R. 11128. February 23, 1978. Education and Labor. Directs the Secretary of Labor, under the Comprehensive Employment and Training Act of 1973, to establish a minimum of 50 Multipurpose Service Centers for displaced homemakers. States that such Centers shall provide specified services, including: (1) job counseling; (2) job training and job placement; (3) health education and counseling; (4) financial management; and (5) outreach information with respect to assistance programs.

Directs the Secretary to prepare a study of the feasibility of including displaced homemakers in all Federal employment, education, and health programs and in Federal and State unemployment benefit programs.

H.R. 11129. February 23, 1978. Post Office and Civil Service. Directs the Postal Service to issue a commemorative postage stamp in observance of the thirtieth anniversary of the founding of the modern State of Israel.

H.R. 11130. February 23, 1978. Post Office and Civil Service. Directs the Postal Service to issue a commemorative postage stamp in observance of the thirtieth anniversary of the founding of the modern State of Israel.

H.R. 11131. February 23, 1978. Interior and Insular Affairs. Designates a specified segment of the Delaware River, in New York and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

H.R. 11132. February 23, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act, and the Internal Revenue Code to finance the payment of disability benefits and hospital insurance benefits through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 11133. February 23, 1978. Education and Labor. Authorizes the immediate supervisor of any Federal employee who has applied for continuation pay during a period of disability caused by a work injury to require such employee to submit to an examination by a physician designated by the supervisor for the purposes of obtaining a second opinion concerning the employee's claim. Prohibits the payment of continuation pay for the first three days of disability unless the period of disability exceeds 14 days.

H.R. 11134. February 23, 1978. Agriculture. Amends the Federal Meat Inspection Act to permit States to impose inspection, marking, labeling, packaging, and ingredient requirements that are more stringent than Federal standards.

H.R. 11135. February 23, 1978. Veterans' Affairs. Changes the period of active duty which a member of the Armed Forces Reserves must serve before being entitled to reemployment rights.

H.R. 11136. February 23, 1978. Veterans' Affairs. Increases the rates of educational assistance for eligible veterans and their survivors and dependents for (1) vocational rehabilitation; (2) flight training; (3) special supplementary assistance for educationally disadvantaged veterans; (4) correspondence courses; (5) apprenticeship or other on-the-job training; and (6) education loans.

H.R. 11137. February 23, 1978. Armed Services; Banking, Finance and Urban Affairs; Interior and Insular Affairs; International Relations; Interstate and Foreign Commerce; Science and Technology. Authorizes appropriations to the Department of Energy for fiscal year 1979. Specifies the basis for the government's charge for uranium enrichment services. Specifies the procedures for granting loan guarantees for energy demonstration.

H.R. 11138. February 23, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustment for the individual income tax rates and withholding tables.

H.R. 11139. February 23, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to remove the limits on the number of home health visits covered by Medicare. Expands the coverage of Medicare to include periodic chore services, hospital outreach services, and coverage of health and supportive services furnished in elderly day care centers.

Requires the establishment of a review plan which is adapted to meet the non-institutional nature of home health services.

H.R. 11140. February 23, 1978. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to postpone, until November 1, 1979, the effective date of the prohibition against a member of a national securities exchange trading on its own account or that of an associate for those members who were members on May 1, 1975.

H.R. 11141. February 23, 1978. Education and Labor. Amends the Labor Management Relations Act to allow the President, in the event of a national emergency labor dispute, to direct the National Labor Relations Board to obtain management's latest offer and place it directly before employees for approval by secret ballot.

Deems such offer binding upon all parties upon approval by a majority of the employees.

Authorizes the President to proceed in accordance with existing national emergency procedures if the latest offer fails to be approved under the procedure established by this Act.

H.R. 11142. February 23, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations with a maximum rate of 45 percent on income in excess of $150,000 and a minimum rate of 18 percent on income not in excess of $25,000.

H.R. 11143. February 23, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum, representing life insurance benefits under a Veterans' Administration policy, to a certain individual notwithstanding any forfeiture provisions in such policy or any laws administered by the Veterans' Administration.

H.R. 11144. February 24, 1978. Interstate and Foreign Commerce.

Creates an Electric Energy Office in the Federal Power Commission to establish and and enforce national minimum standards for electric utility rates to be binding upon all utilities and regulatory agencies. Requires that utility rate structures be designed so as to provide lower rates for residential and small business users and to penalize wasteful consumption of electric energy.

H.R. 11145. February 24, 1978. Public Works and Transportation; Rules.

Amends the Federal Aviation Act of 1958 to revise the economic regulation of the airline industry.

H.R. 11146. February 24, 1978. Rules.

Requires that legislation considered by Congress be accompanied by statements assessing the economic and social costs and the expected accomplishments of programs established or authorized by such legislation. Requires that duplicative programs be identified. Requires Federal agencies to annually report to Congress on the extent to which such programs meet their objectives. Prohibits the funding of any program for more than five years. Requires Congress to consider the extent to which any program has met its objectives in the past before considering refunding of such program.

H.R. 11147. February 24, 1978. Judiciary. Removes the jurisdiction of the Supreme Court of the United States and the Federal district courts over any case arising out of any State statute ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

H.R. 11148. February 24 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grain loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 11149. February 24, 1978. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to deduct all current expenditures for plants and facilities which are otherwise chargeable to capital account and which are certified as required by Federal law and as not significantly increasing the plant's or facility's value or productivity.

H.R. 11150. February 24, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to permit payment for eye care, eyeglasses, hearing aids (and related examinations) dental care and dentures under the supplementary medical insurance program.

H.R. 11151. February 24, 1978. Education and Labor. Amends the Labor Management Relations Act to allow the President, in the event of a national emergency labor dispute, to (1) direct the National Labor Relations Board to obtain management's latest proposal and place it directly before employees for approval by secret ballot, (2) direct the Federal Mediation and Conciliation Service to mediate and propose a settlement and have the proposals placed directly before employers and employees for approval by secret ballot, or (3) propose a settlement himself and have it placed directly before employers and employees for approval by secret ballot.

Deems such proposals binding upon majority approval.

H.R. 11152. February 24, 1978. Ways and Means. Amends the Internal Revenue Code to impose an additional excise tax on cigarettes to be paid into a Cigarette Tax Trust Fund in the Treasury and disbursed to States which do not impose more than a three-cent special tax on a pack of cigarettes.

H.R. 11153. February 24, 1978. Interior and Insular Affairs. Authorizes the Secretary of the Interior to modify Bureau of Reclama-

tion dams and related facilities in order to preserve structural safety.

H.R. 11154. February 24, 1978. Judiciary. Prohibits any State or political subdivision thereof, including the District of Columbia, from treating as taxable income any compensation paid by any employer to any individual who is not a resident or domiciliary of such State or political subdivision.

H.R. 11155. February 24, 1978. Interstate and Foreign Commerce. Imposes daylight saving time upon States the President finds to be suffering from severe energy shortages.

H.R. 11156. February 24, 1978. International Relations. Amends the Board for International Broadcasting Act of 1973 to prohibit assistance to Radio Free Europe or Radio Liberty if any Communist country is permitted to use such broadcast facilities.

H.R. 11157. February 24, 1978. Interior and Insular Affairs. Designates the Wyoming High Lakes section of the Shonshone National Forest, Wyoming, as part of the Absaroka-Beartooth Wilderness.

H.R. 11158. February 27, 1978. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to permit any citizen of the United States, owning or leasing one or more fisheries facilities, to enter into an agreement with the Secretary of Commerce to establish a capital construction fund for the purpose of providing replacement, additional, or reconstructed fisheries facilities in the United States.

H.R. 11159. February 27, 1978. Merchant Marine and Fisheries. Directs the Secretary of Commerce to make incentive loans to the commercial fisheries industry for the development of shoreside facilities and fishing vessels for underutilized fisheries.

Authorizes the Secretary to guarantee loans for fisheries and fishing vessels.

H.R. 11160. February 27, 1978. Agriculture. Amends the Farm Credit Act of 1971 to extend from seven to 15 years the repayment term for production credit association loans to farmers and ranchers and to producers or harvesters of aquatic products.

H.R. 11161. February 27, 1978. Ways and Means. Amends the Internal Revenue Code to allow active participants in a retirement plan an income tax deduction for contributions to an individual retirement account in taxable years prior to the individual's rights under the retirement plan. Requires prompt distribution of deducted contributions when employee's rights become vested.

H.R. 11162. February 27, 1978. Merchant Marine and Fisheries. Authorizes appropriations for the Coast Guard for fiscal year 1979. Sets forth the authorized end strength for active duty personnel and the average military training student loads for the Coast Guard for such fiscal year.

H.R. 11163. February 27, 1978. Ways and Means. Amends the Internal Revenue Code to provide that, for purposes of computing the allowable retirement plan exclusion allowance and employer contributions for church employees, all years to service for a church, church convention, church association or agency of such organization, shall be considered employment by one employer.

H.R. 11164. February 27, 1978. Ways and Means. Amends the Internal Revenue Code to provide church employees the same power presently enjoyed by employees of tax-exempt health and education organizations to elect alternative exclusion allowances for contributions to annuity contracts. Provides a minimum $10,000 allowance for annual additions to these contracts without regard to the amount of the employee's compensation.

H.R. 11165. February 27, 1978. Post Office and Civil Service. Requires all Executive branch personnel actions to be taken on the basis of employee merit and prohibits consideration of the political affiliation of such employee. Authorizes the Civil Service Commission to exempt from the competitive service only positions such as those of presidential advisors or persons who determine administration policies. Requires the Commission to review the appropriateness of such exemption at least every two years.

H.R. 11166. February 27, 1978. Interior and Insular Affairs. Amends the National Trails System Act to establish the Mormon Pioneer Historic Trail, located in portions of Illinois, Iowa, Nebraska, Wyoming, and Utah as a component of the National Trails System.

H.R. 11167. February 27, 1978. Armed Services. Authorizes the Secretaries of Defense, the Army, Navy, and Air Force to establish or develop military installations and facilities at specified locations. Authorizes appropriations for each such location. Authorizes the Secretary of Defense to construct or acquire military family housing in specified numbers at specified locations. Authorizes appropriations for such purpose.

H.R. 11168. February 27, 1978. Interior and Insular Affairs. Directs the Secretary of the Interior to conduct the sale of public lands in the town of Red Mountain, San Bernadino County, California, pursuant to the Townsite Act as in effect before October 21, 1976.

H.R. 11169. February 27, 1978. Government Operations. Shortens from 50 to 30 years the length of time Federal agency records must be in existence before they may be accepted by the Administrator of General Services for transmittal to the National Archives. States that restrictions placed upon such records by the originating agency shall not be imposed unless concurred in by the Administrator in consultation with the Archivist of the United States. Authorizes the Administrator to relax or remove such restrictions in the event the originating agency is terminated and there is no successor agency if he believes such relaxation or removal is in the public interest.

H.R. 11170. February 27, 1978. Government Operations. Authorizes the head of any Federal agency to offer records under his control for acceptance for deposit with the National Archives in accordance with the restrictions any such agency head imposes upon such records.

H.R. 11171. February 27, 1978. House Administration. Requires the Administrator of General Services to develop general records schedules specifying periods after which specified Federal agency records must be disposed. States that, with specified exceptions, in the event of a conflict between the period required before destruction specified by the head of the agency providing such records, the shorter period shall be required.

H.R. 11172. February 27, 1978. Banking, Finance and Urban Affairs. States that only citizens of the United States and aliens lawfully admitted for permanent residence are eligible to be tenants in federally-assisted housing and to receive other specific housing benefits.

H.R. 11173. February 27, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to make grants in amounts not exceeding $10,000 to assist totally and permanently disabled individuals in acquiring housing units.

H.R. 11174. February 27, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts referred by participants in public deferred compensation plans.

H.R. 11175. February 27, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 11176. February 27, 1978. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace highway bridges not located on any of the Federal-aid systems. Amends the Highway Revenue Act of 1954 to extend the transfers of specified taxes collected in the general Treasury to the Highway Trust Fund. Amends the Land and Water Conservation Fund Act of 1965 to extend the transfers of specified taxes from such fund to the Treasury.

Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 11177. February 28, 1978. Ways and Means. Amends the Federal Financing Bank Act of 1973 to require that receipts and disbursements of the Federal Financing Bank be included in the Federal Budget.

Directs such Bank to make commitments to purchase and to purchase specified obligations which are guaranteed by Federal agencies.

H.R. 11178. February 28, 1978. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Corps of Engineers, to construct an adjacent-type pumped-storage hydroelectric dam as part of the Fort Randall Dam-Lake Francis Case project, South Dakota.

H.R. 11179. February 28, 1978. Veterans' Affairs. Increases the burial and funeral expense allowance which may be paid by the Veterans' Administration on behalf of certain deceased veterans.

H.R. 11180. February 28, 1978. Ways and Means; Rules. Increases the public debt limit by $424,000,000 during the period beginning on April 1, 1978 and ending on March 1, 1979.

Removes the restriction on the percentage by which the interest rate on United States savings bonds may be increased.

Amends the Second Liberty Bond Act to limit the public debt to the amount specified in the concurrent resolution on the congressional budget most recently adopted.

H.R. 11181. February 28, 1978. Rules. Amends the Congressional Budget Act of 1974 to require the Director of the Congressional Budget Office, at the request of any Member, to prepare for certain public bills and resolutions an estimate of the additional costs to State and local governments of carrying out any additional requirements imposed by such legislation.

Prohibits the consideration by either House of any bill or resolution for which such estimate predicts such additional costs to State or local governments, unless such bill or resolution authorizes new budget authority for payment of such costs by the Federal Government.

H.R. 11182. February 28, 1978. Ways and Means. Reverses Revenue Ruling 77-85 in order to restore the tax treatment formerly extended policy holders receiving dividends and interest on custodial amount annuity contracts and the insurance companies maintaining the assets.

H.R. 11183. February 28, 1978. Ways and Means. Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross income; thereby providing the deduction to individuals who do not itemize.

H.R. 11184. February 28, 1978. Merchant Marine and Fisheries. Amends the Fishermen's Protection Act of 1967 to establish in the Treasury the Fishing Vessel and Gear Damage Compensation Fund for the purpose of awarding monetary compensation to owners of United States fishing vessels for dam-

age to, or destruction of such vessels, or fishing gear used with such vessels.

H.R. 11185. February 28, 1978. Ways and Means. Amends the Internal Revenue Code to allow a credit against an individual's income tax in an amount equal to 50 percent of the sum of the amounts paid by him to educational institutions as tuition (though no more than $500 for any single individual) for the attendance of the taxpayer, the taxpayer's spouse, or any of his dependents with respect to whom he is entitled to a personal exemption.

H.R. 11186. February 28, 1978. Veterans' Affairs. Establishes a geriatric and gerontology Service within the Veterans' Administration's Department of Medicine, and authorizes the Administrator of Veterans' Affairs to transfer all geriatric and gerontological operations within the Administration to such Service.

Directs the Administrator to designate 10 Veterans' Administration hospitals as centers of gerontological research, education, and clinical operations. Provides for the operation of such centers for five years.

Directs the Administrator to submit a final report assessing such centers after five years to the Senate and House Committees on Veterans' Affairs.

H.R. 11187. February 28, 1978. Agriculture; International Relations. Repeals the prohibition against the exportation of tobacco seed and plants except for experimental purposes.

H.R. 11188. February 28, 1978. Veterans' Affairs. Revises the eligibility requirements for mustering-out payments to qualified members of the Armed Forces who served on active duty for 90 days or more during the Vietnam era and who were discharged or released under conditions other than dishonorable. Increases payment amounts for specified classes of eligible persons.

H.R. 11189. February 28, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals a temporary, limited, and refundable income tax credit for specified medical expenses (including insurance) paid for themselves, their spouses and dependents. Repeals the current deduction for medical and dental expenses.

H.R. 11190. February 28, 1978. International Relations. Amends the Foreign Assistance Act of 1961 to require that appropriations for the United Nations for any fiscal year be reduced by an amount equal to the product of the United States contribution to the United Nations for the preceding year and the proportion which the aggregate budget of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights for such fiscal year bears to the budget of the United Nations for such fiscal year.

H.R. 11191. February 28, 1978. Government Operations. Establishes an executive department to be known as the Department of Education to be administered by a Secretary of Education.

Transfers to such Secretary specified functions of the Secretary of Health, Education, and Welfare and the Commissioner of Education and specified educational responsibilities of other Federal agencies and instrumentalities.

Redesignates the Department of Health, Education, and Welfare and the Secretary of such Department as the Department of Health and Welfare, and the Secretary of Health and Welfare.

Establishes a Commission on School Finance.

H.R. 11192. February 28, 1978. Science and Technology; Interstate and Foreign Commerce. Requires all recombinant DNA activities to be carried out, for two years after the enactment of this Act, pursuant to the DNA research guidelines of the National Institutes of Health.

Enumerates prohibited acts for those engaged in such activities.

Authorizes inspectors designated by the Secretary of Health, Education, and Welfare to inspect places where DNA activity is being conducted.

Requires the Secretary of Health, Education, and Welfare to study the risks to health and the environment presented by such activities. Establishes a Commission for the Study of Research and Technology Involving Genetic Manipulation.

H.R. 11193. February 28, 1978. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 11194. February 28, 1978. Interstate and Foreign Commerce. Amends the Consumer Product Safety Act to include electrical wiring systems as consumer products for purposes of such Act.

H.R. 11195. February 28, 1978. Judiciary. Adds Uniondale to the places where the United States District Court for the Eastern District of New York shall be held.

H.R. 11196. February 28, 1978. Judiciary. Revises the list of places where the United States District Court for the Eastern District of New York shall be held. Specifies provisions relative to the relocation period caused by changes of sites.

H.R. 11197. February 28, 1978. Agriculture. Amends the Consolidated Farm and Rural Development Act to make operating and real estate loans under such Act available to private domestic corporations and partnerships engaged in farming or ranching, and to revise authorized loan levels under such act.

H.R. 11198. February 28, 1978. Agriculture. Amends the Consolidated Farm and Rural Development Act to permit guaranteed direct loans of up to $500,000 for refinancing existing indebtedness incurred between January 1, 1973, and December 31, 1977.

H.R. 11199. February 28, 1978. Science and Technology. Authorizes appropriations for environmental, research, development, and demonstrations for fiscal year 1979.

H.R. 11200. February 28, 1978. Education and Labor. Amends the Higher Education Act of 1965 to establish a $250 minimum basic educational opportunity grant for college students whose adjusted family income does not exceed $25,000.

Sets forth new guidelines for determining the assets of independent students for purposes of eligibility for basic educational opportunity grants.

Revises certain provisions regarding Federal payments to reduce student loan interest costs under such act including raising the maximum allowable adjusted family income requirement to $40,000.

H.R. 11201. February 28, 1978. Armed Services. Prohibits the transfer or disposal of any military installation located in the Panama Canal Zone unless specifically authorized by Act of Congress.

H.R. 11202. February 28, 1978. Armed Services. Prohibits the transfer or disposal of any military installation located in the Panama Canal Zone unless specifically authorized by Act of Congress.

H.B. 11203. February 28, 1978. Science and Technology. Establishes a national materials policy to promote the most efficient use and disposal of materials and wastes.

H.R. 11204. February 28, 1978. Ways and Means. Amends the Internal Revenue Code to make new greenhouses eligible for the investment tax credit.

H.R. 11205. February 28, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for a portion of the expenses incurred for the residential installation of the insulation, solar and other renewable energy equipment, heating improvements and energy-conserving components between April 20, 1977, and January 1, 1986.

H.R. 11206. February 28, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish United States Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities; and (2) to rename Agricultural Attaches, Agricultural Counselors, and to require annual reports from them on specified subjects.

Amends the Commodity Credit Corporation Charter Act to require the Corporation to finance export sales of agricultural commodities on credit terms of from three to ten years.

Establishes an Assistant Secretary of Agriculture for Commodity Programs and an Under Secretary of Agriculture for International Affairs.

H.R. 11207. February 28, 1978. Public Works and Transportation; Interstate and Foreign Commerce.

Amends the National Visitor Center Facilities Act to direct the Secretary of the Interior to transfer the lease and purchase option of the facilities of Union Station, Washington, D.C. to the Secretary of Transportation to operate the National Visitors Center as a rail passenger terminal. Directs the Secretary to complete the parking facility of the Station. Authorizes the Washington Terminal Company to transfer its rights and obligations concerning the Station to the Secretary.

H.R. 11208. February 28, 1978. Education and Labor.

Establishes in the Executive Office of the President a Presidential Task Force on Youth Unemployment.

Specifies the duties of the Task Force including identification of the labor market problems of youth and determination of the impact of certain Federal programs and the public education system on youth labor problems.

Designates a goal for both minority youth unemployment and youth unemployment in general.

H.R. 11209. February 28, 1978. Interstate and Foreign Commerce; Merchant Marine and Fisheries. Authorizes the Communications Satellite Corporation, subject to specified exceptions, to participate as the designated operating entity of the United States in the International Maritime Satellite Corporation or any other agency designed to provide international maritime satellite telecommunications services.

Authorizes the Corporation to establish, own, and operate satellite earth terminal stations and to interconnect such stations with the facilities of domestic common carriers.

H.R. 11210. February 28, 1978. Agriculture. Amends the Farm Credit Act of 1971 to require that Indian claims be disregarded in determining the adequacy and value of the security required for real estate mortgage loans made by Federal land banks.

H.R. 11211. February 28, 1978. Judiciary.

Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11212. March 1, 1978. Education and Labor.

Amends the Domestic Volunteer Service Act of 1973 to give any Governor a limited veto over any VISTA program which is proposed to be conducted in his State.

Increases the maximum stipend which may be paid to any VISTA volunteer and limits the amount of academic credit which can be earned by service in the University Year for ACTION by student volunteers.

Declares that no volunteer shall forfeit government assistance to which he would

otherwise be entitled because of the failure to seek or refusal to accept employment or training during the period of volunteer service.

H.R. 11213. March 1, 1978. Interior and Insular Affairs.

Designates specified public lands and waters in the State of Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers and National Wilderness Preservation Systems. Makes provisions for the management of subsistence uses of fish and wildlife on national lands.

H.R. 11214. March 1, 1978. Education and Labor. Amends the Higher Education Act of 1965 with regard to determinations of independent student status for purposes of basic educational opportunity grants under such Act.

H.R. 11215. March 1, 1978. Education and Labor. Amends the Employment Act of 1946 to declare full employment as a national goal and inflation as national problem.

Requires that the President's annual Economic Report contain numerical goals for employment, production, real income, and productivity.

Directs the President to initiate policies and programs, including those with respect to inflation, youth employment, regional development, and standby public service employment, in furtherance of the policies of this Act and the goals contained in the Economic Report.

Specifies procedures for Congressional review of the Economic Report's goals and the Presidents' program and policy recommendations.

H.R. 11216. March 1, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to apply the adulteration and misbranding provisions of such Act to hair dyes.

H.R. 11217. March 1, 1978. Science and Technology. Directs the Secretary of Energy and the Administrator of the National Aeronautics and Space Administration to initiate a Solar Power Satellite Research, Development, and Demonstration Program to study technical problems regarding the viability of the solar power satellite concept.

Requires the Secretary to cooperate with the Administrator in the submission to Congress, by September 30, 1978, of a comprehensive plan to implement the Program.

H.R. 11218. March 1, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals to elect either an income tax deduction for 100 percent of the social security taxes paid, or a tax credit for 15 percent.

H.R. 11219. March 1, 1978. Interstate and Foreign Commerce; Ways and Means. Requires all gasoline stations, within three years of the passage of this Act, to sell a mixture of gasoline and alcohol in the same manner as they sell gasoline. Imposes a civil penalty for violations of such requirement. Amends the Internal Revenue Code to allow rapid amortization of facilities producing alcohol for use as a fuel in motor vehicles. Amends the Clean Air Act with respect to the authority of the Environmental Protection Agency to regulate the use of alcohol as a fuel additive.

H.R. 11220. March 1, 1978. Armed Services. Prohibits the transfer or disposal of any military installation located in the Panama Canal Zone unless specifically authorized by Act of Congress.

H.R. 11221. March 1, 1978. Interstate and Foreign Commerce. Amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to require research into the need for education; counseling, and treatment of the families of alcohol abusers and alcoholics.

H.R. 11222. March 1, 1978. Banking, Finance and Urban Affairs. Directs the Secretary of Commerce to identify on a continuing basis concerns which are in danger of closing or relocating and whose closing or moving would cause substantial economic dislocation in the community.

Provides, through the Secretary, loans for technical assistance and operating costs to an employee or employee/community corporation so that it may assume ownership of a concern so identified.

Authorizes loans to employees so that they may participate in a purchasing corporation.

H.R. 11223. March 1, 1978. Interior and Insular Affairs. Exempts specified irrigation districts organized for the purpose of delivering water from the Kings River and Tulare Lake Basin project, California, and lands located within such districts, from certain restrictions of Federal reclamation laws including those limiting the transfer of excess lands.

H.R. 11224. March 1, 1978. Judiciary. Entitles a party which (1) prevails in any civil action, including an action for judicial review of agency actions, and (2) is a small business as defined by the Small Business Act or an individual or entity having assets or income below specified amounts to a judgment for costs and an award for attorney fees, witness fees, and necessary studies and reports.

Specifies guidelines for payment of costs and fees with respect to Federal agency proceedings and civil litigation to which the United States is a party.

H.R. 11225. March 1, 1978. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to make grants to States, upon approval of their applications, to assist them in establishing, expanding, or improving veterans' cemeteries owned by the State; to pay a portion of the cost of interment for each eligible person and the cost of perpetual care maintenance.

H.R. 11226. March 1, 1978. Interior and Insular Affairs. Establishes a comprehensive water research and development program under the direction of the Secretary of the Interior.

H.R. 11227. March 1, 1978. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to authorize the Commissioner of Education to make grants to State and certain local educational agencies to assist them in developing and carrying out an educational proficiency plan approved by the Commissioner.

Provides guidelines and requirements for such grant applications.

Establishes the National Commission on Basic Education within the Department of Health, Education, and Welfare and directs it to (1) provide technical assistance in developing such educational proficiency plans; and (2) monitor State and local materials and procedures related to educational proficiency standards.

H.R. 11228. March 1, 1978. Interstate and Foreign Commerce. Amends the Federal Power Act and the Natural Gas Act to provide procedures for the establishment and review of fuel adjustment clauses. Extends the scope of the prohibition against interlocking directorates among utilities, natural gas companies, and related firms.

H.R. 11229. March 1, 1978. Public Works and Transportation.

Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to use a specified rate schedule in computing the subsidy to be paid to local service air carriers for the transportation of mail for the years 1964 and 1965.

H.R. 11230. March 1, 1978. Ways and Means. Amends the Internal Revenue Code to (1) remove the limitation on the amount of the income tax credit allowed employers who hire unemployed individuals; (2) make the credit refundable; (3) limit the types of tax against which the credit may be applied; and (4) restrict its application to the hiring of individuals between the ages of 16 and 19.

H.R. 11231. March 1, 1978. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to repeal the provisions of such Act and the standards promulgated thereunder relating to fuel economy standards for trucks and other nonpassenger vehicles.

H.R. 11232. March 1, 1978. Science and Technology. Authorizes appropriations to the Department of Commerce to carry out the purposes of the Standard Reference Data Act during fiscal years 1979, 1980, and 1981.

H.R. 11233. March 1, 1978. Post Office and Civil Service. Requires the payment of overtime pay to personnel employed by the Department of Agriculture to provide inspection services.

H.R. 11234. March 1, 1978. Agriculture. Directs the Secretary of Agriculture: (1) to use specified funds to maintain adequate supplies and prices for perishable agricultural commodities; and (2) to increase periodically the loan rates and target prices for 1977 through 1981 for wheat, feed grains, upland cotton, rice, peanuts, soybeans, and sugar, to reflect cost-of-living increases granted to individuals in the public and private sector or to reflect increases in the minimum wage.

H.R. 11235. March 1, 1978. Judiciary. Adds Uniondale to the places where the United States District Court for the Eastern District of New York shall be held.

H.R. 11236. March 1, 1978. Ways and Means. Entitles, under the Social Security Act, any State whose rate of insured unemployment is at least six percent to partial reimbursement on an ascending sliding scale of unemployment compensation costs incurred above a certain amount.

H.R. 11237. March 1, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979, 1980, 1981 and succeeding years thereafter.

H.R. 11238. March 1, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979 1980, 1981 succeeding years thereafter.

H.R. 11239. March 1, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979, 1980, 1981 and succeeding years thereafter.

H.R. 11240. March 1, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979, 1980, 1981 and succeeding years thereafter.

H.R. 11241. March 1, 1978. Public Works and Transportation. Changes the name of the harbor known as Ventura Marina, California, to Ventura Harbor.

H.R. 11242. March 1, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979, 1980, 1981 and succeeding years thereafter.

H.R. 11243. March 1, 1978. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to allot funds appropriated by this Act to local educational agencies to assist in reducing crime against the children, employees and facilities of their elementary and secondary schools.

H.R. 11244. March 1, 1978. Judiciary. Authorizes the classification of a certain indi-

vidual as a child for purposes of the Immigration and Nationality Act.

H.R. 11245. March 2, 1978. Intelligence; Judiciary. Authorizes the national intelligence community to conduct national intelligence, counterintelligence, and counterterrorism activities under the direction and control of the National Security Council. Sets forth restrictions on such activities. Establishes a special court to rule on applications for permission to conduct certain intelligence and surveillance activities. Reorganizes the Central Intelligence Agency and the National Security Agency.

H.R. 11246. March 2, 1978. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to increase the ceiling imposed upon payments for services under such Title for the fiscal years 1979, 1980, 1981 and succeeding years thereafter.

H.R. 11247. March 2, 1978. Agriculture; International Relations; Interstate and Foreign Commerce; Ways and Means. Establishes a National Board of Agricultural Producers to: (1) set parity prices for agricultural commodities; (2) establish a national production goal and allocate acreage allotments or marketing quotas; (3) establish a program to acquire reserve stocks of agricultural commodities; (4) establish import quotas; (5) conduct producer referendums on proposed regulations; and (6) establish and administer all agricultural production and marketing programs of the Federal Government.

H.R. 11248. March 2, 1978. Ways and Means. Revises the quotas on the importation of beef. Requires the Secretary of Agriculture to determine the domestic production quantity of beef each quarter in order that the import quota may be determined. Directs the Secretary to establish a system for the equitable distribution of such quota among importers.

Amends the Tariff Schedules of the United States to increase the customs duties on beef whenever domestic production is too low to trigger the imposition of import quotas.

H.R. 11249. March 2, 1978. Ways and Means.

Amends the Internal Revenue Code to provide that an individual's allowable charitable contributions shall be deducted when determining the individual's adjusted gross income; thereby providing the deduction to individuals who do not itemize.

H.R. 11250. March 2, 1978. Education and Labor.

Amends the Farm Labor Contractor Registration Act of 1963 to exclude specified categories of employers and employees from the farm labor contractor registration requirements. Limits the meaning of "fee" to any consideration in excess of the actual cost of providing farm labor contractor services. Deems such a contractor an employer of the migrant workers he or she has recruited or transported if he or she is responsible for the payment of their wages, any required deductions from wages, and their supervision, and has sole authority to hire and discharge such workers.

H.R. 11251. March 2, 1978. Ways and Means.

Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 11252. March 2, 1978. Agriculture. Amends the Food Stamp Act of 1977 to deny eligibility for food stamps to any household including a person participating in a strike or labor dispute which the President determines is causing or substantially contributing to: (1) a critical shortage of any essential resource or strategic material; or (2) unemployment in an industry not directly involved in such strike or labor dispute.

H.R. 11253. March 2, 1978. Post Office and Civil Service. Directs the President to make a compilation of all Federal statistical activities and to submit such compilation to Congress.

Terminates all Federal statistical authority not otherwise provided for by law as of a specified date.

Requires that each report accompanying a bill or resolution which provides for Federal statistical authority to contain specified information including the purpose for which such information is being sought, the costs involved, and the number or respondents from which such information is to be obtained.

H.R. 11254. March 2, 1978. Veterans' Affairs. Sets increased flat rates for veterans' non-service-connected disability pension, aid-and-attendance allowance, and survivors' benefits. Excludes from the determination of annual income, for benefit payment purposes, specified categories of payments currently included in such determination. Requires applicants to report the income of each spouse and child on account of whom added pension is applied for or received.

H.R. 11255. March 2, 1978. Armed Services. Grants annuities under the Survivor Benefit Plan of the armed forces to survivors of individuals who would have been eligible for retired pay for non-regular service but who died before reaching the age of 60. Entitles such survivors to specified medical and dental benefits.

H.R. 11256. March 2, 1978. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to expand the urban lending investment of Federal savings and loan associations.

H.R. 11257. March 2, 1978. Post Office and Civil Service. Permits postage-free mailing of answers to congressional questionnaires and personal income tax returns.

H.R. 11258. March 2, 1978. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect a 12-month amortization period or an additional ten percent investment tax credit for new pollution control facilities.

H.R. 11259. March 2, 1978. Agriculture; Education and Labor. Amends the Child Nutrition Act of 1966 to require the establishment or expansion of programs that provide supplemental nutrition to pregnant and breastfeeding women, infants, and children (WIC programs). Requires all States to establish programs for the benefit of eligible migrant farm workers. Requires the publication of the availability of WIC program benefits using bilingual means where appropriate.

Changes the size and character of the membership of the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

H.R. 11260. March 2, 1978. Interior and Insular Affairs. Amends the Reclamation Act of 1902 to remove all acreage limitations and residency requirements from lands eligible to receive irrigation water.

Amends the Omnibus Adjustment Act to permit individual irrigation districts to impose such acreage limitations or residency requirements.

H.R. 11261. March 2, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 11262. March 2, 1978. Agriculture. Establishes a National Board of Agricultural Governors, independent of the Department of Agriculture, to set the annual cost of production prices of specified commodities.

Directs the Secretary of Agriculture to provide for guaranteed or direct nonrecourse loans for nonperishable specified commodities. Requires the establishment of a National Commodity Reserve and the determination of mandatory production adjustments.

Requires the export and import of specified agricultural commodities at not less than the cost of production price.

H.R. 11263. March 2, 1978. Ways and Means. Amends the Internal Revenue Code of 1954 and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to authorize individuals who are enrolled in a private retirement plan to voluntarily exempt themselves from the Old-Age, Survivors, and Disability Insurance program.

H.R. 11264. March 2, 1978. Judiciary. Divides the eastern judicial district of New York into two divisions.

H.R. 11265. March 3, 1978. Banking, Finance and Urban Affairs. Extends specified housing assistance programs, the comprehensive planning program and the flood insurance program.

Establishes the Urban Extension Service within the Department of Housing and Urban Development.

Amends the National Housing Act to extend various Federal Housing Administration insurance programs.

Increases the amount of mortgage purchase authority of the Government National Mortgage Association.

Revises enforcement procedures and remedies of the Interstate Land Sales Full Disclosure Act and the Real Estate Settlement Procedures Act.

H.R. 11266. March 3, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations ranging from a 14 percent rate on the first $25,000 in income to a 48 percent rate on income in excess of $100,000,000.

H.R. 11267. March 3, 1978. Veterans' Affairs. Directs the Administrator of Veterans' Affairs in regard to the eligibility for educational benefits of a veteran or other person enrolled in a farm cooperative program, to prescribe for the agricultural employment requirement standards of relevance to the courses taken which allow such veteran or person to work: (1) in establishments engaged in the processing, distribution, or sale of agricultural products; (2) less than full-time; and (3) regardless of whether such employment is expected to be the principal source of income of the veteran or person so employed.

H.R. 11268. March 3, 1978. Interior and Insular Affairs. Amends the National Trails System Act by requiring the Secretary of the Interior to study the feasibility of designating the Overmountain Men Victory Trail in the States of Tennessee, North Carolina, and South Carolina, as a national scenic trail.

H.R. 11269. March 3, 1978. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to change the coverage of the Act to include all individuals over 40 years of Age.

Eliminates mandatory retirement at a specified age for: (1) civil service employees; (2) noneducational employees of the University of the District of Columbia; and (3) specified Foreign Service employees.

H.R. 11270. March 3, 1978. Ways and Means Amends the Internal Revenue Code to apply the same tax rates to married persons filing separate returns as are presently applicable to unmarried individuals.

H.R. 11271. March 3, 1978. Ways and Means. Amends the Internal Revenue Code to apply the same tax rates to married persons filing separate returns as are presently applicable to unmarried individuals.

H.R. 11272. March 3, 1978. Ways and Means. Amends the Internal Revenue Code to apply the same tax rates to married persons filing separate returns as are presently applicable to unmarried individuals.

H.R. 11273. March 3, 1978. Judiciary. Confers jurisdiction upon Federal district courts

to enforce a State child custody order against a parent who, in violation of such order, took the child to another State.

H.R. 11274. March 3, 1978. Education and Labor. Amends the Higher Education Act of 1965 regarding basic educational opportunity grants to (1) limit the assessment rate used to determine expected family contributions, (2) provide guidelines regarding independent students; (3) increase partial entitlements; and (4) lower certain required fund levels before supplemental funds can be used for basic grants.

Revises certain provisions regarding (1) State payments for Federal incentive program grants; (2) federally-insured loan requirements and Federal payments to reduce student loan interest rates; and (3) determinations of quarterly payments to participating lenders. Prevents veterans ineligibiliy for postsecondary education programs for the disadvantaged under Title IX of such Act because of age.

H.R. 11275. March 3, 1978. Education and Labor. Establishes in the Executive Office of the President a Presidential Task Force on Youth Unemployment. Specifies the duties of the Task Force, including identification of the labor market problems of youth and making recommendations relative to reducing youth unemployment, changing tax and fiscal policy, and amending specified Federal programs.

Directs the President to report on the desirability and feasibility of complementing Task Force recommendations.

Amends the Employment Act of 1946 to require the President to include in the annual Economic Report on assessment of the effect of inflation on the tax structure.

H.R. 11276. March 3, 1978. Judiciary. Requires, if it is in the interest of justice, a United States district court to directly transfer a case which is within the exclusive jurisdiction of the United States courts of appeals and which was erroneously filed with it to an appropriate appellate court.

Requires a United States court of appeals to similarly transfer a case which is within the exclusive jurisdiction of United States district courts and which was erroneously filed with it.

H.R. 11277. March 3, 1978. Veterans' Affairs. Allows individuals who served during World War I or World War II in the Polish or Czechoslovakian Armed Forces and made prisoners of war during such service to apply for veterans' hospital, domiciliary, and medical care by a satisfactory showing of such service and prisoner status to the Administrator of Veterans' Affairs.

H.R. 11278. March 3, 1978. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act of 1976 which provides that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 11279. March 3, 1978. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize appropriations for fiscal years 1979 through 1985 to carry out the provisions of such Act.

H.R. 11280. March 3, 1978. Post Office and Civil Service. Replaces the Civil Service Commission with an Office of Personnel Management and a Merit Systems Protection Board which shall hear appeals from personnel decisions which are adverse to an employee's interest. Establishes a merit pay system for Federal managerial and supervisory personnel making pay raises and bonuses dependent upon performance rather than length of service.

Eliminates the veterans' preference in Federal hiring and retention for high ranking military retirees and veterans who have been out of the sevice for a specified number of years.

H.R. 11281. March 3, 1978. Post Office and Civil Service. Directs the Postmaster General to issue a commemorative stamp honoring General Casimir Pulaski.

H.R. 11282. March 3, 1978. Education and Labor. Extends (1) the National Advisory Council on Bilingual Education; (2) the Environmental Education Act; (3) the Adult Education Act; (4) the Alcohol and Drug Abuse Education Act; (5) the Emergency School Aid Act; and (6) the National Center for Educational Statistics.

Amends the Elementary and Secondary Education Act of 1965 to extend general grant authorizations and establish grant programs for compensatory education and basic skills.

Revises specified provisions regarding Federal educational assistance for disaster relief, school construction, and federally impacted school districts.

Amends the General Education provisions to establish an Education Appeal Board.

H.R. 11283. March 3, 1978. Armed Services. Makes permanent the special pay provisions for enlistment and re-enlistment bonuses in the uniformed services. Stipulates that a member of the uniformed services who agrees to train and re-enlist in a military skill which, at the time of the agreement is designated as critical, may be paid the bonus approved for that skill even if that skill is no longer deemed critical at the time the member becomes eligible for payment of the bonus.

H.R. 11284. March 3, 1978. Increases the rates of disability compensation for disabled veterans, and the rates of dependency and indemnity compensation for their survivors.

H.R. 11285. March 3, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grain loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 11286. March 3, 1978. Interstate and Foreign Commerce. Amends the Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1979 and 1980 to carry out the provisions of such Acts.

H.R. 11287. March 3, 1978. Public Works and Transportation. Authorizes the Secretary of Transportation to furnish Federal financial assistance for construction projects to separate rail-highway crossings where the rail facilities have incurred a substantial increase in use as a result of coal transportation activities with the result of substantial delays in highway travel.

H.R. 11288. March 3, 1978. Public Works and Transportation. Authorizes the placement of signs or displays advertising seasonal recreational activities in areas adjacent to the Interstate Highway System and the primary system.

H.R. 11289. March 3, 1978. Public Works and Transportation. Prohibits the Secretary of Transportation from controlling the location of utility facilities on the right-of-way of any highway on the Federal-aid system.

H.R. 11290. March 3, 1978. Science and Technology. Authorizes appropriations to the National Science Foundation for fiscal year 1979 for specified major program areas.

H.R. 11291. March 3, 1978. Science and Technology. Amends the Federal Fire Prevention and Control Act of 1974: (1) to authorize appropriations for fiscal year 1979 for renovation and alteration of the Marjorie Webster College site of the National Academy for Fire Prevention and Control; (2) to authorize appropriations for fiscal year 1979 for the Fire Research Center; and (3) to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration.

H.R. 11292. March 3, 1978. Interstate and Foreign Commerce. Amends the Community Mental Health Centers Act to direct the Secretary of Health, Education, and Welfare to establish a grant program with State and local government agencies and nonprofit organizations to provide assistance and related services to victims of rape.

H.R. 11293. March 3, 1978. Agriculture; Interstate and Foreign Commerce. Requires the Secretary of Energy to establish a program to promote the development and use of alcohol-blended fuels in the United States.

H.R. 11294. March 3, 1978. Agriculture. Amends the Commodity Credit Corporation Charter Act to make the Commodity Credit Corporation the seller or marketing agent for all export sales of the following commodities in raw form: wheat, corn, grain sorghum, barley, oats, rye, and soybeans.

H.R. 11295. March 3, 1978. Merchant Marine and Fisheries. Establishes in the executive branch the National Zoological Foundation consisting of a National Zoological Board and a Director. Directs the Foundation to award scholarships for the training of staff members for zoos and aquariums, initiate and support research to improve the welfare of animals in zoos and aquariums, established accreditation standards for zoos and aquariums, and to make specified project and program grants. Authorizes the Foundation to initiate and support appropriate research at academic and other nonprofit institutions.

H.R. 11296. March 3, 1978. Veterans' Affairs. Provides that the survivors of a veteran with a service-connected disability rated for at least one year as total and permanent shall be automatically entitled to dependency and indemnity compensation.

H.R. 11297. March 3, 1978. Interior and Insular Affairs. Establishes the Long Island Sound Heritage in Connecticut and New York.

H.R. 11298. March 3, 1978. Government Operations. Extends the antirecession provisions of the Public Works Employment Act of 1976, which provides financial assistance to State and local governments to the maintenance of basic services. Reduces the minimum unemployment rate which must exist to trigger appropriation authorization under such provisions.

H.R. 11299. March 3, 1978. Judiciary. Declares that a certain former citizen may be naturalized by taking, within a specified time period, the required oaths, under the Immigration and Nationality Act.

H.R. 11300. March 3, 1978. Judiciary. Directs the Secretary of the Treasury to pay a sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 11301. March 6, 1978. Small Business. Amends the Small Business Act to provide assistance to individuals and small business concerns for the acquisition, development and maintenance of solar energy equipment.

H.R. 11302. March 6, 1978. Science and Technology. Authorizes appropriations for environmental research, development and demonstrations for fiscal year 1979.

H.R. 11303. March 6, 1978. District of Columbia. Amends the District of Columbia Self-Government and Government Reorganization Act to repeal the limitation on the Council of the District of Columbia regarding the imposition of any income tax upon

individuals who are not residents of the District of Columbia.

H.R. 11304. March 6, 1978. Ways and Means. Increases the rate of tax on wages and self-employment income under the Internal Revenue Code.

Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to permit the making of loans among the Trust Funds under such title.

Amends such Title to: (1) include Federal employees within the coverage of such Title; (2) establish a working spouse's benefits; (3) eliminate gender-based distinctions in awarding benefits; and (4) increase the amount which an individual may earn without a reduction in benefits.

H.R. 11305. March 6, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from the coverage of the Federal Unemployment Tax Act agricultural hand-harvest labor performed by full-time students under the age of 16 years.

H.R. 11306. March 6, 1978. Ways and Means. Amends Title XVIII, part A (Hospital Insurance Benefits for the Aged and Disabled, Medicare program) of the Social Security Act and repeals provisions of the Internal Revenue Code imposing a tax on employment and self employment income. Provides for the financing of the hospital insurance program from general revenues.

Repeals the increases in the contribution and benefits base enacted by the Social Security Amendments of 1977.

H.R. 11307. March 6, 1978. Judiciary. Directs that orders of a State court or a court of the District of Columbia relative to the custody of children of divorced or separated parents be enforced by every other State and the District of Columbia until such issuing court no longer has or declines to exercise, jurisdiction over modifications of such credits.

Permits a court to refuse to recognize a custody order obtained by a parent or other person who removed the child from a State in order to conceal the child from the other parent or from a person acting as parent.

H.R. 11308. March 6, 1978. Agriculture. Authorizes the Secretary of Agriculture to develop and carry out a pilot program for buying farms and ranches and leasing them to qualified individuals with options to buy. Establishes a Family Farm and Ranch Advisory Council to advise the Secretary regarding the administration of such program.

H.R. 11309. March 6, 1978. Banking, Finance and Urban Affairs. Authorizes the Secretary of Housing and Urban Development to enter into contracts with public housing agencies for the establishment of congregate housing projects which are supplemented by supportive services for frail and physically impaired residents.

Amends the United States Housing Act of 1937 to permit the provision of congregate services in existing public housing.

H.R. 11310. April 24, 1978. Agriculture. Establishes the National Credit Union Central Liquidity Facility to provide funds to meet the liquidity needs of credit unions.

H.R. 11311. March 6, 1978. Banking, Finance and Urban Affairs. Establishes the National Credit Union Central Liquidity Facility to provide funds to meet the liquidity needs of credit unions

H.R. 11312. March 6, 1978. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board in the performance of its duties to consider the development of an air transportation industry which allows responsible new air carriers to enter the industry as being in the public interest.

Establishes time limitations during which the Board must act on matters pending before it and to establish simplified procedures for disposing of applications to engage in air transportation or application to modify such a certificate.

H.R. 11313. March 6, 1978. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act and the Internal Revenue Code to reduce tax rates on employment and self-employment income below the level established by the Social Security Financing Amendments of 1977, to increase Federal participation in the funding of benefits under such Title and under the Medicare program, and to raise to $100,000 in 1979 the ceiling on the amount of income that is subject to the tax.

H.R. 11314. March 6, 1978. Education and Labor. Amends National Labor Relations Act restrictions on payments and loans by employers or labor relations experts to labor organizations of officers or employees thereof to permit the furnishing of goods, services, or accommodations in the ordinary conduct of business on the same basis as such goods, services, or accommodations are furnished to others.

H.R. 11315. March 6, 1978. House Administration. Amends the Federal Election Campaign Act of 1971 to revise specified reporting and disclosure requirements by political committees in Federal elections.

H.R. 11316. March 6, 1978. Post Office and Civil Service. Provides for a study of the financial status of the civil Service Retirement and Disability Fund, under the Social Security Amendments of 1977. States that such study shall include the causes of remedies for any ways to prevent any deficit in such fund.

H.R. 11317. March 6, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11318. March 7, 1978. Small Business. Amends the Small Business Investment Act of 1958 to change limitations on the amount of small business investment company securities that the Small Business Administration may purchase.

Permits small business investment companies to invest funds in specified savings accounts.

Amends the Small Business Act to institute procedures which will insure that small business concerns owned and controlled by socially and economically disadvantaged individuals are given the maximum practicable opportunity to participate in public procurement, construction, and service contracts.

H.R. 11319. March 7, 1978. International Relations; Judiciary; Public Works and Transportation. Establishes agencies to combat terrorism in the Executive Office of the President, the Department of State, and the Department of Justice.

Specifies penalties for violations of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. Sets forth penalties for certain other acts which endanger aircraft.

Requires Presidential approval of sales of defense articles to groups and individuals. Requires that all explosives contain indentification and detection taggants.

Directs the President to impose sanctions against dangerous foreign airports and countries which aid terrorists.

H.R. 11320. March 7, 1978. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 11321. March 7, 1978. Merchant Marine and Fisheries. Prohibits the import, export, possession, transport, or sale of any elephant product. Direct the Secretary of the Interior to administer this Act. Authorizes the Secretary to issue permits for acts herein prohibited for scientific purposes. Establishes civil and criminal penalties for violation of this Act. Establishes rewards for persons providing information regarding violations of this Act. Requires the Secretaries of the Interior, Treasury, and the department in which the Coast Guard is operating to enforce this Act, and to promulgate regulations for such enforcement. Permits citizen suits to enforce this Act.

H.R. 11322. March 7, 1978. Merchant Marine and Fisheries. Prohibits the import, export, possession, transport or sale of any elephant product. Direct the Secretary of the Interior to administer this Act. Authorizes the Secretary to issue permits for acts herein prohibited for scientific purposes. Establishes civil and criminal penalties for violation of this Act. Establishes rewards for persons providing iinformation regarding violations of this Act. Requires the Secretaries of the Interior, Treasury, and the department in which the Coast Guard is operating to enforce this Act, and to promulgate regulations for such enforcement. Permits citizen suits to enforce this Act.

H.R. 11323. March 7, 1978. Merchant Marine and Fisheries. Prohibits the import, export, possession, transport, or sale of any elephant product. Direct the Secretary of the Interior to administer this Act. Authorizes the Secretary to issue permits for acts herein prohibited for scientific purposes. Establishes civil and criminal penalties for violation of this Act. Establishes rewards for persons providing information regarding violations of this Act. Requires the Secretaries of the Interior, Treasury, and the department in which the Coast Guard is operating to enforce this Act, and to promulgate regulations for such enforcement. Permits citizen suits to enforce this Act.

H.R. 11324. March 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for a taxpayer or his spouse who is deaf.

H.R. 11325. March 7, 1978. Public Works and Transportation; Education and Labor. Amends part II of the Interstate Commerce Act (Motor Carriers) to exempt from the provisions of such part vehicles carrying up to 15 persons in a single day round trip for the purpose of commuting to and from work.

Amends the Fair Labor Standards Act to exempt from the minimum wage and maximum hours provisions of such Act individuals participating in a voluntary ridesharing arrangement for the transportation of up to 15 persons in a single day round trip for the purpose of commuting to and from work.

H.R. 11326. March 7, 1978. International Relations. Establishes the Institute for Human Rights and Freedom as a United States Corporation to furnish technical and financial assistance to nongovernmental organizations that promote human rights in foreign countries, including support for victim support. Requires the Secretary of State to inform the Institute of United States foreign policy related to the Institute. Requires the Institute to consider the foreign policy of the United States in making aid determinations, but declares such shall not be subject to the direction of the United States.

H.R. 11327. March 7, 1978. Agriculture. Prohibits the Secretary of Agriculture, for a two-year period, from issuing any order or regulation: (1) restricting the use of nitrites or nitrates as preservatives in meat products beyond a specified degree or (2) requiring labeling on meat products concerning nitrites or nitrates in addition to the requirements already in effect.

H.R. 11328. March 7, 1978. Veterans' Affairs. Excludes the value of veterans' vocational rehabilitation and educational assistance entitlements from consideration as

annual income for veterans' pension determinations.

H.R. 11329. March 7, 1978. Veterans' Affairs. Allows disabled veterans and Vietnam era veterans who claim employment discrimination based on their status as veterans by either specified Federal Government contractors or a department, agent, or instrumentality of the executive branch, and who have exhausted their administrative remedies, to file a civil action with the same procedural rights as persons under an unlawful employment practices proceeding covered by the Civil Rights Act of 1964.

H.R. 11330. March 7, 1978. Veterans' Affairs. Permits veterans with an upgraded discharge to receive full educational benefits without regard to the date of the veteran's initial discharge from service.

H.R. 11331. March 7, 1978. Ways and Means. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act, and the Internal Revenue Code to finance the payment of disability benefits and hospital insurance benefits through general tax revenues, rather than through employment and self-employment tax revenues.

Reduces employment and self-employment tax rates below the rates established by the Social Security Financing Amendments of 1977.

H.R. 11332. March 7, 1978. Education and Labor. Amends the Rehabilitation Act of 1973 to rescind the authority of the Secretary of Health, Education, and Welfare to designate a type of disability as qualifying as a "severe handicap" for purpose of such Act.

H.R. 11333. March 7, 1978. Education and Labor. Authorizes the Secretary of Health, Education, and Welfare to provide grants to States (1) to make a study of the costs involved in removing architectural, communications, and attitudinal barriers against handicapped persons in federally assisted programs; and (2) to pay the costs involved in assisting in such removal.

H.R. 11334. March 7, 1978. Interior and Insular Affairs. Allows the residents of certain villages to trap fur-bearing mammals within the Cape Hatteras National Seashore Recreational area in North Carolina.

H.R. 11335. March 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax credit for expenses incurred for the installation of solar or wind energy equipment in their principal residences.

H.R. 11336. March 7, 1978. Ways and Means. Amends the Internal Revenue Code to allow a deduction to any taxpayer engaged in the manufacture, importation, distribution, lease, or sale of any product for contributions to his product liability loss reserve account.

H.R. 11337. March 7, 1978. Ways and Means. Establishes the Friendship Hill National Historic Site, in Pennsylvania to commemorate the Jeffersonian Period of American history.

H.R. 11338. March 3, 1978. Interior and Insular Affairs. Designates specified lands within the George Washington National Forest in the State of Virginia as wilderness.

H.R. 11339. March 7, 1978. Banking, Finance and Urban Affairs. Extends from June 30, 1978, until June 30, 1981, the authority of the Secretary of the Treasury to make loans under the New York City Seasonal Financing Act.

H.R. 11340. March 7, 1978. Agriculture. Authorizes the Secretary of Agriculture to accept and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the United States Department of Agriculture.

H.R. 11341. March 3, 1978. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for dental care including dentures, eye examinations including eyeglasses, and hearing aids including examination under the supplementary medical insurance program. Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 11342. March 7, 1978. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit the making of any unsolicited call to any telephone if such call is made entirely by automatic equipment and has or may have a duration of more than one minute.

H.R. 11343. March 7, 1978. Rules. Amends the Congressional Budget Act of 1974 to prohibit the authorization of new tax expenditures, budget, or spending authority for more than five years. Requires all public legislation reported by any congressional committee and all agency implementing Federal programs to be accompanied by a statement of the costs which would be imposed upon State and local governments during the ensuing five years if such legislation or rule becomes law. Prohibits the enactment of any public bill or resolution without providing Federal payments to such State and local governments to cover the costs imposed by such bill or resolutions.

H.R. 11344. March 7, 1978. Armed Services. Prohibits the transfer or disposal of any military installation located in the Panama Canal Zone unless specifically authorized by Act of Congress.

H.R. 11345. March 7, 1978. Banking, Finance and Urban Affairs. Extends from June 30, 1978, until June 30, 1981, the authority of the Secretary of the Treasury to make loans under the New York City Seasonal Financing Act.

H.R. 11346. March 7, 1978. Public Works and Transportation, Education and Labor. Amends part II of the Interstate Commerce Act (Motor Carriers) to exempt from the provisions of such part vehicles carrying up to 15 persons in a single day roundtrip for the purpose of commuting to and from work.

Amends the Fair Labor Standards Act to exempt from the minimum wage and maximum hours provisions of such Act individuals participating in a voluntary ride-sharing arrangement for the transportation of up to 15 persons in a single day round trip for the purpose of commuting to and from work.

H.R. 11347. March 7, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 11348. March 7, 1978. Science and Technology. Requires the Secretary of Energy to develop research, development, and demonstration programs concerning the use of solar photovoltaic energy systems.

H.R. 11349. March 7, 1978. Agriculture. Amends the Federal Insecticide, Fungicide, and Rodenticide Act to prohibit the importation of any agricultural commodity whenever the use of any pesticide in connection with its production, processing, or handling is restricted in the United States, if: (1) the exporting country does not have at least equal restrictions with respect to the use of such pesticide; and (2) such commodity is produced in substantial quantities in the continental United States.

H.R. 11350. March 7, 1978. Banking, Finance and Urban Affairs. Amends the National Housing Act to prohibit the denial of assistance under the Federal Housing Administration mortgage insurance programs solely because the housing is located in an area subject to a high noise level resulting from the operation of a nearby airport.

H.R. 11351. March 7, 1978. Veterans' Affairs. Prohibits the Veterans' Administration from denying home loan financing to certain veterans solely because the property is located in an area identified by a Federal agency as the area which is most adversely affected by the noise from the operation of nearby civilian or military airports.

H.R. 11352. March 7, 1978. Merchant Marine and Fisheries. Authorizes appropriations for the Coast Guard for fiscal year 1979. Sets forth the authorized end strength level for active duty personnel and the average military training student loads for the Coast Guard for such fiscal year.

Amends the Federal Boat Safety Act of 1971 to authorize appropriations for State boating safety programs for such fiscal year.

Authorizes the Coast Guard to enter into long term leases for the relocation of its Quillayute River Coast Guard Station in the State of Washington and for its Aviation Training Center at Bates Field in Mobile, Alabama.

H.R. 11353. March 7, 1978. Education and Labor. Amends the Older Americans Act of 1965 to establish a program under which institutions of higher education may receive grants to defray 55 percent of the tuition costs of older persons attending such institutions on a tuition-free basis.

H.R. 11354. March 7, 1978. Armed Services. Entitles former spouses of members of the armed forces who were married to the member for at least ten years to a portion of that member's retired or retainer pay. Entitles such former spouses to a portion of the annuity of the surviving spouse of such member. Stipulates that such a member may not elect not to provide an annuity under the Survivor Benefit Plan without the consent of the member's spouse and any former spouses.

H.R. 11355. March 7, 1978. House Administration. Authorizes the Board of Regents of the Smithsonian Institution to acquire the Museum of African Art.

H.R. 11356. March 7, 1978. Agriculture. Amends the National Forest Management Act to authorize the Secretary of Agriculture as part of a national forest salvage program: (1) to set aside sales of insect-infested, dead, damaged or down timber for preferential bidding by independent salvage logging firms employing 25 employees or less; and (2) to use timber residue removal funds to establish residue collection centers and pilot projects for residue utilization.

H.R. 11357. March 7, 1978. Judiciary. Authorizes the classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 11358. March 7, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11359. March 7, 1978. Judiciary. Declares five individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11360. March 7, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11361. March 7, 1978. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 11362. March 7, 1978. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 11363. March 7, 1978. Judiciary. Authorizes the classification of three individuals as children for purposes of the Immigration and Nationality Act.

H.R. 11364. March 8, 1978. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the sur-

viving spouse (who meets specified requirements), or when there is no surviving spouse, to the child or children (who meet specified requirements).

H.R. 11365. March 8, 1978. Merchant Marine and Fisheries; Public Works and Transportation. Amends the Ports and Waterways Safety Act of 1972 to regulate the construction and operation of and to set forth standards for the location, design and construction, and operation of onshore and offshore liquified bulk gas facilities.

Establishes within the Treasury a Fund for the compensation of any party injured by an incident involving such a facility. Sets forth standards by which liability for such an incident may be determined.

Defines the legal jurisdiction governing offshore facilities.

H.R. 11366. March 8, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants and contracts to public and private entities to acquire the automated equipment, supplies, and personnel required to conduct multiple screening of blood specimens routinely collected from newborn infants for metabolic disorders.

H.R. 11367. March 8, 1978. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to require State and local educational agencies receiving funds for educational programs for migrant children under Title I of such Act to establish advisory councils to increase the role of the parents of such children in the planning and evaluation of such educational programs.

H.R. 11368. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to replace the corporate income tax rates with a graduated, five-tier rate schedule, imposing the uppermost (48 percent) marginal rate upon income in excess of $100,000.

H.R. 11369. March 8, 1978. Education and Labor. Amends the Employment Act of 1946 to declare full employment to be a national goal and inflation to be a national problem.

Requires the President's annual Economic Report to contain numerical goals for employment, production, real income, and productivity.

Directs the President to initiate policies and programs, including those with respect to inflation, youth employment, regional development, and standby public service employment, in furtherance of the policies of this Act and the goals contained in the Economic Report.

Specifies procedures for Congressional review of the Economic Reports' goals and the President's program and policy recommendations.

H.R. 11370. March 8, 1978. Judiciary; Ways and Means. Authorizes for fiscal year 1979 for the settlement of unpaid claims for reimbursement asserted by the States for expenditures made with respect to services provided by such States under specified Titles of the Social Security Act.

Sets forth criteria for determining the amount of an unpaid claim and procedures and time limitation for making claims for reimbursement.

H.R. 11371. March 8, 1978. Education and Labor. Amends the Bilingual Education Act to (1) extend specified grant programs to State and local educational agencies for bilingual educational assistance; (2) revise application guidelines; (3) provide special provisions concerning such assistance for Puerto Rico; (4) revise specified responsibilities of the Secretary of the Interior regarding bilingual programs for Indian children; (5) revise and extend bilingual education training; (6) establish the Bureau of Bilingual Education; (7) revise the composition of the National Advisory Council on Bilingual Education; and (8) extend bilingual educational research and demonstration projects.

Amends the Emergency School Aid Act regarding specified appropriations allocation requirements.

H.R. 11372. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to make State and local government retirement systems tax exempt organizations. Exempts those systems from the reporting requirements pertaining to deferred compensation. Treats all such systems as qualified pension plans under the Code.

H.R. 11373. March 8, 1978. Judiciary. Requires any Federal agency receiving a petition to issue, amend, or repeal any rule administered by the agency to grant or deny such petition within a specified period. Permits any person to enforce this Act by civil suit in any United States court of appeals. Requires agencies to promulgate timetables for general classes of proceedings begun by petition which shall be subject to a one-house veto in Congress.

H.R. 11374. March 8, 1978. Science and Technology. Authorizes the Secretary of Health, Education, and Welfare to make grants for research and development of new methods of research, experimentation, and testing which minimize the use of, and the pain inflicted upon, live animals.

H.R. 11375. March 8, 1978. Judiciary. Amends the Export Trade Act to redefine certain terms under such Act, including "association" and "export trade." Defines "antitrust laws" for purposes of such Act.

Directs the Secretary of Commerce to establish a program to promote the formation of export trade associations which are consistent with such Act and the antitrust laws.

Requires the Chair of the Federal Trade Commission and the Attorney General (1) to meet periodically to avoid conflicting oversight of such associations, and (2) to meet periodically with the members of the private sector to review export trade policy.

H.R. 11376. March 8, 1978. Judiciary. Requires Federal agencies to: (1) assess the costs of private information collection and compliance which are or would be imposed by existing or proposed agency rules; (2) compare such impositions with the importance of the public policy achieved or to be achieved by such rules; and (3) determine whether such rules should apply to the same extent to individuals, and organizations of various sizes and resources.

Directs that the reporting and performance requirements of proposed rules be varied depending on the resources of the organizations or individuals affected by such rules.

H.R. 11377. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax credit for tuition expenses incurred for themselves, their spouses and dependents.

Provides for expedited consideration of constitutional challenges to this Act by the United States Courts of Appeals and the Supreme Court.

H.R. 11378. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to qualify trusts established for the payment of product liability claims as tax exempt organizations. Allows taxpayers a business income tax deduction for contributions to such trusts, but only to the extent they do not exceed the reasonable costs of product liability insurance for the taxpayer.

H.R. 11379. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow small business investment companies electing to be taxed as regulated investment companies, and having a tax deficiency as a result of a judicial judgment or administrative settlement, concerning certain capital gains dividend deductions to satisfy such deficiencies by paying out dividends within 90 days after the judgment or settlement.

H.R. 11380. March 8, 1978. Education and Labor; Interstate and Foreign Commerce; Small Business; Ways and Means. Amends the Small Business Investment Act, the Securities Act of 1933, the Employee Retirement Income Security Act, and the Internal Revenue Code of 1954, to promote the formation and growth of new small businesses and to facilitate investment in such concerns.

H.R. 11381. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to exclude from gross income the first $500 ($1,000 for persons filing joint returns) earned as interest on savings deposits in financial institutions.

H.R. 11382. March 8, 1978. Ways and Means. Repeals the requirement, under the Social Security Amendments of 1977, that the amount of monthly benefits payable to a spouse or surviving spouse under Title II (Old-Age, survivors, and Disability Insurance) of the Social Security Act be reduced by the amount such spouse or surviving spouse receives in monthly payments from a Federal or State pension fund.

H.R. 11383. March 8, 1978. International Relations; Education and Labor. Establishes a Commission on Proposals for a United States Academy for Peace and Conflict Resolution to study the establishment of such academy and alternative proposals which would assist the Federal Government in promoting peace. Directs the Commission to review the theory and techniques of conflict resolution and the institutions for conflict resolution.

H.R. 11384. March 8, 1978. Banking, Finance and Urban Affairs. Amends the Export-Import Bank Act of 1945 (1) to increase the dollar limitation on the issuance of guarantees and insurance against political and credit risks of loss, and (2) to increase the dollar limitation on the aggregate outstanding loans, guarantees, and insurance of the Export-Import Bank. Extends the authority of the Bank through fiscal year 1983.

H.R. 11385. March 8, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish (1) a Drug Benefit Program for the Aged to pay for prescription drugs from participating pharmacies; (2) a Drug Benefits List; (3) a Drug Benefits Council to advise the Secretary of Health, Education, and Welfare on matters relating to this Act; and (4) penalties for abuses of the benefits program.

H.R. 11386. March 8, 1978. Ways and Means. Delays for six months the effective date of the increase in the hospital deductible for 1978 under the hospital insurance program of Title XVIII (Medicare) of the Social Security Act.

H.R. 11387. March 8, 1978. Ways and Means. Delays for six months the effective date of the increase in the hospital deductible for 1978 under the hospital insurance program of Title XVIII (Medicare) of the Social Security Act.

H.R. 11388. March 8, 1978. Interstate and Foreign Commerce; Ways and Means. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make grants and loans to health maintenance organizations for the construction of ambulatory services to be used for the provision of health services to their members.

Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to broaden the circumstances under which payment may be made for health services provided by such organizations.

H.R. 11389. March 8, 1978. Public Works and Transportation. Directs the Secretary of Transportation, in determining whether any right-of-way on any Federal-aid system highway should be used for accommodating a utility facility, to: (1) evaluate the environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricul-

tural land which would result from the disapproval of such a facility; and (2) consider such effects together with any interference with the use of the highway in such right-of-way if such facility were approved.

H.R. 11390. March 8, 1978. Education and Labor. Amends the Child Nutrition Act of 1966 to extend the grant and appropriation authorization provisions with respect to nutrition education and information programs to fiscal year 1981.

H.R. 11391. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to provide graduated income tax rates for corporations with a maximum rate of 45 percent on income in excess of $150,000 and a minimum rate of 18 percent on income not in excess of $25,000.

H.R. 11392. March 8, 1978. Interior and Insular Affairs; Interstate and Foreign Commerce; Science and Technology; Armed Services. Authorizes appropriations to the Department of Energy for fiscal year 1979. Specifies the basis for the government's charge for uranium enrichment services.

H.R. 11393. March 8, 1978. Merchant Marine and Fisheries. Authorizes the Secretary of the Interior to conduct a study to determine the feasibility and desirability of protecting and preserving the wildlife resources of the Saint Charles Parish Swamp in the State of Louisiana.

H.R. 11394. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 11395. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to issue regulations corresponding to the principles set forth in a certain private letter ruling relating to the exclusion from gross income of amounts deferred by participants in public deferred compensation plans.

H.R. 11396. March 8, 1978. Public Works and Transportation. Amends the Federal Water Pollution Control Act to require that all parties receive the prior approval of the Administrator of the Environmental Protection Agency before discharging pollutants into navigable waters.

Places the burden of proof on the party seeking to discharge pollutants to show that such discharge will not be harmful to the public health and welfare or to the environment.

H.R. 11397. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals on income tax credit for a portion of the expenses incurred for the residential installation of insulation, solar and other renewable energy equipment, heating improvements and energy-conserving components between April 20, 1977, and January 1, 1986.

H.R. 11398. March 8. 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for a portion of the expenses incurred for the residential installation of insulation, solar and other renewable energy equipment, heating improvements and energy-conserving components between April 20, 1977, and January 1. 1986.

H.R. 11399. March 8, 1978. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for a portion of the expenses incurred for the residential installation of insulation, solar and other renewable energy equipment, heating improvements and energy-conserving components between April 20, 1977, and January 1, 1986.

H.R. 11400. March 8, 1978. Science and Technology. Authorizes appropriations to the National Science Foundation for fiscal year 1979 for specified major program areas.

H.R. 11401. March 8, 1978. Science and Technology. Authorizes appropriations to National Aeronautics and Space Administration for certain research and development programs, construction of facilities, and research and program management for fiscal year 1978.

H.R. 11402. March 8, 1978. Science and Technology. Authorizes appropriations to the National Aeronautics and Space Administration for certain research and development programs, construction of facilities, and research and program management for fiscal year 1978.

H.R. 11403. March 8, 1978. Interstate and Foreign Commerce. Establishes the National Commission on the Visual Arts.

Requires the seller of a work of visual art, sold in interstate or foreign commerce, to pay a certain percentage of the sale price to the Commission.

Requires such seller to file certain information with the Commission.

Establishes in the Treasury a visual arts fund.

H.R. 11404. March 8, 1978. Public Works and Transportation. Authorizes additional mileage for the Interstate Highway System for the construction of a route along Missouri Route 725 between Interstate Route 270 and Page Avenue in Saint Louis County, Missouri.

Authorizes appropriations out of the Highway Trust Funds in such amounts as may be necessary to construct such route.

H.R. 11405. March 8, 1978. Judiciary. Authorizes the classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 11406. March 9, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Administrator of the Environmental Protection Agency to make grants to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations.

H.R. 11407. March 9, 1978. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Administrator of the Environmental Protection Agency to make grants to small public water systems for the purpose of enabling such systems to meet national primary drinking water regulations.

H.R. 11408. March 9, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 11409. March 9, 1978. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of certain wood products used in dying and tanning.

H.R. 11410. March 9, 1978. Education and Labor. Amends the Older Americans Act of 1965 to direct the Commissioner on Aging to establish a special grant program to enable States to establish community long-term care initiatives to assess the needs of chronically ill or disabled older persons for services and to provide for the efficient delivery of such services to such older persons.

H.R. 11411. March 9, 1978. Education and Labor. Amends the Older Americans Act of 1965 to authorize the Commissioner on Aging to make grants to the State agencies which administer plans providing services to the aged for the development and operation of statewide advocate programs for residents of long-term care facilities.

H.R. 11412. March 9, 1978. Education and Labor. Amends the Employment Act of 1946 to declare full employment as a national goal and inflation as a national problem.

Requires that the President's annual Economic Report contain numerical goals for employment, production, real income, and productivity.

Directs the President to initiate policies and programs, including those with respect to inflation, youth employment, regional development, and standby public service employment in furtherance of the policies of this Act and the goals contained in the Economic Report.

Specifies procedures for Congressional review of the Economic Reports' goals and the President's program and policy recommendations.

H.R. 11413. March 9, 1978. Ways and Means. Amends the Internal Revenue Code to provide cost-of-living adjustments for the individual income tax rates and withholding tables.

H.R. 11414. March 9, 1978. Public Works and Transportation. Amends the Federal Water Pollution Control Act: (1) to transfer authority to approve a State plan for fresh water lake pollution control and to financially assist such plan from the Administrator of the Environmental Protection Agency to the Secretary of the Army acting through the Chief of Engineers; and (2) to authorize the Secretary to enter into agreements with any State or public agency to carry out one or more projects to demonstrate methods and techniques for the elimination or control of pollution within lakes.

H.R. 11415. March 9, 1978. Veterans' Affairs. Prohibits the transfer or other disposal of any veterans' cemetery located in the Canal Zone without the specific authorization of Congress.

H.R. 11416. March 9, 1978. Public Works and Transportation. Authorizes the Secretary of Transportation to furnish Federal financial assistance for construction projects to separate rail-highway crossings where the rail facilities have incurred a substantial increase in use as a result of coal transportation activities with the result of substantial delays in highway travel.

H.R. 11417. March 9, 1978. Ways and Means. Amends the Internal Revenue Code to lower individual and corporate income tax rates.

H.R. 11418. March 9, 1978. Education and Labor. Authorizes the Commission of Education to make grants to State and local educational agencies to pay the Federal-share of establishing community education programs.

Defines "community education program" as a program operated by a local educational agency providing educational, recreational, health care, cultural, and other related services for the community.

Establishes a Community Education Advisory Council to advise the National Institute of Education concerning community education programs.

H.R. 11419. March 9, 1978. Interior and Insular Affairs. Amends the National Trails System Act to establish national historic trails as a new category of trails within the National Trails System.

Sets criteria for the designation of a trail as a National Historic Trail. Directs the Secretary of the Interior to encourage the States to consider establishing historic trails as part of their comprehensive historic preservation plans.

Designates the Mormon Pioneer Trail, which runs from Illinois to Utah, as a national historic trail.

H.R. 11420. March 9, 1978. Ways and Means. Amends the Internal Revenue Code to provide that State and local government retirement systems shall be tax exempt organizations. Exempts those systems from the reporting requirements pertaining to de-

ferred compensation. Treats all such systems as qualified pension plans under the Code.

H.R. 11421. March 9, 1978. Veterans' Affairs. Increases from one year to seven years the period after a war veteran is separated from military service during which development of Parkinson's disease will be presumed to be service-connected for wartime disability compensation.

H.R. 11422. March 9, 1978. Interstate and Foreign Commerce; Judiciary; Merchant Marine and Fisheries; Public Works and Transportation; Ways and Means. Amends the Shipping Act, 1916, to authorize the use of a deferred rebate contract system and to authorize the formation and operation of closed shipping conferences and shippers councils under specified conditions.

H.R. 11423. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a specified amount of industrial diamond stones presently held in the national and supplemental stockpile.

H.R. 11424. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a specified amount of diamond dies presently held in the national and supplemental stockpile.

H.R. 11425. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a specified amount of iodine presently held in the national and supplemental stockpile.

H.R. 11426. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a specified amount of aluminum oxide crude presently held in the national and supplemental stockpile.

H.R. 11427. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a certain amount of asbestos chrysotile presently held in the national and supplemental stockpile.

H.R. 11428. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a certain amount of bismuth presently held in the national and supplemental stockpile.

H.R. 11429. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a certain amount of antimony presently held in the national and supplemental stockpile.

H.R. 11430. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a certain amount of antimony presently held in the national and supplemental stockpile.

H.R. 11431. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a certain amount of castor oil-sebacic acid presently held in the national stockpile.

H.R. 11432. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services Administration to dispose of a certain amount of antimony presently held in the national and supplemental stockpile.

H.R. 11433. March 9, 1978. Banking, Finance and Urban Affairs. Establishes the National Credit Union Central Liquidity Facility to provide funds to meet the liquidity needs of credit unions.

H.R. 11434. March 9, 1978. Interstate and Foreign Commerce. Amends Title VIII (Nurse Training) of the Public Health Service Act to extend for the two fiscal years, through fiscal year 1980, the program of financial assistance for nurse training.

H.R. 11435. March 9, 1978. Ways and Means. Amends the Internal Revenue Code to: (1) remove the adjusted gross income limitation on the credit for the elderly; (2) increase the amount of the credit; and (3) provide an annual cost-of-living adjustment for the credit.

H.R. 11436. March 9, 1978. Public Works and Transportation. Prohibits the Secretary of Transportation from controlling the location of utility facilities on the right-of-way of any highway on the Federal-aid system.

H.R. 11437. March 9, 1978. Interior and Insular Affairs. Designates the Blackjack Springs Wilderness Area and the Whisker Lake Wilderness Area, both within the Nicolet National Forest, Wisconsin, as wilderness areas. Directs the Secretary of Agriculture to administer the areas in accordance with the provisions of this Act.

H.R. 11438. March 9, 1978. Science and Technology. Directs the Secretary of Energy and the Administrator of the National Aeronautics and Space Administration to initiate a Solar Power Satellite Research, Development, and Demonstration Program to study technical problems regarding the viability of the solar power satellite concept.

Requires the Secretary to cooperate with the Administrator in the submission to Congress, by September 30, 1978, of a comprehensive plan to implement the Program.

H.R. 11439. March 9, 1978. Agriculture; International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to require the President to establish a reserve stock of agricultural commodities for use when sufficient quantities of such commodities are not available to carry out agreements for the sale of agricultural commodities to friendly countries.

Regulates acquisition, storage, and distribution of such commodities. Permits such reserve to be used to fulfill United States commitments under an international agreement for a system of national agricultural reserves, should Congress approve such an agreement.

H.R. 11440. March 9, 1978. International Relations; Judiciary; Intelligence. Directs the President, whenever an individual with diplomatic immunity is engaged in electronic surveillance for a foreign power, (1) to inform certain Members of Congress; (2) to inform the targets of the surveillance unless to do so would compromise intelligence gathering by the United States; (3) to demand that such surveillance cease unless to do so would compromise intelligence gathering by the United States; and (4) to declare such individual to be persona non grata if the surveillance is not ceased and to demand that such individual leave the United States unless to do so would seriously damage national security.

H.R. 11441. March 9, 1978. Agriculture. Amends the Federal Insecticide, Fungicide, and Rodenticide Act to prohibit the importation of any agricultural commodity whenever the use of any pesticide in connection with its production, processing, or handling is restricted in the United States, if: (1) the exporting country does not have at least equal restrictions with respect to the use of such pesticide; and (2) such commodity is produced in substantial quantities in the continental United States.

H.R. 11442. March 9, 1978. Agriculture; International Relations. Amends the Agricultural Act of 1954: (1) to establish U.S. Agricultural Trade Offices abroad, for the purpose of developing, maintaining, and expanding international markets for U.S. agricultural Attachés as Agricultural Counselors, and to require annual reports from them on specified subjects.

Amends the Commodity Credit Corporation Charter Act to require the Corporation to finance export sales of agricultural commodities on credit terms of from 3 to 10 years.

Establishes an Assistant Secretary of Agriculture for Commodity Programs and an Under Secretary of Agriculture for International Affairs.

H.R. 11443. March 9, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains, and upland cotton a sliding scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing of the redemption of stored wheat and feed grain loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.R. 11444. March 9, 1978. Interior and Insular Affairs. Amends the Surface Mining Control and Reclamation Act of 1977 to increase for two years the appropriations authorization for payment of small-operator coal surface mining and reclamation permit application procedures.

H.R. 11445. March 9, 1978. Small Business. Amends the Small Business Act to authorize the Small Business Administration to make physical disaster loans to cover certain losses at a certain percentage rate of interest.

Authorizes funds for the small business development center program.

Authorizes the Administration to make grants for small business oriented employment of natural resources development programs.

Establishes the National Conference Planning Council on Small Business to assist the President in holding a White House Conference on Small Business.

H.R. 11446. March 9, 1978. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to eliminate the testing of new human drugs and new animal drugs for effectiveness. Establishes drug advisory committees to review new human drug and new animal drug applications promptly. Requires assistance to small businesses engaged in drug manufacture to insure their compliance with such Act.

H.R. 11447. March 9, 1978. Judiciary. Extends the current 17-year term for patents of new drugs and new animal drugs from the date of issuance until the earlier of: (1) a date 17 years after the date on which the Secretary of Health, Education, and Welfare, or his delegate, first approves the approval application; or (2) a date 27 years after the date of patent issuance.

H.R. 11448. March 9, 1978. Armed Services. Authorizes the Administrator of the General Services to dispose of a certain amount of tin presently held in the national and supplemental stockpiles. Stipulates that various portions of such tin, or the proceeds from the sale thereof, shall be used to acquire a certain amount of copper for inclusion in the national stockpiles be placed in the Treasury as miscellaneous receipts, and be used to acquire strategic and critical materials needed on a priority basis.

H.R. 11449. March 9, 1978. International Relations. Amends the Arms Control and Disarmament Act to authorize appropriations for fiscal years 1979 and 1980 to carry out such act.

H.R. 11450. March 9, 1978. Judiciary. Directs the Secretary of the Treasury to pay a sum to a certain corporation in full settlement of such corporation's claims against the United States.

H.R. 11451. March 9, 1978. Judiciary. Relocates a portion of the northerly boundary of the Angeles National Forest, Los Angeles, California.

H.R. 11452. March 10, 1978. Interstate and Foreign Commerce. Establishes a National Academy of Medicine to train doctors at no cost to the student. Requires each student to sign a written agreement to serve as a commissioned officer of the Regular Corps of the Public Health Service upon graduation and after completion of residency and internship for a period of six years for general practitioners and nine years for specialists.

H.R. 11453. March 10, 1978. Ways and Means. Amends the Internal Revenue Code to require an automatic cost-of-living adjustment in the income tax rates, the amount of the standard deduction, personal exemption, and depreciation deduction, and the rate of interest payable on certain obligations of the United States.

H.R. 11454. March 10, 1978. Ways and Means. Amends the Internal Revenue Code to allow small business investment companies electing to be taxed as regulated investment companies, and having a tax deficiency as a result of a judicial judgment or administrative settlement, concerning certain capital gains dividend deductions to satisfy such deficiencies by paying out dividends within 90 days after the judgment or settlement.

H.R. 11455. March 10, 1978. Agriculture. Amends the Agricultural Act of 1949, for the 1978 through 1981 crops of wheat and feed grains, to remove the current ceiling of 60 percent of the potential harvest from the formula for the amount of disaster payments which an agricultural producer can receive for a crop loss.

H.R. 11456. March 10, 1978. Banking, Finance and Urban Affairs. Amends the Bank Holding Company Act of 1956 to prohibit bank holding companies and their subsidiaries from selling property and casualty insurance as principals, agents, or brokers.

H.R. 11457. March 10, 1978. Public Works and Transportation. Permits the Governor of any State with jurisdiction to establish a disaster area Recover Planning Council to contract the performance of Council functions to any Federal agency, State agency, or private nonprofit organization receiving Federal funds, which has economic development functions.

H.R. 11458. March 10, 1978. Government Operations. Establishes a Department of Education within the executive branch of the Federal Government to take over specified educational functions of various departments and agencies. Creates the Federal Interagency Committee on Education and the National Commission on Education.

H.R. 11459. March 10, 1978. Ways and Means. Amends the Internal Revenue Code to expand and create tax benefits for United States citizens and resident aliens pertaining to the exclusion of foreign earned income, the computation of taxable income, the deduction of foreign living, travel, moving and education expenses, nonrecognition and gain on residential sales, and the exclusion of employer-supplied food and lodging.

H.R. 11460. March 10, 1978. Merchant Marine and Fisheries; Science and Technolcgy. Authorizes appropriations to the National Science Foundation for certain ocean related activities for fiscal year 1979.

H.R. 11461. March 10, 1978. Interstate and Foreign Commerce; Ways and Means. Extends the authorization of appropriations under the Public Health Service Act for feasibility studies and planning and initial development costs related to the establishment of health maintenance organizations (HMO's).

Revises various regulations governing the administration of HMO's.

Establishes a new procedure for the monthly reimbursement of health maintenance organizations under the Medicare and Medicaid programs of the Social Security Act.

H.R. 11462. March 10, 1978. Judiciary. Authorizes the issuance of a visa to a certain individual and admittance to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 11463. March 13, 1978. Agriculture; International Relations; Ways and Means. Amends the Agricultural Act of 1954 to establish United States Agricultural Trade Offices abroad.

Amends the Consolidated Farm and Rural Development Act with respect to agricultural loans.

Amends the Agricultural Act of 1949 to provide a sliding-scale of established prices for wheat, corn, and cotton.

Sets import restrictions for cattle and specified meat products.

Establishes the National Farmer and Rancher Board.

Amends the Food and Agriculture Act of 1977 to permit Congressional veto of any embargo of commercial export sales of specified commodities.

Amends the Internal Revenue Code with regard to certain agricultural operations.

H.R. 11464. March 13, 1978. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to extend specified rural housing programs.

Provides additional assistance to persons receiving aid under the rural housing interest credit program who are unable to afford a dwelling.

H.R. 11465. March 13, 1978. Merchant and Fisheries. Authorizes appropriations for the Coast Guard for fiscal year 1979. Sets forth the authorized end strength level for active duty personnel and the average military training student loads for the Coast Guard for such fiscal year.

Authorizes the Coast Guard to enter into a long term lease for the relocation of its Quillayute River Coast Guard Station in the State of Washington.

H.R. 11466. March 13, 1978. Agriculture. Amends the Agricultural Act of 1949: (1) to provide for the 1978 crops of wheat, feed grains, and upland cotton a sliding-scale of established prices keyed to voluntary increments above the required level of acreage set-aside; (2) to prohibit the Secretary of Agriculture from providing for the redemption of stored wheat and feed grain loans unless the market price for such commodities is not less than parity; and (3) to prohibit the Commodity Credit Corporation from selling its stocks of wheat and feed grains for less than the parity price.

H.J. Res. 743. February 20, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of May 1978 and 1979 as "National Architectural Barrier Awareness Week."

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H.J. Res. 746. February 22, 1978. Appropriations. Appropriates an additional $13,114,000 for the operation and maintenance functions of the Southwestern Power Administration of the Department of Energy.

H.J. Res. 747. February 22, 1978. Interior and Insular Affairs. Expresses the consent of Congress to an amendment of the constitution of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State.

H.J. Res. 748. February 23, 1978. Post Office and Civil Service. Establishes the Patriots' Pledge.

H.J. Res. 749. February 23, 1978. Judiciary. Constitutional Amendment—Provides for popular enactment and repeal of laws, except those with respect to declaring war and similar matters. Requires a petition signed by a number of persons equaling at least three percent of the total number of persons voting in the last Presidential election both in each of at least ten States and nationwide to place such an issue on the ballot and a nationwide majority of votes cast to pass it.

H.J. Res. 750. February 23, 1978. Post Office and Civil Service. Authorizes and directs the President to proclaim the week in which Veterans Day is observed each year as "Love America Week."

H.J. Res. 751. February 23, 1978. Judiciary. Constitutional Amendment—Permits prayer in public buildings.

H.J. Res. 752. February 23, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the third week of May 1978 and 1979 as "National Architectural Barrier Awareness Week."

H.J. Res. 753. February 27, 1978. Post Office and Civil Service. Authorizes and requests the President to designate annually a week in the first ten days of May as "Pacific/Asian American Heritage Week."

H.J. Res. 754. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

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H.J. Res. 758. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 759. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 760. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 761. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 762. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 763. February 28, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 16 through April 22, 1978, as "National Oceans Week."

H.J. Res. 764. March 1, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

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H.J. Res. 767. March 1, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 768. March 1, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 769. March 1, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 770. March 1, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 771. March 1, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 772. March 2, 1978. Post Office and Civil Service. Designates the square dance as the national folk dance of the United States.

H.J. Res. 773. March 3, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of September 17, 1978, as "National Port Week."

H.J. Res. 774. March 3, 1978. Post Office and Civil Service. Designates May 3, 1978, as "Sun Day."

H.J. Res. 775. March 3, 1978. Post Office and Civil Service. Authorizes and requests the President to designate May 20, 1977, as "National Fallen Heroes Day."

H.J. Res. 776. March 3, 1978. Post Office and Civil Service. Authorizes and requests the President to designate May 20, 1977, as "National Fallen Heroes Day."

H.J. Res. 777. March 6, 1978. Judiciary Constitutional Amendment—Amends the Constitution to require Congress to assure that the total expenditures of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year. Permits an exception to such requirement in time of declared national emergency, but states that expenditures shall never exceed receipts by more than ten percent. Provides a schedule for the institution of such requirement.

Sets forth a schedule for the elimination of the Federal indebtedness.

H.J. Res. 778. March 6, 1978. International Relations. Expresses United States determination (1) to prevent the aggressive activities of the Soviet Union and Cuba in the Western Hemisphere, (2) to prevent the creation of externally supported Cuban military capability, and (3) to work with the Organization of American States for hemisphere security.

H.J. Res. 779. March 6, 1978. International Relations. Expresses United States determination (1) to prevent the aggressive activities of the Soviet Union and Cuba in the Western Hemisphere, (2) to prevent the creation of externally supported Cuban military capability, and (3) to work with the Organization of American States for hemisphere security.

H.J. Res. 780. March 6, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 781. March 7, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week beginning on November 19, 1978, as "National Family Week."

H.J. Res. 782. March 7, 1978. International Relations. Expresses United States determination (1) to prevent the aggressive activities of the Soviet Union and Cuba in the Western Hemisphere, (2) to prevent the creation of externally supported Cuban military capability, and (3) to work with the Organization of American States for hemisphere security.

H.J. Res. 783. March 9, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 784. March 9, 1978. Post Office and Civil Service. Expresses the appreciation of the Congress to Doctor Arthur F. Burns for his service to the United States.

H.J. Res. 785. March 10, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the week of April 30, 1978, as "National Small Business Week."

H.J. Res. 786. March 13, 1978. Education and Labor; Post Office and Civil Service. Directs the Department of Commerce, in consultation with the Department of Labor, to develop methods for better collection and publication of labor force characteristics relating to women in professional, technical, and managerial occupations (including a breakdown in the statistical tables of the Bureau of the Census).

H.J. Res. 787. March 13, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 788. March 13, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 789. March 13, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 790. March 14, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 791. March 14, 1978. International Relations. Expresses United States determination (1) to prevent the aggressive activities of the Soviet Union and Cuba in the Western Hemisphere, (2) to prevent the creation of externally supported Cuban military capability, and (3) to work with the Organization of American States for hemisphere security.

H.J. Res. 792. March 14, 1978. Post Office and Civil Service. Authorizes and requests the President to designate the first Friday of March of each year as "Teacher Day, U.S.A."

H.J. Res. 793. March 14, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 794. March 15, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 795. March 15, 1978. Post Office and Civil Service. Authorizes and directs the President to designate April 18, 1978, as "Education Day, U.S.A."

H.J. Res. 796. March 16, 1978. Appropriations. Makes supplemental appropriations for disaster relief for fiscal year 1978.

H.J. Res. 797. March 16, 1978. Post Office and Civil Service. Establishes the Patriot's Pledge.

H. Con. Res. 484. February 21, 1978. International Relations. Expresses Congressional disapproval of the sale of 60 F15 aircraft to Saudi Arabia and the sale of 50 F5E aircraft to Egypt.

H. Con. Res. 485. February 21, 1978. Ways and Means. Expresses Congressional disapproval of the Presidential denial of import relief to the producers of nuts, bolts, and large screws, under the Trade Act of 1974, transmitted to the Congress on February 10, 1978.

H. Con. Res. 486. February 23, 1978. Makes technical corrections in the enrollment of H.R. 8638 (Nuclear proliferation control).

H. Con. Res. 487. February 23, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 488. February 23, 1978. Ways and Means. Expresses Congressional disapproval of the President's denial of import relief of the metal fasteners manufacturing industry transmitted to Congress on February 10, 1978.

H. Con. Res. 489. February 24, 1978. Armed Services. Urges the Secretary of Defense not to include within the competitive rate program (under which services are procured for the movement of the household goods of Department of Defense employees) the movement of household goods of Department personnel who are being transferred between the continental United States and Alaska or Hawaii.

H. Con. Res. 490. February 24, 1978. Armed Services. Urges the Secretary of Defense not to include within the competitive rate program (under which services are procured for the movement of the household goods of Department of Defense employees) the movement of household goods of Department personnel who are being transferred between the continental United States and Alaska or Hawaii.

H. Con. Res. 491. February 24, 1978. Armed Services. Urges the Secretary of Defense not to include within the competitive rate program (under which services are procured for the movement of the household goods of Department of Defense employees) the movement of household goods of Department personnel who are being transferred between the continental United States and Alaska or Hawaii.

H. Con. Res. 492. February 24, 1978. International Relations. Declares it the sense of Congress that the President seek a multilateral treaty to deny sanctuary to international terrorists.

H. Con. Res. 493. February 24, 1978. International Relations. Declares it the sense of Congress that the President seek a multilateral treaty to deny sanctuary to international terrorists.

H. Con. Res. 494. February 27, 1978. Interstate and Foreign Commerce. Declares it to be the sense of Congress that the National Railroad Passenger Corporation should undertake the provision of basic system intercity rail passenger service by contracting with railroads filing for discontinuance of such service notwithstanding the pendency of the route reexamination study being conducted by the Secretary of Transportation and without regard to the Criteria and Procedures adopted pursuant to the Rail Passenger Service Act.

H. Con. Res. 495. March 1, 1978. Ways and Means. Declares it the sense of Congress that the President and the Secretary of the Treasury be inspired to apply countervailing duties and special dumping duties to imported steel.

H. Con. Res. 496. March 1, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 497. March 1, 1978. Ways and Means. Expresses Congressional disapproval of the President's denial of import relief of the metal fasteners manufacturing industry transmitted to Congress on February 10, 1978.

H. Con. Res. 498. March 1, 1978. International Relations. Declares it the sense of Congress that the United States Government do nothing to compromise the freedom of the Republic of China in lessening tensions with the Peoples' Republic of China.

H. Con. Res. 499. March 3, 1978. International Relations. Expresses Congressional disapproval of the sale of 50 F5E aircraft to Egypt, proposed on February 14, 1978.

H. Con. Res. 500. March 3, 1978. International Relations. Expresses Congressional disapproval of the sale of 60 F15 aircraft to Saudi Arabia, proposed on February 14, 1978.

H. Con. Res. 501. March 6, 1978. Science and Technology. Establishes priorities for research in outer space. Directs the Congress and executive agencies to determine how

they may aid in achieving national goals in outer space.

H. Con. Res. 502. March 7, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 503. March 7, 1978. Ways and Means. Expresses Congressional disapproval of the President's denial of import relief of the metal fasteners manufacturing industry transmitted to Congress on February 10, 1978.

H. Con. Res. 504. March 9, 1978. International Relations. Urges the Government of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Con. Res. 505. March 9, 1978. Interstate and Foreign Commerce. Declares it the sense of Congress that coffee containers used for the retail distribution of coffee should be labeled with the percentage of coffee contained which was purchased from Uganda.

H. Con. Res. 506. March 13, 1978. International Relations. Declares it the sense of Congress that the United States should encourage the United Nations to hold a World Alternate Energy Conference to consider alternate ways to meet the world's energy needs and to establish an International Alternate Energy Commission to encourage worldwide use of alternate energy sources.

H. Con. Res. 507. March 14, 1978. International Relations. Declares it the sense of the Congress that the terrorist attack on Israel on March 11, 1978. is contrary to the basic sentiment of human decency, and is condemned.

H. Con. Res. 508. March 14, 1978. International Relations. Declares it the sense of Congress that the United States should encourage the United Nations to hold a World Alternate Energy Conference to consider alternate ways to meet the world's energy needs and to establish an International Alternate Energy Commission to encourage worldwide use of alternate energy sources.

H. Con. Res. 509. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 510. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 511. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 512. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 513. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 514. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 515. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 516. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 517. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 518. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 519. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 520. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack of Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiations to be the best way to bring peace to the Middle East.

H. Con. Res. 521. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 522. March 14, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation

Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 523. March 15, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 524. March 15, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 525. March 15, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 526. March 15, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 527. March 15, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 528. March 15, 1978. International Relations. Urges the Government of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Con. Res. 529. March 15, 1978. International Relations. Urges the Government of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Con. Res. 530. March 15, 1978. International Relations. Expresses the sense of the Congress that the peoples of Lithuania, Latvia, and Estonia should be given the right of self-determination. Calls for free elections in the Baltic States, under the auspices of the United Nations.

H. Con. Res. 531. March 16, 1978. International Relations. Declares it the sense of Congress that the President should direct the Ambassador to the United Nations to offer a resolution removing the observer status of the Palestine Liberation Organization at the United Nations.

H. Con. Res. 532. March 16, 1978. International Relations. Urges the Government of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Con. Res. 533. March 16, 1978. International Relations. Urges the Government of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Con. Res. 534. March 16, 1978. International Relations. Urges the Government of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Con. Res. 535. March 16, 1978. Armed Services. Urges the Secretary of Defense not to include within the competitive rate program (under which services are procured for the movement of the household goods of Department of Defense employees) the movement of household goods of Department personnel who are being transferred between the continental United States and Alaska or Hawaii.

H. Con. Res. 536. March 16, 1978. Interstate and Foreign Commerce. Declares it to be the sense of Congress that the National Railroad Passenger Corporation should undertake the provision of basic system intercity rail passenger service by contracting with railroads filing for discontinuance of such service notwithstanding the pendency of the route reexamination study being conducted by the Secretary of Transportation and without regard to the Criteria and Procedures adopted pursuant to the Rail Passenger Service Act.

H. Con. Res. 537. March 16, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt.

Requests the President to make the disapproval of the Congress known to governments approving the PLO attack.

Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts.

Declares negotiation to be the best way to bring peace to the Middle East.

H. Con. Res. 538. March 20, 1978. International Relations. Urges the Government of Japan to reassess its policy of permitting and subsidizing the killing of dolphins in Japanese waters.

H. Con. Res. 539. March 20, 1978. International Relations. Expresses the condemnation by the Congress of the March 11, 1978, attack on Israel by the Palestine Liberation Organization, and the expressed intention of the PLO to continue such attacks and to disrupt the peace efforts between Israel and Egypt. Requests the President to make the disapproval of the Congress known to governments approving the PLO attack. Expresses Congressional approval of the peace efforts between Israel and Egypt. Urges other Middle East countries to join such efforts. Declares negotiations to be the best way to bring peace to the Middle East.

H. Con. Res. 540. March 20, 1978. International Relations. Commends Ambassador Arthur J. Goldberg for obtaining a review of compliance with the human rights provisions of the Helsinki Accords (the Final Act of the Conference on Security and Cooperation in Europe). Urges the President and other executive branch officials to continue to express United States opposition to repressive actions and violations of human rights which are contrary to the Helsinki Accords.

H. Con. Res. 541. March 21, 1978. International Relations. Declares it the sense of Congress that the President should direct the Ambassador to the United Nations to offer a resolution removing the observer status of the Palestine Liberation Organization at the United Nations.

H. Con. Res. 542. March 21, 1978. Ways and Means. Expresses Congressional disapproval of the President's denial of import relief of the metal fasteners manufacturing industry transmitted to Congress on February 10 1978.

H. Con. Res. 543. March 21, 1978. Agriculture; Interior and Insular Affairs. Expresses the sense of Congress by calling for a timely resolution of the present reviews of federally owned roadless areas and for cooperation between Congress and the various departments conducting such reviews concerning the National Wilderness Preservation System.

H. Con. Res. 544. March 22, 1978. States that when the House of Representatives adjourns on March 22, 1978, it shall stand adjourned until April 3, 1978.

States that when the Senate recesses on March 23, 1968, it shall stand in recess until March 29, 1978 or April 3, 1978.

H. Con. Res. 545. March 22, 1978. Merchant Marine and Fisheries. Expresses the sense of the Congress that any right to, title to, or interest in property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an Act of Congress.

H. Con. Res. 546. March 22, 1978. International Relations. Declares it the sense of Congress that the United States should encourage the United Nations to hold a World Alternate Energy Conference to consider alternate ways to meet the world's energy needs and to establish an International Alternate Energy Commission to encourage worldwide use of alternate energy sources.

H. Con. Res. 547. March 22, 1978. International Relations. Urges the Govenment of Canada to reassess its present policy of permitting the killing of newborn harp seals in Canadian waters.

H. Res. 1034. February 21, 1978. House Administration. Authorizes additional expenditures by the House Permanent Select Committee on Intelligence for investigations and studies.

H. Res. 1035. February 21, 1978. Rules. Amends rule XXI of the Rules of the House of Representatives to prohibit the inclusion

in any general appropriation bill or amendment thereto, of any provision which imposes any limitation not contained in existing law.

Prohibits the consideration by the House of any joint resolution providing continuing appropriations for Federal departments and agencies.

Restricts the consideration of supplemental appropriation bills.

H. Res. 1036. February 22, 1978. Permits the United States Capitol Historical Society to take official pictures of the House in actual session for inclusion in the new edition of "We the People."

H. Res. 1037. February 22, 1978. Elects specified individuals to membership on the House Committees on (1) Agriculture, (2) Armed Services, (3) Banking, Finance, and Urban Affairs, (4) Interior and Insular Affairs, (5) Post Office and Civil Service, and (6) Small Business.

H. Res. 1038. February 22, 1978. Elects a certain individual to membership on the House Committee on Banking, Finance and Urban Affairs.

H. Res. 1039. February 22, 1978. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the Federal Communications Commission should maximize local primary radio broadcast service in any proceeding respecting the provision of class I–A and I–B radio service and should prohibit the operation of a standard broadcast station with power in excess of 50,000 watts.

H. Res. 1040. February 22, 1978. Ways and Means. Declares that there be no reduction of customs duties on textile, apparel, or fiber products and that such products be excluded from the current Tokyo Round of Multilateral Trade Negotiations in Geneva.

H. Res. 1041. February 22, 1978. House Administration. Authorizes expenditures by the House Committee on Post Office and Civil Service for studies and investigations.

H. Res. 1042. February 22, 1978. Ways and Means. States that the Commissioner of the Internal Revenue Service should not implement the proposed reorganization of certain Internal Revenue Service district offices until the appropriate committees of Congress have had an opportunity to hold hearings on the proposal.

H. Res. 1043. February 23, 1978. Agriculture; International Relations. Declares the sense of the House of Representatives that the President and the Secretary of Agriculture should exercise the broad authority vested in them under the Food and Agriculture Act of 1977 and other statutes to increase farm income.

H. Res. 1044. February 23, 1978. Banking, Finance and Urban Affairs. Expresses the sense of the House that the national motto, "In God We Trust," shall continue to be engraved and printed on the currency of the United States.

H. Res. 1045. February 23, 1978. House Administration. Authorizes additional expenditures by the House Ad Hoc Select Committee on the Outer Continental Shelf for special investigations and studies.

H. Res. 1046. February 23, 1978. Ways and Means. States that the Commissioner of the Internal Revenue Service should not implement the proposed reorganization of certain Internal Revenue Service district offices until the appropriate committees of Congress have had an opportunity to hold hearings on the proposal.

H. Res. 1047. February 23, 1978. House Administration. Authorizes the payment of expenses incurred by the House Committee on International Relations in connection with visits to the United States by foreign heads of state, and for similar expenses incurred for meetings with senior Federal officials and other dignitaries to discuss foreign relations matters.

H. Res. 1048. February 24, 1978. Sets forth the rule for the consideration of House Joint Resolution 554 (Representation of District of Columbia in Congress).

H. Res. 1049. February 24, 1978. Government Operations. Expresses the disapproval of the House of Representatives of the Reorganization Plan Numbered 1 transmitted to Congress by the President on February 23, 1978.

H. Res. 1050. February 27, 1978. Ways and Means. States that the Commissioner of the Internal Revenue Service should not implement the proposed reorganization of the Salt Lake City Internal Revenue Service District Office until the appropriate committees of Congress have had an opportunity to hold hearings on the proposal.

H. Res. 1051. February 28, 1978. House Administration. Authorizes additional expenditures for investigations and studies by the House Ad Hoc Committee on Energy.

H. Res. 1052. February 28, 1978. Veterans' Affairs. Commends those veterans who enlisted prior to Armistice Day, November 11, 1918, but began their service after that date for their willingness to serve the United States during World War I.

H. Res. 1053. March 1, 1978. Expresses the condolences of the House of Representatives to the family of the late General Daniel "Chappie" James, Junior, United States Air Force.

H. Res. 1054. March 2, 1978. Ways and Means. States that the Commissioner of the Internal Revenue Service should not implement the proposed reorganization of certain Internal Revenue Service district offices until the appropriate committees of Congress have had an opportunity to hold hearings on the proposal.

H. Res. 1055. March 3, 1978. Judiciary. Refers H.R. 11300 to the Chief Commissioner of the U.S. Court of Claims.

H. Res. 1056. March 6, 1978. Sets forth the rule for the consideration of H.R. 11180 (Public debt limit).

H. Res. 1057. March 6, 1978. Sets forth the rule for the consideration of H.R. 50 (Full employment).

H. Res. 1058. March 6, 1978. International Relations. Expresses the insistance of the House that the Government of the Republic of Korea cooperate with a certain investigation of the House of Representatives Committee on Standards of Official Conduct. Declares that failure of the Government to cooperate with such investigation will have a negative impact on relations between the United States and the Republic of Korea, including assistance for the latter country.

H. Res. 1059. March 6, 1978. Agriculture; International Relations; Ways and Means. Declares that the President should direct United States negotiators for the International Wheat Conference and the Multilateral Trade Negotiations, the Secretary of Agriculture, the Secretary of State, and the Special Representative for Trade Negotiations, to set as their goals the expansion of United States agricultural markets abroad and the increases in prices of United States agricultural exports to levels sufficient to assure, for United States farmers, a return on those exports equal to that which would be available at domestic parity levels.

H. Res. 1060. March 6, 1978. International Relations. Declares it the sense of the House of Representatives that the President should suspend the ban on importation of Rhodesian chrome and ferrochrome and that the length of such suspension should depend upon effective execution of the agreement for transition to majority rule and one man, one vote elections.

H. Res. 1061. March 6, 1978. Armed Services. Rejects the actions proposed in the Department of Defense Reorganization Order transmitted to the Congress by the Secretary of Defense on February 7, 1978.

H. Res. 1062. March 7, 1978. Ways and and Urban Affairs to conduct an inquiry of Internal Revenue Service should not implement the proposed reorganization of certain Internal Revenue Service district offices until the appropriate committees of Congress have had an opportunity to hold hearings on the proposal.

H. Res. 1063. March 7, 1978. Rules. Directs the House Committee on Banking, Finance, and Urban Affairs to conduct an inquiry of the failure of the Department of Housing and Urban Development to adequately notify insurance agents of limits on coverage under the national flood insurance program increased under the Housing and Community Development Act of 1977.

EXTENSIONS OF REMARKS

TEXAS SOUTH-EASTERN RAILROAD CO.

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. CHARLES WILSON of Texas. Mr. Speaker, in addition to unemployment and inflation, the Department of Transportation has pinpointed the implementation of strobe lights on railroad locomotives to be a major national concern.

The Texas South-Eastern Railroad Co. of Diboll, Tex., has been sufficiently concerned with DOT's effort to raise the national social consciousness on "strobe-light-less" locomotives, to have gone to the expense of research and cost evaluation counseling, to make additional suggestions which perhaps equal, those of DOT in perception and rationale.

Mr. Speaker, the Texas South-Eastern Railroad Co. and myself, respectfully submit the following to be included in the congressional extension of remarks:

TEXAS SOUTH-EASTERN RAILROAD CO.,
Diboll, Tex., March 16, 1978.

Office of Chief Counsel Federal Railroad Administration, Washington, D.C.

GENTLEMEN: Following are our comments on Department of Transportation Docket No. RSGC–2, 'Strobe Lights on Locomotives'.

The best solution to reducing grade crossing accidents would be to require all motor vehicles to STOP, LOOK AND LISTEN at all railroad highway grade crossings. Why not? We stop every other block for traffic signals and intersection stop signs. This, of course, will never be considered because it would probably eliminate 95% of all crossing accidents and no one is really that concerned.

It would also place a heavy drain on the income of the legal profession and that alone will keep such action from ever being taken.

Therefore, we have on our own and without any government grant of any kind made an independent survey and will attempt to render some suggestions to the grade crossing problem.

We have determined that one strobe light on each locomotive will probably eliminate 1% of all grade crossing accidents. Based on this assumption if 100 strobe lights were placed on each locomotive we could eliminate 100% of all grade crossing accidents. We would also suggest that no trains be operated during daylight hours as daylight will reduce the effectiveness of the strobe lights.

Probably the next best method would be to require that all trains stop at all grade crossings. This, of course, would greatly increase the railroads' operating expenses. We have estimated this figure to be $697,492,654,552.27 annually. We would like to state here that our figures were arrived at with the help of a cost expert on loan from Conrail. This same gentleman advises that this amount is insignificant and that we could, of course, expect government grant for this expense. One method would be to add this in to Conrail's request for the next six months Operating Expenses and it probably would go unnoticed.

One other suggestion would be to require all vehicles to approach all grade crossings at 90 M.P.H. This would allow many motorists to beat the trains at a legal speed. Those that did not could almost be certain of not being crippled in the resulting collision.

Respectively submitted.

GEORGE HONSA.●

BUREAUCRACY FOILS LOW COST ENERGY EXPERIMENT

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. FRENZEL. Mr. Speaker, a statement released yesterday by Rudy Boschwitz, candidate for U.S. Senate in Minnesota, describes an example of one Federal agency thwarting the efforts of a private citizen to develop a low-cost energy source.

The case cited by Rudy Boschwitz involves Dr. Lance Crombie, a Webster, Minn. farmer with a Ph. D. in microbiology. Dr. Crombie recently fabricated a solar-heated device that separates ethyl alcohol from corn. The experimental process uses solar energy to distill a mixture of ground corn, sugar, and water into ethanol. The ethanol in turn can be used to fuel diesel engines.

Dr. Crombie believes this process could help reduce his fuel costs by 60 percent.

His problems began when he approached Federal authorities to determine what, if any, permit might be required to operate this type of distillation facility. He was shocked to learn that the Treasury's Bureau of Alcohol, Tobacco, and Firearms would require that the same elaborate and costly inspection and licensing requirements that are imposed on the multi-billion dollar alcoholic beverage distillery industry. He was told he would have to post a million dollar bond, maintain an office on his farm for a full-time Federal inspector and pay an annual $40,000 inspectors fee. When Dr. Crombie balked at these requirements, Federal agents came to his farm and confiscated the ethanol producing appartus.

The Bureau of Alcohol, Tobacco, and Firearms has an important job to make sure illicit distilled products do not find their way into alcoholic beverages. But the Federal Government is also spending billions of dollars trying to encourage the development of low-cost energy resources.

There should be a way for BATF to carry out its mission while permitting people like Dr. Crombie the freedom to continue the search for inexpensive energy supplies.

I congratulate Dr. Crombie for his initiative, and Rudy Boschwitz, for being the only public figure in Minnesota to take up the cause for individual initiative and low-cost power.●

THE PHILIPPINES ARE OUR FRIENDS—LET'S KEEP IT THAT WAY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. RUDD. Mr. Speaker, there has been some notoriety in the press about a letter signed by 114 members of the House, which was recently sent to President Ferdinand E. Marcos of the Philippines.

In essence, the letter was a complaint over reported human rights violations by the Marcos government, and over alleged abuses during recent elections.

This letter apparently received wide circulation, and has now been countered by a most reasonable response from the editor of the Arizona Republic, Frederic S. Marquardt, who is probably more knowledgeable about the Philippines than any other U.S. editor of a major metropolitan newspaper.

Mr. Marquardt raises some very important points about government in the Philippines, and the great efforts that have been made to implement democratic principles in that country, which were apparently overlooked by the signatories of the letter to President Marcos.

But more importantly, Mr. Marquardt notes that the Philippines have been a loyal and valiant ally of the United States, and that our Members of Congress should let the Philippine people "decide what democratic principles will work for them," without undue interference.

I would like to include Mr. Marquardt's letter at this point in the RECORD:

MAY 11, 1978.

Congressman BERKLEY BEDELL,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BEDELL: I have read a letter to President Marcos of the Philippines, signed by you and 113 other members of Congress.

I would like to comemnt on the letter, but first let me establish my qualifications. My mother opened the first public school in Burauen, Leyte. My father was director of education in the Philippines. I was born in Manila.

From 1928 to 1941 I was associate editor of the Philippines Free Press, probably the most respected publication in the islands during the American regime. It was closed down when President Marcos proclaimed martial law.

During World War II I was director of the U. S. Office of War Information in the Southwest Pacific. The OWI opened the first newspapers and radio stations in the liberated Philippines. I have visited Manila five times in the last seven years, reporting on conditions there for The Arizona Republic.

If all that is self-serving, so be it. At least it should prove I am not unacquainted with the Philippines. Now let me comment on your letter to Marcos.

You charge that there were "heavy-handed" actions against those who opposed government candidates in the April elections. You probably are right. But I covered a good many elections in the days when the American flag flew over the Philippines, and the number of persons killed in each election was always in the lead of the story. I have yet to hear that a single person was killed in this year's election.

There undoubtedly were frauds, particularly in Metro Manila. But I have not found a single informed person who thinks the opposition ticket really received the most votes in Manila.

While Marcos supporters won all the seats from Manila, the oppositionists made a clean sweep in Cebu. The same government counted the votes in Manila and in Cebu.

Sen. Benigno Aquino, chief opposition leader, was held a prisoner at Fort Bonifacio during the election, awaiting the Supreme Court's verdict on his appeal from a death sentence. He has been found guilty of subversion, arms possession and murder. Marcos allowed Aquino to make a campaign speech that was televised and broadcast to the nation from his jail cell. I know of no other country that would confer such a privilege on a convicted criminal seeking public office.

I have seen pictures of Aquino's attractive daughter speaking for him at an election rally. Other oppositionist candidates were allowed to campaign openly. I have seen published material supporting the Laban candidates. However you may judge the purity of the elections, I think you will agree they were far purer than those in scores of nations which we are not lecturing about civil rights.

The arrests after the elections were on a level with the arrests made in Washington during the pro-peace demonstrations in the Vietnam War days. The demonstrators carried signs that were certainly provocative, possibly seditious. Some of the demonstrators were armed. They were all turned loose in a few hours, except for seven senior leaders who face trial.

I feel very strongly that the United States should stop telling foreign nations how to conduct their internal affairs. The Republic of the Philippines was our most loyal ally in World War II. It is our friend today and, with President Marcos' support, we maintain two of our most important foreign military bases at Clark Air Force Base and Subic Bay.

Last year I visited Malacanang Palace with a delegation of American men and women who had served on Bataan and Corregidor. President Marcos told us that if another war came in the Pacific, Americans could count on the same sort of support the Filipinos gave us in World War II. If any other chief of state anywhere has made such a promise to the United States, I have not heard about it.

The Filipinos are not insensitive to human rights. Santo Tomas University was teaching the humanities in the Philippines before there was a university in what is now the United States. In the 17th Century Filipino

barangays were choosing their leaders much as the colonists were doing in New England.

Your letter speaks of "the quality of life" in the Philippines. I have talked with many taos, the common people, in the Philippines. Without exception, they told me life has become safer now. Actually, after Marcos lifted the curfew, several wives told me they felt happier when they knew their husbands had to be home by midnight.

Marcos has a fairly substantial revolt on his hands in Mindanao and Sulu. Martial law is one way of stopping an urban guerrilla movement before it gets started.

Certainly there is an authoritarian government in the Philippines today. But the choice was between martial law and anarchy, and Ferdinand Marcos made the right choice. Why not let the Filipinos get back to democracy at their own pace and on their own time schedule?

And why not let them decide what democratic principles will work for them? They have experimented with a free press, and have seen some newspapers become completely irresponsible. I abhor censorship, but I also believe in the right of any country to set its own domestic standards.

In this country we have the benefit of trial by jury. Should we tell the Filipinos to adopt the same system or forego our aid? It is my studied opinion that justice in the Philippines would suffer drastically if we should do so.

I remember when Frank Murphy, later to become a Supreme Court justice, served as governor general of the Philippines. He persuaded Manuel Quezon and other leaders to adopt a unicameral legislature and institute a system of indeterminate sentencing in the courts of justice. Neither plan worked. The Filipinos wisely returned to a bicameral legislature and fixed jail sentences, which suited their own tastes and traditions. And they now plan to replace the American presidential system with the British parliamentary system. Should we tell them not to do so? The question answers itself.

May I respectfully suggest that Congress seek to retain the few friends the United States still has. Why alienate them by telling them how to manage their domestic affairs, which are none of our business?

Sincerely yours,

FREDERIC S. MARQUARDT.●

A SOVIET CHARACTER STUDY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. WHITEHURST. Mr. Speaker, the article which follows appeared in the October 1967 U.S. Naval Institute Proceedings. It was written by Commander John A. Fahey, USN, retired, chairman of the Department of Foreign Languages and Literature at Old Dominion University in Norfolk, Va.

Professor Fahey is an expert on the Russian language, and the Russians themselves, and although the article was written 11 years ago, it is no less timely and accurate today. I am pleased to take this opportunity to share it with my colleagues. All of us would do well to read it carefully and heed his evaluation.

The article follows:

A SOVIET CHARACTER STUDY

Viewing past, present, and future assessments of courses of action by the Soviet Union on the international scene, many possible misconceptions of the Soviet mind and character in the United States have led to faulty analyses of Soviet intentions and possible courses of action. The failure to understand the Soviet mind has proved costly in both the Bay of Pigs disaster and the Cuban crisis negotiations. Today, the Vietnam War is being prolonged because the United States has not evaluated properly the Soviet Union's interest or role. Often the U.S. government has initiated action to bring about a desired Soviet reaction that appears to be based on expectations incompatible with the behavior that I might anticipate, based on my experience of two years of daily contact with the Soviet military, occasional encounters with Soviet civilians, and over 20 years of study of Communism and the Soviet Union.[1]

Set forth are some salient characteristics of the Soviet Communist that appear to have a strong influence on his conduct in contacts under many and different, often adverse, circumstances:

(1) He is completely unsophisticated. Although cunning and shrewd, he is simple and direct. His lack of worldly knowledge and understanding often overrides his deviousness. Many times the highly intelligent, quick-thinking Westerner will neglect consideration of the most simple motivating force behind a Soviet proposal or course of action. Nine times out of ten the most simple motivational factor will be the correct choice.

(2) He is a victim of his own political propaganda. His beliefs have been conditioned and distorted by an unchanging one-sided party line that has closed his mind to obvious practical considerations and evaluations. Even when deviation from the party line offers the only possible self-saving choice of action, he will revert back immediately, and rationalize his action, seeking support within the party line.

(3) He is impervious to anything but a hard line. Since the Soviet hierarchy considers soft-speaking, patience, willingness to compromise or negotiate to be weaknesses, a Soviet leader with these characteristics cannot rise to power within the Soviet sphere of influence. Even within his own sphere he views satellite governments in this manner, a situation that has produced hardheaded and rigid nationalistic-communist leaders. Therefore, only strong and loyal leaders survive in positions of leadership within countries aligned to the Soviet Union.

(4) He is pressured by satellite countries to a degree seldom recognized. "Satellite," "puppet," and other terms used to describe these governments were originated in the West and distort somewhat the posture of these countries. Since these Communist governments are advocating similar goals, it has been increasingly difficult for the Soviets to handle disagreements about the means to accomplish Communist aims. Nationalism also plays a role in causing differences in the Communist camp.

(5) National interests dictate his major moves on the international scene.

(6) Within the limits of national interests, he will recognize a legal position. Often this characteristic is motivated by a desire to maintain status in the family of nations.

(7) Loss of face is important. He will play a "tit for tat" game in international politics, and thoroughly understands retaliation as a proper action by the side that has been subjected to a move initiated by an opponent. If there is no reaction to his move, he will take the next turn.

(8) Despite such righteous Soviet sayings as "the truth is brighter than the sun," the Soviet official is an habitual liar. Surprisingly, he will admit openly that he regards truth and falsehood lightly.

(9) He lacks faith in anything but inductive reasoning or scientific evidence. Appeals on moral or religious grounds will be ineffective and viewed as having a superstitious basis.

(10) He is a further victim of his archaic general consumption propaganda. To this day, he views the United States as if it were controlled by the robber barons of the 19th century. He emphasizes the business interests, munition makers, and Rockefellers in every discussion concerning the United States today. His view is unchanged by the sight of thousands of automobiles in a U.S. city. He sees only thousands of exploiters instead of tens and hundreds.

(11) Years of peace and coexistence propaganda have affected the outlook of even the top-level military. The difference in mental readiness for possible warfare between U.S. senior military and their Soviet counterparts is striking. While our leaders are pragmatic realists who entertain no qualms about Communist motives, who view the Soviet bloc as a potential enemy, and who accept the possibility of warfare as a fact of today's world, the Soviets, conditioned by a party line of future peace and coexistence, parrot the party line and openly propagandize for peace. They consequently become victims of this consistent party line. This condition in Soviet society has caused an ambivalent attitude toward military responsibility on which the West could capitalize.

(12) He is a victim of U.S. press reports. He is unable to fathom the wide range of political positions in the United States and will often misjudge our national purpose. Seemingly threatening statements by members of Congress or other prominent Americans cause him to panic and take action that he otherwise would not consider.

(13) He has a deep-rooted fear of the "German revenger." This fear extends down to the individual. This characteristic is apparent in the Soviet press (despite political overtones) and is evident in every conversation with each Soviet citizen, despite his station in life, that touches on World War II and its aftermath.

(14) He is extremely apprehensive concerning involvement in a global war. This anxiety extends to the top military leaders and heightens his suspicions of the Western world.

(15) He is well-trained in his specific field (particularly the military), but is extremely slow in reacting to changing conditions or surprise moves.

(16) He is plagued with a massive alcohol problem, particularly in the military. Drinking on duty frequently occurs. Continuing attempts are made to curb excessive drinking. The latest measure, taken in the fall of 1966, imposes fines of three to ten rubles on persons found on the streets under the influence.

(17) He is confronted by a serious "hooligan" situation. Gangs roam the streets. Innocent people are abused by bullies. Wanton destruction of state property is not uncommon. With the reduction of strict controls and the increase of personal freedom experienced by the people after Stalin's death in 1953, there has not been an increased shouldering of responsibilities. The granting of more civil liberties and other individual rights has resulted in a deterioration of law and order.

Considering the Soviet character, problems, and approach to international affairs, certain directions and attitudes can be expected. He will react strongly only to a threat of global involvement. Limited wars fought by the West to prevent what he views as national liberation movements do not move him to co-operate to seek peaceful solutions. He expects undeveloped areas to be involved in struggles with the capitalist countries and, accepting these conflicts as part and parcel of his party doctrine, he believes that they

[1] *See P. R. Schratz,* "The Military Pulse in Soviet Politics," U.S. Naval Institute PROCEEDINGS, October 1967, pp. 78–81.

work to his favor in the inevitable march of history to Communism. The United States, therefore, should evaluate carefully any step toward an involvement in a limited war in an undeveloped area, should expect the Soviet Union to foster the conflict without direct involvement, and should not anticipate any sincere moves on the part of the Soviet Union to reach peaceful solutions.

The Soviet Union can be wooed only by cautious, step-by-step unemotional diplomacy, using a direct, unsophisticated approach. The initiation of any U.S. step should not be taken without a prior consideration of the effect of the action on the Soviet outlook.

The characteristics which make up the Soviet posture should be recognized as significant factors that will influence the future course of his action on the international scene.●

A FLAW IN THE LAW IS HALFWAY CORRECTED

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. HYDE. Mr. Speaker, on May 16, the House overwhelmingly passed H.R. 12467, the Comprehensive Rehabilitation Services Amendments of 1978.

A little-noticed but extremely significant change in the law was included in H.R. 12467, as the result of an amendment offered by my distinguished colleague from Illinois, Mr. ERLENBORN.

The amendment which he offered at my request after reviewing Secretary Califano's section 504 regulations, was adopted unanimously by the Education and Labor Committee, and included in H.R. 12467. The significant language of the amendment reads as follows:

For purposes of sections 503 and 504, such term (handicapped individual) does not include any person who is an alcoholic or who is a drug abuser in need of rehabilitation.

The above language does not indicate that alcoholics or drug abusers are not eligible for rehabilitation services, nor does it say that recovered alcoholics or recovered drug abusers are not covered by the Rehabilitation Act. The focus of the language is on active alcoholics and active drug abusers when dealing with claims of discrimination in employment. It is not an effort to disadvantage those who suffer from these serious conditions, but rather an effort to protect employers, coworkers and the general public from the unforeseeable consequences of an affirmative action mandate concerning their employment.

I want to share with my colleagues the New York Times editorial of May 16, 1978, "On Treating Alcoholism as a Handicap." I was pleased to read that the Times has recognized the ramifications of Attorney General Griffin Bell's April 12, 1977, formal opinion that, under the 1973 Rehabilitation Act, ". . . alcoholics and drug addicts are 'handicapped individuals' for the purposes of section 504."

[From the New York Times, May 16, 1978]

ON TREATING ALCOHOLISM AS A HANDICAP

At the end of this term, if Brooklyn College has its way, Dr. Cleophus Whitaker, a professor of Africana Studies, will be out of a job. He has been denied reappointment "for academic reasons." According to Dr. Whitaker, who is suing the City University, the reasons are not all that academic. He says they relate to alcoholism; he has been an alcoholic, he concedes, but is being treated and is on his way to recovery.

We do not intend to belabor the Whitaker case except to observe that it is the sort of delicate matter that has long been dealt with in euphemisms behind closed doors. We take it as a sign of maturity that society is willing at last to face up to alcoholism as an ailment deserving of sympathy and susceptible to cure. What makes this case of wider concern is the novel role taken by the Federal Government.

The Justice Department has intervened, as a friend of the court, in support of Dr. Whitaker, whom it describes as "a recovering alcoholic." Justice wants to establish that alcoholism and drug addiction are to be treated as handicaps under the 1973 Rehabilitation Act, in accord with an interpretation by the Labor Department. This would mean that alcoholics and drug addicts would have the same protection as other handicapped persons in employment by institutions that receive funds from the Federal Government.

We do not dispute the description of addiction to drugs or alcohol as a handicap, but we question whether it makes sense to classify addicts as handicapped for the purposes of job protection. In a Justice Department memorandum on the Whitaker case, Attorney General Bell declared that alcoholics and drug addicts are covered by the Rehabilitation Act "so long as their addiction does not prevent effective job performance." But what does that mean? If a worker has difficulty in using an arm or leg, he may nonetheless be qualified to do many jobs; with some adjustment of working conditions, he may prove thoroughly effective and dependable. But the nature of addiction is different. As long as a person remains an addict, his performance will always be chancy. The only thing that can turn an alcoholic into a dependable worker is an end to his drinking—the aim of all cures. Unfortunately, cure is neither easy nor sure. The recovery rate for alcoholics, according to one expert, is between 65 and 70 percent—and then only after the most stringent and lengthy treatment.

The Rehabilitation Act is a humane effort by the Federal Government to make certain that individuals who can perform a job despite a handicap are given a chance. Alcoholics need help and understanding as they go through the difficult period of rehabilitation. At what point an alcoholic can be convincingly diagnosed as cured is a hard question, and one in which the Government has a legitimate interest. To stigmatize a former alcoholic is unjustified, and if the law is meant to combat such stigmatizing, it should be plainly spelled out. But no one is served by a pretense that alcoholism or drug addiction, ailments with complex roots and uncertain prognoses, can be dealt with like any other physical handicap.

The May 22, 1978, issue of U.S. News & World Report, in an article entitled "Why So Many Laws Turn Out To Be Lemons," pointed out the lack of specific legislative language when Congress passes certain laws, including the 1973 Rehabilitation Act. I urge my colleagues to read the article, which my distinguished colleague from Virginia, Mr. WHITEHURST, placed in the RECORD of May 17, 1978, pages 14226 and 14227.

The Department of Health, Education, and Welfare recently issued a publication entitled "Your Rights as a Disabled Person." Ninety-five percent of the publication will prove extremely helpful to those who are handicapped but are not yet familiar with their rights as set forth in the Rehabilitation Act.

However, I have grave doubts about one portion of the publication—grave doubts if the Hyde-Erlenborn language does not remain in the bill when it is considered by the Senate and conference.

I quote from a section entitled, "Is Your Disability Covered?"

In its section 504 regulations, HEW identifies a handicapped person as anyone with a physical or mental disability that substantially impairs or restricts one or more of such major life activities as walking, seeing, hearing, speaking, working, or learning. A *history of such disability, or the belief on the part of others that a person has such a disability, whether it is so or not, also is recognized as a handicap by the regulation.* (Emphasis added.)

The Hyde-Erlenborn language is necessary because existing sections 503 and 504 regulations define all alcoholics and drug abusers as handicapped for employment purposes without distinguishing between those in need of treatment and those who are reformed or recovered. If the language is not included in the bill upon final passage, the HEW language referred to above will also mean that an individual who is thought to be an alcoholic or drug abuser is covered by the affirmative action mandate regarding employment, according to Attorney General Griffin Bell and HEW Secretary Joseph Califano, whether or not that individual is, in fact, an alcoholic or drug abuser.

Too many Americans believe the Federal Government is out of touch with the real world. Policies such as this prove their point.●

FIGHTING INFLATION: NOBODY WANTS TO GO FIRST

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BLANCHARD. Mr. Speaker, yesterday the noted economist, John Kenneth Galbraith, spoke before the Congressional Clearinghouse on the Future. In addressing the problem of inflation, he indicated that the traditional Keynesian policy of fighting inflation by tax increases, reduced public spending and/or higher interest rates is no longer appropriate to do the job. Left to these means the Government is likely to take steps to either depress the economy or to raise interest rates, causing damage to the economy.

Most observers seem to concur that price and wage moderation or restraints must be seriously considered. In that regard, a column by Hobart Rowen in today's Washington Post points out the problem we face. Mr. Rowen's analysis is good "food for thought" for us all. The article follows:

[From the Washington Post, May 18, 1978]

FIGHTING INFLATION: NOBODY WANTS TO GO FIRST

(By Hobart Rowen)

Jimmy Carter, George Meany, Federal Reserve Chairman G. William Miller and the blue-ribbon Business Council are all agreed on one proposition: The nation's No. 1 domestic problem is now inflation, not unemployment.

Mind you, not that the unemployment problem has been solved. But the jobless rate has come down from a peak near 9 percent in 1975 to 6 percent currently, while inflation has moved the other way—from less than 5 percent two years ago to an annual rate of 9.3 percent in the first quarter of 1978.

The shift in Carter administration policy from emphasis on expanding the economy to a concern for holding it back, as it has evolved in the past month, is dramatic and has great long-run significance.

It is symbolized by a reduction in the proposed tax cut from $25 billion to $15 billion for fiscal 1979, with no further mention of prospective tax cuts in later years, as had been outlined in the president's budget and economic messages last January. Moreover, the administration is struggling to evolve some kind of voluntary program that would slow down the pace of wage and price increases.

Of equal significance—but somewhat beclouded by politics and rhetoric—is Meany's agreement with Carter, Miller, and the business world that inflation has indeed superseded employment as the key problem.

On ABC's "Issues and Answers" last Sunday, Meany's admission of that fact was remarkable for the most influential man on the labor scene, who for obvious reasons normally keeps the jobs picture on the front burner.

Moreover, Meany went out of his way to absolve Carter of responsibility for the present level of inflation—an attitude of course more generous than that of the president's critics in Wall Street or of the administration's own leading economists.

But what Meany balked at was Carter's demand that labor leaders commit themselves in advance of next year's heavy schedule of bargaining by the big unions to promise to accept wage increases less than the 10 percent annual average that many contracts called for in the bargaining period that began in 1976.

The simple reason for Meany's refusal is that the president can give union leaders no assurance that the rate of price increases is also going to decelerate.

The nub of the problem, in other words, is that nobody wants to go first. And there is a feeling among labor leaders that everyone on the Carter staff—except for politically wise Bob Strauss—has only the barest understanding of how the labor movement works.

Textile union President Sol (Chick) Chaikin told Carter's advisers after the president had left a meeting at the White House last week: "What you guys don't understand is that we run for office, too. It may not sound like much to you, but that may be the biggest thing in our lives. And what you're asking us to do would make it impossible to deal with our constituents."

Ironically, Meany is almost desperate, his closest associates say, to reach an understanding with Carter on controlling inflation. In the first place, the old gentleman honestly believes that workers aren't better off in a debilitating rat race in which seemingly fat wages increases are immediately consumed in higher prices and higher interest rates.

But in addition, Meany—one of the keenest politicians in this town—is anxious to get a labor-reform bill through Congress this session. It has the backing of the Carter people, but is being fought bitterly by organized business, which views it as a threat to management prerogatives, and as a new source of inflationary pressure.

Says one insider, "Meany can't be seen to be against reasonable efforts to control inflation, and still hope to get that reform bill through."

Clearly, there has never been a more propitious—nor a more urgent—time to strike some sort of deal. Labor needs to make some concessions that will provide a hope that a new wage-push beginning next year can be avoided. That can be accomplished only if business leaders come through with meaningful commitments on price behavior.

Carter has made his concessions to business concerns over growing federal deficits by reducing his tax package to Fed Chairman Bill Miller's exact prescription. Miller now has to make good on his promise to ease up policies that tighten interest rates.

But none of this will happen as a piece of magic. It will take imagination and leadership in Washington—skill and persuasion, not a bludgeon. If the private sector, business as well as labor, means what is usually said about avoiding wage-price controls, here is a golden opportunity to let voluntary restraints do the job. But whether there is the necessary talent, conviction and statemanship in both the public and private decision-making centers remains to be seen.●

GRAIN UTILIZATION ACT OF 1978

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. HAGEDORN. Mr. Speaker, there seems to be a growing realization that alcohol-based fuels have the potential to make a significant contribution toward alleviating several major national problems.

Alcohol produced from some of the most abundant and renewable natural resources in this country, including grain and wood, has proven to be a highly efficient motor fuel, by itself or in a gasohol blend of 10 to 15 percent alcohol and the rest gasoline.

Ethanol—alcohol produced from grains and their byproducts—offers, in addition, the prospect of important new markets for domestic, agricultural surpluses. Particularly in areas of the country, such as Minnesota, where such surpluses regularly appear, gasohol development may offer a substantial stabilizing element to local economies.

While the renewed interest that has been shown in gasohol lately is largely attributable to the increased cost of motor fuel, and the increased reliance of this country upon imported energy supplies, alcohol fuels are no johnny-come-lately fad. They have been used in various parts of the world, particularly Europe, since early in the century, and became a major component of the German military machine during the Second World War.

In the United States, alcohol fuels were used to propel some of the earliest of Henry Ford's Model T's, they were sold commercially in some parts of the Midwest and Central Plains during the 1940's, and are still used in powering most racing vehicles.

In other nations, particularly Brazil and South Africa, alcohol fuels have been used increasingly in place of petroleum-based sources, Brazil, which derives alcohol mainly from the roots of local sugar crops, is expected to use it as a substitute for nearly one-fifth of its total gasoline supply by the early 1980's.

It is no secret that the periodic surges in interest that have developed in alcohol fuels are closely related to periods of high gasoline prices. That it has not yet taken hold is due primarily to the fact that it remains uneconomic during normal circumstances. Alcohol fuels are not yet commercially competitive, although the increase in petroleum prices following the Arab embargo in 1973 has placed them in a far more attractive position than several years ago.

I am introducing legislation, "The Grain Products Utilization Act of 1978" to promote the development of gasohol, and to attempt to eliminate the diminishing competitive gap that remains between gasohol and other, more conventional motor fuels. It is designed to build upon initiatives that have already been taken by a number of States, the departed Energy Research and Development Administration (ERDA), and Congress in the form of the Food and Agricultural Act of 1977.

First, the act would provide increased direction to both the Departments of Agriculture and Energy in researching gasohol technologies. In particular, the Department of Energy would be charged with reviewing existing studies, and conducting new ones where necessary on:

Alternative processes by which ethanol can be produced, including any undeveloped technologies required to refine or perfect these processes;

Safety considerations involved in the production and use of ethanol;

The economics and long-range competitive prospects for ethanol;

Means of reducing the amount of net energy expended in the production of ethanol;

The compatibility of ethanol with current automotive engines, and the feasibility of developing and utilizing alternative automotive materials and technologies;

Appropriate plant designs for various sizes of ethanol producing facilities; and

The economic impact of ethanol development on existing industries, including existing energy industries.

The Department of Agriculture would be charged specifically with reviewing existing studies, and conducting new ones where necessary on:

The effects of ethanol development on farming practices, farming organization, prices of agricultural commodities, farm income, and the rural economy of the United States;

The effects of ethanol development on U.S. agricultural policies and programs, including trade relations between the United States and foreign countries;

The impact upon domestic consumer prices, and the extent to which world food resources would be depleted if agricultural production were diverted, in part, to gasohol;

The commercial and nutritive possibilities of the byproducts of ethanol, including distiller's dried grain solubles (a high-quality animal feed), protein supplements, and carbon dioxide; and

Alternative distribution and storage systems that might be used in marketing gasohol.

The Grain Products Utilization Act would encourage the production of gasohol in two ways. A program of 75-percent guaranteed loans would be established to finance new gasohol producing facilities, with priority to be given to farmer and farm cooperative applicants. In addition, a 5-year amortization period would be permitted for gasohol producing facilities, encouraging capital investment in this still uncertain enterprise.

As an incentive to retailers, and in an effort to overcome substantial barriers posed to the efficient marketing and distribution of gasohol, a 1-cent-per-gallon tax credit would be allowed to qualified individuals for the 10-year period following passage of the act. While this might represent a minor windfall of sorts to some service station operators, I believe that such an inducement will be necessary, at the outset, to promote the widespread accessibility of gasohol. A tax credit is to be preferred, in my opinion, to legislation mandating that service stations make gasohol available, despite the individual circumstances and economic hardships that may enter into an individual case. The tax credit would represent about $500 to the average operator selling 10-percent gasohol.

The act would also repeal the 4-cent-a-gallon Federal excise tax on alcohol blends of at least 10 percent (a provision included in the Senate energy tax legislation), and eliminate several nuisance taxes on the product, including the special fuel excise tax and the distilled spirits excise tax. Expedited procedures would be established within the Treasury Department for considering exemption applications for these excise taxes.

Finally, the act would amend the Clean Air Act to insure that language contained within it does not retard the development of gasohol. Under the section 211 fuel additives certification program, there is the possibility otherwise that final approval of gasohol would be delayed substantially pending EPA tests and findings.

Mr. Speaker, gasohol offers this country the prospect of a plentiful and renewable resource that can be used to ameliorate the energy shortage in this country, and add a further measure of stability to our rural economy, while providing us with a low-polluting, high-octane motor fuel. Consumption of gasoline can be reduced by 10 percent in the extremely near future, saving this country at least 10 billion gallons of gasoline annually.

Gasohol is not a miracle solution to the energy crisis, and will not allow this body to evade any of the difficult policy questions with which it has been grappling the past several years. But, it does seem likely to make an unmistakable contribution to relieving some of our most immediately pressing energy problems.

The fact that the byproducts of the gasohol process will contribute positively to the world food situation, and the fact that food quality grains are not necessary for the gasohol process will insure that the impact of gasohol development upon food availability will not be substantial.

The technology of gasohol will become more sophisticated, and the economics of gasohol will become more efficient if this country can simply manage to keep this enterprise on its feet for a short time with some up-front assistance. I do not believe it desirable, and I do not believe that it will be necessary, to subsidize the development of this industry for a lengthy period of time. The potential rewards, in my opinion, justify a bit of encouragement in this area.●

IMPORTS, SUN BELT NIBBLE AT TEXTILE JOBS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. EILBERG. Mr. Speaker, a major contributor to the unemployment problem of Greater Philadelphia is the severe loss of jobs in the textile industry.

On Monday, May 15, the Philadelphia Evening Bulletin reported on the growing competition from imports in the textile field, and the continuing flow of textile jobs from the Northeast States to the Sun Belt States. Pennsylvania, in particular, has been hit very hard by job losses in textiles, with an estimated half of the total national loss taking place in our State.

In the past 10 years alone, our Nation's textile imports have grown by 71 percent, while our domestic market has grown by only 28 percent. The result has been drastic job losses in Philadelphia, where we are already hard-hit by cuts in the Federal work force, and unemployment in the steel, construction, and other industries.

I offer the following account from the Bulletin for the RECORD, Mr. Speaker, in the hope that the President will take steps to protect American jobs in the textile industries by limiting the growth rate of imports, and directing the negotiation and administration of bilateral agreements to reduce allowable imports of heavily imported products such as women's and children's clothing:

IMPORTS, U.S. SUN BELT NIBBLE AT AREA NEEDLE-TRADES JOBS

(By Martin J. Herman)

Thomas Mumford was among the 60 persons who went to the state Employment Service office at 21st and South Streets in Philadelphia not long ago.

Most of those in Mumford's group applied for partial unemployment compensation benefits. These benefits are designed to help make up for some of the pay lost to clothing workers when the work week is reduced to two or three days because of slow business.

But Mumford, 54, of 1830 N. Croskey Street in North Philadelphia, had a more serious problem. He had been laid off permanently from his job as a clothing bundler by the coat and pants manufacturing firm where he had worked for seven years.

"I'm looking for job," said the slightly built Mumford, who is unmarried but supports his mother.

"The company I worked for said they probably were closing down because of problems with competition. They mentioned competition from a factory in the South which can make clothes cheaper than we can."

A former coworker of Mumford's sat in a chair two rows away.

"They just told me last week that there was no more work; that they were shutting down," said Mrs. Hattie P. Pounds, 63, of 2047 Mountain Street in South Philadelphia.

"I was a surgeon there. I sewed the seams. I don't know what the problem was. I was there for four years. I've been in this business since 1945 and the same thing happened to me once before.

"But I'm going to stay in the business. I'm going to look for another job."

An official of Lawrence Clothes of Philadelphia where Mumford and Mrs. Pounds worked confirmed that the company was phasing out its business. But he declined to give details.

What happened to Mumford and Mrs. Pounds has been occurring with alarming regularity over some ten years, according to industry officials.

Men's and boys' clothing makers, women's clothing manufacturers and knit-goods makers (mostly sweater makers) are feeling a severe pinch because of a largely unrestricted flood of imports from Taiwan, Hong Kong, South Korea, Italy and other countries, and to a lesser degree because of competition from open-shop manufacturers in the South's Sun Belt.

According to Pennsylvania Commerce Secretary Norval D. Reece, the apparel industry has lost 34,000 jobs in the Philadelphia area since 1966. And since 1973 alone, the State has lost 13,000 industry jobs.

Joel Sternberg, secretary of the Philadelphia Clothing Manufacturers Association, a trade organization in the men's clothing field, said that imports have cornered nearly one-third of the American clothing market. It means that one out of every three clothing items Americans buy is made in another country.

In the automobile industry, foreign-car makers have captured 19 percent of the American auto market.

According to other officials, imports achieved a 13-percent growth rate during the recession period between 1972 and 1976, while the domestic garment and textile sector fell 12 percent and unemployment stood at 8 percent.

An American garment worker makes up to $3.67 per hour, receives fringe benefits and is paid time-and-one-half for work past 40 hours a week.

Clothing union officials said those in Asian or Latin American exporting countries get little or no benefits and may work up to 60 hours per week at straight pay. An industry worker in Hong Kong makes 62 cents per hour; a Taiwan worker, 34 cents; a South Korean, 27 cents.

Garment-union leaders said the same shirt that an American manufacturer markets and delivers for $7.68 would cost the South Korean exporter only $4.50 to deliver including the cost of transportation and tariffs.

While Far Eastern countries, such as Taiwan, Hong Kong and Korea, and Latin American countries provide much of the competition, there also is an increasing flow of imports from Eastern European countries such as Yugoslavia, Romania and Poland, according to Norman Gutman, assistant to the president of Pincus Brothers Maxwell, a large men's clothing manufacturer which has two plants in Philadelphia.

"The Iron Curtain countries are exchanging garments for dollars," Gutman said. "They are delivering at such low rates that losses must be paid by their governments. They are trying to make inroads into the

market. These countries make an inroad, then they raise the price somewhat and get in with another cheap item."

Gutman and most other industry officials favor a quota on imports.

Sol S. Chaikin, president of the International Ladies Garment Workers Union, favors a fair-trade policy that would not close the doors to imports but would regulate the flow in accordance with the U.S. capacity to absorb.

Thus, he said, if the American garment market grows by 3 percent a year, imports should be allowed to grow at the same rate. In that way, he said, both domestic production and imports would grow as the U.S. market grows.

Irwin Solomon, manager of the Philadelphia and South Jersey joint boards of the garment workers' union, said several thousand workers who lost their jobs because of imports have received Trade Adjustment Allowances from the Federal Government to supplement their unemployment benefits. But, he said, he feels this is not the answer to the problem.

"About $5 million has been distributed to our members," he said. "But it's like giving aspirin to a dying man. It may relieve the pain for a while, but what happens when the effects wear off?"

State Commerce Secretary Reece is heading a special commission mandated by Governor Shapp to study the garment industry. Reece has held several hearings in various cities, including Philadelphia, and the commission expects to make recommendations in June for aiding the industry.

Reece said the industry is important to the state because it provides about 180,000 jobs, about the same as the steel industry.

"The apparel industry is labor intensive," he said. "There is a high percentage of minorities and women working in it. It's a good industry for urban centers in downtown areas."

Harry Goldsmith, manager of the Philadelphia Joint Board of the Amalgamated Clothing and Textile Workers Union, believes the only way that the industry can regain its health is through strict restrictions on imported items.

"Some imported suits sell for only one-third the price of American suits because of cheap labor," he said. "The key thing is to make sure every year the quota on imports drops."●

U.S. FOREIGN POLICY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

U.S. FOREIGN POLICY

(By Robert S. Allen)

WASHINGTON, May 1978: The Carter Administration's handling of foreign and defense affairs is so frighteningly afflicted with "confusion, doubt and irresolution" that there is gravest cause for concern whether the "U.S. has any foreign policy at all."

As a consequence of the Administration's persistent vacillating and bumbling, NATO has been made to appear weak and the U.S. indecisive and ineffectual.

That's the somber assessment of Senator Harry Byrd, Ind-Va., ranking member of the Armed Services Committee and chairman of its prestigious Intelligence Subcommittee. A decorated World War II naval veteran and senator since 1965, Byrd spelled out in detail the Administration's chaotic and alarming defense and foreign affairs record.

From the President's bewildering contradictions on the neutron bomb to pressuring the moderate Rhodesian coalition to include Soviet-backed guerrilla terrorists in the new regime, Byrd cited repeated instances of what he bluntly branded as threatening the country's security and stability.

Stressing that the vital issue today is not one of the U.S. "putting on the badge of world policeman," but whether the Administration has the determination to insure that the country's crucial interests are protected around the world, Byrd declared:

"Vacillation and indecision do not denote leadership. Vacillation and indecision do serve to confuse our allies—and the American people. There is reasonable middle ground between trying to police the world and retreating into isolation. So far, the Administration has not shown that it has been able to find that middle ground.

"It is time for this country to make equally clear to friend and foe that we are prepared to play our important role in the world and to insure our survival and prosperity."

JOLTING EXAMPLE

Singling out the most recent instance of the Administration's perplexing contradictions and inconsistencies, Senator Byrd zeroed in on the record on the neutron bomb.

Initially, the U.S. vigorously insisted this new weapon was essential to offset the huge superiority in tanks of the Soviet and its Warsaw Pact satellites. Under persistent U.S. urging, NATO allies reluctantly agreed to adopt the enhanced radiation warhead as a basically defensive weapon.

"Then just as the West Germans were signaling acceptance of the neutron weapon," said Byrd, "leaks from the Administration indicated that the President had changed his mind and would cancel production. Needless to say, shock waves went through Western Europe.

"Shortly thereafter, the President officially issued an announcement attempting to placate all sides by deferring production and keeping his options open.

"The results of this vacillation are most unfortunate. NATO has been made to appear weak; the U.S. indecisive and confused; and allied governments are left out on a limb supporting an American weapon which lacks full American endorsement."

NO RETURN

And bitterest pill of all, Byrd pointed out, is that this baffling reversal has brought nothing in return from Russia.

"Not a single concession was extracted," he said caustically.

Further, this is not an isolated incident.

"Unfortunately the neutron bomb issue," Byrd continued, 'is but one in which the U.S. has acquired an image which, if not downright weak, is at least blurred."

Another example even more disturbing is the Administration's apparent making major concessions to reach a SALT agreement with the Soviet.

From an original relatively strong position taken by U.S. negotiators a year ago, the Administration in the face of tough Russian resistance has backed down by accepting higher throwweight levels on intercontinental ballistic missiles and limitations on the range of cruise missiles.

The Soviet is adamantly maintaining that if there is to be any progress towards agreement," Byrd declared, "it must be the U.S. which makes further concessions. President Carter has cancelled or slowed down the very programs initiated to counter the continuing Soviet strategic buildup. The B–1 bomber was cancelled and the MX missile has twice been slowed down with the effect of delaying that vital defense program almost four years."

SCUTTLING THE NAVY

Hand-in-glove with this display of weakness is the Administration's drastic slashing of urgently needed naval construction.

In the face of Russia's menacing buildup of massive naval power, the U.S., traditionally a maritime and trading nation dependent for survival and prosperity upon the free movement of goods over the oceans of the world, is reducing a carefully planned level of naval forces.

"This is a major risk," warned Byrd. "The Soviet is engaged in an unprecedented increase in naval power that is posing a clear threat to American command of the seas. Surely this is the wrong time to downgrade the naval forces so essential to our security. It is true major ships are costly. But such costs must be measured both against the significance of the Russian threat and against the skyrocketing budget of our domestic program."

With undisguised sarcasm, Byrd pointed out that while vital naval construction is being blocked, the Department of Health, Education, and Welfare admittedly squandered $7 billion.

"HEW's own Inspector General," noted Byrd, "found $7 billion was misspent in 1977 through waste, mismanagement and fraud. That squandered $7 billion would have bought a lot of needed sea power."

PLAYING INTO ENEMY HANDS

The Administration's strong-arming of the moderate Rhodesian coalition to include communist guerrillas in the new government was blisteringly denounced by Byrd as incomprehensible meddling and playing into Soviet-Cuban hands.

U.S. Ambassador Andrew Young was singled out by Byrd as playing a leading role in this "wrong-headed" and dangerous policy.

"I am alarmed and shocked by the degree of Soviet-Cuban activity and penetration in Africa," said Byrd. "Cuba has more than 40,000 military personnel in Africa, and Russian military equipment has been poured into Ethiopia and Angola faster than the local forces can use it. Soviet military aid to Ethiopia approaches $1 billion.

"The U.S. is playing into the hands of the communists by refusing to accept the agreement worked out by Rhodesian Prime Minister Ian Smith and the three moderate black leaders. While Russia and Cuba have taken advantage of every opportunity to demonstrate they will assist those who submit to their political aims, the U.S., on the other hand, too often has treated unfairly those who are friendly to us, sometimes even penalizing proven allies.●

RUSSIANS STRONGER THAN NATO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. McDONALD. Mr. Speaker, we always hear the American soldier and those of NATO are better than the soldiers of the Warsaw Pact, due to the qualitative superiority of the individual soldiers. A recent study asserts that this is not necessarily true. As the study points out, Warsaw Pact serve longer, train harder, and are indoctrinated with a hatred of the capitalist enemy. By way

of contrast, the NATO armies spend a lot of time just easing our young men into the rigors of military life. In addition, military training in the Warsaw Pact nations starts early in school, so that by the time then young men reach the army, they are fairly well trained. Above all, the Warsaw Pact soldiers are trained to win wars not to just deter or drive back the enemy. Therefore, since our qualitative edge in weapons is gone in most categories, the NATO countries have little reason to be smug about the supposed superior quality of its soldiers. The item on this study from the Daily Telegraph of London for May 15, 1978, follows:

RUSSIANS "STRONGER THAN NATO"

(By R. H. C. Steed)

Familiar official assurances, already increasingly suspect, that the Warsaw Pact forces' numerical superiority is offset by NATO's superior quality, are finally demolished in a hard-hitting book by two serving West German staff officers.

The authors, Lt. Col. Hubatshek and Lt. Col. Farwick, say convincingly, from personal experience and analysis of a wealth of data, that the Pact's men and weapons are overall at least as good as NATO's and often better.

With a courageous but by no means provocative or sensational disregard of the risks of censure from on high, they attack the doctrine that to tell the public unpleasant facts about defence would cause despair and despondency.

They maintain that a democracy has the right to know the whole truth, and that soothing official illusions are partly responsible for what they see as an "existence crisis" of NATO.

Rosy official assumptions about détente are blamed for a steady decline in defence expenditures and defence-consciousness in the NATO countries, while Warsaw Pact budgets continue to rise.

INDOCTRINATION OF HATRED

They contrast the indoctrination of hatred and aggression in the Pact countries with the growth of conscientious objection and defence-alienation in West Germany.

Valuable and limited training time has to be devoted to overcoming the prejudices against defence and soldiering which the young conscripts have absorbed at school and in civil life.

Training in the Warsaw Pact armies is longer and tougher than in NATO—an average of 22 months against 15, which is steadily being reduced. The authors say that this is inadequate for the present wide range of advanced weapons. The Pact's training week is 70 hours against 50 in NATO.

NATO is also incomparably more generous with leave and weekends off. The 20-odd Russian divisions in East Germany are in a permanent state of readiness and never get leave or passes.

Their summing up is that, taking all factors into account, including fighting morale, the Warsaw Pact's numerical advantage is further enhanced by its troops of being of better overall quality than NATO's.●

ECONOMIC RECOVERY ACT

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. CEDERBERG. Mr. Speaker, I have today introduced the Economic Recovery Act, a comprehensive long-term proposal designed to remedy the present and, let me assure you without corrective action, the future depressed economic state of our American farmer. This legislation was originally introduced by my colleague, Congressman RICHARD NOLAN, and I commend him for his foresight and able draftsmanship. I wish, Mr. Speaker, only to add a few comments with regard to this proposal.

The desperate need for a long-term consistent farm policy cannot be denied nor can the deplorable economic status of the American farmer. Through our present and past farm policies, or the lack thereof, we have denied to this segment of our population the fair and equitable livelihood that we have for so many years guaranteed to every other economic segment of this country. The time has long since past for this inequity to be corrected; corrected in a positive forward looking manner, by the U.S. Congress and not in a piecemeal fashion constituting nothing more than a reaction to a particular emergency situation, without benefit of congressional hearings of outside input. It is not only the prerogative but the responsibility of the Congress to legislate a solution. A responsibility we wholly abdicated to the Executive in the passage of the Emergency Agriculture Act.

It is time the Congress consider and enact a long-term proposal. The Economic Recovery Act can be the vehicle by which we begin this process. While this approach may not be perfect and I confess there are parts I, too, would alter, it nevertheless can be a beginning; a starting point from which a sound comprehensive solution can be developed. It will take time, but we must begin. The Economic Recovery Act reflects a philosophy and a means which can serve as a guide by which to insure not only the interest of the American farmer, but the best interest of the entire country.●

FREEDOM FOR LEV ROITBURD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. LEHMAN. Mr. Speaker, it is with the utmost concern and regret that I participate once again in the vigil for freedom for Soviet Jewry on behalf of Soviet Jews who are still severely persecuted, because they desire to emigrate from the Soviet Union to Israel.

Despite signing the Helsinki Final Act which adopts the principles of human rights, including the reunification of divided families, the Soviet Union has flagrantly violated that act and denied to Soviet Jews basic human rights as well as their right of emigration.

On this occasion, I would like to bring to your attention the bitter plight of Lev Roitburd, an aeronautical engineer, his wife, Liliya, and their son, Sasha, who applied for permission in 1972 to be reunited with their family in Israel. To recount their experiences since that day 6 years ago is to unravel a series of incidents orchestrated to impose severe sanctions and demoralization upon these people.

The Roitburds live in Odessa, the historically antisemitic area of the Ukraine. The harassment and persecution the Roitburds have endured there is grotesquely out of proportion to their just wish to live in Israel with their aging parents.

Soon after applying for permission to emigrate, Lev and Liliya were dismissed from their jobs. After being constantly threatened with arrest and imprisonment for some time, Lev Roitburd was beaten, arrested, and sentenced to 2 years in prison. He has now been released after spending a year in prison and a year in a Siberian labor camp only to be refused exit visas twice again.

I will continue to communicate with Soviet officials here and in the Soviet Union until I have heard that the Roitburd's have been allowed to leave. Their courage and perseverance in resisting the denial of their human rights can only strengthen the rights of us all. Their struggle is our struggle and the struggle of all those who wish to live in freedom.

A letter from the Roitburd's parents in Israel sent to my constituent, Mrs. Ann Field of Miami, expresses the grief and hardship this family has endured:

We, the Tenenboim family in Israel, appeal to you with the request that you do everything within your power to help us to be reunited with our family.

Our daughter and sister, Liliya Tenenboim, her husband Lev Roitburd and their son Sasha, applied to emigrate to Israel in October 1972. Their lives since then has been nothing but a series of nightmares and grief.

Lev was dismissed from work immediately after submitting his emigration application. He was refused permission to emigrate on grounds of having had access to state secrets—an allegation he has emphatically denied. In 1975 he was told by the OVIR in Odessa that his period of secrecy would be considered finished in 1976. Shortly after being informed of this, in July 1975, Lev was arrested at the airport in Odessa where he was waiting to board a plane for Moscow. He was sentenced to two years' imprisonment, the second of which was spent in remote Siberia.

When Lev was freed in July 1977, he returned to his family in Odessa and without delay applied again for an exit visa. Their application was refused immediately. A subsequent application was refused without reason or explanation on 24 January 1978. It is impossible to describe their pain, grief and disappointment. It is just as impossible to describe ours .

Lev must support his family but he is unable to find work of any kind. He cannot work in his profession and wherever else he applies for employment he is rejected.

We are getting older and apart from having missed watching Sasha grow up, we fear we may never see him again. Please help us so that we will see Lev, our daughter and grandson again. Please save the Roitburd family.

With much respect and hope,

Avraham Teneboim, aged 67 (father); Ida Tenenboim, aged 67 (mother); Bella Shtakser, sister; Garry Tenenboim, brother; Inna Shtakser, Sasha's cousin, the same age, and close childhood companion until 1973.●

CREDITING CHILE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. McDONALD. Mr. Speaker, to say that the American media has been slanted in its reporting of news from Chile would be the understatement of the year. As in the case of Rhodesia, even when these countries do what the American media suggest, no credit is given. In fact, the motives for taking these actions are then usually questioned. The Richmond Times-Dispatch had an excellent editorial in this regard on May 16, 1978, pointing out the inordinate amount of space that has been devoted to the relatively minor sins of Chile as compared with those of Red Cuba and Cambodia, for example. The editorial follows:

CREDITING CHILE

Ever since Chilean military officers drove Marxist Salvador Allende from power five years ago, major segments of the American news media have carried many reports and editorial comments vilifying the junta's efforts to rebuild Chile under authoritarian strictures. By one media-watcher's count, *The New York Times* and *The Washington Post* carried 137 articles in a year's time about alleged abuses of human rights in Chile, compared to only 16 such articles on Red Cambodia, which is engaged in mass murder; seven articles on Red Cuba, which holds more political prisoners than Argentina, Brazil, Uruguay and Chile combined; and one on Red North Korea, which is as repressive a regime as exists anywhere.

Within recent months, the prospect for political freedoms in Chile has brightened considerably. The government of Gen. Augusto Pinochet, the junta's president, has been releasing political prisoners at a rapid clip on the condition that they go into exile. Among those released was the most prominent remaining detainee, Socialist leader Carlos Lazo, who left for France. The junta has also lifted the state of seige under which it assumed pervasive powers, in favor of a new security law that restores some control over security operations to civil judges and limits the president's punitive powers. Additionally, there are now more civilians than military officers in the cabinet, perhaps presaging the eventual return of elected, civilian government.

Here and there, the media have given Chile some grudging recognition for its liberalization. But mostly the kudos are coupled with warnings such as *The Christian Science Monitor* issued editorially, borrowing the words of Sen. Edward Kennedy, D-Mass.: "While encouraged by some recent events in Chile, we cannot afford to close our eyes to the serious human rights problems which remain in that country."

As Chile's progress continues, it will be interesting to compare accounts of what has been accomplished under the presumably temporary right-wing rule there with what has been effected by the presumably permanent Marxist revolutions in other countries. Starry-eyed Americans frequently return from treks to communist-controlled Cuba and China full of wonderment at the profound social changes dictatorships have wrought; it would be impolite, apparently, to protest the complete absence of "human rights" for average Cubans and Chinese. But consider that in just five years, the free market economy policy instituted by Chile has reduced inflation from the ruinous triple-digit level it had reached under Allende to just 7 percent in the first quarter of 1978. And that beneficial change has been effected while Chile returns gradually to a degree of political freedom the communist governments would never dare grant their subjects. We'd say Chile deserves far more credit than it has gotten so far.●

SAM JANIS: LABOR LEADER, SOCIAL ACTIVIST

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. VANIK. Mr. Speaker, when Sam Janis, vice president of the International Ladies' Garment Workers' Union and regional director of the Ohio-Kentucky region, retires on May 26, the union will lose a dedicated leader and social activist. Throughout his career, Sam has played essential roles in the labor movement and other social causes which thrived under his strong leadership.

Thirty-nine years ago, Sam Janis began his career as an officer of the International Ladies' Garment Workers' Union. With hard work and a dedication to the high ideals of the union, he worked his way up the union ladder to the post in which he now serves. Aside from leading the ILGWU, Sam serves as vice president of the Ohio AFL–CIO and chairman of its Civil Rights Committee, and vice president of the Cleveland AFL–CIO Federation of Labor. He also finds time to serve on the National Board of the Jewish Labor Committee and as co-chairman of its Ohio region.

Sam has used his labor expertise to help fulfill the needs of the unemployed. He was a founding member of AIM–JOBS, the first federally funded job program to train the hard core unemployed, and was treasurer of the program during most of its existence. He was instrumental in the passage of Connecticut's State fire safety laws, and worked on former Governor Ribicoff's Labor–Management Committee. Sam also has had the distinction of being a Harvard Trade Union fellow.

To dwell on Sam Janis' union and labor activities without describing his other social activities would be to tell only half his story. He has been an active and influential spokeman of social and human rights in the Ohio political environment. When Mayor Stokes established the Commission on the Crises in Welfare in Cleveland, he appointed Sam Janis to serve on it. As a member of Governor Gilligan's Task Force for the Implementation of ERA, he was instrumental in developing a body of legislation that still awaits the national ratification of the constitutional amendment. Sam was a major influence in establishing Martin Luther King Day as an Ohio State holiday. He also helped to found the Plan of Action for Tomorrow's Housing (PATH), a group concerned with the crisis of housing in Cleveland. He serves on numerous community boards committed to social improvement.

I salute Sam Janis for his long rewarding and fulfilling career. My wishes for his continued good health and happiness go with him in his future plans.●

CHANGES IN BWCA BILL NARROW DIFFERENCES

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. OBERSTAR. Mr. Speaker, during the debate over the future of the Boundary Waters Canoe Area, I have been willing to modify my own position in order to contribute to a just resolution to the long controversy over management of the area.

I am sure many of my colleagues are aware that I have revised my bill to protect the Boundary Waters from any ecological damage from logging and to reaffirm the BWCA's position within the wilderness system.

That position is unique. Congress in 1964 included the area within the wilderness preservation system. At the same time, Congress specifically provided in law for continued motorized recreation as well as timber harvesting.

My revised bill, H.R. 12609, prohibits both mining and logging. But it recognizes the importance of the assurances contained in the Wilderness Act that motorized recreational use would continue. My bill provides for this recreational use, but with a reduction from present levels.

Recently, I contributed an editorial piece to the Minneapolis Star which details the evolution of my thinking on this issue and of the changes I have made in my bill.

I would like to share with my colleagues that piece from the Minneapolis Star of May 13, 1978.

Tradition and law together have established the Boundary Waters Canoe Area's unique position as a wilderness.

In 1964, Congress included the BWCA in the wilderness preservation system.

But Congress also recognized in that act the special qualities of the BWCA and permitted the long-established uses of motorboats and timber harvesting to continue. Fourteen years later, the Congress is again facing a decision on the future of this unique unit of the wilderness system.

Congress must act in light of the area's history, the nature of the resource, and both the national and local interests which will be so greatly affected by any legislation. So much is at stake and so much emotion has arisen during the debate over the area's future, no easy solution has been possible.

The issue is now the most hotly contested issue in our state. Regrettably it, has become divisive as well.

The extensive public discussion has been very beneficial by generating thorough analysis of every conceivable aspect of all BWCA issues. I have welcomed the debate, which has contributed to the evolution of my position.

Late last month I announced the outlines of the proposal which I intend to offer to the whole House. The new bill represents a significant modification of my earlier proposals; it is a responsible and equitable solution to this long controversy.

I have made several substantial compromises in order to arrive at a solution which responds to the variety of conflicting, but nevertheless legitimate, interests involved. Further, my proposal recognizes the special character of the BWCA within the wilderness system.

These are the major changes in my bill:

Timber harvesting is terinated immediately throughout the entire BWCA.

The existing boundaries of the BWCA are retained and the entire 1,030,000 acres of the area remain within the wilderness system.

The new bill retains the earlier prohibition against mining, incorporating language I have devised, as well as recommendations from the U.S. Department of Justice, the state of Minnesota and the House Interior Committee.

The committee legislation represents only a minor shift from the original wilderness proposal of my colleague, Don Fraser. It continues motor use on only about a dozen of the 124 lakes now open to motors.

After five years, motorized use is restricted by the committee bill to only part of the two major lakes on the Gunflint Trail—Saganaga and Seagull Lakes—and is discontinued completely on the most popular fishing lake in the BWCA—Basswood Lake.

The concern for continued motor use is intensified by the fact that over 100 resorters, outfitters and related small businesses in northern Minnesota depend on motorized recreational use of the BWCA.

This use is neither a minor component of total BWCA use, nor is it exclusively local in origin. In 1977, 57,000 visitors, or more than one-third of the BWCA users, chose to use a motor to enjoy the BWCA; 95,000 chose paddle canoes.

Thirty percent of motor use is from visitors outside of Minnesota. Illinois and Indiana send the largest and second largest numbers of visitors to the BWCA from outside of Minnesota. In 1977, 40 percent of visitors from Illinois and 51 percent from Indiana used motors. In citing the need for continued motor access to the BWCA, I am clearly not defending a purely local interest; there is a broader interest in motor use.

Reasonableness and flexibility are the keys to a just solution for any controversy. Three years ago, debate over the BWCA centered on four issues: mining, logging, full wilderness designation, and motor use. The people of my district and I have removed the first three from contention, and reduced the fourth by 25 percent. These steps show both reasonableness and flexibility.

Irreversible damage from extractive industry will be prohibited. The renewable resource industry can look forward to higher yields of wood fiber on federal and state lands outside the BWCA, and future stability in softwood production. The BWCA's status in the National Wilderness System will be assured.

We in northeastern Minnesota have made major concessions on BWCA use. I do not believe that those who differ from our view have shown the same willingness to modify their position. Their intransigence and failure to appreciate and respond to the needs and interests of those living adjacent to the BWCA have not contributed to the movement toward a solution.

My bill is a compromise fashioned by the people of northeastern Minnesota. On their behalf, I will take this bill to the House floor for a final decision.●

NOW THE ADMINISTRATION MUST SHOW ITS MIDEAST WARPLANES PACKAGE CAN BRING PEACE

HON BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. ROSENTHAL. Mr. Speaker, President Carter has stressed repeatedly that his $4.8 billion Mideast warplanes package is vital to the peace process, a view echoed by Egypt, Saudi Arabia, and their supporters. The arms sales have now cleared the congressional hurdle, and it is time for the President to deliver on his promises and show that the aircraft deal will move the Middle East toward a just and lasting peace. Unless the administration can produce visible results, Monday's vote in the Senate will be a short-term victory and a long-term disaster.

Peace cannot be accomplished by attempting to impose a settlement but only by encouraging the parties to negotiate an agreement among themselves. The hopes of the world were kindled when President Sadat took his bold initiative last November, but they were quickly dashed when he abruptly walked out of the ensuing peace talks before they had a real chance to get started. Instead, he pinned his hopes on President Carter's ability to pressure Israel into accepting the Arabs' terms.

Now that President Sadat will be getting 50 F–5E's as a symbol of American friendship and support, I call on President Carter to urge him to resume the peace talks at an early date and to demonstrate the flexibility and willingness to compromise that he expects of others.

And now that America has once again proven its friendship for Saudi Arabia and passed yet another litmus test of that relationship, it is time for Saudi Arabia to prove its interest in peace. It can start by:

First. Ending its political, military, and financial support for the PLO terrorists;

Second. Declaring publicly its dedication to a peace settlement by recognizing Israel's right to exist and offering to participate in direct peace negotiations; and

Third. Exercising its enormous influence by persuading Egypt and Jordan to sit down with Israel and seriously discuss peace without any preconditions.

It is my hope that the administration will lobby as vigorously for peace as it has for the warplanes.●

NINE ATHLETES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. YATRON. Mr. Speaker, I rise to pay tribute to a group of nine remarkable athletes who on May 7 were inducted into the Berks County Chapter of the Pennsylvania Sports Hall of Fame.

It is with tremendous pride that I focus the attention of my colleagues on the achievements of the athletes of Berks County, my home. These outstanding individuals have exemplified the kind of dedicated personal and team commitment which breeds the character, spirit, and consistency of effort so necessary for success in life. For this reason alone, they are certainly worthy of this recognition.

Their induction took place at the chapter's third annual banquet, and those enshrined were: Lloyd "Scoop" Clemens, John Silan, Pete Yousaitis, Betty Fehl, John Dietrich, Dom Dallesandro, Stewart "Spike" Moyer, George "Horse" Haggerty, and William "Woozy" Smith. Haggerty and Smith are deceased.

This group of inductees brought the hall's membership to 27. The chapter also honored Nick Santoro, long-time boxing figure, with the Sportsman's Award.

At this time, I would like to share with my fellow members of the House the following sketches of those enshrined:

NINE ATHLETES

John Silan—Now the varsity basketball coach at Wilson High School, he built a dynasty at Kutztown High School before moving on to Delaware Valley College. His Kutztown teams won three state championships and reached the finals one other time. Born in Rankin, he played one season of high school ball there and put in two seasons at Penn State. He has long been recognized as one of the soundest fundamentalists in coaching.

Pete Yousaitis—A member of the Regar Sweep Shop International YMCA championship in 1939, this native of Reading played 13 years of pro ball with teams in Reading, Hazleton, Lancaster and Pottsville. He was a basketball official for 35 years. While a standout player at Reading High, his coach was John Dietrich.

Lloyd "Scoop" Clemens—A native of Lebanon, he compiled a coaching record at Muhlenberg High School which may be unequalled anywhere in this country. He posted more than 1,000 victories while coaching football (varsity and junior varsity), soccer, track, basketball and baseball. The first five teams he ever coached won championships: baseball in 1943 and soccer, basketball, baseball and track in 1944. His total wins were 1033 (including 565 in baseball) and he lost only 371 in all sports. That's a .734 career mark.

Betty Fehl—Over a 46-year golf career, she has almost more titles than you can count. She captured the Pennsylvania state championship in 1950 and 1965, won the Central Pennsylvania championship 14 times and the Berks County championship an unbelievable 31 times. She's a Reading native and, over the years, has been president, vice president, secretary and treasurer of the Central Pennsylvania Golf Assn. and the Berks County Golf Assn.

John Dietrich—An outstanding four-sport athlete at Reading High, he returned there after his college days at Bucknell University to become the first in a long line of highly-successful basketball coaches. To this day, he remains an ardent basketball fan and was honored at a historic Reading-Steelton game last season.

Dom Dallessandro—Born in Reading and now a resident of Indianapolis, he played eight years in the major leagues. He was with the Boston Red Sox in 1937 and played with the Chicago Cubs from 1940 through 1947 with the exception of 1945 when he was in the service. His best year was in 1944 when he batted .304 in 117 games and he had a lifetime batting average of .267.

Stewart "Spike" Moyer—An All-America soccer selection at Springfield College, he has devoted most of his life to the field of recreation. He served as superintendent of the city recreation bureau from 1949 to 1965, giving up that post to become executive secretary of the Olivet Boys Club. He retired last year from the Olivet post and was honored at a testimonal dinner.

George "Horse" Haggerty—Already a member of the National Basketball Hall of Fame in Springfield, Mass., he was a member of the original New York Celtics. Earlier, he

was a member of the Reading Bears and helped win the world's professional basketball title in 1913. He was born in Chicafee, Mass.

William "Woozy" Smith—One of Reading's top all-around athletes (football, baseball and basketball), he was a referee in the Natinal Basketball Association for 12 years before retiring in 1967. He was a two-time scoring champion of the City Basketball League. He later played pro ball with the Reading Keys and Hamburg of the Tri-County League, now the Eastern Professional League.

Other members of the Hall are: Bill Horine, Whitey Kurowski, Bill Reedy, Gene Venzke, Andy Stopper, Lenny Moore, Carl Furillo, Melvin "Doc" Silva, Al Julian, Tommy Hinnershitz, Catherine Rhodes, Emmanuel Jacobs, Abe Goodman, Charles Dunkelberger, Marvin Gehman, Dick Riffle, Charley Wagner and Vic Wertz.●

FORT DIX: IN DANGER AGAIN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. EILBERG. Mr. Speaker, Greater Philadelphia has been hit hard by a tremendous loss in Federal jobs over the past 10 years. More than 24,000 jobs have been lost in the defense and aerospace sectors alone, making for severe unemployment problems in a region already suffering from the impact of imports in the steel, textile, shoe, and television fields.

Now, we are told that the Army once again is considering the closure of Fort Dix, in New Jersey just outside Philadelphia. I would hope, Mr. Speaker, that the Army reexamines any proposal it might be considering to close Fort Dix, because this action would result in job losses which the Philadelphia-south Jersey area just cannot afford.

Several ideas have been put forth for the future utilization of Fort Dix. Before any decision is made by the Army, the Pentagon has a responsibility to evaluate these suggestions, and to consider the ultimate cost of the unemployment and welfare which will result if Fort Dix is closed.

Just recently, KYW Radio and TV in Philadelphia aired an editorial on the danger to Fort Dix. I offer it for the RECORD in the hope that the Army can be made to understand that, as the editorial states, "Creating a disaster in south Jersey is no real saving."

FORT DIX IN DANGER AGAIN

Once again the Pentagon is looking around the Delaware Valley for defense jobs that can be moved out to the Sunbelt states.

And once against Fort Dix is the number one target.

Closing down Fort Dix seems to come up just about every other year. And some local officials suspect it might be politics, staged so that area congressmen can ride to the rescue. They may be right. This is an election year.

But it could be that Fort Dix really is in danger. And that's a risk the Delaware Valley can't afford to take lightly. If Fort Dix shuts down, it will drain $150 million from the local economy, costing hundreds of civilian jobs and doing great damage to many South Jersey communities where Fort Dix's civilian and service families live.

Pentagon officials estimate that moving Fort Dix's basic training mission down south, would save about $26 million. So, Washington would save $26 million and we'd lose $150 million, plus whatever it will cost to take care of the unemployed and their families.

Creating a disaster area in South Jersey is no real saving.

During the 1976 election, President Carter pledged that he would not close Fort Dix because, he said, he was aware of the serious consequences to the local economy.

Local and state officials and the Congressional delegation from Delaware Valley should remind President Carter now of his election year promise; now, before any Pentagon decisions are made, before we have another Frankford Arsenal closing on our hands.●

ENGINEERS SUPPORT INDIVIDUAL RETIREMENT ACCOUNT PROGRAM CHANGES

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. PICKLE. Mr. Speaker, the National Society of Professional Engineers, a nonprofit organization representing 75,000 individual members engaged in virtually all disciplines of engineering, recently provided the House Ways and Means Subcommittee on Oversight with testimony on individual retirement accounts.

Mr. Louis L. Guy, Jr., P.E., testifying for NSPE, voiced the concerns of many members of the engineering profession who are profoundly affected by individual retirement accounts. I believe Mr. Guy's testimony is a well prepared document that would be of interest to every Member of Congress. Consequently, I am inserting the entire statement for review.

The statement addresses many issues, but I draw attention particularly to the plight faced by many engineers who change jobs often and by other workers in our society in a similar plight. These people are often ineligible for an individual retirement account because they are participants in a qualified plan, but they seldom stay in any one plan long enough to accrue benefits. The Ways and Means Oversight Subcommittee has studied many proposals for improving the retirement program for highly mobile workers—including many versions of limited employee retirement accounts which would basically be extensions of the IRA program, allowing immediate vesting and tax deductions for employee contributions to pension plans, and other proposals. I hope that in the near future we will be able to form a solution to this problem which is simple, equitable and of help.

The engineers' statement follows:

STATEMENT OF LOUIS L. GUY, JR., P.E.

My name is Louis L. Guy, Jr., P.E. I am a professional engineer and Treasurer of the National Society of Professional Engineers. I am also appearing on behalf of the American Society of Mechanical Engineers. Appearing with me today is Martha Frangiadakis, legislative representative of ASME, and Michael Schoor, Director of NSPE's Legislative and Government Affairs Department. Our societies welcome this opportunity to testify on the operation of Individual Retirement Accounts with regard to members of the engineering professions.

The National Society of Professional Engineers is a nonprofit organization consisting of 75,000 individual members who are engaged in every aspect of engineering. The American Society of Mechanical Engineers represents more than 80,000 mechanical engineers and students.

In 1973, our societies testified in support of the establishment of IRAs. The concept of tax-free funding of personal retirement programs was warmly received by members of the engineering profession as a partial solution to the retirement needs of those engineers who are not active participants in a qualified pension plan. We do not believe, however, that the establishment of an IRA plan is a complete solution primarily because of the low amount of money that can be contributed tax-free to the plan. In 1973, we testified that a limitation of $1,500 was too low; we now believe that the ceiling of $1,500 is excessively low. Consequently, we request that this Committee recommend that the limit on the amount of money that can be contributed to an IRA be raised to at least $3,000. If that amount is established as the ceiling, an eligible individual would be able to contribute 15 percent of the first $20,000 of income. This amount is more realistic with regard to engineers. The Committee may also wish to consider adding an inflation index that could be triggered to raise the limit when inflation reaches a certain level.

Our societies believe that engineers deserve a retirement income commensurate with their working years' contribution to society and the profession. The amount of total retirement income should be adequate to provide for a reasonable standard of living. It is understood that retirement income will include not only that received from pension plans, including IRAs, but also Social Security benefits and accruals from personal savings and investments.

Without going into detail on our position on pension plans, let me briefly say that we believe that an engineer should, among other things, be eligible for participation in a pension plan immediately upon hiring and that the plan should provide immediate vesting of full pension rights. For engineers participating in an IRA plan, immediate vesting is a fact and, to a degree, an IRA protects the engineer and permits the accumulation of benefit rights even though a multiplicity of jobs may be included in a professional career.

As we have told this Committee before, pension plans affecting engineers in the United States are complicated by the peculiarities of employment. The practice of engineering in America since the end of the Second World War has been distinguished by an almost singularly peculiar element—the need for mobility. As the country's priorities changed, engineers found that they were either forced to find new employment or were required to follow the Government contract from one company to another. Mobility does not serve the engineer well with regard to aiding his ability to accumulate pension credits and the security necessary for a respectable retirement. Consequently, engineers, in increasing numbers, are interested in IRA plans.

A 1975 income and fringe benefit survey of the NSPE membership illustrates the concern of engineers. Engineers who are employees responded that 85 percent had some sort of pension plan offered by their employers, with 46 percent saying that the employer paid the benefit in full, and 54 percent saying that the employer paid part of the benefit.

However, if those same engineer employees covered by a pension plan changed jobs, 39 percent would lose all of the benefits contributed by the employer, while 17 percent would lose some. Only 36 percent indicated that they would suffer no loss at all. Em-

ployees who have been on their current job for less than 10 years, more than 50 percent of those responding, provided the following data:

Less than 1 year—67 percent lose all benefits; 7 percent lose some benefits.

1 to 3 years—63 percent lose all benefits; 10 percent lose some benefits.

4 to 5 years—55 percent lose all benefits; 22 percent lose some benefits.

6 to 10 years—48 percent lose all benefits; 23 percent lose some benefits.

In view of the mobility of engineers and these statistics, our societies are concerned that a significant portion of the engineering profession will reach retirement age and not have adequate retirement income.

Another improvement to the IRA program that the Committee might wish to consider is the procedure whereby an employee, who is an active participant in a qualified pension plan, could establish a limited individual retirement account. Under this plan, an employee could contribute to the limited IRA the difference between the maximum amount allowable under an IRA and the amount contributed by the employer to the qualified pension plan when such an amount is determinable. The proposal would assist employees participating in low benefit pension plans without requiring the employee to opt out of the pension plan.

Our societies also asks that the Committee carefully consider proposals that would specifically assist employees who are affected by high mobility. Employees who change employment before vesting need special consideration. It might be possible that such an individual would be benefited by allowing the establishment of an IRA plan after it is determined that the pension plan under which the employee was previously covered would not vest. In such an instance, the employee, after he changed jobs, would be able to establish and retroactively contribute to the IRA an amount equal to what could have been contributed during past years had the employee not been an active participant in a qualified pension plan.

Our societies also wish to comment on the proposal for a Limited Employee Retirement Account presented by the Institute of Electrical and Electronic Engineers. The proposal is a sound approach to existing problems confornting employee engineers. We support the proposal and ask that the Committee carefully consider it. We believe that the negative features of similar proposals introduced in previous Congresses have been eliminated in this proposal and feel that the enactment of it would be beneficial to all employees, not simply engineers.

In closing, we wish to commend this Subcommittee for its interest in reviewing and improving IRA plans. When IRA was established in 1974, the concept was new and untested. Today, several years later, IRA has a track record that is relatively good. We believe that this program should be strengthened where possible so it will take its rightful place beside other forms of deferred compensation benefits. IRAs are beneficial, however, they should be improved to fill certain gaps so Americans can better realize their retirement needs.●

SPARTAN SCHOOL OF AERONAUTICS CELEBRATES 50TH YEAR OF OUTSTANDING SERVICE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, it is a pleasure for me to honor an outstanding institution in my district, the Spartan School of Aeronautics. This year, the Spartan School of Aeronautics will celebrate its 50th anniversary of outstanding service to this country.

The Spartan School of Aeronautics was founded in Tulsa, Okla., in 1928. The school has been responsible for the training of thousands of aviation servicemen of the United States and its allies during World War II and the Korean war. Furthermore, the Spartan School of Aeronautics has played an important part in the instruction of foreign students, and in so doing, has striven to improve relations between the United States and other countries. These invaluable services are most appreciated and I join with the Spartan School of Aeronautics in its celebration of these contributions. The school is acknowledged internationally as an aviation school of the highest caliber and I share the pride that Oklahoma's First District has for this great accomplishment.

Mr. Speaker, I share this information with you and my colleagues so that the Spartan School of Aeronautics might be recognized for its excellent contribution to the peoples of the United States. I congratulate the Spartan School of Aeronautics on the celebration of its 50th anniversary, and extend my best wishes for its continued success in the future.●

STRONG COMMUNITY RESPONSE TO BWCA LEGISLATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. OBERSTAR. Mr. Speaker, the people of Cook County, Minn., living on the edge of the Boundary Waters Canoe Area, feel their way of life and security threatened by legislation which this House will shortly consider.

H.R. 12250, a bill which is the product of the Subcommittee on National Parks and Insular Affairs, would severely restrict motor use of the BWCA, upon which the resort-outfitting-recreational economy of Cook County depends so heavily.

I am in agreement with advocates of the committee bill on all but one of the major issues concerning the future of the BWCA. I have modified my own proposal for the management of the area, and there is now agreement that logging should be prohibited in the Boundary Waters, and that the entire 1,030,000 acres of the BWCA should remain as wilderness.

Our major disagreement is over the extent to which historical, still existing recreational use of the area will be permitted to continue.

Last month, the people of Cook County demonstrated their great concern over what they may lose if Congress enacts H.R. 12250. One-fourth of the 4,000 people of Cook County marched on the Forest Service ranger station in Grand Marais, Minn., to symbolically evict the Forest Service.

The demonstration indicated no bitterness toward the local Forest Service personnel. Mayor Richard Humphrey told the people of the county and the rangers, "The city is not suggesting it is unhappy with the local Forest Service Office, or the one in Duluth. They are good neighbors. Our feelings are directed at Washington, and at Rupert Cutler of the Department of Agriculture. Many of his words are now in the Burton bill."

The feelings of the people are those of anger, frustration, and deep anxiety over the changes which may be imposed on their lives.

These are the people who have lived their lives in the area of the BWCA. They have worked to preserve the area—often risking lives to fight forest fires—and keep it the beautiful heritage it is today.

I would like to share with my colleagues an article which appeared in the Cook County News-Herald on April 17, 1978. Perhaps the most significant part of the article is the caption which appeared below the photograph of the assembly of Cook County residents. The caption read, "Even the organizers of the protest were somewhat surprised at the turnout, considering the population of all of Cook County is around 4,000. They view the turnout, in a conservative community like Cook County, as a clear indication of the tremendous concern over the proposed Burton-Vento BWCA bill. The protest will go down in history as a definite first in the history of the County."

COUNTY SAYS TO THE FEDS: YOU DO IT TO US AND WE'LL DO IT TO YOU

FOREST SERVICE SERVED EVICTION NOTICE

"The turnout was at the top of our hopes."

That was the way Bruce Kerfoot described the 1,000 or so area residents who marched in protest Friday, April 14, against the Burton-Vento Boundary Waters Canoe Area legislation.

Kerfoot, president of the Arrowhead Chapter of the Boundary Waters Conservation Alliance, said the organizers of the protest estimated at least 500 people would attend, but had also predicted 1,000 people would be the absolute tops.

The sun was out but stiff winds kept things chilly around 11:00 a.m. Friday, as marchers started showing up near the Coast Guard Station.

Soon the trickle of people turned into a regular flow and by 11:30 a.m. the crowd, armed with 300 to 400 protest signs and banners, packed around a pickup truck where opening remarks were made.

It was clearly a first for Cook County. Never before had anything like this happened in the long, long history of the area.

Kerfoot, using a loudspeaker to be heard over the wind, drew cheers when he told the crowd "they're trying to take away our lands like they did in the 1950's and 1960's. This time, were too damn angry to give up."

He warned that although they have taken out the stringent zoning portions of the proposed BWCA bill, they very well might be replaced. "What will replace them is a big secret right now. They'll spring it on us when there's little time to respond."

"Burton says the motor restrictions won't have an adverse affect up here. When we hear him make statements like that we can't jump up in the committee rooms and call him a liar. But that's what he is," he said.

Reminders were given to have a peaceful demonstration, which it was from start to

end. With that, several huge logging trucks and a skidder gunned their engines and headed toward downtown, leading the parade. Riding along were many of the over 200 high school students let out for the event.

Keeping track of things while the parade marched through downtown were the television stations from Duluth, two stations from the Twin Cities, and newspapers from both Duluth and the Cities.

If the only goal of the event was to attract media attention, the protest was an incredible success.

The parade, as it headed down Wisconsin and towards the Gunflint Ranger Station on Highway 61, stretched easily three blocks or more.

As the crowd filed into the Ranger Station's parking lot, city crews started to cut the electric power wires leading to the building.

Once the crowd reassembled at the parking lot, Kerfoot got on the loudspeaker (which was having power outage problems of its own, and eventually was discarded) and announced that "if they can evict us, we can do it to them."

Mayor Richard Humphrey, greeted with cheers, jumped on the pickup-turned-speaker-platform and said, "I've heard it said we (a small community like Grand Marais and Cook County) don't have a lot of power. Well, the Forest Service has none."

He was referring, of course, to the disconnected power lines.

Humphrey explained the reasons for the power cut, and why the flag was being flown at half mast. (See city council story.)

"The city is not suggesting it is unhappy with the local Forest Service office, or the one in Duluth. They are good neighbors. Our feelings are directed at Washington, and at Rupert Cutler of the Department of Agriculture. Many of his words are now in the Burton bill."

With that, City Council Member Walt Mianowski carried out the honor of reading the eviction notice. District Ranger Earl Niewald stepped out of the office at this time, and from time to time even broke out in a smile at parts of the notice, reprinted below and as read by Mianowski:

"On behalf of the people of Cook County we hereby put the U.S. Forest Service on notice that in the event BWCA legislation is passed in Congress that threatens or takes from us our lands, homes and businesses—that we will evict the U.S. Forest Service from their offices and lands in a similar manner.

"The taking from us of our historical and Congressionally guaranteed use of the BWCA by Sen. Humphrey in 1964, is equivalent to our taking from you your automobiles, electric typewriters, Xerox machines, and shortwave radios.

"Our appraisors will offer the U.S. Forest Service what we deem to be 'fair market value' for properties taken for the good of the people.

"'On the job' training will be made available to any persons unable to redirect their bureaucratic arts. Skill training is offered for 1) Herring Choker, 2) Woods Swamper, 3) Moose Jockey.

"In the event that you cannot adapt to the provisions, resettlement assistance will be offered by dog team to other territories.

"So, hereby be it declared, the people of Cook County find the pending legislation instigated by Rupert Cutler of the U.S. Forest Service and called the Fraser-Burton-Vento Bill—totally unacceptable!"

Niewald, who had been on fire-fighting detail in North Carolina last week, came back a couple of days earlier than he normally would have to be on hand for the protest.

He said he realized the people were frustrated and concerned and this was a way to express that "and I understand that."

Niewald added that the Forest Service operates under the direction of Congress, which currently means carrying out the 1964 Wilderness Act.

"Well, let's keep it that way! Let's keep the 1964 Wilderness Act!" Mianowski urged, followed by many members of the crowd.

With the eviction notice read, a large padlock, made out of plywood, was hung on the station's front door. On top of that, a big eviction notice was mounted.

Kerfoot mentioned a number of fund raising events scheduled on "Save Cook County Day" April 29, including a yard sale at 1:00 p.m., and auction at 3:00 p.m., and a smelt fry at 4:00 p.m.

He also asked people to turn in their signs so they can be used for the next demonstration, slated for April 28 at the Forest Service office in Duluth.●

VIEWS ON CORPORATE RESPONSIBILITY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BOB WILSON. Mr. Speaker, in the days of a free spending Government, little is said in defense of a major entity of our society that provides a great proportion of the wherewithal to finance Government spending—our private business sector and most specifically, the corporation. Rather than being held in esteem for its contributions, business is often maligned as a greedy, grasping monolith intent only on amassing exorbitant profits for its own good, rather than acting in the interests of society.

In an address to Procter & Gamble management, chairman of the board Edward G. Harness comments on the corporation, corporate responsibility and the role that profit-making plays. Though he speaks about his own company, Mr. Harness' words could equally apply to private business as a whole, and I believe my colleagues could benefit from his views:

VIEWS ON CORPORATE RESPONSIBILITY

(By Edward G. Harness)

I would like now to step back from our day-to-day business challenges and look at the Procter & Gamble Company in the light of a popular term of the day called "corporate responsibility." In the course of this, I will give you my thoughts on what Procter & Gamble is and, conversely, on what Procter & Gamble is not.

In the decade of the 1970's, both in the United States and abroad, the role of the public corporation has been so discussed, debated and belabored that it isn't easy for anyone, including people like ourselves who manage such businesses, to keep our minds focused on the jobs which our shareholders are paying us to do. I hope that I can offer some thoughts which may help us clear our minds.

Let's start with a little history. What really is a corporation for profit in the free world? How did the corporation come into being? And why?

The publicly-owned corporation for profit had its origins in Great Britain. In all countries where such corporations exist, the right to that existence rests on legislation created by government to achieve a few very simple aims for the common good. Prior to the passage of such enabling legislation, one person could join with another in a business venture only through the route of unlimited partnership. In such partnerships, the risk of failure was too great in many instances. Each partner was liable for all of his or her personal assets in the event of collapse.

Thus, the first purpose in the creation of the corporation, which is really nothing more than a "paper citizen," was to enable the individual to invest to the limit of his desires or capability without the risk that failure would wipe out other personal assets.

In addition, the creation of this paper citizen, the corporation, allowed an entity to exist which could be relatively free from the mortality of man. As the investors died off, the paper entity could live on and continue to perform its intended function.

Society saw a need and responded with laws to make the corporation possible. The corporation was required in order to get bigger jobs done—jobs which society needed done—than individuals alone could do. Said another way, the state created the corporation to advance society's economic well-being.

The state provides a corporation with the opportunity to earn a profit if it meets society's needs. It follows inevitably that reported profits are the primary scorecard that tells the world how well a corporation is meeting its basic responsibility to society.

This is all pretty simple and pretty elementary and I am sure you all studied it years ago in school. However, in recent times critics of our business structure seem to be losing sight of the primary purposes of the corporation and some want to blame the corporation for all of society's ills—real and imaginary.

A simple concept created in response to legitimate needs of our society has been fleshed out in many directions, some good and some not so good.

I guess this is not surprising. The corporation for profit has been one of the most phenomenal success stories in the organizational evolution of the free world. It is perfectly natural that the progress of corporations over the past century has raised the expectations of mankind in general and of government, educators and thought-leaders in particular. This is understandable, considering some of the roles that corporations have come to fill in the non-Communist world.

For example, corporations in the United States pay nearly 40 percent of all the taxes collected at the federal, state and local levels. Corporations in this country furnish over half of all the jobs, generate about two-thirds of the gross national product, and a similar share of the payroll dollars. In the last 60 years, corporations of the western democracies have built the hardware to win two World Wars and to put men on the moon.

I have no quarrel with the citizenry, the bureaucrats, the legislators or the educators who say that corporations have a responsibility to society beyond the obligation to generate a fair return or profit for the investor. The corporation—as I have said earlier—is a paper citizen, and every citizen has a responsibility to his fellow citizen. Democratic society is based on that fact. The corporation cannot ignore that truth any more than an individual human being can.

However, I take real issue with the critics when they propose that corporations must put their other citizenship responsibilities ahead of their responsibility to earn a fair return for the owners. The only way in which corporations can carry their huge and increasing burden of obligations to society is for them to earn satisfactory profits. If we cannot earn a return on equity investment which is more attractive than other forms of investment, we die. I am not aware of any bankrupt corporations which are making important social contributions.

Now, I would like to relate these observations to a few specific situations.

There is increasing pressure, and I predict this pressure will be with us for a number of years, for corporations to create new jobs. This is understandable. There are major unemployment problems throughout the free nations. Our Company has a good record of creating additional employment, but we must all understand that we cannot expect Procter & Gamble or any other corporation to create unneeded jobs over any meaningful period of time. The corporation's proper role is to produce economic goods or services in the pursuit of profit. It takes no managerial skill to employ two people instead of one to generate the same quantity of goods or services. But how is society served if Procter & Gamble has twice as many people on the payroll and must pay them each only half as much because we have not increased sales?

If we create unneeded jobs, we obviously destroy our efficiency. If we destroy our efficiency, our profit erodes. If our profit erodes, we will eventually come full circle. Our Company would fail and 52,000-plus people would be out of work.

Some of the proposals being discussed in free world governments today would give corporations modest subsidies to put the unemployed to work. I am afraid these proposals in presently discussed form will not work because I don't believe corporations can solve long-range unemployment by creating make-work jobs anymore than governments could in the 1930's.

The way for Procter & Gamble to increase enrollment is for us to increase our business in existing and new product lines. This we shall do, and it will be done with efficiency.

Efficiency brings me to a related problem. Corporations are being buried in regulations, compliance with which strikes at efficiency and raises costs.

Certainly Procter & Gamble can comply with added regulations. We have been doing so year after year for decades. We can comply and survive so long as all our competitors have to comply with the same regulations and have their costs and prices similarly affected. There are, of course, a few instances where small producers or producers from outside a country can undersell P&G because regulation is not applied to them. That, however, is not the real problem.

The real problem is that excessive regulation drains away the human energy and talent that should be engaged in creative efforts. For example, today over one-fourth of P&G's research and development and product development effort is being devoted to coping with the present and anticipated environmental and human safety concerns of regulators. This is at least twice as much effort as we believe is necessary. We can stand this so long as we can increase the prices of our products to cover the cost. This is what we have had to do. There is no doubt today that consumers pay a material price for excessive and redundant regulations every time they buy a box of detergent, a roll of paper or a tube of toothpaste. Here, therefore is another of the important causes of inflation.

Procter & Gamble went along for many years largely untouched by increasing regulatory demands on safety, environmental concerns, etc. P&G's relative immunity to these regulations was due to the fact that our own standards—self-generated and self-policed—were far higher than those of the average producer. In recent years, however, excessive regulations have cost us capital, manpower and distraction of management attention from more productive efforts.

As a Company, we will continue our fight against over-regulation. We owe that to our shareholders and to the public.

Now, having touched on some of the difficulties of our times, let me turn to the way I see Procter & Gamble in today's society and the way I think we fit into the picture for the years ahead.

Procter & Gamble has succeeded throughout the 140 years since its founding in 1837 and the 87 years since its incorporation in 1890 for many reasons. However, I submit that key among these reasons is the fact that Company management has consistently demonstrated a superior talent for keeping profit and growth objectives as first priorities while having enough breadth to recognize that enlightened self-interest requires the Company to fill any reasonable expectations placed upon it by its role as a paper citizen.

Somehow we have managed to keep our priorities straight and yet have the sense of civic responsibility to achieve many important secondary objectives. Somehow our predecessors were wise enough to know that profitability and growth go hand in hand with fair treatment of employees, of direct customers, of consumers and o fthe communities in which we operate.

I don't need to recite in detail the Company's historic innovations in profit sharing, in guaranteed employment, in medical insurance and other benefits. These are things we have come to take for granted. However, we must remember while taking them for granted that they were not developed because the earlier managers of Procter & Gamble were free-handed with the shareholders' money. They were developed purely and simply in the belief that if employees could be relieved in some measure from fears about their families' financial security, their minds could be free to work more effectively on building the business. I suggest that these plans have paid off well for P&G shareholders.

In our relations with our direct customers, such as wholesale and retail grocers, Procter & Gamble has built a record which has made our reputation that of being fair, even-handed and tough. We have repeatedly refrained from doing the expedient to get short-term business advantage. We have operated on the highest of ethical standards. As a result, the Company is believed and trusted. The cost to P&G has been high at those times when we refused to compromise for short-term advantage, but in the long run, we have become a more profitable and bigger Company than we would ever have been had we compromised.

In dealing with consumers, Procter & Gamble's approach predates the so-called "consumer movement" by generations, and yet we believe it is completely consistent with the aims of all but the radical fringe of the consumer groups. Simply stated, we learn through research what consumers want. We then do our best to give them what they want—delivering effective performance at a fair price, with safety and convenience. We tell the truth in making the sale and we stand behind everything we make . . .

I said earlier that we had a record of fulfilling our responsibilities to the communities where we operate. I believe this is true, but I will have to admit that there are times when it is hard to define and quantify our responsibility. How much of our shareholders' money should the managers of the business give away in the interest of higher education, and to the United Way campaigns of our base communities? To the fostering of culture and the arts? How much should we spend in money and time attempting to persuade the public to adequately finance public schools, or to help reorganize local governments?

I am sure each of you has at times thought that we did too much or too little in responding to a specific societal need. You may well have been right, but there is one thing I would hope you do understand.

There is no charity for charity's sake in our handing out the Company's money or in our asking the Company's people to give of their time. Procter & Gamble's support of civic campaigns is now and always will be limited to what we believe represents the enlightened self-interest of the business.

Here in the term self-interest we are back to that word "profit" again.

Let's take our own home city of Cincinnati as an example. The future earnings of this Company rest first and foremost on our ability to attract and hold bright, capable, dedicated and concerned people as our employees. If nearly one-quarter of those people are expected to spend their careers in Cincinnati, then it serve the interests of the stockholders for us to support soundly-conceived efforts to maintain and enhance this community as a good place to live and raise families.

Obviously, judgments must be made on which projects to support and how extensively to support them; but those judgments, which are the consensus growing out of discussions among experienced managers, can be soundly made only if we all recognize that we are operating in a framework of enlightened self-interest.

There are those who criticize us for making what they regard as large profits. We make no apologies for the profits we have earned. Earnings are precisely what we are in business for.

So long as we continue to operate ethically, fairly, and legally, and so long as we carry out our responsibilities as a paper citizen with enlightened self-interest, I believe the Company can be proud to be judged by its shareholders and by the public in general by the profits we earn.

PALOMAR WINS NATIONAL COLLEGIATE SPEECH CHAMPIONSHIP

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BURGENER. Mr. Speaker, too often important educational endeavors are overlooked and collegiate competitions in the academic arena are overshadowed by athletic competition. I would just like to salute the Palomar College speech team, which this year captured the Collegiate National Speech Championships against stiff competition from 86 other colleges and universities from across the Nation. Palomar's 14-member team, coached by Dr. Raymond Dahlin demonstrated its superiority throughout the competition, and the squad members won six individual gold medals during the championships. Steve Jess was a double gold medal winner, while Palomar's other first-place winners were Evie Payne, Joyce Harris, John Theobald, and Russ Harvey.

Other members of the national championship team are Beda Farrell, Karin Essex, Mary Sue Rafalko, Carol Hoskins, Chris Hummel, Mark Mowrey, David Sherman, John Lombard, and Edwin Estes, Jr.

The mental and verbal agility represented by Palomar's national championship is exemplary considering the San Marcos College's team faced teams from institutions with far larger enrollments, Mr. Speaker.

I know Palomar's excellence in speech competition will continue under Dr.

Dahlin's tutelage, and I would like to reiterate my admiration for the Palomar team's achievement.●

GOD OF OUR FATHERS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. McDONALD. Mr. Speaker, Gov. Meldrim Thomson of New Hampshire delivered the commencement address at American Christian College in Tulsa, Okla., on May 5, 1978. In this address he discusses at length the role of religion and the faith in God expressed by our forefathers that was written into every document of our early history. He further traced how our courts have erred in eroding this spiritual underpinning of our public life, to the detriment of our Nation. He analyzed why and how this was wrong under the Constitution. And he points out how the Christian and Catholic schools perform a very vital role in our society as a repository of training in citizenship with a religious foundation. I heartily commend this address to the attention of my colleagues for its fine instruction in the basics of our Constitution.

GOD OF OUR FATHERS

(By Gov. Meldrim Thomson, Jr.)

The God of our fathers, known of old, was the shining lodestar that led our pioneering forefathers along the paths of righteousness as they fashioned the early institutions of freedom for America.

These pioneers were on the whole, a God fearing race.

Christian and Jew, each in his own way, sought guidance, spiritual comfort, and forgiveness from a God in whose palm rested the destiny of our infant nation.

When the pilgrims sighted the coast of Massachusetts in the cold fall in 1620, before landing they drew the first plan for self government in America.

In their briefly worded Mayflower Compact, which they drafted in the name of God, they referred to God four times and noted that they had undertaken their great adventure to the new world for the "advancement of ye Christian faith".

The 56 signers of the Declaration of Independence made their mutual pledge of their lives, fortunes and sacred honor, "with a firm reliance on the protection of Divine Providence".

Three months before that great document was proclaimed in Philadelphia, the Founding Fathers in New Hampshire announced to our citizens the adoption of the first constitution ever written in the Western World. This proclamation, issued on March 18, 1776, concluded with the words, "God save the people".

The great leaders of our nation recognized their own human frailties and often turned to God for the strength, patience and vision that only He could provide.

There is no more moving and dramatic statue in America than the great bronze one at Valley Forge of George Washington, attired in his general's uniform, with head bowed, and hands clasped in reverent prayer.

It is a picture of a great man humbled in the presence of his God.

The writings of Abraham Lincoln are sprinkled with references to the Bible which was his strength and comfort through the trying, frustrating and discouraging presidential years.

In truth, this nation was founded and for many years led by men who tried to walk in the ways of God Almighty.

And though they were not perfect, as long as they honestly endeavored to do right in the eyes of the Lord our nation prospered, grew mightily in strength and power, and became in a material sense, the greatest among the nations of the world.

But of late decades our people have shunned the examples of the Founding Fathers.

We have ignored the admonition in the Book of Proverbs, "Remove not the ancient landmark, which thy fathers have set."

How many of the 20,000 members of the federal government earning in excess of $40,000 per year, or how many big businessmen selling precious technology and foodstuffs to communist nations, or how many of today's politicians bent on perpetuating themselves in office, believe in such ancient landmarks as those described in New Hampshire's Constitution of 1784?

Article 38, Part I of our Constitution bluntly states that, "A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government."

You who are graduating today face a world of evil, hyprocrisy, terrorism and un-Godliness such as this century has never before seen.

Your challenge is as great as that accepted with firmness and faith by Washington and his ragged band of eight thousand who marched out of Valley Forge two hundred years ago this Spring.

Weak in the armaments of war, decimated by the ravages of a bitter winter, but strengthened by the faint flame of faith in their inner hearts, this tiny band of freedom hunters went forth to the months of defeat and hardship that laid on the long road to ultimate victory at Yorktown.

Consider but a few of the great, almost overwhelming challenges before you.

It is up to your generation to rekindle in the hearts of our people the spirit of the Lord. For as Paul told us in II Corinthians, "Where the spirit of the Lord is, there is liberty".

If this country was indeed founded by God-fearing men and women who raised their families in the companionship of the Lord, as I believe was the case, then why do our judges bar the doors of our public schools to God?

I have always believed that the opinions of the U.S. Supreme Court in the Engell and Abington Township cases of 1962 and 1963 were wrong.

What blatant hypocrisy we practice when we say that it is unconstitutional for our children to pray in public schools because they are tax supported, and yet, in the Congress and in our State Houses beneath the gilded domes of taxpayers' extravagances, we open each daily session with a prayer for Divine guidance.

In New Hampshire we have fought to open wide the doors of our public schools to God.

Our first legislative attempt met with an unconstitutional rebuff by our Supreme Court.

Last year using guidelines developed after the Lyden School controversy in Massachusetts, we passed a statute authorizing voluntary prayer in the New Hampshire public schools.

Thus far out of a total of 160 school districts, voluntary prayer is now being said in 23. Another 100 school districts have approved the concept of voluntary prayer and are in the process of implementing the statute.

I believe that we in New Hampshire have done more than any other state to welcome God back into the classrooms of our public schools. What we have done in our State is just the beginning of what can and must be done in all of our states.

To emphasize the hyprocrisy practiced by public officials in the school prayer issue, I suggest that you note carefully the motto inscribed on the next coin you withdraw from your pocket or purse.

The inscription reads, "In God We Trust". Of course we believe and have faith in an ever present, omnipotent God who cannot be limited or circumscribed by architectural barriers.

Too many in our nation have ignored God for too long and many others have been willing to trust God passively. But that is not enough.

To have the power to move mountains, which is to say to overcome the forces of evil that gnaw effectively at the foundations of the free enterprise system and our social structure, we must work actively to preserve the ancient landmarks of our fathers.

For several years I have issued a Good Friday Proclamation and flown the flags on our state buildings at half staff.

The American Civil Liberties Union which in my opinion has never been American or civil in its purposes, nor has it believed in liberty under the aegis of the spirit of the Lord, decided this year to bring me to court and enjoin me from lowering the flags.

Temporarily, they succeeded.

But we have gone back to court and hope to have this important issue favorably settled before another Good Friday.

What was the intent of the First Amendment with regard to the establishment of religion?

The First Amendment, added as an afterthought to the Constitution by the 13 original states, says quite plainly, "the Congress shall make no law respecting an establishment of religion . . ."

Justice Joseph Story of the U.S. Supreme Court, the early and expert interpreter of the Federal Constitution, examined in his "commentaries on the Constitution" the intent of the Founding Fathers with respect to the establishment of religion clause.

He said, "probably at the time of the adoption of the Constitution, and of the amendment to it now under consideration, the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state so far as was not incompatible with the private rights of conscience and the freedom of religious worship."

He also said, "the whole power over the subject of religion is left exclusively to the state governments, to be acted upon according to their own sense of justice and the State Constitution."

There you have one of the vital ancient landmarks; namely, that our Founding Fathers believed that Christianity ought to receive encouragement. If that is so why should not a governor do all he can to foster that encouragement?

And why does not the U.S. Supreme Court leave the subject of religion to the states, as Story thinks was intended by the drafters of the Federal Constitution?

If Justice Story's interpretation of the establishment of religion clause had prevailed through the years, we would still have prayer in the public schools in those states which allowed it; and yes, governors could lower the flags on state buildings if their state laws permitted it.

What those of you who graduate today face is a nation that has cast adrift from its ancient landmarks.

Unfortunately, the mariners of our Ship of State have, in recent decades, placed in jeopardy the liberties of our people by going

far astray of the intent of our Founding Fathers.

One of the vital reasons many Americans question whether constitutional government as we know it can survive is the ability of the Federal Courts to change its substance through misinterpretation.

What is at stake in this misconstruction of the constitution is not a dispute among theoreticians. Instead, it reaches to the very soul of personal liberty—your liberty and mine. And where there is no freedom religion is surpressed and man is enslaved.

One of the basic landmarks set by the drafters of the Constitution was the division of sovereignty between state and federal government.

In New Hampshire four years before the Federal Constitution was adopted, our constitution provided that the people of our state had the sole right to govern themselves as a free, sovereign and independent people except for those powers expressly delegated to the United States of America in Congress assembled.

This concept of a reserved sovereignty of the states was reaffirmed in 1792 by the adoption of the 10th amendment.

James Madison in the 45th paper of the Federalist told us what the drafters of the constitution intended should be the division of sovereignty between the state and federal governments.

Madison said, "The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.

Notice that the powers reserved to the States are to be those relating to the liberty, property and lives of the people.

The Founding Fathers thus never intended to create in Washington an all powerful Federal Government. Nor did they plan to invest the Federal judiciary with a power of interpretation that would place the courts in charge of running our schools, hospitals, and prisons, as is now being done in many of our States, with great inefficiency and intolerable expense.

Thus, the courts, in carrying America far afield from the ancient landmarks of our heritage are perverting the institutions of freedom fashioned by the drafters of the Constitution, into instruments of harassment and oppression by a rapidly developing, all-powerful central government.

At stake is your freedom and your future way of life.

Where then does the answer lie for a successful return to the ancient landmarks of our fathers.

I suggest that it must be in a better education of the people in whom the Founding Fathers intended the power of government was to be reposed.

Thomas Jefferson who eloquently contended that the power of government should be with the people said—

"I knew of no safe depository of the ultimate powers of society but the people themselves, and if we think them not enlightened enough to exercise that control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education.

Long ago the National Education Association recognized the power of education. A few years ago a former president of N.E.A. claimed that in a few years the president of that organization would be more powerful than the President of the United States.

They have lobbied for billions from the Congress. They have been responsible for the low quality of education in our public schools.

For example, in our State we have no general sales or income tax, which is considered an anachronism by the N.E.A. and is an anathema to them. This past year we led the Nation in our SAT scores; and yet those winning scores were well under what our high school students of ten years ago did!

The N.E.A. has become a militant striking force more interested in easy hours and high salaries than in the welfare and education of our public school students.

I am delighted to know that the Christian school movement of which you are a vital part is prospering mightily. It is estimated that there are 13,000 elementary and secondary Christian schools in the land today. The Christian school movement is the fastest growing educational phenomena in the nation.

Between the Catholic and Christian schools more than ten percent of our youth now receive their education. This is great because in those schools students are given religious training and are taught the basic fundamentals about constitutional government and the free enterprise system.

It has long been my contention that if America is to preserve its ancient landmarks of good government then we must develop for our schools a voucher system that would encourage competition between private and public schools. Such competition would guarantee a vast improvement in the quality of education.

I see no reason why religion cannot be taught in our Catholic and Christian schools while at the same time tax dollars, or some kind of voucher system, cannot be used to cover the cost of that portion of the curriculum not related to religious instruction.

It seems to me that if religion is a state issue and that Christianity is to be encouraged by the state, as suggested by Justice Story, then the states should be allowed to support private schools on a voucher system without interference from the Federal Judiciary.

A valid argument can be made that those who pay tuition for private schools are unconstitutionally being subjected to double taxation.

Friends, you are graduating at a crucial hour in America's history. You are, I am confident, well prepared for the struggles that lie ahead to preserve our precious liberty.

Your numbers are small, but so were the soldiers of Gideon.

If America is to survive the third century now unfolding, it will be because you have learned to walk hand in hand with your God, from whom you will receive the courage and the vision to move the mountain of bureaucratic obstruction that now clogs the American highways leading to a full Christian life.

As we are told in the Book of Leviticus, let it be one of your great missions to go and "proclaim liberty throughout the land". And in your goings and comings, may the Lord make his face to shine upon you always.●

THE 90TH ANNIVERSARY OF DOMINICAN LEADERSHIP

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mrs. HECKLER. Mr. Speaker, this year marks the 90th anniversary of Dominican leadership in southeastern Massachusetts, and I am pleased to have this opportunity to commend the Dominicans for their outstanding efforts in behalf of our communities.

The Dominicans came to this area in 1887 both as missionaries and as refugees from persecution in France. They were assigned the French parish of St. Anne in Fall River, Mass., and from this small church, the Dominicans established a great basilica, a hospital, and schools. The social services and educational opportunities which they provided have been a vital addition to the lives of not only the immigrants but the entire community of southeastern Massachusetts.

The selfless effort of these dedicated religious are deeply appreciated and admired, and it is a privilege to bring the exceptional work of the Dominicans to the attention of my colleagues in the Congress.●

UNITED STATES-CHINA RELATIONS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. CRANE. Mr. Speaker, another example of the Carter administration's diplomatic double standard is taking place. On Saturday, May 20, 1978, Chiang Ching-Kuo (son of Chiang Kai-Shek) will be inaugurated as President of the Republic of China (ROC). Chiang Ching-Kuo has been elected to the Presidency by popular vote having served as Premier of the ROC. Of a different era than his father, he is a genuinely popular and democratic politician. It is disgraceful that the U.S. Government does not see fit to send a high-level administration representative to this event. This deplorable diplomatic conduct is one more step in the long line of U.S. slights which have been going on for several years.

Adding insult to injury, Zbigniew Brzezinski will be in Peking for discussions with Communist officials at the time of the inauguration. His visit constitutes yet another move to ingratiate the United States with the People's Republic of China (PRC). Yet it is the ROC, Nationalist China, which represents all the qualities of freedom for which the United States stands, not the PRC. Rosalyn Carter attended the inauguration of the Costa Rican President in San Jose. Costa Rica, a country having no sizable business with the Soviet Union, has allowed them to build and operate a large embassy complex employing approximately 500 Soviet personnel since 1972. This complex is considered the operations center for KGB activities directed primarily against Panama and Nicaragua. So a country with substantial contacts and dealings with the Communists, and acting as a host for Marxist guerrilla of KGB subversive activities, is visited by our President's wife, while a country unquestionably deserving of our support is subjected

to a calculated campaign to progressively downgrade, undercut, and ignore them.

The Republic of China is a model of moral, economic, and democratic excellence to Asia and the Third World. With initial American assistance, Nationalist China has grown to be a strong economic entity respected throughout the free world. In 1976, the per capita income in the ROC was $1,050. In the PRC it was $320 for the same period. For the same year, 82 percent of the farmers were full owners of their farm lands, 9 percent were part owners and 9 percent were tenants. We know how that compares with farmers in the PRC. U.S. trade with the ROC in 1976 was $4.8 billion versus $492 million with the PRC for the same period. Obviously, Nationalist China is an old and good market for U.S. products and services, especially agricultural. Economically the ROC has outperformed and provided greater benefit to her people than the PRC. She has one of the most equitable distributions of income in the world, indicating a high degree of social justice. In short, the United States has a very real moral and economic stake in the ROC's future. She has been a strong and loyal ally. What possible benefit can accrue from the shabby manner in which we have been treating the Republic of China? How must our allies look upon these actions?

In conclusion, Mr. Speaker, I would like to say that I hope it is not too late for the administration to find out that the central issue is that we cannot sacrifice our friends and reward our enemies, and survive as a free, prosperous, and respected Nation.

This morning's Washington Post has an article by columnist George F. Will relevant to this debate which I insert at this point:

[From the Washington Post, May 18, 1978]

A "DEFEATIST CONSENSUS" IN FOREIGN POLICY

(By George F. Will)

As is often the case with the Carter administration, the kindest interpretation of the timing of Zbigniew Brzezinski's trip to Peking is that the administration does not know what it is doing. As is often the case, that interpretation is too kind.

The administration allowed the national security adviser's trip to be scheduled to begin May 20, the day the Republic of China (Taiwan) will inaugurate a new president. No representative of the Carter administration will attend the inauguration. The administration is collaborating with the communists in signaling disdain for a nation with which the United States has—inconveniently, in the opinion of some people—relations of friendship, a defense treaty and trade second only to that with Japan among Pacific nations.

The administration is riddled with people who would, if they could, sever ties with the Republic of China and leave it at the mercy of Peking. They cannot do so because Congress and the country would not stand for it. And there is fresh evidence that a movement of opposition to the administration's foreign policy is taking shape and finding voice.

The evidence is in the transcript of a conversation published in the American Enterprise Institute's magazine Public Opinion (May–June, 1978). The conversationalists, Henry Kissinger and Sen. Daniel Moynihan (D-N.Y.), agree that (in Kissinger's words) "at the second and third levels of this administration, many people came in who are 'graduates' of [the] Vietnam period. . . . They have convictions that if America is not to be punished for its presumption, then at least we must be sure that the country is never presumptuous enough to undertake any more distant enterprises."

One problem, according to Kissinger, is the recurring tendency of complacent societies "to escape current dilemmas by making the most favorable assumption about the future. This temptation . . . is one reason why the communist challenge has been interpreted in the most benign fashion in every decade in the existence of communism." Moynihan believes that another important problem today is fear, as shown in recent debates about Africa.

"We are continually told today," says Moynihan, "that we have to do this or that, accept this or that unattractive option because if we do not, the Russians will send in the Cubans. And this settles an argument!" "What has become of our country," asks Kissinger, "when we explain foreign policy by the myth of the invincible Cubans?"

What Kissinger calls the "defeatist consensus" in the "traditional establishment" is apparent in the administration's approach to strategic arms limitation.

"Remarkably," says Moynihan, "we now have senior officials of this administration coming around to us in the Senate saying we must have a SALT treaty soon because if we do not, by the mid-1980s the Soviet will have surpassed us in strategic power. I can imagine what you, Henry, would think about a negotiating position in which the other side had only to wait 2,000 days to get where they want to be."

Surely, Moynihan insists, the United States must be able to make a believable threat to increase its defense effort enough to convince the Soviets that they must negotiate acceptable limits. The administration is unwilling to make any such threat, and as Moynihan says, "If you have psychologically discarded that bargaining technique, then, in fact, you are disarmed."

The similarity of Kissinger's and Moynihan's views is interesting; so is the dissimilarity of their situations. When Moynihan, a Democrat with a large and growing constituency in the country, agrees with Kissinger's diagnosis ("I do not believe . . . that there is a public problem. In this country we have a leadership problem."), the logic of Moynihan's thought points toward action.

When Moynihan says that "American policy is beginning to accommodate to the assumption that the Soviets are now, or soon will be, the superior military power," he and the administration do not have what Milton called "neighboring differences." What is at issue is fundamental. It is the adequacy of the administration's policy affecting the safety of the state. And in a nation that provides for regular and orderly challenges to incumbent leadership, such an issue should produce a political challenge.●

MARGARET MATTHEWS EMBARKS ON 62D YEAR OF COMMUNITY SERVICE

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. MARKS. Mr. Speaker, honoring someone for 61 years of community service would ordinarily be tribute enough for one who might be retiring, but for someone who has served capably for 61 years and about to embark on her 62d year of service immediately following a tribute banquet, is something a bit different.

Such is the case of Mrs. Ralph Matthews, the long-time director of services for the Mercer County Chapter of the American Red Cross, who is being honored by her friends and associates, Saturday, May 20. Margaret Matthews began her work in the Red Cross as a high school sophomore who volunteered her service when the United States entered World War I in 1917. Not long after, in April of 1918, she began to work full-time and since then has served so capably, especially in the area of service to the members of the armed forces and their families.

She not only was the helping hand in time of war, but also in time of flood, fire, death or in general counseling. Her work in the area of the veterans put her in touch with just about every family in Mercer County at one time or another. She has also been most helpful to my office in our work with service-related cases.

While Margaret has devoted her life's career to the Red Cross, she has also been a devoted wife, mother and grandmother—a true friend to everyone, and for this, I acknowledge her to my colleagues and wish her continued good health and success in the future.●

COMMITMENT TO END HUNGER

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. STEERS. Mr. Speaker, this past Sunday, several hundred dedicated men and women and young people braved rainy skies at the Washington Monument grounds to celebrate the abundance of Mother Earth and support efforts to use that abundance to end hunger on our planet within this generation.

It gave me great pleasure to participate in and witness this spirited celebration—sponsored by the Washington Hunger Project Committee—1 of 32 Hunger Project Committees nationwide. Sunday's event—marked by bountiful displays of food—was a comment on the fact that there is no scarcity of food and that, in fact, food scarcity is not the reason why 15 to 20 million people die from starvation each year.

Indeed, hunger and malnutrition are not the world's inheritance. To the extent that they exist, they do so more through price, maldistribution, and agricultural underdevelopment rather than scarcity.

The Hunger Project, a nonprofit charitable organization founded in 1977, seeks to create a climate whereby people are aligned in the commitment to ending hunger and starvation worldwide. By harnessing the energies of individuals and organizations who share the common goal of ending starvation, the

Hunger Project hopes to realize its goal within two decades.

Though only a year old, the Hunger Project now involves 110,000 persons in the United States and 40 countries, including 8,000 enrolled in the project in the Washington area.

Because of this positive experience on Sunday, I was particularly pleased the other day to receive a letter from the White House describing progress in establishing the domestic grain reserve program. An aim of the program is to insure that the United States will remain a dependable supplier of grains to the world. The letter provides a kind of status report which I would like to share with you:

THE WHITE HOUSE,
Washington, May 12, 1978.

DEAR CONGRESSMAN STEERS: Since you were kind enough to write earlier in the year expressing support for the domestic grain reserve program we announced last fall, I thought you might be interested in a brief progress report on its formation.

As I believe you know, this Administration is fully committed to establishing a domestic reserve and making it an effective part of our overall food and agricultural policy. We initially set goals of 330 million bushels of wheat and 670 million bushels of feed grains (corn equivalent). The initial goal for wheat is fast becoming a reality. As of May 2, farmers had put over 318 million bushels of wheat in the reserve.

We have taken several actions to strengthen the program since it was first announced. Some of these were actions you recommended. On January 27, we announced that early entry into the reserve for wheat, barley, and oats would be permitted. Also, the annual storage payment for grains in the reserve was increased from 20 to 25 cents per bushel. On March 29, the Vice President announced that the reserve would be expanded and that interest will not be charged on grains after the first year in the reserve.

Thank you again for your interest and support. I look forward to any further suggestions you might have on improving the effectiveness of this program.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President
for Domestic Affairs and Policy.●

INFLATION RESOLUTION BY OHIO HOME BUILDERS

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. DEVINE. Mr. Speaker, the National Association of Home Builders, on May 15, 1978, adopted a resolution which, in my opinion, takes a positive position in the fight against inflation. It is refreshing to have an organization in the private sector recognize and address one of the key issues facing this Nation and the taxpayers.

Members of the Ohio Home Builders Association made the following resolution available to me, and I feel it is important the contents be made known publicly, as well as to all of our colleagues:

NAHB STATEMENT ON INFLATION

Inflation is this nation's number one domestic problem.

There is no mystery about the causes of inflation. It has been correctly diagnosed many times before. Huge government deficits, the wage-price spiral, inflationary expectations and our nation's continued dependence on foreign oil have produced an inflation rate of close to 8% that weakens our economy both at home and abroad.

Yet, little is being done. The Congress is reluctant to cut its spending policies. The Administration has proposed another $60 billion federal deficit for fiscal 1979. Industry and labor show no desire to restrain wages and prices. The energy bill remains deadlocked in the Congress after more than a year of debate.

Consequently, the Federal Reserve Board has adopted a policy of high interest rates and tight money—a policy that historically has spelled disaster for potential home buyers. The most recent example was 1974 when the prime interest rate reached 12% which pushed mortage interest rates to 14%.

President Carter captured the essence of the problem in his recent address on inflation.

"We want to conserve energy, but not to change our wasteful habits. We favor sacrifice, so long as someone else goes first. We want to abolish tax loopholes, unless it's our loophole. We denounce special interests, except for our own.

"No act of Congress, no program of our Government, no order of mine as President, can bring out the quality that we need to change from the preoccupation with self that can cripple our national will to a willingness to acknowledge and to sacrifice for the common good."

The 102,000 members of the National Association of Home Builders wholeheartedly agree with the President. What this country lacks is not the ability to fight inflation, but the will to fight inflation. Therefore we propose:

First. That the Congress of the United States and the administration proceed immediately toward a balanced budget, and that there be no tax cuts so long as there is a deficit in the Federal budget. We fully realize that balancing the budget would require Federal budget cuts across the board including housing.

Second. That there be an immediate freeze on Federal civil service hiring until a 10 percent reduction in the number of civil service employees is accomplished through attrition. Moreover, NAHB supports President Carter's program to reform the civil service.

Third. That the proliferation of Federal, State and local regulations—a prime force behind inflation—be curbed by such legislation as a sunset law calling for periodic review of existing regulations and programs.

Fourth. That the Federal Government restrain wage and salary increases as an example to State and local governments and to the private sector.

Fifth. That Congress continue careful consideration of any new legislation and that Federal agencies review any new regulations and their timetables for implementation—including excessive environmental regulations—for their potential inflationary impact.

Sixth. That the Congress immediately pass an energy bill with emphasis on researching and developing new energy sources with practical application for the majority of Americans.

Seventh. That President Carter continue to explore ways to relieve inflationary pressures as exemplified by his recent charge to his administration to report on ways to expand the timber harvests from national forests in order to reduce lumber prices.

That the NAHB membership stand ready to support and assist in meeting the above objectives and that we urge other industries to make this a joint effort.●

CONGRESSIONAL SENIOR INTERN PROGRAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. DRINAN. Mr. Speaker, since its beginning in 1973 the Congressional Senior Citizen Intern Program has emerged as a major event in May—the month designated to honor our Nation's older citizens. Although the program has expanded from 11 interns in 1973 to 146 participants this year, representing 100 Members of Congress, we still do not have a formal internship program. Tomorrow concludes the 1978 program and it is my hope that congressional interest in this effort will not depart with this year's interns.

There has been much said of the success and usefulness of these internships both for the participants and the sponsors. The program provides an opportunity for older citizens to develop a better understanding of the executive and legislative branches of Government. The participants are leaders in their communities who will take what they have learned and put it to practical use when they return home.

Given the abundance of Federal laws and programs affecting the older population, it makes sense to offer this type of exposure to the workings of Congress and the agencies which administer older Americans programs. Much attention is paid to statistics showing the growth of our older population and much tribute is paid to the growing political force which this segment of our society represents.

Older Americans are uniting to bring about an end to age discrimination, an end to both social and economic isolation and an end to the alienation which confronts all too many citizens when they are forced to withdraw from the mainstream of life. A program such as this puts substance behind our words for although short in duration it provides a familiarity with the processes of Government which must be used in bringing about change in the treatment of older citizens.

This year I am pleased to sponsor Ms. Eleanor McBreen from Waltham, Massachusetts as a participant in this program. For 40 years Ms. McBreen directed the speech education program in the Watertown school system. She has continued her work in assisting the handicapped through a class she conducts for hearing-impaired senior citizens. She is a dynamic and able person whose energies are directed at concerns of both older and handicapped persons. She is past president of the Waltham Senior

Citizens Club and vice president of the South Middlesex Chapter of the Massachusetts Retired Teachers Association. Having her here has been of great value for me and my staff.

As this year's program concludes I would like to commend my colleague Congressman HILLIS for his dedication to this effort. Without his support and that of his able and dedicated staff member, Ms. Donna Norton, we would not have had a program this year or in the past. Ms. Norton deserves our admiration and appreciation for the splendid job she does each year in organizing and administering this program.

I hope that by May of 1979 we will have adopted a formal internship program so that older citizens just as the many students who participate in Washington internships, will have an opportunity to visit Washington to receive first-hand knowledge and experience about the workings of Government.

REHABILITATION OF THE JUVENILE DELINQUENT

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. MICHAEL O. MYERS. Mr. Speaker, one of the major problems in our country today is juvenile delinquency and its rehabilitative process. Thus far, we have been unsuccessful in the approaches that have been used and the prognosis for the future remains dismal.

It has come to my attention that there is in my State, the Commonwealth of Pennsylvania, a school that has shown some success with the adjudicated delinquent juvenile male. That school is the Glen Mills Schools, in the village of Glen Mills, Pa. It is a private nonprofit school, based on free enterprise, using initiative to create programs geared to the individual needs of each adjudicated youth.

Glen Mills is an exclusive school: Exclusively for hostile, aggressive, hardcore, antisocial, delinquent adolescents with a deep resistance to authority, and a grudge against society. Yet, Glen Mills Schools is an open community. There are no fences, bars, guards, lockups, detention facilities, or physical punishments. The philosophy of the Glen Mills Schools is both simple and profound: Growth through group and peer interaction as well as staff guidance and instruction. Its aims are to help students in their own personal growth and their growth within the group relationship; to give opportunities to learn academically, vocationally, and athletically; to learn responsibility to other individuals, society, and their self; to learn to cultivate skills; to learn the requirements and rewards of work well done; to learn to confront each other, help each other, express concern for each other and themselves; to learn to exchange the social problems that got them into trouble for social progress.

To the extent that this approach has been successful, I would like to note that the Pennsylvania Department of Public Welfare has told Glen Mills Schools that they are the best school for juvenile delinquents in the Commonwealth of Pennsylvania. The southeast region of the department of public welfare has encouraged them to further expand their programs. At the behest of commissioner, Dr. Margaret Susnowski, the administrators of all the departments in the Philadelphia Department of Public Welfare came for training to Glen Mills Schools. The prison system of the Philadelphia Department of Public Welfare is negotiating a contract for training of their second level staff with Glen Mills Schools. Bryn Mawr College has encouraged the interest of the department of education and child development in their joint venture with Glen Mills Schools in creating a field learning center to teach "A Sociological Approach to the Field of Juvenile Delinquency." Pennsylvania commissioner for basic education, Frank S. Manchester, has designated Glen Mills Schools on an experimental basis to, first, develop materials for field testing in the project 81 model districts; second, to serve as a field test site for project 81 components; and third, to play an instrumental role in the development of alternative education under project 81 for the State of Pennsylvania. Glen Mills Schools has also given training to the Delaware State Correctional Institution, Bryn Mawr College, West Chester State College, and other school groups. From 1975 to the present, counties utilizing the services of Glen Mills Schools have grown from four in the southeast region to 27 counties statewide. The Glen Mills Schools is also in the process of developing an environmental education center, and other Members of Congress from my State have taken a great interest in this project.

Founded in 1826, the second oldest training school in this country and originally known as the House of Refuge of Philadelphia, the Glen Mills Schools, a private nonprofit corporation has continually served adjudicated delinquent males for 152 years. It has a diversification of programs consisting of residential living, transitional living, day programs, summer camp programs, an intensive learning center, and a thrust into the community.

Success in dealing with juvenile offenders can point the way to overall change in dealing with the causes of deviant behavior. It is necessary to teach a concept which embraces peer support for individual accountability, a dedication to human dignity, the development of the individual sense of self in an environment which enables and promotes academic and vocational learning, a practical preparation for the student's return to society, and a promise of continuing encouragement through the readjustment period.

I bring all of this to your attention to show that a total approach concept in the rehabilitation of juvenile delinquents can be successful. The Glen Mills Schools' objective has been, and continues to be, efficient management with the best programs possible at the lowest cost, and in this day of inflation and rising costs, is but one of a very few schools who are reducing fees rather than increasing them. In the process they are also expanding opportunities and programs for adjudicated delinquent youth. This new thrust developed by a nonprofit agency within the free enterprise system, which offers rich rewards in success and gratification, is one that the public sector should be looking at.●

CLEAN AIR CAN EARN ITS KEEP

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. WAXMAN. Mr. Speaker, debate is currently raging over the impact of environmental regulations and requirements on inflation. The utility, steel, and oil industries have seized on environmental controls as being the prime cause of a stagnant economy and rising prices. The result has been a growing assault on a decade's work by the Congress to protect and enhance the quality of our air, land, and water resources.

Such attacks are completely unfounded—a smokescreen behind which lurk other, more profound economic ills. The pollution control industry is big business, contributing to a growing GNP and higher employment. It employs more than 10 times the number of people who have lost their jobs from plant closings due to persistent violations of the law. The development and growth of this industry demonstrates conclusively that increased productivity and environmental protection are compatible.

Such a perspective is enjoying increasing support in the business community. Ira Kukin, president of Apollo Chemical Corp., recently wrote an article for Finance magazine which addresses these issues. I am pleased to share it with my colleagues:

[From Finance Magazine, March 1978]

CLEAN AIR CAN EARN ITS KEEP

(By Ira Kukin)

"A billion here, a billion there," the late Everett Dirksen used to chuckle, "and pretty soon you are getting into real money." It's no secret that for some years now, this country's pollution-control efforts have been "getting into real money." In 1977 alone, U.S. industry, government and consumers spent $40.6 billion on pollution control, according to current estimates of the President's Council on Environmental Quality (CEQ)—or approximately $187 for every man, woman and child in the population. Put another way, pollution abatement represented 2.1 percent of our Gross National Product last year, up from 1.7 percent as recently as 1973.

What's more, the pace is picking up tremendously. CEQ projects outlays of nearly $300 billion, attributable directly to environmental regulations, for the decade 1976–85. But what with inflation, and the consider-

able environmental expenditures not directly tied to legislation, the overall ten-year total could well be closer to twice that amount by '85. Just one of the new requirements of the 1977 Clean Air Act Amendments—i.e., to protect air quality in areas already cleaner than the standards mandated—is expected to add billions of dollars to the costs, with electric utilities (as usual) bearing the brunt of it.

DOWN THE TUBE, OR UP THE OUTPUT?

Pollution control has become real money indeed. It has also caused a great deal of soul-searching and resentment among broad segments of the business community. For the costs of environmentalism are generally depicted as "non-productive," and hence a drain on the economy; they are said to divert capital from productive investment, the kind that produces goods, jobs, profits and dividends.

There is, obviously, some truth to this argument, though it has been challenged repeatedly by government officials and private-sector environmentalists. But now we are beginning to see signs that this vast national commitment of funds, research, engineering and management talent is, in fact, yielding some quite positive—and often unexpected—results for our economy, quite apart from the clear benefit we all derive from cleaner air and water.

For one thing, on a strictly bread-and-butter level, it has given rise to a whole new field of scientific, industrial and managerial endeavor, creating hundreds of thousands of new jobs. The various elements of the pollution-control industry, taken together, employ an estimated 300,000 people directly—and provide perhaps twice that many more jobs in related fields, ranging from construction to ceramics (for catalytic-converter manufacture). Unemployment figures in recent years, according to U.S. estimates, might have been at least 0.5 per cent higher without expenditures for pollution-control plant and equipment.

But one of the most intriguing (and least expected) results has been the stimulus given American industry to get up and take a fresh look at the whole production process. While "fixing" pollution, you might as well fix all those other things that long have needed attention. The effect has been especially noticeable in the more mature businesses. The result, as often as not, has been a far more productive, more efficient plant.

Still another key by-product of pollution control has been, of course, the by-products. Again, this wasn't planned by those who dreamed up the legislation, but with hindsight seems inevitable. Moreover, the availability of such by-products as sulfur, mercury, ammonia and aromatics, in amounts large enough to support part of the petrochemical industry and a major portion of the fertilizer industry, could have far-reaching effects on both the geography and the economics of those industries. As Milton Godfrey, president of the Econoscope Group, told a recent meeting of the Synthetic Organic Chemical Manufacturers:

"When these same raw materials become pervasively available as by-products of burning coal, smelting copper or refining petroleum, the changed raw material and transportation costs will militate in favor of plants located close to markets, thinning out the present chemical plant concentrations in New Jersey and along the Gulf Coast."

And Mr. Godfrey went on to make this point: "New processes, better economics and broad geographic distribution, all resulting directly from pollution abatement, should support the next major phase in the development of the chemical industry." The principal change, from basic raw materials to byproducts as the source of supply, is particularly significant in view of the declining domestic stocks of natural gas and oil, and the unprecedentedly high prices charged for them by foreign producers.

CLEAR AND PRESENT DANGER: NO DATA

Few studies, if any, have yet been undertaken of these wide-ranging, positive effects of the pollution-control program. Indeed, a recent literature search on the subject by the National Science Foundation concluded: "There is a clear need for careful research in this area." One related study, financed by NSF, examined the impact of government regulation on technological innovation in five foreign countries; it concluded that local environmental regulation (among other things) had been instrumental in stimulating innovation among certain large industries previously afflicted with "inertia."

We already know that the impact on the domestic auto industry continues to be substantial. Pulp and paper companies have successfully developed profitable product lines from recycled waste. Chemical companies have changed many of their processes to eliminate pollutants, with substantial economic benefits.

Along with these windfalls, there is another kind of good news for the bottom line. The cost of pollution control, in terms of clean-up equipment and systems, may turn out to be substantially below expectations. Here, as in other walks of life, experience is a good teacher: pollution-control processes are being refined and improved, new systems and products being developed. Increasingly, new ways to link pollution control with energy conservation are coming on stream.

This is especially true in the burgeoning technology of coal utilization for power and industrial processes. Already, major strides have been made in the use of chemicals to boost output from low-sulfur, coal-burning generating plants, without affecting the environment. For example, with a chemical system costing less than $100,000, Montana Power Co. restored the operating load of one of its units to full power (from 148 Mw to 163 Mw) while staying within the limits posted by clean-air regulations. Best of all, Montana Power saved approximately $3.4 million on capital investment for retrofit hardware, plus $380,000 annually in operating costs.

A New England utility, after switching from oil to low-sulfur coal, found it had to down-rate its boiler from 650 Mw to 450 Mw in order to stay within clean-air requirements. (Low-sulfur coal can cause fly-ash particles to be emitted into the atmosphere.) After treatment with a chemical process, the boiler was again able to comply with state and federal air quality regulations, even operating at full power. That has conserved valuable oil supplies while, not incidentally, saving the company (and its customers) some $16,700 a day.

Chemical processes which improve pollution-control hardware, such as electrostatic precipitators and mechanical collectors, still are relatively new on the scene, but already have saved utilities and other industries hundreds of millions of dollars. They not only help to make coal environmentally acceptable, but also reduce substantially the cost of equipment, operation and maintenance. It's estimated that since 1974, such systems as developed by Apollo Chemical alone have saved the power industry more than $300 million in capital investment and $50 million in annual operating cost. Within the next three years, these total savings will mount to some $2.5 billion and $500 million, respectively, for just the utility customers of my company.

FACTORING IN FUTURE BREAKTHROUGHS

Indeed, the rapid pace of development makes cost forecasting exercises difficult. Most such projections contain a generous allowance for inflation, but I know of none which allows for the likely gains in improved processes and greater efficiency. Yet the record indicates that these may well be a far greater determinant of actual future costs. And just as some of the present chemical processes did not exist five years ago, we expect to make several more important breakthroughs in another five years time. One problem we all face is that of getting improvements to market before prime customers are to far committed to less efficient systems.

I can't stress too strongly the fact that the technology is available now to overcome many of the most pressing environmental barriers, particularly those associated with coal-burning facilities. Much of this technology, however, remains underutilized—and apparently unknown—by the very people who need it or (in government) deal with it. Until a solution is found to this communications lag, I'm afraid our industries will continue to spend hundreds of millions of dollars unnecessarily. And their unfortunate but inevitable complaints will be justified.

In the long run, the mounting costs for pollution control almost surely will be offset by an equally impressive set of figures reflecting greater industrial efficiency, improved fuel conservation and the profitable recycling of those same waste materials responsible for the pollution in the first place. Our rigorous environment-protection laws will then prove to have been the improbable catalyst (the castor oil, if you will) which we have been forced to digest—and have made so much fuss about—for our own good.●

CHRISTIAN HERALD WEEK

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. OTTINGER. Mr. Speaker, our former colleague, Gov. Hugh Carey of New York, has proclaimed the week of May 21–27 as Christian Herald Week. I would like to share with my colleagues at this time his proclamation:

Christian Herald, an independent, evangelical family magazine, is observing one hundred years of continuous publication. Since 1878, Christian Herald has been recognized as one of the foremost interdenominational publications.

Prior to government aid programs and international welfare and child-care agencies, Christian Herald recruited financial support from its readers for those around the world who were suffering from plagues and famine. It has been a long time leader in stressing the need for church unity and brotherhood.

Today, Christian Herald continues to minister to individuals through the generosity of its readers and donors. Christian Herald's Bowery Mission in New York City lends a helping hand to hundreds of destitute men each year. In nearly one hundred years of service, the Bowery Mission has provided compassionate counseling, physical aid and the opportunity for rehabilitation to countless numbers of men.

Christian Herald's Children's Home has served needy children for almost 85 years. It offers a camping experience to thousands of city children at Mont Lawn Camp and the year-round services of a dedicated counseling staff. This inner-city ministry offers tutoring and guidance to children in their formative years and, for many, culminates in financial educational assistance and career counseling.

Throughout a century of publishing, Christian Herald magazine has offered inspiration and guidance for daily living to its readers and over the years provided the cata-

lyst for ministries of "Compassion and Help" to thousands of needy persons. It is appropriate, therefore, that this 100th anniversary of continuous service to the citizens of New York State and elsewhere in this great Nation be recognized.●

EXTREMIST ATTACKS ON TERENCE TODMAN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. McDONALD. Mr. Speaker, the Council on Hemispheric Affairs (COHA) pretends to be a nonpartisan human rights group, but according to the candid admission of its founder and director, Laurence R. Birns, COHA was formed as a vehicle with which "to manipulate the sophisticated political and academic communities" as a byproduct of the 1976 Mexico City meetings of the Soviet KGB-controlled International Commission of Inquiry into the crimes of the Chilean Junta.

COHA's offices are the apartments of its director, Larry Birns, at 30 Fifth Avenue in New York City and its assistant director, Horacio Daniel Lofredo, an Argentinian, at 1735 New Hampshire Avenue NW., here in Washington. Lofredo and a U.S. citizen, Olga Talamante, are also codirectors of the Comision Argentina por los Derechos Humanos (CADHU)—Argentine Commission for Human Rights—a lobbying group working for a cutoff of all U.S. military and economic aid to Argentina. Talamante was arrested in Argentina in 1974 when a meeting of Montoneros and ERP terrorists was raided. Since her return to the United States, she has worked with support groups for the Cuban-controlled Revolutionary Coordinating Committee (JCR) of terrorist groups from Chile, Argentina, Bolivia, and Uruguay. CADHU's letterhead states it has offices in Rome, Paris, and other capitals where JCR exiles are active; and the Department of Justice went to court last year to require Lofredo and Talamante to register according to the provisions of the Foreign Agents Registration Act.

Detailed background on COHA and some of its more active trustees was provided in these pages on April 5, 1977, 10584, and October 5, 1977, 32539–32541. That information provides insight into the reason COHA has carried out a vituperative attack on Assistant Secretary of State for Inter-American Affairs Terence A. Todman from the time his appointment was first announced.

COHA's attacks on Mr. Todman are based on the fact that he is a professional foreign service officer in the best sense of the term and that he has declined to cooperate with the radical "Christopher group" faction in the State Department in making inflated and distorted charges of human rights violations against certain anticommunist Latin American governments. The countries selected for attack by the "Christopher group" have been the same as those being smeared by Havana and Moscow. It is also a fact that these countries such as Chile, Argentina, and Nicaragua have been the targets for Cuban-supported subversion and terrorism.

At the end of last year, COHA released a two-page "human rights report" that Goebbles could have claimed. It attacked Bolivia, Nicaragua, Guatemala, and El Salvador for organized rightist violence which is government condoned; Chile for only seemingly moving away from mass killings and covert abduction of political opponents; and Argentina and Uruguay for systematic use of torture. Only Venezuela received COHA's praise, with Mexico and Costa Rica receiving mild slaps for less than perfect grades. There was no mention of any violations of human rights in Cuba, or in countries alined with the Communist bloc such as Guyana, Jamaica, Panama, or Peru.

The COHA report said that apparently Deputy Secretary of State Warren Christopher, the State Department's human rights and policy planning offices, plus a handful of enlightened career foreign service officers have ended any possibility of future U.S. interventions in this hemisphere, accounting for the high esteem for United States-Latin American policies held today even by extreme leftists.

Mr. Todman, most regrettably, has announced his resignation as Assistant Secretary of State. Although COHA's motormouth chief cook and bottle washer, Larry Birns, has continued his slurs against Mr. Todman, the Latin American press has caught on to COHA. To set the record straight, I refer my colleagues to an editorial published in the May 10, 1978 issue of the Times of the Americas and its accompanying news article:

[From the Times of the Americas, May 10, 1978]

THE ASSISTANT SECRETARYSHIP

The Terence Todman matter is one that cannot be overlooked by any responsible Hemisphere publication. Mistakes in our Latin American policy seldom come into clear focus, and they normally take place in front of an audience so apathetic that there is little or no outcry. Thus, a proper and dignified public servant like Mr. Todman walks off center stage into the wings (probably happily) with very little applause, and with even less understanding of why his act was so short. In the present case, all we know is what we read in the press, and the fact is that Mr. Todman is still United States Assistant Secretary of State for Inter-American Affairs. It is suggested that you now read the page three report on the Todman affair from the spritely The Tico Times, as well as the excerpts from a recent Todman speech to a labor audience. We will assume, as lawyers are wont to say, that the contents of page three are now incorporated herein.

His presumed early departure (from an office where the average tenure is less than a year and a half) is a sadness for many reasons, but we shall only comment on one of them here. That one is the possible effects that attacks from The Council on Hemispheric Affairs may have had on this happening. The Council, or Laurence R. Birns, its director, was first upset when Todman got the job rather than its favorite son, Esteban Torres, a California labor leader. Birns' anger ("a stab in the back") centered on the irrelevancy that Torres was an Hispanic and therefore, by some undefined reasoning, entitled to a full claim on the Assistant Secretaryship. Ever since then Larry et al have had their sights leveled on Todman, and we offer his own San José interview as evidence that supports this statement.

We have checked with only three persons named on the Council's Board of Trustees in mid-1977. Two of them told us that they had resigned, since the Council had "drifted from issues and become highly personalized." The third check was made with the office of Congressman Donald Fraser where we were told that, yes, the Congressman remains a Trustee but that, no, he had not been consulted on the Todman matter.

Now our point in all of this is quite simple. The Council makes a point of establishing that it is used "repeatedly" by the Washington Post and The New York Times, and this is borne out by an analysis of dispatches in those prestigious papers on Latin America. Thus, stories on Chile normally have a "second paragraph" that starts out to say: "However the Council on Hemispheric Affairs says. . . ." and then goes on to say how the Council feels about things in that country under the present administration. It is probable that the Council is nothing more than a source of convenience since few organizations trouble to comment as persistently on its pet issues as does Mr. Birns.

But the fact remains that it is most unseemly for an outstanding public official to find that his reasonable and rational statements, (that, roughly, you cannot end all dictatorships overnight, and that life must go on meanwhile), should have brought down on his head the wrath of the administration he serves. It would be doubly unfortunate if that wrath was even partially kindled by a small segment of Latin American thought, like the Council on Hemispheric Affairs, that has managed to push its way to the front stalls and pelt the leading actor.

[From the Times of the Americas, May 10, 1978]

TERENCE TODMAN

Official and business circles alike told The Tico Times this week that they were "frankly baffled" by a recent vituperative attack made against Terence Todman, U.S. Assistant Secretary of State for Inter-American Affairs, by Laurence Birns, director of the privately-funded Council on Hemispheric Affairs.

Birns charged that Todman is the "chief negative force blocking the human rights policies of President Jimmy Carter" in an interview with Eduardo Ulibarri, international editor of the newspaper La Nacion of this city.

Birns, in town for the visit of Mario Soares, the Socialist prime minister of Portugal, termed Todman the "chief apologist for Somoza" and added that "he knows nothing about Latin America, but despite this, he exercises an important influence on the daily policies of the United States in this area."

Foreign Minister Gonzalo Facio, one of Latin America's major statesmen for the last quarter-century as well as a chief architect of negotiations leading to the Panama Canal treaties, was quick to repudiate Birns' assertions.

"It would seem to me that it is Birns who knows nothing about Latin America," Facio said. "As least, he obviously knows nothing about Latin American realities.

"His comments on Terrence Todman can only be the product of ignorance. We who know Ambassador Todman can truthfully say that the United States has never sent a better qualified representative to this area, and we feel he was by far the most qualified man for the post he now occupies.

"To say that Todman knows little about Latin America is simply a fantastic misrepresentation; he probably knows and understands more about Latin America and Latin

Americans than Birns and all his group put together."

Both President Daniel Oduber and President-elect Rodrigo Carazo agreed that Todman was "one of the finest and most understanding U.S. representatives ever sent here" and termed Birns' remarks "completely unjustified."

Julio Suñol, associate editor of La Nación, said "Birns is the only person I have ever known of who attacked Todman because of human rights; that is ridiculous. Todman was known throughout Latin America as an outspoken advocate of human rights. He said to me once: 'That has been the story of my life.'"

Suñol said he was shocked when the Birns' interview came across his desk.

"But this newspaper had been publishing nothing but praise of Todman since he first came to Costa Rica, and I thought we might as well give some space to his enemy when he wanted to spout off," the editor said.

Suñol said that as far as he knew the Council on Hemispheric Affairs, a New York-based group, had "little influence or importance in Latin America", adding:

"They certainly were off-base in their 1977 review of human rights performance in Latin America, when they placed Venezuela ahead of Costa Rica on its human rights record. Even Carlos Andrés-Pérez would disagree with that."

The Venezuelan president, Carlos Andrés-Pérez, worked eight years as a journalist in Costa Rica when he was living in exile from the Pérez Jiménez dictatorship in Venezuela, and is a close friend of Suñol.

U.S. Ambassador Marvin Weissman, a close friend and admirer of Todman, was incensed by Birns' remarks.

"All I can say is that since I've been on this post, I have made it my duty to get around Costa Rica as much as possible," Weissman said.

"Everywhere I go, I find that Todman had been before, when he was ambassador here. And I yet have to find one person who expressed anything but the deepest admiration for him.

"They remember him as a brother, one of the family. And these are common folk, not government officials or diplomats."

The 1977 human rights report to which Suñol referred stated that "aside from Venezuela, which was found to have the hemisphere's best human rights record, no Latin American nation was awarded a high human rights score. Mexico and Costa Rica, generally considered to be important human rights advocates, had less than perfect grades. . . ."

Publication of the Council's findings in January by The Tico Times provoked a local outcry, typical of which was a comment by Dr. Carlos Manuel Castillo, who had served as first vice-president under President Daniel Oduber and is an internationally known economist.

"Anyone who rates Costa Rica below Venezuela on human rights just doesn't know what's going on in Latin America," Castillo said.

After the story had appeared under the headline "Rights Abuse Charge Stirs Local Uproar". Birns wrote a letter of protest to this newspaper, in which, he said:

"What we found particularly offensive was (your description) of our organization as a privately funded leftwing organization which is generally more interested in ideologies than in facts from Latin America." In all fairness, that phrase smacks more of jingoism and McCarthyism than the sound of journalism (sic).

"At its worst, our organization has repeatedly been described in the Washington Post and the New York Times, as well as in hundreds of other publications, as a liberal group of influential Americans concerned with U.S.-Latin American relations."

(The phrase which Birns objected to was not an editorial opinion of this newspaper, but the description furnished by a Washington source consulted regarding the Council on Hemispheric Affairs.)

"We very much admire Costa Rica, Costa Ricans and that nation's traditions and institutions," Birns continued in his letter. "On a number of occasions we have come forth with complementary (sic) remarks about Costa Rica, even though we proudly opposed the Todman nomination because we considered it not good for the United States or Latin America. I think you will find as of now, most of Washington agrees with us." ●

INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mrs. LLOYD of Tennessee. Mr. Speaker, this week the Members of the House of Representatives were asked to make a difficult decision about this country's ability to continue our massive development and economic assistance programs. I opposed the funding for the International Development and Food Assistance Act of 1978 because I do not feel that we can continue to ask taxpayers to sponsor deficit spending in this fashion. We no longer have the capability to meet both domestic and international needs solely from our limited national resources.

Since the end of World War II, we have poured billions of dollars into foreign aid programs. The results of many of these programs have been little short of miraculous. The Marshall plan rebuilt a destroyed Europe and stabilized the governments of U.S. allies in the Mediterranean.

However, the countries which we have given to must now face the reality that we cannot afford to give as freely and generously as we once did. We are borrowing money to give it away, and it is unconscionable for the Government to expect American taxpayers to accept this type of deficit spending.

So long as there is desperate need in this Nation—elderly citizens who must choose between food and shelter, workers unable to support their families, sickness and illiteracy—I will not support the expenditure of our tax dollars on foreign needs. If we are ever to begin moving toward a balanced budget, cuts in Government spending must begin somewhere. I would prefer seeing decreases in our foreign assistance programs as opposed to cutting the budget in areas which will directly deprive American citizens of programs which are vitally important to them.

I deeply regret that by voting against this bill I am in the position of voting against assistance to Israel, a nation which has borne the brunt of its own defense. Israel is a nation determined to fight for its existence, a fight which, without the outside interference of the Soviet Union, it would easily win. In light of these circumstances, I feel that continued U.S. assistance to Israel is fully justified and deserved and I would support such a proposal if offered independently of this bill. Since this was not the case, I reluctantly voted against the International Development and Food Assistance Act of 1978. ●

NUTRITION TESTIMONY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. PURSELL. Mr. Speaker, this country is beginning to seriously address our health problems and the various methods by which we might solve these problems. It is my firm belief that preventive medicine must be considered as the primary method of solving our health problems.

Preventive medicine is our best hope to reduce health care costs and to improve individual performance of all citizens. In this regard, I would like to share with you the testimony of Naura Hayden, a noted author, lecturer, and leader for the cause of preventive medicine. This is a clear statement on what must be an important national priority.

The testimony follows:

TESTIMONY OF NAURA HAYDEN BEFORE CONGRESSIONAL COMMITTEE ON NUTRITION

To begin with I'm delighted to be here and I'm honored that Congressman Fred Richmond and his Committee invited me to be part of this hearing. This Committee by its very existence is a progressive body and should be recognized and publicized as a most important part of the Congress, and sitting alongside of you people as the most critical observer should be the President of the United States to hear this important series of testimony.

I'd like to start out and say that there is a Human Energy Crisis and I am disappointed that the present administration hasn't recognized that the lack of human energy is far more of a problem than the shrinking resources of oil.

There are millions of people paid to work eight hours a day who, though willing and ready, are not able to perform more than four or five hours with their coffee breaks, cigarette breaks, candybar breaks, sick leave and accidents costing this country billions of dollars.

What a tragedy it would be if we solved the problem of the spiraling economy, cut down crime rates, found jobs for those victims of the recession and then discovered we were plagued with a pooped-out generation of weak enervated people.

Now I'd like to ask everyone in this room if you feel really super good and full of energy to raise your hands.

Now, how many of you drink some coffee or cola drink every day? How many of you smoke some cigarettes every day? How many of you eat some sugar every day? How many of you drink a couple of Scotches and Martinis at lunch or dinner?

I used to need all those things—caffeine, nicotine and sugar to rev-up my body and then alcohol to ease the tensions at the end of the day. Those were my "uppers" and "downers" until at a very young age my body gave out and I was hospitalized with not enough energy to walk across a room and that's why I took the time off my acting and singing career to write my book about "Energy," because I know first hand what it's like to have a life full of sickness, tension, anxiety and awful depression. I found out

first hand how terrible caffeine is to the body and I wonder why we legalize this drug (and caffeine is a drug even though we don't like to admit it, and if you don't believe it, try to cut out all coffee or cola drinks from your life and feel what withdrawal is).

I found out first hand how addictive sugar is—the more you eat, the more you crave, and again, if you find this hard to believe, try cutting out all sugar from your life and you'll see how difficult it is because you are hooked.

I would like to take a strong position about sugar. This commercial product, which is taken massively each day, is one of the great sources of illness in this country. It is poisonous to the system. We find it difficult to believe that something Mummy and Daddy gave us can be so harmful, but Mummy and Daddy have been misled by the sugar industry just like all the rest of us.

It seems ironic that very little is ever done to publicize and pinpoint the bad effects of sugar, while there has been a concerted effort to discredit sugar substitutes. There certainly seems to be a motivation behind this method of perpetuating sugar at any cost. The tests against saccharin have been inconclusive and yet wholesale scare tactics were inserted to make people think a few sips of a non-sugared soft drink will cause Cancer. If the rats in the saccharin studies had been fed the equivalent amount of sugar I believe it would have killed them and I believe it is imperative that sugar be tested using the same enormous amounts that were used with saccharin.

Of course, we know alcohol is a drug and there are millions of social drinkers and millions more who are closet drinkers and alcoholics, shamed to let the world know their bodies are addicted to this drug.

Why is it so many Americans are hooked on caffeine, nicotine, sugar and alcohol? It's because their bodies are malnourished and have no energy, so they put in the junk which gives a short lift and then unfortunately plummets them down. This is like whipping a tired horse and proves we are an overfed and undernourished nation.

I have been fortunate to travel to over thirty-three cities many times in the past 12 months on tour with my "Energy" book, and I have met and talked with thousands of people on TV shows, radio shows and in stores and I found out that the majority of people don't feel good. They are tense, depressed and sick a lot of the time and they are tired of being tired. But more than that they are confused because when they go to their doctors and ask why they're tense, the doctors are too quick to give tranquilizers and when they're tired and depressed the doctors are too quick to give "uppers" and like all drugs, the more you take the worse you feel. Now, of course, not all doctors are "drug-happy." There are some fine doctors who are into preventive medicine, but most doctors are trained in medical school to treat you with drugs once you are already sick—but what about teaching these doctors how to prevent disease and how to build strong healthy energetic bodies through nutrition and vitamins?

How many times a day in how many doctor's offices are there prescriptions given for drugs instead of vitamins and food supplements that if taken regularly can prevent sickness? There is something drastically wrong when so many doctors through ignorance scare people about eggs and milk and vitamins which are good foods and build health and not about coffee, sugar and alcohol.

There is also a lot of confusion in children's minds. They are inundated with TV ads telling them that sugar coated cereals are good for them and they'll get all the vitamins and nutrition from these kind of junk foods, but these ads aren't just misleading, they're down-right lies.

We need courses in every school in America to teach all kids about what vitamins are and why we need them and which foods build strong healthy bodies to play soccer and little league and fuel their brains so they can think more clearly—and which foods are junk and how they cause bad grades, mental disorders, weakened muscles and disease.

If I seem passionate about nutrition and vitamins, it's because I am. Only someone who has suffered with illness can really appreciate great health and I want to turn everybody on what I have learned so that everybody can feel as good as I do.

If some of you think I'm exaggerating, you are wrong. If you went around the country and got the enormous response I've gotten you'd realize how desperate people are for information about how to heal their sick bodies and depressed minds. They're tired of giving money to doctors and feeling worse.

I believe the time is now to face up to the truth. Caffeine, nicotine, sugar and alcohol are injurious to the body and we have got to stand up and say so. I had to heal myself of all the illnesses plaguing me, but before I did I spent thousands of dollars on doctors bills and drugs. I suffered needlessly with depression until I found out about nutrition and vitamins and totally cured myself. I am now the healthiest person I know and the most energetic. I have received over 15,000 letters so far in the last year from people all over the country relating how they're changing their lives through nutrition and vitamins and are feeling good for the first time. In summation, thanking the Committee for an opportunity to be heard, I would like to stress the need for intense nutritional training made mandatory at every medical school in the country, the need for mandatory nutritional training in every grammar and high school in the country, an in-depth study on the effects of sugar given the same intense publicity as the studies on saccharin. I would like to see a special tax placed on foods which do not contain the nutrients necessary to sustain health, and the same warning put on these non-nutrious foods that is put on cigarettes—a warning that they are dangerous to your health.

I do hope there are some persuasive Congressmen and women and Senators who can convince President Jimmy Carter that the Human Energy Crisis is more important than the Panama Canal, the economy or any other national problem. I think it should be a top priority in his next six months in office.

If volunteers are needed to participate in this program, let me go on record and state that for less than the expected dollar a year, I enlist.

Thank you.

NARUA HAYDEN.●

PERSONAL EXPLANATION

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. HUCKABY. Mr. Speaker I would like to make a correction for the record with regard to the vote on H.R. 12641, the temporary public debt limit. I was absent during House floor consideration of this legislation and was mistakenly paired in favor of its passage. This was an inadvertent error and obviously inconsistent since I did not agree to the conference report on Senate Concurrent Resolution 80. the first fiscal year 1979 budget resolution.

I would appreciate it that it be acknowledged for the public record that I would have voted against H.R. 12641 had I been present.●

DOMESTIC COPPER INDUSTRY

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BAUCUS. Mr. Speaker, I would like to include in the RECORD, for the benefit of my colleagues, remarks which I have prepared for an International Trade Commission hearing concerning the impacts of imported copper on the domestic copper industry. The condition of our domestic copper industry is dismal. I hope my colleagues will find my comments enlightening:

U.S. INTERNATIONAL TRADE COMMISSION HEARINGS REGARDING UNALLOYED, UNWROUGHT COPPER

I am grateful for the opportunity to share my views with the Commission concerning the serious condition of the domestic copper industry.

Under Section 201(b) of the Trade Act of 1974, the International Trade Commission has initiated an investigation to determine whether unwrought copper, other than alloyed, provided for in item 612.06 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat, to the domestic copper industry.

I represent the western third of Montana in the House of Representatives. Montana has been blessed with an abundance of mineral wealth, particularly copper. Copper mining and smelting is a major component of the State's economy. Since 1975 the Montana work force involved in the extraction and refining of copper has declined from 4,400 to 2,600.

On November 23, 1977, the Anaconda Company announced the closure of its Arbiter works in Anaconda and the leaching facilities in Butte, Montana. This resulted in the layoff of 250 employees. In January 1978, Anaconda announced the shutdown of its Anaconda Reduction Works for at least two months, in May and June. This shutdown affects 1,024 workers in a community of 9,000. The Montana copper industry is in a depression unequalled since the 1930's. It is experiencing shutdowns, curtailments, severe unemployment, financial losses and high debt levels.

This depression is a direct consequence of over-production abroad—resulting in heavy imports into the United States, often at ruinously low prices. The domestic copper industry is losing its markets to foreign imports at an alarming rate. From a historic average of nine percent of U.S. consumption, imports rose in 1976 and 1977 to a rate of about 20 percent, and in late 1977 and early this year, the import rate exploded to nearly 30 percent.

Historically, the United States produced about 25 percent of the world's supply of copper, making it the largest producer of this vital metal. America is also the world's largest consumer of copper. Annually copper's contributions to the nation's economy are reflected in annual sales of between $2.5 and $3 billion of refined metals and direct employment, in normal periods, of over 50,000 people, plus billions of dollars of additional sales and thousands of additional jobs in the fabrication of copper products.

More is at stake in this copper dilemma than the jobs of copper workers and secondary service industries. There are thou-

sands of jobs, nationwide in basic industries such as the electrical, electronic, housing, construction, industrial machinery and equipment, and transportation industries that depend upon copper. Copper is a vital component of defense electronics, ordnance and weaponry. If the U.S. industries strength is further reduced by continued imports, these copper-dependent industries, as well as the national security, would be jeopardized.

The domestic copper industry's problems are not rooted in any failure to modernize or remain competitive. While I have criticized the industry in the past for failing to meet competition head-on, the industry has invested heavily in modern equipment to increase efficiency and productivity. Today, American copper producers are among the most modern and efficient producers in the world.

Since World War II the American copper industry has developed 19 major new mining properties into commercial production and has completed four new copper smelters, and six new refineries. As a result, copper imports were only an average of nine percent of domestic useage between 1970–1975, when the U.S. was straining to improve its balance of payments. Because of a vital domestic copper industry, billions of dollars were saved that would have otherwise flowed to foreign countries for copper products.

It is interesting to note that the current copper depression is not a result of reduced demand for the product. To the contrary, world consumption of copper has seldom been greater. Free world copper use increased from 6,415,000 short tons in 1970 to an estimated 7,590,000 short tons in 1977—and demand remains strong, particularly in the United States.

The direct cause of the existing paradox has been the increased importation of copper from foreign sources, which has depressed domestic copper prices and forced U.S. mines to curtail production or shutdown.

Imports of copper have forced domestic copper prices down to dangerously low levels, in many instances below production costs. Some of the U.S. mines which have closed may never reopen.

The U.S. copper industry has, for its size, spent more on pollution control than any other major U.S. industry. About 25 percent of total copper industry capital expenditures over the period 1972 to 1975 were for pollution abatement. The Commission should keep in mind that copper producers in developing countries are not required to make capital expenditures for pollution abatement, and very few have.

In economic, defense and human terms the conditions prevalent in the current domestic copper market cannot be allowed to continue. Copper is essential to both the security of the United States and its economy. This nation cannot allow a flood of imports to jeopardize this country's self-sufficiency in a metal which supports both the national security and a wide variety of basic industries.

The Department of Labor has ruled under provisions of the Trade Act of 1974, that over 12,000 copper workers are eligible for federal benefits because increased imports have contributed importantly to the layoffs and curtailments which are reducing or stopping their normal income.

The economic condition of the domestic copper industry is dismal. The relief requested by American copper producers would reduce unemployment and maintain a viable domestic copper industry. I urge the Commission to take expeditious action in favor of this request. The copper dependent economies of our Western states have suffered long enough without redress.

Thank you very much.●

THE TRUTH AND MR. CARTER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. McDONALD. Mr. Speaker, recently the President's son, Jack, took the occasion of a Jefferson-Jackson Day Dinner in the Seventh District of Georgia, to criticize his own Congressman, the incumbent Democrat.

Jack called for the Congressman's defeat and press reports added the complaint that the Democratic Congressman "would not support my Daddy's programs."

While everyone is surely entitled to their own opinions and right to express them, the incumbent Congressman did support the views of candidate Carter when he said he would:

First. Not give up the Panama Canal.

Second. Have a balanced budget within 4 years.

Third. Provide for a strong national defense—a defense more than equal to the threat.

The Congressman from Georgia still adheres to those views. The problem to him and so many Americans is that the President does not support the promises and views of candidate Carter.

A recent column dated April 27, 1978, by Mr. James Jackson Kilpatrick underscores this dilemma. For the benefit of all statesmen, as distinct from politicians, the article follows:

THE TRUTH AND MR. CARTER

(By James J. Kilpatrick)

During the course of his long campaign, Jimmy Carter repeatedly pledged that he would never lie to the American people. We could depend upon that. Now the president increasingly is running into fire on this issue of veracity. At a time when he has plenty of other troubles, this could be the most serious trouble of them all.

One attack comes from a Washington journalist, Craig S. Karpel, writing in Penthouse magazine. The magazine may not be greatly respected, but it is widely read. Karpel begins by charging that "Jimmy Carter is a liar" and goes on to assail him as an "habitual, compulsive teller of untruths who . . . has woven a tangled web of false and misleading statements." To buttress his argument, Karpel marshals "the first hundred lies of Jimmy Carter."

A second assault comes in the April issue of First Monday, an understandably partisan journal published by the Republican National Committee. By the RNC's scorecard, Mr. Carter has made 636 promises to the people. Of these he has broken 20 percent, kept almost the same percentage, and held 60 percent for possible future action one way or another.

To be thus pilloried in journals of pornography and Republican politics might not keep Mr. Carter awake at night. Heavier burdens could be imagined. But the charges cannot be altogether brushed aside with airy dismissals of the forums in which they appear. Mr. Carter's problem is that the charges, in substantial part, are true.

It is not necessary to accept the Penthouse formulation of 100 "lies." Karpel's piece is a farrago of fact, opinion, differing interpretations and immaterial dispute. It scarcely qualifies as a "lie" that Mr. Carter said arms sales in 1977 amounted to $9.9 billion, while the Pentagon said arms sales amounted to $11.3 billion.

But when half or two-thirds of the counts in the two indictments have been tossed out, a considerable body of embarrassing accusation remains.

After all, Mr. Carter did make an unequivocal commitment that "all federal judges and prosecutors should be appointed strictly on the basis of merit, without any consideration of political aspects or influence."

Mr. Carter did in fact cause gas producers in Oklahoma, Texas and Louisiana to believe that he favored deregulation of natural gas.

There is no question that Mr. Carter promised Catholic voters that he would support some form of tuition grants or credits for elementary and secondary schools.

"I will reduce the White House staff by 30 percent," Mr. Carter promised. "And you can depend on it."

Mr. Carter also promised flatly to submit a balanced budget before the end of his four-year term. He did promise that he would "never increase taxes for the working people of our country." He did tell Iowa farmers that if he were elected, "we will have our support prices at least equal to production costs."

These were specific promises. Many of them, such as his statement on natural gas, contributed significantly to his election. And every one of these promises has been broken or abandoned.

Now, I have said it before, and would repeat it here, that Mr. Carter ought not to be held to promises that were manifestly unkeepable. It was not duplicity, it was ignorance, that produced his fatuous promise of non-political appointments of United States attorneys. By the same token, he was not being sly, but merely naive, in promising a kind of participatory democracy in shaping foreign policy. The president is a perfect fountain of good intentions. His problem lies in the elevation of intentions to promises—promises we can depend on.

Well, we all live and learn. Such liberal senators as Metzenbaum of Ohio and Abourezk of South Dakota have learned they cannot "depend" on the president. He pulled the rug from under them in the energy debate. Farm spokesmen were crying last week that they couldn't depend on him, either. Black spokesmen charge him with "calous neglect" of his pledges. Jews believe he broke his word on arms sales to Arab enemies. Many Catholics are infuriated by his failuer to support tuition tax credits. All these issues are issues of credibility. It was Mr. Carter's political capital. Like the sand of an hourglass, it drains away.●

DEVASTATION IN CAMBODIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. WAXMAN. Mr. Speaker, 3 years ago, Sydney Schanberg of the New York Times, one of the last American correspondents in Cambodia, chronciled a nightmare of the fall of the Phnom Penh government and the forced evacuation of the cities by the Khmer Rouge. He wrote of an unheaval so profound and frightening that it threatened to destroy the fabric of Cambodian society.

Such fears have been fully justified. On May 13, the New York Times published an account by Henry Kamm of reports from refugees who have fled the country. They describe a Cambodia characterized by massacres, random killing, starvation, forced labor, and near anarchy.

It is almost beyond comprehension. But it is terribly important that, at the least, all of us be informed of what is occurring there.

I am therefore inserting Mr. Kamm's article in the RECORD for the benefit of my colleagues:

[From the New York Times, May 13, 1978]

CAMBODIAN REFUGEES DEPICT GROWING FEAR AND HUNGER

(By Henry Kamm)

BANGKOK, THAILAND, May 12.—A number of recent refugees from Cambodia report that their country, in its fourth year under Communist rule, is suffering continuing bloodletting, even among factions of the ruling party, and starvation, nationwide forced labor and regimentation.

In view of Cambodia's almost total isolation from the outside world, refugees are the most significant source of information.

In March, for the first time since the Communist victory in April 1975, a group of European journalists—Communists from Yugoslavia—were taken on a guided tour of the country.

ONLY IMPLICIT CONDEMNATION

One of them reported that they were appalled by much of what they saw, although, restricted by the conventions of Communist fraternalism, they said so only implicitly in their dispatches. Significantly, the Yugoslav reported, one television journalist who was preparing a documentary on the visit told Cambodian officials that filming of the vast use of child labor in rigorous agricultural tasks would make a bad impression on the outside world. The Cambodians, however, urged him to film it.

What is shown in the Yugoslav television film—soon to be seen in the United States—and what scores of refugees reaching Thailand in recent months have related bear each other out.

The refugees were interviewed in the police station in Trat, in southeastern Thailand, where nine who fled last month are being confined in a small cage; in a nearby refugee camp in Khlong Yai; in a large refugee camp in Surin, in northeastern Thailand, and in a disused prison in the nearby province capital of Buriram, where most Cambodians who have crossed since Nov. 15 are being held as illegal entrants.

The Yugoslavs and the refugees related the now familiar description of a nation in which cities and towns stand empty while the people divided into labor brigades, till the soil and build a countrywide system of small-scale irrigation earthworks with rudimentary tools and under primitive conditions.

The Yugoslavs, complying with implicit restrictions on Communist journalists working in other Communist countries, raised no questions about persistent reports of deaths on a great scale through political purges that recall in their wide sweep Stalinist methods, about overwork and undernutrition or about the almost total absence of medical care or medicine.

Another subject not publicly raised by the Yugoslavs involved the reports of profound differences in living conditions between the sub-Spartan standards of the vast majority of the Cambodians and the privileges of the select minority of government officials and soldiers.

These subjects dominated the refugees' accounts. The hardships of their lives needed little underscoring. Most of the recent arrivals were emaciated, their hands worn and their feet—unshod since their last pre-"liberation" sandals wore out — calloused, scarred and soiled seemingly beyond cleaning. They still wore the poor clothes that they wore in Cambodia, tattered pre-1975 shirts and pants or almost equally ragged black uniforms of Communist issue.

Their bearing and comportment recall concentration camp survivors in the Europe of 1945. They seem dazed and cowed by all who have not shared their experience. They find concentrating on any subject difficult, complain frequently of headaches, physical weakness and an inability to sleep soundly and consider their future a blank that they have not yet the strength to consider seriously.

They are, in the vast majority, men of hardy peasant stock—illiterate, their knowledge of the world beyond the confines of their native districts minute. Most have left their wives and children behind, because undertaking an escape through the rugged and heavily mined border country burdened with children appeared doomed to failure. As it is, most of the refugees told tales of how members of their groups died on the way; how many whole groups of escapees fell victim to military patrols, mines, starvation and exposure cannot be known.

PERIL OF THE EDUCATED

Of more than 5,000 refugees confined in the places visited—only a few hundred of them crossed this year—fewer than 10 were found who spoke basic French. None spoke fluently. Under the previous regimes French had been the language of most schooling beyond the first few elementary years, and everyone with a high-school education spoke it more or less fluently.

The absence of French-speaking people and the generally peasant character of recent refugees lent credence to reports that the Communist regime was methodically killing the educated classes and that the great majority of the millions of people driven from cities and towns after the Communist conquest had withstood the rigors of the new life even less well than the rural people.

Apart from the continued killing of the educated, of officials down to the most minor of previous governments, and of former soldiers in the pre-1975 government, army and their families, the refugees reported that growing numbers of local Communist officials had been killed in what appeared to be an ongoing wave of violent purges.

LOCAL KNOWLEDGE ONLY

The only clue to the nature of the purges as well as corroboration that they are taking place, comes from official Government pronouncements that Vietnam, with which Cambodia is in a state of limited war, has tried to bring down the Government of Prime Minister Pol Pot through internal subversion.

None of the refugees questioned knew anything about purges above the level of their rural districts. In fact, none had ever learned the names of officials above that rank, except for President Khieu Samphan. They came from four of the provinces bordering on Thailand; none had ever known the name of a province chief.

But all questioned were specific on the names of their village and district chiefs and the sequence of succession among them. Most reported that the new leaders had announced to the people at the frequent evening meetings that their predecessors had been killed as "enemies."

Sen Smean and Lem Loeung, who escaped at the end of January from the village of Kok Moun Om in the district of Ampil in Battambang Province, related that Nan, the district chief, had said at a Lunar New Year meeting in February 1977 that his predecessor, Tem, had been killed because those who came to power in 1975 were still under the influence of the regimes of Prince Norodom Sihanouk and his successor, Lon Nol.

A CONSTANT PURGE

The two refugees said that Nan himself had been replaced at the end of the year by Van. They said that Van had announced at a meeting that his predecessor had been killed as an "enemy" within 15 days of his removal from office.

The refugees added that the changes of district chiefs were always accompanied by the disappearance of village chiefs and frequently of the small teams of soldiers who supervise the villagers' work.

Similar precise accounts were given by refugees from the provinces of Siem Reap, Oudon Meanchey and Koh Kong. Analysts who gather refugee accounts on a regular basis consider them indicative of a constant process of purging. They speculate that if purges were so widespread in the areas most remote from Vietnamese influence, they were likely to be more frequent and extensive nearer to the war zones, where the suspicion of subversion was closer.

Refugees from Siem Reap Province reported in separate interviews that the month wide-scale purges of local officials and Communist soldiers which, for the first time since the victory of two years before, had led to open opposition.

MET WITH GREAT RETALIATION

The incidents apparently were largely limited to clashes and killings among the soldiers. But a number of accounts of incidents have become known in which the public participated in attempts to give vent to their resentments.

Tach Keo Dara, a 20-year-old former high school student from Phnom Penh, said that he had been in a crowd that had taken advantage of strife among the leaders in three villages in the Chikreng district of Siem Reap Province to kill eight soldiers. The youth, now imprisoned in Buriram, said that he personally had not participated in the killings, which he said were carried out with knives.

The riots had occurred, he said, from April 11 to 17, and were followed by large-scale retaliatory killings. Refugees from the same province reported that these outbreaks of opposition had subsided as suddenly as they had sprung up and that the regime's hold over the province had never been threatened.

The refugees reported that hatred of the Communist soldiers and officials was general and based on the privileged position they held. Accounts of continually diminishing food rations—thin rice gruel rather than boiled rice, which is Cambodia's staple, few vegetables, little salt, no fish or meat—contrasted with the better diet enjoyed by those who professed that the new Cambodia had created equality among all its citizens.

By all accounts the soldiers who supervise the work day, which begins when bells are rung to awake the villagers at about 4 A.M. and often ends as late as 10 P.M., live separately from the people, cook for themselves and eat their meals in seculsion. They eat chicken and pork, many refugees said.

People do not dare to watch near their kitchen, said Ok Eum, a 44-year-old former army sergeant. He explained that to have knowledge of the soldiers' privileges was dangerous in a country where power over the

people was in the soldiers' hands and death appeared to be the only punishment.

RECEIVE REGULAR CLOTHING RATIONS

Choun Sakhon, a soldier who defected last month, said that soldiers received clothing regularly and wore sandals made of used tires while civilians went barefoot. Many soldiers had the use of motorcycles in a country where people walk except on rare occasions when the very old or very young were transported in oxcarts to obligatory rallies at district towns.

Refugees from various regions gave similar accounts of the apparent freedom of a soldier to choose any woman to be his wife without the women's consent. Referring to the Communist soldiers' privileges in this regard, Mr. Ok Eum related:

When a Khmer Rouge loves a girl, there is a village meeting. He asks her to marry him. She does not dare say no. Then they are considered married.

Civilians need the permission of their village chiefs to marry, except when the marriages are arranged by the authorities without either partner's consent. San Daravong, who is 26 years old, said that he and Kim Kolab, 24, were married although they hardly knew each other. But they said in Buriram prison that they loved each other now.

Marriage ceremonies always take place en masse, the refugees reported, and only once a year.

HUNGER AND DEATH

While accounts of many aspects of the new way of life have to be drawn out of the refugees through questioning, two subjects come spontaneously from them—reports of mass deaths in their villages and constant hunger.

Malaria, cholera, diarrhea, tuberculosis and enfeeblement from pervasive malnutrition took a catastrophic toll in the district of Banteai Srei, the site of one of the most splendid temples of the Angkor complex, where Mona, a male former medical student from Phnom Penh, had been banished after being driven out of the capital with the rest of its people.

The former student said that children, particularly infants, suffered the most cruelly from illnesses and died in frightening numbers. He said that infant mortality was particularly high because mothers, as a result of malnutrition, had little milk and no substitutes were available. His medical observations bore out accounts provided by all other refugees.

Detailed narratives of mass killings of enemies give rise to an impression that the regime has lost what inhibitions it may have had in its early stages and is conducting mass slayings without regard to the presence of witnesses. A number of refugees reported that officials were more and more openly speaking of a need to kill great numbers of Cambodians.

Mr. Sen Smean said that Nan, the late district chief, had announced at a meeting early last year that of the 15,000 people of the district, 10,000 would have to be killed as enemies, and that 6,000 of them had already perished.

"We must burn the old grass and the new will grow," Nan said, according to Mr. Sen Smean.

SLAYING OF WIVES AND CHILDREN

Analysts have speculated on the number of Cambodians who have died during and after the war, and occasional contradictory pronouncements by the present Government have added fuel to the efforts, but no solid information has become available. However, refugee accounts since 1975 leave no doubt that the toll has been heavy and the birth rate exceedingly low. In 1970, the population of the country exceeded seven million.

The principal targets for extermination, according to all accounts, continue to be former government employees, soldiers and those in Cambodia called intellectuals, those with higher education.

A devastating new element that emerges from the refugees' accounts of the last year is that the regime now appears to be methodically killing wives and children, many long after the husbands were killed.

Mr. San Daravong said that toward the end of last year he had witnessed the killing of 108 wives and children of former soldiers outside the village of Chba Leu, situated about 10 miles east of the town of Siem Reap, in the midst of the Angkor temple complex.

DESCRIBES SOLDIERS' RETALIATION

He said that the victims had been led to a dike, their arms tied to their sides, and pounded to death with big sticks in groups of 10 by a small group of soldiers. Some of the small children, he said, had been thrown into the air and impaled on bayonets; others were held by their feet and swung to the ground until dead.

He learned the exact number, he said, because villagers had been called to bury the dead.

Kang Vann Dy said that he had decided to try to escape in February from the village of Roluos in Siem Reap Province because, after having killed former officers and sergeants, the Communist soldiers had come to the part of the village where he lived with a number of other former soldiers and had taken them and their families away.

Mr. Kang Vann Dy hid. Later in the day, he found their bodies in a well. Asked whether he knew the names of the victims, he slowly called the roll, straining to remember.

"Cheam," he said. Kok. Min. Phath. There were others, but I don't know the names. Asked how many bodies he had counted, he painfully added up those of the wives and the children he knew and said, at least 19."

To stay alive himself he hid in the forest at the edge of the Great Lake of the Tonle Sap for two months, living from fish and from stolen food before making his way across the border.

Mr. Ok Eum said that he came from the district of Siem Reap Province where former President Lon Nol was born. He said that to celebrate the second aniversary of their victory in April 1977, the Communists had killed the entire population of the former leader's village. The former soldier said that the district chief, Sun, who was later killed himself, announced that the villagers had been slain because all were relatives of Lon Nol. Throughout the district, Mr. Ok Eum said, about 350 families had been killed on that occasion, their family names recorded by authorities and displayed at the anniversary rally.

"If the Communists continue, there will be no more Cambodians in the land of Cambodia," Mr. Ok Eum said in a flat voice of despair.●

CARS FOR GRAPEFRUIT: THE PROBLEM OF TRADE WITH JAPAN

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. VANIK. Mr. Speaker, in Tuesday's newspapers, there was a United Press International picture of a brand new and very unusual looking ship. The caption under the picture read:

No empty run—The *Sunbelt Dixie,* an American-owned ship chartered by Toyota, is shown approaching the Port of Jacksonville, Florida, on its maiden voyage. The *Sunbelt Dixie* is the first combined vehicle transporter and refrigerated cargo vessel. After 3,000 cars and trucks were unloaded, the vessel headed for Tampa to take on 283,000 cases of Florida grapefruit and oranges for the return trip to Japan.

Clearly, the caption implied a successful trade voyage in which the same ship, apparently American-owned, carried goods to the United States and was returning to Japan loaded with American produce.

The *Sunbelt Dixie,* I am told, is registered under the Liberian flag and its crew is 100 percent Japanese. The only American thing about the ship is an American tax free investment. The autos unloaded in Jacksonville have a value of about $9.9 million and the grapefruit and oranges picked up in Tampa have a value of $1 million. In other words, the maiden voyage of the *Sunbelt Dixie* added an $8.9 million trade deficit to the United States, on top of last year's $8.2 billion deficit. We did not even get the employment benefit of a crew on the ship or the taxes from the profit of the shipowners.

I am glad that Japan is buying our citrus goods. In the past, she has even restricted our sale of these food goods. But unless Japan opens up its borders to the entry of U.S.-manufactured goods, unless we quit trading oranges for autos, the American people will abandon all support for international trade and unilateral action will be taken to restrict the entry of Japanese-manufactured goods.

The PR about "no empty run" does not hide the fact that there is little that is "fair" about United States-Japan trade today.●

THE GREAT NANNY GUARDS OUR TEETH

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. RISENHOOVER. Mr. Speaker, a new perspective on a runaway bureaucracy—the Federal Trade Commission—was published on May 16 by the Washington Star.

Earlier this session, the House sent back to conference a bill to expand the FTC's authority and I am one of the Members of this body who believes we should sharply cut the appropriations for the FTC.

The actions and views of Members who are dismayed by the FTC's tactics; outraged by its sprawling growth, and who stand ready to cut it back to proper size unquestionably are acting as representatives of the majority of Americans.

I include the Star column by James J. Kilpatrick in the RECORD.

THE GREAT NANNY GUARDS OUR TEETH

(By James J. Kilpatrick)

With its proposal to ban certain children's advertising on TV, the Federal Trade Commission has charged off on a new crusade. The venture raises an old question: In terms

of the role of government in a free society, how in the world did we get this way?

The FTC's notice, dated April 27, calls for hearings in November and December on a series of proposals having to do with banning or restricting TV commercials aimed at children up to the age of 11 or 12.

Generally speaking, these are commercials for sugared products. The theory is that these products cause tooth decay; tooth decay is bad; therefore the advertising should be prohibited or strictly regulated.

The commission's staff takes what might be termed a dim view of the suspect commercials. Such advertising, it is charged, is deceptive, disturbing, false, harmful, immoral, offensive, oppressive, unconscionable, unethical, unfair and unscrupulous. It aims at the child who is defenseless, gullible, naive and trusting. On the average, says the staff, a child 2 to 11 years old watches 3 hours and 40 minutes of television every day; the child is bombarded by 20,000 commercials a year.

Thus mesmerized, children become fat little monsters. Denied their morning Gooey-Wooey bar, they throw temper tantrums. They hold their breath, pop their eyes and turn purple; they scream bloody murder. They nag their mamas to the edge of insanity.

Parents are too shiftless, spineless or dumb to resist. The children gorge themselves on sugar; their teeth fall out. Obesity, apoplexy, bankruptcy, heart disease and premature death follow in the order named.

Do I exaggerate? Not by much. The commission's order of April 27 is based upon a 350-page staff report that appeared in February. The report quotes with approval from various authorities who hold that the sugar-product commercials take a toll on the parent-child relationship. The exploitation of children encourages confrontation and alienation on the part of children toward their parents. Conflicts are exacerbated when the child can't have his way.

The staff reports anticipates an objection: "One might ask why parents do not shield their children from these and similar themes presented in televised food advertising." A good question.

The answer is that parents suffer from "profound feelings of helplessness." Parents are unwilling to intervene for fear "that if they deny their children so pervasive a childhood experience as children's programming, the children will become 'social outcasts or social isolates.'"

Very well. Back to my rhetorical question. How in the world did we get this way? How did the power vested in Congress to regulate commerce among the states get twisted into a power to control our diets? Something has gone woefully awry, or so it seems to me, when the whole might and majesty of the federal government is marshaled to smash the insidious cupcake.

In my own old-fashioned view, it simply is no business of the federal government if children nag their parents, or parents capitulate to their howling brats. The federal authority has no writ to cure every imperfection in society. Some obligations ought to be left to individuals, for good or ill, if personal responsibility is not to be fatally undermined.

The FTC's proceeding is far more destructive than the evil it seeks to prevent. Once government becomes the one great nanny of us all—protecting us, guiding us, loving us, scolding us, holding our hands and wiping our runny noses—once we surrender to the idiot notion that Big Brother knows best, we have abandoned the basis of a free society. The fabric rots.

Yes, we ought to be concerned about tooth decay, but tooth decay is not the decay that matters most.●

DEFEATIST CONSENSUS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial by George F. Will, which appeared in the Washington Post of May 18, 1978:

A "DEFEATIST CONSENSUS" IN FOREIGN POLICY

(By George F. Will)

As is often the case with the Carter administration, the kindest interpretation of the timing of Zbigniew Brzezinski's trip to Peking is that the administration does not know what it is doing. As is often the case, that interpretation is too kind.

The administration allowed the national security adviser's trip to be scheduled to begin May 20, the day the Republic of China (Taiwan) will inaugurate a new president. No representative of the Carter administration will attend the inauguration. The administration is collaborating with the communists in signaling disdain for a nation with which the United States has—inconveniently, in the opinion of some people—relations of friendship, a defense treaty and trade second only to that with Japan among Pacific nations.

The administration is riddled with people who would, if they could, sever ties with the Republic of China and leave it at the mercy of Peking. They cannot do so because Congress and the country would not stand for it. And there is fresh evidence that a movement of opposition to the administration's foreign policy is taking shape and finding voice.

The evidence is in the transcript of a conversation published in the American Enterprise Institute's magazine Public Opinion (May–June, 1978). The conversationalists, Henry Kissinger and Sen. Daniel Moynihan (D-N.Y.), agree that (in Kissinger's words) "at the second and third levels of this administration, many people came in who are 'graduates' of [the] Vietnam period. . . . They have convictions that if America is not to be punished for its presumption, then at least we must be sure that the country is never presumptuous enough to undertake any more distant enterprises."

One problem, according to Kissinger, is the recurring tendency of complacent societies "to escape current dilemmas by making the most favorable assumption about the future. This temptation . . . is one reason why the communist challenge has been interpreted in the most benign fashion in every decade in the existence of communism." Moynihan believes that another important problem today is fear, as shown in recent debates about Africa.

"We are continually told today," says Moynihan, "that we *have* to do this or that, *accept* this or that unattractive option because if we do not, the Russians will send in the Cubans. And this *settles* an argument!" "What has become of our country," asks Kissinger, "when we explain foreign policy by the myth of the invincible Cubans?"

What Kissinger calls the "defeatist consensus" in the "traditional establishment" is apparent in the administration's approach to strategic arms limitation.

"Remarkably," says Moynihan, "we now have senior officials of this administration coming around to us in the Senate saying we must have a SALT treaty soon because if we do not, by the mid-1980's the Soviet will have surpassed us in strategic power. I can imagine what you, Henry, would think about a negotiating position in which the other side had only to wait 2,000 days to get where they want to be."

Surely, Moynihan insists, the United States must be able to make a believable threat to increase its defense effort enough to convince the Soviets that they must negotiate acceptable limits. The administration is unwilling to make any such threat, and as Moynihan says, "If you have psychologically discarded that bargaining technique, then, in fact, you are disarmed."

The similarity of Kissinger's and Moynihan's views is interesting; so is the dissimilarity of their situations. When Moynihan, a Democrat with a large and growing constituency in the country, agrees with Kissinger's diagnosis ("I do not believe . . . that there is a *public* problem. In this country we have a *leadership* problem."), the logic of Moynihan's thought points toward action.

When Moynihan says that "American policy is beginning to accommodate to the assumption that the Soviets are now, or soon will be, the superior military power," he and the administration do not have what Milton called "neighboring differences." What is at issue is fundamental. It is the adequacy of the administration's policy affecting the safety of the state. And in a nation that provides for regular and orderly challenges to incumbent leadership, such an issue should produce a political challenge.●

FACT-FINDING IN MIDDLE EAST

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. DERWINSKI. Mr. Speaker, quite a bit of Washington press commentary on the Middle East too often overemphasizes personality conflicts, politics, and exaggerates debate, especially columns written here from a vantage point unique to a capital city.

Clayton Kirkpatrick, editor of the Chicago Tribune, recently toured the Middle East on a fact-finding mission. His commentary in the Chicago Tribune of May 16, is very timely, thoughtful, and I believe, balanced report on the Middle East. The editorial follows:

PRESSURES FOR MIDEAST PEACE

Egypt's Anwar Sadat says he is optimistic about the prospects for peace in the Middle East. Possibly his hopeful attitude stems from the fact that the Middle East is so tired of war and needs peace so desperately to restore a measure of security and prosperity to an area where these qualities have been missing for so long.

Sadat offers proposals for settlement of the West Bank and the Gaza Strip disputes with Israel. After weeks of fruitless waiting for Menachem Begin to define his objectives in a declaration of principles, the Egyptian leader shows signs of resuming the dramatic and unconventional diplomatic offensive that characterized his trip to Jerusalem months ago.

In the United States, President Carter offers fresh assurances of lasting commitment to the security of Israel, and his chief Middle East negotiator, Ambassador Alfred Atherton, after weeks of silence reiterates U.S. proposals for a settlement of Arab-Israeli differences.

In Israel the Peace Now Movement expands its activities and increases its numbers. It attracts impressive support from the partisans of Israel in the United States.

In ages past the world watched with fearful fascination as pressures for war built and built until they exploded into conflict. The forces were familiar. Expanding populations sought release through accessions of territory. Economic progress was sought through exploitation of colonies. Absolute political rulers and corporate states, afflicted with megalomania, sought satisfaction by building empires.

Now, here in the Middle East, there is evidence of a different phenomenon at work, the growth of pressures for peace. There is a recognition that economic progress can be gained better by co-operation rather than by conquest. The better life for all that has been promised to the people of this troubled sector of the world, it now seems clear, is more likely to be realized by peace than by war.

What are these pressures for peace? Here is a partial inventory, area by area, as they are viewed in Cairo, one of the strategic centers in the controversy:

In Egypt—There is a weariness of war and the preparations for war that reaches deep through all levels of society. Raging inflation, crumbling and defective public services, shortages of goods and skilled workmen, the humiliation of living on a grudging allowance from oil-rich Arabian Gulf states, the tensions of uncertainty, the inability to plan, to invest, to develop production for social consumption—all these are factors that help to explain why Egyptians now cheer the leader when he makes what would seem risky overtures for peace. Time and repeated disappointments have changed attitudes of the same people who once cheered Nasser as he prepared to lead the nation to war.

In Israel—The elements of weariness are much the same—unending sacrifices for war and preparations for war without promise of relief, the fruits of victory meager and uncertain. There is the anxiety of living as a client state dependent for its existence upon foreign remittances. Inflation erodes income. Immigration declines; disenchantment stimulates emigration. Terrorism heightens tension. Hard-won resources go into unproductive military spending.

In the United States—An uncomfortable anomaly makes American policy in the Middle East difficult to justify to American citizens. They are friend, protector, and military supplier to both Arabs and Israelis. This is logic turned upside down, but there is no better conceivable position to assume as long as peaceful agreements cannot be achieved. The Carter administration, at a low ebb in popularity, needs a resounding diplomatic victory. Nothing could serve it better than to bring about a just and stable peace. So American political pressure mounts for successful peace initiatives. Another significant factor is the awareness that a slackening of Middle Eastern tensions could ease the strain upon the American economy and reduce vulnerability to a repetition of the 1973 oil-energy crisis.

In the Middle East generally—Perhaps the most powerful pressure for peace is supplied unwittingly by Soviet Russia and its Cuban mercenaries in Africa. Traditional and bitter enemies of Israel and Iran, the Russians in recent years have alienated their former Moslem friend, Egypt, and now have become the object of hatred and suspicion in other Arab states of the Middle East. The Russian-Cuban adventure in Ethiopia just across the Arabian Sea from the Saudi Arabian oil treasures is seen as a direct threat to Arab interest. The anticipated second step in turning Ethiopia into a puppet state and military base—a move against Eritrea—is seen as a threat to the Sudan and to Egypt, which depends for its economic life upon the Nile River, which arises in the Sudan. Even Libya, Russia's ally and Egypt's enemy, resents Russian action that could affect its interests in the Sudan and the countries bordering on it.

To most Americans the conception of the Cubans as an invincible international military force seems more like a vignette from Gilbert and Sullivan than an assessment from serious statesmen. To many North African and Middle Eastern Arabs, however, the Russian-Cuban initiatives are seen as a deadly threat.

On the principle that the enemy of my enemy is my friend, Arabs and Jews are beginning to see a new need for pragmatic solutions for differences.

President Sadat's timing in renewing his peace initiatives appears to be opportune. All over the world, humanity will be watching with deep concern to see if the iron he strikes is really hot.●

DAVID FLEEMAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. LEHMAN. Mr. Speaker, on May 13, I had the privilege of attending a community tribute honoring David Fleeman for his many years of outstanding service to the greater Miami community.

At this time I would like to place in the RECORD the statements of Rabbi Joseph Narot and David Fleeman which were made on that proud occasion:

DAVID FLEEMAN: A MAN OF VERBS

(By Rabbi Narot)

This is a moment of great joy and honor for me—to make a statement of tribute to a beloved friend, an unusual human being, David Fleeman. But there are several reasons for my hesitation. In the first place I remember the ancient rabbinic admonition that, face to face, a man should only be partially praised, while he may be fully praised when he is not present. But I am aware of the fact, as you are, that half a loaf of praise for David is more than a full loaf of admiration expressed for many other men.

In the second place I am conscious of the fact that David is a genuinely modest man. When the idea of this dinner was first mentioned to him, he demurred, not coyly, but sincerely. It was only when he was reminded that this is an occasion that is to be held for the wellbeing of the congregation, that he consented to lend his name to this evening's celebration.

The more I have reflected on what I might say about David, the more it occurred to me that his entire life can be described in verbs: in verbs because he is an active, vibrant human being.

David reads. He read fine books and periodicals and digests what he reads into his own fine mind.

David thinks. What he reads, what he experiences, what he sees and hears become part of his thought processes and he permits no shallow or superficial ideas to occupy his mind.

David belongs. To this congregation, to the Federation, to his occupational and professional societies, to a political party; he belongs to fulfill Hillel's sacred warning: "Do not separate yourself from the community."

David feels. He is one of the more sensitive human beings I have had occasion to meet and know. He feels compassion. He feels friendship. He feels annoyance with pettiness and meanness.

David loves. He loves the Jewish people. He loves his brother. He loved his mother dearly and cared for her with tenderness and constancy that were an inspiration to any son. He loves his sons and is always concerned for their future. In a day or two, he will leave with them on a fascinating journey through European waterways. We wish him and them bon voyage. And, David has loved his beloved Miki, not ostentiously, but deeply and endlessly. She called him her "pussy cat", suggesting a tender and loving relationship the disruption of which still leaves us with pain and the desire to bring him solace.

David gives generously of himself, his time, and his means. Always with a pleasant countenance. I want you to know that the Miki Fleeman park which we are dedicating tonight was his own idea. I never uttered a word to him about any memorial to her. Then he asked me, and I proposed several programs. They did not seem appropriate to him and he in turn suggested the Park. And how relevant this is to Miki's memory. She who filled her home with plants and flowers and loved growing things fervently. This park will edify, will bring pleasantness and shade, aesthetics and comfort; all who will behold and walk its rills and mounds, who will sit to rest and meditate on its rocks will be grateful and consoled.

David believes. He believes in Judaism. He believes in his friends. He believes in the institutions that keep our people, our democracy, and our ideals alive and growing.

David concerns himself. He is not a casual contributor. He acts in behalf of those ideas and ideals in which he has faith. He is not complacent about human nature. He is a realist who is incensed by evil but who knows that we must not resign ourselves to it.

And David builds. He has built homes and other commercial enterprises. But he has also helped build our Federation, our Douglas Gardens, our hospitals, our Congregation.

And so as we bespeak our love for this loving, reading, thinking, feeling, caring man, I cite a passage from Talmudic writing. A certain man, on a journey, came to a beautiful tree. Its shade cooled him. Its fruit nurtured him. And the clear waterbrook nearby refreshed him. When the man prepared to continue on his journey, he said to the tree: "How shall I bless you? You have so many gifts with which God has blessed you. All I can say is: May your life be long and may these gifts endure beyond you to bless others who may travel this way." So I say to you, David, my beloved friend: How shall I bless you who possess so many gifts of God? Only that you may live long, and that your blessings will touch still many more whom time may bring this way.

And now, although there will be a brief and private daytime ritual of dedication for the Miki Fleeman Park when the bronze marker will be set in place, we would now formally and from this vantage point consecrate the park which David has so thoughtfully and lovingly built for us. As it has already evoked the appreciation of passers by, may it forever inspire all who will behold it. May its trees and lawns flourish; may it invite the meditation of members and visitors. May its beauty make us aware once more that the heavens declare the glory of God and the firmament showeth His handiwork. And may the name of Miki Fleeman, identified with this park, be for us and for all a source of blessing.

REMARKS BY DAVID FLEEMAN

At the outset let me express my profound gratitude to all of you for participating in this event.

As somewhat of a community busybody it has been my privilege to be a member of committees and associations of good people who were involved in efforts of communal

amelioration. I assure you that I have gained more than I have given. The profits that have accrued to me were in the form of mental stimulation, and, of the utmost importance, the establishment of a web of relationships whose sustaining warmth is partly expressed by your presence here.

As for my accomplishments, I have not done enough to justify protestations of humility.

The significant focus of the evening should properly be on your support of the synagogue.

Over the millenia, the synagogue as an institution has been both the container and the guardian of our roots. This unique institution has nurtured our tradition and kept it alive wherever it has been transplanted. In North Africa; Eastern Europe; Western Europe; the Americas, for a while even in India and China. If we cherish Judaism then we must cherish and support the synagogue. Of course other Jewish institutions need and deserve our vigorous support. We must, however, constantly keep in mind that the impulse for the development of our organizations for social welfare, all of those groups devoted to the amelioration of the human condition grew out of the roots of our religious tradition. If we ever become completely secularized then we will disappear as a unique community. It is my strong feeling that Judaism's twin messages of world unity and love of justice need the living testimony of the Jewish people.

The clear test for the monotheistic religions of the world, the one that most readily determines the degree to which they have truly ingested the lessons of their noblest ethical teachings rests in their manner of treatment of the Jewish people. Not the least of the tragedies of the Holocaust was its sad demonstration on the failure of Christianity to influence the behavior of large numbers of its professed adherents.

As long as a powerful nation such as Russia, can make anti-semitism a part of its official policy, or as long as country clubs in our immediate area can be dominated in their membership policies by a small group of anti-semites, the world will need Jews.

Until all of the world truly believes that man was created in God's image, that is, that every person must be treated with the care due a spark of the divine, until then, the world will need Judaism.

The Jewish people need a living vibrant religious institution lest the treasured roots shrivel and die. For your support of the synagogue I pay you tribute and express my profound gratitude to you. By your generosity you have made a significant gesture indicating understanding of and appreciation for our heritage.●

HOME HEALTH CARE REFORM UNDER MEDICARE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. CONABLE. Mr. Speaker, today I am pleased to introduce a bill which would go a long way toward reducing the cost of medical care, and improving access to care, by increasing the potential availability of home health services to our medicare beneficiaries. This bill, by removing certain restrictions with respect to proprietary home health agencies that are presently in title XVIII of the Social Security Act, but which are widely regarded as unrealistic and discriminatory, would provide a small, but highly significant, first step toward developing a more effective and adequate system for the delivery of long-term care.

Mr. Speaker, I have been concerned with this problem of long-term care delivery for many years. A bill which I previously introduced, H.R. 2029, would in fact revise the system in a comprehensive manner through provision of a continuum of appropriate services under medicare, including home health care.

Today, I seek a far more modest goal. The legislation I am introducing would eliminate a particularly flagrant inequity found in section 1861(o) of the medicare law, which excludes proprietary home health agencies from participating in medicare unless they are licensed to do so under State law, and which otherwise imposes additional requirements on such agencies.

This requirement, in addition to depriving millions of medicare beneficiaries of access to needed home health services, clearly serves to inhibit or limit competition in the health marketplace. Secretary of Health, Education, and Welfare Califano has referred to this country's health industry as a "vast, sprawling, complex, highly expensive and virtually noncompetitive industry." The provisions of 1861(o) of the medicare law that I am concerned with are but one example of how such a situation has come about. A major purpose of this bill will be to remove this unfortunate anti-competitive barrier.

The point is that there has been no conclusive evidence to support the proposition that proprietary home health agencies are less efficient, or more prone to abuse or defraud the Government, than the so-called nonprofit organizations that are not subject to the exclusionary language of section 1861(o). Indeed, the testimony of numerous witnesses reveals that many nonprofits have billed the programs for excessive salaries or salaries for family and friends, the use of expensive cars, or questionable trips. The only difference is that these improper expenditures are not said to constitute "profits." On the other hand, a great deal of testimony and data indicate that proprietary agencies have performed, and can perform, in a most high-level and capable manner.

Moreover, to require proprietary home health agencies to seek licensure in all States simply creates the anomalous situation where medicare is paying for services of such agencies in some States, but not in others. The same agency, in fact, may be reimbursed for services provided to medicare beneficiaries in one State, but not another, even though those services are of equal quality and conform to all legal requirements.

Although Congress undoubtedly anticipated that States would enact home health licensure laws as the need arose, only about 40 percent of the States have so acted. The net result is that, in the other 60 percent of the States, millions of citizens are not able to obtain needed services or payment for such services. Or, as frequently happens, home health agencies will simply label themselves as "private-not-for-profit," thereby limiting their options for obtaining needed capital or other types of support, without any additional benefits for either the patient or the payor. It is precisely this unproductive situation that my proposed legislation will eliminate.

Finally, Mr. Speaker, let me emphasize that this bill would in no way expand the scope of coverage under medicare. The present requirements that apply concerning such matters as eligibility, the kinds of services that are covered, and the need for physician supervision, will not be changed. There is, in addition, no anticipated increase in cost to the Federal Government if this bill is enacted. All that the measure would do is to eliminate an arbitrary, unnecessary, and detrimental distinction in the present law between proprietary and nonprofit home health agencies—a distinction that I submit is detrimental to the medicare program and its beneficiaries.

Mr. Speaker, I hope and expect this bill will be considered by the Ways and Means Committee this year, in conjunction with other important, but relatively low-cost and noncontroversial medicare issues. I would urge all of my colleagues to give careful thought and attention to this measure, because its enactment could provide substantial benefits for our elderly citizens, who are chronically ill or disabled but who prefer to live and be cared for in their own homes rather than institutions, at no additional cost to the programs.●

ADS TO HELP CHILDREN

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. DICKS. Mr. Speaker, as I am sure many of my colleagues are aware, considerable controversy has developed over the proposals of the Federal Trade Commission in regard to children's advertising. This controversy has recently been highlighted by actions taken by the Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary.

The attached editorial by Stanley E. Cohen which appeared in Advertising Age on April 17 of this year makes an excellent point in its introspective view of how effective internal regulation has thus far been in the advertising industry. I would recommend it to the Members of the House and ask that it be included in the RECORD.

The editorial follows:

CHILDREN NEED HELP FROM AD COUNCIL

(By Stanley E. Cohen)

WASHINGTON.—At dinner, one of the women present offered a mind-boggling fragment of information: Her nine-year-old grandson is in school in a community which is the site of a great university. Out of 36 in his class, only four live in "normal" families—with both natural parents.

The rest are one-parent families or they live in homes with various combinations. Mother and stepfather. Father and girlfriend. Mother and girlfriend.

Her statistic was matched by another. "Among children nine or under in our own community schools," another woman volun-

teered, "about half are from one-parent homes."

I do not vouch for the precision of these statistics. But given today's life style and the high percentage of broken marriages—and nonmarriage—they are a reminder that the two-parent "normal" family is less universal than we wish.

It is something to keep in mind as the ad business gears up to resist the Federal Trade Commission proposals on advertising to children. I am seeing a stream of editorials and speeches complaining that government is trying to tell us how to raise our kids. Many of them announce indignantly: "The FTC is trying to constitute itself the national nanny."

That is, of course, a grabber of a slogan, and it is bound to set off friendly vibrations in certain political circles.

But what if it boomerangs. This, after all, is a legal proceeding, where the result will rest on the evidence in the record. Is the industry content to let the issue hinge on whether children need a nanny? What happens when FTC hears a parade of witnesses describe the millions of latchkey children unpoliced by adults, glued to tv until someone returns from work?

It makes sense for the industry to try to discredit the FTC proposals by showing, for example, that they won't even be an effective antidote for tooth decay. It is quite another thing for the industry to stand before the nation and debate an issue of serious concern with a propaganda counterattack.

After 35 years, I am strongly convinced that some things are too basic to be met merely by "hanging tough." We are dealing here with our nation's most precious asset—the children who are its future. Millions whose opinions are important to the welfare of the business community will be asking: Is this the best you have to offer?

I don't see how anyone who pays attention to what goes on in children's tv much of the time can be happy about it. So when I hear about meetings to raise a $2,000,000 war chest to fight FTC, I feel it in the pit of my stomach.

In this industry there must be hundreds—even thousands—who are no less concerned than I am about the welfare of our children, and who have the resources and talent to do something about it. So there must be a lot more this industry can do than to raise $2,000,000 to enrich the lawyers and keep the situation confused.

Imagine, for a starter, what would happen if broadcasters stopped denouncing FTC long enough to monitor some of their own programs and asked themselves: Is this the best the public has a right to expect? Almost four years ago, the FCC stated that broadcasters have a special obligation toward children. Does today's programing reflect compliance with that ruling?

If we agree children have special needs, is it unreasonable to expect that broadcasters, who are licensed on the condition that they operate in the public interest, will go the extra mile to see that these special needs get more than routine attention? How many broadcasters, if called to account, could justify what they are doing?

And this doesn't apply just to the programing. Is it necessary to have a glut of ads for highly sugared products in a limited period of Saturday morning time? How much of the concern about the ads on tv would have disappeared if broadcasters merely exercised sensible control in spacing the ads for sugared products?

But even if broadcasters begin facing up to their responsibility, there is still important unfinished business for the ad industry.

Informational programs about nutrition, safety and many other subjects need to be developed for use during the children's viewing periods. Imagine how much more useful it would be if the $2,000,000 now slated for lawyers and expect witnesses could be used to establish a new children's information affiliate of the Advertising Council, which would work with educators and others to see that this need is filled?

This new affiliate of the Ad Council would have to include talents from outside the ad world—educators, child psychologists and others. But the energies and know-how of the professional communicator would be the indispensable ingredient which would make it work.

Years ago, when the Advertising Council was founded, the industry had leaders who felt it was important to show the public—and the serious people within the industry—that the ad business cared about the public welfare, and was organized to make its talents available where they would help. In this more litigious age, we have lost the vision. So we raise war chests to resist. The public need goes unmet. And one war chest leads to another.●

THEODORE AND MAGARET FREDERICKSON

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. DENT. Mr. Speaker, I wish to pay a fitting tribute to two outstanding citizens from my congressional district; Theodore and Margaret Frederickson.

Mr. and Mrs. Frederickson, from Greensburg, Pa., are presently serving in my office as senior congressional interns. I am indeed honored to be associated with the Fredericksons and I am pleased to participate in the senior congressional intern program.

It is both refreshing and comforting to have two such talented people involved in the senior citizen movement. It is encouraging that they have seen fit to come to Washington to learn what they can do to further and assist such a noble cause. Mr. Frederickson serves as the president of the Greater Greensburg Senior Citizen, Inc., and the Seventh Ward Civic Association. He is the past president of the advisory board of Clover Farm Stores and the Kiwanis Club.

Mr. Speaker, it is because of people like the Fredericksons that we in the Congress have witnessed a renewed dedication and concern for our elderly. It is because of the grassroots efforts of citizens like the Fredericksons that a measure of pride and decency has come to the senior citizen community. As a senior citizen myself, I am thankful for the hard work and dedication of those, like the Fredericksons, who have devoted their time and considerable talents to furthering the interests of older Americans.

Thus, it is with a great deal of pleasure and gratitude that I take this time to salute Margaret and Theodore Frederickson for all their compassion and good work. I am proud to be associated with them and wish them well in all that they undertake.●

MISCONCEPTIONS ABOUT THE BOUNDARY WATERS WILDERNESS ACT

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BLOUIN. Mr. Speaker, the House will soon consider the Burton-Vento compromise bill on the Boundary Waters Canoe Area. This bill, reported from the House Interior Committee last month, provides for the legitimate concerns of local residents while protecting the BWCA's wilderness qualities.

The BWCA is the only place in the United States where one can have a wilderness canoeing experience, and many thousands of campers from Iowa take the long trip to northern Minnesota each summer to visit the area. Many other people travel even greater distances, coming from all parts of the Nation. The BWCA is truly a national resource; it needs consideration from this standpoint.

The Burton-Vento does recognize the national significance of the BWCA. But it also includes provisions that allow for continued motorboat use on those lakes located on the perimeter of the BWCA where there are concentrations of homes and resorts. The bill contains other provisions that do a great deal to guarantee that the interests of those who live in the vicinity are provided for.

Jim Klobuchar, a Minnesota columnist who was born and raised in the town of Ely near the BWCA, has written of the problems encountered when national and local interests are not in total harmony. In the May 8 edition of the Minneapolis Star, he noted:

> The issue in the Boundary Waters is rather straightforward. For more than 50 years this has been an ecologically fragile fragment of the country perceived as a canoeing wilderness, a primitive land that ought to be allowed to exist in that state for no more elaborate reason than mankind today needs places like that.
>
> It has retained its original size and purpose through a succession of attempts to alter its character, to commercialize it and to motorize it in the name of local recreation and business.
>
> From the beginning it was intended as a preserve of quiet and a refuge from hurry.

Klobuchar goes on to observe that the Burton-Vento bill represents a realistic balancing of local and national needs:

> There is room to recognize that hundreds of local people make use of the Boundary Waters for pleasure and that some of the resort operations there depend on motors for a profit.
>
> So some of the Boundary Waters' more popular lakes can be spared for that.
>
> But any claim that most of its water surface must remain open to motorboats and snowmobiles to save the recreational lifestyles of northern Minnesotans does a wild violence to the truth.
>
> They can snowmobile over hundreds of miles of trails outside the Boundary Waters. The State of Minnesota has systematically made available vast acreages of its land and frozen lakes to snowmobile use, even in the

face of evidence that cross-country skiing is being embraced by thousands more each year.

Substantial parts of the Boundary Waters will still be available for the motorboat users. But the primitive land there belongs to all, and no amount of political imperatives and territorial cutting-up in an election year should blur that truth for the rest of us.

I commend the rest of the article to my colleagues' attention:

NO BLOODSHED FOR FRASER AT THE FALLS

(By Jim Klobuchar)

The advance reports from northeasern Minnesota last week compared Rep. Donald Fraser's imminent appearance before the 8th District DFL convention with Marie Antoinette's last public outing in France.

The more colorful predictions from International Falls assigned to the pro-wilderness congressman such varied fates as political lynching, ostracism and deep-sixing in the Rainy River.

The delegates today are to be complimented for their restraint, a quality that was once formally banned from DFL platforms.

According to all available medical diagnoses, the congressman emerged in excellent health with all body parts still recognizable—which alone has to be considered the political upset of the month. True, the majority of the delegates urged one of their own state legislators to run against him for the party's endorsement for U.S. Senate. But while this might be regarded a hostile act, you could argue that Jonah certainly would have settled for that, compared to what he got.

So if you are going to congratulate the delegates on their diplomacy in listening to Frazer, you will probably want to congratulate Fraser for speaking the uncomplicated truth to his most passionate critics on the Boundary Waters issue.

His untheatric subborness in doing so might emphasize even further why almost alone among the DFL candidates for statewide office, he belongs in the fabric of Humphrey, Mondale and the other DFL captains who acquired national audiences with their performance and political impulses.

The Boundary Waters dispute is not interplanetary in its impact and significance. But it does examine both the politician and the public on one of the very relevant questions of the times—whether our new devotion to the care of a vulnerable nature is just an appeasement to conscience, or are we willing to recognize a definitive hour to act when we see it.

The issue in the Boundary Waters is rather straightforward.

For more than 50 years this has been an ecologically fragile fragment of the country perceived as a canoeing wilderness, a primitive land that ought to be allowed to exist in that state for no more elaborate reason than mankind today needs places like that.

It has retained its original size and purpose through a succession of attempts to alter its character, to commercialize it and to motorize it in the name of local recreation and business.

From the beginning it was intended as a preserve of quiet and a refuge from hurry.

Otherwise well-intended and tolerant people who oppose the wilderness advocates will often snicker or guffaw at this characterization of the Boundary Waters.

But nobody snickered 50 years ago when it was designated by the government as a place where the woods and waterways of a million acres of Minnesota's northland should be protected simply because they are a wild nature—and there is pitifully little of it which remains to us now in the advance of mechanization and rush.

Donald Fraser did not say a Boundary Waters bill should be impervious to compromise. He said it should not be compromised to destruction.

There is room to recognize that hundreds of local people make use of the Boundary Waters for pleasure, and that some of the resort operations there depend on motors for a profit.

So some of the Boundary Waters' more popular lakes can be spared for that.

But any claim that most of its water surface must remain open to motorboats and snowmobilers to save the recreational lifestyles of northern Minnesotans does a wild violence to the truth.

They can snowmobile over hundreds of miles of trails outside the Boundary Waters. The state of Minnesota has systematically made available vast acreages of its land and frozen lakes to snowmobile use, even in the face of evidence that cross-country skiing is beng embraced by thousands more each year.

Substantial parts of the Boundary Waters will still be available for the motorboat users. But the northern Minnesota politician who displays a button calling the Boundary Waters a "playground for the Twin Cities" gets his laughs cheaply. The primitive land there belongs to all, and no amount of political imperatives and territorial cutting-up in an election year should blur that truth for the rest of us.●

NATIONAL ASSOCIATION OF BLACKS IN CRIMINAL JUSTICE OPPOSE THE CRIMINAL CODE REFORM BILLS: S. 1437, H.R. 6869

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. CONYERS. Mr. Speaker, the National Association of Blacks in Criminal Justice recently held their fifth annual conference here in Washington. The association, a nationwide organization of black professionals at all levels of the criminal justice system, lawyers, and academicians, passed a resolution opposing passage of the criminal code revision proposals, S. 1437 and H.R. 6869. In addition Mr. G. LaMarr Howard, chairman of the association, testified before the House Subcommittee on Criminal Justice on April 19, 1978, against these bills. I offer Mr. Howard's excellent testimony and the National Association of Blacks in Criminal Justice's resolution for review of my colleagues:

TESTIMONY OF G. LAMARR HOWARD, ASSOCIATE PROFESSOR OF CRIMINAL JUSTICE, COLLEGE OF URBAN LIFE, GEORGIA STATE UNIVERSITY, ATLANTA, GA.

TESTIMONY ON S. 1437

Mr. Chairman and members of the committee; the National Association of Blacks in Criminal Justice appreciates the opportunity to give you our views on S. 1437.

As an organization concerned with the operation of all aspects of the criminal justice system, we have taken a great interest in this bill. Blacks in this country are all too familiar with the detrimental impact of a system of criminal justice that permits unlimited and unchecked discretion to be exercised by every component of the system. Often, the structure of the present criminal justice system has the effect of producing great injustices—many of which bear disproportionately upon Blacks and other minorities. We know that supporters of this bill say that it will limit discretion and reduce instances of injustice. However, we strongly disagree and at our National Conference in March a resolution opposing passage of S. 1437 was adopted.

The Report of the Committee on the Judiciary of the U.S. Senate (95–605) states on page 883 that "the goal of sentencing provision of S. 1437 is to reform a criminal sentencing system which is unjust and is perceived to be unjust by offender and society alike." We believe the bill fails in its efforts to effectuate that goal for the following reasons:

1. THE PURPOSES FOR SENTENCING ARE CONFUSING AND MISLEADING

Section 101b (1–4) lists various purposes for providing sanctions. They are "(1) to deter such conduct; (2) protect the public from persons who engage in such conduct; (3) assure just punishment for such conduct; and, (4) promote the correction and rehabilitation of persons who engage in such conduct, recognizing that imprisonment is generally not an appropriate means of promoting corrections and hehabilitation."

It is no wonder that offenders and society do not perceive the system as just. It has too many conflicting purposes and justifications. Section 101b will contribute to the confusion. Further, there is absolutely no empirical proof that sanctions deter, protect the public or correct. These purposes are completely misleading and are a part of some kind of wishful thinking. It would certainly be convenient if sanctions could in themselves reduce crime, but they do not.

Our attempt to use sentencing as a method to control crime has lead to public expectations that can only produce disillusionment and frustration. When the average citizen sees sentencing as a way to control crime, he or she tends to think that the failures of the criminal justice system are based on too lenient sentencing. This has in turn led to harsher and harsher sentencing in this country. In the last 30 years, the average federal sentence has increased from 16.5 months to 45.5 months.

This organization believes that we need to look at the purposes of sanctions again and try to produce something better than a list of everyone's pet criminal justice theory. We should remind ourselves that the major purpose of any sentence is to give reality to the law and the criteria for a "correct" sentence should be based upon whether it is just in terms of the offender and the society as a whole.

2. IMPRISONMENT IS THE MAJOR FOCUS OF CRIMINAL SANCTIONS IN S. 1437

With acknowledged deviation from the Brown Commission's recommendations, the bill allows imprisonment for all offenses, including the lowest level of offense—the infraction. This leads to the ridiculous situation in section 1826 (Violating a State or Local Law in an Enclave) where a federal sentence of up to five days could be given when the penalty for the state or local offense only authorized a fine.

The philosophical foundation for this "everyone may go to jail" approach is shown most clearly on page 921 of the Senate Report.

"The committee is of the belief that a very short term (five days) of imprisonment is appropriate for some offenders who are found to have committed infractions since inter alia, the shock value of a brief period in prison may have a special deterrent effect."

You can lose your job, have your personal life turned upside down, and be physically assaulted in five days. All of these things may be shocking, but we question their ability to engender anything but bitterness against the criminal justice system. There also seems to be absolutely no concern about the dollar

cost of processing people through prison for five days.

The last sentence in this same paragraph in the Senate Report is not only cavalier toward the use of imprisonment but also unconscionable. The report states: "In addition, as a practical matter imprisonment may be the only available punishment for indigents." We hardly know how to respond to such a statement. It blatantly disregards, even in lip-service, equal protection for the poor. How does this kind of thinking fit with the goal of removing injustice from criminal sentencing?

The framers of the bill have chosen to ignore how drastically a sentence of imprisonment affects the offender and how much it costs society.

They have also chosen to ignore the recommendations of the National Commission on Criminal Justice Standards and Goals that the sentence should be "the least drastically sentencing alternative . . . that is consistent with public safety."

This organization opposes this dependence on imprisonment because it is Blacks and minorities that are and will be imprisoned. Research by both William Nagel and his son Jack Nagel show clearly that the only significant factor in a state's rate of imprisonment is its Black population. Whether its crime rate is high or low, if the state has a large Black population, it will have a large prison population. Your own federal prisons are becoming increasingly filled with blacks and other minorities. Since 1970, the Federal Bureau of Prisons has added 5,221 new "beds". It has also added 6,317 new minority prisoners. Every new bed, plus, has been filled by a minority person. Where in 1969, minorities represented 27.4% of the federal prison population, minorities now represent 39.5%. You must see why we are concerned over this increasing reliance on imprisonment in S. 1437.

3. UNCONTROLLED DISCRETION AT THE POLICE AND PROSECUTORIAL LEVEL IS IGNORED BY THE BILL

The bill only attacks discretion at the court and parole levels and ignores the possibility that the guidelines may, in fact, enhance the discretion and power of the police and prosecution. The criminal charge becomes even more important under this bill and plea bargaining will be reinforced. For example, Section 1612 (aggravated battery) and Section 1613 (battery) allow subjectivity in choosing which charge applies. This offers great potential for coercion of a guilty plea since the difference in maximum time is five years versus thirty (30) days. The sentencing guidelines will only lock the judge into deals that the prosecutor has made with the defendant.

4. THE CONCEPT OF PAROLE IS TWISTED INTO ONLY AN ADDITIONAL PERIOD OF TIME UNDER SUPERVISION

During the Senate Hearings there was a great deal of focus on the injustices of our parole system. There is no question that parole, like every other facet of our criminal justice system, has been used unfairly. Parole was singled out, not so much because it was more unfair, but because it was particularly vulnerable.

In the past few years many people have become disillusioned with any criminal justice program which has historical connections with the concept of "rehabilitation." Parole decisions have come to represent the worst abuse of discretionary power. In response, many parole systems, including the Federal Parole Commission, has tried to establish clear criteria for release of prisoners. Ironically, many of the criteria to be used by the sentencing commission in establishing guidelines reflect the struggle of the present Federal Parole Commission to rationalize its decisions making process. We don't necessarily agree that the criteria are the best possible, but they do represent a start.

The idea that parole supervision ought to be continued as an additional term of control by the criminal justice system seems to us to be quite questionable. The original justification for parole supervision was that both the offenders interests and societies interests were balanced. The offender had the opportunity to be released earlier than his maximum, if he agreed to supervision and the possibility of return to prison if he failed to adjust statisfactorily. Without this balance of interest, parole supervision can only be seen as an additional sentence, and one that reenforces the whole punitive attitude of the proposed system.

5. THE SENTENCING COMMISSION IS GIVEN TOO MUCH UNCONTROLLED AUTHORITY

The sentencing commission is the vehicle in this legislation that is supposed to eliminate disparity in sentencing. Before considering whether the proposed commission is the proper vehicle, I believe it's important to make certain points about disparity itself. First, disparity is only unjust if there is actually no difference in the offense and offender. Second, a great deal of disparity comes from the existence of conflicting and overlapping laws that makes what law is to be applied, open to both interpretation and manipulation. Third, disparity comes from a lack of communication between judges on sentencing and between the court and the rest of the criminal justice system.

Several ideas, which are not fully developed in the bill, could have a great impact on sentencing disparity. First would be the requirement that judges state their reasons for a sentence and second, that sentences that fall outside the guidelines established by the sentencing commission. We believe both should be required in all cases. There is, however, the possibility that even the guideline sentences may be unjust depending on the circumstances of the case. In those instances, will we be content with allowing an unjust sentence to be imposed without possibility of appellate review?

The National Advisory Commission on Criminal Justice Standards and Goals (Corrections 1973) had several recommendations to deal with sentencing equity. They suggested (1) use of sentencing councils for individual sentences; (2) periodic sentencing institutes for judges; (3) continuing sentencing court jurisdiction over the offender until the sentence was complete; and (4) appellate review of sentencing decisions. We have attached to our testimony the specific recommendations of the Commission and reasoning for these recommendations.

The guidelines proposed may be a good idea. However, the restrictions that go along with the use of the guidelines will, we feel, defeat the purposes of creating a more just system. We are also extremely concerned about the composition of the sentencing commission and whether its members will be attuned to the conditions of the poor and minorities in this country.

CONCLUSION

There are many areas outside the sentencing section that also concern us. While we have tried to focus our testimony on the sentencing issues; we wish to raise a general question concerning the possibility that the bill poses serious constitutional problems.

(1) The restrictions on the court, particularly the courts' right to review its own sentence, may effect the separation of powers doctrine.

(2) The bill may expand federal jurisdiction, or it appears to expand it, in violation of the 10th amendment.

(3) The offenses sections of the bill are in many cases (again section 1826 is an example) unduly vague and that the average person will not be able to understand what constitutes prohibited behavior.

(4) There is the possibility of constitutional problems associated with the establishment of the sentencing commission as proposed. There are three such problems.

a. The members of the commission, given the authority they are to exercise, could conceivably be "officers of the United States" under Article II Section II of the United States Constitution only the President of the United States can appoint "Officer of the United States." Undoubtedly S. 1437 gives the sentencing commission significant authority. The commission is to set suggested sentencing ranges for all federal offenses. The sentencing judge is required to consider the commission's guidelines and policies when imposing sentence. The commission's guidelines and policies are more than mere advice to be taken into account by the judge at sentencing. The guidelines establish grounds for appeal for sentencing falling outside the specified ranges.

b. Even if the commissioners are "Inferior Officers" within the meaning of the appropriate clause, it is unclear as to whether Congress could mandate appointment by the Judicial Conference. The appointment clause authorized the Congress to vest the appointment of certain "Inferior Officers" in "the Courts of Law" or "Heads of Department." Would appointment by the Judicial Conference by appointments by the "Courts of Law" fall within the meaning of the Constitution? Appointment by the United States Supreme Court would clearly be consistent with the appointment clause and would perhaps be a logical alternative to appointment by the Judicial Conference. The appointments clause should be given further attention by this subcommittee.

c. There may be a delegation of authority problem, regardless of who appoints the commission. The process of prescribing sentencing guidelines may be a purely legislative function. In which case, it may be nondelegable to judges by non-judges. On the other hand, the creation of guidelines may be viewed as a function to be performed by the judiciary, supportive to the sentencing function. To the extent that the latter view is correct, Congress can only delegate the authority to set guidelines to judges.

Finally, we wish to recognize that many people have worked hard and long on this bill and that some of the effects that trouble us may not have been intended. However, reform of the criminal code deserves our most careful attention. We should not feel pressured to pass a bill that is unsatisfactory. Perhaps we are simply not at a stage in this country where we can reach a consensus on sentencing and the purposes of criminal sanctions. We would strongly urge the committee to consider how many problems there are with the proposed bill and whether it will actually help us insure a fairer and more just system of criminal laws.

RESOLUTION ON SUPPORT FOR THE WILMINGTON TEN

Whereas, the National Association of Blacks in Criminal Justice has dedicated itself to securing justice for Blacks within and throughout the American Criminal Justice System, and

Whereas, the quality of justice in North Carolina has often been found to be lacking, and

Whereas, the case of the Wilmington, North Carolina Ten has become manifestly known as the epitome of injustice;

Be it now, therefore resolved that the National Association of Blacks in Criminal Justice demonstrates its support for the exoneration of the Wilmington Ten.

Be it, further resolved that in the event that the case of the Wilmington Ten reaches the 4th U.S. Court of Appeals, the National

Association of Blacks in Criminal Justice, through its executive committee, and at least one attorney inside or outside the organization, file an Amicus Curiae Brief (Friend of the Court) on behalf of the Wilmington Ten, and that the brief be prepared in consultation with members of the Commission for Racial Justice.

RESOLUTION ON OPPOSITION TO H.R. 6869 AND S–1437

Whereas, S–1437 and H.R. 6869, legislation to "create a" new Federal Crimes Code makes imprisonment the major focus of criminal sanctions; and

Whereas, both bills are overly concerned with limiting and reducing discretion at the sentencing and parole levels while totally ignoring the need to place similar restraints on discretion exercised by other elements of the criminal justice system; and

Whereas, the legislation contains provisions for mandatory minimum sentences for certain offenses involving operating or the use of a weapon; and

Whereas, while the legislation may or may not actually extend federal authority, it also does not attempt to put a much needed restraint on its use; and

Whereas, with respect to the concept of parole, the legislation does little else but to substitute the notion of "early release" for present parole practices; and

Whereas, public response to criminal justice issues is too fluid to justify the acceptance of a compromise that may not be really necessary, now therefore be it,

Resolved, that the National Association of Blacks in Criminal Justice opposes the passage of S–1437 and H.R. 6869; and be it finally

Resolved, that a copy of this resolution be sent to the United States Attorney General and to all members of the United States Congress.●

EDDIE MATHEWS DAY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

Mr. LAGOMARSINO. Mr. Speaker, I would like to take note of a major event concerning Major League Baseball's Hall of Fame, Cooperstown, N.Y. Many men aspire to it, a few approach it, fewer still ever make it. Edwin Lee Mathews is one of the few.

Born October 13, 1931, young Mathews went on to graduate from Santa Barbara High School in 1949 and on graduation night he was signed to play for the Boston Braves. Through the next 17 years Eddie Mathews played in 2,404 major league games with the clubs in Boston, Milwaukee, Atlanta, Houston, and Detroit. He hit 512 home runs and his lifetime batting average is .271. Eddie appeared in three world's series and was on the roster of 13 all-star games. He topped it off by managing the Atlanta Braves for 2 years.

Now the mayor of the city of Santa Barbara, Calif., has proclaimed Saturday, May 27, 1978, "Eddie Mathews Day" and on August 7, 1978, Edwin Lee Mathews will be inducted into Major League Baseballs Hall of Fame in Cooperstown, N.Y.

Because of this long and distinguished career in the world of baseball, I ask the Members of the House to join with me, his wife, Elizabeth; his children, Edwin, Jr., John, and Stephanie, and his multitude of friends in congratulating Eddie Mathews and extending best wishes for the future.

PROPOSED REGULATIONS FOR STATE REPORTING OF SOCIAL SECURITY PAYMENTS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. ROE. Mr. Speaker, I rise now to voice my opposition to the revised regulations proposed by the Social Security Administration regarding the frequency with which the States deposit social security contributions on wages and salaries paid to covered employees of the States and their local jurisdictions.

At present, the regulations in effect required such payments on a quarterly basis, 45 days after the end of each quarter, on or before the 15th day of the second month following the calendar quarter for which they are made. Under the proposed rules, such deposits would be made on a monthly basis, with a gradual reduction in the deadline to the 15th day of the month following that for which payment is being made. Under various options being considered, this change is the due-date could be effected by any time from mid-1981 to late 1984.

As a result of the Government's announcement of its proposal, widespread interest has developed in my bill H.R. 1300, which I am reintroducing today. This would amend the Social Security Act "to require the States * * * will continue to make social security payments and reports on a calendar-quarter basis."

Mr. Speaker, it has become evident to me, after reviewing these proposed changes, that they are, at best, unrealistic. Social security claims that their goal is, and I quote, "designed to make the requirements imposed on the States the same, as far as practicable, as those imposed on other employers," that is, on private industry. But, Mr. Speaker, how many employers in the private sector are responsible for as many subsidiaries as a State has counties and municipalities for whom they must report? In my home State of New Jersey alone, for example, there are over 2,600 participating employer locations—including State, county, and municipal offices. Even now, because of the sheer number and dispersal of these locations and their employees, it is extremely difficult for the State to assure payment on a calendar-quarter basis, even with the moneys due 45 days after the end of the quarter. And New Jersey certainly is not alone in this predicament. We are but one of 50 States faced with a similar dilemma. Nationally, over 70 percent of all State and local government employees have social security coverage, with the States assuming full responsbility for all aspects of such coverage, including filing wage reports and paying contributions for those covered. This system necessitates quarterly payments, as there is no way that each public employer can report to the State and the State then remit to the Federal Government as proposed 12 rather than the present four times a year, and have the Federal Government still expect the State to be responsible for contributions which have not been paid in a timely manner from many of the hundreds of political subdivisions and offices therein.

Social Security has argued that the reason for their action also involves the transmitting of the moneys to be deposited into the social security trust fund. With the present system of quarterly reporting, they claim they are faced with a loss of possible interest income earned by the fund.

There is an alternative I have not yet mentioned, largely because of the enormity if its possible ramifications. That is the withdrawal of the States from the social security system. This would be disastrous all round, but it may be the only hand the Federal Government will leave the States to play. Let us recall that their participation in the program is not mandatory, as it that of the private employer, but voluntary. If the Social Security Administration will not rethink their proposal, the States may have to give this last option serious consideration.

In summation, I ask for your support, Mr. Speaker, and that of my colleagues in forestalling this action by the Government and that you join me in unified opposition on behalf of those we represent.●

NATIONAL WILDLIFE REFUGES

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. McKAY. Mr. Speaker, I am very interested that the Congress specify its intent regarding the language of the Merchant Marine and Fisheries—Interior consensus substitute as it relates to the road corridor between Selewick and Koyukuk National Wildlife Refuges. The Ambler area of Alaska contains at least $6.3 billion worth of proven and valuable mineral assets. Because of this tremendous hard rock mineral potential, this area was specifically excluded from national park or national wildlife refuge consideration. Unfortunately for the Nation's mineral needs, the area is almost completely surrounded by national parks and national wildlife refuges.

Recognizing a legitimate need, and after extensive public hearings on the matter, the Interior Committee established an access corridor between Selewick and Koyukuk National Wildlife Refuges.

The Merchant Marine and Fisheries Subcommittee also held exhaustive hearings on the issue and concurred with the corridor concept. Because of their concern that two national wildlife refuges

not be bifurcated by a narrow strip of Bureau of Land Management land, the Merchant Marine and Fisheries Subcommittee substituted the corridor with language mandating that a right-of-way through the national wildlife refuges be established if no feasible alternative for transporting the minerals could be found.

It is important to recognize that both committees intended that an economically feasible alternative be available. The Congress is not necessarily concerned about the exact route, be it through the Selewick or the Koyukuk National Wildlife Refuges, but it is imperative that a route be established.

The language is specific:

The Secretary shall . . . grant an easement . . . for the road, railway, or pipeline . . .

I appreciate this opportunity to establish in the RECORD the intent of Congress.●

HEARINGS ON IRELAND?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues an article which appeared in the Monday editions of the Boston Globe. It discusses the important issue of Congressional hearings on the entire Irish question.

As many of my colleagues are aware I have been advocating these hearings for a number of years for I see them as an essential element to advance the cause of peace in Ireland. Working for these hearings is one of the main objectives of the 105 House and 1 Senate member of the Ad Hoc Congressional Committee for Irish Affairs.

I wish to now insert the article for the consideration of my colleagues:

A TRICKY ISSUE FOR O'NEILL

(By Rachelle Patterson)

WASHINGTON.—House Speaker Thomas P. O'Neil Jr. is in the middle of a growing controversy over whether the House should hold hearings on the political and economic situation in Northern Ireland.

On the one hand, the most visible and powerful Irish-American in Congress has heeded the warnings of the Irish embassy and U.S. State Department officials that a public airing on Capitol Hill of the Ulster problem could only serve to inflame the situation.

They argue that hearings held by such a prestigious body would give a voice to promoters of violence, namely the Irish Republican Army (IRA), and charge that public accounts of abuses and atrocities could lead to deeper conflict.

On the other hand, a group of congressmen, headed by Rep. Mario Biaggi (D-N.Y.), called the Ad Hoc Committee on Irish Affairs is pushing for hearings to focus worldwide attention on alleged abuses of human rights, including inequities in employment and education.

The Irish National Caucus hopes to persuade members of Congress that the British government is guilty of violations of human rights in Northern Ireland and has no right to be there. It cites a decision handed down in January by the European Court of Human Rights.

Meeting at Strasbourg, France, the court voted, 16–1, to condemn the British government for letting its security forces use "inhuman and degrading" third-degree methods in questioning suspected members of the IRA in 1971.

At the same time, the court turned down, 13–4, a recommendation of its Advisory Commission on Human Rights that the five techniques of interrogation to which it objected be called torture.

The issue is a sensitive one for O'Neil, and, on three occasions, when interest began to surface for public hearings, the Speaker squashed the move. Another attempt is under way to hold hearings by the House International Relations Committee's Subcommittee on Europe and the Mideast, chaired by Rep. Lee Hamilton, an Indiana Democrat.

Biaggi and Hamilton are working out a proposal to hold hearings that would meet the objections of those who feel the debate would incite further violence. Biaggi is developing a witness list that he says would be broad in scope and involve representatives of the Irish in the North and the Republic of Ireland.

Hamilton said the hearings would also help to determine whether there is any role for the U.S. government to play in Northern Ireland.

The moving force behind the Ad Hoc committee is the 4-year-old Irish National Caucus, which is composed of several Irish organizations, including the Ancient Order of Hibernians.

The caucus has been lobbying for public hearings for months, to no avail, largely because it has been linked to the IRA. Among its biggest detractors is Irish Prime Minister Jack Lynch, who says the caucus "has been closely associated with the cause of violence in Northern Ireland."

To Biaggi, a former New York city detective who became interested in Irish problems 10 years ago though his district in the Bronx is only six percent Irish-American, such remarks are "insulting." He and Fred Burns O'Brien, a Boston-born lawyer with the U.S. Customs Department here, vehemently deny any ties to the IRA and have publicly deplored the use of violence by the IRA.

A grass-roots organization that urges their representatives around the country to join the ad hoc committee in Congress, the caucus says its purpose is to educate the American people, Congress and the government on the situation in Northern Ireland. Its national coordinator is Rev. Sean McManus of the Mission Church in Boston and its secretary is Bernadette O'Reilly, a secretary to Massachusetts Republican Rep. Silvio Conte.

Among the 104 House members of the ad hoc committee are six from Massachusetts: Republicans Conte and Margaret Heckler and Democrats J. Joseph Moakey, Michael Harrington, Edward P. Boland and Paul Tsongas. There is one Senate member, Dennis DeConcini (D-Ariz.).

Harrington, who chairs the International Development subcommittee on the Committee on International Relations, briefly explored the idea of holding hearings on the subject himself but decided he had "narrow claim" on jurisdiction. Without getting into the merits of the caucus, Harrington said he was "all for having hearings on the issue (of human rights violations) itself."

According to Biaggi, who goes around the country speaking on behalf of the caucus and the ad hoc committee O'Neill is the "prime obstacle to the hearings." He said it is unfair because hearings are held on human-rights violations involving other countries and the Carter Administration has made human rights a priority issue.

One of the criticisms of Biaggi is that he wants officials of the Sinn Fein party, the political arm of the outlawed Provisional IRA, allowed to enter the country. The State Department has been denying visas to Sinn Fein leaders. But Biaggi contends it is a legally sanctioned political party, like the Social Democratic and Labor Party.

"We deplore all violence, whether perpetrated by the IRA, British soldiers or Protestant Loyalists," Biaggi said in an interview.

Michael Lillis, political counselor with the Irish embassy here, said those who support hearings on Capitol Hill "are the same people who support violence." By holding the hearings, he said, "the people doing the killing can create the impression that they are influential in getting the hearings held."

Lillis, who said the Irish government wants unification of Ireland "by agreement" with the British, contends that members of Congress have joined the ad hoc committee "unaware of why they joined." He said that only Biaggi or one or two others are active.

Of the caucus, Lillis said that, unlike the Greek, Arab, or Israeli lobbies that operate on Capitol Hill, the Irish National Caucus does not work in consultation with its government but works against it.

If O'Neill could be convinced that the hearings would be set up in such a way as not to be used as a vehicle for the IRA, he might be inclined to back down from his opposition, according to sources.

"He appreciates the position that he is the most visible Irish-American in Congress, and because of that he is lending his initiative to whatever will bring peace in Northern Ireland," said an O'Neill aide.

"O'Neill has been told by the British, rightly or wrongly, that they would consider it an insult to them for hearings to be held. The Irish government and the State Department are opposed to the hearings as well."

"The point is," he said, "the Speaker has been convinced that the perception in Northern Ireland is that the group (caucus) is related to the IRA. To the extent that is inaccurate, the caucus has the responsibility to explain what the true facts are." ●

THE CARR SUBSTITUTE TO H.R. 10929

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. PATTISON of New York. Mr. Speaker, during the next few days we will be debating the fiscal year 1979 defense budget. I feel compelled to oppose the Department of Defense authorization bill unless the changes embodied in the Carr substitute are accepted. The Carr substitute would amend this legislation to essentially conform with the budget as proposed by President Carter.

The House Armed Services Committee added $2.4 billion to the Carter administration's already generous budget of $128.4 billion. Not only did the committee add large sums of money for weap-

ons systems of questionable value, but the committee also deleted one of the most effective new initiatives of the Carter administration: the cruise missile carrier. The net result is a defense budget that spends more of the taxpayers' money while providing less national security than provided by the administration's request.

Having recently approved the first budget resolution, the arguments concerning the inflationary impact of Government spending are still fresh in our minds. In my experience, many of the same individuals who are most willing to cut Government spending in general are also the least willing to scrutinize the defense budget to determine which programs have merit and which do not.

Yet military spending causes more inflation than most other kinds of Government spending. Wages are paid to those who serve in the Armed Forces and to those who produce weapons, but the resulting goods and services are not available for purchase in the economy. Thus, we have additional dollars chasing the available consumer goods in the economy, and prices rise.

This is not to suggest that we can abandon our defense needs in order to fight inflation. We must maintain an adequate defense, no matter what the expense. I do suggest, however, that those who profess to be watchdogs of wasteful Government spending not put on blinders when the military budget is debated.

We must not operate under the assumption that every additional weapons system developed or every increase in the defense budget to acquire such systems improves our national security. A purchase for national security is like a purchase for anything else. Not every buy is a good buy.

Nor can we justify wasteful military spending on the grounds that such spending assists employment and the economy. A recent study based on data developed by economists at Michigan State University, Columbia University, Yale University, the Bureau of Labor Statistics, and the United Auto Workers shows that spending on military and defense-related items generates fewer jobs than any other kind of spending. This study, titled "The Empty Pork Barrel," estimates that when the Government spends $1 billion in the civilian sector, that spending creates 30,000 more jobs than the same billion spent on defense.

Most disturbing to me are the findings concerning lost job opportunities. By estimating the number of jobs which could have been generated by the taxes paid for the defense budget in the 1970 to 1974 period and subtracting from this figure the number of jobs generated by military spending, the study determined how many jobs were lost due to defense spending. My State of New York led the Nation in lost job opportunities. Three hundred ninety-two thousand jobs were not created due to the tax drain for defense. In a related analysis, my district, the 29th, lost out on 16,500 jobs to support the fiscal year 1978 budget of $107 billion.

Clearly, we must make sacrifices to provide a sound national defense. But we must also realize that there are grave consequences to waste in the defense budget.

The most expensive item which the Carr substitute seeks to delete is the *Nimitz*-class aircraft carrier. The committee added this item to the administration's budget at a cost of $2.1 billion. This is clearly a case where our defense dollars could be better spent on alternative weapons systems which would add more to our defense capabilities. Rather than concentrating our naval power on a few huge nuclear carriers, we should invest our limited resources in a larger number of smaller vessels. The dispersal of our naval forces by the use of more numerous, smaller vessels was recommended by the National Security Council and is supported by both President Carter and former President Ford.

The Soviets are increasing their ability to put these large carriers out of comission. Therefore, by concentrating our resources on 12 large carriers, we make our Navy more vulnerable to Soviet attack. The huge sums which must be spent to build and operate these carriers could buy more national security if spent on a larger number of smaller vessels.

The committee deleted funding for the cruise missile carrier (CMC). I support development of the CMC. This is the Carter administration's main strategic initiative and would add significantly to our military capabilities. The administration requested $41.3 million to convert large civilian aircraft such as the Boeing 747 into a military plant which could launch cruise missiles into Russia from outside of her borders. Due to the large number of cruise missiles which could be fired from each individual carrier, this weapons system can effectively overwhelm the Soviets' air defenses. The B–1 bomber, at over $100 million per aircraft, is still advocated by many in Congress as an alterntive to the CMC. Yet a CMC can launch three to four times more cruise missiles than a B–1. The Department of Defense favors a mixed force of our current B–52 bombers and CMC's over a huge investment in a new B–1 bomber fleet.

The committee also requested $141 million for 16 A–7D trainer aircraft. These planes were not included in the Carter budget, and the Defense Department does not feel they are needed. Still, the committee would have us spend approximately $9 million per plane. This is equal to the amount my entire congressional district receives in general revenue sharing each year, and it is to be spent on an aircraft the Pentagon does not even want.

Finally, I find the proposal to spend $8.1 million on a Gulfstream II executive jet for use by high-ranking Marine Corps officers especially offensive. Certainly there are military planes now in operation which would suffice to transport Marine Corps officers. The $8.1 million for this one aircraft is more than my congressional district receives in a year for community development assistance from the Federal Government.

We are not operating in a vacuum. We cannot continue to fund wasteful militay projects and still hope to maintain a strong military posture and a sound economy. The Carr substitute would bring the defense budget back to the level approved in the first budget resolution as passed by the House. As an advocate of the budget process, and as an advocate of sensible defense spending, I support the Carr substitute, and I intend to oppose the defense authorization bill if it is not so amended.●

TRIBUTE TO THE MOST REVEREND WALTER A. FOERY

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

Mr. WALSH. Mr. Speaker, the central New York community was greatly saddened late last week by the death of one of its longest reigning and most respected religious leaders—the Most Reverend Walter A. Foery, fifth bishop of the Roman Catholic Diocese of Syracuse.

For generations of central New Yorkers, Bishop Foery was the shepherd of the flock—the central figure at confirmations, midnight Masses on Christmas Eve, ordinations, dedications of new churches and new schools. He was well-loved not only for his spiritual guidance, but for the extraordinarily fine example he set of kindness, humility, and compassion. He was unquestionably a builder of strong religious faith.

He was elected fifth bishop of the Diocese of Syracuse, which stretches north to Oswego and south to Binghamton, west to Syracuse and east to Utica, on May 26, 1937. From then until he stepped down in 1970, the Catholic population of the area almost quadrupled, Catholic high school enrollment tripled, and grammar school enrollment doubled. I think those figures speak for themselves as to the tremendous talent this fine man had in the field of education and organization.

Bishop Foery was one of the outstanding religious personalities in the Nation. Under his loving direction the Diocese of Syracuse became a dominant bastion of Catholic faith in America. He was loved, admired, and respected by members of all faiths. We were fortunate to have him as our leader, and his passing is indeed an occasion of great loss for the entire community.

He was 47 when he received the papal bull announcing his elevation to become bishop, and at the time of his installation was one of the youngest bishops in the State of New York. Prior to his appointment, he was particularly active in parish and philanthropic endeavors.

In 1936, he was named the only delegate from the Catholic Welfare Center Council to the International Charities Council Conference in London, England. He spent several months after that conference studying charity administration in Europe, which he put to extensive use in this country upon his return.

He worked tirelessly in behalf of those less fortunate in the world, and was especially saddened at the suffering of children. His priorities were always the "little people," the powerless, the voiceless, the forgotten, who asked not for charity, but justice.

As World War II ended, he undertook a massive building program in the diocese, encompassing more than 500 buildings, including churches, rectories, convents, and schools. While he was bishop, 33 new parishes were begun, 2 universities founded, and 39 elementary schools opened, And in 1955, ever mindful of his duty to the priests and sisters in his care, he was one of the first bishops in the country to build a home for sick and retired priests.

We loved him dearly. He was truly a man dedicated to God, whose goal in life was to serve God's people to the best of his ability. And he did it so well. May he rest in peace.

PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. DOWNEY. Mr. Speaker, on May 16, I was unavoidably absent for the first two rollcall votes of the day. Had I been present, I would have voted as follows: rollcall No. 319, approval of the journal, "yea"; rollcall No. 320, Comprehensive Rehabilitation Services Amendments of 1978, "yea."●

SENATE—*Friday, May 19, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Breathe on me, breath of God,
Fill me with life anew,
That I may love what You would love
And do what You would do.

Breathe on me, breath of God,
Till I am wholly thine,
Until this earthly part of me
Glows with Your fire divine.

Our Father God, we thank Thee for the morning hour when in this place our thoughts turn first to Thee, and after that to our daily duties. We stand in need of Thy grace, Thy wisdom, and Thy strength. Help us to be still and know that Thou art God, a living, vivid presence.

As we turn to waiting tasks, may the love of family, the confidence of friends, the monitoring of conscience, the vision of Thy Kingdom and the sense of servanthood guide us through the day.

Help us to see beyond the dutiful hours and monotonous toil, the making of a better Republic, in a better world in the shaping of which we have a part.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 19, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The distinguished Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations be authorized to meet during the sessions of the Senate of Monday afternoon, May 22, and Wednesday, May 24, to hear administration and nongovernmental individuals on the proposed export of enriched nuclear fuel to India for Tarapur reactors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the session of the Senate on Monday, May 22, 1978, to consider the nominations of Gen. David C. Jones as Chairman of the Joint Chiefs of Staff; Adm. Thomas B. Hayward as Chief of Naval Operations; and Gen. Lew Allen, Jr., as Chief of Staff of the Air Force.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute to consider the nomination of George H. Lowe, of New York, to be U.S. attorney for the northern district of New York.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I wish only to advse the majority leader that our calendar is cleared for consideration of the nomination he identifies. We have no objection to proceeding to the consideration of the nomination and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of George H. Lowe, of New York, to be U.S. attorney for the northern district of New York.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M., MONDAY, MAY 22, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it

stand in recess until the hour of 10 o'clock a.m. on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no request for time on my side. I yield my time to the distinguished minority leader, if he has Senators who wish to use it.

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader. I have no requirement for additional time of which I am aware. I believe there are special orders to follow the time of the leaders this morning allotting 15 minutes to the distinguished junior Senator from Missouri and 15 minutes to the senior Senator from Tennessee.

With that, I yield back my time and that so kindly yielded to me by the majority leader under the standing order.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the distinguished junior Senator from Missouri for not to exceed 15 minutes.

Mr. BAKER. Mr. President, I ask unanimous consent that I may transfer my time under the standing order to the distinguished junior Senator from Missouri.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SOCIAL SECURITY SYSTEM

Mr. DANFORTH. Mr. President, last December, the President signed into law a social security bill which constituted the largest peacetime tax increase in history. I voted for that legislation not because I liked it, but because I believed that direct action to shore up the system was imperative. Last year at this time there was widespread public concern that the social security system was going bankrupt. The action taken last December made clear our resolve to keep the program solvent—to assure both current retirees and workers that their benefits will be paid.

Notwithstanding my vote, I believed then and I continue to believe now that the solutions we arrived at last year have serious flaws. I fought some of the provisions at the time and proposed—to no avail—an alternative course of action in the Finance Committee.

Therefore, I am not sorry that the subject of social security financing has been reopened. However, I am very concerned by the prospect that we in the Congress may abandon the action we took last year in favor of what may appear to be a quick and painless solution. A variety of proposals have been advanced which would pour massive amounts of Treasury funds into the system. I strongly believe it would be irresponsible simply to shift social security financing from a payroll tax to the income tax in the absence of other changes. It might diffuse the public criticism, but it will do so by concealing the true cost of social security. The real result, of course, would be a higher income tax, a larger Federal deficit, or both.

I do not oppose the use of income taxes to pay for some portion of the social security system. I proposed such a plan last year, and have proposed this year that a 10-percent social security tax credit be given to all social security taxpayers on their Federal income tax returns. However, my proposal last year was coupled with a number of structural changes in the entire social security system. I believe the consideration of such changes must be an integral part of any debate regarding a "roll back" of the tax increases legislated last year.

Let us examine what happened last December. Basically, the Congress took actions which will guarantee the program's financial soundness for the next 50 years. What we are discovering now is that the dollar costs of preserving the solvency of the program, as currently structured, may be unacceptable to the public.

The question facing us is what to do now. Merely shifting general revenues into the system, in the absence of other structural changes, will undo some of what we did last year, and will deceive the public. We tell people we are decreasing their payroll taxes, and then we turn right around and increase their income taxes or increase the Federal deficit. Either way, we lay the burden directly on the working people of this country, particularly the middle class. Their incomes are reduced either through higher taxes or a higher rate of inflation.

We in Congress have the responsibility of telling the American people the truth about the social security system—who pays for it, what benefits it provides, and what can be done to keep it sound. Hard choices must be made and the people recognize this.

I do not think anyone questions the basic importance of the program. Social security provides the cornerstone of retirement planning for the overwhelming majority of Americans. But we seem to have let the program get out of hand. Legislative changes were made in 1972 which overpromised and underfunded. We took an important step in correcting that imbalance last year—we assured that the program will no longer be underfunded.

Now it is time to examine the promises we made for the social security system, and decide whether or not we can and should modify those promises without doing any fundamental injury to the system.

In the near future, I believe we must restructure and refinance the social security system. I am convinced that it is possible to reduce the social security tax burden without doing anything to undermine the promise that social security represents to working Americans.

We should seriously consider doing the following:

First. Restore reasonableness to the benefit formula.

I believe the most important thing we can do is modify the formula used to calculate the initial benefits a person will receive upon retirement. Currently in the law, we treat retirees and workers differently.

Social security retirees have their annual benefits increased to reflect increases in the consumer price index. I fully support this important protection for the elderly against inflation. However, what I question is whether it makes sense to be even more generous in calculating a person's initial benefits. For workers who have not yet retired, the system now provides an initial benefit which is not just inflation proof, but which also reflects standard-of-living increases in which retirees do not share.

Let me explain.

A person's initial social security benefits are calculated by: First, treating lifetime earnings as if they were earned in the year prior to retirement; second, averaging those earnings; and third, applying a formula to the average. One way to do this would be to adjust every year's earnings by the inflation experience in subsequent years. But that is not what happens.

Under current law, historical earnings are adjusted upward for more than inflation. They are also adjusted upward for increases in the standard of living. The practical effect of this is that two people who have identical earnings histories (adjusted for inflation), who retire in different years, will receive different benefits. The person retiring later will receive a higher benefit—higher even than the other person's benefits plus cost-of-living increases since retirement.

For example, two persons who have always earned $10,000 a year (or its equivalent) retiring in 1985 and 1990, would be affected quite differently. Suppose person A retires in 1985 and receives a benefit of $6,619. By 1990, this figure would be increased to $8,057, assuming a 4-percent inflation rate. Meanwhile, person B, who has an identical earnings history, would receive an initial benefit of $8,641 when retiring in 1990. In 1990, B receives benefits almost $600 higher than A, simply because B was born 5 years after A. Moreover, because B is 5 years younger than A, he or she is more likely to be able to supplement the income through work.

As a matter of equity, if we want the social security system to increase future benefits for workers faster than inflation—and I believe this is a laudable goal—then we should permit retirees to share in this generosity. However, I do not think we can afford to provide such benefits automatically. Instead, we should pursue this goal on a step-by-step basis as economic conditions permit.

To achieve this result, I believe we should change the benefit formula in a way which guarantees total protection against cost-of-living increases for wage earners and retirees, but which reduces or eliminates the automatic "bonus" benefits to current workers. In the jargon of social security, this means moving away from a wage-indexed system toward a price-indexed system.

Second. Fund a significant portion of the medicare program from general revenues.

Medicare is currently funded from the payroll tax, yet medicare benefits have nothing whatsoever to do with the amount of medicare tax contributions paid. All persons covered by medicare receive identical basic benefits, no matter how much they have contributed. Therefore, I think the program would be more appropriately funded if some of its revenues were deprived from Treasury funds. Last week, the House Ways and Means Committee voted to make a change of this kind, and several days later reversed its position.

Third. Include Federal employees under the social security system.

The social security program was intended to be universal in nature, and this would be a constructive step in that direction. It would also help to reduce some of the justified resentment caused by the fact that Federal employees have had a hand in increasing social security taxes on every one except themselves. I favor the creation of a conversion plan which phases in coverage over several years in a way which does not cost Federal employees more and does not reduce any of the retirement benefits that current Federal employees have been promised.

Fourth. Create special incentives for individual savings.

Americans should be encouraged to save to help provide for their own retirement. Recent studies show that Americans save far less of their income than people in other industrial countries. In 1977, Americans saved only 5.1 percent of their after-tax income—down from 7.5 percent in 1965. By comparison, Japanese citizens saved 21.5 percent of their incomes in 1977; Germans saved 16.1 percent; the French saved 14 percent, and the British saved 13.9 percent. The difference is growing, and the trend has serious economic implications. To a significant degree, savings can be encouraged or discouraged by governmental policy.

To the extent individual saving becomes widespread, in future years Americans won't be as dependent on social security. Just as important, the availability of savings will give people a nest egg under their own control which could be drawn upon before retirement, if needed. Private savings have the additional important benefit of providing greatly needed investment capital to the economy.

I believe that every income earner should be permitted to establish an individual retirement account (IRA). Currently, this opportunity is available only to persons who work for employers with no pension plan and to those who chose not to participate in their employer's plan. I see no reason not to permit all individuals to start on IRA. Currently, up to $1,500 of annual income can be put aside with no income tax liability until the funds are drawn out. I believe such an idea would be a valuable adjunct to the social security changes I propose.

Fifth. Reduce social security taxes.

The cumulative result of the above proposals would be to permit reductions in social security taxes. My first priority would be to eliminate the social security tax increases legislated last year. I would direct any remaining reductions to lowering the tax rate further.

Sixth. Consider the gradual increase of the retirement age to age 68.

This is a very volatile subject, but one which could be acceptable if it were framed carefully and fairly. For example, if no change were made in the retirement age until the year 2000, and if at that time the retirement age were increased only 1 month per year for 36 years, then the plan would have minimal effect on persons who are beginning retirement planning.

All persons older than age 43 would not be affected at all. A person aged 35 would be able to retire with full benefits at age 65 years and 8 months. A person 25 could retire at age 66 years and 9 months. I believe that if younger workers were given the option of delaying retirement 1 or 2 years, and having a larger paycheck during their working years, they would prefer the larger paycheck.

There are other long-term social security issues which also require careful analysis. For example, the disability insurance program and its trust fund are facing serious financial difficulty; differential treatment of social security recipients on the basis of sex and family status continues to exist; the earnings' limitations still provide disincentives for work; and so forth.

I do not have solutions to these problems. I cite them only to underscore the prinicpal point of this message—a plea for reasonableness and the avoidance of enacting a hasty "solution." The Congress must avoid the temptation to legislate a plan which hides the cost of social security. Instead, we should face up to the fact that the most responsible way to improve the program is to modify its structure.

I hope my colleagues will consider these questions carefully before falling prey to the cries for immediate relief.

Mr. President, I should like now to give a brief summation of some of the specific points mentioned in my prepared statement for the sake of those who are present.

First, I think, in restructuring the social security system, we should restore reasonableness to the benefit formula. The changes made last year were a step in the right direction, but those changes favor current workers over current retirees. I also think that, by automatically increasing benefits faster than the Consumer Price Index rises, we are pursuing a laudable goal, but one which should be pursued only on a step-by-step basis as economic conditions permit.

Second, I believe we should fund a significant portion of the medicare formula from general revenues.

Third, I should like to include Federal employees under social security.

Fourth, I should like to create special incentives for individual savings. U.S. citizens lag dreadfully behind their counterparts in other industrialized countries in the amount of after-tax income they save. This creates greater dependence on social security during retirement and seriously impairs our economy's ability to create capital. Therefore, I should like to permit all citizens to start an individual retirement account, or IRA, into which they could put up to $1,500 per year tax free.

Fifth, the above changes would permit us to eliminate the social security tax increases passed last year.

Finally, I think we should carefully consider the gradual increase of the retirement age to 68. I think this could be done in a way which has minimal effect on current workers' retirement plans, while, at the same time, leaving today's workers with larger paychecks.

I do not claim to have all the answers and I have not begun to describe the problems with social security, but I do hope we avoid the temptation to adopt a plan which hides the real costs of social security and, instead, that we link any financing changes to long-term structural improvements in the system.

Mr. BAKER. Mr. President, I take this opportunity to express my personal appreciation and commendation to the distinguished Senator from Missouri (Mr. DANFORTH) for the excellent statement he made this morning. He has devoted much hard work and deep thought to finding a solution to the social security financing problem. As a member of the Finance Committee, he has been actively involved since he came to the Senate in helping to find a means by which we can assure the financial integrity of the system for present and future retirees while maintaining the broad public support which is necessary if the program is to continue to operate successfully.

I fully share Senator DANFORTH'S concern about recent pressures for massive general revenue financing of the social security system. In my view, large infusions of general revenues would lead not only to enormous budget deficits but also to increased pressures to turn social security into a need-based program. As the program is currently structured, such a change would result in increased income taxes for American workers and would threaten the "security" of social security for millions of retirees.

I also agree with his view that, if we are going to consider some form of tax relief for workers now in the system, we must, at the same time, be willing to look at some fundamental reforms which will assure a sound program for the future at a cost which will be acceptable.

The suggestions which he has made today will undoubtedly draw criticism from some quarters. Some of them propose changes in the system which may be unpopular, especially among those whose natural tendency is to look to the Government to provide—regardless of the cost or consequences. I believe, however, that he has offered reasonable alternatives which the Congress must consider in conjunction with tax relief proposals. They are deserving of the full attention and study of the Finance Committee, and all of us in this body before we vote on further social security legislation.

I urge all of my colleagues to examine Senator DANFORTH'S proposals, and I congratulate him for his commonsense,

his courage, and his contribution to the ongoing social security debate.

Once again, Mr. President, I thank our colleague from Missouri for his careful and thoughtful attention to a complex and difficult issue, and for signaling at this point his views so that they and his excellent suggestions can be considered as we proceed with the general debate on this subject.

Mr. DANFORTH. I very much appreciate the comments of the minority leader.

This is not yet embodied in bill form. But what I want to do is simply point out the fact that it is very tempting politically to look for short-term relief from social security tax increases in a way which does not bear in mind the long-term continuing problem that we are going to have of financing social security.

One of the problems with social security financing is that there is no such thing as a popular solution to the problem. Any solution to social security financing is automatically unpopular. It seems to me that we would be missing a real opportunity to do the responsible thing if we focused our attention solely on the path that has been generated by the social security tax increases that we enacted last fall without, at the same time, using this opportunity to focus on the long-term structural problems of social security and to try to figure out whether or not there are a variety of alternative methods available which could be used to put social security on a long-term structural basis.

I think it is a matter which deserves continuing attention and deserves continuing debate.

I very much appreciate the comments of Senator BAKER in today's colloquy and the contribution he has brought to the consideration of this problem.

Mr. BAKER. Mr. President, if the Senator will yield to me for just a moment, I misspoke myself in implying the bill had been introduced.

I have discussed this matter with the distinguished Senator from Missouri and I know that he is far along in the preparation of such a measure. But I think to discuss it in general terms today in preparation for some future legislative action is the proper course. I think he has done an excellent job in focusing our attention on it.

I do not know that there is anything I can add, Mr. President, except to say that I hope the Senator from Missouri and others will speak on this subject and will express their views and alternatives from time to time hereafter so that, when we turn to the consideration of whether to adopt other and different arrangements for social security, or retain the structure we now have, we will have considered them well in advance of the event and will be able to produce a legislative decision that is of higher quality.

I thank the Senator for his attention to this matter today. I look forward to his future remarks and comments and effort.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. At this time, under the previous order, the Chair recognizes the distinguished Senator from Wisconsin (Mr. PROXMIRE for 15 minutes.

BANKS SHOULD MAKE BIGGER COMMITMENTS TO FINANCE NEW YORK CITY

Mr. PROXMIRE. Mr. President, I was astounded to learn yesterday that after weeks of purported "negotiations," the big New York City clearinghouse banks are offering—and conditionally at that—to lend New York City the mere pittance of $500 million over the next 4 years, as their contribution to the city's projected $4.5 billion in long-term financing needs over that period.

Mr. President, these are some of the biggest banks in the world, with total assets as of March 31, 1978, of over $281 billion. The have an enormous stake in New York City's financial soundness. They are based in New York City; they depend on city services; and their reputation and prestige are founded on their identification with the financial capital of the world, New York City. If they were to permit the city to go bankrupt, this could cause irreparable damage to their image and to their business throughout the world. And yet these banks are saying they will not supply any more than 11 percent of New York City's long-term financing needs in the crucial next 4 years, as the city works toward a balanced budget and full access to the credit markets. This is outrageous.

We will not find another major city in the country in which the banks would not move in and work closely with their city to provide what the city needs in financing under similar circumstances.

Moreover, Mr. President, the banks have placed a number of conditions on their meager $500 million offer. One of these conditions is that the Federal Government provide the $2 billion in 15-year guarantees of city bonds which the administration is seeking.

I am firmly opposed to long-term guarantees. They would keep the Federal Government involved in running New York City for 19 more years, and I think it is time we pulled out of our involvement in local affairs. In addition, the long-term guarantees would allow the city to spend today and put off paying for years to come, and that is what got it into trouble to begin with. Most importantly, this would set a terrible precedent. If we pass a long-term guarantee bill, then we will be inviting other cities across the country to spend freely and be fiscally irresponsible the way New York City was, because they would know they could always come to Uncle Sam for a bailout.

Mr. President, the Senate Banking Committee, of which I am chairman, made it very clear in a unanimous report issued back in February that we expect the New York banks and other financial institutions to make substantial commitments to meet New York City's financing needs, both long-term and short-term, over the next 4 years, with or without additional Federal aid. Obviously, the clearinghouse banks, which are the largest financial institutions and those traditionally most involved in the city's finances, should assume the biggest share of these commitments. Eleven percent is not my idea of a substantial commitment by these banks. Nor do I expect that other members of the committee will find it particularly substantial.

Indeed, I should point out that Treasury Secretary Blumenthal evidently does not find the $500 million bank commitment substantial either. He has told the banks they have to do more, at least $200 to $300 million more. I think they must do far more than that.

Mr. President, just to give us a broader perspective, I should like to note here that one of my distinguished colleagues in the Senate approached me recently and expressed his concern about the way the New York City financing problem is beng handled and about the lack of leadership on the part of the New York City banks. He said that in his State, if a city gets in trouble—and there are some quite large cities in his State—but if one gets in trouble, then the bankers who normally lend to the city come in and sit down with city officials. They work out a plan to get the city back on its feet financially, and to reschedule the debt if necessary. The banks may set tough conditions, and they should. They may demand budget cutbacks and stricter accounting practices. But basically, everything is handled at the local level, and the local people keep on running the city instead of running to the Federal Government.

I am sure that the New York City banks, with their vast resources, could do the same thing for the city of New York, if they were only willing to take the initiative. Perhaps they could have pulled the city through in 1975, when it stood on the brink of fiscal chaos. Certainly they ought to be able to do it now, with the city and the national economy in far better shape, and the banks themselves showing strong asset growth and record earnings.

Instead, the banks are coming to the Federal Government for $2 billion worth of Federal guarantees, and pushing local and State officials ahead of them. Everyone is saying that no one will do anything without the Federal guarantees. Well, I think we ought to say "no" to the guarantees and "yes" to a bigger financing role for the banks.

Mr. President, to help my colleagues grasp how pitifully small is the crumb that the clearinghouse banks are proposing to throw to New York City, let me put that $500 million "conditional" offer in some perspective. Figures compiled by the Senate Banking Committee staff show that if we let the big banks off the hook with this amount, we will in fact be inviting them to reduce their investment commitment to New York City by a large amount.

According to figures supplied by 6 of the 11 clearinghouse banks (Citibank, Chase Manhattan, Morgan Guaranty,

Manufacturers Hanover, Bankers Trust, and Chemical Bank), these banks actually cut their holdings of New York City-related securities (including Municipal Assistance Corporation (MAC) bonds) since late 1975, when the Federal seasonal loan program was enacted. Their holdings dropped from $1,734,720,000 on September 30, 1975 to $1,676,261,000 on September 30, 1977, a decline of 3.3 percent. Over the same period, these banks' assets grew by 24 percent, up to a whopping $232 billion. This means that the banks' real investment in New York City-related securities shrank by 22 percent. In September 1975, they had 0.92 percent of their assets invested in these securities; by September 1977, that was down to 0.72 percent of assets.

To my mind, it is imperative that the banks increase, and not decrease, their investments in New York City paper, given the problems the city is facing in the next couple of years. If we assume that the assets of these banks grow at an annual 12-percent rate, which is pretty conservative given their recent profit statements, then these banks alone could supply $2 billion more to the city over the next 4 years, simply by returning to their 1975 level of investment of 0.92 percent of assets. That is less than 1 percent. If they were to push it just a little higher, to a scant 1 percent of assets, this would net the city $2.3 billion, or over half of its projected long-term financing needs. And if you throw in the other five clearinghouse banks which are involved in the financing scheme, then the 1 percent of assets target would yield over $2.5 billion.

Mr. President, I hope these figures help to show my colleagues why the $500 million figure is outrageously low. Indeed, if we were to permit the banks to stick with that figure and do no more, then this means that they would in effect be able to reduce their real, proportional investment in New York City-related securities by another 30 percent in the next 4 years, down to about one-half of 1 percent. This would be unconscionable.

I do not want to create the impression here that I am asking the banks to make bad investments or to violate their fiduciary responsibilities. Far from it. First, they can invest in long-term MAC bonds, which carry a good investment-grade rating as well as a generous tax-exempt interest rate. MAC bonds are backed by specific State-collected city revenues and thus the payment of debt service would not be affected by a city bankruptcy if one were to occur, which is highly unlikely. Second, on the short-term side, I should point out that the Federal regulators declared the aborted note issue of last November to be eligible for bank investment, and this is likely to be the case again when the city goes into the note market. Thus the banks can also invest in city notes sold in anticipation of clearly identified revenues. Finally, I believe that within a couple of years, the banks will also be able to invest in new city bonds, backed up by segregated debt service funds and a tough fiscal monitor. And backed up as well by a city which I think is on its way beck to fiscal health and out of its economic doldrums.

Mr. President, I believe strongly that the responsibility for New York City's long-term financing should be placed squarely in the hands of those with the most direct long-term interest in the city's financial soundness. This means the banks, whose business is based in the city, and also the city pension funds, whose financial condition is based on the city's ability to maintain its contributions.

The city pension funds have played the major role in the city's financing over the past 3 years. By the end of this fiscal year, June 30, they are scheduled to have 35 percent of their assets invested in city-related securities. The committee has recommended that they maintain that level of investment over the next 4 years, which would mean their providing $2.3 billion more in long-term financing for the city over that period.

Certainly if we ask the pension funds to maintain their level of investment, we cannot countenance the banks' continuing to decrease their level of investment. We cannot, and I suspect that we will not.

The banks should take the lead this time around and make a firm commitment to pick up at least half of the city's long-term financing needs over the next 4 years, by investing in $2.25 billion of MAC and/or new city bonds. This would leave the pension funds to pick up the remaining $2.25 billion, or at least that portion of the remainder which could not be sold in the public markets.

This is fair; this is reasonable; this is simple justice. And it is far preferable to 15-year Federal guarantees.

Mr. President, to give my colleagues further information about the relative holdings of the banks and pension funds and their projected investments over the next 4 years, I am placing in the RECORD an excellent article from the Fiscal Observer, a thorough and objective publication that reports on New York City's finances on a regular basis. This article points up well the relative contributions of the banks and the pension funds, and it gives good evidence of the fact that the banks can and must do more to help the city. I ask unanimous consent that this article be printed in the RECORD at the end of my remarks.

In conclusion, I would like to call attention to the fact that the financing commitment from the banks is just part of a package which the various parties in New York City and New York State have pledged to put together by May 20. That package involves a number of actions which the committee has been pressing the city and State to accomplish for some months. These actions include the following:

A citywide agreement on the economic terms and budget costs of the city labor contracts for the period after June 30;

Firm agreements by the city pension funds to purchase approximately $700 million in city or MAC bonds this month, pursuant to commitments made under the 1975 amended and restated agreements;

State legislation to extend and increase the borrowing authority of the Municipal Assistance Corporation;

State legislation to establish a long-term fiscal monitor as a successor to the Emergency Financial Control Board; and

Commitments in principle from the pension funds and the banks and other financial institutions to meet New York City's financing needs, both short-term and long-term, over the 4-year period following the expiration of the present Federal seasonal loan program on June 30, 1978.

I have stated that if these actions are accomplished, then the Banking Committee will begin hearings on proposed New York City financial aid legislation on May 24, with Mayor Koch as the lead-off witness. I hope the May 20 deadline will be met, so we can go ahead with the hearings and have all the information we need available to us.

However, I should caution those involved that the committee will scrutinize the results of those actions very carefully when we do hold hearings:

We will look to see if the city pension funds are locked into purchasing the $703 million in city or MAC bonds which they had previously committed themselves to purchase this month and next;

We will look to see if the MAC borrowing authority is high enough, at least $3 billion higher than the present limit;

We will look to see if the fiscal monitor is tough enough;

We will look to see if the city can afford whatever labor contract terms are negotiated; and

We will look to see if there is a real and substantial commitment from the banks to invest in New York City's future.

Mr. President, I ask unanimous consent to have printed in the RECORD an excellent article on this matter, published in the Fiscal Observer of May 4, 1978.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CITY WAITS FOR SIGNALS FROM ITS DEBT-HOLDERS

NEW YORK CITY.—The wealthiest city in the world as Senator Proxmier is fond of calling it—and its would-be fiancing partners are stalled at a crossroads. As its mid-May cash flow crisis nears, the city waits with the federal government, the pension funds, and the banks to see which way the others will turn. Proxmire has said he will not hold hearings until the labor contracts are settled. One pension fund trustee has said the funds may not come through with financing if there are no federal guarantees. And the banks stand silent.

Two major questions in the debate over who should finance New York City during the next four years are: Who bought city and MAC debt in the past two years, and how much do they hold now? Between Sept. 30, 1975, and Sept. 30, 1977, the amount of outstanding city and MAC debt increased 3 percent per year. The holders of the debt changed more dramatically.

Holders of city and MAC debt: The five major city pension funds and the U.S. Treasury have been the city's main financiers.* In the two-year period, the funds

*The five funds are the New York City Employees Retirement System, the Teachers Retirement System, the Police Pension Fund (Article 2), the Fire Department Pension Fund (Article 2), the Fire Department Pension Fund (Article 1-B), and the Board of Education Retirement System.

increased their holdings from $1.002 billion to $2.943 billion—from 8 percent to 21 percent of all city and MAC debt. (The funds are scheduled to increase their holdings to $3.543 billion before June 30, 1978.) The Treasury, through the seasonal loan program, increased its holdings of short-term city debt from zero to $1.15 billion—8 percent of all outstanding city and MAC debt. (By June 30, the city will repay this debt.)

The six largest banks in New York City held a relatively constant amount of city and MAC debt. The six banks, with 70 percent of the total assets of the country's eight largest banks, reduced their holdings from $1.735 billion to $1.676 billion—from 13 percent of all city-related debt to 12 percent.

Other investors throughout the country, who held $10.337 billion on Sept. 30, 1975, held only $8.112 billion two years later—a decrease from 78 percent to 59 percent of all city and MAC debt.

The three state pension funds held $50 million in MAC debt on Sept. 30, 1975. Two years later, they had sold the entire amount.**

Local banks and unions: The city pension funds and major banks in the city are local resources, but they are not city resources. The city cannot force them to lend their capital. The city has to negotiate for it.

In 1975, the six banks' holdings of city and MAC debt represented 0.92 percent of their $188 billion in assets. Two years later, their holdings amounted to 0.72 percent of their $232 billion in assets. In contrast, the city pension funds had 13 percent of their $7.5 billion in assets in city and MAC debt in 1975 but 32 percent of $9.3 billion in assets in 1977. The city pension funds—whose assets equal 4 percent of those of the six banks—now hold nearly twice as much city and MAC debt as do the six banks.

A financing plan: In the January 1978 financial plan for fiscal 1979–82, New York City projected it needed $5.1 billion in financing: $2.6 billion for capital expenditures, $900 million for operating expenses in the capital budget, $250 million to fund MAC's capital reserve, $560 million to refund outstanding MAC bonds, and $800 million to bond out the rolling state advance.

The city hoped the city pension funds would purchase $900 million in city bonds, the state funds would buy $1.35 billion, and private investors would buy $340 million. MAC would sell $1.5 billion in bonds on the public credit market and place $1 billion with city financial institutions.

A redone plan: The state pension fund trustees, led by State Comptroller Levitt, have resisted purchasing unguaranteed bonds. MAC chairman Felix Rohatyn has said it is most unlikely that the market will absorb $1 billion in MAC paper next year without federal guarantees. Without the guarantees, the city would have to turn to the same sources it has used since 1975: city pension funds and local banks.

The Office of the Special Deputy Comptroller (OSDC) estimates that, by June 30, 1978, the city pension funds will have 33 percent of their $10.7 billion assets in city and MAC debt. OSDC projects the funds could (1) invest $900 million, end fiscal 1982 with 23 percent of their assets in city-related paper, and still have a $4.9 billion cash balance; or (2) invest $2.354 billion and end 1982 with 33 percent of their assets in city-related paper. OSDC's figures show the funds then would have a $2.4 billion cash balance. The Senate Banking Committee staff report recommended the second approach (see *The Fiscal Observer*, II–4, p. 3).

The six major banks could take one of four alternative courses: (1) buy $1 billion, as projected in the four-year plan, and have 0.67 percent of their assets in city-related securities by the end of 1982; (2) buy $1.2 billion over the four years and keep 0.72 percent of their assets in city-related paper; (3) buy $2 billion in city related paper and return to the 1975 level of 0.92 percent of their assets in city-related paper; (4) buy $2.3 billion—about the same amount as the pension funds—and have 1 percent of their assets in city-related paper. (These figures are based on 9 percent asset growth from Sept. 30, 1977, to June 30, 1978, and 12 percent per year during the next four years.) Senator Proxmire suggested the banks could follow either of the last two alternatives (see *The Fiscal Observer*, II–8, p. 8).

As the table shows, the local financing sources could provide from $1.9 billion—the original city plan—to over $4.6 billion during the four years. Of course, private placements with the pension funds and banks might be smaller if the city and MAC sell bonds on the public market.

Assets ratios: There are no established ratios that either the pension funds or the banks should—or will— put into city-related securities. For instance, as recently as June 30, 1974, the largest city pension system had only 5 percent of its assets in city paper. Now, the proportion in city and MAC debt has increased six-fold. Who can say whether 33 percent is too much or not enough? Similarly, should the banks invest 0.05 percent or 0.72 percent or 1 percent of their assets in city and MAC paper?

Banks and pension funds are in different leagues. Banks are national—even international—institutions. Pension funds are local institutions. Banks exist to allocate capital, and in the process, make money. Pension funds are protective, conservative investors.

However, the banks and pension funds have two things in common: Economics, not charity, dominates both, and both need a solvent city. Therefore, both will probably help finance the city. Disagreements center on how much and under what conditions each will lend.

POTENTIAL ADDITIONAL CITY PENSION FUND AND BANK INVESTMENTS BETWEEN JULY 1, 1978, AND JUNE 30 1982

[Dollar amounts in millions]

Percent of assets on June 30, 1982		Additional purchases		
Funds	Banks	Funds	Banks	Total
23	0.67	$900	$1,000	$1,900
23	.72	900	1,189	2,089
23	.92	900	1,985	2,885
23	1.00	900	2,034	3,204
33	.67	2,354	1,000	3,354
33	.72	2,354	1,189	3,543
33	.92	2,354	1,985	4,339
33	1.00	2,354	2,304	4,658

Sources: Pension funds—OSDC Cash Flow Projections· Banks—Fiscal Observer estimates from data available from Senator Proxmire's office

(Mr. HODGES assumed the chair.)

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am delighted to yield to my good friend from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from Wisconsin for his very strong and sound position with regard to the financing needs of New York City, and I commend him for his position that New York City should shape up and get in a position where it can go to the credit markets itself and borrow money, and not expect continued seasonal financing by the Federal Government or guarantees by the Federal Government of its creddit needs.

The distinguished Senator has pointed out that he feels that the big New York City banks, having total assets, I believe he said, of more than $281 billion, are not doing their part in helping to finance the credit needs of New York City.

The Senator did not mention this, but I ask him if these New York banks which are so hesitant and reluctant to make loans to New York City have not, in fact, made loans, many times in as large amounts, to a third world nation.

Mr. PROXMIRE. The Senator is 100 percent correct. They have loaned to Zaire, to Peru, all over Africa, South America, Asia—everywhere—but not New York City.

Mr. ALLEN. Those countries are not nearly as creditworthy as New York City, it seems to me.

Why these banks would lend tens of billions of dollars to third world nations, which have little chance of paying it back, and refuse to lend in their own backyard to the city that has nourished them and made them the great financial giants they are; I do not understand.

I commend the Senator for pointing out that the local banks are not doing their part and that they should come in and furnish the financing before the Federal Government is required to do that.

Mr. PROXMIRE. I thank the Senator.

The banks in Birmingham, for example, and the banks in Little Rock and the banks in Milwaukee would not stand still for this kind of thing, if the city were in trouble. They would insist on tough terms. They would not do anything to risk the investments of depositors. But they certainly would move in and provide the kind of monitor we are asking for here, the kind of protections we are asking for here, and they would provide the funds. We are simply asking New York to do the same thing. As the Senator points out, New York is loaded with the kind of capital that is needed. They have, as the Senator said, more than $280 billion in assets. All that is being asked for here is about $1 billion, and they are only offering a half billion dollars.

Mr. ALLEN. As I recall, when this issue came up in the past administration, we found that the New York banks had unloaded literally hundreds of millions of dollars in New York City bonds to their correspondent banks throughout the country. It was the clamor from those local banks throughout the country that influenced Congress to some extent in going ahead with the seasonal financing. Is that not correct?

Mr. PROXMIRE. The Senator is absolutely correct.

Mr. ALLEN. I thank the Senator for his fine remarks.

Mr. PROXMIRE. I thank the Senator.

FIRST AMENDMENT: SHARING IT WITH BROADCAST

Mr. PROXMIRE. Mr. President, Charles B. Seib has a column in today's Washington Post about a subject very

**State comptroller Arthur Levitt is the sole trustee of the New York State Employees Retirement System and the State Policemen's and Firemen's Retirement System. The third state system is the Teachers Retirement System.

dear to my heart: first amendment rights for broadcasters.

In 1975, and again last year, I introduced a bill dealing with this vital subject. My proposal, which is called the First Amendment Clarification Act and is numbered S. 22, would abolish the fairness doctrine and the equal time rule.

As my colleagues know, the equal time rule requires that when a candidate for public office is given or sold broadcast time, any other candidate for that same office must be given an equal opportunity. That sounds great. But the equal time rule is an abridgement of the first amendment. It is governmental control over a part of the free press.

Under the fairness doctrine, broadcasters are required to afford reasonable opportunities for the presentation of contrasting viewpoints on controversial issues of public importance.

Unlike the equal time requirement, the fairness doctrine does not call for each viewpoint to receive the same amount of air time. Neither does it require that the other viewpoints be given in the same program. Again, that sounds fine. But the trouble is, even if it were constitutional, the fairness doctrine is applied case by case with only the particulars of past cases to use in judging its application.

Mr. President, the preferred source of news for 76 percent of the American people is radio and television. Yet, because of the governmental controls like the fairness doctrine and the equal time rule, broadcasters are not on an equal footing with publishers regarding first amendment rights.

This means that our first amendment is only about 24 percent effective when it comes to freedom of the press. We can and must do better.

Mr. Seib's piece in today's Washington Post reports on recent remarks by Eric Sevareid to a group of newspaper publishers meeting in Atlanta. Mr. Sevareid apparently covered a lot of ground in his speech, but Mr. Seib thinks the most important part of his message had to do with the subject of first amendment rights for the broadcasting industry.

I agree, and let me share with you two of Eric Sevareid's key thoughts on this crucial matter. First, Mr. Sevareid pointed out—

> That the notion of the divisibility, the dilutability of the First Amendment, simply because of technological change in the transmission of information and ideas, is an absurd and dangerous notion.

I endorse that statement without reservation.

Second, Eric Sevareid dealt with one major argument that is often advanced for denying first amendment rights to broadcasters: The idea, in Seib's words, "that there can be only a limited number of voices in broadcasting." But, as Seib's commentary made clear, that argument is losing whatever validity it might have had because "competition between networks and local broadcasters is far more vigorous than competition between newspapers."

Mr. President, I ask unanimous consent that Mr. Seib's article in today's Washington Post be printed in full in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, before closing, I ask my colleagues to pay special attention to Mr. Seib's column because, in my view, he is talking about issues that go to the very heart of our democratic system of government.

Freedom of the press is for the benefit of all American citizens. If television and radio, the most popular disseminators of news and opinion, continue to be tied down by governmental controls such as the fairness doctrine and the equal time rule, the people of this Nation will continue to be the losers.

My bill, S. 22, aims to change this situation by giving fuller meaning to our first amendment's guarantee of freedom of the press.

Let me say, finally, that I am delighted to be able to report that Senator HOLLINGS, chairman of the Communications Subcommittee, has agreed to hold a hearing on S. 22, on Wednesday, June 7, starting at 10 a.m.

EXHIBIT 1

FIRST AMENDMENT: SHARING IT WITH BROADCAST

(By Charles B. Seib)

Eric Sevareid, television's emeritus eminence, took on the print press the other day. Some of his barbs were worthy of the marksman; others went wide. Certainly he picked a good target: a covey of newspaper publishers gathered in Atlanta.

Sevareid thinks newspapers are unkind and unfair to television. They ignore the ring around their own collar while pointing to television's.

At times his comments verged on the peevish. TV critics in the print press just don't seem to recognize the "special imperatives" of broadcasting, he said. "We cannot, for one thing, expand the minutes in the hours or the hours in the day as a paper can expand its columns," he said. No argument there, although that great truth has its limits as a justification for television's ills.

The print press, it turns out, is responsible for some TV problems. Take the industry's preoccupation with ratings. The world of television would be calmer, he said, if the papers did not report on it "breathlessly, relentlessly, like a weekly national lottery."

The print press was even responsible for ABC's hiring of Barbara Walters—"the New York lady," Sevareid called her—for a million dollars a year. It wasn't big ratings or popularity that caused ABC to come up with that "preposterous" salary, he explained. "It was a wave of news articles and columns and cover-girl treatment in the printed press." That is a terrible indictment.

The burden of many of Sevareid's comments was: You're no better than we are.

He noted that critics in the print press view with alarm any intervention of a network boss into news matters. But those same actions, he said, are "considered normal when done by the publishers of the papers those critics write for."

Also, he said, the print press dwells on the bloated incomes of broadcast news people but seldom mentions the "huge incomes" of syndicated columnists and cartoonists. Well, some columnists and cartoonists do make big money. But few, if any, are in the same league as network anchormen or even some local anchormen in the big cities.

As for television commercials, while conceding that they do pollute minds, Sevareid noted that at least they don't litter the neighborhood or break the trashman's back, as print advertising does.

And then there is the ultimate injustice: "Broadcast journalism is the only business in the country I can think of that has its chief competitor as its chief critic." At times, he said, it is a "suffocating experience."

It probably did Sevareid good to get all that off his chest. It undoubtedly did the publishers good; they can always stand a little humility-raising. But his parochial complaints should not obscure a really important issue he raised. That is, whether the freedom guaranteed the "press" by the First Amendment should also apply to broadcast media.

While publishers and editors have fought valiantly for the freedom of the print press, he said, "only slowly and reluctantly have many publishers and editors come to accept that the notion of the divisibility, the dilutability of the First Amendment, simply because of technological change in the transmission of information and ideas, is an absurd and dangerous notion."

He is right. Simply because the drafters of the Bill of Rights weren't aware that someday there would be a tremendously effective means of communication that did not depend on the printing press should not limit the concept of freedom of information and ideas.

One argument for denying the extension of that precious freedom is that there can be only a limited number of voices in broadcasting. But that argument becomes less convincing every day.

Competition between networks and local broadcasters is far more vigorous than competition between newspapers. As Sevareid pointed out, the networks appears to have reached their peaks in size and scope. Not so the newspaper chains, which continue to grow at a startling pace with a resulting reduction in diversity of ownership.

Just a few days after Sevareid spoke, the Gannett newspaper chain, one of the giants, and Combined Communications Corporation closed a merger deal, certainly one of the biggest ever in the communications industry. It adds only two more newspapers to the Gannett empire, bringing it to 79 papers with circulations totaling close to 3½ million. But it brings a number of important broadcast properties under the same owners.

Today well over two-thirds of the country's daily-newspaper circulation is of papers owned by groups or chains. Sevareid predicted, correctly in my opinion, that "the clouds of controversy that cover the networks because of their quasi-monopoly position will descend on the big newspaper empires."

Sevareid sees the mass media as a force for national unity, an instrument of the human conscience and a force against war and other violence.

That is a fine thought and probably true. But the communications business is going through a revolution of dizzying proportions. Although the concept of a free press is not losing its validity, a lot of effort will have to be put into helping that concept keep pace with changes in technology, media ownership and public tastes and habits.

A footnote: One comment Sevareid made to the publishers keeps going through my head. "Writing about other journalists is not my idea of journalistic career," he said. Maybe it's the lilt that gets to me.

GENOCIDE CONVENTION IS CONSTITUTIONAL

Mr. PROXMIRE. Mr. President, I have not found a single argument that stands up against Senate ratification of the Genocide Treaty.

Nevertheless, I think the arguments that have been made do merit serious attention, since they have been used to thwart the passage of this important human rights treaty. Today, I would like to refute the objection that the treaty should be rejected on the grounds that it deals with matters that are only of domestic concern.

This argument has often taken the form of claiming that the Genocide Convention will supersede or set aside the Constitution. This fear is clearly misguided. The Supreme Court, in its own words, "has regularly and uniformly recognized the supremacy of the Constitution over a treaty." Thus, a treaty cannot authorize what the Constitution prohibits.

Article I of the Genocide Treaty states that:

The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under internaitonal law which they undertake to prevent and to punish.

The treaty merely adds genocide to a number of international crimes which the United States has joined other nations in agreeing to punish. These crimes cover such subjects as oil pollution, slave trading, production and trade in narcotics, and the killing of seals. Certainly, if the United States Government can make treaties governing the killing of seals, it can make treaties governing the killing of people.

It is also sensible to consider the American Bar Association's position on this issue. They have endorsed the treaty and reject the claim that the treaty illegally supersedes matters of domestic concern.

The constitutionality of the treaty is clear. The moral need for this treaty is equally clear. The events in Cambodia and Uganda today cry out as loudly for action as the events in Nazi Germany did some four decades ago. Therefore, I appeal to my colleagues to make the ratification of the Genocide Convention one of the highest priorities in the Senate.

LABOR LAW REFORM ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 8410, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

Mr. McCLURE. Mr. President, S. 2467 directs the Board to promulgate rules giving nonemployee union organizers the right to campaign on company property even before a petition is filed whenever the employer "addresses" company employees on "its premises or during working time" on issues relating to union representation. A similar right is given to employers to utilize union halls for such purposes.

In general, management addresses to assembled employees on company time or property—frequently referred to as "captive audience" speeches—will trigger a corresponding right for union officials. If management curtails production and speaks to employees at their work stations, unions would be entitled to do the same. Employer campaigning short of captive audience speeches—systematic supervisory conversations with individual employees, for example—would entitle union organizers access only to nonworking areas such as cafeterias, lounges, and parking lots during nonworking hours. Such supervisory conversations would not entitle union organizers access to production areas.

The equal access requirement would not be activated by casual employee-supervisor encounters "which occur on an unplanned, sporadic basis and which do not have the purpose or effect of presenting the employer's position on union representation in a systemic manner." Similarly, the equal access requirement would not be triggered if during the course of "a regularly scheduled meeting * * * to discuss issues of general concern to employees." Management responded to an employee question regarding union representation. If more than one union is organizing in a unit at any time, the total time allotted for all union responses would equal that utilized by the employer.

In order to become eligible for equal access privileges, a union would be required to submit to the employer a notice that "a significant minority" of its employees are interested in representation by that union. The required showing of interest is intended to be 10 percent of the unit or three employees, whichever is greater. Employers may submit the notice to the Board for purposes of a nonreviewable administrative evaluation of the showing of interest.

Under current law unions already enjoy a distinct advantage in communicating their message to employees. Employee organizers may solicit union support on company premises during nonworking hours and may distribute union literature in nonworking areas. Nonemployee union organizers are also permitted to campaign on company premises in the absence of reasonable alternative means of communication. More importantly, however, organizers have the right to communicate freely with employees on an individual basis, may visit with employees in their homes, and may make unlimited promises of benefits to be derived from union representation. Since similar conduct on the part of employers constitutes unfair labor practices, most employer campaigning has been restricted to speeches to employees on company property. Equal access would thus seriously undermine the only effective means which employers have left for communicating with employees.

Notwithstanding these arguments, however, the crucial reason for rejecting the equal access provision is that it violates the 5th amendment of the Constitution.

The constitutionality of the equal access provisions of S. 2467 must be judged by the test set out by the Supreme Court in the landmark case of *National Labor Relations Board* v. *Babcock and Wilcox Co.*, 351 U.S. 105 (1956). In the three cases consolidated in Babcock, employers refused to permit nonemployee union organizers to distribute union literature on company-owned parking lots. The NLRB found that the refusal of access constituted an unfair labor practice. The Supreme Court held the employer's refusal to permit nonemployee union organizers access to private company property did not impede employees' right to self-organization guaranteed by section 7 of the National Labor Relations Act.

The Court viewed the problem posed in Babcock as the need to balance two federally protected rights, employees' organizational rights and employers' fifth amendment property rights, stating at page 112:

This is not a problem of always open or always closed doors for union organization on company property. Organization rights are granted to workers by the same authority, the National Government, that preserves property rights. Accommodation between the two must be obtained with as little destruction of one as is consistent with the maintenance of the other.

In balancing competing interests the Court held that when reasonable means of communicating with employees off the employer's property are present, then the organizational needs do not justify an infringement on private property.

It is our judgment, however, that an employer may validly post his property against nonemployee distribution of union literature if reasonable efforts by the union through other available channels of communication will enable it to reach the employees with its message and if the employer's notice or order does not discriminate against the union by allowing other distribution. In these circumstances the employer may not be compelled to allow distribution even under such reasonable regulations as the orders in these cases permit.

The employer may not affirmatively interfere with organization; the union may not always insist that the employer aid organization. But when the inaccessibility of employees make ineffective the reasonable attempts by nonemployees to communicate with them through the usual channels, the right to exclude from property has been required to yield to the extent needed to permit communication of information on the right to organize.

The facts in Babcock showed that the plant locations and living quarters of employees did not preclude communication with the workers through the usual methods of home visits, mailing, telephoning, talking off company property, and media contact.

The right of self-organization depends in some measure on the ability of employees to learn the advantages of self-organization from others. Consequently, if the location of a plant and the living quarters of the employees place the employees beyond the reach of reasonable union efforts to communicate with them, the employer must allow the union to approach his employees on his property. No such conditions are shown in these records.

The plants are close to small well-settled communities where a large percentage of the employees live. The usual methods of imparting information are available.

Since the Babcock decision, the Supreme Court in *Central Hardware Co.* v. *N.L.R.B.*, 407 U.S. 539 (1972) and in

Hudgens v. *N.L.R.B.*, 424 U.S. 507 (1976) has reaffirmed the balancing or accommodation test of Babcock as the proper approach to resolving conflicts between organization rights and property rights. The test for allowing nonemployees access to company property remains whether employees are inaccessible through other means of communication.

In Central Hardware, the owner of two retail stores refused to allow nonemployee union organizers access to company owned parking lots to solicit employees. The company had a no-solicitation rule that it enforced against all strangers' soliciting in its stores and on its parking lot. The NLRB and the Court of Appeals found enforcement of the no-solicitation rule against union organizers violated employee section 7 rights of self-organization. The board did not apply the test set out in Babcock "to resolve conflicts between organization rights and property rights, and to seek a proper accommodation between the two." The Supreme Court reversed and remanded for a reconsideration under Babcock.

In Central Hardware, the Court restated the basis for its decision in Babcock. The proper accommodation between employee organization rights and employer property rights allows infringement on the employer's right to deny nonemployees access to private property only when no other avenues of communication with employees exist.

The Court of Appeals of the Fifth Circuit in Babcock refused enforcement of the board's order on the ground that the act did not authorize the board to impose a servitude on an employer's property where no employee was involved. This court affirmed on the ground that the availability of alternative channels of communication made the intrusion on the employer's property rights ordered by the board unwarranted.

The court went on to point out at pages 544–45, that even when the unavailability of alternative means of communication shifts the balance to allow access to company property, the intrusion on property rights must be narrowly circumscribed.

The principle of Babcock is limited to this accommodation between organization rights and property rights. This principle requires a 'yielding' of property rights only in the context of an organization campaign. Moreover, the allowed intrusion on property rights is limited to that necessary to facilitate the exercise of employees' section 7 rights. After the requisite need for access to the employer's property has been shown, the access is limited to (1) union organizers; (2) prescribed nonworking areas of the employer's premises; and (3) the duration of organization activity. In short, the principle of accommodation announced in Babcock is limited to labor organization campaigns, and the 'yielding' of property rights it may require is both temporary and minimal.

Recently the Supreme Court in *Hudgens* v. *N.L.R.B.*, 424 U.S. 507 (1976), reaffirmed the Babcock test while extending its application to determine the right of strikers to picket on the property of a privately owned shopping center where they are not employed. The Court held the pickets did not have a first amendment right to enter the private shopping center to advertise their strike. Rather the rights of the pickets derive from section 7 of the NLRA, and the test of Babcock and Central Hardware determines the "proper accommodation" between two conflicting rights. The Court stated at page 521:

Accommodation between employees' section 7 rights and employers' property rights, the Court said in Babcock and Wilcox, "must be obtained with as little destruction of one as is consistent with the maintenance of the other."

The balancing test set out in Babcock and Central Hardware, in which access to private property is allowed only where alternative channels of communication do not exist, is constitutionally compelled and not merely an interpretation of employee and employer rights under the National Labor Relations Act. The employer's right to control access to his property is not a grant by Congress under the NLRA. The right to limit access is constitutionally protected by the fifth amendment. Thus a balancing test is required to resolve a clash of two rights so as to accommodate one with as little harm to the other as possible. Even if Congress legislates a right to access, the employer's fifth amendment property right still remains the standard against which the constitutionality of the access legislation must be judged.

In allowing nonemployee union organizers access to employer property in all circumstances, even where alternative avenues of communication exist, S. 2467 disregards the constitutional necessity of accommodating organizing rights and property rights "with as little destruction of one as is consistent with the maintenance of the other." Thus the proposed access provisions violate the employers' property rights protected by the fifth amendment.

The balancing test set out in Babcock and Central Hardware recognizes the fundamental position the individual's right of private property has always held in our constitutional system. In *Lynch* v. *Household Finance Co.*, 405 U.S. 538 (1972), holding that district courts have jurisdiction under 28 U.S.C. section 1343(3) to protect against infringement of personal rights in property, the Supreme Court stated at page 552:

Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a 'personal' right, whether the 'property' in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.

The right to own and enjoy private property in this country is a common law right that existed before the adoption of the Federal and State constitutions and is not now dependent on them for its existence. Constitutions protect, but do not create, this right. In *Newland* v. *Child*, 254 P.2d 1066 (Idaho 1953), the Court stated at page 1069:

The right to own and enjoy private property is fundamental. It is one of the natural, inherent and inalienable rights of free men. It is not a gift of our constitutions, because it existed before them. Our constitutions embrace and proclaim it as an essential in our conception of freedom.

The continuance and protection of property rights is guaranteed by the Federal and by the various State constitutions. The due process clauses of the 5th and 14th amendments provide that "no person shall * * * be deprived of life, liberty or property without due process of law." The fifth amendment further proscribes the taking of "private property * * * for public use, without just compensation." In *Fuentes* v. *Shevin*, 407 U.S. 67 (1972), the Court held unconstitutional a State replevin statute allowing the seizure of property without notice or hearing. The Court spoke, at page 81, of the importance placed on the protection of property in the constitutional system.

So viewed, the prohibition against the deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference.

The right to enjoy private property guaranteed by the Constitution comprises a number of attributes. A landowner's right to protect his property from uninvited guests and trespassers has always been viewed as a fundamental right. In *Lloyd Corp.* v. *Tanner*, 407 U.S. 551 (1972), the Court upheld the right of an owner of a shopping center under the 5th and 14th amendments to prevent persons from coming on his property to distribute handbills protesting the Vietnam war. The Court stated at page 568:

Although accommodations between the values protected by these Amendments are sometimes necessary, and the courts properly have shown a special solicitude for the guarantees of the First Amendment, this Court has never held that a trespasser or an uninvited guest may exercise general rights of free speech on property privately owned and used nondiscriminatorily for private purposes only.

Justice Black dissenting in *Food Employees* v. *Logan Plaza*, 391 U.S. at 330 (1968), spoke of the constitutional right of a shopping center owner to deny nonemployee organizational picketers access to his property.

. . . I believe that, whether this Court likes it or not, the Constitution recognizes and supports the concept of private ownership of property. The Fifth Amendment provides that "no person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." This means to me that there is no right to picket on the private premises of another to try to convert the owner or others to the views of the pickets. It also means, I think, that if this Court is going to arrogate to itself the power to act as the Government's agent to take a part of Weis' property to give to the pickets for their use, the Court should also award Weis just compensation for the property taken.

Justice Black's view of the proper solicitude that must be given to constitutionally protected property rights takes on added precedential significance in light of the Supreme Court's overruling of the Logan Plaza decision in *Hudgens*

against NLRB, quoting extensively from Justice Black's dissent in Logan Plaza.

The right to exclude uninvited guests from private property is such a fundamental attribute of the right to own property that courts have looked to the power to deny access as a test of ownership. In *Dairy Queen of Oklahoma* v. *Commissioner of Int. Rev.*, 250 F.2d 503 (10th Cir. 1957), to determine for tax purposes whether the grant of a franchise was a sale or morely a license, the Court stated at page 506:

> But the traditional test of ownership is the power to exclude others. Taxation is not concerned with refinements of title, but with actual command of property.

In *United States* v. *Pueblo of San Ildefonso*, 513 F.2d 1383 (ct. of Claims 1975), the court examined at page 1394 whether Indian claimants could prove aboriginal title in land:

> Implicit in the concept of ownership of property is the right to exclude others. Generally speaking, a true owner of land exercises full dominion and control over it; a true owner possesses the right to expel intruders. In order for an Indian tribe to establish ownership of land by so-called Indian title, it must show that it used and occupied the land to the exclusion of other Indian groups.

Finally, in *Computing Scale Co.* v. *Toledo Computing Scale Co.*, 279 F.2d 648 (7th Cir. 1921), the court, at page 671, defined the right in property as the right to exclude others:

> Property may be classified as real or personal or mixed, and as tangible or intangible. But the right in property of all classes is one, and consists ultimately of this, and only this—the right to exclude others.

The right to exclude others from private property is not absolute in all circumstances. Babcock and Central Hardware allow for instances where intrusions on property rights will be permitted to accommodate organization rights. The Babcock and Central Hardware decisions make clear that any rule allowing uninvited intrusion on private property must be justified by a showing that no reasonable alternative means of communication exist to accomplish the same end that are less destructive of the property right.

The fact that access in the proposed legislation is tied to an employer's speech to his employees does not take the access rule out of the test set forth in *Babcock May Dept. Stores Co.* v. *N.L.R.B.*, 316 F.2d 797 (6th Cir. 1963), makes clear that an employer's speech to his employees does not changes the requirement of looking to alternative means of communication available to union organizers before impinging on the employer's property rights. In May the union claimed the employer committed an unfair labor practice by addressing employees on company premises and company time while enforcing a privileged rule forbidding solicitation by nonemployees on company property. The employer in May denied the union's request to address employees on company premises. The board held the employer's conduct violated section 8(a)(1).

The court of appeals reviersed the Board's determination on the basis of Babcock. The proper inquiry under Babcock is whether the union had alternative methods of communication to discuss the merits of unionization other than contact on the employer's premises. The court stated at pages 799–801:

> The determination of whether or not the within employer conduct produced an imbalance in opportunities for organizational communications is dependent upon the existence or non-existence of alternative methods of communication open to the union.
>
> That a speech during working time on company premises may be preferable to use of contacts away from the work-site cannot in and of itself render the employer's conduct unfair under the Act. It was similarly the Board's view in Babcock and Wilcox that "the place of work was so much more effective a place for communication of information that it held the employer guilty of an unfair labor practice for refusing limited access to company property to union organizers." The Supreme Court, along with the Babcock and Wilcox case, affirmed the decision of the Tenth Circuit Court of Appeals in *National Labor Relations Board* v. *Seamprufe, Inc.*, 222 F.2d 858. The Court of Appeals in the latter case held that "absent a showing of non-accessibility amounting to a handicap to self-organization," non-employee solicitors have no right of access to company premises, inasmuch as they are "strangers to . . . the employees' guaranteed right of self-organization," P. 861 of 222 F.2d. There are no findings of non-accessibility by the Board in this case. There is no showing that the employees, away from the employer's premises, are removed or isolated from normal, usual communications. Indeed, there appears from the record every indication that they were accessible through alternative channels.
>
> The Courts of Appeals, in judging Board orders of access, have consistently applied the Babcock test, allowing access in cases where a finding of no reasonable alternative means of communication has been made and denying access where it has not.
>
> In *NLRB* v. *S & H Grossingers, Inc.*, 372 2d 26 (2d Cir. 1966), the court allowed access where the majority of employees lived on the employer's premises and could not be reached by any means practically available to union organizers. In contrast, in *NLRB* v. *Kutshers Hotel and Country Club, Inc.*, 427 F.2d 200 (2d Cir. 1970), the court denied access where under the Babcock test there was no barrier to communication and other means were readily available to the union. The Kutsher employees were accessible as they crossed a public road on their way to work. In addition, the union communicated with employees through an advertisement in a local newspaper and contacts at local bars.

Diamond Shamrock Co. v. *N.L.R.B.*, 443 F. 2d 52 (3d Cir. 1971), involved a no-access rule which denied off-duty employees access to a fenced-in plant area. The employer did not have no-solicitation or no-distribution rules. The Board invalidated the no-access rule as an unfair labor practice under section 8(A)(1), relying on Peyton Packing Co., 49 NLRB 828 (1943), enforced 142 F. 2d 1009 (5th Cir.), cert. denied 323 U.S. 730 (1944). The Peyton Packing decision invalidated a no-solicitation rule that barred union solicitation by employees on company premises during nonworking time as well as during working time. The court in Diamond Shamrock held that Babcock rather than Peyton Packing should be the test of an off-duty employee no-access rule. At pages 56 and 58 the court said:

> In Peyton Packing and Republic Aviation, there was little reason for concern about the employers' private property rights, for the employees affected by the no-solicitation rules were lawfully and properly on the employers' premises pursuant to the work relationship. What was at stake in those cases was the proper "adjustment between the undisputed right of self-organization assured to employees under the National Labor Relations Act and the equally undisputed right of employers to maintain discipline in their establishments." In the instant case more is at stake than the company's right to maintain discipline in its plant. The company's private property rights are involved, for the effect of the Board's decision is to require the company to open a part of its premises, to which it could otherwise lawfully deny access, to off-duty employees for purposes of union solicitation. The Board in effect requires the company, which does not bar off-duty employees from the parts of its premises outside the fence, to provide a platform for off-duty employees supporting, and presumably those opposing, unionization, without a showing that other reasonably adequate avenues of communication are unavailable.
>
> The Court held in Babcock & Wilcox that "accommodation between (organization rights and property rights) must be obtained with as little destruction of one as is consistent with the maintenance of the other." Application of the Peyton Packing presumption to invalidate the no-access rule in this case would intrude far into the company's property rights, which were not at stake in Peyton Packing, without any showing that such intrusion is necessary to facilitate the exercise of the employees' organization rights. The result might well be a substantial diminishing of the company's property rights without any commensurate enhancing of organizational opportunities. In the context of a no-solicitation rule barring on-duty employees from engaging in union activity during nonwork time, the employer's failure to justify the rule could conceivably permit invalidation of the rule without inquiry into the availability of adequate alternative means of communication. On the other hand the different interests of the employer at stake in this case, constitutionally protected property rights as opposed to the right to maintain discipline, make a presumption of invalidity, which presumption can be overcome only by the showng of "special circumstances" justifying the rule, inappropriate in light of the mandate of Babcock & Wilcox.

(Mr. ANDERSON assumed the chair.)

Mr. McCLURE. Mr. President, Babcock makes it clear that it is not an unfair labor practice to refuse access to the practices, regardless of other means of communicating with employees. However, access has been allowed to union organizers as a remedy where the employer has committed other unfair labor practices, regardless of other means of communication. See, for example, *NLRB* v. *H. W. Elson Bottling Co.*, 379 F.2d 223 (6th Cir. 1967); *Decaturville Sportsville Co.* v. *NLRB*, 406 F.2d 886 (6th Cir. 1969); *NLRB* v. *Crown Laundry & Dry Cleaners, Inc.*, 437 F.2d 290 (5th Cir. 1971).

These cases do not destroy the validity of the Babcock rationale. The courts realize that granting access as a remedy is "fairly strong medicine," *NLRB* v. *H. W. Elson Bottling Co.*, 379 F.2d 223, 227 (6th Cir. 1967), and only grant it when the imbalance created by the employer's unfair labor practices justifies the intrusion on the employer's property. This involves different considerations than where, as in Babcock, the employer has

committed no unfair labor practices. As the court said in *Decaterville Sportswear Co.* v. *NLRB*, 406 F.2d 886, 889 (6th Cir. 1969):

> Since many of the company's unfair practices were directed toward thwarting the union's efforts to distribute literature to employees as they left work, granting access to parking lots under reasonable restrictions is directly related to the company's unlawful activity. This provision merely removes the disadvantages caused to the union by reason of the company's violations. Cf. *Consolidated Edison Company* v. *National Labor Relations Board* v. *Babcock & Wilcox* S. Ct. 206, 83 L. Ed. 126 (1938). Thus is restored the status quo which existed at the outset of the organizing campaign. *National Labor Relations Board v. Babcock & Wilcox Co.*, 351 U.S. 105, 76 S. Ct. 679, 100 L. Ed. 975 (1956), on which the company relies, is not inconsistent with our decision on this point. There, the question was whether denial of access to company property in order to distribute union literature constituted an unfair labor practice and the Supreme Court held it did not. Here, the question is whether reasonable access to company property for a limited time is an appropriate remedial measure after finding of unfair labor practices. The two questions involve different considerations. We conclude therefore that this is a valid exercise of the Board's authority.

S. 2467, in granting access without consideration of unfair labor practices and alternative means of communication, crosses the boundary of permissible intrusions upon the employer's property rights and is unconstitutional.

Access to private property has also been allowed in union organizational campaigns involving employees living in company towns and agricultural workers living on farm camps. See, for example, *Association de Trabajadores Agricoles de Puerto Rico* v. *Green Giant Co.*, 548 F.2d 130 (3rd Cir. 1975); *Illinois Migrant Council* v. *Campbell Soup Co.*, 519 F.2d 391 (7th Cir. 1975); *United Farm Workers Union* v. *Mel Finermen Co.*, 364 F. Supp. 326 (D. Colo. 1973). These cases involve consideration of the union organizers' and the employees' first amendment rights because the courts have considered these company towns and farm camps "public" property based on the Supreme Court's decision in *Marsh* v. *Alabama*, 326 U.S. 501 (1946). Because the towns and camps resemble public towns in every respect except for their private ownership, the courts have protected the inhabitants' and employees' first amendment rights from "State" infringement.

However, the Supreme Court made it clear, in *Central Hardware Co.* v. *NLRB*, 407 U.S. 539 and *Hudgens* v. *NLRB*, 424 U.S. 507 (1976), that in the normal labor law context involving private property, no first amendment rights are involved. The rights of the employees and the union organizers depend solely on the National Labor Relations Act, and their rights of access are governed by the Babcock test.

The constitutionality of an access regulation under a State labor law was considered by the California Supreme Court in *Agricultural Labor Relations Board* v. *Superior Court of Tulare County*, 546 P. 2d 687, appeal dismissed for lack of a substantial Federal question, 429 U.S. 802 (1976). In that case, a State administrative agency adopted a union access regulation pursuant to a delegation of rulemaking authority by the legislature. The regulation applied solely to agricultural fields and agricultural employees and granted a right of access to union organizers specifically limited in purpose, time, and place. Two groups of growers attacked the validity of the regulation on several grounds including unconstitutionality under the California and Federal Constitutions. The California Supreme Court looked to Federal law for the solution under both Constitutions, because the provisions of the State law resembled that of the NLRA. The court held the regulation constitutional in a 4 to 3 decision.

The majority looked to Babcock, among other supreme court cases, to determine the constitutionality of the statute, showing its belief that Babcock was a decision on constitutional grounds. Indeed, the majority said at page 698 that Babcock was "dispositive of the issue of the Federal constitutionality of access to agricultural property under the challenged regulations * * * and of the claim of invalidity premised on the cited provisions of the California constitution." The court went on to discuss the question of whether "it is constitutionally required that a determination of employee inaccessibility within the meaning of the Babcock & Wilcox test be made on a case by case basis, as the real parties urge, rather than by a rule of general application." The majority applied a reasonable relationship due process test to uphold the regulation.

Three justices of the California Supreme Court dissented, and claimed that the majority applied "an improper standard of constitutional review and thereby sanctioned an impermissible invasion on constitutionally protected property rights." The dissent said at page 713:

> This court is apparently the only court unable to grasp that the appropriate standard for review is one of balancing and not of rational relationship . . .
>
> * * * * *
>
> The United States Supreme Court balanced the competing interests in *Babcock* and *Central Hardware*, and because, as pointed out above, the board's regulation violates the rule of these cases, the access regulation violates the constitutional provisions protecting private property. The board's regulation does not even attempt to balance or accommodate the competing interests. It allows access when alternative means of communication do in fact exist. And it permits blanket entry onto private property during working hours. The regulation as presently promulgated is unconstitutional.

Insofar as both the majority and the dissenters of the California Supreme Court viewed Babcock as the case controlling the constitutionality of the access regulation, its decision confirms the above analysis of the equal access provision of the Labor Reform Act of 1977. That the majority decided in favor of constitutionality of the regulation in the case can be justified by a legislative determination that "significant differences existed between the working conditions of industry in general and those of California agriculture' with respect to accessibility by alternative methods. The court decided that, backed by such a finding, a regulation concerning all agricultural workers could validly be made rather than requiring a case-by-case determination. That no proper legislative finding concerning accessibility has been made or could possibly be made with respect to the equal access provision of the Labor Reform Act is obvious. The provision covers all employers governed by the NLRA. Even the majority of the California Supreme Court would agree that, under Babcock, such a statute is unconstitutional.

From the foregoing review of Supreme Court cases ruling upon equal access privileges, there can no longer be a doubt in anyone's mind that the equal access provision in S. 2467 is unconstitutional. As the Supreme Court enunciated in Babcock, employees should be allowed to infringe upon the employer's rights to deny access to his private property only if no other channels of communication with employees exist. The employer's right to control access to his private property is not a congressionally granted privilege under the NLRA, but is a constitutionally protected right under the fifth amendment. Thus, even if Congress legislates a right to access, that right must conform with constitutional standards. Yet, S. 2467 requires the employer to provide equal access whether or not reasonable means of communicating with employees off the employer's property exist. In allowing such unrestrained access, S. 2467 ignores the constitutional necessity of accommodating organizing rights and property rights "with as little destruction of one as is consistent with the maintenance of the other."

The fact that S. 2467 ties access to an employer's speech to his employees does not mean that the Babcock test can be ignored. May Department Stores clearly addresses that proposition—in May the court upheld the employer's right to address his employees on company premises and on company time while enforcing a priviliged rule forbidding solicitation by nonemployees on company property. The court acknowledged that it may be far more preferable for a union to give a speech during the employees' working time on company premises than to use contacts away from the work site, but explained that where, as in May, the uinon had alternative methods of communication to discuss the merits of unionization, it would infringe upon the company's property rights to grant the union's request to address employees on company premises. Thus, May removed any doubt that an employer's speech to his employees does not change the requirement of looking to alternative means of communication available to union organizers before impinging on the employer's property rights.

It also should be emphasized that existing labor laws protect unions as well as employers. The Babcock test protects the union's organizational rights by insuring that the union has other methods of communicating with employees. For example, access has been allowed where the majority of employees lived on the

employer's premises or on farm camps and could not be reached by any means practically available to union organizers. Moreover, the courts have granted access, regardless of other means of communication, where the employer has committed other unfair labor practices. The courts realize, however, that this remedy is "fairly strong medicine" and grant it only if the employer's unfair labor practices create an imbalance that justify the intrusion on the employer's property.

I have summarized the current law in some detail, because I think it cannot be stressed too much that S. 2467, in granting access without consideration of unfair labor practices and alternative means of communication, crosses the boundary of permissible intrusions upon the employer's property rights and is unconstitutional.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. McCLURE. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that Loren Isrealson and M. J. Hiltsley, of my staff, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. DeCONCINI). The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, a considerable amount of debate on the labor law reform so far has centered on the questions of whether the bill will crush small business or whether the bill's intended purpose is aggrandizement of big labor. All too often the debate has failed to focus on the people who are affected by our laws and who are hurt in a very real sense by the inadequacies of procedures by which we enforce our labor laws.

It has often been said that justice delayed is justice denied. This fact is graphically illustrated by the saga of John and William Landers, two brothers, whose ordeal I will detail today under the heading of why America's workers need labor law reform. This is the third chapter in the specific cases of hardship that arose under the inadequacies of the present remedial processes of the National Labor Relations Act and procedures under the National Labor Relations Board.

John and William Landers were discharged on April 15, 1965, by their employer, Interboro Contractors, Inc., of New York City. Five days later, they filed an unfair labor practice charge with the National Labor Relations Board. A complaint was issued on May 25, 1965, and a trial was held. The administrative law judge's decision found the discharge was for good cause, and not violative of the act.

On appeal, the Board reversed the law judge. On March 31, 1966, the Board found that the Landers brothers had been discharged because of their protected activities, in violation of section 8(a)(1) of the act. The Board ordered Interboro to pay the brothers backpay for the time they were out of work due to the discharge, and to reinstate them. The Board's order provided that if the construction job on which the brothers had been employed was completed, then the company did not have to reinstate them, but did have to promise to consider the brothers, on a nondiscriminatory basis, on any future project. In fact, the work which the brothers had been doing on the construction project had been already finished by their replacements more than 2 months before the Board's decision was issued.

The company did not comply with the Board's backpay order, however, and the Board was forced to seek enforcement of its order. On December 22, 1967, the U.S. Circuit Court of Appeals for the Second Circuit did enforce the Board's order.

By this time, Mr. President, more than 32 months had passed since the Landers brothers had been illegally fired. But their ordeal was not yet over. It was far from being over. After the court's decision, the arduous backpay procedures of the Board started to grind away.

The regional director issued a backpay specification and notice of hearing on July 18, 1968. After once being postponed, the hearing on backpay was held on August 21 and 22, 1968. The administrative law judge issued his decision making a backpay award on December 19, 1968, nearly 33 months after the Board's decision and more than 3½ years after the Landers had been illegally fired.

But the ordeal of John and William Landers was still not over. The case went back to the Board, and on April 29, 1969, 4 years and 2 weeks after the brothers had been fired, the Board issued its back pay decision. The Board ordered Interboro to pay one brother $6,558 and the other brother $7,489.90.

Interboro still would not pay, and the Board was again forced to seek enforcement of its order in the second circuit. Finally, on September 24, 1970, the court of appeals enforced the order.

Mr. President, the Landers brothers had to wait 5½ years to receive justice. The inordinate delay in this case meant that by the time the legal proceedings had run their course, the jobs from which the Landers brothers had been illegally discharged no longer existed. Thus, after their long ordeal, justice for the Landers brothers meant back pay of about $100 for each month since they had been fired.

Mr. President, the Landers brothers were not the guilty party. They were not the party that broke the law. Yet they were the innocent victims not only of the illegal firing, but of the very processes that were established by law to protect their rights. How long can we allow this bureaucratic nightmare to continue? How long can we stand in callous and silent disregard of the need to speed Board procedures, end redtape, and give assistance to a board which is staggering under more than a twofold increase in illegal firing cases since 1960?

Workers should not have to go through the ordeal of John and William Landers in order to have their rights vindicated.

It is cases like that of John and William Landers that labor law reform is all about.

Mr. President, I would like now to discuss the increased understanding on the part of the press which has developed since we started the debate here on the floor of the Senate on this labor law reform bill.

The editorialists of the Nation have from time to time made known their views on labor law reform. Supporters and opponents of the bill have not been adverse to calling these editorials to the attention of the Senate and the public.

Indeed, the Senator from Utah (Mr. HATCH) has taken the opportunity, on more than one occasion, to call our attention to the editorial views of the Washington Post on labor law reform. He has said, and I agree, that the Post is a respected newspaper.

As is the case of all thinking and reasonable people, the editors of the Washington Post did not become frozen in their view. They are objective men and women, who reevaluate and reassess and, from time to time, change their minds.

That is a healthy process, and I urge such reassessment and reconsideration on those who oppose this bill. I urge it upon the junior Senator from Utah.

This morning's Washington Post contains an editorial on the labor law reform bill. Since the Senator from Utah takes such high stock in the editorial opinions of the Post, I know he will be anxious to read the Post editorial, and to share it with his many friends, as he has shared previous Post editorials on the labor law reform bill.

The Post says the Senate "ought to pass" this bill. The Post does have some concern about some of the bill's provisions, most significantly, the debarment remedy. But the Post also has some interesting views on some aspects of the bill which have been the subject of this extended debate.

The Post notes that the bill's provisions for speeding up the Board's processes "wouldn't abridge anybody's right of appeal. It would just speed up the process."

The Post also debunks the argument that the bill "will lead to hugely successful union organizing drives." "It seems unlikely," the editorial says.

Finally, the editorial of the Washington Post notes that the bill has become loaded "with symbolic freight, far out of proportion to anything that it will accomplish."

The Post says what I have been saying all along, that this is a narrow bill and "on balance it is worth having."

I urge my friend the Senator from Utah to consider the views of the newspaper for which he has told us he has such respect. And to aid him and other Senators in doing this, I ask unanimous consent that today's Washington Post

editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE LABOR BILL

The Senate has finally taken up the labor-law reform bill—and ought to pass it. The basic purpose of the bill is to uphold a simple and fundamental principle: that no one should be permitted to profit by violating or evading the law's requirements. This legislation would provide little in the way of new rights or privileges to anyone. Most of it would only speed up the National Labor Relations Board's present procedures and—an essential point—increase the chances that its orders would be put into effect promptly.

This legislation is essentially aimed at the small but conspicuous minority of employers who exploit present procedures to procrastinate sometimes interminably, in meeting their legal obligations. The bill would, for example, set firm time limits for representation elections. If the union wins an election, present law requires the employer to bargain in good faith. Sometimes companies are recalcitrant. Then the union has to go back to the NLRB, which—months, or sometimes years, later—issues an order. But an NLRB order is not self-enforcing. If the employer chooses to ignore it, nothing happens until somebody goes to court. The bill wouldn't abridge anybody's right of appeal. It would just speed up the process.

Much of this bill comes out of organized labor's long struggle with one textile manufacturer, J. P. Stevens and Company. The company has repeatedly been found in violation of the law and several times has been held in contempt of court. It prefers to pay fines rather than to follow the law. The bill tries to strike directly at Stevens with a blacklist clause forbidding government purchases from companies in violation. But blacklisting is an ugly device and, as a purely practical consideration, there may be other willful violators in the future that do not sell to the government. The Senate would be wise to delete the blacklist clause altogether and substitute other weapons, like escalating fines.

The basic defect of this bill, as we have repeatedly argued, is its disproportionate attention to the unions' troubles. Its displays inadequate concern for the rights of individual workers. But the bill has already been through the House, and there is little opportunity now for any broad revision. The question is whether the bill, as it stands, would improve American labor law.

The bill's opponents, including most business organizations, believe that it will lead to hugely successful union organizing drives. That seems unlikely, when you consider the present state of the unions. The proportion of the labor force that belongs to unions has been declining for a quarter of a century. The unions look to this bill to help them at last stop the erosion. But the causes run far deeper than this rather modest reform can reach. Unions have always had great difficulty organizing white-collar workers—with the notable exception of government employees—and the service industries. That's where most of the growth in employment now lies. As for the unions themselves, their leadership is aging and not very flexible in adapting to a changing economy.

Both unions and employers have loaded this bill with symbolic freight far out of proportion to anything that it will accomplish. The bill has become a test of labor's strength and status in American politics. It has become, in a queer way, a vote on the moral worth of the unions versus the employers. That is why the Senate is now gloomily settling down to another siege of filibustering and cloture votes—one that will go on, apparently, for weeks. The point to remember, as it goes groaning and droning along, is that the bill is narrower than either side would have you think—but on balance it is worth having.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. Mr. President, I think it might be appropriate, if my friend from New York will pause for one moment, to ask unanimous consent to have printed in the RECORD at this point an article by the senior Senator from New York (Mr. JAVITS) entitled "Labor Law Reform Is Not Antibusiness—Measure Would Merely Correct Abuses and End Delays In Existing System," published in the Los Angeles Times of Thursday, May 18, a splendid, excellent, and illuminating exposition of exactly what this bill does in the areas that it considers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 18, 1978]

LABOR LAW REFORM IS NOT ANTIBUSINESS: MEASURE WOULD MERELY CORRECT ABUSES AND END DELAYS IN EXISTING SYSTEM

(By JACOB K. JAVITS)

Senators now trying to block enactment of the Labor Law Reform Act of 1978 ignore some of the real injustices plaguing millions of today's working men and women.

They claim that the country is already in the grip of a widespread labor "dictatorship," and that the proposed law would only enable unions to tighten their grip still further. Yet a "dictatorship" can hardly exist when workers must suffer under these hardships:

—The head of a family unjustly fired because of employer discrimination cannot seek redress, even though current law appears to protect him.

—Employes must often wait a full year from the time they apply for a vote on union representation until they can exercise the right to actually carry out an election.

—Employers can use company premises during regular working hours to campaign against union representation without allowing employes similar time and facilities during the work day.

The bill before the Senate would correct these abuses. Passed by the House last fall, it neither condones any revolutionary concept in U.S. labor law nor is it, as sometimes claimed by opponents, an antibusiness statute. All that supporters of the Labor Law Reform Act are trying to do is to end delays in a system that, over four decades, has worked rather well for both employers and employes.

This legislation is essentially a reaffirmation of our nation's long-established federal policy favoring collective bargaining, yet the debate over the bill, introduced in the Senate by Sen. Harrison A. Williams Jr. (D-N.J.) and me, has escalated to rhetorical excess beyond the bounds of reason. Some opponents, characterizing the bill as establishing "pushbutton unionism," simply misstake the facts and wage a campaign based on fear and deception.

The act would do absolutely nothing to change the underlying reasons why workers may choose to favor or reject union representation, nor would it alter in any way the substantive rights of labor unions and management once a bargaining relationship is begun.

Instead, it would reinforce our 40-year-old national labor-relations policy, designed to protect the free choice of employes in deciding whether to be represented by a labor union. The problem is that this freedom of choice is now threatened by the administrative strains of a steadily mounting caseload and a growing disrespect for the law.

The number of representation elections and cases involving unfair labor practices has more than doubled over the last 20 years. More than 20,000 cases were awaiting final adjudication by the National Labor Relations Board at the close of fiscal 1977. In many instances, employes who have petitioned for a NLRB-sponsored representation election wait a whole year before being allowed to vote. Such delays are intolerable, because they undermine the very foundation of the U.S. labor-relations framework.

For without a system of quick, precise and legally binding decisions, labor-management relations will be governed more by sheer power than by the rule of law. Accordingly, the Senate bill calls for elections within 30 days, or within 45 days when legal issues must be resolved before the vote. This bill also would incorporate a number of overdue procedural reforms designed to speed up decisionmaking within the NLRB.

The bill, moreover, would correct a serious imbalance that now thwarts the right of voting employes to be fully informed. Whenever an employer uses his premises or paid time to campaign against union representation, the legislation would require an equal opportunity for employes to obtain information on the issues from their prospective union. Again, all that the measure would require is basic fairness in a democratic election, for the right to vote is meaningless without the right first to hear both sides.

In recent years the number of labor-law violations—especially on the part of a small number of employers—has risen at an alarming pace. In 1966 the NLRB identified more than 7,000 cases involving employer discrimination (firings and other forms of reprisal) against employes for activities protected by law. Now the NLRB is confronted with more than double this caseload. An increase of this scope reflects a serious erosion of the rule of law and, indeed, hearings last fall by the labor subcommittee of the Senate Human Resources Committee revealed that a principal explanation for the sharp rise lay in the weakness of tools to enforce the law.

The Labor Law Reform Act would significantly strengthen these means to deter violations, as it would also offer more realistic assurances that workers victimized by violations of the law will be compensated.

The bill would speed reinstatement for many workers who are illegally fired. It would require that such workers receive back pay for time lost at 1½ times their regular rate of pay. Furthermore, it would permit the NLRB to award back pay to all employes in a bargaining unit where an employer illegally refuses to bargain with them. Employers who willfully and repeatedly break the law would be subject to exclusion from government contracts for up to three years.

This is a moderate bill designed to make our existing labor laws work fairly and effectively. It represents a strengthening of our commitment to free and democratic choices by workers for or against union representation.

Nothing in the Labor Law Reform Act of 1978 threatens the continued vitality of small businesses that obey the law. In fact, approximately 78 percent of all businesses in the United States are too small to fall under NLRB jurisdiction. Instead of a threat to business, the bill would further protect employer rights, promote the voluntary and peaceful resolution of industrial labor disputes, and make for fairer business competition.

Mr. WILLIAMS. I applaud the Senator from New York, and am pleased with his major contribution to our debate on this bill.

Mr. JAVITS. Mr. President, I thank our distinguished colleague. If the Sen-

ator will yield, I just wish to point out one thing that should get in focus. This also stems from the Washington Post editorial.

The Washington Post is a journal which has changed its position with respect to this bill, and therefore what it says is very significant.

We have contended that this is a modest reform. Symbolically, it seems to pit labor against a good section of business, but that is strictly symbolic, and I believe it should be the aim of those of us who are managing the bill to take away this symbolism and to get down to what it really does and does not do.

I am deeply interested in a phrase which the Washington Post uses. It says, with respect to the charge that unions are going to use this bill to build themselves up:

> The unions look to this bill to help them at last stop the erosion.

That is, the erosion of their membership. Those are my words. I continue to quote:

> But the causes run far deeper than this rather modest reform can reach.

I am very interested in those two points: First, the issue of modest reform; and second, the issue which the Post editorial points out, which I think is extremely important for labor to listen to.

That is:

> As for the unions themselves, their leadership is aging and not very flexible in adapting to a changing economy.

I do not think the Post really should have used, or means to use, the word "aging" in any literal sense. I believe what they really mean is the question of adapting to a changing economy to represent a greater recognition of the partnership between labor and business in the U.S. economy.

As Senator WILLIAMS has pointed out, in quoting the phrase "the bill is narrower than either side would have you think," I again emphasize the fact that it is symbolism that this is some kind of a struggle of organized labor versus organized business, and that this will show the preeminence of neither.

I believe it is our job to show that this is another labor bill, and I believe this is the fact, which endeavors to deal with loopholes and opportunities for frustrating the law through delay which was never intended, and that we are seeking to tighten up on that situation.

Our job, in my judgment, will be to confine the bill to those basic purposes.

Secondly, and I think this is very important, I do not think the Post is right about the creativity which can go into the bill in this Chamber. I know that the Post thinks that the bill having gone through the House, "There is little opportunity now for any broad revision."

Very considerable revision has already been made in the House bill, Mr. President. More may be made, though there is no assurance about that. If it is, I believe that Members here need not fear the fact that we will stand up for the Senate version, and that the Senate is a 50 percent partner with the House. We have rejected conference reports before. Members will have full and open opportunity to reject any conference report, or any part of it here. I can assure them as one conferee that that is the way I will be guided in respect of this particular measure.

Finally, I again point out something which the editorial does not point out. I believe organized business associations are using the small business community, which is practically unaffected, against which there is no organizing drive in contemplation or, in fact, in being, simply as a cat's paw in the effort to try to break the back of this bill.

I will do my utmost, and I deem it my special job, to see that this truth is borne in on the small businesses of this country, with three-quarter of them affected in no way, even under the present rules of the NLRB.

Mr. President, the virtue of this debate is going to be to put this bill in focus. In my judgment, the Post editorial in that regard in a public sense has helped us enormously.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Sam Currin of my staff be accorded the privileges of the floor during the discussion of the pending legislation and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, I suppose Senators on both sides of this issue scarcely know where to begin in discussing this so-called labor law reform bill. Perhaps it is best to first discuss it in practical terms. What will the passage of this legislation, notwithstanding assertions to the contrary, coupled with legislation already on the books, means to the average small businessman?

Some time back a very fine newspaper in my State, the Jacksonville Daily News, published a hypothetical example of what could happen if this so-called labor reform law should be enacted. The article was entitled, "Here's How the Labor Law Reform Bill Could Affect a Small Retailer."

The author of the article began by saying:

SMALL RETAILER

You are an independent retailer in a town of 20,000 people. You have ten employees, two of whom are managers, with both of the managers and three of the other employees being social friends of yours.

At the start of your busiest season, you take on a new employee, telling him that you can guarantee him a job for the next several months and perhaps thereafter if your sales volume continues to increase. You soon notice, however, that he seems more interested in talking with the other employees than in serving customers, and you think perhaps you will have to let him go.

However, before you can make a decision, you are startled to receive a special delivery letter from the National Labor Relations Board late one Friday afternoon. The letter informs you that a petition has been filed with the NLRB by a union which claims to represent a majority of your employees. The NLRB letter further advises you that the Board's normal practice in such circumstances is to hold a secret ballot representation election within 15 days. If the union wins the election, it will be certified by the Board as the bargaining agent for your employees.

You are obviously bewildered since you know virtually nothing of unions, nothing of labor law, and do not even know a labor lawyer (there not being one in your whole county). So you call one of your social friends who is also an employee, and who, since the work day is over, happens to be at home. You then go to his home to discuss the situation since that is more convenient than asking him to come back to the office. Your friend-employee tells you that "yes" there has been a labor organizer working in the area, that he seems to be particularly close to the new employee you hired, and that several of the employees are unhappy about a couple of issues. You ask the employee why it had not been mentioned before and the employee tells you that no one had ever thought about these issues until the labor organizer and the new employee mentioned them. These are relatively minor issues which you are perfectly happy to discuss with the employees, and so you ask the friend you're visiting to arrange a short employee meeting at the store for the next working day. During the discussion, the employee demands are considered reasonable by you and you agree to grant those demands. You also seek to correct some of the misleading and incorrect assertions which the union organizer has made to your employees.

At noon the same day you are presented with a demand by the union representative to have an employee meeting at your store for him to address the employees. You refuse this demand because it is your private property and you feel the demand is unreasonable.

You also observe that the new employee is spending virtually all his time talking to the other employees, urging them to support the union. He is doing no work himself and is diverting the other employees from their work. You call the new employee into your office to admonish him. When you do, however, he becomes belligerent and surly. You tell him he's fired, and he says he'll get even with you by going to the NLRB.

Let's stop here . . . What kind of trouble have you gotten into if S. 1883 becomes law? Assume you have now finally been able to obtain the services of labor counsel. Here's what he will likely tell you:

The Board will hold a representation election within 15 days of when you received the petition. Sure, that doesn't give you very much time to find out much about this union and pass such useful information on to your employees so they can cast an intelligent and informed vote. But that's the law.

You violated the law by refusing to give the union organizer "equal access" to your employees; even though it's your property, he has the right to talk to your employees during work time and your property because you did.

You can anticipate that the employee you fired will file an unfair labor practice charge with the Board. If, as seems probable, the NLRB decides to issue a complaint against you, the Board will immediately proceed to federal district court to obtain a court order requiring you to reinstate the discharged individual pending a full hearing on the matter before an NLRB administrative law judge. The Board's chances of getting such a court order are excellent. If the administrative law judge and then the Board agree that you committed an unfair labor practice by discharging the individual for union activity, you will be liable for double backpay. And you will have to pay the full amount even though that individual immediately obtained work elsewhere and actually lost nothing.

You have undoubtedly committed yet another unfair labor practice by asking the employees what their grievances were and by promising to take action to correct the problems brought to your attention. Under the

National Labor Relations Act, this would be regarded as an improper attempt to "coerce" the employees into voting against the union.

The election will very likely become a one-way ratchet to be used against you. If the union wins, the Board will certify it as the bargaining agent for your employees. But even if the union loses, the Board would probably find on the facts here that you have committed unfair labor practices "that undermined a free and fair election." If the union had obtained signed cards in its favor prior to the election from a majority of your employees, the Board could, and almost certainly would, order you to bargain with the union. And this despite the fact that a majority of your employees cast their secret ballots against the union in the Board-run election.

If you wanted to obtain review of a Board certification or a Board bargaining order in the courts, you could do so. But only at a substantial risk. If you lose in the courts, you will be required to pay your employees wage increases from the date when the Board says bargaining should have started until you actually sign a first contract. The amount of those wage increases is based on the percentage change in a Labor Department index. That index, however, is not based on wage settlements in small businesses, but on those in units of 5,000 or more employees.

This is not a contrived "horror story". Based on past history, and labor practices, and the record of Congressional hearings, it is exactly how the unions intend this legislation to work for them.

Fortunately, Mr. President, the people and much of the press have seen through the facade of "labor reform" and realize that the hypothetical I have just read will be multiplied again and again throughout this Nation if this legislation is enacted.

From Maine to California, from Washington to Florida, over 800 newspapers have expressed their firm editorial opposition to the so-called labor law "reform" bill.

Parenthetically, I will say that I shall not comment on the ambivalence of the Washington Post. It does not surprise me that they ended up endorsing this legislation. Their editorial does acknowledge, however, that it is a pretty sorry piece of legislation and that its draftsmanship leaves much to be desired. But I suspect what happened was that the Washington Post went back to its traditional ideological moorings after having commented unfavorably on the bill earlier.

Other newspapers around the country are not ambivalent. In the State of Maine, the Bangor Daily News said:

If the Senate bows to Big Labor and enacts this omnibus legislation . . . compulsory unionism will be promoted.

In California, the Los Angeles Herald Examiner said:

If the Labor Reform Bill passes, it could easily have the effect of making employers throw up their hands and allow unionization of their firms—whether their employees want it or not, just to avoid these unreasonable penalties.

In the State of Washington, the Yakima Herald Republic declared, "the U.S. Senate should junk S. 2467. It is bad legislation."

In Florida, the Miami Herald said:

We therefore see no reason now to tinker with the law to make it more favorable to labor in order to help Jimmy Carter kiss and make up with George Meany.

Unable to accept such scathing analysis of organized labor's pet bill, AFL–CIO publicity director Al Zack has accused the Nation's press of "being stamped out with the uniformity of an auto body." Mr. Zack also accused the Nation's newspapers of being "unfair, biased, and wrong headed * * *."

Considering the nature of Mr. Zack's employment, he may be forgiven for his emotional outburst. Newspapers from coast to coast have continued to warn their readers objectively about the bill and its severe threats to the basic freedoms of the American worker.

As the National Right to Work Committee has pointed out, the bill's severe new penalty provisions, specifically those in section 8, would arm union organizers with an arsenal of new legal weapons with which to blackmail employers into forcing employees into unwanted unions.

In my own State of North Carolina, Mr. President, dozens of papers, large and small, liberal and conservative, Democratic leaning and Republican leaning, have not been fooled by the appealing title of "labor reform."

I have a friend down in North Carolina, Mr. President, who is a distinguished lawyer, a much-sought-after speaker, and a dedicated Christian layman. His name is H. R. Seawell.

He lives in Carthage, N.C. He says that when the Congress of the United States begins to talk about reform, all of us better put our hands on our pockets because it is going to cost us our money or our freedoms. I guess that is often about the size of it.

But throughout North Carolina, from the mountains to the coast, the newspapers have editorialized against this bill. Here is just a partial list of the newspapers which have done so:

Kinston Free Press, Dunn Dispatch, Mooresville Tribune, Thomasville Times, Sanford Herald, Wadesboro Anson Record, Newton Observer-News, Roxboro Courier-Times, Wilmington Star-News.

By the way, Mr. President, the Wilmington Star-News is owned by the New York Times:

Rocky Mount Telegram, Granite Falls Press, Red Springs Citizen, Yanceyville Caswell Messenger, Shelby Daily Star.

I might mention, Mr. President, that the Shelby Daily Star was founded by a former Member of the U.S. Senate, one of the greatest North Carolinians my State has ever produced, the late Clyde R. Hoey, who first served as Governor of North Carolina before his distinguished career in this Senate.

Senator Hoey started as a printer's devil on that little newspaper in Shelby, which is now no longer a little newspaper, but a dynamic publication.

But to continue the list of newspapers in my State which have editorially expressed opposition to the pending legislation:

Boone Watauga Democrat, Mount Olive Tribune, Warsaw Faison News, Gastonia Gazette, Winston-Salem Journal, Jacksonville Daily News.

From which I just quoted.

Newton Enterprise, Chapel Hill Newspaper.

That is the name of it; they do not call it the Chapel Hill News; they call it the Chapel Hill Newspaper. I guess it is the only newspaper in the world named "Newspaper"—

Greensboro Daily News, Goldsboro News-Argus, Durham Morning Herald, Asheboro Courier Tribune, Greenville Reflector, Lincolnton Times News, Asheville Times, Greensboro Record, Wallace Enterprise, Clarkton Southeastern Times, Statesville Record & Landmark.

A very fine newspaper.

Morganton News Herald.

Morganton, of course, is the home town of our distinguished and able former colleague, Sam Ervin, who, if he were here, would be vigorously opposed to this bill.

Continuing with the partial list:

Hickory Record, Durham Sun, High Point Enterprise, Oxford Public Ledger, Wadesboro Messenger and Intelligencer, Kannapolis Daily Independence, Mount Airy News.

I could go on and on. As a matter of fact, I do not recall that one newspaper in North Carolina has endorsed this piece of legislation.

Later on in this debate I shall read some excerpts from the many excellent editorials appearing in these North Carolina newspapers and perhaps newspapers from other States.

But it is not just the press that is overwhelmingly opposed to this bill, Mr. President. The press is only reflecting public opinion.

Let us look at what the public thinks—including members of labor unions.

The Opinion Research Corp. of Princeton, N.J., a highly respected surveyor of public opinion, conducted a recent survey of public opinion in regard to this bill and toward labor unions in general.

The results were, I confess, surprising. They may have been startling to some of the bosses of labor unions.

Only 22 percent, Mr. President, about 1 in 5 Americans, favor this legislation or any other legislation that would make it easier for unions to organize. Indeed, a greater number—25 percent—feel that the law should be changed to make it more difficult for unions to organize.

That is the view of the American people as surveyed by the Opinion Research Corp.

About 40 percent, 4 in 10, believe that the current laws should not be changed. In other words, by putting the preceding figures together we see that about 2 out of every 3 Americans believe that the labor laws should remain the same or make it more difficult for unions to organize.

The lack of support for legislation that would facilitate union organizing efforts is evident not only in all parts of the country, but also among people of all political persuasions—Democrats as well as Republicans and Independents. This view is held by those who say they have read or heard about new so-called labor reform legislation as well as by those

who say that they are not aware of such legislation.

Now, here is the most startling finding of this survey. The proposal to make it easier for unions to organize does not win majority support from current union members. Only one-third—one-third, Mr. President—of the men and women presently belonging to labor unions support the idea, while almost half, 48 percent, think that the present laws should not be changed.

As it is, the majority of Americans think that the power and the political influence of labor bosses is already too great. About 5 out of 8 Americans—or 63 percent, to be precise—think there is too much power concentrated in the hands of a few labor leaders of big unions in this country. This is the attitude of majorities of people in all major political subgroups and among the liberals as well as conservatives.

As I say, even union members tend to feel this way. Fifty-one percent of them—not too much less than the 63 percent of the general population—agree that the labor leaders have too much power, while only an amazing 11 percent of labor union members, about 1 out of every 9, believe that the union bosses do not have enough power.

I said a moment ago that these statistics are surprising. Maybe they are not all that surprising after all, because most of the union members whom I know personally——

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. HELMS. I yield.

Mr. WILLIAMS. Has this opinion poll that the Senator is now referring to been included in the RECORD prior to this; has it been included today?

Mr. HELMS. I would be glad to insert it in the RECORD, and I intend to do so. I do not know whether it has been inserted earlier, but I will make sure the Senator has it.

Mr. WILLIAMS. If it has been, it would be helpful for me to have the citation in the RECORD in order to more closely follow the dissertation of the Senator from North Carolina. If we could know when it was included, my staff will find it.

Mr. HELMS. We will provide the Senator with that information.

Mr. WILLIAMS. If I could do it while the Senator is referring to it, I could listen to his remarks more intelligently.

Mr. HELMS. In that case, Mr. President, let us have a brief quorum call, and we will try to find it, in order to be of assistance to the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, as I was saying, perhaps these statistics are not surprising at all. Most of the union members I have come to know—not the leaders, but the members—are Americans first; and, like other Americans, they are becoming a little tired of that trio of big government, big business, and big labor.

We have become a government and a society of special interest pressure groups, and nowhere is this more apparent than in this bill. If my perception is correct, scarcely anybody wants this bill—not union members, not the general public, not the press, and not most objective observers. Then, the question is obvious: Who does want it? I suspect that is clear to all. The big labor leaders want this bill.

It is no secret that about half of this Senate would not want to even consider this bill if it were not for the campaign contributions of big labor unions.

The Senator from North Carolina knows a "quid" for a "pro quo" when he sees one. And so does the majority of the American public. Once again the old adage that "you can't fool all the people all the time" is being proved accurate.

What all these statistics to which I have alluded show was graphically illustrated by a piece of mail I received some time ago. The correspondence consisted of a printed form cut out of a union publication. On the form the following was printed in bold type:

DEAR SENATOR: The Labor Reform Bill has my strong support. It's needed. It should be passed. Please vote for it.

There was, of course, a place at the bottom for the sender's name and address. However, the citizen who mailed it to me crossed out the message, and instead inserted the following in his own handwriting:

I am a union man paying dues. But we don't need the labor reform bill. Please vote against it. This clipping came out of my union paper.

I would reveal the identity of this union member except that I fear he might suffer reprisals. Of course union reprisals against the right of a member to support or not to support union activity are prohibited by section 8(b)(1) of the National Labor Relations Act, but the enforcement of prohibitions against union unfair labor practices leaves something to be desired. Unfortunately, however, this so-called labor reform bill remains silent on that subject; as one would expect, in a bill largely drafted under the guidance of union bosses, its proponents are, shall we say, very selective in their indignation.

All in all, this is a rather strange reform bill and it is a very selective indignation that does not address itself to the type of union violence that we saw in the recent coal strike. Many newspapers have published photographs of State police and National Guardsmen escorting convoys of coal trucks to the beleaguered people of Ohio, Indiana, and Virginia. Why? Because the already too-powerful union radicals and union bosses threatened the personal safety of those who would deliver coal during the strike.

If anything about this debate is clear, it should be clear that the coal strike should serve as a warning that should alert all of us to the dangers of a nation held in the grips of unchecked union power—and the tragedy of union violence—if this bill should pass in any form.

Yes, Mr. President, it is indeed a strange "reform" bill that ignores violence. One would think the protection from violence, from threats against personal safety or the destruction of property, is the most fundamental of all reforms. Indeed, it is the first and primary purpose of Government. Our own Declaration of Independence states that it is the fundamental right of the people to alter or abolish any form of government that becomes destructive of the rights of life, liberty, and the pursuit of happiness, and "to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

So, let us not deceive ourselves, Mr. President.

This is not a reform bill at all. The people know it, the press knows it, the President knows it, and my good friends who propose this legislation are bound to know it, also.

This bill contains a couple of dozen different sections and reforms. What a strange coincidence that not one of those sections, not one of those so-called reforms, works to the detriment of the labor unions. Not one, Mr. President. Now that suggests two possibilities: Either (1) it was purely by chance, which defies all laws of mathematical probability; or (2) it was deliberate—a deliberate and premeditated power grab by desperate union leaders who see their power ebbing as the industrial might of this country moves to the South and West.

So, with all due respect to those who propose this legislation, why do we not stop playing games and call this bill by its correct title—The Union Organizing Act of 1978?

In fact, even the proponents of this legislation do not like to call it the Labor Reform Act. The hypocrisy of calling this one-sided power grab reform is too much even for some of those favoring the bill. Rather, they prefer to call it the "J. P. Stevens bill." This is obviously in reference to the inability of the Amalgamated Clothing and Textile Workers Union to organize the J. P. Stevens Co. over the past 15 years.

I am not going to take sides in the dispute between J. P. Stevens and the textile union. That is a matter properly left to the courts. However, one cannot ignore the vicious and distorted propaganda campaign generated by the labor bosses against the J. P. Stevens Co. By the daily hoisting of inaccuracies into the public view, big labor has unfortunately been able to create a political climate and public mood where the very mention of "J. P. Stevens" causes a Pavlovian shake of the head and disapproving glance. Yet I daresay that few members of the general public—and even many Members of the Senate—have any idea what the dispute is all about. They have just heard it so often that J. P. Stevens is some kind of an antilabor ogre that they assume it must be true.

The Wall Street Journal, which, by the way, supported the demands of the coal strikers, which would indicate, I

suppose, that the Wall Street Journal is not "knee-jerk" antiunion, recently published an editorial concerning the J. P. Stevens controversy which put the matter in a better perspective. It is very important that this editorial be heard and read by those who never have had an opportunity to examine the facts of the dispute and who have heard only one side. So for the edification of the Senate and for the RECORD I think this editorial should be considered.

It is entitled "Labor's Blacklist," and it reads as follows:

It is not often that we stick our nose into a strictly private conflict between management and labor. Especially when the slugging match goes back 15 years. We just assume that sooner or later one party or the other will throw in the towel or both sides will be so black and blue that they'll come to a gapsing compromise.

But the beef between the Amalgamated Clothing and Textile Workers Union and J. P. Stevens & Co., which dates to at least 1963, has gotten out of hand. The union has essentially lost its long fight to organize Stevens. Most of the 44,000 workers of Stevens' 83 plants through the South have made it painfully clear that they do not want to be represented by Amalgamated. Over the years the union has tried elections in the 12 likeliest locations and lost all but one, at Roanoke Rapids, N.C., which voted union 1,685 to 1,448 in 1974.

The union has lost a fortune in its long drive, and its frustration and bitterness are not hard to understand. But we can't sympathize with the union's last-ditch tactics. Because Stevens can't be beaten in a fair and square stand-up fight, Amalgamated has now resorted to terrorizing businessmen who do business with Stevens. The object is to starve Stevens into submission by isolating it from the rest of the business and financial community.

The tactic isn't likely to achieve the union's goals, but it is having dramatic short-term effects. Manufacturers Hanover Corp., threatened by the union with having union pension funds yanked out of the bank, has parted instead with two directors associated with Stevens. They are James D. Finley, chairman and chief executive of the textile firm and David W. Mitchell, a Stevens director who also is chairman and chief executive of Avon Products Inc.

Then it was Avon's turn, yanking Mr. Mitchell off Stevens' board after the textile union threatened a boycott of Avon products, on top of its unsuccessful boycott of Stevens' products. A string of labor leaders, politicians and clergymen-including a number of Catholic bishops—openly advocate the severing of all corporate ties to Stevens' board. Unlike a straightforward boycott, a la Cesar Chavez and his grapes, the textile union tactic concentrates wrath not on inanimate products but on human beings.

And it is all mindless fury by now. There is no denying that Stevens has been a tough union foe but union claims that the company does not fight fair are more dubious. It's true that over the last 15 years the union has been able to make unfair labor practice charges against Stevens stick 12 times. On the other hand, hundreds of its complaints have been dismissed. Considering that the National Labor Relations Board is scarcely anti-union, this seems to us the record of a hard, tough fight, not the record of a rogue employer. Even the 12 successful complaints seem to have little to do with the union's inability to win elections.

Clearly, labor's problems with J. P. Stevens, the Southern textile industry and the South in general go well beyond the toughness and intransigence of a single corporate management. The textile industry is subject to fierce international competition. That's the reason it fled to the South from the North in search of lower costs. Many Southern workers apparently think that management is right when it claims that unions can't do much for them but price them out of a job and make more work for the Taiwanese.

It is significant that although the ACTWU won the Roanoke Rapids election in 1974, no contract has yet been negotiated nor has the union called a strike. This could be called another sign of Stevens' toughness, but it also suggests that the union itself recognizes a fundamental weakness in its economic position.

Blackmailing Manny Hanny and Avon won't cure that. Nor will the "labor reform" bill the AFL–CIO is trying to push through Congress as a new weapon for organizing the South, even though it will put dubious new strictures on management. It will be illegal, for example, to fire a worker who is organizing other workers on company time.

Labor's problems are serious. But it will solve them sooner by looking inward, not by trying to threaten individual corporate directors with the novel weapon of the secondary blacklist.

(Mr. ZORINSKY assumed the chair.)

Mr. HELMS. Mr. President, in that connection I noted on the editorial page of the Charlotte Observer, the largest newspaper in the two Carolinas, a letter to the editor signed by three ladies in Lincolnton, N.C.

The editor's note preceding the letter to the editor disclosed that the writers of the letter "are officers of the First United Methodist Church in Lincolnton."

This is a very interesting letter, which indicates another aspect of the propagandizing that has occurred in this and in many other public issues. Let us read the letter. It is written by Janet Collins, Rosie Modlin, and Celeste Jonas.

The letter reads as follows:

The handbook prepared by women's division of the Board of Global Ministries construes the purpose of United Methodist Women to include involvement in vital social issues. It states that this should be implemented by working for the elimination of injustice and racism and for the liberation of oppressed people.

Within our church there is no disagreement with these broad ideas. However, when the directors of the Board of Global Ministries called for a boycott of J. P. Stevens products; they acted arbitrarily, capriciously and in disregard of the judgment of many of the 1½ million Christian women whom they purport to represent.

Right-to-work laws and the acceptance or non-acceptance of unions remain a basic controversy. Many Christians are convinced that many labor organizations are now controlled more for the benefit of labor bosses than for labor itself. Many Christians are convinced that enlightened business management provides more benefits for labor than unions could ever achieve, while avoiding expenses, controversy and strife which unions have been seen to inject into community life.

The existence of valid Christian arguments and principles on both sides of the Stevens question heightens the affront felt by many Christians in seeing a high board of our church take such an arbitrary stand. Thousands of United Methodist Church families own stock in or are employed by Stevens; their dividends, salaries and wages contribute to the United Methodist Church and even to the expenses of the Board of Global Ministries.

If the church must take a stand on the Stevens question the decision should not be that of a 74-member board but one made by the entire church, or at least United Methodist Women whom the board purports to speak for.

Mr. President, I have read that letter into the RECORD to underscore something that is occurring with increasing frequency in our land. In regard to this issue and so many other issues that have come before the Senate since I have been a Member, we have seen a list of organizations purporting to represent so many millions of people taking a position directly contradictory to the wishes of the membership of the organizations involved.

I recall 2 or 3 years ago, in fact, that a number of hard-working union members in North Carolina were aghast when they learned that the AFL–CIO was lobbying the U.S. Senate in favor of forced busing of schoolchildren.

No referendum has been conducted on this question among the union members in North Carolina, but I daresay that 98 percent of them would be opposed to the use of their dues money for the promotion of forced busing. Yet the Senator from North Carolina saw lobbyists for the AFL–CIO just outside of this Chamber, working to defeat proposals to eliminate forced busing of schoolchildren.

Mr. President, last fall a Member of the House of Representatives from New Jersey went to North Carolina, ostensibly in his capacity as a Congressman "seeking information" in connection with legislation, but actually on a mission that had every appearance of injecting himself into a North Carolina issue.

Let me say that the distinguished Congressman is entitled to his opinions. Freedom being what it is in this country, he has the right, I suppose, to derogate my section of the country by using questionable characterizations of what he describes as "working conditions" in North Carolina.

In any event, presumably using the taxpayers' funds he came to my State to conduct "ad hoc hearings" which were so biased and one-sided they bordered on the absurd.

The political support that the Congressman from New Jersey receives from labor unions is a matter of record. Again, that is his right. On the other hand, it is interesting that the gentleman apparently is not fooling a great many people.

Not long after those "ad hoc hearings" in my State, I met a man who recently had moved his family from New Jersey to North Carolina. I wish the Congressman from New Jersey could have heard his reaction. He said:

Senator, we feel like we've moved to heaven. The climate here, the attitude of the people, the friendliness, the cost of living, the opportunities to enjoy life—it's just great.

I say that with no derogation of the great State of New Jersey. I say it to emphasize my resentment toward the Congressman from New Jersey who came to my State and presumed to pass judgment on what he called the unsatisfactory working conditions in North Carolina.

The gentleman whom I just quoted, who had just moved to North Carolina, discussed with me at some length the subject of how much disposable income he has as a resident of my State. Actually, he said, and I am quoting him:

My income, dollarwise, is a little bit less here, but the cost of living is far lower. So we have a disposable income far greater than we had in New Jersey.

This came to mind, Mr. President, when I ran across an article published in the Charlotte News sometime back. It was written by a man named John W. Moore. In a very significant way Mr. Moore rebuts some of the views expressed by the Congressman who came to my State. Mr. Moore's article was entitled, "Income Figures Deceptive, Don't Support Argument for More Unions."

I ask unanimous consent, Mr. President, that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INCOME FIGURES DECEPTIVE, DON'T SUPPORT ARGUMENT FOR MORE UNIONS

(By John W. Moore)

Mr. H. L. Mencken is credited with observing that for every complicated question, there is a simple answer—which never works. And so it is with the question of income levels in North Carolina.

There has been numerous articles in the past several weeks which have addressed themselves to the "cheap" labor in this State. In general, they seem to suggest that the remedy may be to introduce organized labor into the North Carolina industrial community. There is, in fact, ample evidence that such a cure may well be worse than the disease.

For example, in the last five years such union intensive areas as New England have lost some 9 per cent of their manufacturing jobs, and the areas of New York, Pennsylvania and New Jersey have experienced losses of almost 14 per cent. At the same time, the Southwest and Southeast have gained in manufacturing employment by 67 per cent and 43 per cent respectively. To suggest that North Carolina should change its policies and emulate "losers" would seem questionable at the very least.

Much use has been made of the Labor Department figures showing that North Carolina has the lowest manufacturing wage rates in the nation. Indeed, these figures themselves prove deceptive. In February of this year the Charlotte Observer carried a story regarding the fuel shortage which pointed out, " . . . The Southeast and Southwest are doing . . . even better than generally believed, once figures other than raw income are considered . . . once cost of living was considered, 'real earnings' (amount to) 97 per cent of the national average."

A May, 1976, issue of Business Week points out even more graphically the deceptive result of using raw figures. The article shows that while "real income" has increased some 57 to 65 per cent in the East and Midwest over the last five years, in the Southeast such income has increased an impressive 114 per cent.

But possibly the most damaging evidence against using raw figures comes from the First Chicago World Report published in May of this year by Economist Alan Raynolds. According to the study, North Carolina's per capita "real income" after state and local taxes amounts to $3,738. This compares favorably with such union-intensive states as New York with $3,493, Rhode Island with $3,535, and Wisconsin with $3,670. In fact, North Carolina exceeds the average for all the East and Midwest combined ($3,705).

Most people are mainly concerned with spendable income after taxes. And, it would appear that from this point of view, North Carolinians are somewhat better off than the Department of Labor figures would imply. This is even more impressive when consideration is made of the fact that almost half of our manufacturing employment is in textiles and related industries, which are by nature labor-intensive and semi-skilled. In fact, even with today's wages and prices import barriers are required to protect this industry.

A union publication would seem a strange place indeed to find logical reasons for industrial migration to the South. Nevertheless, an article which appeared in American Machinst recently pointed out, "We suspect that the real secret weapon with which the South is attracting industry . . . is the willingness to work and the openness to fresh ideas that characterizes labor in nonindustrial areas."

And the article continues, "(up here) when new contracts are being drawn, the battle is usually fought over wages plus new fringe and work rules. Rarely is there any serious effort by management to eliminate any of the old ones." And finally, according to the writer, "This produces a work force that would rather see the employer go out of business than to surrender a single one of those cherished restrictions . . . and unless union members and their leaders learn to accept the need for changes that will keep the plant efficient, both the old industrial areas and the unions they support are as doomed as dinosaurs."

Looking into the matter beyond the superficial facts, it begins to appear that it may not be so much a case of industry moving toward low wages in the South. But, rather that they are in fact moving away from the excesses and irresponsibilities of the big labor union. It would seem that with continuing interest from other areas of this country and that of Western Europe as well, the Southeast is rapidly attaining an enviable position. It is no longer a case of cultivating any kind of industry that can be persuaded to locate here, regardless of how unattractive the skills and wages are. Such things as the contaminating effect of a given plant can now be considered. The increasing number of firms who are wanting to come into the area offers a choice as to which ones would better serve the long-range interest of our people.

Wise decisions in this matter would be prudent for North Carolina. It is important also to recognize what Business Week has called, "The Second War Between the States."

The first volley has already been fired in the form of President Carter's administration bill which would change the labor laws. While some writers are soft-peddling the legislation as some minor adjustments in the law to keep management from taking advantage of their workers. U.S. News and World Report has more aptly described it is "legislation to unionize the South."

Leaders of the industrial Northeast and Midwest in tandem with big labor unions are backing the legislation. For the leaders in question, it is a matter of stopping the southern migration of industry by making the Southeast and Southwest as unattractive as they have allowed their own areas to become. For labor, it is a simple matter of more members—more power.

If the South wins, then the leaders of other areas will be forced to get their own houses in order, and the economic future of this nation will be a bright one. If on the other hand the South loses, then the United States will undoubtedly become as noncompetitive in world trade as England has.

In short, the economic future of our children may well depend on who wins the "war."

Mr. HELMS. And I say "amen" to that. It is after all, not just our generation, but our children and grandchildren whom we must consider. In the year 2000, will we still have a dynamic free enterprise system that has done more to raise the spiritual and material dignity of man than any other system in the history of the world, or will we be bogged down in institutionalized antagonism, Government by special interests, unchecked union power, social stagnation, and chronic economic malaise? We have seen what it has done to such once powerful nation as Great Britain. We cannot allow it to happen here.

Mr. WILLIAMS. Will the Senator yield for an observation?

Mr. HELMS. Yes.

Mr. WILLIAMS. I believe the Senator has appropriately described the pleasure of being a resident of North Carolina. It is a most hospitable State.

Mr. HELMS. If my friend will yield, he married a North Carolinian, so he knows first-hand.

Mr. WILLIAMS. Yes. Most recently I had a delightful afternoon, evening and early morning in Chapel Hill. It was a reunion for me. While I was there, I happened to address a group of people. It was a reunion in this sense. I spent 12 weeks in Chapel Hill beginning Christmas Eve 1942. My education was not at the university, rather I was there for preflight training in naval aviation. I was anxious to become a naval pilot. But I will say when preflight training was over I hated to leave Chapel Hill. It is most hospitable.

The Senator from North Carolina suggested, I believe, that the Congressman from New Jersey had in some sense intruded himself into North Carolina. His reason for being there was to examine the situations which have led to a number of cases, 18 in all. There was one word the Senator used, "ostensibly" for that purpose. I believe that was the subject matter. It was not ostensible, but it was his congressional responsibility to study the situation he intended to deal with legislatively. He did go to North Carolina for that purpose.

I do not have to defend the Congressman, Congressman THOMPSON. He needs no defense from me.

I just wanted to take the next step and say that I come from Union City, N.J., basically, while I live over the line now a few miles into Somerset County. Somerset is on one side and then Union Country and then Somerset County. That area where they all come together is considered greater Plainfield area.

I just want to say that we are proud, too, of all the opportunities for a good life in New Jersey in this area.

A former distinguished Secretary of the Army lives in what is considered to be part of the greater Plainfield area, in Edison, just over the line in Middlesex County, Robert Stevens. His brother, deceased now for 2 years, I believe it is, lived there in an estate adjoining Bob Stevens. The Stevens family, of course, has a name associated with the J. P. Stevens Co.

Notwithstanding the beauties and the wonders of North Carolina they have

always remained in this area. Their company policies have been part of the general debate in the analysis of what is lacking in our labor law.

While we in Plainfield respect the personalities of the people of the Stevens family, without any hesitation we deal with them beyond what the company has stood for in its resistance to accepting the law as it is with respect to organization and bargaining.

The Senator from North Carolina mentioned that in Roanoke Rapids the workers in the Stevens Co. had accepted the union and voted for it in an election. Am I correct?

Mr. HELMS. That is correct.

Mr. WILLIAMS. I just wondered whether, having duly exercised their franchise and right under the National Labor Relations Act, and my note shows me it was 1974 that they had the election, does the Senator know, having elected a union, when they entered into a contract with the company?

Mr. HELMS. I am afraid the Senator is asking me to debate the merits of that dispute. I said at the outset that I would not do that.

Mr. WILLIAMS. Have they entered a court?

Mr. HELMS. It is up to the courts to decide and recently, as the Senator knows, there was a compromise settlement.

I say to the Senator that I speak in no derogation whatsoever of his great State. It is a great State. I admire and respect the Senator from New Jersey. As the Senator knows, I did not even inject the name of the Congressman into this debate. But the Senator misses the mark a little if he defends the conduct of the Congressman to whom I referred when he came to North Carolina. Perhaps the Senator from New Jersey does not fully appreciate the situation, because he was not there; I was.

Mr. WILLIAMS. All I am saying is there was a legitimate legislative purpose in leaving Washington and going to an area that was the center of dispute.

Mr. HELMS. Let me say this to the Senator: This ad hoc hearing was orchestrated as a one-sided thing. As a matter of fact, I was called by citizens of Roanoke Rapids, who were advised that Mr. THOMPSON was coming to put on a "dog and pony show," as they described it. He was coming alone; he was inviting only those witnesses that conformed to his point of view, and he was entirely resentful with the appearance of a Congressman on the other side of the issue.

Not only that, I say to the Senator from New Jersey. Mr. THOMPSON was almost crude in his conduct at that hearing.

Representative ASHBROOK came at his own expense to give balance to that hearing. But Mr. ASHBROOK's appearance was in no way contemplated or orchestrated by Mr. THOMPSON. Mr. ASHBROOK took his place and he was referred to by Mr. THOMPSON as "Mr. Trashbrook." He said, "Oh, excuse me, Congressman."

Now, what kind of conduct is that? I will tell you that your Congressman from New Jersey has made a very bad impression on the people of Roanoke Rapids, who very clearly saw what was afoot.

Mr. WILLIAMS. I know both the Members of the House that have been mentioned and I know the repartee they have. Perhaps in print, it would look a little harsh. They have a relationship that lends itself to their style of, in a sense, levity.

Mr. HELMS. No levity, I say to the Senator. Not on that occasion. The Senator was not there.

Mr. WILLIAMS. I was not there.

First of all, I have established that no contract has been entered into, even though the election carried for the union back in 1974. Beyond that, on the congressional visitation to North Carolina—again, I was not there. The Senator knows more about it than I do. All I know is it had a legitimate legislative purpose.

Mr. HELMS. I say to the Senator, I would agree that it would have had a legitimate legislative purpose if it had not been orchestrated as a one-sided event.

Mr. WILLIAMS. I understand the rules of the House of Representatives to say that the minority is to be included. I have the transcript of a statement made, that is included in the hearings of the House. It says:

> Mr. THOMPSON. My disappointment arises from the refusal of any management representatives themselves to appear before our subcommittee.

That is on another point. That is his opening statement.

Mr. HELMS. If the Senator will believe me, I know what I am talking about.

Mr. WILLIAMS. I understand that the rules of the House provided for at least an invitation to the minority to be present at these out-of-city hearings.

Mr. HELMS. Let me say if the Senator from New Jersey had gone to North Carolina, knowing him as I do, there would not have been one complaint, because the Senator from New Jersey is a gentleman and he is a fair man. I would have been there to welcome him. So I imply no criticism and I hope he will infer no criticism of him. He and I do not agree on this issue, and he and I have been on the opposite sides on other matters, but I have never experienced the slightest occasion when the Senator from New Jersey was not a perfect gentleman and a fair man. I want to make that clear.

Mr. WILLIAMS. I can reciprocate. Our differences and our debate have never provoked anything but the finest kind of constructive debate, in my judgment.

Mr. HELMS. I thank the Senator for his comments.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I want to comment today, at the beginning of these remarks, on the fact that the bill we are discussing unfortunately has a narrow focus. The proponents for the bill have not denied this. They have stated essentially that the focus is a narrow one, because this is an area that has been well studied and given considerable study, in addition, by the House of Representatives and by the Human Resources Committee of the Senate.

Yet, very clearly, one reason why this debate and this bill are dissatisfactory is that a large majority of the people of this country are duly troubled about labor-management relationships and the entire area of labor law reform.

Indeed, labor law reform is a tremendously important subject. Its importance, I suspect, has been emphasized by affairs in this country during 1978, when we had the Nation mobilized, at least to some extent, and very particularly in the State of Indiana, which I represent, in the coal strike situation.

The coal strike situation is one that involves not only owners and operators and management of coal mines and coal miners, some of whom have union organizations and some of whom do not, but it very rapidly involves people in their homes, involves people who are working for a living in other areas outside of the coal industry.

This is not a unique case. The interdependence of our society means frequently that labor-management disputes have impacts that are substantially greater than for those who are involved in a specific dispute. Very clearly, the most poignant of these disputes are ones with which I have some familiarity from my former services as mayor of the city of Indianapolis; namely, employee-management disputes that involve the Governent, involve the State in some form, at the Federal, State, or local level, and most particularly, in recent years, at the local level. There, on many occasions, job actions have been entered into by policemen, firemen, and sanitary workers, and whole municipalities—in fact, whole regions—might find life severely threatened if not disrupted without appropriate remedy.

Now, many localities and States have moved to try to bring about some orderly procedures for the alleviation of these difficulties. But these have been, at best, minimally satisfactory and a large majority of people in this country feel a sense of disquiet about labor law as it now pertains to areas in which the life and health of a lot of people are involved.

This does not diminish the need for discussions such as we are having on the problem of specific employees in specific potential units making certain their rights to organize or to disaffiliate are protected.

That is an important area that needs illumination and discussion.

But, as I say, one of the disquieting things about the entire discussion is that that particular focus is not being coupled with a broader concern for the American people as a whole, for innocent bystanders of disputes, which are now perceived as tragic in many cases.

I do not overdramatize the situation by pointing out that in the State of Indiana during the coal strike—and in part specific vulnerability comes to that State, because 97½ percent of all electrical power comes from coal-fired generators, and a case could be made that a State should not do so again.

Ohio had a similar predicament, as well as in Virginia and western Maryland.

But in a predicament of this variety, of course, it is of great interest as to how

the dispute is worked out on behalf of employees and management. But it becomes imperative for people who are innocent bystanders and victims of the situation that it is worked out at all.

We stressed during the course of the coal strike considerable analysis of the Taft-Hartley Act, for example, of the Wagner Act, on the floor of this body a colloquy occurred involving the distinguished Senators from West Virginia (Mr. ROBERT C. BYRD and Mr. RANDOLPH), involving the Senator from Ohio (Mr. GLENN) and the Senator from Illinois (Mr. PERCY), as I recall, and myself one morning as we tried to think through, Will the National Labor Relations Act as originally written or as amended in the Taft-Hartley provisions either pertain or make a difference in this situation?

The need for labor law reform was certainly implicit, if not explicit, in the colloquy.

The general feeling of the public is that, clearly, if the Taft-Hartley Act is inadequate to meet all of the measures that any President who has these grave responsibilities in the service of the people must meet, then amendments may very well be called for.

Maybe a whole series of fine tunings that go well beyond the provisions of Taft-Hartley may be necessary.

There may, in fact, be need for a national debate as to what are the absolute rights of a national bargaining situation, and on behalf of either labor or management in such a predicament.

Clearly, the public called out for the Congress of the United States and the President of the United States, if he found Taft-Hartley to be inadequate, to suggest how it could be made adequate, how it could, in fact, provide service to the public.

But that is not, Mr. President, the sort of debate that we are now having.

The facts of life are all around us, abundantly clear, that these national bargaining situations are potentially catastrophic. But that is not the nature of the quest, and those who are proponents of the bill say that the bill was not intended to meet that focus, that the bill is, in fact, a very narrow focus, a very specific part of the forest.

The difficulty, Mr. President, in dealing with a narrow part of labor law is that some parts of labor law are more pleasant to some parties than to others.

It would not be the first time in the history of this body that comprehensive treatment of a subject has been contemplated. There are many parties involved and they suffer many pains and privileges in the process, but some type of overall agreement comes forward, because each party in the dialog finds it beneficial.

There is nothing in dialog that we have been considering that is of specific benefit to anyone in the country aside from some general feeling of tranquillity about the situation, no specific benefit except in this case to persons who are involved in organizing other people and the bargaining units.

One can make the general case that that is an overall good for our society, that, in a way, business prospers if more people are organized, that, in fact, employees prosper if more are organized, that we do not suffer the alleged pains of greater inflation or loss of freedom or any of these majority of situations that have been conjured up.

But, clearly, the focus, is, unfortunately. narrow and the debate dissatisfying.

It is in this context that even sadder is the rhetoric surrounding the debate, and this is a game that many sides can play.

But it would appear to me that those who have great responsibility in this body, and in the administration of President Carter and of general overall leadership in business and labor in this country, have some responsibility for thoughtfulness about their public witness and their public service.

It is in this regard that I draw to the attention of all of us this afternoon, Mr. President, remarks that have been made on two occasions recently by the Secretary of Labor, Mr. Ray Marshall. Mr. Marshall is quoted in the New York Times of May 18, 1978, in a column written by Jeffrey St. John on labor law reform, and I quote Mr. Marshall as follows:

> WASHINGTON.—"It's sobering and depressing to listen to the level of debate over our labor-law reform," Labor Secretary Ray Marshall told the League of Industrial Democracy, at the Waldorf-Astoria Hotel in New York City. "The right wing of the Senate has unveiled a program of shrill propaganda screaming about the mythical enemy of the working man—union bosses."

Mr. President, it is conceivable, I suppose, always, that in the course of convention hall oratory or in exhorting the troops that each one of us has on occasion gone into excessive rhetoric characterizing those who do not agree with us as shrill, or as right wing, or maybe left wing, or some other wing. But this really has very little to do, it seems to me, in the nature of debate that we are having.

I would hope that as the Secretary of Labor debates this subject he might at least have more measured tones. In fact, he might adopt what I would hope is the moderate approach that the Senator from Indiana will attempt to talk about in discussing this matter.

This is not a time for name calling on the part of the Secretary of Labor or on the part of Senators or on the part of the administration. This is why I was further interested in the remarks made 3 days ago, on Tuesday, May 16, 1978, by Secretary of Labor Ray Marshall before the NAACP defense fund luncheon. These remarks were placed in the RECORD yesterday by the distinguished floor manager of this bill, the Senator from New Jersey.

On the second page of the text released by the U.S. Department of Labor Office of Information, for the use of Senators and others, Mr. Marshall says:

> It is with an intense sense of deja vu that most of the time today has been spent worrying about a Senate filibuster. We all know the role the filibuster played during the 1950's and 1960's as a way for an embattled—and, in retrospect, a thoroughly discredited—minority to delay the passage of needed civil rights legislation.

At the time, many of us—"us" in this particular text is not defined. He says:

> At the time, many of us said that never again would we allow a minority to tie up the Senate through this kind of dilatory tactic.
>
> Times changed and issues changed. Some liberals became interested in the filibuster as a way to block legislation that they didn't like. Meanwhile, we managed to reduce the number of Senators needed to invoke cloture. But the filibuster lived on as those who battled it in the past turned their attention elsewhere.
>
> Today marks the beginning of Senate debate on labor law reform. It is clear that the majority of the Senate wants to approve this legislation that passed the House by almost a 100-vote margin. Polls indicate that a majority of Americans approve of this effort to protect the rights of workers to decide whether or not they want union representation.

I want to return to that assertion by the Secretary of Labor with regard to polls indicating a majority of Americans approving of this effort. Quite contradictory evidence is available, and I want to share it with my colleagues this afternoon.

Mr. Marshall continues:

> The only thing standing in the way of Senate passage of this important legislation is a filibuster. While not normally presented in these terms, labor law reform is, in effect, a civil rights measure. Like civil rights legislation, it is designed to protect the powerless against the powerful.

I want to draw our attention again to that assertion. I have suggested two major themes of the Secretary's address: First of all, that a vast majority of Americans approve essentially what is embodied in this legislation and, second, that it is designed to protect the powerless against the powerful.

The Secretary continues:

> Its purpose is to protect those at the bottom of the economic ladder against those who find it more convenient to disobey the law than obey it.
>
> When union organizers are thwarted by illegal tactics, it is often black workers who disproportionately suffer as a result. Recalcitrant employers, aided by high-priced lawyers, often engage in filibuster-like tactics to delay and deny union representation elections. I don't have to tell you how destructive it is to the fabric of society to have rights that are guaranteed in theory, but denied in practice.
>
> These should be familiar themes to the NAACP Legal Defense Fund. Much of the progress of the last generation has come through the alliance of the civil rights movement and the labor movement. Labor unions have proven to be a major force in the battle to give black workers economic equity in our society. In the building trades, for example, about twenty percent of the new apprentices are blacks and other minorities.
>
> I think we have the votes to invoke cloture and pass labor law reform. But I also think that this fight should remind us of the dangers still posed by the filibuster. The whole legislative process is stymied when a minority can thwart the will of the majority. And, somehow the filibuster always becomes the weapon when the issue is protecting the rights of the powerless.

Mr. President, granted the occasion that brought forward these remarks from

the Secretary of Labor, I think it is important to attempt to set the record straight as to who in our society is powerful and who is powerless—who is perceived, at least, as powerful and powerless—quite apart from how these abstract terms might be judged and gaged by independent observers.

I suspect it is important to state at the outset that we have been involved in this fourth day of general debate on labor law reform; and Secretary Marshall's fears expressed on Tuesday, when he indicated that he was preoccupied by a Senate filibuster—at least at this stage—would not have seemed to be well-founded by the events of the week.

My recollection is that during the debate of this particular week, we have heard many who have spoken with eloquence about the strengths of the legislation we are considering, and we have heard perhaps an equal number speaking against the legislation. I have not noted, as a matter of fact, any delay or any reticence on the part of those who wanted to speak, or any tactics that would have been other than to allow a free flow of debate.

As a matter of fact, the distinguished majority leader has suggested that debate should continue for another week. When asked by members of the media specifically as to whether a cloture motion might be filed to bring debate to an end, the majority leader found that debate was flowing with edification for the country and that this was useful, and I agree.

Mr. President, it is not clear that a majority of Americans approve this legislation. It is not clear at all as to who in this country right now is powerful or powerless, as we take a look at labor-management disputes.

A good case has been made, and I think admitted by both sides, that in specific instances of labor-management disputes in this country, grievous harm has been administered to both employers and employees. The proponents of this measure have simply said that in those cases in which racketeering might be alleged, in which tactics of terror or intimidation might be alleged, this is not the appropriate time or not the appropriate bill to discuss those situations; that at some other point, the appropriate committees and forums may take a look at this and may do something about it.

Mr. President, I see no evidence of great vigor of that pursuit with regard to legislation. I have not witnessed enormous surges of hope on the part of various labor leaders in this country, hammering upon Congress for legislation to bring to a specific end tactics of intimidation and terror and racketeering on occasion. Admittedly, individual leaders, from time to time, speak out on these subjects. Admittedly, there are many statesmen in the labor movement who are uncomfortable and who in fact condemn such situations. But it is a fact that we have not coupled together a situation in which there are allegations of difficulty in organizing employees with situations in which clearly employers face considerable jeopardy, as do some bystanders of labor disputes.

I submit that the current legislative debate would have been more fruitful if that were a possibility. I am informed by at least those involved in the debate thus far that it is not, that that will not be a part of our focus.

Therefore, Mr. President, we must draw in question the words of Secretary Marshall when he is trying to define "powerless" and "powerful" and attempt to find a parallel with the civil rights movement, in which very clearly there were cases of segregation, of discrimination against black citizens and other minorities in this country.

Mr. President, I wish to draw the attention of this body to several questions that have been addressed by a poll, and this poll, it is my understanding, has been shared with the distinguished manager of the bill and his staff. It is a confidential survey conducted for the Chamber of Commerce of the United States in December 1977 by Opinion Research Corp. of Princeton, N.J., on a nationwide survey of attitudes toward labor issues.

I am pleased to share with my colleagues the demographics of the survey, but I think it is a fair characterization to say that this is a professional sampling, not unlike those conducted for most of us who are involved in election campaigns, to find accuracy within the stated limits that are made a part of the description of the survey and involving a sampling of 1,018 interviews with I believe demographics that will stand the test of scrutiny as to whether this is a representative sampling of public opinion in this country at this time. I shall take up these questions one by one.

(At this point proceedings occurred which are unrelated to H.R. 8410, and by unanimous consent are printed later in today's RECORD.)

Mr. LUGAR. Mr. President, a few moments ago I was discussing the proposition that currently the inflation we have before us has a very narrow focus in regard to the American public as a whole. I was intrigued, as I admitted, by a comment made by Secretary of Labor Ray Marshall that this legislation we are now considering is designed to protect the powerless against the powerful. I was indicating there is some difficulty, of course, in defining these abstract terms and who is really involved in these categories. Very clearly during this debate we have heard stories that are shocking but presumably true from the testimony offered before congressional committees and in courts by individuals in this country who have been harmed by managers and operators of private enterprise firms in their attempts to have organization.

Yet, at the same time the American public takes a look at labor law reform and takes a look at what appears to be general fairness, the public is clearly interested in these terms of relative power.

Earlier I cited the study that I indicated I would be quoting from, the Opinion Research Corp. poll taken for the Chamber of Commerce in December 1977, a demographic sampling which would appear to be a useful one, plus or minus the normal ranges of samples of this size.

I cite question 9 of that survey. I will read the question which was raised in the interviews with those who were polled:

Generally speaking, which do you think has more power, employers or labor unions, or is their power about the same?

The alternatives: 1, employers; 2, labor unions; 3, about the same; and 4, no opinion.

Of the total public in the United States at the time of that survey, 14 percent felt employers have more power; 60 percent felt that labor unions have more power; 24 percent felt that employers and labor unions have about the same amount of power, and 2 percent had no opinion.

Some will say, what does this have to do with the bill specifically in front of us?

I would say it has this relevance, Mr. President: This is a bill on which the leaders of organized labor, and, for that matter, leaders in American industry, have focused, and focused rightly or wrongly, because they see it to be a fundamental test of how the Federal Government will tilt relationships from whatever posture they might be in now.

When asked about these relative conditions of power, a fairly wide majority of the general public, 14 percent, and one not likely to be upset by statistical vagaries, say employers have more power; 60 percent say labor unions have more power.

Interestingly enough, some of the breakdowns within that sample are worthy of consideration. It appears to me that specifically interesting to note is union members who are a part of the sample. Union members were approximately 14 percent of the total sample and are approximately that percentage among adult voting Americans presently. Within that sample, 34 percent of union members thought employers had more power, 36 percent thought labor unions had more power. I think that is an interesting statistic. Twenty-nine percent felt, as a matter of fact, that they were both about the same.

Mind you, the original breakdown was 14 percent for employers having more power and 60 percent for labor unions in the country as a whole; a close division, 34 to 36, among union members. In short, union members decided that, as they took a look at life, employers had a great deal more power than the power perceived by the rest of the public, and union members saw labor unions as having less power. But it is a fairly close call with union members themselves as to who has more authority in this situation.

I think this is especially interesting as one takes a look at the next question:

Please tell me which one of these statements best describes the way you feel about labor unions in this country—one, labor unions today are not strong enough, I would like to see them grow in power;

Two, labor unions today have grown too powerful, I would like to see their power reduced;

Three, the power the labor unions have today is about right, I would like to see it stay where it is.

We are involved, Mr. President, in the question of power because, clearly, this is a subject that no less a figure than the Secretary of Labor has introduced, he has said, in attempting to get some sup-

port for this bill, and I quote the desire, "to protect the powerless against the powerful." It is suggested that very clearly this has an element of trying to rectify power relationships in the country.

Of the total public in America in December 1977, the percentage that answered that question, 18 percent felt that labor unions today are not strong enough—18 percent. Fifty-one percent said, Labor unions today have grown too powerful, I would like to see their power reduced." That is 51 percent.

Twenty-six percent said, "The power that labor unions have today is about right, I would like to see it stay where it is."

Among union members on that question—and as we recall from the previous question, union members were 14 percent of the sample, roughly, where they stand generally as a percentage of adult voting Americans. Thirty-four percent, but only 34 percent, of labor union members said labor unions today are not strong enough. Twenty-six percent of labor union members, 26 percent, said "Labor unions today have grown too powerful, I would like to see their power reduced."

Thirty-five percent said, "The power labor unions have today is about right, I would like to see it stay where it is."

Mr. President, admitting these points one by one, 34 percent of union members would like to see unions grow more powerful. I can understand that as union members taking a look at their organizations and, hopefully, looking toward increased authority in our economy, we have had competitive outlooks on what collective bargaining was all about. But the amazing thing, Mr. President, is that only 34 percent of labor union members in America felt their power was not strong enough and would like to see that power increased. That is a very interesting point. Thirty-five percent, a slightly larger group, think that things are about right as they are. And even more surprising, 26 percent of union members believe that labor unions have grown too powerful.

I submit, Mr. President, that labor union members, quite apart from whether they are union members, are, first of all, American citizens. They take a look at the broad view of what is occurring in this country. They are taxpayers. They are worried about inflation. They are worried about civil rights, about individual expressions, freedom of speech, and freedom of choice. They are skeptical, as are most Americans, about being overorganized, overregulated, and overcontrolled. This is the reason they have come to this conclusion.

Mr. President, in taking a look at this general question of the perceptions of Americans with regard to labor unions. it is especially interesting to take a look at a breakdown of where Americans are employed and how they perceive the general strength of the labor union movement: for example, those Americans who work for very large companies. In the sample, approximately 30 percent of Americans, adult American voters, work for large companies, approximately 31 percent for what are described as medium companies, and approximately 15 percent for small companies. But of the 30 percent who work for large companies, 23 percent believe that labor unions are not strong enough and would like to see them grow in power. That 23 percent is substantially greater than the 18 percent of all Americans who answered the question in that way; namely, the desire to see labor unions grow more powerful.

However, when we take a look at medium-sized companies and small companies in those categories, only 10 in the case of the medium size companies, 10 percent in the case of small companies, 12 percent would like to see labor unions grow more powerful and characterize them as not strong enough.

Now, in the second category, labor unions have grown too powerful, 46 percent of employees working for very large companies feel that way, 59 percent of those working for medium sized companies and 50 percent of those working for small companies.

Now, I mention these statistics, and I will repeat them, Mr. President, briefly again because clearly those Americans who are working for very large companies by a vote, roughly, of 23 percent to 46 percent believe that labor unions are too powerful. But the 23 percent is significantly higher on behalf of labor unions growing more powerful than in the case with medium and small sized businesses.

The particular legislation that we are looking at has a focus, of course, with regard to the totality of the American economic scene. But, in fact, Mr. President, the vast number of areas in which a labor organization might still move ahead are the medium and small businesses of this country. Not the large businesses which, by and large, have been organized and have had collective bargaining with both sides well represented by batteries of attorneys and professional people, skilled in labor negotiations, who are able on both sides to miss the pitfalls of the National Labor Relations Act, as amended.

Very clearly, one of the things we have been discussing in this debate and will discuss, I presume, for some time, is the fact that in the case of small businesses—and we have had some disagreement as to what is small, but we have also heard statistics such as those from the State of Indiana, which I represent, and the average size of a bargaining unit involved in an NLRB election last year was 24 employees—50 percent of the cases in Indiana, in the most recent survey on this subject, fell in the category of 25 employees or less. So this is where the battleground seems to lie.

In those size businesses, employees now find labor unions to be a great deal more powerful than they are perceived by those employees who are in the very large businesses of this country.

Furthermore, stated another way, a much larger percentage of employees in the medium- and small-sized businesses believe that labor is too powerful and would like to see the power reduced and a small percentage of those people find unions are not strong enough.

I mention that because again and again throughout this debate we are going to have to reflect on where the American public opinion lies on this subject. Very clearly, Americans have been expressing themselves in various manifestations of the subject.

The bill, S. 2467, to my knowledge, has not been the focus of a specific public opinion poll in America because, as I stated at the outset of my remarks this afternoon, Mr. President, the American public takes a much broader look at labor law reform and the reforms that are truly needed in this country than the narrow focus of this specific bill.

But if we are to move along the lines suggested by the Secretary of Labor in discussing protection of the powerless against the powerful, we come into real questions as to who is which in this situation and who, in fact, really ought to face some reform and some change.

In further remarks during the course of this debate, as we proceed, Mr. President, in the days ahead, I will want to discuss other questions that were raised by this poll.

I will conclude my remarks this afternoon with one final question that has been a part of this survey. Question 11 said, "Generally speaking, would you say we are in a period of labor peace and quiet or in a period of labor trouble and friction?"

Granted, this question is raised in the context of a nation which has been from time to time assailed by national disputes of large bargaining units.

This is the area in which the public is most familiar when we talk about labor friction. There are disputes from time to time in specific areas, specific businesses, but, by and large the public as a whole was asked, "Are we in a period of labor peace and quiet or of trouble and friction?"

I would say, before giving the response of the American public, that if we are in a period of labor trouble and friction, that implies that the Congress of the United States and the President of the United States should be busy about the task of seeing whether there are ways that greater assurance could be given to the American public in this area.

There is, as I stated at the outset, a real need for labor law reform in this country that addresses issues generally of interest and benefit to the American public as a whole.

In any event, a total public response in America to that question was 24 percent said, "We are in a period of peace and quiet." Sixty-nine percent said, "We are in a time of trouble and friction."

In the case of union members, the percentages were not dissimilar. Only 30 percent of union members found that we were in a time of peace and quiet. Sixty-eight percent said that we are in a period of labor and friction.

These are not persons who are unorganized, who are characterized in this particular debate as the powerless as against the powerful. We are talking about people already organized in this

country. Only 30 percent see peace and quiet. Sixty-eight percent see trouble and friction.

As we noted in the previous questions, the abnormal, in my judgment, number of labor union members who felt labor unions are too powerful in this country, who, as I suggested as one interpretation, may find that life in this country has become extremely complex, quite apart from labor-management disputes, and that as a union member, in one context, one might be a victim in another.

Very clearly, as I visited Kokomo, Ind., in February of this year, during one of our recesses, and saw 600 people laid off that day, UAW members at General Motors' plant in Kokomo, these ladies and gentlemen, UAW members, were victims of the coal strike on that particular day.

They were attempting to give some supportive rhetoric to union brothers in the UMW; but at the same time several simply were saying, "This is ridiculous. We are losing a full day's pay and in fact may be losing many more because the United States of America and the President and Congress are unable to pull their act together"—talking in terms of labor law reform, in which the automobile industry, in this particular case, might be in jeopardy.

I appreciate that some people might say those are the breaks of the game; that we are talking about relative merits, relative freedoms.

I went to a school building at 9 o'clock that morning, after visiting with the labor people, and they had cut back their power consumption in the school by 50 percent. That is hard to do in February, in a school, but that was mandated by the Public Service Commission of Indiana.

They were not parties to the dispute. A good number of people in that school had parents who were members of labor unions, and they were upset over the fact that public education was faced with a 50-percent cutback.

So, Mr. President, as we progress in this debate, it appears to me that we will need to weigh these relative ideas of power and powerlessness and the priorities of power as we come into the organizational movement and extend our debate beyond H.R. 8410, to address what is really on the minds of people in this country, and that is, is there a more pertinent role for the Federal Government to play in labor-management relationships? If we are to discuss a part of the forest, why should we not take a look at many more of the trees?

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, with regard to representation case proposals, the timing of the election under current law, there are no mandated deadlines for the direction and holding of elections.

Under this law, there is a timing of elections and I would like to discuss the proposed changes under S. 2467.

I. REPRESENTATION CASE PROPOSALS

A. TIMING OF THE ELECTION

1. TIMING OF THE ELECTION—CURRENT LAW

There are no mandated deadlines for the direction and holding of elections.

2. TIMING OF THE ELECTION—PROPOSED CHANGES UNDER S. 2467

Section 6 of this bill amends section 9(c) of the act by establishing mandatory time periods for the holding of elections. These time periods can be summarized as follows: an election must be directed within 13 days after filing a petition in an appropriate bargaining unit supported by a majority of the employees, and the elections must then be held in not less than 21 days and no more than 30 days from the filing of the petition. When the petition seeks a unit not established by rule or is supported by less than a majority, but at least 30 percent of the employees, a 45-day time limit is imposed. Finally, a 75-day period is allowed for issues which present questions of exceptional novelty or complexity.

3. TIMING OF THE ELECTION—SUGGESTED CHANGES

Due to the enormous difficulties with respect to the proposed changes concerning mandatory time periods set out below, a simple approach would be to establish a time limit of 60 days for an election from the date that the bargaining unit has been determined—if we have to have a time limit, and I am presently against setting a time limit under the present state of the law because I do not think they are specified.

4. TIMING OF THE ELECTION—CRITIQUE

In the representation area, S. 2467 is aimed at expediting the Board's representational process. The basic premise of the proponents of this legislation is that the NLRB's election machinery is too slow. Upon close analysis, however, the facts do not support the claims made in support of the delays in the voting process. Moreover, one must first carefully weigh the desirability of speeding up Board elections.

Perhaps the chief problem with respect to the committee's treatment of the subject of delays in the representation process is that adequate attention has never been focused upon the real causes of delay. While an in-depth study of this subject should be undertaken prior to serious consideration of legislation, there are, however, two obvious factors causing significant delays. First, is the inability of the regional offices to schedule consecutive day hearings. This results in prolonged and cumbersome proceedings stretched out over an extensive period of time. Second, is the temerity of many regional directors not to decide representation issues themselves but transfer these issues to the Board for decision.

Since transferring the case to the Board is an unnecessary and time-consuming task, regional directors should not be permitted to avoid initially ruling on unit issues.

The voting process whereby an employee casts a ballot for or against a union raises significant issues. Majority rule bears with it the consequence of having to adhere by union rule and to a contract which someone else negotiated. The safety valve built into the current law was described by the Supreme Court in *J. I. Case* v. *NLRB*, 321 U.S. 332, 339 (1944) as follows:

> The workman is free, if he values his own bargaining position more than that of the group, to vote against representation: but the majority rules, and if it collectivizes the empoyment bargain, individual advantages or favors will generally in practice go in as a contribution to the collective result.

Proponents of arbitrary time limits on representation elections proceed on the basis that speed is the preeminent concern in effectuating employee desires. Yet, if one assesses the impact that collective bargaining has on individual rights, it can hardly be asserted that speed in conducting elections necessarily serves the interests of employees.

Union election campaigns, like any other campaign, provides voters with an opportunity to consider the arguments, pro and con, and decide on a cause of action. The potential shift from individual freedom of contract to aggregate freedom of contract is an extremely important issue in any campaign. From our perspective, that issue and the consequences which flow out of establishing a bargaining relationship cannot be reduced by imposing mandatory time periods for holding elections.

Congress itself has recognized the substantial impact collective bargaining occasions on individual rights. In 1959, the Senate Labor Subcommittee considering governmental regulation of internal union affairs noted: [1]

> Under the National Labor Relations and Railway Labor Acts the union which is the bargaining representative has power, in conjunction with the employer, to fix a man's wages, hours, and conditions of employment. The individual employee may not lawfully negotiate with his employer. He is bound by the union contract. In practice, the union also has a significant role in enforcing the grievance procedure where a man's contract rights are enforced. The Government which gives unions this power has an obligation to insure that the officials who wield it are responsive to the desires of the men and women whom they represent.

One should think that the same concerns would motivate affording employees the maximum, not minimum, time to make an informed decision on whether a union should be chosen to represent their interests.

In the same vein, the time periods prescribed by the bill are totally unrealistic. First, the time periods run from the date a petition has been received and not from the date that that bargaining unit has been established. Since the key issue in the representational process is defining the pool of voters, the main inquiry is what unit the Board will direct an election in, not what unit the union asserts is appropriate in its petition. Unit decisions, including, under this bill, the issue of whether a rule applies, are not arrived at for at least some period of time. Yet, the clock starts running once the petition is received, even though the parties might not know who will vote for several weeks thereafter. Thus, the period of time to actually campaign in the deferred unit is far shorter than even the 21- to 30-day period.

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[1] S. Rep. No. 187, 86th Cong., 1st Sess. 20 (1959)

The use of mandated time periods is also faulty in that it presumes that where a union receives a majority of signed authorization cards, an election should be conducted in a shorter period of time. This is totally at odds with the notion of providing employees a meaningful opportunity to make an informed choice. It has been repeatedly recognized that employee signatures on authorization cards are not a reliable indicia of employee support for a union.

According to the study conducted by Professors Goldberg, Getman and Herman, "Union Representation Elections: Law and Reality" at page 135 (1976), which was relied on by the Senate Human Resources Committee in proposing the equal access provision, 18 percent of the employees who signed authorization cards stated either that they did not want union representation when they signed or were uncertain of their desires in this regard. Moreover, this study revealed that only 72 percent of card signers actually voted for union representation in a Board election.

As a practical matter, the signing of an authorization card only allows a union to get on the ballot. As characteristic of any political election, it is often maintained that everyone has the right to have his name on the ballot and, therefore, have any eligible voter sign his petition. It does not, of course, suggest that the employee who signs an authorization card will, in fact, vote for the union at the time of the election. Furthermore, if an employee only hears one side of a story, it is not difficult to sign a card, particularly where the consequences of signing are not told to the employee.

B. RULEMAKING POWER

1. RULEMAKING POWER—CURRENT LAW

The Board currently has rulemaking authority but has chosen not to use this authority due to the complexities involved in this area.

2. RULEMAKING POWER—PROPOSED CHANGE

Section 4 of the bill, which amends section 6 of the act, authorizes the Board to promulgate rules concerning equal access, resolution of disputes concerning eligibility of voters and holding of elections in cases in which an appeal to the Board has not been decided prior to the date of the election. The Board is also charged with promulgating rules to determine whether certain units are appropriate for the purposes of collective bargaining.

3. RULEMAKING POWER—SUGGESTED CHANGES

The Board has chosen not to use its rulemaking powers in determining bargaining units because it is a cumbersome process and units are too varied and complex to become subject to inflexible rules. As a result, this provision should be amended to read:

> The Board should establish the criteria or standards to be established in unit cases without making specific unit determinations.

If Congress retains the rulemaking provision, the following provisions should be added after page 5, line 24, of the bill:

> (D) To establish, to the extent practicable, standards which shall apply uniformly to employer and labor organization conduct during representational campaigns.
>
> (E) To define, to the extent practicable, what conduct on the part of either an employer or labor organization constitutes an unfair labor practice under section 8.

4. RULEMAKING POWER—CRITIQUE

Establishing bargaining units through rulemaking is an untried concept in the private sector. Two public sector jurisdictions, Florida and Massachusetts, have utilized the rulemaking process in establishing bargaining units for State employees. Those who have participated in the Florida proceedings are familiar with the benefits and problems posed in determining bargaining units through rulemaking. Before considering the potential benefits and problems, however, it is first relevant to note the Labor Board's attitude toward rulemaking.

The Labor Board has traditionally evidenced a hostility toward the use of rulemaking. See, for example, F. McCulloch, "Procedures Employed by the NLRB for Determining Policy," 1964 Proceedings, ABA Section of Administrative Law; Bernstein, "The NLRB's Adjudication Rule Making Dilemma Under the Administrative Procedure Act," 79 Yale L. J. 571 (1970). Indeed, former Chairman McCulloch considered rulemaking to be a "cumbersome process * * * that necessarily impedes the law's ability to respond quickly and accurately to changing industrial practices."

While the drafters of S. 2467 believe that rulemaking should be used in representational cases, the Labor Board has previously rejected such an approach. In 1971, the American Association of University Professors filed a petition requesting that the Board issue rules "to guide the determination of issues in representation cases involving faculty members in colleges and universities." Denying the petition for rulemaking, the Board stated:

> The Board considers that the Petition properly points out that the Board's unit determinations in this area should take into account certain practices and organizational structures which do not parallel the traditional practices and organizational structures in private industry. The Board's information to date, however, suggests that there is also a great variety in this regard within the academic community, and also that the practices and structures in universities and colleges are undergoing a period of change and experimentation. The Board believes that to adopt inflexible rules for units of teaching employees at this time might well introduce too great an element of rigidity and prevent the Board from adopting its approach to a highly pluralistic and fluid set of conditions. Accordingly, the Board shall deny the Petition.[2]

The reasons advanced for rejecting rulemaking in the academic community in 1971 are equally relevant today. Moreover, a review of rulemaking in the public sector illustrates limited utility for its use in private representational cases.

Rulemaking in Massachusetts and Florida resulted from the fact that the parties and agencies involved agreed that the establishment of bargaining units at the outset of a new legislative scheme would best be achieved in one proceeding rather than case-by-case adjudication. The procedures employed in those States can best be analogized to a consolidated representational case. Indeed, in Florida, for example, the pending representation cases involving State employees were essentially folded into the rulemaking proceeding.

From a logistical point of view, it is a very difficult and time-consuming task to establish bargaining units through rulemaking. While general criteria can and have already been developed, the application of that criteria will vary depending on the facts of a particular case. For example, the Board has long exercised its rulemaking authority concerning voting eligibility of employees on layoff or leave of absence with a reasonable expectation of return to work. Despite the rules, however, litigation has not been avoided, and it is likely that codification of bargaining units will have the same result.

The value of rulemaking is in establishing a framework which can be applied on a uniform basis. Bargaining unit determinations, however, have never been susceptible to such a standard. According to an extensive study conducted on behalf of the Industrial Research Unit of the Wharton School of Finance and Commerce, it was concluded that:

> [t]he vacillating trends and inconsistent results in many of the unit cases provide substantial evidence of the severity of this problem. An analysis of these same cases will reveal that much of the confusion in the area of unit determinations is attributable to the Board itself.[3]

Another example of the highly tenuous basis for proponents of this section is revealed in a statement contained in the Senate Report (p. 20) that "[e]xamples of such plainly appropriate units approved as a matter of course by the Board are single plant units * * *." However, a careful review of the case law on this subject reveals extensive litigation concerning the single plant vis-a-vis the multiplant unit, particularly where there is a high degree of functional integration of the employer's operations. As an indication of the disparity of thinking by Board members as to the proper unit configuration with respect to the single-plant versus multiplant unit, Member Leedom, in a dissenting opinion in S. D. Warren Co., 144 NLRB 204 (1963) aff'd on other grounds, 353 F.2d 494, 1st Cir. (1965), asserted that his colleagues' decision represented "an arbitrary grouping with no rational foundation."

The problem with S. 2467 or of this bill H.R. 8410, is that it assumes that the Labor Board is capable of establishing hard-and-fast unit structures by rulemaking. We must, as the Labor Board did in rejecting the AAUP rulemaking petition, seriously question such a capability. The adoption of bargaining unit rulemaking could well have a negative impact on existing collective bargaining arrangements, in cases where longstanding bargaining units would not coincide with newly created Board unit rules. The negative impact on labor rela-

[2] NLRB Order denying Petition for Proceedings for Rule Making, July 16, 1971.

[3] John Abodeely, *The NLRB and the Appropriate Bargaining Unit* at 6 (1971).

tions stability of such a scenario would be very significant.

C. EQUAL ACCESS

1. EQUAL ACCESS—CURRENT LAW

Under the current law, unions have several campaign advantages not accorded to employers. Some of these advantages include the following: union officials are allowed to carry the campaign to the employees' homes; [4] union officials can campaign without notification to the employer; union officials may speak to a small group of employees in close quarters; [5] and, union officials may make promises to employees as part of their campaign propaganda, irrespective of the fact that they may never expect to be able to fulfill those promises, and basically even though they know they cannot fulfill those promises. Of course, the employer cannot. Furthermore, employee organizers may solicit union support on company premises during nonworking hours and may distribute union literature in nonworking areas.

2. EQUAL ACCESS—PROPOSED CHANGES

Section 4 of the bill, which amends section 6 of the act, provides that the Board must issue regulations allowing employees an "equal opportunity to obtain in an equivalent manner" campaign information from a labor organization during a period of time the employees are seeking representation by a labor organization. In addition, after the union has given written notice to the employer that employees have demonstrated an interest in representation by that union, the union is entitled to an "equal opportunity to present information in a manner equivalent to the employer."

3. EQUAL ACCESS—SUGGESTED CHANGES

Due to the many advantages accorded to unions under the present election campaign procedures, this provision should be deleted in its entirety and the present law codified in this area.

If the concept of equal access is retained, and we strongly urge that it not be, it should be limited to cases where the Board or a Federal court has determined that on the basis of a complete evidentiary record, equal access is needed and alternate communication channels are lacking. This could be done in cases where an election had been set aside because of employer misconduct. The Board could then petition the Federal court for such relief.

In addition, section 6(b)(1)(A) of the act could be amended to provide the following changes:

(1) At page 5, line 16, after the word "organization," the following language should be added: "which has filed a timely petition with the National Labor Relations Board and prior to the conduct of an election pursuant to section 9 of the Act."

This would solve some of the present major problems with regard to this equal access provision.

As a result, page 5, lines 16 to 19, should be deleted after the word "organization." This provision would, therefore, tie the equal access provision to the period between the filing of a petition and conduct of an election:

(2) At page 5, line 19, after the word "manner," the following language should be added: "provided that the labor organization shall compensate the employees at the applicable rate for the time spent at such a meeting if the employees were compensated by the employer and that the labor organization shall compensate the employer for any lost productivity and profits lost as a result of the equal access."

I have reason to believe that the proponents of this legislation may very well, if that is what it takes to get some crucial votes, agree to having the labor organization pay the wages of the employees during equal access situations. That is not enough, however, because what we are doing is interfering with the right of the employer to exercise his right of free speech, and if we are going to do that and take those drastic measures, then any loss to the employer should be compensated. But in case there are some of my fellow colleagues who might think that reimbursement just for wages, which may very well be acceptable to big labor organizations, is adequate, I ask them to consider all of the small labor organizations which may very well be very irritated with that type of an approach which almost forces them to join the larger organizations.

4. EQUAL ACCESS—CRITIQUE

Section 4 is one of the most arbitrary and unfair provisions of the proposed bill. Most importantly, this provision is wholly unnecessary because unions already have a vast array of communication avenues that employers are prohibited from using. This provision, together with the prohibitively short election time limits, insures that voters will not be given an adequate opportunity to fully weigh the merits of unionization. Indeed, upon careful review it is manifestly clear that this provision will do little to realize, and may, in fact, subvert the very purposes it seeks to accomplish.

The Board has, over a period of 42 years, developed various procedures and safeguards necessary to insure the fair and free choice by employees of their bargaining representative. The equal access rule contradicts the Board's lengthy experience in carefully balancing the rights of labor and management, notwithstanding the rule's total disregard with respect to an employer's property rights. The Board, however, has never held as a general rule that equal access for labor organizations in election campaigns is necessary. This is because labor organizations already have a large number of advantages under the current law, as I have already stated. Despite this background, this legislation gives unions an even greater advantage and, therefore, will destroy the former balance in organizational campaigns between labor and management.

As indicated in the Senate report, this provision is directed at "captive audience" speeches conducted by the employer during the campaign. It is based largely on a study conducted by Prof. Stephen Goldberg concerning the Board's election process.[6] According to Goldberg, "the employer has a substantial advantage in communicating with employees about union representation" resulting from company meetings during working hours.

Without addressing the issue regarding the accuracy of the Goldberg study or the proper weight it should be accorded, the question remains as to whether this provision achieves its objectives. First, there is a substantial question as to what constitutes the "required showing of interest" on the part of employees for the purpose of qualifying for the access rule. According to the Senate report "10 percent of the employees in the proposed unit, or a minimum of three employees in small units," constitutes a sufficient showing of interest. It is obvious that this definition is woefully inadequate because the ingredients constituting the proper showing of interest are never defined. For example, are the employees required to sign a petition to be given to the employer, or must the employer rely solely on the representations of the union organizers as to the number of supporters? These problems are exacerbated by the Senate report's additional statement in the nature of a disclaimer that "this test is to be used as a rule of thumb only." If the test is not 10 percent of the employees or a minimum of three employees, is 8 percent or 5 percent or a minimum of one employee sufficient?

Second, as currently drafted, this provision would apply anytime an employer talks with his employees concerning unionization, even though no petition for an election has been filed by a union with the Board. As a result, it is likely that union organizers will notify employers that they have obtained several organizational cards and insist that they should have access to the company premises every time the company mentions unions. This process is particularly troublesome because a union can simply continue notifying the employer that it has obtained organizational cards without a corresponding duty to file a petition to an election. Consequently, it is advisable to establish a rule whereby union organizers would be precluded from having equal access to the company's premises if they did not file a petition upon notifying the employer of union support within any 12-month period.[7]

Third, this provision is extremely vague with respect to its scope of coverage. Significantly, it appears that it would apply to such situations as a small group meeting conducted by an employer in which the subject of unionization is discussed, despite the fact that it is only one of numerous subjects covered. Hence, any time an employer touches upon the subject of unions, however so

[4] *Peoria Plastic Co.*, 117 N.L.R.B. 545 (1957).

[5] *General Shoe Corporation*, 77 N.L.R.B. 124 (1968).

[6] Goldberg, Getman, and Herman, *Union Representation Elections: Law and Reality* (1976).

[7] This proposal is closely analogous to current section 9(c)(3) of the Act which precludes filing a petition in any unit where an election has been held within the preceding 12-month period.

briefly, a union might have the right to go through the lengthy and cumbersome ordeal of coming onto the employer's premises and addressing the employees, at the employer's expense and with a resulting loss of production.

Fourth, the breadth of this provision far surpasses its stated purpose of equalizing campaign opportunity. Thus, while the sponsors of the equal access provision maintained that it was aimed at an employer's "captive audience" speeches, as currently drafted and as described in the Senate report, this provision would apply to any communication, oral or written, by the employer during working hours on company premises. It is, of course, difficult to understand the necessity for expanding the coverage of this provision.

Fifth, there is an additional problem concerning the number of union officials who should be permitted on the company premises. Union campaigns usually entail the efforts of significant numbers of organizers who will surely want to spread their propaganda. However, the thought of a parade of organizers canvassing company premises should not be tolerated and, therefore, a maximum number of two officials should be set out in this provision.

Interestingly, the Goldberg study contains a factual account concerning the representation process which weighs strongly against the equal access and mandatory time periods for holding an election provision. As part of this study, 18 elections were evaluated to determine the proportion of authorization cards signed before the employer became aware of the organizational drive. According to the report, in 10 of the elections, all cards were signed before the employer became aware of the drive; and in four elections, 50 to 75 percent of the cards were signed before the employer became aware of the drive. As a result of this information, Professor Goldberg concludes that "it appears, then, that in most elections the employer does not know about the card-signing drive in time to respond before a majority of the cards have been signed." [8]

This study, thus, reveals the lack of employer knowledge concerning organizational attempts in most instances, a premise widely disputed by the sponsors of this bill. Since the employer must normally learn of union drives upon receipt of the petition for an election, it is certainly unfair and inequitable to afford union organizers with even greater advantages by allowing these persons to carry their campaign on company premises. Furthermore, the committee's refusal to consider this finding by Professor Goldberg when it gave carte blanche approval of his other findings which support different sections of the bill, is yet another indication of the obvious one-sided nature of this legislation to a degree which can only be characterized as egregious.

In light of the fervent push by organized labor to get this bill through Congress, it is not surprising that there is no duty placed upon unions to pay the employer's costs when production is curtailed due to a union organizer's speech on company premises. The notion that unions are unable to pay such costs is totally specious. Since the average number of employees in a bargaining unit is less than 50 and if you assume that the average wage rate is $5 per hour, then the union will be required to pay only a limited amount of money for a 1-hour speech or two one half-hour speeches. Under no circumstances, therefore, should unions be permitted to avoid these costs.

Aside from these considerations, under current law there are two situations where the Board has been invested with discretion to expand a union's communication opportunities. On the one hand, there is a line of cases revealing unique circumstances so that the opportunities between the union and the employer are grossly disparate, regardless of either party's conduct. For example, in *NLRB* v. *S & H Grossinger's Inc.*, 372 F. 2d 26, 29 (2d Cir. 1967), the second circuit held that nonemployee organizers should be permitted access to employees on the employer's premises where "no effective alternatives are available to the Union in its organizational efforts." On the other hand, there is another line of cases indicating that where there may be no circumstantial disparity and opportunity, but the employer's conduct in intimidating employees from exercising existing communication opportunities, the Board is required not only to clear up those avenues, but also to provide the union with others. *See e.g., NLRB* v. *J.P. Stevens & Co., Inc*, 563 F. 2d 8 (2d Cir. 1977), *cert. denied*, 46 U.S.L.W. 3526 (1978)

Mr. President, with regard to free speech:

D. FREE SPEECH

1. FREE SPEECH—CURRENT LAW

Under section 8(c) of the act, the often referred to "free speech" provision, the Board has a wide degree of discretion in establishing various rules and procedures for regulating an employer's and union's speeches during elections.

2. FREE SPEECH—PROPOSED CHANGES

Under section 6 of the bill,[9] the Board is authorized to issue and enforce rules applicable to campaigning during the 48-hour period preceding an election.

3. FREE SPEECH—SUGGESTED CHANGES

Section 8(c) of the act should be amended to provide:

(c) The expressing of any views, argument, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign or the dissemination thereof), whether in written, printed, graphic, visual or auditory form, shall not (i) constitute or be evidence of an unfair labor practice under any of the provisions of this Act, or (ii) constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

In addition, there is a need to define what type of activity occasions the implementation of this rule.

4. FREE SPEECH—CRITIQUE

While the free speech provision in the bill does not represent a serious encroachment on the current law, the Senate report places recent Board cases on this subject in jeopardy. According to the Senate report, the Board would be given "the power to police such tactics as last minute material misrepresentations and captive audience speeches to the extent that the agency deems necessary."

Case law on this subject, however, substantially conflicts with the position that the Board would take under the Senate report. Under a new standard formulated in Shopping Kart Food Market, Inc., 228 NLRB 190 (1977), the Board no longer will police the truthfulness of noncoercive campaign rhetoric. This position is an outgrowth of the difficulties the Board encountered in making determinations regarding the materiality of particular misrepresentations under the former Hollywood Ceramics Co., Inc., 140 NLRB 221 (1962) test. Since the Board was unable to reach uniform and consistent results, it abandoned its former standards.

As perceived by numerous Federal circuit courts of appeals in ruling on Board decisions in this area, one of the difficulties under the former standard was the Board's abuse of its discretion in its treatment of campaign misrepresentations to favor unions over employers.[10]

The courts, therefore, felt compelled to caution the Board that "it should hardly need saying that this (the Hollywood Ceramics standard) no less applies to material misrepresentation by a union than by an employer." *NLRB* v. *Lord Baltimore Press, Inc.*, 370 F.2d 397, 401–02 (8th Cir. 1966).

In any event, the Board has chosen to reduce its role in policing free speech. To the extent that the current position of the Board would be changed, as outlined by the Senate report, extensive and unnecessary litigation is anticipated.

Finally, there is no justification for limiting free speech during the 48-hour period. In light of the restrictive time period accorded to employers to conduct their campaigns, the 48-hour limitation constitutes an unwarranted infringement of the employer's freedom of expression.

II. DETERRENTS

The provisions under this bill providing new remedies for violators constitute extreme and oppressive sanctions. These proposals clearly reflect the viewpoints of those, like Secretary of Labor Marshall, who think that the only unremedied abuses are against unions. The provisions are totally antithetical to the remedial nature of the NLRA because they are designed for one purpose, and one purpose only, and that is punishment. Such relief contradicts the Supreme Court decisions interpreting the

[8] Goldberg, Getman and Herman, Union Representation Elections: Law and Reality 135 (1976).

[9] There is no counterpart provision contained in H.R. 8410.

[10] For an excellent discussion of this subject, *see* Williams, Janus, Huhn, *NLRB Regulation of Election Conduct*, 57–58 (1974) and the cases cited therein.

Board's remedial authority which prohibited several Board orders that were punitive or confiscatory (*Republic Steel Corp.* v. *NLRB*, 311 U.S. 7, 11–10 (1940);[11] *NLRB* v. *Seven-Up Bottling Co.*, 344 U.S. 344, 349 (1953)); or where "a patent attempt to achieve ends other than those which can fairly be said to effectuate the policies of the Act." *Virginia Electric & Power Co.* v. *NLRB*, 319 U.S. 533, 540 (1943).

As characteristic of the result-oriented approach taken by the Committee with respect to the representation process, an examination of the provisions containing deterrents in S. 2467 reveals the identical problem concerning an inadequate study of the problem or the solutions. According to the Board's 42d Annual report, an inordinately high number of violations are committed by small businesses. However, a list of these violators will bear little, if any, correlation with a list of companies with meaningful Government contracts. Moreover, as in the example of a noted textile manufacturer, Government contracts only constitute approximately $5 million in comparison to a figure of $8 million in sales in a recent fiscal year. Obviously, government contracts are not a significant part of its business. One wonders, therefore, how effective a remedy will debarment be for most violators of the act.

For these same reasons, it is likely that other remedies under S. 2467, now H.R. 8410, will not accomplish the goals of this legislation. Since some of these remedies—debarment, time and one-half and make-whole—are largely ineffectual, they should be deleted from the bill. As a substitute, another provision should be drafted along the following lines. At the moment it becomes clear that a series of employer violations have been committed or that the individual violation is not inadvertent or committed by a low level supervisor off on a frolic of his own, then it becomes appropriate for the Board to consider threatening the individuals who direct the Company policy with meaningful sanctions that will cause them to change their behavior. Among these meaningful sanctions are the threat of imprisonment for contempt and steep fines.

A. BACK PAY REMEDY

1. BACK PAY REMEDY—CURRENT LAW

Under the current law, there is a provision for back pay which is computed according to the employee's wage rate. An employee's interim earnings are deducted from the total salary he would have received absent the employer's unfair labor practice. However, unless an employee makes a good faith effort to find interim employment, he will not be eligible to receive a backpay award.[12]

So, the incentives are put on the employee making a good-faith effort to be employed so there will not have to be a back-pay award.

2. BACK PAY REMEDY—PROPOSED CHANGES

Under section 9 of the bill, which amends section 10(c) of the act, employees who lose their jobs as a result of the company's unfair labor practices may receive a 150 percent backup remedy less any wages actually earned by the employee. This remedy would apply in the following situations: Where employees are seeking representation by a labor organization, in a decertification or deauthorization election and prior to the signing of an initial collective bargaining agreement.

3. BACK PAY REMEDY—SUGGESTED CHANGES

This provision is wholly unnecessary. However, if Congress believes this provision should remain in the bill, it should be rewritten to specifically impose a duty of mitigation. In other words, the employee should make every effort to mitigate his damages.

4. BACK PAY REMEDY—CRITIQUE

For the reasons outlined above, the back pay scheme under the bill will probably not constitute an effective remedy, with the exception that in certain small businesses it will have a disastrous effect. Most importantly, since no duty of mitigation is imposed upon the employee, providing for mitigation serves no real purpose. The necessity for imposing a duty to mitigate is based upon the commonsense principle that an employee should make a bona fide attempt to reduce the amount of damages by the employer by seeking comparable employment.[13] Thus, the employee may not remain idle; he must seek other comparable employment and, if there are no other jobs available, he must remain in the labor market.[14]

(Mr. BUMPERS assumed the chair.)

Mr. HATCH. That is only fair.

That is the way our country has worked and it is the way it has always worked in the past.

B. DEBARMENT

1. DEBARMENT—CURRENT LAW

Under the current law under the National Labor Relations Act, there is no provision for debarment.

2. DEBARMENT—PROPOSED CHANGE

Under section 9 of this bill, which amends section 10(c) of the act, companies or labor organizations found to be in willful violation of a Board or court order may be debarred. This debarment procedure is initiated by the Board which makes a recommendation to the Secretary of Labor. While a 3-year period is the designated time interval for debarment, this provision gives the Secretary of Labor discretion in determining the debarment period.

3. DEBARMENT—SUGGESTED CHANGES

Assuming that Congress believes that debarment is a necessary sanction, enforcement should be left in the Federal district courts as characteristic of Board procedure with respect to contempt matters. Since the Board has been successful in enforcing contempt charges before the Federal district courts, there is no reason to assume that it will not be equally successful in bringing debarment charges in that forum. The Federal district courts assure there is no institutional bias or other personal or political considerations taken into account.

4. DEBARMENT—CRITIQUE

There can be no question that debarment is fundamentally punitive. Chief among the problems resulting from this new remedy is the fact that debarment would be profoundly counterproductive to the goal of S. 2467 to protect workers' rights, because of the simple fact that debarment would, in many cases, mean the loss of jobs for those employees who would be working on the contract. It obviously makes little sense to punish the worker for the employer's acts, even in cases where unfair labor practices by recalcitrant employers are willful and repeated.

The experience of the Office of Federal Contract Compliance Programs (OFCCP) illustrates why debarment should not be implemented, or at the very least, why debarment should not be implemented at this time. The difficulties within the OFCCP became so severe that a special task force was assembled to develop constructive suggestions leading to a more workable program. That task force has just recently issued a report in September 1977, on its findings entitled "Preliminary Report on the Revitalization of the Federal Contract Compliance Program." The report is less than complimentary. In referring to the lack of standards or guidelines within the OFCCP, the report acknowledges that—

> Until such time as OFCCP codifies and demonstrates its ability to require rigid adherence by contract officers to *reasonably definitive and objective standards for compliance decisions the fears of contractors will remain somewhat justified.* (Emphasis added.)

The debarment provision is also without any qualifying language as to its application. As presently constructed, an entire corporation may be barred from receiving Government contracts even though only one of its affiliates or divisions is found guilty of a willful violation. Such a result is an overkill and is directly contrary to Board precedent which has developed several tests in analyzing whether two or more companies can be considered a "single employer." These tests include an analysis as to whether there is interdependence of operations, common ownership and control, and common direction of labor relations policies.[15] These tests could

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[11] In *Republic Steel*, the Supreme Court acknowledged that "[t]he Act is essentially remedial." 311 U.S. at 10.

[12] *See, e.g., NLRB v. Avon Convalescent Center*, 549 F.2d 1080 (6th Cir. 1977); *NLRB v. Arduini Manufacturing Corp.*, 394 F.2d 420 (1st Cir. 1968).

[13] *See McCormick*, Damages 127 (1935). It is important that rules for awarding damages should be such as to discourage even persons against whom wrongs have been committed from passively suffering economic loss which could be averted by reasonable efforts.

[14] *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177 (1941).

[15] *American Federation of Television & Radio Artists v. NLRB*, 462 F.2d 887 (D.C. Cir. 1972); *Local 391, International Brotherhood of Teamsters v. NLRB*, 543 F.2d 1373 (D.C. Cir. 1976); *Los Angeles Newspaper Guild, Local 69 v. NLRB*, 185 N.L.R.B. 303 (1970), *aff'd per curiam*, 443 F.2d 1173 (9th Cir. 1971).

serve as a useful guide rather than following the current "shotgun" approach.

It also appears that the sponsors of debarment contemplate that the Board will cease having contempt power. Under the current law, the Board may seek a contempt order in the Federal district court compelling the respondent to comply with a former Board ruling. Under this section, however, the Board is imbued with the authority to seek debarment after determining that the respondent has willfully violated a final order. The difficulty with this scheme is the lengthy 6-month period of time it usually takes for an administrative law judge to reach a decision together with the additional 6-month period of time it usually takes the Board to reach a decision on appeal. The end result may, perhaps, be stated more graphically by the suggestion that, by providing relief according to the administrative law judge route as a substitute for contempt power, you might increase delays on the order of a thousand percent. Moreover, Federal district courts are much speedier than administrative law judge proceedings and are empowered to give much greater relief in terms of possible sentences, fines, and the like, than an administrative law judge.

Supporters of debarment also fail to consider the Board's success in bringing contempt charges against violators of the act. Throughout its history, the Board's record of bringing contempt charges against repeated or willful violators of a Board order is impeccable. By the same token, there are a number of extraordinary remedies available to the Board in dealing with the very small percentage of persistent offenders.

In sum, debarment represents a complete and unwarranted change in the philosophy of the act. Since there is a very real possibility that it will result in idling workers, it profoundly contradicts the avowed goal of S. 2467 to protect workers' rights. Nor surprisingly, labor spokesmen have expressed much concern on this problem [16] and the American Conference of the United States recommended that this sanction be deleted [17] as a most extreme sanction.

I might also add that one of the largest unions in the United States testified against this particular provision, and that was the International Association of Machinists, whose employers do a great deal of work for the Federal Government. They do not want to have either employers or unions penalized by officious attempts toward arbitrary punitive approaches through remedies such as contract debarment, which are held in such low esteem by the American Conference of the United States.

MAKE-WHOLE REMEDIES

Under the current law, there is no provision for a "make-whole" remedy. Under section 9 of this bill, which amends section 10(c) of the act, the Board may award, in cases where there has been an unlawful refusal to bargain before entering into the first contract, compensation to unit employees for the delay caused by the unfair labor practice. The amount shall be measured by the difference between, first, the wages and other benefits actually received by such employees during the period of delay, and second, the wages and fringe benefits the employees were receiving at the time of the unfair labor practice multiplied by the percentage change in wages and other benefits stated in the Bureau of Labor Statistics average wage and benefit settlements, quarterly report of major collective bargaining settlements, for the quarter in which the delay began.

In other words, if we are going to make a man whole under this particular provision, we are going to impose what would appear to be a very, very difficult remedy upon small business, of making the man whole based upon the highest wage rates paid in society by units with 5,000 or more employees. That is in spite of the fact during the whole last year of 1977, there were only 2 cases involving units of more than 3,000 employees.

This is one of the reasons why this is considered to be such an unreasonable approach.

I might also add that in the first quarter of this year of 1978 the Government has concluded—the General Accounting Office has concluded, as I understand it, or I should say the Bureau of Labor Statistics has concluded, that if this bill is enacted, we would have a 14.6-percent increase in wage rates for those units of 5,000 or more.

Can you imagine what that means? A 14.6-percent increase above the average small business wage rates. Can you imagine what that would mean to a small business trying to make it, and suddenly it gets hit with a unionization attempt, cannot find an attorney skilled in labor law—because there are very few who are—finds itself involved in litigation, and winds up going broke, because of the officiousness of this particular punitive remedy? It is incredible, it is unbelievable, and it goes to show why so many people are saying that this particular bill is detrimental if not devastating to small business, and may spell the beginning of many, many problems in the small business area.

Assuming that Congress approves this remedy, qualifying language should be added so that this provision would not apply in situations where an employer legitimately challenges by a refusal to bargain finding and/or where there is a genuine issue of fact or law concerning determinations arising from an election; for example, unit issues, objections to the conduct of an election. Due to the many problems with respect to computing the amount of compensation to be awarded an employee based on the Bureau of Labor Statistics settlement index, a new and objective formula should be utilized. Section 3(A) (page 15, line 22 through page 16, line 21) should be deleted, and the following language inserted in its stead:

In a case in which the Board determines that an employer's unlawful refusal to bargain prior to the entry into the first collective bargaining agreement with a representative selected or designated by a majority of employees in the bargaining unit was for the sole purpose of delay and no genuine issue of law or fact was present to warrant a refusal to bargain, the Board may award to the employees in that unit compensation on a lump-sum basis for the delay in bargaining caused by the unfair labor practice. In determining the amount of compensation to be received as a result of the delay in bargaining caused by the unfair labor practice, the Board shall consider (i) wage increases received by employees in same geographical area performing similar work for the period of time in question; (ii) wage increases received by bargaining unit employees prior to refusal to bargain; (iii) wage increases received by employees in other facilities of employer in the same geographical area performing similar work over period of time in question; and (iv) such other factors as the Board determines relevant. Upon consideration of these factors, the Board shall ascertain what the percentage change in wages would have been for the period of time in question and shall multiply that change by the difference between the wages received by such employees during the period of delay, and the wages such employees were receiving at the time of the unfair labor practice.

The "make-whole" remedy under S. 2467—now H.R. 8410—represents a fundamental shift in Board policy concerning collective bargaining. Succinctly stated, that policy which dates back to the days of the Wagner Act of 1935 has been for the parties to reach their own agreement without Government interference with respect to the terms of the settlement. It is also yet another example of a punitive remedy being assessed against the employer. The make-whole remedy will result in the Government writing contracts for the employer and, therefore, the entire process of free collective bargaining, which is the cornerstone of labor-management relations in this country will be overturned. Since the Board will, in effect, become a third party in all negotiations, this governmental intrusion into rights is unprecedented.

A key factor which the committee failed to consider is that the United States, in comparison to developed countries with free trade union movement, ranks among the lowest in terms of percentage of available workdays lost to labor disputes. It is clear, therefore, that prior to overhauling the process of free collective bargaining, which has worked exceptionally well over a period of 40 years, that the need and the proposed benefits of the change be clearly demonstrated. This factor must be coupled with the findings in a recent study on the economic impact of the make-whole remedy [18] that—

[T]he "make whole" provisions . . . appear to use an extreme settlement solution and appear to be inequitable, unfair and to violate the spirit of fair play which is the essence of American legislation. These Amendments, as proposed, could result in an unfair economic advantage for large trade unions and for large business.

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[16] *Oversight Hearings on the National Labor Relations Board*, 94th Cong., 2d Sess. 460 (1976) (Statement of Louis P. Poulton, Associate General Counsel of IAM).

[17] *Oversight Hearings on the National Labor Relations Board*, 94th Cong., 1st Sess. 523 n.23 (1975).

[18] Rinfret, *The Economic Impact of H.R. 8410 and S. 2467* at 1 (1978). This report is discussed *infra*.

Thus, not only is this provision an inflationary one, but it might accelerate the exportation of jobs in those industries that are already besieged by foreign competition.

Moreover, it is difficult to understand why the average wage and benefit settlements index is an appropriate standard to penalize employers whose wage rates may be less than the index. An analysis of the companies comprising this index, which includes representatives from the telephone, steel, automobile, aluminum, and rubber industries, reveals three common characteristics: They are oligopolies; they are capital intensive, as opposed to labor intensive; and, they are industries in which unions have historically had a stronghold indicating a total disparity in leverage. Thus, by definition, these settlements will be significantly greater than the normal first contracts with a small employer.

A case in point is the recently negotiated coal contract which has been costed out over a 3-year period to a 41 percent increase in salary. Since the contract is front loaded, which entails a greater salary increase during the first 2 years than in the final year, the first-year salary increase may be as high as 15 or 16 percent.[19] Similarly, in a report recently released by the Department of Labor, agreements covering 5,000 or more workers had increases in total compensation—wages and fringe benefits combined—of 14.6 percent. Eighty-two D.L.R. B-2 (April 27, 1978). There can be little question that a salary increase of that size to most small businesses would be devastating. The index is hardly relevant for most employers, because it only covers wage and benefit settlements for units containing over 5,000 employees, whereas most Board units contain fewer than 50 employees. Hence, it does not provide an equitable or economically viable basis of comparison.

A further problem in this area concerns the committee's insistence that benefits be considered as well as wages. According to a highly complicated formula set out in the Senate report (page 17, n. 5), one must attempt to place a cost figure on benefit plans "(i)n situations where the only compensation to the bargaining unit employees is in the form of wages." The simple answer to this proposition is that costing out benefits is a terribly complex process which entails placing dollar figures on such intangibles as holidays, vacations, pensions, health and welfare plans, and the like. It is perfectly obvious that unless another more feasible approach is taken, decisions on this subject will be arbitrary at best.

The make-whole remedy is particularly inappropriate because a refusal-to-bargain charge by the National Labor Relations Board which arises out of delays occurring before the signing of a first contract is often a minor, technical violation of the act. Moreover, any unilateral change[20] by an employer with respect to mandatory subjects[21] of bargaining, may violate section 8(a)(5) of the act. Thus, if a company decides to require its employees to wear respirators based on preliminary findings by the Occupational Safety and Health Commission that a certain product has potential toxic effects, this unilateral action may result in a section 8(a)(5) violation irrespective of management's good intentions. Similarly, an employer may violate the act if he refuses during negotiations to allow a union representative to examine his books and records with particular reference to the unit costs and profit margins. See, for example, *NLRB* v. *Truitt Manufacturing Co.*, 351 U.S. 149 (1956). The case law on this subject shows that employers acting in complete good faith are oftentimes found in violation of a section 8(a)(5). The imposition of such a drastic remedy in this context is totally unfair and is disproportionate to the violation that it is designed to cure.

The make-whole remedy will also eliminate the employer's only effective method under existing law of appealing adverse decisions in cases where bargaining units are determined. Under current practice, an employer must refuse to bargain with a union if he wishes to seek appellate court review of what he considers an erroneous bargaining unit determination or an objection to the election. If the court rules against the employer, the Board may then issue a bargaining order as a remedy. Thus, the well-settled practice of challenging bargaining unit determinations would be effectively eliminated, because the employer will be deterred from seeking court review since he risks a more severe sanction.

The make-whole remedy directly contradicts precedent thwarting efforts of the Labor Board to interfere in the bargaining process. There are several Supreme Court rulings prohibiting the Board from compelling settlement of disputes over the terms of a contract.[22] The Court has repeatedly held that the right to bargain does not entail the right to insist on a position free from economic disadvantage. It is not surprising, therefore, that this remedy was rejected by the former Secretaries of Labor and Board Chairman Fanning in their testimony before the House Subcommittee on Education and Labor on H.R. 8410, the bill now before us, to which has been substituted S. 2467.

tive relief to reinstate a discriminatorily discharged employee.

2. PRELIMINARY INJUNCTIONS—PROPOSED CHANGE

Section 11 of the Senate bill, which amends section 10(l) of the act, requires the Board to petition for a temporary injunction to reinstate a discriminatorily discharged employee. Only cases occurring in a representational campaign before the first contract is signed or during a campaign to deauthorize or decertify a union would trigger this mandatory action.

3. PRELIMINARY INJUNCTIONS—SUGGESTED CHANGE

Due to the many problems set out below with respect to this provision, it should be deleted in its entirety.

4. PRELIMINARY INJUNCTIONS—CRITIQUE

The necessity of amending section 10(1) of the act with respect to cases arising under sections 8(a)(3) and 8(b)(2) of the act is highly doubtful, because other sanctions are more than adequate deterrent to recalcitrant employers. Injunctive relief is time consuming and duplicative since it requires the aggrieved party to appear before an administrative law judge and a Federal district court judge. Furthermore, in light of the prediction by the general counsel of the Board of a "dramatic increase in the number of 10(l) petitions,"[23] it is perfectly apparent that it is not feasible to implement this provision. A final factor weighing strongly against this provision is that nearly all discharge cases depend on credibility resolutions which, in turn, necessitate a full hearing so that the demeanor of the witness can be properly evaluated. Since Board attorneys under this provision will be entitled to proceed directly in the Federal district court on the basis of a "reasonable cause" determination that the charge is true, Federal district judges will be forced to render decisions without the benefit of the in-court testimony of the appropriate witnesses.[24] In sum, this provision is unnecessary and will further clog the Board and the courts at a substantial expense.

E. ILLEGAL WORK STOPPAGES

1. ILLEGAL WORK STOPPAGES—CURRENT LAW

Under the current law, injunctive relief may be obtained under certain circum-

[19] According to the Senate Report (page 17, n. 7), only the first year change should be considered on the basis that it "more accurately match[es] the current settlements average change to the time in which the violation occurs. . . ."

[20] Mandatory subjects of bargaining include wages, hours, and other terms and conditions of employment.

[21] A unilateral charge is one in which an employer alters the terms and conditions of employment without first giving notice to and conferring in good faith with the duly-certified collective bargaining representative of his employees. *NLRB* v. *Katz*, 369 U.S. 736 (1962).

[22] *NLRB v. Insurance Agents' Int'l Union*, 361 U.S. 477 (1960); *H. K. Porter Co. v. NLRB*, 397 U.S. 99 (1970).

[23] *Study by NLRB General Counsel Irving Estimating Cost Impact on Operations Under his Supervision of Passage of H.R. 8410*, 24 D.L.R. G-1 (February 3, 1978). *See* Section III *infra*.

[24] By analogy, the Board currently has authority to seek injunctive relief under section 10(j) of the Act. There can be little question that the Board's record in this area is hardly unblemished. Without being unfair to the Board, however, its position in situations calling for injunctive relief is difficult due to the complex task in undertaking an extensive investigation and making a proper recommendation, unless potential witnesses are thoroughly probed. Basic common law principles dictate, however, that a witness cannot be adequately questioned unless he is on the witness stand and subject to cross-examination.

D. PRELIMINARY INJUNCTIONS

1. PRELIMINARY INJUNCTIONS—CURRENT LAW

Under the current act, the Board has discretionary authority to seek injunc-stances against wildcat strikes,[25] but not against stranger picketing.[26]

2. ILLEGAL WORK STOPPAGES—PROPOSED CHANGES

Section 13 of the bill provides that an employer may seek injunctive relief against stranger picketing where the picket line is not maintained by a labor organzation in connection with a labor dispute. As a result, injunctions would not be available if the picket line is maintained by a labor organization in connection with a labor dispute. An employer can also secure injunctive relief if the refusal to work is not authorized, initiated or ratified by a labor organization. If the union does authorize, initiate or ratify the illegal activity, no restraining order can issue under this section.

3. ILLEGAL WORK STOPPAGES—SUGGESTED CHANGE

In light of the problems noted below, section 301 of the Labor Management Relations Act should be amended by deleting lines 15–25, page 20 and lines 1–7, page 21 of the bill and adding the following language:

Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket, or lock out, the court shall have jurisdiction to issue such temporary or permanent injunctive relief as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket, or lockout, and its jurisdiction to grant such relief shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes."

4. ILLEGAL WORK STOPPAGES

An analysis of this provision must necessarily begin with a review of the Supreme Court's decision in *Boys Markets, Inc.* v. *Retail Clerks' Union, Local 770*, 398 U.S. 235 (1970), and *Buffalo Forge Co.* v. *United Steelworkers of America*, 428 U.S. 397 (1976). These decisions both involve the availability and utilization of injunctive relief under section 301 of the Labor Management Relations Act. In Boys Markets, the Court held that an injunction may issue when a strike takes place over a grievance which the parties are bound under the terms of the collective bargaining agreement. In Buffalo Forge, in a divided 5 to 4 decision, the Court, in considering the propriety of injunctive relief in sympathy strike situations, held that injunctive relief was not appropriate.

Boys Markets and Buffalo Forge are cases illustrating the divisive nature of Federal court intervention in labor disputes and a balancing of the policies contained in the Norris-LaGuardia Act[27] and section 301 of the Taft-Hartley Act.[28] See F. Frankfurter and N. Greene, "The Labor Injunction" (1930); *Milk Wagon Drivers' Union, Local 753* v. *Lake Valley Farm Products, Inc.*, 311 U.S. 91, 100–03 (1940).[29] From a policy standpoint, it is submitted that Boys Markets, wherein the Court held that arbitration is the primary vehicle of promoting industrial peace, was decided correctly and should not be overruled. Conversely, Buffalo Forge, wherein a majority of the Justices provided a literal interpretation of the Norris-LaGuardia Act, should be overruled. Interestingly, the House considered a fairly expansive amendment on this issue but decided to adopt a much more limited version.

As noted by Justice Stevens in his dissent in Buffalo Forge it is self-evident that the question of whether employees can honor a picket line is a subject for arbitral determination. However, requiring an employer to go first to arbitration and allow the work stoppage to continue frustrates not only the arbitral process but makes virtually meaningless the union's agreement not to strike. Granting injunctive relief, therefore, promotes the very policies which led the Supreme Court in Boys Markets to accommodate section 301 of the Taft-Hartley Act with section 4 of the Norris-LaGuardia Act.

As observed by Justice Stevens, the concerns which prompted passage of the Norris-LaGuardia Act were not applicable to a situation where a court was dealing with the enforceability of an agreement:

Like the decision in *Boys Markets*, this opinion reflects, on the one hand, my confidence that experience during the decades since the Norris-LaGuardia Act was passed has dissipated any legitimate concern about the impartiality of Federal judges in disputes between labor and management, and on the other, my continued recognition of the fact that judges have less familiarity and expertise than arbitrators and administrators who regularly work in this specialized area. The decision in *Boys Markets* requires an accommodation between the Norris-LaGuardia Act and the Labor Management Relations Act. I would hold only that the terms of that accommodation do not entirely deprive the federal courts of all power to grant any relief to an employer, threatened with irreparable injury from a sympathy strike clearly in violation of a collective bargaining agreement, regardless of the equities of his claim for injunctive relief pending arbitration.—398 U.S. at 432 (emphasis in original).

Since another critical aspect of national labor policy is the concept of free collective bargaining,[30] it is difficult to argue that the utilization of injunctive relief to enforce a bargain freely struck runs contrary to these policies. Injunctions designed to enforce what has been agreed to are far different than the types of injunctions which gave rise to the Norris-LaGuardia Act. As recognized by the Supreme Court in Boys Markets, there has been a shift from the "protection of the nascent labor movement" to evolving a policy designed to encourage free collective bargaining and the peaceful settlement of disputes.

It is perfectly apparent that the issuance of injunctive relief to enforce an agreement to arbitrate and not to strike hardly brings about an abuse that the Norris-LaGuardia Act was intended to prevent. The policies enumerated in section 2 of the Norris-LaGuardia Act cover a vastly different situation than exists today.

It should, of course, be noted that in nearly all collective bargaining agreements the only promise a union makes in the entire contract is not to strike. The remainder of the obligations are placed squarely upon management's shoulders. This provision, however, undercuts the enforceability of the union's only obligation.

Against this background, it is clear that section 13 is not an adequate remedy for employers faced with strikes in violation of a no-strike clause in a collective bargaining agreement. Indeed, the Senate report emphasizes that the rule of Buffalo Forge be preserved[31] and that the present balance between employers and unions be maintained. However, the recent debilitating effects of the coal mine strikes are a prime illustration that an equitable balance does not exist. Consequently, current section 13 should be deleted in its entirety and replaced with a provision allowing private enforcement of no-strike clauses in Boys Markets and Buffalo Forge situations.

III. ECONOMIC IMPACT AND EFFECT UPON LITIGATIONS OF S. 2467, NOW H.R. 8410

Ignoring the labels, such as "pro-union" and "antimanagement" which have been attached to this legislation, and putting aside the various arguments for and against this legislation, one can observe dispassionately certain unmistakeable effects that will occur if the proposed legislation is enacted. Two principal areas that will be affected are set out below. This legislation will greatly affect the two areas set out below.

A. ECONOMIC IMPACT

In a recent, in-depth study conducted by Rinfret Associates, contained in a

[25] A wildcat strike, in the context of this bill, is a work stoppage undertaken by union members without official authorization or sanction from the union.

[26] Stranger picketing is any picketing of an employer by nonemployees on behalf of a union with whom the employer has no bargaining relationship.

[27] The Norris-LaGuardia Act embodied a congressional policy against the intervention of Federal courts in labor disputes. The abuses giving rise to this Act generally involved cases where union organizational strike activity was being halted as a result of the intrusion of Federal courts. Section 4 of the Act was designed to halt this intrusion.

[28] Section 301 of the Taft-Hartley Act gives Federal courts jurisdiction over suits for breach of a collective bargaining agreement.

[29] *See also* Gould, *On Labor Injunctions, Unions and the Judges: The Boys Markets Case, The Supreme Court Rev.* 215, 238–39 (1970) (P. Kurland ed.).

[30] Wellington, *Freedom of Contract and the Collective Bargaining Agreement*, 112 U. Pa. L. Rev. 467 (1964); *H. K. Porter Co.* v. *NLRB*, 397 U.S. 99, 108 (1970); *NLRB* v. *American National Insurance*, 343 U.S. 395 (1952). The decisions in cases such as *H. K. Porter* and *American National Insurance* recognize that a collective bargaining agreement or any of its terms is not to be imposed on an unwilling party and that the execution of a collective bargaining agreement is a matter between the parties at the negotiating table.

[31] S. Rept. No. 95–628, 95th Cong., 2d sess. (1978).

report entitled "The Economic Impact on H.R. 8410 and S. 2467," March 1978, it was determined that this legislation "would tend to increase the general inflationary trend of the United States * * * .'" As stated by economist Pierre Rinfret, president of Rinfret Associates, Inc.:

[T]he economic impact of proposed amendments to the National Labor Relations Act is inconsistent with the Administration's objective of reducing the already-high U.S. inflation rate which is close to double-digit levels, . . .[32]

While it would serve no useful purpose to review the entire study, of particular importance is the analysis of the economic impact of the make-whole provision upon small business. According to this report, "[t]he 'make whole' provisions of these proposed amendments appear to use an extreme settlement solution and appear to be inequitable, unfair and to violate the spirit of fair play, which is the essence of American legislation. These amendments, as proposed, could result in an unfair economic advantage for large trade unions and for large business."[33]

The conclusions reached by Rinfret regarding the significant inflationary impact of this legislation find further support in a report entitled "Study by NLRB General Counsel Irving Estimating Cost Impact on Operations Under His Supervision of Passage of H.R. 8410."[34] Responding to a request from the Office of Management and Budget, Mr. Irving evaluated the potential effect of this legislation upon the Board's General Counsel's Office. According to Mr. Irving, the proposed legislation will substantially increase litigation and require a corresponding increase in Board staffs amounting to an increase of nearly $28 million a year. As the report tacitly admits, however, this estimate may be conservative.

I might point out, this is only part of the estimate because it will cost an additional $2 million a year to add the two additional members of the Board and an additional $3 million a year for two attorneys to back up each of the administrative law judges, and the President will add $12 million to that and we are up to $45 million in one year caused by the enactment of this bill, should that occur.

That means that since the NLRB's total provided last year was $88 million, that this bill will drive up the cost of that Board, conservatively now, by at least 51 percent in one year by its mere enactment.

That is hardly holding the line on Federal spending. If this were the only situation in Government today where such excessive spending is occurring, we might be able to understand it and maybe even justify it. But this is one of thousands of increases to be paid by the taxpayers of this country over the next number of years. These increases, as Dr. Rinfret said, tended to increase the inflationary spiral of our society, which already the President admitted would be no less than 7-percent for this fiscal year and will undoubtedly go higher if we are unsuccessful in our representation of the vast majority of all citizens in this country by fighting through this extended debate for them.

B. LITIGATION

As stated by Mr. Irving in his abovementioned report, "the proposed legislation contains provisions which are likely to encourage the filing of charges * * *" This is because the severe penalties imposed upon employers for violation of the act makes it in the employers' best interest to litigate most, if not all, controversies where the penalties are triggered. Correspondingly, it would be in the unions' best interest to litigate all controversies in hope of having the Board assess severe penalties against the employers. The modus operandi of management and labor will, therefore, be litigation and the end result will be increased labor strife.

The statistics produced before the House Education and Labor Committee showing the high settlement rate of Board cases is compelling evidence that Congress should not interfere with the bargaining process. Those statistics indicate that settlement agreements are reached in 23.4-percent of the charges filed with the Board prior to the issuance of a Board complaint and in 82-percent of the charges filed with the Board in which a Board complaint is issued. As a result, there is only 5 percent of the unfair labor practice charges which the Board is forced to decide on their merits. Similarly, about 80-percent of the representation elections which are conducted by the Board are consented to by management and labor.

Since the Board would, of course, like the parties to settle their disputes rather than having matters litigated which strains the Board's budgetary and personnel resources, any legislative efforts in this area should be directed to this end.[35] Board Chairman Fanning concurred with this observation in his testimony on H.R. 8410 when he stated that successful enforcement under the National Labor Relations Board "depends in large part on voluntary compliance by employers and unions alike." Regrettably, the committee's bill will take away the settlement incentive and diminish voluntary cooperation between the parties. The bill encourages distrust, suspicion, and arbitrary attitudes. In short, employers and unions are invited by this legislation to engage in costly, time-consuming litigation, and inevitably embittering both parties and clogging the dockets of the Federal courts.

Some of the areas in which litigation is likely to increase markedly, if the legislation is enacted, are the following: First, the expedited election provision will result in fewer elections being agreed to in light of the arbitrary time periods. According to Mr. Irving "the number of election agreements will be substantially reduced from its present rate of 75 percent to a conservative 40 percent of merit dispositions." Without a proper time period for the employer to present his views on unionization, the employer will be forced to litigate issues after the election to which he would otherwise have consented. Since the employer is not given adequate notice of a campaign or of the proper unit determination, the employer's only recourse is to litigate all issues relating to the election. And, assuming that the employer follows this course, the amount of litigation before the regional offices of the Board will increase dramatically.

Second, under the committee bill, 150-percent backpay would be awarded to an employee where there was an illegal discharge, layoff, or refusal to reinstate. Significantly, there is no qualifying language in this provision concerning voluntary unemployment or duty of mitigation. It seems perfectly obvious that if an employer stands to have 150-percent backpay assessed against him he will vigorously litigate that issue. Under these circumstances, he has very little to lose by contesting such an award before both the Board and the appellate courts.

Third, the committee's bill extends the Board's injunctive authority under section 10(1) of the National Labor Relations Act to section 8(a)(3) discharge cases. Under this provision, the Board would be required to seek injunctive relief to have a discharged employee reinstated during an organizational campaign if the Board's preliminary investigation convinces the Board's regional office that there is "reasonable cause" to issue a complaint.

As predicted by Mr. Irving, this provision will result in a "dramatic increase in the number of 10(1) petitions" (24 D.L.R. at G–1, 5 (February 3, 1978)) because respondents litigating these controversial cases will be less inclined to settle the underlying unfair labor practice charges.

Unions will be more than tempted to file section 8(a)(3) charges as a matter of course against employers in hope that the Board will find merit and seek injunctive relief. It is doubtful that the union will be interested in the validity of the charge because at this stage the union is seeking all the employee support it can muster. Thus, unions will merely go through the motions of filing charges to assure employees that it can provide this assistance. The Board, however, is not relieved of its duties at that stage because it must still have a hearing before an administrative law judge to decide the merits of the discharge.

Furthermore, the need for such a provision is highly doubtful. Courts have consistently recognized that a discharged

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[32] Rinfret Associates, Inc., Press Release on *Proposed Labor Law Amendments Would Increase U.S. Inflation, Impose Major Economic Burdens on Small Business* at 1 (April 11, 1978).

[33] Rinfret, *The Economic Impact of H.R. 8410 and S. 2467* at 1 (1978).

[34] This report is reported at 24 D.L.R. at G–1 (February 3, 1978).

[35] According to *The Interim Report and Recommendations of the Chairman's Task Force on the NLRB for 1976*, "[s]ettlement is a matter of great practical concern, since it permits the prompt redress of injuries and the conservation of the Board's limited resources."

employee is not entitled to reinstatement pending the resolution of the propriety of the discharge.[36] If the employee prevails full relief is provided.

Fourth, the debarment provision is certain to result in a proliferation of litigation. The sanction of debarment is an extreme and unwarranted measure. Employers will have no choice but to contest a debarment rather than yielding to the summary conclusion of the Board in its interpretation of "willful violators." Litigation, rather than settlement, will become the preferred method because there is no advantage for the employer in settling a case when settlement may result in a Federal Court or Board order than, in turn, subjects the employer to future possible debarment.

The enormous increase of cases before the Board and both the trial and appellate levels of the Federal courts is a significant factor to be weighed by Congress. As indicated in the 41st Annual Report of the National Labor Relations Board (1976) and as updated by the most recent National Labor Relations Board quarterly report ending September 28, 1977, a record number of cases are being filed with the Board. The backlog problem was recently addressed by Board member Betty S. Murphy in a letter to the Civil Service Commission concerning the need for additional administrative law judges. She noted—

> We have a serious caseload problem with time delays and backlogs, the significance of which cannot be overstated. . . .[37]

Since the Board's primary purpose is to serve the public interest by reducing interruptions in commerce caused by industrial strife, a premium is placed on the expeditious handling of cases. It is, however, difficult to understand how the Board can cope with the anticipated increases of cases resulting from this legislation.

Similarly, the likely increase of litigation in the Federal courts should not be taken lightly. Indeed, there is great concern in the Federal judiciary as expressed by Mr. Chief Justice Warren E. Burger who stated in a speech before the American Bar Association in July of 1970 that—

> From time to time Congress adds more judges, but the total organization never quite keeps up with the caseload. Two recent statutes above added thousands of cases relating to commitment of narcotic addicts and the mentally ill. These additions came when civil rights cases, the voting cases, and prisoner petitions were expanding by the thousands.

According to the recent report by the Administrative Office of the United States Courts, 1977 Annual Report of the Director, June 30, 1977, the amount of Federal court litigation has multiplied in recent years.

In sum, there is very little question that S. 2467 will result in an enormous increase of cases before the Board and the Federal courts. Unless Congress is willing to significantly expand the number of personnel in the Board's regional office and increase the number of Federal judges, it is clear that the backlog of cases will mount. Adding governmental employees with its attendant cost in the millions of dollars is, of course, contrary to the current administration's avowed goals of reducing the bureaucracy and reaching zero-base budgeting.

IV. OTHER PROVISIONS

The discussion we have had here demonstrates that there are substantial problems posed by many of the major provisions of H.R. 8410, as substituted by S. 2467. An intelligent discussion of the bill requires that these problems be raised so that the Members of the Senate understand that many of the provisions designed to expedite Board case handling procedures will not serve their intended goals. There can be little question that S. 2467 does not constitute even a partial effort at true "labor law reform." By focusing solely on the alleged abuses of management, the bill does not address several areas which are in serious need of correction.

At the same time, there are provisions in the bill which, while objectionable in part, have less of an impact on responsible employers. Such provisions include expanding the Board from five to seven members,[38] implementing a procedure for summary affirmance of a decision of an administrative law judge,[39] providing for automatic enforcement of Board orders unless an appeal is taken within 30 days,[40] and allowing guards to be represented by labor organizations under certain circumstances.[41] While one can attack on a substantive basis most of these provisions, their impact is of relatively less import than the provisions previously discussed.

The existing ability of an organizing union to get a big "head start" in a campaign by organizing in secret is further exacerbated, not rectified, by S. 2467. Requiring a union to notify the employer when it begins a campaign would put both parties on an equal footing, and further insure that employees hear both sides of the story before they cast a vote. An employer should be able to campaign on his record, just as the union campaigns on its promises.

Another important step toward reform of representation case procedure would be the "deregulation" of the representation campaign.[42] Recent sociologically oriented studies have suggested that a party's campaign propaganda, even if misleading, has very little effect on how individual employees vote. More importantly, however, is the fact that the Board has currently undermined the importance of section 8(c) of the act, guaranteeing an employer's free speech in a labor relations context, by using an employer's otherwise legal campaign statements as evidence of unfair labor practices or to set aside an election. The law is in need of change here—the right of free speech must be guaranteed.

Similar rights must be guaranteed for the individual employee as well. The right of a union to fine an employee for engaging in such protected activity, as choosing to cross a picket line, is a serious infringement on an individual's rights.

Likewise, the right of a union to indiscriminately fine an employee for producing more than his fellow employees, because the union does not want him to be any more productive than the standard norm, I believe is a serious infringement on an individual's rights.

Stability in labor relations is seriously undermined by the current confusion concerning the potentially duplicative remedies of the Labor Board and the binding grievance and arbitration procedure found in virtually all labor contracts.[43] Congress should legislatively mandate the extent to which the Board should engage in deferral to such arbitration procedures, thereby providing some needed predictability to the employer as well as the employees.

Moreover, making arbitration the exclusive form of resolving certain disputes has obvious merit. Arbitration has long been recognized as the primary vehicle to promote industrial peace, having been enshrined as "a kingpin of federal labor policy." [44] This contractual mechanism provides the means to expeditiously settle disputes and allows for settlement before a forum the parties have agreed upon.

Second, it has long been recognized that arbitrators are fully competent to fairly resolve disputes arising under collective bargaining agreements. While the Labor Board is presumed to have expertise in construing the National Labor Relations Act, its expertise does not carry over into the area of contract interpretation.

Employee relations stability would be further strengthened by providing for injunctive enforcement in Federal courts of contractual no-strike clauses where

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[36] *Sampson v. Murray*, 415 U.S. 61 (1974); *Theodore v. Elmhurst College*, 421 F. Supp. 355 (N.D. Ill. 1976).

[37] Interim Report and Recommendations of the Chairman's Task Force on the NLRB for 1976, reprinted in CCH Labor Law Reports, Nov. 26, 1976 at 49.

[38] Section 2(a) of the bill, amending section 3(a) of the Act.

[39] Section 2(b)(2) of the bill, amending section 3(b) of the Act.

[40] Section 10 of the bill, amending section 10(e) of the Act.

[41] Section 5 of the bill, amending section 9(b)(3) of the Act. This provision makes a distinction between "in-house" guard employees and contract guards or armored car guards. Contract or armored car guards may not be represented by a union which admits non-guard employees to membership or which is directly or indirectly affiliated with a labor organization which admits to membership employees other than guards. However, "in-house" guards may be represented by any union, provided that the union does not represent non-guard employees at the same location or is not directly affiliated with a labor organization which represents non-guard employees at the same location.

[42] The Board's recent decision in *Shopping Kart Food Market, Inc.*, 228 N.L.R.B. No. 190 (1977), is a cautious first step in this regard.

[43] The Board's policy of deferring certain cases to arbitration while retaining jurisdiction, as established in *Collyer Insulated Wire*, 192 N.L.R.B. 837 (1971), has been undercut by recent Board decisions. *See e.g., General American Transportation Corp.* 228 N.L.R.B. No. 102 (1977).

[44] *Sinclair Refining Co. v. Atkinson*, 370 U.S. 195, 226 (1962).

there is a dispute over what has prompted a union strike in violation of the no-strike pledge. Unions, as well as management, should be forced to live up to their contractual obligations.

Any sincere effort at labor law reform should also recognize that unions should be held accountable for their acts as well. Employers are generally unable to seek relief from the Board against the most blatant kind of industrial coercion, picket line violence. The State court injunction, with its attendant vagaries, is essentially the only legal means an employer has to stop mass picketing and violence. An NLRB remedy for such abuses should be provided.

Mr. President, there are many other areas I would like to cover today, but I believe we have covered most of the salient theories of this bill. I believe that those who read the record and those who have been kind enough to listen will realize the detrimental nature of this bill and realize that hardly in any area does this bill fail to attack the rights of employees and employers.

There is basically no justification for this bill other than the right to make organizing easier, unions growth stronger and power to be more lodged in the hands of those who represent the unions here in Washington, which has been the case for far too long and which we shall not allow it to continue by having this bill enacted.

Finally, I shall say one other thing, and that is that the other day it was brought out in this Chamber that it is just terrible to have the minority thwarting the will of the majority in a democratic society. I just wish Senators to know that this minority, which has got to fight in this forum, this forum of the extended debate, represents the clear-cut vast majority of all people in this country, and so if anyone is thwarting the will of the majority, it is those who would vote for this bill, in ignorance of the desires of their constituents all over this country. Even 51 percent of those union men and women who deserve the protections of unions, and I acknowledge that, are against further expansion of power in the hands of the big labor union leaders here in Washington.

I believe 4 to 1 American citizens otherwise are against giving any more power to these people who have done so much to foist the Federal Government around all of our necks as a millstone through increased taxes, increased inflation, increased unemployment, increased bureaucracy, and increased Federal regulations. It is about time someone stood up against them and that is what this is all about.

That is why we are fighting. We are fighting for the very fabric of the free enterprise system, for every small businessman and women in America, and for every employee whether he belongs to a union or whether he does not. And that fight is pretty important.

So when we talk about thwarting the will of the majority, what about those who would vote for this bill for any reason is disregard of the vast majority of the people in our society? We know who represents the majority of people in this country, and I submit with all candor that it is those of us who are fighting through the means of an extended debate, which provides that even the most insignificant Senator can take on the whole Senate and defy it until he is heard. I might add we have a lot of great Senators on our side.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, we have heard a lot of talk today about equal access, especially about the constitutionality of the bill's provisions. We have heard talk about union access to a company's premises and why that might violate the employer's fifth amendment property rights.

I personally believe that not only are the bill's provisions constitutional but they are entirely consistent with Supreme Court decisions in this area, a matter which I will specifically address in the future.

However, I feel compelled to point out at this time that this discussion has somehow fundamentally missed the point. What the bill's provisions address is not the question of the union's access to the workplace for organizing purposes but rather the fundamental rights of employees to equal access to information from both the company and the union.

It is clear that fair and balanced campaign procedures are vitally important to insuring that employees have an informed choice in representation elections. And it is apparent that when a company converts the workplace into a forum for antiunion campaign, and conducts a systematic antiunion campaign or captive audience speeches, that the employees fair and balanced opportunity for information is denied. Mr. President, that is not just my conclusion, but the conclusion of those who have conducted the leading empirical study in this area. The Getman, Goldberg, and Herman study, which was referred to earlier today, concluded that employee familiarity with the organizing campaign is more closely related to attendance at campaign meetings than to any other single factor. That study found that when a company converts the workplace into a campaign forum, and conducts company meetings on working time and premises, 85 percent of the workers attended such meetings.

At the same time only 36 percent of employees attended union meetings, held after work and off company premises. That is compelling evidence that workers do not have a fair and balanced access to information under current Board rulings.

The reasons for this imbalance are obvious. The workplace is the guaranteed gathering place of workers for 8 hours a day, 5 days a week. There is no other place, which when transformed into a campaign forum, can be so potentially effective or so potentially destructive to the free exercise of employee rights.

Mr. President, the labor law reform bill is intended to address this imbalance. The bill is intended to assure that the employees have the right to exercise a free choice in the selection or rejection of a collective bargaining representative. That right, which we have guaranteed for 43 years, does not exist in a vacuum.

The effectiveness of employee's section 7 rights depends to a considerable degree on the ability of employees to learn the advantages and disadvantages of bargaining representation from others.

It is not union access that we are talking about, or company access, but the employees' access to information essential to the free exercise of their statutory guaranteed rights.

Mr. President, we have heard a great deal already in this debate about what is good and what is fair in labor law reform. We have heard from organized labor about what they believe is fair. We have heard from the business community about what they believe is fair. But in the stream of conflicting arguments and opinions, we sometimes lose sight of what the people believe is fair in labor law reform.

I was very encouraged to learn of just such an effort to determine public opinion on specific provisions that are a part of the labor law reform bill. Today the Public Interest Opinion Research Company of Alexandria, Va., revealed the results of an extensive national survey conducted by them for the AFL–CIO, involving interviews with hundreds of people. The results of that survey provide cogent evidence of the need for the bill's provisions. In particular, I would like to direct attention to the results of this survey in two areas. First, on the question of the employee's equal access to hear both union and company arguments, 81 percent of the public agrees that "if a company's owners or managers try to convince workers on company premises or during working hours not to join a union, workers are entitled to hear from union representatives in an equal manner." Only 3 percent disagree.

Second, when asked whether they would favor "a law making it easier for workers in a small company to vote on whether or not they wish to join labor unions," 67 percent answered in the affirmative, and 73 percent of those surveyed favored such a law for large companies.

Mr. President, this was a good survey. The questions were squarely and honestly put and the responses were honestly given.

One of the great attributes of the American people is their inherent sense of justice and fair play. While we may argue from time to time about the legalities and technicalities of what is fair campaign procedure, the American peo-

ple have a sensitivity to what is fair that cannot be denied. I think that it would serve us well to turn to them for their opinions on many of these matters: opinions that are firmly grounded in the realities of the work world.

I ask unanimous consent that the analysis of the national opinion survey be printed in the RECORD at this point.

There being no objection, the analysis of the survey was ordered to be printed in the RECORD, as follows:

ANALYSIS OF NATIONAL OPINION SURVEY ON LABOR LAW REFORM

1. General Attitudes toward Unions:

While most of this survey focused on public attitudes toward the proposed Labor Law Reform legislation, two questions dealt with labor unions and collective bargaining generally (see the May and August, 1977 PIOR surveys for the Task Force for more detailed explanation of public opinion toward unions).

As in the previous polls, we found significant public understanding of, and support for, the role of trade unions.

Q. Do you think workers are better off or worse off if they have a contract with their employer that legally spells out their wages, benefits, and working conditions?

	Percent
Better off	79
Worse off	11
Don't know	10

Favorable attitudes toward binding contracts were found in every segment of the population, including Republicans (74 percent), Southerners (83 percent), rural residents (76 percent), college graduates (80 percent), and those with professional or executive jobs (74 percent).

Likewise, when asked to choose "one group you think is the most important cause of rising prices," only 24 percent named labor unions compared to 61 percent who named business interests (and 5 percent who named farmers).

Q. I'm going to read a list of groups that some people say are the cause of rising prices consumers pay. Please tell me which one group you think is the most important cause.

	Percent
Oil companies	19
Food middlemen	27
Multinational corporations	15
Business total	61
Farmers	5
Don't know	11

2. Labor Law Reform, Generally:

To measure public attitutes toward the general goals and effects of the Labor Law Reform legislation, we asked about it in several ways. Below are the percentage of Americans who favor:

	Percent
A law making it easier for workers in large companies to vote on whether or not they wish to join labor unions	73
A law making it easier for workers in a small company to vote on whether or not they wish to join labor unions	67
Tougher penalties on large companies that illegally punish their workers for trying to join unions	61
Tougher penalties on small companies that illegally punish their workers for trying to join unions	53

Bigger majorities favor the legislation for its effect ("make it easier...") than for its provisions ("tougher penalties...") and as it applies to large companies than to small ones. Nonetheless, in each case a majority does favor the concept of the legislation. Clearly, a heavy majority believes it should be easier than it is now "to vote on whether or not ... to join labor unions."

Again, even among groups not normally thought of as pro labor, there is at least plurality support for "a law making it easier for workers in small companies to vote on whether or not to join labor unions."

	Percent	
	Favor	Oppose
Republicans	62	30
Southerners	67	24
Rural residents	66	24
College graduates	68	27
Prof./Exec.	59	36
Over $25,000	63	32

To explore further attitudes toward the effects of Labor Law Reform, we asked how people felt specific groups would be affected by "a law making it easier for workers to vote on whether or not they wish to join unions." Below are the percentage of people who felt each group would be "helped" or "hurt" by such a law. In parentheses are the percentage who felt the group would be "helped a lot."

[In percent]

	Helped	Helped a lot	Hurt
Effect of labor law reform on—			
People:			
Working people	78	51	13
Blacks	64	45	13
Poor people	63	44	16
Middle-class people	57	32	18
White-collar people	51	27	18
Companies:			
Most big companies	43	27	31
Most small companies	36	20	43
Companies that break labor laws	25	17	52

While it is not surprising that such a law would benefit working people, it is significant what most people also see it helping white-collar and middle-class people. More striking is the find that there is only one group (among those considered) that a majority feels would be hurt by Labor Law Reform—"companies that break labor laws." Indeed, by 43 to 31 percent, Americans believe most big companies would be helped by it. While a plurality say "most small companies" would be hurt by it, it's important to remember that a 67 to 23 percent majority (see above) said they favor such a law. Thus, a significant part of the population may think Labor Law Reform will "hurt" small companies, but support it nonetheless, because they believe it will help working people, the middle class, etc.

Not only does the public believe that Labor Law Reform (as defined above) would be good for specific groups, but, by 46 to 13 percent, Americans think such a law will help people like themselves. Asked if "people like you" would be "helped" or "hurt" by "a law making it easier for workers to vote on whether or not . . . to join a union," various kinds of people said:

Effect of Labor Law Reform on People like Themselves:

(Percent)

	Helped	Hurt
Democrats	54	12
Republicans	36	17
Independents	42	12
North	51	14
North Central	41	12
South	47	13
West	47	14
City	44	14
Suburb	44	13
Rural	50	12
College graduates	38	16
White-collar workers	38	26
Housewives	47	11
Over $25,000	38	19
Prof./Exec.	36	22

3. Why aren't More Workers Members of Unions?

In some ways that question goes to the heart of the debate over the Labor Law Reform legislation. To explore that question, we asked our sample what they believe the reasons are.

We asked all respondents "why more workers aren't members of unions." A plurality of the whole sample (38 percent) chose employer "pressure on workers" as the major reasons. But among nonunion workers who would like to join one, 47 percent named employer pressure, suggesting that may be even more important than most people think.

Q. Which is the most important reason more workers aren't members of unions?

[In percent]

	Companies put pressure on workers not to join	They didn't have the opportunity to join one	They just don't want to join unions
Total sample	38	18	33
Nonunion workers who want to join one	47	32	13
Southerners	46	15	28
Rural residents	42	15	32
18 to 25 yr old	53	22	22
26 to 35 yr old	41	17	36

4. Small Business:

As discussed in section 1 above, while the public is somewhat less sympathetic to Labor Law Reform as it affects "small companies," *most Americans still favor:*

	Percent
A law making it easier for workers in small companies to vote on whether or not they wish to join labor unions	67
Tougher penalties on small companies that illegally punish their workers for trying to join unions	53

5. Union Access to the Work Place:

An overwhelming majority of Americans believe that unions should have an opportunity equal to that of management to present its case to workers. In last August's poll, we found 97 percent said "workers should have an equal opportunity to hear both the company and union arguments." In this poll, we found that, by 81 to 3 percent, the public agrees that, "if a company's owners or managers try to convince workers on company premises or during working hours not to join a union, workers are entitled to hear from union representatives in an equal manner."

6. Prompt Elections:

Seventy-nine percent of Americans say union recognition election should be held "promptly" and, to 78 percent of them, that means within one month. Indeed, 28 percent say the elections should be held within a week!

Q. When a majority of workers in a company indicate they want to form a union, should a secret ballot election to decide the issue be held promptly?

	Percent
Yes	79
No	16
Don't know	5

Q. How promptly should the election be held?

	Percent
Within a week	28
Within a month	50
Within a year	10
Over a year	8
Don't know	3

Mr. WILLIAMS. I might say I think it is particularly useful, when argument is supported by public opinion surveys, that the question as put to those surveyed be known, and the responses to those questions be shown together with the questions.

We all know how to phrase questions that have a high probability of getting certain responses. In our profession, we call it the leading question; and so many surveys seem to present those who are interviewed with leading questions.

I emphasize that this opinion poll that I have included in the record seems to me to protect against the question that invites a desired response. I know that the Opinion Research Council of Princeton was used earlier in the debate. I wanted to see the Opinion Research poll as the Senator from North Carolina was referring to it. With great generosity, he did supply it and I was able to follow his discourse as he debated from the opinions that were there, found in that research poll, and that was helpful to me.

I know there are a limited number of copies, and they are marked "confidential." I do not know whether there is going to be any lifting of the confidentiality. I am not quoting from it, at any rate, but I do know it was the copy of the Senator from Indiana that was supplied to me earlier in the day, and I appreciated that.

But again, for people who are getting the conclusions of the poll to know the content of the questions that were presented for opinion is very helpful. I do not know whether that can be done in this case or not. Maybe there are restrictions. But if it could be included, I think it would be useful.

Mr. LUGAR. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. LUGAR. I compliment the Senator from New Jersey on the fairness with which he has indicated the desire, first of all, for the iteration of the questions raised in the poll he has quoted, and likewise he has mentioned that we had supplied to him my copy.

I would state simply for the record that all of the debate that pertained to that poll will be a part of the record, but I will be pleased to make a copy available to the distinguished leader of this debate. I see he has one.

Let me raise a question to the distinguished Senator from New Jersey. I would not characterize the questions that were raised in the poll the Senator has cited as any more or less leading than the questions that I have quoted this afternoon in detail, so that we would know what would be raised.

Mr. WILLIAMS. I do not—may I interrupt the Senator at this point?

Mr. LUGAR. Yes.

Mr. WILLIAMS. I was not suggesting that there were questions inviting desired responses in the Opinion Research poll, but just to caution that if we know how the questions were arranged and how the subject matter was addressed, it is useful.

Mr. LUGAR. I agree that that would be very important.

The chief questions that was raised in the poll the Senator has cited, of course, deals with the open access question, as I recall the sequence of questions, and it pertains to the fairness, the essential fairness of employees hearing both sides of the organization issue.

It would appear to me that the Senator from New Jersey is absolutely correct, that in that regard Americans are inherently fair. They believe that both sides should be heard.

I think the predicament that we are faced with in S. 2467 is the technique of how that fairness might be arrived at. Very clearly, the physical circumstances—I note the presence in the chair of the distinguished Senator from South Carolina (Mr. HOLLINGS).

I thought he was most eloquent on this particular subject yesterday afternoon, in stating that frequently the industrial layouts in this country now are not ones that are easy to enter, even on the part of an itinerant politician seeking votes, quite apart from someone seeking to organize a union.

This leads to the technical problem that seems to be involved in the debate, that the problem of equal access means that organizers coming onto the premises of an employer are probably going to take some time and space and attention of the employees, and that there are some rights, privileges, and certainly dollars and cents involved. In this case it is not quite the same as a public forum, in which people come to the city hall to hear a debate and equal time is afforded. Therefore, one could agree totally that in the best of all worlds, equal access ought to be available and equal opportunity to present arguments. In the real world of industrial life, trying to achieve this takes some doing.

I do not argue that we ought not to try to achieve it, but clearly the technical properties of the legislation we are discussing come to the point of how that can be done with equity to all parties.

I suppose the contention of the opposition to this legislation is that the tilt is in the wrong direction, but clearly this is the point of the debate.

Mr. WILLIAMS. Well, I appreciate that, as does the Senator from Indiana; he has expressed the practical imponderables here in a very, very effective way, and I would agree that the principle might be, for us, easier to arrive at than its application, and that frankly the working place could involve a complexity making it difficult to achieve.

I believe the most constructive, creative minds are working with the imponderables of access, and I believe before we are at the conclusion of the whole subject matter of this bill, perhaps we can find some answers. There is rulemaking authority given to the Board in this area, and we have tried to clarify the Board's duty in this regard in the report. Of course, we could not cover every imponderable but I am sure that during the debate we will be able to provide further clarification.

Mr. LUGAR. I share that hope because I believe it is important that the public perceive that fairness is of the essence, but at the same time that it will take something doing to arrive at the specifics. I appreciate the assurance of the floor leader that he and his associates are equally intent on doing that as I am.

Mr. WILLIAMS. I thank the Senator.

A CHALLENGE TO ARAB MODERATES TO RESUME MIDDLE EAST PEACE NEGOTIATIONS AS FOLLOWUP TO ARMS SALES

Mr. McGOVERN. Mr. President, the recent approval of airplane sales for the defense of Egypt, Israel, and Saudi Arabia places an additional burden on all three states to resume negotiations leading to a settlement of the Middle East conflict. As one who supported the sales with mixed feelings, I believe there is now a special obligation on Egypt and Saudi Arabia to bring about an early resumption of the peace talks.

I believe the arms sales are in the interest of all three nations involved, as well as in the U.S. interest, provided they are properly interpreted and acted upon. But if the package agreement is perceived as a psychological or political defeat for Israel and a victory for Egypt and Saudi Arabia, as is being claimed, then Egypt and Saudi Arabia especially should now be encouraged to take initiatives for peace. As a consequence of the sales package, we may witness at least a temporary heightening of anxiety in Israel that is not conducive to concessions at the negotiating table. Egypt and Saudi Arabia, on the other hand, should feel more secure in taking new initiatives for peace.

The arms sale package was sold to the Senate partly on the theory that it would encourage the forces of moderation and peace in the Arab world. It was also argued that it would enhance the influence of the United States as an honest peace broker willing to respond to the defense needs of both Israel and the moderate Arab Governments.

The time is now for Egypt and Saudi Arabia to demonstrate their moderation and their desire for peace by going the second mile with Israel in the resolution of conflict. The time is also here for the United States to exert all feasible pressure to get the peace talks back on the track.

President Sadat deserves credit for his courageous trip to Israel last year. That was a historic breakthrough. But it must not be forgotten that it was Mr. Sadat who then walked out on the peace negotiations. Prime Minister Begin has offered several peace proposals. He has actually shown more flexibility than he had promised in his election campaign. Perhaps his proposals are still too limited. But what negotiator ever begins by giving away all the negotiating ground in advance? It places Israel in an awkward position, to say the least, when we press

her to yield the West Bank when the Government of Jordan, a major beneficiary of that concession, is still not a party to the negotiations.

We Americans should be especially sensitive to Israeli reluctance to yield territory, considering our own recent national trauma over the Panama Canal. We took 13 years of painstaking negotiations to work out an agreement to transfer a 10-mile strip of territory back to its original owner—Panama. We agreed to do this only after another 22-year delay, with the transfer to take place in the year 2000. The Senate then debated this proposal for 2 more agonizing months, and in the end approved it by a one-vote margin. Yet, this transfer involved a concession to a tiny, friendly state far from our borders, whereas we are asking little Israel to return territory that is in her heartland to neighbors of vastly greater actual numbers and potentially greater power who have not had a record of friendship with Israel. Beyond this is the disturbing fact that too many Arab maps of the Middle East are still published with the State of Israel missing—a not-so-subtle indication that even Arab "moderates" need to manifest more genuine moderation.

Saudi Arabia, as the "banker" for Egypt, Jordan, Syria, and the PLO, carries a special burden to use its purse strings on behalf of restraint, moderation, and peace throughout the Middle East. I strongly urge the Saudi leaders to employ those purse strings in the quest for peace and against the forces of terrorism and conflict.

I voted for the arms sales because I believed it quite possible that Egypt, Israel, and Saudi Arabia were all suffering from the kind of anxiety about their defense and their relationship to the United States that could only be dispelled by good-faith defense assistance on our part. If, however, there is no manifestation of greater moderation and a willingness to negotiate in the Middle East, I will be not only greatly surprised, but gravely disappointed.

The ball is now in the court of the moderate Arabs and in the court of the administration and in the court of those of us who backed them on the theory that this was the best way back to the negotiating table.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator is recognized.

Mr. JAVITS. Mr. President, first, I am deeply gratified that the Senator from South Dakota (Mr. McGOVERN) has made this statement. It is characteristic of him and very statesmanlike.

It is well known that I came out on the other side of this issue. It is a very narrow question, and from the very beginning I did my utmost to bring about a pragmatic settlement; and the fact that I failed is nobody's fault, perhaps, but mine; I did not do it well enough.

But I always felt it should not become a major issue or a symbol of what happened between the United States and Israel. Our moral view in this country—I will not even call it a commitment—is deeper than that, that the survival and integrity of Israel is indispensable to the welfare of the United States. I still hold that view.

I regarded it a signal to Israel which could make her more or less inflexible in terms of the peace agreement with Egypt, which is the ball in the court, or in the air, that we have to keep our eye on. Our colleague from South Dakota and others equally well disposed in the situation came to the opposite conclusion.

I welcome a call to each party by those who thought it was to its benefit. Israel might have felt it would have been benefited by the defeat of the proposition, or approval of the resolution, in terms of its opportunity to work out a peace on the Arab side, which Senator McGOVERN has talked about. That is the test. I have not said anything about it up to now, and I do not intend to for a little while.

I would like to see real moderation manifested in the Arab policy, as I would to see that Israel does not get muscle-bound on its side, and scared that it is in a corner and is trapped. I welcome, therefore, that kind of attitude by so devoted a friend, as I am the first to testify about so many of those who voted on the other side of this issue.

I do not want it to be an issue between the United States and Israel, but I want it even less to be an issue between those who voted on the opposite sides of this matter.

Mr. McGOVERN. Mr. President, I appreciate ever so much the contribution and statement of the Senator from New York. I think it is especially important to underscore what he has said about the real meaning of the vote here in the Senate. It does not mean for one moment that Israel has only 44 friends in the U.S. Senate. The overwhelming majority of the Senate, I think virtually all Senators, are committed to the survival and well-being and continued independence of the State of Israel, and we can only hope that the action here in the Senate will do as its proponents claim, and open up a greater sense of confidence on the part of the moderate Arab States that will lead them to the peace table, not to a hardening of the lines.

But I do thank the Senator from New York for his statement and his statesmanship on this issue from the very beginning, and I thank the Senator from Indiana for yielding to us for this purpose.

Mr. LUGAR. Mr. President, I simply want to state at this point that the fine colloquy that the distinguished Senator from South Dakota and the distinguished Senator from New York have engaged in is an important testimony that there is important business going on in this country and this world as we debate this important issue. I would like to take this occasion, as a matter of fact, to indicate, as one who voted to support the President's desire for permission to make these plane sales, that I did as one who has been and is a strong friend of Israel, and likewise as one who is deeply concerned about peace in the Middle East and the prospect for cooperation proceeding.

I found it to be a close call, as my distinguished colleagues have well put it, but again one in which I felt that the United States of America had to offer at least some thoughtfulness with regard to President Sadat and his predicament in Egypt, and some thoughtfulness with regard to our friends in Saudi Arabia, but very considerable thoughtfulness with respect to the threat posed by the Soviet Union to that area.

My vote in this situation, on that basis, was a close call, but I take this occasion, stimulated by the remarks of my colleagues, to say that I share their hope that the President will feel impelled to move in every way that he can to stimulate negotiations; and specifically, by indicating the strong support of this country for Israel and the strong ties we all feel and must feel, it seems to me well once again to say that that vote was not a vote of punishment or censure with regard to that relationship.

Quite the contrary, many who have a deep regard for Israel felt that peace in that area is the best assurance for the independence of that state, and that peace might be enhanced through the permission granted to the President.

MORRISON-KNUDSEN RESCUE OF AMERICANS IN ZAIRE

Mr. McCLURE. Mr. President, first, I want to congratulate Morrison-Knudsen International for a job exceedingly well done. As you know, the firm reacted very quickly—and, by all reports, very successfully—in evacuating 77 of its employees, including 12 dependents, from its work camp 12 miles outside of Kolwezi in the Shaba Province of Zaire, when Kolwezi came under surprise attack by rebel forces that crossed the Zaire border with Angola on the nights of May 11 and 12.

The firm's alert action removed those Americans from the combat zone in time to prevent potential tragedy and the diplomatic complications that would have resulted. I understand that those Americans have reached the American work camp at Mosonoi safely by trucks and helicopters. They had to leave their personal belongings behind, but are being cared for as well as possible. The firm reports that the status of two of its people, who were not at the work camp outside Kolwezi when the rescue operations occurred is still uncertain. I know that every effort is being made by the firm and by our diplomatic people in Zaire to locate and rescue those people—and any other Americans who may be in the combat area.

I take special pride in the initiatives of the Morrison-Knudsen Co., perhaps, because it is based in Boise, Idaho, and I am their Senator. But the Americans involved come from all around the country—from Florida to Massachusetts, Virginia to California, Texas to Wisconsin. So I am speaking as an American about Americans and not just out of pride in my own State.

Second, I want to take this opportunity to point up the hazards faced by Americans at work in developing nations such as Zaire. I am talking about Americans who are living in very unsettled parts of

the world and who live with the constant threat of this kind of military upheaval. I am talking also about Americans who are living with none of the comforts we take for granted at home—no public schools or adequate medical facilities, no supermarkets and drycleaners, no shopping centers, no movie houses or television, and no arts, cultural, or recreational facilities. They must cope with strange cultures, difficult languages, and rare diseases. Sanitation standards are often very low, if they exist at all, and the purchase of food on the local economies can often be very risky. Americans overseas have few, if any, of the household appliances—such as refrigerators, washers and driers—that we are dependent upon at home.

Why are they willing to live like that?

The answer is that there is a job to be done—a very important job that benefits all of us.

The Morrison-Knudsen job in Zaire is a good example: The 77 Americans who were evacuated from the work camp outside of Kolwezi were working on a $500 million or more contract to build a 1,020-mile high voltage electricity transmission line from Zambia across Zaire using equipment fabricated throughout the United States and shipped to Zaire. The greater significance of the project is that it is the basic element in Zaire's entire electrical infrastructure—and it is designed to American standards. What that means is that the nation's electrical system will be compatible for all of the 110 volt electrical goods—anything from iceboxes to computers—built in our country—a huge new market for our industry as Zaire's economy emerges over the coming years.

Perhaps it seems the wrong time to be thinking about these kinds of things when combat has broken out in Zaire and when many lives are still in jeopardy. Certainly, our chief concern right now must be with the safety of our people in Zaire—easily 1,000 Americans throughout Zaire in roles similar to the roles of the 77 Americans who have been rescued from the battle zone by Morrison-Knudsen International. Fortunately, most of the Americans in Zaire are far removed from the battle area in the Shaba Province. Still, it is a time for watching developments there with great concern and some anxiety.

At this same time, I think this is exactly the right time for us to remind ourselves why it is so important that we have Americans in countries such as Zaire and why it is so important that they have every support and encouragement we can give them.

The best hope we have to bring some stability to this world of ours is to aid the growth and development of the emerging nations. Our diplomats, alone, cannot do the job. Neither can we get the job done simply by sending foreign aid money.

Those nations need technology and know-how. And that is a role for our private sector and for their American employees who can be encouraged to accept the privations overseas they must endure in order to get the job done.

That is the best kind of foreign aid we can offer. And I hasten to point out that it is in our own national interests that we provide it. The nations I am talking about need what we have to offer in order to grow. And we cannot continue our own growth unless we are prepared to grow with those nations that need our help. It is time we realized that we not only have a lot to offer, but also, a lot to gain.

Now, we hear a lot of talk these days about our Nation's return to isolationism and all the rest of it. Well, even if it were desirable—which it is not—its not possible. We cannot hole up in our own economy when we are importing $46 billion in oil and facing a $60 billion deficit in our balance of trade account for the years 1978 and 1979 combined. We are part of the global economy whether we like it or not.

That is why I have strongly supported measures to help our own industry play an increasing role in the growth of the growing economies around the world.

I am particularly concerned, as you know, about our current trade policies in general and about our blindsided policies on the tax treatment of Americans at work overseas in particular. We just cannot hope to get Americans to accept assignments in places like Zaire—with all the risks and privations—unless we are prepared, as a matter of national policy, to give them the incentives. We are the only industrial Nation that has refused to come to grips with that fact, and we are paying the price.

I am obviously not talking about the few Americans these days who can afford to be jetsetters and to live in the lap of luxury overseas with U.S. dollars in inflated economies. I am talking about the vast majority of Americans who are working in the emerging nations where the growth is and where the work is—where the jobs are that need to be done.

We can talk in the abstracts of tax theory—tax neutrality, vertical and horizontal tax equity and all of that—as much as we like. But somewhere along the line, we have to get down to the practical fact that we cannot get Americans to give up the comforts of life at home to face the kind of life they will have in places like Zaire unless we are prepared to fit our tax theories to the facts of life overseas. We cannot place what amounts to a tax tariff on our own industry and then expect our industry to do the job that needs to be done in our own national interests overseas.

It just does not make sense.

I want to see an end to the kinds of tragic fighting we are seeing today in Zaire so that all of the people on this tiny world of ours can live better. And I would like to see our Nation play the role it should be playing toward that end. One of the best ways is for us to help our industry to perform its role overseas, not hinder it.

Less talk, more action and more Government and industry teamwork will show better than anything else that we believe in ourselves, in human rights, in our economic system and in our technology and know-how and that it works.

SENATE RESOLUTION 457—RESOLUTION EXTENDING CONGRATULATIONS TO THE REPUBLIC OF CHINA ON THE INAUGURATION OF PRESIDENT CHIANG CHING-KUO

Mr. McCLURE. Mr. President, I have a resolution which I send to the desk.

The PRESIDING OFFICER. The resolution will be stated.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 457) extending congratulations to the Republic of China on the inauguration of President Chiang Ching-Kuo.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator asking for immediate consideration?

Mr. McCLURE. Mr. President, I ask for immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, the resolution is brief and, in view of the fact that the Senator is asking for immediate consideration, I should like the Senate to hear the resolution.

The PRESIDING OFFICER. The resolution will be stated.

The second assistant legislative clerk read as follows:

Mr. McCLURE, for Mr. HAYAKAWA (for himself, Mr. McCLURE, Mr. BAKER, Mr. HATCH, Mr. HELMS, Mr. CURTIS, Mr. DOLE, Mr. LAXALT, Mr. SCHMITT, and Mr. GOLDWATER) submitted the following resolution:

S. RES. 457

Whereas, the Republic of China and the United States of America have long standing tradition of friendship, and

Whereas, the Republic of China has been a faithful ally of the United States in war and peace: Therefore, be it

Resolved, That the United States Senate extends its congratulations to the Republic of China on the occasion of the inauguration of its duly elected President, Chiang Ching-Kuo.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I ask the distinguished Senator whether this resolution and the request for immediate consideration have been cleared with the chairman and the ranking member of the Committee on Foreign Relations, Mr. SPARKMAN and Mr. CASE, respectively?

Mr. McCLURE. Mr. President, I have talked to each of them personally and it has been cleared with each of them.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. That being the case, I have no objection.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCLURE. Mr. President, I ask unanimous consent that the statement of the Senator from California (Mr. HAYAKAWA) the principal sponsor of the resolution, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HAYAKAWA

Several weeks ago, all the Republican members of the Senate in an unprecedented move, felt obliged to question the sensitivity and skill of the Administration in the conduct of foreign affairs.

There is a current foreign policy development that provides additional evidence for the correctness of our concern. Chiang Ching-kuo, an ally and sincere friend of the United States, will be sworn in tomorrow as the duly elected President of the Republic of China. Contrary to American custom at such special and festive occasions, and disregarding my specific telegraphic request to the White House, President Carter has decided not to dispatch a high-ranking person to represent him at the inauguration. The participation of our Ambassador in Taipei at the ceremonies is merely a routine assignment. In conjunction with Mr. Brzezinski's simultaneous visit to Peking, the absence of a special United States representative at the inauguration will be widely seen as a down-grading of our amicable relations with Taiwan. In order to correct such misinterpretations, we have introduced herewith a Senate Resolution that reconfirms the existing close bonds between the Republic of China and the United States of America.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 457) was agreed to.

The preamble was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE MAY 19 ARMS TRANSFER POLICY

Mr. EAGLETON. Mr. President, today we mark the first anniversary of the President's arms transfer policy, a policy which—in the words of President Carter—would "henceforth view arms transfers as an exceptional foreign policy implement." It is a curious irony that we mark this anniversary just 4 short days after approving perhaps the most controversial arms sale in our history.

In an ideal world, of course, my colleagues and I would not have to face the agonizing choice between a philosophy of restraint and a pragmatic decision to arm our friends around the world with some of the most lethal weapons ever devised. In an ideal world, there is no question that we would aline ourselves with the administration's 1-year old policy calling for restraint of arms sales, and this arms transfer policy would be the common denominator of a world without conflict.

Sadly, however, we do not live in an ideal world, as the history of President Carter's humane and farsighted arms sale policy attests. In the year since the President publicly pledged his efforts to reduce arms sales, we have, in fact, seen the level of U.S. arms transfers rise alarmingly. Today we find ourselves more deeply immersed in the arms business than ever before. The sales we approved earlier this week—sales involving only three of the many nations with whom we transact weapons business—involve the staggering sum of $4.8 billion, an amount greater than all of our foreign arms sales for 1970 and 1971 combined.

The sad truth is that the United States has lost control of its own authority to limit the production and sale of military weapons. The military-industrial complex, of which President Eisenhower so persuasively warned us, has developed its own self-perpetuating momentum. Because we produce the best of weapons, we receive endless requests to sell them. And we can find numerous reasons to justify the sales. The plain truth is that we no longer are the master in our own house of weaponry.

When President Carter announced his new arms transfer policy on May 19, 1977, I praised his efforts to bring some sense of order to an unmanageable policy. At the time of the announcement, the administration was quick to add that the new policy would require time to implement, and that its effects would not be seen for at least 6 months, and certainly no "dramatic" change would be noticed for 18 months.

Mr. President, we now are at the 1-year mark, and, quite frankly, I have not seen any substantive movement toward implementation of the policy. In the 4 months following the announcement, the administration sent 45 arms sales notifications to Congress, totaling more than $4.1 billion. The Pentagon estimates that U.S. arms sales this year could reach the $13 billion mark, an all-time high. Next year's total is expected to be even higher. This is not what I call getting a handle on arms sales.

It is with a deep sense of sadness that I have concluded that the May 19 policy was stillborn. Approval of the sales to Israel, Egypt, and Saudi Arabia, which I reluctantly supported, constituted a tacit recognition that we have reached a turning point beyond which restraint becomes less and less likely. I regretted casting a vote which approved these sales because I do not believe that weapons promote peace, and I would like to see this insidious arms business come to a grinding halt. But I reached the conclusion, after considerable thought, that the options weighed against any other vote.

And so we continue our escalating involvement in world arms traffic, holding out only a slim hope for future multilateral action to curb arms transfers. Two weeks ago, the United States and the Soviet Union—along with other arms sellers around the world—met in Helsinki to discuss arms transfers. The United States and the Soviet Union agreed only that the issue is critical enough to warrant further discussions. It is remotely possible—very remotely—that this cooperative spirit will lead to constructive agreement on multilateral restraints. For without international cooperation, one country will always run the risk that a refused customer has only to seek another supplier. Indeed, the deciding factor in my own mind on the issue of the F–15 sale was the near-certain knowledge that if we did not sell F–15's to the Saudis, the French would be only too eager to sell them the Mirage F–1. This "I'll go buy it elsewhere" syndrome is what perpetuates the world arms race, and makes any unilateral effort ineffective.

Next week, on May 24, the United Nations will convene a 5-week special session on disarmament, the first such session in over 40 years. Once again, it is remotely possible—very remotely—that this session will open up a constructive dialog on the goal of cooperative regulation of the worldwide flow of weapons.

These developments offer a slight shred of encouragement, but I am afraid that the prevailing consensus is that the noble arms-restraint policy has been sacrificed on the altar of expediency. T. S. Eliot said:

Between the idea and the reality, between the motion and the act, falls the shadow.

We are now in that shaded area between vision and action, and I am not optimistic that we will progress beyond this point. There are too many contingencies impeding progress.

The May 10 New York Times had a very interesting article by Emma Rothschild entitled "Carter and Arms Sales," in which she concludes that:

Last year's evangelists are this year's itinerant salesmen. Restraint is rare, and arms sales are the answer to America's diplomatic problems. . . . When President Carter took office, the arms boom of the 1970's was still tentative. It is now institutionalized, cast in concrete and vanadium.

Mr. President, I would much prefer to be here speaking in praise of the new policy, checking off a list of positive steps the administration and Congress have taken to implement it. Sadly, though, present realities dictate no other course than pessimism. I have concluded that the policy is now historical rhetoric, and I am not persuaded that that status will change.

Mr. President, I ask unanimous consent that Emma Rothschild's excellent article be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 10, 1978]

CARTER AND ARMS SALES

(By Emma Rothschild)

There are probably two more weeks in which President Carter can save his policy of ending the boom in world arms sales. One chance will come in arms sales negotiations with the Russians, and another at the United Nations.

As a candidate, Mr. Carter made the issue of America's arms exports peculiarly his own. The United States, in the morality of 1976, was to be the breadbasket of the world, and not its sporting-goods store, its depot of high technology Saturday Night Specials.

As President, one year ago in May 1977, Mr. Carter announced a new, if cautious, policy of "arms restraint." "The spiraling arms traffic" was worth $20 billion a year, and half was American. "Because we dominate the world market to such a degree," said Mr. Carter, "I believe that the United States can and should take the first step" in reducing arms sales. It would then try to persuade other suppliers—the Soviet Union and Western European sellers—to do likewise.

Instead, Mr. Carter has presided over one more year of business as usual in the rifle store. So far in 1978 (seven months into the fiscal year) America's foreign military sales orders are worth over $5.5 billion, excluding those sales which are not yet final. Close to half of these orders are from developing propriations for the Coast Guard for fiscal countries. Sales to Iran alone are worth $1.5 billion, as of the Pentagon's count for May 5.

Last year's evangelists are this year's itinerant salesmen. Restraint is rare, and arms

sales are the answer to America's diplomatic problems: in Israel and Saudi Arabia, Greece and Turkey. Vice President Mondale went to Europe after his Inauguration to discuss arms restraint. A few days ago he was to be found in Southeast Asia promoting Northrop's F-5 fighters in Thailand, and McDonnell-Douglas's A-4 fighters in Indonesia.

When President Carter took office, the arms boom of the 1970's was still tentative. It is now institutionalized, cast in concrete and vanadium.

America's competitors, not surprisingly, have been at least as ardent. France and Britain are more dependent on arms sales than the United States—France exports 88 out of every 100 Mirage fighters—and both have multiplied their sales.

The boom has even attracted new sellers, above all West Germany. For years, the West Germans regarded arms sales as exceptional, and sold mostly to NATO countries. Now they have become a leading exporter of arms, particularly warships, to developing countries. In 1977 they sold submarines to Indonesia and Argentina. In 1978, Chancellor Helmut Schmidt arranged a package deal with Iran to supply frigates, submarines, naval technology and training, to a value of perhaps as much as $5 billion.

There is opposition to these sales in Mr. Schmidts own Social Democratic Party. But opponents take little comfort from American policy. The Iranian deal was only completed, they say, "'when the Carter principles were regarded as somewhat fading away."

The United States continues to discuss "restraint" with West Germany and other suppliers, but in an atmosphere of what participants call "foolishness," with Europeans "laughing up their sleeve" at America's pietism.

The arms policy is all but defunct. Some United States officials even believe that the time will soon come to make the demise formal, to end the pretense of preaching peace and prosecuting sales.

The next few days are likely to be critical. The United States is negotiating now with the Soviet Union to limit conventional-arms sales. If it reaches some agreement, it could then return with more conviction to its European allies: perhaps even before the special session of the United Nations General Assembly on Disarmament, which starts on May 23.

The United States could also act alone to save its policy. President Carter is expected to come to the United Nations two weeks from today, on May 24. His speech is being constructed in the same spirit of hesitation and ambiguity which has surrounded the entire arms sales policy. It is likely to draw on generalities: perhaps to propose a 10-year plan for disarmament.

Instead, Mr. Carter should abandon these judicious words. He should announce a six-month freeze on any new commitment to sell arms, and on the transfer of military technology to foreign producers. He should declare that the United States will join regional conferences to reduce arms sales, including a conference for the NATO region. (Such meetings will be proposed by French President Valéry Giscard d'Estaing, who will visit the United Nations.)

Outside the United States, people still believe in Mr. Carter's "instinct" for disarmament: the phrase is used by the domestic opponents of West Germany's new arms boom. One year ago, this instinct could have been translated into a policy for ending the boom in the death business. The difficulties are now enormously greater. But the possibility is still, just extant.

ORDER TO HOLD HOUSE CONCURRENT RESOLUTION 624 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Concurrent Resolution 624 be held at the desk pending further disposition on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAST GUARD AUTHORIZATION 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 748.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11465) to authorize appropriations for the U.S. Coast Guard for fiscal year 1979, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H.R. 11465) which had been reported from the Committee on Commerce, Science and Transportation, with amendments, as follows:

On page 2, beginning with line 23, insert the following:

SEC. 4. Section 30 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1479) is amended by striking out "and 1978," and inserting in lieu thereof ", 1978, 1979, and 1980,".

On page 3, line 3, strike "4" and insert "5";

On page 3, beginning with line 15, insert the following:

SEC. 6. Subsection (b) of the first section of the Act of August 27, 1935 (relating to load lines for certain vessels) (46 U.S.C. 88 (b)), is amended by (1) striking out "All" and inserting in lieu thereof "The requirements of this Act shall not apply to (1) all"; (2) striking out "except those constructed after the effective date of this subsection or those converted to either of such services after 5 years from the effective date of this subsection and" and inserting in lieu thereof "which were constructed, or with respect to which construction was begun or contracted for, before January 1, 1980, or which were converted to such use, or with respect to which conversion to such use was begun or contracted for, before January 1, 1980, so long as such conversion was completed before January 1, 1983 (in the case of conversions); or (2)"; and (3) striking out ", are exempt from the requirements of this Act".

SEC. 7. Section 10 of the Act of May 28, 1908 (relating to seagoing barges) (46 U.S.C. 395), is amended by (1) redesignating subsection (c) as subsection (d); and (2) inserting immediately after subsection (b) the following:

"(c) During the period beginning January 1, 1977, and ending January 1, 1982, the provisions of subsection (b) shall not apply to vessels of not more than 5,000 gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska.".

SEC. 8. (a) The Congress finds and declares the following:

(1) The transportation, production and handling of oil in, on, or near the navigable and ocean waters of the Columbia River Basin system creates substantial environmental risks, and may cause serious damage to the general health, welfare, and economy of this region.

(2) The vitality of the Columbia River estuary and marine environment is crucial to the maintenance and enhancement of major fishery resources for the enjoyment and livelihood of present and future generations.

(3) The protection and betterment of this marine, estuarine and fresh water river system requires a thorough, detailed assessment of the current plans and capabilities to best prevent, contain, clean-up and mitigate the damages resulting from possible oil spills and discharges in the system.

(b) Within 180 days after the date of enactment of this section, the Commandant of the Coast Guard, in consultation with the appropriate Federal, State, and local agencies, shall conduct a systematic, detailed evaluation on the—

(1) current procedures, safeguards, and capabilities to best prevent, contain, clean-up, and mitigate damages resulting from oil spills and discharges in, on, or near the navigable and ocean waters of the Columbia River Basin system;

(2) available and required oceanographic meteorological, and other relevant data necessary to best provide for the management referred to in paragraph (1);

(3) potential risk of existing and projected oil tanker traffic in, on, or near the navigable and ocean waters of the Columbia River Basin system causing harm to the environment of such system due to oil spills, fuel dumping, residual discharges, and other releases of crude oil or petroleum products; and

(4) need for legislation or other strategies to insure protection of such system and its environment, including the prompt development of an orderly, step-by-step contingency plan to contain, cleanup, and mitigate the damage resulting from the conditions referred to in paragraph (3).

The Commandant shall submit the results of such evaluation, immediately upon completion, including such recommendations as he deems necessary, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENT NO. 1316

(Purpose: To increase the authorization of appropriation for the Coast Guard for fiscal year 1978)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MAGNUSON, I send to the desk two amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 1316.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 6, immediately after line 14, insert the following:

Sec. 9. Paragraph (1) of the first section of the Act of July 1, 1977, (authorizing appropriations for the Coast Guard for fiscal year 1978) is amended by striking out "$887,521,000;" and inserting in lieu thereof "$892,900,000;".

On page 1, line 8, strike out "$958,186,000;" and insert in lieu thereof "$969,906,000;".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. I ask unanimous consent to have printed in the RECORD a statement by Mr. MAGNUSON with respect to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. MAGNUSON

These amendments increase the authorization level for Coast Guard Operating Expenses by $5,479,000 for FY 78 and by $11,720,000 for FY 79. On May 2 the President transmitted to Congress a request for additional funding for these expenses. With respect to the request for additional FY 78 funding, if funds for this request were fully appropriated, the Coast Guard's total appropriations for Operating Expenses for FY 78 would exceed the currently authorized level. With respect to the request for additional FY 79 funding, these funds are required for expenses which are in addition to those considered by the Commerce Committee when it ordered this authorization bill to be reported favorably on April 25. It is therefore necessary to increase the Operating Expenses authorization level for both fiscal years to allow for appropriations to satisfy this request.

These additional funds are required for both years primarily because of the Coast Guard's increased level of law enforcement operations (particularly drug interdiction patrols and fisheries law enforcement). In addition, funding is required for both years to operate certain Loran-C navigation system stations in support of NATO. Finally, additional funds are required for FY 78 to repair severe winter storm damage and to replace mattresses on Coast Guard cutters which create a fire safety hazard.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PARK ACCESS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 739, which has been cleared on the other side of the aisle.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 975) to improve the administration of the National Park System, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 975), which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress hereby finds that—

(1) the purpose of the national park system is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the national park system have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the national park system to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage and by requiring roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this Act is to make the national park system more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to units of the national park system with minimum disruption to nearby communities through authorization of a pilot transportation program.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to formulate transportation plans and implement transportation projects where feasible pursuant to those plans for units of the national park system.

(b) To carry out the purposes of subsection (a) of this section. the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this Act, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which property shall be administered as part of the unit: *Provided*, That any land or interest in land owned by a State or any of its political subdivisions may be acquired only by donation: *Provided further*, That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Acquisitions pursuant to subsection (b) (3) and (4) shall become final within sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and National Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in the absence of a concurrent resolution of objection.

(d) All fees collected in the operation of the facilities and services authorized by this Act shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

(e) The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of transportation modes other than personal motor vehicles for access to and travel within the units of the national park system.

(f) Transportation facilities and services provided pursuant to this Act shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (79 Stat. 969) and may be undertaken by the Secretary directly or by contract without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided*, That the Secretary or his contractor shall consult with the appropriate State or local public service commission or other such body having authority to issue certificates of convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such requirements would not be consistent with the purposes and provisions of the Act.

(g) No grant of authority in this Act shall be deemed to expand the exemption of section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4)).

SEC. 3. (a) To carry out the purposes of this Act, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

(b) Within one hundred and eighty days from the enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this Act. The Secretary shall revise the compilation thereafter as he deems necessary.

SEC. 4. (a) The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 2 of this Act—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system;

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the national park system.

(b) Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary shall proceed with the implementation of such plan after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) in the absence of a concurrent resolution of objection.

SEC. 5. The Secretary shall submit a report to the Congress, within three years of the effective date of this Act. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resource values within units of the national park system through access alternatives;

(b) effects of the projects on communities in close proximity to the units of the national park system; and

(c) future transportation projects formulated pursuant to this Act.

SEC. 6. In carrying out the purposes of this Act, there is hereby authorized to be appropriated $1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT 1317

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a technical amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia proposes an unprinted amendment numbered 1317.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, amend Section 2(b)(1) to read as follows:

"(1) to the extent or in such amounts as are provided in appropriation Acts, contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;"

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BUMPERS. I move to lay that motion on the table. The motion to lay on the table was agreed to.

GRAZING FEE MORATORIUM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 696.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9757), the grazing fee moratorium of 1978, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and insert the following:

That, to allow the Congress sufficient time to analyze the report and recommendations of the Secretaries of the Interior and Agriculture submitted pursuant to section 401(a) of the Federal Land Policy and Management Act (90 Stat. 2743, 2772) and take such action as may be appropriate, the fee for the 1978 grazing year shall not be raised by the Secretary of the Interior for the grazing of livestock on public lands as defined in section 103(e) of that Act (90 Stat. 2746) and by the Secretary of Agriculture for the grazing of livestock on lands under the jurisdiction of the Forest Service.

SEC. 2. Section 7 of the Act of March 1, 1972 (86 Stat. 44, as amended; 16 U.S.C. 460m–14) is amended by striking "$30,071,500" and inserting in lieu thereof "$39,947,250".

SEC. 3. Section 13 of the Act of August 22, 1972 (86 Stat. 612; 16 U.S.C. 460aa–12) is amended by striking "$19,802,000" and inserting in lieu thereof "$47,802,000".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. The committee amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I believe Mr. BUMPERS has an amendent to the bill.

UP AMENDMENT 1318

Mr. BUMPERS. I send an amendment to the desk, Mr. President, and ask that it be considered.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1318.

Mr. BUMPERS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 14, strike "'$39,947,250'." and insert in lieu thereof "'$39,947,250 from the Land and Water Conservation Fund'.".

Mr. BUMPERS. Mr. President, I am pleased that the Senate has recognized the immediate need to complete the land acquisition program on the Buffalo National River. It has become necessary to increase the authorization ceiling to $39,947,250 to complete the acquisition.

The projected total acreage for the entire project is 94,146 acres. The State of Arkansas donated 3,250 acres. As of December 31, 1978, the Park Service has acquired 63,379 acres. With over 30,000 acres still in private ownership, there is an urgent need to complete the acquisition program to allow for orderly development and enjoyment of the park.

According to the Park Service, the last land cost estimate was made in April 1975, and the 1975 estimate was extremely conservative in estimating the values of unimproved lands—particularly croplands and pasturelands.

The following is a comparison of the dollar per acre estimates by the Park Service for unimproved lands:

Type, 1975 estimate, 1978 estimate, and of percent difference:

Cropland, $500/acre, $800/acre, up 60 percent.

Pasture, $175/acre, $400/acre, up 129 percent.

Timberland, $225/acre, $350/acre, up to 56 percent.

Recr. homesite, $750/acre, $850/acre, up 13 percent.

Overall avg., $275/acre, $428/acre, up 56 percent.

For many years land values in this area have been low. In the early 1970's the prices began to rise. Until recently good farmland in the local marketplace was "undervalued" in comparison to land that had potential for recreational homesites. Farm lands in this area are closely held which has further depressed the market in the recent past. However, lands that sold for $450 per acre in early 1975 are now selling for $750 to $850 per acre. The value of bottom land and pasture land has increased at the rate of 60 percent to 80 percent in the last 3 years. These trends can be expected to continue for the next 3 years at a somewhat lesser rate.

This appreciation rate has been accelerated by the proposed acquisition of 94,000 acres of land by the Park Service. In addition, many owners have moved trailers on the land, established new businesses or expanded existing businesses, constructed new facilities and improved existing structures and facilities all of which must be purchased at the fair market value.

The increase in authorization is necessary to establish continuity in the land acquisition program to defend against the problem of threatened land cost escalation, to prevent further development, and to assure organization of the project for public enjoyment at the earliest possible time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

● Mr. CHURCH. Mr. President, the legislation we are considering would place a 1-year moratorium on the grazing fees charged by the Forest Service and the Bureau of Land Management for grazing on the public rangelands.

Continued moratoria on grazing fees are not a permanent solution to the problem. What is needed is a long-term approach to the various problems associated with the public domain grazing lands. The bill we have before us today, although important, is only a stop gap measure. It gives Congress time to consider legislation to establish a lasting grazing fee schedule that takes into account the costs of production and the price of beef, and proposals to arrest the deteriorating condition of much of our country's rangeland.

I am the sponsor of a comprehensive bill which would accomplish both of these purposes. That bill is the Public Grazing Lands Improvement Act of 1978. Similar legislation has already been approved by the House Interior Committee and is awaiting action by the full House, and like my bill would address the management and improvement of the 160 million acres of Federal land administered by the BLM for livestock grazing.

The main purposes of the Public Grazing Lands Improvement Act are to authorize $350 million in appropriations over the next 20 years to revitalize the public range.

Streamline environmental reporting requirements for routine range improvement activities; help solve the problems caused by excessive populations of wild horses and burros in some areas; and to set up a statutory grazing fee schedule similar to the proposal recommended by the Technical Committee to Review Public Land Grazing Fees, which would reflect both long-term changes in forage values and the short-term influences of forage value inherent in livestock production costs and beef prices.

Mr. President, the bill we are considering today would give us some additional breathing space so that some permanent solutions to the complex problems associated with the public range, can be found. It has my full support.

The bill also has attached to it the text of S. 791, a bill which I sponsored and which passed the Senate last fall. That bill dealt with the pressing need to raise the ceiling for acquisition of lands and interests in lands within the Sawtooth National Recreation area in Idaho. I have asked that this provision be added to the

grazing fee moratorium bill, because the moratorium bill has already been passed by the House, and if the other body will accept my amendment, the bill could go directly to the President for his signature. Such a chain of events could bring an end to the crisis which exists in the Sawtooth NRA at present, where landowners have been promised payment by the Government, but have not been able to receive their checks because the old authorization ceiling for land acquisition had been reached. This situation has gone on now for over a year and a half, and the people in the Sawtooth area who are caught in the middle of this problem are in desperate need for relief. That is why this provision is attached to this bill.●

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

An Act to impose a moratorium on any increase in the public lands grazing fee for the 1978 grazing year, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PAYMENTS FOR LANDS CONTAINING CERTAIN MILITARY INSTALLATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 734.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 74) to amend the Act of October 20, 1976, relating to payment to local governments based upon certain public lands within the boundaries of the jurisdiction of such governments, to include payments for lands on which certain semiactive or inactive military installations are located.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 74) which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the Act entitled "An Act to provide for certain payments to be made to local government by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality", approved October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601) is amended as follows:

(1) in subsection (a) of section 6 delete clause (4) and insert in lieu thereof the following new clause:

"(4) lands on which are located semiactive or inactive installations, not including industrial installations, retained by the Army for mobilization purposes and for support of reserve component training; or";

(2) at the end of section 5 insert the following new subsection:

"(c) Nothing in this Act shall authorize any payments to any unit of local government for any lands otherwise entitled to receive payments pursuant to subsection (a) of section 6 if such lands were owned and/or administered by a State or unit of local government and exempt from payment of real estate taxes at the time title to such lands is conveyed to the United States, except that, beginning in fiscal year 1979, this subsection shall cease to be applicable to payments for any land which is or was acquired by a State or unit of local government from private parties for the purpose of donation of such land to the Federal Government and which is or was so donated within eight years of the date of acquisition thereof by the State or unit of local government."; and

(3) at the end of section 3 insert the following new subsection:

"(e) Notwithstanding the provisions of subsection (c) of section 6 of this Act as it applies to the State of Alaska, for purposes of this section, a unit of local government in Alaska located outside the boundaries of an organized borough which acts as the collecting and distributing agency for real property taxes shall be eligible to receive payments under the foregoing provisions of this section.".

UP AMENDMENT 1319

Mr. BUMPERS. I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1319.

On page 2, line 14, strike "(4)" and insert in lieu thereof "(4), effective October 1, 1978,".

On page 3, line 13, between "section," and "a" insert "beginning in fiscal year 1979".

Mr. BUMPERS. Mr. President, the Federal Government owns approximately 1,027,094 acres of land that are designated by the Army as semiactive or inactive installations and are retained by the Army for mobilization purposes or for support of Reserve training. These are inactive military installations which are tax exempt.

I am particularly familiar with this category of military installation because Fort Chaffee, a semiactive Army installation, occupies 10,827 acres in my home county in Arkansas. The tax immunity of these public lands places an unfair burden on the taxpayers within the counties and local government units where the lands are located.

The Public Land Law Review Commission best summed up the problem with this recommendation:

If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those States and governments in whose area the lands are located.

Therefore, the Federal Government should make payments to compensate State and local governments for the tax immunity of Federal lands.

Recognizing this responsibility in the 94th Congress, Congress passed Public Law 94–565, the Payments in Lieu of Taxes Act, in order to partially compensate States and local governments for the impact of Federal ownership.

When the Senate Interior Committee considered this act late in the session, the committee unanimously recommended that counties where semiactive or inactive Army installations are located were entitled to payments under the Payments in Lieu of Taxes bill.

However, this amendment and all of the other amendments which had been added in the Senate Interior Committee were not considered by the full Senate when the House bill, H.R. 9719, was brought to the floor. If the Senate bill with the amendment had been passed, the legislation would have been returned to the House for concurrence, and that would have effectively defeated the bill during the waning hours of the session.

This legislative history is important because last year I introduced a bill, S. 74, to provide for payments to those counties where semiactive military installations are located to correct this omission in the Payments Lieu of Taxes Act.

In many ways the counties where the inactive military installations are located have experienced a greater hardship than counties entitled to payments under the Payments in Lieu Act. Most of these counties prospered when the bases were active and have had nothing to replace this revenue when the bases have been closed.

Over the years, the Congress has established programs to partially compensate States and local governments for the impact of Federal ownership, but in most cases the revenues that they receive do not approach what would be received from property taxes if these lands were in private ownership.

I consider this bill a long overdue step toward solving a problem that is straining the fiscal health of those local governments where inactive military installations are located.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend the Act of October 30, 1976 (90 Stat. 2662).

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSCRIPT OF CLOSED SESSION OF MONDAY, MAY 15, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in today's RECORD the expurgated transcript of the proceedings of the closed session of the Senate on Monday, May 15, 1978, and that subsequently it be published at the appropriate place in the body of the permanent RECORD of May 15, 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The expurgated transcript of the proceedings in closed session is printed in the permanent RECORD of May 15, 1978.)

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HOLLINGS). The Chair, on behalf of the Vice President, appoints the Senator from Alaska (Mr. GRAVEL) as a congressional adviser to the United Nations General Assembly Special Session on Disarmament, to be held in New York City, May 23–June 28, 1978.

FILING OF FEDERAL INCOME TAX RETURNS

Mr. MOYNIHAN. Mr. President, Senator HASKELL has proposed a bill (S. 2747) calling for a study of methods by which individuals could be aided in filing their Federal income tax returns. I join Senator HASKELL in cosponsorship of this bill. There is evidence that many Americans, particularly those in minority groups, do not file returns at all or fail to take all of the deductions and credits to which they are entitled. I am pleased to join in this effort to further simplify our tax laws, so as to help insure that our citizens pay only the taxes that are due.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Environment and Public Works.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 2093. An Act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes; and

S. 2401. An Act to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 1337. An Act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera; and

H.R. 12467. An Act to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes.

At 3:22 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RONCALIO, Mr. UDALL, Mr. RISENHOOVER, and Mr. JOHNSON of Colorado were appointed managers of the conference on the part of the House.

At 4:06 p.m., a message from the House of Representatives by Mr. Hackney, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 624. A concurrent resolution expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express United States opposition to the imprisonment of members of the Soviet Helsinki Groups.

HOUSE BILL REFERRED

The following bill was referred twice by its title and referred as indicated:

H.R. 1337. An Act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera; to the Committee on Finance.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents and papers, which were referred as indicated:

EC–3616. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Regulation of the Commodity Futures Markets—What Needs to Be Done," May 17, 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3617. A communication from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of its final determination in respect to the Gayuga Nation of Indians, Peter Buck and Stewart Jamison, Members and Representatives Thereof, the Seneca-Cayuga Tribe of Oklahoma, Plaintiffs v. The United States, Docket No. 343; to the Committee on Appropriations.

EC–3618. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report of Antideficiency Act violation by the U.S. Coast Guard; to the Committee on Appropriations.

EC–3619. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter January 1, 1978 through March 31, 1978; to the Committee on Appropriations.

EC–3620. A secret communication from the Assistant Secretary of Defense, transmitting, pursuant to law, 51 Selected Acquisition Reports (SARs) and the SAR Summary Tables for the quarter ending March 31, 1978; to the Committee on Armed Services.

EC–3621. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3622. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed letter of Offer to Japan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3623. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Japan for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3624. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to remove chaplains from under the cognizance of the Chief of Naval Personnel; to the Committee on Armed Services.

EC–3625. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3626. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3627. A communication from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee and insurance transactions supported by Eximbank during April 1978 to Communist countries (as defined in Section 620(f) of the Foreign Assistance Act of 1961, as amended); to the Committee on Banking, Housing, and Urban Affairs.

EC–3628. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1977; to the Committee on Banking, Housing, and Urban Affairs.

EC–3629. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses, revenues and expenses of each train operated, and revenues and total expenses attributable to each railroad over which service is provided, for the month of January 1978; to the Committee on Commerce, Science, and Transportation.

EC–3630. A communication from the Legislative Counsel, Department of the Interior, reporting, for the information of the Senate, an error in a draft of proposed legislation to designate certain lands within units of the National Park System as wilderness, transmitted to the Senate on May 11, 1978; to the Committee on Energy and Natural Resources.

EC–3631. A communication from the Secretary of the Interior, transmitting, pursuant to law, an annual report on Federal Coal; to the Committee on Energy and Natural Resources.

EC–3632. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to establish an Urban Park and Recreation Recovery Program, and for other purposes; to the Committee on Energy and Natural Resources.

EC–3633. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to designate certain lands within units of the National Park System as wilderness; to the Committee on Energy and Natural Resources.

EC–3634. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the West Bench Irrigation District of Dillon, Beaverhead County, Montana, for a loan under the Small Reclamation Projects Act of 1956 (70 Stat. 1044, as amended); to the Committee on Energy and Natural Resources.

EC–3635. A communication from the Acting Secretary, Department of Agriculture, transmitting, pursuant to law, an annual report on Animal Welfare Enforcement; to the Committee on Environment and Public Works.

EC–3636. A communication from the Chairman, Nuclear Regulatory Commission, transmitting a draft of proposed legislation to amend Section 234 of the Atomic Energy Act of 1954, as amended, dealing with the Commission's authority to issue civil penalties; to the Committee on Environment and Public Works.

EC–3637. A communication from the Secretary of Health, Education and Welfare, transmitting, pursuant to law, an annual report on the Professional Standards Review Organization program; to the Committee on Finance.

EC–3638. A communication from the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund, transmitting, pursuant to law, their 1978 annual report; to the Committee on Finance.

EC–3639. A communication from the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, their 1978 annual report; to the Committee on Finance.

EC–3640. A communication from the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, their 1978 annual report; to the Committee on Finance.

EC–3641. A communication from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Livestock and Livestock Products, transmitting, pursuant to law, the Committee's report on the Agreement on Trade Matters Between the United States of America and the United Mexican States, signed in Washington, D.C., December 2, 1977; to the Committee on Finance.

EC–3642. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report on personnel actions affecting total NRC full-time permanent employment, which shows the total number of persons hired and promoted during the second quarter of FY 1978; to the Committee on Governmental Affairs.

EC–3643. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Are Enough Physicians of the Right Types Trained in the United States?" May 16, 1978; to the Committee on Governmental Affairs.

EC–3644. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Critical Factors Affecting Saudi Arabia's Oil Decisions," May 12, 1978; to the Committee on Governmental Affairs.

EC–3645. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Administrative Law Process: Better Management Needed," May 15, 1978; to the Committee on Governmental Affairs.

EC–3646. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "States Should be Fully Reimbursed for Interim Assistance to Supplemental Security Income Recipients," May 15, 1978; to the Committee on Government Affairs.

EC–3647. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need To Concentrate Intensive Timber Management on High Productive Lands," May 11, 1978; to the Committee on Governmental Affairs.

EC–3648. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The New Orleans Naval Hospital Should Be Closed and Alternative Uses Evaluated," May 15, 1978; to the Committee on Governmental Affairs.

EC–3649. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "District of Columbia's Rent Establishment Policies and Procedures Need Improvement," May 17, 1978; to the Committee on Governmental Affairs.

EC–3650. A communication from the Executive Officer of the Agency for Volunteer Service, transmitting, pursuant to law, ACTION'S proposed revised System of Records entitled "Combined Domestic and International Volunteer Applicant System, ACTION/DO–8;" to the Committee on Governmental Affairs.

EC–3651. A communication from the Chairman, United States Commission on Civil Rights, transmitting, pursuant to law, a report evaluating the adequacy of the efforts of the Department of Labor to comply with applicable sections of Public Law 94–311 which mandate improvement and expansion of the collection, analysis, and publication of unemployment data on Hispanics; to the Committee on Governmental Affairs.

EC–3652. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a proposed new record system report submitted by the Department of the Air Force; to the Committee on Governmental Affairs.

EC–3653. A communication from the Inspector General of Health, Education, and Welfare, transmitting, pursuant to law, the fourth quarterly report covering the activities of the Office of Inspector General for the period January 1 to March 31, 1978; to the Committee on Human Resources.

EC–3654. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the final report on the National Swine Flu Immunization Program of 1976, covering the period October 1, 1976, to the present; to the Committee on Human Resources.

EC–3655. A communication from the Director of the Central Intelligence Agency, transmitting a draft of proposed legislation to amend the Central Intelligence Agency Act of 1949, as amended, to authorize personnel of the Central Intelligence Agency to carry firearms under certain circumstances; to the Select Committee on Intelligence.

EC–3656. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the Federal Power Commission's final annual submission to Congress concerning the Freedom of Information Act; to the Committee on the Judiciary.

EC–3657. A communication from the Chief Scout Executive, National Office—Boy Scouts of America, transmitting, pursuant to law, the Boy Scouts of America 1977 Annual Report to Congress; to the Committee on the Judiciary.

EC–3658. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, the annual report of the Director for the fiscal year 1977; to the Committee on the Judiciary.

EC–3659. A communication from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend the Controlled Substances Act to extend for one year the authorization of appropriations under that Act for the expenses of the Department of Justice in carrying out that Act; to the Committee on the Judiciary.

EC–3660. A communication from the Director of the National Legislative Commission of the American Legion, transmitting, pursuant to law, statements of financial condition of the American Legion as of December 31, 1977; to the Committee on the Judiciary.

EC–3661. A communication from the Commissioner, Immigration and Naturalization, Department of Justice, transmitting, pursuant to law, orders in the cases of certain aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–643. A resolution adopted by the Arrowhead Counties Association, Duluth, Minnesota, relating to the P.E.R.A. Pension system in the State of Minnesota; to the Committee on Governmental Affairs.

POM–644. A resolution adopted by the Arrowhead Counties Association, Duluth, Minnesota, relating to mine health and safety; to the Committee on Human Resources.

POM–645. A resolution adopted by the Arrowhead Counties Association, Duluth, Minnesota, relating to bridge safety; to the Committee on Environment and Public Works.

POM–646. A resolution adopted by the Arrowhead Counties Association, Duluth, Minnesota, relating to H.R. 8722 relative to the B.W.C.A.; to the Committee on Energy and Natural Resources.

POM–647. A resolution adopted by the Arrowhead Counties Association, Duluth, Minnesota, relating to federal legislation on lobbying; to the Committee on Governmental Affairs.

POM–648. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS TO SUPPORT GRAND JURY REFORM LEGISLATION

"Whereas, The fifth article of the amendments to the Constitution of the United States provides for a grand jury to protect persons from unwarranted prosecutions; and

"Whereas, The grand jury is entrusted with the authority and responsibility to indict only upon probable cause; and

"Whereas, A potential exists for the abuse or misuse of the grand jury by government officials or agencies; and

"Whereas, Such abuse or misuse may result in the harassment and intimidation of persons entitled to the protection of the grand jury and subsequent unwarranted indictments and prosecutions; and

"Whereas, The Congress of the United States is presently considering grand jury legislation in HR 94; now therefore be it

"Resolved, That the Massachusetts Senate respectfully requests the President of the United States and the Congress to support, enact and approve legislation designed to insure the integrity of the grand jury system as embodied in HR 94; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of the Congress, and to the members thereof from this Commonwealth."

POM-649. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Armed Services:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO TAKE SUCH ACTION AS MAY BE NECESSARY TO INSURE THAT ADDITIONAL REGULAR ARMY UNITS ARE ASSIGNED TO FORT DEVENS IN THE COMMONWEALTH

"Whereas, Fort Devens has excellent facilities for the locating and training of regular army units; and

"Whereas, From Fort Devens regular army units could be deployed to Europe in a military emergency; and

"Whereas, Regular army units supply vital support for the reserve and national guard units in New England; now therefore be it.

"Resolved, That the Massachusetts Senate respectfully urges the Congress of the United States to take such action as may be necessary to insure that additional regular army units are assigned to Fort Devens; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Secretary of Defense, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-650. A resolution adopted by the Commonwealth of the State of Massachusetts; to the Committee on Governmental Affairs:

"RESOLUTION URGING THE POSTMASTER GENERAL OF THE UNITED STATES TO ISSUE A STAMP COMMEMORATING GENERAL CASIMIR PULASKI, OF POLAND

"Whereas, Casimir Pulaski, a citizen of Poland, volunteered his services to the Revolutionary Army of George Washington; and

"Whereas, Casimir Pulaski distinguished himself with valor as a general in the American Revolution; and

"Whereas, On October ninth, seventeen hundred and seventy-nine, at the age of thirty-one, Casimir Pulaski died in the cause of American independence while engaged in battle with the enemy at Savannah, Georgia; and

"Whereas, The year nineteen hundred and seventy-nine will mark the two hundredth anniversary of his death; and

"Whereas, Millions of Americans, particularly those of Polish descent, regard Casimir Pulaski as gallant and heroic defender of American liberty; and

"Whereas, A commemorative postage stamp honoring this son of Poland for his contribution to American freedom would be a singularly fitting tribute; now therefore be it

"Resolved, That the Massachusetts Senate urges the Postmaster General of the United States to prepare and cause to be issued in the year nineteen hundred and seventy-nine a postal stamp commemorating the heroism of General Casimir Pulaski and the two hundredth anniversary of his death; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the Postmaster General of the United States and to the members of Congress from the Commonwealth."

POM-651. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Armed Services:

"HOUSE JOINT RESOLUTION NO. 269

"Whereas, the Presidential Unit Citation is awarded to units of the United States Armed Forces which exhibit extraordinary heroism in action against an armed enemy occurring on or after December 7, 1941; and

"Whereas, the 761st Tank Battalion, the first black armored unit in the history of the American Army manning all weapons and vehicles, displayed gallantry, determination, and esprit de corps in rugged fighting during World War II and is thus deserving of this award; and

"Whereas, this exemplary unit followed its motto "Come Out Fighting", making initial contact with the enemy after the Normandy landing and engaging in combat in France, Holland, Belgium, Luxembourg, and Germany; and

"Whereas, the unit blasted its way through Hitler's best panzer divisions, breaking the Siegfried line, which allowed General Patton's Third Army to pour into Germany; and

"Whereas, the 761st endured 183 days of almost continuous violent fighting, under direct fire with no trained tankers to replace casualties because of the then policy of having only segregated units and suffered a casualty rate of over 50 per cent; and

"Whereas, all white units in the same actions got Presidential Unit Citations, including rear-echelon troops and nurses, and Major General E. S. Hughes recommended to General Eisenhower that the 761st receive one, but no action was taken; and

"Whereas, Captain David Williams, commanding officer of the unit during World War II, has written a book Eleanor Roosevelt's Niggers about the exploits of these men who helped to defend the liberty of their country; and

"Whereas, proper recognition of the 761st is long overdue and should be extended now; now, therefore,

"Be it resolved by the House of Representatives of the Ninetieth General Assembly of the State of Tennessee, the Senate concurring, That the United States Congress is urged to take appropriate measures to assure that the 761st Tank Battalion receive the Presidential Unit Citation for its gallant combat record during World War II.

"Be it further resolved, That copies of this Resolution be forwarded to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Tennessee delegation to the Congress of the United States."

POM-652. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Select Committee on Indian Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 2

"Whereas, an identifiable Choctaw-Apache Indian community has existed in the vicinity of Ebarb, in Northwestern Louisiana, since prior to the acquisition of Louisiana by the United States, as evidenced by the fact that this area was known as the "Choctaw District" in colonial times; and

"Whereas, an identifiable Lipan Apache Indian community settled near Natchitoches (Los Adaes) on the "upper" Sabine and intermarried with the Choctaw Indian community.

"Whereas, the Choctaws of Louisiana were a constituent part of the Choctaw Nation which was recognized by and entered into treaty relationships with Spain, France, and the United States, and in particular, the Treaty of January 3, 1786 (7 Stat. 21) with the United States; and

"Whereas, federal officials in the first years after the Louisiana Purchase recognized the Choctaw Indians of Louisiana as a distinct self-governing Indian community; and

"Whereas, The Congress of the United States has heretofore appropriated federal funds which were earmarked for the education of the Choctaws at Ebarb, Louisiana, thus recognizing the Choctaw-Apaches and affiliated Tribes of Northwestern Louisiana as Indians eligible for special federal services for Indians; and

"Whereas, it is the policy of the state of Louisiana to recognize the Indian Tribes within the borders of the state, and to support their aspirations for the preservation of their cultural heritage and the improvement of their economic conditions, and to assist them in achieving their just rights.

"Therefore, be it resolved by the House of Representatives and the Senate of the Legislature of Louisiana thereof concurring, that the state of Louisiana formally recognizes the Choctaw-Apache Indian community and affiliated tribes of Northwestern Louisiana at Ebarb, Louisiana, as an Indian Tribe.

"Be it further resolved that the Government of the United States of America, and particularly the Bureau of Indian Affairs, is hereby memorialized, requested and urged to take such steps as are necessary to effect in the near future formal recognition of the Choctaw-Apache Indian community at Ebarb, Louisiana, and to acknowledge that the rights of the Choctaw-Apache and Affiliated Tribes of Northwestern Louisiana, are no less, if not indeed greater, than that of other Indian Tribes in the United States, and thereupon to take appropriate executive and/or congressional action.

"Be it further resolved that copies of this Resolution shall be transmitted to the President of the United States, the presiding officers of the Senate and the House of Representatives of the Congress of the United States, and the Director of the Bureau of Indian Affairs, United States Department of the Interior."

POM-653. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Select Committee on Indian Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 13

"Whereas, an identifiable Choctaw Indian community has existed in the vicinity of Mora, Louisiana, antecedent to the acquisition of Louisiana by the United States, as evidenced by the fact that this area was known as the "Choctaw District" in colonial times; and

"Whereas, the Choctaws of Louisiana were a constituent part of the Choctaw Nation which was recognized by and entered into treaty relationships with Spain, France, and the United States, and in particular, the Treaty of January 3, 1786 (7 Stat. 21) with the United States; and

"Whereas federal officials in the first years after the Louisiana Purchase recognized the Choctaw Indians of Louisiana as a distinct self-governing Choctaw community; and

"Whereas, the Congress of the United States has heretofore appropriated federal funds earmarked for the education of the Choctaws at Mora, Louisiana, thus recognizing the Clifton Choctaws as Indians eligible for special federal funds for Indians; and

"Whereas, it is the policy of the State of Louisiana to recognize the Indian tribes within the borders of the state, and to support their aspirations for the preservation of

their cultural heritage and the improvement of their economic conditions, and to assist them in achieving their just rights.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the state of Louisiana formally recognizes the Choctaw Indian community at Mora, Louisiana, as an Indian tribe.

"Be it further resolved that the government of the United States of America, and particularly the Bureau of Indian Affairs, is hereby memorialized, requested and urged to take such steps as are necessary to effect, in the near future, formal recognition of the Clifton Choctaw Community at Mora, Louisiana, and to acknowledge that the rights of the Choctaws are no less, if not indeed greater, than those of other Indian tribes in the United States, and thereupon to take appropriate executive and/or congressional action.

"Be it further resolved that copies of this Resolution shall be transmitted to the President of the United States, the presiding officers of the Senate and the House of Representatives of the Congress of the United States, and the director of the Bureau of Indian Affairs, United States Department of the Interior."

POM–654. A resolution adopted by the Board of County Commissioners of St. Louis County, Minn., relative to mine safety and health; to the Committee on Human Resources.

POM–655. A joint memorial adopted by the Legislature of the State of New Mexico; to the Committee on Energy and Natural Resources:

"SENATE JOINT MEMORIAL 2

"Whereas, the acknowledged energy crisis in this nation demands the early development of new, domestic, renewable energy resources; and

"Whereas, geothermal energy, based on existing data, has been shown to be a potentially significant means of generating environmentally sound, economic, electric energy; and

"Whereas, New Mexico's Valles Caldera has been identified as a major reservoir of substantial geothermal energy potentially suitable for commercial development; and

"Whereas, studies have established the feasibility of the hydrothermal flashed-steam energy conversion process as well as its advantages over other processes for the reservoir conditions in New Mexico; and

"Whereas, the development of geothermal resources and the associated high risk technology can best be accomplished through a cooperative effort by industry and local, state and federal governments;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the Congress of the United States, the President of the United States and the U.S. Department of Energy are asked to assure immediate federal funding for a hydrothermal flashed-system energy conversion demonstration power plant in New Mexico; and

"Be it further resolved that copies of this memorial be transmitted to the President and Vice President of the United States, to the Secretary of Energy, to the Speaker of the United States House of Representatives and to New Mexico's delegation to the Congress of the United States."

POM–656. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Human Resources:

"HOUSE RESOLUTION No. 471

"Whereas, the responsibility for financing public assistance programs is presently shared by the State and Federal governments; and

"Whereas, this arrangement has produced wide variations among the states and local jurisdictions in the quality and levels of public assistance programs provided therein; and

"Whereas, the financial burdens borne by state and local governments are distributed inequitably, often with the least financially able being required to assume the heaviest load; and

"Whereas, an individual may be eligible for substantially different amounts of public assistance depending upon the state or local jurisdiction in which an individual resides; and

"Whereas, the existence of these discrepancies circumvents a basic principle of the public assistance program, which is to ensure a decent standard of living to all citizens of the United States, and to permit all needy citizens to apply for government aid up to a minimum standard; and

"Whereas, assumption of total financial responsibility for the public assistance program by the Federal government appears to be the best means of ensuring a uniform level of assistance; now, therefore,

"Be it resolved by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, that the United States Congress be requested to enact appropriate legislation to transfer total responsibility for financing public assistance programs to the Federal government; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the United States Congress, and to each member of Hawaii's Congressional delegation."

POM–657. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 1661

"Whereas, Annually the United States moves more deeply in debt as its expenditures exceed its available revenues and the public debt now exceeds hundreds of billions of dollars; and

"Whereas, Annually the federal budget demonstrates the unwillingness or inability of the federal government to spend in conformity with available revenues; and

"Whereas, Proper planning, fiscal prudence and plain good sense require that the federal budget be in a balance absent national emergency; and

"Whereas, A continuously unbalanced federal budget except in a national emergency causes continuous and damaging inflation and consequently a severe threat to the political and economic stability of the United States; and

"Whereas, Under Article V of the Constitution of the United States, amendments to the Constitution may be proposed by the Congress whenever two-thirds of both Houses deem it necessary or, on the application of the legislatures of two-thirds of the states, the Congress shall call a constitutional convention for the purpose of proposing amendments: Now, therefore,

"Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the Senate and two-thirds of the members elected to the House of Representatives concurring therein: That the Congress of the United States is hereby requested to propose and submit to the states an amend- to the Constitution of the United States which would require that within five years after its ratification by the various states, in the absence of a national emergency, the total of all appropriations made by the Congress for a fiscal year shall not exceed the total by all estimated federal revenues for such fiscal year; and

"Be it further resolved: That, alternatively the Legislature of the State of Kansas hereby makes application to the Congress of the United States to call a convention for the sole and exclusive purpose of proposing an amendment to the Constitution of the United States which would require that, in the absence of a national emergency, the total of all appropriations made by the Congress for a fiscal year shall not exceed the total of all estimated federal revenues for such fiscal year. If the Congress shall propose such an amendment to the Constitution, this application shall no longer be of any force or effect; and

"Be it further resolved: That the legislature of each of the other states in the Union is hereby urged to request and apply to the Congress to propose, or to call a convention for the sole and exclusive purpose of proposing, such an amendment to the Constitution; and

"Be it further resolved: That the Secretary of State be directed to transmit copies of this resolution to the Clerk of the United States House of Representatives, the Secretary of the United States Senate, each member of the Kansas delegation in the United States Congress and the secretary of state and presiding officers of each house of the legislature of each state."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. 3112. An original bill to amend the act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building (Rept. No. 95–906).

S. Res. 458. An original resolution to pay a gratuity to Arthur R. Tucker; placed on the calendar.

S. Res. 459. An original resolution to pay a gratuity to Ethel M. Misner; placed on the calendar.

S. Res. 460. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3112; referred to the Committee on the Budget.

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. 415. A bill to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn (Rept. No. 95–907).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHILES:

S. 3106. A bill for the relief of Debbie Agatta Hepburn; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 3107. A bill to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mrs. HUMPHREY, and Mr. ABOUREZK):

S. 3108. A bill to provide for the protection of Government employees who disclose information of illegal or improper actions within the Government; to the Committee on Governmental Affairs.

By Mr. HATCH:

S. 3109. A bill for the relief of Ricardo Rosas Salazar; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 3110. A bill providing for the extension of patent numbered D–119,187; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. PACKWOOD):

S. 3111. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Finance.

By Mr. PELL (from the Committee on Rules and Administration):

S. 3112. A bill to amend the act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building; original bill reported and placed on the calendar.

By Mr. HELMS:

S. 3113. A bill to provide for consideration by the U.S. Executive Directors of international financial institutions of the adverse effect of the financial transactions of such institutions on U.S. industries, including agriculture, and employment; to the Committee on Foreign Relations.

By Mr. HATCH:

S. 3114. A bill for the relief of Shavji Purshottam Dusara, Vasanti Mohanlal Gajjar Dusara, and their three children. Shareed, Mehul, and Saloni Dusara; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CHAFEE, Mr. RANDOLPH, Mr. PELL, Mr. RIEGLE, Mr. MCGOVERN, Mr. HART, and Mr. LEAHY):

S. 3115. A bill to establish a comprehensive disease prevention and health promotion program in the United States; to the Committee on Human Resources.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CHAFEE, Mr. RANDOLPH, Mr. PELL, Mr. CRANSTON, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. MCGOVERN, Mr. HART, and Mr. LEAHY):

S. 3116. A bill to amend the Public Health Service Act to provide assistance through formula and project grants for prevention health programs, and for other purposes; to the Committe on Human Resources.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CHAFEE, Mr. RANDOLPH, Mr. PELL, Mr. RIEGLE, Mr. MCGOVERN, Mr. HART, and Mr. LEAHY):

S. 3117. A bill to amend the Food, Drug, and Cosmetic Act to require nutritional labeling of all foods, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 3118. A bill to create programs designed to promote health through smoking deterrence; to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources, the Committee on Environment and Public Works, and the Committee on Finance, jointly, by unanimous consent.

By Mr. EAGLETON:

S. 3119. A bill to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; to the Committee on Governmental Affairs.

S. 3120. A bill to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 3107. A bill to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy; to the Committee on the Judiciary.

● Mr. DECONCINI. Mr. President, I am introducing a bill today that will clarify a section of the Bankruptcy Act to insure that all personnel that are authorized to be under the supervision of the bankruptcy judge, in fact, remain under his control and are not pirated away by the district court for nonbankruptcy work.

In 1946 Congress amended section 40(c) of the Bankruptcy Reform Act, 11 U.S.C. section 68(c), to create in the Treasury of the United States trust funds into which are paid charges assessed against bankrupt estates and a portion of the filing fee in each bankruptcy case. See public law 464, 79th Congress, (c) 512, second session, approved June 28, 1946.

The salaries of bankruptcy judges and their expenses, including the salaries of their clerical assistants, are paid out of moneys assessed against bankrupt estates and covered into the Treasury of the United States for the account of these trust funds, and out of such additional moneys as Congress may appropriate for these trust funds. See Senate report No. 959, 79th Congress, second session, February 15, 1946; United States Code Congressional Service, 79th Congress, page 1231. It was the intention of Congress that bankruptcy offices which are supported out of moneys appropriated for these trust funds be maintained separate and apart from the offices of the U.S. district court clerk and that clerical assistants of bankruptcy judges whose salaries are paid out of trust fund money be utilized exclusively in the processing of bankruptcy cases. Otherwise, it would have been unconscionable to assess bankrupt estates and ultimately creditors for the salaries of these clerks.

In recent years a number of U.S. district courts have entered orders of consolidation directing that clerical assistants of bankruptcy judges be integrated into the staff of U.S. district court clerk and placed under the supervision of the clerk. In these offices bankruptcy clerks who are paid out of moneys generated by assessments against bankrupt estates have been assigned to work in other areas of court administration such as passports, naturalization, and in the maintenance of dockets in civil and criminal cases. This has occurred during a period of great increase in the bankruptcy filings and while the bankruptcy court staffs were hard pressed with work of their own to perform. During the course of hearings on bankruptcy reform legislation, there was extensive testimony to the effect that these office consolidations are jeopardizing the efficiency of the bankruptcy courts. It is my opinion that consolidation of clerical staffs violates both the letter and spirit of earlier congressional directives and works a great disservice to parties before the bankruptcy courts.

I have today introduced a bill to clarify the 1946 amendments to the Bankruptcy Act so as to reiterate the intention of Congress that bankruptcy offices shall be maintained separate and apart from the offices of the U.S. district court clerk in that bankruptcy cases.

The bill reemphasizes the authority of the bankruptcy judge to employ, direct, and remove assistants and precludes the Director of the Administrative Office of the U.S. Courts from using funds appropriated for the operation of the bankruptcy system to pay the salaries of clerical assistants who are not utilized exclusively in the processing of bankruptcy cases under the direct supervision of the bankruptcy judge.

This legislation is intended to preserve the separateness and efficiency of the bankruptcy courts during the period of transition to the new bankruptcy court system proposed in the bankruptcy reform legislation now pending in Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (2) and (3) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102 (a) (2) and (3)) are amended to read as follows:

"(2) The actual and necessary office and other expenses of referees shall be authorized and approved by the Director, including compensation of clerical, stenographic and other assistants of referees at rates fixed by the Director, at rates not less than the rates for comparable services prevailing in the respective offices of the clerks of the several district courts, and the costs of establishing and maintaining their offices with equipment and supplies, adequate for their efficient and economical operation, including mechanical equipment and devices and law libraries. Such expenses may be allowed when authorized by a judge of the judicial district or districts in which a referee serves in cases of emergency where it is not feasible to secure prior authorization of the Director.

"(3) When, in the opinion of the Director, the public interest requires it, he may, on the recommendations of a referee, which recommendation shall state facts showing the necessity for the same, allow the referee to employ necessary clerical, stenographic, and other assistants. All employees of the referee shall be utilized under the direct supervision of the referee exclusively in the processing of bankruptcy cases. The referee may at his pleasure remove any assistant in his employ. The authority of the referee to employ, direct and remove assistants may not be exercised by anyone other than the referee. The Director may utilize funds collected or appropriated for the referees' salary fund and the referees' expense fund pursuant to section 40c of this Act, to pay the salaries of only such clerical, stenographic, or other assistants as are employed under the direct supervision of the referee in the office of the referee: *Provided, however,* salaries of the employees of the Bankruptcy Division of the Administrative Office of the United States Courts may also be paid out of such funds. If the office of the referee shall become vacant, the employment of his assistants shall not thereupon be terminated: *Provided, however,* That during such vacancy the Director may terminate the employment of any assistant, if, in his opinion, the services of such assistant are no longer needed."

By Mr. LEAHY (for himself, Mrs. HUMPHREY, and Mr. ABOUREZK):

S. 3108. A bill to provide for the protection of Government employees who disclose information of illegal or improper actions within the Government; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE PROTECTION ACT OF 1978

● Mr. LEAHY. Mr. President, today, along with Senators HUMPHREY and ABOUREZK I am introducing the Federal Employee Protection Act of 1978.

This measure is designed to encourage Federal employees, to speak out when they witness governmental waste, inefficiency and illegality. It is also designed to protect employees who make such disclosures.

Mrs. HUMPHREY will be offering an amendment to the Civil Service Reform Act, S. 2640, which incorporates the basic principles and objectives of this bill into that measure with appropriate language and provision revisions to fit that bill. Mrs. HUMPHREY's amendment will include some provisions different from the bill we are introducing today.

The Reform Act is the logical place for the type of provisions outlined in this bill. However, the need for this legislation is so great, that if the Congress fails to pass the Civil Service Reform Act, I hope the Congress will consider passing a separate, specific statute to deal with whistleblowers. To that end my colleagues and I offer this proposal.

For nearly a year my office has been reviewing what happens to a Federal employee who "blows the whistle." We have looked at nearly 150 individual cases. We have spoken with whistleblowers, their fellow employees, supervisors, agency heads, civil service officials and representatives from the private sector. Last December I released a comprehensive study on the scope of the whistleblower's issue. On the basis of this effort, I am convinced that Congress must act expeditiously and decisively to provide relief for these employees.

The bill we are introducing today will provide Federal employees with a safe, confidential, and expeditious mechanism to ensure that substantiated allegations of Government wrongdoing are investigated.

The bill is designed to complement the administration's Civil Service Reform Act. Therefore, the special counsel of the Merit Systems Protection Board—which is established under the act—would also serve as the recipient of employee allegations.

Federal employees who are aware of wrongdoing do not feel comfortable or safe in complaining within their own agencies. Unfortunately, the history of those who do stay within their agency supports the need for a separate, independent agency to receive complaints.

Upon receipt of such an allegation, the special counsel shall conduct, within 15 days, a preliminary investigation to determine if the allegation has merit.

Frivolous complaints will be terminated with no further action by the special counsel or the agency. A decision not to proceed with an investigation is appealable to MSPB. Allegations which appear to have merit will be referred to the appropriate agency head for further investigation and resolution.

The agency investigation should be completed within 30 days—there is an additional 15-day period available—and findings of facts and proposed remedies are forwarded to the special counsel.

A representative from the special counsel will monitor the agency's consideration and investigation of a complaint. Monitoring does not mean interference and the special counsel's representative will have no official say in either the procedure or findings of an agency inquiry. However, the representative will have unrestricted access to the files, meetings, written and oral communications regarding the inquiry.

If the special counsel believes, at anytime, that the agency's inquiry is being "improperly conducted" then he/she has the authority to terminate the agency inquiry and take over the substantive investigation within the special counsel's office.

After an investigation, whether by agency (rule) or by the special counsel (exception), the special counsel may in personnel issue cases order any action recommended by agency head or determined by the special counsel to be necessary. This might include reinstatement, removal, payment of actual damages, et cetera.

In the case of substantial allegation of "illegal or improper" activity, the special counsel may order such remedies as are recommended by agency head or seem appropriate.

All decisions made by the special counsel are appealable with full due process to the MSPB.

Employees who make disclosures to the special counsel are protected in various ways. Whenever possible the identity of a complainant would be covered as a prohibited disciplinary act which can be brought to the attention of the special counsel for immediate injunctive-type relief and hearing procedures.

It will not be necessary to create a large, bureaucratic, or expensive special counsel's office to handle these additional responsibilities. In addition, the return on the dollar in terms of economy, efficiency and morale will be very high.

The Congress must show that it is sincere about encouraging the reporting, rather than covering up, of illegal and improper Federal activity. Our political system is strong enough to survive the disclosure, investigation and resolution of internal problems.

The strength of any system, or government, can be gaged by the amount of criticism it allows and the number of self-improvement mechanisms it includes. A strong system will encourage internal mechanisms for the early identification and resolution of problems or abuses within the system. In fact, one of the key factors of a strong system is its ability to anticipate problems, to actually plan for them—and their resolution—rather than be surprised by them.

With nearly 3 million employees, innumerable agencies, offices, departments, procedures, processes, forms, systems, and whatever, we have to expect that there will be problems within the Federal Government. There will be waste and inefficiency and, from time to time there will even be illegal activity. It would be nice if this were not true, but it is and we should accept that as fact and prepare for it.

We cannot eliminate the internal problems, but through a strong, sincere, internal mechanism to receive and investigate allegations of improprieties, we can minimize these problems. Through the encouragement of employee disclosure and the reaffirmation of the public servant's first loyalty being to the people, we can identify and act as quickly as possible and thereby keep the problems from becoming catastrophes.

At the core of the whistleblower issue is a question of the Federal Government's responsibility to the people. The disclosure of waste and abuse by government officials should be seen as a sincere commitment to make this Government more responsive to the people's needs and more worthy of their trust.

If the bureaucracy were able to receive allegations of potential wrongdoing in an adept manner and concentrate on the allegations and not the employee who made them, it could resolve problems where they do exist. Everyone could return to their normal jobs and there would be no need for whistleblowing. Rather than becoming a grave act taken outside the stream of official conduct, the disclosure of these problems in a manner designed to insure that they are resolved would actually become an accepted part of the process. Whistleblowing would be institutionalized.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employee Protection Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that:

(a) American citizens have a right to know how their government works in order to understand and consider public issues in an enlightened manner, in order to be able to ascertain how Federal moneys are spent and in order to ensure that the Federal bureaucracy, accountable to the citizenry, does not act in an illegal or improper fashion.

(b) Employees of the Government of the United States risk substantial damage to their careers, possible loss of their livelihoods, and other severe forms of reprisal if such employees disclose information to the Congress and the public about improper or illegal action within Federal agencies by employees of such agencies.

(c) Existing laws, rules, and regulations, and practices relating thereto, do not adequately define and protect the right of Federal employees to provide information to Congress, Federal agencies and the public and have detrimental effects on the employees, the Federal agencies, the Congressional oversight process, the public's right to know, and public policy as a whole.

(d) It is necessary that a program be established to inform and educate employees to impress upon each employee the responsibility to tell and act upon the truth and to exercise, without fear of reprisal, all rights guaranteed under the Constitution.

(e) Employees of the Government of the United States should be unequivocally protected during any period during which they

are challenging actions of the Government taken in reprisal for the proper disclosure by them of illegal or improper actions within the Government.

(f) It is necessary that Congress establish protections of such employee rights and establish effective remedies and sanctions to be applied in cases of denial or abuse of such rights.

PROTECTION OF EMPLOYEE RIGHTS

Sec. 3. (a) Title 5, United States Code, is amended by adding after chapter 77 the following new chapter:

"Chapter 78—PROTECTION OF EMPLOYEE RIGHTS

"Subchapter I—Policy and Coverage

"Sec.
"7801. Policy.
"7802. Definitions.

"Subchapter II—Merit Systems Protection Board and Special Counsel
"7811. Merit Systems Protection Board; appointment of members.
"7812. Terms of office; filling vacancies; removal.
"7813. Powers and functions; authority of office.
"7814. Special Counsel; appointment and removal; responsibilities and authority.

"Subchapter III—Procedures Involving Prohibited Disciplinary Actions
"7821. Prohibition of certain disciplinary action; exceptions.
"7822. Initial procedure upon complaint.
"7823. Agency investigations.
"7824. Procedure after investigation.

"Subchapter IV—Appeals
"7831. Appeals to Merit Systems Protection Board.
"7832. Judicial review.

"Subchapter V—Classified and Other Information
"7841. Classified and other information; procedures.
"7842. Penalties.

"Subchapter VI—Related Provisions
"7851. Participation in hearings.
"7852. Attorneys fees; costs; court appointment of attorneys.
"7853. Collection of amounts paid by United States.
"7854. Authority of law enforcement agencies.

"Subchapter I—Policy and Coverage

"§ 7801. Policy

"It is the policy of Congress that Federal employees should be encouraged to disclose, to the extent not expressly prohibited by statute, illegal or improper government actions.

"§ 7802 Definitions

"For the purpose of this chapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) a military department;

"(C) the Executive Office of the President of the United States; and

"(D) the United States Postal Service and the Postal Rate Commission.

"(2) 'disciplinary action' means any direct or indirect form of discipline, penalty or threat including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, reprimand, admonishment, warning of possible dismissal, reduction-in-force, reduction-in-rank, reduction-in-status, fitness for duty examination, or withholding of work;

"(3) 'Board' means the Merit Systems Protection Board;

"(4) 'Special Counsel' means the head of the Office of Special Counsel of the Merit Systems Protection Board;

"(5) 'employee' means an individual employed or holding office in any agency; and

"(6) 'illegal or improper action' means any action which violates any law, rule, or regulation, or which compromises in any manner the integrity of the civil service, including, but not limited to, misfeasance, malfeasance, corruption, and waste.

"Subchapter II—Merit Systems Protection Board and Special Counsel

"§ 7811. Merit Systems Protection Board; appointment of members

"There is established, as an independent establishment of the executive branch of the Government of the United States, a Merit System Protection Board to be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, not more than 3 of whom may be adherents of the same political party and none of whom may hold another office or position in any branch or authority of the Government of the United States. No individual shall be appointed as a member who is not qualified to review information described in section 7821(b)(4) of this title. The President shall from time to time designate one of the members as the Chair of the Board. The Chair shall be the Chief executive and administrative officer of the Board. The members shall from time to time appoint a Vice Chair.

"§ 7812. Term of office; filling vacancies; removal

"(a)(1) The term of office of each member of the Board is 5 years. A member may not be reappointed to any following term but may serve until the earlier of the thirtieth day following the expiration of such term or the day on which a successor has been appointed and qualified.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which has predecessor was appointed shall be appointed for the remainder of such term. The appointment is subject to subsection (a) of this section and section 7811 of this title, except that if less than one-half of the term for which the member was appointed is remaining at the time of the appointment, the member may be reappointed to a following term.

"(b) A member may be removed by the President, upon notice and hearing, only for misconduct, neglect of duty, or malfeasance in office.

"§ 7813. Powers and functions; authority of office

"(a) The Board shall, through the Office of Special Counsel, receive and investigate complaints made under oath from any person claiming that—

"(1) an employee is subject to a disciplinary action prohibited by section 7821 of this title; or

"(2) any employee or agency is engaged in any illegal or improper action.

"(b) the Board may—

"(1) appoint and fix the compensation of such officers and employees, and make such expenditures, as may be necessary to carry out its functions under this chapter;

"(2) prepare and publish in the Federal Register written rules for the conduct of its activities;

"(3) have an official seal which shall be judicially noticed; and

"(4) have its principal office in or near the District of Columbia and field office in any other appropriate location.

"(c) All decisions of the Board with respect to the exercise of its duties and powers under the provisions of this chapter shall be made by a majority vote of the members of the Board present and voting. Three members shall constitute a quorum for the transaction of business under this chapter.

"(d) The Board shall establish and maintain a program to disseminate information to agencies and employees explaining the rights of employees to speak out without fear of harassment and educating such employees about the provisions of this chapter.

"(e) The Board shall establish an office for the counseling of any employee who questions the propriety or legality of any agency or employee action. No person shall disclose the identity of any employee who seeks such counseling. Any violation of the prohibition against such disclosure shall be punishable by a fine of not more than $5,000, or not more than one year in jail, or both.

"(f) The Board shall submit, not later than March 1 of each year, to the Senate and House of Representatives, respectively, a report on its activities under this chapter during the immediately preceding calendar year, including a statement concerning the nature of all complaints filed with it, its determinations and orders resulting from hearings thereon, and the names of employees with respect to whom any penalties have been imposed under this chapter.

"(g) Any member of the Board, the Special Counsel, a hearing examiner appointed under section 3105 of this title, or any employee of the Board authorized by the Board may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place, administer oaths, take or order the taking of depositions, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpena, the Special Counsel may petition any United States District Court for an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence and in the case of contumacy or failure by the head of an agency, the Special Counsel may take such action as is provided under section 7824(c) of this title until such time as the head of the agency complies with the subpena. Any failure to obey the order of the court may be punished by the court as a contempt thereof. Witnesses shall be paid the same fee and mileage expenses that are paid witnesses in the courts of the United States.

"§ 7814. Special Counsel; appointment and removal; responsibilities and authority

"(a) There is in the Board the Office of Special Counsel. The Special Counsel shall be an attorney and individual qualified to review information described in section 7821(b)(4) of this title appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The Special Counsel may be removed by the President, upon notice and hearing, only for misconduct, neglect of duty, or malfeasance in office. The Special Counsel may not be reappointed to a following term but may continue to serve until the earlier of the thirtieth day following the expiration of such term or the day on which a successor is appointed and has qualified. Any individual appointed to fill a vacancy shall serve the remainder of the term of the predecessor, except that if less than one-half of the term for which the individual was appointed is remaining at the time of the appointment, the individual may be reappointed to a following term.

"(b) The Special Counsel shall be the independent investigatory arm of the Board. The Special Counsel may take such actions as may be necessary to carry out the functions of the Special Counsel under this chapter including appointing, and fixing the compensation of, employees within the Office, and making such expenditures, as may be necessary to carry out the functions of the Office.

"Subchapter III—Procedures Involving Prohibited Disciplinary Actions

"§ 7821. Prohibition of certain disciplinary action; exceptions

"(a) Disciplinary action shall not be taken against any employee for providing information to Congress, to any agency, or to the public concerning an action of any agency or any other employee which the employee reasonably believes to be illegal or improper.

"(b) Except as provided in subsection (c), subsection (a) shall not apply to the release of any information—

"(1) that is knowingly false or made with a reckless disregard for its truth or falsity;

"(2) from any personnel, medical, or similar files which, if disclosed, would constitute a clearly unwarranted invasion of privacy;

"(3) described in section 552b(c)(7) of this title;

"(4) specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs and in fact properly classified pursuant to such Executive Order; or

"(5) which is expressly prohibited by statute from being released.

"(c) Subsection (a) shall apply to an employee who provides information described in subsection (b) to—

"(1) the Congress, or

"(2) the Board, the Special Counsel, any court of the United States, any agency, or any employee thereof, under the procedures established under subchapter V of this chapter.

"§ 7822. Initial procedure upon complaint

"(a) If the Special Counsel receives a complaint under oath, or has reason to believe, that an employee—

"(1) has taken, or is about to take, any disciplinary action prohibited under section 7821 of this title, or

"(2) has engaged in, or is about to engage in, any illegal or improper action,

the Special Counsel shall within 15 days of receipt of such complaint or information leading to such belief conduct such preliminary investigation of the matter as is appropriate. In conducting such investigation the Special Counsel shall not disclose the identity of the person filing the complaint.

"(b)(1) If, after a preliminary investigation under subsection (a), the Special Counsel determines that no further investigation, prosecution, or administrative action is warranted, the Special Counsel shall so notify, in writing, the complainant (and any employee, other than the complainant, who is subject to such prohibited disciplinary action) and the head of each agency involved of all information received, the results of the preliminary investigation with regard to each allegation of a prohibited disciplinary action under section 7821 of this title, or of illegal and improper activity, and the determination made by the Special Counsel under this paragraph.

"(2) If, after such preliminary investigation, the Special Counsel determines that further investigation is warranted, the Special Counsel shall so notify the complainant (and any employee, other than the complainant, who is subject to such prohibited disciplinary action) and the head of the agency involved.

"(3) At the same time as the Special Counsel notifies each party under paragraph (1) or (2), the Special Counsel shall make available to the Congress and to the public the results of the preliminary investigation conducted under subsection (a) together with any information the Special Counsel deems necessary to keep the Congress and the public informed. However, the Special Counsel shall not disclose to the public any information described in section 7821 (b) of the title or the identity of any employee unless the employee consents to such disclosure.

"(c)(1) Upon a preliminary showing under subsection (a) that a disciplinary action prohibited under section 7821 of this title has been, or is about to be, taken, the Special Counsel may—

"(A) stay in whole or in part such disciplinary action, or

"(B) grant such other temporary relief as may be appropriate.

"(2) The Special Counsel may continue any stay or temporary relief granted under paragraph (1) during the period an investigation is being conducted under section 7823 (a)(2) or (d) of this title and during the period an appeal is pending under section 7831 or 7832 of this title.

"§ 7823. Agency investigations

"(a) Upon receipt of a notice under section 7822 (b)(2) of this title that further investigation is warranted, the head of the agency shall—

"(1) Within 5 days of receiving the notice submit to the Special Counsel a proposal for conducting an investigation of such matter, and

"(2) within 30 days of receiving the notice conduct the investigation and report to the Special Counsel as provided under subsection (b) of this section.

The Special Counsel may, prior to the expiration of the 30 day period under paragraph (2) and upon request of the head of the agency, extend such period for 15 days.

"(b) Upon completion of the investigation conducted under subsection (a)(2) of this section, the head of the agency shall report in writing to the Special Counsel the results of such investigation. Such report shall include, but not be limited to—

"(1) determinations as to whether—

"(A) disciplinary action prohibited under section 7821 of this title was taken or attempted, and

"(B) any illegal or improper action was engaged in or attempted;

"(2) detailed findings of fact;

"(3) any statutory or other authority for any action alleged to be illegal or improper but which the head of the agency determines was authorized;

"(4) all supporting evidence and materials which the head of the agency relied on in making any finding of fact or in making any determination; and

"(5) proposed remedies including recommendations with respect to restoration of employment status and payment of damages to aggrieved employees and disciplinary actions against any employee;

"(c) The Special Counsel shall assign an employee of the Office of Special Counsel to monitor any investigation conducted under subsection (a)(2) of this section. The employee shall have access to any individual involved in such investigation, to all records, reports, audits, reviews, documents, papers, recommendations, or other material relating to such investigation, and to all other information concerning such investigation the employee finds necessary to carry out the functions of such employee under this subsection. The employee monitoring the investigation shall—

"(1) report weekly to the Special Counsel on the progress of the investigation;

"(2) submit to the Special Counsel any comments such employee has on the report filed under subsection (b) of this section; and

"(3) report immediately to the Special Counsel if the employee believes the investigation is being improperly conducted.

"(d)(1) If the Special Counsel determines that an investigation under subsection (a)(2) of this section is being improperly conducted, or if the head of any agency fails to complete an investigation within the time prescribed in such subsection, the Special Counsel shall terminate such investigation and conduct an investigation within 30 days of such termination.

"(2) If any matter involves allegations that the head of the agency was involved in any illegal, improper, or prohibited action, the provisions of subsections (a), (b), and (c) of this section shall not apply and the Special Counsel shall conduct an investigation within 30 days after a determination under section 7822(b)(2) of this title.

"(e) If any investigation under this section involves information described in section 7821(b)(4) of this title, access to such information shall be limited to individuals qualified to review such information.

"§ 7824. Procedure after investigation

"(a) If the Special Counsel concurs in the determination of the head of an agency contained in the report submitted under section 7823 of this title that an employee—

"(1) has taken, or attempted to take, any disciplinary action prohibited under section 7821 of this title, the Special Counsel may—

"(A) order any remedy recommended by the head of the agency;

"(B) order restoration of an aggrieved employee to the status existing prior to such disciplinary action;

"(C) order the payment of the aggrieved employee of any actual damages caused by such disciplinary action;

"(D) take such actions as are provided under subsections (c) and (d); or

"(E) order any other remedy the Special Counsel determines appropriate to compensate fully the aggrieved employee, or

"(2) has engaged in, or attempted to engage in, any illegal or improper action, the Special Counsel—

"(A) shall refer any apparent criminal violation to the Attorney General,

"(B) may order such remedies as recommended by the head of the agency,

"(C) may order such corrective actions and remedies as are appropriate, or

"(D) may take such actions as are provided under subsection (c) or (d).

"(b) If the Special Counsel fails to concur in the head of an agency's report because it is unsubstantiated by substantial evidence on the record considered as a whole, or if the Special Counsel conducts an investigation under section 7823(d), and the Special Counsel finds that an employee—

"(A) has taken, or attempted to take, any disciplinary action prohibited under section 7821 of this title, the Special Counsel may take any action described in subparagraphs (B) through (E) of subsection (a)(1) of this section, or

"(B) has engaged in, or attempted to engage it, any illegal or improper action, the Special Counsel—

"(i) shall refer any apparent criminal violation to the Attorney General, and

"(ii) may take any action described in subparagraphs (C) and (D) of subsection (a)(2) of this section.

"(C) The Special Counsel shall notify the head of each agency involved of any order issued or action taken under subsection (a) or (b). The head of the agency shall take the corrective action ordered by the Special Counsel under this section within 30 days after such order is issued. If the head of the agency fails to comply with the order of the Special Counsel, the Special Counsel—

"(1) shall certify such failure to the comptroller General of the United States and no payment shall be made from the Treasury of the United States for services rendered by the head of the agency during the period beginning on the day after such 30-day period and ending on the day such action is taken; and

"(2) may take such action against the head of the agency as is provided under subsection (d).

"(d)(1) The Special Counsel may file with the Board disciplinary charges against any

employee who has taken, or attempted to take, a disciplinary action prohibited under section 7821 of this title, or who engaged in, or attempted to engage in, any illegal or improper action.

"(2) Any employee with respect to whom a disciplinary charge has been filed under paragraph (1) shall be entitled to a hearing on the record before the Board or a hearing examiner appointed under section 3105 of this title. The final decision shall be made by the Board which may impose disciplinary action including removal, demotion, debarment from Federal employment for a period not exceeding five years, suspension, reprimand, or a civil penalty not to exceed $25,000.

"(e) The Special Counsel shall make available to the Congress and to the public any determination under subsection (a) (or (b), or any determination by the Special Counsel which concurs in the finding of the head of an agency that no prohibited disciplinary, illegal, or improper action occurred, and any evidence supporting such information other than information described in section 7821 (b) (4) of this title. However, information described in section 7821 (b) (4) of this title shall be made available to the President, the Speaker of the House of Representatives, the Majority and Minority Leaders of the Senate and the House of Representatives and the members of the appropriate committees of either House.

"(f) The Special Counsel and the head of the agency shall maintain records of any investigation conducted under this section.

"(g) The Board and the Special Counsel may prescribe such regulations as may be necessary to carry out the purposes of this section.

"Subchapter IV—Appeals

"§ 7831. Appeals to Merit Systems Protection Board

"(a) Any employee or agency aggrieved by—

"(1) any determination of the Special Counsel under section 7822(b)(1) of this title that further investigation is not warranted or any determination by the head of an agency after an investigation under section 7823(a)(2) of this title that no prohibited disciplinary, illegal, or improper activity occurred and which the Special Counsel concurs in, or

"(2) any determination, order, or action of the Special Counsel under section 7824 (a) or (b) of this title (other than any action which results in the nonpayment of any compensation to the head of an agency for failure to comply with an order of the Special Counsel),

is entitled to appeal to the Board if such appeal is filed, in writing, within 15 days of the notice of the Special Counsel's action.

"(b) Within 30 days of the filing of the appeal under subsection (a), there shall be a hearing—

"(1) which shall be open to the public, unless the employee whose conduct is the subject of the hearing requests that it be closed,

"(2) which shall be conducted before one or more hearing examiners appointed under section 3105 of this title and,

"(3) at which each party shall be allowed to be represented by counsel, present evidence, and cross-examine witnesses.

"(c) Each party shall be entitled to a verbatim transcript of the hearing.

"(d) Within 30 days of the hearing, the hearing examiner or examiners shall issue a written decision stating the findings of fact and conclusions of law upon which each decision is based, and if more than one examiner conducts such hearing, a record of the votes of each. The hearing examiner or examiners may reverse, modify, or affirm a decision by the Special Counsel in accordance with the provisions of section 7824. Each decision by the hearing examiner or examiners shall be subject to review by the Board which shall make a final decision based on the record before the hearing examiner.

"§ 7832. Judicial review

"(a) Any party aggrieved by any final determination or order of the Board under section 7824 (d) or 7831 (d) of this title may institute, in the district court of the United States for the judicial district wherein such party resides, or such disciplinary action or illegal or improper activity occurred, or in the United States District Court for the District of Columbia, a civil action for the review of such determination or order. In any such action, the court shall have jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board which is under review, or (2) require the Board to make any determination or order which it is authorized to make under such sections. The reviewing court shall set aside any finding, conclusion, determination, or order of the Board as to which complaint is made which is unsupported by substantial evidence on the record considered as a whole.

"Subchapter V—Classified and Other Information

"§ 7841. Classified and other information; procedures

"(a) Notwithstanding any other provision of any law, rule, or regulation, any person may disclose to the Special Counsel, the Board, any court of the United States or the head of an agency conducting an investigation under section 7823(a) of this title information described in section 7821(b) of this title for use in any investigation, hearing, or proceeding conducted under the authority of this chapter.

"(b)(1) Any portion of any hearing or proceeding during which any information described in subsection (a) is to be discussed or presented shall be closed to the public.

"(2) Any party directly involved in the hearing or proceeding, and representatives of the party, may examine such information under the supervision of the Special Counsel, the Board, or the court and be present at the hearing or proceeding at which such information is presented and discussed.

"(3) A transcript of the hearing or proceeding shall he made but shall not be made available to the public.

"(c) The Special Counsel, the Board, any court of the United States, and the head of an agency may designate employees qualified to review such information to examine the information and to be present at the hearing or proceeding.

"§ 7842. Penalties

"(a) No person shall disclose information described in section 7821(b) of this title in connection with any investigation, hearing, or proceeding conducted under the authority of this chapter to any person except as provided in section 7841 of this title.

"(b) Any violation of subsection (a) shall be punishable by a fine of $5,000, or not to exceed 5 years in jail, or both.

"Subchapter VI—Related Provisions

"§ 7851. Participation in hearings

"(a) The complaint, officers or representatives of any Federal employee organization in any degree concerned with employment of the category in which any alleged violation of this subchapter occurred or is threatened, or any person who has a reasonable interest in the outcome of the complaint, may participate in any hearing conducted under section 7823, 7824, or 7831 of this title through submission of written data, views, or arguments and through oral presentation. Cross-examination is permitted both in writing and orally.

"(b) Employees called upon by any part of any Federal employee organization to participate in any phase of any administrative or judicial proceeding under section 7823, 7824, 7831, or 7832 of this title shall not suffer loss in leave or pay and shall be free from restraint, coercion, interference, intimidation or reprisal in or because of such participation. Any periods of time spent by employees participating in such proceedings shall be held and considered to be Federal emloyment for all purposes. Any employee participating in any administrative proceeding under section 7823, 7824, or 7831 of this title shall be reimbursed for travel expenses by the agency.

"§ 7852. Attorneys fees; costs; court appointment of attorney

"(a) In any proceeding under section 7823, 7824, 7831, or 7832 of this title, any prevailing party (other than the Government of the United States or agency thereof) is enttiled to recover costs reasonably incurred in connection with such proceeding, including attorneys fees, as determined by the Court, the Board or the Special Counsel without regard to the nature of the remedy.

"(b) Upon application by a person filing a complaint under section 7822 with respect to a disciplinary action prohibited by section 7821, the Board shall furnish representation for such person regardless of financial need. Such representation shall be provided in a manner similar to the manner in which representation is provided under section 3006A of title 18, United States Code, and shall be acceptable to such person. Such representation shall be provided until the Special Counsel has completed the preliminary investigation under section 7822 (a) of this title. If the Special Counsel makes a determination under section 7822 (b)(2) of this title that further investigation is warranted, such legal counsel shall continue to represent the person throughout any administrative or judicial proceeding in connection with such complaint.

"§ 7853. Collection of amounts paid by the United States

"If the United States is held liable for monetary damages, or ordered to pay attorneys fees or litigation costs, as a result of an action under section 7822, 7823, 7824, 7831, or 7832 of this title, the United States shall have the right to recover the amount it paid in such damages, fees, and costs from any employee who has committed a willful and knowing violation of section 7821 in connection with which such damages, fees, and costs arose. The United States may institute an action in the district court of the United States in the judicial district in which such employee resides to recover such damages, fees, and costs resulting from such violation.

"§ 7854. Authority of law enforcement agencies

"This chapter shall not limit any authority conferred upon the Attorney General, the Comptroller General, the Federal Bureau of Investigation, or any other department or agency of government to investigate any matter.".

(b) Notwithstanding the provisions of sections 7811 and 7812 of title 5, United States Code, as added by subsection (a), of the members of the Merit Systems Protection Board first appointed, one shall be appointed for a term of 1 year, one for 2 years, one for 3 years, one for 4 years, and one for 5 years.

(c) The table of sections for part III of title 5, United States Code, is amended by adding after the item relating to chapter 77 the following new item:

"78. Protection of Employee Rights__ 7891.".

(d)(1) Section 7501(c) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or a suspension or removal which is ordered by, or appealable to, the Merit Systems Protection Board under chapter 78 of this title".

(2) Section 7511(2) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: ", but does not include any action ordered by, or appealable to, the Merit Systems Protection Board under chapter 78 of this title".

(e)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(67) Members, Merit Systems Protection Board.".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(123) Special Counsel of the Merit Systems Protection Board.".

HEARING EXAMINERS

SEC. 4. Section 7521 of title 5, United States Code, is amended to read as follows:

"§ 7521. Removal.

"(a) A hearing examiner appointed under section 3105 of this title may be removed by the agency for which he is employed only for good cause established and determined by the Merit Systems Protection Board under the procedure prescribed in subchapter I of this chapter.

"(b) A hearing examiner removed under subsection (a) shall be entitled to judicial review of such determination under section 7512 of this title.".

EFFECTIVE DATE

SEC. 5. The amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.●

By Mr. MOYNIHAN (for himself and Mr. PACKWOOD):

S. 3111. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Finance.

REFORMING THE CHARITABLE DEDUCTION

Mr. MOYNIHAN. Mr. President, today, Senator PACKWOOD and I are introducing a bill to permt all taxpayers to deduct all charitable contributions on their tax returns, whether or not they itemize their deductions. The principal effect of this amendment is to benefit low- and middle-income persons, most of whom do not itemize, and to encourage charitable giving by providing all taxpayers with this effective and humane incentive.

Since 1917, the Federal income tax code has embodied the principle that income given to charitable causes ought not be taxed. The reasons for this deduction are straightforward and wise: to encourage support of the private philanthropic and voluntary organizations that comprise such an important part of this society, and to avoid taxing income that is given away rather than consumed.

In practice, however, this principle applies only to those who itemize their deductions, and in recent years their number has dropped, primarily because the so-called "standard deduction" has increased. In 1970, one taxpayer in two itemized his or her deductions. In 1977, fewer than one in four did so. If the administration's tax proposals are adopted, it is expected that fewer than one taxpayer in six will itemize.

This means that for the great majority of American taxpayers, the "charitable deduction" is a hollow concept. Although tax simplification and reform are worthy ends, one of the unwelcome side effects of increased use of the standard deduction has been a decline in charitable giving. As a fraction of the gross national product, for example, philanthropy accounted for 1.97 percent in 1970 and for 1.79 percent 5 years later.

The difference may appear small, but it should be borne in mind that in a $2 trillion a year economy, two-tenths of 1 percent of GNP is equivalent to $4 billion per annum, a not inconsiderable sum.

Much of the decline has come in the contributions of taxpayers in the income range of $10,000 to $25,000. It follows that the major institutional "victims" of this decline have been the philanthropies that draw the largest portions of their support from persons in this income range. Religious organizations, for example, have seen a pronounced shrinkage in their share of the charitable dollar.

Prof. Martin Feldstein, perhaps the most distinguished economist who has addressed himself to these issues, estimates that charities have lost about $5 billion in contributions since 1970, primarily as a consequence of changes in the tax code. The time has come for a further change intended to bolster philanthropy, to allow all taxpayers with generous impulses—not just wealthy ones who itemize—to obtain the benefit of a charitable deduction, and to revive the principle that income devoted to philanthropy ought to be explicitly excluded from taxation.

The cost of this reform is moderate especially when compared to the benefit. The Joint Committee on Taxation estimates that enactment of this legislation would reduce Federal revenues by $2.2 billion. The corresponding benefit will be shared among some 37 million taxpayers who now take the standard deduction. Based on the latest statistics of income, 88 percent of these taxpayers earned under $15,000 per year. The cost should be matched against the $6.5 billion "tax expenditure" associated with the present charitable deduction, which benefits a far smaller number of persons.

Moreover, the gain to philanthropy will exceed the cost to the Treasury. Professor Feldstein estimates that every dollar in diminished Federal revenues will yield as much as $1.30 in additional charitable giving. Thus these deductions provide an efficient and effective means of buttressing worthwhile eleemosynary organizations: churches, colleges, the United Fund, settlement houses, orphanages, hospitals, family counseling services, civil rights organizations, museums, symphony orchestras, the Salvation Army, boys' and girls' clubs, scouting, and more.

These organizations play a more significant role in American society than anywhere else in the world, and have done so for centuries. As Tocqueville wrote 150 years ago:

> These Americans are a peculiar people. If, in a local community, a citizen becomes aware of a human need which is not being met, he thereupon discusses the situation with his neighbors. Suddenly a committee comes into existence. The committee thereupon begins to operate on behalf of the need and a new community function is established. It is like watching a miracle, because these citizens perform this act without reference to any bureaucracy, or any official agency.

This "miracle" will not end of its own accord, for the impulses Tocqueville observed are unabated. The question is whether our public policies will erode the ability of American citizens to act upon these private impulses.

It is to be expected that the "public sector" will favor such erosion and will oppose measures that propose to halt it. As I remarked in a commencement address at Skidmore College last week, the public sector has become powerfully associated with social progress and with liberalism generally perceived * * *. For at least the balance of this century, anyone espousing ideas or advocating measures that are seen to enhance the private sector will therefore be suspected of illiberalism, if only because we are out of synchronization with the ebb and flow of the dominant symbols of progress.

The origins of this mindset may be traced to the early days of the 20th century, when American public life was much absorbed with fear and detestation of private monopoly. Thus Woodrow Wilson said in 1912 that:

> If I did not believe that monopoly could be restrained and destroyed I would not believe that liberty could be recovered in the United States, and I know that the processes of liberty are the process of life.

We devoted considerable energies to devising effective restraints on the private sector in order to avoid monopoly. Today, however, the principal pressures toward monopoly come from the State itself. With respect to private philanthropy, these pressures manifest themselves in two ways: a seemingly inexorable transfer of responsibility for human welfare to public agencies, and a parallel rearrangement of tax policies that tends to reduce the flow of private resources into voluntary and philanthropic organizations.

Fortunately, the concept of the charitable deduction is still alive and well. The problem is that its practice has eroded to the point where only a relatively small number of citizens—generally those with high incomes—are able to make effective use of it. Government cannot, and surely ought not, compel individuals to make charitable contributions. But it can refrain from policies that discourage them from doing so. The legislation that Senator PACKWOOD and I are introducing would take a long step toward the strengthening of some of the most worthwhile institutions and organizations in the society, and toward the reinforcing of one of the noblest impulses that mankind possesses.

● Mr. PACKWOOD. Mr. President, today Senator MOYNIHAN and I are introducing a bill to permit taxpayers to take a tax deduction for charitable contributions whether or not they itemize their other deductions. If enacted, this bill would help stem the decline of popular support for nonprofit organizations. It would give nonitemizers the same incentive to support nonprofit organizations available to itemizers.

The House counterpart of this proposal, H.R. 11183, the Conable-Fisher bill, was tentatively approved by the Ways and Means Committee by a vote of 20–17 on April 18, 1978.

ROLE OF NONPROFIT ORGANIZATIONS

One of America's traditional strengths is the willingness of its people to give time and money to help each other. Organizations devoted to charitable, religious, and educational purposes are exempt from Federal income taxation. Importantly, contributions to these organizations are tax deductible if a taxpayer chooses to itemize his or her deductions. The IRS currently recognizes about 200,000 such organizations.

These organizations—and the countless number which have preceded them throughout America's history—have engineered a vast number of our most impressive accomplishments and advances. This has included the fields of education, science, disease control, health and welfare services, adoption services, environment and conservation, the arts, amateur athletics, mental illness, human rights, civil rights, libraries, museums, civic organizations, consumer protection, symphony orchestras, tax reform, public policy research and improvement of relations among peoples of different nations.

Frequently, the goals of nonprofit organizations are identical to the goals of Government agencies. However, an important difference is the fact that nonprofit organizations are highly participatory.

Most Americans have donated time or money or both to nonprofit organizations. Just as many have participated in programs of nonprofit organizations, or utilized their facilities.

In many cases, the private sector has recognized a problem before the Government sector. For example, most education in the United States was in the hands of private organizations—with taxpayer support—prior to the middle of the 19th century.

Sometimes private action preceded Government action because the Government did not yet recognize the problem. For example, nonprofit organizations took the lead—prior to Government—in the areas of civil rights, elimination of the spoils system, prison reform, reform of mental hospitals, and environmental quality.

Unfortunately, in recent years, there has been a shift away from the nonprofit sector toward the Government sector.

For example, in 1971, charitable giving totaled 1.98 percent of the gross national product. By 1976, this had fallen to 1.74 percent. This decline occurred consistently throughout the 1970's, as shown by the following figures:

PERCENT OF GROSS NATIONAL PRODUCT CONTRIBUTED TO PRIVATE PHILANTHROPY

Year:	*Percent*
1971	1.98
1972	1.94
1973	1.79
1974	1.79
1975	1.77
1976	1.74

Source.—Statistical Abstract of the United States, 1977 pages 354,428.

The biggest decline in giving is among middle-income groups. This can have unexpected consequences. Upper income persons traditionally support a somewhat different range of nonprofit organizations than middle-income persons. For example, wealthy donors often emphasize higher education and cultural activities. In contrast, middle-income givers have more traditionally supported community-based charities such as the United Way, the Red Cross, the Salvation Army, Meals-on-Wheels, as well as the varied activities of churches.

One reason contributions are not keeping pace with the economy is that, as the Government offers more and more services, a citizen can say, "let Uncle Sam do it."

But there is also a more concrete cause: The charitable deduction is vanishing. This is occurring because the dramatic increases in the standard deduction in recent years have led fewer and fewer persons to itemize. In 1970, 48 percent of taxpayers itemized. By 1977, only 23 percent itemized. If President Carter's proposals to eliminate and restrict several itemized deductions are enacted, the percentage of Americans itemizing will drop to 16 percent.

Thus, only 16 out of 100 Americans would be able to deduct charitable contributions. These tend to be in upper-income groups. This is shown by the fact that, in 1978, the average income of tax returns with itemized deductions is $25,782. The average income of tax returns with the standard deduction is only $8,969.

Itemizers contribute twice as much to charitable organizations as nonitemizers. This is true for every income level. And, just as importantly, they also contribute more time to nonprofit organizations than nonitemizers—by about the same proportion.

A national survey by the Michigan Survey Research Center in 1973 compares the average contribution of those who itemize with those who take the standard deduction:

Adjusted gross income:	Itemized	Did not itemize
Less than $4,000	[1] $119	$69
$4,000–$7,999	215	89
$8,000–$9,999	314	117
$10,000–$14,999	407	201
$15,000–$19,999	600	329
$20,000–$29,999	800	354
$30,000–$49,999	1,564	[1] 171
$50,000–$99,999	5,679	[1] 3,190
$100,000–$199,999	17,106	[1] 816
$200,000–$499,999	39,763	[1] 8,892
$500,000 or more	71,316	[1] 5,000

[1] Based on fewer than 25 observations.

Source.—Sample survey for the Commission on Private Philanthropy and Public Needs by the Survey Research Center of the Institute for Social Research at the University of Michigan and the U.S. Census Bureau.

The Joint Committee on Taxation estimates that the tax reduction resulting from this bill is $2.2 billion for calendar year 1979, rising to $3.2 billion in calendar year 1983. Others have estimated that this loss of Government funds would be more than offset by an increase in charitable giving.

Prof. Martin Feldstein of Harvard University estimated that, if this proposal is enacted, charitable giving would increase by $4.1 billion. This would mean an increase from the estimated 1978 level of giving of $34.5 billion to a level of $38.6 billion.

This proposal targets the incentive to make charitable contributions to low and middle income groups. For example, 57.5 percent of the revenue effect of this bill will be reflected on the tax returns of those earning less than $20,000. More dramatically, 77.3 percent of the tax returns affected have income below $20,000. This is shown by the following table:

Distribution of Tax Reduction of Moynihan-Packwood proposal

Expanded Income Class	Cumulative percentage of tax returns affected	Cumulative percentage of revenue loss
$0–5,000	7.9	3.0
$5–10,000	36.7	10.5
$10–15,000	59.5	36.0
$15–20,000	77.2	57.5
$20–30,000	93.8	82.8
$30–50,000	98.9	93.4
$50–100,000	99.7	96.0
$100–200,000	99.9	97.8
$200,000–up	100	100

Source: Joint Committee on Taxation, May 6, 1978.

PRESERVING CHOICE

Individuals taking the standard deduction should not continue to be taxed on private dollars contributed to nonprofit organizations for public purposes; 77 percent of our taxpayers currently pay tax on their voluntary contributions. This bill corrects that inequity.

The bill offers a philosophical choice. The choice is, should we cure the obstacles to continued strength in the nonprofit sector, or should we put this part of our national character behind us under the theory that "Uncle Sam can do it."

Executive branch bureaucracies, and their apologists in the private sector, will no doubt claim that this proposal to stem the decline of self-help organizations threatens continued support of Government programs. I doubt that this is true. Instead, the proposal simply recognizes that the nonprofit sector is a vital link in the chain of concern for our fellow man. The Government addresses many of the same problems as the nonprofit sector, but it cannot accomplish the goals alone.

The choice of determining the role of the nonprofit sector is in the hands of the individual. Assume that a taxpayer decides to give $10 to a school for the blind. If this taxpayer is at a typical income level electing the standard deduction, his last dollar of income is taxed at about the 20-percent rate. This means that the school for the blind receives $10, and the aftertax cost to the individual is $8.

Our tax law has encouraged this choice—through a tax deduction for contributions—since the Second Revenue Act of 1917. To tax that $10—just as if it were used for private consumption—is self-defeating and inequitable.

This proposal is contrary to the theory that the tax code ought not be used to reward desirable conduct. This theory holds that the Government should encourage desirable behavior through Government-run direct subsidies instead of tax incentives to individuals. In my opinion, this view ignores the ability of citizens to recognize and act effectively to solve human needs.

Mr. President, I hope that Congress can approve this vital tax reform proposal this year.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 62 of the Internal Revenue Code of 1954 (defining adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) Charitable contributions.—The deduction allowed by section 170.".

(b) Paragraph (1) of section 57(b) of such Code (defining adjusted itemized deductions) is amended—

(1) by inserting "(determined without regard to parargaph (14) of section 62)" after "adjusted gross income" in subparagraph (A), and

(2) by striking out "the taxpayer's adjusted gross income for" and inserting in lieu thereof "the taxpayer's adjusted gross income (determined without regard to section 170) for".

(c) Subparagraph (E) of section 170 (b) (1) of such Code (defining contribution base) is amended by inserting "and without regard to this section" after "section 172".

(d) Paragraph (1) of section 213 (a) of such Code (relating to allowance of deduction for medical, dental, etc., expenses) is amended by inserting after "adjusted gross income" the following: "(determined without regard to paragraph (14) of section 62).".

(e) Section 213 (b) of such Code (relating to limitation with respect to medicine and drugs) is amended by inserting "(determined without regard to paragraph (14) of section 62)" after "adjusted gross income".

(f) Subparagraph (A) of section 3402 (m) (2) of such Code (defining estimated itemized deductions) is amended by striking out "paragraph (13)" and inserting in lieu thereof "paragraphs (13) and (14)".

SEC. 2. The amendments made by the first section of tihs Act shall apply to taxable years beginning after December 31, 1977.●

By Mr. HELMS:

S. 3113. A bill to provide for consideration by the U.S. Executive Directors of international financial institutions of the adverse effect of the financial transactions of such institutions on United States industries, including agriculture, and employment; to the Committee on Foreign Relations.

AFRICA: A TEST FOR HUMAN RIGHTS, A TEST FOR AMERICAN INTERESTS

Mr. HELMS. Mr. President, the Carter administration has carried this Nation into a policy for Africa which is based more and more on a single criterion, the criterion of race. It is a policy which ignores fundamental human rights, which ignores local history and tradition, which ignores economic progress, which ignores the vital security interests of the western nations. It is a policy which is successfully delivering the African Continent to Soviet control.

The pretense that race is the prime issue in Africa, or that "the eradication of colonialism" is the noblest goal of any policy we could devise for Africa has led us to acquiesce in the gradual take-over of the strategic locations on the continent by regimes that are fundamentally hostile to American values. By making race consciousness the cardinal rule of our African policy, we have achieved the following:

First. The imposition of cruel dictatorship on most black peoples, mostly by force of arms.

Second. The adoption of Marxism as the rationale for anti-American policy stances.

Third. The collapse or retardation of formerly functioning economic situations, resulting in stagnation, poverty, starvation, and uprooting of whole populations.

Fourth. The elimination of private property as the bulwark of the personal rights of the ordinary citizen, and the consequent diminution of the system of private property as the basis of relations between sovereign nations.

Fifth. Wholesale genocide of tribe state-directed assassination campaigns against black Christians and political opponents, systematic murder of the so-called educated elite, that is, those who can read and write.

Sixth. Elimination of opposition political parties, or of political parties of any kind; total suppression of parliamentary systems; state ownership or suppression of all newspapers; political prisoners in the hundreds of thousands; millions of refugees fleeing before Communist armies and terrorist guerrillas trained in the arts of mayhem and torture.

Seventh. Proliferation of Cuban troops and advisers in 17 African countries, with numbers ranging as high as 25,000 in Angola and 12,000 in Ethiopia, supported by Soviet logistics and Soviet relief pilots in Cuba, releasing Cuban pilots for African duty.

Eighth. Massive intrusion of Soviet assistance in the Horn of Africa, with more than $1 billion in arms supplied in eight months, a quantity twice that supplied to all of Africa by the United States over the past 25 years.

Conditions, of course, vary, ranging from subhuman slaughter and torture in Angola, Mozambique, Nigeria, Equatorial Guinea, Ethiopia, and Uganda, to slow paralysis and despair in Tanzania and Zaire. A handful of countries, notably the former French colonies and Kenya, retain some modicum of prosperity based upon retention of Western economic values.

Against such a background, the accomplishments of Rhodesia and South Africa in the area of race relations are major accomplishments, indeed. The development of peace and prosperity for all races and for tribes with a history of tribal warfare is a remarkable feat in the light of the endemic violence taking place throughout the rest of Subsaharan Africa. Indeed, with all the restrictions, with all the curtailments of political rights which we find so offensive in the United States, there is more political freedom, more press freedom, more economic freedom, and more accomplishment on the part of all sectors of society in southern Africa than in all the rest of Africa put together.

The experience of the United States has been that political rights can be safely expanded only as fast as all sectors of society make progress in economic accomplishment and social responsibility. The use of the ballot box to promote the redistribution of national wealth is a sure prescription for economic stagnation, class warfare, confiscation of property, and the collapse of security for the individual. Democratic procedures are possible only among national groups holding common values and agreeing upon basic principles. The introduction of racial or ethnic bloc votes, voting on the basis of common identity rather than evaluation of issues, subverts any free political system.

The goals of liberty, personal security, and individual responsibility are at odds with the revolutionary goal of compulsory equality. If we have a human rights policy for Africa, it should be a policy to encourage fundamental human rights, namely the goals I have just mentioned: liberty of thought, religion, and economic expression, inviolability of the individual person and his property; and development of individual responsibility within a family structure. With the encouragement of these goals, political rights can be expanded quickly without the divisive elements of race and tribal loyalties. But if we encourage revolutionary equality, using the incendiary incitement of race, then all will be destroyed in southern Africa, just as it has been destroyed in so much of the rest of Africa.

The demand for black majority rule is a false issue, based on false concepts, destructive of the fundamental human rights of blacks and whites alike. Its aim is the dismantling of the orderly structures which support freedom and property, resulting either in chaos or totalitarian control. The association of Marxist ideology, or "African socialism," with the demand for black majority rule is not surprising, for black majority rule is a formula for class warfare, with the class categories based on race or tribalism. The terrorist guerrilla groups which adopt Marxism or communism as a battle cry are merely expressing class or race hatred in action, and are seeking not liberation, but the subjugation of all peoples.

It is a libel upon the black African to insist, as some do, that he is naturally adapted to socialism and a collective society. The experience of Rhodesia and South Africa is entirely the opposite; millions of blacks have flocked to these countries from their socialist homelands, seeking what they obviously perceive as better opportunities. The black African no more wants to sink back into socialism, if he can escape, than any other man. The common man universally perceives socialism as a

backward condition. It is only some intellectuals and political revolutionaries who seem unable to avoid the lure.

A policy for Africa, then, one that will nourish the atmosphere for human rights and achievement, and expand the area of influence for liberty, should include the following:

First. Mutual support and encouragement for the Government of South Africa, as the area with the best potential for the most rapid expansion of liberty and individual security for blacks.

Second. Support for the internal settlement in Rhodesia, the work of moderate blacks and whites, removal of sanctions now.

Third. A moratorium on any diplomatic support or other assistance for any terrorist groups that refuse to give up armed rebellion and accept concensus solutions, such as the proposed solution in South West Africa (Namibia) rejected by SWAPO.

Fourth. A policy of no support for any group or leaders advocating immediate black majority rule, or other racist incitements.

Fifth. A policy of no support for any group or leaders advocating a Marxist solution for Africa.

Sixth. A firm stand on the role of Cuban expeditionary forces in Africa.

Seventh. Linkage of withdrawal of Soviet arms shipments to Africa with other issues of common concern, such as progress in the SALT negotiations.

Instead, the United States has pursued policies that are directly opposite, policies that will lead inevitably to economic collapse, destruction, loss of liberty and property, and the securing of Soviet influence over Africa, its strategic materials, and its geographical position astride the oil routes to Europe. The policies that will lead to freedom and prosperity for black Africa and the policies that will protect the strategic interests of the West are happily identical. But instead we have become strong supporters of policies of self-destruction for ourselves, and of tyranny for Africans.

Two months ago in Winston-Salem, President Carter took what was hailed as a strong stand against Soviet expansionism. But in fact, what he had to say about Soviet strategic advances in Africa was virtually meaningless. He said:

> There also has been an ominous inclination on the part of the Soviet Union to use its military power—to intervene in local conflicts, with advisers, with equipment, and with full logistical support and encouragement for mercenaries from other Communist countries, as we can observe today in Africa.

Today we can observe it not only in Africa, but in Afghanistan as well, only weeks later. At this very moment, Soviet-backed Cuban troops from Angola are busy invading Shaba province in Zaire, with their goal the takeover of the copper mines that serve the West and provide the hope of Zaire's development.

Nevertheless, Mr. Carter still pursues negotiations for normal diplomatic relations with Havana. We have recently opened a diplomatic mission there, and have allowed Castro to open a mission in Washington and conduct cultural exchanges. The President has encouraged the opening of U.S. tourism to Cuba, enabling Castro to build up his dollar balances with very little effort. He has given the OK to U.S. private trade missions to Cuba, and sent U.S. Department of Commerce officials to Havana, even as the build-up of Cuban troops continues in Ethiopia, and Angola. He even allowed U.S. Ambassador Andrew Young to call those troops a "stabilizing force," the troops which are now invading Zaire for the second time.

Moreover, President Carter and Andrew Young have virtually turned the making of U.S. African policy over to the states which are the surrogates of Communist policy in Africa. Predictably, Andrew Young and the leaders of these states pretend that communism is not the issue; but the real issue is whether the effect of these policies is to increase the advantage of the Soviet Union and to decrease the security of U.S. interests. The extension of the power and authority of the Soviet Union, and the practical control exerted by the Cuban forces are the real issues.

Yet our policy is in the hands of the so-called "front-line states," that is, the countries that form the front line of "socialism" against the freedom of southern Africa. The front-line states demand that the internal settlement negotiated by moderate elements in Rhodesia be scrapped; the front-line states demand that the SWAPO terrorists, a minority in South-West Africa, be given armed participation in the negotiated settlement there; the front-line states demand that we abandon our relationship with South Africa and give it over to systematic plunder by Marxist revolutionaries operating a totalitarian regime.

Indeed, it is the front-line states that receive special favor and special attention from the United States. President Jules Nyerere of Tanzania was the first black African President to visit President Carter; and President Kenneth Kaunda of Zambia has been visiting President Carter this very week. Fortunately, President Neto of Angola did not come along, for it would have been embarrasing to receive him at the White House at the very moment that the United States was rescuing U.S. citizens in Zaire from the ferocity of Angolan troops, led by Cubans and other Communist mercenaries.

But such embarrassment would no doubt have been very easy to overcome. For at this very moment, shipments of U.S. food—Public Law 480 title II commodity grants—are en route to Angola, supposedly for women and children; but with the chaotic conditions in that country and the lack of U.S. controls, the food could very well end up feeding the Cubans. And in a similar development, the U.S. representative on the World Bank is about to support $14 million in loans to expand the tobacco industry in Tanzania in its bid for export markets, competing directly with the tobacco growers of the United States. The loan is considered necessary because the forced collectivization of farms in Tanzania has virtually crippled the once flourishing tobacco industry there.

Both of these incidents deserve special study as case histories in the bankruptcy of the U.S. policy for human rights in Africa.

II. THE GIFT OF FOOD TO A COMMUNIST DICTATORSHIP: ANGOLA

Title II of Public Law 480 was intended to offer humanitarian aid on an emergency basis. Under title II, the United States gives away commodities, and pays the ocean freight besides. While it is intended for the assistance of starving people, the system of controls is so weak there is very little assurance that it gets to the starving people, rather than to Communist soldiers oppressing the starving people.

Last year, Ambassador Andrew Young made a commitment of free food to the Communist government of Angola, 12,000 metric tons. The only trouble was that a bloody civil war has been raging in Angola led by black groups who are opposed to the Communist government that holds the cities. At the same time that mercenaries are being sent into Zaire, Cuban soldiers are ravaging the countryside, trying to put down the fierce opposition of the anti-Communists, who have cut the railroad and control the jungle and roads.

According to reports in the London Sunday Telegraph last month, the Cuban mercenaries have attempted to clear out civilians in the northern countryside, machine gunning all who resist. More than 70,000 Angolans have been slaughtered in the past few months. Moreover, the Cubans have kidnapped thousands of children between the ages of 10 and 17 and have flown them to Cuba for Communist indoctrination and slave labor in the cane fields.

Thus if the Public Law 480 free food ever gets there, it will find the women raped and murdered, and the children gone.

The disruption in the country has been enormous, with hundreds of thousands of refugees depending upon the fruits of the jungle to survive. Clearly, even if the Communist government does distribute the food to the needy, it will be distributed only to government supporters, and not to the rebels who have been routed from their homes.

The agency overseeing the distribution is UNICEF, but UNICEF has no distribution capability of its own; it will have to depend upon government assistance. The only reports on distribution that the United States will get will be those sent to us by UNICEF. The United States will have no control over distribution.

Under the chaotic conditions of civil war, the most likely recipients of the food will be the Cuban and other mercenary soldiers. We will actually be feeding the armies that have been attacking U.S. citizens and our friends in Zaire.

Congress authorized in fiscal year 1978 the shipment of 12,000 metric tons of commodities, including 6,000 metric tons of corn-soy mixture, and 6,000 metric tons of sorghum grits. The value was estimated at $4.8 million, with an additional freight bill of $1.6 million. However, because of the economic collapse

created by the Marxist regime, the docks were not open to receive the shipments. As of now, however, several shipments are on their way, and will arrive in Angola very shortly.

Meanwhile, 20,000 metric tons of wheat were given last year to Mozambique, site of the terrorist bases which have been raiding Rhodesia, killing hundreds of blacks.

Also given under Public Law 480, title II, the Mozambique shipments were made government-to-government. The wheat cost $3.3 million, with $1.2 million for freight. The citizens of Mozambique never saw it however; according to AID the government was allowed to sell the wheat for cash to buy agricultural machinery. It would be interesting to find out if Mozambique really used the funds to buy agricutural machinery, or whether funds were diverted to buy arms for the guerrillas. Even if agricultural machinery was purchased, it would still allow Mozambique to divert other funds to arms.

If any case, the people of Mozambique never heard that the wheat came from the United States. According to a telegraph dispatch published in a Swedish newspaper last year, the official government newspaper in Mozambique carried a three-line item about the wheat shipment, but did not identify which country sent it.

III. BAILING OUT SOCIALIST DICTATORSHIPS BY UNDERCUTTING AMERICAN FARMERS: TANZANIA

The key leadership roles in opposing the moderate "internal solution" in Rhodesia have been played by Tanzania and Zambia. These countries, along with Angola and Mozambique, have insisted that no settlement is possible without Nkomo and Mugabe, the leaders of the terrorists groups who have been raiding Rhodesia, killing blacks and whites alike, and kidnapping thousands of children for training to augment their terrorist squads. The bases are in Zambia, but the prestige of leadership is given to Tanzania.

President Kaunda of Zambia has been in Washington this week, insisting that Mugabe be part of any Rhodesian settlement, and threatening to bring in Cuban mercenaries if Mugabe is excluded. That is like forcing Italy to include the Red Brigade in its cabinet, but he has been highly praised by President Carter nevertheless.

Indeed, the notion that external nations have a right to demand a role in the internal affairs of any nation is an extraordinary proposition. But the so-called Anglo-American plan has been virtually dictated by the front-line states, whose main interest is in promoting socialism and communism in Africa. To accept the Anglo-American plan and the role of the front-line states is like Chamberlain's legitimization of Hitler's role in the Munich settlement.

But the United States not only accepts their role, but singles out a country like Tanzania for special honor and favor, even when it goes directly contrary to the pocketbook interests of U.S. citizens.

The leader of Tanzania is Jules Nyerere, the self-proclaimed promoter of "African socialism." It is difficult to see how President Carter can square his promotion of human rights with his praise of President Nyerere.

In promotion of African socialism, President Nyerere has uprooted half of his people from their traditional settlements, using his army to drive them out, burning their homes, and forcing them into collective farms often at great distances from their home areas. Lack of planning, lack of organizing basic services, the choice of poor farming land, and inadequate transportation have added to the hardships.

President Nyerere runs a one-party state. All of the newspapers are owned by the Government or by the party. The President is the editor in chief of the major newspapers. He has between 3,000 and 9,000 political prisoners in jails, far more than South Africa. On a descending scale of 1–7, Freedom House ranks Tanzania as 6, only a step above countries run by insane sadists, such as Uganda and Equatorial Guinea.

Yet President Carter allows President Nyerere to dictate our policy toward Rhodesia, and chose him as the first African leader to visit the White House, in August 1977. The President hailed the Tanzanian leader as "a man of modesty and great achievement who, in my opinion, holds the key to the future of peace and equality of treatment and opportunity and freedom in Africa as dearly and as closely as any person alive."

Not surprisingly, the Tanzanian economy has failed to respond to the efforts of enforced collectivization. The doctrinaire approach to agriculture is matched by similar mismanagement of other sectors of the economy. The abridgment of fundamental human rights, particularly in the area of economic freedom, has worked considerable hardships on a country that already has poor performance.

Nevertheless, President Carter continues his endorsement of Tanzanian policies. At this very moment, the U.S. representative to the World Bank is preparing to support a $14 million dollar loan to bail out the Tanzanian tobacco industry. As the single largest contributor to the World Bank, the United States carries a weight of endorsement that goes beyond the weighted voting system. It is hard to believe that the World Bank would turn down a Tanzanian proposal after the glowing tributes that have been paid to Nyerere by President Carter, Secretary Vance, and Ambassador Young.

Yet the purpose of this loan is to increase Tanzanian tobacco production for export sales, competing directly with U.S. export sales. The Tanzanian tobacco crop includes both Flue-cured and burley. Their markets are the same markets as U.S. markets—and as North Carolina markets. We are already experiencing a serious decline in our share of the world market—a decline from 50–60 percent only a decade ago to 33 percent today in Flue-cured tobacco, for example. Moreover, there are other ominous market signs that are well understood by United States and North Carolina growers. The Tobacco Division of the U.S. Department of Agriculture has prepared statistics at my request which tell the whole story.

The failure of President Nyerere's policies in Tanzania are detailed in a staff appraisal report prepared for the World Bank. Actually, the proposed $14 million loan would be the third World Bank loan made to increase tobacco production, with little to show for it because of Tanzanian mismanagement. The two previous loans were for $9 million and $8 million.

The language of the staff report is surprisingly harsh, considering the effort international organizations make to avoid disturbing Third World sensibilities. Speaking of the enforced collectivization, the report says:

Early performance has been mixed, with villages in some regions demonstrating an impressive ability to mobilize local support for the construction of social infrastructure (such as schools) or productive infrastructure (such as village grain and input stores), whilst other villages have shown little ability to effectively mobilize resources. Villagization has brought with it problems which are increasingly being felt in Tanzania. In some areas of high population density, villagization has led to overgrazing and depletion of soil fertility. In other areas, there are substantial diseconomies in that villagers must now travel further to cultivate fields, collect fuelwood, and draw potable water.

Moreover, the socialist argicultural marketing system has also taken its toll:

The marketing system is often characterized by lack of competition, high marketing costs, poor service, and slow payments to farmers. Many parastatals have been proven to be inefficient, with excessive overhead costs. Overall operations efficiency has not improved over the past decade, and may even have declined in some cases. These inefficiencies have resulted in increased trading margins, which in turn lead to higher consumer prices and/or lower producer prices. These problems have been exacerbated by the changes outlined above.

The tobacco-growing sector was particularly hard hit by the changes. The first World Bank loan, of $9 million, was intended for the forced resettlement of 15,000 tobacco growers. The World Bank Report says:

The project quickly encountered difficulties. The settlement of farmers fell behind schedule as a result of government pressures on farmers to undertake collective tobacco cultivation and curing. . . .

Tobacco production from the project in 1976/77 is estimated at only 30 percent of the revised estimates, and is only about 10 percent of total Tanzanian flue-cured tobacco production, rather than the 47 percent anticipated . . . the amount of tobacco so far grown is disappointing. . . .

The second loan of $8 million, approved in September 1976, has also produced few results:

The credit became effective in February 1977. Most contracts for project equipment have already been awarded, and machinery installation commenced in November 1977. However, it has become apparent that more additional storage space will be required than envisaged during appraisal and provided for under the project. The new processing line will occupy almost twice the anticipated area, the handstripping process has had to be transferred to a storage area, and the temporary sheds will not remain serviceable after 1980, as was thought at the time of appraisal.

Despite the failures created by doctrinaire socialism and violations of human

rights, Tanzania now seeks a third loan of $14 million. This money would be used to purchase plastic bags and bagging equipment, set up grading centers, build storage buildings with concrete floors, and buy tractors and trucks.

Mr. President, here is the point: We have a State Department and and administration that is eager to dole out the American taxpayers' money to Communists and Marxists to help them undercut our own tobacco production, and destroy the jobs of North Carolina farmers. The Tanzanian project was designed by the World Bank to create tobacco for export—as a cash crop—not for domestic consumption in Tanzania. After the original loans were made, U.S. producers thought that they had received assurances that the World Bank would make no more such loans.

There are 22 States in this country which raise tobacco, and have an interest in seeing that their own farmers do not have to subsidize unfair competition with their tax money. We must put a stop to this sort of thing.

Mr. President, today I am introducing a bill which would help to do just that. Under that bill, the U.S. Executive Directors of international financial institutions would have to consider the extent to which such loans would have an adverse effect on industry and agriculture in the United States. Moreover, an economic impact statement would have to be prepared showing the effect of such assistance on U.S. industry and jobs.

Mr. President, I have gone into the case history of this Tanzanian loan at some length, because it shows in detail the absurdity and harm caused by foreign assistance to industries that will compete with ours. But above and beyond that, it demonstrates that unsound and dangerous foreign policies, policies that will affect millions throughout the world for the worst, also have a negative impact on our own citizens at home. Our African policies are heading toward disaster in Africa; and if that happens the consequences will in the long run affect the United States. But even now, in order to curry favor with Marxists and Communists in Africa, President Carter seems willing to sacrifice the immediate interests of U.S. taxpayers. These policies are being pushed without regard to the consequences, based upon some strange ideological compulsion. By demonstrating the immediate harm these policies bring, I hope to help my colleagues to understand the long-term consequences.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3113

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That the President shall direct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, International Finance Corporation, the Inter-American Development Bank, and the Asian Development Bank, and the Executive Director representing the United States at the African Development Fund, in carrying out their duties, to consider the extent to which any loan, credit, or other utilization of the funds of such institution is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this Act, the United States Executive Director of each such institution shall request, and the United States International Trade Commission shall furnish, a report assessing the likely impact of such loans or other financial or technical assistance on industries and employment in the United States.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CHAFEE, Mr. RANDOLPH, Mr. PELL, Mr. RIEGLE, Mr. MCGOVERN, Mr. HART, and Mr. LEAHY):

S. 3115. A bill to establish a comprehensive disease prevention and health promotion program in the United States; to the Committee on Human Resources.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CHAFEE, Mr. RANDOLPH, Mr. PELL, Mr. CRANSTON, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. MCGOVERN, Mr. HART, and Mr. LEAHY):

S. 3116. A bill to amend the Public Health Service Act to provide assistance through formula and project grants for prevention health programs, and for other purposes; to the Committee on Human Resources.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CHAFEE, Mr. RANDOLPH, Mr. PELL, Mr. RIEGLE, Mr. MCGOVERN, Mr. HART, and Mr. LEAHY):

S. 3117. A bill to amend the Food, Drug, and Cosmetic Act to require nutritional labeling of all foods, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 3118. A bill to create programs designed to promote health through smoking deterrence; to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources, jointly, by unanimous consent.

HEALTH LEGISLATION

● Mr. KENNEDY. Mr. President, despite its size and sophistication, our health care system has many failings. It is excessively costly. It is poorly planned. It provides our people uneven quality of care. It overemphasizes provision of specialty care. Is gives insufficient weight to the provision of primary care.

However, Mr. President, none of these shortcomings is more serious than the one I rise to address today. Despite the $180 billion we will spend on personal health services this year, despite our more than 7,000 hospitals, despite our 360,000 physicians, despite medicare and medicaid expenditures of $55 billion this year, we have in this country no national strategy for the prevention of illness and disability among our people. I find this oversight astounding. Surely, the prevention of illness and the maintenance of good health is the wisest, most cost-effective, and most humane approach to reducing the burden of illness in this country. Yet, we find that the United States spends less than 2 percent of its health dollars on preventive health programs, and that the Federal Government has no coordinated strategy for taking advantage of the many new breakthroughs occurring in this field.

I am introducing, on behalf of myself and Senators WILLIAMS, CHAFEE, RANDOLPH, PELL, CRANSTON, RIEGLE, JAVITS, SCHWEIKER, STAFFORD, MCGOVERN, HART, and LEAHY, legislation which I think will fill this inexcusable gap in our national health policy and our national health system. The National Disease Prevention and Health Promotion Act of 1978 was developed with the wise assistance of many of my colleagues. I think it provides the essential elements of a program which can dramatically reduce through disease prevention the burden of illness in our country.

Mr. President, we can prevent the diseases which kill most Americans. We have the means, or will shortly develop them. Until recently, we could not make this claim. But let us now look at the facts.

One hundred years ago, infectious diseases were the most burdensome illnesses in this country, but that is no longer the case. We have learned how to prevent many of the infectious diseases through immunization, and through improved sanitation and nutrition; and we have learned how to treat many of the communicable diseases through the use of antibiotics and other medications. Now, chronic disease and violence are the leading killers and cripplers in our society. In 1976, chronic afflictions and violence accounted for 83 percent of all deaths in the United States.

Heart disease alone accounted for 38 percent of all deaths. Heart disease plus stroke and other cardiovascular diseases accounted for 51 percent of deaths. Cardiovascular disease plus cancer for an astounding 71 percent. Add cirrhosis, diabetes, emphysema, and renal disease, and we account for 76 percent of all deaths. Accidents, homicide, and suicide bring the total to 83 percent of deaths in the United States.

We do not fully understand the biology of all these conditions or the social factors which underlie them. But recently, because of epidemiological breakthroughs, we have identified some of the important causative factors underlying some of these conditions. We have begun to see the relationship of involuntary exposures—in the environment and the workplace—to the development of disease. And we have also begun to see the importance of lifestyle and health habits in causing the diseases which account for the major burden of illness in our society.

Some of the most promising developments in the area of prevention concern the link between lifestyle and illness, and I would like to share, Mr. President, some of my personal excitement over recent breakthroughs in this area.

In the 1950's and early 1960's, through the work of Wynder and others, we came first to understand the central role of cigarette smoking in the development

of lung cancer. A few years later, through work done in the city of Framingham in my own State of Massachusetts, epidemiologists began to see the close links between cholesterol levels, high blood pressure, smoking, and the development of coronary artery disease and stroke.

The implications of these findings were unclear. If smoking was correlated with lung cancer and other disease states, that did not mean that ending the habit would protect against the development of cancer or heart disease. And if elevated cholesterols and elevated blood pressures were correlated with heart disease and stroke, we still could not be sure that lowering cholesterol or treating blood pressure would protect against the development of cardiovascular disease.

But our epidemiologies and clinicians developed evidence on these points as well. It became clear that when smokers quit, their risk of developing cancer and heart disease decreased rapidly. Similarly, it became clear through studies done by the Veterans' Administration and elsewhere that treating high blood pressure could dramatically reduce the incidence of stroke among hypertensives. While no one has conclusively demonstrated that lowering cholesterol levels will prevent cardiovascular disease, many of our country's leading cardiologists predict that will be the case.

New evidence is constantly emerging that lifestyle changes can affect morbidity and mortality. A recent study demonstrated that men who exercise regularly and vigorously reduce their risk of heart attack by 60 percent.

Finally, a study by Belloc and Breslow demonstrated in the early 1970's that improved lifestyle might be able to extend life expectancy by anywhere from 7 to 11 years.

But one link in the chain was still missing. Even if we knew that reducing cholesterol levels, or cessation of smoking, or treatment of high blood pressure, could reduce the incidence of cancer and heart disease, it was not clear that we could find acceptable ways to induce people to stop smoking, to get their hypertension adequately treated, or to change their diets in ways that would reduce their cholesterol levels.

Now, however, in some of the most exciting experiments in recent times, this last question is being answered, and the information is indeed encouraging. In California, an experiment funded by the National Heart. Lung, and Blood Institute has demonstrated that an intensive educational campaign using the mass media and individual counseling could reduce cholesterol levels by 20 to 40 percent, substantially increase the number of people getting treated for high blood pressure, and reduce the numbers smoking. In a similar study in the Finnish province of North Karelia, a broad based health education program reduced the incidence of heart attack by 40 percent.

The incorporation of sound preventive health practice is already having a nationwide effect in this country. From 1970 to 1975 death rates from stroke dropped 18 percent. Experts feel this decline is at least in part attributable to improved health habits among Americans, and to the more widespread treatment of high blood pressure. Started in 1973, the National High Blood Pressure Education Campaign at the National Heart, Lung, and Blood Institute has undoubtedly contributed to this last accomplishment.

We now find ourselves, Mr. President, at a point in history very similar to a stage we reached in the investigation of infectious diseases some 150 years ago. In the early 1800's, long before bacteria were discovered, enterprising citizens prevented cholera epidemics by quarantining contaminated pumps. Similarly, at the turn of the century, public health experts were able, by eradicating mosquitos, to prevent yellow fever long before they had isolated the yellow fever virus or developed a vaccine.

The lesson is clear. We do not have to understand every facet of a disease to control it. We now find ourselves capable of making huge inroads into the prevalence of our Nation's most devastating killers, even though our understanding of the causes of those diseases is incomplete. If we seize the chance, we may be able to accomplish with chronic disease what we accomplished with infectious diseases over the last century.

The National Disease Prevention and Health Promotion Act of 1978 will, in my opinion, enable us to take advantage of this tremendous opportunity. It will reinforce existing health promotional activities at Federal, State, and local levels. And it will launch us into new programs that hold great potential promise.

The act has four titles.

First. Title I provides grants for the support of preventive health services. These include formula grants to the States to assist them in designing programs aimed at preventing the five leading causes of death and the five leading causes of disability within their State boundaries. The grant program also includes project grants to public and private entites for the support of health promotional programs of proven effectiveness and high national priority. Examples are hypertension and immunization services.

Second: Title II provides for the creation of a Prevention Resources program which will provide technical assistance to State and local health promotion efforts, and will support research and data collection necessary to perfect national, State, and local preventive health activities.

Third: Title III amends the Food, Drug, and Cosmetic Act for the purpose of revising food labeling statutes. The amendments would require nutritional labeling of all food (to the extent practical), so that consumers can have improved information about the health and nutritional implications of the foods they consume.

Fourth: Title IV proposes a comprehensive antismoking intiative aimed at reducing the burden of smoking-related illness in our society.

Taken together, Mr. President, these major initiatives form a coordinated and flexible program of Federal support for health promotion and disease prevention activities in this country. Though the proposals cover a broad range of issues, I feel they are unified by their common aim: the prevention of disease and disability among our people.

Nevertheless, I understand that many of my colleagues may wish to support some of these proposals but not all of them. For that reason, I will introduce the National Disease Prevention and Health Promotion Act of 1978 in two forms: First as a single piece of legislation, and second as a package of three bills. The first bill in the latter package would consist of title I and II. The second piece of the package would include title III only. And the third part of the package would consist of title IV, the anti-smoking legislation. I welcome my colleagues to join with me in cosponsoring the total act, or any parts of the corresponding disease prevention package.

Mr. President, I would now like to describe briefly the contents of each of the titles of this legislation.

Title I of the National Disease Prevention and Health would provide moneys and authority for the secretary to support preventive health services. A substantial part of those funds would be authorized for the support of formula grants to States for the establishment of health promotional programs within their own boundaries.

I am convinced that if disease prevention programs are to work, they must be based firmly in the communities of America. They must involve State and local government, labor and industry, voluntary groups, school systems, physicians, hospitals, health centers, and individuals in their places of work and in their homes. Health promotional programs cannot work if they are imposed from above. They must be nurtured at the level of the community. They must make sense to people, seem relevant to their needs and desires, and grow in the directions which each community chooses.

The Federal Government has an important role in supporting such community programs but to the extent Government provides coordination and guidance for community-based prevention efforts, that help must be offered at a level closer to the people. I believe that State governments working closely with local governments are ideally situated to provide leadership and coordination in the development of disease prevention and promotion programs in this country. For that reason, the act provides major new resources to these governmental entities for the purposes of planning flexible, accountable, and locally responsive programs of health promotion and disease prevention.

If State governments are to play this central role, they will have to strike out in new programmatic directions. They will have to maintain the traditional health protection activities of State government—sanitary protection, food-safety monitoring, maintenance of State labs, and so on—and reach beyond them. They will have to add to traditional public health activities an innovative array of new programs in the area of commu-

nications, health education, occupational health protection, smoking and hypertension control, accident protection, and nutritional education, among others.

I think State governments are ready to take on this challenge if we give them the resources they need to attract new talent and to build an infrastructure for prevention activities at the State and local level. To provide this support, our proposed formula grant would allocate to the States $55 million in 1980, $150 million in 1981, $175 million in 1982, $200 million in 1983, and $200 million in 1984. Though these figures may sound substantial, they amount to a mere 50 cents per capita in the second year—less than the cost of a pack of cigarettes in many areas—and rise to less than $1 per capita by the fourth year. And that increase is contingent on matching incentive contributions from the States.

Though we attempt to provide States maximum flexibility in initiating their own programs, we also seek to protect the Federal interest by providing for accountability in the use of Federal moneys. Under the proposed program, States would have to use their formula funds for programs aimed at combating one or more of the five leading causes of death within their boundaries. They could also, at their own initiative, launch programs aimed at reducing the burden of illness associated with one or more of the five leading causes of disability among their populations. Moneys could be used only for programs of primary or secondary prevention. States would have to make quantitative statements of their programs goals, and would have to build in an evaluation component. The formula grant would be authorized for 5 years in order to provide the States sufficient time to get their programs up and running to reach their State program objectives. The first year of the program would be an obligatory planning year for all States.

The formula grant program has one unique feature which deserves special mention. There is a separate set-aside allowing 10 cents a person per State for the development of a health communications program. This set-aside recognizes the unique potential of the mass media for informing the public of the health consequences of their behavior. Americans currently spend on an average the equivalent of 1 day a week watching television. The average American will have spent 9 years of his life watching television by the age of 65. Growing numbers of experiments in community-based prevention programs have made successful use of the print and electronic media in motivating people to engage in more healthy behavior or to seek access to preventive health services. No prevention program which neglects the use of mass media can reach its full potential, and surely, a dime per person per year is not an excessive expenditure when the purpose is to make certain that Americans understand how they can help themselves to live longer and happier lives.

In creating a national program for health communications, we do not intend to fill the airwaves or the print media with dull, drab, academic health messages which have no appeal to the public. It is time that our health communicators made use of the sophisticated skills which private enterprise has used for decades in marketing their products. It is our expectation that, should this provision become law. States would spend the great bulk of these moneys in contracting with private advertisers for the production and distribution of materials.

In addition, the law mandates that each State shall have an identifiable coordinating office for health communications. This requirement grows out of concern that States avoid creating a "tower of babel" in health communications. It is essential that some governmental agency be responsible for setting priorities among all the possible health messages which need to be communicated, and make certain that the communications program is a unified whole which takes maximum advantage of the print, electronic, and other media.

Title I of the National Disease Prevention and Health Promotion Act of 1978 also provides for a program of categorical grants for the support of selected disease prevention programs. This categorical grant authority renews and expands existing programs, including the immunization program, the hypertension control program, the rat control program and the lead-based paint poisoning prevention program. In addition, the act provides new authority to undertake and support projects in the areas of physical fitness, the prevention of dental disease, and the provision of environmental health services.

The proposed legislation would extend the existing immunization authority for another 3 years at prevailing authorization levels of $35 million. This will permit the Secretary to continue his expanded effort in the area of childhood immunization. The legislation does not address the issue of influenza immunization because of the remaining uncertainties over the costs of such a program, its potential benefits, the asociated liability issues, and the failure of the Department to produce congressionally mandated reports setting forth a national immunization policy and dealing with liability problems. When these outstanding concerns have been addressed. it will be possible for us to consider providing the Secretary authority for an ongoing influenza immunization program.

The proposal to extend and modify existing hypertension authorities deserves some explanation. The Federal Government has launched a two-pronged attack against this disease, which, according to most recent Federal estimates, afflicts 35 million Americans. The first part of the Federal effort is the national high blood pressure education program, a conspicuously successful program aimed at educating the American people about hypertension and its consequences.

The second component of the Federal effort is a program of formula grants to the States for combating hypertension. This latter program had a 1978 budget authority of $15 million and a total appropriation of $11 million. Started in 1976, the latter program has had only one operational year, and its track record is just being established.

The National Disease Prevention and Health Promotion Act of 1978 addresses just the formula grant program, since it is the only Federal effort actually providing services in the area of hypertension. We propose extending the hypertension authority for an additional 3 years, converting it to a project grant authority, and increasing its authorization to 30 million in 1980, 35 million in 1981 and 40 million in 1982.

The need to continue Federal support of hypertension services and to increase their level of funding can hardly be argued. Despite the success of the high blood pressure education program in reaching certain categories of patients with hypertension, large groups of afflicted Americans remain unaware of their disease or are not receiving adequate care for it. There is no question we are making great strides in getting into treatment for the patient who is already in regular contract with a physician. However, the poor and rural American, the worker who has no time to get to the physician—these groups among others, have not yet been reached by current Federal efforts. We will not be able to draw these patient groups into treatment without a substantial increase in the current levels of support for hypertension services.

In addition, we propose converting the current formula grant for hypertension services into a project grant program for States. This change is recommended in order to make the program consistent with the multiple other initiatives proposed under the National Disease Prevention and Health Promotion Act of 1978. As I described, the act recommends a substantial new program of formula grants to the States for the purpose of undertaking prevention programs. I feel strongly that these funds should be used in accordance with the priorities and needs of the States, and that the States should not be restricted by the imposition of Federal categorical priorities. At the same time, however, I also feel that hypertension services deserve special support, and visibility. By making support for hypertension services a categorical project grant, we free the States from an arbitrary Federal restriction on the use of their funds, and continue the momentum of the Federal onslaught against this major national killer. States would be free to use their expanded formula grant moneys for hypertension services.

I will comment just briefly on the other categorical grant programs proposed under the National Disease Prevention and Health Promotion Act of 1979. The proposal for categorical grants for environmental health services would continue the rat control program at current levels of $14 million. It would continue the lead-based paint program at present levels of $14 million. Finally, the environmental health services grant would authorize $12 million in support for State and local programs for toxic substance control, water and noise pollution control, presticide monitoring and other en-

vironmental health efforts for which State and local groups have increasing responsibility.

Categorical grants for community and school-based floridation would provide long-overdue Federal subsidies for States and localities interested in reducing the incidence of dental disease in their areas. If approved, this proposal could save the American people more money than any other aspect of this legislation. It is estimated that a dollar spent on water floridation can save $36 in dental care expenditures. Authorization for this program would be $5 million.

Finally, categorical grants for physical fitness programs would provide seed money to public and private entities interested in organizing or encouraging exercise and fitness programs for local commuunities and populations. Moneys under this authority, totaling $10 million would be available to groups wishing to upgrade, expand or increase the availability of existing fitness or athletic programs. They might, for example, be used for obtaining professional medical assistance for high-risk patients wishing to use fitness facilities. The moneys might also be used to provide increased staffing, so that programs normally closed in the evenings or on weekends could be kept open for public use. In addition, these funds could be used to publicize the availability of local facilities, and to underscore the health benefits of fitness programs.

Title II of the National Disease Prevention and Health Promotion Act of 1978 is a prevention resources program. This part of the act aims at making certain that we have the technical abilities and the knowledge to make a nationwide prevention program work. The resources program would support research and demonstrations aimed at perfecting our ability to organize and deliver preventive services. It would require that the National Center for Health Statistics formulate a prevention data base containing the information needed to plan and monitor a nationwide prevention initiative. Finally, it would establish five regional centers for the purpose of providing technical assistance to State and local government and to private groups in the planning and implementation of their own health promotional activities. A total of $20 million would be authorized for these activities.

I would like to make it clear that the prevention resources program in this particular bill does not deal with two policy issues with major implications for the support of prevention programs. First, it does not propose a program for training manpower to staff health promotional activities. We have deferred addressing the development of manpower resources for a national prevention program until we complete our revision of the Health Manpower Act.

Second, it does not deal with the potential contribution of biomedical research to perfecting our skills for preventing disease and promoting health. We have deferred dealing with biomedical research and its role in supporting a national prevention program until the subcommittee completes its review of biomedical and behavioral research in the United States. That review is now at its mid-point, and should be completed by the end of this calendar year.

The third title of the act is a proposal for modifications in the Food, Drug, and Cosmetic Act aimed at insuring that the American consumer has the information he needs to plan a healthy diet consistent with his individual needs and tastes. We expect that many States will provide nutrition education as part of their comprehensive prevention plans. But such education is of little benefit if consumers cannot learn the nutritional content of the foods they commonly purchase.

The National Disease Prevention and Health Promotion Act proposes that current food law be modified to require that all foods, to the extent feasible, display their content of certain major nutritional elements. These would include, at a minimum, protein, sugar, carbohydrates, fat (including cholesterol and saturated fats), and salt. This information would have to be displayed in easily understandable, graphic form, and labels would have to display the percentage which each of these elements contributes to the total calories in an average serving, as well as the quantity in grams of each constituent contained in such a serving. The act also proposes certain minor modifications in ingredients labeling provisions, and would give the Food and Drug Administration authority over the labeling of alcoholic beverages.

I should point out, Mr. President, that these food labeling proposals are in many respects merely a modification and extension of certain provisions of S. 2540, the Food Amendments Act of 1978, which was introduced by Senator RIEGLE with my cosponsorship. His work laid much of the groundwork for what we are today proposing, and I commend him for his initiative in this area.

Title IV of our bill, Mr. President, contains our antismoking proposals. I do not think I exaggerate, Mr. President, when I say that cigarette smoking is the single greatest preventable threat to our Nation's health. I will not elaborate on the scientific underpinnings of this allegation. Though the tobacco industry continues—against all the evidence—to argue the safety of cigarette smoking, few, if any, self-respecting scientists or physicians in this country agree.

The most recent scientific review of this subject was conducted by the American Cancer Society's National Commission on Smoking and Public Policy, which reported in January 1978. The Commission found that "cigarette smoking remains the largest single unnecessary and preventable cause of illness and early death." The Commission concluded that cigarette smoking was related in 1977 to more than 320,000 deaths, including 20 percent of all cancer deaths. It found that cigarette smoking causes 30 deaths per hour, one death every 2 minutes. It concluded that cigarette smoking is a major cause of low-birth weight infants, birth anomalies, and maternal and neonatal mortality. It noted that $15 billion was spent in 1977 on smoking-related illness, nearly 10 percent of total personal health expenditures.

These figures are so staggering as to be nearly incomprehensible. They call for dramatic and firm action. That is what the National Disease Prevention and Health Promotion Act of 1978 proposes. Specifically, the act suggests an antismoking campaign composed of the following key elements:

First. A major Federal initiative aimed at the prevention of smoking among children. Seventy-five percent of Amercans start smoking before the age of 21. Smoking among teenage girls has reached epidemic proportions. The percentage of smoking has doubled since 1968.

Second. The institution of a revolving label to replace the current warning on cigarette packages. The act would spell out 10 new labels one of which would have to be affixed on a random basis to each cigarette package. The rationale, based on experience in Western European countries, is that more information can be conveyed if the labels change, and that consumers will notice them more if their content varies.

Third. A requirement in Federal law that all Federal buildings and all carriers in interstate transportation set aside areas where nonsmokers can avoid exposure to cigarette smoke if they choose.

Fourth. The institution of a Federal health protection tax, which would tax cigarettes in proportion to their tar and nicotine content, decreasing the current Federal tax for cigarettes very low in tar and nicotine, and increasing the tax for those very high in these constituents.

I will make just a few points about the bases for these proposals, Mr. President. The act's antismoking initiative rests as the following basic principles.

First, our primary public policy objective must be to prevent smoking. Since deterrence is most easily achieved before the habit is initiated, we propose targeting on preventing smoking among children.

Second, nonsmokers have a right to be protected against the irritation and potential harm associated with exposure to cigarette smoke. They have a right to unpolluted indoor air. The Federal Government should make sure that, within its jurisdiction, this right is protected.

Third, though banning cigarette smoking would be inappropriate and—probably—ineffective, the Federal Government has every right to decrease the health hazards of smoking by using tax incentives to encourage smokers to use cigarettes less likely to harm their health.

I am aware that there is some dispute over whether low tar and nicotine cigarettes are truly less harmful. Some laboratory evidence indicates that consumers may smoke more of these cigarettes, inhale them more deeply, hold the smoke in their lungs longer, and smoke them closer to the end. There is also growing evidence that other constituents of smoke, beside tar and nicotine, may be harmful, and that the hazard associated with these constituents may not be altered through removal of tar and nicotine.

While recognizing these uncertainties, I am still impressed by the epidemiologic data showing that users of filter cigarettes tend to develop lung cancer and heart disease less frequently, and by the continued recommendation of the American Cancer Society that consumers be encouraged to smoke cigarettes low in tar and nicotine. It seems to me, therefore, that encouraging the consumption of "less hazardous" cigarettes is a reasonable and viable short-term strategy. For the long term, we need to rapidly increase our knowledge of the health risks associated with smoking cigarettes low in tar and nicotine. It is for that reason that we ask the Secretary to launch an intensive investigation of the low tar and nicotine strategy and to report back within 2 years to the Congress.

Before concluding my discussion of the National Disease Prevention and Health Promotion Act of 1978, Mr. President, I would like to make one important point concerning the administration of this law. Two years ago, the Congress enacted Public Law 94-317, the National Consumer Health Information and Health Promotion Act of 1976. That law gave the Secretary General authority to institute many of the programs we are now proposing. It also created an Office of Health Information and Health Promotion in the Office of the Assistant Secretary of Health in HEW.

The new Office was intended to serve as a focal point for health promotional activities in the Federal Government. Unfortunately, a series of problems has frustrated the implementation of Public Law 94-317. The moneys authorized under the law were paltry, and the administration has never requested, and the Congress has never allocated, more than a small fraction of what was authorized. As a result, the Office of Health Information and Health Promotion has never been permitted to function in its intended role, and the Federal Government continues to lack any meaningful prevention policy.

I hope the law we are proposing today will end that situation once and for all. We are not repealing Public Law 94-317 because its mandate to the Secretary provides an appropriate preamble for much of what we hope to accomplish through the National Disease Prevention and Health Promotion Act of 1978. However, that leaves unclear the fate of the Office of Health Information and Health Promotion.

Mr. President, we have specifically avoided addressing the administrative issues relevant to creating a national prevention program so that the Secretary might enjoy maximum flexibility in approaching the difficult problems involved. Our proposed program touches on virtually all the agencies of the Public Health Service, and making these bureaucratic entities work together will constitute a major challenge. Properly staffed and supported, the Office of Health Information and Health Promotion might accomplish this task. Certainly, the Secretary will need some administrative entity which sits atop all the HEW agencies to serve as his right arm in forging a coordinated prevention program.

At this time, I do not intend to prejudge these management issues. But I would like to make clear my expectation that the Department will come forth with concrete administrative proposals for dealing with disease prevention and health promotion as a national priority. I also expect the Department's proposals will deal with the future of the Office of Health Information and Health Promotion.

I would also like to note, Mr. President, that the National Disease Prevention and Health Promotion Act of 1978 extends for 3 years section 314(d) of the Public Health Service Act. This program supports comprehensive public health service formula grants to States. While not strictly relevant to our preventive health service proposals, the 314(d) authority is indirectly relevant in a number of important ways.

First, the program provides general support for State health departments, and this support has been vital in maintaining the integrity and strength of these agencies. If they are to take an increasing role in the provision of preventive health services, it is essential that their infrastructure and their capacity for management be maintained and enhanced.

Second, many States use 314(d) funds for providing preventive services of various kinds. For that reason, there are important areas of overlap between the uses of these existing funds and the possible uses of the formula grant for preventive services proposed in title I of the bill. While we do not intend these new moneys to substitute for existing prevention activities, it is essential that the programs funded under these two sources of funds be closely coordinated.

We propose, Mr. President, that the funding authority for 314(d) be modified slightly and increased. First of all, we suggest a matching, incentive grant formula which will encourage the States to add their funds to Federal funds in the support of public health activities within State governments. Second, we suggest an increase in the 314(d) authority from $107 million in 1979 to $125 million in 1980, $140 million in 1981 and $150 million in 1982. These increases are intended to compensate for the fact that appropriations levels under the 314(d) authority have been fixed at the $90 million level since 1971.

Mr. President, I would like to commend my colleague, Senator CHAFEE, for the leading role he has played in crafting our revision of the 314(d) authority and for his valuable assistance in helping shape our program of formula grants to States for preventive services. Senator CHAFEE has been one of the most outspoken advocates of preventive health programs on our committee, and he has helped us to understand the important role the States must play in the formation and administration of such preventive health programs.

Mr. President, if enacted, I think the National Disease Prevention and Health Promotion Act of 1978 would put in place programs that promise to reduce substantially the burden of illness among our people. This legislation can provide something which national health insurance, important as it is, cannot. Health insurance may improve our access to care; it may help contain costs; it may make our health care system more equitable and lighten the burden of catastrophic medical expense. But it will not make us a healthier and more long-lived people unless it is combined with a comprehensive strategy for reducing death and disability through prevention. Our neighbors in Canada are already learning this lesson. After they enacted their comprehensive national health insurance system, they quickly discovered that they had solved only one half of their health care problem. They were able to take care of people once they got sick. But they had done nothing to keep them well.

The Canadians are now undertaking a nationwide effort in the area of health promotion and disease prevention. Mr. President, we can learn from their experience, and from the similar experiences of the many Western European countries with national health insurance programs. We can move now to formulate a national strategy for health promotion and disease prevention. Our children and grandchildren will live longer and better lives if we do.

Mr. President, the Subcommittee on Health and Scientific Research will hold hearings on the National Disease Prevention and Health Promotion Act of 1978 on May 24 and 25 and on June 7 and 9. The first 2 days will be devoted to discussion of our anti-smoking initiative. The latter 2 days will address the balance of the proposed legislation.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Disease Prevention and Health Promotion Act of 1978".

TITLE I—FORMULA AND PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 101. Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FORMULA GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 102. Effective October 1, 1979, title III is amended by adding after section 314 the following new section and heading thereto:

"FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICES

"SEC. 315. (a) The Secretary shall make grants to States to assist them in planning for and in meeting the costs of providing (through such States and through grants or contracts or both with public health authorities of political subdivisions of the States, other public entities, or private entities) preventive health services.

"(b) No grant shall be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in

such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide (other than in an application for a planning grant)—

"(1) for a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the mortality rates for one or more of the five leading causes of death in the State;

"(2) the amount of Federal, State, and other funds obligated by the State in its latest annual accounting period for the provision of each program described in paragraph (1); a description of the preventive health services provided by the State in each such program in such period; the amount of Federal funds needed by the State to continue providing such services in each such program; if the State proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the State to make such changes;

"(3) for, at the option of the State, a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the burden of illness associated with the five leading causes of morbidity in the State;

"(4) the amount of Federal, State, and other funds obligated by the State in its latest annual accounting period for the provision of each program described in paragraph (3); a description of the preventive health services provided by the State in each such program in such period; the amount of Federal funds needed by the State to continue providing such services in each such program; if the State proposes changes in the provision of the services in any such program; the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the State to make such changes;

"(5) that the plans described in paragraphs (1) and (3)—

"(A) shall describe a comprehensive prevention program which utilizes, to the extent practicable, all relevant professional disciplines;

"(B) may, at the option of the State, describe a program or programs that are targeted towards a particular age group;

"(C) shall set forth quantitatively the current relevant rates of mortality and, where appropriate, of morbidity in the State;

"(D) shall set forth the quantitative goals for reduction in the relevant rates of mortality and, where appropriate, of morbidity in the State;

"(E) shall have a separate health communications component in the program or programs which shall include, but not be limited to, a description of how the communications media, including the electronic media, will be utilized to effectuate the purposes of the programs;

"(F) shall identify a specific institutional entity in the State that will be responsible for accomplishing through contracts with private entities and other means the requirements of paragraph (E); and

"(G) shall contain such other information as the Secretary may by regulation prescribe;

"(6) for assurances satisfactory to the Secretary that the preventive health services which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c);

"(7) for assurances satisfactory to the Secretary that the State will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(8) for assurances satisfactory to the Secretary that the State will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(9) for assurances satisfactory to the Secretary that the State will comply with any other conditions imposed by this section with respect to grants; and

"(10) for such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall review annually the activities undertaken by each State with an approved application under subsection (6) to determine if the program or programs are operating effectively to achieve their stated purposes, and if the State complied with the assurances provided with the application. The Secretary shall not approve an application submitted under subsection (b) unless the Secretary determines—

"(A) that the program or programs are operating effectively to achieve their stated purposes,

"(B) that the State complied with assurances provided with a prior application submitted under subsection (b), and

"(C) that he is assured that the State will comply with the assurances provided with the application under consideration.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State, finds with respect to funds paid to it under a grant under subsection (a), that the program or programs are not operating effectively to achieve their stated purposes or that there is a failure to comply substantially with assurances provided under subsection (b) with respect to the receipt of such grant, the Secretary shall notify the State that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program or programs will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the State from such grant.

"(d)(1) The total amount of grants received by a State under subsection (a) to assist States in planning for preventive health services for the fiscal year ending September 30, 1980 shall be determined by the Secretary, except that it may not be less than the product of $.20 and the population of the State.

"(2) The total amount of grants received by a State under subsection (a) to assist States in providing preventive health services for any fiscal year shall be determined by the Secretary, except that it—

"(A) may not exceed the lesser of—

"(i) the product of $.75 and the population of the State, or

"(ii) in the case of the fiscal year ending September 30, 1982, 5 percent of the amount of State and local expenditures for preventive health services supported by grants under subsection (a) within the State in the State's fiscal year which ended on or before July 1, 1981; in the case of the fiscal year ending September 30, 1983, 7½ percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1982; and, in the case of the fiscal year ending September 30, 1984, 10 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1983; and

"(B) may not be less than the product of $.50 and the population of the State.

"(3) The total amount of grants received by a State under subsection (a) to assist States in meeting the costs of operating the health communications component of their preventive health services programs for any fiscal year shall be determined by the Secretary, except that it may not be less than the product of $.10 and the population of the State.

Notwithstanding paragraphs (1), (2), and (3), if for any fiscal year the amount appropriated for that fiscal year under subsection (1) is less than the amount needed to make grants for that fiscal year in accordance with such paragraphs to all States, the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with this section as the amount appropriated under subsection (1) bears to the amount needed to make grants in accordance with this section for such fiscal year to all States.

"(e) Each grant under subsection (a) shall be made for costs for preventive health services in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(f) The Secretary, at the request of a State which is a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee.

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such State and for the purpose of planning or carrying out a program with respect to which the State grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State.

"(g)(1) Each State which is a recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such State of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each State which is a recipient of a grant under subsection (a) that are pertinent to such grant.

"(h) All information obtained about any individual under any program that is being carried out with a grant made under subsection (a) shall not, without such individual's consent, be disclosed, except that (1) such information may be disclosed without such consent if the disclosure is necessary to provide service to such individual or is required by a law of a State or political subdivision of a State, and (2) information derived from any such program may be disclosed—

"(A) in summary, statistical, or other form, or

"(B) for clinical or research purposes,

but only if individually identifiable personal data of any such individual is not disclosed.

"(i) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(j) The Secretary shall submit to the President for submission to the Congress on January 1, 1981, and on January 1 of each succeeding year a report on the extent of the problems presented by the diseases and conditions referred to in paragraphs (1) and (3) of subsection (b); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year to assist the States in operating programs to prevent the diseases and conditions referred to in paragraphs (1) and (3) of subsection (b); and on the effectiveness of the programs assisted under grants under subsection (a) in preventing such diseases and conditions.

"(k)(1) For purposes of paragraphs (1) and (3) of subsection (b), the term 'primary prevention of causative conditions' means the prevention of the development of the conditions in healthy individuals.

"(2) For purposes of paragraphs (1) and (3) of subsection (b), 'secondary prevention of causative conditions' means the early detection of the conditions in asymptomatic individuals.

"(3) For purposes of paragraph (d)(1)(B), the term 'State and local expenditures for preventive health services' means expenditures by State and local public health authorities for preventive health services supported by grants under subsection (a) but excludes expenditures by such authorities—

"(A) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(B) for operating inpatient care facilities, construction, or mental health programs.

"(4) For purposes of subsection (d), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(l)(1) For the purpose of making payments under grants under this section to assist States in planning for preventive health services, there are authorized to be appropriated $55,000,000 for the fiscal year ending September 30, 1980.

"(2) For the purpose of making payments under grants under this section to assist States in meeting the costs of providing preventive health services, there are authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1981, $175,000,000 for the fiscal year ending September 30, 1982, $200,000,000 for the fiscal year ending September 30, 1983, and $200,000,000 for the fiscal year ending September 30, 1984.

"(3) For the purpose of making additional payments under grant under this section to assist States in meeting the costs of operating the health communications component of their preventive health services programs, there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $35,000,000 for the fiscal year ending September 30, 1984.".

PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 103. (a) Effective October 1, 1979, section 317 and the heading thereto are amended to read as follows:

"PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES PROGRAMS

"SEC. 317. (a) The Secretary may make grants to States, political subdivisions of States, other public entities, or private entities to assist them in meeting the costs of providing preventive health services programs as set forth in subsection (j).

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) for a detailed plan of the program for which the applicant is seeking support under subsection (a);

"(2) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of each program referred to in paragraph (1); a description of the preventive health services provided by the applicant in such program in such period; the amount of Federal funds needed by the applicant to continue providing such services in each such program; if the applicant proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the applicant to make such changes;

"(3) for assurances satisfactory to the Secretary that the preventive health services which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c) and in those cases where the applicant is a State, that such services will be provided, where appropriate, in a manner consistent with any plans in effect under paragraphs (b)(1) and (b)(3) of section 315;

"(4) for assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) for assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(6) for assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(7) for such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such a grant is operating effectively to achieve its stated purposes and if the grant recipient complied with the assurances provided with the application. The Secretary shall not approve an application submitted under subsection (b) unless the Secretary determines—

"(A) that the program is operating effectively to achieve its stated purposes,

"(B) that the applicant complied with assurances provided with a prior application under subsection (b), and

"(C) that he is assured that the applicant will comply with the assurances provided with the application under consideration.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing to a grant recipient, finds with respect to funds paid to such recipient, that the program is not operating effectively to achieve its stated purposes or that there is a failure to comply substantially with assurances provided under subsection (b) with respect to the receipt of such grant, the Secretary shall notify the grant recipient that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or in his discretion, reduce payments to the grant recipient.

"(d) The amount of a grant under subsection (a) shall be determined by the Secretary. Each such grant shall be made for costs for preventive health services in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(e) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(f)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(g) All information obtained about any individual under any program that is being carried out with a grant made under subsection (a) shall not, without such individual's consent, be disclosed, except that (1) such information may be disclosed without such consent if the disclosure is necessary to provide service to such individual or is required by a law of a State or political subdivision of a State, and (2) information derived from any such program may be disclosed—

"(A) in summary, statistical, or other form, or

"(B) for clinical or research purposes, but only if individually identifiable personal data of any such individual is not disclosed.

"(h) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(i) The Secretary shall submit to the President for submission to the Congress on January 1, 1981, and on January 1 of each succeeding year a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year for each of the programs listed in subsection (j); and on the effectiveness of the activities assisted under grants under subsection (a) in controlling such diseases and conditions.

"(j)(1) For payments to States under grants under subsection (a) for establishing and maintaining programs for the screening, detection, diagnosis, prevention, referral for treatment, and follow-up on compliance with treatment of hypertension, there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1980, $35,000,000 for the fiscal year ending September 30, 1981, and $40,000,000 for the fiscal year ending September 30, 1982.

"(2) For payments under subsection (a) for establishing and maintaining programs to immunize children against diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $35,000,000 for the fiscal year ending September 30, 1980, $35,000,000 for the fiscal year ending September 30, 1981, and $35,000,000 for the fiscal year ending September 30, 1982.

"(3) For payments under subsection (a) for establishing and maintaining community and school-based fluoridation programs, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982.

"(4) for payments under subsection (a) for establishing and maintaining programs designed to prevent illness caused by factors in the immediate living environment of people such as localized exposure to toxic substances, and improper storage of solid waste and fuels, there are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $12,000,000 for the fiscal year ending September 30, 1982.

"(5) For payments under subsection (a) for establishing and maintaining programs to prevent diseases borne by rodents, there are authorized to be appropriated $14,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, and $14,000,000 for the fiscal year ending September 30, 1982.

"(6)(A) The Secretary shall establish, after consultation with the President's Council on Physical Fitness, standards for comprehensive physical fitness programs.

"(B) For payments under subsection (a) for establishing and maintaining comprehensive physical fitness programs that are consistent with the standards established pursuant to paragraph (A), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.".

(b) Section 503(a) of Public Law 91-695 (relating to authorizations for lead-based paint poisoning prevention programs) is amended by inserting before the period at the end thereof: ", $14,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, and $14,000,000 for the fiscal year ending September 30, 1982".

EXTENSION OF GRANTS TO STATES FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 104. (a) Paragraphs (4) and (5) of section 314(d) are amended to read as follows:

"(4)(A) The total amount of grants received by State health and mental health authorities under paragraph (1) for any fiscal year shall be determined by the Secretary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $1.00 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1980, 5 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 7½ percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 10 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981; and

"(ii) may not be less than the greater of—

"(I) the total amount of grants received by such authorities under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $.50 and the population of the State.

Notwithstanding clause (ii) if for any fiscal year the amount appropriated for that fiscal year under paragraph (7) is less than the amount needed to make grants for that fiscal year in accordance with such clause to all State health and mental health authorities with approved applications, the total amount of grants for that fiscal year for State health and mental health authorities shall not be less than an amount which bears the same ratio to the amounts determined for such authorities in accordance with such clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clause for such fiscal year to all State health and mental health authorities with approved applications.

"(B) The Secretary, at the request of State health and mental health authorities, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies or equipment furnished such authorities, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health or mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State health or mental health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health or mental health authority.

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health and mental health authorities for public health services designated by the Secretary but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.".

(b) Paragraph (6) of section 314(d) is amended by (1) striking "a State's allotment" in clause (A) and inserting in lieu thereof "the amount received", (2) striking "of a State's allotment" in clause (B)(i) and inserting in lieu thereof "received under paragraph (54)", and (3) striking "State's allotment" in clause (B)(ii) and inserting in lieu thereof "amount received under paragraph (4)".

(c) Section 314(d)(7)(A) is amended by striking "and" after "1977," and inserting before the period thereof: ", $107,000,000 for the fiscal year ending September 30, 1979, $125,000,000 for the fiscal year ending September 30, 1980, $140,000,000 for the fiscal year ending September 30, 1981, and $150,000,000 for the fiscal year ending September 30, 1982".

(d) Section 314(d)(7) is amended by adding at the end thereof the following new paragraph:

"(C) Of the amount appropriated under subparagraph (A) for any fiscal year the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).".

TITLE II—RESOURCES FOR DISEASE PREVENTION AND HEALTH PROMOTION

CENTERS FOR HEALTH PROMOTION

SEC. 201. Title III of the Public Health Service Act is amended by adding after section 315 (added by section 102 of this Act) the following new section and heading thereto:

"CENTERS FOR HEALTH PROMOTION

"SEC. 316. (a) For the purposes of assisting the Secretary in carrying out sections 315 and 317; providing such technical and consulting assistance as recipients of grants under such sections may from time to time require; conducting research, studies and analyses (including cost-effectiveness analyses) of preventive health service programs; and developing approaches, methodologies, policies, and standards for delivering preventive health services, the Secretary shall by grants assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health promotion. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by October 1, 1981.

"(b)(1) No grant may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will meet the requirements listed in paragraph (2) and be able to provide assistance and dissemination of information to recipients of grants under sections 315 and 317 as provided in subsections (a) and (c). No grant may be made under this section for operation of a center unless the center meets such requirements and is able to provide such assistance and dissemination of information.

"(2) The requirements referred to in paragraph (1) are as follows:

"(A) There shall be a full-time director of the Center who possesses a demonstrated capacity for substantial accomplishment and leadership in health promotion, and there shall be such additional professional staff as may be appropriate.

"(B) The staff of the Center shall represent a diversity of relevant disciplines.

"(C) Such additional requirements as the Secretary may by regulation prescribe.

"(c) Centers assisted under this section (1) may enter into arrangements with recipients of grants under sections 315 and 317 for the provision of appropriate and necessary technical assistance, and (2) shall develop and disseminate to such recipients approaches, methodologies, policies, and standards for delivering preventive health services.

"(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.".

COMMUNITY BASED DEMONSTRATIONS OF PREVENTIVE HEALTH SERVICES

SEC. 202. (a) The Secretary of Health, Education, and Welfare shall undertake or support (through grants or contracts or both) five intensive and comprehensive community based programs for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations.

(b) The Secretary shall submit to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on January 1, 1981, and on January 1 of every second year thereafter a report on the programs undertaken or supported under subsection (a) including, but not limited to, a detailed description and an evaluation of the effectiveness of each such program.

(c) For the purpose of undertaking or supporting demonstrations and evaluations pursuant to subsection (a), there are authorized to be appropriated $10,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984.

NATIONAL DISEASE PREVENTION DATA PROFILE

SEC. 203. (a) The Secretary, acting through th National Center for Health Statistics or its equivalent, shall submit to Congress on January 1, 1981, and on January 1 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventable diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

(b) In preparing the profile required by subsection (a), the Secretary, acting through the National Center for Health Statistics or its equivalent, shall comply with all relevant provisions of sections 306 and 308 of the Public Health Service Act.

TITLE III—AMENDMENTS TO THE FOOD PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT TO FOSTER HEALTH PROMOTION

SEC. 301. Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

NUTRITION INFORMATION AND OTHER LABELING REQUIREMENTS

SEC. 302. (a) (1) Section 401 is amended by striking out the fourth sentence thereof.

(2) Section 403(g) is amended to read as follows:

"(g) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard; and (2) its label bears the name of the food specified in such definition and standard.".

(b) (1) Section 403(i) is amended to read as follows:

"(i) Unless its label bears—

"(1) in the case of food which is not subject to paragraph (g) of this section, the common or usual name (if any) of the food; and

"(2) in case it is fabricated from two or more ingredients—

"(A) the common or usual name of each such ingredient in the order of its predominance, except that any spices or flavorings which are not sold as such shall be designated as artificial spices cr natural spices and artificial flavorings or natural flavorings, as the case may be, without naming each such ingredient, unless the Secretary requires by regulation that the common or usual name of a spice or flavoring be on the label for the purpose of providing health information to consumers,

"(B) a declaration of the percentage of any specified ingredient (other than a spice or flavoring) if the Secretary determines by regulation that such ingredient has a significant bearing on the quality, nutrition, acceptability, or cost of such food, and

"(C) a symbol as prescribed by the Secretary by regulation to signify the presence of an artificial flavor or color.

To the extent that compliance with the requirements of subparagraph (2) is impracticable or would result in deception or unfair competition, the Secretary shall by regulation prescribe exemptions from such requirements.".

(2) The second sentence of section 403(k) is repealed.

(c) Section 403 is amended by adding after paragraph (p) the following new paragraph:

"(q) (1) If it is a food for human consumption and in package form, unless its label bears such nutrition information relating to the food as the Secretary by regulation prescribes to provide health information to consumers including at least the following:

"(A) the total number of calories and grams per serving,

"(B) the percentage per serving of protein, fat, sugar, starch, and alcohol in terms of caloric content, and

"(C) the grams per serving of protein, saturated fat, unsaturated fat, sugar, starch, alcohol, sodium, cholesterol, and any other ingredients as the Secretary by regulation prescribes.

"(2) The Secretary is authorized, where appropriate, to prescribe by regulation a system of symbols, figures, or other devices which will enable consumers to readily comprehend the nutrition information required to be placed on labels by paragraph (1).

"(3) To the extent that compliance with the requirements of subparagraphs (1) and (2) is impracticable, the Secretary shall by regulation prescribe exemptions from such requirements.".

PREEMPTION

SEC. 303. Chapter IV is amended by adding after section 411 the following new section:

"STATE AND LOCAL FOOD LABELING REQUIREMENTS

SEC. 412. (a) Except as provided in subsection (b), no State or political subdivision of a State may establish or continue in effect a labeling requirement applicable to any food which is different from or in addition to any labeling requirement applicable to such food under section 403.

"(b) Upon application of a State or a political subdivision thereof, the Secretary may, by regulation after notice and opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a labeling requirement of such State or political subdivision if the Secretary determines that the requirement is required by compelling local conditions and compliance with it would not cause a food to be in violation of a requirement under section 403.".

ALCOHOLIC BEVERAGES

SEC. 304. Section 201(f)(1) is amended to read as follows: "(1) articles used (A) for food for man or other animals, and (B) as drink for man or other animals, including distilled spirits, wines, and malt beverages,".

EFFECTIVE DATE

SEC. 305. The amendments made by sections 302, 303, and 304 shall apply with respect to food which is introduced or delivered for introduction into interstate commerce after one year after the date of the enactment of this title.

NOTIFICATION TO AND REPORT BY THE FEDERAL TRADE COMMISSION

SEC. 306. (a) The Secretary of Health, Education, and Welfare shall notify the Federal Trade Commission of the nutritional information that is required to be placed on food labels pursuant to section 403(g) and recommend to the Commission which (if any) of such information should be required by the Commission under the Federal Trade Commission Act to be included in the advertising of such food.

(b) The Chairman of the Commission shall report annually to Congress on (1) any recommendations made to the Commission by the Secretary under subsection (a), (2) in those situations where the Commission accepted a recommendation, a description of any action taken to implement such recommendation, and (3) in those situations where the Commission failed to accept, in whole or in part, a recommendation, a description of the reasons for such failure.

TITLE IV—PROGRAMS DESIGNED TO PROMOTE HEALTH THROUGH SMOKING DETERRENCE

PART A—REGULATION OF SMOKING IN FEDERAL FACILITIES

RESTRICTIONS ON SMOKING IN FEDERAL FACILITIES

SEC. 401. (a) Except as provided in subsection (b), (c) and (d), smoking shall not be permitted in any enclosed area open to the public in any Federal facility or in any stairway, elevator, hallway, conveyance, waiting room, reception room, conference room, or hearing room in any such facility.

(b) Smokers shall be effectively separated from non-smokers in any restaurant, cafeteria, snackbar, other dining facility, recreation room or lounge in any Federal facility.

(c) Each instrumentality of the United States shall use reasonable efforts that do not result in excessive cost or administrative disruption to effectively separate the workplaces of its employees who do not smoke

and who wish to be so separated from the workplaces of its employees who do smoke.

(d) In planning, designing, purchasing, leasing, or otherwise obtaining new facilities, each instrumentalty of the United States shall, to the maximum extent practicable, insure the effective separation of smoking and non-smoking employees in such facilities.

"NO SMOKING" SIGNS

SEC. 402. In every area in any Federal facility where smoking is prohibited under section 401, "No Smoking" signs shall be clearly and conspicuously posted in sufficient numbers and prominence to give notice to any person entering or occupying such area that smoking is prohibited in such area.

ENFORCEMENT

SEC. 403. (a) The executive head or chief administrative officer of each instrumentality of the United States shall be responsible for enforcing sections 401 and 402 in any Federal facility in which such instrumentality maintains offices.

(b) Not later than ninety days after the date of enactment of this Part, the executive head or chief administrative officer of each instrumentality of the United States shall publish in the Federal Register regulations for the enforcement of sections 401 and 402 including, but not limited to, appropriate sanctions for noncompliance with such sections comparable to sanctions for failure to comply with any other applicable regulation affecting the health, safety, or well-being of the public or the work force.

DEFINITIONS

SEC. 404. For the purposes of this part:

(a) the term "smoking" means the smoking or possession of a lighted cigarette, cigar, or pipe containing a tobacco product; and

(b) the term "effectively separated" means the separation of areas in which smoking is permitted and in which smoking is not permitted in a manner which minimizes, to the extent practicable, the drift of smoke from the smoking area into the nonsmoking area.

(c) the term "instrumentality of the United States" means—

(1) an executive agency, as defined in section 105 of title 5, United States Code;

(2) the United States Postal Service;

(3) the Congress;

(4) the courts of the United States; and

(5) the governments of the territories and possessions of the United States;

(d) the term "Federal facility" means—

(1) any building, installation, or facility owned by the United States, excepting private residencies, or;

(2) any part of any other building, installation, or facility, which part is owned or leased by the United States, excepting private residencies.

EFFECTIVE DATE

SEC. 405. This part shall take effect ninety days after the date of enactment of this part.

PART B—ESTABLISHMENT OF A HEALTH PROTECTION TAX

SEC. 406. (a) Subsection (b) of section 5701 of the Internal Revenue Code of 1954 (relating to the rate of tax on cigarettes) is amended to read as follows:

"(b) Cigarettes—

"(1) IMPOSITION OF TAX.—There shall be imposed on every cigarette manufactured in or imported into the United States, regardless of weight, which contains—

"(A) from 10 to 19.9 toxic units, a health protection tax of $0.0025;

"(B) from 20 to 29.9 toxic units, a health protection tax of $0.0075;

"(C) from 30 to 39.9 toxic units, a health protection tax of $0.015; and

"(D) 40 or more toxic units, a health protection tax of $0.025.

"(2) DEFINITION OF TOXIC UNITS.—For the purposes of subsection (b)(1) above, the number of 'toxic units' means the sum of—

"(A) the number of milligrams of 'tar', plus

"(B) 10 times the number of the milligrams of 'nicotine' which are contained in such cigarette.

"(3) DETERMINATION OF TAR AND NICOTINE CONTENT.—

"(A) Testing by Federal Trade Commission.—The Federal Trade Commission (hereinafter referred to as the 'Commission') shall from time to time (but at least once each calendar year) determine or cause to be determined the tar and nicotine content (calculated in milligrams per cigarette) of each brand of cigarettes manufactured in or imported into the United States. The conditions, methods, and procedures for conducting such determinations shall be promulgated by the Commission in regulations issued by it for purposes of this paragraph. Until such time as such regulations are first issued, the conditions, methods, and procedures for conducting such determinations shall be those approved by the Commission for formal testing which are in effect on the date of the enactment of this subsection.

"(B) Certification to the Secretary.—During the last calendar quarter of each calendar year, the Chairman of the Commission shall certify to the Secretary the tar and nicotine content of each brand of cigarettes manufactured in or imported into the United States. Such certifications shall be used by the Secretary to determine the rate of tax to be imposed on cigarettes for the period beginning with the first day of the calendar year beginning after such certification is made, and during such calendar year.

"(C) The Commission and the Secretary shall promulgate regulations for the purposes of testing, certifying, and imposing taxes under this subsection on new brands of cigarettes introduced for sale.".

(b) The amendments made by subsection (a) shall apply to cigarettes which the manufacturer or importer of such cigarettes removes (within the meaning of section 5702 (k) of such Code) within 120 days after the date of enactment of this part.

(c) The Commission and the Secretary of the Treasury or his delegate shall promulgate regulations for the purposes of section 5701(b) of the Internal Revenue Code of 1954 within 60 days after the date of the enactment of this part.

SEC. 407. There are authorized to be appropriated for the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984, those amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury under section 5701(b) of the Internal Revenue Code of 1954 for the purpose of making additional payments to the States to assist them in meeting the costs of providing preventive health services under section 315 of the Public Health Service Act. The amount of payments to the States shall be determined on a per capita basis provided that only those States who are receiving grants under section 315(1)(2) of the Public Health Service Act shall be eligible to receive payments under this subsection.

PART C—CHANGES IN LABELING FOR CIGARETTE PACKAGES

SEC. 408. (a) Effective one year after the date of enactment of this part, Section 4 of the Federal Cigarette Labeling and Advertising Act (Public Law 89-92) is amended to read as follows:

"SEC. 4(a). It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes—

"(1) if the package for which fails to bear the tar and nicotine content of such cigarettes stated in milligrams, and

"(2) if the package for which fails to bear one of the following statements:

"(A) CANCER MAY RESULT FROM CIGARETTE SMOKING;

"(B) CANCER OF THE LUNGS, MOUTH, AND THROAT MAY RESULT FROM CIGARETTE SMOKING;

"(C) HEART DISEASE MAY RESULT FROM CIGARETTE SMOKING;

"(D) CIGARETTE SMOKING MAY HURT YOUR HEART;

"(E) EMPHYSEMA AND CHRONIC BRONCHITIS MAY RESULT FROM CIGARETTE SMOKING;

"(F) CIGARETTE SMOKING DURING PREGNANCY MAY DAMAGE THE UNBORN CHILD;

"(G) YOU OWE YOUR BODY SOME RESPECT—DON'T SMOKE;

"(H) SMOKER'S COUGH IS AN EARLY SIGN OF LUNG DAMAGE;

"(I) IF YOU MUST SMOKE, INHALE LIGHTLY—THIS MAY REDUCE THE RISKS TO YOUR HEALTH;

"(J) DON'T SMOKE CIGARETTES TO THE END—THIS MAY REDUCE THE RISKS TO YOUR HEALTH.".

(b) The statements required by subsection (a) shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on the package.

(c) Cigaretts shall be packaged for sale or distribution in such a manner so that each of the statements required by paragraph (a)(2) appears on 10 percentum of all cigarette packages.

PART D—ESTABLISHMENT OF PROGRAM TO DETER SMOKING AMONG CHILDREN AND ADOLESCENTS

SEC. 409. (a) The Secretary of Health, Education, and Welfare, after consultation with appropriate public and private entities, shall establish a comprehensive program designed to deter smoking among children and adolescents. Such a program shall include—

(1) the undertaking or support (through grants or contracts or both) of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking among children and adolescents, with special emphasis on children aged 12 or below;

(2) the undertaking or support (through grants or contracts or both) of demonstrations and evaluations of comprehensive community and school-based programs designed to deter smoking among children and adolescents; and

(3) grants to States or political subdivisions of States to assist them in meeting the costs of operating comprehensive community or school-based programs designed to deter smoking among children and adolescents.

(b) With respect to grants under paragraph (a)(3), the Secretary and each grant applicant and recipient must comply with the provisions of subsections (b), (c), (d), (e), (f), (g), and (h) of section 317.

(c)(1) For the purpose of making payments for the undertaking or support of research under paragraph (a)(1), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.

(2) For the purpose of making payments for the undertaking or support of demonstrations and evaluations under paragraph (a)(2), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.

(3) For the purpose of making payments for grants under paragraph (a) (3), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.

PART E—STUDIES OF HEALTH RISKS ASSOCIATED WITH SMOKING CIGARETTES OF VARYING LEVELS OF TAR AND NICOTINE AND WITH SUBSTANCES COMMONLY ADDED TO COMMERCIALLY MANUFACTURED CIGARETTES

SEC. 410. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar and nicotine and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes.

(b) Within two years of the date of enactment of this part, the Secretary shall report to the Congress the results of the study or studies conducted pursuant to subsection (a) and any recommendations for legislative or administrative action.

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. This Act may be cited as the "Formula and Projects Grants for Preventive Health Services and Resources for Disease Prevention and Health Promotion Act of 1978".

TITLE I — FORMULA AND PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 101. Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FORMULA GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 102. Effective October 1, 1979, title III is amended by adding after section 314 the following new section and heading thereto:

"FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICES

"SEC. 315. (a) The Secretary shall make grants to States to assist them in planning for and in meeting the costs of providing (through such States and through grants or contracts or both with public health authorities of political subdivisions of the States, other public entities, or private entities) preventive health services.

"(b) No grant shall be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide (other than in an application for a planning grant)—

"(1) for a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the mortality rate for one or more of the five leading causes of death in the State;

"(2) the amount of Federal, State, and other funds obligated by the State in its latest annual accounting period for the provision of each program described in paragraph (1); a description of the preventive health services provided by the State in each such program in such period; the amount of Federal funds needed by the State to continue providing such services in each such program; if the State proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the State to make such changes;

"(3) for, at the option of the State, a detailed plan of a program designed to reduce, through the primary or secondary prevention of causative conditions, the burden of illness associated with the five leading causes of morbidity in the State;

"(4) the amount of Federal, State, and other funds obligated by the State in its latest annual accounting period for the provision of each program described in paragraph (3); a description of the preventive health services provided by the State in each such program in such period; the amount of Federal funds needed by the State to continue providing such services in each such program; if the State proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the State to make such changes;

"(5) that the plans described in paragraphs (1) and (3)—

"(A) shall describe a comprehensive prevention program which utilizes, to the extent practicable, all relevant professional disciplines;

"(B) may, at the option of the State, describe a program or programs that are targeted toward a particular age group;

"(C) shall set forth quantitatively the current relevant rates of mortality and, where appropriate, of morbidity in the State;

"(D) shall set forth the quantitative goals for reduction in the relevant rates of mortality and, where appropriate, of morbidity in the State;

"(E) shall have a separate health communications component in the program or programs which shall include, but not be limited to, a description of how the communications media, including the electronic media, will be utilized to effectuate the purposes of the programs;

"(F) shall identify a specific institutional entity in the State that will be responsible for accomplishing through contracts with private entities and other means the requirements of paragraph (E); and

"(G) shall contain such other information as the Secretary may by regulation prescribe;

"(6) for assurances satisfactory to the Secretary that the preventive health services which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c);

"(7) for assurances satisfactory to the Secretary that the State will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(8) for assurances satisfactory to the Secretary that the State will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(9) for assurances satisfactory to the Secretary that the State will comply with any other conditions imposed by this section with respect to grants; and

"(10) for such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall review annually the activities undertaken by each State with an approved application under subsection (b) to determine if the program or programs are operating effectively to achieve their stated purposes, and if the State complied with the assurances provided with the application. The Secretary shall not approve an application submitted under subsection (b) unless the Secretary determines—

"(A) that the program or programs are operating effectively to achieve their stated purposes,

"(B) that the State complied with assurances provided with a prior application submitted under subsection (b), and

"(C) that he is assured that the State will comply with the assurances provided with the application under consideration.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State, finds with respect to funds paid to it under a grant under subsection (a), that the program or programs are not operating effectively to achieve their stated purposes or that there is failure to comply substantially with assurances provided under subsection (b) with respect to the receipt of such grant, the Secretary shall notify the State that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program or programs will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the State from such grant.

"(d)(1) The total amount of grants received by a State under subsection (a) to assist States in planning for preventive health services for the fiscal year ending September 30, 1980 shall be determined by the Secretary, except that it may not be less than the product of $.20 and the population of the State.

"(2) The total amount of grants received by a State under subsection (a) to assist States in providing preventive health services for any fiscal year shall be determined by the Secretary, except that it—

"(A) may not exceed the lesser of—

"(i) the product of $.75 and the population of the State, or

"(ii) in the case of the fiscal year ending September 30, 1982, 5 percent of the amount of State and local expenditures for preventive health services supported by grants under subsection (a) within the State in the State's fiscal year which ended on or before July 1, 1981; in the case of the fiscal year ending September 30, 1983, 7½ percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1982; and, in the case of the fiscal year ending September 30, 1984, 10 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1983; and

"(B) may not be less than the product of $.50 and the population of the State.

"(3) The total amount of grants received by a State under subsection (a) to assist States in meeting the costs of operating the health communications component of their preventive health services programs for any fiscal year shall be determined by the Secretary, except that it may not be less than the product of $.10 and the population of the State.

Notwithstanding paragraphs (1), (2), and (3), if for any fiscal year the amount appropriated for that fiscal year under subsection (1) is less than the amount needed to make grants for that fiscal year in accordance with such paragraphs to all States, the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with this section as the amount appropriated under subsection (1) bears to the amount needed to make grants in accordance with this section for such fiscal year to all States.

"(e) Each grant under subsection (a) shall be made for costs for preventive health services in the one-year period beginning on

the first day of the first month beginning after the month in which the grant is made. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(f) The Secretary, at the request of a State which is a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such State and for the purpose of planning or carrying out a program with respect to which the State grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State.

"(g)(1) Each State which is a recipient of a grant under subsection (a) shall keep records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such State of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each State which is a recipient of a grant under subsection (a) that are pertinent to such grant.

"(h) All information obtained about any individual under any program that is being carried out with a grant made under subsection (a) shall not, without such individual's consent, be disclosed, except that (1) such information may be disclosed without such consent if the disclosure is necessary to provide service to such individual or is required by a law of a State or political subdivision of a State, and (2) information derived from any such program may be disclosed—

"(A) in summary, statistical, or other form, or

"(B) for clinical or research purposes,

but only if individually identifiable personal data of any such individual is not disclosed.

"(i) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(j) The Secretary shall submit to the President for submission to the Congress on January 1, 1981, and on January 1 of each succeeding year a report on the extent of the problems presented by the diseases and conditions referred to in paragraphs (1) and (3) of subsection (b); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year to assist the States in operating programs to prevent the diseases and conditions referred to in paragraphs (1) and (3) of subsection (b); and on the effectiveness of the programs assisted under grants under subsection (a) in preventing such diseases and conditions.

"(k)(1) For purposes of paragraphs (1) and (3) of subsection (b), the term 'primary prevention of causative conditions' means the prevention of the development of the conditions in healthy individuals.

"(2) For purposes of paragraphs (1) and (3) of subsection (b), 'secondary prevention of causative conditions' means the early detection of the conditions in asymptomatic individuals.

"(3) For purposes of paragraph (d)(1)(B), the term 'State and local expenditures for preventive health services' means expenditures by State and local public health authorities for preventive health services supported by grants under subsection (a) but excludes expenditures by such authorities—

"(A) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(B) for operating inpatient care facilities, construction, or mental health programs.

"(4) For purposes of subsection (d), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(l)(1) For the purpose of making payments under grants under this section to assist States in planning for preventive health services, there are authorized to be appropriated $55,000,000 for the fiscal year ending September 30, 1980.

"(2) For the purpose of making payments under grants under this section to assist States in meeting the costs of providing preventive health services, there are authorized to be appropriated $156,000,000 for the fiscal year ending September 30, 1981, $175,000,000 for the fiscal year ending September 30, 1982, $200,000,000 for the fiscal year ending September 30, 1983, and $200,000,000 for the fiscal year ending September 30, 1984.

"(3) For the purpose of making additional payments under grants under this section to assist States in meeting the costs of operating the health communications component of their preventive health services programs, there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $35,000,000 for the fiscal year ending September 30, 1984.".

PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

SEC. 103. (a) Effective October 1, 1979, section 317 and the heading thereto are amended to read as follows:

"PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICE PROGRAMS

"SEC. 317. (a) The Secretary may make grants to States, political subdivisions of States, other public entities, or private entities to assist them in meeting the costs of providing preventive health services programs as set forth in subsection (j).

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) for a detailed plan of the program for which the applicant is seeking support under subsection (a);

"(2) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of each program referred to in paragraph (1); a description of the preventive health services provided by the applicant in such program in such period; the amount of Federal funds needed by the applicant to continue providing such services in each such program; if the applicant proposes changes in the provision of the services in any such program, the priorities of such proposed changes; the reasons for such changes; and, the amount of Federal funds needed by the applicant to make such changes;

"(3) for assurances satisfactory to the Secretary that the preventive health services which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c) and in those cases where the applicant is a State, that such services will be provided, where appropriate, in a manner consistent with any plans in effect under paragraphs (b)(1) and (b)(3) of section 315;

"(4) for assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) for assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(6) for assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(7) for such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such a grant is operating effectively to achieve its stated purposes and if the grant recipient complied with the assurances provided with the application. The Secretary shall not approve an application submitted under subsection (b) unless the Secretary determines—

"(A) that the program is operating effectively to achieve its stated purposes,

"(B) that the applicant complied with assurances provided with a prior application under subsection (b), and

"(C) that he is assured that the applicant will comply with the assurances provided with the application under consideration.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing to a grant recipient, finds with respect to funds paid to such recipient, that the program is not operating effectively to achieve its stated purposes or that there is a failure to comply substantially with assurances provided under subsection (b) with respect to the receipt of such grant, the Secretary shall notify the grant recipient that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the grant recipient.

"(d) The amount of a grant under subsection (a) shall be determined by the Secretary. Each such grant shall be made for costs for preventive health services in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and condi-

tions as the Secretary finds necessary to carry out the purposes of such grants.

"(e) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(f)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(g) All information obtained about any individual under any program that is being carried out with a grant made under subsection (a) shall not, without such individual's consent, be disclosed, except that (1) such information may be disclosed without such consent if the disclosure is necessary to provide service to such individual or is required by a law of a State or political subdivision of a State, and (2) information derived from any such program may be disclosed—

"(A) in summary, statistical, or other form, or

"(B) for clinical or research purposes,

but only if individually identifiable personal data of any such individual is not disclosed.

"(h) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(i) The Secretary shall submit to the President for submission to the Congress on January 1, 1981, and on January 1 of each succeeding year a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year for each of the programs listed in subsection (j); and on the effectiveness of the activities assisted under grants under subsection (a) in controlling such diseases and conditions.

"(j)(1) For payments to States under grants under subsection (a) for establishing and maintaining programs for the screening, detection, diagnosis, prevention, referral for treatment, and follow-up on compliance with treatment of hypertension, there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1980, $35,000,000 for the fiscal year ending September 30, 1981, and $40,000,000 for the fiscal year ending September 30, 1982.

"(2) For payments under subsection (a) for establishing and maintaining programs to immunize children against diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $35,000,000 for the fiscal year ending September 30, 1980, $35,000,000 for the fiscal year ending September 30, 1981, and $35,000,000 for the fiscal year ending September 30, 1982.

"(3) For payments under subsection (a) for establishing and maintaining community and school-based flouridation programs, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982.

"(4) For payments under subsection (a) for establishing and maintaining programs designed to prevent illness caused by factors in the immediate living environment of people such as localized exposure to toxic substances, and improper storage of solid waste and fuels, there are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $12,000,000 for the fiscal year ending September 30, 1982.

"(5) For payments under subsection (a) for establishing and maintaining programs to prevent diseases borne by rodents, there are authorized to be appropriated $14,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, and $14,000,000 for the fiscal year ending September 30, 1982.

"(6)(A) The Secretary shall establish, after consultation with the President's Council on Physical Fitness, standards for comprehensive physical fitness programs.

"(B) For payments under subsection (a) for establishing and maintaining comprehensive physical fitness programs that are consistent with the standards established pursuant to paragraph (A), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $12,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.".

(b) Section 503(a) of Public Law 91-695 (relating to authorization for lead-based paint poisoning prevention programs) is amended by inserting before the period at the end thereof: ", $14,000,000 for the fiscal year ending September 30, 1980, $14,000,000 for the fiscal year ending September 30, 1981, and $14,000,000 for the fiscal year ending September 30, 1982".

EXTENSION OF GRANTS TO STATES FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 104. (a) Paragraphs (4) and (5) of section 314(d) are amended to read as follows:

"(4)(A) The total amount of grants received by State health and mental health authorities under paragraph (1) for any fiscal year shall be determined by the Secretary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $1.00 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1980, 5 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 7½ percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 10 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981; and

"(ii) may not be less than the greater of—

"(I) the total amount of grants received by such authorities under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $.50 and the population of the State.

Notwithstanding clause (ii) if for any fiscal year the amount appropriated for that fiscal year under paragraph (7) is less than the amount needed to make grants for that fiscal year in accordance with such clause to all State health and mental health authorities with approved applications, the total amount of grants for that fiscal year for State health and mental health authorities shall not be less than an amount which bears the same ratio to the amounts determined for such authorities in accordance with such clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clause for such fiscal year to all State health and mental health authorities with approved applications.

"(B) The Secretary, at the request of State health and mental health authorities, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies or equipment furnished such authorities, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health or mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State health or mental health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health or mental health authority.

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health and mental health authorities for public health services designated by the Secretary but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating impatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.".

(b) Paragraph (6) of section 314(d) is amended by (1) striking "a State's allotment" in clause (A) and inserting in lieu thereof "the amount received", (2) striking "of a State's allotment" in clause (B)(i) and inserting in lieu thereof "received under

paragraph (4)", and (3) striking "State's allotment" in clause (B)(ii) and inserting in lieu thereof "amount received under paragraph (4)".

(c) Section 314(d)(7)(A) is amended by striking "and" after "1977," and inserting before the period thereof: ", $107,000,000 for the fiscal year ending September 30, 1979, $125,000,000 for the fiscal year ending September 30, 1980, $140,000,000 for the fiscal year ending September 3, 1981, and $150,000,000 for the fiscal year ending September 30, 1982".

(d) Section 314(d)(7) is amended by adding at the end thereof the following new paragraph:

"(C) Of the amount appropriated under subparagraph (A) for any fiscal year the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).".

TITLE II—RESOURCES FOR DISEASE PREVENTION AND HEALTH PROMOTION

CENTERS FOR HEALTH PROMOTION

SEC. 201. Title III of the Public Health Service Act is amended by adding after section 315 (added by section 102 of this Act) the following new section and heading thereto:

"CENTERS FOR HEALTH PROMOTION

"SEC. 316. (a) For the purposes of assisting the Secretary in carrying out sections 315 and 317; providing such technical and consulting assistance as recipients of grants under such sections may from time to time require; conducting research, studies and analyses (including cost-effectiveness analyses) of preventive health service programs; and developing approaches, methodologies, policies, and standards for delivering preventive health services, the Secretary shall by grants assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health promotion. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by October 1, 1981.

"(b)(1) No grant may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will meet the requirements listed in paragraph (2) and be able to provide assistance and dissemination of information to recipients of grants under sections 315 and 317 as provided in subsections (a) and (c). No grant may be made under this section for operation of a center unless the center meets such requirements and is able to provide such assistance and dissemination of information.

"(2) The requirements referred to in paragraph (1) are as follows:

"(A) There shall be a full-time director of the Center who possesses a demonstrated capacity for substantial accomplishment and leadership in health promotion, and there shall be such additional professional staff as may be appropriate.

"(B) The staff of the Center shall represent a diversity of relevant disciplines.

"(C) Such additional requirements as the Secretary may by regulation prescribe.

"(c) Centers assisted under this section (1) may enter into arrangements with recipients of grants under sections 315 and 317 for the provision of appropriate and necessary technical assistance, and (2) shall develop and disseminate to such recipients approaches, methodologies, policies, and standards for delivering preventive health services.

"(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.".

COMMUNITY BASED DEMONSTRATIONS OF PREVENTIVE HEALTH SERVICES

SEC. 202. (a) The Secretary of Health, Education, and Welfare shall undertake or support (through grants or contracts or both) five intensive and comprehensive community based programs for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations.

(b) The Secretary shall submit to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on January 1, 1981 and on January 1, of every second year thereafter a report on the programs undertaken or supported under subsection (a) including, but not limited to, a detailed description and an evaluation of the effectiveness of each such program.

(c) For the purpose of undertaking or supporting demonstrations and evaluations pursuant to subsection (a), there are authorized to be appropriated $10,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984.

NATIONAL DISEASE PREVENTION DATA PROFILE

SEC. 203. (a) The Secretary, acting through the National Center for Health Statistics or its equivalent, shall submit to Congress on January 1, 1981, and on January 1 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventable diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

(b) In preparing the profile required by subsection (a), the Secretary, acting through the National Center for Health Statistics or its equivalent, shall comply with all relevant provisions of sections 306 and 308 of the Public Health Service Act.

S. 3117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Nutritional Labeling Act of 1978".

(b) Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

NUTRITION INFORMATION AND OTHER LABELING REQUIREMENTS

SEC. 2. (a)(1) Section 401 is amended by striking out the fourth sentence thereof.

(2) Section 403(g) is amended to read as follows:

"(g) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard; and (2) its label bears the name of the food specified in such definition and standard.".

(b)(1) Section 403(i) is amended to read as follows:

"(i) Unless its label bears—

"(1) in the case of food which is not subject to paragraph (g) of this section, the common or usual name (if any) of the food; and

"(2) in case it is fabricated from two or more ingredients—

"(A) the common or usual name of each such ingredient in the order of its predominance, except that any spices or flavorings which are not sold as such shall be designated as artificial spices or natural spices and artificial flavorings or natural flavorings, as the case may be, without naming each such ingredient, unless the Secretary requires by regulation that the common or unusual name of a spice or flavoring be on the label for the purpose of providing health information to consumers,

"(B) a declaration of the percentage of any specified ingredient (other than a spice or flavoring) if the Secretary determines by regulation that such ingredient has a significant bearing on the quality, nutrition, acceptability, or cost of such food, and

"(C) a symbol as prescribed by the Secretary by regulation to signify the presence of an artificial flavor or color.

To the extent that compliance with the requirements of subparagraph (2) is impracticable or would result in deception or unfair competition, the Secretary shall by regulation prescribe exemptions from such requirements.".

(2) The second sentence of section 403(k) is repealed.

(c) Section 403 is amended by adding after paragraph (p) the following new paragraph:

"(q)(1) If it is a food for human consumption and in package form, unless its label bears such nutrition information relating to the food as the Secretary by regulation prescribes to provide health information to consumers including at least the following:

"(A) the total number of calories and grams per serving,

"(B) the percentage per serving of protein, fat, sugar, starch, and alcohol in terms of caloric content, and

"(C) the grams per serving of protein, saturated fat, unsaturated fat, sugar, starch, alcohol, sodium, cholesterol, and any other ingredients as the Secretary by regulation prescribes.

"(2) The Secretary is authorized, where appropriate, to prescribe by regulation a system of symbols, figures, or other devices which will enable consumers to readily comprehend the nutrition information required to be placed on labels by paragraph (1).

"(3) To the extent that compliance with the requirements of subparagraphs (1) and (2) is impracticable, the Secretary shall by regulation prescribe exemptions from such requirements.".

PREEMPTION

SEC. 3. Chapter IV is amended by adding after section 411 the following new section:

"STATE AND LOCAL FOOD LABELING REQUIREMENTS

"SEC. 412. (a) Except as provided in subsection (b), no State or political subdivision of a State may establish or continue in effect a labeling requirement applicable to any food which is different from or in addition to any labeling requirement applicable to such food under section 403.

"(b) Upon application of a State or a political subdivision thereof, the Secretary may, by regulation after notice and opportunity

for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a labeling requirement of such State or political subdivision if the Secretary determines that the requirement is required by compelling local conditions and compliance with it would not cause a food to be in violation of a requirement under section 403.".

ALCOHOLIC BEVERAGES

SEC. 4. Section 201(f)(1) is amended to read as follows: "(1) articles used (A) for food for man or other animals, and (B) as drink for man or other animals, including distilled spirits, wines, and malt beverages,".

EFFECTIVE DATE

SEC. 5. The amendments made by sections 2, 3, and 4 shall apply with respect to food which is introduced or delivered for introduction into interstate commerce after one year after the date of the enactment of this Act.

NOTIFICATION TO AND REPORT BY THE FEDERAL TRADE COMMISSION

SEC. 6. (a) The Secretary of Health, Education, and Welfare shall notify the Federal Trade Commission of the nutritional information that is required to be placed on food labels pursuant to section 403(q) and recommend to the Commission which (if any) of such information should be required by the Commission under the Federal Trade Commission Act to be included in the advertising of such food.

(b) The Chairman of the Commission shall report annually to Congress on (1) any recommendations made to the Commission by the Secretary under subsection (a), (2) in those situations where the Commission accepted a recommendation, a description of any action taken to implement such recommendation, and (3) in those situations where the Commission failed to accept, in whole or in part, a recommendation, a description of the reasons for such failure.

S. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Smoking Deterrence Act of 1978".

REGULATION OF SMOKING IN FEDERAL FACILITIES; RESTRICTIONS ON SMOKING IN FEDERAL FACILITIES

SEC. 2. (a) Except as provided in subsections (b), (c) and (d), smoking shall not be permitted in any enclosed area open to the public in any Federal facility or in any stairway, elevator, hallway, conveyance, waiting room, reception room, conference room, or hearing room in any such facility.

(b) Smokers shall be effectively separated from non-smokers in any restaurant, cafeteria, snackbar, other dining facility, recreation room or lounge in any Federal facility.

(c) Each instrumentality of the United States shall use reasonable efforts that do not result in excessive cost or administrative disruption to effectively separate the workplaces of its employees who do not smoke and who wish to be so separated from the workplaces of its employees who do smoke.

(d) In planning, designing, purchasing, leasing, or otherwise obtaining new facilities, each instrumentality of the United States shall, to the maximum extent practicable, insure the effective separation of smoking and non-smoking employees in such facilities.

"NO SMOKING" SIGNS

SEC. 3. In every area in any Federal facility where smoking is prohibited under section 401, "No Smoking" signs shall be clearly and conspicuously posted in sufficient numbers and prominence to give notice to any person entering or occupying such area that smoking is prohibited in such area.

ENFORCEMENT

SEC. 4. (a) The executive head or chief administrative officer of each instrumentality of the United States shall be responsible for enforcing sections 2 and 3 in any Federal facility in which such instrumentality maintains offices.

(b) Not later than ninety days after the date of enactment of this Act, the executive head or chief administrative officer of each instrumentality of the United States shall publish in the Federal Register regulations for the enforcement of sections 2 and 3 including, but not limited to, appropriate sanctions for noncompliance of such sections comparable to sanctions for failure to comply with any other applicable regulation affecting the health, safety, or well-being of the public or the work force.

DEFINITIONS

SEC. 5. For the purposes of this Act:

(a) the term "smoking" means the smoking or possession of a lighted cigarette, cigar, or pipe containing a tobacco product; and

(b) the term "effectively separated" means the separation of areas in which smoking is permitted and in which smoking is not permitted in a manner which minimizes, to the extent practicable, the drift of smoke from the smoking area into the nonsmoking area.

(c) the term "instrumentality of the United States" means—

(1) an executive agency, as defined in section 105 of title 5, United States Code;

(2) the United States Postal Service;

(3) the Congress;

(4) the courts of the United States; and

(5) the governments of the territories and possessions of the United States;

(d) the term "Federal facility" means—

(1) any building, installation, or facility owned by the United States, excepting private residencies, or;

(2) any part of any other building, installation, or facility, which part is owned or leased by the United States, excepting private residencies.

EFFECTIVE DATE

SEC. 6. The provisions of this Act shall take effect ninety days after the date of enactment of this Act.

ESTABLISHMENT OF A HEALTH PROTECTION TAX

SEC. 7. (a) Subsection (b) of section 5701 of the Internal Revenue Code of 1954 (relating to the rate of tax on cigarettes) is amended to read as follows:

"(b) Cigarettes—

"(1) IMPOSITION OF TAX.—There shall be imposed on every cigarette manufactured in or imported into the United States, regardless of weight, which contains—

"(A) from 10 to 19.9 toxic units, a health protection tax of $0.0025;

"(B) from 20 to 29.9 toxic units, a health protection tax of $0.0075;

"(C) from 30 to 39.9 toxic units, a health protection tax of $0.015; and

"(D) 40 or more toxic units, a health protection tax of $0.025.

"(2) DEFINITION OF TOXIC UNITS.—For the purposes of subsection (b)(1) above, the number of 'toxic units' means the sum of—

"(A) the number of milligrams of 'tar', plus

"(B) 10 times the number of the milligrams of 'nicotine' which are contained in such cigarette.

"(3) DETERMINATION BY FEDERAL TRADE COMMISSION.—The Federal Trade Commission (hereinafter referred to as the 'Commission') shall from time to time (but at least once each calendar year) determine or cause to be determined the tar and nicotine content (calculated in milligrams per cigarette) of each brand of cigarettes manufactured in or imported into the United States. The conditions, methods, and procedures for conducting such determinations shall be promulgated by the Commission in regulations issued by it for purposes of this paragraph. Until such time as such regulations are first issued, the conditions, methods, and procedures for conducting such determinations shall be those approved by the Commission for formal testing which are in effect on the date of the enactment of this subsection.

"(B) CERTIFICATION TO THE SECRETARY.—During the last calendar quarter of each calendar year, the Chairman of the Commission shall certify to the Secretary the tar and nicotine content of each brand of cigarettes manufactured in or imported into the United States. Such certifications shall be used by the Secretary to determine the rate of tax to be imposed on cigarettes for the period beginning with the first day of the calendar year beginning after such certification is made, and during such calendar year.

"(C) The Commission and the Secretary shall promulgate regulations for the purposes of testing, certifying, and imposing taxes under this subsection on new brands of cigarettes introduced for sale.".

(b) The amendments made by subsection (a) shall apply to cigarettes which the manufacturer or importer of such cigarettes removes (within the meaning of section 5702 (k) of such Code) within 120 days after the date of enactment of this Act.

(c) The Commission and the Secretary of the Treasury or his delegate shall promulgate regulations for the purposes of section 5701(b) of the Internal Revenue Code of 1954 within 60 days after the date of the enactment of this Act.

SEC. 8. There are authorized to be appropriated for the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984, those amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury under section 5701(b) of the Internal Revenue Code of 1954 for the purpose of making additional payments to the States to assist them in meeting the costs of providing preventive health services under section 315 of the Public Health Service Act. The amount of payments to the States shall be determined on a per capita basis provided that only those States who are receiving grants under section 315(1)(2) of the Public Health Service Act shall be eligible to receive payments under this subsection.

CHANGES IN LABELING FOR CIGARETTE PACKAGES

SEC. 9. (a) Effective one year after the date of enactment of this Act, Section 4 of the Federal Cigarette Labeling and Advertising Act (Public Law 89-92) is amended to read as follows:

"SEC. 4(a). It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes—

"(1) if the package for which fails to bear the tar and nicotine content of such cigarettes stated in milligrams, and

"(2) if the package for which fails to bear one of the following statements:

"(A) CANCER MAY RESULT FROM CIGARETTE SMOKING;

"(B) CANCER OF THE LUNGS, MOUTH, AND THROAT MAY RESULT FROM CIGARETTE SMOKING;

"(C) HEART DISEASE MAY RESULT FROM CIGARETTE SMOKING;

"(D) CIGARETTE SMOKING MAY HURT YOUR HEART;

"(E) EMPHYSEMA AND CHRONIC BRONCHITIS MAY RESULT FROM CIGARETTE SMOKING;

"(F) CIGARETTE SMOKING DURING PREGNANCY MAY DAMAGE THE UNBORN CHILD;

"(G) YOU OWE YOUR BODY SOME RESPECT—DON'T SMOKE;

"(H) SMOKER'S COUGH IS AN EARLY SIGN OF LUNG DAMAGE;

"(I) IF YOU MUST SMOKE, INHALE LIGHTLY—THIS MAY REDUCE THE RISKS TO YOUR HEALTH;

"(J) DON'T SMOKE CIGARETTES TO THE END—THIS MAY REDUCE THE RISKS TO YOUR HEALTH.".

(b) The statements required by subsection (a) shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typograph, layout, and color with other printed matter on the package.

"(C) Cigarettes shall be packaged for sale or distribution in such a manner so that each of the statements required by paragraph (a) (2) appears on 10 percent of all cigarette packages.

ESTABLISHMENT OF PROGRAM TO DETER SMOKING AMONG CHILDREN AND ADOLESCENTS

SEC. 10. (a) The Secretary of Health, Education, and Welfare, after consultation with appropriate public and private entities, shall establish a comprehensive program designed to deter smoking among children and adolescents. Such a program shall include—

(1) the undertaking or support (through grants or contracts or both) of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking among children and adolescents, with special emphasis on children aged 12 or below;

(2) the undertaking or support (through grants or contracts or both) of demonstrations and evaluations of comprehensive community and school-based programs designed to deter smoking among children and adolescents; and

(3) grants to States or political subdivisions of States to assist them in meeting the costs of operating comprehensive community or school-based programs designed to deter smoking among children and adolescents.

(b) With respect to grants under paragraph (a) (3), the Secretary and each grant applicant and recipient must comply with the provisions of subsections (b), (c), (d), (e), (f), (g), and (h) of section 317.

(c) (1) For the purpose of making payments for the undertaking or support of research under paragraph (a) (1), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.

(2) For the purpose of making payments for the undertaking or support of demonstrations and evaluations under paragraph (a) (2), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.

(3) For the purpose of making payments for grants under paragraph (a) (3), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $10,000,000 for the fiscal year ending September 30, 1982.

STUDIES OF HEALTH RISKS ASSOCIATED WITH SMOKING CIGARETTES OF VARYING LEVEL OF TAR AND NICOTINE AND WITH SUBSTANCES COMMONLY ADDED TO COMMERCIALLY MANUFACTURED CIGARETTES

SEC. 11. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar and nicotine and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes.

(b) Within two years of the date of enactment of this part, the Secretary shall report to the Congress the results of the study or studies conducted pursuant to subsection (a) and any recommendations for legislative or administrative action.

● Mr. RIEGLE. Mr. President, Senator KENNEDY and I are today introducing, with additional cosponsors, a full-scale prevention package designed to develop a national strategy to prevent illness and disability among Americans. This package—presented in one comprehensive bill and in three component proposals—utilizes State and Federal resources, research, and education, experimentation and proven programs, all designed to reduce the incidence of disease in this country.

Perhaps the most significant part of the National Disease Prevention and Health Promotion Act of 1978 is the food labeling and nutrition information section, which is based in large part on the provisions of S. 2540, which I introduced on February 10 with the cosponsorship of Senators KENNEDY, WILLIAMS, and MAGNUSON. Senator KENNEDY and I feel that many portions of S. 2540, the Food Amendments Act of 1978, deserve a prominent position in any comprehensive disease prevention package, and I thank the Senator for including many of these provisions. At the same time, I would like the Senate to know that I am continuing to work toward adoption of additional measures designed to assure that American consumers receive full and adequate information concerning the ingredients and nutritional value of the foods they buy, and that the Food and Drug Administration will have sufficient authority to combat food contamination and prevent consumer deception and confusion.

I also join with Senator KENNEDY in proposing the other components of this disease prevention package. I am enthusiastic about the opportunity to harness the energy and resources of our State governments to combat high-mortality diseases, utilizing both statewide and community-based efforts. In addition, I feel it is essential that the Federal Government expand its own role in the prevention of disease, both through research and through public education programs. And it is long past time, in this respect, for the Federal Government to put its efforts strongly on the side of preventing cancer, through persuasive efforts to reduce the incidence of cigarette smoking. Every American should have the right to smoke, but the Government should take strong, positive action to reduce the incidence of smoking-related illness, and to assure that nonsmokers have the right to breathe air free of cigarette smoke in public places.

Mr. President, I fully support the major provisions of this disease prevention package. I am extremely pleased to see it presented as a comprehensive approach to the promotion of good health for the Nation. I hope my colleagues will agree that these proposals fill a major gap in our health planning and delivery systems, and that these bills will gather the strong support they deserve.●

● Mr. McGOVERN. Mr. President, I want to take this opportunity to commend Senator KENNEDY and the staff of the Subcommittee on Health and Scientific Research for the development and introduction today of the National Disease Prevention and Health Promotion Act of 1978. Like S. 1191, the National Preventive Medicine, Health Maintenance and Health Promotion Act of 1977, a bill some of my colleagues and I introduced principally to address needed changes in biomedical research, this bill is another potential step in the most critical process of redressing the balance between curative and preventive medicine. Just this morning in the Washington Post the importance of altering our current over-emphasis on curative medicine was highlighted in an article titled, "Health Costs Spur Debate on Who Shall Live, Who Shall Die."

As chairman of the Nutrition Subcommittee, I am encouraged that one of the bill's five key elements revises the food labeling statutes in order for consumers to be able to make fully informed choices about the food they purchase.

I also note that my distinguished colleague from Massachusetts emphasized in his floor statement the as yet unrealized potential of the Office of Health Information and Health Promotion, and his expectation that any concrete administrative proposals for dealing with disease prevention and health address the future of that office. I would amplify his point by saying that the Department's failure to aggressively develop that office to match the mandate set forth in the National Consumer Health Information and Health Promotion Act of 1976 has impeded progress in all areas of disease prevention and health promotion. Furthermore, in light of such papers as "Health Hazard Appraisal: Its Limitations and New Directions for Risk Assessment," which was developed by Ms. Jane Fullerton, Interim Director, the lost opportunity to obtain vital policy direction from the Office of Health Information and Health Promotion does not appear to rest with the very small staff of that office who have labored under a severe budget constraint.

Mr. President, the development of health maintenance and promotion as a national priority requires that both Congress and the administration take an active role. The introduction of this bill is another indication of the Senate's interest in proceeding, as is Senator KENNEDY's reference to proposed additional legislation on biomedical research, health manpower, and health insurance. As we pursue our goal of incorporating disease prevention and health promotion in our national health policy, I believe it would be useful to consider the points raised in the above-mentioned article and paper. Thus I ask unanimous consent that "Health Hazard Appraisal: Its Limitations and New Directions for Risk Assessment," and "Health Costs Spur Debate on Who Shall Live, Who Shall Die," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEALTH HAZARD APPRAISAL: ITS LIMITATIONS AND NEW DIRECTIONS FOR RISK ASSESSMENT

In considering the broad mandate of P.L. 94-317, the National Consumer Health Information and Health Promotion Act of 1976, it has been clear to me that person risk assessment is one of the most potent and promising — albeit embryonic — techniques

available to advance the status of prevention, preventive services, health promotion, health education, health information, and the myriad of other functions mandated by this important piece of legislation.

Risk assessment, often using health hazard appraisal techniques, involves the computer analysis of the probability of reduced life expectancy, or death in the next ten years, posed by the particular constellation of risk factors in an individual. It has great potential for promoting concepts of wellness and risk factor reduction through changes in lifestyle, but is currently hampered by several important deficiencies. I sincerely hope I will not break the first rule of a good speaker this morning by irritating or infuriating more than 50% of the audience. I do not want you to think that I believe I have discovered most of the issues I will discuss today.

As I see it, the problem areas with health hazard appraisal fall within four general categories:

What's in it now.
What's not in it now.
What it can do now.
What it could do.

OVERALL CONCERNS

I have several overall concerns which are relevant to health hazard appraisal.

Moralism: As I review most of the literature concerning prevention, health promotion, and wellness, I hear tones of the new religion. Marc LaLonde's talk last year epitomizes, in many ways, such moralism. While describing important, innovative efforts in Canada to implement the Operation Lifestyle program, he makes frequent references to "bad" and "improper" lifestyles and "wrong choices" and "abuse" of lifestyle.[1] This kind of moralism has long been a problem in public health where we often feel we "know better" what the public should do.

Failure to Acknowledge Differing Individual Values: A corollary to this moralism is our frequent failure to acknowledge that health is not an end in itself, but a means to living the kind of life one desires. Not everyone values health and long life in the same way. In particular, people have widely varying values about risk. Some of us are highly risk averse, while others are not so concerned about risk, and virtually none of us is consistent across all areas and stages of our lives in our values about risk and our willingness to make changes and choices related to risk. We need to include individual perceptions of risk and individual values about risk. We must recognize that to some people it is simply not "worth it" to make drastic changes in lifestyle on the basis of available probability data.

Overmedicalization of Prevention and Risk Assessment: Most modern prevention, in my view, is not "medicine" at all, at least not in any usual sense of that term. Rather, prevention and risk reduction involves complex interactions among individuals, society and social values, and health professionals and experts of many types. Overmedicalization is a new term derived from the radical work of such people as Ivan Illich,[2] Friedson,[3] and Carlson,[4] and recently the thoughtful essay of Renee Fox,[5] which refers to the increasing tendency to define anything unusual or aberrant as illness or disease to be treated by medicine.

Overmedicalization has at least two important aspects in relation to prevention and risk assessment: overemphasis on the role of the physician and underestimating the role of the individual person whose risk is assessed and of whom some action is presumably required. An example of placing undue emphasis on the physician's role in the preventive process appears in the most recent edition of Drs. Robbins' and Hall's "How to Practice Prospective Medicare."[6] It mentions the physician's acceptance of responsibility "for the total risk of an individual," but ignores the person who has to do the changing. The simple truth is that motivated people can practice primary prevention without health hazard appraisals and, indeed, without physicians. An HHA is of little value when used to assess those who will not act to attempt to improve health prospects. Frequent reports of poor "compliance" rates, of less than 30 percent, with physician prescriptions demonstrate the divergence of physicians and patient perspective. The popularity of the term "compliance" itself characterizes the passive conceptualization of the patient's role in the physician/patient encounter. This is especially inappropriate in efforts to affect change in complex behavior. Physicians clearly do have a role to play in prevention, but not the primary one in the prevention process itself.

Effectiveness of Interventions: Another troublesome aspect of current prevention and risk assessment is the very poor success rates of most available interventions. Some proportion of people—perhaps 25–30 percent of the population—can and will change their lifestye "cold turkey," with information and exhortations as the only stimulus to action. Is health hazard appraisal a complete prognostic and motivational mechanism, *per se*, or is it really only a first step for most people? It is not reaasonable to expect *information alone* to change the majority of those at high risk. Other interventions are needed, and results to date with *sustained lifestyle change* have been generally abysmal. We have to consider seriously what we have to offer people when we stimulate them to change, especially in light of research that indicates that previous failures at behavior change correlate with future failures in behavior change.[7]

Overstatement on Exaggeration of Benefits from Lifestyle Change: Many of the present risk reduction programs may mislead participants about the benefits of risk reduction and the difficulty of changing complex lifestyle behaviors. I should hasten to add that I am a believer in the beneficial impact of taking more control over one's life, and in efforts to try to improve one's risk status, and I try to practice these principles myself in keeping with the high value I place on health. I worry, however, about some particular 43 year-old man who may believe if he stops smoking, changes his dietary and exercise patterns, that he will not have a heart attack, as distinguished from understanding that he would be improving his risk category. I refer you here to the bitter letters in Modern Medicine written by its editor and renowned cardiologist, Irving Page, during his hospitalization from a myocardial infarction, after having followed for many years all of the principles for reducing coronary heart disease risk and having threatened his patients at the Cleveland Clinic into following the same precepts. I raise this example only to reinforce my concern and to remind us all that it is not only the public who can become confused about the inability to apply probability concepts to specific individuals.

Change in Risk Factors over Time: Risk factors change over time in populations, as well as in individuals, and this notion of change over time must be built into health hazard appraisal and into public education about risk.

Poor Training of Health Professionals in Prevention: Part of my concern about the overmedicalization of prevention and risk reduction stems from the poor training of health professionals, and particularly physicians, in epidemiology, biostatistics, and the non-medical determinants of health—that is, the very knowledge and concepts which underlie risk assessment and preventive risk reduction. In addition to improved training in these fields for physicians and other traditional health professionals, health planners represent another key target group for such training. Determination of appropriate national, regional, and local health goals are dependent on an understanding of the full range of factors which determine or relate to health.

Elitism: Most health hazard appraisals and risk assessments are now used only in populations which are more affluent, more highly educated and motivated, with the leisure time to devote to health promotion. This issue raises serious questions about the generalization of health hazard appraisal and the extrapolation of data from the current use of these techniques.

HEALTH HAZARD APPRAISAL: A 1977 ASSESSMENT

What is in it now

Data: A system is only as good as its information, but available data for risk analysis has a number of non-systematic errors. Insurance subscribers, from whose experience much current risk data is generated, are not characteristic of the general population. They tend to be more affluent, more male, more employed, and, by definition, "insurable." Thus, they are likely to be at lower risk than the general population on many factors and perhaps higher on other factors. Since the populations in which health hazard appraisal are used and studied these same characteristics not representative of the general population, what is the basis for extrapolation of data? Extrapolation errors can work in either direction depending on the source of the data on risk; risk assessments from the general population would overestimate mortality risk to the current special health hazard appraisal population, whereas extrapolation of current health hazard appraisal data to the general population would tend to underestimate overall risk. I fear we are in a situation much like that of health maintenance organizations, which have also been implemented primarily among relatively more affluent, employed, and informed participants, and about which data are equally difficult to extrapolate to the total population.

Concepts: Our general system for assessing risk is grossly inadequate, and I am pleased to see that a number of papers will be presented here on improving the risk prediction techniques of health hazard appraisal. Our deficiencies are greatest when it comes to assessing interactive or competitive risks, for example, with smoking and occupational hazards. In addition, I am troubled by the way current risk assessments treat alcohol consumption, since it is clear that there is a big difference between consuming seven drinks per week at a rate of one each day and consuming seven at once.

Mortality Only: The exclusive emphasis on mortality alone leaves a lot to be desired since death is not a primary motivating force for many people, particularly the young. In addition, where fear of death is high, behavioral research tells us that raising its spectre is likely to produce resistance and blocking. It is often the case that we measure what we can measure easily (e.g., like mortality), and then, like economists, try to persuade people that what we can measure is what is important.

And what about the elderly? Is risk a relevant concept past middle age? Life expectancy at age 40 has changed little in this century, as contrasted to dramatic changes—a near doubling—in life expectancy at birth.[8] We need innovative concepts for the elderly, as well as the young to promote whatever levels of wellness are possible.

The Literature: The literature on health hazard appraisal is like the literature of much of health education, almost exclusively descriptive reports of success stories. We need much more evaluation and follow-

Footnotes at end of article.

up over time, if we are to refine the effectiveness of these important techniques for health consciousness and health promotion.

What is not in it now

Socioeconomic Status: Such non-health parameters as income, education, sex, and racial, cultural or ethnic characteristics are significantly associated with or critical determinants of health. For example, recent analysis indicates that twice as many children in families with incomes under $5,000 will develop chronic renal disease as those with family incomes of $10,000 or more; and children are four times as likely to have poor or fair health if their family income is under $3,000.[9]

Nutrition/Diet in Relation to Health: Health hazard appraisals rarely assess nutritional status and a wide range of dietary practices, although weight for height and obesity is always measured because it is easy to measure compared to other aspects of nutritional status and diet. My preparation for the Second International Obesity Congress to be held in late October has convinced me that we do not even have a working definition of obesity, much less a decent understanding of risks related to obesity. And nearly every bit of risk data we do have relates to men, while 80–95 percent of those in formal treatment programs are women.

Life Stress/Life Change: Very important work has been done in recent years based on the seminal work of Hans Selye,[10] highlighting the importance of the cumulative impact of life changes—positive or negative—as precursors of illness and death. While more work is needed to validate the various life change assessment scales, this addition would add an important potential to the educational and motivational impact of health hazard appraisal.

Workplace/Work Stress: Current assessment instuments rarely elucidate important aspects of work situations, including exposure to occupational hazards of both physiological and psychological character, which are significant risk factors, per se, or interact to increase the impact of other risk factors, such as smoking.

Fitness: Current appraisal instruments place an undue emphasis on formal exercise and sports, with not enough attention to exercise levels in activities of daily living. I am impressed with the potential of the concept of "functioning status" [11] developed to assess the elderly more realistically than diagnoses alone permit. You could know that a person may have diabetes, arthritis, ischemic heart disease, and respiratory, vision and hearing impairment, and yet know virtually nothing about how well that person is able to function. Adding "functioning status" assessments of physical and psychological performance could enhance and reinforce the risk reduction potential of health hazard appraisal.

Representation of Total Population: Not enough risk data is incorporated in current health hazard appraisals on various components of the population who are not men, affluent, highly educated, and insurable. We need more information on risks to women. For example, one of the principal reasons that overall U.S. mortality rates from cancer have not declined is the rapid rise in lung cancer, especially among women; but most of our risk data and public education on lung cancer continues to focus on men. We also know too little and include too little in our risk assessments of the special risks of minorities or the poor; so I am pleased to see a paper being presented here on racial and ethnic differences in mortality in Hawaii.

Factors Motivating Young People: More attention needs to be given in risk assessment to motivating factors for young people. Research on attitudes toward aging reveals that many people under age 20–25 would prefer to live until 45 and then drop dead. Of course, this view often changes as one approaches 40, but the illusion of immortality among the young highlights the need for more short-term and intermediate goals in addition to reduced mortality, if health hazard appraisal is to become more useful for a broader age range of the population. As Marc LaLonde often says, we need not only to tell people that good sex is healthy, but also that good health is sexy.[12] The prevention of premature aging and premature physical deterioration represent promising approaches, and here the "appraisal age" concept, already an integral part of health hazard appraisal, could be expanded to younger people. Few 25 year olds would like to think of themselves as having the body and risk of a 30 or 35 year old.

Morbidity: The addition of morbidity data, which is one of the topics to be covered at this meeting, would represent a major advance in expanding the usefulness of health hazard appraisal for the population as a whole. The earlier identification of risk factors—such as the Korean and Viet Nam War autopsy findings of significant arteriosclerosis in U.S. servicemen aged 18–21, or the "Know Your Body" program of the American Health Foundation, which found one or more coronary heart disease risk factors in 39% of children, aged 11–14—underlines the importance of finding motivational strategies for lifestyle change very early in life.

Positive Values: Wellness, high levels of energy and productivity, and increased sense of control over one's life are important factors related to the goals of health hazard appraisal. These factors relate to broader and more positive goals than that of just delaying mortality. Breslow and Somers outlined examples of such goals in their "Lifetime Health-Monitoring Program." [13] This health assessment while not complete in itself either—is combined with preventive measured programmed to promote optimal health and development—both physically and emotionally. For each age group, goals are outlined which pertain to the health needs of that particular cohort followed by recommendations of specific professional services to accomplish these goals. These measures usually involve tests for commonly occurring problems and preventive and promotional interventions. For example, in the 18 to 24 year age group, goals are:

"To facilitate transition from dependent adolescence to mature independent adulthood with maximum physical, mental and emotional resources . . . [and] to achieve useful employment and maximum capacity for a healthy marriage, parenthood and social relations." [14]

The services related to these goals include, for the healthy adult, an annual physician visit with tetanus booster, if necessary, tests for venereal disease, nutritional status, blood pressure and cholesterol levels, and "medical and behavioral history. . . . Health education and individual counseling" are recommended as needed.

Geographic Differences and Other Non-individual Factors in Health: The health hazard appraisal does not consider geographic variations in health, which, for example, as shown in the "Atlas of Cancer Mortality for U.S. Countries," [15] can point out dramatic differences in mortality rates from this disease. And while we do not fully know the reasons for these differences, in most cases we do know that they occur consistently and should, therefore, be incorporated in predictions of disease and life expectancy. The only inputs employed in the health hazard appraisal are those quantifiable mortality ratios which can be readily computed into risk factors. If this were not the case, the numerical output, appraisal age, would be meaningless. But to assess a person's health status as accurately as possible, we must be cognizant of the fact that many less well quantified and quantifiable factors are of tremendous significance as well.

It is also imperative to distinguish which of the factors affecting health and health status are primarily socially and environmentally related and which are primarily amenable to individual action. The health hazard appraisal does very well with the latter, but does virtually nothing about developing some perspective in the individual about those social and environmental factors which affect him/her. It would be helpful if interpretations of appraisals could convey the idea that some people are at higher risk because of factors outside their control, and that, therefore, they may want to pay special attention to developing scientific evidence related to those risk factors which they can influence themselves. However, it is not enough merely to exort people to change their dietary practices if they do not have the food options, the money, or essential social supports and reinforcements. Also, it will be slim comfort to people to learn that they can reduce their risk of premature death by driving fewer miles, if they cannot afford to live closer to their work. Also, the 18% reduction in traffic fatalities from 1973–74 resulted from a set of social decisions to enact a National 55 mph speed limit, which itself accounted for the single largest reduction in any year in mortality from a single cause in this century.

What it can do now

Health hazard appraisal now represents a stimulus to action, with action dependent on readiness of the individual to act and on the availability of effective interventions.

What it could do: Promise for the future

Health hazard appraisal represents an important cornerstone in our efforts to educate the public about personal risk assessment as one motivation to action. Much more needs to be done, however, to include individual values about risk and readiness to act into the appaisal concept.

More positive terminology would help the health hazard appraisal movement. I like the term "health prospects" better than "risk reduction," but others prefer "wellness" and "positive health." All these more hopeful terms should help to capitalize on the growing excitement of the public about concepts of health promotion.

The Stanford Heart Disease Prevention Program [16] embodied concepts which could help develop health hazard appraisal techniques. This program tied the concept of interactive risk to results achieved with interactive interventions. It built on the best knowledge of learning theory, communications and media research, and developing evaluation which shows that multi-faceted health education programs are much more effective than single modality interventions regardless of a person's readiness to act.[17] As one example, exercise emerged as a particularly important substitute behavior in smoking cessation, dietary changes, weight management, and stress reduction, and enhanced the impact of counseling and other interventions. The Stanford Program also increased the effectiveness of its interventions by emphasizing short-term benefits, such as better smelling breath and increased lung capacity for exercise, in addition to reduced risk of premature coronary heart disease and death.

Social climate and other social supports play an important role in influencing health promoting behavior. The constructive participation of spouse in intervention efforts has shown promising results in obesity management in work done by Dr. Kelly Brownell [18] now at the University of Pennsylvania. Another promising technique in social supports is contingency contracting which has had a significant adjunct effect in controlling blood pressure.

Footnotes at end of article.

I am optimistic about the ability of the general public to understand concepts of risk-benefit and the probabilistic thinking in general. If we get away from arcane language and emphasize the everyday risk judgments that people make all the time, like stepping off curbs, I feel confident that we can convey these concepts to the public. A serious issue here is whether we are, in fact, asking people to accept our values, or to develop their own risk judgments on the basis of better information.

CONCLUSION

After my discussion of all these issues and concerns, let me hasten to assure you that I find the health hazard appraisal and other risk assessment techniques to be among the most promising developments to enhance public understanding of personal risk and possibilities for personal action. It is essential to advance the embryonic state-of-the-art of risk assessment and to expand its usefulness of prevention and health promotion for a wider range of the population.

The Office of Health Information and Health Promotion has developed preliminary plans to help address some of these pressing issues in risk assessment. We plan to commission state-of-the-art papers and review workshops to develop and disseminate concensus on the relative efficacy of preventive interventions for various categories of risk. In evaluation, it takes time to see the short, intermediate and long-term effects; if we require effectiveness data too early in an intervention, we may discard good interventions prematurely or accept costly interventions that will not achieve long-term objectives. Another important aspect of such evaluations that should be borne in mind is that secular trends may obscure important risk analyses; and make it particularly difficult to produce statistically significant findings even when absolute changes can be documented, for example, where overall population levels of serum cholesterol appear to be declining.

These state-of-the-art assessments of the relative efficacy of interventions should establish a baseline to advance a common understanding of the cost-effectiveness of various approaches to prevention and risk reduction. Risk assessments will be essential to determining the appropriate intensity and cost of interventions if we expect to have preventive interventions covered by current health insurance programs or in our developing national health insurance proposals.

We intend to emphasize interactive risks and interactive interventions, as I have used those terms today, in our educational efforts with the public as well as with health professionals. I urge the Society of Prospective Medicine to encourage others to think probabilistically about its own activities, and to work with health maintenance organizations and other settings to encourage more than lip service to health maintenance by adapting appropriate risk assessment into their prepaid care systems.

I appreciate the opportunity to contribute today to your consideration of new directions for health hazard appraisal, and I look forward to the papers and discussion sessions of the meeting. Thank you.

FOOTNOTES

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[9] Statement by Secretary of Health, Education, and Welfare, before the Subcommittee on Health and Environment, Committee on Interstate and Foreign Commerce, September 9, 1977. (Taken from data compiled by the National Center for Health Statistics, DHEW.)

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[From the Washington Post, May 19, 1978]

HEALTH COSTS SPUR DEBATE ON WHO SHALL LIVE, WHO SHALL DIE

(By Victor Cohn)

The nation's health bill is rising so fast that it is hastening the day when doctors will have to make far more decisions about who shall live and who shall be allowed to die, five health leaders agreed here this week.

They spoke at a news conference at the American Association for the Advancement of Science to unveil a major health issue, out today, of the association's noted weekly journal Science.

Dr. Philip Abelson, Science's editor and head of the Carnegie Institution of Washington, warns in an introduction to the issue that current medical research and care may be focused too strongly on prolonging "meaningless existences" at huge cost.

But the growing problem of "who shall live?" will affect many more persons than the very ill whose lives may seem meaningless, said Dr. Howard Hiatt, dean of the Harvard School of Public Health.

Because neither the government nor insurers nor individuals will be able to pay for all the things doctors are learning to do, "We inevitably shall be asking, 'which of our citizens must be deprived of life-saving measures?'" Hiatt said, "I am convinced we cannot evade this issue."

"It's going on now," said Robert Ball, former federal Social Security commissioner, now senior scholar at the Institute of Medicine of the National Academy of Sciences.

"Doctors are deciding against extraordinary steps to keep persons alive. Or whether or not to give this or that person an organ. A lot more is done than is ever made formal."

Such decisions are made "often" and are affecting millions, said Dr. Ernest Saward, professor of social medicine at the University of Rochester.

This is because there is "rationing" of care partly by who has access to doctors and who can pay, he said. "For example, blacks only get hip replacement operations at one-tenth the rate of whites, but they have just as many hip problems. I think 40 or 50 million people are underserved by the health system because they don't have the means."

Compared to other age groups, the elderly and early adolescents are underserved, added Dr. David Hamburg, head of the Institute of Medicine.

The main solutions offered by these speakers and Dr. Gilbert Omenn, assistant director of President Carter's Office of Science and Technology Policy, are: prevention, national health insurance, cost control and assessment of new medical methods to eliminate the useless and wasteful.

Saward called the search for more effective ways to prevent illness and accidents "the quest of the next decade."

Ball called national health insurance essential, and said it was "important to keep any means test to the absolute minimum because it's very, very difficult to maintain high quality service for all in any plan that singles out the poor people" in a separate category, like today's Medicaid which, he said, encourages "Medicaid mills."

Control of costs, he said, will require "control of services," that is, control over adding costly buildings and equipment and the overuse of expensive medical specialists.

For example, he said, "the scope of personal preventive services covered at the beginning" of a new national health plan might be narrow, but "a special board could be established to approve additional services for coverage after they have been tested and evaluated."

Hiatt—summarizing an article by Dr. Howard Frazier and himself—urged rigorous evaluation of all medical and surgical procedures and use only of those that pass muster as beneficial and cost-effective.

He urged Congress to pass a bill proposed by Sen. Edward M. Kennedy (D–Mass.)—or a "somewhat less comprehensive" bill by Rep. Paul Rogers (D–Fla.)—to establish a federal center for health services research. It would finance tests of new measures, for example, costly coronary artery surgery for heart attack victims, operations often done uselessly now, according to studies.

Omenn backed such testing, but said the administration opposes the Kennedy and Rogers bills because many such steps are already being taken.

Hiatt replied that the Harvard School of Public Health's Center for Analysis of Health Practices—considered the leading such center among universities—has been consistently turned down on its requests for federal support to broaden its studies.

Yet, he said, "Many current practices in medicine and surgery have not been evaluated. Radical mastectomy"—removing the breast and adjacent structures—"remains the most commonly practiced procedure for breast cancer, though there is no persuasive evidence that it is better than a simpler treatment.

"Tonsillectomies are beoing done less frequently, but one can still seriously question

the need for close to a million a year. Last year over 80,000 Americans had coronary surgery at a cost in excess of $1 billion," Hiatt said.

"High costs make it necessary for us to set priorities, and we need more federal support for the needed evaluation. The cost of not undertaking such research will be greater than undertaking it." ●

● Mr. SCHWEIKER. Mr. President, I am today joining with my colleagues on the Subcommittee on Health and Scientific Research in sponsoring a bill to amend the Public Health Service Act to improve our ability to promote healthful behavior and prevent disease.

I am pleased to sponsor this bill which seeks to enhance the role of prevention in our health care system. Mr. President, it is incredible that the United States spends under 2 percent of its health care dollars on disease prevention and health promotion. Clearly, this is money that represents the soundest investment we can make in the health field.

While I support all the elements of this program, I would like to restrict my remarks to those new or expanded programs that are established by this act. Among the categorical project grants for preventive health services the new or expanded programs are hypertension, environmental health and physical fitness. Hypertension is a disease that affects approximately 35 million Americans and one which is amenable to control if detected and the patient is begun on therapy. This bill would double the budget authority for this program and extend its authorization for 3 years. In addition, by converting the program to a project we will allow only the most meritorious programs to be supported. Furthermore it allows the States to choose whether or not they wish to support these programs.

Increasingly we are learning of health hazards in the air we breathe, the water we drink, the food we eat, and the houses we live in. The program would enable states to design programs to identify and prevent human illness caused by these environmental health problems.

Physical fitness should be a goal for all Americans. This act will provide grants to organize or encourage the development of comprehensive physical fitness programs. This should increase the availability of these facilities for all Americans.

Realizing the diversity among the states, the formula grant program in this bill allows each State to focus its efforts on one of its five leading causes of death. In addition, we provide funds for the development of a State communications program so that the State may utilize modern mass media techniques to aid in health promotion and disease prevention.

To better understand how all the elements of a health promotion program interact in a specific community, this bill would establish five community demonstration programs. I hope that from these efforts we can learn which strategies are effective and which should be pursued nationally.

As the Subcommittee on Health and Scientific Research, on which I am the ranking Republican, proceeds to consider this bill, I urge all concerned citizens to work with us to improve the prevention of disease and promotion of health in the United States.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced earlier by the Senator from Massachusetts (Mr. KENNEDY), for himself and others, to create programs to promote health through smoking deterrence, be jointly referred to the Committees on Environment and Public Works; Finance; Commerce, Science, and Transportation; and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. EAGLETON:

S. 3119. A bill to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; to the Committee on Governmental Affairs.

● Mr. EAGLETON. Mr. President, for the District of Columbia, a critical priority is the expansion of the local tax base through the development of needed private construction. Self-reliance should be an essential companion of Home Rule. Clearly, increased capacity by the District to raise its own revenues will mean decreased dependence on the Federal Treasury, and this can best be achieved through the development of presently unsightly and idle land within the District. It is to this end that today I introduce legislation that will lift an unintentional impediment of a long-ago Federal land title that stands in the way of almost two decades of effort by the District to redevelop old railroad property into a commercial complex. Specifically, it will convey 41,000 square feet of land the Federal Government turned over to then-thriving railroads at the turn of the century but in which it still retains a bare legal title.

The 41,000 square feet is roughly between Fourth and Sixth Streets at C Street, and is needed by the Redevelopment Land Agency of the District to complete a site for the construction of a $40 to $50 million hotel and office center in Southwest Washington.

Title to railroad lands adjacent to the needed 41,000 square feet was conveyed to the District in 1965 by House Joint Resolution 397, but, at the time, plans had not been developed for a specific project and the 41,000 square feet were not included.

In 1975, the House, in H.R. 9958 voted to transfer title for the 41,000 square feet, but, the Senate Committee on the District of Columbia deferred action until the city had assurances that a private developer would fully utilize the site. Detailed plans for the project have been approved by local governmental land planning bodies; no opposition has been expressed at numerous public meetings and hearings; and a developer is prepared to commence construction this year.

This legislation involves no expense to the Federal Government, and merely will clear a cloud on the land that has lingered for more than three quarters of a century. Originally, the land was designated for public streets, but under the Union Station Acts of 1901 and 1903, the streets were closed and abandoned and the land was granted to the Philadelphia, Baltimore & Washington Railroad Co. and to the Baltimore & Ohio and to the Terminal Co. The land was for the perpetual use of the railroads, and in exchange, they gave more centrally-located properties to the Federal Government.

The land was used primarily for switch tracks, loading docks, and open air storage. As rail traffic diminished at midcentury, the city began considering the site for urban renewal. In 1959, the District Board of Commissioners designated the site as Urban Renewal Plan for Southwest Project C, and from 1958 to 1962, paid $1,521,625 to the railroads for their rights and interests.

As the project moved forward, the city, at first believing any remaining Federal title could be conveyed administratively under the Closed Streets Act of 1932, found bare legal title remained under the old Union Station Acts and that congressional action was needed.

In 1970, the District paid the Pennsylvania Railroad $451,300 for its right-title and interest in the 41,000 square feet, and in 1973, it paid $3.4 million for an adjoining warehouse property to complete the site, bringing to a total of $5,372,924 it has paid to secure the site.

Because of the value of the land the railroads transferred to the United States in consideration for use of the right to use the parcels in Southwest Washington and of the taxes the railroads paid over the years, it was the opinion of the Government's appraisers, at the time of the hearings in the House on H.R. 9958 in 1975, that the District already had paid the equivalent value of the land, had the fee simple title been in the railroad.

I believe that title to the 41,000 square feet should be conveyed to the District so that any cloud on the land may, once and for all, be removed and any impediment to the development of what is now a wasteland of railroad tracks can speedily move forward.●

By Mr. EAGLETON:

S. 3120. A bill to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia; to the Committee on Governmental Affairs.

● Mr. EAGLETON. Mr. President, as chairman of the Senate Committee on the District of Columbia, now a Subcommittee of Governmental Affairs, I have introduced a number of reform measures to overhaul and improve the financial management and fiscal accountability of the Nation's Capital. I consider none more important than P.L. 94–399, in 1976. That law created the Temporary Financial Oversight Commission to improve management and fiscal systems so the first, total audit of the District's financial position can be completed in 1980 and others can be conducted annually thereafter. I chair the Commission and it already has made considerable progress in establishing sound recordkeeping and other necessary procedures, but it has found that two relatively minor changes in the 1976 act will clarify its authority and will permit more expeditious and cost-efficient means of achieving the goal

of annual audits for the District. Specifically, the changes would permit the Commission: first, to negotiate certain contracts and second, to enter into agreements with the District on particular contracts. The changes are essentially technical, and I would expect the legislation will be swiftly considered by the Committee on Governental Affairs.●

ADDITIONAL COSPONSORS

S. 2236

At the request of Mr. RIBICOFF, the Senator from Washington (Mr. JACKSON) the Senator from Ohio (Mr. GLENN), the Senator from Georgia, (Mr. NUNN), the Senator from Tennessee (Mr. SASSER), the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 2236, a bill to strengthen Federal policies and programs and international cooperation to combat international terrorism.

S. 2369

At the request of Mr. ANDERSON, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2369, the Dutch Elm Disease Control Act of 1977.

S. 2475

At the request of Mr. CHURCH, the Senator from Montana (Mr. PAUL G. HATFIELD) was added as a cosponsor of S. 2475, the Public Grazing Lands Improvement Act of 1978.

S. 2856

At the request of Mr. MORGAN, the Senator from Vermont (Mr. STAFFORD), and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act of 1978.

S. 2920

At the request of Mr. HOLLINGS, the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Arkansas (Mr. BUMPERS), the senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2920, a bill to amend the Trade Act of 1974.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. PELL, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Concurrent Resolution 88, expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups to Promote Observance of the Helsinki Agreement in the U.S.S.R. to pursue their lawful activities and urging the President to continue to express United States opposition to the imprisonment of Group members.

SENATE RESOLUTION 458—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 458

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Arthur R. Tucker, widower of Mary M. Tucker, an employee of the Senate at the time of her death, a sum equal to one years' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 459—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 459

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ethel M. Misner, widow of Richard B. Misner, an employee of the Senate at the time of his death, a sum equal to one years' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 460—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PELL, from the Committte on Rules and Administration, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 460

Resolved, that pursuant to Section 402(c) of the Congressional Budget Act of 1974, the provisions of Section 402(a) of such Act are waived with respect to the consideration of S. 3112, a bill to amend the Act of October 19, 1965, authorizing construction of the Library of Congress James Madison Memorial Building. Waiver in fiscal year 1978 of Section 402(a) is necessary to allow for an increase in the funding authorization for construction of the building.

S. 3112 would increase the authorization for construction funds by $10,000,000, from $123,000,000 to $133,000,000. The amount previously authorized is inadequate to cover the costs of necessary changes in the building resulting from Congressionally mandated expansion of its functions, construction delays, and inflation.

Compliance with Section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1977, deadline, because the Architect of the Capitol did not become aware of the inadequacy of the authorization until late in 1977. The amount of additional funds needed was not known until early in 1978, and the Committee on Rules and Administration did not receive this information until May 3, 1978.

The effect of defeating consideration of the additional authorization would be to further delay construction, thereby adding to the total cost of completing the project, and putting additional pressure on the Library of Congress to carry out the missions assigned to it by the Congress.

The desired authorization will not have the effect of delaying the appropriations process; it will need to be accommodated in a supplemental appropriation.

This authorization is sufficiently small that it will not significantly affect the Congressional budget. However, it will result in completion of a project which is badly needed in order to meet the changing and expanding responsibilities of the Library of Congress.

AMENDMENTS SUBMITTED FOR PRINTING

LABOR LAW REFORM ACT OF 1978—H.R. 8410

AMENDMENTS NOS. 2227 THROUGH 2232

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted six amendments intended to be proposed by him to the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government will be holding an oversight hearing on the Government in the Sunshine Act (Public Law 94–409) on Wednesday, June 7, 1978, at 10 a.m., in room 3302 Dirksen Office Building.

For further information regarding the hearing, please contact Mr. Ronald A. Chiodo, chief counsel and staff director of the subcommittee.●

BUSINESS MEETING

● Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will hold a business meeting on Monday, May 22, 1978, to consider S. 2460, the Civil Service Reform Act of 1978. The meeting will be held at 10:30 a.m. in room 3302, Dirksen Senate Office Building.●

S. 2910, ADOLESCENT HEALTH, SERVICES, AND PREGNANCY PREVENTION AND CARE ACT OF 1978

● Mr. WILLIAMS. Mr. President, I wish to announce that the Senate Committee on Human Resources will hold its first day of hearings on S. 2910, the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978, on June 14, at 9:30 a.m., in room 4232 of the Dirksen Senate Office Building.

For further information on this matter, please contact Ms. Patricia Markey at 224–0324.●

"SUNSET" LEGISLATION

● Mr. PELL. Mr. President, on Thursday, June 8, at 10 a.m., the Committee on Rules and Administration will meet in room 301 of the Russell Building to hear a report from the Comptroller General of the United States, Mr. Elmer Staats, on proposed "sunset" legislation. At the committee hearing on April 19, Mr. Staats was asked to study the various proposals that have been made to improve congressional oversight and to incorporate their best features in a proposal. Mr. Staats was asked to study S. 2, the Program Evaluation Act of 1977, sponsored by Senator MUSKIE and others; S. 1244, the Federal Spending Control Act of 1977, sponsored by Senator BIDEN; the work done in this area by the GAO for Senator LEAHY; H.R. 10421, the Legislative Oversight Act of 1978,

introduced in the House of Representatives by Representative BUTLER DERRICK and others; and the resolution proposed by the staff working group on S. 2 and S. 1244 in its report to the Rules Committee.

Also scheduled to testify on June 8 will be witnesses representing the AFL–CIO and the American Society for Public Administration.

The committee will then meet at 10 a.m. on Wednesday, June 14, in room 301, to consider committee action on the proposals.●

ADDITIONAL STATEMENTS

ALDO MORO

● Mr. EAGLETON. Mr. President, the agony Aldo Moro suffered through his 54 days in captivity ended with his tragic death, but the horror and grief of civilized people everywhere at this most recent, most despicable act of terrorism continues.

The assassination of Aldo Moro was an act of desperation committed by a fringe of society whose only hope lies in the violent disruption of civilization. However, the Red Brigades won nothing from this barbarous act. If they sought sympathy from the oppressed whom they claim to represent, they failed. If they sought to advance the cause of their obscure political ideology, they failed. Public outrage at their brutal activities shows that there is no consensus for their cause.

Unfortunately, this does not signal the demise of the Red Brigades and their ilk. They are still at work in Italy, terrorizing at random, wielding the only power they can grasp. It does, however, signal a growing awareness that terrorism is a force to be defeated, and that we must be prepared to deal with it on both a national and an international level.

President Leone of Italy made this compelling statement after he learned of Aldo Moro's death:

> Aldo Moro has been pitilessly and horrifyingly slain. The beast who tried to cover the kidnapping with a political and ideological cloak failed to listen to the cry from the whole of mankind that this man be spared. With his death, barbarity seems to want not to kill a man, but thinking and intelligence and liberty. Yet while this death appalls and disturbs, it will never succeed in defeating us. In that way, a tragic error has been committed by these wretched heirs of the most barbarous assassins that mankind has known.

In other words, any claim to victory by the Red Brigades is illusory, because their reprehensible actions have only served to strengthen the rational majority opposing them.

What the Red Brigades seek is the destruction of all organized political parties in Italy. What they may promote, instead, is a working accommodation between the Christian Democrats and the Communist Party of Italy. Aldo Moro was active in pressing for gradual accommodation between the two parties. It is a sad irony that his death may very well be a factor in moving this process forward.●

UGANDAN COFFEE BOYCOTT

● Mr. WEICKER. Mr. President, on Wednesday, three U.S. corporations took a step of principle and courage. Procter and Gamble, General Foods, and Nestlé, our largest coffee producers, told Idi Amin of Uganda to go to hell.

Their decision to stop purchasing Ugandan coffee is a victory both for the principles on which our Nation stands and for the oppressed people of Uganda. Their commitment to spurn Amin's cash crop, the economic and political life blood of his government, is an admirable response to his abhorrent regime.

Mr. President, U.S. Government assistance to Uganda ended in 1973, when diplomatic relations were severed in protest of Amin's genocidal policies. Investigation by Members of Congress over the last year has uncovered the substantial support provided Amin by U.S. commercial trade. Coffee sales to the United States alone brings hundreds of millions of dollars of hard currency into the coffers of the Ugandan Government. Coffee income maintains and equips the mercenary army which daily terrorizes the Ugandan people. U.S. exports of communications equipment and luxury goods have been employed to organize field operations of the government and to buy the loyalty of Amin's lieutenants.

In recognition of this strategic trade, I introduced legislation in the Senate (S. 2412, S. 2413, S. 2414) to cut off commercial relations with Uganda. These efforts and those of Congressman PEASE in the House have been opposed by the Carter administration, in spite of its heralded human rights policy.

Mr. President, Procter and Gamble, General Foods, and Nestlé, in a voluntary act of economic sacrifice, have responded in a very concrete and effective manner to the human rights violations in Uganda. In the process, they have made a compelling statement about corporate responsibility and the role of American economic power around the world.

Following the lead of these corporations, the President and the Congress should quickly enact a total embargo of trade against Uganda, bringing the full force of American business and Government to bear against this heinous regime.●

PATENTABLE MATERIAL AND THE FREEDOM OF INFORMATION ACT

● Mr. NELSON. Mr. President, Government patent policy generates a substantial flow of information in connection with its outlays for research and development.

For example, as a result of its expenditures of about $100 billion for research and development from fiscal year 1970 through 1975, the Government received 52,996 invention disclosures.

Patent rights clauses in the Armed Services Procurement Regulations and Federal Procurement Regulations require a Government contractor to submit a complete technical disclosure of each invention conceived or first actually reduced to practice under the contract.

The definition covers any invention or discovery "which is or may be patentable under the laws of the United States of America or any foreign country."

In its study of Government patent policy, the Monopoly and Anticompetitive Activities Subcommittee of the Select Committee on Small Business has noted the substantial flow of preinvention information to the Department of Health, Education, and Welfare which is, nonetheless, claimed to involve patentable material.

From 1969 through 1974, roughly 100,000 grant applications and contract proposals were submitted to HEW. During that period, the Department estimates, universities filed patent applications on 329 inventions which were either generated or corroborated by HEW-funded grants and contracts.

The Freedom of Information Act was in effect throughout that period. On January 5, 1973, the Federal Advisory Committee Act went into effect, requiring that meetings of Federal advisory committees be open to the public but allowing certain meetings to be closed on the same grounds that the FOIA allows certain documents to be exempt from mandatory public disclosure.

Typically, the advisory committees of the National Institutes of Health that review grant applications and contract proposals for scientific and technical merit—commonly known as "peer review" committees—would close their meetings on grounds that the FOIA exemptions for trade secrets and invasion of personal privacy applied to the matters to be discussed.

As of early March 1977, NIH notices in the Federal Register announcing that a peer review panel meeting would be closed in accordance with the Federal Advisory Committee Act and exemptions 4 (trade secrets) and 6 (personal privacy) of the Freedom of Information Act customarily asserted:

> The (grant) applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

However, on or about March 11, 1977, the eve of the effective date of the Government in the Sunshine Act, the wording of NIH notices changed. Here is an example from page 13603 of the Federal Register of March 11, 1977, which was meant to apply to meetings dealing with contract proposals and/or grant applications:

> These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mr. President, I asked the Congressional Research Service to determine whether use of the phrase "patentable material" could be justified either by statutory law or by judicial interpretations of exemption 4. The CRS reply says in part:

> Patentable material is not automatically exempt; it must satisfy the criteria of Exemption Four and its judicial gloss.

However, it also acknowledges a frankly commercial aspect urged by commentator James T. O'Reilly. The reply was:

A threshold consideration in determining the applicability of Exemption Four to research grant applications and proposals is the motivation of the researcher or organization. In the words of one commentator, "in the research area, the motive of the researcher to make his findings profitable in the commercial sense is considered a prerequisite to b(4) protection for the research."

I find that view somewhat bizarre. It raises the prospect of grant applications being judged by the commercial gleam in the applicant's eye, instead of their scientific and technical merit. Would the peer review system go cash-and-carry?

Also, it raises doubts about the use of institutional patent agreements—giving universities first option to own the rights to inventions resulting from Government-sponsored research and development—as an implement of Government patent policy. Could the 72 institutions having such agreements with HEW cite that fact on their grant applications as official recognition of the commercial potential of the proposed research.

Finally, there is the basic question of what is patentable. NIH sometimes receives different opinions from its advisers as to what is patentable, as do universities and researchers. It is by no means obvious, perhaps because inventions must be "unobvious" to qualify for patenting.

Mr. President, I ask that the analysis by CRS, consisting of two memorandums, be printed in the RECORD.

The material follows:

THE LIBRARY OF CONGRESS
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., May 8, 1978.

To: Senate Subcommittee on Monopoly and Anticompetitive Act.

From: American Law Division.

Subject: The Applicability of Exemption Four of the Government-In-the-Sunshine Act and the Freedom of Information Act to NIH Peer Review Meetings and Invention Disclosures Pursuant to Institutional Patent Agreements.

This memorandum will analyze the propriety of language used in meetings notices of the National Institutes of Health in light of the Government-in-the Sunshine Act and the applicability of the Freedom of Information Act to invention disclosures required by the provisions of the proposed Institutional Patent Agreement.

Meetings of the National Institutes of Health dealing with contract proposals and/or grant applications have been closed to the public on the basis of Exemption 4 of the Government-in-the Sunshine Act, 5 U.S.C. 552b(c)(4)(1976). The Federal Register Notices of such closures have stated:

"These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications."

The question is the propriety of use of the phrase "patentable material" in the agency's justification for closing a meeting to the public. The starting point for analysis is the statutory language—which is identical to Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4),—and judicial interpretation of that language, which was intended by Congress to be imported into the Government-in-the Sunshine Act provision. See, H. Rept. 94–880, 94th Cong., 2d sess. at 10 (1976).

Exemption 4 of both Acts excepts from mandatory disclosure or openness "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Thus, three basic categories of information are exempt from disclosure: 1) trade secrets; 2) commercial information obtained from a person which is privileged or confidential; or, 3) financial information obtained from a person which is privileged or confidential. See *Getman* v. *NLRB*, 450 F. 2d 670 (D.C. Cir. 1971).

The first category, trade secrets, has not occasioned much litigation as it was the intent of Congress to adopt the traditional interpretations of the legal term of art. See, O'Reilly, *Federal Information Disclosure*, 14.06 (1977). A common definition is that of the 1938 Restatement of Torts, § 757:

"A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it."

See, *Kewanee Oil Company* v. *Bicron Corporation*, 416 U.S. 470, 474 (1974). A similar and frequently relied on definition is that given in *United States ex rel. Norwegian Nitrogen Prods. Co.* v. *United States Tariff Comm.*, 6 F 2d. 491, 495 (D.C. Cir. 1925), rev'd on other grounds, 274 U.S. 106 (1927):

"An unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities."

The other categories of information exempt from disclosure are commercial or financial information which is privileged or confidential. Commercial or financial information relates to the business affairs of a person. The interest in nondisclosure must be a commercial or trade interest. Thus, in *Washington Research Proj., Inc.* v. *Department of H.E.W.*, 504 F. 2d 238 (D.C. Cir. 1974) cert. denied, 421 U.S. 963 (1975), the court held that research grant applications submitted by scientists to H.E.W. were not exempt from disclosure because "[i]t is clear enough that a non-commercial scientists' research design is not literally a trade secret or item of commercial information, for it defies common sense to pretend that the scientist is engaged in trade or commerce." 504 F. 2d at 244 (footnote omitted).

Once it is determined that commercial or financial information is involved, it must further be shown that the information is "privileged or confidential". Privileged information refers to the traditional commonlaw privileges, such as doctor-patient, attorney-client, and has received little judicial attention. See, Project, Government Information and the Rights of Citizens, 73 Mich. L. Rev. 971, 1065 (1975). For information to be "confidential", the test is "if disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." *National Parks Conservation Association* v. *Morton*, 498 F. 2d 765, 767 (D.C. Cir. 1974), after remand, 547 F. 2d 673 (D.C. Cir. 1976).

Thus, to qualify for exemption under the Acts, the information must either be a trade secret, or, confidential commercial or financial information. Patentable material is not automatically exempt; it must satisfy the criteria of Exemption Four and its judicial gloss. The NIH notices propose to close meetings because they could reveal "confidential trade secrets or commercial property such as patentable material". Patentable material is used as an example of "commercial property". Commercial property which is privileged or confidential under the *National Parks* test is exempt from disclosure under Exemption Four. Thus, to the extent "patentable material" is congruent with confidential (under *National Parks*) commercial information, it is descriptive of a class of information which may be withheld under the FOIA. Of course, if the patentable material meets the criteria of a trade secret, it is also exempt from disclosure.

Grant applications and research protocols may well contain information which is patentable and has a "trade or commercial character". *Washington Research Project* did not preclude, even in the case of information submitted by non-profit organizations, the possibility of commercial activity entitling the information to the protection of Exemption Four. The court pointed out that it was the agency's burden to demonstrate the "trade or commercial character of the research design information" and that it failed to introduce "a single fact relating to the commercial character of any specific research project." 504 F. 2d at 244–5 n. 6. A threshold consideration in determining the applicability of Exemption Four to research grant applications and proposals is the motivation of the researcher or organization. In the words of one commentator, "in the research area, the motive of the researcher to make his findings profitable in the commercial sense is considered a prerequisite to b(4) protection for the research." O'Reilly, supra. § 14.07.

House Subcommittee hearings in 1977 on Exemption 4 did not examine the problem of research grant and contract proposals in depth. The Subcommittee did receive, however, communications for the record from various individuals and groups expressing concern that Exemption 4 did not provide sufficient protection for the scientist and researcher seeking funds from the Federal Government to conduct his projects. See generally, Hearings on the Business Record Exemption of the Freedom of Information Act Before a Subcomm. of House Government Operations Comm., 95th Cong., 1st sess. 302–345 (1977). It was pointed out in some of the communications that the material submitted to the Government by potential grantees often contained patentable ideas of potential commercial value. *Id.*, 318.

Furthermore, many projects were used to generate income for further research and education and enhancement of the institution involved. *Id.*, 321. Researchers thus may have proprietary interests as well as pure research motivations. *Id.*, 318. Under such circumstances, information contained in grant or contract applications may qualify for protection under Exemption 4 of the FOIA and the Government-in-the-Sunshine Act, *Washington Research Proj., Inc.* v. *Department of HEW*, 504 F. 2d 238, 244–5 n. 6 (D.C. Cir. 1974) cert. denied 421 U.S. 963 (1975).

II

The second inquiry is whether invention disclosures made pursuant to the provisions of the Institutional Patent Agreement proposed for Government-wide use would be disclosable under Exemption 4 of the Freedom of Information Act.

Recent proposed amendments to federal procurement regulations would provide for the use of Institutional Patent Agreements in contracts with universities and nonprofit organizations. 43 Fed. Reg. 4424 (1978). Such agreements would permit those institutions, subject to certain conditions, to retain the rights to inventions made in the course of contracts with the Government. Proposed 41 C.F.R. 1–9. 107–4 (a)(6); 43 Fed. Reg. 4424 (1978). Pursuant to such Institutional Patent Agreements, the institution must furnish the government agency involved a "complete technical disclosure for each subject invention within 6 months after conception or first actual reduction to practice . . . [and] prior to any sale, public use, or publication of the invention known to the institution." The disclosure must be "sufficiently complete in technical detail to convey to one skilled in

the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or electrical characteristics of the invention." Interim and final reports listing inventions are also required. Proposed Institutional Patent Agreement, section (e); 43 Fed. Reg. 4425 (1978).

The Proposed Institutional Patent Agreement also contains the following disclosure provision:

"(3) The Institution agrees that the Government may duplicate and disclose Subject Invention disclosure and, subject to paragraph (k), all other reports and papers furnished or required to be furnished pursuant to this Agreement. However, if the Institution is to file a patent application on a Subject Invention, the Agency agrees, upon written request of the Institution, to use its best efforts to withhold publication of such invention disclosures until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof." 43 Fed. Reg. 4425.

Paragraph (k), referred to above, provides that institutions which administer their inventions must report on "the status of development and commercial use that is being made or intended to be made of each subject invention . . . and the steps that have been taken by the Institution to bring the invention to the point of practical application. . . . To the extent data or information supplied to this section is considered by a licensee to be privileged or confidential and is so marked, the Agency agrees that, to the extent permitted by law, it will not disclose such information to persons outside the Government." 43 Fed. Reg. 4426–7.

Thus, the institution, as a condition to the Institutional Patent Agreement, agrees to disclosure of invention disclosures made pursuant to section (e) of the Proposed Agreement, at least prior to a patient application being made. Once a patent application is made, the information contained in the application is protected by statute, 35 U.S.C. 122 (1970), and would be exempt under Exemption Three of the FOIA. See, *Irons* v. *Gottschalk*, 548 F. 2d 992, 994 n. 3. (D.C. Cir. 1976). In the case where the institution intends to file a patent application, the Agency agrees "to use its best efforts to withhold publication of such invention disclosures until a patent application is filed thereon . . ." As far as other reports and papers furnished pursuant to the Agreement are concerned, the institution may designate those it deems "privileged or confidential" and the Agency agrees, "to the extent permitted by law", not to disclose such information.

Throughout the procedures by which an institution (including universities and nonprofit organizations) enters into an Institutional Patient Agreement and develops a patented invention pursuant to Government grant or contract commercial use and marketing of the invention is a primary consideration. Prior to qualifying for an Institutional Patent Agreement, a nonprofit organization must supply the contracting or granting agency with, among other things, a description of "the plans and intentions of the organization to bring inventions to the market place to which it retains title, including a description of the efforts typically undertaken by the organization to license its inventions." Proposed 41 C.F.R. 1–9.109–7 (a)(8); 43 Fed. Reg. 4427. Before entering into an Agreement, the nonprofit organization must have a technology transfer program which shall include an "active and effective promotional program for the licensing and marketing of inventions'". Proposed 41 C.F.R. 1–9.109–7(b)(5); 43 Fed. Reg. 4428. Furthermore, under existing regulations, contracts having Patent Rights clauses are to be administered so that "[e]xpeditious commercial utilization of such inventions is achieved." 41 C.F.R. 1–9.109–1(e) (1977). See also, Proposed Institutional Patent Agreement, section (i), 43 Fed. Reg. 4426.

Thus, an important goal of inventions which are disclosed pursuant to the Institutional Patent Agreement would seem to be commercial marketing. The marketing of such inventions and receipt of income therefrom is to be accomplished by nonprofit organizations. In the words of the court in *Washington Research Project*, such institutions would, therefore, seem to have "a commercial or trade interest" in the invention and information relating to it. 504 F. 2d at 244 n. 6. Under such circumstances, the information may be exempt under Exemption 4.

In summary, with respect to invention disclosures for which no patent application is to be filed by the institution, the institution waives its rights to nondisclosure under the terms of the Institutional Patent Agreement. Proposed Agreement, Section (e)(3); 43 Fed. Reg. 4425. Once a patent application is filed, the information would appear to be protected by 35 U.S.C. 122. *Irons* v. *Gottschalk*, supra. It is those invention disclosures which the institution intends to patent but has not yet filed an application, to which Exemption 4 would be applied in determining disclosure. The criteria of trade or commercial character and confidentiality outlined in Part One would be the standards governing access. This would not be creating a new class of information that could be withheld from the public; it would be applying the general terms of the FOIA to a specific piece of information.

We hope the foregoing is responsive to your inquiries. If further analysis is desired or additional questions arise, please contact us.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., May 16, 1978.

To Senate Subcommittee on Monopoly and Anticompetitive Act. Attention: Gerald Sturges.

From American Law Division.

Subject Patentable Material and the FOIA.

This memorandum will expand on a conclusion of a prior memorandum of May 8 on the applicability of Exemption Four of the Government-In-the-Sunshine Act to certain NIH peer review meetings. Federal Register notices of closure of meetings of the National Institutes of Health dealing with contract proposals and/or grant applications state that the proposals and applications and the discussions could reveal "confidential trade secrets or commercial property such as patentable material . . ."

Trade secrets and confidential commercial information are exempt from disclosure under both the FOIA and the Sunshine Act. Therefore, "patentable material" must meet the criteria of either a trade secret or confidential commercial information to be exempt from mandatory disclosure. Such material alone cannot justify withholding or nondisclosure. The presence of a trade or commercial interest is necessary before Exemption Four applies.

Patents may be obtained in the absence of a commercial interest or use. The statutory requirements of a patent in 35 U.S.C. 101 do not include trade or commercial use or interest. To be patentable, a "process, machine, manufacture, or composition of matter" must be "useful." 35 U.S.C. 101. However, "'commercial usefulness', i.e. progress in the development of a product to the extent that it is presently commercially salable in the market place, has never been a prerequisite for a reduction to practice and the subsequent patentability of any of the classes of patentable subject matter set forth in § 101 . . ." *Application of Anthony*, 414 F.2d 1383 (Ct. Cust. Pat. App. 1969). Furthermore, "it does not follow from the fact that a patent has never been put into commercial use, never been recognized by the trade, and its possessor received no royalty for its license, that the patent is lacking in those novel features which support in fact and in law the essential requirements of a valid patent." Deller's Walker on Patents, § 229 (1965).

Thus, as stated in our prior memorandum, patentable material must satisfy the requirements of either a trade secret or confidentiality and commercial use before it is subject to withholding. It is not per se exempt nor is it necessarily synonymous with confidential commercial property, as the language in the NIH notices seems to indicate. In that regard, the closure notices would seem to be overly broad since any "patentable material" which may be involved must also meet the specific criteria of Exemption Four in order to justify closure.●

OLDER AMERICANS MONTH

● Mr. CHURCH. Mr. President, one of the major demographic changes in our society is the "graying" of our population.

When our nation declared its independence in 1776, only about 2 percent of the total population was 65 or older—or one out of every 50 Americans.

By the year 1900, there were 3 million senior citizens, or one out of every 25 Americans.

The proportion grew steadily until 10 percent of our population was 65 or older in 1966.

And today, almost 11 percent of all Americans are older Americans, or one out of every nine persons in the United States.

The increasing number of older citizens represents a triumph which our Nation can be justly proud of.

But I think that it is also important to remember the words of President Kennedy:

> It is not enough for a great nation merely to have added new years to life—our objective must also be to add new life to those years.

President Kennedy also launched a tradition when he designated May as "Older Americans Month" in 1963 to call attention to the problems and challenges confronting aged and aging persons.

Subsequent Presidents have continued this practice.

President Carter recently issued a similar proclamation to focus the attention of our Nation and Congress on the elderly.

His words take on added meaning, because America is about to become a four-generation society.

It is important, therefore, that we direct our attention toward the social, economic, and other implications of this demographic change.

Mr. President, I commend the President's proclamation on "Older Americans Month" to Members of the Senate and ask that it be printed in the RECORD.

The proclamation follows:

OLDER AMERICANS MONTH, 1978

(By the President of the United States of America)

A PROCLAMATION

When the month of May was first set aside in 1963 in special tribute to our nation's citizens, there were fewer than eighteen million Americans over the age of

sixty-five. Today, their number exceeds twenty-three million.

Older Americans are in invaluable source of talent, skills and experience. Their sacrifice and hard work in the past have brought us through wars and hard times, and kept our Nation faithful to the values and principles on which it was founded. They are our link with what has gone before, remembering the good things we are in constant danger of losing, as well as the bad things we have overcome, and how it was possible. They can help us understand the mistakes of the past so that we do not repeat them. They can help us gather strength and courage from the wisdom of the past to make a better future for our children.

Their skills and knowledge are important to our economy, and it is important to their lives and health that they be able to remain as self-reliant as possible through employment and other opportunities, and through necessary supportive services that enable them to live their later years in dignity and self-respect. Just as they must not be arbitrarily excluded from contributing to our society, they must not be asked to bear the burdens of society when they are no longer able.

These men and women are a vital part of this Nation. Like all Americans, they need comfortable and safe places to live, nutritious daily diets and adequate incomes and services to give them freedom to make choices. We all must work together to create these conditions in our communities.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate the month of May as Older Americans Month and I ask public officials at all levels, community agencies, educators, the clergy, the communications media and each American to help make it possible for older Americans to enjoy their later years.

In Witness Whereof, I have hereunto set my hand this nineteenth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.●

PATENTING LIFE

● Mr. NELSON. Mr. President, if forms of life can be patented, should recombinant DNA research inventions developed with the support of the Department of Health, Education, and Welfare be patentable by universities in the same way drugs and other campus discoveries are?

As part of its continuing study of Government patent policy, the Monopoly and Anticompetitive Activities Subcommittee of the Select Committee on Small Business will hold hearings next week on the history and legal basis of institutional patent agreements.

These agreements give colleges, universities, and nonprofit organizations first option to own the rights to inventions resulting from Government-sponsored research and development.

The Department has used institutional patent agreements in their present form since 1968 and reports it now administers 72 IPA's. The National Science Foundation began using an IPA in 1973.

In February, the General Services Administration declared that all agencies supporting university research could begin using a newly worded IPA as of March 20. At my request, the Office of Federal Procurement Policy in the Office of Management and Budget agreed to stay the new patent regulation until July 18.

Meanwhile, the National Institutes of Health were announcing their decision that, at least for the present, recombinant DNA research inventions developed with HEW support can be patented under existing institutional patent agreements. Dr. Robert M. Rosenzweig, vice president for public affairs at Stanford University, had written NIH in June 1976, saying both Stanford and the University of California felt the need for a formal advisory opinion on the patenting of recombinant DNA inventions developed under NIH grants or contracts.

Mr. President, whether such inventions should be patentable in the same way other university discoveries are ought to be a major policy question in its own right. Consider this statement by the Patent and Trademark Office on January 13, 1977, when it announced it would offer accelerated processing of recombinant DNA patent applications:

Recombinant DNA research appears to have extraordinary potential benefit for mankind. It has been suggested, for example, that research in this field might lead to ways of controlling or treating cancer and hereditary defects. The technology also has possible applications in agriculture and industry. It has been likened in importance to the discovery of nuclear fission and fusion.

The offer of accelerated processing was later withdrawn, but the statement stands.

In two recent decisions, the U.S. Court of Customs and Patent Appeals has ruled that life forms are patentable.

The first of these, on October 6, 1977, awarded a patent to the Upjohn Co. for a micro-organism it isolated and purified for use in preparation of the antibiotic lincomycin. The Patent and Trademark Office filed a petition for certiorari with the U.S. Supreme Court on March 3, from which the Court has 90 days to indicate whether it will hear the case.

In the second of these, the appeals court on March 2 ruled in favor of the General Electric Co.'s application for a patent on a new strain of oil-degrading bacteria, useful for biological control of oil spills. The Government has not decided whether it will appeal the ruling.

Mr. President, I ask that a column by Alan L. Otten in the Wall Street Journal of January 26 on patenting life be printed in the RECORD, along with the two decisions of the appeals court.

The material follows:

PATENTING LIFE

(By Alan L. Otten)

WASHINGTON.—A tiny number of government officials, lawyers and scientists have begun wrestling with a huge legal problem: Should forms of life be patented?

Ultimately, the Supreme Court or Congress may have to provide the answer. It's another area where rapidly expanding scientific knowledge is creating tricky new ethical, legal and social quandaries.

The question immediately at stake is whether patents should be granted for microorganisms, those minute living and reproducing bacteria, viruses and other organisms. In one case, an appellate court has already answered in the affirmative, and a second case is waiting decision.

Many experts believe the issue will remain narrowly focused on microorganisms in food, drug, chemical and similar products, and that the courts can be counted on to avoid any science fiction horror extensions of patentability. At least a few others, though, contend the principle affirmed by the court could easily be applied in far-out and scary directions; to patent products of recombinant DNA technology, cloning, cell fusion and other genetic engineering, perhaps organic modification of animals or even humans.

The patent law, dating back to the earliest days of the republic, authorizes patent protection for the invention or discovery of "any new and useful process, machine, manufacture or composition of matter." The idea, of course, is to encourage research and invention by guaranteeing a temporary monopoly on the product. A 1930 law extended coverage to certain "asexually reproduced" new plant varieties.

It's long been assumed that the processes for producing a particular microorganism and the methods for using it could be patented, but the question of patenting the organism itself—without doubt, a form of life—hadn't been seriously addressed until recently. Then Upjohn Co. sought a patent for a microorganism it had isolated from a soil sample and produced in a biologically pure culture, useful for preparing the antibiotic lincomycin.

A government patent examiner ruled the microorganism a "product of nature" and therefore not entitled to patent protection. A three-man appeals board within the Patent and Trademark Office also refused the patent, by a two-to-one vote, but the majority gave a different reason: A microorganism is "a living organism" and Congress never meant living things to be patentable.

Upjohn appealed to the Court of Customs and Patent Appeals, and a three-to-two vote last fall overturned the board and authorized granting the patent. The majority, which included a judge from another appellate court sitting in for an ailing regular member, insisted its ruling was very limited. "We are not deciding," it said, "whether living things in general, or, at most, whether any living things other than microorganisms, are within (the patent law). These questions must be decided on a case-by-case basis."

Nonetheless, other statements seemed quite broad. The majority flatly declared that the fact that the culture was "alive" did not remove it from patent protection. In fact, it added, it is precisely "because it is alive that it is useful." The judges said that microorganisms, like inanimate chemical compounds, were essentially manufacturing "tools," and declared that "the fact that microorganisms, as distinguished from chemical compounds, are alive is a distinction without legal significance."

The minority judges, including a former U.S. Senator, maintained that "the nature of organisms, whether microorganisms, plants or other living things, is fundamentally different from inanimate chemical compositions." Moreover, they said, there was no reason to believe that any legal distinction could be drawn "between microorganisms and more complex living things." The whole subject, they argued, should be left for Congress to determine.

The government has about a month left to decide whether to appeal this decision to the Supreme Court. Meanwhile, another application is raising the issue in a somewhat broader form, one that even attorneys who support the court's Upjohn ruling concede moves a significant step closer towards recombinant DNA technology.

In this case, General Electric Co. is seeking a patent for a bacteria that contains extra-chromosomal genetic material that produce oil-degrading enzymes—a discovery of obvious use in combating oil spills. A different patent examiner and a different

three-man PTO appeals board have unanimously turned down the application, and GE has appealed to the Patent Appeals Court. Argument was heard in December—with the previously ill judge back on the bench—and the court hasn't yet made its ruling.

Ever since the Upjohn case started making waves, there's been intense discussion in legal circles. Several attorneys think that, as Wisconsin law professor John Stedman puts it, "the courts will find a way to keep things within bounds," without any need for Congress to step in. Says patent attorney Donald Dunner: "As soon as you discuss patenting living organisms, people have visions of 1984. But I think it's raising more passion than perhaps necessary."

Other students, though, reject the relaxed view. "I'm not sure the court's ruling is quite as limited as it says," asserts one corporate attorney. "It raises the question of whether ultimately someone could patent a human being—and that should be up to Congress, not to a couple of judges."

PTO Associate Solicitor Gerald Bjorge stated this view in only half-facetious terms during oral argument in the GE case. "My children's Shetland sheepdog, he said, "was new and useful when it came' into the world. We feed and culture it, and it is our burglar alarm. My children's cat was new and useful and we feed and culture it, and it is our mousetrap. How does this court ever hope to distinguish between one living organism and another? Where and how will it draw the line?"

U.S. Court of Customs and Patent Appeals

IN THE MATTER OF THE APPLICATION OF MALCOLM E. BERGY, JOHN H. COATS, AND VEDPAL S. MALIK; DECIDED: OCTOBER 6, 1977.

(Patent Appeal No. 76–712) (Serial No. 477,766)

Rich, Judge.

This appeal is from the majority decision of the divided Board of Appeals (board) of the United States Patent and Trademark Office (PTO) affirming the rejection of claim 5 of application serial No. 477,766, filed June 10, 1974. We reverse.

THE INVENTION

The subject of the application, which, when filed, had the noncommittal title "Process," is made clear from the Abstract of the Disclosure, which reads:

Microbiological process for preparing the antibiotic lincomycin at temperatures ranging from 18°C. to 45°C. using the newly discovered microorganism *Streptomyces vellosus*. The subject process advantageously results in the preparation of lincomycin without the concomitant production of lincomycin B (4'-depropyl-4'-ethyllincomycin). The absence of lincomycin B production results in increased lincomycin recovery efficiency.

On demand of the examiner, the title was later changed to "Process for Preparing Lincomycin." The application was filed with four claims to such a *process* which the examiner allowed. By a preliminary amendment, filed before any action on the application but not reached by the examiner until his second action, claim 5 was added together with the attorney's statement that "Basis for claim 5 can be found throughout the disclosure." That claim reads:

"5. A biologically pure culture of the microorganism *Streptomyces vellosus*, having the identifying characteristics of NRRL 8037, said culture being capable of producing the antibiotic lincomycin in a recoverable quantity upon fermentation in an aqueous nutrient medium containing assimilable sources of carbo, nitrogen and inorganic substances."

The designation of "NRRL 8037" in claim 5 is elucidated by the following statement in the specification:

THE MICROORGANISM

"The novel actinomycete used according to this invention for the production of lincomycin is *Streptomyces vellosus*. One of its strain characteristics is the production of lincomycin without the concomitant production of lincomycin B. Another of its strain characteristics is the production of comparable titers of lincomycin at a temperature of 28° C. and 45° C. A subculture of this living organism can be obtained upon request from the permanent collection of the Northern Regional Research Laboratories, Agricultural Research Services, U.S. Department of Agriculture, Peoria, Illinois, U.S.A. Its accession number in this repository is NRRL 8037."

The specification continues:

"The microorganism of this invention was studied and characterized by Alma Dietz of the Upjohn Research Laboratory."

What follows that statement is an elaborate, highly technical, detailed description of the microorganism, including its type designation as "*Streptomyces vellosus* Dietz, sp.n.," occupying over ten pages of the printed specification, followed by exemplary descriptions of the production of lincomycin therefrom by fermentation processes and the recovery of the lincomycin produced by the fermentation.

THE REJECTION

No references have been cited against claim 5 because the novelty and unobviousness of the biologically pure culture claimed are not questioned. Neither has utility been questioned.

The examiner's sole ground of rejection of claim 5, as stated in his final rejection, was:

"Claim 5 is rejected under 35 USC 101 as non-statutory subject matter. Claim 5 claims a product of nature (Streptomyces vellosus NRRL 8037)." See In re Mancy et al. 182 USPQ 303 at page 306, second sentence before [4].

Appellants responded with a request to reconsider this rejection supported by affidavits of three Upjohn microbiologists, Dr. Joseph E. Grady, Dr. Thomas L. Miller, and "the well-known microbial taxonomist Alma Dietz," pointing out that the microorganism did not exist as a biologically pure culture in nature and asserting that such a culture is a "manufacture" under § 101, which reads:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title."

In so arguing, appellants made the point that the pure culture is "a product of a microbiologist." The examiner adhered to his position and appeal was taken to the board.

Since the only ground given by the examiner in support of his nonstatutory-subject-matter rejection was that the culture was a product of nature, that was the only point argued by appellants in their brief before the board, in which they cited a number of precedents for holding that a *pure* product could be patentable over a known impure product of similar kind.

The Examiner's Answer—only two pages of the printed record—merely summarized his product-of-nature position and cited two cases in addition to *In re Mancy*, supra previously cited by him, namely, *Guaranty Trust Co. of New York* v. *Union Solvents Corp.*, 54 F. 2d 400, 12 USPQ 47 (D. Del. 1931), *aff'd*, 61 F. 2d 1041, 15 USPQ 237 (CA 3 1932), and *Funk Bros. Seed Co.* v. *Kalo Inoculant Co.*, 333 U.S. 127, 76 USPQ 280 (1948). With reference to the cases cited by appellants as precedents for patenting *pure* materials, the examiner noted that they were all pure chemical compounds "as contrasted with the instant microorganism." He noted that the cases cited by him all "involve isolated or biologically pure microorganisms." Appellants replied briefly, taking exception to the last-quoted statement of the examiner:

"* * * since (1) none of the decisions cited, nor any known decision, has held that a 'biologically pure culture' is unpatentable, and (2) there is no evidence that a 'biologically pure culture' was in issue in any of the cited decisions."

On the issue thus framed, the case went to the board.

THE BOARD OPINIONS

The opinion of the majority of the board is quite out of the ordinary. While it affirms the "decision" of the examiner, that is to say his *rejection* of claim 5, it wholly disregards his *reason* for rejecting it to the point of expressly declining to consider it. Instead, the board majority decided that claim 5 is not directed to statutory subject matter within the meaning of § 101 because it is for "a living organism," an issue entirely new to the application at bar, so far as the record shows. The dissenting board member's opinion confirms in its first paragraph that that it, strictly, the basis of the majority's decision. Without stating a new ground of rejection was being made (*cf.* 37 CFR 1.196(b)) the majority opinion commences its explanation of its reasoning as follows:

"We have extensively researched prior court decisions for guidance to the question of whether or not a microorganism, being a living thing, is or is not within the realm of statutory patentable subject matter, but, other than possibly non-controlling dicta, have not found any case directly in point.

"It is our view that 35 U.S.C. 101 must be strictly construed and, when so interpreted, precludes the patenting of a living organism. We reach this conclusion on the basis that only those categories of subject matter specifically enumerated in the statute are patentable and a living organism does not fall within the scope of any of those categories listed. An analogous result has been reached by the courts with respect to non-patentability of mental processes, printed matter or methods of doing business none of which are also expressly excluded by the indicated section of the statute, but neither can they be said or have been held to be included thereby."

The board majority opinion then makes two points in support of its conclusion that § 101 precludes patenting anything living. The first is based on this court's decision in *In re Arzberger*, 27 CCPA 1315, 112 F.2d 834, 46 USPQ 32 (1940), that bacteria are not included in the plant patent provision of former Title 35 (then part of § 4886 of the Revised Statutes, since 1952 separately treated in 35 USC 161–164), notwithstanding that they may be scientifically classified as plants, because Congress plainly did not intend them to be when, in 1930, it enacted the Plant Patent Act (46 Stat. 376). The case was concerned only with the plant patent statute and this court did not have before it any other issue, such as inclusion of bacteria in any other statutory category, appellant having applied for a "plant patent" on a bacterium. The second aspect of the board majority's supporting reasoning is fully stated in the following paragraph:

"If we were to adopt a liberal interpretation of 35 U.S.C. 101 new types of insects, such as honeybees, or new varietes of animals produced by selective breeding and cross-breeding would be patentable. Moreover, those plants which are excluded from the scope of 35 U.S.C. 161, such as tuber propagated plants or plants which can be reproduced only sexually, would be patentable under 35 U.S.C. 101. We do not believe that Congress intended 35 U.S.C. 101 to encompass any living organism, whether they be plants or microorganisms."

The dissenting board member, stating that he had reviewed all of the precedents cited by either side and others as well, many of

which he discussed in detail, expressed these views:

"* * * I do not believe that the fact that plants and bacteria have some properties in common is sufficient basis for holding that bacteria are to be excluded from patent coverage. * * *

"* * * I do not find it improper to claim living organisms * * *.

"In view of the discussed cases, and since 35 U.S.C. 101 does not expressly exclude patents to living organisms, it is my opinion that living organisms, as claimed, may be patented if such claims also fulfill the other requirements of the statute."

He also expressed disagreement with the examiner's view that claim 5 defined a "product of nature," or that being a product of nature was sufficient reason, alone, for holding an invention nonstatutory. He made these observations:

"Rather, I view a "product of nature" as being something that "exists" in nature and therefore evidence that it may not be "new" as this expression finds meaning in the Patent Statute. Accordingly, I would treat "products of nature" like any other material and determine whether they are new or obvious in view of the state of the art.

"Certainly vitamin B–12, as it exists in liver, and adrenalin, as it appears in adrenal glands, are products of nature, yet the courts have held (Merck & Co., B–12 and Parke Davis and Co., adrenalin) [1] that when such materials are extracted and concentrated in a purified form they are patentable. Accordingly, it is not sufficient to determine whether the pure culture claimed is a product of nature."

OPINION

Under the peculiar circumstances of this case, in which the board switched the supporting reasoning for the rejection of claim 5 as for nonstatutory subject matter without expressly making a new rejection, we deem it prudent to clarify the issue we have to decide. The brief of the PTO Solicitor sees but a single issue: "whether *living* organisms are the kind of 'manufacture' or 'composition of matter' intended by Congress to be included within 35 U.S.C. 101." (Emphasis ours.) Appellants argue that issue, making no objection to the board having raised it sua sponte, and also—perhaps out of an abundance of caution—argue the product-of-nature question sidetracked by the board. Appellants forcefully presented the latter issue before the board and submitted affidavits of three experts in the field to the effect that the "biologically pure culture" of claim 5 is not found in nature. The evidence appears to us to be incontrovertible. The dissenting member of the board accepted it. The board did not refute it, and the solicitor has not challenged it. The circumstances persuade us that the board went in search of another reason to support the rejection because it realized the examiner's position was untenable. We consider the product-of-nature issue to have been abandoned and no longer in the case. However, since the solicitor indicated at oral argument that he was not sure the board had removed it entirely, we state that we find it wholly lacking in merit. The biologically pure culture of claim 5 clearly does not exist in, is not found in, and is not a product of, "nature." It is man-made and can be produced only under carefully controlled laboratory conditions.

We take note of the fact that, since their appearance before the board, appellants have added another statutory category string to their bow. Before the board, they argued that the claim 5 pure culture is a "manufacture" under § 101. Before us they also argue that it is a "composition of matter," which is another § 101 category. This is not a matter of great moment since there is considerable overlap between these two broad categories, notwithstanding what some textwriters have said. The arguments have not made a distinction between the two. If it is either, it is statutory subject matter, and it is not intellectually profitable to attempt a distinction in this regard.

We therefore proceed to a decision solely on the basis of the issue as the solicitor has stated it, deeming it to involve the single question of whether the uncontroverted fact that the biologically pure culture, *as claimed*, is *alive* removes it from the categories of inventions enumerated in § 101. Our conclusion is that it does not.

As to what the issue is, however, we make one further clarifying observation. We do so in part because of the solicitor's statement that a similar issue was present but not decided in *In re Merat*, 519 F. 2d 1390, 186 USPQ 471 (CCPA 1975), a case involving chicken breeding, and in part because of the board's reasoning herein. The solicitor's statement about *Merat* is correct, but we emphasize that we are not here deciding the issue left open in *Merat* or anything other than the issue before us in this case, whether the subject matter of claim 5 is within either of the terms "manufacture" or "composition of matter" in § 101. In other words, we are not deciding whether living things in general, or, at most, whether any living things other than microorganisms, are within § 101. These questions must be decided on a case-by-case basis and anything said herein is to be taken as said in the context of a discussion of the subject matter of claim 5 and § 101.

As presented to us, the question is clearly one of first impression. There is a substantial volume of literature bearing on it, both directly and indirectly, which the solicitor has helpfully collected in his brief, containing some private views on the question on which, it seems to be agreed, no court has passed.

One of the peripherel court comments, the first to be cited, is from our opinion in *In re Mancy*, 499 F. 2d 1289, 182 USPQ 303 (CCPA 1974). All that the case has been cited for is a bit of dictum bearing on a hypothetical situation which was not before us. The case involved claims to a *process* of producing a particular known antibiotic by aerobically cultivating a particular strain of *Streptomyces bifurcus*. The claims were rejected for obviousness under 35 USC 103 on references showing various strains of other *Streptomyces* species used for the same purpose. We reversed, holding that *In re Kuehl*, 475 F. 2d 658, 177 USPQ 250 (CCPA 1973), was controlling and that the new *Streptomyces bifurcus* strain *discovered by Mancy* himself as part of the invention being claimed could not be used as prior art in determining the obviousness under § 103 of his claims to a process of using it to produce the old antibiotic. In comparing the facts of the case before us in *Mancy* with the facts of *Kuehl*, we said (499 F. 2d at 1294, 182 USPQ at 306):

"We recognize the differences between this case and the situation in *Kuehl*, where the novel zeolite used as a catalyst in the claimed hydrocarbon cracking processes was itself the subject of allowed claims in the application. Here appellants not only have no allowed claim to the novel strain of *Streptomyces* used in their process but would, we presume (without deciding), be unable to obtain such a claim because the strain, while new in the sense that it is not shown by any art of record, is, as we understand it, a "product of nature." However, it is not required for unobviousness of the method-of-use claims that the new starting material by patentable * * *."

It is not clear from the context that we were not discussing what is or is not statutory subject matter within §101 but only a difference between two cases which we found not to be a reason for distinguishing them, and that we were not expressing any view, even by way of dictum, on the patentability of living organisms as such, we now make it explicit that the thought underlying our presumption that Mancy could not have obtained a claim to the strain of microorganism he had described was simply that it *lacked novelty*. We were thinking of something preexisting and merely plucked from the earth and claimed as such, a far cry from a biologically pure culture produced by great labor in a laboratory and so claimed. The dissenting board member was entirely correct in so interpreting our *Mancy* dictum. The examiner relied on it only to support his product-of-nature reasoning, and the board majority did not mention it, having abandoned that reasoning. Furthermore, it now appears to us, in light of what we have learned in this case about the separation and identification of new strains of *Streptomyces*, that our dictum was ill-considered. Had we known what we now know, we would likely have abjured the stated presumption.

Guaranty, Trust Co. v. *Union Solvents Corp.*, supra, as cited by the examiner as "especially pertinent" and again by the solicitor as a "judicial precedent" solely for the following passage appearing at the very end of the long trial court opinion (54 F. 2d at 410, 12 USPQ at 57, emphasis ours):

Lastly, the defendant contends that the invention of the Weizmann patent is unpatentable since it is for the *life process of a living organism. Were the patent for bacteria per se, a different situation would be presented.* As before stated, the patent is *not* for bacteria *per se*. It is for a fermentation process employing bacteria discovered by Weizmann under conditions set forth in the specification and claims. Undoubtedly *there is patentable subject-matter in the invention*. Cochrane v. Deneer, 94 U.S. 780, 24 L.Ed, 139; Risdon Iron & Locomotive Works v. Medart, 158 U.S. 68, 15 S. Ct. 745, 39 L. Ed. 899; Cameron Septic Tank Co. v. Village of Saratoga Springs, 159 F. 453 (C.C.A. 2); Dick v. Lederle Antitoxin Laboratories (D.C.) 43 F.(2d) 628."
[6 USPQ 40 (S.D. N.Y. 1930)].

The statement the examiner relied on, "Were the patent for bacteria *per se*, a different situation would be presented." is a trite observation of minimal magnitude as precedent, dealing with a non-issue on which no opinion was expressed. What we find of interest and, indeed, "pertinent" is the fact that the defendant urged the unpatentability of claims because they involved a *life* process of a *living* organism and the court *rejected* the argument. At the outset, the opinion states that one of the defenses was "nonpatentable subject matter." The real plaintiff in the case was Commercial Solvents Corporation, exclusive licensee under the Weizmann patent in suit, which corporation was making butyl alcohol and acetone by the Weizmann bacteriological fermentation process, and, with its predecessors, had been doing so since 1918. In 1929 the production was 107,500,000 pounds. The trial court noted that "The record shows that an important and extensive new industry has now been developed and established upon the Weizmann process." It was very clear to the court that it was dealing with a life process for, in describing the invention, it said, " 'Fermentation' is the chemical change, or the decomposition into new chemical compounds, of a substratum, by living organisms, such, for example, as yeast or bacteria." On the issue whether a *process* dependent upon living organisms and their life processes was patentable subject matter, the court had no

[1] *Merck & Co.* v. *Chase Chemical Co.*, 273 F. Supp. 68, 155 USPQ 139 (D. N.J. 1967); *Merck & Co.* v. *Olin Mathieson Chemical Corp.*, 253 F. 2d 156, 116 USPQ 484 (CA 4 1958); *Parke Davis & Co.* v. *H. K. Mulford Co.*, 189 Fed. 95 (S.D. N.Y. 1911), *aff'd*, 196 Fed. 496 (CA 2 1912).

doubts. In the last case cited in the above quotation, *Dick* v. *Lederle*, two years earlier the court had found a scarlet fever toxin and antitoxin and process of making the same to be patentable subject matter notwithstanding the employment of life processes in their preparation. On appeal in the *Guaranty Trust* case, the Third Circuit Court of Appeals affirmed per curiam on the opinion of the trial judge, commenting, inter alia, that it had been persuaded "that the invention disclosed in the patent created a new and important commercial enterprise * * *."

These decisions illustrate what we believe to have been the state of the law ever since, namely, that *processes*, one of the categories of patentable subject matter specified in § 101, are uniformly and consistently considered to be statutory subject matter notwithstanding the employment therein of living organisms and their life processes. Witness the action of the PTO in the present case in allowing the process claims. Other examples of such patentable process claims involving living bacteria are to be seen in the bacterial sewage treatment cases of which one is *City of Milwaukee* v. *Activated Sludge, Inc.*, 69 F. 2d 577, 21 USPQ 69 (CA 7 1934). (See quoted claims 8 and 10 of reissue patent No. 15,140 in fn. 4.) A still earlier one is the *Cameron Septic Tank Co.* case cited in *Guaranty Trust* and decided by the Second Circuit Court of Appeals in 1908, wherein the trial court was reversed and bacterial-action process claim were held valid and infringed. (The original "septic tank.") It seems illogical to us to insist that the existence of life in a manufacture or composition of matter in the form of a biologically pure culture of a microorganism removes it from the category of subject matter which can be patented while the functioning of a living organism and the utilization of its life functions in processes does not affect their status under § 101. Of course it is clear, as the dissenting board member noted, that there is nothing in the words of § 101 which excludes patents for living organisms.

We cannot agree with the board majority's view that § 101 "must be strictly construed." But even a "strict construction," whatever that may entail, fails to lead inexorably to the exclusion of a manufacture or composition of matter because it is alive. The statute makes no distinction between manufactures and compositions on the one hand and processes on the other. If the board is right in excluding products because there is life in them, then logic dictates that it should take the same position with regard to processes. But it does not do so. Indeed, in light of what the courts have done over the past seventy years in holding such process claims valid, it could not properly do so. We have never heard of a case holding that the categories of patentable subject matter, as enumerated in § 101 or any of its predecessor statutes, should be strictly construed and the board has cited none.

In 1932, when the Board of Appeals was faced with an examiner's contention that a biological process for producing butyl and isopropyl alcohols by bacterial action was unpatentable because the bacteria were doing only what by nature they are capable of doing, its response was that *if such a view were accepted, it would hardly be possible to grant a patent on any chemical process*, indicating an early appreciation of the essential similarity of what we normally think of as "chemical reactions" and the complex *chemical* procedures wrought by the *life* processes of microorganisms. *Ex parte Prescott*, 19 USPQ 178 (1932). As a result of that decision, according to the report of the case, patent No. 1,933,683 was issued Nov. 7, 1933, for "Production of Butyl and Isopropyl Alcohols" with process claims. The board said (19 USPQ at 180):

"We are unable to agree with the Examiner that processes involving bacterial action do not involve patentable subject matter * * *."

What we have before us is an industrial product used in an industrial process—a useful or technological art if there ever was one. See *In re Waldbaum*, 59 CCPA 940, 457 F.2d 997, 173 USPQ 430 (1972). The nature and commercial uses of biologically pure cultures of microorganisms like the one defined in claim 5 are much more akin to inanimate chemical compositions such as reactants, reagents, and catalysts than they are to horses and honeybees or raspberries and roses. According to an article cited but not relied on by the solicitor entitled "Microbiological Applications and Patents" by Harvey W. Edelblute in *The Encyclopedia of Patent Practice and Invention Management* at 567, edited by R. Calvert (1964), microbiological processes have long been used "to make beer, wine, cheese, bread, pickles and sauerkraut, rett flax, age tobacco, bate leather, produce silage and digest sewage."

But more to the point here, in recent years, according to Edelbute, they have come to be used to "produce a vast variety of chemicals and drugs such as alcohols, ketones, fatty acids, amino acids, vitamins, antibiotics, steroids, and enzymes." Edelbute provides a "far from complete list" of chemical reactions carried out by microorganisms, which he names, which include oxidation, reduction, condensation, esterification, amination, deamination, phosphorylation, hydrolysis, decarboxylation, methylation, dismutation, acylation, and dehydration.[2] In short, microorganisms have come to be important tools in the chemical industry, especially the pharmaceutical branch thereof, and when a new and useful tangible industrial tool is invented which is unobvious, so that it complies with the prerequisites to patentability other than the enumerated statutory categories, we do not see any reason to deprive it or its creator or owner of the protection and advantages of the patent system by excluding it from the § 101 categories of patentable invention on the sole ground that it is alive. It is because it is alive that it is useful. The law unhesitatingly grants patient protection to new, useful, and unobvious chemical compounds and compositions, in which category are to be found the products of microbiological processes, for example, vitamin B–12 and adrenalin, referred to in note 1 above, and countless other pharmaceuticals. We see no sound reason to refuse patent protection to the microorganisms themselves—a kind of tool used by chemists and chemical manufacturers in much the same way as they use chemical elements, compounds, and compositions which are not considered to be alive, notwithstanding their capacities to react and to promote reaction to produce new compounds and compositions by chemical processes in much the same way as do microorganisms. We think it is in the public interest to include microorganisms within the terms "manufacture" and "composition of matter" in § 101. In short, we think the fact that microorganisms, as distinguished from chemical compounds, are alive is a distinction without legal significance and that disposes of the board's ground of rejection and the sole reason for refusal of a patent argued by the solicitor.

As for the board's fears that our holding will of necessity, or "logically," make all new, useful, and unobvious species of plants, animals, and insects created by man patentable, we think the fear is far-fetched. In any case, that question is not before us, as we have indicated above. Nor are we influenced by the legislative history of the Plant Patent Act of 1930 in the course of which nobody had anything to say about patent protection for microorganisms, so far as we know. The collective mind of Congress was not turned in that direction. We are not here concerned with interpretation of the Plant Patent Act as this court was in *In re Arzberger*, supra, which simply held that *that act* did not encompass bacteria.

The decision of the board affirming the rejection of claim 5 is *reversed*.

[U.S. Court of Customs and Patent Appeals]

IN THE MATTER OF THE APPLICATION OF MALCOLM E. BERGY, JOHN H. COATS, AND VEDPAL S. MALIK

(Patent Appeal No. 76–712; Serial No. 477,766)

Kashiwa, Judge,* concurring.

I agree with the result and the reasoning of the opinion by Judge Rich joined by Chief Judge Markey. Nevertheless, I wish to emphasize, out of a super-abundance of caution, that I read the majority opinion as setting forth an extremely limited holding. While the PTO and the dissenting opinion raise the specter of patenting higher forms of living organisms, quite clearly the majority opinion does not support such a broad proposition. Each case must necessarily be considered on its own facts. On the facts of this case, I join the narrow confines of the majority opinion.

[U.S. Court of Customs and Patent Appeals]

IN THE MATTER OF THE APPLICATION OF MALCOLM E. BERGY, JOHN H. COATS, AND VEDPAL S. MALIK

(Patent Appeal No. 76–712; Serial No. 477,766)

Miller, Judge, dissenting, with whom Baldwin, J., joins.

I do not agree that a biologically pure culture of microorganisms is within the scope of 35 USC 101 intended by Congress.

The board majority concluded—

"[35 USC 101] does not specifically proscribe patents on plants, yet it was found necessary to enact a special section in order to reward horticulturalists and agriculturalists (35 U.S.C., Chapter 15, Sections 161–164). If 35 U.S.C. 101 were to be broadly construed there would clearly not have been any necessity for Chapter 15 of 35 U.S.C.

"We are especially impressed by the legislative history of R.S. 4886 (U.S.C. Title 35, Section 31), the predecessor of the present Chapter 15 of 35 U.S.C. We believe that the legislative history reveals a clear Congressional intent that plants were not covered by the predecessor of 35 U.S.C. 101. . . .

"Based upon the legislative history . . . we do not believe that the terms 'manufacture' or 'composition of matter,' as employed in 35 U.S.C. 101, were intended to encompass any living organism, whether plants or the microorganism appellants are claiming here." [Emphasis added.]

The response of the majority opinion here is simply:

"Nor are we influenced by the legislative history of the Plant Patent Act of 1930 [ch. 312, 46 Stat. 376] in the course of which nobody had anything to say about patent protection for microorganisms. . . ."

It then attempts to distinguish between microorganisms and more-complex living things, such as those included within the common meaning of "plants," saying:

"The nature and commercial uses of biologically pure cultures of microorganisms like the one defined in claim 5 are much more akin to inanimate chemical compositions such as reactants, reagents, and cata-

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[2] "Bacteria are universal biochemists * * *." A. Bryan, C. A. Bryan, & C. G. Byran, *Bacteriology* v (6th ed. 1962).

* Judge of the United States Court of Claims sitting by designation pursuant to 28 USC 293(a).

lysts than they are to horses and honeybees or raspberries and roses."

Such a distinction is purely gratuitous and clearly erroneous. The nature of organisms, whether microorganisms, plants, or other living things, is fundamentally different from that of inanimate chemical compositions. For example, both the microorganisms claimed herein and honeybee are alive, reproduce, and act upon other materials to form technologically useful products (lincomycin and honey, respectively). This cannot be said of chemical compositions. The weakness of the majority's position is further apparent from its failure to advance any rationale for distinguishing between different types of living things—particularly between a biologically pure culture of a microorganism and plants—for purposes of 35 USC 101.

I agree with the board majority that 35 USC 161, *et seq.*, whose original precursor was the Plant Protection Act of 1930 (1930 Act), and the legislative history of the 1930 Act support the conclusion that living organisms (*e.g.*, plants and biologically pure cultures of microorganisms) were not intended by Congress to be within the scope of 35 USC 101.

That Congress believed it necessary to enact a statute extending patent protection to certain plants (see *In re LeGrice*, 49 CCPA 1124, 1139, 301 F. 2d 929, 939, 133 USPQ 365, (1962)) and to continue this protection in a *separate* provision of the present law demonstrates that Congress never intended that plants or other organisms be within the scope of the terms "manufacture" and "composition of matter." If, indeed, organisms were within the scope of such terms, the 1930 Act would have been superfluous. Presumably the 1930 Act was not superfluous, and the majority opinion here contains nothing to rebut that presumption. See *Platt* v. *Union Pacific Railroad*, 99 U.S. 48, 58 (1878); *In re Finch*, 535 F.2d 70, 71, 190 USPQ 64, 65 (CCPA 1976); *Skovgaard* v. *The M/V Tungus*, 252 F. 2d 14, 17 (CA 3 1957), *aff'd* 458 U.S. 588 (1959); *United States* v. *Korpan*, 237 F.2d 676, 680 (CA 7 1956), *rev'd on other grounds*, 354 U.S. 271 (1957); *United States* v. *C. J. Tower & Sons*, 44 CCPA 1, 5, C.A.D. 626 (1956).

Moreover, the Senate committee report accompanying the bill which became the Plant Patent Act of 1930 (S. Rep. No. 315, 71st Cong., 2d Sess. (1930)) stated:

"The purpose of the bill is to afford agriculture, so far as practicable, the same opportunity to participate in the benefits of the patent system as has been given industry. . . . The bill will remove the existing discrimination between plant developers and industrial inventors." [*Id.* at 1.]

This underscores Congressional understanding that plants were not patentable subject matter under the law then in effect, since, if they were, agriculture would already have been afforded "the same opportunity to participate in the benefits of the patent system." See *Bobsee Corp.* v. *United States*, 411 F. 2d 231, 237 n. 18 (CA 5 1969).

If, prior to the 1930 Act, plants had been within the scope of the patent statutes, as the majority opinion apparently assumes, a plant patent would have had to comply fully with what is now 35 USC 112; but after the 1930 Act, a plant patent for certain plants need not do so (since a plant patent could not be declared invalid if its description "is made as complete as is reasonably possible"—see section 2 of the Plant Protection Act of 1930, 46 Stat. 376). This would have constituted a repeal of the full-compliance requirement in the case of such plants without any Congressional discussion thereof. Repeal by implication is not favored statutory construction. *FTC* v. *A.P.W. Paper Co.*, 328 U.S. 193, 202, 69 USPQ 215, 219 (1946). The conclusion follows that, prior to the 1930 Act, plants were not within the scope of the patent statutes.

The Plant Variety Protection Act, 7 USC 2321 *et seq.*, although enacted long after the original use of the terms "manufacture" and "composition of matter" appearing in 35 USC 101, further supports the conclusion that Congress did not intend organisms to be included within the scope of such terms. Both the Senate Judiciary Committee report (S. Rep. No. 91–1246, 91st Cong., 2d Sess. 3 (1970)) and the House Committee on Agriculture report (H.R. Rep. No. 91–1605, 91st Cong., 2d Sess. 1 (1970)) accompanying the bill (S. 3070) which became the Plant Variety Protection Act stated: [1]

"Under patent law, protection is presently *limited* to those varieties of plants which reproduce asexually, that is, by such methods as grafting or budding. *No* protection is available to those varieties of plants which reproduce sexually, that is, generally by seeds. Thus, patent protection is *not* available with respect to new varieties of most of the economically important agricultural crops, such as cotton or soybeans." [Emphasis added.]

Thus, the Patent Act of 1952 was considered to be limited to plants falling under 35 USC 161, and 35 U.S.C. 101 was not considered to cover any plants whatsoever.

The majority, in holding that the biologically pure culture of a microorganism defined by claim 5 constitutes patentable subject matter, relies heavily on the fact that processes of *using* the microorganism constitute patentable subject matter, saying:

"It seems illogical to us to insist that the existence of life in a manufacture or composition of matter in the form of a biologically pure culture of a microorganism removes it from the category of subject matter which can be patented while the functioning of a living organism and the utilization of its life funtions in processes does not affect their status under § 101."

However, this court has pointed out that claims directed to processes of using an algorithm to *operate* a system constitute patentable subject matter while claims directed to the algorithm *per se* (or to methods of *calculating* using the algorithm) do not. See *In re Waldbaum*, — F. 2d —, —, 194 USPQ 465, 470 (CCPA 1977) (*Waldbaum II*). *Compare In re Richman*, — F. 2d —, —, — USPQ — (CCPA 1977) *with In re Flook*, — F.2d —, — USPQ — (CCPA 1977). Similarly here, the fact that claims directed to a process of *using* microorganisms constitute patentable subject matter does not logically compel the conclusion that claims to biologically pure cultures of microorganisms are patentable.[2]

[1] The bill was also reported on by the Senate Committee on Agriculture and Forestry (S. Rep. No. 91–1138, 91st Cong., 2d Sess. (1970)), which included a letter from the Under Secretary of Agriculture stating that the proposed legislation would provide the "incentive for private enterprise to undertake the research and development required to produce novel varieties of sexually produced plants."

[2] The majority also says that the claimed culture "is an industrial product used in an industrial process—a useful or technological art if there ever was one. See *In re Waldbaum*, 59 CCPA 940, 457 F. 2d 997, 173 USPQ 430 (1972) [*Waldbaum I*]." However, the question is not whether the claimed culture is in a technological art, but whether the claimed subject matter was intended by Congress to be within the scope of 35 USC 101. *Cf. Gottschalk* v *Benson*, 409 U.S. 63, 175 USPQ 673 (1972). Further, it is to be noted that claims in the Waldbaum application were rejected by the PTO after this court's decision in *Waldbaum I*, *supra*, based on the Supreme Court's reasoning in *Benson*, which rejected was affirmed by this court in *Waldbaum II*, *supra*.

Moreover, by emphasizing the microorganism portion of a claim to the process of using the microorganism, the majority opinion is taking an approach rejected by this court in cases such as *In re Chatfield*, 545 F. 2d 152, 158, 191 USPQ 730, 736 (CCPA 1976), *cert.* denied, 46 U.S.L.W. 3202 (October 4, 1977), and *In re Deutsch*, 553 F. 2d 689, 691 n. 3, 193 USPQ 645, 647 n. 3 (CCPA 1977), namely dissecting the claim and concentrating on one portion of the claim in determining the issue of patentable subject matter.

The majority opinion says "it is in the public interest to include microorganisms within the terms 'manufacture' and 'composition of matter' in § 101." Although such a statement might be of interest to an appropriate committee of Congress, it has no relevance to the court's responsibility for determining Congressional intent. As noted by Chief Judge Markey in his concurring opinion in *In re McKellin*, 529 F.2d 1324, 1333, 188 USPQ 428, 437 (CCPA 1976):

"[T]he patent law is statutory. Our representative form of government requires that the enactments of its Congress must always be, at the very least, the starting point. There being no common law of patents, we should take care to fill the Holmesian interstices of the statute with judge-made law only under the gravest and most impelling circumstances."

The majority opinion, after stating that "[w]e consider the product-of-nature issue . . . no longer in the case," then finds the issue "wholly lacking in merit." Since the culture defined in claim 5 is not a "manufacture" or a "composition of matter" and since we do not have the view of the board majority on the product-of-nature issue, I would not reach that issue on this appeal.

In view of the foregoing, the decision of the board should be affirmed.

[U.S. Court of Customs and Patent Appeals]

IN THE MATTER OF THE APPLICATION OF ANANDA M. CHAKRABARTY: DECIDED: MARCH 2, 1978

(Appeal No. 77–535; Serial No. 260,563)

Rich, Judge.

This appeal by an applicant for a patent, assignor to General Electric Company, is from a decision by the United States Patent and Trademark Office (PTO) Board of Appeals (board) affirming the rejection of claims 7–9, 13, 15, 17, 21, and 24–26 of application serial No. 260,563, filed June 7, 1972, entitled "Microorganisms Having Multiple, Compatible Degradative Energy-Generating Plasmids and Preparation Thereof." We reverse.

THE INVENTION

In view of the legal issue presented, it is unnecessary to describe in detail the subject matter of the appealed claims, which is described in complicated biological terminology and is of a highly technical nature involving the modification of bacteria to solve man's practical needs. In this instance, the immediate need is the important one of controlling oil spills, as one example, by the degradation of complex hydrocarbons such as crude oil and "Bunker C" oil through the action of microorganisms. Microorganisms, that is to say bacteria, are modified for this purpose by what is sometimes referred to as "genetic engineering," a term appearing in appellant's specification. It is also disclosed therein that prior to appellant's invention microbial strains were known that can decompose individual components of crude oil, any given strain degrading only a particular component of the oil. For this reason biological control of oil spills had involved the use of a mixture of strains on the theory that the cumulative degradative actions would consume the oil and convert it into a cell mass which, in turn, serves as food for aquatic life. However, in the use of such a mixture there was ultimate

survival of but a portion of the initial collection of bacterial strains with the result that the bulk of the oil spill remained unattacked for a long period. Appellant's invention involves the creation of a new strain of bacteria by the incorporation in a single cell, by transmission thereinto of a plurality of compatible "plasmids," of a capacity for simultaneously degrading several different components of crude oil with the result that degradation occurs more rapidly. To make this non-technical description somewhat more intelligible we quote from the specification but two of its many definitions:

Extrachromosomal element . . . a hereditary unit that is physically separate from the chromosome of the cell; the terms "extrachromosomal element" and "plasmid" are synonymous; when physically separated from the chromosome, some plasmids can be transmitted at high frequency to other cells, the transfer being without associated chromosomal transfer.

Degradative pathway . . . a sequence of enzymatic reactions (e.g. 5 to 10 enzymes are produced by the microbe) converting the primary substrate [i.e., oil] to some simple common metabolite, a normal food substance for microorganisms.

This sketchy background, it is hoped, will give some idea of the nature of the invention at bar as defined in illustrative claim 7 which reads:

7. A bacterium from the genus Pseudomonas containing therein at least two stable energy-generating plasmids, each of said plasmids providing a separate hydrocarbon degradative pathway.[1]

The specification disclosure contains examples of bacterial strains with four hydrocarbon degradative pathways and the statement: "If there is an upper limit to the number of energy generating plasmids that will be received and maintained in a single cell, this limit is yet to be reached."

The PTO, speaking through the examiner as well as the board, has not questioned that appellant has invented and adequately disclosed strains of bacteria, within the definitions of his rejected claims, which are new, useful, and unobvious.

Neither has any question been raised by the PTO about the inventions of the rejected claims being in the useful or technological arts so that their protection for a limited time by patent would be an implementation of the Constitutional purpose of promoting progress in the "useful arts." Art. I, sec. 8, clause 8.

THE REJECTION AND THE BOARD'S DECISION

The decision and opinion of the board are quite similar to its action and reasoning in the recent case of *In re Bergy*, 563 F. 2d 1031, 195 USPQ 344 (CCPA 1977), wherein we reversed the decision of the board (subsequent to its decision herein).

In the present case, the board first pointed out that the examiner had rejected the appealed claims only under 35 USC 101[2] "on the ground that they are not encompassed by the provisions" thereof, advancing two reasons therefor: (1) that the claimed microorganisms are "products of nature" and (2) that they are drawn to "live organisms." The board reversed the examined on point (1), agreeing with appellant that the claimed bacteria are not naturally occurring. The decision was expresesd in a single sentence and the rest of the board's opinion was devoted to a discussion of the legal effect of the fact that the claimed bacteria are alive.

The board first discussed a number of cases which it had considered and concluded that there is "no case dealing directly with the point here in issue," including, possibly as of first importance, the Supreme Court's opinion in *Funk Brothers Seed Co.* v. *Kalo Inoculant Co.*, 333 U.S. 127 (1948). (In *Bergy*, supra, the board also stated that it had "not found any case directly in point.") The board then pursued exactly the same line of reasoning it did in *Bergy*, in large part in the same words, to reach the same conclusion it expressed in *Bergy*, that § 101 "does not include living organisms." The board's opinion that § 101 does not include any living organism was expressed in the form of its belief that Congress did not so intend. As in *Bergy*, this view was deduced from the enactment of the Plant Patent Act of 1930, citing this court's opinion in *In re Arzberger*, 27 CCPA 1315, 112 F. 2d 834, 46 USPQ (1940).[3]

Responsive to the initial opinion of the board, appellant filed an extensive petition for reconsideration pointing out that the examiner had first raised the "living organism" question in his Answer to appellant's brief on his appeal to the board, wherefore appellant had not had an opportunity to present argument directed to the significance of the passage of the Plant Patent Act as an indication of the intent of Congress with respect to all living things, and argued that there was good reason to pass a special act for plants, other than the fact they are alive. That reason was that plants cannot be so described in a patent specification as to enable the reader to produce them, as was required of other inventions by R.S. 4888, the predecessor of 35 USC 112, first paragraph, for which reason special legislation relaxing that requirement in the case of plants was necessary. Thus, appellant argued, the passage of the Plant Patent Act is not to be taken as "an expression of *any* sort of Congressional intent with respect to the patentability of living organisms." The board's opinion on the petition reiterated that it knew of "no case dealing with the point here in issue." stating, more specifically, that "microorganisms per se have not squarely been ruled either eligible or ineligible for product patent coverage in any reported court or Patent Office decision," and adhered to its original opinion and decision. Appeal to this court was thereupon filed.

OPINION

Appellant's reply brief succinctly sums up the issue before us in these words:

In the instant appeal, appellants [sic] are seeking protection for a *new bacterium*, admittedly alive, in which such changes have been effected as to produce in this bacterium *new capabilities*. The Board of Appeals has agreed that this organism is *not a "product of nature"*. If it be accepted that all things in our world are either products of nature or things produced by man, then by the process of elimination the Board of Appeals has agreed with appellant's contention that his new bacterium is a thing produced by man, i.e. a manufacture. It should follow, therefore, that * * * appellant has *already* met the requirements of Section 101.

The PTO has advanced but a single reason to support its contention that this is not so, namely that the new bacterium is alive. That is precisely the single issue we had to pass on in *Bergy*. The decision of the board herein was rendered and the main briefs of the parties hereto were filed before we handed down our *Bergy* decision. Thereafter we invited the parties to file briefs on the bearing of the *Bergy* decision on this case. Appellant opined that "the *Bergy* decision appears to be controlling precedent * * *." The PTO brief said *Bergy* "might be considered dispositive of the issue presented [herein] if that decision remains a viable precedent." It then pointed to the fact that in *Bergy* the claim was directed to a "biologically pure culture" and that we had made it clear in our *Bergy* opinion that we were not deciding anything other than the question whether that claimed invention was a manufacture or a composition of matter within § 101, adding that "the Commissioner is uncertain whether *Bergy* has any bearing at all" in view of the fact that no claim here involved is so limited.

We do not consider the differences between the claims here and the claim in *Bergy* to be of any significance on the issue before us. In both cases the claims are directed to microorganisms and in both the only asserted objection to their patentability is that the microorganisms are alive and, for that reason alone, not within the § 101 categories of inventions which may be patented. We dealt fully with that identical issue and with the identical PTO arguments in *Bergy*. Nothing in the facts of this case requires that we add anything to what we there said. *Bergy* is, in this court at least, a controlling precedent.

The decision of the board is reversed.

[U.S. Court of Customs and Patent Appeals]

IN THE MATTER OF THE APPLICATION OF ANANDA M. CHAKRABARTY

(Appeal No. 77-535; Serial No. 260,563)

Markey, Chief Judge, concurring.

I join in full the well reasoned and cogently stated majority opinion of my Brother Rich. These few remarks are prompted, with all due respect, by the dissenting views expressed by my Brothers Baldwin and Miller.

The sole issue before us is whether a man-made invention, admittedly novel, useful, and unobvious, is unpatentable because and only because it is "alive" (in the sense that microorganisms are "alive").

There are but two sources for manufacturers and compositions of matter. They are God (or "nature" if one prefers) and man.

As presented to us, the invention is admittedly a "manufacture" by man. It therefore falls squarely within the language of the statute. The Patent and Trademark Office desires to read into the statute the word "dead" before "manufacture" and before "composition."*

The statute is not ambiguous. No Congressional intent to limit patents to dead inventions lurks in the lacuna of the statute, and there is no grave or compelling circumstance requiring us to find it there.

The Plant Pantent Act of 1930 has nothing to do with the case before us and is of no aid in a search for what the intent of Congress

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[1] As a matter of general interest, the assignee of appellant's invention has been granted British patent 1,436,573 containing this and other claims to the bacterium.

[2] 35 USC 101 reads:

§ 101. *Inventions patentable*

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

[3] Although *Bergy* reached this court and was decided before the instant appeal (*Chakrabarty*), the latter was the first to be decided by the board. The two cases were clearly pending in the board at the same time and were decided by entirely different 3-man panels. *Chakrabarty* was decided May 20, 1976, and *Bergy* June 22, 1976. Bergy appealed forthwith but Chakrabarty filed a petition for reconsideration which was decided October 19, 1976. *Bergy* was argued in this court on March 3, 1977, and *Chakrabarty* on December 5, 1977. Any common language found in the board's two opinions—and there is much—presumably originated in the *Chakrabarty* case.

*If the oil degradating activity of the present invention were stopped, i.e., if the inventor had "killed" his invention, (and if the invention had some utility in its dead form) the Patent and Trademark Office reasoning would require allowance of appellant's application.

would have been were it confronted with the present invention. Moreover, it is not necessary that we assume plants to have been within the scope of the patent statutes prior to 1930. The legislative history of the Plant Protection Act of 1930 or of the Plant Variety Protection Act, referred to in dissent, does not establish that Congress thought it was overcoming an objection to plants as unpatentable solely because there were "alive."

If Congressional intent must be sought, I would look to its primary source—the words of the statute itself. The Constitution grants Congress the power to recognize the exclusive rights of inventors in their discoveries for a limited time to encourage progress in the useful arts. Acting under that grant, Congress has provided that a patent shall issue on a "manufacture" or a "composition," where, as here, the invention meets the criteria established in the statute. It would thus in this case defeat the fundamental purpose of the Constitution, and of the patent laws enacted thereunder, if we were to interpret the statute as though it included the word "dead."

Similarly, analogy to oranges unfairly and unjustly resurrects the "product of nature" issue, which all parties had thought was settled. That question is not before us.

As with Fulton's steamboat "folly" and Bell's telephone "toy," new technologies have historically encountered resistance. But if our patent laws are to achieve their objective, extra-legal efforts to restrict wholly new technologies to the technological parameters of the past must be eschewed. Administrative difficulties, in finding and training Patent and Trademark Office examiners in new technologies, should not frustrate the constitutional and statutory intent of encouraging invention disclosures, whether those disclosures be in familiar arts or in areas on the forefront of science and technology.

[U.S. Court of Customs and Patent Appeals]

IN THE MATTER OF THE APPLICATION OF ANANDA M. CHAKRABARTY

(Appeal No. 77-535; Serial No. 260,563)

Baldwin, Judge, dissenting.

I find the majority's statement of the issue in this case to be ambiguous and I disagree with Chief Judge Markey's broad statement of the issue. As I see it, the issue is whether applicant's modification of a clearly unpatentable living organism is sufficient to render the resulting living organism statutory subject matter. The majority apparently bases its argument on the belief that the claimed organisms must fall into one of two categories—"products of nature" ("manufactures" of God or nature) or patentable subject matter ("manufactures" of man). The PTO admits that the modified organism does not fall into the product-of-nature category, because the organism is not naturally occurring.[1] Therefore, the majority believes the modified organism must fall into the statutory subject matter category. But the dichotomy underlying this syllogism is not the law.

The law, as propounded by the Supreme Court, defines *three* alternatives. Between true "products of nature" and statutory subjects matter or "manufactures" lies an intermediate category of things sufficiently modified so as not to be products of nature, but not sufficiently modified so as to be statutory "manufactures." Therein are found the borax-impregnated oranges of *American Fruit*, note 1 supra, and, in my view, the organisms now before us.

The present case focuses on the degree and nature of modification necessary to convert an admittedly unpatentable living thing into statutory subject matter. The Supreme Court, in *American Fruit*, considered whether impregnating fresh fruit skins with borax prevent molding changed the natural products into statutory subject matter. The Court stated that, in order to become statutory subject matter, the new article must possess "a new or distinctive form, quality, or property." 283 U.S. at 11, 8 USPQ at 133. There must be a "change in the name, appearance, or general character of the" natural product. 283 U.S. at 12, 8 USPQ at 133. It is not enough that the new article is better adopted to the use for which the natural product was already suited. 283 U.S. at 12, 8 USPQ at 133. I read *American Fruit* as saying that a modified natural product does not become statutory subject matter until its essential nature has been substantially altered. The issue in the present case becomes whether the modification effected by appellant altered the essential nature of the starting material.

Applying the *American Fruit* rule to the modification of living organisms and to the case before us, I believe that the essential nature of the unpatentable organism with which applicant started was its animateness or life. Appellant has not changed this essential nature; he has not created a new life. Rather, he has merely genetically grafted an extra plasmid on to the organism and, thereby, made the organism better at cleaning up oil spills. While this improvement in oil digesting ability does exclude the new organism from classification as a mere product of nature, like the borax-impregnated orange which was a better commercial product because it had a longer shelf life, this improvement in the utility for which the unpatentable starting material was already suited does not change the essential nature of the starting material and does not make the modified thing statutory subject matter.[2]

[U.S. Court of Customs and Patent Appeals]

IN THE MATTER OF THE APPLICATION OF ANANDA M. CHAKRABARTY

(Appeal No. 77-535; Serial No. 260,563)

Miller, Judge, dissenting.

I do not agree that appellant's claimed micro-organisms are within the scope of 35 USC 101, and I join in the statement of the board—

We do not believe that Congress intended 35 U.S.C. 101 to encompass living organisms whether they be plants, modified microorganisms (such as bacteria), or modified multicellular organisms (such as mammals).

In *In re LeGrice*, 49 CCPA 1124, 1139, 301 F. 2d 929, 939, 133 USPQ 365, 374 (1962), this court recognized that, under the Act of May 23, 1930, Pub. L. No. 245, 46 Stat. 376—

The patent law, as shown by the Committee Reports, was *extended* to plant patents in order to stimulate interest in the breeding and commercial development of new and valuable plant species. [Emphasis added.]

Both the Senate and House committee reports to which the court referred (S. Rep. No. 315, 71st Cong., 2d Sess. 1 (1930); H.R. Rep. No. 1129, 71st Cong., 2d Sess. 1 (1930)) stated:

The purpose of the bill is to afford agriculture, so far as practicable, the same opportunity to participate in the benefits of the patent system as has been given industry, and thus assist in placing agriculture on a basis of economic equality with industry. The bill will remove the existing discrimination between plant developers and industrial inventors.

The House Report, *Id.* at 2, added:

No one has advanced a just and logical reason why reward for service to the public should be extended to the inventor of a mechanical toy and denied to the genius whose patience, foresight, and effort have given a valuable new variety of fruit or other plant to mankind.

Thus, the legislative history clearly shows Congressional understanding that, under the patent law in effect prior to the Plant Patent Act of 1930, reward for service to the Public in developing new varieties of plants had not been extended to inventors. See *Bobsee Corp.* v. *United States*, 411 F.2d 231, 237 n.18 (CA 5 1969).[1]

As pointed out in my dissenting opinion in *In re Bergy*, 563 F.2d 1031, 195 USPQ 344 (CCPA 1977), if, prior to the 1930 Act, living organisms had been within the scope of the terms "manufacture" and "composition of matter" (as the majority and concurring opinions must assume), the 1930 Act would have been superfluous. There is a basic presumption in statutory construction that Congress does not legislate unnecessarily. See *Platt* v. *Union Pacific Railroad*, 99 U.S. 48, 58 (1878); *In re Finch*, 535 F.2d 70, 71, 190 USPQ 64, 65 (CCPA 1976); *Skovgaard* v. *The M/V Tungus*, 252 F.2d 14, 17 (CA 3 1957), *aff'd* 458 U.S. 588 (1959); *United States* v. *Korpan*, 237 F.2d 676, 680 (CA 7 1956), *rev'd on other grounds*, 354 U.S. 271 (1957); *United States* v. *C. J. Tower & Sons*, 44 CCPA 1, 5, C.A.D. 626 (1956). Neither the majority nor the concurring opinion is able to point to anything to rebut that presumption. If, after nearly two hundred years, it is desired to interpret the basic patent statute, for the first time, to cover living matter, the presumption poses a formidable and yet unrebutted challenge. Although advancement of technology would naturally be of interest to an appropriate committee of Congress, it has no relevance to the court's responsibility for determining Congressional intent. As noted by Chief Judge Markey in his concurring opinion in *In re McKellin*, 529 F.2d 1324, 1333, 188 USPQ 428, 437 (CCPA 1976):

[T]he patent law is statutory. Our representative form of government requires that the enactments of its Congress must always be, at the very least, the starting point. There being no common law of patents, we should take care to fill the Holmesian interstices of the statute with judge-made law only under the gravest and most impelling circumstances.

As also pointed out in my dissenting opinion in *Bergy*, if, prior to the 1930 Act, plants had been within the scope of the patent statutes (as the majority and concurring opinions must assume), a plant patent would have had to comply fully with what is now 35 USC 112; but, under the 1930 Act, a plant patent for asexually reproduced plants need not do so (since such a patent could not be declared invalid if its description "is made as complete as is reasonably possible"—see section 2 of the 1930 Act).

This would have constituted a repeal of the full-compliance requirement in the case of such patents without any Congressional discussion thereof. Repeal by implication is

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[1] Contrary to Chief Judge Markey's statement, I find no admission by anyone that the present invention is a statutory "manufacture." "Manufacture" and "man-made" are not synonymous for patent purposes. *American Fruit Growers, Inc.* v. *Brogdex Co.*, 283 U.S. 1, 8 USPQ 131 (1930).

[2] I agree with Judge Miller's thorough analysis of legislative history.

[1] Each of the above-cited committee reports, at page 3, quotes Thomas A. Edison that—

Nothing that Congress could do to help farming would be of greater value and permanence than to give to the plant breeder the same status as the mechanical and chemical inventors now have through the patent law.

not favored statutory construction. *F.T.C.* v. *A.P.W. Paper Co.*, 328 U.S. 193, 202, 69 USPQ 215, 219, (1946). The conclusion follows that, prior to the 1930 Act, plants were not within the scope of the patent statutes.

As further pointed out in my dissenting opinion in *Bergy*, coverage of plants under the Patent Act of 1952 was considered by Congress to be limited to plants falling under Chapter 15 of 35 USC, and 35 USC 101 was not considered to extend to any plants whatsoever, thus making it necessary to enact the Plant Variety Protection Act (1970), 7 USC 2321 *et seq.*

Finally, the board made the following point:

We realize that 35 U.S.C. 101 does not expressly exclude patents on living organisms, but neither does it expressly exclude patents on mental processes, printed matter or methods of doing business.

This point was fully developed in my dissenting opinion in *Bergy*, where it was observed that claims directed to a process of using an algorithm to operate a system have been held to constitute patentable subject matter, while claims directed to the algorithm *per se* (or to methods of calculating, using the algorithm) do not.

Other points made by the majority in its opinion in *Bergy*, to which it refers here, are fully answered by my dissenting opinion in that case.[2]

The decision of the board should be affirmed.●

HIGH COST OF HANDICAPPED TRANSPORTATION

● Mr. ANDERSON. Mr. President, handicapped citizens in our country have special needs. To go shopping or to a movie, a person in a wheelchair or otherwise restricted in movement must make special travel arrangements. Often these special arrangements are difficult to make and almost always very costly.

After discovering how lucrative servicing the handicapped can be, a few businesses have capitalized on providing for special travel arrangements for handicapped people. Minneapolis is one of the few cities with a special taxi service for the handicapped. However, its charges are exorbitant. One teacher's aide who is confined to a wheelchair found that a roundtrip from her home in a Minneapolis suburb to a St. Paul location 15 miles away cost her $96.

Mr. President, surely it is not right that those with physical disabilities are forced to pay such high fees for transportation. The result is that too many disabled people must remain in their homes except for taking medical transportation, an expense reimbursable by medicaid. Surely it is not right that the special medical taxi services earn as much as a total of $200 million in medicaid reimbursements each year.

These issues were brought to my attention when I recently met with Minnesota representatives at the annual meeting of the President's Committee on Employment of the Handicapped. A member of the group, Allen N. Sollie, pointed out to me an excellent series of articles which appeared in the Minneapolis Tribune discussing the transportation problems of the handicapped in some detail. I have learned a great deal from this series. In order that my colleagues might also benefit I submit the articles for the RECORD.

The articles follow:

TRANSPORTING THE HANDICAPPED: MAKING POVERTY PAY—TRANSPORTING POOR, DISABLED, ELDERLY CAN BE LUCRATIVE

(By Cammy Wilson)

Sandy Anderson, a St. Paul teacher's aide who has cerebral palsy, belongs to a wheelchair squaredance group called the Perfect Squares. On an evening last year when her ride to a dance didn't show up, she called Midwest Med-Kab, Inc., a Minneapolis medical transportation company.

The bill was $96 for a round-trip ride of about 30 miles from her St. Paul apartment to Courage Center in Golden Valley, she said.

"I think I laughed and then I got mad," she said in a recent interview. "I mean, I could have gone to Mankato and back for half that by bus. Just because I needed a vehicle that could take a wheelchair—that's the only reason it cost that much."

LeRoy Marshall, who also is confined to a wheelchair with cerebral palsy, doesn't drive. He can't go shopping; he can't go to a museum; he can't visit a friend or have dinner in a restaurant. Except for visitis to a medical facility three times a week, he is marooned in his Golden Valley high-rise residence.

Medicaid pays the bills for his medical transportation, which total nearly $700 a month, around $8,000 a year. That's more than three times Marshall's total yearly income of about $2,400 (from a $203 monthly assistance check).

"It's so expensive," he says. "It's $50 a day (for an eight-mile roundtrip ride to therapy); I go three times a week. Twice a year I go to the University (Hospitals, eight miles away) and that costs $70 one way."

Bills for passengers like Anderson and Marshall are typical of those charged by Minnesota businessmen who have discovered that transporting the poor, disabled and elderly can be highly lucrative.

With the aid of the government bodies responsible for regulating them, the businessmen have received licenses for companies that call taxi-vans ambulances, that charge higher rates than other forms of transit while serving the poorest of passengers, and that are primarily financed—instead of regulated—by government agencies.

The practices make a few people rich, guarantee particular companies a monopoly and have virtually priced the disabled out of the transportation market except for medically rented services, when the government will pay for the ride.

At the same time, the system allows able-bodied people eligible for government assistance to use the special vehicles for trips to medical facilities at public expense—at fares like those mentioned above—when they could use buses or taxis.

It is a system in operation throughout the United States, although Minnesota operations have had more government assistance than most, and the Twin Cities area has what is probably the largest medical transportation company in the country.

A six-month Minneapolis Tribune investigation of transportation for the poor and the handicapped shows that:

The availability of federal funds under Medicaid—the joint federal-state medical assistance program started in 1966—has spawned dozens of "medical transportation" companies around the country.

In Minnesota taxi-vans for the handicapped were labeled ambulances, a designation that allows companies to be reimbursed when federal funds pay only for ambulance transportation. And the rates—locally regulated when the vehicles were taxis instead of ambulances—gave way to much higher "medical rates."

Minnesota operators drew up a series of laws beneficial to their companies and prevailed upon the Legislature to pass them. But the laws lack such requirements as design standards for ambulances. So buses, Jeep vehicles and at least one motor home are licensed as ambulances in Minnesota.

At the request of the ambulance operators, the Legislature established a virtual monopoly for operators already in business and charged the Minnesota Department of Health with enforcing it.

The two Twin Cities companies with the highest rates collected 58 percent of the nearly $1.7 million in state Medicaid money for medical transportation in Minnesota in 1976, the last year for which records are available.

Welfare department employees complain that they have little effective control of the funds because there are no frequent audits of the companies and justifications for medical trips in ambulances are rarely requested.

The federal government exerts virtually no control over the expenditure of federal funds for medical transportation, saying the amount—possibly as much as $200 million a year from Medicaid alone—is too small to examine.

Some states place strict limits on the rates they will pay for medical transportation under Medicaid. In New York City, for instance, taxi-van operators may bill Medicaid no more than $14 per ride each way, with no mileage charge permitted within city limits. Minnesota rates range as high as $19.75 per rider each way, plus $1.65 a mile and an additional $10 for nights, holidays or weekends.

Private transportation companies in the Twin Cities, as well as in other cities around the country, have been able to prevent government transit agencies from providing more extensive service to the disabled.

In Minnesota, anyone who is eligible for medical assistance—approximately 60,000 people in Hennepin County alone—is eligible to use nonemergency ambulances at public expense. That includes those who have no physical disability. All a recipient needs to do is show an eligibility card and give the ambulance driver a doctor's name, say the company operators.

In addition to Medicaid funds, public money is going for "medical transportation" from a wide variety of public money pots—senior citizens' programs, county welfare funds, nursing home payments, hospitals, the Veterans Administration, to name only a few. The total business is large enough that one Minnesota company grosses $2 million to $3 million a year.

And yet, despite the millions being spent for ambulance trips, many of the estimated 37,800 Twin Cities area residents who are disabled are without the transportation that would enable them to become working taxpayers instead of welfare recipients, to get out of their homes to play, go to school, shop and carry on other activities that most people take for granted.

One such person is Marshall, a brown-haired, gentle-voiced man. He looks forward all week to the Sunday visit from his two children, but he dreads their questions, the worst one being, "Can't we go someplace?"

"How would a guy put it," he says, looking away as his eyes begin to redden. "When you want to get out with your children and they come to you and say, 'Can we go to a movie or to a ball game or to the park?'"

And, says Marshall, "I have a chance to go back to my old job if I get transportation." Before he broke his back in a fall down his basement steps, he was able to work at the sheltered workshop operated by United Cerebral Palsy of Minneapolis at 360 NE. Hoover St.

However, transportation for people like Marshall and Anderson is severely limited.

[2] I am also persuaded by the point so well made in Judge Baldwin's dissenting opinion.

Their wheelchairs can't be accommodated in ordinary vehicles. Taxi companies do not allow their drivers to lift people out of a wheelchair and into a cab because of insurance limitations. And Minnesota Medicaid will pay only for transportation for medical purposes.

Yet neither Anderson, who is in her late 20s, nor Marshall, in his late 40s, needs an ambulance for their usual transportation—even for their regular medical appointments. Neither is ill. Neither needs a stretcher or a siren or flashing lights.

In fact, many medical assistance recipients are able to walk. But they still must use ambulances if their medical transportation costs are to be paid by Medicaid.

The nonemergency ambulances operated by companies such as Midwest Med-Kab, Inc., based in Minneapolis, and Smith-Martin Ambulance, based in St. Paul—the largest such companies in the state—generally look like vans, but they're licensed as "nonemergency" ambulances.

They don't have flashing lights, they don't have sirens. They usually have tie-downs to hold wheelchairs in place and they do have wooden ramps and occasionally lifts to elevate a wheelchair.

They do carry oxygen and resuscitation and aspiration equipment, though if a passenger needs such equipment he or she is likely to summon an emergency ambulance. But about the only other similarity between emergency ambulances and the vehicles used by Marshall and Anderson is the price.

A basic Minnesota emergency ambulance run—complete with flashing lights and siren—may cost from $25 to $85, depending on locality and whether the company is run by a municipality. Many private ambulance companies charge extra for turning on the siren, giving oxygen, using splints or cleaning bloodied sheets.

A round-trip ride in a "nonemergency ambulance" may cost as much as $39.50, plus $1.65 per mile, and bills of $80, $100 and up occur for trips to treatment facilities in the suburbs or for trips across the metropolitan area.

The rates do bring protests from some of the handicapped. Marshall writes letters to public officials, enclosing a copy of a paper that outlines how Medicaid spends enough money on his medical transportation each year to finance the purchase of a taxi-van by a private company.

He notes that he can use the van's services only for trips to medical facilities and pleads for more public transportation for the handicapped.

He cites figures from his building at 2400 Rhode Island Av. N., Golden Valley, where, he says, there are 65 potential users of transportation that is accessible for the elderly and disabled.

There is a woman who turned down a teaching job for lack of transportation, he says.

And Lonnie Trafton, a good friend who lives upstairs, would be able to go to the doctor without having her mother drive 200 miles to Minneapolis to take her. Trafton is disabled but says she has not completed the two-year wait necessary for being declared disabled by the Social Security Administration—a declaration necessary for her to qualify for government-paid medical transportation.

"We worked on a fact sheet and we compared (ambulance transportation) with Project Mobility," he said, speaking of the Metropolitan Transit Commission's pilot project for the disabled, which operates in a small area of Minneapolis, Robbinsdale and Golden Valley. "What I use on medical assistance would pay for a whole (Project Mobility) bus in three years."

Or pay for an ambulance in one.

MULTIMILLION-DOLLAR BUSINESS BUILT FROM CARRYING DISABLED

(By Cammy Wilson)

John G. Jackson seemed to do everything wrong when he set up his own business.

He left a management position to become a Minneapolis tax-van driver, he charged higher rate than any other company in the business and he carried only the poorest passengers.

But that's how he developed a multimillion-dollar business.

Now board chairman of Midwest Med-Kab, Inc., a Twin Cities medical transportation company, Jackson has long since swapped cab driving for an office complex replete with humming computers and uniformed employees.

Instead of the casual attire he once wore as a taxi driver, Jackson now appears in his office in a black, white and yellow plaid suit, an orange shirt and a brown oriental scroll-designed tie. The afternoon sunlight bounces off his diamond ring when he glances at his wrist watch, which is thick-handed and gold.

When he stands, Jackson, former manager of a family-owned nursing home, Lynwood Manor, can fill a doorway. When he sits, the orange upholstered chair at his desk all but disappears beneath him. The desk faces away from the window, and Jackson sits with his back to decaying nearby buildings outside his office at 2900 Pleasant Av. S.

Ever since Jackson started his company, business has been great. In fact, Midwest Med-Kab may be the largest medical transportation company in the nation.

It's also the most expensive such service in the Twin Cities.

Med-Kab's standard fee is $19.75 each way for transporting a wheelchair passenger, plus $1.65 per mile, plus $10 extra for night service, weekends or holidays. That adds up to a minimum of $42.80 for a daytime, round-trip ride of one mile each way.

Other Twin Cities companies charge somewhat less for the same ride. Handi-Cabs charges $22, Medibus-Helpmobile $37 and Smith-Martin Ambulance Service $41.

Jackson says his business has grossed at least $1 million in each of the past three or four years and now grosses between $2 million and $3 million a year. Med-Kab transports an average of 200 people a day (20 emergencies, 180 nonemergencies), he says.

The bulk of Jackson's business winds up being paid by the government, through programs such as Medicare and Medicaid and others set up by agencies like the Veterans Administration. Jackson himself concedes that "the private handicap who lives in a house (i.e., not in a nursing home, where the government would pay) just cannot afford it."

In fact, a computer whirs continually in its own small room near Jackson's office, billing directly to the state's Medicaid computer, Jackson says.

In addition, Med-Kab holds numerous contracts with public agencies, nursing homes, hospitals and charitable institutions for transporting passengers, many of whom cannot comfortably use automobiles, taxis or buses.

Jackson says yearly contracts include one with the School for Social Development for $30,000; with United Cerebral Palsy for $50,000 (UCP officials say $65,600) and the Veterans Administration for $110,000.

Jackson says his company has contracts or agreements to provide service for St. Mary's, Fairview and Mt. Sinai Hospitals in Minneapolis and St. Paul-Ramsey, Miller, St. Luke's, St. Joseph's and Children's Hospitals in St. Paul.

And Med-Kab has a contract to provide backup ambulance service to the Hennepin County Medical Center.

According to Medicaid figures, Med-Kab, charging the highest rates for medical transportation in the Twin Cities, does three-and-a-half times the Medicaid business of its nearest competitor, Smith-Martin Ambulance, five-and-a-half times the business of Medibus, and 10-and-a-half times as much as the Minneapolis operator with the lowest rates, Handi-Cab.

How is it that the operator charging the most, carrying the poorest people and being primarily paid by public agencies gets the largest share of the business?

One reason is that the passengers themselves can't afford "medical" transportation, whether it's $6 or $60, but the government can.

(Jackson said he once offered a rate of $6 per trip, curb-to-curb, to the disabled in Minneapolis but had few calls. "There wasn't much response because even at that price . . . they still can't afford it," he said.)

Each ambulance company is paid at a different rate for Medicaid and Medicare riders, and the responsible government agencies make no attempt to encourage use of the cheaper services; instead, welfare officials point out that the poor are entitled to "a free choice of vendor."

That is legally true, although in many cities across the country, the responsible agencies do set limits on what they will pay to vendors.

The second reason for Jackson's success is that he sells service. Often service is geared to the institution, such as a hospital or nursing home, rather than the individual.

"We provide a bed-to-bed service," Jackson said. "We take complete charge of the patient once we get to the house. If the patient needs assistance in dressing or getting out of bed, we assist them into a wheelchair . . . when we get them into the doctor's office we see they get to the proper place, make sure they have an appointment. We make sure the nurse in charge gets the referral.

"We pick the patient up when we're called. We take the doctor's orders back to the nursing home with the patient."

Since the bill goes to the government, rather than coming out of the nursing home budgets, staff members sometimes leave chores to the ambulance company.

"We have at times dressed a patient because a nursing home staff (didn't)," Jackson said.

And all such services wind up being figured into the fares charged.

Jackson himself is philosophical about how he became probably the biggest medical transportation company in the United States, despite charging possibly the highest rates in the country.

"I'm not saying that I don't know what the reason is why we're the biggest," he said. "I'd like to think it's the little things we do. . . . Why some of the companies aren't doing good or why they're small, I don't want to say. I suppose some just have different ambitions."

Handi-Cab's rates are roughly half of Med-Kab's—$11 per trip, no mileage charge—and it's the oldest of the Twin Cities ambulance companies, started in 1960. Yet it's the smallest in business, with seven nonemergency vehicles licensed and 11 paid employees, according to 1977 state health department records.

Max Kantor, the owner, says he doesn't understand it. "There must be some incentive involved," he says. "But I don't know what it is."

At Med-Kab, Jackson points to the money he's obviously plowed back into the business. The computer. The new headquarters. The growth from one vehicle and one employee to 62 vehicles and 130 employees.

Does the availability of federal funds encourage people in the ambulance business to get all they can?

"I can't say. I think it's great these funds are available for these people; I think we live in a great time," he says.

He chuckles and adds: "I imagine there's people with thoughts like that."

The late afternoon sun strikes his desk as he leans back in his orange chair and contemplates his success.

"I never set out to be a millionaire and get all I could get," he says. "That didn't come in till later."

FOUR "JOLTS" AND DECADE LATER SWITCH TO AMBULANCE PAYING

Minneapolis taxi-van operators didn't attend Harvard Business School to learn how to turn their taxis into ambulances. But they learned the technique so well that businessmen from other cities around the country drop into Minneapolis to learn the trick.

Turning a taxi into an ambulance in Minnesota doesn't require an operator to buy electrocardiographs or to get mixed up with blood and gore, in fact, you don't even have to buy stretchers or carry seriously ill or injured people.

If someone is really sick, he or she needs a real ambulance—an "emergency" ambulance. Twin Cities taxi-vans are "nonemergency" ambulances.

The process that turned taxis into ambulances was a four-step operation in the Twin Cities, according to William Olsen, owner of Medibus-Helpmobile, Inc., 2324 4th Av. S. He likes to refer to the steps as "jolts." Indeed, the process, a joint government-business operation, did recharge the taxi business for the disabled. And nobody who operated a taxi business for the disabled in the old days would care to go back to them.

The "old days" in the medical transportation industry were the 1960s. The first of what are now nonemergency ambulance companies was Handi-Cab International, begun in 1960 by a disabled attorney, Roger Joseph.

Handi-Cab was licensed by the city of Minneapolis as a type of taxi for the disabled, it charged rates roughly similar to those of regular taxis—$3.50 each way plus 35 cents a mile, according to Max Kantor, who now runs Handi-Cab and says he is its major stockholder.

"Looking back on it, business was pretty terrible," he says. "It was slow and the rates were too small. . . . We carried about eight to 10 people a day."

"We were a metered carrier," he says. "We had to go to the city (for a rate increase). The license bureau controlled the rates." The Volkswagen vans outfitted with meters were basically the same types of vehicles that later became ambulances—with much higher fares.

The first step toward the change came when Medicare and Medicaid were established by Congress in 1965.

Prior to the creation of Medicare (medical assistance to people drawing Social Security benefits) and Medicaid (medical assistance to welfare recipients and others), the county welfare departments paid for eligible wheelchair travel.

"The first jolt came into the (medical transportation) industry with Medicare," Olsen says. The federal government would not pay for wheelchair transportation in a medical taxi for those on Medicare; but it would pay for a stretcher service or for travel in an ambulance.

"Because we (at Helpmobile) were stretcher, we got underneath it," Olsen says.

The second jolt came when payments lagged while government agencies scrambled to shift to Medicare/Medicaid.

"We went seven months before (we) were paid a nickel," Olsen recalls. "Because most of our work was county welfare (recipients), we nearly went under."

The Hennepin County Welfare Department was responsible until 1975 for paying Medicaid claims. "They were deluged with bills and didn't have the case workers to check them, so they didn't pay the bills," Olsen said. "Because of this credit lag, the price shot way out of hand."

Olsen said operators raised their prices to cover costs of borrowing money to stay in business.

Until 1970 Olsen operated Medibus as a nonemergency stretcher service. "We functioned as an ambulance service," he said. "We published our rates with the hospitals and . . . welfare would pay us."

Then, in 1968, Smith-Martin Ambulance in St. Paul began offering nonemergency van service; John Jackson followed in 1969 with what was then Med-Kab (he merged in 1975 with Midwest Ambulance in St. Paul, becoming partners with George Larson in Midwest Med-Kab); and in 1970 Olsen added to the Medibus fleet one vehicle equipped to transport the handicapped.

In the late 1960s, the third jolt occurred. Some St. Paul operators began to charge "medical rates" for their services, Olsen said, and they began to draw the hospital business. The Minneapolis companies, licensed as metered carriers by the city, could not raise their rates.

"One of the other companies started putting service on the street at $10 a flat rate and we were $6.75," Olsen said. "They were getting the business out of the hospitals," Olsen says. "And I said to (an attorney in the Minneapolis city attorney's office) 'they don't have a license and they're charging more and getting the business.' "

The attorney said he couldn't enforce the Minneapolis licensing regulations in St. Paul, Olsen said.

The hospitals and nursing homes flocked to the higher-priced companies because of the "luxury" service they could provide, Olsen said.

"The hospitals and nursing homes wanted individual rides (rather than patients sharing rides) and they demanded luxury service," he said. "The efficiency dropped and the prices shot up."

"It's not what the patient wants, it's what's convenient to other people," Olsen said. "That's the cruel part."

Max Kantor at Handi-Cab "has always been the lowest (priced)," Olsen said. "He should have had much more support than he did."

The final jolt, which completed the transformation of Twin Cities taxis for the disabled into "non-emergency ambulances," came through the passage of three laws by the Minnesota Legislature.

The laws broadened the definitions of ambulances while restricting entry of competition into the field. They freed operators of local licensing, but they did not demand design standards for vehicles or tough inspection enforcement.

Eventually operators had to add oxygen, resuscitation and aspiration equipment to their Volkswagen or Dodge vans with the makeshift ramps, and their drivers had to take a first aid course.

But by then nonmedical transportation for most of the disabled and the elderly had disappeared from the marketplace. For, by enabling taxis to become ambulances, the state had removed local control over their rates. And the rates had soared so that few could afford them in cases where they were not paid for by Medicare or Medicaid.

STATE FIRMS MAY OWE MUCH OF BUSINESS TO LEGISLATURE

(By Cammy Wilson)

Minnesota ambulance companies may owe much of their business success to the Legislature.

But their good fortune didn't come cheaply, according to Sylvan Bauer, the chief lobbyist for the ambulance company operators. The first law they wrote and got passed cost them $40,000 in lobbying expenses, he said.

"We paid a lot of money," Bauer conceded. But the $40,000 price included the defeat of a bill the Minnesota Department of Health proposed as well as passage of the operators' own bill, he said.

Since 1969, Minnesota legislators have passed three laws enabling thousands of the disabled, the elderly and the poor receiving Medicare and Medicaid to ride to health facilities in taxi-vans licensed as "nonemergency ambulances," with public funds paying the bills.

But the laws, written primarily by ambulance operators themselves, are as notable for what they avoid as for what they include, according to some officials of the health department.

By placing licensing in the state health department, the first law in 1969 removed local licensing controls and, in effect, local rate regulation. The result was that, over the years, rates soared. A ride that cost $4.50 each way plus 50 cents a mile in 1964 could cost $19.75 plus $1.65 a mile plus a wide variety of extra charges today.

Companies are able to avoid new competitors under subsequent laws passed in 1973 and 1977 because any new ambulance operators must show that their services would be required by "public convenience and necessity." It's almost impossible to prove there is such a need if there is any existing company in the area, department officials say.

All of the laws omitted what health department personnel call "design criteria" for ambulances. Thus, anything that you can ride and that can hold the necessary equipment theoretically may be an ambulance. Buses, Jeep vehicles and at least one motor home are licensed as ambulances. Safety features such as wheelchair tie-downs are not required (authough most nonemergency ambulances have them). "I ended up in the front when the (driver) braked and in the back when he accelerated," said one wheelchair passenger, Twin Cities attorney James Barton, who rode in a vehicle with no tie-down.

The 1977 law exempts nonemergency ambulance operators from providing reports to the state health department on such facts as when, where and why patients are transported, any treatment required and the patients' conditions.

Emergency ambulance operators submit such reports but by law they do not include data on the charges, and the reports cannot be used in court cases.

The 1977 law gave the department powers to enforce inspection orders, but some health department officials say they are limited in what they can look for and what they can do about things they find. "Before that we could say, 'Your ambulance is filthy,' " said Pat Patterson, the department's emergency ambulance services coordinator. "And he (the operator) could say 'Stick it in your ear.' "

Even if inspectors now find companies in "flat-footed" violation of the law, Patterson said, they give operators 30 days to correct. And revoking a license is practically impossible, he said.

"An attendant could slap someone in the face and there's nothing we could do about it," he said. "If it were flagrant we could probably hold a public hearing and get enough reaction and revoke their license."

But that's unlikely, Patterson said, "They (operators) could probably say, 'Here, show me where it says you can do that. Find that in the law.' "

The 1969 law resulted from the health department's efforts to get regulatory powers over ambulances, Bauer said.

"They wanted to pass their bill giving them authority to make rules," Bauer said. "We opposed their bill because we weren't

on the committee (of the department that proposed it) and we felt it was rule without representation. That's when we defeated their bill and passed our bill."

The successful bill expanded the definition—and thus the potential ridership—of an ambulance to mean a vehicle to transport not only the wounded and injured but also "sick, invalid, or incapacitated human beings or expectant mothers." But, aside from telling the state health department to issue licenses for ambulance companies for $10 apiece, it didn't do much else.

The law also required emergency ambulance companies to offer service 24 hours a day and all ambulances to be driven by people with at least an advanced first aid certificate. And it required that ambulances carry minimal equipment recommended by the American College of Surgeons.

But the 1969 bill did not give the health department any regulatory power to demand that ambulances be clean or that the equipment on board be in running condition, health department personnel say.

The 1969 experience was particularly important to Bauer, who is ambulance director for Health Central, Inc., which operates Golden Valley Health Center, Mercy Medical Center in Coon Rapids and Unity Hospital in Fridley. That's when he learned to lobby, he said.

Bauer said the operators hired a lobbyist named Frank Barrett to represent their interests; Bauer assisted Barrett.

"We passed the state bill by visiting all the towns of any size in the state," Bauer said. He and Barrett talked with local ambulance operators and asked them to write their legislators about the bill.

"We didn't leave anything to chance," said Bauer. "They wrote the letter right then and we sent it in for them."

The $40,000 cost of the campaign included those travels around the state, Barrett's salary and other expenses. It did not include Bauer's salary, which was paid by Health Central, and he received no extra fee for the lobbying, he said.

Under the 1973 law, for the first time in Minnesota, perhaps in the country, "nonemergency ambulances" were legalized; the law defined the nonemergency service as "transportation in an ambulance for individuals not requiring treatment while in the ambulance."

One result was to give the companies legal justification for charging medical rates for carrying people in vehicles that once were licensed and regulated as taxicabs. Another was to enable companies to collect Medicare and Medicaid funds when they would pay only for ambulance transportation.

Nonemergency ambulances were required to carry oxygen, resuscitation and aspiration equipment and—for the first time—emergency ambulances were required to carry stretchers. The law also carried the "need and necessity" requirement that must be met before any new operators can obtain a license.

The law had been drawn by the health department in cooperation with the ambulance operators. It had been given to a junior legislator to sponsor, Bauer recalled.

"The department of health carried the bill and didn't get it through," he said. "So they gave it to us and we carried it and got it through."

The bill was turned over to Rep. O. J. (Lon) Heinitz, IR-Plymouth, who has sponsored all of the state's major ambulance legislation. "He did a great job, he and Sen. (George) Perpich." Perpich, a Chisholm DFLer, was the Senate sponsor. He is now chairman of the Senate Health, Welfare and Corrections Committee, to which ambulance legislation is sent.

The 1977 law extended the definition of nonemergency ambulance service even further so that it now includes "transportation to or from a health care facility for examination, diagnosis, treatment, therapy, or consultation." So anyone going to a medical facility for almost any purpose would qualify for publicly paid ambulance transportation if he or she qualified for Medicare, Medicaid or other such programs.

While the health department and ambulance operators were on opposite sides of legislation in 1969, they've combined their forces since.

Bauer now is a member of the health department's emergency medical services task force, which deals with ambulance matters. John Perkins, president of Gold Cross Ambulance Service in Rochester and Duluth, is legislative chairman of the task force, which includes municipal and private ambulance spokesmen, as well as health department officials.

"(If) you go over there (to the Legislature) with a bill and you have some kind of group fighting you, you'll never get it through," explained Patterson of the health department. "So you sit down with them. We had to get the backing of the ambulance operators."

Bauer, whose office walls are decorated with plaques and awards for his services to the ambulance business, founded the Minnesota Ambulance Association—now the Emergency Care Association—in 1972 and the Ambulance Society of America in 1974.

There was already one national ambulance operators' organization, the Ambulance Association of America (AAA), "but they weren't really doing anything," said Bauer.

"We're coordinating with (AAA)," said Bauer, who's now planning a national lobbying effort.

Wheelchair Lobbying: Was Impossible, Now Tough

Lobbying from a wheelchair isn't easy, said Jerry Bergdahl.

"Until a few years ago, we couldn't even get into the capitol," he said. "There was a ramp, but the angle was so dangerous you could injure yourself using it.

"And it was at the back door, of course," he added. "Lots of times, when they do make a place accessible, they'll do it the back way."

Handicapped people who lobby also face transportation barriers. They often can't use conventional buses or taxis.

Nonemergency ambulances are prohibitively expensive, Bergdahl said, costing up to $82.50 for a 20-mile round trip to a late-afternoon committee meeting. It's the kind of barrier that makes some handicapped people feel they've lost a lot of previous legislative battles.

Sometimes organizations such as the United Handicapped Federation (UHF) will book transportation for a special lobbying effort. But such groups are hampered by lack of funds.

Bergdahl, 36, a slight young man dressed in jeans and a turtle-neck, said he saw little change result from his lobbying.

"Three and a half years were like knocking my head against the wall," he said. "In three and a half years I don't know if I saw anything (accomplished)."

At Trevilla of Robbinsdale, a skilled-nursing home for the disabled, he sits in his power-driven wheelchair surrounded by hanging plants and bright posters and refuses to allow himself to become discouraged.

"You live in a whole subculture," he said. "If you can learn to live with that subculture you'll survive. Otherwise, it'll blow your head away."

Darlene Morse is vice president for transportation for the UHF. She organizes UHF members who try to make their needs known to public officials charged with making decisions that affect their lives.

And transportation affects everything, Morse said.

"We can't do anything," she said. "Right now the only transportation I have is to meetings which UHF pays for and to go to places the county will pay for because it's medical. I've only been shopping three times in my life."

Not only is lobbying generally out for the handicapped—who often have no access to transportation other than expensive nonemergency ambulances—but so is transportation for social, educational, recreational or work-related purposes.

"I think what is needed is a taxi service for wheelchairs, (one) that's not equipped to handle emergencies," she said. (Because of insurance limitations, cab companies generally will not serve people who need to be lifted from their wheelchairs into taxis.)

Even when the handicapped find rides to government offices, they sometimes face more subtle problems, such as the attitudes some people have about the handicapped, she said.

Some people feel that medical transportation is all they need, she said, but "we have to go every place the able-bodied do."

Heinitz Is Ambulance Operators' "Pride and Joy"

Rep. O. J. (Lon) Heinitz, IR-Plymouth, a heavy-set man with thick, white hair, sits behind his desk in the State Office Building near the capitol. It is a desk devoid of folders or notes or memoranda. On the wall are a picture of Heinitz with former President Gerald Ford and two plaques that read: "We Do Not Extend Credit to Republicans" and "Crime Doesn't Pay as Well as Politics."

Minnesota ambulance operators commonly refer to Heinitz as the "father" or "grandfather" of state ambulance legislation. Minnesota Department of Health personnel refer to him as the legislative authority on the ambulance business.

How does Heinitz relate to the state's ambulance operators?

"I am their pride and joy," he said.

Since he entered the Legislature in 1969, Heinitz has sponsored the state's three major ambulance laws. Two of them were passed while DFLers controlled the House.

The laws enabled thousands of the disabled, the elderly and the poor to ride to health facilities in Medicaid-paid "nonemergency ambulances." They also helped the ambulance operators escape local rate regulation, competition from new operators and extensive inspection enforcement by the health department.

Heinitz, 56, said he became interested in the ambulance business after seeing a magazine on the lack of legislative controls on ambulances. He said he contacted health department officials about possible ambulance bills, eventually met ambulance operators and has been involved in the ambulance legislation since the late 1960s.

Heinitz is a real estate man whose activities include serving as board chairman (unpaid, he says) of Health Central, Inc., which operates Golden Valley Health Center, Mercy Medical Center in Coon Rapids and Unity Hospital in Fridley. Sylvan Bauer, the ambulance director for the hospitals, has been chief lobbyist for Minnesota's ambulance operators for most of the last decade.

At the state health department, Pat Patterson, emergency medical services coordinator, said Heinitz "can talk about ambulance licensing just like we can; he's very dedicated to this program."

However, in an interview, Heinitz disclaimed knowledge of some results of the laws he has sponsored. While discussing the plight of the disabled who are without transportation except for the medical trips available to those on public assistance, he mentioned the cost of trips by "ambulance" to health facilities as costing $40 to $50.

"I'd say we don't have a way to set costs and don't want to," said Heinitz, who once spent a day in a wheelchair to dramatize a

Rehabilitation Day program at the capitol. "That would be a disaster."

Yet, when asked why a nonemergency ride to a health facility could cost almost as much as an emergency ride, he protested ignorance of such rates.

"Charging emergency rates for nonemergency service, that's unconscionable as far as I'm concerned," he said.

To check on the question, Heinitz tried unsuccessfully to call Bauer, the lobbyist. Then he called James Huber, a state welfare department employee who processes bills for ambulance service for Medicaid in Minnesota.

After asking Huber if the bills coming in for nonemergencies were sometimes as much as for emergencies, Heinitz responded into the telephone:

"Somehow that doesn't sound quite fair to me . . . Oh, very interesting . . . I'm getting a little nervous here if I'm finding emergency and nonemergency are about the same . . ."

He hung up the receiver with a thud.

"Oh, damn, the majority of payments they make for are for nonemergency rather than emergency," he said. "And as far as he can tell they base their costs on Medicare. I suppose that's one hell of a good deal for an operator of a nonemergency business."

While Heinitz sponsored the emergency and nonemergency ambulance legislation for the past nine years, only one campaign contribution ($100 from Bauer) filed with the Minnesota Ethical Practices Board appears to be from ambulance operators.

(Asked if the ambulance operators support the campaigns of legislators who support their legislation, Bauer said, "I support them and I've donated to them and by letter supported them." As to amount, Bauer said, "Nominal contributions, what I can afford, and some of the other ambulance people gave contributions.")

Asked if ambulance operators were major contributors to his campaigns, Heinitz replied: "If you're asking if they're buying me, the answer is 'hell, no.' "

Without consulting his records, he said he'd received $100 from Bauer four years ago and added: "I'd spit in your face for a lousy $100."

DULUTH FIRM CENTER OF EFFORT TO CUT COMPETITION

(By Cammy Wilson)

John Perkins, president of Rochester's Gold Cross Ambulance Service, is working late. He isn't answering ambulance calls, however, or directing his office staff; he's trying to drive his competitors out of business.

Perkins has had a lot of help. Thus far he's had assistace from the Minnesota Legislature, the Minnesota Supreme Court and the state Department of Health. Now Perkins is lobbying to defeat a bill that is the sole obstacle to his having a monopoly of the ambulance business in Duluth (he already has a monopoly in Rochester).

"Can you get to the (Duluth) delegation?" he says to his unidentified telephone caller. "I just talked to (Sen.) Sam Solon (DFL-Duluth)- . . . How well do you know Florian (Chmielewski of Sturgeon Lake, another DFL senator)? I wonder if that might help if you guys called him . . .We'll soon find out."

The object of Perkin's efforts is a small Duluth company, Med-A-Van, started by a former ambulance driver who bought a Minneapolis ambulance that had been sitting on blocks for six months in the former owner's back yard.

Carl Bergl, Med-A-Van's owner, hardly could have guessed that his purchase of the tiny Minneapolis company, North Star Ambulance Service, would result in angry public meetings, Supreme Court decisions and a battle that still continues in the Legislature.

Before North Star's ambulance had been put up on blocks, its business had been limited mostly to standby service at parades and sporting events, according to court testimony.

But it had an asset that Bergl and his partner, Glen Michael, badly needed in May 1975—a license.

Bergl had tried earlier to open his own business in Duluth. But, under a 1973 state law, any new ambulance business must prove to the Minnesota Department of Health that there is "need and necessity" for its services.

And a health department hearing examiner ruled against Bergl in 1974 after objections were raised by Gold Cross Ambulance Service, the existing medical transportation company in Duluth.

Begl, however, had noticed a loophole—the law did not seem to prevent an existing company from opening a branch in another city. So, after buying North Star and its one ambulance up on blocks in Minneapolis, Bergl applied for a license to open a "branch" in Duluth. The health department granted the license and Bergl went into business there as Med-A-Van. He does not operate in Minneapolis.

But Bergl's story didn't end there.

Gold Cross sued Med-A-Van. The new company lost again in a new "need and necessity" procedure that was ordered by the Minnesota Supreme Court. And Bergl has been ordered to close down his business—which has a $150,000-a-year gross, 13 employees and six vehicles—by June 30.

His last hope seems to be a bill, sponsored by Chmielewski and Rep. Thomas Berkelman, DFL-Duluth, that would allow his company to continue.

The Duluth ambulance story illustrates a number of facts about medical transportation in Minnesota:

The Legislature, in the words of the Minnesota Supreme Court in the Duluth case, has determined that "the ambulance service business is one in which the public welfare is not promoted by free enterprise."

That is also the position of most large ambulance operators themselves. The 1973 law, sponsored by Sen. George Perpich, DFL-Chisholm, and Rep. O. J. Heinitz, IR-Plymouth, was written and promoted by the Minnesota Ambulance Association (now the Minnesota Emergency Care Association), operators say.

Perkins' argument in favor of that position is that there is not enough ambulance business in Duluth for two companies, and that both are losing money because of the competition.

The "need and necessity" argument has nothing to do with costs to consumers or to the taxpayers, who pay most of the bills for medical transportation. In Duluth, Gold Cross rates are almost double those of Med-A-Van, even though Gold Cross receives a $42,000-a-year city subsidy.

In an ambulance law it promoted and the Legislature passed in 1977, the ambulance association closed the branch business loophole that Bergl used to start competing in Duluth. Before passage of that law, the health department routinely granted branch licenses—to companies already in business—without "need and necessity" hearings. Gold Cross itself is a branch of the major medical transportation company in Rochester, Minn.

The branch license practice apparently contributed to some lapses in regulation. Medicaid and Medicare reimbursed Gold Cross for its Duluth service according to the higher rates prevailing in Rochester. The difference appears to have cost the taxpayers at least $5-$10 for each stretcher or emergency case run paid by Medicaid or Medicare for several years.

The federal Medicare program is administered in southern Minnesota by the Travelers Insurance Co. and in northern Minnesota by Blue Cross; the rates Blue Cross will pay for transportation are generally lower than the ones allowed by Travelers. Thus, by billing from the home office in Rochester—which is under Travelers—Gold Cross received more money than it would have received under Blue Cross. Medicaid payments have been tied to the same rate schedules since 1976.

The idea of no new competition hasn't been totally accepted by the public—at least not in Duluth. A petition with 4,172 signatures was submitted at Med-A-Van's second "need and necessity" hearing last November. (The hearing examiner again found against Bergl anyway.)

"By not allowing Med-A-Van Ambulance service to operate in Duluth, you will have allowed the creation of a very obvious monopoly," Richard Chida wrote to Minnesota Commissioner of Health Warren Lawson, who made the official decision that Med-A-Van should close.

"(It) will soon adversely affect the tax-paying citizens of Duluth and truly (deal) a deadly blow to the concept of free enterprise," wrote Chida, who is the Duluth Fire Department's emergency medical services director.

But Lawson says that, under the law, the state "cannot weigh competition as a factor in an ambulance licensure decision."

The health commissioner concluded that Duluth could not upport two ambulance companies. In a letter to Chmielewski, he cited language from the Supreme Court decision that said, "Where the demand is insufficient to support additional services . . . the taxpayer-consumer (eventually) suffers."

Lawson said his decision my be unpopular and that Med-A-Van's lower rates "did help many senior citizens who must use nonemergency ambulance services." But he suggested that continued lower rates would cut quality of service.

Despite its $42,000 a year in city subsidies, Gold Cross charges $70 for an emergency run, plus additional fees for other services, such as $2 per mile, $10 extra for nights and $15 for oxygen. Med-A-Van, operating without a subsidy or city radio equipment, charges $52.50 for an emergency run, no mileage charge within the city limits, $1 per mile outside the city and no additions for add-on services.

"That's quite a bit different (from Gold Cross)," Bergl said. "We don't charge for splints or back boards. We feel that falls under base rate."

Without any competition, Bergl says, Gold Cross can readily request rate increases, which the city must approve because it grants a subsidy. The city could be faced with a choice between setting up an entirely new operation in town or agreeing to a rate increase.

Gold Cross and Med-A-Van together grossed $540,000 last year, company officials said, with the bulk of the business—$390,000—going to Gold Cross. According to documents each company submitted to St. Louis County District Court, Med-A-Van claimed to earn a $1,008 profit during one month in question while Gold Cross claimed to have lost $826 despite its city subsidy.

Gold Cross attributed its losses partly to the high legal costs incurred in suing Med-A-Van, but the suit was not a necessary part of the cost of doing business, Bergl said.

And, he said, the Gold Cross estimate for maintaining an advanced life-support ambulance is ridiculous. The Gold Cross estimate is approximately $200,000 per year per vehicle, and it must maintain three such ambulances with the city under terms of its contract.

Med-A-Van, with one such vehicle and a $150,000 gross last year, would have lost $50,000 a year by that standard, he said. Instead, Bergl claimed a $1,008-per-month profit.

Perkins, the Gold Cross president, maintains that both services are losing money (during the legal proceedings, Med-A-Van admitted it had not paid some bills but said this was because it had switched to a new bookkeeping system).

In a letter to Chmielewski, Perkins pointed out that the health department's hearing examiners have decided that Bergl has no legal right to be in business.

"The guidelines for this determination has been set by the Emergency Medical Services Task Force, a volunteer group adviser to the Commissioner of Health," Perkins wrote. Perkins did not add that he is legislative chairman of the task force.

"The prime, most important consideration is 'What does the local government want?'" he wrote Chmielewski (The city has backed Gold Cross).

"Other considerations, in order, are 'What does the local medical community want,' What does business and other organized local groups want,' and 'What does the bulk of the citizens want,'" Perkins wrote.

Chmielewski's bill is scheduled for a hearing before the Senate Health, Welfare and Corrections Committee at 3 p.m. Thursday in Room 118 of the capitol. No hearings are scheduled on the House bill.

Perkins—who already has a monopoly in Rochester, where the world-renowned Mayo Clinic guarantees a flourishing ambulance business—takes the prospect of competition in Duluth very seriously.

As he lobbies on the telephone, he's stretched out in a black leather chair, boots atop the desk in an office that includes a gold couch, a gold carpet, a gold easy chair and numerous plaques and awards, including one attesting to his being the Rochester Jaycees' Outstanding Young Man of 1973. Perkins wears a short-sleeved gold shirt with red-and-gold company patches on the sleeves, and a diamond ring on his hand.

Bergl, in a telephone interview from Duluth, acknowledges that Perkins is a highly influential competitor. "He wants to see a gold Minnesota," he said.

On the other hand, Bergl says he has had no dealings with politicians. He says he has not even talked with Chmielewski, who's sponsoring the bill that could keep him in business. But Bergl is rethinking his lack of lobbying efforts.

"I guess that's my basic problem," Bergl said. "I have yet to have lunch, breakfast or dinner with a politician."

AMBULANCE HELPED PATIENT MAKE DATE AT BEAUTY PARLOR

(By Cammy Wilson)

Dayton's Looking Glass in downtown Minneapolis didn't *look* like a health facility.

Feathers, peacock plumes and eucalyptus swayed in baskets suspended from the ceiling. The beauty shop's patrons waited their turns in low slung modern chairs, their magazines illuminated by a platinum-colored candelabra. And nothing escaped reflection on the mirrored walls.

But if the beauty shop wasn't the usual medical center, neither was the nursing home patient the regular customer. And, for that matter, neither was the ambulance in which she arrived the usual ambulance.

The vehicle was a taxi-van licensed as a nonemergency ambulance by the state of Minnesota, and the driver accompanied the passenger upstairs to Dayton's second floor to make sure the appointment was in order. After her "treatment" he picked her up again.

Eventually a $40 bill for the round-trip reached the Medcaid office in the Minnesota Department of Public Welfare. The Looking Glass and the customer and the ambulance all met enough federal and state regulations for the welfare department to pick up a bill for ambulance transportation for medical purposes.

"It was a trip for electrolysis (hair removal)" for the nursing home patient, said a government welfare worker who later saw the bill.

Initially, the claim had been rejected by Medicaid personnel, but after the ambulance company forwarded a doctor's authorization for treatment, the bill was paid.

The doctor was a psychiatrist.

Medicaid programs cover treatment for psychiatric reasons, but any doctor—including a dentist or a faith healer—could have authorized transportation, according to operators and Medicaid personnel. That's because staffers at the state Medicaid office say they don't check whether the "doctor" whose name shows up on medical transportation bills has any claim to that title.

"There's a lot of what one might call the honor system" in the whole ambulance transportation system, said Bradley Stoneking, director of invoice processing (bill paying) for the state Medicaid office. "It's as good as the data that's reported to us. By the signing off on invoices, they (ambulance operators) open themselves to surveillance or audit . . . But it's the honor system type of approach."

The nursing home resident's trip to Dayton's Looking Glass illustrates several aspects of medical transportation for the poor and the handicapped in Minnesota:

The Minnesota Department of Public Welfare (DPW) has set up guidelines that actually encourage public assistance recipients to call an ambulance for a ride to the doctor, instead of using a bus or a taxi.

The controls on the use of medical transportation are either ineffective or go unenforced.

And the welfare department unit that handles medical transportation lacks the staff to investigate questionable claims.

For a connoisseur of transportation, a ride with a good ambulance company is like a meal in a fine restaurant: the service is half the fun.

In Minnesota, a variety of federal, state and local programs pay millions of dollars a year for medical transportation for thousands of the handicapped, the elderly and the poor. Medicaid alone spent about $1.7 million for that purpose in 1976, the most recent year for which figures are available.

In the Twin Cities, nonemergency ambulance service is a highly sophisticated business.

The vehicles are radio-dispatched, so a passenger is assured of a prompt pick-up. If the passenger is elderly, ailing or in need of assistance, the driver will be happy to assist. For institutions such as nursing homes, the service may be even better: on occasion, drivers not only pick up patients, they also dress them, something the nursing home staff usually does.

The welfare department makes it not just more attractive but absolutely necessary for most patients to take an ambulance, because that is the only way Medicaid will pick up the tab in Minnesota.

Medicaid will pay for "transportation only when furnished by an enrolled medical provider licensed by the Minnesota Department of Health," says DPW Rule 47, the welfare department guideline governing the program. The catch is that the only medical transportation providers which the health department is authorized to license are ambulances—emergency and nonemergency.

Neither the federal nor state laws governing Medicaid money stipulate that ambulances must be used to transport the poor to medical facilities. Quite the contrary.

The Code of Federal Regulations governing Title XIX funds clearly states that Medicaid "'travel expenses' include the cost of transportation for the individual by ambulance, taxicab, common carrier [bus or train] or other appropriate means." And those methods are used under Medicaid in other states.

In Minnesota as well, a 1967 state law governing medical assistance for needy people authorizes "transportation costs incurred solely for obtaining medical care when paid directly to an ambulance company, common carrier, or other recognized provider of transportation services."

So it is the Minnesota welfare department's Rule 47 that excludes transportation other than ambulance trips from the Medicaid program.

Does Minnesota's rule encourage people to use the nonemergency ambulances rather than calling a taxi or riding a bus?

"One could make that assumption," said Robert Baird, assistant state welfare commissioner and the person in charge of Medicaid.

While Medicaid will pay only for ambulance transportation, it is possible for an individual on welfare to have a bus or taxi ride to a medical facility paid for. But in that case the money comes from a different welfare fund. And the individual must have the ride approved beforehand and must pay for it himself or herself, then wait weeks or months to be reimbursed by the welfare department.

It is far easier merely to call an ambulance, show your medical assistance card, give the driver your doctor's name and be off. You pay no money and Medicaid will pay the bill.

Approximately 60,000 people in Hennepin County alone are eligible for medical assistance, including the disabled, those who qualify under Aid to Families with Dependent Children (AFDC), and the elderly poor. No figures are available on how many use nonemergency ambulances or how many could use other forms of transportation, although more than 46,000 ambulance trips in Minnesota were paid for by Medicaid alone in 1976.

"As long as they have a current (Medicaid) eligibility card, they can usually get transportation paid for," said a Hennepin County Welfare Department caseworker (who, like other welfare employees quoted in this article, asked that his name not be used because he fears retaliation).

"Once found to be eligible for medical assistance, a person gets an identification card every month," he said.

Nonemergency claims constitute the bulk of the ambulance bills, say government workers. John Jackson, board chairman of Midwest Med-Kab, probably the largest medical transportation company in the country, says his business does eight-to-ten times as much nonemergency business as emergency.

While there are some guidelines for the use of such transportation, in actuality anyone on welfare who is going to or from what may be termed a medical destination usually can take a nonemergency ambulance.

In addition to having an up-to-date medical assistance card, Medicaid guidelines say that a person calling an ambulance must be authorized to do so by a physician, that the transportation must be medically necessary and that no other method of transportation will suffice.

There is a considerable gap between the rules and the practice, however.

"Title XIX says nonemergency medical transportation should be authorized by a physician and that's a farce," said one welfare worker. "We can't enforce it."

Instead of the physician certifying that the transportation by ambulance—emergency or nonemergency—is medically necessary, the ambulance driver commonly asks the patient for the doctor's name and puts that down on the form, operators say.

Doesn't the doctor have to sign?

"Oh, no," the worker said. "Nonemergency must be authorized by a physician, but as long as an invoice has a doctor's name on it, it's paid."

Ambulance operators concur that they only ask the patient for the name of the doctor they're visiting; in some cases, a nurse will sign the form.

Theoretically, companies should have a statement from the physician on record to authorize the transportation, welfare workers said, but the department seldom asks to see such forms. When they do, operators say they then go back and try to get a doctor's signature.

"The driver can ask the patient for the doctor's name, put it on the invoice and that's it," said one welfare worker. "In most cases . . . the doctor never heard of it. In most cases, a nursing home calls, a nurse on the floor calls. In every nursing home and every hospital floor there are these little stickers advertising Med-Kab and Smith-Martin and they just call them."

The worker added, "You know, if the person is crippled or senile or in a wheelchair, that's fine. But you look at some 20-year-old girl who has a wart on the left great toe and here's a $60 bill for her medical transportation."

In fact, staffers say they have no way of knowing whether a taxivan or some other vehicle was used to transport an eligible passenger. For instance, Midwest Med-Kab has two buses licensed as nonemergency ambulances, according to health department personnel, and welfare department workers concede that there is no way to know whether a passenger was transported in a van or along with dozens of other people in a bus.

"They can invoice at $40–$50 per head and we have no way of knowing (what kind of vehicle was used)," a staffer said.

Nor does the Medicaid office have investigators to check on transportation bills.

There is a utilization and surveillance unit to investigate possible abuses for the entire Medicaid unit, which includes transportation along with hospitals, doctors, nursing homes, pharmacies and numerous other services for which Medicaid pays. The office has 16 people to investigate questionable claims and complaints for the entire state.

Officials says the Medicaid office does not audit transportation company bills on a regular basis.

"We do spot audits," said Baird, the assistant state welfare commissioner. "Every once in a while we do an on-site visit and review claims."

Does he do an on-site check of every operator?

"Oh, no," he said.

The operators themselves say they seldom, if ever, see Medicaid auditors.

"Welfare reserves the right on a random sample to ask for (the doctors') prescriptions (for transportation)," said John Perkins, president of Gold Cross Ambulance Service in Rochester and Duluth. "They do have that control but thank goodness we don't have to do it in every case."

Perkins said it is only after his company gets a request for a prescription for service that it will "call or write the doctor and ask for an authorization for that trip."

According to Baird, welfare officials "get a monthly report showing what's happening with providers."

"We take a look at them to see where the highest probability of misuse would be and that's how we'd probably select for an on-site visit," he said.

What would draw officials' attention?

"The number of dollars any one provider gets in a given month," Baird said. "And the number of recipients those dollars represent." However, Jackson said he recalls only one visit from a Medicaid auditor to Midwest Med-Kab, even though Med-Kab and Smith-Martin Ambulance Service collected 58 percent of the $1,699,806 Minnesota Medicaid spent for medical transportation in 1973, and the companies have the area's highest rates.

The audits involve checking ambulance use and billing but not on company costs and profits.

"We're not controlled like a utility firm," said Med-Kab's Jackson.

"It just has to be regulated," counters one welfare worker. "It's so frustrating day after day. I'm not antiwelfare. I don't think they should do away with it completely. But the abuse, my God."

He says he doesn't have much hope for change from within the system.

"(We) see this abuse all the time," he said. "As a taxpayer, I sit here and fume . . . Nothing has been done and nothing will be done from the inside . . . I think if people knew the warts in the system they'd rise in wrath."

But, he said, "I'll probably be tripping over the long gray hairs of my beard before (anything) is done."

Catering to Poor Seems To Be a Nice Way To Make a Living

A Minneapolis nonemergency ambulance company hands out a magazine called Smiles. The Little Magazine of Wit & Humor to doctors, nurses and nursing home operators.

"It's no disgrace to be poor," says one selection in the magazine. "In fact it may turn out to be the only way to make a living these days."

Some of Minnesota's ambulance companies have discovered that, while it isn't necessary to be poor, catering to the poor is a fine way to make a living—because the bills can be collected mostly from various government agencies.

At Trevilla of Robbinsdale, a skilled-care nursing home primarily for the handicapped, the young residents are excellent potential customers for special transportation companies, such as Midwest Med-Kab Inc.

In fact, the government pays Med-Kab in two ways for transporting residents. It is a practice that maximizes Med-Kab's profits.

In addition, residents are eligible for Project Mobility, a state-subsidized project to provide transportation for the disabled, in effect making the government compete against itself.

First, Med-Kab often transports Trevilla residents to medical facilities and thus is reimbursed through Medicaid.

Second, under a special state grant, Trevilla has the services of two Med-Kab vans to take residents to United Cerebral Palsy workshops and on social and recreational trips.

Under that program, Med-Kab furnishes 21 hours a day of van time (with driver) to the home five days per week and 16 hours a day on weekends. The cost, according to John Jackson, Med-Kab board chairman, is at the rate of $12.50 per hour, which would amount to approximately $89,000 per year.

If a resident goes to a medical facility, Med-Kab will send another vehicle and bill Medicaid separatly for the trip rather than use a vehicle already parked at Trevilla.

The contract vehicles are for "residents to use as they see fit for social activities," Jackson said. "For any purpose other than medical."

Why not for medical purposes?

"There's funding available for medical transportation, and they don't want to mix them up," he said. "That's in the contract."

Occasionally, Med-Kab has made medical runs with the vehicle it already has available at Trevilla, paid for under the agreement, some residents say. And they are unhappy if that situation leads to a conflict.

"I caught those turkeys taking medical runs with the vans we had contracted for," said Jerry Bergdahl a Trevilla resident who is a counselor for CENTS (Center for Education of Non-Traditional Students). "I was late for work, too, I wouldn't have been if it hadn't been for that." Bergdahl, who runs a CENTS office at Trevilla, needed a ride to the organization's headquarters at Augsburg College.

Whether the practice was occasional, frequent or nonexistent, Medicaid personnel say that, when they receive a bill for a Trevilla resident, they have no way of knowing whether the ride was taken in a van already paid for by the county or whether Med-Kab sent another one out.

In addition to the transportation available from Med-Kab, the handicapped at Trevilla have access to Project Mobility (PM), the Metropolitan Transit Commission's pilot project for the disabled.

Trevilla specifically was included in the project's six-square-mile area of operation, although it is in Robbinsdale, because of the high potential for riders.

Residents have used Project Mobility, although probably not in the numbers they would have without the Med-Kab transit. And ironically, one of the criticisms of PM has been the relatively low use made of its services in the target area.

Project Mobility offers a much more limited service than that provided by Med-Kab. PM vehicles pick up and drop off passengers at the curb. Drivers don't assist passengers into or out of places at the beginning or end of a ride. And PM requires a two-hour call-ahead notice.

A few residents complain about the high cost of Med-Kab's fares, even though the taxpayers and not the residents pay them. But, said Bergdahl, "You just don't know what having those vans available has meant. I don't care if it costs a million dollars a month. I don't want that jeopardized."

Medicaid Pays—But Doesn't Know How Much

(By Cammy Wilson)

Am-Bu-Cab and Cab-U-Lance, operated by a St. Louis medical transportation company, are advertised as "a new concept of transporation at a low charge."

"Designed for people not needing full ambulance service," says their ad in the Yellow Pages. "Patients may lie down or sit up . . . We bill Medicare for you."

In New York City, the RGS Ambulette Service advertises "transportation to any Borough. Movies, beauty parlors, hospital visits." It adds, "Medicaid accepted."

In Washington, D.C., at least one company includes "Medicaid" in its title; the D.C. Medicaid Transportation Service, Inc. From Silver Springs, Md., a nearby suburb, the Ironsides Medical Transportation Co. advertises "Wheelchair and Invalid Transfers to Clinics, Hospitals, Convalescent Homes, Picnics, Etc. Air Conditioned—Stereo Music—Oxygen Available."

Medical transportation companies are expanding and franchising and buying up their competition throughout the country.

But in Washington, officials of the federal Medicaid programs, which have made it all possible, say there's not enough money involved in medical transportation to require separate reporting from state agencies, as they do with 13 other categories in the $10-billion-a-year federal Medicaid program.

In fact, officials of the Department of Health, Education and Welfare (HEW) say they don't really know how much money is involved in medical transportation. Funds for it are included under a $200-million budget category called "other," which also covers such items as prosthetic devices, glasses and hearing aids.

The budget itself is merely an estimate of what the expenses, including "other," will be. If costs run over expectations, a supplemental appropriation is sought from Congress.

"I don't think there've been any audits (or need to be) because by and large it's a small part of the total cost," said Frances Kaplan, HEW health care information officer, in a recent interview. "I don't think we'd look at something that wouldn't amount to a lot of dollars."

How much would it take to provoke scrutiny?

"Oh, I couldn't say," Kaplan said.

Since the program is state-administered, she said, "the state shouldn't be dependent on us to do all the checking. It's their money, too. They're supposed to be running a tight program."

Besides, she said, officials in HEW's Chicago regional office "are talking with the state people every day."

"Yes, (the federal government has) a lot of controls," said Robert Baird, Minnesota's assistant welfare commissioner.

Over medical transportation?

"No," he said.

Officials in HEW's Chicago office say the primary regulation lies with the state and with the counties, which issue the eligibility cards for recipients.

"The county does all the leg-work," said Vytas Zalatorius, the HEW regional Medicaid representative in Chicago who is responsible for Minnesota. "(They) determine eligibility (for Medicaid services such as ambulance transportation) and . . . the state just acts like a bank and pays the bills. The federal government sets broad requirements and provides the framework."

In fact, Zalatorius said, it is really "the county . . . where they handle it . . . (we're) talking about field details and here I am 600 miles from the field. My normal contacts are with the state people."

"The county doesn't get involved in the payment process," said George Collias, program supervisor in charge of the intake section (welfare eligibility) for the Hennepin County Welfare Department. "Med-Kab would go out and get the card and would submit the billing to the state and that's how they would get paid. No payments go to the individual, (it's) all to the provider."

Is anybody really in charge?

"Oh, definitely," Zalatorius said. "The prior authorization procedure (for eligibility cards) ensures just that. The state or the county is in control all the time."

The state itself has a stake in supervising Medicaid, the official said. "State money goes toward support of these services and obviously they have a self-interest in seeing that it's not abused or that it's rendered at the lowest possible price," he said. "I'm sure they think about it and have a mechanism to ensure this."

However, any licensed ambulance, regardless of its charges, may be summoned by a Minnesotan who holds a Medicaid eligibility card. Zalatorius later telephoned the Minneapolis Tribune to add: "(In case there's the impression) that neither the state nor the feds have a handle on this, I want to strongly emphasize that we do have a handle."

Before Medicare and Medicaid, ambulettes, invalid coaches, handivans, and medi-kabs were largely unknown. When they operated at all, such companies were usually wheelchair carriers that catered to the disabled who could not use buses or taxis. Operators often were handicapped themselves or got into the business because a friend or relative had no access to regular transit. As often as not, the operators barely scraped along, hardly more affluent than their customers.

Medicaid and Medicare turned transporting the poor, handicapped and elderly into a business hustle that's flourishing from California and Minnesota to Missouri and New York. There are hundreds of companies in operation and there are lots of dollars involved.

Medi-Cab, Inc., of New York is probably second only to Midwest Med-Kab, Inc., of Minneapolis in gross earnings in the medical transportation business; it confines its business almost totally to wheelchair transport, according to Stephen Jones, Medi-Cab's vice president in charge of operations; it does at least $2 million in business in New York every year, according to Jones.

Medi-Cab's business may not have attracted attention in federal agencies, but its growth illustrates how fast medical transit expanded once federal funds became available to pay the fares.

In fact, Medi-Cab has grown from two vans in 1970 to its present 60, which carry 400 to 500 people a day, five days a week, in the New York area. New York City's Medicaid program will pay only up to $14 each way for transportation and pays no extra for mileage within the city; in adjoining Westchester County, it will pay $15 per trip and $1.15 per mile.

By comparison, Midwest Med-Kab in Minneapolis has approximately 62 vehicles, including some emergency vehicles, and carries about 200 passengers per day, according to its board chairman, John Jackson. In 1976, the last year for which Medicaid figures are available, Med-Kab transported 13,808 Medicaid passengers at an average rate of $45.11 per trip.

Midwest charges $18 each way and $1.50 per mile in the Twin Cities area, plus $10 extra for nights or holidays or weekends and additional charges for extra services. (The charges were reduced March 1 from $19.75 plus $1.65 per mile plus extra charges for additional services.)

While medical transportation companies may be small-time to HEW, they usually do most of their business with the government. In fact, operators acknowledge that individuals cannot afford their rates.

"We do very little occupational transportation (to work)," Jones said. "That's left to the individual and the individual cannot afford it."

If Medicaid collapsed "50 to 60 percent of my business would go down the drain," Jones said. But he added: "I'd say of 65 vendors (in New York), 95 percent would fold up completely. Ninety-five percent rely solely on Medicaid for their business."

"ROUTINE" 1976 MEETING LED TO LARGE RATE HIKE

(By Cammy Wilson)

Operators of five Minnesota ambulance companies met with state Medicaid officials on April 13, 1976, to make a request.

The businessmen wanted the officials to abolish Medicaid's ceiling on what ambulance companies could charge the government for medical transportation, and to agree to follow Medicare's system of allowable charges instead.

Operators at the meeting represented some of the state's largest companies, and those were the companies that could benefit by a change to the Medicare formula.

The change would give the operators a chance to raise their emergency, stretcher service and mileage rates immediately and a guarantee that they could raise their rates every year.

The operators got their way. Three days after the meeting, the Medicaid office notified the operators that the change would be made, effective May 1, 1976. Some rates soared; Twin Cities companies now charge as much as $88 for a basic emergency run and $2 per mile, plus additions, for services such as turning on lights and sirens.

There were no advance announcements of the proposal, no public hearings, no opportunities for those holding opposing views to organize. And operators outside the Twin Cities and Rochester, Minn., areas stood to lose money as a result.

The get-together with the operators really wasn't much of a meeting, said Robert Baird, assistant commissioner of the Minnesota Department of Public Welfare (DPW), which administers Medicaid. It was Baird who granted the operators' request.

Operators at the meeting included William Olsen, an owner of Medibus Helpmobile; John Jackson, board chairman of Midwest Med-Kab, and Robert Lossie, owner of Smith-Martin Ambulance Service, all from the Twin Cities; John Perkins, president of Gold Cross Ambulance Service (Rochester and Duluth), and Sylvan Bauer, ambulance director for Health Central, Inc., of Golden Valley and a long-time lobbyist for the Minnesota Ambulance Association.

Jackson said operators were more interested in getting the yearly review, which would allow them to raise their rates every year, than an immediate price increase.

"Medicaid always paid whatever we billed," Jackson said. "We had our rates and they had a sheet with them and that's what they paid. The meeting was just to set a procedure up so (there) would be something looked at every year."

Bradley Stoneking, director of invoice processing (bill paying) for Medicaid, who also was at the meeting, explained the department's decision. "I'd guess the reasoning was it would put our system (in line with) Medicare and would provide a profile (or pattern of charges)," he said.

Medicaid is one of several state and federal programs that finance trips to medical facilities for the handicapped, the elderly and the poor. Medicaid alone spent about $1.7 million in Minnesota for such transportation in 1976, the most recent year for which figures are available.

Medicaid is a welfare program that provides medical assistance to the needy. Medicare is the federal health insurance program for Social Security recipients.

The methods by which their various rates are determined is a complicated business.

Allowable rates vary from company to company. There is little incentive for Minnesota companies to keep their charges down because Medicaid and Medicare payments are based on what companies charge. If a company charges less, the programs pay less; if it charges more, the programs pay more.

Unlike most nursing homes, ambulance companies do not have to justify their charges to Medicaid or Medicare on the basis of their own costs and profit structures. Nor is there a rate review board, such as that set up by the Minnesota Hospital Association to review hospital charges.

In New York City, with one of the highest living costs in the world, Medicaid reimburses taxi-vans for the disabled at $14 each way and refuses to pay mileage within the city limits. In Ohio, the state welfare department cut off payments to a company found to be charging mileage within city limits and carrying passengers who could walk.

However, Minnesota companies have charged Medicaid as much as $19.75 per trip plus mileage up to $1.65, even within city limits. And medical transportation often is provided for people who can walk.

Ambulance companies can charge higher rates in the Twin Cities and Rochester area than they can in the rest of Minnesota. While the switch from Medicaid to Medicare limits helped urban companies, it may have hurt those elsewhere.

That is because Travelers Insurance Co., which administers Medicare in the Twin Cities-Rochester area, generally allows at least $5 to $10 more per fare than the old Medicaid limits. Blue Cross, which administers Medicare outstate, often allowed companies $5 to $15 less than Medicaid allowed.

Within the Medicare limits, Minnesota ambulance companies in effect set the amounts they can collect from federal and state governments through a system of "usual and customary" charges.

Here's how it works, according to Medicare officials:

Once a year the company that administers Medicare examines the pattern of charges of all the fares charged of Medicare passengers by a particular company. (Medicare is administered by the Travelers Insurance Co. in the Twin Cities and Rochester area counties of Anoka, Dakota, Fillmore, Goodhue, Hennepin, Houston, Olmsted, Ramsey, Wabasha, Washington and Winona. Blue Cross administers the program in the rest of the state.)

Medicare then takes the charge closest to the median (half above, half below) and calls it that company's "customary profile."

The Medicare administrator also compiles all the Medicare charges of all the ambulance companies in an area and arranges them from lowest to highest. The charge at the 75th percentile (one-fourth above that level, three-fourths below) is called the "prevailing profile."

Medicare will pay each company according to the "customary profile" or the "prevailing profile," whichever is less.

Medicare's limits have been applied against some ambulance operations, such as emergency runs, stretcher service and other operations that require two-man crews. Medicare administrators also have set maximum mileage fees they will pay ambulance operators.

But these Medicare maximums do not apply to the one-attendant nonemergency operations that are widely used by many of the poor and the handicapped to get to medical facilities. That is because Medicare normally does not pay for these services, although Medicaid routinely does.

Before the April 1976 meeting, the Medicaid limits were $55 per emergency trip, $35 each way for a nonemergency trip and $1 per mile for both.

The "prevailing profile" for Travelers' Medicare payments has been $5 to $10 higher. The "prevailing profile" for Blue Cross payments in outstate Minnesota has been $5 to $15 lower. One result of the Medicaid office's decision to switch to Medicare's limits was a barrage of complaints from ambulance operators in rural Minnesota.

As a result, Medicaid officials agreed to allow companies that would suffer to continue billing under Medicaid limits. They also increased their own limits to $65 for emergency trips and $45 for nonemergency trips, including wheelchair rides. The mileage limit rose to $1.50. Stoneking said he believes that the Medicaid office based its own increase on Medicaid figures.

Medicare and Medicaid officials say it's possible to draw a number of conclusions from the way these limits are set:

The Medicare profile system is based on the assumption that the government is being charged no more than private citizens who pay their own bills. However, operators themselves say that few private citizens can afford their services. Thus, a profile of charges is more indicative of what the government will pay than what an individual citizen can pay.

Basing the limits on what the providers charge invites a chain reaction. The big operators raise their charges even though neither Medicare nor Medicaid will pay the full bill; the next year, the Medicare "prevailing profile," which is based in large part on these rates, goes up; then the big operators can raise their rates.

The Medicare Twin Cities area "prevailing profile" tends to be a high one because the two largest ambulance companies, Med-Kab and Smith-Martin, also charge the highest rates.

Providers do not have to justify their charges on the basis of their own costs or profit structure.

"There's no limit here that will limit what a provider can charge," said Michael Esterley, a Medicare official for Travelers in Minneapolis. "We don't get involved in setting prices for . . . providers. That's not our responsibility."

"Medicare doesn't come in here and say, 'How much are you charging?' and see if the charge is justified," said John Perkins, president of Gold Cross. "What they do is look at all the ambulance charges and act accordingly."

Doesn't that encourage owners to raise their rates every year?

"It's unfortunate but that's exactly what happens," he said.

Ohio Rules Sent Errant Firm Packing

The company seemed like an eleven-month wonder: in less than a year after moving into Cincinnati, Leonard Rinaldo had taken over three-fourths of the Hamilton County Medicaid transportation business.

Rinaldo had come from Syracuse, N.Y., where his brother, David, operated the Tender Loving Care Ambulance Co.

Cincinnati's existing medical transportation operators, who had been losing business to Rinaldo and his Medi-Coach Ambulette Wheelchair Service, complained about him—loudly and often—to the county hospital, the police department and the welfare department.

After months of accusations, state welfare officials looked into the situation.

Roger Brown, chief of the Ohio welfare department's bureau of utilization and review, said the state found that Rinaldo—in violation of Ohio rules—had charged mileage rates for transporting passengers within Cincinnati's city limits, had transported people who could walk and had been paid for unnecessary trips.

Had Rinaldo been in business in Minnesota, however, he legitimately could have charged mileage fees within the city limits, he probably could have transported passengers who could walk, and there would have been few if any checks on whether the trips were necessary.

Mileage: The Ohio Medicaid bureau does not pay for mileage within a city for nonemergency medical transportation. It will pay $15 for a one-way trip within the city limits and $30 round trip; the limit for emergency ambulances is $40 to $45 per ride.

"Sometimes he said he went outside the city limits and (he) didn't," said Brown, referring to Rinaldo's business.

In Minnesota, operators routinely charge mileage—which Medicaid pays—for trips within the city limits. Why does Minnesota pay mileage for nonemergency trips when other states don't?

"I don't know," said Bradley Stoneking, the state's director of invoice processing (bill paying) for Medicaid. "That I don't know."

Walkers: In Ohio, individuals are permitted by Medicaid regulations to use a specially equipped taxi-van for the disabled (called an ambulette) if they cannot use a standard taxi or bus. However, Brown said Rinaldo's company transported passengers who could walk. Sometimes they were strapped into wheelchairs until they reached their destinations, according to an investigation by the Cincinnati Enquirer. Ohio welfare recipients who can walk can take taxis to medical facilities, Brown said, adding that the welfare department authorizes transportation at a flat rate.

In Minnesota, anyone who receives medical assistance is eligible to use a nonemergency ambulance to get to or from a medical facility; in practice, whether they can walk (and thus use a bus or taxi) does not enter into their being eligible for nonemergency service.

Why does Minnesota pay for nonemergency ambulance trips for people who can walk?

"Some of the states have prior authorization (that is, Medicaid personnel authorize or place the calls for special transportation)," Stoneking said. "Some are really, really tight on the medical (need for) transportation. We are not really tight on that."

Medicaid guidelines say a person calling an ambulance must be authorized to do so by a physician, that the transportation must be medically necessary and that no other method of transportation will suffice. In fact, many rides are arranged by people other than a doctor—such as nursing home personnel and riders themselves. And ambulance transportation is used because it is the only method of transportation that will be paid for by Medicaid.

Unnecessary payments: In some cases the Ohio welfare department apparently had paid for unauthorized trips, Brown said.

"It looked like signatures had been forged," said Brown. "Also (we) had some testimony from doctors that the patients didn't need that type of transportation. Obviously there was some trickery going on."

In Minnesota, the Medicaid bureau itself has no investigators available to check out routine medical transportation claims; it must rely on a 16-person utilization and surveillance unit that also is charged with checking on all the hospitals, nursing homes, pharmacies and other vendors, including ambulances, in the state that receive Medicaid money.

As a result of the Ohio investigation, the state welfare department cut off payments to Rinaldo's ambulette service in July 1976. And, while no state charges were filed against Rinaldo, he folded his ambulette company and moved to Houston.

Now, however, the telephone number for Rinaldo's Houston ambulette service has been disconnected.

"I believe he went out of business in October of 1977," said the person who answered the telephone at his home number. "He's on the road now and can't be reached."

Staff of Project Mobility Got Into Jam by Trying To Help

(By Cammy Wilson)

It began as a great occasion.

Outside the weather was miserable, but the young residents of the nursing home paid no attention. They were too excited preparing for their first city bus ride.

Some were in wheelchairs and others carried the weight of braces, but the young people joked and laughed and the Project Mobility (PM) staff pitched in to help them to the waiting bus. Even the manager of Project Mobility occasionally lent a hand.

"I would be the first to admit I was in there buttoning up a coat," recalled Sam Jacobs, who manages PM, the Metropolitan Transit Commission (MTC) demonstration system for the handicapped.

On the surface it wasn't an event you'd expect to prompt angry telephone calls to Jacobs' supervisor, consultations with lawyers, or strongly worded directives for the PM bulletin board.

But not everyone was happy that day. John Jackson, board chairman of Midwest Med-Kab, Inc., Minnesota's largest medical transportation company, was decidedly unhappy.

Until Project Mobility agreed to transport the young people in small buses specially equipped to handle wheelchairs, the United Cerebral Palsy Foundation was paying Med-Kab to transport them in ambulances to a cerebral palsy workshop a few miles away.

Med-Kab did not like losing a contract. And Jackson did not like what he saw inside the nursing home, Trevilla of Robbinsdale, where he was watching the day that PM service started.

PM was inside the building, helping the handicapped. And, PM employees were told

later, helping the handicapped inside or outside a building could result in a $300 fine and/or 30 days in jail—unless you were employed by an ambulance company.

The ambulance operators weren't thinking of the PM staff's welfare and trying to keep them out of jail, however. They were distressed because they thought they already had an understanding with the staff of the MTC about helping the handicapped.

"(Project Mobility) is curb-to-curb and that's just what it means," Jackson said in an interview. "They pick up at the curb and if you can't get to the curb you don't go on Project Mobility."

Jackson was in a position to know, because he and other ambulance company operators were involved in the planning of Project Mobility from the beginning. Thus, the operators were able to:

Enforce PM's operating as a curb-to-curb service, despite the fact that the passengers were disabled and many needed doors opened or unlocked, packages brought inside, or other services routinely performed by transit operations for the disabled in some other cities around the country.

Oversee PM's being set up in a fashion that would cost the ambulance operators few passengers, even if that meant less service to the disabled.

And they had hopes of eventually taking over Project Mobility and running it themselves.

Setting up Project Mobility as a curb-to-curb service—one that essentially picked up and discharged passengers at the curb—directly benefited Twin Cities nonemergency ambulance companies. That is because it would not compete for most of their passengers—the disabled who require more help.

Ambulance operators like Jackson are emphatic about the limits on PM.

"It's set up with them (PM) that they can't go in the house and up and on the stairs or do what we do," Jackson said. "They were going beyond what they were supposed to do (at Trevilla). They were going beyond their project goals or ideas. They were providing just a little bit more than they were supposed to. They had a tendency to go in a place and get the individual and bring him out. I'm sure it was just people themselves, it was only natural."

Regardless of how natural the response was, the extra help for passengers ceased after the episode at Trevilla. Med-Kab personnel called Don Hubert, who was the overall director of Project Mobility, and complained.

Then Jackson telephoned Jacobs. "Jackson called (me) and said, 'This isn't right, you're taking away my passengers'," Jacobs recalled.

PM personnel had picked up passengers at Trevilla because United Cerebral Palsy had "called me and said, 'We've got 10 people we'd like transported, what are the chances?'" Jacobs said. "I can't deny anyone transportation if they're qualified. They qualified and we billed the order and the next day—we were new—when we made the pick-up I was there and we were physically inside the building and the Midwest (Med-Kab) ambulance people happened to be physically inside the building observing."

The story spread that Jackson's personnel also followed PM vehicles, trying to catch drivers in the act of assisting passengers, but Jackson vigorously denies this.

"Never," he said, "I never did anything like that."

Instead, he said, he also observed a Project Mobility driver helping people in wheelchairs in and out the doors of his church, Souls Harbor in downtown Minneapolis.

"The driver was taking people in and out," Jackson recalled. "They're not supposed to do that. We did have a meeting and it was rectified."

After Jackson complained, Jacobs recalled, "We both consulted legal counsel and the decision was made that crossing the threshold was providing 'custodial care' and (was) not part of our operating rights," he said. Jacobs also contacted the Minnesota Department of Health to inquire what the penalties were, if any.

He posted a memo to his staff with the following information:

"The answer I received . . . was: 'violation of the custodial care constraints are a misdemeanor and subject to a penalty of a $300 fine and/or 30 days in jail.'"

Actually, "custodial care" is not addressed in the Minnesota ambulance laws but it is a term frequently invoked by ambulance operators who have tried to include the term in the law.

"We're trying to say even if the person is ill and injured . . . (he or she) may not need services of an ambulance, but if they require a third party to assist them and the person must have skill and training and must assume custody, then you would have ambulance service," says William Olsen, an owner of Medibus-Helpmobile.

The ambulance operators' theory of custodial care is widely quoted by the MTC staff.

"Our legal counsel is of the opinion that by crossing the threshold and assisting anyone we're providing custodial care. It has to do with the Minnesota ambulance law," Jacobs said he was advised.

Robert J. Christianson Jr., an MTC attorney, said, "I'm familiar with their (curb-to-curb) policy. I don't recall at the moment whether we gave an opinion about this issue of custodial care."

Robert Shiff, director of operations for the MTC, insisted that the term custodial care "is somewhere . . . I know that . . . it was discussed at the staff level."

But neither Jacobs, nor Shiff, nor a lawyer for the MTC, nor the Minnesota Department of Health official in charge of ambulances could point to a reference in state statutes.

Pat Patterson, the health department's coordinator for emergency medical services, said, "Custody—that's the ambulance people's interpretation."

Regardless of its validity, the idea of custodial care exists as far as instructions to Project Mobility drivers are concerned.

PM drivers occasionally may open an outside door only during severe emergencies.

Although PM is called a curb-to-curb service, "We'll go to the door and, if necessary, assist someone from the front door to the bus or vice versa," Jacobs says.

To or through the door?

"To the door," he replied. "We're allowed to go to the door and open the door but not to go through," he replied.

Because of the severity of Minnesota winters, many buildings have double doors. A driver may not open the inner door, Jacobs says, so passengers who cannot manage doors may find themselves stranded between the two doors if they're entering the building.

"That's a problem and there's not a thing we can do about it at this time because of our operating rights," he said.

What would happen if they opened the second doors anyway?

"Midwest (Med-Kab) Ambulance could probably sue me because I'm providing custodial care to someone they should be transporting," he said.

Olsen is philosophical about the situation: "They're curb-to-curb and we're bed-to-bed and God help the twain when they meet."

The was the philosophy when Olsen, Jackson and other providers of medical transportation met with representatives of the handicapped and the MTC staff, long before Project Mobility became a reality, Jackson said.

Approximately one-third of the members of an early planning committee—the Metropolitan Transit Committee for the Disabled (MTCD) were to be private transit operators (although fewer actually were appointed).

Jackson said being on the committee to plan PM wasn't a conflict of interest, because "It wasn't set up to be competitive . . . They were to stay out of medical transportation. It was to be curb-to-curb. They couldn't, according to their rules, offer any assistance other than the bus. There was an area that wasn't being taken care of—the recreation, shopping. We weren't in that type of business."

"There was really no particular conflict of interest at that time and still isn't," agrees Hubert, who has moved from his job as MTC project director for special services to a position with the Minnesota Department of Transportation. "PM was designed to provide the discretionary trip which in the main the handicapped person couldn't take with the private operator because of the cost."

"We're not in the ambulance business," he stressed. "Very few of our trips are for medical purposes—most are for shopping, church."

Nevertheless, even before MTC began operating, the private operators discussed taking it over from the MTC, which had no experience in running a special transportation program for the disabled.

On Dec. 20, 1974, Jackson; Olsen; Bob Lossie, owner of Smith-Martin Ambulance, the second-largest such company in the Twin Cities; Sylvan Bauer, chief lobbyist for the Minnesota Ambulance Association and head of the ambulance unit at Health Central, Inc., and George Larson, then head of Midwest Ambulance/Handivan in St. Paul and now Jackson's partner, sent Hubert a letter on ambulance association stationery.

They offered reasons why the private companies should provide the service rather than the MTC.

"The following points . . . show why these firms are best equipped to provide the highest quality service . . . at the lowest possible cost," the letter said. Among other reasons were the operators' contention that they had demonstrated "a consumer sensitivity not to be found in your average bus or cab driver," and that services for the handicapped in other cities had "proven to be highly expensive and poorly run."

"These commercial firms have access to the legislative liaison talents of the Minnesota Ambulance Association which has proven itself to be an effective and successful force before the Minnesota Legislature and the Health Department," the letter added. "As such, the full resources of the Minnesota Legislature and the Health Department," the letter added. "As such, the full resources of the Minnesota Association will become available to the handicapped to help ensure continuation of funding for the Metro-Handicapped Bus Service."

Ambulance operators say they did not get the opportunity to run the system because their cost estimate was not sufficiently different from that projected by the MTC.

However, some members of the Metropolitan Transit Committee for the Disabled, the advisory group to the MTC, point out that the MTC could get government financing to purchase the buses if it were going to run the program for at least a year, while that financing was not available to private operators. On the other hand, after the year passed the city could supposedly turn over the equipment to private operators if it decided to let them run the service.

The operators are still hopeful of taking over PM.

"I'm not saying it won't happen yet," Jackson said. "It's still in the trial period and those decisions haven't been made. We still may have the opportunity to manage or take charge of this project—I hope so."

The MTC is now involved in discussions with ambulance operators that could lead to contracting out part of a projected expansion in its Project Mobility service.

The Nov. 17 recommendation by Applied Resources Integration Ltd., a Boston consulting firm that has been studying PM, could not have been too surprising to Jackson and the other ambulance operators.

One of the recommendations was to "subcontract with other private providers who have lift-equipped vehicles—nonemergency ambulances or (wheelchair carriers) for selected wheelchair trips . . ."

IN TUCSON, DRIVERS GO OUT OF THEIR WAY TO GIVE EXTRA SERVICE

TUCSON, ARIZ.—Anthony Modica, a bus driver for Tucson's transit system for the disabled, prides himself on his services.

He maneuvers his vehicle into private driveways. He helps people up and down steps—inside or outside—if necessary. Sometimes he reminds a forgetful elderly person to take a wrap or to turn on an air conditioner. Occasionally, he even carries groceries or zips up a dress.

Modica has a special reason for being sensitive to the handicapped: He has a 15-year-old son with muscular dystrophy. But the services he provides are typical of those rendered by all the drivers in Tucson's program because local transit officials insist that it be service-oriented.

Modica says he can't imagine offering transportation to the disabled that begins and ends at the curb most of the time. "I can't see that at all," he said in an interview. "We're dealing with service."

Informed that Minneapolis has such a system—called "curb-to-curb" service—and that drivers for Minneapolis' Project Mobility have orders to pick up and unload at the curb and to go no further than opening one and only one outside door for someone, Modica said:

"If we did that we would probably lose about a third of our passengers."

The helpfulness that Modica takes for granted can be provided in the Twin Cities only by ambulance companies, although transit authorities are aware that programs run by public agencies in other cities offer a wide range of assistance as a matter of course.

"I saw drivers opening doors for people in Denver," Sam Jacobs, operations manager for Project Mobility, said in an interview in the Twin Cities.

And in Tucson, when Anthony Modica recently picked up Maida Allred, 68, he demonstrated a wide variety of services that are denied Minneapolis residents who use Project Mobility. Allred, severely crippled with arthritis, needs assistance to enter and leave her home, as well as her destination.

"I go to the pool (at the county medical center) for physical therapy," she said. "I couldn't go otherwise (except with the city's transit)."

Allred said her finances, limited to Social Security, would not cover her ride in Handi-Car, Tucson's only private taxi company for the disabled. And Arizona is the only state that does not have Medicaid, the federal-state welfare program that includes payments for medical transportation.

Although Allred can't afford it, the Tucson taxi is much cheaper than medical transportation companies such as Midwest Med-Kab, Inc., in the Twin Cities.

For nonmedical transportation, Handi-Car charges $2.50 each way and 50 cents per mile. For trips to medical facilities, Handi-Car charges a $5 base and 50 cents per mile. (Officials at Handi-Car say they charge more for medical transportation because more time is involved; for example, like Med-Kab, Handi-Car personnel will go into a nursing home and help a patient dress.)

Thus, Allred's 18-mile round trip to the medical facility would have cost her $19 by Handi-Car in Tucson; the same trip in Minneapolis in the same type of vehicle would have cost her at least $63 round trip with Med-Kab ($18 each way and $1.50 per mile) and $22 with the Twin Cities' least expensive nonemergency ambulance company, Handicab.

Allred's Tucson trip was free to her through the city's transit program for the disabled; it cost the city of Tucson $3.08 each way, $6.16 round trip.

Had she taken the same ride with Project Mobility in Minneapolis, it would have cost her 70 cents and the taxpayers an additional $21. (The differences in public costs will be discussed in a subsequent article.)

When Allred reached the hospital, Modica took her inside the building and saw that she had no problems registering at the desk.

Sometimes, Modica says, passengers can't make trips to the grocery store often, so they'll buy four or five sacks of groceries. "They'll take one (if they're able) and I'll handle two at a time," he says. That's another service that's off-limits in Minneapolis.

Modica says he knows where to draw the line.

"A woman will say, 'Zip up my dress,'" he says. "I have a boy that's handicapped; he does everything (he can) for himself. If somebody's looking for sympathy I know where to draw the line—I live with it every day. Sometimes we smother (the handicapped) by doing for them—there's a fine line. I always ask, 'Can you manage?'"

"You can't beat the city's providing transportation," he says. "People don't realize the handicapped need transportation."

Sometimes Modica drives his passengers to social events such as pot-luck suppers.

"They . . . cook (and take) their own dishes. Eight different (people), eight different dishes and eight different scents. It's a happy kind of thing."

MANY HANDICAPPED LOST WHEN TUCSON SETTLED LAWSUIT

(By Cammy Wilson)

TUCSON, ARIZ.—A former seaman had to give up a prized possession to get a ride with Tucson's public transit project for the disabled.

Larry Wren, the program's director, described how the man arrived at the city's transit headquarters in a wheelchair: "He rolled himself down the street . . . He frequents a lot of bars and he has all kinds of things hanging off his wheelchair—a little ashtray, his wooden matches, a radio."

The former seaman also was armed. "He carries a gun everywhere he goes," Wren said. "His gun lies in his lap in a holster." To get the man to give up the gun when he rides the bus, Wren said, "I had to talk to him a long time."

The former seaman wasn't the only one to give up something during the early days of Tucson's transit project for the disabled.

In settling a lawsuit brought by a private taxi service, Tucson public officials gave up a lot of the rights of the handicapped to use the public transit service.

In an out-of-court settlement, agreed to in a private meeting of the city council, the city consented to carry only these disabled passengers financially unable to ride with the private tax company, Handi-Car. Those excluded from the public service are:

Anyone who could pay Handi-Car for his or her own transportation, defined as anyone whose income exceeds $2,970 per year. Wren said the figure includes no provisions for deductible items, which makes it lower than other poverty guidelines used by many welfare departments.

Anyone whose bill might be paid by a private insurance company, Medicare, Medicaid (currently not in effect in Arizona) or any other government program in effect now or in the future.

Anyone riding to city social projects or programs if Handi-Car could be paid by any public agency.

In addition, the city agreed to refrain from contracting directly or indirectly with Pima County to transport the handicapped; to notify Handi-Car at least 30 days before starting to transport a disabled person to a city program; and to show its records to Handi-Car whenever company personnel wish to go through them.

The result is that the Tucson special needs program carries mostly people who would be eligible to receive Medicaid benefits in other states. Since Arizona currently is the only state that does not participate in Medicaid, the private taxi company cannot be reimbursed by Medicaid for carrying passengers.

Should Arizona decide to participate in Medicaid, the city under its own agreement, would relinguish the right to carry most of the disabled people it currently transports. As it is now, says Wren, the program for the handicapped is serving "probably one out of ten people who could be (riding)."

In its suit, Handi-Car claimed the city had "infringed on the market," said Allen M. Cook, administrator of the public transportation division.

Tucson's Mayor Lewis Murphy could not be reached for comment. However, his executive assistant. Bill Kimmey, said he could not recall the suit's having been discussed in open meetings with the mayor and city council.

"It might have been mentioned in passing," Kimmey said. The suit never became a public issue in Tucson, Kimmey said, because "it was not given that much attention."

Cook said he thought the attorney and the transit staff were "instructed in an executive session."

"The city attorney can ask them (the council) to close their doors and discuss it (an issue) there," he said. "That's a routine way of doing business in Tucson."

"The settlement (was) pretty much on Handi-Car's terms," conceded Dwight Eller, the assistant city attorney who handled the case for the city of Tucson. He said he thought the city "stood to lose the right to carry anybody" if it lost the case in court.

"The city was not interested so much in providing (transportation) to handicapped people who could afford to pay Handi-Car," he said.

What did the city gain by settling out of court?

"I don't know," Eller said.

As to whether the mayor and city council or the city attorney's office was responsible for the decision to settle, Eller said, "Our office recommended they settle and they acted and approved."

Did they depend heavily on the city attorney's office for advice?

"That's usually what clients do with lawyers," he replied.

The decision to settle the suit in March 1975 drew no local publicity, transit staffers said, because no one knew about it. After the settlement was approved by the court, a local newspaper did carry a notice of the decision.

Despite the court settlement, Handi-Car would like to displace the public transit agency as operator of the service for the disabled.

Handi-Car has submitted a proposal to take over the city-run project at a cost to Tucson of $599,000 a year, Wren said. The city currently operates on a $607,000-per-year budget, he said. In addition, DAVE Systems, Inc., a California consulting firm that operates transportation systems around the country, submitted a $632,000 proposal. A final decision has not been made.

The figures suggest that the program might be run more cheaply by Handi-Car, which is operated by nonunion labor out of a rundown house off a busy Tucson street.

But, Wren pointed out, from last June 1 to Sept. 30, Handi-Car provided 7,784 trips for an average cost of $6.63 through locally administered federal funds, while the city's

average cost per trip is $3.08 for more than 190,000 passengers per year.

Just in case the city errs and transports a potential Handi-Car passenger, the city agreed in the settlement that Handi-Car can examine city books.

"He can look at our books to see if we're hauling anyone he can get paid for," Wren said. "He can look through the client register and look at names to see who we're hauling."

Can any Tucson citizen see the books?

"We don't show them to anybody but him," Wren said.

CALL-A-BUS IN SYRACUSE PROVIDES HELP FOR DISABLED WHO CAN HELP THEMSELVES

SYRACUSE, N.Y.—Call-A-Bus, Syracuse's public transit service for the disabled, helps those who can help themselves.

A passenger who can walk, for instance, is eligible for assistance to or from city vehicles. However, passengers confined to wheelchairs must make their way to and from the street on their own. In addition, a passenger whose ride must be paid by Medicaid must use a more expensive private carrier instead of Call-A-Bus.

"For an elderly person that can walk, the driver will get out of the bus and the driver is allowed to go to the porch and give her (or him) his arm and walk her to the bus," said John Przepiora, program assistant for Central New York Regional Transit Authority (CNYRTA), which runs Call-A-Bus. And, he says, the driver "might carry a bag of groceries."

However, passengers most apt to need assistance—those in wheelchairs—must do for themselves or pay someone else to help them.

"For a wheelchair user, we will not go in and bring them down to the street or help them up the stairs," Przepiora said, "If the person is in a wheelchair the person is supposed to be waiting at the curb for the bus or be able to get himself from the house to the curb because our drivers are not supposed to do those things."

A Call-A-Bus driver is not to open a door for a wheelchair rider—another service that may be readily provided to someone who can walk.

"Due to the low cost of our service (50 cents each way), people can spend $1 or $2 to get a neighbor or friend (to help them)," said Charles J. Williams, Call-A-Bus manager.

Why the double standard in services?

"Our purpose is not to compete with free enterprise," said Warren Frank, CNYRTA director.

"The CNYRTA did not wish to initiate a program that utilized public funds to unfairly compete with a viable private enterprise," says an extensive 1977 Urban Mass Transportation Administration (UMTA) report on Call-A-Bus, partly written by Przepiora.

"Therefore, CNYRTA met with representatives of the private wheelchair taxi companies prior to the start of the wheelchair service in order to reach an agreement that would allow both services to operate in harmony . . . During these discussions, CNYRTA agreed to the following restrictions on Call-A-Bus wheelchair service:

"Call-A-Bus wheelchair service would be confined to curb service only;

"Call-A-Bus drivers would be allowed to assist passengers boarding and disembarking between the bus and the curb;

"Drivers would not be permitted to take (wheelchair) passengers to and from the door of their home or destination; and

"Call-A-Bus would not take wheelchair passengers on medical trips which could be reimbursed under Medicaid or other public assistance programs."

"We don't accept Medicaid reimbursement right now," Przepiora said in an interview. "That goes to private operators. We'll carry someone on Medicaid if they will pay 50 cents themselves but we won't accept a third-party reimbursement for Medicaid."

Thus, when a Medicaid recipient goes to go to the doctor, taxpayers are apt to pay a $24-$30 bill for a round-trip ride. Had the individual taken Call-A-Bus, the cost would be $6.20 to the taxpayers ($3.10 per passenger subsidy each way) and $1 for the fare.

Call-A-Bus riders themselves pay 15 cents more to ride than able-bodied residents pay for regular bus rides, "to encourage people who could use the fixed route system to do so," the UMTA report said, although Call-A-Bus, was set up for people who can't use the regular buses.

Yet Call-A-Bus riders, by definition the elderly and the disabled who need a bus to stop on call at their front doors are far less able to afford expensive private transportation than regular bus riders. According to the UMTA report on Call-A-Bus, "The mean monthly income of a Call-A-Bus user was estimated to be $284 per month."

Przepiora conceded that Call-A-Bus policies are apt to eliminate many potential riders.

"I would say so," he said. "There are a lot of people who can't get out of their houses."

"That's what (private carriers) do and what they charge to do—special services to get the person out of the house," he said. "If we started doing that on a large scale they would, I'm sure, scream.

"I think we'd like to help those people get out of the house," he added. "But right now we can't."

LACK OF PUBLIC CONSENSUS HURTS TRANSIT FOR DISABLED

(By Cammy Wilson)

When Gary TeGrootenhuis of Minneapolis was a college sophomore he made three wishes. He wanted to get out of going to college, own a vehicle with four speeds and have a couple of thousand dollars in the bank.

"Slowly but surely all the wishes came true," said TeGrootenhuis, 29, who broke his neck in an automobile accident nine years ago.

"Because of my injuries I was instantly out of college," he said in an interview. As a result of a fund-raising event in his hometown, Baldwin, Wis., he acquired a couple of thousand dollars and soon afterward he was the owner of an electric wheelchair—with four speeds.

Before he was injured, TeGrootenhuis said, he'd never thought about being handicapped.

"I kept telling myself I was not one of 'those' people," said TeGrootenhuis. He said he thought of a handicap as always something you were unlucky enough to be born with.

But, like millions of other Americans, he discovered that a handicap could result from what began as an uneventful auto trip, a dive into a swimming pool or a trip down the basement stairs.

"We are people like anybody else, and our numbers probably would astound you," Steve Wrbanich, president of the Twin Cities chapter of the National Paralysis Foundation, told a paratransit conference in Minneapolis last May.

"There are more than 20 million handicapped people in this country," he told the group. "Statistics tell us that one out of 10 of you will become handicapped before the age of 60. . . . We are not exclusive: Any one of you could join our ranks tomorrow."

The figures refer to anyone with a physical or mental disability that impairs routine mobility. Such a disability can be caused by a birth defect, an illness, an accident or old age.

And in interviews with handicapped people from the Twin Cities to California to New York, the consensus is that transportation is the No. 1 problem they face.

Today the handicapped often have access to schooling—including college or technical training. In some areas accessible housing is being built for them. More and more public buildings are being made accessible. Employers are learning, albeit sometimes slowly, that the handicapped often can equal or excel the able-bodied as employees. But because of a lack of available or affordable transportation, the handicapped often remain stranded in their homes, unable to take advantage of opportunities.

Stephen Jones, who runs probably the second largest medical transportation company in the country, Medi-Cab, Inc., of New York, tells the story of a young man who spent years as a hospital in-patient—at taxpayers' expense. He was rehabilitated and educated at taxpayers' expense. Then upon graduation the young man was offered a job as a hospital social worker.

"He had to turn it down because he couldn't get out of his house," Jones said. "That's the problem of the handicapped."

Transportation is not only a problem for the handicapped in New York. It persists throughout the country. It persists despite the expenditure of millions of dollars in public funds and despite attempts of private and public transit companies.

It persists in the Twin Cities area despite the spending by governmental and charitable agencies estimated at $30 million per year by the Metropolitan Transit Commission (MTC). The funds are paid in piecemeal fashion to a wide variety of transportation providers: private "nonemergency ambulance" companies that primarily provide only transportation to medical facilities—and at rates beyond what most individuals can pay; nonprofit organizations that sometimes operate one or two vehicles for their members; and Project Mobility, the MTC's demonstration program for the disabled, which operates only in an 8-square-mile area.

Still, many of the handicapped in the Twin Cities area remain stranded in rooms and nursing homes and high-rise apartments.

Interviews with the handicapped, public officials and operators of transportation services around the country suggest several reasons for the situation as it exists today.

First, there has been no public consensus on who needs special transportation, how it should be provided and who should pay for it.

Secondly, public transit efforts have not always been successful in serving the handicapped. One factor may be that transit agencies sometimes are pushed into such service unwillingly, by court action. And public transit personnel sometimes are perceived as slow to adopt special methods of transportation needed by the disabled.

Finally, private companies have stepped in when it is profitable to transport the handicapped—generally to medical facilities, for which the government will pay. And the availability of government funds, coupled with the lack of control over those funds, has driven fares up. But because the same fares are charged for nonmedical trips (which the government does not pay for) such trips are often too costly for the handicapped.

Consensus on needs. Areas that have gone farthest to accommodate the handicapped have generally done so by adopting a transportation plan that coordinates the needs of the handicapped, the elderly, the agencies that serve them and the available methods of transit in the area.

In Tucson, Ariz., the special-needs program for the disabled has vans outfitted with seats for the elderly who cannot use regular buses and who call for special rides. It also has vans equipped with lifts and tie-downs for wheelchair riders.

St. Cloud, Minn., has instituted a program that operates special vehicles for wheelchair

passengers; the disabled who can use taxis can obtain special cards allowing them to ride for a minimum of 25 cents. The public picks up a maximum of $2.20 for a one-way trip.

Public transit. In the last few years, transit commissions around the country have begun to address the problem of service to the handicapped, either as a result of court suits or a result of federal mandates to offer such service.

However, the programs initiated by local transit authorities often are more reflective of the service they offer to the general public than of the needs of the handicapped. They often use buses when vans might suffice; they sometimes insist on fixed routes rather than picking up people at their homes or destinations; and finally, they often offer curb-to-curb service, though some of the disabled must have assistance into and out of their destinations.

Jones of Medi-Cab, Inc., of New York says he is disgusted with the approaches public transit companies have taken.

"The city's intent is just to run this like the regular bus system—run up and down Lexington Av., Park Av.," Jones said. "The question is how the hell does that user in a wheelchair get on the corner of Lexington and 54th. I asked them and they had no answer.

"The city of New York was granted $4 million to buy buses that would provide transportation to the handicapped and the elderly," Jones said. "The city is buying forty-thousand-dollar Mercedes-Benz buses that are not going to do the job. They will pump $4 million into the city for a program that I can promise you will not be efficient . . ."

Private profit-making companies around the country seem to uniformly use vans, which can be outfitted for approximately $10,000 apiece, often get better gas mileage and have better maneuverability than buses.

"Maybe it's brainwashing," Jones said. "You've only seen buses and that's what you buy. The van has the space, the headroom—of what's available it's certainly the best. The van is $9,000; the bus is $45,000."

"I think a van seems more like a truck," said John Przepiora, a program assistant for Central New York Regional Transit Authority (CNYRTA), which operates Call-A-Bus for the elderly and handicapped in Syracuse, N.Y.

"We're a mass transit program and the way you package your product is important," Przepiora said. "One concept of marketing is the way it looks. If I were packaging Dial soap I'd put a nice wrapper around it . . . You may be able to sell mass transit better to the public if you package it nicely . . . You have a van and you have a nice-looking bus. If you could park a van and a small bus side by side, I'm guessing most people would (choose) the small bus."

Transit operators who use buses say they last longer (perhaps up to 500,000 miles vs. 100,000 to 200,000 miles for vans)—though the purchase price may be as much as four or five times more than that of a van. And federal funds often will pay up to 80 percent of the vehicles' purchase price, thus presumably lessening the incentive to save taxpayers' money.

However, when a transit authority must pay out some of its own money, more attention seems to be given to cost. For instance, Przepiora said the transit operation pays 50 percent of the operating expenses for either the buses or the vans; and since vans may require more maintenance, they will lose out again to buses.

In Minneapolis, riders using MTC's Project Mobility must get themselves to and from the curb (in some cases drivers will help to and from the door but will do no more than open one outside door).

Why?

"We designed it so it would be curb-to-curb," said Robert Shiff, the MTC's director of operations. "The other aspect is we (would be) cutting into a fairly lucrative business," that of the nonemergency ambulance companies whose drivers routinely help their passengers.

On a per-passenger basis, Project Mobility is one of the most expensive publicly run systems in the country, if not the most expensive. Its per-passenger subsidy is approximately $10.50, vs. $3.08 for the public transit project for the handicapped in Tucson and $3.10 in Syracuse.

There are several reasons for the difference in the cost to Minnesota taxpayers, but a primary reason is the lack of contracting with city and county agencies, according to Applied Resource Integration, Ltd., a Boston consulting firm that recently completed a study of Project Mobility.

In Tucson, for instance, the city's operation works closely with agencies, transporting thousands of elderly and/or disabled residents to agency programs. In Minneapolis there is no such coordination. Instead, PM operates strictly as a dial-a-ride operation—with a two-hour call-ahead required—and community agencies must contract with ambulance companies or somehow provide their own transportation to members.

A second reason, the consultant said, is that the Twin Cities have no program—like that in St. Cloud—that subsidizes taxi rides for the elderly and the disabled who cannot use buses.

The MTC recently requested an additional $2.4 million from the Minnesota Legislature to expand Project Mobility by 1979 to St. Paul and certain western suburbs. The MTC also is considering contracting with the nonemergency ambulance companies and taxicabs for some services.

However, Project Mobility has suffered from a lack of full-time personnel assigned to plan and administer the project. Until he left the position last fall, Don Hubert—as MTC director of special projects (which included Project Mobility)—was the only Project Mobility administrator/planner other than Sam Jacobs, who ran the day-to-day operation, officials say. And Hubert had numerous duties besides seeing to Project Mobility; he represented the MTC to various federal agencies, he coordinated at least three private transit operations in surburbs and he administered other special projects for the MTC. Robert Shiff, director of operations for the MTC, has recently appointed two people to the special projects staff, and their duties are varied, as well, Shiff said.

Private operators. Before Medicaid and Midicare began to pour million of federal dollars into medical transportation, operators who transported the disabled generally were licensed as special taxi firms; as such, their rates were regulated by municipalities.

In the Twin Cities such companies are now licensed as "nonemergency ambulances" and charge unregualted "medical" rates for their services. With fares as high as $51 for a 10-mile round trip, the disabled are often stranded except when the government will pick up the tab, and that means going to a medical facility.

Private operators around the country likewise have been able to severely curtail public transit to the disabled through their influence in the way public programs are set up.

In Minneapolis, for instance, private ambulance operators prevailed upon the MTC to prevent Project Mobility drivers from assisting people into and out of buildings. In Tucson, however, the private operators didn't mind assistance, so the city provides it. Handi-Car, the private operator there, did mind the city's carrying any passengers who could afford the private service; and the city agreed to carry only passengers who could neither pay for their r.des nor have a government agency, charity or health plan pay for them. Arizona is the only state that doesn't have Medicaid, so, in effect, the city carries people who would be eligible for Medicaid elsewhere.

In Syracuse, however, where citizens have Medicaid, the private operators prevailed upon the city transit operation to set up a system that's virtually the reverse of Tucson's: in Syracuse the city refuses to carry people whose rides can be paid for by Medicaid.

That business goes to the private operators, officials said.

In the Twin Cities, companies such as Midwest Med-Kab, Inc., hold numerous contracts—usually for public money—with hospitals, nursing homes, the Veterans Administration and other institutions. In addition, the MTC now is proposing to contract with private companies such as Midwest for transporting Twin Cities residents eligible for Project Mobility. Thus far, the private operators have claimed that the average trip costs them $8.35 per month, a figure that has been accepted on faith, transit officials say.

Yet some companies charge as much as $51 for a 10-mile round trip, with fares soaring to $80 to $100 for weekend or night trips across the Twin Cities. Some statements by ambulance operators seem to indicate they think their own rates are out of hand.

"People aren't always going to stand still for the high prices of things," John Jackson, chairman of the board for Midwest Med-Kab, said in a recent interview—and on March 1 he dropped his rates slightly—from $19.75 per base trip to $18, and from $1.65 per mile to $1.50 per mile; extra charges, such as $10 for nights, holidays and weekends, remain the same.

William Olsen, one of the owners of Medibus Helpmobile in Minneapolis, said he's long been afraid that "some day this was going to come down on us."

In St. Cloud, where the city has implemented a combined system of specially equipped vehicles and subsidized taxis for transporting the handicapped, one resident says the lack of private operators eased the undertaking.

"We don't have private operators handling (transportation)," said Dean Spratt, program director for WWJO Radio in St. Cloud. "As a result there was no one to yell and scream."

Spratt, who is blind, uses the subsidized taxi service to get to work.

Mobility, particularly to the handicapped, represents subtler needs than merely trips to work or to school.

Leah LaBar, a Minneapolis resident confined to a wheelchair, perhaps expresses that desire best of all.

"The reason transportation is so important," LaBar says, "is so people will see we're not so different."

Center Helps Handicapped Gain Independent Life

Berkeley, Calif.—The Center for Independent Living (CIL) has a message: The handicapped can live independently. They can attend school. They can hold jobs. They can reside in houses and apartments with their loved ones.

But to do so they often need special help.

"People have moved to Berkeley from all over the country because of CIL," said director Phil Draper. "But people shouldn't have to pull up their roots just because they want to live independently. Their communities could and should (provide) so they can stay and live independently."

Begun in 1972 by a handful of handicapped students at the University of California, CIL is run by a staff of 80, most of whom are either blind or have some other disability. It operates on approximately a $1-million-a-year budget with funds provided through government and foundation grants.

Having discovered—through personal experience—that many of the services needed by the disabled were nonexistent, the stu-

dents who founded CIL decided to develop their own programs.

Now, from a complex of buildings in downtown Berkeley, CIL provides:

A dial-a-ride transportation service to the aged and disabled of Berkeley, Albany, Emeryville and Oakland, Calif. Vehicles are equipped with radios and wheelchair lifts.

A wheelchair repair service—probably the largest in northern California—with while-you-wait service. In addition, the service operates a "road-call" wheelchair service; a specially outfitted van can be called for on-the-spot wheelchair emergencies.

A free attendant-care referral service. California will pay up to $548 per month for attendants to aid the disabled who wish to live independently. National companies often charge $7 to $8 per hour for attendants they hire and send to assist the disabled. CIL decided to offer a free service to match disabled employers and attendants looking for jobs.

A housing department that keeps listings of houses and apartments that are accessible to the handicapped. The department also is available for consultation on housing modifications.

A wide variety of counseling services, among them advocacy counselors to provide information or assistance to clients making their way through government financial and medical assistance programs; job development counselors; independent living counseling to suggest aids, equipment and techniques to ease daily tasks; health maintenance counselors; and peer counselors who advise from the standpoint of someone who also has lived with a disability.

Tanya Temporal, who is 22 and uses a wheelchair because of rheumatoid arthritis, is a CIL counselor. She says a primary reason CIL is effective for the disabled is that it isn't trying to make a profit. "People do things for profit and what's best for people isn't always profitable," she said in an interview at the CIL headquarters.

She pointed out that giving the disabled access to public transit is indeed expensive but that keeping people immobilized—and on public assistance—is very costly.

"It's the same way with institutions," she said. "They try to get people into institutions, but in the long term it would help to get us out and to get our own apartments and jobs."

The alternative, she points out, is "society's having to continually feed money into convalescent and nursing homes."

Nearby, Bill Hansen, a wheelchair mechanic, busily fits lights on the rear of Loretta Richmond's wheelchair. A 28-year-old student, Richmond said she does "a lot of night driving" to and from her college classes; sometimes she has to "drive" her wheelchair on the street, either because sidewalks are nonexistent or they lack curb ramps at intersections.

Despite the handicaps of its staff and its clients, the CIL complex hums with movement. Electric wheelchairs whir past each other in the hallways, CIL dispatchers route their vehicles up and down the Berkeley hills, job seekers line up in the waiting rooms. And CIL's message—that the handicapped can live independently—is making its way into the community.

Perpich Signs Bill Tightening Ambulance Rules

On March 23, Gov. Rudy Perpich signed legislation that establishes maximum rates and tightens rules for the use of ambulances.

The law directs the Department of Public Welfare to set maximum payments that it will make for emergency and nonemergency ambulance trips.

It also prohibits Medicaid recipients who can walk from using ambulances for nonemergency trips, but allows Medicaid to pay for bus or taxi trips to medical facilities for people who can walk.

Dave Giel, a Senate research staff member, said earlier that the legislation developed after Perpich read the series of Tribune articles and instructed Giel to meet with two officials and draft a bill. Giel had sessions with Bradley Stoneking, director of invoice processing (bill paying) for Medicaid, and Robert Baird, assistant welfare commissioner, who is in charge of Medicaid.

Stoneking said he was pleased with the measure that resulted from the meetings with Giel.

"The intention is two-fold, said Stoneking. "To get these people who could go by other means out of (nonemergency ambulances) and into buses or taxis and to issue emergency rules establishing maximum reimbursement rates."

A special legislative committee will investigate ambulance licensing procedures in Minnesota later this year, the chairman of a House health care subcommittee has announced.

Rep. Lyndon Carlson, DFL-Brooklyn Center, said the committee probably will consist of members who served on a joint House-Senate committee that studied health care costs during the last legislative interim.

"There's been a lot of questions raised about ambulance licensure," Carlson said. "One of the questions we'll be looking at is what the state of Minnesota can do to help control the cost of ambulance service."

Carlson is chairman of the Health Care subcommi'tee of the House Health and Welfare Committee.

His comments came during subcommittee consideration of a bill to allow a Duluth ambulance service to continue operation for 22 months after its license expires this summer.

Despite early setbacks, the measure was passed by the Legislature on March 23. It extends the services operation through 1979—if the city councils of Duluth and nearby Hermantown approve.

The firm, Med-A-Van, was seeking to continue competing with Gold Cross Ambulance Service, which also operates in Duluth.

Med-A-Van was strongly supported by senior citizens in the Duluth area because it charges lower rates. However, the state had decided last year that there wasn't a need for two ambulance services in Duluth and had told Med-A-Van that it could not continue operating after July 1, 1978.●

RESEARCH UTILIZATION AND GOVERNMENT PATENT POLICY

● Mr. NELSON. Mr. President, the road to research utilization is strewn with hazards, ranging from lack of market definition and lack of capital to poor management and—some would say—Government patent policy.

In its study of Government patent policy, the Monopoly and Anticompetitive Activities Subcommittee of the Select Committee on Small Business has noted a number of proposed explanations of how research utilization proceeds.

Some try to account for how it proceeded in the past. Others try to predict or guide how it will proceed in the future.

The problem with the former is including enough examples in sufficient detail to permit drawing a valid generalization. And the problem with the latter is the tendency to assign or assume an expanding Federal Government role.

Those who argue for or take for granted an expanding Federal Government role tend to favor a Government patent policy that gives contractors the commercial rights to inventions resulting from Government-sponsored research and development.

Mr. President, the March/April 1978 issue of Technology Review, published by the Massachusetts Institute of Technology, contains informative articles on research utilization and what can go wrong with it.

They identify a number of hazards to research utilization, based in part on a study of 200 innovations that passed initial screenings but failed after entering the commercialization pipeline.

The authors of "Strategies for Improving Research Utilization," Edward B. Roberts of M.I.T. and Alan L. Frohman of Boston University, include a sidebar on how Federal agencies approach research utilization.

The second major article, "Why Innovations Fail," by Sumner Myers and Eldon E. Sweezy of the Institute of Public Administration, probes the high rate of failure for industrial invocations.

Mr. President, I ask that this material be printed in the RECORD.

The material follows:

Strategies for Improving Research Utilization

(By Edward B. Roberts, M.I.T., and Alan L. Frohman, Boston University)

Technological innovation is implemented and adopted through a series of phases. Someone first has an idea; if it's good, the idea goes through a technical problem-solving stage before advancing to design and development. Finally if it fills a significant social need, the new product is utilized and diffused throughout the market.

Efforts to increase the number of research projects that result in successful new products—what we shall call "research utilization"—usually begin by examining the results of technical problems-solving, product development, or even production engineering to find the impediments to research utilization. A better approach is to alter the earlier stages of the entire innovation process in order to achieve new products or processes that are more likely to be used.

A new perspective for research-based innovators

Shifts in many facets of the industrial research organization over the last ten years—size, structure, charter, manpower mix, and type of leader—have resulted from the need to make better use of laboratory research results. The scope of the changes now encompasses technical and nontechnical problems and issues, and places still larger demands upon the technical staff. We shall discuss these changes in terms of objectives, activities, and staffing.

Shift in objectives.—Ten years ago, a central research organization's goals were "solving technical problems," "pushing ahead the frontiers of science," and "contributing to corporate goals through the generation of new ideas leading to novel technology." The prevalent assumption at the time was that generating "good science" would lead to new technology that could be marketed to some eternally grateful customer. So central research labs were a haven for scientists and engineers oriented toward scientific or technical accomplishment. Labs engaged in few research utilization activities, and when they did, these were limited to publications, symposia, speeches, and the like—scientifically acceptable activities suited to scientific audiences. The interplay between non-technical units of the company and central research was limited.

With increasing emphasis on the relevance of research in the late 1960s, the industrial lab's objectives shifted from furthering scientific goals to satisfying market needs. Labs

lost kinship with academic departments in attempting to mimic embryonic technical, market-oriented businesses. The ivy was swept from the walls and replaced by large panoramic windows through which the researchers could see and be seen. Although some significant basic research and development is still carried out, the emphasis on this is far less now than in the past. The goals of a research organization became those of "developing new products" and "starting new businesses."

Shift in activities.—With the shift in objectives came a new set of activities. When scientific research and problem-solving dominated, management techniques (formalized plans and goals, control systems) and marketing issues (market research, competitive pressures) were considered irrelevant. Each scientist was a potential creative genius who would only be hampered by the ties of an organization's practices and politics. But, in the quest for relevance these sibboleths were vanquished too.

New environmental pressures (new regulations, changing raw material supplies, etc.) and new market needs required planning by research managers. A few major research labs now have gone so far as to hire market research firms to examine potential new products. Research labs started to test the limits of their charters. Some brought product prototypes into the marketplace in order to acquire enough data to convince management of a new product's merit. More and more often, economic, market, and other non-technical analyses were necessary to check the viability of a new product or process. Sometimes these tests were carried out at an early stage of development, before a potential new product received the internal support of the research managers. Researchers' roles also shifted; they became the "salespeople of technology." The myth that technology sells itself on its own merits or that "new" technology is inherently "good" was exploded. Researchers wishing to see the fruits of their labors utilized had to sell the seeds.

Activities to enhance industrial research utilization also shifted from passive to active, and were made formal with special procedures and arrangements—project teams, integrators, and personnel transfers—to facilitate transfer of research outputs. Research organizations, realizing that good will and good relations do more for technology utilization than any other factor, sought to develop better "customer" relations even in the absence of a technology to push. Several organizations carried out "user seminars" on topics of interest to potential users and provided other services to promote customer good will.

Shift in the mix and balance of skills.—As demand for relevance increased, it became painfully obvious to many research managers that their teams were incomplete. The emphasis on the generation rather than the use of research had narrowed the lab's range of functions. While the creative scientists/engineers were best able to generate ideas, they were rarely the most appropriate people to argue persuasively for their ideas to top management, manage a diverse group of people, recognize the need for business, finance, and marketing involvement and enlist those groups effectively, and handle the applications-oriented period of the project. As a result research labs started hiring more engineers—in many case engineers with a strong financial or business aptitude. More and more labs hired marketing-oriented personnel to supplement the skills of their technical personnel. As a consequence, the balance of skills has shifted from idea generation to idea utilization, and the mix now includes marketing, business, and finance skills. (*See the discussion of "critical functions" in Professor Roberts' article in this series, "Generating Effective Corporate Innovation,"* Technology Review, *October/November, 1977, pp. 26–33.*)

THE FRUITS OF RELEVANCE

The increased emphasis on application rather than creation of research results is reflected in a less "academic" approach to science in industrial research organizations. Significant shifts in research activities—more emphasis on the "selling of technology," early user involvement, and new types of skills brought in to supplement the creative scientist/engineer—are consistent with these changes in emphasis. Industrial research organizations have also undertaken other new approaches to research utilization.

Three general approaches have been used by industrial research organizations to facilitate utilization. The most effective approach is person-to-person contact, while procedural and organizational link-pin approaches require interactions among personnel from the various organizations who have a stake in the outcome of the work.

Personnel approaches.—The movement of people, joint teams, and geographical positioning permits intensive person-to-person contact between the generator and user of the research. These activities are the most effective in promoting understanding, acceptance and utilization of research results. As explained by Brian Quinn and James Mueller in their classic article on the topic: "A new product is like a baby. You can't just bring it into the world and expect it to grow up and be a success. It needs a mother (enthusiasm) to love it and keep it going when things are tough. It needs a pediatrician (expert information and technical skills) to solve the problems the mother can't cope with alone. And it needs a father (authority with resources) to feed it and house it. Without any one of these the baby may still turn out all right, but its chances of survival are a lot lower."

The most difficult of the three to transfer is enthusiasm—a thoroughly person-to-person commodity. Nothing transfers enthusiasm so well as working with or watching a person who has faith, conviction, and excitement about an idea.

When a research result is to be transferred, movement of project personnel is a key factor in the project's survival through the tortuous journey toward manufacturing or the market. Those who worked with the project in the past are best able to assist in the adaptation of research results to specific "customer" needs.

Some industrial research organizations bring into the research lab some project personnel from the receiving unit and later transfer them with some of their own personnel into manufacturing. Personnel from the receiving unit (or units) have special sensitivities to the marketplace, technology, corporate directions, and so forth. And they possess skills in marketing, finance, business, manufacturing, and the like that are critical for answers to the technical and non-technical questions that management decisionmakers who allocate resources must ask. The key questions of economic viability (competition, cost of materials, return on investment), market scope (size, segmentation, location), legal issues, and so on can be answered by teams composed of people with this kind of mix of skills and sensitivities, regardless of the source of the personnel.

Geographic proximity also contributes to the probability of successful technology transfer. Communication decreases markedly with increasing distance, and with decreased communication comes diminished understanding, diminished trust, and greater resistance to the thrusts of the "outside" organization. Hence industrial research organizations have found that co-location with the receiving unit, either by the housing of personnel under one roof or the total movement of the laboratory into closer proximity, facilitates the development of a relationship and aids utilization of their research results.

Procedural approaches.—Procedural bridges are exemplified by joint planning, joint funding, and joint appraisal of research. These strategies are less popular now in industrial research organizations because all too often they merely raise differences without providing adequate mechanisms for their resolution.

Joint funding alone has been found to be of little value. Industrial experience indicates that sharing costs creates expectations that are difficult to fulfill. The resulting disappointment leaves no one satisfied. Joint planning requires an intensive follow-up effort. Without the commitment and resources to maintain close contact throughout the project, joint planning does not contribute measurably to successful utilization.

Open, frequent, and regular joint appraisals by all the parties who feel they have a stake in the research (those without a real stake excluded) can be useful when coupled with regular project-related interactions by the project personnel.

One industrial research lab that was having difficulty transferring its research output to the product lines found this approach successful. The projects involved research, engineering, and the product-line divisions. A joint project team was composed of working-level members from each of the three divisions. A product-line team member, whose division would ultimately carry the project through, was made project manager. He reported to a coordinating board on which sat one member of each division, who stood at a level just under division manager. In other words, each division's representative had broad resource allocation and decision-making authority. The coordinating board met monthly to evaluate project progress. This bi-level joint staffing and evaluation approach has proven extremely effective in facilitating cooperation and timely decision-making.

Organizational link-pins.—These approaches are especially useful and sometimes necessary for new ideas outside of the company's existing product lines or processes. Examples include: specialized transfer groups that contain engineering, marketing, and financial skills; use of integrators who act as third-party transfer coordinators; and new venture groups who look for and nurture new ideas. The groups operate to smooth the process through which a fragile new idea is tuned into an applied product or process. They become the "nuturing" organizations for the new idea after technical feasibility has been established. They become the father, mother, and pediatrician for the idea until it can battle for its own life.

Organizational link-pins are successful if the idea generators see them as means to promote research utilization, not as an additional obstacle the idea must get around. To promote research exploitation effectively, the members of the new ventures or integrating units need to associate with the research project at an early stage and assist in focusing and problem-solving. If they come in near the end, they will be perceived inevitably as evaluators and nay-sayers. The experience of companies which have set up organizational link-pins demonstrates that link-pins must work closely with the idea generators, as a resource to them, from the start.

Several studies have provided persuasive evidence that market needs, rather than technological opportunities, are the main source for research projects with a high probability of utilization. Sumner Myers and Donald Marquis found that 75 per cent of the innovations judged most important by the company originated in response to perceived needs in the marketplace rather than from new technical potential.

Market factors and user needs are important in determining what technical problems to work on and what a "utilizable" solution to those problems will be. This argues for clear identification of the user, his or her needs, and the user's reaction to types of technological solutions before the technological problem-solving occurs.

Three pitfalls characterize the less effective approaches to research utilization, and an equal number characterizes the more effective approaches. We review them here:

Over-reliance on change motivated by new information.—The ultimate objective of achieving research utilization is a behavioral change on the part of the potential user. A rational approach to provoking this sort of change relies on transmitting information to the people whose behavior is to change, and expecting the irrefutable logic of the argument to motivate the change. The generous funds and enormous activity behind the government's immense information storage and retrieval mechanisms can be placed on the doorstep of this essential (but we believe faulty) assumption. While these mechanisms are the prime activity of most federal agencies examined by the authors, agriculture excepted (*see above*), industry and researchers investigating the process of change have been convinced for years that strategies that rely on purely rational components are doomed to failure. New information, the research tells us, can at best create awareness. New information produces no commitment to an opportunity, no skills to exploit the opportunity, nor any conviction as to the benefits of exploiting it. All of these are necessary for eventual trial and adoption of an innovation, and the willingness to entertain change.

Responding to technological opportunities.—An innovation in response to a market need has a greater probability of utilization than one generated primarily by a technological opportunity. The general failure of applications engineering programs—particularly in federal agencies—supports this finding. Remember, the shift in objectives of industrial research organizations from technical problem-solvers to "market-need fillers" was motivated by the need to achieve better utilization of their research results.

The utilized innovations originating from "technology push" are in the minority and are characterized by market-oriented adaptation expenses far in excess of initial expectations. Some causes contributing to the poor utilization record of "technology-push" innovations are: the intended user recognizes neither the need for the innovation nor its benefits; the potential user does not understand the innovation; adapting the innovation to suit user requirements is prohibitively expensive; the technology advocate is often perceived to be taking the "I know what is good for you" attitude.

Lack of clear market definition and familiarity.—The relative success of person-to-person technology transfer is based upon a growing rapport with the user which, very importantly, provides the developer with opportunities for contact and better understanding of the user's needs.

There is seldom a pure technical decision in research and development. We emphasize the requirement for a clear understanding of the needs, perceived and real, of the target user prior to development. No matter how early in the development cycle of the innovation, each decision has possible consequences for the form, usefulness, cost, and appeal of the results in the marketplace. Accordingly, it is necessary to have sufficient information about the market soon after the initial idea is formulated.

These three points strongly suggest steps that can increase the probability of research utilization: generator-to-user contact and information sharing; research based on market need; and clear market identification and familiarity. These steps argue for changes in how a research project is executed as well as for changes in utilization strategies for companies and government agencies seeking to increase the probability of their research results being utilized.

Significant user involvement.—The major hurdle to utilization of research results is the lack of conviction on the part of the customer that adoption of something new is worth the cost of change. However, the customer who is involved in the development of the innovation will have a strong conviction about the value of the results. Industry has used personnel transfers, joint undertaking, and formal and informal contacts among groups to stimulate this involvement.

The argument that users are not sufficiently sophisticated to participate in these activities ignores two points. The prime problem to be solved is a user problem, not a technical problem: the user has the best information regarding the acceptability of the solution. Studies in many diverse fields—education, scientific instrumentation, fire services, and semiconductor equipment—have documented the significant amount of user-generated innovations.

We have been involved in several episodes where a user who has been involved in the research becomes the strongest advocate for its utilization to other potential users. Each organization, after the research project was completed, became "salesperson" for the technology. Accordingly, we feel strongly that appropriate attention to the characteristics of the organization and personnel who participate, as noted previously, and meaningful continual mechanisms for involvement of the user, can help federal agencies and industrial organizations significantly enhance their utilization records.

Responding to market needs.—"Market research," broadly defined, as an essential part of an effective research planning process. An examination for felt needs and the types of acceptable solutions (in terms of economic, technological, aesthetic and consumer values criteria) can provide the information that targets a research effort with a greater probability of producing utilized results than one without such information. Consumer involvement in the research process can help to ensure the continued relevance of the output to market needs.

Providing the appropriate mix and balance of skills.—For effective research utilization to occur, a very diverse set of activities must be carried out, usually by people with different skills and orientation. Industrial organizations have recognized the multiple skills necessary and have brought marketing and management personnel and scientists and engineers with different orientations into the research and development organization.

The absence of key people with skills to perform the necessary tasks can result in characteristic failures in the innovation process, reducing the chances for successful utilization.

Achieving effective utilization of research requires careful planning, staffing, and execution of the research effort to take into account—from the beginning—what is necessary to facilitate utilization of the results. While no practice guarantees utilization of the results, the approaches examined here increase the probability that the research output will be adopted by its target users.

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HOW FEDERAL AGENCIES APPROACH RESEARCH UTILIZATION

Federal agencies have experimented with and used numerous approaches in their attempts to enhance the commercial use of their research results. They range from passive mechanisms, such as data retrieval centers, to active strategies, and even to redefining the role of the commercial sponsorship of products. Most of the federal approaches have been ineffective in stimulating the diffusion of technological innovation.

SPREADING THE WORD

Highest in frequency and expense, yet lowest in impact, are the numerous information dissemination programs. The Department of Defense Documentation Center (D.D.C.) collects Defense Department contractor and in-house research and development reports, and publishes and distributes periodic lists of report titles. Qualified subscribers to D.D.C. services can request copies of the reports when security and proprietary interests permit. D.D.C. provides no other port of entry to its massive library of defense technology information. In a similarly passive fashion, H.E.W.'s National Library of Medicine permits computer-accessed information search and retrieval of its vast files of biological research reports. The Department of Commerce National Technical Information Service furnishes copies of unclassified and unrestricted documents produced by federal research and development projects, thereby centralizing a library of materials largely duplicated elsewhere.

A related information dissemination activity is N.A.S.A.'s distribution of S.T.A.R. reports and I.A.A. abstracts, library-oriented

aerospace research functions. Even less vigorous attempts are made by the Science Information Exchange (run under contract by the Smithsonian Institution) which limits itself to a referral, not even retrieval, function; the Small Business Administration merely passes on small business requests for data and documents to other agencies—often without success.

The Atomic Energy Commission (now part of the Department of Energy) has long disseminated its unclassified research and development results that might have industrial applicability through report distribution, manuals, technical information packets, and special purpose seminars.

The Department of Agriculture, rather than limiting itself to distributing scientific reports, has translated its research results into practical bulletins for the general public, published in magazines read by farmers and ranchers. Agriculture has also pushed its research findings through the mass media, using large numbers of radio and TV farm broadcasts as the communications vehicle.

All these federal information dissemination activities have led to little documented research utilization. This is not surprising given the repeated empirical research findings that demonstrate the ineffectiveness of written communication as a medium for technology transfer.

SHOW AND TELL

Very different in character from mere information distribution have been the efforts by some government agencies to encourage research utilization via the funding and executing of demonstration projects. The Environmental Protection Agency has financed demonstration uses of new pollution abatement and control technology, and has even provided technical assistance to early users of this technology. The Department of Housing and Urban Development has launched major efforts to finance first uses of new construction methods and materials and has even tried, albeit unsuccessfully, to demonstrate ways of creating new cities.

Of special note is the Department of Agriculture's "permanent" institutionalization of the demonstration project. U.S.D.A. has established a national network of field stations and pilot research farms that provide ongoing research trials, in the local environment and with soil and weather conditions that are shared with the local prospective research-utilizing farmer. The continuing character of such field operations provides far more convincing evidence to the hesitant research user than does a one-shot demonstration.

APPLICATIONS ENGINEERING

At least two federal agencies have realized that effective industrial diffusion of their research results requires a strong coupling activity that attempts to match available technology to the prospective user's needs. The Atomic Energy Commission had a special problem of classified nuclear information; it established professional referees at each contractor site and A.E.C. lab to evaluate reports for declassification. A formal Industrial Cooperation Program was established to provide active information dissemination through seminars, facility tours, special demonstrations, and also to provide a mechanism for technical assistance to industry in the use of nuclear technology. The A.E.C. even performed work for private industry when this facilitated the process of technology transfer.

N.A.S.A., through its Technology Utilization Program, has made a significant though nearly fruitless effort since 1962 to transfer space research results into commercial use. Going beyond its information dissemination activities described earlier, N.A.S.A. employed in-house staff and technical consulting firms to prepare "Tech Briefs" of research results that are judged to have promising innovation potential.

As a further step toward enhancing commercialization of its research output, N.A.S.A. established ten Regional Dissemination Centers to try to bring space research outcomes to bear on industrial technology requirements in different areas of the U.S. Their frustrated attempts led to cancellation of most of the centers, probably because of the mismatch between technology and user needs. Said one tactful researcher of the N.A.S.A. Technology Utilization Program, "The Technology Utilization Program appears to be providing a large number of answers to unrecognized industrial needs." But at least N.A.S.A., unlike most federal agencies, tried to bring its technology in contact with possible industrial users, with an applications engineer to attempt the coupling.

EXPERTS IN THE FIELD

The most ambitious and clearly most successful government effort at research utilization is the Cooperative Extension Service of the Department of Agriculture. The program is based upon a national network of U.S.D.A. field agents at the county level, averaging three agents per county but ranging from one up to 20 or even more in agriculturally intensive regions of the country. The county agent is, in effect, a salesperson of new technology, drawing from research results at the national level or in his local area, using U.S.D.A. field stations or pilot research farms as demonstration sites. The county agent creates awareness of new research by direct personal contact with all the farmers, is usually well qualified and locally respected, and develops personal rapport with local farmers over years of working with them. State land grant colleges are the primary backup for expertise and additional problem-solving research and development, and the farmer is not charged for these helpful U.S.D.A. services.

INCENTIVES FOR UTILIZATION

Patent incentives, direct financial stimuli, and other incentive approaches have also been used by the federal government. Profit motivations lead most industrial firms to desire, sometimes to require, patent protection before they will attempt commerical exploitation of a research result. The A.E.C. discouraged exploitation by keeping ownership on all its patented research outcomes. In contrast, the D.O.D. cedes to its industrial contractors all commercial rights to research results generated under contract. N.A.S.A. hedges on this score and reserves the right to keep patent rights, while claiming it will probably turn over exclusive patent rights to industry in most cases.

Utilization incentives in the areas of patent policy, seed financing, and other activities are now being subjected to experimental study by a relatively new program conducted by the National Bureau of Standards—the Experimental Technology Incentives Program. The E.T.I.P. looks promising in concept, but is too small to have much effect.

It is striking that all these governmental programs start to encourage utilization of research only after the research and development results have been generated. Yet the most effective industrial approaches to increased research utilization begin much earlier in the innovation process—as far back as when ideas are generated and selected for development—*E.B.R., A.L.F.*

CORPORATE GROWTH, R & D, AND THE GAP BETWEEN

A funny thing seems to happen between research and development and corporate results. While research and development expenditures correlate well with company profitability, the correlation between profitability and new product introduction—supposedly the goal of successful research and development—is far less good.

Merck and Co.'s investment in research and development in 1976 was 8.2 percent of sales—one of the highest ratios among the 50 U.S. companies whose 1976 research and development expenditures were highest. Merck was the most profitable company among the 50, with income of 15.3 percent of sales.

After Merck, the next five most profitable companies on the list were A.T.&.T., Dow, Eastman Kodak, I.B.M., and Lilly; these six companies' average investment in research and development was 5.7 percent of sales.

In contrast, the six least profitable companies on the list—Boeing, Chrysler, Goodyear, McDonnell-Douglas, Signal Companies, and United Technologies—averaged a research and development investment of only 3.5 percent of sales. These figures come from Technical Insights, Inc., New York-based publisher of *Inside R & D* newsletter.

From Marketing Development consultants of Concord, Mass., comes the evidence of frustration in the marketplace: there is only a modest correlation between the introduction of "significant new products" and corporate growth during the three-year period before May, 1975.

North American Phillips is the classic case: 139 new products rated as "significant" by Marketing Development between 1972 and 1975, and 122 percent sales growth in the same period. Next in line: 3M Co.—120 new products but only 48 percent growth. And look near the bottom of the list of new-product producers for Schlumberger—only 51 new products but 98 percent sales growth in the three-year period.—*J.M.*

WHY INNOVATIONS FAIL

(By Sumner Myers and Eldon E. Sweezy, Institute of Public Administration)

"It was," said William Holden as the business executive in the movie Executive Suite, "just one attempt in a hundred to make one improvement in a hundred." The "it" was a new molding process which would presumably have improved the Tredway Corp.'s furniture line. Unfortunately, a key production test failed and the innovation was delayed. A failure of technology? Perhaps. But Holden felt that the test might have succeeded had he been there to make a key management decision rather than cooling his heels in the board room waiting for a hastily called meeting. A failure of management, then? Either way it would have been called an innovation failure in the real industrial world.

The failure rate for industrial innovations is high. One study found that although the rate varies among industries and companies, on the average "it takes some 58 ideas to yield one successful new product." The vast majority of ideas fail at the outset: only 10 or 12 per cent of the ideas submitted for initial screening and analysis enter the development pipeline toward commercialization.

What does this high failure rate mean? Is it simply evidence that the competitive battle ensures the survival of only the fittest innovations? Or does it represent a waste of potentially useful products and therefore of scarce industrial resources? Whatever the hypothesis, such a high rate of failure calls for an effort to understand its causes. With that understanding, management can better steer its product innovations around the barriers to successful commercialization.

We conducted a study of 200 innovations that passed initial screenings but failed after entering the commercialization pipeline for the Denver Research Institute, under the auspices of the National Science Foundation. Our results confirmed some of managements' fondly held convictions, but exploded some others:

The greatest risk is still the marketplace. Uncontrollable market factors scuttle more new products and processes than anything else—27.5 per cent of the innovations studied. Yet management often plunges ahead without trying hard enough to minimize that risk.

Limited sales potential blocked 16 per cent of the new products studied. Better research to identify new markets would help here, as

would stronger national economy. In a sagging economy, innovations start slowly and succeed with difficulty—even with good market research, shrewd management, and all the technology in the world. A booming economy, on the other hand, spurs innovation by generating the new demand that drives the innovation process.

The inability to find buyers for something developed in the public interest—a large market problem that management is often criticized for avoiding—blocked 10 per cent of the innovations surveyed. Even tough managers sometimes let philanthropy overwhelm good sense in choosing which innovation to develop.

Poor management accounted for 23.5 per cent of the innovations that were cancelled, shelved, or inordinately delayed. Not surprising perhaps, but disturbing—over one-third of the management errors involved market factors which management could have controlled.

MANAGEMENT ERRORS—TOO MANY "GOOFS"

Whether pulled by the market or not, too many innovations fail because of management errors that seem preventable. And too many of these errors are simply "goofs"—forgetting to do the obvious. For example, one firm spent a good deal of money to develop a special welding torch for use in repairing automobile bodies. Not one was sold. Puzzled, management representatives visited potential customers to find out why. Only then did they learn the torch couldn't be used on the auto body with the upholstery already in place. The torch would have been a fire hazard. Obviously, management could have avoided this failure had it checked with its potential customers before developing such a product.

In sum, failures of management and marketing together accounted for half of the 200 innovations in the sample that faltered or failed. Yet, we also find from that data that management does a good initial job of screening many innovations that would obviously fail later on:

Only 9 per cent of the innovations studied were stopped in the marketplace because the company was unable to find a market for them. Fragmented markets undoubtedly pose a larger problem, but they usually surface at the project selection stage when management can simply reject the proposed innovation.

About 7 per cent of the innovations were blocked by competition. Here, too, if management sees an overcrowded market ahead, the proposed innovation is rejected before it is developed.

Management also tends to reject would-be products or processes obviously susceptible to patent and antitrust problems. Factors arising from patent and antitrust laws accounted for stopping only 3 and 2.5 per cent (respectively) of the innovations studied. In short, management takes a most conservative approach which usually avoids problems that can be spotted at the outset.

Management succeeds in anticipating some types of market and legal problems, but its performance with respect to capital and technology is poor. Some 11.5 per cent of our sample were adversely affected by technology, and one-quarter of these innovations stopped for technological reasons were, in effect, "scooped" by another company's superior technical approach which management had failed to anticipate.

Money was a problem for companies of all sizes, but to less of an extent than expected: management's estimates of the capital required to complete the innovation process are usually too low; lack of capital halted 15.5 per cent of the blocked innovations. The costs of pilot plant, installation, and changeover often overrun—so often that overruns accounted for almost one-third of the innovations blocked for capital-related reasons.

WHERE THE TROUBLE STARTS

Innovations are weeded out little by little until they enter the pilot test stage, where many more of them falter or fail entirely (see page 40). Almost three quarters of the innovations entering the development pipeline made it all the way into pilot test before management decided to call a halt. Indeed, more innovations—23 per cent—fail in the pilot test stage than in any other. The second largest number of innovations—19 per cent—are stopped in the final and most expensive phase, production installation. Management must seriously consider the cost implications for companies when innovations pass the inexpensive early stages only to expire later. It is remarkable that 84 per cent of all innovations in the sample continued to be funded beyond the low-cost phases of assessment and initiation—the stages where commonsense dictates that products less likely to succeed should be screened out.

LEARNING FROM FAILURE

To learn how, where, and why innovations actually run into trouble, we asked management officials who were directly involved in specific failures to tell us the story of what happened. Our respondents generally were the corporation presidents, vice presidents in charge of research and development, or heads of research and development divisions within the corporations attempting the innovations who personally made the tough decisions to cancel, shelve, or delay the innovations in question.

Memories were surprisingly sharp on the details of what happened, even down to the fine points. Once an innovation is funded, the decision to drop it seems sufficiently wrenching to be remembered by those involved. In any event, while managers tended to be hazy about how an innovation was started, they were very clear about how it ended.

Our respondents' stories were straightforward enough to be classified easily into the five broad categories: market, management, capital, technology, and laws and regulations. They also yielded additional lessons for innovators. For example:

The search for the capital necessary to develop an innovation through the marketing phase may end in a "Catch 22."—One company developed a new diagnostic x-ray machine with government research and development funding. Before the machine could be produced in marketable form, extensive field trials were required. Government funds could not be used to conduct such trials, and other possible suppliers of capital were unresponsive because marketability had not been demonstrated by available data—which could be obtained only through field tests. (The barrier in this case was classified as *capital.*)

A superior competing technological approach may cancel the development of a new product or process.—A major metals company undertook the development of vacuum deposition of aluminum as a substitute for tin plate in cans and other containers. The process was developed through completion of a full-scale, high-speed production line—which never went into full production because the firm discovered that chrome plate was much cheaper and just as good. The entire production line for aluminum production remains mothballed by the firm. (The barrier in this case was classified as technology.)

The public interest often fails to express itself in the marketplace.—A major supplier of automobile components tried to introduce an anti-skid brake-control system for passenger vehicles. The firm carried the project almost to the production phase but was unable to arouse enough public interest in voluntary adoption of the system to market it. (The barrier in this case was classified as market.)

Lack of technical capabilities in the staff of a firm may delay the solution of a technical problem for so long that a project loses its competitive advantage by the time it becomes marketable.—One firm developed some prototype engines using a piezo-electric ignition system but sold the rights to the system to another firm. The second firm had to solve some technical (noise and time-delay) problems before the system could be marketed. Because the lack of technical expertise ate into time, when the system was finally ready, the market was no longer exclusive; the opportunity to achieve economies through large-scale production techniques was lost. The product was withdrawn after the costly, two-year delay; new techniques were used to develop an acceptable low-cost ignition system. (The barrier in this case was classified as management.)

The assumption that an innovation will violate antitrust regulations may prevent its development.—A medium-sized steel company developed a process for reclaiming zinc and iron by processing pelletized dust recovered from scrubbers of exhaust gases. The quality and quantity of the zinc by-product made the process look economically promising at the pilot-plant stage, if sufficient tonnage of reclaimed dust could be obtained. This would require access to more than one plant. When a joint venture with other steel companies was explored as a feasible basis for full-scale operation, however, the objection was raised that such a venture would violate anti-trust laws. The process has not been developed further in spite of its economic and ecological advantages—although the requisite joint venture might or might not violate antitrust laws: the Department of Justice will not provide this information until the process is in operation! (The barrier in this case was classified as regulatory.)

HOW TO SAVE THE GOOD ONES

The process of innovation is Darwinian, and not all innovations deserve to survive. Our respondents, therefore, were asked to judge, in a broad economic sense, whether the innovation was still "good" or "not good" in view of the events that led to its blocking. For example, although management's judgments were necessarily subjective, they were strong; when several respondents commented on the same innovation, they almost always agreed as to whether the innovation was "good" or "not good."

Ninety-two of the 200 innovations that faltered were judged by management to be ideas well worth saving. (All the innovations mentioned above were judged to be good ones, except for the two blocked either by technology or market factors.) To save the promising innovations, management should, of course, pay more attention to factors that block "good" rather than "not good" innovations. So it's important to note that management error and government regulations accounted for 28 and 20 per cent, respectively, of the 92 "good" innovations that ran into trouble. The data clearly indicate:

Managers can save many good innovations by doing a better job of managing, particularly by asking the right questions at the right time.

Managers should press government to overhaul the regulatory process that block so many good innovations. Government administrators could ease this problem without necessarily addressing the substantive issues of regulation—although the latter may be most desirable. For example, the government could provide advisory guidance concerning the applicability of a regulation and the means by which the items in question could be adapted to meet regulatory requirements. In the absence of such advice, firms often discover too late that their innovations must be adapted expensively to meet regulatory requirements which had been "incorrectly" interpreted.

The data also show that few, if any, innovations might be saved by loosening the federal government's stringent standards, tough tests, etc.—most of which, in any event, are meant in the public interest. The obvious conclusion is that management should not waste its time lobbying for less stringent regulations.

While managers may hope for the unsnarling of the regulatory process and companies may lobby for simpler controls, a more pressing task for industry is to examine its own practices. These are immediately controllable. Industrial managers who do this will see obvious mistakes that could have been avoided by asking seemingly trivial questions. Does the innovation have a clearly designated manager? Are staff capabilities matched to the innovation tasks? Is the cost analysis adequate? And so on. Obvious as these questions are, management often forgets to ask them until it is too late.

The real problem is to design and adopt a system that forces management to ask the right questions at the right time. Of the 200 cases in the study, 42 per cent might have benefitted from a systematic stepped technique of continuous evaluation.

Management systems with built-in forced questioning would perform two major functions:

They remind management to do the things that are so obvious that they are easily forgotten.

They force an appraisal of the assumptions and ideologies that underlie every innovation. It is a rare organization whose commonly held beliefs need never be examined, and such scrutiny is the task of management.

Another good way to get the right questions asked at the right time is to broaden the membership of product development teams to include people from outside the organization. Whatever their technical qualifications, such people may be perceptive enough to blow the whistle on innovations which are going to falter or fail.

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Sumner Myers graduated from M.I.T. in 1948. He is now Director of Technology and Transportation for the Institute of Public Administration. His "hands on" experience with the innovation process includes work as Production Analyst, Chief Industrial Engineer, and Plant Manager. He began his studies of the innovation process with an N.S.F.-sponsored analysis of 600 commercially successful innovations. This led to work on innovations in transportation and energy for D.O.T. and D.O.E., respectively. Mr. Myers' current focus at I.P.A. is on the "public use of private interests" in furthering socially desirable technologies.

Eldon E. Sweezy received his Bachelor of Science from Oklahoma State University, and his M.A. from the American University. As Army Research and Study Fellow, he spent 1957–58 at M.I.T. as a Special Student. For the past 27 years he served as adviser to managers of research and development in government and industry, and conducted a series of research projects on the evaluation of research and development activities and related innovation and information processes in the public and private sectors. He is now a senior associate, Institute of Public Administration, and also President, Management Counsel Inc.——

WHAT TO EXPECT IN YOUR COMPANY

The innovations of different size companies tend to encounter somewhat different patterns of obstacles. For example, we see in the facing diagram that:

New ventures, companies formed specifically to develop and market a particular new product, are highly vulnerable to capital problems. They run out of money before they run out of market opportunities. While their technologies raise no great problems, their unseasoned managements tend to err relatively often. New ventures, however, avoid both regulatory and market obstacles more readily than other companies, regardless of size.

Small companies (under 500) have relatively fewer management problems than either new ventures or medium-sized companies. Their trouble from regulatory, market and technology obstacles is average.

Medium-sized companies (500 to 2,500) encounter a disproportionate share of management problems. Apparently, these companies are too big for innovations to command the individual attention of top management, but too small to hire the kind of specialized management that innovation needs. Capital for innovations is a somewhat less important obstacle for a medium-sized company than it is for either large or small companies and, of course, much less than new ventures. Regulatory, marketing and technology obstacles are unexceptional.

Large companies (2,500 plus) are least troubled by management problems. Their regulatory and market obstacles are similar to those of medium and small companies. Technology tends to be a relatively greater problem for the large companies, who become involved in riskier technical efforts than their smaller counterparts.

These data represent the actual experience of 200 technological innovations that faltered or failed in 81 companies drawn from 11 producer-good industries. While the companies were not selected to be a sample of industry as a whole, the patterns of failure are probably similar across the board.—*S.M., E.S.*●

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA—THE BLEMISHED RECORD OF ADMISSION OF STATES TO THE UNION

● Mr. KENNEDY. Mr. President, one of the driving forces behind the current effort to enact House Joint Resolution 54 and provide full voting representation in Congress for the District of Columbia is the effort to end what has been called a "simple case of democracy denied"—the fact that the 700,000 citizens of the Nation's Capital are denied one of the fundamental rights of our free society, the right of representation in their Government.

The effort to end this discrimination against D.C. residents is hardly a novel chapter in American history. One of the continuing currents in the Nation's 200-year history has been the struggle of peoples in the various territories of the Union to achieve the full rights of citizenship. The pages of our history contain numerous examples of the frustrations, failures, and eventual successes of the citizens of various regions of the Nation in becoming full partners in the Union.

In these cases, of course, the goal was statehood. But statehood is a goal not readily available to the District of Columbia, because of the unique character of the District as the Nation's Capital within our federal system. In a larger sense, however, the aspiration is the same and is independent of the statehood issue. That aspiration is the desire of American citizens to enjoy as nearly as possible the full benefits of American democracy.

Recently, the Library of Congress prepared a brief but illuminating paper analyzing the issues involved in the admission of a number of States to the Union. In many cases, as the study points out, States were admitted without any great difficulty. In other cases, however, there were long delays and serious controversies, involving complex political, economic, and social issues. The best known of these controversies was the 19th century issue over whether new States should be admited as slave States or free States. The Missouri Compromise and the Compromise of 1850 were the landmark events of this period. Missouri, Maine, Arkansas, Florida, Texas, Michigan, Iowa, Wisconsin, and California were able to join the Union as a result of these famous but fragile compromises.

In other cases, other issues were involved. Often, admission to the Union was delayed by partisan or racial factors:

The admission of Oregon was hindered by Republican fears that it would be a Democratic State. But Oregon was admitted in 1859 and voted for Lincoln in 1860.

Kansas endured severe civil violence and divided the Democratic Party before it became a State in 1861.

The admission of Idaho was delayed in part by religious controversies over the Mormon minority.

The admission of Wyoming was resisted in part because of its progressive attitude toward the political equality of women.

The admission of Utah was delayed more than 40 years, in large part because of the controversy over the Mormon religion.

The admission of Oklahoma was resisted because of the controversy over the status of the Indian territory.

Blatant racial discrimination against the Spanish-speaking population was a key factor in the long delay before admission of New Merico to the Union.

In more recent times, before they finally gained statehood in 1959, the admission of Alaska and Hawaii became a political football, with Democrats fearing a Republican Hawaii and Republicans fearing a Democratic Alaska.

The lesson of these numerous examples is that partisan and discriminatory factors have no place in the decision to admit citizens anywhere in the Nation to the blessings of full participation in our

system of government. The people of the District of Columbia have already waited far longer than the citizens of any territory to obtain the basic right of representation in Congress. House Joint Resolution 554 would end this long injustice, and I am hopeful that it will be enacted this year by the Senate.

Mr. President, I ask that the Library of Congress paper to which I have referred may be printed in the RECORD.

The material follows:

THE LIBRARY OF CONGRESS, CONGRESSIONAL RESEARCH SERVICE

POLICY ISSUES IN THE ADMISSION OF CERTAIN STATES INTO THE UNION: A BRIEF ANALYSIS

(By Peter B. Sheridan, Analyst in American National Government, Government Division, March 31, 1978)

The authority for admitting new States into the Union is vested in Congress by Article IV, Section 3, of the Constitution of the United States:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

"The Congress shall have the Power to dispose of and make all needful Rules and Regulations respecting the Territory of other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

It is evident that specific conditions for statehood are not defined in Article IV. Congress has, however, over the years, developed certain standards and procedures (not always followed) for the admission of new States. The generally accepted standards required by Congress for admission have been the following:

1. That the inhabitants of the proposed new State are imbued with and sympathetic toward the principles of democracy as exemplified in the American form of government;

2. That a majority of the electorate desire statehood; and

3. That the proposed new State has sufficient population and resources to support State government and to provide its share of the cost of the Federal Government.

Procedure for the admission of new States have varied from time to time. Traditionally, Congress has first declared a territory incorporated, that is, has applied all provisions of the Constitution to it, and then has passed, after determining by various means the sentiment of the people for statehood, "enabling acts" permitting the people of the territory to prepare a State constitution. When this was approved by popular vote and by the Congress, the territory was declared a State. The process was completed when the joint resolution of Congress was signed by the President.

This procedure was not, however, followed by many States. The original thirteen States, for example, were never Territories. In 1776 the Continental Congress recommended that governments be established in the thirteen States. By April 1977, all thirteen States had adopted similar constitutions. Between 1787 (Delaware) and 1790 (Rhode Island), each of the thirteen States had ratified the Constitution, which became effective when the ninth State, New Hampshire, approved. Some Territories achieved statehood without enabling acts, not absolutely necessary in any case. Others were organized and incorporated, and still others were not incorporated and were admitted by simple acts of admission. In seven cases (Tennessee, Michigan, Iowa, California, Oregon, Kansas, and Alaska), the United States Congress was presented with "Senators" and "Representatives" from these areas before statehood was granted (they were not seated until after admission; but some were not even required to stand for "legal" election). This procedure, known as the "Tennessee Plan," was first adopted by Tennessee in 1796, when a constitution was drafted and representatives were elected, all without any authorization from Congress. In some cases, this procedure hastened the granting of statehood.

In most instances, States were admitted to the Union without any great difficulty, regardless of procedure adopted. In some cases, however, statehood, because of various political, economic, and social reasons, was attained only after a long and protracted struggle. In one case, Kansas, the fight for statehood was true to fact. Several years of violence passed before Kansas reached a degree of stability deemed necessary for an orderly government.

From 1802 to 1819, a delicate political balance had been maintained between the North and the South by the admission of slave and free States alternately. This tacit arrangement resulted, with the admission of Alabama in 1819, in eleven of each. The State balance in the Senate was, of course, even. In the House, however, the slave States, even with the three-fifths ratio, had only 81 votes as opposed to 105 votes held by the free States. Moreover, the population of the North was growing at a rapid rate. The South, therefore, looked to the Senate to preserve the sectional balance.

This balance was threatened in 1819, when Missouri applied for statehood. An amendment prohibiting slavery was passed by the House, but was rejected by the Senate. In December 1819, Maine formed a constitution and requested admission as a free State. The Senate joined the two measures but did not mention slavery in Missouri, whereupon an amendment was added for the admission of Missouri as a slave State, but with slavery prohibited in the Louisiana Territory north of 36 degrees and 30 minutes north latitude. After several months of debate (December 1819–March 1820) a compromise was effected: Maine was admitted as a free State, Missouri was authorized to form a constitution with no restriction on slavery, and slavery was prohibited in that part of the Louisiana Purchase north of 36 degrees 30 minutes. This compromise lasted thirty-four years. During that time, the South added Arkansas, Florida, and Texas, and the North added Michigan, Iowa, Wisconsin, and California.

California presented a somewhat special case. Gold was discovered in California in 1848, resulting in one of the greatest mass migrations in American history. The population soon reached a stage where President Zachary Taylor found it expedient to suggest that California become a State. Congress had been slow to act so the military governor called a constitutional convention, which met in Monterey in September 1849 and drafted a constitution prohibiting slavery. In his annual message on December 4, 1849, President Taylor recommended the immediate admission of California. There were, at this time, fifteen slave States and fifteen free States.

In the United States Senate, for reasons which were more emotional than logical, the South protested vehemently. Secession sentiments were voiced and a tentative secession convention was held in Nashville.

In the midst of the debate, Henry Clay, on January 29, 1850, proposed a series of resolutions to settle the differences between the North and the South. Basically, the resolutions called for the admission of California as a free State, the organization of New Mexico and Utah as territories without any mention of slavery, the enactment of a new and more effective fugitive slave law, the abolition of the slave trade in the District of Columbia, and the adjustment of the boundary between Texas and New Mexico with the Federal Government assuming the Texan national debt.

Clay's proposals brought on one of the greatest debates in the history of the United States Senate. For the last time, the great Senatorial trimvirate of Clay, Calhoun, and Webster held forth. Eventually, five laws, known collectively as the "Compromise of 1850, were enacted between September 9 and September 20, 1850. The first of these, on September 9, admitted California as a free State. Subsequent legislation established a territorial government in Utah and New Mexico with no mention of slavery, amended the fugitive slave law, abolished the slave trade in the District of Columbia, and adjusted the boundary of Texas and New Mexico without mention of slavery. For a time, the Union was preserved.

Oregon's problems in gaining statehood were more political than racial, although that aspect was present. Oregon was organized as a territory on August 14, 1848, and soon became the scene of a bitter party squabble between the Whigs and the Democrats. Democrats, appointed by President James K. Polk, a Democrat, were replaced by Whigs appointed by President Taylor, a Whig. The embittered Democrats thereupon became involved in a struggle over the status of Oregon. Some Democrats were for statehood, and others favored independence. This situation changed somewhat as the Whigs began a movement into Oregon. In 1857 the Oregonians voted for statehood with slavery prohibited, but with admission of free Negroes also prohibited. In Washington, D.C., the Oregon statehood measure passed the Senate, but was rejected in the House, largely through the efforts of the abolitionists.

There was another reason for the rejection at this time of Oregon statehood. With the election of 1860 in the offing, many Republicans feared a Democratic Oregon might vote against the Republican candidate. Nevertheless, enough Republicans eventually switched support to Oregon so that the measure passed the House on February 12, 1859. President James Buchanan signed the Oregon bill on February 14, 1859. Oddly enough, it was Oregon's five votes that gave Lincoln the Republican nomination on the third ballot. Oregon also voted Republican in the 1860 election.

In the meantime, in January 1854, Senator Stephen A. Douglas, Chairman of the Committee on Territories, introduced a bill for the organization of the Kansas and Nebraska territories. A key feature of the bill was the proviso that "popular sovereignty" should prevail. In other words, the people of the territories should decide for themselves whether slavery should be permitted or not, thus repealing the Missouri Compromise, one provision of which banned slavery in territories north of 36 degrees 30 minutes. Whatever Douglas' motives were, and on this there is some speculation (political: with an eye on the Presidency with Southern support; or economic: development of the central route of the transcontinental railroad, thus benefiting Illinois), the measure reopened the territorial question.

Douglas' bill passed after three months of bitter debate. This was followed by a lengthy conflict during which Kansas endured a particularly nasty civil war ("Bleeding Kansas") as both North and South sent settlers to the territory in an effort to achieve a majority. Separate legislatures were soon formed, and rival constitutions were submitted to Congress, itself the scene of several violent episodes arising from debates on the "Kansas Question."

Kansas became a campaign issue in 1856, was an important topic in the Lincoln-Douglas debates, helped split the Democratic party, and was a key factor in the nomination and election of Abraham Lincoln in

1860—an event which caused six Southern States to secede from the Union. Eventually, on January 29, 1861, Kansas was admitted as a free State.

Objections of a different kind were voiced against the admission of Idaho and Wyoming. Idaho was organized as a Territory in 1863, after a boom in population caused by the discovery of gold in 1860. Even so, the population was for years considered too small to warrant one Representative in the House of Representatives. Moreover, the Mormon minority was discriminated against by several acts in the territory, disfranchisement being only one of many. There were also various irregularities in the formation and in the work of the Idaho constitutional convention, and the charge had been made that the apportionment of the legislature was unfair. Eventually these disqualifications were removed and Idaho became a State on July 3, 1890.

The Territory of Wyoming was created by Congress on July 25, 1868. One of the first acts of the territorial legislature was to provide for the political equality of women, a feature which caused some to object to statehood for Wyoming, but which was retained when the State was admitted into the Union. Statehood was delayed for years because of the smallness of the population and because there was, according to some, little evidence that the majority of the people of the Territory wanted statehood. In time, these objections were refused, and Wyoming became a State on July 10, 1890.

Utah, which became a Territory in 1850, presents a somewhat unique case in the admission of States into the Union because of the presence of some rather unusual political and religious factors. Statehood was delayed for years, despite several attempts, because of intense political strife in the Territory, and because of the practice of polygamy by the Mormons. Polygamy, which became known as the "Mormon problem," was denounced by both the Republicans and the Democrats. Indeed, several Federal laws made polygamy punishable by a fine and imprisonment, and disfranchisement. In 1887, an even more severe law (Edmunds-Tucker Act) disincorporated the Mormon church, confiscated church property, abolished female suffrage, and required a test oath of citizens before they could vote, hold office, or serve as jurors.

Between 1887 and 1890, the Mormons sought accommodation with the Federal Government. To that end, free public schools, emphasizing the separation of church and State, were established. Gentiles (non-Mormons) were admitted to chambers of commerce, the Mormon People's party was dissolved and its members instructed to participate in both Republican and Democratic parties, thus demonstrating that a genuine two-party system existed in Utah, and finally, in October 1890, polygamy was abandoned as a tenet of the Mormon church.

These actions prompted President Benjamin Harrison in January 1893 to grant amnesty to polygamists, and Congress to return confiscated property to the Mormon church. Even more favorable was the response to legislation, introduced by the Utah delegate, John L. Rawlins, on September 6, 1893, to enable Utah to become a State. Congress permitted Utah to hold a constitutional convention and they were invited to apply for admission to the Union. In 1895, the constitution was ratified, and on January 4, 1896, President Grover Cleveland proclaimed Utah a State.

At least one of the objections to the admission of Oklahoma, a Territory since 1890, centered on its esthetic geographical delineation. As the Report on the Omnibus Statehood Bill of the Senate Committee on Territories stated in 1902, "Its boundaries are unscientific, accidential, and grotesque. And above all, the committee are convinced that a majority of its people are opposed to statehood at present except by a union with its natural complement, the Indian Territory."[1] In 1906, the Indians and whites formed a constitution for a State composed of Oklahoma and the Indian Territory, and on November 16, 1907, Oklahoma was admitted as a State.

New Mexico was part of the territory acquired from Mexico under the terms of the treaty of Guadalupe Hidalgo in 1848. In 1850, even before the territory was officially organized, the people of the territory made application for statehood. A liberal constitution (slavery was prohibited) was drafted and "Senators" elected and sent to Washington. Congress had, however, in the meantime, passed the Compromise of 1850, one part of which was the Organic Act for the Territory of New Mexico, and had appointed a Territorial governor. In succeeding years, New Mexico tried many times to be admitted as a State, but each effort was rejected.

One notable struggle occurred in 1902–1903 during the debates on the Omnibus Statehood Bill (Oklahoma, Arizona, New Mexico). The opposition to the admission of New Mexico was led by Senator Albert Beveridge, chairman of the Senate Committee on Territories. During the long debate, Beveridge and several members of a subcommittee went to New Mexico to investigate local conditions. On their return, a report was released which stressed several points of opposition to statehood. New Mexico, according to the report, was not large enough, and its character was un-American. Moreover, the subcommittee reported a high illiteracy rate and extensive use of the Spanish language. The Senator concluded this report by stating:

On the whole, the committee feel that in the course of time, when education . . . shall have accomplished its work; when the masses of the people or even a majority of them shall in the usages and employment of their daily life have become identical in language and customs with . . . the American people; when the immigration of English-speaking people who have been citizens of other States does its modifying work with the 'Mexican' element—when all these things have come to pass, the committee hopes and believes that this mass of people, unlike us in race, language, and social customs, will finally come to form a creditable portion of American citizenship.[2]

Beveridge was not alone in his opposition to statehood for New Mexico. He was joined by, among others, Senator Henry Cabot Lodge, who proclaimed "I do not want the inhabitants of any State of the American Union known as Mexicans or New Mexicans."[3] Lodge also complained that the citizens of New Mexico lacked "race energy."[4]

In 1904, Beveridge proposed that Arizona and New Mexico be admitted as one State because he felt that New Mexico alone was not workable since "'the great majority' of its citizens 'are not of the blood . . . that is common to the rest of us.'"[5]

In 1911, New Mexico submitted a new constitution which was debated by Congress from March to August, when it was finally approved. This new effort had the support of President William Howard Taft and lacked the opposition of Beveridge, who had lost a bid for reelection in 1910. On January 6, 1912, sixty-two years after its organic act, New Mexico became a State.

Interestingly enough, Arizona's constitution was submitted at the same time, but was rejected by President Taft because it contained a recall provision for judges. Arizona deleted the recall clause and was admitted as a State on February 14, 1912. At the first State election after statehood, Arizona voted a recall amendment to its constitution.

Alaska was purchased from Russia in 1867 and was granted Territorial government in 1912. The first bill for Alaskan statehood was introduced in 1916 by delegate James Wickersham, who was also the author of the organic act of 1912. Opposition to Alaskan statehood immediately, and for years afterwards, focused on several aspects of its economy and geography. The population of the Territory, for example, was claimed to be too small to support statehood. More interesting was the argument that Alaska was not contiguous to the United States, an argument that conveniently omitted the fact that neither was California in 1850, and that contiguity was never a requirement for statehood. More telling, perhaps, were arguments that Alaska possessed insufficiently developed resources and that statehood would increase the cost of government in Alaska.

By 1946, many of these arguments seemed to lack validity. In that year, for example, President Harry S Truman urged the admission of Alaska. At the same time the delegate from Alaska introduced a statehood bill. Hearings were held (the first on any Alaskan bill), and a subcommittee of the House Committee on Public Lands approved the legislation. In 1949, however, the measure was blocked, despite a special message from President Truman, by the House Rules Committee.

Proponents of statehood did not remain idle, and in April 1956 a State constitution was approved by the Alaskans. In October 1956, two "Senators" and a "Representative" were elected, ready to assume office. In January 1958, President Dwight D. Eisenhower supported statehood. Legislation to that end was introduced and passed both Houses. In August, statehood was approved by an overwhelming majority of Alaskans. Finally, on January 3, 1959, Alaska became a State by presidential proclamation.

Hawaii was annexed in 1898 and was made an incorporated Territory of the United States in 1900. As early as 1903, the Territorial legislature passed a resolution favoring statehood. In 1938, a congressional investigation reported that Hawaii fulfilled all the requirements necessary for statehood, and in 1940, a plebiscite in the islands showed the people supported statehood by a margin of two to one.

It was not until 1946, however, that any legislative activity (although there had been numerous hearings and investigations) was taken by Congress. In that year, a subcommittee of the House Territories Committee urged consideration of Hawaiian statehood legislation.

Statehood was not to be acquired easily, however, as numerous reasons were raised against the admission of Hawaii. There was, for example, the old argument of adding noncontiguous territory. The racial composition, mostly Japanese and Chinese, of the islands worried others. After Pearl Harbor, this argument was especially strong as the loyalty of the Japanese was suspect. Numerous rumors abounded, none of them ever substantiated, about the espionage activities of the Japanese in Hawaii. It was only after the war, during which the 442nd Regimental Combat Team and the 100th Infantry Battalion, composed of Nisei (American-born Japanese), became the most decorated units

[1] Omnibus Statehood Bill. Remarks in the Senate. Congressional Record, vol. 36, December 10, 1902: 193.

[2] Congressional Record, vol. 36, December 10, 1902: 189. De la Cruz, Jesse. Rejection Because of Race: Albert J. Beveridge and Nuevo Mexico's Struggle for Statehood, 1902–1903, Aztlan, v. 7 Spring 1976, p. 84 concludes that "there is sufficient evidence to demonstrate that race discrimination was the key factor in Beveridge's determination to deny Nueyo Mexico's statehood application."

[3] Congressional Record, vol. 36, January 29, 1903: 1411.

[4] Congressional Record, vol. 36, January 29, 1903: 1412.

[5] De la Cruz, Rejection Because of Race, p. 92–93.

in the American Army, that this opposition was dispelled. More serious, perhaps, was the alleged rampant Communist influence in Hawaii, especially in the International Longshoremen's and Warehouse Union (ILWU).

In any event, the House in 1947 passed statehood legislation for Hawaii, but the Senate killed the measure. As happened before in American history, statehood for Hawaii "had become a political football. Since Hawaii was predominantly Republican, the Democrats refused to vote for its admission unless Alaska, a Democratic stronghold, was granted statehood also." [6]

After Alaska became a State, Hawaii's prospects improved. On March 12, 1959, Congress passed the Hawaiian statehood bill. President Eisenhower signed the measure on March 18, and on June 27, ninety-four percent of Hawaii's registered voters turned out an overwhelming approval of statehood. On August 21, 1959, Hawaii was admitted into the Union as a State.●

REPRESENTATION FOR THE DISTRICT OF COLUMBIA

● Mr. McGOVERN. Mr. President, our two distinguished colleagues, Senator KENNEDY, of Massachusetts, and Senator HOLLINGS, of South Carolina, have made a persuasive appeal for representation for the people of the District of Columbia.

I am strongly committed to this goal. It is intolerable for American citizens to pay taxes and to offer their lives in defense of our country and then be denied a voice in the Congress of the United States. In my 1972 presidential campaign I publicly committed myself to support representation in the Congress for the District of Columbia. I repeat that pledge now.

I submit for the RECORD the appeal by Senators KENNEDY and HOLLINGS, as reported in the Washington Post of this morning, May 19, 1978.

The material follows:

REPRESENTATION FOR THE DISTRICT

Under the Constitution of the United States, there is an anachronism that defies justice and tramples one of the basic and most cherished rights of representative government: The citizens of the nation's capital are denied the right to be represented in Congress.

The move to change that—to enfranchise the city's 700,000 residents—has strong bipartisan support: Both the Democratic and Republican 1976 party platforms contained planks supporting voting representation in the Senate and House for citizens of the District.

Testifying in 1970 before a Senate committee, Associate Attorney General William H. Rehnquist, now a Supreme Court justice, endorsed a constitutional amendment to achieve this goal. His words emphasized the longstanding injustice perpetrated on Washing residents: "The need for an amendment of that character at this late date in our history is too self-evident for further elaboration; continued denial of voting representation from the District of Columbia can no longer be justified."

Opposition so far seems to spring from various senators' apprehensions concerning four "toos": They fear that District of Columbia senators would be *too* liberal, *too* urban, *too* black or *too* Democratic. In addition, many senators are reluctant to expand the membership of their "club" to more than 100.

All these considerations should be secondary where citizens' rights are concerned—and the residents of the capital are citizens. After all, in 1976 they paid $1.2 billion in federal taxes—more than was collected in 19 states. Individual tax payments surpassed the national average by $327, and were greater than average payments in 47 states. Moreover, of course, district citizens have fought and died in all the nation's wars. Thus, they have endured both taxation and conscription without representation.

Members of Congress have proposed various alternatives to the two-senator, two-representative plan. These include granting statehood to the District, reassigning it to Maryland (the Virginia portion of the District was given back to that state in 1846) or permitting District citizens to vote in Maryland elections.

But the District has been separate from Maryland since 1800, and its people have developed their own community. They deserve representation in their own right, and not merely as an artificial adjunct to a state with which they have no common history. Moreover, the 23rd Amendment established a precedent for considering the District as a separate political entity.

Nor is statehood a plausible answer. Ceding the seat of federal government to the plenary jurisdiction of a state would pose difficult constitutional as well as practical problems.

Wherever we travel around the country, we find people surprised to learn that the residents of Washington cannot vote for members of Congress. This reaction of surprise, coupled with the swift approval that the 23rd Amendment received, makes us confident that their generous and decent impulses would inspire the American people to promptly ratify an amendment granting congressional representation to residents of the capital.

We are already halfway there. Thanks to the extraordinary efforts of bipartisan supporters, the House of Representatives recently approved the long-sought amendment and sent it to the Senate. Many senators, both Democratic and Republican, have welcomed it, and we have urged our colleagues to act on it before Cogress adjourns for the fall elections.●

TAX ASPECTS OF UNIVERSITY PATENT POLICY

● Mr. NELSON. Mr. President, the monopoly and Anticompetitive Activities Subcommittee of the Select Committee on Small Business will resume hearings next week on Government patent policy as part of the 2-year study it began in December 1977.

The hearings Monday, May 22, and Tuesday, May 23, will explore the history, legal basis and implications of Institutional Patent Agreements as an implement of government patent policy.

These agreements—used by the Department of Health, Education, and Welfare and the National Science Foundation—give universities and nonprofit organizations the right to patent inventions made in the course of federally funded research and development work.

In March, the Office of Federal Procurement Policy in the Office of Management and Budget granted my request for a delay in the effective date of a General Services Administration procurement regulation authorizing a newly worded Institutional Patent Agreement for Government-wide use.

OFPP administrator Lester Fettig directed GSA to delay the effective date of the regulation for 120 days—until July 18—to permit its further consideration by congressional committees and the Executive Office of the President.

In anticipation of the hearings, and for the benefit of the Senate and the public, I should like to include in the RECORD an article, "Tax Aspects of University Patent Policy," from the fall 1975 issue of the Journal of College and University Law. The article considers three tax aspects:

First. The effect of the university's patent-related activities on its tax-exempt status.

Second. The application of the tax on unrelated business income to the university's patent-related activities.

Third. The treatment of payments received by the university from its patent activities.

Also included are the statement of the University of Wisconsin on Disposition of Inventions & Patents, dated 1969; the patent policy of the Regents of the University of California, revised in 1973, and related patent policy documents; and the patent policy of Albert Einstein College of Medicine of Yesiva University, adopted by the Board of Overseers in 1973.

Mr. President, I ask that the material be printed in the RECORD.

The material follows:

TAX ASPECTS OF UNIVERSITY PATENT POLICY

The growth of scientific and technological research at universities has been unprecedented in recent years. Along with this growth, new and complex problems have arisen with respect to the appropriate disposition of patentable discoveries and inventions on behalf of inventors among the faculty or staff and the university. Many universities have no formalized patent policy or procedure; others have formalized their policies and procedures regarding patent management practice.[1]

Although the rights to an invention generally belong to the individual inventor who may then make a claim for a patent,[2] a university may contribute financially to the development of the patent property right. It may also be the assignee of a patent by reason of the employment relationship between the university and its faculty and staff [3] or the recipient of patent property (a patent, an application or the rights to the invention) transferred by gift to it from the inventor.[4] Finally, the university may arrange or assist the inventor, through the facilities of the university itself or through an affiliate of the university, to have the patent issued and to develop the patent to a point that it may be commercially exploited. Further exploitation of patents is usually accomplished by the granting to others, either by a sale or a license, of the right to make, use or sell the invention covered by the patent and most universities share the proceeds received from the sale or license of patents obtained on the invention with the inventor, either under a prior contractual arrangement or by mutual agreement.[5]

This "article deals with the federal income tax [6] problems of the university which conducts a patent management program as a part of the functions of the university administration. Three tax aspects considered in this article: (1) the effect of the university's patent-related activities on its tax-exempt status; (2) the application of the tax on unrelated business income to the university's patent-related activities; and (3) the treatment of payments received by the university from its patent activities."

[6] Thomas, Dana Lee. The Story of American Statehood. New York, Wilfred Funk, Inc. [1961] p. 257.

Footnotes at end of article.

THE EFFECT OF PATENT MANAGEMENT ON THE TAX-EXEMPT STATUS OF THE UNIVERSITY

Patents, like other forms of intangible property, have historically been part of the portfolios of universities and used by them as a source of income, much as they hold securities in their endowment. The role of the university in the patent management field may have an effect on the university's tax-exempt status, however, when substantial activity is undertaken by the university by reason of its involvement in the development or commercial aspects of patent exploitation.

THE QUESTION OF INUREMENT

A university is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code because it is operated for educational purposes, unless its tax exemption derives from its operation by a state or other government or unless it is a proprietary institution, that section requires that no part of the "net earnings" of the university inures to the benefit of any person who has a personal and private interest in the activities of the organization.[7]

The proscription against inurement of net earnings should not adversely affect the university by reason of its obligation to pay or to arrange for the payment of royalties to an inventor in consideration for the transfer of his patent to the university. It is recognized that this provision does not prevent an exempt organization such as a university from paying reasonable compensation for property and, since the university usually receives a portion of the royalties from licensees for its interest, there will be no benefit inuring from the university to the inventor by reason of the program.

Similarly, the proscription against inurement of net earnings should not adversely affect the ability of a university to provide any services or financial commitment as part of its patent management program. The inventor, upon transfer of his interest in the patent to the university, will usually reserve the right to receive a part of the royalties paid by any licensee. Under these circumstances, the inventor is not receiving any "earnings" of the university, but rather the university is serving as a conduit to the inventor for those payments to which he is entitled under the reserved right.[8]

Thus, whether the university purchases the patent for its fair market value or the inventor transfers his rights to the patent to the university and the university retains a portion of the royalties for itself, the prohibition against inurement of net earnings should present no tax problem to the university.

OTHER EFFECTS ON EXEMPTION

Because additional involvement of the university may be called for by its patent management policy, it may become involved financially or through use of its special facilities in developing patents. Therefore, it is necessary to look more deeply into the effect on the tax-exempt status of the university by reason of such involvement.

I.R.C. section 501(c)(3) requires that a university be operated for one or more exempt purposes. The Treasury regulations indicate that this requirement is satisfied if the university "engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)." [9]

There are ample grounds to support the position that the conduct of a program to patent inventions which arise from university research and to license the same for the benefit of its faculty or staff or for the benefit of the university is in furtherance of the university's exempt purposes. Research is conducted on the university campus primarily to expand the frontiers of knowledge, to encourage and stimulate inquiry, and to contribute to the training of scientific and technical personnel. Thus, the existence of a program for administering patents arising from university research clearly is intended to and should have the effect of encouraging and stimulating research and therefore can be said to be directly related to carrying out the exempt purposes of the university. This analysis has its clearest application where the university patent program is limited to accepting patents from inventors who conducted their research while members of the faculty or staff of the university.

A patent licensing program should be considered related to the research and other public purposes of a university. The Treasury regulations themselves provide the necessary tie-in by expressly providing that scientific research is an exempt activity if patents resulting from such research are made available to the public on a nondiscriminatory basis.[10] Since most university patent policies encourage use of patents for the greatest possible public benefit, and sanction methods of introducing patents to commercial use that normally include the widest possible exploitation, such policies clearly place the public benefit over private profit-making and are in furtherance of its exempt purposes.

A further analogy may be drawn from the statutory provisions defining unrelated business taxable income. The statute expressly provides that "in the case of a college, university or hospital, there shall be excluded all income derived from research performed for any person. . . ." [11] This clearly recognizes the relatedness to exempt purposes of a university of research and all income derived therefrom.

APPLICATION OF THE UNRELATED BUSINESS INCOME TAX TO PATENT ACTIVITIES OF THE UNIVERSITY

I.R.C. section 511(a) imposes a tax upon the unrelated business taxable income of universities otherwise exempt from federal income tax under I.R.C. section 501(c)(3). The term "unrelated business taxable income" is generally defined in I.R.C. section 512 as the gross income derived from any unrelated trade or business regularly carried on, less allowable deductions directly connected with the carrying on of such trade or business.

Whether, notwithstanding the various exemptions contained in I.R.C. section 512(b), the patent development program of a university is subject to the tax on unrelated business income depends upon a number of factors. These are whether the university's patent activities are such that it is engaged in a trade or business, whether the activity is regularly carried on, and whether the activity is the conduct of a trade or business which is not substantially related to the exercise or performance by the university of its exempt functions.

WHEN DO PATENT ACTIVITIES CONSTITUTE THE CONDUCT OF A TRADE OR BUSINESS

In general, any activity carried on for the production of income which possesses the characteristics of a "trade or business" within the meaning of I.R.C. section 162 will constitute a trade or business for purposes of the tax on unrelated business income.[12] The question of how much involvement a university may have in patent activities before such activities constitute the conduct of a trade or business has never been stated in a published opinion of the courts or the Internal Revenue Service. In other contexts, however, whether one is in the business of inventing or selling patents depends upon the continuity and regularity of the taxpayer's patent transactions.

It is fairly certain that the licensing of only one invention or the single and nonrecurrent sale of patent rights will be sufficiently isolated and casual so as not to be treated as conduct of a trade or business. However, if the university's objective has been to develop ideas and processes which would be patentable, and it has attempted to put any patents obtained to business and income producing uses through companies by means of licensing or sales, then the activities may be of a sufficiently sustained character to qualify as engaging in the trade or business and income-producing uses through companies by means of licensing or sales, the activities may be of a sufficiently sustained character to quality as engaging in the trade or by the university may nevertheless be a trade or business under these circumstances.

The principal exception to the treatment as an unrelated trade or business is I.R.C. section 513(a)(2) which excepts from the term "unrelated trade or business" any trade or business which is carried on in the case of a college or university primarily [13] for the convenience of its students, officers, or employees. If less than 50 percent of the patent development activities are conducted for persons other than students, officers or employees of the university, the activity should not be considered to be a trade or business.

The most likely circumstances in which a university would engage in the development of patents that do not result from university research would arise when a university receives a donation of valuable patents or purchases a substantial number of patents and engages in the exploitation of them on its own part. As a practical matter, however, it would be an unusual situation if the patent program of the university would be conducted to the extent that in excess of 50 percent of its activities of this kind are from non-university related persons.

REGULARLY CARRIED ON

If the patent development and commercial exploitation of patents is not primarily for the university's employees or students, it still must be regularly carried on by it in order to be subject to the tax. In this regard, the regulations indicate that frequency and continuity with which the activities productive of income are conducted and the manner in which they are pursued are pertinent considerations.[14] If the university merely attempted to exploit and market the products resulting from one or a few patents, it would be possible to argue that the patent development program is not an activity regularly carried on by it.

RELATED VS. UNRELATED

Once it is ascertained that the university's involvement in patent development activities is a trade or business that is regularly carried on, it is necessary to determine whether the activity is "substantially related" to the performance of those purposes or functions with respect to which the university was granted exemption. As discussed *supra*, university patent policies usually encourage the use of inventions and other patentable processes produced at the university for the greatest possible public benefit. This normally includes the widest possible dissemination and use of the inventions or processes in a manner that emphasizes public benefit over profit-making, either by the university or the individual inventor. Against this background, it should be fairly clear that the income derived from the university patent activities contributes importantly to the accomplishment of its exempt purposes other than the need for income.

Nevertheless, if the university's involvement is conducted on a size or to an extent greater than is reasonably necessary for the performance of such activity, the gross income attributable to that portion in excess of the university's needs will be considered gross income from an unrelated trade or business. A good example of this is found in a revenue ruling which dealt with an exempt medical research foundation operating a medical illustration department furnishing

Footnotes at end of article.

services to various institutions and an electroencephalography clinic for several hospitals from which income is derived.[15] The ruling concludes that unrelated business income is earned from these sources since they are conducted in a manner similar to a commercial undertaking and the income is disproportionate in amount when compared with the size and extent of its exempt activities.

In a different vein, income from the sale of patents which result from the performance of university-related research should not be considered gross income from an unrelated trade or business if the patent is sold or licensed in substantially the same state as it was on completion of the exempt function. The regulations enunciate a principle that, if a product resulting from an exempt function is utilized or exploited in a further business endeavor beyond that reasonably appropriate or necessary for disposition in the state it is upon completion of exempt functions, the gross income derived therefrom would be from the conduct of an unrelated trade or business.[16] An example of this principle given in the regulations involves an experimental farm maintained for scientific purposes by a research organization. The income from the sale of milk and cream produced in the ordinary course of operation of the project would not be income from conduct of an unrelated business; however, if the organizations were to utilize the milk and cream in the further manufacture of food items, such as ice cream and pastries, the income from the sale of such products would be from an unrelated business, unless the manufacturing activities themselves contributed importantly to the accomplishment of an exempt purpose of the organization.

When the university supports or makes available in a profit-making manner certain patents developed from university research by providing extra or special support, either with money, facilities or equipment, for the development of the ideas or the production of various products, this additional activity beyond that required to develop the idea may cause the university's activities to be treated as unrelated. This would be particularly true if, depending on the type of patent and its state of development, the university were called upon to continue or conclude development work for a licensee or to construct pilot models for use by a licensee. This further requirement of university involvement to produce a commercially acceptable product as opposed to simply adapting changes in a basic design produced from university research may result in the character of the university patent activities to be changed from related to unrelated.

From all of the above, it can be ascertained that the type of inquiry that can be expected to be made by the Internal Revenue Service with respect to a patent program of a university is whether the licensing activities of the institttuion are conducted in a manner and only to the extent necessary for dissemination of the results of the research or whether the activities include development and promotion in a manner similar to that of a competitive commercial enterprise.

GUIDELINES

Applying the foregoing principles to the administration of patents by a university, certain guidelines can be developed. The administration of the patents should be conducted in close relationship with and in furtherance of the university's research program for educational and scientific purposes. While the university may perform necessary functions in determining the usefulness and feasibility of an invention and obtaining the necessary patent protection, the university's expenditures for research and experimentation should be consistent with such purposes and not go beyond that which is necessary in light of such purposes. Further development and substantial expenditures for commercial exploitation or for the benefit of licensees should be guarded against. The university may conduct such educational programs as are necessary to make the invention and its usefulness known for the benefit of the public, which would probably include changes in basic design. However, the university should avoid promotion which would be in the nature of commercial advertising or involvement in development which may be directed toward producing a commercial product. Further, the university should seek to license the patent on a nondiscriminatory basis; it may grant exclusive rights, preferably for only a limited period, but in such cases it should be prepared to demonstrate that the granting of such exclusive rights constituted the only practical way to utilize the invention for the benefit of the public.

THE TREATMENT OF INCOME RECEIVED BY THE UNIVERSITY FROM PATENT SALES AND LICENSES

The foregoing discussions are intended to provide the basis for determining whether university involvement in patent sales or licenses or other patent activities is related to the exempt function of the university or at least does not constitute income from "an unrelated trade or business" regularly carried on, thus making it unnecessary to reach the question of whether the income constitutes exempt royalties or capital gains. However, if the patent management activities are not considered to contribute in any manner to the accomplishment of the university's exempt purposes and the activities of the university are sufficient to constitute a trade or business, then the factors which raise the question as to the relatedness of these activities and whether they constitute a trade or business may also be relevant to the determination of whether gain or income derived from the sale or licensing of patents is excluded from the university's unrelated business income under express statutory exceptions.[17]

GAIN FROM THE SALE OF PATENTS

Proceeds from the sale or exchange of patents may be excluded from unrelated business taxable income by reason of I.R.C. section 512(b)(5) which excludes gains from the sale or exchange of property from the computation of unrelated business taxable income. Where there is a sale or exchange, the capital gains exclusion applies, rather than the exclusion for royalties[18] and is applicable whether the proceeds are paid in a lump sum or are based on a percentage of sales or production.

One of the problems that limits the availability of the capital gains exception is the fact that, consistent with a university's purpose of dissemination in such a manner as to give widest use, many patent policies of universities call for non-exclusive licensing. As a result, a transfer or assignment may not consist of substantially all of the patent rights and may therefore fall outside of the capital gains exception to the tax on unrelated business income. Moreover, the principles previously stated as to the degree of development and promotion by the university as well as the frequency of its sales may give rise to the argument that it is in the "business" of developing and selling patents and therefore the proceeds are not capital gains.[19] Under these circumstances, refuge may have to be taken in the royalty exemption.

INCOME FROM PATENT LICENSING

I.R.C. section 512(b)(2) excludes from unrelated business taxable income "all royalties . . . whether measured by production or by gross or taxable income from the property. . . ." and deductions related thereto Neither I.R.C. section 512 nor the regulations promulgated thereunder attempt to define royalty income; however, Treas. Reg. § 1.512(b)-1 states that whether an item is royalty income depends upon the facts and circumstances of the case.[20] Thus, the terms of each licensing agreement should be closely examined in light of the established definitions of royalty as well as the treatment of the payments under the particular circumstances to determine the exposure the university may have to a claim by the Internal Revenue Service that the licensing income it is receiving is not in fact royalty income.

As defined in *Webster's Third New International Dictionary of the English Language. Unabridged* (1961), the term "royalty" means:

"A share of the product or profit of the property reserved by the owner when the property is sold, leased or used or a payment (as a percentage of the amount of property used) to the owner for permitting another to exploit, use or market such property (as natural resources, patents or copyrights) which is often subject to depletion with use."

Similarly, under the personal holding company regulations, the term "royalties" includes amounts received for the privilege of using patents.[21] Although payments received from licensees by the university or its affiliate should be treated as royalties under these traditional definitions, the inquiry does not stop with the nomenclature of the payment.

The basic reason for excluding royalties from the definition of unrelated business taxable income was: Because your committee believes that they are "passive" in character and they are not likely to result in serious competition for taxable businesses having similar income. Moreover, investment producing incomes of these types [interest, dividends. some rents and royalties] have long been recognized as a proper source of revenue for educational and charitable organizations and trusts.[22]

Since the characterization of income as a "royalty" depends upon the facts and circumstances, the principal issue which usually arises is derived from the committee report's reference to "passive." The statement in the legislative history of Congress' belief that investment in patents and the receipt of royalties therefrom are " 'passive' in character and they are not likely to result in serious competition for taxable businesses having similar income" should give universities flexibility because it recognizes that, even though the university may be expending funds of its own to develop and stimulate the use of its patents by licensees, such expenses do not change the character of the royalties into something else. These expenditures would be the typical expenses ordinarily undertaken by businesses exploiting similar property. Thus, the mere fact that a university expends money for research, to obtain patents and to seek out suitable licensees should not alter the treatment of income it receives as royalties.

Rev. Rul. 69-430[23] illustrates the concept of the royalty exclusion. In that ruling, the exempt organization owned publication rights to a book which did not contribute in any manner to the accomplishment of its exempt purposes. The organization *itself* undertook to exploit the book in a commercial manner by arranging for the printing, distribution, and retail sale of the book. It also arranged for publicity and advertising in connection with the distribution and sale of the book. While the ruling held that the activities of the organization constituted the conduct of an unrelated trade or business, it concluded with the following paragraph:

However, had the organization transferred the publication rights to a commercial publisher in return for royalties, the royalty

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income derived would have been excluded from the computation of unrelated business taxable income under § 512(b)(2) of the Code."

Rev. Rul. 69-430 points up an important factor which distinguishes royalties from income from an unrelated trade or business. In that ruling, the exempt organization itself engaged in the conduct of activities in connection with the distribution and sale of a book which was unrelated to its exempt purposes. It derived the income from its own commercial exploitation of the publication rights rather than, as in the usual case with royalties, from third persons who in turn carried on the actual commercial exploitation.

The activities performed by the organization in Rev. Rul. 69-430 were not the activities normally undertaken by the owner of important rights in a book and cannot be analogized to the expense undertaken by a university in developing and exploring the various uses of its patents prior to actual licensing. This ruling indicates that, once a right is in such a stage of development that it can be commercially licensed for manufacture or exploitation by third parties, the fact that the organization itself undertakes to manufacture or exploit will be the active conduct of a trade or business which may be unrelated to the organization's exempt purposes.

This brings us to problems with the licensing agreement itself. The licensing agreement may or may not contain a provision with respect to the performance of engineering or other personal services for the licensee by the university or its staff. If no provision is made in the agreement, the initial question is whether, in spite of the lack of an agreement with respect to such services, the Internal Revenue Service can challenge the characterization of the payments and allocate at least a portion of the payments to such services.

Few inventions in and of themselves are so great that they require no supporting technology or stand by themselves. Thus, it is unusual that the patent transfer will include the patent itself and no "know-how." The know-how transferred with a patent may take many forms, which may include engineering data, blueprints, various plans and patterns, formulae, and expertise of employees. The problem that arises is whether the amounts received by the university are in fact royalties or are more properly classified as amounts received for services rendered. Neither the regulations nor rulings under I.R.C. section 512 deal with this question. Thus, areas of analogous law must be considered, with the recognition that the distinction is most difficult to draw and that many factors are involved.

If technical assistance is provided, the Internal Revenue Service will more likely characterize the payments as being for services. If, however, the university simply lends its know-how to the licensee to assist it in the initial designing and building of the product under the patent this alone should be insufficient to warrant the recharacterization of part of the royalty payment as being for services, even if the services by the university are provided as part of an effort to increase and/or continue the income from its patent licensee. If at the time the licenses are granted, it is not anticipated that engineering or other services will be needed, the royalty payment cannot be recast into compensation for services.[24]

On the other hand, a more difficult problem is presented when the license agreement is entered into and either the university agrees with the licensee (verbally or otherwise) to furnish it with engineering services which the parties anticipate will be and which are substantial or the requirement to provide such services is implicit because the stage of the development of the patent is such that services by university personnel will be needed. In this type of case, the Internal Revenue Service would probably look outside the contract itself to discover the true nature of the payments in question. For example, if it is ascertained that when the license agreement was entered into the payments were fixed at a much higher percentage of production or selling price than would have been the case had the payments been for the use and manufacture of the patented invention or process alone, the university may be subject to tax and should be prepared to show that at the time the contract was entered into it did not anticipate nor did it verbally agree to provide such services.

In defending against such an attack, various provisions in the agreement itself may indicate that no agreement was made for the payments for personal services. If the agreement is not subject to cancellation, except with a substantial penalty to the licensee, this would indicate that the services are incidental to the contract because the licensees could not be protected in their right to any services that are not specifically set forth in the agreement. The provision for a penalty would indicate that the licensee did not anticipate the need for services from the university or its staff. On the other hand, if the license is cancellable at the option of the licensee without a substantial penalty, this fact together with the fact that payments are based on sales or production would lend support to the argument that part of the payments are for services since it would be in the university-licensor's self interest to furnish the services which might enlarge the market for the product.

To reduce the risk that the Internal Revenue Service might attempt to recast the royalty payments as being in part for services, the licensing agreement should specifically recite that it contains the entire understanding and agreement between the parties, that the licensees do not desire the university to furnish them any services, that there are no oral agreements or understandings between the university and the licensee that the university or its employees should furnish them any services, and that there is no agreement that a portion of the payments to be made by the licensee should constitute payment for services or for anything else except payment for the use of the patent. However, if, despite such provisions or in the case of contracts which do not contain such provisions, payments are determined in fact not to be exclusively in the nature of royalties, the university should be prepared to offer a reasonable basis for the allocation of the aggregate amount received to payments for royalties and to payments for other purposes.[25]

Provision for engineering and development work which the university anticipates at the time it enters into the license to be necessary to further commercial development of the patented process or machine should be made the subject of a separate agreement. The agreement should call for the employment of the university or members of its staff to provide such services and to work in cooperation with the licensee in developing and exploiting the patent.[26] Alternatively, the university should consider the possibility of granting a leave of absence for a period of time or permitting particular faculty or staff members to undertake the additional work as independent contractors. Whichever course is taken, however, these understandings should be the subject of a separate employment agreement and no provision should be included in the licensing agreement itself which conditions the right to payment of royalties on the satisfaction of the terms of the employment contract. A service agreement should not, however, be utilized in those situations where the services would be incidental to the overall patent licensing or would be unnecessary or not contemplated at the time the license agreement is entered into.[27]

The university may become invloved in assisting its faculty members to exploit their patented or patentable inventions. This involvement may be in the form of assisting the inventor in getting needed financing to promote the invention or may be more extensive in that the university or affiliate may itself evaluate, process, develop and manage the inventions. The university may also be empowered to sell or grant licenses in its name (if the patent is assigned to it[28]) or in the name of the inventor to licensees to exploit the patent. In exchange for these services, the university usually receives a portion of royalties and pay the balance to the owner of the patent.

In Rev. Rul. 73-193,[29] the Internal Revenue Service dealt with one aspect of this type of situation. In that ruling, the organization entered into agreements with educational and scientific institutions under which it evaluated, processed, promoted, developed and managed the inventions of faculty members, associates and staff members of educational and scientific institutions. Pursuant to the agreement, the staff members would assign title to their inventions to the organization which in turn negotiated licenses to third parties. The organization collected the royalty income from the licensees, retained a portion thereof as compensation for patent development and management services rendered, and distributed the remainder of the amounts collected to the institutions and inventors in the proportions specified. In addition to paying all the normal expenses involved in the patent management operation, the organization maintained all the books and records relating to the activities thereunder. In holding that the royalties did not retain the character of royalties in the organization's hands for purposes of I.R.C. section 512(b)(2), the Internal Revenue Service observed that the organization held legal title to the invention "only for the purpose of performing the agreed patent development and management services for the account of the beneficial owners. . . ."

This ruling points to the need to determine, in analyzing the character of the payments received by the university, even though denominated royalties, whether the university has an interest in the patent other than mere legal title. In Rev. Rul. 73-193, the agreement and facts show that the licensor had no beneficial interest in the property except the legal title. This ruling should have application only to those situations in which the university is not an owner of the patents, having at least a portion of the beneficial interest. As noted in the ruling, title alone is insufficient and the university should receive a portion of the payments in excess of the amount required to reasonably compensate it for the services performed in connection therewith. However, even if the university merely holds legal title to the patent, its situation is still distinguishable from Rev. Rul. 73-193 if it limits its activities to managing patents derived from university-related research.

The Internal Revenue Service may raise some question as to the possible application of this ruling in those cases where the payment is based in part on the performance of management services described in the ruling. However, most of the activities mentioned in the ruling are merely incidental to the performance of services that would ordinarily be undertaken by any owner of a patent engaged in licensing and incidental to the receipt of royalties. I.R.C. section 512(b)(2) indicates that Congress did not intend to prohibit the owner of a patent from making the necessary expenditures to make it productive of income.[30] Indeed, the statute pro-

Footnotes at end of article.

vides that expenses related to the royalty income are deducted from it. That the royalty itself may or may not be passive is not really the issue in this ruling. Rather, the issue is whether the organization doing the licensing has something more than just bare legal title, that is, whether it is a joint owner of the patent, in which case the expenses and activities would be appropriate for an exempt organization. Thus, Rev. Rul. 73–193 should have no application to those situations in which the university does in fact own a beneficial interest in the patent.

Another means by which the university may derive income from a patent is to enter into an agreement with another party who has the manufacturing or technical wherewithal to commercially exploit a patent owned by the university. The Internal Revenue Service, in this situation, may attempt to characterize the relationship between the university and the "licensee" as being in reality a joint venture. Whether or not the university and the licensee have created the relationship of a joint venture[31] as between themselves will depend upon their intention to be gatnered from the agreement and their conduct in carrying out its provisions.

The university may be called upon to share part of development costs incurred by the licensee in preparing and adapting the patent to commercial usage. In such a case, the fact that there is no provision for sharing losses is not controlling and the element of profit sharing would appear to be the important factor in determining whether a joint venture exists.[32] Although the payments under the agreement may be characterized as royalties, such a characterization would not be conclusive if from the surrounding facts it is clear that they are, in fact, profits from operations. However, the risks of this type of characterization should be relatively small if the allocation of payments to the university is based on a share of production regardless of the realization of profits by the licensee.[33] Other factors bearing on the lack of intention to operate as a joint venture would be the maintenance of the separate interests of the university and the licensee and of separate books and records for accounting.

There may be situations, however, in which, for example, the university is called upon to share in a venture and its payments will be proportionate to the share of capital it invests in developing, promoting and exploiting a patent. In this situation, the Internal Revenue Service could strongly argue that the payments received are in fact profits from a joint venture as opposed to "royalties."

CONCLUSION

In this article, the authors have considered the various federal tax aspects of a university patent program. The basic point is that a university should be cautious in the degree of patent exploitation activities in which it engages. We have set forth certain guidelines which are recommended where the university operates its own patent program and grants licenses. These guidelines, while designed to minimize the financial involvement of the university in development and promotion, nevertheless require careful attention to operations and expenditures in administering the university's patent program. If attention to these guidelines and operations are burdensome, then the university has the alternative of contracting with an independent organization for patent management, such as that described in Rev. Rul. 73–193, in which case the university's position in receiving tax-exempt royalties should be assured under the rules of I.R.C. section 512(b)(2).

FOOTNOTES

[1] See generally, A. Palmer, *University Research and Patent Policies, Practices and Procedures* (1962).

[2] See generally, Stedman, *The Employed Inventor, The Public Interest, and Horse and Buggy Law in the Space Age*, 45 *N.Y.U. Rev.* 1 (1970)

[3] *Id.* at 10–11. Sponsors of research, whether governmental, universities or industry, may reserve patent rights or otherwise specify the terms or conditions for patent ownership or licensing created by individuals either hired to invent or hired to perform certain types of services under the overall restriction that all inventions be disclosed and assigned to the employer.

[4] Rev. Rul. 58–260, 1958–1 C.B. 126.

[5] A. Palmer, *University Research and Patent Policies, Practices and Procedures* 10 (1962).

[6] Except as otherwise indicated, all statutory references are to the Internal Revenue Code of 1954, as amended (hereinafter "I.R.C.").

[7] See Treas. Reg. (hereinafter "Reg.") § 1.501(a)–1(c).

[8] Compare *Edward Orton, Jr. Ceramic Fdn.*, 9 T.C. 533 (1947), *aff'd*, 173 F.2d 483 (6th Cir. 1949), *nonacq.*, 1947–2 C.B. 6.

[9] Reg. § 1.50(c)(3)–1(c)(1). This limitation does not, however, preclude a university from operating an unrelated trade or business as an insubstantial part of its activities. Reg. § 1.50(c)(3)–1(e)(1) recognizes that exempt organizations may operate a trade or business in furtherance of exempt purposes, as long as the organization does not operate an unrelated trade or business, as defined in I.R.C. section 513, as its primary purpose. See also Reg. § 1.501(c)(3)–1(d)(5)(v).

[10] Reg. § 1.501(c)(3)–1(d)(5)(iii)(*a*).

[11] I.R.C. section 512(bX8).

[12] Reg. § 1.513–1(b).

[13] The term "primary" has been defined in *Malat* v. *Riddell*, 383 U.S. 569 (1966), to mean of first importance or principally, which definition has in turn been generally interpreted to mean more than 50 percent of an organization's activities.

[14] Reg. § 1.513–1(c).

[15] Rev. Rul. 57–313, 1957–2 C.B. 316.

[16] Reg. § 1.513–1(d)(4)(ii).

[17] Notwithstanding the statutory exclusion of capital gains and royalty income from the definition of unrelated business taxable income as subsequently described in the text, such gains or income may nevertheless be subject to the tax on unrelated business income if there is "acquisition indebtedness" with respect to the patent. See I.R.C. sections 512(b)(4) and 514. Further, royalty income derived from a controlled organization which deducts royalty payments from taxable income is treated as unrelated business taxable income. See I.R.C. section 512(b)(15). Under the foregoing provisions, it is immaterial whether the university is engaged in a "trade or business."

[18] *Cf. Elrod Slug Casting Machine Co.*, 7 T.C.M. 157, 160 (1948).

[19] Whether the assignment of rights in a patent constitutes a "sale" or "license" is beyond the scope of this article. However, in determining whether there is a sale resulting in capital gain, the Internal Revenue Service is likely to be guided by I.R.C. section 1235, which requires that the property transferred must consist of all substantial rights evidenced by the patent or an undivided interest in the patent which includes a part of all of the substantial rights. In any event, I.R.C. section 512(b)(5) does not apply if the patent is stock in trade or inventory or property held primarily for sale to customers in the ordinary course of business.

[20] See also Rev. Rul. 73–193, 1973–1 C.B. 262.

[21] Reg. § 1.543–1(b)(3).

[22] S. Rep. No. 2375, 81st Cong., 2d Sess. 30–31 (1950).

[23] 1969–1 C.B. 129.

[24] *Cf. John C. O'Connor*. 16 T.C.M. 213, 221–22 (1957), *aff'd*, 260 F.2d 358, 58–2 U.S.T.C. § 9913 (6th Cir. 1958), *cert. denied*, 359 U.S. 910 (1959).

[25] Such as compensation for services; but it may be argued that payments are for other purposes, such as for know-how or are charitable contributions.

[26] Income from this type of activity would not necessarily be unrelated business taxable income if the activity is not regularly carried on.

[27] *Cf. Portable Ind., Inc.*, 24 T.C. 571 (1955), *acq.*, 1955–2 C.B. 8.

[28] It is the usual practice of universities to be assigned the patent to facilitate dealings with prospective licensees

[29] 1973–1 C.B. 262.

[30] The statute recognizes that the organization will have expenditures; I.R.C. section 512(b)(2) excludes royalty income and "all deductions directly connected" thereto. Further, it is implicit in the Congress's assumption that receipt of income from patents would not result in competition with taxable business that it recognizes the need for expenditures, such as for developing an invention as well as the costs of obtaining a patent, including attorneys' fees and funds expended in making and perfecting a patent application.

[31] A joint venture has been defined as "a special combination of two or more persons where, in some specific venture, a profit is sought without an actual partnership or corporate designation." *Tompkins* v. *Comm.*, 97 F.2d 396 (4th Cir. 1938).

[32] See Reg. § 1.512(b)–1, which states the following: "For example if a payment termed 'rent' by the parties . . . is a share of the profits retained by such organization as a partner or joint venturer, such payment is not within the modification for rents."

[33] See *William J. Lemp Brewing Co.*, 18 T.C. 586 (1952), *acq.*, 1952–2 C.B. 2.

DISPOSITION OF INVENTIONS AND PATENTS: THE UNIVERSITY OF WISCONSIN

In an institution such as The University of Wisconsin, where creativity is a major ingredient of research, new products, devices, processes and compositions are often found. It is our purpose here to state for University faculty and staff what their responsibilities, privileges and options are when they have made an invention or discovery.

Historically, The University of Wisconsin has never claimed that it has proprietary rights in any invention generated at the University. In the absence of contractual provisions obligating the transfer of all or some proprietary rights in such an invention to a third party, the inventor at The University of Wisconsin has been free to dispose of his rights in the manner of his own choosing.

Within the past decade, however, the alternatives available to inventors receiving financial support from Federal agencies and from the major national health and medical foundations have, in general, been sharply curtailed. Some Federal agencies require assignment of all rights to inventions to the government; some require only the granting of a royalty-free license to the government. Between these poles the agencies vary in their requirements. The National Science Foundation (NSF), for example, reserves for itself the right to determine the disposition of inventions made or conceived with the assistance of NSF funds. On the other hand, the National Aeronautics and Space Agency (NASA) in general practice takes title to all inventions made in connection with its grants or contracts.

In every case, the University, as the recipient of the grant or contract, has the primary responsibility for complying with the agencies' contractual provisions. Consequently, it has become necessary for the University to scrutinize with care the funding which has assisted the making of the in-

vention to be sure that all of the obligations attaching to the contract or grant have been met.

INSTITUTIONAL AGREEMENT

In the interests of expanding the public use of inventions supported by government grants, one Federal agency, the Department of Health, Education and Welfare (DHEW), has changed the procedure for handling inventions generated at The University of Wisconsin with the assistance of DHEW funds. The DHEW and the Board of Regents of The University of Wisconsin have entered into an "Institutional Agreement" which affords University inventors greater latitude and advantages than in the past and prescribes how inventions resulting from DHEW-supported research at the University are to be routinely reported and processed. The provisions of the Agreeement apply equally to all personnel, whether staff, faculty or graduate students, assisted by DHEW funds.

The Agreement, which became effective December 1, 1968, makes it possible for the University to accept assignment of these inventions or to designate a nonprofit patent management organization to act for it in a patent management capacity, provided such organization meets the requirements and criteria established by the DHEW, and provided also that these functions are carried out within the guidelines of the Institutional Agreement. Inasmuch as the University itself is not in a position to provide patent management services, it has, with the approval of the DHEW, designated the Wisconsin Alumni Research Foundation (WARF), to perform these functions in its behalf. WARF has administered patents voluntarily assigned to it by University of Wisconsin inventors since 1925 and has the necessary experience, personnel and facilities to discharge these special responsibilities.

Under the terms of the Agreement, all members of the University staff and faculty or graduate students whose work is supported wholly or partially by DHEW funds will execute a Patent Agreement (Form UW–P–1, Appendix A, pages 9–10). All such personnel whose inventions emanate from research under grants made by the DHEW may, after having complied with the University's established reporting procedure, choose either of two options:

Option 1. He may submit the invention to WARF which will thoroughly examine the invention and will, when it considers such action is warranted in the public interest, accept assignment of the invention, prepare and file patent applications, and thereafter exercise its best judgment to bring the invention quickly and effectively into public use. In keeping with its traditional policies, WARF will pay the inventor annually 15% of the net royalties earned by his invention.

Option 2. He may assign the invention to the Federal government to dispose of as it sees fit.

Although the inventor may, if he chooses, recommend that the invention not be patented, and normally such recommendation will prevail, the final decision in this regard will be made by the government.

Disposition of all inventions generated at the University which are not covered by the Institutional Agreement will, as in the past, be subject to review by the Dean of the College in which the invention originated, Business Office of the University and the Central Administration to determine if any obligation exists in connection with and as the result of the funding of the research leading to the invention.

PROCEDURE FOR REPORTING AN INVENTION

The University has no wish to influence investigators regarding the disposition of their discoveries or inventions except where the University has an obligation as the result of being a signatory to a contractual arrangement which has a relation to the discovery or invention. In order to assure that its obligations are scrupulously met, the University administration requires that all inventions emanating from The University of Wisconsin, regardless of the source of support, be reported in a prescribed manner in order that they may be fully examined and a determination made with reference to any proprietary interest in them and to their disposition.

When any member of the University staff makes a discovery or invention in pursuance of his University duties, or on University premises, or with University supplies or equipment, he is required to report the fact to the Dean of his college on the appropriate form (Invention Record and Report, Form No. UW–P–1, Appendix A, page 9–10).

The Dean has the responsibility for judging whether the investigator has any obligation to assign rights to such discoveries or inventions to any third party. In particular, the Dean will be expected to judge the relation of the reported discovery or invention to the purpose of any grant or contract that may be involved.

The Dean will refer the invention to the University Business Office for review of the financing of the scientific investigation leading to the discovery or invention. Upon completion of the Dean's review and the Business Office's analysis, the Central Administration of the University will have the responsibility for determining if an obligation to a grantor does exist and to insure that any such obligations are fully met.

UNRESTRICTED INVENTIONS

When, after review by the Dean and the Business Office, it has been determined that no third party is contractually entitled to control over the propriety rights in the invention, the inventor will be so advised and will be free to dispose of his invention according to his own discretion. Practically speaking, any one of three options is available to him:

Option 1. He may, on his own initiative, obtain patents on his invention and thereby administer, dispose of, or license such patents in whatever manner seems to him to be appropriate.

Option 2. He may assign the invention to the Wisconsin Alumni Research Foundation or to any other patent management organization for determination of patentability and potential public use and for administration of any patents obtained.

Option 3. He may dedicate the invention to the public by publishing his findings and taking no legal action. (In the United States, if a patent application has not been filed on an invention within one year after such publication, the invention is considered to be in the public domain, and there is then a statutory bar against obtaining a patent on the invention.)

It is suggested that the inventor thoroughly weigh the relative advantages and consequences of these three options in terms of which will most likely result in early public use and greater public advantage. The WARF staff is available for consultation with the inventor on these matters. Regardless of the option he may elect, the inventor is free, indeed urged, to establish his scientific priorities through publication of his research results.

WHAT IS AN INVENTION?

Inventions fall into either of two general classifications—those that are patentable under law and those that are not. Neither the courts nor the lexicographers have satisfactorily defined patentability, though some useful guidelines have been suggested. A concise statement about patentability appears in the *Journal of the Patent Office Society* (V. L, No. 7, p. 456, July 1968):

"The general criteria of patentability are that the invention or discovery be either a distinct new variety of plant . . .; or a new and ornamental design for an article of manufacture . . .; or a new and useful process, machine, manufacture or composition of matter or any new and useful improvement thereof. The difference between the subject matter sought to be patented and the prior art must be such that the subject matter of the former taken as a whole would not have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains."

Whether an invention or discovery is patentable may best be judged by those experienced in patent law and often requires painstaking study of its relationship to the pre-existing knowledge in the art to which the invention belongs.

If there is doubt as to patentability and utility, expert opinion should be sought promptly. The Wisconsin Alumni Research Foundation (Licensing and Development Division) is prepared to assist any University inventor in helping him to judge whether or not the invention or discovery contains patentable subject matter.

WISCONSIN ALUMNI RESEARCH FOUNDATION

Inasmuch as the Wisconsin Alumni Research Foundation has long been active in providing technical consultation and services to University of Wisconsin inventors, and is now the University's official patent management designee under the University–DHEW Institutional Agreement, some backgound information on WARF and its relationship to the University and its inventors is relevant.

The Foundation is a not-for-private-profit organization incorporated in the State of Wisconsin and is separate and distinct from the University. It has administered numerous inventions originating at The University of Wisconsin since 1925 when it received assignment of the Harry Steenbock inventions and patent applications relating to the production of vitamin D by means of ultra-violet irradiation. Other inventions WARF has managed in behalf of University of Wisconsin inventors are the anticoagulant compounds Dicumarol and warfarin, both from the laboratories of Karl Paul Link, the life-saving Javid-Settlage formulation for reducing intracranial pressure in cases involving cerebral trauma, Raymond G. Herb's vacuum pumps, an air suspension process invented by Dale E. Wurter for coating small particles, O. J. Attoe's slow release fertilizer packet, C. A. Ernstrom's direct acidification process for manufacturing cottage cheese, James Asplin's soil grinder and many others.

Patent royalties and income from investments provide the funds given by WARF to The University of Wisconsin for buildings and research equipment and for the support of research projects solely of the University's choosing. Although the emphasis of WARF grants has been placed on research in the natural sciences, all disciplines, including the social sciences and humanities, have participated in such grants. The University has also allocated WARF funds to projects in branches of the statewide University system other than the Madison campus.

In addition to providing grants for research and for a number of Professorships, WARF has given funds to the University for obtaining major research equipment and for helping to construct 17 campus buildings and building additions. WARF is also a source of "seed" money which has assisted promising researchers and special projects when their investigations are too nebulous to attract financial support from Federal or State agencies or from private donors. One example is the Institute for Enzyme Research which was launched with a WARF grant for the construction of the Institute building.

During its first 40 years of service to The University of Wisconsin, WARF has given the University approximately $49,000,000 in

grants, buildings and equipment. In the same 40 year period, its annual grants have grown from $1,200 to more than $3,000,000.

Considering the nature and extent of its services both in the management of patients for the University's inventors and as a major donor to the University's research and educational programs, the Wisconsin Alumni Research Foundation is a unique and valued agency for The University of Wisconsin and one of its more essential arms.

INVENTION RECORD AND REPORT

(Submit to the dean of your college)

Compiler , Date

1. Brief descriptive title:

2. Full name of inventor(s), home address(es), and position(s):

3. Recommendation of inventor(s) as to whether patent protection should be sought:

4. Object or results to be achieved by the practice of this invention:

5. Outline of means discovered for achieving above objects in terms of (a) the steps in a process, or (b) the components in a composition or groups in a chemical compound (include description of process of making) or (c) elements in a machine, article or device. Point out means which are essential, others which are important or useful and any *critical* limitations on any of these:

6. Chronology of principal events in conception and development:

(a) Earliest conception date (reference to substantiating evidence desirable):

(b) Date of disclosure (orally or in writing) to other persons and names of such persons:

(c) First written record pertinent to invention:

(d) Date and result of first test of the invention (if invention is (a) a process, its first test is the first successful trial; if (b) a composition of matter or a compound or (c) a machine, article or device, its first test is its first creation and evaluation with respect to new or improved properties or behavior):

7. Source(s) and amount(s) of all grant, contract or gift funds used by inventor regardless of purpose or use during the period starting with the date noted in item 6(a) and continuing to the present.

8. Identify those sources indicated in item 7 which contributed to the invention.

9. Date and place (e.g. particular periodical) of publication of disclosure of invention (whether publication has been accomplished or is projected):

The following two items may be completed at the option of the compiler:

10. Background of published information and practice in the field of the invention (known practices, periodical citations, patents, etc.):

11. Features embodied in this invention which would not have been obvious to or readily foreseeable by the typical skilled worker in the field:

Signature of compiler

Signature of Inventors, date, and witness to Inventor's Signature.

Certification by inventor's supervisor (department chairman, program director or coordinator):

I have reviewed the information provided above with particular reference to item 8, source of funds contributing to the invention. To the best of my knowledge, I believe the above statements to be accurate.

Signature of Supervisor

APPENDIX B

Name
(Last) (First) (Middle Initial)

Soc. Sec. No.

PATENT AGREEMENT

In consideration of my employment by The Regents of the University of Wisconsin (hereinafter referred to as the University) in connection with work which has been conducted or may hereafter be conducted in the performance of a grant, contract or award made to the University by any extramural agency, I hereby agree to refer promptly to the University (through the Dean to the Office of the Vice President for Business and Finance) any personally conceived discoveries or inventions arising out of the work sponsored or in any way aided by the grant, contract or award in order that the University may report the matter to the Grantor, Contracting Agency, or Awarding Agency for disposition in accordance with its established policies, procedures, and requirements. I hereby agree to cooperate with the Grantor, Contracting Agency, Awarding Agency, or the University's designee in the preparation and prosecution of any patent applications relating to such inventions and to execute all documents necessary or incidental to such applications and further agree to assign all rights to such inventions to the Grantor, Contracting Agency, Awarding Agency, or the University's designee if assignment is required under the terms of the grant, contract, or award.

In witness whereof, I have hereunto set my hand this — day of ——, 19—.

Signed:

UNIVERSITY POLICY REGARDING PATENTS

PREAMBLE

The Regents of the University of California is disposed, as hereinafter stated, to assist members of the faculties and employees of the University in all matters related to patents based on discoveries and inventions developed in situations where the invention has been conceived or developed by them.

It is recognized that such inventions may, and frequently do, involve equities beyond those of the inventor himself. The use of University facilities or services, the particular assignment of duties, or conditions of employment, the possible claims of a cooperating agency, as in research supported from extramural funds; these and other situations may give rise to a complex of interrelated equities or rights involving the invention, the University, and a cooperating agency. Such rights or equities must be appraised and an agreement reached on the proper disposition of them. It is further recognized that the 15th All-University Faculty Conference of 1960 adopted a resolution urging further use of inventions as a source of intramural funds for research within the University. Therefore, to appraise and determine relative rights and equities of all parties concerned, to facilitate patent applications, licensing, equitable distribution of royalties, if any, to obtain funds for research, and to provide a uniform procedure in patent matters where such originate within the University, the policy herein set down is adopted.

STATEMENT OF POLICY

1. All matters relating to patents in which the University of California is in any way concerned shall be administered by an agency known as the University of California Board of Patents.

2. a. The Board of Patents shall be appointed by The Regents. It shall have full power of organization, except as hereinafter provided, subject to the provision that it meet at least once a year; and the members shall serve without extra compensation at the pleasure of The Regents. The normal term of appointment shall be for three (3) years.

b. The Board shall consist of eleven (11) persons selected from among the faculties and the administration of the University, and of such other groups as The Regents may determine, but of this number the Committee on Committees of the Academic Senate shall select from the Senate at large one (1) person to serve as ex officio member for a period of three (3) years. The Chairman of the Board and Administrator of Patents shall be approved by The Regents upon the recommendation of the President of the University.

3. The following powers and duties shall be exercised by the Board of Patents:

a. To appoint a committee of experts to examine the merits of each potentially patentable invention and to cause such committee to report its findings to the Board.

b. To determine the relative equities or rights held by the inventor and The Regents or by a cooperating agency, if any, and to reach an agreement among all parties concerned with respect to such equities.

c. To authorize applications for patent and to retain patent counsel, in association with the General Counsel, for matters pertaining to the filing of patent applications, the prosecution thereof, and the litigation that may arise therefrom.

d. To release patent rights to the inventor in unusual circumstances where the equities so indicate, subject to his granting a shop right to The Regents.

e. To negotiate licenses and other agreements covering the manufacture, use and sale or lease of patented articles, or process resulting from patents or inventions.

f. To arrange for and direct the collection of royalties and fees and the distribution thereof to those entitled thereto.

g. To assist in negotiation with appropriate University officers to obtain from cooperating agencies agreements concerning patent rights to inventions or discoveries made as a result of research carried on under grants or contracts.

h. In its consideration of matters relating to each particular patent case or situation, the Board of Patents shall take into consideration the principles laid down in the patent laws and in the court decisions of the United States.

i. To make such reports and recommendations to The Regents as The Regents shall direct.

4. Members of the faculties and employees shall make appropriate reports of any inventions they have conceived or developed to the Board of Patents.

5. An agreement to assign inventions and patents to The Regents of the University of California, except those resulting from permissible consulting activities without use of University facilities, shall be mandatory for all employees, academic and nonacademic Releases shall be executed, where the equities so indicates, as determined by the University of California Board of Patents. Subject to overriding obligations assumed by The Regents, University faculty and staff members who are employed under research contracts, grants in aid or service to industry agreements or special state appropriations covering specific activities shall make such assignment of inventions and patents as is necessary in each specific case in order that the University may discharge its obligations, expressed or implied, under the particular agreement.

6. The Regents is averse to seeking protective patents and will not seek such patents unless the discoverer or inventor can demonstrate that the securing of the patent is important to the University.

7. The Regents agrees, for and in consideration of said assignment of patent rights, to pay annually to the inventor, his heirs, successors, and assigns, fifty (50) percent of the royalties and fees received by The Regents after a deduction of fifteen (15) percent thereof for overhead costs plus a deduction for cost of patenting and protection of patent rights. Distribution shall be made annually in February from the amount received during the penultimate year. In the event of any litigation, actual or imminent, or any other action to protect patent rights. The Regents may withhold distribution and

impound royalties until resolution of the matter.

8. In the disposition of any net income accruing to The Regents from patents first consideration will be given to promotion of research.

To members of the Committee on Finance:

REPORTS AND RECOMMENDATIONS OF THE PRESIDENT

C. Report on university patent fund for the year ended June 30, 1976 (Attachments C1–C4)

The University Patent Fund was established by The Regents in 1952 to invest the accumulated earnings of University-owned inventions in the General Endowment Pool and to provide income to finance patent expenses and research activity. Income from University-owned inventions has financed all patent expenses and has provided significant additions to the Patent Fund, the proceeds of which are used to support research and education within the University.

During the past fiscal year, there were appropriations from the fund of $226,601 and additions to the fund of $580,770. The year end balance totalled $2,000,465 (See Attachment C1).

Gross income from royalties of $637,109 exceeded total patent expenses of $242,530 by $394,579 which has been added to the principal of the fund. The expense figure of $242,530 includes distribution of $163,775 in royalties to inventors.

Among the highest income-producing inventions were the Plant Thinning Machine, Tomato Harvester, Stabilization of Epinephrine, Grapevine—Centurion, Grapevine—Carnelian, and Desalination Membrane. The combined income from these six patents represents almost 73 percent of total gross royalty income.

Investments of the Patent Fund earned income of $186,191 during 1975–76.

During 1975–76, $81,408 was appropriated from the Patent Fund to support certain applied research projects which hold promise for the development of patentable inventions. On July 1, 1976, $145,193 was transferred to the General Fund in support of the 1977–78 budget for research in accordance with the recommendation of the Legislative Analyst. This represents 25 percent of the University's net royalty income and Patent Fund earnings.

According to The Regents' action of October 22, 1976, the Patent Fund income, beginning with the 1976–77 fiscal year, will be allocated by the President for education and research purposes as part of the regular budget process.

The tabulation below indicates the activity in the patent program during fiscal year 1975–76 as compared to 1974–75:

	1974–75	1975–76
Inventions reported	156	153
U.S. applications authorized for filing	15	14
U.S. applications authorized for filing at licensee's expense	1	10
Foreign applications authorized for filing	8	5
Foreign applications authorized for filing at licensee's expense	61	21
Options in effect	11	16
Licenses issued	9	13
Licenses in effect 6/30/76	101	103
Proposals for applied research funding	5	4
Proposals for applied research funding approved	1	3

Changes in the Patent Fund in the Year Ended June 30, 1976

Balance, July 1, 1975		$1,646,296
Plus:		
Net Income from Patent Operations (Attachment 2)	394,579	
Investment Income Added to Fund	186,191	580,770
		2,227,066
Less:		
Appropriations from principal:		
State's share of 1975–76 income to be used in 1977–78 general fund budget	145,193	
Special Applied Research Programs	81,408	226,601
Balance, July 1, 1976		2,000,465

On the basis of estimated patent income for the two-year period July 1, 1976 through June 30, 1978, The Regents on October 22, 1976 approved the following allocations:

a. Patent Expense	$200,000
b. Royalty Obligations to Inventors	400,000
c. State's Share of Net Income Applied to General Fund Budget	250,000
d. High Priority Research and Other Academic Needs	1,620,000
e. Litigation & Income Estimate Contingency	700,000
Total Estimated Allocations 1976–78	3,170,000

UNIVERSITY OF CALIFORNIA, OFFICE OF THE VICE PRESIDENT—BUSINESS AND FINANCE

Comparative Statement of Income and Expenditures
[Fiscal years 1974–75 and 1975–76]

	Year Ended June 30— 1975	1976
Income from royalties (see attachment 3)	$618,967	$637,109
Expenditures for income producing inventions	36,173	29,153
Expenditures for nonincome producing inventions	52,830	48,118
Total expenditures for inventions	89,003	77,271
Patent Board expenses	716	1,484
Total expenditures	89,719	78,755
Payments to inventors (see attachment 4)	116,339	163,775
Total expenditures	206,058	242,530
Net patent income	412,909	394,579

List of Income From Royalties

ABC wastewater treatment	$5,000	$100
Artery constricting device	500	500
Artificial population sampler	1,737	810
B-12 coenzymes	4,266	2,817
Bonding lignocellulosic material	500	500
Bongo net	700	400
California tissue sectioner	3,243	4,224
Desalination membrane	49,542	30,142
Device for testing rocks in place	1,582	1,402
Durado plum tree		500
Electrocatheter meter		810
Electrocatheter probe		80
Electrocatheter velometer		80
Electro belt apparatus		1,800
Electromagnetic flowmeter	1,152	658
Electromagnetic flow transducer		15
Electrophoretic apparatus		80
Eradication of crown gall	976	1,239
Exhaust treatment system	2,500	1,875
Firmness tester for fruit	160	160
Fractionation apparatus		868
Fruitless olive tree	10	1,047
Fruit subsampling		2,300
Grapevine—Carnelian	171,452	35,303
Grapevine—Carmine	100	
Grapevine—Centurion	15,463	59,128
Induction artery gauge		350
Interfiber bonding	500	500
Iodine 123		395
Isoelectric focusing ampholyxes		1,080
Lettuce harvester	100	
Machine for tieing knots	111	
Making foamed glass	1,500	6,000
Mastitis test	2,723	2,284
Measuring vanillylmandelic acid	400	3,000
Method of harvesting grapes	5,482	
Mult channel digital photometer	2,227	1,240
O'Brien bulk bin tiller	4,500	4,975
pH electrode	1,892	2,033
Pear tree	250	673
Plant thinning machine	88,565	143,390

List of Payments to Inventors

ABC wastewater treatment		$221
Artificial population sampler	$552	1,177
Asparagus harvester	425	212
B-12 coenzymes	465	1,002
Blackbody reflectometer	59	
Bongo net	340	212
California tissue sectioner	1,200	1,199
Desalination membrane	10,015	20,300
Device for testing rocks in place	392	241
Electrocatheter probe		25
Electrocatheter velometer		96
Electromagnetic flowmeter	209	465
Electro belt apparatus		185
Electrophoretic apparatus	106	213
Eradication of crown gall	455	442
Firmness tester for fruit	87	68
Fruitless olive tree	39	
Fractionation apparatus	319	
Grapevine—Carnelian		12,665
Induction artery gauge	319	212
Isoelectric focusing ampholyxes	319	212
Low epoxy resin	258	
Machine for separating juices	132	
Machine for tieing knots		47
Mastitis test	1,352	1,116
Methods for harvesting grapes	99	2,231
Nakamura circuit	5	
O'Brien bulk bin filler	678	
Plant thinning machine	28,739	27,302
pH electrode	1,358	1,238
Sampler—Bulk foods		4,007
Sampler for bulk grapes	1,436	2,501
Siliceous ashes from rice hulls		425
Stabilization of epinephrine	29,515	34,676
Three electrode flowmeter	250	212
Tomato harvester	21,263	22,500
Tomographic gamma ray scanner	44	1,132
Total knee prosthesis	10,869	16,701
Treating picked grapes	4,688	4,035
2-amino butane	152	6,505
Total payments	116,339	163,775
Porous block for soil moisture		2,522
Polypeptide agents		25,224
Preserving human organs	13,050	4,200
Sampler—Bulk foods	8,500	8,584
Siliceous ashes from rice hulls	1,100	1,200
Sensor—External field		1,080
Sensor—Varable gage		80
Sampler for bulk grapes	5,885	7,764
Symmetrical olefins		1,900
Stabilization of epinephrine	84,398	79,311
Strawberry—Aiko		5,816
Thermoelectric heat flow response	40	96
Tomato harvester	58,399	115,652
Tomographic gamma ray scanner	3,000	14,506
Treating picked grapes—Method	6,289	10,572
Three electrode flowmeter		80
Total ankle replacement		1,500
Total knee prosthesis	33,658	11,008
Tufts strawberry	12,739	12,617
2-amino butane	24,766	20,639
Total income from royalties	618,967	637,109

THE ALBERT EINSTEIN COLLEGE OF MEDICINE OFFICIAL POLICY ON PATENTS *

I. GENERAL POLICY

The Albert Einstein College of Medicine of Yeshiva University (hereinafter sometimes referred to as the "College") is interested in research relating to the advancement of med-

* Adopted by the Board of Overseers May 8, 1973.

ical knowledge and in the publication and the use of the results of such research. It recognizes that the research conducted by its faculty, its technical staff and its students may lead to inventions and discoveries which should be patented for one of the following reasons:

(1) To protect the public interest;

(2) to comply with the requirements of research grants, fellowship awards and contracts for research;

(3) to promote the development of useful apparatus and processes which would not be developed without patent protection;

(4) to encourage invention and insure rewards for the inventors as herein provided; and

(5) to support facilities and programs of the College of Medicine for research and education by means of its share of income derived from royalties paid for the use of inventions and patents.

The patent policy of the College is intended to be consistent with these principles and purposes.

II. MANAGEMENT OF PATENTS

A. The College shall have the responsibility for the management of patents and may for this purpose employ another agency including the Research Corporation. The Committee on Patents, to be established under this policy (Section VII), shall consult with the inventor(s) who may recommend to the Committee the course of action to be taken in the filing and prosecution of the inventor's(s') patent application. This may include but is not limited to (a) patent management agency other than Research Corporation, (b) a qualified patent attorney or (c) the Yeshiva University Research Foundation.

B. Notwithstanding the terms of II. A. the inventor, at his or her sole discretion shall have the right and option to elect not to have another agency such as Research Corporation file and prosecute the inventor's patent application. The inventor(s) may select a patent attorney to file and prosecute a patent application, provided that this selection is approved by the College. This approval, in the opinion of the Patent Committee, shall not be unreasonably withheld.

C. The College may seek agreements with another agency such as the Research Corporation, New York, New York, a non-profit foundation for the Advancement of Science, to serve as a patent management agent for the College and for members of its faculty, its technical staff and student body. Under the terms of the agreement, the agency shall be asked to handle the patent applications, patent management and commercial exploitation of such patentable inventions and discoveries as the College may offer or cause to be offered to the agency, as are acceptable to it under the terms of its charter, and as should, in its view, be patented either in the public interest or for the sake of revenue. The agreement shall specify that a percentage of all income from each patent so managed by the agency shall be paid to the inventor or inventors as provided in Section V and that the remaining income shall be shared by the College and the agency in such proportion as may be agreed upon, with the agency bearing all patent prosecution and management expenses from its share.

D. The provisions relating to patents and patent royalties shall also apply to the commercial licensing and the royalties obtained there from inventions which are not patented but which have commercial value or special technology or special art.

III. TITLE TO PATENTS

A. Patent rights resulting from research carried on by faculty members, technical staff members or students in connection with projects supported entirely or partly by College resources shall be assigned to and controlled by the College, its agent and/or Research Corporation which shall pay to the inventor a fixed proportion of the gross financial returns from the sale or exploitation of such patents in accordance with the provisions of Section V hereof.

B. Research carried on by a student in fulfillment of course requirements or other requirements for a degree, including the preparation of a thesis or dissertation, shall be construed as making use of College resources and shall be subject to the provisions of Section A above.

C. Patents resulting from inventions and discoveries made by members of the faculty, the technical staff or by students in connection with government-sponsored research contracts, grants, fellowships or other such arrangements, shall be controlled by the terms of those arrangements. Faculty or staff members accepting government-sponsored research shall execute such agreements as will enable the College to meet its obligations to the sponsoring agencies.

D. Since the College carries on research for the purposes of extending medical knowledge and educating students, it accepts research grants or contracts from non-government sources with these purposes primarily in view. If inventions result from such research grants or contracts the College and the inventor or inventors will handle these inventions in accordance with the terms of Section A above, unless the terms of the grant or contract pertaining to the above research are in conflict with Section A, in which case the terms of the grant or contract shall apply.

E. An inventor may elect to dedicate his/her invention to the Public Domain providing that neither the inventor(s) nor his/her kin shall receive any financial benefit therefrom, subject to the following:

(a) All co-inventors shall agree to this dedication.

(b) There is no conflict with the terms of a sponsoring grant or contract.

(c) In cases where the College has contributed its funds and facilities, the College voluntarily relinquishes all its rights to title in the patent.

(d) The costs of patenting are to be defrayed by funds obtained by the inventor(s), the inventor's(s') own funds, or voluntary contribution by the College.

(e) Prior approval of the Patent Committee is obtained.

If publication disclosing an invention is sufficient to place it in the Public Domain, no filing for a patent may be required. However, in some instances, to protect the public interest, it may be necessary to obtain a patent and non-exclusive, royalty-free licenses will be issued on the basis of said patent.

IV. LICENSES

Licenses for commercial development of patents shall be sought to ensure that useful inventions shall be made available in products or services beneficial to the public at reasonable prices. In cases involving substantial developmental expenditures by the licensee, or for other special reasons, an exclusive license may be given, subject to the terms of any applicable grant or contract. All such licensing agreements shall be executed by the appropriate office of the University.

V. USE OF INCOME FROM PATENTS

A. If income is received from the sale or licensing of patent rights derived from contracts between a third party and the College, the College, its agents and/or any outside agencies will pay and reward the inventor within 90 days of receipt of the funds by the College in accordance with the provisions below.

B. If income is received from patents growing out of contracts or support from governmental, charitable or other non-profit organizations, the College, its agents and/or any outside agency involved shall pay to the inventor(s) or his/her estate and/or heirs (1) Fifty percent (50%) of the first Three Thousand Dollars ($3,000) of the gross income obtained under the patent; (2) Twenty-five percent (25%) of the gross income between Three Thousand Dollars ($3,000) and Thirteen Thousand Dollars ($13,000); and (3) Fifteen percent (15%) of the gross income in excess of Thirteen Thousand Dollars ($13,000).

C. If income is received from patents growing out of contracts with other organizations or from any other form of support, then the College, its agents and/or any outside agency involved shall pay to the inventor(s) or his/her estate and/or heirs. Fifty percent (50 percent) of the first $3,000 of the gross income derived from the patent and Twenty-five percent (25 percent) of any gross income in excess of $3,000.

D. After payment of such sums to the inventor as described above from funds obtained from the patent and the costs of processing the patent, a percentage of the gross royalties will also be granted to the inventor to be spent on research and educational programs at the College. For inventions processed through an outside agency, these percentages shall be 7.5 percent for the first $3,000 of gross royalties and 10 percent thereafter. For inventions not processed through an outside agency, the percentage shall be 20 percent of gross royalties. The determination of the nature of such expenditures shall be solely the prerogative of the inventor stipulated on an annual basis and approved by the College. In no case may this sum exceed $100,000 per annum in direct costs. When an inventor leaves the employ of the College, he/she will continue to receive their share of the royalties and if living retain the right to designate the use of a portion of the royalties for special programs at the College as provided above. The expenditure of such funds shall be in accordance with the usual accountability governing other Retricted Funds administered by the College. No overhead will be charged.

E. The balance of all other sums received by the College shall be utilized by the College in support of its educational, research and clinical pursuits.

VI. PUBLICATION

The right to publish the results of sponsored research where patents may be involved shall be subject to the following conditions:

A. The College shall not bar or prohibit publication of disclosures and inventions on which patent applications have been filed consistent with grant or governmental requirements.

B. An inventor has the obligation to file an invention disclosure statement with the College, and where appropriate or required by grant or contract, simultaneously with or prior to the submission of a paper for publication disclosing the invention. In order to obtain protection for foreign patent rights, which are lost upon publication or public disclosure prior to filing a patent application in the United States, the inventor shall disclose his invention to the College through its Patent Committee a minimum of one month in advance of printed or oral disclosure, so that an application for a patent may be filed before public disclosure.

C. The College will, if requested, supply to a sponsor any proposed publication before publication.

VII. COMMITTEE ON PATENTS

A Committee on Patents shall be appointed by the Dean of the College and shall have the following responsibilities:

A. To recommend to the College administration (1) which inventions should be processed in accordance with Section III–A, (2) which ones should be referred to an outside agency, (3) which ones should be returned

to the inventor for his/her own disposition and (4) which ones should be processed in other ways. Recommendations shall be made within 90 days after an invention is brought to the Committee's notice.

B. To determine, when necessary, whether a given invention by a faculty or technical staff member or a student resulted from research carried out in connection with a project supported entirely or largely by College Resources or whether it was a product of personal research.

C. To make recommendations generally regarding proposals to patent, or proposals which may lead to patent of inventions or discoveries related to the health field.

D. To make recommendations in regard to patent arrangements requested by non-government sources.

E. To act in an advisory capacity with regard to patents assigned to the College.

F. To resolve disputes arising on patent matters in accordance with this Patent Policy.

VIII. AGREEMENT WITH COLLEGE

A form of agreement with the College shall be signed and entered into by all faculty, students and staff acknowledging that such personnel have received and read a copy of this Official Policy on Patents and agree to abide thereby, and, further, that such personnel agree to disclose in writing promptly to the College any invention or discovery made by such personnel and to assign to the College the entire right, title and interest in and thereto of Patent Rights as defined in Paragraph III—Title to Patents—hereof.

IX. DISCLOSURE OF INVENTIONS TO THE COLLEGE

Faculty, staff and students are required to report to the Dean of the College and/or the Committee on Patents, all inventions related to their official duties as soon as possible after conception or first actual reduction to practice. Such reports, on standard forms, should be made sufficiently descriptive to permit the invention to be understood and evaluated. Additional information will be added as may be required by a granting or sponsoring agency. In cases of inventions resulting from work not supported by an outside agency, the inventor shall indicate his or her desire as to how application for a patent should be made.

INTERNATIONAL RED CROSS AND POLITICAL PRISONERS

● Mr. KENNEDY. Mr. President, in recent years there have emerged an increasing number of organizations and groups undertaking commendable work in the human rights field—working to defend political prisoners, upholding fundamental human rights, and assisting those who have lost those rights.

In this group none is more prominent, yet seen less, than the International Committee of the Red Cross. And none have been engaged in the protection of human rights longer than it has.

For well over 100 years the ICRC has intervened in behalf of victims of conflict, war, and political strife, and its record of achievement has earned it three Nobel Peace Prizes.

Its quiet service in behalf of political prisoners has undoubtedly saved the lives of countless thousands, and secured more humane treatment for countless more. Just last year alone, ICRC delegates visited over 14,000 political prisoners in 22 countries.

Mr. President, this important work of the International Committee of the Red Cross was thoughtfully reviewed in a recent Washington Post dispatch by Jonathan Rollow. As he notes, while many "high-profile" groups make a splash in public:

The publicity-shy Red Cross, with a limited budget and a 340 member staff, has probably managed to do more—in terms of improving prison conditions—than any other similar organization.

I would like to draw the attention of Senators to this crucial humanitarian service of the International Red Cross, and I ask that the Washington Post article be printed in the RECORD.

The article follows:

INTERNATIONAL RED CROSS QUIETLY AIDS POLITICAL PRISONERS

(By Jonathan Rollow)

GENEVA.—When a lonely political prisoner in Chile or Iran thinks of the Red Cross, blood-mobiles probably do not come to mind. For him, the famous emblem means the only link he has with his family outside prison walls.

Although the International Committee of the Red Cross is better known for its aid to prisoners of war, the small, tightly run all-Swiss operation headquartered here has quietly become the one human rights group actually penetrating jails throughout the world.

Last year alone, it visited some 14,000 political prisoners in 22 countries.

Delegates go prepared with a check list of 400 questions on conditions ranging from prison food to torture and family visits. They normally interview the prisoners without witnesses. Sometimes they provide assistance to the prisoners' families, which often are ostracized.

While such high-profile and well-funded groups as the U.N. Human Rights Commission and Amnesty International splash in public their vivid condemnations of rights violations, the publicity-shy Red Cross, with a limited budget and a 340-member staff, has probably managed to do more—in terms of improving prison conditions—than any other similar organization.

This is partly because the Red Cross, carrying on a wartime tradition of avoiding politics, confines itself to seeking humane prison conditions and stays clear of the more sensitve questions of legal justice that are central to groups like Amnesty.

With Amnesty publicly pressuring governments to release detainees on grounds of justice and the International Red Cross privately improving prisoner's conditions on humanitarian grounds, the two groups play different but complementary roles.

Although some have criticized the International Red Cross for cooperating with dictators when it ignores the reasons for detentions, the Red Cross maintains that it must remain neutral to do any good for individuals.

Some critics, according to David Fosythe, who has studied Red Cross activity, argue that "the ICRC's presence works primarily to the advantage of the detaining authority in that what should not even exist is approved by the ICRC as humanitarian."

Furthermore, the critics say, dictators take advantage of the public relations value of the Red Cross visits to dampen international public opinion against them.

Although aware that improving a government's image may be a side effect of its work, the International Red Cross maintains that public relations is one of the main reasons a government will allow the organization to visit—and thus physically help—prisoners.

The Red Cross' secretiveness is also a key factor. The intricately detailed reports on prison conditions go only to the government concerned. The committee, through its small public relations office here, usually provides only brief mention of places of detention visited and no clues as to the actual conditions found.

Governments would cancel the visits if the International Red Cross broke its promise of confidentiality.

"Discretion is part of the game," said a Red Cross official, adding that it is, in effect, the ticket for admission to the jails.

But the outspoken approach of the Carter administration on human rights has helped the committee's work, according to many Red Cross delegates and other observers here, by providing the kind of international public pressure that the Red Cross cannot initiate but can take advantage of in persuading governments to accept their services.

There are now plans within the U.S. administration to roughly double the U.S. contribution of $500,000 to the budget over the next two years.

As more governments accept the idea of International Red Cross prison visits, demands for its services are outstripping the organization's regular budget of about $12 million, which is augmented by funds raised by special appeals during crises.

Despite gaining governmental permission, the International Red Cross is not able to visit prisoners in a number of African and Latin American countries because of a lack of funds and personnel. The offices in Togo and Venezuela have been closed.

While outside pressure and public images are important, when delegates approach governments they play on other motives as well. The technique is to convince a government that accepting help for its imprisoned opponents is really in its own interests.

Delegates argue, for example, that they can help "well-intentioned" leaders make sure their humanitarian directives are actually being carried out by wardens and other subordinates.

Sometimes government ministers genuinely are surprised by what delegates find. In one Middle Eastern country, a delegate placed on the prime minister's desk a map of a prison room drawn to scale and then piled up paper dolls on it to dramatize how horribly overcrowded sleeping conditions were. The shocked prime minister reformed the sleeping quarters.

A classic example of the Red Cross using outside pressure, according to an expert on prisoners, occurred in Greece during the rule of the colonels in the late 1960s. Faced with a hostile American and European press and the prospect of being expelled from the Council of Europe over charges of violating the European Convention on Human Rights, the military regime signed in 1969 an agreement for the committee to visit all places of political detention.

The accord, which included the unusual right to visit interrogation centers, greatly strengthened the Red Cross' ability to protect Greek prisoners. During the next year, allegations of torture virtually ceased. But in 1970, after foreign pressure had eased, the Greek colonels refused to renew the agreement. The cutoff, shrugs a Red Cross lawyer who was involved, "got only five lines in Le Monde."

According to diplomatic sources here, the shah of Iran, who last year began allowing International Red Cross visits, has used the reports to check on subordinates and make changes in prison conditions.

When trying to enter countries, the committee also points out to governments that the visits do not affect the legal status of the prisoners. In fact, while the Red Cross aid to war victims is covered under the Geneva Conventions, the organization has no legal basis for protecting politcal prisoner.

But this lack of legal grounds limits room to maneuver. When governemnts try to use the Red Cross to shield themselves from criticism, one critic warns, discretion can be "comfortable to both the controlling authority and to the Red Cross."

Some governments have found, though, that even Red Cross discretion has its limits. When the government-controlled media in Uruguay quoted the Red Cross as saying "the prisons in Uruguay are models," it shot back a press release stating that while it never comments on detention conditions, it was "unable to make an objective and complete assessment of conditions" because of restrictions imposed by authorities, such as requiring witnesses for interviews.

While it is difficult to assess what impact the Red Cross has had in helping politcal prisoners, given the scope of the problems and the secrecy surrounding its work, at least it is clear that the prisoners themselves—some times after initial suspicion—want its services continued.

A visit from relatives, an extra blanket, an exercise area arranged by a Red Cross delegate all help.

Perhaps a prisoner explained it best when he confided to a delegate, "Never forget it's not so much the good you bring, but the bad you prevent." ●

SENATE JOINT RESOLUTION 135—DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

● Mr. BAYH. Mr. President, yesterday I joined with several of my colleagues in sponsoring a joint resolution which will designate the weekend of or preceding April 29 of each year as "Days of Remembrance of Victims of the Holocaust." Three weeks ago, the television portrayal of "Holocaust" surely numbed the senses of all who watched, reminding each of us of the incredible extent to which human cruelty can develop—cruelty borne of bigotry and a callous disregard of the rights of our fellow human beings.

HITLER'S HOLOCAUST AND THE HUMAN RIGHTS COMMITMENT

The depth of anguish and suffering inflicted upon the victims of Hitler's holocaust was, plainly speaking, limitless. This monstrous triumph of hatred, unfortunately not without precedent in human history, was a product of the darkest part of the human heart. Perhaps nowhere do we find words to express the feelings of the victims of the holocaust so well as in Elie Wiesel's book, "Night." In the first part of the story we are told of Moche the Beadle who escaped the bullets of the Gestapo while being transported from Hungary to Poland. Despite the horror which he recounts in the forest of Galicia, his coreligionists in the town of Sighet in Transylvania tire of his story of the carnage of the Nazis and become a bit perplexed as to why this little man so desperately wishes to be heard. In reply, he says, sensing a greater coming doom:

You don't understand. You can't understand. I have been saved miraculously. I managed to get back here. Where did I get my strength from? I wanted to come back to Sighet to tell you the story of my death. So that you could prepare yourselves while there is still time . . . I wanted to come back, and to warn you. And see how it is no one will listen to me. . . .

The event Wiesel described took place in 1942. This was fully 3 years before the world would know the full truth of the death camps in which millions of Jews and Christians, Poles and Russians, and nearly every ethnic, national, and religious group in Europe were systematically eliminated in what would become known as the "final solution."

When the House of Representatives passed a resolution on April 8, 1975, designating April 24 as a "National Day of Remembrance of Man's Inhumanity to Man," I addressed the issue at that time. This resolution I believed would have served as a fitting tribute to the millions of men, women, and children who have been mercilessly massacred by ruthless and tyrannical governments at various times in history. I believe it is entirely proper to call attention to these tragedies on the day we are introducing legislation that will designate a day of remembrance for the holocaust victims of World War II.

President Carter's fresh emphasis on the importance of human rights in the formulation of our foreign policy has served to heighten the sensitivity of all to these basic values. It was not long ago that a discussion between an American Ambassador and the head of a foreign government about a human rights matter was considered highly unusual and certainly not in accord with "normal diplomacy." All that has changed. Now many Americans are impatient with the progress being made. Many of the world's most despotic governments still rail against "interference in internal affairs" when they are called on to live up to international obligations they have undertaken. Despite all the criticism which the administration has endured over the handling of foreign policy, it is clear that on the issue of human rights the course has been set. There may be adjustments. There is still room for criticism by those who share the common objective of making the world a safer and more humane place. But there will be no retreat. If there is, we will surely doom ourselves to repeat the past. It is for this reason we should pause for a moment to understand exactly what that could mean.

ARMENIAN GENOCIDE

The savage slaughter of the Armenian people by the Ottoman Turkish Empire in 1915 recalls the first such triumph of hatred in the 20th century. This tragic event can only be viewed as the harbinger of the holocaust of World War II when 11 million of all faiths and nationalities were systematically exterminated. Traditionally, Armenian-Americans and their kin throughout the world have observed April 24 as a day of mourning. It was on that night of that day 63 years ago that 200 intellectuals, community leaders, and prominent citizens of the Armenian community were herded into the desert and executed. This event marked the beginning of a systematic plan to exterminate the whole Armenian Christian population within the borders of the Ottoman Empire.

Over the next 3 years, 1915–18, 1½ million Armenians were slaughtered. The entire population was uprooted from their ancestral homeland in what is now the eastern region of Turkey. The able-bodied men were murdered, sometimes in full view of their enslaved families. Then, all the remaining women, children, and elderly were forced to leave their belongings and march to the remote deserts of Der-el-Zor. Along the way, these helpless people were subjected to torture, rape, and slaughter by roving bands of Ottoman soldiers. Any survivors of these brutalities died one by one from exhaustion, starvation, and disease. As Henry Morganthau, American Ambassador to the Ottoman Empire at the time, commented:

Whatever crimes the most perverted instincts of the human mind can devise and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem insignificant when compared to the sufferings of the Armenian race in 1915.

Little did Ambassador Morganthau suspect that history would repeat itself again and again.

Mr. President, we must never forget the gruesome brutality and injustices suffered by the Armenian people nor must the world ever forget the other atrocities committed against humanity in this century or any other century. When President Carter addressed the United Nations, shortly after coming to office, he said:

The search for peace and justice also means respect for human dignity. All the signatories of the United Nations Charter have pledged themselves to observe and to respect basic human rights. Thus, no member can avoid its responsibilities to review and to speak when torture of unwarranted deprivation occurs in any part of the world.

Unfortunately, we cannot remake the past. However, man can use the past to remind him of crimes that must not be repeated in the future. In rededicating ourselves to human rights we are rightfully pledged to opposing all human atrocities. We must remain vigilant in this pursuit.

By bringing before the Senate this resolution for favorable consideration, we are reminding ourselves that we need to be constantly reminded of the causes of the terror and barbarism which have consumed tens of millions of souls in the 20th century. There is, sadly, no sure guarantee that atrocities will not happen again or continue to happen. However, we must never cease to strive to learn the lesson taught us by the history of these cruel events.

As the poet John Donne has so eloquently admonished:

No man is an island,
Entire of itself;
Every man is a piece of the continent.
A part of the main.

If the clod be washed away by the sea,
Europe is the less, as well as if a promontory were,
As if a manor of thy friends or of thine were:

Any man's death diminishes me,
Because I am involved in mankind,
And therefore never send to know for whom
the bell tolls;
It tolls for thee.

Mr. President, we are all, all involved in mankind and, as tragic events continue to demonstrate, the bell tolls for us all.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS ON MONDAY, MAY 22, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the recognition of Mr. TALMADGE under the order previously entered, the Senate resume its consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, would not the Senate do that in any event without my request since we are recessing?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS TO 10 A.M. ON MONDAY, MAY 22, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock a.m. on Monday next.

The motion was agreed to; and at 4:43 p.m., the Senate recessed until Monday, May 22, 1978, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate May 19, 1978:

NUCLEAR REGULATORY COMMISSION

John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission for the remainder of the term expiring June 30, 1978, vice Edward A. Mason, resigned.

John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1983 (reappointment).

CONFIRMATION

Executive nomination confirmed by the Senate May 19, 1978:

DEPARTMENT OF JUSTICE

George H. Lowe, of New York, to be U.S. attorney for the northern district of New York for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Friday, May 19, 1978*

The House met at 10 o'clock a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRADEMAS) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
May 19, 1978.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

This is the victory that overcometh the world, even our faith.—I John 5: 4.

Our heavenly Father, whose life is within us, whose love is about us, and whose light shines upon our way, make Thy spirit manifest in our hearts as we go about our daily tasks. Conscious of Thy presence may we move through these hours seeking by love to bless the lives of others about us and endeavoring by faith to lift the heavy load others are carrying. Since we are laborers together with Thee for our country may we rise above discouragement and disillusionment and come into a consciousness of faith and love which is the victory that overcomes the world.

Grant unto us the wisdom to make wise decisions, the ability to speak clearly, and the courage to act decisively for the good of our Nation and the welfare of all mankind.

To this end we commit ourselves this day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce may be permitted to sit today during the 5-minute rule.

Mr. Speaker, this matter has been cleared with the minority, and the subject will be the taking of testimony only.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I take this time to inquire of the distinguished acting majority leader, the gentleman from Illinois (Mr. ROSTENKOWSKI), as to the program for the rest of today and for next week.

Mr. ROSTENKOWSKI. If the gentleman will yield, Mr. Speaker, the intention of the leadership this morning and this afternoon will be to conclude the legislation that we are presently considering, the Alaska National Interest Lands Conservation Act of 1978.

Having concluded that, we will adjourn for the weekend.

I would like at this time, Mr. Speaker, to announce the program for Monday of next week.

The House will meet at noon on Monday, and there will be six suspension bills on the calendar, as follows:

H. Res. 1072, object to Commissioner of Education's consolidating certain advisory councils;

H.R. 11777, Cooperative Forestry Assistance Act of 1978;

H.R. 11778, Forest and Rangeland Renewable Resources Research Act of 1978;

H.R. 11779, Renewable Resources Extension Act of 1978;

S. 2370, Volunteers in National Forests Act amendments; and

H.R. 12353, extend veterans readjustment reappointment authority.

We will also consider House Concurrent Resolution 555, to extend most-favored-nation trade status to Hungary.

Following that, we will consider H.R. 12602, Military Construction Authorization Act, fiscal year 1979, with an open rule and 2 hours of debate; and H.R. 10729, Commerce Department authorizations for fiscal year 1979, with an open rule, 1 hour of general debate.

On Tuesday, as was agreed, the House will meet at 10 a.m. and will consider five bills under suspension. They are:

S.J. Res. 4, Hawaiian Native Claims Study;

H.R. 11370, reimbursement of social service expenditures;

H.R. 12299, Domestic Violence Assistance Act of 1978;

H.R. 3050, Internal Revenue Code amendments to section 451;

H.R. 8535, IRC amendments for dependent care services; and

H. Res. 238, Common Market regulations for dried fruit.

Following that, the House will consider H.R. 10929, Department of Defense Authorization Act, fiscal year 1979, with an open rule and 3 hours of debate.

On Wednesday, the House will convene at 10 a.m. and consider H.R. 12050, Tuition Tax Credit Act of 1978, with a modified open rule and 2 hours of debate.

Following that, we will consider H.R. 12163, DOE authorizations, fiscal year 1979. This is subject to a rule being granted.

On Thursday, the House will meet at 10 a.m. and will consider the following:

H.R. 11392, DOE authorizations, subject to a rule being granted.

At 11 a.m. the House will recess to receive former Members of Congress. After that recess, we will proceed to consider H.R. 7814, flexible and compressed work schedules for Federal employees, with an open rule, 1 hour of debate. We will then consider H.R. 9400, civil rights of institutionalized persons, and we expect to complete consideration on that.

Following that, we will consider H.R. 11983, FEC authorizations for fiscal year 1979, with an open rule and 1 hour of debate.

As was agreed to, Mr. Speaker, the House will not be in session on Friday of next week. The House will adjourn at 6:30 p.m. on all days except Thursday. Conference reports may be brought up at any time. Any further program will be announced later.

Mr. BAUMAN. What time will the House conclude its business today? It is possible that we might not finish the pending legislation.

Mr. ROSTENKOWSKI. Presently, the House expects to adjourn at 3 p.m., as was scheduled. If, however, the gentleman from Arizona concludes the consideration of the present legislation being considered, the House would adjourn at that time.

Mr. BAUMAN. Whether or not the House concludes the legislation, we will finish at 3 p.m?

Mr. ROSTENKOWSKI. Yes, it is the intention of the leadership to adjourn the House at 3 o'clock for the weekend.

Mr. BAUMAN. Could the gentleman from Illinois tell me the status of House Resolution 1192, regarding cutting off aid to Korea? The Speaker announced yesterday that the resolution would be on the suspension calendar on Tuesday, and I was given to understand in debate yesterday by the majority leader that there was great urgency attached to it. It has disappeared, apparently.

Mr. ROSTENKOWSKI. The resolution has been referred to the Committee on International Relations, and subsequent to resolution in that committee it will be subject to floor consideration.

Mr. BAUMAN. Mr. Speaker, I have one last question. I notice that the gentleman says that we will be in session next week every day until 6:30 p.m. except Thursday. Is it the intention to stay as late as is necessary on Thursday to finish business?

Mr. ROSTENKOWSKI. We all know that on Thursday we are looking forward to the long weekend. There is a possibility that we may adjourn earlier than 6:30. I am hoping it will be by 5 o'clock.

Mr. BAUMAN. I would concur in that hope, but the only reason I ask is that the leadership has listed the FEC authorization as the last item of business. I know there may be some controversy with respect to that. I suppose we could assume that it might fall by the wayside.

Mr. ROSTENKOWSKI. Certainly this is very bold scheduling. Should we, however, get to the FEC authorization early in the day, I am sure we could conclude that in no time. However, if we get bogged down, I am sure it will go over until some time in the future.

Mr. BAUMAN. I thank the gentleman.

HOUSE SHOULD APPROVE RESOLUTION THREATENING TO CUT OFF NONMILITARY AID TO SOUTH KOREA PENDING TESTIMONY BY FORMER AMBASSADOR KIM DONG JO BEFORE HOUSE ETHICS COMMITTEE

(Mr. ERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERTEL. Mr. Speaker, I rise today to urge my colleagues to approve a resolution which threatens to cut off nonmilitary aid to South Korea unless that country cooperates in making former Ambassador Kim Dong Jo available to the House Ethics Committee.

This resolution is similar to my own which was introduced several months ago demanding that the former Ambassador answer a number of questions about his involvement in alleged payoffs to a number of Members of Congress. More than 100 of our colleagues have joined me in sponsoring this resolution, and I am heartened that the House has finally agreed to vote on this sordid affair.

In 1976, even before a number of us were sworn in as new Members of the House, many of us urged the House to act on the question of illegal South Korean influence buying on Capitol Hill. After much delay the House Ethics Committee responded and followed by naming Leon Jaworski to head the investigation into this alleged influence buying.

Mr. Jaworski has pursued his mission diligently. He was instrumental in gaining the return of Tongsun Park and uncovering several instances of illegal payments to former Members of Congress. Mr. Jaworski has continued to push for the testimony of Kim Dong Jo, and I have been pleased to help in this fight with the introduction of my resolution and the subsequent signatures of 106 of our colleagues.

All of the facts of these alleged illegal payments must be brought into the open. We cannot condone Members of Congress accepting payments "under the table." Neither can we turn our back on a foreign country's attempting to subvert our system of government by "buying" the peoples' elected Representatives. We must know the full story in order to punish the guilty and to prevent it from happening again.

During the debate on the point of order on the motion by the majority leader, various people were concerned why the International Relations Committee did not have the opportunity to have hearings on the majority leader's motion. All I can say is "why didn't they conduct hearings on my resolution for the past months they have had that resolution?" After all, about 25 percent of this membership were cosponsors of that resolution.

It is time for this body to act. We have delayed long enough. Maybe those 100 and some Members on my resolution can now ask what the rest of the House has been doing these past months.

By approving this resolution we will be making it unmistakably clear to South Korea that we will not tolerate any further delay in getting answers from former Ambassador Kim. In addition, and just as important, we will show the American people that this body is truly committed to getting to the bottom of this despicable affair. To do less is to condone the actions alleged. The motion of the leadership is mild compared to the alleged subversion of this Congress by a foreign power. If this is the action of an ally, I wonder what our enemies are doing to subvert our constitutional form of government.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute.)

Mr. ROSTENKOWSKI. Mr. Speaker, I have taken this time to further explain the schedule for next week for the benefit of the gentleman from Maryland (Mr. BAUMAN) and the Members.

It is the intention of the leadership to put in at some place during next week the bill H.R. 10729, Commerce Department authorizations for fiscal year 1979 with an open rule and 1 hour of debate and H.R. 7814, flexible and compressed work schedules for Federal employees also under an open rule with 1 hour of debate.

That legislation originally was scheduled to be considered today; however, it will be put in, as I say, sometime before the FEC legislation is considered next week, which again makes the schedule for next week quite full.

PERMISSION FOR SPEAKER TO DECLARE A RECESS ON THURSDAY, MAY 25, 1978, SUBJECT TO THE CALL OF THE CHAIR, FOR THE PURPOSE OF RECEIVING FORMER MEMBERS OF CONGRESS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it be in order for the Speaker to declare a recess on Thursday, May 25, 1978, subject to the call of the Chair, for the purpose of receiving in this Chamber former Members of the Congress.

The SPEAKER pro tempore (Mr. ERTEL). Is there objection to the request of the gentleman from Illinois?

There was no objection.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the national park, national wildlife refuge, wild and scenic rivers and national wilderness preservation systems, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHULZE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 8, not voting 146, as follows:

[Roll No. 337]

YEAS—280

Allen	Blanchard	Butler
Ammerman	Blouin	Byron
Anderson, Calif.	Bonior	Caputo
Anderson, Ill.	Bonker	Carr
Annunzio	Brademas	Cederberg
Applegate	Breaux	Chappell
Archer	Brinkley	Clausen, Don H.
Armstrong	Brodhead	Clawson, Del
Aspin	Brooks	Cohen
Bafalis	Brown, Calif.	Coleman
Baldus	Brown, Ohio	Conte
Barnard	Broyhill	Corcoran
Bauman	Buchanan	Corman
Beard, R.I.	Burgener	Cornell
Beard, Tenn.	Burke, Fla.	Coughlin
Bedell	Burke, Mass.	Cunningham
Benjamin	Burleson, Tex.	D'Amours
Bennett	Burlison, Mo.	Daniel, Dan
Daniel, R. W.	Burton, Phillip	Daniel, R. W.
Danielson	Ireland	Panetta
Davis	Jacobs	Patten
Delaney	Jeffords	Patterson
Derrick	Jenkins	Pease
Derwinski	Jenrette	Pepper
Dickinson	Johnson, Calif.	Perkins
Dicks	Johnson, Colo.	Pettis
Dodd	Jones, N.C.	Pickle
Drinan	Jones, Okla.	Pike
Duncan, Oreg.	Jones, Tenn.	Poage
Duncan, Tenn.	Jordan	Price
Early	Kastenmeier	Quillen
Edgar	Kazen	Rahall
Edwards, Ala.	Kelly	Railsback
Edwards, Calif.	Kemp	Rangel
Edwards, Okla.	Ketchum	Regula
Eilberg	Kildee	Rhodes
Emery	Kostmayer	Rinaldo
English	Krebs	Robinson
Ertel	LaFalce	Roe
Evans, Colo.	Lagomarsino	Rogers
Evans, Del.	Latta	Rooney
Evans, Ga.	Le Fante	Rostenkowski
Evans, Ind.	Leach	Roybal
Fary	Lederer	Rudd
Fenwick	Leggett	Russo
Findley	Lehman	Ryan
Fish	Levitas	Santini
Fisher	Livingston	Schroeder
Fithian	Lloyd, Tenn.	Schulze
Flippo	Long, Md.	Sebelius
Florio	Lott	Seiberling
Flowers	Luken	Sharp
Flynt	McClory	Shuster
Foley	McCormack	Sikes
Forsythe	McDade	Simon
Fountain	McDonald	Sisk
Fowler	McFall	Skelton
Fraser	McKay	Slack
Frenzel	McKinney	Smith, Iowa
Gammage	Madigan	Smith, Nebr.
Garcia	Maguire	Snyder
Gaydos	Mahon	Solarz
Gephardt	Marks	Spellman
Giaimo	Marriott	Spence
Gilman	Mathis	Staggers
Ginn	Mattox	Stangeland
Glickman	Meeds	Stanton
Gonzalez	Michel	Steers
Goodling	Mikulski	Stockman
Gore	Miller, Ohio	Stratton
Gradison	Mineta	Studds
Grassley	Minish	Stump
Green	Mitchell, N.Y.	Taylor
Hall	Moakley	Thompson
Hamilton	Moffett	Traxler
Hammer-schmidt	Mollohan	Trible
Hannaford	Montgomery	Udall
Hansen	Moore	Van Deerlin
Harkin	Moorhead, Calif.	Vanik
Harris	Moorhead, Pa.	Vento
Harsha	Murphy, N.Y.	Volkmer
Hawkins	Murphy, Pa.	Waggonner
Hefner	Murtha	Walgren
Hightower	Myers, Gary	Weaver
Hillis	Myers, John	Whalen
Holland	Natcher	Whitehurst
Hollenbeck	Nedzi	Whitley
Holtzman	Nichols	Wirth
Howard	Nolan	Yates
Huckaby	Nowak	Yatron
Hughes	O'Brien	Young, Alaska
Hyde	Oberstar	Young, Fla.
Ichord	Obey	Young, Mo.
	Ottinger	Zablocki

NAYS—8

Collins, Tex.	Rousselot	Symms
Lloyd, Calif.	Satterfield	Wilson, Bob
Mitchell, Md.	St Germain	

NOT VOTING—146

Abdnor	Boland	Cornwell
Addabbo	Bolling	Cotter
Akaka	Bowen	Crane
Alexander	Breckinridge	de la Garza
Ambro	Broomfield	Dellums
Andrews, N.C.	Brown, Mich.	Dent
Andrews, N. Dak.	Burke, Calif.	Devine
Ashbrook	Burton, John	Diggs
Ashley	Carney	Dingell
AuCoin	Carter	Dornan
Badham	Cavanaugh	Downey
Baucus	Chisholm	Eckhardt
Bellenson	Clay	Erlenborn
Bevill	Cleveland	Fascell
Biaggi	Cochran	Flood
Bingham	Collins, Ill.	Ford, Mich.
Boggs	Conable	Ford, Tenn.
	Conyers	Frey
Fuqua	Mikva	Skubitz
Gibbons	Milford	Stark
Goldwater	Miller, Calif.	Steed
Gudger	Moss	Steiger
Guyer	Mottl	Stokes
Hagedorn	Murphy, Ill.	Teague
Hanley	Myers, Michael	Thone
Harrington	Neal	Thornton
Heckler	Nix	Treen
Heftel	Oakar	Tsongas
Holt	Pattison	Tucker
Horton	Pressler	Ullman
Hubbard	Preyer	Vander Jagt
Kasten	Pritchard	Walker
Keys	Pursell	Walsh
Kindness	Quayle	Wampler
Krueger	Quie	Watkins
Lent	Reuss	Waxman
Long, La.	Richmond	Weiss
Lujan	Risenhoover	White
Lundine	Roberts	Whitten
McCloskey	Rodino	Wiggins
McEwen	Roncalio	Wilson, C. H.
McHugh	Rose	Wilson, Tex.
Mann	Rosenthal	Winn
Markey	Runnels	Wolff
Marlenee	Ruppe	Wright
Martin	Sarasin	Wydler
Mazzoli	Sawyer	Wylie
Metcalfe	Scheuer	Young, Tex.
Meyner	Shipley	Zeferetti

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 39, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, May 18, 1978, the Clerk had read section 1 of the amendment in the nature of a substitute offered as an original text by the gentleman from California (Mr. LEGGETT), an amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS), and a substitute therefor offered by the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in a moment I am going to make a unanimous-consent request, which, if agreed to, might get us out of here within the next hour or hour and a half on this legislation.

Yesterday I promised the great peacemakers, the gentleman from California (Mr. ROUSSELOT) and the gentleman from Maryland (Mr. BAUMAN), and others, who were very generous and very kind in saying that we would be able to have a meaningful debate, that no motion would be made or no attempt would be made to shortcut a full debate.

Mr. Chairman, I renew that pledge right now. That is why I will ask unanimous consent and not make any motion.

I discussed the situation with the leader of the minority, the gentleman from Alaska (Mr. YOUNG), who is willing to go along with us if we can make an agreement here. I will not offer any additional amendments. I make the same pledge on behalf of myself and on behalf of the gentleman from Ohio (Mr. SEIBERLING).

The gentleman from Washington (Mr. MEEDS), who has fought a very vigorous battle, can speak for himself; but he is willing at this point to withhold any further amendment.

The gentleman from California (Mr.

LEGGETT), who represents the other great committee which has a stake in this legislation, has been consulted on this matter also.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

My understanding is that the gentleman from Nevada (Mr. SANTINI), a member of the committee, has an amendment which he feels he needs at least a half hour to properly discuss.

Mr. UDALL. I have talked with the gentleman from Nevada, and we had a long debate yesterday on his proposed amendment.

Mr. ROUSSELOT. Yes, but a lot of people were not here for the pro and con discussion of that important amendment.

Mr. UDALL. It is printed in the RECORD. I personally do not have any objection to giving him and his amendment a little bit of time.

Mr. ROUSSELOT. Is a half hour fair?

Mr. UDALL. If we start opening up for him, then there are others who feel very strongly; and we are going to have to open it up for them.

Mr. ROUSSELOT. It is difficult for me to believe that a half hour of debate on an amendment to this bill could be stipulated as "opening up" the whole bill.

Mr. UDALL. Let me make a proposal and then we can discuss the proposal.

Mr. Chairman, I ask unanimous consent that all debate on the pending Udall substitute and all amendments thereto end at 11:15 a.m.

That would give us time to consider the Santini amendment.

There may be a technical amendment or two. There may be an amendment offered by the gentleman from California (Mr. LEGGETT).

Mr. Chairman, if that is totally agreeable to the gentleman from Alaska (Mr. YOUNG) and everybody, and if we can pass these amendments by voice vote, that would mean, if we follow this procedure, that there would be a vote on the Udall substitute at 11:15.

I understand, in light of the promise made by the gentleman from Washington (Mr. MEEDS) and others yesterday, that the minority might wish to offer the Meeds substitute as part of the motion to recommit so that we could get a clear-cut vote on the Meeds substitute and then final passage. We would then be out of here by noon, at which time we will have done the job.

That is my proposal, Mr. Chairman.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Chairman, could the gentleman agree to 12 o'clock? That is lunch time.

Mr. UDALL. Yes. I would agree to 12 o'clock noon.

Mr. ROUSSELOT. I appreciate that and so do those who wish to discuss the Santini amendment.

Mr. UDALL. Mr. Chairman, I change my unanimous-consent request to 12 o'clock noon.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. LEGGETT TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. LEGGETT. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LEGGETT to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 54, between lines 4 and 5, insert the following:

BRISTOL BAY COOPERATIVE REGION

SEC. 306. (a) DEFINITIONS.—For purposes of this section—

(1) The term "Governor" means the Governor of the State.

(2) The term "legislature" means the Alaska State Legislature.

(3) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated April 1978.

(b) PURPOSE.—The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State—

(1) to conserve the fish and wildlife within the region;

(2) to ensure that any use within the region is carried out in a manner compatible with the conserving of such fish and wildlife;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2); and

(4) to identify land within the region which is appropriate for selection by the State under section 6 of the Alaska Statehood Act.

(c) FEDERAL-STATE COOPERATION IN PREPARATION OF PLAN.—If within three months after the date of enactment of this Act, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to—

(1) the identification of the significant resources of the region, including, but not limited to, fish and wildlife, mineral, geological, archeological, cultural, ecological, paleontological, recreational, scenic, wilderness, and historical resources;

(2) the identification of present and potential uses of land within the region;

(3) a determination with respect to which such uses are, or may be, compatible with the conserving of the fish and wildlife of the region;

(4) the designation of areas within the region according to their significant resources and the present or potential uses within each such area which are, or may be, compatible with the conserving of fish and wildlife;

(5) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of compatible uses within the region;

(6) the identification of that land within the region which will be selected by the State under section 6 of the Alaska Statehood Act; and

(7) the specification of the activities that may be permitted in each are identified under paragraph (4) and the manner in which these activities shall be regulated by the Secretary or the State, as appropriate.

The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary and the Governor—

(i) may modify without the prior approval of Congress and the State, and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) TAKING EFFECT OF PLAN.—If within three years after the date of the enactment of this Act, a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State, if, and only if—

(1) copies of the plan are submitted to both Houses of Congress by the Secretary, and to both houses of the legislature by the Governor, on February 1 of the year after the year in which the plan is agreed to by the Secretary and the Governor, except that the copies shall be delivered to the Clerk of the United States House of Representatives if the House is not in session and to the Secretary of the United States Senate if the Senate is not in session;

(2) Congress approves the plan under the procedures set forth in subsection (e); and

(3) the State takes appropriate action, before the close of the period set forth in subsection (f), to give the plan force and effect under State law.

(e) EXPEDITED CONGRESSIONAL APPROVAL PROCEDURES.—(1) The plan prepared under subsection (c) may not be considered to be approved by the United States unless, before the close of the one hundred and twenty-day period beginning on the date on which copies thereof are submitted to Congress under subsection (d)(1), Congress adopts, by an affirmative vote of a majority of those present and voting in each House, a resolution of approval.

(2) For purposes of this subsection and subsection (g), the term "resolution of approval" means only a joint resolution, the matter after the resolving clause of which is as follows: "That Congress approves the taking effect of the Bristol Bay Cooperative Region plan submitted to Congress by the Secretary of the Interior . .", the blank space therein being filled with the day and year.

(3) A resolution of approval, once introduced, shall be referred to one or more committees by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

(4)(A) If any committee to which a resolution of approval has been referred has not reported it at the end of sixty calendar days after its referral, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution of approval which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution of approval), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to re-

consider the vote by which the motion is agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution of disapproval.

(5)(A) When any committee has reported, or has been discharged from further consideration of, a resolution of approval, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution of approval shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee or the consideration of a resolution of approval, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or the Senate, as the case may be, to the procedure relating to any resolution of approval shall be decided without debate.

(7) The one hundred and twenty-day period referred to in paragraph (1) and subsection (g) and the sixty-day period referred to in paragraph (4)(A) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than three days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session. (8)

(8) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of approval; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) TIME PERIOD FOR ACTION BY STATE.—For purposes of subsection (d), the State must give force and effect to the plan under State law before the close of the one hundred and twentieth day after the day on which copies of the plan are submitted to the legislature under paragraph (1) of such subsection.

(g) ACTION BY SECRETARY IF STATE DOES NOT PARTICIPATE IN PLAN.—If—

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c) (1) through (7) (and containing a specification of those elements in the plan which the Secretary may modify without the prior approval of Congress), and submit copies of such plan to both Houses of Congress, as provided in subsection (d)(1), within three years after the date of the enactment of this Act. Such plan shall take effect with respect to the United States if before the close of the one hundred and twenty-day period beginning on the date on which copies thereof are so submitted to Congress, the Congress adopts, by an affirmative vote of a majority of those present and voting in each House, a resolution of approval. Subsection (e)(2) through (8) applies with respect to a plan prepared under this subsection.

(h) TRANSITIONAL PROVISIONS.—On the date of the enactment of this Act, all Federal land within the region, other than land within conservation system units, shall be withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and shall be under the jurisdiction of the United States Fish and Wildlife Service and shall be administered in the same manner as if such land were included within a refuge established under section 304 until—

(1) the first day on which a plan is in effect with respect to both the United States and the State (in the case of a plan prepared under subsection (c)) or with respect to the United States (in the case of a plan prepared under subsection (g)) after which such land shall be administered as provided for in the plan; or

(2) the day—

(A) after the last day of the one hundred and twenty-day period provided for in subsection (e)(1) or subsection (g), as the case may be, if Congress does not approve the plan under the procedures set forth in subsection (e); or

(B) after the last day of the one hundred and twenty-day period provided for in subsection (f); if the State does not give force and effect to a plan under State law within such period; after which such land shall continue to be administered in the same manner as if it were included within a refuge established under section 304, except that any such land, not withdrawn from State selection under section 17(d)(2) of the Alaska Native Claims Settlement Act, may be selected by the State pursuant to section 6 of the Alaska Statehood Act.

The Secretary shall convey title to the State for any land selected under this Subsection with a covenant which requires the State to conserve fish and wildlife within such land.

(i) ILIAMNA AREA; RESTRICTIONS.—Notwithstanding any other provision of law, no Federal lands within the State which have hitherto been withdrawn from State selection under section 17(d)(2) of the Alaska Native Claims Settlement Act shall be conveyed to the State except for the purposes of exchanging, under the provisions of section 1201(f), State lands located within one or more conservation system units.

Conforming amendment: In the table of contents, after "305. Cooperative management agreements." insert "306. Bristol Bay Cooperative region."

Mr. LEGGETT (during the reading). Mr. Chairman, this is a 12-page amendment. I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEGGETT. Mr. Chairman, I rise in support of the committee's Bristol Bay amendment. Bristol Bay is one of the most biologically productive marine areas in the world. It is a feeding area for millions of seabirds, thousands of marine mammals, and countless other marine species. The estuaries that line its shores serve as staging areas for millions of migrating waterfowl. The many rivers and streams that flow into the bay provide the spawning grounds for 16 percent of the world's red salmon, a fishery of national and international significance as well as one of great value to the Alaskan economy.

The red salmon alone would justify refuge status for much of the Bristol Bay drainage, but the lands are rich in other wildlife as well, particularly on the Alaska Peninsula where caribou, moose, and brown bear abound. Establishing refuges on the public lands, however, will not by itself insure the protection of fish and wildlife habitat.

In general, public lands on the peninsula are in isolated blocks in the central highlands. Native corporations have selected much of the Pacific coastline and the State owns almost all of the coastal lowlands on the Bristol Bay side. The State-selected lands have the highest value for migratory birds.

The migratory species—be they salmon, birds, or caribou—will pass through the waters and lands of the peninsula ignorant of the fact that they are crossing man's boundary lines. To protect such species, there must be established a series of interlocking cooperative agreements among landowners that will encourage long-term habitat protection. To create a Federal wildlife refuge that can effectively protect the extensive wildlife values of the region, there must be land exchanges and a consolidation of ownership into larger management blocks.

In the Iliamna Lake area, there are equally complex management problems developing. Native corporations, which have selected 80 percent of the Iliamna shoreline and much of the shoreline of the major rivers, will own some 11 percent of the area. The State already owns the beds of the lake and the major rivers and manages the fisheries. If the State selects all the lands to which it believes it is entitled, it would own well over half of the area. The balance of some 1.1 million acres of Federal (d)(2) lands would be interspersed among the Native and State lands. Here, again, there is a need for cooperative planning and land consolidation.

In December 1973, Secretary Morton recommended that the Iliamna area be added to the National Wildlife Refuge System. The State has listed it among its highest priorities for selection. The administration recommended that these Federal lands go to the State, but only after the State has shown, by appropriate legislation, that it is able to implement a management plan for the primary purpose of watershed protection and fishery production. The Interior Committee adopted this provision, but provided that the Federal lands should go to the State only in exchange for State-owned lands within the new parks and refuges, rather than as selections under the Statehood Act.

The Merchant Marine and Fisheries Committee, recognizing the need for integrated resource management throughout this sensitive and complex area, directed the Secretary to prepare a comprehensive and systematic cooperative management plan for the Bristol Bay region. The region is defined so as to exclude units of the National Park system.

The committee provided that during the 3 years of plan preparation, all Federal lands will be protected from adverse use. Refuges are established in the Togiak area, the Becharof Lake area adjacent to Katmai National Park, and on the Alaska Peninsula. In addition, the Federal lands within the Iliamna area will be under the interim jurisdiction of the Fish and Wildlife Service, to be administered as if the lands were in an established refuge.

The State and Native lands will be managed under existing State authority in the interim, but the Governor, if he elects to participate in the preparation of the plan, must agree to manage State lands so as to conserve fish and wildlife resources and habitat during the plan preparation to the extent of his authority. Governor Hammond testified before the committee that he is willing to take such actions.

The Bristol Bay regional plan is to be completed in 3 years, at which time, if it has been approved by the Secretary and the Governor, it must be submitted to the State legislature and both Houses of Congress for approval. If the plan is so approved, it will enter into effect and thereafter the lands must be managed according to the plan. Once the plan is adopted, the State can select and receive its lands under the Statehood Act, but such lands would carry a covenant that they would be managed to conserve fish and wildlife resources and habitat pursuant to the plan. The Governor agreed to such a covenant. If the Governor does not elect to participate in the plan, the Secretary must submit his own plan to the Congress which, if approved, take effect with respect to Federal interests. If there is no approved plan, the Federal lands designated as refuges by this act will remain in refuge status. The other lands in the region will be open then for State selection except that the State would take title to the land subject to a covenant to protect the fish and wildlife resources of the region.

The Governor has been a strong advocate of cooperative planning and management as the best means of ensuring the long-range protection of fish and wildlife populations and habitat. He made it clear in his testimony before the committee, however, that if the committee adopted the Bristol Bay concept, he would not expect, and would not advocate, that any other cooperative land management areas be included in the act. The committee agreed that Bristol Bay is unique because of its rich fish and wildlife values and its checkerboard land ownership pattern.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the chairman, the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the spirit of the unanimous-consent request I made earlier was such that technical amendments which are generally agreed to by the gentleman from Alaska (Mr. YOUNG), by the gentleman from California (Mr. LEGGETT), and by the rest of us could be handled during this short period of time. The gentleman's amendment, as I understand it, is not controversial.

It is acceptable to me, acceptable to Mr. SEIBERLING, and acceptable to Mr. MEEDS. If the minority can take it, we can take it.

Mr. LEGGETT. I merely point out that this is the House Committee on Merchant Marine and Fisheries unanimously reported, cooperative management program for the Bristol Bay region.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, I rise in support of this amendment.

The Bristol Bay region is one of the most significant areas in the State for wildlife management and perhaps in all the world. It contains a unique variety of habitats in combination upon which many fish and wildlife species rely.

Of national and international significance are the millions of migrating birds which nest in the area, or pause there during their various migrations to and from their widely divergent wintering grounds. In addition, a substantial variety of mammals are resident to the area, and an abundance of both sport and commercial fishes spawn and grow and spend all or important periods in their respective life cycles in the rivers and estuaries of this fertile and nutritive region.

A cooperative program is critically important for the Bristol Bay drainage, due to the confusing landownership pattern between Federal, State, and private interests in the region, and the subsequent management problems developing throughout this sensitive and complex area.

This amendment provides for the development of a comprehensive, cooperative plan which will insure the long-range protection of the fish and wildlife populations and their habitats throughout the entire region—not just within the proposed refuges. While the cooperative plan is in process of formulation and approval by the Secretary and the Governor, all Federal lands in the region, other than national parks and preserves, will be managed by the Fish and Wildlife Service. This will insure their protection in the interim. Also, during this planning process, land may be identified for exchange; however, actual conveyance cannot take place until the plan is approved by both the Congress and the State legislature.

Once the cooperative plan is approved by Congress and the State of Alaska, all lands within the Bristol Bay Region will be subject to management pursuant to the plan.

The Federal public lands in the northern portion of the Alaska Peninsula especially are in isolated blocks in the central highlands; the Native corporations will own much of the Pacific coastline; and, the State has selected almost all of the lowlands on the western side of the Peninsula. The result is a patchwork or checkerboard pattern of mixed landownership and governmental jurisdictions. Obviously, the fish and wildlife are oblivious and unconcerned about the boundaries we designate for their protection and they cross back and forth through all these areas through the course of their respective life cycles. If we want to provide for the protection of the fish and wildlife species on the Alaska Peninsula, and within the entire Bristol Bay drainage, a comprehensive, cooperative management program is the only viable alternative to insure their natural stability and continued productivity.

I, therefore, urge my colleagues to join me in supporting this necessary amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I rise in support of the amendment. This amendment establishes an imaginative mechanism to provide coordinated management for one of the richest land and marine areas in the United States, if not the world.

In most areas of Alaska the simple designation of a park or refuge is sufficient to guarantee long-term protection for the area. Unfortunately, this is not the case for what is probably the most important fish and wildlife region of the State of Alaska. I am referring to the world-famous Bristol Bay and Alaska Peninsula area.

Bristol Bay is a feeding area for literally millions of seabirds, thousands of marine mammals, and countless other marine species. As I mentioned in general debate, 16 percent of the world's red salmon population migrates through this bay to spawn within the hundreds of rivers and streams that flow into it. These fish serve as the backbone of the Alaskan economy and supply protein to people around the world.

The salmon which are spawned in this area migrate down the Canadian and American coast and out into the high seas. They are caught by fishermen from Alaska, Oregon, Washington, as well as Canada and Japan. These salmon are a highly renewable resource, but they can only be protected as long as we take care to properly maintain their spawning habitat. This will be no easy task in this area due to intermixture of State, Federal, and Native-owned land throughout the region. Even if the Federal Government maintains its lands in the most pristine condition possible, inappropriate

development on adjacent State and Native land could spell disaster for these important anadromous fish populations as well as all of the other migratory species in the region.

Rather than simply designate refuges on the Federal land in this area, the Merchant Marine and Fisheries Committee adopted a variant of a provision originally recommended by the Governor of Alaska providing for coordinated management of the entire region. Under this provision, the Secretary and the Governor will develop a land-use management plan. The central feature of this plan will be the conservation and protection of the fish and wildlife resources in the Bristol Bay-Alaska Peninsula region. The plan would not be self-executing, but would have to come back to Congress and the State legislature for ratification.

Some have charged that this provision cedes authority over Federal land to the State of Alaska. It does nothing of the sort. The Congress will have the ultimate say whether this plan will become effective or not, and none of the refuges proposed in this legislation could be changed without congressional action.

All this provision attempts to do is recognize that the migratory fish and wildlife species do not recognize the lines that we draw on the map in this legislation. These species can only be fully protected if all of the landowners in the region agree to cooperate in developing their land in a manner which minimizes any adverse impact on the important resources of this region.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I just want to compliment the gentleman on the effort he has made in the proceedings of the Committee of the Whole to work out this agreement. This is a matter to which we have devoted considerable time and effort in the Committee on Merchant Marine and Fisheries, both in the subcommittee under the gentleman's leadership and in the full committee. I am pleased that it has been favorably received. It is a very important amendment, and I support the compromise agreement.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Califorina (Mr. LEGGETT) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SANTINI TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. SANTINI. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SANTINI to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Strike title XIII and insert the following in lieu thereof:

TITLE XIII—MINERALS ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 1301. The purposes of this title are to provide for—

(1) the expansion of the minerals data base for all public lands in Alaska through the continuation of mineral assessment programs, and

(3) the development of a decisionmaking process respecting the exploration for, and development and extraction of, minerals from the various conservation system units in the State of Alaska.

CONTINUATION OF MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 1302. (a) MINERAL ASSESSMENTS.—The Secretary of the Interior shall, to the full extent of his authority, continue mineral assessment programs in the State of Alaska in order to expand the data base with respect to the mineral potential of all public lands in Alaska. Such programs may include, but shall not be limited to, techniques such as side-looking radar imagery and core drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. In carrying out such programs, the Secretary—

(1) is authorized to study and conduct assessments of the oil, gas, and other mineral potential of all public lands in Alaska,

(2) shall establish priorities for accelerated assessments with respect to minerals for which there is a high potential on such public lands, and

(3) is authorized to enter into contracts with public or private entities to carry out such programs.

(b) REGULATIONS.—Activities carried out on conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the area or biological or ecological systems in the area, and

(2) which is compatible with the purposes for which such units are established.

PRESIDENTIAL REPORT

SEC. 1303. On or before October 1, 1981, the President shall submit to the Congress a proposal for the establishment of a procedure for evaluating applications by individuals wishing to carry out mineral exploration or extraction on those lands included within the boundaries of the various conservation system units in Alaska. Such proposal shall provide for the approval of applications only in those cases where the applicant is able to demonstrate that such exploration or extraction would be in the best interests of the United States. The proposal shall include provisions which will insure that any such operations shall be carried out, to the maximum extent feasible, in a manner not inconsistent with the purposes for which the affected units were established. Upon submission of such a recommendation, the President shall also transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the Bureau of Mines and any other Federal agency which may have such information.

And make the necessary conforming changes in the table of contents.

Mr. SANTINI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. SANTINI. Mr. Chairman, this particular amendment addresses itself to the issue of the hard rock mineral existence and potential in the State of Alaska. A considerable number of hours and God knows how many witnesses have been contributed to the work product of this legislation. Whatever its merits or deficiencies, no one could seriously suggest that the gentleman from Ohio does not deserve the "cast iron posterior award for endurance" through an endless succession of hearings that he conducted. But, I would suggest most earnestly and fervently to my colleagues that the one glaring area of factual deficiency in the legislative proposal that we are examining this morning is the issue of what to do about identification of, exploration for, and recovery of the hard rock mineral resources of Alaska.

We are a Nation that represents 5 percent of the land mass of the Earth, 7 percent of its population, and consumes 24 percent of its minerals. Each American consumes 40,000 pounds of minerals each year.

Those of you who were present in the Chamber yesterday saw the charts. They showed graphically of the 37 minerals upon which this Nation is dependent for survival we are import reliant for over 50 percent of 23 of those minerals.

We are in bad, bad shape when it comes to our mineral self-sufficiency. But as one sage political observer recognized 10 months ago, "there is no particular political sex in silver." Who cares about it? Who cares about the hard rock minerals? Some appreciate being between the rock and the hard place but few appreciate the contribution and the importance of hard rock minerals, in this country at least.

The Russians are most cognizant and most enthusiastic about hard rock minerals. Of the 37 minerals they are net exporters of 33 of those minerals.

Those of you are tuned into the conflict that we are having in Zaire right now, must realize that it is not a battle for people's minds or a battle for geography in terms of the political or economic adversaries that we have in this world. It is a battle for their minerals.

One week before the invasionary forces went into Zaire, the U.S.S.R. purchased, on the London commodity market, 300 pounds of cobalt.

I repeat, 2 weeks ago Russia goes onto the London commodity market and purchases 300 pounds of cobalt. We have zero cobalt production in this country. We are 98 percent reliant on imports. Seventy percent of our cobalt comes from Zaire.

Two weeks ago Russia buys from the London commodity market 300 pounds of cobalt. One week later Zaire is invaded. Cobalt jumped from $6.68 a pound to $19 a pound, as of yesterday, on that London commodity market. At this point we only have 200 pounds of cobalt left on the London market.

There is a mineral crisis that is facing us. We are walking down that same bloody road of economic disaster that we walked down in 1972, 1973, and 1974 with with our oil export reliance.

One of our last possible realms of solution with reference to our mineral needs lies in Alaska. Alaska is our last treasure house of both environmental and mineral resources. No person or entity really knows the importance of our Alaskan treasure house because we do not know what is there in terms of our mineral resources or reserves in Alaska.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. SANTINI. I believe that we can accept it as an argumentative given that we do not have any precise facts, figures, or information on what our mineral reserves are in Alaska.

What does the pending legislation proposes to do in response to our general state of ignorance. At one time it proposed nothing. That was H.R. 39, in its original form. Later a title I was added to H.R. 39. It created a bureaucratic labyrinth that would have boggled even those ordinary participants in the bureaucratic processes.

Then title IX was taken out in the revised legislation as it came to the floor in H.R. 12625. Now it is back in. It is the grandson of H.R. 39. It involves a compound application process to the Secretary of the Interior, followed by a legislative vote up or down.

To go through the details of it would suggest to the Members the gross impracticality of its implementation. I will not detail the embroiled process, but it could never work.

My amendment, I would suggest, is a modest and reasonable effort to try to respond to what I consider to be a problem of the greatest magnitude in our Nation's mineral future. My amendment would No. 1, say, USGS, you may continue to conduct your surveys in Alaska to determine what mineral resources we have there. No. 2, my amendment would direct the President of the United States to come to this legislative body by 1981 and give us a process of mineral access and mineral recovery in Alaska. It is an extraordinarily modest proposal. In other circumstances, and in a bloodthirsty climate I think this amendment would have been accepted.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

The gentleman is offering a very responsible amendment and taking a very positive position on this very critical issue. The United States is, as the gentleman's charts pointed out yesterday, a 50-percent-or-more importer of 23 minerals. While the Soviet Union is self-sufficient in 33 minerals.

No one knows what our mineral reserves are in Alaska. Throughout the hearings in both the Committee on Interior and the Committee on Merchant Marine and Fisheries, on which I serve, there was a mentality expressed that went something like this: We don't want to know what is there. So many witnesses came in and said they did not want to have minerals drilling in exploration because they did not want to know, did not want the public to know, and did not want the mineral developers to know what is there.

I think we ought to know what the resources are. We ought to conduct that mineral research through an agency of the U.S. Government, have an inventory, and then make the decision and not stick our heads in the sand. I hope the amendment offered by the gentleman is accepted.

Mr. SANTINI. I thank the gentleman from Minnesota for his remarks. They are right on target.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

The gentleman from Minnesota mentioned this would be done by an agency of the U.S. Government.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. REGULA, and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. REGULA. If the gentleman will yield, my question is, Would this limit this being done by the USGS, or could it be done by contract between the Federal Government and a private assessment group?

Mr. SANTINI. If they were employed by the USGS, they could be hired in that fashion. My amendment goes strictly to the USGS but if they have a private contract for prospecting or minerals assessment in a given area, the USGS could make such a contract.

Mr. REGULA. So it would not be limited solely to employees of the Federal Government, but if it were a highly professional group that could do an adequate job, it could be done by contract with the USGS?

Mr. SANTINI. Yes, under its auspices.

Mr. REGULA. I think that should be made clear.

Mr. SANTINI. I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

The gentleman made the statement that we have no cobalt in the United States. Of course, we do have the mineral stockpile, the strategic mineral stockpile, and I wonder if the gentleman really meant that categorically.

Mr. SANTINI. No. The gentleman raised that important question yesterday. I responded erroneously, as we discussed earlier this morning. I was in error when I suggested there was no stockpile. There is a stockpile. The stockpile is one-half of the objective stockpile in tons, I am told, but trying to ferret out from the Government as to what a stockpile does or does not have is another exercise in information-frustration. But there is a stockpile there of cobalt. The stockpile of opium, and features that exceeds its objective.

Mr. SEIBERLING. We have a lot of opiates from the Federal Government. I trust they did not tell the gentleman they could not give him the data on account of national security.

Mr. SANTINI. We create some of the opiates in the form of the legislative process here, too, unfortunately, but I hope this bill will not fall in that category.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute).

Mr. SEIBERLING. If the gentleman will yield further, the gentleman yesterday, in response to a question I asked, said that there was no known hard-rock mine operating in Alaska, and when I asked him how long it would take to discover and test and develop the cobalt mines, he replied on the order of 10 to 20 years; is that correct?

Mr. SANTINI. That is correct.

Mr. SEIBERLING. So that no matter what happens to this legislation, nothing is going to be done in the immediate future about developing this mineral in Alaska?

Mr. SANTINI. Concededly, and that is why we do not have any active mineral activity there now. But the critical question is we have got to act now if we are going to anticipate and respond to the future. We cannot continue to forestall action or live in the world of expectation that the Wizard of Ore is going to wave his wand and drop it in our laps. We probably should have acted 10 years ago to get an intelligent minerals assessment then. But we should not defer action any longer.

Mr. SEIBERLING. I agree.

The CHAIRMAN. The time of the gentleman from Nevada has again expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

As I read this amendment, and realize that the gentleman who serves on the committee and also has substantial knowledge and understanding of mining activities because it occurs in the gentleman's own State, that this is merely an extension of time to 1981 to ask for a Government assessment of minerals in the public lands addressed by this bill. The House Members can be assured it will be a qualified assessment, because it will be conducted by the U.S. Geologi-

cal Survey, reviewed by the President, and submitted to Congress for its final judgment by 1981. The Presidential report the gentleman is requesting be made of those public lands in this bill would be assessed by 1981. The President would report back to the Congress on that assessment; is that correct?

Mr. SANTINI. That is very well summarized, yes.

Mr. ROUSSELOT. Mr. Chairman, that sounds like a terribly reasonable amendment.

Mr. SANTINI. That is my point.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I just cannot believe my colleague, the gentleman from Arizona, who is familiar with mining activities in the gentleman's own State of Arizona would not just jump up and support this amendment.

Mr. SANTINI. I cannot speak for the full committee, but I can add additional facts that go to the merits of the gentleman's observation; that is, that the President of the United States has directed that there be a national minerals policy. Fourteen agencies of the Government are now engaged in a fact-finding process and that is imperative to find out where we are and what response we hope to create in the future.

Mr. ROUSSELOT. And all the assessments will be reported to the Congress?

Mr. SANTINI. Exactly.

Mr. ROUSSELOT. So the Congress can monitor whether such potential mining action is going to cause gouging of the land or will somehow destroy a potential national park sight. The concerns for the environment of which my colleague, the gentleman from Arizona, talks about; will be carefully reviewed and analyzed more precisely under the Santini amendment.

Mr. SANTINI. Yes. That is correct.

Mr. ROUSSELOT. Well, that sounds awfully reasonable to me. I do not know why the chairman of the committee, the gentleman from Arizona, would not just accept the amendment.

Mr. SANTINI. I think perhaps there is a baser reason. It may be practicality, rather than personal persuasion that causes the gentleman to resist supporting the amendment.

Mr. KREBS. Mr. Chairman, I am sure the gentleman's time is about to expire, so I will request additional time.

(At the request of Mr. KREBS, and by unanimous consent, Mr. SANTINI was allowed to proceed for an additional 2 minutes.)

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, I believe the record of the deliberations on this piece of legislation will clearly show that I have almost, not totally, but almost without exception supported the majority of the committee in its actions in the committee.

Mr. Chairman, I want to commend the gentleman from Nevada on the gentleman's tenacity in presenting his point of view in the strong fashion, I might say, the gentleman did and the very articulate fashion. I should confess that in the committee I voted against a similar amendment by the gentleman, not identical, but a similar one. The gentleman's arguments have been so persuasive that I will support the amendment. I am only sorry that in the spirit of compromise that apparently has prevailed in the last 12 hours that a compromise was not reached on this particular concern.

Mr. Chairman, I certainly urge the Members of the House to look very carefully at this amendment and support it, because I think the President and the country will accept it.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am not on the committee. This is a whole new learning process for me. The amendment makes sense to me, but I want to ask the gentleman, there is no inherent per se exploitation of the Alaska lands of this assessment while the assessment is going on, is there?

Mr. SANTINI. No. There is no major mining there of any type. There is virtually no mining activity of any kind.

Mr. GLICKMAN. Mr. Chairman, if the gentleman will yield further, what I am saying, the difference between the gentleman's amendment and that of the chairman of the committee is not that if the gentleman's amendment is adopted, until 1981, there will be tremendous exploitation in determining whether mineral resources are there or not; am I correct?

Mr. SANTINI. The gentleman is correct.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of the gentleman's amendment and commend the gentleman for offering it. This kind of assessment is long overdue. I am hopeful this committee will accept it.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. FORSYTHE, and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, I noticed the chairman of my committee rising earlier, and if he desires that I yield to him, I would be happy to do that.

Mr. UDALL. Mr. Chairman, I wanted to get my own time to talk on this amendment, but I thank the gentleman for yielding.

The gentleman from California (Mr. ROUSSELOT) has been inviting me to jump up and support the amendment, but I am going to jump up and oppose it at the proper time. The gentleman from Ohio (Mr. SEIBERLING) also wants to be heard, and I want to make sure he gets that opportunity. I hope we can divide our time equally among those who support this amendment and think it is a good amendment and those of us who think it is a disaster.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I would like to ask the gentleman a few questions.

As I understand it, in the first section of the gentleman's amendment he does repeal title XII, which is the old title IX and which is an unworkable program?

Mr. SANTINI. Right.

Mr. LEGGETT. The gentleman does not include in his amendment any repeal of the petroleum reserve exploration program is currently being conducted pursuant to the Naval Production Reserves Act.

Mr. SANTINI. That is correct.

Mr. LEGGETT. The gentleman does provide a mineral assessment program which is exactly like the mineral assessment program that we had in title XIII, a.k.a. title IX?

Mr. SANTINI. Yes, the gentleman is correct.

Mr. LEGGETT. Does the amendment change any wilderness designations,

Mr. SANTINI. No, it does not.

Mr. LEGGETT. And the gentleman does not change any park lines, and he does not change any refuge lines?

Mr. SANTINI. The gentleman is correct.

Mr. LEGGETT. And the gentleman does not change any of the rights of the Secretary to grant oil lease in refuges pursuant to this bill and the Refuge Administration Act.

Mr. SANTINI. Whatever the bill says in that regard. The gentleman would be better able to address that particular issue than I. Certainly this amendment does not make any substantive changes in that regard.

Mr. LEGGETT. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. LEGGETT, and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. LEGGETT. Mr. Chairman, will the gentleman yield further?

Mr. SANTINI. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, the gentleman does make provision for action by the President by October 1, 1981, and predictably that would be the existing President. The amendment does provide that nothing can happen with respect to any hardrock minerals or other activity until Congress acts, is that not correct?

Under section (c) the gentleman requires that the President recommend a procedure to the Congress, and by implication nothing can happen on that recommendation until Congress in fact enacts a law, is that not correct?

Mr. SANTINI. Yes, that is correct.

Mr. LEGGETT. So the gentleman does provide that an effort to solve this minerals problem that everybody would like to solve would be made, and that the President can make a recommendation which is in the interest of Alaska and of the United States to the Congress for a procedure to govern applications

for hardrock minerals within preserves and refuges. And this recommendation would require an act of Congress to take effect.

Mr. SANTINI. The gentleman is correct.

Mr. LEGGETT. Mr. Chairman, I do not think that is too much of a bone cruncher myself.

I do not like to take a separate position from that of my colleagues, because I am not really an expert on minerals, but it seems to me that we must establish some kind of a procedure on minerals.

We had had a minerals leasing procedure that was allowed in the bill of the Committee on Merchant Marine and Fisheries and which is probably more extensive than the gentleman allows in his recommendation.

Mr. Chairman, I thank the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I thank the gentleman from California (Mr. LEGGETT).

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is a very interesting amendment. The first section of the amendment, which is the one that the gentleman from Nevada (Mr. SANTINI) talked about the most, is absolutely identical to section 1303 in the Udall substitute, and it provides for minerals assessment by the Secretary of the Interior.

So the one big thing that the gentleman from Nevada (Mr. SANTINI) has been talking about—and this is what the gentleman from Minnesota (Mr. OBERSTAR) talked about—is how we ought to know what is in Alaska. This is already provided for. I do not know about the Committee on Merchant Marine and Fisheries, but no member of the Committee on Interior and Insular Affairs said we did not want to know.

On the contrary, we passed a section to our bill that said we do want to know, and we mandated that the Secretary of the Interior conduct advanced mineral assessments throughout Alaska, regardless of whether the area is in one of these units or not.

Mr. SANTINI. If the gentleman will yield, to clarify that remark, I was referring to witnesses who repeatedly appeared before our committee in opposition to the mineral exploration provisions, and they are the ones who repeatedly said we do not want to know what is there.

Mr. SEIBERLING. I see. As a matter of fact, the Secretary of the Interior himself and the President of the United States took the position that 70 percent of the mineralized zones of Alaska were enough.

Mr. Chairman, I wonder if the staff could bring in the map that shows the USGS latest information on mineralized zones in Alaska.

We listened to the Secretary make that statement before our committee, and he was right, in substance. It is going to take at least 100 years to begin to explore and develop the mineral potential of 70 percent of the mineralized zones, the areas having mineral potential, that are outside the boundaries of any of the units of the administration's proposals. Under the Udall substitute 65 percent of these areas are outside the boundaries of conservation system units, plus the 3 percent or 4 percent of native lands which are within the boundaries of conservation systems, which comes up to 69 percent of such areas which are available potentially for minerals development.

So two-thirds of the areas having mineral potential in Alaska are outside of the boundaries of the units of this bill, at least two-thirds. And nobody knows, of course, whether cobalt—let us take a critical mineral—is going to be found in that two-thirds or whether there might be a cobalt find in the other one-third that is in the wildlife refuges or in the parks.

So we directed the Secretary to conduct an advanced mineral assessment, including core drilling anywhere that he thought the national interest so required. And the U.S. Geological Survey, which is the agency which is charged with that responsibility, and which prepared this map, are the people who would carry it out of course. They could contract with private industry, if they wanted to. But they have the expertise.

Mr. Chairman, I would just like to point out where some of these areas are. On this map, we have in black lines the Udall bill boundaries of all of these different units. The orange lines are the areas of mineral potential. That does not mean that they are necessarily commercially viable deposits, but they are resources. And these are all technical words which mean that they think there may be a mineral there in viable quantities or have less potential than that, but that is what the USGS, which is the authority, has come up with. As I said, two-thirds of these mineral potential areas are outside the conservation system units we are talking about.

Mr. Chairman, let me read to the Members a letter, or part of a letter, that I received yesterday from the Assistant Secretary for Energy and Minerals of the U.S. Department of the Interior, Joan Davenport. She said:

> These reports are based on a synthesis of all currently available geological, geophysical, geochemical, and mineral occurrence data and incorporate field data collected through last summer.

And that includes data collected by prospectors, by private corporations, that are fed into the USGS, and then the USGS collects that information from private sources, as well as its own.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 5 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, I am continuing with the quote:

> The reports represent the collective knowledge of a team of 25 Geological Survey scientists. The assessment is the best yet available of Alaska's mineral resources and no comparable analysis summarizing mineral potential has been published before or since.

Mr. Chairman, Alaska has been prospected for 75 years or more, and there are literally thousands of claims for minerals that can be developed tomorrow if the owners find it desirable. And yet there is not a single working hardrock mine in Alaska.

Why not? Because the climate, the geography, the lack of roads, and the cost of developing those minerals so far have been prohibitive. That does not mean they always will be, but what I am saying is that the most important thing at the present time is to do what the Santini amendment does and what the committee bill does.

The Udall substitute does not stop where the Santini amendment stops. All he directs is that after this mineral assessment is started—and it has been ongoing actually for many years—within a certain period of time the President is to report to the Congress as to whether they found anything. We already have the latest information, and presumably, three years from now it will be more up-to-date. However, he takes out the provision which says if anybody thinks that he knows where there is a mineral that is important to the Nation's needs, then the Secretary has to make a recommendation to Congress, not 3 years from now, but immediately, to open it up—not immediately; he has 14 months in which to do the survey and so forth. If the Congress approves the Secretary's recommendation, he has to let a private person go in and explore, and if that person finds a viable deposit of that mineral, he has the first crack at getting a lease to develop it.

Why does not the gentleman from Nevada (Mr. SANTINI) like that? I will tell the Members why: because he is afraid that that will be a precedent so that when the 1872 mining law comes up for amendment in the committee and in this Congress, this process will be used as a precedent and a substitute for the process in the 1872 mining law. I do not know whether it will or not.

Frankly, that is not the intent of the gentleman from Arizona (Mr. UDALL) or of myself; and I do not think the gentleman from Arizona intended it to be a precedent.

Mr. Chairman, Alaska is a unique situation, and we are trying to take care of it.

Mr. SANTINI. Mr. Chairman, will he gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, the point of difference I have with the distinguished chairman on the device or mechanism that he has created here in that there has never been one witness, one word of testimony, one iota of evidence in this committee record that addresses itself to the specific proposal which the gentleman seeks to create, the legislative fiat here.

That is not a proper way, I say to the gentleman from Ohio (Mr. SEIBERLING), considering all the work which the gen-

tleman has done on this bill. There is nothing to support title XIII, title IX, or any of it. It was created after the hearings in response to all of the criticisms leveled about the whole minerals question; but nobody testified that it was a workable, rational, reasonable way to either explore for minerals or to recover minerals in Alaska, nobody.

Mr. SEIBERLING. If the gentleman will yield back my time, Mr. Chairman, I would only say that we had an endless amount of testimony from the mining industry, from all kinds of people. We had the testimony of the gentleman himself, who is somewhat of an expert on mining and on mining law. We had the head of the U.S. Geological Survey as well as the Bureau of Mines come before us in a special briefing before we drafted anything. Naturally, we do not have the witnesses come in after we have drafted the legislation. We have them come in on the bill before us. Then, in response to their criticisms, their comments, and their recommendations, we make modifications; and that is exactly what we did. Of course, we did not pass on the final language, and that is true with everything else in the bill.

Mr. SANTINI. If the gentleman will yield further, Mr. Chairman, would not the gentleman agree that this is the only substantive area of the bill in which the gentleman is seeking to rewrite both the procedures for application and for exploration and mineral recovery and the mineral law of the United States of America for one part of the country without doing it for any other part of the country, and without having had one word of testimony about the fact that this procedure will work or that it is a fair, reasonable, or rational way to go about this matter?

Mr. SEIBERLING. No. As a matter of fact, we have had plenty of contact with the experts in the mining industry and with the Department of the Interior.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. To continue, Mr. Chairman, we had contact with the Interior Department and with all of the experts in working out the precise language of this provision in the substitute.

As a matter of fact, Mr. Chairman, the representatives of the mining industry, through the American Mining Congress, told us that they preferred the processes in 1872 mining law. But, we did work with their representatives at length to improve the technical aspects of this minerals process. And although the American Mining Congress, as a matter of policy, opposes any process involving leasing of hardrock minerals, they did work with us to make this a workable process.

Mr. SANTINI. If the gentleman will yield further, Mr. Chairman, that is not a fair thing to say. That is not even remotely close to the facts.

Mr. SEIBERLING. Mr. Chairman, I do not accept the gentleman's challenge to my statement. I can produce statements from the people concerned that it is a true statement of the facts.

All I want to say is that the present law is that there shall be no mining in the refuges. There is no mineral entry in the refuges; there is no mineral entry in the parks. In this bill we have gone beyond present law in requiring the Congress, after a recommendation from the Secretary that the national need requires mineral development in a refuge, or even a park, to vote on the matter within 120 legislative days.

Now, I would just like to suggest that the difference, the basic difference between the substitute and the Santini amendment is that all the gentleman provides for is a report—which we get every 6 months, actually, from the USGS now—to the Congress. I want to emphasize that our bill provides that where there is important national need, the Congress cannot just sit on the report. The Congress must act within 120 days to vote it up or down. So, we actually take care of the need to know, and we take care, if the Congress so decides, of the need to develop.

Mr. SANTINI does not like the process in the bill. But his solution is to have no process. If there is a need to develop certain minerals now, wherever we can find them, then his amendment goes in the opposite direction—he puts a complete freeze on any mineral development on these lands for 3 years.

So, I submit that if the Members really want to protect mineral development in Alaska, it is far more important to vote down the Santini amendment and stick with the Udall substitute.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when I made the unanimous-consent request to close debate at 12 o'clock, I understood that there were other Members who might have technical or brief amendments. I know that Mr. VENTO wants to be heard, and Mr. REGULA has an amendment. We debated the Santini amendment essentially for over an hour yesterday. We had a very good and profitable debate. This is an important amendment, a serious amendment, and ought to be discussed and debated. However, I hope we can get a vote on it very shortly.

Mr. Chairman, I strongly object to the amendment, and I hope to speak on it very briefly. JIM SANTINI is the leading authority in this Congress on national mineral policy. He has been a leader and has always been in the front. He took us to the White House a year ago and got the President's attention and interest. He had a big interagency task force to try to come up with national policy. He has shown us these charts to help us get a little better position on the subject. I am going to hold hearings and get some of these men down here and let Mr. SANTINI chew on them.

We need a national policy. We ought not to be trying to make national mineral policy in a bill related to Alaska. We have got a pretty good provision in here. In fact, the Santini amendment postpones once again the decision about what kind of minerals policy we are going to have for Alaska, and tells the President, "Take a couple of years, then come back and tell us what we need."

In the meantime, the presumption is that we are going to have mining in all these areas. The President has already made his recommendation. He says he does not want mining in the Arctic Wildlife Refuge Area; he does not like our title IX or title XIII, the title in the Udall substitute, which provides for an ongoing assessment program to tell us what we have in Alaska.

It has a flexible unlock mechanism that will let us unlock these areas if there are deposits that we need. So, I think we need certainty in Alaska. I do not think we need 2 more years of uncertainty. I hope we can get this thing settled and that the committee will support the provisions in the Udall substitute which will do much of what Mr. SANTINI wants to do.

I pledge to the gentleman from Nevada and to the House that our committee is going to take vigorous leadership in this field. I think we make a serious mistake if we undo the work of the Interior Committee. This identical amendment was offered by Mr. SANTINI in committee. He spoke with the eloquence, vigor, and heat that he always brings to these subjects, and he got a lot of votes. We voted him down.

I hope that the Committee of the Whole will vote him down today, and we can allow sufficient time for other Members to be heard.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I tried to listen very carefully to this debate. I am not the expert in mining engineering that the gentleman from Nevada (Mr. SANTINI) is. I appreciate the chairman of the committee, the gentleman from Arizona (Mr. UDALL), recognizing that the gentleman from Nevada (Mr. SANTINI) brings a positive expertise to the committee that is extremely valuable.

I do not think this amendment establishes or forces the establishment, of a national policy in mining resources on public lands. I do not think the chairman has read the Santini amendment carefully enough if he makes that kind of a statement or tries to imply that such is the case. I do not read it that way at all. But it does establish the idea of having a full assessment of the minerals in all of this public land set aside under this bill—and there is a substantial amount of land involved. There is even set aside as public lands more than exists in the home State of the gentleman from Arizona (Mr. UDALL).

I think that an appropriate mineral assessment analysis is important for this Congress to review so that future judgments can be made in a meaningful way. Since our good and distinguished chairman, the gentleman from Arizona (Mr. UDALL) recognizes that the gentleman from Nevada (Mr. SANTINI) has that kind of engineering expertise, I think we ought to provide for that kind of mineral assessment and at a date certain.

Therefore I would ask the gentleman from Nevada (Mr. SANTINI) to respond to some of the comments made by our distinguished chairman, the gentleman from Arizona (Mr. UDALL) and the gentleman from Ohio (Mr. SEIBERLING) as to whether i. fact his amendment is that damaging to the ecology considerations in this bill.

Mr. SANTINI. I will be happy to respond if the gentleman will yield.

Mr. ROUSSELOT. I will be glad to yield to the gentleman.

Mr. SANTINI. First of all, I do not think some of the sweeping generalities that were offered in support of the substitute are existent between whether there is a shortage in hard rock minerals, suggestions that two-thirds, 70 percent, 30 percent—statistics of all sort have been thrown out. Each time I turn around I see a new map and I wonder whether there are 14 little elves out there in the alcove producing these maps to reinforce every conceivable aspect of the arguments, and then the little old mapmaker comes in here with another map in support of these arguments.

Mr. ROUSSELOT. Might I ask the gentleman by whom was that second map to which you refer produced?

Mr. SANTINI. That second map was before the committee in the early stages of our hearings and it was a product of the Bureau of Mines.

Mr. ROUSSELOT. Then the Bureau of Mines produced another map that differs from the one before the House now?

Mr. SANTINI. Oh, indeed, yes.

Mr. ROUSSELOT. I see.

Mr. SANTINI. But there is a map for every single aspect in this very important legislation. But why is there no mining activity going on in Alaska today? Let me say that since 1968 there has been a de facto withdrawal of millions and millions of acres of that land, and we are continuing that and dealing with that in this legislation today. Nobody in their right mind would have endeavored to invest a dime in the hazy, confusing, disorganized cloud that has hung over the State of Alaska with this pending legislation. Indeed, parts of that haze have been cleared away and part of it is being compounded further if title IX, now title XIII, with its features are grafted on to this bill.

For instance, the language in the bill says: All right, Mr. Private Explorer, if you wish to go look for a mineral, or to engage in other obscene endeavors in our public lands you first have to make application to the Secretary of the Interior. Then the Secretary—if you ever have a chance for some amusing reading, read this—the Secretary of the Interior makes some initial subjective judgments that can go on as long as 27 months. If the Secretary of the Interior determines that it might be OK for you to go look for minerals, then you have to go to the Congress and the Congress can take up to almost 7 months in legislative time, 4½ to 7 months of legislative time, in which to make a decision as to whether they will approve or will not approve an individual exploration for minerals in a certain individual area.

It is the most preposterous kind of bureaucratic superstructure reinforced with legislative decisionmaking I have ever seen.

Mr. ROUSSELOT. And so your amendment cures part of that bureaucratic lag.

Mr. SANTINI. It does, it covers this kind of impractical procedure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROUSSELOT. Mr. Chairman, I ask unanimous consent that I may proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. ROUSSELOT)?

Mr. UDALL. Mr. Chairman, reserving the right to object, and I am not going to object to anything my good friend the gentleman from California (Mr. ROUSSELOT) wants to do, but I am going to have some bitter Members on my hands. This is an important issue and it looks like we will have a record vote, and if we have another 10 minutes debate there will not be sufficient time for certain Members such as the gentleman from Ohio (Mr. REGULA) and others.

Mr. ROUSSELOT. The gentleman from Arizona asked for the time limitation and at the time that he requested that time limitation I indicated it would require some time to have the House understand the Santini amendment.

Mr. UDALL. But we will have effectively shut off other Members.

Mr. ROUSSELOT. No, we will not be shutting off other Members. It was the gentleman from Arizona (Mr. UDALL) that asked for the limitation of time, but I appreciate the gentleman's point.

Mr. UDALL. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. ROUSSELOT) is recognized for 1 additional minute.

Mr. ROUSSELOT. As I understand the Santini amendment, basically, he is just asking that the President report back to Congress in 1981 with a total assessment of the minerals contained in the public lands. That is the basic issue?

Mr. SANTINI. Essentially that is correct.

Mr. ROUSSELOT. And that this legislation just does not give that kind of adequate consideration or mandated time to come back and report; is that correct?

Mr. SANTINI. That is correct.

Mr. ROUSSELOT. Then I think it is a very reasonable amendment. I urge my colleagues to listen to the other gentlemen from the committee, Mr. LEGGETT, Mr. SYMMS, and Mr. SANTINI, who even the Chairman acknowledges is a substantial expert on the subject of mining engineering. Mr. SANTINI has been an active and knowledgeable member of this committee especially on the subject of minerals and mining. Surely, he lost it in committee because maybe not enough members appreciated what the gentleman was trying to say, or maybe there were too many proxies being voted, as is done sometimes in that committee—and does happen in all our committees; we are spread pretty thin shuttling back and forth from committee to committee. So I ask my good colleagues to vote for this positive and reasonable amendment.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I think that the amendment offers the best possible means for the American people to have any idea of what they have in Alaska now. It is an unfortunate thing, I believe, that the way this law will be written, we will preclude the excellent prospecting system and the general mining law of this country from working. Where tenure and access would be allowed if a legitimate claim were staked, and risk capital could be invited and invested to properly develop minerals. The amendment itself will provide some type of an inventory for us.

I would like also to point out a couple of other things that have been stated here. The gentleman from Ohio (Mr. SEIBERLING) makes the point that 70 percent of the minerals in Alaska are outside of the boundaries of proposed wilderness areas, and it will take 100 years, I believe the gentleman said, to find out what is there. The only problem is that the part that is inside of the boundaries of the lockup include 70 percent of the highest potential, highly concentrated mineral beds. So I think the members of the committee should understand this in thinking about the importance of voting for the Santini amendment.

I was privileged to go to the White House with the gentleman from Nevada (Mr. SANTINI) and several other Members to present the need for a national mineral policy to the President. I hope that we can get something ongoing in that respect. We now have in charge of mining at the Department of the Interior Joan Davenport, who came to the Department from the Environmental Defense Fund. So I think it is necessary that the Santini amendment do be accepted, and I think it is a sad commentary that a country that has operated so well with a private enterprise system must revert to an amendment like the Santini amendment in order to have some kind of an idea of what we may have in Alaska for future generations in America, and urge its support.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. SANTINI) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The question was taken; and on a division (demanded by Mr. UDALL) there were—ayes 32, noes 23.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 157, noes 150, answering "present" 1, not voting 126, as follows:

[Roll No. 338]

AYES—157

Allen	Goldwater	Murphy, Pa.
Annunzio	Gonzalez	Murtha
Applegate	Goodling	Natcher
Archer	Grassley	Nichols
Bafalis	Hall	Nowak
Bauman	Hammer-schmidt	O'Brien
Beard, Tenn.	Hannaford	Oberstar
Benjamin	Hansen	Panetta
Boggs	Hightower	Patten
Breaux	Hillis	Pettis
Brown, Ohio	Huckaby	Pickle
Broyhill	Hyde	Poage
Buchanan	Ichord	Pritchard
Burgener	Jenkins	Rahall
Burke, Fla.	Johnson, Calif.	Railsback
Burleson, Tex.	Johnson, Colo.	Regula
Butler	Jones, N.C.	Rhodes
Caputo	Jones, Okla.	Robinson
Cederberg	Jones, Tenn.	Rostenkowski
Chappell	Jordan	Rousselot
Clausen, Don H.	Kazen	Rudd
Clawson, Del	Kelly	Santini
Coleman	Kemp	Satterfield
Collins, Tex.	Ketchum	Schulze
Cunningham	Kindness	Sebelius
Daniel, Dan	Krebs	Shuster
Daniel, R. W.	LaFalce	Sikes
Dent	Lagomarsino	Simon
Derwinski	Latta	Smith, Iowa
Dickinson	Lederer	Smith, Nebr.
Dicks	Leggett	Snyder
Dodd	Livingston	St Germain
Duncan, Oreg.	Lloyd, Calif.	Stangeland
Duncan, Tenn.	Lloyd, Tenn.	Stanton
Edwards, Ala.	Lott	Steed
Edwards, Okla.	McCormack	Stockman
Eilberg	McDade	Stump
English	McDonald	Symms
Ertel	McFall	Taylor
Evans, Ga.	McKay	Trible
Evans, Ind.	Madigan	Volkmer
Fary	Mahon	Waggonner
Findley	Marriott	Whitley
Fithian	Mathis	Wilson, Bob
Flippo	Mattox	Wilson, Tex.
Flowers	Meeds	Young, Alaska
Flynt	Michel	Young, Fla.
Foley	Miller, Ohio	Young, Mo.
Forsythe	Mitchell, N.Y.	Zablocki
Fountain	Montgomery	
Frenzel	Moore	
Gammage	Moorhead, Calif.	
Ginn		
Glickman	Murphy, N.Y.	

NOES—150

Alexander	Drinan	Le Fante
Ammerman	Early	Leach
Anderson, Calif.	Edgar	Lehman
	Edwards, Calif.	Levitas
Anderson, Ill.	Emery	Long, Md.
Andrews, N.C.	Evans, Colo.	Luken
Armstrong	Evans, Del.	McClory
Aspin	Fenwick	McHugh
Baldus	Fish	McKinney
Barnard	Fisher	Maguire
Beard, R.I.	Florio	Markey
Bedell	Ford, Mich.	Marks
Bennett	Fowler	Meyner
Bingham	Fraser	Mikulski
Blanchard	Garcia	Mineta
Blouin	Gaydos	Minish
Bonior	Gephardt	Mitchell, Md.
Brademas	Giaimo	Moakley
Brinkley	Gilman	Moffett
Brodhead	Gore	Mollohan
Brooks	Gradison	Moorhead, Pa.
Brown, Calif.	Green	Moss
Burke, Mass.	Hamilton	Myers, Gary
Burlison, Mo.	Harkin	Neal
Burton, John	Harrington	Nedzi
Burton, Phillip	Harris	Nolan
Byron	Harsha	Obey
Carr	Hawkins	Ottinger
Cohen	Heckler	Patterson
Conte	Hefner	Pease
Corcoran	Holland	Pepper
Corman	Hollenbeck	Perkins
Cornell	Holtzman	Pike
Coughlin	Howard	Price
D'Amours	Hughes	Quillen
Danielson	Ireland	Rangel
Davis	Jeffords	Rinaldo
Delaney	Jenrette	Roe
Dellums	Kastenmeier	Rogers
Derrick	Kildee	Rooney
Diggs	Kostmayer	Roybal
Russo	Staggers	Vento
Ryan	Steers	Walgren
Schroeder	Stratton	Weaver
Seiberling	Studds	Whalen
Sharp	Thompson	Whitehurst
Skelton	Traxler	Wirth
Slack	Udall	Yates
Solarz	Van Deerlin	Yatron
Spellman	Vander Jagt	
Spence	Vanik	

PRESENT—1

Jacobs

NOT VOTING—126

Abdnor	Flood	Richmond
Addabbo	Ford, Tenn.	Risenhoover
Akaka	Frey	Roberts
Ambro	Fuqua	Rodino
Andrews, N. Dak.	Gibbons	Roncalio
	Gudger	Rose
Ashbrook	Guyer	Rosenthal
Ashley	Hagedorn	Runnels
AuCoin	Hanley	Ruppe
Badham	Heftel	Sarasin
Baucus	Holt	Sawyer
Beilenson	Horton	Scheuer
Bevill	Hubbard	Shipley
Biaggi	Kasten	Skubitz
Boland	Keys	Stark
Bolling	Krueger	Steiger
Bonker	Lent	Stokes
Bowen	Long, La.	Teague
Breckinridge	Lujan	Thone
Broomfield	Lundine	Thornton
Brown, Mich.	McCloskey	Treen
Burke, Calif.	McEwen	Tsongas
Carney	Mann	Tucker
Carter	Marlenee	Ullman
Cavanaugh	Martin	Walker
Chisholm	Mazzoli	Walsh
Clay	Metcalfe	Wampler
Cleveland	Mikva	Watkins
Cochran	Milford	Waxman
Collins, Ill.	Miller, Calif.	Weiss
Conable	Mottl	White
Conyers	Murphy, Ill.	Whitten
Cornwell	Myers, John	Wiggins
Cotter	Myers, Michael	Wilson, C. H.
Crane	Nix	Winn
de la Garza	Oakar	Wolff
Devine	Pattison	Wright
Dingell	Pressler	Wydler
Dornan	Preyer	Wylie
Downey	Pursell	Young, Tex.
Eckhardt	Quayle	Zeferetti
Erlenborn	Quie	
Fascell	Reuss	

The Clerk announced the following pairs:

On this vote:

Mr. Jacobs for, with Ms. Keys against.

Mr. Krueger for, with Mr. Addabbo against.

Mr. Roberts for, with Mr. Boland against.

Mr. Teague for, with Mr. Cotter against.

Mr. Ashbrook for, with Mr. Andrews of North Dakota against.

Mr. Badham for, with Mr. Broomfield against.

Mr. Crane for, with Mr. Biaggi against.

Mr. Devine for, with Mr. Cleveland against.

Mr. Dornan for, with Mr. Horton against.

Mr. Erlenborn for, with Mr. Pursell against.

Mr. Frey for, with Mr. Sawyer against.

Mr. Guyer for, with Mr. Carney against.

Mr. Kasten for, with Mr. Wampler, against.

Mr. Martin for, with Mr. Brown of Michigan against.

Mr. John O. Myers for, with Mr. Wydler against.

Mr. Treen for, with Mr. Steiger against.

Mr. Winn for, with Mr. Lent against.

Mr. Walsh for, with Mr. Hanley against.

Mr. Bevill for, with Mr. Zeferetti against.

Mr. JACOBS. Mr. Chairman, I have a live pair with the gentlewoman from Kansas (Ms. KEYS). If she were present, she would have voted "no." I voted "aye." I withdraw my vote and vote "present."

Mr. JACOBS changed his vote from "aye" to "present."

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LEGGETT TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. LEGGETT. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. LEGGETT to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 45, section 304(6)(A), lines 21 and 22, strike "seven hundred and eighty" and insert in lieu thereof "six hundred and eighty-five".

Page 48, section 304(12)(A), lines 18 and 19, strike "and seventy".

Page 51, section 304(14)(A), line 8, strike "two hundred" and insert in lieu thereof "one hundred and thirty-five".

Mr. LEGGETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

PARLIAMENTARY INQUIRY

Mr. GARY A. MYERS. Reserving the right to object, Mr. Chairman, and I shall not object, I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GARY A. MYERS. Mr. Chairman, at the time the debate was limited, there was no assigning of time to individuals. Is that procedure in accordance with normal practice?

The CHAIRMAN. The Chair will state that at the time the debate was limited, no one was standing. Therefore, we proceeded under the regular 5-minute rule.

Mr. GARY A. MYERS. I thank the Chair.

Mr. Chairman, I ask unanimous consent that the remaining time be divided by those who are presently standing and make a request for time to speak during the remaining period.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. KOSTMAYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KOSTMAYER. Mr. Chairman, those of us who have amendments printed in the RECORD, even though all debate is to end at 12 o'clock, will still be guaranteed time to offer and speak on our amendments; is that correct?

The CHAIRMAN. The Chair will state that after 12 o'clock, all amendments printed in the RECORD will still be in order.

Mr. KOSTMAYER. I thank the Chair.

The CHAIRMAN. Is there objection to the request of the gentleman from California to despense with reading?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for 30 seconds each.

Is there objection to the request of the gentleman from California (Mr. LEGGETT) to dispense with further reading of the amendment?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, my amendment adjusts the boundaries in three proposed national wildlife refuges to permit the State of Alaska to select these areas as part of their statehood entitlement.

These areas where part of the 5-million-acre amendment offered by the gentleman from Alaska yesterday.

This amendment would delete a total of 230,000 acres from the Selawik, Togiak, and Innoko National Wildlife Refuges. The State has identified these areas for potential State selection under their latest State interest analysis.

I do not believe that these deletions will do any damage to these refuges.

I indicated in the debate yesterday that we would be willing to accept some of Mr. YOUNG's requested deletions. We have looked at the maps and decided that the State does have a high interest in these areas, and the land can be conveyed without adversely inspecting the refuges.

The 65,000-acre deletion in the Togiak refuge is adjacent to an area that the State has considered designating a State park. The new boundary in this area is actually a more appropriate hydrographic boundary.

The 95,000-acre deletion in the Innoko refuge is along the Yukon River. The State requested this area so that it would have additional access to this major transportation corridor.

The 70,000-acre deletion in the Selawik refuge is located on the Baldwin Peninsula. The State has requested these lands so that it might have some land around the regional center of Kotzebue.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I would just like to ask the gentleman from California if the Togiak land that would be ceded to the State in this amendment is only the land on the eastern side of the Ikpikpuk drainage.

Mr. LEGGETT. That is exactly correct.

Mr. SEIBERLING. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the amendment is acceptable to me with the understanding that the Vento amendment, which is part of the same tradeoff, will also be agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, if the Vento amendment is the one I have just recently read, and not the other one, I will accept it. I want to compliment the chairman of the committee and the committee for accepting it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LEGGETT) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. REGULA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. REGULA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. REGULA to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 26, beginning on line 1, strike the words: "The park is hereby redesignated as 'Denali National Park', but this shall in no way be construed as changing the name of Mount McKinley itself." And insert in lieu thereof: "The park is hereby redesignated as 'Denali National Park,' but the mountain located at 63 degrees 04 minutes 15 seconds north by 151 degrees 00 minutes 20 seconds west shall retain the name Mount McKinley in perpetuity."

Mr. REGULA. Mr. Chairman, the amendment is self-explanatory in the reading.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the amendment is acceptable to me. I think it should be adopted.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I am going to accept this amendment. I am not too happy about it. I want to let the Members know that my father-in-law climbed this mountain when he was 14 years old. It was Mount Denali at that time. There is a great deal of opinion within the State of Alaska on this issue. Hopefully, we can sit down, if this bill ever becomes law, and work out these differences in conference.

I am rather disturbed that the gentleman who represents the district in Ohio which was the home of President McKinley saw fit to offer this amendment.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just say to the gentleman from Alaska that he does not need to be alarmed about the impact of most recent actions by the U.S. Government, because we all know what in per-

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. REGULA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. VENTO TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MEEDS

Mr. VENTO. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. VENTO to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 52, section 304(16)(A), line 6, strike "April" and insert "May 19".

Mr. VENTO. Mr. Chairman, this provides for the Yukon Flats adjustment of boundaries, there is a 300,000-acre amendment that was made in the Committee on Merchant Marine and Fisheries, and it is to try to consolidate it so that the Hodzana River on the north follows the watershed and it is agreeable to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I will accept the amendment. There has been a redrawing of the boundaries and we have agreed to this because the State-selected lands were in the area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

TECHNICAL AMENDMENTS OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. SEIBERLING. Mr. Chairman, I offer a series of technical amendments to the amendment offered as a substitute for the amendment in the nature of a substitute, which I understand have been cleared with the minority.

The Clerk read as follows:

Technical amendments offered by Mr. SEIBERLING to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: Page 3, in the item relating to section

705, strike out "Secretary of the Interior" and insert in lieu thereof "the Secretary".

Page 4, in the item relating to section 1205, strike out the comma and insert in lieu thereof a semicolon.

Page 33, line 21, strike out "with" and insert in lieu thereof "within".

Page 37, line 15, strike out "functions.".

Page 38, line 3, strike out "Administration" and insert in lieu thereof "administration".

Page 41, beginning on line 25, strike out "approximately five hundred thousand acres containing the" and insert in lieu thereof "existing".

Page 42, line 2, strike out "Forester" and insert "Forrester".

Page 42, line 4, strike out "Simenof" and insert in lieu thereof "Simeonof".

Page 42, line 4, strike out "Sutwik,".

Page 42, line 14, after "Shumagin Islands," insert "Sutwik Island,".

Page 42, line 17, strike out "Punik" and insert in lieu thereof "Punuk".

Page 43, line 20, strike out the comma.

Page 43, line 22, strike out the single quotation marks both places they appear and insert in lieu thereof double quotation marks.

Page 47, strike out line 3 and insert in lieu thereof "all".

Page 49, line 6, strike out "and development plans" and insert "shall be established and a development plan shall be prepared,".

Page 49, lines 7 and 8, strike out "shall be prepared".

Page 50, line 11, strike out "seventy-six" and insert in lieu thereof "four".

Page 52, line 14, strike out "designated" and insert in lieu thereof "redesignated".

Page 54, line 6, strike out "307" and insert in lieu thereof "306".

Page 54, line 23, strike out "SEC. 308. (a) PRIOR AUTHORITIES.—" and insert in lieu thereof "SEC. 307.".

Page 55, line 9, after "established" insert "or redesignated".

Page 60, line 8, insert a comma at the end of the line.

Page 62, line 23, strike out "in the Chugach National Forest".

Page 77, line 9, insert a comma after "Alaska".

Page 81, line 22, strike out "sections" and insert in lieu thereof "section".

Page 82, line 24, insert a comma after "if".

Page 82, line 25, strike out the period at the end of the line and insert in lieu thereof a comma.

Page 83, line 15, strike out "21 (c)" and insert in lieu thereof "21(c)".

Page 89, line 23, strike out "activties" and insert in lieu thereof "activities".

Page 98, line 13, strike out the semicolon after "pursuant".

Page 100, line 20, insert "the" before "Secretary".

Page 111, line 6, strike out "Corporatiton" and insert in lieu thereof "Corporation".

Page 112, beginning in line 6, strike out "Corportation's" and insert in lieu thereof "Corporation's".

Page 112, line 7, strike out "recovery" and insert in lieu thereof "reconvey".

Page 112, line 8, strike out "Settelment" and insert in lieu thereof "Settlement".

Page 115, line 4, after "paragraph" strike out "a".

Page 117, line 18, insert "and" after the comma at the end of the line.

Page 118, line 6, strike out "subpaagraph" and insert in lieu thereof "subparagraph".

Page 139, line 12, strike out "15" and insert in lieu thereof "15.".

Page 142, line 16, strike out "section" and insert in lieu thereof "sections".

Page 143, line 22, strike out "approved" and insert in lieu thereof "approval".

Page 150, lines 14 and 15, correct the left margin to reflect a 2 em indent.

Page 151, line 10, strike out "right of way" and insert in lieu thereof "right-of-way".

Page 151, beginning in line 10, strike out "title, across submitted" and insert in lieu thereof "title across submitted".

Page 153, line 2, strike out "receipt" and insert in lieu thereof "transmittal by the Secretary".

Page 154, line 12, strike out "a recommendation" and insert in lieu thereof "an application".

Page 167, line 4, strike out "section" and insert in lieu thereof "sections".

Page 184, line 20, strike out "therefor" and insert in lieu thereof "therefore".

Page 187, line 12, strike out "Historic" and insert in lieu thereof "Historical".

Page 188, line 8, insert a comma after "Park".

Page 188, line 20, strike out "Navigation Aids and".

Page 189, beginning in line 18, strike out "Resources" and insert in lieu thereof "Reserves".

Page 189, line 19, strike out "Title I" and insert in lieu thereof "Section 105(c)".

Page 190, line 5, strike out "(a)" page 190, strike out line 25 and all that follows down through line 9 on page 192.

Page 195, line 16, strike out "Wilderness" and insert in lieu thereof "Wilderness".

Page 195, beginning in line 20, strike out "provision" and insert in lieu thereof "provisions".

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc, and considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I find these technical amendments acceptable to this Member of the minority.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. SEIBERLING) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendments to the amendment offered as a substitute for the amendment in the nature of a substitute were agreed to.

(By unanimous consent, Mr. STUDDS and Mr. DANIELSON yielded their time to Mr. UDALL.)

(By unanimous consent, Mr. GARY A. MYERS yielded his time to Mr. YOUNG of Alaska.)

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, in section 605(c) on page 142, line 11 of the Committee on Merchant Marine and Fisheries amendment, I would like to ask the chairman of the subcommittee of the Committee on Merchant Marine and Fisheries whether this in any way whatsoever amends the Wilderness Act.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield, the answer is no.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in strong support of the substitute offered by the gentleman from Arizona (Mr. UDALL), the so-called consensus proposal.

This substitute represents a consensus of the desires of the majority of the members of both the Interior and the Merchant Marine and Fisheries Committees. Mr. Chairman, this substitute is also a compromise between those who desire to preserve as much of this priceless land in Alaska as possible, and those who seek to exploit the resources of the region oftentimes disregarding the environmental consequences. Thus, this is a sensible proposal for us to use as a foundation for our actions.

Mr. Chairman, this substitute will accomplish the objectives that are contained in the original proposal, the same provisions that are designed to preserve the selected regions of Alaska for our enjoyment, and for our future generations. The substitute designates the Arctic National Wilderness Range as a wilderness, thus precluding the destructive and irreversible activities of the oil and gas industry. This is the area that is vital to the future of many of the species of wildlife that Alaska supports. The area is utilized as calving grounds for the diminishing porcupine caribou, as well as the habitat for the Alaska populations of polar and grizzly bears, wolverine, moose, red fox, musk oxen, and Dall sheep. Additionally, the area serves as a migratory habitat for the endless varieties of waterfowl that yearly travel through the lower 48 States.

This substitute will also allow for oil and gas leasing, in accordance with administration guidelines, thus simply reaffirming the existing law on oil and gas exploration.

The substitute also reflects the desires of the developers, by reducing the amount of land that is designated "wilderness," thereby precluding most exploration and development activities. I do not endorse this concession, and hope that we will have an opportunity to reverse this regrettable giveaway of the land owned by every American to the large exploiters of our resources.

Mr. Chairman, the substitute sincerely addresses the vital issues involved in this complex issue. It is not perfect, and thus will be amended, hopefully in the direction of strengthening the major provisions. However, the substitute does embody the various views of the two committees charged with the jurisdiction over this issue.

Mr. Chairman, the same objectives can be accomplished by amending the original proposal at the appropriate sections, section by section. However, I submit this protracted approval will not be favored by most of my colleagues. Therefore, in the interest of saving the time of the Members of this body, I urge the adoption of this substitute offered by the gentleman from Arizona.

Thank you, Mr. Chairman.

The CHAIRMAN. The Chair recog-

nizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I will have a motion to recommit to offer at a later time and at that time I will take the opportunity to speak on the bill as a whole.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I take this time only to advise my colleagues that the vote which will come at 12 o'clock, subject to any amendments which have been printed in the record and which are entitled to time, will be on the Udall substitute to the Meeds amendment in the nature of a substitute. The Udall substitute is a total rewrite of the bill. It is basically the consensus package that was agreed upon by the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs.

There will be no more critical vote in this House on a conservation issue in this decade or the next decade and I strongly urge support for the Udall substitute.

The CHAIRMAN. All time has expired under the time limitation.

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: On page 19, revise lines 1 through 5 to read as follows:

"(6) Kobuk Valley National Park, containing approximately one million seven hundred and seventeen thousand acres of public lands, as generally depicted on a map entitled 'Kobuk Valley National Park,' dated May 1978, which park shall be managed to main—"

Mr. KOSTMAYER. Mr. Chairman, this amendment adds approximately 47,000 acres—two townships—to the Kobuk Valley National Park. The area to be added is along the northeastern corner of the proposed park, and would include the entire Nuna River and Akillik River watershed within the park.

This amendment is supported by the native corporation for the area, NANA. The area affected was excluded from the Kobuk Valley Park by the Interior Committee, because it was withdrawn for Native selection. The NANA Corp. has now indicated that it does not wish to select these lands and that it wishes the area to be protected as part of the Kobuk Valley National Park. The new boundaries suggested by this amendment conform to the boundaries of Mr. MEEDS' substitute, H.R. 10888.

Mr. Chairman, ecologically this area should be part of the park. The boundaries of the printed bill include the headwaters and the mouth of the Nuna River. The middle segment of the river which lies in a valley used by migrating caribou is not within the boundary. This amendment would add the middle portion of the Nuna River to the park so that the entire river would be protected and included as part of the biological and scenic natural unit of the Kobuk Valley.

There are no significant mineral deposits in this area and no conflicts with mineral claims. There is no substantial sport hunting in this area, but there is intensive subsistence hunting. To avoid potential conflicts between sports hunting and subsistence hunting, it makes sense to include this area within the park as requested by the Native corporation.

For these reasons, Mr. Chairman, I urge the adoption of this amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word, and I would like to ask the gentleman a few questions.

Does the gentleman's amendment in any way, shape, or form impede the present activities taking place on these lands?

Mr. KOSTMAYER. If the gentleman will yield, no, they do not.

Mr. YOUNG of Alaska. It is not the intention of the gentleman to have the Park Service permit any trapping, hunting, or activities of mankind in this area that are not presently taking place?

Mr. KOSTMAYER. If the gentlemen will yield further, the gentleman from Alaska is correct.

Mr. YOUNG of Alaska. Can the gentleman assure me that if this were to happen, being on the Interior Committee such as I am, that he would be the first one to take the Department of the Interior and the Park Service to task and say that it was not his intent that many of the people in my area were to be deterred from their way of life?

Mr. KOSTMAYER. I assure the gentleman from Alaska I would be the very first, even before the gentleman from Alaska.

Mr. YOUNG of Alaska. I would doubt that very much, but I would like to have his support, because I have not had it too much in the committee.

Mr. KOSTMAYER. I have been with the gentleman from Alaska time and time again.

Mr. YOUNG of Alaska. I do not know on which side; that is the trouble.

Mr. Chairman, I would like to rise in support of the amendment. It seems ironic that I fought yesterday to have 5 million acres for the State of Alaska and I was defeated, and there is now a little over 130-some-odd million acres in this part—and that is a lot of land. The Members may wonder why I am giving up 47,000 acres to be put in a park.

To my little friends in the audience up above, I might say for once they are going to get an environmental vote out of me.

I can say this is an area that really does not have any conflict. We have consulted with the State. The State has no use for these lands. There is a definite interest for NANA. I just found out from my conversation with the gentleman that there has been no objection by the State. I do think it does add to the beauty of the Kobuk region, the magnificent view, and it would allow the gentleman from Ohio to take some additional pictures on the future dates that he would visit my State. So I strongly support this amendment and urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: On page 60, after line 24, insert the following paragraphs:

"(28) COLVILLE, ALASKA.—The entire river including the headwaters in township 9 south, ranges 36 and 37 west, township 8 south, ranges 34 through 37 west, and township 7, ranges 35 and 36 west, Umiat meridian, to the mean high tide line; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(29) ETIVLUK, ALASKA.—The entire river including its major tributary the Nigu River, to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(30) UTUKOK, ALASKA.—From the headwaters in township 10 south, ranges 37 through 40 west to the east boundary of township 7 north, range 39 west, Umiat meridian; to be classified as a wild river area to be administered by the Secretary of the Interior."

And on page 61, line 6, after "(25)" insert "and (28) through (30)"; and in line 15, change the period to a comma and insert thereafter "Colville, Etivluk, and Utukok."; and on page 62, line 4, change "(27)" to "(30)".

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

(By unanimous consent, Mr. KOSTMAYER was allowed to proceed for an additional 3 minutes.)

Mr. KOSTMAYER. Mr. Chairman, this amendment would add the Colville, Utukok, and Etivluk Rivers to the National Wild and Scenic Rivers System. The bill before us designates these rivers for study as potential wild river areas.

These rivers within the National Petroleum Reserve have already been studied and the administration is recommending that they be immediately protected as components of the National Wild and Scenic Rivers System.

These rivers include one of the three most significant breeding sites for the endangered Peregrine falcon. These rivers also include very significant archeological sites that need study and protection. Such action would have no effect on the petroleum and other studies mandated by the National Petroleum Reserves Production Act of 1976. I would also note, Mr. Chairman, that there is no potential conflict with pipeline routes or transportation corridors through this area, under the legislation before us the Secretary of the Interior would have the authority to approve pipeline routes, without congressional approval.

Besides their archeological importance, the river valleys themselves are important denning and nesting areas for various forms of wildlife, and also serve the caribou during their migrations. As my colleagues may be aware, the western Arctic caribou herd has recently shown signs of depletion. This herd is dependent upon the river corridors and we must insure that no development in this area threatens the vital support that the rivers give to the various species of the area.

Mr. Chairman, I ask the support of my colleagues on this important amendment to protect these three significant rivers within the National Petroleum Reserve in Alaska.

Mr. Chairman, I yield to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I defer to my colleague, the gentleman from Ohio (Mr. SEIBERLING) at this point.

Mr. SEIBERLING. Well, Mr. Chairman, I regretfully have to oppose this amendment. I have been to the Colville River and hiked around it. I have flown over the other two, all three are certainly wild and scenic river quality; but we went all through this in the Interior Committee and discussed what ought to be done with these three rivers and we decided to put them in a study category, the study to be completed simultaneously with the report to be submitted on the oil exploration in the National Petroleum Reserve, Alaska.

Therefore, Mr. Chairman, I think it would be inadvisable for us to make any change at this time. I would, therefore, have to oppose the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the chairman of the committee.

Mr. UDALL. Mr. Chairman, the gentleman from Pennsylvania (Mr. KOSTMAYER) is an extremely valuable and influential Member of this House and of the committee. I regret having to disagree with him on this issue.

As stated by the gentleman from Ohio (Mr. SEIBERLING), certain understandings were entered into this morning in order to accommodate the leadership in bringing this bill to a vote and expedite our business. The gentleman from Alaska (Mr. YOUNG) said his side would not offer or support a number of weakening amendments, as we agreed, and I said we would not on our side offer or support any number of strengthening amendments.

So, Mr. Chairman, I am also going to reluctantly ask my colleagues to oppose this amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I must say that I am absolutely stunned that the chairman of my committee, the gentleman from Arizona (Mr. UDALL), is not going to stand up and defend the peregrine falcon. I thank the committee chairman for his statement.

Mr. YOUNG of Alaska. Mr. Chairman, I also rise in opposition to the amendment.

The gentleman from Ohio (Mr. SEIBERLING) has spoken very clearly. These rivers are in a study area at this time. We have a study going on, and until that is finalized I think this is the proper way to go on this amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, practically every river we hassled over in the committee was a nesting site for the endangered peregrine falcon, and my reaction was that if the peregrine falcon is endangered, I wonder why it appears in so many different places.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from Ohio (Mr. SEIBERLING).

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I am in a difficult position, being opposed by a new alliance, the Symms-Udall-Seiberling-Young alliance. Nevertheless, I do ask for a voice vote on my amendment, and I hope that the true conservationists in this House will stand with me on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. KOSTMAYER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MEEDS

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

Mr. Chairman, this amendment has been printed in the RECORD at page 13963.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by Mr. MEEDS: page 196, after line 2 insert a new section as follows, and renumber subsequent sections accordingly:

ALASKA NATURAL GAS TRANSPORTATION ACT

SEC. 1208. Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94–586; 90 Stat. 2903), or as imposing any limitations upon the authority of the Secretary concerning such system.

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Chairman, this is not an earth-shaking amendment, but I think it is a desirable one.

During the general debate some qualms were expressed about the approval of the gas pipeline route.

The approved route of the gas pipeline goes through the Tetlin wildlife refuge, and in order to make it clear that neither that refuge nor any other area created by this bill would change the existing law approving the route or the right-of-way, this amendment makes that absolutely clear. It says:

Nothing in this act shall be construed as imposing any additional requirements in connection with the construction and operation . . .

Of that pipeline.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding.

This is an amendment that is very valuable to those in areas who wish to consume gas. It eliminates any conflict brought about by the language perhaps not being written clearly. The amendment is strongly supported by this Member.

Mr. Chairman, I thank the gentleman from Ohio (Mr. SEIBERLING) for submitting the amendment, and I compliment the gentleman for seeing the wisdom of offering it.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am glad the gentleman brought this amendment up, because I raised this question before the Committee on Rules, and we discussed this subject. We need this gas in the Midwest, and this amendment will provide it.

Mr. SEIBERLING. Mr. Chairman, I am delighted to have the support of my colleagues on the other side.

The CHAIRMAN. The question is on the amendment offered by the gentle-

man from Ohio (Mr. SEIBERLING) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Are there any further amendments which have been printed in the RECORD?

Are there further amendments?

● Mr. JEFFORDS. Mr. Speaker, an amendment was to be offered today which would have directed the Secretary of Agriculture to study Misty Fjords to make a determination as to whether or not it should be preserved as wilderness. It also would have directed both the Agriculture and Interior Secretaries to develop a joint study as to Misty Fjords' suitability as a component of our National Park System. The results of these studies were to be available to us within 2 years. However, I understand an agreement was reached to defer the offering of this amendment.

Though little known among non-Alaskans, Misty Fjords is one of the standout sectors of America's largest national forest, the Tongass, which embraces most of the huge southeast Alaska panhandle stretching northwestward for nearly 500 miles between the mountainous edge of Canada and the Pacific.

No national park in America can match the Misty Fjords special qualities—its granite cliffs jutting up for as much as 3,000 feet, its deep glaciated valleys, lush expanses of hemlock, spruce, cedar, and fir, and its wealth of wildlife and marine life.

Of the Tongass' 16 million acres, some 13 million are still virtually untouched wilderness, the largest block of de facto wilderness in the country. Not a single acre is part of the National Wilderness Preservation System. The Misty Fjords area, like other southeast Alaska proposals, has been extensively studied and recommended for wilderness by many, including the subcommittee and the administration, because of its exceptionally high-quality features.

Misty Fjords is easily the most accessible of the Alaska proposals, just a half-hour by float plane from Ketchikan which is served by the State ferries and daily jet service from Seattle. This area has some of Alaska's best salmon streams, including a third of those used by the valuable and nearly endangered king salmon species. Three major watersheds also fall within this area. Together, the systems have a potential fisheries value of over $5 million annually in pink salmon alone. In the northern section lies the Unuk River, the longest navigable river in southeast Alaska and a major salmon producer. The southern part of this area has the longest and most striking fjords, the best hiking terrain, and two abandoned Indian villages with significant archeological value.

Southeast Alaska wilderness is one of the most hotly contested parts of this legislation. The timber industry claims the loss of thousands of jobs and the imminent closure of a local mill if any wilderness designations are made. The U.S. Borax and Chemical Corp. has created a stir over a molybdenum deposit in the Misty Fjords and the impact that any wilderness designation would have on mining activity. But the jobs against wilderness argument is a phony issue. Thorough study by the Interior Committee and deletion of more than half the areas in the original subcommittee print have more than guaranteed room for industry growth in southeast Alaska. In fact, Misty Fjords could easily be protected without impacting the timber industry. Most of the timber in Misty Fjords—70 to 80 percent—is unharvestable according to the Forest Service, and Forest Service economists have concluded that growth in the timber industry in that area is doubtful even without wilderness designation. In fact, wilderness designation for Misty Fjords would not impact the availability of timber to the industry from national forest lands. Misty Fjords contains only 4 percent of the economically harvestable timber in the Tongass National Forest. Tourism and fishing provided more jobs in this area in 1976 than logging did, and the projections indicate that this downward trend of the logging industry will continue, especially when less expensive private timber becomes available from native corporation lands.

I believe the existing facts demonstrate that the jobs loss issue is not valid, and I would have favored immediate wilderness designation for Misty Fjords. Wilderness protection of that area's natural resources is likely to benefit the highly important fisheries and tourism industries of the area, the industries with real growth potential.

Nonetheless, I would have supported the compromise study amendment had it been offered. I believe it would have been a reasonable and responsible way to resolve the controversy, and it would have complemented the ongoing Tongass land use management plan report. I hope that through other means we can assure that such a study will be carried out so that we can do justice to this exceptional region of Alaska.●

Mr. BOWEN. Mr. Chairman, I rise in opposition to the consensus bill—H.R. 12625. My colleagues and I worked very diligently in the House Merchant Marine and Fisheries Committee to report a compromise bill to protect the environment of the great State of Alaska as well as the rights of Alaska's subsistence and game hunters.

Our committee designated almost 20 million additional acres as wilderness and set aside over 70 million additional acres for refuge areas in the State of Alaska. The Alaska National Interest Lands Conservation Act is clearly one of the most important bills affecting national land and resource use to come before the Congress. Because of my concern for the preservation of our environment and in particular for our Nation's national parks and wilderness areas, I supported this legislative proposal in committee.

The so-called consensus bill, which was never voted on by the Merchant Marine and Fisheries and Interior Committees, but was written by a small group of Members from each committee, increases the wilderness acres to an unreasonable 66 million acres.

Although I would have preferred the Merchant Marine and Fisheries version of 20 million acres of wilderness, the Meeds compromise is a fair and reasonable one and deserves the support of this House.

It provides a balanced consensus for environmental and ecological interests, timber concerns, hunting, and other developmental needs for the State of Alaska.

I would also like to address specifically those provisions of the consensus bill under title VI which affect southeastern Alaska, and concern me greatly as a member of the House Subcommittee on Forests.

The Alaska timber industry is concentrated near the Tongass and Chugach National Forests. H.R. 12625 would designate 2.4 million acres, or 15 percent, of the Tongass National Forest as wilderness. This action would completely preempt the land use management planning process required by the National Forest Management Act of 1976.

The U.S. Forest Service is currently completing its land management plan for the Tongass National Forest. This will provide us with the data base needed to make intelligent decisions on the resource and recreation management of southeast Alaska. This planning has been underway since 1970, and a draft environmental impact statement will be submitted next month, with the final EIS scheduled for December of this year. If Congress designates wilderness in southeastern Alaska prior to completion of the Tongass plan, this would foreclose public participation on the plan as required by the land management process.

In addition to this, the land management plan also includes those lands identified under the Forest Service's roadless area review and evaluation process (RARE II). The Forest Service's objective in RARE II is to study all the roadless areas in the National Forest System for their wilderness and resource values and to recommend to Congress next year those areas that should be designated as wilderness and those areas that should be released for other nonwilderness uses. Under this process the Forest Service will also submit a draft EIS next month and a final EIS at the end of the year. Thus, designating wilderness at this time in southeast Alaska would also circumvent this process.

H.R. 12625 would assign to wilderness almost one-third of the best timber growing land in Alaska. It would impose chaos on the economy of southeastern Alaska which is heavily dependent on 10 sawmills and two pulp mills. An annual timber supply of 510 million board feet was needed to sustain these operations at an average production level over the past 5 years.

To operate at full production, 660 million board feet of timber is needed each year. H.R. 12625, together with State and native land withdrawals, would reduce

the annual operable harvest to well below 500 million board feet. This would result in an immediate loss of over 1,000 jobs in an area where unemployment already is more than 16 percent.

A more logical approach would be to exclude southeastern Alaska from wilderness consideration at this time and allow the land management process to run its course on the Tongass National Forest. With all the data collected and the benefit of the public input, Congress will be in a better position to make this important land management decision for southeast Alaska.

● Mr. SEBELIUS. Mr. Chairman, I know it is repetitious for me to say that today we are debating the last major public land disposition battle this body will ever debate—but that is, I believe without doubt, may be the case.

We will be making decisions here today on such a major scale, that there will be numerous matters which will not receive the fine-tuning attention we might otherwise give them if we were working on a smaller package. For that reason, there are several less conspicuous matters I would like to address. As the ranking minority member on the Subcommittee on National Parks and Insular Affairs, most of my concerns deal with the new and expanded units of the National Park System which we are creating in this legislation.

These are huge park areas we are creating. For the most part, virtually all of of these lands are of wild and primitive character, seldom showing evidence of the imprint of man's activties. I believe this is the most singly important hallmark of these areas, and it should be our intention to preserve that character as the principal theme of these areas, in perpetuity. Nowhere else in America will we ever find that opportunity again.

I realize that for the reason of their rugged and wild character, their difficulty of access and their general remoteness, it will not initially be easy to visit these areas. I hope that this characteristic is not looked upon as an obstacle to conquer, but rather as a precious asset that we can draw from and upon through the decades to come. We do not need to get at it, overwhelm it, and use it up in a big hurry. Let us savor it through many generations.

For the same reasons, I think the National Park Service should move ahead cautiously with its development plans for these parks. There must be some reasonable access to some parts of these parks. But the location and type of development should be very sensitively planned and installed, and should permit the visitor to feel and sense the natural environment in an appropriately primitive fashion. When a person returns from a visit to these parks, he should carry with him a sense that he has experienced something truly different. We simply must not apply the "Lower 48" formula to the development and management of our great new Alaskan parks.

These parks encompass vast and sensitive ecosystems. I strongly urge that the National Park Service mount an extensive and aggressive research effort for all of these areas. We must know quite precisely what we are dealing with in these areas before we start to assert any significant degree of human impact. Again, these parks are one of the last places we have to think it out first and do it right from the beginning. We must take full advantage of this opportunity and challenge.

Mr. Chairman, once the legislative flurry on this issue is completed, the challenge will then be handed to the public agencies to manage these areas in a manner responsive to the mandates of this act, and in accordance with the laws and policies under which the agency operates. We must all recognize that there will be new ground rules in Alaska. This bill, of course, constitutes the basis for those new rules. I would hope that the administering agencies, the visiting public, the Natives and the Alaskan people will all work together and cooperate with each other during these formative days of implementation of this new legislation. The National Park Service will find it a challenging opportunity to work, live, and integrate with the Alaskan style in these new park areas. Equally important, Alaskans will need to realize that these parks are to be a resource for the benefit and inspiration of all of the people of the United States—they are not the province of local interest, and they, like the parks of the Lower 48, must be safeguarded and nurtured for the benefit and inspiration of many generations yet to come.

Mr. Chairman, this legislation is the product of extremely hard and dedicated work of many people—individuals, organizations, Government agencies and officials, and Members of Congress. I commend all those who have put so much effort into this extremely important issue. I voted for this bill in committee, and I intend to support the effort here today to pass a good, strong bill that adequately protects the superlative resources of Alaska, and is also fair to the Alaskan and other interests.●

● Mr. VENTO. Mr. Speaker, the fact that the Alaska National Interests Lands Act, which we are currently considering, is the most important piece of conservation legislation before this Congress cannot be emphasized too greatly. The actions that we will take will reaffirm our Nation's commitment to the preservation of lands for the benefit of future generations.

Integral to this commitment is the concept of preserving lands in its true wilderness state. In passing the 1964 Wilderness Act, Congress recognized the intrinsic values of areas in this country where the land and its community of life are untrammeled by man, where man himself is a visitor who does not remain. As Congress stated:

> To insure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.

Mr. Chairman, thus far the wilderness system is comprised of 178 areas and 16.2 million acres and of that total over one-half of the areas and almost three-fourths of the acreage have been classified as wilderness exclusively by Congress. The proposal before this Congress is not a new precedent but it rather follows the intent and actions of previous Congresses.

The use of wilderness as a management tool has proven to be very successful in those areas already so designated. The Wilderness Act is a relatively new law and is going through an evolutionary process. The act itself recognizes that special circumstances or needs do arise in different areas. It gives the President and the Secretary sufficient latitude to react to these particular needs. So it is with the lands designated as wilderness by this bill. During the lengthy and complete Interior Subcommittee on General Oversight and Alaska Lands hearings on this issue, many citizens raised concerns that traditional uses will be allowed to continue in wilderness areas. The subcommittee and Interior Committee have made the provisions to accommodate these concerns. Because of this, wilderness designation is the best management tool that we have as it recognizes the unique situation in Alaska and takes these circumstances into account while affording the best protection for the land available.

The designation of land as wilderness is not a "lock-up." It is a recognition that future generations have the right to decide how they wish to use some of the land of this country. As a Forest Service publication has stated:

> In this nation, Wilderness now belongs to tomorrow and to tomorrow's tomorrow. One generation hence, one century hence, one thousand years hence, a thoughtful American community may decree for Wilderness an altogether different role. Our successors are entitled to that choice.

At this time, Congress is in a position to reaffirm the belief that our land is not only for the use and enjoyment for this generation but for future generations as well. I urge my colleagues to support that commitment by voting for the Alaska lands bill.

Mr. Chairman, at this time I would like to bring a recent editorial from the University of Minnesota Daily to the attention of my colleagues. This editorial accurately reflects the feelings of many Americans on the question of wilderness designation:

ALASKA'S BESEIGED WILDERNESS

Moose, bears, wolves, caribou and musk oxen freely roam through Alaska's spectacular mountain ranges, thick forests and lush river valleys. Deep fjords cut into the coastline, their cliffs teeming with birds, mountain goats and sea mammals. It's a land unspoiled by the ravages of mining, logging, roads and other destructive evidence of the presence of contractors, developers and the corporate mentality.

Alaska contains the nation's last large virgin wilderness, and its fate rests precariously in the hands of Congress. The Alaska National Interest Lands Conservation Act is a bill to preserve large chunks of Alaska's wilderness before it's too late. The bill offers the opportunity to conserve wilderness as it should be done—in large areas that include whole ecosystems and migratory routes instead of piecemeal tracts closely encroached upon by development.

The Alaska Lands bill has been around for several years, with Rep. Morris Udall (D-Az.) championing conservationists' cause. In its present form it would place about 38 million hectares of federal land into the National Park, National Wildlife Refuge, Wild and Scenic Rivers, and National Forest Systems; 65 to 75 percent would be fully protected wilderness areas. Numerous weakening amendments catering to the land-gobbling aspirations of developers have been proposed, and a great deal of lobbying pressure has been applied by mining, oil and logging interests, and Alaska state officials. The primary arguments in opposition to vast wilderness designations are based on the tremendous amounts of natural resources in Alaska. Abundant minerals lie beneath the wilderness, prompting profuse salivation by company and state officials who smell profits. Development proponents recoil in horror at attempts to preserve the wilderness, thereby "locking up" all those profitable resources. They trot out the tired old "we need to produce more raw materials or our quality of life will be shot to hell" argument, and try to scare us by claiming that the nation's security will be permanently impaired if Alaska remains anything but an open-pit mine.

Alaska's wilderness is internationally significant. Its importance transcends that of the economy of mineral and logging companies. To allow the wilderness to be exploited, preserving only the peaks of a few mountains, would be criminal. Of Alaska's 146 million hectares, 99 percent belonged to the federal government when Alaska became a state in 1959. Upon statehood, the state was entitled to select 42 million hectares. An additional 18 million hectares were granted to Alaskan natives in the Alaska Native Claims Act of 1971. Litigation has held up land selection in both cases, giving the federal government first choice, as long as it makes its pick before the end of this year. Versions of the bill are scheduled to be heard before the House Rules Committee and the full House later this week. Congress should act quickly and pass a strong law giving maximum protection to Alaska's wilderness. Dwindling resources can't be used as an excuse for unrestrained development. Alaska's resources aren't going to make it any less imperative to develop alternative energy sources anyway.

There can be no compromises on wilderness. It either is or it isn't. Most of the country has already been raped and pillaged in the name of progress and maintaining gluttonous life styles. The destroyed of Alaska's fragile ecosystem cannot be allowed to be destroyed by shortsighted entrepeneurs and ambitious politicians. Alaska's wilderness has endured for millions of years; to carve it up now would deprive ourselves and future generations of one of the last pristine corners of the planet.●

● Mr. EDWARDS of California. Mr. Chairman, I rise in support of the strengthening amendments to this legislation. First of all, I want to commend both the Interior and Insular Affairs and Merchant Marines and Fisheries Committees for their thorough and conscientious work on H.R. 39. I agree with Secretary of the Interior Cecil Andrus when he remarked that this legislation represents, "the most sweeping and important conservation legislation that any of us will see in our lifetime." I believe we need to incorporate as many acres under the "wilderness designation" as possible, not only for us, but for our grandkids, and their grandkids too. Mr. SEIBERLING will be offering an amendment to increase the wilderness acreage by 8 million acres, I applaud this action and hope my colleagues will join me in supporting this fine work. We must be certain that the Misty Fjords and Yukon Flats National Wildlife Range are also included within the confines of this grand legislation. These two areas will be a magnificent addition to the legislation and I want to make sure my fellow Members understand the importance of voting for these strengthening amendments.

By far, this bill before us will be the single most important environmental issue of this decade, and perhaps several decades to come. There are not many of us, given the incredible public outcry in support of H.R. 39, who will choose to vote against final passage. Ten years down the road though, critics will ask, how could someone not have voted for all the strengthening amendments to this landmark legislation? As we move into the next decade, the Federal responsibility for protecting our Nation's rivers, bays, lakes, forests, and as in Alaska, entire ecological systems grows more apparent. All mankind will laud and commend the wisdom that we show here today by preserving as much as this natural wonder known as Alaska, as we can. I urge my colleagues to vote for all the strengthening amendments and final passage.●

● Mr. WEISS. Mr. Chairman, I favor final passage of H.R. 39, the Alaska National Interest Land Conservation Act, as revised by the substitute provision offered by Mr. UDALL of Arizona. I am opposed to the substitute offered by Mr. MEEDS of Washington.

As an original cosponsor of this important conservation and environmental measure, I am supporting this measure as revised by Mr. UDALL because of the tremendous effort and thought that went into bringing this measure to the House floor.

Under the Alaska Native Claims Settlement Act of 1971, a Federal decision on Alaska lands must be made by December 18, 1978. This deadline was set for congressional action to protect Alaska lands; without such action exploitive interests will be left to their own devices to make land-use decisions.

Over a year of deliberation on this legislation was held in the committee stage. Both the Interior and Insular Affairs Committees and the Merchant Marine and Fisheries Committee have made exhaustive efforts to achieve an acceptable and delicate balance between conservation and economic interests. To reject the product of that effort at this point and with expected future difficulties for this legislation in the Senate would be unthinkable.

I support the strongest possible Alaska land conservation policy, because Alaska is so clearly and widely seen as a vanishing and endangered resource. Its wild and virgin expanse of land is precious to all Americans. It is a remnant of an extraordinary continent which has rapidly lost much of its innate and natural beauty, because of economic exploitation.

The Udall substitute strikes a balance between economic and environmental concerns. The latest U.S. Geological Survey shows that two-thirds of all the lands in Alaska having metallic mineral potential are outside the boundaries of the conservation acreage set aside in the Udall substitute. Meanwhile, under the Udall substitute, 102 million acres will be given conservation protection through designation within one of the four Federal land conservation systems—National Park, National Wildlife Refuge, National Forest, and National Wild and Scenic Rivers. Sixty-six million acres of this total amount will be designated as wilderness and thus receive the highest degree of Federal protection to preserve the land intact.

There are at least four improvements to this legislation which I would have preferred in the final act. The Misty Fjords area in southeast Alaska should be restored to wilderness status. This area of 2.3 million acres in the Tongass National Forest is a spectaclar region of deep fiords. It is a miniature Norway in the North American Continent. The grandfather clause relating to commercial trapping and hunting activities within Alaska national parks is unnecessary and should be eliminated. There is sufficient game outside the park area that such a hold harmless provision is unnecessary. The Wrangell-St. Elias National Park should also be expanded. Over 60 percent of the Dall Sheep Habitat is left open under the boundaries in the Udall version. This significant wildlife treasure should not be left vulnerable. Finally, there are nearly 9 million acres of wildlife refuge deleted from this bill which deserves to be put back into this legislation.

I am opposed to the Meeds substitute in its entirety, because it would not afford sufficient protection to Alaska lands and would allow too much freedom for economic exploitation. The Meeds version was not accepted by either the Alaska Lands Subcommittee or the full Interior Committee. Only 33 million acres, under the Meeds version, would be designated as wilderness. A vivid example of the failure of the Meeds substitute to offer needed protection is the Arctic National Wildlife Range. This range is one of the most critical wildlife habitats in Alaska. The porcupine caribou herd and a wide diversity of wildlife species make their home on this fragile tundra. Under the Meeds substitute this range would be open for gas and oil drilling.

I also wish to state my opposition to the amendment offered by Mr. SANTINI of Nevada. His amendment instructs the President to prepare a study of how to develop minerals in Alaska by October 1981. It knocks out a special procedure originally established in Mr. UDALL's version to accomplish the same task while maintaining respect for the unique quality of the Alaska environment. The Santini amendment leaves the door open so that future attempts can be made to unravel the protection embodied in this legislation and thus allow unnecessary exploitation to threaten Alaska.

A New York Times editorial of May 16, places this bill in proper perspective:

If the mineral and energy resources are eventually needed, they can always be tapped. But if the gold rush mentality prevails, lands that have been described as Alaska's "crown jewels" may be irretrievably squandered.●

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Arizona (Mr. UDALL)

as a substitute for the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. MEEDS).

The amendment, as amended, offered as a substitute for the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute as amended, offered by the gentleman from Washington (Mr. MEEDS).

The amendment in the nature of a substitute, as amended was agreed to.

The CHAIRMAN. The question is on the prime amendment in the nature of a substitute, as amended, offered by the gentleman from California (Mr. LEGGETT).

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 39) to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers, and National Wilderness Preservation System, and for other purposes, pursuant to House Resolution 1186, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. YOUNG of Alaska. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. YOUNG of Alaska moves to recommit the bill H.R. 39 to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries with instructions to report back the same forthwith with the following instructions: Strike out all after the enacting clause of H.R. 39 and insert in lieu thereof the following:

This Act, together with the following table of contents, shall be cited as the "Alaska National Interest Lands Conservation Act".

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TITLE IV—NATIONAL FOREST SYSTEM

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Sec. 1002. Use permits under existing authorities.
Sec. 1003. Use permits under new authority.
Sec. 1004. Coordination of right-of-way requirements.
Sec. 1005. Congressional approval procedure.
Sec. 1006. Issuance of permits.

TITLE IX—GENERAL ADMINISTRATIVE PROVISIONS

Sec. 1101. Withdrawal from mining and mineral leasing.
Sec. 1102. Certain lands.
Sec. 1103. Acquisition.
Sec. 1104. Administrative sites.
Sec. 1105. Native lands and cooperations; public services.
Sec. 1106. Agency planning assistance.
Sec. 1107. Unit management plans.
Sec. 1108. Capital improvements; non-Federal lands.
Sec. 1109. State land exchanges.
Sec. 1110. Local hire.
Sec. 1111. Navigation facilities.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Iditarod National Historic Trail.
Sec. 1202. Klondike Gold Rush National Historical Park.
Sec. 1203. Application of mining in the parks law to the National Refuge System.
Sec. 1204. Cooperative information center.
Sec. 1205. Bureau of Land and Management Land Reviews.

TITLE XIII—APPROPRIATIONS

Sec. 1301. Authorization.

Sec. 2. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain wildlands and rivers in the State of Alaska that contain nationally significant natural, scenic historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in title I are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in title II are, subject to valid existing rights, hereby declared to be units of the National Wildlife Refuge System; the areas described in title III are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic Rivers System; lands described in, title IV are, subject to valid existing rights, added to units of the National Forest System; and lands designated in title V are, subject to valid existing rights, hereby declared to be units of the National Wilderness Preservation System.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, resident and nonresident wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c) (1) Areas established in titles I, II, and IV of this Act shall, subject to valid existing rights, comprise the lands, waters, and interests therein within the boundaries generally depicted on the maps bearing the following designations:

Title I—National Park System—

Aniakchak National Monument/Preserve, numbered ;

Bering Land Bridge National Preserve, numbered ;

Cape Krusenstern National Monument, numbered ;
Denali National Park/Preserve numbered ;
Gates of the Arctic National Park, numbered ;
Glacier Bay National Park, numbered ;
Katmai National Park, numbered ;
Kenai Fjords National Park, numbered ;
Kobuk Valley National Park/Preserve, numbered ;
Lake Clark National Park/Preserve, numbered ;
Noatak National Ecological Preserve, numbered ;
Wrangell-St. Elias National Park/Preserve, numbered ; and
Yukon-Charley Rivers National Preserve, numbered .

Title II—National Wildlife Refuge System—
Alaska Marine Resources, numbered ;
Arctic, numbered ;
Cape Newenham, numbered ;
Innoko, numbered ;
Kanuti, numbered ;
Kenai, numbered ;
Koyukuk, numbered ;
Nowitna, numbered ;
Selawik, numbered ;
Tetlin, numbered ;
Yukon Delta, numbered ;
Yukon Flats, numbered ;

The boundaries of areas added to the National Park and Wildlife Refuge Systems shall, in coastal areas, not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

Title IV—National Forest System—
Chugach National Forest additions:
Copper River, numbered ;
Nellie Juan, numbered ; and
College Fjord, numbered .
Tongass National Forest additions:
Yakutat, numbered ;
Juneau Ice Field, numbered ; and
Kates Needle, numbered .

(2) The maps described in paragraph (1), of this subsection shall be on file and available for public inspection in the office of the Secretary of the Interior (hereafter referred to as the "Secretary"), except that the maps depicting additions to the National Forest System shall be on file in the office of the Secretary of Agriculture.

(3) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act in the four traditional national conservation systems and the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible, boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features. Following reasonable notice in writing to the Congress of his intention to do so, the Secretary or the Secretary of Agriculture, as appropriate, may make minor adjustments in the boundaries of the areas added to or established as units of the National Park, Wildlife Refuge, Wild and Scenic Rivers, and National Forest Systems by this Act.

TITLE I—NATIONAL PARK SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SEC. 101 (a) The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such units and under the provisions of this Act:

(1) Gates of the Arctic National Park, containing approximately seven million nine hundred and fifty thousand acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the environmental integrity and scenic beauty of the mountains, forestlands, rivers, lakes, and other natural features; to protect habitat for and populations of fish and wildlife, including but not limited to, caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds; and in a manner consistent with the foregoing, to provide opportunities for water recreation on wild rivers and lakes, hiking, camping, and other outdoor recreation activities.

(2) Yukon-Charley Rivers National Preserve, containing approximately one million four hundred and ninety thousand acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, including streams, lakes, and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves; to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area; and in a manner consistent with the foregoing, provide opportunities for water recreation on the Yukon, Charley and other rivers, hiking, camping, and other outdoor recreation activities.

(3) Kobuk Valley National Park, containing approximately 610,000 acres of Federal lands, and Kobuk Valley National Preserve, containing approximately 1,100,000 acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in its undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; and in a manner consistent with the foregoing, to provide opportunities for hiking, camping, river recreation, and other outdoor recreation activities.

(4) Cape Krusenstern National Monument, containing approximately two hundred and twenty-six thousand acres of Federal lands and Cape Krusenstern National Preserve containing approximately one hundred and ninety thousand acres of Federal lands, which shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect and interpret a series of beach ridges and process of beach outbuilding; to protect seals and other marine mammals, birds, and other wildlife and fish resources and their habitats; and in a manner consistent with the foregoing, to provide opportunities for outdoor recreation activities.

(5) Wrangell-Saint Elias National Park, containing appproximately 8,670,000 acres of Federal lands, and Wrangell-Saint Elias National Preserve, containing approximately 3,380,000 acres of Federal lands. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, waterfalls, valleys, and coastal landscapes in thier natural state; to protect habitat for and populations of fish and wildlife, including but not limited to caribou, grizzly bear, Dall sheep, mountain goats, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and in a manner consistent with the foregoing, to provide opportunities for camping and hiking, river recreation, and other outdoor recreation activities.

(6) Lake Clark National Park, containing approximately 2,280,000 acres of Federal lands, and Lake Clark National Preserve, containing approximately 750,000 acres of Federal lands. The park and preserve shall be managed for the following purposes, among others: To protect watershed values necessary for perpetuation of the salmon fishery in Bristol Bay and other fisheries; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; to protect habitat for and populations of fish and wildlife including but not limited to the Mulchatna caribou herd, Dall sheep, grizzly bear, wolves, bald eagle, peregrine falcon; and in a manner consistent with the foregoing, to provide opportunities for water recreation, nature study, sightseeing, hiking, camping, and other outdoor recreation activities.

(7) Kenai Fjords National Park, containing approximately 420,000 acres of Federal lands, which shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding icefield and its outflowing glaciers, and coastal fjords, peninsulas and islands in their natural state; to protect seals, sea lions, other marine mammals, and marine and other birds and maintain their hauling and breeding areas in their natural state free of human activity which is disruptive to their natural processes; and in a manner consistent with the foregoing, to provide opportunities for sightseeing, nature study, touring, hiking, and other outdoor recreation activities.

(8) Aniakchak National Monument, containing approximately 340,000 acres of Federal lands, and Aniakchak National Preserve, containing approximately 160,000 acres of Federal lands. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of ecological succession; to protect habitat for and populations of fish and wildlife, including but not limited to grizzly bear, wolves, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for river running, hiking, and other outdoor recreation activities.

(9) Bering Land Bridge National Preserve, containing approximately 2,480,000 acres of Federal land, which shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, coastal barrier islands, lagoons and estuaries, volcanic lava flows, ash explosions, frost phenomena and other geological processes; to protect habitat for internationally significant populations of migratory birds; to protect the resources and provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of, fish and wildlife including but not limited to marine mammals, grizzly bear, moose, and wolf; and in a manner consistent with the foregoing, to provide opportunities for outdoor recreation activities.

(10) Noatak National Ecological Preserve, containing approximately 6,080,000 acres of Federal lands, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands, streams, and lakes within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for and populations of fish and wildlife, including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect migration routes for the Arctic caribou herd; and in a manner consistent with the foregoing, to provide opportunities for scientific research, river recreation, and for hiking, camping, and other outdoor recreation activities.

PART B—ADDITIONS TO EXISTING AREAS

SEC. 102. (a) The following units of the National Park System are hereby expanded:

(1) Mount McKinley National Park by the addition of an area containing approximately 2,610,000 acres of Federal land, and establishment of Denali National Preserve containing approximately 770,000 acres of Federal land, for the purposes of containing and protecting the entire mountain massif and glacial systems, and additional scenic mountain peaks and formations; of further protecting moose, caribou, Dall sheep, wolves, grizzly bear, other wildlife and their habitat; furthermore, (A) the park is hereby redesignated as "Denali National Park", (B) that portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary with the concurrence of the Secretary of Transportation, may determine, and (C) with respect to the Federal lands and any lands conveyed to the State of Alaska lying between Moose Creek and Bearpaw River and the extended boundary of Denali National Park to the east, it is the express intent of the Congress that these lands be managed in a manner generally supportive of the purposes of Denali National Park and Preserve. However, mineral exploration and development shall be allowed and conducted in accordance with the laws of the United States and the State of Alaska. Hunting and trapping on Federal lands within this area shall be prohibited except to the degree subsistence activities may be allowed on adjoining parklands.

(2) Katmai National Monument by the addition of areas containing approximately 1,130,000 acres of Federal land to further the purposes of protecting high concentrations of grizzly (brown) bear and their denning areas and habitat for other wildlife; maintenance of unimpaired water habitats for significant salmon populations; and to complete or contain areas of scenic, geological, watershed, and recreational values; furthermore, the monument is hereby redesignated as "Katmai National Park".

(3) Glacier Bay National Monument by the addition of an area containing approximately 550,000 acres of Federal land for the purposes of protecting portions of the Alsek River, animal habitat and migration routes; and portions of the Fairweather Range including the northwest slope of Mount Fairweather; furthermore, the monument is hereby redesignated as "Glacier Bay National Park".

PART C—ADMINISTRATIVE PROVISIONS

SEC. 103. (a) The Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as new areas of the National Park System, pursuant to this Act and the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535) except that hunting may be permitted under the provisions of title VI; and all proclamations and Executive orders reserving lands, waters, and interests therein for the former Katmai and Glacier Bay National Monuments shall remain in full force and effect, expect to the extent they may be inconsistent with the Alaska Native Claims Settlement Act or the purposes of any unit established or expanded by this Act, and in such case for the provisions of this Act shall prevail. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate. Valid Native selections or nominations of lands within the Gates of the Arctic National Park and within the Wrangell-Saint Elias National Park and Preserve are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act.

(b) Permits and rights-of-way shall be granted for access for transportation and utility facilities across that portion of the Gates of the Arctic National Park containing the upper Kobuk River below the upper canyon and across the Kobuk Valley National Park upon findings of need. The Secretary is authorized to issue permits for right-of-way for such facilities in accordance with existing law, and he is further authorized to issue permits for right-of-way for roads and pipelines with respect to those two parks in accordance with this subsection, subject to such terms and conditions as he deems desirable in furtherance of the purposes of the affected park. In determining need, the Secretary of the Interior shall consider, among other things, statewide and regional transportation plans, alternative routes, and modes of access; the feasibility of including different transportation or utility functions, or both, in the same corridor; short-and long-term social, economic, and environmental impacts; and the measures that should be instituted to ameliorate adverse impacts.

(c) In Wrangell-Saint Elias National Park, use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the primitive character, water quality, and fish and wildlife values of the area.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SEC. 201. (a) The following areas are hereby established as units of the National Wildlife Refuge System and shall be administered by the Secretary pursuant to the provisions of law governing the administration of such units and under the provisions of this Act:

(1) Selawik National Wildlife Refuge, containing approximately 1,970,000 acres of Federal land, which shall be managed for the following purposes, among others: To protect the crossroads habitats of the Asiatic and North American Flyways, with their significant populations of snow geese, ducks and swans, sandhill cranes, and shorebirds; to protect habitat for and populations of fish and wildlife including but not limited to caribou on the lands and sheefish in the waters; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat to provide opportunities for hunting, fishing, and other activities and for continued subsistence uses.

(2) Yukon Flats National Wildlife Refuge, containing approximately 8,030,000 acres of Federal land, which shall be managed for the following purposes, among others: To maintain the environmental integrity of the Yukon River within the area; to protect habitat for nationally significant fall flights of ducks and geese; to protect habitat for and populations of fish and wildlife, including but not limited to other birds, moose, wolves, bears, furbearers, and salmon; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these resources, and for continued subsistence uses.

(3) Innoko National Wildlife Refuge, containing approximately 3,190,000 acres of Federal lands, which shall be managed for the following purposes, among others: To assure continued high levels of waterfowl production, including ducks, geese, and swans; to protect habitat for and populations of fish and wildlife, including but not limited to the numerous bird species, moose, and the Beaver Mountain caribou herd, beaver, and salmon; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to permit hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(4) Koyukuk National Wildlife Refuge, containing approximately 3,720,000 acres of Federal land, which shall be managed for the following purposes, among others: Maintenance of habitats to assure continued high level fall flights of ducks and geese; to protect habitat for and populations of fish and wildlife, including but not limited to moose and furbearers; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these wildlife resources, including continued subsistence uses.

(5) Alaska Marine Resources National Wildlife Refuge, containing approximately 330,000 acres of Federal land: (i) which shall be managed for the purposes of protecting internationally significant marine birds and mammals and the land, water, and other marine resources on which they rely, perpetuating other indigenous fish and wildlife resources of the coastal marine environment, and providing for national and international research on marine resources; and (ii) which shall consist of the following specifically described units together with all other publicly owned lands of the United States consisting of islands, islets, rocks, reefs, spires, and designated capes in the coastal waters and adjacent seas of Alaska among other unnamed areas:

Chukchi Sea unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge;

Bering Sea unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands and Sea Lion Rocks) National Wildlife Refuges, Hagemeister Island, Fairway Rock, King Island, Sledge Island, Bluff Unit, Besboro Island, Egg Island, and the Punuk Islands;

Aleutian Islands unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other Federal lands in the Aleutian Islands;

Alaska Peninsula unit—Simeonof and Semidi National Wildlife Refuges, all other Federal islands, islets, rocks, et cetera, lying south of the Alaska Peninsula between Katmai National Monument and False Pass are encompassed within the Alaska Peninsula study area referred to in section 701(1).

Gulf of Alaska unit—including the existing Forester Island, Hazy Islands, Saint Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor, Pye, and Chiswell Islands, and islands, islets, rocks, or spires surrounding Kodiak and Afognak Islands, and all other Federal lands in the Gulf of Alaska reserved for purposes of classification under section 17

(d)(1) of the Alaska Native Claims Settlement Act, excluding lands within the National Forest System.

(6) Kanuti National Wildlife Refuge, containing approximately 1,240,000 acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate nationally significant migratory waterfowl and mammal populations and the lands and waters of the Kanuti area; to protect habitat for and populations of fish and wildlife, including but not limited to these waterfowl, other birds, moose and furbearers, and caribou; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the wildlife resources, including continued subsistence uses.

(7) Nowitna National Wildlife Refuge, containing approximately 1,330,000 acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate the nationally significant waterfowl utilizing the lands and waters of the Nowitna area; to protect habitat for and populations of fish and wildlife, including but not limited to waterfowl, other migratory birds, mammals, and migrating chum, coho, chinook, and other fish populations; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to the fish and wildlife resources, including continued subsistence uses.

(8) Tetlin National Wildlife Refuge, containing approximately 700,000 acres of Federal land, which shall be managed for the following purposes, among others: To perpetuate the fall flight of ducks from this area; to assure maximum opportunities for successful nesting of canvasback ducks; to protect the habitat for and populations of fish and wildlife, including but not limited to the Fortymile and Mentasta caribou herds and the calving ground of the Chisana caribou herd, waterfowl, and other birds, large mammals, and furbearers; to provide a variety of opportunities for interpretive, educational, and scientific fish and wildlife oriented recreational uses; and in a manner consistent with the conservation and protection of such fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to fish and wildlife, including continued subsistence uses. Regardless of any requirement that a study be conducted of areas within the Tetlin National Wildlife Refuge in accordance with subsections 3 (c) and (d) of the Wilderness Act, permits and rights-of-way for pipelines and other facilities and activities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976 are hereby authorized.

PART B—ADDITIONS TO EXISTING AREAS

SEC. 202. (a) The following units of the National Wildlife Refuge System are hereby expanded:

(1) Clarence Rhode National Wildlife Range and Hazen Bay National Wildlife Refuge by the addition of an area containing approximately 12,830,000 acres of Federal lands; furthermore, the Clarence Rhode National Wildlife Range, Hazen Bay National Wildlife Refuge, and additions are hereby redesignated as the Yukon Delta National Wildlife Refuge, which shall be managed for the following purposes, among others: To perpetuate the significant fall flights of ducks, swans, and geese, including large numbers of emperor geese, cackling geese, and large numbers of black brant; to perpetuate significant numbers of shorebirds and waterbirds, including the bristle-thighed curlew; to protect habitat for and populations of fish and wildlife, including but not limited to the internationally significant migratory bird, fish, and marine mammal resources; to maintain the environmental integrity of rivers and lakes; and in a manner consistent with the conservation and protection of the fish and wildlife and their habitat, to provide opportunities for hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(2) Arctic National Wildlife Range by the addition of an area containing approximately 7,870,000 acres of Federal land for furthering the purposes, among others: Of protecting habitat for, and internationally significant populations of, caribou and migratory birds; perpetuating other migratory and resident fish and wildlife populations; protecting representative Arctic life zones and their primitive character; and in a manner consistent with the foregoing to provide continued opportunity for wildlife and wildland oriented recreational and subsistence uses.

(3) Kenai National Moose Refuge, by the addition of areas containing approximately 250,000 acres of Federal land to further the purposes of the existing Kenai National Moose Range (hereby redesignated as a refuge), which refuge shall be managed for the following purposes, among others: To perpetuate a nationally significant population of moose; to protect habitat for and populations of fish and wildlife, including but not limited to moose and other mammals and waterfowl; and in a manner consistent with the conservation and protection of these fish and wildlife and their habitat, to provide opportunities for wildlife oriented recreation.

(4) Cape Newenham National Wildlife Refuge by the addition of an area containing approximately 3,310,000 acres of Federal land; furthermore, the Cape Newenham National Wildlife Refuge and additions are hereby redesignated as the Togiak National Wildlife Refuge, which shall be managed for the purposes, among others, of: protecting habitat for and populations of fish and wildlife including but not limited to the large populations of waterfowl, as well as marine birds and mammals associated with the Cape Newenham area; and in a manner consistent with the conservation and protection of these fish and wildlife and habitat, to permit hunting, fishing, and other activities with respect to these resources, including continued subsistence uses.

(b) All proclamations, Executive orders, public land orders, and similar actions reserving any lands, waters, or interests therein for refuge purposes within the boundaries of the areas designated as, or added to, units of the National Wildlife Refuge System by this Act shall remain in full force and effect as to such lands, waters, and interests therein thereby reserved; where the purposes of any such action are inconsistent with the purposes of any unit established by this Act, in such case the purposes of such unit set forth in this Act shall prevail. Any funds available on the effective date of this section for the purposes of any reservation shall continue to be available for the purposes of the unit established by this Act.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

SEC. 301. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraphs at the end thereof:

"(16). ALATNA, ALASKA.—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(17). ANIAKCHAK, ALASKA.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

"(18). BREMNER, ALASKA.—The main stem, and the North, South, and Middle Forks within the Wrangell-Saint Elias National Park; to be administered by the Secretary of the Interior.

"(19). CHARLEY, ALASKA.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

"(20). CHILIKADROTNA, ALASKA.—That portion of the river within the Lake Clark National Park/Preserve; to be administered by the Secretary of the Interior.

"(21). CHITINA, ALASKA.—That portion of the river within the Wrangell-St. Elias National Park/Preserve; to be administered by the Secretary of the Interior.

"(22). COOPER, ALASKA.—That portion of the river (upper reach) within the Wrangell-Saint Elias National Park/Preserve; to be administered by the Secretary of the Interior.

"(23). JOHN, ALASKA.—That portion of the river within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(24). KILLIK, ALASKA.—That portion of the river, including its major tributary, Easter Creek, within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(26). MULCHATNA, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(26). MULCHATNA, ALASKA. —That portion within the Lake Clark National Park/Preserve; to be administered by the Secretary of the interior.

"(27). NOATAK, ALASKA.—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Ecological Preserve; to be administered by the Secretary of the Interior.

"(28). NORTH FORK OF THE KOYUKUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(29). TINAYGUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(30). TLIKAKILA, ALASKA.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.".

ADMINISTRATIVE PROVISIONS

SEC. 302. (a) The river segments designated in section 301 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments

listed in section 301. The provisions of title VI of this Act shall supersede those of section 13(a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

DESIGNATION

SEC. 303. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraphs at the end thereof:

"(31). ANDREAFSKY, ALASKA.—That portion from its source, including all headwaters, and similarly the East Fork; to be administered by the Secretary of the Interior.

"(32). IVISHAK, ALASKA.—That portion from its source including all headwaters and an unnamed tributary to Porcupine Lake, within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(33). KANEKTOK, ALASKA.—That portion from Kagati Lake to a point sixteen miles above the mouth; to be administered by the Secretary of the Interior.

"(34). KISARALIK, ALASKA.—From the headwaters to where the river leaves Federal lands in township 8 north, range 64 west; to be administered by the Secretary of the Interior.

"(35). NOWITNA, ALASKA.—The segment within the Nowitna National Wildlife Refuge downstream to its confluence with the Yukon River; to be administered by the Secretary of the Interior.

"(36). PORCUPINE, ALASKA.—The segment within the Yukon Flats National Wildlife Refuge and Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(37). SHEENJEK, ALASKA.—The segment within the Yukon Flats National Wildlife Refuge and Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(38). WIND, ALASKA.—That portion from its source, including all headwaters and one unnamed tributary in township 31 south, range 21 east, to the mouth; to be administered by the Secretary of the Interior.".

ADMINISTRATIVE PROVISIONS

SEC. 304. (a) The river segments designated in section 303 of this title are hereby classified and designated and shall be administered as wild river areas within National Wildlife Refuges.

(b) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act, the boundaries of the river segments referred to in section 303 of this title may include up to one mile from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act, the Secretary shall establish boundaries of the river segments referred to in section 303 of this title within three years after the date of enactment of this title.

(c) The provisions of section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments referred to in section 303 of this title.

PART C—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

DESIGNATION

SEC. 305. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following paragraphs at the end thereof:

"(39). ALAGNAK, ALASKA.—The portion beginning at the source and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"(40). BIRCH CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the North Fork downstream to its intersection with the Steese Highway; to be administered by the Secretary of the Interior.

"(41). DELTA, ALASKA.—The segment from the headwaters to Black Rapids Glacier; to be administered by the Secretary of the Interior.

"(42). FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"(43). GULKANA, ALASKA.—The main stem from Paxson Lake to Sourdough and the entire West and Middle Forks; to be administered by the Secretary of the Interior.

"(44). NOWITNA, ALASKA.—The segment from the point where the river crosses the west boundary of section 6, township 17 south, range 22 east, Fairbanks Principal Meridian, downstream to the southern boundary of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(45). UNALAKLEET, ALASKA.—The segment of the main stem beginning at 159 degrees 21 minutes 06.156 seconds west longitude approximately six miles from the headwaters extending downstream sixty miles to 160 degrees 19 minutes 15.031 seconds west longitude in the vicinity of the confluence of the Chiroskey River; to be administered by the Secretary of the Interior.

DESIGNATION FOR STUDY

SEC. 306. Section 5(a) of the Wild and Scenic Rivers Act is amended as follows:

(a) After paragraph (58) insert the following new paragraphs:

"(59) Beaver, Alaska.

"(60) Colville, Alaska.

"(61) Copper (Iliamna), Alaska.

"(62) Copper (from Slana to mouth), Alaska.

"(63) Holitna-Hoholitna, Alaska.

"(64) Killik, Alaska (segment from Gates of the Arctic National Park to the Colville River).

"(65) Koyuk, Alaska.

"(66) Melozitna, Alaska.

"(67) Nelchina-Tazlina, Alaska.

"(68) Nuyakuk, Alaska.

"(69) Situk, Alaska.

"(70) Stikine, Alaska.

"(71) Utukok, Alaska.".

(b) The studies of the rivers in paragraphs (59) through (71) shall be completed and reports transmitted thereon not later than five full fiscal years from date of enactment of this subsection.

ADMINISTRATIVE PROVISIONS

SEC. 307. (a) The Alagnak, Andreafsky, Birch Creek, Gulkana, Ivishak, Kanektok, Kisaralik, Nowitna, Porcupine, Sheenjek, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork; Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, and the segment of the Copper (Wrangell) component from its source to the North boundary of the Wrangell-Saint Elias National Park/Preserve, designated in section 305 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The Wade Creek unit of the Fortymile component is classified and designated and shall be administered as a recreational river area, pursuant to such Act. The remaining segments of the Delta and Fortymile components are classified and designated and shall be administered as scenic river areas, pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commerical development of asbestos deposits in the North Fork drainage.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within one year after the date of enactment of this title with respect to the Alagnak, Birch Creek, Delta, and Gulkana components; within two years with respect to the Fortymile components; within three years with respect to the Nowitna, Porcupine, and Sheenjek components; and within four years with respect to the Andreafsky, Ivishak, Kanektok, Kisaralik, and Unalakleet components. The detailed plan for each river (i) may include establishment of detailed boundaries not to exceed one mile from the mean high water level on either side of the river segments, and (ii) shall include the establishment of a corridor based essentially on line-of-sight from the river within which the Secretary determines that minerals should continue to be withdrawn.

(c) Notwithstanding any provisions of the Wild and Scenic Rivers Act to the contrary, an area extending one mile from the mean high water level on either side of the river segments referred to in section 305 of this title is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto, pending establishment of the detailed boundaries provided for in subsection (b).

(d) The provisions of this title specifying average maximum permissible corridors for individual components shall supersede any provisions to the contrary of the Wild and Scenic Rivers Act.

(e) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands within the line-of-sight corridor established pursuant to subsection (b) included in any component or part of a component designated by this section as a wild river area are effective upon the establishment of such corridor, withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto. The Secretary is authorized to open the remainder of the lands within the detailed boundaries of the river segment to mining and mineral leasing subject to such regulations as he may prescribe.

(f) The Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining the wild and scenic rivers established by this title to assure that the purpose of such reservations are served to the greatest extent feasible.

(g) Notwithstanding any other provision of law or of this Act to the contrary, with respect to components of rivers herein designated and administered by the Secretary outside the boundaries of units of the National Park and Wild Refuge Systems, the Secretary may (i) grant access for oil and gas pipelines in accordance with the Mineral Leasing Act of 1920; (ii) permit, subject to such terms and conditions as he deems necessary, access for roads across, through, or over such river components; and (iii) permit the continued use of Federal lands, waters, and interests therein for customary

and traditional transportation purposes and those required under existing international treaties.

(h) Valid Native selections or nominations of lands within the Killik or other river corridors designated as wild, scenic, recreational, or for study by this title, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act.

TITLE IV—NATIONAL FOREST SYSTEM

SEC. 401. (a) So as to include entire units of local topography within the Tongass and Chugach National Forests in Alaska, there are hereby transferred to the Tongass National Forest approximately 1,444,000 acres of public lands in three units adjacent to the present boundary generally depicted on a map entitled "Potential NFS additions in Alaska, dated ". There are hereby transferred to the Chugach National Forest approximately 1,465,000 acres of public lands in two units adjacent to the present boundary generally depicted on a map entitled "Potential NFS Additions in Alaska, dated ". Both maps shall be on file in accordance with the provisions of subsection 2(c) of this Act.

(b) There are hereby transferred to the Chugach National Forest some 900,000 acres of public lands adjacent to the present boundary extending northward along the Copper River as depicted on a map entitled "Copper River Additions to the Chugach National Forest" dated , which shall be on file in accordance with the provisions of subsection 2(c) of this Act. The Secretary of Agriculture shall manage the Copper River additions and adjacent lands in the Copper River Delta in accordance with the Forest and Rangelands Renewable Resources Planning Act of 1974, as amended, under land management plans which provide for adequate protection of significant wildlife values and utilization of other resource values which do not substantially interfere with such wildlife values. Sensitive treatment shall be given to the location and nature of any surface transportation facilities found necessary in the area with respect to wildlife, scenic, and primitive values.

TITLE V—DESIGNATION OF WILDERNESS AREAS AND WILDERNESS STUDY AREA PROVISIONS

DESIGNATION OF WILDERNESS AREAS

SEC. 501. (a) In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the lands, waters, and interests within the boundaries depicted as "Proposed Wilderness" on the maps referred to in this section are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

National Park System

(1) Glacier Bay Wilderness of approximately 2,740,000 acres as generally depicted on a map entitled "Glacier Bay National Park", and dated January 1978.

(2) Katmai Wilderness of approximately 3,630,000 acres as generally depicted on a map entitled "Katmai National Park and Preserve", dated January 1978.

(3) Denali Wilderness of approximately 4,440,000 acres as generally depicted on a map entitled "Denali National Park and Preserve", dated January 1978.

(4) Gates of the Arctic Wilderness of approximately 8,000,000 acres as generally depicted on a map entitled "Gates of the Arctic National Park", January 1978.

(5) Kenai Fjords Wilderness of approximately 340,000 acres as generally depicted on a map entitled "Kenai Fjords National Park", dated January 1978.

(6) Lake Clark Wilderness of approximately 2,600,000 acres as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated January 1978.

(7) Wrangell-Saint Elias Wilderness of approximately 7,740,000 acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated January 1978.

Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the primitive character, water quality, and fish and wildlife values of the area.

National Wildlife Refuge System

(1) Kenai Wilderness of approximately 1,300,000 acres; and

(2) Alaska Marine Resources Wilderness of approximately 2,470,000 acres.

Aleutian Islands Wilderness, 1,300,000 acres;

Unimak Wilderness, 913,975 acres; and

Semidi Wilderness, 251,860 acres.

(b) Lands designated as wilderness by this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act and as herein supplemented governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(c) In consideration of customary means of travel, limited transportation facilities, and the extensive areas involved in Alaska, use of snow machines, motorboats, or aircraft lands, where such use has become established, shall be permitted subject to wilderness management plans and reasonable restriction as appropriate or subject to subsistence activities in accordance with the provisions of title VI.

(d) The Secretary is authorized to undertake directly or permit fish stocking, enhancement, rehabilitation, and development activities and the development of aquaculture sites within the wilderness areas designated by this Act, in accordance with the provisions of section 502(b)(3).

(e) In accordance with the principles of sound fisheries management, the Secretary is authorized to permit commercial fisheries activities within wilderness areas designated by this Act, except within national parks.

WILDERNESS STUDY AND ADMINISTRATION

SEC. 502. (a) Within seven years from the effective date of this section, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the units of the National Park System and National Wildlife Refuge System, other than the units referred to in section 501, established or to which lands are added by titles II and III of this Act, for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with the Wilderness Act. With regard to the designation of wilderness areas in the Tongass and Chugach National Forests, the Secretary of Agriculture shall recommend to the President and the President to the Congress, no later than January 30, 1979, areas for preservation as wilderness that total no less than 6,500,000 acres.

(b) It is the express intent of the Congress that the appropriate Secretary make diligent effort to complete his review and submit recommendations to the President as to the suitability or nonsuitability of areas for preservation as wilderness with respect to the maximum practicable acreage of land within the period of time referred to in subsection (a) of this section giving due consideration to the mineral assessment provisions of this Act. Pending the designation by the Congress of any such area as wilderness—

(1) such measures may be taken as the appropriate Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desirable to maintain the wilderness character of the area;

(2) customary patterns of travel, including customary use of aircraft, motorboats, and snowmobiles where such use has already become established, shall be permitted to continue in areas subject to wilderness study, subject only to such reasonable restrictions as the appropriate Secretary determines are necessary to prevent abuse, waste, or damage to terrain and to protect the continued viability of fish and wildlife resources except—

(A) where such uses were, on January 1, 1977, prohibited by law or regulation;

(B) that use of snowmobiles for subsistence purposes may be permitted to the extent authorized by title VI; and

(C) that snowmobiles may not be used when snow cover and other weather conditions are such that there would be resulting damage to the terrain;

(3) in accordance with principles of sound fisheries management, the appropriate Secretary is authorized to permit or undertake directly fish stocking, enhancement, rehabilitation, and development activities and the development of aquaculture sites within areas subject to review for suitability or nonsuitability as wilderness, as he determines to be necessary and desirable to restore, augment, or sustain native fish populations. Structures for any such aquaculture site shall consist of only minimal facilities essential to the aquacultural operations; such facilities shall be constructed at such locations and in such manner as to blend into the natural character of the area. In constructing such structures no significant alteration to the natural contours of the terrain shall be permitted. Reasonable access including possible motorized access, may be permitted for necessary access in conjunction with activities undertaken pursuant to this section. In addition, such reasonable access may be provided for the evaluation of sites needed for fisheries enhancement, rehabilitation, and development and for the construction, operation, and maintenance of projects authorized by the appropriate Secretary;

(4) previously existing public use cabins within areas made subject to wilderness study by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the appropriate Secretary deems necessary to preserve the primitive character of the area;

(5) within areas made subject to wilderness study by this Act, the appropriate Secretary is authorized to construct and maintain a limited number of new cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety, for the protection and preservation of the primitive character of the area, or as may be necessary to meet requirements for the administration of the area; all such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding landscape;

(6) the appropriate Secretary may establish a reservation system and charge a reasonable fee for the use and occupancy of wilderness study area cabins or shelters in areas made subject to wilderness study;

(7) commercial services may be performed within the areas made subject to wilderness study by this Act to the extent necessary

for activities which are proper for realizing the recreational or other purpose for the areas;

(8) exploration for, and extraction of minerals, including oil and gas, may be permitted in accordance with title IX of this Act; and

(9) the appropriate Secretary is authorized to develop, on not more than 1,000 acres within each unit, facilities needed for the administration and management of each unit in accordance with a general management plan for the area and following public notification.

TITLE VI—SUBSISTENCE; FISH AND WILDLIFE MANAGEMENT

FINDINGS

SEC. 601. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic, and cultural existence;

(2) the continuation of the opportunity for subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic, and traditional existence;

(3) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses;

(4) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(5) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and provide for continued subsistence uses on public lands by Alaska Natives and other Alaska residents; and

(6) the national interest in the proper regulation protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 602. It is hereby declared to be the policy of Congress that—

(1) management policies on the public lands in Alaska are to cause the least adverse impact possible on rural people who traditionally and consistently depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, the purpose of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency and the rate at which acculturation or adjustment to a nonsubsistence way of life may take place;

(2) nonwasteful subsistence use of wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for nonwasteful subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal lands managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

DEFINITION

SEC. 603. As used in this Act, the term "subsistence uses" means the noncommercial (except as provided under paragraph (2)) customary and traditional utilization within the State of wild, renewable resources for—

(1) direct personal or family use for food, shelter, fuel, clothing, tools, or transportation;

(2) the making and selling of handicraft articles (including clothing), but only out of nonedible byproducts of fish and wildlife taken for such personal or family use; or

(3) customary trade, barter, or sharing among subsistence users for personal or family use.

STATE REGULATION

SEC. 604. Except as otherwise provided by this Act and other Federal laws, the State may regulate, in a manner consistent with the policies set forth in section 602, the taking of fish and wildlife on public lands for subsistence uses by developing and implementing a subsistence management program which meets the requirements set forth in subsection (b).

(b) The subsistence management program of the State shall include at least the following elements:

(1) The maintenance of the natural stability and continued productivity of fish and wildlife populations which are on public lands and which are the subject of subsistence uses.

(2) A system capable of regulating and monitoring subsistence uses and other consumptive uses of such populations to ensure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(3) A grievance procedure whereby any local council or regional council, required to be established under paragraph (6), which determines that the State is not in compliance, in whole or in part, with the State subsistence management program can obtain timely review of such determination by, and obtain appropriate relief from, the State agency referred to in paragraph (5)(A) or any other State rulemaking authority.

(4) The establishment of not less than five management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. The number and boundaries of the management regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated.

(5) State laws or regulations which—

(A) provide for the regulation by a professionally staffed agency of the taking of fish and wildlife populations on the public lands for subsistence uses, provide that such agency have an administrative structure compatible with the provisions of this section, and provide for an agency which has adequate enforcement authority;

(B) provide preference for nonwasteful subsistence uses by local residents over other consumptive uses of fish and wildlife populations on the public lands; and

(C) provide, whenever it is necessary to restrict the taking of such populations on public lands for subsistence uses in order to protect their natural stability and continued productivity, or to continue such uses, for the establishment of appropriate restrictions and limitations on, and preferences for, such uses which shall be based on—

(i) customary and direct dependence upon the populations as the mainstay of livelihood,

(ii) local residence, and

(iii) the availability of alternative resources.

(6) A system of local and regional fish and wildlife councils within each management region established pursuant to paragraph (4). Each regional council shall be composed of residents of the region concerned and shall have the following functions:

(A) The review, development, and evaluation of proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife within such region.

(B) The provision of a forum for the expression of opinions and recomendations by persons interested in any phase of fish and wildlife conservation and utilization.

(C) The taking of appropriate action to ensure local and regional participation in the decision-making process affecting the taking of fish and wildlife populations on public lands within the region for subsistence uses.

(D) The preparation of a recommended subsistence management plan for such region which shall be submitted to the State agency referred to in paragraph (5)(A). The plan shall be updated annually and shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations necessary to implement the plan.

The local councils within each management region shall provide advice to, and shall assist, the regional council with respect to carrying out the functions set forth in this paragraph.

(7) The assignment of adequate and necessary qualified staff to the regional councils and the timely distribution of all available relevant technical and scientific support data to the local councils and regional councils.

(8) A requirement that the State agency referred to in paragraph (5)(A) or any other State rulemaking authority shall be guided by the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses and shall implement such recommendations unless the agency or authority, after a public hearing, determines that any such recommendation is not supported by substantial evidence presented at the hearing, violates recognized scientific principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.

ENFORCEMENT DUTIES OF SECRETARY OF THE INTERIOR

SEC. 605. (a) The Secretary shall monitor the State subsistence management program and the implementation of such program. If the Secretary, after notice and hearing, determines that the program or its implementation is not in compliance with this

title, the Secretary shall so notify the State and shall indicate changes in the program or its implementation which he considers necessary to bring the State into compliance.

(b) If a local council or regional council required to be established under section 604(b)(6) determines that the State is not in compliance, in whole or in part, with the State subsistence management program, such council shall notify the Secretary in writing outlining the factual basis for such determination and detailing efforts which have been made to obtain timely relief through the grievance procedure referred to in section 084(b)(3). If the Secretary finds that based upon the representations of the council there is cause to believe that the State is not in compliance, in whole or in part, with the State program and that such council has failed to obtain timely relief through the State grievance procedure, he shall investigate and report publicly on the results of his investigation. If such results support the contention of the council, the Secretary shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

(c) If the State fails—

(1) to implement a subsistence management program which in eighteen months after the date of the enactment of this Act or by such later date as the Secretary deems reasonable; or

(2) to make, after a reasonable date, the changes in the subsistence management program or its implementation as indicated by the Secretary under subsection (a) or (b); and the Secretary determines that such failure threatens the natural stability and continued productivity of the fish and wildlife populations on public lands in the area concerned, or the ability of subsistence-dependent Alaska residents in such area to satisfy their subsistence needs, the Secretary may close the public lands in such area to all consumptive uses except subsistence uses by local residents. The Secretary shall afford the State an opportunity to appeal such closure. Within thirty days after receipt of notice of such appeal, the Secretary shall afford the State a public hearing and, within thirty days after such hearing, shall make his final decision on such appeal. Unless the Secretary affirmatively establishes that the State is not in compliance with this title or with the subsistence management program, and that the resulting threat determined under the preceding sentence exists, the Secretary shall revoke the closure. If the Secretary establishes that the State is not in such compliance, and that such resulting threat does exist, he may continue the closure, in whole or in part, until the State adopts measures complying with the Secretary's determination, or until such threat is otherwise ameliorated.

(d)(1) Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses if necessary for reasons of public safety, administration, or to assure the natural stability and continued productivity of one or more fish or wildlife populations on such lands which are subject to such uses. If the Secretary determines that an emergency situation exists and that the extraordinary measures must be taken for public safety or to assure the natural stability and continued productivity of one or more fish and wildlife populations on such lands which are subject to such uses, the Secretary may immediately close the public lands, or any portion thereof, to subsistence uses and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after adequate notice and public hearing, that such closure should be extended.

(2) If after notice to the State under subsection (a) or (b), the Secretary determines that extraordinary measures must be taken to protect public welfare, he may open public lands, or any portion thereof, to subsistence uses by local residents and publish the reasons justifying such action in the Federal Register. Such emergency action shall be effective when made, but shall not extend for a period of time greater than sixty days, or until such time as the threat to the public welfare which necessitated such action has been resolved, whichever time first occurs.

COOPERATIVE ARRANGEMENTS

SEC. 606. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 607. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on the subsistence needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the State agency referred to in section 604(b)(5) and the appropriate local councils and regional councils required to be established under section 604(b)(6) if such councils have been established.

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) adequate steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

ACCESS

SEC. 608. The Secretary shall ensure that persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resource on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 609. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes, subject to such regulations as are necessary to prevent abuse, waste, or damage to fish and wildlife, habitat, or other natural values.

RESEARCH

SEC. 610. The Secretary, acting through the United States Fish and Wildlife Service and in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence activities on the public lands, seek data from, consult with and utilize the special knowledge of subsistence users; and make the results of such research available to the State, the local councils and regional councils required to be established under section 604(b)(6), subsistence users, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 611. Within four years after the date of the enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 605(a);

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local councils and regional councils required to be established under section 604(b)(6), and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

SEC. 612. The Secretary and the Secretary of Agriculture shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

OTHER LAWS

SEC. 613. Nothing in this title shall be deemed to modify or repeal the provisions of any Federal law governing the conservation or protection of fish and wildlife.

LIMITATIONS

SEC. 614. (a) Nothing in this title shall be construed as granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring during the ten-year period before January 1, 1978. No privilege which may be granted by the State to any individual with respect to subsistence uses under the State subsistence management program may be assigned to any other individual.

(b) Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (whether or not within any conservation system unit) if any such use was not permitted on the date of the enactment of this Act or as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands.

REIMBURSEMENT TO THE STATE

SEC. 615. (a) The Secretary may reimburse the State wildlife agency, from funds appropriated to the Department of the Interior, for reasonable costs relating to the establishment and operation of the local councils and regional councils required to be established under section 604(b)(6). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this section shall

be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior. The Secretary shall ensure that such grants, payments, or other sums are expended in a manner consistent with the policies set forth in section 602.

(b) Total payments to the State under this section shall not exceed the sum of $5,000,000 in any one fiscal year.

(c) The Secretary shall periodically review the financial aspects of implementing the States program and shall advise the Congress at least once in every five years as to whether or not the maximum amount of payments specified in subsection (b) is adequate for proper implementation of the State program.

TITLE VII—COOPERATIVE STUDY AND PLANNING COMMISSION

SEC. 701. (a) There is hereby established the Alaska Cooperative Study and Planning Commission (hereinafter referred to as the "Commission"). The Commission shall consist of the directors of the Bureau of Outdoor Recreation, National Park Service, Fish and Wildlife Service, Bureau of Land Management, and the Chief of the Forest Service, and to the extent that the State of Alaska shall concur in accordance with subsection (d), five members appointed by the Governor of Alaska (hereinafter referred to as the "Governor"), together with three public members, appointed by the Secretary from recommendations submitted to him by Native Village and Regional Corporaitons. There shall be two cochairmen, including one as the State shall prescribe and one chosen by lot from among the Federal members, who shall serve as cochairman for one year; thereafter the Federal cochairmanship shall revolve annually in the order listed in the second sentence of this subsection.

(b) Members of the Commission who are Federal employees shall receive no additional compensation for service on the Commission. Public members of the Commission shall receive the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (as contained in title 5, United States Code) for each day during which they are engaged in the performance of duties for the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(c) The Commission shall have an Executive Director who shall be appointed by the Secretary with the majority consent of the Commission and who shall be compensated at a rate established by the Secretary but not in excess of that provided for level V of the Executive Schedule contained in title 5, United States Code. The Executive Director shall appoint and fix the compensation of such additional staff the Commission approves.

(d) As an express condition to participation in the work of the Commission, the State of Alaska shall agree to contribute funds equal to 35 per centum of the Commission's annual operating expenses, including funds, staff and property as may be found necessary by the Commission in carrying out its functions. The Federal agencies together shall annually contribute funds equal to 65 per centum of the Commission's annual operating expenses, including funds, staff and property as may be found necessary by the Commission in carrying out its functions.

(e) The Commission shall meet at the call of the cochairmen, but not less than once each calendar year. In addition, the Commission may, for the purpose of carrying out the provisions in this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Commission deems advisable. The cochairman shall submit a report of each meeting or hearing, together with any recommendations the Commission deems appropriate, to the Secretary, the Governor of Alaska, and the head of each Native Regional Corporation.

(f) The Commission shall adopt such internal rules of procedure and organization as it deems necessary. All Commission meetings shall be open to the public and at least thirty days prior to the date when any meeting of the Commission is to take place the cochairmen shall provide public notice in the Federal Register and in newspapers of general circulation in various areas throughout Alaska; and shall be subject to the provisions of the Federal Advisory Committee Act.

(g) The function of the Commission shall be to coordinate, review, or conduct studies and advise the Secretary and the Secretary of Agriculture, other Federal agencies, the State of Alaska, and Native Corporations with respect to ongoing, planned, and proposed land and resource uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agriculture development, coastal zone management, and such other matters as may be submitted for advice by the members.

(h) The Commission may, with the concurrence of the members having administrative jurisdiction over the lands and waters and fish and wildlife resources therein, recommend cooperative planning and management of lands or resources where the actions by one member materially affect the management of lands or resources by another member or members. Federal members of the Commission are hereby authorized and encouraged to enter into cooperative agreements with other Federal members and with State and Native members providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(i) In addition to its functions as set forth above, the Commission shall study and investigate ongoing and potential uses of lands and waters within the areas generally depicted as "Alaska Peninsula Study Area", "Iliamna Lake—Wood-Tikchik—Bristol Bay Study Area", "Wrangell-Saint Elias National Preserve Study Area", and "Teltin Study Area", on the map entitled " ", numbered , and dated , which shall be on file and available in the same manner as the maps referred to in section 2 of this Act. The designated areas shall be administered by the agency or agencies presently managing them, unless changed by the operation of this Act. The managing agency shall exercise a high degree of environmental concern in the administration of these lands pending completion of the study. Within three years from the date of approval of this Act, the Commission shall prepare and adopt a plan for the management of resources within each of the study areas depicted on the foregoing map. Each plan shall include the proposed classification of lands, waters, and resources for appropriate uses, and any recommended land exchanges which might help further national, State, and private interests. Such classification shall be binding upon the landowner or the agency having administrative jurisdiction over the land only if such owner or agency representative agrees. within the limits of applicable law and appropriation, to be bound by the classification proposed by the Commission: *Provided*, That in the absence of such agreement the land owner or agency representative have no vote on the adoption of the plan.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCE OF CORE TOWNSHIP LANDS AND OF NATIVE RESERVES

SEC. 801. (a) (1) For each Village Corporation for a Native Village which, by the date of enactment of this Act—

(A) had been determined to be eligible under the Alaska Native Claims Settlement Act (hereinafter in this title referred to as the "Settlement Act") by the Secretary; and

(B) such eligibiilty determination is not the subject of existing litigation in a court of competent jurisdiction; and

(C) did not elect pursuant to section 19(b) of the Settlement Act to receive fee title to a former Native Reserve,

subject to valid existing rights, there is hereby conveyed to and vested in each Village Corporation referred to in the paragraph all of the right, title, and interest of the United States in and to the surface estate in the land and submerged lands under water areas within the township or townships in which all or any part of such Village is located.

(2) The conveyance under pargraph (1) shall not include such lands and waters which on December 18, 1971, were—

(A) appropriated by or reserved for defense purposes, other than Naval Petroleum Reserve Numbered 4 (now National Petroleum Reserve—Alaska), or that are within the National Park System; or

(B) appropriated by or reserved for the use and benefit of a Federal agency, except the reservation for a national wildlife refuge or a national forest; or

(C) embraced in a disposal entry, including but not limited to a homestead, trade and manufacturing site or mining claim, of record with the Bureau of Land Management and not relinquished or finally rejected as invalid on the date of this Act; or

(D) within two miles from the boundary of any home rule or first-class city or which are within six miles from the boundary of Ketchikan, as those boundaries existed on December 18, 1971, except as provided by the Secretary's regulations at 43 CFR 2650.6(a); or

(E) reserved to or validly selected by the State of Alaska (or Territory, as appropriate) under the Act of March 4, 1915 (38 Stat. 1214), as amended, the Act of January 21, 1929 (45 Stat. 1091), or the Act of July 28, 1956 (70 Stat. 709) and such selections or reservations were not revoked, relinquished, or determined invalid; or

(F) submerged lands under navigable waters conveyed to the State of Alaska by the Alaska Statehood Act of 1959 (hereinafter in this title referred to as the "Statehood Act").

(3) No conveyance in this subsection shall consist of more than 69,120 acres, or, in the case of a Village Corporation for a Native Village listed in section 16(a) of the Settlement Act, consist of lands validly selected by the State of Alaska under the Statehood Act or exceed 23,040 acres of land, including submerged lands.

(4) Where two or more Village Corporations are entitled to the same land, including submerged lands, by virtue of the same township or townships embracing all or part of the Native Villages, the conveyance made by this subsection shall not be effective until an arbitration decision, as required by section 12(e) of the Settlement Act, or other binding agreement between or among the Corporations is filed with the Secretary in accordance with regulations promulgated by the Secretary. Within thirty days of receipt of such decision or agreement the Secretary shall publish notice of such decision or agreement in the Federal Register. Effective with such publication in the Federal Register, title to the lands, including submerged lands,

conveyed by this subsection shall vest in each Village Corporation as specified in the decision or agreement.

(5) Lands excluded from conveyance by this subsection may thereafter be conveyed to the appropirate Corporation where the Secretary determines such lands are available to such Corporation under the Settlement Act: *Provided*, That such additional conveyance does not exceed the entitlement of that Corporation.

(6) Except where such lands, including submerged lands, are within Naval Petroleum Reserve Numbered 4 or a unit of National Wildlife Refuge System, as a result of a conveyance of the surface estate to a Village Corporation by subsection (a), there is hereby conveyed to and vested in each Regional Corporation all of the right, title, and interest of the United States in and to the subsurface estate to which the Regional Corporation would have been entitled to pursuant to section 14(f) of the Settlement Act.

(7) All conveyances made by this subsection shall be subject to the terms and conditions of sections 14(c), 14(f), 14(g), 15, 16(b), 17(b)(2), and 22 (c), (d), (g), (j), (k) and (l) of the Settlement Act as if such conveyances had otherwise been made under the Settlement Act.

(8) Nothing herein shall be deemed to vest any new rights to the Corporation formed for the Native Village of Klukwan, which Corporation shall receive those rights granted to it by Public Law 94-204 (Stat.), as amended by Public Law 94-456 (90 Stat. 1334).

(b)(1) For each Village Corporation for a Native Village which, by the date of enactment of this Act—

(A) had been determined to be eligible under the Settlement Act by the Secretary; and

(B) such eligibility determination is not subject of existing litigation in a court of competent jurisdiction; and

(C) which, under the provisions of section 19(b) of the Settlement Act, elected to receive fee title to a former Native Reserve, subject to valid existing rights, there is hereby conveyed to and vested in each Village Corporation in this paragraph all of the right, title, and interest of the United States in and to the land, including submerged lands, in the Reserve, as such Reserve existed as of the date of enactment of the Settlement Act, in which the Village is located, except those lands that on December 18, 1971, were appropriated by or reserved for a specific Federal installation.

(2) Conveyances made by this subsection shall be subject to the terms and conditions of sections 14(c), 14(g), 17(b)(2), 22(c), 22(d), and 22(j) of the Settlement Act as if such conveyance had otherwise been made under the Settlement Act.

(3) Nothing herein shall be deemed to vest any new rights to the Corporation formed for the Native Village of Klukwan which shall receive those rights granted to it by Public Law 94-204 (Stat.), as amended by Public Law 94-456 (90 Stat. 1934).

(c)(1) As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to subsections (a) and (b) interim conveyances or patents to the estate or estates conveyed to such corporation by such subsections, but title shall be deemed to have on the date of enactment of this Act, except where subsection (a)(4) of this section applies, for which title shall be deemed to have passed on the date of enactment of this Act, except where subsection (a)(4) of this section applies, for which title shall be deemed to have passed on the date of the publication of the decision or agreement in the Federal Register, notwithstanding any delay in the issuance of the interim conveyances or patents.

(2) For a period of three years, but in no case after patent has issued, from the date of enactment of this Act, the Secretary may identify and reserve those easements, pursuant to section 17(b) of the Settlement Act, he determines are necessary to provide access between or among non-Native owned lands or points of public use, such as airports and docks, within the lands conveyed by subsections (a) and (b) and such access, transportation, and utility easements that the Secretary determines necessary between public access points within the lands conveyed by subsections (a) and (b) and publicly owned lands and resources located outside of such lands. The Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably and actually necessary.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) In addition to lands conveyed in accordance with section 801, there are hereby granted to each Native Corporation formed pursuant to the Alaska Native Claims Settlement Act and to each Native Group (as defined in section 3(d) of such Act) qualified to receive land under such Act all those other lands which they are entitled to receive under such Act, to the extent such lands have been selected as of the date of enactment of this Act.

(b) For purposes of this section, all those lands specified in the document entitled " " which sets forth the selections of each Native Corporation or group and which was submited under date of to the House Committee on Interior and Insular Affairs, shall be deemed to be the lands to be conveyed to such corporations to the extent of entitlement.

(c) As soon as possible after the date of enactment of this Act, the Secretary shall issue interim conveyances or patents, conforming to the requirements of the Alaska Native Claims Settlement Act, for the lands described in this section. As to any such lands for which interim conveyances or patents have not been issued within three years after the date of enactment of this Act any Native Corporation or group may thereafter apply to any appropriate Federal district court for an appropriate order confirming the conveyance of any such lands, free and clear of any reservations of easements, other than those easements required to be reserved pursuant to section 14(g) and section 17(b) of the Alaska Native Claims Settlement Act or pursuant to this Act.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) In identifying and reserving easements required pursuant to section 17(b) of the Alaska Native Claims Settlement Act, to be reserved on lands conveyed to Village and Regional Corporations, the Secretary shall be guided by the following principles:

(1) all easements shall be designed so as to minimize their impact on the compactness and integrity of Native lands; and

(2) each easement shall be specifically located and limited and shall include only such areas as are essential for the purpose or purposes for which the easement is reserved.

(b) In every case where, after conveyances have been made pursuant to this Act or to the Alaska Native Claims Settlement Act, the Secretary determines an easement not reserved at the time of conveyance is required for any lawful purpose, he is authorized to acquire such easement in accordance with any applicable provisions of law. The acquisition of such easements shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. In acquiring any such easement, the Secretary shall be guided by the principles set forth in this section.

(c) The National Environmental Policy Act of 1969 shall not be construed in whole or part as requiring the preparation or submission of an environmental impact statement before withdrawal or conveyance of land to Natives and Native Corporations, or a decision to reserve or not to reserve any easements thereon, under the Settlement Act or this Act.

STATE SELECTIONS AND CONVEYANCES

SEC. 804. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years, and" as to future State land selections, by repeal of the second proviso, regarding Presidential approval of land selections north and west of the line described in section 10 of such Act.

(c)(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), including claims to surveyed lands which were within Federal reservations or withdrawals at the time Alaska became a State, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands in Alaska.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of section 6 (j) and (k) of the Alaska Statehood Act.

(d)(1) All tentative approvals of the State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the bur-

den of loss of acreage due to errors, if any, in any such protraction survey.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effects as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(e)(1) All existing valid State land selections made pursuant to the Alaska Statehood Act are hereby confirmed subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(2) As soon as practicable after the date of enactment of this Act the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. All right, title, and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(3) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(5) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(f) Subject to valid existing and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (c) of this section, for lands which are not, on the date of filing of such applications, available lands within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of such section 6 (a) or (b) regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriations from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(g)(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocs no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocs necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (c) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (b) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection would be in the national interest and would result in a better land ownership pattern.".

(h) In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (m) of this section, which lie within those townships outside the boundaries of conservation system units established, designated, or expanded by this Act, which are specified in the list of State Selection Interest Lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled " ", dated 1978.

(i)(1) Lands identified in subsection (h) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (m) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(j) Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (h) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (c) of this section, or other law, prior to the issuance of tentative approval.

(k) As to lands outside the boundaries of a conservation system unit, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (h) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (c) of this section:

(1) Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection.

(2) Withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act.

(3) Classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987).

(4) Classifications or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(l)(1) Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State the Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, right-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easement, or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, censes, permits, rights-of-way, easements, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way or easement, which re-

sults from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) (1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States.

(2) Where prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, license, permit, right-of-way, or easement has been issued for the lands the conveyance shall contain certain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights privileges, and benefits previously granted, issued reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permitter, or grantor, in any such contracts leases licenses permits, right-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted the administration of such contract lease, license, permit, right-of-way, or easement shall remain in the United States, unless the agency responsible for administration waives such administration.

(5) Nothing herein shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6 (h) of the Alaska Statehood Act.

(n) Any extensions of time periods granted to the State pursuant to section 17(d) (2) (E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a), (b) and (c) of this section shall hereafter be applicable to State selections.

(o) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94–204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94–456), or section 3 of the Act of November 15, 1977 (Public Law 95–178). Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(p) (1) Notwithstanding any other provision of law, any land withdrawn pursuant to section 17(d) (1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, shall land has been validly selected by and conveyed to a Native Corporation.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit shall be administered in accordance with the laws applicable to such unit.

ALASKA NATIVE LAND BANK

SEC. 805. (a) In order to enhance the quantity and quality of Alaska's renewable resources, there is hereby established the Alaska Native Land Bank Program. All Native Corporations are hereby authorized to enter into a written agreement with an appropriate State agency designated by the Governor of Alaska as the agent to administer such Program or with the Secretary of the Interior or his designee if the State declines to participate in such Program. Such agreement shall provide that up to 90 percent of the undeveloped and unimproved land holdings of any Native Corporation, as specified by such Corporation, shall be subject to the provisions of subsection (b). In any case in which the surface and subsurface estates in any lands are held by different Native Corporations, no agreement affecting such lands shall be effective unless all such Corporations enter into such agreements.

(b) Each agreement referred to in subsection (a) shall have an initial term of not less than ten years, with provision for renewal for additional periods of not less than five years. Such agreement shall provide that during its term—

(1) the landowner or landowners shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement and shall not permit development or improvements on such lands;

(2) the renewable resources of such land shall be available only for subsistence uses or such other uses as are not detrimental to subsistence uses;

(3) if the surface landowner so consents, such lands may be made available for local recreational use; and

(4) all or part of the lands subject to the agreement may be withdrawn from the Alaska Native Land Bank Program after the landowner or landowners—

(A) submit written notice thereof to the State agency referred to in subsection (a) or the Secretary if the State has declined to participate in such Program, and

(B) pay all State and local property taxes and assessments which would have been incurred except for the agreement, together with interest on such taxes and asssessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the State or local taxing agency.

Such agreement shall contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement.

(c) Each agreement entered into under this section shall constitute a restriction against alienation imposed by the United States upon the land subject to the agreement; so long as the parties to the agreement are in full compliance with the agreement, lands subject to such agreement shall not be subject to any of the following—

(1) adverse possession,

(2) taxation by the United States, any State, or any political subdivision of a State, and

(3) any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or any officer, director, or stockholder of any such Corporation.

Except as provided in the preceding sentence, nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(d) The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance with the agreement.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 806. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of title VIII of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under this Act, no land in such a contingency area that has been withdrawn for selection by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION SURVEYS

SEC. 807. With the agreement of the party to whom a patent is to be issued under this title, the Alaska Native Claims Settlement Act, or the Alaska Statehood Act, the Secretary may base such patent on protraction surveys in lieu of field surveys.

ACTION TO ENFORCE; JURISDICTION

SEC. 808. For a period of three years after the date of enactment of this Act, any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by a Native Corporation to enforce the provisions of this title and to award appropriate attorney and witness fees and other costs of the litigation to the prevailing party, except that determinations under sections 802 and 803(b) of this title shall be subject to review only in an action brought by an aggrieved Native Corporation.

TECHNICAL AMENDMENTS TO PUBLIC LAW 94–204

SEC. 809. Section 15(a) of the Act of January 2, 1976 (Public Law 94–204, 89 Stat. 1154–1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S.M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 36;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE IX—MINERAL STUDY, EXPLORATION, AND EXTRACTION IN CONSERVATION SYSTEM UNITS

GENERAL GEOLOGIC INVESTIGATIONS AND MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 901. (a) Nothing in this Act, the Wilderness Act, or any other provision of law shall be construed to prevent the Secretary from carrying out mineral assessment programs and general geologic investigatory programs in the State of Alaska. In the case of areas within units a conservation system in Alaska, such programs shall be carried out only in accordance with guidelines which shall be promulgated by the appropriate Secretary. Such guidelines shall insure that the activities carried out pursuant to such programs in such areas are carried out in a manner which is environmentally sound and consistent with the purposes for which such areas are established as units of a conservation system. Such guidelines shall insure that such activities are the minimum necessary for carrying out such programs and do not result in any lasting environmental impact which appreciably alters the natural character of the land.

MINERAL EXPLORATION AND EXTRACTION PROGRAMS FOR CONSERVATION SYSTEM UNITS IN ALASKA

SEC. 902. In all areas, established, enlarged, or added to by this Act except national parks or monuments, designated wilderness areas, and additions to the Wild and Scenic Rivers System, the Secretary shall study, or grant permits for study or both to determine the liquid and gaseous hydrocarbon, and other mineral potential of the areas under his jurisdiction and to determine whether further exploration and extraction activities may be reasonably conducted in the areas in a manner consistent with the purposes for which each area was established. The Secretary in issuing study or subsequent exploration permits shall do so for established or negotiated tracts or areas of a reasonable size to lessen impact on the conservation system unit as well as provide a reasonable opportunity for interested parties.

The Secretary shall authorize mapping of the surface or subsurface (or both) by aerial, mechanical, physical, or other reasonable techniques physical entry and examination, geophysical activities, and other methods of evaluation. If any surface feature in any such area is altered substantially as a result of any such activity, the same shall be restored substantially to its original condition, promptly after conclusion of such study, by the person involved therewith.

PERMITS FOR EXPLORATION AND EXTRACTION

SEC. 903. (a) If, based upon the information obtained by any study conducted under sections 901 and 902 of this title, the Secretary determines that exploration for and extraction of liquid and gaseous hydrocarbons or metallic or other minerals, within such areas may be conducted in a manner consistent with the purposes for which the area was or is established and that any surface altered substantially by such activities may be substantially restored to its original condition, he shall issue permits for further exploration and extraction. In the course of issuance of all permits, the Secretary may set boundaries within which such activities are to be permitted in order to avoid conflict to the degree appropriate with known scenic, habitat, or other natural or historical values or concerns of high interest within the conservation units named in section 902(b) during the period they are subject to wilderness studies or subsequently in areas not recommended for or designated wilderness.

(b)(1) If the Secretary determines, based on the information obtained as a result of a study permit, granted in accordance with subsection (a) of this section, that such areas or portions of such areas should be open to further exploration and extraction for minerals other than liquid or gaseous hydrocarbons, the study permittee shall be given the right of first acceptance or refusal to receive the exploration and extraction permit. If the exploration and study permittee refuses the offer, the Secretary shall offer the lands for lease on the basis of competitive bidding.

(2) If, as a result of information obtained by study or any means other than a study permit, the Secretary determines that exploration for and extraction of liquid and gaseous hydrocarbons, or other minerals should be permitted, the Secretary shall offer the lands for lease on the basis of competitive bidding.

(c) Prior to the issuance of any permit for extraction of minerals the Secretary shall submit the proposed permit to the Congress, with a detailed statement setting forth the basis for his determination. The permit for extraction shall be issued pursuant to this section unless either the Senate or the House of Representatives shall by resolution have disapproved the same within one hundred and twenty legislative days of its submission.

(d) Within sixty days after the effective date of such determination, the Secretary shall initiate the procedure in accordance with subsection (b) of this section for the awarding of appropriate exploration and extraction permits.

(e) The Secretary shall issue regulations to implement sections 902 and 903, which regulations shall include provisions for—

(1) the issuance of any permit for exploration and extraction, including the competitively biddable factor(s); and distinguishing procedures where appropriate between liquid and gaseous hydrocarbons and other minerals; including tract size;

(2) the duration, assignment, and renewal of any permit;

(3) the establishment of a fee and royalty schedule for issuance and maintenance of permits;

(4) other terms under which any such permit shall be issued;

(5) stipulations to reasonably ensure that all activities undertaken under any permits shall for the protection of the land, wildlife, and other natural and historical features be consistent with the purposes for which the respective area was or is established;

(6) removal of liquid or gaseous hydrocarbons and other minerals; and

(7) provisions for general access, storage, removal, and transportation of liquid and gaseous hydrocarbons or other minerals extracted under any such permit, including roadways, storage sites, processing operations, water lines, pipelines, communications, and similar facilities.

(f) Except for those matters to which the Freedom of Information Act does not apply, section 552(b) of title 5, United States Code, any information made available to the Secretary by an applicant or permittee under this section shall be available to the public.

EXISTING MINERAL CLAIMS AND MINERAL LEASING RIGHTS IN CONSERVATION SYSTEM UNITS

SEC. 904. (a) Administration and regulation of the exercise of rights under existing valid mineral claims and leases within all new or enlarged existing units within the National Park System established by this Act in Alaska, shall be governed by the provisions of the Mining in Parks Act (Public Law 94–429).

(b) Administration and regulation of the exercise of rights under existing valid mineral claims and leases within new or enlarged existing national wildlife refuges established by this Act in Alaska, shall be governed in accordance with the following:

The provisions of sections 2 and 8 of Public Law 94–429 (16 U.S.C. 1902, 1907), are hereby extended to all units of the National Wildlife Refuge System established or enlarged by this Act. For the purposes of this section, the term "National Wildlife Refuge System" shall be substituted for the term "National Park System" and the Act of October 15, 1966, as amended (16 U.S.C. 668dd, et seq.) for the Act of August 25, 1916, as amended (16 U.S.C. 1), wherever those terms appear in sections 2 and 8 of Public Law 94–429.

TITLE X—TRANSPORTATION AND UTILITY SYSTEMS ON CONSERVATION SYSTEM UNITS

PURPOSES

SEC. 1001. The purposes of this title are to—

(1) recognize the uniqueness of the size of Alaska and the undeveloped condition of Alaska's transportation and utility network and to recognize that the future needs for transportation and utility systems in Alaska would best be provided for through a carefully considered, orderly process under existing authorities and under the procedures established in this title;

(2) recognize the existing authorities of the Secretary to grant rights-of-way for transportation and utility systems under generally applicable provisions of law in the case of public lands within conservation systems units in the State of Alaska; and

(3) establish procedures for the approval or disapproval of applications for such rights-of-way which the Secretary has no authority to approve or disapprove under such generally applicable provisions of law.

USE PERMITS UNDER EXISTING AUTHORITIES

SEC. 1002. (a) Except as may be otherwise provided in the following provisions of this title, any law or rule of law generally applicable to units of the National Park, Wilderness Preservation, Wild and Scenic Rivers, and Wildlife Refuge Systems, regarding rights-of-way (including use permits, leases, and licenses) for a transportation or utility system (including but not limited to roads and highways, oil, gas, and water pipelines, and utility transmission and communication systems) shall apply to all units of any conservation systems in Alaska in the same manner as such law or rule of law applies to units of such systems elsewhere.

(b) In the case of wilderness areas in Alaska, the Secretary may exercise his authorities under the Wilderness Act, consistent with section 4(c) of such Act, to provide access to wilderness areas for the administration of the area for the purpose of such Act (including measures required in emergencies involving the health and safety of persons within the area).

USE PERMITS UNDER NEW AUTHORITY

SEC. 1003. (a) If the Secretary has no authority under any other law or rule of law to determine whether applications from a Federal, State, or local agency, or any private person or organization for rights-of-way on public lands within a conservation system unit in Alaska for a transportation or utility system should be granted or denied, an application from such a person, organization, or other entity for such a right-of-way shall be considered and processed as provided in the following provisions of this title.

(b) Applications submitted under this section shall be in such form, and shall contain such information, as may be required by the Secretary. Any such application for a right-of-way for a pipeline described in section 28 (a) of the Mineral Leasing Act of 1920 shall, to the extent appropriate as determined by the Secretary, be in the same form, and contain the same information, as required for an application for a right-of-way under such section 28.

(c) In the case of an application referred to in subsection (a) for a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, if the route for such pipeline would cross any area within the boundaries of the Iditarod Trail or a wild and scenic river in Alaska administered by the Secretary of the Interior, and if the Secretary determines, after notice and opportunity for hearing, that there exists no economically feasible alternative route which would not cross such area, he may grant a right-of-way for such pipeline in the manner provided in section 28 of the Mineral Leasing Act of 1920 and subject to the conditions referred to in section 1006(c) of this Act, except that for such purposes, the first sentence of section 28(b)(1) of the Mineral Leasing Act of 1920 shall not apply.

(d) In the case of an application referred to in subsection (a) concerning a transportation or utility system across public lands within a conservation system unit (other than a wilderness area), if an environmental impact statement for that section of the right-of-way crossing such unit would not have been required under the National Environmental Policy Act of 1969, the Secretary may grant a use permit for the right-of-way if he determines, after notice and opportunity for comment, that such right-of-way—

(A) would not result in a significant adverse effect on the conservation system unit, and

(B) would be compatible with the purposes for which the unit was established and the purposes of this Act.

(e) In the case of an application for a right-of-way referred to in subsection (a) which the Secretary does not have the authority to grant or deny under subsection (c) or (d), not later than one year after his receipt of the application, the Secretary shall transmit a recommendation to the Congress respecting whether or not the application for a right-of-way should be granted. Before making such a recommendation, the Secretary shall weigh the local, regional, State, and national interests involved, and determine—

(1) whether the approval of such application is in the public interest,

(2) whether there is an economically feasible and prudent alternative to the granting of the right-of-way through the conservation system unit subject to the application, and

(3) whether the transportation or utility system subject to the application can be constructed, operated, and maintained in a manner compatible with the purposes for which the affected conservation system unit was established and the purposes of this Act.

(f) Together with his transmission to Congress of any recommendation under subsection (e), the Secretary shall transmit—

(1) the application for the right-of-way to which such recommendation applies,

(2) a report setting forth the detailed explanation of the basis for his determinations and recommendation under subsection (e),

(3) an environmental impact statement which complies with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 in any case in which such statement is required under such Act; and

(4) where applicable, the conditions and stipulations under which the use of a recommended right-of-way will be permitted if approved by the Congress, and the extent and duration thereof.

The conditions and stipulations referred to in paragraph (4) shall be designed to insure that the right-of-way is utilized in a manner compatible, to the maximum extent feasible, with the purposes for which the affected conservation system unit was established and the purposes of this Act and shall contain provisions necessary to minimize environmental harm to the unit.

(g) In the case of any recommendation under this title for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the Secretary may, when he deems it desirable, include such a statement in his transmittal to the Congress. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to applications under this title in the same manner and to the same extent as such provisions apply to applications relating to the public lands referred to in such section 304.

COORDINATION OF RIGHT-OF-WAY REQUIREMENTS

SEC. 1004. When an application for a right-of-way referred to in section 1002 or 1003 is for a transportation or utility system through both Federal lands within, and outside of, a conservation system unit, the Secretary shall coordinate his authorities under other applicable Federal laws in a manner consistent with this title for the purposes of—

(1) assuring consistent treatment of such application;

(2) preparing only one complete environmental impact statement;

(3) avoiding duplication and inconsistent requirements and determinations;

(4) minimizing costs to the applicant and the Government; and

(5) maximizing intergovernmental coordination.

CONGRESSIONAL APPROVAL PROCEDURE

SEC. 1005. (a) Any recommendation of the Secretary submitted to Congress under section 1003 shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(b) Any application transmitted to Congress under section 1003 shall be deemed approved only upon enactment of a joint resolution by the Senate and House of Representatives approving such application within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such application.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(d)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term "resolution" means a joint resolution that the House of Representatives and Senate approve the recommendation of the Secretary of the Interior on an application submitted to the Secretary under this title. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(3) A resolution once introduced with respect to such Secretarial recommendation shall be referred to one or more committees (and all resolutions with respect to the same Secretarial recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If any committee to which a resolution with respect to a Secretarial recommendation has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Secretarial recommendation which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Secretarial recommendation) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Secretarial recommendation.

(5)(A) When any committee has reported, or has been discharged from further consideration of, the resolution, but in no case earlier than sixty days after the date of receipt of the Secretary's recommendation to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such one hundred and twenty-day period, to consider any other resolution respecting the same Secretarial recommendation.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions

to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be to the procedures relating to a resolution shall be decided without debate.

ISSUANCE OF PERMITS

SEC. 1006. (a) In any case in which an application for a right-of-way on public lands within a conservation system unit in Alaska has been approved by the Congress under this title, the Secretary shall, immediately following the enactment of the joint resolution of congressional approval, issue a use permit for such right-of-way subject to the requirements of this section.

(b) Unless Congress otherwise directs, no permit pursuant to a recommendation approved by Congress under this title for a right-of-way may be granted across public lands within a conservation system unit in Alaska unless the permittee pays to the United States an amount equal to the fair market value of such right-of-way.

(c) In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a permit granted under this section or section 1003(c) shall be issued in the same manner as a right-of-way is granted under such section 28, and the provisions of subsections (c) through (j), (l) through (r), and (v) through (y) of such section 28 shall apply to permits under this section or section 1003(c) in the same manner and to the same extent as to rights-of-way under such section 28. Any such permit under this section or under section 1003(c) for such a pipeline which crosses any area within the boundaries of a wild and scenic river shall also be subject to such conditions as may be necessary to assure that the stream flow of such river is not interfered with or impeded and that such pipeline is located and constructed in an environmentally and aesthetically sound manner.

TITLE XI—GENERAL ADMINISTRATIVE PROVISIONS

WITHDRAWAL FROM MINING AND MINERAL LEASING

SEC. 1101. All lands designated by this Act as units of the National Park System, National Wildlife Refuge System, and, notwithstanding the provisions of section 9(a)(ii) of the Wild and Scenic Rivers Act, wild rivers, as provided in section 307(e) of this Act, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, except as provided in title IX or as otherwise specifically provided in this Act. Any and all withdrawals and reservations for power site purposes applicable to the Federal lands and interests therein within the boundaries of any unit of the National Park, Wildlife Refuge, or Wild and Scenic Rivers Systems referred to in titles I through III of this Act are hereby rescinded to the extent of such applicability.

CERTAIN LANDS

SEC. 1102. (a) All lands within the areas added to existing units or established by titles I, II, III, and IV of this Act, which are subject to selection or selected by Native Corporations under the terms of the Alaska Native Claims Settlement Act, and which are not selected by or conveyed to those Corporations under the terms of that Act are hereby added to and incorporated within the appropriate area, to be administered under the terms of this Act, at such time as the relinquishment of Native rights becomes final: *Provided*, That if the lands in such areas are contiguous to a boundary of the area, or contiguous to State or Native selections that are contiguous to a boundary, the State of Alaska shall have ninety days in which to select such lands formerly subject to selection or selected by a Native Corporation, beginning at such time as the relinquishment becomes final, as aforesaid. State selections under this subsection shall be in furtherance of the State's entitlement under the Alaska Statehood Act.

(b) With respect to valid Native and State selections and Native and State-owned lands which are either within or immediately adjacent to the boundaries of the areas added to or established by this Act as units of conservation systems—

(1) valid Native selections and Native-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the chief executive officer of the concerned Native Corporation during the one-year period from the date of approval of this Act that any such lands should be excluded;

(2) valid State selections and State-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the Governor of the State during the one-year period from the date of approval of this Act that any such lands should be excluded.

(c) Nothing in the foregoing subsection (b) shall prohibit the acquisition by the Secretary, after the one-year period from the date of approval of this Act, of valid Native and State selections and Native and State-owned lands formerly within the boundaries depicted on the maps referred to in section 2 of this Act, with the consent of the owner. Property so acquired shall thereupon become part of the area from which it was excluded, subject to the laws and regulations applicable thereto.

ACQUISITION

SEC. 1103. Within the boundaries of the units of the national conservation systems and classifications established by or pursuant to this Act, the Secretary or the Secretary of Agriculture with respect to national forests may acquire lands and interests in lands within areas placed under their respective jurisdictions by donations, purchase, exchange, or otherwise.

ADMINISTRATIVE SITES

SEC. 1104. The Secretary may establish administrative sites or visitor facilities outside the boundaries of any area established under this Act, or protect any significant archeological sites outside the boundaries of the areas described in section 101(a)(2), section 101(a)(3), and section 101(a)(9) of this Act. For these purposes he may establish on Federal lands or acquire other lands not to exceed one thousand acres for administrative and visitor facilities for each area, and no more than seven thousand acres for archeological or paleontological sites outside the boundaries of each of the areas referred to herein: *Provided*, That no such administrative site, visitor facility, or archeological site may be established on National Forest System lands without the concurrence of the Secretary of Agriculture.

NATIVE LANDS AND CORPORATIONS; PUBLIC SERVICES

SEC. 1105. (a) The Secretary shall, with the concurrence of the Native Corporation involved, attempt to locate administrative sites and visitor facilities for areas established under this Act on adjacent Native-owned lands, wherever possible and desirable.

(b) Notwithstanding any other provision of law, before entering into any contract for the provision of revenue-producing visitor services, the Secretary shall grant the village and/or regional corporations most directly affected the first right of refusal to provide such services within the unit under such terms and conditions as he may by agreement prescribe.

AGENCY MINING ASSISTANCE

SEC. 1106. The Secretary shall direct the Fish and Wildlife Service to participate, where appropriate, in fish and wildlife studies and resource planning on units authorized by this Act as components of the National Park and Wild and Scenic Rivers System. The Secretary shall also direct the National Park Service, where appropriate, to participate in recreation planning, interpretation, historic resources protection, and ecological research on areas authorized by this Act as units of the National Wildlife Refuge and Wild and Scenic Rivers Systems.

UNIT MANAGEMENT PLANS

SEC. 1107. Except as otherwise provided, within five years from the effective date of this section, the Secretary shall formulate (and he may from time to time revise) a detailed resource management and use plan for each unit of the systems established in titles I and II of this Act. Where units of the National Wildlife Refuge System and the National Park System include important biological and physical characteristics which control the natural occurrence and the management of fish and wildlife and their habitat, and inlude scenic, historical, and archeological resources within each unit, a single plan shall be developed for the management and use of such resources. Each plan shall identify management practices, which the Secretary shall adopt and implement, that will accomplish the specific purposes of the areas set forth in titles I and II. The Secretary shall formulate each plan and any revision thereof only after holding one or more public hearings in the vicinity of the affected unit or units, and only after consultation with the appropriate agencies of the State of Alaska.

CAPITAL IMPROVEMENTS ON NON-FEDERAL LANDS

SEC. 1108. Notwithstanding any other provision of law, the Secretary is authorized to construct, operate, and maintain, with funds appropriated for the purposes of this Act, such permanent and temporary buildings and facilities as he deems appropriate to provide visitor services and for administrative purposes, and lands within and outside the boundaries of the units established by this Act, without regard to whether title to the underlying land is in the United States: *Provided*, That in the case of buildings and facilities constructed on non-Federal land, the owner shall have entered into a cooperative agreement with the Secretary, the terms of which shall assure the continued use of such buildings and facilities for the purposes of this action.

STATE LAND EXCHANGES

SEC. 1109. In the exercise of his authority to acquire lands, waters, and interests therein for the purposes of this Act, the Secretary may utilize the provisions of subsection 22(f) of the Alaska Native Claims Settlement Act, as amended. Property acquired within the boundaries of the areas added to the four conservation systems by this Act shall become part of the area within which it is located, and subject to the laws and regulations applicable to such area.

LOCAL HIRE

SEC. 1110. (a) The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) may be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require

minimum periods of formal training or experience;

(2) any such provisions which provides an employment preference to any other class of applicant in such selection; and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Within one year after the date of approval of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

NAVIGATION FACILITIES

SEC. 1111. Within areas added to the National Park System, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, air and water navigation aids and related facilities shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities not withstanding any other prosions of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation, and maintenance within wilderness areas designated by this Act.

TITLE XII—MISCELLANEOUS PROVISIONS

IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1201. (a) Section 5(a) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by insering the following new paragraph at this end of said section:

"(4) The Iditarod National Historic Trail, including the main route (approximately one thousand one hundred miles) and ranch segments (approximately nine hundred and thirty miles), extending from Seward to Nome, Alaska, following the route depicted on the maps, identified as "Seward-Nome Trail" in the Department of the Interior Iditarod Trail study report dated

1977: *Provided*, (A) That while this Act will commemorate the entire route of the Iditarod Trail by designation as the Iditarod National Historic Trail, only those segments which are within the exterior boundaries of federally administered areas and which meet the national historic trail criteria established in this Act, are established initially as components of the Iditarod National Historic Trail, and (B) that the Secretary of the Interior may designate lands outside of the exterior boundaries of federally administered areas as segments of the Iditarod National Historic Trail upon application from State or local government agencies or private interests involved if such segments meet the National historic trails criteria established in this Act and such criteria supplementary thereto as the Secretary may prescribe, and are administered by such agencies or interests without expense to the United States, and (C) that notwithstanding the provisions of section 7(c) of the National Trails System Act, the use of motorized vehicles on segments of the Iditarod National Historic Trail will be permitted in accordance with regulations prescribed by the appropriate Secretary.".

(b) The responsibility for coordination of Iditarod National Historic Trail matters shall rest with the Secretary in consultation with the heads of other Federal and State agencies where lands administered by them are involved. Such responsibilities shall include:

(1) Selecting the specific trail route, as provided for in section 7(a) of the National Trails System Act, within three years after the date of enactment of this section.

(2) Developing a plan and guidelines for the acquisition, development, management and maintenance of the trail with the advice and assistance of other Federal, State, and local agencies and organizations; such plan and guidelines to include provisions for the acquisition, retention, or dedication of significant historic sites and for a right-of-way or easement along most or all of the route to protect historic values and segments for potential future recreational trail development and to insure continued public travel along the various trail segments.

KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

SEC. 1202. The Act approved June 30, 1976 (90 Stat. 717), providing for the establishment of the Klondike Gold Rush National Historic Park, is amended by revising the second sentence of subsection (b)(1) of the first section to read as follows: "Lands or interest in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange: *Provided*, That notwithstanding the provisions of subsection 6(1) of the Act of July 7, 1958 (72 Stat. 339, 342), the State may include the minerals in any such transaction.".

APPLICATION OF MINING IN THE PARK LAND TO THE NATIONAL REFUGE SYSTEM

SEC. 1203. The provisions of sections 2 and 8 of Public Law 94-429 (16 U.S.C. 1902, 1908), are hereby extended to all units of the National Wildlife Refuge System established by this Act. For the purposes of this section, the term "National Wildlife Refuge System" shall be substituted for the term "National Park System" and the Act of October 15, 1966 (16 U.S.C. 668dd et seq.) for the Act of August 25, 1916, as amended (16 U.S.C. 1), wherever those terms appear in sections 2 and 8 of Public Law 94-429.

COOPERATIVE INFORMATION CENTER

SEC. 1204. The Secretary is authorized, in consultation with other Federal agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land, at a site adjacent to the Alaska Highway. For the purposes of this investigation, the Secretary shall seek participation in the program planning, or operation of the center (or both) from appropriate agencies of the State of Alaska and representatives of Native groups in Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1205. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94-258).

TITLE XII—APPROPRIATIONS

AUTHORIZATION

SEC. 1301. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978. No authority to enter into contracts or to make payments under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

Mr. YOUNG of Alaska (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The SPEAKER pro tempore. The gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, the motion to recommit is a motion to recommit with instructions, substituting the Meeds proposal. I am one who can count. I can recognize that we are about to finalize a very important piece of legislation for the State of Alaska and for this Nation.

I can only say that yesterday I had wished that more Members would have seen the wisdom of voting for a State's position, a position I think will often be remembered back in the Member's districts later on in this legislative body.

I was unable to convince the majority, and that is the way things happen. I am going to oppose the bill because I believe it is not in the national interest. I do believe we will come back here in 10 or 15 years and undo what is being done here today.

At this time I would like to compliment the gentleman from Ohio, specifically, although we are total opposites in this field. He has been fair and honest and direct with me. He has had the advantage, I believe, of a very strong and powerful lobbyist group, but he has been sincere in his belief—and that I respect. He does know what he speaks of.

I would like to thank the gentleman from Arizona for recognizing that the committees, in his mind, had done a good job.

In doing so and without the acceptance of my amendment yesterday, we actually saw the wisdom of allowing this bill to come to the floor as quickly as possible without any great damaging amendments to my side.

It has been one helluva fight. It has been one which I have enjoyed, one in which I have kept my temper, although it has cost me $3,000 in capped teeth, one in which the greatest strain of all has been to keep from getting angry with certain Members. Mr. Speaker, it has been a great experience for me.

I know the results of the next vote and the following vote. I say to those who truly believe that I respect their positions. Those Members who have some

hesitation I would ask and urge to consider these votes later on during the time when other Members are concerned about their district and their people.

Mr. Speaker, the idea of a representative form of government should still be sacred. If we ever permit government by mass against just the one, then we have lost our concept of representative government.

I thank the Chair.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I appreciate the gentleman's yielding.

I just want to make the observation as we conclude consideration of this bill that there are only six States that have only one Member as their representative in this House, as distinguished from the other body in which each of the States has two votes and two voices to speak for them.

It seems to me that there is an extraordinary responsibility thrust upon the shoulders of those six Members who serve in this body, for they have only one voice and one vote. I cannot let this debate conclude without singling out the gentleman from Alaska (Mr. YOUNG) for the tremendous job he has done for his district and his State during the past several days.

Mr. Speaker, the gentleman from Alaska (Mr. YOUNG) has acquitted himself in fine style and fashion as he has been up against overwhelming odds. He has been up against, for all practical purposes, all 49 other States or at least the environmentalists and conservationists in those States, who feel they have a legitimate claim to some of the great and beautiful lands of the gentleman's home State.

Mr. Speaker, I did not want the opportunity to pass without letting the gentleman know that he has stood very tall during the course of these past few days. I have never witnessed in all my tenure in this House any Member who has done as effective a job and as good a job as he has done in support of his district and of his State.

Mr. Speaker, the gentleman has put up a good fight. He has no apologies to make and I am sure all the Members of this House respect him all the more for his performance.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I want to concur on behalf of all of us on this side in the remarks the distinguished gentleman from Illinois (Mr. MICHEL) just made.

The toughest job as a legislator is to represent a State in a tough, emotional situation like this; and I would praise the gentleman from Alaska (Mr. YOUNG) a little bit more, but I am afraid I might get him defeated up there in Alaska.

He has done a great job, and he has been a very worthy adversary, and a good credit to the House.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, it has been my privilege for the last year and a half to joust with the gentleman from Alaska (Mr. YOUNG).

I want to say that I take my hat off to him. He is a fighter. He is a gentleman. And he is devoted to the interests of his State as he sees those interests. Without his help, we would not be reporting out a balanced bill today because, whether he understands it or not, those of us who want a strong but balanced bill have pressures to contend with too. With his help, we have achieved what I think is that result.

Mr. Speaker, I want to say it has been a pleasure and a thrill not only to serve with the gentleman from Alaska, but to be able to serve with him in his great State which has a magnificence unparalleled anywhere else in the world.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman.

Mr. UDALL. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this debate and these proceedings make me proud of this House, and they make me proud of my country. We have good people in this House.

The gentleman from Washington, Mr. LLOYD MEEDS, we are going to miss very much. There has never been a better, more gutsy, more courageous legislator who has served here in a long, long time.

The gentleman from Ohio, Mr. JOHN SEIBERLING, has done a fantastic job with the dedication, loyalty, and razar-sharp mind which he has brought to this bill.

I compliment BOB LEGGETT, JACK MURPHY, and all the people on the other great committee who have worked with me. So, I am proud of the House and proud of the fact that we had this debate.

I am proud of my country too. We originated the national park system. The idea of a national park system is an American idea. If one goes to Europe, to France, one can live 100 years and never have greater national parks. They are all gone. But the land patterns for Alaska are set here in this one bill this year.

We have had a park system for 105 years. In this one bill, if we reject the Meeds substitute on the motion to recommit now and adopt the committee bill, we will have doubled the acreage in the national park system in this one bill. We will have protected for future generations an incredible set of beautiful areas, seven new national parks. It is like creating all those Rocky Mountain national parks in one bill.

We have done this with balance. I said when we began the debate that the real bottom-line question is, Can we have it both ways? Can we give Alaska, this great State, the resources, the land and minerals it needs to survive and grow? Can we give the people of the United States access to the oil and minerals we are going to find up there for the use of future generations? My answer to that today is that we have done that job. We can have it both ways.

Alaska is so big and the treasures there are such that we can achieve both goals at the same time, and we have done so. So, I urge a vote for final passage and against the motion to recommit.

Mr. Speaker, I close with the lyrics of that great old song that I think moves Americans, because we have abused the land a time or two. The song says:

> This land is your land,
> This land is my land,
> From California
> To the New York Island,
> From the Redwood Forest
> To the Gulf Stream waters,
> This land is made for you and me.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 67, nays 242, not voting 125, as follows:

[Roll No. 339]

YEAS—67

Annunzio	Hall	Poage
Archer	Hammer-schmidt	Rhodes
Bafalis	Hansen	Robinson
Bauman	Huckaby	Rostenkowski
Breaux	Johnson, Calif.	Rousselot
Brown, Ohio	Kazen	Rudd
Broyhill	Kelly	Satterfield
Burleson, Tex.	Kemp	Schulze
Butler	Ketchum	Shuster
Chappell	Kindness	Sikes
Clausen, Don H.	Livingston	Sisk
Clawson, Del	Lott	Snyder
Collins, Tex.	McCormack	Stangeland
Daniel, Dan	McDonald	Stockman
Daniel, R. W.	McKay	Stump
de la Garza	Marriott	Symms
Dickinson	Mathis	Taylor
Duncan, Oreg.	Meeds	Waggonner
Edwards, Ala.	Miller, Ohio	Young, Alaska
Edwards, Okla.	Montgomery	Young, Fla.
Flynt	Moore	
Foley	Moorhead, Calif.	
Fountain	Nichols	
Gammage		

NAYS—242

Alexander	Burlison, Mo.	English
Allen	Burton, John	Ertel
Ambro	Burton, Phillip	Evans, Colo.
Ammerman	Byron	Evans, Del.
Anderson, Calif.	Caputo	Evans, Ga.
Anderson, Ill.	Carr	Evans, Ind.
Andrews, N.C.	Cederberg	Fary
Applegate	Cohen	Fenwick
Armstrong	Coleman	Findley
Ashley	Conte	Fish
Aspin	Corcoran	Fisher
Baldus	Corman	Fithian
Barnard	Cornell	Flippo
Beard, R.I.	Coughlin	Florio
Beard, Tenn.	Cunningham	Flowers
Bedell	D'Amours	Ford, Mich.
Benjamin	Danielson	Forsythe
Bennett	Davis	Fowler
Bingham	Delaney	Fraser
Blanchard	Dellums	Frenzel
Blouin	Dent	Garcia
Boggs	Derrick	Gaydos
Bonior	Derwinski	Gephardt
Brademas	Dicks	Giaimo
Brinkley	Diggs	Gilman
Brodhead	Dodd	Ginn
Brooks	Drinan	Glickman
Brown, Calif.	Duncan, Tenn.	Goldwater
Buchanan	Early	Gonzalez
Burgener	Edgar	Goodling
Burke, Fla.	Edwards, Calif.	Gore
Burke, Mass.	Eilberg	Gradison
	Emery	Grassley

Green	McHugh	Regula
Hamilton	McKinney	Rinaldo
Hannaford	Madigan	Roe
Harkin	Maguire	Rogers
Harrington	Mahon	Rooney
Harris	Markey	Roybal
Harsha	Marks	Russo
Hawkins	Mattox	Ryan
Heckler	Meyner	Santini
Hefner	Michel	Schroeder
Hightower	Mikulski	Sebelius
Hillis	Mineta	Seiberling
Hollenbeck	Minish	Sharp
Holtzman	Mitchell, Md.	Simon
Howard	Mitchell, N.Y.	Slack
Hughes	Moakley	Smith, Iowa
Hyde	Moffett	Smith, Nebr.
Ichord	Mollohan	Solarz
Ireland	Moorhead, Pa.	Spellman
Jacobs	Moss	Spence
Jeffords	Murphy, N.Y.	Staggers
Jenkins	Murphy, Pa.	Stanton
Jenrette	Murtha	Steed
Johnson, Colo.	Myers, Gary	Steers
Jones, N.C.	Natcher	Stratton
Jones, Okla.	Neal	Studds
Jones, Tenn.	Nedzi	Thompson
Jordan	Nolan	Traxler
Kastenmeier	Nowak	Trible
Kildee	O'Brien	Udall
Kostmayer	Oberstar	Van Deerlin
Krebs	Obey	Vander Jagt
LaFalce	Ottinger	Vanik
Lagomarsino	Panetta	Vento
Latta	Patten	Volkmer
Le Fante	Patterson	Walgren
Leach	Pease	Waxman
Lederer	Pepper	Weaver
Leggett	Perkins	Whalen
Lehman	Pettis	Whitehurst
Levitas	Pickle	Whitley
Lloyd, Calif.	Pike	Wilson, Bob
Lloyd, Tenn.	Price	Wilson, Tex.
Long, Md.	Pritchard	Wirth
Luken	Quillen	Yates
McClory	Rahall	Yatron
McDade	Railsback	Young, Mo.
McFall	Rangel	Zablocki

NOT VOTING—125

Abdnor	Frey	Richmond
Addabbo	Fuqua	Risenhoover
Akaka	Gibbons	Roberts
Andrews, N. Dak.	Gudger	Rodino
	Guyer	Roncalio
Ashbrook	Hagedorn	Rose
AuCoin	Hanley	Rosenthal
Badham	Heftel	Runnels
Baucus	Holland	Ruppe
Beilenson	Holt	Sarasin
Bevill	Horton	Sawyer
Biaggi	Hubbard	Scheuer
Boland	Kasten	Shipley
Bolling	Keys	Skelton
Bonker	Krueger	Skubitz
Bowen	Lent	St Germain
Breckinridge	Long, La.	Stark
Broomfield	Lujan	Steiger
Brown, Mich.	Lundine	Stokes
Burke, Calif.	McCloskey	Teague
Carney	McEwen	Thone
Carter	Mann	Thornton
Cavanaugh	Marlenee	Treen
Chisholm	Martin	Tsongas
Clay	Mazzoli	Tucker
Cleveland	Metcalfe	Ullman
Cochran	Mikva	Walker
Collins, Ill.	Milford	Walsh
Conable	Miller, Calif.	Wampler
Conyers	Mottl	Watkins
Cornwell	Murphy, Ill.	Weiss
Cotter	Myers, John	White
Crane	Myers, Michael	Whitten
Devine	Nix	Wiggins
Dingell	Oakar	Wilson, C. H.
Dornan	Pattison	Winn
Downey	Pressler	Wolff
Eckhardt	Preyer	Wright
Erlenborn	Pursell	Wydler
Fascell	Quayle	Wylie
Flood	Quie	Young, Tex.
Ford, Tenn.	Reuss	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Roberts for, with Mr. Weiss against.

Mr. Teague for, with Mr. Zeferetti against.

Mr. Erlenborn for, with Mr. Brown of Michigan against.

Mr. Dornan for, with Mr. Abdnor against.

Mr. Walsh for, with Mr. McCloskey against.

Until further notice:

Mr. Addabbo with Mr. Ruppe.

Mr. Wolff with Mr. Guyer.

Mr. Rose with Mr. Andrews of North Dakota.

Mr. Rodino with Mr. Conable.

Mr. Hanley with Mr. Broomfield.

Mr. Biaggi with Mr. Carter.

Mr. Boland with Mrs. Holt.

Mr. Breckinridge with Mr. Badham.

Mr. Carney with Mr. Cleveland.

Mrs. Chisholm with Mr. Pattison of New York.

Mr. Mikva with Mr. Horton.

Mr. Cotter with Mr. Frey.

Mr. Dingell with Mr. John T. Myers.

Mr. Fascell with Mr. Cochran of Mississippi.

Mr. Flood with Mr. Lent.

Mr. Richmond with Mr. Kasten.

Mr. Wright with Mr. Carney.

Mr. Stokes with Mr. Pursell.

Mr. St Germain with Mr. Marlenee.

Mr. Shipley with Mr. Quayle.

Mr. Rosenthal with Mr. Skubitz.

Mr. Risenhoover with Mr. Devine.

Mr. Fuqua with Mr. Martin.

Mr. Lundine with Mr. Quie.

Mr. Miller of California with Mr. Sarasin.

Mr. Mottl with Mr. Steiger.

Mr. Downey with Mr. Walker.

Mr. Cornwell with Mr. Sawyer.

Mr. Clay with Mr. Beilenson.

Mr. Bowen with Mr. Wampler.

Mr. Baucus with Mr. Treen.

Mr. AuCoin with Mr. Wiggins.

Mr. Akaka with Mr. Wydler.

Mr. Bevill with Mr. Bonker.

Mr. Charles H. Wilson of California with Mr. Wylie.

Mr. Stark with Mr. Cavanaugh.

Mrs. Burke of California with Mr. Ashbrook.

Mrs. Collins of Illinois with Mr. Reuss.

Mr. Conyers with Mr. Pressler.

Mr. Eckhardt with Mr. Whitten.

Mr. Ford of Tennessee with Mr. Preyer.

Ms. Oakar with Mr. Nix.

Mr. Michael O. Myers with Mr. Gibbons.

Mr. Gudger with Mr. Hagedorn.

Mr. Heftel with Mr. Holland.

Ms. Keys with Mr. Krueger.

Mr. Long of Louisiana with Mr. Mann.

Mr. Runnels with Mr. Roncalio.

Mr. Tsongas with Mr. Ullman.

Mr. White with Mr. Mazzoli.

Mr. Metcalfe with Mr. Thornton.

Mr. Murphy of Illinois with Mr. Thone.

Mr. Skelton with Mr. Scheuer.

Mr. Tucker with Mr. Watkins.

Mr. Hubbard with Mr. Milford.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. UDALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 277, nays 31, not voting 126, as follows:

[Roll No. 340]

YEAS—277

Alexander	Annunzio	Barnard
Allen	Applegate	Bauman
Ambro	Archer	Beard, R.I.
Ammerman	Armstrong	Beard, Tenn.
Anderson, Calif.	Ashley	Bedell
	Aspin	Benjamin
Anderson, Ill.	Bafalis	Bennett
Andrews, N.C.	Baldus	Bingham
Blanchard	Gonzalez	Murphy, N.Y.
Blouin	Goodling	Murphy, Pa.
Boggs	Gore	Murtha
Bonior	Gradison	Myers, Gary
Brademas	Grassley	Natcher
Brinkley	Green	Neal
Brodhead	Hamilton	Nedzi
Brooks	Hammer-schmidt	Nichols
Brown, Calif.		Nolan
Broyhill	Hannaford	Nowak
Buchanan	Harkin	O'Brien
Burgener	Harrington	Oberstar
Burke, Fla.	Harris	Obey
Burke, Mass.	Harsha	Ottinger
Burlison, Mo.	Hawkins	Panetta
Burton, John	Heckler	Patten
Burton, Phillip	Hefner	Patterson
Butler	Hillis	Pease
Byron	Hollenbeck	Pepper
Caputo	Holtzman	Perkins
Carr	Howard	Pettis
Cederberg	Hughes	Pickle
Chappell	Hyde	Pike
Clausen, Don H.	Ichord	Price
	Ireland	Pritchard
Cohen	Jacobs	Quillen
Coleman	Jeffords	Rahall
Conte	Jenkins	Railsback
Corcoran	Jenrette	Rangel
Corman	Johnson, Calif.	Regula
Cornell	Johnson, Colo.	Rhodes
Coughlin	Jones, N.C.	Rinaldo
Cunningham	Jones, Okla.	Robinson
D'Amours	Jones, Tenn.	Roe
Daniel, R. W.	Jordan	Rogers
Danielson	Kastenmeier	Rooney
Davis	Kazen	Rostenkowski
de la Garza	Ketchum	Roybal
Delaney	Kildee	Russo
Dellums	Kindness	Ryan
Dent	Kostmayer	Santini
Derrick	Krebs	Schroeder
Derwinski	LaFalce	Schulze
Dickinson	Lagomarsino	Sebelius
Dicks	Latta	Seiberling
Diggs	Le Fante	Sharp
Dodd	Leach	Sikes
Drinan	Lederer	Simon
Duncan, Tenn.	Leggett	Slack
Early	Lehman	Smith, Iowa
Edgar	Levitas	Smith, Nebr.
Edwards, Ala.	Livingston	Snyder
Edwards, Calif.	Lloyd, Calif.	Solarz
Eilberg	Lloyd, Tenn.	Spellman
Emery	Long, Md.	Spence
English	Luken	Staggers
Ertel	McClory	Stanton
Evans, Colo.	McDade	Steed
Evans, Del.	McFall	Steers
Evans, Ga.	McHugh	Stratton
Evans, Ind.	McKay	Studds
Fary	McKinney	Taylor
Fenwick	Madigan	Thompson
Findley	Maguire	Traxler
Fish	Mahon	Trible
Fisher	Markey	Udall
Fithian	Marks	Van Deerlin
Flippo	Marriott	Vander Jagt
Florio	Mathis	Vanik
Flowers	Mattox	Vento
Foley	Meyner	Volkmer
Ford, Mich.	Michel	Walgren
Forsythe	Mikulski	Waxman
Fountain	Miller, Ohio	Weaver
Fowler	Mineta	Whalen
Fraser	Minish	Whitehurst
Frenzel	Mitchell, Md.	Whitley
Gammage	Mitchell, N.Y.	Wilson, Bob
Garcia	Moakley	Wilson, Tex.
Gaydos	Moffett	Wirth
Gephardt	Mollohan	Yates
Giaimo	Moore	Yatron
Gilman	Moorhead, Calif.	Young, Fla.
Ginn		Young, Mo.
Glickman	Moorhead, Pa.	Zablocki
Goldwater	Moss	

NAYS—31

Breaux	Huckaby	Satterfield
Brown, Ohio	Kelly	Shuster
Burleson, Tex.	Kemp	Sisk
Clawson, Del	Lott	Stangeland
Collins, Tex.	McCormack	Stockman
Daniel, Dan	McDonald	Stump
Duncan, Oreg.	Meeds	Symms
Edwards, Okla.	Montgomery	Waggonner
Flynt	Poage	Young, Alaska
Hall	Rousselot	
Hansen	Rudd	

NOT VOTING—126

Abdnor	Fuqua	Risenhoover
Addabbo	Gibbons	Roberts
Akaka	Gudger	Rodino
Andrews, N. Dak.	Guyer	Roncalio
	Hagedorn	Rose
Ashbrook	Hanley	Rosenthal
AuCoin	Heftel	Runnels
Badham	Hightower	Ruppe
Baucus	Holland	Sarasin
Beilenson	Holt	Sawyer
Bevill	Horton	Scheuer
Biaggi	Hubbard	Shipley
Boland	Kasten	Skelton
Bolling	Keys	Skubitz
Bonker	Krueger	St Germain
Bowen	Lent	Stark
Breckinridge	Long, La.	Steiger
Broomfield	Lujan	Stokes
Brown, Mich.	Lundine	Teague
Burke, Calif.	McCloskey	Thone
Carney	McEwen	Thornton
Carter	Mann	Treen
Cavanaugh	Marlenee	Tsongas
Chisholm	Martin	Tucker
Clay	Mazzoli	Ullman
Cleveland	Metcalfe	Walker
Cochran	Mikva	Walsh
Collins, Ill.	Milford	Wampler
Conable	Miller, Calif.	Watkins
Conyers	Mottl	Weiss
Cornwell	Murphy, Ill.	White
Cotter	Myers, John	Whitten
Crane	Myers, Michael	Wiggins
Devine	Nix	Wilson, C. H.
Dingell	Oakar	Winn
Dornan	Pattison	Wolff
Downey	Pressler	Wright
Eckhardt	Preyer	Wydler
Erlenborn	Pursell	Wylie
Fascell	Quayle	Young, Tex.
Flood	Quie	Zeferetti
Ford, Tenn.	Reuss	
Frey	Richmond	

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Roberts against.
Mr. Biaggi for, with Mr. Teague against.
Mrs. Holt for, with Mr. Erlenborn against.
Mr. Steiger for, with Mr. Walsh against.

Until further notice:

Mr. Hanley with Mr. Bonker.
Mr. Akaka with Mr. Hubbard.
Mr. Carney with Mr. Hightower.
Mr. Wolff with Mr. Bowen.
Mr. Zeferetti with Mr. Stokes.
Mr. Weiss with Mr. Abdnor.
Mr. Breckinridge with Mr. Wiggins.
Mr. AuCoin with Mr. Ashbrook.
Mr. Bevill with Mr. Baucus.
Mr. Rose with Mr. Badham.
Mr. Rodino with Mr. Brown of Michigan.
Mr. Risenhoover with Mr. Dornan.
Mr. Richmond with Mr. Quie.
Mr. St Germain with Mr. Broomfield.
Mr. John T. Myers with Mr. Shipley.
Mr. Charles H. Wilson of California with Mr. Wylie.
Mr. Wright with Mr. McCloskey.
Mr. Fascell with Mr. Carter.
Mr. Flood with Mr. Quayle.
Mr. Cotter with Mr. Martin.
Mrs. Chisholm with Mr. Thornton.
Mr. Mazzoli with Mr. Cleveland.
Mr. Mikva with Mr. Marlenee.
Mrs. Burke of California with Mr. Tucker.
Mr. Boland with Mr. Conable.
Mr. Clay with Mr. Holland.
Mr. Conyers with Mr. Gudger.
Mr. Dingell with Mr. Crane.
Mr. Reuss with Mr. Whitten.
Mr. Mottl with Mr. Lent.
Mr. Guyer with Mr. Wydler.
Mr. Miller of California with Mr. Walker.
Mr. Pressler with Mr. Tsongas.
Mr. Lundine with Mr. Wampler.
Mr. Mann with Mr. Devine.
Mr. Andrews of North Dakota with Mr. Fuqua.
Mr. Downey with Mr. Cochran of Mississippi.
Mr. Gibbons with Mr. Frey.
Mr. Hagedorn with Mr. Runnels.
Mr. Horton with Mr. Skelton.
Mr. Kasten with Mr. Watkins.
Mr. Pursell with Mr. Nix.
Mr. Sawyer with Mr. Skubitz.
Mr. Treen with Mr. Thone.
Mr. Winn with Mr. Ruppe.
Mr. Cavanaugh with Mrs. Collins of Illinois.
Mr. Cornwell with Mr. Eckhardt.
Ms. Oakar with Mr. Ford of Tennessee.
Mr. Heftel with Mr. Krueger.
Ms. Keys with Mr. Michael O. Myers.
Mr. Long of Louisiana with Mr. Murphy of Illinois.
Mr. Pattison of New York with Mr. Metcalfe.
Mr. Preyer with Mr. Scheuer.
Mr. Beilenson with Mr. Milford.
Mr. Stark with Mr. Ullman.
Mr. Rosenthal with Mr. Roncalio.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 39, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DIRECTING ENROLLING CLERK TO MAKE NECESSARY CONFORMING CHANGES IN H.R. 39

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the enrolling clerk be directed to make the necessary conforming changes in title III respecting map dates to conform to the Leggett amendments on pages 45, 48, and 51.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1633, PASCUA YAQUI INDIANS FEDERAL RECOGNITION LEGISLATION

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, with a House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and appoints the following conferees: Messrs. RONCALIO, UDALL, RISENHOOVER, and JOHNSON of Colorado.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CERTAIN REPORTS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file certain reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ADJOURNMENT TO MONDAY, MAY 22, 1978

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 o'clock noon on Monday, May 22, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to dispense with the business in order under the Calendar Wednesday rule on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE ECONOMIC IMPORTANCE OF THE U.S. TOBACCO INDUSTRY

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, recently, the Secretary of Agriculture appointed a Tobacco Task Force to study various aspects of the economic importance of tobacco to this country. The task force has completed this phase of the project and released its report, entitled "The Economic Importance of the U.S. Tobacco Industry." The report was prepared for the task force by Dr. Robert H. Miller, agricultural economist for the Department of Agriculture, and is a splendid accounting of the impact which the tobacco industry makes on the American economy.

The task force is headed by the Honorable P. R. "Bobby" Smith, Assistant Secretary of Agriculture for Marketing Services, and is composed of officials of the Department who have long experience in the field of tobacco growing, marketing, research, and analysis. The study which they are making will be a valuable tool in assessing the impact of this commodity and they are to be commended for their work.

Upon reading the report just issued, I felt that this should be brought to the attention of other Members of Congress as well as to those who regularly read the

CONGRESSIONAL RECORD. There are a great many misunderstandings about the tobacco industry and all its various component parts and this report does much to clarify questions that have been raised. It also places a proper perspective upon the billions of dollars of income which the industry provides for millions of Americans; the role it plays in overseas trade; and its relative standing among other agricultural commodities.

I highly recommend this report to the reading of Members of the House.

The report follows:

THE ECONOMIC IMPORTANCE OF THE U.S. TOBACCO INDUSTRY

(Prepared for the U.S.D.A. Tobacco Task Force by Robert H. Miller, agricultural economist, May 18, 1978)

PREFACE

This study of the U.S. tobacco industry was undertaken at the request of the Department's Tobacco Task Force for comprehensive examination of the position of this industry in the nation's economy. This study is designed to provide producers, marketing and manufacturing firms, legislators, Government and trade association officials, and others interested in the tobacco industry with a compilation of numerous data series and some heretofore unavailable information concerning the tobacco economy.

No conclusions or value judgments, expressed or implied, are offered in this report.

The principal areas covered are as follows:

(1) The relative size and position of the tobacco industry in the economy;

(2) Comprehensive national estimates for calendar years 1976 or 1977 are presented for each sector of the industry from the leaf grower to the retailer, covering number of business units, sales, and employment;

(3) The goods and services which the tobacco farm production industry purchases from its principal suppliers, and thus measures the direct impact of the industry beyond the consumer expenditure purchases made by farm workers; and

(4) State distribution of the industry sectors, and the importance of each industry sector in the various States.

The study was based on available data drawn from a wide variety of sources, governmental and private, including unpublished sources. The important data sources are indicated in the tables. Some of the estimates, in particular those on a State-by-State basis, are presented only as reasonable approximations. In all instances such estimates were derived by generally acceptable statistical distributional techniques.

I. OVERVIEW: THE TOBACCO INDUSTRY IN THE NATIONAL ECONOMY

The tobacco products industry has its roots in a number of major sectors of the American economy. The tobacco industry covered by this report is defined broadly to include all agricultural, manufacturing, and trade activity involving leaf and processed tobacco—from the leaf grower to the retail outlet. In this section the industry's size and relative position in the U.S. economy is compared at several levels—retail, farm, manufacturing, and foreign trade.

Consumer spending

Tobacco production in Colonial America originated to satisfy foreign demand but since the end of the nineteenth century, the domestic market has been the larger outlet for U.S. tobacco. Millions of Americans, around one-third to one-half of the adult population, use cigarettes and other tobacco products. In 1977, the American public spent approximately $17 billion on tobacco products, $16 billion of which was for cigarettes.

Approximately $1 out of every $75 of all retail expenditures is spent for tobacco products. These products account for $1 out of every $27 spent on nondurable consumer goods.

A measure of the size of this industry and its place in the economy may be indicated by comparing the expenditures for its products with those for other well-known products, or groups of products (1976 data, latest available).

The $16 billion expenditure on tobacco products in 1976 was about four-tenths (41 percent) of the sum spent for new automobiles. It was one-and-one-half times (151 percent) the sum spent for drugs and sundries. The expenditure on tobacco was about the same as the $16 billion spent for radios, television sets, records, and musical instruments or the same sum spent for personal care (toilet articles, beautician and barber services).

Farm production

A branch of agriculture supplies the principal raw material for the tobacco industry. Although tobacco requires only 0.3 percent of the Nation's cropland, tobacco sales totaled $2.3 billion last year and accounted for 2.4 percent of all farm cash receipts from marketings. Tobacco sales represent 5 percent of cash receipts from crops and usually bring it to a fifth ranking in value among cash crops (after corn, soybeans, wheat, and cotton) and tenth among all U.S. farm commodities (after previous 4 crops plus cattle, hogs, milk, eggs, and broilers). Tobacco sales are twice as great as either rice, potato, or citrus fruit sales, and three times larger than peanuts.

.Cash receipts from tobacco sales are trending upward. Last year's total was about three-fourths more than the 1960–64 average. But the rate of increase is less than from the average for all farm commodities. Cash receipts from farm marketings totaled a record-high $95 billion in 1977. But the tobacco share has declined from the 3.6 percent average of all farm cash receipts and government payments during 1960–64. Similarly, tobacco's share of cash income from all crops has declined from the 7.9 percent share during 1960–64.

Manufacturing

A specialized assembly (warehousing), buying, and processing industry purchases leaf tobacco and prepares it for domestic manufacture or export. Some eleven large manufacturing establishments operated by six firms, produce the industry's principal product—cigarettes—and 261 other establishments produce cigars, chewing and pipe tobacco, and snuff.[1] Transportation, financing, advertising, wholesaling and retailing are among the other important business sectors involved in the tobacco business.

Cigarette manufacturing is by far the largest part of the industry. In 1976, cigarette manufacturers' gross receipts were about $6.0 billion (includes $2¼ billion of Federal excise taxes passed on to the trade). Manufacturers' sales of other tobacco products were approximately $600 million, including $45 million of Federal excises.

The industry's contribution to the tax revenues of the Federal, State, and local governments is derived mainly from the excises levied on the cigarette business. Substantial corporate income and other business taxes are also levied on cigarette manufacturers.

A further measure of the position of the tobacco manufacturing industry can be seen from general statistics for manufacturing industries. Among the 14 'broad industry groups (Census, 2 digit code) the tobacco industry is surpassed in such measures as cost of materials, value added by manufacture, value of industry shipments, and capital expenditures by all groups except leather and leather products. Tobacco surpasses the last ranked industry in those size measures by almost 100 percent. This relatively low ranking for tobacco manufacturing nationally is not surprising since by most measures it accounts for less than one percent of U.S. manufacturing costs, value added, or shipments. However, the tobacco industry group ranks second among the 19 manufacturing industries in value added and value of shipments per employee (surpassed only by petroleum and coal products).

When the cigarette industry is compared with various 3-digit Census industries, it ranks similar in employment to such industries as fats and oilseed, floor carpeting, textile finishing (except wool), office furniture, printing trade sources, agricultural chemicals, structural clay products, pottery and related products, plumbing and heating (non-electrical), primary nonferrous metals, wood products, miscellaneous textile products, and miscellaneous chemicals. Because of their high value, shipments of cigarettes generally exceed by a large amount the shipments of the industries noted above.

Foreign trade

Tobacco ranks fourth or fifth among U.S. agricultural exports in terms of value (after feed grains, soybeans, wheat, and sometimes after cotton). About 33 percent of the crop goes as unmanufactured tobacco and 7 percent is exported as manufactured products. The value of tobacco and product exports totaled $1,732 million in 1977. This included unmanufactured tobacco worth $1,094 million and tobacco products worth $637 million.

Exports last year far exceeded imports which totaled about $373 million, so tobacco contributed about $1.36 billion toward the Nation's balance of payments. The movement of tobacco from redrying plants and storage warehouses to ports and then aboard ships employs many people in transportation, sales, and traffic departments, as well as substantial investment facilities.

Last year's export total was substantially larger (180 percent) than the 1960–64 average. The major gain has come from price increases since the volume change has been modest. As a result, the tobacco share of U.S. agricultural exports has declined from 7.6 in 1960–64 to 4.5 percent in 1976 and 1977. Nonetheless, among major commodity groups, tobacco exports show the least year to year variation in quantity.

Taxes

The U.S. Government, all 50 States, and many local governments tax tobacco products. Federal, State, and local government revenues from tobacco products totaled $6.2 billion last year, an amount equal to about 39 percent of consumer expenditures for tobacco products. Nationally, excise taxes are about 3 times the amount U.S. farmers receive for their tobacco.

In 1977, tobacco taxes accounted for 0.7 percent of total Federal tax receipts and represented nearly 14 percent of all excise taxes. About 98 percent of the tobacco tax revenue came from cigarettes. Among the Federal excise tax categories, tobacco tax receipts are exceeded by alcohol taxes, and manufacturers' excise taxes on gasoline, but are about equal to collections on motor vehicles, and telephone services. With the substantial growth in income and social insurance taxes over the years, the excise share of Federal receipts has gradually declined.

State ad local governments receive about 2 percent of their tax revenue from cigarette

[1] This number is based on latest available data from the U.S. Bureau of the Census and its definition which counts as a separate establishment each of several different locations at which a company may produce cigarettes. This establishment count differs from the number of cigarette manufacturing companies. Not counter in the above total is a factory opened in Georgia in 1977 by a major cigarette manufacturer.

and other tobacco products excise taxes. Largely collected by State governments where the share of taxes is 3.9 percent, tobacco taxes have exceeded Federal tobacco tax collections since 1969.

II. THE MAIN SECTORS IN THE TOBACCO INDUSTRY

Since the settlement of the English colonies in Jamestown, tobacco has been an important source of American income. Historians record that the settlement of Virginia would have been a failure but for the rapid expansion of John Rolfe's tobacco growing venture in 1612. Tobacco was the leading export commodity through the entire colonial period and into the early years of independence. Settlers moving into the Piedmont and then further west to the Appalachian Mountains and beyond carried tobacco seeds because they could produce a high value crop that surpassed the enormous transportation barriers.

As the domestic and export markets expanded, U.S. tobacco output expanded and shifted to accommodate the differing forms of tobacco use. Over the years, various marketing, processing, and manufacturing facilities have developed for U.S. tobacco along with a host of service and supply industries, and a Government price support and marketing and quota program for growers.

Agriculture

Tobacco is a major agricultural commodity that several hundred thousand farm families depend on for a significant part of their livelihood. Tobacco is one of the few crops that can utilize family labor and still provide a reasonable income on a small farm. About 270 hours of labor is required to produce and market an acre of tobacco. By contrast, food grains (wheat and rice) require about 3½ hours per acre.

In 1977, about 1.9 billion pounds of tobacco was grown on about 276 thousand farms in 18 States. The acreage devoted to tobacco growing is typically small, averaging about three acres per farm. Cash receipts from tobacco exceeded $2.3 billion, or 2.4 percent of the Country's total cash receipts from crops and livestock marketings.

Farms growing tobacco are relatively small in size, but they hire or exchange sizable amounts of labor for peak seasonal requirements. For 1974, the 95,488 specialized farms defined as "tobacco farms" by the Census of Agriculture averaged 129 acres with 38 acres of harvested cropland. About 60 percent of the operators were owners, 25 percent part owners, and 15 percent tenants. About 92 percent of tobacco farm operators were white and 8 percent were black or other races.

About 5 percent of all labor used on farms, or about 247 million hours, went into tobacco production in 1977. Much tobacco labor comes from the operators and their families but most producers hire some labor due to the extremely high seasonal requirements. Two-thirds of flue-cured harvest labor was hired, according to a 1972 USDA survey (USDA Econ. Res. Serv. Ag. Econ. Rept. No. 277).

A closer look at the hired harvest work force in the flue-cured area showed more than 50 percent of the workers were less than 18 years old. Over two-thirds of the workers were black and about 55 percent were females. Black females represented 40 percent of the workers. Those working on their own farm differed. They were older with less than 25 percent under 18 years of age. About 60 percent were white and 55 percent were males. (North Carolina State University Econ. Res. Rpt. 38.)

Thus tobacco production provides employment for many women and children, handicapped, older persons, and unskilled persons with few alternative employment opportunities.

About one-half of the Census tobacco farms reported hiring labor in 1974, mostly for less than 25 days. These 50 thousand farms reported hiring an average of 10 workers per farm, or 528,000 workers. Conservatively assuming that the remaining farms growing tobacco use family labor or "swap" arrangements, when we add the allotment holders and farm operators, an estimated 1 million persons obtain income from tobacco production.

Income generated in tobacco farming in 1977 was $1.3 billion: wage payments and unpaid family labor approximated $600 million, and proprietors' income (operators and allotment holders) was about $700 million.

In addition to labor, tobacco production requires sizable inputs from service and marketing industries. Producers spend over four-tenths of their cash receipts from tobacco for such crop expenses as fertilizer, chemicals, gasoline, petroleum, curing facilities, machinery, custom work, and warehouse charges. These crop expenses amount to almost $1 billion annually.

Tobacco marketing

U.S. growers sell about 95 percent of their tobacco through auction markets; the remainder is sold and delivered directly to manufacturers or dealers. In 1976 there were 175 tobacco markets with 841 sales floors (auction warehouses). Markets are situated in towns or cities in tobacco growing areas where one or more warehouses sell tobacco at auction. The largest market has 24 sales floors; some of the smaller markets have only one.

Each spring the growers of flue-cured tobacco designate the auction warehouses where they wish to market their crop. Sales schedules and inspection services are provided at individual warehouses on the basis of the quantity of tobacco designated. This procedure began in 1974 as a requirement for price support and has resulted in most producers receiving equitable marketing opportunities and in much more orderly marketing than had prevailed previously.

Usually on the basis of an agreed upon schedule, growers deliver their tobacco to the auction warehouse of their choice. A Federal grader examines each lot and grades it according to U.S. standards. Then it is sold to the highest bidder. The bidders are buyers for manufacturers, dealers, and exporters. Lots of tobacco that are not bid above the Government loan rate are taken by the loan cooperatives for processing, storage, and later sale. Some tobacco is being sold year round, but most sales take place in July through January.

Growers receive payment for their tobacco immediately after sale. Selling charges vary by type of tobacco, ranging from 3 to 6 percent of the selling price. The estimated charges for the 1976 crop were $75 million. Warehouses had an estimated payroll of $20 million for numerous handlers, weighers, bookkeepers, and clerks to move the tobacco quickly through the sales. Other variable and fixed costs totalled $25 million (based on a USDA cost survey), leaving returns to owners and managers of $30 million.

Leaf processing

Tobacco needs to age one to three years before manufacturers can properly use it. Aging improves the aroma and eliminates the bitter taste of freshly cured leaf. In preparing tobacco for storage, practically all tobacco is redried. This process involves removing foreign matter, complete drying out of the leaf, and applying a uniform moisture content. Sometimes tobacco is green prized, or packed in temporary storage until it can be shipped to a redrying plant. Most tobacco is stemmed before it is redried. This means stems and center veins of the leaves are removed, leaving only the lamina. This procedure reduces costs, and provides for a more uniform drying operation.

Practically all tobacco is packed in cylindrical wooden containers (hogsheads) or in cardboard cases for storage, and for export. The packed containers of redried tobacco go to storage warehouses nearby the manufacturing sites. With only minimum protection from the outside elements and periodic fumigation required, the stored tobacco goes through a series of sweats or fermentation process so it will be suitable for manufacture, one to three years later.

At the leaf processing stage there were 91 establishments in 1972. Approximately 12,000 persons were employed. The gross margins of these plants (Census, value added) was $228 million in 1976. Wage and salary payments totalled about $67 million. Other variable and fixed costs totalled $71 million (based on USDA cost estimates), leaving corporate and proprietors' income of $90 million.

Exports-imports

In relation to domestic production, imports and exports of tobacco have been important for many years. The United States is the leading tobacco exporting country and the third largest tobacco importer. The excess of exports over imports last year was about 24 percent of 1977 production. However, most of the imports are used for blending with domestic tobacco and consist of oriental tobacco not produced in the United States.

About 50 companies engage in export of tobacco. They vary widely in volume handled from worldwide, multinational tobacco trading firms to small dealers handling a specialized tobacco type. Most firms are integrated in related lines, including leaf buying, processing, and storage. A few export firms are affiliated with foreign manufacturers. Each domestic company making cigarettes exports to overseas affiliates as well, either finished products or blended or cut tobacco in bulk. Virtually every nation receives some U.S. tobacco, but around 60 percent goes to Japan and the European Community.

Exports of unmanufactured tobacco have remained relatively constant in quantity except for fluctuations due to shipping interruptions. Cigarette exports have been on an uptrend for several years. Limited Government assistance is available for leaf exports under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480), and the Commodity Credit Corporation Charter Act. From mid-1966 through the 1972 crop, a limited CCC export payment went to exporters of unmanufactured tobacco.

The U.S. duty for most tobacco leaf imports is 11 cents per pound which is relatively low among countries and in relation to leaf value. Although imports of tobacco affect the domestic supply/demand balance, and in turn the volume of tobacco under the Government loan program, import controls as authorized by Section 22, Agricultural Adjustment Act of 1936, as amended, have never been in effect.

Among the principal tobacco export categories, the value last year was: flue-cured: $834 million; cigarettes: $615 million; burley: $152 million; other leaf tobacco: $108 million; and other tobacco products: $22 million. While there is no precise way to separate the value of the exporting service from the total value of exports, a conservates estimate would attribute 3 percent or $50 million of the past year's export value movement to ports and aboard ships, sales and traffic departments, plus fumigation and related charges.

Tobacco product manufacturing

In 1972 there were 181 establishments engaged in the manufacture of tobacco products. Of this total, twelve were highly mechanized cigarette plants operated by the six major manufacturers. The other 169

produced cigars, chewing and pipe tobacco, snuff, and other tobacco products.

Cigarette manufacturers had gross receipts (excluding Excises) of $3.7 billion (1976). They employed some 41,000 persons, with wages, salaries, and wage supplements reaching a total of more than $521 million. Gross margins from cigarette manufacturing operations totaled about $1.27 billion.

Other tobacco product manufacturers, with gross receipts of $565 million, employed 11,500 persons and paid wages, salaries, and fringe benefits of $85 million. Their gross margins came to $308 million in 1976.

In total, tobacco product manufacturers had gross receipts of $4.2 billion, excluding Federal excises. The excises bring this total to $6.6 billion. Firms employed almost 52,000 to whom they paid over $606 million in wages and benefits Gross margins, including excise taxes, totaled approximately $3.9 billion.

Distribution

About 3,000 tobacco wholesalers handle tobacco products as a part of their general wholesaling business. These include 1,860 primary tobacco wholesalers who handled tobacco products worth $10.6 billion in 1976.

At the retail level in 1976, some 610 thousand outlets sold tobacco products, consisting of around 210 thousand regular retail outlets (with payrolls) and around 400 thousand cigarette vending machines locations (with a total of 800 thousand vending machines). Their domestic sales totaled nearly $16.4 billion, of which well over $15.1 billion was accounted for by cigarettes. State-local excise and sales taxes amounted to nearly $3.5 billion of this total, most of which was levied on cigarettes.

It is difficult to measure, exactly, employment and earnings in the distributive trades that can be attributed to the handling of tobacco products. Tobacco is sold along with many lines at wholesale and retail. Estimates can be made for the national picture.

Total employment in wholesale and retail establishments attributable to tobacco product sales is estimated at 200 thousand. Wage and salary income attributable to the distribution of tobacco products is estimated at $2 billion.

Summary

The $17 billion of consumer expenditures for tobacco products provided income in approximately $11 billion in 1977. About 1 million persons were employed full-time and part-time in farm production, and factory and distribution employment was about 300 thousand persons.

III. FARM PRODUCTION PURCHASES

In addition to labor, tobacco production requires sizable inputs from service and marketing industries. Producers spend between 40 and 50 percent of their cash receipts for numerous cash items (exclusive of labor). The following estimate is based on budget estimates for flue-cured and burley production (Tobacco Situation, September 1977 and March 1978).

Selected input items, U.S. tobacco production, 1977

[In millions of dollars]

Item on industry:	Amount
Seed	2
Agric. services (custom)	20
Wood products	5
Fertilizer	112
Building maintenance, rep	6
Ag. chemicals	72
Textile products	17
Plastic materials	5
Cordage, twine	5
Petroleum products	163
Farm buildings	190
Farm machinery	192
Machinery repairs	18
Insurance	58
Interest	14
Electricity	13
Marketing fees	78
Total	970

IV. THE MAIN SECTORS, BY STATES

Farm production

In 1977, about 276,000 farms produced tobacco having a cash value of $2.3 billion. Although twenty-three states have farms growing tobacco most of them are in the South. Six states accounted for 90 percent or more of the tobacco allotments, farms producing tobacco, cash receipts, and employment. Detailed information for all states is given in Tables 1 and 2 which show farm production, hours of labor, labor and other direct costs (excluding rent), crop value, and allotment value.

The tabulation below shows the six leading states, ranked by the amount of cash receipts from tobacco. For the country as a whole, tobacco cash receipts were 2.5 percent of total cash farm receipts; for the six states the percentage is 22. The heavy concentration of this crop is evident from the figures—North Carolina and Kentucky account for 64 percent of the cash receipts from this crop.

[In millions of dollars]

State	Tobacco cash receipts	Percent of total farm cash receipts (percent)
1. North Carolina	$866	32.8
2. Kentucky	619	33.8
3. South Carolina	171	21.5
4. Virginia	163	15.8
5. Georgia	150	6.9
6. Tennessee	164	11.8

In the 3 leading States, North Carolina, Kentucky and South Carolina, tobacco is the leading source of cash receipts from farm marketings and ranks high in Virginia, Georgia, and Tennessee. However, the relative importance of tobacco in total cash farm receipts has declined. For the 6-percent area, cash farm receipts jumped 180 percent from 1955–59 (average) to 1977; tobacco receipts gained 118 percent. As a result, tobacco declined in importance from 28 percent of cash receipts in 1955–59 to 21 percent in 1976 (22 percent in 1977, when crops were seriously hurt by drought).

Five leading commodities ranked according to cash receipts, six leading tobacco States, 1976.

State	1	2	3	4	5
North Carolina	Tobacco	Broilers	Hogs	Corn	Dairy Prod.
Kentucky	Tobacco	Cattle Calves	Dairy Prod.	Corn	Soybeans
South Carolina	Tobacco	Soybeans	Corn	Eggs	Hogs
Virginia	Dairy Prod.	Tobacco	Cattle Calves	Broilers	Hogs
Georgia [1]	Broilers	Peanuts	Eggs	Corn	Soybeans
Tennessee	Cattle Calves	Soybeans	Dairy Prod.	Tobacco	Hogs

[1] 6—Hogs; 7—Cattle Calves; 8—Tobacco Compiled from: *State Farm Income Statistics*, Supp. to Stat. Bul. 576, Economic Research Service, U.S. Department of Agriculture, 1977.

Tobacco's share of cash farm receipts from marketings, six leading States, 1955–59, 1967, and 1977

State	1955–59	1967	1977 [1]
North Carolina	47.0	41.3	32.8
Kentucky	40.0	41.6	33.8
South Carolina	25.5	25.2	21.5
Virginia	17.5	16.2	15.8
Georgia	8.9	9.8	6.9
Tennessee	14.9	13.8	11.8
Six State area	27.8	26.8	21.7

[1] Preliminary.

From 1955–59 to 1977, North Carolina, the largest tobacco-producing State, had a 173 percent increase in cash farm receipts, but a 91 percent increase in receipts from tobacco. Tobacco declined from 47 percent of total receipts in 1955–59 to 33 percent in 1977. Other States in the southeastern producing area had gains in total cash farm receipts ranging from 126 percent in Virginia to 218 percent in Georgia. Cash receipts from tobacco relative to all commodities described for all States in the six-State area.

Farm numbers further illustrate the importance of tobacco:

State	Tobacco allotments (farms)	Farms producing tobacco	Percent of total farms percent
	Number		
1. Kentucky	166,233	103,000	83.1
2. N. Carolina	134,018	52,000	42.6
3. Tennessee	104,709	62,000	50.4
4. Virginia	43,673	21,000	29.2
5. Georgia	25,330	5,000	7.1
6. S. Carolina	23,907	6,000	12.8

In addition to the dominant tobacco-growing states, the following six states have from 100 to 7,600 farms producing tobacco, accounting for virtually all of the remaining 10 per cent of farm income from this crop.

[In millions of dollars]

State	Tobacco allotments (Farms)	Farms producing tobacco	Tobacco cash receipts
7. Florida	7,106	1,400	32.9
8. Maryland	0	3,000	30.9
9. Ohio	11,771	7,600	28.0
10. Indiana	9,874	5,000	22.7
11. Connecticut	120	100	22.8
12. Wisconsin	4,573	3,100	20.1

Farms growing tobacco are relatively small, but a number of crops besides tobacco are grown. Tobacco accounts for 3.3 percent of the area planted for the 6 leading tobacco producing States. North Carolina, the ranking State has 8 percent of crop acreage in tobacco. The acreage planted in tobacco averages approximately 3½ acres per farm, nationally. However, the range is considerable. In Tennessee, the average is slightly over one acre per farm. At the other extreme, Connecticut farms average 37 acres.

County patterns

Tobacco allotment and Census of Agriculture data show the number of counties with farm allotments or farms growing tobacco. Of 3,068 counties and parishes in the United States, 21 percent, or 651 counties report tobacco allotments or production.

Farm earnings are a major source of earnings in many counties where tobacco is grown. In addition, a major share of the farm earnings are derived from such primary crops as tobacco. For example, in Maryland, tobacco

ranks seventh as a source of cash farm income (3.3 percent of the total), but virtually all the tobacco is grown in 5 counties of southern Maryland where it represents about 44 percent of cash receipts from farm marketings.

Farmers are changing from a reliance on single crop agriculture as the major source of income. However, major changes in agriculture policy pertaining to tobacco would have a substantial effect on the economies of many local communities. (D. H. Carley, *Farm Earnings: Total Earning Relationships in Southwest Georgia*, Research Bulletin 173, Dept. of Agricultural Economics, Georgia Station, 1975).

Tobacco Leaf Handling and Processing. The processing sector of the tobacco industry (defined by census as stemming and redrying) generally follows the geographical pattern set by tobacco growing. The principal states, ranked by total income are shown below.

Stemming and redrying plants, 1972

State	Establishments number	Value added [1] (million dollars)	Employees [1] thousands
1. N. Carolina	29	[2] 57	[2] 5.4
2. Kentucky	11	[2] 30	[2] 1.5
3. Virginia	13	36	2.5
4. Tennessee	6	[2] 12	[2] .5
5. S. Carolina	2	[2] 1-3	[2] .1
6. Florida	3	[2] 4-8	[2] .3
7. Northeast region [3]	19	7.9	
Total	91	153.6	11.4

[1] 1976=$277.5 million and 12.5 thousand, respectively. Detail by States not available but the 1972 distribution continued.
[2] Estimated.
[3] Includes 2 plants in Louisiana.

These four leading states account for well over 80 percent of the business volume of plants in tobacco processing (stemming and redrying). Virtually all of this processing is done at specialized plants, with only about 3 percent of the U.S. total done at other kinds of factories primarily cigarette plants.

The manufacturing industry

The 180 manufacturing establishments in the tobacco products industry are located in twenty-nine states. With nationwide sales organizations, however, the industry provides employment in all fifty states. In contrast to tobacco growing, which is highly labor intensive, cigarette manufacturing is less so. Other tobacco product manufacturing is less so.

The high degree of concentration of cigarettes manufacturing means virtually all of the output is found in three States as follows:

Cigarette plants, 1972

[In millions of dollars]

State	Establishments	Value added [1]	Employees [2]
1. North Carolina	5	1,198.5	17.6
2. Virginia	3	[2] 524.9	[2] 11.0
3. Kentucky	3	464.4	9.5
Total	11	2,187.8	38.1

[1] 1976=$3,591.9 mil. and 40.8 thousand, respectively. Detail by States not available.
[2] Estimated.

Other tobacco products account for less than 10 percent of the retail value of tobacco products but are manufactured in more numerous, smaller scale factories than cigarettes. The number of factories manufacturing cigars and chewing and smoking tobacco has been declining for many years, but remain more scattered geographically than in the case of cigarettes.

Cigar factories, 1972

State	Establishments number	Value added [1] mil. dol.	Employees [1] thousand
1. Pennsylvania	29	104.7	6.0
2. Florida	54	49.6	4.1
3. Alabama	3	[2] 10-19	[2] 1.0
4. Georgia	2	[2] 5-9	[2] .7
5. Kentucky	1	[2] 5-9	[2] .6
6. South Carolina	1	[2] 2-4	[2] .4
7. Ohio	2	[2] 2-4	[2] .3
8. Indiana	3	[2] 1-1.9	[2] .1
9. Other States [3]	37	[2] 4.2	[2] .3
Total	132	192.5	13.5

[1] 1976=$147.5 mil. and 8.4 thousand, respectively.
[2] Estimated.
[3] Detail by States not available.

Chewing and smoking factories, 1972 [1]

State	Establishments	Value Added [2]	Employees [2]
	No.	Mil. dol.	Thous.
Tennessee	5	20	0.6
Virginia	3	10-19	.6
Illinois	1	5-9	.2
New Jersey	1	5-9	.2
North Carolina	3	5-9	.4
Ohio	4	10-19	.5
Missouri	2	5-9	.2
West Virginia	1	2-4	.2
Kentucky	5	2-4	.2
Other States [3]	12	5-9	.2
Total	37	103.2	3.3

[1] 1976=$161.0 mil. and 3.1 thousand, respectively.
[2] Estimated.
[3] Detail by States not available.

Tobacco product distribution

The tobacco industry has perhaps the most widely dispersed distribution system to be found for any product in the country. There are about 3 thousand *wholesale* establishments handling the distribution of tobacco products to retail channels. In 1976, wholesale sales amounted to nearly $11 billion. Table 3 presents wholesale and retail sales data by State as well as excise tax collections for the combined tobacco products industries. Overall, the distribution of this product through wholesale and retail channels involves an estimated 200 thousand persons.

TABLE 1.—TOBACCO—ALLOTMENTS, FARMS, PRODUCTION PRICE, VALUE, BY STATES, 1977

State	Farm allotments (number)	Farms producing tobacco: Number [1]	Farms producing tobacco: Percent of all farms	Area harvested (thousands of acres)	Yield per acre (pounds)	Production (millions of pounds)	Price per pound (cents)	Value of production (millions)
Alabama	291	100	0.1	0.6	1,900	1.1	111.0	$1.2
Connecticut	120	100	2.4	3.7	1,619	6.1	377.1	22.8
Florida	7,106	1,400	4.4	12.6	1,997	25.2	122.5	30.9
Georgia	25,330	5,000	7.1	65.0	2,075	134.9	115.0	155.1
Indiana	9,874	5,000	4.9	7.6	2,500	19.0	119.5	22.7
Kentucky	166,233	103,000	83.1	199.8	2,355	470.5	121.6	571.8
Louisiana	0	25	.1	.2	900	.1	154.8	.2
Maryland	0	3,000	17.1	23.0	1,300	29.9	110.0	32.9
Massachusetts	85	50	.9	1.2	1,654	1.9	458.6	8.8
Missouri	1,492	1,000	.7	2.5	2,300	5.8	116.0	6.7
North Carolina	134,018	52,000	42.6	392.5	1,890	741.7	116.8	866.2
Ohio	11,771	7,600	6.6	11.2	2,224	24.9	112.5	28.0
Pennsylvania	21	2,500	3.5	13.0	1,810	23.5	60.0	14.1
South Carolina	23,907	6,000	12.8	68.0	2,035	138.4	123.5	170.9
Tennessee	104,704	62,000	50.4	71.4	2,012	143.6	121.1	173.9
Virginia	43,673	21,000	29.2	79.8	1,767	141.0	116.3	164.0
West Virginia	4,253	3,000	11.5	1.7	1,800	3.1	112.5	3.4
Wisconsin	4,573	3,100	3.1	11.9	1,978	23.5	85.5	20.1
Other States	[2] 143	75	[3]	[3]	[3]	[3]	[3]	
Total, United States	573,435	275,950	10.0	965.6	2,003	1,934.2	118.6	2,293.8

[1] Estimated.
[2] Arkansas, Illinois, Kansas, Minnesota, and New York.
[3] Negligible.

Compiled from data from Agricultural Stabilization and Conservation Service, and Economics, Statistics, and Cooperatives Service.

TABLE 2.—TOBACCO—ESTIMATED COSTS AND RETURNS, ALLOTMENTS VALUE, BY STATES, 1977

[Dollar amounts in millions]

State	Farm labor used for tobacco: Hours (millions)	Farm labor used for tobacco: Value	Other costs excluding rent [1]	Real estate taxes	Residual, allotment, and management	Total crop value	Allotment value
Alabama	0.1	$0.3	$0.6	(2)	$0.3	$1.2	$1.8
Connecticut	3.6	10.6	4.5	$0.1	7.6	22.8	.5
Florida	3.0	6.9	13.3	.3	10.4	30.9	52.0
Georgia	16.3	37.6	72.3	1.5	43.7	155.1	280.0
Indiana	2.1	6.2	7.5	.2	8.8	22.7	38.0
Kentucky	58.8	168.2	202.2	3.5	197.9	571.8	900.0
Louisiana	(2)	.1	.1	(2)	(2)	.2	----------
Maryland	5.4	12.8	15.6	.2	4.3	32.9	----------
Massachusetts	1.3	3.7	1.6	(2)	3.5	8.8	(2)
Missouri	.7	2.1	2.6	.1	1.9	6.7	10.0
North Carolina	89.6	207.0	398.0	7.0	254.2	866.2	1,700.0
Ohio	3.3	$9.8	$11.8	$0.3	$06.1	$28.0	38.0
Pennsylvania	3.1	9.2	11.2	.1	—6.4	14.1	----------
South Carolina	18.0	41.6	80.0	1.0	48.3	170.9	300.0
Tennessee	17.0	50.3	60.5	1.0	62.1	173.9	220.0
Virginia	20.4	46.3	79.0	1.1	37.6	164.0	240.0
West Virginia	.5	1.6	1.9	(2)	—.1	3.4	5.2
Wisconsin	2.8	6.7	8.1	.1	5.2	20.1	5.3
Total, United States	246.9	621.0	970.8	16.5	685.4	2,293.7	3,790.8

[1] Includes machinery and building ownership cost.
[2] Less than $500,000.

Compiled by Robert H. Miller, Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture.

TABLE 3.—TOBACCO PRODUCTS—VALUE OF PRODUCTS DISTRIBUTED AND STATE TAX COLLECTIONS, BY STATE, 1976

State	Tobacco tax collections: Amount (millions)	Tobacco tax collections: Share of all taxes (percent)	Value of tobacco products: Wholesale (millions)	Value of tobacco products: Retail [1] (millions)
Alabama	$48.6	3.9	$177	$273
Alaska	4.7	.8	17	26
Arizona	35.6	3.5	72	111
Arkansas	45.1	6.2	91	141
California	268.5	2.5	774	1,192
Colorado	32.7	3.4	108	166
Connecticut	73.4	5.8	183	282
Delaware	12.4	3.5	32	49
Florida	185.6	6.3	273	421
Georgia	73.2	4.4	212	327
Hawaii	9.8	1.5	41	63
Idaho	9.5	2.9	36	55
Illinois	175.4	3.7	687	1,057
Indiana	51.0	2.7	297	458
Iowa	46.2	8.8	172	265
Kansas	31.5	3.7	136	210
Kentucky	21.8	1.6	180	277
Louisiana	56.3	3.4	172	265
Maine	24.1	4.5	56	86
Maryland	54.5	2.8	225	347
Massachusetts	141.9	5.2	343	528
Michigan	138.6	3.7	503	774
Minnesota	83.3	3.8	200	308
Mississippi	30.9	3.5	106	163
Missouri	58.8	4.1	264	407
District of Columbia	11.9	1.8	57	88
Montana	11.4	4.1	40	62
Nebraska	$22.5	4.6	$90	$139
Nevada	11.2	3.8	24	37
New Hampshire	26.7	14.5	38	59
New Jersey	166.2	7.2	424	653
New Mexico	13.7	2.4	49	75
New York	333.4	3.4	926	1,426
North Carolina	20.9	1.0	232	357
North Dakota	8.6	3.0	35	54
Ohio	194.8	5.9	598	921
Oklahoma	51.2	5.1	145	223
Oregon	30.7	3.7	111	171
Pennsylvania	245.0	4.8	707	1,089
Rhode Island	24.5	6.3	60	92
South Carolina	23.4	2.2	107	165
South Dakota	9.1	4.7	35	54
Tennessee	66.1	5.2	188	290
Texas	281.7	6.7	533	821
Utah	7.5	1.6	48	74
Vermont	9.9	4.8	25	39
Virginia	17.7	1.0	256	394
Washington	59.0	3.2	188	290
West Virginia	27.0	3.2	110	169
Wisconsin	84.2	3.5	238	367
Wyoming	4.6	2.4	19	29
Total	3,475.6	3.9	10,639	16,390

[1] Wholesale value increased uniformly by States to equal U.S. retail total.

Compiled from "Tax Administrators News," Federation of Tax Administrators, April 1977, p. 41; U.S. Bureau of the Census, "Governmental Finances in 1975-76," GF-76, No. 5, 1977, pp. 47-49; "NATD Coordinator," National Association of Tobacco Distributors, 1977, pp. 213-8.

Tobacco Export Shares by States, 1973–76 [1]

(By Richard Hall, Agricultural Economist, Commodity Economics Division)

(Abstract.—Tobacco exports were 16 percent of the value of all agricultural exports for 18 States growing tobacco for the year ending June 30, 1976. Tobacco was 4 percent of all United States agricultural exports. North Carolina's export share of tobacco was over half of the U.S. tobacco total. The allocation of export shares based upon production shows that tobacco dominated export shares of agricultural products for North Carolina, Connecticut, and Massachusetts. The export shares of tobacco was near or over one-third of agricultural exports for Kentucky, South Carolina, and Virginia. The maintenance of tobacco exports is a developing problem for the agricultural economy of each State with a large share in tobacco exports.

(Keywords.—Agricultural exports, export shares, exports by State, export values, tobacco exports.)

From fiscal year 1973 to 1976 (year ending June 30), U.S. agricultural exports increased 72 percent in value (table 1). The increase in value of tobacco (unmanufactured and bulk smoking tobacco) exports was 43 percent from 1973 to 1976. The increase was primarily the result of higher unit export values. Since exports represent about 30 percent of the annual disappearance of the U.S. tobacco crop, the export value allocated to States is of economic importance. States with a large share in the value of exports have a special interest in maintaining or increasing the value of U.S. exports.

Eighteen States (all but Missouri located east of the Mississippi River) produce significant quantities of tobacco. Five dominate in the production of flue-cured tobacco, the major cigarette tobacco. Flue-cured production provides about two-thirds of the total U.S. tobacco crop. Production is concentrated in North Carolina, South Carolina, Georgia, Virginia, and Florida.

Burley tobacco, the second major type of cigarette tobacco, represents about 30 percent of the U.S. tobacco crop. Two States, Kentucky and Tennessee, dominate burley production. Additional burley is grown in Indiana, Missouri, North Carolina, Ohio, Virginia, and West Virginia.

Other types of tobacco, although neither large in quantity or value nationally, are important in the agricultural economies of Connecticut, Maryland, and Massachusetts.

TABLE 39—TOBACCO AND TOBACCO PRODUCTS EXPORTS BY CUSTOM DISTRICT PORTS, 1976

[In millions of dollars]

Custom district	Tobacco products: Unmanufactured tobacco	Tobacco products: Cigarettes	Tobacco products: Other	Total tobacco
Norfolk, Va.	473.6	296.9	14.2	784.7
Wilmington, N.C.	356.8	.7	0	357.4
New York, N.Y.	38.3	40.9	6.3	85.5
Baltimore, Md.	11.1	71.1	.8	83.0
Miami, Fla.	8.5	46.6	1.6	56.7
San Francisco, Calif.	.2	18.9	.1	19.2
Charleston, S.C.	6.9	7.5	.5	14.9
New Orleans, La.	13.7	.3	0	14.0
Philadelphia, Pa.	.1	9.5	.2	9.8
San Juan, P.R.	3.8	2.3	.3	6.4
Other	6.0	14.8	2.7	23.5
Total	919.0	509.5	26.6	1,455.1

Note: Totals may not add due to rounding.

Source: Compiled from reports of Bureau of the Census.

[1] Adapted from: Tontz, Robert L. and McCall, Thomasine B., "U.S. Agricultural Export Shares By States, Fiscal Year 1976," *Foreign Agricultural Trade of the United States*, October 1976, pp. 5–16.

TABLE 1.—AGRICULTURAL EXPORT SHARES, SELECTED STATES AND STATE GROUPS, FISCAL YEARS, 1973 AND 1976

[Dollar amounts in millions]

Agricultural export States	Year ending June 30 1973	Year ending June 30 1976 [1]	Change 1973–76 (percent)	Percentage of total (1976)
Leading States (5):				
Illinois	$1,310	$2,405	+84	10.8
Iowa	1,095	1,752	+60	7.9
Texas	798	1,541	+93	7.0
California	774	1,467	+90	6.6
Kansas	775	1,312	+69	5.9
Subtotal	4,752	8,477	+78	38.3
Tobacco producing States (18) [2]	3,774	5,603	+48	25.3
Tobacco	640	917	+43	4.1
Other States (27)	4,368	8,067	+84	36.3
United States	12,894	22,147	+72	100.0

[1] Subject to revision.
[2] Alabama, Connecticut, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsion.

Source: Tontz, Robert L. and McCall, Thomasine B., "U.S. Agricultural Export Shares By States, Fiscal Year 1976", Foreign Agricultural Trade of the United States, October 1976, pp. 5–16.

Ten U.S. agricultural exports as percentage of farm productions, 1976

Almonds	56
Wheat	55
Cattle hides	55
Soybeans*	51
Cotton	40
Tallow	31
Grain sorghums	31
Tobacco	30
Rice	27
Corn	27

Year ending June 30.

*Soybeans include bean equivalent of meal.

Although production is compiled by States, exports are not reported by States. Exports are reported by port or region of exit and a few ports handle most of the tobacco exports. But production industries are relatively unfamiliar with how the value of either agricultural or tobacco exports relate to the economies of producing States. Export shares were calculated for fiscal years 1973–76 based upon the relative share of agricultural production in each State the year previous to the export year.

AGRICULTURAL EXPORT SHARES TO STATES

The total value of U.S. agricultural exports in fiscal 1976 was $22 billion. Allocating this value to the five leading States—Illinois, Iowa, Texas, California, and Kansas—shows that other crops and livestock products are exported in great quantity and value relative to tobacco. Tobacco is important in only 18 States and was 4 percent of export value in 1976. However, total agricultural exports from the 18 tobacco producing States were one-fourth of the U.S. total. The total value of tobacco exports in fiscal 1976 was $917 million.

Because of the diversity of the agricultural economies of tobacco States, the range in percent of agricultural exports represented by tobacco was less than 1 percent to over 80 percent. The average for tobacco States was 16 percent (table 2).

In North Carolina, flue-cured and burley tobacco provided 60 percent of the agricultural export share allocated in 1976. Cigar wrapper and binder tobacco provided 81 percent of the agricultural export share in Connecticut and 50 percent in Massachusetts. Tobacco made up about one-third of the export shares allocated to three States—flue-cured for South Carolina, burley and fire-cured for Kentucky, and flue-cured, burley, and fire- and sun-cured for Virginia.

TOBACCO SHARES BY STATES

North Carolina's share of $474 million in tobacco exports was 52 percent of the tobacco total in 1976 (table 2). Among other States, only Kentucky and South Carolina accounted for more than 10 percent of the total.

From 1973 to 1976, individual State shares did not vary substantially relative to other States because total production did not shift among the States. The significant changes are the increase in value due to the sharp rise in unit value of exports and the increase in burley exports.

The quantity of flue-cured tobacco exported in 1973 and 1976 was about the same, slightly over 520 million pounds (farm sales weight). Thus, flue-cured exports were about two-thirds of the weight of tobacco exported in 1976. Burley exports increased about 20 million pounds in the period, representing the net gain in total tobacco exports. Burley exports were 30 percent of the total weight in 1976.

The increase in volume of burley exports allocated to Kentucky and Tennessee more than offset the decline in fire-cured exports. The result was that both the rise in unit value and quantity of burley exported and the rise in unit value of fire-cured tobacco increased the value of the Kentucky share of exports by $58 million from 1973 to 1976. The increase in the Kentucky share from 1973 to 1976 was larger than the total share of exports for all other States in 1976 except the four leading flue-cured producing and exporting States. The increase for North Carolina was $136 million. This increase was larger than the total share of any other State.

FUTURE SHARES OF TOBACCO EXPORTS

The rapid increase in tobacco export value from 1973 to 1976 still does not indicate an expanding export demand. A rapid rise in unit values, associated with inflation, substantially overshadowed the slight increase in the quantity of exports for the period. The unit value rise may limit the total value of exports in the future. Rising foreign population and income created a more rapid rise in the value of exports of other agricultural products. Quantity, as well as unit values, increased.

From 1973 to 1976, the production and world trade in tobaccos similar to the types produced in the United States have been increasing. States with large shares of tobacco exports are particularly vulnerable to increased foreign competition for export markets.

TABLE 2.—AGRICULTURAL AND TOBACCO EXPORT VALUE, PERCENTAGE DISTRIBUTION AND PERCENT OF TOTAL, BY STATE, FISCAL YEARS 1973 AND 1976 [1]

Tobacco type and State	Export value (million dollars) Tobacco [2] 1973	Tobacco [2] 1976	Agricultural 1973	Agricultural 1976	Tobacco as percentage of agricultural [3] 1973	Tobacco as percentage of agricultural [3] 1976	State as percentage of total tobacco [3] 1973	State as percentage of total tobacco [3] 1976
Flue-cured:								
North Carolina	338	474	526	786	64	60	53	52
South Carolina	66	95	174	267	38	36	10	10
Georgia	59	77	207	394	28	19	9	8
Virginia	49	66	120	193	41	34	8	7
Florida	16	19	184	295	9	6	3	2
Subtotal	528	731	1,210	1,935	44	38	83	79
Burley and fire-cured:								
Kentucky	64	112	186	351	34	32	10	12
Tennessee	23	36	175	272	13	13	4	4
Subtotal	87	148	361	623	24	24	14	16
Other:								
Connecticut	6	14	8	17	75	81	1	2
Maryland	10	7	59	110	18	6	1	1
Massachusetts	2	5	6	11	42	50	(4)	1
Ohio	2	5	432	831	1	1	(4)	1
All other [5]	5	7	1,701	2,076	(4)	(4)	1	1
Total 18 States	640	917	3,774	5,603	17	16	100	100

[1] Year ending June 30.
[2] Unmanufactured and bulk smoking tobacco.
[3] Computed from unrounded totals.
[4] Less than 0.5 percent.
[5] Pennsylvania, West Virginia, Alabama, Indiana, Wisconsin, Louisiana, and Missouri.

Compiled from: Tontz, Robert and McCall, Thomasine, "U.S. Agricultural Export Shares by States, Fiscal year 1976," Foreign Agricultural Trade of the United States, October 1976, pp. 5–16.

TUITION TAX CREDITS OPPOSED BY STUDENT FINANCIAL AID ADMINISTRATORS

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FORD of Michigan. Mr. Speaker, student financial aid administrators are dedicated and hard-working professionals who are closest to the problem of helping students find the financial resources that will enable them to attend a postsecondary institution. These aid officers are on the college campuses meeting with students and assisting them in putting together a package of financial aid that will meet their need. It is particularly significant that the aid officers have concluded that tuition tax credits are an ineffective, inefficient, inequitable and impractical means for aiding middle-income students.

The National Association of Student Financial Aid Administrators has prepared a chart which compares the benefits that students from families at various income levels attending public and private institutions would receive under

H.R. 12050, the tuition tax credit bill reported by the House Ways and Means Committee, and H.R. 11274, the Middle Income Student Assistance Act. If Members will spend a few minutes studying the chart, the superiority of the Middle Income Student Assistance Act over tuition tax credits as a means for aiding students from middle-income families will be apparent.

For example, under the Middle Income Student Assistance Act, a student from a family with an income of $25,000 could receive $847 in aid while attending a typical public college and university. The same student could receive $1,952 while attending a typical private college or university under the student aid bill. However, the tax credit bill would give the student only $155 when attending a public institution and $250 when attending a private college or university.

I commend the chart which follows to the attention of my colleagues. I am also inserting at this point in the RECORD a brief summary "Why Tuition Tax Credits are Impractical for Postsecondary Education," which was also prepared by the National Association of Student Financial Aid Officers.

COMPARISON OF STUDENT AID BENEFITS FOR FAMILIES WITH AND WITHOUT TUITION TAX CREDITS—TTC EQUALS TUITION TAX CREDI S AND SFA EQUALS STUDENT FINANCIAL AID

	Public institution		Private institution		Public institution		Private institution		Public institution		Private institution		Public institution		Private institution	
	With TTC	With additional SFA	With TTC	With additional SFA	With TTC	With additional SFA	With TTC	With additional SFA	With TTC	With additional SFA	With TTC	With additional SFA	With TTC	With additional SFA	With TTC	With additional SFA
Family income	12,000	12,000	12,000	12,000	16,000	16,000	16,000	16,000	20,000	20,000	20,000	20,000	25,000	25,000	25,000	25,000
Family size	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Number in postsecondary education	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Number in family employed	1	1	1	1	1	1	1	1	2	2	2	2	2	2	2	2
Personal assets	12,000	12,000	12,000	12,000	18,000	18,000	18,000	18,000	21,000	21,000	21,000	21,000	23,000	23,000	23,000	23,000
Federal income tax paid	815	815	815	815	1,590	1,590	1,590	1,590	2,525	2,525	2,525	2,525	3,855	3,855	3,855	3,855
Cost of education [1]	2,906	2,906	4,811	4,811	2,906	2,906	4,811	4,811	2,906	2,906	4,811	4,811	2,906	2,906	4,811	4,811
Minus: Family contribution:																
From parental income/asset [2]	976	741	976	471	1,958	810	1,958	810	2,578	974	2,578	974	3,779	1,359	3,779	1,359
From student summer earnings	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500
From borrowing (NDSL/GSL)	0	0	1,000	500	0	0	1,000	750	0	0	1,000	850	0	200	532	1,000
Total family contribution	1,476	971	2,476	1,471	2,458	1,310	3,458	2,060	3,078	1,474	4,078	2,324	4,279	2,059	4,811	2,859
Total financial need	1,430	1,935	2,335	3,340	448	1,596	1,353	2,751	0	1,432	733	2,487	0	847	0	1,952
Student resources:																
From basic grants	716	1,178	716	1,178	0	846	0	846	0	716	0	716	0	330	0	330
From supplemental grants	200	400	900	1,500	0	300	600	1,300	0	200	0	1,200	0	200	0	1,000
From work-study	359	357	469	662	293	450	503	605	0	516	483	571	0	317	0	622
From tax credit [3]	155	0	250	0	155	0	250	0	155	0	250	0	155	0	250	0

[1] Educational expenses at public institutions includes yearly average tuition and fees of $621. Educational expenses at private institutions includes yearly average tuition and fees of $2,476.

[2] Family contributions from parental income and assets determined using the basic grant eligibility determination formula. Contributions for TTC models based on current eligilbiity criteria. Contributions for additional SFA models based on eligibility criteria as proposed in H.R. 11274 and S. 2539.

[3] TTC allowances for public and private institutions based upon 25 percent of average tuition and fees to maximum of $250.

Source: Prepared by National Association of Student Financial Aid Administrators.

WHY TUITION TAX CREDITS ARE IMPRACTICAL FOR POSTSECONDARY EDUCATION

1. Tuition tax credits do not benefit families as much as increased student aid would.

The chart on the reverse of this page clearly indicates that increased student aid funding, as proposed in H.R. 11274 and S. 2539, would provide substantially more dollars to middle income families than a tuition tax credit.

2. Giving people a choice between tuition tax credits and increased student aid is administratively unworkable.

The suggestion that people should be able to choose between these two options would be virtually uncontrollable since student aid benefits go directly to the student at the beginning of the academic term, whereas the tuition tax credit goes to the parent at the time the income tax return is filed. Without having a supplemental tax form which clearly identified the student and his social security number and the parents and their social security numbers, it would not be possible to prevent duplication of benefits.

3. Tuition tax credits reduce a needy student's eligibility for other aid.

Under the existing needs analysis formula used to determine eligibility for federal student aid funds, Federal Income Tax is deducted from income as a non-discretionary item to determine how much of a family's income is really available to pay college expenses. If a tuition tax credit were approved, thereby reducing a family's overall tax liability, the family's eligibility for need-based student aid would also be reduced between ½ and ¼ of the amount of the tax credit.

4. Tuition tax credits do not target funds to the neediest students.

Because tuition tax credits would be available to all families, regardless of income, the CBO estimates 37.3 percent of all tuition tax credits would apply to families with income in excess of $25,000/year, while only 13.3 percent would assist families making less than $10,000/year. Additionally, many families with lower incomes would not receive all or even any of the credit because their tax liabilities are too low to claim credit.

5. Tuition tax credits do not deliver the funds to students when they are needed.

Student aid programs provide benefits directly to the student at the time he or she is faced with paying tuition and fees, not 6 to 15 months later, as is the case with tuition tax credits.

6. Tuition tax credits create more bureaucracy.

Adoption of tuition tax credits will require: a) additional IRS regulations to monitor compliance; b) changes to the Internal Revenue Code; c) changes to the Federal Income Tax Form and additional schedules. This will inevitably lead to more regulations at a time when we are attempting to simplify. Increased student aid would not require additional structure as the regulations are already in place.

7. Tuition tax credits are an open invitation for institutions to raise tuition.

Realistically speaking, it is inevitable that these increases will occur; but it will be much easier for governing bodies to justify such increases if all students are receiving an equal tax credit.

8. Tuition tax credits would require more paperwork for all.

a. Parents will be forced to complete additional tax schedules;

b. Institutions will be required to certify enrollment and sources of non-taxable federal scholarships for all students;

c. IRS and the Office of Education will be required to perform extensive monitoring activities.

9. Tuition tax credits do not take into consideration total educational costs.

Total educational expenses for attendance at a public institution average $2906 per year and $4811 per year at private institutions. A tuition tax credit of $100 to $500 does very little to meet these costs unless the family can be assured of getting the difference from other sources.

UNPRECEDENTED RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. EVANS) is recognized for 5 minutes.

● Mr. EVANS of Delaware. Mr. Speaker, the Democratic leadership of the House has once again played fast and loose with the rules of the House in not allowing a vote on busing.

On Wednesday the House Rules Committee reported to the full House a rule which allowed nongermane substitute amendments to H.R. 39, the Alaska lands bill. This unprecedented rule may have represented the first and last time that the House will have the opportunity to consider antibusing legislation, in view of the fact that the Judiciary Committee refuses to even hold hearings on this critical matter.

I had intended to take advantage of this rule by offering the substance of my bill, H.R. 7694, as an amendment to H.R. 39. That measure would not allow forced busing unless a discriminatory purpose in education is demonstrated in a court of law.

Unfortunately, the leadership was determined not to recognize me to offer this amendment.

I regret that once again the House of Representatives, the voice of the people, has been prevented from voting on the question of forced busing. But I can assure the body that I will continue to look for every legislative opportunity to allow the House to vote on antibusing legislation. The will of the people cannot be frustrated forever.●

A TRIBUTE TO WINFIELD M. KELLY, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. SPELLMAN) is recognized for 5 minutes.

● Mrs. SPELLMAN. Mr. Speaker, every so often, there walks among us an individual who astounds his friends and colleagues with his amazingly vigorous and enthusiastic approach toward life. These people are not content with what others would consider success—nor are they content to merely accept things the way they are. Rather, they have the unique vision to see things as they should be and the courage to strive to bring about the desired change. Those fortunate enough to work closely with such folk are, themselves, inspired to reach ever higher. It has been my privilege to know and to work with just such an individual—Winfield M. Kelly, Jr.

Some would refer to him as Prince Georges County Executive Winfield Kelly, but it is not for his civic activities that I speak of him now. Tomorrow he will become Graduate Winfield Kelly—an achievement which he will readily tell you is his dream fulfilled.

A graduation in and of itself is not so unusual in today's world, but the graduation of Winfield Kelly is. At age 38, Winnie, upon the urging of two of his aides, embarked upon a scholastic undertaking, joining them in their daily commute to Baltimore to attend Johns Hopkins University. He later transferred to Prince Georges Community College where he attended classes with his daughter, Kathleen, graduating with her in 1974. Kathleen went on to Frostburg State College and is taking graduate courses at the University of Maryland. Her dad graduates from the University of Maryland tomorrow.

How many among us would forsake a luxurious life—albeit one achieved by hard, laborious work—to undertake the rigors of college studies, competing with fellow students 20 years our junior? And how many among us would have the energy, the ambition, the drive to pursue those studies while, at the same time, serving as a county councilman, chairman of that council, and later as county executive of three-quarters of a million people, with all of the attendant problems? And how many among us could possibly balance the commitments which public life imposes, and still remain a loving husband and a devoted father to seven children? Winnie would be the first to admit, however, that without his wife Barbara's support throughout their 25 years of marriage, and without his children's understanding, the struggle could not have been waged nor the end result reached.

Winnie Kelly never had a chance to go to college when most of his contemporaries did. He was busy visiting construction sites with his "Chuck Wagon," feeding scores of workers a noontime meal. The teenage Kellys, Winnie and Barbara, worked side by side with his parents to build that business and to build a family life for their children. Winnie turned that coffee and sandwich business into an expanded enterprise worth millions of dollars, later selling it to enter the world of public service.

His goals—financial independence, public service, a stable and beautiful family life, and now a bachelor of arts degree—are now achieved, and resting upon the laurels would seem appropriate for most people—but not for Winnie Kelly. To become an attorney is his next objective, and in the fall, he plans to enter law school. And after that? There is no question but that there will always be other challenges and other trophies in sight for him—plateaus are not for Winfield Kelly, summits are!

Mr. Speaker, I invite my colleagues to join me in recognizing Winfield M. Kelly, Jr., on the occasion of his latest achievement, and in offering congratulations and best wishes for epitomizing the American dream.●

NATIONAL ARCHITECTURAL BARRIERS AWARENESS WEEK

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, the President has proclaimed this week as "National Architectural Barriers Awareness Week."

Today there are an estimated 35 million Americans with disabilities and many of these Americans may face significant barriers in gaining access to public buildings.

Congress has enacted several laws aimed at helping remove those barriers.

The Architectural Barriers Act of 1968 requires that all facilities built or supported by Federal funds should be barrier free. Section 502 of the Rehabilitation Act of 1973 created, to enforce that act, the Architectural and Transportation Barriers Compliance Board.

Section 503 of the Rehabilitation Act requires that recipients of Federal contracts, amounting to $2,500 or above, make reasonable accommodations in assuring that their facilities are accessible to the handicapped.

Section 504 of that same law requires similar accommodations by public and private agencies which receive Federal financial assistance.

In 1961 the American National Standards Institute, Inc., (ANSI) published its "Specifications for Making Buildings and Facilities Accessible To and Usable By the Physically Handicapped." The development of these ANSI standards was sponsored by the President's Committee on Employment of the Handicapped and the National Easter Seal Society and they have been revised several times in consultation with architects and handicapped individuals themselves.

These standards have been the underlying basis of most accessibility legislation and regulations for the handicapped which are currently law.

Technical assistance in removing architectural barriers is available from the Architectural and Transportation Barriers Compliance Board and several organizations serving handicapped individuals. In addition, the Tax Reform Act of 1976 provides an income tax deduction of up to $25,000 a year for expenses incurred by private businesses in removing architectural and transportation barriers.

Mr. Speaker, with this brief outline of Federal involvement in architectural barrier removal, I would like briefly to note some proposals contained in H.R. 12467, the Comprehensive Rehabilitation Services Amendments of 1978, passed Tuesday by the House of Representatives.

This legislation would provide for the Presidential appointment of nine handicapped individuals as members of the Architectural and Transportation Barriers Compliance Board.

As created by the Rehabilitation Act of 1973, the Board consisted originally of eight Federal department executives and had the formal participation of handicapped individuals only through a consumer advisory panel.

The language contained in H.R. 12467 is designed to provide the Board with the benefit of a continuing dialog with handicapped individuals who confront architectural barriers each day.

H.R. 12467 would also expand the Board's authority beyond its present focus on architectural and transportation barriers. Under H.R. 12467 the Board would also be able to address communication barriers of particular concern to deaf and blind individuals.

The bill would provide, through the Secretary of Health, Education, and Welfare and State vocational rehabilitation agencies, technical assistance in removing barriers, and it would authorize the Board to study the costs in each State of removing such barriers.

As chairman of the Subcommittee on Select Education and sponsor of this legislation, I believe these proposals would not only increase the public's awareness of architectural barriers but assist in their removal.

I would also commend to the reading of my colleagues President Carter's proclamation of National Architectural Barrier Awareness Week as well as the resolutions pertaining to architectural barriers adopted by the recent White House Conference on Handicapped Individuals.

NATIONAL ARCHITECTURAL BARRIER AWARENESS WEEK, 1978

(By the President of the United States of America)

A PROCLAMATION

Physical access is often the key to whether people can enjoy their rights and freedoms, and exercise their responsibilities. Every day, however, millions of elderly and handicapped Americans are denied access to places of employment, houses of worship, shops, schools, public services, recreational areas and many other facilities that other Americans take for granted.

If all Americans are to have true access, we must remove the architectural barriers in our society that block some of our people from full participation and self-reliance. We must also remove the barriers of attitude and custom that have prevented many people from doing what they can.

The Congress expressed its commitment to the removal of physical barriers from Federal buildings by enacting the Architectural and Transportation Barriers Act in 1968. The Architectural and Transportation Barriers Compliance Board, created to enforce that act, will soon launch a national media campaign about barriers using the slogan, "Access America."

This Administration has taken steps to improve the access of handicapped citizens by issuing regulations under Section 504 of of the Rehabilitation Act which require recipients of federal financial assistance to improve the accessibility of their programs to the disabled. We have also proposed a loan fund to assist institutions to pay for physical alterations when needed.

Many of the barriers that block people from opportunity and fulfillment are not subject to Federal regulation. Their elimination will require awareness and concern on the part of business and industry, state and local governments and organizations of all sorts, as well as individuals, in order that our society may provide access for full participation to all our people.

To encourage public awareness of the problems of such barriers, the Ninety-fifth Congress has adopted a joint resolution (H.J. Res. 578) requesting the President to issue a proclamation designating the third week in May of 1978 and 1979 as National Architectural Barrier Awareness Week and calling for its appropriate observance.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate the third week of May, 1978 as National Architectural Barrier Awareness Week and ask all Americans to do all that lies within their power to remove these unnecessary barriers and to eliminate any lingering social and psychological stigma surrounding disabilities. Together we can make access a reality for all Americans.

In witness whereof, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER.

SOCIAL CONCERNS V: ARCHITECTURAL ACCESSIBILITY

A. RECOMMENDATIONS

Recommendations for the Federal Sector:

Provide tax incentives for new barrier-free construction and educate the public regarding the 1976 tax reform amendments which permit a tax deduction to remove barriers in existing structures.

Recommendations for Federal and State Sectors:

Conduct public awareness programs to convince the general public to accept accessible architecture as normal architectural style.

Recommendations for Federal, State and Other Sectors:

Enact additional legislation to strengthen existing architectural barriers laws by making them more specific regarding accessibility criteria and by providing strict enforcement procedures, including more severe penalties and fines for non-compliance.

Provide more adequate enforcement procedures and more and better trained inspection personnel to assure strict compliance with architectural accessibility laws.

Increase attention to the needs of persons with sensory impairments.

Recommendations for State Sector:

Establish accessibility compliance boards or enforcement agencies with adequate funding and disabled consumer participation.

Designate an established authority within each State to certify and enforce correct use of the international symbol according to criteria clearly understood by individual building owners and managers.

Recommendations for State and Other Sectors:

Enact legislation to insure that standards requiring accessibility in residential structures, including rental housing and mobile homes, are incorporated in all building codes, and that certificates of occupancy are contingent upon conformance with these codes.

Recommendations for Other Sectors:

Involve handicapped individuals in the enforcement and implementation of architectural accessibility laws and codes by having them serve on compliance boards.

Encourage handicapped citizens to take necessary political action to further architectural accessibility, such as lobbying for needed legislation, forming leagues of handicapped voters, and pressuring officials to mandate accessible structures.

Require intensive courses in designing for accessibility in schools of design and require all certification examinations for design professionals to include test questions on accessibility.

Coordinate design criteria for handicapped individuals with life safety criteria so that the safety of handicapped consumers will be assured in cases of emergency, through such provisions as fire and smoke-proof elevators to be used for emergency evacuation and flashing alarm systems for deaf individuals.

Portray handicapped persons in normal situations in the mass media, so that disabled individuals can gain acceptance by the general public and thereby make the public more sensitive to their needs.

B. RESOLUTIONS

The major resolution addresses the need for Federal legislation requiring companies engaged in interstate commerce to have barrier free facilities. Another significant resolution directs that the Architectural and Transportation Barriers Compliance Board be independent with substantially strengthened powers, increased funding, and a regional board network.

SOCIAL CONCERNS VI: TRANSPORTATION ACCESSIBILITY

A. RECOMMENDATIONS

Recommendations for the Federal Sector:

Amend Urban Mass Transportation Administration legislation and regulations so that no funds are granted for the purchase of mass transit vehicles which are inaccessible.

Provide increased funding for the purchase and operation of accessible public and private transit vehicles.

Broaden significantly the scope of and increase the funding for Architectural and Transportation Barriers Compliance Board.

Amend existing Urban Mass Transportation legislation to include requirements for:

(a) all Federally funded new public transit vehicles to be accessible;

(b) local planning and advisory committees composed of at least 50 percent handicapped persons;

(c) public hearings on proposed services for disabled individuals;

(d) comprehensive local plans and implementation schedules to meet the needs of disabled persons; and

(e) establishment of a National Advisory Council on Accessibility of Mass Transportation.

Amend Section 16 of the Urban Mass Transportation Act to read: "It is hereby declared to be a civil right of elderly and handicapped persons to utilize the same transportation facilities and services as other persons; that special efforts shall be made . . . so that the availability to elderly and handicapped persons of equivalent mass transportation . . . will be assured."

Develop regulations for relevant Federal agencies which require non-discriminatory treatment of handicapped individuals. These regulations should address the transportation design needs and attendant services of disabled consumers.

Enforce strictly the transportation accessibility provisions of existing Federal legislation and regulations for all Federal agencies.

Recommendations for Federal and State Sectors:

Provide tax incentives to companies designing and manufacturing accessible vehicles.

Authorize a tax deduction to compensate disabled persons for their extra transportation expenses, including personal vehicle operating costs, special transit fares, escort services, etc.

Mandate through legislation and regulations that the insurance rates for handicapped drivers be non-discriminatory.

Coordinate the use of all public agencies' vehicles, including rehabilitation agencies, education agencies and public transit authorities, to increase transportation services for disabled individuals.

Recommendations for Federal, State and Other Sectors:

Require all vehicles used to serve the public to be accessible to all handicapped individuals.

Allow tax deductions for the purchase or modification of a personal vehicle so it is specially equipped.

Provide public funds to promote the design of accessible vehicles and equipment necessary to adapt vehicles.

Utilize paratransit door-to-door service such as "dial-a-ride" as feeder service to public transportation or as a stop-gap measure until completely accessible public transit becomes available for severely disabled persons.

Recommendations for State and Other Sectors:

Amend the legislation of all agencies which administer programs affecting transportation services for handicapped persons, to include provisions requiring transportation accessibility and establishment of fines and other penalties for non-compliance.

Enact legislation to establish or strengthen enforcement procedures for reserved parking.

Establish ordinances in each community which stipulates that some reserved parking must be provided at all publicly-used facilities.

Fund and develop instructional guidelines for and train public transit and paratransit personnel regarding the abilities and needs of, and appropriate assistance for, riders who are disabled.

Include a significant percentage of disabled persons on policy and review boards concerned with transit services for handicapped persons and in other decision-making positions.

Recommendations for the State Sectors:

Develop fair and effective procedures for driver licensing of disabled persons.

Establish statewide coordination or consolidation of transportation services and programs for disabled and elderly persons including coordination or consolidation of funds.

B. RESOLUTIONS

The resolutions concern gasoline and vehicle taxation, rural transportation, and accessibility requirements for vehicles purchased with public funds.

Specifically, a tax deduction must be provided to handicapped persons for gasoline

and vehicle taxes for specially equipped vehicles.

Operating expenses as well as capital costs for providing accessible rural transportation should be funded by the Urban Mass Transportation Administration (UMTA) and UMTA's name should include the word "rural."

Federal and State legislation must be enacted requiring the accessibility of all vehicles purchased with Federal, State, and/or local funds as of January 1, 1978, and these vehicles must be equipped to provide appropriate travel information for persons with hearing or visual impairments.●

PERSONAL STATEMENT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I insert at this point a statement regarding three recorded votes I missed on Wednesday, May 17, 1978, and an indication of how I would have voted had I been present.

The votes are as follows:

Rollcall No. 328, a vote on House Resolution 1176, providing for consideration of H.R. 12641, to provide for a temporary increase in the public debt limit. The resolution was agreed to by a vote of 320 to 77. I was paired for this resolution and had I been present, would have voted in favor of it.

Rollcall No. 329, a vote on final passage of H.R. 12641, to provide for a temporary increase in the public debt limit. The bill was rejected by a vote of 167 to 228. I was paired for this bill and had I been present, would have voted in favor of it.

Rollcall No. 330, a vote on House Resolution 1186, providing for consideration of H.R. 39, the Alaska National Interest Lands Conservation Act. The resolution was agreed to by a vote of 354 to 42. I was paired for this resolution and had I been present, would have voted in favor of it.●

ENHANCED-RADIATION WEAPONS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, during the debate on the Weiss amendment dealing with the neutron warhead, I stated that I would put in the RECORD the Scientific American article in this issue on enhanced-radiation weapons.

The article follows:

ENHANCED-RADIATION WEAPONS

(By Fred M. Kaplan)

The enhanced-radiation warhead (or, as it is widely and somewhat misleadingly known, the neutron bomb) is the latest development in the U.S. military's search for a "cleaner," more usuable nuclear weapon. This new type of warhead, which could be available in some versions by 1979, is designed to kill more enemy soldiers per kiloton of explosive yield detonated over the battlefield than the types of nuclear weapon currently deployed for that purpose, while minimizing collateral, or unintended, damage to buildings, the countryside, friendly soldiers and nearby noncombatants.

Many military officers contended that by using these more precise and refined enhanced-radiation warheads a "limited nuclear war" could be kept limited, its damage virtually confined to the battlefield. The enhanced-radiation warhead, like the generation of tactical nuclear weapons that preceded it, is intended for use in a European ground war between the nations of the North Atlantic Treaty Organization (NATO), including the U.S., and the nations of the Warsaw Pact, including the U.S.S.R. The Carter Administration's military budget for the fiscal year 1979 allocates unprecedentedly high expenditures for U.S. forces committed to the European-war contingency. The new tactical nuclear weapon therefore merits detailed dicussion, particularly in view of the extraordinary notice given the weapon and the various misunderstandings that have arisen as a result. How did the weapon come into being? How does it work? What are its effects? What is its military utility? Should it be produced and deployed?

It is important to emphasize at the outset that there is nothing new about the notion of a neutron bomb. The possibility of developing a tactical nuclear weapon of this type was recognized soon after the invention of the hydrogen, or fusion, bomb in the late 1940's. A few scientists engaged in nuclear-weapons development, principally at the Lawrence Livermore Laboratory, worked on the concept of an enhanced-radiation warhead throughout the 1950's and 1960's, and they and others were politically active on behalf of its further development and deployment.

It was not until the early 1960's, however, that Secretary of Defense Robert S. McNamara ordered a general study of the prospects of tactical nuclear weapons. On the basis of that study and various simulated war games he concluded that a European-theater nuclear war would be a losing battle for both sides. Millions of civilians would die, and the use of such weapons would not necessarily turn a European war to NATO's advantage. Far from serving as substitutes for manpower and conventional firepower, tactical nuclear weapons would necessitate higher manpower levels, so that the NATO soldiers who would be killed as a result of the U.S.S.R.'s nuclear retaliation could be readily replaced. In fact, it was decided that since the Warsaw Pact forces plan to reinforce front-line troops in echelon style, whereas the NATO forces plan for individual replacements within existing division structures, a European-theater nuclear war would probably favor the U.S.S.R. and its allies, even if NATO possessed more or "better" nuclear weapons.

Moreover, the risk of escalation to an all-out strategic nuclear war between the U.S. and the U.S.S.R. as a result of such a strategy was held to be too great, primarily for two reasons. First, the "firebreak" between conventional and nuclear warfare was at that time clear; trying to blur the distinction between tactical and strategic nuclear war would create considerable ambiguity, leading to mutual suspicion, tension and possibly to preemptive strategic nuclear strikes. Second, the U.S.S.R. had many nuclear-armed intermediate-range ballistic missiles (IRBM's) deployed in its territory, some of them in the same areas occupied by intercontinental ballistic missiles (ICBM's); the temptation would be great in the early stages of such a European-theater nuclear war for NATO to preemptively knock out those IRBM's inside the U.S.S.R., possibly triggering a strategic nuclear exchange between the two superpowers.

After weighing these considerations McNamara turned to a policy of building up conventional, or non-nuclear, war-fighting capabilities, and he put off spending money on a new generation of tactical nuclear weapons. (He did accept the nuclear-armed Lance missile, however, because of its longer range and consequent reduced vulnerability.) During Melvin R. Laird's term as Secretary of Defense more money was allocated to develop a new generation of tactical nuclear weapons, but the negative attitude toward the modernization of tactical nuclear weapons essentially prevailed until James R. Schlesinger became Secretary in 1973.

During Schlesinger's earlier tenure as Chairman of the Atomic Energy Commission he had shown considerable enthusiasm for tactical nuclear weapons. By the time he was appointed Secretary of Defense, however, his interest appeared to have lessened. Still, Schlesinger apparently felt compelled to make some concessions to the advocates of tactical nuclear weapons, an assortment of converging interests that included the Atomic Energy Commission, the Congressional Joint Committee on Atomic Energy, the weapons laboratories, certain military departments and the Atomic Energy Division of the Office of the Secretary of Defense. Schlesinger, who had little bargaining power in the White House during the Nixon and Ford administrations, had to manage his own complex coalition. To gain support from these disparate interests for his plans to further build up conventional forces for NATO, he gave them money for the modernization of tactical nuclear weapons.

The coalition in favor of a modernization program for tactical nuclear weapons was actively aided by Schlesinger's own emphasis on enlarging the range of U.S. "options" in nuclear-force technologies, such as highly accurate inertial-guidance systems for missiles. Schlesinger reprogrammed strategic nuclear weapons to have "selective strike" capabilities and greater "flexibility," creating new "target packages" that were far more diversified than those available to the defense planners of the preceding decade. Along with the expansion of strategic options, he ordered an increase in the available options for fighting a European-theater nuclear war. This new emphasis gave what appeared to be official support to those military officers who were beginning to think seriously about the possibility of fighting and winning a limited nuclear war and about the necessity, under such circumstances, of limiting collateral damage.

Meanwhile the development of the Sprint anti-ballistic-missile (ABM) system at the Los Angeles Scientific Laboratory in the mid-1960s and the subsequent ban on further ABM production imposed by the SALT I treaty of 1972 led some weapons-laboratory scientists to think about reducing the yield of the Sprint warheads to adapt them for use as tactical nuclear weapons. (Sprints were short-range nuclear-armed anti-missile missiles designated to be detonated in the atmosphere, depending primarily on neutrons rather than X rays for their effectiveness.) All these various interests—of the armed services, the weapons laboratories, the Congressional committees and the Department of Defense—have converged to create the present situation.

Today enhanced-radiation nuclear warheads are being developed for the Lance missile and for the eight-inch artillery shell. An enhanced-radiation warhead for the 155-millimeter artillery shell is also in prospect, although it still appears to be in the early stages of development. (At least one of these warheads, probably the one for the Lance, has already been tested at an underground site near Las Vegas.) Currently deployed Lance warheads have explosive yields ranging from one kiloton to 100 kilotons; the charges of the eight-inch nuclear shells range from five to 10 kilotons. The new enhanced-radiation version of the Lance warhead will have two yields, which can be preset simply by pushing a few buttons; one

yield is considerably smaller than a kiloton and the other is slightly larger than a kiloton. The eight-inch enhanced-radiation shell will have three yields, ranging from substantially under a kiloton to roughly two kilotons.

The effects of a nuclear explosion consist of blast (a shock wave of overpressure), thermal radiation (heat), prompt radiation (mostly neutrons and gamma rays) and residual radiation (radioactive fallout resulting from decaying fission products). The energy released from a fission explosion is divided into several fractions: typically 50 percent blast, 35 percent thermal radiation, 5 percent prompt radiation and 10 percent residual radiation. In a hypothetical pure-fusion weapon the effects would be 20 percent blast and thermal radiation, 80 percent prompt radiation (mostly neutrons) and comparatively little residual radiation (the precise amount depending on the characteristics of the soil under the explosion). The fusion reaction that takes place between ions of deuterium and tritium (two heavy hydrogen isotopes) is accompanied by the liberation of very-high-energy, or fast, neutrons. The energy of these neutrons is about 14 million electron volts (MeV), which is substantially more than the still quite fast 2-MeV neutrons released by a typical fisson reaction. Neutrons are slowed down and eventually captured by debris from the weapon itself, by objects in their path and by the air. The faster the neutrons are, the more collisions they experience before being completely captured. Moreover, fusion produces 10 times more neutrons per kiloton of explosive yield than fission does. Thus neutrons released from a fusion weapon are higher in radiation intensity, and penetrate greater distances before being completely absorbed, than those released from a fission weapon.

The present incarnation of the enhanced-radiation warhead is a fission-fusion weapon. The fission-fusion mix differs slightly between the Lance device and the eight-inch device, but the detonating process is the same in both of them. When the weapon is detonated, the fission reaction triggers a fusion reaction, which in turn releases many fast neutrons. That is why the enhanced-radiation warhead is often called a neutron bomb. The term is correct in the sense that the enhanced-radiation warhead releases many more neutrons than other weapons of equivalent yield. It is misleading, however, in that the warhead's detonation also releases a great deal of energy in forms other than neutrons. (In fact, any nuclear weapon smaller than about two kilotons could be called a neutron bomb in the sense that at ranges corresponding to the lethal radius of the weapon, even if it were completely a fission one, the energy released in the form of prompt radiation would be greater than the fraction that goes into blast and thermal radiation, and prompt radiation in the form of neutrons would dominate prompt radiation in the form of gamma rays. If such a weapon were exploded in the air at a height of several hundred meters, it would cause only slight blast and thermal effects on the ground, even though the damage from neutrons would still be substantial.)

The enhanced-radiation warhead is not close to being a pure fusion weapon. In terms of explosive yield the subkiloton and one-kiloton enhanced-radiation warheads for the eight-inch artillery shell are roughly 50-50 fission-fusion devices. The enhanced-radiation version of the Lance warhead is about 60 percent fusion and 40 percent fission. The two-kiloton eight-inch enhanced-radiation shell is between 70 and 75 percent fusion. The energy released from the Lance and the lower-yield eight-inch enhanced-radiation weapons is divided approximately into 40 percent blast, 25 percent thermal radiation, 30 percent prompt radiation and 5 percent fallout. The highest-yield eight-inch enhanced-radiation shell produces about 10 percent more prompt radiation and slightly less blast, thermal radiation and residual radiation. In other words, the enhanced-radiation warhead promises to be neither the collateral-damage-free weapon that its supporters see nor the "ultimate capitalist weapon" (destroying only people, not property) that many people in peace groups fear.

The fundamental distinction between the enhanced-radiation warhead and other, more fission-dominated nuclear weapons of very low yield is that the former releases many more and much faster neutrons. Of the energy released by the Lance and the lower-yield eight-inch enhanced-radiation weapons, six times as much is in the form of prompt radiation than is the case in a fission warhead of equivalent yield; in the highest-yield eight-inch enhanced-radiation shell the energy available for prompt radiation (particularly neutrons) is reported to exceed that of fission weapons by as much as 10 times.

There is also a distinction, apart from the number of kilotons, between the enhanced-radiation warhead and fission-fusion weapons of higher yields. Standard fission-fusion weapons (including most strategic nuclear weapons) are surrounded by a "jacket" of uranium 233 that boasts the weapons's explosive yield; the jacket captures or considerably attenuates the fast neutrons released by the fusion process. Since enhanced-radiation weapon by definition call for very low thermal yields and the release of many fast neutrons, an enhanced-radiation warhead has no U-238 jacket.

What, then, is the military mission of the enhanced-radiation warheads supposed to be? The chief concern among many NATO military officials is the possibility of a Russian-led Warsaw Pact blitzkrieg across the northern plains of West Germany. Russian military doctrine and the deployment of Russian forces suggest that such an attack, if it were launched, would involve the onslaught of thousands of tanks as the prime mover of the offensive. Some military planners believe that an attack of this type, particularly if it were mobilized with little warning time, could not be met by NATO without the use of nuclear weapons. (This contention is vigorously disputed.) For several years some U.S. military officers have criticized the "impracticality" of most of the tactical nuclear weapons currently deployed in Western Europe, drawing attention in particular to their comparatively high yields, some of them much higher than the yield of the 20-kiloton bomb that destroyed much of Nagasaki at the end of World War II. Such high-yield weapons would be effective for stopping Russian tanks, but they would also kill or severely injure many NATO soldiers and German civilians and would devastate much West German territory. Moreover, the effects of induced and residual radiation could make the occupation and recovery of the affected territory a lethal prospect for some time.

With the enhanced-radiation weapon the military has hit on a different tactic: to kill the Warsaw Pact soldiers inside the tanks instead of destroying the tanks themselves. This result, they say, is possible with the high neutron flux generated by the enhanced-radiation weapons.

Radiation doses are measured in rads, one rad being the absorbed dose of any nuclear radiation accompanying the liberation of 100 ergs of energy per gram of irradiated material. If tactical nuclear weapons are to be useful in a war, they must kill their intended victims as quickly as possible. "Immediate permanent incapacitation," according to recent U.S. Government tests conducted with rhesus monkeys, requires 8,000 rads. Since modern tanks have a radiation-protection factor of roughly .5, tanks must be exposed to 16,000 rads instantaneously if NATO's aims are to be optimally achieved. Recently, however, the NATO military doctrine has been revised to read that "immediate transient incapacitation," which requires only 2,500 to 3,500 rads (or, given tank protection, 5,000 to 7,000 rads), may be sufficient to neutralize invaders for military purposes.

Within five minutes a person exposed to 8,000 rads is incapacitated, and he remains incapable of performing physically demanding tasks until his death, which occurs within a day or two. A dose of 3,000 rads also incapacitates within five minutes, but the victim may partially recover within 30 minutes; still he remains a doomed man until his death four to six days later. He may also remain a helpless man, but maybe not. (It turns out that this uncertainty has significant military implications.) Exposure to 650 rads functionally impairs a human being within two hours, and he may respond to medical treatment; more likely a painful, lingering physical deterioration ends in death within a couple of weeks, a gruesome prospect, to be sure, but perhaps enough of a respite for the victim to fight on for some time.

These results are due to the ionizing effects of neutrons colliding with protons inside living cells. Ionization breaks down chromosomes, swells cell nuclei, increases the viscosity of the cell fluid, enhances cell-membrane permeability and destroys cells of all kinds, particularly those of the central nervous system. Moreover, exposure to ionizing radiation delays or destroys the process of mitosis, a long-term genetic effect that inhibits normal cell replacement.

In effect, enhanced-radiation weapons distribute given rad doses over larger areas, compared with fission weapons of an equivalent or even somewhat higher yield. For example, anyone within a 375-meter radius of a one-kiloton fission explosion (and anyone within a 630-meter radius of a 10-kiloton fission explosion) would be exposed to at least 8,000 rads. If a one-kiloton enhanced-radiation warhead were exploded instead, the 8,000-rad circle would widen to a radius of 850 meters. Thus a one-kiloton enhanced-radiation warhead could potentially kill about twice as many tankmen as a 10-kiloton fission weapon, but the blast damage to an area would be only about a fifth as large.

This feature is of course the main selling point for the enhanced-radiation warhead from the perspective of NATO military officers. The key is that the new weapon can substantially reduce the collateral damage of a nuclear explosion, meaning that blast, thermal radiation and fallout effects will be less dominant. This sounds all to the good at first. Nevertheless, it is misleading to assume, as some of the weapon's advocates seem to have done, that with this new generation of tactical nuclear weapons a European-theater nuclear war can now be safer and more easily managed than was once thought possible.

For one thing, it takes two sides to fight a "limited nuclear war," and the Russians seem to have neither the ability nor the disposition to join in. Of the 3,500 tactical nuclear weapons they have deployed to strike targets in the European theater (compared with NATO's 7,000) the majority are thought to have a yield in excess of 20 kilotons, and about 600 of the Russian missiles have a yield of between 500 kilotons and three megatons. The Warsaw Pact nations' tactical nuclear missiles are far less accurate than NATO's, making the selective-strike tactics necessary for effective damage-limiting war-fighting strategies difficult if not impossible for them to accomplish. Russian military doctrine does not seem to recognize any fine distinction between different types of tactical nuclear war, as U.S. military planning often does. Indeed, most of the Russian

writings on the subject assume the inevitability of escalation, drawing no distinction between tactical nuclear war and all-out strategic nuclear war. In discussing a European-theater nuclear war such writings make virtually no mention of pinpoint accuracy and selective targeting except occasionally to hold them up to ridicule. A mass barrage punching wide holes in NATO's defenses, followed by a breakthrough with heavy tanks (whose structure and surface materials provide some protection against nuclear effects), seems to be the kind of mission envisioned for tactical nuclear weapons from the viewpoint of the U.S.S.R.

If NATO were to use enhanced radiation weapons against Warsaw Pact tanks, the Russians would almost certainly strike back with nuclear weapons of their own. As a U.S. Army intelligence study of Russian military operations notes: "Should the first echelon [of tanks in an offensive] collapse, a series of counterattacks will be instituted, coordinated with all combat units to include . . . nuclear strikes." The Russians would probably not be very concerned about collateral damage to the West German civilian population: even if they were, the high yield and poor accuracy of their weapons would keep them from doing much about the unavoidable consequences.

Even before the virtually certain Russian nuclear retaliation the damage caused by NATO's use of enhanced-radiation warheads would be substantial, regardless of the presumed limitations of the blast, thermal and fallout effects of individual weapons. The posture statement of the U.S. Department of Defense for the fiscal year 1977 states that if nuclear weapons were used in Europe, such action "should . . . induce the Soviet Union to terminate the conflict quickly. . . . It should be done with decisiveness and shock effect to cause the Soviets to reconsider their activities." To achieve such a shock effect NATO would have to do more than stop a small number of tanks; much more damage would certainly be needed to make a dramatic impression on the Russian leaders.

How much more damage might that be? When Russian tanks are beginning an offensive, they move in two echelons (three under some circumstances). Tanks in the first echelon are spaced 75 meters apart in nonnuclear situations and 100 meters apart in nuclear situations. The second echelon moves up about three kilometers behind the first. The Warsaw Pact has some 20,000 tanks deployed for the central region of Europe, where the first battle of a NATO/Warsaw Pact war would probably be fought. Assertions by U.S. Army officers that the enhanced-radiation warhead causes little collateral damage are contingent on the weapon's being used in highly selective, even individual, strikes. Yet if NATO wanted to stop an impressive fraction of the first-echelon tanks, that is, if the enhanced-radiation weapons are to be at all useful militarily, the action would call for a barrage of many hundreds or even thousands of nuclear weapons. They would most likely include not only low-yield enhanced-radiation weapons but also low-yield and medium-yield fission weapons. Under such circumstances much radioactivity could be induced in the soil, particularly if some of the weapons were accidentally to detonate on or near the ground. In any event the number of fatalities and irradiated "walking ghost" casualties would be very high even if the nuclear war could be kept quite limited.

The enhanced-radiation warheads might reduce the collateral damage caused by blast and thermal radiation, but they would increase the damage caused by prompt radiation. Exposure even to comparatively small doses of radiation can have grave consequences for human beings, and enhanced-radiation warheads would extend the distance within which people are exposed to dangerous doses. For example, 10 percent of the people exposed to 150 rads will die from radiation sickness, and Hiroshima and Nagasaki survivors exposed to 150 rads showed a disproportionately high incidence of breast cancer. Exposure to only 30 rads doubles the mutation rate in progeny, and defective genes can be expected to appear for 10 generations. The inhabitants of the Marshall Islands who were exposed to a mere 14 rads as a result of U.S. nuclear testing in 1954 later developed thyroid nodules, cancers and leukemia.

A one-kiloton enhanced-radiation warhead releases 150 rads out to a distance of 1.7 kilometers, 30 rads out to 2.1 kilometers and 14 rads out to 2.3 kilometers. These effects can be compared respectively with 900, 1,170 and 1,300 meters for a one-kiloton fission weapon and 1,285, 1,570 and 1,700 meters for a 10-kiloton fission weapon.

With the enhanced-radiation warhead the collateral damage caused by prompt radiation would be even more extended. For radiation damage caused by gamma rays there is thought to be a threshold rad level below which no biological damage is caused. No such threshold is believed to exist for neutron radiation. Furthermore, in terms of genetic damage, leukemia and cataract of the eye, the biological effects from neutrons are about six times greater than those from gamma rays. Thus as few as one or two rads of neutron radiation could cause leukemia and cancers. Exposure to a mere five rads could double the mutation rate in the progeny of those exposed. If a single neutron collides with a strand of DNA in a sperm or egg cell, the probability of irreparable long-term genetic damage is high.

In other words, the notion that enhanced-radiation weapons are fairly benign to people on "our side" is highly questionable. Both NATO combatants and friendly noncombatants are likely to suffer much harm. The hazard to the noncombatants is increased by the fact that the eastern lands of West Germany have become highly urbanized.

The military utility of the enhanced radiation warhead is questionable on an even more elementary level. Except for the tankmen who were fairly close to the actual detonation the exposed enemy personnel would remain alive for hours, days or even weeks; many of them could fight on, perhaps even more aggressively than before because of their knowledge that death from radiation was certain. Of course, NATO could accommodate to this problem by setting off a much larger number of enhanced-radiation weapons. Since the alleged virtues of the enhanced-radiation warhead stem mainly from its capability for precise, selective, limited strikes, however, this kind of massive barrage would undercut the entire rationale of the weapon. Besides, armor-penetrating neutrons would not make a tank so radioactive as to exclude the possibility of other tank crews' replacing those exposed to radiation. The tanks could drive on.

The effective use of these weapons also assumes a massive concentration of tanks. Yet it is a safe assumption that the NATO nations would not order the firing of any nuclear weapons unless the Warsaw Pact nations had first exhausted and overrun NATO's non-nuclear defenses. Even if the Russians had concentrated their tanks in the initial phases of the offensive, they would almost certainly disperse their armored forces after breaking through the NATO frontline defenses. (In fact, their writings on tactical operations suggest that this is exactly what they would do.) Under such conditions many thousands of enhanced-radiation warheads would have to be employed to immediately incapacitate the occupants of a significant number of Warsaw Pact tanks, again nullifying the alleged virtues of the enhanced-radiation weapon.

In spite of the apparently minimal military utility of enhanced-radiation weapons, the U.S. Department of Defense justifies them on the grounds that "if NATO arsenals contained the neutron warhead, opposing countries would be aware of NATO's ability to defend itself with less damage; this could be a deterrence to attack." Although the Department of Defense does not explicitly state that this weapon would enhance deterrence, the implication is that the Russians might think NATO would be more likely to use the enhanced-radiation weapons than the older, more fission-dominated weapons.

Here three comments should be made. (1) Even without the threat of enhanced-radiation weapons the Russians would be taking a big risk in attacking, since the U.S. has consistently refused to adopt a policy of not being the first to fire nuclear weapons. (2) Enormous damage would result from NATO's use of enhanced-radiation weapons, to say nothing of the damage that would be caused by a virtually certain Russian nuclear retaliation. (3) Although the topic is much too complex to treat in detail here, there is no reason to believe that NATO is incapable of defending Western Europe without resorting to nuclear weapons. Conventional firepower ratios between NATO and the Warsaw Pact nations are virtually even, and it is a well-known maxim that an attacker requires substantial superiority. The often-mentioned superiority of the Warsaw Pact nations in number of tanks is offset by the advantage NATO holds in superior antitank weapons, particularly with the recent advances in precision-guided munitions and remotely piloted vehicles. Weapons of both new types have greater ranges than the guns on Russian tanks, and both can, in the words of a U.S. Army field manual, "hit what they see, kill what they hit."

Military training in the U.S.S.R. and the other countries of Eastern Europe is notoriously poor and extremely rigid. The political reliability of the Czechoslovak and Polish divisions, at least for offensive warfare, is doubtful. Tactics and strategy in the Warsaw Pact armies rely heavily on the tank, which is becoming an increasingly vulnerable and obsolete weapons system. Moreover, the numerous surprise-attack scenarios circulating these days do not take into account the low readiness levels of the Warsaw Pact armies, the hundreds of ways intelligence agencies can observe and track signs of mobilization, the deficient Russian logistics network and many other weaknesses in the Russian war machine.

This is not to say that there is no room for improvement in NATO. Various maldeployment of forces could be corrected; lines of communication could be moved farther back, away from the forward edge of the battle area; more conventional antitank weapons could be deployed; airfields could be more widely dispersed; more aircraft could be deployed at "hardened" sites. The present U.S. Administration appears to be addressing itself to these problems. Since some of these tasks call for very substantial expenditures, it seems wasteful to spend large sums on such weapons as the enhanced-radiation warhead.

The costs of producing enhanced-radiation warheads would be enormous. The eight-inch enhanced-radiation artillery weapon will cost about $900,000 per shell (including the costs of the projectile, the casing and so forth). The enhanced-radiation version of the Lance missile is expected to cost only slightly less. Instead of buying two rounds of eight-inch enhanced-radiation shells the U.S. could obtain, say, three M-60 main-battle tanks, 50 or so advanced non-nuclear antitank weapons or more than 5,500 rounds of conventional artillery shells. In other words, if the U.S. decides to invest in enhanced-radiation devices, NATO will be acquiring an extraordinarily costly weapon that will probably never be used at the expense of comparatively cheap weapons that would markedly improve NATO's defense posture. Assuming that the Russians dispersed their tanks widely and that they adopted certain measures against neutron radiation,

then conventional antitank weaponry would probably be both cheaper and militarily more effective.

It remains true that the enhanced-radiation warhead could do as much damage to an attacking force as higher-yield weapons without causing as much collateral damage. Against this clear advantage, however, one must take into account the enormous damage that would ultimately result from any introduction of nuclear weapons into a conventional war. It might also be said in favor of enhanced-radiation devices that, as the systems of this new generation of tactical nuclear weapons are currently planned, they incorporate features other than enhanced radiation. They will have a longer range (about 130 kilometers for the enhanced-radiation version of the Lance), improved command-control communication systems and securer lock mechanisms. These added features would probably have a stabilizing effect in that they would make tactical nuclear weapons less likely to be overrun by a conventional Warsaw Pact attack and less susceptible to accidental firing. Nevertheless, these features could easily be incorporated in the present generation of tactical nuclear weapons; the enhanced-radiation feature is not necessary for such purposes.

The enhanced-radiation warhead is a particularly dangerous weapon insofar as it might mislead anyone into believing that its deployment would make it possible for nuclear warfare to be safely limited and tightly controlled; in this sense its very deployment could lower the threshold separating conventional warfare from nuclear warfare. Enhanced-radiation weapons are no more (and perhaps they are less) "humane" than chemical weapons, whose first use has long been outlawed by international treaty. Moreover, the enhanced-radiation warhead has little more military utility than any other type of low-yield nuclear weapon. Finally, to the extent that the U.S.S.R. believes the U.S. will use enhanced-radiation weapons in a European ground war, their deployment invites a preemptive Russian nuclear attack in any extremely tense situation, perhaps as the first move in a European war. In any event there is no reason to believe the enhanced-radiation warhead would in any way diminish the likelihood that a European-theater nuclear war would escalate to an all-out nuclear war, or that its introduction would somehow moderate the probable response of the U.S.S.R.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. BROWN of Michigan (at the request of Mr. RHODES), for today, on account of official business.

Mr. GUYER, for today, on account of official business.

Mr. RISENHOOVER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HYDE) to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 15 minutes, today.

Mr. EVANS of Delaware, for 5 minutes, today.

(The following Members (at the request of Mr. HUCKABY) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mrs. SPELLMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DAN DANIEL, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,888.88.

Mr. SEIBERLING, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $903.38.

(The following Members (at the request of Mr. HYDE) and to include extraneous matter:)

Mr. KASTEN.
Mr. WHALEN.
Mr. MCCLORY.
Mr. GILMAN.
Mr. FINDLEY in two instances.
Mr. KEMP.
Mr. BOB WILSON.
Mr. RHODES.
Mr. LIVINGSTON.
Mr. COUGHLIN.

(The following Members (at the request of Mr. HUCKABY), and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. VENTO in two instances.
Ms. MIKULSKI in five instances.
Mr. BLANCHARD.
Mr. DODD.
Mr. CARNEY.
Mr. MAGUIRE.
Mr. BRODHEAD.
Mr. HARKIN.
Mr. DOWNEY.
Mrs. MEYNER.
Mr. LAFALCE.
Mr. NOLAN.
Mr. HEFTEL.
Mr. MILFORD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2507. An act to authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes; to the Committee on House Administration.

ADJOURNMENT

Mr. HUCKABY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Monday, May 22, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4215. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 78–11, and the justification therefor, finding that the furnishing of military assistance to Zaire is important to the national security interests of the United States, together with a description of the assistance proposed to be furnished, pursuant to section 25 of Public Law 95–92; to the Committee on International Relations.

4216. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Australia (transmittal No. 78–23), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4217. A letter from the Secretary of Energy, transmitting Energy Action No. DOE–002, to expand the size of the Strategic Petroleum Reserve to 1 billion barrels, pursuant to section 159(d) of the Energy Policy and Conservation Act of 1975 (Public Law 94–163) (H. Doc. No. 95–339); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

4218. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title XX of the Social Security Act to provide for an expanded social services program, to promote consultation and cooperative efforts among States, localities, and other local public and private agencies to coordinate services, to extend certain provisions of Public Law 94–401, and for other purposes; to the Committee on Ways and Means.

4219. A letter from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Livestock and Livestock Products, transmitting the committee's report on the Agreement on Trade Matters Between the United States and the United Mexican States, signed December 2, 1977, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

4220. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the health hazard evaluation program of the National Institute for Occupational Safety and Health (HRD–78–13, May 18, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

4221. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend section 215 of the Immigration and Nationality Act; jointly, to the Committees on International Relations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12163. A bill to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes; with amendment (Rept. No. 95–1078, Pt. III). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11392. A bill to authorize appropriations to the Department of Energy and the Federal Energy Reg-

ulatory Commission pursuant to section 660 of the Department of Energy Organization Act, and for other purposes; with amendment (Rept. No. 95–1166, Pt. II). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 4270. A bill to designate the Federal building and U.S. courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building" (Rept. No. 95–1208). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7674. A bill to designate the "Mike Monroney Aeronautical Center" (Rept. No. 95–1209). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 12138. A bill to name a certain Federal building in Laguna Niguel, Calif., the "Chet Holifield Building" (Rept. No. 95–1210). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 12611. A bill to amend the Federal Aviation Act of 1958 to improve air service and provide flexibility in air fares; with amendment (Rept. No. 95–1211). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DICKINSON (for himself and Mr. BUCHANAN):

H.R. 12794. A bill to amend the Internal Revenue Code of 1954, as amended, so as to exempt subsistence allowances of law enforcement officers of the United States from Federal income taxes; to the Committee on Ways and Means.

By Mr. FOUNTAIN:

H.R. 12795. A bill to amend the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) to provide access to limited information, and for other purposes; to the Committee on Education and Labor.

By Mr. JOHNSON of California (for himself and Mr. WALSH):

H.R. 12796. A bill to amend the National Visitor Center Facilities Act of 1968; to the Committee on Public Works and Transportation.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 12797. A bill to amend section 4346(d) of title 10, United States Code, to permit the Secretary of the Army to prescribe the oath to be taken by appointees to the U.S. Military Academy; to the Committee on Armed Services.

H.R. 12798. A bill to amend title 10, United States Code, to remove the limitation on the number of cadets or midshipmen who may be appointed in the Reserves from the 2-year Senior Reserve Officers' Training Corps course; to the Committee on Armed Services.

H.R. 12799. A bill to amend title 10, United States Code, to provide that companies of the Corps of Cadets of the U.S. Military Academy may be commanded by commissioned officers of the Navy, Air Force, and Marine Corps, as well as by commissioned officers of the Army; to the Committee on Armed Services.

By Mr. STAGGERS (by request):

H.R. 12800. A bill to revise and extend provisions of law concerned with health services and health research; to the Committee on Interstate and Foreign Commerce.

By Mr. STOCKMAN (for himself, Mr. STEIGER, Mr. KEMP, Mr. BROWN of Ohio, Mr. GIBBONS, Mr. FORSYTHE, Mr. QUAYLE, Mr. HYDE, Mr COCHRAN of Mississippi, Mr. ROUSSELOT, Mr. DORNAN, Mr. DERWINSKI, Mr. EVANS of Georgia, Mr. GUYER, and Mrs. LLOYD of Tennessee):

H.R. 12801. A bill to amend the Internal Revenue Code of 1954 to provide for tax reform, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. PEPPER, Mr. RICHMOND, Mrs. LLOYD of Tennessee, Mr. PATTISON of New York, Mr. MOAKLEY, Mr. LUNDINE, Mr. LEHMAN, Ms. HOLTZMAN, Mr. ERTEL, Mr. OTTINGER, Mr. CARNEY, Mr. VAN DEERLIN, Mr. EILBERG, Mr. MAZZOLI, Mrs. COLLINS of Illinois, Ms. MIKULSKI, Mr. KILDEE, Mr. BEILENSON, Mr. HARRINGTON, Mr. GREEN, and Mr. GILMAN):

H.R. 12802. A bill to provide employment programs for middle-aged and older workers; to the Committee on Education and Labor.

By Mr. WHITEHURST (for himself and Mr. WHITLEY):

H.R. 12803. A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHN L. BURTON (for himself, Mr. ABDNOR, Mr. BOWEN, Mr. BRADEMAS, Mrs. BURKE of California, Mr. DENT, Mr. CORMAN, Mr. BAFALIS, Mr. GREEN, Mr. KEMP, Mr. MOFFETT, Mr. SCHULZE, Mr. WALGREN, Mr. MURPHY of Pennsylvania, Mr. ANDERSON of California, Mr. WRIGHT, Mr. GOODLING, Mr. KAZEN, Mr. BENNETT, Mr. STEERS, Mr. GARCIA, Mr. MCCORMACK, Mr. HARKIN, Mr. DE LA GARZA, and Mr. KILDEE):

H.J. Res. 927. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. MCCLORY (for himself, Mr. HAMILTON, and Mr. DERWINSKI):

H.J. Res. 928. Joint resolution to provide for the designation of September 8, 1978, as "International Literacy Day"; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST (for himself and Mr. WHITLEY):

H.J. Res. 929. Joint resolution calling for protection of international waters from further pollution; to the Committee on International Relations.

By Mr. DERWINSKI (for himself, Mr. BAUMAN, Mr. BUCHANAN, Mr. BURKE of Florida, Mr. GILMAN, Mr. KEMP, Mr. LEHMAN, Mr. O'BRIEN, Mr. SANTINI, Mr. STEERS, and Mr. STUMP):

H. Con. Res. 628. Concurrent resolution calling upon the President to direct the U.S. Ambassador to the United Nations to use all means at his disposal to obtain action by the General Assembly terminating the observer status of the Palestine Liberation Organization; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

412. By the SPEAKER: Memorial of the Legislature of the State of California, relative to industrial safety; to the Committee on Education and Labor.

413. Also, memorial of the Legislature of the State of California, relative to national ambient air quality standards; to the Committee on Interstate and Foreign Commerce.

414. Also, memorial of the Legislature of the State of California, relative to income tax deductions for new home buyers; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12598

By Mr. JEFFORDS:

Page 15, insert the following new section after line 18:

WORLD ALTERNATE ENERGY CONFERENCE

SEC. 118. It is the sense of the Congress that the United States should encourage the United Nations to hold a World Alternate Energy Conference in 1980 to consider ways to meet the world's energy needs through the development and use of alternate energy sources. The goal of the Conference should be the establishment, under the auspices of the United Nations, of an International Alternate Energy Commission, comparable to the International Atomic Energy Agency, which would encourage the worldwide use of alternate energy sources by assisting in the dissemination of information and by other appropriate means.

EXTENSIONS OF REMARKS

HELPING THE MIDDLE CLASS: A SENSIBLE FINANCIAL ASSISTANCE PROGRAM FOR COLLEGE STUDENTS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1978

● Mr. MAGUIRE. Mr. Speaker, yesterday I introduced a bill amending the Higher Education Act of 1965 in a way I am confident will serve the real financial needs of college students from middle and lower income families without exploiting the Federal Treasury and the taxpayer.

The Capital Availability for Higher Education Amendments of 1978, which Congressman WILLIAM STEIGER joins me in sponsoring, is designed to rapidly expand the guaranteed student loan program (GSLP), make accessibility to GSLP loans more equitable, and increase the amount individual students may borrow each year so as to more sufficiently meet their financial needs.

Further, the amendments will reduce the severe default problems of the guaranteed student loan program by making many of those student borrowers who have traditionally had the most difficulty meeting conventional loan payments eligible for a special loan repayment procedure. This procedure would feature auto-

matic withholdings of loan payments, based on income, from the students' paychecks after leaving school.

Congress must address the real squeeze facing middle and lower income students, and then seek to end it. The problem is that many students, after selecting the college best suited for their needs, have insufficient funds to attend. Funds presently available include family resources, personal savings, private scholarships, and several Federal programs directed toward the most needy. But some colleges or universities are much more expensive than others. And some students are from large families with several children in other institutions.

So all too frequently there is a "resource gap," because no two student situations are identical, and existing categorical need-based programs cannot adequately accommodate each individual. In some cases, the guaranteed student loan program as presently constituted fills the gap. In too many instances, however, the GSLP falls short, failing to fulfill its promise and potential.

But would it not be ideal—and this is what I ask my colleagues to carefully consider—if a guaranteed student loan was much more reliably available when needed? The student would partially fund his or her own education, however costly, from future earnings which will likely be much greater for having gone to college. The loan will be mostly private capital, not Federal tax dollars which, after all, belong to all citizens and should be used as sparingly as possible. And best of all, this is something we in Congress can help bring about by modifying a program which is already in place.

What will it take?

First, the borrowing ceiling for each undergraduate student borrower must be raised. The capital availability amendments increase the ceiling each year from $2,500 to $3,500, and cumulatively from $7,500 to $10,500. Thus, the number of cases where a GSL proves unable to fill the "resource gap" will be substantially reduced.

Second, the major administrative burden upon lending institutions, mostly commercial banks and savings and loans, must be eliminated. Research shows that banks are ill equipped to collect many loans under the guaranteed student loan program. That is not surprising. Borrowers are young, have no credit history, few assets and no income when the loans are made, and after leaving college, are among the most transient people in the country for a number of years. It is likely the borrower will move far from the bank's service area with most of the repayment remaining. Some students do not have enough income to make early payments. Too many student borrowers do not have an adequate sense of their legal and moral obligation to faithfully repay the loan since, after all, it is federally insured.

These collection problems significantly inhibit expansion of GSLP lending—the total volume of dollars available to students under the program. These problems also account for much of the intolerably high default rate—about 12 percent in States where the Federal Government directly insures loans, and 8 percent in other States. Between fiscal 1975 and fiscal 1977 Federal insurance reimbursements leaped from $71.1 million to $148.8 million, more than a 100-percent increase.

The Federal Government, on the other hand, is well able to follow the most difficult borrowers to the farthest corners of the country through a time-tested system. It is called the Internal Revenue Service and it is in the business of keeping track of people who each year owe the Government money. The IRS, additionally, has the capability of computing and checking obligations on the basis of people's income, that is, their ability to pay.

So here is a natural partnership just awaiting congressional sanction:

First. Banks can handle loan origination well, and provide private capital for college educations, but cannot collect from many students to whom the GSL program should be targeted;

Second. The Federal Government is able to follow and collect annual obligations with relative efficiency from mobile groups of people; and

Third. Students would default less if they were reminded, by the Government which could diligently follow them, of their legal obligations, and if in the most difficult cases, the amount they owe could be tied flexibly to their ability to pay.

Accordingly, the capital availability to higher education amendments establishes a Government guaranteed student loan collection service which may be purchased by participating financial institutions for those loans they suspect will be the hardest to collect. Use of the service will cost one-half percent of the rate of return on loans the banks select to have collected that way. Therefore, only those loans most costly to collect, and thus those banks might otherwise hesitate to make, will be collected by the Government. Commonsense suggests these will also be the most needy students, suffering a real resource gap.

The collection service will be administered through the Internal Revenue Service, and the minimum repayment due will be contingent upon adjusted gross income. Those students who, in the professional judgment of the participating institutions, can meet the regular collection schedule would make regular payments to the banks as they do now. For those borrowers from whom the Federal Government collects, a guaranteed payment will be made from a special fund each year directly to the bank which originated the loan and provided the capital. Those borrowers will have liquidated their loan when they have paid back the principal, through annual payments to the IRS, plus 7-percent interest on the outstanding balances. This is the current interest rate students pay. The IRS will keep the accounts straight, which in the age of the computer should take a thousandth of a second or so.

Past proposals which have used the IRS in a similar capacity have required that it also enforce these provisions of the amended Higher Education Act, clearly drawing it far afield from exclusive enforcement of tax law. The capital availability amendments, however would simply require the Secretary of the Treasury to certify to the Commissioner of Education apparent noncompliance by borrowers. Then HEW would attempt to collect the loan, using last resort methods, as they do now. Clearly HEW's techniques should be more effective, but under my amendments, far fewer cases would land at HEW for drastic action.

Finally, the amendments would require that lenders who use the Government collection service not discriminate against some prospective borrowers because they or their parents do not have a longstanding depositor or other customer relationship. This is a common business practice which serves to capriciously deny federally guaranteed loans to some students who are just as much in need, and just as deserving, as others who fortuitously obtain such a loan. No federally subsidized program should work like this.

Banks using the service will not have any reason to discriminate, since they will not have to collect the most difficult loans anyway. This problem is severe; more than half of the guaranteed loans on the west coast, for example, are made by the Bank of America. If a parent does not happen to have an account with them, a student's prospects of getting a loan are greatly diminished.

With more money to distribute under a program unburdened by collection hassles, banks can serve their established customers and others as well.

The collection service created under the amendments differs dramatically from the existing Student Loan Marketing Association—Sallie Mae—which provides a secondary market for student loans. Sallie Mae works to improve the market by buying at par those loans banks make which inadvertently exceed the proportion of their long term loan portfolio they desire to devote to higher education. Therefore, banks may take more chances.

But banks will use the new collection service to make loans they might want to make anyway except for the probable cost of collection. These loans will not be effectively sold at par to the Government, as they are when Sallie Mae buys them, so no additional large appropriation will be necessary. And banks will receive interest income from these loans roughly when the payments would have been due were the student paying the bank directly, thereby preserving the profit motive to the extent it is at work.

The administration has made minor suggestions to modify the GSL program by lifting the lid on family income to receive the interest subsidy while students are in college. This single change is expected to increase borrowing under the program in fiscal 1979 from $1.15 billion to $1.55 billion, or by about $400 million. If so slight a change can render such significant results—and it probably can—imagine what substantial relief of the major obstacles to full bank participation will achieve?

This legislation would also create an advisory panel of public and private experts on student assistance to report to Congress within 1 year. The reforms proposed to the guaranteed student loan program in my bill are clearly constructive, and would foster a better partnership between lending institutions and the Federal Government. Therefore, we need not wait any longer to get started. But equally clear is the fact that this is only a beginning to make sense of our confusing and overlapping array of student assistance programs for higher education. So the advisory panel is important, and looks toward the future and additional improvements in various programs.

I would like to address one last point: Others have introduced measures which would provide direct cash advanced from the Federal Government to meet virtually all student assistance needs. While I introduced a similar proposal 3 years ago to spur discussion, I believe all such plans run into an insurmountable cost problem—one version, for example, requiring as much as a $10 billion annual appropriation.

Mr. Speaker, the guaranteed student loan program has always been conceptually sound. Is it not time we made it work to relieve the real pressures on lower and middle income families?

I intend to also introduce this legislation as an amendment to the President's Middle Income Student Assistance Act at the appropriate time. In so doing, I expect the Congress will recognize that we should have carefully channeled assistance, and not a small subsidy spread wafer thin.

Mr. Speaker, I request that some supplementary material in support of this legislation be printed at this point in the RECORD:

SUPPLEMENTARY SUPPORTING MATERIAL

From Congressional Budget Office, Federal Aid to Postsecondary Students: Tax Allowances and Alternative Subsidies, January 1978, pp. 45–46:

"The net rate of return on GSL's, however, is reduced by the high cost of complying with administrative procedures. The net rate of return to banks could be improved by increasing the rate charged to students (although this would reduce the student's subsidy), by raising the special allowance, or by reducing the bank's administrative costs . . . Greater efforts in these areas might induce banks to provide more student loans."

From A Survey of Lenders in the Guaranteed Student Loan Program, prepared for the Office of Education by Kenneth F. Gordon and Michael Errecart of RMC, Inc., December 1975:

Page x: "For most lenders, the GSLP represents a very small portion of their total loan investments, but takes a disproportionate amount of administrative effort. In fact, some lenders regard this as a reason for dropping out of the program.

"The GSLP has not evolved into a student aid program accessible to all students. Large numbers of lenders have introduced constraints on student eligibility in addition to legislative and OE regulations. For example, some lenders restrict loans to existing customers . . ."

Page xi: 'Locating borrowers at repayment time was a significant problem for most lenders."

Page xiii: "Recommendations Affecting Lenders:

"Economic returns to lenders should be increased significantly if investment levels of the GSLP are to be increased. . . . Increases in interest revenue or reduced lender costs would be steps in the right direction."

"OE should implement various administrative and policy changes aimed at reducing high borrower default through improving the ability to locate borrowers at repayment time and otherwise improving the ability to collect loan obligations."

Page 41: The following percentages of lenders listed each of these reasons as either somewhat or very important in discouraging GSLP investment—94 per cent—low interest rates compared to competing use of funds; 88 per cent—high total cost of GSLP loans; 86 per cent—long repayment period; 88 per cent—difficulty locating the borrowers at repayment time; 76 per cent—high cost of processing payments.

FACTS AND FIGURES ON THE GUARANTEED STUDENT LOAN PROGRAM IN NEW JERSEY

Special benefits of the Maguire/Steiger Capital Availability for Higher Education Amendments of 1978 to New Jersey:

Present Guaranteed Student Loan lenders in New Jersey, primarily commercial banks and savings and loans, do not resell any of their GSL loan paper to Sallie Mae—the Federally chartered Student Loan Marketing Association. Nationally, however, Sallie Mae has purchased between 5 and 10 percent of all loans made under the GSL Program. New Jersey's non-participation is due to technical reasons rooted in State law, regulations and rulings—for example, the non-transferability of the State guarantee (reinsured by the Federal Government) to Sallie Mae, and the lack of a locally based private collection service satisfactory to the State which would be under contract to Sallie Mae.

Sallie Mae, in this role, functions as a secondary market. Secondary markets are important to capital availability, as Fannie Mae and Ginnie Mae demonstrate with regard to mortgage lending. While lenders may not complain of no secondary market in New Jersey, their response is to curtail lending more than they would if they had access to a "safety valve" when they exceeded a prudent amount of total loan volume, or made loans that may prove difficult to collect.

While the Maguire/Steiger proposal would supplement Sallie Mae in vital and logical ways nationally, it would be of special assistance to the health and expansion of the GSL Program to students in New Jersey. This would be so since the government collection service offered lenders would be the first opportunity they have had to take additional lending risks confident that they would not end up collecting certain loans they are not equipped to handle.

FIGURES [1]

As of the end of calendar year 1977, about $600,000,000 had been lent in New Jersey under the GSL Program. $450,000,000 of loans remained outstanding (not yet repaid). A total of 230,000 students have been served with 450,000 loans.

GROWTH OF THE GSL PROGRAM IN NEW JERSEY

Academic year 1975–76: 41,144 loans amounting to $65,463,452; average loan, $1,591; state re-insurance agency paid defaults claims of, $8,549,000, but collected from defaulted students: $551,607; defaulted loans repaid-in-full, 183.

Academic year 1976–77: 49,937 loans amounting to $84,510,200; average loan, $1,692; state re-insurance agency paid default claims of, $8,381,900, but collected from defaulted students, $929,321; defaulted loans repaid-in-full, 293.

Academic year 1977–78: [2] 56,000 loans amounting to $105,000,000; average loan: $1,875; state re-insurance agency paid default claims of, $7,448,923, but collected from defaulted students, $1,105,384; defaulted loans repaid-in-full, 328.

FOOTNOTES

[1] Prepared by Office of Congressman Andrew Maguire. Statistics are compiled by the New Jersey State Department of Education.

[2] Projection based on first nine months of academic year 1977–78.●

VIETNAM VETERANS IN CONGRESS

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BRODHEAD. Mr. Speaker, this Nation has long recognized a special responsibility for those who have served in its Armed Services. As an expression of our gratitude and out of understanding of the problems faced by veterans, Congress passed several bills to assist them and their survivors in the areas of health, education, employment, and pensions.

However, veterans of the Vietnam war, have discovered that programs designed to assist veterans of other conflicts are not adequate to meet their special needs. In an effort to draw attention to this problem and to fund solutions, my colleague Representative DAVID BONIOR, who was an Air Force sergeant during the Vietnam war, organized a group of 11 Members of Congress who served during that conflict. This group has already taken an active role in petitioning the Veterans' Administration on behalf of Vietnam-era veterans.

An editorial recently appeared in the Washington Post in support of Congressman BONIOR's initiative in this area, and I would like to share this editorial with my colleagues:

[From the Washington Post, May 8, 1978]

VIETNAM VETERANS IN CONGRESS

Along with the other burdens they bear, many Vietnam-era veterans must confront the reality that few in Congress have any special understanding of the problems they face. A few congressional allies have spoken out when legislative decisions were made on the GI Bill amendments, unemployment, health care, the upgrading of discharges, readjustment and other issues. But no organized bloc of Vietnam-veteran advocates was on hand to influence policy until a few weeks ago, when 11 members of Congress who served during the Vietnam era joined together to work collectively on behalf of the large national constituency composed of their fellow veterans.

The group was pulled together by Rep. David Bonior (D-Mich.) who was an Air Force sergeant. He said in a recent interview: "Part of the problem lies in underrepresentation. Although 19 of the 28 members of the House Veterans Affairs Committee are veterans, only one is a Vietnam-era veteran. Anyone claiming that the Vietnam vet has been adequately cared for simply ignores the facts."

Others joining Rep. Bonior are Sen. John Heinz (R-Pa.) and Reps. Les Aspin (D-Wis.), John Cavanaugh (D-Neb.), David Cornwell (D-Ind.), Albert Gore, Jr. (D-Tenn.), Thomas Harkin (D-Iowa), James R. Jones (D-Okla),

John LaFalce (D-N.Y.), John Murtha (D-Pa.) and Leon Panetta (D-Calif.). The information of this group of thoughtful and energetic men means that in future discussion of veterans issues the particular interests of those who served in Vietnam will be represented far more forcefully than they are today. The two congressional veterans committees, the Veterans Administration, the White House and such traditional groups as the Veterans of Foreign Wars and the American Legion are all heavily under the influence of that far larger mass of veterans of earlier, more conventional and less controversial wars. In a recent letter to Max Cleland of the VA, the new group raised its voice about issues that either have yet to be faced by Congress and the administration or have been faced only glancingly: the inadequacies of the GI Bill that cause eastern and midwestern veterans to miss the benefits provided in the South and West, the low allocation of funds for psychological care and drug- and alcohol-abuse treatment, and the employment problems of the 2 million Vietnam veterans with incomes below $7,000.

Not long ago, the group met with VA and White House officials. Its conclusion, predictably enough, was that the VA and White House "tended to underestimate the problems facing many Vietnam veterans." If Mr. Bonior and his colleagues can step forward to give at least an accurate estimation of the problems, that in itself would be a major advance. But the larger ambitions of the group deserve to be taken seriously: to serve as an effective legislative advocate for the veterans of Vietnam. The job promises to be arduous—but not thankless. The many Vietnam veterans who have been waiting to be recognized—and valued—by their government are likely to be grateful for almost any clear sign that somebody is determined to get on with this important piece of the unfinished business of the Vietnam War.●

THE TRIAL OF YURI ORLOV SHOWS SOVIET DISREGARD FOR HUMAN RIGHTS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. COUGHLIN. Mr. Speaker, I would like at this time to join in with my colleagues and the rest of the United States in denouncing the deplorable conviction of Soviet dissident, Yuri Orlov, to 7 years of imprisonment followed by 5 years of internal exile. Orlov's sentence, the maximum penalty prescribed under Soviet law for the charges against the 53-year-old chemist of distributing "slanderous concoctions, smearing the Soviet state and social order, with the object of weakening Soviet power" is clearly a flagrant violation of the Soviet Union's international pledges to uphold human freedoms in its own country.

Orlov's only crime was, acting under the guarantees of the Helsinki accord, to found a group to monitor Soviet compliance with the human rights provision of the 1975 agreement on European security and cooperation. The monitoring group, since its formation in 1976, has issued a number of reports on violations by the Soviets such as religious repression, use of psychiatric hospitals as political prisons, arbitrary refusal to allow reunification of families by emigration and substandard living conditions in criminal work camps.

The Soviets have obviously failed drastically in this test of their human rights pledges in the handling of the Orlov case. Irina Orlov, the wife of the dissident, and their two sons were the only supporters allowed in the courtroom for what was billed as an open trial. The courtroom was packed with handpicked government spectators who repeatedly interrupted Orlov's summation speech with shouts of "traitor" and "spy." According to Mrs. Orlov, who was humiliated when she was forced to strip for a search before entering the courtroom, the judge also, interrupted the summation speech several times, cut him off after only 30 minutes, and refused her husband permission to call any defense witnesses.

If the Orlov trial is an indication of the type of open trial we can expect to see for the forthcoming trials of Soviet dissidents Alexander Ginzburg and Anatoly Scharansky, you can be sure that the Soviet Union is planning to continue to ignore their own guarantees of the internationally accepted standards of human rights agreed to in the Helsinki accord. It is clearly our moral obligation in this country to continue to show our strong disapproval of such gross violations by letting the Soviets know that the preservation of individual rights and freedoms, as spelled out at Helsinki, remains vital to all Americans.●

STATEMENT ON ENERGY RESOLUTION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. LIVINGSTON. Mr. Speaker, last week I introduced a resolution opposing proposed energy regulations which would change the oil entitlement program. I would like to present some background information on the program and the reasons why I am opposing this change.

Entitlements originally were established in an attempt to equalize the cost of crude oil among all domestic refiners. Refiners on the East coast were buying foreign crude, which is more expensive than domestic oil. This resulted in higher prices for consumers in northeastern States.

Under this program, a refiner who refines old domestic crude oil pays money (by purchasing an entitlement) to a refiner who refines foreign crude. The entitlement is set at the differential between foreign and domestic crude.

In addition, the importer of foreign residual fuel oil has been receiving a payment of 30 percent of entitlement. Now the Carter administration's Department of Energy wants to change the rules.

The DOE proposal would give a full (100 percent) entitlement (about $2 net per barrel) to importers selling foreign residual fuel oil to domestic refiners. These entitlements would be paid by domestic refiners of old domestic oil.

First the DOE proposed that the payment would consist of a full entitlement minus 42 cents. Now the proposal seems to be a full entitlement minus 63 cents. The logic behind the subtraction of eight 42 cents or 63 cents is that this would allow domestic refiners to compete with importers of foreign residual fuel oil.

This logic is false. It does not offset the costs imposed on domestic refiners of environmental laws and other regulations. In addition, the new entitlement regulations would more than double the subsidy now being received by importers of foreign residual fuel oil.

Currently, these importers are getting a subsidy from domestic refiners of 30 percent of entitlement, or about 60 cents. Under the proposed regulations, even if they are set at full entitlement, minus 63 cents, the subsidy will amount to approximately $1.37 per barrel—an increase that will more than double the current subsidy.

The effect on gulf coast refiners will be devastating. Gulf coast refiners cannot compete for Northeastern markets if they must pay this subsidy to "equalize" the costs of fuel oil, when in fact this subsidy will lower the price of foreign fuel oil to make it cheaper than domestic fuel oil.

In addition, oil from gulf coast refiners is shipped in American-flag merchant ships, whereas oil from Caribbean refineries is shipped in foreign-flag ships—another blow against American jobs and the American economy.

Consumers in Louisiana and the rest of the country will be hurt by these regulations. Domestic refiners will be forced to pass on the cost of this subsidy to their consumers. I would like to enter in the RECORD a copy of the estimated costs to consumers of the proposed program.

This table shows that not only would Louisiana consumers be hurt to the tune of $8.7 million a year, but that States from Illinois and Ohio to California and Texas will suffer. Only a very few States, notably New York and Massachusetts, will benefit.

No one is really sure that even these States will benefit. Foreign oil exporters may simply raise their prices to absorb the increased subsidy paid to them, leaving Northeastern consumers paying just as much for their fuel, if not more.

However, even if Northeastern consumers were to be helped by these regulations, I do not believe they should be helped at the expense of the rest of the country.

Therefore, I am opposing these regulations. I am opposing them, because I believe they will be detrimental to the domestic refining industry and will hurt consumers in a major part of the United States.

I am opposing them, because the DOE is not proposing the amendments under procedures which make such amendments subject to congressional disapproval, and I believe the Congress must have a voice in regulations that affect so many people and so many American jobs.

In addition, I believe these regulations are contrary to our national goals of energy independence, national security, and the international balance-of-payments equilibrium.

I will continue to oppose these regulations by whatever means necessary. I am pleased that the majority of the Louisiana delegation has joined me in cosponsoring a similar resolution in the Senate and is also attempting further action to delay or halt the promulgation of these regulations.

I will cooperate with any action which may be taken on the floor of the House to stop what I consider a major injustice, not only to the oil refining industry of Louisiana and Louisiana consumers, but to domestic refiners and their employees, and consumers in other parts of the country.

The table follows:

ESTIMATED CONSUMER COST IMPACT OF PROPOSED RESIDUAL FUEL OIL PROGRAM

[Millions of dollars per year]

State	Gasoline	Distillate	Residual oil	Total (millions)
California	+23.6	+3.9	+10.2	+$37.7
Indiana	+6.1	+3.0	+1.3	+10.4
Illinois	+11.2	+4.7	+2.5	+18.4
Ohio	+11.6	+3.9	+.9	+16.4
Texas	+16.8	+.9	+3.7	+21.4
Nevada	+.9	+.2		+1.1
Tennessee	+5.1	+1.6		+6.7
Louisiana	+4.1	+2.0	+2.6	+8.7
New York	+13.6	+8.1	−40.8	−19.1
Pennsylvania	+10.5	+6.0	−14.8	+1.7
Massachusetts	+5.3	+3.6	−56.2	−47.3
Michigan	+10.7	+3.8	−18.7	−4.2
Florida	+10.8	+2.1	−15.3	−2.4

●

CONNECTICUT ARTS WEEK

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. DODD. Mr. Speaker, the ballerina on point, a child doing a gravestone rubbing, an actor performing a soliloquy from "Hamlet", the pianist struggling with Charles Ives for the first time, the musicians at a jam session, a professor showing slides of Chartres Cathedral to his students, and the inner city kids dancing to the beat of a kettle drum all have something in common: an appreciation for the enjoyment that participation in the arts brings to them.

This week, all those who have experienced the fulfillment and joy that the arts in Connecticut have lent to their lives have had a chance to say thank you. Governor Grasso designated May 15–20 as Connecticut Arts Week to officially recognize the extraordinary wealth of talent and dedication in our State's arts community. It is about time.

Our State boasts one of the finest lineups of repertory theaters in the country: Yale Repertory, Long Wharf Theater, the Hartford Stage Company, American Shakespeare Theater, Goodspeed Opera House, and the O'Neill Theater. The O'Neill Theater recently celebrated the 10th anniversary of their National Theater for the Deaf, a professional company of deaf performers whose innovative work on the stage has shown that the spoken word is often a poor substitute for expression through movement and mime.

Painting, printing, sketching, and sculpturing by students and their teachers are daily rituals at schools and universities across the State. Innovative work in art therapy at hospitals and mental institutions provide patients with an artistic outlet for their emotions.

Writers of the caliber of John Hersey, Thornton Wilder, and Arthur Kopit have created some of their classic works in our State and then shared their knowledge and experience with us.

Our children watch puppet shows in neighborhood parks, listen to young people's concerts with the New Haven Symphony, act in local theater groups, take music lessons, and dance to the rhythm of a hustle, a Chopin etude, or an Israeli hora.

Our colleges and universities, and television and radio stations bring Connecticut's cultural resources closer to all of us; enabling us to participate in special cultural events in the theater, at home, or even in the car on the way to work.

Rather than diminishing in the face of our mechanized age, interest in the arts has increased in Connecticut's rural, urban, and suburban areas. Towns hold craft fares, forums, theater events, and concerts that tie disparate populations together in mutual appreciation of the enrichment that the arts hold for individuals, ethnic groups, and entire communities.

The arts preserve, create, and expand upon our State's heritage. The value of the unceasing creative spirit of our State's artists is immeasurable, but easily taken for granted. So, this week, Connecticut has taken the time to show its appreciation with workshops, awards, and a hope that the future of the arts in Connecticut will continue to be a very bright one.●

TRIBUTE TO R. MARK RUSSELL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. WHALEN. Mr. Speaker, I rise on this occasion to pay tribute to a very fine gentleman who is leaving Washington at the end of the month to assume new responsibilties in London.

He is R. Mark Russell, an outstanding member of the British Foreign Service, whom it has been my privilege to know for the past 3 years. For most of that period, his assignment was to cover Congress for Her Majesty's Government. To say that he has performed that duty with distinction is an understatement. Despite the formidability of the undertaking, Mark Russell approached it with relish and clearly has become one of Washington's most astute Congress-watchers. His understanding of our system reflects the great diligence and intelligence he applied in tackling this institution. One is tempted to say that Mark's great success was enhanced by two large attributes: First, he speaks the language or a reasonable facsimile thereof, and, second, he has a name that is very well known in this town and to whose lustre he has added.

All of us who have come to know Mark and Jinny Russell will miss them. But we wish them well as they return home for the next few years. They have been a great credit to Her Majesty's Government and have set an enviable record during their sojourn here.●

GASOHOL INTEREST IN ILLINOIS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. FINDLEY. Mr. Speaker, the possibility of using gasohol, a mixture of alcohol and gasoline as a fuel for automobiles, is of great interest to the people of Illinois. Corn is our State's largest crop. And the alcohol for fuel can be made from corn and corn residues. Editorials that appeared in the Alton Telegraph and the Quincy Herald-Whig within 2 days of each other illustrate the interest among my constituents in gasohol. Many are disappointed, however, that the Federal Government has done little to promote the development of this alternative motor fuel that promises to conserve scarce oil reserves and lessen the need for oil imports. These editorials from prominent Illinois newspapers serve as a persistent reminder of the hopes and aspirations of their readers for a motor fuel that will use domestic resources.

Editorials follows:

[From the Alton Telegraph, Nov. 5, 1977]

GRAIN FOR GAS?

(Paul S. and Stephen A. Cousley)

One of seven distilling plants to manufacture car burning alcohol from Illinois' large supply of grain is being sought by the National Farmers Organization in the state.

The effort brings especially to local attention the process of creating motor fuel from the food supply.

Such a program should be of great benefit to the grain raiser, but it seems a rather roundabout approach to keeping the nation's automobile equipment running.

While it wouldn't represent quite the boon to agriculture, it appears material other than wholesome grain, would be a better subject as grist for the fuel.

One of the approaches of prime importance in the energy conservation program should be development of fuel-saving automobiles.

This would accomplish two purposes:

By (1) burning less fuel, it would conserve our energy supply; but also, (2) it would reduce the amount of combustion gases discharged into the air and cut back accordingly on the pollution nuisance.

[From the Quincy Herald-Whig, Nov. 7, 1977]

WHY NOT GASOHOL?

The renewed interest in Gasohol, a mixture of gasoline and alcohol, suggests there might be better ways of dealing with the energy crisis than federal regulations, rationing or taxes.

Although use of alcohol fuels for vehicles is not a new idea, economics—both of agri-

culture and energy—are causing some people to seriously consider it.

Rep. Paul Findley, for example, recently tested a mixture of 90 per cent gasoline and 10 percent alcohol in a station wagon and a pick-up truck. He found a modest increase in mileage and a significant improvement in engine (unmodified) efficiency and pollution emissions.

Senator Percy of Illinois sees Gasohol as a way of reducing dependence on foreign oil and last month proposed an amendment to the energy tax bill that would exempt gasoline containing more than 10 percent alcohol from federal gasoline tax through 1984.

Findley also believes increased production of alcohol from grain crops and crop residues would be a boost to the agricultural economy. And since most industrial alcohol is now derived from natural gas, making alcohol from agricultural sources should help relieve pressures on natural gas supplies.

What is going on now in Brazil is instructive. That vast South American country imports more than 80 per cent of the petroleum it uses at annual cost of $4 billion. This caused Brazil to embark in 1975 on a national plan of ethyl alcohol, or ethanol, production, principally from sugar cane. The objective, according to Business Week, is to replace by 1981 one-fifth of the gasoline used in Brazil with alcohol.

The Brazilians have been planting "energy plantations" at the rate of about two million acres a year and ethanol production has risen this year to 1.6 billion liters.

Service stations in Sao Paulo began selling a 20 percent ethanol mixture in June. Rio de Janeiro stations increased ethanol content to 13 percent in July. A 20 percent mixture is the 1980 objective.

The Brazilian government is also conducting tests to find out how practical would be the conversion of vehicle engines to run on pure ethanol.

The Brazilians admit there is an economic advantage now in the fact that worldwide sugar prices are low—which makes producing ethanol from sugar worthwhile. Should sugar prices rise enough the question would be, as one official said, between "dollars earned by exporting sugar, or dollars saved by not importing petroleum."

But the greatest advantage of alcohol is that it can be derived from many kinds of renewable sources, not just sugar cane or Midwestern grain. It can be made from forest products, coal, crop wastes, possibly sorghum and coconuts, even garbage. Expanded production would logically make the cost competitive.

The use of alcohol fuels should be pursued. As a possible alternative fuel to petroleum and as a means of reducing reliance on imported oil, this makes at least as much sense as the complicated program of energy taxes, incentives and controls the President and the Congress have been debating.●

TOP WOMEN'S MEDICAL STUDENT

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mrs. MEYNER. Mr. Speaker, I would like to bring to the attention of my colleagues an outstanding achievement on the part of one of my constituents, Dr. Geordie Paulus Grant of Denville, N.J.

Dr. Grant was named by the New Jersey Chapter of the American Medical Women's Association as the top female student in the State of New Jersey at ceremonies earlier this week at the New Jersey College of Medicine in Newark.

This is only one of many honors bestowed on Dr. Grant, a resident at Martland Hospital in Newark, N.J., and I want to take this opportunity to applaud her professional excellence.●

CORPORATE MISINFORMATION ON UGANDA TIES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BONKER. Mr. Speaker, while the Nation's major coffee producers have taken effective steps to break economic ties with Idi Amin's Uganda, certain other companies continue to do business with that regime and, in some cases, have misinformed Congress about the nature and extent of their involvement in Uganda. For example, an SEC suit against Page Airways charges the company with providing illegal payments to foreign officials, including Idi Amin. The SEC suit also claims that Page Airways has conducted over $15 million worth of business with Uganda. I would like to insert an article which appeared in the Washington Post on April 14, 1978, as it describes the various charges now before the courts.

The SEC charges stand in direct contradiction to testimony submitted by Page Airways before three International Relations subcommittees, as well as a letter sent by the president of Page Airways to the chairmen of these subcommittees. A copy of this letter is included for the RECORD, as an example of corporate irresponsibility in action:

[From the Washington Post, Apr. 14, 1978]

SEC SUIT ACCUSES PAGE AIRWAYS OF ILLEGAL PAYMENTS

(By John F. Berry)

The Securities and Exchange Commission charged yesterday that Page Airways Inc. and its top officers made more than $2.5 million worth of illegal payments to foreign officials, including a Cadillac Eldorado to President Idi Amin of Uganda.

The payments, the SEC said, were made in connection with the sale of jet aircraft to Asian and African governments. Page, a Rochester, N.Y., firm, is the world-wide distributor of the Gulfstream II executive jet made by Grumman Corp.

According to the suit, filed in U.S. District Court here, Page concealed the payments by making "false, incomplete and misleading entries" in its books. In addition, the SEC charged, Page hid all of its sizable business operations in Uganda from its stockholders.

Page stock is traded on the over-the-counter market.

In a press release, Page declared it would fight the SEC civil action: "Our denials of the allegations in the complaint, which allegations have no merit, will be made in court; our defense will be made in court, and our vindication will take place in court."

In addition to the company, the SEC suit named James P. Wilmot, chairman and chief executive officer of the company and owner of 49.3 percent of the stock.

Also named were his brother, Gerald G. Wilmot, company president who owns 14.76 percent of its stock; Douglas W. Juston, executive vice president; Ross C. Chapin and T. Richard Olney, vice presidents, and James P. Lawler, chief financial officer.

The SEC said that Page had sales of $251 million between 1971 and 1976. During that period, the commission alleged, questionable payments "were made in connection with over $60 million" of those sales.

In the complaint, the SEC described the following transactions between Page and foreign officials:

In connection with a 1972 sale of a $4.8 million Gulfstream II to the Republic of Gabon, $200,000 allegedly was paid to Albert Bongo, president of Gabon. The suit says that Lawler made an entry in Page's books "falsely indicating" that the $200,000 was a discount.

In 1972 and 1973, two Gulfstream II aircraft were sold to the state government of Sabah, Malaysia. Between 1972 and 1976, the SEC charged that $900,000 was paid to a company called Gaya House Sendirian Berhad controlled by Datuk Harris bin Mohammed Salleh, who was state minister of industrial development and in 1976 became chief minister of Sabah. The payments allegedly were made through Thunderball Shipping and Trading Ltd. in Hong Kong, and Datuk Harris is chairman of both concerns, the SEC said.

Page sold two aircraft and spare parts to the Republic of Ivory Coast between 1972 and 1976. The SEC alleges that about $412,000 was paid by the company to an account in an unnamed Washington bank in the name of Societe Ivoirienne de Developement et de Financement (SIDF). The SEC said that the Ivory Coast ambassador to the United States, Timothee Ahoua, "was and is secretary of SIDF." Yesterday, the embassy here said the ambassador was out of the country.

In connection with the sale of four Gulfstream II jets to Saudi International Airlines and one to Morocco between 1975 and 1977, the SEC said the company "utilized foreign entities as conduits for the payments of funds to third parties" to disguise the recipients and the amounts. "This conduct has, among other things, left over $5 million of the proceeds of Gulfstream II sales unaccounted for," the SEC said.

The SEC also alleged that some of the defendants made false statements to the Export-Import Bank to secure financing for some of these sales.

The SEC said Page stockholders were never told that beginning in 1975 and continuing to the present the company has sold more than $15 million worth of goods and services, including a cargo plane, to the dictatorship of Uganda, and set up a subsidiary in that country.

Moreover, the SEC said that Page receives "substantial amounts of cash" from Uganda, but it added: "The receipts and disbursement of these funds are not recorded in the books and records of Page."

An article in the April 9 issue of The New York Times Magazine said that President Amin made Page's sales representative "an honorary Ugandan citizen and appointed him his personal representative in the U.S. with the rank of honorary consul at large."

The SEC complaint noted with amplification that "Page gave and delivered to [Amin] a Cadillac Eldorado convertible automobile."

The SEC asked the District Court to enjoin the defendants from continuing their alleged violations of federal securities laws and of the accounting provisions of the Foreign Corrupt Practices Act of 1977.

The commission also asked the court to appoint a special officer "to inquire into and examine the books and records of Page."

PAGE GULFSTREAM, INC.,
March 22, 1978.

Hon. CHARLES C. DIGGS, JR.,
Chairman, Subcommittee on Africa,
Hon. DONALD M. FRASER,
Chairman, Subcommittee on International Organizations,
Hon. JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade, Committee on International Relations, House of Representatives, Washington, D.C.

GENTLEMEN: Reference is made to your letter of March 17, 1978 concerning the business relationship that might exist between this Company and the Country of Uganda.

Please be advised that for the past few years, this Company has done little or no business with Uganda other than to supply some spare parts for aircraft sold sometime in the past.

The total volume of the parts business for the year 1977 was approximately $57,000.00.

In addition, Page does provide the crews to fly a Lockheed L100, which is being utilized to carry non-military freight between Uganda and Countries with which it trades. It is well to note, however, that under the terms of the contractural arrangement, this Company has elected to advise the Government of Uganda that it will withdraw its crews in accordance with the terms of the contract or a maximum of 90 days from the issuance of a letter dated March 9, 1978 or sooner if possible.

The termination of trade with Uganda by our Government would have no effect obviously on our Company or its employees with the exception of a small amount of parts business mentioned earlier.

I don't believe a personal appearance could add any more to what has been stated above and I respectfully request that if you find this information to be adequate, that you advise as to the necessity of one of the Page people appearing on April 6th.

Sincerely,

GERALD G. WILMOT,
President.●

JOSEPH J. McCOMB

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. FLORIO. Mr. Speaker, I would like to enter into the RECORD the following biography of Mr. Joseph J. McComb as a tribute to southern New Jersey's "Mr. Labor".

Joseph J. McComb has served at the helm of the organized labor movement in South Jersey through three decades. His leadership and dedication to community are imprinted in impressive measure on the fabric of life in the area he serves.

He presently serves his sixth successive term as president of the Central Labor Union of Camden County, AFL–CIO. McComb was first elected president of the labor group in 1961 when it was organized as a merger of the former Central Labor Union, AFL, which he headed, and the South Jersey Industrial Union Council, CIO.

As labor's leader he has given unceasingly of his time and energy to a broad band of interests ranging from organization of the Union Organization for Social Service to membership on the New Jersey Commission of Unemployment Compensation. As chairman of the Camden City Housing Authority, he guided that body through an era of record-breaking housing construction and laid the groundwork for the current urban renewal program in the city.

McComb is president emeritus of Local 1360, Retail Clerks Union, one of the largest units in New Jersey. His ability and business acumen are reflected in the pacesetting progress achieved by his union members in contract benefits.

Among the score of posts he holds are Delaware River Port Authority Commissioner, trustee of the United Fund of Camden County, trustee of John F. Kennedy Memorial Hospital, Stratford, N.J., and member of the board at Fidelity Bank and Trust in Pennsauken and Burlington, N.J. He is also former president of both the Camden Catholic and Woodrow Wilson High Schools Fathers Clubs.

A leading Catholic layman, McComb is a fourth degree knight, Knights of Columbus and received special papal honors from Pope Paul VI. He holds citations and awards from the Camden County Board of Freeholders, the city of Camden, the National Council for Labor Israel, the Camden County General Hospital, the U.S. Treasury Savings Bond Department, Rutgers University, and the West Jersey Optometric Society.

He was twice honored as South Jersey "Man of the Year" by the AFL–CIO and in 1970 was a nominee for the State of New Jersey Labor and Industry Service Award.

Certainly, Joe McComb's outstanding career is a vivid example of his genuine concern for the union, its members, and his community. A proven leader, Joe has shown us all the merits of active participation. He is truly deserving of our commendations and admiration.●

NATION URGED TO OBSERVE INTERNATIONAL LITERACY DAY SEPTEMBER 8, 1978

HON. ROBERT L. McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. McCLORY. Mr. Speaker, I am introducing today a House joint resolution to provide for the designation of September 8, 1978, as International Literacy Day.

Mr. Speaker, the cosponsors of this measure with me are my distinguished colleagues LEE HAMILTON from Indiana and my Illinois colleague, EDWARD DERWINSKI. We are part of our U.S. delegation to the Interparliamentary Union Conference and have a particular interest in the objectives and goals of this oldest and highly significant international organization.

Mr. Speaker, at the IPU Spring Conference in Lisbon, Portugal early this year, extensive discussions took place on the subject of illiteracy. It was pointed out in this meeting that the number of illiterates in the world is greater today than at any time in world history.

In the adoption of a resolution on this subject, it was a clear consensus that national and international actions need to be taken jointly in the developing and the developed countries in order to reduce illiteracy throughout the world.

Mr. Speaker, the IPU Conference has designated a part of its proceedings on September 8, 1978 at the IPU meeting that will be taking place at that time in Bonn, West Germany—to dramatize the concern of the parliaments of the world to the growing threat of illiteracy—as it affects the social, economic and cultural life of people everywhere.

Mr. Speaker, my colleagues and I are introducing today this joint resolution with the hope and expectation that favorable action can be taken in this Chamber and in the other body at an early date in order that appropriate ceremonies and activities may be arranged calling public attention to the need for reducing illiteracy in the world.

Mr. Speaker, a copy of the text of the joint resolution is attached to these remarks:

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

To provide for the designation of September 8, 1978, as "International Literacy Day".

Whereas an estimated 800 million persons in the world are illiterate; and

Whereas illiteracy and functional illiteracy are problems affecting both developed and developing countries; and

Whereas widespread illiteracy in developing countries is a major factor in the inequalities among nations which breed tensions in the world; and

Whereas illiteracy is a barrier to the economic and social progress of individuals wherever it exists; and

Whereas in many countries women have traditionally been denied access to education, so that a disproportionately large percentage of those handicapped by illiteracy are women; and

Whereas access to education is recognized in the United States as vital to the exercise of constitutional rights; and

Whereas the eradication of illiteracy will require intensive national planning and international support; and

Whereas the United States has supported the United Nations and the United Nations Educational, Scientific, and Cultural Organization in their programs to reduce illiteracy at the international level; and

Whereas the Interparliamentary Union at its Spring conference in Lisbon, Portugal on March 31, 1978, took note of the widespread world illiteracy and has scheduled a part of its conference program on September 8, 1978 at Bonn, Germany to dramatize the need for national and international action to reduce illiteracy in the world; and

Whereas the United States should continue to cooperate with those national and international organizations, private groups and individuals who seek to promote literacy wherever illiteracy exists: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating September 8, 1978, as "International Literacy Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

USE OF THE BWCA

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. VENTO. Mr. Speaker, the years of controversy regarding the fate of the Boundary Waters Canoe Area is nearing a final solution. Many of the issues and questions that have surrounded this unique wilderness area for so long and threatened its very existence will be resolved by legislation during this session.

During the lengthy hearing and mark-up process on this issue, many of the points of dispute over the BWCA have been eliminated or narrowed. All concerned parties agree that mining could have disastrous consequences on the area and that it should not be allowed within the BWCA. Everyone now agrees that given a strong program of intensive forest management, reforestation, and technological development, the Minnesota fibers industry will not be impacted by this bill and that it will be a much sounder policy to prohibit logging in the BWCA.

One issue that still exists is the question of where motorized use should be allowed. Closely tied to this issue has been the argument that H.R. 12250 would close the BWCA to the elderly, the handicapped, and women. Nothing could be farther from the truth. Only under this compromise bill can anyone, regardless of age, sex, and physical ability enjoy all aspects of the BWCA. For those who cannot or do not want to canoe, most major lakes are open to motorized use. For those individuals who cannot portage a canoe, this bill finally opens lakes on the edge of the BWCA where one can park a car and canoe without the disruption of motorized boats.

Throughout the hearing process, handicapped individuals, and senior citizens have testified that they support the wilderness concept, that they are not dependent on motorboats, and that they resent being stereotyped in such a manner.

The use of the BWCA by the handicapped for nonmotorized recreation has occurred for many years.

Outward Bound, a program offering the handicapped a canoe wilderness experience, has been in existence for several years. This program has been highly successful and has received national recognition for its efforts to provide the disabled with a unique experience while allowing the individual to learn about nature and oneself. This program will soon be joined by a similar endeavor. Under the direction of the Wilderness Inquiry Association, this program is designed to meet the recreational needs of the physically handicapped. The goals of this program include:

First, facilitating the breakdown of attitudinal barriers between the handicapped and nonhandicapped populations;

Second, provide a much needed alternative to existing clinical practices.

These programs and the testimony that the Interior Subcommittee on National Parks and Insular Affairs has received have done much to disprove the claims that not everyone will be able to use the BWCA.

At this time I would like to bring to the attention of my colleagues two letters to the editor in the Minneapolis Tribune and a recent article in the Rochester Post Bulletin. I believe these articles, combined with the previous evidence, will effectively dispell any argument that H.R. 12250 will restrict the use of the BWCA.

Letters and article follow:

MAY 12, 1978.

Minneapolis Tribune,
Minneapolis, Minn.

TO THE EDITOR: The idea that the Burton-Vento B.W.C.A. bill favors a small special interest group of hardy canoers and skiers doesn't make sense to me. I have been trying to plan an easy canoe trip for our family, including our seven and nine year olds. But I can't find a reasonable route where we can camp on a lake where motors are prohibited. Once again we will have the irritating experience of sitting around a campfire listening to loons, owls, and outboard motors. That's not my idea of wilderness.

The Burton-Vento bill would allow families like ours to get into a truly wild area an hour's paddle from the road. The Oberstar bill prevents this, in favor of a relatively small but vocal "special interest group" of local fisherman and snowmobilers. Burton-Vento is the less restrictive of the two, and would make wilderness accessible for the first time to the great majority of Minnesotans. It deserves our support, as do the senate candidates who favor this approach, Fraser and Boschwitz.

Sincerely,

RICHARD F. ADAIR,
Golden Valley, Minn.

COLLEGEVILLE, MINN.,
April 23, 1978.

The EDITOR,
Minneapolis Tribune,
Minneapolis, Minn.

DEAR SIR: There has recently been much controversy over the issue of accessibility in the Boundary Waters Canoe Area under the newly proposed Burton-Vento amendment. Opponents of the bill argue that the elimination of motorized travel in the B.W.C.A. would impede its use by the physically disabled. Such a proposition is totally unfounded and is not supported by a single handicapped organization within the state. Moreover, many disabled individuals and organizations are disturbed by the patronizing implications of this argument—especially when it isn't true.

A common misconception about the needs of the physically disabled is present in the line of reason followed by those who advocate "keeping the B.W.C.A. open to handicapped people through the use of motors." As often happens when dealing with the handicapped, well-intentioned able-bodied individuals aggravate their adjustment problems by being overly helpful and not recognizing the capabilities of the disabled to overcome obstacles on their own. Granted, certain disabilities do limit the types of activities which handicapped persons can engage in; however, able-bodied persons need to realize that, like anyone else, each disabled individual has their own unique aspirations, incentives and limits. We should let each disabled individual define their own limits and not impose our attitudinal barriers on their affairs.

Attitudinal barriers such as these can be removed by increasing our awareness to the needs of the handicapped. They need to be treated as functional members of society and accepted as human beings. One way in which our awareness to the needs of the disabled is being expanded is in the area of outdoor recreation. Several organizations within this state operate programs designed to facilitate the needs of the disabled in the B.W.C.A. without the use of motors or other means of artificial support. These programs have been very successful but there is still a great need for services of this type.

The existence of these programs directly refutes the argument that the Burton-Vento amendment would result in the elimination of the use of the B.W.C.A. by persons with physical disabilities.

Perhaps, by following the same line of reason as those who want to keep motors in the B.W.C.A. "for the handicapped," we should pave every portage trail to make them more accessible for wheelchairs. Obviously this is ridiculous, and, so is the idea of keeping motors in the B.W.C.A. to make it accessible to the physically disabled population. Anyone interested in finding out more about programs serving the disabled in the B.W.C.A. should write to the address above.

Sincerely,

GREG LAIS,
St. John's University Senior.

LOCAL HANDICAPPED SET FOR BWCA

(By Dennis Lien)

Twelve Sunset Terrace Elementary School students will go on a trip next month, a trip unlike any they have been on before, a trip many people would have considered impossible a few years ago.

The students will go swimming, hiking, canoeing and camping, and they'll do all of it in the Boundary Waters Canoe Area near Ely.

That, in itself, isn't unusual. The BWCA—a 600,000-acre tract dotted with lakes, streams and dense woods—is a popular retreat for Minnesotans seeking a week or two away from the pace of urban life.

What is unusual is that all of the students are mentally handicapped, handicapped to such an extent they don't participate in regular classroom situations with most of their peers.

For years, much of the world was closed for these students. Only in the past decade of expanded educational opportunities have their horizons been extended.

In many ways, when they leave for the BWCA May 23, it'll be like leaving the sunset of a Roy Rogers movie for the Twilight Zone. There'll be more confusion and more discoveries than most of them are accustomed to.

The idea for the trip is Paul McMahan's. McMahan and Mariann Gray, special education teachers at Sunset Terrace, and Karen Koeller from Rochester Community Education will accompany the students north to a camp specifically designed to accommodate the handicapped.

Wild Places, Inc., the camp where they'll stay, will provide two experienced guides for the group.

To Gray's knowledge, this will be the first time a group of handicapped students from Rochester will visit the BWCA. They don't plan to go unprepared.

"We've been spending a lot of time simulating experiences here that we'll do up there," said Gray. Each Wednesday, the group practices using canoes in the Rochester-Olmsted Recreation Center.

Before they leave, they'll have spent a good deal of time canoeing, hiking, climbing, floating and swimming with life preservers, and learning to decide which items should be taken along for the trip.

It's something that has to be done. "They will basically be doing everything for themselves," she said. "This isn't a pack-your-suitcase and-lets-go type of deal. There are very explict kinds of information and training we have to follow.

The students, all of whom are between 10 and 13 years old, are able to make the trip through funds provided by Rochester Community Education, the Association for Retarded Citizens, parent registration fees and special education funds from the school district for transportation. The five-day trip will cost $1,000.

McMahan first had the idea for the trip in February. Parents of students were sent a letter soon afterward asking them if they would be interested in having their children attend. All of them responded enthusiastically, according to Gray.

Sessions were held with the parents, the instructors, and Gerald Peirce, a physical education teacher at John Marshall High School. Peirce takes a group of his students to the BWCA each year.●

ADMINISTRATION INACTION ON UGANDA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BONKER. Mr. Speaker, is there any question that Idi Amin's Uganda is one of the worst cases of human rights violations in the world? Conservative estimates place the number of black Africans who have been killed since Idi-Amin took power at between 100,000 and 150,000. Our country, at the moment, is supporting Idi Amin, through our purchase of their coffee, training Ugandan pilots, servicing their planes, strengthening their communications capabilities, keeping Amin's army stocked with U.S. liquor and tobacco which is used to buy support, and allowing Ugandan diplomats to keep tabs on Ugandan refugees here in the United States.

Given the Carter administration's concern for human rights one would think that removing supportive relations with Uganda would be a high agenda item. The sad truth is that the administration has not only ignored these ties, it has opposed restrictions which were contained in a resolution I have put forward to discourage activities which are benefiting Idi Amin.

As a result of the unanimous approval by the House International Relations Committee of a modified version of my resolution—which the administration still did not support—several major coffee companies, including Procter & Gamble (Folgers), Nestle's (Taster's Choice), and General Foods (Maxwell House) now have stated they will cease their purchase of Ugandan coffee immediately. Certainly these companies are to be commended for taking this action at last, and ironically it places them ahead of the administration in responding to human rights concerns in Uganda.

Mr. Speaker, what has taken Congress over several months of hearings and various votes in committees to accomplish, the President could have achieved with the stroke of the pen, or a statement urging an end to our Ugandan connections. Several members of the American black community, such as Ambassador Andrew Young, have openly expressed their disgust for Idi Amin's rule. Several African leaders, including President Nyerere of Tanzania, have also called for action in response to violations of human rights in Uganda, to the point where he would not participate in a conference of the Organization of African Unity because Amin was present. Ugandan witnesses who have appeared in congressional hearings have been outspoken in their belief that tyranny and oppression must be fought wherever they exist, and cannot be rationalized on the basis of the skin color of either the perpetrators or the victims of suffering.

Clearly, our country needs to be much more consistent in applying its human rights policies in Africa. Consistency does not necessarily mean that identical steps must be used for every country. But it does mean that our human rights commitment should be measured through our actions, not just our moral pronouncements. What sense is it to criticize Idi Amin on the one hand; while at the same time giving him the financial and technical support he needs to continue his murderous rule over the country? ●

A RENEWED EFFORT FOR HUMAN RIGHTS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BLANCHARD. Mr. Speaker, this week the Slovak World Congress is meeting here in Washington to pay tribute to the United States and Canada for 100 years of help to the Slovak people.

Sadly, we in the United States and Canada cannot rejoice on this occasion. For while we have shown the willingness to open our doors to the people of Slovakia who fled from the tyranny and oppression that has overrun their homeland, the fight to bring freedom back to Slovakia still goes on today. It is a fight that requires our renewed efforts.

Mr. Stephen B. Roman, president of the Slovak World Congress, aptly expressed the need for us to take strong and meaningful action in the fight for freedom in Slovakia in his remarks at the press conference of the World Congress. As he pointed out, the words "human rights" cannot become merely a slogan.

I share Mr. Roman's feeling that we of the free world must renew our fight for freedom in countries like Czechoslovakia by being decisive and firm about our convictions. We cannot cease to be vocal—in fact we must continue to seek every means to let the truth be heard throughout the world. Yet, at the same time we must also strive to be effective in our efforts to bring human rights to those who have been shackled by oppression.

One way that may enable us to have a more effective impact on this problem is for the United States to be a hard bargainer in our negotiations with the Soviet Union. We must maintain a strong position in all of our dealings with the Soviets. We must insist that the Soviets fully honor the commitments that they have already agreed to accept in past negotiations before we agree to any new concessions. We must be unrelenting in our intention to defend, with all of our strength, the right to freedom and justice for the people of Czechoslovakia and others like them in Eastern Europe.

I am including with my remarks a copy of the statement made by Mr. Roman. I urge my colleagues to read it and join in a renewed effort to bring freedom and human rights to the Slovak people. Mr. Roman's statement follows:

REMARKS OF STEPHEN B. ROMAN

Thank you . . . Members of the Press, and Fellow Members of the Slovak World Congress.

The Slovak World Congress is meeting this week in Washington under the theme 100 years grateful to American . . . faithful to Slovakia. We have an occasion to be grateful to the two great States of this continent—Canada and the United States—for opening their doors to the mass immigration of Slovak people during this past century, and particularly to refugees over the last thirty years. In North America, and throughout the Free World, the Slovaks have prospered, secure in the basic rights to which all men are entitled. We have seen our brethren rise throughout the ranks of business, education, the arts, and government . . . all professions, including a Slovak-American astronaut.

But, we cannot truly enjoy these freedoms without remembering the land and people from where we came. In this context, our meeting coincides with another anniversary; a tragic one. I refer, of course, to the ten years which have passed since the Warsaw Pact invasion of Czechoslovakia and the beginning of the continuing Soviet occupation which re-established Czechoslovakia as one of the most repressive states in Eastern Europe.

During the three years which have passed since the last meeting of the Slovak World Congress, the Belgrade Conference on Security and Cooperation in Europe and the New Emphasis on human rights in the foreign policies of the Western nations, encouraged by President Carter, gave renewed hope to all peoples living under repressive regimes. Slovaks everywhere followed these developments with great expectations. But recent events in Czechoslovakia cause us to wonder if our expectations will be fulfilled. Are the Western nations doing all they can . . . and are we doing all we can to help achieve a humane life for our brethren in Czechoslovakia? Or is the slogan Human Rights in danger of becoming just a slogan?

Let me suggest some examples that give cause for concern: By signing the final act of the Conference on Security and Cooperation in Europe, the Government of Czechoslovakia pledged itself to the reunification of families. But last July, it announced that this right would be denied individuals who were "hostile" to the regime, who made critical statements to the press, or who participated in unnamed organizations. All those who attend this very meeting, in the capital of one of the most free nations in the world, are thus blacklisted and denied the right to normal contact with their families in Slovakia.

The United States denounced these restrictions . . . but its official policy, as stated in the latest report to the United States Commission on Security and Cooperation in Europe, is to "wait-and-see" how these restrictions will affect family reunification. The same report named Czechoslovakia as having the most restrictive policies

of any Warsaw Pact country on family visits. Again, the Western nations have done little to encourage Czechoslovakia to accept its responsibilities for families to be united through temporary visits.

Since many of us are denied the right to normal contact with Slovakia, unbiased press reports remain a major supply of information about conditions there. During the past year, the Czechoslovak Government has consistently violated its CSCE obligations by denying visas to journalists, confiscating their materials, and, most recently, by expelling an American newsman who sought information about the human rights movement in Czechoslovakia outside of the official propaganda channels. The Governments of the Western nations respond by expressing "concern" . . . but we ask if this is the only means at their disposal to keep our one channel of news about our relatives, friends and Slovak brethren open?

We are also concerned about the campaign directed against religion and religious education in Czechoslovakia. This campaign attacks our Slovak national culture because our culture is closely tied to our Catholic, Lutheran, and Jewish faiths. In direct violation of the Final Act of CSCE, Czechoslovakia has forbidden religious orders to accept new members and imprisoned priests such as Reverend Javorsky for carrying out their normal religious duties. These actions have actually increased in number and severity since the Belgrade Conference, but the Western nations have not even protested them.*

Perhaps the most serious violation of human rights in Czechoslovakia is the continued occupation by Soviet armed forces. We believe that self-determination is a basic right, and we do not understand how Western nations hope to increase freedom for individuals in countries where this right is denied by military occupation. For this reason, we are concerned that the talks of reduction of military forces in Europe, now being conducted between NATO and the Warsaw Pact, concentrated only on troops in Germany and do not discuss means to end the ten years of Soviet occupation in Czechoslovakia.

In light of these developments, we suggest the following. It is wrong for the Western nations to raise hopes with talk about human rights and not go further. People in Slovakia who have heard about the new directions in the foreign policy of the Eastern nations and who have acted have been punished. They are worse off than people who have never heard about President Carter's support for human rights. Therefore, with all our hearts, the Slovak World Congress asks that the campaign for human rights be pushed forward. There are ways in which we believe that we can help, but in the area of foreign policy, our Governments must take the lead to prevent the further erosion of conditions in Slovakia and elsewhere.●

*Documentation on individual cases is available in the Press Room during the Washington meeting of the Congress.

ALASKA LANDS

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. PURSELL. Mr. Speaker, due to official business in my congressional district, I was unable to be present for the vote on final passage of H.R. 39, the Alaska National Interest Lands Conservation Act. Therefore, I would like to go on record that had I been present to participate in the vote, I would have voted "yes" on final passage of this legislation.

I feel that this legislation is by far the most important environmental legislation this Congress has considered, and I want to indicate my full support of it. I believe this country will be richer for having preserved these magnificent Alaskan lands.●

THE GROWTH OF THE MONEY SUPPLY—A DIRECT EFFECT ON INFLATION

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. HANSEN. Mr. Speaker, in the history of the world, no substantial or persistent inflation has ever proceeded without significant or persistent growth in the money supply beyond what is justified by increases in productivity. Our own times and our own country are not exceptions.

It is now widely recognized that inflation rates are headed up rapidly, and may push against double digits within a year. Whatever the real sources of this inflationary pressure, no one who can read the evidence can deny that the means of translating that pressure into actual price increases is an explosion in the supply of money.

Recently, there has been a good deal of attention paid to the so-called tightening of credit by the Federal Reserve. It is true that interest rates have moved up somewhat. But what has attracted far too little attention is the very rapid increase in the narrowly defined money supply, which is composed of currency in circulation and checking accounts. This grew from $330 billion in the week ending March 1, 1978, to $345 billion in the week ending April 26, 1978.

Mr. Speaker, this represents an annualized rate of growth of a colossal 29½ percent. We do not, of course, expect this rate of growth to continue. But we must recognize that the longer it does go on, the greater the danger that an inflationary upheaval will result. In any case, this extra money, which is far in excess of any conceivable increase in productivity, must eventually push up the cost of living (prices) another notch.

Mr. Speaker, the conclusion is clear: To control inflation, we must put a brake on the printing presses and keep the money supply in check in addition to dealing effectively with the basic sources of the inflationary pressures. Chief among those pressures, of course, is the huge amount of Treasury borrowing necessitated by unrestrained deficit financing of a swollen Federal Government. We ought to eliminate that pressure on credit markets. But whether we do or not, whether interest rates move up or down, whether the exchange rate of the dollar rises or falls, there can be no control of inflation without some restraint on the money supply.

Mr. Speaker, Dr. Allan H. Meltzer, who is Maurice Falk professor of economics at Carnegie-Mellon University in Pittsburgh, Pa., has explained the relationship of inflation and the money supply in a concise and very clear article published in the Wall Street Journal on Wednesday, May 17, 1978, which I submit for the RECORD. This short, yet comprehensive and readable summary of the primary means by which inflation works will hopefully be helpful to anyone involved in attempting to cope with this economic brute which is battering the Nation's financial structures:

MONEY GROWTH AND INFLATION

(By Allan H. Meltzer)

We are back to fighting inflation. For the third time in a decade, rising inflation has forced the government to change priorities. One month inflation is not a problem because there is a great deal of slack in the economy. The United States is seen as a tugboat pulling the economies of other nations into the seas of higher growth. The next month, there is a change of priorities, as the official forecast for inflation in 1978 rises from 6% to nearly 7%.

Belated recognition of a problem is better than no recognition at all only if it leads to constructive action. So far, the administration's policy against inflation calls for little more than active interference in virtually everyone's private affairs. Doctors, lawyers, executives and unionized workers are asked to reduce their wage demands. Businesses are asked to restrain their price increases. Government employees are told to set an example for the rest of us by cutting their real income. The Council on Wage and Price Stability will try again to talk the rate of inflation down.

But many different types of voluntary and involuntary price and wage controls have been tried in the U.S. and elsewhere in the past decade, all without success. The oldest and best established theory of inflation is that it depends on the "maintained," or long-term, growth rate of money. Consider the following table showing the percentage increases in consumer prices and money supply among the major trading partners of the U.S. whose heads of government President Carter will meet at the July economic summit.

PRICES AND MONEY SUPPLY

[In percent]

	Rate of price change in 1973	Average rate of change of money, 1970–72	Rate of price change 1977	Average rate of change of money, 1974–76
Japan	11.6	21.9	6.1	12.6
Italy	10.8	20.8	18.6	15.0
United Kingdon	9.1	12.8	13.1	13.5
Canada	7.6	9.5	9.1	10.4
France	7.3	8.7	9.9	12.6
Germany	6.9	12.1	3.6	9.9

[1] Based on GNP deflator

Source: Federal Reserve Bank of St. Louis.

Japan has the highest average rate of money growth through 1972 and the highest inflation in 1973. Italy is second in inflation and second in maintained money growth. With but one exception, Germany, the two columns have the same order.

A WIDER RANGE

Rates of inflation in 1977 are spread over a much wider range. Germany and Japan used the greater freedom permitted to central bank policy under flexible exchange rates to lower inflation to about half the 1973 rate. In Italy, the United Kingdom, Canada and France inflation increased. Again, the rate of inflation is highest in the country (Italy)

with the highest rate of growth of money. And, again, there is but one exception, this time Japan, to the rule that associates the rate of money growth to the rate of inflation.

These tables help dispel three myths. One is that the U.S. rate of inflation is "stuck" at about 6%. The fact is that the rate of inflation is high or low where the rate of money growth is high or low. The second is that formal and informal controls are effective against inflation. Britain has had some types of income policy for years, and Canada is now dismantling price and wage controls. France, too, tried to slow inflation by controlling prices. Inflation increased in all three countries.

The third myth is the relation between inflation and oil or energy imports. Canada is close to a balance between exports and imports of oil and gas. Japan imports most of the oil and gas used by consumers and producers. By slowing money growth, Japan reduced inflation despite its oil and gas imports; by raising money growth, Canada increased inflation, despite its oil and gas exports.

Italy is the only country that reduced the average rate of money growth and experienced higher inflation. Average money growth fell more than 5%, but inflation was considerably higher in 1977 than in 1973.

One of the oldest, and simplest, theories of inflation is the source of a familiar, almost proverbial explanation. Inflation is 'too much money chasing too few goods." There is ample reason to expect this simple theory to explain inflation in every country if we allow enough time. But for shorter periods, changes in the amount of money the public chooses to hold—changes in the demand for money—may cause prices to rise faster or slower than the difference between the growth rates of money and output.

The next table shows that in most countries, the simple theory appears to explain the average rate of inflation for the past three years about as well as we can expect. Column (3) shows the difference between the growth rate of money and the growth rate of output from the fourth quarter of 1974 to 1977. This is the expected or predicted rate of inflation if there are no changes in the demand for money during the three-year period. Column (4) shows the actual rate of inflation, during the same period.

THREE-YEAR AVERAGE RATES OF CHANGE OF MONEY OUTPUT AND PRICES FROM 4th QUARTER 1974 TO 1977

	Money (1)	Real output (2)	Implied prices (1)—(2) (3)	Consumer prices (4)
Canada	11.1	3.2	7.9	8.4
France	11.5	[1] 2.0	9.5	9.9
Germany	10.9	2.6	8.3	4.4
Italy	17.5	2.2	15.3	16.2
Japan	10.7	4.7	6.0	[2] 6.4
United Kingdom	15.9	—.3	16.2	17.7

[1] industrial production, GNP not available.
[2] GNP deflator.

Source: Federal Reserve Bank of St. Louis.

The correlation between expected prices and consumer prices is close except for Germany. It's not surprising, then, that voluntary or mandatory restrictions on individual wages, salaries, incomes or prices have not reduced inflation abroad. Programs of this kind work only if the public, as a whole, can be persuaded to spend less. If the public decides to hold more money in its checking accounts, desired money balances rise and inflation falls. The difference between the average rates of growth of money and output becomes larger than the rate of inflation.

GERMAN EXPERIENCE

Germany, with fewest controls on wages and prices, is the only country shown where the public has persistently added to desired money balances.

The President's recent concern about inflation can have a lasting effect on inflation only if his administration reverses its previous positions. The Federal Reserve must take the leading role in policies to reduce inflation because it has responsibility for controlling money. No anti-inflation policy can succeed if the administration discourages the Federal Reserve from reducing money growth. The administration can help the Federal Reserve most by reducing the growth of government spending.

Two or three years from now, the most careful economic research will not be able to detect any reduction in inflation from the efforts of the Council on Wage and Price Stability. Some victims may find that their salaries or wages were reduced. Some firms may have smaller profits. These changes in relative income will delight some and annoy others. But the average rate of inflation will be governed mainly by the average growth of money, just as it has been here and elsewhere in the past.●

THE SOFT PATH IS FILLED WITH HARD ROCKS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. YATRON. Mr. Speaker, it is my privilege to bring to the attention of this body a talk by Mr. James R. Stoudt, president and chief executive officer of Gilbert/Commonwealth, a professional engineering and consulting firm, first presented before the Manufacturers' Association of Berks County, Reading, Pa. Mr. Stoudt, a mechanical engineer was instrumental in his company's entry into the nuclear power field during the 1950's and has been the president since 1962. In addition to engineering, design and construction management of power generation and transmission facilities, Gilbert/Commonwealth's staff of 4,500 serves a broad range of industrial and governmental clients on projects such as manufacturing facilities, pollution control installations and municipal water and waste treatment systems.

The talk reprinted here examines the technical as well as the moral questions posed by the strategy of no growth. It is Mr. Stoudt's position that simplistic, "one-track" solutions invariably offer no solution at all—and that easy answers built on a foundation of misinformation pose, in themselves, a new and complex set of problems.

The article follows:

THE SOFT PATH IS FILLED WITH HARD ROCKS

(By James R. Stoudt)

We are certainly the most informed society in history but this does not necessarily mean the best informed. We are the most forewarned, anxiety prone, exhorted and guilt-ridden people to inhabit this planet. More and more foreboding predictations are made by "authorities" or "experts" who appears highly credible and selfless in their motives. Their credibility is augmented by media and the public's unquenchable thirst for bad news.

In the name of sheer survival, we are warned that technological solutions simply cannot meet the rising expectations and demands of more and more people. Growth of everything, above all high technology, must come to a halt. To these prophets of doom, an ecological crisis is self-evident. Short and long term solutions are a matter of simply making the right anti-technological choices at once. The strategies are clearly dictated by our sense of moral obligation. Having achieved an ecological crisis consciousness, the environmentalists have come of age.

This anti-growth segment of our society is a relatively small but very dedicated, very effective group which firmly believes in what it is doing and often practices the zealot's rule that the end justifies the means.

What do they really believe? Their literature varies greatly but certain themes and assumptions recur.

The most fundamental appears to be that some vague, fragile "balance of nature" has been upset. Closely connected with this is a quasi-religious assumption that nature is in itself not only sacred . . . unspoiled . . . pure . . . but also somehow endowed with inalienable rights—and that for man to violate them would be immoral.

Another theme is similar. "The world has cancer and cancer is man." Population and technological pollution share the same cancerous origins: man's greedy self-interest.

A third theme states that our planet's habitable space and natural resources are approaching exhaustion; therefore, earth's carrying capacity has specific quantifiable limits. This thesis imposes a moral obligation to restructure lifestyles and reproductive choices so as not to exceed the prescribed limits.

We have all heard these themes presented over and over again. One almost feels guilty to even think there is something wrong with these themes, must less to verbalize doubts. I do not challenge an individual's right to believe what he believes, only his right to impose his philosophy on the world. For it is the results that are clearly unacceptable. Let me provide two illustrations.

First, an example of their effectiveness in delaying power projects. In 1962 Con-Ed, our largest and much maligned electric utility serving New York City, announced plans to build the world's largest pumped-storage plant on the Hudson River near the town of Cornwall, N.Y. Its stated purpose was to "increase the reliability of electricity in New York City and Westchester County." And with good reason, for if there was one thing New York's power system needed in the early 1960's it was reliability. This was starkly demonstrated on November 9, 1965, when most of the northeastern United States, including metropolitan New York, was blacked out for up to 12 hours.

At any rate, Con-Ed applied to the Federal Power Commission for permission to build the Cornwall pumped-storage project—and keep in mind that pumped storage is one of the cleanest, least environmentally objectionable power sources there is. After holding public hearings and carefully reviewing the need for the project, the FPC authorized it in 1965. A consortium of environmental organizations immediately filed a suit charging Con-Ed with failing to give adequate consideration to alternative sources of power, poor environmental design, and questionable transmission features. The court referred the matter back to the Federal Power Commission.

For the next six years the case shuttled from courtroom to courtroom, from public hearing to public hearing, and in and out of the FPC portals. Finally, in October 1971, a Federal Court of Appeals upheld the FPC's licensing of the plant. Not daunted, the plaintiffs petitioned the United States Supreme Court. in June 1972 the august body rejected the case. It appeared that Con-Ed had finally won permission to go ahead with the project. Right?

Wrong . . . almost before the ink was dry on the Supreme Court decision, the same en-

vironmental attorneys submitted a new complaint. This time they had different grounds—the danger posed to the fish in the Hudson River. Their complaint charged that the proposed plant would draw so much water from the river that ocean water would be drawn upstream and the freshwater fish would succumb to the saltwater environment. To cut short this horror story, the Cornwall project is no nearer to becoming a reality now than it was 16 years ago when Con-Ed announced it. The whole matter is still tied up in endless miles of red tape and litigation. None of the charges against the project have been proven—to the contrary, it has repeatedly been given a clean bill of health. But under the rules of the environmental game as it's played today, the sponsors of an energy project are guilty until proven innocent . . . proven innocent . . . proven innocent . . .

This example is just one of many. A rare wild flower killed a hydro-electric project in Maine. A small fish, the snail-darter, another project in Kentucky. An inedible clam was claimed to be teetering on the border of extinction by the construction of the Seabrook nuclear plant in New Hampshire. In this case, the citizens rallied in favor of the construction and the logjam was cleared last year.

Let me add a non-power example to the effects of this anti-growth, "upsetting the balance" philosophy.

The South Coast area of Southern California (Santa Barbara and vicinity) revolted against pressures from rapid growth in the 1960s and deliberately pursued a slow growth policy for several years. Slow growth was imposed variously by forcing a lid on housing starts, low-density zoning, foregoing redevelopment of downtown areas, discouragement of industrial development, refusal to authorize new water hookups and other means, Preserving the status quo has had a substantial economic and social price:

Construction curbs sent prices of existing homes skyrocketing faster than any place else in Southern California—out of reach of middle class people with growing families who need more space. Most land is zoned for only one house per acre and an acre lot sells for $100,000. Even a small tract house costs $125,000.

Many people are leaving the area because of housing conditions and because there are so few job and career opportunities left. They can't afford to stay. It is virtually impossible for young people to find decent jobs. School enrollment is down, teachers are losing jobs. 500 members of the carpenters' union have abandoned the area in the last four years. 1,800 people enter the job market per year, but only 1,400 find even menial jobs.

Limits on business and industrial growth combined with inflated housing values have pushed property taxes skyward for those who remain. Taxes have doubled and tripled within the last five years, imposing especially difficult burdens on older people with fixed incomes. Industry will not come to the area because needed labor forces "can't afford to live there."

There is a rancorous running debate in the area between anti-growthers and pro-growthers. The former consist of a mixed lot, including academics and students, the affluent and environmentalists. The latter are a coalition, including labor, developers and business. Each describes the other as "goofier than pet coons" or "robber barons intent on raping the South Coast for personal profit."

Who are these anti-growth people? I will mention but two specifically: Amory Lovins and S. David Freeman. My reason for selecting them relates to the clear indication that they have had a profound influence on the thinking of the current president of the United States.

President Carter has met with Amory Lovins and has directly quoted from his philosophy since his move into the White House. Amory Lovins, a consulting physicist and British Representative of Friends of the Earth, Inc., published a paper entitled "Energy Strategy: The Road not Taken?" in October 1976. Time will not permit a full review of its contents. However, I will directly quote a few paragraphs to give you a feeling for the seductive appeal of his approach. First his opening paragraphs:

"Where are America's formal or de facto energy policies leading us? Where might we choose to go instead? How can we find out?

"Addressing these questions can reveal deeper questions—and a few answers—that are easy to grasp, yet rich in insight and in international relevance. This paper will seek to explore such basic concepts in energy strategy by outlining and contrasting two energy paths that the United States might follow over the next 50 years—long enough for the full implications of change to start to emerge. The first path resembles present federal policy and is essentially an extrapolation of the recent past. It relies on rapid expansion of centralized high technologies to increase supplies of energy, especially in the form of electricity. The second path combines a prompt and serious commitment to efficient use of energy, rapid development of renewable energy sources matched in scale and in energy quality to end-use needs, and special transitional fossil-fuel technologies. This path, a whole greater than the sum of its parts, diverges radically from incremental past practices to pursue long-term goals.

"Both paths, as will be argued, present difficult—but very different—problems. The first path is convincingly familiar, but the economic and sociopolitical problems lying ahead loom large, and eventually, perhaps, insuperable. The second path, though it represents a shift in direction, offers many social, economic and geopolitical advantages, including virtual elimination of nuclear proliferation from the world. It is important to recognize that the two paths are mutually exclusive. Because commitments to the first may foreclose the second, we must soon choose one or the other—before failure to stop nuclear proliferation has foreclosed both."

A word about nuclear proliferation. The cork came out of the bottle over 30 years ago when we produced the first atomic bomb. Plutonium or weapons grade uranium can be produced in many ways unrelated to the production of nuclear power. Among them are:

Production Reactors: The most common way to produce plutonium for nuclear weapons has been to design a reactor for this specific purpose. The U.S., U.S.S.R., U.K., France, and China developed such plutonium production reactors.

Gaseous Diffusion: All five nuclear weapon states have developed very large and expensive gaseous diffusion enrichment plants. The low enrichment uranium used in commercial light water reactors cannot be used for weapons purposes. However, the same technology could be used to produce highly enriched weapons grade uranium with significant expansion.

Research or Test Reactors: Some types of research and test reactors, with subsequent reprocessing of the spent fuel to acquire the plutonium, can be used for nuclear weapons material. Such reactors and their associated reprocessing facilities could be built by many countries at low cost. This was the source of India's bomb.

Mass Spectrograph: The U.S. acquired its initial supply of highly enriched uranium in World War II with large scale mass spectrographs. Although a significant number of mass spectrographs need to be used, they can be bought on the open market.

Gaseous Centrifuge: Three nations are currently operating a demonstration scale gaseous centrifuge low enrichment plant. Other countries have research programs in this area. Gaseous centrifuges could also be used for weapons grade highly enriched uranium.

Nozzle Enrichment: Nozzle enrichment is now under development in Germany, Brazil, and South Africa, and could be utilized for weapons purposes.

Laser Enrichment: Laser enrichment is under development in many countries due to its promise of substantially lowering the cost of enrichment. When developed, it would be easy to conceal and could produce highly enriched uranium.

None of the bombs built to date came from power reactors. Discouraging commercial reactors and breeder reactors does not eliminate proliferation. In fact, we cannot hope to influence international safeguards unless we are a part of the team. Continuing his essay, Dr. Lovins states that: "Theoretical analysis suggests that in the long-term technical fixes alone in the U.S. could probably improve energy efficiency by a factor of at least 3 or 4."

For a physicist, his understanding of physical laws and mathematics is seriously flawed or conveniently forgotten. No way can we improve energy efficiency by factors of 3 or 4. Today's thermal power plants at 40 percent efficiency are very close to the maximum possible unless Dr. Lovins has found a way to break the laws of thermodynamics.

"There exists today a body of energy technologies that have certain specific features in common and that offer great technical, economic and political attractions, yet for which there is no generic term. For lack of a more satisfactory term, I shall call them "soft" technologies: a textural decription, intended to mean not vague, mushy, speculative or ephemeral, but rather flexible, resilient, sustainable and benign. The distinction between hard and soft energy paths rests not on how much energy is used, but on the technical and sociopolitical structure of the energy system, thus focusing our attention on consequent and crucial political differences."

To me, his own choice of the words, vague, mushy, speculative and ephemeral, describes his double-talk beautifully.

"The required scale of organic conversion can be estimated. Each year the U.S. beer and wine industry, for example, microbiologically produces 5 percent as many gallons (not all alcohol, of course) as the U.S. oil industry produces gasoline. Gasoline has 1.5–2 times the fuel value of alcohol per gallon. Thus a conversion industry roughly 10 to 14 times the scale (in gallons of fluid output per year) of our cellars and breweries would produce roughly one-third of the present gasoline requirements of the United States; if one assumes a transport sector with three times today's average efficiency—a reasonable estimate for early in the next century—then the whole of the transport needs could be met by organic conversion. The scale of effort required does not seem unreasonable, since it would replace in function half our refinery capacity."

Suggesting the conversion of breweries and wineries to the production of Lowenbrau Hi-Test or No-lead Chablis when the current price of wood alcohol exceeds $4/gallon not only is economically questionable—just think what that does to the quality of life!

"Perhaps the most important opportunity available to us stems from the fact that for at least the next five or ten years, while nuclear dependence and commitments are still reversible, all countries will continue to rely on the United States for the technical, the economic, and especially the political support they need to justify their own nuclear programs. Technical and economic dependence is intricate and pervasive; political dependence is far more important but has been almost ignored, so we do not yet realize the power of the American example in an

essentially imitative world where public and private divisions over nuclear policy are already deep and grow deeper daily."

His comments on the U.S. role in nuclear technology, the world's dependency on it and its shakiness abroad are absolutely ridiculous. The world is going on without us. While we had 85 percent of the international market in the early seventies, the Germans and the French have now assumed this percentage. Sticking our heads in the sand, like the ostrich, will not make it go away. The other major industrial nations know they need nuclear power and will not and have not hesitated to proceed without us. As an important aside, let me point out that the current deterioration of the dollar is directly related to this issue both in terms of trade imbalance (reduced nuclear exports and increasing oil imports) and a certain incredulity which exists at the idealistic immaturity of the administration's energy policy. There is nothing politically irresistible about energy insufficiency.

"Underlying energy choices are real but tacit choices of personal values. Those that make a high energy society work are all too apparent. Those that could sustain life-styles of elegant frugality are not new; they are in the attic and could be dusted off and recycled. Such values as thrift, simplicity, diversity, neighborliness, humility and craftsmanship—perhaps most closely preserved in politically conservative communities—are already, as we see from the ballot box and the census, embodied in a substantial social movement, camouflaged by its very pervasiveness."

Life styles of elegant frugality—enough quotes from Dr. Lovins' philosophical treatise.

His "soft path" leans heavily on renewable energy sources. In so doing, he completely fails to recognize the current high cost of such systems and the undependable nature of sun power and wind.

The most insidious aspect of his "soft" renewable source strategy is that, in the midst of an energy problem which grows worse because of inaction, he offers false hope of simple solutions. To the public at large he offers a view of energy that is clean and safe, cheap and plentiful and to the policymakers who have fiddled while Rome burns, he provides an excuse for further inaction.

I believe that we must follow both paths. My conviction that we must continue the "hard" technologies does not mean that I disbelieve in the need for conservation or that I am less than excited about the ultimate potential of certain of the soft technologies. Indicating that they cannot suffice tomorrow or even in 25 years is not a denial of their usefulness but rather a recognition of reality.

My second candidate for the award for least profound and most short-sighted influence is S. David Freeman.

It has been said that the President's energy policy was conceived either as a transcendent moral vision or as a scheme to raise $40 billion a year in additional tax revenue. In reality, the crisis has little to do with technology. A country as imaginative and technically sophisticated as the U.S. could solve such problems. It is rather a political crisis. One which resolves itself into quarrels about who has the right to do what to whom, at what price and in whose interest, under what definition of government and according to which definition of the democratic ideal.

S. David Freeman was employed in the White House Office of Energy Planning at the time the President's Energy Policy was prepared. Prior to this, he headed the Energy Policy Project commissioned by the Ford Foundation. Given grants amounting to $4 million between 1971 and 1974, Freeman produced 21 volumes and a final report published under the title "A Time to Choose." His report recommended a policy of energy conservation suggesting that the U.S. could reduce its demand as much as 50% if it would establish a federal agency large enough and forceful enough to impose rationing, allocate resources, rearrange the international oil market, set prices, raise taxes, issue energy stamps, and redistribute income (sound familiar?). The report also asked for government subsidy of anything that might conserve energy, for a schedule of pollution taxes, and for the setting up of a tribunal that could award supplies of energy on the basis of need and moral worth among industries and geographic regions.

"A Time to Choose" was published in October 1974 with a great ceremony and as an announcement of grave social significance; press conferences in New York and Washington; 6,000 copies to members of Congress, the federal bureaucracy and the press; 30,000 copies sold in bookstores and 300,000 copies to the Book-of-the-Month Club.

Many on Capitol Hill thought the report provided the first coherent explanation of energy matters not submitted by the oil and gas lobby. Politicians spoke of it as "filling a vacuum," as "exploding the myth of a connection between energy growth and economic growth." The press received the publication with thanksgiving and applause. However among the more knowledgeable people the response was less enthusiastic. A number of prominent economists characterized the report as an intellectual disgrace. Several months later, under suspicion of having sponsored the release of ideological propaganda, the hierarchy of the Ford Foundation disavowed the worth of the report, describing it as inept, foolish and of little consequence.

If you are interested in learning more of this, I would recommend that you read the article "The Energy Debacle" by Lewis H. Lapham, editor of "Harper's," which appeared in the August 1977 issue. Let me quote Mr. Lapham's closing paragraph:

"Although I hold no brief for the merchant class and its habit of blind rapacity, I cannot see how a policy of zero growth can do anything but lead to even more savage results. People want what they want, and they will pay whatever prices they must, and so it is no use trying to tell them what's good for them. Like Prohibition and other governmental attempts to justify man's ways to God, the National Energy Plan presumably would accomplish a purpose contrary to the one intended. Given a limited supply of goods, people compete more fiercely for the smaller number of jobs, freedoms, and opportunities. They would place an even heavier reliance on money because money would provide them with the only defense against the officiousness of government. In an open and expanding society, people will pay their taxes, study the odds, and try to improve their lot. Within a closed society, they have no choice but to kill each other. This also can be construed as an equivalent of war, but I doubt whether it is one that Mr. Carter would smilingly describe as moral."

Time will not permit a full exploration of the many flaws in the arguments of our zero growth advocates. I do not believe most of us in this meeting need much convincing on the importance of continuing the "hard path." However, there are many undecided people in our society, people we all come in contact with in our daily lives. What can we tell them that will not simply have them conclude we are biased by our involvement in the world of manufacture, energy supply and technology?

Let me suggest two counter-arguments. While we think of our society as democratic, our social structure is not unlike the "Titanic." When this great ship rammed into an iceberg, the consequences were far from democratic. Only a few of the 1500 lives lost were first-class passengers. It is a brutal fact of life that those whose lives are lived at or below the "waterline" in any society are harmed first and worst when the necessities of life are in short supply. The recent pronuclear position taken by the NAACP is a sure indication that they recognize this brutal fact. The third world also recognizes it and simply will not and cannot accept the arguments that mass starvation is morally acceptable as the solution for reconstructing a smaller, softer, self-reliant, fraternal world.

Finally, consider rather the positive fact that technology has demonstrated over and over again that it improves the quality of our lives. Medicine, agricultural sciences, mass production, economy of scale, chemistry—the list is endless, the results clearly to man's benefit. In response to the thesis that our natural resources are being exhausted, think of the new products and materials we use in our daily lives never conceived of 50 years ago. Resources are invented as they are required. Man's ingenuity and resourcefulness has and will prevail over all—he will find the way to feed, clothe, house and otherwise support his kind.

My faith and confidence in man's ability to meet the challenges of future growth have the same quasi-religious conviction shared by the anti-growth element in their beliefs. We must be willing to promote our belief just as fervently as do they theirs. The soft path is surely a rocky road ahead. Let us not be deceived by the seductive wail of the sirens.●

BRONX COALITION HELPS PROBLEM YOUTH

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BINGHAM. Mr. Speaker, Americans have become increasingly preoccupied with the fear that they will become victims of one sort of crime or another, and with good cause. In 1976 alone, according to the FBI's uniform crime report, 7,912,348 persons were arrested on criminal charges.

Our judicial system is ill equipped to cope with the large numbers of arrests. Jails are overflowing, as are court calendars.

Tragically, fully one-quarter of those arrested were juveniles. This presents a special problem, because not only is the juvenile justice system unable to help them, but neither are the schools.

Under a grant from the Law Enforcement Assistance Administration an organization in my congressional district in the Bronx, the Northwest Bronx Community and Clergy Coalition, through its youth development program (YDP), has created a program to deal successfully with problem youth.

YDP has 12 organizers doing outreach work from 11 offices in the northwest Bronx. Its goal is to organize youngsters ages 14 to 21 and channel them into constructive activities such as block cleanups, recreation, and cultural and civic activities.

The YDP offers counseling services to both individual youth and their families. It also has career education specialists who provide individual counseling to youths on education and vocational opportunities. The specialists cut through redtape involved in securing

school transfers, tutoring, and placement in high school equivalency or suitable training programs. The specialists also coordinate the coalition's various youth and employment training programs under CETA.

During the summer of 1977 YDP obtained 235 youth jobs from the New York City Department of Employment under CETA. YDP is currently operating a title I in-school program providing 10-hours-per-week jobs for 54 youths.

Under the Comprehensive Youth Employment and Training Act of 1977 the coalition has been assigned eight full-time youth positions as junior community organizers, to complement the existing organizing specialists. During the past 3½ years the community organizers have organized 660 tenant associations, 75 block associations, and 8 neighborhood associations.

The YDP has a court and police liaison who acts as a counselor and advocate for youths who become involved with the criminal justice system. The liaison also works with the community affairs officers of several police precincts, and on several occasions information discovered by YDP youth organizers concerning impending gang fights has been turned over to the Bronx youth gang task force, which diffused these potentially violent situations.

One of the most effective programs of YDP is its planned trips to Rahway State Prison's lifer's group. Twenty criminally involved youth per month take such a trip. These youngsters are given a tour of this maximum security prison and engage in a "rap session" with the members of the lifer's group. The effectiveness of this program is evidenced by the fact that since its inception, 3,000 youngsters have attended these sessions, and only 100 have been rearrested.

Other activities sponsored by YDP include drama groups, the involvement of 250 youth in a northwest Bronx summer olympics, the creation of the best community garden in New York City as judged by Cornell University, theatre trips, athletic leagues and tournaments, a fund raising carnival for muscular dystrophy, staffing of school district 10 gymnasiums in five neighborhoods enabling 300 local youngsters to participate, art classes, and a baseball clinic with Lou Pinella of the New York Yankees.

The coalition's impact report on YDP shows the following:

For the period of July 1976, when the program began, to January 1977, 291 youth were serviced. Of these youths:

The number who were previously in continuous trouble but who stayed out of trouble was 91,

The number of youths who were truant when enrolled in the program was 95; as of January 1977 the number whose school attendance had stabilized was 43,

The number of clique members involved in positive ways of diverting delinquency was 234,

The number of clique members involved in community projects was 140, and

The number of youths placed in summer jobs was 200.

Under the leadership of Ze'ev Aviaza, director of the youth program, and John Twomey, assistant director, the Northwest Bronx Community and Clergy Coalition's youth development program has provided many valuable services for youngsters in the area. It has given them help with employment and education, has provided many constructive outlets for creativity and competition, and has helped them become contributing, productive members of society. I am pleased that Federal funds are being put to such effective use.●

MR. MIZELL STEWART TO BE HONORED AT STATE ASSOCIATION I.B.P.O.E. OF W. CONVENTION IN YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. CARNEY. Mr. Speaker, the Improved Benevolent Protective Order of Elks of the World will convene on Tuesday, June 20, 1978, in Youngstown, Ohio. The IBPOEW is holding this year's convention in Youngstown to honor Mr. Mizell Stewart for his 10 years of outstanding service as president of the State association.

Ohio State President Stewart, also in his 26th year as exalted ruler of the local Youngstown Elks lodge, is to be recognized for his extraordinary contribution to the Elks organization and the Youngstown community as a whole.

"Chick", as Mizell Stewart is known, was trained as a teacher at Alabama State Teacher's College. He left his native Alabama before World War II, because blacks were not being hired for teaching positions at that time. After working briefly at the Ford Motor Co. in Detroit, Mich., he settled in Youngstown in 1937 as a chemical tester for Youngstown Sheet & Tube Co.

On October 3, 1945, Mr. Stewart left the service of Youngstown Sheet & Tube to accept an appointment with the Youngstown police force. He was initially assigned to the east end beat, where he quickly gained a reputation for fairness.

His proven ability to effectively deal with citizens, and his successful accomplishments in the apprehension of criminals, led to his promotion on October 16, 1950, to the rank of sergeant with the Youngstown Police Department. His continued exemplary service resulted in subsequent work in the force's detective bureau, and intelligence and security division. During this period, he served as both a plainclothesman and supervisor of the master cruiser. He is also credited with founding the force's first narcotics squad.

Despite the ever-increasing demands on his time from his job responsibilities, Sergeant Stewart somehow found time to take courses and training seminars in public speaking and public relations. His reputation and abilities, coupled with these extracurricular activities, resulted in his appointment as head of the Youngstown Police Department's public relations unit.

In this capacity, he most enjoyed working with young people, explaining law enforcement and the functioning of the judicial system to them.

Retiring last year at age 62, Sergeant Stewart reflected on the basic kindness of everyone he has encountered throughout his police career:

> I thank all the past mayors and police chiefs I worked under, and especially the citizens of the community.

Although Sergeant Stewart has hung up his badge, he shows no sign of curtailing his service to the Youngstown community. Indeed, he is kept so busy speaking at churches, senior citizen groups, and civic organizations, that he has had to install a second telephone line at his residence.

In addition to his community work with adults, Mr. Stewart is deeply involved and concerned with Youngstown's youth. A firm believer in the importance of sportsmanship and discipline, he feels that today's youth can benefit greatly in later life by taking part in sports teams and other youth groups. To this end, Mr. Stewart has helped sponsor many little league and youth sports teams.

Perhaps Mr. Stewart's greatest involvement with youth and the community is through his participation in the Ohio State and Youngstown Elks Lodges. As one of the founders of the Buckeye Lodge of Elks (Lodge 73), Mr. Stewart has served for 18 terms as the exalted ruler. In early 1970, he expressed his desire for a youth center to be built in connection with the local lodge. After years of negotiating with community leaders, fund raising, and hard work, Mr. Stewart saw the completion of the Buckeye Elks Youth Development Center, Inc., in 1973. The facility includes a gymnasium, classrooms, and space to accommodate Boy Scout activities and arts and crafts projects.

In addition to holding office in the State and local Elks organizations, Mr. Stewart is a member of the Past Exalted Rulers Council Northern District No. 1, and a member of the Grand Lodge Elks, for whom he is an assistant police commissioner.

Although Mr. Stewart's primary involvement is with the Elks organizations, he provides community service through a number of other organizations. He has served as a trustee of the Mahoning County Society for Crippled Children and Adults, and he is a member of the Fraternal Order of Police, the NAACP, and the Youngstown area Urban League. He was recently appointed to the Mahoning County Welfare Advisory Board.

He is also active in the Centenary United Methodist Church, where he has served as chairman of stewardship and finance, president of the Husbands and Wives Club, and as a member of the pastoral relations committee. His involvement with the religious community also includes membership on the Yougstown Council of Churches and the Orga-

nization of Protestant Men. He has served on the Ministerial Race Relations Committee on the Council. Because of his extensive church involvement, he was named to "Who's Who in America in the Methodist Church."

Mizell Stewart and his wife, the former Wilhemina Reese, have four children, Mizell, Jr., Leon, Mrs. Delores Royal, and Charles Chandler, a stepson.

Mr. Mizell Stewart is a Youngstown resident who possesses an extraordinary amount of energy and an equally extraordinary sense of community service. Through the efforts of Mr. Stewart, Youngstown enjoys increased sophistication in Police Department operations and better police-community relations. His efforts have also led to the establishment of a local chapter of the IBPOEW and the development of the Buckeye Elks Youth Development Center. I am sure that the Elks, the Methodist Churches of Youngstown, and the Youngstown community in general agree with me that we have all benefited greatly from the good works of Mr. Stewart. Both on and off the job, Mr. Stewart has had the welfare of our community uppermost in his mind and for this he is a rare and exemplary individual. I commend him for freely giving of his time and energy so that Youngstown might be a better community. I wish him continued success in his future efforts.

When his many friends join in honoring him at the 57th Ohio State convention of the IBPOEW, I plan to be among them.●

UNITED STATES SHOULD SUPPORT ZAIRE'S TERRITORIAL INTEGRITY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BONKER. Mr. Speaker, as my colleagues in this body know, I have been a major critic of the Mobutu regime in Zaire. Mobutu's ostentatious habits, his mismanagement of the economy, human rights violations, and corruption have prompted me to seek reductions in U.S. military assistance to Zaire in the past.

However, today Zaire is facing a major crisis. A vital principle is at stake, namely the right of an African nation to protect its territorial integrity against attacks or invasion attempts from outside its borders. This principle is a foundation stone on which stability and peace in the continent rests. Recognition of the territorial integrity of African States is also a major tenet of the Organization of African Unity.

I believe the United States must act decisively now in support of Zaire's right to resist border incursions. We cannot stand idly by while attacks by separatist forces from Angola endanger the peace of that region. I believe that there is nothing in our law which inhibits or restricts the administration's ability to assist the Government of Zaire, in collaboration with other friends of the country, to respond to the recent attacks along its southern frontier. I support the administration's decision announced in the paper this morning, therefore, to provide nonlethal equipment and logistical support to reinforce the capabilities of Zairean forces.●

NATIONAL SIGNIFICANCE OF THE BOUNDARY WATERS WILDERNESS ACT

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. HARKIN. Mr. Speaker, the Boundary Waters Canoe Area has become a national issue, attracting the concern of people throughout the country. The Burton-Vento compromise bill, while making some concessions to local resort concerns, recognizes the national significance of the BWCA as a wilderness canoeing resource.

Thousands of people, groups, and organizations throughout my State of Iowa and from within my congressional district seek a wilderness canoeing experience every summer in the BWCA. An example of one of these organizations in my district is found in Ames, Iowa. This program, Christou Canoe, has for the last 14 years driven the 1,000-mile round trip to and from the BWCA up to eight times a summer, organizing and guiding wilderness trips for high school and college students.

These people from Iowa and across the Nation have no alternatives for lakeland wilderness canoeing other than the BWCA—it is truly a one-of-a-kind treasure. Ample alternative motorized lakes are found adjacent to the BWCA to satisfy local recreation desires, and the Burton-Vento bill permits motorboat use on a dozen peripheral lakes which actually penetrate into the BWCA to accommodate concerns from resorts situated on those lakes.

User conflicts do occur in the BWCA. Kevin Proescholdt, one of the leaders of Christou Canoe, has encountered these conflicts during his past 4 years of leading groups in the BWCA:

> We paddle conoeists, who account for 72% of the visitor-days in the BWCA, must usually spend at least the first and last days of each trip in competition with motorboats. If we want to visit any of the large scenic border lakes, the length of conflict with motorboats rises much higher. Under current management the motorboaters monopolize 60% of the BWCA lake surface area and 62% of the campsites.

In addition, Mr. Proescholdt states that it is virtually impossible to plan a complete canoe trip with no motorboat encounters:

> The current motorboat routes penetrate deeply within the BWCA interior. On an eight or ten-day trip, there are practically no routes we can take to keep us entirely off the motor routes. It's very discouraging for the campers and myself to spend several hard days of paddling and portaging to reach a distant area, only to be greeted by noisy motorboats in the heart of the wilderness.

Mr. Proescholdt concludes by recognizing the national importance of the BWCA:

> The motorboaters have alternative lakes to use—we from Iowa and beyond have only the BWCA for wilderness canoeing.●

RACIAL DISCRIMINATION: SOUTH AFRICA AND GUYANA

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. LaFALCE. Mr. Speaker, there is rising concern within the Congress regarding systematic violations of human rights in other countries and with the need to find an appropriate U.S. response to those violations. Attention has increasingly been focused on the Republic of South Africa because of its reprehensible system of apartheid which affords inhabitants of the republic with different rights and living standards according to race. This has resulted in a clear and immoral differentiation of the population into four unequally treated categories: whites, blacks, "coloureds," and Asians, which is blatant racial discrimination.

Accordingly, both the administration and the Congress have condemned the system of apartheid and encouraged the South African Government to abandon it. There have also been recent attempts to restrict economic and trade relations between the United States and South Africa; most recently, in regard to the Export-Import Bank. These efforts ironically risk harming the very people who are supposed to be helped by them: the blacks, coloureds, and Asians, but these efforts raise the equally troubling question of consistency. Racial discrimination and oppression are serious problems in a number of countries, and singling out one violator from a plethora of candidates may not be constructive and is certainly not fair.

Racial discrimination can assume many varied forms, but it always masks an underlying social and economic inequality between the different racial groups. Attempting to impose a change from outside that society through pressure on the privileged racial group can be counter-productive, depending upon the measures, because it can make that group more intransigent, and because it might not affect that deep-seated inequality. For that reason, I would like to commend to my colleagues' attention an editorial of May 15, 1978, from the Niagara Gazette, which provides an excellent long-range perspective on the nature of racial discrimination, by comparing the situations in South Africa and Guyana. As the editorial illustrates, racial strife is a phenomenon which is neither rare nor susceptible to easy solution.

Editorial follows:

GUYANA, S. AFRICA

> While the world has recently been paying a lot of attention to South Africa's repres-

sion of its black and "coloured" populations, something analogous has been happening in the Western Hemisphere.

Guyana, a nation on the north coast of South America (formerly the colony called British Guiana), is governed by blacks, though the majority of the people in the country are East Indians, who were brought in generations ago as indentured servants to work the plantations. Their rate of population growth exceeds that of the dominant blacks, and they now outnumber them. But the black minority excludes these Guyanans of East Indian extraction from an effective role in the government. Some leaders in the country warn that the minority blacks are courting another Lebanon or Northern Ireland by their intransigence, but so far their warnings have had little effect.

The parallel with South Africa is only general.

So far, at least, the Guyanan blacks have not enacted the sort of harsh racial laws that make South Africa so ugly. But they are as resentful and fearful of the East Indians as the South African whites are of their own blacks and "coloureds". Guyana does not parallel the experience of black African states, which have often reacted bitterly against whites who were the former colonial rulers. Guyana's oppressed class have always been the lowest of the country's social and economic ladder, even when whites ruled the land. So. Guyana is not a case of revenge as, say, Angola is.

What Guyana is, is a classic case of haves and have-nots—of Boston Brahmins despising the rising mass of the Irish; of white Alabamans keeping former slaves out of power and out of money; of British right-wingers fearing the growth of Britain's non-white population; of turn-of-the-century Californians warning of the "yellow peril." It is an almost universal case, the sort of thing that has occurred in almost every country where a dominant class has felt threatened by the vigor and growth of an under-class.

This kind of class conflict is one of the great tests of a democratic government. Ideally, a free government should accommodate itself to the changing population, leaving the majority free eventually to take control peacefully, while preserving the right of the former rulers, the minority, to participate in the government.

In the United States, this accommodation is slowly and erratically being carried out. In South Africa, such an accommodation is not being made at all. The issue is in doubt in Britain (though the population disparity there is so great it is hard to see why whites are fearful at all.) The accommodation has not been begun in Guyana; it remains to be seen whether blacks will finally give way peacefully to East Indians, or whether they will surrender democracy rather than surrender control of the country.

To Americans, Guyana makes an ironic commentary on black African majorities' struggle to oust their white rulers. To a 21st century historian, it will doubtless be a fascinating case study of the conflict between a ruling population and its "indigenous aliens." But for East Indians in Guyana, it is present injustice, present oppression, and present suffering.●

CARTER'S SLIPPING POPULARITY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. NOLAN. Mr. Speaker, Jimmy Carter, like Richard Nixon and Lyndon Johnson before him, is fast becoming a President under siege. Hardly a day goes by when a major newspaper or columnist does not issue a stinging broadside questioning Carter's ability to fill the role of President.

Few commentators, however, are willing to address the shortcomings they perceive in Carter in the context of his own times. Most of the critics cling just as tightly as does Carter (and the Congress) to illusions of power.

In an article which appeared in a recent issue of the Progressive, Sidney Lens describes the nature of the illusion under which both the pundits and the President suffer.

The article follows:

CARTER'S SLIPPING POPULARITY

President Carter's headlong slide in popularity, reflected in all the public opinion polls, is being attributed to a host of causes ranging from personal ineptitude to philosophical vacuity. But none of these explanations, it seems to me, strikes at the core of the problem: What can Jimmy Carter do? He presides over an empire in decline.

Parade magazine is certainly right when it castigates Carter for a "lack of a contagious or unifying philosophy." But where in Establishment circles, liberal or conservative, does one find a leader with a "contagious or unifying philosophy"? And what does such a philosophy look like in our time?

Morton Kondracke of the New Republic says the President is "as poor a tactician and negotiator as he is a strategist." And Theo Sommer of Hamburg's prestigious weekly, Die Zeit, informs us that Europeans consider "Jimmy Carter's White House operation . . . sloppy, confused, haphazard—unexplained and probably inexplicable." All or most of this may be true, but it focuses on Carter the man, while the real problem is that Carter's options—in both domestic and international affairs—are severely limited.

Of the six levers that accounted for American power in the quarter of a century after World War II, only one remains fully effective: U.S. domination of the export market for grain. Every other facet of American power is in the process of erosion:

The United States is no longer master of the world's petroleum supply, but now must share power with the OPEC consortium.

Since Vietnam, U.S. military power is no longer perceived as invulnerable. Henry Kissinger concedes that American strategic superiority has not led "to either military or political gains," and the defeat in Indochina has compelled Washington to move cautiously elsewhere—in Angola or the Horn of Africa, for example.

The U.S. Government, beleaguered by Vietnam, Watergate, the recession, the decline of the dollar, and enormous world trade deficits, lacks popular support even for its day-to-day activity, let alone for any bold new directions.

The U.S. industrial machine has steadily lost its competitive edge to Germany and Japan—in large part, as Seymour Melman points out, because the most modern equipment is devoted to military production, while civilian productivity lags.

Beset by its own economic difficulties, the United States can no longer dispense foreign aid in such a way as to force the "free world" to accept its dictates.

Carter's problem is that the organs of the Establishment, including Congress and the Pentagon, refuse to recognize that they have lost or are losing control of these levers of power. They bluster as if we were still in the 1950s, when American word was world law. The recent debate on the Panama Canal treaties was full of that kind of bluster.

In this situation, Carter should be vigorously challenging the blusterers; instead, he tries to find accommodations with them. How can the President solve, for example, the joint problems of energy and inflation, if the price exacted by the blusterers for curtailing energy use is to increase greatly the price of oil and natural gas and the profits of the energy industry? How can he reduce the budget deficit if the price for support of the Panama Canal treaties or a SALT agreement is a $12 billion boost in the military budget? How can he provide jobs or national health insurance if he must accept the blusterers' definition of "greatness" as military power? It is not surprising that the President waffles, or backs down on every promise made. He rules an empire in decline, but is compelled to act as if it were still expanding.

The President may be as inept as critics say—but so were Truman, Eisenhower, and Ford. The real problem is the failure of all concerned to live with the realities of a historical process that grows less and less favorable to the American empire.●

BATF GUN CONTROL REGULATIONS MUST BE REJECTED

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. KASTEN. Mr. Speaker, yesterday I was pleased to submit testimony to the House Subcommittee on Crime in opposition to the Bureau of Alcohol, Tobacco and Firearms' proposed regulations to establish a national computerized central firearms registration system.

Once again we see evidence of a bureaucratic agency attempting to circumvent the responsibilities of the people's elected representatives. The BAFT is proposing a system of regulation that has been debated and rejected by Congress on numerous occasions. This latest effort to establish by bureaucratic decree what cannot be achieved through the legislative process must be soundly rejected.

At this point, I would like to have printed in the RECORD the text of my statement to the House Subcommittee on Crime which further outlines the basis for my opposition to these regulations.

STATEMENT BY THE HONORABLE ROBERT W. KASTEN, JR.

Mr. Chairman: I am pleased to submit written testimony in opposition to the Bureau of Alcohol, Tobacco and Firearms' (BATF) proposed regulations to establish a national computerized central firearms registration system. As one of over 130 of my colleagues who have co-sponsored a Congressional resolution to disapprove of the regulations, I am hopeful that your committee will move to block their implementation.

The BATF proposal would require firearms licensees to report all firearms dispositions quarterly, require additional serial numbers on all firearms, make it a felony for a licensee to fail to report a firearms loss or theft within one week of discovery, and eliminate the present servicemen's import exemption.

These regulations and the manner in which they were proposed are an affront to every American, not just those who oppose gun control. An issue that involves the regulation of one's Constitutional right to own firearms should be determined by the people's elected representatives. Yet, in this instance, a bureaucratic agency is attempting to circumvent the legislative process.

More disturbing, it is proposing a system of regulation that has been debated and rejected on numerous occasions by the U.S. Congress. In effect, the Administration is attempting to achieve by bureaucratic decree what cannot be achieved through the legislative process. Such an attempt must be soundly rejected.

The Congressional record on gun control is one of strong opposition to centralized federal registration of firearms. The House of Representatives defeated, by two-to-one margins, three proposals to require gun registration during its consideration of the 1968 Gun Control Act. Likewise, the Senate soundly defeated four amendments during its consideration of the 1968 act.

In each case Congress was responding to the will of the people. Americans are opposed to excessive government supervision of their private lives, particularly when it affects their Constitutional right to own and bear firearms.

Whether a federal computer bank of firearms owners should be created is a question of public policy that should be debated in a forum of elected public officials, subjecting the issue to the democratic process. If past history is any judge, I think that once again Congress would defeat the plan.

MORE RED-TAPE, PAPERWORK

If allowed to take effect, these regulations would require transactions of all firearms within existing federally licensed commerce to be reported quarterly to the BATF. Reporting would cover all dealer sales to individual citizens, as well as all transactions between manufacturers, importers, exporters, wholesalers, jobbers, distributors and dealers.

Based on BATF estimates of the 5.2 million new firearms in commerce in fiscal year 1977 and BATF claims that an average of four transactions occur before a dealer sale to an individual citizen occurs, the reporting requirements would conservatively total at least 25 million separate computer entries. When used firearms are in the equation, the number of firearms transactions which would be computerized total between 35 and 40 million.

The system would require 688,000 quarterly reports yearly from 172,000 holders of federal firearms licenses. BATF estimates that the paperwork costs to dealers would be $8 million yearly. The Treasury Department claims that the start-up cost of this massive program will run about $5 million, a figure that seems unrealistically low. Previous estimates for a start-up cost of a gun registration system have ranged between $35 and $100 million with an annual operating cost of $20 million.

The overall effect of the regulations is to expand the federal bureaucracy in order to run a major, expensive gun registration program.

NO EVIDENCE THAT PROGRAM WILL REDUCE CRIME

There are no reliable studies to show that this costly and cumbersome system would reduce the nation's crime rate. Gun control is not the answer to our crime problem; rather, we must make clear to the criminal that crime does not pay. Yet, the criminal penalties provided for under the proposed regulations are imposed on dealers, for failure to report properly—penalties that are greater than those imposed for stealing firearms! Once again, the government bureaucrats are failing to come to grips with the root causes of the problem.

WITHDRAW REGULATIONS

I was pleased to learn that the House Subcommittee which has jurisdiction over funding for the Treasury Department has adopted language in its appropriation bill to prevent the BATF from redirecting any of its funds for the gun registration program. This is an important step as are these hearings.

Now that the public comment period is nearing an end, I hope that the BATF has been made sufficiently aware of the extent of public and Congressional outrage over these regulations and will move to withdraw them from further consideration. If not, it will be necessary for Congress to take more definitive action to prevent their implementation. I am prepared to vigorously support such action.

Thank you, Mr. Chairman, for this opportunity to include my views as part of the hearing record.●

OUR MAN IN WASHINGTON

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. RHODES. Mr. Speaker, while the nationally famous television reporters and syndicated columnists have come to symbolize the glamorous Washington news media, the fact is they comprise but a handful of the nearly 3,000 correspondents who cover Washington news. Though every bit as hardworking, capable, and dedicated as their more celebrated brethren, most remain largely unsung and unheralded, and perhaps even a bit unappreciated by their home offices.

That is why I was particularly pleased to note a recent item in the Indianapolis Star by Publisher Eugene S. Pulliam, paying tribute to Washington Bureau Chief Ben Cole. Because Ben also covers for the Arizona Republic, I have come to know him well over the years, and to admire and respect his sharp news sense and his keen ability to analyze and interpret the complexities of Washington in terms that make sense to his readers.

Even more importantly, however, is Ben's well-deserved reputation for a consistently high standard of accuracy. I may not always see an issue from the same perspective as Ben, but there is never any question as to the accuracy of his facts. As Gene Pulliam wrote:

Ben Cole tells it like it as far as the Congress is concerned.

And the readers of the papers for which Ben works are the better informed for it.

I commend the article to my colleagues and ask that it be inserted in the RECORD at this point:

[From the Indianapolis Star, May 14, 1978]

OUR MAN IN WASHINGTON

Our man in Washington, Ben Cole, received a surprising compliment this week.

It was surprising not because it wasn't well deserved and overdue but because of the source. It appeared in the Columbia Journalism Review, which often is disdainful of the Midwest, and was contained in a piece by two Washington-based correspondents.

Discussing coverage of Washington by "regional" correspondents, they listed The Indianapolis Star as one of six newspapers which carried "enterprise accounts and detailed stories using local angles" on the unsuccessful attempt in June of 1975 to override President Ford's veto of the strip mining bill.

One story, as the article pointed out, is "not a complete measure of performance" but this one did highlight the day-in and day-out solid job of reporting done by Ben Cole for The Star, the Muncie Star, Vincennes Sun Commercial and the Arizona Republic.

Ben knows his way around in Washington, having been there for more than a quarter of a century. He knows that no one reporter can cover all of Washington, so he covers those things most likely to be of interest and importance to his newspapers. He reports on such routine but important things as voting records, how Congressmen spend their time, what their income is, and who makes donations to their campaign funds. Additionally, he writes a well-read weekly column and, in his spare time, is a leading light of the annual Gridiron Club show of which he is an understandably proud member.

He covers White House press conferences, too, but, like many of his cohorts, is not so sure they're all that newsworthy because of the increased formality and lack of ability to follow up on questions.

It's an important job. If he were not there, the constituents of the many Congressmen he covers would know little about their actions except that which their press secretaries sent out. Even the massive and expensive Congressional Record is no longer an accurate report of Congressional debate or floor action.

Some may consider it a chauvinist opinion, but the firm belief here is that only newspaper reporters like Ben Cole tell it like it is as far as the Congress is concerned.●

KAUNDA: FOR A PRINCIPLE OR A FRIEND?

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. BOB WILSON. Mr. Speaker, I would like to share with my colleagues an editorial by Stephen S. Rosenfeld in the Washington Post of May 19, 1978:

KAUNDA: FOR A PRINCIPLE OR A FRIEND?

(By Stephen S. Rosenfeld)

Kenneth Kaunda, president of Zambia and a man who as much as anyone controls how events in Rhodesia will come out, was in Washington this week insisting that the United States (and Britain) remove Ian Smith from power. Otherwise, he said he'd invite the Cubans in.

But that formulation is dubious, Smith, Kaunda's nemesis, is being removed—by the "internal settlement" the white leader has made with black nationalists inside Rhodesia. It provides for his replacement by a majority black government elected by universal adult franchise by the end of this year.

Only one thing could keep Smith in power, and that would be if the guerrillas of the Popular Front were to prevent the internal group from organizing the elections intended to name Smith's successor. Kaunda supports the Popular Front, in particular the faction led by Joshua Nkomo.

If Smith does not go, it will be because Kaunda was more eager to see his friend Nkomo take power than to have Smith replaced by a black political rival of Nkomo's.

Personal loyalty is admirable. But it is very different from political principle. The fact is that the recent onset of a process transforming minority-ruled Rhodesia to majority-ruled Zimbabwe in a few months has undercut Kaunda's longtime legitimate claim to be fighting for a principle. The principle has been won. Kaunda is now fighting for the political advancement of a friend.

Kaunda maintains that the internal black leaders are misguided men, or worse, who have made shameful concessions to the white minority in order to buy themselves the

chance to beat out the external politicians in the succession to Smith.

Come on. Is it surprising that in Salisbury—only in Salisbury?—ambitious pols may cut corners to achieve power? Can it really be demonstrated that the internal nationalists are less personally worthy than the external ones? Did they all not suffer the same prisons, the same privations, the same battles, the same exile?

And why is it for Kenneth Kaunda—or for that matter, for Jimmy Carter—to say that the internal settlement is a sham? The legitimacy of the internal settlement should be judged by Rhodesians. Elections are the way to do it. Rhodesians who disapprove of the internal settlement can boycott it or vote against it or, if they are in Nkomo's position, go back home and broaden it or compete politically with it. Kaunda supports guerrillas determined to block elections. This gentle, fair-minded man is helping thwart the will of the people of Zimbabwe.

Kaunda has made Zambia a model of multiracialism in Africa. Yet by encouraging the guerrilla-Cuban combination he conspires to deny the black majority in Zimbabwe the right exercised by Zambia's black majority to set the terms of its own relationship with the white minority. He knows well the value of post-independence access to white skills and to the international associations that a congenial multiracialism generates. He supports a policy that may cost Zimbabwe that access.

Kaunda warns, as though it were someone else's responsibility or an unavoidable calamity forced upon him, that he may now have to invite the Cubans into Zambia to press the war in Rhodesia. But it is his own choice.

In 1975, he took note of the Soviet and Cuban role in Angola, observing that "a tiger and his cubs are threatening Africa." Warning against communist involvement in Rhodesia, he said then: "We are engaged in an African struggle. It must be fought only by Africans themselves without any foreign involvement, although we naturally welcome economic and military support from anybody who shares our aspirations."

Yet now, if he is not bluffing—and I think it would be mistaken and condescending not to take him at his word—he would invite the communist menagerie into the heart of southern Africa, into his own country.

Is it really so important to Kaunda to see one black man rather than another at the helm in Salisbury that he would tempt the escalation and suffering and loss that bringing in the Cubans and Russians would mean—to Zambia as well as Zimbabwe? We may know soon.●

"CONRAIL'S LACK OF RESPONSIBILITY"

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. GILMAN. Mr. Speaker, a recent news article entitled "Conrail Officers Hit For Pay Raises, Perks," which appeared in the Washington Star, moves me to rise in indignation. I request that this article be reprinted in its entirety in the RECORD at this point:

[From the Washington Star, Apr. 25, 1978]

CONRAIL OFFICERS HIT FOR PAY RAISES, PERKS

EXECUTIVES' SALARIES, BONUSES ROSE AS HUGE RAIL SYSTEM'S LOSSES MOUNTED

(By Stephen M. Aug)

Consolidated Rail Corp., the government-financed railroad in the Northeast which has lost $367 million last year, gave salary increases to 56 of its top officers last year and paid out nearly $500 million in bonuses and perquisites.

The figures, reported recently to the Interstate Commerce Commission, were severely criticized today by a Connecticut Democratic congressman, Toby Moffett, who said he was "shocked by this total disregard of the Congress and, more importantly, the taxpayers who have to fund these ridiculous awards for nonachievement."

The figures in the ICC report were for last year, but Moffett said he understood that bonuses and other compensation so far this year were running ahead of 1977. A Star reporter was told substantially the same thing through independent sources.

The salary increases appeared to be typically 10 percent. Edward G. Jordan, Conrail chairman and chief executive, was given a $20,000 increase to $220,000 a year. Richard D. Spence, president and chief operating officer, was given a $14,000 increase to $154,000.

Jordan's new salary is equal to the salary being paid L. Stanley Crane, president and chief executive of the highly profitable Southern Railway System. Southern's executive vice president of operations—the individual who actually runs the railroad, much the same type of position that Conrail's Spence has—was paid $140,000 last year, $14,000 less than Spence.

Financially, Southern last year reported record profits of $107 million, compared to Conrail's loss of $367 million.

Moffett said Conrail's top 55 executives were paid $417,000 in what the ICC form labels "other compensation." A footnote to the report says this includes an incentive compensation plan, insurance premiums, memberships in private clubs and automobile allowance.

The largest amount of other compensation, $46,000, went to Jordan. Spence received $34,000. (By comparison, Southern's Crane received $75,000 and Hall, $37,000.)

Among other substantial additional compensation amounts reported, $19,000 went to Richard B. Hasselman, senior vice president of operations, who also received a promotion and a $10,000 raise; $17,000 to J. L. Sweeney, vice president for government affairs (Conrail's Washington lobbyist), who also got a $6,000 raise; $15,000 to L. F. Mullin, senior vice president for planning (and an $8,000 raise); $14,000 to R. N. Cramer, vice president for sales; $15,000 to R. M. Dietrich, vice president for law, who also won a $10,000 salary increase.

Richard C. Sullivan, who was assistant to the chairman—and is now in charge of public relations—told a reporter that the incentive plan for bonuses "considered both overall financial performance and a series of specific performance objective, such as rehabilitation of physical plant and improved productivity."

Sullivan said the plan "was developed by the Conrail board of directors in accordance with its desire to establish a compensation system to help motivate the turnaround from the previous bankrupt railroads." He said salaries of all officers and top executives were approved by the directors.

No comment was available from Donald Cole, president of the U.S. Railway Association, who declined to make himself available to discuss it. USRA is the government corporation that monitors Conrail's performance and which is responsible for directing federal aid to the railroad.

Conrail has appealed to the government for an additional $1.3 billion in aid on top of the $2 billion already authorized to rebuild the 19,000 miles of rail line the company acquired from the previous bankrupt companies.

A spokesman for USRA would say only that salaries and other compensation were internal management decisions by Conrail. "They have a 13-member board of directors and a salary review committee and all of that is done by management with the approval of the board of directors," he said.

But he offered no explanation of what input if any the government's principal monitor of Conrail's financial affairs had as far as salaries are concerned.

A Senate hearing is scheduled for tomorrow on Conrail's appropriations, and Sullivan said the testimony would include a discussion of the railroad's incentive program.

When I read of these outlandish, uncalled for salary raises, bonuses, and "other compensations," I was in wholehearted agreement with my colleague, the distinguished gentleman from Connecticut (Mr. MOFFETT) who remarked that he was "shocked by this total disregard for the Congress and, more importantly, the taxpayers who have to fund these ridiculous awards for nonachievement."

You will note that Mr. Jordan, the chairman and chief executive of ConRail, now has a salary in excess of that earned by the President of the United States. And yet, ConRail's losses mount and mount each year. Last year, ConRail lost $367 million. What private industry would reward an executive officer who had lost millions upon millions of dollars with a salary increase of this nature?

To add insult to injury, $417,000 in bonuses were paid to 55 executives above and beyond outlandish salary increases.

What outstanding accomplishments are these bonuses for? The report filed with the Interstate Commerce Commission by ConRail states that the bonuses included "an incentive compensation plan, insurance premiums, memberships in private clubs and automobile allowance."

I would like to see a full accounting of these items which our taxpayers are being forced to pay. Hopefully, ConRail will justify this necessity for ConRail officials to join "private clubs" and "automobile allowances" at public expense.

Despite this unbridled self-prosperity, ConRail still remains unconcerned and unresponsive to the needs of the commercial and industrial public it is supposed to serve. Last August, I conducted along with the gentleman from Connecticut (Mr. MOFFETT), the gentleman from New York (Mr. FISH), and the gentleman from New York (Mr. MCHUGH), an ad hoc hearing on threatened rail closings in our area. At that hearing, over 400 pages of testimony was taken from 40 witnesses, all but one of whom emphasised the importance of the Poughkeepsie Rail Bridge to the region's economy, and continued to urge ConRail to restore this vital rail link, closed by fire since May 1974.

And yet, when the testimony was submitted to ConRail as part of the process required by ICC for the shutting down of rail lines, ConRail replied by informing me that they culled out the testimony of the one witness who was opposed to the rebuilding of the Poughkeepsie bridge and would use that one piece of testimony as their guide to proceed.

Mr. Speaker, Congress created a monster in creating ConRail—a monster that is now apparently off track and out of control. The taxpayers can ill-afford

shoddy, unresponsive service subsidized out of tax dollars.

It is time for Congress to take a hard look at this arrogant, ineffective agency. None of us can afford the self-perpetuating country club which ConRail has become.●

THE MICROWAVE LANDING SYSTEM

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. MILFORD. Mr. Speaker, the International Civil Aviation Organization (ICAO), after a long and difficult process, is finally on the verge of setting an international standard for a new aircraft landing system.

A recent meeting of ICAO in Montreal resulted in the selection of the time reference scanning beam (TRSB) MLS.

Some of the companies which have been losing in this competition have made disparaging remarks concerning both the ICAO process and TRSB.

In order to clarify some of these issues for interested Members, I am now inserting correspondence that I have had with one of these companies—AIL—into the RECORD:

COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., May 22, 1978.

Mr. GEORGE TOUMANOFF,
Vice President and Division Director, Transportation Systems Division, Airborne Instrument Laboratory, Comac Road, Deer Park, N.Y.

DEAR MR. TOUMANOFF: In your letter of April 25, you stated that AIL wishes "to take the strongest possible exception to being linked with the controversy between the U.S. and British positions on MLS."

I don't blame you. No sane and rational person would want to be linked with that controversy. Furthermore, the memorandum which I circulated to the Subcommittee Members on April 7, in no way established or attempted to establish such a link.

In spite of that, you state that "we have never expressed any opinion whatsoever on the relative merits of the Doppler vs TRSB systems." In my memorandum, I never said or implied that you did.

You state that "we have never expressed any opinion whatsoever on the controversy over multi-path induced errors, nor on any of the test results or simulations." Again, in my memorandum, I never said or implied that you did.

You state that "we have never, in any manner, taken sides in the political battle for votes between the British and U.S. submissions to ICAO." Again, in my memorandum, I never said or implied that you did.

You state that "we are deeply distressed by the implication of your memorandum that we sided with a foreign manufacturer against the FAA's proposals." Again, in my memorandum, I never said, or implied, that you did. In fact, nowhere in this memorandum did I ever refer to a link between AIL and Plessey or an AIL opinion on the TRSB Doppler controversy.

There was one reference and one reference only to AIL in my memorandum. That is the following statement:

"These reviews [attachments to my memorandum] and the previously distributed NASA/JFK report are quite at variance with the intensive trade journal campaign being conducted by AIL and Plessey."

If you will refer to the first attachment of my memorandum, you will note that it is a transmittal from NASA to my staff concerning "TRSB readiness for implementation."

Why did my staff ask for this information? One reason was the intensive AIL campaign setting forth the proposition that there was a lack of technical readiness for both TRSB and Doppler and that ICAO selection of an international MLS standard at this time would be premature.

I refer you to an AIL publication of March 1978, which carried the statement:

"With the current status of development and test it is our (AIL) hope there will not be precipitate action by ICAO or the FAA to fill a proclaimed need that is not visibly supported by the civil aviation user community."

Certainly, none of us favor precipitate action by ICAO. However, I would scarcely call nearly a decade of deliberate and thorough effort on the part of ICAO in this matter as being precipitous.

Moreover, we were not satisfied merely knowing that ICAO had expended a great effort on this task. We wanted to know if in fact TRSB and Doppler had reached a state of development that would justify a selection in ICAO. According to reports that we have received, such as those attached to my memorandum of April 7, both systems had reached such a state.

More importantly, ICAO believed that both systems were sufficiently developed, and a selection could be made. When a proposition similar to AIL's was raised at the recent ICAO meeting, it was voted down by a 3–1 margin. Apparently, the great majority, both in this country and in ICAO, do not agree with the AIL position.

Relative to the second half of your statement that the need for MLS "is not visibly supported by the civil aviation user community," I need only refer you to existing official positions of the civil aviation user community which wholeheartedly endorse the MLS program.

NBAA states:

"For reasons of cost effectiveness, site limitations, governmental support criteria, and co-channel interference due to lack of adequate frequencies, a replacement system must be developed.

"Although U.S. research has dictated a choice of the Scanning Beam (TRSB) Microwave technology, the United States should not permit lack of international agreement on technology choices by ICAO to unduly delay the availability of MLS to United States operators."

ALPA states:

"ALPA fully endorses the recommendation for TRSB and urges the FAA to move rapidly in its MLS development program."

ATA states:

"We are pleased that the ICAO All Weather Operations Panel has recommended international standardization of the U.S. candidate TRSB MLS.

"On the civil side, in order to avoid proliferation of the ISMILS, FAA should take steps to permit operational use of advanced versions of the TRSB MLS by any civil users who have special needs which cannot be met by ILS."

I would also question your assertion in the March AIL report which stated there is a "lack of understanding of the systems being proposed to ICAO." Suffice it to say that I believe the AWOP Members would take violent and justifiable exception to that statement.

However, I believe there is a demonstrated lack of understanding on the part of AIL when it states, "there has never been an ICAO standard that has suited all the many users of the airspace. It is naive to assume that there ever will be." If we were all to take that attitude, we might as well fold up our tents and go home.

The mandate of the AWOP in this particular matter was "to ensure earliest practicable introduction of an all weather capability in the interest of improved safety and efficiency of operations." In addition, the AWOP in its final Assessment Report, stated:

". . . the potential proliferation of a variety of MLSs led to concern over standardization, and the orderly use of frequencies . . . [and] in Feb. 1971, AWOP concluded that a new approach and landing guidance was needed . . . [and] proposed an ICAO programme which aimed at the adoption of a new ICAO standard non-visual precision approach and landing guidance system (NGS) by mid 1976."

Thus, AWOP recommended, and ICAO overwhelmingly supported the adoption of a MLS standard for improved safety and efficiency of operations. Contrary to the AIL report, it was not a naive attempt to suit all the many users of the airspace. Another note of interest is the date—mid 1976—that AWOP projected for ICAO adoption of the NGS standard. As of mid 1978 the final deliberations of ICAO are still in process. This further belies the AIL contention that ICAO may be proceeding precipitously.

Concerning the statement contained in the AIL report that, "the invocation of ICAO as the instrument for realizing the ambitions of some to impose a single MLS of their own design, on the worldwide aviation community must be questioned," I would like to make the following observations:

First, ICAO was not nefariously "invoked." As you will note in the AWOP final report:

"Parallel action [to the work begun in the U.S.] developed within the ICAO, especially after the Air Navigation Commission assigned the All Weather Operations Panel the task of assessing the limitations of ILS, and if considered necessary, developing an operational requirement for a replacement system."

Second, ICAO, I am sure you realized, is not the instrument of any one nation or group of nations. To the contrary, ICAO has acted as a check on those nations including the U.S. which have sought to unilaterally impose their ideas concerning aviation on the rest of the world.

Third, it is a distortion to state that some were trying to impose a single MLS, of their own design, on the worldwide aviation community. I am sure you are aware that many countries proposed many designs during the ICAO selection process. Even during the final stages of the AWOP deliberations, there were still four competing candidates.

While I have found fault with much of the AIL report there is one statement in the report which I wholeheartedly support:

". . . side-by-side tests and additional tests at more airports will add little new knowledge, and indeed are examples of resources being spent to make propaganda gains rather than add to technical knowledge."

I, too, opposed side-by-side tests for the same reason and because of the waste this would entail of the taxpayer's money. I believe that we were both proved right in this instance. It was just another example of an unnecessary and unsuccessful attempt to obfuscate the MLS issue.

A great deal of the AIL report addresses the military aspects of MLS, implying that TRSB will not adequately satisfy military requirements.

A review of the history of the U.S. MLS program reveals a great amount of participation and cooperation of DOD, including tri-service representation on the MLS Advisory Committee. After the Central Assessment Group (CAG) vote in 1974, the military swung its full support behind TRSB and has maintained this support ever since. In 1976, parallel industry studies were conducted to evaluate how TRSB could satisfy the entire spectrum of military requirements and it was determined that TRSB could satisfy those requirements.

Concerning the repeated reference in the AIL report to STOL, VTOL, and shipboard operations: TRSB has accumulated many hours of STOL and VTOL (helicopter) landings. The wider angle coverage in azimuth and elevation and the higher data rates available with practical TRSB systems makes their application to the V/STOL problem more appealing than with limited coverage mechanical systems. With regard to shipboard use, it should be first noted that current shipboard pulse coded systems (SPN–41) are used only as independent landing monitors and do not provide landing guidance to the deck (an impossibility since SPN–41 is located on the fantail). Precision approach radar provides the primary landing guidance (IFR). There are no design characteristics that preclude motion compensated TRSB MLS providing shipboard landing guidance. It should also be noted that mechanical scanning antennas are less reliable than electronically scanned antennas, TRSB technology is ten years more recent than pulse-coded technology, TRSB has 10 times the azimuth data rate and 3 times the data rate of the AIL developed tactical landing system, and that detailed ARINC analysis of TRSB resulted in cost projections considerably less than the figures used by AIL.

Additionally, of the 22,000 potential MLS military equipped aircraft, 17,000 or more will require civil field compatibility. The Army has stated it wants all its aircraft landing systems to be compatible with the U.S. civil landing aids. This further underscores the DOD decision in 1974 to fully support the national MLS effort and the current drive for a joint tactical MLS that is compatible with the civil standard.

Thus, the evidence does not support the AIL contention that, ". . . the anticipated ICAO decision will not provide a satisfactory landing system for the U.S. military."

While I can understand AIL's pride in its system and desire to register its viewpoint with the rest of the aviation community, I cannot ignore the overwhelming counter viewpoint. That is that the U.S. military, the U.S. civilian community, and ICAO have thoroughly examined the MLS question and have determined that there is a need for an international standard and have selected such a standard.

This has been a long and difficult task, but the objective has been an extremely worthy one—that of achieving an international civil-military compatible new landing guidance system with improved safety and efficiency of operation.

In accordance with the request in your letter, I am disseminating your correspondence as well as my response to the Members of the Subcommittee. Moreover, to take your request even one step further, I am publishing these items of correspondence in the Congressional Record.

Sincerely,

DALE MILFORD,
Chairman, Subcommittee on Transportation, Aviation and Weather.

AIL,
Farmingdale, N.Y., April 25, 1978.

Hon. DALE MILFORD,
House of Representatives,
Washington, D.C.

DEAR MR. MILFORD: Mr. Downey has been kind enough to make available to us a copy of your memorandum dated April 7th to the members of the Transportation, Aviation and Weather Subcommittee on the subject of MLS.

In the memorandum you refer to "the intensive trade journal campaign being conducted by AIL and Plessey." We wish to take the strongest possible exception to being linked with the controversy between the U.S. and British positions on the MLS. We have never expressed any opinion whatsoever on the relative merits of the Doppler vs TRSB systems. We have never expressed any opinion whatsoever on the controversy over multi-path induced errors, nor on any of the test results or simulations. We have never, in any manner, taken sides in the political battle for votes between the British and U.S. submissions to ICAO.

We have, on the other hand, consistently since the days of the Radio Technical Commission for Aeronautics Special Committee 117's work, argued for the merits of using K_u Band for military tactical and restricted area landing guidance systems. Our record in this respect is absolutely clear, open and consistent and both the SC–117 Report and the 1971 National Plan included K_u Band usage. Our extensive experience with the many K_u Band Systems which we have built and which are now in operational use, has confirmed our belief that K_u Band is an eminently practicable frequency for such specialized uses and has shown none of the theoretical disadvantages ascribed to it.

Although the TRSB signal format can easily be received or propagated at C or K_u Band, it has an unfortunate side effect. It makes impossible the use of mechanically scanned antennas which have substantial cost and beam characteristic advantages over current state-of-the-art electronically scanned antennas. The originally planned signal format did not have this handicap.

These criticisms apply equally to the British Doppler System.

We have wished to draw attention to the fact that the military feasibility of tactical and shipboard versions of the FAA development were supposed to have been accomplished prior to ratification as an international standard by ICAO. This was in the original plan but has not been done.

We have also presented what we believe to be a constructive and thoughtful critique of other necessary aspects that are missing from a complete system development proposed to become a standard for the future. There are many years and many dollars to go before we have a new civil-military system.

For the record, we have openly made our views known to the FAA and, as the enclosed letter shows, our candor has been appreciated even though we disagree.

Our interest is to assure that we as well as all other experienced and competent manufacturers have a fair and equal opportunity to compete for the military MLS development program. We are deeply distressed by the implication of your memorandum that we sided with a foreign manufacturer against the FAA's proposals. This is completely untrue and we trust to your sense of fair play that our position will be made known to the members of the Subcommittee.

Sincerely yours,

GEORGE TOUMANOFF,
Vice President and Division Director, Transportation Systems Division.

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, D.C.

Mr. JOHN P. CLARKE,
President, Airborne Instrument Laboratory, Division of Cutler-Hammer, Comac Road, Deer Park, N.Y.

DEAR MR. CLARKE: Thank you for your letter of March 17 to our Administrator concerning the Microwave Landing System (MLS) program. Your direct approach in presenting your views is appreciated and exceeds by far the performance of others with regards to the MLS program.

As you no doubt expected, we are not in agreement with your conclusion that the Time Reference Scanning Beam (TRSB) technique will not meet the criteria established for a worldwide MLS standard and for military requirements. We believe that we have amply demonstrated that the TRSB will meet the International Civil Aviation Organization (ICAO) standards and both DOD and FAA are completely confident that the technique will meet all known military requirements.

In view of the ICAO meeting currently in progress, it is not opportune at this time for us to accept your invitation for a discussion on the subject. After the ICAO meeting is concluded, my staff and I would like to take advantage of your offer at a mutually convenient time and place.

Sincerely,

J. W. COCHRAN,
Associate Administrator for Engineering and Development.

COMMITTEE ON SCIENCE
AND TECHNOLOGY,
Washington, D.C., April 7, 1978.
SUBCOMMITTEE ON TRANSPORTATION,
AVIATION AND WEATHER
MEMORANDUM

To: Transportation, Aviation and Weather Subcommittee Members.
From: Dale Milford, chairman.
Subject: MLS systems fact.

In view of the current flood of allegations about the comparative characteristics of the U.S. TRSB MLS system and the British Doppler System the enclosed are reputable reviews submitted to maintain an accurate perspective in Committee evaluations.

Enclosure I delineates the NASA test group's position on the results of their extensive test program including the much maligned JFK and Buenos Aires occasions. NASA maintains that TRSB/MLS performs as advertised.

Enclosure II is a review of Calspan Corporation's independent test results that verifies the Lincoln Laboratory conclusions regarding multipath characteristics of the British System. These same conclusions were published from U.K. tests at RAE. It should be noted that TRSB has no analogous multipath error problems, contrary to British claims.

These reviews and this previously distributed NASA/JFK report are quite at variance with the intensive trade journal campaign being conducted by AIL and Plessy. It should be noted that the conclusions, over the past years, of Lincoln Lab, FAA, Calspan, NASA and the TAW Subcommittee analysis are consistent in the facts presented.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Hampton, Va.

MEMORANDUM

Re verbal request of Scott Crossfield for this information.
To: 117/Director of Electronics.
From: 265/Chief, Terminal Configured Vehicle Program Office.
Subject: TCVPO Views on TRSB Readiness for Implementation to be Transmitted to Scott Crossfield.

NASA Langley Research Center has conducted studies of the U.S. proposed MLS since 1972. These studies have included: Microwave propogation of ground based signals; signal and noise characteristics of the ground transmitter signals; multipath characteristics due to terrain, airport structures, other aircraft and ground cover such as water, snow, and foliage; airborne antenna design and appropriate aircraft antenna location; signal processing, noise and multipath suppression; and MLS data utilization for derivation of navigation, and guidance and flight control parameters for application to the TCV B-737 navigation, guidance and flight control computers and advanced display systems.

Although much research is still needed to develop airborne systems concepts to take advantage of the capability of the U.S. MLS—particularly the potential of flying arbitary curved, descending, deceleration approaches in the advanced ATC environment, we have successfully demonstrated the value of the TRSB MLS as a source of precision guidance information through our flights at NAFEC, Buenos Aires, and John F. Kennedy (JFK) in May 1976, November 1977, and December 1977, respectively. The results of these flights are generally known, but it is important to note that TRSB MLS coverage and precision permitted us to automatically fly curved descending approach with 3, 1.1 and 0.44 n.mi. finals. It is also important to note that these approaches were made with flight control laws that were designed to operate with ILS guidance information.

It is our technical opinion that the TRSB MLS concept has been proven through our flight experiences with the MLS engineering models operated at NAFEC, Buenos Aires, and JFK. It is our opinion also that the TRSB MLS concept is now ready for the electronic industries to design an operational system for airport installation. However, it must be noted that we do not necessarily endorse the azimuth coverage of ±40° or ±60° as we believe the azimuth coverage in terms of increased airport capacity and improved aircraft operation will be greater than the coverage that is under present evaluation.

EUGENE D. SCHULO
(For John P. Reeder).

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, D.C., March 30, 1978.

Mr. A. SCOTT CROSSFIELD,
Technical Consultant, Subcommittee on Transportation, Aviation and Weather Committee on Science and Technology, Washington, D.C.

DEAR SCOTT: The enclosed material completes our responses to your three oral requests to the Terminal Configured Vehicle Program Office staff at Langley. This final response has been reviewed by FAA personnel.

The following Headquarters comments are offered to clarify the last paragraph (page 2) of the Langley memorandum:

1. The ±40°/±60° MLS azimuth coverage reflects current ICAO/RTCA recommendations. Consideration may later be given to examining greater azimuthal coverage if it should be desirable.

2. In view of prior and current experience and design activities in the MLS program, it would be more appropriate to say that ". . . the TRSB MLS concept is now ready for the electronic industries to build an operational system for airport installation."

Sincerely,

WILLIAM L. STURDEVANT,
Legislative Affairs Officer.

CALSPAN CORP.,
Buffalo, N.Y., March 17, 1978.

Mr. SCOTT CROSSFIELD,
Technical Consultant, House Science & Technology Committee, Washington, D.C.

DEAR MR. CROSSFIELD: I am submitting this information in response to your telephone call on March 16, 1978 requesting a brief summary of the results of our evaluations of Doppler and TRSB systems in support of the Microwave Landing System (MLS) program. The detailed results of the work at Calspan have been published in reports and Technical Notes available from the FAA.

The work at Calspan has emphasized hybrid simulations of the Doppler and TRSB systems in which the actual receivers and processors are evaluated with controlled multipath conditions. A single multipath signal was used and simulates a specular reflection from a large smooth surface or building on an airport. Simulation tests are essential since field tests of multipath performance are difficult to evaluate because of the unknown and uncontrollable multipath reflections.

During the U.S. evaluations of Doppler versus scanning beams it was concluded that the multipath errors in each system were within the allowable error budgets for multipath levels of −3 dB (relative to the direct signal). It should be noted that the processors were given "stress" tests with a 0 dB multipath signal. In the Doppler tests, as reported in Calspan TN-3, the large grating lobe error (now referred to as reference scalloping) was recorded for both azimuth and elevation. It was assumed at that time that the 0 dB tests were unrealistic so only −3 dB test data were considered in the evaluations.

Multipath errors from hangar reflections in the elevation data for the Doppler and TRSB systems were analyzed and found to be comparable. Both systems could have small elevator control motions for certain hangar situations. At that time in the U.S. evaluations of azimuth data it was concluded that the effects of hangar reflections were "out-of-beam" and would be eliminated by appropriate trackers in the airborne processors.

As you know the U.S. had to select one technique for its ICAO submission. I think most of the technical evaluators felt either technique could meet the ICAO requirements.

Since the U.S. decision on the ICAO proposal, the effort at Calspan has concentrated on evaluating and improving the airborne TRSB processing techniques. However, several additional tests were conducted by Calspan with the Doppler technique to assist Lincoln Laboratory in verifying their computer simulation of the U.K. DMLS.

As reported in Calspan TN-7, June 1976, tests were run with the ITT/Honeywell Doppler processor to measure the azimuth multipath over a range of scalloping frequencies for "out-of-beam" multipath. These tests showed the error peaks occurring at subharmonics of the grating lobe scalloping frequency and verified the results of the Lincoln Laboratory computer simulations. Subsequently, similar results were published by the U.K. on their hybrid simulation tests at the R.A.E.

Additional tests were conducted at Calspan on the AGC system used in the DMLS airborne processor as reported in Calspan TN-10, January 1977. The measured AGC characteristics were used by Lincoln Laboratory to verify their computer model of the DMLS processor.

The U.K. DMLS proposed to ICAO used a different signal format and processing technique from the U.S. Doppler systems. As noted in Lincoln Laboratory reports their computer simulations showed the proposed DMLS was very susceptible to azimuth multipath or reference scalloping from hangar reflections. To reduce reference scalloping effects the U.K. modified the proposed scan format and increased the reference signal level along the runway in their proposed DMLS.

The Lincoln Laboratory simulations of the modified DMLS showed the reference scalloping errors were greatly reduced on centerline due to antenna pattern emphasis although they still could occur if multipath signals are present at scalloping frequencies near 400 Hz and its subharmonics. Various airport scenarios have been run by Lincoln and indicate reference scalloping can cause aileron motions.

As you know the U.K. claims to have made various airport tests to demonstrate that reference scalloping does not affect DMLS. It is my impression that to date no effects definitely due to reference scalloping have been found. However, these errors should occur if suitable airport geometry can be found that produce a specular (coherent) multipath reflection at the critical scalloping frequencies and at a high level, such as −1 dB relative to the direct signal. These are the conditions used in the hybrid Doppler simulators.

On the basis of available data it is not possible to estimate the probability of experiencing the reference scalloping errors at airports. It should be noted that the TRSB system has no analogous multipath error mechanism.

The current MLS efforts at Calspan, to be reported in the near future, have concentrated on developing improved airborne processing techniques. Digital processing algorithms using a microprocessor have been developed that have some improved performance over current TRSB receivers. The improved TRSB processing algorithms can be implemented in a relatively simple microprocessor.

I do not have sufficient data on the DMLS digital processor to make a direct comparison with TRSB processors. However, the digital correlation technique appears to be more complex than the TRSB digital processor algorithms developed at Calspan.

I hope my summary of the Calspan MLS work will be helpful in your current deliberations.

Yours very truly,

JACK BENEKE,
Project Engineer. ●

PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. DOWNEY. Mr. Speaker, due to transportation problems yesterday, I was unavoidably absent for the first two rollcall votes of the day. Had I been present, I would have voted as follows: Rollcall No. 334, House Concurrent Resolution 624, "yea"; rollcall No. 335, the Young amendments to the Udall substitute on H.R. 39, "no."●

SENATE—*Monday, May 22, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou to whom a thousand years in Thy sight are but as yesterday when it is past and as a watch in the night, we undertake the toil of a new week in the knowledge Thou wilt never leave us nor forsake us. Keep us close to Thee that we may see beyond the days and weeks, the eternal dimensions of Thy mind, the working of Thy purpose for this Nation and the world. Show us again that whoever would be greatest must be servant of all. Instruct us in the truths of Thy Word. Guide us by the example of Thy Son, in whose name we make our prayer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 22, 1978.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

The ACTING PRESIDENT pro tempore. Without objection, the Journal of the proceedings to date will be approved.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Does the acting Republican leader wish to have any time under the standing order?

Mr. LUGAR. Mr. President, I do not request time this morning.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator. The time is yielded back.

RECOGNITION OF SENATOR TALMADGE

The ACTING PRESIDENT pro tempore. Under the order previously entered, Mr. TALMADGE will be recognized for not to exceed 15 minutes.

CASTRO: MENACE TO WORLD PEACE

Mr. TALMADGE. Mr. President, the presence of Communist Cuba only 90 miles from our shores has been described as "a thorn in the side of America, but not a dagger in the heart."

If this were ever the case, it is no longer. There can be no doubt that the thorn of Communist Cuba is now moving insidiously and dangerously toward the very heart of the security of the United States and vital arteries that pump the hope of peace all around the world.

Castro, with the full support and financing of the Soviet Union, now has an estimated 50,000 troops in Africa.

That is fully one-quarter of their entire armed forces.

Cuban forces were active accomplices in the Communist seizure of power in Angola. They are reportedly involved in the current fighting in Zaire.

Latest reports indicate they have massed more than 17,000 troops in Ethiopia, braced for an invasion of Somalia.

President Carter recently directed some sharp words toward Havana and Moscow. He warned that United States relations with Cuba would not improve unless Castro demonstrated that he is committed both to peace in Africa and the enhancement of human rights in Cuba.

I applaud the President's statement, but words are not enough.

It is high time the United States translated words into action.

It is time to quit talking tough out of one side of the mouth, and soft and reassuring out of the other.

Moreover, the United States must abandon the perverse notion that the Soviet Union and its Communist puppets—Cuba in particular—will treat us with kindness and respect only if we are careful not to offend them and if we demonstrated a willingness to give more than we take.

When Cuban troops were dispatched to Angola in 1975, the Senate went into a rare secret session to consider the crisis.

We were greatly concerned by Cuba's action, although, rightfully so, we avoided direct intervention.

Now, just 3 years later, the Cubans have troops and advisers in no less than 14 African countries.

Their pattern of aggression and subversion now encompasses two continents of the world and areas of Central America.

Castro's mercenary legions have quickened the pulse of countries on the Horn of Africa and those bordering the Red Sea.

The pro-Western government of oil-rich Saudi Arabia is especially alarmed and, justifiably, has called upon the U.S. Government to stiffen its resolve against Soviet-inspired revolution and aggression by Cuban military forces.

In short, Cuba has become a hired merchant of death and chaos and, in fact, a world menace which could lead to a nuclear eruption between the United States and the Soviet Union.

If the events of recent weeks are any indication, this threat is getting worse. There is growing fear that Cuba may introduce troops into Rhodesia.

Castro already has offered Cuban troops to the leaders among the front-line presidents who are dedicated to destroying Rhodesia's shift to majority rule.

If Communist Cuba, directed and financed by the Soviet Union, continues its headlong and irresponsible aggressiveness in Africa, the whole continent could explode in violence and bloodshed.

That would not be the end of it, but only the beginning of worse things to come, in the Middle East, Europe, and other parts of the world that already are having to struggle mightily just to keep the peace.

As the President correctly pointed out, the Cubans are no more than puppets being manipulated by the heavy hand of the Kremlin.

The deadly game being played out in Africa by puppet and puppeteer now has détente hanging by a tenuous thread.

It is jeopardizing any hope for a meaningful and successful conclusion to the Salt talks in Geneva.

It is estimated that the Soviets may spend as much as $4 million a day to prop up the Cuban economy.

It is no wonder that the Soviets and Castro want the United States to "normalize" relations and to reestablish trade and diplomatic relations with Cuba.

It no doubt is in the best interests of the United States and nations of this hemisphere to stabilize difficulties with Cuba.

But, we cannot, and must not, enter into alliances, trade or diplomatic, with forces blatantly bent upon the annihilation of freedom in Africa.

We can neither deal with nor countenance a government which has such careless disregard for world peace.

Cuba's activities in Africa constitute only the tip of the iceberg.

Subversive activities in South America continue.

It is believed that Castro is supporting radicals in Puerto Rico who, among other things, have claimed responsibility for bombings that have occurred in the United States.

Castro continues to hold hostage an estimated 10,000 to 20,000 political prisoners, including several Americans.

His regime shows no willingness to permit free emigration from Cuba or to allow freedom of travel for Cuban exiles to visit their homeland.

And, in the face of all this, what to date has been the U.S. response?

Nothing, except to exchange midlevel diplomats with Cuba; to permit the

Cubans to reestablish a mission in Washington; to sign fishing and maritime agreements with Havana; to lift the ban on travel to Cuba and to allow the expenditure of U.S. currency in Cuba; to grant journalists, businessmen, and athletes permission to visit Cuba; and, to send Members of Congress to be wined and dined and charmed by Castro.

All this, no doubt, is designed to advance and further open the door to normalization of relations between the United States and Cuba, and to give the impression at least that there is something respectable about the Castro dictatorship.

I say our efforts are misdirected. There is nothing respectable about a government which exploits the internal weaknesses and politica1 problems of other nations and turns them into warfare and revolution.

We should not court Cuba with favors.

We ought to denounce Cuba's military adventures abroad and, more than that, we ought to make our position crystal clear by following through with firm and positive action.

Unfortunately, Cuba is but the latest example of a dangerous turn in U.S. foreign policy.

In a conduct of foreign affairs that flies in the face of all reason that I know, we seem to be bent upon treating our enemies as friends and our friends as enemies.

The United States no longer can allow our desire for peace to shield us from the unpleasant and dangerous realities of the world.

Our Nation is locked in a vitally important struggle to guarantee the freedom of our own Nation, to preserve our own form of government, and to promote liberty throughout the world.

We have assumed a hard line on human rights—and even punished and reduced assistance to once-friendly nations.

But, apparently we are willing to look the other way when dealing with Communist nations, such a Cuba, who flagrantly and systematically deprive their citizens of basic rights and privileges and who export terrorism abroad.

I fully support the President's human rights policy.

If we are going to fulfill our commitment to this policy, it must be administered and enforced with an even hand, without fear or favor throughout all of the world, and not just in carefully selected parts thereof.

Mr. President, nowhere is this principle more important than in the emerging nations of Africa which are attempting a transition from colonial rule to independence.

As they develop, they will look to us for guidance and assistance.

The United States must not only make clear the principles we stand for, but our ability and readiness to stand up for them whenever or wherever they are challenged.

The time has come for such a stand.

I submit that it is out of the question to even consider resuming active diplomatic or trade relations with Cuba as long as its dictatorial government is dedicated to violence and international disruption.

It is time to take the lead and stand up against Cuban military force which endangers our security and the security of the entire world.

We cannot preserve peace or advance the cause of human rights through appeasement, wishful thinking, or contradictory doubletalk.

Therefore, I call upon the U.S. Government to serve notice on Castro's Cuba that we do not intend to sit idly by and watch Africa go up in flames and world peace so severely threatened.

We must deal with the Soviet-Cuban military threat in terms they understand.

I call upon the U.S. Government to close the Cuban mission in Washington—turn off the electricity—lock the door—and kick the Cubans out.

I call upon our Government to once again cut off all travel to Cuba and to prohibit the expenditure in Cuba of U.S. currency which, in the final analysis, is being used to subsidize their revolutionary activities in Africa and elsewhere.

I call upon the Organization of American States to reinstate its formal ban on diplomatic and economic relations with Cuba—and further urge that all the nations of Western Europe, and all the responsible governments around the world, join the United States in protesting the Cuban military presence in Africa.

Furthermore, the United States must clearly define, without equivocation, what is required of Cubans if they want and expect better relations with the United States.

Such conditions must include total withdrawal of Cuban military personnel from all nations of Africa—substantial evidence, not just verbal assurances, of an easing of political oppression and abuse in Cuba—and repatriation for businesses nationalized by Cuba after Castro's takeover.

The mission of the United States is world peace.

The goal of the Cuban Government is not peace, but bloody revolution.

They do not desire harmony in Africa.

They do not seek tranquility in South America.

They act only to further their own selfish and irresponsible interests and the pernicious goals of the Soviet Union.

We can tolerate such action no longer.

Not only must we speak out stronger than ever before. We must act stronger than ever before.

(During the foregoing address Mr. McGOVERN assumed the chair.)

ORDER AUTHORIZING ARTISTS ACCESS TO RADIO/TV GALLERY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that up to four artists may have access to the radio/TV gallery to make line sketches under such regulations as the Rules Committee may prescribe during the debates on labor law reform.

During debate on the Panama Canal treaties, artists were permitted in the radio/TV gallery to make sketches for the TV networks. The sketches were used during TV news broadcasts while reporting the debate. I have heard no complaints regarding that activity. So we have been asked to provide that arrangement again during the debate on labor law reform, and I make this request only for the debates on labor law reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMINISTRATIVE CONFERENCE ACT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1792.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1792) entitled "An Act to amend the Administrative Conference Act", do pass with the following amendment:

Strike out all after the enacting clause and insert: That (a) section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Appropriations

"To carry out the purposes of this subchapter, there are authorized to be appropriated sums not to exceed $1,700,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect October 1, 1977.

● Mr. ABOUREZK. Mr. President on November 4, 1977, the Senate adopted S. 1792, the authorization for the Administrative Conference of the United States. The purpose of S. 1792 is to raise the authorization ceiling—presently set at "not in excess of $950,000 per annum"—for the Administrative Conference of the United States. On January 24, 1978, the House adopted a slightly different version of S. 1792. Today, the Senate is considering a Senate amendment to the House amendment which reaches a reasonable compromise between the House and Senate versions of S. 1792. I hope that the House can adopt the Senate amendment to the House amendment.

Let me give some background on the Administrative Conference authorization before explaining the Senate amendment.

The Administrative Conference of the United States was established by Public Law 88-499, August 30, 1964, as a permanent agency of the Federal Government. As originally introduced and approved by the Senate, the legislation (S. 1664, 88th Cong., 1st sess.) contained no ceiling on appropriations. At the hearings before Subcommittee No. 3 of the House Judiciary Commitee, however, concern was expressed because there was no indication as to the numerical size and annual cost of the Conference. Based on the operations and costs of the 1962 temporary Conference, the subcommittee

was advised that the size of the agency should range from 75 to 91 members and that costs would be approximately $250,000 per year on the basis of 1962 prices. These limitations were included in the House version of the legislation and were incorporated in the bill as enacted. (See S. Rept. 88–621; H. Rept. 88–1565; 110 CONGRESSIONAL RECORD 19840–41 (Aug. 17, 1964); and 110 CONGRESSIONAL RECORD 19212–19223 (Aug. 2, 1964)).

The Administrative Conference was activated in 1968. By that time the $250,000 ceiling was already so restrictive as to prevent the Conference from carrying out in a meaningful way the important studies and programs that Congress had envisioned in creating the agency. Accordingly, legislation was introduced in 1969 (H.R. 4244) for the purpose of removing the ceiling. During the hearings the question was raised as to the actual needs of the Conference. Since the agency had just barely commenced operating there was no experience to turn to other than the costs of the 1962 conference. Since the agency had just barely commenced operating there was no experience to turn to other than the costs of the 1962 conference. It was determined that it would require at least $400,000 to provide the same level of support as that provided the temporary conference of 1962.

Although the Administrative Conference sought removal of the appropriation ceiling, the House amended the bill to provide a ceiling of $450,000. When the bill came on for hearings before the Senate subcommittee, it concluded:

A persuasive case was presented in support of S. 1144, as introduced, to eliminate the ceiling entirely and to leave to the Committees on Appropriations the question of justification of funds to carry on the work of this agency. However, this is a new agency. We do not write against a clean slate but have a statutory ceiling already contained in the basic statute. The Chairman of the Conference has advised that a ceiling of $450,000 as authorized by H.R. 4244 will provide adequate latitude for budget requirements for the "next 2 or 3 years." He has urged this Committee, in the interest of obtaining legislation now to meet the immediate financial needs of the Conference, to recommend similar legislation.

In adopting the House version of the bill which raised the ceiling to $450,000, it was recognized that, if the activities of the conference grew as anticipated, relief would be required from the new appropriation ceiling within a few years. (See H. Rept. 91–214; S. Rept. 91–596; 115 CONGRESSIONAL RECORD 32569–32579 (Oct. 31, 1969); and 115 CONGRESSIONAL RECORD 38623–38624 (Dec. 12, 1969)).

In 1972 the Senate committee again considered legislation to remove the appropriations ceiling for the conference. For a third time the Senate Judiciary Committee reported a bill (S. 3671) to remove the appropriations ceiling for the conference. The House once again insisted that the ceiling not be removed but set a graduated increase in the ceiling through fiscal year 1978, when the ceiling reaches $950,000. (See S. Rept. 92–1076; H. Rept. 92–1418; 118 CONGRESSIONAL RECORD 29077 (Aug. 18, 1978; 118 CONGRESSIONAL RECORD 36425–36427 (Oct. 14, 1972); and 118 CONGRESSIONAL RECORD 36636 (Oct. 16, 1972)).

In 1977, as chairman of the Subcommittee on Administrative Practice and Procedure I introduced S. 1792. As introduced the bill would have removed the authorization ceiling for the conference. Realizing that the House still preferred a limited authorization, I offered an amendment in the Judiciary Committee to S. 1792 setting specific authorization ceilings.

This version of S. 1792 was then adopted by the Senate on November 4, 1977. It raised the authorization ceiling of the Conference as follows:

There are authorized not in excess of $1,600,000 for the fiscal year ending September 30, 1979, $1,950,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981, and for each fiscal year thereafter, to carry out the purposes of this subchapter.

The House version of S. 1792 adopted on January 24, 1978, provided the following:

To carry out the purposes of this subchapter, there are authorized to be appropriated sums not to exceed $1,700,000 for the fiscal year September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981.

There are two differences between these two versions of S. 1792. First, the House amendment authorizes slightly more funds for fiscal years 1979 and 1980, and second, the Senate bill provides that the fiscal 1981 authorization limit shall apply "for each fiscal year thereafter."

The Senate amendment to the House version of S. 1792 proposed here would have the authorization read as follows:

To carry out the purposes of this subchapter, there are authorized to be appropriated sums not to exceed $1,700,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, $2,300,000 for the fiscal year ending September 30, 1981, and $2,300,000 for the fiscal year ending September 30, 1982.

I believe the Senate amendment to the House amendment is a reasonable compromise between the House and Senate versions of the bill.

The Senate amendment to the House amendment accepts the House authorization limits and, in lieu of the provision for a continuing authorization at the fiscal year 1981 level, adds another year of authorization at the fiscal year 1981 level.

I would have preferred the Senate provision for a continuing authorization at the fiscal year 1981 level. Providing for a continuing authorization at the fiscal year 1981 level is not tantamount to an open ended authorization for "such sums as may be necessary." The advantage in the approach taken in the Senate version of the bill is that the Administrative Conference and the Congress will have some flexibility in determining in which fiscal year to consider raising the authorization. I expect that any request by the conference for an increase in the 1981 authorization level would be given more careful consideration if there is no press to meet a May 15 Budget Act deadline. At the same time the Congress would have retained direct control over the growth of the conference's budget. In short, by giving the conference a continuing authorization at a specified amount, Congress would have retained the advantages both of flexibility and control.

Despite my preference for the continuing authorization provision, it is my understanding that the House prefers a specific sunset provision in the authorization. The House bill provides for a 3-year authorization with no continuing authorization thereafter. The last authorization for the Conference was for 5 years. As an alternative to a continuing authorization, the Senate amendment extends the authorization for a fourth year, through fiscal year 1982. The fiscal year 1982 authorization level is set at the same level as for fiscal year 1981.

I appreciate the cooperation of Senator LAXALT on this matter. He is ranking minority member on the Administrative Practice and Procedure Subcommittee.●

UP AMENDMENT NO. 1320

Mr. ROBERT C. BYRD. I move that the Senate concur in the House amendment with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. ABOUREZK proposes an unprinted amendment No. 1320.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page , line , insert the following: After the number "1980," strike the word "and"; and after the number "1981" strike "." "and insert in lieu thereof 'and $2,300,000 for the fiscal year ending September 30, 1982.'."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment with the amendment I have sent to the desk.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LABOR LAW REFORM ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished

business, H.R. 8410, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The Senate resumed the consideration of the bill.

Mr. WILLIAMS. Mr. President, the current procedures under the National Labor Relations Board reward the lawbreaker, no matter who the lawbreaker may be. Any party who wants to stall off the day of reckoning may do so at little cost to himself.

The party who bears the costs of such delay is usually the innocent victim of the unlawful labor practice.

Current procedures encourage delay and employers are not the only parties who have profited. When unions commit unlawful acts, they can also use the processes and procedures of the current law to delay and to deny justice to the innocent victims of their wrongdoing.

That is exactly the situation in the case I would like to discuss today, the case of James Reliford.

WHY AMERICA'S WORKERS NEED LABOR LAW REFORM—CHAPTER FOUR

This is the fourth case that I have presented to the Members of the Senate as typical examples of what has happened, which was the denial of people their rights and their remedies under the law.

James Reliford was an employee of Sea-Land of California since 1963, and had been a member of Teamsters Local No. 70. On November 10, 1970, Reliford was fired by Sea-Land at the request of the union because he was in arrears in dues payment.

Reliford filed an unfair labor practice charge with the National Labor Relations Board, alleging that the union had unlawfully caused the employer to discharge him.

A complaint was issued, and a trial ensued before an administrative law judge of the NLR Board. The judge issued a decision, which found that during the period in question, Reliford was not obligated to pay dues, and that the union had illegally caused Sea-Land to discharge Reliford, in violation of section 8(b)(1)(A) and 8(b)(2) of the act.

On May 25, 1972, the Board affirmed the law judges decision. The Board ordered the union to cease and desist from such practices, and to notify Sea-Land that it had no objection to Reliford's rehire. The Board also ordered the union to pay Reliford the wages he had lost because of the unlawful discharge, and to reimburse Reliford for 3 months worth of dues which it had illegally collected.

It was not until nearly 5 months after the Board issued its decision that the union finally wrote to Sea-Land, informing the company that it did not object to Reliford's being rehired. But, Reliford was to wait for some time until he received the 2 years backpay that the Board had ordered.

First, the Board had to seek enforcement of its initial order. On December 5, 1973, more than 3 years after the illegal discharge, the Ninth Circuit Court of Appeals enforced the Board's order.

Then the Board's backpay procedures went to work. The union raised the question of whether Reliford had done all he could to mitigate the union's damages. The issue was the subject of another trial before the administrative law judge. He found that Reliford had done all he could to find other employment during the period, and the law judge issued a backpay order. On July 31, 1974, the Board adopted the law judge's decision, with minor modifications.

Again, the union failed to comply, and the Board was forced to return to the ninth circuit, to seek enforcement of its backpay order. On October 23, 1975, nearly 5 years after the illegal discharge, the court enforced the Board's order. The court agreed with the Board that the union had not sustained the burden of proving that James Reliford had willfully incurred a loss of earnings during the period of his discharge.

Five years, Mr. President, before the union was obligated to pay back wages to an employee whom it had illegally caused to be discharged.

How long can we continue to provide such bureaucratic procedures which reward lawbreakers? Can we tell employees that they have rights under the National Labor Relations Act when it takes us 5 years to protect them when they are discriminated against for exercising those rights?

Our labor laws must be reformed now. Employees who are injured by illegal acts of either employers or unions must have those acts redressed within a reasonable time.

It is cases like that of James Reliford that labor law reform is all about.

I yield the floor, Mr. President.

Mr. WALLOP. Mr. President, last week when I was speaking I mentioned the fact that I felt this bill was primarily designed not to redress the problems of the working men and women of this country; a statement which was curiously endorsed in a rather backhanded manner editorially by the Washington Post on a subsequent day which said it really did not do very much about the abuses to the rights of employees by unions, but to wait for another day which, I find, is a rather specious argument at best.

After all, if it is indeed a bill to take care of the rights of the rank and file of the working men and women of this country and the small employers of this country, then it should not wait for anything. It should address those immediately.

I, for one, do not really understand why it is apparently going to be so difficult to accomplish that. I worry because I was speaking of the problems we had when we passed the minimum wage, the increase in the minimum wage, and the statements that were made to me by the distinguished Senator from New York that labor would not stand for any kind of an accommodation for the young people and the hardcore unemployed of this country to try to get them some sort of modification of that minimum wage for a given period of time until they gained the kind of job skills that would entitle them to earn the new minimum wage.

The arguments they put out were that somehow or other this was a threat to the union members, the rank and file members. I confess that I cannot see how it would be a threat for somebody to work for McDonald's, to work for a small drive-in in a small town such as mine in Wyoming, and I confess that I cannot understand why it is in the interests of the children of the rank and file, who also have to seek and find work in this country and gain job skills before they are able to even enter into union apprenticeships or other things.

So when I was home this weekend I took it upon myself to inquire of some of my acquaintances who belong to several of the unions in our part of the world and ask them if they had understood that their leadership had, in effect, denied their children a job opportunity.

The plain fact was they did not understand, and they were rather hurt by the understanding that the people who profess to represent their interests had not consulted them on this particular item. They knew nothing of it, they knew nothing of its effect, and were surprised to learn of it.

The Senator from New York suggested that there was a Youth Employment Act coming out and urged my support of it and, of course, I would support it. But in the long run massive Federal spending for youth unemployment will really not solve that problem, and while we fiddle around and/search for solutions we may lose the talents, ingenuity, and vibrancy of a generation of young workers.

Some of those young workers will be the children of the rank and file, and some will not, and we will, and we should do something in this country by way of a Federal program. But the very best Federal program would be to allow the system of employment in the country to work, and to understand that people coming out of high school, people with minimal job skills, with no experience, in some cases with learning handicaps, simply are not worth the minimum wage that was passed by this Congress last year.

So they will not be employed. One cannot ever expect the employers of this country to reach out and employ to their basic disadvantage to the extent that it costs them a considerable amount of money to hold the employment of a person with minimal skills, and they will probably, in most instances, opt not to employ.

So two things happen: One, the unfortunate minimal skills people do not get employment; and, two, the public picks up the bill of not having them at work, both by way of decrease in taxes collected and an increase in the demands on those taxes that are collected from the productive area of the country.

That means, Mr. President, as well, an increased tax burden on the rank and file to support the unemployment or the lack of employment of those who could have been encouraged into the work force. To the extent that that happens in this country, it weakens our country.

It denies a great, vast group of people the dignity of holding a job, the self-respect entailed by earning a certain amount of your own keep in this world, and opportunity to go forward. It breeds cynicism, and it breeds a sort of studied disrespect for the systems of this country. It breeds demands of those who do not work because of lack of opportunity provided by Congress and by the people who have seen fit to ignore their problem. It breeds demands that cost of living be increased and the burden on the taxes of the productive sector of American society increases day after day.

We now, it would seem, are not going to be looking at the tax reductions that are the rightful due of the productive sector of America, including the rank and file of American workers, who, as they seek and gain higher wages in the bargaining process, are also bargained into higher tax brackets. It is necessary, I gather, that they be bargained into those higher tax brackets, and that we not diminish the tax burden they are going to be expected to pay, because while with one hand we provide them the opportunity, with the other hand we seek to take it away by putting more and more demands on the tax collections of this country.

Maybe we should really take a stand back, as a painter sometimes does from his canvas, and pause a minute and see if what we have here is really in the interests of the working men and women and the employers of the country. And, after all, one cannot get along without the other.

I spoke last week of the cliches that this bill puts us into, where the employee forever speaks of management as though it were some sort of brooding, evil, hostile force out there on the horizon, and the response is to labor as though it were some sort of brooding, evil, hostile force out there on the horizon, and the cliche has put us into an argument that does not deal with the real problems of the working men and women of this country.

The plain fact is that while the habit of the National Labor Relations Board has not been to get into the smallest of small businesses, nevertheless there is nothing in this bill that prevents that; and while there are assurances that the practical judgment of the Board would never change, I still contend that the Board is made up of human beings, and human beings change and the ideas of human beings change; and until the time takes place when a genuine recognition of the inability of the small in this country to get along with the ways our big Government and our big institutions are dealt with by massive reforms—and I use that word advisedly because I do not really see this as reform, when it does not deal with some of the problems—what happens is that the small are gradually disappearing from the scene in America: Small farmers, small businessmen, and small entrepreneurs, because they cannot compete with the requirements of blanket legislation such as this.

The reason one sees these massive abuses of the labor law so ably pointed out by my friend from New Jersey is that the big can do it. The small must necessarily accede, because they cannot afford to carry on the fight; they cannot afford to fight a prejudiced decision or to appeal it. So, by acceding in their role, they generally accede to what amounts to their death knell. The big corporations, the big unions, the big labor bosses, can continue these fights because of the resources that they have standing behind them, and continue they will and do; and the small fall under and the big—big government, big business, big labor—exist in an unholy alliance, a trio, an iron triangle that will eventually, sooner or later, wipe out the small of this country, to the detriment of the Nation and certainly to the detriment of the rank and file.

As we begin to consider the impacts of the proposed amendments to the National Labor Relations Act, Mr. President, I would like to look back and applaud my State of Wyoming, which boasts among the lowest unemployment rates in the Nation and the highest growth rates in production and population.

But Wyoming has another reason to command the respect and interest of the Nation. Our growth has not automatically led to increased levels of unionism in the State, but has created an atmosphere of competition which is responsive to our capitalist society; and I would like to explain a little bit the competition that I am talking about.

We are, in Wyoming, a right-to-work State, and the unions are endlessly more competitive and endlessly more in the service of those who belong to them than they are in the States where they are insulated from any need to compete for the interest and favors of those who would seek to work with or without membership.

We have had a number of elections in our State in recent years, and the trend has been away from union representation, both in numbers of elections and in numbers of people brought under the confines of union contracts.

Unions are basically not the reason for fair wages in Wyoming. The impetus is there, and that impetus is the competition for good workers. Businesses fight for employees by offering higher wages and better benefits than their competition, and in most respects they offer higher wages and better benefits than have been achieved by the national contracts awarded after nationwide strikes.

Our State is a unique State. It leads this Nation in the production of coal; yet during the recent coal strike that virtually crippled the east coast, Wyoming's mines remained open and producing. The United Mine Workers and Progressive Mine Workers are richly represented in our mines; yet the union members voted to keep on working and to negotiate their own contracts separate from United Mine Workers nationally. An interesting comment.

And a second interesting comment. Mr. President: As one looks at the figures of worker production in Wyoming, he will find them far in excess of the national average. The production per man-hour in tons of coal, in tons of uranium, in tons of bentonite, in tons of soda ash, or in feet of well drilled, at every level one looks, we see high production, high compensation, and high loyalty to the employment opportunities in our State.

Labor and management relations vary from amiable to sometimes downright friendly. That is not to say we have not had some devastatingly difficult challenges. The most difficult ones we have had are challenges from unions that have come in from out of State, have sought and have not gained favor with the workers in our State, and have sought to force their affections on those very people, though they are rejected suitors.

We all know that there are violations on both sides of the labor scene today. There are violations on both sides of the labor scene in Wyoming.

We also know that the door for compromise is always open. My State seems to have worked her way through the growing pains with a minimum of problems. I do not see this legislation as a deterrent to future complaints, but, rather, as a stepladder for a conflict of labor relations within our State.

Far from being to the advantage of this country or the workers in my State, the opposite holds true. To see enlightened corporations and employers, and enlightened local unions and branches of national unions at work in bargaining arrangements, and competitive employers who seek to provide the benefits so often sought by unions in the negotiating process without that process, underlies one of the great concerns that I have with this bill.

To force these things, to make it easier to have these quickie elections, where even two unions seeking to represent the same works force will have little or no time to compete with each other prior to these quickie elections, will not do the rank and file any good; will not do the competitive unions of this country any good. It will only do good to those who can find their way in the door, set up the mechanism, and get the problem resolved by force, if you will, before competitive forces can be allowed to work: One, the competitive forces have management's option to point out why more security, more bargaining power, and other things, might be available should they opt not to join the unions; and, two, the competition between unions themselves as they see one national union go in and seek to represent a group of peo-

ple and another thinks that in all honesty they can do a better job for the problems that exist in that State.

So it has been in Wyoming between the United Mine Workers and the Progressive Mine Workers. By and large the Progressive Mine Workers have been the ones who, when unions were selected at all, won the affections of the rank and file in my State. We have had some severely difficult problems. We have had men with guns and other things seeking to overturn the choices that were freely made by the working men and women of my State. And, as I pointed out, there is nothing in this bill, really, which prevents those kinds of abuses. The law and order forces in this country are there, but it seems a pity that we should have to call out the National Guard, sheriff's posses, or highway patrolmen in order to deal with these kinds of problems.

I suspect that nothing in this bill will diminish that but, rather, enhance it and, indeed, increase it.

In every session of Congress legislation is introduced to alter the jurisdiction of the National Labor Relations Act.

Only a few of these bills ever reach the House or Senate floors. Last year, the House Labor Reform Act of 1977 was passed by a vote of 257 to 163. The slightly modified Senate bill, originally S. 1883, sponsored by my colleague from New York (Mr. JAVITS) and my colleague from New Jersey (Mr. WILLIAMS), was reported from the Labor Subcommittee of the Senate Human Resources Committee as S. 2467, having undergone the remarkable alchemy that is only possible in the Senate.

Mr. WILLIAMS. If the Senator will yield, that was not alchemy but it was the democratic process in a very democratic committee. We debated it and we amended it.

Mr. WALLOP. I was referring my colleague to the change in numbers, not the committee.

Mr. WILLIAMS. But not the committee. That is the regular procedure here on the floor.

Mr. WALLOP. From S. 1883 to S. 2467?

Mr. WILLIAMS. That was the passage of time, not alchemy. Do not be dismayed. It was a regular order.

Mr. WALLOP. I was wondering if it would end up in much the same way as the Senator's continuing saga of little cases that sounds sort of like H & R Block advertisements, Reason No. 4 why we should vote for the labor reform action. Is that how we got it pushed forward from S. 1883 to S. 2467, having somehow passed into 1978?

Mr. WILLIAMS. In order to minimize confusion, when we digested some of the best ideas of Senator HATCH and others, we presented a clean bill, so that there would be a minimum of confusion. But I gather it has confused the Senator from Wyoming. All I can say is we did our best to bring the Senate a clean final product which incorporated so much of what one of our valued Members (Mr. HATCH) had created and put in bill form. I will say it impressed us to the point where, I believe, from the majority—and the majority of the committee in this case was on both sides of the table—came the amendments incorporating some of the Hatch ideas. Out of that came a clean bill which is numbered as we have it before us now.

Mr. WALLOP. Do I take it from that rather ominous sound of final product that amendments will not be entertained to this bill?

Mr. WILLIAMS. That is why we are here in this great institution with a bill. Sometime I hope we will go through the regular procedure here, to have amendments, debate them, and vote. After all the amendments necessary have been raised, debated, and voted, then we will have a final vote on the bill, as amended.

Mr. WALLOP. But it is not to say that this is a product engraved in marble now, that it will be amended?

Mr. WILLIAMS. This is the body which will put it—when the Senator says engraved in stone, I do not like that expression—which will put it in final form for enactment into law.

Mr. WALLOP. I thank my colleague. I am happy to know how we found the mysterious change in numbers. It is very difficult to receive postcards saying, "Vote for" S. 1883 and then to write back and say, "I will do my best on S. 2467."

Mr. WILLIAMS. I am glad the Senator has raised that. Here is one of the problems we have faced. So much of the major promotions against labor reform addresses itself to ideas that were in bills long ago introduced but never finally reported. So many of the postcards that I receive opposed to this bill—and we all have received thousands upon thousands—referring to this bill as a repealer of 14(b). Some people have the impression that this deals with 14(b). It does not deal with 14(b) at all.

I have had just a blizzard of mail talking about this bill and the organization of public employees. There is not one thought, there is not one provision, there is not one scintilla of association with the organization of public employees.

Maybe somebody had a bill some time back there that was thought about and maybe introduced, but it is not the bill we have dealt with in our Senate committee and then brought to the Senate.

There are some of these wholly extraneous and, I say, highly emotional issues that evidently, perhaps millions of people in this land think are included in this bill. That is why we have been trying to say that it is a measure that is very precise and very limited—very important, but very limited in its reach. I believe the Senator from Wyoming mentioned the Washington Post. That newspaper had apprehensions earlier about this bill, and most recently, last week, said that it is, just as we have said, narrow in its coverage, precise and not nearly, not in any way the revolutionary and radical monster that, evidently, a lot of people have been promoted into believing that it is.

A lot of it comes about through bills and bill numbers that were introduced. I recall there was a bill that was introduced in the House—I think it was No. 77. We used to get all this mail about H.R. 77. That had a provision for certification on the basis of cards—not by secret ballot, but in a card election. We have had an awful lot of people misunderstanding and thinking that is part of this bill, but it is not.

I am glad the Senator is making a clarification of the number of this bill and of the Senate bill, which was moved as a substitute to the House-passed bill. That is where we are. We are working with a House number because we have taken up the House bill and substituted the Senate bill.

Mr. WALLOP. May I say to my colleague, we have received, as I am sure everybody has, postcards on both sides of this issue, for it and against it. They, too, arrived in numbers with whole bill numbers attached to them.

I should say two things, because I am interested in what my colleague has said. First of all, the Washington Post editorial, as I mentioned, did come down, by and large, in favor of "labor reform," but they also rather pointedly mentioned that it did not deal with employees' rights to the extent that they had hoped that it would. That is one of the things that I have been seriously complaining about here.

Second, the Senator mentioned that it does nothing to the Taft-Hartley Act, section 14(b). Specifically, I would say the Senator is absolutely right. I have read the bill and it does not, in fact, repeal 14(b).

It does, in many respects, subvert the function of 14(b) by simply forcing unwanted bargaining circumstances on employees and employers, so that, while 14(b) can continue to exist, the Senator knows as well as I do that a hard bargain essentially can subvert 14(b). It has done it in my State, in some of the major mining areas in the western part of the State. While we theoretically subscribe to the rights of employees not to belong to unions, the practical matter is that they are forced to and the companies quietly allow that forcing to take place.

Mr. WILLIAMS. In a 14(b) State, would not the employee have a right to go to court on that?

Mr. WALLOP. He would, but again, we are talking about the small against the mighty and it is so difficult; one person against a union local of 1,200 or 1,500 people. They will not talk to him——

Mr. WILLIAMS. Well, look at what we have here, how many cases of the small against the mighty. There are 20,000 cases under the national law of people that are abused and have brought their cases.

Mr. WALLOP. The problem is he will not lose his job. They will not go that way. But he will lose his sanity. They will not let anybody talk to him, his morale will be damaged.

Mr. WILLIAMS. I am glad the Senator raised that point. The case I cited today—here was an employee of Sea-Land. The union was the violator in that

case. The union put the pressure on the employer to fire the individual. It took 5 years for the illegally fired employee of Sea-Land to get his lost wages from the union that was responsible. It was the union, in that case, that was guilty of the unfair labor practice.

Yes, I can see how anybody would lose patience. That is why we are here, because thousands and thousands of hourly paid workers are being abused by illegal activity by both the employer and the union, and it takes them years to receive their just remedy.

Mr. WALLOP. I should like to be enlightened on this. Is it the Senator's position that the mandatory injunction proceedings will apply to unions as well as to management?

Mr. WILLIAMS. First of all, let us back up again here. Under present law, injunctions run against unions in the specific areas where the law says if they are found as charged in violation, an injunction will run against the union. We have been through this. It is well to go through it again.

Mr. WALLOP. That is only a secondary boycott.

Mr. WILLIAMS. Secondary boycotts, recognitional picketing, hot cargo. The same applies with new remedy in this bill, again designed to go to the injured worker. It is equal again. The remedies run to the worker, whether it is the employer that has been in violation of the act or the union that is in violation of the act.

Mr. WALLOP. Can the Senator describe the breadth of abuses to which the employer might be subjected and find injunctive relief?

Mr. WILLIAMS. Will the Senator restate that? He said employer.

Mr. WALLOP. Are we still involved with secondary boycotts, hot cargo, and recognition? Is that all?

Mr. WILLIAMS. No, on page 18 of the bill, S. 2467, Section 11(a):

The first section of section 10(1) is amended to read as follows: Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of—

And then we go into the remedies.

"Any person" is an employer or a union. When we get down to line 18, where it says "8(a)(3) or 8(b)(2)——

Mr. WALLOP. Will the Senator state the page again?

Mr. WILLIAMS. Does the Senator have 2467?

Mr. WALLOP. Yes.

Mr. WILLIAMS. Section 11. "Any person has engaged in an unfair labor practice"—that is page 18—"within the meaning of."

Then we go to the two operating sections—8(a)(3) or 8(b)(2), one employer, one union. Then the remedies follow.

Equal, the scales are the same, the remedies are equal, running against the unfair labor practice, be it employer or union.

Mr. WALLOP. It does not get to my "yes" or "no" never never land, and as long as the bill is contemplated to leave this body in some kind of final form, that is part of the problems that the Senator from Wyoming has. The two sections referred to, as the Senator from New Jersey so rightly said, are so narrowly drawn. I do not think it will provide the kind of relief we seek for justice done under this.

Is it the Senator's opinion there would be injunctive relief for employers against unions, as well?

Mr. WILLIAMS. I was distracted for a moment, is there a question?

Mr. WALLOP. There is. I will rephrase it.

I understand the intent to have the bill come out of here in some kind of final form, in whatever tablets it may be engraved upon, and seeking a yes or no.

Mr. WILLIAMS. Recycled.

Mr. WALLOP. Yes. Seeking a yes or no, if such a simple thing can exist.

Part of the problems I have with the bill, as the Senator quite rightly said, it is so narrowly drawn that the definitions under (a)(3) and (b)(2) do not lead this Senator to believe that an employer could obtain, or an employee could obtain, injunctive relief from a union over a broad spectrum of abuse, but only as a rather narrowly tailored definition.

Mr. HATCH. Will the Senator yield?

Mr. WILLIAMS. Of course, again, as we are talking here, this bill is designed for the foundation areas of the National Labor Relations Act. Workers shall, if they want to consider a union, have a right to a secret election. If in that election they select a union, that union shall be bargained.

So this is zeroed in on the practices involved in the first election and the first contract. In these situations, the remedies are equal.

Mr. WALLOP. Yes, but that is the problem, is it not?

I mean, the Washington Post editorial which both of us have mentioned, claims this bill "displays inadequate concern for the rights of individual workers."

This is what I was asking when I said that an employee might not lose his job in the right-to-work State, but he might well lose his sanity.

The Senator recounted the Sea-Land case this morning. My question is, Can that employee, under this amendment to the Labor Reform Act, seek injunctive relief for those kinds of practices?

Mr. WILLIAMS. I really think what the Senator has developed here is the beginning of a suggestion that there should be Federal relief for a change of violation of a State law.

Mr. WALLOP. No. The Senator is not suggesting any such thing. I am asking——

Mr. WILLIAMS. The Senator is talking about the 14(b) State where someone in violation of the State law is forced into the union. Is that not what the Senator is talking about?

Mr. WALLOP. Yes. With the kind of statement the Senator is talking about, the Senator assured me a little while ago, if I did not misunderstand, this was designed as in the Sea-Land case to provide small individual workers with access to redress from grievances that they might have with unions.

My question was, Can an individual worker whose rights have been abused by a union seek injunctive relief under the provisions of this reform act?

Mr. WILLIAMS. We do provide the 10(l) remedy for the worker discharged in violation of section 8(b)(2) during an organizing campaign or a campaign to decertify a union. Under the procedures here, we would see a reduction of all of those time delays and the worker I discussed this morning would receive his relief within much short of the 5 years it did take.

Mr. WALLOP. But only under the very narrowly described abuses in (a)(3) and (b)(2). Is that correct?

Mr. WILLIAMS. As defined in the bill, of course. But I thought the Senator was developing something here on the violation of 14(b).

Now, there has got to be relief for that person in a 14(b) State. But certainly not a Federal complaint. 14(b) is an opportunity for a State to enact the open situation. So it is a State law that would have been violated.

I would say, if that happened in Wyoming, get out there and get that legislature to give more remedy to those workers, as we are here.

Mr. WALLOP. I suggest that the Washington Post is perhaps closer to it.

Mr. WILLIAMS. Than the Senator is? Well, Wyoming, perhaps.

Mr. WALLOP. Perhaps it says the basic defect of this, as we have repeatedly argued, it is disproportionate attention to the union's trouble.

It displays inadequate concerns for the rights of individual workers, which is what this Senator has been talking about ever since he engaged in conversation on this bill.

It does appear on the face of it and in the report language and the general tenor to be basically designed to grease the skids of power of the major union organizing groups and not the rights of individual workers or the rights of small employers.

Mr. WILLIAMS. I will say I suppose we will have to just put up a lot of hypothetical examples for this to come through, that the remedies under this bill are available to the injured worker in the circumstances and time periods specified in the bill, whether the abusing party is the employer or the union.

Now, if an employer fires a worker during a period when employees are seeking to promote an election, that kind of discharge is an unfair labor practice under this bill and there is an injunction reinstatement.

By the same token, if the union that wanted to be in there somehow got the employer to discharge that worker during a period when employees were seeking to decertify a union the same thing would happen. There would be an injunction reinstatement.

Mr. HATCH. Will the Senator yield?

Mr. WALLOP. I am happy to.

(Mr. ALLEN assumed the chair.)

Mr. WILLIAMS. But I have been intruding too much.

Mr. HATCH. I ask the Senator from New Jersey, is it not true under 10(j) under present law that the Board can seek injunctive relief at least for the abusive cases. Is that not true?

I ask my friend from New Jersey.

Mr. WILLIAMS. I missed the question.

Mr. HATCH. Is it not true under 10 (j) of the present law that the Board can seek injunctive relief in these abused employee situations?

Mr. WILLIAMS. The answer is, "Yes."

Mr. HATCH. That is right.

The way the present law is changed by this particular provision is that instead of allowing the seeking of an injunction to be discretionary in the Board, this bill would change it to make it mandatory, so that the Board has to seek an injunction in every one of these cases.

The General Counsel for the NLRB, Mr. Irving, has stated that this will result in thousands of additional cases that presently do not have to be tried because the Board does not see fit to seek the injunction, because the facts are not there. In fact, he estimated, if my recollection serves me correctly, that it would increase the Federal caseload docket across the board in this country 2.5 percent.

With the congested dockets we have now, to force the Board to go for a mandatory injunction in every one of these cases means adding attorneys to the National Labor Relations Board. It means congesting the dockets of all the Federal courts in this country, when under present law the NLRB has the right to do exactly that; but it is discretionary, meaning that they do not exercise it unless they need to, unless the facts justify it. Even under this bill, if the facts do not justify it, they have no alternative. They have to seek an injunction.

What we seek to be doing with this bill is generating many more jobs for attorneys. In fact, this is only one of many sections in this bill that augment the utilization of attorneys throughout America, congest our courts, and do not do a better job for the employees than under the present law.

As a matter of fact, there is every reason not to do this and every reason not to force mandatory injunctions on the board, because in a number of these cases the board can primarily, through its use of discretion, determine that they should not seek an injunction. With this bill, they cannot primarily determine that; they cannot use discretion; they cannot say it is not worth going for an injunction. They have to do so. In the process, they will congest the courts and fill their agency with attorneys.

Under H.R. 8410, section 8(a)(3) cases, which involve conduct during an organizational campaign, or prior to the first contract, are subject to the provisions of 10(1) of the act.

As noted above, the regions anticipate the following intake: 20,410 section 8(a)(3) cases per year; 19,328 deprivation of employment cases; 17,395, the number of these which occur during organizational campaign or prior to first contract cases; and 6,958, which is the number of these that are meritorious. Only 40 percent of all these cases are considered to be meritorious. So they are going to make them file for all 20,000. The number that will not settle or adjust prior to litigation is 3,479.

When you come down to it, this bill places a bigger burden on the NLRB, the courts, and all concerned, when, under present law, in meritorious cases or those that are justified, the court can act through the use of its discretion.

So we can anticipate 3,479 10(l)–8(a)(3) petitions per year.

The next question is, how many of these cases will ultimately require the filing of a circuit court 10(l) brief? During the 1-year period ending September 30, 1977, the regions filed 190 10(j) and 10(l) petitions. During the same period, advice completed circuit court briefs in 14 10(j) and 10(l) cases.

Thus, our experience is that the ratio of circuit court briefs to petitions is 7.8 percent. On the conservative assumption that 10(l) and 8(a)(3) cases will be appealed by someone at the same rate as 10(l) and 883 cases are now appealed, we can anticipate that there will be 271 briefs filed—that is, 7.8 percent of 3,479 cases.

So what we are trying to say is that there is little or no justification for this provision in this bill, which is an easy litigation provision that I think does not do much for employees in any way, shape, or form. As a matter of fact, it does not do any good for anybody except perhaps the unions. Where we can do good for all concerned and it is good for the unions, that is great; but when it is only good for the unions at the expense of employes and employers, that is not so great.

Mr. WALLOP. I thank the Senator from Utah.

I point out that one of my basic problems with the bill is that it really does nothing for individuals. On the face of it, it is designed to put power in the hands of those who already have power but are losing it a little bit because they are not competing in this society for the loyalty and affection of their members, to the extent that they can win new converts to their cause.

For us to put in place some kind of miraculous little deal so that they can do it without being wanted is a Cinderella story that will be told and retold. The only trouble is that we will not ever get to midnight, and they will have their power, and the coach will not turn back to a pumpkin. It is just a little story we will have to live with.

I find particularly grievous the equal access amendment, providing the right for unions to address employees in the working premises if the employer has spoken to his workers on issues regarding representations by a labor union.

For the life of me, I cannot understand how anybody could force that circumstance on an employer, where somebody is ordered by law to have access during the employer's productive time, on his premises. I refer to "his." I am not talking about the Ford Motor Companies or United States Steel Companies or big construction companies. I am talking about some guy who runs a plant with 15 or 20 employees, perhaps a small packing plant, with a million dollars a year in gross business, a business which is marginal at the very best, and all time during the day is required to make even or lose a little.

Why is it right to provide access during working hours on his premises, contrary to his interests, for people to talk to his employees, when they can talk to them in their homes and the employer cannot go there? They have all kinds of other access. They have union halls, they have taverns. It is a bit likelier to grease the skid in a tavern than on the floor of a slaughterhouse.

The point is, why is a fellow going to be allowed on the premise—an intrusion, to trespass, if you will, into his place of employment?

Mr. WILLIAMS. Is the Senator saying that the employer cannot go to the tavern?

Mr. WALLOP. The employer can go to the tavern, and if he were smart, he probably could gather up more than the union organizer. But I do not see any reason why somebody should have an authorized trespass to his premises. In essence, that is what it amounts to.

For the life of me, I cannot understand this country engaging itself in that kind of legal posture, when it runs contrary to all the freedoms we ever thought about—personal property, private property.

Again, I want to distinguish between the big, publicly held corporations and the small ones. But oftentimes those are built by a family or by a pair of partners, with a good deal of sweat and anxiety and bank loans and other things. They are as private in their way as their homes are. Until they reach the stage where they have that kind of bargaining agreement and the contracts in which those things can take place, resulting in a mutually agreed upon circumstance, I do not see this country ordering trespass. I cannot see that we are doing anything but just that; ordering an individual in this country to submit to trespass.

Also, I mentioned earlier and will again, because it is an area that causes me a lot of trouble, these credible time limits for so-called "quickie elections." Forty-four days under existing law would seem not to be a long period of time in which an employer could represent his case to employees and more particularly a competing union could represent its case to a given group of unorganized workers.

Strange as it seems, it has been more the case in Wyoming that two unions would compete for the same set of workers and would use that 44 days to sell their particular product and when they have sold it they have sold it pretty well.

One union I mentioned earlier in our mines has been more successful at selling their representative capacity than the other, and that is the Progressive Mine Workers as opposed to the United Mine Workers.

But to suggest to employees that they should have to vote in the dark, as it were, on topics that may affect their working conditions and their bargaining rights for a considerable period of time—because, make no mistake about it, if you can get into this thing easily, getting out of it is not gong to be such a slippery maneuver—it is my concern that this proposal will severely limit the employee's freedom of choice by limiting an employer's ability to inform him and by limiting the opportunity for competition to represent.

Others have spoken of the debarment provisions which would prevent any employer who in the opinion of the Board has performed an unfair labor practice from receiving any Federal contracts for a period of 3 years. Now I suggest that the Senator from New Jersey was of the same mind when we talked of the abuses of the union under 14(b) that this thing would be the same kind of an abuse potentially to an employer who for reasons known to the Board may be charged with an unfair labor practice and for 3 years the might of the United States comes down on the side of the union. I cannot read in this bill that for 3 years the might of the United States would come down on the side of an employer if the union were guilty of an unfair labor practice.

It might be enough, strange to say, to lose the jobs of those employees. Forcing an employer out of work in behalf of a union will do precious little, in this Senator's opinion, to protect the rights of workers should their jobs be lost by action of the Government protecting the rights not of the union but of the union organizer, and of the union boss.

Somehow or another, when I see a workman sitting in an unemployment line because his company has been forced to shut down by the United States in the name of labor protection, I would bet you would have a hard time selling him on the theory that his protection had been worth it.

In the same vein, I think any willful violations of labor laws must be taken seriously. But the problem with this bill is that it operates from the presumption that there is only one person or one entity that is ever going to violate labor law, and that is management, and at no time are unions going to violate the labor law. While the United States will come down full force on the side of the union under the provisions of this bill, it never will on the side of the employer.

Three years is a long time to be cited against by the might of the country when you are a small employer.

I suggest that probably under no circumstances will that ever happen to big business. I would just be very, very surprised indeed if the Ford Motor Co., General Motors, or Dow Chemical—you name it—would ever be found guilty of a willful violation of this act to the extent that they lose all their Federal contracts for 3 years. I just bet you it will never happen.

But it sure will happen to the small employer, the guy with 15 to 50 employees, who has not the ability to fight this Government for 3 years. So, we are in that inexorable process where big government, big labor, and big business are combined to the exclusion of small businessmen and the employees for whom they seek to provide work in the country.

I cannot conceive of a moment in time when Federal contracts are going to be taken away from any of the big shipbuilding firms in this country with defense contracts.

If they make a willful violation under this, what would the Senator suppose would happen? We would have to terminate all contracts and go back for 3 years?

Mr. WILLIAMS. No. Again I refer to the bill before us, the national security. There are all kinds of authority. The Senator is talking about debarment. National security, sole source, if the standards spelled out in the report are met the opportunity to avoid debarment is there. The Secretary's authority to lift debarment is available. It is as simple as that.

Mr. WALLOP. Of course.

Mr. WILLIAMS. But before the Senator wastes any more time on this I suggest that this provision be read and the Senator will see that we are not going to in any way endanger our national security. If the Senator will look at the bill he will see.

Mr. WALLOP. I know we are not going to. That is why I am suggesting.

Mr. WILLIAMS. The Senator said something about building a ship for the national defense.

Mr. WALLOP. I am suggesting that big business will continue to have their contracts with the Government, whether they are in the national interest or not, and the small will be the ones who end up with debarment.

Mr. WILLIAMS. I thought the Senator was talking about shipbuilding and the Government had a contract with the shipbuilder for building the ships.

Mr. WALLOP. I was merely trying to get my colleague's attention. He had not noticed it when I was talking about some of the other industries that were there. But the plain fact is that the main corporations of this country if they are found guilty of labor law violation are probably not going to lose their Federal contracts, and the only ones over whom that is a hammer are those who have 15 to 100 employees. They are the ones who are going to bear basically the butt of the debarment, as it were, and it is going to hinder them and it is going to hurt them.

Mr. WILLIAMS. It is a willful repetition of violation of the law, and the Senator knows it. I think that Western justice with which I am sure the Senator is very familiar would recognize that you have to get the attention of the willful continuing or repetitive lawbreaker. That is what this is designed for.

Mr. WALLOP. It does not do anything for the willful repetitive lawbreaker if you cannot debar the union, does it?

Mr. WILLIAMS. Yes.

Mr. WALLOP. How?

Mr. WILLIAMS. If the unions violate the law, and unions do——

Mr. WALLOP. They can lose their Federal contracts for 3 years?

Mr. WILLIAMS. Of course, they can.

Mr. WALLOP. What contracts do the unions have?

Mr. WILLIAMS. We had a list included in the RECORD during the debate last Wednesday. There are scores of them.

Mr. WALLOP. Does the Senator mean bargaining contracts?

Mr. WILLIAMS. There are scores of Federal contracts with labor organizations, employment, training; many, many millions of dollars worth of Federal contracts with unions.

Mr. WALLOP. Thirty-six million dollars, is that correct, in this country?

Mr. WILLIAMS. Millions. I know that. I thought the Senator was not familiar with it. Yes, that is all in the RECORD from last Wednesday, I believe, or Thursday.

Mr. WALLOP. It is not in any way a comparable threat to the billions of dollars that are in private industry though, is it?

Mr. WILLIAMS. To a union that has a contract it is as important to them as business that has a contract. In terms of the total national dollars on contracts with unions and the total national dollars in manufacturing and other business operations, of course not. They are not comparable figures. But in terms of the individual entities that are affected, to them it has a comparable impact, of course.

Mr. WALLOP. I am happy to hear the Senator's explanation of it. I just have got to say that I would be very surprised, based on the track record to date of decisions and the direction in which they generally go, if that was in any way a comparable threat.

Just given the political power and undue leverage, unions, they have in this country, far in excess of the numbers of people they represent, one has to remain skeptical.

Mr. WILLIAMS. Well, that is the Senator's opinion, and, believe me, I am not going to change his opinion. But that is the Senator's opinion.

If you look at the statistics, they are there, important monetary contracts with unions, important monetary contracts with business. Anybody can come to his own judgment on this.

Mr. WALLOP. I recognize they are, but the general trend of the activities of the Board and the decisions and the slant if you will, that it possesses——

Mr. WILLIAMS. I just recited this morning how a decision went against the union for having an individual fired. The union was wrong. It took 5 years through the processes, for him to finally get the back pay remedy he should have had much earlier if the Board's processes were not so slow.

Mr. McGOVERN. Mr. President, will the Senator from Wyoming yield for a procedural question? I shall need only a few minutes and I wondered how long the Senator expects to hold the floor?

Mr. WALLOP. I would be happy to yield to the Senator from South Dakota without losing my right to the floor if he would care to make those remarks now.

Mr. McGOVERN. Mr. President, I ask unanimous consent then, with the understanding that the remarks come at the end of the remarks by the Senator from Wyoming, that he does not lose his right to the floor, and that I be permitted to speak on some nongermane subjects for a few minutes and that I be authorized to proceed.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGOVERN. I thank the Senator from Wyoming for his courtesy.

(At this point Mr. McGOVERN addressed the Senate on subjects not germane to the debate herein, which proceedings, by unanimous consent, are printed at the conclusion of Mr. WALLOP's remarks.

(Thereafter the Senate continued with the consideration of H.R. 8410, and the following occurred:)

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I call attention to the rule which prohibits Senators from making more than two speeches on the same legislative day on the same subject.

The purpose of this debate, as I see it, is to develop the issues involved in connection with the labor reform bill. After 4 days of debate last week, no cloture motion has been called up; it was my plan to proceed with 5 days of debate this week and not offer any cloture motion until the return of the Senate on Monday following the holiday.

But I want to caution Senators that if they are going to yield for speeches, they should protect themselves against the rule which prohibits a Senator from making more than two speeches on the same legislative day on the same subject. The Senate is still in the legislative day of May 17.

I realize that the distinguished Senator from South Dakota got unanimous consent to speak out of order, but I would hope that Senators would also watch the rule of germaneness for the first 3 hours during the day. It is a very easy matter to carry on a filibuster if you are not going to enforce the rules. It is a very easy matter to keep going on and on and on, particularly for those opposing the bill, by just continuing to yield and let other people make your speeches for you.

So I want to utter this word of respectful warning, that if Senators are going to yield to other Senators, they had better protect themselves against the operation of the rule, because at some point, some Senator may make objection to yielding for that purpose.

I say what I have said with due respect to all, without rancor and without any feeling; but I think it is time that we ought to recognize that if we are going to have an extended debate, call it whatever you wish, a filibuster, then let us stick to our subject and let us make our speeches, but let us avoid yielding for nongermane speeches, and yield only for a question, as the rules require.

I do not want to be a stickler on the rules at this point, but I think it is appropriate for me to make this comment.

Mr. HATCH. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I do not have the floor.

Mr. WALLOP. I yield to the Senator from Utah under the same conditions.

Mr. HATCH. It is not my understanding, then, that the distinguished majority leader is going to enforce the rule at this point with respect to two speeches in the same legislative day.

Mr. ROBERT C. BYRD. No, it is not my intention to do that, but I thought at least a word of caution would be well spoken.

Mr. HATCH. Just so I may understand, the way I understand the rule is that the way you have been recessing at the end of every day, all of these speeches are in the same legislative day except for the first day.

Mr. ROBERT C. BYRD. The same legislative day. The Senator from Wyoming has probably made four or five speeches in the same legislative day. I am not objecting to that at this point.

Mr. HATCH. I have made at least two, in trying to inform the public, though I do not wish to take the floor away from other Senators. But it was my understanding that if the rule was to be invoked, it would be invoked both ways.

Mr. ROBERT C. BYRD. Oh, absolutely. And if it were, the Senator would probably not be permitted to make another speech.

I assume the Senator from Utah has already made his speeches.

Mr. HATCH. That is correct.

Mr. ROBERT C. BYRD. Yes. I just thought I would refresh memories on this. I would like Senators to be a little more careful about yielding the floor on nongermane subjects. Let us stick to the issue, at least for the first 3 hours during the day under the Pastore rule for germaneness. Be a little cautious about yielding for speeches. Any Senator can simply ask for regular order, and the Senator from Utah, who has already made two speeches, would not be able to make another speech on this subject until another legislative day, which may be weeks away. I want to be helpful rather than hurtful. It is time that we observe the rules.

Mr. HATCH. It is also my understanding that if the rule is invoked, there would be no further participation in the subject.

Mr. ROBERT C. BYRD. Not on the same legislative day. The Senator can speak twice on another question, however.

Mr. HATCH. I compliment the distinguished majority leader for bringing this rule to our attention. I also feel very good about the fact that he is not going to invoke the rule at this time. I would hope it would never be invoked unless somebody is reading from the Sears Roebuck catalog, or something like that. That would be another matter. I am saying that I am appreciative the Senator is not invoking the rule, a technical rule, which might tend to stultify the, I think, educational dialog which is going on. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. WALLOP. Mr. President, I thank the distinguished majority leader and I will certainly watch whether I yield to him again. I will take his advice. That was meant to be facetious.

I understand what he is saying. The Senator from Wyoming has not made three or four speeches yet and would hope that such would not arise. There are some amendments which are coming at this time—well, not at this time but directly.

Mr. ROBERT C. BYRD. The Senator can protect himself in yielding by simply asking that the resumption of his speech not be counted as a separate speech. That would require unanimous consent and could be objected to.

Mr. WALLOP. The Senator from South Carolina (Mr. THURMOND) has all words down pat at this stage of his career and has given good counsel on the matter.

Mr. HATCH. Will the Senator yield?

Mr. WALLOP. Under the same set of circumstances as previously. I ask unanimous consent for that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I would like to ask one other thing. It is difficult for us who are freshman Senators to not yield the floor to distinguished senior Senators who come to the floor and want to express themselves on matters of great importance. We have been interrupted on a number of occasions for that purpose. I would certainly hope that this rule would not be invoked and that we would be able to yield the floor for the purposes of a distinguished Senator making a statement on a matter he feels to be extremely important. If the majority leader would prefer that we not do this, this would be fine with us. I would hate to not be able to extend that courtesy, for instance, to Senator McGOVERN, as Senator WALLOP just did, especially if it is a short speech to make an appropriate point on a subject of great importance in the mind of that particular Senator.

Mr. ROBERT C. BYRD. The Senator would best protect himself by asking unanimous consent to be able to do that.

Mr. HATCH. I thank the Senator.

Mr. WALLOP. Mr. President, I just want to make one additional point on the debarment. While I realize that the report says that unions do come under the purview, and the distinguished Senator from New Jersey has put in the fact that there are some $36 million in contracts, the bill itself, over the report, I would hope would be the guiding principle involved. The language in the bill, to the extent it was clear, would certainly be the guideline provided to the courts and the National Labor Relations Board for the conduct of matters under the bill.

I would just point out the discretionary nature of the debarment proce-

dures, and the fact that the Secretary of Labor can certify that there is no other source for the material or service furnished by the person. Let us read that—

That there is no other source for the material or services furnished by the persons affected by the Board order:

I would suggest those words severely limit any application of this which might be headed in a union direction.

I doubt very seriously if there was an apprentice contract with the seafarers union, for example, or some other maritime union, that the United Steel Workers, for example, would be able to pick up a seaman apprentice program. They probably would be the only source, and the discretionary nature of this is almost to the point where one would have to believe that we will not see these kinds of actions taken against unions. More is the pity because I think it is fair to say, as the distinguished Senator pointed out, that there are abuses on both sides and in both directions on that.

Mr. President, that procedure of debarment will serve more as a heavy-handed threat of blackmail to the small employers of this country than it will to the big unions with national contracts or the big companies with national contracts who can make the case or who have political or economic power which is sufficient to generally negate any effect this particular provision would have. As such, one has to count this as slanted toward the structure of union power and not toward the benefit of the rank and file, and certainly not in an evenhanded way toward union leadership and the employers of this country.

I still go back to point out the thing that is worse, one thing we cannot escape, that the provisions in this bill basically will come down on the meek. Big unions and big corporations will have economic power and they will have political power which will diminish, if not entirely negate, the effects of most of these provisions.

It is no wonder that small business is worried. It is no wonder that the small employers of America are worried. It is no wonder that those of us who count them as the single most important part of this Nation's economy are worried. I see no signs that an evenhanded application is possible and that the big will not continue to be big and to be able to resist as they frequently have in the past, both on the side of management and on the side of labor, self-indulgence of abuses which are intolerable, and which did give rise to the bill in the first place.

Sadly, the way it is going, the way it is cast, the way the report language reads, I think one would find that it is not evenhanded. It has no real intention of being evenhanded.

It really goes to the soft heart of the problems, and deals with them in a rather direct way. It enfranchises trespassing, enfranchises national threats on the behalf of this great Government on the small and the meek in this country and, as usual, enhances the power of the big, no matter what.

Some day, I would really like to see us take after legislation of this nature that really does go to the abuses that have been described. I just do not think this will do it. I think it is going to be a nightmare for the small employers of this country. I do not think it is going to do anything about the abuses of the civil rights of some of America's working men and women.

I do not think it is going to do very much about the abuses of political and economic power that the big unions have in this country. But I do see that the small employers, with the full might of the United States behind them, will have to open their doors to people onto their private premises to promote philosophies or things which are not in their permanent interest—at least in their opinion. They will not be given the same rights in return.

I see the Government threatening economic sanctions against the employers of this country and I cannot, for the life of me, reading the bill and reading the report, see any similar economic sanction being threatened against the union leaders of this country.

The Washington Post was surely right when it spoke of the disproportionate attention to the unions' troubles. Their troubles are basically that they are not merchandising a commodity that is wanted by the working men and women of this country to the extent that it once was. So, rather than clean up their act and sharpen their procedures to the point where they do, in fact, compete, and where there is, in fact, progressive reason for seeking the protective cover of union membership bargaining situations—rather than do that, they seek redress through the might and power of the U.S. Congress to do what they cannot do on their own. I think, in the long run, it will be detrimental to the working men and women of the country and the economy of the country.

Mr. President, I yield the floor.

(The following proceedings occurred during Mr. WALLOP's foregoing remarks and are printed at this point in the RECORD by unanimous consent.)

DESIRE FOR SOVIET DÉTENTE PERSISTS

Mr. McGOVERN. Mr. President, I personally was very much encouraged by a public opinion survey conducted by Mr. Lou Harris that was reported in the Washington Post this morning, May 22, which relates to the attitude of the American people on the question of détente or improved relations between the United States and the Soviet Union.

One might get the impression in reading the press in recent weeks that there is a widespread growing skepticism about whether it is either desirable or possible to work out some kind of understanding with the Soviets to bring the nuclear arms race under control, and also to take certain other steps that might improve our relations, recognizing all the while that there are some issues on which we have sharp disagreements.

Mr. President, I call to the attention of the Senate this article to which I have referred giving the results of a respected poll, the so-called Harris poll. It opens with these words:

Reports that Americans have become less favorable toward detente and have cooled on their desire to see the United States and the Soviet Union agree on strategic arms limitations have no basis in fact.

71-to-15 percent majority favors "detente—that is, the United States and Russia seeking out areas of agreement and cooperation." A year ago, a slightly higher 75-to-10 percent majority supported detente, while in 1976 a 73-to-16 percent majority held the same view.

Specifically, a 75–to–12 percent majority favors the United States and Russia coming to a new SALT arms control agreement that would limit the number of nuclear warheads and missiles they can deploy. Just a year ago, the margin was 66-to-8 percent.

This interesting point, Mr. President:

In the past 14 months, support for SALT has gone up 9 points.

On three other key areas of potential U.S.-Soviet agreement, massive majorities favor:

"Increasing trade between the U.S. and Russia." A 70-to-18 percent majority nationwide registers approval, up slightly from the 66-to-16 percent majority who felt the same way in 1977.

An agreement between the United States and the Soviet Union to "end all nuclear weapons testing." Americans approved by 74-to-17 percent; a year ago, a 75-to-12 percent majority favored such an agreement.

The United States granting Russia "the same trading rights with us as most other nations have." A 63-to-12 percent majority back such a move, which would mean giving the Soviets the "most favored nation" rights.

Mr. President, there are times when all of us in this body have to stand on our own consciences and our own convictions about issues where we find ourselves out of step with the majority of the American people.

But is seems to me that it is very encouraging that on one of these issues that affects the very survival of the human race—and that is the question of whether or not these two enormously powerful countries, the United States and the Soviet Union, can find some practical way to bring the arms race under control—we find the American people overwhelmingly in favor of that action.

It indicates to me that when it comes time to vote on the strategic arms limitation treaty if our negotiators can, in fact, negotiate a reasonable treaty in the mutual interest of both countries, that treaty would have the overwhelming support of the American people by margins running 6 and 7-to-1, and I would hope that the U.S. Senate would take that strong sentiment for peace into consideration when it comes time to consider this effort to bring a cap on the strategic arms race.

In all fairness, Mr. President, the article goes on to point out that—

The American people are uneasy about Soviet and Cuban military activities in Africa as well as about violations of human rights within the Soviet Union. The public seems to feel that the United States should not hesitate to make forceful representations to the Kremlin on these matters.

But then this interesting point, Mr. President:

Americans do not want the progress of the SALT talks and the prospects for increased trade linked too closely with these other issues.

In other words, the American people are saying, in effect, that while they are anxious about Soviet and Cuban troop involvement in Africa, they do not want that concern on their part or on the part of our Government to be interpreted as a message that they want us to halt negotiations on the issues leading toward a limitation on nuclear arms:

The public believes that a policy of pluralism must be a cornerstone of U.S.-Soviet relations in this advanced nuclear age.

Closely related to that sentiment, Mr. President, was the interview on yesterday of our Ambassador to the United Nations, Mr. Young, in which he responded to certain reports alleging that the White House is unhappy about the role the Congress is playing in foreign policy; that, according to these reports, the President's hands are restricted if not tied in dealing with the challenge of Cuban and Soviet forces in Africa.

Our Ambassador to the United Nations, who is a man, I believe, with great sensitivity to the issues in Africa especially, says that is simply not true. In his appearance on "Face the Nation" yesterday, quoting from a front-page story in the New York Times of today, Mr. Young said that—

He did not believe the President was unduly restricted by congressionally-imposed restraints in aiding Zaire and other friendly African countries.

The story goes on to say that Ambassador Young also termed it "ridiculous to attach strategic significance to the presence of thousands of Cubans and lesser numbers of Soviet personnel in Africa."

Mr. President, without in any way minimizing the presence of the Cuban and Soviet activities in Africa, I do think Ambassador Young makes a commonsense point when he says:

Although many officials have become alarmed at the Soviet and Cuban role in Ethiopia, Mr. Young said that no one ever heard of the Ogaden region of Ethiopia . . . until the Cubans and Russians became involved.

Then he goes on to make this observation:

"And then all of a sudden, because Cubans decide to go there, we build up this emotional attitude and decide there is this enormous strategic significance in a thousand miles of sand," he said. "That's ridiculous." Americans have tended to view Africa as if it were Europe, "where every mile of territory assumes some strategic significance," he said.

Mr. President, I ask unanimous consent that both the Washington Post article on the Harris survey and the New York Times article that I have just quoted detailing the views of Ambassador Young be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 22, 1978]

THE HARRIS SURVEY—DESIRE FOR SOVIET DÉTENTE PERSISTS

(By Louis Harris)

Reports that American have become less favorable toward detente and have cooled on their desire to see the United States and the Soviet Union agree on strategic arms limitations have no basis in fact. To the contrary, a sizable majority of the public apparently deeply hopes that agreements between the world's two leading superpowers can be achieved.

Despite claims to the contrary, an April 29–May 6 survey of 1,563 adults nationwide has found:

A 71-to-15 percent majority favors "detente—that is, the United States and Russia seeking out areas of agreement and cooperation." A year ago, a slightly higher 75-to-10 percent majority supported detente, while in 1976 a 73-to-16 percent majority held the same view.

Specifically, a 75-to-12 percent majority favors the United States and Russia coming to a new SALT arms control agreement that would limit the number of nuclear warheads and missiles they can deploy. Just a year ago, the margin was 66-to-8 percent. In the past 14 months, support for SALT has gone up 9 point.

Recently, Secretary of State Cyrus R. Vance and chief arms negotiator Paul C. Warnke reported that real progress had been made on SALT negotiations and that final agreement might be only a matter of weeks away. It has been suggested that Soviet leader Leonid Brezhnev might well be invited to visit President Carter in Washington this summer for a summit meeting, at which new SALT agreements would be announced.

On three other key areas of potential U.S.-Soviet agreement, massive majorities favor:

"Increasing trade between the U.S. and Russia." A 70-to-18 percent majority nationwide registers approval, up slightly from the 66-to-16 percent majority who felt the same way in 1977.

An agreement between the United States and the Soviet Union to "end all nuclear weapons testing." Americans approved by 74–17 percent; a year ago, a 75- to 12-percent majority favored such an agreement.

The United States granting Russia "the same trading rights with us as most other nations have." A 63-to-12 percent majority back such a move, which would mean giving the Soviets the "most favored nation" rights.

It is clear from these findings that there is still a favorable climate for detente in this country. Large majorities feel that in a nuclear era, confrontations between the two leading nations in the world must be avoided.

At the same time, according to recent Harris surveys, Americans are uneasy about Soviet and Cuban military activities in Africa, as well as about violations of human rights within the Soviet Union. And the public seems to feel that the United States should not hesitate to make forceful representations to the Kremlin on these matters.

However, Americans do not want the progress of the SALT talks and the prospects for increased trade linked too closely with these other issues. The public believes that a policy of pluralism must be a cornerstone of U.S.-Soviet relations in this advanced nuclear age.

[From the New York Times]

YOUNG VOICES DISSENT ON POLICY IN AFRICA

(By Bernard Gwertzman)

WASHINGTON, May 21.—Andrew Young, the chief United States delegate to the United Nations, said today that contrary to concerns voiced by President Carter, he did not believe the President was unduly restricted by Congressionally imposed restrains in aiding Zaire and other friendly Africa countries.

Mr. Young also took a position clearly at odds with that of Zbigniew Brzezinski, the President's adviser for national security, by terming it ridiculous to attach strategic significance to the presence of thousands of Cubans and lesser numbers of Soviet personnel in Africa.

Mr. Young has consistently argued against deep American military involvement in Africa, and speaking today on the CBS program "Face the Nation," he seemed eager to defend his position in view of what appears to be White House determination to appear more willing to counter the Cuban in Africa.

In the last week, the Carter Administration has contributed 18 United States Air Force C–141 transports to the Belgian and French military airlift to Zaire. Administration officials stressed that in addition to wanting to help free trapped foreign nationals, the Administration had decided to become involved to show support the Zaire against the invasion of Katangans from Angola and to counter the Cubans, who the Administration said had trained and supplied the Katangans with Soviet weapons.

In addition, Mr. Carter told Congressional leaders last Tuesday that he was concerned about Congressionally imposed restraints on his freedom to act in support of Zaire and other countries. A State Department review of these restraints was ordered. Spokesmen for the Administration, in describing the limits, have noted a ban on covert aid to rebels in Angola and the need to inform Congress of any other covert actions. This has raised the possibility that the Administration was seeking a freer hand for covert activity.

Mr. Carter, in an interview made public yesterday, also noted the restrictions he operated under and seemed to be complaining of them. But State Department officials said that as a result of consultations held with Congressional leaders last week it was deemed out of the question to seek a change in the limits of covert activity by the Central Intelligence Agency.

TO SEEK FLEXIBILITY

Rather, the emphasis in the study now going on is to seek more flexibility in legislation that specifically bars foreign aid to some countries, thereby depriving the Administration of offering incentives for those countries to cooperate more with the United States.

Mr. Brzezinski, who is now in China for talks aimed at coordinating the two nation's views on global issues, particularly Soviet involvement in Africa, has been outspoken in warning about the Soviet and Cuban involvement in Africa. Mr. Carter has also been highly critical of the involvement but has also said that in the long run the United States would do better in Africa than the Communists.

Mr. Young said that as far as he could tell, Mr. Carter did not find his hands tied by the legislation. He said that there was no need to repeal the legislation putting limits on covert involvement. "I think there's enough support of the President in this country and the Congress for us to openly do anything we want to do in Africa," he said.

"STEADY, QUIET APPROACH"

But Mr. Young stressed that he did not believe the United States should be pushed by the Soviet and Cuban military activity to become involved to a similar extent. He said that "a steady, quiet approach" in Africa was more effective than rushing in troops.

Although many officials have become alarmed at the Soviet and Cuban role in Ethiopia, Mr. Young said that no one ever heard of the Ogaden region of Ethiopia—where Somali and Ethiopian forces have been fighting—until the Cubans and Russians became involved.

"And then all of a sudden, because Cubans decide to go there, we build up this emotional attiude and decide there is this enormous strategic significance in a thousand miles of sand," he said. "That's ridiculous." Americans have tended to view Africa as if it were Europe, "where every mile of territory assumes some strategic significance," he said.

Mr. Carter has seemed to equivocate on the issue of Soviet involvement in Africa. Most of the time he has seemed to express the concern voiced by Mr. Brzezinski, but at other times he appears to speak in terms more like those of Mr. Young. On the question of Congressional restraints, Mr. Carter has created considerable confusion. He has complained about them, but in the interview yesterday he said he had no quarrel with "a lot of those constraints," such as the War Powers Act, which requires consultation with Congress before initiating military action.

Mr. Young also said that he opposed any American linking of Soviet involvement in Africa to negotiations on a strategic arms accord. He said that the United States should be careful what it says about the Soviet Union because "all of the hard-line talk that's coming from people who mean very well in this country is probably serving also to strengthen hard-liners in the Soviet Union".

Mr. JAVITS subsequently said: Mr. President, earlier in the day, the Senator from South Dakota (Mr. McGOVERN) made a statement about the views of Andrew Young, Chief U.S. Delegate to the U.N., as expressed yesterday respecting the presence of Cubans in Africa and their effect upon the foreign policy of African countries and the effect on the foreign policy of the United States.

Mr. President, I agree with Ambassador Young that the Cubans and the activities of the Soviet Union in Africa are not the sole decisive element respecting U.S. policy there and the dangers to the freedom and independence of all of those countries.

I do not agree, however, that it is not an area of the gravest concern to us that these troops are shifted around for strictly political reasons and with grave dangers to the freedom and independence of any country in which they operate.

As to the U.S. policy, Mr. President, I feel that must be taken into serious consideration and that the President of the United States must be supported in his assertion to the Soviet Union that while we do not wish nuclear disarmament matters to be encompassed in a new SALT agreement to represent an element of linkage with what we do about nuclear disarmament as to the presence of the Cubans in Africa, that that possibility, should the Soviet activity be as threatening as it can be and as dangerous to the independence and freedom of African countries as it could easily develop, Mr. President, that that linkage is not to be excluded.

I cannot agree it should be excluded and that the Soviets should be told in advance that it is excluded.

I cannot concur and wish to make my views very clear on the record.

Mr. President, I am much reassured in terms of U.S. policy by the fact that the President has stated that he does not feel the War Powers Act, which I had the honor to be so closely associated with, and with the Senator from Mississippi (Mr. STENNIS), who was my cosponsor in that regard, does not represent an inhibiting factor in respect of the activities the United States may undertake to deal with Soviet interference through Cuban troops, and otherwise, in Africa.

Mr. President, I hope our people realize that the Soviet Union has tried to establish a position in Africa for its point of view which tends to be very disruptive of the opportunities for independence and well-being of the African countries. In countries like Zaire and in Egypt, and other places, the local governments, the indigenous governments, and the indigenous peoples, have also shown an ability to rid themselves of those influences when they were harmful to their national integrity and national existence.

Within those parameters, Mr. President, I wish to express my view as to Ambassador Young's view.

I do not wish to underestimate the dangers to freedom and independence of these African countries of such critical importance to the United States, of the actions of the Soviet Union in fomenting revolution and in using Cuban troops, in effect, as mercenaries in that area of the world.

On the other hand, I do not wish to overemphasize the interference with the possibility of making a SALT agreement with the Soviet Union, but not to rule out, either, our freedom of action in respect of such linkage should the Soviet presence and the Soviet activity become even more of a threat than it is now, and it is grave enough now to the situation which affects us so very deeply in Africa.

Mr. President, I ask unanimous consent to have the New York Times article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YOUNG VOICES DISSENT ON POLICY IN AFRICA

(By Bernard Gwertzman)

WASHINGTON, May 21.—Andrew Young, the chief United States delegate to the United Nations, said today that contrary to concerns voiced by President Carter, he did not believe the President was unduly restricted by Congressionally imposed restraints in aiding Zaire and other friendly African countries.

Mr. Young also took a position clearly at odds with that of Zbigniew Brzezinski, the President's adviser for national security, by terming it ridiculous to attach strategic significance to the presence of thousands of Cubans and lesser numbers of Soviet personnel in Africa.

Mr. Young has consistently argued against deep American military involvement in Africa, and speaking today on the CBS program "Face the Nation," he seemed eager to defend his position in view of what appears to be White House determination to appear more willing to counter the Cubans in Africa.

In the last week, the Carter Administration has contributed 18 United States Air Force C-141 transports to the Belgian and French military airlift to Zaire. Administration officials stressed that in addition to wanting to help free trapped foreign nationals, the Administration had decided to become involved to show support for Zaire against the invasion of Katangans from Angola and to counter the Cubans, who the Administration said had trained and supplied the Katangans with Soviet weapons.

In addition, Mr. Carter told Congressional leaders last Tuesday that he was concerned about Congressionally imposed restraints on his freedom to act in support of Zaire and other countries. A State Department review of these restraints was ordered. Spokesmen for the Administration, in describing the limits, have noted a ban on covert aid to rebels in Angola and the need to inform Congress of any other covert actions. This has raised the possibility that the Administration was seeking a freer hand for covert activity.

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THE NUCLEAR BUILDUP

Mr. McGOVERN. Mr. President, the Washington Star of May 20 contains an excellent article by the distinguished Journalist Richard L. Strout, writing under the pen name TRB, in which he points out the enormous buildup of nuclear power both in the Soviet Union and the United States. He draws attention to the fact that these two countries alone now have some 50,000 nuclear bombs in their arsenals, each one of them capable of destroying a city.

He draws attention to the fact that those of us who participated in World War II became familiar with the blockbuster, the biggest bomb that we had, at least in the European theater of operations, before the A-bombs were unveiled in the Pacific, but that instead of blockbusters, today there 50,000 bombs we now have are citybusters.

He makes a strong appeal that the United States take the lead in the U.N. special session on disarmament which opens tomorrow to see what can be done to direct more attention to this great nuclear danger to the present civilization.

I ask unanimous consent that Mr. Strout's article, entitled "Arms That Shortchange Humanity," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRB—ARMS THAT SHORTCHANGE HUMANITY

I've always had an odd partiality for the human race. The thought of a small dead planet spinning endlessly through space with no people on it after a nuclear war, oppresses me. No passengers—no birds singing, no children playing. Ugh!

And yet the nightmare can't be lightly dismissed. The burden of armaments is growing all the time; even now it's questionable, if all the 50,000 nuclear bombs possessed by the United States and the Soviets were detonated at once, whether the earth would be habitable. And we have only just started.

Covering D-Day off the Normandy coast, June 6, 1944, in the U.S. Cruiser Quincy, we were pretty proud of our big bombs, called "block-busters." But the bang that comes from one of our new nuclear bombs is a quarter of a billion times greater. Blockbusters: These are city-destroyers! Their aggregate explosive power is now equivalent to several tons of TNT for each person on earth.

These reflections come from reading the fourth annual report on "World Military and Social Expenditures—1978," by Ruth Leger Sivard (32 pages, $2.50; WMSE Publications, Leesburg, Va.). It is an independent analysis sponsored by six private foundations. It is issued just as the largest official gathering on disarmament that has ever assembled meets in New York—the UN's special disarmament session, to run from Tuesday through June 28. Will anything come from it but words? It is not too likely.

Mrs. Sivard was formerly chief of the economics division of the U.S. Arms Control and Disarmament Agency. She started World Military Expenditures while there.

To make a point she published tables of world expenditures for health and education alongside those for arms and bombs. Defense Secretary Laird complained that this made it harder for him to get his budget through Congress, and the Nixon administration ordered the publication stopped. Mrs. Sivard retired and continued the annual report with the aid of supporting groups including the Rockefeller Foundation. It is the equivalent, in some ways, of the annual survey by the International Peace Research Institute at Stockholm.

All right then—ready for some statistics?

The global arms bill is now $400 billion annually in public funds. There are 23 million men actually under arms with a back-up force of perhaps the same number. The arms race is out of control, stimulating price inflation (by using scarce resources for noncommercial goods), contributing to unemployment and poverty.

The world spends almost $1 million a minute on arms—20 times more than the industrialized nations spend in aid to help the poorer countries.

The average family pays more in taxes to support the world arms race than to educate its children.

Nuclear bomb inventories of the two superpowers, already big enough to destroy every city on earth seven times over, are growing. The leaders are not satisfied; they have an unobtainable goal but they want to be able to destroy each city nine or ten times over, and are busily turning out three bombs a day.

Says Mrs. Sivard: "Modern technology has made it possible to deliver a bomb across the world in minutes; women in rural areas in Asia and Africa still walk several hours a day for the family's water supply."

Had enough? It's boring, but it is probably worth spending five minutes a year in contemplating the consequences of armaments on a small, frightened planet where nobody is in charge and where everybody must guard against his neighbor.

Way back in the '20s an isolationist senator named Gerald P. Nye of North Dakota set out to show that the gullible United States had been egged into Woodrow Wilson's war by the munition makers. He held dramatic hearings. The slogan was, "Take the profits out of war," and it was believed that we would have peace, probably forever, if we controlled the "Merchants of Death."

How perplexing it all is. The United States government itself is now the world's chief arms exporter; according to the Pentagon, in 1960 through 1977 we sent arms worth $71 billion to 161 countries. It was good business. Some of the smallest, hungriest countries were most avid for arms; we sent or withheld them according to our favor.

Speakers at the U.N. Disarmament Conference are apt to mention this, and the field will be ripe for propaganda, with Russia prepared to lead the way. The Soviets have been selling arms, too, to their clients. The U.S., Russia, France and Britain account for more than four-fifths of all military sales.

The munitions trade is changing; it is no longer a kind of used-car market, but often has the latest-model state-of-the-art technology. In 1975, 95 nations took major weapons systems. Only one country got long-range surface-to-air missiles in 1958; in 1975 it was 27. Last Monday the Senate approved the administration's deal with Saudi Arabia, Israel and Egypt—$5 billion.

This is all done, of course, to defend the United States. We have got so much nuclear security by now that we are no longer safe. The two great powers, the U.S. and the U.S.S.R. representing only 11 per cent of the world's population, have shaped the military competition since World War II. A mutual distrust bordering on the pathological drives them on.

The formula is crazy: An adequate defense means an offense sufficient to deter attack; this must be constructed on worst-case assumptions of the opposing threat. As the enemy responds in kind, the reality of the threat automatically grows—the dog comes closer and closer to catching its tail.

It is obvious that it can't last. Only last week the New China News Agency, speaking of Russia, declared, "War will inevitably break out some day."

The average person, all over the world, accepts this incredible situation calmly. It is regarded as the normal lot of the earth dweller.

One billion people—a quarter of the earth's population—go to bed hungry at night. It is in their countries, the report shows, that since 1960 the proportion of military expenditures has risen most.

The report is factual, statistical, rather dull. There is little editorializing.

In it you discover curious facts. Developing countries—the ones with high birth rates, short life expectancy and few doctors—invest more public revenue in arms than in education and health combined.

Another item: For the estimated cost of a new mobile intercontinental missile (the MX), 50 million malnourished children in developing countries could be adequately fed, 65,000 health centers opened, 340,000 primary schools built.

INFLATION

Mr. McGOVERN. Mr. President, I ask unanimous consent that an article entitled "Problem No. 1," published in the Parade section of yesterday's Washington Post, concerning the problems of inflation, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PARADE'S SPECIAL

(By Lloyd Shearer)

PROBLEM NO. 1

The nation's No. 1 domestic problem is inflation.

The White House Council on Wage and Price Stability reportedly said recently that the U.S. rate of inflation appeared to be hopelessly stuck within the range of 6 to 7% and that in the absence of specific corrective action an extension of the current inflation rate into the future seems virtually inevitable.

In 1974 the U.S. suffered an inflation rate of 12.2%. The rate, though now about half that level, is more likely to increase than decrease.

President Carter offers jawboning and voluntary sacrifice as solutions. He suggests that wage hikes be limited to 5.5%.

His fiscal advisers recommend a sharp decrease in government spending, including a reduction or abandonment of his $25 billion tax cut.

His political advisers promise that the slashing of government programs is a surefire method of making Jimmy Carter a one-term President.

Does anyone have an answer? Rep. Steve Neal (D., N.C.) has asked the House of Representatives to form a special committee which would "call in the best minds in the country to focus on this tremendous problem." The Select Committee on Inflation would serve until Jan. 3, 1979, investigate the inflationary impact of legislation and other policies, and report its findings and recommendations.

When confronted by a tough problem, Congress generally appoints a committee to study it to death—especially in an election year. The trouble with inflation is that it simply won't go away.

A DOUBLE STANDARD IN FEDERAL SPENDING

Mr. McGOVERN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter to the editor published in today's Washington Post, written by our distinguished colleague Senator KENNEDY.

There being no objection, the letter to the editor was ordered to be printed in the RECORD, as follows:

A "DOUBLE STANDARD" IN FEDERAL SPENDING

In recent weeks, your distinguished conservative columnist, George F. Will, has been displaying the symptoms of an unusual metamorphosis into the role of a big spender.

In columns over the past two months, Mr. Will has twice endorsed a tax credit for tuition costs in colleges and private schools, and he has also embraced a proposal to allow taxpayers who use the so-called standard deduction to receive the benefit of a charitable contribution deduction as well. When fully phased in, the tuition tax-credit proposal would cost the treasury over $5 billion a year, and the new charitable deduction would cost over $3 billion a year—$8 billion in all, which is not exactly hay.

Both of those tax proposals are now being debated and lobbied in Congress. I prefer the use of tax credits, rather than additional tax deductions, to offset the adverse effect of changes in the tax laws on charitable contributions in recent years. I oppose the tuition tax credit, because public schools have a prior claim on the federal dollars if more aid to education is to become available, and because of the near-unanimous view of legal scholars that the proposed tax relief for religious schools would be ruled unconstitutional by the Supreme Court. In the case of aid to college students, the alternative approach of increased loans and grants-in-aid endorsed by Sen. Claiborne Pell (D-R.I.) and the Carter administration seems more equitable and effective.

Apart from the merits of these ideas, however, the interesting point is that both of Mr. Will's suggestions are actually proposals for major new federal spending programs through the tax laws. As tax subsidies, they represent one possible approach to federal spending. This year alone, for example, $124 billion will be spent by Washington on 85 different tax subsidies, and another $500 billion will be made available through federal programs outside the tax laws. Yet little of this tax spending is subjected to the rigorous scrutiny and economic analysis that other spending programs receive. A recent study by Common Cause demonstrates how poorly Congress launches and supervises federal spending through the tax laws.

In each case, the basic questions are whether there is a need at all for any federal subsidy for the activity in question, and if so, whether the subsidy is best carried out through the tax laws or by some other means. It is hardly self-evident that the Internal Revenue Service is a more effective administrator of federal spending programs than other government agencies. Many argue persuasively that the IRS should stick to raising revenues, rather than dabble in national policy on education, charity or other complex issues.

There is also the question of paying the piper. The breathtaking $8 billion that Mr. Will proposed in new federal spending must come from tax dollars. Such programs can fit within the federal budget only if other spending is reduced, the deficit is increased or taxes go up. Many in Congress and elsewhere now call themselves fiscal conservatives and consistently vote against increased spending for other types of federal programs. Ironically, they are often among the first to propose costly new spending programs through the tax laws.

We need to end this double standard. All types of federal spending should be weighed in the same scale of costs and national priorities.

EDWARD M. KENNEDY,
U.S. Senator.

WASHINGTON.

RICHARD HATCHER AND TRANSAFRICA

Mr. McGOVERN. I ask unanimous consent that an article written by Mary Ellen Butler, entitled "A New Afro-American Voice in U.S.-African Policy," and published in yesterday's Washington Star, detailing the establishment of the new Trans-Africa organization headed by Mayor Richard Hatcher of Gary, Ind., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A NEW AFRO-AMERICAN VOICE IN U.S.-AFRICAN POLICY

(By Mary Ellen Butler)

In the high stakes game of Washington lobbying, there's a new player in town: TransAfrica, an organization that seeks—in behalf of 23 million Afro-Americans—to influence American policy toward Africa and the Caribbean.

TransAfrica was publicly launched at a dinner here last night just in time to plunge right into meetings today to formulate a position on the current turmoil in Zaire, according to Richard Hatcher, mayor of Gary, Ind. Hatcher is chairman of the group.

And when Zaire has been dealt with, attention of the lobby will return to its main concern: "that tinderbox of racial conflict," Southern Africa, said TransAfrica's executive director Randall Robinson.

Last night's dinner at the Shoreham Americana was not only a fundraiser, Georgia State Sen. Julian Bond said, but also a "consciousness raiser."

The consciences that need raising belong not just to government officials responsible for developing an African policy which has been, in Robinson's words, "sadly misguided and morally indefensible for the last four centuries."

They also belong to those same 23 million black Americans whose voices, Bond said, "must be heard in every place where African matters are discussed."

TransAfrica is depending on their financial support to stay afloat now that it has sponsored a year-long series of introductory fundraising banquets in strategic cities to raise initial operating funds.

The fact that contributions to the lobby won't be tax deductible is further complicated by the organization's decision not to accept donations from any corporations that do business with South Africa.

"That lets out an awful lot of corporations," said Robinson, in an earlier interview.

But it lets in a lot of little people who Robinson hopes will contribute $25 a year for the chance to get their viewpoints across to the president, the Congress and the State Department.

The lobby is an idea whose time has come, according not only to Bond and Robinson, but to African diplomats who were also on hand for last night's event.

"The U.S. Government has never had an African policy," said Nigerian Ambassador Olujimi Jolaoso. "If a lobby can get each new administration to develop an African policy rather than using Africa as a bone over which to fight the other side, then we would be glad."

"The organization will be significant," said Tanzanian Ambassador Paul Bomani, "if it directs attention to the common problems that affect those black people in diaspora and those in Africa."

To be able to trade influence, however, the lobby needs a weapon, Robinson said. "Our weapon is the vote as well as the possibility of selective boycotts," he said.

The impetus for creating a full-time lobby—as opposed to the sporadic reaction of American civil rights organizations to African crises as they arise—came out of a Congressional Black Caucus meeting held in September, 1976, Robinson said.

A black leadership conference had been called to respond to then-Secretary of State Henry Kissinger's views on the Rhodesian crisis.

A manifesto on Southern Africa was formulated, Robinson said, and those attending decided it could be better realized by setting up a "fulltime mechanism for expressing views on Africa and the Caribbean."

Robinson, then an aide to Rep. Charles Diggs, D-Mich., was charged with chairing a working group to put that mechanism together. After almost a year of organizing, TransAfrica was incorporated in July, 1977. Hatcher was asked to chair its board and the fundraising dinners began.

The first was at the District home of television newscaster Max Robinson (who is Randall Robinson's brother), followed by receptions in Detroit, Atlanta and New York. After last night's Washington dinner, further receptions are planned for Philadelphia in June and Los Angeles in September, Robinson said.

The sheer size and diversity of the lobby's potential membership in the United States as well as the complexities of the immense African continent with its many different leaders, political systems and cultures, means the job of mobilizing a unified opinion on fastbreaking African events may be more difficult than that facing lobbyists for smaller countries such as Israel or Ireland.

But Robinson thinks now is the time for the "institutionalization" of many previous, scattered attempts to wield Afro-American public opinion.

"We have struggled for a long time under the legacy of the slave trade, of Jim Crow segregation and the devastation of the black self-image," he said. "But even during those years, the idea of pan-Africanism was being espoused.

"The first struggles for basic civil rights in this country had an impact on the struggle for freedom in Africa because many of their leaders studied here. Then the decolonization of Africa had a reverse impact here," he said.

"Now, nations like Nigeria are beginning to wield the tools of real power and Afro-Americans know that what's good for Africans is good for them," he said. "'The brotherhood is beginning to come out from under the freight of shame."

THE VOICE OF AMERICA

Mr. McGOVERN. Mr. President, an excellent and rather comprehensive piece appeared in yesterday's Washington Star identifying some of the principal personalities in the Voice of America program. I ask unanimous consent that the article entitled "The Anonymous Stars of the Voice of America," written by Joy Billington and published in yesterday's Washington Star, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Washington Star, May 21, 1978]

THE ANONYMOUS STARS OF THE VOICE OF AMERICA

(By Joy Billington)

The stars of the Voice of America couldn't be more anonymous if they hid in the Statute of Liberty . . . broadcasting secretly from a microphone in her torch.

They don't, of course. They operate from the second floor of the Health, Education, and Welfare Building in Washington—that "tower of Babel" from where civil servants broadcast to the world in 36 languages.

At home, the broadcasters are unknown in their own country. Abroad, their fans tune in regularly on shortwave radios . . . students in Uganda who want to hear Roger-Guy Folley, jazz lovers in Siberia who listen for Willis Conover's voice on dark arctic nights, Siamese eating glutenous rice at sunrise as the "Breakfast Show" moves into their time zone on its leisurely daily journey into the sun.

By comparison to the inflated salaries in commercial broadcasting, even the top VOA stars—Willis Conover, Pat Gates and Phil Irwin—earn salaries that are modest. Gates and Irwin are more likely to get royal treatment at the Asoka Hotel in Delhi than at New York's "21"—even though their audiences are probably bigger than Barbara Walters' and Harry Reasoner's. Conover can move about Washington and New York quietly, unrecognized. In Warsaw or Moscow he'd be lionized. When Uncal attends a soccer match in Latin America, the organizers announce his presence and cheers fill the stadium.

For these government radio stars, the anonymity and medium-range salaries are equalized by two factors: the security of government work and the fulfillment of the low-key but none-the-less missionary zeal that is their driving force. They want to tell the story of America.

They speak of the infinite variety of American life, of traffic jams and supermarkets, cold winds in winters, painting summer houses, of black life in Washington and of jazz . . . in sentences and anecdotes bridging pieces of music, interviews and news. And their soft-sell propaganda is expert.

It was a rare thing, last Nov. 15, when Willis Conover took the stage in the White House East Room to introduce Dizzy Gillespie and Sarah Vaughan. Many of the American guests at the state dinner for the Shah of Iran knew his name, but few had actually ever heard that deep-pitched voice with its slow, perfect articulation. "He introduces our great music . . . to other lands. And we are very proud of him," Carter said of Conover.

The VOA star who is probably best known in his own country, 57-year-old Conover is the Eric Sevareid of jazz, the elder statesman and academician whose "Music U.S.A." programs on VOA have influenced jazz musicians abroad since they began in 1955. His entry in "The Encylopedia of Jazz in the '70s" runs several inches. Among the listed accomplishments:

That musicians in Eastern Europe and the USSR "call him the source of their own jazz activities."

That he helped desegregate Washington in the '40s by assembling integrated groups.

That he emceed the Newport Jazz Festival for a decade, "produced" Duke Ellington's 70th birthday concert at the White House, and established and chaired the jazz panel for the National Endowment for the Arts. Conover is chairman of the White House record library commission. He recently received the Order of Merit from the Polish Ministry of Culture in recognition of his contribution to the development of jazz in Poland.

With his shirt sleeves rolled up, Conover sits in his studio at VOA planning yet another "Music U.S.A." a program that the New York Times once estimated has a following of 30 million listeners. The 45-minute program, which goes out six nights a week over short-wave frequencies for world-wide English-speaking listeners, is divided into two parts: dance music and American song in one section, jazz in the other. "I think there have been between 14 and 15 thousand programs," Conover says, chain-smoking Marlboros.

The reason for the program's great popularity in Eastern Europe and Russia, he believes, is "partly their great musical heritage and partly their cultural preparedness to accept America's great music . . . more easily than do many Americans.

"I can remember vividly my early years in commercial radio, fighting with station managers to keep what some insisted was 'nigger music' on the air. I'm still more interested in the lyricism and quality of good jazz than in the stuff the kids hear today.

"In Eastern Europe, first the Nazis and then the Stalinists silenced such musical expression. My programs were the first aural window on that music, and the vitality it proclaimed. Jazz has served as an icebreaker for creative artists in other fields. In those Eastern European countries where jazz has been allowed—even encouraged—the whole cultural scene has prospered. In Warsaw, the International Jazz Jamboree just had its 20th anniversary, and it was covered on Polish national TV."

In 1959 when Conover arrived at Warsaw airport for the first time, a mob of fans waited to greet him. In the Soviet Union on another trip, the Lenigrad Dixieland band and hundreds of fans met him at the train station with a blast of music.

Conover has just returned from Bombay, where he was master of ceremonies at India's first jazz festival. In Delhi, when he lectured on the "Classics of Jazz," 500 jazz buffs crowded into a 200-seat auditorium, including a supreme court justice and the solicitor general of India.

Conover lives in a Manhattan apartment overlooking Central Park with his wife, Carroll. He keeps "a pad" on Capitol Hill for the three or four days a week he works at VOA, taping his programs over long sessions of listening and planning. In New York, he unwinds listening critically to new records or listening to tapes of new programs that have not yet been broadcast, in order, he explains, to "hear them from two perspectives, my wife's and my own when not working." Musician friends like John Dankworth and Cleo Laine may drop by if they're in New York.

Conover writes poems, commentaries for album jackets, lyrics. In Washington recently, he woke up at 2:30 one morning with music in his head. The result was, "Swing With, Sing With, Sigh with Django . . .", for the late guitarist Django Reinhardt, which he hopes composer John Lewis will like. The closets in Conover's studio burst with stacks of record albums. He estimates his library contains some 60 or 70 thousand 3-minute selections.

A freelance contractor earning fees of about $38,000 a year from VOA, Conover says he earns between "three to 10 times that amount" for comparable commercial work. Conover treasures his independence, avoids VOA internal politics and has the reputation among VOA staffers of being a loner. He describes himself as broadcaster, freelance writer, concert producer, narrator and lecturer.

Meticulous in planning the tempo of a program, Conover listens to every piece of music he uses, times it, works out his commentaries and gradually builds the programs with Jim Finn, his studio technician. Then, with his signature tune "The A Train" setting the tone, the slowly precise words begin, the antithesis of the fast-speaking American. He plays his voice like a baritone sax. Its languid pace survives the fluctuations of shortwave radio.

Conover doesn't seem to mind not being known at home, outside of the jazz world. "Away from my work I welcome not having to shave or put on a tie. But I'd like to do a domestic program for the creative satisfaction, not exclusively jazz, but the kind of music I play at home with friends. Everyone appreciates qualified approval and I wouldn't mind getting that."

The "Breakfast Show" is one of the most popular VOA programs, with an estimated 30 million listeners. Its cohosts, Pat Gates and Phil Irwin, both have a strong sense of their image around the world, demonstrated when they insist on remaining mysterious about their ages:

"Our listeners can't tell by our voices," Gates says. "Some letters I get say 'will you marry me' . . . others 'you remind me of my mother'." Irwin adds: "Let's leave it to the listeners' imaginations."

They have shared the daily hour-long program for 10 years. The show cycles westward through "breakfasts" in many time zones, with Gates at the microphone one day, Irwin the next. A magazine type program of music and interviews interspersed with news, "The Breakfast Show" format has been such a success that several other language divisions of VOA have copied it.

Gates, a GS–13 who earns $29,490 a year, is a petite blonde New Englander who has worked in radio in Europe for NBC and the American Forces Network and at the White House "on loan" as a special assistant to Pat Nixon. Her style is to share with her listeners an account of a weekend at her Chesapeake Bay log cabin . . . how she is slowly installing storm windows to offset the tough winter winds. Or how a son and his wife were taking a cross-country trip in a van loaded with their belongings, like the pioneers. She will feature an interview on death education, a regular science item, a trip Mrs. Carter is planning or, during International Women's Year, ask listeners to nominate women of accomplishment in their countries.

Irwin's style is to tell jokes, or tape some gurgles from his newborn son. "If I get in a traffic jam coming to the office from my home in Rappanhannock County and want to share the frustration of being in a traffic jam, I try to put it in perspective," he explains about their ad-libbing. "The listener may not even have a car. You have to be sensitive. If we sound off about our escalator being out of order again, it shows we don't think we have a perfect society. We try not to take ourselves too seriously." He likes to feature science and agriculture interviews, and offbeat things like a report on a hollerin' contest. "That led to an international hollerin' contest between 32 countries," he says.

Irwin, an FAS earning $33,931 a year, hails from New York State. He also worked in radio in Germany for the American Forces Network.

Irwin also has another program "Country Music U.S.A."

For material in addition to their own interviews, Gates and Irwin can use "the facilities of the house." That means policy editorials from the VOA editorial department and anything else in any language division that takes their fancy. Similarly, their material is available to other divsions.

On occasion, Gates and Irwin do a show together, like a July 4th show in Philadelphia in the Bicentennial year. In 1973, they made a world tour, visiting 11 countries to "meet our listeners."

Letters are piled high on the desks of their tiny cubicle offices. "Whenever possible we try to answer our own letters. How many? Thousands," Gates says. "We have the smallest staff in VOA, just one secretary and us." The letters may come from a Peace Corps volunteer in the Central African Empire, to Irwin: "I enjoy your jokes and find myself laughing as the other guys groan . . ." Or from Pakistan, to Gates: "Pat, My Darling, when I hear you I go around smiling at my fellow beings . . ."; from an Indian gentleman: "My regards to that madame who says 'if you see someone without a smile please give yours.' "

Gates and Irwin are proud of their independence. "No one listens to our show before it goes out, no one checks us," they say. "We stick our necks out every day." And they insist they don't care about not being known in the U.S. It would be a nuisance to be a star, Irwin says. "It doesn't bother me at all," Gates says. "My sense of mission is fulfilled, and when some fan says 'I've listened to you for years' that's enough. We believe that we have the largest audience in international radio."

Roger-Guy Folly dresses sharply like so many French-speaking Africans, and has the aplomb to carry off a floral tie with a check tweed jacket. In a VOA studio, he tapes his daily music request program which is broadcast to a potential audience of millions of French-speaking Africans.

Folly sits behind his headphones, moving his body to the music: "Massamba" played by a Congo Brazzaville group, "Poor Little Pitiful Me," by Linda Ronstadt. He alternates American and African music, closing the hour-long six-days-a-week show with his theme song, "Listen People."

Back home in Togo, his parents listen as the voice of their 43-year-old son—who has been in Washington for 10 years—comes filtering over the airwaves. Like most VOA broadcasters, Folly has no accurate measurement of the size of his audience. But he receives between 900–1,000 letters a month.

Occasionally, he will include a request from a Nigerian student, with a few words in English, or something for a fan in Kampala, Uganda. But essentially, his job is to communicate in French. "The objective is to retain the audience through music . . . for the heavier stuff. I try to make it entertaining, with some comments about life in the States. I might explain that Washington is just like Abidjan or Dakar, with its black majority; that the mayor is a man called Washington. These things add to their knowledge of America.

"In 1976 I did a six-week P.R. tour of 11 African cities. It was tremendous. Everywhere I went people came with enthusiasm. A lot of people told me that my program at 20 hours GMT comes after their local news, so they switch back to VOA. A relationship has built up over the years. In remote villages like one I visited in Cameroon, the village chief wouldn't believe that 'the man who he listens to every day' had actually come to his village. The interpreter had to convince him. Then he wanted to give me two new wives. I was to pick two girls from the village I had a hard time convincing him that the U.S. government has a $50 limit on gifts. . . ."

A GG–12 (general grade) earning $21,303 a year, Folly also broadcasts news, reads commentaries, interviews visiting African dignitaries for other programs in his division. Two thirds of the VOA programming is beamed at the developing world. The African division broadcasts in English, French, Swahili and Portuguese. The division has 10 on-air staffers who do whatever comes to hand. (Arabic broadcasts to North Africa come under the Near East division.)

Folly, who lives on Capitol Hill with his wife and three children, is not a U.S. citizen. About one in 10 VOA employees are not citizens of this country. His radio career began in Ghana, after a stint at a university in Paris. But Radio Ghana turned out to be too propagandistic for the young Togolese, at a time when Kwame Nkrumah was trading insults with all his west African neighbor countries.

Folly was delighted to be offered a job with the Voice in Monrovia, Liberia, at that time a center for training African broadcasters and for producing programs for the continent. In 1968, however, in a budget cut, the operation there closed down. "It's a pity," Folly says. "The BBC and French radio are doing that now and the Voice missed the chance . . ." Folly returned with the VOA crew to Washington, and for the last 10 years has been steadily building his name.

Folly believes that the Voice has the edge in Africa over the Soviets in terms of appealing programs—such as his half hour Sunday program "Rhythms d' Afric" with African music that features instruments and ritual ceremonies, and his half hour Sunday pop program "Rock, Pop and Soul"—because they are free of polemics. "In African the listeners' own local stations don't have sophisticated facilities to gather news, and most seem proud to say 'I heard that on the VOA news so it's true . . .' The credibility is high. We have African presidents who listen regularly."

Tatiana Retivov, known as Tanya, uses a pseudonym when she broadcasts, a habit left over from 15 years ago when she started at the Voice and wanted to protect relatives still in the Soviet Union. She is 48, curly haired, and came to the U.S. in 1946 with her parents after years in German labor camps. Her father taught Russian to an American officer in Germany, a circumstance which eased the family's passage to America. Tanya, a GS13 earning $27,776 a year, is an American citizen; she is married to another Russian emigre and has two grown children.

Tanya's weekly 20-minute program "Art Today" concentrates on the work of emigre Russian artists—"we call them non-conformist artists"—in New York and Paris and on American art. She may interview a Jamie Wyeth or George Segal after visits to the Soviet Union . . . talk about the Egyptian and Chinese exhibits touring the States . . . a Russian costume exhibit at the Metropolitan . . . or about other cultural exchanges.

Rather than attempting to describe pop art, op art, kinetic art to Soviet listeners, she prefers to interview an artist and let him verbalize the work.

The interviewing of emigre Russians—whose numbers have increased in the last few years—does "incur the wrath" of the Soviet authorities, she admits. "Some of these artists were made to leave. For instance in early April we interviewed Mihail Chemiakin, whom Chagall helped emigrate to Paris. He was having a New York show. His work is called metaphysical synthesis, something that a Leningrad group started 10 years ago. He told me he had a small exhibit opening simultaneously in a friend's Moscow apartment. The same day as my broadcast, police barred access to the Moscow show."

Tanya tells this story, without appearing to grind ideological axes, as an example of Soviet official attitudes to modern art. Her program is repeated twice during the week for the different time zones of the Soviet Union. VOA broadcasts in five languages to the U.S.S.R.: Russian, Ukrainian, Georgian, Armenian and Uzbek. According to a 1976 MIT survey there are "tens of millions" of listeners. "And Rostropovich has said that VOA is the Russians' daily bread," she says.

Tanya also edits four jazz programs broadcast to the U.S.S.R. The U.S.S.R. division, one of the biggest at the Voice, employes 140 people. Russian language broadcasts go out 14 hours a day, Ukrainian one hour and the other three languages an hour a day. Tanya is one of about a dozen VOA broadcasters who are well known to Russian listeners.

Luis Daniel Uncal is one of the few VOA broadcasters who reports sports. In fact, his nickname could be Uncal Soccer, for Uncal has been an influence in the growing popularity of soccer in the U.S.

The former professional soccer player's 35-minute Sunday program "Inter-American Sports Network," which has been running for seven years, reports soccer scores from American cities and from all over the hemisphere. He also gives the results of tennis matches. The program is picked up by 200 radio stations in Latin America, which means an audience in the millions. Uncal has another program devoted to soccer play-off matches leading to the world cup.

An FAS5 earning $25,177 a year, Uncal is a U.S. citizen. He came here "11 years, three months and seven hours ago," he says the day of an interview. Sent by his Argentinian radio station to cover the U.N., he married a Peruvian, worked for the U.N. radio briefly, and joined VOA in 1967.

Today, at 51, Uncal enjoys popularity not only for sports reporting (with the exception of Uncal's sports programs VOA avoids sports reportage) but for his "Latin American Hit Parade" weekly program. "I used to write lyrics for tangos but I had to give it up. My wife was zealous . . . no, that's wrong . . . jealous!," he says.

The Latin American division is newly christened the "American republics division" in order to embrace the Caribbean island states-broadcasts in English, Spanish, Portuguese and French.

Within the hemisphere. Uncal explains, soccer is the most dominant game. Baseball is played in Venezuela, Cuba, Mexico and Central America; American football only in Mexico. "When they send me rugby reports from Argentina I say forget it, no one else plays rugby. But soccer!

"When I arrived here the New York Cosmos couldn't get 10 people to watch a game. The day Pele retired, 77,000 people were crying all over the stadium. I'm still getting requests for copies of that program. Today you see 42,000 at a game. You see the (former) secretary of state. Every Sunday the first report Kissinger received when he was secretary were the results of the German soccer games."

The Latin American communities in the U.S. have played a large part in this soccer explosion, he says. Uncal launches into a mild attack on the practice of importing high-priced European players rather than encouraging American players. "Of 480 players in the North American Soccer League 60 percent are British, 15 percent Yugoslav, 14 percent German and only nine percent Americans and Latins," he says. "The British are content to discourage Americans from believing they can play soccer."

Next month, Uncal goes to Argentina, his former country, to cover the last 16 games that lead to the cup final. As he moves around the grandstands, few will recognize the small, silver-haired man. His voice is another thing. You may hear it coming out of a shortwave radio hanging from the horns of an ox, with a sports-loving farmer listening as he ploughs, or blaring out in some sleepy cantina on a Sunday evening.

Mr. McGOVERN. Mr. President, I thank the Senator from Wyoming for his generosity in yielding time to me at this point.

Mr. WALLOP. Mr. President, I was happy to yield to the distinguished Senator, and, under the same terms, to yield now to the distinguished majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

LABOR LAW REFORM ACT OF 1978

The PRESIDING OFFICER (Mr. HODGES). The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, the Labor Law Reform Act brings up, in my mind, some profound philosophical and cultural issues that relate to our full

history as a nation, particularly as regards our attitudes on the matter of race. I am compelled to recite some facts about American history and the labor movement as regards minorities in order to clarify my own presentation. I am going to depend considerably upon the writings of Herbert Hill, former labor secretary for the NAACP, who has studied profoundly the matter of labor unions and their relationships to the Oriental minorities, especially, of California.

Each generation has been confronted in our history with the problem of who is to be an American, and the assumption of white Anglo-Saxons as the real Americans has permeated virtually the entire society from its beginning. Conformity to Anglo-Saxon physical appearance, religion, language, traditions, and culture was long assumed to be a decisive factor in determining who could and could not be considered an American.

From the colonial period through the early history of the United States, the white settlers developed policies that resulted in genocide, sequestration and slavery for the non-white populations. The Indians who survived the white man's slaughter were confined to limited territories or reservations. Most blacks were held in a condition of slavery that legally declared them to be subhuman property; and blacks who were not slaves were denied basic rights and could not achieve equal citizenship with the white population. But whatever difficulties successive waves of non-Anglo-Saxon white immigrants might face, they could eventually become naturalized and gain the rights of citizenship.

Let us turn now to the Chinese immigration to this country that began in 1848 and the subsequent conflict between the forces of inclusion and exclusion that are a prime example of the effect of racism on the "Americanization" process. For the first time in our history, a nonwhite population had arrived in this country for whose fate there was no precedent within the policies of the established system. The Chinese were not pressed into slavery nor sequestered on reservations. Because of new manpower needs that required a free but controlled and mobile work force, a different model for dealing with nonwhite labor had to be constructed—a model that encompassed a racial labor caste system together with rigid segregation for nonslave but racially distinct people. The Chinese were, from the moment of their arrival, a conflict population: though not slaves, they were limited to certain categories of employment, denied basic rights, not considered as potential Americans, and not allowed to become citizens. The Chinese were to be available for a very high degree of exploitation but were to be kept separate and apart from the rest of society. This model of labor exploitation was derived from the earlier experience with a racially distinct slave labor force; in turn, it provided a model that significantly influenced the treatment of blacks who were to be emancipated more than a decade later.

After 1850, when the Chinese began to arrive in large numbers, the labor needs of the burgeoning urban factories and the vast railroad construction projects in the western part of the country could no longer be met by the existing white labor force. A slave system, which required a large capital outlay, ownership and resale and continuity of work over a long period, was not suited to these new conditions. The Chinese, easily exploitable as cheap labor by virtue of their endurance, skills, and availability, were an excellent solution. They had an additional advantage for their white employers; since, unlike slaves, they were not property and since, unlike the white work force, they could not become citizens, no one had to take responsibility for them when their usefulness came to an end.

Still, the solution was only partial. The white workingman—faced with a racially separate work force that could be manipulated to the white worker's competitive disadvantage—had to come to terms with the cross-currents of both class and racial conflict on a vast scale.

The choice made by labor organizations—their vigorous participation and leadership in the anti-Oriental agitation and their use of racial distinction to keep categories of workers outside their organizations—was an important factor in setting a pattern for the establishment of a racial labor caste system which was to develop into a major characteristic of the American labor movement. And, Mr. President, in many unions, it persists to this very day. The relationship of racism to labor unionism, expressed in exclusionary and other discriminatory practices against Orientals and blacks, must be understood as part of a continuing historical process, rather than as one of direct casual effect.

Right outside here, in the reception room, during the debate on common situs picketing, I was approached by a member of a construction union and asked for my support of common situs picketing.

I said to him that, as an Asian myself, I was aware of the high discriminatory practices of construction unions toward Chinese and Japanese workers in California. He said in reply, "Don't you realize that our president, George Meany, has spoken out eloquently against racism and in support of civil rights through every President from Kennedy onward?"

I said, "How come then there are so few Chinese or Japanese electricians, plumbers, carpenters, in the builders' unions in San Francisco?"

He said, "That is in control of local business agents and we have no control over that."

I said, "What on Earth is the use of George Meany's eloquent speeches on nondiscrimination if you cannot apply it in your own union?"

To this, he had no reply, and I walked away from him.

For white labor, these issues were not theoretical abstractions. They involved fundamental matters of work and social status. As successive generations of white immigrants effectively used labor unions to acculterate and become Americans, they acted through the same labor organizations to exclude nonwhites from certain occupations and from society. Thus, Mr. President, organized labor has played an important role in the inclusion-exclusion process of Americanization.

Organized labor's role in the anti-oriental agitation illustrates the process by which racism was institutionalized. From 1850 to 1875, the main thrust of the antioriental movement was confined in California, Oregon and the State of Washington where the Chinese were sought out by entrepreneurs who saw great advantages in their industriousness and their capacity to work together in teams. They were simultaneously regarded as a threat by white workers who found it more and more difficult to compete against them. The Chinese settled overwhelmingly in the mining districts; they nearly always worked the abandoned or least desirable mines, making these mining operations profitable. As early as 1875, white miners in several areas forced Chinese workers out of mining operations and called for the prohibition of Chinese immigration. That year, 1875, white miners in Marysville, Calif., adopted a resolution denying mining claims to Chinese. Other communities passed laws excluding Chinese from mining and forced Chinese workers to leave mining camps. Not infrequently, the expulsion of Chinese miners was accompanied by violence, as at Coal Creek Mine in King County, Wash., where the living quarters of Chinese were burned to the ground.

The Chinese had a lot to put up with. under pressure from white miners and special tax assessments against them levied by the State, began to leave the mining districts. Most of those forced to leave went to the cities, mainly San Francisco, Sacramento, and Los Angeles. They later went to Wyoming, Oregon, Idaho, and other States where the problem took on new and more ominous dimensions.

Chinese labor was also later used extensively in railroad construction. Historian Walton Bean writes: The first experiment, with a crew of 50 Chinese in 1865, was so phenomenally successful that agents were soon recruiting them by the thousands, first in California and then in South China. At the peak of construction work, the Central Pacific would employ more than 10,000 Chinese laborers—labor unions in San Francisco protested, but as the railroad advanced into the mountains and construction continued throughout the year, white workers lost all interest in jobs that required the performance of hard and dangerous labor under the conditions of winter in the Sierras.

That was dreadful work. The Germans worked at it. They quit, the Irish worked at it. They quit. The Chinese worked at it and persisted and completed the railroad.

Meanwhile, the State of California continued to punish the Chinese, preventing them from becoming citzens—even as they were accused of disdaining the privilege—excluding their children from public schools and attempting repeatedly to restrick their immigration—though white foregners were encouraged to enter. Various anti-Chinese legislative measures, including special taxation, were eventually ruled illegal by the California courts. So long as the

issue was confined to California, the racist attacks against the Chinese could simply be regarded as a response to regional conditions. But once the Chinese issue transcended the borders of California, its regional peculiarity could no longer be argued.

The enlargement of the obsession with the problem of Chinese labor corresponded roughly with the integration of the western mining economy into the national economic structure. Prior to the completion of the trans-continental railroad, influential eastern leaders, particularly politicians, businessmen, and newspaper editors, had looked rather indulgently on the use of Chinese laborers in western mining and manufacturing. But during 1869 and 1870, this attitude shifted dramatically. The "problem" was spreading across the Nation to the consciousness of the East. Henry George sounded the alarm against multitudes of cheap "coolie" labor in the New York Tribune on May 1, 1869. Southern planters at a meeting in Nashville in 1869 called for coolie labor to replace recently emancipated blacks—the call went unheeded—and 75 Chinese boot and shoe workers were introduced into the shoe factory of Calvin Sampson in North Adams, Mass., for the purpose of breaking a labor strike in 1870.

Because it involved the actual introduction of Chinese workers into eastern industry, the North Adams incident especially seemed to labor unions to be the opening trickle in a tidal wave of coolie labor that would overwhelm the East. Labor unions were then able to argue that the Chinese threatened the entire union movement and that only a national policy of exclusion could save the Nation from destruction and contamination. At the moment when the Chinese were brought into North Adams, the American economy was on the threshold of a protracted decline. With the depression of 1873, widespread unemployment provided a docile and readily available surplus work force. In essence, the depression destroyed organized labor's hope that without Chinese workers the labor supply would be small enough to allow trade unions to maintain control over wage scales in certain occupations. Both labor leaders and rank-and-file workers assumed a priori that the Chinese posed a definite economic threat to their interests, and that this cheap coolie labor was largely responsible for the depressed conditions of the American economy after 1873.

This so-called fact soon became an unquestioned belief of the labor movement during the last part of the 19th century. For example, the Colorado Bureau of Labor Statistics' first report in 1887 solicited the general opinions and attitudes of Colorado workers in an effort to present rank-and-file views of "what labor wants." A white miner in Lake County, Colo., responded to the Bureau of Labor Statistics' questioning:

> Laws should be passed compelling equal pay to each sex for equal work; making all manual labor no more than eight hours a day so workers can share in the gains and honors of advancing civilization: prohibiting any more Chinese coming to this country on account of physiological, labor, sanitary and other considerations, as the country would be happier without Chinamen and trusts.

Note the automatic equation of Chinese labor and trusts, as if these were the twin—and equally dangerous—menaces that American labor had to combat. What makes this equation especially significant is the fact that there was not a single Chinese person living in Lake County, Colo., either 5 years before or 5 years after the miner made that statement.

It should also be noted that since the Chinese numbered only 368 outside the West in 1870, even the most insistent labor politician could not factually argue that the depressed conditions of white workers were the result of competition from Chinese labor in that early period. Another problem with the apologies for labor's racism on economic grounds is that such a view ignores the ideological content of the anti-Chinese efforts within the labor movement. Selig Periman, one of the writers at the forefront of that view, blatantly reveals the confusion of class interests with racial consciousness. Summing up what was obviously labor's own conception of its role in securing adoption of the Chinese Exclusion Act of 1882, Periman writes that "the anti-Chinese agitation in California, culminating as it did in the exclusion law passed in 1882, was doubtless the most important single factor in the history of American labor, for without it the entire country might have been overrun by Mongolian labor, and the labor movement might have become a conflict of races instead of classes." These words, let it be emphasized, are quoted not because they are true but because they reflect the view held by organized labor and many of its academic apologists, even at the present time.

Mr. President, it was my honor to be a colleague of Selig Periman when I was a young teaching assistant at the University of Wisconsin and he was a senior professor. I met him, shook hands with him, talked with him, and I am glad to remember him. It came as a real shock to me that a few years earlier he had written words of this kind. But that is another period, and I suppose I have to forgive him. Still, considering the fact that most on the campus regarded him as a real radical, it came as a surprise to me to read these words.

Three major factors after 1873 kept the Chinese question alive as a national issue: Local western demagoguery, the fact that organized labor took up the anti-Chinese litany after 1870, and in the wake of this, the recognition by both major national political parties that an anti-Chinese stand could win votes. The Democratic Party, attempting to revive itself after the Civil War, used an anti-Chinese position to appeal to working men. The Democrats demonstrated an amazing resurgence in California and elsewhere on a labor platform that featured, above all else, attacks on Chinese labor and immigration. Soon the Republican Party perceived the possibilities of the antioriental agitation for its own purposes. The compromise of 1876 in effect dismissed the Negro as a factor in national politics and forced the Republicans to look elsewhere for political support. By then, the Republicans had come to understand that workingmen were important in building a successful national coalition and that the anti-Chinese position was winning politics.

Prior to 1876 and after 1882, the leadership of the anti-Chinese movement was held by the leaders of the craft unions—precisely those unions that had the least to fear in terms of economic competition with the Chinese. For the leaders of these unions the anti-Chinese movement became a means by which they could manipulate the political and organizational energy of the entire labor force, skilled and unskilled, thereby using the Chinese issue as a device to prevent an active challenge to their leadership and to their control of unionized occupations by unemployed and unskilled workers. This is not to say that at times hysterical xenophobia against the Chinese on the part of labor leaders was merely a convenient device. They were also vehemently asserting Caucasian superiority as an ideology. In 1906 Samuel Gompers went so far as to say that "maintenance of the Nation depended upon maintenance of racial purity," and that it was contrary to the national interest to permit the arrival of "cheap labor that could not be Americanized and could not be taught to render the same intelligent efficient service as was supplied by American workers." The equation of racism and Americanism was reaffirmed.

Given the great effort generated in the ranks of labor, passage of the Exclusion Act of 1882 could be regarded as only a partial victory. It of course barred all Chinese workers from entering the United States in the future, but it did not address itself to the 100,000-plus Chinese who were already here. As labor finally understood the act, it was not adequate, it was not a full solution, and labor had a mixed reaction to the passage of the law. Therefore, the anti-Chinese position was kept alive after 1882 by labor leadership. For example, Terrance Powderly of the Knights of Labor called for the total elimination of all Chinese in the United States at the end of 1882, even while he celebrated the passage of the Exclusion Act as a labor victory.

This new stage of anti-Chinese agitation corresponded to a period of national economic decline. The difference between 1876 and 1882 was not that the Chinese had flooded out of the West into eastern industry as had been feared in 1870—there were still only 3,663 Chinese living outside the Western States in 1880—but rather that the national political system in the 1870's had given credence to labor's extreme anti-Chinese stance. The onset of the industrial depression in 1882 served as an excuse for labor to renew and extend its anti-Chinese campaign. The effects of the 1882–86 depression were borne largely by workers and consumers in terms of declining wage rates and high unemployment. As the ranks of the unemployed grew there was increasing pressure on labor leaders and politicians to give some direction to the discontent of both organized and unorga-

nized workers. Anticoolieism was their response. Anticoolieism meant good politics in 1882 as it had in 1876, not only for the labor politicians but also for the trade union leaders, who used the issue to divert pressure on them to make more meaningful or effective challenges to the political and economic order.

The politics of anticoolieism was translated into direct action in the form of violence against Chinese along the Pacific Coast and in some areas of the Mountain States during 1885 and 1886. The pattern of these attacks conformed to a standard pathology. In 1885 the nationwide depression reached its most severe stage. As this point was reached in a given locale, white workingmen, usually under the combined leadership of union officials and local politicians, often formed anti-Chinese organizations and sounded the call for the physical removal of the Chinese and their belongings from the area. The expulsion of Chinese usually followed one of three patterns. Often it took place very rapidly and spontaneously. Sometimes it followed a period of agitation which saw a rather intensive involvement of white workers in the local politics of anticoolieism. Finally, agitation to expel Chinese would lead to savage violence, as in Rock Springs, Wyo., where some 30 Chinese were killed by white miners in 1885. Similar violence—the burning of homes, the burning of stores, the beating up of Chinese and sometimes killing of Chinese—occurred in Eureka, Calif., and in Tacoma and Seattle, Wash., where entire Chinese populations were driven out by force in 1886.

Pogroms and organized actions against the Chinese were hardly new. There had been periodic outbreaks of this kind of violence against the Chinese in California, while they were blamed for everything from drought in San Francisco to the full-scale depression that struck California in 1877. The depression of 1877 in California is worth noting because it gave rise to the Workingman's Party of California—which combined a platform of idealism and compassion toward poor white workers with an extreme racism toward nonwhite workers. It was founded by one of the most interesting demagogues in American history. His name was Denis Kearney. Kearney was a self-educated Irish drayman who had spent his early years as a poor lad in County Cork. He was an immigrant, too. Seizing his opportunity, he rose overnight from obscurity to national fame. He became so notorious that Lord Bryce, writing in the early 1880's, devoted an entire chapter of his great study of America to "Kearneyism in California."

The governing assumption of the Workingman's Party of California was that the rich and the Chinese were engaged in a tacit conspiracy to oppress white workers, small farmers, mechanics, and struggling businessmen. The party's platform proposed a number of far-reaching economic reforms, including a system of progressive taxation, an extensive welfare state program "for the poor and unfortunate, the weak, the helpless, and especially the young," so long as they were white, the election of humble men to office and the destruction of "land monopoly." On the Chinese question, the platform was violently racist. "We propose to rid the country of cheap Chinese labor as soon as possible and by all means in our power, because it tends still more to degrade labor and aggrandize capital." They would mark as public enemies employers of Chinese laborers, or any who refused to discharge their Chinese help. Throughout the winter of 1877, workingmen's clubs proliferated in the poorer neighborhoods of San Francisco. Having found their scapegoat, Germans, French, Scandinavians, and Italians, socialists and anti-socialists alike, all overcame their differences in their haste to join the new party.

Economic improvement sounded the death knell of the Workingmen's Party and eventually forced Kearney's retirement. Historically, radical, or labor parties arise in the United States during periods of high unemployment: Economic despair drives the workers to seek new political solutions. In prosperous times these parties disappear or merge with the two major parties. The Workingmen's Party of California suffered this fate. By mid-1880, it was finished in all but name, and Kearney's influence was gone.

Nevertheless, during this period the California State Legislature and various cities subjected the Chinese to extreme legal persecution. As early as 1870 the State legislature categorically outlawed the employment of Chinese in certain public works projects. Two years later it mounted a full-scale attack on them by prohibiting Chinese from owning real estate or securing business licenses.

The history of my own city of San Francisco is disgraced with this respect.

Meanwhile San Francisco was imposing its own restrictions on Chinese. For example, a license fee of $8 a year was demanded of one-horse laundry wagons. That is one-horse laundry wagon would have to have a license fee of $8. But those laundrymen who collected and delivered by foot, that is the Chinese, had to pay a license fee of $60. The case of the vegetable peddlers was similar. The Chinese who carried their vegetables in baskets, were required to pay five times as much as those who carried their vegetables in wagons. Those who carried their vegetables in wagons were usually white and paid $8 a year license fee. The Chinese, who carried their baskets by hand had to pay $40 a year. San Francisco also passed a cubic air ordinance, which prohibited any tenant or factory worker from occupying a room that provided less than 500 cubic feet of air for him. So many Chinese were arrested that the jails were violating the law. Equally galling to the Chinese was the so-called queue ordinance, which stipulated that criminals must have their hair cropped. For the Chinese this meant loss of their queues, their so-called pigtails—a form of sacrilege and terrible humiliation to a Chinese of that period. Eventually all these ordinances were declared unconstitutional, but they caused much hardship during the years they were enforced.

And, as usual, whites often took matters into their own hands. No one knows how often the police looked away while the Chinese were violently attacked in the streets. It can be assumed that crimes against them were commonplace and almost always went unpunished. Generally, Chinese did not register formal complaints as they were legally prevented from testifying against whites. The most serious instance of organized violence against them took place in Los Angeles where a mob shot and hanged 20 Chinese, pillaged homes and stores, and tortured orientals wherever they could find them.

With the return of prosperity and the decline of "Kearneyism," anti-Chinese agitation among the white workers of California entered a new phase. The cause was now taken up primarily by trade unions, representing the craftsmen and mechanics, in other words, the labor aristocracy. In April 1880, delegates from 40 labor unions met in San Francisco and established a so-called League of Deliverance. Deliverance from what? Well, it was deliverance from the Chinese menace.

The man most responsible for organizing the league—he was elected chairman—was one Frank Roney. Roney had been the leader of the anti-Kearney faction of the Workingmen's Party before becoming a socialist and a member of the violently racist San Francisco Seamen's Protective Union. Over the years he had assiduously built up support within the union movement to oust the Chinese from their jobs and, of course, keep them out of the country. His efforts had resulted in the formation of the League of Deliverance, which, within months after its founding, had 13 branches throughout the State and over 4,000 members. Persuading the public to boycott Chinese-made goods was the main tactic employed by the league, and it was a smashing success. Merchants refrained from buying commodities made by Chinese labor and many factories dismissed Chinese workers. How were the Chinese workers supposed to live? Leaders of the white labor organizations had no interest in such matters.

The League of Deliverance dissolved in 1882, its mission accomplished. In that year Congress enacted the Chinese exclusion law. The league's highly successful tactic of boycotting Chinese-made goods had actually been introduced earlier by white unionized cigarmakers.

I wish to tell the story of white cigarmakers. It is a very fascinating moment in American labor history. From the start, the white cigarmakers marched in the forefront of the assault on the Chinese. It was the white cigarmakers, too, who discovered a most ingenious method of punishing their Chinese competitors. In 1874 they adopted a white label to indicate that they, the white unionmen, had produced the cigars. Accompanying the label was a certificate granted to those proprietors who sold only their cigars. The certificate contained the following message:

Protect Home Industry. To All Whom It May Concern: This is to certify that the holder of this certificate has pledged himself to the Trades Union Mutual Alliance,

neither to buy nor sell Chinese made cigars, either wholesale or retail, and that he further pledges himself to assist in the fostering of Home Industry by the patronage of Pacific Coast Label Cigars of which the above is a facsimile.

The facsimile of the label showed a dragon on one side, the union mark on the other, and the words, "White Labor, White Labor." The practice of issuing labels quickly caught on. In 1875 the St. Louis cigarmakers followed suit with a bright red one. Finally, in their general convention 3 years later, the Cigar Makers International Union decided on a blue one. Thus, the great tradition of the union label began as a racist stratagem.

I would like you to think about that when you insist upon union labels.

In California the proponents of the union label came not only from the ranks of organized labor but from small cigar producers, such as the White Cigar Makers' Association. By the mid-1880's the industry was becoming rapidly rationalized, meaning that the larger concerns, using a more refined division of labor, could manufacture cigars at a cheaper price than the smaller ones. Usually it was the larger concerns that employed Chinese who learned their trade quickly and well. The labor thus "became a means of product differentiation by which small producers could cling to a toehold in the market." But the process of rationalization had gone so far that by 1885 almost seven-eights of the cigarmakers of San Francisco were Chinese. The manufacturers hired them against prevailing public opinion because they had to meet the competition from the East or perish.

Precisely at this point the Cigar Makers' International Union (CMIU) entered the picture. Under the leadership of erstwhile Socialists like Adolph Strasser and Samuel Gompers the CMIU concentrated on securing higher wages and better working conditions for its skilled members, leaving the unskilled and disadvantaged to fend for themselves. In this way an aristocracy of labor emerged, enjoying increasing benefits while the rest of the work force, having no leverage in the open labor market, stagnated.

In 1884 the CMIU established local 224 in San Francisco to drive orientals out of the trade and give the unemployed white cigarmakers of the East—themselves casualties of rationalization—the jobs then held by the Chinese. The astonishing fact was that the whites were content to work at the same rate of pay—a complete reversal of roles. Now it was the whites who were entering into competition with the Chinese.

The Cigar Makers' International Union attacked the companies that employed the Chinese, and of course, the Chinese themselves. The large manufacturers were the only major obstacle in the way of the union. The union's tactic was to persuade one large concern to hire just a few white workers. This occurred when the firm of Koeniger, Falk & Mayer took on a handful of whites. Soon the handful had turned into nearly half of the 160 man work force. The Chinese employees of Koeniger, Falk & Mayer knew that their days were numbered, and with nothing to lose, organized a strike in protest against their displacement. The white community of San Francisco was shocked by this unprecedented show of audacity.

Other Chinese cigarmakers, employed elsewhere, stayed at their jobs. But the CMIU took advantage of the threat, now raised for the first time, of massive, industrywide resistance by the Chinese. The Chinese were always regarded as servile and congenitally incapable of standing up for the rights of labor. Now the white cigarmakers union was claiming that its men were more compliant and trustworthy than the refractory Chinese. Once again the whites unhesitatingly reversed roles when it suited them to do so.

In any case, the job walkout by the Chinese prompted the entire labor movement in San Francisco to take up the cause of the beleagured white workers. The Knights of Labor and other organizations led a boycott of all brands of cigars except that of Koeniger, Falk & Mayer. The campaign was successful. By the end of November 1885 the large producers had agreed to the demands of the union. Jake Wolf, president of the San Francisco Cigar Makers' Union, extracted a promise from them that all of the Chinese would be removed from the industry the moment white workers replaced them. The target date was January 1, 1886. The target date was not met, but the Chinese were in time eliminated completely from the industry.

Now, the Chinese organized as a labor union, but the unions refused to recognize them and insisted that they all be fired and replaced by white workers. So even when the Chinese appealed to the unions themselves and the union methods to improve their own conditions, the unions turned against them and had them fired.

A process of racial occupational eviction had begun that would soon be used by organized labor against black workers in many occupations.

This history continues, Mr. President, and this is why whatever happened in the 1880's it remains relevant to this very, very day because of the continuation of this practice of racism, and in the labor hierarchy that has not died out despite the passage of the years, and despite the many, many social changes that have taken place since that time.

I am prepared to yield to my distinguished colleague from South Carolina. But I first ask unanimous consent that if I later continue this it will not be counted as my second speech, and I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Reserving the right to object, Mr. President, is the Senator seeking unanimous consent to yield the floor without his counting it as a second speech; is that correct?

Mr. HAYAKAWA. That is correct.

Mr. JAVITS. When does the Senator expect to resume speaking?

Mr. HAYAKAWA. I would like to resume as soon as possible at an early opportunity tomorrow.

Mr. JAVITS. Tomorrow?

Mr. HAYAKAWA. Yes.

Mr. JAVITS. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Does the Senator yield the floor at this time?

Mr. HAYAKAWA. I yield.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

S. 3121—PROTECTION OF CERTAIN OFFICERS OR EMPLOYEES OF THE UNITED STATES

Mr. THURMOND. Mr. President, the distinguished chairman of the Veterans' Affairs Committee, Senator CRANSTON, and I are introducing legislation which will bring within the sanctions of the Federal assault statute (18 U.S.C. 111) certain acts committed against police officers and investigators employed by the Veterans' Administration.

At the present time the Veterans' Administration employs in excess of 1,500 persons as police officers and investigators. Under current law these officials are authorized to make arrests for violations of law occurring on property under the charge and control of the Veterans' Administration. Increasingly, acts or threats of violence are occurring against VA policemen and investigators in the performance of their duties. Moreover, the incidence of crimes committed on Veterans' Administration property in recent years has been on the upswing.

For some time it has been the concern of the Veterans' Administration that inadequate protection is not provided for under present law for the protection of police officials and investigators employed by that agency. These employees are not within the scope of section 1114 of title 18, United States Code, which makes it an offense to kill certain Federal employees. Consequently, they are excluded from coverage under the Federal assault statute (18 U.S.C. 111), which makes it an offense to assault any of the employees listed in section 1114. Under present law, therefore, effective Federal prosecution of persons responsible for the commission of assaults upon VA law enforcement personnel is normally precluded.

The amendment which my colleague, the distinguished Senator from California, and I are offering would provide a measure of protection to VA police and investigators commensurate with that afforded to similar law enforcement personnel of the Postal Service, the Department of the Interior, the Department of Labor, the Consumer Product Safety Commission, and others. The bill would bring within the terms of section 1114 of title 18 an officer or employee of the Veterans' Administration assigned to perform investigative or law enforcement functions. Such an amendment would have the consequent effect of making it a Federal offense to kill, forcibly assault, resist, oppose, intimidate, or interfere with such an official in the conduct of such official's duties.

Mr. President, this amendment will enable the VA to carry out its functions more effectively and will provide for a greater degree of safety for patients,

employees, and visitors in all VA facilities. I sincerely urge that this measure receive the full support of my colleagues.

THE MILITARY ORDER OF THE WORLD WARS

Mr. THURMOND. Mr. President, Saturday, May 20, 1978, was Armed Forces Day, and it seems appropriate to acknowledge the organization responsible for the initial efforts to establish a day of tribute to our military forces. The current Armed Forces Day was originated as Army Day in 1927 by the Military Order of the World Wars in New York City.

The Military Order of the World Wars is well known to the Members of the Congress because of its principles of patriotism, dedication to country, and loyalty to the flag. However, I do not recall that I have seen in the CONGRESSIONAL RECORD a digest of its principles and its accomplishments. I have asked its chief of staff, Lt. Gen. C. M. Talbott, to make such a document available.

Mr. President, I ask unanimous consent that the attached summary on the organization of Military Order of the World Wars be included in the RECORD at the conclusion of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE MILITARY ORDER OF THE WORLD WARS

The Military Order of the World Wars is a prestigous, patriotic, nonpartisan organization of commissioned officers, active, reserve, emergency and retired who have demonstrated, or who are demonstrating their love of country by full time active duty in the armed forces. It is also a hereditary society open to descendents of members or deceased officers who were eligible for membership. The Order was founded originally in 1919 by dedicated men of arms who, the following year, formally adopted a Constitution whose Preamble sets forth the Order's ideals and principles:

THE PREAMBLE TO THE ORDER'S CONSTITUTION

To cherish the memories and associations of the World Wars waged for humanity;

To inculcate and stimulate love of our Country and the Flag;

To promote and further patriotic education in our Nation;

Ever to maintain law and order, and to defend the honor, integrity, and supremacy of our National Government and the Constitution of the United States;

To foster fraternal relations among all branches of the Armed Forces;

To promote the cultivation of Military, Naval and Air Science and the adoption of a consistent and suitable policy of National Security for the United States of America;

To acquire and preserve records of individual services;

To encourage and assist in the holding of commemorations and the establishment of Memorials of the World Wars;

And to transmit all these ideals to posterity; under God and for our Country, we united to establish "The Military Order of the World Wars."

The Order holds that it is nobler to serve than to be served; it has therefore been established for the welfare of our Nation as a whole rather than for individual benefits for its members.

The Order provides an opportunity for commissioned officers of all Services to unite in a strong and unanimous program for National Security and good citizenship. It calls for conscientious fulfillment of the responsibilities of being Americans by all who enjoy the benefits thereof.

The Order has been described as a bridge between the military and civilian community over which its members convey the thoughts and needs of the Armed Forces to the civilian population and the interpretation of civilian sentiments to the Congress and to the leaders of the Armed Forces.

ACCOMPLISHMENTS

Throughout its history, the Order has continuously and unselfishly served the Nation in observance of the principles enunciated in the Preamble to its Constitution. The Order's Chapters, its national officers, its nationally oriented committees and its individual members as well, have been the instrument of this long and dedicated service. It is an interesting fact that some of the Nation's greatest military and civic leaders have been attracted to membership.

That the Order has been worthy of its calling over the years, is attested to by statements of approbation by all U.S. Presidents since Harding as well as many of our senior military leaders. Prominent among the foregoing who hold or who have held membership in the Order are former Presidents Hoover, Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford; Adams. William H. Standley and Ernest J. King; Generals George C. Marshall, Douglas MacArthur and Omar Bradley.

Notable among the Order's past and current achievements are the following:

Originated Army Day; it continues the tradition by observing Armed Forces Day with appropriate ceremonies and programs; it publishes the Armed Forces Day Review, an annual magazine which enjoys wide circulation among the Order's national officers as well as throughout the Department of Defense and industry.

Originated and continues to sponsor throughout the Nation, the Massing of the Colors, an annual ceremony of remembrance.

Was instrumental, through its past Commander-in-Chief, General of the Army, Douglas MacArthur, in reviving the long dormant award of the Purple Heart Medal.

Supports, nationally and locally, regular military and ROTC units as well as the Service academies, and offers appropriate awards for exceptional accomplishments on the part of the personnel of such organizations.

Promotes strong patriotic educational programs in the Nation's schools and communities and furnishes guidance for the implementation of such programs.

Publishes Officer Review, a monthly national magazine which it circulates among the membership as well as certain selected agencies and individuals.

Each year as a highlight of its National Convention, the Order presents its Distinguished Service Award to an "American citizen who has made a notable contribution to national defense or the preservation of our constitutional liberties." Past recipients have included Senator Barry Goldwater (Phoenix Chapter, MOWW); Senator Strom Thurmond (D.C. Chapter, MOWW); Lt. Gen. Lewis B. Hershey (D.C. Chapter); His Eminence Francis Cardinal Spellman; and Senator John C. Stennis.

ORGANIZATION

The Order is composed of some 15,000 members belonging to 125 Chapters which are organized on a nationwide basis into sixteen geographical regions and with National Headquarters in Washington, D.C. The basic unit is the Chapter which, together with its important activities, is the lifeblood of the Order. Every August the Order conducts its annual business at a National Convention held in some prominent locality of the country. Between Conventions, a General Staff, composed of elected and emeritus members, guides the functions of the Order on all matters of other than established policy. The current Commander-in-Chief of the Order is Brigadier General A. R. Brownfield of Lubbock, Texas.

MEMBERSHIP ELIGIBILITY

Active membership is open to U.S. citizens of good repute who have served honorably on active duty as commissioned officers in World War I or since 16 September 1940. Descendants of such officers are eligible for hereditary membership and enjoy the same rights and privileges.

HONORING TOM GASQUE

Mr. THURMOND. Mr. President, one of South Carolina's leading citizens was honored this month for his numerous contributions to his community. May 10 was proclaimed Tom Gasque Day in Marion, S.C., in appreciation for his being the town's "leading citizen."

Mr. Gasque, a longtime, close friend of mine, has devoted his life to the betterment of his community, and Marion feels a deep sense of gratitude toward him.

Since 1920, Tom Gasque has dominated business life in Marion. After several years as a banker, he began an insurance and real estate agency which he moulded into one of the soundest businesses of its kind.

When the ominous clouds of the Great Depression hung over America, he undertook a massive project to bring industry into Marion, thereby creating jobs for the growing population. Throughout the years he has continued attract industry into Marion County and has been a great asset to the county and state's economy.

Tom Gasque is an outstanding civic leader. He was a city councilman for 6 years, and is an active member of the local Lion's Club. He energetically devotes time and money to hospitals, charities, and various civic projects.

Mr. Gasque is a fine Christian man. He is an honorary member of the official board of his church and a trustee of the Marion District of the United Methodist Church.

Thomas Gasque is a selfless man dedicated to his State and his Nation. It has been an honor for me to have been his friend for the past years.

Mr. President, in order to share with my colleagues an "extra" edition of the *Marion Star* devoted to Mr. Gasque, I ask unanimous consent that it appear in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I, of course, shall not object, but Senator THURMOND was not here this morning when the majority leader made a speech in which he urged that Members be cautious about two speeches in one legislative day, pointing out that this is still the legislative day of May 17, and also about the germaneness rule.

I understand that we will arrive at the period of nongermaneness beginning at 1 o'clock. Obviously I would not object to this. I only reserve the right to object

to advise Members that the leadership may wish me to object hereafter; and I hope, therefore, that these very simple rules will be observed, that is, 3 hours for the germaneness rule, and as to two speeches, that Members, as Senator HAYAKAWA has done, actually seek unanimous consent for the purpose, which we can then withhold or deny.

I have no objection under these circumstances.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, it is only 10 minutes until that time. I thought rather than to interrupt my speech once I started, if there is no objection, I would just put these matters in at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, we are not objecting, but reserving the right to object, will the Senator please describe what he is putting into the RECORD at this time?

Mr. THURMOND. Well, I just put in a tribute to Armed Forces Day, a statement on another matter, and now I have a tribute to Lieutenant General Vaughn that I am about to put in.

Mr. METZENBAUM. I see.

There being no objection, the edition was ordered to be printed in the RECORD, as follows:

[From the Marion (S.C.) Star, May 10, 1978]

CHAMBER NAMES GASQUE LIFE MEMBER

Whereas, the Mayor and City Council of the City of Marion, by Proclamation, have established Wednesday, May 10, 1978, as Thomas Jefferson Gasque Day, for the purpose of honoring this lifelong resident of the City and County of Marion for his voluntary leadership in the community, which has made Marion a better place in which to live, work and play;

Whereas, Thomas J. Gasque, since July of 1920, has devoted his untiring efforts towards the economic growth and betterment of the City of Marion by actively participating, guiding and leading the citizenry in the initial and continued industrial development of the area;

Whereas, Thomas J. Gasque has been active in the religious life of the community and a leader of the First United Methodist Church, serving in every official capacity in the Church and rendering his untiring efforts to its growth and development;

Whereas, Thomas J. Gasque has further evidenced his interest in mankind and their general welfare by his leadership of the Crawford Monroe Post No. 5, American Legion, the principal organizational group promoting the creation and construction of the Marion Memorial Hospital;

Whereas, Thomas J. Gasque has evidenced his interest in the youth of the community by being an active leader and supporter of the Boy Scout program and personally encouraging the young boys of the community to attain the Eagle Scout Award;

Whereas, Thomas J. Gasque has encouraged the youth of the community in their educational pursuits and has served as a member of the Board of Trustees of Wofford College;

Whereas, Thomas J. Gasque has been a faithful and attentive father and family man of high moral and religious qualities;

Whereas, Thomas J. Gasque has served the City of Marion as a member of the City Council and the County of Marion as a member of the County Planning and Development Board; and,

Whereas, Thomas J. Gasque, affectionately known as "Mr. Tom", was an initial leader and participant in the creation of the Marion Chamber of Commerce and served in varying capacities with the Chamber over the years, was a strong supporter of the revitalization of the Chamber of Commerce and has continued to offer his guidance and counsel to the Directors of the Chamber of Commerce;

Now therefore,

Be it resolved, that Thomas J. Gasque be, and hereby is, made an Honorary Life Member of the Marion Chamber of Commerce in recognition of his service to his City, County and State.

Be it further resolved, that this Resolution be spread upon the permanent records of the Marion Chamber of Commerce and be duly published in the special issue of The Marion Star to be dated May 10, 1978.

Duly moved, seconded and unanimously adopted, this 7th day of April 1978 at a regularly called meeting of the Board of Directors of the Marion Chamber of Commerce.

MAY 10 IS TOM GASQUE DAY

Whereas, Thomas J. Gasque is and has been The City of Marion's leading citizen for Marion, many years; and

Whereas, Thomas J. Gasque has throughout his life worked unselfishly for the betterment of the City and County of Marion; and

Whereas, Thomas J. Gasque has brought honor to this City, this County and the State through his leadership and willingness to work for the public good;

Now therefore, I, T. Carroll Atkinson, Jr., by virtue of the authority vested in me as Mayor of the City of Marion in the State of South Carolina, with the unanimous approval of the City Council, do hereby proclaim May 10, 1978, to be Tom Gasque Day in an effort to demonstrate to "Mr. Tom" how we the citizens of Marion, appreciate all that our Most Outstanding Citizen has done for us, our City, our County and our State.

CELEBRATION IS SUCCESS

Today, May 10, has been set aside by Mayor T. Carroll Atkinson Jr. as a day of honor for Tom Gasque, a day during which the citizens of Marion, both present and past, can take the opportunity to express their appreciation to Tom Gasque for his contributions to Marion.

On this officially declared Tom Gasque Day in Marion, the city has renamed North Academy Street T. J. Gasque Avenue in his honor. It was during Mr. Gasque's term on the City Council that this street was established to relieve the Main Street congestion north of the public square.

The Marion Chamber of Commerce has also taken this opportunity to award Mr. Gasque an honorary life membership in the chamber in recognition of his pioneering efforts in the maintenance of the Chamber as a viable organization in our city and in recognition of his encouragement and support over the past several years.

An appreciation dinner was held this evening at the Marion-Mullins Vocational Education Center in Mr. Gasque's honor. Over 300 of Mr. Gasque's friends from Marion and throughout South Carolina gathered to honor him at that time. Present for the occasion were Mr. Gasque's four children, Mrs. Anne Depto, Minneapolis, Minn., Dr. Thomas J. Gasque, Bismark, South Dakota, Mrs. Dorothy Smith, Columbia, South Carolina and Reaves H. Gasque of Marion.

The Rev. Reginald Thackston, pastor of First United Methodist Church, served as toastmaster for the evening. Tributes to Mr. Gasque's contributions to Marion were given by the Hon. J. Strom Thurmond, senior Senator from South Carolina and long time close personal friend and associate of Mr. Gasque; the Hon. T. Carroll Atkinson Jr., Mayor of Marion; Frank Logan of Wofford College, who noted Mr. Gasque's distinguished record of service to his Alma Mater; Malcolm C. Woods Jr., Marion Attorney and long time friend of Mr. Gasque; Mr. Lem Winesett; former owner and publisher of The Marion Star; Mrs. E. O. Baumrind, close associate of Mr. Gasque's in many civic projects; Herbert S. Levy, who noted Mr. Gasque's outstanding contributions to the industrial community, and the economic development of the area; L. W. "Bubba" Clemmons, business associate of Mr. Gasque; and B. Pratt Gasque, longtime friend.

Hershel Eaker presented Mr. Gasque with a bound volume of congratulatory letters from a wide ranging group of friends and former associates, many of whom could not be present for the occasion. Diners were afforded the opportunity to meet Mr. Gasque's family and extend their congratulations at a reception following the dinner. In charge of the guest register were Mr. and Mrs. Marion E. Freeman.

GASQUE'S YEARS SPENT IN SERVICE TO COMMUNITY

Tom Gasque started his business life on Main Street in July 1920 when he went to work for Farmers and Merchant's Bank. Since that day Tom has walked the streets of Marion working for the advancement of the business life of the community. His activity over these 58 years has been one of involvement in the progress of the city and county.

During Tom's earlier life on Main Street, business was slow and the community was in the economic doldrums which permeated the south before the great depression reached other parts of the nation and the world. This did not deter Tom, and about 1927 he undertook, along with others, what was then the massive job of raising $3,000 to buy land to donate to American Wood Products. This activity resulted in acquiring this industry which manufactured veneer wood products, and which was know affectionately in the language of the day as the "Canary Plant."

Tom's activity was evident and effective in the creation in 1957 of the Manning Street Corporation. He served as its first president. This corporation was the forerunner of Herbert Mills and what is now Heritage. Over the years as this industry has changed ownership and name and as it has increased in importance, Tom has supported it and its fine contribution to the county.

Tom was always willing to stand out front and in 1946, working with others, the necessary right-of-way to open Academy Street from Witcover Street to Railroad Avenue was acquired. The widening process from Godbold Street to Witcover Street was also a major part of this activity. Opening this street increased the flow to traffic in the business community and relieved the tight traffic situation created by virtue of the fact that there was no street west of Main Street which could serve the business of the city.

Tom served on City Council from about 1944 until about 1950 and during that time added his leadership to the growing awareness of the needs of industry. While not an industrial achievement, Tom remembers with pride the fact that while on City Council he made the motion that lead City Council to work with the Rose Hill Cemetery Association so that the City could acquire the cemetery for its citizens.

Tom's work with the American Legion was outstanding after World War II when the push was on by the American Legion to create a hospital in memory of the veterans. He was, with many others, in the forefront of the successful effort to establish Marion

County Memorial Hospital. Through his American Legion work he had a great hand in setting up the Legion Pool.

Before the Planning and Development Board was formed Tom was active in the acquisition by the County of the property and manufacturing establishment known as Marion Industries. Tom was a member of the first Planning and Development Board and contributed his bit to that program. Not the least of Tom's accomplishments in the industrial field was his successful effort in acquiring title to what was then known as the Thompson Property on Catfish Creek for the Dickey Industries. Many problems were faced in that activity, and Tom's effort and diplomatic manner lead to the successful purchase of this property. The Thompson heirs were scattered throughout the country, but through patience and dedication the land was acquired and the contribution was made to the Dickey people to encourage them to come to Marion.

Tom's fine hand at persuasion and diplomatic negotiations was evident when he successfully negotiated the purchase of the property for Russell Stover Candy Company. Tom spent hours and days on the project and joined with the Planning & Development Board, the County Delegation and the City Government in bringing this fine industry to Marion.

It is impossible to list all of Tom's activities, but it is interesting to observe that in 1946 Marion Junior Chamber of Commerce recognized them and gave Tom an award for his outstanding civic contributions. These contributions were not limited to his activity up and down Main Street for the business community and the industrial growth of the area, but also covered his life in his church and service clubs and just being a citizen who was always available to help.

GASQUE THE LION FOR 36 YEARS

At the end of 1931 and the beginning of 1932 our nation was in the grips of the great depression. Those who lived through it will never forget it. Marion is no exception. In the field of community service, the Chamber of Commerce and the Kiwanis Club had expired, leaving a vacuum. In these unpromising conditions, Tom Gasque and others organized and got a charter for a Lions Club. From the outset, the spirit and accomplishments of this small group were truly remarkable.

Tom was the club's first secretary-treasurer, and continued in that capacity for 15 years, except for one year as president. As secretary-treasurer he kept the club's records and made its reports. In addition, for the first 25 years he composed the bulletins, which were mailed to the members before the meetings and were both informational and inspirational. Also, for publication in The Marion Star, he wrote a full news account of the activties at each meeting.

These records are in a file cabinet in Tom's office. They reflect some very interesting incidents in the history of the city of Marion, as well as the Lions Club. In reminiscing recently, Tom and I could recall details of particular activties, programs, sayings and jokes. For the purpose of this expression, only the projects of the club's first three or four years were reviewed by me, as more would prolong these remarks unduly.

Among the projects in which the club participated with others were the following:

The foremost activity of Lions, sight conservation, assisting in any possible way those who are handicapped by partial or utter darkness.

Contributions to and support of Associated Charities, an organization which donated to destitute families.

Working closely with the American Legion post and a U.S. government agency to construct an airport, or at least an emergency landing field, which unfortunately did not materialize at that time.

Supporting and contributing to the Shriners' Hospital for Crippled Children at Greenville, then in its infancy.

Cooperating with the city, the county and the highway department in the creation of Jones Avenue extension, Marion's first bypass.

Cooperating with the American Legion post, the city and a U.S. government agency in the construction of the first swimming pool and recreation area at Gaddy's Mill. Unfortunately, because of an error of the government engineer, the first pool was later abandoned, and the American Legion post built the new one, to which the club made regular contributions.

Joined with others in starting the county fair again.

The following are some of the things which the club did alone: Sponsored a Boy Scout troop, the same troop for which Tom served as scoutmaster.

Built and placed concrete benches on the public square areas, which untimately were vandalized.

Originated the first organized Christmas charities, Christmas street lights, and Christmas parade in Marion.

Sponsored and produced the first movie in Marion, of which the film is still in existence.

Was instrumental in bringing a number of new lines of business to Marion. Tom was directly responsible for several of these.

For more than 46 years Tom has been so active in the work and in the spirit of Lionism that it is appropriate for this recognition to be a part of Tom Gasque Day.

GASQUE AND HIS CHURCH

In service to his church, Tom Gasque has been an inspiration to his fellow workers and an example for future generations to follow.

There was a joke circulating some time ago about a stranger who stopped on Main Street to ask for directions to the Church of God. A town character said "Several people have churches here. Mr. Tom Hunter has one here on Main Street and Mr. Tom Gasque has one on Godbold Street. But", he said, "I don't think God has one here."

Of course, all the churches belong to God and were built for worship of Him. Their brick and mortar stand as a testimony to the faith of the people in this community.

Although no individual actually owns the churches, some are certainly more prominent in the leadership, diligence and generosity. Tom Gasque never sought recognition for his church work, but his efforts have meant much to the growth of his church and the spiritual development of his community.

While he was in the tenth grade, Tom taught a Sunday afternoon adult class at the Murchison School (between Marion and Mullins). In 1922, he was elected to Board of Stewards (now called the Official Board) at First Methodist Church. During the years that have passed since then, he served the Board in many capacities until he was elected an Honorary Member in 1974. He still attends the Board meetings as an Honorary Member.

At one point he dropped off the board in order to teach a class of youth in the church school. For many years he was one of the church Trustees and part of that time chairman of the Trustees. He served as secretary of the Official Board and for many years as church treasurer. It is interesting to note, from the church records, how many times he took the minutes of the Board meetings, even when someone else was the elected secretary. We can only assume that, when the secretary didn't show up. Tom filled in with this necessary function.

In 1957, an educational wing was added to the church. The addition included additional classrooms, a chapel, a social hall, and church offices. At the same time this was done, the church school section of the old building was completely renovated. Tom Gasque served on the building committee that planned for years before all this came into being. They looked at the needs of the church for years to come, hired an architect to blend the new structure with the one built in 1909, and then found the finances to pay for it.

At the same time he was so active in his local church, Tom Gasque was also serving the Marion District of the United Methodist Church. He became a District Trustee in 1944 and still continues in this capacity. He was treasurer of the District from 1948 to 1966. When the District office was constructed on Pine Street, he was chairman of the building committee. In 1948, he was selected to serve on the District Committee for Buildings and Locations and he still continues on this committee.

Because he is not a boastful person, few people realize the extent of Tom Gasque's contribution in time and money to his church. His greatness is not in any great show of strength or genius, but rather in the many, many years of devoted service and in the quiet persistence until the job was completed. Marion is a better place to live, because of Tom Gasque.

ABOUT GASQUE'S LIFE

Thomas Jefferson Gasque was born on February 4, 1897 on his father's farm about two miles north of Marion. He was the fourth of eleven children born to James Maston Gasque and Lula Ham Gasque. He had much Catfish water in his blood as it was not far from his birthplace that John Gasque, his ancestor, was granted land in 1737 on Catfish Creek on the waters of the Great Pee Dee River in Craven County in His Majesty's Province of South Carolina.

He attended public schools in the area and graduated from Marion High School in the class of 1917. In the Fall of the same year he entered Wofford College and finished in three years by doubling up on his classes and through an accelerated program sponsored by the government and the S.A.T.C. during the years of World War One.

He worked in various capacities while in college from stoking the boilers for the heating plant to working in the laundry and the college dining hall and kitchen.

He finished Wofford in the Spring of 1920 and began work with Farmers & Merchants Bank on July 12th, 1920. The bank had branches in Latta and Centenary and he sometimes helped in one of the branches when their people were sick or on vacations.

In the afternoons and spare hours he sold insurance and was district agent for the Pilot Life Insurance Company and the Missouri State Life Insurance Company.

The Farmers and Merchants Bank closed in 1931 and Tom joined Pratt Gasque, who had entered the insurance business in the same building a few years before. They changed the name of the agency to The Gasque Company, Inc. with Tom as president and Pratt as secretary and treasurer.

In addition to the Fire, Casualty and Real Estate business which the company handled, Tom was district representative for the Minnesota Mutual Life Insurance Company and sold fertilizer for the Agrico Chemical Company. He also ran the concession stand at the original Myrtle Beach pavilion in the summers from 1931 through 1941. He employed a number of young men there from Marion and vicinity during their school vacations.

During World War Two, Pratt Gasque was in the Navy and Tom had a busy time running the business alone, but he had time to help with getting out the Marion mail, do plane spotting and other civic duties.

After the war, business was improving and The Gasque Company hired several young

men and women to work in the office and among the men was William Lide Jr., Fred Cross and Wilds Clemmons. Among the women were Clarice Edwards, Marian Drumright, Lillian Scott, Margaret McCandlish, Mildred Lane and others.

In 1954 Pratt Gasque sold his interest in the business to L. W. (Bubba) Clemmons and the name was later changed to The Gasque-Clemmons Agency.

When Reaves Gasque finished Wofford College he came into the business and Tom has gradually shifted most of his responsibility over to Reaves.

Tom still has an office and comes down to work every day. He has been in the same location for almost 60 years.

TOM'S FAMILY

On December 29, 1934, Tom Gasque married Margaret Olive Reaves of Manning and they had four children; Anne married Richard Depto and they have two children Paul Conrad and Laura Diane. They live in Minneapolis, Minnesota, where Anne is employed in the city schools. Thomas, the second child, married Alice Tealy of Eau Clair, Wisconsin. They have one child, Suzanna, and Thomas (now Dr. Thomas J. Gasque) is head of the English Department at the University of South Dakota. Dorothy, the third child, married Dr. Selden Smith, who is a professor at Columbia college and they have four children: Jean Margaret, Julia Kennedy, Selden Jr., and Thomas. Dorothy also teaches in Columbia. Reaves H. Gasque, the youngest child, married Betty Martin of Maxton, North Carolina, and they have one child, David. Reaves, Betty and David live with Tom on North Main Street in Marion.

RETIREMENT OF. LT. GEN. WOODROW W. VAUGHAN

Mr. THURMOND. Mr. President, on June 30, 1978, Lt. Gen. Woodrow W. Vaughan will retire from the U.S. Army after 38 years of distinguished service to our country. Our Nation is deeply grateful for his dedication and faithful performance of duty.

General Vaughan is a professional soldier whose outstanding leadership will be a great loss to the Army and our country. He has served with remarkable distinction at every level of command from platoon to theater headquarters. In the China-Burma-India Theater in World War II, he rose to the rank of colonel in 1945 at the age of 27. He was one of the youngest colonels ever to serve in the Army having been commissioned a second lieutenant at the U.S. Military Academy on June 11, 1940.

Mr. President, General Vaughan is one of our Nation's foremost experts on the business side of the Defense Establishment. He has spent his entire career in materiel, logistics, procurement, research and development. As the present Director, Defense Logistics Agency, he directs one of the largest materiel procurement agencies in the world.

General Vaughan's professional counsel and advice and extensive experience in the logistics and materiel field will be missed by the Congress and the highest echelons of our Government. I join with my distinguished colleagues in extending congratulations and best wishes to General Vaughan and his family for continued success, good health and happiness.

Mr. President, I ask unanimous consent for the biography of Lt. Gen. Woodrow W. Vaughan to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LT. GEN. WOODROW W. VAUGHAN

General Vaughan was born in Woodford, Oklahoma, May 9, 1918. He attended public school in Ardmore, Oklahoma, and entered Texas A&M College in 1934. General Vaughan was appointed to the U.S. Military Academy from Oklahoma in 1936 and graduated with a Bachelor of Science degree in 1940. As a cadet he was active in baseball, track, and basketball and was co-captain of the Army basketball team. Upon graduation in 1940, he was commissioned a Second Lieutenant in the Regular Army.

During World War II, he served principally in the China-Burma-India Theater in a succession of staff and command positions. During that time, he was promoted to Colonel at the age of 27, making him one of the youngest Colonels in the United States Army.

General Vaughan has spent his entire career in the materiel, logistics or business side of the Army. He has served at every level and in every functonal area—in research and development, procurement, supply; staff and command, from a company in the field to Theater Headquarters; on the Army General Staff, the Joint Chiefs of Staff, the Army Materiel Command, and the Defense Supply Agency (recently renamed the Defense Logistics Agency).

In the area of Research and Development, General Vaughan served in the R&D Directorate of the Army General Staff and commanded the Natick Laboratories.

In the area of procurement, he has served as a Contracting Officer, as supervisor of Contracting officers, commanded the U.S. Army Procurement Agency, Europe, and was the Head of the Procuring Activity for U.S. Army, Europe.

In the logistics area, he commanded depots, served as supply and transportation staff officer in a division; as staff officer in the Supply Division of the Army General Staff; staff officer on the Army General Staff concerned with the Mutual Security Program; as Senior Logistics Advisor to the Republic of Korea Army and as Deputy Chief of Staff for Logistics in the Pacific and Europe.

General Vaughan has command experience at every level—platoon; company; depot; laboratory; Theater Support Command, Europe; Army Materiel Command; and Defense Logistics Agency.

His military education includes—in addition to various branch and specialty schools—the Army Command and General Staff College, the Armed Forces Staff College, the Naval War College and the Industrial College of the Armed Forces. His civilian education includes attendance at Texas A&M College, graduation from United States Military Academy, and the Graduate School of Business, Stanford University.

General Vaughan's positions since his promotion to General Officer in 1963 reflect the wide range of responsibilities that has characterized his career:

Senior Logistics Advisor to the Korean Army.

Commanding General, U.S. Army Natick Laboratories.

Deputy Director, Defense Supply Agency.

Deputy Chief of Staff for Logistics, U.S. Army, Europe.

Commanding General, Theater Army Support Command, Europe.

Deputy Commanding General, Army Materiel Command.

Since 1 January 1976; Director, Defense Logistics Agency.

General Vaughan is married to Elizabeth S. Hinkle of Fredericksburg, Virginia. They have three children and five grandchildren. His oldest son is a graduate of the Naval Academy where he, coincidentally, was Captain of the Navy basketball team twenty-four years after General Vaughan captained the West Point team.

PERSONAL DATA

Born: 9 May 1918, Woodford, Oklahoma.
Father: William H. Vaughan (deceased).
Mother: Mary J. Vaughan (deceased).
Married: Elizabeth S. Hinkle, 18 January 1941 at Fredericksburg, Virginia.
Children: Woodrow W.—Charlottesville, Virginia; Henry L.—Lynchburg, Virginia; Mary L.—Hartford, Connecticut.
Official Address: Director, Defense Logistics Agency, Alexandria, Virginia 22314.

EDUCATION

Texas A&M College, 1934–36.
U.S. Military Academy, 1936–40 (BS).
Quartermaster School, 1941.
Command and General Staff School, 1943.
Armed Forces Staff College (equivalent)
Naval War College, 1946–47.
Stanford University, 1949–51 (MBA, MA).
Industrial College of the Armed Forces, 1957–58.

CHRONOLOGICAL LIST OF PROMOTIONS

Promotions: Temporary (AUS), permanent (RA):
2nd Lieutenant, June 11, 1940.
1st Lieutenant, October 10, 1941, June 11, 1943.
Captain, February 1, 1942, July 1, 1948.
Major, January 12, 1943, August 29, 1952.
Lieutenant Colonel, October 21, 1944.
Colonel, November 3, 1945.
Lieutenant Colonel (Post-War Reduction), August 15, 1946, June 11, 1960.
Colonel, May 6, 1955, June 11, 1965.
Brigadier General, May 28, 1963, November 19, 1967.
Major General, July 1, 1966, (DOR July 1, 1961), January 6, 1968.
Lieutenant General, November 1, 1970.

CHRONOLOGICAL LIST OF ASSIGNMENTS

Assignments;
Company Officer, Ft. Meade, Maryland, from August 1940 to May 1942.
76th Infantry Div., Ft. Meade, Maryland, from May 1942 to December 1942.
Command and General Staff School, Ft. Leavenworth, Kansas, from December 1942 to March 1943.
S–4 Advance Section #1, China-Burma-India, from May 1943 to October 1943.
C.O., General Depot #1, China-Burma-India, from October 1943 to October 1944.
Assistant Chief, Staff G–4, SOS China Theater, from October 1944 to November 1945.
Deputy, Asst Chief of Staff, G–4 US Forces China Theater, from November 1945 to June 1946.
Naval War College, from July 1946 to June 1947.
Office, Director Research & Development, War Department General Staff, US Army, Washington, D.C., from July 1947 to August 1949.
Stanford University (Graduate Student), from Aug. 49 to Mar. 51.
Office, Asst. Chief of Staff, G–4, General Staff, U.S. Army, Washington, D.C., from Apr. 51 to May 54.
C.O., U.S. Army Procurement Center, USAREUR, Frankfurt, Germany, from July 54 to June 57.
Industrial College of the Armed Forces (student), from Aug. 57 to June 58.
Office, Deputy Chief of Staff for Logistics, General Staff, U.S. Army, Washington, D.C., from July 58 to Aug. 60.
Office, Joint Chiefs of Staff, OSD, Washington, D.C., from Aug. 60 to June 62.
Asst. Commandant, U.S. Army Quartermaster School, Ft. Lee, Virginia, from Aug. 62 to May 63.
Senior Logistics Advisor, ROKA, Hq. KMAG, G–4, Seoul, Korea, from July 63 to Aug. 64.

Commanding General, U.S. Army Natick Laboratories, Natick, Massachusetts, from Sep. 64 to Apr. 66.

Assistant Director, Plans, Programs and Systems, Defense Supply Agency, Alexandria, Virginia, from Apr. 66 to June 67.

Deputy Director, Defense Supply Agency, Alexandria, Virginia, from July 67 to Jan. 69.

Commanding General, U.S. Army Theater Support Command, Europe, from Jan. 69 to July 70.

Deputy Chief of Staff for Logistics, U.S. Army, Europe and 7th U.S. Army, from July 70 to Oct. 70.

Deputy Commanding General, U.S. Army Materiel Command, Alexandria, Virginia, from Nov. 70 to Dec. 75.

Director, Defense Logistics Agency, Alexandria, Virginia, Jan. 76.

Decorations:

Distinguished Service Medal w/oak leaf cluster.

Legion of Merit w/oak leaf cluster.

Bronze Star Medal w/2 oak leaf clusters.

Joint Service Commendation Medal.

Army Commendation Medal.

American Defense Service Medal.

American Theater Campaign Medal.

European Middle East Campaign Medal.

Asiatic-Pacific Theater Campaign Medal w/3 battle stars.

World War II Victory Medal.

German Occupation Medal.

National Defense Service Medal.

China-Japan-Korea Medal.

Order of Cloud and Banner (Chinese).

Special Order of Un Hui (Chinese).

Badges:

War Department General Staff Identification Badge.

Joint Chiefs of Staff Identification Badge.

PERSONAL BACKGROUND MATERIAL

Interests and Hobbies:

General Vaughan is interested in all sports and participates in several. He particularly enjoys golf and tennis as his favorites. He also likes to bowl, play bridge, and is active in church and chapel activities.

Organizations:

Association of U.S. Army.

Alumni Association, U.S. Military Academy.

Stanford Business School Association.

Army Athletic Association.

Army-Navy Country Club.

American Logistics Association.

Religion: Protestant (Baptist).

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of H.R. 8410.

Mr. THURMOND. Mr. President, before us for consideration we have H.R. 8410, the so-called Labor Law Reform Act of 1978.

Never before in my memory has a bill come before this body so inappropriately named. For this bill is not a "reform" measure at all. To the contrary it is one of the most flagrant pieces of special interest legislation ever to be considered by the Senate. This bill represents a naked power grab by "big labor bosses."

If passed, the unions hope that this bill will reverse the rolling tide of defeats they have suffered in recent years in employee representation cases. Similarly, it is hoped that this bill will stop the tremendous losses in dues paying members that the unions have suffered over the last few years—losses that amount to approximately 750,000 members.

It is further hoped that passage of this bill will give the unions the leverage they deem necessary to achieve organizational breakthroughs in the southern and other right-to-work States, areas of the country where their philosophies and control have consistently been rejected by workers.

Like many others in the Senate and throughout this Nation, I believe that the title of this bill should properly be the "Union Organizing Act of 1978." There can be no denial that this title more truly reflects the intent and purpose of this bill.

In a lighter vein, this is the title given the bill by the Washington Post in an editorial on March 15, 1978. As we know, the Post could not tolerate being on the right side of the issue and on May 19 in an editorial repudiated its editorial position taken just 2 months ago. I knew it was too good to be true, Mr. President. After agreeing with my position on the criminal code, the Post and I could not agree again so soon. It reminds me of a verse that Senator LONG uses as the debate occasionally grows heated on proposed tax legislation. He points out the difficulties of resolving conflicting views on tax legislation this way: "Don't tax you, don't tax me, tax the fellow behind the tree." Now on this bill the fellow behind the tree is 75 percent of our work force. They are not unionized. So, I say to the Post:

It was a pleasant dream
To find The Washington Post as part of the team.
As the battle waxed hot the Post lost steam.
Big Labor abuses no longer seemed mean.
"Fine tuning," said the Post, "is all that it seems."

While I could not resist a comment on the shift in editorial policy of the Post, we are concerned with serious business.

H.R. 8410 is a bad bill. It is a bill not worthy of our consideration. Were it not for the intense political pressure being exerted by the leaders of the union movement to pass this legislation as a means of collecting political debts owed to big labor, and big labor's unveiled threat to oppose those who oppose this bill, I dare say this bill would be overwhelmingly rejected as unfair, unjust, and biased, with little or no hesitation.

Unfortunately, this bill has become a political power test for the union movement and its supporters in the Senate. It has become a vehicle for special deals, cajoling, and the bartering of support on other issues. In such an atmosphere, there is a very real danger that the substance of this bill, the merits of the bill, or from my point of view its clear lack of merit, will not be considered by the world's greatest deliberative body. Instead it is the hope of the bill's supporters that this bill will be railroaded through the Senate, absent serious consideration, under the guise of that noble sounding word "reform."

Mr. President, once again I say that if this bill were truly considered on its merits by each and every Member of the Senate, without political pressure and with the best interests of the American workingman and workingwoman in heart, it would be overwhelmingly defeated.

As an illustration of why this bill deserves to be defeated, let me address myself to one of its so-called reform provisions. The provision which I wish to discuss is labeled the "equal access" clause.

H.R. 8410, section 4, amends section 6 of the current National Labor Relations Act by adding a subpart to section 6, denominated as subparagraph 6(b)(1) which would read as follows:

6(b)(1) The Board shall within twelve months after the date of enactment of the Labor Law Reform Act of 1978 issue regulations to implement the provisions of Section 9 including Rules—

(A) Which shall, subject to reasonable conditions, including due regard for the needs of the employer to maintain the continuity of production, provide that if an employer or agent of the employer addresses the employees on its premises or during working time on issues relating to representation by a Labor organization during a period of time that employees are seeking (i) representation by a labor organization, (ii) to decertify or deauthorize a labor organization as their representative defined in subsection (a) of Section 9, or (iii) to rescind an agreement made pursuant to the first proviso to subsection (a)(3) of Section 8, the employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues from such labor organization, and, with due regard for the rights declared in Section 7, the right of such labor organization to conduct membership meetings without undue interference, and the right of the employees to the privacy of their homes, provide also in the circumstances described in clause (i), (ii), or (iii) that the employees are assured an equal opportunity overall to obtain such information from the employer and such labor organization.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. THURMOND. Mr. President, I would rather finish my remarks first and then I will be glad to yield.

To obtain an opportunity to present information relating to representation pursuant to this paragraph, a labor organization shall notify the employer in writing that employees of the employer have demonstrated an interest in representation by that labor organization and from the time of receipt of such notice the labor organization is to be entitled to an equal opportunity to present such information in an equivalent manner.

This seemingly harmless and high-sounding language would for all practical purposes obliterate for employers in the content of an employee representation campaign, two of the most cherished rights we citizens of the United States enjoy; that is the right to enjoy and utilize our property substantially free from the interference of other individuals, organizations or the Government, and the right of free speech.

Why is it so cavalierly advocated that employers be severely restricted in the exercise of their property and free speech rights? Simply because restricting these rights in the manner permitted by this bill will "stack the deck" for unions to win employee representation elections.

What exactly would this provision do in layman's language? It is common practice now in employee representation campaigns for an employer to seek to convey to his employees his position on the unionization of his facilities by

speaking directly to his employees on company property, during the employees' working time, at the employer's expense. If H.R. 8410 is passed the directive of section 4 thereof that:

> Employees shall be assured an equal opportunity to obtain in an equivalent manner information concerning such issues.

For the labor union seeking to organize the employees, this bill would require that if an employer elected to address his employees in this manner during the election campaign, organizers from the union would have to be given an equivalent opportunity to address the employees. What this says is, the union would have to be permitted by the employer to address his employees on the employer's property at the employer's expense.

This bill would, therefore, in effect require employers to turn over their property rights to nonemployee outsiders from labor unions by directing that employers give these outsiders access to their plants or work sites under the conditions mentioned. Moreover, this bill would place employers in the position of subsidizing or financing union election campaigns against their own businesses. Should this bill pass, an employer will be required to pay his employees to hear the speeches of union organizers on working time if the employer made the wholly legitimate decision to forgo production and utilize his private property by expressing his views on union during working time.

Is such a gross usurpation of private property rights and a restriction on free speech required in order to see to it that employees are properly informed of the many important facts and issues present in any employee representation campaign? Is such a drastic, indeed un-American, action necessary in the name of labor law reform? Absolutely not. The present law assures that employees have the opportunity to receive the information necessary for them to make an informed choice in an employee representation election. There is no need to interfere with the rights of employers to control their private property and to engage in free speech.

As it stands now employees who support the unionization of their workplace are currently allowed to solicit their fellow employees on behalf of a union during their nonworking time on the premises of the employer. This means that while employees are on their breaktime or lunchtime, union supporters can attempt to persuade other employees also on their break or lunchtime to support a union. Employees who support a union are also free to distribute pro-union literature on their employers property while they are on their nonworking time in nonworking areas of the plant.

In addition union organizers and pro-union employees are free to contact an employer's employees off the job; in the privacy of their homes, a right which is denied to employers or their representatives. This form of communication by union organizers, home visits, is greatly facilitated by the National Labor Relations Board's "Excelsior Underwear" Rule, which required an employer, once the date of an NLRB election has been set, to turn over to the union seeking to organize his employees a list of names and addresses of all his employees who will be eligible to vote in the election.

Other vehicles of communication currently available to unions for contacting employees are group meetings of employees off the employer's premises specifically called for organizational purposes; home mailings to employees, handbilling outside an employer's plant gates, telephone calls to the employees' homes, and newspaper, radio and television appeals for union support.

The existing law is also flexible enough to see to it that the organizational rights of employees are permitted the opportunity for expression in those rare cases in which a union can demonstrate that it faces some sort of unique handicap in communicating with employees. For instance, in the case of isolated lumber camps or company towns which were found to be inaccessible to nonemployee union organizers, accomodations between the employer's property rights and employees section 7 organizational rights have been reached under the present act allowing outside union organizers some contact with employees on the employer's premises if the union could demonstrate that alternative organizing efforts were infeasible.

Since it is perfectly clear that unions currently have adequate channels of communication to employees which they can utilize in an effort to organize workers, why do they seek H.R. 8410's so-called equal access right? Is it because they believe permitting them the right to intrude on the employer's premises to unionize his employees at the employer's expense will make employees better informed of the issues involved in the representation election? Will it assist them to make an informed decision as to whether or not they desire union representation? I think not.

In fact, I believe that it is the avowed hope of the supporters of this bill that the equal access provision will result in less information being given to employees about the facts of unionization; less information about what a big union truly can and cannot do for an employee. I believe that the union organizers hope that the equal access provision will result in growing numbers of employees who are less well informed about these subjects and, therefore, are more susceptible to vote for a union solely because of the pie-in-the-sky promises they have heard, the type of promises which union officials so often make during a representative election and later fail to keep.

Why do I say this? I say this because I feel certain that the union organizing experts have read and analyzed those studies which have been done which demonstrate that an employer's most effective means of communicating his position on unionization to employees is through the medium of a direct speech to the employees, be it to a massed audience or a small group. H.R. 8410's equal access provision presents the unions with an excellent opportunity to nullify or eliminate the employer's most effective means of communication.

If this bill passes, many employers will probably forgo direct employee talks because of the employer's inability to justify the expense of financing, in the form of lost production and employee wages, a union's talk with his employees.

Unfortunately, in addition, many employers will probably also be prone to take a chance and forgo employee talks on the gamble that they can communicate their message to employees through some other means without triggering a subsidized right of equal access in their union opponent.

To the extent that employers cut back on direct communications in the plant with their employees because of a desire not to trigger the equal access provision, unions will profit in the form of increasing numbers of workers who will not have heard fully and most effectively the basis of their employer's opposition to unionization of his company.

Employees will lose because they will be denied the opportunity to hear fully all sides of the issues which are of importance to them in any representation election. These less well informed workers will be more susceptible to unionization and that, I submit, is the motivating force behind H.R. 8410's equal access provision. It merely affords one more button to push in the drive toward achieving "push button" unionization.

The equal access provision of H.R. 8410 is just one of the many provisions in the so-called reform legislation which, each in its own way, is designed to facilitate a stampede of nonunionized American workers into unions. The equal access provision demonstrates the wholly partisan nature of this bill and serves to emphasize, as do many other provisions thereof, that it is not—I repeat, not—worthy of passage by the Senate.

I hope that all my colleagues in the Senate will demonstrate to the people of the United States the true greatness of this body by refusing to be intimidated by big labor; by refusing to neglect their duty to their constituents and to all the working men and women of America, no matter in what State they may reside. The only way to make such a demonstration with respect to this horrendous bill is to do everything within our power to see to it that it is not foisted on the American public. I urge each Member of this body to have the courage to do what is truly right for this country and to act accordingly to kill this ill-conceived, unnecessary, and unjust bill.

(Mr. FORD assumed the chair.)

Mr. THURMOND. Now, Mr. President, I turn to another cause for concern in this bill. Small business is now plagued by over-Government regulation at every turn. What will be the real impact of H.R. 8410, the so-called Labor Reform Act of 1978?

In reviewing the pros and cons of this legislation with my colleagues, I am continually amazed at the lack of understanding that exists concerning precisely how this bill would affect the day-to-day operations of a typical company or busi-

ness. For the benefit of my colleagues, I would like to walk through a hypothetical situation that accurately describes how this bill would impact on a typical small businessman.

PROLOG AND SETTING

Charlie is president of a small company called Quality Valve which manufactures and sells valves. Charlie started the business himself and all his employees are nonunion.

His operation consists of one plant with 45 hourly employees on the shop floor, four clerks in the office, one engineer, and two inside salesmen.

Charlie has another location about 3 miles away. At this location are five warehouse employees and three truckdrivers who make local runs out of this location.

Both of Charlie's plants are located in a small town.

For years, the main customers of Quality Valve has been the Variety Parts Co. (Variety) which sells valves, along with other items, to the U.S. Army. Recently, Variety Parts has had internal problems. The Government has threatened to cancel Variety's business unless deliveries are made on time.

Charlie's business will suffer greatly if Variety loses its Government contract. At a minimum, he will immediately be forced to lay off 30 of his employees.

On August 28, 1978—the Monday before Labor day weekend—Charlie received a call from Hank, Variety's president. Hank told Charlie that he needed the large valve order he was expecting from Quality by the Tuesday after Labor Day in order to make its Army delivery on time. Charlie said that the valves for Variety were to be run on Thursday and Friday before the weekend—no problem. On Wednesday afternoon, however, Charlie learned that a load of vitally needed parts would arrive on Saturday instead of Wednesday. The truck making the delivery to Quality had been stranded in an early season blizzard.

Charlie reluctantly told his factory employees that there would be no work on Thursday and Friday but they would have to work Saturday and Monday on the Labor Day holiday. Even though this involved premium pay, there was some grumbling. However, the employees came to work and the shipment was made to Variety Parts on time.

Time passed and Charlie thought no more about the Labor Day problem. By the end of October, Variety Parts was completely out of difficulty with the Army. Variety was so pleased with the help they received from Quality that, on the first weekend in November, they entertained Charlie and his wife for a long weekend at a resort. These were the first days Charlie had taken off in some time. It was widely known in the plant that Charlie was off on a reward trip for the plant's performance.

A UNION ATTACKS—CHARLIE IS BEFUDDLED

Charlie returned to work on Monday, November 6, 1978. In his mail was an official looking letter from the National Labor Relations Board. The NLRB letter contained a document entitled, "Petition for Election." The petition had been filed by the valve workers union.

Charlie was stunned. He had never dealt with a union and did not know anything about the NLRB or labor laws.

Charlie did not know what to do. The valve workers petition said that they wanted to represent Quality Valve's 45 production and maintenance employees but it specifically wanted to exclude the warehouse employees and local truck drivers.

Charlie decided that he ought to find out what was going on. He called his plant superintendent and foremen in his office and asked them what they knew. No one had any ideas except one foreman who had heard some talk of a union about a month before.

Charlie was annoyed about the lack of information so he told the foremen to immediately get back out to the shop and find out what had happened.

After the foremen left, the plant superintendent told Charlie that it might be a good idea to call a lawyer. The superintendent said that he thought there were many things a foreman could say and not say to employees during a union organizing drive.

Charlie tried to call his old friend an attorney who had helped incorporate Quality and written Charlie's will. The lawyer was out of the office and would not be back until the next day. Charlie then got back into his normal daily routine.

Later in the day, the plant superintendent reminded Charlie that there was one employee he thought should be fired due to attendance problems. That particular employee had only been employed about 4 months. Recently, the employee had been complaining about things around the shop and his work performance was pretty bad. Charlie decided the employee should be terminated. The employee's name was Dick Smith.

The next day, Charlie's attorney friend called and a meeting was arranged to review the NLRB papers. He admitted that he was not an expert in labor laws and advised Charlie to contact a labor specialist. Until then, Charlie was told to do nothing with hourly employees about the organizing drive.

Charlie arranged a meeting with a labor expert—a man named Richards—for Thursday—4 days after the NLRB petition had been received. Richards was the closest labor lawyer specialist to Charlie but, at that, 125 miles away.

CHARLIE HAS A REAL PROBLEM

When Charlie finally got to Mr. Richard's office, Richards looked at the election petition. Richards sighed, and stated that Charlie had a real problem. There had been a significant change in the labor laws which really hurt Charlie's chances of effectively communicating with his employees in response to the valve workers' organizing drive.

Attorney Richards said that in early 1978, a "labor reform" bill passed the House and Senate. Richards said that the "reforms" were written in a complex fashion. Richards continued that despite being captioned as "reform," the bill actually contained major substantive changes in the basic labor law.

The bill was an effort by organized labor to increase the percentage of the American workers that belonged to unions, since unions had been losing more NLRB elections and membership, generally.

Finally, Richards noted the bill contained provisions which upset the balance between labor and management that existed under the prior law. The new legislation was just plain unfair. Richards concluded by saying that as much as he would like to he could not be at all optimistic.

Charlie was not prepared for this kind of reception. He felt strongly that his employees neither wanted or needed the valve workers union. Charlie was not sure he had the right lawyer. What was going on? Who was this guy to be acting like everything was lost? What gives? There had been no election, no campaign, no chance to talk with employees about the union.

Charlie had just about had enough and he told the lawyer so. Richards replied by saying, "Let's talk about the election procedures. Under the old law, I would now contact the NLRB to arrange a meeting with the union to work out all the election details. Seventy-five percent of all NLRB elections were set up by agreement under the old law and, 80 percent of the time, the election occurred 45 days after the petition was filed."

THE ELECTION TIMING

All that is now changed. In Quality's case, the union claims that 70 percent of employees have signed valve workers union cards. Richards said that, under the law, any time the union organizer can get more than 50 percent signed up, the NLRB must run the election within 25 days after the petition is filed. The petition was filed on November 1, 1978. That means the election would be run before November 26. Since November 26, 1978, is the Sunday after Thanksgiving, the election will be on Wednesday, November 22, 1978. That is 9 working days from now.

Charlie was quietly "going bananas." Finally, he erupted: "We can't do that. November is one of our busiest months—I don't even know the issues the employees are talking about—who knows what made employees mad—who knows what the union organizer has told them. Besides that, I can't believe that 70 percent of my employees would sign union cards. Lots of those guys have been with me for years."

"Well Charlie," Richards said, "I know Frank Davis the organizer who filed the petition for the valve workers. He is a seasoned professional."

Richards went on: "Davis may look and talk like a 'good old boy' from 'down home,' but, when it comes to working behind the scenes and getting union cards signed, he is a master."

DIFFERENT RULES

A typical union card will say nothing about what employees will get if they have a union. But, the organizer almost always makes lots of promises to get employees to sign cards. A big wage increase, more holidays and vacation, better insurance or pension—whatever

seems to appeal. Pension for the employees near retirement, a big raise for the young single guy—you name it—the organizer will say or imply that the union will do anything "if only the employee would sign that card."

Charlie said that he had been led to believe it was not legal to make promises to employees during a union organizing campaign. Richards replied that was true of companies but it is not true of union organizers or their inplant organizing committee. They can promise and talk about almost anything but the company does not have the same privileges. Charlie said that he had been thinking about a pension plan. His company did not have one. Probably some of his older employees might be upset because they would not have something for retirement. Was Richards saying that Charlie could not tell employees he would be putting in a pension plan. Richards said that was exactly what he was saying. The organizers can promise a pension plan but Charlie cannot say anything about possibly having such a plan.

WHO WILL VOTE?

At this point Charlie said: "OK—you're telling me that the union picks the time for the election.

"Now tell me who is going to be able to vote? What about the warehouse we have? There are eight hourly employees over there. That could make a lot of difference in a vote."

Richards told Charlie that, under the old law, Charlie would have been entitled to a hearing at the NLRB's local office to decide the voter eligibility of these employees before the election. Under the new law, the NLRB will quickly decide who votes and the election will be held before there is any chance for a hearing on these questions.

The new law permits the union organizers to get the election held in 45 instead of 25 days when the organizers need more time to get employees signed up, but the NLRB itself can postpone the election up to 75 days only in cases where there are the most unique and novel legal questions. The eligibility of warehouse employees and local truck drivers 3 miles away is not a unique or novel question.

The only way the votes of these employees might be raised as an issue later on would be if these employees came over to the main plant and tried to vote. If their eight votes would make a difference in the election, Charlie's company might be able to litigate that issue after the election.

Charlie said: "OK. If that's the best we can do, I'll make sure that all the employees at the warehouse are told to stop work and get over to the main plant and try to vote." Richards quickly told Charlie that it would be illegal for Charlie to put pressure on employees to force them to vote.

WHAT ARE THE ISSUES?

Charlie then asked what he could do to get his views on the union across in the campaign. Richards said that he had advised many clients in campaign situations and he had many sample letters to employees in his files. What he needed to know from Charlie was what issues the union organizers had been talking about. Charlie said he did not know but he could find out by asking all the employees. He said he started to have that done, but his plant superintendent was concerned that it might be against the law.

The labor attorney said it would be against the law to interrogate employees about the union. The best thing Richards could advise would be that Charlie take some possible campaign letters along with him for review.

The letters dealt with subjects the lawyers said organizers usually do not talk about, such as strikes, union dues, the union's constitution and bylaws, the facts on collective bargaining, and the adverse affect a union at Quality Valve could have on customers who are concerned about deliveries being cut off by the possibilities of a strike.

ORGANIZER'S ACCESS

For years, Richards explained, unions have had and used various methods of communicating with employees before and during the campaign. For example, meetings at employees' homes have always been very effective for organizers. Companies are not allowed, however, into their employees' homes for that purpose. Also, organizers often have get-togethers in bars and restaurants. The company, however, is not allowed to assemble its employees during the final 24 hours preceding the election. Richards explained that the only time a company could effectively speak with its employees was at talks in the plant.

A puzzled look overcame Charlie. "I can still talk to the employees in the plant, can't I?"

Richards responded yes, but that the new law gave the organizers the right to come into the plant and speak to employees on company time anytime Charlie or his management made a speech at work about the union.

Charles was fit to explode. He told Richards it seemed very unfair, with all the ways the organizers have to get to the employees, that Congress would give organizers the added right to use company's work time and premises to politic. By this time Charlie knew that organizers are trained salesmen but that people like Charlie know almost nothing about unions and campaigns.

Richards did say that Congress thought they were giving companies something by giving them the right to speak at union halls. This is really a meaningless sham because only the committed union voters attend union meetings. Charlie genuinely doubted his chance to get a fair reception from this group.

As Charlie was leaving he got a call from his secretary—the valve workers had filed a charge with the NLRB saying that Dick Smith was fired for supporting the union. Charlie paused, hung up the telephone and told Richards the news. Richards told Charlie to bring the charge with him and they would discuss it at their next meeting.

CHARLIE'S SECOND MEETING WITH RICHARDS

Charlie met with Richards again on November 14. He gave the Smith charge to Richards. Richards explained that he had already called the NLRB office and was informed that an injunction hearing was being held to get Smith back to work. This, Richards explained, was yet another new NLRB law. Richards informed Charlie that while they could try to beat the injunction, it was a long shot that would probably take Charlie's time as well as that of his superintendent for 3 full days. Charlie responded that he already did not have enough time to prepare for the election, "tell the NLRB we will take him back."

THE ELECTION, CAMPAIGN, THE UNION PROMISES

Charlie said he found out a lot about what the union organizers have been saying. Listen to this list:

The union organizers are saying they will get employees an immediate $1 per hour raise, 20 percent more than the $5 the average employee now earned, which is the highest in town.

The union organizer is promising to get employees a pension plan.

The union is promising to guarantee employee sick leave benefits.

The union is promising to get employee three more holidays in addition to the 10 they already have. The national average is 9 or 10.

The union says it will force the company to fire the plant superintendent. It is illegal for the union to demand this in bargaining.

The union promised to prohibit the company from asking employees to work on Saturdays or holidays.

The union has implied that their stewards will effectively take over the running of the shop after the election.

The union says that once the union gets in, employees will be allowed to pick their jobs or machines each day.

The organizers have also told some employees that if they do not like the union after a year they can just vote it out. NLRB rules will not permit any vote for 3 years if a 3-year contract has been signed.

The union told employees that their wage rates were well below those existing in other valve worker contractors.

HOW IT STARTED

Charlie said there were other promises but the most important thing he had learned was how the campaign got started back in September.

Dick Smith started things. He worked in a plant organized by the Valve Workers Union in a northern State. When Smith returned home in early August, he got himself hired at Southern Valve. After the Variety Parts trouble occurred in September which forced employees to work the Labor Day weekend, Smith started going around telling employees that Charlie did not have to schedule work that weekend. He told employees that the plant superintendent deliberately arranged the delivery problems so that holiday work would be required. He also said that Variety Parts was not in trouble with its customers and that they were rolling in money. Smith convinced employees that if Quality Valve had a union, no one could be laid off. He also told employees that Charlie

had gotten rich over the years because employees were paid starvation wages. Apparently when it became known that Charlie was going away with his wife for a long weekend, Smith told every employee who had not already signed a card that he had inside information that Quality had made a $1 million profit in 1977 and Variety had given Charlie a $20,000 bonus.

Charlie explained that he had been trying to deny the stories Smith had told but only some of the employees were listening to him. Charlie was afraid there would be no way he could get the employees to cool down fast enough so that they would pay attention to anything the company could say about the union.

CHARLIE'S SPEECH

Richards spent most of the next 2 days at Charlie's plant working with the company on a speech Charlie could make to employees. It took a lot of time to prepare because they had to get the facts on the claims the union had made about wage rates under their contracts. In the time available, it was impossible to get copies of a valve worker's labor contract. Telephone contacts, however, convinced Charlie that the union organizers claims were exaggerated in some cases and outright lies in other cases.

Charlie was paying wages above those of other companies in his area and in many cases above those paid under labor contracts negotiated by the valve workers across the country.

Richards also provided information on some of the other union claims. For example, he told Charlie that the union won't run the plant, they can't control the hiring of supervisors or the firing of a plant superintendent and they can't prevent layoffs due to business conditions.

Because of this research and preparation, Charlie's speech could not be made until Monday, 2 days before the election. It was given and it seemed to have impact on a number of the employees, but, Charlie's efforts appeared nullified when the union organizers demanded their right under the new law to speak to the employees about the union on company time.

THE ORGANIZER'S REPLY

Organizer Frank Davis talked and spent the whole time criticizing Charlie, the plant, and the wages and benefits employees were not receiving. He repeated every promise he had made to employees before and added many others. He asked the employees why, if Charlie cared so much, Charlie had not promised to do anything for the employees? The organizer said that Charlie was lying if he told them he could not make changes or promises during a union campaign.

Charlie tried to answer these comments in the meeting but he was heckled and ignored. Dick Smith was the chief heckler. Charlie left the meetings wondering whether anything he said was actually heard.

THE VOTE

The polls were opened by the NLRB agent and all 45 employees in the main plant voted. Later during the voting period, three of the warehousemen and two of the local truck drivers from the distribution center arrived at the polls. The other truck driver was out on a run and the two remaining warehouse employees decided not to even try to vote. They were confused over whether they would be part of the bargaining unit if the union got in. Because they were not on the voting list, the five employees from the distribution center were challenged by the NLRB agent and their ballots were set aside.

When the polls closed, the NLRB agent opened the ballot box and counted the votes. The result was announced as 24 for the union and 21 for the company with 5 votes of the warehouse employees not counted. Charlie had been told privately by each of these five employees that they were against the union. If their votes had been counted, the union would have lost.

CHARLIE'S NEW DILEMMA

Charlie was bitter but he felt he still had a chance if he could get the NLRB to count the challenged ballots. He immediately went to see Richards.

Richards told Charlie that the question of the eligibility of the challenged voters was a very close legal question. The Regional Office and the Board might therefore rule that the ballots not be opened and the result would be certified.

Then, the next change under the new law came into play. Under the old, as well as the new law, if a company wants to appeal an adverse NLRB election decision to the courts, it had to deliberately "refuse to bargain" with the union. This is technically an unfair labor practice but for years it has been the only way open under the National Labor Relations Act to appeal questions involving election issues.

If the appeal to the court is lost, however, a brand new penalty comes into play. Any company found guilty of a deliberate refusal to bargain on a first contract will have a labor contract imposed on it by the NLRB. The contract would be backdated to the time the NLRB decides the contract would otherwise have been signed. These imposed contracts require a very inequitable result for companies since the terms are to be devised by the NLRB based on settlements in labor units of 5,000 or more employees. That could bankrupt a small company like Quality Valve.

SMITH CASE

Well, Charlie asked, can this in any way tie in with the Smith case. Richards said that because Quality sold to Variety, it was considered a government contractor. Under this new law, unfair labor practices like the refusal to bargain we just discussed and Smith's discharge could result in your being barred from contracting with the Government for 3 years.

"No" exclaimed Charlie," without Variety I'd have virtually no business left."

Charlie picked himself up, stared at Richards and said that he had a lot of thinking to do.

CHARLIE GIVES UP

Two days later Charlie was back in Richard's office. He said that he felt defenseless and victimized by the union and it seemed the law was unfair and against him. If he even tried to stand up for his rights, he stood to lose a lot of money and have a labor contract imposed on him that was totally unrelated to his business, and possibly even lose the right to continue selling to the Army. This was too much to take and it was not worth it. Charlie told Richards to get him out of this mess. Sign a contract—let the employees pay union dues to the organizers if they wanted to—Charlie had only a few more years to retirement and he would not ruin his health and his business over this.

Charlie left Richard's office confused and upset. As he was walking out the door he asked Richards, "Why?" Richards turned away, glanced out his window, shook his head and said nothing.

CONCLUSION

This scenario is typical of what can be expected to occur time and time again across the country in small businesses. I might remind my colleagues that small businesses account for the majority of employment in this country. They are being targeted by this proposed legislation and will be affected most by changes in union election procedures that are proposed in both S. 2467 and H.R. 8410.

While the labor unions have tried to portray these bills as mere procedural remedies to get at the so-called violators, it is obvious that the real intent of these bills is to intimidate small businesses from exercising their rights. What small businessman could afford to exercise his rights of free speech if everytime he addressed his employees about a union's organizing drive, he had to stop work and pay his employees while he provided equal time to the unions to speak? Small businesses which cannot afford the legal expertise to defend themselves against entrapment efforts by the labor unions, and which could not afford the punitive remedies which could be imposed by this bill will simply allow the unions to come in. Even the Small Business Administration has concluded that the penalties for noncompliance are so severe, most small businesses when confronted with union organizing drives will likely give up in advance. It is clear that this is the intent of this legislation.

I would like to conclude by stating one of my basic objections to passing this legislation is it would force unionization on the most important, and already heavily burdened, segment of our economy: small business.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

The Senator from North Carolina.

Mr. HELMS. I wonder if the Senator from Utah would yield to me with the understanding that he would not lose the floor and he would not be considered as making a second speech?

Mr. JAVITS. Well now, reserving the right to object, Mr. President, I think in

view of the injunction of the majority leader it would be well—and we certainly will not object for a time—if those who are undertaking a second speech, like the Senator from Utah, would when they started, ask unanimous consent that they may speak notwithstanding that it is a second speech, so that we have some notice of what is going on.

I assure the Senators we will not object, certainly for the next few days, but I do think it would only be proper to recognize the injunction of the majority leader delivered to us all.

I have no objection.

Mr. HELMS. Mr. President, the Senator's point is well taken, and I agree with him. I shall only be 2 or 3 minutes.

The PRESIDING OFFICER. Is the Senator speaking in his own right then?

Mr. HELMS. It is my understanding that the Senator from Utah has yielded the floor.

The PRESIDING OFFICER. That is correct. He yielded to the Senator from North Carolina.

Mr. HELMS. That is correct. I thank the Chair.

DR. LEO W. JENKINS—A REMARKABLE MAN WHO BUILT A REMARKABLE UNIVERSITY

Mr. HELMS. Mr. President, on May 12, Mrs. Helms and I traveled to Greenville, N.C., for the "retirement" of a man who will never really retire—Dr. Leo W. Jenkins, chancellor of East Carolina University.

It would be more accurate to say that Leo Jenkins, a longtime friend of mine, finished one distinguished career on May 12—and began another.

Leo is a native of New Jersey, I will say to my able friend, Senator WILLIAMS, and Dr. Jenkins has recently been honored by the legislature and the people of New Jersey. But since 1947 this former Marine from the State of New Jersey has been a North Carolinian, and what a North Carolinian he has been.

By prodding, pushing, cajoling, working, pleading—and by every other honorable means—Leo Jenkins has built a relatively small teachers college in eastern North Carolina into a great university. He was president of that university until it became a part of the great Consolidated University of North Carolina. Then he became its chancellor.

It was on May 12, the occasion of the 40th commencement exercise over which he has presided at the institution at Greenville, that Leo Jenkins concluded his tenure as head of East Carolina University. Mr. President, in case Senators are wondering why Leo Jenkins has presided over 40 graduating exercises, when he has been at ECU for 31 years, it is because the institution has had two graduating classes during 9 of the years.

It was fitting, of course, that Leo Jenkins deliver the commencement address on May 12. The students and faculty wanted him to do it. In earlier years, all manner of distinguished citizens, from within and without North Carolina, nave delivered the commencement address. But this time, appropriately, they wanted Leo Jenkins to do it.

It was a memorable occasion, and it was a memorable address. I was immensely proud of my friend—as I always have been. Sitting on the stage with him, I could see Leo's dear wife, Lillian, and their children and grandchildren. Leo's mother was there, gracious and proud, as were all the other members of his fine family.

Upon completion of his duties at East Carolina University, Mr. President, Leo Jenkins moves to another challenge. He will be a special assistant and consultant to the distinguished Governor of our State, Jim Hunt. Also, I imagine that Leo Jenkins will be making some speeches around the country. He is an eloquent man. He is a man of high principle and sound judgment. He is a no-nonsense educator. He understands the free enterprise system, and he has been one of its most dedicated supporters. He has a message for America, and America would do well to listen to it.

In short, Mr. President, Leo Jenkins is a remarkable man, and I want my colleagues to have an opportunity to read the commencement speech which he delivered on May 12. For that reason, I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the address ordered to be printed in the RECORD, as follows:

DR. LEO W. JENKINS, COMMENCEMENT ADDRESS

Governor Hunt, Governor Sanford and Governor Scott; Congressman Jones, Class of 1978 and your families, Chairman Pate and Trustees, Members of the Board of Governors, Senator Helms and Senator Morgan, Lt. Governor Green, Speaker Stewart and other distinguished legislators and citizens here today, Ladies and Gentlemen.

It is with nostalgia and honor that I stand before this graduating class—the 40th such occasion since I come to East Carolina. Now, I face you at this, my final commencement as your Chancellor. We have lived a long memorable history together. In 1947, the year I arrived, 163 students received their diplomas. Today, we have Deans among us who are witnessing over two times more students graduating, within their schools alone, than the 1947 Class of 31 years ago. I would also like to note that Senator Robert Morgan was among those graduating in 1947. We are pleased that he could join with other distinguished guests in honoring the some 2800 who are receiving degrees today.

This moment belongs to the Class of 1978, their parents and loved ones; and, this is a very special day in my life. Therefore, I would like to reflect on a personal note for a minute or two.

There are far too many moments, which my family and I cherish, for me to cover in my brief time on this platform. If I were to express my feelings about each distinguished official with us today, about my 1700 associates on the staff and faculty, and about the many friends who are present in the audience, we would be here several hours.

On behalf of my family and myself, I would simply like to say to each of you, thank you for your wonderful friendship and understanding, which will live in our hearts forever.

Our greatest resource, as is often said, is our people. My friends, this is true in North Carolina and this institution has been a major benefactor. We need only to look to our honored guests here today, on this platform and in the audience. These distinguished leaders are responsible for helping achieve the greatness we see in this University. Along with their leadership and loyal support, the citizens of eastern North Carolina and across the state made possible the strength and resource we needed to serve to our full potential. And, there are magnificent achievements which will yet be realized, because of the faith and support held for East Carolina University.

I trust history will record that together we have done a good job in meeting our responsibilities. We have been part of a unique era in higher education in North Carolina and America, marked by rapid and successful growth. We have helped to transform college and university opportunities from a once elite enterprise to a framework fully within reach of the average citizen. We are proud and grateful that we were afforded the opportunity to serve a major role in this great transformation, in North Carolina and our Nation.

I would like to share with you some thoughts on philosophies and relationship which have become characteristic of this institution. Each of us has helped to light the beacon of hope which inspired us to reach high in what we sought to achieve.

In reflecting on this University's 71 years of history, we look back upon a great tradition of service. This tradition was established within a concept recognizing that we are owned by the people of North Carolina. The citizens have allowed us to devote our full capacity to serve this state's interests and ambitions, and to help achieve social and economic fulfillment.

Our partnership with the people has been warm and meaningful. It has helped us expand our work far beyond the confines of this campus, to meet our obligation to serve faithfully the full community which sustains us.

Our community is local, it is North Carolina, it is the nation. But it is even more than this. Our allegiance is also embodied in the larger community called fellow man. Our faculty, our graduates, and our friends have always been men and women who were conscious of these obligations and proud to meet this magnificent challenge. I am confident that this will continue.

The spirit in which this University has operated is based on a two-way street of communication with the people. We have respected the right of every citizen and group from communities to come to us with ideas, suggestions and requests for assistance. Likewise, we have fully exercised our right and obligation to go into communities and extend the services of the University wherever we saw a need we could fulfill.

My fellow citizens, this has paid great dividends. I could hardly name a major program this campus has undertaken over the past three decades which does not have its origins in this two-way street of communication. We can look around us today and fuly appreciate the fruits of this partnership. This covenant with the people will continue to sustain East Carolina University.

We are known as a university which faces the future, and we can be assured that the tasks ahead will equal those that now are history.

We cannot rest on our past accomplishments. Tomorrow we face tough challenges in accommodating new circumstances and demands. We are living in fast changing times and pressures are different and more intense. Events happen faster, and our lifestyle and culture react to the sophisticated developments of our generation. We experience this in every phase of our life—when we eat, when we travel, when we work, when we study, and in our leisure.

And, my friends, we will have to help our communities, our state and our nation reassess the way we live and think. As just one example, the society we know today evolved from a state of abundance in America. Until recent times there were seemingly unlimited supplies of energy, land and water. We now know that this abundance was never real. And, there are other new realities that pose challenge for the future. We now must undertake the difficult job of facing these changes and helping to build a still better America.

Even with tremendous change, the basic goal of education to experiment and use knowledge to improve human life has not been altered. We must never allow complexity to blur the road before us, and we must not view the future with a negative assessment. If we do, we could lose our capabilty to even faintly approach the problems which are thrust upon us.

So, the challenge for higher education and this University is to provide our young people with knowledge, as well as insight equal to the responsibilities society will place before them. This challenge goes far beyond the scope of a chosen field of endeavor or profession.

We must continue to work within the American tradition of democracy and support its principles, accepting the broader commitment to help preserve and improve the American system of government. It is important that our people understand and love democracy. They must guard the principle that democracy is the individual, and the human being is both the means and the end to our American way of life.

We must help create an understanding that education is intertwined with democracy. We have to maintain a strong commitment to place in the forefront the freedoms and benefits, and the duties and responsibilities of the young citizens who, in the future, will assure that the great American experiment continues to work.

What are some of the basic freedoms and benefits we expect from our government? We must be assured protection from our enemies, and even from government itself. We expect to be the benefactors of a system of government dedicated to individual freedom and development. We choose our profession, our hobbies, and our church. We read the free press and we listen to media airways which are unrestrained in expression of ideas and interpretations of issues of the day. And, we have grown to expect our government to be driven by the love found throughout our history, which compels us to make every effort to provide the basic human needs of the less fortunate in our land.

But there is the other side of the coin. There are responsibilities. These blessings that we take for granted cannot be sustained through wishful thinking and non-involvement. And, education must bear much of the accountability for meeting these responsibilities inherent in our American system.

We must help create the desire and sense of duty in our young people to participate constructively in their government and the political process. They must want to help solve the frailties and evils that may exist, and inject ideas and demands which embrace the legitimate obligations of a government by the people. History shows that if we do not have this involvement by the people, our system will not continue to work.

As we encourage citizen participation, our universities also must instill in our young people the idea that competition is a vital ingredient in our democracy—and in their lives. There are great rewards in seeking achievements which set us apart, and serve and inspire others. Young Americans must be encouraged to have a burning desire to make their profession and their business or organization the very best. We must never be satisfied unless we feel that our University, our town and our state are among the very best in America. My friends, this is what our great country is all about.

If the Class of 1978 understands this, then they will be better able to accept the reality that our system demands a tremendous amount of energy, skill and desire—from the individual. Without this awareness, so fundamental to America, then we could become a community, a state and nation without motion, stifled by old solutions which do not match the problems of the day.

There is a major responsibility shouldered by this University and its graduates. We must nourish the opportunity for our people to enjoy and help preserve our rich cultural heritage. A glance at the past often provides a guiding light for the future. We have much proud history in our Nation and State. And, we take great pride in eastern North Carolina, which was the cradle of government, culture and commerce for this region of America for some 200 years ago. As a center for culture this University must continue to communicate our past to future generations.

The thoughts I have shared so far underscore our belief that education and a university are far more than a discipline of study, more than a center of learning. Scholarship is vital and must serve as the foundation for any worthy institution. However education is also the child of a free society, and bears the broader responsibility of helping assure that the bountiful blessings of Democracy are protected and nourished for future generations. I am confident that the Class of 1978 will harness the physical and intellectual resources needed to meet the wide ranging purpose which they face.

In closing I would like to express a few thoughts to some very dear people within this University family.

To the Class of 1978, I extend my thanks and my congratulations, and my challenge. Both you and I have reached an indelible milestone in our relationship with East Carolina. Both you and I owe a great debt that we must seek to pay. We have been nurtured here, have grown and developed here, and we have found excitement and learning. We, and all who have gone before us have a responsibility we cannot shirk—a duty we cannot fail. We will loyally accept what we are called upon to do in helping assure that East Carolina's vitality grows.

To the students, I would like to thank you, for giving life and spirit to East Carolina University. You have been a great source of inspiration for me. There is something very special about the good will and lively pride that characterizes our students, and this has spread to every activity and corner of our campus. It is a positive fever, a faith and trust, which follows into communities throughout North Carolina.

To the faculty and staff, I am indebted for your friendship and for the faithful service you have given to this University during crucial years. You have extended our horizons to national prominence. Your achievements have been so numerous that I could not possibly keep account of them. And, most importantly, you have given full devotion to the students whose lives you have affectionately imprinted forever. I will always remember the abundance of faith, trust and love you have given to me for so many years.

To the Trustees, thank you for your leadership, understanding and sacrifice reflected in every corner of this institution; in our programs, in our facilities, and in our hopes. You have labored for progress and you have helped assure our close ties with the people we serve. The debt to you can never be repaid.

To the Alumni, I am grateful for the common bond we share, which nurtures our cause. You have shown love for your Alma Mater and you have strengthened its existence through your support and through the outstanding contributions you are making to North Carolina and to the Nation. You provide the measurement of how successful this institution has been, and you brought us distinction. I am proud, indeed, to say that 85 percent of our alumni passed through the halls of this University during my 31 years here.

To Governor Hunt, Governor Sanford and Governor Scott; Congressman Jones, to Senator Helms and Senator Morgan, to Lt. Governor Green, Speaker Stewart and other distinguished legislators here today, to President Friday and the U.N.C. General Administration, to the Board of Governors, to the citizens of North Carolina who embraced the cause of the University, I say thank you. You afforded me the rich opportunity to serve this great institution and the state of North Carolina, and you gave encouragement, advice and support from which the very future of this university rested. Through your vision and steadfastness we are today awarded the great pleasure of gathering on the grounds of one of America's great centers of learning.

To all of my friends, I will forever be indebted to you for allowing the story of Leo Jenkins to be realized. This warm community opened its door, took me in, and gave the opportunity to pursue a career richly endowed with deep personal satisfaction.

Let me say that I take with me the pride and the dreams of East Carolina University. I will forever hold closely the love and affection which flourishes within our circle, raises us above ourselves, and serves us with hope and reward. And, above all, I take with me the lasting commitment to answer the call of East Carolina—whenever and wherever I can serve.

Let us now press on.

Thank you and I wish each of you Godspeed.

Mr. CURTIS. Mr. President, will the Senator from Utah yield to me?

Mr. HATCH. Mr. President, I ask unanimous consent that I may yield to the Senator from Nebraska without any subsequent remarks being considered a second speech, and without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONFERENCE OF MAYORS VISITS CUBA

Mr. CURTIS. Mr. President, there has come to my attention a memorandum issued by the staff of the U.S. Conference of Mayors which I believe is worthy of our attention. It is dated May 11, 1978, and addressed to all mayors and city officials. It advises them of an official visit to Cuba. The body of the notice is as follows:

The purpose of this notice is to advise you that there are still vacancies available for the U.S. Conference of Mayors official visit to Cuba. As I indicated in my previous notice, after many months of negotiations with the Cuban authorities we received an invitation for an official visit to Cuba. The Conference of Mayors has chartered a 100 passenger Southern Airways plane. Seats are still available. The plane will leave Atlanta on Wednesday, June 21 at the conclusion of the Annual Conference and return to Atlanta on Wednesday, June 28. Attached you will find an official itinerary for the trip.

Total cost for the trip per person is $495. This amount includes round trip air transportation, deluxe and first class hotels in Cuba including meals. Transfers from airport to hotel and back including porterage

and all transportation within Cuba is also included.

Reservations are open to all Mayors, local officials, and local staff and families. We urge you to send in your reservation immediately.

Mr. President, I think this raises some rather serious questions. I do not believe that Cuba can be regarded as a friendly nation. Cuba is acting as a surrogate for the Soviet Union. Cuba has extended its aggression into several continents. Cuban troops are on the scene where trouble is being fomented in Africa. The news of the last few days tells of the blood bath in Zaire. Cuban troops are reported to be involved in the Middle East, particularly in South Yemen. Much of the concern over the Panama Canal treaties involved the questions as to what would be the involvement of Cuba and of Castro in the years to come.

Mr. President, what is there about this trip that makes it "official"? Is the Conference of Mayors involved in formulating foreign policy for the United States? Has the Carter administration authorized, in some other manner, this excursion to Cuba as an official trip?

Mr. President, in the CONGRESSIONAL RECORD for May 10, 1978, there is an article on page E4291 by the Honorable ROBERT K. DORNAN, Representative of the State of California. In that article, Congressman DORNAN quotes a British authority to the effect that, at the present time, the Russians are building a pen for their nuclear submarines in the Cuban port of Cienfuegos. I commend the reading of Congressman DORNAN's article to everyone.

Could it be possible that the Carter administration is so anxious to recognize the Castro government of Cuba that they are overlooking what Cuba is doing around the world?

Could it be possible that the mayors are seeking to gain the favor of the administration in order to get more funds from the Public Treasury?

Mr. President, I thank my distinguished colleagues for yielding.

LABOR REFORM ACT OF 1978

The Senate continued with the consideration of H.R. 8410.

Mr. HATCH. Mr. President, yesterday I had the privilege of viewing the program "Issues and Answers" on television. It involved a debate between the Secretary of Labor and the president of the U.S. Chamber of Commerce.

During the course of that debate, the chamber of commerce president, Mr. Richard Lesher, raised the point that the Office of Advocacy of the Small Business Administration had prepared a paper which indicated that this bill is detrimental to small business, in fact devastating to small business.

The Secretary of Labor stated in reply that that was the work product of only one person, if I recall his statement correctly; that it was the work of one person, that the head of the Small Business Administration had repudiated that report, and that the Department of Labor had written another report explaining where that one was wrong.

Inasmuch as I was the person who finally, after weeks of effort, was able to get that report, maybe it would be good for the record for me to make clear just exactly what did happen, because this was the second major stonewalling that we faced on getting basic governmental reports with regard to this bill.

The first my inability to obtain the economic impact analysis of the General Counsel of the National Labor Relations Board. He refused to give it to me, initially. As a matter of fact, he said he could not give it to me because the Office of Management and Budget had impounded that report. It was only after we were able to, with the cooperative help of the chairman and other members of the Human Resources Committee, get another day of hearings and demand that the Chairman of the National Labor Relations Board, another member of the Board, and the General Counsel appear before the Human Resources Committee that they actually came out with that particular report, which showed that the minimum clerical costs which will be incurred as a result of this bill—and I believe the General Counsel of the NLRB indicated that these were conservative estimates—would be $28 million, and that did not include the $2 million for the extra two Board members to be added to the National Labor Relations Board pursuant to this bill.

Moreover, it did not cover the $3 million for additional lawyers to be added to the staff of each of the administrative law judges and additional ALJ's, nor did it cover the $12 million which the President was already going to give to the National Labor Relations Board for maintaining its efficient operations. This is a total of $45 million, for a buildup in 1 year over the $88 million in last year's budget of more than 51 percent, which hardly looks as though we are trying to hold the line with regard to inflation in bureaucratic and governmental costs, at least with regard to the NLRB. If that were the only case in Government, that would be one thing, but there are hundreds of others where we are increasing the costs of the bureaucracy in dramatic ways, to the expense of every taxpayer in our society.

That was the No. 1 example of stonewalling. It was no easy thing to get that report, but that was child's play compared to what I had to go through to get the report from the Small Business Administration.

We, through our friends in Government, found out that the Office of Advocacy of the Small Business Administration had prepared a report which indicated that this bill was devastating to small business; that if it is passed it will have a very detrimental effect upon small business.

I called Vernon Weaver, the head of the Small Business Administration, and said, "Mr. Weaver, I would like to have that report."

He said, "Fine, I will send it to you, and I will send a letter accompanying it."

I said, "Good. I will send somebody down to pick it up right now."

He said, "No, that will not be necessary. We will send it up to you.

That was on Thursday. I had to leave that afternoon to go out of town and would not be back until the next Monday. When I got back the next Monday the first thing I checked on was whether or not we received that report of the Office of Advocacy of the Small Business Administration.

I called Mr. Weaver and he indicated that, to land behold, the Office of Management and Budget had put an impoundment on that, the second stonewalling we received with regard to this bill in not too lengthy a period of time.

I said, "Wait a minute. You promised to send that up to me. You promised that you would write a letter with regard to it."

He said, "ORRIN, I will try to get it for you but I don't want to have happen to me what happened with regard to the Consumer Protection Agency. I wrote a letter indicating that that bill would be detrimental to small business and I got," to use his words, "beaten up so badly by the administration that I had to write another letter saying that the Consumer Protection Agency was not too bad with regard to small business."

He said he did not want to have that happen to him with regard to this.

I said I did not want it to happen to him either.

He indicated that he agreed with this Office of Advocacy report, and I believe he still does. A short time after that he promised me he would be sending it to me by Thursday of that week. It just so happened that I was in Boston appearing on the "Advocates" program. I called the SBA and I asked him about the report.

He indicated that he was having difficulty getting the report released so that he could send it to me, but that he felt that he could. He was alarmed because there was a lot of heat on his agency. He still felt that he could sent it to me but he was told that he would have to allow enough time for the Department of Labor to write a whitewash paper with regard to this bill, and a whitewash paper with regard to the Office of Advocacy report.

I said, "Fine."

Actually, he was in visiting the President when I called again and scheduled an appointment for the following Monday, as I recall. The next thing I knew he had a visit with Mr. Ray Marshall, the Secretary of Labor.

Finally, after 2½ weeks of very dedicated and very strong talking we were able to get this report, accompanied by the whitewash paper of the Department of Labor, which is, in my opinion, a very poorly written document that does not make much sense in comparison to the Office of Advocacy document, and accompanied by a letter from Mr. Weaver which he said replaced the earlier letter he had written to me. I do not know what happened to his earlier letter. It would have shown his support of this Office of Advocacy report.

This letter basically disclaimed, if you will, the Office of Advocacy report of the Office of Small Business Administration.

What bothered me is that apparently he has been beaten up again. This administration wants this bill because the leaders of the labor movement want this bill regardless of what it will do for America or to America.

(Mr. HODGES assumed the chair.)

Mr. HATCH. I happen to know, or at least I feel fairly strongly about this statement, that F. Ray Marshall knew about these conversations, knew about Mr. Weaver's belief that this bill will be detrimental to small business. When he was on "Issues and Answers" yesterday and said Mr. Weaver is against this report, he may be now, but if he is it is because he has been, to borrow his words, beaten up again by this administration.

I personally felt that Mr. Marshall knew he was wrong and yet in his zeal to continue to do everything the big labor leaders in this area want him to do he was willing to gloss over the fact that this was a serious matter, that a U.S. Senator would have to actually almost beg for a report done by one of the offices in Government today, and then have the director of that particular agency have to rewrite his letter in order to comply with the wishes of the labor union leaders rather than to be able to say what he really deep down in his heart believed about this particular bill.

I wanted to clarify that because I think it is a serious problem in our times.

It was only a couple of years ago when all kinds of criticism broke loose, all kinds, because a Republican President had stonewalled certain other things. I think there is a pretty good case to be made here that somebody is not telling the truth.

Having lived through that personally, and those are the facts, I want to give another illustration.

A week ago right here on the floor—it is unrelated to this bill but it is making the same point—rushed through the Senate was the appointment of Mr. David Gartner to the Commodities Futures Trading Commission here in Washington. Mr. Gartner is a close associate of Mr. Dwayne Andreas. Dwayne Andreas has had all kinds of difficulties, as I understand it, with the law. He has been a big booster of various Democrats. In fact, it was his $25,000 that created quite a bit of controversy as a donation to Mr. Richard Nixon. That is after his support of Senator Hubert Humphrey for President. Mr. Andreas has had all kinds of difficulties. His record has been anything but enviable with regard to commodities in this country. Yet David Gartner is a very close friend of Mr. Andreas. As a matter of fact, Mr. Andreas had donated through his company which does $3 billion with this Commodities Commission or shall I say given, $72,000 in a special so-called irrevocable trust account, as I understand it, for Mr. Gartner's children at a time when Gartner was working for Senator Humphrey on the staff of the Senate Agricultural Committee.

This is the same man, Andreas, who put $100,000 into a special trust account for Senator Hubert Humphrey a few years ago, part of which was used in one of his campaigns.

Mr. President, this incident raises serious ethical questions pertaining to the conduct of a former Senate staff member. I would just like to say that if this was a Republican President and there was the appointment by this Republican President of a Republican staffer, say on the Energy Committee, who had just received $72,000 in a trust account for his children, and an appointment was made to head the Federal Energy Administration, or even appointed to be a member of the Securities and Exchange Commission, or to be a member of the Federal Power Commission, I think all hell would break loose in this society today. And yet hardly a word was said on this Andreas-Gartner affair.

Here we have an organization, the Commodities Futures Trading Commission of our Government, handling more money, more billions of dollars, than all of the stock exchanges put together, and we have the friend of Dwayne Andreas just slid right through without any difficulties here on the floor of the Senate, the skids greased by the Vice President of the United States, if we really need to know, without one hue or outcry by the media in our society today. This whole thing reminds me of the famous 1968 Bobby Baker case which generated the formation of our ethics rules in the Senate, and for good cause.

There is something wrong, Mr. President, and it bothers me. When we think of the things which are happening on a weekly basis which are so wrong—coming back to this Office of Advocacy report as a focal point in this particular debate—then it has to make you a little bit sick.

(Mr. RIEGLE assumed the chair.)

Mr. HATCH. It bothers me when the Secretary of Labor, knowing otherwise, will say, on network TV, that the head of the Small Business Administration is for this bill and against his own Office of Advocacy report and tries to drown down that report as though it were not important. I submit that the Office of Advocacy report is one of the most important documents to be brought forth in any legislative battle because, as you know, the Office of Advocacy does not stand alone on that. Every small business organization and trade association in this country, to my knowledge, is against this bill because it is detrimental, if not devastating, to small business.

If the Office of Advocacy report were the only one to come forth and say that, that is another matter. But it did not. We read the names of 350 small business trade associations into the RECORD on the first day of this debate, and they are all against this bill for no other reason than that it is amazingly detrimental to small business.

Mr. President, I think that this comment by Secretary Marshall deserved to be rebutted on the floor of the Senate, especially since I know more about that particular problem than anybody alive, except for the head of the Small Business Administration, and I think that under oath, he would have a very difficult time rebutting anything I have said here today. In fact, he would have an impossible time, because it happened to be true. I do not think he would. I think Vernon Weaver is a fine man and is trying to do a good job and has done a good job for small business in our society. I think it is a pretty difficult thing when agencies in Government have to be beaten up by anybody because their ideas are different than any particular ideology here in the city of Washington.

Mr. President, at this time, I am happy to yield the floor to the distinguished Senator from Alabama, who would like to make a statement.

SENATOR RIBICOFF: PEACE OVER POLITICS

Mr. ALLEN. Mr. President, 1 week ago today, the distinguished senior Senator from Connecticut (Mr. RIBICOFF), in a speech on the Senate floor on a position which he had taken for some time, displayed the very quality of statesmanship that is in keeping with the noblest traditions of the Senate in supporting the President's proposed sale of sophisticated aircraft to Egypt, Israel, and Saudi Arabia. An account of Mr. RIBICOFF's decision and the statesmanlike position which he took on this subject appeared this morning in the Washington Post. I ask unanimous consent that the article from the Washington Post be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 22, 1978]

RIBICOFF'S WARPLANE SALES DECISION: PEACE OVER POLITICS

(By Robert G. Kaiser)

Abe Ribicoff is proud. Yes, it was difficult for him to support Jimmy Carter's "package deal" of warplane sales; yes, there were sleepless nights; yes, the pressure from fellow Jews was intense. But Abraham A. Ribicoff says he believes he made the right choice.

"Let me say this," the Democratic senator from Connecticut said the other day in his office. "There's nothing I have ever done in the Senate that has ever met such an overwhelming approval . . . not only from people who voted on my side but people who voted on the other side.

"I had a lot of senators tell me 'Abe . . . we're ashamed. We agree with you, and we know what it means for you to do this and the pressure you must have been under, we've been under pressure and we have voted the opposite way. [We're] ashamed that you could take this position and we were unwilling to take it.' It was very interesting to me to get that reaction."

Ribicoff—at 68 one of the great survivors in American public life—was perhaps the single most important senator in the debate over Carter's controversial planes sales. Ribicoff's support for the plan to sell warplanes simultaneously to Israel and two Arab states, Egypt and Saudi Arabia, had enormous symbolic value.

For years one of Israel's staunchest supporters in Washington and one of America's most prominent Jews, Ribicoff decided that organized Jewish opposition to the planes sales was "ethnic politics," not befitting a great power with a multitude of interests.

His position infuriated members of the "Israeli lobby" here. One prominent lobbyist for Israeli causes passed along a story that Ribicoff was hoping for an ambassadorship, so he was trying to please the White House. Others spoke more in dismay about Ribicoff's position. One asked how "a good Jew" could favor planes sales to Saudi Arabia.

A colleague who has watched Ribicoff's career for many years remarked on the sen-

ator's gift for drawing attention to himself at crucial moments, recalling his impromptu attack on the "Gestapo tactics" of Chicago's police from the podium of the Democratic National Convention in 1968—while Mayor Richard Daley shouted obscenities from the audience. Even old political enemies in Connecticut, where polls show that senator remains extraordinarily popular, grant Ribicoff's uncanny instinct for political self-promotion.

Ribicoff insists that there are no mysterious or devious explanations for his position on the planes sales. (His aides insist that he is running for reelection in 1980, and not for an ambassadorship.) By his account, he simply studied the facts and came to his conclusion.

In telling the story, Ribicoff indicates that his own involvement in Mideast diplomacy has been greater than generally recognized.

The story begins in November 1976, when Ribicoff made a tour of the Middle East, including Israel and Egypt. In Israel, which he has visited regularly since its formation 30 years ago, he found "great unhappiness and deep social and economic problems, which he thought stemmed from "the great burden of defense."

The picture in Egypt was remarkably similar, and he found President Sadat in a new frame of mind. Sadat told Ribicoff virtually what he told the world in his speech to the Israeli Knesset (parliament) a year later. He said he was prepared to recognize the existence of Israel, to accept it, and he "was not afraid to admit that he desperately needed peace."

In early December 1976, President-elect Carter invited Ribicoff to Washington to talk about the Middle East. They met with Walter F. Mondale, the vice president-elect, at Blair House. Ribicoff outlined his impressions from his recent trip, and said he saw "a great opportunity here to bring peace, and it was obvious that the only country that could do it was the United States."

He also gave Carter a warning, Ribicoff recalls: "Mr. President, I want you to know that you're going to have a hard time from the Jews, and only a Jew can tell you what I'm going to tell you now . . . You have to understand that after 4,000 years of dispersion, of persecution, of death that uppermost in the minds of all Jews is a question of survival . . .

"Every Jew, no matter where he is, has a deep sense of responsibility to his fellow Jews no matter where they are. So consequently this isn't just a rational, intellectual response you're always going to have. This is deeply emotional . . ."

In June 1977, Secretary of State Cyrus R. Vance invited Ribicoff to join him at the ministerial meetings of the Organization for Economic Cooperation and Development (OECD) in Paris. Ribicoff sat in on all of Vance's bilateral meetings with the foreign ministers of other industrialized countries, and was struck, he says, by the way all of them asked Vance about peace prospects in the Middle East.

The last of those meetings was with the Japanese foreign minister, and when he asked about the Middle East, Vance suggested Ribicoff try to answer the question.

He was so struck by the way every foreign minister had asked the same question, Ribicoff recalls, that he answered with a question of his own: Why had the Japanese foreign minister raised the issue? Ribicoff recounted his answer:

"Well, 95 percent of our energy depends on oil. Seventy percent of our oil comes from the Middle East. If that supply of oil was disrupted it would mean the distintegration of Japan economically, politically and socially . . ."

In late 1977 Sadat went to Jerusalem, and in January of this year Ribicoff led a delegation of Senators to Saudi Arabia. "I'd always been reluctant to go to Saudi Arabia," the Senator says. He remembered the Saudis' hard line, and their role in the 1973 oil embargo. "But I said to myself, well, there's a powerful country, I ought to go."

Ribicoff describes this as a revelatory trip. He found American-trained Saudi ministers anxious to maintain their American connection, and already deeply committed to the United States financially. His entire image of Saudi Arabia changed.

On the same trip Ribicoff visited Syria—"a shocker," in the Senator's view. "It was one of the most uncomfortable places I'd ever been."

The Syrians wanted only to lambast Sadat and his peace gestures, and Ribicoff found himself constantly trying to defend the Egyptian leader. The Syrians were livid, he says, but they held out hope: Israeli intransigence, they predicted, would make Sadat's initiative fail.

This was the background to Ribicoff's change of heart about American interests in the Middle East, he says. Menachem Begin was also a factor. Ribicoff opposed Begin's policy on Israeli settlements in the disputed West Bank territory, and flatly rejected Begin's interpretation of U.N. Security Council Resolution 242, calling for Israeli withdrawal from occupied territories—only some occupied territories, in Begin's view.

This winter and spring Ribicoff worked his way through to a new position with his foreign policy aide, Arthur House. "It was a tough position to take . . . there was a helluva lot of pressure on me. Lifelong friends . . . very critical of me."

"There are very few issues that are presented to you where you have to break with an entire establishment, because it's all going the other way and has solidified the other way." That is how Ribicoff felt about the organized Jewish community.

Ribicoff would not say so, but he has a special advantage when he contemplates going against that or almost any other establishment. Connecticut may never have produced a more popular politician, and his Senate seat is as safe as any Deep South Democrat's was a generation ago. A recent poll showed he had a 69 percent favorable rating among his constituents.

Ribicoff signaled his new position in March, in an interview with The Wall Street Journal. He criticized "self-appointed spokesmen who try to give the impression they speak for the Jews," and mentioned specifically the aggressive lobbying of the American-Israel Public Affairs Committee: "They do a great disservice to the U.S., to Israel and to the Jewish community," Ribicoff said.

There was a special irony in that remark. AIPAC is run by Morris Amitay, a former Foreign Service officer who worked as a staff aide for Ribicoff for five years. They have now split sharply on policy issues. Amitay was described by friends as deeply angered at Ribicoff's position on the planes sales.

On the Senate floor last Monday, Ribicoff delivered a carefully written speech on what he called the "new realities": Saudi oil and dollar wealth, the need for peace, the need to support moderate Arabs.

Then in a secret session called at his urging, Ribicoff delivered an alarming (some colleagues called it alarmist) speech on the spread of communist influence in the areas surrounding Saudi Arabia. He used a map on which Iraq, Afghanistan, Libya and other radical states were painted bright red.

[Ribicoff went on to warn that loss of the Saudi oil fields by the West "would trigger a great depression and would probably be a cause of war," according to an Associated Press report based on a censored transcript of the debate released Friday.

["Let the Soviets control that oil—and they are a good way to surrounding it at the present time—and where will the United States be? Where will Western Europe be? Where will Japan be?" Ribicoff asked.]

At the end of the day Ribicoff joined 53 other senators in support of the arms sales. Fervent opponents of the sales said his vote allowed perhaps half a dozen other senators to go the same way (on the theory that no one could accuse a senator of betraying Israel if he voted with Ribicoff).

That night, after the vote, the Ribicoffs planned to go to W. Averell Harriman's home for a dinner party, but they canceled at the last minute. "I was so emotionally drained that I wouldn't be fit to go, I just couldn't see anybody," said the former police judge, congressman, governor, and secretary of health, education and welfare.

SENATE JOINT RESOLUTION 136—NATIONAL HUNTING AND FISHING DAY

Mr. ALLEN. Mr. President, I send to the desk for appropriate reference a joint resolution asking the President of the United States to declare the fourth Saturday of each September as National Hunting and Fishing Day.

The PRESIDING OFFICER. Without objection, the joint resolution will be received and appropriately referred.

SUSPENSION OF DUTY ON 2-METHYL, 4-CHLOROPHENOL

Mr. ALLEN. Mr. President, at the desk is a House message sending over H.R. 5551. I ask unanimous consent that that bill receive two readings in the Senate at this time. It is my purpose to object to further proceedings under the bill after it has had its two readings.

Mr. WILLIAMS. I missed the point. Can the Senator repeat that?

The PRESIDING OFFICER. Is there any objection?

Mr. WILLIAMS. Reserving the right to object.

Mr. ALLEN. It has to do with the suspension of the tariff for 3 years on a certain chemical that is not produced in this country.

Mr. WILLIAMS. I am not part of leadership, and the leadership is not here. I have been asked to reserve the right to object to any unanimous-consent request, unless this has been cleared.

Mr. ALLEN. I do not feel it would require unanimous consent, inasmuch as the bill is at the desk. I am merely exercising the rights that I am entitled to under the rules.

The PRESIDING OFFICER. The Chair advises that the bill is entitled to the first reading as a matter of right. The Senator as I understand it, was prepared to make an additional request, was he not?

Mr. ALLEN. Yes. Very well, let us have its first reading, then.

The PRESIDING OFFICER. The clerk will state the bill. The legislative clerk read as follows:

A bill (H.R. 5551) to suspend until the close of June 30, 1980, the duty on 2-Methyl, 4-chlorophenol.

Mr. ALLEN. I have not interposed an objection at this time. It can then have a second reading.

Mr. WILLIAMS. Again, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. What is the request that must go to the Chair?

Mr. ALLEN. I am not making any request other than that it have its normal second reading at this time.

The PRESIDING OFFICER. The Chair advises that it would take unanimous consent for a second reading of the same bill on the same legislative day. If the Senator is requesting a second reading, I shall have to put a unanimous-consent request to the body. Is it his intention that I do so?

Mr. ALLEN. Very well; I make that unanimous-consent request, then.

Mr. WILLIAMS. I am going to have to reserve the right to object. Again, it is a new subject.

Mr. ALLEN. This is a matter that has been at the desk for approximately a week. The request is to allow it to go to the calendar.

Mr. WILLIAMS. Could the Senator withhold his request at this time and go to another matter?

Mr. ALLEN. That is perfectly all right with me.

I shall make the request, then, at the conclusion of my remarks on the bill pending before the Senate.

The PRESIDING OFFICER. So the Senator has withdrawn his request temporarily?

Mr. ALLEN. Yes, with the understanding that I may make it later on in the day.

Mr. WILLIAMS. I shall certainly honor the suggestion and report this to the leadership and see whether there are any problems at all.

Mr. ALLEN. I certainly have no objection to that at all. It is perfectly all right.

Mr. WILLIAMS. The staff here has no notice of any problems, but we shall have to ask the leaders.

The PRESIDING OFFICER. The Chair advises the Senator that he is, of course, within his rights to seek unanimous consent later on.

Mr. ALLEN. I thank the Chair. I recognize that, of course.

Mr. WILLIAMS. The request has been withdrawn for now?

Mr. ALLEN. Yes, I withdraw it.

Mr. WILLIAMS. I have no word yet and I shall advise the Senator.

Mr. ALLEN. The bill has had its first reading in the Senate and objection has been made to further proceedings at this time.

The PRESIDING OFFICER. So the record is clear, I understood that the Senator was putting his request; in response to the request for the second reading, reservation was heard, so he withdrew his request and might submit it later again today?

Mr. ALLEN. Yes, with the understanding that it might be made later on in the day.

I thank the Chair. I thank the Senator from New Jersey.

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. ALLEN. Mr. President, I beg the indulgence of the Senate for a few moments today to consider the basic question of whether this country truly needs labor reform legislation. In so doing, I would like to discuss the underlying policy of labor and management relations that this country has followed for some 40 years, and I would like to examine further how this policy has been effectuated by the National Labor Relations Board. Then, I would like for the Senate to consider with me whether a national problem does, in fact, exist with regard to labor and management relations in this country today as alleged by proponents of H.R. 8410 and, if so, whether this legislation is a proper solution.

Since the passage of the Wagner Act in 1935 and subsequently the Taft-Hartley Act in 1947, it has been the policy of the U.S. Government to protect employees in their rights to form, join, or assist labor organizations or to refrain from any such activities. Basically, Federal law and the efforts of the responsible Federal regulatory agencies have been directed toward protecting the rights of employees to choose for themselves without any interference, intimidation, or coercion by either management or unions, whether the employees would or would not care to be represented by a labor organization. I strongly support these rights for employees.

This policy is grounded on our most fundamental democratic traditions and has at its heart the secret ballot election conducted by the National Labor Relations Board. This "freedom of choice" concept has been one of the most cherished rights possessed by the American worker. It is also a right that is in many ways unique to the American worker. It is my understanding that the vast majority of the world's industrialized nations have provided for compulsory unionism under which each worker is compelled to belong to a labor organization thereby striking a blow against individual freedom of choice and association. Parenthetically, I might add that such practices also disregard fundamental human rights.

I, therefore, feel that all of us should and do take great pride in knowing that the American economic system and the present labor relations laws in this Nation have preserved the individual human right of employees to choose for themselves whether they desire representation by a labor organization.

To date, Mr. President, this freedom of choice has been preserved by the National Labor Relations Board, which conducts representation elections. Currently, in order to trigger the election process, a minimum of 30 percent of a company's employees must indicate their desire for a representation election. Upon receiving this request, the NLRB determines the appropriate voting unit. In some measure, it could be said that this is much like the drawing of congressional districts to determine who composes the electorate. This is normally accomplished within a matter of a few weeks, and once the voting unit has been determined, the NLRB sets a time and place for holding an election. The parties to the election are then allowed a reasonable period of time, normally 4 to 6 weeks, to campaign and present their points of view to the voting employees. Finally, the election process concludes with a secret ballot election.

Throughout this campaign and election process, the function of the National Labor Relations Board under current law is to remain essentially neutral while protecting the rights of employees in the voting unit to decide the question of union representation for themselves. Happily, this is accomplished without the necessity or requirement of having the Federal Government intrude on the electoral process except as may be necessary to assure that neither party, meaning both labor and management, engages in unlawful threats, coercion, or intimidation of the voters in the exercise of reaching their voting decision. In principle, the weight of the Federal Government should remain neutral and should not be placed on the side of either the union or the employer, and under current Federal labor statutes, this is the intended role of the National Labor Relations Board.

This system was designed by the Congress as a means of allowing employees to form, join, or assist labor unions without the necessity of engaging in a strike to force their employer to recognize and bargain with a union of their choice. The system has worked remarkably well for more than 40 years, so that a strike to force recognition by an employer is wellnigh unheard of today.

The question naturally comes to mind, if the system has worked so well, why change it? In my opinion, the answer lies in the Department of Labor's statistics on union membership for the past 40 years as revealed in the hearings on the bill now before us. Official figures show that from 1935 when the Wagner Act was passed until 1974, labor organizations in this country experienced a steady, but not overwhelming, increase in total membership.

At no time, however, did unions ever represent a majority of the employees in our Nation who were eligible for union membership, but as I have stated, the absolute number of persons who exercised their freedom of choice to choose union representation was increasing. This situation changed in 1974, and that year, for the first time since the Wagner Act was passed in 1935, total union membership in our Nation declined. Further declines were experienced in 1975 and 1976. These drops in union membership reflected the fact that more and more employees were apparently deciding that the benefits of union representation were not worth the additional cost of that representation.

And so in 1976, after more than 40 years of relative labor stability, but following a 3-year decline in union membership, we began to hear of the urgent need for immediate labor reform. Recognizing the threat to its political and financial strength posed by declining membership, big labor has now seemingly called in all its vouchers and has made labor reform its No. 1 legisla-

tive priority. As I read the provisions of H.R. 8410, as now amended by the provisions of the Senate bill, however, in the name of labor reform this bill would abandon our national policy of protecting the rights of employees to decide for themselves whether or not they will band together in a collective-bargaining unit and replace this policy with one that is only one short step away from compulsory unionism.

This is the solution posed by big labor to a 3-year drop in membership following some four decades of prosperity for the labor organizations of our Nation. In view of the drastic provisions of H.R. 8410, when taken as a package, I frankly cannot help but feel that the forces of big labor have hit the panic button. As the distinguished Senator from Utah (Mr. HATCH), the distinguished Senator from California (Mr. HAYAKAWA), and the distinguished Senator from Wyoming (Mr. WALLOP) have so aptly stated in their minority views and on the floor as well, big labor has come up with near-compulsory unionism as the remedy.

For my part, Mr. President, I cannot justify abandoning the cherished freedoms and human rights of the working men and women of our Nation and abandoning a system of labor laws which on the whole have worked so well for some 40 years to rectify a mere 3-year drop in membership in labor organizations.

I think it is appropriate that we ask ourselves how does the American public feel about the need for labor reform? The answer is the same in every public opinion poll I recall seeing that has been taken in recent years. If memory serves me correctly, national polls show that a majority of the American public feels that big labor has too much power today.

The forces which support this so-called "reform" legislation have cited some isolated examples of companies that have been found to have abused the present law. If that is true, I say let these companies suffer the penalties that the law provides.

Mr. President, I say again that the present law has not worked perfectly, but it has worked well. Under this basic law, we have enjoyed 40 years of relative labor-management stability. Yet, we are now being asked to pass this legislation and thereby upset 40 years of labor-management stability in order to give more power to a group that much of the American public clearly feels already has too much power.

Forty years of freedom of choice have served us well, and I cannot agree that this Congress should upset that balance by granting big labor an even greater license to wreak havoc on the American economy and the American worker.

The American political and economic system works best when there is a free marketplace for both products and ideas and the people are free to accept or reject those products and ideas as they see fit. If union membership is dropping, let those who want reform take their case to the people as guaranteed them by present law. The present law provides the best means ever devised by man—the secret ballot election—to do just that. But for the sake of freedom and individual liberty, this Senate should avoid forcing compulsory unionism down the throats of the American working man and working woman.

I see little in the bill to benefit the average worker, but I see much to benefit big labor.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that I may proceed for such time as I may require, to speak on a matter not before the Senate at the moment, and that it not be counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we should have a little idea of how much time.

Mr. HANSEN. Perhaps 7 minutes.

SALE OF JET PLANES TO MIDDLE EAST COUNTRIES

Mr. HANSEN. Mr. President, since taking over as chairman of the Republican National Committee, Bill Brock has done a commendable job.

He has labored to broaden the base of the party, and to pursue a serious and responsible dialog with the Carter administration and the Democratic Congress over the many issues confronting the United States.

I believe that the vast majority of Republicans throughout the Nation recognize and support the gains made under Bill Brock in special elections, and have confidence in his leadership and the prospects for the party at the polls this congressional election year.

However, I must take exception to the thrust of Chairman Brock's comments regarding a recent issue considered by the U.S. Senate.

I refer to Senate approval last week by a 54-to-44 vote of the advanced jet fighter sale to Israel, Egypt, and Saudi Arabia.

According to a report of a speech by Chairman Brock in today's (Monday, May 22, 1978) Washington Post, delivered Sunday evening before the Union of Orthodox Jewish Congregations in New York, there is the implication that the sale of jets represents poor foreign policy.

In the article, Mr. Brock is quoted,

In the context of the Carter foreign policy, we as Americans have every right to ask what good it does for Russian Jews to risk their lives and the lives of their families in their desire to emigrate to Israel—when there is no Israel with safe and secure borders.

In the area of foreign policy, I find myself seldom in agreement with the Carter administration. However, the sale of jets to the three Middle East countries was fully justified and I was pleased to vote for the sale.

A total of 26 Senate Republicans voted for the jet plane sale; 11 voted against the sale, and 1 Republican was absent. This indicated by more than a 2-to-1 margin, Senate Republicans supported the Mideast arms package.

All 38 of the Republican Senators want to assure the safety and prosperity of Israel. I know that such a goal is very close to my heart.

Those 26 Republican Senators voting for the jet plane sale believe that the permanent achievement of Israel's security requires that our other allies, such as Egypt and Saudi Arabia, must also feel secure from external attack.

It will not be in Israel's best interests if we abandon Egypt and Saudi Arabia and drive those countries into the arms of the Soviets.

The best way to obtain security and peace for Israel, Egypt, and Saudi Arabia, requires that we think of the problems not of one nation at a time, but all of them together.

By maintaining total stability in the Middle East we can hopefully assure a peaceful and secure situation of all nations.

I certainly agree with Chairman Brock that the Carter foreign policy is "in total disarray" and that "Soviet militarism and imperialism are on the march again."

However, on the matter of the jet plane sales, I must differ, and reaffirm that I believe the sale a wise one that will contribute to maintaining peace in the Middle East.

Mr. President, I ask unanimous consent to have printed in the RECORD the article, entitled "Carter's Leadership Assailed."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 22, 1978]

CARTER'S LEADERSHIP ASSAILED

Republican National Chairman Bill Brock last night accused President Carter and the Democratic Congress of lacking the will to resist "Soviet militarism and imperialism" or protect Israel against threats to its security.

In a strongly worded speech prepared for the Union of Orthodox Jewish Congregations in New York, Brock signaled that his party would attempt to make a major issue of the Carter administration's foreign policy toward the Soviet Union and the Middle East.

Describing the Carter foreign policy as one "in total disarray," the former senator from Tennessee said, "I am afraid that the tragedies of Vietnam and Watergate appear to have paralyzed the will of the president and the president's men, and far too many members of Congress . . . This is the first time, in my memory, that people are beginning to ask whether the president of the United States will in fact lead the forces of the West in defense of our most fundamental western values."

Tying together last week's show-trial and conviction of Soviet dissident Yuri Orlov and the Senate approval of the President's decision to sell advanced jet fighters to Saudi Arabia, Egypt and Israel, Brook said:

"In the context of the Carter foreign policy, we as Americans have every right to ask what good it does for Russian Jews to risk their lives and the lives of their families in

their desire to emigrate to Israel—when there is no Israel with safe and secure borders."

"Soviet militarism and imperialism are on the march again," Brock said. Referring to Soviet-Cuban operations in Africa, he declared, "not since the aftermath of World War II, when the Red Army swept across Eastern Europe and imposed communist rule in its wake, have we seen as blatant and aggressive an effort to extend Russian power across the globe."

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. JAVITS. Mr. President, this was a highly vexatious subject in which I came to the same conclusion that Chairman Brock did, and the very distinguished Senator from Wyoming came to the opposite conclusion.

I do not think we can deny the Republican National Chairman the same privilege we have on a critical question, especially as he is a former Senator and a very prominent figure in our country.

I really think the verdict is not in yet. I have heard the Senator speak glowingly of those who supported his position, and that is very natural and understandable. I have now heard him dissent, as is his right, from the Republican national chairman's appraisal of that position.

But for myself, I think that the argument still remains an open one, and that is whether the signal given to the Arabs was inconsistent with the signal given to the State of Israel, and what will be the result in terms of a greater difficulty in arranging for the beginning of peace between Egypt and Israel than otherwise would have resulted.

I do not think that any of the people on either side expected—and I certainly did not expect—that this would have any material effect on whether or not the Saudis and the Egyptians got their planes. As a matter of fact, I know the Senator is well aware of the fact that I had suggested a compromise, which would have had my agreement, to take the figures of the Department of Defense, which would have meant 40 F–15's for the Saudis, that Egypt would have received her F–5's, and that Israel would have received 50 more F–16's. The President did not see fit to do that.

When I say the verdict is not in, I will tell the Senator what I have in mind, and I hope we can agree.

It was a closely divided question as to where the signals should go. It was a very serious question to me as to whether the package idea was calculated, for the first time, to break the U.S. assurances to Israel that we would see her through the military supply essential to her national integrity and to her security.

In retrospect, I think that the very closeness of the vote was essential to make the result come out as we would both want it.

I am very interested to hear the distinguished Senator say what he has said about Israel, that it did not represent, in his mind, any diminution of his commitment—I am not talking about the country's commitment—to do all he could to assure, through adequate military supply, her security and independence and her survival.

I might say to the Senator that I have been perfectly free about criticizing Israel and I always shall be, and there is no inhibition in me on that score.

The way I read the signals, it could have been right and it could have been wrong. It was my very best judgment.

But I simply add two things:

One, Bill Brock, like all the rest of us, had a right to his opinion on this close question; second, the fact that it was a close question, and it was decided here essentially by five votes, either way—if it had been tied then the resolution would have been defeated anyhow—was a good thing because I think it will now tend to cool it as far as both sides are concerned, and the Arab side would not take it for granted that that is the end of any period of reasonableness in trying to get together with Israel or the United States is backing away from its support of Israel.

I think on the Israeli side, if they are in fear and, therefore, feel they are backed into a corner and will be even more inflexible, I think it tends to defuse that and also speeches like the speech of the Senator tends to defuse that.

Mr. HANSEN. Mr. President, I first express my deep appreciation to my good and greatly admired colleagues from New York.

I have said on numerous occasions, and I said so in recent days, there is not a Member of the Senate, in my opinion, who is heard from as often as is the distinguished senior Senator from New York and who speaks as knowledgeably as does he on those issues in which he participates. I state that as reflecting the deep admiration and respect I have for him because it is not easy to participate actively, intelligently, and effectively, as indeed he does so well on so many issues, without working awfully hard and assimilating a lot of facts and a lot of information very rapidly and quickly. Of course, he does all these things, as all of his colleagues know, so well.

Having said that, let me agree with my colleague from New York in observing that our former colleague, Bill Brock, the chairman of the Republican National Committee, has every right to speak out as he did. I would be among the first, I hope, to defend him in that right.

I simply wanted to make my personal feelings known. I did not mean to imply at all that, because I feel differently than Chairman Brock feels, he was wrong. I simply thought it was important to state how I felt and that was the purpose of my making the observations I did.

I had one other reason. Since Bill Brock is chairman of the Republican National Committee, others could well construe that he speaks for the Republican Party as indeed he would have a right to do and that his statements would reflect what a majority of the party believes.

As Senators may know, I complimented him for his effective leadership and the new directions that I perceived Republicans to be taking in this crucial year 1978. I think, though, that as one Member of the Senate I should speak out if I disagree with the Republican chairman, and in this case I do disagree on a very narrow point. In supporting the arms sales package, I made note of the fact it was one of the few times that I thought the President had done the right thing in the Middle East.

Generally, in foreign policy development, it seems to me, the President has done the wrong thing. He deserves to be criticized for vacillating. First, he seems to be headed one direction and then abruptly takes off on another track. I think that must be disturbing to our friends around the world. I am certain it has been upsetting to our NATO allies as we reflect on some of the things that we have seen occur insofar as administration policy goes in the last 15 months or so.

It is hard to say at any given time just where the President may be. I join with those who view this inability to decide, first, what the policy of the United States is, on the one hand, and, then, to execute a followthrough in pursuit of any goals, as destructive to the role of responsible leadership the United States must maintain.

Let me also add that my good friend and colleague from New York is indeed a recognized authority on the Middle East. He has made, among other things, it his business to understand the nuances of the fragile peace that still holds together over there and to become very well informed, indeed as he has on the subtleties that attend the development of a policy that makes sense. I only wish that I had a small measure of his comprehension and understanding of history that serves him so well in advising his colleagues from time to time. Those of us who do listen to his counsel must always be impressed with the great background that he has.

My good friend from New York has pointed out that reasonable men can differ on the issue of arming Middle East nations. I simply wanted to say that on the issue of the jet sales, I did not agree with the chairman of the Republican National Committee, and felt that I would be less than honest with my own conscience if I did not state my disagreement.

Mr. JAVITS. I thank my colleague for his very kind references which I reciprocate, and I think we have posed the question quite accurately. I thank my colleague.

Mr. HANSEN. I thank the Senator.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of H.R. 8410.

Mr. HATCH. Mr. President, I ask unanimous consent that I may proceed without violating the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I mentioned a little earlier about this one problem that I was concerned about in conjunction with the Office of Advocacy report of the Small Business Administration, and I also mentioned this appointment of David Gartner as Commissioner of Commodity Futures Trading Commission.

David Gartner, as I understand it, was one of the top aides of the late distinguished Senator Hubert Humphrey, who was a dear friend of mine, and he was just appointed to the Commodity Futures Trading Commission as a member of that particular agency and his appointment went through with absolute ease. I think the skids were greased by the Vice President of the United States.

As I recall Mr. Gartner was, if not the administrative assistant, one of the top aides of Senator Humphrey during 1975, 1976, and 1977 and during that period of time he was, as I understand, given $72,000 worth of stock in Archer Daniel Midlands. Before he was acceptable to become a member of the Commodity Futures Trading Commission he agreed to sell that stock which was supposedly put into a revokable trust for the benefit of his children.

He did not give the money back. He was selling the stock out of what was heretofore called an irrevocable trust.

What bothers me is how he can receive that kind of acceptance by this august body after receiving this money from one of the most notorious people in the commodities market in the United States, Mr. Dwayne Andreas, whom almost everybody knows about because of his donations not only to the Humphrey campaign and the $100,000 he put in trust for Senator Humphrey, but also because of his $25,000 that went into the Nixon campaign that was so important during the Watergate hearings. It was secreted in a safe in one of the hotels down in Florida, and it was gradually picked up after some due date of the Federal Election Commission rules, the new Federal laws, relating to elections.

What bothers me is had he been a Republican appointed to this exchange after Mr. Andreas made the donation to President Nixon, I believe there would have been such a cry raised that he would never have even been considered for the job, let alone given the opportunity merely by selling the stock and keeping the money and the proceeds, or at least that is what it looks like happened to me.

I am concerned about this. I am concerned about the close ties with the commodities market and, as I understand it, he was on Senator Humphrey's staff, who himself was on the Agriculture Committee the whole time these things were going on. I think somebody ought to look at the double standard involved here, and I think the newspapers of this country ought to be concerned about what is happening on these appointments that are occurring in the Government today.

With regard to this bill, S. 2467 directs the Board to promulgate rules giving nonemployee union organizers the right to campaign on company property even before a petition is filed whenever the employer "addresses" company employees on "its premises or during working time" on issues relating to union representation. A similar right is given to employers to utilize union halls for such purposes.

In general, management addresses to assembled employees on company time or property—frequently referred to as "captive audience" speeches—will trigger a corresponding right for union officials. If management curtails production and speaks to employees at their work stations, unions would be entitled to do the same. Employer campaigning short of captive audience speeches—systematic supervisory conversations with individual employees, for example—would entitle union organizers access only to nonworking areas such as cafeterias, lounges and parking lots during nonworking hours. Such supervisory conversations would not entitle union organizers access to production areas.

The equal access requirement would not be activated by casual employee-supervisor encounters which occur on an unplanned, sporadic basis and which do not have the purpose or effect of presenting the employer's position on union representation in a systemic manner. Similarly, the equal access requirement would not be triggered if during the course of a regularly scheduled meeting * * * to discuss issues of general concern to employees management responded to an employee question regarding union representation. If more than one union is organizing in a unit at any time, the total time allotted for all union responses would equal that utilized by the employer.

In order to become eligible for equal access privileges, a union would be required to submit to the employer a notice that a significant minority of its employees are interested in representation by that union. The required showing of interest is intended to be 10 percent of the unit or three employees, whichever is greater. Employers may submit the notice to the Board for purposes of a nonreviewable administration evaluation of the showing of interest.

Under current law unions already enjoy a distinct advantage in communicating their message to employees. Employee organizers may solicit union support on company premises during nonworking hours and may distribute union literature in nonworking areas. Nonemployee union organizers are also permitted to campaign on company premises in the absence of reasonable alternative means of communication. More importantly, however, organizers have the right to communicate freely with employees on an individual basis, may visit with employees in their homes, and may make unlimited promises of benefits to be derived from union representation. Since similar conduct on the part of employers constitutes unfair labor practices, most employer campaigning has been restricted to speeches to employees on company property. Equal access would thus seriously undermine the only effective means which employers have left for communicating with employees.

Notwithstanding these arguments, however, the crucial reason for rejecting the equal access provision is that it violates the fifth amendment of the Constitution.

The constitutionality of the equal access provisions of S. 2467 must be judged by the test set out by the Supreme Court in the landmark case of *National Labor Relations Board* v. *Babcock and Wilcox Co.*, 351 U.S. 105 (1956). In the three cases consolidated in Babcock, employers refused to permit nonemployee union organizers to distribute union literature on company-owned parking lots. The NLRB found that the refusal of access constituted an unfair labor practice. The Supreme Court held the employer's refusal to permit nonemployee union organizers access to private company property did not impede employees' right to self-organization guaranteed by section 7 of the National Labor Relations Act.

The Court viewed the problem posed in Babcock as the need to balance two federally protected rights, employees' organizational rights and employers' Fifth Amendment property rights, stating at page 112:

> This is not a problem of always open or always closed doors for union organization on company property. Organization rights are granted to workers by the same authority, the National Government, that preserves property rights. Accommodation between the two must be obtained with as little destruction of one as is consistent with the maintenance of the other.

In balancing competing interests the court held that when reasonable means of communicating with employees off the employer's property are present, then the organizational needs do not justify an infringement on private property.

> It is our judgment, however, that an employer may validly post his property against nonemployee distribution of union literature if reasonable efforts by the union through other available channels of communication will enable it to reach the employees with its message and if the employer's notice or order does not discriminate against the union by allowing other distribution. In these circumstances the employer may not be compelled to allow distribution even under such reasonable regulations as the orders in these cases permit. The employer may not affirmatively interfere with organization; the union may not always insist that the employer aid organization. But when the inaccessibility of employees makes ineffective the reasonable attempts by nonemployees to communicate with them through the usual channels, the right to exclude from property has been required to yield to the extent needed to permit communication of information on the right to organize.

The facts in Babcock showed that the plant locations and living quarters of employees did not preclude communication with the workers through the usual methods of home visits, mailings, telephoning, talking off company property, and media contact.

> The right of self-organization depends in some measure on the ability of employees to learn the advantages of self-organization from others. Consequently, if the location of a plant and the living quarters of the employees place the employees beyond the reach of reasonable union efforts to communicate with them, the employer must allow the union to approach his employees on his

property. No such conditions are shown in these records.

The plants are close to small well-settled communities where a large percentage of the employees live. The usual methods of imparting information are available.

Since the Babcock decision, the Supreme Court in *Central Hardware Co.* v. *NLRB*, 407 U.S. 539 (1972) and in *Hugdens* v. *NLRB*, 424 U.S. 507 (1976) has reaffirmed the balancing or accommodation test of Babcock as the proper approach to resolving conflicts between organization rights and property rights. The test for allowing nonemployees access to company property remains whether employees are inaccessible through other means of communication.

In Central Hardware, the owner of two retail stores refused to allow nonemployee union organizers access to company-owned parking lots to solicit employees. The company had a no-solicitation rule that it enforced against all strangers' soliciting in its stores and on its parking lot. The NLRB and the court of appeals found enforcement of the no-solicitation rule against union organizers violated employee section 7 rights of self-organization. The Board did not apply the test set out in Babcock "to resolve conflicts between organization rights and property rights, and to seek a proper accommodation between the two." The Supreme Court reversed and remanded for a reconsideration under Babcock.

In Central Hardware, the Court restated the basis for its decision in Babcock. The proper accommodation between employee organization rights and employer property rights allows infringement on the employer's right to deny nonemployees access to private property only when no other avenues of communication with employees exist.

The Court of Appeals of the Fifth Circuit (in Babcock) refused enforcement of the Board's order on the ground that the Act did not authorize the Board to impose a servitude on an employer's property where no employee was involved. This Court affirmed on the ground that the availability of alternative channels of communication made the intrusion on the employer's property rights ordered by the Board unwarranted.

The court went on to point out at pages 544–45, that even when the unavailability of alternative means of communication shifts the balance to allow access to company property, the intrusion on property rights must be narrowly circumscribed.

The principle of Babcock is limited to this accommodation between organization rights and property rights. This principle requires a "yielding" of property rights only in the context of an organization campaign. Moreover, the allowed intrusion on property rights is limited to that necessary to facilitate the exercise of employees section 7 rights. After the requisite need for access to the employer's property has been shown, the access is limited to first, union organizers; second, prescribed nonworking areas of the employer's premises; and third, the duration of organization activity. In short, the principle of accommodation announced in Babcock is limited to labor organization campaigns, and the "yielding" of property rights it may require is both temporary and minimal.

Recently the Supreme Court in *Hudgens* v. *NLRB*, 424 U.S. 507 (1976), reaffirmed the Babcock test while extending its application to determine the right of strikers to picket on the property of a privately owned shopping center where they are not employed. The Court held the pickets did not have a first amendment right to enter the private shopping center to advertise their strike. Rather the rights of the pickets derive from section 7 of the NLRA, and the test of Babcock and Central Hardware determines the "proper accommodation" between two conflicting rights. The Court stated at page 521:

Accommodation between employees' section 7 rights and employers' property rights, the Court said in *Babcock & Wilcox*, "must be obtained with as little destruction of one as is consistent with the maintenance of the other."

The balancing test set out in Babcock and Central Hardware, in which access to private property is allowed only where alternative channels of communication do not exist, is constitutionally compelled and not merely an interpretation of employee and employer rights under the National Labor Relations Act. The employer's right to control access to his property is not a grant by Congress under the NLRA. The right to limit access is constitutionally protected by the fifth amendment.

Thus a balancing test is required to resolve a clash of two rights so as to accommodate one with as little harm to the other as possible. Even if Congress legislates a right to access, the employer's 5th amendment property right still remains the standard against which the constitutionality of the access legislation must be judged.

In allowing nonemployee union organizers access to employer property in all circumstances, even where alternative avenues of communication exist, S. 2467 disregards the constitutional necessity of accommodating organizing rights and property rights with as little destruction of one as is consistent with the maintenance of the other. Thus the proposed access provisions violate the employers' property rights protected by the 5th amendment.

The balancing test set out in Babcock and Central Hardware recognizes the fundamental position the individual's right of private property has always held in our constitutional system. In *Lynch* v. *Household Finance Co.*, 405 U.S. 538 (1972), holding that district courts have jurisdiction under 28 U.S.C. section 1343 (3) to protect against infringement of personal rights in property, the Supreme Court stated at page 552:

Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.

The right to own and enjoy private property in this country is a common law right that existed before the adoption of the Federal and State constitutions and is not now dependent on them for its existence. Constitutions protect, but do not create, this right. In *Newland* v. *Child*, 254 P.2d 1066 (Idaho 1953), the court stated at page 1069:

The right to own and enjoy private property is fundamental. It is one of the natural, inherent and inalienable rights of free men. It is not a gift of our constitutions, because it existed before them. Our constitutions embrace and proclaim it as an essential in our conception of freedom.

(Mr. ALLEN assumed the chair.)

Mr. HATCH. The continuance and protection of property rights is guaranteed by the Federal and by the various State constitutions. The due-process clauses of the 5th and 14th amendments provide that "no person shall * * * be deprived of life, liberty or property without due process of law." The 5th amendment further proscribes the taking of "private property * * * for public use, without just compensation." In *Fuentes* v. *Shevin*, 407 U.S. 67 (1972), the Court held unconstitutional a State replevin statute allowing the seizure of property without notice or hearing. The Court spoke, at page 81, of the importance placed on the protection of property in the constitutional system.

So viewed, the prohibition against the deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference.

The right to enjoy private property guaranteed by the Constitution comprises a number of attributes. A landowner's right to protect his property from uninvited guests and trespassers has always been viewed as a fundamental right. In *Lloyd Corp.* v. *Tanner*, 407 U.S. 551 (1972), the Court upheld the right of a shopping center owner under the 5th and 14th amendments to prevent persons from coming on his property to distribute handbills protesting the Vietnam war. The Court stated at page 568:

Although accommodations, between the values protected by these Amendments are sometimes necessary, and the courts properly have shown a special solicitude for the guarantees of the First Amendment, this Court has never held that a trespasser or an uninvited guest may exercise general rights of free speech on property privately owned and used nondiscriminatorily for private purposes only.

Justice Black dissenting in *Food Employees* v. *Logan Plaza*, 391 U.S. at 330 (1968), spoke of the constitutional right of a shopping center owner to deny nonemployee organizational picketers access to his property:

. . . I believe that, whether this Court likes it or not, the Constitution recognizes and supports the concept of private ownership of property. The Fifth Amendment provides that "[N]o person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." This means to me that there is no right to picket on the private premises of another to

try to convert the owner or others to the views of the pickets. It also means, I think, that if this Court is going to arrogate to itself the power to act as the Government's agent to take a part of Weis' property to give to the pickets for their use, the Court should also award Weis just compensation for the property taken.

Justice Black's view of the proper solicitude that must be given to constitutionally protected property rights takes on added precedential significance in light of the Supreme Court's overruling of the Logan Plaza decision in Hudgens against NLRB, quoting extensively from Justice Black's dissent in Logan Plaza.

The right to exclude uninvited guests from private property is such a fundamental attribute of the right to own property that courts have looked to the power to deny access as a test of ownership. In Dairy Queen of Oklahoma against Commissioner of Internal Revenue, 250 F. 2d 503 (10th Cir. 1957), to determine for tax purposes whether the grant of a franchise was a sale or merely a license the court stated at page 506:

But the traditional test of ownership is the power to exclude others. Taxation is not concerned with refinements of title, but with actual command of property.

In United States against Pueblo of San Ildefonso, 513 F. 2d 1383 (Court of Claims 1975), the court examined at page 1394 whether Indian claimants could prove aboriginal title in land:

Implicit in the concept of ownership of property is the right to exclude others. Generally speaking, a true owner of land exercises full dominion and control over it; a true owner possesses the right to expel intruders. In order for an Indian tribe to establish ownership of land by so-called Indian title, it must show that it used and occupied the land to the exclusion of other Indian groups.

Finally, in Computing Scale Co. against Toledo Computing Scale Co., 279 F. 2d 648 (Seventh Circuit 1921), the court, at page 671, defined the right in property as the right to exclude others:

Property may be classified as real or personal or mixed, and as tangible or intangible. But the right in property of all classes is one, and consists ultimately of this, and only this—the right to exclude others.

The right to exclude others from private property is not absolute in all circumstances. Babcock and Central Hardware allow for instances where intrusions on property rights will be permitted to accommodate organization rights. The Babcock and Central Hardware decisions make clear that any rule allowing uninvited intrusion on private property must be justified by a showing that no reasonable alternative means of communication exist to accomplish the same end that are less destructive of the property right.

The fact that access in the proposed legislation is tied to an employer's speech to his employees does not take the access rule out of the test set forth in *Babcock, May Dept. Stores Co.* v. *N.L.R.B.*, 316 F.2d (6th Cir. 1963), makes clear that an employer's speech to his employees does not change the requirement of looking to alternative means of communication available to union organizers before impinging on the employer's property rights. In May the union claimed the employer committed an unfair labor practice by addressing employees on company premises and company time while enforcing a privileged rule forbidding solicitation by nonemployees on company property. The employer in May denied the union's request to address employees on company premises. The Board held the employer's conduct violated section 8(a)(1).

The court of appeals reversed the Board's determination on the basis of Babcock. The proper inquiry under Babcock is whether the union had alternative methods of communication to discuss the merits of unionization other than contact on the employer's premises. The court stated at pages 799–801:

The determination of whether or not the within employer conduct produced an imbalance in opportunities for organizational communications is dependent upon the existence or non-existence of alternative methods of communication open to the union.

* * * * *

That a speech during working time on company premises may be preferable to use of contacts away from the work-site cannot in and of itself render the employer's conduct unfair under the Act. It was similarly the Board's view in Babcock and Wilcox that "the place of work was so much more effective a place for communication of information that it held the employer guilty of an unfair labor practice for refusing limited access to company property to union organizers." The Supreme Court, along with the Babcock and Wilcox case, affirmed the decision of the Tenth Circuit Court of Appeals in *National Labor Relations Board* v. *Seamprufe, Inc.*, 222 F.2d 858. The Court of Appeals in the latter case held that "absent a showing of non-accessibility amounting to a handicap to self-organization," non-employee solicitors have no right of access to company premises, inasmuch as they are "strangers to . . . the employees' guaranteed right of self-organization," P. 861 or 222 F.2d. There are no findings of non-accessibility by the Board in this case. There is no showing that the employee's away from the employer's premises, are removed or isolated from normal, usual communications. Indeed, there appears from the record every indication that they were accessible through alternative channels.

The courts of appeals in judging Board orders of access have consistently applied the Babcock test, allowing access in cases where a finding of no reasonable alternative means of communication has been made and denying access where it has not.

In *NLRB* versus *S. & H. Grossingers, Inc.*, 372 F.2d 26 (2d Cir. 1966), the court allowed access where the majority of employees lived on the employer's premises and could not be reached by any means practically available to union organizers. In contrast, in *NLRB* versus *Kutshers Hotel and Country Club, Inc.*, 427 F.2d 200 (2d Cir. 1970), the court denied access where under the Babcock test there was no barrier to communication and other means were readily available to the union. The Kutsher employees were accessible as they crossed a public road on their way to work. In addition, the union communicated with employees through an advertisement in a local newspaper and contacts at local bars.

Diamond Shamrock Co. versus *NLRB*, 443 F.2d 52 (3d Cir. 1971), involved a no-access rule which denied off-duty employees access to a fenced-in plant area. The employer did not have no-solicitation or no-distribution rules. The Board invalidated the no-access rule as an unfair labor practice under sec. 8(a)(1), relying on Peyton Packing Co., 49 NLRB 828 (1943), enforced 142 F.2d 1009 (5th Cir.), cert. denied, 323 U.S. 730 (1944). The Peyton Packing decision invalidated a no-solicitation rule that barred union solicitation by employees on company premises during nonworking time as well as during working time. The court in Diamond Shamrock held that Babcock rather than Peyton Packing should be the test of an off-duty employee no-access rule. At pages 56 and 58 the court said:

In *Peyton Packing* and *Republic Aviation*, there was little reason for concern about the employers' private property rights, for the employees affected by the no-solicitation rules were lawfully and properly on the employers' premises pursuant to the work relationship. What was at stake in those cases was the proper "adjustment between the undisputed right of self-organization assured to employees under the [National Labor Relations] Act and the equally undisputed right of employers to maintain discipline in their establishments." In the instant case more is at stake than the Company's right to maintain discipline in its plant. The Company's private property rights are involved, for the effect of the Board's decision is to require the Company to open a part of its premises, to which it could otherwise lawfully deny access, to off-duty employees for purposes of union solicitation. The Board in effect requires the Company, which does not bar off-duty employees from the parts of its premises outside the fence, to provide a platform for off-duty employees supporting, and presumably those opposing, unionization, without a showing that other reasonably adequate avenues of communication are unavailable.

The Court held in *Babcock & Wilcox* that "accommodation between (organization rights and property rights) must be obtained with as little destruction of one as is consistent with the maintenance of the other." Application of the *Peyton Packing* presumption to invalidate the no-access rule in this case would intrude far into the Company's property rights, which were not at stake in *Peyton Packing*, without any showing that such intrusion is necessary to facilitate the exercise of the employees' organization rights. The result might well be a substantial diminishing of the Company's property rights without any commensurate enhancing of organizational opportunities. In the context of a no-solicitation rule barring on-duty employees from engaging in union activity during non-work time, the employer's failure to justify the rule could conceivably permit invalidation of the rule without inquiry into the availability of adequate alternative means of communication. On the other hand, the different interests of the employer at stake in this case, constitutionally protected property rights as opposed to the right to maintain discipline, make a presumption of invalidity, which presumption can be overcome only by the showing of "special circumstances" justifying the rule, inappropriate in light of the mandate of *Babcock & Wilcox*.

Babcock makes it clear that it is not an unfair labor practice to refuse access to the union if there are alternative means of communicating with employees. However, access has been al-

lowed to union organizers as a remedy where the employer has committed other unfair labor practices, regardless of other means of communication. See, for example, *N.L.R.B.* v. *H. W. Elson Bottling Co.*, 379 F.2d 223 (6th Cir. 1967); *Decaturville Sportsville Co.* v. *N.L.R.B.*, 406 F.2d 886 (6th Cir. 1969); *N.L.R.B.* v. *Crown Laundry & Dry Cleaners, Inc.*, 437 F.2d 290 (5th Cir. 1971).

These cases do not destroy the validity of the Babcock rationale. The courts realize that granting access as a remedy is "fairly strong medicine," *N.L.R.B.* v. *H. W. Elson Bottling Co.*, 379 F.2d 223, 227 (6th Cir. 1967), and only grant it when the imbalance created by the employer's unfair labor practices justifies the intrusion on the employer's property. This involves different considerations than where, as in Babcock, the employer has committed no unfair labor practices. As the court said in *Decaturville Sportswear Co.* v. *N.L.R.B.*, 406 F.2d 886, 889 (6th Cir. 1969):

> Since many of the company's unfair practices were directed toward thwarting the union's efforts to distribute literature to employees as they left work, granting access to parking lots under reasonable restrictions is directly related to the company's unlawful activity. This provision merely removes the disadvantages caused to the union by reason of the company's violations. Cf. *Consolidated Edison Company* v. *National Labor Relations Board*, 305 U.S. 197, 236, 59 S. Ct. 206, 83 L. Ed. 126 (1938). Thus is restored the status quo which existed at the outset of the organizing campaign. *National Labor Relations Board* v. *Babcock & Wilcox Co.*, 351 U.S. 105, 76 S. Ct. 679, 100 L. Ed. 975 (1956), on which the company relies, is not inconsistent with our decision on this point. There, the question was whether denial of access to company property in order to distribute union literature constituted an unfair labor practice and the Supreme Court held it did not. Here, the question is whether reasonable access to company property for a limited time is an appropriate remedial measure after finding of unfair labor practices. The two questions involve different considerations. We conclude therefore that this is a valid exercise of the Board's authority.

S. 2467, in granting access without consideration of unfair labor practices and alternative means of communication, crosses the boundary of permissible intrusions upon the employer's property rights and is unconstitutional.

Access to private property has also been allowed in union organizational campaigns involving employees living in company towns and agricultural workers living on farm camps. See, for example, *Association de Trabajadores Agricoles de Puerto Rico* v. *Green Giant Co.*, 548 F. 2d 130 (3rd Cir. 1975); *Illinois Migrant Council* v. *Campbell Soup Co.*, 519 F. 2d 391 (7th Cir. 1975); *United Farm Workers Union* v. *Mel Finermen Co.*, 364 F. Supp. 326 (D. Colo. 1973). These cases involve consideration of the union organizers' and the employees' first amendment rights because the courts have considered these company towns and farm camps "public" property based on the Supreme Court's decision in *Marsh* v. *Alabama*, 326 U.S. 501 (1946). Because the towns and camps resemble public towns in every respect except for their private ownership, the courts have protected the inhabitants' and employees' first amendment rights from "State" infringement.

However, the Supreme Court made it clear in *Central Hardware Co.* v. *N.L.R.B.*, 407 U.S 539 and *Hudgens* v. *N.L.R.B.*, 424 U.S. 507 (1976), that in the normal labor law context involving private property no first amendment rights are involved. The rights of the employees and the union organizers depend solely on the National Labor Relations Act, and their rights of access are governed by the Babcock test.

The constitutionality of an access regulation under a State labor law was considered by the California Supreme Court in *Agricultural Labor Relations Board* v. *Superior Court of Tulare County*, 546 P.2d 687, appeal dismissed for lack of a substantial Federal question, 429 U.S. 802 (1976). In that case a State administrative agency adopted a union access regulation pursuant to a delegation of rulemaking authority by the legislature. The regulation applied solely to agricultural fields and agricultural employees and granted a right of access to union organizers specifically limited in purpose, time and place. Two groups of growers attacked the validity of the regulation on several grounds including unconstitutionality under the California and Federal constitutions. The California Supreme Court looked to Federal law for the solution under both constitutions because the provisions of the State law resembled that of NLRA. The court held the regulation constitutional in a 4 to 3 decision.

The majority looked to Babcock among other Supreme Court cases to determine the constitutionality of the statute, showing its belief that Babcock was a decision on constitutional grounds. Indeed, the majority said at page 698 that Babcock was "dispositive of the issue of the Federal constitutionality of access to agricultural property under the challenged regulation * * * and of the claim of invalidity premised on the cited provisions of the California Constitution." The court went on to discuss the question of whether "it is constitutionally required that a determination of employee inaccessibility within the meaning of the Babcock & Wilcox test be made on a case-by-case basis, as the real parties urge, rather than by a rule of general application." The majority applied a reasonable relationship due process test to uphold the regulation.

Three justices of the California Supreme Court dissented, and claimed that the majority applied "an improper standard of constitutional review and thereby sanctioned an impermissible invasion on constitutionally protected property rights." The dissent said at page 713:

> This court is apparently the only court unable to grasp that the appropriate standard for review is one of balancing and not of rational relationship. . . .
>
> * * * * *
>
> The United States Supreme Court balanced the competing interests in Babcock and Central Hardware, and because, as pointed out above, the board's regulation violates the rule of these cases, the access regulation violates the constitutional provisions protecting private property. The board's regulation does not even attempt to balance or accommodate the competing interests. It allows access when alternative means of communication do in fact exist. And it permits blanket entry onto private property during working hours. The regulation as presently promulgated is unconstitutional.

Insofar as both the majority and the dissenters of the California Supreme Court viewed Babcock as the case controlling the constitutionality of the access regulation, its decision confirms the above analysis of the equal access provision of the Labor Reform Act of 1977. That the majority decided in favor of constitutionality of the regulation in the case can be justified by a legislative determination that "significant differences existed between the working conditions of industry in general and those of California agriculture" with respect to accessibility by alternative methods. The court decided that, backed by such a finding, a regulation concerning all agricultural workers could validly be made rather than requiring a case-by-case determination. That no proper legislative finding concerning accessibility has been made or could possibly be made with respect to the equal access provision of the Labor Reform Act is obvious. The provision covers all employers governed by the NLRA. Even the majority of the California Supreme Court would agree that under Babcock such a statute is unconstitutional.

From the foregoing review of Supreme Court cases ruling upon equal access privileges, there can no longer be a doubt in anyone's mind that the equal access provision in S. 2467 is unconstitutional. As the Supreme Court enunciated in Babcock, employees should be allowed to infringe upon the employer's rights to deny access to his private property only if no other channels of communications with employees exist. The employer's right to control access to his private property is not a congressionally granted privilege under the NLRA, but is a constitutionally protected right under the fifth amendment. Thus, even if Congress legislates a right to access, that right must conform with constitutional standards. Yet, S. 2467 requires the employer to provide equal access whether or not reasonable means of communicating with employees off the employer's property exist. In allowing such unrestrained access, S. 2467 ignores the constitutional necessity of accommodating organizing rights and property rights "with as little destruction of one as is consistent with the maintenance of the other."

The fact that S. 2647 ties access to an employer's speech to his employees does not mean that the Babcock test can be ignored. May Department Stores clearly addresses that proposition—in May the court upheld the employer's right to address his employees on company premises and on company time while enforcing a privileged rule forbidding solicitation by nonemployees on company property. The court acknowledged that it may be far more preferable for a union to give a speech during the employees' working time on company premises than to use contacts away from the worksite, but

explained that where, as in May, the union had alternative methods of communication to discuss the merits of unionization, it would infringe upon the company's property rights to grant the union's request to address employees on company premises. Thus, May removes any doubt that an employer's speech to his employees does not change the requirement of looking to alternative means of communication available to union organizers before impinging on the employer's property rights.

It also should be emphasized that existing labor laws protect unions as well as employers. The Babcock test protects the union's organization rights by insuring that the union has other methods of communicating with employees. For example, access has been allowed where the majority of employees lived on the employer's premises or on farm camps and could not be reached by any means practically available to union organizers. Moreover, the courts have granted access, regardless of other means of communication, where the employer has committed other unfair labor practices. The courts realize, however, that this remedy is "fairly strong medicine" and grant it only if the employer's unfair labor practices create an imbalance that justify the intrusion on the employer's property.

I have summarized the current law in some detail because I think it cannot be stressed too much that S. 2467, in granting access without consideration of unfair labor practices and alternative means of communication. crosses the boundary of permissible intrusions upon the employer's property rights and is unconstitutional.

Mr. President, S. 2467 transforms the NLRA from a remedial to a punitive statute. First, the bill would subject any employer found by the Board to have willfully violated a Board or court order to debarment from all Federal contracts for a period of 3 years. Second, the bill provides that employers who unlawfully refuse to bargain during initial contract negotiations shall be subject to a make-whole remedy measured by Bureau of Labor Statistics (BLS) figures relating to collective-bargaining settlements in units with 5,000 or more employees. Finally, S. 2467 provides that employees who are unable to work as a result of unfair labor practices occurring during certain specified periods of time may receive an award of backpay in an amount equal to "one and one-half the employee's wage rate * * * less the wages the employee has earned" during the backpay period. The extraordinary relief is available during periods when the employees are, first, seeking to certify a union; second, seeking to decertify a union; third, seeking to rescind a union security agreement; and fourth, prior to execution of an initial collective-bargaining agreement.

These punitive remedies defy Congress original intent to restrict the NLRB's power to undoing the effect of the unfair labor practices committed. The U.S. Supreme Court first defined the limits of the Board's remedial jurisdiction in *Consolidated Edison Co. of N.Y., Inc.* v. *NLRB*, 305 U.S. 197 (1938), stating:

> The power to command affirmative action is remedial, not punitive, and is to be exercised in aid of the Board's authority to restrain violations and as a means of removing or avoiding the consequences of violation where those consequences are of a kind to thwart the purposes of the Act.

Although the application of this formula has undergone minor modifications through the ensuing years, as the circumstances of particular cases have dictated, the general principles stated therein have retained their validity.

For example, the Supreme Court has often upheld Board decisions which have the legitimate purpose of removing or avoiding the effects of an unfair labor practice. Thus, in *Virginia Electric & Power Co.* v. *NLRB*, 319 U.S. 533, 541, 12 L.R.R.M. 739, 743 (1943), the Court approved remedies purported to restore the status quo as a means of depriving the violator of the advantage gained by the unfair labor practice. And in *Phelps Dodge Corp.* v. *NLRB*, 313 U.S. 177, 194, 8 L.R.R.M. 439, 446 (1941), the Court fashioned a remedy directed toward returning the parties to the position which would have existed, but for the illegal conduct. Alternatively, the Board's relief may be justified on the grounds that it prevents the consequences of a violation from thwarting the purposes of the act. Thus, in *NLRB* v. *Pennsylvania Greyhound Lines, Inc.*, 303 U.S. 261, 265, 2 L.R.R.M. 600, 601 (1938), the Court held that a lesser order would be ineffective. In *National Licorcie Co.* v. *NLRB*, 309 U.S. 350, 6 L.R.R.M. 674 (1940), the remedy was necessary to prevent future enjoyment of the fruits of an unfair labor practice.

Conversely, the Court in *Local 60, Carpenters* v. *NLRB*, 365 U.S. 651, 47 L.R.R.M 2900 (1961), declared at 365 U.S. 655 that where "no 'consequences of violation' are removed * * *; and no 'dissipation' of the effects of the prohibited action is achieved, * * * [T]he order * * * becomes punitive and beyond the power of the Board."

In *Republic Steel Corp.* v. *NLRB*, 311 U.S. 7, 9–11, 7 L.R.R.M. 287, 289 (1940), the Supreme Court held that a Board order, which directed the employer to pay to appropriate governmental agencies an amount of money equal to that which had been earned by discriminatorily discharged employees on "work relief projects" and to credit that amount of money to a backpay award, was beyond the Board's remedial authority. Such payments, the Court claimed, had neither the effect of making employees nor of assuring them of their right to bargain collectively. Hence, the remedy served no statutory purpose. Indeed, the Court felt that such payments were in the nature of an exaction, since the "work relief" payments constituted consideration for valuable services which the Government received.

Significantly, in Republic Steel the Court also rejected the Board's argument that the remedy was permissible since it would have the effect of deterring others from violating the act. Although a remedy may incidentally act as a deterrent, the Court noted at page 12 that if the NLRB were permitted to impose remedies solely on the basis of acting as a deterrent, the Board would be free to set up any system of penalties which it could deem adequate to that end. The Court's holding reflects the principle that the rational relationship between unlawful conduct and the relief which is granted is not satisfied when the remedy purports to achieve ends other than those contemplated by the statute. Moreover, the remedies which the Board has fashioned have, with few exceptions, proven quite adequate in remedying flagrant, repeated or widespread unfair labor practices.

CEASE AND DESIST ORDERS

The most common of all NLRB remedial orders is the "cease and desist" order, i.e., an order directing a party found to have engaged in an unfair labor practice to cease and desist from the particular conduct found to be unlawful. Sometimes, the Board goes further and orders the offender also to cease and desist from "any other conduct" violative of rights guaranteed in the act.

In 1941, the Supreme Court, in *NLRB* v. *Express Publishing Co.*, 312 U.S. 426, 8 L.R.R.M. 415 (1941), set out the doctrine that the Board must consider the nature and seriousness of the unfair labor practices found, the offender's past history of violations, and the probability of recurrence. These guiding principles, still valid today, are the bases upon which the Board can rely in order to justify its issuance of a broad cease and desist order.

Pursuant to the Express Publishing doctrine, the Board may justify a broad order where the additional violations restrained bear resemblance to the violation(s) found. For example, in *Windsor* v *NLRB*, 118 F.2d 486, 8 L.R.R.M. 566 (3d Cir. 1941), the Court held that a broad order couched in the language of section 7 was justified where, in addition to a section 8(5) violation, there was evidence of other misconduct violative of section 8(1). In another case, *Marshfield Steel Co.* v. *NLRB*, 324 F.2d 333, 54 L.R.M.M. 2648 (8th Cir. 1963), the employer had challenged an order directing him to cease and desist from discouraging membership in the United Steelworkers of America "or in any other labor organization," on the grounds that the company had not engaged in violations against members of any union other than the Steelworkers. The Court reasoned that the employer's reliance on Express Publishing was misplaced, stating that the doctrine stood for the proposition that the Board could not restrain an employer from committing "other unfair labor practices in which it has not been found to be engaged * * *," while the order in the case at bar "merely restrains (the employer) from conducting against other labor organizations the same unfair labor practices in which it has been found to be engaged." The Court concluded that the order was fully within the guidelines of Express Publishing, as the restrained violations bore complete resemblance to those which the employer had already committed.

Furthermore, because many employers have several plants and multistate operations, and unions often operate on a regional or national basis, the Board has often ordered remedial action that extends beyond the immediate units involved in the case. Thus, where it had been shown that the employer had instituted a systemwide, centrally directed, and coordinated policy to commit unfair practices, the courts have found that the Board had properly included all the employer's plants within its order as was done in *NLRB* v. *Salant & Salant, Inc.*, 183 F.2d 462, 26 L.R.R.M. 2234 (6th Cir. 1950).

Moreover, the Board may properly consider that, if not deterred, the employer would pursue the same discriminatory policies at every unit within a certain geographic area, and as in *NLRB* v. *Lummus Co.*, 210 F.2d 377, 33 L.R.R.M. 2513 (5th Cir. 1954) and *Texas Gulf Sulphur Co.* v. *NLRB*, 463 F.2d 779, 80 L.R.R.M. 3171 (5th Cir. 1972), may apply its cease and desist order to that entire area. Cases such as *NLRB* v. *Great Atlantic & Pacific Tea Co.*, 408 F.2d 374, 70 L.R.R.M. 2829 (5th Cir. 1969) and *NLRB* v. *Great Atlantic & Pacific Tea Co.*, 409 F.2d 296, 70 L.R.R.M. 3246, 3248 (5th Cir. 1969) demonstrate that when employers who have such a coordinated systemwide policy commit flagrant unfair labor practices, the courts have not hesitated to find the application of Board orders to plants other than those at which the violations occurred has been found to be particularly appropriate. When the employer controls several corporations, or one corporation with separate divisions, Board orders applying to more than one division or corporation have also been upheld in *NLRB* v. *Lipman Brothers*, 355 F.2d 1966, 61 L.R.R.M. 2193 (1st Cir. 1966); Schramm & Schmieg Co., 67 N.L.R.B. 980, 18 L.R.R.M. 1032 (1946); *NLRB* v. *Sunbeam Electric Mfg. Co.*, 133 F.2d 856, 11 L.R.R.M. 820 (7th Cir. 1943).

The importance of the Board's cease and desist powers cannot be overestimated, considering that the employer may thereafter become the target of contempt of court proceedings for future violations of that order.

(The following remarks were made later in the day and are printed at this point by unanimous consent:)

NOTICE AND ACCESS REMEDIES

With regard to notice and access remedies, in addition to the negative, or cease and desist, provisions of an NLRB order in an unfair labor practice case, the Board's remedy will almost always include an affirmative requirement covering the posting of notices. Compliance usually requires that, for a period of 60 days, the respondent employer or union will post, and maintain in a conspicuous location, a signed notice which sets forth the terms and conditions of the cease-and-desist order.

Generally, the provisions covering notification simply stipulate that the notice be posted in conspicuous places, such as bulletin boards, time clocks, department entrances, meeting hall entrances, or dues payment windows. If, however, "flagrant and gross" unfair labor practices are involved, the Board may require extraordinary notification provisions in addition to the normal posting requirements. In an attempt to neutralize the effect of aggravated unfair labor practice conduct, the Board ruled in H. W. Elson Bottling Co., 155 N.L.R.B. 714, 60 L.R.R.M 1381 (1965), enforced on this ground in *N.L.R.B.* v. *H. W. Elson Bottling Co*, 379 F.2d 223, 65 L.R.R.M. 2673 (6th Cir. 1967) and in *N.L.R.B.* v. *Teamsters Local 294 (August Bol Contracting Co. and Cooley Contracting Co)*, 470 F.2d 57, 81 L.R.R.M. 2920 (2d Cir. 1972), enforcing 193 N.L.R.B. 920, 78 L.R.R.M. 1479 (1971), that the respondents mail a copy of the notice to each employee. And in Great Lakes Screw Corp., 164 N.L.R.B. 149, 65 L.R.R.M. 1236 (1967); Heck's Inc., 191 N.L.R.B. 866, 77 L.R.R.M., 1513 (1971), enforced as amended sub nom. *Meat Cutters, Local 347* v. *NLRB*, 476 F.2d 546, 82 L.R.R.M. 2955 (1973), cert, denied, 414 U.S. 1069, 84 L.R.R.M. 2835 (1973); *J. P. Stevens and Co.* v. *NLRB*, 461 F.2d 490, 80 L.R.R.M. 2609 (4th Cir. 1072) and *J. P. Stevens and Co.* v. *NLRB*, 417 F.2d 533, 72 L.R.R.M. 2433 (5th Cir 1969), the Board has also required the employer to make his bulletin board available to the union for a specified period of time. Similarly, the Board granted the union company time to present its petition in *International Union of Electrical Workers (Scott's Inc.)* v. *NLRB* 383 F.2d 230, 66 L.R.R.M. 2081 (D.C. Cir 1967). The Board has also ordered individual notices where the unlawful conduct involved individual contact between the employer and the employee. For example, in *J. I. Case Co.* v. *NLRB*, 321 U.S. 332, 14 L.R.R.M. 501 (1944) individual notices were ordered to employees who had entered into individual employment contracts; in Reed and Prince Manufacturing Co., 96 N.L.R.B. 850, 28 L.R.R.M. 1608 (1951), enforced 205 F.2d 131, 32 L.R.R.M. 2225 (1st Cir. 1953) individual notices were ordered to each unfair labor practice striker who had been threatened by his employer in soliciting a return to work; in U.S. Automatic Corp., 57 N.L.R.B. 124, 14 L.R.R.M. 214 (1944) individual notices were ordered to each employee with whom the employer had bargained individually concerning his grievances; and in Atlas Bag and Burlap Co., 1 N.L.R.B. 292, 1 L.R.R.M. 385 (1936) individual notices were ordered to each employee who had entered into unlawful "yellow dog" contract of employment.

Finally, where as in Sterling Aluminum Co., 163 N.L.R.B. 302, 64 L.R.R.M. 1354 (1967); *J. P. Stevens and Co.* v. *N.L.R.B.*, 417 F. 2d 533, 72 L.R.R.M. 2433 (5th Cir. 1969); *International Union of Electrical Workers (Scott's Inc.) v. NLRB*, 383 F. 2d 230, 66 L.R.R.M. 2081 (D.C. Cir. 1967); and Heck's Inc., 191 N.L.R.B. 886, 77 L.R.R.M. 1513 (1971), *enf'd as amended sub nom. Meat Cutters, Local 347* v. *N.L.R.B.*, 476 F. 2d 546, 82 L.R.R.M. 2955 (2973), cert. denied, 414 U.S. 1069, 84 L.R.R.M. 2835 (1973), the unlawful conduct involved widespread and flagrant violations of the act, the Board deemed it necessary to order that respondent or an agent of the N.L.R.B. read the contents of the notice of the employees.

In Southern Athletic Co., 157 N.L.R.B. 1051, 61 L.R.R.M. 1051 (1966), and The Paymaster Corp., 162 N.L.R.B. 123, 63 L.R.R.M. 1508, 1509 (1966), the Board took the unusual step of requiring a particular agent of the employer to sign the notice, because that agent was personally identified with the employer's unlawful conduct. Without that agent's signature, the employees might not recognize that the usual notice contains a bona fide commitment by the employer to refrain from committing similar unfair labor practices in the future.

ATTORNEY'S FEES AND LITIGATION EXPENSES

In Tiidee Products, Inc., 79 L.R.R.M. 1175 (1972), the Board noted that litigation expenses normally are not recoverable by the charging party in Board proceedings even though the public interest is served when the charging party protects its private interest before the Board. But the Tiidee decision further indicated that the Board would order payment of attorneys' fees and litigation expenses when the respondent's defense is "frivolous." At page 1179, the Board stated:

> We agree with the court, however, that frivolous litigation such as this is clearly unwarranted and should be kept from the nation's already crowded court dockets, as well as our own. While we do not seek to foreclose access to the Board and courts for meritorious cases, we likewise do not want to encourage frivolous proceedings. The policy of the Act to insure industrial peace through collective bargaining can only be effectuated when speedy access to uncrowded Board and court dockets is available. Accordingly, in order to discourage future frivolous litigation, to effectuate the policies of the Act, and to serve the public interest we find that it would be just and proper to order Respondent to reimburse the Board and the Union for their expenses incurred in the investigation, preparation, presentation, and conduct of these cases, including the following costs and expenses incurred in both the Board and court proceedings: reasonable counsel fees, salaries, witness fees, transcript and record costs, printing costs, travel expenses and per diem, and other reasonable costs and expenses. Accordingly, we shall order Respondent to pay to the Board and the Union the above-mentioned litigation costs and expenses.

As cases such as *United Steelworkers* v. *NLRB (Quality Rubber Manufacturing Company)*, 430 F.2d 519, 521, 74 L.R.R.M. 2747 (D.C. Cir. 1970); *Southwest Regional Joint Board, Amalgamated Clothing Workers (Levi Strauss & Co.)* v. *NLRB*, 441 F.2d 1027, 1035-1036, 76 L.R.R.M. 2033 (D.C. Cir. 1970); and *Ex-Cell-O Corp.* v. *NLRB*, 449 F.2d 1058, 1064, 1065, 77 L.R.R.M. 2547 (D.C. Cir. 1071) indicate a "frivolous" defense is one which obviously lacks merit, is not debatable, and not one which fails simply upon the administrative law judge's resolutions of conflicting testimony The Board's policy set forth in Tiidee was approved by the Supreme Court in *NLRB* v. *Food Store Employees, Local 347 (Heck's Inc.)*, 417 U.S. 1, 86 L.R.R.M. 2209, 2211 (1974). In language suggestive of the Board's rationale in Tiidee, the Court explained:

> [I]t cannot be gainsaid that the finding here that Heck's asserted at least "debat-

able" defenses to the unfair labor practice charges, whereas objections to the representation election in Tiidee were "patently frivolous," might have been viewed by the Board as putting the question of remedy in a different light. We cannot say that the Board in performing its appointed function of balancing conflicting interests, could not reasonably decide that where "debatable" defenses are asserted, the public and private interests in affording the employer a determination of his "debatable" defenses, unfettered by the prospect of bearing his adversary's litigation costs, outweigh the public interest in uncrowded dockets.

The District of Columbia Circuit in *Food Store Employees, Local 347 (Heck's Inc.)* v. *NLRB*, 476 F.2d 546, 82 L.R.R.M. 2955 (D.C. Cir. 1973), found that in view of the Board's Tiidee decision, the Board should have ordered the employer to pay legal fees and litigation expenses. The Supreme Court, however, noted in 417 U.S. at 1 that the Board's initial opinion in Heck's was decided prior to the Boards' Tiidee decision, and held that the circuit court should not have decided the legal expense issue itself. Rather the court should have remanded the Heck's decision to the Board to allow the agency to reconsider its ruling in light of the subsequent Tiidee ruling. On remand in Heck's 88 L.R.R.M. 1049, 1051-52 (1974), the Board would not assess attorneys' fees and litigation expenses because the defenses raised were not frivolous, but "debatable."

After the Heck's decisions, the District of Columbia Circuit reviewed the Board's Tiidee decisions in *Electrical Workers (IUE)* v. *NLRB*, 502 F.2d 349, 86 L.R.R.M. 2093, 2096 (D.C. Cir. 1974). Although it found that the Board had properly ordered the employer to reimburse the union for attorneys' fees and litigation expenses, it found that the NLRB had erred by ordering the employer to reimburse the Board for such expenses. The court noted at pages 2098–2099, that such remedies were inappropriate because the employer was a "stranger" to the processes of the Board and because the scope of the initial court remand limited the Board to considering whether to award legal expenses to the charging party.

REIMBURSEMENT FOR LOST UNION ORGANIZING EXPENSES, DUES, AND INITIATION FEES

When union organizing campaigns have been subject to employer unfair labor practices the Board has been requested to require the employer to reimburse the union for losses in organizing expenses and dues. In Heck's, Inc., 191 N.L.R.B. 2231, 77 L.R.R.M. 1513 (1971), the Board held that the union had not established that the respondent's conduct had contributed to the loss of any dues or fees.

Following the Heck's decision, the Board issued Tiidee Products, Inc., 194 N.L.R.B. 1234. 79 L.R.R.M. 1175 (1972), in which it denied a similar request for organizing expenses and lost dues and fees. The Board did not state, however, that such a remedy should never be granted, but rather held that there was "no nexus" between the employer's unlawful conduct and the union's preelection organizing expenses. After the Board issued this Tiidee decision, Heck's decision reached the District of Columbia Circuit in *Food Store Employees, Local 347* v. *NLRB*, 476 F.2d 546, 82 L.R.R.M. 2955 (D.C. Cir. 1973). The court took note of Tiidee's apparent endorsement of reimbursing organizing costs in appropriate circumstances, and contrasted that holding with the Board's general statement in Heck's that such a remedy would not effectuate the policies of the act. In view of the Board's statement that the conduct of Heck's had probably caused the union additional organizational costs, the court, relying on Tiidee, at 82 L.R.R.M. 2959, ordered such remedies paid the union. In *NLRB* v. *Food Store Employees, Local 347 (Heck's Inc.)*, 417 U.S. 1, 86 L.R.R.M. 2209, the Supreme Court reversed the court of appeals and determined that the case should have been remanded to the Board for a determination of whether or not there existed a nexus between the employer's conduct and the union's preelection organizing expenses. On remand in Heck's Inc., 88 L.R.R.M. 1049 (1974) the Board did not deal directly with the merits of the union's claim for organizational expenses. Rather, it determined, as it did with the union's request for legal expenses, that the employer's defenses were debatable rather than frivolous. As the previous discussion indicates, where the employer has a frivolous defense, organizing expenses may be ordered if the union can show a nexus between the employer's illegal conduct and an increase in the union's organizing expenses.

COURT CONTEMPT AND INJUNCTION PROCEEDINGS

Once the court enforces a Board order pursuant to section 10(e) of the NLRA, the employer may be subject to contempt of court proceedings. This makes available powerful sanctions beyond the purely remedial power of the Board.

It is well established that the courts "should impose whatever sanctions are necessary under the circumstances to grant full remedial relief, to coerce the contemnor into compliance with (the) court's order, and to fully compensate the complainant for losses sustained." See, for example, *NLRB* v. *Sheet Metal Workers, Local No. 80*, 491 F.2d 1017, 85 L.R.R.M. 2490 (6th Cir. 1974); *Teamsters Local 745 (Farmers Co-op. Gin Ass'n)* v. *NLRB*, 500 F.2d 768, 86 L.R.R.M. 2110 (D.C. Cir. 1974); *NLRB* v. *J. P. Stevens & Co.*, 464 F.2d 1326, 80 L.R.R.M. 3126 (2d Cir. 1972); *NLRB* v. *Mooney Aircraft, Inc.*, 336 F.2d 809, 61 L.R.R.M. 2163 (5th Cir. 1966). Thus, in NLRB-related civil contempt proceedings, the courts will routinely order respondents to pay the Board all fees, costs, and expenditures incurred during the contempt proceedings. In *NLRB* v. *Nickey Chevrolet Sales, Inc.*, 76 L.R.R.M. 2849 (7th Cir. 1971) and *NLRB*. v. *J. P. Stevens & Co.*, 464 F.2d 1326, 80 L.R.R.M. 3126 (2d Cir. 1972), these included counsel fees incurred in investigation, preparation, presentation, and final disposition of the contempt case. Further, in order to assure that the respondent complies with the terms of the decree, the courts consistently order a fine for each further violation plus a fine for each day each violation continues. For example, in *NLRB* v. *Amalgamated Local Union 355 (Robin Ford)*, 77 L.R.R.M. 2989 (E.D. N.Y. 1971), the court anticipated future violations and ordered compliance fines of $10,000 from the union, and $2,000 from each of two union officers. Also, in that case, if such future violations were of a continuing nature, the union and officers would have been required to pay fines of $1,000 and $200 per day, respectively.

Similar fines have been ordered in *NLRB* v. *Schill Steel Products, Inc.*, 480 F. 2d 586, 83 L.R.R.M. 2669, 2672 (5th Cir. 1973); *NLRB* v. *Sheet Metal Workers Local No. 80*, 491 F. 2d 1017, 85 L.R.R.M. 2490 (6th Cir. 1974); and *NLRB* v. *Ambrose Distributing Co.*, 382 F. 2d 92, 65 L.R.R.M. 3057 (9th Cir. 1967). Another illustration is found in *NLRB* v. *Johnson Mfg. Co.*, 511 F. 2d 153, 88 L.R.R.M. 3553 (5th Cir. 1975) wherein the employer who had refused to bargain in good faith with the union was fined $50,000, which was to be returned if the employer presented within 60 days satisfactory evidence of compliance with the new court order. Similarly, in *NLRB* v. *F. M. Reeves & Sons*, 273 F. 2d 710, 47 L.R.R.M. 2480 (10th Cir. 1961), the court enforced a fine of $1,000 for the employer's past acts of contempt.

In contempt proceedings involving employer refusals to bargain, the fifth circuit has devised remedies which surpass those employed by the Board in similar violations in *NLRB* v. *Schill Steel Products, Inc.*, 480 F. 2d 586, 83 L.R.R.M. 2669, 2670–71 (5th Cir. 1973), the employer was ordered to bargain until full agreement or bona fide impasse was reached. The existence of such impasse was to be decided by the court, and the failure to find such an impasse was to be considered a failure to bargain in good faith. Such a failure would subject the employer to compliance fines of $5,000 for the violation, plus a fine of $1,000 for each day the violation continued. In addition, the employer was not permitted to refuse to meet with the union at reasonable times, or to withdraw recognition from the union until further order of the court. Also, unless the union gave written permission otherwise, bargaining sessions were to be held at least 15 hours per week. Sworn reports signed both by the employer and union were to be filed with the court clerk and the Board every 30 days detailing the nature and course of the bargaining. If the Board determined that the employer was not bargaining in good faith, it was required to submit a report and supporting brief to the court and propose appropriate sanctions. If the company was found to have engaged in bad faith bargaining, the compliance fines mentioned above would then be imposed. *NLRB* v. *Savoy Laundry, Inc.*, 354 F. 2d 78, 61 L.R.R.M. 2021, 2023 (2d Cir. 1965); and *NLRB* v. *Schill Steel Products, Inc.*, 480 F. 2d 586, 83 L.R.R.M. 2669, 2672 (5th Cir. 1973), suggest a further alternative available to the court in dealing with the persistently recalcitrant violator. The court may issue a writ of body attachment under which the appropriate officer or agent of the

offending respondent will be confined to jail until compliance with the court's decree is forthcoming.

Finally, if it can be shown that the respondent "knowingly, willfully, and intentionally "violated the court's decree, the Board may petition the court to find the respondent criminally liable for his conduct. Sentences for criminal contempt include monetary fines and imprisonment.

As shown, contempt of court proceedings provide powerful sanctions to use when employers and unions violate Board orders which have been enforced by the courts of appeals. Further description of the NLRA contempt process and an analysis of its effectiveness can be found in *Bartosic and Lanoff, Escalating the Strugge* v. *Taft-Hartley Contemnors,* 30 U. Chi. L. Rev. 255 (1972).

Throughout this speech one basic legal principle has constantly recurred: the NLRB has been granted broad authority by Congress to fashion unfair labor practice remedies in order to effectuate the policies of the National Labor Relations Act. This power is subject to the stipulation that its use be restricted to undoing the effects of unfair labor practices found to have been committed. Stated in another and perhaps more conclusory fashion, Board orders must be remedial and not punitive or confiscatory.

For the most part, the remedies utilized by the Board are accepted by the users of the Board's processes as appropriate manifestations of the Board's remedial powers. For example, bargaining orders, backpay, reinstatement, notice posting, and cease-and-desist orders are all considered to be "traditional" remedies which the Board may apply with flexibility and discretion.

NLRB and judicial decisions have also recognized that respondents who engage in repeated or flagrant violations, or who advance frivolous defenses to unfair labor practice charges, deserve to receive harsher and more imaginative remedies. Thus, the Board has fashioned remedies designed to confront the particular circumstances of the violations found. For example, where a respondent has demonstrated a proclivity to violate the act, and where it can be anticipated that further violations will occur, the Board will issue a "broad" order which requires that the act not be violated "in any other manner." Also, special notice provisions may be ordered to inform the employees that an unfair labor practice has been found and is being remedied. The respondent may be required to mail the notice to the employees, give the union access to company bulletin boards, or read the notice aloud to the employees. Where a flagrant unfair labor practice is unaccompanied by a debatable defense, the respondent may be ordered to pay attorneys' fees and litigation expenses.

The act also provides the NLRB with authority to seek injunctions to prevent the continuance of unfair labor practices where it can be shown that such relief is "just and proper." If such an injunction issues, the unfair labor practice will be restrained until the Board issues a final order which then will contain the appropriate NLRB remedy. Under section 10 (l) of the act, the General Counsel is required to seek an injunction from a U.S. district court against certain specified union unfair labor practices. Injunctions against other unfair labor practices are covered by section 10(j). While the injunction is in effect, a breach of the injunction will subject the defendant to powerful contempt of court sanctions.

Other contempt sanctions are available for use against a respondent who violates a Board order which has been enforced by the appellate courts. The NLRB order has then become the order of the court and as was stated by the court in *NLRB* v. *Vander Wal,* 316 F.2d 631, 52 L.R.R.M. 2761, 2763 (9th Cir. 1963), a refusal to comply with that order, or the commission of a similar future violation, will subject the contemnor to "whatever sanctions are necesary under the circumstances to grant full remedial relief, to coerce the contemnor into compliance with (the) court's order, and to fully compensate the complaint for losses sustained." These sanctions in almost all NLRA civil contempt cases will include payment to the Board of fees, costs, and litigation expenses incurred. Additionally, the court can coerce compliance by fining the contemnor and even placing his responsible officer or agent in jail through a writ of body attachment. Willful violations may be prosecuted by way of criminal contempt, with its attendant penalties of fines and imprisonment.

As shown, harsher remedies presently are available for use against the flagrant or recalcitrant violator. But availability is not the only touchstone for their utilization. In dealing with requests for these extraordinary remedies, the Board and courts have recognized that when the severe remedy is ordered, they must address questions involving the fundamental fairness of the proceeding. One basic problem is the possibility that harsh remedies and penalties tend to coerce respondents with potentially meritorious claims into settling the case in order to avoid the remedy. In order to minimize this chilling effect on the assertion of possibly valid defenses, the Board and courts have rejected requests for attorneys' fees, litigation costs, union organizing expenses, and "make whole" remedies for refusals to bargain, where the respondent has been able to present a "debatable," or nonfrivolous defense.

The potential unfairness becomes more pronounced when considering that high financial penalties will most affect litigants with small financial resources. A flagrant violator with a sound economic position, however, may be able to pay the price and continue violating the act. If such a violator is undeterred by potential contempt of court compliance fines and jail terms, the possibility of paying double back pay may not deter him either. While valid reasons exist from concern about those respondents who repeatedly commit serious unfair labor practices, those concerns should be balanced by recognizing, as the Board and courts have done, that certain proposed remedies in this area are unacceptable because they may unfairly coerce settlements and hinder a full determination of whether the alleged violation actually occurred.

Cogent arguments have maintained that certainty in the application of remedies and promptness and efficiency in their administration would provide better deterrence than would increasing the severity of the remedies. Former Board Chairman Edward B. Miller has addressed this problem several times and his views deserve full examination. Miller argued in "The NLRB—Hero or Villain?" 1970 Labor Relations Yearbook 214, 217–218 that—

> The other criticism—that our remedies provide too little, too late—is doubtless sometimes valid. But I think the emphasis is more properly placed on the "too late" rather than the "too little." It is important to remember that the primary purpose of our remedial orders is to bring persons and entities into compliance with our law, in the hope that the compliance will extend to the spirit as well as to the letter of our law.
>
> It will, for example, accomplish precious little if an employer, at our command, enters upon a bargaining relationship with the union, convinced in his own mind that he is there only under protest and determined only to go through the motions of bargaining because he has been forced to do so. On the other hand, if he goes there, perhaps not liking it, but determined to follow our directives in good faith and to learn to live with his new situation, then there is hope that we have achieved genuine, rather than superficial, compliance.
>
> Similarly, a union which abandons picketing which we have found to be a prohibited secondary nature but remains determined to find some means, legal or illegal, to bring improper pressure to bear upon the protected neutral employer, may honor the letter of our law but by subsequent conduct may very well frustrate the law's objective.
>
> Thus we must always be conscious of the fact that our remedial orders are not designed as penalties, and should not be evaluated in a penal context. They are, rather part and parcel of an administrative effort to shape viable and continuing relationships among the parties who appear before us and who must often live together long after our file on their case has been sent to the archives.
>
> The empirical data which is available is not as comprehensive as I would like, but such as there is seems to bear out the wisdom of this caveat. It tends to show that a Respondent, whether union or employer, who is so hostile to the requirements of our law and our processes of implementing it that he will deliberately and repeatedly engage in improper conduct both before and after he has appeared before us is not likely to achieve the kind of industrial stability that our Act envisions, even after having been the target of the full thrust of our remedial powers. While it is possible to conclude from this data—and some have—that we therefore need bigger and better monetary remedies, I am more inclined to conclude that we must face up to the fact that big monetary remedies—or penalties—are not really effective in deterring the true rcalcitrant in this field.
>
> Our experience has been, however, that when we are able to move with both firmness and dispatch, the results are much more encouraging. . . .
>
> The emphasis, therefore, in my view, should be more heavily placed on prompt and efficient case handling than on belated expanded remedies, no matter how imaginative or inventive those remedies might be.

While there is good cause to be concerned about serious violations of the act, and the mounting caseloads of the Board and the courts, we should refrain from embracing solutions which as noted by the court in *NLRB* v. *F & F Laboratories, Inc.*, 89 L.R.R.M. 2549, 2552 (7th Cir. 1975), "could become the basis of chilling the assertion of rights reasonably held in good faith."

(Conclusion of later proceeding.)

Mr. President, I notice that the distinguished Senator from Nebraska is here, so I am delighted to suspend my remarks and allow him to proceed.

(Mr. SPARKMAN assumed the chair.)

Mr. CURTIS. I thank the distinguished Senator from Utah.

ORGANIZATION TACTICS OF LABOR UNIONS AND WHY THERE IS NO NEED FOR ADDITIONAL ADVANTAGES

Mr. CURTIS. Mr. President, the Senate is being called upon to pass legislation which will have serious and far-reaching effects upon the labor-management relations of the United States. One of the purposes of S. 2467 is to make the task of organizing nonorganized locations easier for the international trade unions.

The international labor unions have not been doing too well recently in their organizational drives, and they are coming to the Congress of the United States trying to get laws passed which will permit them to be more successful. That greater degree of success will be at the expense of the working people and the employers of the United States. I think that before we can vote on a matter of such importance, we need to look at the organizational approach of the international labor unions, the instructions that they give to their organizers, the type people that they look for to be organizers, and how the organizational effort takes place. The following is a general description of the process as is contained in the handbook of one of the international unions (United Steel Workers of America).

First, the union recognizes that they must have really topnotch people to be organizers. The handbook states that of the many phases of trade union work, the art and science of organizing is perhaps the most creative. While the success of other equally important areas of union activity depends upon group coordination and detailed planning, organizational work as a practical matter, maintains greater dependence upon the individual personality, and initiative of the organizer. Organizing is creative in the sense that it draws together people of diverse interest, aspirations, and social backgrounds which are molded into a common human effort. Such activity in the field of human relations is as creative and inspiring as a Beethoven symphony.

Those are very heady words and you can see that they would inspire any good union man to try to reach this pinnacle of union success.

The handbook says that good organizers are active practicing psychologists. The organizers' field is human relations and in such a field the unorganized working men and women are the raw materials which are refined through the group struggle.

There is nothing static about union organizing. It is an ever continuing and constantly improving process. It means more than just getting a nonunion worker to place his signature on a card or winning an NLRB election. In the final analysis a group of workers cannot be considered fully organized until there is maximum acceptance of their common and individual responsibility and the struggle to improve their social and economic lot in life. At this point an organizer has completed his assignment and he is ready to move on to the next group.

We see here that the organizer has been assigned the task of literally changing the thinking of the people that he works with. He must impress them that their position in life is dependent not only as to their economic condition but as to their social condition.

The handbook states that the basic tools of an organizer are first, a native quality and capacity to like people, second, the ability to adapt, and third, patience with people. The quality of liking people is described as meaning more than backslapping, telling jokes, and having a beer with the boys. It means that a person must be deeply concerned with the problems of other people. It means that the organizer must really enjoy meeting new people and exchanging views. It means that the organizer is not strained, uncomfortable, or ill at ease with people who are strangers. It means that the organizer is a person that can learn something from other individuals in the course of an exchange of views and try not to have an exclusive monopoly on knowledge and know-how. The organizer has to keep an open mind about people who are different and judge each individual on the basis of merit rather than preconceived notions concerning nationality, religion, or race. The organizer must have the capacity to grow in maturity and outlook with each new experience in human contact and relations.

The ability to adapt means that he must not only be able to adapt to the immediate surroundings, but it is very important that he not feel superior or out of place. Some of these high-priced organizers go out and start talking with people who make less money and this is one of their big problems. They feel superior and this may come across to the people they are trying to organize. They caution him on that. If the organizer is not able to do this he will certainly make everyone uncomfortable and unwittingly create resistance to unions. They say that workers have what is called a deep sense of kind and have a tendency to warm up to people whom they consider as one of us. The organizer in adapting has to be able to put people at ease and if he is able to do this, then he will be able to persuade them that they need to join the union.

The organizer is also an individual with a great deal of patience. Sometimes it takes a great deal of time to sell people on the need of a union and an organizer who shows impatience with a prospective union member has permitted half of his effort to go down the drain. The handbook recognizes that most people today are not sold on unionism and the book tells the organizer it is unlikely that nonunion members will be sold on the idea of unionism after the first discussion. So it is up to the organizer to patiently implement his efforts to bring the person over to his point of view. The organizer is cautioned to avoid heated rambling arguments. The more heated the argument the more resistance in the mind of the prospective member.

It is obvious that the organizer is an exceptional individual with many talents, fine personality, persuasive, and to repeat what is said in the book that his activity in the field of human relations is as creative and inspiring as a Beethoven symphony. I can assure that that is probably the way it sounds down in the AFL–CIO headquarters. But to that employer and his employees who are the victims of these organizers I can assure you that it will not sound like a Beethoven symphony.

The handbook states that there are two types of organizing targets, the smaller units and the large strategically important plants. The small units do not require all of the effort that the big ones do but they are still important to the life and growth of the union. The major attention should be directed to the big units and it states that many of them have been tried many times by various unions. Campaigns at such major units should be planned on a permanent long-range basis. The big unorganized units are not going to come easily. Eventually, however, management will make a fatal error to spark a successful organizing effort. The word fatal is used in the handbook and I am sure that to many businesses it is more than just a figure of speech, that with the union comes dissension, ineffective work rules, division between labor and management, and the organizational effort is truly fatal.

The handbook states that you must be sure all major unorganized plants are targeted. In establishing the plan organizing committee at such units make it clear that the union is there to stay. Tell the committee "we are not just here to get a labor board election, a vote is only a stepping stone to our ultimate goal which is to build a permanent local union at this plant."

The committee must understand that the campaign may not always be in high gear. You can manitain contacts by calling the plant committee together every few months and by placing calls occasionally to key workers.

The organizer should set up a continuing project file of all pertinent information dealing with the particular plant and its operation. When the primary information is collected the organizer is in a better position to further plan the campaign and to consider the techniques and tools he will use in unionizing the project. While all of the information may not be readily available he should keep the file open and continue to refine and improve the quality of the file as the actual campaign progresses.

The continuing project file will serve as a valuable source of information

necessary to analyze each particular development and render assistance and efforts to solve the problems. The value of the continuing project file becomes more important with each piece of new solid information.

The file should have information concerning the company and its operation. This will cover a wide area of information which should be collected both before and during the course of the organizational drive. Much of this information will also be valuable in negotiations upon successful completion of the organizing effort. Some of the information that you should get should be obtained before embarking upon the campaign and it can be easily collected; namely, the location of the plant, the physical structure, whether it is old or new, entrances, number of floors, starting time, quitting time, services rendered or goods manufactured, transportation facilities near the plant, eating and drinking establishments near the plant, is the plant part of multiplant operation or is it locally owned, is it individually owned, by a partnership, or by a corporation, and the approximate number of employees involved in the unit to be organized.

It is recommended that the organizer get a copy of the Dun & Bradstreet report.

Other information that should be included in the continuing project file is information about the executive and administrative personnel, the board of directors and their individual connections in the community, the dominant executive personality, methods of distributing the product or service, the seasonal nature of the business, production facilities, the location of branch sales and distributive centers, the method of shipping, and other information of use in the event of a strike or negotiations.

The labor history of the firm should be explored and accumulated by the organizer. They should get all information concerning previous organizing efforts by other unions, strikes—their effects, and efforts on the part of the employer to defeat organization of the employees in the past.

The organizer should check to determine whether the industry in which the company operates is organized or partially organized in the area. He should also check to determine whether the company is part of multiplant operation and the extent of organization in those areas. Also who are the major competitors of the firm.

The instructions continue, if you are organizing a multiplant company or a nonunion competitor be sure to get copies of agreements covering similar workers in the unionized plants for comparison purposes. Then there is one very valuable caution contained; be sure to scrutinize such contracts closely before using them in the organizing drive. An unorganized plant may provide benefits that are superior to those found in agreements of unionized competitors. Unless checked fully and explained properly, the information on these contracts could be harmful to your campaign.

Another area for investigation is the companies' so-called paternalism. The organizer is advised to check for company-sponsored softball teams, bowling teams, picnics, credit unions, house publications. The organizer is told to get the names and addresses of all of the officers and leaders of such groups and try to use them as leaders in the organizational campaign.

After assembling as much information on the plant or the firm as possible then the organizer is advised to take a look at the employees and the social composition of the group. The plant should be checked to determine the ratio of male to female employees, are they separated by departments or do they work together in the same general occupations. No generalizations can be made as to which group is more difficult to organize, however, it is important to know the male-female ratio in the plant especially in planning leaflets and other educational materials.

Also, you are advised to check to see what the general ratio of employment of rural workers to urban workers is at a plant. The union recognizes that the motivations of a worker who lives on a farm and comes to town to work are different from those of the regular urban worker. The economic and social pressures vary and the degree of hostility to unions is greatest among the rural workers. The handbook states that many companies make it a policy to balance employment between urban and rural workers thinking that this will be a deterrent to unionization.

Also, a check should be made of the racial composition of the group to be organized. This is going to have some immediate influence upon the efforts to organize the group. Is the group primarily white or black? If mixed, are the relations good or bad between the two groups? Who among the two groups exercise leadership and influence in the shop?

The continuing project file should also include all necessary information about the commodity in which the plant is located. Newspapers, schools, political complexion, community organizations, and other unions in the area are things that should be checked by the organizer. The worker lives in the community and his attitudes are more or less dictated by the general community attitudes. There are many resources in the community which can aid the organizer in overcoming many hurdles and they should not be disregarded. Some ministers are pro labor and can be of great help to the organizer as well as many leaders of community organizations.

Now, after having checked the physical characteristics of the plant the immediate area, restaurants, bars, et cetera, the people in the plant, the community in which the plant is located, it is time to start making the first contact with the group to be organized.

The organizer is told that he should be concerned with two important immediate goals; namely, one, to seek out potential leadership in the plant which will aid in furthering the organizing drive, and, two, to obtain detailed information concerning the immediate problems and group grievances within the plant.

In most plants and shops there are key individuals who maintain a greater leadership influence or potential within the group than others. There are those who have personalities which naturally draw people to them. There are those who readily speak up and sometimes inspire confidence. There are those who are highly gregarious and represent the popular tendencies within the group. There are those whose advice is respected and considered very dependable. There are many elusive ingredients in the human personality which serve as the raw material for group leadership.

The handbook continues, stating, in any given group certain individuals will emerge with adequate leadership qualities. Sometimes this native quality of leadership is dormant and difficult to discern and at other times it is bursting forth at the seams for expression. In any event, practically all of the leadership in organized labor today emerged at some point during a plant organizational campaign or in the course of building a local union.

Again the reference to the paternal employer—do not overlook the leaders of company-sponsored activities in sizing up your organizing contacts. Such people are usually carefully selected by management for these jobs, because of their leadership qualities. You will find that most of them are promanagement but not always. Take time to check their backgrounds and visit them individually.

In making contacts during the initial stages in the organizing effort, the organizer should be primarily concerned with the quality of the contact rather than the quantity of the contacts. Quantity contacts can be made later in the campaign. A great deal of time should be spent in developing the confidence and understanding of the potential leadership contacts in the early stages. The handbook continues that this is very important, because the real job of organization will take place inside the plant or shop from day to day and from hour to hour under the very noses of the foreman and supervisors.

The second step that the organizer is advised to take after making his initial contacts is to stake out the job problems and conditions of employment in the shop. He needs to return to his continuing project file to look for information and he also should spend a great deal of time with the basic core of key employees probing for problems of concern and irritation.

The handbook states that this information will become the major ammunition in the day-to-day campaign to organize the group. Without key material concerning immediate job problems and conditions in the plant the organizer can be placed on the defensive in conducting the campaign.

The organizer should set up a list that would include the following:

Number of departments and the operation of each department, the distribution of male and female in each unit, number of employees in each department.

Job classifications, labor grades, and wage rates, how do these rates compare with organized sections of the industry?

The method of handling complaints grievances in the shop. What are some of the major complaints within the group? How is seniority observed? Number of workers over age 50, number of workers under age 30.

Hours of work and premium pay rates in excess of 8 hours. Saturday pay, Sunday pay, holiday pay, number of holidays.

Paid vacation schedules, sick leave, rest periods.

Flagrant violations of State or city health and safety regulations, lighting, toilets, heating, and special protective laws for women.

Does the company maintain any noncontributory welfare program? If it maintains a contributory program, how is it maintained? What are the benefits and costs?

What is the attitude of foreman and supervisors toward employees? Get the name of overbearing foreman or supervisors. Develop lists of arbitrary actions on the part of supervisors which is considered an injustice against any individual workers.

The organizer is told that this information concerning the employees job will serve as a major ammunition in the campaign. To be effective with unorganized workers the organizer cannot engage solely in abstract generalities on the glory and wonders of trade union organizations, he must come down to earth as quickly as possible translate the overall organizing program into terms of day-to-day practical experience of the particular group. By nature most people are interested in their own immediate problems and are far more receptive to proposals for action when we talk and plan from that point. The organizer is told to remain within the framework of this group background and experience while at the same time keeping a weather eye on the overall program. To the organizer it is more important to be intimately acquainted with what is going on in department X and the arbitrary bullheaded habits of Foreman Smith than what happened at the last AFL–CIO convention.

The handbook summarizes these key contacts and says that they have been made in the following ways:

1. By engaging in conversation with the employees at the restaurant or in a bar near the plant.

2. By obtaining names and addresses from interested third parties and calling on them at home.

3. Introducing yourself to one or more employees at the shop entrance.

4. By checking with union members working in shops near the plant.

Senators may rest assured that if they have any constituents, small businessmen or big businessmen who have unorganized plants in their State that today as we discuss this bill that across the street at the nearest cafe, at the nearest bar there is an organizer for one of the international unions, collecting information for his continuing project file looking toward the day that they can take over the leadership of those employees.

The handbook continues that the next stage of the campaign is one that you should complete without too much fanfare, and that is the need to build a hard functioning core of union support within the plant. The organizer should make every effort to have representation from each department or section, female as well as male representation, and representation which includes all racial, nationality, and language groups. Several meetings should be held with the organizing committee prior to the all-out campaign. It is very important that this committee understand the general patterns of the campaign. The stakes and security and the risks involved. What the handbook is saying here is that you need to keep everything secret up to this point. You need to be able to have the greater part of your organization put completely together before the employer finds out what is happening. Before he has an opportunity to say one word to his employees.

The handbook goes on:

In developing your plant organizing committee be sure to work with them quietly at first. Try to build your committee structure at least partially without company knowledge. Never make your initial contact with the prospective committeemen by telephone. There is no sure way to convince someone he should become an active campaign worker. You must sell yourself and you cannot do this on the phone.

Continuing with the secretiveness of these unions working in the plant—

If at all possible have your committee solicit signed authorization cards in the unit quietly before you announce the beginning of a drive in a leaflet or letter. Cards are much easier to get before company opposition sets in.

The organizers are told never to tell how many people they have signed up. It is good policy not to divulge to the committee or to anyone in the plant the number of signed cards obtained until you secure a substantial majority, otherwise the information will get back to the company and be used in planning opposition to the campaign. It says be diplomatic but firm and just do not tell the committee members anything.

The handbook states that the organizer needs to get out and get acquainted with the National Labor Relations Board personnel in the area. He might have to file some unfair labor practice charges and it would be good to know them in advance. Brush up on the procedures of the NLRB and be prepared to function before the Board.

The organizer is cautioned to not hold too many open or general meetings. You should schedule them only when you are absolutely sure of a good turnout. Chances are that the crowds that show up for such meetings will be disappointingly small and this will hurt the organizing drive when the word gets back to the plant that too many people did not show up. The handbook says it is wiser to hold weekly or biweekly meetings of the plant committee and if you feel that a larger meeting is needed advertise it as a meeting for signed up members of the union only and work at the task of getting out a good proportion of the signed up members.

The meeting may be called in the name of the organizing committee but the organizer should always conduct the meeting. This is one thing the union and the union's employees are always in charge of.

The handbook advises the organizers to make home calls and I think that anyone who has ever run for public office should study one of these handbooks at great length because they will find some very good advice there. The handbook states that calling upon workers at home is one of the most important day-to-day functions of an organizer. It constitutes the hardcore of most campaigns and is the most rewarding work in terms of human experience. In this area of activity the organizer must bring into play the sum total of his previous experience with people. From the moment he rings the bell at the home of the prospective member to the departing "good night" he has gone through one of the most important processes of education—meeting new people, exchanging experiences and points of view. Each home call is a complete new advanture in human experience.

One of the first lessons that the organizer will learn after a number of house calls is that he cannot successfully place individuals into well defined sociological categories and grooves and expect them to react according to the most recent statistics on human behavior. An organizer who depends primarily upon a set of surface generalizations on the subject of people can, sooner or later expect the dynamics of human relations to suddenly pop out like a "jack-in-the-box" and spill his statistics and second-hand assumptions all over the kitchen floor. When it comes to specific individuals there is no such things as the "average" American, the "average" worker, or the "average" family. Life and human experience would be a very dull and plodding occupation if it could be reduced to a set of mathematical equations.

The handbook continues with pointers on making house calls which should be valuable to any individual running for public office.

Try to make calls at a time convenient for the worker. Calling during the evening meal creates some irritation and embarrassment for the family. A good normal time to make a call at night is 7 p.m. Think twice before making a call after 9 p.m.

A keen impression is made during the first few minutes of the house call. Introduce yourself, state your purpose for calling, and ask permission to discuss some of the matters with the contact. Do not push or be overaggressive, however, be positive, polite, and friendly.

If the contact is married and has children do not isolate him from his family. You are also calling upon the family. Make special efforts to bring the wife into the general discussion. She, in many cases, will have some influence upon his final decision. Prices, the high cost of living, and raising a family should be subject matters of special interest to her. If the children are around get acquainted with them, do not show irritation by their interruptions. As a matter of fact

the entire evening could be well spent in building a friendly relationship with the family.

Do not exclude other subjects from the conversation that the contact may introduce. Do not hog the conversation, relax, and give the other guy an opportunity to talk. A good listener has some advantages also. Conversation is a two-way street and sometimes people can talk themselves into unionization if given an opportunity. However, try to keep the conversation in the general direction of your purpose.

Avoid heated arguments; you merely build greater resistance to your point of view. Remember this is the great testing ground for your personality tools; namely, the capacity to like people, adaptability, and patience. Do not be discouraged if you are not able to convince the contact on the first meeting. Try to end the meeting on a friendly basis with an invitation to return at a later date.

As soon as the homecall has been completed and you have left, make notes of your impression of the contact, fill out one of the standard report forms in detail.

The handbook concludes with one final caution, housecalls should never be made by more than one organizer at a time. Teaming up has the effect of "high pressuring" the contact and is resented.

(Mr. GRAVEL assumed the chair.)

Mr. CURTIS. Most of the information contained in the handbook is very true, very accurate, a very good description of the human condition; only one variance seems to be obvious: The handbook attempts to depict work as the most horrible thing that a human being can do.

Studies by others indicate that this is not true, that most people enjoy the work that they do, even the boring assembly lines of the auto industry. In all of the interviews with workers we find that most people get great satisfaction out of the work that they do. The organizer's handbook indicates that there is only the time spent not working in which the individual is truly a human being. Let me tell you how they describe the working hours.

One-third of a worker's day is spent on the job and the remaining two-thirds of the day is spent at home or in the neighborhood and community in which he lives. On the job he represents an economic entity—an integral part of the production process—a decimal point on the dehumanized statistical chart—a curve—upward or downward—on a humorless and complicated graph—a significant cost item in production planning.

We can see that the approach of the international unions is to try to convince American workers that they are completely dehumanized on the job and that for them their life has no meaning. This is an effort to completely alienate themselves from the employer; it is an effort that is having a profound effect upon the entire system of production that we have in the United States.

The international labor unions have control of the major means of production in the United States today. The steel industry, automobile industry, the aluminum industry, the big manufacturers, are for all practical purposes completely unionized. S. 2467 is an attempt on the part of the international labor unions to take over the rest of the American workers.

Under the leadership of the international labor unions a strong case can be made that we are not doing too well. In the 1978 yearbook, published by the Organization for Economic Cooperation and Development which guides the economies of the 24 industrialized non-Communist countries, the United States is reported as having slipped to fourth place in gross domestic products per capita for the first time. Canada has joined Sweden and Switzerland in passing the United States in income per capita. Sweden was first with $9,030, Switzerland second with $8,870, Canada third $8,410, the United States was fourth with $7,910.

As listed by the Organization for Economic Cooperation and Development, the per-capita share of what the company produces does not mean average wages. The figure is arrived at by taking the total amount produced by the country and dividing it among each citizen on a per-capita basis. The United States today ranks fourth. If Senate bill 2467 passes we will rank fifth, sixth, or seventh in a very short time.

The organizer's handbook describes the worker on the job as the variable element in the modern economic picture which has teased and plagued economic theorists from the day of Adam Smith to the current President's Council on Economic Advisers.

Continuing the description of the American worker as being some sort of robot or an inhuman, how do they describe it in the science fiction magazines, the humanoid? The handbook further states that the moment the worker leaves the job he is once again converted into a social being. He becomes an individual with primary personal needs, motivations, and aspirations. His need for security and human dignity becomes more apparent as he assumes his role as a free citizen in a free community. He becomes an individual American with his share of hopes, frustrations, dreams, and the tax burden that everybody has to pay.

What he thinks on the job is of secondary importance to the production process but as an individual and social being surrounded by his family and friends in his neighborhood and community, his attitudes and actions are of the utmost importance in the development of a democratic society. He is free and equal to any man and his collective attitudes and actions determine the course of human events.

The growing industry of scientific sampling of attitudes and opinions points up the key role of the working citizen today. Millions of dollars are being spent by advertising hucksters to help him form opinions on the quality of merchandise. Equally significant is the fact that a growing number of business institutions and trade associations are spending as much merchandising social ideas and antilabor attitudes as is being consumed with selling hardware, soap, and cornflakes. The organizer is told that many of the more complex problems of plant organization to be faced by an organizer can be traced directly to areas far removed from the workplace. The community in which the worker lives offers in many cases as great a challenge or deterrent to union organization as the company or management personnel. The average community is a complicated mechanism and presents a variety of conflicts, undercurrents, and cross-purposes.

The organizer is told that he should understand that within the community the prospective union member is faced with many real and fanciful pressures. These pressures and influences come from many directions, the home, the next-door neighbor, the press and radio, the church, the club, the fraternal group, the inner desire for acceptance, the corner bar, the school, the political organizations, and others.

The influences play an important role in the process of making up the worker's mind about the union. If the major community pressures are intense and highly antagonistic to unions the organizer is faced with a difficult job.

The extent and depth of the pressures and influences, according to the handbook, are closely related to the size of the community and the urban-rural population ratio. A small rural community with a population from 5,000 to 10,000 will tend to exert greater psychological pressure upon the individual worker than that obtained in many cases in larger urbanized communities between 25,000 to 40,000.

In large urban centers and metropolitan areas community relationshps are more impersonal. The working force is more industrialized and the day-to-day grind of making a living is more intense. Thus the community pressures and antilabor influences are more subtle and less direct.

In the development of an organizing campaign the inventory of the community should be one of the first things to be completed by the organizer. He should explore and utilize those community areas and resources that will aid union organizations as well as seek to understand the nature of those areas that reject or impede the efforts of the organizer.

Let us take a look at the inventory that the organizer makes of the community before he starts his organizational drive. Of course, all of this takes place a long time before the employer has any idea that his people are the target of one of these international unions.

The organizer will check the newspapers, radio, and television stations in the community. He will find out their general outlook on the question of labor. Do they prefer unions? Are they opposed to unions? Does the newspaper have a regular person handling labor use? If so, get to be friends with him. Can radio time be easily obtained?

List the colleges and universites in the community. Are there pro-labor people on their staffs? Can they assist you in getting a better picture of the community?

What are the major civic and community organizations in the area? What are their purposes and general attitudes toward organized labor? Which organizations are primarily concerned with attracting new industries and plants to the community? What type of promotional material are they distributing? What bona fide community organizations can be of help to you in the organizing campaign? The handbook carries one caveat to watch out for Communist front organizations because they represent the kiss of death in an organizational campaign.

Which political organization is the dominant group in the town? Who are its leaders, the mayor, Congressmen, city councilmen, and so forth? Who are the prolabor politicians? It is essential that you get the list of the prolabor politicians. They make news, they are willing to make statements that will aid you in your organizational drive?

Need to determine the general attitude of the police department and how it has handled strikes in the past. This is important. Check out the courts, determine whether the records of courts in granting injunctions in labor disputes is good or bad. Determine how the judges feel in this area.

The organizer is advised to personally visit the chief of police and the sheriff in the area of his organizing target. Explain your purpose and a clear understanding of your rights to conduct an organizing campaign. The handbook says this precautionary step can be especially useful if you anticipate any labor generated violence.

The organizer should find out what is the general extent of organization in the community. What unions, what industries? Make contacts with the other union representatives. Find out if they can help you with the particular organizing assignment. Be sure to explore this possibility thoroughly.

Try to determine the racial and religious complexion of the community, the Catholic-Protestant ratio. The percentage of blacks in the community also major nationality groupings. Who are the prolabor ministers and priests? Who are the black leaders?

Find out who are the dominant business personalities in the community. What has been their record on union organization? What is the reputation of the management of the plant that you are trying to organize in the community? Has plant management been active in community affairs?

Also find out what role unions have played in community programs and projects. Have they cooperated in municipal improvement, charitable campaigns, and other community programs?

I want to emphasize that everything I have been talking about now that has been covered by the organizational instructions of the international labor unions have been carried out in complete secrecy. The employer, the manager of the plant, the business that they are trying to take over is kept completely in the dark about all of this activity. The union organizers are working in the restaurants and the bars, in the homes, in the libraries, everyplace contacting the people, putting together the information necessary, sitting there waiting for some supervisor or foreman to become angry, say an unkind word, make any mistake that can become an emotional rallying point to jump on management.

As the handbook points out, every unorganized location in the United States is a continuing target year after year. The unions want every employee in the United States paying dues to enrich the coffers of the union. They want every employee as part of their socialized process.

I think that the picture is rather obvious; we have small businesses and big businesses in the United States. They are trying desperately to compete with other countries. Newspapers carry stories every day of the problems associated with imports taking huge shares of the American market. Businesses which the United States excelled in only a few years ago have been given up almost completely. For example, it is practically impossible to find a radio that was manufactured in the United States.

The plant manager is trying to run the business. Now let us take a look at what S. 2467 would permit him to do. Let us take a look at the time frame that he would have in which to respond to this year-after-year organizational threat. Both S. 2467 and H.R. 8410 adopt a three-tier approach to conducting representation, decertification, and deauthorization elections. If the organizer can establish that a majority of the employees in the requested units support the petition and if the unit is one that fits into one of the rules that the bill requires the National Labor Relations Board to adopt then the Board will have 13 days from the filing and serving of the petition to direct the election and 21 to 30 days within which to actually hold the election. If the organizer is unable to demonstrate that he has cards signed by less than 50 percent of the employees then the election must be held within 45 days unless issue of "exceptional novelty or complexity" are involved, in which case the proposed legislation provides its 75 days are afforded and the parties may mutually agree to an earlier election date. The bill does not contain any provisions that they can agree to a later one. The act does not give the Board any discretion to adjust these election deadlines.

I do not believe that any reasonable person can say that there is any fairness whatsoever in the proposed system. We have a situation in which the international unions maintain continual files, continual targets in which the community, the plant, the people are continually the target of a union organizational campaign. They are sitting back waiting for one little mistake on the part of a supervisor, on the part of a foreman and they are ready to pounce. They do not want enough time to pass for the incident to take on its proper perspective. They want to move in at the absolute height of any emotional problem that might develop. They do not wish to give the employer any time to explain his position. They do not want to give people who do not want a union any time in which to come up with any effort, educational or otherwise, that might show that they do not need a union and that they in fact do not want a union.

The international unions will have 365 days out of every year. They will have the ability to work completely in secret week after week, month after month, and then when they are ready at the exact psychological time according to everything that they know, then the National Labor Relations Board is forced under the terms of this bill to have an election within 30 days if they have the signatures of more than 50 percent of the people. If they have as many as 30 percent it has to be held within 45 days.

The United States has built an enviable record of labor-management relations. That record has been built on a position of fairness to all concerned. The National Labor Relations Act today recognizes that an employee shall have the right to belong to a union and also recognizes that an employee does not have to belong to a union. That second right is just as important as the first. The passage of S. 2467 or H.R. 8410 will severely damage the right of an employee not to belong to a union if he does not wish to belong to one.

It appears obvious that the motivation of the international labor union leaders in trying to severely limit the time that the employer has and the employee who does not want to belong to a union has to respond to the union is not a valid attack on the procedures of the National Labor Relations Board because this is one area in which every critic of the Board has admitted that the Board is doing a really good job. For example, during the fiscal year 1977 over 14,000 representation proceedings were filed, over 14,000 organizational are decertification elections, were held. The National Labor Relations Board was able to handle this volume of cases because 77 percent of the elections were conducted pursuant to an agreement between the parties which eliminated the need for hearings and extensive litigation. Enactment of the election procedures whereby they will have to have elections in such a minimum time would for all practical purposes remove election agreements and there would be a corresponding increase in time-consuming litigation. Today the unions are interested, of course, in early election dates and employers are frequently more interested in securing a workable bargaining unit and in presenting their views to the employees. The practical effect is often an agreement on these conflicting positions with prompt elections resulting because formal hearings are not required. Under S. 2467 and H.R. 8410 there is nothing to be gained through an agreement. All issues will be reserved for postelection litigation. The general counsel for the National Labor Relations Board has predicted that the enactment of H.R. 8410 would result in almost a 50-percent decline in preelection agreements and a doubling of the number of representation hearings now held.

Once the petition is filed with the National Labor Relations Board the organizer is told that now is the time to con-

sider using newspaper publicity. The organizer is told that there is nothing mysterious about writing whether it is a leaflet for distribution at the plant or a news release to be submitted to the city editor of the local newspaper. If you can talk you can write, however, there are certain rules and "gimmicks" to be used in getting the point over effectively and as concisely as possible.

The organizer is told that the difference between talking and writing is form and emphasis. What may appeal to the ear may not necessarily create a lasting impression through the eye. Numerous examples of this can be found in dynamic and rousing "off the cuff" speeches which when reduced to writing lose their emotional quality and make poor and dull reading.

The emotional quality of a word, phrase, or sentence is closely related to the form in which it is communicated, written, or spoken. There are words that lend themselves better to paper and typewriter and there are words that are at their best when spoken before a live audience. There are some words and phrases, however, with equal emotional quality regardless of the form or emphasis. The words "truth," "freedom," "fear," "evil," "democracy," "justice," and "faith" are examples of words that sustain a high emotional quality either in the written or spoken form.

Since ideas are expressed through words, symbols, and pictures the organizer is told to give a great deal of attention to audiovisual techniques. Leaflets, posters, billboards are visual methods. Radio, tape recordings, and phonographs are audio methods. Picture slides with sound, movies, and television combine both audio and visual methods.

In getting out news releases for the newspapers, the organizers are told that there are definite journalistic rules that should be obeyed. The news release should be typed double spaced, there should be at least an inch margin on both sides of the paper, at the top left-hand corner of the page place the name of the organization, the address, and the phone number. At the top right-hand corner of the first page write "for immediate release," allow an inch and a half from the address and phone number before beginning the new statement.

The handbook states that the emphasis on the question of spacing is there because it assists the editor or the rewrite person in the newspaper office in making the necessary changes if the copy is to be used. Above all never single space news copy.

In writing the news release seek to get the full sense of the story in the first paragraph. According to customs of newspapers writing the first paragraph should give the who, what, when, where, and why of the story. Do not ramble or editorialize, give the basic facts in the first paragraph.

Each succeeding paragraph should be used to give more of the details of the story. It should point out the interest to the workers, it should name the issues in the particular story, and something of the union's history. Again, the organizer is cautioned that these should be facts and not opinions and, if an opinion is expressed, it should be credited to a specific individual as a direct quotation or credited to an unnamed person or persons in authority in the case of an indirect quote.

The handbook wants this opinion business to be handled very specifically and gives examples of how it can be done directly. For example, the direct quotation is listed as, "The election is expected to involve a thousand employees in the Jones Plant," said Ralph Smith, director of the district.

The indirect quote is illustrated by a statement which is not in quotation marks and is to the effect that according to union spokesmen the election is expected to involve 1,000 employees in the Jones plant.

The organizer is told that the news release should be kept as brief as possible. Do not stretch it out for the sake of stretching. Get your important information into the first three paragraphs. If the story contains significant reader interest from the editor's point of view a reporter will probably be assigned to obtain additional facts.

Do not use excessive unnecessary verbiage in the story. Avoid adjectives and long sentences. After completing the release indicate at the bottom of the last page that there are no further pages by using the number "30" or a series of x's.

The release should be addressed to the city desk or the city editor of the local daily paper. If there are labor reporters on the paper send a copy to them also. Send copies to the newsroom of radio and television stations.

The international labor unions are now claiming in their lobbying efforts that the present procedures of the National Labor Relations Board and holding elections are not valid. Let us look at the way the organizers handbook describes how to handle present procedures and see whether or not the handbook indicates there is any need for such changes.

The organizer is told that the organizing campaign will reach its highest point of interest and intensity in the election conducted by the National Labor Relations Board to determine whether or not the employees want the union as its collective bargaining agent. To invoke the services of the Board and a representation case it is necessary to obtain signed authorization cards from at least 30 percent of the employees in the bargaining units. The organizer is told, however, that if at all possible an election petition should not be filed until at least 50 percent of the employees have signed authorization cards and a demand for recognition has been made. The union states that years of experience show that chances of victory are greatly improved when at least 70 percent of the eligible workers have signed up and the handbook also states it is just as easy, normally, to get this amount as a smaller number.

I think that any study of union organizational campaigns will bear out the truthfulness of this union statement. Union organizers can place tremendous pressure in their one-on-one situations to get people to sign cards, either by telling them that the signing of the card has no meaning other than just calling an election, do they not want to live in a democracy, should not everyone have a right to vote? The signing of the cards as admitted in the handbook does not indicate true union interest and if they do not get at least 70 percent to sign there is a very poor chance that the union will be successful in the organizational election.

The first task of the organizer in invoking the services of the National Labor Relations Board is to determine the extent and depth of union sentiment in the plant, if you are uncertain it is better to wait until the situation improves. Hasty decisions in this matter of seeking the services of the Board in representation cases have "torpedoed" far too many organizing efforts.

Of course we see here another example of the inherent unfairness of S. 2467 and H.R. 8410. The union has absolute and complete control of the timing of the election under the proposed bills. They can sample the sentiment, they can wait, they can wait for the errors to be made, they can wait for the "fatal" mistakes on the part of some poor supervisor or foreman and then they can move and the election has to be held. There is no requirement in the proposed legislation that the union be given a limited time in which they can conduct an organizational campaign. There is no prohibition against their organizers working continually around the clock in the restaurants, bars, clubs, churches, homes of the employees trying to sell them on something that they may or may not want.

The handbook states that filing a petition for a vote with less than 50 percent signed cards should not be done except in rare cases where the director of the international union feels the circumstances justify it. The organizer may find it is better to conduct and lose an election rather than let down an active plant committee which you may need for a future campaign but generally, however, aim for at least 50 percent signed authorization cards before filing and that ideally to assure a favorable vote in the election it would be best to get 70 to 80 percent before filing.

The handbook states that the nature of the campaign during this preelection period is different from the initial and middle stages of the drive. Every move and all strategy should be in the direction of convincing at least a majority of those voting to pencil an "X" in the proper square. The early stages of the campaign moved at a slow pace, this phase of the campaign must move at a high intense tempo.

The primary object during this period of the campaign is to hold together and create a solid front among the employees who have signed authorization cards. This does not exclude the task of obtaining additional authorization cards but it does mean that a great deal of attention must be given to the task of holding the committed group together for the election. The campaign should be short, it should be enthusiastic, and it should be inspiring. The handbook recognizes that

now that the employer has finally found out what has been going on in all of the months and years of preparation that he will concentrate on defeating the union and the organizer is told that nothing should be left undone to overcome any and all efforts of the employer and I quote from the handbook when the organizer is told that "nothing" should be left undone to defeat the efforts of the employer. All meetings, speeches, homecalls, leaflet distribution, everything else should be planned in the direction of holding the committed group together.

The organizer is told to maintain an active card file on general attitude toward the international union. It should have not only all individual employees who signed authorization cards but also all nonsigners of cards. This employee card should show the name, address, phone number, wage rate, department, years of employment, classification, and have a space for the organizer's notes on the individual. The file should be kept confidential and used only by the organizer. The file should be separated into three sections, namely, strong, weak, and tend to waver. This file will indicate the ones that the organizer needs to work on and will aid the organizer in determining his point of concentration for additional work during the preelection period.

A home-call committee should be created among those who have signed authorization cards. Any work that can be given to the rank and file employees during the preelection period will add to the spirit to win. Cards for home calls should be broken down according to streets and neighborhoods and each member of the committee made responsible for a particular area of the town. Reports on calls should be made as soon as possible and this information should be added to the active card file.

The organizer is told that it would be a very good idea to establish a temporary negotiating committee and that the negotiation committee should prepare for the task after certification has been granted at the election. This has the psychological advantage during the preelection period of creating an atmosphere of sure victory and serves as a form of positive encouragement.

Of course, it is obvious to anyone who has ever studied the international labor union in the United States, that true democracy is not what they want in the least. The control of the union has got to be kept in the international union headquarters. The organizer is told to make sure it is clearly understood that any negotiating committee is to serve temporarily only. Do not appoint or elect a chairman.

Get this leaderless committee and one without authority to prepare a collective-bargaining program for presentation, discussion, and approval by the membership. This committee should be created late in the campaign and then publicize it in one of your key leaflets just before the election is held. Be sure the proposals are reasonable and explain that all objectives will not be achieved overnight. Explain that the proposals are only recommendations and that the membership reserves the right to make final decision on proposals after the union has been designated as the collective-bargaining representative of the employees.

In smaller communities, the organizer is told that he should hold a series of meetings in which prolabor community leaders could be invited to urge the workers to vote for the union. These local leaders could also be used for special radio or television programs. The key operation of this period is that of building sustained enthusiasm and reducing the area of fear of the employer among the employees. The use of outstanding community leaders contributes a great deal to this aspect of the program.

The handbook points out that in nearly every campaign to organize employees, the union will be opposed by the employer. Where the employers feel that they are not sufficiently skilled to prepare to fight the union, they have at their disposal outside labor consultants who specialize in selling service and advice to companies that want to keep their workforce unorganized. The good successful union organizer knows how to neutralize the techniques of the employer and the consultants that he might employ during a campaign.

The handbook points out that over the years, there have been many groups that have kept alert and started gathering an arsenal of data to be used by employers in organizational campaigns. From the storeroom of statistics on items such as strikes, violence, union membership activity, wage rates, and other information, they have compiled an impressive list of materials with which to counter union organizational drives.

The organizer is told that the employer will have a tool box loaded with such items as prepackaged campaign materials, scare films and pictures, tape recordings of union meetings, professionally prepared last-minute captive-audience speeches the employer makes to his family and fellow employees, and an assortment of typical company letters from which top company officials can select and mail to the homes of the employees, just ahead of the election.

The union organizer is told not to spend his time combating the tactics and information put out by the employer. If he did, it would occupy too much of his time and he has to maintain a positive campaign. He has to always keep on the offensive. He should have sufficient facts at his disposal to counter what the employer has to say, but, at the same time, he has to keep going forward and try to prevent the statements made by the employer from impressing the employees.

The organizer is told to be sure to meet the question of strikes and dues early in the campaign because there are two things that seem to be absolutely certain when the international labor unions move in. You are going to have strikes and each employee is going to have to pay a considerable amount of money out of his wages to finance the union and its international union headquarters.

The organizer is told it would be foolish to ignore these issues or to try to sweep them under the rug in the hope that the company will not play them up. These issues will come up and the organizer is told to be prepared to cope with them. The organizer is told it is not difficult to explain the function and purpose of union dues or the strikes, because they are an integral part of union activity. The union which will not strike is no better than a company union. The unorganized worker must learn that he cannot go to the bargaining table without the strike as a weapon. A union without financial support cannot function properly. Union dues are inevitable. The organizer is told to discuss these two issues thoroughly with the workers and do it before the company raises them. The union has got to impress on them that strikes and dues are part of the international union labor movement.

On the positive side, the organizers are told to do something positive that everyone can see during the campaign: help an injured worker get his compensation, arrange for blood donations from a union blood bank, form a committee to help someone sick, hospitalized, in need of help. The word will get around as to what a fine group of people the union officials are.

The organizers handbook deals with one subject called the discharge. The handbook treats, of course, the legal and accepted statements about these charges, and all of the warnings go to the fact that the employer might try to fire employees who are supporting the union. They point out that disgruntled workers are the ones that they have to contact to try to form the core of their organizational effort. An employee who knows that he is not satisfactorily performing a job that he was hired to do is one that is usually in fear of being laid off and is highly susceptible to union promises that he can keep his job even though he is an unsatisfactory performer.

In a union organizational campaign the discharge is a delicate drama that is enacted many, many times. The union organizer is out to persuade the employee that his loyalty should be with the union and not with the employer who pays his salary. This transfer of allegiance is a continuing effort on the part of the organizer. The employer is against the employees, work is dehumanized in modern plants. Their only salvation is to belong to the union. The discharge is handled as a very good weapon by an effective organizer.

The sympathetic union employee is urged to become more and more belligerent, less and less loyal to the employer. He is urged to try on the foreman or the supervisor. He is urged to obviously do less than what he is supposed to do. He is supposed to obviously challenge any efforts of discipline on the part of the foreman or supervisor. The technique, if carried out properly, can produce a no-win situation for the hapless employer. The employee does less and less work, he challenges the authority of the supervisors and foreman. The employer is forced into a decision position.

If he lets the situation continue then the union organizers can turn to the employees and tell them that if you get a union you will not have to work, you will not have to do what the foreman

or the supervisors have to say, and the employee who has been designated to try on the foreman will become the hero of the shop floor and the organizer will point out that with the union every individual will have those same rights. If the employer decides that the employee has gone absolutely too far and the employee is fired then the union comes up with the hue and cry that he was fired because he was attempting to organize the employees for the union. The union organizer is then told to go out and see if he cannot get the discharged employee unemployment benefits, and another job. He should go to the discharged employee's family and get letters, particularly from his wife, and send them to all of the other employees. Go to the National Labor Relations Board with an unfair labor practice charge.

Under the present law if the National Labor Relations Board finds that the employee was wrongfully discharged then the employer has to pay him an amount equal to all backpay that he would have lost. As S. 2467 provides that an employee who is unable to work as a result of an unfair labor practice, occurring during certain specified periods of time may receive an award of backpay in amount equal to 1½ times the employee wages rate less the wages employee has earned. This is extraordinary relief that is available during periods when the employees are seeking to certify a union, seeking to decertify a union, seeking to rescind a union security agreement, and prior to execution of an initial collective bargaining agreement.

If this provision is enacted into law it will greatly enhance the unions ability to enact the discharge drama. Not only will the employee be encouraged to try on the foreman but now he will get a windfall in being paid 1½ times as much as if he had performed the job he was employed to perform and the poor employer that fails to judge this delicate drama will be punished. Both the Senate bill 2467 and House bill H.R. 8410 contemplate an entirely different method for computing backpay than is found under the present procedure. Today the amount of backpay to which an employee is entitled is computed by deducting from the amount of wages lost any earnings actually acquired through interim employment elsewhere or which could have been acquired elsewhere through the exercise of due diligence. The present law encourages employees to mitigate their losses by taking other work if it is available in the interim. Neither the House bill nor the Senate bill requires mitigation because, in the words of Senate report, mitigation "complicates the computation of backpay thereby delaying the employees remedy." Instead lost wages are reduced only by the amount the employee has earned during the backpay period. If an employee elects to sit on his or her rights rather than seek interim employment there is no reduction in backpay.

The organizer's handbook is replete with all of the forms necessary, form letter to the employer demanding recognition, an agreement of recognition, a form to be filed with the National Labor Relations Board requesting the election, the forms contained also include one in which you charge the employer with an unfair labor practice for firing the employee as a result of the discharge drama enacted on behalf of the union.

Again more of the evidence that shows up in the organizer's handbook of the lack of genuine democracy in the international labor union movement, you find the instruction to do not file petitions or charges in the name of the "district" or a "local union." Under the international union's constitution the international union is the bargaining representative at each plant and is also the contracting party. This means that whenever the organizer files an election petition or an unfair labor practice charge with the National Labor Relations Board you identify the union only as the international union. The organizer should not identify the union as local union number so and so. This is a factor that is not too often publicized with the individual employees. They are not aware that the international union is the one that will call the strike. The international union will decide whether or not an offer should be accepted or even whether or not a counteroffer should be made.

The handbook contains a complete form book of leaflets, posters, letters, and such other paraphernalia as buttons, cards, and so forth.

I think that it is obvious to anyone who has ever been through a union organizational effort, who has ever known of one, been informed of the details of such an organizational plan, or who has looked at one of the handbooks such as I have been describing on how organizers should conduct such campaign that the international unions operating in the United States today have all of the strength, they have all of the muscle, they have all of the ability that is necessary to properly acquaint employees with the true facts as to whether or not they wish to belong to a union.

The problems that the international unions are having today is that informed employees are turning down their organizational campaigns. The employees of the United States today are telling the international unions that they do not need to be represented by such unions.

The legislation being considered is one that will help the union by letting them take all of the time that they want to build a highly sophisticated campaign, build it to an emotional fervor, and then have an election before the employees have time to contemplate what they are being asked to decide. The bill is designed only to help unions, it is in the derogation of the rights of employees, it is in derogation of the rights of employers.

Labor-management relations in the United States will be set back many years by the passage of either the House or Senate bills being considered. Defeat of this legislation is essential to maintain an employee's rights to belong to a union or to not belong to a union if that is his desire. The Members of the Senate should do everything possible to defeat this legislation.

(Mr. METZENBAUM assumed the chair.)

Mr. MORGAN. Mr. President, recently I spoke to the Senate about my concerns over the intent and motives behind the new labor law reform bill. I remain convinced that this bill was raised for political purposes and as an attack on the economic progress that has been taking place in certain parts of our Nation.

There has been much talk of late that the basis for a change in the law—that is, the need for reform—is that the National Labor Relations Board is not doing the job that it should be doing. There is talk that the Board cannot function under its present arrangement and must be expanded and streamlined. Several new procedures and expansions are contemplated in H.R. 8410. I will address those proposals at a later time, but for now I would like to take a hard look at the National Labor Relations Board and the job that it is doing.

The first thing to note is that the National Labor Relations Board was created 42 years ago. It is an independent agency. And it oversees one of the most controversial areas of our legal system.

I think it is important that we remember that the Board initiates no cases. It simply takes those cases which are brought to it. Much of the work of the Board is delegated to a nationwide network of field offices and most of the resolution of labor-management disputes takes place in the field offices. A case is brought to a field office, be it an election issue or an unfair labor practice question, hearings are held by administrative law judges and they decide cases. If there is no objection, the ALJ's decision has the force of a full Board order.

There is a system of regional directors who handle the administrative needs of the NLRB. They investigate unfair labor practices, determine appropriate bargaining units for bargaining purposes and conduct elections. Where an ALJ works with issue dispute, the regional director administers the law.

Only where a ruling of an ALJ or a determination of the regional director is disputed is there any movement up the ladder to the Board in Washington.

Most of the reforms contemplated by H.R. 8410 are aimed at correcting problems at the Washington level. I find that rather perplexing, Mr. President. At only one point in the 1977 annual report of the NLRB is there a notation that help is needed in the administration of our labor laws. On page 5 of the report, the Board stated:

> Due to its growing caseload of unfair labor practice proceedings, the need for additional administrative law judges is an acute operational problem.

Very little attention is paid to this problem by the bill before us, although I do note that the bill provides some legal assistance for the ALJ's, a move that I welcome.

Most of the work of the National Labor Relations Board is processed and handled at the regional or field office level. Of the 37,302 unfair labor practice charges closed, 94 percent were closed by

NLRB regional offices. Of the overall total number of cases filed—52,943—only 1,848 reached the Board in Washington and required a ruling by the Board, a figure of about 3 to 4 percent of the total cases filed. In other words, the system works so well that only 3 to 4 percent of the cases reach the full Board in Washington.

Now I would like to address the functions of the Board in Washington.

I believe that the NLRB is doing a fine job, and I believe that the figures bear me out.

A guide to any criticism of the NLRB should begin by heeding the words of Board Chairman John H. Fanning. In his testimony before the Labor Subcommittee, which was favorable to the bill, he noted that—

> Despite this tremendous workload, the Board is presently processing cases faster than in 1957.

Mr. President, the Board in 1977 was processing cases faster than in 1957.

Much of the improvement in the Board has been a result of the work of the Senate Labor Subcommittee. At the urging of the subcommittee and Senators WILLIAMS and JAVITS, a 2-year study of the NLRB procedures was undertaken by 27 expert labor lawyers. This group, known as the chairman's task force on the National Labor Relations Board, made several important recommendations to the Board and many of these were adopted. Those which the Board felt to be inconsistent with its mandate were not. The result was an improvement in the Board. As stated in the 1977 Report:

> Despite the upward spiral of new cases, the NLRB closed a record number in the fiscal period.

In short the effort to improve the Board has paid off. With its largest caseload ever, the Board has adjusted and carried out its congressional mandate. To my mind, there is little or no problem with the agency as it now operates.

It is also true that the NLRB, like other Federal agencies, does not have major enforcement power. It must seek court enforcement of its rulings and orders, if necessary. I think the key words here are "if necessary." While we hear a lot about the need to give the NLRB greater enforcement power, I would like to note that there is a direct link between enforcement power and the need to use it, usually the greater the power, the greater the use.

I would argue that under the current law, the NLRB must work hard to seek enforcement. The criticism that is aimed at a few major law violators is that they violate the law with impunity. The "law" they are violating is the orders of a court, Mr. President, not of the NLRB. Under these conditions why does the NLRB need more enforcement powers. As I see the scenario the NLRB would issue an order, it would be violated and we would still end up in court, except now we would have an additional step and more delay.

In addition, I would argue that because of the case-by-case process used by the Board and by its gentle prodding of business and unions, we have an essentially voluntary system. Most business and unions comply with the law voluntarily. While it is difficult to get hard figures, I think it is interesting to note that once cases do get to the agency some 93 percent of the unfair labor practice cases are either dismissed, withdrawn or settled and do not require Board action. That figure speaks to the fact that the agency can cajole rather than impose compliance. I believe that voluntary compliance is one of the hallmarks of our current labor law; I would hate to see that changed by an ill-advised law. I do not believe that this law would destroy all voluntary compliance but with the proponents arguing so much about delay, I do not believe that we could stand more than a few percentage point drop in voluntary compliance to to see the NLRB ruined as an effective Government agency. The present system works; this bill would go a long way toward undoing all this.

Chairman Fanning emphasized the importance of voluntary compliance before the Labor Subcommittee. He said at that time—

> It perhaps should be noted that enforcement of the Act depends in large part on voluntary compliance by employers and unions alike. Absent such voluntary compliance by the overwhelming majority of parties whose labor relations are governed by the Act, the Board's case processing machinery would truly be swamped and the policies of the Act nullified. Most parties desire to comply with the law and endeavor to do so.

With this analysis, I heartily agree.

Mr. President, on succeeding days I shall speak on various other points in the bill, but before I close today I shall give the Senate the benefit of a very thoughtful editorial in one of North Carolina's leading newspapers yesterday, the Charlotte Observer.

The Charlotte Observer has had a rather liberal editorial policy for years and whenever it takes the positior. that it did in this editorial I think that it is worthy of consideration of all Members of the Senate. The editorial is entitled "Labor Reform?"—and the subtitle is "Not This Bill, Unfortunately." It said:

> Fantasies are drowning out facts in the shouting over the labor reform bill before the U.S. Senate.
>
> The National Right to Work Committee and some other opponents seem to believe enacting this bill would be tantamount to signing over your home and future to George Meany, Union officials and supporters of the bill refer to it as "fine-tuning" the National Labor Relations Act.
>
> The bill is substantially more than its supporters say, but less than its opponents fear. We think it is too flawed to be good legislation.
>
> The bill is less a labor reform bill than a labor union bill. It was written for, if not entirely by, the AFL-CIO. It is designed to make it easier to organize nonunion workers, which means its greatest impact could be in the South.
>
> SOME ONE-SIDED SOLUTIONS
>
> The bill would deal with some long-standing problems and protect some workers. But many of its proposed "solutions" are so one-sided that they would unfairly restrict law-abiding employers; and the bill would not correct any of the problems caused by unions, nor would it protect workers from union abuse.
>
> Backers of the bill characterize it as attempting to discourage corporate lawbreaking. To an extent, it is. Suppose a union is trying to organize employees. If the employees genuinely want a union, a company has a number of ways to delay and possibly stop them. It can:
>
> Fire workers most supportive of the union.
>
> Stall, knowing that delay dims the chance of a union victory.
>
> Refuse to bargain in good faith.
>
> Even if found in violation of the law, some companies discover it's cheaper to take the punishment than to obey the law.
>
> INADEQUATE PENALTIES
>
> For instance, if a company fires a key union supporter or two, it may be able to scare other employes. After hearings and appeals that might take years, the company is ordered to reinstate the employees and pay them only what they would have earned—less whatever they earned at other jobs while contesting their firing. That's hardly penalty enough to deter an employer from scaring away organizers.
>
> If no scrupulous employer would illegally fire an employee, neither would any scrupulous employer be affected by changes in the law requiring payment of (in the Senate bill) one and a half or (in the House-passed bill) two times the employee's net loss in wages.
>
> Another problem: Current law requires employers to bargain in good faith, but there is no effective remedy for their refusal to do so. Even if a company's delays are frivolous, the National Labor Relations Board can make it pay only the union's litigation costs and any bargaining or organizing expenses caused by the delay. The company's gains may be far more than its penalties.
>
> THE "MAKE-WHOLE" PROVISION
>
> The bill's solution is a "make-whole" provision. Under it, when the National Labor Relations Board finds an employer unlawfully refusing to bargain, the board can impose a temporary wage increase pending a settlement. The wage increase would equal the employees' normal wages multiplied by the average increase in wages and benefits reported in the Bureau of Labor Statistics (BLS) quarterly report for major collective bargaining settlements.
>
> Two problems make that an unsatisfactory solution:
>
> 1. The proposed legislation would not allow an employer to appeal some labor board decisions, such as who is to be represented by the union. An employer could get a court hearing on that question only by refusing to bargain.
>
> HAZARD FOR EMPLOYERS
>
> Refusal to bargain, therefore, can be a simple attempt to stall, but it also can be the only method to get a court hearing on a legitimate question. The "make-whole" provision, by not recognizing such distinctions, would make it hazardous for employers to seek their day in court.
>
> 2. The "make-whole" provision would impose a settlement that might have no relevance to the situation. The BLS statistics come from collective bargaining settlements that involve 5,000 employes or more. Should that settlement be imposed on a store owner with a dozen employees? That is what the provision would require.
>
> The authors of the bill were acutely aware of potential employer violations of an employee's rights, but oblivious to potential—and real—union violations of employees' rights.
>
> THE DARK SIDE OF UNIONS
>
> Another factor is a growing awareness of the dark side of unionism. Most unions are no longer simple bands of workers fighting

for on-the-job justice. Bigness has given unions power, but it has also given some of them an agenda that often has little to do with the welfare of workers. Just as an employer's first concern is the company, a union's first concern is the union. To a worker, the arbitrariness of union bosses can be as vicious as that of company bosses.

In addition, many employers have learned it is good business to pay the wages and create the working conditions that remove the irritations and frustrations that once forced employees into unions.

It is not union wages and benefits that many employers fear, but arbitrary work rules, featherbedding and restrictions that can prevent companies from adapting to changing economies and technologies.

Not that employers have seen the light and will be guided by the Golden Rule. The practice of squeezing a captive work force has not been relegated to history books, particularly in the South. Still, every corporation does not yearn to emulate J.P. Stevens Co.; the threat of unions is an incentive for many employers to treat their workers well.

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. MORGAN. I do not believe so at the present time.

Mr. WILLIAMS. I just ask this question. The question is this: Are these the Senator's views or is he reading?

Mr. MORGAN. No. If the Senator had been listening earlier, I am quoting.

Mr. WILLIAMS. I thought the Senator was reading something.

Mr. MORGAN. I am quoting. I am reading an editorial that appeared yesterday in the Charlotte Observer, which has a rather liberal editorial policy and has given what I believe to be a fair, thoughtful analysis of the labor reform bill and issue.

Mr. WILLIAMS. When the Senator writes to them, there is one small error that I did notice. Featherbedding is now under the law an unfair labor practice.

Mr. MORGAN. I assume that the Senator would not contend that featherbedding does not now exist, even though it is an unfair labor practice.

Mr. WILLIAMS. There is the law now. If there is featherbedding a case can be brought.

Mr. MORGAN. Well, I could differ with the Senator, and I have represented both unions and management in labor matters, and I know quite often how unfair labor practices somehow or another are dropped by the wayside after the negotiations.

Mr. President, I ask unanimous consent that the colloquy between the distinguished Senator and myself appear at the end of the reading of the editorial.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WILLIAMS. I should have reserved the right to object, but I did not.

The PRESIDING OFFICER. If the Senator wishes the right to object——

Mr. WILLIAMS. I thought it was germane. I do not know why it was asked to have the colloquy at the end of the editorial.

Mr. MORGAN. I think I was trying to give some continuity to the editorial, but the Senator persisted, and I did not insist on reading the editorial. I hope the Senator will just allow me the courtesy of letting me finish reading the editorial so that it will have some continuity. Then I will discuss it, debate it with the Senator all night, if necessary.

I withdraw my request, and I hope the Senator will extend me that courtesy.

Mr. WILLIAMS. I just thought it was relevant to the editorial, one point, that of featherbedding and I thought it should appear there. I did not object.

Mr. MORGAN. I withdraw the request.

The PRESIDING OFFICER. The ruling will stand unless the Senator from North Carolina withdraws his request.

Mr. MORGAN. I will withdraw it. I will let it appear. I will just insert it in the RECORD again so that anyone who is interested can read it.

The PRESIDING OFFICER. The request is withdrawn.

Mr. MORGAN. I will go back, Mr. President, to take up reading of the editorial which is entitled "Unions on the Rise Here?" I think I was talking about union membership in the South:

UNIONS ON THE RISE HERE?

Union membership in the South probably will increase in the coming decades—in part because of the changing nature of the region's industry and in part because many employers will continue to make employees believe unions are necessary to get fair treatment. In most cases, unions don't organize workers—employers do the job for them.

While labor reform is needed, the present bill unfortunately isn't it. The bill is too one-sided to be a satisfactory remedy for some specific problems, and is not broad enough to be a comprehensive reform bill. Unless it can be greatly amended, which seems unlikely, it should be killed.

NO SECRET BALLOT GUARANTEE

As introduced, the House bill would have even done away with the guarantee of a secret ballot for union representation. The bill does not consider the possibility that, for instance, a supervised, secret-ballot election might be a fairer way to determine whether workers want to strike.

A major goal of the bill is to speed up the election process. Union organizers in effect determine when the election is to be held; they call for it when they feel union sentiment is reaching its peak. It isn't surprising, therefore, that the sooner the election is held, the better the organizers like it.

But why assume a decrease in union support is due to widespread illegal activity by employers? Unions have great latitude in the arguments and promises they can make, while employers are sharply restricted in what they can do or say to discourage organization. Speeding the election process infringes on an employer's right to state the case against a union. So does the bill's requirement that employers who argue against unions during work hours must give unions equal time. Should a company be required to underwrite part of a union's organizing campaign?

THEME OF LAWLESSNESS

The theme that runs through the bill is that employer lawlessness is the major obstacle to unions, particularly in the South. It's understandable that union leaders prefer to believe that, but the explanation is less simple. Employer lawlessness exists, as do corrupt union leaders and union pension funds that underwrite shady deals with mobsters. But other factors are perhaps more important.

Since World War II, government action has contributed to the marked decline in the fortunes of unions. National legislation (due in part, to union political clout) has produced great advances in wages and working conditions. Anti-discrimination laws have removed much of the arbitrariness from employer-employee relations. Ironically, organized labor's achievements have helped many employees today feel they don't need a union to get a fair shake on the job.

Mr. President, I submit that it is a very thoughtful analysis of the matter that is before us and it deserves our consideration.

Mr. WILLIAMS. Mr. President, on Friday the able Senator from Idaho (Mr. MCCLURE) addressed himself to the constitutionality of the so-called "access" provision of H.R. 8410 and argued:

The constitutionality of the equal access provision of S. 2467 must be judged by the test set out by the Supreme Court in the landmark case of *National Labor Relations Board* v. *Babcock & Wilcox Co.*, 351 U.S. 105 (1956) . . . since the Babcock decision, the Supreme Court in *Central Hardware Co.* v. *NLRB*, 407 U.S. 539 (1972) and in *Hudgens* v. *NLRB*, 424 U.S. 507 (1976) has reaffirmed the balancing or accommodation test of Babcock as the proper approach to resolving conflicts between organization rights and property rights . . .

The balancing test set out in Babcock and Central Hardware, in which access to private property is allowed only where alternative channels of communication do not exist, is constitutionally compelled and not merely an interpretation of employee and employer rights under the National Labor Relations Act." 124 Cong. Rec. S7798–S7799.

With all respect to the Senator from Idaho, that reading of the Supreme Court cases is untenable. Property rights are, of course, important to the maintenance of a free society. Their constitutional protection against Government regulation lies in the 5th and 14th amendments.

And as the Supreme Court, in sustaining a zoning ordinance restricting property use to one-family dwelling explained in *Village of Bella Terre* v. *Boraas*, 416 U.S. 1, "property rights may be cut down, and to that extent taken without pay." (Quoting *Block* v. *Hirsch.*, 256 U.S. 135, 155 (Holmes J.)). Moreover, as the court reaffirmed in *Weinberger* v. *Salfi*, 422 U.S. 749, 769:

If the goals sought are legitimate and the classification adopted is rationally related to the achievement of those goals, then the action of Congress is not so arbitrary as to violate the due process clause of the 5th amendment.

These are the standards for determining whether action taken by the Congress affecting property rights is constitutional.

Babcock & Wilcox addresses a quite different point of statutory construction. From the first the courts have recognized:

Inconvenience, or even some dislocation of property rights, may be necessary in order to safeguard the right to collective bargaining. The board has therefore held that employer's right to control his property does not permit him to deny access to his property to persons whose presence is necessary there to enable the employees effectively to exercise their right to self-organization and collective bargaining, and in those decisions which have reached the courts, the board's position has been sustained. (*Republic Aviation Corp.* v. *Board*, 324 U.S. 793, 802, n. 8.)

Unfortunately, neither the 1935 nor the 1947 Congress provided a precise set of guidelines on this subject. The result, as the court stated in *Hudgens* v. *NLRB*, 424 U.S. 507, 521–523, is that:

Under the act of the task of the board, subject to review by the courts, is to resolve conflicts between § 7 rights and private property rights, "and to seek a proper accommodation between the two." *Central Hardware Co.* v. *NLRB*, 407 U.S., at 543. What is "a proper accommodation" in any situation may largely depend upon the content and context of the § 7 rights being asserted.

In the Central Hardware case, and earlier in the case of *NLRB* v. *Babcock & Wilcox Co.*, 351 U.S. 105, the court considered the nature of the board's task in this area under the act.

Accommodation between employees' § 7 rights and employers' property rights, the court said in Babcock & Wilcox, "must be obtained with as little destruction of one as is consistent with the maintenance of the other." 351 U.S. at 112. . . .

The Babcock & Wilcox opinion established the basic objective under the act: accommodation of § 7 rights and private property rights "with as little destruction of one as is consistent with the maintenance of the other." The locus of that accommodation, however, may fall at differing points along the spectrum depending on the nature and strength of the respective § 7 rights and private property rights asserted in any given context. In each generic situation, the primary responsibility for making this accommodation must rest with the board in the first instance.

See *NLRB* v. *Babcock & Wilcox, supra*, at 112; CF. *NLRB* v. *Erie Resistor Corp., supra*, at 235–236; *NLRB* v. *Truckdrivers Union*, 353 U.S. 87, 97. "The responsibility to adapt the act to changing patterns of industrial life is entrusted to the board." *NLRB* v. *Weingarten, Inc.*, 420 U.S. 251, 266.

Thus Babcock & Wilcox simply states the Supreme Court's understanding of the extent to which the Congress has decreed a dislocation of property rights in favor of section 7 rights, it is not a statement of the limits of the Congress power to do so.

Perhaps because of the inherent difficulties of setting the comparative worth of the right to exclude outsiders and the right to be informed of the benefits of organization, the Board and the lower courts have been singularly unsuccessful in reaching the accommodation called for in Babcock & Wilcox.

The case law at the present time is that except where the employees live on the employer's property the doors are always closed for union organization on company property. No matter how onerous, time-consuming, and expensive the task of reaching employees away from the work site may be, so long as there is a theoretical possibility that the union can reach the employees, the employer may deny access to union organizers during an organizing campaign. I attach four recent leading decisions of the Board which demonstrate the accuracy of my summary of the law.

Mr. WILLIAMS. In this situation it is the employees who are deprived of the opportunity to be fully informed on the issues.

In my judgment, the opportunities for employees to receive organizational communication are imbalanced when the union can only reach 100 of 500 employees by mail: when the names and addresses of employees are not provided by the employer, or when the union is required to take down the license plate numbers of the employees and trace them through the department of motor vehicles to obtain a list of home addresses.

Nor do I think it reasonable to require the union to reach employees at home when they live not only in a major metropolitan area but in different States. Yet this is what the present law requires.

This is not an accommodation between competing rights but a complete subjugation of section 7 rights to property rights; and the Supreme Court authorities I have quoted clearly establish that nothing in the Constitution requires this result. Since the Board and the courts have shown that they are incapable of reaching a sound balance, it is plainly the Congress prerogative to instruct them how to do so.

The point of the access provision is to avoid the sterile casuistry of the Babcock and Wilcox rule and to substitute a system designed to enhance the employees' opportunity to hear both sides of the issue before voting in a government-sponsored election. The access provision recognizes:

The basic industrial reality . . . that the chances are negligible that alternatives equivalent to solicitation in the plant itself would exist. In the plant the entire workforce may be contacted by relatively small numbers . . . with little expense. The solicitors have the opportunity for personal confrontation so that they can present their message with maximum persuasiveness. In contrast the predictable alternatives bear without exception the flaws of greater expense and effort and a lower degree of effectiveness" (*NLRB* v. *United Aircraft Company*, 324 F2d 128, 130 (CA 2 1963).

The access provision also embodies the rule of political life that no form of communication is as valuable as the opportunity to address a potential voter personally. At present, employers have an assure opportunity to make personal contacts which unions do not. The access provision would correct that inequality.

In order to further full and fair debate it is time to change the law in the manner provided by the pending bill.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the four recent cases I referred to earlier be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MONOGRAM MODELS, INC.—DECISION OF NLRB

Monogram Models, Inc., Morton Grove, Ill. and Warehouse and Mail Order Employees Union Local No. 743, International Brotherhood of Teamsters, Chauffeurs, Warehousmen and Helpers of America, Case No. 13–CA–9097, August 18, 1971, 192 NLRB No. 99.

Malcolm Schneider, Chicago, Ill., for General Counsel; Marvin Gittler (Asher, Greenfield, Gubbins & Segall), Chicago, Ill., for union; Philip D. Goodman, Chicago, Ill., and Jack M. Besser, Morton Grove, Ill., for employer; Trial Examiner Josephine H. Klein.

Before Miller, Chairman; Fanning, Brown, Jenkins, and Kennedy, Members.

Interference Sec. 8(a)(1)—Denying access to nonemployee union organizers 50.189.

Employer did not violate LMRA when it denied nonemployee union organizers access to plant parking lot, since location of plant and living quarters of employees did not place employees beyond reasonable union efforts to communicate with them. (1) Although plant location presents some obstacles to easy contact by union with employees on their way to and from work, it appears that union efforts did reach many employees at these times; (2) other conventional methods of communication with employees, such as mail, telephone, and home visits, are not foreclosed merely because employees live in large metropolitan area; and (3) although employer refused to furnish union with list of employee names and addresses, principles established in Excelsior case (61 LRRM 1217) were designated only to provide assurances of access to employees at an appropriate point in election process.

[*Text*] "The complaint herein alleges that the Respondent interfered with its employees in the exercise of their organization rights, in violation of section 8(a)(1) of the Act, by prohibiting Warehouse and Mail Order Employees Union Local No. 743, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter called the Union, from distributing union literature on the Respondent's plant parking lot. Specifically, the General Counsel contends that the Respondent's refusal to allow nonemployee union organizers on the parking lot reserved for the Respondent's employees is unlawful because such refusal placed these employees beyond the reach of reasonable efforts on the part of the Union to communicate with them. The Trial Examiner found the violation essentially for the reason asserted by the General Counsel. We disagree.

"The Respondent is engaged in the manufacture of model hobby products and related items at its plant in Morton Grove, a suburb of the greater Chicago metropolitan area. The Respondent employs a total of approximately 250 persons, of whom between 200 and 219 are production workers whom the Union is attempting to organize. Except for about 40 plastics department employees, who are evenly divided between the second and third shifts, all the production employees work the first shift which starts at 8 a.m. Approximately one half of these employees live within one to six miles of the Respondent's plant. The remainder live no more than 13 miles distant.

"The Respondent provides private transportation for first-shift employees. Approximately 60 to 70 employees, who wear uniforms and are thus readily identifiable, avail themselves of this service, riding nonstop between the plant and designated pickup points within the city limits of Chicago. Approximately 10 first-shift employees walk to work. The 90 to 100 remaining first-shift employees drive to work in 50 to 60 private automobiles. The 40 second- and third-shift employees are not provided transportation by the Respondent.

"On April 30, 1969, the Union launched a campaign to organize the Respondent's plant. On that day, approximately one hour before the commencement of the first shift, five union organizers stationed themselves on the public domain alongside the access road near the southern boundary of the Respondent's plant and began distributing leaflets to motorists turning off Waukegan Road into the employees' parking lot.[1] Some conversations ensued between the organizers and the employee motorists. The record is unclear, however, as to how many unemployees were offered or accepted leaflets. At least three pedestrians turned them down. The two organizers who testified at the hearing stated

Footnotes at end of article.

that it took no more than 10 seconds to distribute their materials into each car; that these two, between them, distributed leaflets into approximately nine of the automobiles passing into the plant; but that conversations of any substantial duration were impracticable because of the press of traffic moving into the plant, especially in the last several minutes before the commencement of the first shift. The other three organizers did not testify, and the record is silent as to the results of their efforts. The Union returned the following morning prior to the commencement of the first shift, but failed to pass out any leaflets on that occasion. The organizers returned to the plant a third time in the afternoon of May 2 in an effort to reach the second- and third-shift employees. This effort aborted, however, as no employees were observed entering or leaving the plant. The Union also ascertained the locations of the designated pickup points from which the Respondent's buses transported employees to the plant. At one public transit terminal, organizers talked to employees and distributed campaign literature to approximately 10 to 15 employees on four separate occasions during the month of May.[2] During the same period, organizers paid two visits to another pickup point at 47th and Kedzie, which serves between 44 and 50 employees. On the first occasion, union representatives distributed leaflets and talked to employees for 10 to 15 minutes. No leaflets were distributed during the Union's second visit at that location. There is no evidence that the Union sought to reach the smaller numbers of employees at the remaining transportation points served by the Respondent's station wagon or by taxi. Nor is there any evidence that in bringing its message to employees the Union resorted to other conventional methods of communication, such as mail, telephone, home visits, or meetings.

"The Trial Examiner correctly states the rule in *N.L.R.B.* v. *The Babcock & Wilcox Company*,[3] that an employer may validly post his property against nonemployee distribution of union literature if reasonable efforts by the union through other available channels of communication will enable it to reach the employes with its message and if the employer's notice or order does not discriminate against the union by allowing other distribution. However, in the Trial Examiner's opinion, there exist in this case extraordinary circumstances which necessitate union access to the Respondent's property. In part, this conclusion is based upon the assumption that traffic on Waukegan Road, with a posted speed limit of 40 m.p.h. renders contact between union organizers and motorists turning into the Respondent's premises unsafe and impractical, and that contacts with employees using company-furnished transportation were insubstantial.

"Although first-shift traffic entering the Respondent's plant was admittedly heavy at certain hours of the morning and reaching the occupants of the automobiles turning off Waukegan Road presented some difficulty, it is undisputed that the efforts of two of the five union organizers placed campaign materials into approximately nine vehicles of the 25 to 30 seen entering the plan. In addition to the vehicles whose occupants accepted handbills, the organizers also tendered handbills to employees who rejected the material offered them. Moreover, there was substantial opportunity for, and achievement of, additional contact between union representatives and first-shift employees awaiting company transportation at 47th and Kedzie. Finally, although the record does not show any contact with the small number of second- and third-shift employees, it shows only modest union efforts to reach them. Thus, consideration of the record as a whole leads to the conclusion that while the plant location unquestionably presented some obstacles to easy contact with employees on their way to and from work, such contact was by no means foreclosed. Indeed, it is clear that such union efforts as are revealed did reach many employees at these times.

"It is also claimed that other conventional methods of communication, such as mail, telephone, and home visits, were not available and do not constitute feasible means of communications because of employees here involved live in a large metropolitan area which makes them just as inaccessible as others who live and work wholly on an employer's property.[4]

We cannot subscribe to this generalization. We do not believe it wise or proper to adopt a big city rule and a different smalltown rule in applying *Babcock and Wilcox*, or to attempt to determine how big a city must be to justify the proposed differing application. Concededly, it may be more convenient and less expensive for the Union to use the Respondent's property for the purpose of organizing the employees here involved. That was also true under the facts of *Babcock and Wilcox*. But the test established there was not one of relative convenience, but rather whether the location of a plant and the living quarters of the employees place the employees beyond the reach of reasonable union efforts to communicate with them.

. . . The facts here do not, in our view, justify such a conclusion, and we are unwilling to make that conclusion solely upon the basis of the plant's location in a metropolitan area.[5] We note moreover that, while our dissenting colleague, Member Brown, relies in part on the Respondent's refusal to furnish the Union with a list of employees' names and addresses, the principles established by the *Excelsior* case[6] were designed by this Board to provide assurances of access to employees at what was deemed an appropriate point in our election processes. In view of the foregoing, we find that the Respondent, by denying the Union access to its premises, has not thereby engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.[7] Accordingly, we shall dismiss the instant complaint."

Complaint is dismissed.

Brown, Member, dissenting:

[*Text*] "I would affirm the Trial Examiner's Decision.

"The Supreme Court in *Babcock & Wilcox*[8] clearly required that a union need only make reasonable efforts to reach employees through available channels of communication before an employer's refusal to permit distribution of union literature on his premises becomes unlawful. This case hinges on what constitutes reasonable effort. The majority would seem to insist that a union attempt to reach employees through every possible form of communication before an employer's refusal to permit distribution will be judged unlawful. This, in my opinion, requires a union to make extraordinary efforts without regard to the economic impracticability or tactical disadvantages that, in the union's view, may be inherent in certain methods of communication. The requirement of such extraordinary effort is contrary to the mandate of the Court and serves to inhibit a union's efforts to bring its message to the employees, to the frustration of the employees' Section 7 rights.

"The facts in this case clearly indicate that the Union did attempt to utilize *available* channels of communication. The Union did attempt to distribute its literature to employees entering Respondent's premises, despite the rapid flow of traffic; and the Union did attempt to communicate with employees at the various transportation pickup points, despite the presence of Respondent's supervisory personnel and its chilling effect. The majority wonders why mail, telephone, and home visits were not utilized by the Union, and then gratuitously remarks that such organization techniques need not be rendered impractical by virtue of Respondent's essentially urban work force. The issue is not the urban environment of the employees, but rather Respondent's refusal, despite repeated union requests, to make available a list of employee names and addresses. I conclude from these facts that the Union's reasonable efforts did not effectively[9] allow the Union to communicate with Respondent's employees, and that Respondent's refusal to permit access to its parking lot interfered with its employees' rights guaranteed by Section 7, in violation of Section 8(a)(1) of the Act."

Jenkins, Member, dissenting:

[*Text*] "Contrary to the majority and in agreement with dissenting Member Brown, I would affirm the Trial Examiner's Decision and allow the nonemployee organizers access to the Respondent's parking lot.

"While, as a general rule, nonemployee organizers are not entitled to such privilege, absent a showing that they cannot reach the employees by reasonable efforts through other available channels of communication, I feel that the facts of this case warrant an exception to the rule. Jack M. Besser, Respondent's president, admitted that he prevented the distribution of union literature on the public part of the access roadway leading from the edge of Waukegan Road to Respondent's property line near the principal automobile entrance to Respondent's parking area. I do not understand the majority to disagree with this. Given this to be a fact, it is plain that Respondent has unlawfully impeded the Union in its efforts to use lawful and available channels of communication, exhaustion of which is a prerequisite to plant access. This unlawful conduct by Respondent is almost identical to that which Respondent was ordered to cease by the Board, whose Order was enforced by the court of appeals in the prior litigation.[10]

"It is time to end the games Respondent is playing with the statute and with the rights of its employees. To do this, I think it is necessary to provide a remedy which will promptly erase the consequences of its offenses. Respondent's misconduct has unlawfully interfered on both occasions with the rights of its employees to receive information about their rights under Section 7 of the Act, and has likewise cost the Union time, money, and effort on two occasions. In order to assure prompt vindication of the rights of the employees which thus far Respondent has blocked, and in order to demonstrate to those employees that the Act provides effective protection for the exercise of their rights, I would order Respondent not only to cease and desist from its unlawful conduct but to provide access to its premises for union distribution of literature at such points as may, consistent with safety and orderly ingress and egress, provide the Union with ready and easy access to the employees as they enter and leave Respondent's premises.[11]

FOOTNOTES

[1] The plant, which fronts on the east side of Waukegan Road, a four-lane highway, is situated on a rectangular tract of land owned by the Respondent. The tract is bounded on the north by another company and on the east and south by a public forest preserve, all of which is separated from the Respondent's property by a seven-foot high cyclone fence. Signs placed upon this fence post the Respondent's property against trespassers. There are one entrance and two exits which the Respondent's employees may use. Entrance is gained by means of a 20-foot wide, two-way access road intersecting Waukegan Road near the southern boundary of the Respondent's property,

immediately north of the point where Waukengan Road, curving, converges with Caldwell Avenue, another four-lane highway. Traffic lights control the movement of vehicles across this intersection. The access road runs easterly, 30 feet beyond the paved edge of the highway over public domain to the plant gate, and continues 200 feet beyond, terminating at the employees' parking lot. Vehicles leaving the Respondent's plant may use the aforementioned access road or another, also intersecting Waukegan Road, near the northern boundary of the Respondent's property.

[2] The Respondent discontinued transportation service from this pickup point, which was initiated the preceding February, one June 2, 1969, asserting economic necessity as the reason therefor.

[3] 351 U.S. 105, 112, 38 LRRM 2001.

[4] Cf. *N.L.R.B.* v. *Stowe Spinning Company, et al.*, 336 U.S. 226, 23 LRRM 2371; *N.L.R.B.* v. *Lake Superior Lumber Corporation*, 167 F.2d 147, 21 LRRM 2707 (C.A. 6); *S. & H. Grossinger's Inc.*, 156 NLRB 233, 61 LRRM 1025, enfd. as modified 372 F.2d 26, 64 LRRM 2295 (C.A. 2).

[5] We note that the Trial Examiner's conclusion as to the "unavailability" of traditional alternatives, such as the use of sound trucks, organizational meetings, radio and newspaper communications, and the like are based on the urban setting of this case. The factual testimony certainly did not compel such a conclusion, since the union witnesses' testimony was simply that these alternative means of communication had not been tried.

[6] *Excelsior Underwear Inc.*, 156 NLRB 1236, 61 LRRM 1217.

[7] *Farah Manufacturing Company*, 187 NLRB No. 83, 76 LRRM 1100; *General Dynamics/Telecommunications, a division of General Dynamics Corporation*, 137 NLRB 1725, 50 LRRM 1475.

Contrary to our dissenting colleague, Member Brown, we do not believe that the critical issue in this case hinges on the question whether the Union did, in fact, make a "reasonable effort" to reach these employees. Whether or not such an effort was made, it is the opportunity to make such an effort because of "the location of the plant and the living quarters of the employees" which is determinative of the Union's right to approach the employer's employees on his property. *Babcock & Wilcox*, 351 U.S. 105, 113, 38 LRRM 2001. In our view, those factors in this case did not preclude the Union through reasonable efforts to communicate with these employees.

The views expressed by our dissenting colleague, Member Jenkins, raises an issue which was neither anticipated nor litigated by the parties to this proceeding and involve facts which, in the posture of this case, are irrelevant. The complaint herein specifically alleges an unlawful refusal on the part of the Respondent "to allow non-employee union organizers to enter the Respondent's plant-parking lot for the purpose of distributing union literature and soliciting membership in said Union." The question thus presented to the Board for decision is narrowly drawn: whether, as a matter of fact, the Respondent's plant is geographically situated in such a manner as to require entry onto the private property of the Respondent as the only means of assuring reasonable access to employees by nonemploye union organizers.

Without addressing himself to that question, our colleague raises an issue concerning the status of compliance by the Respondent with a remedial order of the Board issued in an entirely different case. If that order were indeed ignored, as our colleague suggests, the Respondent's alleged recalcitrance can be speedily and effectively dealt with under well-defined contempt procedure. Raising these matters here is, in our view, not only counter-productive but inexplicable in the light of our colleague's position in *Farah Manufacturing Company, supra*, 76 LRRM 1100, where the Board found it inappropriate to grant nonemployee union organizers entry into the respondent's property although the respondent also committed unfair labor practices which, in other ways, seriously impeded legitimate access to employees.

[8] 351 U.S. 105, 112, 38 LRRM 2001.

[9] See *ibid.*

[10] *Monogram Models, Inc.*, 170 NLRB 636, 67 LRRM 1470, enfd. 420 F.2d 1263, 72 LRRM 2939.

[11] The majority obviously misconceives my position. I am not resting wholly on Respondent's ignoring the prior Board Order; rather, it is Respondent's denial of access to its property when it unlawfully prevented the use of public property for communication purposes that forms the basis of the violation. Further, the instant case is clearly distinguishable from *Farah Manufacturing Company*, where there was no showing that the respondent there unlawfully impeded the union itself and where, too, the union, unlike here, had a number of in-plant supporters.

FALK CORP.—DECISION OF NLRB

The Falk Corporation, Milwaukee, Wis. and District No. 10, International Association of Machinists and Aerospace Workers, AFL–CIO, Case No. 30–CA–1226, August 18, 1971, 192 NLRB No. 100.

Alex J. Barbour, for General Counsel; Robert K. Drummand and David W. Croysdale (Foley & Lardner), Milwaukee, Wis., for employer; Kenneth W. Black, Des Plaines, Ill., and Plato E. Papps, Washington, D.C., for union; Trial Examiner George J. Bott.

Before Miller, Chairman; Fanning, Brown, Jenkins, and Kennedy, Members.

Interference Sec. 8(a)(1)—Denying nonemployee union organizers access to company property 50.189.

Employer did not violate LMRA when it denied nonemployee union organizers access to its property to distribute union literature or otherwise disseminate union information to employees. (1) Although union could not distribute literature to employees who drove to work, it could do so with respect to those employees who used pedestrian entrances and those who used company bus, and these two groups of employees together constitute almost 25 percent of employer's work force; (2) union has ability to compile fairly comprehensive mailing list of employees, and all the other methods of communication enumerated by Supreme Court in Babcock & Wilcox Co. (38 LRRM 2001) are readily available to union.

The employer manufactures mechanical power transmission equipment at a facility on Canal Street in Milwaukee, Wisconsin. At the time of the hearing in the present case, there were approximately 1,630 production and maintenance employees working at the employer's Canal Street plant. The plant is a three-shift operation with staggered shift starting times.

The plant is located in a cul-de-sac. Although part of the surrounding area is residential, the plant is bordered by natural or man-made obstructions, such as the Menomonee River on the south and east, the Milwaukee Road railroad complex on the west, and, on the north, by railroad tracks and an elevated freeway.

The sole vehicular entrance to the plant consists of a two-lane viaduct extending from Canal Street over the Milwaukee Road tracks into the plant compound. Canal Street is north of the employer's plant and runs east and west along the Milwaukee Road property. The entrance to the viaduct on Canal Street is approximately one-half block east of 32nd Street which runs north and south. The employer owns the entire viaduct up to the point where it enters Canal Street.

Aside from the vehicular entrance, there is a pedestrian walkway, also owned by the employer, extending along the east edge of the viaduct. The third entrance to the plant, also owned by the employer, commences at a public sidewalk on the 27th street viaduct and extends from a public bus stop on the elevated viaduct, downward to the employer's property.

An average of approximately 76 percent of first, 75 percent of second, and 90 percent of third shift employees enter and leave work each day by automobile over the privately-owned viaduct extending from Canal Street. There are only two vehicular approaches to the viaduct from the surrounding area: 32nd Street, a half block east of the viaduct, running north and south and ending at Canal street, and the eastern portion of Canal Street, which runs approximately six and a half blocks east of the employer-owned viaduct where it intersects with Greves Street. The vast majority of the employees utilizing automobile transportation enter and leave the plant compound via 32nd Street.

On an average day, approximately 15 percent of the first, 13 percent of the second, and 10 percent of third shift employees leave the plant via the pedestrian walkway and the 27th Street viaduct stairway, and employees exit from public buses at the bus stop, and cross a public sidewalk before entering the stairway.

It also appears that the employer leases a bus to transport employees to and from certain locations in the plant complex and nearby points in the surrounding residential area. On an average day, approximately nine percent of the first shift and 12 percent of second shift employees use this method of transportation.

Immediately to the west of the employer's plant complex is an office and maintenance complex owned by the Milwaukee Road railroad. The Milwaukee Road railroad employs approximately 1,030 employees. These employees, most of whom drive to work, enter and leave the Milwaukee Road's complex by means of a viaduct intersecting Canal Street, located approximately one block west of the intersection of 32nd and Canal Street.

In addition to the Milwaukee Road complex, there are approximately a half dozen small manufacturers along Greves Street between 27th and 25th Street. Some of the employees employed by these manufacturers use Canal Street to go to work.

In late 1968, Joseph Spehert, an organizer for the union, made an "informal check" of the number of employees entering the employer's plant by automobile. On several occasions, he parked his car on the east side of 32nd Street, about one-half block north of the intersection with Canal Street, where he proceeded to record on a tape recorder the license plate numbers of cars as they went by. Having obtained a list of license numbers, he had them alphabetized to determine car ownership. The State of Wisconsin publishes a directory which lists the names and addresses of owners of automobiles registered in the State, and from this directory, Spehert discovered who owned the automobiles he had observed on 32nd Street. Spehert's list contained the names of 593 persons, but he said that in checking the names against the directory, he discovered that his list was inaccurate in that about half the names were those of persons not employed by the employer.

The union's organizing campaign appears to have been launched around March 23, 1970. On this day, Spehert, accompanied by around seven nonemployee assistants, attempted to hand union authorization cards to the employer's employees. Two men were placed on the 27th Street viaduct, and the

rest stationed themselves on the employer-owned viaduct, immediately to the south of where it joins Canal Street. Within a few minutes, however, the employer's security guards told the union agents they were on private property, and ordered them to leave. Spehert refused to leave, but after a short while, city policemen arrived and instructed him and his men to leave because they were on private property.

After leaving the viaduct area, Spehert placed one of his assistants at the northwest corner of 32nd and Canal Street, and another on the public sidewalk on the north side of Canal Street, just east of the point where the employer-owned viaduct joins Canal Street. Spehert and another assistant stood on the curb on the south side of Canal Street, between the 32nd Street intersection and the employer-owned viaduct. However, Spehert and his assistants were unable to reach the drivers from where they were stationed, and so they moved to the middle of the street. A short time later, city policemen told them they were violating traffic rules and would have to get out of the street.

On the evening of March 25, Spehert and four other employees of the union stationed themselves on the viaduct, but they were again ordered to leave by the employer's guards. Spehert again refused to leave, but city policemen subsequently convinced him and his men to do so.

On March 30, Spehert and nine other individuals again attempted to pass out handbills in the middle of Canal Street. However, they were subsequently ordered by city policemen to stop handbilling there.

Aside from the handbills which they distribute, the union agents had two large banners which announced the holding of a meeting on April 2 at a local hall. One of the banners was displayed from the public sidewalk on the north side of Canal Street directly opposite from the entrance to the employer-owned viaduct. The other banner was displayed from the south side of Canal Street, facing north, at the intersection of Canal and 32nd Street. However, shortly after the banner on the south side of Canal Street was unfurled, a Milwaukee Road agent told Spehert it was on Milwaukee Road property and would have to be removed. Spehert took the banner down and left with his men.

The union held organizational meetings—one in the morning and one in the afternoon—on April 2. Approximately 50 employees attended the morning meeting, and 150 came that afternoon.

On April 8, the union mailed 700 to 800 introductory copies of a union newspaper to employees who had signed authorization cards, as well as to those whose names appeared on the list prepared by Spehert after his automobile survey in 1968, with the exception of those persons whom the union had discovered were not employees of the employer.

On May 22, the union wrote the employer and requested that its organizers be granted access to company property to distribute union literature. Alternatively, the union requested that the employer furnish it with a list of the names and addresses of employees so that they could be contacted outside the plant. By letter dated June 1, the employer, relying in part on "long standing * * * policy concerning the use of (company) property," denied the union's request.

For several years, the employer has maintained and enforced a uniform, nondiscriminatory policy prohibiting nonemployees from entering any part of its property for the purpose of soliciting or distributing literature to its employees. With respect to employees, the employer maintains presumptively legal rules against solicitation during working time and distribution in working areas of the plant.

[*Text from trial examiner's decision adopted by Board*] "In order to sustain the allegations of the complaint that Respondent interfered with, restrained and coerced its employees by refusing to grant access right to nonemployee union organizers to distribute union literature or to otherwise disseminate union information to Respondent's employees on Respondent's Canal Street property, General Counsel must establish that the Union is unable by reasonable efforts through other available channels of communication to reach the employees with its message.[4] If, as the Court said at another point in *Babcock & Wilcox*, the location of a plant and the living quarters of the employees place the employees beyond the reach of reasonable union efforts to communicate with them, the employer must allow the union to approach his employees on his property.[5] I find on the basis of the whole record that it has not been shown by a preponderance of the evidence that the Union cannot communicate with Respondent's employees effectively by the use of certain techniques and avenues, including a certain amount of advertising by placards or banners near the plant viaduct, which the record shows are available to the Union if it exercises reasonable efforts to utilize them.

"First of all, unlike the situations in certain cases relied upon by General Counsel, the Union in this case concededly is able to distribute literature to pedestrian employees who enter the plant via the walkway which runs along the Falk Canal Street viaduct from the public sidewalk extending along the north side of Canal Street, and to those employees who use the stairway extending from the 27th Street viaduct by standing at the public bus stop on the viaduct. I also find that it is practical to distribute literature to employees who are transported to and from work by the bus leased by Respondent by meeting them at the bus stops in the surrounding areas, and General Counsel concedes that there are no insurmountable problems in distributing literature to this group. Consequently, these two groups—those who use the pedestrian entrances and those who use the company bus—can be effectively reached, and they together constitute almost 25 percent of Respondent's work force.[6]

"In Babcock & Wilcox, 90 percent of the employees drove to work in automobiles. The only place in the plant area where leaflets could be distributed to employees was a long driveway where it crossed a highway. The Court agreed with the Board that it was 'practically impossible' for union representatives to distribute leaflets safely to employees as they entered and left the plant. The Court also observed, however, that there were alterternative methods of communication utilized by the union, such as mailing literature to 100 out of 500 employees, verbal communications on the streets of the city where the employees lived, home contacts and home telephone calls. On the basis of these considerations, the Board had nevertheless concluded that 'it was unreasonably difficult to reach the employees off company property.'[7] The Court concluded on the basis of the same facts, however, that means of communication other than access to Respondent's property for distribution purposes were readily available' and that, in the circumstances, the employer need not permit the use of his facilities for organization purposes. Some of these 'usual methods of imparting information' which were available had, as indicated, been referred to by the Board and the Court added to them the considerations that 'various instruments of publicity are at hand' and the quarters of employees, although scattered, were in reasonable reach. I find and conclude that, in addition to being able to effectively reach nondrivers and apart from any avenues available to the Union near the plant complex to carry its message to employees who use automobiles to get to and from work, alternative means of communication available to the Union are essentially equal to those deemed adequate by the Court in Babcock & Wilcox. They are:

"*1. Communication by mail:* In *Babcock & Wilcox*, the union was only able to communicate by mail with approximately 100 out of 500 employees. In this case. * * * Spehert, the Union's business representative and organizer, did not attempt to compile a comprehensive mailing list when he surveyed automobile traffic near Respondent's plants in 1968, and the list of addresses he did put together from a check of license plates has never been attempted to be brought up to date. Nevertheless, from that stale, incomplete and probably inaccurate list, with the addition of persons who have actually signed union authorization cards, the Union has been able to mail 700–800 pieces of union literature to persons it believes are Falk employees. Although Spehert testified that he had no way of knowing whether the mailing was actually received by Falk employees, it is a fair inference, which I draw, that the Union is now reaching considerably more than a few hundred Falk employees by mail. But more important than this ability to reach by mail proportionately as many employees as the union in *Babcock & Wilcox* was able to contact is the fact that the Union with a little more effort can compile a much more comprehensive list of names and addresses of Falk employees who drive to work. I make this finding on the basis of the credited and composite testimony of Ralph Brownlee, professor of marketing at Marquette University and expert in the field of marketing and advertising and Robert Seaborn, Respondent's plant engineer, that a complete list of all license plates of all automobiles entering and leaving the Falk complex via the Canal Street viaduct can be easily recorded on a tape recorder by day or night by one or two persons standing on the public sidewalk directly across from the entrance to the viaduct; that the Motor Vehicle Department of the State of Wisconsin maintains as a public record the name and address of each license owner; that plates are required on the front and back of each car; that said plates remain with the owner, not the car, in the event of transfer of title, and that the listings of names and addresses maintained by the State is kept up to date with regular supplements and is available for purchase by the public. It also appears that the Union has utilized this service in the past for organizational purposes: It will be recalled that Spehert did not station himself in front of the viaduct, as suggested by Respondent's witnesses, but sat in his car on 32nd Street. This undoubtedly explains why half of the names on his original list were of persons who did not work for Respondent, for Milwaukee Road employees also use 32nd Street to get to and from work at or around the time Spehert was making his license plate check.

"General Counsel argues that any list of license plates and names and addresses developed therefrom as described, would be incomplete and inaccurate because some employees ride in car pools, because statistics show that persons change their addresses about once every five years, and because there is no way for an observer to tell a production and maintenance employee from a supervisor or office employee if he or she is driving a car. It appears, however, that provisions may be made for forwarding mail to persons who move, and it is also a fact that not only do no women work in production and maintenance, but the starting and quitting times of office, executive and professional personnel do not coincide with production and maintenance employees. It may be that the first list prepared, or even subsequent lists, will contain the names of some nonunit employees, but there is no known reason why the Union would not

Footnotes at end of article.

want a nonunit employee to get its literature, and the use of a city directory would help reduce this margin of error, for it lists persons by occupation. As far as car pools are concerned, 90 percent of the employees drive alone, and it is also well known that car pool participants alternate. In any case, if the driver gets the message, it is likely that the passenger will get it too. This is not to say that the license plate survey method will result in a completely accurate list of names and addresses of all employees in the unit and of no one else. It is to say that by this method, which I find not an unreasonable burden, supplemented by various well-known techniques for appealing for addresses,[8] the Union can build a mailing list which will be fairly comprehensive. With this list and its opportunities for face-to-face contacts with pedestrian employees, it will have much more than the unions had in *Babcock & Wilcox* and in *Solo Cup Company*.[9]

"2. *Visiting and telephoning employees at their homes.* In *Babcock & Wilcox*, only 40 percent of the employees lived in a near-by town and 60 percent lived within a 30-mile radius. In this case 90 percent of the employees live in residential areas relatively close to the plant and the remainder live within a 30-mile radius. I find nothing in the cases to indicate that it is unreasonable to expect a union to attempt to reach employees at their homes merely because they live in a metropolitan area.[10] The Union's representatives have made some home visits, as well as some telephone calls, in this case, and it is to be expected that with an enlarged list of employee addresses they will be able to make more, if they choose.[11]

"3. *Group meetings.* The Union's organizer testified that 'direct contact with individuals' in 'group meetings' is 'the best way' to communicate with employees, yet the record shows that the Union has no meeting place in the vicinity of the plant and has arranged only one meeting of employees. * * * on March 30, the Union attempted to distribute handbills in the vicinity of the plant and erected two large banners all announcing a union meeting for April 2. Although the Union was not required to remove the banner it had placed across the street from the plant, as it had the one on Milwaukee Road property, where employees entering or leaving the plant could read it, it suddenly struck this banner in 'disgust,' left the area and did not return to put the banner up again for the close of the first shift. Nevertheless, 150 employees attended the April 2 meeting, and Spehert, attributed this attendance in part to the handbills his assistants had been able to get into the hands of employees and to the use of the banners. It also appears that the Union does not use an in-plant committee of employees for organizational purposes, and although some card signers made up part of the attendance at the April 2 union meeting, no employees distribute union literature in the plant. On this record, although no one set of organizational techniques can control the result, it would seem that the Union has itself fallen short of making 'reasonable union efforts' to meet with employees in groups.[12]

"4. *Newspapers, radio and television.* In *Babcock & Wilcox*, the Supreme Court noted that, in addition to the various methods of communications already touched upon, the 'various instruments of publicity' were also available for the union's use,[13] and so the use of newspaper, radio and television advertisements, as possible avenues of communication with Falk employees cannot be lightly dismissed as something to consider along with other methods of communication in determining whether the Union can not effectively communicate with Respondent's employees unless it is permitted to use Respondent's facilities.

"There are two major newspapers in the Milwaukee metropolitan area consisting of a morning daily (the *Milwaukee Sentinel*), and an evening daily (*The Milwaukee Journal*), which also publishes a Sunday edition. According to a survey by the Journal Company, which owns both newspapers, the percentage household coverage of the above newspapers in Milwaukee County was 99 percent for the *Sentinel* and *Journal* combined, and 100 percent for the Sunday *Journal* and daily *Sentinel* combined. There are also weekly newspapers published in a number of suburbs and the *Milwaukee Labor Press*, captioned as 'The Largest Local Labor Paper in the Nation.'

"A full page ad in the *Sentinel* costs $1,152, and in the *Journal*, $2,112, but the cost of less than a full page ad would be proportionately reduced. Costs of advertising in the Sunday *Journal* are somewhat higher than in the daily *Journal*.

"There are 22 AM and 20 FM radio stations in the Milwaukee metropolitan area, with 4 AM stations having the highest market density. There are three VHF, one UHF and one educational television stations in the metropolitan area. Radio spots start at $5.50 and television commercials range from $140 for one minute during sports events to $566 for a one-minute announcement during an evening broadcast of a Milwaukee Brewers baseball game. In addition, production costs amount to approximately $250.

"General Counsel argues that newspaper advertising suffers the disadvantage of being an 'impersonal means of communication' and is otherwise impractical because the Union would have to place repeated ads at a cost far in excess of what could reasonably be expected in the way of return. In addition to these prohibitive costs, he also suggests that 'in spite of the newspapers' high percentage of household coverage, there is no guarantee that all of Respondent's employees would read the ads placed. In the case of radio and television, he emphasizes the cost and the great number of stations available, which would make it difficult for the Union to decide which one to use. In my opinion, the Board in *Solo Cup*, although stressing the cost objections and other problems relating to the use of newspapers, radio and television stations in a large metropolitan area (Chicago), did not hold that the availability of such media are to be cancelled out and ignored completely when balancing the factors which determine the result in these cases. No one, except perhaps the owners of the newspapers, radio and television stations, would argue that their media are the only, most effective and the most economical way to transmit the message, but this does not mean that these methods cannot be considered for their possible use in connection with, but only as a part of, a combined campaign. The size and extent of their rifles will depend on how much a union wants to spend.

"5. *Handbilling or other communications in the vicinity of the plant directed toward automobile drivers:* The analysis to this point has not included a discussion of the Union's ability to effectively reach automobile drivers with its message as they approach or leave the plant, although I have found that the Union can effectively communicate with a substantial number of employees who walk or bus to work. It is clear to me from the entire record that successful distribution of literature is obviously impossible from anywhere at the intersection of the Falk viaduct and Canal Street without endangering the lives of union representatives, even assuming that the police would permit them to stand anywhere in the street or even on the 'crack' which separates the viaduct from the public road. In addition to risk to the lives and safety of the distributors, automobile drivers hurriedly entering or leaving a narrow driveway into the plant could cause accidents or traffic jams if their attention is diverted and their progress is impeded. It is unnecessary to minutely detail conditions at the viaduct and Canal Street—the record is clear from the testimony and the exhibits. It is enough to say that cars suddenly flow in and out in large masses, and they may blend with some other automobile traffic on Canal Street; the drivers come from both the east and the west and they leave the same way, 75 percent going west and 25 percent east. In neither case can the driver be reached with a written message unless the union representative puts himself in the middle of the viaduct—which Respondent forbids—or in the street—which the police wisely prohibit—or unless the driver stops his car, slides over and lowers his window, which, it seems to me, is no way to start a driver on what is probably a high-speed trip on a freeway.[14]

"I also agree with General Counsel that the intersection of Canal Street and 32nd Street is not a suitable place to distribute literature to employees coming to or leaving work. There is a stop sign on the southwest corner of 32nd Street, but there is no sidewalk on the west side of the street, so union representatives would have to stand in the street to reach the driver. In addition, 32nd Street is four lanes wide, and drivers turning east toward the Falk complex would be in the inside lane, thereby making it double difficult to reach them unless the solicitor walked out into the middle of the street to reach the driver's side of the vehicle. After the driver turns off 32nd Street going east to the plant there is no stop sign or other obstacle in his path until he reaches the plant. There is nowhere in that area therefore where the Union may effectively distribute literature.

"The intersection of 32nd Street and Canal is also not a satisfactory place to try to distribute literature to employees leaving work by automobile. Although there is a public sidewalk on the north side of Canal Street, and on the east side of 32nd Street, there is no stop sign for west-bound traffic at the 32nd Street intersection, and so it is unlikely that anxious motorists would stop to take leaflets from persons standing on the sidewalk. Moreover, when union representatives tried to handbill by standing in the street at the intersection of 32nd and Canal, they were prevented by the police, because they were obstructing traffic and risking their own persons.

"An additional problem of distribution at 32nd and Canal is caused by some commingling of cars driven by Falk employees and other persons at that intersection. Milwaukee Road employees, for the most part, drive south on 32nd and turn west on Canal on their way to work and retrace this route on the way home. Although shift changes of the two employers do not coincide, there is bound to be some overlapping, as a traffic survey in evidence reveals.

"I also reject Respondent's suggestion that the Union could effectively distribute literature to driving employees at certain arterial stop signs located from three to eight blocks away from the plant, for I agree with General Counsel's theory that it may be safely assumed that employee interest in or willingness to stop to accept a handbill would be in inverse ratio to the distance the driver has travelled from the plant. In addition, there would again be a substantial intermingling of traffic at these points, union representatives (and there would be need for many) would not be able to determine where the cars came from, and since they would not be able to distribute in the street, they would be faced with the same problems in reaching the drivers as they would be at 32nd and Canal.

Footnotes at end of article.

Summary

"It has been found that the Union is unable, legally, safely and effectively, to distribute literature to employees who drive to work, but it has been found that there is no impediment to its reaching in the same fashion approximately 25 percent of the employees who do not use that mode of transportation, and it has also been found that, in addition to the practicality of compiling a comprehensive mailing list of employees, all of the other methods of communication listed by the Court in *Babcock & Wilcox* are readily available to the Union. It ought to be apparent, but perhaps it must be emphasized in evaluating availability and general utility that is not the existence of any one method of communication that is controlling, but its effectiveness in combination that is significant, and I conclude that the combination in this case tips the result in favor of no access. In this connection, a word about communications by mail is not irrelevant, for there is a suggestion in General Counsel's brief and in a case or two that this method of communication ranks low in effectiveness on the communications ladder, but in *Excelsior Underwear Inc.*, 156 NLRB 1236, 61 LRRM 1217, the Board, in establishing a rule requiring an employer to file with the Regional Director a list of names and addresses of all employees eligible to vote in a representation election within seven days after a direction of election, which list would be available to all parties participating in the election, noted that 'lack of information' impedes a free and reasoned choice in an election, and that by giving the union the same opportunity the employer has through his possession of names and addresses of informing the electorate of his view, the union would also be certain of reaching all employees with its arguments, thereby resulting in an informed electorate. Although the Board did not limit the union to the use of the mails, it was clear from the decision that the Board considers a mailing list as an effective communication tool and for that matter so does the Union in this case, because Spehert so testified.[15]

"Reference to the *Excelsior* rule raises the question of its possible bearing on the issues in this case, a question which I have not seen mentioned in any of the access cases. If the Union is able to secure sufficient 'evidence of representation' (evidence, usually signed authorization cards, that 30 percent of the eligible employees desire union representation),[16] it may file a petition, and the Board will direct an election. If the Union, therefore, can secure the support of only 30 percent of the electorate, it will not face the impediment that faced all unions when *Babcock & Wilcox* was decided and which *Excelsior* removed in part.[17] Although clearly a union has to be able to communicate with employees in order to secure a showing of interest among them, the fact that it need secure only a 30 percent showing before it will be provided with an accurate list of all employees before the election for campaign purposes is something the Board may wish to consider when it assigns weights to each of the available means of communication as it balances the statutory right of employees to organize and the right of an employer to control the use of his property.[18]

"I conclude that Respondent did not violate Section 8(a)(1) of the Act when it refused to grant access rights to nonemployee union organizers to distribute union literature or otherwise disseminate union information to its employees on the Canal Street plant property, as alleged in the complaint."

Complaint is dismissed.

BROWN, Member, dissenting:

[Text] "I would find that Respondent violated Section 8(a)(1) of the Act by refusing nonemployee union organizers access to its property to distribute literature. As I stated in my dissent in *Monogram Models*, 192 NLRB No. 99, 77 LRRM 1913, I do not read the *Babcock & Wilcox*[19] decision to require more than reasonable efforts on the part of a union to communicate with employees. The majority and the Trial Examiner, by requiring the Union to record automobile license numbers and compare them to a state-supplied listing of licensed vehicle owners and addresses in order to initiate a dialogue with the employees, are clearly demanding the Union make more than 'reasonable efforts.'"

FOOTNOTES

[4] *N.L.R.B.* v. *Babcock & Wilcox Company*, 351 U.S. 105, 112, 38 LRRM 2001.

[5] *Supra*, at 113.

[6] In *Solo Cup Company, et al.*, 172 NLRB No. 110, 68 LRRM 1385, reversed and remanded 422 F. 2d 1149, 73 LRRM 2789 C. A. 7), 99 percent of the employer's employees entered the plant by automobile at a location where it was "virtually impossible to stand safely" and pass out literature. In *Central Hardware Company*, 181 NLRB No. 74, 73 LRRM 1422, only a few of the company employees walked to work.

[7] *Babcock & Wilcox, supra* at 106, 38 LRRM 2001.

[8] By appeals to persons who have signed cards to supply the name and address of another employee, for example.

[9] 172 NLRB No. 110, p. 3 slip opinion, 68 LRRM 1385.

[10] In *Central Hardware Company*, 181 NLRB No. 73, 73 LRRM 1422, the Board, in affirming the Trial Examiner who relied in part on the difficulty the union encountered in trying to reach employees at home in Indianapolis, Indiana, in finding denial of access illegal, relied upon a variety of considerations not present in this case. I consider the case clearly distinguishable. The Court in *Babcock & Wilcox*, at p. 114, referred to home visits as "one of the usual methods of imparting information."

[11] In *Solo Cup*, where most of the employees lived in Chicago, but some lived in Indiana, some 15 to 20 miles from the plant, the Board said at page 3 that, "it would be virtually impossible for the Union, *without a list of addresses* which *Solo* in a recent representation case has refused to supply, to meet the *Solo* employees away from the plant premises and convey its message." Underscoring supplied.

[12] *N.L.R.B.* v. *Kutsher's Hotel and Country Club, Inc.*, (C.A. 2), decided June 2, 1970, slip opinion p. 3133, 74 LRRM 2394.

[13] 351 U.S. at 114, 38 LRRM 2001.

[14] Respondent's own witnesses for a number of good reasons were concerned about the traffic problem that distribution at the entrance to the viaduct would cause.

[15] In *Excelsior*, approved by the Supreme Court in *N.L.R.B.* v. *Wyman-Gordon Company*, 394 U.S. 759, 70 LRRM 3345, with the Court noting that all United States Courts of Appeals that had passed on the question had approved the disclosure requirement, the Board, in partial support of its holding, compared its new requirement with the practice of providing stockholder lists in corporate elections, or other proxy contests, and the publications of voting lists in political elections. The use of the mails and telephone in these contests is well-known. The Board also noted that any candidate for union office is by law entitled to have the union "distribute his campaign literature to all members," and it concluded that it saw no reason why "similar opportunities should not be available in representation election." See *Excelsior, supra*, at 1242, 61 LRRM 1217.

[16] Rules and Regulations and Statements of Procedure, National Labor Relations Board. Sec. 101.18.

[17] Recall that the Board in *Solo Cup, supra*, in finding that the union was unable by "reasonable attempts" to reach employees through "other available channels of communications," observed that the company had refused to supply the *Excelsior* list in a recent representation case.

[18] *N.L.R.B.* v. *Babcock & Wilcox, supra*, at 112.

[19] *N.L.R.B.* v. *Babcock & Wilcox*, 351 U.S., 105, 38 LRRM 2001.

[United States of America, before the National Labor Relations Board]

ROCHESTER GENERAL HOSPITAL AND 1199 NATIONAL UNION OF HOSPITAL AND HEALTH CARE EMPLOYEES, RWDSU, AFL–CIO

DECISION AND ORDER

On September 15, 1977, Administrative Law Judge Anne F. Schlezinger issued the attached Decision in this proceeding. Thereafter, the General Counsel filed exceptions and a supporting brief, and the Respondent filed cross-exceptions and a supporting brief as well as an answering brief to the General Counsel's exceptions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[1] and conclusions of the Administrative Law Judge and to adopt her recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, and hereby orders that the complaint be, and it hereby is, dismissed in its entirety.

Dated, Washington, D.C. January 16, 1978.

[SEAL] NATIONAL LABOR RELATIONS BOARD,
JOHN H. FANNING, *Chairman.*
JOHN C. TRUESDALE, *Member*
JOHN A. PANELLO, *Member.*

[United States of America, before the National Labor Relations Board, Division of Judges]

ROCHESTER GENERAL HOSPITAL AND 1199 NATIONAL UNION OF HOSPITAL AND HEALTH CARE EMPLOYEES, RWDSU, AFL–CIO

John Jay Matchulat, Esq., Buffalo, N.Y., for the General Counsel.

Richard N. Chapman, Esq., of Harris, Beach, Wilcox, Rubin & Levey, Rochester, N.Y., for the Respondent.

Michael T. Harren, Esq., of Chamberlain, D'Amanda, Bauman, Chatman & Oppenheimer, Rochester, N.Y., for the Charging Party.

DECISION

Statement of the case

Anne F. Schlezinger, Administrative Law Judge: Upon a charge filed on July 14, 1976, by 1199 National Union of Hospital and Health Care Employees, RWDSU, AFL–CIO, herein called the Charging Party or the Union, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 3 (Buffalo, New York), issued a complaint and notice of hearing on December 16, 1976. The complaint, as amended at the hearing, alleges in substance that Rochester General Hospital, herein called the Respondent, on or about July 8, 1976, at various parking lots on hospital premises and at the hospital's main entrance, told nonemployee Union organizers to leave the hospital premises and threatened them with

[1] The Respondent's motion to remand to the Administrative Law Judge for clarification of certain findings made in her Decision is hereby denied.

arrest if they did not leave, when these organizers were attempting to engage in Union organizational activity among the Respondent's employees, and notwithstanding that alternate channels for the Union to communicate with these employees were unavailable, ineffective, or unreasonably burdensome; has since July 8, 1976, discriminatorily applied a no-solicitation no-distribution policy to distribution of Union literature to the Respondent's employees on hospital premises by nonemployee Union organizers; and has by the foregoing conduct interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act, and thereby engaged in unfair labor practices in violation of Section 8(a)(1) of the National Labor Relations Act. The Respondent, in its answer duly filed and at the hearing, admitted certain factual allegations of the complaint, but denied the commission of the alleged unfair labor practices.

Pursuant to due notice, a hearing was held before the undersigned Administrative Law Judge at Rochester, New York, on March 21 and 22 and April 20 and 21, 1977. All the parties appeared at the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce relevant evidence. At the opening of the hearing the General Counsel made an opening statement. At the close of the hearing all the parties waived closing argument. Subsequent to the hearing, on or about June 27, 1977, the General Counsel, the Respondent, and the Charging Party filed briefs, which have been duly considered. The Respondent also filed a Motion to Correct Transcript. This motion, unopposed by the other parties, is hereby granted, and the transcript is corrected as set forth in the Appendix attached hereto.

Upon the entire record in this case and from my observation of the witnesses, I make the following:

Findings of fact

I. The Business of the Respondent

The Respondent is, and at all times material herein has been, a not-for-profit corporation duly organized under, and existing by virtue of, the laws of the State of New York. The Respondent at all times material herein has maintained a hospital on Portland Avenue, in Rochester, New York, herein referred to as the hospital. It is engaged at the hospital, the only facility involved in this proceeding, in the business of providing and performing hospital and health-related services. During the past year the Respondent, in the course and conduct of providing these services, received gross revenues in excess of $250,000, and received goods valued in excess of $50,000 that were transported to its place of business in interstate commerce directly from States of the United States other than the State of New York. The complaint alleges, the Respondent in its answer admits, and I find, that the Respondent is, and at all times material herein has been, an employer engaged in commerce and a health care institution within the meaning of Section 2(6), (7), and (14) of the Act.

II. The Labor Organization Involved

I find, as the complaint alleges and the Respondent in its answer admits, that the Union is, and at all times material herein has been, a labor organization within the meaning of Section 2(5) of the Act.

III. The Alleged Unfair Labor Practices

A. Stipulations of the parties

The complaint alleges violations of Section 8(a)(1) of the Act since on or about July 8, 1976. It was stipulated by the parties at the hearing that on that date nonemployee Union representatives were stationed on hospital property at various employee parking lots and at the main entrance at approximately 6:30–8:00 a.m., and again at the entrance for a few minutes at about 3:20 p.m.; that they were at these times engaged in soliciting and distributing Union literature to persons including employees of the hospital; that security personnel of the hospital approached these Union representatives and, after ascertaining their identity, ordered them to leave the Respondent's premises; that in doing so the security personnel were acting in furtherance of hospital policy which, on that date and all times since then, has been to prohibit nonemployees from soliciting or distributing literature to employees on the grounds or within the hospital building; that July 8, 1976, was the only day, during 1976 and 1977, on which nonemployee Union representatives solicited or distributed to the hospital employees on or adjacent to the Respondent's property; and that the Respondent did not on that date, and would not at any time since that date, allow nonemployee Union representatives to solicit the hospital employees or to distribute literature on the hospital grounds or in the building owned by the Respondent. The parties also stipulated that the Union has not filed a petition with the Board seeking representation of any of the hospital employees, and that the Respondent did not file charges against the nonemployee Union representatives, and no arrests were made, as a result of the July 8 incidents.

On July 9, 1976, counsel for the Union sent a letter to the Respondent stating as follows:

"It has come to our attention that the security personnel of Rochester General Hospital is interfering with the rights of your employees to organize and select representatives for the purposes of collective bargaining. Your security personnel are so interfering by refusing to permit representatives of 1199 to distribute leaflets at and around access roads to Rochester General."

As the Union is guaranteed the right of reasonable access to employees for the purposes of organization, we request that you either:

1. Inform us of areas where our organizers may effectively distribute leaflets to your employees on or around your property, or

2. Submit to the Union . . . a list of the names and addresses of your employees in the following categories: professional employees including registered nurses and medical technologists but excluding physicians serving as interns or residents at the Hospital, all technical employees including licensed practical nurses, medical technicians, laboratory technicians, X-ray technicians and similar categories; all service and maintenance employees including nurses aides, ward aides, unit clerks, stock room employees and related categories, and all employees characterized as being business office clerical. Excluded from this request are all supervisors and guards as defined by the National Labor Relations Board Act.

Your prompt compliance with this request will aid in assuring your employees full enjoyment of their rights under federal law.

The Union filed the charge herein on July 14, 1976. Counsel for the Respondent, on July 19, 1976, replied to the Union's letter as follows:

I had every intention of answering your letter. However in the interim, the Hospital received an unfair labor practice charge. While the charge does not allege the facts on which it is based, it leads me to believe that your letter of July 9 was a fishing expedition. If that belief is incorrect, please let me know."

The parties stipulated that there was no reply by the Union to this letter.

B. The hospital premises

There are six hospitals in Rochester, of which the Respondent is the second largest as to employees and beds. The parties stipulated that the hospital has about 2250 employees, of whom about 1500 work full time and the others part time. There are about 480 in-patients and about 400 out-patients daily. Most categories of employees work 3 shifts. There are some variations but generally the first shift is from 7:30 a.m. to 4:30 p.m., the second from 3:30 p.m. to 12 midnight, and the third from 11:45 p.m. to 7:45 a.m. Over 80% of the employees are on the first shift, about 12% on the second, and about 6% on the third. The hospital visting hours are from noon to 8 p.m. 7 days a week.

Some employees are required to wear uniforms at work. The uniforms, of different colors, are furnished and laundered by the hospital. Some employees wear the uniforms to and from the hospital but others wear their own clothes and change in the locker rooms. The hospital also issues decals about the size of a half-dollar to employees who park at the hospital. The decals, affixed to the left rear window on the driver's side of the car, indicate by their color the parking area used by the employee.

The hospital, located on Portland Avenue, a major artery between the city and its northern suburbs which was widened in 1976, is on about 31 acres in the northeast section of the city about 2½ miles from the downtown area. The main building has 7 floors and about 30 departments as well as employee lounges and locker rooms in the basement, a main conference room, a cafeteria on the ground floor which is used by employees and visitors and may be used also by out-patients and doctors, and a coffee shop on the ground floor used by employees, visitors, and sometimes patients. There are also a mental health building, an animal laboratory connected to the hospital by a tunnel, and a nursing school in a wing of the hospital that has 3 floors and contains research facilities also.

The parties stipulated that about 93% of all the hospital employees and approximately 97% of the employees in the service and maintenance unit live in Rochester or one of several contiguous towns, and that Rochester has a population of about 250,000 and Monroe County about 400,000. There is access to the hospital by car, bus, on foot, motorcycle, and bicycle, but most of the employees come to work by car. There are six parking facilities at the hospital and a seventh to be available sometime in 1977, accommodating hundreds of cars. Some parking facilities are restricted to employee use only, and some are also used by visitors and out-patients. There is also a bicycle rack.

The hospital's main entrance, which has a lawn in front, is used by staff members, employees, out-patients, and visitors. There are other entrances as well. Employees may use any of the entrances. There is a bus stop on Portland Avenue at a gravel footpath about 800 feet from the main entrance that is used by employees and others going to and from the hospital. A nearby loop is difficult for regular large buses to turn in, but is used by smaller Dial-A-Bus vehicles and by cars to drop and pick up people.

The Respondent owns all the parking facilities on its premises, and the North, West, and South Roads at the perimeters. The lot line extends to the sidewalk on Portland Avenue, to South Road on the south where the lot line is marked by a chain, to Carter Street, where there is an overpass, on the west, and to a cyclone fence on the northern boundary. There are no sidewalks at the northern boundary or on a one-way road into the hospital used by employees and others. There are traffic lights at the nearby Portland Avenue intersections, and a traffic turn lane in front of the hospital. Traffic lights to the north and south halt traffic and slow it down at the Portland Avenue main entrance to the hospital. There are three points on Portland Avenue where vehicles

enter the hospital and a walkway for pedestrians. There are also roads and pedestrian walks on the hospital grounds which are owned by the Respondent. There is a traffic light with a pedestrian button at an enclosed bus stop that was erected by the city transit company and is used by employees and others. Traffic islands extending into the right-of-way from the sidewalk are in part public and in part the property of the Respondent. Nicholas Ustick, the hospital's Director of Employee Relations, testified that the Respondent has no jurisdiction over Portland Avenue, over the gravel footpath, or over the enclosed bus stop which abuts the sidewalk.

Ustick is in charge of security. The hospital formerly contracted for guard service but, since June 1976, has employed about 27 security personnel. Security people are stationed at the information desk in the hospital lobby, and patrol the roads in the hospital area.

There are located, in the vicinity of the hospital, a St. Ann's Home, a Norton Home, a Wilson Health Center, a Northside Professional Center, a small shopping center, gasoline stations, and residential areas. Portland Avenue and other nearby roads are heavily traveled particularly during the morning and evening rush hours.

C. Union attempts to organize

(1) In 1974

The General Counsel called three witnesses to testify about the Union's attempts to organize the hospital employees, Lawrence Fox, James Blain, and Jennifer Ferguson.

Fox, the Rochester area director of the Union, testified that the first campaign activity took place during a 2-week period in about September or October 1974.[1] At a later point, however, Fox testified that he went into the hospital to try to organize on two occasions in July 1974; that one time he did not get past the lobby, and the other time he was in the cafeteria; that on both occasions a security guard, after inquiries about why he was there, escorted him out; and that other Union organizers who entered the hospital reported to him that they received the same treatment.

Fox testified, as to the September-October activity, that the Union obtained from a members employed at Strong Memorial Hospital names of persons employed elsewhere, but that none of those named were employed by the Respondent. Fox then directed Moore, an organizer, to apply himself at that time primarily to organization of the Respondent's employees, and to report to Fox daily.[2] Fox testified that he told Moore to try to reach employees at the bus stops starting with the enclosed bus stop, but Moore reported that very few passengers were there from 6 to 8 a.m., a total of about 30 "passengers at the enclosed bus stop, and passengers getting off at the main entrance, when the bus pulled in the bus loop"; that he told Moore to stand at the main entrance, where the passengers got off the bus, but Moore reported being asked to leave there; that he said Moore could not "stand at the bus stop, because it was on the hospital property," so should ride the bus in the afternoon, observing who got on at the hospital, and talk with them during the ride; and that in that way the Union obtained a few names and addresses and met with some employees of the Respondent. Fox testified that the Union learned from them that very few hospital employees ride the bus to work, and that most of those who did were black whereas the hospital employees were "predominantly white"; that those who took the bus told Moore, and told Fox during home visits Fox made, "that they didn't see white workers, that they tended to eat in the locker rooms by themselves, while the white workers tended to eat in the cafeteria. And they didn't—couldn't make contact with the white workers." Fox testified further that a meeting was held of those who indicated an interest in the Union; that word of the meeting was spread only by word-of-mouth; that fewer than 20 attended, all of whom were black; that they were "very anxious to organize" but said they were "afraid to talk to the white workers"; and that the Union representatives stated to the group that they would try to reach the white workers and "would keep in constant touch" with this group.

Fox then assigned Union delegates from Strong Memorial Hospital on their days off, and other Union organizers, in a drive coordinated by Fox and Moore, to have at least one person go into the hospital every day to make contact primarily with the white workers. Asked then over what period of time this took place, Fox answered, "Well, our intention was to do it as much as was necessary to try and reach in and get those contacts; that is the contact of, primarily, of white workers, but, we were critically short-circuited because, in fact, every time we tried to go into Rochester General Hospital we were escorted out of the building promptly." On cross-examination, Fox stated that this activity went on "I'd say between a week and two weeks." Fox also testified that in the course of this activity the organizers made contact with only about 30 individuals but obtained fewer than 30 names.

Fox testified that the last effort made in 1974 was to leaflet one day in October; that he did so with several others but no employees of the Respondent participated; that the leafleting began at various locations at 6 a.m. because, while the main shift change occurred at 7:30, some came to work earlier; that the leafleters tried to concentrate on entrances to the hospital and to the parking lots as they were not sure if the access roads, some of which were a considerable distance from the hospital, were Respondent property; and that a security guard told him to leave or be arrested, said the access roads were hospital property, and escorted the leafleters off the premises. Fox testified that they then tried to leaflet cars coming from Portland Avenue to the access road which leads to most of the parking lots on North Road; that they were on the curb next to the passenger side of the cars, many of which had no passengers; that a traffic officer came to the intersection at about 7 a.m. and directed drivers who tried to slow down to drive on and they did; and that, after trying from about 6:30 to 8:00 a.m., the organizers were unable to pass out one leaflet.

Fox testified that they distributed about 60 or 70 leaflets, most before they were escorted off the property, and some to those walking in from Portland Avenue; that in the approximately 2–3 month period of these efforts, they made fewer than 50 contacts and obtained about 20 addresses; and that he was unable to form a committee as the organizing efforts "only reached into one department, the housekeeping or environmental service department."

Ferguson, who was unemployed at the time of the hearing, had previously been employed at Strong Memorial Hospital, and while there was a member of the Union from December 1974 to December 1975. She testified that she made one attempt to leaflet the Respondent's employees in the fall of 1974; and that she went to the women's locker room with the leaflets and was talking about the Union to some employees for about 5–10 minutes when a security guard walked in, demanded that she leave under threat of arrest, and escorted her out.

Ustick testified that he has observed that black and white employees mingled freely in the employee lounge and cafeteria. He also testified that the leafleting attempt in the hospital locker rooms and parking areas occurred on October 9, 1974; that the organizing activities of nonemployees were brought to the attention of security personnel by complaints of employees; and that security personnel put a stop to non-hospital related activities that interfere with hospital work, in accord with the hospital policy, whether engaged in by union organizers or by solicitors for a church.

(2) In 1976

Blain, who was not employed at the time of the hearing, worked for the Respondent as an orderly about 6 months and then quit. He testified that he traveled for a time, and then went to work as an organizer for the Union in June 1975, but was laid off on February 16, 1977; and that he did not recall but he may have sat in on negotiations of the Union with another employer in April 1976.[3] Blain testified that Fox, whom he knew since 1973, was a good friend of his; that they were in communication while he was employed by the Respondent; but that he was not asked to, and did not, engage in any Union activity during that period. Blain participated in both morning and afternoon leafleting on July 8, 1976. He testified that all leafleters wore paper hats identifying the Union; that 1,000 leaflets were prepared, of which, he estimated, 600 were handed out in the morning and 200 in the afternoon.

Ferguson testified that she participated in leafleting at the hospital in the morning and afternoon on one day in July 1976; that she and other organizers were on the sidewalk by the main door at about 6 a.m. when a security guard asked them to leave and said they had no right to be on Respondent property; that the organizers said they had that right and suggested the guard check with Fox who was behind the building; that he left to do so and they distributed for about 15 minutes; that at about 7:00 Fox came to where they were distributing and said they should stop and get off the property; and that she and Piccus, another organizer, then "went down to the sidewalk that runs along, next to the enclosed bus stop on Portland Avenue. . . . We continued to pass out Union leaflets, but no people came by, or got off the buses to hand a leaflet to. So, we stood there a few minutes, and then left the premises"; and that there was no attempt at that point to pass out leaflets to automobiles. Ferguson testified that she and Mark Rita, another organizer, were leafleting at the entrance to the Respondent's parking ramp at about 2:30 that afternoon; that after about 10 minutes a security guard approached and said if they did not leave the property they would be arrested; that they left the property and stood on Portland Avenue "on the gravel foot path that is next to the traffic light near the entrance to the parking ramp," one standing on the footpath, the other on the sidewalk; that "we attempted to leaflet the cars coming in and out for a very short period of time, because it proved to be impractical standing there. . . . we observed that it was very difficult for cars coming in and out to stop for us, and we also felt it was very dangerous for us to stand in that particular spot. . . . Because of the speed of the cars going by, in and out." Ferguson testified that they stayed there "Maybe 15 minutes" and then left because they were unable to give leaflets to the passing cars.

Fox testified that two attempts to leaflet were made on July 8, 1976, and that he was present at the one in the morning. He also testified that the organizers tried first to reach the contacts made in 1974, but most had left the Respondent, "so, we discovered that, in fact, we were starting from scratch again"; that, after this leafleting on July 8,

Footnotes at end of article.

the Union received about 5–10 telephone calls from hospital employees, made 2 or 3 home visits, held he thought 3 meetings at the Union office, and had fewer than 5 employees attending 2 of the meetings but 20 to 30 at the third; and that no committee had as yet been formed among these employees.

Fox testified that, as a matter of general policy, the Union does not use advertising by airplane streamers, sound trucks, or bullhorns, because the noise would disturb hospital patients; that it uses bumper stickers in regard to elections but not in organizing campaigns as they cannot be made sufficiently informative; and that the Union does not attempt to obtain names from car license plate numbers for various reasons, including the fact that there are large numbers of cars going in and out of the hospital, organizing in Rochester is frequently done in the darkness of early morning or when plates are covered by snow so they cannot be read, it is difficult to write down numbers on moving vehicles as the Union does not have access to the parking areas, the car may be registered to someone who is not a hospital employee, and some individuals would resent this invasion of privacy by the Union. Fox admitted that the Union might consider this method "useful" in organizing a smaller institution or one in a smaller town. Fox testified further that the Union does not use spot radio advertising as it is too expensive, may not be heard by those whom the Union is trying to reach, and may antagonize the community by referring to a Union campaign at an unorganized hospital before the Union has talked to the employees; that the Union does not advertise on television as it is even more expensive; that it does not advertise in the local newspapers for similar reasons; and that the Union did not parade on the street with banners or advertise by bus placards as it considered these to be ineffective means to reach the employees.

Fox testified that, after the activities on July 8, 1976, the Union had the names of about 20 current employees of the Respondent but only about 10 to 15 with addresses. Fox testified further, on cross-examination, that he had given an accurate and complete description of the Union's activities in trying to organize the Respondent's employees, that there were no further activities after the July 8 leafleting, and that none of the Union agents during these activities were employees of the Respondent.

D. Activities permited on hospital premises

Ustick testified that the hospital's no-solicitation no-distribution policy or rule, which is not alleged to be unlawful, was in effect when he came to work at the hospital in December 1973, that it is not posted but is in an employee handbook given to all employees, that the large number of bulletin boards located throughout the hospital are basically for management use and may be used by employees only with approval by the Public Relations Department, and that he assumed permission would not be granted to post Union literature. Ustick also testified that the Respondent tries to maintain quiet throughout the hospital area, to avoid any conduct that might impede employees' service to patients, and to assure access to the hospital by emergency vehicles 24 hours a day. He also testified that the Respondent did not interfere with a group soliciting on the Portland Avenue sidewalk for a church, or with a group soliciting there in 1974 for the Union.

Counsel for the General Counsel, directed in response to the Respondent's Bill of Particulars to show the dates or approximate dates and the names of nonemployees or nonemployee organizations permitted to distribute literature or solicit on hospital premises, answered as follows:

1. On or about October 5, 1976, Respondent did allow the Genesee Valley Nurses Association to solicit on hospital premises.

2. Additionally, on unknown dates between September 1974 and April 1975, Respondent did allow distribution or solicitation within the hospital by the following types of organizations and non-employees:

(a) Unidentified representatives of drug companies whose corporate names are presently unknown.

(b) Unidentified representatives of medical products manufacturers who corporate names are presently unknown.

(c) Volunteer hospital auxiliary group, the name of which is presently unknown.

(d) American Red Cross.

The General Counsel presented testimony as to this matter, including testimony, as background, of Blain, who left the Respondent's employ in about March 1975. Blain testified that, while he was employed at the hospital, he saw in a small hallway displays by medical book publishers and drug companies, and that the book display personnel buttonholed interns to sell books, and the drug detailmen handed out drug samples or pens and other advertising souvenir. Blain also testified that he saw Red Cross blood drive posters announcing that blood could be donated during working hours, and that pens and other advertising souvenirs. Blain also testified that there were sales of craft products by Twig, a group of volunteers.

The General Counsel also presented evidence with regard to a meeting of the Genesee Valley Nurses Association, referred to herein as GVNA, that was held in the hospital conference room on October 5, 1976. The evidence shows that GVNA comprises District 2 of the State Nurses Association, which is affiliated with the National Association, but that GVNA has its own membership, officers, board of directors, bylaws, programs, and dues, and functions autonomously. Most of its board members and officers are employed in supervisory positions. The General Counsel presented evidence that the State Association has filed election petitions and was viewed by Regional Office of the Board, in regard to the processing of those petitions, as a labor organization. There is no evidence, however, that GVNA has ever functioned as a labor organization. Moreover, June McDowell, a registered nurse who is Regional Coordinator of the State Association, testified, as a witness for the Respondent, that the State Association has a separate program under which it engages in collective bargaining, but that the State Association and its districts, including GVNA, are separate incorporated entities, that GVNA has never functioned as an organizing or bargaining agent for nurses or in any other labor organization role, and that GVNA is not even notified when collective bargaining activity is undertaken in its district by the State Association.

The GVNA Membership Committee sent a letter, addressed to "Dear Colleague," to 10,000 nurses in a 6-county area.[4] The letter, undated but apparently sent in about September 1976, announced a program of 4 meetings, to be held on 4 dates in October and November at 4 locations, to consider "professional and health care issues." The letter also invited membership in GVNA, and suggested that those who chose "not to attend an informational meeting but would like to join GVNA, please complete the attached application and mail it to us with your remittance." The attached sheet listed the "Objectives" and the "Advantages" of GVNA membership, and places to designate thereon whether an application was for membership in GVNA at a $15 fee, in the State Association only at $50, or in GVNA and the State and National Associations at $100.

Footnotes at end of article.

The first meeting listed was that of October 5, 1976, at 7 p.m., to be held in the Respondent's main conference room and to be a "Combination Meeting: Business/Program/Membership."[5] Dorothy Blewitt, executive director of GVNA, testified, as a witness for the General Counsel, that GVNA, in preparing its program, planned to have a doctor on the staff of the hospital speak on his medical specialty and to demonstrate with certain hospital equipment, and arranged the October 5 meeting at the hospital for that reason. The doctor later became unavailable but another doctor, also on the staff of the hospital in the same special field, was substituted as the speaker and used the hospital equipment for demonstration purposes.

Carol Vacanti, chairman of the membership committee and member of the program committee of GVNA, and employed as a director of nursing at St. Mary's Hospital, testified, as a witness for the Respondent, that she helped prepare the October 5 program; that she got in touch the previous July with the doctor who was scheduled to speak; that in July she also told Linda McKenna, a nurse at the hospital who was engaged in nursing service staff development, who booked the conference room, that the meeting would present a program, including a talk by a hospital staff doctor, but made no mention of a membership drive at this meeting; and that the program calendar, prepared about August 1 and mailed to the entire membership about mid-August, lists events for various dates from September 1 to December 7, including the "GENERAL BUSINESS/PROGRAM MEETING" from 7 to 10 p.m. on October 5 at the hospital, states the subject-matter of the business meeting to be held at 7, identifies the hospital doctor and his subject to be presented at 8, and makes no reference to membership.

Blewitt and Vacanti, who were at the October 5 meeting, both testified that about 50–60 were present; that the meeting was open to all members, not the Respondent's nurses only; and that they did not recall whether any of the Respondent's employees were present. Blewitt also testified that she did not recall any discussion of membership, and that she believed there was an announcement that applications were available, and they may have been, but she did not see them distributed. Vacanti testified that membership cards were on a table but she did not see anyone sign one, and that Blewitt made a few remarks at the end of the meeting about the purposes of GVNA as those present were walking out, but there was no "active solicitation" of membership and no specific reference to signing applications.

The Charging Party was permitted, over the Respondent's objection, to recall Ustick as a rebuttal witness and to question him about use by nonemployees of hospital premises within the Section 10(b) period. Ustick at this time testified that the Red Cross blood drive occurs twice a year, that posters in the hospital announce the drive, that the Red Cross at the announced time draws blood from donors in the main conference room, that the blood is for the blood bank, and that this is in effect hospital solicitation as the blood drive is for the benefit of the hospital community.

Ustick also testified that posters in the hospital advertise annual sales by Twig of handcraft products; that Twig is an organization of women volunteers whose services and funds are devoted to the benefit of the hospital; that it is under hospital sponsorship as it is part of the Women's Board which is part of the Board of Directors of the hospital; and that the annual fund-raising sale, advertised throughout the area as well as in the hospital, is held at the County fairground, and all the proceeds are contributed to the hospital.

Ustick also testified that drug detailmen and medical book publishers are permitted to put up displays very infrequently; that he never saw detailmen distribute samples of over-the-counter drugs or advertising souvenirs, and the drugs displayed are not for sale to employees or doctors but to the hospital pharmacy based on what the doctors prescribe; and that the books displayed are of interest to doctors, and there is no medical book store in the hospital.

E. Contentions of the parties

The General Counsel urges that the hospital is bounded by busy highways and by access roads owned by the hospital; that many hospital employees drive to work and park on one of the several hospital parking lots; that the Union has been trying to organize units of hospital employees since 1974, and tried in 1974 to reach the employees by unsafe and unproductive methods at the hospital perimeters; that nonemployee organizers should be given the right of access to parking lots and non-patient care areas of the hospital because of the inaccessibility of the hospital employees and the ineffectiveness of other reasonable alternative means of effective communication with them; that the Respondent applies its no-solicitation no-distribution rule discriminatorily as it grants access to non-patient care areas of the hospital to others, but bars Union organizers there and on the parking lots; and, therefore, that the Respondent's refusal on July 8 to give non-employee organizers access to employees at the parking lots was violative of Section 8(a)(1) of the Act.

The Respondent maintains that the Union did not exhaust other available means of communication with the hospital employees; that the Union tried to organize only a few days in 1974, and for short intervals on one day in 1976 and 1977 up to the date of the hearing; and that other nonemployee solicitation is permitted on hospital premises only if related to hospital business and health care. The Respondent maintains further that all the evidence presented by the General Counsel with regard to disparate application of the Respondent's policy pertained to pre-Section 10(b) matters except the GVNA meeting of October 5 in the hospital conference room; that there was no notice to the Respondent that this meeting pertained to GVNA membership or to any subject matter other than a lecture to an organization of nurses on a medical subject by a hospital doctor using hospital equipment to demonstrate his talk; that there was no actual solicitation of membership at the meeting; that there was no evidence that employees of the Respondent attended the meeting; and that there was no evidence that GVNA had labor organization status.

Concluding Findings

Much of the evidence presented in this case is based on agreement of the parties or or unrefuted testimony. There are, however, some conflicts in the testimony. I found Ustick, who was called as a witness at different points in the hearing by the General Counsel and the Charging Party as well as the Respondent, a candid, believable, and convincing witness. I therfore credit his testimony where it is in conflict with that of Fox or Blain, witnesses called by Counsel for the General Counsel, whose demeanor and testimony I found less reliable than that of Ustick.

The General Counsel argues that certain activities that took place on hospital premises show discriminatory application of the Respondent's policy or rule. The activities include Red Cross posters and blood collection in the hospital for the blood bank, posters of sales by a volunteer group which donates all the proceeds to the hospital, displays of pharmaceutical products that doctors might prescribe and the hospital pharmacy might therefore purchase, and displays of medical books of interest to the doctors. I find, on the record as a whole, that these were work-related activities that assisted the hospital in carrying out its community health care functions and responsibilities, and not such disparate application of a valid no-solicitation no-distribution rule as to require the Respondent to waive its rule and permit access to its premises by nonemployee Union organizers. I find further that the GVNA meeting was booked in the conference room for what the Respondent was informed would be a lecture to an organization of nurses by a staff doctor on the subject of his medical specialty, demonstrated on special hospital equipment, with no reference to a membership drive, and that this meeting likewise does not establish such discriminatory application of the rule as to require that the Respondent give the nonemployee Union organizers access to its premises.[6]

The General Counsel has established that it is difficult for the Union, lacking access to hospital premises, to organize the units of employees it seeks to represent. Factors contributing to the difficulty are the size of the hospital premises and the numbers of employees who drive to and from work from widely dispersed geographical areas and park in one of the several parking areas on hospital premises; the problem of identifying the employees of the Respondent, some but not all of whom wear uniforms to and from work in an area where various other health establishments are located; and the heavy traffic on adjoining public roads, particularly at the time of shift changes, and the Respondent's ownership of access roads.

The Respondent maintains that the Union did not make a reasonable effort to organize the hospital employees before seeking to gain access to hospital premises.

The Union carried on some organizing activity for a very short period in about September-October 1974, and made contact with some of the hospital employees who were interested in organizing. Although, as Fox testified, the Union organizers assured these hospital employees that they "would keep in constant touch," the next, and only, further organizing activity took place on one day in July 1976. As Fox also testified, the Union organizers in July 1976 tried to reach the contacts made in 1974, but most of them had left the Respondent "so, we discovered that, in fact, we were starting from scratch again." Some turnover among the employees in question during this long an interval was surely to be expected. In any event, "starting from scratch" involved leafleting activities for part of one day, July 8, 1976, following which the charge herein was filed.

The record does not show that the Union made a reasonable effort to form a nucleus of the employees recruited in 1974 to recruit other employees. I do not credit the assertions that it was not possible for the black employees who expressed a desire for Union organization to communicate with the white employees, and find that these groups did mingle on hospital premises, as Ustick testified. Moreover, no Union effort was made to organize through white employees like Blain, an old friend of Fox, and evidently sympathetic to Union organization. The evidence also does not show that the Union made reasonable efforts to leaflet at different hours and in different traffic situations, at the several intersections where cars go in and out of the hospital premises and at the several bus stops. Further, although the Respondent is the second largest hospital in Rochester, the Union has organized the largest. And as to the lack of identifying uniforms on some of the hospital employees, many plants are organized where none of the employees wear uniforms.

Footnotes at end of article.

The Union has likewise not used radio, television, or newspaper advertising, bus placards, bumper stickers, or displays of Union signs on Portland Avenue, or tried to obtain names and addresses from license plate numbers, in attempting to organize the Respondent's employees. Fox testified that these methods were not tried because, as a matter of Union policy, they are considered too costly and/or ineffective. As the General Counsel's brief points out, the Board does not require a union to utilize means of communication shown to be too costly or ineffective for organizational purposes. The methods are referred to not as a list of what a union must do to organize but as an indication of the various means of communication available to nonemployee union organizers without access to the employer's premises. The General Counsel also points to the very small percentage of unit employes whose names and addresses the Union was able to obtain as showing the great difficulty of organizing these employees without access to the Respondent's premises. This may equally be the result, however, of an inadequate organizing effort by the Union.

The United States Supreme Court, in *N.L.R.B.* v. *Babcock & Wilcox Co.*,[7] pointing to the distinction to be made between rules of law applicable to employees and those applicable to nonemployees, held that "an employer may validly post his property against nonemployee distribution of union literature if reasonable efforts by the union through other available channels of communication will enable it to reach the employees with its message and if the employer's notice or order does not discriminate against the union by allowing other distribution." The Court stated further that accommodation between an employer's property rights and employee organization rights "must be obtained with as little destruction of one as is consistent with the maintenance of the other, The employer may not affirmatively interfere with organization; the union may not always insist that the employer aid organization." The Court went on to state that "when the inaccessibility of employees makes ineffective the reasonable attempts by nonemployees to communicate with them through the usual channels, the right to exclude from property has been required to yield to the extent needed to permit communication of information on the right to organize." The Court concluded that the plants involved in that case "are close to small well-settled communities where a large percentage of the employees live. The usual methods of imparting information are available. . . . The various instruments of publicity are at hand. Though the quarters of the employees are scattered, they are in reasonable reach. The Act . . . does not require that the employer permit the use of its facilities for organization when other means are readily available."[8]

The Board has declared, in considering, on remand, the rights of access in organizational and picketing situations, that "Section 7 of the Act was intended to protect the rights of employees rather than of nonemployees . . . seeking to organize them"; that a violation found in this situation is based on the principle that "it is the employees' right to receive information on the right to organize that is abrogated when an employer denies nonemployee union organizers access to the employer's property"; and that, "In an organizational campaign, the group of employees whose support the union seeks is specific and often is accessible by means of communication other than direct entry of the union organizers onto the employer's property, such as meeting employees on the street, home visits, letters, and telephone calls."[9] Further, the Board requires that the evidence must show that a union is unable by reasonable efforts

through other available channels of communication to reach the employees with its message before it will require an employer to grant nonemployee organizers access to its premises, and has set forth various available methods whereby a union may reach employees without access to an employer's premises.[10]

I find that, while the General Counsel has shown in this case that it was difficult for the nonemployee Union organizers to organize the Respondent's employees in the units the Union seeks to represent, the record does not establish, in all the circumstances of this case, that the Union was unable by reasonable efforts through various available channels of communication to reach the Respondent's employees, or that the Union made a reasonable effort to do so, or that the difficulty has been shown to warrant requiring the Respondent to waive its rule and grant the nonemployee Union organizers access to its premises. I likewise find that the record does not establish that the Respondent has discriminatorily applied its valid no-solicitation no-distribution policy or rule to prevent Union activities on its premises by nonemployee Union organizers. Accordingly, I find, in conclusion, on the basis of the foregoing and the evidence in its entirety, that the General Counsel has failed to establish, by a preponderance of the credible and probative evidence, that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) of the Act.[11] I shall therefore recommend that the complaint be dismissed in its entirety.

Upon the basis of the foregoing findings of fact, and upon the entire record in this case, I make the following:

Conclusions of Law

1. Rochester General Hospital is an employer engaged in commerce and a health care institution within the meaning of Section 2(6), (7), and (14) of the Act.

2. 1199 National Union of Hospital and Health Care Employees, RWDSU, AFL–CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. The General Counsel has failed to establish by a preponderance of the evidence that the Respondent has, as alleged in the complaint, engaged in unfair labor practices in violation of Section 8(a)(1) of the Act.

Upon the foregoing findings of fact, conclusions of law, and the entire record in this case, and pursuant to Section 10(c) of the Act, I issue the following recommended:[12]

ORDER

It is ordered that the complaint herein shall be, and it hereby is, dismissed in its entirety.

Dated, Washington, D.C. September 15, 1977.

ANNE F. SCHLEZINGER,
Administrative Law Judge.

FOOTNOTES

[1] The General Counsel presented testimony of these pre-Section 10(b) events as background only.

[2] Moore was not called to testify.

[3] Blain was admittedly very vague as to dates and other particulars, and changed some of his answers on further interrogation.

[4] The names and addresses were obtained from the State Association.

[5] The other meetings were listed to take place at Alfred University, Keuka College, and Avon Nursing Home. The letter did not state the purpose of these meetings but the testimony shows they were membership meetings only.

[6] The Supreme Court has held, in *N.L.R.B.* v. *United Steelworkers of America*, 357 U.S. 357, 364, that "the Taft-Hartley Act does not command that labor organizations as a matter of abstract law, under all circumstances, be protected in the use of every possible means of reaching the minds of individual workers, nor that they are entitled to use a medium of communication simply because the employer is using it"; see also *Super X Drugs of West Virginia*, 169 NLRB 264; *Block-Southland Sportswear, Inc.*, 170 NLRB 936, 946; *Famous-Barr Co.*, 174 NLRB 770; *Serv-Air, Inc.*, 175 NLRB 801; cf. *George Washington University Hospital*, 227 NLRB No. 179.

[7] 351 U.S. 105; see *Central Hardware Co.* v. *N.L.R.B.*, 407 U.S. 539; *Hudgens* v. *N.L.R.B.*, 424 U.S. 507, 521.

[8] The Court referred, with regard to a union's usual methods of imparting information, to contacts with employees not only by distributing literature to some but also by sending them literature through the mails, talking to them on the streets, going to their homes and talking with them there, and talking with them on the telephone. See also *Central Hardware Co.* v. *N.L.R.B., supra; Mike Yurosek & Son*, 229 NLRB No. 21.

[9] *Scott Hudgens*, 230 NLRB No. 73.

[10] *The Falk Corporation*, 192 NLRB 716.

[11] See *G. C. Murphy Company*, 171 NLRB 370; *Monogram Models, Inc.*, 192 NLRB 705; *The Falk Corporation, supra; Mike Yurosek & Son, supra; Forest City Tool Company*, 231 NLRB No. 70.

[12] In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

APPENDIX

The transcript in this proceeding is hereby corrected as set forth below:

(1) Page 20, line 18—"main entrances" should read: "main entrance."

(2) Page 31, line 13—insert the word "should" between " . . . we merely . . . "

(3) Page 31, lines 20–21—the correct case names are Monogram Models and Falk Corporation.

(4) Page 31, line 23—should read: " . . . facts which are more favorable to the respondent."

(5) Page 42, lines 7–11—should read: "if you are talking Dietary, the Dietary Department work essentially in the Dietary Departpartment and the kitchen. But in Environmental Service, obviously the responsibility is to go out where the work has to be done."

(6) Page 46, line 22—should read: "Sure, hold . . . 20 to 22."

(7) Page 55, line 4—delete the first four words "times in which the . . . "

(8) Page 55, line 25—"finishing" should read: "fishing."

(9) Page 154, lines 19–20—the word "visitors" in each line should read: solicitors."

(10) Page 155, line 3—"Nortonian" should read: "Norton".

(11) Page 156, line 2—the word "destination" should read: "designation."

(12) Page 163, line 14—should read: "which is *not* shown on Joint Exhibit 2."

(13) Page 182, lines 23 and 24 and Page 183, lines 3 and 6—"Rochester Genesee Hospital" should read: "Rochester General Hospital".

(14) Page 185, line 20—insert before "Your Honor, . . . " a paragraph and heading: "MR. CHAPMAN:"

(15) Page 185, line 22–23—should read: "it is an allegation as between non-employee entities; . . . "

(16) Page 260, line 4—the word "complaint" should read: "committee".

(17) Page 280, line 4—should read: " . . . 1337 East Main Street, your office, shortly after the handbilling . . . "

(18) Page 280, line 9—the word "of" should read: "after".

(19) Page 280, lines 21–25—should read: "Now, Mr. Fox, I note that you have not considered the use of radio advertising; and that is for policy purposes, is it not? That is a consideration that 1199 as an organization has made—that, for the purposes you have stated, it is not desirable?"

(20) Page 323, line 13—the word "imposed" should read: "enclosed".

(21) Page 339, lines 19–21—should read: "when this flyer was prepared and sent out, the membership committee had not even been activated at the time. This is why nothing was mentioned in here."

(22) Page 339, line 22—"enacted" should read: "activated".

(23) Page 339, line 23—"1966" should read: "1976".

(24) Page 339, line 24—"enacted" should read: "activated".

(25) Page 340, line 5—the word "active" should read: "inactive".

(26) Page 343, line 5—the word "information" should read: "education".

(27) Page 346, line 21—should read: "baccalaureate degree".

(28) Page 354, line 23—should read: "the Monroe County area".

(29) Page 367, line 20—"June McDonald" should read: "June McDowell".

(30) Page 369, line 12—should read: "Now, does it follow that . . . "

(31) Page 409, line 3—"frequent" should read: "infrequent".

[United States of America, before the National Labor Relations Board]

FOREST CITY TOOL COMPANY and INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL–CIO–CLC [1]

DECISION AND ORDER

On April 27, 1977, Administrative Law Judge Thomas A. Ricci issued the attached Decision in this proceeding. Thereafter, the General Counsel filed exceptions and a supporting brief, and the Respondent filed a brief in support of the Administrative Law Judge's Decision, and a reply brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the complaint be, and it hereby is, dismissed in its entirety.

Dated, Washington, D.C. August 12, 1977

(SEAL)

NATIONAL LABOR RELATIONS BOARD,
JOHN H. FANNING, *Chairman.*
HOWARD JENNINS, Jr., *Member.*
BETTY SOUTHARD MURPHY, *Member.*

[United States of America before the National Labor Relations Board, Division of Judges]

FOREST CITY TOOL COMPANY AND INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL–CIO

Jack E. Ruby, Esq., and George Carson, Esq., for the General Counsel.

William R. Sigmon, Esq., of Sigmon, Clark & Mackie, of Sigmon Hickory, NC, for the Respondent.

Mr. A. C. Crotts, International Representative, of Icard, NC, for the Charging Party.

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[1] The name of the Union appears as corrected at the hearing.

DECISIONS

Statement of the case

Thomas A. Ricci, A.L.J.: A hearing in this proceeding was held at Statesville, North Carolina, on March 27, 1977, on complaint of the General Counsel against Forest City Tool Company, here called the Respondent or the Company. The complaint issued on January 11, 1977, on a charge filed on December 3, 1976, by International Union of Electrical, Radio and Machine Workers, AFL–CIO–CLC, here called the Union. The only issue presented is whether an agent of the Company violated Section 8(a)(1) of the Act one day. Briefs were filed by the General Counsel and the Respondent.

Upon the entire record, and from my observation of the witnesses, I make the following:

Findings of fact

I. The Business of the Company

Forest City Tool Company, an Illinois corporation, is engaged in the manufacture of machine parts in its Hickory, North Carolina, facility. During the past 12 months, a representative period, it received goods at this location valued in excess of $50,000 from points directly outside the State. During the same period it shipped from this one location goods valued in excess of $50,000 from points directly outside the State. During the same period it shipped from this one location goods valued in excess of $50,000 directly to out-of-state locations. I find that the Respondent is engaged in commerce within the meaning of the Act.

II. The Labor Organization Involved

I find that International Union of Electrical, Radio and Machine Workers, AFL–CIO–CLC, is a labor organization within the meaning of Section 2(5) of the Act.

III. The Alleged Unfair Labor Practice

A very simple and plain question states the totality of this case. Does an employer commit an unfair labor practice under this statute when he stands inside his parking lot and, as the employees start driving home, tells them "move on," with the probable result that they may feel less inclined to accept union leaflets being distributed by organizers outside the lot?

At 4:30 p.m. shifts change in this plant; 15 or so employees arrive to start work and somewhat over 100 leave. All these people—it would appear—park on the company-owned lot. There is no fence around the place but there is a driveway; it is wide enough—about 36 feet—for three cars abreast to enter or leave at the same time. The driveway opens into a street called 6th Avenue, deadend to the left and reaching 23rd Street to the right—130 feet away? 200? maybe 300 feet?—where a traffic stop sign compels all vehicles to halt before proceeding either right or left.

On November 16, 1976, two representatives of the union, A. C. Crotts and Jerry Beck, stood outside the driveway at the change of shift and distributed to the employees as they drove in and out about 130 union solicitation leaflets with blank membership cards attached. Harold Nicholas, the Company president, learned about this later.

On November 29 the same two organizers were back, again to give out solicitation letters and authorization cards. As one of them said, "it was extremely cold," and "windy." So much so in fact that they took turns standing in the open, one at a time sitting in their car to warm their hands.

Nicholas saw them and came out to the parking lot. Crotts testified that Nicholas told him "to not get on company property," and that he answered he had no such intention. Nicholas' version of this is that the two organizers were inside the lot and that he ordered them off. It is a matter of no moment, for there is neither charge nor evidence that anything wrong happened up to this point.

The traffic of the departing cars started to back up from the stop sign at 23rd Street, and 6th Avenue had a line of autos reaching back to the parking lot driveway. In Crotts' words: ". . . after approximately a dozen cars entered Sixth Avenue and went to 23rd Street, traffic began to back up to the plant entrance and could not move on out because of traffic on 23rd Street." Crotts' testimony is that Nicholas, "in a loud voice," then called out "move on and don't block the traffic." Beck, the other union agent, also quoted Nicholas as saying "move on, don't hold up the traffic."

Nicholas put it differently. He said the organizers were standing in the driveway—"running in front of cars to stop them"—and that he told them "they were going to get killed if they didn't get away from those cars." He also testified that because the employees were leaving "in single file" and "impatient to get out," he told them "they could go around the other side if they didn't want to stop which they started to do." He explained, at the hearing, that this way the employees "could double and gone on down." Nicholas did not in *haec verba* deny having used the words "move on."

In 10 or 15 minutes the whole thing was over. This time, unlike on November 16, the union agents succeeded in distributing only about 30 cards altogether.

Conclusion

Whatever the exact words Nicholas spoke during those few minutes, I find, in the circumstances of this case, that he did not commit an unfair labor practice, or, in the words of the statute, he did not "interfere with, restrain, or coerce" the employees. Crotts did not do as well that day in his distribution of union literature as he had 2 weeks earlier. But it was cold outside, the employees, like the union agents themselves, would tend to keep their car windows up, and when backed up in the lot because of the traffic jam, they were likely to become impatient about getting home, as workmen often are. For Nicholas to have called out that they could as well make a double line was also a reasonable thing to do; after all, 6th Avenue is a deadend street, there was no likely traffic the other way on the two lane avenue, and some of the drivers might well have intended to turn left at 23rd Street instead of right.

Did Nicholas also hope, or intend, that if the traffic flowed a little faster fewer of his employees would bother to open their windows and accept the union literature? I think this is a reasonable assumption. When Crotts, ordered away from the company property, told the boss, as Nicholas testified, that he, Nicholas, was not "fair" to the employees, the president retorted he did not "give a damn" what Crotts thought. It would appear, therefore, that Nicholas, for the least, was not receptive to the Union's organizational campaign.

Does it follow from this that his words can be called an "order" to the employees, as the complaint paraphrases them? I think not. As best Nicholas may have been giving voice to his opinion that the employees did not need a union, that they would be better advised to continue their employment relationship with him as in the past without necessity of collective bargaining. If he had this thought in mind, it was one that the statute guarantees him, just as it protects employees against interference and coercion.

One could continue at length as to reasons why this or that does not constitute an unfair labor practice. But decisions are not to be written that way. No convincing argument is advanced by the General Counsel to support the complaint, and the Board precedent he cites is distinguishable and inapposite.

ORDER

I hereby recommend that the complaint be, and it is hereby dismissed.

Dated, Washington, D.C. April 27, 1977.

THOMAS A. RICCI,
Administrative Law Judge.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CHINA VISIT

Mr. DOLE. Mr. President, this week the President's national security adviser, Zbigniew Brzezinski, is calling on Communist leaders in the People's Republic of China. It appears that the administration has made up its mind to press for full normalization of relations between the United States and the Asian giant. We are all aware that "normal relations" as defined by Peking carries the precondition of our dropping both military and diplomatic ties with Taiwan.

Mr. Brzezinski's arrival last Saturday to call upon Peking's leadership coincided with the administration's failure to send an official delegation to the inauguration of a new President and Vice President by the Republic of China. Likewise, when Vice President MONDALE made his sweep of Asian and Pacific nations 2 weeks ago, he managed to circumvent Taiwan entirely. Taken together, these international slights by the administration are a clear affront to our steadfast friend and ally. We do, indeed, seem to be approaching Peking's definition of normalization as President Carter's China policy seems designed to consciously ignore the Republic of China's existence.

TOPICS FOR DISCUSSION

Since the President has decided to send his National Security Adviser despite the inappropriate timing, it can be hoped that, at least, some substantive discussions will be conducted on matters of importance to the United States.

One year ago, I suggested here on the Senate floor that at least three matters should be resolved before the United States even considers normalizing relations with the People's Republic of China: First, assurances regarding the future security of Taiwan; second, compensation for American property confiscated by the Chinese Communists when thye invaded the mainland; and third, adherence by China to the atmospheric nuclear test band treaty. All of these matters could suitably be discussed during Mr. Brzezinski's visit.

In addition, however, there are several timely matters that deserve attention—and forceful presentation—during this mission. First, in line with the administration's own principles, Mr. Brzezinski should raise the question of human rights violations within mainland China. It has been suggested that untold millions of

Chinese have lost their lives to the Communist movement since it began in China more than 50 years ago. Assaults against human rights and individual freedoms continue on the mainland. The latest Freedom House "survey of freedom" lists the Chinese Communist Government as being among the least free governments of the world, giving it a poor rating in terms of both political and civil rights for its citizens. Recent accounts indicate that executions of political opponents of the government are continuing, as Peking's leadership attempts to consolidate its power throughout the country. If the United States is to be concerned about human rights and political freedoms on a consistent basis, we cannot ignore the blatant and excessive forms of repression taking place within the People's Republic of China.

Second, our officials need to urge Peking to bring pressure upon Cambodia's leadership, to moderate its crimes against humanity. As the nation which President Carter recently labeled "the worst violator of human rights in the world" Cambodia relies heavily upon the People's Republic of China for economic and political support. The world is appalled at the deaths of millions of Cambodians under the brutal Communist regime now in power, and the Chinese are probably the only outsiders who can levy influence on the internal policies of the Communist Cambodian regime. The United States, then, has a duty to raise this matter with Peking's leadership, and to emphasize our extreme concern in this regard.

Finally, Chinese Communist Party leader Hua Kuo-feng's recent visit to North Korea—the first visit abroad by a Chinese leader in almost 20 years—should be a cause of concern to the administration. Ever since the Korean war of almost 30 years ago, the Chinese Communist regime has been one of the strongest allies and supporters of the North Korean Government. If peace is ever to come to the Korean Peninsula, the Communist Chinese Government must lend its efforts to that objective. The Chinese leader's recent trip to North Korea gave no indication that peace would be encouraged. At a time when the administration proposes to pull all American ground troops out of South Korea, it is vital that we seek Peking's cooperation in insuring stability in the area.

All of these matters should be thoroughly reviewed and discussed between the United States and the People's Republic of China. It must be made clear to them that these matters are of importance to us. It must be made clear that we will never sacrifice the security of the Chinese and Taiwanese people for the sake of normalized relations with the Chinese Communist regime. I believe that once Peking's leadership understands exactly where we stand on these matters, it will better understand why we refuse to cavalierly reverse our cautious China policy, which was carefully conducted by the Nixon and Ford administrations. Until the Chinese demonstrate a willingness to accommodate our concerns on these points, it is hoped the Carter administration will not charge blindly forward with new and ambitious aims that would prove unbeneficial in the long run.

ARSON IS SAPPING OUR URBAN CENTERS

Mr. PERCY. Mr. President, the Washington Post has been running an extremely useful series of articles on the status of blacks in America. The most recent article, appearing on May 8, focused on the sad results of urban arson, which affects city residents as well as insurance companies that cover arson-caused losses.

The permanent Subcommittee on Investigations, which has launched a preliminary inquiry into arson for profit, is examining some of the same problems that are the subject of this news report. Calling attention to the Federal Government-sponsored "FAIR plans," which establish high risk insurance pools for properties in blighted areas, the article notes that these plans have paid out $1.2 billion in arson claims. This is $302 million more than paid in premiums. The additional cost is, as the Post article noted, "passed on to other insurance buyers in the same cities and States."

There is considerable debate as to whether the FAIR plans provide a built-in incentive for arson for profit.

But beyond that question is the more important one of whether law enforcement authorities at the Federal and local level have the will and the ability to combat this growing crime.

Two recent reports to the subcommittee from the General Accounting Office shed considerable light on this matter. Together with Senator SAM NUNN, the subcommittee vice chairman, I released these reports so as to encourage a public dialog on this issue. In one, the GAO reports that none of the four Federal law enforcement agencies with some responsibility in arson control have done a great deal to curb this crime. The GAO has recommended that Attorney General Griffin Bell develop a coordinated effort to combat arson, a proposal I heartily endorse.

In the other GAO report, which examined the degree of Federal assistance to State and local firefighting units, GAO was able to identify the disbursement of only $1.7 million out of $2 billion in LEAA funds provided to local law enforcement agencies that went directly for arson control activities.

This is less than one-tenth of 1 percent of the LEAA disbursement to State and local law enforcement agencies and is far from satisfactory, given the fact that arson is a growing crime and clearly one of the Nation's most costly.

Mr. President, I ask that the Washington Post article, as well as both GAO reports be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 8, 1978]

LANDLORD ARSON CUT-RATE TYPE OF URBAN RENEWAL

Slum removal in America's cities used to be accompanied by urban renewal, in which federal bulldozers converted blighted neighborhoods into acres and acres of vacant lots, suitable for new development.

Today, the removal of poor people continues as private enterprise, discreetly subsidized by the American public. The process resembles a chaotic, cut-rate version of urban renewal.

It is called arson.

House by house, block by block, entire neighborhoods are disappearing, gutted and depopulated by fire. In practically every major city, from Chicago to Boston, New York and Detroit and Philadelphia, tens of thousands of deteriorated tenements and old houses are burning down, one by one. Eventually, the torched hulks are demolished, the rubble is raked smooth and the vacant land awaits an uncertain future.

For years, the official blame for this contagion has been placed upon the inhabitants themselves—a theory of slum pathology mixed of rage, revenge, random vandalism, junkies and vagrants, gang wars, acts of casual destruction which continued haphazardly after the great urban riots 10 years ago.

But poor black people who live in these neighborhoods insist that something else is going on too—that they are being burned out of their neighborhoods, removed again, by landlords who cash in on arson.

To the residents of the blighted neighborhoods, the process looks a lot like urban renewal. Once again, a distant "they" are clearing inner-city land of the poor black population. Once again, developers and planners are promising new housing for low-income and middle-income families.

The poor folks listen skeptically. They have heard those promises before.

Sadie Adams, who lives in an aging stone-faced in Chicago's Garfield Park, makes this prediction about her neighborhood:

"Nobody's going to be here in the long run. This is going to be white. Soon. Everything is going to be burned down, torn down. They're going to run us out. They won't put us out on the street. They are going to make it so impossible for us to survive that we have to leave."

At least half of her prophecy is already coming true. In the Garfield Park neighborhood around Kedzie and West Madison, scores of empty lots are scattered among the gray old three-story buildings that remain occupied. The shells of dead apartments are interspersed with the living, stained with tell-tale soot at every window, like burnt-out torches.

Adams and her neighbors on West Jackson Boulevard go to sleep each night fearing fire. They know that many fires are set by young black kids or careless vagrants, but they insist that another powerful economic force is also behind the process—profitable arson sponsored by slum landlords.

Adams described what she and neighbors believe is burning down their neighborhood:

"We are oppressed and depressed. All you have to do is come around and give some dollars. White man ain't going to come around and tell me to do it. They'll find a little old coke nigger and give him some dollars and tell him, 'Burn it down, burn it down.' And they get it done."

The poor people do not pretend to understand all the economic incentives for an owner burning down his own building. Insurance is a major one. They suspect there are other angles in the property and tax laws. What they do insist upon, from their own knowledge of neighborhood streets, is that kids or professional arsonists are being paid to torch many buildings.

ARSON'S TOLL

The folk intelligence of these poor people is corroborated to some degree by the testimony from insurance and local law enforcement officials, but not entirely. Nobody has

precise evidence on how many urban fires are set for profit and how many are caused purely by personal wrath or aimless vandalism. But arson of one kind or another has devoured more than $1.2 billion worth of insured property in the inner-city neighborhoods during the last decade.

In metropolitan Chicago, for instance, claims for suspicious fires—which insurance companies believe were set by property owners—jumped fivefold since 1974 to nearly $11 million. Fires of undetermined causes, which include many probable arsons, increased threefold to $12 million.

Chicago authorities still believe, however, that the vast majority of fires in the poorest neighborhoods are "environmental"—set by neighborhood inhabitants, not fires for profit.

The story varies from city to city. In a few cities, the poor have been accused of torching their own dwellings in order to qualify for welfare relocation benefits. In some burned-out neighborhoods, the issue of motive and cause is becoming rapidly moot. There is not much left to burn.

NEWARK'S PLIGHT

In Newark, a pillar of smoke rose from a side street off Springfield Avenue. The fire engines raced by, but none of the pedestrians seemed to notice. A shopkeeper explained: "There are a lot of fires around here."

Springfield Avenue is like West Madison and Kedzie in Chicago or like the old Twelve Street corridor in Detroit or dozens of other similar strips—scenes of extraordinary destruction.

These were once lively business strips before the riots of the '60s when many of the stores were burned and permanently boarded up. After the riots, the fires did not go out in these neighborhoods, but merely spread gradually, one by one, in a way that does not seem to shock public opinion.

A community health worker in Newark complained: "The whites aren't going to do anything about all this, just burn it down. Then they are going to come back in and reclaim it. Put up new buildings. They want to come back into the city. . . . .

"The landlords are doing it. They're setting the fires because it's to their advantage to burn this s--- down and start over somewhere else, brand new."

William Hamer, a community worker in the Bronx, said adolescent children are more apt to set fires for hire than older teenagers because the legal penalties are less for them. These kids "are basically into negative lifestyles anyway," Hamer said. "Torching a building is an adventure and they're getting paid for it."

Chief John Baracato, of the New York Fire Department's arson squad, said gang members will burn a building, vacant or occupied, for as little as $15 each or as much as $150.

The so-called "professional torches" are also at work. Major investigations have turned up arson-for-profit rings in several cities, sometimes with collaborators in public office.

The contemporary epidemic of urban arson is not confined to the poorest neighborhoods, but that is where the heaviest damage is being done. The cost of this destruction is being shared by property owners generally because the insurance losses from arson in the high-risk inner cities get passed on in premium increases for everyone.

INSURANCE POOLS

The losses are "horrendous," as officials of the insurance industry usually put it. The federal government requires insurance companies to maintain high-risk insurance pools for the blighted urban areas in exchange for the federal riot reinsurance which protects companies against the catastrophic losses that would occur if the urban riots of the 1960s ever reoccur.

These insurance pools, called "Fair Plans," are operated in 28 states, covering a million properties in most of the nation's largest cities. Since 1968, the "Fair Plans" have suffered $1.2 billion in arson claims. The losses and expenses from these high-risk areas have exceeded, by $302 million, all premiums paid by property owners. That is the cost which is passed on to other insurance buyers in the same cities and states.

As a random form of slum demolition, arson is a lot cheaper than federal urban renewal used to be. As a social force, it is destroying huge sections of America's cities.

Insurance officials argue that the "Fair Plans" themselves inadvertently encourage arson for profit in the cities. The federal guidelines require the companies to cover buildings and owners that are prime targets for torches. Owners inflate the values of their buildings, while allowing them to deteriorate, milking profits. At a certain point, it becomes more profitable to burn the place down and collect the full insurance.

Herbert W. Fritz, an industry expert on the National Committee on Property Insurance, said: "Like many government programs, the intent and purpose is admirable, but sometimes the side effects are not."

J. Robert Hunter, deputy administrator of the Federal Insurance Administration in the Department of Housing and Urban Development, disputes the industry claims. Arson for profit, Hunter argues, causes a small fraction of the fire losses in "Fair Plan" areas, compared with random arson by vandals or gangs. The insurance companies, he suggests, would like to be free to "redline" these areas again, thus depriving all property owners of fire insurance, a step that would guarantee their further decline.

This argument continues unresolved, while the buildings keep burning. Some state "Fair Plans" have incurred loss ratios of 300 percent or more—for every dollar collected in premiums, three were paid out in arson claims.

New York City lost 4,000 vacant buildings to fires last year, principally in Brooklyn and the Bronx. Officers at the police precinct station in the South Bronx used to call their outpost "Fort Apache" because of the crime surrounding it, highest in the city. Now it is known as "Little House on the Prairie," surrounded by vacant land.

PROFITS, LOSSES

Walter D. Swift of the American Insurance Association describes a typical process by which slum property is converted to insurance profits:

"You and I find a building and we want to set it up. We buy it in my name. We put the mortgage in your name. We may do some cosmetic repairs. We apply for insurance greatly in excess of the value.

"Then we have a little fire and we exchange roles. You become the mortgagee and I become the owner. We inflate the paper value further. Then we have a big fire."

This swapping arrangement between silent partners, according to insurance officials, has several advantages. At the courthouse, it creates a fake record of purchases, and mortgages that looks legitimate, even if no money changed hands. It also puts the ultimate mortgage holder in a protected position. Under the laws in most states, the insurance company must pay the mortgagee's claim, even if it can prove arson fraud against the owner of record.

A building with an actual value of $5,000 or $10,000 may yield as much as $50,000 in insurance claims, according to Swift and others.

"We're sitting ducks and there's not much we can do about it," said Eugene LeComte, manager of the Massachusetts pool. "We're just pouring money down the sewer."

Hunter, the federal insurance deputy, insists that the insurance companies are part of the problem and lack the evidence to connect the federally required insurance pools to the incidence of arson for profit.

"I think the charge is either a fake or they just haven't done their homework," Hunter said.

If insurance companies would tighten their own procedures, Hunter believes, much of the fraud would be eliminated. "They have considerable freedom to get out from under these questionable risks," he said. "They use it as an excuse."

Hunter says that insurance companies in the 28 "Fair Plan" states with big cities actually earn a higher profit rate than companies in the nonparticipating states. He is not implying that there is any connection between "Fair Plans" and higher profits, only that the insurance companies aren't hurting.

"It's you and I who are paying, not the insurance companies," Hunter said.

FIT TO BURN

Ironically, the riot reinsurance established to protect companies against the catastrophic claims from urban riots has not paid many claims in the last decade. Before the riots during New York City's blackout last summer, the largest claim against the fund was a fire at the University of Kansas during antiwar disturbances in 1970. The program's reserve fund is flush with $100 million and the rates are reduced now to "practically nil," according to Hunter.

Some insurance companies have dropped their riot reinsurance coverage with the federal program, but most of them are not yet confident that urban disorders are permanently behind us. Without the reinsurance protection, companies could be wiped out by major disorder in their cities.

LeComte of Boston said companies are still edgy on this question, even though civil disorders of any size have become rare.

"I think right below the surface there's an undercurrent which is very disturbing and I don't think that it's understood by politicians," the insurance executive said. "It's ready to explode and the slightest thing could set it off."

Meanwhile, the fires are a constant threat in the lives of the poor people who live in the falling-down neighborhoods. Robert Martin, retired and 77 years old, living with his wife in Chicago's Garfield area, was burned out once and is still anxious about fire:

"Everytime I look up, something is burning. I'm here in this place now, but I don't know. That old house we was in was just natural born fit to burn. Then people moved out. The people who had it wasn't trying to do nothing about it. Nobody knows how it caught fire."

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 5, 1978.

HON. CHARLES H. PERCY,
Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR PERCY: Your August 2, 1977, letter requested that we review a number of issues concerning "arson-for-profit." Your major concerns related to:

Adequacy of controls over the insurance coverage property owners can obtain.

Research and development of arson detection techniques, and training of arson investigators.

Activities of Federal law enforcement agencies to prevent, detect, and prosecute this type of crime.

As agreed with your office, we will give you a report on each of the three areas. This report discusses the authority, activities, and plans of Federal law enforcement agencies regarding arson-related crime.

FEDERAL AUTHORITY AND COORDINATION FOR ARSON-RELATED CRIMES

Arson is not generally a Federal crime. There are two exceptions to this rule. First, 18 U.S.C. 81 makes arson a Federal crime if committed at a location where the Federal Government exercises special maritime or territorial jurisdiction. In general, and as defined by 18 U.S.C. 7, special maritime or territorial jurisdiction of the United States includes the high seas; Federal property held under exclusive or concurrent jurisdiction of the United States; and property purchased or otherwise acquired by the United States with the consent of the State legislatures, if the property is initially acquired to erect a fort, magazine, arsenal, dockyard, or other necessary building.

Second, some Federal agencies administer Federal property that is not within the special maritime or territorial jurisdiction of the United States. By issuing regulations, some of these agencies have made arson a Federal misdemeanor on the Federal property they administer.

In general the Federal Government will investigate and prosecute arson only if a Federal law is violated in conjunction with the arson crime. For example, suspects in arson-for-profit cases are usually accused of transmitting insurance claims and other correspondence through the United States mails. If the Federal mail fraud statute (18 U.S.C. 1341) is violated, Federal law enforcement agencies may become involved in investigating the mail fraud and indirectly the arson. Enclosure I lists the Federal statutes covering arson-related crime which various law enforcement officials said their agency could investigate.

The Federal Government has not considered arson-related crimes an enforcement priority; therefore, the Government does not have a unified, coordinated program specifically designed to prevent, detect, investigate, and prosecute these crimes. Four Federal law enforcement agencies—the Department of Justice's Federal Bureau of Investigation (FBI); the Department of the Treasury's Internal Revenue Service (IRS) and Bureau of Alcohol, Tobacco, and Firearms (ATF); and the United States Postal Service—investigate arson-related crimes; however, coordination among these agencies is limited, usually informal, and on a case-by-case basis. Justice's organized crime strike forces, operating in various cities throughout the United States, will also investigate and prosecute arson-related crimes if organized crime is involved.

The consensus of these law enforcement agencies was that no evidence existed to support the contention that arson-related crime is a serious national problem or that a greater Federal effort is warranted. The Federal Government, however, has not made any attempt to determine the severity of the arson problem.

CURRENT FEDERAL LAW ENFORCEMENT EFFORTS IN THE ARSON AREA

Federal law enforcement agencies involved with arson-related crimes do not collect data which would demonstrate the severity of the arson problem. Therefore, they are not in a position to delineate their previous efforts or to identify the actions needed to cope with the arson issue.

During 1978 the Postal Service plans to give more investigative attention to suspected arson-related insurance fraud schemes and to separately identify and report these cases. ATF officials said that they are revising their statistical reporting system to acquire arson-related information. Neither the FBI nor the IRS had plans to separately identify arson offenses within their internal statistical reporting system.

None of the four agencies considered arson a priority investigative area and therefore did not have a program designed to deal specifically with arson. ATF, however, is currently establishing arson task forces in several cities. This initiative was prompted by a special project conducted by its Philadelphia District. In January 1977 the Special Agent-in-Charge of ATF's Philadelphia District independently initiated a special project—which he termed a task force—to investigate arson in the Philadelphia area. The task force was established by an informal cooperative agreement between ATF, the local police, the local district attorney, and the local fire marshal. Under the agreement ATF assumed leadership in all arson investigations in the Philadelphia area, with active participation and cooperation from the other officials. As of December 7, 1977, the task force was conducting 15 arson investigations. AFT officials said that all of these investigations involved matters cognizable under 18 U.C.C. 844 (i),[1] but that collateral violations of the racketeering statutes (18 U.S.C. 1950, 1961-1968) were also being investigated.

Officials said that the idea for the arson task force was, in part, the result of two arson investigations conducted by ATF in Philadelphia. The first was an investigation of an arson case previously investigated by the Philadelphia Police Department. Local citizen groups had protested that the police had arrested, and the court convicted, an innocent person. The local U.S. attorney asked ATF to reinvestigate the case. Officials said their investigation led to the arrest and conviction of the individuals who actually committed the crime and the release of the innocent person. In the other case, the U.S. attorney asked ATF to investigate a fire bombing of a Philadelphia hotel. Investigators found traces of gasoline in an oxidized state which, according to officials, has an explosive capability. Although ATF officials believed that 18 U.S.C. 844(i) had been violated, the U.S. attorney elected to prosecute the case under statutes dealing with mail fraud and interstate transportation in aid of racketeering. The defendant received a 3-year prison sentence.

On October 14, 1977, the Special Agent-in-Charge of the Philadelphia District, as a result of his experience, recommended instituting ATF-led arson task forces in other U.S. cities. ATF headquarters approved this recommendation in January 1978, and it plans to establish arson task forces in 18 additional cities. (See enclosure II.) An official estimated that the new task forces would not be operational until June 1978.

Although Federal organized crime strike forces are not set up specifically to investigate and prosecute arson cases, the strike forces have investigated arson-related crimes when organized crime was involved. For example, the Buffalo, New York, organized crime strike force became interested in arson cases about 3 years ago. At that time the Erie County District Attorney established a task force of local officials to look into the local arson problem. The task force had two prime suspects it associated with many of the arsons, but it could not get enough evidence against them to make a case. The strike force assisted by identifying a number of suspicious insurance claims and tracing them through various corporate records, deeds, and other documents, looking for an association with the two suspects. They found it. The two individuals pled guilty to charges of mail fraud, and each received a 5-year sentence. The Buffalo strike force recently indicted the entire hierarchy of a Rochester organized crime family engaged in an arson-for-profit ring and, as of December 14, 1977, had one arson-related investigation pending.

HAS ARSON BEEN A WIDESPREAD PROBLEM? IS A GREATER FEDERAL PRESENCE NEEDED?

Law enforcement agency officials contacted said that no evidence existed to demonstrate that arson-related crime was a widespread problem or that a greater Federal involvement in the arson area should be initiated. As previously mentioned, the Federal Government has not made an attempt to quantify arson-related crimes to determine their severity. Agency officials were willing to reconsider arson as a priority area if evidence became available to justify an expanded effort. The Postal Service and ATF appear to be taking a more aggressive initiative in the arson area. (See p. 3.) ATF officials supported their initiative with the following statistics:

Incendiary bombings increased 200 percent nationwide in 1976 over 1975.

Forty-nine percent of the fires of incendiary, suspicious, or unknown origin in New Jersey in 1975 were never investigated.

Sixty-two percent of the arsons committed in the United States involved the use of flammable liquids or accelerants; of that number 90 percent had an explosive capability when aerated.

In addition to establishing ATF-led arson task forces, ATF is planning to establish an "Explosives Academy" at the Federal Law Enforcement Training Center, Glynco, Georgia, which will include instruction on arson investigation.

In summary, although the Postal Service and ATF have taken some initiatives to combat arson, the rest of the Federal law enforcement community does not view this particular crime as deserving any special priority. There is insufficient hard evidence to accurately gage the magnitude of the arson problem, and consequently, to gage the propriety of the Federal posture concerning it. We recommend that the Attorney General take the lead in developing information needed to assess the seriousness of the arson problem and, based on the results, develop an appropriate Federal law enforcement strategy.

As agreed with your office, we did not obtain formal agency comments on this report. However, we discussed its contents with agency officials and considered their views in preparing the report. Because of your plans for hearings on the arson problem and your desire to release this report at the hearings, we plan no further distribution of the report until that time, or until you publicly announce its contents.

We want to direct your attention to the fact that this report contains a recommendation to the Attorney General. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the report's date and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the report's date. Your release of this report will enable us to send it to the four Committees for the purpose of setting in motion section 236 requirements. We trust this information will meet your needs.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

[1] 18 U.S.C. 844 (i) is a criminal statute that deals with the destruction of or damage (by an explosive) to property used in or affecting interstate or foreign commerce.

FEDERAL STATUTES COVERING ARSON AND ARSON-RELATED CRIME

Federal statutes: Title	Agencies claiming investigative jurisdiction			
	FBI	ATF	Postal Service	IRS
18 U.S.C. 81: Arson Within Special Maritime and Territorial Jurisdiction of the United States.	X			
18 U.S.C. 371: Conspiracy to defraud the United States				X
18 U.S.C. 842–845: Interstate Transportation of Explosives or Incendiary Devices.	X	X	X	
18 U.S.C. 922–925: Unlawful Acts—Firearms		X		
18 U.S.C. 1001: Fraudulent Statements				X
18 U.S.C. 1073–1074: Flight to Avoid Prosecution	X			
18 U.S.C. 1341: Frauds and Swindles (by Mail)	X		X	
18 U.S.C. 1342: Fictitious Name or Address			X	
18 U.S.C. 1343: Fraud by Wire, Radio, or Television	X			
18 U.S.C. 1361–1362: Destruction of Government Owned or Controlled Property.	X			
18 U.S.C. 1363: Destruction of Property Within the Special Maritime and Territorial Jurisdiction of the United States.	X			
18 U.S.C. 1716: Nonmailable Injurious Articles (Explosives or Incendiary Devices).			X	
18 U.S.C. 1855: Destruction by Fire of Timber, Underbrush or Grass Upon Federally Owned or Leased Land, Indian Land or the Public Domain.	X			
18 U.S.C. 1952: Interstate and Foreign Travel or Transportation in Aid of Racketeering.	X			
18 U.S.C. 1961–1968: Racketeer Influence and Corrupt Organizations.	X	X	X	
26 U.S.C. 5861: Prohibited Acts (Re: Firearms and Destructive Devices as defined by 26 U.D.C. 5845).		X		
26 U.S.C. 7201: Attempts to Evade or Defeat Tax				X
26 U.S.C. 7203: Willful Failure to File Return, Supply Information, or Pay Tax.				X
26 U.S.C. 7206: Fraud and False Statements				X

PLANNED LOCATIONS FOR ATF'S ARSON TASK FORCES

Atlanta, Ga., Boston, Mass., Brooklyn, N.Y., Buffalo, N.Y., Chicago, Ill., Cleveland, Ohio, Dallas, Tex., Detroit, Mich., Honolulu, Hawaii. Kansas City, Mo., Las Vegas, Nev., Los Angeles, Calif., Miami, Fla., New Orleans, La., Phoenix, Ariz., Rochester, N.Y., San Juan, Puerto Rico, Washington, D.C.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

Hon. CHARLES H. PERCY,
Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR PERCY: On August 2, 1977, you asked us to assess the adequacy of current Federal programs dealing with the detection, investigation, and prosecution of arson offenses. It was agreed that we would respond to your request in three separate reports.

This report pertains to the following areas of your request:

Research and development of arson detection techniques and equipment.

Training of arson investigators and prosecutors.

Programs and funding for State and local arson investigators and prosecutors.

Your office agreed that our review would include only Federal programs funding State and local investigators and prosecutors where such programs are specifically directed at the arson problem.

We made our review primarily at the National Fire Prevention and Control Administration, Department of Commerce, Washington, D.C. We interviewed agency officials and reviewed records on Federal arson prevention and control plans and programs. We also obtained information at the Fire Research Center, Department of Commerce, Gaithersburg, Maryland; the Law Enforcement Assistance Administration and the Federal Bureau of Investigation, Department of Justice; and the Bureau of Alcohol, Tobacco and Firearms, Treasury Department; all in Washington, D.C.

Our review showed that only one Federal program is directed at the areas specified in your request. This program is the Fire Administration's training course for arson investigators which is scheduled to begin in April 1978. The Fire Administration also plans to develop an arson detection training program for fire service personnel and an arson prosecutor training program for State and local public attorneys.

BACKGROUND

Arson is the act of burning property for an improper purpose. It is difficult to prove arson because evidence is usually destroyed in the fire and, normally, there are no witnesses.

The extent of the arson problem is not known and reliable statistics are not available. However, the Insurance Information Institute estimated national arson-related property losses in 1975 at over $1.4 billion, while the Insurance Service Office estimated the national arson-related fire losses at over $4 billion. The National Fire Prevention and Control Administration and the American Insurance Association recognize the need for better data on the arson problem and are currently improving the data.

The socioeconomic factors which motivate arsonists contribute to the complexity of the problem. Such motives include profit, revenge, spite, jealousy, vandalism, crime concealment, intimidation, and pyromania.

The National Fire Prevention and Control Administration, created by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C 2201 *et seq.* (1976)), has emerged as the Federal focal point for providing arson intervention programs to States and local communities. The Fire Administration's role in the arson area is to reduce arson through education, training, research, public information, and data collection and analysis.

The Law Enforcement Assistance Administration has no program directed at the arson problem; however, at the time of our review, it was making plans to study what its role should be. This agency awards grants to State and local governments for activities decided on by the grantees, including arson-related activities.

The Bureau of Alcohol, Tobacco and Firearms has no programs for training arson investigators and prosecutors, of researching arson detection techniques and equipment. As part of the overall training of its agents, however, instruction covers fire-bombing methods, bomb scene searches and investigations, and recognizing incendiary devices. Also, laboratory analysis is performed to identify fire accelerants.

The Fire Research Center, as authorized by the Federal Fire Prevention and Control Act of 1974, has been studying the psychological motivations of fire setters and is conducting one arson-related research program—a survey of laboratory methodology in analyzing fire accelerants.

Within the Federal Bureau of Investigation, arson investigation is not a high priority. Only a few arson investigations have been conducted, and the Bureau believes that a training program for arson investigators is not justified because of the small number of such cases within its jurisdiction.

FEDERAL RESEARCH AND TRAINING PROGRAMS

A number of plans have been formulated to meet needs in the areas of research into arson investigation, detection, and prosecution; however, only one program—a training course for arson investigators—has been developed.

In a series of seminars in early 1976, 36 experts identified and ranged nine arson areas needing Federal intervention. The results were published by the Fire Administration in its September 1976 report "Arson: America's Malignant Crime." The areas are summarized in appendix I.

Two of the nine areas were arson detection, investigation, and prosecutor training (fourth highest ranking) and research and development on tools for arson investigations (eighth highest ranking). Details on Federal efforts directed at these two areas are presented in the following sections and are tabulated in appendix II.

RESEARCH INTO ARSON DETECTION TECHNIQUES AND EQUIPMENT

Fire service personnel need equipment that is better suited for detecting arson at the fire scene. A federally sponsored study identified research needs which the Fire Administration is attempting to follow up; however, there is still no Federal program for research on arson detection techniques and equipment.

In addition to the Fire Administration's report identifying research needs in arson detection equipment, the Fire Research Center prepared a report in 1976 which identified the evaluation of arson detection equipment used in the field as a desirable program. Research needs for arson detection equipment were further identified in a 1976 report prepared for the Law Enforcement Assistance Administration. This study was made to assess the arson problem and determine whether there were technical solutions to alleviate it. One conclusion was that a more sensitive and reliable vapor detector and a smoke and soot analyzer are needed. The vapor device would detect residues of such fire accelerants as gasoline. The smoke and soot device would detect the presence of fire accelerants through analysis of these fire by-products.

As part of its fiscal year 1979 arson effort, the Fire Administration had planned to identify the needs of users for arson detection techniques and equipment. We were told that equipment being used in arson detection work was not designed for such use. By assessing existing devices and the state of the art, the Fire Administration would develop the needed characteristics, for example, sensitivity, portability, and cost, of an arson detection device and the techniques for using it. Fire Administration officials told us that this planned program was eliminated for budgetary reasons.

ARSON INVESTIGATOR TRAINING COURSE

The Fire Administration, in conjunction with the Lincoln Land Community College, recently developed an arson investigator training course. By 1982 the First Administration plans to have given the course to 4,000 investigators. The Lincoln Land Community College was granted $69,400 to develop this course for increasing the levels of proficiency in fire and arson investigations. The course is based on material from related Federal agency programs, elements of various State and local training programs, and advice solicited from investigators who were asked to review course plans. The course will

be given to students beginning in April 1978, after pilot testing by the Fire Administration. The Fire Administration plans to give the course to 200 investigators during fiscal year 1978 at an estimated cost of $42,000, not including per diem and other expenses for the students. These will be the responsibility of the students' sponsoring organizations. This financing arrangement may have some adverse effect on getting students assigned to the course.

In addition to formal course instruction through the National Fire Academy, the course materials will be duplicated and distributed to 200 State and local entities for their training use at an estimated cost of $29,000. There are some risks associated with this method of investigator training. The local entities have no obligation to teach the course, and there is no assurance that they have the required teachers or funds. No Federal funds are to be provided.

The Fire Administration does not yet have a formal method to measure the effectiveness of its Fire Academy courses, but it is developing evaluation methods for all its programs. For the investigator training course, initial evaluation will be based on student feedback through course critiques. After the first year of the course, the Academy plans to recall about 50 "trained" investigators to reevaluate and update the course content.

PLANS FOR ARSON DETECTION TRAINING

Presently, there is no training program for fire service personnel in arson detection; however, the Fire Administration plans to develop such a course to begin in mid-1978.

Fire service personnel, being first on the fire scene, should know what to look for in a fire of suspicious origin. The Fire Administration is planning a training course (24 hours of instruction) to train instructors who will then teach fire service personnel the procedures to follow when arson is suspected. Much of the course content will come from the arson investigator training course prepared by the Lincoln Land Community College. Plans are to have the course ready by July 1978 to be given over a 4-month period to 250 local fire service instructors in 10 regional areas. According to present plans, these instructors should give the course to about 100,000 firefighters over the next 5 years.

There are no plans to fund the instruction at the local level. Such an incentive might be helpful to insure wide dissemination of the course, particularly to the volunteer firefighters who make up the greater portion of the Nation's firefighting force.

PROSECUTOR TRAINING

There is no Federal program for training public attorneys at the State and local level to prosecute arson cases. The Fire Administration believes such training is needed, and a program is planned for development during fiscal year 1979. The Fire Administration is considering establishing formal training seminars to be conducted through an educational institution.

Law Enforcement Assistance Administration representatives told us that they rely on State and local governmental units to identify their needs. They said that no requests have been received for funds to train public attorneys in prosecuting arson cases.

FEDERAL PROGRAMS AND FUNDING FOR STATE AND LOCAL INVESTIGATORS AND PROSECUTORS

We found no Federal program specifically directed at funding State and local arson investigators and prosecutors. The Law Enforcement Assistance Administration's grants to State and local governments, in some cases, include funds for arson-related purposes, such as equipment, laboratory analysis support, and training of investigators. In most cases these grants are multipurpose and the portion to be used for arson-related activities cannot be identified from the agencys' records. During fiscal years 1975–77, the Law Enforcement Assistance Administration records showed that it awarded 25 such multipurpose grants amounting to $2.6 million. In addition to the multipurpose grants, it awarded 49 grants amounting to $1.7 million in fiscal years 1975–77 which were to be used solely for arson-related activities. (See app. III.)

During our review we noted that Federal agencies were funding other arson efforts, such as development of a model arson law, development of a method for predicting fires, and various studies of the arson problem. This information gives additional perspective to the Federal role in combating arson, and we have listed these activities in appendix IV.

Because only one Federal program has been developed in the research and training areas mentioned in your request—a course for arson investigators—and the course has not yet been made available to local investigators, a good basis does not exist to judge the effectiveness of the course. Generally, Federal resources devoted to research, training, and funding of State and local investigators and prosecutors are small.

There has been no Federal commitment for a coordinated and concerted effort at helping State and local communities deal with the arson problem through research or training and funding for State and local investigators and prosecutors. We believe this is due partly to the (1) lack of good data on the extent of the arson problem and (2) need for a better definition of the roles and responsibilities of the various public and private organizations concerned.

At your request, we did not take the additional time to obtain written agency comments. The matters covered in the report, however, were discussed with Fire Administration officials and their comments are incorporated where appropriate.

Because you plan hearings on the arson problem and will release this report at the hearings, we do not plan to further distribute it until that time or until you publicly announce its contents.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

APPENDIX I

NINE NEED-AREAS IDENTIFIED IN "ARSON: AMERICA'S MALIGNANT CRIME"

1. It is of primary importance to develop and define the *responsibilities* of the fire services, the law enforcement services, the legal system, insurance companies, and other public and private bodies who should be concerned with the arson problem.

2. There is a need to *reclassify* arson in crime reporting systems such as the Federal Bureau of Investigation's Uniform Crime Reports to reflect its true status as a major offense so that (a) reporting can be more complete and (b) people can be more aware of its impact.

3. There is a need to make the public, defined broadly to include both the public in general and those with professional interests, more *aware* of the consequences of arson and the need to do something about them.

4. There is a need to develop and apply *training* programs which are directly keyed to the job-related needs of professional investigators and of other categories of personnel such as firefighters, police officers, attorneys, prosecutors, judges, insurance adjusters, insurance underwriters, and the insurance claims supervisors.

5. There is a need to develop and apply better *reporting*, data collection, and data analysis procedures on local, State, and national bases so that public and private agencies will have access to information they need for both their own activities and to enhance public understanding.

6. There is a need to promulgate and apply effective *laws and regulations* which are as uniform as possible among jurisdictions. This applies particularly to effective insurance regulations and practices which can discourage arson.

7. There is a need to identify and develop adequate sources of *funding* to combat arson.

8. There is a need to conduct *research and development* (a) to make available better and more useful tools for arson investigation and (b) to provide a better understanding of social and behavioral phenomena associated with arson.

9. There is a need to develop a consistent, *uniform* terminology that can be applied to arson and incendiarism by all disciplines and in all sections of the United States.

APPENDIX II

FEDERAL ARSON RESEARCH AND TRAINING PROGRAMS

Fiscal year	Total amount for arson programs[1]	Training investigators		Training prosecutors		Research of detection techniques and equipment	
		Amount	Program description	Amount	Program description	Amount	Program description
National Fire Prevention and Control Administration:							
1976–77	$220,200	$67,200	Develop investigator training course.	None		None	
1978	317,300	3,000	To pilot test investigator training course.	do		Do.	
		71,000	To conduct and distribute investigator training course, starting April 1978.				
		25,000	To develop, conduct, and distribute detection and identification course, starting July 1978.				
		99,000					

Footnotes at end of table.

APPENDIX II—Continued

FEDERAL ARSON RESEARCH AND TRAINING PROGRAMS—Continued

Fiscal year	Total amount or arson programs [1]	Training investigators: Amount	Training investigators: Program description	Training prosecutors: Amount	Training prosecutors: Program description	Research of detection techniques and equipment: Amount	Research of detection techniques and equipment: Program description
National Fire Prevention and Control Administration:							
1979	105,000	42,000	To conduct additional investigator training courses throughout the United States.	$10,000	To assist National College of District Attorneys in development of seminar-type training program.	----------	None.
		30,000	To evaluate investigator course and revise as needed.				
		72,000	----------	10,000	----------		
Fire Research Center:							
1976–77	125,500	----------	None	----------	None	----------	Do.
1978	92,000	----------	do	----------	do	----------	Do.
1979	----------	----------	do	----------	do	----------	Do
Law Enforcement Assistance Administration:							
1976–77	90,000	[2]	do	----------	do	[3]	To assess the status of investigation equipment.
1978	10,000	----------	[4]	----------	[4]	----------	[4].
1979	[4]	----------	[4]	----------	[4]	----------	[4].
Alcohol, Tobacco, and Firearms: 1976–79	[5]	----------	[5]	----------	[5]	----------	[5].

[1] Total amount shown includes programs listed here and other arson programs listed in app. IV.
[2] There are no programs for training investigators; however, some grant funds provided to State and local authorities were for this purpose and other crime investigation training.
[3] Funding for this program is included in the larger arson program assessment listed in app. IV.
[4] No programs planned as of time of our review.
[5] Cost not readily determinable.
[6] No programs directed at these subjects; however, all agents received training in firebombing, incendiary device recognition, and bomb scene searches and investigations. Also, laboratory analysis is performed to identify fire accelerants.

APPENDIX III

Law Enforcement Assistance Administration Grants for Arson-Related Activities (Awarded in Fiscal Years 1975–77)

(Note a)

Description and number:	Amount
Grants which includes arson-related activities, (25)	$2,620,619
Grants solely for arson-related activities:	
Improper effectiveness of New York City's investigation of suspicious fires/arson, (1)	413,390
Establish unit within Bronx, New York, District Attorney's office for investigation and prosecution of arson, (1)	395,680
Expand New Jersey State police arson investigation unit (3)	334,990
Purchase of instruments by State of Washington for use in arson project, (1)	71,715
Establish a specially equipped and staffed arson investigation unit in Yolo County, California, (1)	68,462
Establish photograph arson suspect identification system in California, (1)	59,400
Develop an arson information system by city and county of San Francisco, (1)	41,124
Operate mobile radio equipment by Ohio Arson Bureau, (1)	34,212
Other grants, (39)	301,098
Total (49)	1,720,071
Total (74)	4,340,690

[a] Compiled from data provided by the Law Enforcement Assistance Administration which has not been verified by the General Accounting Office.

APPENDIX IV

Other Federal arson programs

Fiscal year, amount, and program description:

National Fire Prevention and Control Administration:

1976–77, $10,000, to develop model arson law.

$38.000, to develop and print Fire Administration report—"Arson: America's Malignant Crime."

$70,000, to develop an arson information center.

$8,000, to develop an annotated bibliography of arson reference material.

$11,000, to develop a training course in juvenile fire setting.

$6,000, to study the nature and extent of incendiary fires in Boston.

$10,000, to develop intervention strategies for a Federal arson control program (Aerospace Corporation).

Total, $153,000.

1978, $6,000, to conduct 10 (3 days) advanced arson seminars.

$6,800, to study incendiary fires and develop a handbook for use by urban planners.

$200,000, to develop a software package that will predict area fires in inner-city neighborhoods and commercial establishments.

$5,500, to complete the annotated bibliography of arson reference material

Total, $218,300.

1979, $10,000, to conduct 10 (2 days) seminars to promote the arson task force concept.

$10,000, to continue and expand the advanced arson seminar program.

$3,000, undecided.

(a) to implement and evaluate fire/arson strategies in three major cities.

Total, $23,000.

Fire Research Center:

1976–77, $64,000, to prepare an overview report on how the Center can fulfill its responsibilities in the attacks on arson.

$41,500, to study, analyze, and organize what is currently known about the psychology of arsonists.

$20,000, to survey laboratory techniques used in analyzing accelerants and to assess the need for the adoption of a standard method.

Total, $125,500.

1978, $52,000, to develop and publish an arson investigator handbook for easy reference.

$40,000, to continue study of psychology of arson resulting in a written theory of arson behavior.

Total, $92,000.

1979, none.

Law Enforcement Assistance Administration:

1976–77, $90,000, to assess the problem of arson and determine whether there were technical solutions to help alleviate the problem.

1978, $10,000, to research arson issues and determine the Law Enforcement Assistance Administration's role in arson. Future effort will depend upon the results of this program.

1979, $----------, pending results of fiscal year 1978 program.

Alcohol, Tobacco and Firearms:

1976–79, $---------(b), ATF laboratories, upon request, analyze evidence obtained from a fire to assist State and local investigation.

1977–78, $----------(b), Philadelphia district office formed a group to assist local arson investigations.

[a] Funding for this program is for fire prevention strategies including arson. Amount related to arson could not be identified.

[b] Cost not readily available.

THE U.S.S.R. CONVICTS ITSELF

Mr. DOLE. Mr. President, the trial of Yuri Orlov, the leader and founding member of the First Helsinki Watch Groups concluded last Friday with a 12-year sentence for the Soviet dissident. Although few people in the West had hopes for a real trial, the blatantly crude manner in which "justice" was carried out has shocked everyone in the West.

The Soviet Union put its signature to the Helsinki Final Act in August of 1975 and agreed to abide by certain principles. Now we see it was one more international agreement that the Soviets have broken. This poses a serious question about the wisdom of making any other agreements with the Soviet Union in the future. I believe the time has come to carefully reexamine our policy of détente and cooperation with the Soviet Union.

The Chicago Tribune has succinctly evaluated this disgraceful trial in its editorial of May 22d. I would like to share it with my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE U.S.S.R. CONVICTS ITSELF

The Soviet Union's "trials" of leading dissidents are spectacles unique in jurisprudence. Instead of trying a defendant for al-

leged crimes, the state openly and repeatedly commits crimes against him, puts itself on trial before the world, and convicts itself so thoroughly as to leave not a single mitigating circumstance.

It has done that in the case of Yuri Orlov, a physicist who organized a group to expose Soviet violations of human rights and its obligations under the Helsinki agreement. His trial, conviction, and sentence—seven years at hard labor, followed by five years of "internal exile"—were a disgusting farce staged without even an attempt at plausibility. Soviet authorities seemed to go out of their way to display their contempt for human rights, for the west, and for the notion that national governments should behave honorably. And they made quite sure that the United States and other western governments would get the message.

The trial was of course closed to the public and the western press. Aside from Mr. Orlov's wife and his son Dmitri, the only audience allowed was a hand-picked claque. Yet the trial was held in an accessible place, a borough courthouse in Moscow, and in weather mild enough to let western newsmen congregate outside and watch.

What they witnessed was enough to disgrace any court on earth, and any government that would tolerate such a court. Mrs. Orlov, the only source of information about the proceedings inside, was forbidden to take notes, and was stripped and searched before leaving the courthouse. When Mr. Orlov appeared, to be hustled into a police van, police turned up their sirens to drown out the shouts of support from his fellow dissidents. Correspondents who drove Mrs. Orlov to a news conference were followed by police with videotape and still cameras; at one point the police tried to force a reporter's car off the road.

The proceedings inside hardly qualified even as a burlesque of justice. Mr. Orlov was allowed no witnesses on his behalf, and was constantly interrupted by the judge when he tried to speak.

The "trial," in fact, was quite unnecessary. It was merely a preliminary to sentencing—a scenario designed to humiliate Mr. Orlov and his family.

But at that it failed. The trial honored Mr. Orlov and disgraced only his government. It made clear once again that this strange superpower, the Union of Soviet Socialist Republics, is so terrified of one brave man that it will sacrifice any claim to respectability merely to shut him up.

It made clear one other thing: It is absurd to expect such a government to honor any commitment concerning human rights. The trial of Yuri Orlov was an obscene gesture directed at the concept of human rights and those who believe in it. It was a brazen admission that the Helsinki agreements on rights were a fraud. How can a government that does this promise to honor other agreements? How could its promise be believed?

ARMED FORCES DAY

Mr. DOLE. Mr. President, on May 20, Armed Forces Day, we commemorated our Armed Forces as they have supported our security interests around the globe. Each year we should commemorate the personal sacrifice and commitment each individual in our Armed Forces is making to the defense and well-being of America and to the freedom this Nation cherishes.

Mr. President, on this day, Armed Forces Day, we reflect upon the military security this Nation has enjoyed over the past 200 years. But as we consider that record, we must also turn our thoughts to the unsettling trends in our Armed Forces and in the rapidly shifting balance of military powers in the world. This is not the occasion to dwell upon matters that I and others in this Chamber have addressed in the past, but neither is it an occasion to pretend all is well.

The dominant single reality of the world scene is that Soviet economic and military objectives are being successfully accomplished at the expense of Western security in key global areas. In the past year we have witnessed the greatest erosion of Western security in any year since 1945. Most recently, the military coup in Afghanistan that overthrew President Mohammed Daud represents a victory for the Soviet Union that would have been unthinkable 2 years ago. The pace accelerates: Angola, Somalia, Ethiopia, and now again Zaire.

But what is of deepest concern to many of us on Armed Forces Day is not the actions of our potential adversaries, but the perplexing policies pursued by the Carter administration in response to those activities. In the face of Soviet strategic buildup we see the cancellation of the B–1, the slowdown of MX and Trident; in the face of Soviet stonewalling in SALT and comprehensive test ban negotiations we see unilateral U.S. concessions on every major issue; in the face of sustained Soviet naval buildup beyond 800 ships we see the U.S. shipbuilding program slashed by half. And so it goes.

The polls show clearly that the American people are greatly concerned. Congressional additions to the defense bills and debates on the floor show clearly that Congress is greatly concerned.

Let us hope that this Armed Forces Day marked the beginning of awakening of the Carter administration from the hazardous sleepwalk that has characterized its foreign and defense policy to this date.

ATHLETICS TURNED THE TIDE AT UNIVERSITY OF ALABAMA

Mr. ALLEN. Mr. President, in yesterday's Washington Post an interesting article by Mr. William Greider and David Depree appeared regarding sports and integration at the University of Alabama wherein it is stated that athletics turned the tide, and attention is called to the fact that in the last 10 years the University of Alabama has changed from the convenient symbol of white defiance to a genuine model of racial equity, at least in the sports program under athletic director Paul "Bear" Bryant. It states:

> Alabama has scrupulously avoided exploitive outrages that are so common in big-time collegiate sports, in which black youths are recruited with glossy promises, used as university gladiators for 4 years, then discarded—without diplomas or career prospects.

He pointed out how the situation is different there at the University of Alabama where the black athletes do become a part of the team, and the alumni system we have at the university. I ask unanimous consent that this article be inserted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Washington Post, May 21, 1978]

SPORTS AND INTEGRATION—AT ALABAMA, ATHLETICS TURNED THE TIDE

(By William Greider and David DuPree)

TUSCALOOSA, ALA.—In the bad old days of segregation, the good old boys of Alabama used to tell a favorite joke about their favorite legend, Bear Bryant, and his all-white football team.

It seems that one day this black boy shows up at Alabama's football practice and asks for a tryout. Bear Bryant sort of winks at the team and says, sure enough.

The Crimson Tide defense lines up; the black youth is given the ball to run. He bursts through the burly linemen, stomps a linebacker, eludes the safety and races across the goal line.

"Hey, boys," says Bear Bryant, "look at that goddam *Indian* run."

Well, the years passed and people changed and, after a fashion, that joke has come true. Today, when Alabama scores on the football field or the basketball court, the crowds are cheering, more often than not, for dark-skinned athletes named Ozzie Newsome or Rah Rah Scott or Johnny Davis. Nobody pretends these Bama stars are Indians.

Organized sports have long served as a visable upward ladder for blacks, even when star status seemed to promise much more progress than it delivered. In the last decade, particularly in the South, sports played another important role during the turbulent years of desegregation. Games are unifying social events with essential values—winning, following the rules, rewarding talent—that challenge the long-established mores of white supremacy and racial segregation.

Football, by itself, did not change people in Alabama or anywhere else. But it surely made change easier for them.

This year's All-America, Ozzie Newsome, a wide receiver drafted in the first round by the NFL's Cleveland Browns, describes the new reality in Alabama sports:

"Bryant doesn't give a damn what color you are or anything like that. He just wants a winner. You go into the cafeteria and the cooks want you to win. If we don't win, it's not the blacks didn't win or the whites didn't win. It's Alabama didn't win and we're all in trouble."

This past year, Bryant had 18 blacks on his squad of 79. Eight of the 22 starters on offense and defense were black. Basketball coach C. M. Newton, who brought class basketball to Alabama by recruiting homegrown black athletes, starts three or sometimes four blacks. His squad of 15 has 10 black players.

What happened here over the last decade is not unique, of course. Across the South, sports at the college and high school levels are now thoroughly integrated—an important socializing element in the reduction of racial prejudices, from small-town gymnasiums to the major championships.

The university at Tuscaloosa is special, however. This is the place where George Wallace made his stand in the "schoolhouse door" 15 years ago and said: "Never." Everyone smiled in 1976 when Gov. Wallace kissed the Homecoming Queen. She was a black named Billie Faye Scott.

A MODEL OF EQUALITY

In the last 10 years, the University of Alabama has changed from the convenient symbol of white defiance to a genuine model of racial equity, at least in the sports programs under athletic director Paul (Bear) Bryant. Alabama has scrupulously avoided the exploitive outrages that are so common in big-time collegiate sports, in which black youths are recruited with glossy promises, used as university gladiators for four years, then dis-

carded—without diplomas or career prospects.

Since 1970, some of Alabama's black stars have gone on to pro careers—Wilbur Jackson of football's San Francisco 49ers, Leon Douglas of basketball's Detroit Pistons, Willie Shelby of the NFL's Cincinnati Bengals, Newsome to Cleveland, fullback Johnny Davis to Tampa. Some are coaching—Sylvester Croom and Wendell Hudson at their alma mater, John Mitchell at Arkansas.

But this may be more meaningful: nearly all of the blacks on Alabama athletic scholarships, whether they were stars or subs, earned their college degrees and are pursuing careers outside of sports—23 of 27 so far. And these black athletes get plugged into that valuable network of Bama alumni—the business contacts white athletes have always enjoyed—that can lead, if not to fame and fortune, to solid middle-class careers.

Alabama has changed, so has Bear Bryant, but not his locker room magnetism. Bryant has mesmerized a generation of white athletes over his long, winning career and he has the same approximate impact on his black players.

THE STERN-FACED LEGEND

Byron Braggs, a 262-pound freshman lineman from Montgomery, shook his head at the stern-faced legend, his coach. "When Coach Bryant comes into the meeting room," Braggs said reverently, "you could hear a cockroach dying, it's that quiet."

Wilbur Jackson, the first black player signed for Bryant's football team in 1970, remembers the Bryant spiel:

"He'd give the same pregame speech for three years. It never varied except for maybe 15 words, but it worked. He could have had a tape recorder and just moved his lips, for all we knew. Poise and confidence were the two things he talked about . . . but it always worked."

Chumminess has never been part of Bryant's routine. The coach says of Wilbur Jackson: "I remember him walking in here and he hadn't said two words. He played here four years and he hasn't said two more."

But the black players respect Bryant's fairness with them, his toughness, his total domination of the team.

"Bryant has total control," Newsome said. "He put Joe Namath on the bench before a big game and, if he'll do that, Ozzie Newsome isn't going to come down here and raise no hell and Ozzie Newsome knows it."

Not many years ago, black youths growing up in Alabama like Newsome and Jackson could not imagine playing for the legend. They might be recruited by the big-name schools from the West or the Middle West like UCLA or Michigan. They were wooed by the black colleges of the South, Grambling or Jackson State or Alabama State. But none of them thought about going to Auburn or Alabama, the principal shrines where Alabamians worship sports. They watched the Crimson Tide on TV. They heard Bear Bryant say that he was not interested in having any black athletes play for time.

A DESIRE TO WIN

Today, Bryant does not attempt to fudge over that history. Indeed, he tells stories on himself, describing the segregationist past.

"Everybody knows the state of Alabama used to have a terrible name and deserved it," the coach said.

In 1965, he was hoping for No. 1 ranking in the nation, but he knew that the racial factor was hurting Alabama's stature. They would not schedule home-and-home games with any of the Big 10 or West Coast schools that had blacks. Sportswriters said they played a soft schedule; sentiment was against them.

The final game against Auburn was televised nationally, so Bryant told a black follower to put on an Alabama robe and stand close to him throughout the game.

"Normally when I get on that field," Bryant said, "I don't want anybody around me. But I knew that TV camera was going to be on me."

His ploy didn't work. Undefeated Alabama was ranked No. 3.

In that same period, a high school coach from Mobile approached with a hot prospect, a promising black player who might qualify as the first for Bama. "I told him, officially, I want him up here, I'll treat him fairly," Bryant recalled. "I'll handle it as best I can. Unofficially I think it's too soon."

Bryant was worried about heckling and abuse from the stands a black player might have to endure in Mississippi or Georgia or, for that matter, in Alabama. "I was concerned about what might happen right here, when the first black player ran out on the field," he said. "He was my guy, He was my player. But segregration was still in the saddle."

Yet, in a few short years, the long-held white resistance receded and virtually evaporated at the university level, a social change that many in Alabama attribute to two powerful forces—the federal courts and the universal desire to win ball games.

Federal judges were forcing the integration of high schools, including their sports programs, a transition that produced a lot of early turbulence, even some minor violence in Alabama. Attendance declined sharply in some cities like Montgomery and Mobile. Scores of black coaches lost their jobs when black schools merged with white ones.

But something else happened: when the separate black and white state basketball tournaments were merged into one in 1969, the first state champion was an all-black Birmingham school, Parker High, a long-establish powerhouse in segregated competition, but never recognized by the white citizenry.

Parker's venerable coach, "Cap" Brown, remembers that tournament: "We were told not to give the fist power sign. This was the first time and they didn't want any incidents."

Since then, in nine years of integrated competition, Parker has won the state title three times, was runner-up twice and third once. This year, its star, Eddie Phillips, who is 16 and 6-foot-6 and still growing, was sought by Stanford, UCLA, Vanderbilt and Drake, among many others, but he signed with Alabama.

Thanks to the federal courts, the quality of Alabama's basketball soared: so did attendance. As white fans learned to cheer for black stars at their local high school or the state tournament, it seemed natural that Newton, the new basketball coach at Tuscaloosa, should begin trying to sign these same ballplayers—instead of losing their talent to out-of-state competition.

Newton is a winner. He turned Alabama into a national contender, a National Invitational Tournament entry twice, and he did it mainly with Alabama youth. "That's the significant thing, not so much the black-white thing," Newton said. "We have not gone to big cities and raided. That's the most important thing."

Meanwhile, Alabama's first love, football, was teaching similar lessons. Football at the black high schools was not impressive, partly because of poor financing, but Bear Bryant's followers were beginning to see black stars from other places.

1970 AND USC

In the 1970 opening game, the University of Southern California buried Bama with a black fullback named Sam Cunningham. Cunningham gained 230 yards and scored three touchdowns. As Jerry Claiborne, the Maryland coach who was Bryant's protege, has put it, Sam Cunningham did more to integrate Alabama in 60 minutes that night than Martin Luther King had accomplished in 20 years.

"I think it opened a few people's eyes," Bryant says.

But, if Alabama's whites were ready for integrated teams, it was not clear that the state's black talent was ready to take a chance on them. Both coaches, Bryant and Newton, encountered considerable skepticism on their recruiting forays.

People remembered the past. Ozzie Newsome cried when his friend, Leon Douglas, signed with Bama, convinced that Douglas was ruining his future.

Many of the black athletes, who were bombarded by high-pressure recruiting from large and small schools, recall with special awe the same scene—the time when Mama stared down Bear Bryant and asked the hard questions about Alabama.

Ralph Stokes, a high school all-America from Montgomery's Robert E. Lee High, now an insurance agent with Provident Life, remembers it well:

"When Coach Bryant came to recruit me, the first thing my mother addressed him with was this question. She said, 'I recall vividly seeing you on television saying you don't want any black boys on your teams and now you say you do. Why are you here now? Why do you want my son?' "

Stokes was deeply impressed by Bryant's answer. So was his mother. As Stokes recalls:

"Bryant told her. 'At that time, that was the way I felt. But times have changed and I've matured and changed. I've grown too. My thinking has changed completely and now I don't see any white players or black players anymore—it's just ballplayers. People are people and they can't be treated by the color of their skin.' "

Bryant has used variations of that statement, over and over, convincing black parents that their sons would be treated fairly at Alabama. Bryant kept his word, according to the young men who played under him.

Stokes, for instance, never realized the stardom that was expected of him. He suffered injuries, lost valuable playing time and never earned a starting position. He still regards Bear Bryant as a "great man" who gave him a fair shot.

"I was apprehensive about going," Stokes said, "but also the legend of Bear Bryant looms so large over Alabama and you've heard this so many years. The prospect of playing for a legend was a challenge so you figure, what the heck, I'll go see can I fight this road."

Wilbur Jackson, growing up in Ozark, in southeast Alabama, wanted to go to a black school, but his father, Buster Jackson, a retired railroader, decided otherwise. "They wanted Wilbur," Jackson's father explained. "Why would they ask him to go there if they were going to make trouble for him?"

The black athletes checked things out with a black minister in Tuscaloosa, the Rev. Sylvester Croom, who assured them that Bryant could be trusted. Croom sent his own two sons to the university and one of them is now assistant football coach.

Wilbur Jackson and others encountered a few racial slurs during their playing careers and some white players who were "standoffish." He carried with him his own prejudices about whites. But there was never any trouble.

"Deep down inside," he said, "I thought what it would do to my parents if I didn't act right. I didn't want to embarrass them in any way."

In the early years, the black players did encounter a few foul words around campus, even once of twice in the locker room.

Today, there is a genuine amiability among the athletes of both races who eat and live together at Bryant Hall, the jock dorm. In the early years, the black players clustered together, though Bryant made each of them

room with a white player. As the numbers increased, the teammates got beyond self-conscious joking.

Campus social life is restricted for all athletes, but the blacks have found it reasonably free of hassles. Alabama has 2,000 black students now, so there is no shortage of dates. Alabama has had two black Homecoming Queens in the last four years and one black as student council president. Byron Braggs went to a springtime beer party with some teammates the other day, at an all-white fraternity house.

NORTHERN RECRUITS

One indicator of social ease is that Alabama is now beginning to attract a few black athletes from up North. Mike Pitts, from Baltimore Polytechnic, was recruited this year. The baseball team has a famous name—Elston Howard Jr., son of the Yankee star, who grew up in Teaneck, N.J.

"The place is quieter here," Howard said. "It's not dog-eat-dog like it is in New Jersey."

If he doesn't make pro baseball, Howard wants a career in marketing in Atlanta. "Getting a degree here is going to carry more clout in the Southeast," he explained.

He has found he had to adapt to the southern level of manners. "The people here are more formal with their grown-ups," he explained. "Yes sir. Yes ma'am. They use that for the coaches, too, and I had to get used to that."

When the baseball team played an away game in Mississippi, light-skinned Howard joked about race with his white teammates: "When we get to that Mississippi line, you-all start calling me Carlos."

Coach Newton encountered a different problem in recruiting basketball talent—a suspicion among blacks that he would employ a "quota system" to ensure that they did not dominate the game.

"One youngster we were recruiting," Newton said, "chose not to go to Alabama because we had three black starters and he didn't think we would start four."

The youth was wrong. Newton frequently plays five blacks at the same time. The jokes about "token whites" have grown a bit stale.

"It's no big deal," Newton said.

No one can say with any certainty what all this has done for Alabama, besides winning ball games, but Newton and many others in athletics and politics believe that racial integration of sports has been an integral element in erasing old prejudices and hostilities.

Bryant knows that some of the good supremacists now come out to practice and root for the black players. "I haven't gotten 25 letters on this over the years and five of them were from the same guy, some idiot out there," Bryant said.

SOME SUBTLE LESSONS

Joe L. Reed, of the Alabama Education Association, a black educator who has pushed for racial equality in the schools, believes that "sports has had a tremendous, positive impact. They said never. Now they're cheering."

Coach Newton described the subtle lessons taught by basketball:

"When you see Leon Douglas get tangled up with a white player and they both get up and pat each other, this has got to say something. When you see Paul Ellis jump up and hug Charles Cleveland, one white and one black, when we won the NIT game, I think that says something."

Racial difference has receded dramatically as a divisive issue in Alabama. George Wallace, who used to rally white voters by warning about the "black bloc vote," is not going to run this year; his issue is dead anyway. A poll for one Senate candidate compiled a list of the 24 top issues concerning Alabama voters—racial conflict was not among them. The concerns of black voters were essentially the same as those of white voters.

But, in many parts of the state, the black communities paid a heavy price for these changes—the loss of leadership when black principals and coaches were phased out or fired by local school boards. Reed said Alabama had 206 black principals before integration, only 53 now. Black coaches suffered a similar attrition.

"It does damage to black kids who recognize that they can run the ball, but they can't coach," he said.

Sporadic racial controversy continues on this level. Reed said a black assistant coach at Anniston was fired because he urged a black student to accept an out-of-state scholarship. In Montgomery, state Rep. Alvin Holmes protested only this spring about the all-white cheerleaders at Robert E. Lee High School. Three black cheerleaders were added.

"There are some people," Holmes complained, "who are just as bitter as they were back in the '60s. When a black gets a job, they got to be a superstar. All the blacks on the University of Alabama team are superstars, all-Americans."

Holmes exaggerates, perhaps, but there is truth in his point. Alabama coaches, especially at the outset, were extremely careful in their selection of black athletes—picking "good boys" with strong academic records and family backgrounds, young men who were likely to graduate and unlikely to make trouble. The attrition rate among white athletes has been considerable, but most of the blacks finish school.

The players know this, but they see it changing. They speculate that, in the years ahead, Bryant will be tested in dealing with the looser variety of players now being recruited.

"ALL GOODY-GOODY"

"We were all goody-goody," said Newsome. "We were all the same in personality, background and attitude. That's the way they wanted it. Now they are recruiting ballplayers with all kinds of attitudes and personalities."

Bryant himself acknowledges obliquely that the recruiting approach is looser today, that the university is taking more chances on athletes with less than outstanding academic prospects. "We take borderline cases," the coach said, "because we don't want to play against him. We don't know if he'll graduate or not, but if we don't take him, we know we're going to play against him."

The outlook of black athletes is changing, too. Social critics have emphasized that fame in sports can be an enervating obsession for black youth, one which gives them false goals and distracts them from the hard work of academic brilliance. Only a handful of the thousands practicing on playground courts and fields will make the pros. Even for them, fame has a short life.

The coming crop of black athletes at Alabama agrees. Bryant now preaches—and they concur—that the odds are against them reaching the pro level, that it is crucial for them first to win that diploma and plan a career.

It appears that a generational change is under way in which the younger ballplayers have more savvy, more realistic ideas about their future.

"Being a pro has been the focal point of my life," said Newsome. "It's been my goal. That's the generation thing. The guys coming up now aren't putting everything into football . . . The younger guys are going after their degrees first and it seems that, no matter how good they are, being a football player isn't their primary goal in life."

E. J. Junior III, a freshman end from Nashville, chose Alabama over Vanderbilt, Tennessee State and Morehouse. "I had three priorities when it came to picking a school," he said, "academics, athletics and social life. . . . . I can't play athletics all my life."

Byron Braggs already plans a career in television, as a technical producer. He's checked it out. "If you get hurt and you're not a good student, you got nothing," he said.

Terry Jones, a senior lineman from Sandersville, Ga., was hoping to be drafted by the Redskins, but he didn't lose sleep over his disappointment. "I'll finish school this summer and go to work," he said, "just become a family man and lead a simple life again."

ACADEMICS, ATHLETICS

At Parker High School in Birmingham, the same attitudes are expressed by high school seniors. Gregory Minard passed up football scholarships at two black colleges in order to go to Alabama as a regular student.

"When you graduate from Alabama," he explained, "most businessmen in the state are white and they mostly graduated from either Auburn or Alabama. They will naturally go with the people who went to Alabama too."

Carl Crosby passed up a basketball scholarship at Birmingham Southern in order to study engineering at the General Motors Institute in Flint, Mich. His friends teased him and he loves basketball, but "I was looking ahead of that," he said.

Eddie Phillips could have gone most anywhere. As his coach said, "He'll grow another three more inches because he's a clean-living boy." Phillips chose the state university at Tuscaloosa after checking it out with other black players. "It suited me academically as well as athletically," he said.

After college, if they work in the classroom as well as on the field, these young men will have access to the possibilities of alumni contacts or influence or favoritism, whatever you wish to call it. It is an old tradition among alumni fans at state universities to look after the jocks, a benefit traditionally denied to black athletes.

Ralph Stockes, who got his start in insurance through a Bama alumnus, thinks the network is now open to black athletes, too.

"I'm sort of biased because they did produce for me," Stokes said. "Some of the other athletes weren't the brightest guys you ever saw but they did take the trouble to make sure those guys graduated with decent degrees, not basket-weaving or something like that. Everyone I knew is doing something worthwhile now.

"Basically, they gave us the same shot as white guys and you might say they even gave us a little better shot. I think someone decided, Coach Bryant or someone, that we can't do it for all the white guys, but we got to do it for all the black guys because, if one falls down, it could look so bad."

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, these measures have been cleared on the minority side and all around. I ask unanimous consent that the Senate proceed to consideration of Calendar Order Nos. 747, 780, 792, 794, 839, and 840.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISHERMEN'S PROTECTIVE ACT AMENDMENT

The Senate proceeded to consider the bill (H.R. 10878) to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes which had been reported from

the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 1, beginning with line 6, strike through and including line 9, and insert "1981".";

On page 2, beginning with line 1, strike through and including page 13, line 8.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–816), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to extend the voluntary insurance program established by section 7 of the Fishermen's Protective Act for an additional 3 years, until October 1, 1981.

BACKGROUND AND NEEDS

Section 7 was added to the Fishermen's Protection Act on August 12, 1968, pursuant to Public Law 90–182. Its purpose was to authorize a voluntary insurance program for the reimbursement of certain losses (other than fines, license fees, registration fees, and other direct charges which are fully reimbursable through the Secretary of State under section 3 of the Act) incurred as a result of the seizure of a U.S. commercial fishing vessel by a foreign country on the basis of rights or claims in territorial waters or on the high seas which are not recognized by the United States. Section 7 provides that any owner of a U.S. commercial fishing vessel, upon application, may enter into an agreement for such coverage with the Secretary of Commerce.

The agreement would provide for guarantee payments to participating vessel owners to cover such things as damage, destruction, loss, or confiscation of the vessel, fishing gear or other equipment, dockage and utility fees, payment to the owners and crew of the market value of fish confiscated or spoiled during the detention of the vessel, and payment to owners and crew of up to 50 percent of the estimated gross income lost as the result of the seizure or detention. Certain administrative procedures are also included to allow the Secretary to carry out the program. It establishes a fishermen's protective fund, as a separate account in the Treasury, until February 8, 1973, to provide for reimbursement of losses and costs.

Section 7 also provides that the owners of vessels entering into agreements with the Secretary are required to pay an annual fee which is adequate to cover the cost of administering the program and a reasonable portion of any payments made under the program.

In setting such fees, the Secretary is required to pay at least one-third of the total cost of the program. Presently, the Federal Government is paying about 60 percent of such cost and the vessel owners participating in the program are paying the remaining 40 percent.

In 1972, pursuant to Public Law 92–569, section 7 of the Act, was extended to July 1, 1977; in 1976, pursuant to Public Law 94–273, section 7 was extended until October 1, 1977; and in 1977, pursuant to Public Law 95–194, section 7 was extended until October 1, 1978.

Prior to the passage of the act in 1954, the United States only recognized a 3-mile territorial sea and a 3-mile fisheries zone. In 1966, pursuant to Public Law 89–658, the United States established a fisheries zone of 9 miles contiguous to its 3-mile territorial sea. Consequently, from 1966 until March 1, 1977, the United States did not recognize the right of any coastal nation to regulate fish beyond 12 miles from its shores.

In 1976, pursuant to Public Law 94–265, the fisheries jurisdiction of the United States was extended to 200 miles effective March 1, 1977. Pursuant to that act, the United States made it clear that it was excluding from the coverage of its 200-mile fisheries zone all species of tuna, and that it did not recognize the right of any coastal nation to regulate tuna.

Pursuant to section 202(e) of the act (the nonrecognition provision), as amplified by section 403 of such act (which amended section 2 of the Fishermen's Protective Act), the United States made it clear that it does not recognize the claim of any foreign nation to a fishery conservation zone beyond such nation's territorial sea (recognized by the United States as of this date to be 3 miles) if such nation fails to take into account traditional fishery activity of U.S. vessels; or fails to recognize that all species of tuna are to be managed by international agreements, whether or not such nation is a signatory to any such agreement; or imposes conditions or restrictions on U.S. fishing vessels which are unrelated to fishery conservation and management, or which are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the fishery management authority of the United States. The net effect of these provisions is to allow seizure insurance protection, under certain conditions, for vessels other than tuna vessels (for example, shrimp vessels) which operate in the 200-mile fisheries zone of other nations.

Since the inception of the cooperative insurance program in 1969, the program has met with considerable enthusiasm and interest by the U.S. commercial fishing industry. By 1972, guaranteed agreements numbered 213 under the cooperative program, of which 103 were for tuna vessels and 110 for shrimp vessels.

For the period from July 1, 1976, to July 1, 1977, there were 166 vessels participating under the program, of which 157 were tuna vessels and 9 were shrimp vessels. As of this date, 119 vessels are participating under the program, 116 of which are tuna vessels and 3 of which are shrimp vessels.

Since the inception of the program there have been 119 seizures eligible for compensation under the program. Equador was responsible for 88 of those seizures. Peru for 30, and Panama for 1. Claims resulting from these seizures have amounted to over $3 million. Fees collected have totaled over $1.5 million, and there is a present balance in the account of approximately $1.1 million. Since 1975, there had been no seizures, until April of this year when Costa Rica seized two United States vessels and Mexico seized two U.S. vessels.

SUMMARY OF THE BILL

The bill extends the voluntary insurance program established by section 7 of the Fishermen's Protective Act for an additional 3 years, until October 1, 1981.

ESTIMATED COSTS

The Committee estimates that, if this bill were enacted into law, it would involve no significant additional cost to the federal government.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT SYSTEM LOANS TO PRODUCERS AND HARVESTERS OF AQUATIC PRODUCTS

The bill (S. 3045) to amend the Farm Credit Act of 1971 (85 Stat. 583) to extend the term for production credit association loans to producers or harvesters of aquatic products, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Farm Credit Act of 1971 is amended by inserting in the first sentence of section 2.4, after the words "seven years", the following: "(fifteen years if made to producers or harvesters of aquatic products)".

The title was amended so as to read:

A bill to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–849), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

S. 3045 amends the Farm Credit Act of 1971 to provide that loans, advances, or discounts made by the Federal intermediate credit banks would be repayable in not more than 15 years if made to producers or harvesters of aquatic products. Under existing law, the loans, advances, and discounts made by the Federal intermediate credit banks are limited to those obligations that are repayable in not more than 7 years. The change made by S. 3045 would permit production credit associations to make loans to producers and harvesters of aquatic products for a term not to exceed 15 years.

BACKGROUND

THE FARM CREDIT SYSTEM

The cooperative Farm Credit System operates under authorities contained in the Farm Credit Act of 1971. The banks and associations that comprise the System are supervised and examined by the Farm Credit Administration, an independent agency in the executive branch of the Government.

The System provides credit and closely related services to farmers, ranchers, producers, and harvesters of aquatic products, agricultural and aquatic cooperatives, rural homeowners, and certain businesses providing farmers with services essential to their on-farm operating needs.

To fulfill these purposes, the country is divided into 12 farm credit districts. At the same location in each district there is a Federal land bank, a Federal intermediate credit bank, and a bank for cooperatives. There is also a Central Bank for Cooperatives in Denver, Colo.

All expenses of the activities and personnel of the Farm Credit Administration are paid by assessments collected from the banks of the Farm Credit System.

Federal land banks—Federal land bank associations

The Federal land banks make loans with terms of from 5 to 40 years through 529 Federal land bank associations. These loans are secured by first liens on farm and rural real estate.

Loans made for a variety of purposes, including the purchase of farm property,

rural homes, real estate needed for farm related businesses, purchase of equipment, machinery, livestock, refinancing existing mortgages and paying other debts, and financing other needs of the borrower.

The total credit extended to one borrower may at no time exceed 85 percent of the market value of the property taken as security. Each Federal land bank is limited in rural home lending to 15 percent of its total loan volume outstanding.

Federal intermediate credit banks—production credit associations

The Federal intermediate credit banks provide loan funds to 428 production credit associations and discount notes of eligible borrowers given to certain other institutions financing agricultural producers. They also participate with one another and with production credit associations in making loans.

Production credit associations make loans with terms of up to 7 years to farmers, ranchers, producers and harvesters of aquatic products, rural homeowners, and certain farm related businesses.

Loans are made for a variety of purposes related to the production of agricultural products, the production and harvesting of aquatic products, the purchase, repair or maintenance of rural homes and other requirements of borrowers. At no time, however, may the total credit extended for other than agricultural purposes exceed the value of assets devoted to agricultural production or the production and harvesting of aquatic products.

The total amount of credit extended to a rural homeowner may not exceed 85 percent of the appraised value of the property. Each production credit association is basically limited in rural home lending to 15 percent of its total loan volume outstanding.

Banks for cooperatives

The 12 district banks for cooperatives serve marketing, supply, and business service cooperatives whose headquarters are within their respective territories. To qualify for a loan, at least 80 percent—70 percent for rural electric, telephone and public utilities—of the voting control of the cooperative must be in the hands of farmers, ranchers, or producers or harvesters of aquatic products. To be eligible, a cooperative must also do at least 50 percent of its business with or for its members as patrons. Excepted from this requirement is business done with the U.S. Government and services or supplies furnished by the cooperative as a public utility. The banks also serve associations or federations of such cooperatives.

The Central Banks for Cooperatives participates with the district banks on loans that exceed their individual lending capacity.

Farm credit securities and interest rates

Funds are obtained through bond sales by the banks' fiscal agency in New York. During calendar year 1977, there were 5 sales by the Federal land banks, 12 sales by the Federal intermediate credit banks, and 12 sales by the banks for cooperatives. All money is obtained at the going rate for funds; thus the Farm Credit System competes on an even basis with other industries for its capital.

During the 1977 calendar year, the Farm Credit System raised $26.9 billion in the financial markets through the sale of consolidated bonds for all three system banks. (Some of these bonds were for maturities of less than 1 year). Of this total, $3.9 billion was new money to support increased loan volume and $23.0 billion was used to refinance maturing securities.

Bond sales were supplemented last year by the discount note program. The discount note program is a supplier of short-term funds—5 to 270 days—for the Farm Credit System and is used as a money management device between bond issues. Since its inception in January 1975, this source of funding has been increasing. Total discount notes sold during 1977 reached $12.1 billion, a 32-percent increase over the $9.2 billion sold during 1976. However, since the turnover time for these notes is quite short, the average daily outstandings amounted to only about $1.1 billion during 1977.

Average interest cost for all consolidated bonds sold during 1977 was 6.20 percent. This compared with a 6.28 percent average for 1976. Discount notes were sold at an average interest cost of 5.45 percent during 1977 compared to 5.13 percent for 1976.

The cost of obtaining money in the marketplace, plus the cost of making and servicing loans, determines the interest rate that farmer-borrowers pay. The efficiency of the local association also is an important determinant of interest rates.

At the beginning of 1978, the interest rates charged farmers by Federal land banks ranged from 7.75 to 8.50 percent, about a ¼-percent average decrease from January 1, 1977. A majority of the production credit associations were charging between 7.50 and 8.25 percent for agricultural loans. Banks for cooperatives' seasonal loans ranged from 7.50 to 8.25 percent and term loans ranged from 7.75 to 8.50 percent.

COST ESTIMATE

I.

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the committee estimates that there would be no cost incurred by the Federal Government as a result of the enactment of this legislation inasmuch as the Farm Credit institutions are privately financed.

The Farm Credit Administration and the Congressional Budget Office concur in this estimate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL TRAFFIC SAFETY AND MOTOR VEHICLES INFORMATION AUTHORIZATION AND AMENDMENTS ACT OF 1978

The Senate proceeded to consider the bill (S. 2604) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1979 and 1980, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "National Traffic Safety and Motor Vehicle Information Authorization and Amendments Act of 1978".

TITLE I—TRAFFIC AND MOTOR VEHICLE SAFETY

AUTHORIZATION OF APPROPRIATION

SEC. 101. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended by (1) striking out "and" immediately after "1977,", and (2) inserting immediately after "1978" the following: ", $60,000,000 for the fiscal year ending September 30, 1979, $60,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981".

RETREADED TIRES

SEC. 102. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting ", except the manufacture of tires which have been retreaded," immediately after "or tires" in the first and second sentences thereof.

TITLE II—MOTOR VEHICLE INFORMATION AND COST SAVINGS

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 201. (a) Section III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended by adding the following at the end thereof: "There are authorized to be appropriated to carry out this title $700,000 for fiscal year 1979, $400,000 for fiscal year 1980, and $450,000 for fiscal year 1981. Of the amount authorized to be appropriated for fiscal year 1979, $300,000, including the authority to hire consultants, shall be available to analyze cost benefit studies conducted by or for the Department of Transportation and other relevant information, and to conduct or have conducted such additional studies and gather additional information as is necessary, to insure that the Secretary's obligations to seek to obtain the maximum feasible reduction of cost to the public and the consumer in setting bumper standards in accordance with section 102(b) of this title are fulfilled. Such analysis shall be completed by January 1, 1979, and the appropriate adjustments to part 581 of title 49, Code of Federal Regulations which may be warranted will be implemented as expeditiously thereafter as possible.".

(b) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended by (1) striking out "and" immediately after "1977;", and (2) inserting "; $2,000,000 for the fiscal year ending September 30, 1979; $2,400,000 for the fiscal year ending September 30, 1980; and $3,000,000 for the fiscal year ending September 30, 1981" immediately after "1978".

(c) The first sentence of section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) is amended by (1) striking out "and" immediately after "1977;", and (2) inserting "; $2,500,000 for the fiscal year ending September 30, 1979; $1,500,000 for the fiscal year ending September 30, 1980; and $1,500,000 for the fiscal year ending September 30, 1981" immediately after "1978". fiscal year ending September 30, 1981" immediately after "1978".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended by (1) striking out "and" immediately after "1977;", and (2) inserting "; $400,000 for the fiscal year ending September 30, 1979; $400,000 for the fiscal year ending September 30, 1980; and $450,000 for the fiscal year ending September 30, 1981" immediately after "1978".

BUMPER STANDARD EXEMPTION

SEC. 202. Section 102(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912(c)) is amended to read as follows:

"(c)(1) Upon application by a manufacturer at such time, in such manner, and containing such information as required in this subsection and as the Secretary shall prescribe, the Secretary may, after publication of notice and opportunity to comment, and under such terms and conditions and to such extent as the Secretary deems appropriate, temporarily exempt or renew the exemption, in whole or in part, of any multipurpose passenger motor vehicle or any make, model, or class of passenger motor vehicle, from any bumper standard promulgated under this title if he finds that such temporary exemption would be consistent with the public interest and the objectives of this title and that—

"(A) compliance would unreasonably interfere with the special use of such vehicle;

"(B) such temporary exemption would facilitate the development or field evaluation of new bumpers which would provide a level of motor vehicle property loss protection equivalent to or exceeding the level of protection established in the standard;

"(C) such temporary exemption would facilitate the development or field evaluation of a low emission motor vehicle and would not unreasonably degrade the property loss protection of such vehicle; or

"(D) requiring compliance would prevent a manufacturer from marketing a motor vehicle whose overall level of property loss protection is equivalent to or exceeds the overall level of property loss protection of nonexempted motor vehicles.

Notice of each decision to grant a temporary exemption and the reasons for granting it shall be published in the Federal Register.

"(2) The Secretary shall require permanent labeling of each exempted motor vehicle. Such label shall either name or describe the bumper standard from which the motor vehicle is exempted and be affixed to each such exempted vehicle. The Secretary may require that written notification of the exemption be delivered to the dealer and the first purchaser for purposes other than the resale of such exempted motor vehicle in such manner as he deems appropriate.

"(3)(A) No exemption or renewal granted under paragraph (1)(A) of this subsection shall be granted for a period longer than 3 years and no renewal shall be granted without reapplication and approval conforming to the requirements of this subsection.

"(B) No manufacturer shall be eligible to apply for an exemption under paragraph (1)(B), (1)(C), or (1)(D) of this subsection for more than 2,500 vehicles to be sold in the United States in any 12-month period, as determined by the Secretary.

"(4) Any manufacturer applying for an exemption under paragraph (1)(A) of this subsection shall include in the application documentation establishing the special use of the vehicle and detailed analysis of how compliance with the standard would unreasonably interfere with such special use of the vehicle. Any manufacturer applying for an exemption under paragraph (1)(B) of this subsection shall include in the application research, development, and testing documentation establishing the innovational nature of the property loss protection features and a detailed analysis establishing that the level of property loss protection of the new bumper feature is equivalent to or exceeds the level of property loss protection established in the standard from which the exemption is sought. Any manufacturer applying for an exemption under paragraph (1)(C) of this subsection shall include in the application research, development, and testing documentation establishing that the property loss protection of such vehicle is not unreasonably degraded and that such vehicle is a low-emission motor vehicle. Any manufacturer applying for an exemption under paragraph (1)(D) of this subsection shall include in the application a detailed analysis of how the vehicle provides an overall level of property loss protection equivalent to or exceeding the overall level of property loss protection of nonexempted motor vehicles.

"(5) The Secretary shall promulgate regulations after the date of the enactment of this subsection for applications for exemption from any motor vehicle bumper standard provided for in this title. The Secretary may make public within 10 days after the date of filing of an application under this subsection all information contained in such application or other information relevant thereto unless such information concerns or relates to a trade secret or other confidential business information not relevant to the application for exemption.

"(6) For the purpose of this subsection, the term 'low-emission motor vehicle' means any motor vehicle which—

"(A) emits any air pollutant in amounts significantly below new motor vehicle standards applicable under section 202 of the Clean Air Act (42 U.S.C. 1857f-1) at the time of manufacture to that type of vehicle; and

"(B) with respect to all other air pollutants, meets the new motor vehicle standards applicable under section 202 of the Clean Air Act at the time of manufacture to that type of vehicle.

"(7) To the maximum extent practicable, a bumper standard promulgated by the Secretary shall not preclude the attachment of detachable hitches.".

ANNUAL REPORT ON BUMPER STANDARDS

SEC. 203. (a) Section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922) is amended to read as follows:

"REPORTS

"SEC. 112. As a separate part of the comprehensive report submitted under section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)), the Secretary shall submit to the President for transmittal to the Congress an annual report on the progress made during the reporting period on carrying out the purposes of this title. Such report shall include a statement of the cost savings that have resulted from the administration of this title, and such recommendations for further legislative or other action as the Secretary determines may be appropriate.".

(b) Section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)) is amended by adding at the end thereof the following: "In addition, such comprehensive report shall include, as a separate part, the annual report required under section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922).".

ODOMETER EXEMPTIONS

SEC. 204. Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding the following at the end thereof:

"(d) In prescribing rules under this section, the Secretary may exempt those classes of motor vehicles for which the Secretary finds that odometer readings have no meaningful relation to value or performance. In making such an exemption, the Secretary shall publish, along with the rule containing the exemption, the findings of fact which support the exemption and a detailed analysis of the reasons for such exemption.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-861), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2604, as reported, authorizes appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 as follows: $60 million for fiscal year 1979; $60 million for fiscal year 1980; and $70 million for fiscal year 1981.

S. 2604, as reported, also provides authorizations for titles I through IV of the Motor Vehicle Information and Cost Savings Act as follows:

	Fiscal year		
	1979	1980	1981
Title I—Bumper standards	$700,000	$400,000	$450,000
Title II—Automobile consumer information (repairability, crashworthiness, damageability)	2,000,000	2,400,000	3,000,000
Title III—Diagnostic inspection	2,500,000	1,500,000	1,500,000
Title IV—Odometer requirements	400,000	400,000	450,000

The bill would also relieve tire retreaders of certain mandatory recordkeeping requirements. The Department of Transportation informed the Committee that retaining this recordkeeping requirement is not necessary for the protection of the consumer.

The National Traffic Safety and Motor Vehicle Information Authorization and Amendments Act of 1978 is amended to allow the Secretary of Transportation to promulgate exemptions from the odometer disclosure requirements for motor vehicles where odometer readings have no meaningful relationship to the value or performance of an automobile. Antique cars are an example of this situation.

The Secretary of Transportation is also provided additional authority to make certain exemptions from the Motor Vehicle Information and Cost Savings Act bumper standard requirements in limited areas in which experimental activities may be necessary.

Finally, the annual report requirements in regard to bumper standards would be incorporated with the annual report of the National Traffic and Motor Vehicle Safety Act. This transfer would save printing costs and eliminate duplication of effort.

BACKGROUND AND NEED

S. 2604 provides authorization for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act for fiscal years 1979, 1980, and 1981.

THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

The National Traffic and Motor Vehicle Safety Act provides authority to the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) to promulgate safety standards for cars, trucks, and buses, and other motor vehicles.

Since the enactment of the National Traffic and Motor Vehicle Safety Act in 1966, deaths on the highway have been decreasing. From 1966 to 1977 the traffic fatality rate has dropped 42 percent. In spite of this trend, motor vehicle accidents continue to be one of the major causes of death in the United States, and the primary cause of death for young people between the ages of 15 and 24. More than 46,876 Americans died on our Nation's highways in 1977, making it clear that far more still has to be done in the traffic safety area.

The Committee, to assure that sufficient authorizations are available to combat this problem, has authorized $60 million annually for fiscal years 1979 and 1980, and $70 million for fiscal year 1981. The authorization levels for fiscal years 1979 and 1980 continue the same authorization levels that have been in effect since fiscal year 1976. These

authorizations would allow the National Highway Traffic Safety Administration to conduct vehicle safety research, develop existing vehicle safety standards, and where necessary, promulgate new standards. It would also allow NHTSA to provide for consumer standards and information, conduct defect and noncompliance testing and enforce the various provisions of the act.

In 1981, the authorization level will increase to $70 million to take into account increased costs and some modest program growth. The 5-year program developed by the National Highway Traffic Safety Administration to delineate NHTSA's priorities for further activities in the traffic safety area was considered by the Committee in granting this increase. One area of particular concern to the Committee is pedestrian safety. Approximately 7,400 pedestrians were killed by motor vehicles in 1976. Attention should be directed to reducing the number and effects of such accidents.

The Committee also amended section 158 (b) of the National Traffic and Motor Vehicle Safety Act to relieve tire retreaders of certain registration requirements. Section 158(b) presently requires every manufacturer to maintain a list of first purchasers. Since tire retreaders are considered manufacturers under the act, they have mandatory recordkeeping responsibilities.

Data supplied to the Committee indicates that from 1971 through 1976, 63 million retreaded tires were registered while only 8 tires were recalled. The estimated cost to register such tires is approximately $3 million a year. The Department of Transportation has informed the Committee that continuation of these registration requirements is not necessary for consumer protection and accordingly the tire retreaders should be relieved of this mandatory recordkeeping requirement.

THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

The Committee is recommending a 3-year authorization for the Motor Vehicle Information and Cost Savings Act. The Motor Vehicle Information and Cost Savings Act was the first major attempt by the Congress to provide consumers with adequate information in order to avoid unnecessary damage to their cars, to make informed purchasing decisions, and to foster easy diagnosis and repair.

S. 2604, as amended, provides the following authorizations for titles I through IV of the Motor Vehicle Information and Cost Savings Act:

	Fiscal year		
	1979	1980	1981
Title I—Bumper standards	$700,000	$400,000	$450,000
Title II—Automobile consumer information (repairability, crashworthiness, damageability)	2,000,000	2,400,000	3,000,000
Title III—Diagnostic inspection	2,500,000	1,500,000	1,500,000
Title IV—Odometer requirements	400,000	400,000	450,000

TITLE I—BUMPER STANDARDS

Title I of the Motor Vehicle Information and Cost Savings Act requires the Department of Transportation to promulgate standards applicable to automobile bumpers that seek to obtain the maximum feasible reduction of costs to the public from low speed collisions. Bumper standards providing cost savings are to take effect in two phases. Phase one, scheduled for model year 1979 (September 1978), prohibits damage to safety components and to any exterior surface of the vehicle other than the bumper face bar and attachments at 5 miles per hour front and rear impacts and 3 miles per hour side impacts. The second phase scheduled for model year 1980 (September 1979), would add the additional requirement that no substantial damage (at the same speeds) be sustained by the bumper itself. The authorization levels would provide adequate funding for monitoring of such bumper standards. It would also provide an authorization of $300,000 for fiscal year 1979 for further analysis of the cost benefit studies conducted by or for the Department of Transportation. It is the Committee's intention that the analysis of such additional studies and gathering of information required by this section will assure that the Secretary's obligations to "seek to obtain the maximum feasible reduction in cost to the public and to the consumer . . ." in setting bumper standards in accordance with section 102(b) of the Motor Vehicle Information and Cost Savings Act are fulfilled through consideration and evaluation of a range of possible standards (speed of impact and extent of damage requirements) to reasonably determine the standard that is most cost beneficial to the public and the consumer.

TITLE II—AUTOMOBILE CONSUMER INFORMATION

Under Title II, the Secretary of Transportation is directed to carry out a comprehensive study and investigation of the methods for determining damage susceptibility, crashworthiness, ease of diagnosis, and repair of certain automotive systems. The Secretary is also directed to develop a methodology for assuring the dissemination of this information in readily understandable form to consumers. The theory of title II is that if consumers can be provided with this information, their informed purchasing decisions in the marketplace will create an incentive for the auto companies to develop improved automobiles and thereby create less need for Federal regulation. In carrying out title II's mandate in the past, NHTSA focused primarily on developing predictive crashworthiness ratings for new cars. NHTSA is now planning a new approach in regard to this title. NHTSA has decided that due to the enormous use and sale of older cars (the average car on the road is now 6 years old) historical crashworthiness and damageability ratings for older cars should be developed. Also, the NHTSA believes this analysis will be useful in helping to develop predictive techniques for new model cars. The Committee believes that this is an important activity and therefore provided authorizations to gradually accelerate the program. The Committee believes that NHTSA's revised approach to title II is useful, but because of the rapid change in automobiles and automobile components, selective use of predictive approaches may also be necessary. Consumers should also be provided information in regard to factors bearing on maintainability of automobiles.

TITLE III—DIAGNOSTIC PROGRAMS

Under title III, the National Highway Traffic Safety Administration carried out a number of demonstration programs to determine the utility of diagnostic centers for automobiles. NHTSA recently issued a report of its findings in regard to these programs. This report projected a potential for significant fuel savings, improved emissions, and improved repairs of automobiles through the use of automotive diagnostic programs. These findings, although encouraging, still leave significant questions unanswered.

S. 2604, as amended, provides an authorization of $1,200,000 in fiscal year 1979 to allow NHTSA to study the feasibility of developing motor vehicle diagnostic inspection facilities in various parts of the United States and for an analysis of improvements in consumers' knowledge of repair and maintenance through the use of diagnostic centers. The study would focus on how to make these diagnostic centers financially attractive to the States and to the automobile repair community. NHTSA previously has not focused on the methods of financing diagnostic centers throughout the Nation. The study would consist of four main tasks:

(1) Working sessions with State and local officials, consumer groups, and associations to discuss and gather ideas for financing and managing diagnostic inspection programs;

(2) An in-depth examination of funding possibilities and financing methods including, but not limited to, low interest loans, public bonds, and user fees;

(3) An evaluation of existing diagnostic inspection programs and services with special emphasis on their operating efficiency, cost, consumer reaction, and an assessment of past, present, and anticipated problems; and

(4) Working sessions with representatives of the repair and related industries to obtain a better understanding of the impact of motor vehicle diagnostic inspection programs.

The Committee amendment would also provide authorizations under title III in fiscal years 1979, 1980, and 1981 for the development by NHTSA of programs to enhance the state-of-the-art of garage diagnostic equipment and attempt to standardize such equipment. Testimony presented in the Committee hearings by representatives of independent garage organizations overwhelmingly support such programs. It was stated in these hearings that such diagnostic garage equipment is either nonexistent or extremely expensive. The problem is that present diagnostic garage equipment generally can only be used for a limited number of models and cannot be used from one automobile company's cars to another. The possibilities of improved diagnosis either in centralized locations or at independent garages was endorsed by numerous witnesses.

Although the authorization levels of title III are significantly below those of prior years, the Committee believes that there is sufficient funding to carry out these needed additional studies.

TITLE IV

Title IV of the Motor Vehicle Information and Cost Savings Act is directed at lessening odometer tampering. It has been estimated that such tampering may cost consumers as much as $1 billion a year. The authorization levels provided will allow for expansion of the Department of Transportation's program in this area and for wider geographical coverage of these enforcement programs. The authorization levels may need further expansion in the future, but the Committee believes this authorization level will provide sufficient information to allow the Congress to determine what further action is appropriate in this area.

OTHER COMMITTEE RECOMMENDATIONS

The Committee also amended the Motor Vehicle Information and Cost Savings Act in order to allow the Secretary of Transportation to exempt classes of motor vehicles from the odometer requirements in those cases in which odometer information has no meaningful relation to value or performance. Antique vehicles are an example of such a class of motor vehicles. The amendment requires the Secretary of Transportation to

make very specific findings in regard to any exemptions that he may provide in order to ensure that odometer requirements are maintained where necessary.

S. 2604 also provides the Secretary with increased exemption powers in the area of bumper standards in circumstances in which automotive experimentation might be needed.

The Committee provided the Secretary with the following exemption authority. First, the Committee continued the Secretary's authority to exempt a vehicle if the Secretary finds that it is in the public interest and that compliance would unreasonably interfere with the special use of such vehicle. Second, the following further exemption criteria were added (15 U.S.C. 1912(c)(1)):

Such temporary exemption would facilitate development of field evaluation of new bumpers which would provide a level of motor vehicle property loss protection equivalent to or exceeding the level of protection established in the standards;

Such temporary exemption would facilitate the development or field evaluation of a low emission motor vehicle and would not unreasonably degrade the property loss protection of such vehicles; and

Requiring compliance would prevent the manufacturer from marketing a motor vehicle whose overall level of property loss protection is equivalent to or exceeds the overall level of property loss protection of nonexempted motor vehicles.

S. 2604, as amended, requires that any exemption provided by the Secretary of Transportation be published in the Federal Register with a full delineation of the reasons.

The exemption for special use vehicles must be renewed every 3 years. Also, no manufacturer is eligible to apply for an exemption for more than 2,500 vehicles to be sold in the United States per year under each of the last three exemption requirements. This amendment would allow motor vehicle manufacturers to carry out needed experimentation in areas such as fuel economy and advanced bumper technology. However, application for exemptions should be scrutinized by the Secretary and allowed only where there is strong supporting evidence of the need.

Finally, S. 2604, as amended, provides that the required report on bumper standards be transferred to the annual report of the National Traffic and Motor Vehicle Safety Act. This consolidation would serve to eliminate duplication of effort and provide for lower printing costs and general cost savings.

The Committee considered this authorization at an executive session on May 9, 1978 and ordered it reported favorably as amended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to provide authorizations of appropriations for fiscal years 1979, 1980, and 1981 for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the bill passed.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL INVESTMENT SURVEY ACT AUTHORIZATION

The Senate proceeded to consider the bill (S. 2928) to amend the International Investment Survey Act of 1976, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following.

That section 4(d) of the International Investment Survey Act of 1976 (22 U.S.C. 3103 (d)) is amended by striking out "his findings and conclusions to the Congress not later than 2 years after the enactment of this Act." and inserting in lieu thereof "an interim report of his findings and conclusions to the Congress not later than October 11, 1978, and a final report not later than October 11, 1979.".

SEC. 2, Section 9 of the International Investment Survey Act of 1976 (22 U.S.C. 3108) is amended by—

(1) striking out "and $1,000,000" and inserting in lieu thereof $4,400,000"; and

(2) inserting ", $4,600,000 for the fiscal year ending September 30, 1980, and $4,900,000 for the fiscal year ending September 30, 1981" immediately after "1979".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–863), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to amend Sections 4 and 9 of the International Investment Survey Act of 1976.

Specifically, it extends the reporting deadline of the real estate monitoring feasibility study required by section 4(d) of the act and increases the authorization for data gathering programs required to be conducted by the executive agencies under sections 4(a), 4(b), and 4(c) of that act.

BACKGROUND AND NEEDS

The International Investment Survey Act of 1976 provides the basic statutory authority for the collection and publication of data on foreign investment in the United States and American investment abroad. The act requires the President to conduct a benchmark survey of foreign direct and portfolio investment in the United States, American direct investment overseas at least once every 5 years, and a one-time survey of American investment overseas. Such surveys previously were undertaken infrequently, with limited detail, and often with statistics that were outdated by the time the surveys were published.

The act also requires the President to undertake a feasibility study of monitoring foreign investment in real estate to be completed within 2 years after the date of enactment of the act. No funds for the study, which has been delegated to the Department of Agriculture, were requested until a recent supplemental appropriations bill, which is still pending before the Appropriations Committee.

The act authorizes $1 million each for fiscal year 1978 and fiscal year 1979 for the activities authorized and required by the act.

Foreign direct investment in the United States, investments in which foreign individuals or corporations hold more than 10 percent beneficial interest, has become a significant economic phenomenon since 1971. In that year, the inflow of foreign investment more than doubled, and it has been maintained at a comparable level ever since.

Lack of reliable data on foreign investment has hampered public understanding and governmental formulation of policies toward such investment. Prior to the Foreign Investment Study Act of 1974, which was considered by this Committee, the executive agencies relied on projections from a survey conducted in 1941.

Although public hostility to foreign investment in the industrial and manufacturing sectors has waned, concern about foreign real estate investments has continued. Real estate transactions constitute a significant fraction of foreign investments in the United States; approximately 26 percent in the first half of 1977, according to the Office of Foreign Investment in the United States. Many purchases are made through straw corporations or agents on behalf of foreigners. Real estate law is basically State law and many transactions are never reported and are difficult to monitor. The United States does not require foreigners or their American agents to report all investments, and even comprehensive benchmark surveys cannot obtain a precise total of foreign ownership or control of American land.

This issue of ownership has become even more acute as land prices, especially farmland prices, have sharply risen within recent years. It has been alleged that foreign investment has contributed to this phenomenon with the result that young and small farmers have not been able to expand their holdings. The significance, if any, of foreign investors in this inflationary price spiral has not been determined, and it has been unclear whether the benefits of monitoring such investment would outweigh the costs of such a procedure.

Section 4(d) of the International Investment Survey Act of 1976 requires the President to conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the possibility of establishing a nationwide multipurpose land data system, to be submitted 2 years after the enactment of the act.

Unfortunately, the study has been delayed because of a lack of funding. Rather than receive an incomplete and hastily prepared report, the Committee believes that the deadline should be extended an additional year, to October 11, 1979, with an interim report due by October 11, 1978.

As a result of the 1976 act, the activities and responsibilities of the Departments of Commerce and Treasury have expanded. The Department of Commerce currently has underway a benchmark survey of American direct investment overseas which will require coverage of a significantly larger number of firms than in the 1974 benchmark of foreign direct investment in the United States. It is estimated that the cost of Commerce Department activities will be $2,538 million in fiscal year 1979, not including an estimated $440,000 for special studies authorized by the act.

Department of Treasury activities in this area were formerly funded by Exchange Stabilization Funds, but it is expected that this source of funding will terminate shortly. Authorizations hereafter must be made available for Treasury programs under this act. It is estimated that the cost of departmental activities will be $1,400,000 in fiscal year 1979.

The figures for fiscal years 1980 and 1981 are based upon the 1979 requests, plus a 6 percent inflationary factor.

LEGISLATIVE HISTORY

As introduced, S. 2928 would authorize a State assistance program and a Federal clear-

inghouse program to improve collection of data on domestic real estate investment by foreigners; would extend the reporting deadline of the feasibility study required under section 4(d) of the International Investment Survey Act of 1976 by 1 year; and would authorize appropriations of $4,300,000 for fiscal year 1979, $5 million for fiscal year 1980, and $4 million for fiscal year 1981 for activities under the act except those under the proposed State assistance program for which would be authorized $1,250,000 for fiscal year 1979, $1,500,000 for fiscal year 1980, and $1,750,000 for fiscal year 1971.

Hearings on S. 2928 were held on April 19, 1978. The Committee considered the bill on May 9, 1978, and ordered the bill favorably reported with an amendment in the nature of a substitute.

As amended, S. 2928 extends the deadline for the section 4(d) feasibility study report by 1 year, and authorizes $4,400,000 for fiscal year 1979, $4,600,000 for fiscal year 1980, and $4,900,000 for fiscal year 1981 for activities under the act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ARTHUR R. TUCKER

The resolution (S. Res. 458) to pay a gratuity to Arthur R. Tucker, was considered and agreed to as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Arthur R. Tucker, widower of Mary M. Tucker, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ETHEL M. MISNER

The resolution (S. Res. 459) to pay a gratuity to Ethel M. Misner. was considered and agreed to as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ethel M. Misner, widow of Richard B. Misner, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSION OF U.S. OPPOSITION TO IMPRISONMENT OF MEMBERS OF THE SOVIET HELSINKI GROUPS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 624.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 624 expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities and urging the President to continue to express U.S. opposition to the imprisonment of members of the Soviet Helsinki Groups.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, I believe Mr. METZENBAUM has a statement he wants to make on this resolution. Before yielding the floor, I want to thank Mr. HATCH for his courtesy in yielding.

Mr. METZENBAUM. Mr. President, it is with a feeling of great sadness that I rise to ask the Senate to add its approval to that given by the House to House Concurrent Resolution 624. This resolution expresses the strong support of the Congress of the United States for the brave struggle of Soviet dissidents to exercise the fundamental right to free expression guaranteed to them by the final act of the Helsinki conference, the universal declaration of human rights and the international convention on civil and political rights—documents to which the Soviet Union is a signatory.

I find this a sad occasion, Mr. President, because of the shocking news that has come from Russia of the conviction of Yuri Orlov, a brave man, of the curious crime of slandering the Soviet system. After a trial that can only be described as a scandal and a farce, Orlov was sentenced to 7 years in prison and an additional 5 years of internal exile.

Mr. President, let us consider the crimes of Yuri Orlov.

Orlov and other members of the Helsinki Monitoring Group published a report on a village called Ilyinka, filled with Jews who want to leave the Soviet Union, but have been refused permission.

The people of Ilyinka are happy, say the Soviets, and to say otherwise is a crime.

The Helsinki Monitoring Group revealed that the Soviet authorities have persecuted Pentacostalist religious groups. Religious persecution is no crime under the Soviet system. The crime, as Yuri Orlov has learned, is to speak out against it.

The Helsinki Monitoring Group revealed to the world that some impoverished Soviet workers wish to leave that workers' paradise in order to find better lives elsewhere. A criminal thing to report, says Soviet justice. It may be true; just do not talk about it.

Mr. President, Soviet justice has found Yuri Orlov guilty. It has found two other Soviets guilty. It has the same in store for Scharansky, for Ginsburg, and no doubt, for the many other lonely heroes and heroines who have had the uncommon courage to stand for simple decency against the might of the Soviet state. The Soviet Government may suppress these individuals. But even the KGB, cannot kill the idea of liberty. And there can be no mistake about it—the idea of liberty is loose in the Soviet Union today.

Mr. President, there is enormous irony in the "crime" for which Mr. Orlov has been convicted.

How, I ask you, can Orlov or anyone else slander a state whose own actions bring down upon it the scorn and contempt of civilized humanity?

If it is a crime in the Soviet Union to make the country look absurd, then let them put the judge in this case on trial. Let them haul Mr. Brezhnev into the dock. Let them try the secret police, the informers, and the Communist party officials who are so frightened, so insecure in their moral claim to power that they make their great country the laughingstock of the world.

Mr. President, the resolution before us today does not constitute an attempt to interfere in the internal affairs of the Soviet Union.

Rather, it represents a call to the Soviet Union to honor international obligations freely undertaken by that country.

It says to the Soviet Union that the peculiar Soviet concept of justice is not acceptable to the rest of the world.

And it says to the Soviets that they slander themselves and they slander their system by indulging in this contemptible persecution of men and women who, I am confident, will someday be honored in the Soviet Union as the prophets of a new and better time for the Soviet people.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (H. Con. Res. 624) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I will just be a minute.

Mr. President, first, I would like to express my approval of the action taken by the Senate in respect to the resolution which has just been passed by the Senate unanimously, thereby concurring with the House in the matter of the administration by the Soviet Union of the promises which it made in the Helsinki declaration respecting human rights.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that there now be a period for the consideration of routine morning business without any call of the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the

Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

HOUSE MESSAGES

At 12:21 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 11686. An Act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes.

At 3:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bill, without amendment:

S. 2370. An Act to remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 11686. An Act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND (for himself and Mr. CRANSTON):

S. 3121. A bill to amend title 18, United States Code, with respect to the protection of certain officers or employees of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 3122. A bill for the relief of Alan Hui; to the Committee on the Judiciary.

By Mr. MUSKIE:

S. 3123. A bill for the relief of Janice B. LaFlamme; to the Committee on the Judiciary.

S. 3124. A bill for the relief of Douglas Jagdish Degenhardt (adoptive name); to the Committee on the Judiciary.

By Mr. DOLE:

S. 3125. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of an involutary conversion of real property to which the special farm valuation provisions of the Federal estate tax apply; to the Committee on Finance.

By Mr. RANDOLPH:

S. 3126. A bill to amend title 39 of the United States Code to alter the organizational structure of the Postal Service; to the Committee on Governmental Affairs.

By Mr. ALLEN:

S.J. Res. 136. A joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day;" to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. CRANSTON):

S. 3121. A bill to amend title 18, United States Code, with respect to the protection of certain officers or employees of the United States, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. THURMOND when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. DOLE:

S. 3125. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of an involuntary conversion of real property to which the special farm valuation provisions of the Federal estate tax apply; to the Committee on Finance.

SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROPERTY

● Mr. DOLE. Mr. President, the Tax Reform Act of 1976 provided that certain property used in farming or a closely held business could be valued for estate tax purposes according to its current use rather than its best use. Special use valuation provides significant reductions in estate taxes for those estates which have a large portion of the value tied up in these non-liquid assets.

SPECIAL USE VALUATION

Mr. President, I am introducing legislation today which would revise the income and estate treatment of property which, after an election been made under the special use valuation rules, is involuntarily converted. In the past several years, farmers and small businesses have been inflicted with a harsh tax under the valuation rules because of these involuntary conversions.

INVOLUNTARY CONVERSION

Under the current law, there is a recapture rule which mitigates the tax benefits if the divisees dispose of the property or change its use within 15 years of the death of the decedent. The recapture insures that the property will continued to be used in a manner consistent with the special use valuation.

Mr. President, an involuntary conversion during the recapture period can produce an unwarranted tax result. The Senator from Kansas proposes that where an involuntary conversion of qualified real property takes place, no recapture of the estate tax occur if like property of equal value and use replaces the involuntary converted property.

If property of lesser value replaces the involuntary converted property there would be a proportionate recapture.

BASIS ADJUSTMENT

Mr. President, the Tax Reform Act of 1976 also initiated the carryover basis rules. The Senator from Kansas strongly opposes the current carryover basis law. One of the adjustments made in carryover basis is for the estate tax attributed to the appreciation in the property. However, the law does not provide an adjustment to basis for the recapture taxes special use valuation.

My bill provides for a further increase in basis where the property is involuntarily converted. The basis adjustment would be for the full amount of the recapture tax where there is no replacement of special valuation real property. I believe this is a step towards tax simplification and that it is justified because the transaction is not a voluntary sale or exchange.

Mr. President, the proposals which I introduced today are technical in nature. They are needed because of an oversight in the 1976 Tax Reform Act. I would hope that they receive favorable consideration and be made retroactive to December 31, 1976.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2032A of the Internal Revenue Code of 1954 (relating to valuation of certain farm, etc., real property) is amended by adding at the end the following new subsection:

"(h) Special Rules for Involuntary Conversions of Qualified Real Property.—

"(1) Treatment of converted property.—

"(A) In general.—If there is an involuntary conversion of an interest in qualified real property and the qualified heir makes an election under this subsection—

"(i) no tax shall be imposed by subsection (c) on such conversion if the cost of the qualified replacement property equals or exceeds the amount realized on such conversion, or

"(ii) if clause (i) does not apply, the amount of the tax imposed by subsection (c) on such conversion shall be the amount determined under subparagraph (B).

"(B) Amount of tax where there is not complete reinvestment.—The amount determined under this subparagraph with respect to any involuntary conversion is the amount of the tax which (but for this subsection) would have been imposed on such conversion reduced by an amount which—

"(i) bears the same ratio to such tax, as

"(ii) the cost of the qualified replacement property bears to the amount realized on the conversion.

"(2) Treatment of replacement property.—For purposes of subsection (c)—

"(A) any qualified replacement property shall be treated in the same manner as if if were a portion of the interest in qualified real property which was involuntarily converted,

"(B) any tax imposed by subsection (c) on the involuntary conversion shall be treated as a tax imposed on a partial disposition, and

"(C) paragraph (7) of subsection (c) shall be applied—

"(i) by not taking into account periods after the involuntary conversion and before the acquisition of the qualified replacement property, and

"(ii) by treating material participation with respect to the converted property as material participation with respect to the qualified replacement property.

"(3) Definitions and special rules.—For purposes of this subsection.

"(A) Involuntary conversion.—The term 'involuntary conversion' means a compulsory or involuntary conversion within the meaning of section 1033.

"(B) Qualified replacement property.—The term 'qualified replacement property' means—

"(i) in the case of an involuntary conversion described in section 1033(a)(1), any real property into which the qualified real property is converted, or

"(ii) in the case of an involuntary conversion described in 1033(a)(2), any real property purchased by the qualified heir during the period specified in 1033(a)(2)(B) for purposes of replacing the qualified real property.

Such term only includes property which is to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b)(2) under which the qualified real property qualified under subsection (a).

"(4) Certain rules made applicable.—The rules of the last sentence of section 1033(a)(2)(A) shall apply for purposes of paragraph (2)(B).

"(5) Election.—Any election under this subsection shall be made at such time and in such manner as the Secretary may by regulations prescribe."

(b) Section 1016 of such Code (relating to adjustments to basis) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Increases in Basis in the Case of Certain Involuntary Conversions.—

"(1) In general.—If there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property the basis of which is determined under section 1023 and an additional estate tax is imposed on such conversion under section 2032A(c) then the adjusted basis of such property shall be increased by the amount such tax.

"(2) Time adjustment made.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion."

(c) Paragraph (1) of section 2032A(f) of such Code (relating to period of limitations) is amended by inserting ("or if later in the case of an involuntary conversion to which an election under subsection (h) applies, 3 years from the date the Secretary is notified of the replacement of the converted property or of an intention not to replace)" immediately before "; and".

(d) The amendments made by this section shall apply to involuntary conversions after December 31, 1976.●

By Mr. RANDOLPH:

S. 3126. A bill to amend title 39 of the United States Code to alter the organizational structure of the Postal Service; to the Committee on Governmental Affairs.

● Mr. RANDOLPH. Mr. President, I am today introducing legislation which would provide for the Presidential appointment of the Postmaster General of the U.S. Postal Service. I believe a Presidentially-appointed Postmaster General would result in a more responsible Government agency.

Effective accountability allows for a necessary partnership of Government and people. People of good intensions must not mistakenly embark on courses that spring from arbitrary decisions.

To return the Postal Service to the people, our legislation will require that the Postmaster General be appointed by the President with the advice and consent of the Senate.

This provision is not directed toward the present Postmaster General, Bill Bolger. I believe him to be a diligent and dedicated official. President Carter may want Mr. Bolger to continue.

Under present law, the Postmaster General is appointed by the Board of Governors, composed of nine members, named by the President. This policy needs to be changed.

In fiscal year 1973, the Postal Service had a deficit of $13 million. This was the first full year of operations under the Postal Reorganization Act. By 1974, the deficit had swollen to $438 million. In fiscal 1975, the deficit has ballooned to $823 million. Each year the deficit grows. By the end of fiscal year 1978, it is estimated that liabilities will exceed assets by $1.9 billion.

Under the Postal Reorganization Act, the operating budget of the Postal Service is its responsibility, with the approval by the Board of Governors. The Postal Service and the Board of Governors must respond with careful weighing of the facts.

How do we achieve higher revenues and also limit costs? Mr. President, the revenues from postal rates have continued to fall while the cost of service increases.

The reduction of costs by the cutback in services is not the solution. Increases in postal rates also are a self-defeating measures. Rates that are excessive may bring in less money than lower rates.

There is, I feel, a basic need to increase efficiency and develop better cost controls.

By any yardstick, the U.S. Postal Service is an enormous enterprise, processing more than 90 billion pieces of mail a year. With a work force of almost 700,000 persons, it ranks among the largest organizations in the world. It owns and operates 3,000 facilities and leases another 26,000. There are more than 132 million square feet of owned or leased space that is being used.

Mr. President, the Postmaster General of the United States is, in fact, a member of the Cabinet. The Chief Executive of our country should name this administrator, as he does other department heads. Our bill has well-reasoned logic. I hope the Senate will act affirmatively on this proposed legislation in the 95th Congress.●

By Mr. ALLEN:

Senate Joint Resolution 136. A joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

(The remarks of Mr. ALLEN when he introduced the joint resolution appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 2204

At the request of Mr. GRAVEL, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 2204, to amend the Internal Revenue Code of 1954 to reduce the excise tax based on the investment income of private foundations from 4 percent to 2 percent.

S. 2627

At the request of Mr. GRAVEL, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2627, the nonqualified deferred compensation bill.

S. 2645

At the request of Mr. WILLIAMS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 2645, a bill to establish an art bank.

S. 2929

At the request of Mr. HELMS, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 2929, the taxpayers' bill of rights.

S. 3007

At the request of Mr. DOLE, the Senator from Idaho (Mr. CHURCH) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3007, a bill to disregard certain changes since 1975 with the treatment of individuals as employers.

S. 3038

At the request of Mr. WILLIAMS, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 3038, a bill to amend the Social Security Act to provide coverage, under the supplementary medical insurance program, of certain lenses and illumination aids for individuals suffering from severe limitation of central visual acuity and of the services of an optometrist in the prescribing of such lenses and aids.

SENATE JOINT RESOLUTION 116

At the request of Mr. PROXMIRE, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Joint Resolution 116, designating the week of June 4 as National Neighborhood Week.

SENATE RESOLUTION 323

At the request of Mr. DOLE, the Senator from Nevada (Mr. LAXALT), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 323, condemning the human rights violations within Cambodia.

SENATE RESOLUTION 461—SUBMISSION OF A RESOLUTION RELATING TO EMIGRATION OF JOHN AND LORRAINE JODWALIS

Mr. DOLE (for himself, Mr. CURTIS, Mr. HEINZ, Mr. PERCY, Mr. GRIFFIN, Mr. MELCHER, Mr. CASE, Mr. BROOKE, and Mr. ZORINSKY) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 461

Whereas John Jodwalis, also known as John Jodalkis or Jonas Juodvalkis, and Lorraine Jodwalis Vaicekauskiene, also known as Lorraine Jowalski Vaicekauskiene or Luryna Vaicekauskiene, were born in the United States in 1926 and 1924, respectively;

Whereas, the said John Jodwalis and Lorraine Jodwalis Vaicekauskiene accompanied their mother on a visit to Lithuania in 1930 where she remained until her death in 1958;

Whereas, the said John Jodwalis and Lorraine Jodwalis Vaicekauskiene, who are registered United States citizens with the Embassy of the United States in Moscow, have been requesting emigration visas from the Government of the Union of Soviet Socalist Republics for more than thirty years so that they may return to the United States;

Whereas, officials of the Government of the Union of Soviet Socialist Republics have continuously denied such visas to the said John Jodwalis and Lorraine Jodwalis Vaicekauskiene; and

Whereas, the brothers and sisters of the said John Jodwalis and Lorraine Jodwalis Vaicekauskiene (Hubert Jodwalis of Fairbanks, Alaska, Edward Jodwalis of Sarasota, Florida, Sister Bertha Jodwalis of Chicago, Illinois, and Lucille Jodwalis Ferrante of Brockton, Massachusetts) are all United States citizens who served their country honorably during World War II are eager to have their brother and sister return to the United States: Now, therefore be it

Resolved, That the Senate requests and urges the President and the Secretary of State to enter into discussions with General Secretary Leonid Brezhnev, the Soviet Ambassador to the United States, and other appropriate officials of the Government of the Union of Soviet Socialist Republics regarding the issuance of emigration visas by the Government of the Union of Soviet Socialist Republics to the said John Jodwalis and Lorraine Jodwalis Vaicekauskiene, citizens of the United States who are currently living in the Union of Soviet Socalist Republics, in order that the said John Jodwalis and Lorraine Jodwalis Vaicekauskiene may return to the United States and be reunited with their family.

SEC. 2. The Secretary of the Senate shall transmit a copy of the resolution to the President and the Secretary of State.

Mr. DOLE. Mr. President, I wish to bring to the attention of my colleagues, the plight of John Jodwalis and Lorraine Jodwalis Vaicekauskiene, two American-born citizens who have been attempting to leave the Soviet Union and return to the United States for over 30 years. This is a particularly tragic case where two American citizens have endured great hardships and suffering, primarily because they are citizens of our country.

In 1930, John Jodwalis, age 4, and Lorraine Jodwalis, age 5½, accompanied their mother to Lithuania. When the depression deepened in America, Mrs. Jodwalis delayed returning to the United States. Then came the war years and the family was unable to return during that time, although Mr. Jodwalis was in constant touch with the Lithuanian consulate here in Washington.

With the Soviet Union tightening its grip on Lithuania, John and Lorraine were falsely accused of criminal activities and in 1945 were thrown into a local prison. There they remained for 8 months without access to the outside world. It was during this time that a letter addressed to John arrived, requesting that he appear in Moscow to pick up his exit documents. No one was allowed to see them so they were unaware of this important communication. After the 8 months, John and Lorraine were sentenced and deported to Siberia, John to the mines and Lorraine to work on the railroads. They endured great suffering and hardship for the next 11 years. With the death of Stalin Krushchev investigated the Siberian cases and John and Lorraine were found innocent. In 1956, they were allowed to return to Lithuania but not the United States.

Since then, the Soviet Union has systematically turned down their requests for exit visas. On December 12, 1977, John was summoned to appear at the visa section of Ovir in Kaunas, Lithuania, and was informed that his application was reviewed but was not satisfactory. No further explanation was given them nor has it been given in the past. Yet there is nothing in their background to warrant such denials. John works as a tool and die maker and Lorraine is a medical records clerk at a health institution.

On January 24, 1978, 29 Senators joined me in signing a letter of protest addressed to Ambassador Dobrynin. On March 14, I received a reply from Mr. Kavalerov, chief of the consular division of the U.S.S.R. Embassy indicating that the Embassy was not in a position to resolve this "because such matters are not the Embassy's competence." However, they passed the letter on to the "Soviet competent authorities for consideration." It is now May—and we still have no reply. It seems obvious then, that this case has to be brought to the attention of the highest of Soviet officials.

It is for this reason that I am submitting the resolution. We cannot, in clear conscience, allow American citizens to suffer under the arbitrary and capricious rulings of Soviet bureaucrats. John and Lorraine are American-born citizens, with brothers and sisters living in four of our States. John and Lorraine have never renounced their U.S. citizenship and are U.S. citizens despite the Soviet claim to the contrary. While we might be willing to compromise and bargain with the Soviet Union on some matters, in this case, there is no room for that.

Mr. President, I hope we can help resolve this situation by adopting this resolution promptly. I urge all my colleagues to join in cosponsoring it.

ADDITIONAL STATEMENTS

THE RESULTS OF PRM–10

● Mr. HATCH. Mr. President, on August 5 of last year I made a speech in the Senate pointing out the likely disastrous consequences of Presidential Review Memorandum 10. I said that this document "may prove to be the most tragically destructive document in the Nation's history." If my colleagues will remember, this was the document that wrote off one-third of Western Germany on the grounds that it was too expensive to defend against Soviet attack. I pointed out that the academic minds, victimized by abstractions, that produced this tragic document completely overlooked the signals it sent both to the Soviet Union and to our NATO allies. It told the Russians that if they add a few more divisions, we will respond by writing off two-thirds of Western Germany. A few more tanks and we will write off the rest of Germany, and France as well. And Italy. And England. The idiots who prepared this document told the Russians: "Raise the cost to us of defending Europe, and we will write off Europe."

I pointed out that this document signaled our Western European allies to make their own deals with the Russians before we sell them out. Without the United States providing a firm defense, Western Europe is defenseless in the face of the Russians. This is particularly true of the West Germans, who are prohibited by treaty from having their own nuclear arms. The European nations are too sophisticated not to strike the best deal with the Russians that they can make. The historic 25-year pact which the West Germans and the Russians have just signed is good evidence that our allies, when faced by our betrayal, will reinterpret their interests.

Last August I said that only strong action can remedy the tragic situation produced by PRM–10 and restore the military credibility of the United States. Since that time, however, this administration has adopted a posture of halting and delaying the development and deployment of weapons systems. Apparently we have a posture of unilateral disarmament, based on the belief that if we show the Russians that we mean them no harm, there will be peace in the world.

Unfortunately, too many people in Washington cannot be realistic, because a realistic assessment challenges their wistful hopes. But, as Drew Middleton reports in the May 9 issue of the New York Times, our European allies have developed "a basic uneasiness" just as I have. Mr. Middleton states, and I quote, that European leaders "perceive an American unwillingness to reinforce the conventional and nuclear shield over Europe in the face of growing Soviet strength."

When I made my prediction 9 months ago on the floor of the Senate, some thought that it was extreme. Today, however, we see that it was not. Drew Middleton concludes his article:

> In these circumtsances, some of the more pessimistic say, it would not be surprising if some countries, such as France, turn to their own military resources, or that others seek the best terms they can get from the Soviet Union.

Once allies begin thinking in this way, they cease to be allies. This is the destructive contribution of PRM–10 to the Western Alliance. Perhaps the Carter administration will be recorded in history as the administration that, in the face of a growing Soviet threat, destroyed the NATO alliance.

I ask that the article from the New York Times be printed in the RECORD.

The article follows:

NATO VIEWING CARTER POLICIES WITH UNEASE

(By Drew Middleton)

PARIS.—A basic uneasiness about the development of the United States defense policies toward West Europe has been expressed by military and political leaders of some of the most important members of the North Atlantic Treaty Organization.

This uneasiness, expressed forcefully if anonymously by prominent figures in West Germany, Britain, France, Italy, Norway and Denmark, is matched by an increasing concern among American military officers and diplomats.

* * * "don't know what they're thinking in Washington" make the point.

Concern among the Europeans began in 1976 when Jimmy Carter pledged during his Presidential campaign to pull the Second Division out of South Korea and rejected any military support for Yugoslavia after President Tito's death.

BOMBER AND NEUTRON BOMB HALTED

The decision to halt the development of the B–1 bomber, the cuts in the Navy's construction program and the deferment of a decision on producing the neutron bomb all added to West European concerns.

These concerns about the Carter Administration's defense policies are real, but in some cases there is a tendency to use them to divert attention from defense shortcomings of the West Europeans.

For example, NATO's defense ministers, except for Portugal's chief, agreed last May to increase defense spending by 3 percent in real terms. It is now apparent, however, that only strong American pressure will gain support for this program at the NATO meeting in Washington later this month.

"You talk to the defense minister and he says, certainly, we'll up defense spending by 3 percent," a senior American official said recently, "then you talk to the finance minister and he says an increase is impossible."

SOVIET INCREASES ARMS SPENDING

NATO military and political leaders are aware of the steady growth of Soviet conventional and nuclear strength and they know that the Soviet Union, despite economic difficulties and a slowing of its annual growth rate, continues to increase arms expenditures 4 to 5 percent annually.

They also know the Soviet is having problems in moving oil and other raw materials from Siberia to its industrial areas, but that despite these problems its plane and tank strength continues to grow in Central Europe and the Russians have also deployed a new mobile, medium-range missile called the SS–20.

"They are stronger, comparatively, than they ever were," a West German general said gloomily. Is this the time to give up the neutron bomb, to abandon a new long-range bomber?"

American diplomats and senior officers do not believe that the alliance behaved particularly well during the furor over the neutron weapon. This, they point out, was a weapon designed, with NATO's knowledge, to meet a specific West European need to blunt Soviet tank superiority and, in part, to compensate for Western Europe's defense deficiencies.

WOULD CAUSE LESS HARM

The weapon also was designed, they emphasize, to replace tactical nuclear weapons that would cause much more harm to people and property than the neutron weapons would.

While West German and French military officials publicly repeat the familiar charge that the United States is trying to dominate the Western alliance, in private they express fears that Washington is not doing enough.

President Carter's decision last June not to build the B–1 bomber shook West European air forces, which had taken it for granted that the United States would build a superior weapon to offset development of a new Soviet bomber, which has been codenamed Backfire by NATO.

The American argument that cruise missiles, relatively inexpensive drone rockets that could be launched from the land, sea or air, would compensate NATO defenses for the abandonment of the B–1 did not appease the critics. They stress that the cruise missile will be vulnerable to improved Soviet radar systems and antiaircraft weapons and that it is not a proven weapon as the B–1 was.

WILL RESTRAINT PRODUCE RESTRAINT?

"Does the Administration really think, after all these years," a senior British officer asked, "that restraint in the production of weapon systems will produce an equal restraint on the Soviet side?

"Have they slowed down the production of Backfires, have they reduced their interceptor force, are they restricting production of the SS–20? Of course not."

Officials in the maritime nations are highly concerned over the reductions in American naval construction, especially where the cuts affect ships—such as destroyers and frigates—designed to safeguard sea lanes.

The Carter Administration says the United States can transport men and equipment to Europe by air in the event of war. But NATO members feel that the North Atlantic must be kept under Western control.

West European officers freely admit the shortcomings in their national defense programs. But they add that the deficiencies, individually and collectively, are minor compared with what they perceive as an American unwillingness to reinforce the conventional and nuclear shield over Europe in the face of growing Soviet strength.

In these circumstances, some of the more pessimistic say, it would not be surprising if some countries, such as France, turn to their own military resources, or that others seek the best terms they can get from the Soviet Union.●

THE MAINE INDIAN LANDS CLAIM CASE

● Mr. MUSKIE. Mr. President, two recent columns regarding the Maine Indian lands claim case capture quite well the complex and sensitive nature of this matter. I ask that columns by John Day, Washington correspondent for the Bangor Daily News, and by Peter Slocum, Augusta reporter for the Associated Press, be printed in the RECORD along with a copy of a letter on this subject I recently sent our Governor.

The material follows:

STATE'S LAND CLAIMS DEAL MEANS HEADS WE WIN, TAILS YOU LOSE

(By Peter Slocum)

AUGUSTA.—The state's latest plan for dealing with the Indian land claims is full of obvious practical advantages for the state government.

But it is full of problems and risks for the federal government, and federal opposition to the plan should not come as a surprise.

If the plan were implemented, and the Indian claim to two-thirds of Maine were transferred to the federal court of claims, then the state government would be free and clear of any liability. Essentially that means that if the Indians won in court—which state experts say is impossible and federal and independent experts say is more than possible—the federal treasury would pay the price of that victory.

It would be federal money, and no land at all.

That's great if you're the state government.

But it's not so great if you happen to be the federal government.

Already the Passamaquoddies and Penobscots have been persuaded to accept an out-of-court deal limited to $25 million in federal money, about $1.7 million in state money over 15 years and some 300,000 acres of land. The land is worth much, much more than that, although it is hard to say how much until specific parcels and acres are identified. It is safe to say the proposed settlement is worth something less than $100 million.

If the case went to the federal court of claims, as proposed last week by Gov. James B. Longley and state Attorney General Joseph Brennan, the federal government could wind up losing many times the price of that negotiated settlement. The land claim is for about 12 million acres and millions of dollar in trespass damages.

Suppose the Indians won just $10 per acre and nothing in damages. That's already $120 million, and all out of the federal pocket.

Taking the risk of losing that much, if you are the federal government and think the Indians have a good legal case, is not such a good bet, particularly if you can buy off the opposition for a fraction of the cost.

This practical accounting sidesteps the question of moral concerns on both sides, of course. And it avoids the question of whether an out-of-court settlement can be peacefully and happily accepted by the people of Maine. Longley is not the only one expressing such concerns.

But U.S. Sen. Edmund Muskie's response to the Longley-Brennan plan last Friday indicates that Muskie will not push in Congress for a bill to transfer the case to the court of claims. And without Muskie's backing, such a plan can reasonably said to be dead in the Congress, which is the only body with the authority to shift the claims case.

So that puts the case back where it was before the latest Longley-Brennan plan, and really where it has been for several years now. Longley and Brennan must decide whether to fight or negotiate.

That decision involves any number of factors. But two must be uppermost in their minds.

First, how good is the state's case? Brennan is becoming increasingly isolated in his belief that the state would prevail in court.

Second, could the court suit have a serious and damaging economic impact on land transactions in the claims area, regardless of the final result? If there is a real chance that home mortgages, school bonds and the like will be frozen by the very fact of an active court case, then that is a pressure operating in favor of negotiations.

One result of Muskie's decision to reject, for now, any congressional action to transfer or partly settle the claims is to keep that pressure on the state.

FACING UP TO IT

(By John S. Day)

The Maine Indian land case has entered an extremely sensitive and critical period. State officials who have protested for more than two years that the tribes are not entitled in "one dollar or one inch of land" suddenly have taken up face-to-face negotiations with the Indians.

The two men who took the strongest position against a negotiated settlement—Gov. James B. Longley and Atty. Gen. Joseph E. Brennan—are the officials who initiated the talks.

There are some things which should and should not be said about this situation.

For openers, it's about time for the politicians of the state to exercise caution.

More rhetoric about getting shafted by the Carter administration or about what a snake in the grass the state is, dealing with an Indian attorney Thomas Tureen is counterproductive at this point.

So are any more so-called magical new discoveries by amateur historians claiming to blow the Indian case out of the water.

The plain fact is that over the past decade a long line of State officials have botched this case and done a poor job of protecting the interests of the people of Maine.

The suit probably could have been settled for a few hundred acres outside of the Passamaquoddy Reservation at Pleasant Point during the 1960s. Instead of negotiating in good faith, Maine's official response was to bust the attorney who raised the claim issue on a drug charge and run him out of the State.

As the case developed and became more serious, the state legislature consistently refused to face up to the problem and appropriate the money necessary to develop an adequate defense. It was not until the fall of 1976 that state attorneys even began in-depth historical research into the issue of tribal claims.

When the possibility of a "doomsday" scenario began to emerge during the summer of 1976, the state appealed to the Carter administration for a ball-out.

The president then appointed a fair man to evaluate the case, former Georgia Supreme Court Justice William Gunter. He recommended a reasonable settlement.

It was a proposal which was tough on both sides, as most good compromises are. But from a legal strategy point of view, it was much tougher on the Indians than it was on the state.

The administration, realizing that the compromise was far less than what the Indians were seeking, threatened to introduce legislation in Congress to extinguish the Maine claims if the tribes did not accept the compromise.

White House officials were stunned when the state, as well as the Indians, turned their backs on the settlement.

Maine would have had to give up 100,000 acres under the Gunter proposal. Such land, if purchased on the open marked, would cost about $12 million. The state could have amortized that total price in seven years, using the $1.7 million it currently appropriates to the tribes for social services. Once the Indians became wards of the federal government, the state would save that money although it was recommended that the funds be continued for a while during the transition period.

Tureen thought the Gunter plan was a horrible deal and screamed bloody murder. The threat of a presidential extinguishment, he argued, was an unfair club to force the tribes into a one-sided agreement.

Instead of buying the Gunter plan, Maine's political leaders raised a hue and cry about how the White House was trying to give Baxter State Park to the tribes.

They played right into Tureen's hands.

When the White House decided to tackle the problem again last fall, the state stayed away from the negotiations. Edward Bennett Williams, one of the top lawyers in the country and more than a match for Tureen, volunteered his assistance to the state. He could have joined those talks, but he didn't Tureen did. What emerged was a White House recommendation which essentially was authorized by the tribes.

This time, the White House club is directed at the state and not at the tribes. Carter has made it clear that he will veto any legislation proposed by the state to extinguish the tribal suit.

The clock is running out.

Longley, Brennan and Tureen have about 90 days to wrap this thing up.

Quite frankly, the White House is skeptical there will be an acceptable resolution of the suit before the case goes to trial beginning on July 1.

Longley and Brennan, they say, have basically retreated to their original position of "not one inch or one dollar." The governor, in addition, has raised the issue of tribal intentions to establish a nation within a nation.

On or about July 1, Indian attorneys will, as a routine procedure, file motions of lis pendens on the disputed lands. Lis pendens is "litigation pending" in Latin. It's a lien, or attachment upon the deeds of every piece of land in the claim area.

Shortly thereafter an obscure attorney in a New York or Boston bond underwriting firm will write a legal opinion assessing the impact of the Maine suit on municipal and state bonds.

This is the so-called "doomsday" scenario over which everybody has expressed concern.

It's not an exercise in theory.

This has happened in Mashpee, Mass.

The residents of that Massachusetts town have been unable to sell property or float bonds for more than two years.

"The real tragedy right now is that nobody is going to believe any of this until it actually happens," said one White House official Friday.

Direct negotiations can be an incredibly difficult and complicated procedure. The Vietnam peace talks took more than a year to determine seating arrangements around the negotiating table. It's been seven months since Anwar Sadat made his dramatic visit to Israel. Peace in the Middle East is no closer today than it was before that gesture.

The current political sentiment in Maine is "not one inch or one dollar."

Sentiment can change overnight, however. The relevant question is how a resolution of the case will stand up to the test of history.

Longley is a popular governor now. Brennan is a leading candidate to replace him.

John Lindsay was a popular mayor of New York until the city discovered that he negotiated union contracts which would bring the city to the brink of bankruptcy a decade later.

Lyndon Johnson won one of the greatest political landslides in history in 1964, only to be driven from office four years later because his hardline policies on Vietnam divided the country.

Longley's place in history and Brennan's political future will depend upon how they resolve the Maine Indian case.

The people of Maine expect them to be tough negotiators. They don't want a Lindsay type of giveaway. On the other hand, an inflexible posture similar to that put forth by LBJ in the 1960s could result in disaster.

Creative leadership will be at a premium during the next 90 days.

Neither Congress nor the White House will take any action to bail out the state until Maine political leaders and the tribes reach some sort of consensus.

This is what is going on right now.

It would be nice to think that the U.S. Marines and Texas Rangers are going to show up at the last minute with that fabled "total responsibility" solution that candidates for governor keep talking about in Maine.

Don't bank on it. The White House won't buy that kind of package. It's doubtful that Congress would either.

As Jimmy Carter recently noted, life is not fair for everybody.

At some point, you must face up to the realities of life which is what state officials are going to have to be doing during the next 90 days.

U.S. SENATE,
Washington, D.C., May 11, 1978.

Hon. JAMES LONGLEY,
Governor, Augusta, Maine.

DEAR JIM: I want you to know that I appreciate the efforts you are making to resolve the Indian Land Claims problem.

I particularly appreciate your willingness to engage in talks with representatives of the Indian tribes. Progress is understandably slow, but I am reassured by your description of the talks as being useful and constructive. If that climate continues, and all parties persist in seeking an accommodation, I believe it can be achieved.

As I advised you on Tuesday, I had a meeting with Tom Tureen and other representatives of the tribes following the delegation meeting with you. I repeated to them what I said in our meeting—that if each of the parties is prepared to move its own position in the direction of an accommodation, the job can be done. I found them responsive to that point.

This isn't to say that movement will be easy or that each of the parties will not strive to get the best deal possible. Nevertheless, I believe this approach could well produce the cleanest, quickest, and fairest result.

In the meantime, you have solicited the delegation for our advice on proceeding now with legislation which would transfer jurisdiction to the U.S. Court of Claims, extinguish the claims for land and convert them to money claims, and transfer total liability from the State and the landowners to the U.S. Government. The Court of Claims would determine the validity of the claims and the amount of liability, if any, to be assessed against the United States. If the tribes are successful, that could amount to sums substantially above any that are being suggested in current settlement proposals.

At the same time, we are asked to consider legislation which has been prepared by the White House which would extinguish the claims against land holdings of up to 50,000 acres in exchange for a Federal payment of $25,000,000.

My reaction to both of these legislative initiatives is that they would be premature at this time. Each could be provocative and disruptive of the talks now under way.

Those talks, if successful, would presumably require legislation to implement the result. Such legislation, if agreed to by all parties, would have a maximum potential for expeditious approval by the Congress.

If the talks are unsuccessful, the legislative challenge would be more difficult, prolonged and unpredictable for reasons which I outlined in our last meeting. The two proposals I have referred to above will certainly be considered by Congress. There may be others which we should be exploring.

What we must seek in that event is legislation which has a good chance for quick approval and which can lift the threat of economic disruption while the issues are being decided in one forum or another. I assure you that I will apply myself to that search.

Finally, if the talks are unsuccessful, we can only speculate as to what the District Court will decide with respect to further continuances of the case now pending. If the Court decides, in the absence of talks or agreement by the parties, to proceed with the litigation, it will presumably instruct the Department of Justice accordingly; and we may find ourselves pursuing a judicial and a legislative remedy at the same time—both of them time-consuming and unpredictable.

In any case, I share with you a continuing concern in this matter. I will continue to apply myself to the problem to the best of my ability. My objective?—to get the job

done as cleanly and quickly as possible.

Sincerely,

EDMUND S. MUSKIE. ●

NUTRITION RESEARCH PRIORITIES

● Mr. BELLMON. Mr. President, recently Senator LEAHY and I held field hearings of the Nutrition Subcommittee of the Agriculture Committee in Oklahoma City concerning food and nutrition programs. As was the case in an earlier field hearing in Vermont, we both were impressed with the impact and scope of present efforts and with the opportunities for improvement in this Nation's efforts to provide optimal nutrition.

One of the Oklahoma witnesses was Dr. Esther Winterfeldt, head of the Department of Food, Nutrition and Institution Administration at Oklahoma State University. Dr. Winterfeldt is the president-elect of the American Dietetic Association. She spoke to us about nutrition research priorities and needs. At this time, when the influence of nutrition upon well-being and health is becoming more widely recognized, and when the size and scope of our national feeding programs are reaching substantial proportions, it is imperative that we move to close the research deficit in nutrition with promptness and effectiveness. Dr. Winterfeldt's comments should be immensely helpful to those Members who are taking an active concern in nutrition and health matters, and I am submitting her remarks for that reason and ask that they be printed in the RECORD.

The remarks follow:

NUTRITION RESEARCH NEEDS

I am pleased for this opportunity of discussing with you what I consider to be high priority areas of need in nutrition research. You have heard several areas relating to clinical nutrition discussed by Dr. Metcoff and my remarks will, I believe, reinforce those he has made but concentrate primarily on nutritional aspects of human needs and human behavior under so-called "healthy or normal" conditions.

My intent is to cover three major areas as follows: 1. Human nutrient requirements, 2. Foods and the nature of the food supply, and 3. The consumer and Nutrition Education.

Several reports have been issued within the last two to three years by various governmental agencies regarding the present status of nutrition research funded and administered by federal agencies. In 1976, the Congressional Research Service issued a report indicating that the responsibility for nutrition research is scattered among several agencies without much coordination and the total being spent is probably inadequate in light of the increasing challenges confronting nutrition science. In 1974, about 2.6% of the total USDA Agriculture research budget or $10 million was spent on human nutrition research. However, if federal and state funding for animal versus human nutrition research were compared, about $54 million was allocated for animal nutrition and $18 million for humans. We regard this as a sizable gap.

In September, 1977, the Office of Science and Technology presented a report showing that some $112 million would be spent on nutrition research in 1977. Most of this research is conducted by the National Institutes of Health (80 million), the Agriculture Research Service (14 million) and FDA (4 million). There is little formal coordination of research planning or joint conduct of nutrition research by federal agencies and substantial gaps were said to exist.

In March, 1978, a report from the General Accounting Office was issued which incorporated an earlier 1977 GAO report with further data. The estimates show that each year between $73 and $117 million is spent federally on human nutrition research. This represents about 3 percent of the 3 billion spent annually on all research in Agriculture and Health.

These figures give an indication as to present federal funding of research. It is imperative that the true priority areas of need be recognized and given emphasis for optimal placement of research funds.

Nutrition today is complex and multidisciplinary. Nutrition plays a vital role in health—indeed, life span, the human intellect and quality of living are closely associated with nutritional practices throughout life. Nutritional deficiency diseases such as scurvy and beriberi have been conquered in this country but now we die from degenerative disease conditions believed related in more subtle ways to nutrition and food intake. Nutritional deficiencies are more likely to be subclinical and result in impaired function and lowered health status.

HUMAN NUTRITIONAL NEEDS

The accepted standards for nutrient needs for Americans are the "Recommended Dietary Allowances" developed by the Food and Nutrition Board of the National Research Council. The allowances are revised and updated each five years. The figures are based on the best available evidence from existing research and represent value judgments of designated experts on the Food and Nutrition Board at that point in time. Each time the allowances are issued (a revision is due in 1978) more nutrients are added and the amounts of others are changed, clearly indicating we do not have the final answers on actual human nutrient requirements. While the RDA's identify nutritional needs in health, we do not have sufficient knowledge about the actual nutritional needs of persons at various stages of the life cycle, under abnormal conditions of chronic or acute illness, or of the interrelationships between nutrients and drugs and between other life style factors such as exercise and stress. In a recent study at OSU, it was found that Nursing Home residents in five Oklahoma City homes were receiving up to 22 separate drugs and medicines with, in most instances, no monitoring of effects on nutritional status although interactions are known to exist.

Human requirements for trace minerals, particularly zinc, chromium, and selenium are only beginning to be known. What is known is that all of these are probably essential in human nutrition but what the role is and how we get them best from foods is largely unknown.

We know there are critical age periods of life in which nutritional status is of paramount importance. These are during early childhood, during adolescence, in old age and during pregnancy and lactation. Further, the woman during the child bearing years of life is more susceptible to anemia due to iron deficiency. During fast growing periods of life, the need for most of the nutrients is greatly accelerated—the amount, the effect of deprivation, the motivational factors to assure intake are all areas of research need.

Differences among racial groups in regard to nutritional needs is also becoming increasingly recognized. Dr. Donna Bose and co-workers at OSU have conducted research showing that some 75 to 80% of adult native Oklahoma Indians have some degree of clinically identifiable lactase deficiency and have established the age of onset. In another Masters degree study, with Dr. Kelly West, dietary intake and bland lipid measurements with diabetic and non-diabetics again pointed to the higher incidence of obesity, diabetes, and elevated lipids among Southwestern Plains Indians in Oklahoma.

In Oklahoma we know very little about the actual nutritional status of the population and we feel that research which would help establish this would form a basis for nutrition efforts of direct applicability to the citizenry. HANES survey data has been generally unavailable and we were not included in the Ten State Nutrition Survey. Identification of those at nutritional risk and the factors involved would allow for effective nutrition education and prevention programs.

FOODS AND THE NATURE OF THE FOOD SUPPLY

Factors which influence the food supply and the nutritive value of foods are known to be diverse. The many foods now on the market which are "made" products or are highly processed make many of our food value reference tables unusable and leave questions about their actual nutritional value. Over half the food Americans eat is now processed in some way. We are told that of the approximate $110 billion spent on food in this country, $30 billion last year was spent in food service establishments outside the home. What is the nature of this food? How is it handled in regard to cleanliness and safety? How much salt, fat, sugar has been added? How long is it held between purchase, cooking and serving? Crucial questions.

We need to know more about the effects of using whey, collagen, mechanically deboned meats, soy beans, sugar substitutes in foods. The effects of other additives for fortification and enrichment of foods or for other purposes needs to be constantly assessed. What will be the long term effects of foods made from something else entirely such as yeasts grown on coal tar products and other.

Standards for human requirements, to have practical application, means we must have more current knowledge on the nutrient composition of foods as consumed and the extent that nutrients are biologically available for absorption and body use. Research is needed to continually update and expand food composition data and to develop improved methods for determining food composition and bioavailability.

THE CONSUMER AND NUTRITION EDUCATION

People select foods for many reasons—many of them unrelated to the nutritional content. As food becomes more complex and varied, these choices may become more critical, leading to the need for the best possible food and nutrition information.

The identification of cultural, social, demographic, institutional and economic factors most influencing food choices constitute a high priority area of research. You will be hearing shortly about the WIC program in Oklahoma. It has become obvious that differing eating patterns exist within the state. For instance, why is there an incidence of anemia of 90 to 97 percent of the children in WIC in certain areas of the state and only 70% or less in others? And why does the incidence vary from 40 to 93% among pregnant women on the program? We need research to establish whether this relates to food habits or a combination of factors and what causes such wide variability.

We share the concern of the School Food Service people regarding the best ways to use the school food service programs to promote nutrition education. We need to know about the best approaches, the best materials, and who should do it.

At present, nutritional labeling information is provided on infant and special dietary foods and on many other foods through vol-

untary industry programs. Ingredient labeling by order of predominance or by amount is mandated only in part. We need to sort out what consumers would really like to know on the food label and how best to give it to them.

We need to know much more about consumer motivation—how to convince people to apply principles of good nutrition when it comes to buying, preparing and eating food. How do we promote good nutrition in the face of highly advertised, well financed, colorfully presented foods with the intention of selling a product and which may or may not be nutritious?

The whole area of nutrition misinformation and outright food faddism is of tremendous concern and high frustration to the nutrition and scientific community. We would like to see research which would provide ammunition against fad promoters and their products; approaches toward positive reinforcement of behavior for good nutrition habits rather than the glamorizing of dangerous diets, the disproportionate emphasis of gadgets and supplements; and the instilling of distrust in the scientific community.

In summary, the following priority areas of need in nutrition research are presented:

Human nutrient needs in health, under abnormal conditions and during critical periods of the life cycle.

Nutritional assessment of the population.

The nature of the food supply; its nutrient content and bioavailability.

The effects of processing on foods.

Factors affecting consumer behavior relating to food and nutrition.

Optimal means of nutrition education.●

COMPETITIVE ADVANTAGES TO FOREIGN COUNTRIES

● Mr. RIEGLE. Mr. President, I ask that a letter I received from Mr. William C. Marshall, president of the Michigan chapter of the AFL–CIO, be printed in the RECORD for the benefit of my colleagues.

Mr. Marshall's letter succinctly outlines the problems associated with American policy that gives a competitive advantage to foreign countries. I hope that the Members of the Senate will give Mr. Marshall's letter their closest attention.

The letter follows:

APRIL 19, 1978.

DEAR CONGRESSMAN: As you are aware, in recent years decisions of the Federal Communications Commission have permitted telephone subscribers to purchase their telephone equipment from any supplier of their choice rather than the local regulated telephone company. As a result of this decision, many firms began importing telephone equipment from outside the United States.

At least 100,000 American jobs in manufacturing, supply, and installation of telephone terminal equipment are at stake. In recent months, the regulated telephone industry has filed a proposal with the F.C.C. suggesting the "primary instrument concept." In simple terms, this concept would require all single line subscribers to have at least one instrument that was supplied and maintained by the local telephone company.

The competition between telephone equipment suppliers is currently unfair. Some companies are allowed to provide equipment while not being subject to public utility commission regulation. If this situation is to continue, fairness and equity would demand deregulation of all terminal equipment.

Our current imports policy is encouraging the telephone equipment supply business to go the way of the apparel, shoe, steel, and other industries—to the detriment of the American worker and American public.

Our position, and the position of our C.W.A. members in Michigan is that end-to-end service with rate-leveling is in the public interest, and that legislative and regulatory actions should make these matters the priority. In fairness, the telephone companies and other equipment suppliers (known as "interconnect companies") should either be covered by tariffs or detariffed on the same terms; the logic of the concept of "competition" demands equal treatment. In the inter-city private line services, the competitors who use portions of the telephone network should be required to pay a "network access charge."

The only logical course for us is to support the "Primary Instrument Concept" as the only practical means of keeping some portions of the terminal equipment market within the end-to-end service concept. The alternative would be fragmentation of telephone service to the degree that the telephone company would become only a wire-service company.

We hope you will give this letter your serious consideration as this issue comes before you.

Sincerely,

WILLIAM C. MARSHALL,
President.●

TAXPAYER'S BILL OF RIGHTS

● Mr. HATCH. Mr. President, in recent years many classifications of people have seen a great advancement in their legal rights—minorities, the handicapped, women, students. the aged, criminals—but not the taxpayer. As scholars have recently pointed out, the burden of taxation borne by the average taxpayer is greater than the burden that was imposed by feudal lords on the medieval serf. And the taxpayer today may have even less legal protection than did the serf. Today the IRS is the only Government power that can summon Americans to make appearances at its convenience, arbitrarily seize their assets, and subject them to interrogation without informing them of their rights. In an age when the powers of the CIA, FBI, the police, and employers have been significantly curtailed, the IRS is an anomaly. Its powers are closer to that of a despot than any other institution in our society.

The combination of the growing size of the tax bite and the proliferating horror stories of IRS seizures and mistreatments of defenseless taxpayers does not augur well for the continuing respect of the American Government by its own people. As resentment grows, voluntary tax compliance—the backbone of our system—will decline.

To restore confidence to our tax system, to subject the IRS to constraints more in keeping with our character as a democratic, self-governing society, and to extend to taxpayers rights that are more equal to the rights enjoyed by other classifications of people in our society, I welcome S. 2929, which was introduced on April 17, 1978, by Senator HELMS, and I support the bill as a cosponsor. We must bring the taxpayer's relationship to the IRS up to date with today's legal norms.

Mr. President, S. 2929, the taxpayers' bill of rights, would:

First. Require that IRS agents inform a taxpayer of his rights to counsel, to remain silent, and that any statement made might be used against him;

Second. Provide for the awarding of attorney's fees in cases won by the taxpayer;

Third. Establish an Assistant Commissioner for Taxpayer Services as an ombudsman within the IRS;

Fourth. Provide for taxpayers assistance orders to postpone seizures or actions by the IRS that would impose undue hardships on taxpayers;

Fifth. Require the publication of clearly written materials outlining all taxpayers' rights in cases of audits, assessments, and appeals;

Sixth. Limit IRS investigations to enforcement of the tax code;

Seventh. Provide that a taxpayer could set a reasonable time and place for interviews with IRS agents; and

Eighth. Provide clear authority for the General Accounting Office to audit regularly the efficiency, uniformity, and equity of the administration of internal revenue laws.

These are all consistent with due process and established rights that we take for granted in other relationships between the people and the Government.

The rapid growth in income taxation since it was introduced in 1914 has greatly reduced peoples' rights in the fruits of their own labor. This great reduction in the rights of people to their own labor, their own wages and salaries, and to the fruits of their own savings must be balanced by bringing the taxpayer's relationship to the IRS up-to-date with today's legal norms.●

THE TERROR IN CAMBODIA

● Mr. MUSKIE. Mr. President, 3 years after the Khmer Rouge victory in Cambodia, the nature of the regime and the fate of the Cambodian people are no longer in doubt. Several recent news articles suggest that the worst rumors are in fact a reality.

President Carter has called Cambodia "the worst violation of human rights in the world today."

It is more than that.

It is an appalling demonstration of the real meaning of a political ideology with no civilized concept of individual human worth.

A recent article in the Wall Street Journal describes the human costs of the totalitarian transformation of Cambodia and reminds us forcefully of our responsibility to speak out to preserve the elementary principles without which civilization cannot survive.

I ask that Leo Cherne's article, "The Terror in Cambodia" be printed in the RECORD.

The article follows:

THE TERROR IN CAMBODIA

(By Leo Cherne)

"It appears to have taken six years to kill nine million human beings in Nazi Germany and in the countries it occupied. It appears to have taken one day to inflict catastrophic disaster on more than three million Cambodians."

With these words three years ago Freedom House, the human rights monitoring organization, filed an appeal with the UN Com-

mission on Human Rights for an inquiry into the events in Cambodia after the Khmer Rouge took power there in 1975. The UN body took three months to respond to that Freedom House appeal—negatively.

Until recently, a few books and articles focused on Cambodia, but no government leader or international body sought to penetrate the silence. Only Chaim Herzog, Israeli ambassador to the UN, raised a solitary voice on the floor of the United Nations in a futile effort to draw attention to the fact that in the new Democratic Kampuchea, "three to four million people fell into a deep, black, echoless hole."

In July of 1977, a House International Relations subcommittee initiated a congressional inquiry into the horror of Cambodia. This spring the Canadian government denounced the killing and suffering there. Now President Carter has called the Cambodian government "the worst violator of human rights in the world today," and an international inquiry sponsored by Norway's four political parties has invited witnesses from many countries to testify on the matter in Oslo. But in the slow pace of world reaction to events in Cambodia there is a morbid parallel to the international blindness that first met the news of the camps in Nazi Germany in which Hitler's "final solution" was being pursued.

What is it we know without doubt about the Cambodia of the last three years? We know that during the first few hours after the Khmer Rouge victory and the establishment of Democratic Kampuchea, every citizen, whatever age or sex, who inhabited any of the towns and cities in that country was compelled to evacuate his or her home. They took with them only what they could physically carry on their march into the jungle countryside.

We know they traveled an estimated 65 miles, and that there were no provisions for their sustenance along the route. We know that the pregnant women in the last days of their pregnancy gave birth along the roadside, and that few of these children survived the ordeal.

NOT BLINDFOLDED

There were roughly 20 international journalists in Phnom Penh at the time of the Khmer Rouge victory. They were interned in the French embassy for the next couple of weeks, but they were not blindfolded. Diplomats from other embassies were added to their company in that compound, as were the foreign doctors who had been serving in the hospitals of that war-swollen city with a population of somewhere between three and four million, nearly half the population of the entire country.

We know from the reports these journalists filed when they were finally released that doctors who were in the midst of surgery when the evacuation came were in some instances compelled to leave their work unfinished. We know that where patients were unable to leave their rooms, some were dropped to the pavement from the windows. We know that others were wheeled in their hospital beds by fellow patients able to do so or family members who rushed to the hospitals to help evacuate their sick relatives.

We know from that day to this, Phnom Penh and every other city and town in Cambodia have remained deserted and crumbling. We know that soldiers of the Khmer Rouge emptied and looted the stores in each of the towns, some of them tiny indeed, along the road the the journalists traveled when they were transported out of the country. We know from a handful of Scandinavian diplomats who were permitted to visit Phnom Penh two months ago that an estimated 30,000 people are trucked in and out of the city daily to perform certain tasks which are still regarded as essential, particularly in the manufacture of certain basic materials—cement, weapons, fabric—that the state continues to require.

The vast and total nature of the reordering of all Cambodian life can be seen in just a few details. Typically, the population has been reorganized into groups of 10, with one supervisor and three cells of three persons each. Each cell member is responsible for the behavior of the other two. People who make too many "mistakes" are led away and never seen again. The constant fear of death keeps everyone working long hours, the more able-bodied far from their homes and the more frail closer to home.

The new regime has, apparently, deliberately tried to expunge family loyalties in order to forcibly substitute new ones—to the commune and to the state. Refugees claim that their traditional song, folk ways and even religion have been stripped away. Cadre members reportedly enjoy special privileges, and avoid many of the hardships of the common peasants. Edward Shawcross, the gifted foreign affairs correspondent for The London Times, wrote in The New York Review of Books that "the barbarous cruelty of the Khmer Rouge can be compared with the extermination of the Kulaks or the Gulag Archipelago."

Even desperation has its levels of comparative intolerableness. If we are to understand the sheer terror which must have driven a hundred thousand Cambodians to escape into the arms of traditionally hated Vietnamese, we must first refresh our sense of the desperation that presently exists in Vietnam.

To this day, some three thousand to four thousand Vietnamese per month crowd into anything that will float, knowing that they risk their lives if their plans to escape are discovered or frustrated. Of that number, an estimated 50% drown at sea. Despite these near-unbearable odds, the flight from Vietnam continues, even as the flight of Cambodians into Vietnam is surely going on. Yes, there is a pecking order even in hell; and at the bottom of this one stand the Cambodian people.

At first, certain Western observers asserted that the purpose of the evacuation of the cities was to assure that the rice fields destroyed by the war be quickly restored, in order to avert mass starvation. These commentators pointed out that the survivors had been herded into units working from dawn to dusk clearing forests, digging irrigation canals, preparing for the planting of rice.

But there was a flaw in the attempt to ascribe such humanitarian purpose to the Khmer Rouge: There was a greater supply of vegetables and other staples stored in or near Phnom Penh than in the countryside to which people were evacuated. And not for eight months, when the monsoon had passed, was there the possibility of producing even the first rice crop in the countryside.

Mr. Shawcross, when he wrote on Cambodia two years ago, accepted the "rice" explanation for the forced march. But by this spring, he had concluded in a new article that the only satisfactory explanation for what has happened must be the prospect of war, feared or desired, with the Vietnamese. Certainly Pol Pot, secretary general of the Cambodian Communist Party, refuted the case that the Khmer Rouge were acting out of compassion when he spoke about the evacuations in an address he made on a recent visit to Peking.

THREATS TO SECURITY?

Not once in his address did Pol Pot speak of the necessities of food production. Instead, he explicitly declared that "in our Cambodian society," there are "life-and-death contradictions, because enemies in the shape of spy rings working for imperialism and international reactionaries are still planted among us to carry out subversive activities against our revolution." The purpose of the evacuation, he said, had been to break up such threats to Cambodia's security.

In all of this, the parallels to Nazi Germany are chilling. Granted, Hitler's vision and methods of destruction were those of modern technology, while those of the Khmer Rouge are those of an agricultural primitivism. But consider: The ruthlessness these two states have employed in the extermination of their enemies is unique in its vast and wanton disregard for human life. The ruthlessness in each country has come about in service to an ideal—of racial purity in Nazi Germany, of political purity in Democratic Kampuchea.

And each took elaborate pains to veil the more brutal aspects of "the plan." Since the Cambodians' plan was even more total than the Nazis', even more was covered with secrecy—even the identity of the leaders of the Ankha, as the leadership group was called until it established itself well after its victory as the Communist Party of Cambodia.

The secrecy and the horror have made the new Cambodia hard to comprehend. One of the Scandinavian diplomats who finally saw it said of his experience, "It was like a nightmare. It is difficult to believe it is true." But what foreigners may find difficult to believe, Cambodians are required to express quite explicitly. These are the words of their new national anthem:

"The red, red blood splatters the cities and plains of the Cambodian fatherland,
The sublime blood of the workers and peasants,
The blood of revolutionary combatants of both sexes.
That blood spills out into the great indignation and a resolute urge to fight.
17 April, that day under the revolutionary flag,
The blood certainly liberates us from slavery."●

THE IRS THREAT TO FRINGE BENEFITS

● Mr. HATCH. Mr. President, the current issue of U.S. News & World Report states that the IRS is drawing up new regulations that would result in the taxation of 40 fringe benefits. We have heard a lot about the three-martini lunch, but the IRS appears to be after ordinary employees. As the U.S. News article says:

Just about every employee in the country appears to be a potential target.

I hope my colleagues in the Senate will notice how many of these fringe benefits belong to poorly paid people. How many "fat cats" work as store clerks? None, but if we let them, the IRS will tax store clerks on the price discounts that their employers grant them.

College professors for the most part are not highly paid people. Many of them are paid salaries that are less than the average income. They spend their lives educating other people's children, and have great financial difficulty providing an education for their own children. This is particularly the case in many small private colleges. Therefore, many private colleges do not charge tuition for the children of their employees. The IRS wants to tax this tuition as income to the parents of the children who benefit. Is equity the motive behind this IRS attack on private education or is it simply the self-interest of the State working to solidify its monopoly over education?

Another fringe benefit that the IRS wants to tax as personal income of the recipient is free parking on employers' premises. Who does the IRS think it is

fooling? The proportion of executives to the total work force of a company is small. The IRS cannot raise any tax revenues by taxing a few executives on their parking places. Unless the IRS intends to apply this "reform" in a discriminatory way, the brunt of it is going to fall on the ordinary employee. When I think of the expense of parking areas that surround many manufacturing plants, I see this "reform" as a union tax.

The IRS even wants to tax on-the-job training. Can you believe it? On-the-job training. The employee is not charged for it, so he may have to report it as taxable income. Where will they get the money with which to pay taxes on on-the-job training? This "reform" is nothing but the erection of a tax barrier to the upward mobility of people. It is guaranteed to do nothing but keep some classes of people poor and dependent upon Federal handouts.

Really, it is frightening if we look at these reforms in a realistic way. They almost seem designed to prevent anyone but the Federal Government from giving anybody anything. If the interests of Government did not have the veil of the "public interest" to hide behind, people would be accusing Government of using the IRS to obtain a monopoly on handout power.

When you look at the list of 40 fringe benefits listed in the U.S. News article, it is hard to believe that any part of the U.S. Government could be so petty and vindictive toward the American people. We find things like old-age homes provided by companies for their retired employees, subsidized employee cafeterias, annual medical checkups, taxi fares to reduce the incidence of rape and mugging of employees who come and go after dark, even company picnics.

Mr. President, if we in the Senate let the IRS get away with this, everyone of us will deserve to be turned out of office. I have introduced Senate Resolution 242 to stop this attack by the IRS on the living standards of the American people. There are currently 16 cosponsors in the Senate of Senate Resolution 242, including Members of both parties and of the Senate Finance Committee. We invite our other colleagues to join us in our defense of the hard-earned living standards of the American people.

I ask that the article from the May 8, 1978 issue of U.S. News & World Report be printed in the RECORD.

The article follows:

FINANCE—40 FRINGE BENEFITS IRS WANTS TO TAX

(At a potential cost of billions to taxpayers, the government is getting ready to lower the boom on an array of perks for individuals. Look for a battle in Congress.)

New rules that would impose taxes on dozens of employee fringe benefits are about to be unveiled by the Internal Revenue Service.

Just about every employe in the country appears to be a potential target. Congress, which would not have to pass on the actions now in the works, can be expected to howl—and maybe even more to thwart IRS plans.

The boxes on these pages indicate how extensive the tax-free perks of executives and other employes are—and how sizable they can be.

FRINGES FOR MILLIONS

At least 40 benefits are under scrutiny, and they reflect an astonishing variety. Many perks, such as price discounts allowed for retail clerks, are the privilege of millions of individuals.

Some, such as free tuition for children of college staff members and free or nearly free air travel for families of airline employes, can mean thousands of dollars in tax-free benefits in a year.

While many business executives are enjoying the use of company cars and airplanes, car salesmen are getting fulltime use of demonstrator models and millions of other employes are benefiting from subsidized lunchrooms and free parking spaces—all tax-free.

If all these fringe benefits were to be taxed, the added revenues would run into the billions.

The position of the IRS is that, legally, all of these benefits are taxable compensation to employes.

The Internal Revenue Code, officials point out, defines income for tax purposes as "all income from whatever source derived," including "compensation for services."

That section, the Supreme Court has ruled, "is broad enough to include in taxable income any economic or financial benefit conferred on the employe as compensation, whatever the form or mode by which it is effected."

Officials point out, however, that there are two kinds of exceptions to that dictum. Many of the most important fringe benefits—pension and profit-sharing programs, group health coverage and the like—are exempted from current taxes by acts of Congress.

In addition, three major perks have been made tax-free by specific rulings or regulations issued by the IRS. These are: free or reduced tuition for children of college employes, free or nominal fares for employes of airlines, railroads and bus lines, and reimbursement of supper money for employes when they work overtime.

However, Internal Revenue Commissioner Jerome Kurtz warns that, for those three benefits, "IRS is legally empowered to change these rules to bring them more into line with the law as it has been developed by the courts over the years."

IRS officials are preparing to act on their own, without seeking legislation from Congress.

WHAT TO EXPECT

Tax-agency lawyers are drawing up proposed new regulations that, if adopted, will tax many fringe benefits for the first time.

How inclusive will the proposed rules be? Commissioner Kurtz answers: "I would hope that we can draft rules including most items."

Not all fringe benefits will come under the tax law, to be sure. Many will specifically be made tax-exempt under carefully spelled out guidelines. Some small fringe benefits, for example, will be made exempt because they are not worth trying to tax. Just as the law itself now exempts Christmas gifts valued at $25 or less, the new rules will exempt fringes of strictly nominal value. Reimbursement for an occasional dinner bought by an employe working overtime, for example, might come under that exception.

Some other benefits are to remain tax-free because they are too difficult to evaluate. For example, the market value of free parking at a downtown office building is easy to determine, but a space outside a plant miles from any city might be hard to price.

What the IRS is trying to do in writing the landmark regulations on fringes, Commissioner Kurtz says, is "to screen out small, hard-to-handle, difficult-to-value items." But on a vast array of fringes, workers, executives and other recipients may well find themselves liable for tax payments.

Why is the IRS moving to tax fringe benefits that traditionally have been tax-free?

Because, says Kurtz, "basically, fringe benefits are taxable income under the law," and the IRS is bound to enforce that law.

The problem, he explains, is that the law does not spell out the tax treatment for most fringe benefits. As a result, some or all of them are likely to be subjected to taxes in specific cases when they show up in an audit of an individual's tax return.

Tax lawyers and accountants say this means that any individual's tax may depend on which Internal Revenue district he lives in, or on the mood of the agent who audits his return.

SEEKING ANSWERS

In an effort to get the fringe issue settled, the Treasury in September, 1975, wrote a set of proposed new regulations setting out standards for determining the taxability of fringe benefits. However, recognizing the explosive nature of the issues, officials did not formally propose the new rules, but simply published them in the form of a "discussion draft."

The move met such a storm of protest from Congress and elsewhere that the draft was suddenly withdrawn on Dec. 17, 1976, by then-Secretary William Simon. He said the blanket approach to the fringe-benefit problem was all wrong.

And Congress, playing for time, wrote legislation forbidding the IRS to issue new fringe-benefit regulations before mid-1978. That measure has yet to become law, but the IRS has committed itself to adopt no new regulations on the subject before July 1.

As a result, the IRS is not even issuing any new fringe-benefit rulings to inquiring taxpayers or responding to revenue agents who request advice in cases that are under audit.

But the pledge to defer the actual adoption of new regulations is not being allowed to prevent the IRS from drawing up and proposing such rules for public study and comment. The plan is to issue these in a few weeks.

Washington's silence has not kept revenue agents in the field offices from demanding added taxes when fringe benefits show up on audits of returns. Some of the resulting disputes find their way to the Tax Court. When they do, the IRS usually wins.

DEALER PAYS UP

Take the case of the auto dealer who was ordered to pay taxes on the value of his free use of one of his company's executive cars. Knowing that dealers and their executives all over the country enjoy free use of company cars without any tax liability, the man was outraged. But the court could find nothing in the law or regulations to let him off free.

In another case, the Supreme Court held that cash reimbursement of troopers' expenses for lunch while they are on duty is taxable income, even though tax law says reimbursement for meal expenses on overnight business travel is not counted as income.

Opponents of the IRS position argue that, because Congress has had many years in which to make fringes clearly taxable, the agency is usurping authority in going ahead on its own.

But Commissioner Kurtz insists that the IRS simply wants to get the issue settled—to make fringe benefits clearly taxable or tax-free under law.

By proposing new regulations imposing taxes on most such perks, Kurtz hopes to push Congress into writing legislation that spells out clearly the tax treatment of all such benefits.

But with Congress already balking on President Carter's tax-reduction-and-reform program, the IRS effort may draw nothing from Congress but another "stop" order on taxing employe perks.

IN THE TAX COLLECTORS' SIGHTS

(Scores of employe fringe benefits go untaxed without any provision for them in law. Now the IRS wants to tax most of them. Here are 40 examples of perks under scrutiny:)

1. Price discounts for store clerks.

2. Free trips in the U.S. and, in many cases, abroad for employes of airlines, railroads and bus lines.

3. Free tuition for spouses and children of university faculty members and other employes.

4. Free parking on employers' premises.

5. Overdraft privileges for bank officers and directors, often at low or no interest.

6. "In kind" benefits such as free or cut-rate telephone and power service for retired employes of phone companies and other utilities.

7. Use of company cars by executives and other employes, including use of demonstrators and "executive cars" by salesmen and executives of auto dealerships.

8. Cars and chauffeurs provided for high executives of federal, state and local governments.

9. Travel reimbursement for employees going between home and temporary work sites—say, an accountant driving to or from a client's office.

10. Season tickets to football, baseball and other games, used by employees.

11. Free tickets to the theater and concerts.

12. Christmas gifts—worth more than the $25 exempt by law—from employers.

13. Beach cottages and other vacation facilities maintained by companies for free use by employees.

14. Conferences at resorts for "sales leaders," spouses.

15. Employment-agency fees and expenses of interview trips paid by prospective employers.

16. First-class air travels when first class is not essential to the business of company officers and directors.

17. Rebates to employees who buy their firm's products.

18. Free subscriptions and low-cost gift subscriptions for employes of magazines and other periodicals.

19. Executive use of assistants and other staff members on personal matters.

20. Residences provided free for executives.

21. Free receptions and entertainment for wives at trade conventions—some of them overseas.

22. Education in the form of free on-the-job training.

23. Loans to employees at low or no interest to buy company stock or for other purposes.

24. Employer's credit cards used by employees to shift interest costs to the firm.

25. Old-age homes provided by companies for their retired employees.

26. Executive memberships in lunch and country clubs.

27. Home improvements for executives that are paid for by employers.

28. Financial counseling and accounting services provided by companies for executives.

29. Employee cafeterias and executive dining rooms offering subsidized prices.

30. Lunch and dinner money provided for employes in all sorts of situations.

31. Deferred pay for executives who each year elect to forgo a specific amount of their salaries and channel it into tax-sheltered investment accounts.

32. Executive trips on company planes to resorts.

33. Annual medical checkups, with health-unit services.

34. Company picnics, Christmas lunches, parties.

35. Bodyguards for corporate executives.

36. Taxi fares for employees coming or going after dark.

37. Tennis, squash courts, swimming pools, other recreational facilities provided by companies for free use by employees.

38. Free bus transportation to plants in distant locations or offices in unsafe neighborhoods.

39. For Americans working overseas, such benefits as education for children, residences, decoration and furnishing of homes, maid and valet services, meals and entertainment at nominal cost at military or government posts.

40. For members of Congress, haircuts, shoeshines, discounts on merchandise, transportation and meal reimbursements, limousines, parking, personal work by secretaries, day-care facilities, picture framing—and one free steamer trunk each session.

HOW FRINGES CAN ADD UP

(Here are the Bosleys, a hypothetical family of five: Jim, a university professor; wife, June, an airline reservations clerk; daughter, Sally, a department-store clerk, twin sons.)

The Bosleys live in a large campus house on which the university pays maintenance and utility costs. Tax-free benefit—about $1,000.

Because of their father's position, the sons pay no college tuition. Tax-free benefit—about $8,000.

Each year Jim, June and the boys travel abroad on free airline tickets and pay reduced hotel rates because of June's airline job. Tax-free benefit—about $3,000.

Sally buys all sorts of family items at a substantial discount at the department store. Tax-free benefit—about $750.

Both parents have free parking spaces at their jobs. Tax-free benefit—about $1,000.

The couple frequently enjoys meals and entertains often at the faculty club, paying reduced rates. Tax-free benefit—about $950.

Jim and June use other university facilities—golf course, exercise gym, tennis and squash courts—free or at reduced costs. Tax-free benefit—about $800.

Total annual tax-free benefits: $15,500.

ABROAD, IT'S FULL SPEED AHEAD FOR MOST TAX-FREE PERKS

Unlike the U.S., there is little pressure in foreign countries to end their equivalent of tax-deductible three-martini lunches—or to start taxing other fringe benefits.

However, some changes in perks are being made by corporations. Japanese executives, for example, may double up in company cars instead of riding alone.

But even in Britain, where the Labor government might be expected to trim perks, there is no clamor to do so. One reason: Union chiefs, who are close allies of the government, collect a tidy assortment of fringes.

Says a London civil servant: "Union leaders get low salaries, but they also get London flats, chauffeur-driven cars, and give some of Britain's best and biggest parties."

Only in Canada is there anything like the agitation in the U.S. for a tax crackdown on fringes.

Elsewhere, fringe benefits are considered essential to morale. Taxes on high incomes are often confiscatory, and perks lessen the demand for pay raises.

From a survey by the magazine's international staff:

LONDON.—The range of benefits for a British executive is wide and imaginative—from a car and gasoline credit card to a clothing allowance.

Executives receive interest-free loans to pay for their children's private schools. Bargain mortgage rates are available for home loans.

Unless a firm is entertaining foreigners, it has less freedom than in the past of expense-account hospitality. Yet companies pick up the tabs for race-track boxes and hunting privileges both of which are used with or without foreign guests.

PARIS.—Fringe benefits are catching on in a big way here. The reason: Government-imposed ceilings on salaries force companies to find other ways to reward executive talent.

Some companies pay an individual more than one salary. By crediting some payments to a subsidiary abroad, the firm evades France's salary ceiling of $6,200 a month.

There are other nominal perks, such as use of a car and plane, and memberships in clubs. Executives get bonuses for overseas trips.

ROME.—Increasingly popular among Italian companies: providing housing for executives. Firms doing this are no longer troubled by employes' reluctance to accept transfers because of high rents in big cities.

An increasing number of firms are giving tax-free annual bonuses in addition to the use of cars, club memberships and expense accounts.

GENEVA.—Compared to his counterparts, elsewhere in Europe, the Swiss executive is a poor cousin in fringe benefits. Salary counts for more here than expense accounts.

Further, tax authorities scrutinize business expenses carefully. Use of a company car, for instance, would be considered taxable income.

TOKYO.—Fringe benefits are so deeply ingrained in Japanese business life that they will probably never be seriously curtailed. Expense accounts alone are expected to cost companies 30 billion dollars this year.

The general rule: A high executive's expense allowance should exceed his pay.

Free cars and housing, the latter even for lower-ranking employes, are common.

A profits squeeze is bringing changes. Executives are giving up their rent-free vacation homes.

BUENOS AIRES.—For the Argentine businessman, "black money" is an increasingly popular fringe benefit.

It's cash—paid under the table, not reported to the tax man, free of any deductions. Says one executive: "It is the only way you can get the kind of people you need."

OTTAWA.—Innovations in fringe benefits range from paid sabbatical leaves to memberships in health clubs to paid outside financial counseling.

But the government has moved against some lavish perks.

One casualty: Company-owned hunting lodges aren't deductible anymore; firms are closing them.●

DR. ELSON'S 50TH ANNIVERSARY

● Mr. FORD. Mr. President, the distinguished Chaplain of the Senate, the Reverend Dr. Edward L. R. Elson, will mark an important milestone in his ministry on June 4 of this year, which is the 50th anniversary of his graduation from Asbury College in Wilmore, Ky. It was here that Dr. Elson began his distinguished career of service to the church and Nation—a career that brought him to the Senate on January 9, 1969.

Dr. Elson will return to Asbury on June 4 to deliver the baccalaureate sermon to the 1978 graduating class. Asbury is one of Kentucky's oldest and most respected institutions of higher education, dedicated to a liberal arts program that is expressive of Biblical faith. As one of the college's most illustrious alumni, Dr. Elson continues to take an active interest in the school's welfare. He presently serves as the national honorary chairman of the Asbury College Crusade for Education.

The spring 1978 edition of the Asbury College Ambassador featured an excellent profile on Dr. Elson. In order that my colleagues may have the benefit of reading about Dr. Elson and his alma mater, I ask that the article be printed in the RECORD.

The article follows:

DISTINGUISHED ALUMNUS SERVES GOD AND COUNTRY IN NATION'S CAPITAL

When the Reverend Dr. Edward L. R. Elson delivers the Baccalaureate Sermon to the Class of 1978 on June 4, he will have completed 50 years of distinguished service to God and country since receiving the A.B. Degree from Asbury College in 1928.

In delivering a bi-centennial address to college chapel during spring quarter of 1976, Dr. Elson recalled: "I had not intended to be a minister, but I had been promised an appointment at West Point by my Congressman. I was called to the ministry. Consequently, I was awarded a music scholarship, if you please, and arrived here on the blowing end of a horn. And a job—I was the highly esteemed janitor of the first floor of Morrison Hall. So valuable were my services that I was paid the handsome sum of 20 cents an hour."

"My labor and work here shaped my whole life. I carried from this place a sense of three great D's—Dignity, Discipline, and Dedication."

"For me the most sacred place on campus was room 36 atop the Administration Building where we held our class prayer meetings every Monday night. Some of the greatest devotional expressions I have ever heard in my life came from classmates in that room."

Dr. Elson has rendered 32 years of service in Washington (26½ years as pastor of the influential National Presbyterian Church, retiring in February 1973). He became Chaplain of the Senate on January 9, 1969.

He holds 20 academic degrees (17 honorary doctors degrees), 18 military decorations and 13 Freedom Foundation Awards. He has authored eight books, contributed to more than a dozen others and has written articles for numerous religious and secular magazines.

He is presently at work on two books—one about the 49 Chaplains of the Senate and the other, his Memoirs.

Dr. Elson has spoken at more than 260 colleges and universities and is still in demand as a speaker and preacher. He has known seven U.S. Presidents and has performed special missions for three.

He has preached to more secret service and security officers than any other clergyman in history.

Dr. Elson is the only clergyman ever to have baptized a President of the United States after he became President.

He has held numerous high positions in the church and has made several important government missions during his long career in government.

In his closing bi-centennial remarks, Dr. Elson noted, "I began all of this as a student and I am grateful to God for having sent me in his providence to a place like this. I began writing prayers during these days and by 1935 had a book of 400 pages of prayers—some in the first person, some for corporate worship. Now, I've found that a very great aid daily. I open the United States Senate with a prayer. Thursday at noon, I offered the 1,139th original prayer in the United States Senate. This is the first item on the Congressional Record each day and 50,000 copies of that are in the mail by breakfast the next morning. It's permanent history and every two years the prayers are published in book form. My fourth volume will appear next spring."

"One sometimes pauses in wonder at the mystery of God's providence that the same hand that pushed the mop in Morrison Hall became the only hand to be laid upon a President of the United States in Christian baptism after a profession of faith, February 1, 1953, before the session of the National Presbyterian Church, Dwight David Eisenhower.●

WELFARE REFORM PROPOSALS IN THE 95th CONGRESS

Mr. BELLMON. Mr. President, on April 17, Mr. James R. Storey, senior research associate at the Urban Institute in Washington, D.C., presented a paper on "Welfare Reform Proposals in the Ninety-Fifth Congress" at a conference on Federal affairs sponsored by the Tax Foundation. Mr. Storey's paper is such a clear summary of issues involved in the welfare debate and the highlights of the various welfare reform proposals which have been put forward, that I feel that I feel that it would be a service to the country to have his paper printed in the CONGRESSIONAL RECORD.

Mr. Storey has had many years of experience in analysis of the Nation's welfare programs. Mr. Storey was formerly director of the Human Resources Group for the Senate Budget Committee, and also served on several executive branch welfare reform task forces in the past.

While I do not necessarily subscribe to all of the specific comments Mr. Storey makes in the paper, there is one section of the paper to which I most enthusiastically do subscribe: I refer to the summary of the paper in which Mr. Storey concludes: First, those who are interested in welfare reform should work this year for passage of some version of "incremental reform" rather than holding out for a comprehensive bill next year; and second, S. 2777, the Baker-Bellmon-Ribicoff-Danforth welfare reform bill introduced on March 22, offers—

A nucleus of good ideas around which a compromise could be built for welfare reform action this year. This approach moves toward several important reform goals and promises long-term improvements, but it moves cautiously in a way that should hold immediate controversy to a minimum.

I commend Mr. Storey's paper to my colleagues and to others who are interested in the possibility of welfare reform, and ask that it be printed in the RECORD.

The paper follows:

WELFARE REFORM PROPOSALS IN THE 95TH CONGRESS

(By James R. Storey)

THE NEED FOR WELFARE REFORM

Programs that supplement income based on financial need account for $40.5 billion in fiscal 1979 federal budget under current law—$12.6 billion in general cash aid; $9.4 billion in food subsidies; $4.4 billion in housing subsidies; $1.9 billion in student aid; and $12.2 billion in payments to physicians and hospitals for medical care. These programs, which are legislated by five House and four Senate Committees, have been the repeated target of reform. President Johnson launched a major welfare reform study by a Commission, President Nixon twice proposed reform bills that met with partial success, HEW Secretary Weinberger unsuccessfully urged an even broader reform proposal on the Ford White House, and now President Carter has delivered on a major campaign promise by proposing his Better Jobs and Income Plan.

While progress has been made both legislatively and administratively in the welfare area in the 10 years since President Johnson appointed his Commission on Income Maintenance Programs, structural reform of these programs has persisted near the top of the legislative agenda. There are many reasons why calls for major reforms continue:

First, there is a continuing poverty problem. In 1976, about one out of twelve Americans had income below the poverty level, even counting federal food assistance as income. The dollar value of this income gap amounted to $9.8 billion. These 18 million poor people are a much smaller group than the 39 million of two decades ago, but the sluggishness of the economy in the 1970's and the lack of assistance for some low-income people has slowed the reduction of the poverty population.

Between 1970 and 1976, the size of the poverty population was influenced by two opposing forces. The severe economic downturn that put millions out of work, coupled with a rapid price inflation reflected in a swiftly increasing poverty standard, would have increased substantially the number of poor people. However, growth in benefit payments and enactment of the new supplemental security income (SSI) for the indigent aged, blind and disabled largely offset the potential rise in poverty. Thus, the war declared on poverty in the 1960's has become a holding action in the 1970's.

About one-fifth of the poor live in households headed by someone who is over age 65 or disabled. Another one-third are in families headed by an able-bodied, working-age female. The remaining poverty population lives in households headed by able-bodied, working-age males. About one-third of this latter group worked year-round, and over half worked at least half the year, but were still poor. Among able-bodied, working-age poor female heads, about a tenth worked year-round, while nearly 40 percent worked at least some time during the year. Thus, many of the poor who can work do work. Moreover, it is reasonable to expect that, if aggregate demand were higher, work effort would be higher and the poverty count lower.

But poverty will not go away with full employment, since low wage rates, the needs of large families, the ineffectiveness of benefit programs, and individual infirmities cannot be expected to melt away in the warm light of economic recovery. In 1969, when the unemployment rate was 3.5 percent a booming economy by historical standards, 24 million people were still poor, including many full-time workers. This fact has led many analysts to conclude that a program of general income supplementation is needed.

A second reason for reform are the remaining gaps in coverage. Virtually all poor people are eligible for food stamps, but nearly half are eligible for nothing more; 46 percent of the poverty population lives in households ineligible for cash assistance under either AFDC or SSI. Most of those poor but ineligible live in two-parent households with able-bodied heads. A second group left out are single individuals and childless couples who are neither aged nor disabled. A two-parent family with children headed by an able-bodied male may be eligible for cash assistance under the unemployed father (UF) provisions of AFDC, but only in about half the states. And in those states, the program contains a number of eligibility restrictions which, among other things, preclude a family from receiving assistance no matter how low the family's income if the father is working more than 100 hours per month. Since almost half the poor are in families headed by able-bodied males, the limitations of AFDC–UF coverage deny cash assistance to a significant proportion of poor families.

A third reason for reform is that benefits are often *inadequate and unfair*. Not only are many poor households ineligible for cash

assistance, but some who are eligible receive aid at very low levels. Today, 26 states pay AFDC benefits at rates less than two-thirds of the poverty standard. The wide disparity in benefit amounts among the states (from $256 monthly for AFDC and food stamps in Mississippi to $560 in New York, to $673 in Hawaii) results in greater federal support for some poor people than for others based solely on place of residence.

Fourth, work efforts are not consistently encouraged. Most welfare programs attempt to encourage work either through financial work incentives or administrative work requirements. However, as currently practiced, both methods have serious shortcomings. Programs like food stamps, AFDC, and public housing all provide financial incentives based on the same principle—if a person's earnings increase by a dollar, program benefits should decline by less than a dollar, thereby leaving the person better off for having worked. However, a problem arises because the typical recipient benefits from two or more programs. In such situations, individual program benefit reductions are at least partially additive and can offset almost totally any additional dollars earned, thereby leaving no monetary incentive for the person to work. For example, although actual rates vary among states depending on how work expenses are deducted and how payments are related to need, AFDC alone can reduce benefits by as much as 67 cents for an added dollar of wages. For the more than two million families receiving both AFDC and food stamps, this reduction rate can be as high as 77 percent, or 85 percent for the roughly 300,000 of these families who also have their rents publicly subsidized. While the rates are not this high for everyone, rates approaching these upper limits can apply to discourage work. In some instances where eligibility is denied to persons who work full-time (e.g., in the AFDC-UF program), additional earnings can leave a family worse off financially.

A major difficulty with present work requirements is administrative. In a labor market with high unemployment rates, it is hard for an administrator to determine if a person has made a good faith effort to find a job. There is no easy way to distinguish lazy recipients from those who honestly cannot find work. Also, work requirements are ineffective in dealing with reductions in work effort when the reductions are in overtime work, second jobs, or secondary workers' jobs.

Finally, gaps in coverage and disparities in benefit amounts make a travesty of self-help efforts, since people on welfare in high-payment states often have total incomes greater than comparable families with heads working full-time. For instance, a four-person family in Oregon can receive $549 a month tax free from AFDC and food stamps, $90 more than a person not on welfare would gross in a full-time job at the minimum wage.

Administrative weakness. Current programs have gained a reputation as error-ridden and prone to fraudulent manipulation, a situation that is improving to some extent. In 1974, HEW audits found that 44 percent of all AFDC cases involved some type of benefit or eligibility error. Today, that error rate has been reduced to 22 percent, and some states have welfare administrations which are first-rate. Nonetheless, two problems remain. First, some states have been slow to adopt the best administrative practices. For example, case errors are substantially reduced by adequate staff education, frequent case reviews, and other simple procedures. Yet, many states have neglected to institute such improvements. Second, the wide variety of complex aid programs imposed on the states through federal legislation and regulations makes good management difficult. Each program requires separate forms and administrative structures, and the multiple bureaucracies invite confusion and mistakes.

Fiscal burden on state and local governments. In 1979, the combined expenses of AFDC, SSI, food stamps, medicaid and other welfare programs will cost state and local treasuries about $18 billion. This burden falls heavily on states with large welfare costs and fiscal difficulties, and on counties and cities as well in a few states, particularly New York. State and local organizations have increasingly advocated a greater federal assumption of program costs. There is also a general awareness of the national nature of the poverty problem and the inability of state and local governments to adjust their fixed budgets quickly to sharp changes in costs prompted by such factors as national changes in unemployment, inflation, interregional migration, and local layoffs resulting from national or trade or energy policies.

Poor instrument for implementation of national policy. As already mentioned, current assistance programs vary widely in coverage and benefit levels. Administrative control is vested in a large number of different agencies at all levels of government, and legislation is subject to the jurisdiction of numerous committees in both House and Senate as well as the 50 state legislatures. And the courts are frequently called upon to correct defects in these laws or the regulations drawn up to implement them.

This chaotic lack of control leaves the federal government with no system it can use to alter the incomes of poor families in a timely manner in conjunction with major national policy initiatives. This situation can inhibit the bold action that may be required to change energy pricing policy or to revamp transportation systems.

For example, a tax on gasoline to reduce consumption might be opposed because it raises transportation costs to prohibitive levels for the poor. Lack of an integrated assistance system to offset this effect makes consideration of such an option futile. Another example is the use of tax cuts to stimulate the economy. To avoid inequitable treatment of people with no tax liability, the 1975 tax cut was accompanied by special $50 payments to social security beneficiaries. However, a majority of poor people do not benefit from that system, and many social security beneficiaries are well-to-do. Thus, in the absence of a direct systematic way to deal with the equity problem, this attempt at equity targeted public funds inefficiently and precipitated needless administrative intricacies and a lack of public understanding.

THE ALTERNATIVE APPROACHES TO REFORM

The Better Jobs and Income Plan.[1] The President's proposal addresses many of the problems with the current welfare system, providing income support to the needy in a fairer way with fewer programs, and assuring strong work incentives through financial rewards for work, a strong work requirement, and direct creation of jobs. The basic federal plan would work as follows:

A new program of public service employment would provide up to 1.4 million jobs for poor adults in families with children. HEW and Labor estimate that a program of this size should provide for one job per family for all low-income families in which an adult is expected to work to contribute to family support. This jobs program would replace the work incentive (WIN) program and the CETA Title VI jobs program.

A simplified, fairer cash assistance program would provide aid to all Americans with inadequate family income, either as a basic support payment or as a supplement to low earnings. This new program would replace AFDC, SSI, and food stamps with in integrated cash assistance plan that would reduce the great benefit disparities across the country and among different groups of the poor.

An expanded earned income tax credit would provide additional supplementation to low-income workers in regular employment. This would be an integral component of the new system, along with the jobs and the cash assistance programs.

The three components of the plan working together are intended to provide both incentives to seek work and financial reward from work. The cash benefit system serves a nationally uniform "safety net" under all incomes for those who cannot attain an adequate wage and need such support.

A work requirement would be imposed on all recipients expected to work, with greatly reduced benefits paid for an initial eight-week period during which job search is expected. Public service jobs could be offered to those who cannot find private employment within five weeks. Refusal to accept a job without good cause would result in loss of benefits for the person expected to work. Only if a private job could not be found during the waiting period and a public job were not available would maximum benefits be paid to someone expected to work. There would be a monetary incentive for individuals to continue to seek permanent jobs even while in special public jobs, as the earned income tax credit would further increase earnings in regular employment.

In general, federal cash benefits would be reduced by no more than 50 percent of earnings, providing a substantial financial gain from work. This feature meets two important objectives—to provide incentives for individuals to seek and take jobs, and to improve equity for working people, who would have more total income than non-workers.

House Subcommittee Action.[2] The Subcommittee on Welfare establishes by the House of Representatives to hold hearings on President Carter's bill has developed a modified version for consideration by the three permanent House committees with jurisdiction. The Subcommittee's bill supports the President's position that a national system to provide a floor of cash support and public wages under the incomes of all Americans is preferable to today's mix of separate programs with widely varying coverage and benefits.

However, the Subcommittee bill would result in an assistance system different from that proposed by the President in four important respects: (1) state and local governments would ultimately spend less and the federal government more; (2) states would have the option for greater control over program design and more administrative responsibility, with the authority to offer recipients less work incentive than the original plan required; (3) rules and procedures now applicable to aged, blind and disabled recipients under SSI would remain largely unchanged, complicating the administration of a new system; and (4) wages in public service jobs would be varied according to wage levels in

[1] A detailed review of the background and details of the President's welfare reform proposal may be found in James R. Storey, Robert Harris, Frank Levy, Alan Fechter and Richard C. Michel, *The Better Jobs and Income Plan: A Guide To President Carter's Welfare Reform Proposal and Major Issues*, Urban Institute Paper 819-3-2, Washington (Jan. 1978).

[2] A comparison of the cash assistance provisions of the President's bill and the Subcommittee's revisions may be found in James R. Storey, "Implications of the Tentative Decisions of the House Welfare Reform Subcommittee," Urban Institute Working Paper 819-03-05, Washington (Jan. 23, 1978).

specific labor markets rather than set at the federal minimum wage.

Incremental versus Comprehensive Reform.[3] At least three other welfare reform bills may be considered by Congress this year. Two bills have been introduced, one by Chairman Ullman (this bill was defeated in the House Welfare Reform Subcommittee by a 16–13 vote), and another by Senators Baker, Bellmon, Ribicoff, Danforth and others. The third proposal is the so-called "triple-tracks" proposal supported by the AFL–CIO.

Advocates of these bills, in urging their adoption in lieu of the President's plan or the Subcommittee bill, use some or all of the following arguments:

Building "incrementally" on existing programs increases the feasibility of enacting reforms.

"Incremental" changes in existing programs will minimize administrative problems for government agencies and transitional difficulties for recipients.

"Incremental" changes cost less in federal dollars.

These "incremental versus comprehensive reform" arguments miss the point as far as changing welfare policy is concerned, since any significant reforms will be controversial, costly, and impose major administrative upheavals. Rather, these arguments are mainly camouflage for concerns that present federal and state agency responsibilities, Committee jursidictions, and interest group ties might be realigned under the Carter proposal that consolidates separate programs and greatly increases federal control. No bill, including Carter's, is truly comprehensive—for example, his bill fails to rationalize the medical and housing assistance programs with the proposed cash assistance and jobs. On the other hand, any bill that truly deals with the major issues of benefit adequacy, equity, and work incentives will have to raise some benefits, broaden program coverage, better coordinate programs, and modify federal-state relationships. And, of course, a more grandiose "comprehensive" reform plan could be accomplished in several small "incremental" steps should a slower implementation be desired.

The Ullman bill has the following major provisions:

The sum of a family's AFDC and food stamp benefits in each state would have to meet a federal minimum standard, but only the food benefits would vary by family size.

All states would have to cover families headed by unemployed fathers under AFDC, with federal payments limited to 17 weeks in a year plus periods when unemployed parents are in WIN or CETA training programs.

Food stamps would be cashed out for SSI recipients.

The amount and coverage of the earned income tax credit would be increased.

All unemployment compensation, and any AFDC and food stamp benefits that cause gross income to exceed specified annual totals, would be subject to the income tax.

The jobs tax credit for employing WIN and vocational rehabilitation referrals would be increased.

The Baker-Bellmon proposal includes the following key features:

An earnings subsidy of $1/hour would be established for AFDC recipients, the long-term unemployed, and CETA job holders.

A tax credit would be established for employers who meet criteria for creating jobs during the year.

CETA public service jobs would be phased down to 375,000 after fiscal 1982, and the jobs would go first to AFDC–UF families, then to other AFDC heads and the long-term unemployed.

All states would have to operate the AFDC–UF program.

The sum of a family's AFDC plus food stamp benefits would have to meet a federal minimum standard.

Increased federal matching for states would be designed to encourage states' taking over local sharing in welfare costs.

"Excess" welfare benefits would be subject to the income tax.

The earned income tax credit would be increased.

States could cash out food stamps for SSI recipients, and cash-out demonstrations for AFDC recipients would be authorized as well as demonstrations of alternative welfare systems.

SSI eligibility due to old age would be revised from a minimum age of 65 down to age 62.

The "triple-track" proposal, though not yet introduced, would likely be structured as follows:

Coverage and amounts under the earned income tax credit would be expanded.

Federal benefit standards would be set for AFDC, with the program restricted to "unemployables."

Public service jobs programs would be expanded for "employables," plus special unemployment benefits would be established for low-income "employables" who are out of work and do not have coverage under the regular unemployment compensation program (e.g., new entrants or re-entrants to the labor force).

Elements Common to Different Proposals. The four reform bills now introduced would all increase net benefit payments for the nation as a whole and would have several features in common: a federal benefit floor; cash assistance coverage in all states for intact families with unemployed heads; more use of cash aid instead of aid in kind; more reliance on the tax system to help the working poor; greater annual equity in benefit payments; greater efforts to move welfare recipients on to payrolls; and fiscal relief for state and local governments. However, there are three key areas where the basic directions the bills take are different: (1) the President proposed a system with fewer programs, better coordination of programs, and a great deal of control at the federal level, characteristics that were weakened by the Subcommittee and largely abandoned by the other bills; (2) the President, the Subcommittee, and the triple-track proposal advocate direct job creation, placing on the government the responsibility to make the work requirement function properly, but the other bills would use direct job creation in much more limited ways, relying principally on tax incentives and on-the-job training to augment the smaller direct employment efforts; and (3) the Carter bill provides more assurance that payment rules would be structured so that financial work incentives are not eroded.

A COMPARISON OF THE INTRODUCED BILLS

An appendix to this paper presents, mainly in chart form, a comparison of main features of the four introduced bills. Using these comparisons, I would like to draw some conclusions about the different effects the bills would have.

Costs (see Appendix, Exhibit 1). Each bill seeks to assure state and local governments of several billion dollars in fiscal relief, but the other costs vary considerably. The estimated net federal cost in fiscal 1982 ranges from $7 to $9 billion for the Ullman and Baker-Bellmon bills up to $17 billion for the Carter bill and $20 billion for the House Subcommittee bill. Thus, the two "incremental" reform bills represent a substantially more modest attempt to restructure the welfare system, so an overriding question is what the broader proposals would accomplish for a 100+ percent greater net federal cost.

Benefit levels (see Appendix, Exhibit 2.) Generally, the Carter and Subcommittee bills provide more adequate benefit levels:

They would provide $186 more a year to an aged, blind or disabled person in federal benefits than would the Ullman plan, and more than the Baker-Bellmon bill for most such cases.

The federal cash benefit of $1,100 for single individuals with no income would be nearly twice the food stamp benefits otherwise available.

The minimum level for a one-parent family of four of $4,200 would start out the same under the Ullman bill, but the Baker-Bellmon level would be 15 to 20 percent lower initially, a gap that would be closed by 1985. Over time, the Subcommittee and Baker-Bellmon minimum payment levels would rise with inflation, but the Ullman level would follow a different trend in each state, approaching 30 prcent of a state's median income for a family of four. The Carter payment floor would not change automatically after program startup.

For two-parent jobless families, federally mandated benefit levels[4] are the same as for one-parent families except for the Ullman bill, where federal benefits are generally payable for only 17 weeks.

The Ullman bill provides smaller benefit increments for large families, and the Carter bill limits such increments to families with seven or fewer members.

Work incentives (see Appendix, Exhibits 3 and 4). The Carter bill is the strongest overall in assuring adequate financial work incentives for assistance recipients, and the Subcommittee bill rectifies more work incentive problems than do the two "incremental" bills:

The Carter and Subcommittee bills eliminate the current income "notch" situations in AFDC earning too much results in lower total cash income, but the other bills do not completely eliminate them (no bill eliminates the effect of the "notch" caused by loss of medicaid benefits when AFDC eligibility is lost).

Marginal benefit-loss rates of 70 percent or more for adults expected to work could still occur under all the bills except the Carter bill, which would hold loss rates to 52 percent.

All the bills expand the earned income tax credit[5] to help offset high benefit-loss rates, ranging from a 20-percent offset under the Ullman bill to 10 percent in the Carter plan, but these credits only aid families with children, and their phaseout adds to effective tax rates over certain income ranges (adding 6 percentage points to the tax rate under the Subcommittee bill, up to 20 points under Baker-Bellmon).

Jobs (see Appendix, Exhibit 5). The Carter and Subcommittee bills would attempt to provide a public service job for all adult family heads expected to work who could not find private jobs. The Ullman and Baker-Bellmon bills, while creating less than half the number of public service jobs, would fund enough jobs to cover most, if not

[3] A forthcoming Urban Institute Paper by Frank Levy will provide a detailed comparison of comprehensive and incremental welfare reform proposals.

[4] Benefit levels could be lower temporarily for several weeks of job search under the Carter and the Subcommittee bills until either a job is obtained or it is determined that no jobs are available.

[5] A forthcoming Urban Institute study by Wayne Hoffman will analyze these and other options for modification of the EITC.

local prime sponsor network. The Baker-Bellmon bill also would make a major effort to facilitate employment of recipients and

all, AFDC–UF family heads. Only the Ullman bill relies on the states' WIN programs for job creation, the others using the CETA local prime sponsor network. The Baker-Bellmon bill also would make a major effort to facilitate employment of recipients and would-be recipients through employer tax subsidies.

Administration (see Appendix, Exhibit 6). The Carter bill would merge these welfare programs into a new federally administered assistance system. While the Subcommittee bill would consolidate the three programs, all the bills except Carter's rely on state administration. Thus, the uniformity and efficiency of a centralized payments system would be foregone.

The Carter proposal to account for income over six months in determining benefits was replaced in the other three bills by tax recoupment of benefits for people with relatively high annual income. Recoupment of benefits would be at a 100-percent rate under Ullman and Baker-Bellmon when benefits plus adjusted gross income exceed certain levels (e.g. $10,760 for a family of four). The Subcommittee bill simply subjects assistance payments to the normal income tax rates that would apply at different income levels.

All the bills except Baker-Bellmon require retrospective income accounting in determining benefit amounts to improve administrative accuracy. The Baker-Bellmon bill would give the states the option of retrospective vs. prospective accounting.

National policy implementation. The Carter proposal would permit federal action to be translated directly into changes in income distribution or levels, economic incentives, and administrative practices for the low-income population. None of the other bills would facilitate national policy implementation to the same degree.

The House Subcommittee bill would likely result in state administrative control in most states, some states would have more control over the program parameters that determine recipients' work incentives, and more state supplementation of benefits would be likely. The Ullman and Baker-Bellmon bills require that states have administrative control and also give them a good deal of discretion over program design, and local general assistance programs would remain completely outside federal influence under those two bills.

These factors would attenuate the thrust of federal policy changes. For instance, an increase in aid levels to boost spending or offset inflation might not be passed through in some states absent federal compulsion, such benefit changes might take longer to put in place with 50 state agencies responsible for them, and there would be no single program through which all low-income people could be reached under Ullman or Baker-Bellmon.

SUMMARY

Taking all the key factors into account—the adequacy of benefit levels, the assurance of adequate financial work incentives, administrative control at the level of government that bears most of the costs—my judgement is that President Carter's proposal is a good one that certainly merits serious consideration by the 95th Congress.

However, the welfare reform debate, despite its roots in the emotion of the 1960's, has now taken on the tones of a "good government" issue, a struggle to straighten out a bureaucratic maze of uncoordinated programs. The debate is no longer carried along by a "war on poverty" or a national movement toward greater social justice. Given this atmosphere and the continuing large federal budget deficits and great economic uncertainty, it is hard to tell a $17 billion program reform, already raised to $20 billion in the House, on the strength of bettering governmental performance, especially when other "good government" initiatives such as departmental reorganizations are perceived as nearly costless.

Since there are probably less than six months left for the 95th Congress, it seems likely that only the less controversial and less expensive bills (Ullman or Baker-Bellmon) have a chance of passage this year. Either could move quickly—Ullman immediately following Ways and Means action on tax legislation, Baker-Bellmon as an amendment to H.R. 7200, a bill that could be taken up in the Senate soon after the Panama Canal Treaty debate ends.

This view of political reality dictates only two choices for welfare reform advocates: (1) Work for passage of some version of Ullman or Baker-Bellmon this year; or (2) hold out for a fresh start with a more comprehensive bill next year. To me, the first option is the most promising. The 96th Congress should not be expected to view welfare issues in a different light than the 95th, and the 96th will end with a Presidential election campaign, during which welfare reform will not likely be a popular subject to debate. Reform next year would probably not be any more comprehensive and could get into greater political jeopardy. And any further delay will postpone implementation of better benefits and needed administrative improvements.

While there are provisions in the Baker-Bellmon bill I would like to see changed, particularly with respect to work incentives and the balance between benefit improvements vs. fiscal relief, the bill seems to offer a nucleus of good ideas around which a compromise could be built for welfare reform action this year. This approach moves toward several important reform goals and promises long-term improvements, but it moves cautiously in a way that should hold immediate controversy to a minimum. Broad political support for the Baker-Bellmon bill has already been demonstrated in the Senate. I hope the bill will help build momentum toward a compromise of sound reforms that can be passed this year.

APPENDIX: COMPARISON OF KEY FEATURES OF WELFARE REFORM BILLS

Exhibit 1.—Cost estimates

Comparable cost estimates have not yet been prepared for all four bills. The best information available is as follows:

NET COSTS, FISCAL YEAR 1982

[In billions of dollars]

Bill	Total	Federal	State/local	Source of estimates
Carter	+13.9	+17.4	−3.5	CBO.
House subcommittee	+18	+20.2	−2.2	CBO.
Ullman	+5 to +8	+7 to +9	−1 to −2	Ways and Means staff.
Baker-Bellmon	+6.3	+9.3[1]	−3	CBO.

[1] The version of the Baker-Bellmon proposal analyzed by CBO was somewhat different from the bill as introduced. The Senators' staff contend that the net Federal cost of the introduced bill would be closer to $8 billion.

All the bills would reduce state and local welfare costs by several billion dollars and increase net federal costs substantially, ranging from $7 to $9 billion for the Ullman and Baker-Bellmon bills up to $17 billion for the Carter proposal and $20 billion for the House Subcommittee bill.

Exhibit 2.—Benefit levels

The following examples compare federal benefit levels under the four bills:

ANNUAL FEDERAL BENEFIT FLOOR FOR RECIPIENTS WITH NO INCOME[1]

Bill	Individual		Family of 4	
	Aged	Non-aged	1 adult	2 adults
Carter	$2,500	$1,100	$4,200	[2] $4,200
House subcommittee	2,500	[3] 1,100	4,200	[2] 4,200
Ullman	2,314	[4] 624	4,200	[5] 4,080
Baker-Bellmon	2,334–2,614	[4] 624	[6] 3,404	[6] 3,404

[1] In 1978 dollars. Represents 1st stage of each plan. Tota benefits would be higher in most states.

[2] If an adult is expected to work, level is $2,300, but public service job at minimum wage ($5,512) should be available if private job cannot be found.

[3] Must be age 25 or older.

[4] Food stamps only.

[5] Federal floor is $2,400 in cash plus $1,680 in food stamps. The cash payment lasts only 17 weeks. This example assumes the State pays the remaining 35 weeks if the family head remains unemployed. If the State did not continue the payment, annual Federal benefits would total $2,739. AFDC–UF family heads would have top priority for available WIN public service jobs.

[6] 55 percent of the 1977 nonfarm poverty line of $5,815. The benefit floor would rise to 60 percent of the poverty line in 1982 and to 65 percent by 1985.

Benefit levels would be adjusted over time as follows:

Carter bill—Benefits in 1978 dollars would rise with the Consumer Price Index (CPI) to the year the new system is implemented;

House Subcommittee bill—Benefits in 1978 dollars would rise with the CPI each year indefinitely;

Baker-Bellmon bill—The federal minimum required for the sum of AFDC and food stamps is 55 percent of the non-farm poverty line in 1981, 60 percent in 1982, rising to 65 percent in 1985 (the poverty line is adjusted each year for inflation). Food stamps and SSI would remain indexed as under current law;

Ullman bill—AFDC plus food stamp benefits start at the minimum of $4,200 (for a family of four) or current levels and, in addition to CPI adjustments, would move toward a target level for each state equal to 30 percent of a state's median income for a family of four. Food stamps and SSI would remain indexed as under current law.

Benefits would be restricted by family size as follows:

Carter bill—No additional federal benefits would be available for family members beyond the seventh;

House Subcommittee bill—No federal restrictions;

Baker-Bellmon bill—No federal restrictions;

Ullman bill—The AFDC portion of the federally required minimum benefit would not vary by family size, but the food stamp portion would vary as under current law.

Federal sharing in state payments or state supplements would be limited as follows: [1]

[1] An important factor in state incentives to supplement federal benefits or increase matched payments is the promise of federal protection against certain future costs. These provisions are not addressed in this paper as they will be covered by another presentation to the Tax Foundation's April 17 conference.

Carter bill—Federal matching of state supplements is limited to amounts up to 51.2 percent of the corresponding federal benefit level (limit is 12.32 percent for two-parent families);

House Subcommittee bill—Federal matching of state supplements available up to the higher of current state payment levels or the poverty level;

Baker-Bellmon bill—No upper limits on state AFDC payment levels or SSI state supplements, but federal matching for AFDC limited to levels up to the poverty line;

Ullman bill—No federal sharing in state supplementation above required federal floor for AFDC payment levels.

Exhibit 3.—Impact on work incentive problems

A careful analysis of the complex interaction of benefit reductions and taxes for all the bills in all circumstances is beyond the scope of this paper. Instead, the ways in which the different bills address the most crucial concerns about work incentives under current law are compared.

CHANGE TO CURRENT LAW PROBLEMS UNDER REFORM PLANS

Work incentive problems under current law	Carter	House subcommittee	Ullman	Baker-Bellmon
Income notches: [1]				
AFDC eligibility	Eliminated	Eliminated	Eliminated	Unchanged.
AFDC–UF	Eliminated	Eliminated	Unchanged	Reduced.
Medicaid	Unchanged	Unchanged	Unchanged	Unchanged.
High marginal benefit-loss rates: [2]				
AFDC and food stamps (77 percent)	≤52 percent [3]	≤70 percent	≤74 percent	Unchanged.
General assistance (100 percent)	≤52 percent [3]	≤70 percent	Unchanged	Unchanged.
Working poor worse off than welfare recipients	Corrected	Corrected	Reduced	Reduced.

[1] An income notch refers to a situation in which a person who earns an additional dollar becomes worse off financially than before (or becomes better off by more than a dollar upon losing a dollar of earnings) due to loss of benefits and tax increases. This occurs in AFCD generally due to income deductions available to recipients that are not allowed for applicants, in AFDC–UF (unemployed fathers program) due to the imposition of a limit on hours worked in determining continued eligibility, and in medicaid due to the abrupt loss of all or a substantial portion of benefits when income exceeds a certain level.

[2] The combination of AFDC and food stamps results in a 77-cent benefit loss when earnings rise by $1 Most, but not all, local general assistance programs offset earnings increases dollar for dollar. What is shown here is the upper bound on loss rates for assistance benefits. In all cases including current law, the earned income tax credit serves to reduce these loss rates over certain income ranges but increase them over others. Other tax provisions will serve to increase these rates under certain circumstances. This exhibit does not indicate how marginal benefit-loss rates other than the maximum amounts would change, nor does it indicate how average loss rates would change.

[3] The 52-percent limit on benefit-loss rates applies to families with heads expected to work A 70-percent rate could apply to other families in some States.

Exhibit 4.—Earned income tax credit (EITC) provisions

Each bill would expand the role of the EITC, which presently is awarded when taxes are filed to filers with low earnings who have dependent children. The present credit is 10 percent of the first $4,000 of earnings; it phases down from $400 to zero at $8,000 of earnings (or AGI) at a 10-percent rate.

The welfare reform bills would change the EITC as follows:

EITC FEATURES [1]

Bill	Size of credit	Credit phaseout rate	Adjustments to credit amount
Carter	10 percent up to earnings of $4,000, 5 percent up to maximum ($9,100 for family of 4).	10 percent (phases out at $15,650 for family of 4)	Maximum credit varies by family size up to size 7; indexed to CPI.
House subcommittee	12 percent to earnings of $4,200 for family of 4	6 percent (phases out at $12,600 for family of 4)	Maximum credit varies by family size up to size 7; indexed to CPI.
Ullman	20 percent up to earnings of $5,000	13.3 percent between $7,500 and $15,000	None.
Baker-Bellmon	15 percent of earnings up to poverty line ($5,815 for 1978 for family of 4).	20 percent (phases out at $10,200 for family of 4 in 1978).	Maximum credit varies by family size up to 7 as poverty index varies; adjusted for inflation as poverty index is adjusted.

[1] All the bills would continue to restrict coverage to tax filers with dependent children. They would all make the EITA a part of income tax withholdings to pay benefits on a more current basis

Exhibit 5.—Job creation

Each bill includes provisions aimed at creating or stimulating employment opportunities for people who otherwise would be assistance recipients. The major provisions are compared below:

WELFARE REFORM BILLS

Jobs provisions	Carter	House subcommittee	Ullman	Baker-Bellmon
Number of public service jobs (millions), fiscal year 1982.	1.4	1.2	0.5	0.5.
Program	CETA	CETA	WIN	CETA.
Wage rates in public service jobs	Up to 110 percent of minimum wage	Indexed nationally by area; average < $4.62 in 1981.	Minimum wage	Prevailing wage in each area; average < $3.75.
Target groups for jobs	Primary earner in family with children except 1-parent families with children under age 6.	Same as Carter bill, but must be eligible for cash assistance as well.	AFDC recipients	(1) AFDC–UF heads; (2) Other AFDC, heads and long-term unemployed. for
Employment tax subsidies	None	None	Expands current WIN tax credit	Employer tax credit of $1 per hour for new employees hired from AFDC, CETA, long-term unemployed. Wage subsidy of $1 per hour for 1 yr for low-income people hired from AFDC CETA, long-term unemployed.

Exhibit 6.—Key administrative features

The four bills include many different provisions regarding program administration. The following comparison highlights the most essential provisions:

Administrative provisions	Bill			
	Carter	House subcommittee	Ullman	Baker-Bellmon
Program consolidation	Merges AFDC, food stamps, SSI	Same as Carter bill, but separate rules for SSI retained, residual food stamp program would continue.	Food stamps cashed out for SSI recipients.	States have option to cash out food stamps for SSI recipients, test cash-out for others.
Level of administration for assistance programs.	Federal; States have option to administer client-intake process.	Federal or State at State option	State	State; States encouraged to pick up local costs.
Income accounting	1-mo retrospective, 6-mo carry-over of "excess" income.	1-mo retrospective	1-mo retrospective	State option for 1-mo retrospective or prospective.
Taxation of benefits	None. (A separate proposal would make unemployment benefits taxable for persons above certain income levels.)	Assistance payments counted in AGI for income tax.	If AGI plus AFDC plus food stamps exceeds a certain annua amount, AFDC plus food stamps are recouped in full (unless that would push the income total below the allowable amount). Unemployment benefits would be taxable income.	Recoupment of AFDC plus food stamps same as in Ullman bill.

SENATOR TALMADGE ON LOCATION OF CHILD NUTRITION PROGRAMS

● Mr. McGOVERN. Mr. President, legislation is now pending before the Senate Committee on Government Affairs to create a new Federal Department of Education.

While I favor the concept of such an agency, I am totally opposed to the proposal of the President to transfer the child nutrition programs from the U.S. Department of Agriculture to the new Department of Education. I might add that every member of the Senate Committee on Agriculture, Nutrition, and Forestry also oppose the removal of these programs from USDA.

On May 9, the chairman of our committee, Senator TALMADGE, made an excellent statement to the National Rural Electric Rally here in Washington on why the child nutrition programs should remain within the USDA. As Senator TALMADGE stated:

Food, nutrition and agriculture have become irrevocably linked in national policy considerations. . . . The school lunch and other child nutrition programs were developed and have grown to maturity within the United States Department of Agriculture. To place these programs in the untried and untested hands of a new Department of Education would be bad for the programs, bad for agriculture and bad for the children of America.

Mr. President, I ask that Senator TALMADGE's address be printed in the RECORD.

The address follows:

REMARKS OF SENATOR HERMAN E. TALMADGE

I am here today to issue a clarion call for help. I have a message that I urge you to take to every office, nook and cranny of Capitol Hill.

The message is simple.

Save the U.S. Department of Agriculture!

Wire that message; write it; say it to anyone who will listen.

Save the Department of Agriculture!

During the 1978 campaign, President Carter promised to reorganize the Federal government. He promised to eliminate agencies and bureaucrats wherever he could.

That is a lofty and worthwhile goal. There are too many Federal programs and agencies. There are too many bureaucrats.

There are too many independent agencies answering directly to the President.

But as those of us in Congress have watched the President's reorganization project and similar work unfold, the objective of these efforts more and more resembles the proposed Nixon reorganization, which you and I helped to defeat.

Let's look at what has happened.

The Office of Management and Budget has been working for some time on a study of REA.

For those of you who are new to Washington, you should know that when OMB wants to study something, it's often like a cat studying a mouse before the mouse is exterminated.

From all that I can tell OMB is looking for a corpse.

That corpse is the greatest cooperative movement in the history of the world—Rural Electrification.

But just as no man is an island entire unto himself, the U.S. Department of Agriculture is a whole entity made up of many interrelated parts. All of the parts are essential to the future and well being of rural America and to the well being of all Americans regardless of wherever they live.

Several parts of the U.S.D.A. entity other than REA are also threatened. The immediate battle line is drawn on a proposal to shift the child nutrition programs of U.S.D.A.—including school lunch—to the proposed new Department of Education.

The message I want to get across today is that the friends of REA should be concerned and alarmed about the proposed transfer of the school lunch program, because it does affect you and it does affect REA.

Make no mistake about it: If the current attempt to strip away the school lunch program from U.S.D.A. succeeds, it will greatly intensify the threat of a similar fate befalling REA somewhere down the road. The same message applies to the Forest Service, to Soil Conservation, and to the other pieces of U.S.D.A. that are coveted by others within the Federal establishment.

The threat is very real.

The fight to break up U.S.D.A. is now joined on the school lunch issue.

I urge you to make it your fight now, today.

Let me give you some background to support what I say so that you will understand the complex actions now going on.

The Secretary of the Interior has made it clear that he wants the Forest Service and the Soil Conservation Service transferred to his department.

Together those two agencies represent 35 percent of the employees in the Department of Agriculture.

As I understand it, the President's reorganization project has recommended to the Director of OMB that a Department of Resource Conservation be established—formed around a core of existing Interior Department agencies—that would take away all of the Forest Service and SCS water projects from U.S.D.A.

While reorganization proposals surrounding the economic development functions of the government are not so evident at this time, it is no secret that certain Cabinet officers have designs on many of the programs of the Farmers Home Administration, which you have used so effectively to improve the quality of life in rural America.

Water and waste disposal loans, rural housing, community facility and business loans would have to be considered primary targets for transfer to agencies with an urban bias.

You may well ask why you should be concerned now with proposals you have not seen in writing.

First, the rhetoric now being uttered by the reorganizers at OMB is almost identical to what we heard during the Nixon reorganization effort. With smiling faces these people talk about the efficiency of putting similar government functions together into bigger Federal bureaucracies.

In my experience in government I have never seen any bureaucracy get better by getting bigger. The Department of Health, Education and Welfare is a good example.

During another Federal reorganization back in 1939, the Food and Drug Administration was transferred from U.S.D.A. to an outfit then known as the Federal Security Agency.

FDA was sent there because the Federal Security Agency didn't have much to do and needed additional functions to justify its existence.

Like Topsy, the Federal Security Agency "growed and growed" and eventually got a new name—Department of Health, Education, and Welfare. Today, HEW occupies more than 30 buildings in the Washington area alone. It exemplifies one of the most unmanagable bureaucracies in the world.

HEW is a classic example of why in government smaller is better.

My second concern is with what is happening now around the flanks of the reorganization project.

The White House has announced it wants a National Development Bank. You may recall that Senator Humphrey and I led the fight for a Rural Development Bank back in 1971. For our troubles we were fed a lot of rhetoric about Federal reorganization.

Two weeks ago during a hearing before our Rural Development Subcommittee, an official of the Treasury Department was asked if the proposed National Development Bank would issue rural credit. The answer was, "Yes."

Then the Treasury official was asked why the Secretaries of the Treasury, Commerce and HUD were to be included on the Bank's Advisory Committee, but the Secretary of Agriculture was not. The reply was that the Secretary of Commerce did all of the rural development in the government, and so it was felt that Agriculture need not be represented.

At that point, the Treasury official received a crash course on the $9 billion in rural development programs of U.S.D.A., not counting farm programs, forestry and rural electrification.

I think this incident shows that the people who do the planning to move the organizational boxes around in the government are not always vicious schemers.

More often, they simply don't understand the whole system, and most particularly, they don't understand why certain programs are located where they are.

The current proposal by the Administration to move $2 billion in nutrition programs from U.S.D.A. to the proposed new Department of Education shows a similar lack of basic understanding.

At first blush, it might seem to make some sense that the school lunch and school breakfast programs be assigned to a Department of Education. But on closer investigation, it makes no sense at all.

Food, nutrition and agriculture have become irrevocably linked in national policy considerations. It is not by accident that the basic farm law of this country enacted by Congress last year is titled: "The Food and Agriculture Act of 1977."

The school lunch and other child nutrition programs were developed and have grown to maturity within the United States Department of Agriculture. To place these programs in the untried and untested hands of a new Department of Education would be bad for the programs, bad for agriculture and bad for the children of America.

For one thing, some of the child nutrition programs have no connection with the school system. The summer feeding program and the child care feeding program are not administered through schools, and have no association with the educational system.

Transferring the child nutrition programs to a Department of Education would lead to elimination of the current commodity support for the feeding programs. Without commodity support, the price of a school meal would increase, and participation among paying students would decrease.

At the present time, over 20 percent of the food served in the school lunch program is purchased by, and distributed by, the Department of Agriculture. This support enhances the quality of the meals served and keeps down the cost of the lunch.

Under the Department of Education, nutrition will be viewed solely as an educational support function, and not as part of a national food and nutrition policy. The Department of Education would become a single purpose agency. Those functions that are not administered by the education establishment will never feel at home in that agency and their funds will always be in jeopardy.

The nutrition programs, and the child nutrition programs in particular, should serve as the backbone of our emerging food, nutrition, and agriculture policy. They should not be severed from the Department of Agriculture at the very time that people are be-

ginning to recognize the interrelationship between these areas.

None of this is to mention that removal of the nutrition programs would remove $2 billion of the $14 billion budget of U.S.D.A.

Cut away rural development and you lose a few billion more. Cut away forestry and soil conservation and you lose another couple of billion. Cut away REA and you lose still more.

President Carter has committed himself to maintaining the Department of Agriculture. My concern is that once the reorganizers finish raiding the Department's functions, the President will not be able to keep that pledge.

If the reorganizers have their way, the Department of Agriculture would become little more than an empty shell, incapable of serving as a viable voice for rural America within the councils of the Executive Branch.

The removal of the vital, interrelated functions of U.S.D.A. to other departments would weaken still further the limited leverage that farm area Senators and Representatives now have to put through effective farm legislation. I need not remind you that the farm population of this country continues to decline and now accounts for only 3.6 percent of the total U.S. population.

The entire matter of Federal reorganization can become quite complex. It also can become fragmented in terms of time.

The proposal to shift the child nutrition programs to the proposed Department of Education is before the Congress at the present time. The Senate Committee on Government Affairs, which is handling the legislation, is holding final hearings now and probably will begin marking up the bill later this month.

Natural resource changes or economic development switches could come next year or the next. It's been a long time since anyone has heard from the OMB study of REA.

Because of this loose timetable, neither NRECA nor any other organization can be expected to maintain a fever pitch of interest in behalf of the Department of Agriculture for months on end.

But you are here in Washington now. You have an opportunity to meet with your Congressmen and Senators now. Despite the complexity of this issue, make your message simple.

Save the Department of Agriculture!

You can count on my help in this effort. You can count on the help of all 18 members of the Committee on Agriculture, Nutrition, and Forestry, regardless of party.

We already have written a joint letter to the Chairman of the Government Affairs Committee, Senator Ribicoff, expressing our strong opposition to the removal of the nutrition programs to a Department of Education.

This is not to say that the members of our Committee are opposed to the creation of a Department of Education. Several of our members—myself included—are in favor of the new department. In fact, six of our members are co-sponsors of the Department of Education bill.

But on the question of transferring the school lunch and other child nutrition programs we stand united. We stand in unalterable opposition. I urge you to join actively with us in this opposition.

Some of you may think of yourselves as being solely in the electricity business. It may be difficult for you to see how the school lunch program has anything to do with the transmission of power by your cooperatives in the cheapest and most efficient manner possible.

But I am certain that I do not have to remind you that just as the bell tolls for child nutrition it also tolls for REA. If any segment of the department is diminished, you are diminished also.

This your fight. It may not be a monstrous war, such as the one we fought together when we saved the REA during the Nixon Administration.

Instead, it will be a series of battles. I tell you today—and I cannot stress it too strongly—all of those battles must be won—or we stand to lose the war.

I am pleased that NRECA is testifying against the shift of the nutrition programs to the Department of Education. You may rest assured that I will encourage other organizations to come to your aid if the REA is ever put in jeopardy.

I know I speak the united sentiments of every member of the Senate Committee on Agriculture, Nutrition, and Foresty in that promise also.

I come to NRECA first with this message, because you have always been first when it comes to the defense of rural America. I urge you to send out the troops and go to work. It is time to go into battle.

I urge you to adopt this cause as you cause. For in the long run, that is just what it is.

I am confident that the men and women of America's Rural Electric Co-operatives can be counted upon to do their part to win this fight that means so much to agriculture, to rural America and to the children of this country.

Thank you.●

CORPORATE PR EXAGGERATES PROFITS

● Mr. HATCH. Mr. President, a national concern over lagging capital formation and labor productivity has produced a lively debate about corporate tax reduction. Although the decline in the growth of capital accumulation and labor productivity is a concern of all, some say that these problems cannot be a result of low corporate profits, because these profits are higher than ever.

An article in the March 1978 issue of Financier by Louis Kohlmeier points out that these allegedly higher-than-ever profits are the products of an understatement of costs of production during periods of inflation. This understatement of costs is partly a product of the corporate competition for kudos and partly a product of managers' desires for raises in their own salaries. If any one corporation reported its earnings honestly based on full replacement cost accounting, its performance would look bad compared to that of other corporations that understate their costs and, thus, overstate their profits. And since individual managers' compensation is related to the profitability of the firm, the higher the reported profits, the higher their own compensation.

As a result, the corporate sector has been paying taxes on costs of production, which they erroneously report as profits. The individual firms present a better profit picture than really exists, and the economy as a whole suffers. The economist George Terbough showed that in 1976 corporate sector profits were overstated by $30 billion, adding $10 to $12 billion to the corporate tax burden. Thus, the overstatement of profit resulted in an overpayment of taxes, and this resulted in a reduction both in the rate of return to equity capital and in the funds available for new investment.

Mr. Kohlmeier points out that the inflated corporate profit figures encourage public and political misunderstanding of the importance of capital accumulation and substantiates consumer suspicion that corporate profits are obscenely high. As a result of all the profit misinformation, it is difficult for the Congress to reduce taxes in order to encourage investment, and the whole economy suffers. As a result of corporate PR campaigns about high profits, investment funds are diverted into tax revenues, and there are fewer new jobs and a lower growth in labor productivity and wages.

I ask that the article be printed in the RECORD.

The article follows:

INFLATION REFLECTED IN PROFITS MASKS TRUE CAPITAL NEEDS

(By Louis Kohlmeier)

In one of his last public addresses as Chairman of the Federal Reserve Board, Arthur F. Burns underscored his unending concern over inflation and capital formation by declaring that "We have been in a profits depression since the 1960s." By coincidence, General Motors a few days later announced and newspaper headlines dutifully proclaimed profits of $3.4 billion for 1977, highest in the corporation's history, up by 13.7 percent over its previous record set the year before.

The need to stimulate capital investment that will create jobs is recognized by key members of Congress and by White House economists; legislation almost certainly will be passed this year to reduce corporate taxes with the avowed purpose of stimulating capital spending. Paradoxically, however, corporate tax relief substantial enough to generate profits commensurate with long term capital needs is quite unlikely amid headlines that repeatedly report those profits as reaching new highs. Inflation that substantially increases the apparent size of corporate profits at the same time decreases substantially any chance of real corporate tax reform.

The capital shortage, like the energy crisis, is a strange phenomenon that is believed and yet not believed, evident and yet not evident enough. A compelling case can be made that, if public policy does not acknowledge the capital shortage soon, it will become acute, to the point where it will starve the nation's productive capacity, increase unemployment and ultimately tear at the free enterprise fabric. However, as General Motors, Exxon, AT&T and many more large corporations report successively higher profits, the dangers of capital shortage seems less than compelling. And within the capital shortage paradox lies a dilemma.

FEW SO SINGLEMINDED

During his tenure at the Federal Reserve Board, Arthur Burns preached many times that inflation is bad—and there is hardly a soul in government or business who would argue that inflation is good. But Mr. Burns ultimately lost his job because of his singleminded—even zealous—crusade against inflation. Neither government nor business is so singleminded. For although in the long run inflation will erode corporate profitability and beget capital shortage, in the short run it increases reported corporate profits and adds to government tax receipts.

The relationship between inflation, corporate profits and capital formation is complex as well as controversial. Adjusted after-tax profits of all corporations rose in 1977 to an estimated $71.1 billion from the previous record of $63.3 billion in 1976. And since the spring of 1975, economic recovery has generated some seven million jobs in private industry.

But business investment in new plant and equipment has not kept pace and the capi-

tal spending lag has dampened the strength of the upturn.

Measured in constant rather than inflated dollars, capital outlays in the past two and one-half years have increased only half as much as they did in similar periods of five previous economic recoveries. Moreover, capital outlays since 1975 have been concentrated in light machinery, trucks, office equipment and other short-lived capital goods that promise quick returns, rather than in major plant and equipment construction that does not generate profits for several years.

MORE FUNDAMENTAL REASONS

Capital spending hesitancy does not appear to be the result of a current capital shortage, however, except among younger and smaller companies. Some economists attribute the hesitancy to underutilization of existing plant and equipment—80 percent in 1976, 82 percent in 1977—and thus reason that, when and if the economy and the utilization rate both increase some more, capital spending will spurt. But capital spending has not yet spurted in aluminum, paper, and some other industries that have been operating at higher-than-average utilization rates, which suggests to some other economists that there are more fundamental reasons for capital spending hesitancy.

Mr. Burns, for one, suggests that uncertainty about the future, stemming from a recent pattern of unanticipated events, may be the most fundamental reason for business' unwillingness to commit itself to major plant and equipment expansions. Government environmental and safety regulations, for example, have increased costs beyond expectations, and higher Social Security taxes are doing the same.

So far business has generally been able to raise prices to cover higher costs, but the possibility of government wage and price regulation threatens to make further increases more difficult.

Thus inflation, in all its manifestations, has created uncertainty by increasing the risk of capital investment in major expansions that, even in normal times, would not return profits for some years to come.

The Council of Economic Advisers in its January 1978 report to President Carter, recognized that "The perceived risk of investment may have increased in the 1970s as a result of higher inflation rates and larger cyclical fluctuations in output. Uncertainties about future rates of change of specific output prices and costs are even more likely to affect investment behavior adversely."

TENTATIVE STEPS, SCANT EFFECT

The White House and Congress have taken a few tentative steps toward stretching out environmental and safety goals and toward slowing wage and price inflation, but with scant effect. Without direct reference to either regulation or inflation, President Carter has proposed and Congress amost certainly will enact corporate tax reductions in the hope of spurring capital spending. The Kennedy tax cuts in the early 1960s strengthened both capital investment and the general economy; the hope now is that history will repeat itself.

Mr. Carter has proposed that the maximum tax rate on corporate profits be reduced from 48 percent to 44 percent; that the investment tax credit, invented by President Kennedy, be made permanent and be extended to additional industrial and utility structures, and that the credit be allowed to offset up to 90 percent of tax liabilities, instead of the current ceiling of 50 percent.

It is not yet clear whether Congress will accept all or only some of President Carter's recommendations or will redesign the tax package to include some of Congress' own ideas to stimulate capital and job formation. Some key members of Congress have ideas that would go beyond his proposals. Chairman Russell Long of the Senate Finance Committee believes, for example, that ending double taxation of corporate dividends is "an idea whose time has come." Chairman Al Ullman of the House Ways and Means Committee has agreed, saying that the double tax on dividends "reduces business investment, causes distortions in capital markets, creats a dangerous bias toward debt financing and encourages the unnecessary retention of earnings."

BOOM NOT LIKELY

If history is any guide, the corporate tax reduction package, whatever its final shape, will encourage some additional business spending for new plant and equipment. But it may well not encourage a capital spending boom of the magnitude produced by the legislation of the early 1960s, because inflation then was by no means the problem that it is today and corporate tax reductions alone may not remove the inflation-bred business uncertainty that has come to be the most fundamental deterrent to capital spending.

Inflation, which at the going annual rate of 6 percent doubles costs every 12 years and trebles them in 19 years inevitably affects corporate profits, taxes and capital accumulation in different ways. Those effects, however, are but dimly perceived in business and government or, to the extent they are perceived, tend to be consciously ignored.

Inevitably too, generally accepted accounting procedures, based upon historical or actual costs, abet the misconception or ignorance of the effects of inflation in all three sectors. But there is a growing body of economic evidence supporting the theory that conventional accounting, by largely overlooking the effects of inflation, is distorting the realities of corporate profits, taxes and capital accumulation, causing dangerous masking of serious problems.

PROFITS SERIOUSLY OVERSTATED

By understanding current inflated replacement costs of inventories and capital assets, historical cost accounting overstates corporate profits. A Commerce Department study estimated that for 1976 the replacement cost of inventories used up by non-financial corporations exceeded by $14 billion this historical reported costs of such materials. The study further estimated that capital asset depreciation charges based on historical costs were $36 billion short of the replacement cost of the assets consumed. Thus the estimated understatement of inventory and depreciation charges came to a total of $50 billion for 1976 alone.

The understatement of costs resulted in the overstatement of corporate profits by an estimated $30 billion, which in turn resulted in the overpayment of corporate taxes. Corporate taxes under historical accounting were estimated at between $10 billion and $12 billion, more than they would have been under inflation or replacement costs accounting.

Economist George Terborgh, in a study for the Machinery and Allied Products Institute, carried the economic consequences of inflation on corporate finance a step further. He recomputed reported corporate depreciation and inventory costs on the basis of current replacement costs and applied the recomputed costs to 1976 unadjusted after-tax corporate profits of $77 billion. His conclusion was that, on the basis of replacement cost accounting, real corporate profits for 1976 were only $43 billion. Analyzing retained earnings and dividends, he further concluded that corporate profits for the three-year period 1974 through 1976 were insufficient to cover dividend payments and thus some portion of corporate dividends apparently were paid out of corporate capital.

Securities and Exchange Commission Chairman Harold M. Williams, in citing the Terborgh study, took note also of a separate study of the steel industry which concluded that that industry will have to spend $3.2 billion for plant and equipment in the future in order to hold manufacturing capacity at its present level—twice the industry's cash flow after dividends.

CUT DIVIDENDS OR BORROW

Therefore, if capacity is to be maintained, dividends will have to be cut drastically or the steel industry will have to borrow at least $1.5 billion, increasing debt to an unacceptable 60 percent of capital. Mr. Williams concluded that the steel industry faces two equally painful choices: Alter dividend policy drastically, or continue the liquidation of capital that appears already to be taking place.

Mr. Williams has asserted: "The failure of conventional financial reporting to reflect the impact of inflation on corporate earnings contributes to an increasingly widespread misunderstanding of both the function and the level, in real terms, of corporate profits and cash flow." And Mr. Burns has said: "Raw profit numbers have become virtually meaningless as a guide to corporate affairs because of the way in which inflation distorts the calculation of profits."

Nor are the consequences limited solely to financial distortion and its effects upon financial policy judgment.

Corporate profits, inflated to ever higher records that grab newspaper headlines, serve some purposes intended by corporate managements, but some unintended, also. Corporate managers are under unrelenting pressure for ever-higher profits, but those same profits also reinforce union demands for ever-higher wages.

MISUNDERSTANDING ENCOURAGED

More subtly, but perhaps even more significantly, inflated corporate profits encourage public and policitical misunderstanding of the function of profits and capital accumulation. The headlines support liberal charges that corporate profits are obscenely high, substantiate consumer suspicion of ripoffs and divert attention from the necessity of profits for job creation.

While Ralph Nadar and other critics of corporations have not convinced the public that big business must be tamed by federal incorporation and regulation, overstated profits have reinforced political claims. They not only tend to discourage, meaningful corporate tax reductions, but also move Congress to transfer to corporations various social costs. Expensive environmental and safety regulations have been enacted in part on the political assumption that large corporations could well afford to pay for them out of their large profits, for example.

Only recently, the same political argument supported the proposition that business should pay more and workers less of the enormous new taxes required to save the Social Security Trust Funds from insolvency.

The stock market seems to understand the erosion of corporate profits, but in business and government there are few supporters of inflation cost accounting and few sympathizers with Messrs. Williams and Burns. Government fears the loss of corporate tax revenues of the magnitude that would stem from inflation cost accounting. Business argues that the change would impair its ability to raise capital. Individual managers seldom argue, but certainly realize, that as inflation increases corporate profits, their own compensation keeps pace.

IDENTIFY THE DAMAGE

But just as inflation will not disappear, neither will the efforts of the dedicated few who seek to identify the extent of its damage in the hope of winning support for its cure.

The Financial Accounting Standards Board, a private body that is developing a new framework for corporate accounting un-

der the watchful eye of SEC, is expected by the Commission to address itself to the inflation cost accounting issue.

SEC itself in 1976 required larger corporations to disclose publicly the impact of inflation on inventories, productive capacity and cost of sales; it is now reviewing the results of that requirement.

Neither FASB nor SEC is expected to order corporations to abandon the historical method in favor of inflation cost accounting. But they are expecting the new increasingly to supplement the old. Mr. Williams has said that FASB's new accounting framework "should mandate disclosure of the impact of inflation on financial statements." Implicitly, if FASB does not mandate inflation accounting, SEC probably will.

As a result of its current review, SEC may expand somewhat its present inflation accounting requirement. It will not in its current review extend inflation accounting all the way to the bottom line by requiring that corporations report profits on the basis of inflation accounting, but SEC, if not FASB, could reach the bottom line within two or three years.

FOSTER FUTURE REVISION

An SEC requirement that corporate profits be restated to account for inflation, and thus be reduced, would not automatically reduce corporate taxes inasmuch as tax law and securities law are two separate and distinct desciplines. But SEC-mandated inflation accounting could foster tax law revision in the future. It might even win converts from the private sector, whose leaders may come to realize that unless corporate profits reflect the effects of inflation, the pleas of business for tax reduction big enough to stimulate capital formation will go unheeded.

Mr. Williams intends to continue to lead the crusade for inflation cost accounting. "One of the most important challenges facing business," he believes, "is to come to grips with the implications of inflation. A basic consequence is the fact that the traditional income statement, by itself, no longer serves to portray the full economic realities of business operations. To the extent that the fact is not grasped, or is ignored, it will have radiations which seriously, and perhaps permanently, jeopardize public confidence in private enterprise." ●

BRINGING PARKS A STEP CLOSER TO PEOPLE

● Mr. WILLIAMS. Mr. President, I commend my colleagues in the Senate for their prompt and favorable action on S. 975, a bill designed to improve access to our national parks and recreation areas.

As the sponsor of this bill, I particularly wish to thank the distinguished chairman of the Subcommittee on Parks and Recreation, Senator ABOUREZK, and the esteemed chairman of the Committee on Energy and Natural Resources, Senator JACKSON, for their leadership in securing passage of S. 975.

The problem this bill addresses is one that afflicts new urban recreation areas, such as Gateway, and traditional, older parks, such as Yellowstone, alike. It is the bane of those who want maximum protection of the parks and those who want maximum use of the parks. The problem is our overreliance on the automobile for park access. Excessive use of cars causes air pollution and other environmental damage, as more and more precious parkland is devoted to roads and parking lots. Traffic congestion on access roads adversely impacts local communities and detracts from the visitor's enjoyment of the park. It also represents a wasteful and unnecessary use of our energy resources.

About 90 to 95 percent of all visitors to the national park system arrive by car. This reliance on cars for park access is perpetuated by current Federal policy. The Federal Government pays for construction and maintenance of highways leading to national parks. But it does not provide for any alternative means of getting there. People who do not have cars—particularly the poor, the elderly, the young, and the handicapped—are thus denied the opportunity to enjoy their country's natural splendors.

For all these reasons, we need to develop, provide, and promote alternatives to the automobile for travel to and within the national park system. Just as public transit has provided an alternative means of transportation in our cities, it can provide an alternative means of access to the parks.

An extensive network of bus, rail and air routes serves our Nation's cities and towns. Various public transit services have already been instituted by the National Park Service within the boundaries of certain parks. What is lacking in many cases is a transit link between the two systems—a shuttle bus from an airport or a train station to a park; a ferry from a mass transit stop at a city dock to a seaside or lakeside park. In some cases, existing intercity or commuter services could be modified slightly to accommodate park visitors. In others, a park-and-ride service could link outlying parking lots to points within a park.

This could be accomplished at minimal cost. But it would take planning and coordination which is now lacking.

S. 975 would authorize the Secretary of the Interior to undertake a 3-year pilot program to plan and implement park access projects. In planning these projects, the Secretary would consult with other relevant Federal departments and agencies, and provide an opportunity for State and local governments and the general public to participate.

The bill would authorize the expenditure of $6 million on these transportation projects over the 3-year period. An expenditure on any one project of over $100,000 would be subject to review by the appropriate congressional committees.

Mr. President, I urge the House to act quickly on this legislation, which will help to preserve the national park system, while giving more people the opportunity to enjoy it.●

THE REALITIES OF REGULATION

● Mr. HATCH. Mr. President, we are living in an era, one which had its beginning in the 1930's, of Federal solutions to problems of almost every types. The quest for improving the quality of life in America has caused the creation of a myriad of agencies, departments, commissions, bureaus, boards, and offices in the tax-supported public sector. Casting no aspersion on the sincerity of government's intent, Mr. Robert L. Mitchell, executive vice president of the Celanese Corp., has outlined what the overall effects of excessive regulation are, and why we ought to turn to an era of assessing the impact of these Federal functions.

I support the view of Mr. Mitchell, and I feel he has expressed in a clear and rational manner what our country and its individual citizens may face if Government and the private sector cannot begin to interact to provide long-range answers to important questions. I commend his remarks to my colleagues and ask that the text be printed in the RECORD.

The text follows:

REASON AND PARTICIPATION: THE ROAD TO BETTER GOVERNMENT-BUSINESS INTERACTION

I am honored to participate in this opening session of the 3rd International Petrochemical Conference. The assignment is a difficult one: To present industry's views on the state of government-business interaction—in 20 minutes.

It's symbolic, I think, that this meeting is being held in San Antonio. In 1836, this is where we lost the Battle of the Alamo. But, the war was finally won and today Texas is thriving and vital. We in the petrochemical industry—as in other segments of American business—feel we are engaged in our own Battle of the Alamo—that against over-regulation by government. And, the future over-regulation by government. And, the future direction of our nation as well as our industry depends on the final resolution of the degree to which government interferes in our lives and businesses.

SHARING A COMMITMENT

At the very outset, I want to go on record: I have no argument about regulation in principle. The social objectives behind many of today's regulations are both valid and worthwhile. Some regulation is, indeed, responsive to real abuses in our environment and of the health and safety of employees and consumers. And, my company shares a commitment along with the rest of the petrochemical industry to provide a safe and healthy workplace for our employees and to improve the quality, performance and safety of our products for our customers.

In many cases, however, the pendulum has swung too far . . . many regulations are excessive. It is time for us as individuals, as well as in the institutions of business and labor, to put a stop to excessive regulations that are raising consumer prices, costing American jobs, weakening the competitive position of our industries, contributing to the balance of payments deficit . . . and strangling many individual firms.

I believe that the total of all the regulations extant and being enacted could . . . and will, if not stopped . . . seriously depress the growth of the economy. The Chancellor of the University of Rochester, Allen Wallis, has likened the process to "bacteria, trivial in comparison with the size of an elephant that they can kill . . . not by butchering it, but by impairing one after another of the organs whose functions are essential to its health and life."

PRODUCTIVITY GROWTH SLOWING

Productivity in the United States continues to be higher than in other nations. However, productivity growth between 1966 and 1976 rose less rapidly in the United States than in any other major industrialized nations—2.2 percent. While many factors have contributed to this slowdown, government regulation is an important one—as documented by a Commerce Department study. It found that expenditures to meet pollution, safety and health regulations lowered industrial output nearly 1.5 percent in 1975 from what it would have been without the regulations. As I said earlier, some regu-

lation is necessary and, of course, it must be paid for.

But, this poses an important question: Are we receiving compensating value? Presently we do not know. And this is an area where business can provide information and, thus, work with Congress and the Administration in taking their first steps toward finding the answers.

Let us look just briefly at some of the major regulations to see how they are affecting the productivity of our industry.

First, toxic substances. The Toxic Substances Control Act is one of the most complicated acts ever to affect the chemical industry. The issue of toxic substances is so all-pervasive that in addition to the EPA which implements the act, 15 other agencies are also involved in a variety of additional federal programs to control toxic chemicals in the environment.

Toxicological testing requirements have already resulted in many chemical companies reallocating their research funding. Thus, less money is being put into research that will generate new products . . . plants . . . and jobs. In addition, TOSCA regulations are expected to delay or eliminate the introduction of some products. Many companies feel the cost of bringing a product through the regulatory maze to market is becoming uneconomic.

Environmental regulations, too, are dampening productivity. For the next fiscal year, President Carter has proposed an EPA budget of $1.13 billion—a rise of $279 million from the current budget. It is taxes and taxpayers who will bear the costs. Business also pays in other ways.

The experience of Dow Chemical in California has become a classic example of the impact of environmental regulations on industry. The proposed $500-million petrochemical complex would have provided 1,000 construction jobs and more than 1,000 permanent jobs. Approval of 65 permit applications was needed to proceed with the project. At the end of two years, and at a cost of more than $4 million, only four permits had been obtained. As we all know, the project was cancelled. The construction delays were so expensive that they became intolerable.

CONFLICTING REGULATIONS

OSHA's proposed generic standard for regulating potential carcinogens in the workplace is a piece of pending regulation with the potential for taking still more of a bite out of productivity. The cancer standard is still at an early stage of development. However, as written, it attempts to fold a myriad of complex scientific and legal issues into one massive, rigid set of regulations. In addition to OSHA, the Consumer Product Safety Commission and EPA, through both the Toxic Substances Control Act and the Clean Air Act, are working on the same subject, with no assurance that a common cancer standard will result. There is, therefore, the possibility that industry may have to comply with contrary, conflicting regulations.

SOARING COSTS

Product liability is yet another area in which soaring costs, initiated by U.S. judicial changes, are at the critical-mass stage for many businesses. U.S. courts, in recent years, have moved from the traditional principle of liability for negligence to the principle of strict liability . . . resulting in huge damage settlements and soaring insurance premiums.

The economic impact of product liability claims has become alarming. For some of the smaller companies, product liability insurance premiums have reached five percent of sales; for the pharmaceutical industry it is almost 10 percent. The Interagency Task Force on Product Liability Report prepared for the Commerce Department found that the cost of product liability insurance increased an average of 210 percent between 1974 and 1976 and that significant increases in the average number of claims and the size of damages sought have also occurred. These costs are being paid in higher consumer prices . . . through fewer new products because of the unacceptably high cost of insuring against high risks . . . and through lost jobs when firms are forced to close.

There is a very real danger that small firms will be regulated out of business. The Employment Retirement Income Security Act (ERISA) did just this to small pension plans. Rather than protecting employees . . . as was the act's objective . . . the regulations resulted in the loss of many pension programs altogether.

The final area I'll mention in which government control is pushing up costs and lowering productivity is energy and I shall make only two brief points. First, of all, the lack of a national energy policy upon which business can base its plans has forced business to anticipate all possible alternatives. Second and of even greater importance, there is the pyramid effect of building up layer upon layer of regulations . . . as supposed remedies to problems created in the first place by existing regulations. The experience of the major oil companies with the Federal Energy Administration and the new, superseding Department of Energy illustrates this ambiguity. In suits for noncompliance brought by DOE, court decisions have so far confirmed this ambiguity.

This morning, I've touched on some of the more obvious of the areas in which governmental intervention is impacting the productivity of the petrochemical industry . . . and, these are just the tip of the iceberg.

FREEDOM TO CHOOSE

The Commission on Federal Paperwork estimates the total costs of federal paperwork at more than $100 billion a year, with private industry paying between $25 to $32 billion a year. Federal, state and local governments now consume 36 percent of our nation's GNP. And, that percentage is constantly increasing. The average taxpayer works for two hours and forty-five minutes out of an eight-hour day to pay for the cost of government . . . to enable the government to make decisions for us. And that is what I think is the most serious implication of these regulations . . . that the government is encroaching on our individual freedom to make our own choices. Legislation, court decisions, executive orders and agency directives are steadily narrowing our ability to make our own decisions.

The common threat in much of these regulations seems to be to protect us from ourselves. In fact, much of the news media have played this entire issue of regulations as an adversary confrontation between business and the public. In reality, business is the middleman, caught up between government and the public. And, where it has been possible to educate the public, some regulations have actually been defeated . . . mandated seat belts and the ban against saccharin are two outstanding examples. When the extremes of government intervention begin to hit the consumer in the pocketbook or in his conveniences, he speaks up. And as businessmen, this is working in our favor; an informed public can force governments to approach a reasonable middleground.

FEELING THE IMPACT

Each of us should be concerned because already we are feeling the impact of increased regulation. The impact is being felt in increased costs for goods and services, reduced employment opportunities through reduced investment in plants, inflation and most dangerous of all, further government controls in attempts to correct problems created in the first place by improper controls and regulations.

What is the answer to this creeping government intervention in our lives? Number 1 . . . to insure that the objectives of each piece of legislation are correct. I believe most are. Number 2 . . . to insure that the means used to achieve these objectives are appropriate. And, here, I believe that most are not. Number 3 . . . to educate the consuming public. This is what I believe will be most effective.

Recently, businessmen have spoken out against the dangers of governmental intervention in business, documenting its drain on the economy. A very current example is a study being commissioned by The Business Roundtable on the cost of government regulation. The study is being designed to provide an objective measure of the cost of compliance with federal regulations, to contribute to the base of knowledge needed by Congress and the regulatory agencies in their regulatory reform efforts and to identify the costs associated with specific regulatory programs and procedures.

I believe business must do more of this. We must make our voices heard . . . in a convicing way to help bring about a change in the regulatory climate . . . from one of extremism to one of moderation.

I am not advocating an end to regulations, per se. But, we must make the public and the government aware that just as there are limits to our energy resources, there are also limits to our investment capital. The question is: Can the United States afford the investment required to set to rights all the many social and economic problems that are besetting us. If setting to rights means immediately, I believe the answer is NO. We must become much more critical of accepting new legislation without looking at the costs and whether it will achieve its objectives. And, this is where businessmen can play an important role: We should apply the same degree of analysis to evaluating the costs and benefits of proposed legislation and regulation as we do to our business plans. And, we should make our findings known to the public and the government.

Only in this way can realistic decisions be made about determining the degree of regulation that is desirable and necessary from the social and economic points-of-view.

PUBLIC DISENCHANTMENT

The public is willing to listen. A recent poll of consumers showed that a significant majority is in agreement that "the government has gone too far in regulating business and interfering with the free enterprise system." The public is becoming disenchanted with extremism in government interference and has the power to bring about a shift toward moderation in government.

In fact, this move has already begun. Last year, Forbes Magazine published an article entitled "The Price of Environmentalism—The Backlash Begins." It quoted Kathryn Fahnestock, executive director of the League of Conservation Voters, conceding that: "There was something of a backlash against us in the last election." And, she noted that "The backlash will get worse next time. People vote their pocketbooks."

ENCOURAGING SIGNS

I think she made a realistic appraisal of the public's attitude. And, it is beginning to be heard in government. Congress has recently shown a new willingness to assess the impact on business and the economy of legislation it is considering. Bills are pending in Congress that would require the regulators to limit new regulations to those where the public benefits outstrip the costs being imposed on the public; regulations already in effect would be put to the same test. These bills may not be a panacea, but they provide a glimmer of hope.

Certain segments of the Administration are also getting the message. Recently, the Commerce Department published an important study on the impact of pollution and worker

safety and health regulations on productivity. As a result of the study's findings, Commerce Secretary Juanita M. Kreps acknowledged that outlays for "pollution abatement and health and safety programs have cut more drastically into U.S. productivity gains than we may have realized." She stated that her department will place a high priority on better measurement of the costs of regulations and on proposals for reducing these costs.

Another encouraging sign that diverse groups can reason together in the public policy arena is the National Coal Policy Project. This group, comprised of leading environmentalists and industrialists . . . and the brain-child of Gerald Decker, Dow's corporate energy manager . . . worked together for 13 months and agreed on more than 200 steps that could help the nation shift from oil to coal in ways that are both environmentally tolerable and economically sound. Let me point out that 1) the findings of the group are not binding on either industry or regulatory authorities; and 2) members of the project did not agree on a number of important questions. But, this project has broken new ground . . . and points to progress in better working relationships between business, environmentalists and the public.

The Coal Policy Project members credit their success to the adoption of a set of behavior guidelines known as "the Rule of Reason." It is also the title of a little-known book, written by a law professor at New York University named Milton R. Wessel. I have recently read it and recommended it to you . . . it can provide guidelines for all of us who are participants in the public policy debate.

A REASONABLE WAY

My contention is that we must all become participants in the debate over public policy and priorities. Yes, there are some hopeful indications that attitudes are becoming more moderate and reasonable. But, nearly every aspect of the operations of the petrochemical industry is under some form of regulation . . . and more are in the offing. This requires that we make the utmost effort to forge a strong and positive dialogue with the public and other groups . . . to insure that a reasonable way is pursued.

I think we must put behind us the low-profile stance that so many in business have adopted. Too many of us have left the responsibility for government to others. We've had the attitude of "We're too busy with our jobs." I feel that if we want to maintain our jobs and if we want to restore growth and vitality to our businesses, we must participate in the governmental process. We must join in the public policy debate . . . a debate that holds our future in its resolution.

The country is ready now, I believe, to turn toward a more moderate path. However, we cannot continue in a strictly defensive role. We must come forward and be counted with specific proposals dealing with the important social issues. We can provide sensible alternative solutions by determining the facts and pinpointing the economic implications. Congress and the public are beginning to ask how much regulation is necessary. I think it is about time that we in industry do our homework. And then, to communicate our findings. Where we have a case, we should come out strongly in its defense. At the same time, we must be prepared to listen to the views of others. To be objective. And, to reason together.

As individuals, businessmen and consumers, we share the same goals—economic well-being and a clean and healthy environment. To achieve these goals, we must take our rightful place in debating social priorities. Only then can we expect national policies that will be good for us as individuals and for our businesses.●

FULL EMPLOYMENT

● Mr. McGOVERN. Mr. President, in the March/April 1978 issue of Working Papers magazine, there appeared an article that I believe deserves the careful attention of all members of the Senate.

It is called, "Why We Have No Full Employment Policy," and was written by James K. Galbraith, formerly a staff member of the House Banking, Finance, and Urban Affairs Committee and now a Ph. D. candidate at Yale.

There are few comprehensive overviews I have seen which so lucidly discuss what a real commitment to a national full employment policy would mean in terms of both private and public sector adjustments. Questions of income tax policy, Government expenditures, and controls are discussed in relation to both inflation and unemployment.

The article makes abundantly clear, at least, that full employment, as a matter of public policy, will require a package of individual policies, some of which will be very unpopular, others of which will be very risky. But to ignore this approach is to capitulate to permanent and unacceptably high levels of unemployment, a condition that will do more to weaken America than any outside threat.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

WHY WE HAVE NO FULL EMPLOYMENT POLICY

(By James K. Galbraith)

Although by Carter administration lights the economic recovery is "on track," the editors of *Business Week* and the *Wall Street Journal* are not optimistic. Since autumn, a distinct nervousness has pervaded the business press, against which none of the more or less reassuring recent economic news seems to have had any effect. "Doubt, "uncertainty," and "lack of confidence" are the watchwords. As Leonard Silk reported in January, "The mood of business seems somewhat worse than the economic outlook."

A cynic might suspect that the apprehension is contrived. Recession jitters, after all, serve excellently to stall tax and social reform and to promote general tax cuts, investment tax credits, import restrictions, and other forms of private-sector relief. Carter's economic advisers, their self-confidence undermined by the Lance affair, by the stock slump, and by a run of soft statistics in the third quarter of 1977, were facing decisions on the tax package, on urban and employment spending, and on the chairmanship of the Federal Recerve Board. In Congress, the fate of welfare reform was not yet decided. For Carter's critics among corporate executives, bankers, and their press acolytes, opportunity fairly beckoned.

Whatever the conservative critics did, they should have been pleased. Instead of accelerated public service employment, youth employment, and public works, we were offered a $25 billion tax cut, tilted toward business. Tax reform is mostly "deferred," and the special treatment of capital gains is secure. Welfare reform is apparently a congressional dead letter, and along with it funds to double the present 700,000 public service jobs. G. William Miller is an acceptable replacement for Arthur F. Burns.

These events, inevitably, will strengthen the view that Carter has shifted rightward since assuming office. In truth, ideologies don't change so quickly. Perceived conditions have changed, but the government's underlying approach to short-run economic policy dates at least from the Tax Reduction Act of early 1975. It is: "steady recovery at all costs." On the numerical short-run objectives—and on their paramount importance—Carter's administration hardly differs from Ford's. Last July 1, for example, Bert Lance's Office of Management and Budget projected, with some satisfaction, an average unemployment rate of 6.3 percent for 1978. Lance's figure was only one-tenth of one percent below the rate forecast in the Republican Budget Message of January 1976, which in turn was based on policies then planned or already on the books. Politely, the parallel was not mentioned.

What distinguishes this administration from the last are not different economic objectives but a commitment to their achievement. Carter really will propose and fight for such tax cuts and spending as the recovery needs to keep going. His social objectives are of course also different; publication of the welfare program demonstrates that. But they are secondary. In a sympathetic spirit, one might rationalize Carter's first year as consistent with a simple strategic outline: to ride the recovery as far as it will go, to enact in the first years only structural reforms of slight immediate budgetary impact (energy, government reorganization, social security), to achieve the vaunted balanced budget in 1980–81, and then, having neutralized the fiscal conservatives, to use the surplus expected thereafter to absorb previously legislated cost increases and to pay for a panoply of promised, but expensive, new programs: national health insurance, urban reconstruction, employment.

The strategy, if it is a strategy, depends on a sustained economic recovery, and on the tendency in such recoveries for the tax structure to generate increased revenues faster than the government spends them. A balanced budget is simply a by-product of this tendency; it does not require the massive economy drive that some, to their present puzzlement, once read into Carter's intentions. For several years now, the budget committees of Congress have been forecasting huge budget surpluses by assuming continued steady growth and unchanged expenditure policies. The catch is that such surpluses could never be realized: the excess saving they represent would wreck both the economy and the budget itself. Rather, the projections illustrate the paradox that Carter's commitment to a balanced budget requires higher government spending and lower taxes than at present.

Thus the question for this administration has never been, "Should we stimulate?" but "How much?" "In what form?" and above all, "When?" If the economy and the administration proved strong, action could be deferred, the deficit would shrink, and the programs, when they came, could be spending programs aimed directly at unemployment, health, housing, education, crime, and similar high-priority problems. If the economy proved weak, or if the administration could be panicked into so believing, then circumstances would dictate a rapid tax reduction. This in turn would keep the deficit near its historic high, and put an insurmountable political obstacle in the path of new social spending for the near future. That, it now appears, was the true significance of last autumn's skittishness and Carter's Christmastime decision to reduce taxes.

At best, the tax cut means that the major social programs of the Carter administration are delayed, perhaps until his second term. But even then there is no commitment to full employment. Carter's endorsement (to which we shall return) of the 1977 Humphrey-Hawkins Full Employment Bill is a symbolic gesture, and not in any event an endorsement of *full* employment. In introducing the welfare plan, Carter stated his goal as one guaranteed job per family.

This—a principle, in effect of "women and children last"—implies acquiescence in the present queuing mechanism for employment, a mechanism that discriminates systematically against the young and women, and that leaves blacks and other minorities disproportionately in jobs without decent prospects for advancement (where the only path to the middle class may be the multiple-job household).

An unemployment rate of 6.3 percent, the forecast still in effect for 1978, is (on a crude calculation) compatible with 15 percent for teenagers, 11 percent for nonwhites, and between 30 and 40 percent for nonwhite youths, especially young women. Attaining the conventionally defined "full employment" unemployment rate (4 percent) does not solve this problem: in 1969, unemployment overall was 3.5 percent, yet over 12 percent for teenagers and over 26 percent for young black women. Needless to say, reaching Humphrey-Hawkins' rate of 3 percent for adults does not solve the problem either.

At the moment, the priority attached to the tax cut and to "business confidence" prevents more than token action on behalf of the perennially unemployed. Next year the excuse will be different, the result the same. Why? It is too simple, surely to blame this particular administration for timidity or lack of conviction. A genuine full employment policy entails immense difficulties, and even those who now lead the "full employment" crusade are mostly not prepared to face them.

It is easy to avoid a sober discussion of full employment. Opponents may be dismissed as "dinosaurs," supporters as "spendthrifts" and "wastrels." Right-wing editorialists inveigh against (largely invented) estimates of the "cost" of full employment; sympathetic columns are full of facile extrapolations purporting to show how much additional production we "could have had" with continuous ful employment for the past 20 years.[1] Such exercise yields impressive artificial numbers, cost-benefit appraisals either without benefits or without costs. Worse, they cast a scientistic pall over an otherwise intelligible debate.

The Humphrey-Hawkins Full Employment Bill of 1976, as a news event, typified the misrepresentations characteristic of the issue. By itself, the bill would neither end unemployment nor bankrupt the Republic; it did not deserve either the accolades or the ridicule with which it was widely received. As its few readers quickly found out, it was anything but a vast and detailed blueprint for an unending series of public works. It contained no substantial direct spending authorization, only a few million for administrative expenses and research. What it did contain were directives, guidelines for the forumlation of employment programs and economic policies in the future, that could have led to dramatic program and policy changes. But not necessarily.

Under a Full Employment Act, 1976 style, the administration would have been obliged to bring before Congress, within specified deadlines, two sets of documents: first, a budget of social objectives (targets for housing, urban renewal, environmental cleanup, and so on) toward which unemployed resources could be directed; and second, the legislation necessary to meet those objectives. This planning framework, linking employment policy to the solution of other social problems, was the heart of the bill. Certain features of the component programs were spelled out, such as that there be specific attention to youth employment and that previously established statutory wage standards be honored (a much misconstrued point). In general, however, the specifics were left to executive discretion: the content and priority of the social objectives, the amounts to be spent on each and the timetable of disbursements, even (within limits) the relative emphasis on public versus private employment. As a vehicle for employment per se, Humphrey-Hawkins was a shell; all dependent on the subsequent legislative imagination, initiative, and skill of the administration.

What the 1976 bill did not leave to executive discretion was the principle that full employment take an absolute priority in the formation of economic policy. The Employment Act of 1946 prescribes "maximum employment, production and purchasing power" as coequal policy goals; Humphrey-Hawkins would have replaced this with a flat commitment to 3 percent adult unemployment within four years. Other objectives notably price stability, would have had to be sought within the confines imposed by this commitment. The Nixon-Burns use of restrictive monetary and fiscal policies (1969 and 1973) to generate unemployment in the interest of containing inflation would have been forbidden.

It was these provisions, not any big-spending scheme, that made Humphrey-Hawkins unacceptable to Gerald Ford. Far from an ordinary Democratic pastiche of public works and leafraking projects, it was a bill about the underlying form and direction of economic and social policy—and about how much of that form and direction, as distinct from programmatic content, should be left to presidential choice. Under an activist president, Humphrey-Hawkins could serve as a mandate; for an obstructionist like Ford it would have been embarrassing and restrictive, but not coercive. However badly a strong statement of principles may be needed, it does not of itself constitute a blueprint for full employment.

The overriding weakness of Humphrey-Hawkins (strangely, given the extravagant claims of both supporters and opponents) was that it did not go far enough in reordering economic policy. It emphasized peripheral matters—congressional review of the planning process, new regulations and reports, the partition of tasks between bureaucratic entities—giving the appearance of coverage and depth while ignoring necessary aspects of a full employment policy. On inflation, the bill dissembled, acknowledging the priority that inflation control must receive but listing only well-known placebos (an inflation "early warning system," voluntary measures to encourage productivity, antitrust enforcement, emergency export licensing for food and materials) as policy tools. At the insistence of the AFL–CIO, there was no mention of wage-price controls. In a compromise in early 1976, when Senator Humphrey became a principal cosponsor of what had been the Hawkins-Reuss Bill in the House, a provision guaranteeing jobs as a matter of enforceable right was replaced by the "interim objective" of 3 percent adult unemployment within four years, thus permitting coverage of teenagers and disproportionately unemployed minorities to remain vague.[2] The result was sincere, respectable, an important symbol, but something less than, say, half of a comprehensive policy for full employment.

In the 1977 version, which Carter supports, a largely symbolic statement is made exclusively so. The "right" to employment becomes merely a "goal," the "Full Employment and Balanced Growth Plan" is subsumed into the president's annual economic report, the explicit injunction that price stability "shall not be sought through any weakening of the goals and timetables relating to reduction of unemployment" has disappeared. Gone are the 90 and 180-day deadlines for submission to Congress of youth, regional, structural, and countercyclical employment programs. Wage-price controls are explicitly ruled out. Even the goal of 3 percent adult unemployment, now stretched to "within five years," is subject to revision after two. Without strong implementing legislation, of which there is no sign, revision would be nearly certain—after the 1980 election.

What would a serious full employment program look like? First we need a better definition of full employment. The one we now use simply selects an arbitrary percentage level of measured unemployment (or a level supposedly consistent with near-stable prices) and calls it full." Arthur Burns's suggestion of zero involuntary adult unemployment" is better, given suitable definitions of "involuntary" and "adult." There is an older definition, that of the 1944 Beveridge Report in Britain, which is still good:

[Full employment means] having always more vacant jobs than unemployed men (sic), not slightly fewer jobs. It means that the jobs are at fair wages, of such a kind and so located that the unemployed men can reasonably be expected to take them; it means, by consequence, that the normal lag between losing one job and finding another will be very short. . . .

This is a tall order, and it is not obvious how one would know from current statistics when Beveridge full employment had been achieved. An acceptable interim goal might be whatever level of measured unemployment is deemed achievable within one presidential term, *provided* that no particular ethnic, sex, occupational, or age group be stuck with a disproportionate share of the unemployment that remains.[3] With this proviso, Humphrey-Hawkins' interim objective isn't so bad. What counts is the emphasis on those who most need employment.

Full employment means, above all, a commitment of public, not mainly private, resources. Much appeasement rhetoric in Humphrey-Hawkins, in Carter's pronouncements and in the credo of the economics profession, is devoted to denying this, but history is an unfriendly witness. We have never had full employment in peacetime; even the long expansion of the early 1960s did not come very close. There is no evidence that the private sector, even with a sustained Keynesian assist, can fully or permanently correct unemployment.

Some of the unemployed, those who are well educated, experienced, or on temporary layoff, will be hired or rehired quickly when the economy turns up or when their company receives a new contract; others without such advantages remain indefinitely at the end of the line. For them, the customary "hydraulic Keynesianism" of recent decades doesn't work. A generalized application of fiscal or monetary stimulus to the private sector, of which Council of Economic Advisers chairman Schultze's aborted $50 rebate scheme was a good example, is an inefficient employment creator, contributing strongly to inflationary pressures—or disappearing into savings—well before the so-called hard core have jobs.

Why? One part of the answer, at least, is clear. Private employers, most of whom are

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not practicing bigots, avoid the hard-core unemployed for business reasons. They are, or are thought to be, low-profit workers; ill trained, poorly educated, transient, sometimes hostile or obstreperous, often located in run-down, dangerous, remote, or (the inner cities) high-wage and thoroughly unionized districts. Since full employment means the tough as well as the easy cases, it will require a mix of programs targeted by area and group, including inducements to private employment (such as wage subsidies and hiring tax credits), but primarily including expanded *public* investment and *public* services.

These may be either direct public enterprises or publicly financed private endeavors, but they cannot rely on the prospect of short-run economic profits. Nor can we afford the sacrosanct pecking order, according to which public jobs must offer limited tenure, low pay, and tasks not ordinarily provided by private business. If a government agency can do a particular job more cheaply than a private contractor (a proposition less surprising than it sounds), or if there are substantial training benefits to be had by hiring "subeligible" workers, then let the government do it. Full employment is a complicated, long-term, bureaucratic endeavor, and nothing can be done about that.

Full employment is therefore "costly," meaning that government expenditures must be increased to achieve it. The budget deficit, however, need not increase, and any rise would be in part offset by rising tax collections and falling welfare and other transfer payments. Probably the net social cost (total loss of product to society) of full employment would be zero or even negative, the gains to those newly employed outweighing the losses to others. Even so, the fact remains that certain significant groups would suffer: those whose taxes were raised, whose prices or wages or profit incomes were controlled, those who would lose some of their front-of-the-line status in certain types of cyclical industry (construction trades, for example).

Is full employment feasible? Can legislation written in Washington respond to the needs of hundreds of diverse regions, groups, and industries, and to the peculiarities of seasonal and cyclical employment? Can the federal government force such programs on thousands of autonomous units of state and local government, not all of them competent or honest, whose cooperation will be required?

Again, a completely confident answer isn't possible. The Great Society provides an historical parallel of sorts to a full employment program not wonderful, but not wholly discouraging either. Income gaps did narrow, and blacks and other minorities made significant gains in education, housing, employment, and political rights; that these gains were eroded by a combination of neglect, conscious policy, recession, mismanagement, and fraud during Nixon's administration should not be blamed on the programs themselves.[4] But the question remains: support for full employment presupposes the belief that the federal government can still govern, faith that problems such as the displacement of regular workers by subsidized ones can be overcome, and a stomach for increased economic intervention by government indefinitely.

In the ghettos especially, the juxtaposition of decay, discrimination, crime, and a young, disadvantaged workforce has blunted the local impact of macroeconomic expansion, while creating the widespread presumption elsewhere that special government programs don't work either. These doubts are not wholly unfounded. One aspect of the problem, pointed out by the *Amsterdam News* in the wake of the New York blackout, is the "vacuum of leadership" in the ghetto. To the extent this is true, sustained efforts at economic development are handicapped, prone to insensitivity and poor community relations, and susceptible to ripoffs, both imported and local. A political revival, including the emergence of community organizations capable of providing leadership in the ghetto, may have to precede any successful effort to engender an economic revival. Community ownership of productive assets, fostering a commitment to work and respect for property, may be necessary to a far greater extent than at present. Since private (white) capital will not enjoy working with such groups, the federal and city governments must be prepared to do so, and vice versa.

At full employment, inflation will not go away. How severe it will be nobody can say, because nobody knows.

Except on public occasions, few economists in government or out believe there can be a return to the easy policy choices of the Truman and Kennedy-Johnson years, when high employment accompanied high growth, low inflation, and near-balanced budgets. In the trade jargon, the "Phillips curve" has "shifted out": a given level of unemployment now corresponds to a higher level of inflation than it used to, and vice versa. Unemployment remained near 7 percent in 1977, while inflation varied between 5 and 7 percent, mainly with the weather. Arthur Okun (of the Brookings Institution) now estimates that inflation-prone tight labor markets will emerge when unemployment reaches 5.5 percent. It is a common view that 8 percent wage and 6 percent price inflation are by now "institutionalized," and that the pressure will get worse as the economy expands.

There are three principal inflation policy tools that are consistent with full employment (the crude use of tight monetary and fiscal policies per se is not). They are: taxation, the control of government expenditures and government-inspired costs, and the direct or indirect control of certain prices and wages in the private sector. Each confronts fiendish political opposition from entrenched powers on the American scene.

1. A progressive income tax can be, in principle, an equitable tool for the control of aggregate incomes, hence of aggregate demand, and it can thus influence the price level. The equity case is simple: changes in progressive tax rates don't much affect the poor. The changes mainly affect the incomes and spending of the relatively well off, whose jobs are relatively secure, so the effect of a tax hike on the demand for labor is only indirect. Cuts in social spending and tight money policies, by contrast, strike directly at marginal employment, either by closing down public job opportunities or by stripping small enterprises of the credit necessary for their survival. Hence, where it is necessary to trim demand while sustaining full employment, tax increases are the instrument of choice.

The inequities of the present tax system are sufficiently well known. More relevant here is the very complexity of the tax code, which constitutes a powerful obstacle to the use of tax changes for short-term policy purposes. Since any particular change has myriad unforeseen, possibly undesirable economic and political effects, the system itself impels a paralyzing caution.

The strategy of tax reform is therefore crucial. Piecemeal efforts will receive piecemeal congressional examination; the result may be better but it will not be simpler than the tax code we have. A measure with a single backbone and consistent purpose—lower rates, the repeal of virtually all credits, deductions, exemptions, and other shelters, and the transfer of justifiable subsidies to the appropriations process—might be defeated outright, but it would not be subject to irreparable mutilation. Such a measure could be made flexible and useful against inflation caused by full-employment demand levels; with a piecemeal package, curbing inflation in this fashion would be orders of magnitude more difficult.

Unfortunately, it seems clear that tax planners under treasury secretary Blumenthal, if and when their moment comes, will present an omnibus, piecemeal reform package. Those who prefer complications and paralysis in the tax structure have been at work.

2. Alongside taxes one must consider government expenditure. The steady upcreep of federal, state, and local government pay scales, like the steady pace of price and wage increases in concentrated industry, adds to inflation. So does government failure to control contract costs, especially in defense and construction. And there is increasing evidence that subsidies for health, housing, and education, among other items, affect the price of these services at least as much as their supply.

At present, government policy is essentially passive regarding the "fair price" of goods and services sold to the government or subsidized by it. In the case of contracts, price is determined by "costs"; costs, supposedly are determined on the market. The Davis-Bacon Act, for example, sets a standard of "prevailing local wages" for wages paid on government construction contracts. In health care, prevailing rates may be charged to medicare or medicaid. Housing policy sets no upper limit on the size of a mortgage whose interest may be deducted from taxable income.

It should be apparent that in each of these cases there are feedbacks: costs supposedly determined by market forces depend in fact on the going government-approved pay and subsidy rates. If costs rise, subsidies rise with them; efficiency becomes economically unattractive. In the insurance business, analogous phenomena are called "moral hazards": among them are arson-for-profit and spurious medical malpractice suits. Among government programs, the case of medicaid stands out. Less insidiously, the mortgage interest deduction means that people who itemize can afford to spend more for their homes. As the stock of housing responds only very slowly to increased demand, it is likely that the principal effect of the deduction is to raise housing prices.

Like the tax structure, the cost-subsidy spiral is not accidental; it has many constituencies, each of which can be expected to defend its position. And there is no single correct technique for control; in some instances a direct ceiling on costs may be appropriate, in others a reduction of subsidy levels, in still others deregulation or the restructuring of an industry. That Carter began an attack on health costs is encouraging; the apparent demise of the effort testifies to the difficulty. At full employment the problem will be worse.

3. Tax policy can control the overall level of aggregate income and demand. If it is to be simple, flexible, and of predictable effect, it cannot also arbitrate every dispute between public and private power, and among private powers, over the distribution of income. Yet these disputes, as much as aggregate excess demand, generate inflation. Thus the necessity of price, wage, and export controls.

Controls are necessary, not simply to keep prices stable, but to reallocate resources toward a balanced economy at full employment. In our economy, large firms in con-

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centrated industries possess substantial power to extract profits, pay wages, and control funds on the capital market in excess of their "competitive" share. A corollary is the power to defend that share, by inflationary hikes in prices and wages, against the tax-financed demands of the public sector. If, to achieve full employment, the share of the public sector must rise, then this tendency must be curtailed, or the entire burden of adjustment will shift to those whose defenses are less sturdy: we will have full employment plus impoverishment of the more competitive sector of the economy.

There are two possible choices: nationalization or a program of flexible, limited, selective controls. *Price* controls are necessary in concentrated industries to lessen the private arrogation of profit in the face of prescribed public need. Given price controls, *wage* controls, or at least negotiated agreements on wage restraint, are required to maintain a measured balance between prices and costs. Given domestic controls, *export* controls (or taxes) are required to prevent the flight of needed commodities to higher-priced markets abroad.[5]

It is not because controls are inherently inefficient or unenforceable but because they place social conflict sharply into focus that they are bitterly resisted. When the chairman of General Motors writes to defend the "free market system" (as he did in a 1976 *New York Times* polemic), he means his own freedom to raise new car prices by $400 per year, irrespective of demand. This freedom he would lose. The central policy decision implied by controls is, "Should social decisions be taken by public bureaucrats in Washington or by private bureaucrats in Detroit?" It is not altogether obvious which is worse. But there *is* something incompatible between a public policy of full employment and a pricing policy in the private sector that results in high profits in the short run, inadequate investment, increasing concession of the domestic market to imports, and, ultimately, adjustment by laying off workers. One or the other will have to give.

One further consequence of full employment bears mention. While limiting the power of corporations, full employment would increase the power of trade unions. The issue of wages, although politicized by controls, would remain basic. The opportunity for a vast expansion of membership would be there. The absorption of militant people into unions can be expected to produce more militant unions. The disappearance of the unemployed would remove an important brake on union militancy.

Even the best friend of the labor movement might see the dangers here. Once the rich have been soaked by tax reforms, excess profits squeezed by controls, and the larger pool of goods and services that a full employment economy produces apportioned, the wages for any additional expansion of the labor force will have to come from reduced potential growth in the real wages of those already employed. If full employment is to work, many unions will have to shift their focus away from sharp wage gains for the best-paid members and toward winning living wages for the newly employed. They will have to focus on hitherto ancillary issues like job safety, job design, voluntary overtime, grievance procedures, and workers' control. Pay differentials would narrow. For some of the better-paid, powerful unions there would be a tough choice: either accept this trend or defeat full employment. Periodically in Britain a variant of this choice comes up before the miners, among others, who verge perpetually on the second alternative. Decidedly, it is a risk. Not even the AFL–CIO is a secure ally.

Full employment, finally, is an easy cliche but not an easy political choice. Huey Newton was quite correct in calling it a "revolutionary objective." It means reordering power relationships in a fundamental way. Some of the consequences, such as controls, carry a distinct risk of failure. Others are merely unpopular. But full employment comes as a package, and to pretend that an essential part of the package may be omitted is to indulge in wishful thinking or worse. Humphrey-Hawkins fell into this trap, and those who now urge its enactment risk, if they succeed, becoming both victim and perpetrator of an illusion. Their own constituents will believe, for a while, that a major concession has been won. But not for very long.

It is not easy to damn Jimmy Carter for his attitude of "economic recovery first." He never explicitly promised an immediate full-scale assault on unemployment, although much of his most important and dependent constituency, the working poor, the blacks, the Latins, voted for him in that expectation. Unemployment will be smaller and less intractable after the slow forces of recovery have run their course. Inflation probably will be worse, and the urgency of the truly difficult measures against it will be more apparent. The government machinery will, one hopes, be in better condition to meet the challenge.

But the case for a change in course is even stronger. For most Americans, a job is still the symbol and substance of a decent life. Whether we can overcome unemployment, despite the difficulties, is the test of the United States in the next generation, and is the standard by which President Carter will be judged. He can continue at the present pace, content with niggardly progress on unemployment, accumulating (perhaps) a record of structural accomplishment, and running the risk that the unemployed may not be so polite as to wait seven more years before exploding. Or he can risk all on a dangerous program of reforms. There is no evidence that he intends the latter. On the other hand, much depends on whether the friends of full employment have the courage and determination to force the issue.

FOOTNOTES

[1] Critics of the "high cost of full employment" make the common error of confusing the cost to the nation (which for pure transfer payments is zero) with the private cost to taxpayers, i.e., themselves. This tendency among the well-to-do was noted long ago by A. C. Pigou.

On the other side, studies of foregone production (such as one recently released by the Exploratory Project for Economic Alternatives) usually use the rule, known as Okun's law, that every reduction of one percentage point in the rate of unemployment is associated with about three additional percentage points in the growth rate of GNP. Drop to 2 percent unemployment and compound for two decades, and you will get very large numbers indeed. But Okun's law breaks down at 4 percent unemployment (some would argue 5.5 percent these days), the point at which the difficult "structural unemployment" problem must be broached. Beyond this point, there is no reason to suppose that the market value of output of marginal workers would approach that of those already employed.

[2] For a long time, Representative Hawkins maintained that "adult" meant "16 and over." Senator Humphrey put the age at 21. The new version compromises at 20, with the proviso that overall unemployment (16 and over) not exceed 4 percent.

[3] Somewhat higher than average youth unemployment may be tolerable, as has been argued by Paul Osterman in the January/February issue of *Working Papers*.

[4] More precisely, the gains occurred in a broad context of economic and political advance, of which civil rights legislation, the 1964 tax cut, Great Society programs, and even war expenditures were all a part. Separating the influences is a difficult and dubious task.

[5] A third alternative, known as the Tax Incentive Plan or TIP, is being promoted by economists Sidney Weintraub and Henry Wallich. The idea is to introduce tax incentives for compliance with a set of wage guidelines, along with penalties for noncompliance. As compared with controls, TIP would introduce a politically attractive, if artificial, degree of voluntarism into the wage structure, at the cost of considerable tampering with the tax code. It would refocus, but not avoid, the distributional struggle that underlies any policy on incomes.●

Footnotes at end of article.

THANK YOU, NATIONAL SKI PATROL

● Mr. HATCH. Mr. President, I would like to call my colleagues' attention to a recent editorial from the Salt Lake Tribune with respect to the National Ski Patrol System. The fine work that it performs, without financial compensation, throughout most of the United States, is not duplicated by any other organization and is a premier contribution to the safety and enjoyment of skiing and outdoor winter sports.

I am a cosponsor of S. 1571, introduced by Senator McINTYRE, along with 23 other distinguished Senators, to provide a Federal charter for this organization. While we recognize that Federal charters should not be issued indiscriminately, and should not become vehicles for obtaining prestige or profit, we believe that the petition of the NSPS is deserving of consideration by the Congress.

Mr. President, I ask that the editorial from the Salt Lake Tribune, as well as a letter of endorsement from the mayor of Salt Lake City, the Honorable Ted Wilson, be printed in the RECORD.

The material follows:

AN OVERDUE "THANK YOU"

Another ski season has come and gone and the National Ski Patrol System is still lacking something it urgently needs—A national charter.

For several past sessions ski patrollers affiliated with the National Ski Patrol System have patiently asked Congress to grant their organization a charter, similar to those held by the American Red Cross, the Boy Scouts of America, the Girl Scouts of America and other voluntary, non profit charitable and philanthrophic organizations.

A federal charter would substantially reduce the amount of red tape the 24,000 to 25,000 members of the National Ski Patrol System now endure in complying with increasingly complex state incorporation and tax laws. Presently, to establish its nonprofit, and thus tax exempt, status in states where it maintains affiliated ski patrols, the NSPS must file separate articles of incorporation and other documents.

This diverts time and funds, both voluntary, from the local patrols' primary work—promoting skiing safety, rescuing injured skiers, maintaining avalanche control work,

plus winter and, yes, summer mountain search and rescue work.

Languishing at the moment in the Senate Judiciary Committee is a straightforward, 10-page bill, S 1571, that would grant the NSPS the national charter it has deservedly earned in some 40 years of dedicated service to the injured, lost skiers and other outdoor recreationists of this country.

Granting a national charter would, under provisiohs of S 1571, federally incorporate the National Ski Patrol System enabling it to join in civil suits, make and carry out contracts, acquire and lease property and borrow money for its corporate purposes.

More important, perhaps, is what S 1571 would not do. It would not provide NSPA with any federal tax subsidies or permit profit-making or partisan political activities.

And, it would relieve ski patrollers of the onerous tax task of complying with a multiplicity of state laws dealing with incorporation of non-profit organizations. This would be a real time and money saver for a group of people who have given up countless hours, days and weeks of skiing for fun in order to make the ski slopes considerably less hazardous for millions of other Americans.

Prompt and favorable reporting by the Judiciary Committee of S 1571, equally swift enactment by the House and Senate would be a belated, but sincere "thank you" to the 25,000 or so ski patrollers, along with their predecessors who have given dedicated and selfless service to a sizable part of the American public. That "thank you" is, in reality, about 40 years overdue.

SALT LAKE CITY,
January 4, 1977.

Senator ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR ORRIN: I was particularly pleased to learn that you have joined as a sponsor of S. 1571, which would provide a federal charter for the National Ski Patrol System. I have been acquainted with the National Ski Patrol System for some years since I was a junior racing coach, and called upon their services several times. They are a very fine group of dedicated volunteers and professional people, and they provide to our ski system a critical and vital service.

Again, congratulations for helping out in every way you can on this bill.

Best personal regards and happy new year.

Sincerely,

TED L. WILSON,
Mayor. ●

AMBASSADOR JORDEN

● Mr. GRAVEL. Mr. President, during the arduous process of negotiation and ratification of the new Panama Canal treaties our Nation was served most effectively by a man who has not received the recognition he deserves. Ambassador William Jorden, the U.S. Ambassador to Panama, has shown a sensitivity to the special nature of the Panamanian peoples and their culture while defending American interests. He has been generally recognized among the Panamanians with whom he has worked as a man of vision, fairness and competence. I feel that we in the Senate owe a great deal to Bill Jordan for his leadership role in support of the canal treaties and his excellent work in the difficult and critical role as our Ambassador to Panama.

Mr. President, I would like to take this opportunity to personally thank Mr. Jorden for his services on behalf of the United States and I would like to have printed in the RECORD a news article from Panama which discusses the role of Ambassador Jorden and the Panamanian Ambassador to the United States, a man we have all come to know and respect during the treaty debates, Ambassador Gabriel Lewis.

The article follows:

STARS IN THE SHADOWS

Throughout the long and difficult process of negotiating the Panama Canal treaties there have been men who, because they were on the front lines on one side or the other, stood out due to their efforts to reach agreements that would satisfy the interests of the two nations. On this list are the names of General Torrijos, President Lakas, President Carter, Panamanian negotiators Escobar, Bethancourt and Royo, U.S. negotiators Bunker and Linowitz, U.S. Senators Byrd, Church and Sarbanes and Panamanian Foreign Minister Gonzalez Revilla.

Other Panamanian citizens also deserve recognition for their work. Among them are Dr. Carlos Alfredo Lopez Guevara and Dr. Diogenes de la Rosa, who gave their best efforts to insure that the treaties were prepared in the clear and precise language which does not leave room for dubious interpretations, one of the most delicate aspects of this type of activity.

However, we would now like to point out the activities of two persons who, because of their posts, played an essential role in the two countries' achievements, one on each side of the rough diplomatic action. We refer to U.S. Ambassador to Panama William Jorden and Panamanian Ambassador to the United States Gabriel Lewis. Their actions were not noticeable until just before the end of the negotiating process, but long before this they were present with all their attention, strength of character, patriotism, capacity and intelligence, giving of themselves all that they could to achieve the agreements of which we can all feel proud today.

Before he was appointed Ambassador to Panama, while serving on the White House security council in 1972, William Jorden had the conviction, and so informed his Government, that there was a pressing need to do justice to Panama.

When the negotiations were about to be broken in 1977 this same man extended the bridge of his understanding and intelligence and avoided the collapse of the complicated dialog. And it was this same man who knew how to assess, with patience and understanding, the reactions of a people tired of having had to bear a heavy cross for more than three-quarters of a century; who went to the point of dismissing physical attacks on the U.S. Embassy building in Panama; and who managed, along with Gabriel Lewis to make the United States realize that the DeConcini reservation—which made us momentarily forget Bunau-Varilla—was totally unacceptable to Panamanians.

William Jorden has always served the highest interests of his country with unquestionable patriotism but his clear perception of the truth allowed him to devote himself to carefully finding that difficult middle point between the interests of his fatherland and those of Panama. That is why his understanding attitude was always on a par with his firm determination not to yield a single step when in his opinion U.S. interests, which he represented, so demanded.

Regarding the task carried out by our Ambassador Lewis, we all know that he lent his services to the process from a very early time. The negotiations were held in his home in Contadora Island. He officially joined the Panamanian team when he flew to Washington in March 1977 as the Panamanian Ambassador to that northern nation. A mere 3 days after Lewis presented his credentials he was tasked with pointing out the need for negotiation concerning the draft of the neutrality treaty proposed by the United States. He did this at a time when both President Carter and the U.S. Secretary of State were abroad, which prevented the negotiators from pointing out this need. Thanks to the tireless efforts of Ambassador Lewis at a meeting with Clifford Alexander, U.S. Secretary of the Army, the negotiations were resumed. And in the difficult moments in the negotiations it was Lewis who, along with Jorden, always served as a pillar, as a bridge, until the dialog flowed once more.

The high point of Ambassador Lewis's diplomatic task of combined firmness and calmness came when the ruinous DeConcini amendment made its appearance. Following instructions from Panama and keeping in permanent touch with the government, Lewis maintained the Panamanian line of termination (de terminacion) in spite of the doubts of some and intense pressure from U.S. officials who wanted us to swallow this pill as large as a millstone.

Our Ambassador Lewis was the recipient of offensive demonstrations against what some persons wanted to regard as intransigence but what in reality was nothing but the firm defense of Panamanian interests. And in this way, on Sunday 16 April, Panama and the United States accepted the fifth draft of the anti-intervention amendment.

Through these actions Ambassador Lewis began to be mentioned in the Senate, the White House and the U.S. press as a noble and upstanding person, and when he informed the President, who had by now become his friend, that Panama was accepting the treaties Jimmy Carter, while shaking his hand, told him: You're quite a man.

We wish to make public recognition of the tasks accomplished by Ambassadors Jorden and Lewis, each on his own side, because their usual modesty and circumstances that surrounded their task did not facilitate praises for their merits. We would like this editorial to reflect, at least in part, the gratitude which the two nations owe these men and to contribute to having history place them at the high level where they justly deserve to be. ●

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA—THE NEXT GENERATION

● Mr. KENNEDY. Mr. President, few things matter more to the longrun future of the United States than the values we hand on to the next generation of the Nation's leaders.

Last month, the Senate Judiciary Subcommittee on the Constitution held 3 days of hearings on the issue of full voting representation in Congress for the District of Columbia. One of the most impressive witnesses at the hearings was Natasha Pearl, a 17-year-old student graduating this year from Woodrow Wilson High School in the District of Columbia.

Ms. Pearl's testimony goes directly to the heart of the issue—the fact that the 700,000 citizens of Washington, D.C., are denied one of the basic rights that other American citizens enjoy, the right to participate in our democracy by sending their own elected representatives to Congress.

Mr. President, the question is really a very simple one—is it fair for Congress to continue to deny to Ms. Pearl and the other residents of the Nation's Capital the same full rights that 200 million

other Americans enjoy? To a large extent, the way we answer questions like this one will be a signal to the next generation of the depth of our commitment to the democratic ideals on which the Nation was founded.

In the coming weeks, our adherence to these ideals will be tested by our action in the Senate on House Joint Resolution 554, which would give the people of the District of Columbia their rightful but long-missing voice in Congress. Ms. Pearl's testimony makes a compelling case for Senate approval of this constitutional amendment, and I ask that the testimony may be printed in the RECORD.

The statement follows:

STATEMENT OF NATASHA PEARL BEFORE THE SENATE JUDICIARY SUBCOMMITTEE ON CONSTITUTION ON A CONSTITUTIONAL AMENDMENT TO PROVIDE FULL VOTING REPRESENTATION FOR THE DISTRICT OF COLUMBIA

Good morning. My name is Natasha Pearl, I am a seventeen year old senior at Woodrow Wilson High School in Washington, D.C., where I have lived all my life. I am here today in complete and total support of extending to the citizens of the District of Columbia the privilege that every other American citizen enjoys—voting representation in the United States Senate and House of Representatives.

I want to thank you, Mr. Chairman, for having the vision and understanding to recognize this issue as one of national importance, and especially for allowing a high school student to explain why it is an extremely important one for young citizens of the District of Columbia as well as the rest of the country.

Throughout the District, young people I know from school and community involvement are solidly united in their backing of voting representation for Washington, D.C. I know, too, that this backing is shared by youth from all fifty states, and I was quite surprised to learn that certain Senators believe that the American people will not support this issue.

I have represented the District of Columbia on two occasions when a number of young people from across the country have gathered here in our nation's capital to discuss national issues. You, yourselves, with the support of the William Randolph Hearst Foundation, sponsored the United States Senate Youth Program, and I would like to take this opportunity to thank you for that wonderful experience. As one of D.C.'s two delegates, I learned not only about the function and operation of our government, and particularly the Senate, but also I had the valuable chance to exchange ideas and opinions on various issues with the two fine delegates from your respective states. I am glad that the Senate has added the District of Columbia to the fifty states that participate in the Senate Youth Program, and I hope that the precedent the Senate has set by including the District will be followed by other steps to more fully allow the District to participate in our governmental processes.

The lack of voting representation for the District was an issue I often discussed with my fellow delegates. Shock and disbelief were expressed upon learning of the grossly unfair and undemocratic situation existing in our nation's capital. Knowing that our forefathers fought and died so that taxation without representation would never again occur in this country, many delegates could not understand why my parents and other District residents pay federal taxes, bearing all the burdens of citizenship, like their parents—yet have no representation. To the Senate Youth delegates, it was incomprehensible that in 1978, in the United States of America, nearly three quarters of a million American citizens are without the privilege that all the other Senate Youth delegates took for granted—voting representation in the Senate and House of Representatives.

You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate.

This was the first time that many of the delegates had ever visited the District, and a highlight of the Senate Youth Program for them was the experience of talking at length with their respective Senators. At the end of the day, most delegates felt a sense of importance—that with their Senators, their opinions counted, and soon, their votes would.

I was acutely aware that, because I am a resident of the District of Columbia, I could not share in that feeling of importance and of being a real part of the democratic process. I felt alone and apart from the others—almost as if I were a foreigner in my own country.

Many of the Senate Youth delegates have helped in the quest for voting representation for the District by writing their representatives in the House. Some have since written me, letting me know how delighted they are with the affirmation of the basic principles of democracy that the House expressed in its overwhelming vote for District voting representation two months ago.

The second occasion when I represented the District of Columbia was at Convention II, a mock constitutional convention held here from February 8 thru 10. I would like to thank you, Senator Bayh, along with Mr. Boris Feinman, for founding the Convention II—it was a marvelous experience. Two hundred and seventy-five students from nine states and the District considered one hundred and fifty-five constitutional amendments. These amendments dealt with a wide variety of issues, many of which are currently being considered by Congress. Only two of the one hundred and fifty-five proposed amendments were passed. I sponsored one of them. It provided voting representation for the District of Columbia. The vote was 182 in favor and 16 opposed—an overwhelming statement of support by youth for this issue.

I would like to share with you the conclusion I have drawn from this demonstration of solidarity on the District of Columbia representation issue by young people across our nation. Young people do love and respect democracy, fairness, and our country. Our support for this issue reflects what we have always been taught about our country by our parents and teachers.

I have done extensive reading and research so that I could follow this issue closely and understand it more fully. One of the first things I found out was that, at the time the federal district was created, there were only 14,000 persons residing in the District of Columbia. Since the population was far short of the 30,000 needed for a congressional district, and much less than the 50,000 needed for statehood, it is understandable that no need for representation was seen.

I am certain that the Founding Fathers never dreamed that the District of Columbia would someday be inhabited by nearly three quarters of a million permanent residents. The District now has fifteen times the original number required for statehood. It is inconceivable to me that my forefathers fought and died for a principle only to deny, to a large group of American citizens, the very same rights for which they fought.

I have learned that from 1790–1800, before the federal government moved to this area, District residents were able to vote in congressional elections. Historical oversight is the only rational explanation for our present disenfranchisement.

I am sure that your constituents are concerned about how their tax dollars are spent. Isn't it logical that my parents, too, would share this concern? The federal taxes my parents pay are figured on the same basis as yours and your constituents—but unlike you, my parents, like all District residents, have no real say in how the money is spent.

I shall turn eighteen next fall—in time to vote in the next election. Most of the students I served with in the Senate Youth Program and Convention II will also be old enough to participate in our government through the voting process next year. I will be left out.

Will my opinions ever be counted? How can it make sense to deny me the basic right to contribute to our participatory democracy? Must I leave the District of Columbia I love in order to be a real citizen of my country?

Please . . . I implore you. Strengthen my faith in democracy and my love for America by making me, my friends, my parents, my neighbors, and all other residents of the District of Columbia full citizens of the United States of America.●

LABOR LAW REFORM ACT

Mr. PROXMIRE. Mr. President, I rise in support of H.R. 8410, the Labor Relations Reform Act. I believe this is a modest bill which merely strengthens the right of our Nation's working men and women to decide whether or not they wish to be represented by a certain union in the collective bargaining process. This right has been recognized for over 40 years in the United States.

Millions of reasonable and law abiding employers in the United States have absolutely nothing to fear from this legislation. However, the actions of the handful of recalcitrant employers who will stop at virtually nothing in their attempt to frustrate the right to choice by American workers cannot be allowed to continue. Economic democracy in our Nation is best served when union representative elections take place without undue delay, when the fear of personal reprisals is removed from the collective process, and when the economic incentives to violate the law are ended. And this is basically what this bill does.

I have carefully reviewed the arguments made against the passage of this act, and I honestly find them wanting in logic and content. In many cases the opponents of the bill have been misinformed about much of the substance of the bill. I have spoken to many of my Wisconsin constituents who oppose this act, and I find very often that after carefully reviewing the bill with them, I am able to alleviate most, if not all, of their concerns.

I predict that 1 year from the passage of this act 99 percent of those business people who opposed it will find that nothing at all has changed in their own company's relationship with its workers.

Mr. President, since the various aspects of the bill have been so well explained by the distinguished chairman and rank-

ing minority member of the Senate Human Resources Committee, I will not take the time to repeat their excellent exposition.

I will just note that I believe that this bill is good for my State, good for all workers, good for honest management which includes almost all management and good for the Nation, and I intend to strongly support it.

This labor reform bill is a matter of moral principle. In an industrial society democracy has far more meaning when working men and women belong to labor unions and through those unions have a right to a voice in determining their wages and working conditions.

Political democracy is something every member of this body believes in fervently. But economic democracy—the right to negotiate for your wages, for your pensions, for your vacations, for your safety conditions and health conditions for the hours you work. These rights are every bit as important for the man and woman who works for others as the right to vote.

The Wagner Act put this country squarely on the side of protecting and encouraging the right of employees to organize into unions. It was a great improvement in the genuine democracy of this country. But after 40 years we have found that some workers who want that right have been denied it through intimidation, legal harassment, and the classic disadvantage workers have so frequently suffered in their relationship with employers. A remedy was needed and this bill supplies—moderately—in a limited way that remedy. The fact that the proportion of American workers who enjoy the economic democracy that labor unions provide has declined in the last 20 years to only 20 percent of the work force is a clear indication of the need for this bill.

Mr. President, I predict that from the passage of this act, 69 percent of the business people who are exposed to it will find interest to it has changed when the company retires out its workers.

Mr. President, since the various aspects of the bill have been so well explained by the distinguished chairman and the ranking minority member of the Senate Human Resources Committee, I will not take the time to repeat their excellent exposition. I will just note that I believe this bill is good for all workers, good for honest management, which includes almost all management, and is good for our Nation, and I strongly support it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. JAVITS. Mr. President, that is a splendid statement, and I will say why.

The assumptions are always by the opponents on a worst case theory—that the bill will pass exactly as it passed the House or, if it does not, we will go to conference and we will collapse.

I would like to join the Senator in saying this. I have been hearing it in the House so long, about many other measures, whether it was the Civil Rights Act of 1964 or other antidiscrimination measures and other labor measures, that by the time the act passes, and they say the same things about this as they began to say in 1945 about the first Ives-Quinn bill, which had Irving Ives' name on it, my colleague in the Senate when I arrived here, respecting discrimination in employment on grounds of color, and the same about discrimination on grounds of sex—exactly the same predictions were made and some years later were hailed as a great landmark of human freedom.

When this bill emerges from conference and finally becomes law, I join the Senator from Wisconsin in making exactly the same prediction. People will live with this, and they will find the things that cause them concern will not happen.

I hope many Members will realize that this is a process, not a theory, and that is what will emerge. The support of the Senator from Wisconsin of this bill is characteristic of him and most admirable.

Mr. PROXMIRE. I thank the distinguished Senator from New York.

I assert once again that this leadership has been critical in connection with this bill. Without his leadership, there would be no way the bill could have made it. As usual, he has provided the Senate a great deal of wise counsel and excellent judgment, and I am grateful to him for his remarks.

Mr. JAVITS. I thank the Senator.

GENOCIDE CONVENTION NEEDED TO COMBAT CAMBODIAN GENOCIDE

Mr. PROXMIRE. Mr. President, Jack Anderson recently wrote three articles describing the horrors of the genocide which is reportedly occurring today in Cambodia. In the third of those articles, entitled "Cambodia: Story of One Massacre," Anderson recounts the murder of Gen. Em San and the officers of his army.

When the Cambodian government collapsed in April of 1975, Gen. Em San surrendered his army to the forces of the Khmer Rouge. What he did not know at that time was that he and his men were marked for death by the Khmer Rouge and were to become victims of one of the most ruthless purges in history.

Witnesses who have escaped from Cambodia relate how the Khmer Rouge assured the men and their families that they were to attend "training courses" and "independence ceremonies." The men were bound, and were processed ostensibly for the purpose of travel. But the real purpose of the Khmer Rouge soon became all too apparent. They were not taken to "training courses" or "independence ceremonies." Rather, the trucks took them to open ditches, where some were shot, and others were slaughtered with a hoe.

Such scenes are shockingly reminiscent of the Nazi holocaust, during which the Jews were also processed to travel, but were given no indication that they were on a one way trip to a death camp. The gas chambers at these camps were even disguised as showers. Great efforts were made to give the Jews no hint of their fate.

Mr. President, genocide is a repulsive crime, and its details are not pleasant to recount. Certainly, the situation in Cambodia is repulsive to all civilized nations. In the face of such barbarism, the Senate should act to ratify the Genocide Convention, a treaty which would make the commission of genocide an international crime.

For over 30 years now, this treaty has been before the Senate, and in all that time, the Senate has yet to vote on this crucial human rights document. No document could be more consistent with our human rights policies, and in light of the situation in Cambodia, there is certainly an urgent need for this Convention. I urge the Senate to ratify the Genocide Convention.

I also ask unanimous consent that the article by Jack Anderson be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMBODIA: STORY OF ONE MASSACRE

(By Jack Anderson)

Americans were outraged at the news that German SS men in 1944 had lined up captured American troops at Malmedy crossroads in Belgium and had mowed them down with machine guns. Twenty-four years later, Americans were horrified to hear that their own spooked soldiers had wiped out the defenseless men, women and children of Mylai village in Vietnam.

The Malmedy and Mylai massacres were Sunday School outings, however, compared to the retribution the communist conquerors have brought against their former foes in Cambodia. There is stark, staggering evidence that the communists, as one intelligence report put it, began "immediately executing all officers in the defeated army and their families."

The executions were kept quiet. "Since the KCP [communist party] had not established complete control over the country, the party ordered the executions carried out in a manner as to not alarm the people."

The work of death is still going on inside Cambodia.

The grisly evidence—government documents, refugee accounts, medical records and smuggled photos—staggers the mind. The atrocities have been so monstrous that they can be better understood by focusing on a single, typical incident.

This is the story of what happened to Gen. Em San and the men who served under him in Siem Reap province. They were shot and battered to death before they had a chance to tell their story. But it has now been told by their executioners who fled to Thailand after a party purge.

Although the Khmer Rouge guerrillas did not defeat Gen. Em San in the field, he ordered his command to surrender to them after the government collapsed on April 17, 1975. Then he met the Khmer Rouge as they entered Siem Reap city. "He was arrested immediately and taken in his own jeep to Kompong Kdei in eastern Siem Reap province for interrogation," the witnesses recall.

His officers down to the rank of major were also rounded up and herded aboard trucks, "together with their wives and children." According to one account, they were told by their captors that they had been "invited" to attend independence ceremonies at Angkor Wat. Other witnesses thought the prisoners had been told "they were being sent to Angkor Wat to attend a special training course." In any event, they got no farther than Kompong Kdei where they were unloaded.

Next they were told there was a shortage of trucks so they would travel to Angkor Wat by motorcycle. Each captive officer was in-

structed to carry a length of rope in case the motorcycle broke down and had to be towed.

They waited until April 23 when a Khmer Rouge official showed up ostensibly to sign travel passes for them. Each prisoner, as he was processed, was told "it would be necessary to tie his hands behind his back because the high-level officer did not wish to take any risks."

Reports an intelligence summary grimly: "Each man was blindfolded, led to the edge of a ditch and beaten to death with a hoe. The executions took most of the day to complete. Although the first few groups of officers were not aware that they were going to die, the latter group struggled strenuously to escape since the air was permeated with the stench of blood."

Back at Siem Reap, all officers below the rank of major were told they would be shipped off for "re-education." Four trucks delivered them to the Wat Loley temple.

Declares another intelligence report: "When the truck arrived at the temple, it was backed up to the temple entrance. As the officers were offloaded, the Khmer Rouge instructed them to strip down to their underwear. Their hands were tied behind them, and they were loaded back into the truck.

"The truck was then driven to a location approximately one kilometer northwest of the Wat in a forested area where three trenches were dug . . . When the truck arrived, the officers were ordered at gun point to jump down one by one into the trench. As they did, they were shot. When the truck was empty, it was driven back to Siem Reap for another load.

"This went on for seven consecutive days. Following the initial period of executions, persons were no longer shot but they were killed by a blow from a hoe against their head."

Finally in mid-May, according to still another intelligence report, Em San's enlisted men were hauled to Wat Loley for execution. "Four truck loads of men were moved to Wat Loley each day and were immediately executed by firing squads there. The bodies were buried together in large pits. This procedure continued daily for two weeks."

ENGROSSMENT OF S. 2566

Mr. PROXMIRE. Mr. President, at the request of the majority leader, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2566.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, before proceeding, while I await the arrival of the assistant Republican leader, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow morning.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

COMMITTEE MEETING

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be authorized to meet during the session of the Senate on Wednesday, May 24, to consider the Department of Energy authorization bill. This has been cleared on both sides and is at the request of the Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, after the prayer, Mr. DANFORTH be recognized for not to exceed 15 minutes and that he be followed by Mr. BAKER for not to exceed 15 minutes, after which the Senate then will resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. PROXMIRE. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:15 p.m. the Senate recessed until tomorrow, Tuesday, May 23, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 22, 1978:

IN THE AIR FORCE

Lt. Gen. LeRoy J. Manor, U.S. Air Force, (age 57), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. George E. Schafer, U.S. Air Force, (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following officer for appointment as Surgeon General of the Air Force in the grade of lieutenant general under the provisions of section 8036, title 10 of the United States Code:

Maj. Gen. Paul W. Myers, [redacted] (brigadier general, Regular Air Force, Medical), U.S. Air Force.

IN THE NAVY

Vice Adm. Pierre N. Charbonnet, Jr., U.S. Navy, (age 58) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE MARINE CORPS

Lt. Gen. Robert L. Nichols, U.S. Marine Corps, (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force. Under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Ernest Z. Adelman, [redacted].
Maj. Gordon Anthony, [redacted].
Maj. Jay M. Archer, [redacted].
Maj. Brian C. Bade, [redacted].
Maj. William L. Campen, [redacted].
Maj. Presley W. Donaldson, [redacted].
Maj. Dean A. Dversdall, [redacted].
Maj. George A. Franzen, Jr., [redacted].
Maj. Joseph L. Goggio, [redacted].
Maj. James R. Griffin, [redacted].
Maj. Frederick N. Henderson, [redacted].
Maj. Orville K. Hollenbeck, [redacted].
Maj. Lawrence R. Huckels, [redacted].
Maj. Raymond T. Klosowski, [redacted].
Maj. Stephen F. Kramarich, [redacted].
Maj. John A. Levis, [redacted].
Maj. James A. Massey, Jr., [redacted].
Maj. Charles H. McDonald, [redacted].
Maj. Edward O. Messick, [redacted].
Maj. Harry E. Owen, Jr., [redacted].
Maj. Richard E. Pezzullo, [redacted].
Maj. Stephen W. Puldy, [redacted].
Maj. Thomas J. Quarelli, [redacted].
Maj. Edwin M. Renkowicz, [redacted].
Maj. Victor D. Rossi, [redacted].
Maj. Carl G. Scheibal, Jr., [redacted].
Maj. Billy D. Smith, [redacted].
Maj. Roy D. Spina, Jr., [redacted].
Maj. Thomas C. Townsend, [redacted].
Maj. Jeffrey C. Traub, [redacted].
Maj. Alfred Westerberg, Jr., [redacted].

Judge advocate

Maj. Ronald R. Barrick, [redacted].

Chaplain

Maj. Charles R. Mitchell, [redacted].

IN THE AIR FORCE

The following midshipmen, U.S. Naval Academy, for appointment in the Regular Air Force in the grade of second lieutenant, effective upon their graduation under the provisions of sections 541 and 8284, title 10, United States Code, date of rank to be determined by the Secretary of the Air Force.

Barth, Richard R., [redacted].
Brashear, Steven D., [redacted].
Burgess, Gregg M., [redacted].
Rey, Rene J., [redacted].
Sheldon, Earnest L., Jr., [redacted].
Sturges, John B., III, [redacted].

IN THE NAVY

The following named lieutenant commanders of the Reserve of the U.S. Navy for temporary promotion to the grade of commander in the line, pursuant to title 10, United States Code, section 5910, subject to qualification therefore as provided by law:

Aaron, Gary W.
Abbott, Stephen L.
Abel, Edward R.
Adams, Carl L.
Adams, Peter D.
Addison, Thomas A., Jr.
Adkins, Kenneth G.
Ahern, Robert P.
Ahlbach, James F., Jr.
Akers, Roy P. H.
Alter, John W., Jr.
Amundson, Frank B.
Anathan, Robert P.
Anderson, Gary L.
Anderson, Ross K., Jr.
Anderson, Walter C.
Appicelli, Robert A.
Aquilino, Paul P.
Argo, John T., Jr.
Armstrong, Henry C.
Arndt, William D.
Arnold, Milton E.
Atkinson, Thomas C., Jr.
Babby, Lloyd W.
Babine, Arthur L.
Bailey, Gerald M.
Bair, Gary
Ballance, Robert G., Jr.
Balon, Michael J.
Balzarini, Donald C.
Banda, Lionel A. W.
Barford, George
Baringer, John R.
Barnes, Samuel E.
Barrera, Alfredo B.
Batchellor, John K., Jr.
Batte, Charles D.
Bauer, Kenneth H.
Bauer, William H.
Bayley, John L.
Beal, Norman L.
Beall, John J., Jr.
Beam, Bruce A.
Beaudry, Frederick H.
Beck, Woodrow W., Jr.
Bedford, John L.
Beecroft, James A.
Bemis, Richard S.
Bender, Frank J.
Bennion, Paul A.
Benoit, George E., Jr.
Benson, Jeffrey L.
Benton, John E.
Benton, William C., III
Berg, Raymond C.
Bergstrom, John L.
Beskid, Franklin D.
Betterton, Don M.
Bettis, Dale G.
Bewick, James S.
Biermanski, Lothar P.
Bilbrey, Robert R., Sr.
Birkholz, Bruce G.
Bitner, Norman E.
Bittick, Johnny M.
Black, Richard E.
Blancq, James V.
Bland, Troy N.
Blicker, Carl V.
Blood, Kenneth L.
Bloomer, Phillip R.
Bobb, Kenneth R.
Bodkin, Robert V.
Boerbon, Floyd W.
Boles, John K. R.
Born, Terry R.

Boston, Glenn A.
Bowe, James A.
Bowers, Charles H.
Bowman, Thomas E., III
Boyd, Richard E.
Boyle, Louis E.
Brandon, Herman T.
Brasher, James C.
Brearley, Arthur
Breitzig, Robert W., Jr.
Brennan, Thomas V., Jr.
Brent, Richard M.
Brewer, William P.
Britt, Charles R.
Brockmeier, Robert O.
Brower, Robert L.
Brown, Arthur B.
Brown, Charles M., Jr.
Brown, Forrest G.
Brown, Jerry K.
Brown, Raymond N., Jr.
Browning, John P.
Bruce, Robert S.
Brucker, Chad H.
Buchanan, Robert P.
Buciak, James J.
Buckner, Jerry L.
Buckner, Lawrence M.
Bullard, Walter M.
Burkons, Hugh A.
Burnett, Robert S.
Burns, Robert R.
Burris, Robert N.
Butler, Carroll V.
Butler, Theodore H.
Bybee, Norbert A., Jr.
Bynum, Joe H., Jr.
Byrnes, Charles P.
Byrnes, Robert K.
Campbell, Cromwell B.
Campbell, Terry L.
Cann, John P., III
Carey, James J.
Carlson, Gary L.
Carroll, Joseph F.
Carroll, Johnny D.
Carter, Robert T.
Cartwright, John G.
Casey, Jed M.
Casper, Lance R.
Celebrezze, Anthony J., Jr.
Chamberlain, Larry D.
Chandler, Robert C.
Chapman, John C.
Chase, William R.
Cheney, John V.
Chester, Frederick R.
Childress, Samuel L.
Chretien, Peter C.
Christensen, William L.
Christianson, Daniel T.
Cindrich, Evan
Cinnante, John A., Jr.
Clancy, George J., Jr.
Clark, Thomas H.
Clarke, Wayne C.
Clawson, Paul F.
Clayton, Johnnie E., Jr.
Clegg, Marshall C.
Coble, William M.
Coleman, Garnett W.
Coleman, Stephen B., Jr.
Coleman, Walter S.
Collins, Joseph S.
Collins, Robert J.
Colston, Michael G.
Colvett, John H.
Compton, Revis E., Jr.
Conder, James W.
Conn, Robert D.
Connel, Allan A., III
Conroy, John D.
Conti, Rodney R.
Cook, James A.
Cook, Joseph T.
Coopersmith, James M.
Coppo, George A.
Corso, James F.
Cosby, James W.
Costarakis, Matthew G.
Costello, Edward M.
Cotter, Joseph D., Jr.
Coughlen, Thomas D.
Coulter, Forrest W.
Coulter, Lonnie B., Jr.
Counts, Morris G.
Crane, Robert E.
Cranston, Craig H.
Crisp, Howard L.
Croasmun, Robert F., Jr.
Crolick, George R., Jr.
Cronin, Michael P.
Crooker, Peter E.
Cross, Jerry V.
Croucher, Donald E.
Crowder, Thomas E.
Crusoe, John A.
Cuccia, Robert A.
Cuttitta, John R.
Czerwonky, James H.
Dabich, Eli, Jr.
Dance, Wayne T.
Daniels, Parmely M.
Danielson, Larry R.
Dankievitch, Robert J.
Dann, Warren K.
Danni, Frank R.
Dannov, Barnard A.
Davidson, James D.
Davis, Dock H.
Davis, Robert W.
Davis, Royce P., Jr.
Davitt, James, Jr.
Day, James S., Jr.
DeForth, Peter W.
DeFrancesco, John B., Jr.
Deleyiannis, Steven J.
Delich, Gerry L.
DeLoge, Donald P.
DeLuca, John P.
DeMoss, Jerry V.
Dempsey, William A.
Dennis, David A.
Dennis, Michael R.
DePrey, Allan W.
Dermyer, William D.
DeSantis, Antonio F.
Detrick, Ernest M., II
Detweiler, John H.
Devine, William H.
DeVoe, Carlyle J.
Dibble, William W., Jr.
Dickas, John H.
Dickinson, Richard L.
Dickson, Robert E.
Diem, Gustav
Diesner, Harvey H.
DiPietro, Carl A.
Dobbs, William D.
Dodge, Rex H.
Doherty, Dennis C.
Dolge, Alan L.
Danaghy, Francis D.
Donahoe, David F.
Donahue, James W.
Donaldson, Eugen J.
Donelan, John O.
Donovan, Charles A., Jr.
Dooling, Robert A.
Dorsey, James E.
Dougherty, Charles W.
Dowdy, James W.
Dowis, James F.
Doyle, Thomas F., Jr.
Driscoll, Joseph A.
Drudik, Donald J.
Drury, James C., Jr.
DuBois, Austin H.
DuBois, Harold K.
DuBois, Thomas M.
Dudley, James C.
Duffey, Morris H.
Duffy, Denis C., Jr.
Duke, James C.
Duke, Robert A.
Duncan, Robert W.
Dunlap, Stephen E.
Durfer, Edwin R.
Dye, William R.
Eady, Oliver S., III
Earl, Richard L.
Eastman, Kenneth O., Jr.
Eskstrom, David M.
Edge, Jacob, II
Elliott, Wayne E.
Ellison, William T.
Elstad, Leif A.
Elwell, Reginald B., Jr.
Embry, Thomas D.
England, Herman B.
Entas, Leon J.
Epperson, Donald C.
Epstein, Joseph L.
Erdmann, John F.
Erskine, Robin W.
Eucare, Alexander J.
Evans, Gordon J.
Evans, John L.
Eve, Edward A., III
Eveland, Winsor G., Jr.
Everett, David G.
Everett, Larry
Everts, Robert A.
Fagnant, James G.
Fairbanks, Willie B.
Farina, Robert G.
Farquhar, James A.
Farrell, Dudley C.
Farren, John J.
Farrington, James L., Jr.
Fehrle, Thomas L.
Fenner, David L.
Ferdinandsen, William, Jr.
Ferguson, Gary W.
Ferguson, John F.
Ferguson, John D.
Fetner, Lawrence J., II
Fichtner, Ernest
Fiebelkorn, George A., Jr.
Field, Edward J.
Fields, Frederick B.
Fields, Kenny W.
Fischer, Earl R.
Fischer, John N., Jr.
Fischl, Joseph J.
Flagler, Norris J.
Flanigan, Michael J.
Fleenor, James G.
Fleischmann, Frank J.
Fleming, Myron T., Jr.
Flint, William K.
Florimonte, Thomas S.
Floto, Peter C.
Foltz, Larry E.
Fontaine, William B., Jr.
Fonti, Raymond H., Jr.
Foote, Kenneth E.
Ford, James C.
Ford, Michael E.
Ford, Michael D.
Forgione, Ralph
Forsgren, Craig M.
Forst, Gilbert L.
Forstner, Gerald
Fort, John H.
Foster, Michael L.
Fourner, Maurice A.
Fowler, Thomas A.
Francis, Clifton N., Jr.
Franklin, James A.
Frazier, Paul H.
Frazita, Richard F.
Frederick, John C.
Freeden, Harold R.
Freeman, Rufus A.
Freese, Donald R.
Frein, James O., Jr.
Fretel, Theodore G.
Frey, Robert H. W.
Friesen, Charles H.
Fry, Larry L.
Frye, Bruce L.
Gallagher, Gerald M.
Gallagher, Charles J., Jr.
Galusha, David E.
Gareffa, Joseph J.
Garnish, John G.
Gattey, Robert L.
Gaukroger, James G.
Geary, Charles D., Jr.
Geehr, John E.
Geise, Barry R.
Gibbs, Anthony W.
Giberson, Paul G.
Girouard, Marvin J.
Girtman, James T.
Glavis, George O.
Goddard, Joseph F.
Goddard, Russell B.
Goff, William G., Jr.
Goldsmith, Van E.
Good, Joseph S.
Goodman, Robert G.
Goodson, Ralph E.
Gordon, James J.
Gore, King W.
Gosse, Clinton G.
Gradick, Herman W. I., Jr.
Graham, Charles N., Jr.
Gray, Arthur L., Jr.
Gray, David M.
Grayson, Thomas H.
Green, George L.
Green, Lorin D.
Greene, David L.
Greeneisen, David P.
Greener, John S.
Greenwood, Kenneth L.
Greer, William H., Jr.
Grever, James W.
Griffin, Gary L.
Gronewold, Clyde A.
Grund, Vincent A.
Grzybowski, Richard J.
Guenther, Carl W., II
Gulck, Frederick K.
Gulledge, Hal A.
Gundler, Lawrence W.
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Hackett, Charles J.
Haines, James D., Jr.
Hale, Jack V.
Hale, Kirk K., Jr.
Hall, Wendel V.
Halsted, Richard L.
Hamel, Robert H.
Hanson, Gerald T.
Hanson, Wayne L.
Harbour, George A., III
Hard, Douglas A.
Harding, Theodore P.
Hardy, Francis R.
Harness, Francis W.
Harney, Gregory N.
Harper, Robert L.
Harrell, Jack E., Jr.
Harrington, James R.
Harrington, James M.
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Harris, Larry C.
Harris, Theodore H., Sr.
Hartman, Kenneth A.
Hasbrook, Robert L., II
Haslup, Charles L., III
Hauff, Richard A.
Haussman, Norman J.
Hayes, Charles R.
Hays, Raymond H., Jr.
Heacock, Gerald S.
Heath, Julian F.
Heebner, Charles
Heim, David L.
Heirman, Donald N.
Heitmanek, Robert H.
Hellawell, "G" Alan, Jr.
Helpap, John F.
Hendrix, David G.
Henkel, James H.
Henning, Fred L., Jr.
Herb, William D.
Herbein, Richard J.
Herbert, William G.
Herbol, Wesley C.
Herman, Klemme L.
Hermann, Herbert E.
Hernandez, Rudy
Herr, Philip L.
Herring, James A.
Herzog, Franz P.
Hess, Arthur A.
Hetherington, Donald L.
Hickam, Aubrey W., Jr.
Hiete, Kurt L.
Hill, Jerry W.
Himstreet, Thomas R.
Hines, Kermit G., Jr.
Hoertz, Paul G.
Hoff, Kenneth L., Jr.
Hohlstein, Richard A.
Hollister, Jack D.
Hollister, Wayne E.
Hoos, Ernest L.
Hoppert, Frederic M.
Horn, Dennis L.
Horstmann, Robert L.
Houlihan, Edmund M.
Howard, Homer L., Jr.
Howatt, Franklyn J.
Howe, George A.
Hoy, John W.
Hughes, Herman W.
Hughes, Robert S.
Hulett, Charles E.
Humphries, Charles S.
Hunt, Neil L.
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Huot, Lawrence T.
Hurlburt, Michael B.
Huseby, James G.
Hylbak, Martin C.
Illingworth, Fred H.
Inguanzo, Osvaldo M.
Irwin, Robert S.
Isger, Albert A.
Ishikawa, Donald H.
Isler, Marshall A., III
Ivey, John P. W.
Ivy, Richard G.
Jackson, James A.
Jacobs, Donald E.
Jacobsen, James D.
James, Donald M.
Jamieson, William D.
Jeane, David J.
Jeffords, Douglass C.
Jenkins, Larry G.
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Jenks, Robert H.
Jezukewicz, Joseph A.
Johnson, Allan E.
Johnson, Charles B.
Johnson, Charles P.
Johnson, David S.
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Johnson, Lewis R.
Johnson, Philip H.
Johnson, Raymond H., Jr.
Johnson, Roger W.
Johnson, William R., II
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Johnston, Richard W.
Jones, Brian G.
Jones, Charles W.
Jones, Evan M.
Jones, Jeffrey B.
Jones, Michael D.
Jones, Robert C.
Jones, Ross A.
Jordan, Stephen B.
Jordan, William F.
Judge, Charles V., II
Judkins, Lawrence W., Jr.
Jurgena, Richard L.
Justesen, Norman S. Jr.
Kalinoski, Edward F.
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Kane, Byron L.
Kane, Thomas E.
Karpers, Paul A.
Karson, Jack L.
Kasin, Lynn R.
Kauffman, Daniel G.
Kavulia, John M.
Keeler, Ronald A.
Keen, Walter R.
Keffer, Walter N.
Kelly, Monte W.
Kempf, Paul S.
Kennedy, Wayne E.
Kent, Don E.
Kenyon, Robert E., III
Keown, Marcus G., II
Kerley, James B.
Kimble, Richard L.
Kirchgessner, David E.
Kirkland, Richard G.
Kiviranna, Henno
Kline, Russell L.
Klug, Jack G.
Klukas Herbert A.
Knaub, Thomas J.
Knott, Harold A.
Kobor, David J.
Koeber, John F., Jr.
Koops, John B.
Korb, Lawrence J.
Kost, John G.
Kraus, William L.
Krause, Michael S.
Krauss, Gary A.
Kreiser, Alfred J.
Kropp, Theron L.
Kuhlke, William F., III
Kinkel, Gregory J.
Kuroski, Richard L.
LaManna, Ronald R.
Lampton, Richard E.
Landeck, Albert W.
Landkamer, Robert L.
Lane, Robert C., Jr.
Lanier, James A., III
LaPierre, Valmore, M.
Larson, Dennis L.
Lasher, James M.
Lauer, Michael J.
Laury, Glenn P.
Lawrence, Gerald S.
Layton, John R.
Leahy, Terence P.
Lear, Dale E.
Lederhaas, Joseph
Lee, Richard E.
LeFevre, Alfred J.
LeMoine, William J., Jr.
Lerch, Russel T.
Leto, David D.
Levasseur, George E.
Levinston, Clarence W., Jr.
Levy, Ivan M.

Levy, Ted S.
Lewis, Maxwell L.
Lieske, Donald D., II
Lindell, Peter R.
Lindquist, John E.
Lipscher, Allen S.
Lizer, Darryl M.
Lockard, Robert E.
Locke, Eugene F.
Lockwood, William H., Jr.
Lohman, John W.
Long, James T.
Loockerman, William D.
Loomis, Peter B., IV
Loose, Ronald R.
Lorentzen, Gary C.
Losee, Arthur J.
Lott, John P.
Lovig, Lawrence III
Lowrey, Timothy D.
Lubash, Delbert J.
Luker, Richard A.
Lunt, Watsin W., II
Lynch, Daniel J., II
Lynch, Lawrence M.
Lynch, Timothy J.
MacIntyre, Dual A., Jr.
Mackey, Austin G.
Macon, Jerry L.
Maddock, George A.
Magurn, John T.
Maher, Thomas W.
Malec, Vernon M.
Mallman, Thomas L.
Manderfield, Leonard L.
Manicke, Harold V.
Mann, Harlan W.
Manning, John C.
Mansell, Philip L.
Marechal, Andre
Markowicz, John C.
Markowitz, Stephen A.
Marlow, Frank J.
Marshall, John S.
Martin, George F.
Martin, John W.
Martin, Leroy M.
Martinez, James R.
Marts, Gordon A.
Martz, Carl E.
Mason, Edward H.
Mason, Richard L.
Mason, Walter A., Jr.
Mathews, William M., Jr.
Matias, John W., Jr.
Matjasko, Louis S.
Matlock, James A.
Matsunaga, Jerry T.
Maurer, Thomas E.
Mawn, Paul E.
Maxwell, James A.
Maxwell, Robert B., Jr.
May, Donald R.
Mayer, John B.
Mayhew, David R.
McArthur, William D., Jr.
McAvoy, Robert E.
McCabe, John S.
McClanahan, Kenneth D.
McCleery, Alexander H.
McClure, Richard C.
McConnaughey, John S., Jr.
McCreedy, Bruce R.
McDermott, Michael N.
McDonald, Donald R.
McDonnell, Joseph F., III
McGary, Charles W.
McGinnis, Fred M., Jr.
McGovern, Terrence J.
McGuire, Jeremiah J.
McGurk, Joel C.
McGurk, William J.
McHugh, Terence J., Jr.
McIntyre, Richard T.
McKeeman, Lloyd C.
McKenzie, Jerry B.
McLaughlin, James A.
McMahon, John P.
McManus, Richard W.
McMichael, William S.
McNair, Martin B.
McWhorter, Richard H.
Mealey, Thomas H., Jr.
Means, James F.
Meizen, Malcolm J.
Mendello, Andrew R.
Mesloh, Raymond E.
Metviner, Kenneth S.
Metz, Hermann A.
Meurn, Robert J.
Meyer, Harvey K., III
Mikalson, Leslie H.
Mikesell, Daniel D., Jr.
Miklovis, Adam S.
Milhoan, James L.
Miller, David L.
Miller, David R.
Miller, Harry E., Jr.
Miller, James L.
Mingle, Clifford E.
Mirkovich, Joseph N.
Mixon, Charles M., Jr.
Mize, Harold L.
Moeller, Roy P.
Moffitt, William C.
Mollencop, Gerald H.
Monday, Charles B.
Monile, Albert J.
Monroe, Donald W.
Moody, Raymond L., Jr.
Moore, Thomas W.
Moore, William A.
Moore, Wilmot H.
Moreus, Richard W.
Morgan, Larry F.
Morgan, Ronald R.
Mortiz, Dennis M.
Morris, Robert H.
Morrison, Hugh E.
Moslener, Carl F.
Mosley, Curtis R.
Mosteller, James W., III
Mueller, James E.
Muga, Rudolph E.
Munck, Phillip L.
Muncy, Lonnie J.
Mungan, Gerald B.
Munro, Larry G.
Munro, Peter H.
Murphy, Eugene R.
Murphy, Roger W.
Murphy, Thomas F.
Murray, Tobert H.
Musante, Edward A.
Mutton, James O.
Nagengast, John E.
Nankervis, John T.
Naquin, Christopher W. P.
Natter, John T.
Nearing, Lloyd
Neary, Thomas E.
Nelson, Dale B.
Nelson, Noel E.
Nemes, Arthur J., Jr.
Nummers, Raymond F.
Newton, John L.
Newton, Morris D., Jr.
Nobriga, Gary J.
Nohr, Ralph J.
Nolan, James S.
Noonan, James F., Jr.
North, Wayne K.
Novack, Robert J.
Nowak, Robert G.
Nuget, Daniel A.
Nunnelee, John R.
Oberstein, Howart B.
O'Brien, Jerome J.
O'Brien, Richard P.
Obrist, Edward C., Jr.
Obusek, Joseph B.
Ochs, Eugene T.
O'Connor, Hugh M.
O'Donnell, Thomas E.
Ogden, Marion W.
O'Hanlon, James P.
Olney, Frank J., Jr.
Orcutt, John A.
Osborn, William W., Jr
Ostrander, Peter H.
Oviatt, Gary A.
Owen, Bruce W.
Owen, Duncan E.
Owens, Edward H., Jr.
Paavola, Ivar R.
Page, Charles E.
Palmer, Richard L.
Parker, John C.
Parker, Robert C., Jr.
Parker, William T., Jr.
Parkerson, George C.
Parks, John L.
Parmenter, Lester L.
Parmiter, James
Parsons, William D.
Patrick, James M., III
Patterson, Bobby G.
Patterson, William B.
Patterson, Eddie L.
Pattison, Roger W.
Patton, William B.
Patzmann, Bruce R.
Pauze, Philip C.
Pawlyk, William J.
Payson, Albion L.
Peacock, John R., Jr.
Pederson, Robert M.
Pelouze, Harry P., III
Pemberton, Leandes M
Peoples, Lenton L.
Perez, Andrew, III
Perez, Joseph M.
Perkins, Richard A.
Perry, Albert G., Jr.
Perry, Gilbert B., Jr.
Petersen, Robert A.
Peterson, Alan M.
Peterson, Charles A.
Peterson, Marvin N.
Petri, Charles H., III
Petru, Martin K.
Pettigrew, Kenneth W.
Phillips, Robert M.
Piotrowski, Walter E.
Pittman, Galen W.
Plant, William H.
Platt, Dewitt W.
Polich, Robert
Pollock, Robert E.
Ponso, Emil J., Jr.
Porzio, Arthur
Pottmyer, James J.
Powers, William B., Jr.
Preddy, Raymond R.
Preston, Robert C.
Pringle, Vernon E., Jr.
Pullen, Mark C.
Pykosh, Henry P.
Pyle, Howard, III
Quillman, John M.
Quinn, Paul J.
Quinn, Robert P.
Rabuczewski, Thomas
Rabuczewski, Thomas A.
Raichle, Henry F.
Rambo, Rex H.
Rand, Kenneth R., Jr.
Rask, Stephen J.
Rastall, Patric W.
Rawls, Hugh M., Jr.
Rayle, Lynn T., Jr.
Ream, James D.
Reed, David D.
Reese, John F., II
Reggiani, David J.
Reierson, Ronald M.
Renshaw, Ronald G.
Reussille, Paul R., Jr.
Revell, Ernest G., Jr.
Reynolds, Emmett Y.
Reynolds, Jasper A., Jr.
Reynolds, Lloyd L.
Reynolds, Robert W.
Reynolds, William M.
Rhodes, Robert M.
Rice, Alvin N.
Rice, Kenneth K.
Richardson, Frederick M.
Riley, John T.
Rio, Manuel, Jr.
Ritter, Laurence B.
Roberts, Alvin L.
Roberts, James E.
Robinson, Dale G.
Robinson, Oscar L.
Roe, Peter A.
Rood, Harold J.
Rose, Richard J.
Rosenthal, Stephen A.
Rossa, Thomas J.
Roux, Leo G., Jr.
Rowe, Raymond A.
Rowles, Duncan M., Jr.
Roycraft, Gary O.
Rumbaugh, Richard C.
Rummele, John E.
Rutledge, William A.
Ryan, James P.
Ryan, Jeremiah P.
Ryan, William M.
Rytell, Frank E., Jr.
Sadler, Dudley C.
Sager, Edward R.
Sanderlin, Doyle C.
Sanders, Thomas E.
Santini, Basil A.
Sargent, Ian H.
Sarnie, Robert W.
Sartori, Howard J.
Satin, Joel L.
Saul, Robert W., Jr.
Sauls, Charles G.
Sawyer, Thomas E.
Scanlon, Jerome B.
Schend, Richard C.
Scherer, Benjamin L.
Schilling, Gerald W.
Schirmer, Theodore C., Jr.
Schlichting, Roger E.
Schluentz, John A., II
Schmidt, Carl M.
Schmidt, Charles M., Jr.
Schmieg, George D.
Schoditsch, Richard E.
Scholand, Gerald W.
Schriver, Walter J.
Schroeder, Frederick A., Jr.
Schulhof, Robert P.
Schuller, David D.
Schuppert, Stephen M.
Scott, Glenn A.
Scott, Palmer M., Jr.
Scott, Thomas F., Jr.
Scudder, Robert H.
Seastrom, George R.
Seidelhuber, Michael J.
Seiler, Richard W.
Sekula, Theodore
Seldon, William H.
Serpente, James J.
Serumgard, Robert T.
Setchell, John S., Jr.
Sexton, Charles E.
Shaffer, Lloyd E.
Shannon, John J., IV
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Shanton, John L.
Shardy, James E.
Sheap, Robert D.
Sheehan, Sam, II
Sheehan, Thomas P., Jr.
Sheldon, Lee H.
Shepardson, Richard L.
Sheridan, Thomas C.
Shevlin, Joseph E., Jr.
Shipp, Jimmie S.
Shriver, Alan M.
Shugrue, Martin R.
Sidner, Gerald B.
Sikes, Robert E.
Silah, Robert J.
Silkett, Charles R.
Silverwood, Thomas E.
Simer, Murice M.
Simmonds, James L.
Simmons, Charles H.
Simmons, Robert M.
Sims, Arthur W.
Singer, Edward A., Jr.
Sipe, Gary H.
Sipe, Thomas R.
Siren, William H.
Sites, Bruce L.
Siwik, Joseph C., Jr.
Sjostrom, John E.
Slappey, James H.
Small, Kenneth E., Jr.
Smathers, Edmond W.
Smith, Bradford D.
Smith, Dan
Smith, David F.
Smith, Donald R.
Smith, Jessie M.
Smith, John W.
Smith, Marion J.
Smith, Norman D.
Smith, Robert, III
Smith, Ronald E.
Smith, Stephen B., Jr.
Smith, Ward B.
Sneed, Harry A.
Solomon, Paul W.
Sorenson, Darrell R.
Spath, John P.
Spencer, Bruce L., Jr.
Spencer, Donald W.
Spiehler, Frank A.
Spradlin, Louis E.
Sprague, Vance G., Jr.
Spurgeon, Dennis R.
Staehle, Charles M.
Stanczak, James P.
Stang, Alan V.
Stapf, Michael J.
Steckel, James E.
Steele, Robert A.
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Stevenson, Eugene D.
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Stinson, Alfred W.
St. Martin, Roy J., Jr.
Stoddard, Richard C.
Stokes, Houston H.
Stonelake, Henry T.
Stowe, John H., Jr.
Straley, Richard P.
Strand, John A., III
Streets, Richard R.
Strobl, Karl J.
Stubbs, Campbell L., II
Sudol, Walter E.
Sullivan, Albert W.
Sullivan, Earl R.
Sullivan, Leroy L.
Sutch, Norman D.
Sutton, Thomas L.
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Swanson, Franklin A., Jr.
Swartley, Steven W.
Sweet, David L.
Swenningson, Aaron P.
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Tambini, Robert J.
Taulli, Frank R.
Taylor, Carroll E.
Taylor, Gary W.
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Tepera, Joseph E.
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Thompson, Kermit D.
Thorn, James D.
Thornhill, David W.
Thornton, Jack C., Jr.
Thorson, Merlin O.
Tibbits, Ray T.
Tietz, Robert H.
Tinsley, Howard R.
Todd, Paul M.
Todd, Vincent W.
Todd, William E., Jr.
Tomlin, Kit P.
Tomsho, Robert J.
Toncray, George W., III
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Torres, James D.
Tower, Marvin D., Jr.
Trammell, Robert B.
Troy, Gerald A.
Truesdell, John M.
Tulloch, Hugh B.
Turchi, Charles R.
Turner, James M.
Turpin, Anthony A.
Tyson, Jerry R.
Ulsh, Merle F., Jr.
Valenta, Joseph R.
VanAusdle, Larry R.
Vancil, Richard T.
Vandel, James R.
VanderVeer, Robert M.
VanMale, Nicholas R.
VanSickle, Billy W.
VanWinkle, Robert L.
VanWyk, Macklin F.
Varner, James R.
Vaughan, Bobby F.
Vaughan, George D.
Verdon, Walter A.
Vieth, Charles E.
Viken, David M.
VinciGuerra, Joseph J., Jr.
Violet, Jon A.
Viscomi, Louis V.
Vision, Michael W.
Vissotski, Walter A.
Volpato, Pietro J.
VonderLinden, Arthur F., Jr.
Voss, Kenneth L.
Vowinkel, Russell C.
Vrablec, John J.
Wade, Shelba H., Jr.
Wagner, John C.
Walker, James E.
Wall, Kenneth R.
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Warner, Terry O.
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Warwick, James C.
Waters, Roy W.
Watkins, Gary A.
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Webb, Chevis H.
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Weihrich, John A.
Weimann, Gerald O.
Weldon, George K., Jr.
Wenger, Charles M.

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Wessman, Richard H.
Wheeler, Gerard C.
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Wilson, George W., III
Wilson, Joe H.
Wilson, Leonard H., Jr.
Wilson, Robert K.
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Winter, Steven J.
Winters, Donald L.
Wireman, Ray B.
Wojcik, Walter J.
Wood, Harris S.
Wood, William F.
Woodbury, Michael G.
Woods, Jerry R.
Woodul, Jack D.
Woody, Johnny W.
Wools, Ronald J.
Wozniak, Maurice D.
Wright, Frederick M.
Wright, Harold C.
Wurdeman, Richard D.
Yamada, Dexter K.
Yancey, Paul H.
Yarnell, James L.
Yeend, George W., Jr.
York, Gary A.
York, Robert E.
Young, Franklin A., Jr.
Young, Leonard G.
Young, Sanford N.
Zaremba, James W.
Zetterberg, Forrest L.
Ziegler, Gerald A.
Zuilkoski, Stephen K., Jr.
Zumwalt, Crane E.
Zwall, Richard

IN THE NAVY

The following-named Navy enlisted scientific education program candidate to be a permanent ensign in the line of the Navy, subject to the qualifications therefor as provided by law:

Robert J. Lauderdale.

The following-named temporary chief warrant officers to be permanent chief warrant officers, W-3, in the U.S. Navy, subject to the qualification therefor as provided by law:

CWO-3 David P. Carr, USN.
CWO-4 Harold L. Finister, USN.
CWO-3 George E. Leblanc, USN.
CWO-3 Alvin R. Walker, USN.

The following-named (U.S. Navy Reserve) temporary chief warrant officer to be appointed a permanent chief warrant officer, W-3, in the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-4 Jack R. Wallace, USNR.

The following-named temporary chief warrant officers to be permanent chief warrant officers, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-2 Theodore P. Dean, USN.
CWO-3 Hubertus J. Koehn, USN.
CWO-3 James A. Kowalski, USN.
CWO-3 Thomas I. Langford, USN.
CWO-3 John A. Siedschlag, USN.

The following-named temporary U.S. Navy officers to be appointed permanent chief warrant officers, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lt. (j.g.) John R. Meadows, USN.
Lt. (j.g.) Ray E. Pugh, USN.

The following-named (U.S. Navy officer (retired)) to be reappointed from the temporary disability retired list as a permanent commander in the restricted line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Salvatore E. Logalbo, USN (retired).

The following-named (U.S. Navy officer (retired)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the line of the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr Thomas C. Grier, Jr., USN (retired).

The following-named temporary chief warrant officer to be appointed a temporary chief warrant officer, W-4, in the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-4 Harold L. Finister, USN.

The following-named (U.S. Navy Reserve) temporary chief warrant officer to be appointed a temporary chief warrant officer, W-4, in the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-4 Jack R. Wallace, USNR.

The following-named temporary chief warrant officers to be appointed temporary chief warrant officers, W-3, in the U.S. Navy, subject to the qualifications therefor as provided by law:

CWO-3 Hubertus J. Koehn, USN.
CWO-3 James A. Kowalski, USN.
CWO-3 Thomas I. Langford, USN.
CWO-3 John A. Siedschlag, USN.

The following-named Navy enlisted candidates appointed temporary chief warrant officers, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

*Richard L. Bowman.
*Michael L. Jacobs.

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Thomas J. Humphries.

*Appointment sent out Ad Interim (During the recess of the Senate). Senate recessed on 24 March 1978–31 March 1978.

HOUSE OF REPRESENTATIVES—*Monday, May 22, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust in the Lord forever; for in the Lord God is everlasting strength.—Isaiah 26: 4.

O God, our Father, eternal source of wisdom, power, and love, lead us through the changes of this life on Earth that we may rest our spirits upon Thee and upon the foundations of truth and love which Thou hast made known to us in Thy word. Save us from restlessness, confusion, and haste. Draw us into those recesses of spirit where we can be still and know that Thou art God.

In the assurance of Thy presence we launch out into the duties of a new day. Keep our minds clear, our hearts steadfast, our spirits resolute, and our ambitions high as we seek to do our best for our beloved country. Strengthen our faith in Thee and in our people that we may work earnestly and enthusiastically for the highest welfare of our land and of all lands. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 9757. An act entitled "Grazing Fee Moratorium of 1978";

H.R. 11401. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes;

H.R. 11465. An act to authorize appropriations for the U.S. Coast Guard for fiscal year 1979, and for other purposes.

H.R. 11657. An act to authorize appropriations to carry out the Central, Western and South Pacific Fisheries Development Act until the close of fiscal year 1983, and for other purposes; and

H.R. 11662. An act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

The message also announced that the Senate has passed bills of the following titles, in which the concurrence of the House is requested:

S. 74. An act to amend the act of October 20, 1976 (90 Stat. 2662);

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 975. An act to improve the administration of the National Park System;

S. 1896. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1979;

S. 2699. An act to amend the act of June 27, 1960 (74 Stat. 220), as amended by the act of May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469), relating to the preservation of historical and archeological data; to authorize appropriations under sections 3(b) and 4(a) for fiscal years 1979 through 1983, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions, to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 341]

Allen	de la Garza	Murphy, N.Y.
Ambro	Dellums	Oakar
Anderson, Calif.	Dent	Obey
	Diggs	Patten
Andrews, N.C.	Duncan, Tenn.	Pettis
Applegate	Findley	Pike
Archer	Fish	Pritchard
Armstrong	Ford, Tenn.	Pursell
Ashley	Fraser	Quie
AuCoin	Frey	Rhodes
Badham	Fuqua	Rodino
Baucus	Gammage	Roncalio
Beard, R.I.	Garcia	Rosenthal
Bedell	Gibbons	Rousselot
Beilenson	Gonzalez	Runnels
Benjamin	Gore	Ruppe
Biaggi	Hagedorn	Sawyer
Bingham	Harrington	Scheuer
Boland	Hawkins	Shipley
Bonior	Heckler	Shuster
Breckinridge	Hightower	Simon
Brown, Ohio	Hollenbeck	Stokes
Burke, Calif.	Howard	Stump
Burton, Phillip	Jenrette	Teague
Butler	Jones, N.C.	Thornton
Carney	Jones, Tenn.	Treen
Carter	Kasten	Tucker
Chisholm	Leggett	Udall
Clausen, Don H.	Livingston	Ullman
	Lloyd, Tenn.	Waxman
Clay	Long, Md.	Wiggins
Cochran	Luken	Wilson, Bob
Collins, Ill.	McKinney	Wilson, Tex.
Conyers	Mann	Wright
Cornell	Markey	Young, Alaska
Cotter	Milford	Young, Tex.
Crane	Moss	
Davis	Mottl	

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). On this rollcall 324 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

OBJECTING TO COMMISSIONER OF EDUCATION CONSOLIDATING CERTAIN ADVISORY COUNCILS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and agree to the House resolution (H. Res. 1072) to disapprove the action of the Commissioner of Education in consolidating certain advisory councils as proposed in the Commissioner's annual report under section 448 of the General Education Provisions Act.

The Clerk read the resolution as follows:

H. RES. 1072

Resolved, That the House of Representatives objects to the action of the Commissioner of Education in consolidating certain advisory councils as proposed in the Commissioner's annual report submitted, pursuant to section 448 of the General Education Provisions Act, on February 28, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. BUCHANAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, on February 28 of this year the U.S. Commissioner of Education submitted his annual report to the Congress on the operation of the Office of Education. In this report, he proposed a consolidation of several statutorily created education advisory councils.

In particular, the Commissioner has recommended consolidating the National Advisory Council on Equality of Educational Opportunity—authorized by the Emergency School Aid Act—into the National Advisory Council on the Education of Disadvantaged Children—authorized by title I of the Elementary and Secondary Education Act. The Commissioner is also proposing to consolidate the Community Education Advisory Council and the National Advisory Council on Adult Education into the National Advisory Council on Vocational Education.

Under the General Education Provisions Act, the Commissioner may propose abolition or consolidation of advisory councils in his annual report; and, unless the House or Senate objects to that action within 90 days, such abolition or consolidation goes into effect.

On March 13, 1978, I introduced with nine cosponsors, House Resolution 1072, expressing the objection of the House to this action by the Commissioner. On April 5 the Committee on Education and Labor unanimously reported the resolution. We support this resolution and urge its adoption for several reasons.

First, the committee feels that the issue of unnecessary or duplicative councils can be, and has been, more comprehensively and prudently dealt with this year by the authorizing committees which created these councils. Specifically, the Committee on Education and Labor has recently reported a bill, H.R. 15, the Education Amendments of 1978, which abolishes the National Advisory Council of Equality of Educational Opportunity and extends the National Advisory Councils on Adult Education, Community Education, and the Education of Disadvantaged Children. The Vocational Education Council was extended for 5 years in 1976.

Second, the committee has serious reservations about consolidating these Councils because our oversight hearings showed that the Councils which we extended perform very distinct and necessary functions for very different types of legislation. To consolidate them into a single body would make for an unwieldy council which may not be representative of the various constituencies affected by these different acts. In addition, the amendments made to the programs in H.R. 15 would make the role of these Councils which the bill extends even more important.

For these reasons, Mr. Speaker, I ask the Members to vote to suspend the rules and pass House Resolution 1072.

I might say that there are various Councils. The one on Equality of Educational Opportunity has a budget of $185,000 and a staff of about five members. The one on Education of Disadvantaged Children has a budget of $281,500 and about nine members on the staff. The one on Adult Education has a budget of $270,700 with a number of staff of about 5½. The one on Community Education has a budget of $150,000 and one member on the staff. The one on Vocational Education has a budget of $437,000 and about 12 members on the staff.

We feel, Mr. Speaker, that these various pieces of legislation that I just mentioned are so important that the advisory councils that are set up for each of these should not be consolidated.

Let me state that next week when the Elementary and Secondary Education Act is on the floor, if any Member feels that there are too many advisory councils, the Members will be afforded the opportunity at that time to offer amendments to strike any advisory council that a Member may feel may not be serving a useful purpose, but we feel in this instance the Commissioner of Education ought not to be permitted to consolidate these councils administratively and we are asking that the House of Representatives rectify this error.

The only other thing I want to mention is that the Committee on Education and Labor is not opposed to more efficiently organizing advisory councils. Presently, there are 16 statutory, administrative, and Presidentally appointed advisory councils assisting the Office of Education. And, since 1976 three councils have been abolished with H.R. 15 proposing the abolition of another one. So, we are not opposed to reviewing these councils with an eye to better organization. It is just that in this instance we do not agree with the manner in which the Commissioner has gone about consolidating these councils.

BUDGETS, STAFF, AND MEMBERS OF ADVISORY COUNCILS AFFECTED BY HOUSE RESOLUTION 1072

Council	Budget fiscal year 1977	Number of staff	Number of members
Equality of Educational Opportunity	$185,000	4½	14
Education of Disadvantaged Children	281,500	8½	10
Adult Education	270,700	5½	15
Community Education	150,000	1½	7
Vocational Education	437,410	12½	21

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 1072 which expresses the disapproval of the House to the proposed consolidation by the U.S. Commissioner of Education of several statutorily created education advisory councils.

As Chairman PERKINS has noted, the Congress has taken action in the past several years to eliminate advisory councils whose performances were no longer deemed to be satisfactory. In 1974 we eliminated the advisory council for title III of ESEA. In 1976 the Advisory Council on Education Professionals Development was eliminated. The 1978 bill currently pending before the Rules Committee proposes the elimination of the advisory council associated with the Emergency School Aid Act.

In addition to the question of whether or not these councils should be consolidated administratively or subject to the congressional reauthorization process, I also have great concerns about the merits of the Commissioner's proposal. It simply does not make a great deal of sense to consolidate an advisory council aimed at educating disadvantaged children with another council whose mission is to oversee the enforcement of desegregation assistance programs.

Even more questionable is the proposal to merge the Adult Education Advisory Council and the Community Education Advisory Council into the Council on Vocational Education. Neither community nor adult education is synonymous with vocational education. To think that one council could adequately deal with all three of these areas simply misses the point of the function of the councils and the breadth of these acts. I do not believe that advisory councils have always done a superior job but, in the main, they play a very important role in bringing citizens' input into the process and in providing a perspective on these programs which differs from that of the professional bureaucrat, the political appointee, and the elected official.

What is perhaps even harder to understand is that in virtually the same breath the Commissioner proposed to significantly expand citizen participation at the local level while reducing it at the national level. If citizen participation is good for States and local school districts, it is certainly no less beneficial to the Federal officials charged with administering these programs.

I urge my colleagues to support House Resolution 1072.

Mr. PERKINS. Mr. Speaker, we have no further requests for time on this side.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and agree to the resolution (H. Res. 1072).

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11777) to authorize and direct the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cooperative Forestry Assistance Act of 1978".

POLICY AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—(1) most of the Nation's productive forests land is in private, State, and local governmental ownership, and the Nation's capacity to produce renewable forest resources is significatnly dependent on non-Federal forest lands;

(2) adequate supplies of timber and othe forest resources are essential to the Nation's productivity and well-being, and adequate supplies are dependent upon efficient methods for establishing, managing and harvesting trees and processing, marketing and using wood and wood products;

(3) managed forest lands provide habitats for fish and wildlife, as well as esthetics, outdoor recreation opportunities and other forest resources;

(4) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

(5) fires in rural areas threaten human lives, property, forest, and other resources, and Federal/State cooperation in forest fire protection has been of proven effectiveness and value;

(6) trees and forests are of great environmental and economic value to urban areas; and

(7) manager forests contribute to improving the quality, quantity and timing of water yields, which are of broad benefit to society.

(b) The purpose of the Act is to authorize the Secretary of Agriculture (hereafter in this Act referred to as "Secretary"), with respect to non-Federal forest lands, to assist in—

(1) the advancement of forest resources management;

(2) the encouragement of the production of timber;

(3) the prevention and control of insects and diseases affecting trees and forests;

(4) the prevention and control of rural wildfires;

(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

(6) the improvement and maintenance of fish and wildlife habitat; and

(7) the planning and conduct of urban forestry programs.

(c) It is in the national interest for the Secretary to work through and in cooperation with State foresters or equivalent State officials in implementing Federal programs affecting non-Federal forest lands.

(d) This Act shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended).

RURAL FORESTRY ASSISTANCE

SEC. 3. (a) The Congress finds that—

(1) production of timber on non-Federal forest lands and the efficient processing and use of wood produced on those lands is important in meeting the Nation's demand for wood and wood products.

(2) the Federal Government can assist in building up timber inventories, in improving and maintaining fish and wildlife habitat, and providing other forest resources on non-Federal forest lands; and

(3) Federal assistance in forest resources management on non-Federal forest lands and the utilization of these resources contribute to the economic strength and environmental quality of the Nation, providing many public benefits.

(b) The Secretary is authorized to provide financial, technical and related assistance to State foresters or equivalent State officials to—

(1) develop genetically improved tree seeds;

(2) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

(3) plant tree seeds and trees for the reforestation or afforestation of non-Federal forest lands suitable for the production of timber and other benefits associated with the growing of trees;

(4) plan, organize, and carry out measures on non-Federal forest lands, including but not limited to thinning, prescribed burning, and other silvicultural practices designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat and water yielded therefrom;

(5) protect or improve soil fertility on forest lands and the quality, quantity, and timing of water yields; and

(6) provide technical information, advice and other assistance to private forest landowners and managers, vendors, forest operators, wood processors, public agencies, and individuals regarding—

(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

(B) conversion of wood to energy for domestic, industrial, municipal, and other uses;

(C) management planning and treatments of forest lands including, but not limited to, site preparation, reforestation, thinning, prescribed burning and other silvicultural practices designed to increase the quantity and improve the quality of timber and other forest resources;

(D) protection and improvement of forest soil fertility and the quality, quantity, and timing of water yields, and

(E) the effects of forestry practices on fish and wildlife and their habitats.

(c) There is authorized to be appropriated annually such sums as may be needed to carry out this section and for administrative expenses associated therewith.

FORESTRY INCENTIVES

SEC. 4. (a) The Secretary is authorized to develop and carry out a forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for afforestation of suitable open lands, reforestation of cutover or other nonstocked or understocked forest lands, timber stand improvement practices including thinning, prescribed burning and other silvicultural treatments, and forest resources management and protection so as to provide for the production of timber and other forest resources associated therewith.

(b) For the purposes of this section, the term "private forest land" means land capable of producing crops of industrial wood and owned by any private individual, group, Indian tribe or other native group, association, corporation, or other legal entity.

(c) Landowners eligible for cost sharing under this program shall own 1,000 acres or less of private forest land, except that the Secretary may approve cost sharing with landowners owning more than 1,000 acres if significant public benefits will accrue. In no case, however, may the Secretary approve cost sharing with landowners owning more than 5,000 acres of private forest land, and in no case, may the area on which forest cost sharing is approved exceed 1,000 acres.

(d) The Secretary shall administer this section in accordance with regulations he shall develop in consultation with the committee described in section 10(c) of this Act. The regulations shall include guidelines for the administration of this section at the Federal and State levels, and shall identify the measures and activities eligible for cost sharing under this section.

(e) Individual forest management plans developed by the landowner in cooperation

with and approved by the State forester or equivalent State official shall be the basis for agreements between the landowner and the Secretary under this section. The Secretary shall encourage participating States to use private agencies, consultants, organizations, and firms to the extent feasible for preparation of individual forest management plans.

(f) In return for the agreement by the landowner, the Secretary shall agree to share the cost of carrying out those forestry practices and measures set forth in the agreement for which he determines that cost sharing is appropriate. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to implement the forestry practices and measures under the agreement, but not more than 75 per centum of the actual costs incurred by the landowner. The maximum annual amount any individual can receive under this program shall be determined by the Secretary of Agriculture in consultation with the Committee described in section 10(c) of this Act.

(g) The Secretary shall, for the purposes of this section, distribute funds available for cost sharing among the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to: (1) the acreage of commercial forest lands in each State, (2) the potential productivity of such lands, (3) the number of ownerships eligible for cost sharing in each State, (4) the need for reforestation, timber stand improvement, or other forestry investments on such ownerships, and (5) the enhancement of other forest resources.

(h) The Secretary may, if he determines that doing so will contribute to the effective and equitable administration of the program established by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements.

(i) In carrying out the purposes of this section, the Secretary is authorized to use the authorities provided in sections 1001, 1002, 1003, 1004, and 1008 of title X of the Agriculture and Consumer Protection Act of 1973 (87 Stat. 221; 16 U.S.C. 1501–1504, 1508).

(j) There is authorized to be appropriated annually such sums as may be needed to carry out this section including funds necessary for technical assistance and expenses associated therewith.

INSECT AND DISEASE CONTROL

SEC. 5. (a) The Secretary is authorized to protect trees and forests and wood products, stored wood, and wood in use from insects and diseases directly on the National Forest System and in cooperation with others on other lands in the United States, and thereby—

(1) enhance the growth and maintenance of trees and forests;

(2) promote the stability of forest-related industries and employment associated therewith through protection of forest resources;

(3) aid forest fire prevention and control;

(4) conserve forest cover on watersheds;

(5) protect outdoor recreation opportunities and other forest resources; and

(6) extend timber supplies by protecting wood products, stored wood, and wood in use.

(b) Subject to the provisions of subsections (c), (d) and (e) of this section and subject to whatever other conditions he may prescribe, the Secretary is authorized, directly on the National Forest System, and in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands to—

(1) conduct surveys to detect and appraise insect infestations and disease conditions affecting trees;

(2) determine the biological, chemical and mechanical measures necessary to prevent, retard, control or suppress incipient, potential, threatening or emergency insect infestations and disease conditions affecting trees;

(3) plan, organize, direct, and carry out measures he determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;

(4) provide technical information, advice and assistance in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use; and

(5) take any other actions he deems necessary to accomplish the objectives and purposes of this section.

(c) Operations planned to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.

(d) No money appropriated to carry out this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes to or agrees to contribute to the work to be done in the amount and in the manner determined by the Secretary.

(e) The Secretary may, in his discretion and out of any money appropriated to carry out this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts he deems necessary to retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

(f) Any money appropriated to carry out this section shall be available for necessary expenses. However, no money appropriated to carry out this section shall be used to pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees. Neither shall any money appropriated to carry out this section be used to compensate for the value of any property injured, damaged, or destroyed by any cause. The Secretary may procure materials and equipment necessary to retard, control, or suppress insects and diseases affecting trees without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) under whatever procedures he may prescribe, whenever he deems such action necessary in the public interest.

(g) There is authorized to be appropriated such sums as may be needed to carry out this section and for administrative expenses associated therewith.

URBAN FORESTRY ASSISTANCE

SEC. 6. (a) The Congress finds that—

(1) trees and forests in urban areas, including cities, their suburbs, and towns, can improve aesthetic qaulity, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control wind and water erosion, and provide habitat for wildlife.

(2) trees and forests in urban areas are weakened, damaged, or killed by highway and street widening, sidewalk construction, air pollution, modified drainage patterns, erosion, depletion of soil fertility, insects and diseases, mechanical and structural facilities, and other adverse influences that result from or are aggravated by the concentrated use of land; and

(3) planting, protecting and maintaining trees and forests and utilizing wood from pruned limbs, damaged trees, and felled trees in urban areas makes those areas more pleasant and healthful places to live, work and visit.

(b) The Secretary is authorized to provide financial, technical and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others than will encourage cooperative efforts to plan urban forestry programs and to plant, protect, maintain, and utilize wood from trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential developments in urban areas. The Secretary is also authorized to cooperate directly with units of local government and others in carrying out this section whenever the Secretary and that affected State forester or equivalent State official agree that such direct cooperation would better achieve the purposes of this section.

(c) There is authorized to be appropriated such sums as may be needed to carry out subsection (b) and for administrative expenses associated therewith.

RURAL FIRE PREVENTION AND CONTROL

SEC. 7. (a) The Congress finds that—

(1) outstanding and significant accomplishments have been made by the Secretary and cooperating States in the prevention and control of fires on forest lands and on nonforested watersheds for more than fifty years;

(2) progress is also being made by the Secretary and cooperating States and rural communities in the protection of human lives, agricultural crops and livestock, property and other improvements, and natural resources from fires in rural areas;

(3) notwithstanding the accomplishments and progress that have been made, fire prevention and control on rural lands and in rural communities is of continuing high priority to protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(4) the effective cooperative relationships between the Secretary and the States regarding fire prevention and control on rural lands and in rural communities should be retained and improved;

(5) efforts in fire prevention and control on rural lands should be integrated among Federal, State, and local agencies; and

(6) in addition to providing assistance to planned State and local rural fire prevention and control programs, the Secretary should provide prompt and adquate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting or financial capability of the affected State or rural area.

(b) Notwithstanding the Federal Fire Prevention and Control Act of 1974 (88 Stat. 1535), the Secretary is authorized, under whatever conditions he may prescribe, to—

(1) cooperate with State foresters or equivalent State officials in developing systems and methods for the prevention, control, suppression and prescribed use of fires on rural lands and in rural communities that will protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(2) provide financial, technical and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands; and

(3) provide financial, technical, and other assistance to State foresters or equivalent State officials in cooperative efforts to organize, train, and equip local firefighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress wildfires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas as defined in the first clause of section 306(a)(7) of the Consolidated Farm

and Rural Development Act (75 Stat. 308, as amended; 7 U.S.C. 1926).

(c) The Secretary, with cooperation and assistance from the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal property (within the meaning Services Act of 1949) by State and local fire forces receiving assistance under this section.

(d) To promote maximum effectiveness and economy, the Secretary shall seek to coordinate the assistance he provides under this section with the assistance provided by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974 (88 Stat. 1535).

(e) This is authorized to be appropriated annually such sums as may be needed to carry out subsection (b) and for administrative expenses associated therewith.

(f) There shall be established in the Treasury a special rural fire disaster fund which shall be immediately available to and used by the Secretary to supplement any other money available to carry out this section under rural fire emergencies, as determined by the Secretary. The Secretary shall determine that State and local resources are fully utilized or will be fully utilized before using money in the emergency funds to assist a State in which one or more rural fire emergencies exist. There is authorized to be appropriated such sums as may be needed to establish and replenish the special fund established by this subsection.

MANAGEMENT ASSISTANCE, PLANNING ASSISTANCE, AND TECHNOLOGY IMPLEMENTATION

SEC. 8. (a) To aid in achieving maximum effectiveness from the programs and activities established under this Act, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the development of stronger and more efficient State organizations that will enable them to fulfill better their responsibilities for the protection and management of non-Federal forest lands. Assistance under this subsection may include, but not necessarily be limited to, assistance in matters related to organization management, program planning and management, budget and fiscal accounting services, personnel training and management, information services, and recordkeeping. Assistance under this subsection may be extended only upon request by State foresters or equivalent State officials.

(b) To insure that data regarding forest lands are available for, and effectively presented in, State and Federal natural resources planning, the Secretary is authorized to provide financial, technical and related assistance to State foresters or equivalent State officials in the assembly, analysis, display and reporting of State forest resources data, in the training of State forest resources planners, and in participating in natural resources planning at the State and Federal levels. The Secretary shall restrict his assistance under this subsection to the implementation of the forestry aspects of State and Federal natural resources planning conducted under other laws. This subsection shall not be construed, in any way whatsoever, as extending, limiting, amending, repealing or otherwise affecting any other law or authority.

(c) To insure that new technology is introduced, that new information is integrated into existing technology and that forestry research findings are promptly made available to State forest resources personnel, private forest landowners and managers, vendors, forest operators, wood processors, public agencies and individuals, the Secretary is authorized to carry out a program of technology implementation.

(1) In carrying out this subsection, the Secretary is authorized to work through State foresters or equivalent State officials, and if the State forester or equivalent State official is unable to deliver these services, the Secretary is authorized to act through appropriate United States Department of Agriculture agencies, subdivisions of States, agencies, institutions, organizations, or individuals to—

(A) strengthen the technical assistance and service programs of cooperators by applying the results of search and conducting pilot projects and field tests of management and utilization practices, equipment and technologies related to the programs and activities authorized by this Act;

(B) study the effects of tax laws, methods and practices upon forest management;

(C) develop and maintain technical information systems in support of programs and activities authorized by this Act;

(D) test, evaluate, and seek registration of chemicals for use in carrying out the programs and activities authorized by this Act;

(E) carry out other activities, including training of State forestry personnel who the Secretary deems necessary to assure that the programs and activities authorized by this Act are responsive to special problems, unique situations and changing conditions.

(2) The Secretary may make funds available to cooperators under this section without regard to the provisions of section 529 of title 31 of the United States Code, which prohibits advances of public money.

(3) The Secretary shall utilize forest resources planning committees at National and State levels in carrying out this subsection.

(d) There is authorized to be appropriated annually such sums as may be needed to carry out this section.

CONSOLIDATED PAYMENTS

SEC. 9. (a) To provide flexibility in funding activities authorized by this Act, the Secretary may, upon the request of any State, consolidate the financial assistance to that State by using consolidated payments in lieu of functional cost-sharing mechanisms, formulas, or agreements. However, consolidated payments shall not include money appropriated under section 4 or money from any special treasury fund established by this Act.

(b) Consolidated payments under this Act shall be based upon State forest resources programs developed by State foresters or equivalent State officials, and reviewed by the Secretary.

(c) Federal consolidated payments to any State during any fiscal year shall not exceed the total amount of non-Federal funds expended within the State during that year to carry out its State forestry program. However, the Secretary may make payments that exceed the non-Federal amount expended for selected activities under the program, so long as the total Federal expenditure during any fiscal year does not exceed the total non-Federal expenditure during that fiscal year under the State forestry program.

(d) The Secretary may make consolidated payments on the certificate of the State forester or equivalent State official that the conditions for Federal payment have been met.

(e) The Secretary shall administer this section to insure that the use of consolidated payments does not by itself adversely affect or eliminate any individual program authorized by this Act.

(f) Subject to applicable appropriation Acts, the total annual amount of financial assistance to any participating State subsequent to enactment of this Act shall not be less than the base amount of financial assistance provided to that participating State under all the provisions of law specified in section 13 during the fiscal year in which this Act was enacted. However, financial assistance for special projects of one or two years' duration shall not be included in determining the base amount for any participating State.

GENERAL PROVISIONS

SEC. 10. (a) In carrying out this Act, the Secretary shall, to the maximum extent practical—

(1) work through, cooperate with, and assist State foresters or equivalent State officials;

(2) encourage cooperation and coordination between State foresters or equivalent State officials and other State agencies which manage renewable natural resources;

(3) utilize and encourage cooperators to utilize private agencies, consultants, organizations, firms, and individuals to furnish necessary materials and services; and

(4) promote effectiveness and economy by coordinating the direct actions and assistance authorized by this Act with related programs he administers, and with cooperative programs of other agencies.

(b) Money appropriated under this Act shall remain available until expended.

(c) Requirements for the development of State forest resources programs and State participation in management assistance, planning assistance and technology implementation, the apportionment of funds among States participating under this Act, the administrative expenses in connection with activities and programs under this Act, and the amounts to be expended by the Secretary to assist non-State cooperators under this Act, shall be determined by the Secretary in consultation with a committee of not less than five State foresters or equivalent State officials selected by a majority of the State foresters or equivalent State officials from States participating in programs under this Act. However, the Secretary need not consult with such a committee regarding funds to be expended under emergency conditions that he may determine.

(d) For the purposes of this Act, the terms "United States" and "State" shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States.

(e) For the purposes of this Act, the term "forest resources" shall include esthetics, fish and wildlife, forage, outdoor recreation opportunities, timber and water.

(f) For the purposes of this Act, the term "urban forestry" means the planning, establishment, protection, and management of trees and associated plants, individually, in small groups or under forest conditions within cities, their suburbs and towns.

(g) The Secretary may prescribe rules and regulations, as he deems appropriate, to carry out this Act or portions of this Act.

(h) The Secretary is authorized to make grants, agreements, contracts and other arrangements he deems necessary to carry out this Act.

(i) This title shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary, except as specifically cited in section 13.

STATEMENT OF LIMITATION

SEC. 11. This Act does not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, and the Act does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.

REPORTS

SEC. 12. To insure that Congress has adequate information to carry out its oversight responsibilities and to provide accountability for expenditures and activities under this Act, section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of

1974 (88 Stat. 476, as amended) is amended by—

(1) striking the period at the end of the last sentence and adding thereto "and in cooperative Forest Service programs."; and

(2) adding a new sentence at the end thereof as follows: "With regard to the cooperative forestry assistance component of the program, the report shall include, but not be limited to, a description of the status, accomplishments, needs and work backlogs for the programs and activities conducted under the authority of the Cooperative Forest Assistance Act of 1978.".

RELATIONSHIP TO OTHER LAWS

SEC. 13. (a) The following laws, and portions of laws, are hereby repealed:

(1) sections 1, 2, 3, and 4 of the Act of June 7, 1924, known as the Clarke-McNary Act (43 Stat. 653, as amended; 16 U.S.C. 564, 565, 566, 567);

(2) the Act of August 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a);

(3) the Act of June 25, 1947, known as the Forest Pest Control Act (61 Stat. 177, as amended; 16 U.S.C. 594–1 to 594–5);

(4) the Act of August 25, 1950, known as the Cooperative Forest Management Act (64 Stat. 473, as amended; 16 U.S.C. 568c, 568d);

(5) section 401 of the Act of May 28, 1956, known as the Agriculture Act of 1956 (70 Stat. 207; 16 U.S.C. 568e);

(6) sections 401, 402, 403, and 404 of the Act of August 30, 1972, known as the Rural Development Act of 1972 (86 Stat. 670, as amended; 7 U.S.C. 2651–2654); and

(7) section 1009 and the proviso to section 1010 of the Agricultural Act of 1970 as added by the Act of August 10, 1973, known as the Agriculture and Consumer Protection Act of 1973 (87 Stat. 221, 245; 16 U.S.C. 1509, 1510).

(b) Contracts and cooperative and other agreements under cooperative forestry programs executed under authority of the Acts, or portions thereof, repealed in subsection (a) of this section shall remain in effect until revoked or amended by their own terms, or under other provisions of law.

(c) Funds appropriated under the authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall be available for expenditure for the programs authorized under this Act.

EFFECTIVE DATE

SEC. 14. The provisions of this Act shall become effective October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 11777 is:

To bring together in one statute authority for nine programs in cooperative forestry assistance, namely—

The cooperative tree seed and plant program,

The cooperative forest management program,

The cooperative tree improvement program,

The forestry incentives program,

The urban forestry technical assistance program,

The insect and disease control program,

The white pine blister rust protection program,

The cooperative forest fire program, and

The rural community fire program.

To expand some of these programs where the benefits are proven and substantial.

To make clear the intent of Congress with respect to cooperative forestry assistance to States, local governments, and private landowners.

To authorize consolidated payments to States participating in cooperative forestry assistance, rather than functional matching grants, and in so doing, giving the States some flexibility in the disbursement of funds so that they can better respond to forestry situations requiring immediate action.

H.R. 11777 is needed because authorities for the cooperative forestry assistance programs currently lie in seven different statutes spanning more than 50 years, and some of the authorities have plainly become inadequate because of the Nation's forest resources.

Further, there is a need to combine some of the programs and to interrelate all of them for a more comprehensive and coordinated cooperative forestry assistance effort.

Cooperative forestry assistance is necessary for several reasons. First, private forest landowners often do not have the ability to apply certain essential forest management practices. For example, it is difficult or impossible for a private forest landowner to protect his forest against wildfire, insect infestation, and disease epidemics. For this reason, the cooperative forest fire program was established in 1924 by the Clarke-McNary Act, and the insect and disease control program was established in 1947 by the Forest Pest Control Act.

Second, private forest landowners often do not have the knowledge to apply certain desirable forest management practices. For example, even though a landowner may want to reforest his land and have the means to do so, he may not know the species best suited for his land or how to plant the seedlings properly. Congressional recognition of the need for a program providing technical assistance to forest landowners resulted in passage of the Cooperative Forest Management Act of 1950.

Third, the private forest landowner may not engage in some forest management practices because, from his perspective, the benefits resulting from the practices are not worth their cost. However, the benefits of these practices to the Nation might be substantial—in terms of yields of timber, wildlife, water quality, and outdoor recreation opportunities—and well worth their cost. Accordingly, the Federal Government has provided a financial incentives program for nonindustrial private forest landowners for tree planting of cutover land, among other things, under the forestry incentives program authorized by section 1009 of the Agricultural Act of 1971.

Mr. Speaker, more than 50 witnesses, including the administration, have testified in support of the earlier version of H.R. 11777, H.R. 8020. No one testified against the bill. Such testimony was received either during oversight hearings by the Subcommittee on Forests on the implementation of the Forest and Rangeland Renewable Resources Planning Act or during the hearing on H.R. 8020 and related bills, which the subcommittee held on February 2, 1978. Witnesses included representatives of academic and research institutions, State forestry agencies, the timber industry, environmental or conservation groups, and natural resource professional organizations.

Many suggestions have been made for improving the bill, and most of them have been incorporated in H.R. 11777.

Mr. Speaker, I must give recognition to the origins of H.R. 11777. It represents a major effort on the part of two Federal agencies, the Forest Service and the Extension Service, and 10 private organizations: The American Forestry Association, the Association of State College and University Research Organizations, the Council of Forestry School Executives, the Extension Committee on Organization and Policy of the National Organization of State Universities and Land-Grant Colleges, the National Audubon Society, the National Association of State Foresters, the National Forest Products Association, the National Wildlife Management Institute.

The initial draft of the bill was prepared by the Forest Service in response to a request for the agency's drafting service by Senator HERMAN E. TALMADGE, chairman of the Senate Committee on Agriculture, Nutrition, and Forestry. The draft was refined by an Areas of Agreement Committee under the auspices of the Americin Forestry Association, and I introduced the revised draft on June 24, 1977.

A comparable Senate bill was introduced by Senator PATRICK J. LEAHY on February 10, 1978. A bill virtually identical to H.R. 11777 was favorably reported out of the Senate Committee on Agriculture, Nutrition, and Forestry on May 11, 1978.

Mr. Speaker, in view of the need for this legislation, in view if its widespread support throughout the forestry community, in view of the need to get our Nation's private forest lands producing more near their potential, I urge the passage of H.R. 11777.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 11777, the Cooperative Forestry Assistance Act of 1978.

The purpose of the bill is to lend impetus to the national cooperative forestry effort by consolidating and updating, in one statute, authority for nine existing programs in cooperative forestry assistance to States, local governments, and private landowners; expanding the programs where benefits are apparent and substantial; authorizing consolidated payments to States rather than func-

tional matching grants, thus permitting the States a limited degree of flexibility in the disbursement of these funds under federally approved plans.

The legislation before us today is needed because the authorizations for the nine existing cooperative forestry assistance programs lie in seven statutes enacted over a span of 50 years, and some of them no longer respond adequately to present and future demands upon the Nation's forests and rangelands renewable resources. Also, there is a need to combine some of the programs, as well as to interrelate all of them for a more efficient, coordinated, and effective cooperative forestry assistance effort.

H.R. 11777 is the product of a major effort on the part of two Federal agencies, the Forest Service and Extension Service, and 10 private organizations—the American Forestry Association, the Association of State College and University Forestry Research Organizations, the Council of Forestry School Executives, the Extension Committee on Organization and Policy of the National Association of State Universities and Land-Grant Colleges, the National Audubon Society, the National Association of State Foresters, the National Forest Products Association, the National Wildlife Federation, the Society of American Foresters, and the Wildlife Management Institute.

More specifically, H.R. 11777 would:

First. Integrate the cooperative tree seed and plant program, the cooperative forest management program and the cooperative tree improvement program into one program—rural forestry assistance.

Second. Authorize financial assistance to State foresters to carry out silvicultural practices on non-Federal lands when private vendors of such practices are not available.

Third. Clarify the role of the State forester in the administration of the forestry incentives program—FIP.

Fourth. Increase the acreage limitation in FIP from 500 to 1,000 acres.

Fifth. Broaden landowner eligibility in cost sharing under FIP to all small forest landowners.

Sixth. Expand the insect and disease control program to the protection of wood products, stored wood, and wood in use.

Seventh. Integrate the cooperative forest fire program with rural community fire protection program.

Eighth. Establish a rural fire disaster fund which would be available to the Secretary to assist States overwhelmed by a disastrous wildfire situation.

Ninth. Formally establish programs in management assistance, planning assistance and technology implementation.

Tenth. Make cooperative forestry assistance funds available to the States until expended.

Eleventh. Specify all program appropriation authorizations as "such sums as may be needed," rather than in dollar amounts.

Mr. Speaker, I urge adoption of H.R. 11777.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further requests for time. I would just merely add my endorsement to the statement made by the gentleman from Oregon (Mr. WEAVER) and the gentleman from Virginia (Mr. WAMPLER), the ranking minority member on the Committee on Agriculture, and I urge the committee to pass the bill as amended.

Mr. WEAVER. Mr. Speaker, I would just like to say that this bill passed the Committee on Agriculture of the House unanimously and I urge passage of H.R 11777, as amended.

● Mr. AMMERMAN. Mr. Speaker, I am pleased to rise in support of H.R. 11777, H.R. 11778, and H.R. 11779—three little-known but nonetheless important bills to update and strengthen the Federal effort in forestry. The fact that the bills are being considered under suspension of the rules reflects the widespread support they enjoy as well as the lengthy and careful effort that the Subcommittee on Forests of the House Committee on Agriculture, on which I serve, has made in hearing all interested parties and refining this legislation.

The basic objective of these bills is fulfillment of a proposition advanced by Chairman WEAVER and other members of the Forests Subcommittee during the series of hearings we held last year on implementation of the Forest and Rangeland Resources Planning Act of 1974. It is that the Nation need not be faced with an either-or choice between forest products on the one hand and the other values our forests can supply—such as wilderness, wildlife habitat, and recreation—on the other.

While we will never be without conflicts among the uses which can validly be made of the Nation's forest lands, we can have enough of all the types of resources which they provide. But that end will not be attained over the coming decades without an increase in their productivity. And that, in turn, will require more planning, better management, and additional funds. It will also be necessary to fill certain key gaps in the Nation's forestry effort.

The bills before us today are designed to achieve those objectives.

H.R. 11777, the Cooperative Forestry Assistance Act of 1978, is predicated on the conclusion that the highest returns from additional forestry effort can be obtained from private nonindustrial forest lands. It would establish the first comprehensive Federal mandate for cooperative forestry assistance to State and local governments and private forest landowners. The bill would bring together in one statute authority for eight such programs now scattered among seven statutes enacted over a period of 50 years. Not only would it consolidate various tree seed, plant and tree improvement programs, H.R. 11777 is also intended to encourage additional activity by State foresters to assist private landowners. And it would also expand the Federal insect and disease control program as well as establish a rural fire disaster fund with which the Secretary of Agriculture could assist States confronted by wildfire disasters.

Mr. Speaker, I recognize that concern has been expressed by some consulting foresters that some of the assistance activities authorized by H.R. 11777 would be duplicative of, or competitive with, their ongoing efforts to assist private forest landowners. I mention this to make clear that I do not believe it is the intent of the bill's authors in any way to stimulate or promote competition between public authorities and private foresters. State foresters are to be financially assisted in carrying out silvicultural activities on non-Federal lands only where private vendors of these services are not available. I am hopeful there is enough potential for increased productivity on these lands to warrant additional assistance by both State authorities and private consulting foresters. But if unintended competitive situations were to develop, I am sure Congress would want to be made aware of it so we could take remedial action.

The statutory authorizations for the Federal effort in forestry research are equally in need of updating. It is the purpose of H.R. 11778, the Forest and Rangeland Renewable Resources Research Act of 1978, to modernize the now outmoded McSweeney-McNary Act, which has been the basic authority for forestry research for the past 50 years. This legislation responds to recommendations made by two subcommittees of the House Committee on Science and Technology after a special oversight review of agricultural research. It would authorize the Secretary of Agriculture to carry out and support a comprehensive program of forest and rangeland research as well as to maintain experiment stations and other facilities for that purpose.

I would emphasize that H.R. 11778 does not authorize additional funds for forestry research. Its purpose is to place this activity on a stronger statutory foundation because of the growing demand for forest resources and the need for a corresponding forestry research effort, not to spend more money.

Such is not the case with the third of these bills, H.R. 11779—the Renewable Resources Extension Act of 1978. Its purpose is clearly to establish an expanded forestry extension program at land-grant and other eligible colleges and universities, and to provide an adequate fund authorization for that purpose.

Over the years the forestry component has tended to be something of a neglected stepchild of the agricultural extension program. Indeed, a USDA group studying the situation found recently that forestry extension "is so inadequate that essential educational support of forestry programs and activities is weak or nonexistent."

This is the one of the few areas in these bills, Mr. Speaker, in which our committee did not accept a USDA recommendation. The Department proposed to delete from H.R. 11779 the annual authorization of $15 million in appropriations for forestry extension. We recognize the desire of the department for flexibility, but we felt accepting this proposal would have denied the basic premise underlying this bill, which is that only an assured annual funding level for forestry extension will redress the imbalance which has existed historically between this and other components of the extension program.

Let me say, however, that this is one of very few instances when USDA's wishes were not accommodated in this legislation. Indeed, all three of these bills represent a great deal of cooperation among and a major effort by the Forest Service, the Extension Service and a variety of private organizations, universities and other interested parties, as well as our subcommittee members and staff. I hope you will agree that these legislative products of that effort warrant your support.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill H.R. 11777, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT OF 1978

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11778) to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, to provide cooperative assistance for such research to States and others, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest and Rangeland Renewable Resources Research Act of 1978".

SEC. 2. PURPOSE.—(a) The Congress finds that scientific discoveries and technological advances must be made and applied to support the protection, management and utilization of the Nation's renewable resources. It is therefore, the purpose of this Act to authorize the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") to carry out a comprehensive program of forest and rangeland renewable resources research and research dissemination.

(b) This Act shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended).

SEC. 3. RESEARCH AUTHORIZATION.—(a) The Secretary is authorized to conduct, support, and cooperate in investigations, experiments, tests, and other activities he deems necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas. The activities conducted, supported, or cooperated in by the Secretary under this Act shall include but not be limited to, the five major areas of renewable resource research identified in paragraphs (1) through (5) of this subsection.

(1) Renewable resource management research shall include, as appropriate, such activities as managing, reproducing, planting, and growing forest and rangeland vegetation on forests and rangelands for timber forage, water, fish and wildlife, esthetics, recreation, wilderness, and other purposes; determining the role of forest and rangeland management in the productive use of forests and rangelands, in diversified agriculture, and in mining, transportation, and other industries; and developing alternatives for the management of forests and rangelands that will make possible the most effective use of their multiple products and services.

(2) Renewable resource environmental research shall include, as appropriate, activities related to understanding and management surface and subsurface water flow, preventing and controlling erosion, and restoring damage or disturbed soils on forest and rangeland watersheds; maintaining and improving wildlife and fish habitats; managing vegetation to reduce air and water pollution, provide amenities, and for other purposes; and understanding, predicting, and modifying weather, climatic, and other environmental conditions that affect the protection and management of forests and rangelands.

(3) Renewable resource protection research shall include, as appropriate, activities related to protecting vegetation and other forest and rangeland resources, including threatened and endangered flora and fauna, as well as wood and wood products in storage or use from fires, insects, diseases, noxious plants, animals, air pollutants, and other agents through biological, chemical, and mechanical control methods and systems; and protecting people, natural resources and property from fires in rural areas.

(4) Renewable resource utilization research shall include, as appropriate, activities related to harvesting, transporting, processing, marketing, distributing, and utilizing wood and other materials derived from forest and rangeland renewable resources; recycling and fully utilizing wood fiber; testing forest products, including necessary fieldwork associated therewith.

(5) Renewable resource assessment research shall include, as appropriate, activities related to developing and applying scientific knowledge and technology in support of the survey and analysis of forest and rangeland renewable resources described in subsection (b) of this section.

(b) To assure the availability of adequate data and scientific information for development of the periodic Renewable Resource Assessment provided for in section 3 of the Forest and Rangeland Renewable Resources Planning Act (88 Stat. 476, as amended), the Secretary of Agriculture is authorized and directed to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for the renewable resources of the forests and rangelands of the United States and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits, and uses in meeting the needs of the people of the United States. The Secretary shall carry out the survey and analysis under such plans as he may determine to be fair and equitable, and cooperate with appropriate officials of each State, territory, or possession of the United States, and either through them or directly with private or other agencies.

SEC. 4. RESEARCH FACILITIES AND COOPERATION.—(a) In carrying out this Act, the Secretary is authorized to establish and maintain a system of experiment stations, research laboratories, experimental areas, and other forest and rangeland research facilities. The Secretary is authorized, with donated or appropriated funds, to acquire by lease, donation, purchase, exchange, or otherwise, land or interests in land within the United States needed to carry out this Act, to make necessary expenditures to examine, appraise, and survey such property, and to do all things incident to perfecting title thereto in the United States.

(b) In carrying out this Act, the Secretary is authorized to accept, hold, and administer gifts, donations, and bequests of money, real property, or personal property from any source not otherwise prohibited by law and to use such gifts, donations, and bequests to (1) establish or operate any forest and rangeland research facility within the United States, or (2) to carry out any forest and rangeland renewable resource research activity authorized by this Act. Such gifts, donations, and bequests, or the proceeds thereof, and money appropriated for these purposes shall be deposited in the Treasury in a special fund. At the request of the Secretary, the Secretary of the Treasury may invest or reinvest any money in the fund which in the opinion of the Secretary is not needed for current operations. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and bearing interest of prevailing market rates. There are hereby authorized to be appropriated from such fund such amounts as may be specified in annual appropriation Acts, which shall remain available until expended.

(c) In carrying out this Act, the Secretary may cooperate with Federal, State, and other governmental agencies, with public or private agencies, institutions, universities, and organizations, and with businesses and individuals in the United States and in other countries. The Secretary may receive money and other contributions from cooperators under conditions he may prescribe. Any money contributions received under this subsection shall be credited to the applicable appropriation to be used for the same purposes and shall be made available until expended as the Secretary may direct for use in conducting the research activities authorized by this Act and in making refunds to contributors.

SEC. 5. COMPETITIVE RESEARCH GRANTS.—In addition to any grants made under other laws, the Secretary is authorized to make competitive grants to Federal, State, and other governmental agencies, to public or private agencies, institutions, universities, and organizations, and to business and individuals in the United States that will further the research activities authorized by this Act. In making these grants, the Secretary shall emphasize basic and applied research activities that are important to achieving the purposes of this Act and to obtain, through review by qualified scientists and other methods, the participation, in research activities, of scientists throughout the United States who have expertise in matters related to forest and rangeland renewable resources. Grants made under this subsection shall be made at the discretion of the Secretary under whatever conditions he may prescribe, after publicly soliciting research proposals, after allowing sufficient time for submission of the proposals, and after considering qualitative, quantitative, financial, administrative, and other factors which he deems important in judging, comparing, and accepting the proposals. The Secretary may reject any or all proposals received under this section if he determines that it is in the public interest to do so.

SEC. 6. GENERAL RESEARCH PROVISIONS.—(a) The Secretary may make funds available to cooperators and grantees under this Act without regard to the provisions of section 529 of title 31 of the United States Code, which prohibits advances of public money.

(b) To avoid duplication, the Secretary shall coordinate cooperative aid and grants under this Act with cooperative aid and grants he makes under any other authority.

(c) The Secretary shall use the authorities and means available to him to disseminate the knowledge and technology developed

from research activities conducted under or supported by this Act. In carrying out this responsibility, the Secretary shall cooperate, as he deems appropriate, with the organizations identified in subsection (d)(3) of this section and with others.

(d) In carrying out this Act the Secretary, as he deems appropriate and practical, shall—

(1) use, and encourage cooperators and grantees to use, the best available scientific skills from a variety of disciplines within and outside the fields of agriculture and forestry;

(2) seek, and encourage cooperators and grantees to seek, a proper mixture of short-term and long-term research and a proper mixture of basic and applied research;

(3) avoid unnecessary duplication and coordinate his activities under this section among agencies of the Department of Agriculture and with other affected Federal departments and agencies, State agricultural experiment stations, State extension services, State foresters or equivalent State officials, forestry schools, and private research organizations; and

(4) encourage the development, employment, retention, and exchange of qualified scientists and other specialists through postgraduate, postdoctoral, and other training, national and international exchange of scientists, and other incentives and programs to improve the quality of forest and rangeland research.

(e) This Act shall be construed as supplementing all other laws relating to the Department Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary, except as specifically cited in this Act.

(f) For the purposes of this title, the terms "United States" and "State" shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States and the Trust Territory of the Pacific Islands.

SEC. 7. RESEARCH APPROPRIATIONS AUTHORIZATION.—There is authorized to be appropriated annually such sums as may be needed to carry out this Act and for administrative expenses associated therewith. Money appropriated under this Act shall remain available until expended.

SEC. 8. (a) The McSweeney-McNary Act of May 22, 1928 (45 Stat. 699, as amended; 16 U.S.C. 581, 581a, 581b–581i), is hereby repealed.

(b) The paragraph headed "Forest research:" under the center heading "FOREST SERVICE" and the center sub-heading "SALARIES AND EXPENSES" of title I of the Department of Agriculture Appropriation Act, 1952 (65 Stat. 233, 16 U.S.C. 581a–1) is amended by inserting a period immediately after the figure "$5,108,603" and by striking all that follows in that paragraph.

(c) The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this Act and to coordinate with title XIV of the Food and Agriculture Act of 1977, Public Law 95–113 (91 Stat. 913, 981).

SEC. 9. This Act shall become effective October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Nation's increasing demands upon its forest and rangeland renewable resources have placed a comparable burden upon research concerning these resources, As the demands for forests and rangeland renewable resources have grown, the tasks of protecting, managing, and properly using these resources have also grown, and become more complex as well. Consequently, today, there is an unprecedented demand for scientific knowledge regarding these resources, facts upon which to base policies, plans, and practices. And research is the means by which such knowledge and facts are generated.

The Forest Service has been and remains the leader in research on forest and rangeland renewable resources. But its research authority is outdated, based on a 50-year-old law, the McSweeney-McNary Act, which needs substantial revision.

H.R. 11778 updates, clarifies, and consolidates Forest Service research authority for forest and rangeland renewable resources. In brief summary, the bill would:

First. Authorize the Secretary of Agriculture to conduct a comprehensive program of forest and rangeland renewable resources research in five major areas, namely: management, environment, resource protection, utilization, and resource assessment;

Second. Incorporate authority—with the ceiling removed on the appropriation authorization—for a continuing authorization—for a continuing survey and analysis of the condition, demand for, and supply of renewable resources to provide data for the dicennial assessment required by section 3 of the Forest and Rangeland Resources Planning Act of 1974;

Third. Expand authority for accepting and using of gifts, donations, and requests of money and other property for research purposes;

Fourth. Expand authority for cooperating in research with others in foreign countries beyond the collection, investigation, and testing of foreign woods;

Fifth. Authorize a new program of competitive grants specifically for renewable resources research;

Sixth. Implement, specifically for renewable resources research, 10 recommendations concerning agricultural research made jointly by the Subcommittee on Science, Research, and Technology and the Subcommittee on Domestic and International Scientific Planning and Analysis;

Seventh. Provide that appropriated funds shall remain available until expended; and

Eighth. Effectively link the Forest and Rangeland Renewable Resources Planning Act of 1974 with the research provisions of title XIV of the Food and Agriculture Act of 1977.

Mr. Speaker, during 1977 the Subcommittee on Forests held extensive oversight hearings on the implementation of the Forest and Rangeland Renewable Resources Planning Act. During these hearings, many witnesses took the opportunity to testify on H.R. 11778, then designated H.R. 8021. Thirty-three witnesses testified favorably on the bill, and no witnesses testified against it. Those who testified favorably included representatives of academic and research institutions, State forestry agencies, industry, environmental or conservation groups, and professional organizations.

On February 2, 1978, the Subcommittee on Forests held a hearing on H.R. 11778, then designated H.R. 8021, and related bills. Again, there was overwhelming and broad support for the bill .

Mr. Speaker, the administration supports the bill, and the Congressional Budget Office states that there would be no significant cost to the Government as a result of its enactment.

I must give recognition to the origins of H.R. 11778. It represents a major effort on the part of two Federal agencies, the Forest Service and Extension Service, and 10 private organizations: the American Forestry Association, the Association of State College and University Research Organizations, the Council of Forestry School Executives, the Extension Committee on Organization and Policy of the National Association of State Universities and Land-Grant Colleges, the National Audubon Society, the National Association of State Foresters, the National Forest Products Association, the National Wildlife Federation, the Society of American Foresters, and the Wildlife Management Institute.

The initial draft of the bill was prepared by the Forest Service in response to a request for the agency's drafting service by Senator HERMAN E. TALMADGE, chairman of the Senate Committee on Agriculture, Nutrition, and Forestry. The draft was refined by an Areas of Agreement Committee under the auspices of the American Forestry Association, and I introduced the revised draft on June 24, 1977.

A comparable Senate bill was introduced by the late Senator Hubert H. Humphrey on May 27, 1977 and by Senator PATRICK J. LEAHY on February 10, 1978. A bill virtually identical to H.R. 11778 was favorably reported out of the Senate Committee on Agriculture, Nutrition, and Forestry on May 11, 1978.

Mr. Speaker, in view of the need for this legislation, in view of its widespread support throughout the forestry community, and in view that this legislation entails no additional cost to the Government, I urge the passage of H.R. 11778.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 11778, the Forest and Rangeland Renewable Resources Research Act, which updates and clarifies Forest Service authority.

For the past 50 years, the McSweeney-McNary Act has provided the basic authority for USDA research on forest re-

sources. Because USDA research requirements have expanded considerably, new authority is needed. H.R. 11778 authorizes the Secretary of Agriculture to carry out a comprehensive program of forest and rangeland renewable resources research in five major areas: First, renewable resource management research; second, renewable resource environmental research; third, renewable resource protection research; fourth, renewable resource utilization research; and fifth, renewable resource assessment research. Also, H.R. 11778 would:

First. Update, clarify, and consolidate renewable resources research authority.

Second. Implement specifically for renewable resources research, 10 recommendations made jointly in 1976 by the Subcommittee on Science, Research and Technology and the Subcommittee on Domestic and International Scientific Planning and Analysis.

Third. Link the Forest and Rangeland and Renewable Resources Planning Act of 1974, as amended, with title XIV of the Food and Agriculture Act of 1977.

Fourth. Provide competitive grants specifically for renewable resources research.

Fifth. Expand authority for cooperation with others in foreign countries beyond "the collection, investigation, and testing of foreign woods."

Sixth. Expand authority for accepting and using of donated money and other property.

Mr. Speaker, I urge my colleagues to support passage of H.R. 11778.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

As a cosponsor of the legislation, I want to associate myself with the remarks of the gentleman from Virginia (Mr. WAMPLER). I want to say further that this bill will modernize the McSweeney-McNary Act of the past and makes a better situation for forest rangeland management in the United States.

Mr. WAMPLER. I thank the gentleman. As usual, he is eminently correct.

Mr. WEAVER. Mr. Speaker, I urge passage of H.R. 11778, and yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill H.R. 11778, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RENEWABLE RESOURCES EXTENSION ACT OF 1978

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11779) to provide for an expanded and comprehensive extension program for forest and rangeland renewable resources, as amended.

The Clerk read as follows:

H.R. 11779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renewable Resources Extension Act of 1978".

SEC. 2. The Congress finds that—

(1) the extension program of the Department of Agriculture and the extension activities of each State provide useful, productive, educational programs for private forest and range landowners and processors and consumptive and nonconsumptive users of forest and rangeland renewable resources, and these educational programs complement research and assistance programs conducted by the Department of Agriculture;

(2) to meet national goals, it is essential that all forest and range land renewable resources (hereinafter in this Act referred to as "renewable resources"), namely, fish and wildlife, forage, outdoor recreation opportunities, timber, and water, be fully considered in designing educational programs for landowners, processors, and users;

(3) more efficient utilization and marketing of renewable resources extend available supplies of such resources, provide products to consumers at prices less than they would otherwise be, and promote reasonable returns on the investments of landowners, processors, and users;

(4) trees and forests in urban areas can improve aesthetic quality, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control, wind and water erosion, and provide habitat for wildlife; and

(5) trees and shrubs used as shelterbelts can protect farm lands from wind and water erosion, promote moisture accumulation in the soil, and provide habitat for wildlife.

SEC. 3. (a) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary"), under conditions he may prescribe and in cooperation with the State directors of cooperative extension service programs and eligible colleges and universities, shall—

(1) provide educational programs which enable individuals to recognize, analyze, and resolve problems dealing with renewable resources, including forest- and range-based outdoor recreation opportunities, trees and forests in urban areas, and trees and shrubs in shelterbelts;

(2) use educational programs to disseminate the results of research on renewable resources;

(3) conduct educational programs which transfer the best available technology to those involved in the management and protection of forest and range lands and the processing and use of their associated renewable resources;

(4) develop and implement educational programs which give special attention to the educational needs of small, private nonindustrial forest landowners;

(5) develop and implement educational programs in range and fish and wildlife management;

(6) assist in providing continuing education programs for professionally trained individuals in fish and wildlife, forest, range, and watershed management and related fields;

(7) help forest and range landowners in securing technical and financial assistance in bringing appropriate expertise to bear on their problems; and

(8) help identify areas of needed research regarding renewable resources.

(b) As used in this Act, the term "eligible colleges and universities" means colleges and universities eligible to be supported and maintained, in whole or in part, with funds made available under the provisions of the Act entitled "An Act donating Public Lands to the several States and Territories which may provide Colleges for the Benefit of Agriculture and the Mechanic Arts", approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301–305, 307, 308), and the Act entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the Colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July second, eighteen hundred and sixty-two", approved August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 238), including Tuskegee Institute, and colleges and universities eligible for assistance under the Act entitled "An Act to authorize the Secretary of Agriculture to encourage and assist the several States in carrying on a program of forestry research, and for other purposes", approved October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a–582a–7).

(c) In carrying out this section, all appropriate educational methods may be used, including, but not limited to, meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs.

SEC. 4. (a) The State director of cooperative extension programs (hereafter in this Act referred to as the "State director") and the administrative heads of extension for eligible colleges and universities in each State shall jointly develop, by mutual agreement, a single comprehensive, coordinated renewable resources extension program in which the role of each eligible college and university is well-defined. In carrying out this responsibility, the State director and the administrative heads of extension for eligible colleges and universities shall consult and seek agreement with the administrative technical representatives and the forestry representatives provided for by the Secretary in implementation of the Act of October 10, 1962 (76 Stat. 806; 16 U.S.C. 582a—582a–7). Each State's renewable resources extension program shall be submitted to the Secretary annually. The National Agricultural Research and Extension Users Advisory Board established pursuant to section 1408 of the Food and Agricultural Act of 1977 (91 Stat. 988; 7 U.S.C. 3132) shall have the responsibility to review and make recommendations to the Secretary pertaining to programs conducted under this Act.

(b) The State director and the administrative heads of extension for eligible colleges and universities in each State shall encourage close cooperation between Extension staffs at the county and State levels, and State and Federal research organizations dealing with renewable resources, State and Federal agencies which manage forest and rangelands and their associated renewable resources, State and Federal agencies which have responsibilities associated with the processing or use of renewable resources, and other agencies or organizations deemed appropriate.

(c) Each State renewable resources extension program shall be administered and coordinated by the State director, except in States having colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326, 328), including Tuskegee Institute, where each State renewable resources extension program shall be administered by the State director and the administrative head of extension for the college or colleges eligible to receive such funds.

(d) In meeting the provisions of this section, each State director and administrative heads of extension for eligible colleges and universities shall appoint and use one or more advisory committees comprised of forest and range landowners, professionally trained individuals in fish and wildlife, for-

est, range, and watershed management and related fields as appropriate, and other suitable persons.

(e) For the purposes of this Act, the term "State" means any one of the fifty States, Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States.

SEC. 5. (a) The Secretary shall prepare for Congress a five-year plan for implementing this Act, which is to be called the Renewable Resources Extension Program and which is to be submitted to Congress no later than the last day of the first half of the fiscal year ending September 30, 1980, and the last day of the first half of each fifth fiscal year thereafter. The Renewable Resources Extension Program shall provide national emphasis and direction as well as guidance to State directors and administrative heads of extension for eligible colleges and universities in the development of their respective State renewable resources extension programs, which are to be appropriated in terms of the conditions, needs, and opportunities in each State. The Renewable Resources Extension Program shall contain, but not be limited to, brief outlines of general extension programs for fish and wildlife management (for both game and nongame species), range management, timber management (including brief outlines of general extension programs for timber utilization, timber harvesting, timber marketing, wood utilization, and wood products marketing), and watershed management (giving special attention to water quality protection), as well as brief outlines of general extension programs for the recognition and enhancement of forest- and range-based outdoor recreation opportunities, for the planting and management of trees and forests in urban areas, and for the planting and management of trees and shrubs used in shelterbelts.

(b) In preparing the Renewable Resources Extension Program, the Secretary shall take into account the repective capabilities of private forest and rangelands for yielding renewable resources and relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476, as amended), and the periodic appraisal of land and water resources provided for in section 5 of the Soil and Water Resources Conservation Act of 1977 (91 Stat. 1408; 16 U.S.C. 2004).

(c) To provide information that will aid Congress in its oversight responsibilities and to provide accountability in the implementation of this Act, the Secretary shall prepare an annual report which shall be furnished to Congress at the time of submission of each annual fiscal budget, beginning with the annual fiscal budget for fiscal year 1981. The annual report shall set forth accomplishments of the Renewable Resources Extension Program, apparent strengths and weaknesses, recommendations for improvement, and costs of program administration, each with respect to the preceding fiscal years.

SEC. 6. There is authorized to be appro priated to carry out this Act $15,000,000 for the fiscal year ending September 30, 1979, and $15,000,000 for each of the next nine fiscal years. Generally, States shall be eligible for funds appropriated under the authority of this Act according to the respective capabilities of their private forest and range lands for yielding renewable resources and relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 3 of the Forest and Rangeland Renewable Resource Planning Act of 1974 (88 Stat. 476, as amended), and the periodic appraisal of land and water resources provided for in section 5 of the Soil and Water Resources Conservation Act of 1977 (91 Stat. 1408; 16 U.S.C. 2004).

SEC. 7. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this Act and to coordinate this Act with title XIV of the Food and Agriculture Act of 1977.

SEC. 8. The provisions of this Act shall become effective October 1, 1978, and terminate on September 30, 1988.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most of the Nation's forest land is private ownerships. Whether private forest lands will yield the renewable resources they are capable of, depends—in large part—on the knowledge landowners have for the protection, management, and utilization of these resources.

The purpose of H.R. 11779 is to increase the yield of forest and range land renewable resources from lands through education—in other words, through the communication and application of scientific knowledge. The Nation needs the renewable resources that private lands are capable of producing, and private landowners need scientific and technological information so that they can take advantage of the potential of their lands.

Further, processors and users of renewable resources need scientific and technological information about using forest and range land renewable resources so their supplies can be extended.

Extension programs in agriculture are of proven effectiveness in disseminating scientific and technological information to private landowners. Extension programs in forestry have not been as effective because of very low funding, $2.1 million annually. In agriculture, the ratio of dollars spent on research to dollars spent on extension is 2 to 1. In forestry, the ratio of dollars spent on research to dollars spent on extension—on getting scientific information into practice—is 25 to 1.

H.R. 11779 would:

Provide for an expanded extension program for forest and rangeland renewable resources; namely, fish and wildlife, forage, outdoor recreation, timber, and water;

Would make eligible for partcipation in the expanded renewable resource extension program the 1862 land grant institutions, the 1890 land-grant institutions—including Tuskegee Institute—and institutions eligible to participate in the McIntire-Stennis cooperative forestry research program;

Would require the State director of cooperative extension programs and the administrative heads of extension for the other eligible colleges and universities in each State to develop, by mutual agreement, a single, comprehensive and coordinated State renewable resources extension program.

Would require that the State renewable resources extension program be administered and coordinated by the State director, except in States in which 1890 land-grant institutions—including Tuskegee Institute—exist, where the program would be administered and coordinated jointly;

Would require the Secretary of Agriculture to submit to the Congress in 1980 and 5 years thereafter, a national renewable resources extension program;

Would make the purpose of this national renewable resources extension program, the provision of national emphasis and direction as well as guidance to States in the development of their individual State renewable resources extension programs, which are to be appropriate in terms of the conditions, needs, and opportunities in each State;

Would require the Secretary to submit to Congress an annual report regarding the accomplishments of the 5-year program;

Would authorize appropriations of $15 million per year for fiscal year 1979 and each of the 9 succeeding fiscal years to carry out the provisions of the act; and

Would terminate its provisions on September 30, 1988.

Mr. Speaker, 50 witnesses, including the administration, have testified in support of the earlier versions of H.R. 11779; namely, H.R. 8022 and H.R. 10618. The witnesses included representatives of academic and research institutions, State forestry agencies, the timber industry, and environmental or conservation groups. Two timber industry trade associations objected to the bill, indicating that it was premature. However, one of them subsequently withdrew its objection.

Many suggestions have been made for improving the bill, and most of them have been incorporated as the bill progressed from H.R. 8022 to H.R. 10618 to H.R. 11779.

I must give recognition to the origins of H.R. 11779. It represents a major effort on the part of 2 Federal agencies, the Forest Service and the Extension Service, and 10 private organizations: The American Forestry Association, the Association of State College and University Research Organizations, the Council of Forestry School Executives, the Extension Committee on Organization and Policy of the National Association of State Universities and Land-Grant Colleges, the National Audubon Society, the National Association of State Foresters, the National Forest Products Association, the Society of American Foresters, and the Wildlife Management Institute.

The initial draft of the bill was prepared as a result of a request by Senator HERMAN E. TALMADGE, chairman of the

Senate Committee on Agriculture, Nutrition, and Forestry. The draft was refined by an Areas of Agreement Committee under the auspices of the American Forestry Association, and I introduced it on June 24, 1977.

A comparable Senate bill was introduced by Senator PATRICK J. LEAHY on February 10, 1978. A bill virtually identical to H.R. 11779 was favorably reported out by the Senate Committee on Agriculture, Nutrition, and Forestry on May 11, 1978.

Mr. Speaker, in view of the need for this legislation, in view of its widespread support in the forestry community, I urge passage of H.R. 11779.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a worthwhile bill. I urge all Members to vote for it. The extension service has done a marvelous job in the area of agriculture. This simply extends its authority to the field of forestry in a worthwhile manner.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 11779, the Renewable Resources Extension Act of 1978. This measure would authorize the Secretary of Agriculture to conduct a comprehensive extension program on forest and rangeland renewable resources, in cooperation with State directors of cooperative extension programs and the administrative heads of extension for eligible colleges and universities. The program would provide for the dissemination of scientific information and technology to landowners, users, and others on the management and wise use of forests, rangelands, fish and wildlife, watersheds, associated outdoor recreation opportunities, shelterbelts, and trees and forests in urban areas. The bill would also authorize an annual appropriation of $15 million.

Getting scientific information on forest and rangeland renewable resources into practice has been slow compared to agriculture. In large part, this is because extension programs on renewable resources have been funded at comparatively low levels. For example, the ratio in agriculture of dollars spent for research to dollars spent for extension is 2 to 1; in forestry, the ratio is 25 to 1.

Mr. Speaker, some important features contained in H.R. 11779 are:

First. The proposed extension program would deal with all forest and rangeland renewable resources, including shelterbelts and trees and forests in urban areas.

Second. Colleges and universities eligible to participate in the program are those eligible for support under the act of July 2, 1862, and the act of August 30, 1890, as well as those eligible to receive funds under the act of October 10, 1962.

Third. In each State, the State director of cooperative extension programs and the administrative heads of extension for eligible colleges and universities shall jointly develop a single State renewable resources extension program.

Fourth. States would be eligible for Federal funds to implement their respective programs generally according to the capability of their private forest and range lands for yielding renewable resources and relative needs for such resources identified in the implementation of the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Soil and Water Conservation Act of 1977.

Fifth. Without impeding the development and implementation of State renewable resources extension programs in the intervening years, the Secretary of Agriculture would be required to prepare by September 30, 1980, a national renewable resources extension program to provide national emphasis and direction, as well as guidance to the States in the development of their renewable resources extension programs in succeedyears.

Sixth. The Secretary of Agriculture would provide Congress an annual report on the implementation of the Act beginning at the time of submission of the annual budget for fiscal year 1981.

Seventh. The provisions of the act would terminate on September 30, 1988.

Mr. Speaker, I urge that my colleagues support passage of H.R. 11779.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I am delighted to yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, as a cosponsor of this legislation, I am happy to associate myself with the remarks of the gentleman from Virginia in appreciation of the work the gentleman has done in the field of agricultural research and extension in general and particularly in this area of forestry research and extension.

Mr. WAMPLER. Mr. Speaker, I thank the gentleman from Idaho.

Mr. WEAVER. Mr. Speaker, I want to commend and thank all those in the forestry community for the consensus they developed with regard to the contents of the three bills, H.R. 11777, H.R. 11778, and H.R. 11779.

Also, I want to thank my good colleagues on both sides of the aisle for the hard work they have done in developing a consensus to get our Nation's forest lands and rangelands working for the benefit of us today as well as for the benefits of future generations.

Mr. Speaker, I urge passage of H.R. 11779.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill H.R. 11779, as amended.

The question was taken.

Mr. CUNNINGHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

VOLUNTEERS IN NATIONAL FOREST ACT AMENDMENTS

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2370) to remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972.

The Clerk read as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558d) is amended by striking out ", but not more than $100,000 shall be appropriated in any one year".

SEC. 2. The amendment made by this Act to the Volunteers in the National Forests Act of 1972 shall become effective October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the volunteers in the National Forests Act of 1972 authorizes the Secretary of Agriculture to accept without compensation the services of individuals who volunteer to work in the national forests. Volunteers have provided special interpretive services for national forest visitors assisted at historical and special events, conducted special research projects such as historical research of a ghost town, maintained campgrounds, and assisted campers.

While the volunteers in the National Forests Act authorizes the Secretary to provide for the incidental expenses of such volunteers, section 4 of the act imposes a ceiling of $100,000 per year for expenditures for this purpose.

The Federal Government has realized many times the cost of these volunteers in the value of the services they have rendered to the Government and to the public. Yet the Forest Service has had to turn away thousands of citizens wanting to perform similar services, because funds were not available to pay for incidental expenses.

The Forest Service would like to expend the volunteers program, but it cannot because of the authorization limitation. Experience with the program shows a return of over $10 in terms of work value received for every dollar expended. For fiscal year 1976, plus the transition quarter, 11,676 persons volunteered 341 years of work valued at $2,338,606.

S. 2370 would remove the $100,000 ceiling, effective October 1, 1978. It is estimated that removal of the appropriation ceiling could result in $150,000 in addi-

tional costs, but the resultant increase in the value of the work performed by the volunteers is estimated to be $4 million per year.

I know of no one who opposes this bill.

Mr. Speaker, in view of the benefits which this bill will provide and in view of its widespread support, I urge passage of S. 2370.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the volunteer program has been one of the most successful programs we have had in this area. By this expansion of the program by providing an additional $150,000, this will return millions of dollars worth of services to the Federal Government in the forests around the country.

So, Mr. Speaker, I urge my colleagues to vote for the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of S. 2370, a bill to expand the Volunteers in the National Forests Act of 1972. This legislation, which would become effective October 1, 1978, removes the $100,000 ceiling imposed on the Forest Service to carry out its volunteer program.

The Forest Service has advised Congress that they cannot utilize the thousands of conservation-minded citizens who volunteer their services due to the limitations imposed by existing law. These volunteers perform such duties as providing special information services to visitors to our national forests, assisting at historical and special events, increasing the availability of interpretative programs, providing special skills, training volunteers in specialized cases, assisting in special research projects such as historical research of a ghost town, writing brochures on features of interest, teaching special subjects, and so on. Moreover, the presence of these volunteers has substantially reduced vandalism, theft, and similar problems.

Under existing law, which will be continued under S. 2370, the Secretary of Agriculture has the authority to reimburse volunteers for incidental expenses, such as transportation, uniforms, lodging, and subsistence. These volunteers are not considered Federal employees except for purposes of tort claims and compensation for work injuries. It is estimated that by removing the $100,000 ceiling, the additional cost to the taxpayers will be $150,000 a year. However, it is also estimated that the value of the work performed by volunteers in the national forests is approximately $4 million a year.

Since the bill before us today is one of those rare pieces of legislation for which the taxpayers receive more in return than they expend, I strongly urge the passage of S. 2370.

Mr. WEAVER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of the legislation before the House, S. 2370. I also wish to indicate my support for the bills, H.R. 11777, H.R. 11778, and H.R. 11779 considered by the House earlier today. All of these bills were reported by the Committee on Agriculture by voice vote. The committee on Agriculture strongly recommends them to the House for passage.

Mr. Speaker, I also wish to commend the Subcommittee on Forests and its chairman, the gentleman from Oregon (Mr. WEAVER), as well as its ranking minority member, Mr. JOHNSON of Colorado, for the excellent work they have done in preparing and bringing these bills to the floor.

Mr. WEAVER. Mr. Speaker, I thank the gentleman from Washington (Mr. FOLEY), and I urge passage of S. 2370.

● Mr. ARMSTRONG. Mr. Speaker, I am particularly pleased to rise in support of S. 2370.

As many of you know, I introduced identical legislation in both the 94th and 95th Congresses, along with 29 cosponsors.

Both S. 2370 and H.R. 5295 and H.R. 5296 would remove the $100,000 annual limitation on the volunteers in the National Forest Act of 1972. As the Department of Agriculture has indicated, volunteers would not even create any direct cost increases to the Federal Government and the benefit to the Government is great.

As an example, in fiscal year 1974, the value of the work performed by volunteers exceeded $700,000. By fiscal year 1976, the value of the work done by these dedicated volunteers was more than $2,300,000. Even with the support of such organizations as the National Hiking and Ski Touring Association and the Isaac Walton League, the present limitation on Forest Service expenses has precluded much greater expansion of such a worthwhile program.

Removing the spending limitation would not mean a greater Department of Agriculture authorization, but would give the Forest Service the option of spending existing funds for administration and coordination of volunteer programs.

While the present limit of $100,000 sounds adequate to some for these purposes, it is not—not when the funds must be spread over 146 national forests and 187 million acres. It seems right to me—as well as cost effective—that the Forest Service should be allowed to use dedicated and knowledgeable volunteers in its efforts to maintain the national forest system, especially now, when more and more Americans are using national forests.

Today, we need to look for more cost-effective ways to provide traditional Government services. S. 2370 would improve our forests without additional cost to the taxpayer.

Right now, the Forest Service has to turn away competent and qualified volunteers. This is especially serious now, when the Forest Service has been closing trails and some sections of national forests because of inadequate maintenance.

So I would like to commend the committee for its action in bringing this legislation to the House, and I would urge my colleagues to support it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the Senate bill (S. 2370).

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the four bills just considered: H.R. 11777; H.R. 11778; H.R. 11779; and S. 2370.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

EXTENSION OF VETERANS READJUSTMENT APPOINTMENT AUTHORITY

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12353) to amend title 38, United States Code, to extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam era.

The Clerk read as follows:

H.R. 12353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2014(b) of title 38, United States Code, relating to veterans readjustment appointments in the civil service, is amended by striking out "GS–5" and all that follows in such section and inserting in lieu thereof the following: "GS–7, as specified in chapter 51 of title 5, and subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521, except that—

"(1) notwithstanding any limitation specified in such order with respect to the period of eligibility for a veterans readjustment appointment, any veteran of the Vietnam era who was eligible for a readjustment appointment under that order on April 9, 1970, or who was separated from the armed forces on or after April 9, 1970, shall be eligible for such appointment without time limitation;

"(2) notwithstanding any limitation specified in such order with respect to the amount of education a veteran may have to be eligible for a veterans readjustment appointment, any disabled veteran shall be eligible for such an appointment without regard to the amount of education of such veterans; and

"(3) no veterans readjustment appointment may be made under authority of this subsection after September 30, 1980.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although this bill would require no additional Federal outlays in fiscal year 1979, it is an extremely important bill for Vietnam-era veterans. Under current law, Vietnam-era veterans are allowed to be appointed to certain positions in Federal service on a noncompetitive basis. This bill would extend the authority and improve the program substantially. At this point I will yield to the distinguished gentleman from Ohio (RON MOTTL), who has been directly involved with this legislation and who will provide the Members of the House with a brief explanation of the bill. The gentleman from Ohio (Mr. MOTTL), is recognized as a leading advocate for veterans and their dependents, and especially Vietnam-era veterans. He has chaired about every hearing held during the past 2 years by the Education and Training Subcommittee. He is one of the most able members of the full committee and I am delighted for his leadership in behalf of all Vietnam veterans.

GENERAL LEAVE

Mr. MOTTL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill now under consideration.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MOTTL. Mr. Speaker, a veterans readjustment appointment—VRA—is a noncompetitive excepted appointment to a job in the competitive service in grades 1–5—general schedule and wage grade—which combines work with training. Eligibility is limited to Vietnam-era and disabled veterans with no more than 14 years of education. The appointment must be made during the first year following military separation or hospitalization—with extension of eligibility for those who enroll in further schooling. After 2 years of successful performance on the job and successful completion of the agreed-to training, the appointment is converted to career or career-conditional.

The VRA program has resulted in more than 100,000 veterans being employed under this authority. The program is scheduled to end June 30, 1978. Many Vietnam-era veterans have not had an opportunity to take advantage of the program within 1 year from the date of their discharge. The Subcommittee on Education and Training held hearings on 2 days, April 4 and 5, 1978, on a bill requested by the administration to extend and liberalize the program until September 30, 1980. Speaking for the administration was the leadoff witness. Alan Campbell, Chairman of the Civil Service Commission. Other witnesses, were the personnel officer of the Veterans Administration and representatives of major national veterans organizations. All testified in support of the legislation under consideration today.

H.R. 12353, would extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam era until September 30, 1980. Further, it would raise the maximum grade level from GS–5 to GS–7 and would drop the 1-year limit on the authority. Finally, it would waive the 14-year educational limit for disabled veterans under the VRA appointment authority, but would keep the educational limit for Vietnam veterans who are not disabled.

Since this bill does not affect total Federal employment levels nor does it actively affect administrative costs, there should be no additional cost to the Government as a result of the enactment of this bill.

Mr. Speaker, there has been criticism of the high number of Vietnam and disabled veterans on the unemployment lists. By extending the authority of the veterans readjustment appointments, the Congress will be reaffirming our national policy to extend every effort to help Vietnam-era and disabled veterans find satisfactory training and employment. I applaud the administration for recommending that this legislation be introduced. We are all deeply concerned with the continuing high rate of unemployment among Vietnam-era and disabled veterans. This bill by itself will not solve the problem. It will, however, be a step in the right direction by giving the Federal agencies and departments the authority to hire Vietnam veterans who have not found satisfactory job training and employment. There is no objection to the bill. We have been in touch with the Post Office and Civil Service Committee, and they are in agreement with the intent and purpose of this bill to continue this authority which most assuredly will help a large number of Vietnam and disabled veterans to obtain permanent employment in the Federal Government.

As stated in the report on H.R. 12353 (H. Rept. No. 95–1136):

There are two basic eligibility requirements which Vietnam era veterans and disabled veterans have to meet under the Executive Order as codified in section 2014 of title 38, United States Code: (1) They must have had no more than 14 years of education at the time of appointment and (2) they must have been separated from the Armed Forces for no longer than one year at the time of appointment. The Executive Order also provided an exception from the one-year-after separation rule for veterans and disabled veterans who have a period of hospitalization or treatment immediately following separation from the Armed Forces. For this group, the one-year period of eligibility begins with the date of release from hospitalization of treatment.

Section 2014(b) of title 38, United States Code, provides another exception from the one-year-after separation requirement. It covers Vietnam era veterans and disabled veterans who enroll in a program of education (as defined in section 1652(b) of title 38, relating to education benefits under the GI Bill) of more than half-time basis within one year after separation from the Armed Forces or release from hospitalization or treatment. For this group, the period of eligibility is extended by the time spent in the qualifying educational program (including vacation periods and incidental absences, authorized during the educational program). Generally speaking, the appointment authority under this section is to expire on June 30, 1978.

A veterans readjustment appointment is an excepted appointment. However, a Vietnam era veteran or disabled veteran who satisfactorily completes two years of substantially continuous service under a veterans readjustment appointment and who completes the educational or training program agreed upon at the time of appointment is converted to career-conditional employment and automatically acquires a competitive status for civil service purposes.

Subsection (d) of section 2014 provides that the Civil Service Commission be responsible for the review and evaluation of the implementation of this program and the activities of each Federal agency, department, and instrumentality in carrying out the purpose of this program and shall periodically obtain and publish reports and results on the implementation of the plan, including full statistical data on the numbers of covered veterans employed by each agency and their grade levels and period of retention in employment. Further, subsection (e) provides that the Civil Service Commission submit annually a report to Congress on activities carried out under the Veterans Readjustment Appointment (VRA) program.

As of this date, the Civil Service Commission has submitted four semiannual reports in compliance with the provisions of Public Law 93–508. Data are shown for each of the four semiannual periods (January to June and July to December of 1975 and 1976). This two-year period of time seems to be long enough to show hiring trends and program implementation within each agency.

The data compiled by the Civil Service Commission were taken from the agency submissions of Civil Service Commission (CSC) Form 113F, "Monthly Report of Veterans." The data are shown in percentages of new hires to equalize the impact implicit in agencies of varying size. In addition, agencies submitted narratives to accompany their statistics, from which data were also used.

In order to assess accurately the implementation of the Veterans Readjustment Appointment (VRA) authority, it is important to examine the trends in employment over the same period.

As the following table indicates, there was an increase in the total work force of 8.8 percent over the two-year period examined. From June 1975 to December 1976 there has been a decline in the unemployment rate of Vietnam era veterans. For veterans in the age group of 20–34 the rate of 8.3 percent was a decline from a high of 10 percent in December of 1975. Though the unemployment rate for the younger Vietnam era veterans (age 20–24) was down from a high of 20.5 percent in December 1975, the December 1976 rate still exceeded that of nonveterans in the same age group.

VIETNAM ERA VETERANS UNEMPLOYED

[Thousands]

	June 1975	December 1975	June 1976	December 1976
Age 20 to 34:				
Veterans in civilian labor force	6,043	6,218	6,333	6,456
Unemployed	556	622	537	538
Percent	(9.2)	(10)	(8.5)	(8.3)
Nonveterans in civilian labor force	14,199	14,544	15,011	15,562
Unemployed	1,433	1,328	1,191	1,421
Percent	(10.1)	(9.1)	(7.9)	(9.1)
Age 20 to 24:				
Veterans in civilian labor force	1,012	947	951	956
Unemployed	192	194	183	161
Percent	(19)	(20.5)	(19.2)	(16)
Nonveterans in civilian labor force	6,308	6,505	6,650	6,948
Unemployed	819	816	704	865
Percent	(13)	(12.5)	(10.6)	(12)

Statistics from the Bureau of Labor Statistics, Department of Labor. Male only.

The following table shows the percent of total agency work force represented in grades 1–5 and the percent of new hires by period brought on board using the VRA. The following abbreviations were used for brevity:

Agency for International Development—AID.
Department of Agriculture—USDA.
Civil Service Commission—CSC.
Department of Commerce—DOC.
Department of Defense—DOD.
Environmental Protection Agency—EPA.
Federal Deposit Insurance Corporation—FDIC.
Federal Energy Administration—FEA.
Federal Trade Commission—FTC.
General Accounting Office—GAO.
General Services Administration—GSA.
Government Printing Office—GPO.
Department of Health, Education, and Welfare—HEW.
Department of Housing and Urban Development—HUD.
United States Information Agency—USIA.
Department of Interior—DOI.
Department of Justice—DOJ.
Department of Labor—DOL.
National Aeronautics and Space Administration—NASA.
National Labor Relations Board—NLRB.
United States Postal Service—USPS.
Selective Service—SS.
Small Business Administration—SBA.
Smithsonian Institute and National Gallery of Art—SI&NGA.
Department of State—DOS.
Tennessee Valley Authority—TVA.
Department of Transportation—DOT.
Department of Treasury—Treasury.
Veterans Administration—VA.

VRA HIRING GOVERNMENTWIDE SHOWN AS PERCENTAGE OF NEW HIRES BY AGENCY

	Total new hires (number)				Veterans readjustment appointments							
					Jan. 6, 1975		July 12, 1975		Jan. 6, 1976		July 12, 1976	
	Jan. 6, 1975	July 12, 1975	Jan. 6, 1976	July 12, 1976	Number	Percent	Number	Percent	Number	Percent	Number	Percen
AID	206	196	246	245	0	0	0	0	0	0	0	0
USDA	26,205	19,781	31,018	22,358	131	.5	119	.6	155	.5	157	.7
CSC	894	858	613	1,008	11	1.2	23	2.7	16	2.6	23	2.3
DOC	6.133	3,717	4,262	4,960	98	1.6	63	1.7	55	1.3	60	1.2
DOD	72,289	64,951	60,857	66,307	3,076	4.3	3,330	5.1	2,383	3.9	3.453	5.2
EPA	1,347	1,924	1,496	2,080	9	.7	8	.4	12	.8	4	.2
FDIC	328	347	381	365	0	0	0	0	0	0	0	0
FEA	(1)	(1)	144	335	(1)		(1)		1	.7	1	.3
FTC	156	261	328	(1)	1	.6	0	0	2	.6	(1)	
GAD	454	169	537	247	0	0	0	0	0	0	0	0
GSA	3,594	2,649	2,955	2,232	147	4.1	87	3.3	53	1.8	76	3.4
GPO	562	365	319	332	6	1.0	53	14.5	23	7.2	51	15.4
HEW	14,949	13,917	14,247	16,049	75	.5	111	.8	271	1.9	225	1.4
HUD	1,438	1,568	1,424	1,415	9	.6	2	.1	4	.3	11	.8
USIA	187	222	87	200	0	0	0	0	0	0	0	0
DOI	18,398	18,340	21,278	16,187	166	.9	183	1.0	128	.6	113	.7
DOJ	3,624	3,805	5,035	4,005	149	4.1	240	6.3	237	4.7	224	5.6
DOL	2,005	1,710	3,219	1,721	12	.6	26	1.5	3	.1	3	.2
NASA	1,611	952	1,619	790	13	.8	42	4.4	20	1.2	23	2.9
NLRB	(1)	(1)	(1)	294	(1)		(1)		(1)		2	.7
USPS	36,185	50,164	32,182	72,046	36	.1	0	0	0	0	0	0
SS	74	0	0	(1)	0	0	0	0	0	0	0	0
SBA	701	901	520	610	9	1.2	7	.8	8	1.5	18	3.0
SI & NGA	590	346	731	448	67	11.4	57	16.5	101	13.8	145	32.4
DOS	1,091	823	1,205	671	2	.2	7	.9	8	.7	3	.4
TVA	8,841	3,322	12,205	13,024	0	0	0	0	0	0	0	0
DOT	4,640	11,289	5,094	3,113	227	4.9	643	5.7	265	5.2	149	4.8
Treasury	10,987	9,803	10,382	9,177	396	3.6	127	1.3	197	1.9	173	1.9
VA	24,883	34,263	25,545	30,925	2,662	10.7	3,529	10.3	3,040	11.9	3,314	10.7
Total	242,372	246,643	238,001	271,194	7,271	3.0	7,893	3.2	6.902	2.9	8,136	3.0

(1) Data not available.

From the preceding table, there are several observations and trends which can be made. In absolute numbers, the total hires under VRA authority was 7,271 for the first period, 7,893 for the second, 6,902 for the third, and 8,136 for the fourth, for an average of 7,551 hires. Over the two-year period, the total government-wide hiring under VRA has averaged slightly over 3 percent (varying from 2.9 percent to 3.2 percent). The Smithsonian Institute has consistently maintained the highest percentage of new hires (with a low of 11.4 percent to a high of 32.4 percent), followed by the Veterans' Administration (ranging from 10.3 percent to 11.9 percent). Six agencies have not used VRA authority at all: AID, FDIC, GAO, USIA, SS, and TVA.

Generally, there has been a slight increase in the hiring trend from the first reporting period to the second, a decrease from the second period to the third, and an increase in utilization from the third period to the final reporting period.

The agencies which increased hiring percentages the most over the two years were GPO, which increased from 1 percent to 15.4 percent and the Smithsonian Institution, which increased from 11.4 percent to 32.4 percent.

The other agencies retained relatively stable two-year averages, as follows:

	Percent
AID, FDIC, GAO, USIA, USPS, SS, TVA	0
USDA, EPA, FEA, FTC, HUD, DOI, DOL, NLRB, DOS	0. 1–1
DOC, HEW, SBA	1. 1–2
CSC, NASA, Treasury	2. 1–3
GSA	3. 1–4
DOD	4. 1–5
DOJ, DOT	5. 1–6
GPO, VA, SI&NGA	6. 1+

Approximately two-thirds of all VRA hiring over the period has been done by VA and DOD. More than half of the agencies (55 percent) average less than 1 percent VRA hires over the two-year period. The next heaviest concentration (21 percent) was in the 1.1 percent to 3 percent range. Two agencies were relatively evenly distributed between 3.1 percent and 6 percent, and three agencies averaged much higher VRA hiring rates: GPO, averaging 9.5 percent, VA averaging 10.9 percent and SI&NGA averaging 18.5 percent.

There are several mitigating circumstances surrounding the utilization of VRA authority, or lack thereof. Though all grades 1–5 are included in the percentage, this may be slightly misleading due to the fact that veterans generally are not hired for many positions such as secretarial/typist positions. There is no way of segregating these types of positions from the total 1–5 category in the data given by CSC.

Several of the agencies responded in their narratives to reasons why the VRA hiring percentages have been so low, some of which could be remedied by CSC. For example, the Department of Agriculture indicated that they have had difficulty in locating VRA eligibles. Perhaps a greater outreach effort by CSC could remove this obstacle. The En-

vironmental Protection Agency fills most of their 1–5 positions on a temporary basis. An in-house procedural change could increase their percentage of VRA hires. In a study completed by HUD is was found that the majority of the operating personnel specialists were not familiar with the VRA. As a result of this study, HUD began an intensive training program. The Department of Interior indicated that the positions for which the VRA would be applicable are a small part of their work force. The Department of State indicated that due to their security requirements, all positions (including grades 1–5) require an investigation which generally takes 3–6 months to complete, and, as a result, most of their applicants are already employed either in private industry or at another Government agency. Unemployed individuals including VRA eligibles are generally interested in immediate employment.

The Department of Commerce commented in their narrative that they found many Vietnam era veterans whose eligibility for a VRA appointment has expired. This situation will be experienced more frequently now that the Vietnam era has been terminated as of May 7, 1975.

The Department of Treasury stated that their active upward mobility program eliminated some of their entry-level positions that had been available for VRA appointments in the past. Conflicting priorities such as these might necessitate clarification from the Civil Service Commission.

The Veterans Readjustment Appointment authority is specifically mentioned in the laws as a means by which Federal agencies can maximize employment opportunities for Vietnam era veterans. It appears, from the above statistics, that despite the emphasis given the VRA authority in Public Law 93–508 and by the Civil Service Commission, hiring has not improved dramatically. VRA appointments constitute 3 percent of total hires from January through June 1975, only 2.9 percent during the same months of 1976 and up to only 3 percent by the end of the two-year period discussed herein.

A reading of the narrative reports included in the appendices of the CSC reports seems to substantiate the need for increased agency efforts. Only 41 of those reporting made mention of the VRA authority. According to the Civil Service Commission, CSC staff has intensified emphasis on agency utilization of the VRA authority through directives, conferences, and planned assistance visits with agency headquarters and field offices. In addition, the Veterans Administration has begun assisting the Commission by mailing a pamphlet "Opportunities in the Federal Services for Veterans" to each recently discharged veteran. The pamphlet includes an explanation of the VRA authority which may increase the number of qualified eligibles actively seeking such appointments.

In examining the VRA hiring rates, it might be useful to compare VRA hirings and separations from the military. The following table shows the number of honorable and general discharges and the number of VRA appointments during the same period.

Date	Military separations	VRA appointments
Jan. 5, 1974	132,236	(1)
July 12, 1974	153,047	8
Jan. 6, 1975	114,903	7,271
July 12, 1975	129,690	7,893
Jan. 6, 1976	169,860	6,902
July 12, 1976	127,920	8,138

[1] Program not in effect.

SOURCE: Number of military separations, DOD; number of VRA appointments, CSC.

The following table depicts VRA hiring as a percentage of military separation. The first column, "No Lag", assumes that those hired are from the pool of those immediately discharged; the second column, "6-month Lag", assumes a 6-month veteran status prior to hiring; the third column, "12-month Lag" assumes an unemployment status of 12 months.

VA hiring shown as a percentage of separations

	No lag	6-mo lag	12-mo lag
Hired during:			
Jan. 6, 1975	6.3	4.8	5.5
July 12, 1975	6.1	6.9	5.2
Jan. 6, 1976	6.3	5.3	6.0
July 12, 1976	6.4	7.4	6.3

According to the above table, the average VRA hiring percentage, assuming no lag, averaged 6.3 percent over the two year period; assuming a 6-month lag the percentage averaged 6.1 percent; a 12-month lag averaged 5.8 percent.

The Committee on Veterans' Affairs feels that the veterans' readjustment appointment authority is an activity which may facilitate increased employment opportunities, but which may not necessarily significantly increase the number of appointments made. However, a major consideration in examining these statistics is that Congress does not have data concerning veteran application; that is, what percentage of those who actually apply are helped. There may be an administrative and operational lagtime of several months between the use of VRA program and measurably higher employment rates as a result. The 2-year period examined, however, indicates to the committee that the VRA hires have not measurably increased in proportion on the number of total hires over the 2-year period examined herein and that amendments and an extension are necessary.

Mr. Speaker, the Subcommittee on Education and Training has held a number of oversight hearings on employment and training for Vietnam veterans. The No. 1 concern of veterans' organizations is the continuing high unemployment rate among Vietnam and disabled veterans. Both the Veterans' Administration and the Department of Labor play a significant role in carrying out congressional mandates to train and find employment for veterans. Admittedly, the VRA program is but a small part of the total effort in this area of such intense concern to the veteran population. It is most pleasing that the VRA program has proved to be quite successful in those agencies which have emphasized this authority. I speak especially of the Department of Defense and the Veterans' Administration in which about two-thirds of all the VRA hires have been made. It is the hope of this committee that other agencies will take the lead from the Veterans' Administration and the Department of Defense, and sharply increase the hiring of Vietnam and disabled veterans as provided in H.R. 12353.

Mr. Speaker, I hope that this bill will be unanimously approved by the House.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12353, which would extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam era. At the same time, however, I would like to express my reservations about several aspects of the program, even though I do wholeheartedly endorse this legislation.

First, I would hope that the administration does not view the veterans readjustment program as a substitute for veterans preference. During the hearings by the Committee on Veterans' Affairs on this measure, Civil Service Commission Chairman Campbell spoke at great length of the peculiar needs of the Vietnam veteran in the area of employment, and endorsed this legislation. At the same time, he endorsed the idea of cutting veterans preference back to embrace only those veterans discharged within the last 10 years, which would deny more than half of our Vietnam-era veterans this entitlement. The only way it seems these two positions can be made consistent, it would appear, is if Chairman Campbell believes that veterans readjustment appointments are the primary answer to the needs of our Vietnam-era veterans. Mr. Speaker, I believe the VRA is an important part of a much larger picture, and I endorse the legislation before us only on that basis: That veterans readjustment appointments, as constituted in this legislation, must be implemented in tandem with the current veterans preference system, not in lieu of it.

Additionally, Mr. Speaker, I would like to express my hope that more Federal agencies take part in the program. As it is, DOD and the Veterans' Administration have accounted for more than two-thirds of the total number of readjustment appointments, while there has been very little participation by other agencies, with one or two exceptions. I find it most ironic that the Department of Labor, which is tasked with implementing veterans' employment programs, and which has done so with such terrible results to date, made only six veterans' readjustment appointments during all of 1976, as contrasted with the Veterans' Administration, which accomplished more than 6,000. If Labor officials wonder why many Members of Congress believe that veterans' employment functions should be transferred to the VA, they need only look at statistics such as these.

Mr. Speaker, I believe this is good legislation, and I applaud the relaxation of certain requirements such as the time restraints and the educational barriers. However, I again must state that my vote today is contingent on the veterans' preference system remaining operable in its present form, to provide the mainstay of aid in the area of veterans' employment within the Federal Government.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS), a member of the committee.

Mr. HILLIS. Mr. Speaker, I rise to urge the favorable consideration of H.R. 12353, to extend for 27 months the period of eligibility for the Vietnam-era

veterans readjustment appointment within the Federal Government. The current law, applicable only to GS–1 through GS–5, expires next month on June 28. This remedial legislation merely extends the present law until September 30, 1980, and expands the applicable GS grades from 1 through 7, while at the same time eliminating the requirement that the veteran has completed less than 14 years of education. It is, indeed, paramount that we make the readjustment for those who served during this unpopular conflict, the Vietnam veteran, as easy as possible. Additionally, the extension of this program should have the added fringe benefit of helping to decrease unemployment among the Vietnam veterans, which is a serious problem indeed. Mr. Speaker, the administration and virtually all veterans' organizations support this legislation, and I urge my colleagues to do so as well.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and reserve the balance of my time.

● Mr. GILMAN. Mr. Speaker, I was pleased to support and vote for H.R. 12353, extending veterans readjustment appointment authority which the House today passed by a vote of 388–0.

Currently, this veterans readjustment appointment (VRA) authority allows Vietnam era veterans, with no more than 14 years of education, to be eligible for appointment to Federal Government positions in grades 1–5 if the appointment is made during the first year following military separation.

H.R. 12353 extends a Vietnam era veterans period of eligibility for readjustment appointments through September 30, 1980. The bill also eliminates the 1-year eligibility period. By so extending this authority and eliminating this 1-year eligibility period, the measure corrects the problem faced by many Vietnam era veterans who did not have an opportunity to take advantage of the VRA program within the required 1 year from date of discharge from active duty.

The failure to enact this extension would be blatantly contrary to the just intention of assisting Vietnam and disabled veterans in securing employment and adequate job training.

H.R. 12353 also raises the maximum VRA grade level from GS–5 to GS–7, and while retaining the 14-year educational limit for nondisabled veterans, this limit is waived for those who are disabled.

During the 7 years of its existence, the VRA program has been instrumental in helping more than 100,000 veterans secure employment. However, the only way to reach those within the vast majority of currently unemployed Vietnam era veterans (estimated at 558,000) who have been separated from military service for more than 1 year is to abolish the 1-year eligibility requirement period.

I commend the distinguished chairman of the House Veterans Affairs Committee, the gentleman from Texas (Mr. TEAGUE) for his diligent efforts in bringing this needed legislation before the House.

Hopefully, similar favorable veterans' employment benefits will also emerge from the House Committee on Post Office and Civil Service, of which I am a member, which is currently considering an administration sponsored omnibus civil service reform bill. Included within that measure presently, however, are several provisions that severely undermine those tradition-honored civil service veterans preferences which this Nation awards out of gratitude to its rightfully deserving veterans.

I have committed myself to holding the line against those who would reduce the assistance this Nation provides its veterans seeking employment and satisfactory job trainng.

I am hopeful that the spirit, from which H.R. 12353 emanated, of truly recognizing the contributions of our veterans will eventually be reflected in that section of the proposed civil service reform legislation dealing with veteran preference which is eventually passed by the Committee on Post Office and Civil Service and then by the full House.●

● Mr. TEAGUE. Mr. Speaker, an employment program for Vietnam era veterans which has had some success is the veterans readjustment appointment authority in the Federal civil service. This program got its start during the Vietnam war when Vietnam and disabled veterans were returning to civil life in large numbers. The President issued an Executive order in 1970 providing authority to Federal agencies and departments to hire Vietnam era and disabled veterans, without going through the competitive process, which often is time consuming and extremely complicated to the uninitiated. The program was aimed at helping veterans with the least amount of schooling, 14 years or less, with an overall authority to place these veterans, within a year from discharge from the Armed Forces or hospitalization, on a noncompetitive basis in grades 1 through 5 both general schedule and wage grade to be combined with a training program.

Although many agencies have done little or nothing to implement this authority, it is pleasing to note that both the Department of Defense and the Veterans Administration have hired about two-thirds of the more than 100,000 Vietnam and disabled veterans who have been hired under the VRA authority. In this regard, the subcommittee may schedule hearings at a later date to determine why some departments and agencies have such a dismal record in the number of veterans hired under the veterans readjustment appointment authority.

The Subcommittee on Education and Training has held a number of hearings on the plight of Vietnam veterans, and especially disabled veterans, in their efforts to obtain satisfactory employment. Because of a conflict in my schedule, the Honorable RONALD M. MOTTL of Ohio has chaired several of these hearings including the hearings on April 5 and 6, when legislation to extend the VRA Authority was being considered. I commend RON MOTTL for his leadership in helping to develop this legislation and bringing it to the floor for consideration by the full House. I also want to extend my highest regard to the chairman of the full committee, Mr. RAY ROBERTS of Texas, who is doing such an outstanding job as a veterans' leader and spokesman here in the House of Representatives. I also want to extend my highest regards to the distinguished ranking minority leader of this committee, the Honorable JOHN PAUL HAMMERSCHMIDT of Arkanssa. Mr. HAMMERSCHMIDT has always been most cooperative in considering and advancing veterans' legislation and is extremely helpful in our work on the committee.

H.R. 12353 is an example of what I am talking about. Here is a bill which will continue and expand an existing program designed to help Vietnam and disabled veterans. The unemployment rate among Vietnam era veterans is 8.33 percent and for service-connected disabled veterans, it is 50 percent. It is no wonder that congressional approval of H.R. 12353 is so important and significant to a large number of veterans. H.R. 12353 is a meritorious bill which represents a cooperative effort on the part of all members of the Veterans' Affairs Committee, and I hope that it is passed as expeditiously as possible and signed into law by the President before the scheduled expiration date of this program on June 30, 1978.●

Mr. ROBERTS. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 12353.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order, all by the yeas and nays:

H. Res. 1072; H.R. 11777; H.R. 11778; H.R. 11779; S. 2370; and H.R. 12353.

Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

OBJECTING TO COMMISSIONER OF EDUCATION CONSOLIDATING CERTAIN ADVISORY COUNCILS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 1072).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the

gentleman from Kentucky (Mr. PERKINS) to suspend the rules and agree to the resolution (H. Res. 1072) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 269, nays 109, present 1, not voting 55, as follows:

[Roll No. 342]

YEAS—269

Abdnor	Goldwater	Patterson
Addabbo	Goodling	Pattison
Akaka	Gradison	Pepper
Ambro	Grassley	Perkins
Anderson, Ill.	Green	Pettis
Andrews, N. Dak.	Gudger	Pike
	Guyer	Poage
Annunzio	Hammer-schmidt	Pressler
Archer		Preyer
Ashbrook	Hanley	Price
Ashley	Hannaford	Quayle
Aspin	Hansen	Quillen
Badham	Harrington	Rahall
Bafalis	Harris	Railsback
Barnard	Harsha	Rangel
Bauman	Hefner	Regula
Beard, R.I.	Heftel	Reuss
Beard, Tenn.	Hightower	Rinaldo
Beilenson	Hillis	Risenhoover
Benjamin	Holland	Roberts
Bevill	Holt	Robinson
Bingham	Horton	Roe
Blouin	Howard	Rooney
Boland	Hughes	Rose
Bolling	Hyde	Rosenthal
Bonior	Ichord	Rostenkowski
Bonker	Ireland	Rousselot
Bowen	Jeffords	Roybal
Brademas	Jenkins	Rudd
Brinkley	Johnson, Calif.	Russo
Brodhead	Johnson, Colo.	Santini
Brooks	Jordan	Sarasin
Brown, Calif.	Kastenmeier	Satterfield
Brown, Mich.	Kelly	Scheuer
Brown, Ohio	Kemp	Schulze
Buchanan	Ketchum	Sebelius
Burgener	Kildee	Shuster
Burke, Mass.	Lagomarsino	Sikes
Butler	Latta	Simon
Byron	Le Fante	Sisk
Carney	Leach	Skelton
Cederberg	Lederer	Skubitz
Chappell	Leggett	Slack
Chisholm	Lehman	Smith, Iowa
Clawson, Del	Lent	Smith, Nebr.
Clay	Levitas	Snyder
Cohen	Lloyd, Calif.	Solarz
Coleman	Long, Md.	Spellman
Collins, Ill.	Lott	Spence
Conte	Lundine	St Germain
Corcoran	McClory	Staggers
Cornell	McCloskey	Stangeland
Cotter	McDade	Stanton
Coughlin	McEwen	Steed
Cunningham	McFall	Steers
D'Amours	McHugh	Steiger
Daniel, Dan	McKinney	Stockman
Daniel, R. W.	Maguire	Symms
Danielson	Mahon	Taylor
Davis	Mann	Thompson
Delaney	Marlenee	Thone
Derrick	Marriott	Traxler
Derwinski	Mathis	Trible
Devine	Meeds	Tsongas
Dickinson	Metcalfe	Udall
Dicks	Meyner	Van Deerlin
Diggs	Michel	Vander Jagt
Dingell	Mikulski	Vanik
Dodd	Mineta	Vento
Dornan	Mitchell, Md.	Walker
Drinan	Mitchell, N.Y.	Walsh
Eilberg	Moakley	Wampler
Ertel	Mollohan	Watkins
Evans, Colo.	Montgomery	Weaver
Evans, Del.	Moorhead, Calif.	Weiss
Fary		White
Fascell	Moorhead, Pa.	Whitehurst
Fish	Moss	Whitten
Fisher	Mottl	Wiggins
Flood	Murphy, Ill.	Wilson, C. H.
Florio	Murphy, Pa.	Wilson, Tex.
Flowers	Murtha	Winn
Ford, Mich.	Myers, John	Wright
Forsythe	Myers, Michael	Wydler
Fountain	Natcher	Wylie
Fowler	Neal	Yates
Gammage	Nedzi	Yatron
Garcia	Nix	Young, Fla.
Gaydos	O'Brien	Zablocki
Giaimo	Obey	Zeferetti
Gilman	Patten	

NAYS—109

Alexander	Fenwick	Mikva
Ammerman	Fithian	Milford
Armstrong	Flippo	Miller, Calif.
Baldus	Flynt	Miller, Ohio
Bedell	Foley	Minish
Bennett	Frenzel	Moffett
Blanchard	Gephardt	Moore
Boggs	Ginn	Myers, Gary
Breaux	Glickman	Nichols
Broomfield	Hagedorn	Nolan
Broyhill	Hall	Nowak
Burke, Fla.	Hamilton	Oberstar
Burleson, Tex.	Harkin	Ottinger
Burlison, Mo.	Heckler	Panetta
Burton, John	Holtzman	Pease
Burton, Phillip	Hubbard	Pickle
Caputo	Huckaby	Richmond
Carr	Jacobs	Rogers
Cavanaugh	Jones, Okla.	Ruppe
Cleveland	Kazen	Ryan
Collins, Tex.	Keys	Schroeder
Conable	Kindness	Seiberling
Corman	Kostmayer	Sharp
Cornwell	Krebs	Stark
Downey	Krueger	Stratton
Duncan, Oreg.	LaFalce	Studds
Early	Long, La.	Volkmer
Eckhardt	Lujan	Waggonner
Edgar	McCormack	Walgren
Edwards, Ala.	McDonald	Waxman
Edwards, Calif.	McKay	Whalen
Edwards, Okla.	Madigan	Whitley
Emery	Markey	Wirth
English	Marks	Wolff
Erlenborn	Martin	Young, Mo.
Evans, Ga.	Mattox	
Evans, Ind.	Mazzoli	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—55

Allen	Duncan, Tenn.	Pritchard
Anderson, Calif.	Findley	Pursell
	Ford, Tenn.	Quie
Andrews, N.C.	Fraser	Rhodes
Applegate	Frey	Rodino
AuCoin	Fuqua	Roncalio
Baucus	Gibbons	Runnels
Biaggi	Gore	Sawyer
Breckinridge	Hawkins	Shipley
Burke, Calif.	Hollenbeck	Stokes
Carter	Jenrette	Stump
Clausen, Don H.	Jones, N.C.	Teague
	Jones, Tenn.	Thornton
Cochran	Kasten	Treen
Conyers	Livingston	Tucker
Crane	Lloyd, Tenn.	Ullman
de la Garza	Luken	Wilson, Bob
Dellums	Murphy, N.Y.	Young, Alaska
Dent	Oakar	Young, Tex.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Runnels.

Mr. AuCoin with Mr. Carter.

Mr. Baucus with Mr. Stump.

Mr. Hawkins with Mr. Findley.

Mr. Biaggi with Mr. Kasten.

Mr. Fuqua with Mr. Young of Alaska.

Mr. Jenrette with Mr. Cochran of Mississippi.

Mr. Murphy of New York with Mr. Treen.

Mr. Stokes with Mr. Sawyer.

Mr. Rodino with Mr. Crane.

Mr. Shipley with Mr. Hollenbeck.

Mr. Teague with Mr. Quie.

Mr. Breckinridge with Mr. Frey.

Mr. de la Garza with Mr. Andrews of North Carolina.

Mrs. Lloyd of Tennessee with Mr. Allen.

Mr. Applegate with Mr. Tucker.

Mr. Ullman with Mr. Bob Wilson.

Mr. Anderson of California with Mr. Don H. Clausen.

Mr. Ford of Tennessee with Mr. Conyers.

Mr. Gibbons with Mr. Williams.

Mr. Gore with Mr. Livingston.

Ms. Oakar with Mr. Luken.

Mrs. Burke of California with Mr. Pritchard.

Mr. Jones of North Carolina with Mr. Pursell.

Mr. Thonrton with Mr. Duncan of Tennessee.

Mr. Roncalio with Mr. Fraser.

Mrs. FENWICK, Messrs. SEIBERLING, HARKIN, GINN, Ms. HOLTZMAN, Mr. EARLY, Mrs. SCHROEDER, Messrs. ROGERS, ECKHARDT, MINISH, CORMAN, RUPPE, WHALEN, WOLFF, OTTINGER, EDGAR, BALDUS, and RYAN changed their votes from "yea" to "nay."

Messrs. LEVITAS and DICKS changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11777, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill H.R. 11777, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 2, not voting 59, as follows:

[Roll No. 343]

YEAS—373

Abdnor	Carr	Fisher
Addabbo	Cavanaugh	Fithian
Akaka	Cederberg	Flippo
Alexander	Chappell	Flood
Ambro	Chisholm	Florio
Ammerman	Clawson, Del	Flowers
Anderson, Ill.	Clay	Flynt
Andrews, N. Dak.	Cleveland	Foley
	Cohen	Ford, Mich.
Annunzio	Coleman	Forsythe
Archer	Collins, Ill.	Fountain
Armstrong	Conable	Fowler
Ashbrook	Conte	Frenzel
Aspin	Corcoran	Gammage
Badham	Corman	Garcia
Bafalis	Cornell	Gaydos
Baldus	Cornwell	Gephardt
Barnard	Cotter	Giaimo
Bauman	Coughlin	Gilman
Beard, R.I.	Cunningham	Ginn
Beard, Tenn.	D'Amours	Glickman
Bedell	Daniel, Dan	Goldwater
Beilenson	Daniel, R. W.	Gonzalez
Benjamin	Danielson	Goodling
Bennett	Davis	Gradison
Bevill	Delaney	Grassley
Bingham	Derrick	Green
Blanchard	Derwinski	Gudger
Blouin	Devine	Guyer
Boggs	Dickinson	Hagedorn
Boland	Dicks	Hall
Bolling	Diggs	Hamilton
Bonior	Dingell	Hammer-schmidt
Bonker	Dodd	
Bowen	Dornan	Hanley
Brademas	Downey	Hannaford
Breaux	Drinan	Hansen
Brinkley	Duncan, Oreg.	Harkin
Brodhead	Early	Harrington
Brooks	Eckhardt	Harris
Broomfield	Edgar	Harsha
Brown, Calif.	Edwards, Ala.	Heckler
Brown, Mich.	Edwards, Calif.	Hefner
Brown, Ohio	Edwards, Okla.	Heftel
Broyhill	Eilberg	Hightower
Buchanan	Emery	Hillis
Burgener	English	Holland
Burke, Fla.	Erlenborn	Holt
Burke, Mass.	Ertel	Holtzman
Burleson, Tex.	Evans, Colo.	Horton
Burlison, Mo.	Evans, Del.	Howard
Burton, John	Evans, Ga.	Hubbard
Burton, Phillip	Evans, Ind.	Huckaby
Butler	Fary	Hughes
Byron	Fascell	Hyde
Caputo	Fenwick	Ichord
Carney	Fish	Ireland

Jacobs	Moffett	Sharp
Jeffords	Mollohan	Shuster
Jenkins	Montgomery	Sikes
Johnson, Calif.	Moore	Simon
Johnson, Colo.	Moorhead, Calif.	Sisk
Jones, Okla.	Moorhead, Pa.	Skelton
Jordan	Moss	Skubitz
Kastenmeier	Mottl	Slack
Kazen	Murphy, Ill.	Smith, Iowa
Kelly	Murphy, Pa.	Smith, Nebr.
Kemp	Murtha	Snyder
Ketchum	Myers, Gary	Solarz
Keys	Myers, John	Spellman
Kildee	Myers, Michael	Spence
Kindness	Natcher	St Germain
Kostmayer	Neal	Staggers
Krebs	Nedzi	Stangeland
Krueger	Nichols	Stanton
LaFalce	Nix	Stark
Lagomarsino	Nolan	Steed
Latta	Nowak	Steers
Le Fante	O'Brien	Steiger
Leach	Oberstar	Stockman
Lederer	Obey	Stratton
Leggett	Ottinger	Studds
Lehman	Panetta	Symms
Lent	Patterson	Taylor
Levitas	Pattison	Thompson
Lloyd, Calif.	Pease	Thone
Long, La.	Pepper	Traxler
Long, Md.	Perkins	Trible
Lott	Pettis	Tsongas
Lujan	Pickle	Udall
Lundine	Pike	Van Deerlin
McClory	Poage	Vander Jagt
McCloskey	Pressler	Vanik
McCormack	Preyer	Vento
McDade	Price	Volkmer
McEwen	Quayle	Waggonner
McFall	Quillen	Walgren
McHugh	Rahall	Walker
McKay	Railsback	Walsh
McKinney	Rangel	Wampler
Madigan	Regula	Watkins
Maguire	Reuss	Waxman
Mahon	Richmond	Weaver
Mann	Rinaldo	Weiss
Markey	Risenhoover	Whalen
Marks	Roberts	White
Marlenee	Robinson	Whitehurst
Marriott	Roe	Whitley
Martin	Rogers	Whitten
Mathis	Rooney	Wiggins
Mattox	Rosenthal	Wilson, C. H.
Mazzoli	Rostenkowski	Wilson, Tex.
Meeds	Rousselot	Winn
Metcalfe	Roybal	Wirth
Meyner	Rudd	Wolff
Michel	Ruppe	Wright
Mikulski	Russo	Wydler
Mikva	Ryan	Wylie
Milford	Santini	Yates
Miller, Calif.	Sarasin	Yatron
Miller, Ohio	Satterfield	Young, Fla.
Mineta	Schroeder	Young, Mo.
Minish	Schulze	Zablocki
Mitchell, Md.	Sebelius	Zeferetti
Mitchell, N.Y.	Seiberling	
Moakley		

NAYS—2

Collins, Tex.	McDonald

NOT VOTING—59

Allen	Findley	Quie
Anderson, Calif.	Ford, Tenn.	Rhodes
Andrews, N.C.	Fraser	Rodino
Applegate	Frey	Roncalio
Ashley	Fuqua	Rose
AuCoin	Gibbons	Runnels
Baucus	Gore	Sawyer
Biaggi	Hawkins	Scheuer
Breckinridge	Hollenbeck	Shipley
Burke, Calif.	Jenrette	Stokes
Carter	Jones, N.C.	Stump
Clausen, Don H.	Jones, Tenn.	Teague
Cochran	Kasten	Thornton
Conyers	Livingston	Treen
Crane	Lloyd, Tenn.	Tucker
de la Garza	Luken	Ullman
Dellums	Murphy, N.Y.	Wilson, Bob
Dent	Oakar	Young, Alaska
Duncan, Tenn.	Patten	Young, Tex.
	Pritchard	
	Pursell	

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Carter.
Mr. Baucus with Mr. Duncan of Tennessee.
Mr. AuCoin with Mr. Frey.
Mr. Shipley with Mr. Bob Wilson.
Mr. Hawkins with Mr. Findley.
Mr. Biaggi with Mr. Treen.
Mr. Ashley with Mr. Don H. Clausen.
Mr. Breckinridge with Mr. Teague.
Mr. Fuqua with Mr. Runnels.
Mr. Ullman with Mr. Tucker.
Mrs. Burke of California with Mr. Young of Alaska.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Murphy of New York with Mr. Scheuer.
Ms. Oakar with Mr. Sawyer.
Mr. de la Garza with Mr. Thornton.
Mr. Rose with Mr. Luken.
Mr. Patten with Mr. Crane.
Mr. Stokes with Mr. Kasten.
Mr. Dellums with Mr. Stump.
Mr. Jones of North Carolina with Mr. Pritchard.
Mr. Jenrette with Mr. Fraser.
Mr. Gore with Mr. Livingston.
Mr. Ford of Tennessee with Mr. Andrews of North Carolina.
Mrs. Lloyd of Tennessee with Mr. Pursell.
Mr. Anderson of California with Mr. Allen.
Mr. Applegate with Mr. Conyers.
Mr. Gibbons with Mr. Hollenbeck.
Mr. Dent with Mr. Roncalio.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11778, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill H.R. 11778, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 3, not voting 58, as follows:

[Roll No. 344]

YEAS—373

Abdnor	Bonker	Coleman
Addabbo	Bowen	Collins, Ill.
Akaka	Brademas	Conable
Alexander	Breaux	Conte
Ambro	Brinkley	Corcoran
Ammerman	Brodhead	Corman
Anderson, Ill.	Brooks	Cornell
Andrews, N. Dak.	Broomfield	Cornwell
Annunzio	Brown, Calif.	Cotter
Archer	Brown, Mich.	Coughlin
Armstrong	Brown, Ohio	Cunningham
Ashbrook	Broyhill	D'Amours
Ashley	Buchanan	Daniel, Dan
Aspin	Burgener	Daniel, R. W.
Badham	Burke, Fla.	Danielson
Bafalis	Burke, Mass.	Davis
Baldus	Burleson, Tex.	Delaney
Barnard	Burlison, Mo.	Derrick
Bauman	Burton, John	Derwinski
Beard, R.I.	Burton, Phillip	Devine
Beard, Tenn.	Butler	Dickinson
Bedell	Byron	Dicks
Beilenson	Caputo	Diggs
Benjamin	Carney	Dingell
Bennett	Carr	Dodd
Bevill	Cavanaugh	Dornan
Bingham	Cederberg	Downey
Blanchard	Chappell	Drinan
Blouin	Chisholm	Duncan, Oreg.
Boggs	Clawson, Del	Eaaarlly
Boland	Clay	Edgar
Bolling	Gaydos	Edwards, Ala.
Bonior	Cleveland	Edwards, Calif.
	Cohen	Edwards, Okla.
Early	Lederer	Rinaldo
Emery	Lehman	Risenhoover
English	Lent	Roberts
Erlenborn	Levitas	Robinson
Ertel	Lloyd, Calif.	Roe
Evans, Colo.	Long, La.	Rogers
Evans, Del.	Long, Md.	Rooney
Evans, Ga.	Lott	Rose
Evans, Ind.	Lujan	Rosenthal
Fary	Lundine	Rostenkowski
Fascell	McClory	Rousselot
Fenwick	McCormack	Roybal
Fish	McDade	Rudd
Fisher	McEwen	Ruppe
Fithian	McFall	Russo
Flippo	McHugh	Ryan
Flood	McKay	Santini
Florio	McKinney	Sarasin
Flowers	Madigan	Satterfield
Flynt	Maguire	Scheuer
Foley	Mahon	Schroeder
Ford, Mich.	Mann	Schulze
Forsythe	Markey	Sebelius
Fountain	Marks	Seiberling
Fowler	Marlenee	Sharp
Frenzel	Marriott	Shuster
Gammage	Martin	Sikes
Garcia	Mathis	Simon
Gephardt	Mattox	Sisk
Giaimo	Mazzoli	Skelton
Gilman	Meeds	Skubitz
Ginn	Metcalfe	Slack
Glickman	Meyner	Smith, Iowa
Goldwater	Michel	Smith, Nebr.
Gonzalez	Mikulski	Snyder
Goodling	Mikva	Solarz
Gradison	Milford	Spellman
Grassley	Miller, Calif.	Spence
Green	Miller, Ohio	St Germain
Gudger	Mineta	Staggers
Guyer	Minish	Stangeland
Hagedorn	Mitchell, Md.	Stanton
Hall	Mitchell, N.Y.	Stark
Hamilton	Moakley	Steed
Hammer-schmidt	Moffett	Steers
Hanley	Mollohan	Steiger
Hannaford	Montgomery	Stockman
Hansen	Moore	Stratton
Harkin	Moorhead, Calif.	Studds
Harrington	Moorhead, Pa.	Symms
Harris	Moss	Taylor
Harsha	Mottl	Thompson
Heckler	Murphy, Ill.	Thone
Hefner	Murphy, Pa.	Traxler
Heftel	Murtha	Trible
Hightower	Myers, Gary	Tsongas
Hillis	Myers, John	Udall
Holland	Myers, Michael	Van Deerlin
Holt	Natcher	Vander Jagt
Holtzman	Neal	Vanik
Horton	Nedzi	Vento
Howard	Nichols	Waggonner
Hubbard	Nix	Walgren
Huckaby	Nolan	Walker
Hughes	Nowak	Walsh
Hyde	O'Brien	Wampler
Ichord	Oberstar	Watkins
Ireland	Obey	Waxman
Jacobs	Ottinger	Weaver
Jeffords	Panetta	Weiss
Jenkins	Patten	Whalen
Johnson, Calif.	Patterson	White
Johnson, Colo.	Pattison	Whitehurst
Jones, Okla.	Pease	Whitley
Jordan	Pepper	Whitten
Kastenmeier	Perkins	Wiggins
Kazen	Pettis	Wilson, C. H.
Kelly	Pickle	Wilson, Tex.
Kemp	Pike	Winn
Ketchum	Poage	Wirth
Keys	Pressler	Wolff
Kildee	Preyer	Wright
Kindness	Price	Wydler
Kostmayer	Quayle	Wylie
Krebs	Quillen	Yates
Krueger	Rahall	Yatron
LaFalce	Railsback	Young, Fla.
Lagomarsino	Rangel	Young, Mo.
Latta	Regula	Zablocki
Le Fante	Reuss	Zeferetti
Leach	Richmond	

NAYS—3

Collins, Tex.	McDonald	Volkmer

NOT VOTING—58

Allen	Applegate	Breckinridge
Anderson, Calif.	AuCoin	Burke, Calif.
Andrews, N.C.	Baucus	Carter
	Biaggi	

Clausen, Don H.
Cochran
Conyers
Crane
de la Garza
Dellums
Dent
Duncan, Tenn.
Eckhardt
Findley
Ford, Tenn.
Fraser
Frey
Fuqua
Gibbons
Gore
Hawkins
Hollenbeck
Jenrette
Jones, N.C.
Jones, Tenn.
Kasten
Leggett
Livingston
Lloyd, Tenn.
Luken
McCloskey
Murphy, N.Y.
Oakar
Pritchard
Pursell
Quie
Rhodes
Rodino
Roncalio
Runnels
Sawyer
Shipley
Stokes
Stump
Teague
Thornton
Treen
Tucker
Ullman
Wilson, Bob
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Carter.
Mr. Jenrette with Mr. Duncan of Tennessee.
Mr. AuCoin with Mr. Frey.
Mr. Baucus with Mr. Bob Wilson.
Mr. Shipley with Mr. Findley.
Mr. Hawkins with Mr. Treen.
Mr. Breckinridge with Mr. Don H. Clausen.
Mr. Fuqua with Mr. Teague.
Mrs. Burke of California with Mr. Runnels.
Mr. de la Garza with Mr. Tucker.
Mr. Stokes with Mr. Cochran of Mississippi.
Mr. Dellums with Mr. Sawyer.
Mr. Conyers with Mr. Thornton.
Mr. Jones of North Carolina with Mr. Luken.
Mr. Ford of Tennessee with Mr. Crane.
Mrs. Lloyd of Tennessee with Mr. Kasten.
Mr. Anderson of California with Mr. Stump.
Mr. Rodino with Mr. Pritchard.
Mr. Applegate with Mr. Fraser.
Mr. Biaggi with Mr. Livingston.
Mr. Dent with Mr. Andrews of North Carolina.
Mr. Eckhardt with Mr. Allen.
Mr. Gibbons with Mr. Hollenbeck.
Mr. Gore with Mr. Roncalio.
Mr. Murphy of New York with Mr. McCloskey.
Ms. Oakar with Mr. Quie.
Mr. Ullman with Mr. Young of Alaska.
Mr. Leggett with Mr. Pursell.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RENEWABLE RESOURCES EXTENSION ACT OF 1978

The SPEAKER pro tempore. The unfinished question is the question of suspending the rules and passing the bill H.R. 11779, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 11779, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 7, not voting 50, as follows:

[Roll No. 345]

YEAS—377

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badham
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bellenson
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Gammage
Garcia
Gaydos
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stratton
Studds
Symms
Taylor
Thompson
Thone
Traxler
Trible
Tsongas
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—7

Benjamin
Collins, Tex.
Evans, Ind.
Gephardt
Jones, Okla.
McDonald
Volkmer

NOT VOTING—50

Allen
Anderson, Calif.
AuCoin
Baucus
Biaggi
Breckinridge
Burke, Calif.
Carter
Cochran
Conyers
Crane
Dellums
Duncan, Tenn.
Findley
Ford, Mich.
Fraser
Frey
Fuqua
Gibbons
Gore
Hawkins
Hollenbeck
Jenrette
Jones, N.C.
Jones, Tenn.
Kasten
Livingston
Lloyd, Tenn.
Luken
Marlenee
Oakar
Pritchard
Pursell
Quie
Rhodes
Rodino
Roncalio
Runnels
Sawyer
Shipley
Stokes
Stump
Teague
Thornton
Treen
Tucker
Ullman
Wilson, Bob
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Carter.
Mr. Jenrette with Mr. Duncan of Tennessee.
Mr. AuCoin with Mr. Frey.
Mr. Baucus with Mr. Bob Wilson.
Mr. Shipley with Mr. Findley.
Mr. Hawkins with Mr. Treen.
Mr. Breckinridge with Mr. Gibbons.
Mr. Fuqua with Mr. Teague.
Mrs. Burke of California with Mr. Runnels.
Mr. Rodino with Mr. Tucker.
Mr. Stokes with Mr. Cochran of Mississippi.
Mr. Dellums with Mr. Sawyer.
Mr. Conyers with Mr. Thornton.
Mr. Jones of North Carolina with Mr. Luken.
Mr. Ford of Michigan with Mr. Crane.
Mrs. Lloyd of Tennessee with Mr. Kasten.
Mr. Anderson of California with Mr. Stump.
Mr. Biaggi with Mr. Pritchard.
Mr. Gore with Mr. Fraser.
Ms. Oakar with Mr. Livingston.
Mr. Ullman with Mr. Allen.
Mr. Young of Alaska with Mr. Hollenbeck.
Mr. Marlenee with Mr. Roncalio.
Mr. Quie with Mr. Pursell.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VOLUNTEERS IN NATIONAL FORESTS ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2370.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that

the House suspend the rules and pass the Senate bill, S. 2370, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 378, nays 5, not voting 51, as follows:

[Roll No. 346]

YEAS—378

Abdnor	Dickinson	Kastenmeier
Addabbo	Dicks	Kazen
Akaka	Diggs	Kelly
Alexander	Dingell	Kemp
Ambro	Dodd	Ketchum
Ammerman	Dornan	Keys
Anderson, Ill.	Downey	Kildee
Andrews, N.C.	Drinan	Kindness
Andrews, N. Dak.	Duncan, Oreg.	Kostmayer
	Early	Krebs
Annunzio	Eckhardt	Krueger
Applegate	Edgar	LaFalce
Archer	Edwards, Ala.	Lagomarsino
Armstrong	Edwards, Calif.	Latta
Ashley	Edwards, Okla.	Le Fante
Aspin	Eilberg	Leach
Badham	Emery	Lederer
Bafalis	English	Leggett
Baldus	Erlenborn	Lehman
Barnard	Ertel	Levitas
Beard, R.I.	Evans, Colo.	Lloyd, Calif.
Beard, Tenn.	Evans, Del.	Long, La.
Bedell	Evans, Ga.	Long, Md.
Beilenson	Evans, Ind.	Lott
Benjamin	Fary	Lujan
Bennett	Fascell	Lundine
Bevill	Fenwick	McClory
Bingham	Fish	McCloskey
Blanchard	Fisher	McCormack
Blouin	Fithian	McDade
Boggs	Flippo	McEwen
Boland	Flood	McFall
Bolling	Florio	McHugh
Bonior	Flowers	McKay
Bonker	Flynt	McKinney
Bowen	Foley	Madigan
Brademas	Ford, Mich.	Maguire
Breaux	Ford, Tenn.	Mahon
Brinkley	Forsythe	Mann
Brodhead	Fountain	Markey
Brooks	Fowler	Marks
Broomfield	Frenzel	Marlenee
Brown, Mich.	Gammage	Marriott
Brown, Ohio	Garcia	Martin
Broyhill	Gaydos	Mathis
Buchanan	Giaimo	Mattox
Burgener	Gilman	Mazzoli
Burke, Fla.	Ginn	Meeds
Burke, Mass.	Glickman	Metcalfe
Burleson, Tex.	Goldwater	Meyner
Burlison, Mo.	Gonzalez	Michel
Burton, John	Goodling	Mikulski
Burton, Phillip	Gradison	Mikva
Butler	Grassley	Milford
Byron	Green	Miller, Calif.
Caputo	Gudger	Miller, Ohio
Carney	Guyer	Mineta
Carr	Hagedorn	Minish
Cavanaugh	Hall	Mitchell, Md.
Cederberg	Hamilton	Mitchell, N.Y.
Chappell	Hammer-schmidt	Moakley
Chisholm		Moffett
Clausen, Don H.	Hanley	Mollohan
	Hannaford	Montgomery
Clawson, Del	Hansen	Moore
Clay	Harrington	Moorhead, Calif.
Cleveland	Harris	
Cohen	Harsha	Moorhead, Pa.
Coleman	Heckler	Moss
Collins, Ill.	Hefner	Mottl
Collins, Tex.	Heftel	Murphy, Ill.
Conable	Hightower	Murphy, N.Y.
Conte	Hillis	Murphy, Pa.
Corcoran	Holland	Murtha
Corman	Holt	Myers, Gary
Cornell	Holtzman	Myers, John
Cornwell	Horton	Myers, Michael
Cotter	Howard	Natcher
Coughlin	Hubbard	Neal
Cunningham	Huckaby	Nedzi
D'Amours	Hughes	Nichols
Daniel, Dan	Hyde	Nix
Daniel, R. W.	Ichord	Nolan
Danielson	Ireland	Nowak
Davis	Jacobs	O'Brien
de la Garza	Jeffords	Oberstar
Delaney	Jenkins	Obey
Dent	Johnson, Calif.	Panetta
Derrick	Johnson, Colo.	Patten
Derwinski	Jones, Okla.	Patterson
Devine	Jordan	Pattison
Pease	Scheuer	Udall
Pepper	Schroeder	Van Deerlin
Perkins	Schulze	Vander Jagt
Pettis	Sebelius	Vanik
Pickle	Seiberling	Vento
Pike	Sharp	Volkmer
Poage	Shuster	Waggonner
Pressler	Sikes	Walgren
Preyer	Simon	Walker
Price	Sisk	Walsh
Quayle	Skelton	Wampler
Quillen	Skubitz	Watkins
Rahall	Slack	Waxman
Railsback	Smith, Iowa	Weaver
Rangel	Smith, Nebr.	Weiss
Regula	Snyder	Whalen
Reuss	Solarz	White
Richmond	Spellman	Whitehurst
Rinaldo	Spence	Whitley
Risenhoover	St Germain	Whitten
Roberts	Staggers	Wiggins
Roe	Stangeland	Wilson, C. H.
Rogers	Stanton	Wilson, Tex.
Rooney	Stark	Winn
Rose	Steed	Wirth
Rosenthal	Steers	Wolff
Rostenkowski	Steiger	Wright
Rousselot	Stockman	Wydler
Roybal	Stratton	Wylie
Rudd	Studds	Yates
Ruppe	Symms	Yatron
Russo	Taylor	Young, Fla.
Ryan	Thompson	Young, Mo.
Santini	Thone	Zablocki
Sarasin	Traxler	Zeferetti
Satterfield	Trible	
Sawyer	Tsongas	

NAYS—5

Ashbrook	Gephardt	Ottinger
Bauman	McDonald	

NOT VOTING—51

Allen	Fuqua	Rhodes
Anderson, Calif.	Gibbons	Robinson
	Gore	Rodino
AuCoin	Harkin	Roncalio
Baucus	Hawkins	Runnels
Biaggi	Hollenbeck	Shipley
Breckinridge	Jenrette	Stokes
Brown, Calif.	Jones, N.C.	Stump
Burke, Calif.	Jones, Tenn.	Teague
Carter	Kasten	Thornton
Cochran	Lent	Treen
Conyers	Livingston	Tucker
Crane	Lloyd, Tenn.	Ullman
Dellums	Luken	Wilson, Bob
Duncan, Tenn.	Oakar	Young, Alaska
Findley	Pritchard	Young, Tex.
Fraser	Pursell	
Frey	Quie	

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Carter.
Mr. Baucus with Mr. Duncan of Tennessee.
Mr. AuCoin with Mr. Frey.
Mr. Jenrette with Mr. Bob Wilson.
Mr. Shipley with Mr. Findley.
Mr. Hawkins with Mr. Treen.
Mr. Breckinridge with Mr. Lent.
Mr. Fuqua with Mr. Teague.
Mrs. Burke of California with Mr. Runnels.
Mr. Rodino with Mr. Tucker.
Mr. Stokes with Mr. Cochran of Mississippi.
Mr. Dellums with Mr. Pursell.
Mr. Conyers with Mr. Thornton.
Mr. Jones of North Carolina with Mr. Luken.
Mr. Biaggi with Mr. Crane.
Mrs. Lloyd of Tennessee with Mr. Kasten.
Mr. Anderson of California with Mr. Stump.
Mr. Brown of California with Mr. Pritchard.
Mr. Gore with Mr. Fraser.
Mr. Gibbons with Mr. Livingston.
Mr. Harkin with Mr. Young of Alaska.
Mr. Ullman with Mr. Allen.
Ms. Oaker with Mr. Hollenbeck.
Mr. Quie with Mr. Roncalio.

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXTENSION OF VETERANS READJUSTMENT APPOINTMENT AUTHORITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12353.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 12353, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 46, as follows:

[Roll No. 347]

YEAS—388

Abdnor	Corcoran	Hagedorn
Addabbo	Corman	Hall
Akaka	Cornell	Hamilton
Alexander	Cornwell	Hammer-schmidt
Ambro	Cotter	
Ammerman	Coughlin	Hanley
Anderson, Ill.	Cunningham	Hannaford
Andrews, N.C.	D'Amours	Hansen
Andrews, N. Dak.	Daniel, Dan	Harkin
	Daniel, R. W.	Harrington
Annunzio	Danielson	Harris
Applegate	Davis	Harsha
Archer	de la Garza	Heckler
Armstrong	Delaney	Hefner
Ashbrook	Dent	Heftel
Ashley	Derrick	Hightower
Aspin	Derwinski	Hillis
Badham	Devine	Holland
Bafalis	Dickinson	Holt
Baldus	Dicks	Holtzman
Barnard	Diggs	Horton
Bauman	Dingell	Howard
Beard, R.I.	Dodd	Hubbard
Beard, Tenn	Dornan	Huckaby
Bedell	Downey	Hughes
Beilenson	Drinan	Hyde
Benjamin	Duncan, Oreg.	Ichord
Bennett	Early	Ireland
Bevill	Eckhardt	Jacobs
Biaggi	Edgar	Jeffords
Bingham	Edwards, Ala.	Jenkins
Blanchard	Edwards, Calif.	Johnson, Calif.
Blouin	Edwards, Okla.	Johnson, Colo.
Boggs	Eilberg	Jones, Okla.
Boland	Emery	Jordan
Bolling	English	Kastenmeier
Bonior	Erlenborn	Kazen
Bonker	Ertel	Kelly
Bowen	Evans, Colo.	Kemp
Brademas	Evans, Del.	Ketchum
Breaux	Evans, Ga.	Keys
Brinkley	Evans, Ind.	Kildee
Brodhead	Fary	Kindness
Brooks	Fascell	Kostmayer
Broomfield	Fenwick	Krebs
Brown, Mich	Fish	Krueger
Brown, Ohio	Fisher	LaFalce
Broyhill	Fithian	Lagomarsino
Buchanan	Flippo	Latta
Burgener	Flood	Le Fante
Burke, Fla.	Florio	Leach
Burke, Mass.	Flowers	Lederer
Burleson, Tex.	Flynt	Leggett
Burlison, Mo.	Foley	Lehman
Burton, John	Ford, Mich.	Lent
Burton, Phillip	Ford, Tenn.	Levitas
Butler	Forsythe	Lloyd, Calif.
Byron	Fountain	Long, La.
Caputo	Fowler	Long, Md.
Carney	Frenzel	Lott
Carr	Gammage	Lujan
Cavanaugh	Garcia	Lundine
Cederberg	Gaydos	McClory
Chappell	Gephardt	McCloskey
Chisholm	Giaimo	McCormack
Clausen, Don H.	Gilman	McDade
	Ginn	McDonald
Clawson, Del	Glickman	McEwen
Clay	Goldwater	McFall
Cleveland	Gonzalez	McHugh
Cohen	Goodling	McKay
Coleman	Gradison	McKinney
Collins, Ill.	Grassley	Madigan
Collins, Tex.	Green	Maguire
Conable	Gudger	Mahon
Conte	Guyer	Mann

Markey	Perkins	St Germain
Marks	Pettis	Staggers
Marlenee	Pickle	Stangeland
Marriott	Pike	Stanton
Martin	Poage	Stark
Mathis	Pressler	Steed
Mattox	Preyer	Steers
Mazzoli	Price	Steiger
Meeds	Quayle	Stockman
Metcalfe	Quillen	Stokes
Meyner	Rahall	Stratton
Michel	Railsback	Studds
Mikulski	Rangel	Symms
Mikva	Regula	Taylor
Milford	Reuss	Thompson
Miller, Calif.	Richmond	Thone
Miller, Ohio	Rinaldo	Traxler
Mineta	Risenhoover	Trible
Minish	Roberts	Tsongas
Mitchell, Md.	Robinson	Udall
Mitchell, N.Y.	Roe	Van Deerlin
Moakley	Rogers	Vander Jagt
Moffett	Rooney	Vanik
Mollohan	Rose	Vento
Montgomery	Rosenthal	Volkmer
Moore	Rostenkowski	Waggonner
Moorhead, Calif.	Rousselot	Walgren
	Roybal	Walker
Moorhead, Pa.	Rudd	Walsh
Moss	Ruppe	Wampler
Mottl	Russo	Watkins
Murphy, Ill.	Ryan	Waxman
Murphy, N.Y.	Santini	Weaver
Murphy, Pa.	Sarasin	Weiss
Murtha	Satterfield	Whalen
Myers, Gary	Sawyer	White
Myers, John	Scheuer	Whitehurst
Myers, Michael	Schroeder	Whitley
Natcher	Schulze	Whitten
Neal	Sebelius	Wiggins
Nedzi	Seiberling	Wilson, C. H.
Nichols	Sharp	Wilson, Tex.
Nix	Shuster	Winn
Nolan	Sikes	Wirth
Nowak	Simon	Wolff
O'Brien	Sisk	Wright
Oberstar	Skelton	Wydler
Obey	Skubitz	Wylie
Ottinger	Slack	Yates
Panetta	Smith, Iowa	Yatron
Patten	Smith, Nebr.	Young, Fla.
Patterson	Snyder	Young, Mo.
Pattison	Solarz	Zablocki
Pease	Spellman	Zeferetti
Pepper	Spence	

NAYS—0

NOT VOTING—46

Allen	Frey	Quie
Anderson, Calif.	Fuqua	Rhodes
	Gibbons	Rodino
AuCoin	Gore	Roncalio
Baucus	Hawkins	Runnels
Breckinridge	Hollenbeck	Shipley
Brown, Calif	Jenrette	Stump
Burke, Calif.	Jones, N.C.	Teague
Carter	Jones, Tenn.	Thornton
Cochran	Kasten	Treen
Conyers	Livingston	Tucker
Crane	Lloyd, Tenn.	Ullman
Dellums	Luken	Wilson, Bob
Duncan, Tenn.	Oakar	Young, Alaska
Findley	Pritchard	Young, Tex.
Fraser	Pursell	

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Carter.
Mr. Baucus with Mr. Duncan of Tennessee.
Mr. AuCoin with Mr. Frey.
Mr. Jenrette with Mr. Bob Wilson.
Mr. Shipley with Mr. Findley.
Mr. Hawkins with Mr. Treen.
Mr. Breckinridge with Mr. Pursell.
Mr. Fuqua with Mr. Teague.
Mrs. Burke of California with Mr. Runnels.
Mr. Rodino with Mr. Tucker.
Mr. Ullman with Mr. Cochran of Mississippi.
Mr. Dellums with Mr. Quie.
Mr. Conyers with Mr. Thornton.
Mr. Jones of North Carolina with Mr. Luken.
Mr. Gibbons with Mr. Crane.
Mrs. Lloyd of Tennessee with Mr. Kasten.
Mr. Anderson of California with Mr. Stump.
Mr. Gore with Mr. Pritchard.
Ms. Oakar with Mr. Fraser.
Mr. Brown of California with Mr. Livingston.
Mr. Roncalio with Mr. Young of Alaska.
Mr. Hollenbeck with Mr. Allen.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FITHIAN. Mr. Speaker, due to an error in the tally clerk's office, I was not listed in the tally on rollcall vote No. 327, the vote on agreeing to the conference report on the first concurrent resolution on the budget, which was had last Wednesday, May 17, 1978.

Mr. Speaker, I wish to clarify the fact that I was present, and that I voted "nay." I have been assured by the office of the tally clerk that the error has been corrected in the official RECORD.

ESTABLISHMENT OF LOWELL NATIONAL HISTORICAL PARK IN THE COMMONWEALTH OF MASSACHUSETTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 21, after "PARK" insert "AND PRESERVATION DISTRICT".

Page 5, strike out all after line 16 over to and including line 3 on page 6 and insert:

(b) No federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act and will not have an adverse effect on the resources of the park or preservation district.

Page 6, strike out line 6.

Page 6, line 10, strike out "for all fiscal years".

Page 6, line 16, strike out "for all fiscal years".

Page 6, after line 23, insert:

(b) No funds shall be authorized pursuant to this section prior to October 1, 1978.

Page 6, line 24, strike out "(b)" and insert "(c)".

Page 6, after line 25, insert:

(d)(1) Within 60 days after the date of the enactment of this Act, and on each subsequent October 1 and March 1, the Secretary shall submit to the Congress a statement certifying the aggregate amount of money expended by the Commonwealth of Massachusetts, the city of Lowell, and by any nonprofit entity for activities in the city of Lowell consistent with the purpose of this Act during the period beginning on January 1, 1974, and ending on the date such statement is submitted.

(2) The aggregate amount of funds made available by the Secretary to the Commission from funds appropriated under subsection (a)(2) of this section may not exceed the amount certified by the Secretary in the most recent statement submitted to the Congress under paragraph (1) of this subsection.

Page 7, lines 13 and 14, strike out "designated for acquisition" and insert "identified".

Page 7, line 16, strike out "designates" and insert "identifies".

Page 8, line 1, strike out "designates" and insert "identifies".

Page 8, line 24, strike out "shall" and insert "is authorized to"

Page 9, line 5, strike out "with the consent of the owner." and insert "by donation.".

Page 11, line 16, strike out "may be" and insert "the Secretary deems".

Page 12, line 11, strike out "(a)".

Page 12, line 15, strike out "(1)" and insert "(a)".

Page 12, line 23, strike out "(2)" and insert "(b)".

Page 12, line 24, strike out "(A)" and insert "(1)".

Page 13, line 2, strike out "(B)" and insert "(2)".

Page 13, line 4, strike out "(3)(A)" and insert "(c)(1)".

Page 13, line 5, strike out "(3)(A)" and insert "(c)(1)".

Page 13, line 11, strike out "both the Secretary and" and insert "either the Secretary or".

Page 13, line 14, strike out "(B)" and insert "(2)".

Page 13, line 15, strike out "(A)" and insert "(1)".

Page 13, line 19, strike out "both the Secretary and" and insert "either the Secretary or".

Page 13, line 22, strike out "(4)" and insert "(d)".

Page 13, line 23, strike out "(A)" and insert "(1)".

Page 13, line 25, strike out "(B)" and insert "(2)".

Page 14, line 12, strike out "considered" and insert "the Secretary deems".

Page 15, line 13, strike out "DISTRICT".

Page 16, line 11, after "of" insert "Commerce and who shall be an employee of the Department of".

Page 16, line 13, after "of" insert "Transportation and who shall be an employee of the Department of".

Page 16, line 16, strike out "ment." and insert "ment and who shall be an employee of the Department of Housing and Urban Development.".

Page 16, line 19, after "of" the second time it appears, insert "the".

Page 16, line 20, strike out "preservation." and insert "preservation and who shall be an employee of the Department of the Interior.".

Page 19, after line 3, insert:

(1) The Commission established pursuant to this Act, shall cease to exist ten years from the date of enactment of this Act.

Page 19, line 11, strike out "pain" and insert "plan".

Page 20, line 9, strike out "Register." and insert Register and shall forward copies of the approved plan to the Congress.

Page 20, strike out all after line 12 over to and including line 3 on page 21 and insert:

(6) No changes other than minor revisions may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except minor revisions in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

Page 21, strike out lines 9 to 12, inclusive, and insert:

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission

may request to carry out any activity specified in paragraph (3) of this section. However, no funds shall be made available under this paragraph unless a proposal describing such activity is reviewed and approved by the Security.

(3) The Commission may request funds from the Secretary to—

Page 21, line 14, strike out "designated" and insert "identified".

Page 23, line 22, strike out "designate" and insert "identify".

Page 24, line 24, strike out "designated" and insert "identified".

Page 26, line 9, strike out "Laws)" and insert "Laws and hereinafter referred to as the 'corporation')".

Page 26, strike out line 20 and insert: Treasury the full amount of the loan and any additional amounts accruing to the corporation pursuant to this subsection excepting those amounts expended by the corporation for reasonable administrative expenses.

Page 29, strike out all after line 6 over to and including line 11 on page 30 and insert:

(b)(1) The Commission may make grants to owners of property described in section 302 (d)(1) of this Act for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act.

(2) The Commission, with the approval of the Secretary, may make grants to any person or any public or private entity to provide for (i) educational and cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other services the Commission considers necessary to carry out the purposes of this Act.

(3) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purpose for which the grant may be used, and any other condition the Commission considers appropriate. The Commission shall be entitled, under the terms of any grant agreement, to recover from the recipient any funds used in a manner inconsistent with such grant agreement.

Page 30, line 12, after "Commission" insert "with the advice of the Secretary".

Page 31, line 23, after "Lowell." "No lands or interests therein may be acquired by the Commission by condemnation without the approval of the Secretary."

Page 32, line 6, after "Commission" insert ", with the approval of the Secretary,".

Page 32, strike out lines 10 to 18, inclusive, and insert:

(c) Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts, the Commission, with the approval of the Secretary, may sell, donate, lease, or in any other manner the Commission and the Secretary deem appropriate make available to the Commonwealth any property which the Commission has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by the Commonwealth in a manner consistent with the purpose of this Act.

Page 34, line 1, strike out "Act". and insert "Act: *Provided, however,* That the Commission may not acquire lands or interests therein pursuant to this subsection by condemnation.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, I will ask the chairman of our Committee on Interior and Insular Affairs to explain the Senate amendments. I think they make some good improvements in the bill, and I would like to have the Members know what the Senate amendments provide.

Mr. UDALL. Mr. Speaker, I would urge that the gentleman from Kansas (Mr. SEBELIUS) yield to the gentleman from Massachusetts (Mr. TSONGAS) for an explanation.

Mr. SEBELIUS. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Speaker, there were three amendments, and I will attempt to explain them.

First, the Secretary of the Interior has veto power over the acts of the Commission; second, the Commission is phased out after 10 years; and, third, the Commission's expenditures cannot exceed the expenditures committed by State and local governments consistent with park objectives.

These were the restrictive amendments. I have no problems with them. The other amendments were merely technical in nature.

Mr. SEBELIUS. Mr. Speaker, I think the amendments make improvements in the bill, and I concur with them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona that the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the first request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

CORRECTING ALLOCATION TO COMMITTEE ON WAYS AND MEANS, FIRST CONCURRENT BUDGET RESOLUTION

Mr. GIAIMO. Mr. Speaker, I rise in order to make a unanimous-consent request.

Mr. Speaker, the statement of managers of the conference report on Senate Concurrent Resolution 80, the first budget resolution for fiscal year 1979, includes, as required by section 302 of the Budget Act, an allocation of the appropriate levels of new budget authority and outlays among the committees of the House and Senate. This allocation will guide the Congress in scorekeeping spending measures affecting fiscal year 1979 as they are considered over the next few months.

Unfortunately, there was a technical error in the allocation to the Committee on Ways and Means. This error does not affect any of the functional or aggregate figures in the budget resolution, nor does it involve matters of policy. To remedy this error, I ask unanimous consent that the allocation to the Committee on Ways and Means pursuant to section 302 of the Congressional Budget Act, contained in the joint explanatory statement of the managers on Senate Concurrent Resolution 80, which was printed in the RECORD on May 15, 1978, at page 13619, be corrected and printed in the RECORD at this point, as follows:

Allocation of spending responsibility to House committees pursuant to Sec. 302(A) of the Congressional Budget Act

[In thousands of dollars]

House Ways and Means Committee	Fiscal Year 1979 Budget authority	Fiscal Year 1979 Outlays
450 Community and regional development	----------	----------
(New entitlement authority)	($150,000)	----------
500 Education, training, employment, and social services	723,160	----------
(New entitlement authority)	(250,000)	----------
550 Health	31,900,000	$28,615,262
600 Income Security	119,758,510	112,842,364
(New entitlement authority)	(1,273,000)	----------
800 General government	4,025	4,025
850 General purpose fiscal assistance	458,000	458,000
900 Interest	53,528,000	53,528,000
950 Undistributed offsetting receipts	−15,000	−15,000
Committee total	206,356,695	195,432,651

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I assume the chairman of our Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), can assure us, as he has already stated, that this in no way affects any of the aggregate figures in the 1979 budget resolution?

Mr. GIAIMO. The gentleman is correct.

Mr. Speaker, if the gentleman will yield, the gentleman will recall that we took the earned income credit paybacks in excess of tax liability and transferred them from the revenue side on which they had been carried for several years to the outlay side.

This is a new entitlement authority and should have been allocated as new entitlement authority as such to the committees under the section 302 allocations. Since we have not done that, it would make the Committee on Ways and

Means short on its new entitlement allocations and would mandate its legislation going, under the act, to the Committee on Appropriations. This will obviate that and will put the resolution and the allocations in the committee in which they should have been had we not eliminated that new entitlement.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, do I also understand that this unanimous-consent request in no way affects matters of fiscal policy outlined in our budget hearings?

Mr. GIAIMO. That is my understanding.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Speaker, I would like to thank the chairman of the Budget Committee for trying to correct this apparent administrative error. Without this, as I understand it, the Committee on Ways and Means would not have the allocation appropriate to its function and to its jurisdiction.

Mr. GIAIMO. Exactly.

Mr. CONABLE. And I think it is necessary to correct an unintentional error.

I appreciate the gentleman's obvious vigilance in calling this to the attention of the House and in asking for this unanimous consent.

Mr. ROUSSELOT. Mr. Speaker, I thank the chairman for explaining this to the House; and, unaccustomed as I am to letting something like this go through, I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Connecticut?

There was no objection.

EXTENSION OF MOST-FAVORED-NATION TRADE STATUS TO HUNGARY

Mr. VANIK. Mr. Speaker, pursuant to section 151(f)1, of Public Law 93–618, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution House Concurrent Resolution 555 approving the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the concurrent resolution be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. SCHULZE) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution, House Concurrent Resolution 555, with Mr. KILDEE in the chair.

The Clerk read the title of the concurrent resolution.

By unanimous consent, the first reading of the concurrent resolution was dispensed with.

The CHAIRMAN. Pursuant to section 151(f)(1), Public Law 93–618, and the unanimous consent request the gentleman from Ohio (Mr. VANIK) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. SCHULZE), will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, House Concurrent Resolution 555 provides for congressional approval of the extension of most-favored-nation treatment with respect to the products of the Hungarian People's Republic, as provided in the Presidential proclamation transmitted by the President on April 7, 1978. Approval of the resolution, with concurrent Senate action, will allow the agreement on trade relations between the U.S. and Hungary, concluded on March 17, 1978, to enter into force. Approval will also remove the prohibitions on Hungarian participation in any U.S. program extending credits or credit guarantees, or investment or investment guarantees, as provided in the Trade Act of 1974.

This is the second trade agreement to be concluded with a nonmarket economy country under the Trade Act of 1974. As in the case of the first agreement, concluded with Romania in 1975, the Hungarian agreement is being tested under the Trade Act's freedom of emigration and special congressional approval procedures, beginning with the Trade Subcommittee's hearing on April 14. I want to note particularly a very important difference between the two bilateral agreements: unlike the Romanian agreement, Hungary—as well as the United States—will be making substantial tariff reductions on a wide range of U.S. products in which we have a strong competitive position in world trade, and which Hungarian firms now buy from our principal Western competitors. Unlike other Eastern European countries, the tariff in Hungary is an effective means of import protection because of Hungary's economic reform program implemented in recent years which has resulted in a relatively high degree of market orientation in her economy.

Mr. Chairman, the trade agreement with Hungary will result in much more than just a lowering of tariffs in both countries to MFN levels. The agreement offers the American business community specific guarantees concerning the conditions for conducting business in Hungary. The business facilitation provisions will play a key role in the future expansion and diversification of United States-Hungarian trade by assuring U.S. companies the best possible business conditions available to foreign firms in Hungary.

With respect to imports, Hungarian exports to the United States are now very low, and it is not expected that they will increase rapidly or concentrate in any particular product line. However, should a problem develop regarding Hungarian imports, we retain the full range of measures available under our laws, as well as the stringent market disruption provision of the Trade Act, which is also contained in the United States-Hungarian trade agreement.

Mr. Chairman, in its consideration of granting MFN to Hungary, the Committee on Ways and Means has been especially cognizant of its responsibilities under the Trade Act to assure that the freedom of emigration requirement has been met. Since mid-1975, we have identified only 24 divided family problem cases. All but the most recent six, with representation by our State Department from December 1977 or later, have been resolved; and we have already been informed that passports will be issued in four of these cases shortly. In addition, the Hungarian Government has emphasized that it is Hungary's present and future policy to deal with emigration cases promptly, constructively, and with good will and in the letter and spirit of the Helsinki Final Act. Thus, we are satisfied that the agreement and Hungary's emigration commitment fully meet the requirements of the Trade Act.

Mr. Chairman, I will conclude my statement by calling my colleagues' attention to the steady improvements in United States-Hungarian bilateral relations in recent years. The conclusion of a series of government-to-government agreements over the past 6 years illustrates this point. The United States and Hungary concluded Consular and Civil Aviation Agreements in 1972, a claims agreement covering nationalized and expropriated property in 1973, and a Scientific and Cultural Exchange Agreement in 1977. Other important developments include the settlement concluded by Hungary with the Foreign Bondholders Protective Council in 1975 covering privately held bonds, and the exemption of Hungary from the Johnson Debt Default Act in December 1976 following the settlement of arrears, on government-to-government debt. A convention on the avoidance of double taxation is currently under negotiation.

The Agreement on Trade Relations between the United States and the Hungarian People's Republic is the centerpiece of our ever improving economic relations with Hungary. I believe the evidence presented to the Committee on Ways and Means proves that Hungary has earned the right to normalized trade relations with the United States and that both countries will benefit substantially from the trade agreement.

Mr. Chairman, I want to point out that this legislation passed the Subcommittee on Trade by a unanimous rollcall vote and passed the Commitee on Ways and Means by a voice vote, with only two objections.

Mr. Chairman, I therefore urge my colleagues to support passage of House Concurrent Resolution 555, extending most-favored-nation treatment to Hungary.

Mr. AMMERMAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Pennsylvania.

Mr. AMMERMAN. Mr. Chairman, I thank the distinguished gentleman for yielding.

Mr. Chairman, I commend my colleagues of the Ways and Means Committee for taking the necessary steps to foster and develop closer ties between the United States and Hungary. I am concerned, however, that this proposal to extend most-favored-nation status to Hungary will have an adverse effect on our domestic manufacturers of light bulbs.

The tariff reduction which accompanies most-favored-nation status would have devastating consequences on our domestic light bulb industry if it were accompanied by a reduction in the price of or an increase in the quantity of imported Hungarian light bulbs. I would note that a firm within my district, GTE Sylvania of St. Marys, Pa., has lost nearly 200 employees and a significant portion of its output directly because of imported Hungarian light bulbs.

I understand, however, that there has been testimony before the Ways and Means Committee by Action Tungsram, Inc., a joint venture between an American firm and the Hungarian manufacturer of light bulbs, which assures that prices of these imported light bulbs will not be lowered, nor the amount of imported light bulbs increased, once most-favored-nation status is conferred.

I would like to have your assurance, Mr. Chairman, that this treaty will not exacerbate the already unfair competitive situation facing our domestic manufacturers of light bulbs because of cheaper Hungarian imports.

Mr. VANIK. Mr. Chairman, I would like to respond to the gentleman from Pennsylvania. During the course of our hearings on this legislation, the gentleman from Pennsylvania (Mr. AMMERMAN) and the gentleman from Massachusetts (Mr. HARRINGTON) addressed themselves to this light bulb problem.

The Committee on Ways and Means is very much aware of the light bulb import issue. During the Trade Subcommittee's hearing on April 14, we heard testimony alleging Hungarian dumping in the U.S. market and possible further adverse impact on the domestic light bulb industry from a reduction of the U.S. duty to the MFN level.

We also heard testimony from the United States-Hungarian light bulb joint venture that establishment of production in the United States this year will mean that imports will not increase beyond the current level of less than $5 million annually. Also, the joint venture will purchase most of its materials in the United States, including glass envelopes and bases for bulbs. Further, this organization stated that the benefit of the duty reduction will be passed back to the Hungarian partner, rather than reflected by a reduced price on imported bulbs in the U.S. market.

Noting the light bulb industry's concern, however, the subcommittee and the full committee included in its reports—page 3 of the committee report—language recognizing that the agreement may adversely affect domestic light bulb manufacturers and stating the committee's expectation that the administration will promptly act on any complaint by the industry under the agreement, and negotiate relief with the Hungarian Government.

I hope that in our committee's action and in our deliberations, we have addressed ourselves to the problem that was raised by the gentleman from Pennsylvania and the gentleman from Massachusetts.

Mr. AMMERMAN. I thank the gentleman from Ohio for those welcome assurances, and compliment him and his committee on the handling of this bill.

Mr. VANIK. I want to point out to the gentleman from Pennsylvania that our committee maintains a watchful eye with respect to this kind of legislation. It is reviewed by the Congress every year, and we have an opportunity to follow very carefully the operation of the agreement.

Mr. AMMERMAN. I thank the gentleman.

Mr. HARRINGTON. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Massachusetts.

Mr. HARRINGTON. Mr. Chairman, I will not need to take up much time of the House today because of the cooperation we have received from Chairman VANIK. and the Subcommittee on Trade. My concern, as with Mr. AMMERMAN, is the impact of the proposed agreement on the domestic light bulb industry.

When Mr. Strauss came back from Hungary with the initialed agreement, I immediately began negotiations with his office, the Departments of State and Treasury, and various segments of the light bulb industry to determine what would be the negative impact of increased trade and lower tariffs on American jobs. My own district is something of a light-bulb-making center, employing almost 2,000 people at plants owned by Norelco and Sylvania. They were concerned, these 2,000, and I was concerned.

After several weeks of talks, including conversation with Chairman VANIK, we won some assurances. We were guaranteed that the level of imported Hungarian light bulbs would level off at 1976 figures—a guarantee of no more layoffs than those that had already occurred. We were guaranteed that, if tariffs were reduced on Hungarian bulbs, there would nonetheless be no reduction in effective sales price at either wholesale or retail level, as far as they could control it. And we have received assurances from the administration that, as soon as this agreement takes effect, they would entertain and expedite consideration of any complaint made by the domestic industry under section 4 of the agreement, to the effect that Hungarian bulbs have caused significant market disruption.

Mr. Chairman, these assurances are exactly what we sought. We believe in fair trade and free trade. If the Hungarians can make a better product at a lower price without hidden government subsidy, then good luck to them. But the industry feels that the Hungarians are engaging in unfair competition, and, on its face, there seems to be evidence of that. We cannot resolve that question here today, nor should we.

Ideally, I would have the Congress hold back on its approval of the agreement until the question of dumping is adjudicated, but we have but 60 legislative days in which to consider this matter. Our option was either to kill an agreement for the sake of light bulbs, or see what accommodation we could reach in return for speedy and timely approval. We have taken the second course, and I am confident everyone is reasonably satified with that approach.

My purpose in taking up any time in the House today is to thank Mr. VANIK and his subcommittee for cooperation in this matter, and to go down on record that we have not approved this agreement without giving some recognition to the consequences that might have resulted to the light bulb industry. I am confident we have mitigated against most of the negative effects through hard negotiation, and have left the door open for further relief if the case can be made for unfair trade practices or significant market disruption. I intend to vote in favor of the committee's resolution approving the Hungarian agreement.

Mr. SCHULZE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I, and many of my colleagues, strenuously oppose granting to Hungary the very special trade concessions embodied in the most-favored-nations (MFN) status, for two very significant reasons. Granting this benefit to Hungary is inadvisable not only for reasons of trade policy but for humanitarian reasons.

The proponents of this resolution will cite the favorable balance of trade which the United States has had with Hungary. This is a fact which cannot be denied. However, a favorable vote on this resolution could very well change that situation.

The 1976-80 Hungarian 5-year plan places great emphasis on the expansion of foreign trade. Overall trade turnover is slated to grow 45 to 50 percent by 1980, with a 17-percent increase in exports and a 9-percent increase in imports. In 1978, United States-Hungarian trade turnover could increase dramatically. Hungarian plans for trade with all non-Communist countries call for an increase of 12 to 13 percent in Hungarian exports and a maximum 3 to 5 percent increase in Hungarian imports. Clearly the Hungarians are aiming to correct their current unfavorable balance of trade with the United States of America and are hopeful that House Resolution 555 will assist in attaining this goal.

Justifications for a negative vote are many.

The Hungarians have come up with a very bright idea on how to correct their own trade imbalance with the United States: The light bulb. My distinguished colleague from Pennsylvania, Mr. AMMERMAN, has submitted a statement for the record expressing concern that extension of MFN will lower tariffs on imports of Hungarian light bulbs causing

further adverse impact on the domestic industry. There is ample evidence indicating that Hungary is dumping light bulbs on the U.S. market and this should be considered in deciding whether to grant MFN.

Moreover, the gentleman from Massachusetts (Mr. HARRINGTON) has indicated that he believes that light bulbs are being dumped on the U.S. market. In a letter to the Honorable MICHAEL J. HARRINGTON from Stephen C. Tumminello, president, North American Philips Lighting Corp.—submitted by the Honorable MICHAEL J. HARRINGTON—Mr. Tumminello alleges dumping of Hungarian light bulbs on the U.S. market. His company has been forced to curtail expansion plans at one plant as a result of these imports. The level of these imports has grown from 10.2 million bulbs in 1972 to 57.3 million in 1976. Tungsram has been selling similar merchandise in Germany and the Netherlands at prices more than double those charged in the United States.

The Ways and Means Trade Subcommittee has also heard from the International Union of Electrical, Radio, and Machine Workers (AFL–CIO). William Bywater, vice president, has indicated that the price of Hungarian light bulbs to the United States has been significantly lower from 1972 to 1976 than the price to seven West European nations—despite the fact that in some cases the sales to West European nations were in larger quantities. Many of our small light bulb producers could be forced out of business by an increase in level of these imports. Over the past 5 years Hungary has exported to the United States other import sensitive electrical-electronic goods, for example, battery chargers and loudspeakers. A sudden increase in imports of these products would be devastating to the domestic industry.

Mr. Bywater, who incidentally works in a factory which manufacturers light bulbs, has also informed us that exports of Hungarian lamps to the United States threatens a domestic industry which is already suffering unemployment problems. Since Hungary is a nonmarket economy, it is impossible to determine if the export to the United States is selling below fair value or whether it is being subsidized. By granting MFN to Hungary, we will enable it to undersell the domestic industry.

The top 10 imports from Hungary show a range of potential injury to these and other workers. Sharp rises in U.S. imports of meat products, machinery, rubber products, and pharmaceutical goods have occurred in the past few years.

Changes can occur very rapidly. In 1974, for example, the United States imported $102,594 in nonelectrical machinery from Hungary. By 1976 the imports rose to $3,782,462. It is this type of potential upsurge which can cost jobs and production in America virtually overnight.

In general, U.S. import increases from Hungary are likely for products most highly affected by MFN. Probable areas are: Apparel, leather garments, aluminum oxide, electric light bulbs, and footwear. It is difficult to conceive of industries which are more in need of protection from foreign assault than these. I am troubled that the desire to confer a very great honor and benefit on Hungary in the form of MFN status has been done without any regard for the impact on the American worker. Is it too much to expect our elected and appointed officials to act in a manner beneficial to American workers?

In my judgment, this resolution is yet another example of the policy which says "give up everything in return for nothing." Other examples which spring immediately to mind include the proposal to eliminate the DISC and deferral tax mechanisms, the B–1 bomber, the neutron bomb and, of yes, the Crown of St. Stephen.

There is another reason why we should not bestow this benefit on Hungary. Human rights is a subject which is frequently discussed at the highest levels of government. At least it is paid lipservice. In the discussions of MFN status for a Communist nation, the question of human rights is conspicuously absent. The images of the tanks in the lovely city of Budapest firing on civilians is unfortunately forgotten by many.

Hungarians are denied basic humanitarian rights. The grant of MFN to Romania did not bring freedom to minorities in that country. Therefore, there is no reason to assume a different result in the case of Hungary. Yet we have idealistically accepted the promise that the Communist Government of Hungary will pursue a lenient policy in the future.

The bold fact of life is that the citizens of Hungary are still being denied basic human rights.

The United States has advocated full implementation by all parties of the human rights provisions of basket III of the Helsinki Final Act. Basically these rights include: freer movement of peoples, ideas and information; family unification; freer international travel; greater access to printed, broadcast, and filmed information; improved working conditions for journalists; and increased cultural and education changes.

I was shocked an chagrined that the Soviet Union blocked all references to human rights in the final communique issued at the Belgrade conference. Ambassador Arthur Goldberg observed that if Belgrade had accomplished nothing else, it had exposed the denial of human rights, specifically the denial of freedom of emigration, in the Soviet Union and bloc nations including Hungary.

Finally I would ask my colleagues the simple question: "What must our friends be thinking?" It must be confusing and infuriating for our long and faithful friends, many of whom have borne the brunt of the new-found human rights crusade, to witness the Congress of the United States considering giving a Communist nation most-favored-nation status.

As I indicated earlier, there are ample reasons for voting against House Resolution 555. Preservation of American jobs and the strengthening of the American economy are of the utmost importance. And in the true sense of human rights, we must not render complicity to the undemocratic and repressive regime which exists in Hungary. We should cast our negative votes on behalf of American workers, the people of Hungary, and our traditional trading partners who can only be hurt by this resolution.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I am not sure whether the gentleman in mentioning human rights was also referring to the suicide rate that has been publicized in Hungary.

Mr. SCHULZE. Yes. The gentleman is probably referring to the article in yesterday's edition of the Washington Post. There was an extensive article on the suicide rate in Hungary. Many of my colleagues no doubt will be surprised to learn that Hungary has the highest suicide rate in the world and has had for several years. Hungary's rate is significantly greater than the nation in second place. A lack of hope and denial of individual rights are contributing factors.

I might also suggest that the presence of 1,500 Russian tanks and 65,000 Russian soldiers may have a part to play in this unfortunate statistic.

It is incomprehensible to me how this body could grant most-favored-nation status to a government which has created such a repressive and demoralizing atmosphere for its citizens that a very large number of those citizens choose self-destruction. Is such a government worthy of our cooperation in any form?

Mr. RUDD. If the gentleman will yield further, I think that this clearly demonstrates that the country of Hungary is being trampled under the heel of the Soviet beast and is really not in charge of its own affairs and its own direction in the world today. So when we talk about this sort of treatment, we are really talking indirectly of the country of Russia. I think it indicates very clearly that when a nation, as an individual human being, loses hope, they lose the will to live and the will to fight for survival.

Mr. SCHULZE. I thank the gentleman for his comments.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

On just that point, I want to point out that that suicide rate goes back many centuries. It goes a long period back in history, and I think there are other reasons, perhaps, than the trade problem that has caused that situation.

Mr. SCHULZE. It does not make it any better.

Mr. RUDD. If the gentleman will yield further, does that indicate they are not under the domination of Soviet Russia?

Mr. VANIK. I do not know. The gentleman just pointed out the suicide rate, and I did not think it a factor in the legislation before us.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

It is interesting to note that such a high suicide rate does not apply to Hungarian-Americans living in this country. For obvious reasons most depression disappears when people start living in a free society.

I want to associate myself with the remarks of the gentleman from Pennsylvania (Mr. SCHULZE) and the remarks of the gentleman from Arizona (Mr. RUDD). I would also like to point out that magical things were supposed to happen in Romania when we gave the most-favored-nation status to that country. On a trip to the Middle East in January, I met a gentleman who had been a DCM at our Embassy in Bucharest for 3 years. He says Romania is the most repressive nation of all of the satellite countries under the heel of the Soviet boot. This long experienced State Department official said, "They rule by the long knife in Romania." I remember particularly that he made that statement. "What do you mean by that?" I asked. He said, "I mean under Ceausescu they literally murder their opposition. It's nothing but Fascist socialism."

Then I asked him about a rumor that the main interrogation and torture cells of the Romanian secret police are under the main city square, and that when President Nixon visited Romania, his car wheels literally drove over the tops of these cells under the city square. He said, "That is absolutely true, and they still have political prisoners there."

If we give this most-favored-nation status to Hungary, what are we going to get out of them? We will get the same type of internal repression that still exists in Romania, while Ceausescu cuts a cute figure across the world, the great internationalist and some sort of wonderful negotiator in the Middle East crisis. We will get the same deception and lies out of the Hungarian Communists.

I think the United States should set an example around the world that liberty and respect for freedom means just that, and that a country cannot become a most favored nation with this American Nation of ours unless the people have some minimal standard of political freedom. At least the right to travel without threat.

I thank the gentleman for yielding.

Mr. SCHULZE. I thank the gentleman for his remarks.

Mr. VANIK. Mr. Chairman, I yield such time as he may desire to my distinguished colleague, the gentleman from Minnesota (Mr. FRENZEL). My distinguished colleague has been in the forefront of the effort to normalize relations with Hungary. Last year he vsited Hungary, and addressed the American Hungarian Chamber of Commerce. I think he is well aware of the advantages to the people of America and American enterprise of the conclusion of this agreement. I want to pay tribute to his long and diligent effort to normalize our trading relationship. I am happy to yield to the distinguished gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. I thank the distinguished chairman of the committee for yielding.

Mr. Chairman, the granting of most-favored-nation status to Hungary, which this resolution supports, is the result of several years of effort by many in this body, in the executive branch and in the private sector. Those of us who have had an interest in extending MFN to Hungary have been motivated by the view that MFN is the key to expanded trade relations and by the firm belief that such closer economic ties will benefit both our people and economy as well as the Hungarian people and their economy.

The granting of MFN and the approval of the underlying United States-Hungarian Trade Agreement should lead to increased levels of trade between the two countries. Presently, Hungary applies discriminatory duty rates to our imports which are frequently double and triple that of the MFN rate. Thus, approval of the trade agreement and the granting of MFN would enhance the competitive position of our products in Hungary. As for Hungary, it too will benefit not only from the reduced duty levels under MFN, but also from access to Export-Import Bank credits.

For example, in the period from 1972 to 1977 U.S. exports to Hungary increased from $22.8 million to $75.7 million. Imports from Hungary over the same period increased from $12.7 million to $46.6 million. With the approval of MFN the level of trade should grow faster than the growth already experienced and the U.S. trade surplus with Hungary will be maintained if not increased. Major areas of U.S. exports which are most likely to benefit from this agreement include chemicals (disinfectants, plastics, hydrocarbons), machinery, measuring and control instruments, power generators, and refrigeration equipment. Major areas of affected imports from Hungary will include aluminum oxide, electric light bulbs, footwear, apparel, and leather garments.

A substantial increase in the more sensitive of the products from Hungary is not expected to have a great impact on the U.S. market. Even in the most sensitive area, electric light bulbs, MFN is not expected to harm the U.S. market. Indeed, testimony indicated that the result will be an expansion of domestic production advancing competition among domestic producers, and, thus, benefiting the consumer. But as a precaution, the committee has included language in its report requesting the administration to take immediate steps should problems arise. In addition, the trade agreement will come before this body on a yearly basis and, thus, affords us ample opportunity to monitor all facets of the agreement and its impact on our trading and economic posture.

In the effort to broaden our trade relations with Hungary, all of us has been mindful of the importance of human rights and emigration policy in any improvement of economic relations. The Trade Act of 1974 and the many interested Americans of Eastern European descent have made absolutely clear the role of these matters as prerequisites to MFN and normalization.

In this regard, I am pleased to say that the administration of Hungarian emigration law has been very satisfactory. In testimony before the Trade Subcommittee Counselor of the Department of State, Matthew Nimetz, noted that 92 to 93 percent of the 2,500 to 3,000 Hungarians who annually seek emigration are granted permission to leave. Since 1975 about 300 Hungarians have emigrated to this country. Over the same period, some 24 so-called problem cases have arisen of which 18 have been satisfactorily resolved. The remaining six problem cases are now proceeding through the normal emigration process and passports are expected to be issued shortly. In 1977 over 300,000 Hungarians visited the West and returned to Hungary. Other than ordinary foreign exchange restrictions, no obstacles were erected by the government to discourage foreign travel.

In addition, the President has reported that in his view the objectives of the Trade Act regarding human rights will be promoted by this grant to MFN. And, as well, he reports that the Hungarian Government has given assurances that its emigration practices will lead substantially to the achievement of those objectives.

In addition, Hungary is a member of GATT and participates in its deliberations and negotiations. It has arranged for the payment of its old debts, dating to just after World War I. It is now authorized to sell debt instruments in this country. In general, Hungary is a good world citizen, an active participant in international organizations, and is a nation that expects to pay its own way.

All in all, the granting of MFN to Hungary and the approval of the United States-Hungarian trade agreement will further our interests and broaden the world trading system. I encourage my colleagues to join the Trade Subcommittee and the full Ways and Means Committee in overwhelmingly supporting House Concurrent Resolution 555.

Mr. Chairman, there have been questions about this most important resolution in House Concurrent Resolution 555 which grants what we call most-favored-nation status to Hungary. Most-favored-nation status is a colorful term but it only means our normal column 1 trading agreement that we have with most of the world. There is nothing very fancy about it.

The reason that we need this special resolution is that our Trade Act prohibits column 1 trade to certain countries, among whom, until this time, has been Hungary.

Mr. Chairman, there also have been questions about the Hungarian society, economy, and government. Hungary is the most open of the mid-European Warsaw Pact nations. The recent comparisons that were made between Hungary and Romania are interesting, but they are irrelevant to this resolution.

Hungary is quite different from Romania in terms of repression, in terms of emigration, in terms of religious freedom, and in terms of general openness. As a matter of fact, about 93 percent of those 2,500 to 3,000 people who apply for emigration annually are granted emigration.

Our difficult cases now have been resolved down to half a dozen and we are told those are progressing satisfactorily.

We have also been told in the debate that Hungary is subservient to Russia. Obviously, there is a close relationship between those two countries and there will be an ongoing close relationship. There are Soviet military personnel in Hungay and they will continue to be there.

On the other hand, Hungary is sufficiently independent that it is able to give assurances under our Trade Act, under the Jackson-Vanik amendment, that most countries of central Europe cannot give us, and which Russia is unwilling to give us.

It seems to me this in itself, the willingness to sign a trade agreement and to give those assurances, is an act of bravery on the part of this government. It signifies that government's intention to take its place among the other independent countries of the world in carrying on international trade and in being a good world citizen.

We have also heard that this resolution would give Hungary some terribly important special status, or preferential treatment. When we offer most-favored-nation status, or column 1 trading agreements with other countries, all we are doing is giving the same agreements that we give to most nations in the world.

Since we have a favorable trade balance with Hungary, it is obviously more to our advantage to have a normal trading relationship with Hungary than it is to Hungary's advantage.

As a matter of fact, our trade with Hungary has about trebled in the last 5 years. We still maintain a very favorable balance of trade with Hungary, and we expect to continue to increase that favorable balance of trade under the new agreement.

However, for the long run we know that international trade must balance out. We also have an obligation to see that imbalances do not persist even when they are in our favor. The real advantage of MFN is in trade expansion for both sides.

We have talked about light bulbs a little bit this afternoon. I think it is most interesting to note that this country imports only about 5 percent of the light bulb consumption of the country. Hungary is the ninth most important exporter of light bulbs to the United States, furnishing about 0.3 of 1 percent of the light bulbs for this market. That would hardly seen to be a problem especially since those light bulbs are sold in this country at more than they are sold for in Hungary.

As a matter of fact, a principal intention of the Hungarian light bulb producers under this agreement is to set up a joint venture under which the light bulbs will be produced in this country. It seems to me then that what we are going to do is create American jobs.

We are probably likely to have less imports of light bulbs under this agreement.

It seems to me that the United States here has negotiated an important victory for American jobs; therefore, that this agreement should be all the more attractive.

I pointed out earlier something about the freedom that is exercised within the country of Hungary. Hungary has been a member of GATT for a number of years. It is a participant in the negotiations. It has trade counsels in this country. It has a branch of its bank here.

They have settled their back debts with this country, and on relatively favorable terms, at least compared with the terms under which other countries have settled their debts. Those settlements were made freely even though they go back through several governments to a period just after the First World War.

The Government of Hungary invited Billy Graham, one of our famous Christian preachers, to come to its country last fall. He had a triumphal visit, and reported that he was pleased with the religious freedom there.

Shortly thereafter, a group of American Catholic bishops visited Hungary and came back with the same stories Mr. Graham told when he came back. Prior to the bishops' visit, Mr. Kadar had been officially received by the Pope. The Catholic Church has worked out a relationship with the Government. Clearly, the days of Cardinal Mindszenty captivity are over.

The fact is that religious freedom is quite open, and apparently in good shape in Hungary. Hungary has the only Jewish theological seminary in central Europe, and the only rabbis who are being trained in central Europe are being trained in Hungary. I saw the synagogue there, and there seems to be no problem about freedom of worship within that country.

What we are trying to do with Hungary is to encourage that country, to our own benefit, to join the family of nations of the world in trade. To deny Hungary the most-favored-nation or column 1 status would simply be to force it back within the Warsaw Pact, within the Russian bloc, and within the Soviet sphere of influence. It seems to me it would be far more to our advantage and to the world's advantage to help Hungary come out and join the rest of the world.

But primarily, Mr. Chairman, the reason this concurrent resolution ought to be agreed to is because it is good for America. It will help us increase our exports, and it will bring needed imports.

Hungary, unlike some of the other nonmarketing countries, does have a very high column 2 rate. American exporters have some difficulty getting goods into Hungary because of those very duties.

This new treaty with Hungary will be a great advantage to our country. We hope it will be of some advantage to Hungary, and I know it will be a great advantage to the whole world.

Mr. SCHULZE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, there are some necessary questions that we have to ask on this measure. I wish to emphasize that I am disturbed over what I consider the pattern of unilateral concessions to Communist governments by the Carter administration.

The Members will remember that the administration handed over the Crown of St. Stephen to the Hungarian Communist Government. This was a great public relations victory for the Red regime. I have yet to be advised of what the U.S. Government obtained in return from the Hungarians. Their voting record at the U.N. and other international meetings is always with the Communist bloc, and they show no streak of the foreign policy independence that occasionally is exhibited by Yugoslavia and Romania.

In this case we are giving them most-favored-nation trade status. I am bothered by this development. I predict that the administration will soon move to provide most-favored-nation status to all Communist governments, making that designation useless as applied to Communist dictatorships.

Presumably this move will facilitate trade between our two countries. Basically, this means Hungarian products will be able to penetrate the American market, but will American products have equal access to the Hungarian market? Or are the Hungarians just interested in American capital and technology since under a Communist economic structure, consumer goods are at the bottom of the list of priorities. They will be interested in equipment for state-run purposes, not consumer products that will help lift the standard of living of their people.

Therefore, reflecting all these doubts and reaffirming my strong belief that the unilateral return of the Crown of St. Stephen was a blundering diplomatic act on the part of the administration, I will oppose this resolution this afternoon.

Mr. Chairman, I appreciate the intricacies of foreign trade. In this particular case I do not believe the Committee on Ways and Means has exercised the most prudent approach.

I repeat, that one of the reasons for justifying most-favored-nation status to Romania and Yugoslavia is that those countries have shown a degree of independence in international bodies. The same cannot be said to be true of Hungary. I question what I consider to be a unilateral consession to the Hungarian Government.

Therefore, I rise in opposition to the resolution.

Mr. SCHULZE. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I was interested in the justifications offered in favor of this concurrent resolution. I suppose one justification is that the resolution is consistent with this administration's policy in dealing with countries abroad, and that is generally to oppose our allies and to aid our enemies.

I say that because we will be considering shortly a bill dealing with the Export-Import Bank in which it is suggested that we grant favored status to the Communist Government of China, a government that is estimated over the years to have slaughtered millions of

Chinese in its quest for the "human rights" of all mankind.

That same bill refuses the availability of that Bank to the Republic of South Africa, which certainly has an abhorrent racial system but which is a very staunch anti-Communist ally and is the site of a great many minerals our Nation needs. In addition, South Africa sits astride the cape route that is needed for the transportation of petroleum products.

There are those in fact who have seen some improvement in the Republic of South Africa in the direction of moving away from its policy of segregation, as, indeed, it must eventually do.

But here we have a piece of legislation that is totally consistent with the administration's attitude, for instance, toward Cuba, which is a nation in dire economic straits and which needs our trade in order to rescue itself from almost 20 years of communism. And Cuba is a nation which is deploying its troops and murders all over Africa, most recently have been involved in the training of the rebels who slaughtered white and blacks in Zaire.

So now we are asked to reward the 30-year Communist dictatorship of Hungary by granting them economic concessions that will undoubtedly help the Communists a great deal.

We do so at the expense of our own domestic industry, including, I notice in the report, the textile industry. Mr. Chairman, 75 or 80 Members of Congress have expressed concern in the last few weeks and sponsored a request to U.S. trade negotiators, to stand by and protect this industry.

It is a strange sort of reward that we offer to our enemies, but it certainly proves the longstanding prediction by Nikolai Lenin that the Communist eventually would sell the rope to the capitalists with which they would hang us.

So in this age of President Carter's human rights pronouncements, it is distressing to see very little in the way of Hungarian concessions to human rights. Rather the basic arguments in favor of this resolution are based on greed and the dollar value involved in this trade, human rights notwithstanding.

I just wonder, if he were still alive, what advice Joseph F. Cardinal Mindszenty would give us in this Chamber today as we vote on this issue.

Mr. SCHULZE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank the gentleman for yielding, and I would associate myself generally with the statement he made, which I think was a very excellent statement.

Mr. Chairman, I rise in strong opposition to giving most-favored-nation trade status to the Hungarian People's Republic. This Communist nation is little more than an occupied country, with few of the basic freedoms a country should have to achieve this special status. It also means that loans and credits can be extended to this Communist puppet state, something few taxpayers would support. I will not repeat all of the arguments of my colleague from Pennsylvania (Mr. SCHULZE) which I concur with completely. In addition to all of the excellent arguments made, granting this status to Hungary will result in loss of American jobs.

The AFL–CIO has urged the Congress to reject this resolution for economic reasons as well as human rights considerations. A letter by Andrew Biemiller, AFL–CIO legislative director, points out that Hungarian imports have already injured U.S. workers. Granting most-favored-nation status would worsen the situation.

According to Biemiller's letter:

Certain U.S. industries have been particularly sensitive to Hungarian exports in the past. These included canned hams, lamps, glass, rubber tires, and shoe industries. Many of these industries are already reeling from imports. Additional imports of these products from Hungary would further decimate these industries. . . . Changes can occur very rapidly. In 1976, for example, the U.S. imported $295,000 in women's shoes from Hungary. By 1977 the imports rose fivefold to $1,685,000. There were virtually no imports of tires and tubes from Hungary in 1975, but in 1977, $1.5 million worth was imported. It is this type of potential upsurge which can cost jobs and production in America virtually overnight."

The International Union of Electrical, Radio and Machine Workers, in testifying before the Subcommittee on Trade, strongly opposed the resolution because of the jobs issue. In its view, "Hungarian lamps, selling here under the Tungsram label, represent a real threat to the U.S. lamp industry." There would be an adverse impact on companies and workers in my own State of Ohio as well as States such as New Jersey, Massachusetts and Pennsylvania.

The I.U.E. representative went on to make the following important point:

In nations such as Hungary, where the government has direct control over industry, there is no way of ascertaining whether a lamp, or any other Hungarian product sold in the United States, is selling below fair value, or whether the manufacturer has been subsidized by its government to the point that it can undersell its U.S. competition in our country.

Giving Hungary "most-favored-nation status" the I.U.E. continued, "will enable that country to undersell our lamp manufacturers and cause cutbacks in our own industry, resulting in widespread layoffs among the workers in our plants."

The question is also one of basic liberty and human rights. The Hungarian regime, although perhaps not as harsh as other Communist regimes, is still repressive and totalitarian in nature.

Istvan B. Gereben, Executive Secretary of the Coordinating Committee of Hungarian Organizations in North America, testified before the Subcommittee on Trade in April. Although he took no official position, he urged us to study the issue, know the facts before acting on this legislation and then follow our conscience.

Consider Mr. Gereben's findings concerning present conditions in Hungary. He stated:

Freedom of speech is non-existent in Hungary . . . Organized religions became tools in the hand of the atheistic government of Hungary . . . Hungary has the most restrictive emigration laws in East Europe.

Knowing the facts, it is clear what our conscience should tell us. The Hungarian regime does not merit the special treatment accorded by this resolution.

Let me quote at this point a report of the Library of Congress on legal restrictions on travel and emigration in Hungary. The report is as follows:

LEGAL RESTRICTIONS ON FOREIGN TRAVEL AND EMIGRATION IN THE HUNGARIAN PEOPLE'S REPUBLIC

(Prepared by Dr. William Sólyom-Fekete)

VIII. CONCLUSION

The detailed analysis of the passport regulations of the Hungarian People's Republic, and of other statutory provisions possibly connected with them, may serve as evidence that the basic human right to freedom of movement provided for in article 13 of the Universal Declaration of Human Rights is not guaranteed by these statutory provisions. The right to seek asylum outside Hungary and the right to a nationality or to a change thereof are also not guaranteed by the laws of the Hungarian People's Republic.

The incompatibility of the laws mentioned above with basic human rights and the lack of due process of law are the causes of a well-founded fear of persecution for reasons of religion, membership in a particular social group, or political opinion. Therefore, the unwillingness of citizens of the Hungarian People's Republic to return to Hungary is understandable and justified.

With the exception of the law on National Defense, all the statutes discussed in this study were enacted or issued prior to August 1, 1975, the date of the signing of the Helsinki Declaration. Since the signing of it, none of the substantive provisions of the statutes analyzed in the present report has been repealed, amended, or changed in any way. The Law on National Defense is a recodification of the hitherto existing situation described herein.

On December 11, 1976, a second amending decree to the implementing decree of the Minister of the Interior was issued and entered into force on January 1, 1977. This amendment introduced no substantive changes either. Its main purpose was to extend the list of those socialist countries to which trips are made easier, and to introduce a special passport for travel to the socialist countries. This passport will replace the use of the personal identification as a travel document.

Neither the recodification of the Law on National Defense, nor the 1976 amendment to the decree of the Minister of the Interior, introduced any changes in regard to the restrictions on movement within the country, or on the travel abroad and emigration of the citizens of the Hungarian People's Republic.

The upcoming meeting of the signatory powers of the Helsinki Declaration has caused the Hungarian communication media to turn their attention to questions of compliance with the Declaration. In the course of this campaign, one source has stressed the point that large numbers of Hungarian citizens travel abroad annually. The figure mentioned was 40 percent of the total population.

A closer examination of such random data in the light of official statistics of the Government of Hungary presents a rather startling picture. During the year 1975, 3,477,000 Hungarian citizens legally crossed the border of the country. This represents almost 35% of the total population. This number of travelers, however, includes persons who traveled in the line of duty, either as government employees or as citizens with official assignments, such as scientists, representatives of scientific or commercial organizations, sportsmen, artists, etc. In all probability such trips made up a large proportion of the total number of travelers. The figures on the

average time spent abroad by the travelers show that 24.1 percent stayed only 1 or 2 days and 45.2 percent from 3 to 7 days; only 1.1 percent of all the travelers remained abroad more than 31 days.

The statistics on the destination of the travelers reveal the surprising fact that only 252,000 persons, or 7.2 percent of all the travelers, went to non-communist countries. In this respect the situation in 1975 was worse than 10 years before. Although the absolute figures increased after 1966, the proportion of travelers to non-communist countries was 14.9 percent, or more than twice as high as in 1975.

Even if the number of official travels is disregarded, it is remarkable that this many Hungarian citizens risked all the possible consequences and dared to travel to non-communist countries.

No data are available on either legal or illegal emigration, but the statistics imply that not a single person emigrated or chose to stay abroad illegally in 1975, or in any previous year. This conclusion is reached by checking the figures on the size of the population in succeeding years against the number of births and deaths.

At this point in the RECORD I am including the full text of Mr. Gereben's conclusions presented to the subcommittee.

CONCLUSIONS

1. Freedom of speech, is non-existent in Hungary. There are only State run newspapers, electronic communication systems and publishing houses. Every written word is censored. The laws "protecting the socialist state" punish and therefore stiffle any meaningful criticism of the system, its objectives and procedures.

2. Organized religions became tools in the hand of the atheistic government of Hungary. The churches are exploited for the advancement of the political goals of the regime. The faithful in Hungary lost confidence in the leadership of the Churches, and are overcome by the feelings of doubt, anguish, disappointment and despair. The churches are infiltrated with agents of the government. These agents are even ordained to be more effective. Ordination is done with the knowledge of the "politically cooperative" leadership of the churches.

3. Hungary has the most restrictive emigration laws in East Europe. Hungarian citizens under 55 years of age have no legal right to emigrate.

4. The Hungarian Communist regime developed a well functioning, sophisticated system of social control in which dissent and opposition are not punished by death, but are effectively treated, "cured", by using the unlimited power of State. Rather than give people free choice, independent political parties, democratic freedom, they are apparently able to keep people quiet by increasing their dependence on the State which controls all resources, all possible sources of income, all important rewards and benefits, including educational and career opportunities. The insecurity of this system, however, is well demonstrated by the maintenance of the Iron Curtain. *"Liberalization"* did not result in the elimination of Stalin's Curtain, the physical barrier-barbed wires, minefields, watch towers, bloodhounds—between the West and Hungary.

5. The Hungarian People's Republic with its laws and practices repudiates and negates almost every article in the Declaration of Human Rights:

It denies the right to fair and public hearings by independent and impartial tribunal.

It denies the right to freedom of thought, conscience and religion.

It denies the right to freedom of opinion and expression.

It denies the right to freedom of peaceful assembly.

It denies that the will of the people shall be the basis of the authority of government.

Mr. SCHULZE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I rise in support of this concurrent resolution.

I did not favor—and I will be frank—the return of the Crown of St. Stephen. It seemed to me a religious symbol of high importance, and it was returned to a Communist country.

However, I did feel some question as to my own position when the Cardinal of Hungary received it with such pleasure and when, indeed, the entire church hierarchy approved its transfer. Therefore, it is not that I am committed unalterably to whatever a Communist regime might want; but I think we have to recognize that one of the best features of the Helsinki Accord, the Fnal Act, was that it draws together all the nations of Europe. It does, to some extent, by its very nature, detach those eastern European satellites from the Soviet Union.

Mr. Chairman, I think the Soviet Union itself recognizes that that is a great danger. Every single one of those satellite states is evolving differently; one is reasserting its independence in its foreign policy, but is extremely strong in its centralized control of people at home. Another shows the reverse.

Mr. Chairman, Hungary's laws have not changed; but its methods have changed. Talk to people who have been to Hungary, who have listened to intellectuals, religious people, Jewish, Catholic, Lutheran, and you will find that the way things are worked out is very different in Hungary.

For example, let us take private enterprise. It is not just that they have private farms like Russia, but also commercial and, indeed, even industrial private enterprise. This is going to be one of the most important developments of the future.

How is Russia going to handle the increasing variations between its satellites, and the pressure that this puts on Russia itself? It is a very important development.

For that reason, Mr. Chairman, I do support this concurrent resolution, not because I wish to strengthen the Communist camp. Quite the contrary. It is because I believe that this variety should be encouraged.

Mr. VANIK. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I appreciate this opportunity to express my support of President Carter's April 7, 1978, Executive order granting most favored nation (MFN) trade status to Hungary.

As the only Hungarian-born member of Congress, I have a relationship to that nation unique in this House and I am familiar with both its history and current conditions. I have traveled to Hungary on two occasions since my emigration as a boy just prior to the outbreak of World War II.

I was welcomed to the United States and have benefited greatly from the unique freedoms and opportunities that our nation offers its citizens. Many members of my family who remained in Hungary were among the millions slaughtered in the Nazi death camps during the war.

Based, then, on my experiences in Hungary and my knowledge of current conditions there, I firmly endorse the President's initiative in confering MFN status on Hungary.

Let me recount from personal involvement why I am confident that Hungary today fulfills the requirements for MFN status as delineated in the Jackson-Vanik amendment.

My initial return to Hungary in 1970 for a 2-week visit with relatives was a most pleasant and heartening experience. During my stay then, I saw a great deal of the country and met many people as I traveled through towns and the countryside from the Rumanian border on the east to the Austrian border on the west.

These generally positive impressions of life in Hungary were confirmed and buttressed this past January when I again returned, this time as a member of the official U.S. delegation returning the Crown of Saint Stephen.

While Hungarians do not of course enjoy the same degree of liberty as do Americans, personal observations and numerous candid conversations with relatives, friends, and state officials have led me to conclude that Hungary is today essentially a land of political and religious tolerance.

During my visit this year, I went to several synagogues and churches in Budapest, smaller towns, and in the countryside. Religious worship, I learned, is not only permitted, but the state actually subsidizes religious institutions to some limited extent.

I was told by many Hungarians that political debate is an established feature of life in their country. The state-controlled television, for example, regularly airs public affairs programs of a controversial nature.

When I was in Hungary in January, I saw a television show that contradicted the official government line on the Crown of Saint Stephen. While some official pronouncements initially charged that the United States had engaged in some vaguely defined conspiracy to obtain the crown and to keep it for some 33 years, the television show was quite explicit in saying that our Nation had acted wisely and correctly in agreeing to accept the crown for safekeeping.

The Hungarian people have also benefited visibly from their nation's increasingly important position in international trade. The standard of living is comparable to that in certain Western European nations, and numerous public works and housing projects are underway in both urban and rural areas.

Especially crucial for consideration of the proposed MFN status is the fact that the Hungarian people are almost totally unrestricted in their ability to

travel abroad and to emigrate. As President Carter noted in his April 7 letter of transmittal to the Speaker, "the Hungarian Government has stressed that it intends to continue dealing with emigration matters in a responsive and humanitarian way. Hungary's actions have been consistent with this policy; we have encountered few problems in resolving specific cases."

My personal experiences certainly confirm the President's statement. In 1973, for example, a cousin of mine who lives in Budapest visited his relatives here in the United States and stayed for some 6 months. Another cousin and her husband visited a sister and her family in Montreal in 1974 and stayed for 6 weeks.

That sister in Montreal, her husband and her son who left Hungary following the 1956 revolution have returned there several times in the past 20 years. My 76-year-old aunt visited her brother and sister in Israel this past February, traveling first to Romania by train and then flying to Israel.

Younger people as well are permitted to travel abroad without restriction. One of my cousins has two married children in their twenties, and they have been outside the country on several different occasions. Indeed, there have been instances when the entire family has been out of the country—all at the same time.

Conversations I have had with other Hungarian-Americans in fact indicate that travel between our two countries has become commonplace. I have not heard of a single attempt by Hungarian officials to impede or inhibit travel abroad by Hungarians.

U.S. Embassy officials in Budapest informed me in January that the only restriction imposed by the Hungarian authorities concerning travel is applied to people who attempt to avoid service in the Hungarian Armed Forces by leaving the country.

And travel is truly a two-way street for Hungary. It is estimated that some 11 million foreign tourists, about half from the West and the other half from Eastern Europe, visited Hungary in 1977.

It was clear to all members of the U.S. delegation returning the crown that the Hungarian people respect our nation and greatly value its friendship. The President's decision to return the crown represented an outstanding contribution to the strengthening of bonds of trust and amity between the two countries.

And now the President's Executive order establishing MFN status for Hungary will consolidate and further advance mutually beneficial relations between the United States and Hungary. Removal of discriminatory trade regulations by our Nation will be reciprocated by Hungary, and the elimination of barriers to trade and commerce will have a positive impact on both the American and Hungarian economies.

I therefore respectfully urge House Concurrent Resolution 555 be approved. We will be acting in the best interests of the principles of human rights and free trade as we move expeditiously to granting most favored nation status to Hungary.

Mr. FRENZEL. Mr. Chairman, will gentleman yield?

Mr. WEISS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from New York (Mr. WEISS) for making a very important statement.

It is my understanding that 300,000 Hungarians left their country to tour various locations in the Western World, and all of them returned home safely because they wanted to. They were not forced to, and there was no restriction put upon them.

Again, Mr. Chairman, I thank the gentleman for a very important statement about this treaty.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's comment.

Mr. Chairman, I just want to conclude by saying that it seems to me very, very important that we encourage the kind of internal freedom which exists in Hungary. I would think that through that encouragement other countries and other peoples would be able to follow in that same path.

Mr. SCHULZE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman and my colleagues, travel in and out of a country is certainly the easiest indices of whether or not there is any kind of freedom in that nation. A barbed wire fence constructed around a country to keep its citizens in is a tragic statement of national policy. The Members know that the Berlin Wall is still a tragic joke to Europeans because the Communist authorities still maintain that that hated wall is really to prevent West Berliners from pouring into the great Communist paradise on the Eastern side. Well, there is still a wall of hate around Hungary.

Remember, we all made such a big thing in this House about a former President's "enemies list." Well, what about the "enemies list" in Hungary. Those freedom fighters who were most courageous, most up front, in that struggle for freedom in October and November of 1956 are still not allowed back in that country except for a kangaroo court trial. If they came back to their country, they would be executed.

Have the Members of this House forgotten that there were young teenage Hungarian freedom fighters who faced up to Soviet tanks with stones and after being taken prisoner, because they were below 18 years of age, capital punishment could not be imposed? So, 1, 2, 3 years later, as each one of these young people reached their 18th birthday, they received their capital punishment sentence and were executed in Romania, an adjoining country. That was an unbelievable nightmare to witness from the safety of the west. The hero of that revolution Mr. Nagy was also executed outside his country, and of course we did not hear anything really about his trial. And the murderers of Budapest are still in power.

There are people who still cannot go back to their homeland of Hungary if not to take up residence, at least to see relatives, as long as that communist enemies list is in existence. We should deny most-favored-nation status, or at least make the existence of that list bargaining point number one. We all realize that there are relatives and there are relatives—and those relatives who were most courageous and who were willing to stand, fight and die for freedom and who stood up to Soviet armour with stones even children, those are the heroes I listen to on this issue. Not those who stayed uninvolved or hid under their beds.

The fighting Hungarians begged us not to let the Christian and political symbol of liberty, the Crown of St. Stephen fall into the hands of those who are still called the Butchers of Budapest, Janos Kadar and his gang. The President rejected that plea and now we add insult to injury.

Mr. Chairman, I beg that we withhold most-favored-nation status to this unbowed gangster regime who sold out their nation to Soviet Imperialism.

Mr. SCHULZE. Mr. Chairman, we have heard the statement that it is to our advantage as a nation to grant most-favored-nation status to Hungary, but that the cost to us will be approximately $3.3 million. I do not know how that would be to our advantage.

We have heard statements about the emerging freedom, however I guess that those who made these statements would agree that Hungary is the jolliest cell block in the Soviet concentration camp.

We have but to read the papers to see what the Soviets are doing in Africa.

This is one way in which we can send a message to, not only the Soviet Union, but to her satellite, Cuba, that we are not going to stand for that kind of action. We can send a message by voting against this concurrent resolution.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. STEIGER), the ranking minority member of the Subcommittee on Trade.

Mr. STEIGER. Mr. Chairman, I support extending most-favored-nation status to Hungary. I might just comment that I would want the record to be quite clear in terms of the relationship between those who left Hungary after the 1956 revolution and their status now. There have been, in fact, a number of people who have contacted the Trade Subcommittee who have indicated that they did leave their nation after that time and who have since gone back. Any kind of statement that suggests there is not a willingness at this point on the part of the Hungarian people and nation to deny those who did take part in the revolution, at whatever age, access to Hungary, to return to Hungary and to depart from Hungary, would be wrong.

I think the record ought not to stand with that kind of information on it. So my hope is that my colleagues will pay close attention to the debate that has been carried on this afternoon and to note that it is in the best interest of the people of the United States and the people of Hungary for us to approve the most-favored-nation status.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, Lenin said that one death is tragic but the death of millions is merely a statistic.

So let me use one specific hero's name. A friend a Hungarian freedom fighter, Stevan Szabo. He was beaten so badly on his legs by the Communist police in Hungary with rubber truncheons that after he escaped to the United States both of his legs had to be amputated. He lives in Lancaster, Calif. The Communist Hungarian Government will not let him return because he was a leader in the revolution.

I do not want my word questioned when I can give Members the specific names of dozens of freedom fighters in California who cannot return to Hungary and it is wrong to give the impression that every single anti-Communist Hungarian can return for a 2-week vacation or residence. That is just not the truth. The Hungarian freedom fighters lost 50,000 men, women, and teenagers. Imre Nagy was murdered. The army commander and his whole staff was murdered while under a flag of truce by Kadars killers. Nagy had his trial held outside his country and he was quickly executed. Now, what I am saying are facts.

Mr. VANIK. Mr. Chairman, I just want to say in closing this discussion and this debate today, that the Trade Subcommittee and the Committee on Ways and Means carefully reviewed the issues before the House today, and I must say that we see it as wise and proper step. We firmly believe that the normalization of our trade relationships is going to improve the conditions there in Hungary. We believe that this agreement is going to be mutually helpful to our countries.

Unlike many of the other arrangements we make in this Congress, this one is subject to a periodic review. We can check exactly the developments that occur under the Trade Act. I certainly urge my colleagues to vote in support of the resolution.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I wonder if the distinguished chairman would tell the House how many witnesses we had against this agreement and what was the attitude of the Hungarian-American groups about this trade agreement?

Mr. VANIK. As I recall the Trade Committee hearings, there were only 4 or 5 witnesses who appeared in opposition, and there was representation from American-Hungarian groups throughout America that seemed to feel this is a proper course and direction that the United States ought to take.

Mr. FRENZEL. If the gentleman will yield further, that was my recollection with the groups who met with me as well as those who testified in the hearings. Obviously the preponderance of opinion was in favor of this resolution.

Whatever the relationship between those groups and those in power in Hungary, the Hungarian-American groups felt the improved relations could not but be helpful to both the people in America and the people in Hungary.

Mr. VANIK. It was the feeling that trade relationships would expand and develop into better conditions for the people of Hungary as well as trade advantages for the United States.

● Mr. BINGHAM. Mr. Chairman, I support House Concurrent Resolution 555, approving the President's assessment that Hungary meets the standards of emigration set forth in the Trade Act of 1974 and should not, therefore, be further barred from most-favored-nation trading status with the United States. The effect of this agreement would be to acknowledge Hungary's commendable emigration policies and to allow the proposed United States-Hungarian trade agreement concluded March 17, 1978, to go into effect.

While the Government of Hungary does not grant passports to its citizens as a matter of right, as we do in the United States, passports for foreign travel and even emigration are generally granted to Hungarian citizens without undue restrictions in most cases. The practical effect of that policy, which I have verified personally through a visit to Hungary and detailed discussions of this and other matters with Hungarians and our embassy officials in Budapest, is that thousands of Hungarians travel rather freely to the West each year. At the same time, thousands of Westerners, including many former citizens of Hungary who now live in the West, are able to visit friend and family in Hungary without hindrance. This is the kind of humanitarian approach that we are striving to encourage in our relations with all nations, and I believe it is fitting and proper that we recognize the favorable situation in Hungary by moving forward in our relations with the Hungarian people through increased trade on more mutually favorable terms.

Just within the past few days, I noted in the press, Hungary has reached an agreement with neighboring Austria which will allow citizens of the two countries to travel freely across their common border without necessity of visas, monetary restrictions, or other hindrances and inconveniences. This is yet another concrete example of Hungary's real accomplishments in the area of human contact.

Mr. Chairman, I want to commend the members of the Ways and Means Committee, including particularly the very able chairman of the Subcommittee on Trade (Mr. VANIK), for taking prompt and favorable action on this resolution. I commend, too, our very able Ambassador to Hungary, the Honorable Philip M. Kaiser, and other officials of our State Department who skillfully negotiated the trade agreement which would be endorsed by passage of House Concurrent Resolution 555. I believe it is a fair and balanced agreement, containing strong provisions protecting both the Hungarians and ourselves against imports that might severely disrupt domestic industries and markets. Based upon my own work as chairman of the Subcommittee on International Economic Policy and Trade of the Committee on International Relations, I have every reason to believe that the Hungarian side takes those provisions of the agreement as seriously as we do, and will take every reasonable precaution to assure that trade between our two countries under the new most-favored-nation relationship will be as fair as it is free.

I urge my colleagues in the House to support this resolution.●

The CHAIRMAN. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 555

Resolved by the House of Representatives (the Senate concurring), That the Congress approves the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic transmitted by the President to the Congress on April 7, 1978.

Mr. VANIK. Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House with the recommendation that the concurrent resolution be agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. KAZEN, having assumed the chair, Mr. KILDEE, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 555) approving the extension of nondiscriminatory treatment with respect to the products of the Hungarian Peoples' Republic, had directed him to report the concurrent resolution back to the House with the recommendation that the concurrent resolution be agreed to.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHULZE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 173, not voting 52, as follows:

[Roll No. 348]

YEAS—209

Abdnor	Bevill	Burton, Phillip
Akaka	Bingham	Carr
Alexander	Blouin	Cavanaugh
Ammerman	Boggs	Chisholm
Anderson, Ill.	Bolling	Clay
Andrews, N.C.	Bonior	Cohen
Andrews, N. Dak.	Bonker	Coleman
Ashley	Brademas	Conable
Aspin	Breaux	Conte
Baldus	Brodhead	Corcoran
Baucus	Brooks	Corman
Beard, R.I.	Brown, Calif.	Cornell
Bedell	Brown, Ohio	Coughlin
Bellenson	Burlison, Mo.	Danielson
	Burton, John	de la Garza

Dicks	LaFalce	Rangel
Diggs	Leach	Regula
Dodd	Lehman	Reuss
Downey	Lloyd, Calif.	Richmond
Drinan	Long, La.	Rooney
Duncan, Oreg.	Lujan	Rosenthal
Early	McCloskey	Rostenkowski
Eckhardt	McCormack	Roybal
Edgar	McFall	Ruppe
Edwards, Calif.	McHugh	Sawyer
Eilberg	Maguire	Scheuer
Emery	Mahon	Schroeder
English	Markey	Sebelius
Evans, Colo.	Marks	Seiberling
Evans, Del.	Meeds	Sharp
Fary	Metcalfe	Simon
Fascell	Meyner	Sisk
Fenwick	Michel	Skubitz
Fish	Mikulski	Smith, Iowa
Fisher	Mikva	Smith, Nebr.
Fithian	Milford	Solarz
Foley	Miller, Calif.	Spellman
Ford, Mich.	Mineta	St Germain
Ford, Tenn.	Mitchell, Md.	Stangeland
Forsythe	Moakley	Stanton
Frenzel	Moffett	Stark
Garcia	Montgomery	Steers
Gaydos	Moore	Steiger
Gephardt	Moorhead, Pa.	Stockman
Giaimo	Moss	Stokes
Glickman	Murphy, N.Y.	Studds
Gonzalez	Myers, Gary	Thompson
Gradison	Neal	Thone
Green	Nedzi	Tsongas
Hagedorn	Nix	Udall
Hall	Nolan	Van Deerlin
Hamilton	O'Brien	Vander Jagt
Hanley	Oberstar	Vanik
Hannaford	Obey	Vento
Harkin	Ottinger	Waggonner
Harrington	Panetta	Walgren
Harris	Patterson	Waxman
Heftel	Pattison	Weaver
Holtzman	Pease	Weiss
Howard	Pepper	Whalen
Huckaby	Perkins	Wiggins
Jeffords	Pettis	Wilson, C. H.
Johnson, Calif.	Pickle	Wilson, Tex.
Johnson, Colo.	Pike	Winn
Jones, Okla.	Poage	Wirth
Jordan	Preyer	Wolff
Kastenmeier	Price	Wright
Keys	Quayle	Yates
Kildee	Rahall	Yatron
Kostmayer	Railsback	Zablocki

NAYS—173

Addabbo	Devine	Ketchum
Ambro	Dickinson	Kindness
Applegate	Dingell	Krebs
Archer	Dornan	Krueger
Armstrong	Edwards, Ala.	Lagomarsino
Ashbrook	Edwards, Okla.	Latta
Badham	Ertel	Le Fante
Bafalis	Evans, Ga.	Lederer
Barnard	Evans, Ind.	Lent
Bauman	Flippo	Levitas
Beard, Tenn.	Flood	Long, Md.
Benjamin	Florio	Lott
Bennett	Flowers	Lundine
Blanchard	Flynt	McClory
Boland	Fountain	McDade
Brinkley	Fowler	McDonald
Broomfield	Gammage	McEwen
Brown, Mich.	Gilman	McKay
Broyhill	Ginn	McKinney
Buchanan	Goldwater	Madigan
Burgener	Goodling	Mann
Burke, Fla.	Grassley	Marlenee
Burke, Mass.	Gudger	Marriott
Burleson, Tex.	Guyer	Martin
Butler	Hammer-schmidt	Mathis
Byron		Mattox
Caputo	Hansen	Miller, Ohio
Carney	Harsha	Minish
Cederberg	Heckler	Mitchell, N.Y.
Chappell	Hefner	Mollohan
Clausen, Don H.	Hightower	Moorhead, Calif.
Clawson, Del	Hillis	Mottl
Cleveland	Holland	Murphy, Ill.
Collins, Tex.	Holt	Murphy, Pa.
Cornwell	Horton	Murtha
Cotter	Hubbard	Myers, John
Cunningham	Hughes	Myers, Michael
D'Amours	Hyde	Natcher
Daniel, Dan	Ichord	Nichols
Daniel, R. W.	Ireland	Nowak
Davis	Jacobs	Patten
Delaney	Jenkins	Pressler
Derrick	Kazen	Quillen
Derwinski	Kelly	Rinaldo
Risenhoover	Kemp	Rinaldo
Roberts	Shuster	Walker
Robinson	Sikes	Walsh
Roe	Skelton	Wampler
Rogers	Slack	Watkins
Rose	Snyder	White
Rousselot	Spence	Whitehurst
Rudd	Staggers	Whitley
Russo	Steed	Whitten
Ryan	Stratton	Wydler
Santini	Symms	Wylie
Sarasin	Taylor	Young, Fla.
Satterfield	Traxler	Young, Mo.
Schulze	Treible	Zeferetti
	Volkmer	

NOT VOTING—52

Allen	Findley	Pritchard
Anderson, Calif.	Fraser	Pursell
Annunzio	Frey	Quie
AuCoin	Fuqua	Rhodes
Biaggi	Gibbons	Rodino
Bowen	Gore	Roncalio
Breckinridge	Hawkins	Runnels
Burke, Calif.	Hollenbeck	Shipley
Carter	Jenrette	Stump
Cochran	Jones, N.C.	Teague
Collins, Ill.	Jones, Tenn.	Thornton
Conyers	Kasten	Treen
Crane	Leggett	Tucker
Dellums	Livingston	Ullman
Dent	Lloyd, Tenn.	Wilson, Bob
Duncan, Tenn.	Luken	Young, Alaska
Erlenborn	Mazzoli	Young, Tex.
	Oakar	

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Jenrette against.

Mr. AuCoin for, with Mr. Teague against.

Mr. Annunzio for, with Mr. Dent against.

Mr. Shipley for, with Mrs. Lloyd of Tennessee against.

Mr. Hawkins for, with Mr. Carter against.

Mrs. Burke of California for, with Mr. Crane against.

Mr. Kasten for, with Mr. Duncan of Tennessee against.

Mr. Livingston for, with Mr. Erlenborn against.

Mr. Pritchard for, with Mr. Frey against.

Mr. Quie for, with Mr. Hollenbeck against.

Mr. Treen for, with Mr. Young of Alaska against.

Until further notice:

Mr. Bowen with Mr. Stump.

Mr. Biaggi with Mr. Jones of North Carolina.

Mr. Fuqua with Mr. Allen.

Mr. Runnels with Mr. Cochran of Mississippi.

Mr. Ullman with Mr. Gibbons.

Mr. Mazzoli with Mr. Roncalio.

Ms. Oakar with Bob Wilson.

Mr. Dellums with Mr. Luken.

Mr. Conyers with Mr. Leggett.

Mrs. Collins of Illinois with Mr. Gore.

Mr. Anderson of California with Mr. Fraser.

Mr. Breckinridge with Mr. Findley.

Mr. Thornton with Mr. Pursell.

Messrs. COTTER, STRATTON, and EVANS of Georgia changed their vote from "yea" to "nay."

Mr. ABDNOR changed his vote from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 12602, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1193 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1193

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. KAZEN). The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, I know of absolutely no opposition to this open rule, with 2 hours of general debate. The waivers are routine. I see no point in using more time. I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 2-hour, open-rule waiving section 402(a) of the Budget Act and clause 5, rule 21, prohibiting appropriations in an authorization bill. The rule also provides that H.R. 12602, the Military Construction Authorization Act, will be read for amendment by titles instead of by sections.

The bill authorizes a total of $4,169,444,000 for certain construction at military installations for fiscal year 1979. The bill was reported out of the Committee on Armed Services by a vote of 30 to 0.

Mr. Speaker, there is no controversy regarding the rule, and I urge its adoption.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Speaker, I note that there was a little motion there on the part of the chairman of the Budget Committee so that a little later on we can go ahead and penetrate the budget that we just passed.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, in effect, the committee is going to correct the problem that is raised by the bill by offering an amendment to postpone the effectiveness until the 1st of October. Therefore, the chairman of the Budget Committee indicated his approval of

bringing the bill up, otherwise it could not even have been brought up to be corrected.

Mr. KETCHUM. Mr. Speaker, if the gentleman will yield further, I thank the gentleman for his comments.

Mr. Speaker, that is really an interesting exercise, I think. We just barely passed the budget resolution, and now we are finding ways to circumvent it.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GIBBONS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 377, nays 1, not voting 56, as follows:

[Roll No. 349]

YEAS—377

Abdnor	Carney	Fish
Addabbo	Carr	Fisher
Akaka	Cavanaugh	Fithian
Alexander	Cederberg	Flippo
Ambro	Chappell	Flood
Ammerman	Chisholm	Florio
Anderson, Ill.	Clausen, Don H.	Flowers
Andrews, N.C.	Clawson, Del	Flynt
Andrews, N. Dak.	Clay	Foley
Applegate	Cleveland	Ford, Mich.
Archer	Cohen	Ford, Tenn.
Armstrong	Coleman	Forsythe
Ashbrook	Collins, Ill.	Fountain
Ashley	Collins, Tex.	Fowler
Aspin	Conable	Frenzel
Badham	Conte	Gammage
Bafalis	Corcoran	Garcia
Baldus	Corman	Gaydos
Barnard	Cornell	Gephardt
Baucus	Cotter	Giaimo
Bauman	Coughlin	Gibbons
Beard, R.I.	Cunningham	Gilman
Beard, Tenn.	D'Amours	Ginn
Bedell	Daniel, Dan	Glickman
Beilenson	Daniel, R. W.	Goldwater
Benjamin	Danielson	Gonzalez
Bennett	Davis	Gradison
Bevill	de la Garza	Grassley
Biaggi	Delaney	Green
Bingham	Dent	Gudger
Blanchard	Derrick	Guyer
Blouin	Derwinski	Hagedorn
Boggs	Devine	Hall
Boland	Dickinson	Hamilton
Bolling	Dicks	Hammer-schmidt
Bonior	Dingell	Hanley
Bonker	Dodd	Hannaford
Brademas	Dornan	Hansen
Breaux	Downey	Harkin
Brinkley	Drinan	Harrington
Brodhead	Duncan, Oreg.	Harris
Brooks	Early	Harsha
Broomfield	Eckhardt	Heckler
Brown, Calif.	Edgar	Hefner
Brown, Mich.	Edwards, Ala.	Heftel
Brown, Ohio	Edwards, Calif.	Hightower
Broyhill	Edwards, Okla.	Hillis
Buchanan	Eilberg	Holland
Burgener	Emery	Holt
Burke, Fla.	English	Holtzman
Burke, Mass.	Ertel	Horton
Burleson, Tex.	Evans, Colo.	Howard
Burlison, Mo.	Evans, Del.	Hubbard
Burton, John	Evans, Ga.	Huckaby
Burton, Phillip	Evans, Ind.	Hughes
Butler	Fary	Hyde
Byron	Fascell	Ichord
Caputo	Fenwick	Ireland
Jacobs	Moorhead, Calif.	Sebelius
Jeffords	Moorhead, Pa.	Selberling
Jenkins	Moss	Sharp
Johnson, Calif.	Mottl	Shuster
Johnson, Colo.	Murphy, Ill.	Sikes
Jones, Okla.	Murphy, N.Y.	Simon
Jordan	Murphy, Pa.	Sisk
Kastenmeier	Murtha	Skelton
Kazen	Myers, Gary	Skubitz
Kelly	Myers, John	Slack
Kemp	Myers, Michael	Smith, Iowa
Keys	Natcher	Smith, Nebr.
Kildee	Neal	Snyder
Kindness	Nedzi	Solarz
Kostmayer	Nichols	Spellman
Krebs	Nix	Spence
Krueger	Nolan	St Germain
LaFalce	Nowak	Staggers
Lagomarsino	O'Brien	Stangeland
Latta	Oberstar	Stanton
Le Fante	Obey	Stark
Leach	Ottinger	Steed
Lederer	Panetta	Steers
Leggett	Patten	Stockman
Lehman	Patterson	Stokes
Lent	Pattison	Stratton
Levitas	Pease	Studds
Lloyd, Calif.	Pepper	Symms
Long, La.	Perkins	Taylor
Long, Md.	Pettis	Thompson
Lott	Pickle	Thone
Lujan	Pike	Traxler
Lundine	Poage	Treible
McClory	Pressler	Tsongas
McCloskey	Preyer	Udall
McCormack	Price	Van Deerlin
McDade	Quayle	Vander Jagt
McDonald	Quillen	Vanik
McEwen	Rahall	Vento
McFall	Railsback	Volkmer
McKay	Rangel	Waggonner
McKinney	Regula	Wa.gren
Madigan	Reuss	Walker
Maguire	Richmond	Walsh
Mann	Rinaldo	Wampler
Markey	Risenhoover	Watkins
Marks	Roberts	Waxman
Marlenee	Robinson	Weaver
Marriott	Roe	Weiss
Martin	Rogers	Whalen
Mathis	Rooney	White
Mattox	Rose	Whitehurst
Meeds	Rosenthal	Whitley
Metcalfe	Rostenkowski	Whitten
Meyner	Rousselot	Wiggins
Michel	Roybal	Wilson, C. H.
Mikulski	Rudd	Wilson, Tex.
Mikva	Ruppe	Winn
Milford	Russo	Wirth
Miller, Calif.	Ryan	Wolff
Miller, Ohio	Santini	Wydler
Mineta	Sarasin	Wylie
Minish	Satterfield	Yates
Mitchell, N.Y.	Sawyer	Yatron
Moakley	Scheuer	Young, Fla.
Mollohan	Schroeder	Young, Mo.
Montgomery	Schulze	Zablocki
Moore		Zeferetti

NAYS—1

Ketchum

NOT VOTING—56

Allen	Frey	Pritchard
Anderson, Calif.	Fuqua	Pursell
Annunzio	Goodling	Quie
AuCoin	Gore	Rhodes
Bowen	Hawkins	Rodino
Breckinridge	Hollenbeck	Roncalio
Burke, Calif.	Jenrette	Runnels
Carter	Jones, N.C.	Shipley
Cochran	Jones, Tenn.	Steiger
Conyers	Kasten	Stump
Cornwell	Livingston	Teague
Crane	Lloyd, Tenn.	Thornton
Dellums	Luken	Treen
Diggs	McHugh	Tucker
Duncan, Tenn.	Mahon	Ullman
Erlenborn	Mazzoli	Wilson, Bob
Findley	Mitchell, Md.	Wright
Fraser	Moffett	Young, Alaska
	Oakar	Young, Tex.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Carter.
Mr. Bowen with Mr. Duncan of Tennessee.
Mr. AuCoin with Mr. Young of Alaska.
Mr. Anderson of California with Mr. Tucker.
Mr. Jones of Tennessee with Mr. Livingston.
Mr. Hawkins with Mrs. Lloyd of Tennessee.
Mr. Cornwell with Mr. Cochran of Mississippi.
Mr. Shipley with Mr. Hollenbeck.
Mr. Fugua with Mr. Bob Wilson.
Mr. Gore with Mr. Erlenborn.
Mr. Jenette with Mr. Jones of North Carolina.
Mr. Breckinridge with Mr. Goodling.
Mrs. Burke of California with Mr. Crane.
Mr. Conyers with Mr. Findley.
Mr. Dellums with Mr. Frey.
Mr. Luken with Mr. Stump.
Mr. Mazzoli with Mr. Treen.
Mr. Diggs with Mr. Quie.
Mr. Mitchell of Maryland with Mr. Pursell.
Mr. Moffitt with Mr. Steiger.
Ms. Oakar with Mr. Pritchard.
Mr. Ullman with Mr. Mahon.
Mr. Wright with Mr. Runnels.
Mr. Teague with Mr. Roncalio.
Mr. McHugh with Mr. Kasten.
Mr. Fraser with Mr. Thornton.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 10729, MARITIME APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1979

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1190 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1190

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10729) to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment recommended by the Committee on Merchant Marine and Fisheries now printed in the bill on page 3, line 19 through page 4, line 4, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. KAZEN). The gentleman from Washington (Mr. MEEDS) is recognized for one hour.

Mr. MEEDS. Mr. Speaker, I yield the usual 30 minutes for the minority to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1190 is the rule providing for the consideration

of the bill H.R. 10729 to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce.

It is a 1-hour open-rule and waives points of order for one amendment recommended by the Committee on Merchant Marine and Fisheries, which is now printed in the bill on page 3, line 19 through page 4, line 4. The rule waives points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, the germaneness rule.

In requesting a rule from the Rules Committee, the distinguished chairman of the Merchant Marine and Fisheries Committee indicated that a waiver was necessary to allow the committee to recommend two changes—one authorizing the Secretary to assist State marine schools in paying training ship fuel cost increases and the other increasing the title XI guarantee program's ceiling from $7 to $10 billion.

The largest part of the funds authorized by this bill will go to the construction-differential subsidy program and the operating-differential subsidy program that help to maintain our maritime industry. In addition there is authorization for funding for other important programs including research and development activities, training expenses for our merchant marine, and operating expenses for our reserve fleet. The total authorization contained in the bill is $496,792,000, which represents a decrease of $56,805,000 from the amount authorized for fiscal year 1978.

Mr. Speaker, I support the rule and urge the adoption of House Resolution 1190 in order that H.R. 10729 may be considered.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. LOTT. Mr. Speaker, this is a 1 hour, open rule permitting the consideration of H.R. 10729, the Maritime Appropriation Authorization Act of fiscal year 1979. The resolution waives clause 7 of rule XVI (the germaneness rule) to make in order provisions increasing the Maritime Administration's ceiling on its ship mortgage loan guarantee authority from $7 to $10 billion and authorizing the payment of fuel costs for training vessels at State marine schools.

The legislation which is the subject of this resolution authorizes funds for several category of our merchant marine program. Very briefly, those categories are acquisition and construction of vessels, construction-differential subsidy, operating-differential subsidy, research and development, reserve fleet expenses, Merchant Marine Academy, State marine schools, operations, and training expenses, and the ship mortgage loan guarantee program. The total cost of this legislation for fiscal year 1979 is $496,792,000. This figure is $56,805,000 below last year's authorization level.

As far as I know, there is no controversy with the rule with the exception of the section in the bill made in order which raises the vessel mortgage loan guarantee authority. However, I would like to remind the Members that should this provision be enacted, it will not authorize any expenditures. It is only a loan guarantee program. I am advised that the additional guarantees are needed based on a current backlog of pending applications which will cause the current ceiling to be reached this year. This activity is so important to our merchant marine, because it encourages construction and private financing of ships under a self-sustaining program requiring no Federal appropriations.

Mr. Speaker, I fully support this rule and the bill it makes in order.

Mr. Speaker, I have no requests for time and yield back the remainder of my time.

Mr. MEEDS. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

Mr. NEDZI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12602, with Mr. DERRICK in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. NEDZI) will be recognized for 1 hour and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 1 hour.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House Committee on Armed Services presents H.R. 12602, the military construction authorization bill for fiscal year 1979.

The purpose of the bill is to provide new military construction authorization and related authority in support of the military departments and defense agencies.

At this point, Mr. Chairman, I want to thank the ranking member of the Subcommittee on Military Installations and Facilities, the distinguished gentleman from Virginia, the Honorable G. WILLIAM WHITEHURST, and all of the members of the subcommittee for their tireless efforts during the hearings and markup sessions on the bill. Without their diligence and the high degree of attendance, we could not be here to seek a vote on H.R. 12602.

Overall, we believe that H.R. 12602 is a good bill. It is a balanced measure that meets the most pressing requirements. It is a bill that reflects the efforts and judgment of the House Armed Services Committee.

The Defense Department requested new authorization in the amount of $4,247,809,000 for fiscal year 1979. This request is $671.8 million, or 19 percent higher than the $3.576 billion requested in fiscal year 1978.

As submitted to the Congress, the construction program for fiscal year 1979 contained approximately 850 individual line item projects at approximately 390 military installations within the United States and overseas.

After extensive hearings in seven separate sessions and close review of each requested project, the committee was able to determine those proposals that in its view could be deferred without impairing the operational effectiveness of the armed services.

Our committee did not cut projects just for the sake of cutting, but deleted projects that we felt could be deferred without damaging our national security. In certain instances, we added projects where it was determined by testimony or supporting documentation that the priority was great enough to support such action of the committee.

In some cases, because of the recent announcements of new base closure and realignment studies, the committee identified a number of projects that may be affected and deferred them without prejudice. In doing so, the committee has not given implied or prior approval to any actions the Department of Defense may take pursuant to the completion of the studies. In fact, the committee report accompanying H.R. 12602 states that the Department of Defense is on notice that it must fully comply with all base closure and realinement procedures, be fully prepared to justify its actions and be prepared for committee review of its recommendations.

The committee agreed on a reduced total in the amount of $4,169,444,000 in new authorization which is $78,365,000 less than the total amount requested.

For the individual services, the committee reduced the Army request of $842,631,000 to $731,491,000; increased the Navy request from $729,433,000 to $771,833,000; and reduced the Air Force request from $579,203,000 to $571,837,000.

While it is not possible at this time to discuss each project, since there are some 850 of them, I would point out some of the significant items of interest to the Members.

The bill contains $533.6 million for construction to strengthen U.S. defense capability within the North Atlantic Treaty Organization (NATO). It provides $145.6 million for Space Shuttle ground and launch support facilities at Vandenberg Air Force Base, Calif., and Cape Canaveral, Fla. For naval shipyard modernization $101,800,000 is authorized. It provides $457 million for military health care, housing, and community facilities. The bill also authorizes $312 million for energy conservation and air and water pollution abatement.

In title I, the Army portion of the bill, the committee approved a number of

NATO readiness projects, including $74.7 million for additional ammunition storage facilities $56.6 million to modernize inadequate weapons maintenance facilities, and $ 56.9 million for storage facilities of additional prepositioned wartime stocks for mobilization.

In title II, the Navy portion of the bill, the committee approved two major items: $16.3 million to continue development of the Trident submarine base at Bangor, Wash., and $39.1 million for the second phase of the facilities at Kings Bay, Ga., to accommodate the Poseidon submarine squadron scheduled to be shifted from Rota, Spain, in July 1979. In addition, $25 million was approved for Navy projects at its European bases.

The committee also added $43 million for construction of a new ammunition wharf at Orote Point, Guam, to replace an existing facility that has been operating under a safety waiver since 1966.

In title III, the Air Force portion of the bill, in addition to the Space Shuttle, the committee approved $177.5 million in new NATO support construction for the Air Force, including $59.6 million to continue the program to protect U.S. aircraft in Europe with hardened shelters.

In title IV, for defense agencies, the committee approved $154,566,000. Included in this amount is $70,000,000 in new authorization for the NATO infrastructure program, $33.7 million for overseas dependents' schools, and $10 million for emergency construction to provide for unforeseen construction requirements.

In title V, military family housing, the committee approved $1,690,100,000. Within this total, $64.3 million is included for 1,668 new units of family housing and $1.562 billion for operation and maintenance and debt payment incurred with the housing program.

In title VI, general provisions, the committee consolidated a number of cost variation authorities into one section in order to provide a more comprehensible and complete picture. Another initiative includes a provision requiring submittal of the military construction authorization bill 10 days after the Federal budget is transmitted to Congress. This will insure the committee of having adequate time to carefully review the program.

Under this title, also, five land conveyances are authorized. All of these transactions were subject to public hearings.

This briefly, Mr. Chairman, is the committee's recommendation to the House. We are prepared to answer any Member's question regarding the committee's action and our recommendations. We believe our recommendation to the House is a good one and I recommend approval of H.R. 12602.

Mr. WHITEHURST. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to compliment the leadership of our chairman, the gentleman from Michigan (Mr. NEDZI). I think we have been given as comprehensive a look that could be taken at the various projects that were recommended in the military construction budget.

I wish to express my support of H.R. 12602, the Military Construction Authorization Act for Fiscal Year 1979.

This bill contains only those projects our committee considers essential. I believe we have brought to the House a bill that provides not only necessary construction at military bases at home and abroad but at the same time recognizes the call for economy in the Federal budget. As the gentleman from Michigan noted, the bill is more than $78 million below the amount requested by the Defense Department.

There is an important emphasis in this year's bill to improve our defense readiness in Europe. In my opinion, this new construction to support U.S. forces in NATO is long overdue. Last winter, I inspected a number of our bases in Germany and saw our soldiers trying to maintain tanks and other armored vehicles in ankle-deep mud. These young men and women are working in open-air shops that are freezing cold in winter and are nothing more than old converted horse stables built long before World War II for the German Army. These poor maintenance conditions are hobbling our ability in NATO to be ready to blunt any Warsaw Pact invasion. Many of these deficiencies, however, would be corrected through new construction authorized in this bill. Nearly $57 million is provided to modernize inadequate weapons maintenance facilities in Europe.

There are also projects in H.R. 12602 to improve the living conditions for our troops in Europe. Many of our personnel still live in substandard barracks that predate World War II. By providing our forces with adequate places to live and work, we will be boosting troop morale, so vital in maintaining a high degree of defense readiness.

The bill provides more than $500 million in authorization for the construction of badly needed projects in the NATO countries. In my opinion, the most important request is for $56.9 million to provide storage facilities for additional prepositioned Army wartime stocks for mobilization. This is the start of a NATO plan, agreed to only last week by NATO defense ministers, to stockpile enough equipment to outfit five full U.S. Army divisions plus support units which would be flown from the United States in the event of war or an approaching crisis.

These reinforcement troops, numbering between 100,000 to 150,000 personnel, would join roughly five U.S. divisions already stationed in Europe. Under the plan, the first division of Army reinforcements could be in Europe within 2 days and three divisions within 1 week. Without these stocks pre-positioned in NATO, it would take at least 6 weeks to move three U.S. divisions and their equipment to Europe.

The United States has long stockpiled equipment—extra tanks, trucks, supplies, and ammunition—for an extra 2⅓ divisions in Europe. This stockpile would now be increased to supply five reinforcement divisions and would require construction funds for the next several years to put the plan into effect. As one can see, this concept will provide NATO with greatly improved readiness, and yet not require any large increase in the present number of U.S. forces stationed in Europe.

Other important elements to upgrade NATO readiness are also contained in H.R. 12602. They include $74.7 million for additional ammunition storage facilities for the Army, and $59.6 million to continue the program to protect U.S. aircraft in Europe with hardened shelters.

I am greatly concerned that Senate committee action on this legislation has been to defer these vital NATO projects because of a belief that they should be funded solely by the Alliance. That is a nice thought, but it is not realistic. The NATO Infrastructure Fund that would finance these projects is already underfunded, and the prospects of all NATO countries being able to greatly increase their contributions to the Infrastructure Fund to cover this construction now are indeed remote. Thus, our committee believes that the readiness projects are needed now and that the United States, through existing prefinancing arrangements with NATO, will be able to recoup some of these expenditures from the Infrastructure Fund over the next several years.

U.S. officials in NATO advise me that if we were to wait for Infrastructure funding of these projects, the stockpiling of tanks and trucks would be delayed at least 2 years; aircraft shelters, at least 2 years; and storage facilities for ammunition, at least 4 years. We cannot afford such delays if we want to be ready in NATO to defend against attack.

Mr. Chairman, there are many other things I could say about this legislation, but I will not take the time to do so now. We are prepared to answer any questions that the Members may have. We believe we have brought a good bill to the floor, and I urge the passage of H.R. 12602.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I wish to compliment the Committee on Armed Services for reporting out the bill, H.R. 12602. As part of the total funding in the bill there are significant amounts for numerous installations in the State of Maryland, three of which are located in the district which I represent.

For the combined facilities of the Aberdeen Proving Ground/Edgewood Arsenal complex in Harford County, the committee has provided $9,412,000. This includes $3,725,000 for a decontamination and detoxification facility at Edgewood and $5,687,000 for improved sewage treatment facilities at Aberdeen. This latter amount is particularly important to the Harford County area and to the entire Chesapeake Bay. Unfortunately we have learned from bitter experience that some Federal installations are the worst offenders when it comes to water pollution. These funds will do much to bring Aberdeen Proving Ground into compliance with Federal water pollution control laws.

The bill also contains $6,100,000 in funds for one of the Navy's major research and test centers, the Patuxent River Naval Air Test Center. As at Aberdeen, Pax River will receive $610,000 for a solid waste disposal plant.

Most important to Patuxent, however, is the inclusion of $3,900,000 for a new aircraft test and evaluation facility. This major improvement will do much to assure that this base will continue as an important part of the Navy's R. & D. and T. & E. process. It is also another assurance of the continuation of the base itself, the major employer in St. Mary's County. Other funding for Patuxent include $300,000 for oil spill prevention, $760,000 for energy conservation control, and $530,000 for additional administrative space.

The bill also contains $410,000 for energy conservation at the Naval Ordinance Station in Indian Head, Md.

I appreciate the committee's action in these several instances and urge passage of the legislation.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the bill, H.R. 12602, to authorize construction at military installations for fiscal year 1979. I would like to commend the chairman, Mr. NEDZI, the ranking Republican Mr. WHITEHURST, and the subcommittee for their thorough and responsible approach to this legislation, especially those provisions dealing with the construction of facilities at Vandenberg Air Force Base for the Space Shuttle program. I am most pleased to note the legislation before us today contains the requested funding for construction of Space Shuttle facilities at Vandenberg Air Force Base. I am a strong proponent of the Space Shuttle program, not only because the west coast launch site is in my congressional district but more importantly because of the significant benefits to be derived from the program both technological and scientific.

There has, as you know, been substantial discussion about the necessity of a west coast launch facility for the Space Shuttle program. I commend the committee for proceeding with start-up construction funds for Vandenberg. I believe Vandenberg is essential to the program for the following reasons.

Vandenberg Air Force Base is our national space port for all high inclination polar orbits. High inclination orbits are essential to our space program because they allow satellites maximum time for repetitive viewing of the Earth's entire surface. These trajectories are critical for sensing natural resources, monitoring crops and rangeland, mapping, and military surveillance, to name but a few applications. While some have argued that high inclination orbits can be conducted from the Kennedy Space Center in Florida, I must respectfully disagree because of the unacceptable risks and loss of efficiency incurred. High inclination launches cannot be conducted from the Kennedy Space Center without unacceptable overflights of highly populated areas during launch. While the so-called dogleg maneuver eliminates some of the problems such as sonic boom damage, it would still result in a flight pattern which would involve suborbital flights over highly populated areas in the Soviet Union, Canada, China, and the Eastern United States threatening not only the safety of those areas in the event of an abort but raising grave concern over Soviet and Chinese reactions to suborbital overflights of their territory. The recent excessive reaction to the overflight of a Korean airliner graphically illustrates the extreme sensitivity of the Chinese to such overflights of their territory. In addition, the dogleg trajectory would result in a payload reduction of about 10,000 pounds or 30 percent of the normal launch capability.

It seems clear that Vandenberg's active participation in the Space Shuttle program is essential to fulfill the objectives of Space Shuttle and provide the cost effectiveness the program was originally designed to achieve. The United States must maintain its capability for high inclination orbits to assure maximum efficiency of the Shuttle program. To do otherwise would result in higher costs, through the continued use of expendable launch vehicles, and seriously degrade the overall objectives of the Shuttle program. For example, 31 of the 39 Spacelab missions and 44 Shuttle launches critical to our national defense now scheduled for Vandenberg would be seriously affected.

In my opinion, too much time, money, and effort has already been invested in the Space Shuttle program to limit its usefulness by restricting operations to a single launch complex. I am most pleased to see the committee concur and I urge adoption of the legislation now before us.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I notice in the report that this figure is some $78 million below the request.

Mr. WHITEHURST. That is correct.

Mrs. FENWICK. Mr. Chairman, could the gentleman tell me how this compares with the $4,169,444,000 from last year?

Mr. WHITEHURST. It is substantially more than that. I will tell the gentlewoman why that is so.

The request last year was substantially less. As I recall, the administration at that time had some questions about the closing of some of our bases, and in view of the pending decision, it was decided to send in a military construction budget that was substantially below what it had been in the past. This year the figure came back up again. I would say that the military construction budget last year was about half of what we would have normally anticipated.

Mrs. FENWICK. In other words, half of this figure, $2 billion instead of $4 billion?

Mr. WHITEHURST. Yes; no question about it.

Mrs. FENWICK. Does the gentleman have the figures for last year?

Mr. WHITEHURST. I do not have the exact figures. I thought it was about $2 billion, but I see now the request was for $3.5 billion last year. I thought it was less than that.

Mr. NEDZI. Mr. Chairman, will the gentleman yield?

Mr. WHITEHURST. I yield to the gentleman from Michigan.

Mr. NEDZI. Mr. Chairman, the figure for last year was $3.576 billion. So it is some $700 million more this year.

Mrs. FENWICK. I see.

Mr. NEDZI. That was the request.

Mrs. FENWICK. No; I am referring to the authorization last year, apart from the request. The gentleman says the request was $3.576 billion, but I was wondering what was authorized last year, since we are now authorizing $4.169 billion.

Mr. NEDZI. Last year, $3.7 billion was authorized.

Mrs. FENWICK. Last year, 3.7 billion. In other words, a sum above the request?

Mr. NEDZI. That is correct.

Mrs. FENWICK. It was $3.7 billion which was authorized. I thank the gentleman.

Mr. WHITEHURST. Mr. Chairman, I have no further requests for time.

Mr. NEDZI. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I take the floor to point out a problem that appears to me to exist in the method that we use at this time in the construction of our Reserve armories. Whereas this may not be the total picture, as we spend money I think we are certainly obliged to look at every area wherein we spend money. This came about because in my district one contractor came to me, and I think that this contractor had already built a building for the National Guard and then he had a contract to build a building for the Reserve which was nearly identical and on which the cost was nearly twice as much per square foot for the Reserve armory as it was for the National Guard army. The big difference seemed to be that, because of the specification and the involvement of the Corps of Engineers, the cost per square foot for identical buildings was very much greater. That is apparently true with buildings.

I had the cooperation of the committee in working with the Reserve, with the engineers, and with the committee. They have set up a possible pilot project up in Baltimore, wherein the building would be built in the same way as most of the construction in the private sector is constructed, and that is where you hire an architect, the architect is responsible for the design of the building as well as the supervision of the construction. The engineers came to my office just last week, told me that this was progressing. They had hired the architect, but the architect wanted to put on full-time supervision of the construction, which would not normally be the situation, at least in most buildings. I asked him what the fee was going to be that the architect would charge. The fee came out to $264,000 proposed for a $1.6 million building. Of that figure, roughly 16½ was going to be the architect's fee. I checked all over the country. I checked with the buildings

that have been put up in my area, whether they be hospitals, whether they be schools, whether they be churches. I find that architect's fees normally range from 5 percent to a maximum that I have been able to find of 8½ percent. The problem was that this architect was going to assess a fee of $140,000 to supervise construction of the building on which the fee for the design was $123,000. I found out, as I got into this, that in the selection of architects for governmental buildings, not just for Reserve armories, but for governmental buildings, there is no consideration given in the selection process as to what the fee is going to be before the architect is picked. After he is picked, then they negotiate with him on his fee. And it is right. They have an opportunity, if they want to, to hire him; but the fact is, in this case they signed a contract for the design without having to ever reach an agreement as to what the supervision cost would be. And they then came back and said it would cost $140,000.

Mr. Chairman, I believe we need to look at the entire process of selecting architects for our governmental buildings, because at least every place that I was able to check in the private sector wherein an architect was selected, whether it be a hospital, a school, a church, they interviewed architects, and one of the items under consideration was what the fee was going to be. I do not think we want the situation to be where we simply take the lowest fee. But for us not to have that as a consideration as we select architects for governmental buildings seems to me that we are not properly looking as to how we should try to look after the taxpayers' funds.

Mr. NEDZI. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Michigan.

Mr. NEDZI. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that the gentleman should be commended for his diligence in reviewing this entire problem and for his assistance to the subcommittee.

I state to the gentleman that the subcommittee does have this whole problem under continuing review. As a matter of fact, in the report that accompanies this particular legislation, the Defense Department has been admonished to commence a study which will go into all of the problems the gentleman touched upon in his comments this afternoon, following which we should see some kind of regulations forthcoming with respect to the construction of both Reserve and National Guard facilities, at least.

Mr. BEDELL. Mr. Chairman, again I want to emphasize that I wish to thank the committee for the cooperation they have given in trying to look into this matter.

Mr. Chairman, I want to make the point that in so doing, in going ahead with this pilot project, I think there is a possibility that we have uncovered a program which exists not only for reserve armories, but very possibly for the entire construction program for Government buildings as far as architect selection is concerned.

Mr. NEDZI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I am taking this time to compliment the committee on their work in producing this $4.169 billion bill, and particularly for their extraordinary work in targeting in on the need to modernize naval shipyards.

Of course, we all know that we have had a 10-year modernization program. We had a first year of that program that was good. In the second year it started to slip. We have had the Navy attempt to recoup their position in their request for the current year in that they have asked for something like $90 million for all eight naval shipyards, and the Department of Defense responded with something like $70 million. The work of the committee has restored, in large part, the cuts made by the Department of Defense and has kept the Navy on a proper third-year target.

Mr. Chairman, I would hope that we will receive appropriations to correspond with this authorization; and I would hope that the 4th, 5th, and 6th year and the balance of the 10 years will be on target; and that we will maintain our competitive edge in naval shipyards, at least in their repair and alteration functions.

Again, Mr. Chairman, I commend the chairman of the subcommittee and the subcommittee itself.

As is well known to our committees who are in constant touch with the state of readiness of our Naval Shipyards, the modernization plan to which I refer has been ratified by both House and Senate Armed Services Committees and, more recently, the General Accounting Office. I would like to bring the attention of the House tables published by the House Armed Services Committee in 1975 outlining the full 10-year shipyard modernization program.

TABLE 1.—RESTRUCTURED NAVAL SHIPYARD MODERNIZATION PROGRAM—PLANNED IMPLEMENTATION[1]

[Investment in millions (escalated)]

Appropriation	Fiscal year 1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	Total
Mcon	$47.0	$60.0	$92.1	$92.6	$79.7	$128.2	$132.7	$147.2	$150.0	$168.4	$1,097.9
Opn	25.0	24.2	22.5	23.1	24.2	19.3	21.5	22.8	18.9	19.2	220.7
Total	72 0	84.2	114.6	115.7	103.9	147.5	154.2	170.0	168.9	187.6	1,318.6

[1] This plan is subject to annual review in conjunction with the Office of Management and Budget, and is subject to adjustment according to fiscal constraints and other program priorities applicable at time of such review.

TABLE 2.—RESTRUCTURED NAVAL SHIPYARD MODERNIZATION PROGRAM[1]—IMPLEMENTATION BY FACILITY CATEGORY, FISCAL YEAR 1977 THROUGH 1986

[Investment in millions (escalated)]

Facility improvements	NSY Ptsmh	NSY Phila	NSY Norva	NSY Chasn	NSY Lbeach	NSY Mare	NSY Puget	NSY Pearl	Total
Pier wharf	6.2	9.2	4.1	27.5	11.5	4.1	9.3	5.9	77.8
Drydock	30.3	0	49.2	53.5	116.9	35.4	0	6.6	291.9
Production shop	43.8	22.7	18.9	6.4	16.2	50.6	40.0	39.2	237.8
Utilities	36.2	45.5	25.8	17.3	18.7	25.9	79.0	.9	249.0
Eng mgmt, QRA, misc	12.1	39.3	61.7	25.3	20.6	40.4	24.9	16.8	238.5
Total Mcon	128.6	116.7	159.7	130.0	183.9	156.4	153.2	69.4	1,097.9
Industrial plant equip	17.9	24.9	36.1	18.0	22.8	47.3	40.7	13.0	220.7
Total Mcon/IPE	146.5	141.6	195.8	148.0	206.7	203.7	193.9	82.4	1,318.6

[1] This plan is subject to annual review in conjunction with the Office of Management and Budget, and is subject to adjustment according to fiscal constraints and other program priorities applicable at time of such review.

As the table indicates, the amount programed for fiscal year 1979 is $92.1 million. The action of the House Armed Services Committee will bring this year's budget somewhere close to that figure. The most recent endorsement of this program came in a General Accounting Office report on the State of Naval Shipyards published just 6 weeks ago. GAO said this about the 10-year modernization program:

Since many industrial facilities and items of equipment in the eight naval shipyards were old and obsolete, the Secretary of Defense, in fiscal year 1970, directed the Navy to begin its shipyard modernization program. Under this program, shipyards were scheduled to be improved and modernized over 10 years with (1) new or rebuilt physical facilities—docks, piers, ships, and industrial support facilities—and (2) new plant equipment. The total modernization program was estimated to cost over $1 billion. By the end of fiscal year 1976, about $226 million had been committed.

In 1974, the Navy reevaluated and restructured the original program because of (1) the decreased fleet size, (2) changes in characteristics of Navy ships, (3) closures of Boston and Hunters Point (San Francisco) shipyards in 1974, and (4) the lag in funding of the original shipyard modernization program. The new 10-year program, scheduled to start in 1977, is estimated to cost about $1.3 billion.

In testimony before committtees this year, I reiterated another point that is common knowledge among close observers of our Navy: Our combatant fleet still faces a huge maintenance backlog which directly effects our capacity to conduct naval operations. My staff has recently returned from an onscene survey of selected naval units and reports that the congressionally mandated maintenance surge has had an effect in reducing that backlog; the current limiting factor, is lack of modern shipyard facilities in which to do all the things which need to be accomplished. I would point out that while new ships can be built in private yards, overhaul necessarily must occur in a public yard in order to provide homeporting facilities for crews near their families. This is a critically important matter for the Navy, whose mission requires extended family separations while our ships are at sea. To prolong those separations while ships are in port aggravates family instability and is a major cause of retention problems affecting crews. Considering the cost of replacing this pool of trained manpower, a reduction in our maintenance effort becomes pennywise and pound foolish. In short, the additions to the shipyard modernization program recommended by the Armed Services Committee represent the best possible means of serving our national interest. Chairman NEDZI and my colleagues on the Armed Services Committee should be strongly commended for the foresighted action they have taken in espousing these projects.

Mr. NEDZI. Mr. Chairman, I thank the gentleman from California (Mr. LEGGETT) on behalf of the subcommittee.

Mr. Chairman, I have no further requests for time.

Mr. WHITEHURST. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read the bill by titles.

The Clerk read as follows:

That this Act may be cited as the "Military Construction Authorization Act, 1979".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $9,222,000.
Fort Campbell, Kentucky, $2,699,000.
Fort Carson, Colorado, $25,636,000.
Fort Devens, Massachusetts, $799,000.
Fort Greeley, Alaska, $2,651,000.
Helemano Military Reservation, Hawaii, $1,916,000.
Fort Hood, Texas, $52,657,000.
Fort Sam Houston, Texas, $1,633,000.
Fort Lewis, Washington, $7,157,000.
Fort McCoy, Wisconsin, $991,000.
Fort Meade, Maryland, $10,669,000.
Fort Ord, California, $1,628,000.
Fort Polk, Louisiana, $25,845,000.
Fort Riley, Kansas, $7,801,000.
Schofield Barracks, Hawaii, $12,223,000.
Fort Stewart Hunter Army Air Field, Georgia, $57,129,000.
Fort Wainwright, Alaska, $3,323,000.
Yakima Firing Center, Washington, $1,270,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, $1,528,000.
Fort Bliss, Texas, $2,853,000.
Carlisle Barracks, Pennsylvania, $1,601,000.
Fort Eustis, Virginia, $947,000.
Fort Gordon, Georgia, $3,247,000.
Fort Benjamin Harrison, Indiana, $2,359,000.
Fort Knox, Kentucky, $14,356,000.
Fort Leavenworth, Kansas, $2,251,000.
Fort Lee, Virginia, $3,074,000.
Fort Monroe, Virginia, $550,000.
Fort Sill, Oklahoma, $26,981,000.
Fort Leonard Wood, Missouri, $11,470,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $9,412,000.
Anniston Army Depot, Alabama, $2,900,000.
Hawthorne Ammunition Depot, Nevada, $1,547,000.
Holston Army Ammunition Plant, Tennessee, $30,650,000.
Iowa Army Ammunition Plant, Iowa, $1,028,000.
Kansas Army Ammunition Plant, Kansas, $1,124,000.
Longhorn Army Ammunition Plant, Texas, $507,000.
Michigan Army Missile Plant, Michigan, $1,284,000.
Milan Army Ammunition Plant, Tennessee, $1,239,000.
Natick Laboratories, Massachusetts, $3,221,000.
Picatinny Arsenal, New Jersey, $16,381,000.
Pine Bluff Arsenal, Arkansas, $523,000.
Redstone Arsenal, Alabama, $3,825,000.
Rock Island Arsenal, Illinois, $1,957,000.
Seneca Army Depot, New York, $1,087,000.
Sierra Army Depot, California, $843,000.
Sunflower Army Ammunition Plant, Kansas, $1,281,000.
Tobyhanna Army Depot, Pennsylvania, $1,227,000.
Watervliet Arsenal, New York, $27,021,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $398,000.
Indiana Army Ammunition Plant, Indiana, $771,000.
Iowa Army Ammunition Plant, Iowa, $5,011,000.
Kansas Army Ammunition Plant, Kansas, $494,000.
Lone Star Army Ammunition Plant, Texas, $172,000.
Longhorn Army Ammunition Plant, Texas, $137,000.
Louisiana Army Ammunition Plant, Louisiana, $276,000.
Milan Army Ammunition Plant, Tennessee, $9,370,000.
Radford Army Ammunition Plant, Virginia, $2,960,000.
Scranton Army Ammunition Plant, Pennsylvania, $1,928,000.
Sunflower Army Ammunition Plant, Kansas, $2,251,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $3,811,000.
Fort Ritchie, Maryland, $5,115,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $12,265,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fitzsimons Army Medical Center, Colorado, $1,372,000.
Walter Reed Army Medical Center, District of Columbia, $3,524,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Sunny Point Military Ocean Terminal, North Carolina, $1,228,000.

OUTSIDE THE UNITED STATES

UNITED STATES ARMY, KOREA

Various Locations, $9,490,000.

KWAJALEIN MISSILE RANGE

National Missile Range, $6,571,000.

UNITED STATES ARMY, EUROPE

Germany, Various Locations, $260,824,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining therto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Headquarters Marine Corps, Arlington, Virginia, $12,000,000.
Marine Corps Base, Camp Lejeune, North Carolina, $16,660,000.
Marine Corps Base, Camp Pendleton, California, $19,700,000.
Marine Corps Air Station, Cherry Point, North Carolina, $2,000,000.
Marine Corps Air Station, El Toro, California, $7,150,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $8,500,000.
Marine Corps Air Station, New River, North Carolina, $5,300,000.
Marine Corps Development and Education Command, Quantico, Virginia, $3,300,000.
Marine Corps Air Station, Santa Ana, California, $920,000.
Marine Corps Base, Twentynine Palms, California, $12,000,000.
Marine Corps Air Station, Yuma, Arizona, $930,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $5,400,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $14,240,000.
Naval Station, Annapolis, Maryland, $1,000,000.
Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $39,100,000.
Naval Support Activity, Philadelphia, Pennsylvania, $5,700,000.
Commandant Naval District Washington, District of Columbia, $3,550,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $16,290,000.
Naval Air Station, Cecil Field, Florida, $2,030,000.
Naval Station, Charleston, South Carolina, $10,240,000.
Naval Air Station, Jacksonville, Florida, $1,285,000.
Naval Amphibious Base, Little Creek, Virginia, $4,100,000.
Naval Station, Mayport, Florida, $16,800,000.
Naval Submarine Base, New London, Connecticut, $13,650,000.
Naval Station, Norfolk, Virginia, $12,760,000.
Naval Air Station, Oceana, Virginia, $6,405,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $8,075,000.
Naval Air Station, Alameda, California, $1,380,000.
Naval Air Station, Lemoore, California, $1,450,000.
Naval Air Station, Miramar, California, $9,500,000.
Naval Air Station, Moffett Field, California, $1,000,000.
Naval Air Station, North Island, California, $7,110,000.
Naval Station, Pearl Harbor, Hawaii, $16,790,000.
Naval Station, San Diego, California, $41,000,000.
Naval Air Station, Whidbey Island, Washington, $9,500,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center Atlantic, Dam Neck, Virginia, $6,000,000.
Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, $800,000.
Fleet Training Center, Mayport, Florida, $630,000.
Naval Air Station, Memphis, Tennessee, $570,000.
Naval Submarine School, New London, Connecticut, $6,050,000.
Naval Education and Training Center, Newport, Rhode Island, $4,600,000.
Surface Warfare Officers School Command, Newport, Rhode Island, $1,750,000.
Naval Training Center, Orlando, Florida, $5,620,000.
Naval Submarine Training Center, Pearl Harbor, Hawaii, $1,500,000.
Fleet Anti-Submarine Warfare Training Center, San Diego, California, $4,250,000.
Fleet Combat Training Center, Pacific, San Diego, California, $760,000.
Fleet Training Center, San Diego, California, $8,200,000.
Naval Technical Training Center, San Francisco, California, $1,550,000.

BUREAU OF MEDICINE AND SURGERY

National Naval Medical Center, Bethesda, Maryland, $8,430,000.
Naval Regional Medical Center, Camp Lejeune, North Carolina, $51,500,000.
Naval Hospital, Cherry Point, North Carolina, $700,000.
Naval Regional Dental Center, Norfolk, Virginia, $7,400,000.
Naval Hospital, Quantico, Virginia, $1,800,000.

CHIEF OF NAVAL MATERIAL

Naval Ship Research and Development Center, Bethesda, Maryland, $1,290,000.
Puget Sound Naval Shipyard, Bremerton, Washington. $16,650,000.
Puget Sound Naval Supply Center, Bremerton, Washington, $2,700,000.
Naval Fuel Annex, Casco Bay, Maine, $1,150,000.
Charleston Naval Shipyard, Charleston, South Carolina, $20,200,000.
Naval Supply Center, Charleston, South Carolina, $1,100,000.
Naval Weapons Station, Charleston, South Carolina, $3,455,000.
Naval Weapons Center, China Lake, California, $5,360,000.
Naval Weapons Station, Concord, California, $2,600,000.
Naval Surface Weapons Center, Dahlgren, Virginia, $10,700,000.
Naval Weapons Station, Earle, New Jersey, $10,050,000.
Navy Public Works Center, Great Lakes, Illinois, $3,300,000.
Naval Avionics Facility, Indianapolis, Indiana, $2,900,000.
Portsmouth Naval Shipyard, Kittery, Maine, $16,150,000.
Naval Air Engineering Center, Lakehurst, New Jersey, $140,000.
Long Beach Naval Shipyard, Long Beach, California, $15,810,000.
Navy Ships Parts Control Centre, Mechanicsburg, Pennsylvania, $700,000.
Naval Air Rework Facility, Norfolk, Virginia, $4,000,000.
Naval Supply Center, Norfolk, Virginia, $4,270,000.
Navy Public Works Center, Norfolk, Virginia, $4,200,000.
Naval Supply Center, Oakland, California, $6,360,000.
Naval Coastal Systems Laboratory, Panama City, Florida, $3,150,000.
Naval Air Test Center, Patuxent River, Maryland, $5,800,000.
Naval Supply Center, Pearl Harbor, Hawaii, $3,750,000.
Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $5,390,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $750,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $9,050,000.
Pacific Missile Test Center, Point Mugu, California, $3,810,000.
Naval Construction Battalion Center, Port Hueneme, California, $940,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $13,350,000.
Naval Supply Center, San Diego, California, $11,150,000.
Navy Public Works Center, San Francisco, California, $3,300,000.
Naval Air Development Center, Warminster, Pennsylvania, $3,290,000.
Mare Island Naval Shipyard, Vallejo, California, $24,200,000.
Naval Weapons Station, Yorktown, Virginia, $12,480,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Adak, Alaska, $790,000.
Naval Radio Transmitter Facility, Annapolis, Maryland, $850,000.
Naval Communication Area Master Station Atlantic, Norfolk, Virginia, $830,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Winter Harbor, Maine, $540,000.

OUTSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Air Station, Iwakuni, Japan, $4,500,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $4,300,000.
Naval Station, Keflavik, Iceland, $6,230,000.
Naval Station, Roosevelt Roads, Puerto Rico, $4,680,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Magazine, Guam, Mariana Islands, $43,940,000.
Naval Supply Depot, Yokosuka, Japan, $3,700,000.

COMMANDER IN CHIEF, NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $7,200,000.
Naval Air Facility, Sigonella, Italy, $8,340,000.

BUREAU OF MEDICINE AND SURGERY

Naval Medical Research Unit Numbered 3, Cairo, Arab Republic of Egypt, $960,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Unit, Thurso, Scotland, $890,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Classified Location, $1,663,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interest of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

AMENDMENT TO SAN DIEGO NAVAL ATHLETIC FIELD TRANSFER

SEC. 203. (a) Section 203 of the Military Construction Authorization Act, 1978 (Public Law 95-82, 91 Stat. 365) is amended—

(1) by striking out "the total cost" in subsection (a) and inserting in lieu thereof "a total of $4,500,000 for the cost"; and

(2) by striking out paragraph (1) of subsection (b) and inserting in lieu thereof the following:

"(1) the Secretary, or his designee, determines that the recreational facilities to be constructed under such subsection will be satisfactory replacements for the facilities of the existing Navy Athletic Field; and".

BIOMEDICAL RESEARCH LABORATORY, CAIRO, EGYPT

SEC. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in an amount not to exceed $6,000,000 for the construction of a biomedical research laboratory at the Naval Medical Research Unit Numbered 3, Cairo, Arab Republic of Egypt.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Tyndall Air Force Base, Florida, $8,687,000.

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $8,163,000.
Kelly Air Force Base, Texas, $17,219,000.
McClellan Air Force Base, California, $3,700,000.
Newark Air Force Station, Ohio, $1,400,000.
Robins Air Force Base, Georgia, $6,924,000.
Tinker Air Force Base, Oklahoma, $2,354,000.
Wright-Patterson Air Force Base, Ohio, $18,260,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $2,710,000.
Buckley Air National Guard Base, Colorado, $2,628,000.
Cape Canaveral Air Force Station, Florida, $9,624,000.
Edwards Air Force Base, California, $4,423,000.
Eglin Air Force Base, Florida, $1,899,000.
Hanscom Air Force Base, Massachusetts, $3,237,000.
Patrick Air Force Base, Florida, $3,504,000.
Various Locations, $1,308,000.

AIR TRAINING COMMAND

Columbus Air Force Base, Mississippi, $1,586,000.
Lackland Air Force Base, Texas, $4,700,000.
Laughlin Air Force Base, Texas, $329,000.
Mather Air Force Base, California, $4,522,000.
Randolph Air Force Base, Texas, $850,000.
Reese Air Force Base, Texas, $742,000.
Vance Air Force Base, Oklahoma, $913,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $1,602,000.
Galena Airport, Alaska, $540,000.
Shemya Air Force Base, Alaska, $546,000.
Various Locations, $3,400,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $1,111,000.
Dover Air Force Base, Delaware, $8,021,000.
Kirkland Air Force Base, New Mexico, $1,450,000.
Little Rock Air Force Base, Arkansas, $504,000.
McChord Air Force Base, Washington, $594,000.
Norton Air Force Base, California, $506,000.
Scott Air Force Base, Illinois, $2,514,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $510,000.
Beale Air Force Base, California, $2,256,000.
Carswell Air Force Base, Texas, $2,910,000.
Castle Air Force Base, California, $13,351,000.
Dyess Air Force Base, Texas, $2,670,000.
Ellsworth Air Force Base, South Dakota, $3,454,000.
Francis E. Warren Air Force Base, Wyoming, $23,143,000.
Fairchild Air Force Base, Washington, $650,000.
Grand Forks Air Force Base, North Dakota, $1,344,000.
Griffiss Air Force Base, New York, $7,499,000.
Grissom Air Force Base, Indiana, $314,000.
March Air Force Base, California, $357,000.
McConnell Air Force Base, Kansas, $2,200,000.
Minot Air Force Base, North Dakota, $1,182,000.
Plattsburgh Air Force Base, New York, $11,691,000.
Rickenbacker Air Force Base, Ohio, $946,000.
Vandenberg Air Force Base, California, $141,782,000.
Wurtsmith Air Force Base, Michigan, $113,000.

TACTICAL AIR COMMAND

Cannon Air Force Base, New Mexico, $4,129,000.
Davis-Monthan Air Force Base, Arizona, $1,610,000.
England Air Force Base, Louisiana, $1,875,000.
George Air Force Base, California, $2,392,000.
Holloman Air Force Base, New Mexico, $4,135,000.
Langley Air Force Base, Virginia, $1,239,000.
Luke Air Force Base, Arizona, $3,843,000.
Moody Air Force Base, Georgia, $2,343,000.
Mountain Home Air Force Base, Idaho, $2,644,000.
Myrtle Beach Air Force Base, South Carolina, $2,694,000.
Nellis Air Force Base, Nevada, $16,950,000.
Seymour-Johnson Air Force Base, North Carolina, $2,950,000.
Shaw Air Force Base, South Carolina, $2,500,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $635,000.

AIR NATIONAL GUARD

McEntire Air National Guard Base, South Carolina, $230,000.
Selridge Air National Guard Base, Michigan, $2,578,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, $10,120,000.

PACIFIC AIR FORCE

Kadena Air Base, Japan, $6,263,000.
Kunsan Air Base, Korea, $6,648,000.
Osan Air Base, Korea, $7,515,000.
Various locations, $2,800,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $1,120,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $718,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, Various Locations, $13,707,000.
United Kingdom, Various Locations, $7,420,000.
Various Locations, $115,937,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Forces missions and responsibilities which have been occassioned by (1) unforeseen security considerations; (2) new weapons developments; (3) new and unforeseen research and development requirements; (4) improved production schedules; or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Construction Supply Center, Columbus, Ohio, $529,000.
Defense Depot, Mechanicsburg, Pennsylvania, $1,096,000.
Defense Depot, Memphis, Tennessee, $3,555,000.
Defense Depot, Ogden, Utah, $1,573,000.
Defense Depot, Tracy, California, $1,927,000.
Defense Fuel Support Point, Charleston, South Carolina, $532,000.
Defense Fuel Support Point, Norwalk, California, $1,488,000.
Defense Property Disposal Office, Fort Belvoir, Virginia, $755,000.
Defense Property Disposal Office, Fort Hood, Texas, $555,000.
Defense Property Disposal Office, Fort Lewis, Washington, $1,033,000.
Defense Property Disposal Office, Fort Meade, Maryland, $546,000.
Defense Property Disposal Office, Indianapolis, Indiana, $1,353,000.
Defense Property Disposal Office, Jacksonville, Florida, $811,000.
Defense Property Disposal Office, Keesler Air Force Base, Mississippi, $611,000.
Defense Property Disposal Office, McClellan Air Force Base, California, $1,533,000.
Defense Property Disposal Office, Pensacola, Florida, $558,000.
Defense Property Disposal Office, Selfridge Air National Guard Base, Michigan, $1,497,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Aerospace Center, St. Louis Air Force Station, Missouri, $1,130,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $6,300,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $2,850,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $9,200,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Nuremberg, Germany, $870,000.

Defense Property Disposal Office, Subic Bay, Philippines, $584,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS SCHOOLS

Nuremberg, Germany, $4,545,000.

Pattonville Housing Area, Ludwigsburg, Germany, $6,415,000.

Pioneer Kaserine, Hanau, Germany, $6,297,000.

Ramstein Air Base, Germany, $9,160,000.

Zweibruecken Air Base, Germany, $7,263,000.

NORTH ATLANTIC TREATY ORGANIZATION

INFRASTRUCTURE

Various Locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $70,000,000 plus an amount equal to the amount of funds, not to exceed $20,000,000, previously credited to the appropriation "Military Construction, Army" for prefinanced acquisition or construction. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of the obligations incurred by the United States for the United States share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construction, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

TITLE V—MILITARY FAMILY HOUSING

AUTHORIZING TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or his designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committee on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units and mobile home facilities:

National Guard Advisory Detachments, Alaska, three units, $137,000.

Naval Facility, Centerville Beach, California, twenty-eight units, $1,509,000.

Marine Corps Air Station, El Toro, California, two hundred sixteen units, $9,396,000.

Fort Ord, California, five hundred sixty units, $24,432,000, and fifty mobile home spaces, $690,000.

Marine Corps Base, Twentynine Palms, California, one hundred units, $4,307,000.

Fort Stewart, Georgia, one hundred and thirty-two units, $4,600,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, two hundred and fifty units, $11,505,000.

Mountain Home Air Force Base, Idaho, fifty mobile home spaces, $445,000.

Fort Polk, Louisiana, one hundred and sixty units, $7,300,000.

Naval Communications Unit, Cutler, Maine, twenty units, $1,355,000.

Naval Air Station, Fallon, Nevada, seventy units, $2,820,000.

Nuclear Power Training Unit, Ballston Spa, New York, one hundred units, $5,541,000.

Defense Attaché Office, Brasilia, Brazil, two units, $322,000.

Defense Installations, Cairo, Egypt, twenty-one units, $2,950,000, to be funded by use of excess foreign currency when so provided in Department of Defense Appropriation Acts.

Defense Attaché Office, Helsinki, Finland, six units, $670,000.

Defense Attaché Office, Kuala Lumpur, Malaysia, two units, $170,000.

Defense Attaché Office, Oslo, Norway, five units, $476,000.

Defense Attaché Office, Manila, Philippines, six units, $502,000.

Defense Attaché Office, Stockholm, Sweden, four units, $398,000.

Defense Attaché Office, Kinshasa, Zaire, four units, $350,000.

(d) Any of the amounts specified in this section may, at the discretion of the Secretary of Defense, or his designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

IMPROVEMENT OF EXISTING QUARTERS

SEC. 502. (a) The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $18,786,000, of which $1,000,000 shall be available only for energy conservation projects;

(2) for the Department of the Navy, $10,768,000, of which $1,725,000 shall be available only for energy conservation projects;

(3) for the Department of the Air Force, $31,740,000. of which $5,807,000 shall be available only for energy conservation projects; and

(4) for the Defense Mapping Agency, $86,000.

(b) Section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90–110, 81 Stat. 305), is amended by striking out "$15,000" in the first sentence and inserting in lieu thereof "20,000".

(c) The Secretary of Defense, or his designee, within the amounts specified in subsection (a) of this section, is authorized to accomplish repairs and improvements to existing public quarters in amounts in excess of $20,000 limitation prescribed in section 610 (a) of the Military Construction Authorization Act, 1968 (Public Law 90–110, 81 Stat. 305), as follows:

Elmendorf Air Force Base, Alaska, two hundred and sixty-four units, $2,904,000.

Marine Barracks, Washington, District of Columbia, one unit, $92,000.

Marine Corps Development and Education Command, Quantico, Virginia, forty-eight units, $1,117,400.

Ramstein Air Base (Vogelweh-Landstuhl), Federal Republic of Germany, ninety-six units, $1,680,200.

Ramstein Air Base, Federal Republic of Germany, three hundred and sixty units, $8,151,600.

Rhein-Main Air Base, Federal Republic of Germany, four hundred and twenty-four units, $9,215,000.

Vilseck, Federal Republic of Germany, eight substandard units, $244,500.

LEASING OF FAMILY HOUSING

SEC. 503. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended—

(1) by striking out "$280" and "$450" in paragraph (1) and inserting in lieu thereof "$300" and "$475", respectively; and

(2) by striking out "$350" and "$450" in paragraph (2) and inserting in lieu thereof "$370" and "$475", respectively.

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$435" and "$760" in the first sentence of paragraph (1) and inserting in lieu thereof "$485" and "$850", respectively; and

(2) by striking out "15,000" in paragraph (2) and inserting in lieu thereof "18,000".

SETTLEMENT OF CLAIMS

SEC. 504. (a) Notwithstanding the provisions of any other law, the Secretary of the Air Force is authorized to settle claims regarding construction of public quarters at Wright-Patterson Air Force Base, Ohio, in the amount of $500,000 plus interest from December 6, 1977, at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41 (85 Stat. 97).

(b) Notwithstanding the provisions of any other public law, the Secretary of the Navy is authorized to settle claims regarding construction of public quarters at the Naval Complex, South Philadelphia, Pennsylvania, in the amount of $1,750,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 505. There is authorized to be appropriated for fiscal year 1979 in a Military Construction Appropriation Act for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including demolition, authorized improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, and planning, an amount not to exceed $127,600,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,562,500,000.

FUNDS FOR HOUSING UNITS AT KINGSLAND, GEORGIA

SEC. 506. Of the $24,600,000 authorized in section 501 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 369), for family housing units at the Naval Complex at Bremerton, Washington, $11,505,000 shall be used for the construction or acquisition of the two hundred and fifty family housing units authorized by section 501 of this Act for the Naval Submarine Support Base, King's Bay, Kingsland, Georgia.

TITLE VI—GENERAL PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated for fiscal year 1979 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: inside the United States $454,606,000; outside the United States $276,885,000; or a total of $731,491,000.

(2) for title II: inside the United States $685,430,000; outside the United States $86,403,000; or a total of $771,833,000.

(3) for title III: inside the United States, $399,589,000; outside the United States, $172,248,000; or a total of $571,837,000.

(4) for title IV: a total of $154,566,000.

(5) for title V: military family housing, $1,690,100,000.

(b) There are authorized to be appropriated for minor construction in accordance with section 2674 of title 10, United States Code, the following amounts:

(1) For the Department of the Army, $31,390,000.

(2) For the Department of the Navy, $39,662,000.

(3) For the Department of the Air Force, $30,721,000.

(4) For the defense agencies, $13,044,000.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (a), (b), (c), (g), and (h), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), he may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is $400,000 or more may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the acts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committee on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST VARIATIONS—FLUCTUATIONS IN CURRENCY VALUE.—The amount authorized under title I, II, III, or IV of this Act, or under any similar provision of a previous Military Construction Authorization Act, for construction and acquisition at a military installation located outside the United States may be exceeded as necessary by the Secretary of the military department or Director of the defense agency concerned in order to meet increases in the cost of such construction and acquisition resulting from a decrease occurring after the date of the enactment of this Act in the value of the dollar against the currency of the country in which such construction and acquisition is to be carried out. Any increase under this subsection in the cost of construction and acquisition at a military installation shall be in addition to any other increase in such cost authorized by this or any other Act.

(h) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

(i) COST VARIATIONS—MINOR CONSTRUCTION.—(1) The first sentence of section 2674 (b) of title 10, United States Code, relating to minor construction projects, is amended to read as follows: "This section does not authorize a project costing more than $500,000, except that such amount may be exceeded by not more than $50,000 with respect to a particular project if the Secretary of Defense determines—

"(1) that such an increase is required for the sole purpose of meeting unusual variations in cost, and

"(2) that such variations in cost could not have been reasonably anticipated at the time the project was approved.".

(2) The amendment made by this section shall take effect on October 1, 1978.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within

the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Navy Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such constracts awarded such firm.

REPEAL OF PRIOR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1979, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358), and all such authorizations contained in Acts approved before August 1, 1977, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions (except that the authority to acquire land and interests in land by exchange of Government-owned property is repealed); and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1979, and authorization for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358), authorizations for the following items shall remain in effect until October 1, 1980:

(1) Medical Facility construction in the amount of $2,014,000 at Fort Drum, New York, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1349).

(2) Barracks Building construction in the amount of $5,100,000 at Fort Drum, New York, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 99 Stat. 1349).

(3) Effluent Land Irrigation System construction in the amount of $6,933,000 at Fort Ord, California, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1349).

(4) Sulphuric Acid Regenerator construction in the amount of $15,238,000 at the Sunflower Army Ammunition Plant, Kansas, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1350).

(5) Cold Storage Warehouse construction in the amount of $1,215,000 at Fort Dix, New Jersey, authorized in section 101 of the Military Construction Authorization Act, 1973 (Public Law 92–545; 86 Stat. 1135), and extended in section 605(3)(B) of the Military Construction Authorization Act, 1975 (Public Law 93–552; 88 Stat. 1762), and in section 605(b)(2) of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1363).

(6) Solid Waste System construction in the amount of $300,000 at the Naval Submarine Base, New London, Connecticut, authorized in section 201 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1352).

(7) Naval Historical Center construction in the amount of $1,300,000 at Headquarters, Naval District of Washington, District of Columbia, authorized in section 201 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1352).

(8) Water Pollution Abatement construction in the amount of $2,200,000 at Blytheville Air Force Base, Arkansas, authorized in section 301 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1356).

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $45 per square foot for permanent barracks; or

(2) $48 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

ADVANCE REPORTS TO CONGRESS OF CERTAIN ADVANCE PLANNING AND CONSTRUCTION DESIGN COSTS

SEC. 607. Section 612 of the Military Construction Authorization Act, 1967 (31 U.S.C. 723a), relating to advance planning and design projects, is amended by striking out "$225,000" and inserting in lieu thereof "$300,000".

FACILITIES FOR DEFENSE AGENCIES

SEC. 608. Section 2682 of title 10, United States Code, relating to facilities for defense agencies, is amended—

(1) by striking out "The" and inserting in lieu thereof "(a) Except as provided under subsection (b) of this section, the"; and

(2) by adding at the end thereof the following new subsections:

"(b) In the interest of efficiency, economy, or a special consideration of national security, the Secretary of Defense may designate an activity or agency of the Department of Defense other than a military department to accomplish the required design, construction, maintenance, rehabilitation, repair, alteration, addition, expansion, or extension of a real property facility.

"(c) The Secretary of each military department and the Secretary of Defense, for the defense agencies, shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing at least 30 days before any funds are obligated for a project approved under subsection(b).".

TRANSMISSION OF ANNUAL MILITARY CONSTRUCTION AUTHORIZATION REQUEST TO CONGRESS

SEC. 609. (a)(1) Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2212. Transmission of annual military construction authorization request

"The Secretary of Defense shall transmit to the Congress the annual request for military construction authorization for a fiscal year during the first ten days after the President transmits to the Congress the Budget for such fiscal year pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).".

(2) The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"2212. Transmission of annual military construction authorization request.".

(b) The amendments made by subsection (a) shall apply with respect to fiscal year 1980 and each fiscal year thereafter.

LAND CONVEYANCE, MEMPHIS, TENNESSEE

SEC. 610. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to Plough Inc., a Delaware corporation with principal offices in the city of Memphis, Tennessee, all right, title, and interest of the United States in and to the land and improvements which comprise the Marine Corps Reserve Center, Memphis, Tennessee. Such conveyance shall be made subject to such terms and conditions as the Secretary considers appropriate, but may not be made until a replacement facility for such Reserve Center is available in accordance with subsection (b).

(b)(1) In consideration for such conveyance by the Secretary under subsection (a), Plough Inc.—

(A) shall make available to the Secretary funds for the purchase of land and the purchase or making of improvements on such land which are acceptable to the Secretary as a replacement facility for such Marine Corps Reserve Center; or

(B) shall convey to the United States unencumbered fee simple title to land in the area of Memphis, Tennessee, which contains improvements acceptable to the Secretary as a replacement facility for such Marine Corps Reserve Center.

(2) In addition, Plough Inc., as a further condition of the conveyance under subsection (a), shall pay to the Secretary the cost of the relocation of the such Marine Corps Reserve Center from the facility on the land conveyed by the Secretary under subsection (a) to the facility on the land acquired by the Secretary under this subsection.

(c) The replacement facility to be provided under subsection (b) shall be designed

to meet the current and foreseeable future requirements of the Marine Corps Reserve in and around Memphis, Tennessee, as determined by the Secretary.

(d) Funds made available under subsections (b) (1) and (2), and land conveyed under subsection (b) (1), shall be subject to terms and conditions which shall be agreed upon by the Secretary and Plough Inc. and which the Secretary considers to be in the public interest. If the cost of the replacement facility is less than the replacement cost or fair market value, whichever is greater, of the existing facility of such Marine Corps Reserve Center, Plough Inc. shall pay the amount of the difference between such costs to the United States, and such amount shall be deposted in the Treasury as miscellaneous receipts.

(e) The exact acreage and legal description of any land conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(f) The Secretary is authorized to accept any land conveyed, or any funds made available, to the United States under subsection (b) and any such land shall be administered by the Secretary and any such funds may be obligated and disbursed by the Secretary. The authority under this section to place improvements on land (including site preparation) may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255).

LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

SEC. 611. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Niceville, Florida (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to the land described in subsection (c).

(b) (1) The conveyance authorized in subsection (a) shall be made only if not later than one year after the date of the enactment of this Act, the City—

(A) conveys land to the United States which has a fair market value which is not less than the fair market value of the land authorized to be conveyed in subsection (a);

(B) pays the United States an amount of money equal to such fair market value; or

(C) conveys land and pays an amount of money to the United States which in total equals an amount which is not less than such fair market value.

(2) If such land is used for any purpose other than a cemetery which is operated on a nonprofit basis, title to such land shall revert to the United States.

(3) The Secretary shall include in any instrument making such conveyance terms which will carry out the provisions of paragraph (2).

(c) The land referred to in subsection (a) is that portion of Eglin Air Force Base, Florida, containing 48.59 acres, more or less, described as follows:

Beginning at the southeast corner of government lot 3, section 15, township 1 south, range 22 west, Okaloosa County, Florida, go thence south 89 degrees 58 minutes 04 seconds west (reference bearing) along the south line of said government lot 3, a distance of 1,356.95 feet to a concrete monument marking the southwest corner of said government lot 3;

thence north 00 degrees 19 minutes 44 seconds east, along the west line of said government lot 3, a distance of 2,462.55 feet to a concrete monument at the mean high water line of Rocky Bayou;

thence meander along the said mean high water line of Rocky Bayou the following bearings and distances: south 53 degrees 23 minutes 11 seconds east, 174.78 feet; north 76 degrees 04 minutes 58 seconds east 88.30 feet to a concrete monument on the westerly right of way line of Florida State Road Numbered 20, said point being the PC of a curve concave to the northeast, having a central angle of 23 degrees 45 minutes 50 seconds, a radius of 6,887.17 feet, a tangent distance of 1,449.09 feet, a chord bearing and distance of south 33 degrees 00 minutes 03 seconds east, 2,836.07 feet;

thence along the arc of said curve a distance of 2,856.51 feet to a concrete monument at its point of intersection with the easterly projection of the aforesaid south line of government lot 3;

thence south 89 degrees 58 minutes 04 seconds west, along the said easterly projection of the south line of government lot 3, a distance of 427.85 feet to a concrete monument and the point of beginning, together with all riparian and littoral rights appertaining thereto.

LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

SEC. 612. (a) Subject to subsection (b), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Air Force Enlisted Men's Widows and Dependents Home Foundation, Incorporated (hereinafter in this section referred to as the "Foundation"), of Washington, District of Columbia, all right, title, and interest of the United States in and to the land described in subsection (c). Such conveyance shall be made subject to such terms and conditions as the Secretary considers appropriate to carry out the provisions of this section.

(b) (1) In consideration for such conveyance made by the Secretary under subsection (a), the Foundation shall—

(A) convey land to the United States which has a fair market value which is not less than the fair market value of the land authorized to be conveyed in subsection (a);

(B) pay the United States an amount of money equal to such fair market value; or

(C) convey land and pay an amount of money to the United States which in total equals an amount which is not less than such fair market value.

(2) If the land conveyed under subsection (a) is not used as a permanent location for facilities of the Foundation before the end of the ten-year period beginning on the date on which such land is conveyed, title to such land shall revert to the United States.

(3) If such reversion occurs, the Secretary shall pay to the Foundation an amount of money equal to 50 per centum of the fair market value of the land reverting to the United States. Such fair market value shall be determined as of the date on which such land was conveyed to the Foundation by the Secretary.

(4) No construction shall be started on such land until plans for such construction are approved by the Secretary.

(5) Notwithstanding sections 2733 of title 10, United States Code, sections 1346 and 2672 of title 28, United States Code, and section 715 of title 32, United States Code, the United States shall not be liable to the Foundation for any damage to, or diminution in value of, the land conveyed pursuant to this section or improvements thereon, if such damage or diminution of value is caused by any activity of the United States at Eglin Air Force Base.

(c) The land referred to in subsection (a) is that portion of Eglin Air Force Base, Florida, described as follows:

Parcel Number 1

Beginning at the southwest corner of the southeast quarter of southeast quarter of section 30, township 1 south, range 23 west, thence west along the south line of the said section 30,587 feet, thence south 896 feet to a paved road, thence south 87 degrees and 55 seconds east along said road approximately 1,907 feet to the east line of section 31, township 1 south, range 23 west, thence north along said section line approximately 896 feet to the northeast corner of said section 31, thence west approximately 1,320 feet to the point of beginning. All land described being in section 31, township 1 south, range 23 west, containing 39 acres more or less.

Parcel Number 2

Southeast quarter of southeast quarter, section 30, township 1 south, range 23 west, containing 40 acres more or less.

LAND CONVEYANCE, KANSAS CITY, MISSOURI

SEC. 613. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Central-Wyandotte Development Corp. (hereinafter in this section referred to as the "Corporation") of Kansas City, Missouri, subject to such terms and conditions as the Secretary considers appropriate, all right, title, and interest of the United States in and to the following lots, including all improvements on such lots, located in block 4, J. H. McGee's Addition, Kansas City, Jackson County, Missouri:

(1) The south 37½ feet of lot 47.

(2) Lot 48.

(3) The north 17.34 feet of lot 49.

(b) (1) In consideration for such conveyance by the Secretary under subsection (a), the corporation shall convey to the United States unencumbered fee simple title to the following lots located in block 4, J. H. McGee's Addition, Kansas City, Jackson County, Missouri:

(A) The south 4.84 feet of lot 50.

(B) Lots 51 and 52.

(2) The Corporation shall make improvements on such lots in accordance with requirements of, and subject to the approval of, the Secretary.

(c) All costs of any survey which is necessary to complete any conveyance under this section shall be paid by the Corporation.

(d) The Secretary is authorized to accept any land conveyed to the United States under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, LOGAN, UTAH

SEC. 614. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to Utah State University (hereinafter in this section referred to as the "University"), an agency of the State of Utah, all right, title, and interest of the United States in and to improvements located on land which is leased from the University by the United States and which is located on the campus of the University in Logan, Cache County, Utah.

(b) (1) In consideration for such conveyance by the Secretary under subsection (a), the University shall—

(A) make improvements, for use as a United States Army Reserve Center, on land owned by the University at Eighteenth North Street and Second East Street, North Logan, Cache County, Utah; and

(B) lease to the Secretary, for a period of ninety-nine years and at a nominal amount of rent, the land upon which such improvements are made.

(2) Such improvements shall be made in accordance with requirements of, and subject to the approval of, the Secretary.

(3) Funds for such improvements shall be provided as follows:

(A) The University shall contribute $210,000.

(B) The United States shall contribute all additional funds needed to complete such improvements, not to exceed $501,756, from funds available without fiscal year limitation

from the military construction appropriation for the Army Reserve for fiscal year 1978.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $44,800,000; and

(B) for the Army Reserve, $25,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $17,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $36,100,000; and

(B) for the Air Force Reserve, $10,900,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, or otherwise.

Mr. NEDZI (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDMENTS OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Chairman, I offer amendments, and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. NEDZI: Page 7, line 11, strike out "temportary" and insert in lieu thereof "temporary."

Page 12, line 15, strike out "Centre" and insert in lieu thereof "Center."

Page 15, line 2, strike out "Numbered" and insert in lieu thereof "Number."

Page 17, line 2, strike out "of" and insert in lieu thereof "on."

Page 17, line 8, strike out "Numbered" and insert in lieu thereof "Number".

Page 30, line 7, strike out "EXITING" and insert in lieu thereof "EXISTING".

Page 31, line 4, insert "the" after "in excess of".

Page 33, line 23, strike out "$24,600,000" and insert in lieu thereof "$24,602,000".

Page 34, line 5, strike out "King's Bay" and insert in lieu thereof "Kings Bay".

Page 38, line 8, insert "by" before "more than".

Page 39, line 12, insert "(1)" after "(g)".

Page 40, after line 3, insert the following new paragraph:

(2) Paragraph (1) shall take effect on October 1, 1978.

Page 41, line 6, strike out "section" and insert in lieu thereof "subsection".

Page 54, line 7, strike out "locaton" and insert in lieu thereof "location".

Page 58, after line 8, insert the following new section:

EFFECTIVE DATE

SEC. 615. Sections 610 through 614 shall take effect on October 1, 1978.

Page 59, after line 6, insert the following: "Temporary improvements on land includes authority for".

Mr. NEDZI. Mr. Chairman, these are technical amendments and correct spelling and printing errors in the bill and correct several technical violations of the Budget Act.

Mr. Chairman, two of the amendments provide effective date provisions of October 1 of this year for provisions of the bill that are in technical violation of the Budget Act because they can be construed as authorizing appropriations for the current fiscal year.

The first effective date amendment is to section 603(g) of the bill, which authorizes increases in expenditures for overseas projects to meet increased costs caused by currency fluctuations. This authority applies not only to projects authorized for fiscal year 1979, but for projects authorized for previous fiscal years, as well. The amendment would make this authority effective October 1.

The second effective date amendment applies to the five land conveyances authorized in the bill to insure that no Federal expenditures in connection with any of such conveyances can be made before October 1.

The CHAIRMAN. The question is on the amendments.

The amendments were agreed to.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. DERRICK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes, pursuant to House Resolution 1193, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 18, not voting 53, as follows:

[Roll No. 350]

YEAS—363

Abdnor	Corcoran	Hammer-schmidt
Addabbo	Corman	Hanley
Akaka	Cornell	Hannaford
Alexander	Cornwell	Hansen
Ambro	Cotter	Harkin
Ammerman	Coughlin	Harris
Anderson, Ill.	Cunningham	Harsha
Andrews, N.C.	D'Amours	Heckler
Andrews, N. Dak.	Daniel, Dan	Hefner
	Daniel, R. W.	Heftel
Annunzio	Danielson	Hightower
Applegate	Davis	Hillis
Archer	de la Garza	Holland
Armstrong	Delaney	Holt
Ashbrook	Dent	Horton
Ashley	Derrick	Howard
Aspin	Derwinski	Hubbard
Badham	Devine	Huckaby
Bafalis	Dickinson	Hughes
Baldus	Dicks	Hyde
Barnard	Diggs	Ichord
Baucus	Dingell	Ireland
Bauman	Dodd	Jacobs
Beard, R.I.	Dornan	Jeffords
Beard, Tenn.	Downey	Jenkins
Bellenson	Drinan	Johnson, Calif.
Benjamin	Duncan, Oreg.	Johnson, Colo.
Bennett	Early	Jones, Okla.
Bevill	Eckhardt	Jordan
Biaggi	Edgar	Kazen
Bingham	Edwards, Ala.	Kelly
Blanchard	Edwards, Okla.	Ketchum
Blouin	Eilberg	Keys
Boggs	Emery	Kildee
Boland	English	Kindness
Bolling	Ertel	Kostmayer
Bonior	Evans, Colo.	Krebs
Bonker	Evans, Del.	Krueger
Breaux	Evans, Ga.	LaFalce
Brinkley	Evans, Ind.	Lagomarsino
Brodhead	Fary	Latta
Brooks	Fascell	Le Fante
Broomfield	Fish	Leach
Brown, Calif.	Fisher	Lederer
Brown, Mich.	Fithian	Leggett
Brown, Ohio	Flippo	Lehman
Broyhill	Flood	Levitas
Buchanan	Florio	Lloyd, Calif.
Burgener	Flowers	Long, La.
Burke, Fla.	Flynt	Long, Md.
Burke, Mass.	Foley	Lott
Burleson, Tex.	Ford, Mich.	Lujan
Burlison, Mo.	Ford, Tenn.	Lundine
Burton, John	Fountain	McClory
Burton, Phillip	Fowler	McCloskey
Butler	Frenzel	McCormack
Byron	Gammage	McDonald
Carney	Garcia	McEwen
Carr	Gaydos	McFall
Cavanaugh	Giaimo	McHugh
Cederberg	Gibbons	McKay
Chappell	Gilman	McKinney
Chisholm	Ginn	Madigan
Clausen, Don H.	Glickman	Mahon
	Goldwater	Mann
Clawson, Del	Gonzalez	Markey
Clay	Gradison	Marks
Cleveland	Grassley	Marlenee
Cohen	Green	Marriott
Coleman	Gudger	Martin
Collins, Ill.	Guyer	Mathis
Collins, Tex.	Hagedorn	Mattox
Conable	Hall	Meeds
Conte	Hamilton	

Metcalfe	Pressler	Stanton
Meyner	Preyer	Steed
Michel	Price	Steers
Mikulski	Quayle	Steiger
Mikva	Quillen	Stockman
Milford	Rahall	Stokes
Miller, Calif.	Railsback	Stratton
Miller, Ohio	Regula	Studds
Mineta	Reuss	Symms
Minish	Rinaldo	Taylor
Mitchell, Md.	Risenhoover	Thompson
Mitchell, N.Y.	Roberts	Thone
Moakley	Robinson	Traxler
Moffett	Roe	Trible
Mollohan	Rogers	Tsongas
Montgomery	Rooney	Udall
Moore	Rose	Van Deerlin
Moorhead, Calif.	Rostenkowski	Vander Jagt
	Rousselot	Vanik
Moorhead, Pa.	Roybal	Vento
Moss	Rudd	Waggonner
Mottl	Ruppe	Walgren
Murphy, Ill.	Russo	Walker
Murphy, N.Y.	Ryan	Walsh
Murphy, Pa.	Santini	Wampler
Murtha	Sarasin	Watkins
Myers, Gary	Satterfield	Waxman
Myers, John	Sawyer	Weaver
Myers, Michael	Schroeder	Whalen
Natcher	Schulze	White
Neal	Sebelius	Whitehurst
Nedzi	Seiberling	Whitley
Nichols	Sharp	Whitten
Nix	Shuster	Wiggins
Nowak	Sikes	Wilson, C. H.
O'Brien	Simon	Wilson, Tex.
Oberstar	Sisk	Winn
Obey	Skelton	Wolff
Panetta	Skubitz	Wright
Patten	Slack	Wydler
Patterson	Smith, Iowa	Wylie
Pattison	Smith, Nebr.	Yates
Pease	Snyder	Yatron
Pepper	Solarz	Young, Fla.
Perkins	Spellman	Young, Mo.
Pettis	Spence	Zablocki
Pickle	St Germain	Zeferetti
Pike	Staggers	
Poage	Stangeland	

NAYS—18

Bedell	Holtzman	Richmond
Caputo	Kastenmeier	Scheuer
Edwards, Calif.	Maguire	Stark
Fenwick	Nolan	Volkmer
Forsythe	Ottinger	Weiss
Harrington	Rangel	Wirth

NOT VOTING—53

Allen	Fuqua	Pritchard
Anderson, Calif.	Gephardt	Pursell
	Goodling	Quie
AuCoin	Gore	Rhodes
Bowen	Hawkins	Rodino
Brademas	Hollenbeck	Roncalio
Breckinridge	Jenrette	Rosenthal
Burke, Calif.	Jones, N.C.	Runnels
Carter	Jones, Tenn.	Shipley
Cochran	Kasten	Stump
Conyers	Kemp	Teague
Crane	Lent	Thornton
Dellums	Livingston	Treen
Duncan, Tenn.	Lloyd, Tenn.	Tucker
Erlenborn	Luken	Ullman
Findley	McDade	Wilson, Bob
Fraser	Mazzoli	Young, Alaska
Frey	Oakar	Young, Tex.

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Carter.

Mr. Jones of Tennessee with Mr. Duncan of Tennessee.

Mr. Anderson of California with Mr. Young of Alaska.

Mr. Hawkins with Mr. Tucker.

Mr. Shipley with Mr. Livingston.

Mr. Fuqua with Mrs. Lloyd of Tennessee.

Mr. Gore with Mr. Cochran of Mississippi.

Mr. Jenrette with Mr. Hollenbeck.

Mr. Breckinridge with Mr. Bob Wilson.

Mrs. Burke of California with Mr. Jones of North Carolina.

Mr. Conyers with Mr. Crane.

Mr. Dellums with Mr. Findley.

Mr. Luken with Mr. Frey.

Mr. Mazzoli with Mr. Stump.

Ms. Oakar with Mr. Treen.

Mr. Ullman with Mr. Quie.

Mr. Teague with Mr. Pursell.

Mr. Fraser with Mr. Pritchard.

Mr. Thornton with Mr. Runnels.

Mr. Brademas with Mr. Roncalio.

Mr. Bowen with Mr. Kasten.

Mr. Gephardt with Mr. Allen.

Mr. Kemp with Mr. Erlenborn.

Mr. Lent with Mr. McDade.

Mr. Rosenthal with Mr. Goodling.

Mr. NOLAN and Mr. OTTINGER changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1979

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10729) to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10729, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I do so only to ask a distinguished chairman of my beloved Committee on Merchant Marine and Fisheries, what is the gentleman's intention on time this evening? Are we going to finish the bill or will we get into amendments on the bill or what is the situation?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, it would be very desirable to finish the bill tonight. I am not going to take much time on general debate. I think we can get right to the amendments. The amendments that I understand are going to be offered have all been offered in the subcommittee and in the full committee, so there is a deep understanding of the intent of them. I think we can get into the bill and finish it up. I should say we should be able to finish within an hour, barring unforseen complications.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman and I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 10729 would authorize funds for fiscal year 1979 on certain maritime programs of the Department of Commerce, in the total amount of $496,792,000. The authorized funds are to be apportioned as follows: First, construction differential subsidy, $157 million; second, operating differential subsidy, $262,800,000; third, research and development, $17,500,000; fourth, maritime education and training, $24,647,000, including $15,523,000 for the Federal Merchant Marine Academy of which $450,000 shall be for the replacement of barracks windows at the Academy, $7,220,000 for the State marine schools, and $1,904,000 for supplementary training; and fifth, operating expenses $34,845,000, including $5,516,000 for the national defense reserve fleet, and $29,329,000 for other operating expenses. Section 3 authorizes certain limited supplemental amounts for uncontrollable cost increases. Section 4 of the bill, a committee amendment, amends section 3 of The Maritime Academy Act of 1958 to authorize the Secretary of Commerce to assist the State marine schools to pay for the staggering cost increase of fuel oil for their training ships. Section 5 of the bill, a committee amendment, amends section 1103(F) of the Merchant Marine Act, 1936, as amended, to increase the statutory ceiling of the title XI guarantee program from $7 to $10 billion.

Mr. Chairman, the U.S.-flag merchant fleet is in a deplorable state. In the first 9 months of 1977, U.S.-flag vessels carried a mere 4.6 percent of 561 million tons of cargo in our foreign commerce valued at $127 billion.

In the first 9 months of 1977, U.S.-flag ships carried 17 percent of our general cargo, 3 percent of our dry bulk, and 2.9 percent of our liquid bulk, including our petroleum imports—a decline of a full percentage point from the previous year.

The American merchant fleet engaging in our foreign commerce presently consist of 577 vessels with an average age of 16.9 years. There are currently 65 ships on order in American shipyards, as opposed to a corresponding order book of 96 ships 3 years ago. There are only

two ships on order past 1980. In some instances the cost of a new U.S.-built vessel is so far above the depressed prices that even with the maximum allowable 50-percent construction subsidy, the new U.S. vessel is almost too expensive to build.

Of 674 flag carriers which have tariffs on file for our trades, only 14 are U.S.-flag carriers. Of this 14 in the last quarter, one liner company and one bulk operator has filed for bankruptcy. Another liner company has been completely absorbed and the third U.S.-flag liner company, out of a total of nine at the beginning of the year, has sold off most of its fleet and is itself close to bankruptcy. Thus, in the last 3 months alone, the management of one-third of the wholly owned and operated U.S. liner companies has lost control of their assets.

At a time when the U.S. dollar is declining abroad our almost total reliance on foreign-flag ships for the transport of our trade is a continuing drain with our negative balance-of-trade payment situation. In 1976, America paid $6.27 billion to foreign-flag operators for transporting our foreign trade.

I have gone through this litany of horrors regarding our U.S.-flag fleet, Mr. Chairman, in order to show how necessary it is that we continue to provide the present level of support for the subsidized portion of our fleet which is vital to keeping afloat as much of the fleet as we presently have. I know that the subsidy program has been under attack from some quarters, and most of us do not like subsidies, but this subsidy program has accounted for the most viable, innovative, and healthy segment of the U.S.-flag merchant fleet and we must continue it unless and until someone comes up with a better alternative.

I have already discussed the shipbuilding situation which, in a nutshell, is that unless we generate some new shipbuilding orders in the next several years, the order books of our shipyards will be empty after 1981 and this will be disastrous with respect to the shipbuilding capability of this country.

Another disturbing factor I would like to comment on is the tremendous increase in the numbers and modernization of the Communist bloc fleets since World War II. The Russian merchant marine has come from 23d place to 5th place in the ranking of the world's merchant navies. If this were not bad enough, we are faced with the increased problem of the Russians entering our trade routes with their new, large merchant marine and undercutting the rates. This particular rate-cutting practice is causing increasing problems for the conferences and the trade routes in the North Atlantic and in the Pacific. The developed maritime nations of Europe are becoming increasingly concerned over this Russian expansion into the trades and their rate-cutting activities in these trades. If something is not done with respect to this problem, the Russians may drive us and the other established maritime nations from these trade routes. We are working on legislation which addresses this problem, H.R. 9998, the controlled carrier bill, and in fact we are bringing it to mark-up in committee at the end of this month. In addition to this initiative, however, we must keep the present supports for the U.S.-flag fleet so that we can at least try to keep even with respect to the subsidized portion of our fleet.

As the Members will recall, pursuant to title XI of the Merchant Marine Act, 1936. The Maritime Administration is authorized to guarantee commercial loans and mortgages to finance the cost of construction or reconstruction of U.S.-flag vessels. The title XI guarantee program has for many years been a very successful program, operates at no cost to the government, and currently has a profit of about $150 million in the Federal ship financing fund.

During the 94th Congress, the Merchant Marine and Fisheries Committee amended the Maritime Administration Authorization bill for fiscal year 1976, in order to increase the statutory ceiling from $5 billion to $7 billion. Since that time, the title XI program has continued to be successful, and the witnesses from private industry brought to the attention of my committee that additional title XI authority is required at this time. This assessment of the current situation was confirmed in writing by the Maritime Administration when they stated:

> Based on a current backlog of $2.2 billion in active pending title XI applications, the current $7 billion ceiling will be reached during fiscal year 1978 . . .
>
> Implementation of the recommendation to increase the ceiling from $7 billion to $10 billion would enable the title XI program to continue as one of the most effective Federal maritime programs.

Therefore, the Merchant Marine and Fisheries Committee concluded that an increase of from $7 billion to $10 billion in the statutory ceiling of the title XI guarantee program was required at this time, and amended the bill accordingly.

In addition, Mr. Chairman, I would point out to the Members that this amendment does not involve the appropriation of funds and the amounts stated in the amendment are just ceilings which may be used to guarantee mortgage insurance for the construction of vessels. Moreover, and importantly, if this ceiling is raised it does not mean that the money will necessarily be spent. It will only be used if construction occurs, but not otherwise. In other words, no harm is done if this amendment is adopted and the ceiling raised.

I strongly urge the Members of the House to support H.R. 10729, as amended, by the Merchant Marine and Fisheries Committee.

Mr. RUPPE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 10729, legislation that would authorize appropriations for the Department of Commerce maritime programs for fiscal year 1979.

As my colleague from New York has indicated, the funds that would be authorized to be appropriated by this legislation are necessary for the construction and operation of a modern, privately owned, U.S.-flag merchant fleet. The total amount requested is $496,792,000, a decrease of approximately $57 million from the amount authorized to be appropriated in this fiscal year. The requested figure is, in turn, broken down into:

First, $157,000,000 is sought for the payment of construction-differential subsidy. Construction subsidy is calculated to make up the difference is shipbuilding prices between United States and representative foreign shipyards. The subsidy is paid to the yard, so that the cost of the vessel to the U.S. purchaser is the same as if he bought the vessel from a foreign yard. This request for funds, coupled with an unexpended balance from prior fiscal years of $122,000,000, will support the construction of six modern, sophisticated vessels in U.S. shipyards. The vessels are two containerships, two roll-on/roll-off ships, and two LNG carriers.

Second, $262,800,000 is requested for the payment of operating-differential subsidy. Operating subsidy is calculated to make up the difference in certain vessel operating costs between U.S. flag vessels and foreign-flag vessels plying the same trade routes.

The operating costs which are subsidized are wages, maintenance and repair, and insurance. Wages are by far the largest item of expense. This level of funding will support the operation of 173 liner and 21 bulk carriers in fiscal year 1979 and will be used to liquidate prior fiscal year contractural obligations.

Third, $17,500,000 is sought for the conducting of maritime-related research and development projects. This program supports a variety of R. & D. initiatives, including the operation of the ship operations research and simulation facility at Kings Point, N.Y. Industry cost sharing, on a 50–50 basis, assures that the maritime R. & D. dollar is expended on practical, useful projects.

Fourth, $5,516,000 is required for the payment of national defense reserve fleet expenses. This fleet, which is located at three anchorages in the United States, represents the only source of reserve breakbulk shipping capacity available to the United States during a military or commercial shipping crisis.

Fifth, $24,647,000 is sought for the payment of the costs of maritime training at the Federal Merchant Marine Academy at Kings Point and the six State marine schools. These schools graduate approximately 610 students annually, who are generally employed at sea as deck or engineering officers or ashore in the maritime industry.

Sixth, $29,329,000 is requested for the payment of other operating expenses of the Maritime Administration, the Federal agency vested with the responsibility of promoting the U.S.-flag merchant fleet. These expenses include such items as personnel and general administrative support.

I would also like to point out that the

committee adopted a number of significant amendments which were offered by my colleague, Mr. McCLOSKEY. Specifically, his amendments would disallow construction and operating subsidies for any vessel not enrolled in a sealift readiness program approved by the Secretary of Defense. Under the present program, the U.S.-flag liner operators in scheduled trades that desire to transport Defense Department cargo in peacetime must commit 50 percent of their ships to military support operations in the event of a contingency. These amendments highlight the close relationship of private U.S.-flag vessels and the Navy in time of national emergency.

Another amendment of my colleague would require the Secretary of Commerce, at his discretion, to reduce the construction-differential subsidy rate by 5 percent for any vessel not a part of an existing or future vessel series. Such a provision as this is urgently needed if this country is ever going to get the skyrocketing costs to construct a modern oceangoing vessel into line. For example, the cost of a liquefied natural gas carrier has more than doubled in the last 3 years. That is, such a single vessel now costs approximately $200 million.

Finally, the bill would increase the ceiling on the ship mortgage guarantee authority under title XI of the Merchant Marine Act from $7 to $10 billion. Notwithstanding the fact that the title XI ship financing program is probably the most successful of all our maritime aids, I question whether this increase is warranted at this time. The basis for my concern is that the increase is premised on an expanded building program of liquefied natural gas carriers. However, the Carter administration currently has under review the entire subject of LNG imports. Thus, this provision would seem to me to be premature. It should also be noted that the Carter administration does not support this provision.

In conclusion, I believe the items of expense, with the exception noted, are necessary and proper if we are to continue to fulfill our commitment contained in the Merchant Marine Acts of 1936 and 1970 to provide for a modern, efficient merchant marine capable of carrying substantial amounts of U.S. imports and exports in peacetime and of serving as a naval auxiliary in wartime. Accordingly, I urge my colleagues to support the passage of H.R. 10729.

Mr. MURPHY of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Chairman, as a cosponsor of H.R. 10729, maritime authorizations, and as a member of the Merchant Marine and Fisheries Committee, I wish to express my support for this bill. The funds authorized represent continued congressional commitment to a strong American maritime industry and, concomitantly, to the American economy.

I am especially pleased that the statutory ceiling for the title XI mortgage guarantee program has been raised from $7 billion to $10 billion. The program guarantees loans and mortgages to finance construction of U.S.-flag vessels. Although the Office of Management and Budget has expressed its opposition to this increase, we must keep in mind that this is a loan guarantee program and not a Federal grant program.

Defaults have been few. Since the operation of title XI began in 1938, 5,674 vessels and barges have been covered under the program. Only 10 defaults have occurred with a net loss after resale of $14.6 million. At the present time the program is operating at a profit with $154 million currently in the Federal Ship Financing Fund.

The past 40 years have proven that this program is successful as well as practical. By raising the statutory ceiling we can increase the amount of construction by the maritime industry and thereby create more jobs. In an industry which is facing increasing competition from overseas builders, it is crucial that this additional support be forthcoming from the Congress.

I therefore encourage my colleagues to reject any amendment which might be offered to retain the $7 billion ceiling.

Mr. MURPHY of New York. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I favor this legislation as a member of the Committee on Merchant Marine and Fisheries for three reasons: First, national security; second, because of the role it will play in generating a healthy economy; and third, its importance in the area of public and international safety.

Mr. Chairman, in terms of the national security issue, I think we all know that the role of having our own American fleet available to bring in strategic materials and oil in the event of a war or other national emergency is absolutely critical to our survival.

Second, Mr. Chairman, from the standpoint of a healthy economy, I think the maintenance of an American fleet generates jobs in the private sector. In the shipbuilding industry alone it could mean 3,000 people working in the Baltimore community, 3,000 people who are about to be laid off. I would much rather see those 3,000 people making an American ship that is going to bring in products that will help us maintain ourselves than to have some type of public works-sponsored makework project.

Third, on the issue of public safety, I think as an environmentalist, I and others here who are environmentalists know the horror we face in having flags of convenience transport themselves around the world while they create various environmental and safety problems for all of us.

They are ill-equipped, poorly maintained ships being served by a crew which speaks one language while the captain speaks another, which results in collisions and all types of environmental disasters.

I also have a particular interest in, to my State of Maryland and the Chesapeake Bay. We now have at Cove Point, in the district of the gentleman from Maryland (Mr. BAUMAN), a refinery for liquid natural gas. Unless we have ships coming in properly built, with adequate safety measures, we could have a terrible disaster in the Chesapeake Bay which would be equalled only, perhaps, by some type of nuclear accident.

It is important to me, as a Marylander, to make sure that those ships coming up the bay with liquid natural gas are the safest built anywhere in the world. I would like them to be built under the American flag, and manned by American seamen.

Furthermore I would like to point out that H.R. 10729 provides a base of support for the merchant marine that cannot be diminished or weakened without impairing the future of the U.S. Fleet. Contained in the bill are construction and operating funds that will keep the merchant marine on the rebuilding path it has followed in recent years.

The subsidy funds of $157 million for construction will allow a number of U.S. ships to be built in U.S. yards at parity with foreign costs. This will increase their competitiveness with Japanese ships built with subsidized Japanese steel and given cargo by Japanese trading companies operating under Japanese economic plans.

Thousands of shipyard workers in plants from coast to coast will benefit from these construction subsidy funds. They will mean the construction of several new and highly productive liner cargo vessels, as well as other modern U.S. ships. Many of the components for these ships come from the workshops of companies in nearly every U.S. State, making U.S. shipbuilding a coastal industry with national impact.

These construction subsidy funds are all the more important as U.S. yards face a loss of navy work due to the drastic cut in navy construction. Several U.S. yards are in the midst of lay-offs caused by the lack of new work. If we fail to approve these funds or if we encumber them with needless restrictive amendments, we will endanger the future of such yards as Bethlehem Steel in Baltimore, Todd in California, and others.

Our shipyards have always proven to be a basic tool of our national defense. The construction of new U.S. merchant vessels is one of the best ways to keep this industry in a state of readiness.

As important as is the construction money, so too is the funding for the mortgage guarantees program for new U.S. ships. This program, which is similar to that in other forms of U.S. transportation and housing, allows shipping companies to gain a Federal guarantee for their mortgage. This has made possible the financing of many new vessels by operators just starting out who have later gone on to build large U.S. fleets.

It has been mistakenly pointed up by some that title XI guarantees go primarily for only one kind of vessel. The

fact is I doubt that there is a region of the country or any U.S. foreign trade route that does not have sailing on its waters some type of vessel aided by title XI mortgage guarantees. These vessels range from tugs and towboats on the inland waters, to oceangoing vessels of all kinds, to supply boats and oil drilling ships looking for new U.S. oil reserves.

In every case, title XI has helped small independent U.S. companies to finance the tremendously expensive new craft needed to serve our transportation requirements. New ships today often cost $50 million or more and some cost nearly $150 million.

This program is soundly run and has built up a fund of premiums over the years. I urge my colleagues to strongly support the provision in H.R. 10729 which would raise the ceiling on title XI mortgage guarantees from $7 billion to $10 billion.

We are now nearing the $7 billion ceiling and need the extra room if the new U.S. tugboats and barges this program will help generate are not to push us over. Otherwise, hundreds of small yards serving our Nation's harbors and rivers would be adversely affected, and with them, the jobs of thousands of Americans.

Before I move on to other matters, I want to mention one area I think is extremely important. The U.S. today imports over 40 percent of its oil supplies. We do so in almost entirely foreign-flag vessels.

We have an opportunity in this bill to aid in not only reducing U.S. oil imports, but also to get a more efficient and clean fuel, and to carry it on a U.S. ship. The fuel I speak of is liquefied natural gas, LNG. A number of projects have been approved by the Government to import LNG. They will provide natural gas to dry paint in auto plants and to make glass products. Without this gas, the growth of important domestic industries like ceramics and chemicals would be hurt.

LNG provides us a new source of gas and with the continuation of support for U.S. LNG vessels, we can bring it to the United States on vessels. In a classic example of "cutting off your nose to spite your face" it has been proposed that we no longer aid U.S. LNG vessel construction. In doing this we would not stop LNG imports. All we would do is transfer it to foreign-flag vessels.

And while I think that the world's LNG vessels are probably the most rigidly safety designed of any ship, I prefer our LNG to be brought in on U.S. vessels. Its the best, and most beneficial way, from a balance of payments and employment standpoint.

It makes no sense to stop building LNG vessels when we need to import gas and the plants to receive it are already built. LNG vessels are assured 20 years of employment on these projects and will pay enormous dividends to our Nation and its shipbuilding yards.

Other parts of the authorization are equally important. It includes funds to operate many U.S. vessels in U.S. liner trades. These funds help keep the competitive with foreign liner fleets such as the Soviets, and to cope with the increasing intervention by foreign governments into shipping.

Operating subsidy puts U.S. vessels on a cost parity with foreign vessels. While less than one-half of the U.S. fleet receives this aid, it has helped to significantly expand our penetration of U.S. liner trades. Where a few years ago we were carrying 20 percent of U.S. liner goods, with the help of operating subsidy we now carry nearly 30 percent.

These and other accomplishments of the U.S. fleet demonstrate the strong self-help program the U.S. maritime industry has begun. The industry has not had a major work stoppage in this decade and it has steadily reduced crew sizes while putting into service more productive vessels.

The U.S. merchant marine has worked hard to demonstrate it is capable of regaining its position as one of the world's premier merchant fleets. We in the Congress must do our part by encouraging the continuation of this effort.

We can do so by passing H.R. 10729 the MARAD authorization bill as passed by the House Merchant Marine Committee. I also urged my colleagues to oppose amendments to this bill which would hamper the maritime industry's programs at a time when they are nearing fruition.

In an industry where Government regulation is already more pervasive than almost any other, I urge my colleagues to give this industry a vote of support for its efforts without encumbering it with further regulations that will hold it back.

I urge the enactment of H.R. 10729 as reported.

Thank you.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 10729, the Maritime Appropriations Authorization Act for fiscal year 1979, as reported by the Committee on Merchant Marine and Fisheries. Failure to enact this legislation would signal the end of our national effort to rebuild the American merchant marine, and would precipitate an economic crisis in maritime and related industries.

The support and maintenance of a viable U.S.-flag merchant marine is, for reasons of national defense and economic security, a policy of national importance. The U.S.-flag fleet has provided support during every major military deployment in the history of the United States. Additionally, the United States, as the world's largest trading nation, has a vital interest in maintaining an adequate and dependable fleet to transport its foreign trade.

The presence in the U.S. foreign trade of U.S.-flag ships, owned, operated, and manned by citizens of the United States: assures the continuity of regularly scheduled service for imports and exports for U.S. interests without the threat of restrictive trade practices which might be imposed if our shipping services were provided exclusively by foreign-flag ships; and permits the immediate availability of ships with experienced crews when necessary to aid in the national defense of the United States.

The present political, economic, and military climate dictates that America must have a strong merchant fleet. We are reliant upon oceanborne transportation. More than 98 percent of our commerce travels by water. A viable merchant fleet is essential to serve our Nation's commercial needs in peacetime and to supply our troops during war.

Today, America's merchant fleet carries only 5 percent of the waterborne commerce. Japan carries 44 percent of its own trade; France carries one-third of its commerce; and the Soviet Union, which seeks to dominate world merchant shipping, carries 55 percent of its foreign trade. The traditional maritime nations, now joined by the Soviet Union, recognize the importance of maintaining a strong merchant fleet. They refuse to rely upon foreign shipping to carry their strategic and commercial cargo. They know that reliance upon foreign shipping compromises their defense posture, detracts from their international political power, and adds to their balance of payments deficit.

The Soviet Union has been building its merchant fleet for years while ours has been languishing. The U.S.S.R. has approximately 2,420 merchant vessels; we have only 577. When our most powerful adversary recognizes the importance of a strong merchant marine, America cannot afford to allow her own fleet to dwindle. H.R. 10729 would help rebuild the U.S. fleet and permit America to reassert itself as a major wartime power. Rejection of this legislation would severely damage America's maritime capacity and consequently our defense capability.

Funding for the construction and operating differential subsidy and title XI programs is essential to implement our national shipping policy of establishing and maintaining a strong merchant fleet built in the United States, owned by American citizens, operated by American crews, and fully capable of serving our economic, military, and political requirements.

The total cost of the legislation is a decrease of $56.8 million from the amount authorized for fiscal year 1978. The administration supports the fiscal year 1979 funding level requests contained in this bill. The enactment of H.R. 10729 and the subsequent expenditure of appropriated funds will stimulate the national economy and have a positive impact upon economic recovery and employment.

The House of Representatives should adopt H.R. 10729 as reported by the Committee on Merchant Marine and Fisheries. All proposed amendments to restrict the application of these essential maritime programs should be defeated.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I want to take this opportunity to speak in support of H.R. 10729, the maritime authorization bill for fiscal year 1979. I believe the passage of this bill will once again renew the commitment of the Congress to a strong U.S. merchant marine.

The level of funding provided by H.R. 10729 will assure the maintenance of all the programs needed to support the U.S. fleet. These programs include.

The operating differential subsidy program which provides funds to put U.S. vessels on a competitive level with foreign-flag fleets. It will help these vessels to gain a share of increased U.S. trades in both dry cargo goods as well as the bulk field.

The construction differential subsidy program will assist U.S. yards in building a number of modern U.S. cargo vessels. Construction differential subsidy is an essential ingredient in attracting shipowners to build U.S. vessels at a time when foreign yards are offering "below cost" prices to attract orders. In addition, throughout Europe, nearly every nation is providing shipbuilding aids that are near or even surpass what the United States provides. Without this program, our Nation's vital shipbuilding base would be lost, at a high cost to our Nation's security.

The bill would raise the ceiling in the title XI mortgage program from $7 billion to $10 billion. This step is necessary because this program has proven highly successful as tug, towboat, supply boats, pipelayer barges, ships and barges, as well as offshore oil operators, have built new and efficient fleets with the financing assistanct this program provides.

This program costs the Government nothing, as it is administered out of the premiums from the guarantees. In the past, it has proven to be a well-managed program that parallels the efforts of similar Government guarantee programs that stimulate capital investment, jobs and economic growth. It is a vital program as both large and small U.S. shipyards from coast to coast depend on it for work.

These are but some of the very important programs the passage of H.R. 10729 would continue. I believe that if we look at the progress of the U.S. merchant fleet in recent years, this program will have been proven to be an effective one.

We have increased our share of U.S. liner cargo on U.S. ships by over 30 percent.

We have modernized our tanker fleet with safe new U.S. tankers and the fleet is nearly fully employed in areas such as the Alaska to west coast trade.

We have captured the lead in a new sources of ship technology.

Tug-barge vessels that combine the economy of tugs with the cargo capacity of ocean freighters.

We have generated the most highly skilled and well-trained marine workforce in the world. The payoff here is the excellent safety record of U.S. ships.

The maritime industry's labor-management relations have become a model for American industry. Not only have the industry's relations proceeded without strikes in recent years, but both sides have worked to hold down costs and wages, with dividends in competitiveness.

The U.S. merchant marine is determined to rebuild itself. The Congress can aid that effort by enacting H.R. 10729. It will signal our continued support for this industry.

I urge my colleagues to enact this legislation with our harmful of weakening amendments.

Mr. MURPHY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, as chairman of the Ad Hoc Select Subcommittee on Maritime Education and Training, I rise to further explain the provisions of the bill which relate to maritime education and training.

Section 2(4) of the bill, as amended by the committee, authorizes $24,647,000 for maritime education and training. This amount includes $15,523,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., of which $450,000 is earmarked for replacement of barracks windows at the Academy; $7,220,000 for financial assistance to State maritime academies; and $1,904,000 for supplementary training courses—such as radar and firefighting courses—conducted by the Maritime Administration.

The U.S. Merchant Marine Academy provides a 4-year undergraduate program which leads to a bachelor of science degree and to a merchant marine officer's license as third mate or third assistant engineer. Academy attendees are enrolled as midshipmen in the U.S. Naval Reserve and, if eligible, are commissioned upon graduation as ensigns in the Naval Reserve. The Academy graduates slightly over 200 new officers annually.

The administration requested $15,359,000 for maritime training at the U.S. Merchant Marine Academy, $703,000 above the 1978 level. The increased funds in 1979 will provide for the development and implementation of a basic automated data processing capability at the Academy. The Academy modernization program will be continued, with primary emphasis in 1979 on the renovation of the main academic and administrative buildings, Fulton Hall and Wiley Hall.

The $164,000 increase recommended by the committee in the authorization for the Merchant Marine Academy is broken down into two components. The sum of $154,000 of it supplements the $296,000 already in the bill for replacement of barracks windows at the Academy. The committee amendment specifically earmarks the total of $450,000 for barracks window replacement. During visits to the Academy by the committee and the Congressional Board of Visitors, it was observed that many of the existing wooden windows have huge airgaps, and many do not even have latches. Midshipmen are using rulers and other makeshift arrangements in efforts to keep them closed. The existing barracks windows are rotting, they are drafty, and they are letting heat escape at substantial cost in utility bills.

The committee believes that the barracks windows at the Academy should be replaced as soon as possible. Doing so would conserve energy and save money. It is estimated that new nonwooden windows will pay for themselves in about 7.5 years because of reduced heating and maintenance costs. Since the new windows will last for 25 to 30 years, the full savings to the taxpayers over their lifetime will be over $1 million. The committee estimates that delay in replacing these windows is costing the Federal Government $55,000 to $60,000 per year in unnecessary utility and maintenance bills. Consequently, the committee amended the bill to include authorization for full funding of the barracks window replacement project in fiscal year 1979, and to specifically earmark the $450,000 required for this project.

The second part of the committee amendment's increase in the authorization for the Merchant Marine Academy is $10,000 to pay for one additional janitor. The Academy modernization program has added some 48,000 square feet of floor space which must be cleaned and maintained, but no increase in janitorial staff was included in the administration request. Even though the midshipmen do most of the cleaning in the barracks area, the committee understands that the workload of the janitorial staff at the Academy is still twice that recommended by the Government Services Administration for office space. The committee believes it is important to insure that the Federal investment in the Academy's physical plant is protected by adequate maintenance.

The Maritime Academy Act of 1958, as amended, authorizes the Maritime Administration to assist and cooperate with States in the operation and maintenance of maritime academies or colleges for the training of merchant marine officers to meet the national objectives stated in the Merchant Marine Act, 1936, as amended. Six States participate in the program: California, Maine, Massachusetts, Michigan, New York, and Texas. Assistance is provided the State marine schools by direct annual grants not to exceed $100,000 to each school; subsistence payments in support of cadets not to exceed $1,200 per year for 4 years for any one cadet; and by providing schools with suitable vessels for use as training ships along with provisions for their alteration, maintenance, and repair to meet U.S. Coast Guard certification requirements and standards of insurability set by the American Bureau of Shipping. These schools have a total enrollment of about 3,000 and graduate about 430 students annually.

The sum of $5,220,000 was requested by the administration for this program in fiscal year 1979. The requested amount is $750,000 below the 1978 authorization for the State marine schools, but equal to the 1978 appropriation, which did not

include the State school allowance increases or the schoolship improvement funding provided for in the authorization.

Section 3 of the bill authorizes amounts in addition to those authorized in section 2(4) of the bill for unavoidable increases in costs of salaries and personnel benefits, public utilities, food service, and other expenses of the Merchant Marine Academy. This section is identical to provisions which have been included in Maritime Authorization bills for the past several years.

Last year the Congress amended the Maritime Academy Act of 1958 to change the maximum direct grant to each of the State maritime academies from $75,000 to $100,000 per year. The $150,000 cost of providing this increase to the six academies was not included in the administration request, and is therefore included in the committee amendment.

The fiscal year 1978 Maritime Authorization Act also authorized $750,000 for habitability and instructional improvements in the five federally owned training ships which are on loan to the State maritime academies. This amount was also not included in the administration request. The committee is concerned about the inadequate living accommodations and instructional facilities on some of these vessels, and believes that their improvement is important. Consequently, $750,000 for this purpose is included in the committee amendment to section 2 (4) of the bill.

The committee also increased the amount authorized for the State marine schools by $1.1 million in order to fund section 4 of the bill, which would amend section 3 of the Maritime Academy Act of 1958 (46 U.S.C. 1382) by the addition of a subsection (d) to read as follows:

> The Secretary may pay additional amounts to assist in paying for the cost of fuel oil consumed during the training cruises of the vessels referred to in subsection (a).

Five of the State maritime academies have training vessels for the mandatory at-sea training for merchant marine cadets. This amendment is intended to assist the State academies in coping with the substantial increase in the cost of bunkers consumed during training cruises. When the Martime Academy Act of 1958 was enacted, the cost of fuel oil was about $16 per long ton. Since then, the cost has escalated until it is now about $75 per long ton. This staggering cost increase has created almost insurmountable problems for these schools. The Maritime Administration estimated that the fuel would cost an additional $1.1 million, and the committee made the necessary amendments so that these funds would be available for this purpose.

Section 216(c) of the Merchant Marine Act, 1936, authorizes the Maritime Administration to prescribe, conduct, and supervise such courses as it may deem necessary to supplement other training facilities. Under the current program, eligible personnel are provided field exercise training in shipboard firefighting and training in the use of collision avoidance radar, radar compass operation and maintenance, and the use of Loran C. A new course in the operation and maintenance of medium and slow speed diesel propulsion engines will be offered in the spring of 1978, using the facilities of the Merchant Marine Academy. The basic objectives of this training are to assist in providing a trained shipboard work force, improve safety of life and property in shipboard operations, and prevent shipboard pollution resulting from ship collision, groundings, and fires. User charges are levied for radar courses and are being considered for the diesel course. Training is provided through modest training facilities located on each of the four seacoasts.

This is the first time appropriation authority has been requested for this activity. The request for 1979 authorizations is made in accordance with the Maritime Appropriations Authorization Act for Fiscal Year 1978. The Assistant Secretary of Commerce for Maritime Affairs requested $1,904,000 for this activity in 1979. The 1979 request provides for resources to establish a firefighting school on the west coast. This will complete the establishment of the firefighting school system which was begun in 1978. The 1979 request also provides for a modest expansion of the radar training program in response to the President's message on pollution of the oceans by oil, which committed the U.S. Coast Guard to require demonstrations of proficiency in radar skills through the use of simulators.

Mr. Chairman, this completes the explanation of the maritime education and training items included in H.R. 10729.

Mr. RUPPE. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from California (Mr. McCLOSKEY), the ranking minority member of the Committee on Merchant Marine and Fisheries.

Mr. McCLOSKEY. Mr. Chairman, I rise in support of H.R. 10729, the maritime authorization bill for this next fiscal year, but I have serious reservations about some of the provisions of the bill, and will offer amendments to try to enact those reservations into law.

Serious questions are being raised today about the maritime subsidy program, which this bill will fund. I believe the distinguished chairman of our committee properly used the term, "litany of horrors," which we have considered year in and year out in this maritime subsidy program.

Clearly, the subsidies have generally not provided the efficient, competitive merchant marine that our Nation requires, and that our 1936 law mandates as a matter of national purpose. Despite a generous subsidy, which includes up to 50 percent for construction costs, 74 percent in wage subsidies for American seamen, 75 to 87.5 percent mortgage guarantees, special tax advantages, and guaranteed markets for domestic material and Government-impelled cargoes, with all of those Government-imposed advantages, the U.S. merchant marine is carrying an increasingly smaller share of our foreign commerce each year.

One of our 10 subsidized companies, the Pacific Far East Lines, is now in bankruptcy. Several others are threatened. Our 10 subsidized liner companies have an average rate of return after subsidy of less than 4 percent on invested capital. This compares with the three major unsubsidized companies, Sea Land, Seatrain, and U.S. Lines, all of which have been successful in the innovation of new technology, and are apparently doing well financially.

This comparison of the 10 subsidized companies, not all of whom are doing well, with the 3 which are profitable, leads to a very real question as to whether the subsidy program itself is desirable for the maintenance of a strong U.S. merchant marine.

In recent testimony before the Merchant Marine Subcommittee, Mr. George Avery of the National Industrial Traffic League, a major association of U.S. exporters and importers, remarked that ocean freight rates out of the United States were generally higher than those from other industrialized countries and indicated that part of the reason may be the restrictions placed on U.S.-flag liner carriers by means of present subsidy programs.

He stated:

> . . . Service restrictions placed on U.S.-flag liner carriers by means of the existent subsidy programs (should) be thoroughly reviewed—

Before they are extended.

One of the amendments I will offer today is an amendment to limit this year's subsidy program to 1 year's duration rather than the customary 20 year contracts which will impose a future obligation of $3.1 billion on the Federal Treasury over the next 20 years. It may be that bills presently before the Merchant Marine Committee, the closed conference bill and the bill to permit carrier conferences and shippers' conferences may make the entire subsidy program unnecessary. If so, it would be a shame in this next fiscal year to extend to 80 ships, nearly half of our subsidized merchant marine, a 20-year subsidy program that would then have to be abandoned.

Recently Malcom McClean, the man who made the Sea Land Co. successful, who completed the greatest scientific and technological innovation in recent decades with the introduction of containerized shipping, a major figure in the unsubsidized portion of the U.S. fleet, stated that when he acquired United States Lines, formerly a subsidized liner company, he would not wish to apply for or accept a subsidy under the Maritime Administration. As a matter of fact he went further and said he would like to pay off the existing obligations to the Government or that are guaranteed by the Government under the subsidy program because he felt that the restrictions imposed on subsidized companies made it impossible to make a profit and

be competitively efficient. Those are the words of Mr. McClean, whom we respect as the father of the technical innovations in the American merchant marine which have made at least a portion of the fleet competitive. They are words we should take to heart, and we should not give a blank check to subsidization for nearly half the American merchant marine for 20 years.

My amendment would limit the extension to 1 year, and then if the program needs to be extended after that time, it can be done.

There are other amendments. In committee we added an amendment to extend the title XI guarantee program from $7 billion to $10 billion. We did that at a time and on a date when it was not clear whether the administration supported the extension of the loan guarantee title XI program or not. But shortly after the committee adopted that amendment we were advised by the Office of Management and Budget that the administration strongly opposed the extension of the title XI guarantees from $7 billion to $10 billion.

Mr. McIntyre, the Director of OMB, has stated flatly that OMB is opposed to this amendment adding the additional $3 billion in title XI authority.

He said there are also a number of concerns with the title XI mortgage guarantee loan program that need to be addressed. This loan guarantee program is one of the least restrictive Federal credit programs in terms of its criteria for eligibility, need for financial assistance, and availability of alternative sources of credit.

Mr. McIntyre wrote, on May 2, 1978:

> Our concern is underscored by the pending default of nearly 103 million dollars in guaranteed loans to a subsidized U.S. flag steamship company.
>
> Finally, we question whether an increase in the ceiling of the amount proposed is even necessary at this time given the uncertainty surrounding contract negotiations involving 10 LNG carriers.

This raises the point of the LNG carriers, which is the subject of a third amendment.

Last year the Congress, and this House, authorized construction subsidies for two large LNG carriers. The administration has chosen not to build those carriers and it is still uncertain as to whether the administration will want to build the two carriers that we authorized last year.

In this bill there are two additional LNG carriers at $51 million each in construction subsidies, ships that will cost $200 million to construct. We will have to subsidize each ship for $51 million.

For us to go ahead and authorize ships which the administration may never build, similar to the ships which last year the administration chose not to build, seems to me the height of folly. If the administration wants to review this program and should decide that it wants to proceed with the subsidized LNG program, it can come back to us with an appropriate request and get a supplemental appropriation to build the LNG carriers.

But this is a trademark of what our committee has done, as the chairman has described, year after year. We look at a litany of horrors but year after year we vote to authorize construction of ships which ultimately may never be built.

Let me speak to several other amendments.

In the course of the committee's oversight hearings over the last several years we have had, on occasion, the representatives of the maritime unions come before the committee and say to us, in effect, "If you will continue the operation of the subsidized ships—most recently the *Mariposa* and the *Monterey* of the now-bankrupt Pacific Far East Line, earlier the steamship *United States*—if you will keep these subsidized ships in operation we will be willing to cut back the manning levels which we have negotiated by collective bargaining."

We have had officials testify involving the Pacific Far East Line in the operation of LASH ships. We have found that that a ship which the Coast Guard required to have a manning level of 22 crewmen to operate safely, that the Delta Lines was operating that ship out of New Orleans with a crew of 32, 10 above the safety level, but the very same ship used by Pacific Far East Lines required a crew of 40.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RUPPE. I yield 5 additional minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman for yielding me the additional time.

Mr. Chairman, it is understandable that some ships should have certain additional officers, that a ship might have a purser, that a refrigeration ship might have a refrigeration engineer, and that there be specialists of one kind or another in these ships in addition to the manning level required by the Coast Guard as a minimum for safe operations.

But look at the PFEL situation as compared with the Delta Lines. The same identical LASH ship operated by Delta with a crew of 32, was required by the union serving PFEL to have a crew of 40. PFEL is in bankruptcy and Delta is operating profitably.

One amendment I will offer will require that on all subsidized ships, the crew be no greater than 50 percent above the Coast Guard requirement for manning those vessels.

This would have allowed, in the case of the LASH ship, 11 additional people above the 22 minimum set by the Coast Guard—a total of 33 men, 1 more than the Delta Lines crew size. The amendment would not permit a subsidy for the crew of 40 which the west coast union imposed on PFEL, a crew size 25 percent higher than the crew used by Delta Lines.

It seems to me that if we are going to subsidize American seamen, we cannot leave to the collective bargaining process and unions, some of which may be stronger than other unions, the right to demand a manning level which is excessive and which may make that same subsidized shipping company subject to bankruptcy. If Pacific Far East Lines, into which we have been putting anywhere between $20 million and $25 million per year in subsidies over the last few years, goes bankrupt, the U.S. Government's investment is endangered. In this case the capital investment in PFEL ships threatens the U.S. Government with a loss of $103 million. So, clearly, if bankruptcy of a subsidized U.S. shipping line can be forced or imposed or accelerated by union manning levels which are excessive, the Congress, which furnishes the money, has an obligation, within reason, to limit the manning levels involved.

Finally, I would like to refer to an amendment which seems to me absolutely essential and consistent with this House's concerns over the public financing of election campaigns. As far as I know, the only public financing of political action in the United States is through this program. Under the maritime subsidy program the unions have negotiated with management the requirement that management of these subsidized shipping companies contribute money to organizations such as the Transportation Institute. The Transportation Institute received subsidized funds out of the Treasury of the United States. In last year's cargo preference fight, the institute put $50,000 into the political campaign to pass the cargo preference bill. If we are honest about not wanting taxpayers' dollars used for lobbying activities on either side of an issue, it seems imperative that we adopt an amendment that Federal subsidy moneys paid to seamen in order to keep those seamen employed at a rate competitive with foreign ships should not be extracted and paid into an organization and used for lobbying activities.

I might add the final amendment along these same lines refers to our annual funding of the Marine Engineers Beneficial Association's school near Baltimore—this is the so-called Calhoun School—to the point of $3.7 million a year. It may be that that school is a worthy school, but we already fund the Federal Maritime Academy, and we contribute to the cost of the 6 State academies. The concept that we should also fund an academy run by an organized labor union merely because that union has been able to negotiate with management that management fund a school for new seamen, when these seamen are in competition with those who come out of the federally funded academy, seems plain wrong. It is wrong that the Federal Government, without being able to require accountability to the Federal Government, without requiring our standards to be enforced, without the ability to inspect and audit the school, with no control over the manner of the operation of the school, should fund a school to the extent of $3.7 million a year merely because a particular union was strong enough to say to the U.S. shipping companies, "We require as a

condition of our union contract that you fund our school." That is fine, but the funding should not come out of Federal money.

Mr. MURPHY of New York. Mr. Chairman, I have no further requests for time.

Mr. RUPPE. I have no further requests for time, Mr. Chairman.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 10729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1979".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1979, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $157,000,000;

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $262,800,000;

(3) For expenses necessary for research and development activities, not to exceed $17,500,000;

(4) For maritime education and training expenses, not to exceed $22,483,000, including not to exceed $15,359,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $5,220,000 for financial assistance to State marine schools, and $1,904,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) For operating expenses, not to exceed $34,845,000, including not to exceed $5,516,000 for reserve fleet expenses, and $29,329,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1979, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 5, immediately before the semicolon, insert: ": *Provided*, That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be enrolled in a Sealift Readiness program approved by the Secretary of Defense: *Provided further*, That in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series".

AMENDMENT OFFERED BY MR. TRIBLE TO THE COMMITTEE AMENDENT

Mr. TRIBLE. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. TRIBLE to the committee amendment: On page 2, line 7, strike "enrolled" and insert in lieu thereof "offered for enrollment".

Mr. TRIBLE. Mr. Chairman, at the markup of the 1979 Maritime authorization bill before the House Merchant Marine and Fisheries Committee, the gentleman from California (Mr. MCCLOSKEY) introduced amendments that would require that vessels receiving construction or operation differential subsidies be enrolled in or participate in a sealift readiness program approved by the Secretary of Defense.

I believe that this language is unnecessary and will prevent the construction of liquefied natural gas carriers by the U.S. shipbuilding industry. The loss of this opportunity to the shipbuilding industry will result in higher shipyard unemployment and the erosion of U.S. shipbuilding capabilities.

The amendments I am offering today will eliminate the requirement that ships be enrolled in or participate in a sealift readiness program in order to receive a Government subsidy. Instead, my amendments would simply require that these vessels be offered for enrollment and participation in the program in order to receive the appropriate subsidy.

The language of the Maritime authorization bill is unnecessary because all ship construction differential subsidy contracts are now subject by law to Navy approval on the basis of national security considerations. All U.S.-flag ships—including LNG's—are now subject to warfare requisitioning by the Federal Government under the provisions of section 902 of the Merchant Marine Act of 1936. No new legislation is needed to assure the availability of subsidized or other U.S.-flag ships when they are needed for national security.

The sealift readiness program is a specialized contractural program intended to assure the availability to the Department of Defense of some intermodal and other general cargo ships in the unlikely event that the United States might choose to support military operations overseas without requisitioning ships and under conditions short of full mobilization.

In consistantly approving construction differential subsidy contracts for LNG's, the Navy has recognized their national security role. However, the Navy does not view LNG's as needed for the narrower defense mission of direct military support envisioned for the sealift readiness program and has so stipulated.

Since it would be inappropriate to enroll LNG's in a sealift readiness program, the language of the Maritime authorization bill would preclude their construction or operation under the subsidy programs and I believe that language should be amended.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the committee accepts the amendment offered by the gentleman from Virginia (Mr. TRIBLE), a very able member of the committee.

Mr. MCCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from California.

Mr. MCCLOSKEY. Mr. Chairman, the purpose of this amendment, as I understand it, is to change the mandatory language in the bill as adopted by the committee, which stated that in order to qualify for construction subsidy the ships had to be actually enrolled in the sealift readiness program.

The gentleman's amendment, as I understand it, would require only that they be offered for enrollment in the sealift readiness program, subject to the Government's right to accept or decline to accept that particular ship.

Am I correct in understanding the purpose of the amendment?

Mr. TRIBLE. Mr. Chairman, the gentleman is correct.

Mr. MCCLOSKEY. Mr. Chairman, I am pleased to accept the amendment, because it was not our intention in the committee to make the activities of LNG ships in the program based on mandatory language. The purpose of adopting the amendment in the committee was to hopefully limit subsidies only to ships which would be acceptable to the Government in a national security sense or in an emergency.

Mr. Chairman, I have no objection to this amendment, because it clarifies the language and I think carries out the intent of what the committee sought to do.

Mr. TRIBLE. Mr. Chairman, I thank the gentleman from California.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. TRIBLE) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 19, immediately before the semicolon insert: ": *Provided*, That no funds authorized by this paragraph may be paid for the operation of any vessel which does not participate in a Sealift Readiness program approved by the Secretary of Defense".

AMENDMENT OFFERED BY MR. TRIBLE TO THE COMMITTEE AMENDMENT

Mr. TRIBLE. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. TRIBLE to the committee amendment: On page 2, line 17, strike "does not participate" and insert in lieu thereof "is not offered for participation".

Mr. TRIBLE. Mr. Chairman, the purpose of this amendment is identical to the purpose of the amendment submitted and approved by the committee just moments ago.

Mr. Chairman, I would commend the arguments I made at that time to the consideration of this body.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, the committee would be happy to accept the gentleman's amendment. It is of a clarifying nature.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, the minority accepts the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 23, strike "$22,483,000," and insert in lieu thereof "$24,647,000,".

The CHAIRMAN. Does any Member wish to address this committee amendment?

If not, the question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, line 24, strike "$15,359,000" and insert in lieu thereof "$15,523,000".

The CHAIRMAN. Does any Member wish to speak on this committee amendment?

Mrs. FENWICK. Mr. Chairman, I move to strike the last word, and I wish to address a question to the chairman of the committee.

Mr. Chairman, I wonder if I might ask this question, as I did before when this same subject come before us:

Is it true that our graduates from these academies, for example King's Point, do not, when they graduate, receive the seniority that the graduates of the Calhoon School receive? Is that practice still in force, whereby the graduates of the Calhoon School are given seniority over the graduates of these tax-supported schools?

Mr. MURPHY of New York. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, that was the condition that existed in the past. However, it does not exist today. The graduates of the U.S. Merchant Marine Academy have always been very much sought after by the industry.

Fortunately, we are in a position now where those graduates, both men and women, go into very substantial jobs on the same basis as anybody from any other school, whether it be a union school or not.

Mrs. FENNWICK. In other words, the graduates during any one year go into employment on exactly the same basis from all schools, including the Calhoon School?

Mr. MURPHY of New York. The gentlewoman is correct. The union rolls are now open to all graduates.

Mrs. FENWICK. And the seniority that used to be granted them is no longer granted?

Mr. MURPHY of New York. As far as I know, that is so.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 3, line 1, strike "$5,220,000" and insert in lieu thereof "of which $450,000 shall be for the replacement of barracks windows at the Academy, $7,220,000".

The CHAIRMAN. Does any Member wish to address this committee amendment?

If not, the question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: On page 3, after line 18, insert the following:

SEC. 4. Section 3 of the Maritime Academy Act of 1958 (46 U.S.C. 1382) is amended by the addition of a subsection to read as follows:

"(d) The Secretary may pay additional amounts to assist in paying for the cost of fuel oil consumed during the training cruises of the vessels referred to in subsection (a)."

SEC. 5. Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273(f)) is amended by striking "$7,000,000,000.", and inserting in lieu thereof "$10,000,000,000.".

The CHAIRMAN. Does any Member wish to address this committee amendment?

AMENDMENT OFFERED BY MR. M'CLOSKEY TO THE COMMITTEE AMENDMENT

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY to the committee amendment: Strike section 5 beginning on page 4, line 1.

Mr. McCLOSKEY. Mr. Chairman, the committee amendment is the amendment that increases the authorization for the title XI funding from $7 to $10 billion. It relates to the letter that I read to the committee a few minutes ago from the Director of the Office of Management and Budget. Before voting on this amendment, I would like to call the committee's attention to the chronology by which the committee extended this figure from $7 to $10 billion. We had no testimony on the subject, but we did have, in response to questions directed to the Maritime Administration, a letter from the Maritime Administrator, indicating that the Maritime Administration felt that it would be helpful to increase this figure from $7 to $10 billion.

With the information in front of us, the committee adopted that provision on April 18, and it was ordered reported by the committee on April 18. The letter from the Director of the Office of Management and Budget opposing the amendment was not received until May 2, 2 weeks later.

At the oversight hearing, at which the Assistant Administrator for Maritime Aids, Mr. Yowell, testified, he stated that the amendment without the LNG program was not needed this year. That raises the question of the LNG program because the administration has stated unequivocally that it is reviewing the entire LNG program. The two ships authorized last year have not yet been started in construction, and the administration is not sure that the two ships, at the cost of $102 million, will be authorized this year.

I would like to read into the record for the information of the Members a letter from the Director of the Office of Management and Budget. It is dated May 2, 1978. It reads:

DEAR MR. McCLOSKEY: This is in response to your letter of April 25, 1978, in which you ask whether the Administration supports increasing the mortgage guarantee authority under Title XI of the Merchant Marine Act, from $7 billion to $10 billion, through the form of an amendment to the Maritime Authorization bill.

The Administration is opposed to this amendment. The President's Fiscal Year 1979 budget, which was transmitted to the Congress this past January, indicated the Administration's intention to propose budget-type controls over Federal direct loan and loan guarantee programs. It is Administration policy to recommend that new authorizations for loan guarantees include language requiring that the use of loan guarantee authority be subject to annual limitations provided in appropriation acts.

There are also a number of concerns with the Title XI mortgage guarantee program in particular which we believe need to be addressed. This loan guarantee program is one of the least restrictive Federal credit programs in terms of its criteria for eligibility, need for financial assistance and availability of alternative sources of credit. Our concern is underscored by the pending default of nearly $103 million in guaranteed loans to a subsidized U.S. flag steamship company.

Finally, we question whether an increase in the ceiling of the amount proposed is even necessary at this time given the uncertainty surrounding contract negotiations involving 10 LNG carriers.

For the above reasons, and because the amendment is not a required part of the authorization bill, we would oppose such an amendment.

I would underscore that since this is not a required part of the authorization bill, added without testimony, without hearings now opposed by the administration, it seems to me that the committee borders on the irresponsible to push through a program of this kind, with no testimony, no support, and with square administration opposition. But more than that, our own General Accounting Office, which reports to the Congress, has questioned the wisdom of the unlimited extension of the title XI program.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 3 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, on May 16, 1977, the General Accounting Office wrote to Chairman BROOKS, of our Government Operations Committee, questioning the title XI program. Let me quote from that letter of May 16, 1977.

The GAO in their reports summarized the following problems: That program income is being reduced $47,000 because of late guarantee fee collection for the 12-month period ended January 31, 1977. It requires annual recertifications that vessels are owned and operated by U.S. citizens, and those annual recertifications are not being submitted in all cases.

The GAO pointed out that because the demand for guarantees exceeds the authorized ceiling, the agency limits its refinancing guarantees to only those applications involving a reasonable amount of new vessel construction or where the applicants' financial viability depends on the refinancing.

The GAO found delays in processing applications. Applicants' excess interest costs precluded title XI's full contribution to the Merchant Marine Act.

Finally, the title XI documentation requirements could be improved and are a disincentive to applicants.

Mr. Chairman, those criticisms of the GAO indicate only that before we continue an extension of this program from $7 billion to $10 billion, the Committee on Merchant Marine and Fisheries and the House should give attention to limitation on the program to make sure that the GAO's mandate to insure economic and efficient operation of government can be carried out. These are serious objections which the GAO raises to the manner in which the title XI is administered. Why should we continue the program without legislative hearings to iron out those difficulties?

For that reason, Mr. Chairman, I urge that the amendment be adopted to the title and that this House not expand this program from $7 to $10 billion without specific legislative hearings on this subject.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I handled this issue for the committee before the Committee on Rules. Unfortunately, the gentleman from California (Mr. McCLOSKY), my colleague, for whom I have a great deal of respect, was not able to be there at that time.

I had occasion to look over exactly what we were doing and to look over the letter from the Office of Management and Budget that we have drawn into question here.

Therefore, Mr. Chairman, I would ask my colleague, the gentleman from California (Mr. McCLOSKEY), if he would like to respond, perhaps, to a question.

The gentleman indicates that the title XI program does have some restrictions. They are only taking the best applications, as I understand it, at the present time, and applications for those ships that are the most qualified.

Mr. Chairman, may I ask the gentleman this question: What losses has this title XI program experienced to date, actual cash losses; is the gentleman aware?

Mr. McCLOSKEY. If the gentleman will yield, Mr. Chairman, the only losses that I have testified about are the PFEL exposure from the four ships which the Government has guaranteed and particularly the fiberglas barges, which the Maritime Administrator indicated subjected the Government to the possible loss of $20 million to $30 million on the barges alone under the program for PFEL.

Mr. Chairman, I have no real objection to this program. I do have an objection to proceeding with the program and expanding the program when it is not needed and without attention to the manifest defects which have cropped up and which the GAO has pointed out.

Mr. LEGGETT. As I understand it, however, they can maintain the program by regulation. They can tighten it up. There are lots of things they can do. They have broad authority, as I understand it, over in the Maritime Administration. As I understand, today, they have financed better than 5,674 ships, and barges, and they have experienced losses on those vessels of 14 million.

On the other hand, they have had gains, so that really the net profit is $154 million balanced against gross losses of $14 million. Therefore, really, to date, with the $7 billion of guarantees, admittedly rotating, there has been very little loss in this program.

Mr. McCLOSKEY. Mr. Chairman, in response to the gentleman's question may I say this.

Mr. LEGGETT. Can the gentleman answer that yes or no?

Mr. McCLOSKEY. Yes. The loss has been $14 million. The exposure on the barges come to $32 million. I will concede that in a $7 billion program, $14 million in losses to date is not a significant item.

I would like to reiterate that I am not objecting, ultimately, to the extension of this program after the House and our committee has had an opportunity to review it.

But, I think with the administration being opposed, with there being the indication that there is no need for the program, with the indication that there are defects in it, with the understanding that we have not ever held hearings on the subject, under those conditions, I would rather see our committee defer this until we have held full hearings.

Mr. LEGGETT. I appreciate the gentleman's remarks. Perhaps he has not heard all that he would like to hear. As I understand, this question was raised by the gentleman when the bill was under consideration by the committee. At his special instance, we did hold a special day of hearings on this subject.

Mr. McCLOSKEY. That was after we reported the bill out.

Mr. LEGGETT. We did hear from folks in the MarAd, and they did indicate that they did not need the title XI increase if they did not get approval for the LNG program. The gentleman is well aware that there are many shipyards around the country, particularly the Quincy Yard in Massachusetts, where they more or less survive off these LNG ships. When they open a route from Algeria to Canada or from Algeria to the United States, some 12 ships are required for each line.

As a result, with several lines currently under consideration, and with a number of LNG ships being considered for construction, and with the requirements that we handle authorization bills by our committee prior to May 15 for fiscal year 1979, the reasonable thing would appear to be that the committee report out the bill and anticipate that the administration might authorize this.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. LEGGETT was allowed to proceed for 4 additional minutes.)

Mr. LEGGETT. With the anticipation that these lines might be opened, that the LNG's might be the ships of the future, as a result, out of an abundance of reasonable caution, we extend the loan guarantee program. If the administration determines that we are not going to need to go into this, we do not spend one dime. It is not a frivolous or expansive act, because we have not expended any money. All we have done is taken care of a contingency that might happen during the fiscal year we are talking about.

Mr. McCLOSKEY. If the gentleman will yield further, as the gentleman pointed out, when we reported out the bill to extend the authority from $7 to $10 billion, we did so on the reasonable expectancy that the administration might want this authorization. Then, we were advised that the administration not only did not want it, but opposed the authorization. It seems to me that it is only reasonable that since the only basis for our acting in the first place was the

interpretation of the Maritime Administration's letter—and I think the chairman made a reasonable interpretation of that letter from Mr. Blackwell—the administration might want it.

Now that we know the administration does not want it, and opposes it, it seems that the reasonable thing to do is to cast our vote on the administration's position. Certainly the committee has no evidence before it to overrule the administration.

I am not hesitant to substitute the committee's judgment for the administration's judgment when we are fully informed, but in this case we acted on what we thought was the administration's position. They have made it clear that their position is different. For us to go ahead now, it seems to me, is to go ahead with a program with no facts, no testimony, no record to support it. I would think it almost irresponsible on the part of a body as distinguished as this committee.

Mr. LEGGETT. The gentleman is not reading his own letter.

Mr. McCLOSKEY. The discredited letter the gentleman read in the report.

Mr. LEGGETT. On page 20 what we say is simply that we anticipate new commitments in 1978—that is the current fiscal year—of $2.1 billion under title XI; $1.3 billion in 1979; $1.2 billion in 1980, for a total required end of year title XI guarantee of $9.6 billion. That information is in the record. It comes from the Maritime Administration.

We know very well that many times there is a slip between Bob Blackwell's office and whomever might be in charge of some department over in OMB.

Mr. LEGGETT. Mr. Chairman, as a result of the best information we can rely on at this point, on the basis of the information from Bob Blackwell and MarAd, we made the determination, not on the basis of OMB, and not having in mind the administration position but the position represented by Blackwell, and I think the committee position is very well taken that the amendment offered by the gentleman from California (Mr. McCLOSKEY) ought to be defeated.

Mr. RUPPE. Mr. Chairman. I rise in support of the amendment. The provision it seeks to strike, the $3 billion increase in mortgage guarantees, is nongermane to the authorization bill, and I opposed the waiver of points of order against it which was recently granted by the Rules Committee.

The administration has under consideration a bill to raise the ceiling but would like to review the entire mortgage guarantee program before proceeding. Primarily because there is no reason to consider this provision in the authorization bill and because it short circuits an ongoing Administration review of the program, it should be deleted. The administration shares this view.

The mortgage guarantee program needs review because:

First, in the words of OMB Director, McIntyre—

This loan guarantee program is one of the least restrictive Federal credit programs in terms of its criteria for eligibility, need for financial assistance and availability of alternative sources of credit.

Second, the President's budget expresses a new policy requiring that loan guarantee authority be subject to annual limitations provided in appropriations acts. No such limitations are provided in this bill.

Three, GAO has been very critical of the current operation of the program and has reported that late guarantee fee collections have cost the Government $47,000 annually, necessary citizenship certifications are not being submitted, documentation requirements are excessive and the agency has seriously delayed processing many applications.

The program clearly needs the review the administration has started, and this amendment will make that possible.

Mr. LOTT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am a little bit confused here. It seems the gentlemen on the Democrat side of the aisle are arguing against the position of the OMB and the General Accounting Office and on the Republican side of the aisle they are arguing in favor of it. In view of that, I will stock with my usual position and argue against the administration position.

I do represent a shipbuilding area, but the shipyards in my own district would not be benefited or hurt by this amendment. I want to make that clear at the outset.

I am not a member of the committee, although I served on the committee in the past. I think this legislation is very important because I am interested and concerned about our merchant fleet. I am concerned about ships of America. We are falling down on the number of ships that we are building for the Navy and also for the merchant fleet, neither is adequate. If you look back over history you will find that every time a nation is powerful in this world it is because they controlled all of the sea lanes, both military and merchant, and that as they lose that sea power then they lose their other power.

I think we are exaggerating this issue, we are talking about an addition of $3 billion for loan guarantees, but it may not be necessary to use it. But when we are talking about these loan guarantees let me say they have got a pretty good record in this area.

The administration does not have a LNG program. Why do they not have a LNG program? You know, I am afraid we are being crippled as far as our continued advantage in technology and the superiority that we have in the construction of the LNG's. I am afraid that if the administration continues to waffle in this area, as they have done in so many other areas, that our shipbuilding industry will be hurt and we will have to increase our reliance on foreign-flag shipping.

So while it may be an exaggeration in what we are talking about that might be spent here, it very well could result in turning out to be very damaging.

I would urge the administration to get off dead center and make some decisions on the LNG's. I think that we do need them.

I would hope that this afternoon what we do would not result in damaging this loan guarantee program and I would urge that we vote down the amendment.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield ?

Mr. LOTT. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I would listen to the arguments of the gentleman from Mississippi (Mr. LOTT) with greater respect if the gentleman could point to a single case of a single ship that is necessary to be built with the use of these guarantees today. We have no such testimony in front of us today.

The reason I object to extending the authorization from $7 to $10 billion is that there is not a shred of testimony that it is necessary. There was no such testimony in front of our committee. There was one letter from the administrator which was later reversed. It is not just the OMB that is telling us that we do not need it.

I have great respect for all of our colleagues who are fiscally conservative, but I do not see how they can possibly be for a $3 billion increase when there is not a single shred of testimony that it is needed for the present. If the gentleman can point to a case where it is needed, I would be happy to consider it.

Mr. LOTT. First of all, I might emphasize also that there has been no testimony in support of the gentleman's amendment in this regard. I do not want tie our hands in such a way that it would hurt the technological advantages that we have insofar as the LNG's are concerned. I also support fiscal conservatism, but I also believe that one of the best ways in which to help this country of ours is through providing jobs such as in our shipyards and not through grants in the public sector for jobs that do not help anybody.

Mr. McCLOSKEY. I am in absolute agreement with the gentleman on that point.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield, let me state that I think the gentleman from Mississippi is exactly right. We have got right now, currently, under construction, as I see it, about 20 ships, 3 at Avondale, 3 at Newport News, and about a dozen at the various General Dynamic Shipyards.

So, the work is currently in progress. It is a well-established program and it is for the Algeria United States Line, the Indonesian Japan Line, and we have several other lines that may open up. This is not a new subject at all. Certainly these shipyards have got big workloads. We have got to keep them going. One of the ways to do it is to defeat this amendment and support the committee.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite

number of words and hopefully I will end the debate on this amendment.

Mr. Chairman, first of all I would like to congratulate our colleage the gentleman from Mississippi (Mr. LOTT) for his very accurate remarks in this debate.

I think if we go back to our remarks made during the general debate and understand what we are really doing, we are not authorizing, as the gentleman from California (Mr. MCCLOSKEY) incorrectly stated a moment ago, all we are permitting is an increase in the ceiling of title XI guarantee funds from $7 to $10 billion. And even if the ceiling is raised it does not mean that the title XI funds will necessarily be utilized. I might mention that we should have the success across America with all of our present Government programs that we have had with this title XI program.

Why do we ask for the increase from $7 billion to $10 billion? My colleague, the gentleman from California (Mr. MCCLOSKEY), clearly stated that we have a liquid natural gas ship construction program. Based on the current backlog of about $2 billion in pending title XI applications, the current $7 billion ceiling will be reached during fiscal year 1978, and the Maritime Administration's latest projections for future requirements indicate the total commitments of title XI will reach $9.6 billion by the end of fiscal year 1980. That is the reason we ask for an increase from $7 to $10 billion to cover existing programs and existing orders. When people say that we do not have an administration liquid natural gas program, that is partially correct. What we will have is liquid natural gas imported to all coasts of the United States. California, vitally needing liquid natural gas particularly from Indonesia, will be one of the prime beneficiaries of this ship construction program. Unfortunately, we cannot drive across to some members of the committee that title XI is vitally necessary to take care of California's need for clean energy. We will have liquid natural gas imported. We have the programs now ongoing. We will exceed the $7 billion figure in 1978, and that is the reason we are asking for this increase, notwithstanding the very specious arguments of the Office of Management and Budget.

The Office of Management and Budget would have us believe—and have us wait—on the basis of their reasoning for not authorizing an increase in this authorization ceiling in title XI for a guarantee because, they say, we have not put down in black and white specifically what the liquid natural gas program of America is. What is holding up that liquid natural gas program? The question is this: How much liquid natural gas will be permitted? We know it will be more than 15 percent of current natural gas supplies. That is going to cover the ships already on order and the ships that are under the title XI program. We know they are included and locked in. The questions are only how far above the 15-percent ceiling will we authorize importation; from what parts of the world will we authorize importation; and under what pricing mechanism? Those are the only things left to do. The question of the transportation is clear.

The gentleman from California (Mr. MCCLOSKEY) in his great wisdom and abilities certainly should understand and know this, and I cannot believe that he would take a letter from the Office of Management and Budget, very narrowly directed not to the overall program as we know it, but merely to an increase in a ceiling in a program that has proved to be highly successful. So the committee in its judgment did not repose credence in that particular document and has requested the $10 billion ceiling.

Mr. MCCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. MCCLOSKEY. I thank the gentleman for yielding.

I have admired the gentleman's ability to drag the administration kicking and screaming into a new maritime policy, but does the gentleman have any indication at all that this administration is on the verge of adopting a liquid natural gas policy that would justify the construction of these ships?

Mr. MURPHY of New York. About 6 months ago I went down to the special task force personally, and we saw the very capable members of this administration who are in the process of crossing the last "t" and putting the last period in that policy; but we do know, and we very clearly know, because of the intent and the construction orders—that liquid natural gas will be transported to America. If we supported this gentleman's amendment to the committee amendment, we would take the United States out of the liquid natural gas vessel construction; we would put our money into the foreign shipyards and foreign flagships; and we would lose for all time the area of expertise we have in shipbuilding where we are ahead of the world and cost competitive, that is, liquid natural gas vessel construction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MCCLOSKEY) to the committee amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCLOSKEY. Mr. Chairman, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 126, nays 241, not voting 67, as follows:

[Roll No. 351]

AYES—126

Abdnor	Bennett	Cederberg
Anderson, Ill.	Brinkley	Clawson, Del
Andrews, N.C.	Broomfield	Cleveland
Archer	Brown, Calif.	Collins, Tex.
Ashbrook	Brown, Mich.	Conable
Aspin	Brown, Ohio	Conte
Badham	Broyhill	Corcoran
Bafalis	Burleson, Tex.	Coughlin
Bedell	Butler	Devine
Bellenson	Caputo	Dickinson
Drinan	Kostmayer	Robinson
Edwards, Okla.	LaFalce	Rousselot
English	Lagomarsino	Rudd
Ertel	Latta	Ruppe
Fenwick	Leach	Sarasin
Fish	Lent	Sawyer
Fisher	Lujan	Schulze
Forsythe	McClory	Sebelius
Frenzel	McCloskey	Sharp
Gibbons	McDonald	Shuster
Glickman	McKinney	Simon
Goldwater	Madigan	Smith, Iowa
Gradison	Maguire	Smith, Nebr.
Grassley	Mahon	Stangeland
Guyer	Marlenee	Steers
Hagedorn	Marriott	Steiger
Hamilton	Martin	Stockman
Hansen	Meyner	Symms
Heftel	Michel	Thone
Hightower	Milford	Udall
Hillis	Miller, Ohio	Vander Jagt
Horton	Mitchell, Md.	Vanik
Hubbard	Moorhead, Calif.	Volkmer
Ichord	Myers, John	Walgren
Ireland	Panetta	Walker
Jacobs	Pattison	Watkins
Jeffords	Pettis	Whitley
Jenkins	Poage	Wirth
Johnson, Colo.	Pressler	Wydler
Kastenmeier	Quayle	Wylie
Kelly	Quillen	Yates
Ketchum	Reuss	
Keys		

NOES—241

Addabbo	Dingell	Leggett
Akaka	Dodd	Lehman
Alexander	Dornan	Levitas
Ambro	Duncan, Oreg.	Lloyd, Calif.
Ammerman	Early	Lloyd, Tenn.
Andrews, N. Dak.	Eckhardt	Long, La.
Annunzio	Edgar	Long, Md.
Applegate	Edwards, Ala.	Lott
Armstrong	Edwards, Calif.	Lundine
Ashley	Eilberg	McCormack
Baldus	Emery	McDade
Barnard	Evans, Colo.	McEwen
Baucus	Evans, Del.	McFall
Bauman	Evans, Ga.	McHugh
Beard, R.I.	Evans, Ind.	McKay
Beard, Tenn.	Fary	Markey
Benjamin	Fascell	Marks
Bevill	Fithian	Mathis
Biaggi	Flippo	Mattox
Bingham	Flood	Meeds
Blanchard	Florio	Metcalfe
Blouin	Flowers	Mikulski
Boggs	Flynt	Mikva
Boland	Foley	Miller, Calif.
Bonior	Ford, Mich.	Mineta
Bonker	Ford, Tenn.	Minish
Breaux	Fountain	Mitchell, N.Y.
Brodhead	Fowler	Moakley
Brooks	Gammage	Moffett
Buchanan	Garcia	Mollohan
Burgener	Gaydos	Montgomery
Burke, Fla.	Giaimo	Moore
Burke, Mass.	Gilman	Moorhead, Pa.
Burlison, Mo.	Ginn	Mottl
Burton, John	Gonzalez	Murphy, Ill.
Burton, Phillip	Gore	Murphy, N.Y.
Byron	Gudger	Murphy, Pa.
Carney	Hall	Murtha
Carr	Hammer-schmidt	Myers, Michael
Cavanaugh	Hanley	Natcher
Chappell	Hannaford	Nedzi
Chisholm	Harkin	Nichols
Clausen, Don H.	Harris	Nolan
Clay	Harsha	Nowak
Cohen	Hefner	O'Brien
Coleman	Holland	Oberstar
Corman	Holt	Obey
Cornell	Holtzman	Ottinger
Cornwell	Howard	Patten
Cotter	Huckaby	Patterson
Cunningham	Hughes	Pease
D'Amours	Hyde	Pepper
Daniel, Dan	Johnson, Calif.	Perkins
Daniel, R. W.	Jones, Okla.	Pickle
Danielson	Jones, Tenn.	Pike
Davis	Jordan	Preyer
de la Garza	Kazen	Price
Delaney	Kildee	Rahall
Derrick	Kindness	Railsback
Derwinski	Krebs	Regula
Dicks	Krueger	Richmond
Diggs	Le Fante	Rinaldo
	Lederer	Roberts
		Roe

Rogers	St Germain	Weaver
Rosenthal	Staggers	Weiss
Rostenkowski	Stanton	Whalen
Roybal	Stark	White
Russo	Steed	Whitehurst
Ryan	Stokes	Whitten
Santini	Stratton	Wiggins
Satterfield	Studds	Wilson, Tex.
Scheuer	Taylor	Winn
Schroeder	Thompson	Wolff
Seiberling	Traxler	Wright
Sikes	Trible	Yatron
Skelton	Van Deerlin	Young, Fla.
Slack	Vento	Young, Mo.
Snyder	Waggonner	Zablocki
Solarz	Walsh	Zeferetti
Spellman	Wampler	
Spence	Waxman	

NOT VOTING—67

Allen	Gephardt	Rangel
Anderson, Calif.	Goodling	Rhodes
AuCoin	Green	Risenhoover
Bolling	Harrington	Rodino
Bowen	Hawkins	Roncalio
Brademas	Heckler	Rooney
Breckinridge	Hollenbeck	Rose
Burke, Calif.	Jenrette	Runnels
Carter	Jones, N.C.	Shipley
Cochran	Kasten	Sisk
Collins, Ill.	Kemp	Skubitz
Conyers	Livingston	Stump
Crane	Luken	Teague
Dellums	Mann	Thornton
Dent	Mazzoli	Treen
Downey	Moss	Tsongas
Duncan, Tenn.	Myers, Gary	Tucker
Erlenborn	Neal	Ullman
Findley	Nix	Wilson, Bob
Fraser	Oakar	Wilson, C. H.
Frey	Pritchard	Young, Alaska
Fuqua	Pursell	Young, Tex.
	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Jenrette against.

Mr. Runnels for, with Mr. AuCoin against.

Mr. Crane for, with Mrs. Heckler against.

Mr. Erlenborn for, with Mr. Hollenbeck against.

Mr. Goodling for, with Mr. Livingston against.

Mr. Skubitz for, with Mr. Treen against.

Mr. Rangel for, with Mr. Neal against.

Mr. CONTE changed his vote from "no" to "aye."

Messrs. LLOYD of California, BEARD of Tennessee, GORE, TRAXLER, EVANS of Colorado, McDADE, and EARLY changed their vote from "aye" to "no."

So the amendment to the committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MURPHY of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10729) to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes, had come to no resolution thereon.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF ADVISORY COMMITTEE OF WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

The SPEAKER. The Chair is in receipt of a letter of resignation from Mr. Gene Shalit as a member of the Advisory Committee of the White House Conference on Library and Information Services.

Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of section 1(e), Public Law 93–568, the Chair appoints as a member from private life to the Advisory Committee of the White House Conference on Library and Information Services Dr. Gregory Adamian, from Belmont, Mass., to fill the existing vacancy thereon.

APPOINTMENT AS MEMBERS OF NORTH ATLANTIC ASSEMBLY CONFERENCE

The SPEAKER. Pursuant to the provisions of section 1, Public Law 689, 84th Congress, as amended, the Chair appoints as members of the North Atlantic Assembly Conference in Brussels from May 25 to May 27, 1978, the following Members on the part of the House:

Mr. PHILLIP BURTON, of California, Chairman; Mr. HAMILTON, of Indiana, Vice Chairman; Mr. RODINO, of New Jersey; Mr. BROOKS, of Texas; Mr. ANNUNZIO, of Illinois; Mr. ROSE, of North Carolina; Mr. IRELAND, of Florida; Ms. OAKAR, of Ohio; Mr. BOB WILSON, of California; Mr. BROOMFIELD, of Michigan; Mr. DEL CLAWSON, of California; and Mr. GOODLING, of Pennsylvania.

THE 1977 DOMESTIC SUGAR GROWER SUBSIDY DOES NOT WORK

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, approximately 1 year ago the House added a provision to the Food and Agriculture Act of 1977 which granted a subsidy to domestic sugar growers that is today costing $1.2 billion a year. At that time, those of us who opposed the so-called de la Garza amendment pointed out that the program would not work, would not achieve the goals its sponsors claimed, and would cost both taxpayers and consumers unconscionable amounts of money. All of this has come to pass.

Worse, they are back again demanding yet another billion dollars and change.

Mr. Speaker, at this time I would like to insert in the RECORD an article entitled "Battle Looming on Bill To Boost Sugar Supports" which appeared in the May 22 edition of the Washington Post:

[From the Washington Post, May 22, 1978]

BATTLE LOOMING ON BILL TO BOOST SUGAR SUPPORTS

(By Dan Morgan)

Philanthropist Stewart Mott, known for his funding of many fashionable causes from arms control to government reform, wants Congress to give the domestic sugar industry a federal grant.

It would take the form of price support increases for beet and cane growers that the administration says could cost suger users $1.2 billion.

"We have to keep beet growers in business as a matter of domestic policy," he said in an interview. "We don't want to be more dependent on imports and the vagaries of the world market."

In this case, the General Motors heir was not speaking out purely as a concerned public citizen. Mott is a director of the U.S. Sugar Corp., which is one of a number of huge food corporations whose fortunes are linked to sugar legislation to be debated in the House Agriculture Committee starting tomorrow.

The U.S. Sugar Corp., which is partly owned by the Mott Foundation, owns 77,000 acres of cane plantations around Lake Okeechobee, Fla. It plans to add 4,560 acres this summer, and would benefit from a proposed bill raising support prices from 13½ cents a pound to 17 cents.

The company's interest in higher prices is anything but unique.

It is shared by such corporate giants as Great Western, which is owned by the late Texas billionaire H. L. Hunt's sons Bunker and Herbert; a number of Hawaiian sugar cane conglomerates, and such makers of high fructose corn sweeteners as Heinz, Anheuser-Busch and A. E. Staley.

Arrayed against those processors and corporate farming enterprises in opposition to the higher prices are users and cane processors such as Coca Cola; Pillsbury; Nabisco and Amstar, the maker of Domino sugar.

"There's going to be quite a struggle," said Mike McCloud, until recently staff director and general counsel of the Senate Agriculture Committee and now a registered lobbyist for the Florida Sugar Cane League (which is fighting for higher support prices).

At issue is legislation that could affect the structure of the $11-billion-a-year sugar industry, the economies of some 30 foreign sugar exporting countries, the jobs of sugar refinery workers, and the profits of large companies.

Legislation introduced in the Senate by Frank Church (D-Idaho) and cosponsored by 33 of his colleagues would raise the support price to 17 cents a pound and authorize embargoes on imports to maintain that if necessary.

Church maintains that the bill is needed to keep sugar beet growers in business in his native Idaho, other western states and the Red River Valley. Representatives of corporate beet processors say that if the beet growers go, their plants will close and jobs will be lost.

The domestic sugar cane industries of Florida., Hawaii, Texas and Louisiana are also lobbying hard for the measure.

Rep. E de la Garza (D-Tex.) of the House Agriculture Committee has introduced a bill similar to Church's. De la Garza represents cane growers in the Rio Grande Valley.

Hawaiian and Louisiana cane growers have powerful allies on the Senate Finance Committee in the persons of Chairman Russell B. Long (D-La.) and Spark M. Matsunaga (D-Hawaii), whose subcommittee on tourism and sugar initiated hearings on the Church bill.

Long chastised an administration witness

who proposed keeping the price support at 13½ cents a pound, while adding a .55 cent cash payment to increase the overall income of growers. Industry officials said that the costs of growing cane in Louisiana are the highest in the nation, which means that Long may be unwilling to accept a compromise that could reduce the base price of Louisiana cane growers.

The Midwest-based corn sweetener industry also seeks higher sugar prices. Plants that make high fructose corn sweeteners (used in soft drinks and ice cream) need higher prices to amortize their investments and pay for planned expansion.

Refiners of raw cane sugar, however, oppose higher supports because these companies rely heavily on foreign imports to keep their plants operating. They fear that the higher domestic price supports would give the home sugar industry a larger share of the market.

Gregg R. Potvin, president of the Cane Sugar Refiners Association, said last week that he expected his opponents to stress the needs of farmers rather than their own corporate interests.

"They always get a couple of dozen little guys . . . to say how hard it is to make it growing beets on 12 acres," said Potvin. The largest raw cane refiner in the country is Amstar. Recently, Amstar has diversified into other forms of sugar processing, lessening its heavy dependence on imports.

Also opposing the higher prices are foreign sugar exporting countries, which fear that the higher prices will cause them to lose ground to U.S. beet and sugar and corn sweeteners. So does the Sugar Workers Council of America, whose more than 2,000 members work in plants that keep busy processing imported raw sugar.

This year's lobbying has attracted a number of former government or congressional officials.

In addition to former Senate Agriculture Committee aide McCloud, the campaign for higher sugar supports has been joined by Dale Sherwin, recently retired as minority staff counsel of the same committee. McCloud said that Sherwin has registered as a lobbyist for A. E. Staley, one of the leading companies in the corn sweetener business.

McCloud said that before leaving the committee, he (McCloud) helped organize a series of meetings with sugar industry representatives on behalf of Sen. Richard Stone (D-Fla.), chairman of the foreign agriculture subcommittee.

"Cane is a $100-million-plus business in Florida and you had better believe that Dick Stone cares about it," said another lobbyist.

According to McCloud, the purpose of the meetings held by Stone was to seek a consensus from industry representatives on a legislative package.

"The industry wanted to do it in a legitimate arena so it wouldn't be accused of illegal conspiracy to work something out. Stone was host, you might say," said McCloud.

However, a consensus proved unreachable and the cane refiners (who oppose higher supports) eventually dropped out.

A leader of the lobbying effort on behalf of higher supports is Horace Godfrey, a former Department of Agriculture official who represents Florida and Texas cane growers. Godfrey said that his client, the Florida Sugar Cane League, formed the Florida Agricultural Political Education Committee which gave "under $20,000" to federal election campaigns in 1976.

The consulting firm of former Nixon White House aide William Timmons has also joined the sugar fray, representing corn sweetener interests of Heinz.

The article discloses that those supporting the bill center around huge conglomerate corporations such as the Mott Foundation; U.S. Sugar Corp., which will be producing over 80,000 acres of sugar this year; together with Great Western. A number of Hawaiian sugar conglomerates; and a number of corporate giants manufacturing corn sweeteners.

Beyond this, however, it seems to me that the article raises a number of questions which must be answered. It notes that the recent staff director and general counsel of the other body's Committee on Agriculture, together with the minority counsel for that committee, helped organize a series of meetings with sugar industry representatives. I am also informed that under their instruction employees of the Department of Agriculture drafted the bill, H.R. 12486, which was introduced by a number of House Members during the last several weeks and which was also introduced by a number of sponsors in the other body. Both of these high officials of the Agriculture Committee from the other body left the employ of that committee just a few short weeks ago. Today they are registered lobbyists for sugar producers and corn interests seeking passage of the bill drafted under their tutelage.

While I, of course, do not know all the circumstances of this situation, clearly there are ethical questions presented which simply must be answered. If we are to ever emerge fully from the atmosphere of Watergate, this is precisely the sort of situation which must be squarely faced and fully disclosed.

LIMITING TAXATION IN CALIFORNIA: A MESSAGE TO THE NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, as we in Congress are embroiled in debate over how our revenues should be raised, I take this time to share with my colleagues in the House the philosophy of a great many Californians on this very subject.

Preparations have been underway, Mr. Speaker, for the voters of California to stage their own version of the Boston Tea Party. Over a million registered voters in my home State, more than twice the number needed, have signed a petition to place a referendum on the June 6 election ballot to limit the taxing of property holders, and impose tougher legal restraints on the increase of taxes from other revenue sources.

Proposition 13 is a taxpayer revolt. Its sponsors, Howard Jarvis of Los Angeles and Paul Gann of Sacramento, have addressed the concerns of those affected by skyrocketing assessments on their property. Government has been taking too much from too many for too long a time. This is an opportunity to put a stop to it. Spending by the public sector has gotten way out of hand. The growth of Government programs has led the rampant waste and spendthrift practices in their administration.

Many credible objections have been raised against this measure as being too drastic—too disruptive in the management of government services. Granted this tax limitation can be characterized as somewhat revolutionary. But that does not necessarily mean this effort will not have a positive impact on the State. This amendment can be implemented in a feasible way. If criticism of drafting the Bill of Rights as being too drastic had prevailed two centuries ago, where would we be today? This referendum calls on the taxpayers of California to ratify a bill of rights preventing the government from taxing them so extensively in relation to the quality of services provided in return.

There is no question that passage of proposition 13 will require governments in California to radically reevaluate their spending priorities—to butcher the fat out of their budgets, and take a position of austerity in delivering cost-efficient public services.

As a property holder and voter in California, I plan to support this proposition on June 6, and have urged my neighbors to do so. It is not fair that an individual or family manage their finances so responsibly, but face an astronomical tax bill from governments which spend so lavishly.

While this initiative is primarily of concern to those of us from California, I think this House should be aware of the fact that no fewer than 25 States have legislative proposals or constitutional amendments under consideration to limit taxation. The citizenry at large is reminding our legislators of that fundamental economic principle that our resources are scarce relative to the demand for them. But the States and Congress continue to soak the taxpayer as if the financial resources available to fund public services were infinite. The entire impetus behind the property tax limitation initiative effort is the valid belief that essential public services can be provided for significantly lower levels of funding and even greater effectiveness in delivering these services.

While the active tax limitation movement is limited to California and a number of other States, we in Congress should give attention to these ideals on a national level. Already, a National Tax Limitation Committee has been organized with headquarters in Sacramento, and offices in New York and McLean, Va.

Mr. Speaker, the message is clear. Whatever happens to proposition 13 in California on June 6, we in Congress should tune in to the signal that hefty tax increases to pay for our generous spending programs are not going to be passively accepted by the voter much longer.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

● Mr. SARASIN. Mr. Speaker, on May 9, 1978, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 290: House Concurrent Resolution 559: First budget resolution. The House agreed to resolve itself into the Committee of the Whole, "yes".

Mr. Speaker, on May 12, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 307: H.R. 12222: Foreign aid authorization. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 308: H.R. 12222: Foreign aid authorization. The House rejected an amendment that sought to make tobacco and tobacco products ineligible for use in the Food for Peace program, "yes"; and

Rollcall No. 309: H.R. 12222: Foreign aid authorization. The House rejected a substitute amendment that sought to limit the prohibition only to direct aid. The original amendment, as amended, prohibited funds from being used directly or indirectly to aid Vietnam, Cambodia, Uganda, or Cuba, "yes".

Mr. Speaker, on May 15, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 311: H.R. 11209: Maritime satellite telecommunications. The House voted to suspend the rules and pass the measure to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime telecommunications services, "yes";

Rollcall No. 312: H.R. 12222: Foreign aid authorization. The House agreed to an amendment that reduces authorized funding for programs by 5 percent, with the exception of funds for food and nutrition, and American schools and hospitals abroad, "no";

Rollcall No. 313: H.R. 12222: Foreign aid authorization. The House passed the measure, International Development and Food Assistance Act of 1978, "yes";

Rollcall No. 314: H.R. 10392: Hubert H. Humphrey Fellowship. The House passed the measure to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship, "yes";

Rollcall No. 315: H.R. 11291: Fire prevention authorization. The House passed the measure to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration, "yes";

Rollcall No. 316: H.R. 4030: Holdings of private foundations in public utilities. The House agreed to order a second, "yes";

Rollcall No. 317: H.R. 12255: Older Americans. The House passed, amended, the measure to amend the Older Americans Act of 1965 to provide for improved programs for older persons, "yes"; and

Rollcall No. 318: H.R. 4030: Holdings of private foundations in public utilities. The House failed to suspend the rules and pass the measure, amended, to amend the Internal Revenue Code of 1954 to increase the amount of stock which certain private foundations may hold in certain public utilities without being subject to the excise tax on excess business holdings, "yes".

Mr. Speaker, on May 16, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 319: Journal. The House approved the Journal of Monday, May 15, "no";

Rollcall No. 320: H.R. 12467: Rehabilitation services. The House passed the measure, amended, to amend the Rehabilitation Act of 1973 to extend certain programs established in the act, to establish a community service employment program for handicapped individuals, and to provide for independent living rehabilitation services for the severely handicapped, "yes";

Rollcall No. 321: H.R. 9005: District of Columbia appropriations. The House rejected a motion to table the motion to concur with amendment to No. 37, "no";

Rollcall No. 332: H.R. 9005: District of Columbia appropriations. The House agreed on a division of the question, to concur with amendment, "yes".

Rollcall No. 323: H.R. 11686: DOE national security programs. The House agreed to the rule (H. Res. 1174) under which the bill was considered, "yes";

Mr. Speaker, on May 17, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 324: H.R. 11686: DOE national security programs. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 325: H.R. 11686: DOE national security programs. The House rejected an amendment that sought to prohibit the use of any funds for the production of enhanced radiation weapons, by removing the exception contained in the bill, "no";

Rollcall No. 326: H.R. 11686: DOE national security programs. The House passed the measure to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, "yes";

Rollcall No. 327: S. Con. Res. 80: First budget resolution. The House agreed to the Senate amendment to the House amendment to the concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1979, "no";

Rollcall No. 328: H.R. 12641: Temporary debt limit. The House agreed to the rule (H. Res. 1176) under which the bill was considered, "yes";

Rollcall No. 329: H.R. 12641: Temporary debt limit. The House failed to pass the measure to provide for a temporary increase in the public debt limit, "no";

Rollcall No. 330: H.R. 39: Alaska national interest lands conservation. The House agreed to the rule (H. Res. 1186) under which the bill was considered, "yes."

Mr. Speaker, on May 18, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 334: H. Con. Res. 624: Soviet Helsinki Groups. The House agreed to the concurrent resolution expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express United States opposition to the imprisonment of members of the Soviet Helsinki Groups, "yes";

Rollcall No. 335: H.R. 39: Alaska national interest lands conservation. The House rejected an amendment that sought to make certain boundary changes in order to reduce the total acreage within parks and wildlife refuges by approximately 5 million acres to permit selection of these lands by the State of Alaska, "no"; and

Rollcall No. 336: H.R. 39: Alaska national interest lands conservation. The House rejected an amendment that sought to reduce lands to be designated as wilderness from approximately 66 million acres to 33 million acres, "no."

Mr. Speaker, on May 19, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 337: H.R. 39: Alaska national interest lands conservation. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 338: H.R. 39: Alaska national interest lands conservation. The House agreed to an amendment that continues minerals assessments provisions, and requires the President to submit a proposal to Congress by October 1, 1981, for a procedure for evaluating applications by individuals wishing to carry out mineral exploration or extraction on conservation system lands, "no";

Rollcall No. 339: H.R. 39: Alaska national interest lands conservation. The House rejected a motion to recommit the bill to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries with instructions to report it back forthwith containing an amendment in the nature of a substitute (text of H.R. 12703) previously offered in the Committee of the Whole), "no"; and

Rollcall No. 340: H.R. 39: Alaska na-

tional interest lands conservation. The House passed the measure to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers and National Wilderness Systems, "yes." ●

ALASKAN LANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 5 minutes.

● Mr. LUNDINE. Mr. Speaker, due to a prior commitment to attend an economic development conference in my congressional district, I was absent on Friday, May 19 when the House of Representatives concluded consideration of H.R. 39, the Alaskan lands bill. Had I been present would have voted "nay" on rollcall No. 338, an amendment to continue mineral assessment provisions, "nay" on rollcall No. 339 to recommit the bill to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries, and "yea" on rollcall No. 340, final passage of the bill.●

PRESENTATION OF FINAL REPORT OF WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I was privileged on March 2, 1978, to participate in a ceremony at the White House for the presentation of the final report of the White House Conference on Handicapped Individuals.

Among those taking part in this ceremony were the First Lady, Mrs. Rosalynn Carter; the Secretary of Health, Education, and Welfare, the Honorable Joseph A. Califano, Jr.; Arabella Martinez, the Assistant Secretary of Health, Education, and Welfare, Human Development Services; Dr. Henry Viscardi, Chairman of the White House Conference on Handicapped Individuals; my distinguished colleague, the senior Senator from West Virginia, the Honorable JENNINGS RANDOLPH; and Robert R. Humphreys, the Commissioner, Rehabilitation Services Administration, of the Department of Health, Education, and Welfare.

As the House sponsor of the legislation authorizing the White House Conference on Handicapped Individuals, I want to commend all those who contributed to the success of this significant endeavor.

Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD the edited transcript of the presentation to Mrs. Carter of the final report.

The transcript follows:

PRESENTATION CEREMONY

(Final Report of the White House Conference on Handicapped Individuals, East Room, the White House, March 2, 1978.)

Speakers in order of first appearance:

Arabella Martinez, Assistant Secretary for Human Development Services, Department of Health, Education, and Welfare.

Joseph A. Califano, Jr., Secretary, Department of Health; Education, and Welfare.

Henry Viscardi, Jr., Chairman, National Planning and Advisory Council, White House Conference on Handicapped Individuals.

Mrs. Carter.

Senator Jennings Randolph.

Congressman John Brademas.

Robert R. Humphreys, Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare.

PROCEEDINGS

Ms. MARTINEZ. Mrs. Carter, Secretary Califano, Senator Randolph, Congressman Brademas, welcome. Today we have the good fortune of coming together to receive the final report of the White House Conference on Handicapped Individuals. The White House Conference on Handicapped Individuals took a broad look at the needs of citizens with disabilities. It has, from the experience of hundreds of thousands of people, at the State, local and national level, produced a set of recommendations that clearly challenges us in the Federal establishment to be more responsive to the needs of handicapped citizens, to better organize ourselves to meet these needs and to involve persons with disabilities and their families, more than ever before, in this process.

Having worked closely with people in need on the local level, I know the value of the kind of needs assessment and program evaluation that has been produced by the delegates to the Conference. We see the report of the White House Conference on Handicapped Individuals as being a major guide to us over the next several years and in the future.

The concerns of the delegates to the White House Conference have already had impact on the manner in which we are organizing rehabilitation programs to provide services and information about services in a more rational and coordinated way.

In addition to having the honor of welcoming you here today, I have the distinct privilege of introducing one of the great advocates for citizens with disabilities, Secretary Joe Califano. His issuance of the 504 regulations was one of the most significant civil rights events in the history of our country. Secretary Califano?

(Applause.)

Secretary CALIFANO. Thank you, Arabella. Mrs. Carter, we are all deeply grateful to you for the hospitality of this House, for your encouragement, as we cast more light on the rights of handicapped individuals in this country. We're all aware—I think everyone in this room—that this is a cause that enjoyed your support and your energy and your intelligent application long before you came to live in this House and the support of your husband. He came (inaudible) among other things, worked as volunteers (inaudible) handicapped individuals in Georgia, both the mentally handicapped and the physically handicapped.

I should note that we celebrate a delivery of this report today, a very successful conference. We celebrate one other thing today. There are several distinguished Senators and Congressmen here—Senator Randolph, Senator Cranston, Senator Stafford, Senator Williams, and Senator Kennedy. Also we have here Representative Brademas, who celebrates his birthday today. I know he's very young, because he just got married a year ago.

(Laughter.)

(Applause.)

And Secretary Andrus is here, who as Governor, spent a great deal of time and energy and provided a great deal of leadership at the State level in this area.

Last May, this Conference and these individuals set several goals—one, to make a national assessment of the needs of handicapped individuals, second, to generate broad national awareness of those needs and third, to make recommendations to the President and Congress, that, turned into action, hold promise that every handicapped citizens will have a full life and pride and productivity.

At this point in time, two of those goals have been achieved. The delegates last May, more than half of whom were handicapped and another quarter of whom were parents or close relatives of handicapped individuals, underscored, dramatically, areas of unmet needs of handicapped citizens. The Conference certainly helped generate a national awareness of those needs, and strong new regulations guaranteeing access and fair treatment for handicapped people, which we issued last year, intensified that national awareness. I would note that issuing regulations that strong and that vigorous is something that the Secretary and the Cabinet Department can not do unless there is total and complete support, and inspiration and leadership and occasionally, a little shove from the President of the United States. The rights that are embodied in those regulations represent a commitment (inaudible) preset, for the rights of handicapped individuals.

Today, we commit ourselves to fulfilling the third of those goals, action on the recommendations of the Conference. The President, you, Mrs. Carter, and all of us, are determined that this report, these recommendations, will not lie on a shelf somewhere and gather dust. To that end, I have asked Bob Humphreys, the Commissioner for Rehabilitation Services Administration, to lead a department-wide effort to evaluate these recommendations and facilitate their implementation throughout HEW, and where needed, throughout the federal government.

We are also organizing at HEW a White House Conference Action Unit, supported by a broadly-based advisory committee, to track our progress during the first and critical year after the Conference Report is received.

People in this room come from many backgrounds, many places, many different political persuasions and many different religious faiths. But there are some things that they hold and we hold in common. We believe in the essential goodness and humanity in this country and the power of this country and the power of its people to be good citizens, to be generous citizens, to be compassionate, to recognize that each individual in this country has not only a body and a mind, but a soul. By the simple act of transmitting this report and announcing our resolve as an administration to act upon it, we renew this belief. That is very much worth doing.

Thank you.

(Applause.)

Mr. VISCARDI. I am Henry Viscardi, Chairman of the National Planning and Advisory Council. I have the honor to present the White House Conference Report to Mrs. Carter and to comment on those wonderful things that happened in the last, approximately, two years. Mr. Califano, I think that of those goals of the White House Conference, which you mentioned, the most exciting and the most stimulating to me, was that we would provide a national assessment of the problems and potentials of individuals with mental (inaudible) and physical handicaps and to do this, we brought the White House Conference to the people. The National Advisory Council, to whom I am grateful, members of the execu-

tive establishment who helped us, members of Congress, and all the state directors—we knew (inaudible) that the action would lie in the States, in the communities of America.

While we brought to Washington 3700 persons to attend the National Conference in May, many of whom were severely handicapped people—at least 400—it's exciting for me to recollect that we held Conferences in every State and territory—and in some States, as many as six and seven different conferences were held—and there, thousands of people came and talked about what they believed should be done for their children, what they believed should be done for them as disabled people. When they came into Washington and made their final recommendations, we'd already activated an Industry Labor Council, so that members of industry and labor came together and met, not only in Washington, but at four separate regional councils throughout the country.

I think, Mrs. Carter, that this report, which I have the honor to present to you today, will indicate those hopeful forces of action, which will affect the lives of millions of our fellow citizens, if we can make the changes that they have recommended. I think that the report will indicate some extremely necessary goals, which we must reach—will indicate, for example, that in a survey conducted as late as 1972, one in four men between 20 and 64 years of age who were unemployed were disabled, and seven of every ten men who were not in the labor force and not looking for work were disabled, and only one of every three severely disabled children graduated from high school.

In 1966, for example, half the people who were severely disabled were below the poverty line, after receiving transfer income as the last (inaudible) and 75 percent of employed severely disabled persons earned less than $500 a year. And even the people who had recently become disabled are in dire straits. In 1970, for example, half of those who were recently disabled earn less than $2,300 a year.

As I have traveled around the country and have talked to parents and disabled people and to educators and to legislators, I felt a surge of awareness and concern. States have appointed ombudsmen, who never had them before. State legislation has already been enacted in many of the states throughout this country. I think that this report, which in my opinion will be a lasting guide for many years to come, indicates that increased educational opportunities can provide access to more jobs and income for disabled Americans. It's crucial that we intervene early in a disabled child's life, to insure that the education guaranteed under the law is provided to all children.

I have such great hope for the future, based on what the White House Conference has recommended. The government and private sectors have roles to play in the battle for dignity of Americans with disabilities. All sectors have already begun to respond to the needs addressed in the White House Conference Report. As just one example, American industry and labor have banded together to form an Industry Labor Council and a National Center for Employment of the Handicapped was recently founded in the Human Resources Center. Leaders of American corporations have made this an ongoing body of concern for disabled Americans.

I think, too, Mrs. Carter, that perhaps for me, who have devoted my life to the cause of disabled people, probably the most touching experience of all was the reaction of one parent of a disabled child (Inaudible). If you will forgive me, when I went on one mission for a series of lectures in the southwest of our country, the mother of a child suffering from muscular dystrophy (Inaudible), gave me just a little bit of prose that she wrote in the form of a lullaby about her son, and it said,

"Sleep my son, the house now is quiet. The cat in the cellar sleeps, too, and the trees outside have spread leaves wide to catch more light from the moon. Sleep my son. Your father wakes. Your mother is restless, too. Let us be aware of all darker care that soon enough will call you.

"Sleep my son, and if you hear the blood's pulse in your head, have some calm dream of a gentle stream where you float in a boat like a bed.

"Sleep my son, for when you wake, this galaxy's whirl and scatter may still have kept the moon and cat, trees and house and us together."

In presenting this report to Mrs. Carter, on behalf of my colleagues, I want you to know that it is a document expressing the aspirations and hopes of millions of deserving Americans. And on their behalf I'm very proud to present the report to you and to thank those that helped to write it, and in doing so, as I reflect on their deliberations, how much hope there is in this for millions of disabled fellow Americans. I would take the liberty of telling you what they have reminded me, to hope is a duty, not a luxury. (Inaudible). To hope is not to dream, but to turn dreams into reality. Blessed indeed are those who dream dreams, and are ready to pay the price to make them come true.

(Applause.)

Mrs. CARTER. Thank you, Dr. Viscardi. It's a pleasure for me to welcome you here to the White House and to accept this for Jimmy, which I intend to give to him tonight. He knows that I'm doing this this afternoon. He went to the White House Conference, as you know, and he's looked forward to receiving this report.

I think this is an historic occasion and I think this report represents a unique moment in the struggle of handicapped people to achieve their rightful place as first class citizens in their country. For far too long handicapped people have suffered from artificial and unnecessary barriers which have deprived them of the opportunity to receive public education, to live and work as they choose, and to enjoy those recreational and social activities that most of us just take for granted.

I'm glad that we've realized that we can no longer allow simple things such as the width of a door, of a lack of a ramp, or the absence of accessible transportation, to name a few things, to keep our handicapped citizens out of schools, stores, businesses or other public places, and we can no longer tolerate those myths and misconceptions about people with disabilities which have so often removed them from the mainstream of society.

I made a speech last Fall, and in that speech I talked about the need to widen our definition of what is normal in our society. In the past, we as a nation have shied away from anybody who was a little bit different, and yet one of the great strengths of our country has always been the broad diversity of our people.

It's time for all of us to recognize that the lack of sight, the absence of hearing, the loss of a limb, or the label of being a former mental patient, can no longer be used as an excuse to isolate or ignore or discriminate against 36,000,000 people who are handicapped. There's too much that needs to be done in our country. We cannot afford to waste the talent and the resources of these handicapped people who exist. We must be willing to take those necessary steps to assure that handicapped people have access to education, housing, employment and recreational opportunities, all of those things that are necessary for them to be able to participate fully in our national life, which is their right. And no-one knows better the problems imposed because of disability than those individuals, their parents and families, who have harshly experienced its effects. And the White House Conference, for the first time in our history, offered them the chance to become directly involved in shaping future public policy toward the handicapped.

These recommendations carry great weight, but the task is far from complete. I urge all of you, and I know you will, to work closely with those people in the Administration and in Congress. We all share responsibility to implement this report. We share this responsibility, too, with the thousands of people who actively participated in the conference, and to the millions that they represent. And so, to the handicapped people of our country we can no longer say tomorrow. The time for action is now. Thank you.

(Applause.)

Mr. VISCARD. The mandate of the White House conference requires, and we're grateful for the requirement, that the report not only be presented to the President, but to the Congress, and I would ask Senator Randolph and Mr. Brademas, who are here, to come forth. The other Senators and Representatives who are here may wish to join us on the platform.

In presenting this report to you, Senator Randolph and Mr. Brademas, I wish to thank Congress for the enlightened legislation that made this historic conference possible. The legislation was drawn in wisdom because it contained all the mandates that would bring this White House Conference to the people of our country, rather than just have one meeting in Washington.

This will serve to highlight that there are millions of disabled Americans who seek opportunity not secured, who prefer the challenges of life to the guaranteed existence, the thrill of the fulfillment of their lives to the stale calm of some subsidized utopia.

We hope it will serve as a guideline for legislation and action in the years ahead. So, Senator Randolph for the Senate and Mr. Brademas for the House, I thank you, gentlemen. Senator Randolph, if you care to.

Senator RANDOLPH. He said if I cared to. I've already been asked earlier. Thank you very much, Henry. And before I speak very briefly—when a Senator says that you cannot believe him, but I'll do it today—I want to say to you, John, that this is your birthday. Mrs. Carter, I ask equal treatment because my birthday is next Wednesday, and I want a party that I can attend.

(Applause)

Senator RANDOLPH. Especially, of course, for the Chairman of our Committee on Human Resources, Harrison Williams of New Jersey the ranking minority member on the Sub-Committee on the Handicapped, Senator Robert Stafford of Vermont; the Chairman of our Sub-Committee on Health, Senator Kennedy of Massachusetts; Senator Alan Cranston of California; our colleague from the House, Mr. Brademas; and the new Commissioner of Rehabilitation, Bob Humphreys.

Bob used to work for us on the Senate Committee on Human Resources.

Mrs. Carter, we are delighted that you, not so much stand in for the President of our Republic this afternoon, but you stand with him and he stands with you, and we all stand together. That's why I can say very carefully and earnestly the words about the report that is being given. I commend you.

all of you, in this East Room of the White House, which I'm sure the President and his wife understand, in the final analysis is the people's house, because wherever government exists, here or on Capitol Hill, those are the strengths, those are the houses in which we all live and labor and love. And so, to all of you, associated with the White House Conference on Handicapped Individuals—I rather like the word citizens, and I almost fought to get that—but individuals, for your dedicated efforts in bringing to us, Henry, this report. Those of us in the sub-committee, of course. We have a special pledge which we make this afternoon to the President and Mrs. Carter and to all Americans, especially those now at the White House Conference, that we will—on Capitol Hill, on the Senate side, and we know in concert with the House—we will not allow this report to be placed on a shelf to become dusty. We will review it constantly, and from it we will gain the inspiration and the recommendations which were very real and understandable at the Conference itself.

We talk about blueprints for the future. We're a good and great country, and we shall be the better for making this report come alive in every community in America.

And so it is our hope that you, that all of the delegates who were a part of the constructive Conference, will continue to counsel with those of us who worked for you and with you on Capitol Hill. We shall move forward with you, not apart from you, to ensure that our handicapped citizens are provided the opportunity which you will of course eagerly embrace, to share fully the benefits of this society which we call America. Thank you very much.

(Applause)

Mr. BRADEMAS. Mrs. Carter, Secretary Califano, my distinguished colleagues in the House and Senate, and friends. First of all, may I say I cannot think of a more agreeable, delightful birthday present than the presentation today of this report to the American people.

Second, I should be remiss if I did not say a word of appreciation to two or three of my colleagues in the House who were not able to be here today but who had an important role in making possible the legislation that authorized the conference, Chairman Perkins of Kentucky, Congressman Quie of Minnesota, and Congressman Jeffords of Vermont.

Mrs. Carter, the President and I have, like many other Americans, found great inspiration in the writings of that remarkable American theologian, Reinhold Niebuhr, who once wrote that man's inclination to injustice makes democracy necessary, but that man's capacity for justice makes democracy possible. It seems to me that the presentation of the Report of the White House Conference on Handicapped Individuals is a testimony to the commitment of the American democracy to the search for justice for all of the handicapped persons in our society.

Having worked, along with my colleagues in the Senate and the House of Representatives, to write the legislation to make possible this report and other legislation aimed at justice for the handicapped among us, I want to tell you, Mrs. Carter, how immensely encouraging it is to us in Congress to know that at long last we have in the President of the United States, in President Carter, and in the First Lady, Mrs. Carter, and in the Secretary of Health, Education and Welfare, Joe Califano, leaders in the Executive Branch who share that commitment. Dr. Viscardi, I congratulate you. This is a very happy day.

(Applause)

Mr. VISCARDI. Now, to close the meeting, we'll have remarks from Mr. Robert Humphreys. Bob?

Mr. HUMPHREYS. Mrs. Carter, honored guests, ladies and gentlemen. As Commissioner of Rehabilitation Services in the Department of Health, Education and Welfare, I am deeply honored to participate in, and to close, this beautiful ceremony, and I am privileged to share this profoundly significant moment with all of you who made it possible.

This has been a truly meaningful occasion for people with disabilities. It is meaningful not simply because it is a White House ceremony, but because it represents two things. First, it is the culmination of an ecumenical effort by hundreds of people, the majority of whom are disabled, to map out the needs of the 10 to 15 percent of our Nation's population who are disabled, and how these needs might best be addressed by their governments.

Second, because it is reflective of the commitment of this Administration—an Administration that cares about the people of America—and the Congress, to begin the monumental tasks of assessing and addressing the needs of disabled individuals in a planned, systematic and rational way.

It is not feasible to single out for recognition those who contributed to the success of the White House Conference on Handicapped Individuals, so I won't attempt to do so. Let me simply say, to express to you, the deep appreciation to all of you for your dedication to meeting the needs of the disabled, and for your firm commitment to the principles of justice and equality for this vital segment of our population.

The challenge is before us. Let us resolve to meet it together.

That concludes this ceremony. The First Lady has graciously invited each of you to move now to the State Dining Room, where she and the Secretary will receive you. Refreshments will be served. Thank you for coming.

(Applause.)

(End of proceedings as recorded) ●

A COMPREHENSIVE AND COMMENDABLE FORESTRY LEGISLATIVE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 10 minutes.

● Mr. SIKES. Mr. Speaker, the forestry legislative program included in today's schedule is one of the most comprehensive to be submitted to the House in recent years. These bills are wide in scope and provide needed authorization to assure present and future availability of the renewable resources of our forests and rangelands. I congratulate the Committee on Agriculture for its foresight in reporting these needed and worthwhile measures and commend the House for its expeditious approval of this important legislation. I am hopeful that the Senate will concur in this action by the House at an early date.

I want to comment briefly on each of these proposals:

H.R. 11777, the Cooperative Forestry Assistance Act of 1978, will provide a clear congressional mandate for cooperative forestry assistance to States, local governments, and private landowners. This bill will bring together in one statute authority for existing programs in cooperative forestry assistance. Some of the programs would be expanded where benefits are apparent and substantial. Existing authorities would be repealed. Consolidated payments to States, rather than functional matching grants, would be authorized giving States some flexibility in the disbursement of funds.

The principal provisions of this bill are:

Integrates the Cooperative Tree Seed and Plant (C–M4) program, the Cooperative Forest Management (CFM) program, and the Cooperative Tree Improvement (title IV) program into one program, Rural Forestry Assistance.

Authorizes financial assistance to State foresters to carry out silvicultural practices on non-Federal lands when private vendors of such practices are not available.

Clarifies the role of the State forester in the administration of the forestry incentives program (FIP).

Increases the acreage limitation in FIP from 500 to 1,000 acres.

Broadens landowner eligibility in cost sharing under FIP to all small forest landowners.

Expands the insect and disease control program to the protection of wood products, stored wood, and wood in use.

Integrates the cooperative forest fire program with rural community fire protection program.

Establishes a rural fire disaster fund which would be available to the Secretary to assist States overwhelmed by a disastrous wildfire situation.

H.R. 11778, the Forest and Rangeland Renewable Resources Research Act of 1978, would authorize the Secretary of Agriculture to conduct forest and rangeland renewable resources research and to provide cooperative assistance for such research to States and others.

This legislation is needed to revise the now outdated McSweeney-McNary Act with respect to the need for research on all the renewable resources on all of our forests and rangelands. The bill would authorize the Secretary to establish and maintain a system of experiment stations laboratories, and other research facilities. The Secretary would also be authorized to make competitive research grants under conditions he may prescribe to Federal, State, and other government agencies, to public or private institutions, universities, businesses, or individuals in the United States. The Secretary would be permitted to acquire land for facilities, accept and use gifts, and cooperate and receive contributions from public and private sources, including others in foreign countries. This legislation would modernize and clarify present research authority while broadening that authority to cover all of the multiple uses of the National Forest System.

H.R. 11779, Renewable Resources Extension Act of 1978, would authorize the Secretary of Agriculture to conduct a comprehensive extension program on forest and rangeland renewable resources, in cooperation with State directors of cooperative extension programs and the administrative heads of extension for eligible colleges and universities. This program would provide for the

dissemination of scientific information and technology to landowners, users, and others on the management and wise use of forests, rangelands, fish and wildlife, watersheds, associated outdoor recreation opportunities, shelterbelts, and trees and forests in urban areas. States would be eligible for Federal funds to implement their respective programs generally according to the capability of their private forest and rangelands for yielding renewable resources and relative needs for such resources identified in the implementation of the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Soil and Water Conservation Act of 1977.

S. 2370, Expansion of Forest Service Volunteer Program, would remove the $100,000 ceiling imposed on the Forest Service to carry out its volunteer program. The Volunteers in the National Forests Act of 1972 authorized the employment of volunteers to work in areas administered by the Forest Service without compensation but with reimbursement for incidental expenses, such as transportation, uniforms, lodging, and subsistence. The Forest Service has wanted to expand this program for sometime but could not do so because of the authorization limitation under present law. It was necessary to turn away interested people in volunteering because funds were not available to pay for incidental expenses.

This forestry legislation program is a very healthy indication of the degree of understanding in the Congress for the value of the Nation's forest resources and the essentiality of comprehensive and sound legislative programs dealing with this great natural resource. I sincerely hope there will be expeditious handling of the legislative package in the Senate and early implementation by the administration.●

ADMINISTRATION'S TITLE XX SOCIAL SERVICES AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, on Tuesday, May 23, and Wednesday morning, May 24, the Subcommittee on Public Assistance and Unemployment Compensation will hold public hearings on proposed changes in the title XX social services program. We are then scheduled to mark up a bill on Wednesday afternoon.

So that we will have the administration's position before the subcommittee during the hearings and markup, today I am introducing a bill from the administration containing proposed amendments to the title XX social services program. This does not signify my preference for the administration's position on the matters it addresses over other legislation proposals pending before the subcommittee, including H.R. 10833, introduced by Mr. FRASER and Ms. KEYS.

I include at this point an explanation and justification of the administration's bill prepared by the Department of Health, Education, and Welfare:

EXPLANATION PREPARED BY ADMINISTRATION OF TITLE XX AMENDMENTS

This proposal is one of a number of Administration proposals which would implement the President's intent, as expressed in his statement of March 27, 1978, to establish a comprehensive national urban policy. The proposal is designed to enable State governments to provide additional needed social services to the most hard-pressed communities, and to give local governments a greater role in the planning for and determination of the use of social services funds in the community.

Title I of the draft bill will strengthen and focus title XX in essentially three ways. First, it will increase the current social services ceiling by $150 million for fiscal years 1979 through 1982, thus enabling States to expand services to meet their most pressing needs because title XX is, in its entirety, a program to meet special needs for social services, the additional funds will be allocated to the States and the District of Columbia on the same formula as other title XX funds, and may be used for the same purposes.

Second, it will require State officials to consult with the chief elected officials of cities, counties, and other units of general purpose government within the State, during the development of the State's proposed comprehensive services plan. The views of these local officials will thereafter be summarized in the proposed plan.

Third, the bill will encourage States to enhance the services provided under title XX in political subdivisions of the State having a special need for those services. If a State determines that there are such special need areas, it will identify them in its comprehensive services plan.

In addition to these changes, title I of the bill will require the comprehensive services plan to set forth the criteria used by the State to determine the nature and amount of services to be provided in each area of the State. This amendment will aid a forthcoming administrative initiative of the Department to improve State reporting on the services provided by the State under title XX, to assure that the public will be informed at least annually as to the State's progress in implementing its plan.

Finally, in order to allow a State to engage in long-term planning for the provision of social services, the bill will permit a State to adopt a comprehensive services plan for a period of up to three years, in lieu of the present limitation of one year.

Title II of the draft bill would extend certain provisions of P.L. 94-401.

Specifically, it would extend for one additional year, through fiscal year 1979, the provisions of P.L. 94-401 which provide $200 million for allotment to States for services under title XX of the Social Security Act, in addition to the $2.5 billion currently authorized to be allotted under that title. These extensions are included in the President's fiscal year 1979 budget. The section would also extend for one additional year other provisions of P.L. 94-401 applicable to the $200 million, and related provisions pertaining to the provision of day care under title XX. These include the requirement that States spend for day care under title XX an amount equal to its additional allotment under P.L. 94-401 in order to be entitled to that additional allotment; the option to use an amount equal to the additional allotment for day care without having to match those funds with funds from nonfederal sources; and the authority for the State agency to continue to waive certain day care staffing standards.

Section 201 of the draft bill would also make permanent the temporary provision of law in P.L. 94-401 which permits title XX funds to be used to cover, for up to seven days, medical or remedial care and room and board associated with the initial detoxification of alcoholics and drug addicts.

Title III of the bill would make miscellaneous changes to title XX. Section 301 would permit States to use funds allotted under title XX of the Social Security Act to provide emergency shelter, for not in excess of thirty days in any six month period, to adults in danger of physical or mental injury, neglect, maltreatment, or exploitation. Currently, title XX covers emergency shelter for children only.

Section 302 would authorize a separate appropriation of $16.1 million for social services in Puerto Rico, Guam, the Northern Marianas, and the Virgin Islands. Currently, title XX provides that Puerto Rico, Guam, and the Virgin Islands may be paid an aggregate amount of $16 million each year only after all States have certified to the Secretary the sums they will each claim under title XX for social services and the Secretary determines that there will be funds remaining for the territories; no provision is made in current law for the Northern Marianas. This is an inefficient procedure, because States are slow to make their certification. It will also become inadequate once States claim their full entitlement under title XX because there will then be no funds available for the territories.●

A SELF-HELP BINGE IN NEW YORK CITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, in the very near future the House will vote on a proposal to continue Federal assistance to New York City. I think a recent Washington Post article about the efforts that New Yorkers have initiated to help the city get back on its feet financially is worthy of the attention of my colleagues. I commend the article for your consideration:

[From the Washington Post, Apr. 29, 1978]

A SELF-HELP BINGE IN NEW YORK CITY

(By Neal R. Peirce)

NEW YORK.—In a perverse but important way, New York City performed a service for the nation through its fiscal crisis. From coast to coast, mayors and councils and citizens' groups began to examine their own cities' financial practices, to make sure they weren't falling into the same trough of red ink.

Now New York, on a more positive note, is showing the country what a city's people, through volunteer and self-help efforts, can do to compensate for sliced budgets and to make their own neighborhoods upbeat, pleasant places to live.

The story is told in a new, 140-page "New York Self-Help Handbook." Published by the Citizens Committee for New York City (630 Fifth Avenue, New York, N.Y. 10020), it is probably the most exhaustive listing ever compiled of what citizens, on their own, can do to enhance the quality of life of their city. All of the hundreds of citizen efforts listed in the handbook are now taking place, sometimes in hundreds of locations in New York's boroughs.

The self-help binge doesn't mean that all of New York's familiar selfishness, cynicism and impersonality has been expunged. Crime (albeit reduced), indifference and exploitation remain. But only the most hard-bitten skeptic can dismiss the sense of small-town community spirit and cooperation that's sprouting on the city's blocks.

The Self-Help Handbook starts with a section on community crime prevention, in-

cluding block-watcher programs, civilian car and foot patrols, auxiliary police officers and alarm systems. It goes on to parent safety patrols, property identification systems and a buddy alarm system for merchants.

Fire prevention comes next, with suggestions on how to set up volunteer fire-warden groups and fight false alarms. To back up the badly undermanned sanitation department, there are programs for block cleanups, sidewalk sweeps, litter baskets, graffiti removal, recycling centers, neighborhood dog runs and anti-litter campaigns. There are programs in community gardening, playlots, mural painting, bench painting, and how citizens can adopt and care for street trees.

The handbook reviews many programs for children, ranging from street olympics and volunteer tutorial programs to trips for youth, family day care and turning residential blocks into daytime play streets. For senior citizens, there are suggestions for local-marchant-discount programs, medical- and food-supply delivery to homebound people, escort services and telephone reassurance.

Citizen self-help was clearly needed when New York plunged into its fiscal crisis in 1975. But the Citizens Committee, founded that year with foundation support, has been an invaluable catalyst. It ran public service ads asking "greedy, heartless New Yorkers" to volunteer for work in city or social service agencies. It got 8,000 responses, and placed 2,000 volunteers. To spread the self-help gospel, the committee maintains a speaker's bureau, utilizes the media and has assembled a mailing list of 8,000 block associations, civic groups and concerned citizens.

The outside world is generally unaware of the "vibrant" life of New York's neighborhoods, says Osborn Elliott, chairman of the Citizens Committee. Of the city's 35,000 blocks, some 10,000 have organized block associations. The Citizens Committee believes it may have inspired 2,000 to start up. Active in areas from crime control to credit unions, the block associations have begun to replace New York's declining political clubs as mini-governments at the grassroots level.

At annual Citizens Committee dinners, awards are given to unsung New York heroes—people like Patricia Cordes, who set up teams of students to stop false fire alarms in an arson-torn section of the South Bronx; and Jackie and Dennis Canning, who organized their Brooklyn block to drive out prostitutes and drug pushers (one method: bombarding pimps with balloons filled with water from rooftops). The Cannings also converted a vacant, rat-infested lot into a children's playground and garden.

When the blackout and looting hit New York last summer, the Citizens Committee administered a $3-million emergency fund to encourage owners of vandalized businesses to reopen their doors—and some three-quarters did. The organization launched a "Citizen Sweep Corps" and gave away 5,000 brooms to volunteers willing to sweep their sidewalks regularly. And it has made hundreds of small grants to groups that need a little seed money ($1,000 limit, usually less than $100) for projects. A $70 grant stimulated several Manhattan women to collect $2,000 in contributions from department stores and use the proceeds to plant 3,000 flowers in front of the New York Public Library.

Elliot hopes New York's self-help record will soften congressional hearts when further emergency assistance is debated this spring. Political reality dictates Congress probably won't act unless it thinks bankruptcy is imminent. But by any objective scorecard, the city has made immense strides since 1975.

It may be years before New York is completely "out of the woods." But the despair of 1975 has given way to cautious optimism in 1978. And for that, a lot of credit goes to New Yorkers who have cared enough to help sustain their neighborhoods—and thereby their city.●

PERSONAL EXPLANATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, due to a long-standing commitment to attend a regional hearing as part of my responsibilities to the House Banking and Currency Committee Subcommittee on the City, I was unable to be on the floor for final action on H.R. 39, Alaska National Interest Lands Conservation Act. Had I been there I would have voted "yea" on the rollcall vote to resolve the House into the Committee of the Whole. I would have supported the amendment to establish a Bristol Bay cooperative management region. In addition, I would have voted against the Santini amendment relating to mineral exploration and extraction and against the motion to recommit. I would have voted in favor of final passage and wish to thank Chairman UDALL and the fine members of the Interior and Merchant Marine Committee for the yeoman work on this major piece of legislation.●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MIKVA. Mr. Speaker, I was required to be in my district on Thursday and Friday, May 18 and 19, 1978, and as a result, missed several rollcall votes. Had I been present, I would have voted as follows:

Rollcall No. 335, an amendment by Mr. YOUNG, "no;"

Rollcall No. 336, an amendment by Mr. MEEDS, "no;"

Rollcall No. 337, to resolve into a Committee of the Whole, "yes;"

Rollcall No. 338, an amendment by Mr. SANTINI, "no;"

Rollcall No. 339, a motion to recommit, "no;" and

Rollcall No. 340, on the passage of H.R. 39, "yes." ●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. STUMP, for today, May 22, 1978, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. MICHEL), for the period of May 22 through and including June 5, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RUDD), and to revise and extend their remarks and include extraneous matter:)

Mr. GOLDWATER, for 5 minutes, today.

Mr. SARASIN, for 5 minutes, today.

(The following Members (at the request of Mr. FITHIAN), to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. LUNDINE, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. SIKES, for 10 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. CORMAN, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RUDD) and to include extraneous material:)

Mr. SAWYER.

Mr. JOHNSON of Colorado.

Mr. SARASIN.

Mr. MCCLORY in two instances.

Mr. COLLINS of Texas in two instances.

Mr. KETCHUM.

Mr. COHEN in two instances.

Mr. STEERS.

Mr. PRESSLER.

Mr. SHUSTER.

Mr. KINDNESS.

Mr. STEIGER in two instances.

Mr. ANDERSON of Illinois.

Mr. GILMAN.

(The following Members (at the request of Mr. FITHIAN) and to include extraneous matter:)

Ms. KEYS.

Mr. VENTO in two instances.

Mr. MAZZOLI in two instances.

Mr. FARY.

Mr. AUCOIN.

Mr. KILDEE.

Mr. CARNEY in two instances.

Mr. WAXMAN.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in three instances.

Mr. SANTINI.

Mr. MILLER of California.

Mr. LUNDINE.

Mr. TEAGUE.

Mr. MATHIS.

Mr. UDALL.

Mr. MCDONALD.

Mr. BINGHAM in 10 instances.

Mr. CORMAN.

Mr. HARKIN.

Mr. LAFALCE.

Mr. BLOUIN.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 74. An act to amend the Act of October 20, 1976 (90 Stat. 2662); to the Committee on Interior and Insular Affairs; and

S. 286. An act to repeal certain requirements relating to notice of animal and plant

quarantines, and for other purposes; to the Committee on Agriculture.

ADJOURNMENT

Mr. FITHIAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 23, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4222. A letter from the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, transmitting a proposal for a comprehensive nutritional status monitoring system, pursuant to section 1428 of Public Law 95–113; to the Committee on Agriculture.

4223. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, relating to the involuntary separation or mandatory retirement of officers in the regular Navy and regular Marine Corps; to the Committee on Armed Services.

4224. A letter from the Secretary of Transportation, transmitting a report on negotiated contracts for experimental, developmental, test or research work, or for industrial mobilization in the interest of the national defense, covering the period October 1, 1977, through March 31, 1978, pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

4225. A letter from the Chairman, District of Columbia Law Revision Commission, transmitting the Commission's third annual report, pursuant to section 4(a) of Public Law 93–379; to the Committee on the District of Columbia.

4226. A letter from the Secretary of Labor, transmitting a report on the status of the youth incentive entitlement pilot projects as of March 15, 1978, pursuant to section 329 of the Youth Employment and Demonstration Projects Act of 1977; to the Committee on Education and Labor.

4227. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949, as amended, to permit retention of surplus for use in the acquisition of motor vehicles and related equipment; to the Committee on Government Operations.

4228. A letter from the Comptroller General of the United States, transmitting the annual report of the General Accounting Office for fiscal year 1977, pursuant to section 312(a) of the Budget and Accounting Act of 1921; to the Committee on Government Operations.

4229. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4230. A letter from the Secretary of Health, Education, and Welfare, transmitting the fourth annual report on the emergency medical services program, pursuant to section 1210 of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

4231. A letter from the accountant for the American Symphony Orchestra League, Inc., transmitting the audit report of the league for the fiscal year ended March 31, 1978, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

4232. A letter from the Chairman of the Board, U.S. Naval Sea Cadet Corps, transmitting the annual audit of the Corps for the year ended March 31, 1978, pursuant to section 3 of Public Law 88–504; to the Committee on the Judiciary.

4233. A letter from the Chairman, U.S. International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for fiscal year 1980; to the Committee on Ways and Means.

4234. A letter from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Poultry and Eggs transmitting the Committee's report on the Agreement on Trade Matters Between the United States and the United Mexican States, signed December 2, 1977, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

4235. A letter from the Secretary of Transportation, transmitting the fourth annual report on railroad-highway demonstration projects, pursuant to section 163(n) of the Federal Aid Highway Act of 1973, as amended; to the Committee on Public Works and Transportation.

4236. A letter from the Acting Administrator of General Services, transmitting a report on the building propect survey of Propidence, R.I., requested by a resolution of the Senate Committee on Environment and Public Works adopted August 5, 1977; to the Committee on Public Works and Transportation.

4237. A letter from the Federal Cochairman, Pacific Northwest Regional Commission, transmitting the Commission's annual report for fiscal year 1977, pursuant to section 510 of the Public Works and Economic Development Act; to the Committee on Public Works and Transportation.

4238. A letter from the Comptroller General of the United States, transmitting a report on the status of the Air Force's A–10 close air support aircraft program (PSAD–78–33, May 19, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4239. A letter from the Comptroller General of the United States, transmitting a report on the need for the Occupational Safety and Health Administration to better direct and evaluate Federal and State inspection programs (HRD–78–34, May 19, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

4240. A letter from the Comptroller General of the United States, transmitting a report on technical, political, security, and economic factors influencing Saudi Arabian petroleum decisions (ID–78–32, May 12, 1978); jointly, to the Committees on Government Operations, International Relations, Interstate and Foreign Commerce, and Ways and Means.

4241. A letter from the president, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc., transmitting the annual report of the Institute and the financial statement by the General Accounting Office for the transition quarter and fiscal year 1977, pursuant to section 3 of the Act of May 7, 1928, as amended (H. Doc. No. 95–340); jointly, to the Committees on International Relations, and Interstate and Foreign Commerce, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 12426. A bill to authorize the Secretary of the Treasury to provide financial assistance for the city of New York; with amendment (Rept. No. 95–1121, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 12796. A bill to amend the National Visitor Center Facilities Act of 1968. (Rept. No. 95–1212). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARMSTRONG:

H.R. 12804. A bill to provide that no employee benefit may be subject to Federal income tax unless such benefit is specifically identified by Federal law as being subject to such tax; to the Committee on Ways and Means.

By Mr. AUCOIN (for himself, Mr. LEGGETT, Mr. FORSYTHE, Mr. WEAVER, Mr. DON H. CLAUSEN, and Mr. BONKER):

H.R. 12805. A bill to amend the Fishery Conservation and Management Act of 1976 in order to regulate the acquisition by foreign fishing vessels, for processing at sea, of fish harvested by U.S. fishing vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BONKER (for himself, Mr. HARRINGTON, Mr. GILMAN, Mr. TSONGAS, Mr. NIX, Mr. LAFALCE, Mr. VENTO, Mr. SIMON, Mr. MITCHELL of Maryland, Mr. BEDELL, Mr. WHITEHURST, Mr. CORNELL, Mr. PREYER, Mr. WALGREN, Mr. MCDADE, and Mr. HARKIN):

H.R. 12806. A bill to restate the purpose of the Peace Corps, to establish the Peace Corps as a Government foundation, and for other purposes; to the Committee on International Relations.

By Mr. BROWN of California (for himself, Mr. JOHNSON of Colorado, and Mr. FORSYTHE):

H.R. 12807. A bill to enable freestone peach growers to finance through their own industry a nationally coordinated research and educational program to improve their competitive position and expand their markets for peaches; to the Committee on Agriculture.

By Mr. DIGGS:

H.R. 12808. A bill to increase the contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia with respect to financial planning services and auditing services; to the Committee on the District of Columbia.

By Mr. GRADISON (for himself, Mr. GOODLING, Mrs. HECKLER, Mr. MCDONALD, Mr. MILLER of Ohio, Mr. SYMMS, and Mr. STANGELAND):

H.R. 12809. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 12810. A bill to extend for 1 year the authorization for the National Center for Productivity and Quality of Working Life, and to allow for the transfer of the functions of the Center within the Federal Government; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KEMP:

H.R. 12811. A bill to amend the Federal Meat Inspection Act for purposes of requiring that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods; to the Committee on Agriculture.

By Mr. LENT:

H.R. 12812. A bill to amend title 5 of the United States Code to change the date of the legal public holiday of Memorial Day from the last Monday in May to May 30; to the Committee on Post Office and Civil Service.

By Mr. MATHIS:

H.R. 12813. A bill to amend the Packers and Stockyards Act, 1921, for the purpose of repealing the authority of the Secretary of Agriculture to determine rates and charges for stockyard services; to the Committee on Agriculture.

H.R. 12814. A bill to provide for foreign exchange adjustments in regular military compensation available to personnel stationed overseas; to the Committee on Armed Services.

By Mr. MATHIS (for himself, Mr. MADIGAN, Mr. BAFALIS, and Mr. BONKER):

H.R. 12815. A bill to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. BEVILL:

H.R. 12816. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. CORMAN:

H.R. 12817. A bill to amend title XX of the Social Security Act to provide for an expanded social services program, to promote consultation and cooperative efforts among States, localities, and other local public and private agencies to coordinate services, to extend certain provisions of Public Law 94-401, and for other purposes; to the Committee on Ways and Means.

By Mr. EVANS of Colorado:

H.R. 12818. A bill to test the commercial, environmental, and social viability of various oil shale technologies, and for other purposes; to the Committee on Armed Services.

By Mr. FRENZEL:

H.R. 12819. A bill to provide for the minting and issuance of $1 coins bearing the likeness of Susan B. Anthony; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MEEDS (for himself, Mr. PERKINS, and Mr. QUIE):

H.R. 12820. A bill to amend the Youth Conservation Corps Act Amendments of 1974 to remove the ceiling on the authorization of appropriations; to the Committee on Education and Labor.

By Mr. JOHN L. BURTON (for himself, Mr. BUCHANAN, Mr. BUTLER, Mr. CARR, Mr. CLAY, Mr. CLEVELAND, Mr. COTTER, Mr. COUGHLIN, Mr. ROBERT W. DANIEL, Jr., Mr. DE LUGO, Mr. DIGGS, Mr. EDWARDS of California, Mr. ERLENBORN, Mr. FORSYTHE, Mr. GLICKMAN, Mr. HORTON, Mr. MCDADE, Mr. MCEWEN, Mr. KRUEGER, Mr. MADIGAN, Mr. MAZZOLI, Mr. METCALFE, Mr. MILFORD, Mr. MITCHELL of New York, and Mr. MOORHEAD of Pennsylvania):

H.J. Res. 930. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. BINGHAM, Mr. CORNELL, Mr. DE LA GARZA, Mr. EVANS of Delaware, Mr. FITHIAN, Mr. HOWARD, Mr. HOLLAND, Mr. JENRETTE, Mr. LOTT, Mr. MCCLOSKEY, Mr. MCKINNEY, Mr. PICKLE, Mr. SHUSTER, Mr. ROE, Mr. TRIBLE, Mr. UDALL, Mr. ANDREWS of North Dakota, Mr. ARCHER, Mr. ASHLEY, Mr. ASPIN, Mr. BROOMFIELD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, and Mr. BROYHILL):

H.J. Res. 931. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. JOHN L. BURTON (for himself, Mr. NICHOLS, Mr. O'BRIEN, Mr. PRESSLER, Mr. REGULA, Mr. REUSS, Mr. RINALDO, Mr. SANTINI, Mr. SARASIN, Mr. SAWYER, Mr. SEBELIUS, Mr. SIKES, Mrs. SMITH of Nebraska, Mr. STANTON, Mr. TSONGAS, Mr. WAMPLER, Mr. WHITEHURST, Mr. YATRON, Mr. ANDREWS of North Carolina, Mrs. COLLINS of Illinois, Mr. FISHER, Mr. FORD of Tennessee, Mr. MARRIOTT, Mr. MARTIN, and Mr. RAILSBACK):

H.J. Res. 932. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER (for himself, Mr. DODD, Mr. LONG of Maryland, Mr. BEDELL, Mr. BONIOR, Mr. BRODHEAD, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CARR, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CORNELL, Mr. DELLUMS, Mr. DOWNEY, Mr. DRINAN, Mr. ECKHARDT, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. EMERY, Mr. FITHIAN, Mr. FORD of Tennessee, Mr. GOODLING, and Mr. HARKIN):

H. Con. Res. 629. Concurrent resolution disapproving the proposed export of low-enriched uranium to India; to the Committee on International Relations.

By Mr. OTTINGER (for himself, Mr. DODD, Mr. LONG of Maryland, Mr. HARRIS, Mr. HAWKINS, Ms. HOLTZMAN, Mr. HOWARD, Mr. HUGHES, Mr. JEFFORDS, Ms. KEYS, Mr. KILDEE, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. MAGUIRE, Mr. MARKEY, Mr. MIKVA, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. NOLAN, Mr. PANETTA, and Mr. PATTERSON of California):

H. Con. Res. 630. Concurrent resolution disapproving the proposed export of low-enriched uranium to India; to the Committee on International Relations.

By Mr. OTTINGER (for himself, Mr. DODD, Mr. LONG of Maryland, Mr. PATTISON of New York, Mr. RICHMOND, Mr. STARK, Mr. STEERS, Mr. TSONGAS, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. WIRTH, and Mr. FISH):

H. Con. Res. 631. Concurrent resolution disapproving the proposed export of low-enriched uranium to India; to the Committee on International Relations.

By Mr. YOUNG of Texas (for himself, Mr. KAZEN, Mr. CHARLES WILSON of Texas, Mr. ROBERTS, Mr. MATTOX, Mr. GONZALEZ, Mr. POAGE, Mr. BURLESON of Texas, Mr. BROOKS, Mr. MAHON, Mr. MILFORD, Mr. DE LA GARZA, Mr. TEAGUE, and Mr. GAMMAGE):

H. Con. Res. 632. Concurrent resolution expressing the sense of the Congress that the Administrator of the Environmental Protection Agency should reconsider and revise in accordance with propositions outlined in the resolution the national ambient air quality standard, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DODD:

H. Res 1195. Resolution to condemn the May 19 terrorist raid at Orly Airport, and for other purposes; to the Committee on International Relations.

By Mr. LEACH:

H. Res. 1196. Resolution relating to proposed bans by the Food and Drug Administration on certain uses of penicillin and tetracycline products in animal feeds; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

415. The SPEAKER presented a memorial of the Legislature of the State of South Carolina, requesting that Congress call a convention for the purpose of proposing an amendment to the Constitution requiring that Federal budgets be balanced; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

469. The SPEAKER presented a petition of the Board of Governors of the Puerto Rico Bar Association, San Juan, relative to the proposed increase in the number of Federal judges in Puerto Rico, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10929

By Mr. MATHIS:

Add the following new section to title VIII—General Provisions:

"AUTHORITY TO PROTECT MILITARY PERSONNEL STATIONED OVERSEAS AGAINST DEVALUATIONS IN THE DOLLAR

"SEC. 812. Chapter 17 of title 37, United States Code, is amended by adding the following new section:

"'SEC. 908. Without regard to the monetary limitations of this title, the regular military compensation available to military personnel stationed overseas shall, under regulations prescribed by the Secretary of Defense, be periodically adjusted to reflect any changes since January 1, 1977, in the rate of exchange between the dollar and the official currency of the country in which such personnel is stationed, except that in no case shall such compensation be adjusted below that payable on the date of enactment of this section.'"

H.R. 11983

By Mr. BADHAM:

In section 2, insert "general" after "scheduled" in paragraph (4) of proposed section 501 of the Federal Election Campaign Act of 1971.

In section 2, after paragraph (5) of proposed section 501 of the Federal Election Campaign Act of 1971, insert the following new paragraph:

"(6) Any other term used in this title shall have the meaning as defined in the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 et seq.) or in chapters 95 and 96 of the Internal Revenue Code of 1954.

In section 3, strike out subsection (c).

In section 2, strike out "$100" in paragraph (2) of proposed section 502(b) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "$250".

In section 2, after "State bank" in paragraph (5) of proposed section 504(a) of the Federal Election Campaign Act of 1971, insert ", or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal

Savings and Loan Insurance Corporation, or the National Credit Union Administration,".

In section 2, strike out "ending on" in the first sentence of subsection (b) of proposed section 504 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "ending 30 days after".

In section 2, strike out "Account" in subsection (c) of proposed section 508 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "the general fund of the Treasury".

By Mr. FRENZEL:

In section 2, strike out "the House of Representatives Campaign Account" in paragraph (1) of proposed section 501 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "the Congressional Election Campaign Account".

In section 2, strike out paragraph (5) of proposed section 501 of the Federal Election Campaign Act of 1971 and insert in lieu thereof the following:

"(5) The term 'immediate family' means, with respect to a candidate, an individual who is related to the candidate as defined in section 3110(a)(3) of title 5, United States Code.

In section 2, strike out "10 days" and insert in lieu thereof "5 days" in subsection (a) of proposed section 502 of the Federal Election Campaign Act of 1971.

In section 2, strike out "August 1, 1980" in subsection (a) of proposed section 502 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "August 1, 1982".

In section 2, insert the following new subparagraph after subparagraph (E) of proposed section 502(a)(1) of the Federal Election Campaign Act of 1971:

"(F) that such candidate or committee will refund and repay to the Secretary all amounts received by such candidate or committee from the Account for any election in which such candidate is unopposed by another candidate;"

In subparagraph (D) of proposed section 502(a)(1), strike out "and" after the semicolon.

And in subparagraph (E) of proposed section 502(a)(1), insert "and" after the semicolon.

In section 2, insert the following new subparagraph after subparagraph (E) of proposed section 502(a)(1) of the Federal Election Campaign Act of 1971:

"(F) that such candidate or committee will refund and repay to the Secretary 75 percent of all amounts received by such candidate or committee from the Account for any election in which such candidate is unopposed by another candidate;"

In subparagraph (D) of proposed section 502(a)(1), strike out "and" after the semicolon.

And in subparagraph (E) of proposed section 502(a)(1), insert "and" after the semicolon.

In section 2, insert after "account" in paragraph (3) of proposed section 502(b) of the Federal Election Campaign Act of 1971 the following: ", except that all contributions received by a candidate and his or her authorized committees for the purpose of influencing the 1980 Congressional elections shall be taken into account".

In section 2, strike out paragraph (4) of proposed section 504(a) of the Federal Election Campaign Act of 1971.

And redesignate the following paragraph accordingly.

In section 2, strike out proposed section 505 of the Federal Election Campaign Act of 1971 and redesignate the following sections accordingly.

In section 2, strike out the sentence beginning "The Commission" in paragraph (2) of proposed section 505(a) of the Federal Election Campaign Act of 1971.

In section 2, strike out paragraph (1) of proposed section 505(b) of the Federal Election Campaign Act of 1971, and redesignate the following paragraph as subsection (b).

In section 2, strike out the second sentence of proposed section 506(a) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "The request referred to in the preceding sentence shall contain a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.".

In section 2, strike out "House of Representatives Election Campaign Account" in the first sentence of proposed section 507(a) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "the Congressional Election Campaign Account."

In section 2, strike out "1978" each place it appears in subsection (a) of proposed section 507 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "1982".

In section 2, strike out "1979 and 1980" in subsection (a) of proposed section 507 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "1983 and 1984".

And in section 2, strike out "except 1978" in subsection (b) of proposed section 507 of the Federal Election Campaign Act of 1971.

In section 2, after "campaign accounts of" in paragraph (1) of proposed section 508(a) of the Federal Election Campaign Act of 1971 insert "all", and strike out "designated" in such paragraph and all that follows through "title".

In section 2, strike out "general" in paragraph (1) of proposed section 508(a) of the Federal Election Campaign Act of 1971.

And in section 2, strike out paragraph (2) of proposed section 508(a) of the Federal Election Campaign Act of 1971 and redesignate the following paragraph accordingly.

In section 2, strike out subparagraph (C) of proposed section 508(b)(1) of the Federal Election Campaign Act of 1971 and insert in lieu thereof the following:

"(C) Any amount remaining in the accounts of the candidate's authorized committees after the payment of all qualified election campaign expenses incurred during the period specified in section 504(b) shall be repaid within 90 days to the Secretary up to but not exceeding any amount received under this title.

In section 2, after "document" in the last sentence of proposed section 509 of the Federal Election Campaign Act of 1971, insert "and made available to any person at cost".

In section 2, after "eligible" in paragraph (1) of proposed section 511(b) of the Federal Election Campaign Act of 1971, insert "and registered".

In section 2, strike out "such sums as may be necessary" in proposed section 513 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "a sum not to exceed $6,000,000".

In section 4, strike out "the date of enactment of this Act" and insert in lieu thereof "January 1, 1982", and strike out "August 1, 1980" [?] and insert in lieu thereof "April 1, 1982".

In section 4, strike out "August 1, 1980" [?] and insert in lieu thereof "April 1, 1980" [?].

In section 2, insert "general" after "scheduled" in paragraph (4) of proposed section 501 of the Federal Election Campaign Act of 1971.

In section 2, after paragraph (5) of proposed section 501 of the Federal Election Campaign Act of 1971, insert the following new paragraph:

"(6) Any other term used in this title shall have the meaning as defined in the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 et seq.) or in chapters 95 and 96 of the Internal Revenue Code of 1954.

In section 3, strike out subsection (c).

In section 2, strike out "$100" in paragraph (2) of proposed section 502(b) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "$250".

In section 2, after "State bank" in paragraph (5) of proposed section 504(a) of the Federal Election Campaign Act of 1971, insert ", or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration,".

In section 2, strike out "ending on" in the first sentence of subsection (b) of proposed section 504 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "ending 30 days after".

In section 2, strike out "Account" in subsection (c) of proposed section 508 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "the general fund of the Treasury".

H.R. 11392

By Mr. JEFFORDS:

At the end of title VII (relating to administration, management, support, and commercialization functions of the Department of Energy), insert the following new section:

"SOLAR ENEGRY TECHNOLOGIES COMMERCIALIZATION REPORT

"SEC. 705. (a) Not later than July 1, 1979, the Secretary of Energy, acting through the Assistant Secretary for Conservation and Solar Applications, shall prepare and transmit to each House of the Congress a report with respect to the commercialization of solar energy technologies which shall—

"(1) cover each type of solar energy;

"(2) identify any legal, economic, and institutional factors inhibiting the commercialization within the United States of each type of solar energy;

"(3) provide recommendations for legislative or other actions necessary to overcome factors identified under paragraph (2) as inhibiting solar energy commercialization;

"(4) provide implementation strategy options for the commercialization of each type of solar energy which—

"(A) are formulated for each market sector and for each geographic region within the United States;

"(B) take into account the various alternatives which could result with respect to those factors identified in paragraph (2); and

"(C) cover each of the following time periods—

"(i) July 1979 through 1980;

"(ii) 1981 through 1985;

"(iii) 1986 through 1990;

"(iv) 1991 through 1995; and

"(v) 1996 through 2000; and

'(5) contain recommendations as to which of the options provided under paragraph (4) would be the most appropriate for rapid and extensive commercialization of solar energy.

"(b) Funds authorized to be appropriated under section 102(4)(A) of this Act shall be available in fiscal year 1979 to prepare the report required under this section.

"(c) For purposes of this section, the term 'solar energy' includes direct and indirect solar radiation and intermediate solar energy forms such as wind, sea thermal gradients, products of photosynthetic processes, organic wastes."

EXTENSIONS OF REMARKS

WORKERS ARE OWNERS AT BATES' MILL

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. COHEN. Mr. Speaker, Saturday's Washington Post carried a story about Bates Fabrics, Inc., a textile manufacturing company in Lewiston, Maine, that is owned by its workers. The employees last year purchased the plant to prevent its closing, thus saving 1,000 much-needed jobs in Lewiston.

Bates Fabrics is thought to be one of the largest employee stock ownership trusts in the country, and I am very pleased that this successful worker-owned enterprise is receiving the national attention it warrants.

I include the Post article at this point in the RECORD, and I urge my colleagues to read it.

The article follows:

[From the Washington Post, May 20, 1978]

WORKERS ARE OWNERS AT BATES' MILL

(By Maxwell Wiesenthal)

LEWISTON, MAINE.—The 1,000 employees of Bates Fabrics, Inc., will receive a first-hand report tomorrow from their offices on how well their business performed last year.

The 1,000 are the owners of the sprawling 125-year-old textile mill. They purchased the concern last year from Bates Manufacturing Co. with the help of an $8 million loan from the First National Bank of Boston, 90 percent of which was guaranteed by the Farmers Home Administration.

Bates Fabrics, according to company officials, is one of the nation's largest employee stock ownership trusts.

Last week the first distribution of 35,000 shares of stock was made. The average worker at the mill was credited with 40 shares of stock valued at 90 cents a share. The shares were placed in separate accounts set up for each worker, who is to receive the proceeds when he reaches age 65. The distribution of shares was based on each worker's 1977 annual salary.

As the bank loan is repaid, a portion of the 4 million shares of outstanding stock held by the bank as collateral for the loan will be released and credited to the employees.

Robert T. Hickok, Bates' president and board chairman, said that when the 25-year loan is repaid the mill will be fully owned by the employees.

Raymond St. Pierre, Bates' treasurer, in an abbreviated report to the mill workers said 1977 sales fell slightly to $23.8 million from $24.2 million in 1976. Earnings amounted to $20,000 compared with $68,000 in the previous year. But $906,000 of the $8 million debt was amortized.

Hickok said the net profits figure doesn't tell the real story of how well the company did last year.

In addition to amortizing the loan by $906,000, the company paid $322,000 in interest and had a $650,000 adjustment credit on cotton purchases for a total of more than $1.8 million in gross profits.

"I'd say we had a banner year," said Hickok.

The change in ownership has had little impact on the lives of the mill workers, most of whom are of French-Canadian extraction, descendants of immigrants from Quebec who poured into Maine at the end of the 19th century to work in the expanding textile and pulp mills.

Denis Blais, vice president of the Amalgamated Clothing and Textile Workers Union of America, the union which represents the mill hands, doesn't see employee ownership as a financial blessing for the workers, although the union supported it.

"I see it as a better chance for the plant to survive because the vultures are gone," he said. "The previous owners of Bates viewed the mill simply as a source of quick profits. Much needed capital improvements were left undone."

The new management plans to build the working capital and purchase new equipment to enable Bates to remain competitive with southern mills. Last year $600,000 worth of new equipment was installed in the plant, Hickok said. This year as much or more money will be spent on modernization, he added.

The Bates name has become synonymous with bedspreads, which constitute 85 percent of the mill's production. The remainder is drapes and table cloths. The top of the line is sold under the Bates name, and goods of lesser quality are sold unbranded to chain and discount stores.

The test of labor-management relations came last month during negotiations for a new union contract.●

U.S. POSTAL SERVICE ANNOUNCES ISSUANCE OF COMMEMORATIVE POSTAL CARD IN HONOR OF GEN. CASIMIR PULASKI

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. FARY. Mr. Speaker, I would like to take this opportunity to inform my fellow colleagues that the U.S. Postal Service has decided to issue a commemorative post card in honor of Gen. Casimir Pulaski, a Polish patriot and one of the most respected heroes of the American Revolution, to which he gave his life.

I wholeheartedly support the issuance of this commemorative and am particularly pleased with the Postal Service's decision in view of the historical significance of General Pulaski's contributions.

Casimir Pulaski first came to America in 1777 to volunteer his services to the Continental Army at the recommendation of Benjamin Franklin and immediately established a reputation for military prowess. He fought gallantly alongside Gen. George Washington at Brandywine and then at Germantown. Later, taking command of the calvary at Trenton, Pulaski joined forces with Gen. Anthony Wayne in the winter of 1777–78 to help defeat a British division at Haddonfield, N.J.

A year later, during the winter of 1779, Pulaski was ordered to proceed south to Charleston, S.C., where he would join forces with Gen. Benjamin Lincoln to halt the British siege on Charleston. While waiting for Lincoln's forces to arrive and seeing the city on the verge of collapse, Pulaski led repeated charges on the British forces and succeeded in lifting the morale of the city's defenders until General Lincoln's men arrived.

Later, at the Battle of Savannah, General Pulaski again joined forces with General Lincoln and also with French Admiral D'Estaing against the British, who were occupying Savannah. Pulaski was severely wounded during a charge and later died aboard the brigantine *Wasp*. He was buried at sea but funeral services were held in Charleston and the people of Savannah eternalized his memory by erecting a monument in his honor.

Mr. Speaker, I have been informed that, in order to fully honor this inspiring patriot, the U.S. Postal Service is considering early October as the date of issuance of this commemorative since this will mark the 200th anniversary of the Battle of Savannah and General Pulaski's death. In view of this, I can think of no finer tribute to such a brave and distinguished soldier.●

MAXWELL HILLARY SALTER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. WAXMAN. Mr. Speaker, on Wednesday, June 21, 1978, Maxwell Hillary Salter, known affectionately by his friends and associates as "Sonny," will be honored by Temple Beth Am. Although this is only the latest of a number of awards offered to Maxwell Salter in recognition of dedicated service to his community, it gives us the opportunity of gathering together many public figures from the world of Judaism, politics, business, and the arts who wish Maxwell Salter to know how much he is admired. I know that my fellow Members will want to join his almost numberless friends in this recognition of a devoted human being.

A member of Temple Beth Am for over 25 years, he served as chairman of its board of trustees; vice president, and currently as president for his third term. During his administration, Max Salter was instrumental in initiating a permanent endowment fund for the congregation to insure its future. His innovative approach to all the fields of his activities has marked his success in commerce, philanthropy, and community service.

Max Salter is president of Beno's. In

addition to being a patron of the arts and serving on the advisory board of Manufacturers Bank, he supports a host of charitable institutions, including the Diamond Circle of the City of Hope, Uncles Club of Vista del Mar, and he has established a fellowship at Los Angeles Childrens' Hospital. He is a founder of Camp Ramah, Akiba Academy, Herzl Schools, the Greater University of Judaism and serves on the university board. A longtime supporter of the State of Israel, Max served as the chairman of the Apparel Industry Campaign for United Jewish Welfare Fund, chairman of Temple Beth Am's UOW drive and its bond drive, and is a member of the Prime Ministers Club of Bonds of Israel.

A man of compassion, warmth, and humor, Sonny Salter gives himself without stint, and knows how to draw others after him. His wife, Janet, emulates his philosophy of doing for others, and was herself honored with the first Gold Merit Award of the State of Israel in October 1976. Our community has been the recipient of Sonny's love and devotion, and we are all the richer for it. It gives me great pleasure to be the means of bringing Maxwell Hillary Salter to your notice and to ask you to join me in honoring him.●

TRIBUTE TO W. B. "BILL" CAMP

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. KETCHUM. Mr. Speaker I am privileged to represent a remarkable gentleman named W. B. "Bill" Camp, and I would like to take this opportunity to share with my colleagues some of the outstanding accomplishments Bill has notched on his belt during his 82 years of full living.

A week ago today, Bill Camp's travels took him to New York to accept the Horatio Alger Award, presented by Dr. Norman Vincent Peale. Ostensibly this award is given to men and women of national prominence for whom the American dream has come true. However, I believe that is not quite phrased correctly, at least in Bill Camp's case: the American dream did not happen to Bill—he made it.

This coveted award will stand beside a host of others bestowed upon Bill Camp throughout his life. Known as the "Father of Cotton" in California, Bill Camp already possesses the Eli Whitney Award, presented to him by the Free Enterprise Hall of Fame. His enthusiastic participation in the Freedoms Foundation is legend, as is that of his wife, Louise.

His youth was spent in Cherokee County, S.C., picking cotton and plowing fields. After working his way through college, Bill Camp moved out to the San Joaquin Valley, where he introduced Acala cotton to the State, and was responsible for California's law prohibiting any other strain of cotton to be grown. Acala cotton singlehandedly raised California's cotton crop to international prominence.

Today, the W. B. Camp & Sons Co., grows, processes, and markets 16 major crops, farming in California, Washington, and South Carolina. The American dream was not only made fact by Bill Camp for himself—a State, a Nation, and indeed, the world have all benefited from his determination.

Bill Camp is one of 15 individuals exemplifying the American success story who will receive the Horatio Alger Award this year. Thanks to the Bill Camps of the world, each one of us is also able to taste of success through better lifestyles, better marketing, and higher quality consumer goods.

I am both pleased and proud to extend my most heartfelt congratulations to Bill Camp. The "rags to riches" award could not go to a finer, more worthy, or harder working American.●

MARY McKEOUGH—A VERY SPECIAL PERSON

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. SHUSTER. Mr. Speaker, I know all of my colleagues would agree that a Member's service to his or her constituents is only as good as the staff people who assist in that service. I have had the very good fortune for the last 5½ years to have had the best caseworker in Washington, Mary McKeough, in my office and working her heart out for me and the people of the 9th Congressional District of Pennsylvania.

After working a little over 20 years on Capitol Hill, Mary is retiring on May 31. Needless to say, I am very sorry to see her go. After moving here from Maine in January 1958, she started her career on Capitol Hill with Congressman Thomas M. Pelly of Washington, for whom she worked 7 years. Mary then did casework for Congressman Jack McDonald of Michigan for 6 years and came on board with me when I came to Congress in 1973. Although Capitol Hill has undergone considerable changes during the past 20 years, Mary has not lost her love for people—a quality which has endeared her to one and all.

Let me tell you specifically why Mary is so invaluable. Mary McKeough has a comforting manner with those persons who are in desperate situations and she demonstrates extraordinary patience in dealing with people who have frustrating and complex problems. Mary has handled hundreds of cases for me over the years, but she has taken great pride in every letter to a constituent and made sure that he or she received the appropriate straightforward response. Mary treated everyone as someone special and listened sympathetically to every person's problems. As a result, people were given hope and assurance that they were not alone and that someone did care about their very personal problems.

In the office, we will miss Mary's incomparable enthusiasm and Irish humor. I know that retirement will not mean slowing down, because she will be on her way back to Maine to start making plans for a trip to Ireland in the not too distant future. The rest of the staff joins me in wishing Mary McKeough all the best that life can offer.●

LYLE REPORT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. STEERS. Mr. Speaker, I would like to take this opportunity to share with my colleagues in the House my reaction to the so-called Lyle report.

As the first Member of the Congress to review the Lyle report in its entirety, I feel compelled to make several pertinent points relating to it. Let me first relate briefly some of the background relative to this document, which is presently physically confined to the Office of the Counsel to the President.

Mr. Edward Lyle, a member of the Civil Service Commission transition team between the Ford and Carter administrations, is the author of the report in controversy. Mr. Lyle had offered and been authorized to make an analysis of changes needed at the Civil Service Commission. His briefing book was compiled through the use of documents and firsthand interviews presumably to fill the gaps left by the House Post Office and Civil Service Committee report on civil service abuses. Additionally, the Lyle report named individuals, eight in number, who had not been identified in either the committee report or the in-house investigation by the Commission's Sharon team.

On May 11, 1978, I requested a copy of the Lyle report from Mr. Frank Moore, Assistant to the President for Congressional Liaison. The text of that letter is as follows:

DEAR MR. MOORE: It has recently come to my attention that efforts to obtain a copy of the so-called Lyle Report by my colleagues in the House have been unsuccessful. As representative of approximately 40,000 federal civil servants, I feel that it is imperative that full disclosure be made as to the contents of this document and urge, therefore, that you make a complete copy of the Lyle Report available to me in the immediate future.

As you might gather, my concerns with regard to this matter are nonpartisan. They do, therefore, deserve the most urgent attention.

Thank you for your efforts in this matter. I shall look forward to hearing from you in the next few days.

Yours sincerely,

NEWTON I. STEERS, Jr.

On Thursday, May 18, 1978, I received a response from the counsel to the President, Mr. Robert J. Lipshutz, which is set out below:

MAY 17, 1978.

DEAR CONGRESSMAN STEERS: Frank Moore has referred your letter of May 11, 1978 to me for response.

You have requested that the White House release a report prepared during the Ford-Carter transition, concerning alleged irregular activities at the Civil Service Commission during the Nixon and Ford adminis-

trations. That report was prepared by a member of the then President-Elect's transition staff. The report was intended for the President-Elect's use and remains the property of the White House.

As you know, the Department of Justice recently conducted an investigation into possible abuses by Civil Service Commission personnel under previous administrations. The transition report you have requested was reviewed by the FBI and discussed with Justice Department attorneys during the course of the Department's investigation. In addition, the Chairman of the Civil Service Commission, Dr. Alan Campbell, last year retained outside special counsel to conduct a broad and independent investigation on behalf of the Commission into possible past abuses by Commission personnel. I am advised by Dr. Campbell that this investigation is still in progress, and its report and recommendations are expected in the near future.

The transition report was intended for the use of the President-Elect and his senior advisors. The report sets forth and reflects considerations, recommendations, deliberations, options, investigative reports and advisory opinions which comprise part of the processes by which governmental decisions and policies are formulated and carried out.

In part, the report is accusatorial in nature; individuals who are profiled in the report were not given an opportunity to respond to allegations made against them, and the material on which allegations were based was not subject to any of the safeguards required for criminal or administrative proceedings. Accordingly, I am concerned that release of the report would constitute an unfair and unwarranted invasion of the privacy of those profiled.

It is also important to note that the transition report acknowledged its preliminary and incomplete character, as well as the limitations on the evidentiary basis for its conclusions. Citing these limitations, the author of the report expressly declined to recommend specific action; instead he suggested that the new administration consider whether a more thorough inquiry should be undertaken. As noted above, one inquiry of the sort contemplated by the report has in fact been conducted by the Justice Department; another inquiry is presently being conducted by the special counsel retained by the Civil Service Commission.

Allegations of improper activities by individuals profiled in the report have been or will be properly investigated. If appropriate, disciplinary action will be instituted. It is important however, that we do nothing at this time which would interfere with or jeopardize either the integrity of the ongoing investigation being conducted by the special counsel retained by the Civil Service Commission or any resulting disciplinary actions.

For the reasons cited above, I respectfully ask that you reconsider your request for a copy of the report. I believe that the best course is to allow the special investigation being conducted for the Civil Service Commission to be completed before any other actions are undertaken.

However, I do respect your interest in the contents of the transition report. Accordingly, I am willing to make a copy available for your review in a manner consistent with that in which other sensitive or classified White House documents have at times been made available to Members of Congress. Therefore, I will be glad to make this report available to you personally at the White House with the following understanding: That no copies of the report will be made; and that there will be no disclosure of the names of the individuals discussed in the report or allegations made against them.

If it is agreeable with you to review the report on the basis outlined above, I will be pleased to make a copy available to you at the White House at your convenience.

Sincerely,

ROBERT J. LIPSHUTZ,
Counsl to the Prsident.

Such is the background prior to my review of the Lyle report. As you can see from the Lipshutz letter, acceptance of the offer to review the document has precluded me from divulging the names of individuals identified in the report. I was not, however, precluded from presenting my impressions of the document. That is what I give you now.

As you know, I have announced my intention to introduce a resolution of disapproval of the President's reorganization plan relating to the civil service system upon its submission to the Congress. After careful and thorough review of the Lyle report on Friday afternoon in the Executive Office Building, I am more convinced than ever that the reorganization and reform of the civil service in their present proposed format must not go forward. To make legal the kinds of abuses that took place in the Nixon and Ford administrations that were then, are now, and should continue to be illegal would work a travesty upon the workings of the Federal civil service and Government in general. To allow such to happen through enactment of these proposals could be catastrophic in their effects.

Whatever doubts that I have had about possible abuses in the Nixon-Ford years relating to the civil service have certainly been dispelled by my review of the Lyle report. Although the allegations contained in the report have not been tested through the judicial processes completely, it was apparently a well thought out and carefully prepared document for the President of the United States. Such documents cannot be treated lightly.

In conclusion, I urge the most thorough investigation of the charges contained in the Lyle report. Such an investigation would be suspect if conducted by the Civil Service Commission itself. It would appear that the independent investigation, which was launched late last year, is appropriate here as in the Watergate investigation. The overriding purpose is to clear the air, renew public confidence in the Federal Government, and to either exonerate or prosecute the individuals alleged to have committed the abuses spoken of in the Lyle report.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. MAZZOLI. Mr. Speaker, I was absent for a recorded vote on Tuesday, May 16, 1978. Had I been present, I would have voted "aye" on rollcall No. 323, House Resolution 1174, the rule providing for the consideration of H.R. 11686, authorizing appropriations for the Department of Energy for national security programs for fiscal year 1979.●

BEHOLD, THE GUEST

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. JOHNSON of Colorado. Mr. Speaker, last year I inserted into the RECORD a sermon about parent-child relations by one of the Nation's outstanding ministers, Dr. William A. Holmes of the National Methodist Church, Metropolitan Memorial. On Palm Sunday this year, Dr. Holmes returned to the theme in a sermon entitled, "Behold, the Guest." The eloquence, insight, and warm humanity of Dr. Holmes' sermons have earned him widespread recognition in the Nation's Capital. I am pleased to share this particular sermon with my colleagues and other readers of the RECORD who do not have the privilege of hearing him Sunday after Sunday present his thoughtful, stirring witness:

BEHOLD, THE GUEST

(By William A. Holmes, D.D.)

During the last several Sundays of this Lenten Season, we have been considering the Biblical implications of hosts and hospitality and guests; and what it might mean for us, out of a common solitude, to make a free and friendly space for other people. Now, this morning, on this Palm Sunday, marking the day our Lord became a guest in the City of Jerusalem, I would have us ponder for a while the guest who is in our midst today.

Ordinarily, we think of guests as those who arrive, stay for a brief interim, and then depart. In fact, that's how we prefer to think of guests, and most of us aren't looking for the kind of guests depicted in the play or movie, "The Man Who Came to Dinner," the guest who just stays on and on and on. But, I want to ask you to think with me a little while today, not about the guest of the brief interim, but about the guest who eats at our table and sleeps in our house and shares our lives over an extended period of time. Because this morning, in this service, we are going to be receiving a confirmation class into the church, I want to speak of children and of young people as guests within the family and home.

It may sound strange to refer to children and young people as guests within the family and home; but, my friends, it is at the center of the Christian message that they are not possessions to be owned and ruled over. They are guests, to be cherished and cared for. They are beloved strangers who have a rhythm of their own, and their own internal capacity for good and evil and dimensions of mystery and wonder. They are always taking their parents by surprise. Every parent here this morning knows how different their children are, not only from each other, but also from themselves as parents. It is simplistic to describe children in terms of their parents. You know, "There goes John, Jr., just like John, Sr."; or, "There's little Mary, the spittin' image of her mother." Listen, John, Jr. and little Mary have an identity, a dimension of mystery, apart from their parents. They are not automatic carbon copies and extensions of their parents.

I speak firsthand this morning as the father of two sons, who have some characteristics of their own and yet, from time to time, I know I've said to Nancy, "That's from your side of the family"; and she says to me, "Oh, no, it's not. That's from your side of the family." Both of us know that it's from neither side, that our sons have a dimension of identity and self that is apart from us,

that cannot be credited to parents. And that's not just true when they are young and growing up; it's just as true, or even more so, when they are grown and operating out of that blend of early childhood environment, and mystery, and freedom. When they make their own decisions, they sometimes hurt and disappoint their parents. Again, it is simplistic and superficial for parents to say, "Oh, where did I go wrong, where did I make a mistake." Grownup sons and daughters make their own decisions, and take responsibility for their own lives. Just as when they do things that please and pleasure us, it is not appropriate for parents to claim that credit for themselves.

The birth of a child is the birth of a mystery and, from that first day on, that little beloved stranger is a guest within the family and home, and that's why it's so important in the family and home that there be a free and friendly space where children can grow and develop and become themselves. I trust you all understand that by "a free and friendly space" I'm not talking about a vacuum of permissiveness and indulgence. I'm talking about a free and friendly space of gentle nurture, where growing children learn what is helpful and what is harmful, what is good and what is true, and where they have a space where they can experiment, and make mistakes and fail and still know they are accepted, and a space from which they can go into the world and experiment increasingly with being on their own, and yet a space to which they can return, counting on the continuity of being welcome as a guest.

Furthermore, they need that kind of free and friendly space within the church; the church family, the congregation, in the class room, in the choir room, on the playground, in the youth lounge, in the sanctuary from time to time. Not a vacuum. We don't apologize for the fact that here we offer nurture, and here we hope they will grow, as did our Lord, in wisdom and in stature, and in favor with God and man. I'm not a Pollyanna about that possibility. I've long held to the proposition set forth by Soren Kierkegaard, that Christianity is not for children; by which he meant that children, especially when they are young, do not have the cognitive capacity, the intellectual facility for interpreting and understanding sin and redemption, and incarnation and crucification and resurrection. We have a hard enough time with those categories as adults. But, to say that children must by necessity be excluded from cognitive understanding of the Christian faith, is not to say that they must, therefore, be excluded from the community of faith. On the contrary, Jesus speaks for that community of faith when He declares, "Let the children come unto me and forbid them not, for such is the Kingdom of Heaven."

The church has no more important guests than children. We have no day that is more red letter in our life than when the sons and daughters of this church family become of age and, of their own volition, take upon themselves the disciplines of a confirmation class and decide, in their own freedom, to be confirmed in the Body of our Lord. I told the class this past Thursday afternoon in our final session about that fire that some of you have heard me refer to before. That fire that is always burning at the center of a Zulu village, representing the mystery of life and death, of peril and promise, of freedom and obligation, of solitude and of survival; and how, night after night, following the evening meal, the elders of the village form a circle around the flames, and begin to move and dance and ritualize the understanding that they live their lives and die their deaths before a mystery; and how the children form an outer circle and begin to imitate their parents. Once a year, when some of the children of the village come of age and enter the period of adolescence, they are given a knife and sent into the bush. If, on their own, they survive for a certain period of days and nights, then when they return—on the first night they return—following the evening meal, the elders form their circles around the fire and the children, including the young people who have returned from the bush, form an outer circle. The dance begins but, midway in the dance, the inner circle stops—it breaks—and the elders reach out and bring into their midst the young neophytes who now have some understanding firsthand of the mystery of life and death, and peril and promise, and freedom and obligation, and solitude and survival.

It is the privilege of the elders of *this* tribe, in the name of Jesus Christ, Whose center is the cross this morning, for us to break our inner circle and to receive the sons and daughters of this church family who come of age and, in their freedom, made their own decision to take upon themselves the discipline of a confirmation class and, of their own volition, to decide this morning to be confirmed as members of Christ's Body. They come as guests of the home and of the church.

There is another sense this morning, in which children are quests of both institutions, in that their destiny lies always beyond the family and home, the church family and congregation. Listen, a good host knows not only how to provide hospitality and honor for his guests. A good host also knows how to make it possible for his guests to leave when it is time for them to go. There is a time for children and young people to go. Their destination lies out there. Now, again, I speak firsthand this morning as a father. It's often hard for us to let them go. We want to continue clinging, as it were, and sometimes we even want them to satisfy certain unmet needs we have. But, for their sake, there comes a time when they have to walk alone, and make their own mistakes, and take responsibility for their own lives as men and women in the world. My friends, if you and I as parents ever expect them to repay our love, then we have missed the point of love. Love is not to be paid back. It is to be passed on. The love of parents goes to their children; but, the love of those children goes to their children, and on through the generations. If you and I love, to be paid back, then we have loved ourselves. I might say parenthetically this morning that, if from time to time our children are grateful, if on some rare occasion they honor us; that's not our right, that's not our due, that's a serendipity and bonus.

I read again form Kahlil Gibran's *The Prophet*, "And a woman who held her babe against her breast said, 'Speak to us of children,' and he said, 'Your children are not your children, They are the sons and daughters of life's longing for itself. They come through you, but not from you, and though they are with you, yet they belong not to you. You may give them your love, but not your thoughts, for they have their own thoughts. You may house their bodies, but not their souls, for their souls dwell in the house of tomorrow, which you cannot visit, not even in your dreams,' " and I tremble at this, " 'You may strive to be like them, but seek not to make them like you, for life goes not backward, nor tarries with yesterday. You are the bows from which your children, as living arrows, are sent forth.' "

It is not only the family and home, it is also the church family, the congregation, too, for the children of the church have as their destination, beyond the church and into the world. It is here, within the church, that they learn of values to be implemented in the world. It is here, within the church, that they find relationships to be modeled in the world. It is here, within the church, that they learn of a God who so loved the world that He gave his only begotten Son. If they are not better in the world for having been in the church, then we have failed to prepare them for their journey into education and vocation and politics and social issues and decision making and in what it means to be a human being. As in the church, so in the family. The destination of children and young people is, finally, beyond the church and family and in the larger family of human kind.

In conclusion, if you're asking what has all of this to do with Palm Sunday, simply this: this is the day which marks the day when Jesus became a guest of the City of Jerusalem. As it turned out, they did not have for Him a free and friendly space where He could share with them the gifts He was bringing to the City, the gifts of life and love and an unconditional offering of Himself. Instead, they laid on Him their own unmet needs and expectations, their desperate longings for a political messiah, for a miracle worker, for a cosmic hatchet man. Because He failed to fulfill those needs, the multitude, which early in the week was crying, "Hosannah, hosannah in the highest," by the end of the week was crying, "Crucify Him, crucify Him," and the man who was the guest in the City on Sunday, was convicted as a criminal and crucified on Friday. I will not insult your intelligence this morning by elaborating further on that story. I simply close by repeating the title of this morning's sermon, not only as it pertains to children and young people in the home and in the church, but also as it pertains to every human being in our midst, "Behold, the Guest."●

CHIEF SVIHRA: 33 YEARS OF PUBLIC SERVICE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. SARASIN. Mr. Speaker, security and protection have long been recognized as two of the basic tenents upon which societies are formed. For the past 33 years in Easton, Conn., these qualities have been associated with Police Chief Oscar Svihra, who has served in this capacity since December of 1945. In those days, he was the key member of a small security force, on call 24 hours a day, 7 days a week, with an annual salary of $2.000, supported only by two parttime constables and an occasional State trooper. During his long and innovative tenure, however, he has dedicated himself to the protection of the community and the development of a police force worthy of the public trust—a force that has now grown to include 10 officers.

Whether it be in a squad car or with the Easton Volunteer Fire Co., or with any of the other civic associations to which he belongs, Chief Svihra blends a strong sense of justice with wise judgement and compassion to constantly strive for the betterment of the community. The greatness of the loss which the community feels at his retirement is only matched by the high esteem and gratitude with which he is regarded.

Chief Svihra for 33 ylears has embodied what it truly means to be a public servant. His constant involvement. long-range foresight, selflessness, and de-

termination have enhanced the development of the entire community. It is a great pleasure for me to join with that community in applauding his years of service to improving community life for all. I commend his outstanding achievements to my colleagues and wish him many years of health and happiness upon his retirement.●

ISRAEL AT 30—A NATION IN PURSUIT OF PEACE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. BIAGGI. Mr. Speaker, Israel's 30th anniversary as a nation comes at perhaps the most crucial time in her history. The advent of serious negotiations regarding peace in the Middle East has precluded much of the reflection associated with this event and instead has allowed the Israeli people to look ahead to a brighter future.

Lasting peace has been a goal which has eluded Israel throughout her history. Her existence as a state has continually been threatened by foes much larger than herself. The unyielding support of the United States has prevented Israel from being swallowed into the Arab camp, something which would have drastic consequences for the security of the Middle East.

Israel's success as a nation is owed in good part to the high caliber of leadership they have enjoyed. Israel's founder and first Prime Minister, David Ben Gurion established the tradition which all succeeding leaders have followed. Ben Gurion was the consummate public servant, providing the Israeli nation with his considerable expertise until his death in 1974. Golda Meir and Menachin Begin have proven to be exemplary leaders in their own right. Mrs. Meir directed the successful Israeli defense of her nation during the 1973 war. Begin is and continues to make valuable contributions to the peace process using his skill as a negotiator. Begin's name will have a lasting place in Israeli history for as a soldier, he paved the way for Israel's independence in 1948 and today 30 years later as a statesman he continues to direct a sovereign nation.

The United States and Israel have a bond of friendship which is unparalleled in strength and enduring in its longevity. It is based on our belief in the right of the nation of Israel to exist as well as our belief in its importance for a stable Middle East. This commitment has been evident since 1948 when the United States became the first nation to officially recognize Israel.

There has been some controversy of late concerning United States-Israeli relations, especially with respect to the recent vote in the Senate in support of the President's proposal to sell weapons to Egypt and Saudi Arabia. I regret the outcome of the vote, from the standpoint of placing new fears into the minds of the Israeli people. I urge the House International Relations and Senate Foreign Relations Committees to engage in continual oversight of the situation to guarantee that Israel's security is never threatened by U.S. weapons.

The Jewish-American community in this Nation is an integral part of American society. Their contributions are felt in all walks of life from politics to the professions, from sports to stage, from banking to business. They are a proud people, proud to be Americans, proud of their relatives and friends in Israel. They are truly governed by a sense of complete solidarity to one another and the common goal of a strong and free Israel. Peace for the next generation of Israeli people remains one of this Nation's strongest foreign policy objectives. Let us hope that by Israel's 31st anniversary peace is at hand.

Let us have this peace extend beyond the borders of Israel. Let there be peace for the oppressed Jews in the Soviet Union who today continue to be persecuted and denied their basic human and civil rights. Let there be peace for the Jewish American community of Skokie which has been forced to endure nightmares by the vicious antics of an unfortunate group of ex-Nazis. Let there be peace wherever there is turmoil for Jews in the world. This is our wish for the 30th and all succeeding anniversaries of the founding of Israel.●

TRIBUTE TO RUTH BUCKNER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. KILDEE. Mr. Speaker, it is with pleasure that I draw the attention of my colleagues in the Congress to a brief sketch of the accomplishments of a highly respected educator in Flint, Mich., Ruth Bucker, principal of Martin Luther King Elementary School, will be honored in a special weekend of tributes June 3–4 upon her retirement. She came to Flint 25 years ago as a caseworker for the Family Service Agency, and in 1959 she joined the Flint public schools serving as a teacher, social worker, administrative assistant, and principal. At present, she is writing a position paper entitled: "Techniques of Administering an Elementary Community School in an Urban Setting." Community education in Flint has been greatly enhanced because of the foresight, implementation, and follow-through of programs led by Mrs. Buckner. She was the first black principal in the Flint school system upon her appointment in 1963, and she has received numerous awards in recognition of her leadership in both education and in community affairs. Among the tributes she has received was the 1976 National Principal of the Year Award from the National Community Education Association. In the community outside the education field, she is highly respected for her active involvement in both church and civic affairs, serving on the boards of directors of several community organizations. Mrs. Buckner is an admirable example of how a dedicated person can contribute greatly to the community.●

AN ATHLETE'S DEATH IS A SPECIAL TRAGEDY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. VENTO. Mr. Speaker, I would like to bring to the attention of my colleagues the article below from the May 5 St. Paul Dispatch. The column was written by Don Del Fiaco who, as usual, writes with sensitivity and understanding of the courage and dignity with which Bobby Nicosia and his family withstood personal tragedy.

Bobby would have graduated this year from Johnson High School on St. Paul's east side but for the incidence of leukemia. As a previous graduate of the same school, I understand well the intense rivalry that prevails on the east side as to the relative merits of the Johnson and Harding athletic teams. Thus it would follow that only an unusual situation and an unusual family would bring the schools to a point of mutual understanding and helpfulness as described in the article. The Nicosia family accomplished the impossible as their heroism inspired the east side area, and for that matter, the entire city, to greater understanding and compassion.

There is not much we can do to assuage the grief of the Nicosias, their many friends and neighbors. I do commend them for instilling a greater sense of community togetherness that prevailed on St. Paul's east side during Bobby Nicosia's long struggle with leukemia. This unprecedented outpouring of support and sympathy demonstrated once anew that indeed we are our "brother's keeper."

AN ATHLETE'S DEATH IS A SPECIAL TRAGEDY

(By Don Del Fiacco)

But what is there to say?

Bob Nicosia is dead at 18. A superb athlete at Johnson High School, he was beaten by an awesome opponent in a shameful mismatch.

Leukemia remains an undefeated champion and swaggers off in search of other victims.

And newspaper columnists sit at their typewriters, analyze a tragedy and try to write about death and values. We grasp for meaning and significance. Our metaphors reek with the language of sports.

A woman caller claimed that our coverage of the Nicosia story was excessive. She was not unsympathetic to the agonies of the Chris Nicosia family, she said. "But many people die young and you never hear about it."

She had recently lost a teenage son who was not in sports, she said, and her pain was unshared.

We do suffer with our athletes.

Newspaper files carry many articles about battles lost by Ernie Davis, Maurice Stokes, Maureen (Little Mo) Connolly and Danny Thompson.

George Gipp, who played football for the University of Notre Dame in the 1920s, is

a legend. We still sing "Brian's Song in honor of Brian Piccolo, a professional football player of limited talents and immense competitiveness who taught Gale Sayers how to live.

Why are we so touched by the illnesses and deaths of athletes?

Perhaps it is because athletes provide entertainment and excitement to our often dreary lives and we share vicariously in their accomplishments, risking nothing in our adulation.

Because the young men and women represent health and vigor, their deaths are startling and incomprehensible, starkly reiterating our vulnerability and mortality.

There was something special about Nicosia, who was professional only in the way that he lived.

He furiously, savagely fought his disease. Although he had no options, his courage and dignity won him priceless admiration and support of thousands.

Nicosia's 5½-month struggle to live is essentially an East Side story.

The men and women of blue-collar country held out their hands to the Nicosias, who sought no hand-outs.

Their helpless rage turned to quiet dedication. They would give the family the love, respect and financial assistance it needed so desperately. Kristi Nicosia, 8, had given her brother marrow from her bones.

Thousands of dollars were raised at parties and dinners. A woman on the West Side gave the Nicosias money from the sales of tacos. Mexican-Americans boxed on a benefit "Fite Nite for Bobby" card at Harding High School.

Johnson and Harding alumni hockey teams played for the Nicosias in the old St. Paul Auditorium. Starting at defense for Johnson was Wendell Anderson, a United States senator.

"We're improving," Rube Gustafson, coach of the Johnson alumni squad, said at the time of the game. Grads of Johnson and Harding, intense rivals, had gotten together "to try to solve a problem," he explained.

Nicosia accomplished the impossible.

However briefly, he united a community frequently divided by pettiness.

Nicosia, who would have graduated from high school in June, was buried Saturday in Evergreen Cemetery.

He was a fine young man.●

ARTHUR F. BURNS—INFLATION—LIKELY CAUSES AND SOME POSSIBLE CURES

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. BROWN of Ohio. Mr. Speaker, several weeks ago I was fortunate to hear an address by former Chairman of the Federal Reserve Board Arthur F. Burns before the 66th Annual Meeting of the U.S. Chamber of Commerce.

I agree wholeheartedly with Mr. Burns' comments that Federal spending policies, including this Government's deficit spending practices, continue to contribute to our economy's inflationary pressures. Mr. Burns urges the Federal Government to stop its cost-raising practices, cut Federal—including congressional—salaries, take a firm stance in dealing with the dollar problem and, most important, revise the Federal budget so that the deficit would begin shrinking.

The following are Mr. Burns' comments before the Chamber:

Since I announced that I was retiring from the Federal Reserve Board, I've attended all kinds of parties and have received various awards, and I must say I've enjoyed every moment of it. But there is a certain danger in all this. When you go to parties and receive awards and hear words of praise, after a while you may start believing it all. The only cure that I know against a bacillus of that kind is to keep working, and that is what I have been doing since April 1st.

I decided to leave the country for a while and look around the world. I've just come back from a rather strenuous foreign trip, but I learned something. I tried also to teach a little, but I spent most of my time trying to learn.

I think all of you know the great admiration that I have for the American business community. There is no group quite like that anywhere in the world. The dynamism and the vitality of American business enterprise is not only admirable. It is the main source of the kind of civilization, a very honorable civilization, that we've developed in our country.

In the last few years, since the spring of 1975, we have added, I believe, something like nine million jobs in our country. Last year, in that year alone, we added approximately four million jobs. And they were not governmental jobs. These were jobs created by private enterprise. Actually, our record in creating jobs in the last few years has no precedent, at least in our own nation's history.

I'm not going to make a speech; but as you know, I was a university professor for almost a half century. I've given up governmental service now. I may or may not be returning to university work, but some of the old habits are returning. Having a platform, as I have one now, and having a captive audience, as I have one now, I do want to take a few minutes and return to a theme that I've emphasized for many years. This theme deserves special emphasis today. I refer to the quickening of the rate of inflation in our country during the past year. This is a disturbing development. It has many causes.

For one thing, our economy has been expanding rather rapidly. As is generally the case, this has resulted in some upward pressure on prices in individual markets, for example, the market for lumber and the market for insulating materials. All this has happened in spite of the fact that there is still considerable underutilization of industrial capacity in our country. That's one factor in the quickening of the inflation rate.

Another is that our government has not attended sufficiently to the depreciation of the dollar against foreign currencies. This has naturally served to raise our domestic inflation rate.

And third, governmental policy has contributed more directly to the faster rate of inflation that we have been experiencing of late. As the expansion of our economy has stretched out, the deficit of the federal government—instead of narrowing rapidly as is normally the case at such a time—has actually become larger and is now in process of becoming larger still.

In fiscal year 1977, the deficit—properly reckoned, something we don't always do—amounted to $54 billion. This fiscal year, the year ending in September, the size of the deficit is now estimated at about $65 billion. For next year, the deficit is projected at a level of about $72 billion. We're going the wrong way.

When the government runs a deficit, it pumps more money into the pocketbooks of people than it takes out of those pockets. This has always been a major cause of inflation, and this process is being speeded up at the present time. So it has been during the past year and we're continuing to do this.

Moreover, our government has sanctioned increases in the minimum wage. That serves to raise costs, and therefore prices. Our government has sanctioned increases in Social Security taxes, and that also affects prices. Our government has sanctioned subsidies to farmers for producing less, and that, obviously, raises prices.

Our government has sanctioned restrictions on imports of steel, shoes, television sets, and that tends to raise prices. Our government has sanctioned a spate of consumer protection and environment bills; this runs up costs for industry, and therefore serves to raise prices. And more recently, our government has blessed a highly inflationary increase of wage for coal miners. That inevitably tends to set pattern in the wage area and raises costs broadly, and therefore prices.

These policies are already reflected in a faster rate of inflation, and fears have been mounting in recent weeks that in the absence of modified governmental policies the rate of inflation in our country will continue to rise this year.

About two or three weeks ago, President Carter addressed this issue of inflation in forthright fashion. President Carter deserves our commendation and support.

I believe, however, that the policies sketched by the President fall short of being the strong and credible anti-inflation program that our country now needs. Let me comment, therefore, on some of the ingredients of an anti-inflation policy that, in my judgment, would make practical sense at the present time.

First of all, I would say the federal budget for fiscal 1979 needs to be substantially revised so that the deficit would begin shrinking instead of continuing to expand.

Second, I believe that increases in the salaries of federal employees, instead of being set at the figure indicated by wage camparability studies, should be scaled down to one-half of that figure, both this year and next year. Thus, if comparability studies suggest an increase of six per cent, let us say, federal salaries should go up only three per cent. By adopting such a measure, the federal government would set an example for the country at large, and thus take the lead in the process of unwinding this inflation.

Third, and again to emphasize federal leadership in unwinding the inflation, I would suggest that the President should cut his own salary by, say, ten per cent, and call on all presidential appointees and members of Congress to do likewise.

Fourth, the President should call on top corporate executives to refrain entirely from any increase in their compensation over the next two years.

Fifth, the federal government should establish rather promptly a national productivity center to assist business and labor leaders in each of our sizeable cities to form productivity councils within individual factories, offices, etc., with the objective of raising output per manhour. This country has to go back to work!

Sixth, I believe that it would be well if our federal government finally made a start on reducing the cost-raising practices that it has encouraged or tolerated. I have in mind relaxing restrictions on agricultural production; relaxing legal requirements on minimum wages; suspending, if not abolishing, the Davis-Bacon Act, with simply escalates construction costs. I have in mind relaxing the various detailed regulations that run up costs all around for industry. I have in mind, also, postponing the target dates that have been set for compliance with environmental regulations.

Finally, seventh, I think our government needs to deal more firmly with the dollar problem in foreign exchange markets than

it has yet been done. If the dollar continues to depreciate as it has, there is a grave risk of a recession in the entire international economy.

A cure to the international dollar problem, I think, is to be sought fundamentally along four routes.

First of all, we need an anti-inflation policy that is firm, that is credible. It may or may not contain the specific features that I've enumerated.

A second path to a cure of the dollar problem in our international markets, is to work out an energy policy that will help this country to conserve oil and, far more important than that, that will serve to develop new substantial sources of energy supplies.

The third cure to the dollar problem in international markets is a tax policy that serves to stimulate business capital investment, including foreign investment in our business enterprises, in our market securities, in our real estate.

And, of course, there is a fourth route, but it is not under our control, and that route is faster economic expansion in the outside world.

There are also some financial bridging actions that I think are necessary, since these permanent cures cannot become effective very quickly. But I will not burden you now with that.

Let me close by saying that a strong and credible anti-inflation program is long overdue in our country. If we embark on such a course we could have a true renaissance of our free enterprise system. On the other hand, if we continue to rely largely on rhetoric in dealing with the inflation problem, our economy and therefore I think also the economy of the entire world, may be headed for serious trouble.

You businessmen have a great responsibility. I have one word of advice to you that perhaps is more important than any other. Get into the political arena and be active in it. The Congressmen and Senators who are here I think would agree with me that they want to hear from their constituents, that they want them to play a significant part in what happens in our Congress. Don't blame our Congress if you yourselves remain inactive in the world of politics.

My best wishes to all of you.●

EXTENSION MOVE HURTS ERA RATIFICATION

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. McCLORY. Mr. Speaker, the proposal to extend for another 7 years the time for ratifying the equal rights amendment is pending before the Constitutional and Civil Rights Subcommittee of the House Judiciary Committee. While a staunch supporter of the ERA amendment and the principal sponsor on the Republican side when this proposed constitutional amendment was adopted in 1972, I am nevertheless most unhappy with the proposal to extend for another 7 years the time for its ratification.

Mr. Speaker, of the 15 States that have not ratified ERA all except 1 or 2 will have legislative sessions this year or next year in time for securing ratification, by the necessary 3 additional States, before the expiration of the 7-year period which was provided when the ERA was adopted in March of 1972. Proponents of ERA should be working for its ratification with the State legislatures which have not yet ratified this constitutional amendment. In my view, the proposal to extend for an additional 7 years the time for such ratification is diminishing support for ERA, and is seriously damaging the chances of getting three additional States to ratify.

In addition, the pending measure opens the door for rescission—including possible rescissions which have been attempted in four of the States which previously had ratified this constitutional change.

Mr. Speaker, my views are supported and set forth more eloquently and convincingly in the attached editorial from the Sunday May 21 edition of the Washington Star.

ERA EXTENSION AND FAIR PLAY

Ms. Phyllis Schlafly, scourge of the Equal Rights Amendment, is probably wrong when she calls a proposal to stretch the time limit for ratification "an unfair attempt to tamper with the Constitution."

Unfair it may be. As for "tampering" with the Constitution, however, Article V, the amending article, sets no limit to the time states may dawdle over constitutional amendments. Congress has submitted some proposed amendments with deadlines, some without. The matter is entirely at congressional discretion.

Granted, Chief Justice Hughes did once interpret an earlier Supreme Court opinion as taking the view "that nothing was found in Article V which suggested that an amendment once proposed was to be open to ratification for all time . . . that there was a stronge suggestion to the contrary . . . that there is a fair implication that ratification must be sufficiently contemporaneous in the required number of states to reflect the will of the people in all sections at relatively the same period of time." But the issue he addressed (in *Coleman* v. *Miller*, 1939) was not the one now before a Judiciary subcommittee of the Senate. In the judgment of most scholars, aware that the Court has tended to treat amendment controversies as "political questions," the will of Congress is likely to prevail.

But that isn't to say that Congress is free to cavalierly revoke a legislated understanding with which the ERA ratification fight began six years ago. There may not be a constitutional issue. There is, however, an issue of consistency and fair play—of legislative morality, if you will.

By next March, every state will have had seven years in which to weigh and act on the amendment. The deadline was known to all from the outset. To extend the deadline now, merely because it has become inconvenient, would set a frivolous precedent.

Homely analogies offend those who view ERA as a crusade and are to be avoided here. But if Congress extends the ERA ratification deadline, will it also decide that when a baseball team is three runs down in the sixth inning of a seven-inning game it will be in order for the umpires to add another seven innings?

A weightier consideration for Congress is the point made by Chief Justice Hughes about the spirit of Article V. Amending the Constitution is not a game; and assent to a constitutional change of incalculable importance should be *"sufficiently contemporaneous in the required number of states to reflect the will of the people . . . at relatively the same period."*

It's pertinent to recall that no successful amendment has taken more than four years to achieve ratification. Most have taken considerably less. There is, then, some measure, in historical practice, of how long "relatively the same period" should be. The failure of ERA to achieve ratification in six years leads one to wonder whether a consensus is there. There is indeed a national consensus on the onus of sex discrimination. There may not be a consensus that ERA is a proper or even necessary way to end it.

And would an ERA ratified by three more states under an extended deadline show "contemporaneous" assent? That arguably depends on whether states having second thoughts, and wishing to reconsider earlier ratification, also enjoy the benefit of these additional innings of play. The ERA's advocates recoil from that reciprocity and their instinct is probably right. If Congress allowed more time for both ratification and rescission of ratification, the result after another seven years might be just as inconclusive.

Under the original 1972 enabling legislation, the supporters of ERA have almost a year to make their case to the holdouts. They should make the best of that time and not press Congress to change the rule so late in the game.●

OUR NATION'S "FIGHT FOR INDEPENDENCE" CHRONICLED BY MR. ED SALT OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. CARNEY. Mr. Speaker, for several weeks, I have had the great pleasure to insert in the CONGRESSIONAL RECORD the first of several articles entitled "Fight for Independence," authored by Mr. Edward Salt, an award-winning Youngstown, Ohio, journalist.

It is with great pleasure that I now present "Fight for Independence, Part III," which continues Mr. Salt's discussion of the early history of our Nation. Because these articles provide insight into our economic and political life, I believe, that they deserve the attention of all of us:

[From the Boardman (Ohio) News, July 21, 1977]

FIGHT FOR INDEPENDENCE, PART III

(By Ed Salt)

In New York, Alexander McDougall, a Scotsman and former ship captain who had delighted in preying on Dutch merchant ships in his sea-going days, came into the spotlight as one of the radical leaders of the Sons of Liberty.

After the New York Assembly voted to comply with the Mutiny Act, McDougall published a pamphlet attacking the Assembly for surrendering to the Crown.

The Assembly had McDougall arrested, tried him and sent him to prison. McDougall immediately became a hero in the fight for liberty. Friends showered him with all kinds of "goodies" while he was in jail, and delegations visited him to discuss conditions. Processions, or marchers, were held in front of the prison. Many were staged by women who were attracted by McDougall's handsome figure. In less than three months he was released.

While McDougall was in prison, soldiers and citizens clashed when soldiers failed in their attempt to destroy one of New York's Liberty Poles.

McDougall's freedom lasted less than eight months. On Dec. 13, 1770, he was called before the New York Assembly again for his activities and once more was sen-

tenced to prison. He was released four and a half months later.

In Boston relations were becoming very strained between the townspeople and soldiers. Each group was suspicious of the other. Late in 1769 a mob attacked a detachment of British soldiers, hurling rocks and stones. One soldier fired his gun in the air, but the soldiers did not open fire on the mob.

Things were different the night of March 5, 1770 when a mob attacked a sentry at the Customhouse. Reinforcements were brought in and attempts were made to quell the mob. After a soldier was knocked down, the troops were ordered to "fire". Five civilians, including Crispus Attucks, a reputed leader of the crowd were either dead or dying. The mob dispersed.

Sam Adams, one of the leaders in the fight for liberty, demanded that the troops be removed from the city. Lieutenant Governor Thomas Hutchinson complied.

The incident at Boston has gone down in history as the Boston Massacre.

The next major crisis occurred in March, 1772 when the armed schooner Gaspe appeared off the Rhode Island coast and launched a campaign to break up the powerful smuggling ring which had been operating with little government interference.

Lt. William Dudington, the Gaspe's commander, stopped and searched every vessel he came across. One night the Gaspe ran aground while chasing a suspected smuggling vessel. It would float again on the midnight high tide—but that didn't happen.

Shortly after dusk a number of patriots in small boats went out to the ship. Lieutenant Dudington was wounded in the scuffle as patriots boarded the vessel. A short time later had to beg for his life. He and his crew were put into boats and the Gaspe was set on fire.

The government appointed a Committee of Inquiry to investigate and to send suspects to England for trial. But suddenly the Rhode Islanders came down with an epidemic of "lost memory." No one would admit taking part in the incident. They didn't remember who did and they couldn't identify any of the party. The investigation failed.

Over the years the colonists had become great tea drinkers and the tea tax provided considerable revenue for the Crown. In protest to the tea tax, colonists bought smuggled Dutch tea rather than British tea brought in by the East India Company.

Tea supplies were not equal to demand and tea prices jumped from four to 20 shillings a pound. In 1773 the government went to the aid of the East India Company so it was able to offer its tea much cheaper than the smuggled Dutch product. The East India Company flooded the market, causing the price to drop from 20 to 10 shillings.

While the general public rejoiced at the reduction, the smugglers realized their business faced ruin. They were joined by law-abiding merchants in protesting the government's action.

Philadelphia was the first to protest, followed some time later by New York. Tea parties were held in various parts of the colonies. East India tea was tossed overboard in some cities; burned in others. At Providence, R.I., 300 pounds of tea were burned in Market Square.

The "tea party" that had the most influence on the outbreak of war, occurred in Boston on the night of Dec. 16, 1773. A group of Patriots, disguised as Indians, boarded three tea-ships in Boston Harbor and threw the tea overboard. The raiders received aid from ship crews which helped hoist tea out of the holds and even to break the chest open and toss them overboard.

In retaliation the government ordered the Port of Boston closed until the tea was paid for, and appointed Gen. Thomas Gage governor of Massachusetts. Thus the stage was being set for open conflict which occurred a little more than a year later.

NEW YORK STATE ASSEMBLY URGES PEACE ON CYPRUS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. BIAGGI. Mr. Speaker, I am proud to bring to the attention of my colleagues an important resolution passed recently by the New York State Assembly. The resolution calls for the President and Congress to "exert their best efforts toward a just resolution of the Cyprus conflict."

That statement I am in full accord with. I did not feel the President's proposed lifting of the arms embargo against Turkey would have retarded the movement toward peace. I was heartened by the Senate Foreign Relations Committee vote agaist lifting the embargo and hope the full Senate will sustain that wisdom.

I also note the resolution's reference to the continuing humanitarian crises which befalls Cyprus. I visited Cyprus several months ago and saw firsthand the compelling human needs of the island. Thousands of Greek-Cypriots continue to be refugees on their own homeland. Some 2,000 Greek Cypriots remain missing since the 1974 invasion by Turkey. Economic conditions in general are depressed. I was the original sponsor of the amendment which produced the first U.S. humanitarian aid to Cyprus—which has now resulted in some $60 million in assistance.

The rule of law must be adhered to on Cyprus. The pursuit of peace must continue. I now insert the assembly resolution and commend its sponsors for its introduction:

IN ASSEMBLY

Resolution No. 277

APRIL 19, 1978.

By the Committee on Rules (at the request of Messrs. Butler, Lafayette, Lopresto, McInerney, Ross and S. P. Walsh):

Assembly resolution memorializing Congress and the President to use their best efforts towards a just resolution of the Cyprus conflict.

Whereas, For over six decades through two world wars and an intense civil war to hold back communism, Greece has been a fighting ally and friend of the United States, and is now an indispensable ally and the symbol of democratic government in the Balkans and Eastern Europe; and

Whereas, Greece is essential to the security of the United States and the Free World in the Mediterranean area and is essential for the safeguarding of the American Sixth Fleet in the Mediterranean; and

Whereas, Turkey has attacked, seized and continues to occupy forty percent of the independent island nation of Cyprus, by illegal use of United States supplied military weapons, in violation of the United States Foreign Assistance and Military Sales Acts, and in violation of the Charter of the North Atlantic Treaty Organization and the Charter of the United Nations, and in repeated and flagrant violation of four United Nations Resolutions, including unanimous United Nations General Assembly Resolution 3212; and

Whereas, Turkey since its illegal invasion continues to colonize with Turkish Nationals the occupied forty percent of Cyprus in violation of the Geneva Convention and International Law; and

Whereas, The humanitarian crisis on Cyprus, involving 200,000 Cypriot refugees continues; and

Whereas, President Carter has declared that the United States foreign policy shall be committed to the rule of law and to the protection of human rights; and

Whereas, The President has proceeded to withdraw United States aid from nations which have persisted in violations of human rights; now, therefore, be it

Resolved, That the New York State Assembly urges the President and the Congress of the United States to exert their best efforts towards a just resolution of the Cyprus conflict, in accordance with normally accepted principals of democratic government, to effectuate a removal of all foreign troops from Cyprus, to restore the 200,000 suffering Cypriot refugees to their homes, and to restore to the people of Cyprus the right of self-determination; and their independence, sovereignty and territorial integrity; and be it further

Resolved, That the New York State Assembly urges the President and the Congress of the United States to give generous support to the Cypriot refugees, and to continue to support Greece by annual aid authorizations and to continue the embargo on arms to Turkey until such time as Turkey is in compliance with our laws, the North Atlantic Treaty Organization Charter, the United Nations Charter, United Nations General Assembly Resolution 3212, and there is an agreed settlement to the Cyprus conflict; and be it further

Resolved, That the Clerk of the New York State Assembly is hereby instructed to send copies of this resolution to the President of the United States, to the Presiding officer of each House of Congress of the United States and to each Senator and Representative from New York in the Congress of the United States, that they may be apprised of the sense of this body.

Mr. Speaker, I offer this resolution with thanks to the Members of the Assembly, who have joined me for this moment of reflection and what I consider to be a vital issue of our times.

By order of the Assembly,

CATHERINE A. CAREY, *Clerk*.●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Ms. KEYS. Mr. Speaker, on Friday, May 19, 1978, I was unavoidably absent from the House. Had I been present, I would have voted on matters coming before the House as follows:

"Nay" on rollcall No. 339, on a motion to recommit the bill H.R. 39, the Alaska National Interest Lands Conservation Act; and "Yea" on rollcall No. 340, final passage of the bill H.R. 39, the Alaska National Interest Lands Conservation Act.●

TESTIMONY OF THE HONORABLE LARRY PRESSLER BEFORE THE TRADE SUBCOMMITTEE, HOUSE WAYS AND MEANS COMMITTEE

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. PRESSLER. Mr. Speaker, I am pleased to have the opportunity to present testimony before the subcommittee today, and I will make my remarks as brief as possible.

A South Dakota representative of the National Association of Meat Promotors, Mr. Don Loobey is presenting testimony today, and I would like to take this opportunity to commend his testimony to the members of the subcommittee. The meat promotors represent family farmers and ranchers who raise cattle, and I believe you will find Mr. Loobey's comments most useful in assessing the need for changes in our meat import laws.

The Meat Import Act of 1964 has not provided the protection our domestic beef industry needs, and this lack of protection has hurt not only our family farmers and ranchers who raise cattle, but the consumer. Many of our cattle producers are just recovering their market which was damaged in 1973 when consumers boycotted beef due to high prices. They are in danger of losing their market once again since beef prices are once again on the upswing. These market price fluctuations could be alleviated through the implementation of a countercyclical formula based on cow-calf production.

A bill which I introduced, H.R. 12129, provides this formula. The formula is simple. It provides that when cattle herd numbers are being reduced, imports would be limited, since supply is high during reduction and consumer prices low. When cattle herds are being built up, and supply is short, imports could be increased under this formula to insure that prices on domestic cattle do not get too high. The current formula under the Meat Import Act just is not working, and a countercyclical formula would, in my opinion, provide the protection producers and consumers need.

Another key factor contained in H.R. 12129 which is not contained in the Bentsen bill which recently passed the Senate is the extension of quota coverage is necessary for the industry, and particularly in those cattle-producing States which border Mexico and Canada. Imported live cattle numbers have increased dramatically in the last 3 years. Inronically, these live cattle are trucked into American packing plants, slaughtered, and end up being counted by the USDA as "domestic production".

When American Ag Strike members blocked the Canadian border last winter to prohibit the entry of trucks carrying Canadian live cattle, our domestic producers in the Northern Tier States noticed an immediate increase in the price they received for their cattle. This increase disappeared as soon as live cattle imports resumed. We cannot minimize the impact of imported live cattle, and I would hope that the House would insist that quotas be extended to live cattle in any legislative action it might take with respect to meat imports.

The implementation of a countercyclical formula to control meat imports, and the coverage of live cattle under the Meat Import Act are two of my greatest concerns and ones which I hope the Congress will act upon. The Bentsen bill which has been attached by the Senate to H.R. 5052 addresses some of the legitimate problems facing the domestic cattle producer and consumer. However, it fails to cover live cattle, and this in my opinion, is a glaring omission. If we are to include processed, fresh, chilled, and frozen beef and veal under our quotas, surely live cattle should also be covered. If we do not, live cattle imports are likely to increase even more dramatically than at present. The passage of legislation to provide a countercyclical formula for beef imports without including live cattle would not help producers or consumers. In South Dakota, and indeed in many other cattle-producing States, live cattle imports do the most damage to the market. I do not object to live cattle imports—but I do believe we should limit the numbers we import when our domestic production cycle can provide for our Nation's needs.

I am pleased the Trade Subcommittee has decided to hold these hearings, and I hope the House can take action to correct some of the inadequacies of the Meat Import Act of 1964.

I wish to thank the members of the subcommittee for giving me the opportunity to present my views on this most important issue.●

PROMISE AND PERFORMANCE

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. COHEN. Mr. Speaker, the American people are becoming increasing concerned about the discrepancy between promise and performance in their elected officials. There has been a great deal written and said on this subject recently in the news with regard to both our foreign and domestic policies.

Earlier this month, the distinguished department adjutant of the American Legion in Maine examined the discrepancy between promise and performance in the Carter administration's veterans policy. Daniel E. Lambert, in a piece entitled "Veterans Betrayed," offers a litany of promises made to our veterans that have not been kept.

Mr. Speaker, I ask that Dan Lambert's thought-provoking article be included in the RECORD for the benefit of my colleagues.

The article follows:

VETERANS BETRAYED

If the veterans of the nation feel a deep sense of frustration and betrayal by the Carter Administration, one only has to review the promises of the candidate against the performance of the elected President.

Let's take a good look at the record:

Candidate Carter on the VA medical-hospital system:

"I will begin by strengthening the VA hospital system to make it capable of delivering the finest health care available—the sick and disabled are forced to wait weeks and even months for treatment in overcrowded and understaffed VA hospitals. The average VA hospital has only half the doctors and support personnel found in community hospitals."

President Carter, rather than strengthening the VA hospital system, has threatened to all but destroy it. The administration's VA budget proposes a mere 2.6 percent increase for hospital and medical care while HEW health care programs are authorized more than 10 percent growth. Hospitals which he termed as overcrowded less than two years ago, have suddently become under utilized to the point that the administration feels it can eliminate some 3,100 beds—the equivalent of six VA hospitals. Medical research programs would be eliminated or reduced in some 64 VA hospitals. We point out that recently the Nobel Prize was awarded to two VA researchers.

Candidate Carter on Compensation, Pension and Education:

"Veterans and widows living on pensions find themselves existing on a pittance as inflation cuts the value of their benefits. As President, I will protect veterans benefits—pensions, VA hospitals, and the GI Bill. What we need is a square deal for those who gave a great deal."

President Carter, however, has budgeted only $110 million for a pension reform package that will cost eight times that much, has recommended a cost-of-living increase for service connected disabled veterans far below the cost of living, and has not even budgeted a cost-of-living increase at all for our Vietnam Era vets in school under the GI Bill.

Candidate Carter on Veterans Preference:

"The laws that mandated this special preference in hiring should be rigorously enforced."

President Carter placed a man at the head of the U.S. Civil Service Commission, who announced on his first day in office that he would attempt to do way with the veterans preference concept as we know it. In his move to reform Civil Service, the President has called for restriction of veterans preference.

Candidate Carter on Veterans Employment:

"The unemployment rate for our young Vietnam veterans is a disgrace. The poor record of government bureaucracy has been especially bad in programs intended to help veterans find jobs. Men who have endured so much suffering, so bravely, fighting in a far-off land, should not now suffer anew in their own country at the hands of insensitive bureaucrats and indifferent politicians."

President Carter has failed to appoint individuals to head up veterans employment sectors of the U.S. Department of Labor who have experience either in veterans affairs or in employment programs. The so-called "veterans priority" in CETA and other programs go unnoticed in most states because the administration refuses to issue directives to implement standard. Veterans employment programs in most cases are a national disgrace.

Candidate Carter on his relations with the veterans:

"If I become President, the American veteran of all ages, all wars, is going to have a friend, a comrade, and a firm ally in the White House."

President Carter has demonstrated the "comradeship" by pardoning those who refused to serve in our military during Vietnam, by seeking not only to excuse the acts of those who deserted or served less than honorably, but to reward this service with

veterans benefits, by seeking to do away with veterans preference, by using the veterans employment area as a dumping ground for rewarding political favor and now, by offering a VA budget that is distressingly inadequate.

If these are acts of a President who is friendly to veterans, I shudder to think what will happen if he decided to become hostile.●

HAWAII HAS UNLIMITED POTENTIAL FOR ALTERNATE ENERGY DEVELOPMENT

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. HEFTEL. Mr. Speaker, the ancient Hawaiians gave a special place to the Sun in their culture. To them, it was a source of spiritual energy.

The missionaries who arrived in the 19th Century succeeded for the most part in eliminating that notion from the Hawaiian culture. But just imagine what those missionaries would say if they could visit Hawaii today.

People throughout the Islands are once again extolling, and yes, even praising the Sun. But they are not stopping there. They talk of volcanoes, and the winds, and the oceans and trees. Surely, the missionaries would think Hawaiian culture had gone full circle.

It is not surprising, Mr. Speaker, that the people of Hawaii today are in the forefront of alternate energy development. Since Captain James Cook—the first tourist—arrived 200 years ago this past January, Hawaii has been acclaimed as a land of natural beauty and energy. It has taken two centuries for the potential of that natural energy to be understood.

Solar, geothermal, biomass, winds, ocean thermal—all of these energy sources are abundant in Hawaii. If there is a future to alternate energy, that future is waiting, in the 50th State.

Hawaii is ready. Her residents are already attuned, and by the end of this summer, their awareness of alternate energy will have increased immeasurably. A coalition of Federal and State agencies, citizens groups and private firms has just announced a summer-long schedule of activities called Project EMBER, for exploring management of basic energy resources. Three months of community seminars, noontime film series, technical briefings, Pacific satellite programs and other projects will all begin Memorial Day weekend in Honolulu with the Project EMBER energy exposion at the largest shopping center in the State.

An estimated 800,000 shopping visits will be made to the center from May 26 to June 1—800,000 potential exposures to exhibits and hands-on displays designed to boost the level of energy awareness relevant to Hawaii. Our residents' enthusiasm for alternate energy is already well-known, but visitors from the mainland may be astounded at the advances being made in alternate energy in Hawaii. They will learn that the big island of Hawaii could achieve energy independence through geothermal, wind, and biomass energy by 1990. They will see and hear from experts that much of today's alternate energy technology is applicable to their daily lives now, and not just in the future. Project EMBER organizers believe this public-service and information-oriented expo will set the pace for the summer's activities.

Among those activities will be a weekly series of eight evening lectures, with topics to include "Catching Sunbeams, Wind Machines, and Other Great Ideas;" "Assuring our Energy Future;" and "Energy and Civilization." Twelve community seminars will be conducted evenings in Honolulu and on the neighbor islands to bring together energy professionals and scholars in the humanities to discuss the implications of energy alternatives of the future for society.

Office workers in downtown Honolulu will be able to "brown bag it" at the noontime film series dealing with various aspects of issues related to energy. And decisionmakers in government, business and industry will confront the kinds of new problems that the move to alternate energy could pose in the future.

Mr. Speaker, I am happy to support Project EMBER and its goal of taking us closer to the time when Hawaii will become a living energy laboratory. The alternate energy potential is there. Our people are enthusiastic. What we need now is a Federal commitment to realize that potential and reduce our energy dependence.

Hawaii is an excellent place to begin.●

PARTIAL PUBLIC FINANCING OF HOUSE GENERAL ELECTIONS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, when the House begins consideration of the fiscal year 1979 Federal Election Commission authorization (H.R. 11983) I will seek to amend the rule so that the House may debate and vote on an amendment to extend public financing to general elections for the U.S. House of Representatives.

Public financing was proven successful by the 1976 Presidential contest. The system was effective in restricting special interest group contributions to Presidential candidates, but had the unwise effect of shifting their massive money to congressional candidates. Interest group contributions to congressional candidates in 1976 reached over $22 million—nearly double the already high amount contributed in 1974. Many individuals perceive a link between large campaign contributions by interest groups and legislative favors. Public financing, through the matching of contributions of $100 or less, will offer candidates an opportunity to finance the major portion of their campaigns with small contributions and lessen the impact of special interests.

In addition, public financing addresses the concern about drastically increasing campaign costs. Only with the provision of public funds can a ceiling on campaign expenditures be imposed. It is clear that campaigns are becoming more expensive. Last election one candidate spent over half a million dollars on his campaign while several other candidates spent nearly a quarter of a million dollars. Such spending usually does not increase the public's understanding of the candidate and his stand on the issues, but it may so overwhelm the electorate that the big spender's opponent is ignored.

Public financing is an attempt to lessen the effect of special interests and excessive campaign expenditures and return elections to the people. Federal matching encourages grassroots financial support of candidates and widespread participation in campaigns. Public financing will stimulate competition by assisting candidates who have a broad base of support.

I urge my colleagues to support public financing, and to support the procedural efforts needed to secure its consideration. A summary of the proposed public financing plan follows:

PARTIAL PUBLIC FINANCING OF CONGRESSIONAL GENERAL ELECTION TO BE OFFERED TO H.R. 11983

SUMMARY

(1) The proposed public financing system would cover general elections only and would prohibit a publicly-financed candidate from spending more than $25,000 in personal funds or more than $180,000 overall (including fund raising costs) in a House general election.

(2) Authorizes candidates to receive up to five $10,000 payments, each matching individual contributions of $100 or less received after January 1st of the election year. In other words, a candidate would be required to raise $10,000 in small contributions in order to receive each $10,000 matching payment. Matching fund payments would come from the voluntary dollar checkoff fund.

(3) Requires that 80 percent of the contributions used to obtain matching funds must come from residents of the state involved.

(4) Total Federal payments in any one district could not exceed $150,000. Total estimated cost of partial public financing of House general elections is $25–$30 million.

(5) Requires candidates who wish to receive matching funds to sign an agreement within 10 days after being nominated for election that they will comply with the personal and overall spending limits. Candidates also would be required to apply for $1,000 in matching funds at this point in order to make the agreement binding in the eyes of the court.

(6) Provides that if a candidate does not opt into the public financing system and either: 1) spends or raises $75,000 or 2) spends $25,000 in personal funds, any publicly financed opponent may have the overall spending limit waived and may qualify for additional matching funds.

(7) Simplifies the procedure for obtaining matching payments in order to reduce the administrative burden on the Federal Election Commission and in order to expedite payments to candidates within 48 hours after making proper application.

(8) Protects against excessive independent expenditures by waiving the spending limit if the aggregate of independent expenditures and internal communication expenditures against a candidate exceed $33,000.

(9) Permits candidates to receive matching payments for contributions, even if the

contributions have been expended at the time the candidate makes application for matching funds. Matching funds could not be obtained until after the primary election and could be used only for general election purposes.

(10) Prohibits matching fund payments to any candidate who is unopposed in the general election.

(11) Prohibits use of matching funds to repay loans or to make payments to the candidate, to the candidate's immediate family, or to any organization 10 percent of which is owned by the candidate or members of his immediate family.

(12) Effective for 1980 general election.●

ACCESS NATIONAL PARKS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. TEAGUE. Mr. Speaker, I wish to call my colleagues' attention to a new publication of the National Park Service (NPS), a copy of which has recently been provided to each Member of Congress. The book is entitled, "Access National Parks, A Guide for Handicapped Visitors."

The book is of special significance for me. First, the magnificent national parks and monuments with which our country is blessed are preserved, managed, and displayed by an agency that I have always considered to be one of the finest in the Federal Government, one that is devoted to service in the interest of all people.

Second, as a handicapped person, I find "Access National Parks" to be a demonstration of the Service's real concern for the comfort and convenience of the very large group of individuals who have for so long, so often, been unable to avail themselves of the opportunities for refreshment, enrichment, and pleasure which our Nation's great parks and monuments provide.

The present edition, "Access," is the third in a series of guidebooks for handicapped visitors to the national parks. It reveals steady progress in increasing accessibility of facilities, services and programs in the almost 300 parks of the National Park System.

The first guide was published on behalf of the Service in 1966 by the President's Committee on Employment of the Handicapped, in cooperation with the Veterans Employment Service of the U.S. Department Labor's Manpower Administration. The offer of the President's committee to publish such a guidebook provided the impetus for the National Park Service to to assess the deficiencies in accessibility which existed in the parks at that time. Interior Secretary Andrus, in his forward to the present edition, calls that first guidebook, "Milepost I." The year, mind you, was 1966, long before the promulgation of laws and regulations requiring accessibility to be a major consideration in the planning and construction of federally financed public-use buildings and facilities.

The collection of information on accessibility of facilities and services, and publication of a guidebook for handicapped visitors was suggested first by my good friend, the late Bob Bartlett, then Senator from Alaska and a great supporter of the National Park Service. He was, fittingly, asked to write the introduction to this historic first guidebook. In these splendid paragraphs, Bob Bartlett, called public attention to the anomaly of the magnificent recreational opportunities in our national parks—the birthright of all of us— and the deficiencies of accessibility which prevent enjoyment of these opportunities by so many of us.

He said:

A Senator from Alaska knows well what beauty and pleasures exist in our national parks and monuments. The stark, awesome heights of Mount McKinley National Park, the eerie moon-like landscape of Katmai National Monument, the shimmering, changing blues of Glacier Bay National Monument: Alaska offers the visitor everything to intrigue the eye and rest the spirit.

No less is true of the other 229 national parks and monuments located across the country . . . As a nation, one of our greatest treasurers is our park system. Last year alone, 121 million people visited one or more parks or monuments. These people know how valuable, how restful, how pleasant is such a visit . . . They are lucky . . . The handicapped are not so lucky . . . Unfortunately most of our parks are built for the physically fit. The young and the strong may ride the trails, climb the hills, camp out under the stars.

. . . It, of course, would be inappropriate to ask that the trails, climbs and remote camping grounds be made accessible to those who cannot carry a pack or hike a trail . . . [But in too many of our parks] the handicapped are unnecessarily barred from these facilities because of simple, thoughtless and stupid architectural barriers . . .

Senator BARTLETT went on to call attention to the fact that the National Park Service had, even then begun to move these all-to-evident deficiencies. His introduction continues:

This is a sad but not permanent state of things. In a memorandum set to all regional directors and field design offices of the National Park Service from its Washington headquarters, these encouraging words were included:

"The Director has instructed that the Service adopt at once an architectural code that will, in the future, make all public use type buildings erected in the parks usable by the handicapped. In those instances where it is feasible to make modifications or additions to present visitor centers and other public use buildings that will render them usable to the handicapped, it should be considered and programed."

Thus, since 1965, the Park Service has pursued its objective of providing for the comfort and convenience of all visitors so that all visitors may derive the greatest possible benefit from their park visits. The guidebook published by the Service in 1971 and "Access National Parks" published in 1978, reveals continuing, successful efforts on the part of the National Park Service to improve accessibility.

A key target of the National Park Service is to modify or eliminate all "small" barriers—meaning small in size, but certainly not small in the difficulty they present to visitors and employees with mobility disabilities. Eliminating many of these barriers requires little by way of dollars-expended, but a lot of "will to change," imagination and elbow grease. Improvement of park facilities is rapid in these areas

Provision of accessibility into and through historic and prehistoric structures in custody of the National Park Service, such as meeting houses, residences, forts and citadels, kivas, cliff dwellings, and so forth, is quite a different and difficult problem. Almost every permanent structure built in the past seems to have been constructed for the able-bodied. Major alterations of such structures are, in most cases, infeasible, and are contrary to the mission and policy of the Service which require preservation of these national shrines of historic and scientific interest to display the lifestyles and events they represent. In these instances, the Service is developing alternative, innovative programs and interpretive devices among them, vivid living history demonstrations, touchable realistic models of interior design and furnishings, and audio and visual orientation programs, to provide facsimiles of the scenes and objects within the inaccessible structures.

The third major concern is for the design and construction of new facilities and for major modifications of old, nonhistoric structures, many of them "inherited" by the National Park Service when new areas were authorized by Congress for national park status. For almost half a decade, design and construction plans for all of these have been based upon American National Standards Institute (ANSI) standards—at the very minimum—and in many, perhaps most, cases, well above existing standards.

With all of these advances, and given the Service's demonstrated interest in providing accessibility and convenience for all of its visitors, I anticipate that "Access National Parks"—1978—will rapidly become obsolete. The book carefully details not only accessible features of the parks, but also the inaccessible features. I venture to predict that many visitors will be using the guidebook in planning their visits to the national parks this summer season, may find that some of the chronicled obstacles have already been removed or modified. If all changes visitors encounter are improvements, it seems to me this is the very best way guidebooks should become obsolete. The National Park Service, I understand, is already happily engaged in collecting data on park improvements in preparation of guidebook No. 4, at Milepost IV.

I congratulate the Service on its continuing superb public service and commend the book to my colleagues.●

RECOMBINANT DNA AND FEDERAL PREEMPTION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. VENTO. Mr. Speaker, there has been significant interest expressed by my constituents regarding H.R. 11192, a

proposal to regulate recombinant DNA research.

In an attempt to familiarize myself with this bill and the concern it has provoked among scientists and nonscientists alike, I have become aware of considerable controversy surrounding its Federal preemption of State and local authority. The preemptive clause contained in this bill is one of a far-reaching nature because it may not affect only recombinant DNA research, but may also serve to set a precedent for future legislation regulating other related forms of genetic engineering.

The possible benefits to be derived from recombinant DNA experimentation are widely acknowledged. Those who oppose strong Federal preemption are not in opposition to recombinant DNA research; they do, however, oppose legislation which would virtually eliminate public and local government participation in drafting guidelines and enforcing regulation of potentially hazardous experimentation which is being conducted in their own backyards.

It is important to recognize that this research has been in existence for only 5 years. The scientific community involved in recombinant DNA experiments informs us that their original assessments of the possible biohazards were inaccurate. They now seek less stringent regulation or no regulation at all on the basis that risks are minimal or even nonexistent. It is, in fact, difficult, if not impossible, to determine the potential dangers. We live in a society where we are continually bombarded by reports of newly discovered dangers associated with already existing chemical substances. We are just now learning, some 20 years after its inception, of the adverse consequences that could conceivably result from nuclear energy experimentation and implementation. Are we willing to allow experimentation with recombinant DNA and other types of genetic engineering to proceed without sufficient controls to insure our own protection and that of our environment?

True this research may lead to phenomenal technological breakthroughs, but without adequate precautions it could also prove extremely detrimental. Although I am not opposed to recombinant DNA research, I am deeply disturbed by legislation that places decisions of such magnitude in the hands of a few with insufficient provisions for public input.

I conclude my remarks with a copy of an article that originally appeared in the Boston Globe on April 21, 1978. It illustrates the attitude of some technologists in regard to regulation of recombinant DNA research. More specifically, it deals with an incident at Harvard which led to a Cambridge City ordinance imposing more stringent controls. Local government and the public sector perceived a need for greater control and took appropriate action, demonstrating an effective system of "checks-and-balances" facilitated by community involvement.

The Boston Globe article follows:

DNA Probes Blame Monitoring Failure

(By Richard A. Knox)

After two separate investigations, a breach of federal guidelines for gene-splicing at Harvard Medical School has been blamed on a total breakdown of the machinery set up to monitor the controversial research.

However, the Harvard University committee that looked into the matter believes that such a breakdown is unlikely to occur again. This view is shared by Charles A. Thomas, Jr., the individual scientist involved.

Thomas, who left Harvard in January for a California research institute, carried out or supervised so-called recombinant DNA research for more than a year without authorization from the Harvard committee set up to police such work or from the federal funding agency that specified laboratory safety guidelines for the experiments.

When the breach came to light last December, the National Institutes of Health (NIH) took the unprecedented step of halting the research and ordering an investigation. Thomas' research funds are still suspended, pending further NIH action on the results of the investigation.

The Charlie Thomas Affair, as the episode has come to be called, is being watched closely by congressional staffers and legislators. Congress is now in a lengthy struggle over legislation to regulate all such genetic research under the model represented by the 17-month-old NIH guidelines.

A U.S. Senate staff member who has been involved in the issue said yesterday that the Thomas affair might lend new support to a compromise effort that would allow local governments to become involved in policing the research. Up to now, Harvard and other major universities have lobbied Congress successfully to keep both policing and the setting of safety standards at the federal level.

The Harvard investigative committee asserted this week that the unauthorized work done by Thomas and his colleagues did not pose any threat to laboratory workers or the public.

Some of the experiments involved transplanting genes from a common bacterium into a virus, called SV–40, that causes cancer in monkeys. The federal guidelines require that this work be done under moderate laboratory containment conditions, designated P–3. (This requirement is about to be dropped by the NIH in light of more recent consensus by scientists that SV–40 virus is not as risky as it was earlier believed, but previously such work was considered potentially hazardous.)

Harvard Medical School has never had an approved P–3 lab; in fact, the official biohazards committee there unanimously refused to certify Thomas' lab as a P–3 facility after a lengthy dispute with the researcher.

Thomas says that the SV–40 work was done in a different lab that did meet the NIH's P–3 specifications. Also, both he and the Harvard committee point out that the SV–40 work all was done prior to the effective date of the NIH guidelines in November, 1976.

On the other hand, the NIH investigator, James W. Schriver, points out in his report that an unnamed member of the agency's recombinant DNA advisory panel complained in April 1976 that scientists in Thomas' lab were doing SV–40 work. Schriver said this "clearly strongly violates both the intent and the letter of all recent drafts of the guidelines.

According to Schriver's report: "Dr. Thomas was told that, although we understand our guidelines at that time had no official standing, applicants were instructed to observe the Asiloomar document (a precursor of the NIH guidelines drawn up by scientists themselves) pending approval of the guidelines."

Queried about this in 1976, Thomas told the NIH that his SV–40 work was proceeding in a lab that met NIH standards for P–3 facilities. The NIH accepted this statement at face value without further inquiry.

A second finding of the NIH and Harvard investigations is that Thomas and his coworkers did carry out experiments at the P–2 safety level for some months after the guidelines took effect, without securing approval from the Harvard biohazards committee. Thomas, in a telephone interview last night, reiterated his position that it was commonly accepted at the time that all work did not need to cease until laboratories were certified.

The Harvard inquiry notes that Thomas thought it was all right to continue with recombinant DNA work while awaiting approval of his lab, but added that most of the biohazards committee members believed continuation of the experiments "would have been a violation of the guidelines."

Both the Harvard inquiry and the NIH investigator concluded that Thomas lied to the biohazards committee in telling it that his research funds were frozen pending its approval of his lab, in an apparent effort to rush a decision.

Thomas strongly disputed this conclusion in an interview, calling it "absolute rubbish."

"There was on instance in which I misspoke myself," he said. "I meant to say 'if my grants were shut down,' but the word 'if' didn't come out of my mouth. I didn't mean to imply that my grants were shut down and I didn't even know they (the committee members) were under this impression."

In general, however, Thomas agrees with the Harvard inquiry's conclusion that the breakdown was mainly a matter of the unfamiliarity of the federal guidelines. "I hate the guidelines," he said. "I think the whole bureaucratic mess imposed on all of us for strictly imaginary reasons is just awful. But I have to admit that the guidelines can work more smoothly and that the major problem was start-up."

Ironically, Thomas helped write the NIH guidelines, but he has always felt that they were more restrictive than necessary and that the potential hazards of recombinant DNA research have been overstated by both scientists and public.

Asked if there were any recombinant DNA experiments that he would hesitate to undertake because of potential risk, he replied: "I can't think of any. I would like to see any and all experiments done to find out as much about this area as possible to dispel our concern. The scientific tradition is to go out and look, not to duck and hide." ●

TRIBUTE TO WILLIAM POWELL LEAR

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. CORMAN. Mr. Speaker, I was very sorry indeed to learn of the tragedy that claimed the life of my close personal friend William Powell Lear. His death is a great loss to our country. I have known Bill Lear for several years and my life was enriched by our friendship. I remember him as a cheerful and fascinating person, a talented inventor, and a delightful human being. I have the highest respect for this man and extend my deepest sympathies to his fine wife, Moya, six children, and seven grandchildren.

During Bill Lear's long and fulfilling life he never gave up the search for new projects, never stopped tinkering with new inventions. He was not always successful but each of his many technical accomplishments led his competitors to

believe that he could solve almost any mechanical or engineering problem.

Yet he did not think of himself as a tinkerer. Long after he was successful he said:

In fact, I'm not very good with tools, my outstanding ability is to recognize a market and fill it.

This ability made him famous and a millionaire many times over.

Bill Lear was born in Hannibal, Mo., in 1902, the town so celebrated by Mark Twain. Like Twain, Lear was a dreamer and left Hannibal at an early age for broader horizons. While attending public school in Chicago he worked in his spare time shining shoes and although his inventive skills were evident to his teachers, his creativity was continually frustrated by economic circumstances. His determination to change these circumstances led him, at age 12, to work out a blueprint for his future. He later said:

I resolved first to make enough money so I'd never be stopped from finishing anything; second, that to accumulate money in a hurry—and I was in a hurry—I'd have to invent something that people wanted, and third, that if I ever was going to stand on my own feet, I'd have to leave home.

At age 14 Lear became a mechanic, thus ending his formal education, and at 16 he left home and joined the Navy where he studied radio during World War I.

In the 1920's he completed his first successful invention: the automobile radio. "That was so people wouldn't have to rush home and listen to 'Amos 'n' Andy,'" he said last month. This was the first of Lear's patents, to be followed by 150 others in such fields as radio, electronics, aviation technology and auto engineering. Unable to obtain financial backing for his radio, Lear sold it to Motorola.

In the next few years Lear founded several companies of his own, some of which were more successful than others. In the 1930's he designed a radio frequency amplifier that could be used in any radio set. This was eventually purchased by the Radio Corp. of America for a substantial sum and Lear then founded the Lear Avia Corp. in Dayton, Ohio. Through his newest company Lear made millions of dollars by supplying spare parts to the U.S. Armed Forces during World War II.

Lear's most famous invention, the lightweight autopilot, was invented shortly after the war. He followed this success with yet another, the Lear Jet. When the directors of his company refused to authorize the huge sums necessary to develop and produce the Lear Jet, Lear sold his interest in the company and started out again on his own in the early 1960's.

He was never afraid to begin anew, something he did several times during his career. His last years were occupied with the design for another revolutionary invention, a steam powered car, which remained unfinished at the time of his death. Lear's passing leaves a void that will be difficult to fill. Those of us who knew him are enriched by our memories and our friendship with him.●

BILL FRENZEL SPEAKS OUT ON BEHALF OF CAPITAL FORMATION

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. STEIGER. Mr. Speaker, my neighbor from Minnesota recently wrote an article on the matter of capital gains taxation. This is in reference to an amendment to the President's tax package which is cosponsored by Mr. FRENZEL and myself. I hope that Messrs. Carter and Blumenthal will take heed of Mr. FRENZEL'S comments.

THE CASE FOR THE CAPITAL GAINS TAX ROLL-BACK

The best reason to restore capital gains tax rates to 1969 levels is jobs. Within one year 200,000 permanent jobs would be created and in 5 years 400–500,000 jobs. To create 200,000 temporary jobs by the conventional public service jobs programs would add from $2 billion to $4 billion to our deficit.

This proposal, in addition to creating jobs, actually will reduce deficits by producing more revenue for the Treasury, $2 billion in the 2nd year according to one estimate, and $45 billion in 6 years according to another. A third estimate would increase revenues by $33 billion in 5 years.

Each of these estimates are based on different assumptions. They are done by organizations specializing in economic analysis done by econometric models. The Treasury disputes these figures, but offers nothing itself except a static analysis—applying a new rate to what happened last year. That's like asking a dead horse to win the Derby.

Against the increased jobs and decreased deficits, the Treasury offers only one argument—that wealthy people will get a tax reduction. But this Treasury position also is based on its static analysis. Actually, investors have an easy way to avoid taxes now.

When capital gains rates are high, assets are not sold. New investment goes into tax exempt municipals, or shelter gimmicks. If taxes are cut, assets will be sold and new money invested. More capital gains tax revenue, and more jobs will result.

High income people will have an incentive to shift investments from tax exempt bonds, or gimmicky shelters where there is an incentive to be unsuccessful, back to investments in new or growing companies that are creating jobs and want to be successful.

But, the people who will get the best tax breaks are those who will hold the newly created jobs. They will be glad to be working and able to pay taxes.

The U.S. has the highest capital gains tax in the industrialized world. Most of our trade competitors have no capital gains tax at all. Our two toughest international competitors, Germany and Japan, whose investment rate is 3 times ours, and job creation rate exceeds ours, have no capital gains tax on portfolio investment. They know how to create jobs.

Capital investment starts new companies and expands others. In the 5 years after the 1969 capital gains increase, risk capital raised was only about ½ as high as in the preceding 5 years. Incidentally, not only did investment decline, but also capital gains tax revenues declined. At lower rates, the facts show we get more jobs and more revenue.

Much of what is taxed as capital gains is nothing more than inflation. A significant portion of capital gains tax now paid occurs when people sell their homes. A house bought many years ago has greatly appreciated in value. When it is sold by an owner who wants to move into smaller quarters, perhaps an apartment, the capital gains tax is confiscatory.

Capital stocks increase in value the same way. The National Bureau of Economic Research concludes that if the $4.5 billion of gains on stocks taxed in 1973 is adjusted for inflation, there would be a real capital loss of nearly $1 billion. When this tax is levied on inflation, as is the current practice, it is a tax on capital, at a time when we are investment poor.

This is an economic issue, not a partisan one. On the Ways and Means Committee, whose make-up is ⅔ Democrat, there is said to be a strong majority in favor of the capital gains tax roll-back. In the Senate, where a similar ratio exists, 60 Senators, a solid majority, have cosponsored this proposal.

Against this probable Congressional majority, the President is the principal objector, but his objections are confused by his Treasury Secretary's speeches in favor of capital formation incentives. Apparently he is for incentives sometime, but not now.

But the jobs are needed now. The reduced deficit is needed now. The new investment is needed now. We have to compete with foreign producers now. The reduction of capital gains tax to 1969 levels will help us do all these things.●

ENVIRONMENTAL EFFECTS OF DEEP SEABED MINING

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. BREAUX. Mr. Speaker, for the first time in history, environmental monitoring of deep seabed mining has been completed in the central Pacific Ocean. This major event is the culmination of 6 years of planning and research conducted by the National Oceanic and Atmospheric Administration (NOAA).

It is anticipated that H.R. 3350, the Deep Seabed Hard Mineral Resources Act, of which I am a cosponsor, will be brought to the House floor for action in the very near future. Drafting legislation to regulate the unknown environmental effects of seabed mining was not an easy task. Extensive testimony was received from the environmental community during the 11 days of hearings conducted by the Merchant Marine and Fisheries Committee during this Congress. The environmental provisions of H.R. 3350 contain stronger protective features than was recommended by those who are experts in the field of protecting our marine environment.

Many of the unknown questions can now be answered due to NOAA's anticipation of the passage of domestic deep seabed mining legislation.

In 1972, NOAA began environmental monitoring of seabed mining by initiating a two-phase deep ocean mining environmental studies (DOMES) project. DOMES I was a simulated project predicting environmental effects. DOMES II, the project recently completed, actually monitored the environmental effects on the seabed floor, in the water column, and the surface plume as prototype mining was being conducted.

DOMES II was a cooperative onsite research project conducted by NOAA and Ocean Management, Inc. of Bellevue, Wash. The SEDCO 445, operated by Ocean Management, Inc., conducted a prototype commercial mining operation using demonstration scale equipment. The ship pumped manganese nodules from the seabed at a depth of more than 3 miles testing a system by which the nodules are collected, separated from other ocean floor material, and lifted up to the vessel. At the same time, NOAA's research vessel, *Oceanographer*, was nearby obtaining information needed to assess the potential environmental effects of deep seabed mining.

It is encouraging to know that because of advance planning and foresight, many of the heretofore unknown answers relative to the mining of the deep seabed can be addressed in a scientific manner with substantiating evidence. Richard Frank, Administrator of NOAA, will be presenting his agency's findings to our Committee on Merchant Marine and Fisheries this week, and I plan to report further on this new information before the deep seabed mining bill comes to the floor.●

DOMESTIC VIOLENCE ASSISTANCE ACT OF 1978

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. MILLER of California. Mr. Speaker, tomorrow the House will vote on H.R. 12299, the Domestic Violence Assistance Act of 1978, which I have introduced. This legislation has won strong, bipartisan support from the Education and Labor Committee because it addresses one of the most severe problems in our Nation, spousal abuse, which has long gone unreported and untreated. H.R. 12299 will provide for grants to service programs to aid the victims of domestic violence, and their children. In addition, grants will be made for personnel training and technical assistance.

A major concept embodied in H.R. 12299 is that these programs must have a strong community basis. Prior to hearings by the Subcommittee on Select Education, which I chaired, I visited several shelters and learned how critical this community involvement is to the success of the program. H.R. 12299 would build on this history by requiring consumer involvement in any shelter funded through this act, and would require that a majority of the persons serving on the Council on Domestic Violence be people with experience in the delivery of services or former victims themselves.

Many of the witnesses at our hearings, and members of the subcommittee, voiced serious concern about the amount of Federal bureaucracy which would be created with regard to this program. We have specifically attempted to restrict administrative positions and policies to the bare minimum needed to assure accountability. We have employed a direct grant program to the service programs, and we have authorized the Administrator of the Office on Domestic Violence to utilize others in the Federal Government to help with the administration and operation of this program. Most importantly, at the recommendation of several subcommittee members, we have included requirements that the administrator undertake to eliminate unnecessary duplication and inefficiency in related programs, and to coordinate his office's activities with other agencies and departments.

This program is important not only because of the widespread nature of the problem of domestic violence, but also because of the paucity of service available to victims. We learned, during our hearings and in my visits to shelters, that existing programs are overwhelmed, and that new programs quickly become similarly overburdened as soon as they are created. The first few years of a program's existence are critical to its future, and this legislation is an attempt to provide stability for the program in those early years so that, in subsequent years, it will be able to function without direct Federal grants.

I would like to share with Members of the House portions of a recent series on domestic violence which appeared in the Antioch, Calif., Ledger. These articles, by Dennis Cuff, illustrate not only the severity of the problem, but the enormous burdens under which service programs must operate. I hope that Members of the House will read these articles before consideration of H.R. 12299, and then vote tomorrow in favor of this important legislation.

The articles follow:

SILENT VICTIMS OF BATTERING

(NOTE: Estimates vary, but it is believed millions of women are victims of spouse beating in this country. In a three part series reporter Denis Cuff outlines the plight of the battered woman, the failure of the legal system to resolve the problem and the services available to women who are victims of spousal abuse.)

(By Dennis Cuff)

Nancy bounded right back up after her 240 pound husband hurled her against a wall.

The man she expected to share her life with had attacked her for the first time. She felt betrayed.

But when his rage flickered off and he sobbed with guilt, Nancy comforted her repetant giant and he swore he would never strike her again.

He continued to inflict abuse for nine years before his wife, now an East County resident, left him.

"It was torture," she said, relieved to escape the anguish suffered by an estimated millions of American women.

They are battered by husbands, lovers, and boyfriends.

The victims usually endure their wounds and bruises in silence, stirring ripples publicly in few cases, like an Antioch woman bizarely chained and tortured last year.

Or a Pittsburg woman who shot to death her lover during a struggle after he threatened to kill her.

But increasingly victims and their defenders are speaking out on an issue they feel has been ignored too much and for too long.

"The brutality doesn't even have to show," a Maryland Congresswoman was recently quoted as saying.

"Like the twisting of an arm that doesn't get broken. Like the pulling of hair. Like being locked in a closet while he goes off to work. You don't ever have to have a mark on you. You just start to go mad.

"And then some shrink tells you that you've got a problem with phallic symbols because you come apart every time you see a doornob.

Nancy, who asked that her real name be withheld, said that she felt herself slowly going "crazy" in anticipation of the next attack.

When her husband felt job pressure, his dissatisfaction with dinner could trigger an attack.

"I didn't know if I should fight back or what. He refused to seek professional help. I offered to go, too. The way I was brought up, you just didn't divorce," she said.

In the ninth year of her marriage, her husband threatened to throw her off a cliff instead of against a wall.

She finally left him.

Many women don't. Instead, they leave their twisted tales of abuse on hospital records, police logs and sometimes coroners' reports.

The number of women battered each year is staggering, according to many estimates.

Perhaps 50 percent of American marriages are touched by it, author Terry Davidson wrote in "Conjugal Crime: Understanding the Wife Beating Problem."

A congressman cited 3 to 4 million as an estimate of victims.

No one knows for sure because statistics on spouse beating aren't kept. Incidents are reported instead as crimes ranging from disturbing the peace to murder.

"I can't think of more than a hundred people I know off the top of my head. It seems to run in some families," said Ana Amador, one organizer of an East County group recently banded together to combat the problem in this area.

It's called Council of Human Rights for Battered Women.

Many groups, including the state Legislature and U.S. Congress, have shown keen interest in the social problems posed by spouse beating.

But the most tragic thing about spouse beating is that many people view it as an acceptable practice, members of the East County group say.

They accuse police, doctors and governmental agencies of being insensitive to the problem too often.

"Everywhere you go around here someone will tell you it's your fault and you got yourself into your own mess. Police don't care," said one East County victim.

Her boyfriend beat her several times, once so seriously she needed hospital treatment.

NO RETREAT FOR BEATEN WIVES

(NOTE: This is the final part of a series examining the plight of battered women and what services are available to them.)

(By Denis Cuff)

When a women's marriage becomes a violent battleground, it's difficult to find any place where she can retreat.

Battered women have few places to go.

The public, like a neighbor, is reluctant to interfere with family disputes until the physical abuse becomes so serious it qualified a woman for a trip to the hospital.

Or a trip to the morgue.

The Contra Costa area is no exception. In fact, two Contra Costa groups working with battered women charge that this area is among the worst in the Bay area for shutting its eyes to the anguish of battered women.

"There's no place in this country for a battered woman to go to escape, no place at all for an escape," said Joanne Popa, a member of the newly formed Council on Human Rights for Battered Women.

The newly formed East County group in-

cludes some 20 women from Antioch, Pittsburg, and areas east of Antioch.

"A place to get away from the home is essential for some battered women to get a new lease on life. Many counties in the Bay area have shelters. Contra Costa has nothing," says Susan Ramshaw of CALL, a countywide group for battered women.

Groups like CALL and the Council for Battered Women are gaining audiences from important persons because of an increasing awareness of the shockingly large number of women killed or injured each year by abuse from husbands and lovers.

Police also pay a dear price for intervening in family squabbles.

It is the number one killer of cops in America, says the Federal Bureau of Investigation.

Some social scientists express concern that violence in the home leads to a tolerance for violence in general.

Both CALL and the Council for Battered Women were formed this year with the expressed goal of bringing a battered women's shelter to Contra Costa County.

A shelter offers battered women an anonymous place to escape their husbands or boyfriends and bring their children with them.

Women can stay overnight, get emotional support and counseling on their personal options in dealing with one of America's most misunderstood and serious social problems.

One East County victim of battering describes the need for places like shelters.

"You get so down on yourself for being abused. You think it's your fault and your self esteem takes a dive. You need somewhere where people can say, 'Look it's not your fault. You have alternatives to being hit.' "

Battered women also need advice on job opportunities should they leave the home.

Shelters aren't new. They sprung up around the country as feminists called attention to the failure of the legal system and government agencies to provide relief for battered women.

What's new is government's increasing willingness to offer financial system for shelters, and hot lines and counseling for battered women.

"Everyone agrees they're long over due and very very important," said an aide to Rep. George Miller, D-Martinez.

The congressman, who has authorized child service legislation, proposed a bill setting aside $15 million—to aide shelters throughout the country.

California's Legislature last year passed Senate Bill 91, setting aside $280,000 in Department of Health funds to start four to six shelters in the State.

And Contra Costa County's contribution?

"It would be very hard to say. The county has no service expressly for the purpose of helping battered women," said Robert Jornlin, head of the county Social Services Department.

"I don't know how much of a problem we have," he added. "What we have is a lot of women more willing to speak out. That makes us evaluate whether we need more services."

Jornlin has personnel following CALL's activities who will report to him at some future time on the group's goals.

However, Jornlin said he personally was not aware of State and Federal grant programs for shelters.

Nor was he "familiar" with shelters in other Bay area counties, some of which are supported by money from those counties.

"We're not going to wait around for local governments to decide whether or not they have an obligation to help battered women," said Ramshaw of CALL. "Changes are too long overdue."

The group is seeking private money state and federal grants to get a shelter in the county.

The Council for Human Rights of Battered Women, an East County group, is also seeking state and federal funds for a shelter in the East County.

The Council for Battered Women offers no services now. But it plans to offer help once it's organized.

(Persons interested in the group should direct questions to Ana Amador at 625–2276.)

Call operates a 24-hour hotline offering over the phone advice suggestions for help and temporary places to stay. About one woman calls every day.

(The hotline can be reached from the East County by asking the operator for the toll free number, Enterprise 16204.)

Advocates for battered woman have also criticized doctors and psychiatrists for not giving more help to victims of domestic violence.

A report by the federal law Enforcement Assistance Administration said many physicians fail to understand battered women's problems.

One woman was quoted as saying: "I told my gynecologist that my husband was extremely violent and I was mortally afraid of him. Guess what the doctor said? I should relax more. He prescribed tranquilizers."

A spokeswoman for Delta Memorial Hospital in Antioch said its emergency room treats battered women and then helps them contact a shelter in San Francisco.

"We let women know they have options to returning to the homes after they've been abused. They decide if they want to go. But transportation (to San Francisco) is a big problem."

Nicholas Ventrice, Los Medanos Community Hospital administrator, said the Pittsburg facility's emergency room treats battered women and then refers them to the "appropriate agency."

"Battered women have been a problem throughout history," said Ramshaw of CALL. "Its just relatively recently that we've done anything about it."

Many social scientists urge that action to prevent battering should be taken to break cycles in which sons of wife-beaters grow up to be wife beaters.

Others say that action on the problem is necessary to cut down on the tolerance for violence that is learned in many homes.

Tnat can have far reaching consequences in perpetuating violence, some social scientists fear.

LAW INADEQUATE FOR BATTERED WOMEN

(By Denis Cuff)

(NOTE: This is the second in a series of three stories examining the plight of battered women and the services available to them.)

Maria called the police the first time her boyfriend beat her up.

The officers took no action. They didn't see the crime.

The neighbors reported another beating she received and her boyfriend was arrested.

He was out the next day more angry than ever and beat her up again.

Once the boyfriend worked Maria over so badly she needed hospitalization. Police referred her to the District Attorney's Office to sign a criminal complaint.

"For all that, I could be dead by the time they finished the case. Maybe they'll get prosecution, maybe not. I want protection now," she said angrily.

"I don't think I'd even bother to report it to police if it happened again," she said.

A woman humbled by battering may feel even more vulnerable when she realizes the scant protection the legal system offers her.

Few reported spouse beatings result in arrests, local and national authorities say.

And few arrests result in convictions, police and prosecutors say.

If ever the logical ways of law failed to find a balancing scale to control the jagged emotions of men and women, it's the case of battered women.

"There's no more or less proof required in a case just because it happens to involve a woman and her husband or boyfriend," said Gary Strankman, county assistant district attorney.

"But that explains the legal factors, not the emotions that get worked up to a pitch in many of these cases," he said.

Expressed in the most practical terms, wife or girlfriend beaters often don't go to jail because their victims don't have them prosecuted.

"I've even seen women come into the courtroom after the trial had started. And when they faced their husband or boyfriend, they decided at the last minute not to testify," Strankman said.

The issue of why more women don't press charges is touchy.

And it's as difficult to understand as the warm and cold undercurrents in relationships between men and women.

While some victims take no court action because of fear of reprisals, others feel they can help their husbands better than the courts.

Inspector Lenny Castiglione of Pittsburgh police said he believes many battered women are simply too scared to prosecute.

An arrested man can post bail and be free within a day or two.

He goes home, leaving the couple in turmoil while the case grinds toward a conclusion that can take weeks or months.

Joanne Popa, a Los Medanos College instructor and one organizer of a new East County group devoted to helping battered women asks:

"Isn't it reasonable to expect a woman beaten up once to be scared of another beating if she seeks punishment for her attacker?"

Lt. Glenn Blomseth of Antioch police said another barrier to handling spouse abuse cases is the reluctance of neighboring witnesses to speak out.

Neighbors don't want to get involved.

This predicament leaves an investigating policeman with testimony from two bitterly opposed parties on which to base his judgments.

"It's an extremely tough position. The officer is really on the spot," Blomseth said.

To add to their worries, most lawmen are aware of Federal Bureau of Investigation figures ranking family squabbles as the number one killer of policemen in America.

Prosecutors do get convictions sometimes, in battered spouse cases, especially in more serious offenses, Strankman said.

However, the court cases drawing national attention to battered women have been ones where the victims retaliated against their husbands.

A Michigan housewife was tried for first degree murder last year after she splashed gasoline around her ex-husband's bed and lit it.

Francine Hughes testified that her ex-husband choked her, threatened her with a knife, teased their children to tears and allowed a family pet to freeze.

A jury acquitted her by reason of insanity.

The Francine Hughes acquittal became a celebrated cause for advocates of battered women.

Its impact is uncertain because a jury rather than a judge decided the case, making it harder to set specific legal precedents.

But women in an East County group for battered women say the Hugnes' case may draw publicity to their cause and encourage victims to seek legal action for their cases.

Many women are more concerned with their immediate safety than succeeding in a lengthy prosecution.

Battered women's advocates cite some frightening statistics to back up their alarm.

One fourth of all murders occur within the family, according to the Federal Bureau of Investigation.

Ana Amador, an organizer of the Council for the Human Rights of Battered Women, a new East County group, cites another chilling statistic.

In a study of Denver women beaten to death, a researcher found that in most cases the victim had several contacts with police before the fatal beating, Amador said.

"The law isn't strong enough. They (the abusers) should be locked up for a while so the woman is protected," Amador said.

It's not so easy though, says Strankman.

"There is very little that can be done because the law doesn't provide for preventative detention. The reason for bail is to make sure someone appears in court," he said.

Furthermore, it's often very difficult for a policeman faced with conflicting stories to determine if the law has been broken, says Blomseth of Antioch police.

Accusations are sometimes overstated in the heat of bitter squabbles, he said.

Restraining orders offer another legal option for protection.

The state Legislature last year passed a law making it possible for married women to get restraining orders even if no divorce proceedings have been filed.

Previously, a woman had to file for a divorce before she could ask for a restraining order.

However, restraining orders don't restrain spouse abusers sometimes, Amador said.

She cited the case of one East County woman under protection of a restraining order.

The man broke down her door and beat her up.●

ZELMAR MICHELINI AND HECTOR GUTIERREZ RUIZ

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. HARKIN. Mr. Speaker, an aspect of repression in many countries which should concern us deeply is the persecution of legislators. For many colleagues of ours, the exercise of duties that we consider routine involves constant risk; for a few of those brave men and women, the price of responsible public service has been imprisonment, torture, and death. Just 2 years ago, two such men were martyred in Argentina where they lived in exile. One was former Uruguayan Senator Zelmar Michelini. The other was Hector Gutierrez Ruiz. I would like to pay tribute to them today, for they could have been any one of us. For Hector Gutierrez Ruiz, editor of the Uruguayan newspaper El Debate, was for many years a member of the Uruguayan Chamber of Deputies. From February 15, 1972, to the coup which closed the Uruguayan Parliament on June 27, 1973, he served as speaker of that body.

The circumstances under which Hector Gutierrez Ruiz and Zelmar Michelini were murdered leave little doubt that the Governments of Uruguay and Argentina must be held responsible for their death. Although the abductions of both men occurred in downtown Buenos Aires and were witnessed by numerous members of the Argentine security forces, none intervened to help them. All efforts by friends and relatives to establish their whereabouts were obstructed. President Videla's expressions of "official concern" were not communicated to the proper authorities. Three days after they disappeared, the bullet-ridden bodies of both victims were discovered in an abandoned car.

The murder of these two Uruguayan legislators caused international outrage. Shortly after they died, information regarding official involvement in the assassinations figured prominently in testimony delivered before Congressman FRASER'S committee by another former Uruguayan legislator, Senator Wilson Ferreira Aldunate. Mr. Ferreira Aldunate had himself narrowly escaped assassination in Buenos Aires. What he told us helped convince many of us to oppose further U.S. military aid to Uruguay. Thus, many thousands of Uruguayans can take some comfort in the knowledge that their leaders did not die in vain.

Yet 2 full years after the death of our colleague Gutierrez Ruiz, human rights have never been in worse shape in Uruguay. In a country that was once a haven for Latin American fleeing from other repressive governments, there are now more political prisoners per capita than in any other country in the world—1 in 500 out of a total population of only 2,500,000, according to the estimates of Amnesty International. Amnesty International has also estimated that 1 in every 50 Uruguayans has been arrested, and that fully half of those arrested have been brutally tortured. In a country once known as the "Switzerland of South America," there is at present no parliament, no independent judiciary, no opposition press, no political, or trade union activity. Through a succession of pronouncements, promises, decrees, and so-called constitutional amendments, the Uruguayan Government has attempted to create a facade of legality for its repressive policies. This is an insidious process, common to many dictatorships throughout the world. By institutionalizing repression in a form which they hope will appear legitimate, the Uruguyan authorities seek to consolidate their power while at the same time improving their image.

Fortunately for the Uruguayn people, cosmetic changes generally convince only the uncritical. Thus, as Uruguayans continue to be imprisoned and tortured; as they continue to disappear; as even beyond the border of the country from which they have fled, because they could not peacefully dissent, they are hunted and murdered—as was Gutierrez Ruiz—fewer and fewer governments want to be associated with the Government of Uruguay. It is perhaps not a coincidence that Uruguay should today be receiving considerable foreign assistance from South Africa, and that the Uruguayan regime should be one of the few that has expressed support for the policies of Vorster. I am proud that this body should have decided to discontinue military assistance to Uruguay, thus disassociating itself from such a regime.

At the same time, I note with dismay that numerous expressions of disapproval emanating both from the administration and from the Congress—some of them involving foreign aid—have not brought about substantial improvement in the human rights situation in Uruguay. Perhaps there is an explanation for this. In recent years, our bilateral aid to that country has been nominal; and denial of nominal amounts of aid is not likely to be felt economically. Thus it can be said that even by cutting off military assistance, we have not yet expressed our disapproval to the Uruguayan authorities in anything but rhetorical terms. If so, the Uruguayan case can teach us an important lesson. As I have said on many occasions, if we really want to defend the human rights of oppressed peoples, rhetoric is not enough; we must go beyond rhetoric, translating our disapproval into the strongest economic terms possible.

In the Harkin amendments which are a part of our foreign aid legislation, we seek to really help by doing just that. As I commemorate the second anniversary of the death of Hector Gutierrez Ruiz and Zelmar Michelini, it seems fitting that I should speak as a legislator about such a congressional initiative. Let us resolve at this time to continue our efforts on behalf of those peoples for whom he and other colleagues have died. I can think of no tribute which would have meant more to them.

I think the murder of Zelmar Michelini and Hector Gutierrez Ruiz helped convince many of us that a failure to act promptly and forcefully on behalf of human rights can have direct and irreversible consequences. During the 3 days following their abduction—while they were still alive—I and many of my colleagues repeatedly urged forceful intervention on their behalf by the State Department. To the extent that existing procedures were not sufficient to save their lives and extraordinary steps were not taken when they might have been effective, it has been said that the United States must bear a measure of responsibility for their death. Much has happened in the area of human rights and U.S. foreign policy since then—much that today might have made possible their survival. To that extent I am hopeful. Yet as is suggested by the degree of continuing repression in Uruguay and elsewhere, what we have achieved is only a beginning; so much remains to be done, and to that extent I am concerned. If Senator Michelini and Hector Ruiz were here today, I believe they would share both my hope and my ongoing concern.●

HOUSE SHOULD REJECT SPECIAL PROSECUTOR BILL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. McCLORY. Mr. Speaker, I would like to call the attention of my colleagues to a thoughtful article in the Washington Post's Sunday, May 21, edition by Steven Heyman, a Harvard University undergraduate, which empha-

sizes several objections I have raised to the special prosecutor bill (H.R. 9705) when it was considered by the House Judiciary Committee last week.

Though essentially a cosmetic public relations bill which appears to, but does not, resolve the inherent conflict of interest when the Attorney General must investigate high-level Government officials within his own executive branch, this bill could well have mischievous and unforeseen effects. It does not stop an attorney general who chooses to violate his oath of office. The attorney general can simply issue a "stonewalling" statement 60 days after he is requested to appoint a special prosecutor to prevent this proposed mechanism from coming into effect.

Mr. Speaker, the article speaks more eloquently on this subject than I can myself, and I have attached it herewith for the edification of my colleagues:

DON'T LET CONGRESS HIDE BEHIND SPECIAL PROSECUTORS

(By Steven Heyman)

Responding to the threat of the "imperial presidency," Congress has reasserted many of its prerogatives. But Congress is now on the verge of effectively abdicating one of its most important responsibilities—investigation of executive misconduct and abuse of power.

The House will soon consider a bill, already passed by the Senate, which provides for the appointment of temporary special prosecutors in cases involving abuses of power by high officials. Although its sponsors claim the measure would provide an additional check on presidential power, the bill in fact would reduce both executive and congressional accountability while improperly involving the judiciary in politics. At the same time, it would make the special prosecutor a dangerous new source of irresponsible authority, threatening the political parties as well as the rights of individuals.

The bill provides that whenever the attorney general has evidence that the president, vice president, or certain present and former officials of a presidential campaign has committed a crime involving abuse of federal office, election violation, obstruction of justice or perjury, he must ask a special three-judge court to appoint a special prosecutor. A special prosecutor would also be appointed whenever—in the attorney general's view—the president, the president's political party or the attorney general has such an interest in a case that it is inappropriate for the Justice Department to handle it.

The special prosecutor could only be removed by the attorney general for "extraordinary impropriety" or by impeachment, and his appointment would not be made public unless the attorney general or the court determined otherwise. According to a Senate committee report, "there will be many situations in which . . . the public is not at all aware" that a special prosecutor has been appointed and is conducting a criminal investigation.

The bill's supporters make several arguments for a "non-political" special prosecutor. First, they assert, Watergate and its cover-up showed how far the criminal process can be manipulated by the president for his own political ends. Second, allowing the president to retain authority for prosecuting himself and his highest aides gives him an improper conflict of interest. Lastly, public confidence must be restored by showing that the rule of law treats high and low alike.

This view fails to understand the essential role of politics in restraining abuses of power. Public opinion sets the most basic limits on elective authority. There is no substitute for the scrutiny of a determined press and an informed public in responding to abuse of power. Indeed, procedures to conduct investigations in secret are likely to undermine rather than increase accountability.

Some might worry about relying on the press and on so vague a force as "public opinion" to check political abuse. But, while there are no foolproof ways to insure political integrity, these are what we have been relying on for a couple of hundred years, and the special prosecutor bill does not offer a very promising alternative.

THE NEED FOR A POLITICAL RESPONSE

The Constitution gives Congress, supported or impelled by public opinion, the role of exposing offenses by high officials through the power of inquiry and impeachment. Precisely because such offenses are committed by the most powerful figures in government, they cannot be dealt with by the ordinary criminal process. Great abuses of power threaten the political order itself, and they require a political response.

Congress was given this function because it is the most representative institution, with the political judgment and power necessary to investigate great abuses and to remove offenders. But the effectiveness of this process depends, as James Madison stressed to the first Congress, on the president having personal responsibility for his subordinates. Only then can he be held accountable, both by Congress and the public, for their actions.

The Constitution intends, then, to make the president and attorney general responsible for enforcing the law against subordinates: It deliberately gives them an interest in the outcome. If the president fails to maintain confidence in the integrity of his administration, he loses moral authority, risks impeachment, and opens the way for countervailing congressional and judicial power.

The premise of the special prosecutor bill, however, is that the president cannot be expected to enforce the law against subordinates. By relieving him of this responsibility and focusing attention on a special prosecutor instead, the bill would lessen the president's interest in restraining his aides' conduct and make it easier for him to disclaim responsibility for their excesses.

The bill would also transfer much of Congress' investigative responsibility in this area to a special prosecutor. As professional politicians, it need scarcely be said, members of Congress are generally reluctant to investigate "one of their own," and they certainly would prefer to avoid the political risks of such investigations if at all possible. Intense public pressure is often necessary to force them to act. One need only recall Congress' handling of the Bert Lance case and of the South Korean scandal, to say nothing of its reluctant response in the Watergate case itself, to make this clear.

The Senate Governmental Affairs Committee at first dismissed the allegations of improper conduct against Bert Lance as entirely unfounded. After the evidence became inescapable, Chairman Abraham Ribicoff of Connecticut and ranking Republican Charles Percy of Illinois told President Carter that Lance should resign, and they also suggested that the case be referred to the Justice Department under a procedure that would have made a public investigation unnecessary. Sen. Percy called for a special prosecutor.

It was not necessary for the legal process to determine Lance's guilt or innocence—a process which could take years—in order to decide whether he had been involved in improper conduct that made him unfit to hold office. This was a question for the Governmental Affairs Committee, to be determined through a public inquiry. But the committee showed a strong desire to evade its responsibility throughout; it fulfilled it in the end only because of public pressure and Lance's desire to fight publicly.

In the Korean affair there were also calls for a special prosecutor—in fact, the Senate actually voted in favor of appointing one. Yet in that scandal what has primarily been involved is not executive misconduct but Congress' duty to keep its own house in order, and no special prosecutor was appointed. The Justice Department, the House Ethics Committee (with Leon Jaworski as special counsel) and the Senate Ethics Committee rightly were required to conduct the investigation.

As in the Lance case, appointing a special prosecutor would not only have caused delay but would also have shifted responsibility away from Congress and the executive branch where it belonged. Yet now both chambers are moving toward passage of a law that would allow them in many cases to duck such responsibility altogether.

MISSING THE JUDICIARY

Requiring court appointment of a special prosecutor would also be a serious misuse of the judiciary. "There is and ought to be no active, prosecutorial power in the courts," warned the late Alexander Bickel. "The courts sit in judgment." The judiciary may in no way take responsibility for prosecution—least of all in political cases—without endangering its own independence.

There are numerous political questions a court of appointment would have to face. Should a Democrat be appointed to investigate a Republican administration to convince everyone of the completeness of the inquiry? Archibald Cox and Jaworski, both Democrats, were appointed special prosecutors in the Watergate case in part for that reason. Should a member of the president's own party be appointed, on the other hand, to show that the inquiry is not a "witch-hunt"? The court would also have to decide whether a special prosecutor's appointment should be made public "in the best interests of justice"—an especially difficult question whenever an election is approaching. Each of these decisions requires a political judgment which a court should not properly make.

A "non-political" special prosecutor is no more competent to make the political judgments he would face. This problem arose acutely when the Watergate special prosecutor had to consider indicting President Nixon an act that in itself would have had grave political consequences.

"We were a small group . . . operating in a political vacuum," writes James Doyle, a top aide to Cox and Jaworski. "We could not depend, in Hamilton's phrase, on 'the restraints of public opinion.' In my opinion, we were in danger of becoming like the Nixon White House, an island whose inhabitants acted without relation to the world around them."

Rather than risk the possibility that an indictment would force the president's resignation without a trial, Jaworski decided to send the evidence to the House Judiciary Committee.

Does the work of the Watergate special prosecutor really suggest that the pending legislation should be supported? His situation was fundamentally different from that of a special prosecutor appointed under this bill. In the Watergate case, for example, the prosecutor was named only after months of investigations and disclosures by the press, and he had a good deal of public support; under the proposed measure, it will be recalled, the public might well not even be aware that the special prosecutor exists.

Similarly, the Watergate prosecutor's office is only part of a much broader congressional effort to investigate the scandal—not a substitute for it. In Watergate, it was the political process that was decisive.

Finally, the appointment of the Watergate prosecutor was an ad hoc, special arrange-

ment felt to be necessary under the extraordinary circumstances involved. It was made only after the Justice Department itself was seen to be implicated in the cover-up. Such an arrangement is necessary only in extremely rare situations; it should not be made a rule. Should a similar case arise, Congress can force the appointment of a special prosecutor as it did before, or it can make a different ad hoc arrangement, according to the circumstances. But if a special prosecutor were made a regular feature, it would lose its "special" quality as well as the support it had during Watergate.

IRRESPONSIBLE AUTHORITY

Not only would the special prosecutor bill undermine presidential and congressional accountability, but it would also create a new source of irresponsible authority, for it provides no effective check to the power of a special prosecutor. It is unlikely that congressional oversight could prevent him from abusing his authority. Moreover, any interference from Congress would vitiate the notion of a politically independent prosecutor. And the special prosecutor would have to commit "extraordinary impropriety" indeed before an attorney general would dare remove him.

The danger of abuse of power would be aggravated by secrecy. The bill not only specifically allows the appointment of a special prosecutor to be kept *secret*, but most of his work would have to be done in secret in any event. A special prosecutor thus could conduct an investigation and plea-bargain with high officials without any public awareness of his actions.

Rumors of the prosecutor's activities could be used as a devastating weapon against individuals. If it does become known, the very fact that a special prosecutor has been appointed, or that an individual has been called before a grand jury, would be enough to provoke suspicion. As Henry Ruth, Jaworski's successor, warned the Senate committee, an unscrupulous special prosecutor could ruin a man's political career and reputation without ever filing charges.

The political parties would face an equally serious threat. The bill covers presidential campaign chairmen directly and applies to parties through the "conflict of interest" clause. Thus in some cases a special prosecutor would effective have *carte blanche* to investigate the political parties, with access to all their records, activities and personnel. The potential for abuse would be enormous.

There are no safeguards in the bill capable of preventing abuses by the special prosecutor. There cannot be; for any such safeguard would have to be, as the Constitution intends, a political one—and the whole conception of a special prosecutor is to free such matters from the restraints of politics.

The greatest danger of all may come not from abuse of the prosecutor's power, but from his inability to perform the function which the bill assigns him. The special prosecutor would be politically isolated. He may be weak, ineffective, or sympathetic with those he is to investigate. Moreover, Congress already has shown a tendency to give to a special prosecutor cases, like that of Lance, where the main question concerns fitness to hold office, a question which a prosecutor cannot properly handle.

For all of these reasons, there may easily be the appearance of a thorough and impartial investigation without the reality. The President might then cite the special prosecutor's failure to prosecute as proof of his aide's innocence, Congress might use it as an excuse not to conduct an investigation of its own. The result could be an institutionalized cover-up.

Instead of evading its responsibility, Congress ought to concentrate on strengthening its own ability to investigate executive misconduct. One thing it might do is to give its committees the right to sue in coure for evidence from the executive branch. Such a provision would have helped the Senate Watergate Committee, which lost its suit for the White House tapes for lack of such authority, and it also might have aided the House impeachment inquiry.

This would, of course, raise anew the conflict over when executive information is or is not privileged. But that would properly be a question for the courts to decide.

No reform can guarantee the integrity of our political order. Nor can it be maintained merely by court proceedings. As James Bradlay Thayer cautioned nearly a century ago, "Under no system can the power of courts go far to save a people from ruin; our chief protection lies elsewhere." It lies with an informed press, a strong public sense of the need for accountability, and with the structure of our institutions, designed to limit all power by means of political restraints.●

MAINTAINING THE PURCHASING POWER OF ARMED SERVICES PERSONNEL ABROAD

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. MATHIS. Mr. Speaker, today I am introducing legislation designed to protect servicemen stationed abroad against devaluations in the dollar. All Americans are suffering from the chronic inflation characteristics of the United States and other major economies, and military personnel have been forced to contend with not only the domestic inflation in the country of assignment but also with a rapid decline in the dollar's value. For example, the 230,000 U.S. servicemen stationed in West Germany are receiving fewer and fewer marks while the mark is losing purchasing power in the German economy. The same is true in Japan where 50,000 Americans are serving in the Armed Forces. Since January 1, 1977, the dollar has declined dramatically against the German mark and the Japanese yen. In the last year, the dollar has also fallen against the Italian lira, the Philippine peso, the British pound, and has barely held its own against the South Korean won. Almost 90,000 military men and women serve in these four countries.

Although the Department of Defense provides cost-of-living allowances to offset higher costs in some countries, this is not sufficient to offset the combined effects of the declining dollar and local inflation. Furthermore, many servicemen do not qualify at all for this allowance, even though they too make substantial purchases in local currencies. About 90,000 servicemen in Germany and 16,000 in Japan receive no cost-of-living allowance.

The impact of the high cost of living (overseas as well as in the United States) falls most heavily on the junior enlisted personnel, who are further burdened by the fact that they are not entitled to the same travel and transportation benefits authorized for other personnel. Although my bill does not address the issue of travel and transportation allowances, I want to commend the Subcommittee on Military Compensation for holding hearings on this and related issues.

Mr. Speaker, if enacted, the bill I am introducing will protect military personnel stationed abroad against foreign exchange fluctuations by indexing their regular compensation to changes in the exchange rate between the dollar and the local currency. This adjustment would be retroactive to the beginning of last year when the most recent decline in the dollar began. Until the dollar can be stabilized in the world currency markets, I feel this is the least Congress can do to maintain the purchasing power of those serving abroad in the armed services.●

COAL TRANSPORTATION RATES AND NATIONAL ENERGY GOALS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. UDALL. Mr. Speaker, a major effort is being made in the West to help reduce American dependence on unreliable foreign resources of oil and dwindling domestic supplies of oil and natural gas by turning to coal as a source of energy. This voluntary conversion program is entirely consistent with the President's national energy plan. However, it is evident that the cost of transporting this coal may be a serious constraint on coal utilization, and will certainly put an unfair financial burden on the consumers of electricity trying to make more efficient use of energy resources.

The primary means of transporting coal in this Nation has been and will continue to be the railroads. The railroad industry has a monumental task ahead of it to keep up with the anticipated increase in coal production in the next few decades. While I firmly support efforts to revitalize those railroads that need and deserve such assistance, I am very disturbed by recent decisions of the Interstate Commerce Commission. In separate but similar cases involving electrical utilities and their consumers in my own district and in Houston, Tex., the ICC granted railroads coal hauling rates that greatly exceed a fair and equitable return on investments. In rubber stamping the rates requested by the railroads in these cases, the ICC acknowledged that its new policy would be to allow railroads to utilize their monopoly status to maximum advantage. I believe that the ICC has misinterpreted the mandate of Congress and is not carrying out its statutory responsibilities. I hope it will not be necessary, but I stand ready to support legislative action to correct this problem. In addition, I am an active supporter of H.R. 1609, the Coal Pipeline Act of 1978, which would make an alternative mode of coal transportation available. I believe the coal

slurry alternative will inject some needed competition into the coal transportation market.

The two decisions of the ICC are currently being appealed in the courts, while another case, in San Antonio, Tex., has been reopened in proceedings before the ICC. On Tuesday, May 16, 1978, the following article dealing with these cases appeared in the Wall Street Journal. I strongly commend the article to the attention of my colleagues:

TEXAS BATTLE OF COAL-HAULING RATES RISKS U.S. ENERGY PLAN, EFFORTS TO LIFT RAIL NET

(By Christopher Drew)

SAN ANTONIO.—A bitter fight over coal-hauling rates in this historic Texas city is putting efforts to upgrade railroad income on a collision course with President Carter's coal-oriented energy program.

The battle centers on whether railroads should haul Wyoming coal to San Antonio's city-owned utility at the current $11.94 a ton or at the sharply higher rate of $18.23 requested of the Interstate Commerce Commission. Burlington Northern Inc. and Southern Pacific Transportation Co., a unit of Southern Pacific Co., say they need the rate increase if they are to be financially healthy. But opponents in San Antonio and elsewhere in Texas contend the boost would have a serious effect on efforts to put more emphasis on coal as a power source.

"If the ICC decides the case against San Antonio, you can forget the national energy program," declares Rep. Henry B. Gonzalez (D., Texas), who supports the argument that the boost would wipe out the price advantage of switching to coal from natural gas. "If there isn't an economic advantage to converting to coal, nobody else will be willing to do so," he says.

NATIONAL PRECEDENT SENSED

The ICC is expected to announce its decision in late July or early August. Sensing a national precedent for coal-hauling rates, the U.S. Department of Transportation has entered the battle on the side of the railroads, while the Department of Energy is lending its support to San Antonio with research material to buttress its case.

The rate issue is particularly crucial in Texas, which is involved in the nation's biggest gas-to-coal conversion program. Two years ago, the Lone Star State ordered most big power plants within its borders to cut their use of natural gas as a boiler fuel 25 percent by 1985 and forbade further construction of large gas-fired boilers. As a result, almost all the utilities in the state are building coal-fired generating plants.

City Public Service, San Antonio's utility, had already started building a $225 million coal plant in 1973 because of a shortage of gas. That plant went into service last year. When the plant was started, Burlington Northern and Southern Pacific estimated they could deliver coal for $7.90 a ton. Later the price was set at $10.93 a ton and then rose to $11.94 a ton after two general freight-rate increases. But when the railroads demanded $18.23 a ton last year, San Antonio balked.

PRICE DIFFERENTIAL IS THREATENED

Such a boost would wipe out the price differential between coal and competing fuels. San Antonio and its allies contend. At the current railroad freight rate to San Antonio, a million British thermal units can be produced with coal for $1.25. A Btu is the amount of heat required to raise the temperature of one pound of water one degree. The coal amount compares with $1.70 for oil and $2.10 for gas. With the increased railroad rate, the same amount of heat from coal would soar to $1.61. Figuring in the additional cost of operating a coal plant, such as maintaining a yard for the coal cars pulverizing the coal and handling the ash, it becomes cheaper for San Antonio to burn oil than coal when the freight rate reaches $15.64 a ton, according to a Department of Energy study.

Ironically, the railroads concede the rates they want to haul Western coal are "substantially in excess" of their costs. The heart of their case is their contention that they must charge unusually high rates for service on which they have a monopoly, such as Wyoming coal hauling, in order charge less on products in areas where they are competing with trucks and barges. At present, the railroads argue, their rates of return on investment—2.1 per cent for Burlington Northern and 2.5 percent for Southern Pacific Trasportation—are so low they can't raise needed equity capital.

The roads are getting considerable support in their battle from the Department of Transportation. "A financially healthy rail system is itself one of the cornerstones of the national energy policy," declares the department. It would be "shortsighted" to consign the railroads to "inadequate revenues now, when they need such revenues to rebuild and expand their physical plants to be ready to shoulder" increasing amounts of coal, the agency contends.

To Texans, however, this kind of pricing smacks of subsidy. "It has the effect of saying to our coal customers, 'you pay more than your fair share and subsidize the wheat shipments in Kansas, where the railroads aren't making money,'" says Texas Attorney General, and Democratic gubernatorial nominee, John L. Hill. "I say that if we want to subsidize railroad wheat shipments, it should be done by Congress and met head on with federal subsidies. It isn't up to Texas coal customers to revitalize the railroads." To "protect" its utilities, Texas is threatening to rescind its order that they must convert from gas.

Although most observers say the ICC's decision on San Antonio could go either way, there are earlier decisions favoring the railroads' requests for rates well in excess of costs. In what were regarded as initial attempts to interpret Congress's 1976 railroad revitalization and regulatory reform, the so-called R-4 Act, the ICC last November permitted Burlington Northern and the Atchison, Topeka & Santa Fe to charge a Houston utility 21% above costs to haul coal. And it allowed Southern Pacific and the Santa Fe to charge an Arizona utility 24% in excess of costs. Such pricing is necessary "if 4-R Act goals for the railroads are to be met," the ICC said at the time.

San Antonio's Rep. Gonzalez, among other Texas Congressmen, claims the commission has "misread the intent of Congress" and should take advantage of "a clear opportunity to rectify that error" in the San Antonio case. "The act never contemplated, and Congress certainly never intended, that the railroads should cure all their problems through inordinate rates on one commodity, especially one in which they enjoy a monopoly position," he says. "Congess intended to allow the railroads more freedom from regulation where competition exists, but there isn't any competition on these coal movements."

One form of competition receiving encouragement in reaction to rising rail freight rates is the coal slurries, which involve transporting powered coal by water in huge pipelines. A recent study by Congress's Office of Technology Assessment concludes that under certain circumstances, slurry pipelines could move coal more cheaply than railroads. A bill that would let proposed pipelines seek the right of eminent domain from the federal government, thus enabling them to compete with railroads, is working its way through Congress.●

NUCLEAR POWER

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. COLLINS of Texas. Mr. Speaker, where is this country going with its nuclear power? President Carter's resistance to nuclear development is a formidable limitation on the great need this country has for nuclear power.

The people back home are becoming aware of the way that the Executive Department is dragging its feet on this essential need for nuclear development.

As I flew back from Dallas yesterday, I was reading the Dallas News. The Dallas Morning News has one of the greatest editorial pages in America. Its leading editorial was on the need for more nuclear development. Jim Wright and his associates were impressed with the findings of the study by the Heritage Foundation as written by Milton Copulous.

It is good for the country that the technical studies of the Heritage Foundation are getting through to the grassroots.

Here are the findings by Heritage's Copulous as summarized in the editorial of the Dallas Morning News:

Actions have consequences, and not only actions but non-actions. Consider the findings of a study by the Heritage Foundation, which wondered what might happen if the antinuclear drive achieved fulfillment and the dream of nuclear power went aglimmering.

The prospects are not pretty, says the foundation, a privately funded policy research institution with much clout in Washington, D.C. What is more, they are too near at hand for comfort.

At the moment, a ban on licensing of nuclear power plants is pending before the 2nd U.S. Circuit Court of Appeals, thanks to a petition by the National Resources Defense Council, an environmental group. The foundation report assesses—"conservatively," it emphasipes—the likely consequences if a ban is decreed, even a limited ban.

The consequences vary, depending naturally on whether the ban is total, and likewise on whether coal production goals are met or not.

The report's author, Milton Copulous, says if nuclear licenses are banned but coal production goals are met, the Southeast would suffer first, then the Northeast. There would be widespread unemployment, urban instability and a scarcity of food and fuel for home heating. More extreme consequences would flow from a decision to ban nuclear production altogether—this, even if coal goals were met. Copulous calculates that 1.47 million jobs would be lost immediately and that civil and social upheaval could follow.

Likelier, says Copulous, is a ban on new nuclear plants and a failure to meet coal production targets. We could have, by 1986, 7 million unemployed and shortages of food, steel and textiles.

But wouldn't Congress act in the meantime? Copulous himself asks the question, and he answers affirmatively. The trouble is that Congress already has thrown up roadblock after roadblock to efficient production of coal and nuclear power; to remove these roadblocks would take much time. For instance, the Clean Air Act would have to be revised and the regulatory process stream-

lined to permit the quicker building of nuclear-fired facilities.

Copulous doesn't view the situation as hopeless. He laments, even so, that we seem locked into non-action at the moment, even while the situation deteriorates. And who has locked us there? The social-environmental zealots who "believe that our life styles are wasteful, and that our economic system, with its complexity and urbanization, is dehumanizing. They would impose, instead what they term a stable state economy in its place"—one without economic growth and therefore one with no need for more power.

A splendid job they have made of it thus far. Yet, as we say, non-action has consequences. Even if Copulous is only half right, his predictions are unsettling. All the more so for women, minorities and the young—in short, those whose job prospects are most tenuous, those who show up most frequently at the bottom of the economic scale. Does any of this disturb the martini-circuit environmentalists who have so successfully balked the expansion of our enregy resources? Not so far, apparently. But just wait. Even in the dark, they can't hide forever.●

BILL LEAR LEAVES A RICH LEGACY OF INVENTION AND INSPIRATION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. SANTINI. Mr. Speaker, last Sunday one of the most imaginative and daring minds of the 20th century died in Reno, Nev. William P. Lear will long be remembered as an inventor and contributor to the development of American technology.

But Bill Lear gave our Nation more than the Lear jet and the Lear eight-track tape machine, among his hundreds of marketed inventions. Bill Lear serves as an example. He was bullish on his ideas and the American economic system. Born in the same town as Samuel Clemens, at the age of 13, built his own battery charger and went into business. Bill Lear then proceeded, sometimes against great economic and bureaucratic odds, to make his mark. After his ideas were put on paper, he did not stop. Bill Lear put his concepts into operation through machines. He was willing and ready to risk both money and reputation to push for new technology and improvements. For example, he was talking about low pollution engines long before most of us knew what "ecology" meant. He kept pushing ahead, and we are the beneficiaries.

Bill Lear showed us that one man can make contributions which will change and enhance our lives. In paying tribute to this genius and personable man, I would like to reprint a May 15, 1978, Nevada State Journal article which tells of his outstanding career and accomplishments:

OF JET, EIGHT-TRACK FAME—LEAR, 75, DIES IN RENO

(By Jack Stevenson)

William P. Lear, internationally renowned designer and inventor, probably best known for the development and manufacturing of the Lear Jet aircraft, died Sunday in a Reno hospital as the result of a lengthy battle with leukemia.

Nursing supervisor Marva Slight, of St. Mary's Hospital, said Lear, who would have been 76 years old next month, had been undergoing blood tests here and in Los Angeles recently and was hospitalized for surgery in March of last year to correct a blood clotting condition.

On hearing of his death, Nevada's Governor Mike O'Callaghan said that, "Bill Lear was the brightest and most mentally active person I've ever known. More importantly, he was my friend, and an outstanding contributor to the giant steps of progress Nevada has made in recent years. In the future, when I see a business jet, I will think of Bill Lear and wish he had been able to see his latest dreams come true."

Just last week, Lear had unveiled plans to develop a "self-sufficient community" of as many as 2,800 new homes and a large industrial and commercial district on what is left of the land Lear bought 10 years ago when the City of Reno took over and annexed the abandoned air force base as Stead. Plans for the development of the 2,000 acre tract indicated that Lear was prepared to invest $9 to $11 million in preparing the site for developers.

The fate of the development, which has already been commenced, was unknown Sunday night in the immediate aftermath of Lear's death. Officers of the developing Leareno Corp., which is wholly owned by Lear, were unavailable for comment.

Lear came to the Reno area in 1968 with announced plans to develop property at Stead into a multi-million dollar industrial-recreational-residential complex. Those plans were stymied for some years after his initial bid for the development was set aside. He settled in this area, however, and devoted himself to a number of projects, including a successfully tested but never marketed steam operated bus, a steam car, and a new model jet aircraft, made largely of plastics, which was designed to be about as fast and much more economical than his original Lear Jet. He had also interested himself in the development of a flywheel-driver car. In recent years, he became somewhat embittered over the lack of government funding for enterprises in which he had invested his personal fortune and, on at least several occasions, complained that his concern with environmental protections through less, or non-polluting forms of energy such as steam propulsion, had been overtaken by the energy crisis, which apparently rendered some of his concepts uneconomical.

Lear was born on June 26, 1902, in Hannibal, Mo. In 1915, he built his own battery charger and went into business charging batteries at 25 cents each. In 1917, he graduated from the eighth grade, quit school, and left home. The following year, lying about his age, he joined the navy and became a radio technican.

In the period 1926–'30, he developed the Radio Coil and Wire Corporation, traded it to Paul Galvin for one-third interest in the Galvin Manufacturing Co., of Chicago, and developed the first automobile radio. It put Mortorola Corp., formerly the Calvin Manufacturing firm, into business.

In 1930 he became president of Lear Developments, later Lear, Inc., and by 1962 it had 5,000 employees producing aerospace and other electronic equipment at plants in California, Ohio, and Germany. In 1962 he sold all interests in the firm to produce a small business jet aircraft and developed the concept of the eight-track stereo sound tape.

In 1963, the Lear Jet, a twin-engined, eight-place aircraft made its maiden flight and it became the first production aircraft in the world that was financed and developed by a single individual.

In 1967, he sold Lear Jet Industries to the Gates Rubber Co., of Denver, Colo., so that he could direct his efforts to the research of development of low pollution power systems to replace the internal combustion engine, and in 1968 he bought the property around the former Stead Air Force Base for $1.3 million and established the Lear Motors Corporation, later to become known as Learneno.

Lear was the recipient of many distinguished awards, among which have been:

The Frank M. Haeks Memorial Award in 1940, for the design of the Learmatic Navigator and, in 1950, the Collier Trophy, awarded by the President of the United States, for "the greatest achievement in aviation in America during the previous year," namely, the design of the Lear F–5 automatic pilot and automatic approach control coupler system.

In 1951, the University of Michigan conferred upon him the honorary degree of Doctor of Engineering "to give public expression to (the university's) appreciation of the advances which your inventive genius have made possible in modern methods of communication and aviation." In 1954, Lear received the Horatio Alger Award "for having pulled himself up to the top of his field by his bootstraps."

(Among other honorary degrees conferred on Lear were those from the University of Nevada-Reno, in 1972, and Notre Dame University, in 1974).

During residence abroad in 1960, he received Sweden's Thulin Medal for contributions to the aircraft industry and was presented the Great Silver Medal by the City of Paris for his aid in developing the autopilot for the Caravelle jetliner.

Lear was a member of the Institute of Radio Engineers, Institute of the Aeronautical Sciences, American Institute of Electrical Engineers, Society of Automotive Engineers, Tau Beta Phi, and was a Fellow of the New York Academy of Sciences.

Distinguished awards and affiliations aside, he was a well-liked human being who counted numerous celebrities and political personalities among his personal friends. Despite instructions to his wife Moya, to the effect that he wanted no birthday celebration in 1975, she arranged a surprise party for him.

The fly-ins, many arriving in Lear Jets, took Lear by surprise, and he later told a reporter, "When I saw all those jets (landing on the Stead field), I thought they had come in to get something fixed. Then I saw all those people at the ramp and I finally recognized my wife and others, (and) I just broke down crying. The party was the most fun we ever had."

Among those attending were Gov. O'Callaghan, Congressman Jim Santini, and Congressman James Corman from California. Telegrams and letters poured in from President and Mrs. Gerald Ford, the presidents of MIT and Cal Tech, and World War II pilot Jimmy Doolittle. The party also featured the premiere of a biographical film on Lear called "By the Seat of His Pants," narrated by Lloyd Bridges. Lear thought it was all "just great."

Lear's wife, whom he married in 1942, is the former Moya Marie Olsen, daughter of the late Ole Olsen, of "Hellzapoppin" fame. She survives him at the family residence in Verdi. They have four children: John, Shanda, David, and Tina. Mr. Lear's children by a previous marriage are William Jr., who heads his own aircraft firm, in Geneva, Switzerland, and Patricia, of Encino, Calif.

Patricia Lear, a candidate for the Democratic nomination for Congress in the 20th District of California, said she would suspend her campaign activities as a result of the death of her father. Miss Lear, who seeks the Congressional seat held by Barry Goldwater Jr., R-Calif., said she would resume her campaign in a few days. She had been temporarily confined to bed after being mauled by a guard dog while on a walking tour of the district.

The Lear funeral is scheduled at 2:30 p.m. Wednesday in the Ross-Burke and Knoble Mortuary. Cremation will follow in the Masonic Memorial Gardens.●

EDITORIAL LOBBYING

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. KINDNESS. Mr. Speaker, the editors of the Dayton Daily News, which circulates extensively in southwestern Ohio, recently sent me a copy of their editorial "Ohio congressmen's votes vital to preserve Alaska," and I couldn't help reflecting on the "grass roots" lobbying provisions of the public disclosure of lobbying bill which cleared this Chamber in a fit of indifference to the first amendment.

The editorial read, in part:

Area Reps. Charles Whalen, Clarence Brown, Tennyson Guyer and Thomas Kindness and other Ohio representatives ought to support a strong House bill that will then go to the Senate.

Alaskans' interests have been promoted. Now the interests of Americans—Ohioans—have to be looked after . . .

I would imagine that area Representatives CHARLES WHALEN, CLARENCE BROWN, TENNYSON GUYER, and THOMAS KINDNESS: and other Ohio representatives will find an upswing in correspondence from constituents on this one. Why? Because of "grass roots" lobbying by the editors of the Daily News.

The editors of the Daily News are indeed fortunate that they do not work for an organization that qualifies as a "lobbying organization" under the public disclosure of lobbying bill. If they did, under provisions of the House measure, they would have an array of disclosure and recordkeeping requirements staring their first amendment prerogatives in the face.

Why are they not covered under the House bill? Because free press is a first amendment right. But so is lobbying.

The editorial lobbying communication reads like this:

OHIO CONGRESSMEN'S VOTES VITAL TO PRESERVE ALASKA

Votes of Ohio and Miami Valley congressmen are especially important now to help insure that the future of Alaska is a balance between preservation and sensible development.

By and large, House Resolution 39 offers that balance and protection, though some unnecessarily exploitive amendments have been added and need to be removed.

This measure is one that should appeal even to congressmen who haven't been ardent "environmentalists" because this measure isn't one that would penalize current business. Rather, it sets aside certain large tracts while allowing specific forms of development in others. It is easier to preserve a heritage than to restore one, and the land excluded from special status gives Alaska's sparse population resources aplenty to get rich on.

The bill would set aside 98 million acres as "national interest land." Though that figure seems large, Alaska is an enormous state. And it is not as though the state were being taken away from exploiters. Alaska already was given 104 million acres when it reached statehood, and natives were given another 44 million acres in 1971.

This measure would create new national parks, wildlife refuges, wild and scenic rivers and enlarged national forests. Already the bill has been watered down from what reasonable conservationists want. Some 20 million acres—including much of the Tongass forest—lost the protective status proposed in the original version.

Two amendments should be dropped. One would open up the Arctic National Wildlife Range to oil and gas exploration. Some 90 percent of Alaska's oil and gas beds already are available for development, and this range is a refuge for 120,000 caribou, grizzly and polar bears, musk ox and millions of waterfowl.

A committee also removed protection of Misty Fjords, a southeast Alaska rain forest ecosystem not found anywhere else in North America. Reason: development pressure. Though 77 per cent of the lands richest in minerals have been excluded from protection, developers think they may want to dig up some molybdenum there. Considering the immense beauty of this Ketchikan region, and wilderness already available for exploitation, the omission of Misty Fjords is not simply foolishness but a crime and desecration that needs prompt remedy.

Area Reps. Charles Whalen, Clarence Brown, Tennyson Guyer and Thomas Kindness and other Ohio representatives ought to support a strong House bill that will then go to the Senate.

Alaskans' interests have been promoted. Now the interests of Americans—Ohioans—have to be looked after. This land, after all, is owned by us, and citizens would like to keep some of the beautiful refuges for posterity in the same way the national parks (now fully packed) were preserved for our appreciation of a vanishing national heritage.●

INFLATION: A NOTE TO MR. CARTER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. McDONALD. Mr. Speaker, Vermont Royster, of the Wall Street Journal, is not a man I always agree with, particularly in the area of foreign affairs, but his editorial on March 22, 1978, was outstanding in my view. He not only spelled out who is being hurt by inflation, but he spelled out why in very simple, understandable terms. He took the mystery out of all the confusion some of our professional economists create in discussions of inflation. One would hope that President Carter had this editorial called to his attention and was reminded of all his brave speeches on what he would do about inflation. The editorial follows:

[From the Wall Street Journal, Mar. 22, 1978]

INFLATION: A NOTE TO MR. CARTER . . .

(By Vermont Royster)

I read in the papers that you and your economic advisers are puzzled by the sagging stock market and the collapsing dollar abroad and are urging everybody not to worry.

After all, the stock market is supposedly a concern only for the rich and nobody understands it anyway. As for the drop in the dollar on foreign exchange markets, that affects only firms doing business abroad, a few GIs in West Germany and some tourists who might better spend their money in this country. Besides, business is good, employment is up and the inflation rate last year was only 6%.

I have even read that some in your administration think there's good to come from the declining dollar. It's supposed to help stimulate exports.

But there are millions of people all over this country who, I'm afraid, view these matters differently. These are the people—and their name is indeed legion—who have their little stake in union pension funds, business pension funds, mutual funds or who have just tucked away some money in savings accounts or who have bought U.S. savings bonds on a payroll deduction plan.

They are not rich people. They may not be clever enough to see the interconnection between that sagging stock market, the declining dollar abroad and our domestic inflation. They are simply good, hard-working thrifty people who would like to have something for their old age besides Social Security. But they can see clearly enough what's happening to them. And they can feel the pain.

Consider, to begin with, an individual who only five years ago thought he had a tidy nest egg in a union pension fund invested in American business. Five years ago confidence in America led him to expect his share in that fund would grow and he could look forward to the future without worry.

Quite the opposite has happened. In the intervening five years his share in that retirement fund has shrunk, not grown.

The shrinkage varies, but every fund I know of that has invested in the stocks of American business has shrunk. In one of the better managed, for one example, the loss in market value between December 31, 1972, and December 31, 1977, has been 10.3%. Others have fared worse.

* * * such a worrisome low point and business is having to increase debt, rather than equity, to get money to replace equipment or for expansion.

That may strike you as puzzling, since in terms of dollars the earnings of most companies last year increased; why shouldn't that attract investors? The reason is that even unsophisticated people can see that those greater number of dollars apparently earned really buy less, whether or not they understand the earnings "deflator" that Charles Schultze computes over at the Economic Council.

SOME ECONOMIC JARGON

That loss is shared by each individual member of such a fund: His nestegg is smaller than it was five years ago. In the jargon of the economists he has suffered a *negative* compound interest rate, which is a fancy way of saying he has lost more money each year.

That should tell you what the sagging market has done to the ordinary pensioner—never mind what it has done to the rich. It may also give you an idea why people aren't rushing to invest in American business. In fact, the small investor has long since fled the stock market. From that you can deduce why capital formation is at * * *

In fact, the dollar loss in his pension fund isn't the only thing that has happened to the poor participant. Because of inflation, present dollars will buy only 68.4% of what those 1972 dollars bought. So in that particular example cited above, those 10.3% fewer dollars are worth only 68 cents each in the grocery store. That makes the poor pensioner's true loss of purchasing power well over a third, or about 38%.

If you take a longer span of time, say 10 years, the theft by inflation is worse. The dollar bill at the end of 1977 bought only about 57% of the same dollar in 1967.

Of course that affects not only those who, by pension funds or otherwise, have suffered in the stock market. Consider, for a different example, an individual who put his savings in a bank or savings and loan.

In some cases he thinks he is earning as much as 7% interest, which sounds like a lot. But on that 7% he has to pay taxes of 14% at the minimum rate: for someone with a modest $6,000 taxable income the tax is 20%.

Thus even the minimum income tax rate reduces his apparent interest return to zero; That is, it just about equals the loss of his dollars' purchasing power at a 6% inflation rate. If he's paying 20% or more in taxes he's going backwards at a rapid rate. He doesn't have to be very sophisticated to understand he's in a bind.

But what has all this to do with that other vexing problem, the decline of the dollar on foreign exchange markets?

For a clue, ask yourself why any foreigner—Japanese, German or Arab oil sheik—would want to hold U.S. dollars. There's only one answer: for what those dollars will buy of U.S. goods. Either the original holder intends to buy U.S. goods or sell his dollars to someone else who does. Either way, their value depends ultimately upon their purchasing power in this country.

With the purchasing value of the dollar steadily declining in our own country, why should we expect foreigners to be eager to buy or hold them? If it weren't for what's happening to the dollar at home we'd have less trouble with all those oil payments that so worry you. If it continues to decline we'll have worse trouble. Already the OPEC countries have begun to mutter about no longer accepting payment for their oil in dollars.

In short, everyone who has trusted the U.S. dollar—be he foreigner, pensioner or ordinary citizen-saver—feels cheated. That takes the mystery out of many things, from the stock market to the foreign exchange markets.

LONG-STANDING POLICIES, BUT

I am well aware that all these troubles can't be laid at your door. They are the consequence of long-standing policies reaching back to three Presidents before you, and the worst inflation occurred before you came to office.

But when you were running for President the country had the impression you were deeply concerned about all this. People thought you intended to do something about the size and cost of government, about the taxes this levied upon the people, about the inflationary effects of having to create money and credit to pay for huge deficits. They thought you would lift the burden of all this from the hard-working and thrifty, a class which includes those who labor as butchers, bakers and candlestick makers.

What we seem to have got instead is bigger government (that monstrous Energy Department), more costly government (a spending budget of over $500 billion), a vastly bigger deficit (over $60 billion) which assures continued inflation. Under the guise of Social Security payments this middle class even got a big tax increase, with more to come from your energy bill.

It may be, as we are told, that despite all this, future inflation can be held to "only" 6%. But even at that rate, as Dr. Schultze's computers can tell you, a 30-year-old will see the present dollar worth little more than a dime by the time he thinks of retiring at 65. He'll have to run very fast to keep ahead on his life insurance, his pension, his savings. If we have another eruption of double-digit inflation, he'll truly face a scary ride on a roller-coaster.

My guess is that people, here and abroad, are still bullish on America. I think they expect to see the stock market rise again, the dollar resume its trusted place in the world, their savings once more secure against erosion. At least they want to believe that with good leadership we will surmount these troubles as we have past ones.

But there is no puzzle about the stock market or the declining dollar, and it's no wonder people worry in the middle of the night.●

THE ROAD TO PROSPERITY—PART II—THE BENEFITS OF CAPITAL GAINS TAX REDUCTION

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. STEIGER. Mr. Speaker, my previous remarks on capital gains taxes explained the complexity of this tax and outlined my proposal to reduce and simplify the tax. Today, I want to share with my colleagues one of five analyses that have been on the Steiger amendment. The analysis by the Treasury Department shows a revenue loss. The other four analyses, done by private sector economists, indicate net positive results.

The reason for the difference is that the analysis by Treasury is static—it measures only the direct loss in tax revenue from a reduction in taxes. The other analyses rely on dynamic analysis. That is, they attempt to measure the impact on economic activity when the capital gains tax is reduced. Savings, investment, economic growth, jobs, income and tax revenues are involved in such an analysis. Both static and dynamic approaches are controversial. However, they are all we have for making a prior judgment.

The following study was done by Data Resources on the basis of assumptions supplied by the Securities Industry Association. I will have further comments on this matter at a later date.

The material follows:

TAX PROPOSAL—REVERSION TO PRE-19659 TREATMENT OF CAPITAL GAINS

Economic variable and change from baseline forecast:

Gross National Product (1979–1983), increased $98 billion (1978 dollars).

Capital Formation (1979–1983) (fixed business investment), increased $46 billion (1978 dollars).

Man-Years of Employment (1979–1983), increased 1,640,000.

Jobs (peak effect), increased 520,000 (1982).

Federal Tax Revenues (1979–1983), increased $33 billion (current dollars).

BEHAVIORAL ASSUMPTIONS

This proposal clearly increases the attractiveness of capital gains (and hence of retained earnings). It can therefore be expected to decrease the dividened-payout ratio. A 5 percent fall in this ratio is assumed. The stock market would be expected to react favorably to this measure—a 10 percent rise has been assumed in the Standard and Poor's index.

The revenue estimates prepared by the Joint Committee on Taxation for the years 1980–1983 have been used in this analysis. Adjustments have been made to these estimates, however, to take account of the likelihood that investors will be more likely to *realize* capital gains if this proposal is enacted. It is assumed that the changed treatment of capital gains will be effective from 1980, and will increase the propensity to realize capital gains by 10 percent. In addition, there is assumed to be a purely transitional effect in the year 1979 and 1980—10 percent of capital gains which would otherwise be realized in 1979 are assumed not to be realized until 1980.

Because of this effect, and because the stock market reaction is assumed to predate the effective date of the law, the following analysis begins in 1979 and extends for five years.

EMPIRICAL RESULTS

Full details of the estimated effects of this proposal are shown in the attached Table 1.

Gross National Product—The gain in gross national product for the five-year period is almost $100 billion, with the peak effect occurring in 1982 when gross national product is more than $30 billion (1.2 percent) above the base line forecast.

Investment and Fixed Business Assets—As would be expected, the proportionate effect on investment is considerably larger than that of gross national product. The proposal particularly favors investment because it encourages the realization of capital gains and stimulates the flow of savings into new investment opportunities. The assumed rise in the stock market lowers the cost of obtaining funds through external financing. These factors, combined with the feedback effects from the stronger economy, raise investment in fixed business assets by as much as $17 billion (6.2 percent) in 1983. For the period 1979–1983, investment is a total of $46 billion higher. The result is a rise of 1.9 percent in fixed business assets by 1982, accompanied by an increase of 0.4 percent or $9 billion in potential output.

Employment and Unemployment—The unemployment rate is reduced by 0.4 percent in both 1982 and 1983. The peak effect on jobs is more than 520,000 in 1982. In 1983, the effect on jobs is somewhat less because the impact on demand of this tax proposal has begun to level off, while the effect on the economy's capacity to supply goods and services is still increasing. Through 1983, more than 1,600,000 man-years of employment are created relative to the baseline.

Personal Income and Consumption—By 1983, personal incomes are higher than the baseline by $14 billion. The impact on consumption is slightly greater because of the wealth effect from higher stock market prices. (Increases in wealth resulting from price changes in existing assets are not included in personal income as defined in the national income and product accounts.) By 1983, consumption is almost $18 billion above the baseline, with the cumulative increase for the five-year period being $56 billion.

Corporate Balance Sheets—The decrease in taxation of capital gains accruing to corporations, the lower propensity to distribute dividends, and the stronger economy all combine to improve corporate cash flow, with the debt/equity ratio thus being reduced.

Federal Tax Receipts and the Deficit—Tax receipts are lower by $0.8 billion in 1979, as a result of postponed realization of capital gains in that year. From 1980 on, the direct effects of the tax cut are more than outweighed by the impact of the stronger economy on tax receipts. The net change in the Federal government deficit for the five-year period is close to $33 billion.

Inflation—The demand effects of the policy are stronger than its supply-side effects (through the increase in fixed business assets) in the short-run. As a result, the annual rate of inflation is raised by an average of about 0.2 percentage points for the period 1979–1983.

These results have been generated assuming that monetary policy is accommodating to the fiscal change. That is, it is assumed that monetary aggregates are permitted to grow to offset the upward effects on interest rates of the stronger economy. Table 2 presents results based on the assumption that the effects of the stronger economy on interest rates are not offset.

TABLE 1.—MR. STEIGER'S CAPITAL GAINS PROPOSAL ACCOMMODATING MONETARY POLICY

	1979	1980	1981	1982	1983
Gross natoinal product: Difference (billions, 1978 dollars)	1.9	12.0	23.3	29.7	30.9
Nonresidential fixed investment: Difference (billions, 1978 dollars)	.4	3.9	10.2	15.0	16.9
Fixed nonresidential investment as a percent of GNP:					
New ratio	9.8	10.2	10.6	10.8	11.0
Difference	0	.1	.3	.5	.5
Potential gross national product: Percent difference	0	0	.1	.2	.4
Personal consumption expenditures: Difference (billions, 1978 dollars)	1.5	7.8	13.1	16.2	17.7
Personal disposable income: Difference (billions, 1978 dollars)	.8	3.8	9.0	13.1	14.1
Unemployment rate (percent of labor force):					
Base rate	6.3	5.9	5.5	5.4	4.9
New rate	6.3	5.7	5.2	5.0	4.6
Difference	0	−.2	−.3	−.4	−.4
Jobs: Difference (thousands)	22.0	180.0	408.0	524.0	508.0
Rate of change in real GNP (percent):					
Base rate	3.9	4.6	3.9	3.5	4.5
New rate	4.0	5.1	4.4	3.7	4.5
Rate of change in implicit price deflator (percent):					
Base rate	5.6	5.7	6.0	5.6	5.6
New rate	5.6	5.8	6.3	6.0	5.9
Nonfinancial corporate gross internal funds: Percent difference	.6	2.3	3.7	4.5	4.5
Federal Government budget position (dollars, in billions, NIA basis):					
Base level	−50.1	−29.4	−20.2	−19.5	−10.5
New level	−50.9	−26.2	−12.9	−8.6	1.9
Difference	−.8	3.2	7.3	10.9	12.3

Source: Data Resources, Inc.

TABLE 2.—MR. STEIGER'S CAPITAL GAINS PROPOSAL NONACCOMMODATING MONETARY POLICY

	1979	1980	1981	1982	1983
Gross national product: Difference (billions, 1978 dollars)	2.0	11.7	18.0	15.8	11.8
Nonresidential fixed investment: Difference (billions, 1978 dollars)	.4	3.9	9.4	12.0	11.2
Fixed nonresidential investment as a percent of GNP:					
New ratio	9.8	10.2	10.6	10.8	10.8
Difference	0	.1	.3	.4	.4
Potential gross national product: Percent difference	0	0	.1	.2	.4
Personal consumption expenditures: Difference (billions, 1978 dollars)	1.6	7.7	10.8	10.1	9.3
Personal disposable income: Difference (billions, 1978 dollars)	.9	3.7	6.9	7.3	5.8
Unemployment rate (percent of labor force):					
Base rate	6.3	5.0	5.5	5.4	4.9
New rate	6.3	5.7	5.3	5.2	4.9
Difference	0	−.2	−.3	−.2	−.1
Jobs: Difference (thousands)	24.0	180.0	335.0	279.0	117.0
Rate of change in real GNP (percent):					
Base rate	3.9	4.6	3.9	3.5	4.5
New rate	4.0	5.1	4.2	3.4	4.3
Rate of change in implicit price deflator (percent):					
Base rate	5.6	5.7	6.0	5.6	5.6
New rate	5.6	5.8	6.2	5.8	5.7
Nonfinancial corporate gross internal funds: Percent difference	.7	2.2	3.2	3.1	2.6
Federal Government budget position (dollars, in billions, NIA basis):					
Base level	−50.1	−29.4	−20.2	−19.5	−10.5
New level	−50.8	−26.4	−15.6	−16.3	−10.2
Difference	−.7	3.1	4.6	3.2	.3

Source: Data Resources, Inc.

SUMMARY TABLE

Tax proposal	Change in real gross national product, 1978–82 (billions of 1978 dollars)	Change in capital formation—fixed business assets—1978–82 (billions of 1978 dollars)	Change in man-years of employment, 1978–82 (thousands)	Change in Federal tax revenues, 1978–82 (billions of current dollars)
1 Capital gains treated as ordinary income with the maximum marginal rate on income, other than wages and salaries, set at 50 percent current loss treatment retained	−115	−73	−1,529	−25
2 Partial integration via shareholder credit	144	26	2,656	18
3 Combination of tax proposals No 1 and No 2	50	−32	1,414	−11
4 No taxation of capital gains	199	81	3,136	38
5 Tax proposal No 1 with capital losses fully offsettable	−48	−43	−477	−7
6 Dividend deductibility at corporate level	171	49	2,969	−21
7 Deferral of taxation for investment rollover	103	42	1,629	19
8 Sliding scale adjustment	87	38	1,283	28
9 Corporate tax cut from 48 to 46 percent	37	12	597	−7
Pre-1969 tax treatment of capital gains (1979–83)	98	46	1,640	33

SALUTE TO GLENN HAMMOND CURTISS, AVIATION PIONEER

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. LUNDINE. Mr. Speaker, Sunday, May 21, 1978, marked the 100th anniversary of the birth of a world leader in aviation and a driving force behind the development of the aviation industry in our country. The inventor of the "June Bug," the holder of the Aero Club of America aviator's license No. 1, the inventor of the amphibious airplane was born in Hammondsport, N.Y., a village in my district. The achievements of Glenn Hammond Curtiss have placed his name along side the names of the Wright brothers and Samuel P. Langley in the history of aviation development.

Always interested in mechanics and showing an early love of speed, Curtiss took up bicycle racing and opened a bicycle shop in Hammondsport. For 3 years he won every race he entered until he was defeated at the New York State Fair. He turned to even faster motorcycles and established the G. H. Curtiss Manufacturing Co. to make and sell motors, motorcycles, and accessories. In 1902 he won a motorcycle hill-climbing contest in New York City and the national championship race at the Empire State Track. The following year, at Ormond Beach, Fla., he set a motorcycle record that stood for more than 7 years.

Curtiss became interested in aeronautics when a dirigible balloonist, Thomas Scott Baldwin, ordered a motor from his company. The two men constructed the first army dirigible in 1905. Alexander Graham Bell and his wife founded the Aerial Experiment Association in 1907, with Curtiss as director of experiments. The aileron, a mechanism for maintaining the lateral balance of an airplane, was the most noteworthy invention of the Aerial Experiment Association.

The "June Bug" designed by Curtiss, was built at the Aerial Experiment Association headquarters at Hammondsport and made the first public airplane flight in the United States on July 4, 1908. The Scientific American Trophy was awarded to Curtiss for the design of that plane

and the next year he won that trophy a second time when he made a 25-mile flight at Mineola, N.Y. Over the next few years his aviation awards included the Gordon Bennett Cup, the Prix de la Vitesse, the New York "World" prize of $10,000, the Scientific American Trophy for a third time for a 2-hour and 51-minute flight from Albany to New York, the Robert J. Collier Trophy, the Aero Club of America gold medal and the Langley medal from the Smithsonian Institution for his development of the amphibious airplane.

Curtiss was a leader in the development of aviation for military usage also. In 1910 he demonstrated one use of airplanes in war by dropping oranges—in place of bombs—from his plane. A flying school for Army and Navy officers was established by Curtiss in 1911 in San Diego, Calif. Much of the successful development of U.S. airpower can be attributed to the work of Glenn Curtiss. He invented the hydroairplane and the flying boat. In 1914 he built the *America*, the first heavier-than-air flying craft designed for transatlantic flight. In May 1919, one of his flying boats made the first Atlantic crossing by plane. The Curtiss Jenny formed the core of our airborne forces during the First World War.

After World War I Curtiss gained fame and wealth, but he continued his research. His manufacturing company was expanded into the Curtiss Aeroplane & Motor Co. with Curtiss as chairman of the board of directors. As director of a new aircraft laboratory in Garden City, N.Y., he developed the *Wasp*, a world's record holder for speed, climb, and altitude, as well as several other types of aircraft.

However, Curtiss' engineering skills and imagination were not limited to airborne transportation. In 1929 he developed a streamlined trailer for roadway traveling, and before his death in 1930 he was experimenting with a new type of automobile.

As a human being, Glenn Hammond Curtiss was admired for his reserved manner, his courage, and his kindness. As an engineer and inventor, he was praised for his imagination, his prolificness, and his skill. For his contributions to American aviation Glenn Curtiss was awarded the Distinguished Flying Cross posthumously in 1933. Through the efforts of the Curtiss-Wright Co. in Buffalo, N.Y., the Mercury Aircraft Co. in Hammondsport, and the people of the village of Hammondsport, the spirit and achievements of Glenn Hammond Curtiss are remembered. I would ask my colleagues to join me in honoring a great American on the hundredth anniversary of his birth.●

AuCOIN INTRODUCES BILL TO GIVE FISH PROCESSORS RIGHTS UNDER THE 200-MILE LAW

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. AuCOIN. Mr. Speaker, the Fisheries Conservation and Management Act of 1976 (FCMA) clearly is the most important fisheries legislation to pass the U.S. Congress in decades.

Yet as with most new laws, problems have developed in the implementation of this law which were not anticipated when it was enacted 2 years ago.

Today I am introducing legislation with the distinguished chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, ROBERT LEGGETT, which will address one such problem. The problem, simply stated, is that U.S. fish processors have not been recognized under the law as the full and equal partners in the U.S. fishing industry which they, in fact, are.

This has become evident in recent weeks through announcements by the Commerce Department's National Oceanic and Atmospheric Administration (NOAA) that U.S. processors would not be granted the same rights to fish taken within the 200-mile zone as are U.S. fishermen. Instead, arrangements whereby foreign processing vessels buy fish directly from U.S. fishermen—thereby circumventing U.S. processing altogether—would be allowed to go forward unchecked.

The bill I am introducing today would bring the U.S. fish processing industry under the wing of the FCMA by granting them rights to fish taken within the fisheries conservation zone similar to those preferential rights currently enjoyed by U.S. fishermen.

By introducing this legislation, I simply am continuing an effort I initiated in August of 1976 when alerted to these "joint ventures" and the potential which they held for circumventing the intent of the new law. In January of 1977, I introduced a bill aimed at one part of the problem—that legal loophole which allows foreign investors to build or buy U.S.-flag fishing boats and fish at will within our 200-mile zone. The bill I am introducing today is a logical extension of that legislation.

Mr. Speaker, the Fisheries Conservation and Management Act is first and foremost a conservation measure. But it also is a measure designed to aid the ailing U. S. fishing industry—an industry which has seen its position dip from the second largest in the world to the fifth largest in the world in less than 20 years.

This goal was spelled out clearly by Congress when it said that U.S. fish resources should be managed under the new law in a way to "assure that our citizens would benefit from the employment, food supply, and revenues which could be generated thereby."

The ink was barely dry on the paper before foreign processors were discussing direct purchase arrangements with U.S. fishermen. Today, two foreign processing vessels have applied to the U.S. Commerce Department for permits to begin operations this season. The target of their operations in both cases will be species little used by Americans in the past but of intense interest among Americans in the wake of the new law.

On February 8 the Department issued a proposed interim policy which said, in effect, that these permits would be granted only if it was established that the U.S. processing industry did not have the capacity to process fish taken by U.S. fishermen. Then in a stunning reversal NOAA testified 3 weeks ago that its lawyers had concluded that the Department had no statutory authority to deny these permits.

That statement came as a direct slap in the face to our domestic processors who believe that they constitute an important part of the U.S. fishing industry and were intended to benefit from the 200-mile law just as were U.S. fishermen. In Oregon, processors have laid ambitious plans to develop underutilized species found off our shores. In Coos Bay, which is located on the southern coast, a comprehensive feasibility plan has been prepared for developing a hake processing capability, and similar studies are underway in Astoria. Recently, the Oregon Department of Economic Development has been awarded a $100,000 grant from the Pacific Northwest Regional Commission to undertake pilot projects to develop faster and more economical ways of processing this heretofore underutilized species.

If permits now pending with NOAA are approved without qualification these projects and others like them are in serious jeopardy.

Mr. Speaker, I am not among those who would totally and irrevocably ban joint ventures between U.S. fishermen and foreign processors. Under the right circumstances these enterprises can offer U.S. fishermen a lucrative market which they simply would not otherwise have. At the same time, I believe that U.S. processors should be allowed—indeed encouraged—to develop a capacity for this resource as well.

The bill I am introducing today meets both objectives. It will make clear to U.S. processors that they—like their colleagues in the harvesting sector of the industry—will have first rights to process all the fish they have the capacity and desire to process. Those fish which are declared surplus to their needs may—like fish declared surplus to the needs of U.S. fishermen—be allocated to the foreigners.

Mr. Speaker, by adopting a "first rights" approach we simply are expanding a concept already accepted and operating in the FCMA. We are not introducing any radical new concept which will inject a confusing new element into the administration of the law. In fact, an explicit objective of mine in this legislation is to make it simple, understandable, and fully consistent with policies and procedures already well established under the FCMA. We will clarify for NOAA the authority it was always intended to have under the Act creating the 200-mile coastal fishing zone.

Mr. Speaker, whether we move in a bold and timely fashion on this issue could well determine whether the full potential of the 200-mile law is realized or is lost. The U.S. processing industry stands ready to contribute its part to this goal—as do U.S. fishermen—and I believe we ought to give it a chance. The legislation I have introduced today will do that. I urge my colleagues in the House to support it.

I ask unanimous consent that the bill be printed in the RECORD at this time.

H.R. —

A bill to amend the Fishery Conservation and Management Act of 1976 in order to regulate the acquisition by foreign fishing vessels, for processing at sea, of fish harvested by United States fishing vessels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (a)(7) and (b)(6) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(a)(7) and (b)(6)) are each amended by inserting "and United States fish processors" immediately after "United States fishermen".

SEC. 2. Section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802) is amended as follows:

(1) Paragraph (10) is amended—

(A) by striking out "or" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (E);

(C) by striking out "(C)" in subparagraph (E) (as so redesignated) and inserting in lieu thereof "(D)"; and

(D) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) the processing at sea of fish, for human consumption or commercial use, by any method, including, but not limited to, freezing, cooking, canning, smoking, salting, or drying; or".

(2) Paragraph (11)(B) is amended to read as follows:

"(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, fueling or other supply, repair, storage, refrigeration, or transportation.".

(3) Paragraph (25) is redesignated as paragraph (27).

(4) The following new paragraphs are inserted immediately after paragraph (24):

"(25) The term 'United States fish processors' means facilities located within the United States for, and vessels of the United States used, or equipped, for, the processing of fish for human consumption or commercial use.

"(26) The term 'United States harvested fish' means fish caught, taken, or harvested within the fishery conservation zone by vessels of the United States."

SEC. 3. Title II of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821–1825) is amended as follows:

(1) Section 201(d) is amended by adding at the end thereof the following new section: "The portion, if any, of the optimum yield of any fishery which consists of United States harvester fish and is approved, under section 204(b)(6)(B), for transfer from vessels of the United States to foreign fishing vessels for processing at sea shall be disregarded in determining the total allowable level of foreign fishing with respect to such fishery."

(2) Section 201(e) is amended—

(A) by striking out "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting immediately after paragraph (3) the following new paragraph:

"(4) whether such nations impose tariffs or nontariff international trade barriers on the importation of fish and fish products which are more restrictive than the tariffs or nontariff international trade barriers, if any, which are imposed by the United States on the importation of fish and fish products.".

(3) Section 201(g)(2) is amended by inserting immediately before the semicolon the following: ", including, in any appropriate case, a permit authorizing the acquisition by such vessel of United States harvested fish for processing at sea from vessels of the United States".

(4) Section 204(b) is amended—

(A) by amending paragraph (3)—

(i) by amending subparagraph (D) to read as follows:

"(D) the estimated amount or tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;",

(ii) by redesignating subparagraph (E) as subparagraph (F), and

(iii) by inserting immediately after subparagraph (D) the following new subparagraphs:

"(E) the amount or tonnage of United States harvested fish, if any, from each fishery which each such vessel proposes to acquire for processing at sea from vessels of the United States; and";

(B) by amending paragraph (6)—

(i) by inserting "(A)" before "After" in the first sentence thereof,

(ii) by inserting ", subject to subparagraph (B)," immediately after "may approve" in the second sentence thereof, and

(iii) by adding at the end thereof the following new subparagraphs:

"(B) In the case of any application which specifies that one or more foreign fishing vessels propose to acquire, for processing at sea, United States harvested fish from vessels of the United States, and after taking into account information developed in accordance with section 303(a)(4)(C), the Secretary—

"(i) may not approve the application if the Secretary determines that United States fish processors have the capacity, and will utilize that capacity, to process United States harvested fish from the fishery concerned; or

"(ii) may approve the application if the Secretary determines that United States fish processors do not have the capacity, or will not utilize their capacity, to process all or a part of the United States harvested fish from such fishery.

"(C) In deciding whether or not to approve any application under subparagraph (B)(ii), the Secretary shall consider the factors set forth in section 201(e)(1) through (5) and whether or not a contract or other arrangement exists relating to the acquisition (if approved under this subparagraph) by fishing vessels of the foreign nation concerned from vessels of the United States of United States harvested fish for processing at sea."; and

(C) by amending paragraph (7) by redesignating subparagraph (D) as subparagraph (F), and inserting immediately after subparagraph (C) the following new subparagraphs:

"(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B)(ii), the restriction that the foreign fishing vessel may not acquire United States harvested fish for processing at sea from vessels of the United States;

"(E) If the permit is issued pursuant to an application approved under paragraph (6)(B)(ii)—

"(i) the maximum amount or tonnage of the United States harvested fish which may be acquired for processing at sea from vessels of the United States; and

"(ii) the restriction that any transfer of United States harvested fish to the foreign fishing vessel incident to any such acquisition must occur within the fishery conservation zone.".

Sec. 4. Title III of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1851–1857) is amended as follows:

(1) Section 303(a)(4) is amended—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) the capacity of United States fish processors to process, and the extent to which such processors will utilize such capacity to process, for human consumption or commercial use, the portion of such optimum yield which consists of United States harvested fish; and".

(2) Section 307 is amended—

(A) by striking out "and" at the end of paragraph (1)(H);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) for any vessel of the United States, and for the operator or owner of any vessel of the United States, to transfer directly or indirectly, or attempt to so transfer, any United States harvested fish—

"(A) to any foreign fishing vessel if such foreign fishing vessel is not within the fishery conservation zone at the time of such transfer or attempt; and

"(B) for processing at sea to any foreign fishing vessel within the fishery conservation zone unless the foreign fishing vessel has been issued a permit under section 204 which authorizes the acquisition by such vessel, for such purpose, of United States harvested fish of the species concerned.".

SEC. 5. (a) Except as provided in subsection (b), the amendments made by this Act shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 for foreign fishing after December 31, 1978.

(b) The amendment made by section 3(3) of this Act (relating to foreign fishing permits issued under a preliminary fishing management plan prepared under section 201(g)) shall apply with respect to applications for such permits filed with the Secretary of Commerce—

(1) before the date of the enactment of this Act if final action on any such application is not taken by the Secretary on or before such date of enactment; or

(2) on or after such date of enactment.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 would amend the "Findings" and "Purposes" provisions of the Act to make it clear that it is the intent of Congress to encourage the development of the fisheries of the United States which are underutilized or not utilized not only by United States fishermen but also by United States fish processors.

SECTION 2

Section 2(1) would extend the definition of the term "fishing" to include the processing at sea of fish for human consumption or commercial use.

Section 2(2) would exclude from the definition of the term "fishing vessel" any vessel used for processing since the term "fishing" has been redefined so as to cover processing.

Section 2(3) would make a technical change by renumbering paragraph (25) of the Act as pararaph (27).

Section 2(4) would add a new term to the Act "United States fish processors" and define it to mean facilities located within the United States used for, as well as vessels of the United States equipped or used for, the processing of fish for human consumption or commercial use.

Also, section 2(4) would add another new term to the Act "United States harvested fish" to mean fish caught, taken, or harvested within the fishery conservation zone (FCZ) by vessels of the United States.

SECTION 3

Section 3(1) would amend section 201(d) of the Act to make it clear that any fish

caught by United States harvesters and approved for transfer to foreign fishing vessels for processing at sea would be considered to be a portion of the catch to be harvested by United States vessels and not a part of the total allowable level of foreign fishing for that particular fishery.

Section (32) would amend section 201(e) of the Act to require the Secretary of State, in cooperation with the Secretary, when determining the allocation among foreign nations of the total allowable level of foreign fishing, to consider—in addition to the other requirements of the Act relating to traditional fishing and cooperation in research and enforcement—whether such nation concerned imposes tariffs or nontariff international trade barriers on the importation of fish or fish products which are more restrictive than such barriers, if any, that are imposed by the United States on the importation of fish or fish products.

Section 3(3) would amend section 201(g)(2) of the Act to require the Secretary, when preparing a preliminary fishery management plan for any particular fishery, to require a foreign nation submitting an application for a permit to take fish in a particular fishery to require such nation to obtain a permit also for any vessel to be authorized to acquire fish harvested by U.S. vessels for processing at sea.

Section 3(4) would amend section 204(b)(3) of the Act to require a foreign nation, when applying for permits for its fishing vessels, to include in the application, among other things required by this section, the amount of tonnage of United States harvested fish, if any, from each fishery which its vessels propose to acquire for processing at sea from vessels of the United States.

Also, section 3(4) would amend section 204(b)(6) of the Act to set forth a number of things for the Secretary to consider when she has under consideration an application that involves the processing at sea of United States harvested fish from vessels of the United States. The Secretary would not be authorized to approve such an application if she determines that United States fish processors have the capacity, and will utilize that capacity, to process United States harvested fish from the fishery concerned. However, she would be authorized to approve the application if she determines that United States fish processors do not have the capacity, or will not utilize their capacity, to process all or a part of the harvested fish from such fishery. In deciding whether or not United States fish processors have such capacity, the Secretary would be required to consider, among other things, whether or not a contract or other arrangement exists that would involve processing vessels of the nation concerned and the acquisition of United States harvested fish from vessels of the United States for processing at sea.

In addition, section 3(4) would amend section 204(b)(7) of the Act to require the Secretary to include in all permits issued pursuant to an application, the restriction that no foreign vessel may acquire United States harvested fish for processing at sea from vessels of the United States unless specifically authorized. If a request for such acquisition of United States harvested fish is included in the application and if the Secretary approves of such acquisition, then she would be required to include in the permit the maximum amount of tonnage of United States harvested fish that may be acquired for processing at sea from vessels of the United States and the restriction that any transfer of such fish could only take place in the FCZ.

SECTION 4

Section 4(1) would amend section 303(a)(4) of the Act to require any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, to include in such plan an assessment of the capacity of United States fish processors to process, and the extent to which such processors will utilize such capacity to process for human consumption or commercial use, the portion of the optimum yield of such fishery which would consist of United States harvested fish.

Section 4(2) would amend section 307 of the Act to make it unlawful for the owner or operator of any vessel of the United States to transfer any United States harvested fish to any foreign fishing vessel unless such foreign vessel is within the FCZ. Also, if the transfer takes place within the FCZ and it involves United States harvested fish for processing at sea, it would be unlawful to make such a transfer unless the foreign fishing vessel has been issued a permit which authorizes the acquisition by such foreign vessel of the species concerned for such purposes.

SECTION 5

Section 5 would make the amendments to the Act apply with respect to permits issued for foreign fishing after December 31, 1978, except for applications pending or to be filed under a preliminary management plan which involve the processing of United States harvested fish at sea by foreign fishing vessels, in which case, the amendments would apply on or after that date of enactment of this Act.●

REDLINING BY THE INSURANCE INDUSTRY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. LAFALCE. Mr. Speaker, over three decades have passed since Congress passed the McCarran-Ferguson Act, effectively exempting the insurance industry from Federal antitrust regulation and putting this enormous element of our economy also exclusively in the hands of 50 separate State regulatory schemes.

Those 50 schemes vary widely, and the overall result is chaos and inefficiency. And an important factor in the American economy does not have to adhere to the same standards as do most other major financial institutions.

I think, Mr. Speaker, that Congress should review this situation and give serious consideration to providing consistent national guidelines for the insurance industry. Every American, in one way or another, is affected by what insurance companies do. Sometimes these effects are beneficial; other times they are detrimental. But regardless of the impact, American citizens ought to be able to look to their national Government for protection against abuses from these huge economic powers.

A recent article in the Washington Post outlines allegations of "redlining" against insurance companies in Ohio in the field of homeownership coverage. Whether or not these allegations are true, the article is indicative of the need for greater congressional investigation and oversight of this industry. I would urge you and all of our colleagues to join me in calling for a detailed review of this industry.

The article from the Washington Post follows:

SUIT CHARGES RACIAL PREJUDICE IN CANCELING HOMEOWNER POLICY

DAYTON, OHIO.—In one of the first actions of its kind, a West Dayton couple have filed a $4.2 million law suit in U.S. District Court charging five Ohio and Indiana insurance companies and a local agent with racial discrimination.

Austin and Mary Dunn said their homeowners' insurance was terminated solely because they are black and live in a black neighborhood.

The case is one of 11 with alleged questionable practices referred to the Justice Department here last month by the Montgomery County (Ohio) Fair Housing Center.

In their suit filed last week, the Dunns charge that the loss of their homeowners' coverage, "was directly related to the location of their residence in a predominantly black neighborhood, the fact that they are black, and to the racial composition of the portfolio of homeowners insurance business handled by Borchers for Midwestern."

Named as defendants were the Midwestern Indemnity Co., and its subsidiary, Mid-American Fire and Casualty Co. of Milford, Ohio; the American State Insurance Companies of Indianapolis; the Commercial Union Assurance Co. of Cincinnati; the Hartford Insurance Co. of Cincinnati; the Borchers Insurance Co. of Dayton and the Borden Greathouse, agent for Borchers.

None of the defendants could be reached for comment.

The law suit comes two weeks after the release of a report by the housing center, a consumer group funded by the county, documenting 40 complaints by Dayton homeowners of insurance cancellations despite years of regular premium payments and few claims.

Most complaints were from black residents living in poor areas, said Ashley C. Brown, a center official and attorney for the Dunns.

"I think redlining by insurance agencies in Dayton is widespread," he said.

Brown contends that the alleged refusal to insure homeowners is a form of "redlining" that violates the federal Fair Housing Act.

The Dunns said that although they had filed only one claim under their homeowners' policy, which they held for 22 years, their $30,000 policy was cancelled in December after Midwestern decided they would no longer provide coverage through Borchers, an independent agency.

The Dunns filed their single claim several years ago and it was for less than $100, Brown said.

The suit follows the release of a recent U.S. Department of Housing and Urban Development study that revealed that only a fraction of the nation's blacks receive equal treatment when looking for housing.●

WORLD TRADE WEEK

HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 22, 1978

● Mr. BLOUIN. Mr. Speaker, as we are all aware, President Carter has proclaimed the week of May 21 through 27, 1978, as World Trade Week. In my opinion, this is a significant gesture given that there is a growing concensus that this country needs to assume a more aggressive posture vis-a-vis exports. Unfortunately, to date, I feel that the policies of past administrations has not placed great enough emphasis on this portion of our economic policy, the result being that the American people are

generally unaware that our present and continuing trade deficits are contributing to the inflation we are presently experiencing at home.

In a recent letter to the Members of Congress, Secretary of Commerce Juanita Kreps states that:

> Last year's record trade deficit of $26.7 billion is likely to be repeated this year, with negative consequences for the value of the dollar abroad and the rate of inflation at home.

This is a very revealing statement in that the American public needs to be aware of the fact that a negative trade posture not only causes a weak American dollar on foreign money markets but, subsequently, result in inflation at home.

Obviously, until this country finds a solution to our dependence on foreign oil, and hopefully we will pass the National Energy Act in the near future, our negative trade balance will be of a protracted nature. Until that time, however, I feel that it would be foolish to sit around and not encourage the private sector to aggressively seek foreign markets for their products. Moreover, I feel that it would be unwise at this time to eliminate export incentives such as the Domestic International Sales Corp. (DISC) which allows American firms not only to enter and compete in foreign markets, but which also produces jobs for American workers at home.

As Americans, we should realize that we did not become the foremost economic power of the world by waiting around for other countries to forfeit their claim to the title. We achieved this position in the world community simply because we got out, competed, and won this position in our own right. Today, as then, we should not fool ourselves by thinking that we have cornered the market ad infinitum. To subscribe to this bankrupt notion will only guarantee that the United States's status as an economic power will fade.

Mr. Speaker, I hope that World Trade Week will serve to inform the public, as well as their elected representatives, that this country's economic viability now and in the future will depend on how aggressively we develop our export markets and the encouragement we give the private sector in accomplishing this goal.●

CONVICTION OF YURI ORLOV

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 19, 1978

● Mr. WAXMAN. Mr. Speaker, on May 17, the Soviet Government convicted Yuri Orlov for the "crime" of monitoring Soviet compliance with the Helsinki accords. He has been sentenced to 7 years in prison and 5 more in exile in Siberia. There was never any doubt as to the trial's outcome.

The proceedings were a judicial outrage. He was denied the right to testify in his defense, cross-examine witnesses, or examine documents introduced as evidence against him. The courtroom was packed with secret police, who jeered his every attempt to speak. Friends, journalists, and American diplomats were barred from entering the courtroom to observe the proceedings. His wife, Irina, was stripped in a humiliating "search" on leaving the courtroom for any notes she may have made during the trial. Crowds of thugs, shouting filthy epithets, gathered outside the courtroom to taunt Orlov's associates and Western journalists.

Such is Soviet "justice."

We fear the Orlov trial is only the beginning of a ruthless compaign by the Soviet Government to utterly crush the last vestiges of organized dissent to its repressive human rights policies. In the near future, Aleksandr Ginzburg, who managed a fund to support families of political prisoners, and Anatoly Shcharansky, who simply wants to leave the Soviet Union, will also be placed on trial.

The ability of the Soviet Government to perpetrate such crimes against its citizens depends in part on what extent the world will acquiesce, through its silence and indifference, to these things. We must not.

The only available record of the Orlov trial—which only hints at the extent of the nightmare occurring in Moscow—is from press accounts of these events. I am inserting in the RECORD articles on the trial from the New York Times and the Washington Post:

[From the New York Times, May 16, 1978]

SOVIET BARS DEFENSE WITNESSES AS WELL AS U.S. GOVERNMENT OBSERVER AT DISSIDENT TRIAL

(By David K. Shipler)

MOSCOW, MAY 15.—A Soviet judge refused today to allow Yuri F. Orlov, a dissident, to call any witnesses for the defense in his trial, which opened in a small courthouse sealed by the police.

Mr. Orlov, a 53-year-old physicist, faces a maximum of seven years in prison followed by five years of exile, or enforced residence in a remote area, for "anti-Soviet agitation" in having organized a group to publicize Soviet Government violations of human rights pledges under the 1975 Helsinki accord.

Aside from a hand-picked audience, no one was allowed to enter the courtroom, except his wife and two sons. The police kept out an American diplomat, 20 Western reporters and 50 of Mr. Orlov's friends and supporters, including Andrei D. Sakharov, the physicist and rights advocate.

According to Mr. Orlov's family, he contended, in offering a defense of his activities, that he had a right to criticize the Government and, under the freedom-of-information provisions of the Helsinki accord, to circulate such criticism. He did so, he said, not for subversive ends, but out of humanitarian concern.

Two other dissidents, Zviad Gamsakhurdia and Merab Kostava, also went on trial today, in Tbilisi, the capital of Soviet Georgia, for their activities in a local group monitoring rights violations. A fourth dissident, Aleksandr Podrabinek, who heads a group exposing abuses of psychiatry, was arrested here yesterday, friends said.

Until Mr. Orlov's arrest 15 months ago, he was a focal point for a coalition of varied forms of dissident, and those who turned out today in front of the pale green, two-story courthouse in Southeast Moscow reflected a wide range of disaffected segments of society.

The satirical novelist, Vladimir Voinovich, was there. Sergei Polikanov, a physicist and corresponding member of the Academy of Sciences, stood in the raw wind trying to argue his way into the building. The Rev. Gleb Yakunin, a dissident Russian Orthodox priest, was outside, along with Vladimir Slepak, a Jewish dissident who has been barred from emigrating for the last eight years.

There were those who wanted to change the system, those who wanted to leave it, and those who wanted the right to comment on it freely. When Mr. Orlov's small, dark-haired wife, Irnia, arrived, the supporters surrounded her and kissed her and wished her well. She could not help smiling—to keep from crying, she said—and when she emerged during the lunch break she was ecstatic at having seen her husband for the first time since his arrest.

"He looked good", she said. "He's lost weight, but he's cheerful, smiling".

Although Soviet law calls for open trials, the authorities went to some lengths to prevent detailed accounts of the court's proceedings. Mrs. Orlov said she had been told not to take notes, otherwise she would be expelled. Mr. Orlov's sons from a previous marriage, Dmitri, 25, and Aleksandr, 23, tried to smuggle in tape recorders, but they were searched, and the recorders were seized.

Those trying to enter were told by the police that the hall was small and already full. When a reporter told a plainclothesman that even under Stalin, foreigners were allowed into such trials, the officer gestured at the crowd of dissidents and Western journalists, and said, "Under Stalin we didn't have this."

Of the Western signers of the Helsinki accord on East-West cooperation, only the United States tried to send an observer to the trial. Richard E. Combs of the American Embassy said he had arrived shortly after 8 A.M., two hours before the trial and long before anyone but a few policemen. And he was told the courtroom was full.

According to Mr. Orlov's family, the main source of information, he had asked to call 11 witnesses, but the judge, identified by the Soviet press agency Tass as Valentina Lubentsova, declined to allow their appearance. Mr. Orlov said at the beginning that he would not participate in the trial unless he was permitted to speak.

He was allowed to reply to the indictment, parrying the charges one by one. Each was based on a document issued by the dissidents' Helsinki group, though the group was never referred to by the court.

ACCUSED OF HAVING LIED IN REPORTS

Mr. Orlov replied to the charge that he had lied about Soviet psychiatry in a document on its use against political prisoners. He was accused of having lied in a report about a village where Jewish families were trying to get permission to emigrate. The judge said a film had been made showing village residents happy, but when Mr. Orlov asked that the film be shown in court, the judge refused.

When Mr. Orlov was charged with having distorted the situation of Pentecostals who wished to emigrate, he said he had reported their plight, which grew out of religious persecution, for humanitarian reasons, with no politics attached. The same was true, he said, for Ukrainians who wanted to leave for economic reasons.

Verdicts in such political trials are forgone conclusions, as Tass indicated when it reported that the indictment "shows that Orlov engaged in 1973–77 in anti-Soviet agitation and propaganda for the purpose of undermining and weakening Soviet power." The variable is the sentence, which could be light or heavy.

As Mrs. Orlov and other dissidents stood on a sidewalk talking after today's session,

a woman passing by stopped, listened for a moment and started shouting at the group, calling them "traitors."

"We live well in our Soviet land!" she yelled. "Our Soviet land is better than any other!"

[From the New York Times, May 17, 1978]

SOVIET JUDGE CURBS DISSIDENT'S DEFENSE

(By David K. Shipler)

Moscow, May 16.—Fifteen witnesses for the prosecution were called today in the trial of Yuri F. Orlov, a dissident, but he was given only scant opportunity to question them, his wife said, and was refused permission to look at documents referred to in their testimony.

Most of the witnesses had been summoned in an apparent effort to show that reports issued by Mr. Orlov's committee monitoring violations of human rights were false, and the witnesses testified that Soviet society was free and benevolent.

Mr. Orlov is accused of "anti-Soviet agitation and propaganda," and under Soviet law, conviction on such a charge requires showing that statements made did not correspond to reality. Conviction on the charge could bring imprisonment up to seven years followed by five years of exile, or enforced residence, in a designated place.

Today, as on the opening day of the trial yesterday, an American diplomat, Richard E. Combs, was barred from entering the courthouse, and no foreign reporters were admitted. Friends and supporters of Mr. Orlov, a 53-year-old physicist, were also excluded. About 25 of them waited through the day on the street.

His wife, Irina, and two sons by a previous marriage, Dmitri and Aleksandr, were allowed to attend, and when they emerged late this afternoon, policemen refused to let them stand and talk to the waiting group of reporters and dissidents.

Under repeated orders to move on, the small crowd developed into a walking news conference that moved slowly away from the quiet side street near the courthouse, toward a busier intersection, ending up in a parking lot near a small department store, where it attracted the attention of shoppers and passers-by.

ANTI-JEWISH REMARKS ARE HEARD

Just as the gathering was about to break up, a police captain seized the microphone of a tape recorder belonging to Douglas Stanglin of United Press International. There were protests, and as dissidents helped Mr. Stanglin wrench the microphone away, one of them was seized by the police, and a second captain seized and pushed David Satter, an American who works for The Financial Times of London.

Other dissidents were also pushed, and several people in the crowd that gathered shouted insults. One woman shouted at a dissident, "You have a kike's snout!"

Earlier in the day, two British reporters —Richard Beeston of The Daily Telegraph and Oliver Waites of Reuters—were threatened in the area by four men in their late twenties.

"Zionists, zionists," they shouted. And one yelled, "Jews, we'll shoot you." Then they made the sounds and gestures of machine-gunners.

Mrs. Orlov, who was again the main source of information on the courtroom proceedings, said her husband was being hindered in his defense. When a witness referred to a document he had supposedly written and Mr. Orlov would ask to see it, the judge would deny him permission. When he sought to question a witness, the prosecutor would object and the judge would rule the question irrelevant.

The hand-picked crowd in the courtroom, about 50 middle-aged men and women brought by bus, laughed frequently at Mr. Orlov.

"It is a show," his wife said. "It is a circus, but it is really not funny.

Among the witnesses were two scientists who denied that the government was violating its pledges under the Helsinki accord on East-West cooperation by barring many scientists from traveling abroad, as Mr. Orlov's committee had reported.

Others included a prison inmate who testified that conditions in Vladimir prison—the subject of one of the group's reports—were fine. Two doctors from the prison told the court that medical care was good, contrary to what Mr. Orlov had written. And two psychiatrists testified that psychiatry was not being abused, as the group had said.

PRISON-CAMP DOCTOR TESTIFIES

A doctor from Labor Camp 345, in the republic of Mordvinia, 200 miles east of Moscow, said conditions were good, contrary to a report by the committee about the poor health of some prisoners. When Mr. Orlov asked the court to hear the testimony of relatives of two inmates said to be ill, the request was denied.

Tass, the Soviet press agency, reported the testimony of a collective farm chairman, Viktor Tarasov, contradicting a committee report about the central Russian village of Ilyinka, where Jewish families were said to have sought emigration.

"The village of Ilyinka," Tass quoted the chairman as having said, "has all amenities. There is a school, a club, a store, a first-aid station and other essential establishments. The inhabitants have their own cars and motorbikes, TV and radio, telephones, refrigerators and other household appliances. Inhabitants of Judaic origin freely practice religious rites in a special building."

Mrs. Orlov said she tried to take notes, but they were confiscated. She was "crudely, forcibly searched" by a policewoman as she left the courthouse, she said.

[From the Washington Post, May 18, 1978]

SOVIET POLICE FORCE MRS. ORLOV TO STRIP

(By Kevin Klose)

Moscow.—Irina Orlov, the wife of dissident physicist Yuri Orlov, was stripped nude except for her bra in front of three security men yesterday before she was permitted to leave the courthouse following the third day of her husband's trial on charges of anti-Soviet activity.

She told reporters later that the incident took place after the prosecution asked the court to sentence Orlov to the maximum penalty of seven years imprisonment followed by five years of internal exile. The verdict and sentence were expected to be announced today.

Mrs. Orlov, 33, was able to give Western correspondents her account of yesterday's court proceedings after a dramatic 45-minute drive through Moscow to reach a correspondent's apartment.

Three carloads of KGB secret police chased the correspondents and the Orlov family through the city, cutting off following vehicles and running red lights to play "bumper tag" in thick traffic with their quarry. The KGB took movies of the correspondent's cars and filmed Mrs. Orlov going inside a building with the correspondents.

Scuffling broke out near the courthouse Tuesday when police agents attempted to brief dissident friends and Western reporters about that day's proceedings. An even larger crowd milled outside the courthouse yesterday and police had again warned against any sidewalk press.

Once inside the apartment, Mrs. Oslov told how she had been stopped on her way out of the courthouse and taken to a special room to be searched. "They peeled off my clothes, even my stockings and the men didn't turn away," she said. She said she was left only in her bra.

The KGB had confiscated a tape recorder from each of Orlov's two sons in a search following Monday's proceedings. Mrs. Orlov and the 53-year-old physicist's two sons from his first marriage are the only spectators permitted in the courtroom which is packed by officially selected "representatives of the public."

Orlov family members said the handpicked "crowd" yesterday repeatedly interrupted Orlov as he sought to deliver his summation speech. They cried "traitor" and "spy." The judge also interrupted the summation "every three minutes" and cut Orlov off after 30 minutes. Orlov was again refused permission to call any defense witnesses.

Orlov, who founded a group to monitor Soviet compliance with the provisions of the 1975 Helsinki agreement on European security and cooperation, is charged with spreading anti-Soviet propaganda and slandering the state.

The monitoring group had issued a number of reports on violation of human rights which the Soviets have pledged to observe under the Helsinki accord.

[From the New York Times, May 19, 1978]

DISSIDENT IN MOSCOW GETS A 7-YEAR TERM

(By David K. Shipler)

Moscow, May 18.—Yuri F. Orlov, a physicist who organized a dissident group to expose Soviet violations of human rights, was sentenced today to seven years in prison followed by five years of exile, or enforced residence, for the crime of "anti-Soviet agitation."

The severity of the punishment came in defiance of appeals in the West, especially in the United States, for more humane treatment of dissidents. It was evidently meant as a warning to other dissidents that publicity and Western support offered no protection.

A key element of the charge was Mr. Orlov's conveyance of reports on rights violations to foreign correspondents and to Western governments that signed the Helsinki accord on East-West cooperation in 1975. At least 22 members of various self-styled watchdog committees have been arrested thus far in the Soviet Union.

The four-day trial of Mr. Orlov, which was closed to the public, was held in the courthouse of Moscow's southeastern Lyublino Borough, a small, out-of-the-way building near a railroad yard. Only his wife, Irina, and his two sons, Dmitri and Aleksandr, were admitted, along with 50 hand-picked spectators who, Mrs. Orlov said, applauded when the sentence was read, shouting, "He should have been given more."

Mr. Orlov, who is 53 years old, was not allowed to call defense witnesses and was denied full opportunity to cross-examine 15 prosecution witnesses who had been brought in to portray the Soviet Union as a land of democracy, decency and freedom, contrary to the picture painted in the statements of his watchdog group.

Despite the handicaps, which included interruptions by the judge and prosecutor, his family felt he had won the case by any objective criteria. When he was brought into court today, Dmitri shouted, "Father, you are the real winner in the trial."

TENSION INSIDE AND OUTSIDE COURTROOM

Throughout the proceedings, Mrs. Orlov said she had refused to stand when the judge, Valentina Lubentsova, entered the courtroom, and today both she and Dmitri refused to stand before the sentence was read. The other son, Aleksandr, was absent, preparing for a defense of his academic dissertation tomorrow.

Three times the judge asked Mrs. Orlov to stand, she said, and she replied, "I do not respect your Soviet court." Two men then

seized Dmitri, 25, and forced him to his feet and out of the room. Mrs. Orlov said she had also been held up forcibly before the sentencing.

There was also tension outside the courthouse. Seven dissidents were arrested, five in a scuffle with the police in which Andrei D. Sakharov, the physicist and rights advocate, attempted to argue his way into the building. He and his wife were among those taken into custody after having struck policemen. They were later freed.

Two others were given 15 days in jail, dissidents reported, and Yelena Armand, who was identified as the granddaughter of Inessa Armand, Lenin's mistress, was fined. An eighth dissident, Iosif Begun, who recently returned from exile in Siberia, was arrested last night and charged with violating residence regulations by being in Moscow without permission, his wife said.

As correspondents drove Mrs. Orlov back to the city center for a news conference, several cars with agents of the K.G.B., the security police, some of them with videotape and still cameras, followed close behind and, at one point, tried to force a reporter's car off the road.

Mrs. Orlov, who is 33, seemed drained and exhausted. With foreign reporters, friends and an American diplomat barred from the courtroom, she had become the main source of information on the proceedings, and the police had subjected her to harassment and humiliation.

She was ordered not to take notes during the trial, and paper was taken away from her. Tape recorders smuggled into the courtroom by Mr. Orlov's two sons were seized. And yesterday she said she had been stripped by policewomen in front of three men until she was wearing only her brassiere, and was searched as she left the courthouse. Today, as she walked away from the building, someone put some tulips and daffodils in her arms.

There are likely to be internal ramifications of the trial of Mr. Orlov, who was known as a zealous organizer who brought together disparate strands of dissent into a movement of growing cohesiveness. Ever since his arrest 15 months ago, Soviet dissent has reverted to a shadow of what Mr. Orlov had begun to assemble.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday May 23, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 24

8:00 a.m.
Appropriations
District of Columbia Subcommittee
To continue hearings on budget estimates for FY 79 for the District of Columbia Government.
1114 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue hearings on S. 2626, the Consumer and Agriculture Protection Act.
322 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 747, S. 3064, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2892, proposed New York City Loan Guarantee Act.
5302 Dirksen Building

Energy and Natural Resources
To continue hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 477, S. 478, S. 1256, and S. 1257, bills concerning diplomatic immunity.
4221 Dirksen Building

Governmental Affairs
To resume consideration of S. 2640, proposed reform of the Civil Service laws.
3302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 3115, proposed legislation relative to the prevention of disease.
4232 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume consideration of proposed legislation dealing with public participation in Federal agency proceedings.
155 Russell Building

10:30 a.m.
Appropriations
Labor, Health, Education, and Welfare Subcommittee
To mark up proposed FY 1979 appropriations for the Departments of Labor and HEW.
S-207, Capitol

*Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2900, the proposed Oil Spill Liability Fund and Compensation Act.
4200 Dirksen Building

1:30 p.m.
Conferees
On H.R. 7843, to provide for the appointment of additional Federal circuit and district judges.
S-126 Capitol

2:00 p.m.
Appropriations
Labor, Health, Education, and Welfare Subcommittee
To continue mark up of proposed FY 1979 appropriations for the Departments of Labor and HEW.
S-207, Capitol

2:30 p.m.
Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To resume hearings on the proposed export of enriched nuclear fuel to India for Tarapur reactors.
4221 Dirksen Building

MAY 25

9:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on vegetable imports from Mexico.
322 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building

Environment and Public Works
To hold hearings on S. 2995, proposed Union Station Improvement Act.
4200 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings on the U.S. Fish and Wildlife Service.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
5110 Dirksen Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To mark up proposed FY 1979 appropriations for the Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on the condition of the banking system.
5302 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To resume hearings on S. 3046 and S. 707, the proposed Coal Pipeline Act.
3110 Dirksen Building

Foreign Relations
To hold hearings on the Treaty between the U.S. and Bolivia on the Execution of Penal Sentences (Exec. G, 95th Cong., 2nd sess.).
4221 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To continue hearings on S. 3115, proposed legislation relative to the prevention of disease.
4232 Dirksen Building

Judiciary
To hold an open business meeting.
2300 Dirksen Building

Select Intelligence
Budget Subcommittee
To meet in closed session to receive testimony on proposed FY 78 supplemental authorizations.
S-407, Capitol

2:00 p.m.
Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
Until 5:00 p.m. EF-100, Capitol.

3:00 p.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2716, the Interstate Land Sales Full Disclosure Act Amendments.
5302 Dirksen Building

MAY 26

10:00 a.m.
Banking, Housing and Urban Affairs
To continue hearings on S. 2716, the Interstate Land Sales Full Disclosure Act Amendments.
5302 Dirksen Building

11:00 a.m.
Foreign Relations
To meet in closed session to receive a briefing by Secretary of State Vance on the status of SALT discussions.
S-116, Capitol

JUNE 5

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by holding companies and other banks.
5302 Dirksen Building

JUNE 6

9:30 a.m.
Environment and Public Works
To mark up S. 1493, to provide financial and technical assistance to States, local governments, and Indian tribes to manage impacts caused by energy development.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 72, to restrict the activities in which registered bank holding companies may engage, and to control the acquisition of banks by holding companies and other banks.
5302 Dirksen Building

JUNE 7

9:30 a.m.
Environment and Public Works
To hold hearings on a proposed Nashville, Tenn., public building prospectus.
1318 Dirksen Building
Judiciary
Juvenile Delinquency Subcommittee
To hold hearings jointly with the Human Resources Subcommittee on Alcoholism and Drug Abuse on S. 2778, and other proposals, to tighten controls on and increase penalties for the manufacture and distribution of the drug PCP (angel dust).
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 22, to remove statutory and regulatory restrictions on broadcasters operation under the Communications Act of 1934.
235 Russell Building
Environment and Public Works
Environmental Pollution Subcommittee
To mark up S. 2900, proposed Oil Spill Liability Fund and Compensation Act.
4200 Dirksen Building
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on the Government in the Sunshine Act (P.L. 94-409).
3302 Dirksen Building

JUNE 8

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up S. 50, the Full Employment and Balanced Growth Act.
5302 Dirksen Building
Environment and Public Works
Environmental Pollution Subcommittee
To continue markup of S. 2900, proposed Oil Spill Liability Fund and Compensation Act.
4200 Dirksen Building
Rules and Administration
To resume hearings on S. 2 and 1244, to require periodic reauthorization of Government programs.
301 Russell Building

JUNE 9

10:00 a.m.
Environment and Public Works
To continue markup of S. 2900, proposed Oil Spill Liability Fund and Compensation Act.
4200 Dirksen Building

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building
Human Resources
To hold hearings on S. 2910, proposed Adolescent Health, Services, and Pregnancy Prevention and Care Act.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 864, to reduce the radio frequency interference with home entertainment products.
155 Russell Building
Rules and Administration
To mark up S. 2 and 1244, to require periodic reauthorization of Government programs.
301 Russell Building

JUNE 15

10:00 a.m.
•Government, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 2981, to provide for the expansion of the category of rail lines eligible for rehabilitation, deferred maintenance, and various alternative facilities.
1202 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To mark up S. 2755, the Drug Regulation Reform Act.
4232 Dirksen Building

JUNE 16

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 747, H.R. 8729, and H.R. 11986, proposed Aircraft and Airport Noise Reduction Act.
235 Russell Building
Veterans' Affairs
Housing, Insurance, and Cemeteries Subcommittee
To hold hearings on S. 1643 and H.R. 4341, to eliminate the requirement for inspections of the mobile home manufacturing process by the VA, and S. 1556, authorizing funds through FY 81 to assist States in establishing and maintaining VA cemeteries.
Room to be announced

JUNE 19

10:00 a.m.
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold oversight hearings on the impact of solar energy on rural housing.
5302 Dirksen Building

JUNE 20

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on the environmental impact aspects (section 5) of S. 3077, proposed Export-Import Bank Act Amendments. (Pending on Senate Calendar).
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue oversight hearings on the impact of solar energy on rural housing.
5302 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 2755, the Drug Regulation Reform Act.
4232 Dirksen Building

JUNE 21

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on H.R. 10899, the International Banking Act.
5302 Dirksen Building
Environment and Public Works
Resource Protection Subcommittee
To hold oversight hearings on the Resource Recovery and Conservation Act (PL. 94-580).
4200 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To continue mark up of S. 2755, the Drug Regulation Reform Act.
4232 Dirksen Building

JUNE 22

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on H.R. 10899, the International Banking Act.
5302 Dirksen Building
Environment and Public Works
Resource Protection Subcommittee
To continue oversight hearings on the Resource Recovery and Conservation Act (P.L. 94-580).
4200 Dirksen Building

JUNE 23

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2857, proposed Customs Courts Act.
4232 Dirksen Building

JUNE 27

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 2857, proposed Customs Courts Act.
4232 Dirksen Building

CANCELLATIONS

JUNE 26

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 2873 proposed Ocean Shipping Act.
235 Russell Building

SENATE—*Tuesday, May 23, 1978*

(Legislative day of Wednesday, May 23, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Before the mountains were brought forth, or ever Thou hadst formed the Earth and the world, even from everlasting to everlasting, Thou art God.—Psalms 90:2.

Let us pray.

Grant us grace, O Lord, to put our trust in Thee. We pray for faith to see beyond the drab duties and monotonous hours of these days to the splendor of a new world when love is the law and Thy spirit rules men's hearts. We pray for faith to believe in the invincibility of goodness and for faith to believe that if we seek first Thy kingdom and righteousness all else will be in order. Rid us of anxiety and paralyzing fear. While we toil with things temporal and finite keep us in harmony with that which is infinite and eternal until at last Thy kingdom comes on Earth as it is in heaven.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 23, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, May 22, 1978, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized for not to exceed 15 minutes.

S. 3127—INTERNATIONAL UNFAIR TRADE LAWS PROCEDURAL REFORM ACT OF 1978

Mr. DANFORTH. Mr. President, with Senators PACKWOOD, HEINZ, and BAKER, today I am introducing the International Unfair Trade Laws Procedural Reform Act of 1978 because I feel very concerned about the international trade problems currently plaguing our country.

An increasing variety and number of industries from every section of the United States are facing the problem of unfair foreign competition. This proposal is designed to make the enforcement of our laws directed against such unfair competition more effective. But, it is designed to do so in a manner which is fair and unbaised. The bill's fundamental assumption is that such unfair practices as dumping and sales of subsidized goods which clearly are proscribed under long existing law, are without timely and effective remedy because present enforcement procedures are inadequate. This bill would continue the process, begun in the Trade Act of 1974, of assuring a swift and certain response to such unfair trade practices by tightening the enforcement procedures in existing law.

Since the beginning in 1977, this country has been faced with a very serious balance of trade deficit. Prior to 1970, we enjoyed a perennial trade surplus. Nearly every year since then has seen a deficit. Moreover, the trend is extremely grave. In 1972, the United States ran a $6.4 billion deficit—a figure considered at the time to be intolerably high, but only a historical aberration. In 1977, our trade deficit was over four times as great, $26.7 billion. In the first 3 months of this year, we accumulated the largest quarterly deficit ever—$9.7 billion. The February deficit alone—$4.5 billion—was higher than all but three annual deficits in this country's history.

Some economists tell us that these figures do not reflect a failure of U.S. trade policy because they result directly from massive U.S. imports of petroleum and rapid U.S. economic recovery vis-a-vis our trading partners—a factor which increases U.S. demand for foreign produced goods while decreasing foreign demand for our goods. These same economists also tell us that, in any case, the depreciation of the dollar soon will correct our trade imbalance by making imports more expensive and exports cheaper. The administration sometimes appears to have embraced this school of thought.

In my opinion, a close analysis of the current situation suggests that this interpretation of recent events is inadequate.

First, it should be noted that our trade deficit increased in the first quarter of 1978 while our oil imports decreased by 14 percent. While it is true that our bill for imported oil last year amounted to $42.4 billion, that is only $15.8 billion more than in 1975, when the United States had a trade surplus of $11 billion. This is not to say that oil imports have no impact on the trade deficit. Of course they do. The sooner we have a meaningful Federal energy policy, the better. But oil imports are only part of the problem.

Second, although our faster pace of recovery has contributed to our deficit, it should be noted that Japan's economic growth in 1977 (which fell far short of the promises made by its leaders) nevertheless remained significantly higher than the U.S. rate. Even so, the Japanese trade surplus with the United States has soared in recent years. In the 12-month period ending in March, Japan accumulated an $8.9 billion trade surplus with the United States. More than $1.1 billion of that occurred in March—some 2 months after a Japan-United States communique promised "a marked diminution" in the trade surplus with the United States.

Third, the precipitous decline of the dollar against the Japanese yen and German mark has been occurring for more than a year, but this devaluation has yet to show results in lessening our trade imbalance. It has contributed to domestic inflation and to great uneasiness and disruption in world financial markets.

My view in that three other significant causes of the trade deficit deserve our attention.

First, this country does not have an effective Federal export policy to deal with the problems of international competitiveness in taxation and regulatory policies. Virtually all of our major trading partners have developed export policies which include close partnerships between government and business to encourage the development of foreign markets.

Certainly there must also be a dramatic shift in attitude by U.S. companies toward the need to develop international markets. Because of the tremendous size of our domestic market, an alarming number of American businesses have been largely indifferent to developing exports. Approximately 1 percent of U.S. companies account for 85 percent of our exports.

Second, foreign government procurement policies, quotas, and proliferation of subtle nontariff barriers should be examined. A key area has been agriculture. Japan, for example, has an elaborate system of quotas and tariffs which make imported beef sell for $30 per pound. The European Economic Community's common agricultural policy not only severely restricts exports to Europe, but also lessens our ability to sell to other markets by providing export subsidies for European agricultural products. These and many other important

free trade issues are being taken up at the multilateral trade negotiations now in progress in Geneva.

Third, we should critically examine the causes for sizable increases of nonoil imports to the United States. The bill I am introducing today would deal with the segment of nonoil imports which are subsidized or "dumped" onto U.S. markets, but would not impede in any way the importation of goods which are truly competitive on the basis of price or quality.

Many U.S. industries have been affected by unfair foreign competition. Our steel industry is an example. Last year, steel plant closings resulted in the layoff of 20,000 steelworkers. In the third quarter of 1977 Bethlehem Steel reported the largest quarterly loss ever suffered by a U.S. firm—$477 million. Steel imports last year reached a record level of 19.4 million tons, accounting for 17.8 percent of the U.S. market.

The situation seems to be getting worse. March steel imports of nearly 2 million tons brought foreign steel shipments to the United States for the first quarter of 1978 to 5.7 million tons—an all time quarterly record. The March total was 74 percent higher than March steel imports last year, and has been exceeded in only 5 other months in the past 10 years. It is not known how much of this market penetration is due to dumping, but year, 22 dumping cases were filed by the steel industry alone.

The U.S. consumer electronics industry has also been hard hit. Last fall color televisions were added to the list of products, including radios and black and white televisions, which are no longer produced in this country in any substantial quantities. Zenith Corp., the only remaining domestic producer of color televisions at the time, announced that it had to move all but a small fraction of its facilities abroad.

In Springfield, Mo., Zenith was forced to close its television assembly plant, resulting in the layoff of 1,000 workers. This was the end result of Zenith's futile efforts over 10 years to pursue every possible statutory remedy against unfair trade practices in the consumer electronics market. And, according to Zenith, dumping continues. Today the least expensive 19-inch color televisions available for sale in Japan are priced at about $650. Similar products imported from Japan are being sold in the United States for about half that amount.

The manmade fiber industry—an integral and highly efficient segment of the textile industry—last year filed nine dumping complaints. Smaller industries such as leather apparel, hand tools, motorcycle, bicycle, and valve industries have also attempted to make use of our unfair trade statutes.

A number of heretofore healthy U.S. industries have begun to express concern about the imminent prospects of unfair international competition in their markets. Such industries include chemicals, semiconductors, and computers.

Unlike the halcyon days of the past, when American industry was preeminent in nearly everything it did, we are no longer invincible. Although U.S. companies remain perfectly able to compete in a relatively free and fair international trading system, they are vulnerable to abuses of the marketplace.

In today's world, the absence of governmental action by the United States increases the likelihood that domestic producers will be victimized by international trade abuse. The sluggish pace of recovery from the world recession of 1974–75 shows little sign of improving.

In addition, the emergence of major industries in some of the lesser developed countries (LDC's) is also bound to affect the delicate balance between the major trading nations. The trend in many developing nations, even more so than among our major trading partners, is toward greater governmental interference in the economy, both domestic and international. There is also a tendency in many cases simply not to abide by international trade rules.

Another trend which we must examine concerns the efforts of some of our trading partners to "rationalize markets" or to implement a system of "organized free trade." These phrases are meant to disguise the development of international cartels aimed at dividing markets—a concept which is a pernicious barrier to free trade.

In light of these developments, it is not surprising that increased demands for new quotas and other trade barriers have arisen to protect American industries.

The legislation I am introducing today, however, rejects a protectionist approach. It embraces, rather than abandons, the goal of free trade. It would help foster free and fair competition by offering effective procedures for dealing with such marketplace distortions as discriminatory pricing, unfair subsidization by foreign governments, and anticompetitive practices on the part of foreign manufacturers.

Any trade legislation must be dedicated to the principle that free trade must mean fair trade—that free competition must also mean fair competition. It is not free trade and it is not fair trade if Americans play by the rules and our competitors do not. It is not free and it is not fair if foreign manufacturers have ready access to our markets and we in turn are shut out from their home markets.

In the midst of growing cries for "protectionist" measures, we should not abandon our commitment to free competition until we first do a much better job, through our legal system, of assuring that trade competition is fair. That is the simple and straightforward purpose of this bill.

Some doctrinaire free trade advocates adopt the view that any restrictions on the market are inconsistent with free trade and brand as "protectionist" those of us who advocate vigorous enforcement of existing antidumping and countervailing duty laws. I reject such arguments. As the Finance Committee report on the Trade Act of 1974 clearly states, the Antidumping Act:

> Is not a "protectionist" statute designed to bar or restrict U.S. imports, rather, it is a statute designed to free U.S. imports from unfair price discrimination practices.

The danger that Government subsidies and dumping will result in adverse distortions of free trade has been recognized for decades in our own law and in the laws of all of our major trading partners. Our countervailing duty statute was originally enacted in 1897, and our antidumping statutes were enacted in 1916 and 1921. It has been recognized by the General Agreement on Tariffs and Trade since 1947, and by international conventions considerably before that date, that member nations have a right to take action against certain unfair trade practices such as dumping or export subsidization without fear of reprisal from the offending nation.

The cornerstone of free trade theory is that consumers should be free to seek the cheapest and best products available anywhere in the world. Whereas some "free traders" argue that dumped products should be permitted as a benefit to consumers, it is possible to demonstrate that the U.S. consumer's interests are not served by dumping. Whereas there may be lower prices in the short run, the longrun impact is likely to be higher prices and greater profits for the foreign producers once the domestic competition has been crippled.

There are three additional reasons why vigorous enforcement of our unfair trade laws is important:

First, we must take into account our national security interests. For example, how dependent on foreign steel can we afford to become?

Second, it is my view that the Government must not overlook the economic health of smaller communities throughout our country. Oftentimes, endangered factories are located in such areas and may be the only employer of any consequence. Consider, for example, what happened when the Pea Ridge iron ore mine, Sullivan, Mo.'s, largest employer, shut down as a result of the decline in the steel industry. One thousand people lost their jobs with literally no place to turn. The very fabric of the community was devastated.

Third, we cannot ignore trade-distorting subsidies which are granted by governments to promote exports. Such subsidies often involve the triangular cooperation of the manufacturer, lending institutions, and the government's treasury. Especially during economic downturns, such arrangements can help to limit growth in unemployment and to earn foreign exchange capability. However, we cannot afford to permit countries to achieve their political and economic objectives through unfair manipulation of foreign trade. The price this country pays is simply too great.

Trade adjustment assistance and the administration's trigger price mechanism (TPM) for the steel industry, do not, as some contend, serve as adequate

substitutes for vigorous enforcement of our trade laws. Offering trade adjustment assistance to those who have been put out of work is a manifestly inadequate response to unfair foreign competition. American labor does not want Federal handouts; it wants jobs. Likewise, industry is entitled to protection from abuses of the marketplace.

The TPM is a step in the right direction, but it has many limitations and drawbacks. Under a monitoring system, the Treasury Department has calculated a set of trigger prices for a range of steel products based upon Japanese production costs. If merchandise enters the country below these prices, Treasury under the TPM would conduct an expedited antidumping investigation. The TPM deserves a chance to operate, but there is already serious concern about its probable ineffectiveness against fabricated steel products. The TPM is also the subject of a challenge in the courts. Meanwhile, we must pursue a means to enforce promptly and fairly the existing antidumping laws.

Mr. President, that is the sole purpose of the legislation I am introducing today. The bill does not expand the scope of existing unfair trade statutes. Instead, it seeks to simplify, expedite, clarify, and make reliable the procedures under which domestic industries may obtain relief from unfair trade practices.

Mr. President, I ask unanimous consent that the text of the bill, a document entitled "Explanation of the International Unfair Trade Laws Procedural Reform Act of 1978," and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "International Unfair Trade Laws Procedural Reform Act of 1978".

TITLE I—ANTIDUMPING ACT AMENDMENTS

SECTION 101. Section 201 of the Antidumping Act, 1921, (19 U.S.C. 160) is amended to read as follows:

"DUMPING INVESTIGATIONS"

"SEC. 201 (a)(1). Whenever the Secretary of the Treasury (hereinafter called the 'Secretary') receives information, whether from a petitioning party or any other source, to the effect that a particular class or kind of merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value, he shall conduct a preliminary investigation. Within 30 days after receipt of such information, the Secretary shall determine whether there is a reasonable indication that such merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value. In the course of making such determination, the Secretary may request the assistance of the affected industry in gathering information, but shall not require of a petitioning party more information than is reasonably available to it. If his determination is affirmative, the Secretary shall initiate a full-scale investigation under subsection (b)(1) into the question of whether such sales at less than fair value in fact are occurring or are likely to occur, and shall publish notice of such investigation in the Federal Register, along with possible margins of dumping. If his determination is negative, the inquiry shall be closed, and any party who has petitioned the Secretary on the matter shall be informed in writing of the specific reasons for the negative determination.

"(2) Whenever a person files a petition with the Secretary requesting an investigation under paragraph (1), it shall also file with the United States International Trade Commission a petition setting forth such person's belief, and the reasons therefor, that an industry in the United States is being or is likely to be injured, or prevented from being established, by reason of the importation of the merchandise covered by such petition under paragraph (1). Upon initiation by the Secretary of a preliminary investigation under paragraph (1) without receipt of a petition, he shall direct the Commission to conduct a preliminary investigation into such question of injury to a United States industry.

"(3) Upon making an affirmative determination under paragraph (1), the Secretary shall forward to the Commission a preliminary indication, based upon whatever price information is available, concerning possible sales at less than fair value, including possible margins of dumping and the volume of trade. If, upon receiving such information, the Commission concludes from the information available to it that there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, it shall publish notice of such conclusion in the Federal Register, and shall within 30 days of publication, determine whether there is a reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The Commission shall publish such determination in the Federal Register, together with a complete statement of reasons therefor, and shall so notify the Secretary. If its determination is negative, any investigation by the Secretary under subsection (b) then in progress shall be terminated.

"(b)(1)(A) The Secretary shall, within five months after publication of the notice of initiation of a full-scale investigation, determine whether there is reason to believe or suspect that a class or kind of merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value.

"(B) If the tentative determination made under paragraph (1)(A) or (2) of subsection (a) is affirmative, the Secretary shall publish notice of that fact in the Federal Register, along with the tentative margins of dumping, and shall require, on the date of the determination, under such regulations as he may prescribe, the suspension of liquidation as to such merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication in the Federal Register, under subsection (a)(1), of notice of the initiation of a full-scale investigation (or such earlier date, not more than one hundred and twenty days before such date, as the Secretary may prescribe). Such suspension of liquidation shall apply to merchandise not yet liquidated as of the date of the determination under subparagraph (A), and shall continue until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subsection (c) of this section in regard to such merchandise. He shall advise the United States International Trade Commission of his determination, and shall transmit to the Commission such information concerning the importation of such merchandise into the United States, and its sale in the United States, as is available to him.

"(C) If his determination is negative (or if he tentatively determines that the investigation should be discontinued), the Secretary shall publish notice of that fact in the Federal Register.

"(2) If, in the course of an investigation under this subsection, the Secretary concludes that the determination provided for in paragraph (1)(A) cannot be reasonably made within five months, he shall publish notice of this in the Federal Register, together with a statement of reasons therefor, in which case the determination shall be made within seven months after the publication in the Federal Register of the notice of initiation of the investigation.

"(c)(1)(A) Within three months after publication in the Federal Register of a tentative determination under subsection (b)(1)(a) or (b)(2), the Secretary shall make a final determination as to whether the merchandise in question is being or is likely to be sold in the United States or elsewhere, at less than its fair value (or a final discontinuance of the investigation). If the tentative determination was affirmative, the Commission shall, on the basis of the final determination of the Secretary, determine within four months after publication of such tentative determination whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

"(B) Whenever, prior to making his final determination, the Secretary believes that the margins of dumping have changed significantly from those disclosed in the tentative determination, he shall make available to the Commission the most recent information in his possession pertaining to the investigation of sales at less than fair value. Upon making an affirmative final determination under paragraph (1)(A), the Secretary shall so advise the Commisison, and shall transmit to it any additional information concerning the investigaton thus completed. After such investigation as it deems necessary, the Commission shall notify the Secretary of its determination under subparagraph (A). If that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act referred to as a 'finding') of his determination and that of the Commission. For the purposes of this subsection, the Commission shall be deemed to have made an affirmative determination if the commissioners voting are evenly divided as to whether the determination of the Commission should be in the affirmative or in the negative. The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

"(2) Upon making a final determination which is negative, or upon ordering a final discontinuance of the investigation, the Secretary shall so advise the Commission, which shall terminate any investigation it is conducting with respect to the same class or kind of merchandise.

"(3) If an affirmative final determination by the Secretary follows a determination under subsection (b)(1)(A) that was negative, the Secretary shall require, on the date of such final determination, the suspension of liquidation, as set forth in subsection (b)(1)(B), and shall so advise the Commission, transmitting to the Commission such information concerning the importation into the United States of the merchandise

with respect to which the determination was made, and its sale in the United States, as is available to him. The Commission, following such investigation as it deems necessary, shall make its determination within three months after the final determination. The Commission shall notify the Secretary of its determination, and if it is in the affirmative, the Secretary shall make public a finding of dumping as provided for in paragraph (1)(B).

"(4) Before making any determination under this subsection, or following any notice of a tentative discontinuance of an antidumping investigation, or a notice of a tentative modification or revocation of a dumping finding, the Secretary or the Commission, shall, at the request of any foreign manufacturer or exporter, or any domestic importer, of the merchandise in question, or of any domestic manufacturer, producer, or wholesaler of merchandise of the same class or kind, or any other petitioning party, conduct a hearing at which—

(A) any such person shall have the right to appear by counsel or in person; and

(B) any other person, may make application and, upon good cause shown, be allowed by the Secretary or the Commission, to intervene and appear at such hearing by counsel or in person.

Sections 554, 555, 556, 557 and 702 of title 5, United States Code, shall not apply to the hearings provided for under this paragraph. The transcript of any hearing, together with all information developed in connection with the investigation (other than items to which confidential treatment has been granted by the Secretary or the Commission), shall be made available in the manner and to the extent provided in section 552(b) of such title.

"(5) Each determination under subsections (b) or (c), whether affirmative or negative, shall be published in the Federal Register, together with a complete statement of findings and conclusions, and the reasons or basis therefor, on all material issues of fact or law presented (consistent with confidential treatment granted by the Secretary or the Commission in the course of making their respective determinations).".

SEC. 102. Section 205(a) of the Antidumping Act, 1921 (19 U.S.C. 164(a)) is amended by inserting after the first sentence the following sentence: "For the purpose of determining the foreign market value, the Secretary, pursuant to regulations prescribed by him, may calculate for each foreign manufacturer, producer, or exporter covered by the finding, weighted averages over a period of time not to exceed six months.".

SEC. 103. Section 208 of the Antidumping Act, 1921 (19 U.S.C. 167) is amended to read as follows:

"PAYMENT OF ESTIMATED DUTY ON ENTRY"

"SEC. 208(a)(1). In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding under section 201, and the delivery of which has not been made by the appropriate customs officer before such finding has been so made public, such customs officer shall not deliver such merchandise unless the person by whom or for whose account such merchandise is imported pays to such customs officer the amount of dumping duty estimated to be payable thereon. The amount of such estimated dumping duty shall be based upon the margins of dumping for the foreign manufacturers, producers or exporters included in the final determination of the Secretary and shall be adjusted whenever it is shown to the satisfaction of the Secretary that such adjustment is warranted by a change in prices or circumstances. The accuracy of the amount of estimated duties shall be reviewed by the Secretary no less frequently than once a year based on the most recent available data.

"(2) If, following appraisement and liquidation, the actual liability for dumping duties is less than the amount of estimated duties paid, the excess shall be returned with interest, from the date on which the duty was paid, at the annual rate established under section 6621 of the Internal Revenue Code of 1954 in effect on the date on which such duty was paid.

"(b) Unless the person by whom or for whose account such merchandise is imported makes oath before the appropriate customs officer, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, such person shall, in addition to paying estimated dumping pursuant to subsection (a), make oath before the appropriate customs officer, under regulations prescribed by the Secretary, that such merchandise has not been sold or agreed to be sold by such person, and, shall prior to delivery of such merchandise, give bond to such customs officer, in an amount equal to the estimated value of the merchandise, which shall be forfeited to the United States unless such person

"(1) reports to such customs officer the exporter's sales price of the merchandise within thirty days after such merchandise has been sold or agreed to be sold in the United States,

"(2) pays on demand from such customs officer the amount of additional special dumping duty, if any, imposed by this title upon such merchandise, and

"(3) furnishes to such customs officer such information as may be in his possession, and arranges to furnish such other information as is deemed necessary by the Secretary for the ascertainment of any special dumping duty, and keeps such records as to the sale of such merchandise as the Secretary may by regulation prescribe.".

SEC. 104. Section 209 of the Antidumping Act, 1921 (19 U.S.C. 168) is amended by inserting "(a)" before "In the case of", and by adding at the end thereof the following new subsections:

"(b) Liquidation of entries as to which liquidation has been suspended or a dumping finding published shall be completed no later than fifteen months following entry of such merchandise. If in the course of appraisal of the entries the Secretary concludes that such liquidation cannot reasonably be performed within the time limit, he shall publish notice of this in the Federal Register, together with a statement of reasons therefor, in which case liquidation shall be completed within eighteen months of the entry of such merchandise, unless the failure to liquidate within such period is wholly attributable to factors unrelated to the assessment of antidumping duties, in which case instructions for assessing such duties shall be issued to customs field officers within such time.

"(c) At the request of an interested party, all information developed in connection with the assessment and liquidation process (other than items to which confidential treatment has been granted by the Secretary), shall be made available in the manner and to the extent provided in section 552(b) of title 5, United States Code. Should the Secretary believe that a significant change from the original basis or manner of calculation of the margins of dumping is justified, he shall notify interested parties and permit them an opportunity to present their views.".

TITLE II—1930 TARIFF ACT AMENDMENTS

SEC. 201. (a) Section 303(a) of the Tariff Act of 1930 (19 U.S.C. 1303) is amended by striking out paragraphs (3), (4), (5), and (6), and by inserting in lieu thereof the following new paragraphs:

"(3)(A) Whenever a person files a petition in acceptable form with the Secretary of the Treasury (referred to elsewhere in this section as the 'Secretary') alleging that a bounty or grant is being paid or bestowed with respect to any imported article or merchandise as to which the Secretary has not determined whether or not a bounty or grant has been bestowed, he shall initiate a full-scale investigation to determine whether or not any bounty or grant is being paid or bestowed and shall publish notice of the initiation of the investigation in the Federal Register.

"(B) Except as provided in subparagraph (A), whenever the Secretary receives information from any source that a bounty or grant is being paid or bestowed with respect to any imported article or merchandise as to which he has not determined whether or not a bounty or grant has been bestowed, he shall conduct a preliminary investigation of the matter and, within 30 days after the date on which the information is received, determine whether there is a reasonable indication that a bounty or grant is being paid or bestowed. If his determination is affirmative, the Secretary shall initiate a full-scale investigation under paragraph (4) into the question of whether a bounty or grant is in fact being paid or bestowed and shall publish notice of such investigation in the Federal Register. If it is negative, the inquiry shall be closed.

"(4) Within five months from the date on which such notice is published, the Secretary shall make a tentative determination, and within three months thereafter, he shall make a final determination, as to whether any bounty or grant is being paid or bestowed.

"(5) If the tentative determination under paragraph (4) is affirmative, the Secretary shall require, under such regulations as he may prescribe, the suspension of liquidation as to merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of such tentative determination in the Federal Register until the further order of the Secretary, or until the Secretary has made public an order directing the assessment and collection of duties under subsection (c)(1).".

(b) Subsection (b) of Section 303 of such Act (19 U.S.C. 1303) is amended to read as follows:

"(b)(1) Whenever the Secretary makes a tentative determination under subsection (a)(4) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty, so long as a finding of injury is required by the international obligations of the United States, he shall so advise the United States International Trade Commission, and shall transmit to the Commission such information concerning the importation of such merchandise into the United States, and its sale in the United States, as is available to him. The Commission, on the basis of the final determination of the Secretary, shall determine within four months after the publication of the tentative determination under subsection (a)(4) whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such merchandise into the United States.

"(2) Whenever, prior to making his final determination, the Secretary believes that

the amount of bounty or grant ascertained has changed significantly from that disclosed in the tentative determination, he shall make available to the Commission the most recent information in his possession pertaining to the investigation of such bounty or grant. Upon making an affirmative final determination, the Secretary shall so advise the Commission, and shall transmit to it any additional information concerning the investigation thus completed. After such investigation as it deems necessary, the Commission shall notify the Secretary of its determination under paragraph (1). For the purposes of this subsection, the Commission shall be deemed to have made an affirmative determination if the commissioners voting are evenly divided as to whether the determination of the Commission should be in the affirmative or in the negative.

"(3) Upon making a final determination which is negative, the Secretary shall so advise the Commission, and any ongoing investigation with respect to the same class or kind of merchandise shall be terminated.

"(4) If an affirmative final determination by the Secretary follows a tentative determination that was negative, the Secretary shall require, on the date of such final determination, the suspension of liquidation, as set forth in subsection (a)(5), and shall so advise the Commission, transmitting to the Commission such information concerning the importation into the United States of the merchandise with respect to which the determination was made, and its sale in the United States, as is available to him. The Commission, following such investigation as it deems necessary, shall make its determination within three months after the final determination. The Commission shall notify the Secretary of its determination, and if it is in the affirmative, the Secretary shall make public an order as provided for in subsection (c)(1).".

(c) Subsection 303(c) of the Tariff Act of 1930 is amended to read as follows:

"(c)(1) Following an affirmative final determination by the Secretary under subsection (a)(4) as to dutiable merchandise not subject to an injury determination, or both an affirmative final determination and an affirmative determination by the Commission under subsection (b)(2) in the case of duty-free merchandise subject to an injury determination, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation on such merchandise. The Secretary's order shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

"(2) For all imported merchandise of a class of kind as to which the Secretary has made public such an order, and the delivery of which has not been made by the appropriate customs officer before such finding has been so made public, such customs officer shall not deliver such merchandise unless the person by whom or for whose account such merchandise is imported pays to such customs officer the amount of dumping duty estimated to be payable thereon. If, following appraisement and liquidation, the actual liability for countervailing duties is less than the amount of estimated duties deposited, the excess shall be returned with interest, from the date on which the duty was paid, at the annual rate established under section 6621 of the Internal Revenue Code of 1954 in effect on the date on which such duty was paid.

"(3) Liquidation of entries as to which liquidation has been suspended or an order under paragraph (1) made public shall be completed no later than fifteen months following entry of such merchandise. If in the course of appraisal the Secretary concludes that such liquidation cannot reasonably be performed within the time limit, he shall publish notice of this in the Federal Register, together with a statement of reasons therefor, in which case liquidation shall be completed within eighteen months of the entry of such merchandise, unless failure to liquidate within such period is wholly attributable to factors unrelated to the antidumping duties, in which case instructions for assessing such duties shall be issued to customs field officers within such time period.

"(4) At the request of an interested party, all information developed in connection with the assessment and liquidation process (other than items to which confidential treatment has been granted by the Secretary), shall be made available in the manner and to the extent provided in section 552(b) of title 5, United States Code. Should the Secretary believe that a significant change from the original basis or manner of calculation of the amount of bounty or grant is justified, he shall notify interested parties and permit them an opportunity to present their views.

"(5) Each determination, whether affirmative or negative under subsections (a) or (b), with the exception of a determination under paragraph (a)(3)(B), shall be published in the Federal Register, together with a complete statement of findings and conclusions, and the seasons or basis therefor, on all material issues of fact or law presented (consistent with confidential treatment granted by the Secretary or the Commission in the course of making their respective determinations).

"(6) The Secretary shall make all regulations he deems necessary for the identification of articles and merchandise subject to duties under this section and for the assessment and collections of such duties.".

SEC. 202. (a) Section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337) is amended to read as follows:

"(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based upon information before it, that the matter may come within the purview of section 303 or of the Antidumping Act, 1921, it shall promptly notify the Secretary of the Treasury so that such action may be taken as is otherwise authorized by such section and such Act, and, pending such action, the Commission may suspend its investigation as to those matters which may come within the purview of such section or such Act.".

(b) The first sentence of subsection (c) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended to read as follows: "The Commission shall determine, with respect to each investigation conducted by it under this section, whether or not there is a violation of this section, unless, where the Commission has reason to believe that the matter may come within the purview of section 303 or the Antidumping Act, 1921, action taken as is authorized by such section or such Act determines the controversy before it.".

(c) Section 337(f) of the Tariff Act of 1930 (19 U.S.C. 1337) is amended by inserting "(1)" before "In lieu of", and by adding at the end thereof the following new paragraph:

"(2) Any person who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in a case of a violation through continuing failure or neglect to obey a final order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission.".

SEC. 203. Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended by adding at the end thereof the following new subsections:

"(d) Within 30 days after the Secretary publishes his finding under section 201 of the Antidumping Act, 1921, or makes public an order under section 303 of the Tariff Act of 1930, an adversely affected foreign manufacturer, producer, or exporter or domestic importer of merchandise of the same class or kind as that described in such finding or order may commence an action in the United States Custom Court contesting the finding or order or any part thereof, including the size of the margins of dumping or the amount of the bounty or grant found.

"(e)(1) Suits challenging decisions to impose countervailing or antidumping duties upon a class or kind of merchandise shall be subject to review based upon the administrative record, which consists of the determination, the reasons or basis therefor, the transcript of any hearing, and all information developed in connection with the investigation, and shall be in accordance with the provisions of sections 706(1) and 706(2) (A) through (D) of title 5, United States Code.

"(2) Suits challenging the imposition of countervailing or antidumping duties upon particular merchandise shall be determined upon the basis of the record made before the court, and shall be in accordance with the provisions of section 706 (other than paragraph (2)(E) of such section) of title 5, United States Code.

SEC. 204. Subsections (d) and (e) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) are amended to read as follows:

"(d)(1) Within 30 days after a determination by the Secretary under Section 201 of the Antidumping Act, 1921, is published in the Federal Register that a class or kind of foreign merchandise is not being, nor likely to be, sold in the United States at less than its fair value, or under section 303 of the Tariff Act of 1930 that a bounty or grant is not being paid or bestowed, a domestic manufacturer, producer, or wholesaler of merchandise of the same class or kind as that described in such determination, or a domestic or international labor organization or trade association connected with the production of such merchandise, may commence an action in the United States Customs Court contesting the determination.

"(2) Within 30 days after a determination by the United States International Trade Commission under section 201 of the Antidumping Act, 1921, that an industry in the United States is not being nor likely to be injured or is not prevented from being established, by reason of the importation of a class or kind of merchandise into the United States which is being or is likely to be sold at a price less than its fair value, or under section 303 of the Tariff Act of 1930 than an industry in the United States is not being nor likely to be injured or is not prevented from being established by reason of the importation into the United States of merchandise, otherwise free of duty upon

which a bounty or grant is being paid or bestowed, a domestic manufacturer, producer, or wholesaler of merchandise of the same class of kind as that described in such determination or a domestic or international labor organization or trade association connected with the production of such merchandise, may commence an action in the United States Customs Court contesting the determination.

"(3) Any party who has filed a petition pursuant to section 201 of the Antidumping Act, 1921, or section 303 of the Tariff Act of 1930 may challenge in the United States Customs Court the following decisions of the Secretary or the Commission within 30 days after notice is given the party or the decision is published in the Federal Register:

"(A) A determination by the Secretary under section 201(a) of the Antidumping Act not to initiate a full-scale investigation because there is no reasonable indication that the merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value.

"(B) A determination by the Commission under section 2101(a) of such Act that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or prevented from being established, by reason of the importation of a class or kind of merchandise as to which the Secretary had initiated a full-scale investigation of sales at less than fair value.

"(C) A final discontinuance, under section 201(c) of such Act, of an antidumping investigation, either in whole or in part, or the decision by the Secretary to exclude one or more foreign manufacturers, producers or exporters from a final determination of sales at less than fair value.

"(D) A determination by the Secretary under section 201 of such Act that a particular class or kind of merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value or under section 303 of the Tariff Act of 1930 that a bounty or grant is being paid or bestowed, which determination includes margins of dumping or an amount of a bounty or grant which the petitioning party believes incorrect.

"(4) If the court determines in favor of the petitioning party as to actions commenced under subsection (3) of this section, it shall remand the matter to the Secretary for action not inconsistent with the court's determination.

"(e)(1) Suits challenging decisions reviewable under paragraphs (1), (2), or (3) of subsection (d) shall be subject to review based upon the administrative record, which consists of the determination, the reasons or basis therefor, the transcript of any hearing, and all information developed in connection with the investigation, in accordance with the provisions of sections 706(1) and 706(2) (A) through (D) of title 5, United States Code.

"(2) Suits challenging the decision not to impose countervailing or antidumping duties upon particular merchandise shall be determined upon the basis of the record made before the court, in accordance with the provisions of section 706 (other than paragraph (2)(E)) of title 5, United States Code.".

SEC. 205. The amendments made by sections 204 and 205 of this Act become effective on the day following the date of enactment of this Act. Nothing contained in this Act, or in the amendments made by this Act, shall be construed to require the dismissal of any action brought before the day after the date of enactment of this Act under subsection 1582(b) of title 28, United States Code, to contest any failure of the Secretary of the Treasury to assess countervailing duties or antidumping duties, pursuant to subsection 516(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), due to negative injury determinations by the United States International Trade Commission under section 303 of Tariff Act of 1930, as amended (19 U.S.C. 1303), or under section 201 of the Antidumping Act, 1921, as amended (19 U.S.C. 160).

TITLE III—STUDY OF TRANSFERRING TREASURY INVESTIGATIVE RESPONSIBILITIES TO INTERNATIONAL TRADE COMMISSION

SEC. 301. The Comptroller General shall undertake a study of the need for and feasibility of a transfer of the duties of the Secretary of the Treasury under the Antidumping Act, 1921, and section 303 of the Tariff Act of 1930 to the United States International Trade Commission, or to an independent section of a department of international trade, and report back to Congress with such study not more than one year after the date of enactment of this Act.

TITLE IV—AMENDMENTS TO THE REVENUE ACT OF SEPTEMBER 8, 1916

SEC. 401. The text of section 801 of the Act of September 8, 1916, entitled "An Act To Raise Revenue and for Other Purposes" (15 U.S.C. 72) is amended to read as follows:

"(a) It shall be unlawful for any person to manufacture in a foreign country and sell in the United States, whether through a related or unrelated importer, merchandise for which the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the constructed value), where the effect of such sale has been substantially to lessen competition or to restrain trade or monopolize any part of trade or commerce within the United States.

"(b) Upon proof being made under subsection (a) that there has been such sale, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with violation of this section. Nothing in this section shall be construed to prevent the sale of merchandise in the United States from any foreign country at a lower price which makes only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such merchandise is sold or delivered, or at a price established in good faith to meet an equally low price of a competitor in the United States market, or at a price which changes from time to time in response to changing conditions affecting the market for or the marketability of the merchandise concerned, such as, but not limited to, actual or imminent deterioration of perishable merchandise, obsolescence of seasonal merchandise, distress sales under judicial order, or sales in good faith in discontinuance of business in the merchandise concerned.

"(c) Any person injured in his business or property by reason of any violation of, or combination, conspiracy, or contract to violate this section, may sue therefor in the district court of the United States for the district in which the defendant resides, is found, or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by that person sustained, and the cost of the suit, including a reasonable attorney's fee. The action brought under this title shall be barred unless commenced within four years after the cause of action accrued.

"(d) For the purpose of determining the 'purchase price', 'exporter's sales price', 'foreign market value' or 'constructed value', the courts shall take into account and be guided by the applicable provisions of the Antidumping Act, 1921, and any regulations prescribed under that Act.".

I. AMENDMENTS TO 1921 ANTIDUMPING ACT

Briefly stated, "dumping" is the sale of foreign made merchandise on the American market at a price (adjusted for transportation and other circumstances of sale) which is below the price at which it is sold in the home market, or in other export markets, or below the cost of producing the merchandise. The 1921 Antidumping Act requires Customs to collect a duty equal to the difference in price if the International Trade Commission finds that a domestic industry is being, or is likely to be, injured by reason of the sales at less than a fair price.

Enforcement of this law has historically suffered from inadequate staffing, low administrative priority and lack of will to carry it out—perhaps for what are perceived to be more general economic and foreign policy considerations. In part and for these reasons, Congress in the Trade Act of 1974 found it necessary to make several structural changes in the antidumping laws, principally by means of imposing time limits on investigations. Subsequent events, including the unprecedented level of utilization of unfair trade laws by a wide range of industries, have demonstrated that Congress did not go far enough in 1974 in fashioning statutory procedures to ensure that our laws are vigorously enforced. The proposed legislation addresses four principal problems which stand in the way of fair, swift and effective enforcement of the law:

(A) Treasury's failure to initiate its own investigations, and its movement in the direction of hindering the ability of domestic firms to instigate investigations by filing petitions;

(B) Periods for investigation and delays in obtaining relief that are unnecessarily lengthy;

(C) Lax enforcement after the investigation is completed, permitting the payment of duties frequently to be postponed for an indefinite period of time, with the only payment necessary for years being the posting of a modest bond; and

(D) Judicial review provisions which are not sufficiently broad in their scope to check abuses of the wide discretion possessed by the Treasury and the International Trade Commission.

To correct these flaws, the proposed legislation does the following:

(A) Clarifies Treasury's duty to enforce the law

In the last decade, Treasury has not conducted a single investigation on its own initiative. The bill makes clear that it has a duty to do so. It requires Treasury to conduct a preliminary 30-day investigation upon receipt of information from any source to the effect that dumping is, or is likely to be, occurring. The bill also establishes a threshold standard—a "reasonable indication" test—for Treasury's determination whether to initiate a full-scale investigation.

In practice, by imposing burdensome informational requirements, Treasury regulations have made it very difficult for some affected firms or industries, especially the small ones, to instigate a Treasury investigation. The proposed legislation would put more of a burden on Treasury during its 30-day preliminary investigation to develop the initial facts when additional information cannot reasonably be required of a petitioning party.

In addition, Treasury this January promulgated a new regulation, which it has subsequently withdrawn, that would have necessitated the inclusion in petitions of an extraordinarily high level of detailed information regarding the causal linkage between less than fair value sales and injury to domestic industry. The regulation went far beyond the authority given Treasury in the

Trade Act of 1974 to conclude that there is "substantial doubt" of injury. The proposal also would very likely have had a significant chilling effect on the filing of antidumping petitions.

The bill eliminates the involvement of Treasury in the injury question by putting the matter entirely in the hands of the International Trade Commission, which has expertise in the area and which has the responsibility for making the ultimate decision. The portion of an antidumping petition pertaining to injury will be sent directly to the Commission and the Commission itself will be authorized to conclude whether there is "substantial doubt" of injury.

(B) Shorten the overall investigation and the delivery of relief

Under current law, Treasury has six months following the initiation of the investigation in which to reach a tentative determination, and nine months in especially complicated cases. Following the tentative determination, Treasury has three months to make a final determination, after which the case is sent to the International Trade Commission for an additional three month injury determination. These time periods are only statutory maximums, but in practice investigations are almost never completed before the dealine, and frequently not until a few days afterwards. The bill shortens the period before the tentative investigation to five months, or seven months in complex cases, and makes concurrent the final three month investigation at the agencies, with the extension of the Commission's investigation for an additional month so that the injury question can be decided on the basis of the final margins of dumping found by Treasury.

Thus, the maximum duration of a normal dumping case would be reduced from 13 months to 10 months, and the length of more complicated investigations from 16 to 12 months. Shortening the length of the investigation is in the interest of both domestic industry and importers because both parties are prevented from accurately determining their true market positions until the investigation is completed.

These changes would also move us in the direction of greater conformity with the International Antidumping Code, which requires simultaneous consideration of evidence of dumping and injury. The provision also would reduce the time delay before collection of duties would begin.

The present statutory procedures have the effect of deterring sales at dumping prices only after the "withholding of appraisement" (referred to in the bill by the more modern term "suspension of liquidation") following an affirmative tentative determination by Treasury that dumping is or may be likely to occur. The effect of such action is that a potential liability for dumping duties attaches to goods entering the country after that date. Typically, liquidation is not suspended until seven months after the affected industry files its petition. During this seven month period, foreign manufacturers have an incentive to dump all they can into the American market knowing that Treasury has rarely, if ever, used its authority to suspend liquidation retroactively back to 120 days before the initiation of the investigation.

Recently, for example, in the month before the tentative determination was to be announced in a dumping case filed last summer by Monsanto Company against Japanese producers of sorbates, a chemical preservative, the amount of imported sorbates was three times the total for each of the previous months. Even if relief from dumping were to follow shortly thereafter, it is contended that recovery from such an onslaught of imports could take upwards of a year.

In order to deter continued and in some cases increased dumping after the initiation of the investigation, the bill would require that suspension of liquidation, occur after the tentative determination and be made retroactive to the date of the initiation of the investigation.

(C) Requires timely collection of duties

The one phase of antidumping proceedings which Congress failed to regulate in 1974 was the period after the initial investigation was completed. Consequently, Treasury enforcement has been particularly lacking in this respect. According to a recent General Accounting Office review of the Administration of the Antidumping Act, the average delay in the collection of duties is currently three to three and a half years. The G.A.O. concluded that "Faced with mandated time requirements for other segments of the antidumping process, Customs has simply not concentrated on the assessment phase."

In 1971, Treasury issued a finding against televisions from Japan. For six years, while Admiral, Motorola, Magnavox, Philco and other American television manufacturers were being forced out of business, the Treasury Department did nothing. It was not until March, 1978, that Treasury, under heavy Congressional pressure, finally assessed dumping duties of $46 million on entries of sets imported into the U.S. in 1972 and the first six months of 1973. The $46 million assessment represents a dumping margin of at least $30 per set at wholesale, and $50 at retail prices. Four more years of imports, on which dumping duties are believed to approximate $350 million, remain unresolved, with no promise that the additional duties will be assessed expeditiously. No reason was offered for the continued delay, but the apparent purposes were to minimize the adverse impact on the importers and to provide time for a protest of the assessments, thus making the limited Treasury action essentially a trial run. Meanwhile, as this delay continues, merchandise under current procedures is permitted to enter under a bond which generally costs less than one percent of the estimated dumping duty liability, even though the final determination of dumping has been issued, and injury has been found.

The proposed legislation would require payment of estimated duties "up front" after the investigative phase is concluded with a finding of dumping. Such payment, which is required by the European Community at the initiation of an investigation and which is the U.S. procedure for payment of regular customs duties, would provide the tough deterrent that is needed to ensure that dumping practices end immediately. It would provide foreign manufacturers with an incentive to cooperate during the assessment process, rather than to obfuscate and delay as they sometimes do under the current system. In the interest of fairness, the bill provides for reasonable flexibility in determining the estimated duty, and for refund payments with interest.

The bill would also require the actual "liquidation" or collection of duties within fifteen months of entry (eighteen months in especially complex cases), and would make less cumbersome the process of ascertaining the actual amounts due. The time limit on collection of duties would not permit Treasury to delay indefinitely the assessment of duties on merchandise entering under bond during the investigation. It would also mean that adjustments to the estimated duties paid would be made expeditiously. Simplifying the calculation of foreign market value will be of substantial aid to Customs in meeting the deadline. Currently, statutory language requires Customs to analyze and collect data on a basis far more detailed than that of the basic dumping investigation. Such detail is unnecessary, and its elimination would mean that Customs will have more time to meet its responsibilities in enforcing the law.

(D) Expands the scope of judicial review

There is wide concern that both Treasury and the International Trade Commission frequently infuse their analysis of the facts with economic and political concerns not germane to their statutory obligations. Both agencies at present have little check on their discretion. The standard of judicial review is not at all spelled out in the statute, so the courts have cautiously interpreted it to be minimal. No finding of either agency has ever been declared invalid upon court review. The bill would clarify and increase the scope of judicial review, but not so as to jeopardize the basic informal nature of the present system. Review is not expanded to the extent that reversing an administrative determination would be so easy as to maintain a considerable degree of uncertainty in the marketplace following the completion of agency action. Rather, the greater reviewability should induce the administrative agencies to be more careful in applying the law consistently to the facts, and induce greater disclosure of the issues decided and the reasons for those decisions.

II. AMENDMENTS TO THE COUNTERVAILING DUTY STATUTE

Under Section 303 of the Tariff Act of 1930, Treasury may impose a duty equal to the amount of a bounty or grant bestowed by foreign governments upon articles exported to the United States. The problems resulting from sales of merchandise at less than normal prices in response to government subsidies are very similar to those resulting from pricing decisions made by private firms. Yet the procedures followed under the countervailing duty statute are in some way even less adqeuate than those under the antidumping law. The bill would make the statutory procedures in countervailing duty cases the same as antidumping procedures, except where the involvement of foreign governments warrants a distinction.

Under current law, Treasury may take six months to make its tentative determination under the 1930 Act and another six months for a final determination. If the merchandise is duty-free, another three months is allowed for an injury determination by the International Trade Commission. The bill would reduce to five months the period before the tentative determination, and to three months the time for a final determination, and would make the injury determination for duty-free merchandise concurrent with Treasury's final determination.

Presently, no potential liability for countervailing duties attaches until after the final determination by Treasury, which means that an industry must wait one year to begin to get relief. Under this proposal, as in the antidumping statute, liquidation would be suspended upon a tentative affirmative determination, thus bringing to bear the deterrent value of the statute no later than six months after an investigation is initiated.

III. AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930

Section 337 authorizes the International Trade Commission to issue cease and desist or exclusion orders in cases of unfair competition where there is substantial injury to a domestic industry or an attempt to restrain or monopolize trade.

Unfortunately, effective enforcement of this statute has been and is likely to continue to be inhibited by a wasteful jurisdictional dispute between Treasury and the International Trade Commission over which cases come within Treasury's responsibilities. In April, 1974, the President disapproved the Commission's first order in a Section 337 predatory pricing case, an order against Japanese producers of stainless steel pipe and tube to cease and desist from selling in the United States at prices below the average variable costs of production.

Leaving aside the question of whether the disapproval was justified on the facts of the case, a serious concern has developed that the broad policy terms and precedent-setting manner in which the President disapproved of the use of Section 337 will effectively eliminate that section from use in non-patent infringement cases until Congress legislatively reasserts its support for such broadened use of the 337 remedy.

As a matter of policy, cases involving only dumping should be handled by Treasury which has the authority and expertise necessary for the mathematical calculations required in those cases. On the other hand, the Commission should be empowered to deal with unfair trade practices which extend beyond dumping or countervailable subsidies.

The proposed bill would authorize the International Trade Commission to suspend or terminate its investigation when matters within the purview of the antidumping or countervailing duty statutes come before it. The proposed legislation would not permit the Commission to make a determination where it found that action taken by Treasury had determined the controversy before it.

The second procedural change in Section 337 would vest the International Trade Commission with powers similar to those of the Federal Trade Commission, including, a $10,000/day penalty for violations of its cease and desist orders. Under present law, the only sanction for such violations is the possibility of excluding the merchandise entirely, a remedy which is often too drastic to be viable.

IV. STUDY OF CONSOLIDATION OF RESPONSIBILITIES IN AN INDEPENDENT AGENCY

The bill proposes a study of the feasibility and desirability of transferring Treasury's functions under the antidumping and countervailing duty laws to an independent body such as the International Trade Commission or perhaps to an independent section of a possible new department of international trade. This question merits serious consideration for two reasons: (a) the division of responsibilities under the Antidumping Act, and the overlap between that Act and Section 337, lead to administrative inefficiencies that would be eliminated by consolidation in one agency, and (b) the history of Treasury's enforcement of these laws raises questions as to whether they can be vigorously enforced by an executive branch agency subject to the pressures exerted by broader trade and foreign policy considerations.

V. PRIVATE CAUSES OF ACTION

Unfair practices in foreign trade often bear striking resemblance to violations of antitrust laws. Yet, while anti-trust laws rely heavily on private lawsuits for their enforcement, private enforcement of trade laws is rare.

This is more by accident than by design. The original antidumping statute was Section 801 of the Revenue Act of 1916 (15 U.S.C. Section 72), which provides for treble damages where an American business sustains a competitive injury by reason of dumping. However, the 1916 Act has been invoked in only a few cases, most of which were brought very recently. To date not one case has been prosecuted successfully to conclusion under this statute. As early as the Tariff Commission report of 1919, commentators have noted that the 1916 Act is a dead letter. The Commission at that time, concluded that, "Evidentually, for the most part, the language of the Act makes difficult, if not impossible, the conviction of offenders and, for that reason, the enforcement of its purpose. . . . If the Act of 1916 is adhered to, attention should be devoted to careful revision and strengthening of its provisions." Primarily out of frustration with the ineffectiveness of the 1916 Act, Congress in 1921 legislated the administrative remedies under a new Antidumping Act.

The 1916 Act suffers from three defects: (1) plaintiffs must prove a specific motive—a criminal intent—to destroy or injure American business, or to restrain trade; (2) the 1916 Act has been interpreted as a criminal statute, requiring strict construction of its terms and a criminal burden of proof beyond a reasonable doubt; and (3) the statute is laden with vague and uncertain language purporting to describe the proscribed behavior.

The proposed legislation would give substance to the private antitrust remedy enacted by the Congress in 1916 by making use of two statutes enacted subsequently—the Robinson-Patman Act (15 U.S.C. 13, the domestic price discrimination law) and the 1921 Antidumping Act.

If dumping is alleged, an injured party would not have to prove that the sales were made with a specific anticompetitive intent, but rather would have to show sales at less than fair value (as defined in the 1921 act) which had the effect of substantially lessening competition or restraining trade or monopolizing any part of trade or commerce. The plaintiff would establish the elements of the violation under a civil standard of proof, by a preponderance of the evidence. As in Robinson-Patman, the burden would then shift to the defendant to establish that the price differential was justified. As in Robinson-Patman, it would be assumed that the party to whom the burden shifts is the party best able to come forward with evidence justifying its action.

An adequate private antitrust remedy directed at predatory dumping is necessary for three reasons:

(1) Neither Treasury action under the 1921 statute nor Commission action under Section 337 of the 1930 Tariff Act will make a U.S. firm whole for anti-competitive harm done to it. The latter actions serve only as deterrents to prospective unlawful acts;

(2) The 1921 Act approach of imposing dumping duties is not a foolproof deterrent to the continuation of dumping practices. A firm may be willing to arrange with its corporate relatives who import the merchandise to absorb the dumping duties and continue to sell the merchandise at an unfair price. The recent history of the television antidumping case has brought to light the possibilities for evading the intending effect of tariff actions under the 1921 Act through kickbacks and rebates. In addition, the use of cease and desist and exclusion orders by the Commission in Section 337 predatory pricing cases is as yet too new to be able to ascertain its effectiveness; and

(3) Other domestic antitrust laws are not adequate remedies for predatory dumping. Section 1 of the Sherman Act (15 U.S.C. 1) outlawing combinations in restraint of trade is applicable only to multiple party activity. Dumping is generally viewed as an act not performed in concert or combination with other co-participants. Section 2 of the Sherman Act (15 U.S.C. 2) is directed not so much against anticompetitive conduct as against anticompetitive market structures. Dumping would be cognizable under Sherman 2, but it would simply be one element in a scheme to monopolize or attempt to monopolize trade.

For these reasons, two additional statutes, the 1921 Antidumping Act and the Robinson-Patman Act, were passed subsequent to Sherman 1 and 2 to address specifically the problem of price discrimination. Robinson-Patman, however, has been held to be inapplicable to acts of price discrimination occurring in international commerce even where the effect is on the United States market.

INTERNATIONAL UNFAIR TRADE LAWS PROCEDURAL REFORM ACT OF 1978

SECTION-BY-SECTION ANALYSIS

Title I—Antidumping Act amendments

Section 101. This section revises section 201 of the Antidumping Act, 1921 (19 U.S.C. 160). The subsections are rearranged so that the procedures read in chronological order. Subsection (a), concerning the initiation and preliminary phases of the investigation, replaces subsection (c) of the current statute. Subsection (b) continues to cover the tentative determination of the Secretary of the Treasury. Subsection (c) deals with the final determination of the Secretary, the injury determination of the Commission, the hearings and the statements of reasons supporting the determinations, and replaces subsections (a) and (d) of the current statute. Each subsection amending Section 201 of the Antidumping Act, 1921, is discussed separately below.

Section 201, subsection (a), paragraph (1). Current law simply requires the Secretary to decide within thirty days after receipt of information alleging dumping whether to initiate an investigation. The bill requires the Secretary to conduct a preliminary investigation upon being informed of the existence or likelihood of dumping, and sets a "reasonable indication" standard for the Secretary's determination no more than 30 days later whether to initiate a full-scale investigation. The bill makes clear that information from sources other than a petition submitted by an affected domestic industry should trigger a preliminary investigation. The Secretary would continue to receive help from domestic industry in developing facts, but could not require the submission of more information than is reasonably available to a petitioning party. The bill adds a requirement that possible margins of dumping be published in the Federal Register along with the notice of the initiation of a full-scale investigation in order to provide foreign manufacturers or importers of the merchandise in question information upon which to make price adjustments. In the case of a determination not to initiate a full-scale investigation, the Secretary will inform in writing a petitioning party of the specific reasons for such determination.

Section 201, subsection (a), paragraph (2) concerns the receipt by the Commission of information pertaining to injury to a domestic industry by reason of imported merchandise sold at less than fair value (LTFV). Under subsection (c)(1) of Section 201 of the current law, a petitioning party submits both information of injury and sales at less than fair value to Treasury. The bill provides that a petition setting forth the belief of injury, with reasons, be submitted to the Commission concurrent with the submission of LTFV information to Treasury. In the case of self-initiated investigations by

Treasury, the lack of injury information from a petitioner is remedied by the provision for the Secretary to direct the Commission to conduct a preliminary investigation to develop facts regarding injury to a domestic industry.

Section 201, subsection (a), paragraph (3) replaces paragraph (2) of section 201(c) of the current law which was added by the Trade Act of 1974 to provide for the interim injury referral by Treasury to the Commission. The bill retains the concept of a selective early injury determination, but eliminates entirely the involvement of Treasury in the injury question. Under current law, the Secretary is authorized to conclude, during the initial thirty-day investigation, whether there is "substantial doubt" of injury. If he so concludes, he forwards to the Commission the reasons for such doubt, along with whatever LTFV information is available. Under the bill, the Secretary, upon initiating a full-scale investigation, forwards to the Commission whatever LTFV information is available, and the Commission then has the authority to conclude whether there is "substantial doubt" of injury, thus triggering the thirty-day investigation. The bill replaces the "no reasonable indication" standard for the early injury determination within the current law with an affirmative standard of "reasonable indication". The Commission is required to publish in the Federal Register its determination, whether affirmative or negative, along with a complete statement of reasons.

Section 201, subsection (b). Under current law, in the usual case, Treasury is afforded six months to make its tentative determination of LTFV sales. The bill cuts this time to five months. For the more complicated case the time is shortened by the bill from nine to seven months. The bill also replaces the archaic term "withholding of appraisement" with the more accurate term "suspension of liquidation" inserted into the countervailing duty statute by the Trade Act of 1974. It makes mandatory the Secretary's currently discretionary authority to suspend liquidation retroactively to cover merchandise entering after the publication of the notice of initiation of the full-scale investigation. The suspension order, however, would only cover that merchandise which has not yet been liquidated (fully cleared through Customs). The bill retains, on a discretionary basis, the authority to suspend liquidation retroactively on merchandise entering after a date 120 days prior to the notice of initiation.

Section 201, subsection (c), paragraph (1). Under current law, Treasury has three months following the tentative determination in which to make a final determination. If the final determination is affirmative, the case is then sent to the Commission for an injury determination which may take another three months. The bill makes concurrent the final three-month investigations at the agencies, with the provision of an additional month for the Commission to enable it to base its determination upon the margins of dumping disclosed in the final determination upon the margins of dumping disclosed in the final determination of Treasury. The Secretary is required to make available to the Commission his most recent LTFV data whenever he believes that the margins of dumping have changed significantly from the tentative determination. This provision is designed to give the Commission as much notice as possible relating to the likely final margins of dumping, so that it can complete its injury inquiry as efficiently and expeditiously as possible.

Section 201, subsection (c), paragraph (2) makes clear that a negative final LTFV determination or a final discontinuance of the investigation would terminate the Commission's inquiry in progress.

Section 201 subsection (c), paragraph (3) provides for the case in which the Secretary reaches an affirmative final determination following a negative tentative determination. A three-month injury inquiry by the Commission would in this case follow the final determination, as under current law.

Section 201, subsection (c), paragraph (4) adds to those circumstances under current law following which a hearing will be available the notice of tentative discontinuance of an antidumping investigation or notice of a tentative modification or revocation of a dumping finding. Hearings are now provided for in these circumstances by regulation. The paragraph also makes clear that any petitioning party, which may include a labor union or trade association under current regulations, may request and appear at the hearing.

Section 201, subsection (c), paragraph (5) includes, along with those provide under current law, the tentative LTFV determination, whether affirmative or negative, in the list of determinations for which a complete statement of findings and conclusions must be published in the Federal Register. This addition would provide interested parties with considerably more information upon which to base their oral and written arguments at the hearing prior to the final determination, and would make more difficult inappropriate uses of the Secretary's discretion in making adjustments and calculating the margins of dumping.

Section 102. This section amends section 205(a) of the Antidumping Act, 1921 (19 U.S.C. 164(a)) by authorizing the Secretary to calculate the foreign market value for purposes of assessing antidumping duties through the use of averaging techniques used in the LTFV investigation. Currently, Customs attempts to compare the purchase price or exporter's sales price (where the foreign manufacturer and the importer are related in this country with the home market price or constructed value of the merchandise on the same date, or as near as possible to the same date as the date of purchase or export. Such a detailed comparison is quite time-consuming and is in general in the interests of neither domestic industry nor the importers. This section permits the use of weighted averages on a manufacturer-by-manufacturer basis over a period of no longer than six months, which is generally the length of time over which such averages are currently being calculated in LTFV investigations.

Section 103. This section amends section 208 of the Antidumping Act, 1921 (19 U.S.C. 167) to provide for payment "up front" of estimated duties upon entry following a finding of dumping (which includes affirmative determinations by the Secretary and the Commission). The current section 208 simply requires that an "exporter" under section 207 of the Act (a purchaser who is related to the foreign manufacturer), who does not declare at the time of entry the exporter's sales price (his first sale price in this country), give bond in an amount equal to the estimated value of the merchandise. The bond is conditioned upon (1) reporting the exporter's sales price within thirty days after the merchandise is sold or agreed to be sold; (2) paying on demand the amount of dumping duty imposed; and (3) furnishing to Customs such information as may be in his possession and as may be necessary for the ascertainment of the dumping duty, and the keeping of records as to the sale of the merchandise as the Secretary may by regulation prescribe.

The bill's provision for payment of estimated dumping duties applies to all merchandise subject to a dumping finding, and would bring the practice with respect to collection of dumping duties into conformance with the collection of regular duties.

Section 208, subsection (a), paragraph (1) provides for adjustments, the necessity of which is to be reviewed no less frequently than once a year, to the amount of the estimated duty, based upon the most recent available data. Initially, the amount of the estimated duty would be based upon the margins of dumping for that manufacturer, if any had been calculated, in the final LTFV determination.

Section 208, subsection (a), paragraph (2) provides for the return of any excess duties deposited, with interest, from the date on which the duty was deposited, at the annual rate established under section 6621 of the Internal Revenue Code of 1954 in effect on that date.

Section 208, subsection (b) restates the bondiing requirement in the special circumstances listed under current law (19 U.S.C. 208) but amends the third condition of the bond to require the "exporter'" to furnish to Customs such information as is in his possession, and to arrange to furnish other information, which the Secretary deems necessary for the ascertainment of the dumping duty. This should help ensure that Treasury has sufficient access to information upon which to assess duties.

Section 104. This section adds to section 209 of the Antidumping Act, 1921 (19 U.S.C. 168), new subsections (b) and (c).

Section 209, subsection (b) requires the liquidation of merchandise subject to a dumping finding within fifteen months of its entry into the country, or within eighteen months if the Secretary concludes that it cannot reasonably be performed within fifteen. An exception to the time limits on liquidation is created for cases where a problem develops that is unrelated to the assessment of dumping duties. In that case, instructions for assessing such dumping duties shall be issued to customs field personnel within the statutory deadlines.

Section 209, subsection (c) requires all information developed in connection with the assessment and liquidation of antidumping duties (other than items to which confidential treatment has been granted), to be made available, upon request of an interested party, in accordance with the provisions of the Freedom of Information Act. The Secretary is also required to notify interested parties and permit them an opportunity to present their views whenever he believes justified a significant change from the original basis or manner of calculation of the margins of dumping. Both of these additions are designed to permit interested parties to more effectively monitor the actions taken by Treasury following the conclusion of the investigatory stage with a finding of dumping.

Title II—1930 Tariff Act amendments

Section 201, subsection (a). This subsection replaces paragraphs (3) through (6) of subsection (a) of Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), the countervailing duty statute.

Section 303, subsection (a), paragraph (3) follows current law in drawing a distinction between the treatment given petitions and other sources of information disclosing a possible bounty or grant. The proposed language makes clearer, by adding the simple requirement that the petition be in proper form, the automatic nature of the initiation of a full-scale investigation upon the filing of a petition by any person setting forth his belief that a bounty or grant is being paid or bestowed, and the reasons therefor. Current law provides also that the Secretary initiate a full-scale (called a "formal") investigation whenever he concludes from information presented to him or any person to whom he has delegated his authority that such an investigation is warranted. The bill requires the Secretary to conduct a preliminary investigation upon receipt of information from a source other than a petitioning party to the effect that a bounty or grant is being paid or bestowed. Within thirty days after receipt of such information, the Secretary initiates a full-

scale investigation if he determines that there is a "reasonable indication" that such bounty or grant is being paid or bestowed.

Section 303, subsection (a), paragraph (4) shortens from current law the maximum time between notice of the initiation of a full-scale investigation and the tentative determination from six months to five, and the additional time before the final determination from six months to three.

Section 303, subsection (a), paragraph (5) provides for the suspension of liquidation as to merchandise entering after the publication of a tentative affirmative determination. Current law provides for suspension of liquidation only in the case of duty-free merchandise subject to an injury determination. Suspension then does not occur until after the final determination, during the three-month injury inquiry by the Commission (Section 303(b)(1)(B) of current law).

Section 201, subsection (b). This subsection amends subsection (b) of Section 303 of the Tariff Act of 1930, which concerns duty-free merchandise made subject to an injury determination by the Trade Act of 1974. The subsection tracks precisely the proposed amendments to the Antidumping Act under Title I of this bill which make the final three-month investigations at Treasury and at the Commission concurrent, with the addition of an extra month for the Commission to make its injury determination on the basis of the final determination of the Secretary.

Section 201, subsection (c). This subsection amends subsection (c) of Section 303 of the Tariff Act of 1930, and brings together the paragraphs concerned with the actions of the Secretary following the issuance of an order directing the assessment and collection of countervailing duties.

Section 303, subsection (c), paragraph (1) restates existing law as expressed in subsections (a)(5), (b)(3), and (c) of the current law, Section 303 of the Tariff Act of 1930.

Section 303, subsection (c), paragraph (2) provides for payment of estimated duties upon entry of merchandise following issuance of an order. Such payment is not required by law currently, but is the practice in most cases. Any excess amounts of duties collected would be returned with interest, as provided under Section 103 of Title I of this bill, which amends Section 208 of the Antidumping Act, 1921.

Section 303, subsection (c), paragraph (3) sets forth the same fifteen month time limit on liquidations (with a three-month extension in complex cases, and an exception for cases where there are delays attributable to factors other than assessment of countervailing duties) as provided for under Section 104 of Title I of this bill, which amends Section 209 of the Antidumping Act, 1921.

Section 303, subsection (c), paragraph (4) adds the provisions contained in Section 104 of Title I of this bill for monitoring the actions of the Secretary following the issuance of an order directing the assessment and collection of countervailing duties.

Section 303, subsection (c), paragraph (5) extends the scope of the current requirement under (a)(6) of Section 303 of the Tariff Act of 1930 that the tentative and final determinations of the Secretary, and the injury determination of the Commission, be published in the Federal Register. The language of current Section 201 (d)(2) of the Antidumping Act, 1921 is added, requiring that the determinations be accompanied by a complete statement of findings and conclusions, and the reasons or basis therefor, on all material issues of fact or law presented (consistent with confidential treatment granted by the Secretary or the Commission in the course of making their respective determinations).

Section 303, subsection (c), paragraph (6) restates existing paragraph (6) of Section 303 (a) of the Tariff Act of 1930.

Section 202, subsection (a). This section addresses procedural aspects of the jurisdictional overlap between the Treasury Department's enforcement of the Antidumping Act and the countervailing duty law and the International Trade Commission's enforcement of Section 337 of the Tariff Act of 1930 which proscribes "unfair methods of competition". The current subsection (b)(3) of section 337 of the Tariff Act of 1930 simply requires the Commission to notify promptly the Secretary whenever it has reason to believe that the matter may come within the purview of the antidumping or countervailing duty statutes. The bill provides that the Commission not only continue to so notify the Secretary, but that it may suspend its investigation as to those matters which may come within the purview of the above statutes, pending Treasury action. Suspension is discretionary because in all likelihood there will be cases in which a part of the allegation though it be minor in scope, may fall within the purview of the antidumping or countervailing duty statutes. To require suspension of the investigation in such cases for a period of many months would deprive interested parties of timely relief from unfair trade practices. It is also felt that an enumeration of the circumstances under which the Commission must suspend its investigation would prove much too complicated to be appropriate for statutory treatment.

Section 202, subsection (b). Under current Section 337 (c) of the Tariff Act of 1930, the Commission is required to make a determination in each Section 337 case whether there is a violation of that Section. This section amends subsection (c) of Section 337 of the Tariff Act of 1930.

Section 337, subsection (c) provides a substantive standard by which the Commission shall decide whether it has jurisdiction to issue a determination under Section 337. Where the Commission has reason to believe that the matter in controversy may come within the purview of the antidumping or countervailing duty laws, it shall not retain jurisdiction to issue a determination if it determines that action taken as is authorized by those statutes "determines the controversy" before the Commission. The latter language means that the dumping or subsidy problem had been or was being eliminated by action taken by Treasury. In requiring the Commission to examine Treasury action to ascertain whether such has determined the controversy, it is contemplated that either the Section 337 case would have been filed after Treasury had acted on the matter, or that the Commission would have made appropriate use of its discretion in suspending its investigation pending such action.

A degree of uncertainty as to where a case is most appropriately determined will remain under this formulation. To completely resolve the jurisdictional dispute would require either total elimination under Section 337 of cases involving discriminatory pricing, or total elimination of any checks on the Commission's ability to decide such cases. It is felt that neither approach would make sound policy. It is contemplated, however, that the legislative history of this bill would expand upon the comment made in the Finance Committee report on the Trade Act of 1974. "It is expected that the Commission's practice of not investigating matters clearly within the purview of either Section 303 or the Antidumping Act will continue".

Section 202, subsection (c). This section adds to Section 337(f) authority for the Commission to seek in a civil action brought by the Commission a civil penalty of no more than $10,000 for each violation of its cease and desist orders. Each day of failure or neglect to obey a final order of the Commission is deemed a separate offense, and the district courts are also empowered to grant mandatory injunctions and other equitable relief in the enforcement of Commission orders. These additional means of enforcing cease and desist orders are now available to the domestic counterpart of the Commission, the Federal Trade Commission, under 15 U.S.C. 45(m).

Section 203. This section clarifies and expands the scope of judicial review of affirmative final determinations and affirmative injury determinations in antidumping and countervailing duty cases by amending Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

Section 514, subsection (d) permits challenge in the Customs Court of a finding of dumping or an order directing the assessment and collection of countervailing duties within thirty days after its issue by the Secretary of the Treasury. The parties who may file such a challenge are expanded to include adversely affected foreign manufacturers, producers or exporters of merchandise of the same class or kind covered by the determination. The party bringing the action may contest both the final determination of the Secretary and the injury determination of the Commission or it may challenge only one of the determinations. Challenges may also be made to the size of the margins of dumping or the amount of the bounty or grant disclosed in the final determination. Current law permits only the domestic importer or his consignee or agent to challenge impositions of antidumping or countervailing duties, and then only following the liquidation of a specific shipment, which does not occur generally until at least many months (or in some cases, years) after Treasury and the Commission had issued their determinations with respect to the class or kind of merchandise in question. An earlier challenge to those determinations is desirable in the interests of fairness because of the bill's provision for payment of estimated duties "up front" on entries following a finding of dumping or an order to collect countervailing duties. The authority of the courts to consider challenges to the margins of dumping or the amounts of subsidies found is added because there should be some review of the decisions by Treasury as to what constitutes appropriate adjustments for differences in the merchandise, circumstance of sale, or quantities sold.

Section 514, subsection (e), paragraphs (1) and (2) specifies the standard of and record for review in actions under Section 514 contesting determinations by the Secretary or the Commission in countervailing duty or antidumping cases. Current law makes no mention of these matters, and the courts are not certain what Congress intended.

Under existing law, two types of decisions are made respecting the imposition of antidumping or countervailing duties. The first type of decision is one to impose those duties upon a certain class or kind of merchandise. The second type involves an application of a decision of the first type to particular merchandise.

Section 514, subsection (e), paragraph (1) provides that suits contesting determinations of the first type will proceed upon the basis of the record made before the relevant administrative decision maker. This record includes the determination published in the Federal Register, the reasons or basis therefor, the transcript of any hearing, and all information developed in connection with the investigation. The standard of review is as specified in 5 U.S.C. 706, excluding 706 (2) (E) and (F). The subsection excluded permits reversal of administration determinations which are unsupported by substantial evidence or unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court. The remaining provisions of Section 706 permit the court to decide all relevant questions of law, interpret constitutional and statutory provisions, determine the meaning or applicability of the terms of an agency action, and to compel agency action unlawfully

withheld or unreasonably delayed. The Customs Court would hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power privilege or immunity; (C) in excess of statutory jurisdiction, authority or limitations, or short of statutory right; or (D) without observance of procedure required by law.

Section 514, subsection (e), paragraph (2). Suits challenging decisions of the second type, regarding the imposition of duties upon particular merchandise, are to be determined on the basis of the record made before the court. Thus, reversal is permitted under Section 706(2)(F) when the determination is unwarranted by the facts developed during a trial de novo. Questions which would be decided by trial de novo might include contention by an importer that the duty imposed is too high or that his or her particular goods do not come within a decision applying to a class or kind of merchandise. The use of trial de novo in such situations corresponds with its use in challenges to impositions of regular duties in the Customs Court.

Section 204. This section clarifies and expands the scope of judicial review of negative final determinations and negative injury determinations in antidumping and countervailing duty cases or set forth in Section 514 (d) of the Tariff Act of 1930.

Section 516, subsection (d), paragraph (1) changes existing law by making clear that an American labor union or trade association connected with the production of merchandise of the class or kind covered by the finding or order may challenge the above negative determinations in the Customs Court. Even though such union or association may file an antidumping or countervailing duty petition, they would not in all likelihood, be construed as "an American manufacturer, producer or wholesaler" of such merchandise, and would thus not be permitted to vindicate their rights in the courts under current law. The paragraph also eliminates the need to file with the Secretary a written notice of a desire to contest the determination within thirty days after its publication. Under current law, the Secretary publishes such notice, and it is not until thirty days thereafter that suit may be filed. The extra thirty-day delay is unnecessary in view of the public nature of the proceedings under the antidumping and countervailing duty statutes.

Section 516, subsection (d), paragraph (2) locates in the Customs Court on the same basis as provided in paragraph (1), the contesting of a negative injury determination of the International Trade Commission. The failure of current law to address this question, led to two years of senseless litigation which concluded in May of 1978 with a determination by the Customs Court that there is a right to review negative ITC injury determinations under Section 516(c), and that such review is to be held in the Customs Court (*SCM Corp.* v. *United States*, Customs Court No. 77–4–00553).

Section 516, subsection (d), paragraph (3) adds the right of a petitioning party to seek review of the following four types of decisions not clearly reviewable under current law: (A) a determination of no reasonable indication of LTFV sales, resulting in a failure to initiate a full-scale LTFV investigation; (B) a determination by the ITC of no reasonable indication of injury, resulting in the termination of the full-scale LTFV investigation in progress; (C) a final discontinuance under subsection (c) of Section 201 of the Antidumping Act, 1921, either in whole or in part, or the decision by the Secretary to exclude one or more foreign manufacturers, producers, or exporters from a final LTFV determination; or (D) an affirmative final determination by the Secretary under the antidumping or countervailing duty statutes which contains margins of dumping or an amount of a bounty or grant which the petitioning party believes incorrect. These decisions may be challenged in the Customs Court within thirty days after notice is given the party or the determination is published in the Federal Register.

Section 516, subsection (d), paragraph (4) indicates that actions under paragraph (3) wherein the court determines in favor of the petitioning party shall be remanded to the Secretary for action not inconsistent with the court's determination.

Section 516, subsection (e) specifies the same standard of and record for review in actions under Section 516(d) as is provided for actions under Section 514 of the Tariff Act of 1930, under Section 203, Title II of this bill.

Section 205. This is a savings clause necessary to prevent the judicial relief amendments contained in the bill from causing the dismissal of any action which was instituted under the present section 516 (c) or (d) of the Tariff Act of 1930 and which is currently pending in the customs courts.

Title III—Study of transferring Treasury investigative responsibilities to International Trade Commission

Section 301. This provision directs the General Accounting Office to undertake a one-year study of the need for and feasibility of a transfer of the duties of the Treasury Department under the Antidumping and countervailing duty statutes to the International Trade Commission, or to an independent section of a possible new department of international trade.

Title IV—Amendments to Revenue Act of 1916

Section 401. This section amends Section 801 of the Revenue Act of 1916, the original antidumping statute commonly known as the "Predatory Dumping Act". The bill maintains the right as provided under current law for any person injured in his business or property by reason of a violation of, or combination or conspiracy to violate, that act, to recover treble damages, and the cost of the suit, including reasonable attorney's fee in the United States district court in which the defendant resides or is found or has an agent. This section, however, makes substantial changes in the 1916 Act in nearly every other respect.

The jurisdictional elements establish that the cause of action runs against any person who manufactures in a foreign country and sells in the United States whether through a related or unrelated importer, merchandise at a price proscribed by the Act. By comparison, the present 1916 Act reaches any person importing or assisting in importing such merchandise from any foreign country into the United States. It is the foreign manufacturer who should be liable for damages resulting from the predatory conduct, not the importer.

The proscribed behavior under the proposed legislation is a sale or sales which would constitute an act of dumping under the 1921 Antidumping Act (19 U.S.C. 160–173). The 1921 Act defines such dumping to occur when the "purchase price" or "exporter's sales price" is less than the "foreign market value" (or, in the absence of such value, than the constructed value) of such or similar merchandise. Subsection (d) of Section 801 of this bill specifies that for the purpose of construing these terms the courts shall take into account and be guided by the provisions of the 1921 Act and its regulations. The present 1916 Act, by contrast, proscribes dumping by use of terminology which is vague and has no modern meaning. The 1916 Act proscribes the common and systematic importation of merchandise at a price "substantially less" than the actual market value or wholesale price of such merchandise, at the time of exportation to the U.S., in the principle markets of the country of its production, or of other foreign countries to which it is commonly exported. Under the bill, the elements of a price discrimination under the 1921 Act would be the same as the elements of such a discrimination under the now amended 1916 Act, except that an anti-competitive effect is required under the amended 1916 Act as opposed to injury to an industry (competitors) under the 1921 Act. Subsection (b) incorporates a technique borrowed from the Robinson-Patman Act (15 U.S.C. 13) of shifting the burden of proof once the plaintiff has established a *prima facie* case, to the defendant, who possesses the best information, to establish that a price differential was justified. Justification may be shown, as under Robinson-Patman, by establishing that the lower price (1) makes only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such merchandise is sold or delivered; (2) was established in good faith to meet an equally low price of a competitor in the United States market; or, (3) was set in response to changing conditions affecting the market for marketability of the merchandise concerned. The current 1916 Act does not provide for such justifications.

The anti-competitive effect that must be established under the bill is harm in fact. This is the same as under the Sherman Act standard of restraint of trade or monopolization of any part of trade commerce within the United States (15 U.S.C. 1 and 2). Also, language is borrowed from the domestic price discrimination statute, the Robinson-Patman Act to proscribe harm to competitors where there has been a substantial lessening of competition. The language differs from Robinson-Patman in that the effect must have occurred in fact, not merely be proven to be incipient. Under the present 1916 Act, no harm to the competitive process needs to be shown. Rather, the act or acts of dumping must be undertaken with a specific criminal intent to destroy or injure an industry in the United States, to prevent the establishment of such an industry, or to restrain or monopolize any part of trade or commerce in such articles in the United States. The bill eliminates the criminal liability contained under current law. The statute of limitations for a cause of action is set at four years.

(The following proceedings occurred during Mr. DANFORTH's remarks.)

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. DANFORTH. Yes.

Mr. BAKER. I have listened to the Senator's presentation today, and a particular point he just made, I think, is comprehensive in its implications for the present situation in terms of America's trade policy.

I, too, believe in free trade. I am not a protectionist, if those terms any longer have any relevance; but I agree with the Senator from Missouri that it is neither free trade nor fair trade to continue with the present arrangement where circumstances have created unconscionable economic distress and dislocation and cost American jobs at the expense of industrial prosperity of other countries.

I commend the Senator for his observations.

I understand his proposal, as I have been advised by staff, would amend the

1921 Antidumping Act, the 1930 Tariff Act, and the Robinson-Patman Act; is that correct?

Mr. DANFORTH. That is correct.

As the Senator points out, the whole theory of this is not to move to protectionism; but instead, to try to develop some meaningful rules of the game so that free and fair trade can be fostered. I think the closest analogy is to our Federal antitrust laws, which are Government efforts to develop rules of the marketplace so that we can have truly competitive markets. I think we have them, generally speaking, in the domestic markets, but we do not have them in the foreign markets.

Mr. BAKER. I thank the Senator. I think all three of these acts are to be approached if we are to find a remedy for the root causes of the problem.

This approach emphasizes the efforts by the distinguished Senator to clarify the Treasury Department's duty to enforce the Antidumping Act, and I sometimes think the generic law can be enforced with so much more efficacy that many of our problems would yield to that increased efficiency.

It would shorten the overall period for investigation of an allegation of dumping and the delivery of relief; it would require timely collection of duties where dumping is established; and it would amend section 303 of the Tariff Act of 1930 to make the statutory procedures for countervailing duty cases the same as antidumping procedures.

It would also amend section 337 of the Tariff Act to eliminate the jurisdictional dispute between the Treasury Department and the International Trade Commission by giving Treasury total responsibility for dumping and countervailing duty cases; and it would, as well, amend the Robinson-Patman Act to provide a private cause of action for international price discrimination where the effect of that discrimination was to substantially restrain trade or monopolize any line of trade or commerce.

The ACTING PRESIDENT pro tempore. The time of the Senator from Missouri has expired.

Mr. BAKER. Mr. President, I apologize to the Senator for using his time. If he requires additional time I will see if there is any objection to the extension of such time.

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator that under the previous order, the Senator from Tennessee will be recognized for a period of not to exceed 15 minutes.

Mr. BAKER. Since the Senator from Tennessee was not aware of that fact and did not, in fact, request it, I am happy to be advised that I do have such time available, and I will yield it to the Senator from Missouri now. I continue to say that I am especially pleased that the Senator from Missouri had addressed the problem and addressed it in a responsible way.

If my understanding of the Senator's proposal is correct in these respects, I wonder if the Senator has any objection to adding my name as a cosponsor to that proposal.

Mr. DANFORTH. I would be delighted to add the name of the Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent, then, that my name be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the Senator from Missouri, and I yield to him the remainder of my time under the special order.

(Conclusion of earlier proceedings.)

Mr. DANFORTH. Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Utah (Mr. HATCH) as a congressional adviser to the SALT delegation presently meeting in Geneva, Switzerland, during 1978.

COMMITTEE MEETING

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Subcommittee on Military Construction and Stockpiles of the Committee on Armed Services be authorized to meet during the session of the Senate today to mark up S. 2635, the stockpile commodity bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR LAW REFORM ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, H.R. 8410, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

The Senate resumed the consideration of the bill.

Mr. WILLIAMS. I ask unanimous consent that Marty Franks and Sue Brannigan of Senator LEAHY's staff be granted the privilege of the floor during debate on the labor law reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED FOR LABOR LAW REFORM

Mr. WILLIAMS. Mr. President, unlawful discharges are particularly coercive when they occur in the context of an organizing campaign. Not only is a worker thrown out of a job for doing what the law permits, but his fellow employees are intimidated, by this example, from engaging in protected activities.

Ruthless employers know that the easiest way to discourage employee interest in a union is to identify the employees involved in the organizational drive and find some excuse for getting rid of them. By the time the employer has to reinstate the illegally discharged workers, other employees will have long since been scared away from having anything to do with the union.

Today, I would like to detail one such case for inclusion in this debate. The case of Abelardo Ceballos and his three fellow workers demonstrates why the bill's provisions requiring immediate temporary reinstatement of workers who are illegally discharged during a union organizing drive is an essential remedy. This remedy is necessary not only to secure justice for the discharged workers but also to enable their fellow employees to choose whether or not they want union representation in an atmosphere free of coercion and restraint.

WHY AMERICA'S WORKERS NEED LABOR LAW REFORM—CHAPTER FIVE

Abelardo Ceballos, his two sisters, and his girl friend were employees of the Lizdale Knitting Mills in Brooklyn, N.Y. On May 29, 1973, as they were leaving work, they encountered some union organizers outside the plant.

The four workers stopped to talk and took some union authorization cards. One of Abelardo's sisters saw that they were being observed by three company officials from a second-story window.

The next day, the company's forelady threatened Abelardo and his group when they attempted to distribute union cards among their fellow workers.

On the very next day, May 31, 1973, Abelardo and his group were all summarily discharged by the company, ostensibly for lack of work.

Unfair labor practice charges were filed, and after an investigation, a complaint was issued. At the hearing before the administrative law judge, the company admitted that the four were not discharged for lack of work, but rather because the company suspected that they had been stealing sweaters. At the hearing, however, the evidence showed that the missing merchandise had been found by the employer in March of 1973, months before the discharge.

At the trial, the company also contended that because of an overhanging roof, it was impossible for the company officials to actually observe the employees conversing with union agents outside the plant. The law judge and the attorneys actually visited the plant, and the judge concluded that it was indeed possible for employees and union agents to be observed from the window.

The law judge found that the company in fact discharged Abelardo Ceballos and his group because they had engaged in the protected activity of talking to a union agent outside the plant, after work. He ordered the company to reinstate the four workers, and give them backpay.

On June 25, 1974, more than a year after their discharge, the Board affirmed the judge's decision and order.

The company refused to comply with the decision and order of the Board, and the Board went to court to get enforcement of its order.

On September 26, 1975, 28 months after the initial discharge, the U.S. Court of Appeals for the Second Circuit enforced the Board's order.

It was not until about a month later, on October 22, 1975, that the company actually offered to take the four workers back. This was nearly 2½ years after they had been discharged. Perhaps the four had found other work. Perhaps they just did not want to return to an atmosphere of hostility. We do not know, Mr. President, but we do know that the four declined reinstatement, as is the case with most workers who are offered reinstatement more than 6 months after they are illegally discharged.

But even after this long delay, the company did not give the four workers who were discharged their backpay.

Indeed, it was not until March 30, 1978, that the court enforced the backpay order of the Board and ordered the company to make the four whole for the losses they suffered because of the illegal discharges. The court ordered Lizdale to pay the workers within 30 days, but the workers have still not received their money. In fact, a week from tomorrow, May 31, 1978, will mark the fifth anniversary of the illegal discharge of Ceballos and his three fellow workers.

Mr. President, discharging employees who are active in union organizing is particularly disruptive of the rights of workers. Not only are those who are discharged harmed but their fellow workers, who see this display of the employer's power, are intimidated, and will often avoid having any contact with the union, for fear that the same thing could happen to them.

When it takes the Board almost 5 years to secure the rights of workers, a union's organizing drive is stopped cold in its tracks.

Indeed, Mr. President, that is exactly the situation at Lizdale Knitting. Now, almost 5 years after the illegal discharge of these four workers, the union has yet to file a petition for an election.

And so, Mr. President, the employer profited doubly from his lawlessness. He got rid of the union troublemakers, and he nipped the union's organizational drive in the bud. Lizdale's employees never got the chance to even vote on whether they wanted a union.

If H.R. 8410 had been enacted, Abelardo Ceballos and his group could have been ordered temporarily reinstated by a Federal court, pending the final resolution of the unfair labor practice case.

This could probably have been accomplished in less than 2 months. Once their fellow employees saw that the law was responsive to such illegal acts, they would have been able to decide whether they wanted to be represented by a union or not in an atmosphere free of intimidation and coercion.

How can we permit a law which rewards the lawbreaker and punishes the innocent to continue, Abelardo Ceballos and the other innocent victims waited 5 years for a remedy. But the lawbreaker got what he wanted immediately as a result of his illegal acts.

Mr. President, it is cases like that of Abelardo Ceballos that labor law reform is all about.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, throughout the debate on this pending legislation, many of my colleagues, both those who support and those who oppose this bill, have voiced paramount concern about the need to protect the right of individual employees. All of us, it would appear, are seeking to enhance the freedoms of working men and women, and this is indeed an appropriate goal. Unfortunately, there are variations on this common theme, and in this Senator's view, the pending legislation fails to provide a balanced protection of employee rights. Proponents of the bill tell us that its purpose is to "guarantee the right of all employees to enjoy the benefits of collective bargaining." And that is just what this bill will do. It will facilitate the efforts of union organizers to win more elections.

I have listened to the stories of those employers who violate the law in an effort to thwart unionization and collective bargaining, and I do not for 1 minute condone such illegal activities. I believe this is particularly objectionable in view of the effect it has on the individual workers, and their families, but I do not think that this bill is the appropriate response to this problem.

For one thing, I think there are adequate remedies under existing law to deal with these problems, and in my earlier comments on the specific provisions of this bill, I outlined my thoughts in this area. Despite the fact that proponents of the bill indicate that it will speed up and streamline Labor Board activities, it will, to the contrary, cause increased litigation, and thus more delay.

Now let us talk about employee rights for a minute here, because it seems to me that we have been focusing on a very narrow aspect of this issue. We have been focusing here on those protections guaranteed by section 7 of the National Labor Relations Act, and while these are indeed important guarantees, I think we are overlooking some other areas which might also warrant attention.

Last July, I joined my colleague from Utah (Mr. HATCH) in introducing legislation to enhance the rights of working men and women, both union and nonunion. This legislation, S. 1855, was considered by the Human Resources Committee, along with the pending bill, but was not reported or incorporated into S. 2467.

At the time I testified before the committee on our legislation, I pointed out my concern at the administration's failure to promote individual workers' rights in their bill. I felt then, as I do now, that the only rights secured in this legislation are those pertaining to union membership, a view which has prompted many to cite this as a one-sided bill.

Among the provisions in our bill is the right to secret ballot elections on the question of union representation. Certainly this is in keeping with the spirit of the law, that employees should be able to choose, without pressure or fear of reprisal, whether or not to join a union. Another area where employee rights are evident is one which involves union fines against their own members or those who are required to pay dues to a union. As a result of court decisions in this area, unions may impose fines and other economic sanctions against their members. In some cases, these fines may be used to discourage or punish an employee from exercising protected rights under the NLRA, such as filing a decertification petition, or testifying before the Labor Board. I heard of a case recently where a union employee was fined $1,000 and booted out of the union for trying to file a decertification petition. Where are the heralds of employee rights in this case? It seems that those who appear to bear torches for employee rights are sometimes blind in one eye.

These are just some of the proposals I have offered over the years to provide equity for working men and women, and the point I am making is simply this: If we are talking about employee rights here, then let us be realistic and take a look at the whole spectrum of activities. Proponents of the present bill cite only employer abuses, and those same familiar employers keep cropping up in every speech and every publication supporting this bill.

What about union abuses? One of the most blatant and unremedied abuses by unions is the use of violence, particularly in connection with strikes. In many instances, violence affects not only employers and their property, but also nonstrikers and their families. In addition to property loss, some victims of this outrageous activity have suffered physical harm and even death.

Consider, for example, the case of *Local 248, Meat and Allied Food Workers, Affiliated with Amalgamated Meat Cutters and Butcher Workers Union AFL–CIO*, 222 NLRB 1023 (1976). In that case, the Labor Board found that the union, at the suggestion and with the approval of its officers, had copied down license plate numbers of nonstrikers' cars as they crossed the picket line.

In addition to the threats made to the nonstrikers, the union compiled a list of the owners of the motor vehicles and circulated their names to its membership. Picketers threatened the nonstriking employees by telling them they would re-

gret working at the plant, and that the picketers would burn their homes. What was the remedy in this case? The union had to post a notice.

In another case, *Union de Operadores y Canteros*, 231 NLRB No. 235 (1977), the union and strikers were found to have violated the NLRB by first, blocking entrances and exits; second, throwing rocks and other objects at automobiles of supervisors, nonstrikers, and suppliers to prevent them from entering; third, picketing with shovels and clubs to intimidate employees and supervisors from crossing picket lines; fourth, threatening nonstrikers with loss of benefits and harm to their families during visits to employees' homes; fifth, threatening nonstrikers with physical violence and physically assaulting them for refusing to support union activities; and sixth, possessing, maintaining, and storing explosive devices at or near the premises.

(Mr. LEAHY assumed the Chair.)

Mr. TOWER. In three cases issued in 1975, extensive evidence of union violence was presented to the Board, and the Board found violations of the act. Despite the findings, the Board refused to require the union to reimburse lost pay to those employees who were coerced into joining the strike because of the union violence. It makes no sense to this Senator to talk about labor reform and employer misconduct, while we give short shrift to union misconduct and the lack of remedies in that area.

We have also heard numerous reports of internal abuses in union activities, particularly in the area of elections. I cite the case of *Brennan* v. *United Steelworkers of America*, 554 F. 2d 586 (3d Cir. 1977). In that case, which involved an election for one of the district director positions of the steelworkers, Edward Sadlowski opposed Samuel Evett, the candidate of the union's "official family." Early election returns gave Sadlowski a lead, but the final tabulation took nearly 3 days, during which time Sadlowski received reports of widespread violations such as ballot fraud, illegal electioneering, deprivation of secret ballots, and interference with observers. The final tally revealed that Sadlowski narrowly lost the election.

Under the union constitution, Sadlowski appealed the election, but the results were upheld. A further appeal to the United Steelworkers International was denied. Finally, Sadlowski filed suit in the Federal district court, seeking to overturn the election. The court threw out the election after nearly 18 months had passed; a new election was directed, and Sadlowski won by a 2-to-1 margin.

My purpose in citing these examples, and they are but a few of many, I might add, is not to engage in an exchange of horror stories, but to emphasize the fact that employers have no corner on the market of abuses against employees. My good friend from New Jersey, who so ably chairs the Human Resources Committee, has established some helpful legislative history in recent days, by assuring us that the remedies contained in this present bill do apply to unions as well as employers.

Nonetheless, I remain doubtful that their impact will be equally felt in that sector, and I am convinced that the kind of abuses I have just outlined will remain untouched. From my frequent travels through my own State of Texas, I know that the two most important issues to Texans are the quality of life and inflation.

This legislation will impact severely on both these areas in my State, and that is why so many Texans are strongly opposed to this bill.

(Mr. SARBANES assumed the Chair.)

Mr. TOWER. Mr. President, in terms of the quality of life that we enjoy in Texas, I think essential to that quality of life is the work ethic. I think that many union work rules and work practices are destructive of the work ethic. This not only impacts on the quality of life in my State, it impacts on the quality of life in the entire United States. It impacts on our competitive position with other major industrial nations of this world. It seems too often that union rules are so structured as to prevent maximum productivity from the work force.

I submit that the more productive the work force is, the more available jobs are going to be.

In Texas, we have the highest per-man productivity of any industrial State in the country. We have the highest return on the labor dollar of any industrial State in the country. Yet we have a relatively low rate of unemployment considered against the national rate of unemployment.

So allowing the work force to produce is not destructive of job opportunity. That is one of the great anachronisms of union rules that we find pervasive throughout the country.

We even have unions punishing workers for producing too much, and that is a sad commentary on our society today.

An essential element of quality of life is freedom of choice in the workplace.

In Texas, we have a right-to-work law. I believe that we should have a national right-to-work law. I am realistic enough to know that there is no likelihood of our passing a national right-to-work law in the foreseeable future. As a matter of fact, I doubt if we could even get a hearing on a national right-to-work law, though, it seems to me that the freedom of a worker to choose whether or not he wants to belong to a union should be preserved in this country. It seems to me a basic human right.

In Texas, we prohibit discrimination against an employee because he is or is not a union member. I do not believe he should be discriminated against because he is a union member. I think he ought to have a right to join a union, to associate with fellow workers, to bargain collectively.

I am reasonably sure that if I worked in an industrial establishment, I would join a union. I would probably be a very active union member. But I do not think that anyone who does not choose to belong to a union should be denied employment because he does not choose to belong. To me, that freedom of choice should be regarded as essential to the quality of life in this country.

Also involved in the quality of life is a healthy business environment. My State has one of the healthiest business environments in the United States.

Industry is moving to Texas. It is moving away from the Northeast. It is moving to Texas and to other of the so-called Sun Belt States. This is not only because of the splendid people and the available work force in these States, it is not solely because of the salubrious climate, but it is also because of the healthy climate for labor-management relations.

It occurs to me if my friends in the Northeast are concerned about the migration of industry away from the Northeast to other States, that what they should do is take the steps that are available to them to improve the labor-management climates in their respective States, rather than try to inflict upon the States that are attracting industry the same stifling practices and procedures and laws and regulations that are driving industry away from their States.

They would seem to have a desire to compel us to share their misery.

Now, another thing that I mentioned that my constituents are concerned about is inflation.

This bill in my State—and I use my State as an example, I do not think it is necessarily unique among the progressive States of these United States—will cost $30 million in the first year according to the National Labor Relations Board itself—$30 million in my State—which contributes substantially to the inflationary factor.

I note the recent study by Mr. Pierre Renfret, who is a well-regarded economic analyst, whose credentials are good, he cannot be labeled a liberal or conservative or Democrat or Republican, nor can he be labeled a minion of business, nor is he partial to labor. He is a man who takes pride in doing a professional and objective job.

According to his report, for each 10-percent increase in unionization, the CPI will increase by 5 points.

This means a 3-percent increase in inflation in Texas for each 10-percent increase in unionization.

Consumer prices will increase between 4 and 5 percent.

Now, we have already had some experience with the inflation generated by the Davis-Bacon Act. The Davis-Bacon Act has come to be used for something it was never intended. The Davis-Bacon Act was passed back during the depression to prevent big companies in big cities from moving into areas with large work forces and undercutting the economic and wage structure in those specific areas.

Now, it is used to, really, in effect, establish a minimum wage in which workers who are a resident of the particular area can be compensated.

What the effect of Davis-Bacon has been is to spread inflation from metropolitan areas to rural areas now because every federally funded project carries with it the stipulation that Davis-Bacon shall apply.

We see the unfortunate circumstance of, for example, a federally funded proj-

ect in a relatively small town having to carry with it payments for labor that are based on the highest union negotiated rate perhaps 150 or 200 miles away.

We see the prospect of an employer paying the prevailing rate in his community. All of a sudden he gets a Federal project and he has to increase those rates. Then when he goes back to a private sector project, he decreases the rates again to stay economic.

It also means that federally funded projects will compete unfairly for employees with those who function in nonfederally funded projects so that the federally funded project becomes the employer's first resort.

Of course, this is inflationary. It is unnecessary.

Now let us look at the sorry plight that New York City finds itself in. There are many things that are wrong with New York City. It is a magnificent city. I find New York City fascinating. It is really wonderful to be in New York City, especially on one of those rare days when they pick up the garbage. There are many things that fascinate an old country boy like me in New York City. But New York City has its problems, and they have received national publicity.

The fact remains that New York City still tends to operate more for the benefit of its public employees than it does for its citizens. The result has been that everything in New York City costs more than it does anyplace else. That is why we old country boys cannot go to New York City as often to avail ourselves of all the opportunities for cultural enhancement there—because we cannot afford it.

Look at the plight of New York City. Of course, the big municipal workers unions wield an enormous amount of power. They run the city. They run it for their own benefit.

The per capita expenditure by city government is about twice as great as the next worst city—the next worst in terms of the plight it is in—and that is Boston, which is also a lovely city. I had the great privilege of being stationed there during World War II, and I found it a very interesting city, indeed. I must say that the denizens of that city did not seem particularly pleased to have me there, but I enjoyed being there.

Now New York City comes to us and asks us to please grant them a favor: please provide them loans, in effect, to bail them out. They have made some progress in cleaning up their act, but they have not gone far enough. They will not go far enough as long as they have the situation in which the unions impose burdensome costs on Government. They have virtually taxed their tax base to a confiscatory point. It is difficult for them to levy any more taxes. They have about taxed themselves out of business. It is no wonder that corporate offices are fleeing New York City in great numbers.

I suppose that we Texans could take some delight in the plight of New York City, because a number of those corporations relocate at Houston and Dallas, and we have been the beneficiaries thereof. But I can take no great joy in New York City's discomfort. I could take even less joy in New York City's discomfort if I thought they were doing something to clean up their own act—something more than they are doing now.

We have heard a great deal of hue and cry about low wages in the South. Let us look at the standard of living in the South. We poor, old Southerners—we are criticized for everything, starting with the fact that we decided to disassociate ourselves from the rest of the United States back in the 1860's. We just wanted to go peaceably, but the Yankees told us, "No, you can't go," and they started a war against us; and with superior resources, they ultimately prevailed. Ever since that time, the South has been the whipping boy for just about everything.

Low wages in the South. It is not terrible? Well, let us look at the record. What we have to consider is the standard of living that is enjoyed by people. You cannot go on simple dollar amounts. We recognize this, as my distinguished friend from New Jersey knows, in formulating our formulas for federally funded projects that are authorized by the Committee on Banking, Housing, and Urban Affairs. We take into consideration the different costs in different cities of this country. We always have special treatment for Alaska, Hawaii, and Guam, where costs run much higher.

So I do not think it is improper for me to call the Senate's attention to the fact that what you look at is what it costs to live there and how much consumable income you have.

All this hue and cry about low wages in the South. Let us have a look.

In New Jersey, for example, the net adjusted disposable income per capita is $4,062 per year. In Texas it is $4,313 per year. So the Texan is about $250 better off in terms of his disposable income, and he does not pay quite as much for his goods and services. Therefore, whatever his wage is, he seems to be doing pretty well. For one thing, there is not a lot of labor-management unrest, and he is not laid off very often. He works a lot. That does make some difference, of course.

Let us look at New York. The average net adjusted disposable income per capita is $3,493 per annum.

Now let us look at South Carolina. Oh, when the name "South Carolina" is mentioned. It is a beautiful State, with splendid people, but the popular image in the minds of people in the Northeast is that they are a bunch of white, Anglo-Saxon, Protestant, Bourbon exploiters of the poor, people of little tolerance, people of questionable cultural values.

This is not a true picture of South Carolina, of course. But South Carolina is a Deep South State, and this is a picture that many of the reformers want to paint of southern States. I resent this. My sainted grandfather was born in Louisiana, and my sainted grandmother was born in Mississippi, and emigrated to Texas during the Reconstruction period, when the South was being the scapegoat, as it usually is.

Let us look at South Carolina as compared to New York State. Net adjusted disposable income per capita in New York State is $3,493 per year. In South Carolina it is $3,500. So the South Carolinians are better off.

Let us not grieve for the South Carolinians and the low wages there. They are better off than New York in terms of disposable income per capita.

We could go on and on. I could recite many of these figures. As a matter of fact, Mr. President, I ask unanimous consent to have printed in the RECORD a table which shows the disposable income per capita, by State, in 1975, adjusted for cost of living and taxes. Then we will get a true picture.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISPOSABLE PER CAPITA INCOME BY STATE, 1975
(ADJUSTED FOR COST-OF-LIVING AND TAXES)

	Unadjusted per capita income	Adjusted disposable income per capita [1]	State and local taxes per capita [2]	Net adjusted disposable income per capita [3]
Snow Belt States:				
Connecticut	$6,973	$4,951	$697	$4,254
Massachusetts	6,114	3,980	814	3,166
Rhode Island	5,841	4,180	645	3,535
Maine	4,786	3,755	511	3,244
New Hampshire	5,315	3,818	525	3,293
Vermont	4,960	3,831	699	3,132
New York	6,564	4,518	1,025	3,493
New Jersey	6,722	4,787	725	4,062
Pennsylvania	5,943	4,506	636	3,870
Ohio	5,810	4,507	534	3,973
Illinois	6,789	5,134	730	4,404
Indiana	5,653	4,414	580	3,834
Michigan	6,173	4,627	682	3,945
Wisconsin	5,669	4,389	719	3,670
Sun Belt States:				
Florida	5,638	4,643	521	4,122
Georgia	5,086	4,303	508	3,795
North Carolina	4,952	4,223	485	3,738
South Carolina	4,618	3,976	446	3,530
Virginia	5,785	4,668	563	4,105
West Virginia	4,918	4,281	533	3,748
Delaware	6,748	5,483	727	4,756
Maryland	6,474	4,872	728	4,144
Kentucky	4,871	4,189	497	3,692
Tennessee	4,895	4,155	451	3,704
Alabama	4,643	3,981	415	3,566
Mississippi	4,052	3,555	446	3,109
Arkansas	4,620	4,150	405	3,745
Louisiana	4,904	4,229	566	3,663
Oklahoma	5,250	4,497	482	4,015
Texas	5,631	4,828	515	4,313

[1] Adjusted for differences in cost of living (U.S. average for 1975=100) and per capita Federal taxes. The cost-of-living index used was the annual budget for an intermediate standard of living for a 4-person family. From C. J. Jusenius & L. C. Ledebur, "The Northern Tier and the Sunbelt," Challenge, March/April 1977.
[2] Tax Foundation, Inc.
[3] Col. 2 minus col. 3.

Mr. TOWER. Mr. President, this way we get a true picture of how things actually are better off in the right-to-work States. Most of these States in the Sun Belt are right-to-work States. In fact, their rate of unemployment is lower and their net disposable per capita income is greater.

How do you propose to improve the condition of the working man in these States that have a low rate of unionization by inflicting upon them—or attempting to inflict upon them—the same kind of union activity that you have in the industrial States in the Northeast, which are beginning to show some loss of economic resources, some diminution of growth, at least a static situation?

Mr. President, the Senator from New Jersey did a very good job, a very deft job, of informing me on certain matters when I last spoke here on this bill.

And, therefore, if he will indulge me, there are a few questions, that I wish to ask him, as to which I am certain he has the answers. At least my smart staff says, "You will certainly not confound Senator WILLIAMS on any of these questions." I said back to my smart staff, "I have known Senator WILLIAMS for many years and I have not confounded him on a question yet." Therefore, I know that he will not mind responding to some of the questions that I am about to put to him.

I pose this question: The bill says that 21 days between the service of the petition and the election. Does this mean 21 days after the employer has received the petition? I ask that to my distinguished friend from New Jersey.

Mr. WILLIAMS. That is the time that runs from receipt, yes.

Mr. TOWER. It runs from the time the employer has received the petition; that is correct?

Mr. WILLIAMS. The answer is "Yes."

Mr. TOWER. Assume that I am an employer and receive a petition on the first of the month. I might have to travel to the regional office of the NLRB and that might take a day or two. It might be a considerable distance. Then I have to find and retain legal counsel which will take another few days. If there is disagreement over the bargaining unit, there will be another few days of hearing. There will be no determination as to whether or not there will be an election until about the 13th day. So it is possible, I might realistically have only 8 days to run my campaign. Therefore, why not start the time period running from the time the appropriate bargaining units determine or at least after a 13-day period for the Board to determine whether or not to direct an election? Why could not that adjustment be made in the bill?

Mr. WILLIAMS. Let me go back. What is the situation here? How many indicated an interest in an election to decide whether there will be a union?

Mr. TOWER. I would say at least 30 percent.

Mr. WILLIAMS. If it is 30 percent, you will have up to 45 days for your employer to fully prepare himself and campaign with his viewpoint. I imagine in this case he is not acquiescing in the selection of a union, but he is going to resist and argue against the union. Is that right?

Mr. TOWER. He might want to. He may or may not.

Mr. WILLIAMS. Yes; but at any rate, where there is 30-percent support of the petition, he has 45 days. I would imagine, though, if in this case there is a serious question of the unit there is still an opportunity to go to 75 days. After the provisions of this bill have become effective as law, if there are unit questions that have not been resolved by rule and you have a case that might be unique or novel, then the 75-day provision would apply.

Mr. TOWER. Of course, most of these will probably be 50 percent. I probably should have used that as an example, where 50 percent have petitioned. Then the time period is shorter.

Mr. WILLIAMS. Again, if there is no question about the appropriateness of the unit sought that election will be subject to the election timetables.

Mr. TOWER. Even if the questions are minimal, could it not conceivably take some time to establish the composition of the bargaining unit?

Mr. WILLIAMS. The 21- to 30-day period for the election is designed for those cases where 50 percent have shown an interest and there are no complications regarding the unit.

Mr. TOWER. Let me ask the Senator this: Why not simply start the time period running from the time the bargaining unit has been determined—what is wrong with that—instead of a specified time? And the bargaining unit has to be determined sometime within that time frame up to perhaps just a few days before the election. Why could you not start the period running at the time the bargaining unit is determined?

Mr. WILLIAMS. Again, if there is a question of a unit itself, it is a different situation. Under this bill the authority is here to codify by rule those basic unit determinations. Where the appropriate unit has been determined by rule that issue will be determined very early and then, if it is found that the rule applies there is ample time.

Mr. TOWER. I understand. If it is determined early or late what would be wrong in having the time period running from the date that it is determined rather than run it from the time the petition is received?

Mr. WILLIAMS. What we are doing here is insuring that there will be enough time for both sides to have their position and viewpoint known by the electorate, and 21 to 30 days, again in these most simple situations, I suggest is a fair period of time. On the record that has come to us, many people say that in 50 percent of the cases elections are held in this amount of time anyway.

Mr. TOWER. Of course, I think the Senator from Texas probably has a different idea about what a fair period of time is.

Let me pose another question. The proponents of the bill have cited a need to expedite elections due to delays caused by preelection hearings. Does the NLRB not already have the vote and impound authority?

Mr. WILLIAMS. Does the NLRB have what?

Mr. TOWER. The vote and impound authority. Do they not already have it?

Mr. WILLIAMS. They can impound challenged ballots, yes.

Mr. TOWER. It is my understanding they adopted that procedure to speed things up. That does not appear to me, then, to be a valid reason why we have to act on this bill. There may be other reasons. But that would not appear to me to be a prime factor.

Mr. WILLIAMS. The impounding of ballots, as I recall the procedure, comes after the election and only on appeals to the Board.

Mr. TOWER. Moving to another aspect, the equal access provision, which I think the Senator from New Jersey would probably himself identify as one of the most, if not the most, controversial aspects of this measure. How does the employer verify union interest as stated in the bill?

Mr. WILLIAMS. The question again?

Mr. TOWER. How does the employer verify union interest to trigger the equal access provision?

Mr. WILLIAMS. If he gets word of interest and questions whether there is sufficient interest, I would suspect that is a question that can be taken to the Board. He can ask at the regional level. We call it the Board; that is not the Washington Board. He can go in the regional office and say: "Here is this: They say there is an interest. I do not believe it. Find out." And he can get an answer from the Board.

Mr. TOWER. Will there be a uniform method set up to do this, or is it going to be a matter of determination on various regional Boards?

Mr. WILLIAMS. I know that the rulemaking authority is provided for the National Labor Relations Board to give its regional people the guidelines to make these decisions. The boss comes into the board and says, "Look, they say they have an interest. I do not believe it. Find out." We clearly do not contemplate a formal procedure. The regional fellow says, "I will go find out." Then he reports back, "I found out, you are right. There is no interest. Forget it." Or he comes back and says, "I found out, there is an interest."

Mr. TOWER. In the meantime, they do not have equal access then?

Mr. WILLIAMS. Not until the Board has told him at the regional level that they have determined that there is an interest, or by some other objective consideration. Again now here is the important thing, there is not going to be any obfuscation, any smoking up of the scene. All of this will be regularized by the rules of the road which we authorize specifically in the bill for the Board to formulate.

Mr. TOWER. I think the bill is somewhat flawed.

Mr. WILLIAMS. I am surprised to hear that.

Mr. TOWER. Well, it is flawed in many ways, but it is particularly flawed in that aspect in that it does not really set forth the formal procedure for a determination in this matter.

Mr. WILLIAMS. I would like to relieve any anxiety that the Senator from Texas has. There is no one I would like to see less apprehensive and anxious.

Mr. TOWER. If the Senator from New Jersey can relieve my anxiety it would be a great day for me.

Mr. WILLIAMS. You see, I mentioned the guidelines, the rules of the road, that will be laid out, and this is by formalized rules of the National Labor Relations Board directed to the situation.

The Senator is an authority, I know, on the demanding procedures that have to be applied to an administrative agency in its formulation of rules and, therefore, all of the fine questions of exactly how we find out if there is truly an interest, all of this will be sifted and searched through in the rulemaking process. We do not legislate all of these answers, as the Senator knows. So I hope this will in some degree——

Mr. TOWER. I proceed on the assumption that rulemaking procedures are important throughout the Government, and I think the Senator from New Jersey is aware that we get a lot of complaints about rules made pursuant to legislation passed whether we intended those rules to be made or not. Right now I am getting thousands and thousands of letters simply on the question of gun control because of the rulemaking the Bureau of Alcohol, Tobacco, and Firearms has engaged in. Maybe the Senator from New Jersey has gotten some mail as well. That was a rulemaking not anticipated here in Congress, and I am not so sanguine about the rulemakers. I think it needs to be spelled out more specifically legislatively. I think we get into trouble if we fail to do so.

Mr. WILLIAMS. I cannot recall any complaints that have arisen directed at the National Labor Relations Board in the exercise of its authority to formulate rules, no complaints at all. It is not like some agencies where we have seen rules made and then we have been fully occupied trying to answer our mail on the rules of some of the agencies. But I cannot recall any national lament about the National Labor Relations Board rules.

Mr. TOWER. Is it true that the Board can under present law refuse to make rules on units, if it chooses not to do so, because they are considered to be impractical in the real labor relations world?

Mr. WILLIAMS. There are various reasons they have assigned. I do not know whether impracticality is one of them. They have not found a compulsion to make rules in this area. Perhaps they wanted to decide these issues on an ad hoc case-by-case basis. That is one of the problems we face here. Because of that the Board is backlogged, dammed up, and people are not getting decisions. The bureaucracy is loaded over with delays, redtape, hearings, appeals, back again, back and forth, like a tennis game, the decisions going back and forth in this bureaucratic jungle and maze, and that is why we are trying to simplify this so that employers and employees will know where they stand, know what to expect, know how to conduct this part of the business of life.

Mr. TOWER. The fact is they can make rules but they do not.

Mr. WILLIAMS. Bureaucratic neglect.

Mr. TOWER. Let me ask further, the Goldberg study which, I understand, the committee relied on extensively as justifying equal access, involves a situation where the union had petitioned for an election. Why did the committee decide that equal access is necessary when there is no petition? It is my understanding that the Goldberg study involved situations where there had been a petition.

Mr. WILLIAMS. I know there is precision in the question, but I did miss the impact of that. Could that be repeated?

Mr. TOWER. Yes. Why did the committee decide that equal access is necessary when there is no petition, when the Goldberg study, on which I understand the committee relied extensively, involved situations where the union had petitioned for an election?

Mr. WILLIAMS. Now I see the Senator's point. The Senator suggests that access should wait, upon the formality of the petition.

Mr. TOWER. Of a petition, that is the suggestion.

Mr. WILLIAMS. The access should wait upon the same trigger, but not a formal petition. Rather when the employer, knowing there is an interest among his employees in organizing, begins to campaign to his workers against the idea of a union. That is when access should be available. It is not a formal moment in time. It is when the employer does something to try to influence the opinion and the idea, the attitude of workers about unions. Having done that, that is the time there should be the equal educational opportunity for the workers to respond.

Mr. TOWER. Well, looking again to the Goldberg study, 18 elections were evaluated to determine the proportion of authorization cards signed before the employer became aware of the organizational drive. According to the report, in 10 of the elections all cards were signed before the employer became aware of the drive. In four elections, 50 to 75 percent of the cards were signed before the employer became aware of the drive. So you cannot say that the employer knew about them.

Mr. WILLIAMS. Well, no trigger will happen until he does know, and then does something about it. That is when it starts. It is not a formal petition for an election. The committee suggests that a 10-percent interest be shown before a petition for an election is filed.

Mr. TOWER. I do not think that——

Mr. WILLIAMS. If the employer does not know about it why, he obviously might be, as a matter of philosophy of life, talking against unions every day.

I worked for an employer one time who had a very strong feeling about unions, and he was talking about unions every day of his working life. There was no showing of interest among the workers to organize, there was nothing of the sort. He was just philosophizing.

This would not create any access to respond under the bill, because nothing had started in terms of getting ready for and moving toward an organization effort. But when he does know that there is an effort at self organization within the employee group, and there is a sufficient showing of interest, and then he philosophizes in a systematic antiunion campaign, then under the pending bill we would have an access requirement.

Mr. TOWER. Under the present law, it occurs to me that unions have considerable access to employees as it is. I still think the fair thing would be that the equal access not be granted until the petition is filed.

I am interested in the constitutional aspect of this matter, as I know the Senator from New Jersey is, and I am curious to know what the Senator's thinking is on that point.

Mr. WILLIAMS. Well, this is probably the most profound legal discussion that we will have in connection with this bill, that is, the constitutional question arising out of access.

Even as the Senator from Texas was speaking, the word reached us that there was a case decided by the Supeme Court in an opinion delivered today that might have home bearing on this general area. I obviously have not had a chance to see the opinion, but after that opinion is delivered and is available to us for examination, we may add knowledge.

Mr. TOWER. Well, I was talking about one decided a week ago, but I will await, with the Senator from New Jersey, the outcome of today's deliberations by the Court. I was not aware of that, myself.

Mr. WILLIAMS. I understand it deals with access for Occupational Safety and Health Administration inspectors. There are apparently further requirements now that we did not contemplate when we enacted that act, before the inspectors go in to see whether the health and safety of workers is, in fact, endangered.

Mr. TOWER. We might withhold further consideration of this point until we have a chance to review it.

I understand equal access was intended to deal with captive audiences, or captive audience speeches. But does not the committee, in fact, go beyond captive audience speeches, to the point that any time an employer talks about unionization, even if the puts something on a bulletin board or he has an informal discussion, do not those constitute the same thing as captive audience speeches?

Mr. WILLIAMS. Oh, no, no; the committee uses the words "systematic employer antiunion campaign."

Mr. TOWER. But if he uses the bulletin board, if he puts regular notices on a bulletin board, would that be included? Is that a captive audience speech by definition?

Mr. WILLIAMS. The equality for that would be a union paper on the bulletin board. It would not generate an opportunity to respond by people coming in and personally soliciting up and down the aisles of the production area, I can assure the Senator of that. As a matter of fact, it would not trigger any kind of intrusion into the areas of production. The captive audience situation however triggers an opportunity to be able to respond to the employees in the same manner.

You know, when you think of it, when you are working, when you are an employee, and that job is just about the most important thing your family possesses—your job, that is what keeps it all together—and you need that job——

Mr. TOWER. I understand that very clearly.

Mr. WILLIAMS. On disclosure, I can see you and I were in the same boat, JOHN.

Mr. TOWER. I am sorry you are in that position. I would desire a little bit higher standard of living for my distinguished colleague.

Mr. WILLIAMS. Well, at any rate, the authority that the employer has to influence an employee is remarkable, because of the dependence of the employee upon that job, and even without threats or coercion, an employer can stand up there and, with every fiber of

his being, say that "the union is just the opponent of all that I believe in, of individual initiative, and I want to you to have all these opportunities and individual initiatives"—you know, that comes over, not like an academic lecture, but with the force of "my gosh, if he wants it that bad, my whole opportunity and job depends on making that man feel right about me," and I would say, when the law provides for an election, when the law provides for collective bargaining, we should, in this democratic society of ours, give those of an opposing view an equal opportunity to describe the opportunities that would arise from being members of the union.

Mr. TOWER. Why should not the unions have to pay for equalized opportunity? The employer pays; why should not the union pay?

Mr. WILLIAMS. Again, now, we are only talking about the one situation, where production is stopped? There is access available, less formalized, less complete, without anybody stopping any kind of work at all. Is the Senator talking about where the work stops?

Mr. TOWER. You mean this poor guy is working at a lathe and has to listen to all this over a PA system? If that does not impair his productivity, I do not know what will.

Mr. WILLIAMS. I see. The Senator is not talking about the situation where the employer has turned off the power.

Mr. TOWER. No. We have an audience, where we have them all here in the company lunchroom. The employer has already talked to them on company time. Production is stopped, and the employer has paid the cost of them being there. Why should not the union pay for that access and that interruption of production?

Mr. WILLIAMS. The employer has made the decision. The decision that he has made is that "this question of unions is so important I will turn off the power, production will stop, and I will take the loss of production to make my idea known."

It is all up to the employer. If he makes the determination, that "this subject matter is so important that I will lose that production time," then it triggers. But only if he makes that decision.

Having made it, he has got to live with it, and lose production both ways.

Mr. TOWER. Then he has subsidized the union, and it would seem to me, if it is important enough for the union to respond, that they should be required to pay.

The analogous situation is that if my opponent takes the initiative in buying 30 minutes of television time to oppose me in a political campaign, I am entitled to equal time, but I have to pay for it. Is that not a fact, I pay for it because he has taken the initiative in buying the time and making the pitch?

Mr. WILLIAMS. I can sympathize with the Senator. I have been in the situation of being forced to buy time because of the unreasonable and egregious campaign of my opponent. I have thought to myself, "I have to spend money to answer that? He ought to pay me."

I can sympathize with the Senator, but in the democratic process, all equity does not prevail, and we have got to spend some of our own to establish justice.

Mr. TOWER. Let us go on to another subject. Let us take the "make-whole" provisions.

Mr. WILLIAMS. That is the easiest of all. I thank the Senator from Texas, as I have thanked so many of those who, as the Senator from Utah frequently says, invite us into the debate. There are those who do not give us the opportunity to respond by inviting us into the debate. They let us sit here almost in isolation, and will not let us enter the debate to ask a question. I was severely reprimanded yesterday for interrupting for a question.

Mr. TOWER. I would certainly never object to the Senator from New Jersey interrupting me. As a matter of fact, I would hope that he would take every opportunity to express himself. This is, after all, an educational dialog we are in the process of conducting for the next few days, perhaps even longer, and I think that certainly the Senator's side should be heard.

Mr. WILLIAMS. This morning I was thinking about being reprimanded by one of my colleagues on this side of the aisle yesterday. This morning at about 6:30 I was getting ready for the debate coming up today. I have the chart and I know who is going to speak. That information has been supplied to us. I knew that the Senator from Texas would be on until 11:30. I looked forward to today. I knew there would be this kind of opportunity to discuss this subject together here on the floor, and I would not be set down as I was yesterday.

Mr. TOWER. I would never suggest that to the Senator from New Jersey.

Looking at the "make-whole" aspect of this thing, I am sure the Senator is aware of the current wage and benefits figure from the Bureau of Labor Statistics, the one that would apply for the "make-whole" provision. What is that figure?

Mr. WILLIAMS. I know what the statistic is. I see why the statistic is as it is. For the first quarter it is an immodest 14.6.

Mr. TOWER. 14.6 percent.

Mr. WILLIAMS. And that includes the resolution of the very difficult coal strike situation.

Mr. TOWER. The coal settlement is incorporated in that current BLS figure?

Mr. WILLIAMS. That is my understanding.

Mr. TOWER. Does the Senator have any information as to whether the figure is comparable to increases in the small business sector?

Mr. WILLIAMS. This is the area that is of concern. The Bureau of Labor Statistics has not created the systematic type of report which gives us a comparably accurate figure for smaller establishments.

Mr. TOWER. We do have one smaller than 5,000, do we not?

Mr. WILLIAMS. I now learn from my staff what I did not know before, and they have known it all along. They have just handed to me from the Department of Labor wage increases under major collective bargaining agreements for 1976. There is the following breakdown: For units fewer than 100—and this is 1976—it is 7.6 percent; for 100 to 500, it is 7.4; 500 to 5,000, it is 8.4; and for 5,000 or more it is 8.5. But for this debate I guess I would not have known this.

Mr. TOWER. Those are small businesses. The principal thrust of this bill is going to be against small employers. Here the Senator is going to tie it to a 14.6 percent increase for plants or businesses with 5,000 employees.

Mr. WILLIAMS. I will have to plead surprise here. I know there is an amendment which is designed to reach comparable agreements with smaller businesses. I understood the Department said it would take $700,000 and 4 years to develop it. I will have to plead surprise and wonder about these figures. This is an area where I believe we should force the statisticians of government to give us what we need to make this make-whole fair.

For the life of me, I cannot understand if they can do what I have just read why they cannot do it with some greater degree of certainty of their result. I understand they do not believe that this is as finely arrived at as it should be, that it is not complete.

I say when the amendment time comes and we consider such an amendment, we can then tell them they may have to do it. If we are going to have the make-whole, let us make the make-whole remedy match the situation as accurately as we can.

Mr. TOWER. I am pleased to hear the Senator make that observation. I wonder if he can tell me how many companies are included in the BLS survey that results in the 14.6 percent, and what percentage of all employers.

Mr. WILLIAMS. For those over 5,000?

Mr. TOWER. Yes. How many companies are there in that category?

Mr. WILLIAMS. There cannot be a very large number, but I do not know.

Mr. TOWER. And, further, the percentage of all employers covered by the bill.

Mr. WILLIAMS. The number of employers? Does the Senator mean in total?

Mr. TOWER. In other words, how many companies and what percentage of all employers covered by the bill do they represent?

Mr. WILLIAMS. That I do not have. It is a fair question and should be answered.

Mr. TOWER. What is the average size of bargaining units currently going to representation elections?

Mr. WILLIAMS. The median size of new bargaining units? It is about 24. That is about the median.

Mr. TOWER. That is very low.

Mr. WILLIAMS. It is low.

Mr. TOWER. I think the Senator has said——

Mr. WILLIAMS. That is units we are talking about, not the size of employers.

Mr. TOWER. I understand that.

I believe the Senator has already said that he feels perhaps the standards in the bill should have some relationship to size.

Mr. WILLIAMS. Strongly.

Mr. TOWER. Did I understand that suggestion?

Mr. WILLIAMS. I strongly feel that.

Mr. TOWER. I wonder if we can put off "make-whole" until some new standards can be developed for small business.

Mr. WILLIAMS. I would not put off the remedy totally, but I certainly feel that we should consider development of a comparably accurate standard in terms of the size of the establishments involved. This will be further debated and discussed. I know there are those who would delay for certain sizes of enterprise the implementation of the make-whole provision. This is going to be the subject of discussion in the amending process.

Mr. TOWER. I thank my distinguished friend from New Jersey for his candor on this matter. There are some other questions that perhaps we can get to at another time. I imagine we are going to have plenty of time to answer all of these questions. I do thank the Senator from New Jersey for being kind enough to respond to my questions today.

Mr. President, one of the greatest problems I think we have with this pending legislation is the effect it will have on small business in this country. We have covered this point of who is included under the NLRA, and I think it has been established that roughly 22 percent of the Nation's businesses are covered, and that this same 22 percent of business includes 75 percent of the workers in this country.

As to just what this means in terms of specific businesses which might be covered, let me point out a few examples which have been brought to my attention. Let me just point out how far the Board can go if it wants to exercise jurisdiction in some cases.

Consider, for example, the Sands Motor Hotel case. Here the dollar volume of the motel fell below the jurisdictional threshold. In order to exercise jurisdiction, however, the Board lumped the motel's dollar volume in with the volume of a restaurant doing business near the motel, even though the restaurant was a wholly separate corporation.

Then there is the case I like to call "the one that got away." in that instance, involving Grand Resorts, Inc., the Board decided to exert jurisdiction over a group of jai alai players who were on strike against a gambling corporation. While the Board was processing the case, the Immigation and Naturalization Service ruled that, as long as the players, who were in this country on occupational visas, were not working, they were subject to deportation. All 34 players were sent home. Here, it seems to me, is an instance where simply checking up on the facts might have saved the Board a good deal of time.

For the interest of my colleagues who might be wondering just what other kinds of small businesses might come under the Board's jurisdiction, let me just read a short list of examples:

Two companies operating nursing homes in contiguous buildings held to constitute a single employer in order to come within jurisdictional requirements. These are the actual cases. That one was the Garden of Eden Nursing Home, Inc., and the Eden Forest Nursing Home and Rest Home, Inc., 199 NLRB No. 16, 1972.

I am not going to read all of these case names, but I will cite these businesses. They are drawn from actual cases. These can be verified.

A dentist, an ambulance service, a community development counselor, a gas station, a bakery, a furnace cleaning company, child day care centers. An apartment complex providing rental housing for low-income families; a church-owned nursing home; a center for treatment of emotionally disturbed children; credit union; a child welfare facility; a day care center; a club providing air travel service to members; a retail variety store; a telephone answering service; a nonprofit educational TV station; an auto towing service; a cemetery owned and operated by a religious organization; a pet grooming shop; an employer providing residential care and treatment for 150 neglected and dependent children, most of whom are emotionally disturbed; an organization which rehabilitates alcoholics and drug users; a service providing counseling and homemaking services to a community; an art museum; a tire dealer; a nonprofit organization providing legal assistance in noncriminal proceedings to indigent clients.

These are some of the small businesses that might come under the Board's jurisdiction. Let us see where we are going.

In view of this kind of widespread coverage, even among smaller businesses, let me cite briefly from the unofficial report of the Small Business Administration on this legislation. Among other things, that report states emphatically that—

The Labor Reform Act of 1977, as currently written, would tip the delicate balance which exists between small business and labor, in favor of the latter. The essentially neutral labor laws, which define the rights and obligations of both employers and employees, would be transformed into pro-labor legislation, by operation of the subject bills.

I think it is obvious to a number of us here who have been trying to make this same point for months. Now we have an agency of the Federal Government, to the extent that is officially possible for them to do so, underscoring the same deficiencies in this bill. In their conclusion and recommendations, the SBA says:

The labor reform bill will give unions an unfair advantage over small businesses who have neither the time or expertise (including resources to acquire the expertise) to walk the very thin compliance line proposed by the bills. Since the penalties for noncompliance are so severe, most small businesses confronted with a union organization drive will likely give up in advance rather than risk any action which might be construed later to have been illegal. This will result in unnecessarily increased costs which small businesses are least able to pass on to consumers. Projected further, this means many more small businesses going out of business.

It is not difficult to understand why an administration which has gone all out on this bill, when hearing of the contents of this report, told the SBA to sit on it. That is what the administration tried to suppress, that came from one of its own agencies.

Madam President, I am prepared to yield the floor at this point.

I suggest the absence of a quorum.

Mr. JAVITS. Madam President, will the Senator withhold that?

Mr. TOWER. I withhold it.

Mr. JAVITS. Madam President, I think the question of the applicability of this bill to small business is so critical that I should like to have printed in the RECORD the jurisdictional requirements of the National Labor Relations Board. I think it would be very instructive to all Members, especially in view of the fact that one of the amendments, which has already been noticed by Senator DURKIN, relates to an effort to codify these jurisdictional limits as part of the law, of the measure which we are now debating. If the Senator has no objection, I ask unanimous consent that that be done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JURISDICTION—GENERAL STANDARDS

The Board's current jurisdictional standards are:

1. General nonretail concerns—Sales of goods to consumers in other states, directly or indirectly (called outflow), or purchases of goods from suppliers in other states, directly or indirectly (called inflow), of at least $50,000 per year.

Direct outflow is defined as goods shipped or services furnished by the employer outside his home state.

Indirect outflow is defined as the sale of goods or services to users meeting any of the Board's jurisdictional standards, excepting the indirect outflow or indirect inflow standard.

Direct inflow is defined as goods or services furnished the employer directly from outside the state.

Indirect inflow is defined as goods or services which originated outside the state, but which the employer purchased from a seller or supplier within the state.

In applying this standard, the Board will add direct and indirect outflow, or indirect and direct inflow; however, it will not add outflow and inflow.

2. Retail concerns—An annual volume of business of at least $500,000, including sales and excise taxes.

3. Retail and manufacturing combined—Either the retail or the nonretail standard, when a single, integrated enterprise manufactures a product as well as sells it directly to the public.

4. Retail and wholesale combined—The nonretail standard, when a company is involved in both retail and wholesale operations.

5. Instrumentalities, links, and channels of interstate commerce—An annual income of at least $50,000 from furnishing interstate transportation services or performing services valued at $50,000 or more for enterprises that meet any of the standards except indirect outflow or indirect inflow.

6. National defense—The enterprise has a substantial impact on national defense.

7. Territories and the District of Columbia—The normal standards as applied in the states are applicable to the Territories. Plenary jurisdiction is exercised in the District of Columbia.

8. Multiemployer bargaining associations—

Regarded as a single employer in that the annual business of all members is totaled to determine whether any of the standards apply.

9. Multistate establishments—The annual business of all establishments is totaled to determine whether any of the standards apply.

10. Nonprofit organizations—The same standards as if the organization is operated for profit.

11. Union employers—The appropriate non-retail standard.

JURISDICTION—SPECIFIC INDUSTRIES

The Board's current jurisdictional standards for specific industries are:

1. Apartment projects—At least $50,000 in gross annual revenue.

2. Automobile dealers—Treated as retail operations, even if the dealer has a franchise from a national manufacturer.

3. Building and construction—The appropriate jurisdictional standard in cases involving a single building trades employer or the multiemployer standard if the employer is part of a multiemployer bargaining association.

4. Colleges, universities, and secondary schools—At least $1 million total annual income from all sources except those designated by the grantor as not available for operating costs. This applies to both profit and nonprofit institutions.

5. Communications—At least $100,000 annual gross volume of business for television, radio, telephone, or telegraph businesses.

6. Country Clubs—Treated as retail concerns.

7. Entertainment and amusement—Treated as retail concerns. The Board will not assert jurisdiction over horse and dog racing tracks.

8. Federal credit unions—At least $500,000 annual gross income from loans, deposits, and investment, or such related areas.

9. Gambling casinos—At least $500,000 annual income.

10. Guard services—That companies furnishing plant guards to employers involved in interstate commerce are themselves subject to jurisdiction if the value of the services meets one of the Board's basic jurisdictional standards.

11. Hospitals and health-care institutions—Federal, state, and municipal hospitals are exempt, as are administrative employers in the health field. Under the 1974 amendments, the Board will assert jurisdiction over nursing homes, visiting nurse associations, and related facilities with gross revenues over $100,000 per year and over proprietary and nonprofit hospitals with gross revenues over $250,000 per year.

12. Hotels and motels—At least $500,000 total annual volume of business, whether an establishment is residential or nonresidential.

13. Office buildings, shopping centers, and parking lots—At least $100,000 total annual income, of which $25,000 or more is paid by other organizations which meet any of the standards, except the nonretail standard.

14. Postal Service—Full jurisdiction as provided in the Postal Reorganization Act of 1970.

15. Printing, publishing, and newspapers—At least $200,000 total annual volume of business, and the employer must hold membership in or subscribe to interstate news services, publish nationally syndicated features, or advertise nationally sold products.

16. Public utilities—At least $250,000 total annual volume of business or $50,000 outflow or inflow, direct or indirect. This standard applies to retail gas, power, and water companies, as well as electric cooperatives. Wholesale utilities are subject to the general nonretail standards.

17. Restaurants—Treated as retail operations.

18. Service establishments—Treated as retail operations.

19. Sports, Professional—Regarded as industries affecting interstate commerce and subject to jurisdiction.

20. Symphony orchestras—At least $1 million total annual income, compiled from all sources except those designated by the donor as not available for operating costs.

21. Taxicab companies—At least $500,000 total annual volume of business.

22. Transit companies—At least $250,000 total annual volume of business.

Mr. TOWER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Madam President, we are now in the midst of considering one of the most disastrous pieces of legislation to come before the Senate in many years—the so-called labor law reform legislation. It is being passed off as a moderate piece of legislation that will not substantially change present Federal labor law and that will only affect those employers who break the law. Nothing could be further from the truth. This bill is one of the most sweeping revisions of national labor relations policy since the passage of the Landrum-Griffin Act 17 years ago. It has the potential of forcing hundreds of thousands of workers into unwanted unions. To believe that this bill is simply fine tuning is to believe in the Easter bunny.

Why is there such an urgency to enact labor law legislation? Why are many of my colleagues so eager to mandate fundamental changes to the National Labor Relations Act which for the past 43 years has provided labor-management stability? For one simple reason—the push is on from big labor. As George Meany recently stated:

> There is nothing more important to the (organized) labor movement at this point in history. Nothing.

What is important to notice here is that the push is from big labor, not from the rank-and-file union members nor from the American public in general whom this bill purports to help. A recent survey conducted by the Opinion Research Corp. proves this point and I quote:

> Very little support (22 percent) exists among members of the general public for the passage of Federal legislation that would make it easier than it now is for unions to organize non-union employees. As a matter of fact, as many people (25 percent) believe that there should be legislation that would make organizing non-union employees more difficult than at present. Four in ten (40 percent) do not believe the current laws should be changed.

The survey further concludes that lack of support for this legislation is evident in all parts of the country, among people of all political persuasions—Democrats as well as Republicans and Independents. This view is shared by people who have either read or heard about labor law legislation and those who are not aware of such legislation.

In fact, the proposal to make it easier for unions to organize does not win majority support from current union members. Only one-third (33 percent) support the idea, while almost half (48 percent) think that the present laws should not be changed. The facts reveal that this bill is a pretty bad case of special interest legislation, for we will have enacted a bill which will increase the power of union leaders while stripping away another layer of individual freedom.

There are other interesting statistics which reveal why big labor is so anxious to get this bill passed.

At the beginning of 1978 there were 98 million men and women in the United States work force. Just under 20 million of them were dues-paying members of a union. Despite the fact that the economy generated 6 million new jobs between 1974 and 1977, there are 500,000 fewer U.S. union members today than 4 years ago. Union labor now represents a smaller proportion of the work force—just 20 percent—than at any time since World War II.

Unions also won only 46 percent of last year's organizing elections compared to 61 percent two decades ago and a consistent 80 percent or more during the first 10 years of the Labor Relations Act.

Madam President, big labor's "product" has gone sour. And rather than looking inside to see what the problems might be, the union bosses have chosen to turn to the Government for legislation which will require people to buy their "product," they need this bill as their vehicle to force businesses to unionize, instead of winning over workers by persuasion. As William Raspberry, noted Washington columnist, said in his column on this legislation:

> If unionism is as good for workers as the unions claim, there should be no problem attracting members.

Obviously it is not.

It is also important to note that the decline in union membership is not only because of union tactics. Businesses are getting better at responding to employees' needs. More and more employees are realizing they do not need unions to represent them. Times have changed. Employers increasingly are making it unnecessary for workers to demand a union. Employers are offering wages at least as high as those that could be extorted by unions; they are offering a variety of fringe benefits and are seeking an atmosphere of cooperation. All this is done with no strings attached. No dues to be paid. The result—creeping deunionization which is the ultimate insult to big labor.

This apparent change in employee attitudes has certainly prompted proponents of this legislation to label it as a bill to enlarge the freedom of individual employees to exercise rights guaranteed by the NLRA. But examination of this bill reveals that this is not the case. Each change addresses so narrow a segment of the spectrum of abuses that its effectiveness in protecting the individual em-

ployee is questionable. The bill would impose stiff penalties on the employer for unfair labor practices while doing nothing about the practice of unions in imposing heavy fines on employees merely for exercising guaranteed rights. There are no provisions to protect employees from union coercion. How can such a lopsided piece of legislation claim to be in the best interest of the individual employee when it is a blatant attempt to change the current balance of power of the NLRA.

One such penalty is the back pay provision. In the bill, employers who have unlawfully discharged an employee would have to reinstate the employee and pay that employee time and one-half plus interest. This results in a punitive rather than a compensatory measure as not all employees will suffer consequential damages as a result of the discharge. This provision will also do nothing to speed up the process as the Board will still have to determine whether or not the discharge was unlawful. However, the imposition of such a penalty will probably result in increased litigation before the Board and the courts.

In addition, proponents claim there is undue delay in holding representation elections. They claim an employer can delay a representation election for 75 days merely by contesting a number of preliminary issues. However, 80 percent of elections are held between 12 and 44 days and are by the consent of both parties. Serious delay occurs only in 1 percent of the cases.

This is an extremely weak argument for change, but it is an argument that is used consistently in the Senate of the United States and in committees. We find some abuses, and it makes no difference how small in number they are. We simply impose laws that are a tremendous overreaction and go far beyond the necessary legislation to correct the abuses.

It reminds me of a situation in the Banking Committee last year, when we had brought before us the Debt Collection Practices Act. We were told horror stories beyond description of the abuses of creditors trying to collect overdue bills, of late night calls, of deceit, and deception. It was testified before us in committee that the Federal Trade Commission had received 20,000 complaints about unfair practices among those trying to collect debts.

When we asked representatives of the Federal Trade Commission to substantiate and tell us about these 20,000 complaints, it was rather interesting how they waffled. As we pinned them down, we found out that the 20,000 were not necessarily complaints. They had received 20,000 communications on debt collection practices, most of them requests for information—questions.

They were not complaints, not charging anything in particular, any violation, or that their rights had been abused. We finally pinned it down with respect to those 20,000 that were the justification for coming up with a new, very strict Debt Collection Practices Act. What did we find? Less than 100 of those 20,000 were actual complaints, and fewer than that ever went to court.

They simply had deliberately deceived the Banking Committee by testifying that they had 20,000 complaints, when this included every communication they had had on any subject on the act.

I fear that is what we are doing here. In the last few days we have heard a great deal about abuses and unfair labor practices by business. I do not intend to stand up and try to dispute those. I am sure that they have occurred. Many of them certainly are accurate in their descriptions. Certainly, no one is here in opposition to this bill saying that business is all lily white and there never are any violations. Obviously, there are.

From the statistics I have outlined, we have 80 percent of the elections held within 12 to 44 days, with the consent of both parties, and serious delays occur only in 1 percent of the cases.

We are doing the same thing here that we often do in the Senate—we overreact. We come back with a bill which tries to correct some of the problems that go far beyond what is necessary to solve the problem. We certainly have done that in the consumer field, in all areas of the consumer field.

We deal with this in the Banking Committee—whether it is debt collection practices, truth-in-lending, truth-in-leasing, the Real Estate Settlement Procedures Act, and on and on and on, until we have built up a bureaucracy of cost. The cost now of rgeulation to the consumer is $130 billion a year, or $2,000 per family per year, for the privilege of being regulated.

I am not saying we should not have some consumer legislation, but we overreact. We kill flies with 105-mm. howitzers rather than with flyswatters.

So as we look at the justification for this bill, it is rather interesting that such few violations prompt such an overreaction. Obviously, the conclusion in my mind has to be that it really is not the intent of this bill to try to correct these abuses. It is to go much beyond that, and it is to provide union leaders with something they cannot obtain through salesmanship and persuasion.

They come to the Congress of the United States to pass laws that compel. I wonder what the proponents would think if we were coming here asking for a bill that would give management all sorts of advantages. I do not want that. I do not want a bill that is one-sided on the other side of this question, either.

It is amazing how little we have heard about the abuses of organized labor. We just pass those over. We do not listen to them.

We do not have to go back very far. Look at the coal strike. Here we are charging businesses with delaying elections; and if they are in violation of the law, they obviously should be taken to task, through the courts, through the National Labor Relations Board, and they should not be allowed to violate the law. Look how we passed that over. How many people are being punished for turning over trucks, for carrying guns, for shooting, and violence? That is something I find it difficult to comprehend—how this body can ignore violence and killing among big labor when we have strikes.

I am not against voluntary unionism, but I certainly am against compulsory unionism. Those of us who live in right-to-work States have no desire to come back to this body and require and ask for a national right-to-work law. I do not know any of us who feel that way. We simply believe in section 14(b) of the Taft-Hartley law, which allows State legislatures the right of choice to decide whether or not they want to have a State right-to-work law.

If organized labor is so benevolent, why are they not willing to accept the individual judgments of elected State representatives throughout this country? The majority of States have not chosen to enact right-to-work laws.

As I say, none of us is trying to compel on the other side. If we were taking the same position, we would come back here and say we want a national right-to-work law to be imposed uniformly on all 50 States. We are not doing that. We are simply talking about States rights and the rights of elected representatives in State legislatures to make that decision.

Wait and see. If organized labor gets this bill passed, wait until next year, and their next step will be to repeal section 14(b), so that they can have absolute compulsion all over this country.

It is interesting to me that people who fail in a competitive society then run to government. I happen to think the union movement in this country has done a fantastic job for the American workingman. I happen to think that the union movement was necessary in order to correct some abuses on the other side, and I do not think we need to discuss the sweatshop days. Everybody is well aware of them. Something obviously needed to be done to correct those abuses, and American labor is deserving of credit for bringing about a solution to that problem.

However, I wonder why in this country the pendulum has to swing from one side to the other. Why do we have to go over the abuses of management and big business of a few decades ago, when we have what I consider a rather well-balanced situation? At least, we have had it in the past.

The unions fail to attract membership on the basis of salesmanship, and they say, "You should join our union, because we get better wages for you, because we get better fringe benefits, because we are able to get better retirement benefits, all because of us," and they do not want people to have the right to choose. But they have failed. So, apparently, the people are judging that the unions are not doing as much as they should or as much as they can, or that it is not worth the dues they are paying.

So when we failed in the salesmanship effort and at persuasion, as our society normally has to work under, then they run back here to Washington and ask their friends in Congress to give them a bill that gives them an advantage and allows them compulsion to require people to join unions.

Again, I stress that I believe in voluntary unionism. I happen to have belonged to the Teamsters Union, when I was going to college, driving trucks, through choice not because someone required me to. I am sure if they had passed a law requiring me to join, I would have tried to figure some way to get out of it. But I felt they were helping the situation, and so I joined.

Just recently as a year ago my son, who is a college student but works part-time in the winter and full time in the summer, got a construction job of manual labor swinging a pick and digging with a shovel, and he said, "Dad, I understand I don't have to join a union." I said: "That is correct, you don't, Son." He said: "What would you advise me to do?" And I said: "I would advise you to join and pay your $16 a month dues."

And he has for the last 15 months because I think the union in the construction industry in my State, particularly with the type of job he is doing, has been helpful, and he should be a part of that and he should pay his fair share of $16 a month dues. But again that was voluntary.

So despite some of the rhetoric you will hear in this Chamber, and I shall get from my own State about how I am antiunion, I do not know how I can make it much more clear, having been a member myself, encouraging my son to join voluntarily just a year ago, and having no problem when I was mayor of Salt Lake City with any of my employees in the city work force who desired to join a union to allow them to do so.

But compulsory unionism is abhorrent to our free democratic society. No one should be compelled to join any organization in this country if he or she does not desire to. I do not care whether it is the Kiwanis, the Jaycees; I do not care whether it is a union or a bar association, the National Association of Life Underwriters, or what else.

I had to make that choice when I was in the insurance business. What did the association do for me? Were my dues worthwhile to be paid? Did I get something in return? Did they help my profession?

And I made that decision: yes, they did.

But I would certainly hate to see a law that says that everyone who sells insurance has to belong to the National Association of Life Underwriters or the American Medical Association or the bar association, or anything else.

Why does organized labor have to be so chicken and run to Congress and what they cannot accomplish through salesmanship in a competitive society they want us to make it easier for them to organize through compulsion and through the force of Federal law? I just do not understand that concept. I do not understand it at all.

I will fight for voluntary unionism and the right of any individual in any State in this country to join a union if he or she so desires.

But to do what we are doing constantly with labor law in the light of declining union membership, I wish someone could answer me why through the legislative process we should interfere with that process and take the side of organized labor and particularly big organized labor, particularly when I do not think the union leadership in this country is representative at all of their rank and file members. Over and over and over again we take polls of union members on an issue, and it is at variance with what their leadership is saying and what they are using their dues to try and accomplish.

Look at the repealer of the Hatch Act. That is an interesting one. Mr. Meany would love to repeal the Hatch Act. Boy, there is really a good one. You couple that with this and repeal of 14(b), and they would pass common situs picketing, instant voter day registration, and a few other things. It is very easy to see what they want. They want total and absolute control of this Congress. They want to be able to run elections, control who sits here, and get, what they cannot get through persuasion and salesmanship, through the legislative body.

But the Hatch Act is, I think, a perfect example of something over 350,000 Federal employees here in the Washington area. They were polled. More than 80 percent of them said "No," they did not want the Hatch Act repealed because they did not want to go back to a spoil system and they did not want to be in fear of their jobs when administrations change.

Yet, boy, the union leadership still pumps for repeal of the Hatch Act.

What kind of a leadership is that, when 80 percent of their members say "no," this is not what we want? But they are going to put the screws on Congress to do it anyway. It is very interesting.

In my State, Hill Air Force Base is the biggest single employer in that State with over 18,000 civilian employees.

Yes, let us do away with the Hatch Act in the name of making Federal employees first-class citizens. Then when Senators run for reelection in Utah they can run out to Hill Air Force Base and say, "Boy, you better shape up and you better get out, work for me, organize for me, and vote for me because I sit on the Armed Services Committee and if you want the appropriations for Hill Air Force Base you better keep me in."

Is that really what we want to go back to in this country? Is it really what we want with millions of Federal employees to have them coerced by Senators and Congressmen and Presidents?

But that is what George Meany wants. There is another example of the agenda of big organized labor. And do you think the rank-and-file members want that? Do you think they want to be put in that kind of a position with their elected representatives?

Yes, let us go back to the spoils system. Let us put all these pieces of the puzzle together. Maybe we should just elect George Meany President, and put his other stooges in Congress and the Senate, and let them have the whole ball of wax, because that is what they want.

Again, why are they not content? Why can they not put out a good enough program to sell their members? Why can they not listen to their members rather than running to Congress?

So now we see this attempt to speed up elections. I do not think there is any doubt that there are many cases where they should be speeded up. There is no doubt at all. But can we not reach a balance? Can we not reach a reasonable period of time when both management and labor have had an opportunity to present their cases rather than to try and have these hurry-up, quickie elections and cram unions down people's throats before they have had an opportunity to hear both sides?

In order to "speed up" these elections, the bill would require that the Board order the election within 21 to 30 days if a majority of the employees support it and within 40 days if less than a majority support the representation election. This is clearly discriminatory as it is obvious the unions have the advantage—"if the support necessary for an election victory already has been secured, then expedite the election before management has an opportunity to present its views to the voters and for the voting employees to hear everything they need to know; otherwise delay the election until additional support can be generated."

Another disturbing provision is the expansion of the Board from five to seven members and the lengthening of their term from 5 to 7 years. Once again, proponents claim this would result in fewer delays and speedier case handling. But the facts do not back the claim up. Roughly two-thirds of the time expended between a charge and a Board decision is at the administrative law judge level. Expansion of the Board at best can reduce only the final one-third. And with each new Board member comes an additional 20 legal assistants. Each of these presumably works on 30 cases per year, a workload which, by the standards of an average Federal court, is particularly small. Supreme Court Justices have only three to four law clerks.

The Chairman of the National Labor Relations Board, John Fanning, has estimated that the cost of the staff support for two additional NLRB members will be approximately $2 million.

I think this is a clear case of not an attempt to speed up—it does not have that much effect on speeding it up—but to pack the Board, put a couple more members on with longer terms who have sold their soul to organized labor before they ever got on the Board.

NLRB has generally been biased in favor of labor for many years as it is.

I know what we hear immediately back is that, "Oh, well, it is required. We have both Republicans and Democrats."

How many times have I heard that on the Federal Election Commission and other boards and, of course, both Republicans and Democrats play the game. I just do not throw the blame at President Carter for his appointments. They go out and find a Republican whom no Republican can identify as a Republican. He says he is. They are weak Republicans and, as I say, Republican Presidents have played the same game. They go and find weak Democrats. You talk to the Democratic national chairman, and he says,

"Gee, I never knew he was a Democrat." So we end up with one side dominating, and I think you can expect that in name we would have Republicans and Democrats and Independents on the board, but, in fact, they would be all Democrats. They just happen to put a label on themselves.

We play those kinds of games here in Washington. If anybody is not aware of it, they do not have to be around here too long to figure out the blatant partisan, petty politics that go on.

So what do we want to do again? Repeal the Hatch Act, have more petty partisan politics. Disregard the national interest; let us take care of the special interest groups, whoever they might be, and just not worry too much about the rank-and-file union members. And, of all people, let us not worry about the general public in this country. Let us not worry about the inflationary impact of this bill, let us just make old George Boy Meany feel good because we have given him something he has not been able to do through salesmanship, or his stooges around the country cannot go out and convince people voluntarily they ought to join. We are going to run to Washington again and get another law.

That is what is happening more and more in this country. If we cannot solve a problem or do not perceive we can solve one, let us run to Washington and get another law passed.

Again, in the consumer field, it is unbelievable. When I was mayor of Salt Lake City it was rather interesting that anybody was allowed to join a union and a lot of them did. Some of them chose not to. There was a Utah State Employees Association that city employees could also belong to. There were various groups. There was an officers association, a firefighters union, a police union, general municipal employees union. And do you know where some of our biggest problems came from?

There was fighting among the unions. It was not between the city administration, management, and the employees, but there was jealously and fighting between the various unions as to who was going to represent all the employees. Was there really an interest there of "are they being represented or should I represent them?" They played that kind of game.

They also did not like something else. Every year when we talked about wages, all of the unions were invited in to present their positions, what they thought our settlement should be, and to look at the tax picture. But I was very unfair because I invited any worker in. Anybody in the city who also wanted to attend the hearing could come in and present his viewpoint. The unions did not like that. They did not want an individual employee to have that right. That is what is so interesting to me. We talk about expanding individual rights. But if they did not belong to their union or their particular union, even if they belonged to one of the others, they did not think they should have the right to come in and talk to the mayor about wages because they wanted the exclusive bargaining right.

Well, I happened to think that the individuals would be far better heard if they could send representatives of each of the union groups. But, you know, they did not like that either. In fact, I remember the firefighters union told me they would not allow any members of the firefighters union to come and talk about wages and fringe benefits. Only the president could, and he had been elected president despite the fact that they had an average attendance at their union meetings of 18 or 19, and they had 200 members. Only 18 cared enough to go to meetings. They said their president could be their only spokesman. What kind of democracy is that?

It is rather interesting to be put in the position of a mayor of a city that I am being unfair to labor when you are willing to hear any one of the 3,000 employees, their representatives, and if they wanted to come in and talk, each individual could, they could come in groups, by themselves. The unions did not like that. They wanted exclusive rights to bargain.

I wonder why? I wonder why they wanted to suppress the opinions of their members, why they would not allow them, did not want them, to come in and talk to us about it?

The firefighters union at one point said unless I would only talk to the president, not even the vice president or board members who were elected by that union, that they would refuse to come to the wage talks.

I said, "No, no; you can come, present your viewpoint, any firefighter can come, your board members can come." But they refused to come, and then they said I would not listen to them.

Well, I just was not about to accept one man out of 300, one man's opinion, on everything; I felt that his members ought to have a right to say what they wanted, too, as well.

It amazes me. I hear so much talk about democracy and secret ballots, but why are the unions so afraid, union leaders so afraid, of their individual members? Why do they want to suppress them? Why do they want to dominate them so?

I could go on and on for days talking about after 7 years in local government of trying to listen to everybody who wanted to be heard on these employee issues and being told by union leadership that I was not supposed to listen, only listen to the president. A little bit of dictatorship involved there, I would say.

So now we are going to allow the dictators to have more power so they can suppress their members more, and not listen to them, and prohibit them from going in to talk to their employer, so the party line can be given and no one deviates.

"This is what we have decided. This is what your all-wise, great leadership has decided. To heck with you individual members. Just keeping paying your dues and we will tell you what you are supposed to say and we will represent you when we go here. But don't you say anything. It is none of your business to deviate."

Now, Mr. President, I have mentioned only a few of the many objectionable provisions of this bill. I think they clearly illustrate that this legislation is little more than a heavyhanded attempt to shore up declining union membership. The American people deserve more than this Government-sanctioned union membership drive.

I would again suggest that union membership drives are fine in this country and they should work as hard as they can to convince people they should join their unions. But let it be done on the basis of persuasion and salesmanship and not on the basis of Government compulsion.

Last week we heard a great deal about how some of us were not supposed to talk about this bill at great length, and yet to give you an example of some of the kinds of threats union leaders make about this bill, another good reason why passage of this bill would be a bad idea, it would increase the power of this kind of union boss.

I received a telegram last week from an official of the United Mine Workers, and he said:

> Senator: to inform you of Local 2123, United Mine Workers of America feelings of the officers and members on your stand on the labor reform bill. We feel as our representative in the Senate that you lack full knowledge of the present conditions that the labor union has to organize. I'm sure you are aware that if we left it up to corporations and businesses, large or small, to give the working people a fair and just wage and working conditions, we would be in a sad state. We are happy and proud for the wages and living conditions we now have that have been the effort of organized labor.

Up to that point the telegram is fine, it is fair. It is suggesting that I study the issues. Certainly any constituent has a right to say that and disagree and be proud of his union, and I agree with that. I agree with what he says about what their union has accomplished for them. But then he goes on to say:

> If it takes a nationwide strike by all of organized labor to pass your bill—

It really is not my bill, although he says it is mine—

> they are willing to take that stand.

Now, that is a good telegram from a constituent, but then a threat of a nationwide strike, again compulsion to get what they want.

Mr. WILLIAMS. What union was that?

Mr. GARN. This is local 2123, United Mine Workers of America.

Mr. WILLIAMS. When did we ever have a nationwide strike?

Mr. GARN. Well, I do not know that we have, and I do not expect that we will. That was not my point, whether it was practical or not, I am sure that it would not be practical, and that it would not be effective. Nevertheless, I am talking about threats whether they are ridiculous threats or not.

Mr. WILLIAMS. Does the Senator, with all of his maturity and wisdom, get a threat out of that man talking about a nationwide strike?

Mr. GARN. I do not. I have already said that I do not expect it. It does not threaten me. I am not the least bit worried about the nationwide strike.

Mr. WILLIAMS. The Senator used the word "threat." That is blowing smoke in the wind, in a high gale, as a matter of fact.

Mr. GARN. Well, we are very good at blowing smoke on the Senate floor. I have heard a lot of it in the last few days about the rights of individual Members, this Chamber has been filled with it. As a matter of fact, the solution to the energy crisis is to pump the hot air out of this Chamber. It would heat the whole country, and we would not have to worry about Jimmy Carter's energy bill.

Mr. WILLIAMS. Will the Senator tell us that this filibuster is being a lot of hot air?

Mr. GARN. I am talking about the lot of hot air I have heard about this great bill, talking about the individual rights of the American worker. I happen to dispute that. I think it is George Meany's bill and because he cannot sell his membership drive he has to have compulsion.

I yield to the Senator from Utah.

(Mr. GLENN assumed the chair.)

Mr. HATCH. I do have one question, bearing on the coal miners' strike. You know, it is a threat that can be followed out to the detriment of everybody in America, and some say even at this point that the reason we have had such a disastrous first quarter is because of the coal mining strike, and that it may affect this whole year. So it is not an idle threat on the part of these leaders to say, "We can shut down the country." It is a real possibility, and I think we went through one of those this year.

Mr. GARN. The Senator is correct. A strike in a single industry can have a great impact on the economy of this country, and cause great disruption. There is no doubt about that.

This particular threat talks about a nationwide strike of all organized labor together, and I think my colleague from Utah would agree that that is overstating the case.

But my point, again, to Senator WILLIAMS was not that I felt the whole country would be shut down. The rank and file are not that irresponsible. Only the leadership would be that irresponsible. They would not do that to this country. But it is indicative of the type of threats that go on, that no one has replied or seems to want to reply to: the abuses of labor.

I know, as I have already admitted in my talk today, that there have been abuses by management, attempts to prevent elections, attempts to prohibit unionization in violation of law. There is no doubt about it; it does happen, even though it is less than 1 percent. I stand here and admit it.

But where is the talk about union violence? I wonder what this body would be doing if we had business out there with guns.

I remember when I worked for Federated Milk Producers in my State, and they had an election to decide whether or not to unionize—there was no dispute and no delay—and I do not remember the exact figure, but there were over 80 percent opposed to the union.

Were they willing to abide by that election? Oh, no. Do you know what we had to start doing? We had to have shotguns riding on our trucks. They shot holes in the sides of the milk trucks; that does not make the quality of the milk too good.

Those are not isolated incidents that happened in the coal strike; it has happened in a lot of strikes. If they do not get their way in an honest election, that was not delayed or anything else, they favor violence. When are we going to address that problem?

I do not even understand it. I can understand disagreements and differences of opinion. I can understand union members and leadership being mad at their bosses and wanting more wages, and all of that. But I fail to comprehend the violence that has gone on in the labor movement in this country when they do not get their way.

I can understand the coal strike going on for months. I can understand them saying, "I am never going back until I get what I want." But I do not understand guns. I do not understand physically hurting people because they are not getting their way. I do not understand people that will, when they have lost an election fair and square, start shooting up milk trucks.

We certainly have not heard much about that, but boy, have we heard a lot about these dirty bosses that have delayed elections.

Again, I agree with the proponents of this bill that they certainly should not go beyond the law and delay elections, and use illegal tactics to prevent unions from having an honest election. But let us be fair about it, and talk about both sides.

Where in this bill does it put some restraints on the abuses of organized labor? If at any place it talked about or addressed that problem, I would not be so exercised. I would not be exercised at all about trying to correct some of the abuses of business. But we are not talking about that, are we?

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. GARN. Oh, I am happy to yield. No one has answered my question.

Mr. WILLIAMS. I was diverted for a moment, but I heard about the gunfire and attacks on milk tankers. I wonder, was this in the State of Utah that the Senator proudly represents?

Mr. GARN. That is correct, a number of years ago, and I still have——

Mr. WILLIAMS. I am just wondering, I happen to be for gun control, and I did not hear everything the Senator was talking about. I gather this was a speech in favor of strict gun control.

Mr. GARN. Oh, boy, the Senator is really stretching it now. Would you like to have a debate on gun control today? We can divert ourselves completely away from labor reform.

Mr. WILLIAMS. I confess I came in a little late, just in time to hear about the shooting of milk tankers and riding shotgun to protect against violence caused by guns in Utah, and I am just wondering if this is an argument for gun control.

Mr. GARN. No, Senator, it certainly is not. The violence has been very minimal in Utah compared to what it has been in most of this country over the years. I just used that to illustrate the point, as I have said, that this is a very unbalanced bill. The proponents have not said anything about the abuses of organized labor.

But if you want to talk about gun control, I have plenty of time. Being from a State that values the right to keep and bear arms and believes in the Constitution of the United States, that we as citizens have that right, if you want to debate gun control I would be happy to, Senator.

Mr. WILLIAMS. All I know is, the Senator from Utah told us a story of gun attacks upon milk tankers. I will say that it would seem to me that surely the State law must be adequate in Utah so that law enforcement can arrest people and prosecute them and get them in jail, if they are firing upon citizens or firing milk trucks or committing other acts of violence.

Mr. GARN. It apparently was not in West Virginia during the coal strike and lots of other nationwide strikes we have seen. It apparently has not been sufficient to handle the violence; let us not kid ourselves.

I want to ask the Senator a question. You say you are favoring gun control. Does that go beyond handguns to long guns? Are you in favor of the abolition and confiscation of long guns as well as handguns?

Mr. WILLIAMS. I have voted for the gun control measures we have had before us. As I recall, they all dealt with handguns, and did not prohibit or outlaw all handguns, but did deal with those particularly deadly and wretched weapons called the "Saturday-night specials."

Mr. GARN. The reason I asked that question is not——

Mr. WILLIAMS. These guns are cheap, easily available, and deadly, and should be controlled.

Mr. GARN. The reason I asked that question is because, in reference to the Senator's question about was I in favor of gun control because of the shooting of the milk tankers, I am not, but even if I were, they were not shooting at us with pistols, they were using long guns, and I do not know that I have heard anybody here that is ready to include long guns. They were using rifles, not pistols or Saturday-night specials; they were using rifles and shotguns, and that is what our copilots were riding with in the right seat.

So the Senator's argument would not apply anyway, even if we had national confiscation of pistols and Saturday-night specials. We have never talked about long guns.

Mr. WILLIAMS. Certainly we have to depend on our police to enforce laws against that kind of violence, and I would feel a great deal more secure if I knew the policemen were a telephone call away and minutes away, readily accessible to the scene of violence; and that is why violence is best handled locally, by States, communities, and municipalities. That is where our security in cases of violence can best be assured. It is

traditionally an area of State rights, county rights, community rights.

Mr. GARN. I could not agree more with my distinguished colleague that certainly the police should be capable of preventing that. Unfortunately, they have not been.

That still does not get away from the point that I have been trying to make, that I have not heard much condemnation of that kind of activity by organized labor.

Mr. WILLIAMS. Violence? I Totally condemn any such activity by anyone.

Mr. GARN. Then why are we not trying to do something about it?

Mr. WILLIAMS. I am just asking the question, are we to create a Federal police force to be available within minutes of any place where such violence might occur?

It is impractical, and I am sure the Senator would not want that kind of Federal police force.

Mr. GARN. Should we have Federal law to control the so-called abuses of businesses? That is what we are dealing with here. The Senator is talking about abuses. They are different kinds, but we are not really talking about abuses of organized labor here, putting any constraints in this bill on them.

Mr. WILLIAMS. We have in the National Labor Relations Act a law that creates rights and responsibilities. In this bill, we are talking about improving procedures of that law. That law is not a criminal law dealing with violence. We are saying that the procedures of that law should make it possible for people who have responsibilities under that law to live up to those responsibilities, to honor the law. Those who have rights guaranteed by that law deserve to have them realized and have those rights in fact and not just on paper.

Mr. GARN. Would the Senator agree then, that that philosophy should work both ways?

Mr. WILLIAMS. It does. The provisions of this bill do work both ways.

Mr. GARN. In the situation I outlined, where there was an election and it was overwhelmingly defeated within a reasonable time, nobody was charging unfair labor practices. It was not fellow workers that I was working with; it was outsiders from the union who came in. Would the Senator think that the law should also prescribe that they should abide by that election, that it is over and done with, procedurally, as the Senator is talking about, and not go about shooting up tankers because they did not get their way? Such, the actual shooting is a process for the local police department. I do not want a national police force. But where are the constraints? Where are the penalties? If this union is found to be involved in unfair labor practices after the fact or during the election, where are the fines and the penalties for them? Where is the equality in this bill?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. WILLIAMS. I yield.

ORDER FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 9005

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared on the minority side. I ask unanimous consent that at 2:30 p.m. today the Senate proceed to the consideration of the conference report on the District of Columbia appropriations, and that there be an overall time limitation of 30 minutes, the time to be equally divided between Mr. LEAHY and Mr. MATHIAS, or their designees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. WILLIAMS. I ask unanimous consent that when the District of Columbia conference report is called up, Marty Franks and Bob Pequin of Senator LEAHY's staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. WILLIAMS. The question is what laws are available to deal with criminal activity, with violence. It just amazes me that the situation the Senator described in Utah would not have been adequately dealt with by Utah law established to deal with criminal activity, with violence.

Mr. GARN. Obviously, there is law there as there is in the Senator's State and in West Virginia. But on being able to stop the violence, let us not kid ourselves. It has gone on. It did go on. It has not been stopped, obviously. I am talking about going beyond that.

I do not disagree with the Senator, that it is a local law enforcement function to try to apply those laws and stop it. But why in these national labor relations bills are we not putting constraints on them as we want to on business, if they do not comply with the election procedurally? That was the second part of my question. Where is the evenhandedness in this bill for abuses by labor?

Mr. WILLIAMS. If persons violate the National Labor Relations Act, there are more quick, precise and decisive actions that may be taken against unions than against the employers. The injunction remedy for illegal union activity is already well established, in the law.

Mr. GARN. I know all about that, coming from the municipal field. I am well aware of the injunctive process on illegal strikes. Senator JAVITS, of New York, has certainly experienced the problems of illegal strikes in New York City, where unions refused to obey the injunctions, refused to obey the law, refused to obey the courts. How do we handle that problem of the abuses of labor where they will not follow the law? I am not disputing an attempt where business does not follow the law, to try and clean that up. I am saying over and over again this bill is one sided. It is not addressing the problem of illegal union activities.

Mr. WILLIAMS. Where unions have violated the law and persisted in those violations, the district court may find them in contempt and may levy heavy fines. As a matter of fact, the record will show that unions violating the law have been fined substantially. That is out of their treasury. That is perhaps a more severe penalty to a union than sending a leader or two to jail.

Mr. GARN. But it is ineffective in stopping illegal strikes, particularly in the municipal field. Is that correct?

Mr. JAVITS. Will the Senator yield to me?

Mr. GARN. I will be happy to yield.

Mr. JAVITS. The Senator has been kind enough to mention me. Yes, we have had illegal strikes and violations of injunctions against those strikes. We have had people go to jail rather than comply. After all, this is our democracy and we pay a price. We cannot cut off their right hand. The fact is that the same is true of Martin Luther King who went to jail constantly and cheerfully. He came all ready to go. And there are many other people. We administer punishment to unions just as we do to everyone else. We can submit a catalog of fines and damage suits in which unions have suffered. As a matter of fact, there are cases in which individual union members have been found liable for part of the damages assessed against unions.

I really do not think the argument that there are no remedies against unions is a valid one. In this particular case, because I think there is an evil, and I really have tried to be objective—I am not a union lawyer or union protagonist—the evil has been the misuse of judicial processes which we are really trying to deal with.

If the Senator wants us to deal with the whole amendment of the Taft-Hartley and Landrum-Griffin we are not doing it in this bill, and people in addition to myself have been violently opposed to it. As the Senator knows, the unions thought they had the President on their hip for something.

The arguments respecting small business, the arguments respecting time lags and equal access, I am listening to very carefully. With Senator WILLIAMS, I hope very much to be able to shape a bill which, on the whole, will be generally agreeable. The Senator may not himself be convinced, but I really hope we can find some way out of these issues which have been created, which I think are legitimate, without invoking a feeling that we are calloused to other wrongs and other difficulties.

To ask us in this bill to compensate for what we are doing by some new law respecting unions will only mean that we will not be able to do what we think ought to be done in the injustice of the law's delay, in the misuse of the law. We will not be able to attain what the Senator wishes to attain either. I do not blame the Senator. I understand perfectly his position, to go against the evils which exist.

For my part, my hope is to confine this bill to its limited purpose to deal with the excesses of law and not to get into a reform of the labor laws, which I think is essentially the Senator's point.

Mr. GARN. The Senator was not here for my entire remarks. Let me summarize briefly the point I was trying to make. I said to Senator WILLIAMS that first of all I had been listening to cases outlined by the proponents of abuses by business and I did not dispute those necessarily. I am sure they existed. I recited some figures about how 80 percent of the union elections were held promptly with no problems at all. We were getting down to less than 1 percent. I felt that this bill, No. 1, was an overreaction; that we were imposing on the whole labor-management sector a bill that would favor organized labor and their union drives. Where they have failed in salesmanship they wanted legislative help that would provide the means of gaining more members.

Although we were talking about abuses of business, we were not addressing the abuses of labor and, therefore, I felt the bill was one-sided; that a labor reform bill ought to be as fair and equitable as possible. Each of us see it somewhat differently, but it should address some of the problems of labor. We got off into a side discussion of violence. But I still feel that way.

I understand what the Senator is saying, but I have also seen, particularly in the municipal field, so much violation of law by labor, so much disdain of the law when they did not get their way.

That is all the point I was trying to make today, that I believe very sincerely that this is a one-sided bill, dealing with so-called abuses by business, with very little mention of the other side of the coin. That is all I am really trying to say.

Mr. JAVITS. If the Senator will yield further, I would say that the title, "Labor Law Reform Act of 1978" is probably stretching things very, very far. It is hardly a reform of the labor laws. It is an effort in limited fields to deal with some things that have cropped up which show a misuse of the legal process. If the Senator feels that there are other areas on the management side where this is just as true, I am sure the Senator will present amendments to that effect and I shall listen to them very carefully.

Mr. GARN. I thank the Senator.

I am particularly concerned about going from an extreme where elections could be delayed for a long time to one where we are getting down to quickie elections. I do not know why we cannot work out some balance, some reasonable period of time, which gives both management and labor the opportunity to be heard fairly and honestly and their employees to hear fully both sides of the case, and then have an election, without business having the opportunity to string it on for years, as has happened in some cases, or labor to be able to railroad and have it so you can smell the railroad smoke as it goes through the hall.

Again, the major point I want to make in my remarks today, without getting into specifics, is the idea of voluntary unions, workers around this country having absolutely the right to join a union if they so desire without any coercision on the part of business to keep them from doing so. A lot of people do not realize that in a so-called right-to-work State, such as Utah, the law is a two-edged sword. It works both ways.

The law says you cannot compel someone to join a union in order to get a job; but it also says that you cannot inhibit them from joining a union in order to get a job. So an employer cannot say, "Well, you must stay out of the union or you will not get a job." It is a protection as well. It works both ways. It is not one sided.

I outlined the situation of myself and my son having belonged to unions on a voluntary basis. I suppose if the opportunity ever presented itself again and I were looking at a job that had union things, I would ask them what they can do for me and make my decision on the basis of whether I felt it was worth the dues—as when I go out to buy anything, the cost-benefit analysis. I do not understand why in the world we cannot allow that to take place in this country. We have big labor constantly coming to us to ask for more help.

Looking back at another situation when I was mayor, I believe the distinguished Senator from New York probably remembers that I testified before the Labor Committee when the committee was considering amendments to the Fair Labor Standards Act.

It was interesting, when those of us from the National League of Cities—Tom Bradley, who is currently mayor of Los Angeles, myself, and others—came back to testify against these amendments, organized labor was very much in favor of them. They wanted to include all municipal employees under the Fair Labor Standards Act, and the minimum wage. We had no objection to the minimum wage. It was not that part that we were concerned with. But here was organized labor pushing for rules and regulations that would interfere tremendously with our work rules. In fact, we went through our employees in Salt Lake City and found we had no employees that were being paid below the minimum wage. So that part of the amendment of the Fair Labor Standards Act had no effect whatever on us.

There were some dramatic ways that it had effect. They were interfering with our ability to manage our work force. No matter how much we pleaded, or how much our individual workers pleaded that this law not be passed, it was passed by Congress.

I initiated a suit through the National League of Cities. It fortunately went to the Supreme Court and they declared unconsitutional the act of Congress in this case. But it is an example of the unions demanding something again, against the will of their workers.

In Salt Lake City, where we have very distinct seasons between winter and summer, we obviously have a large number of employees who work in parks and golf courses, far more than we need. Once the winter comes, they are no longer needed. In winter, with the large amounts of snow, we have street department employees that are needed to remove all of the snow and take care of the city streets. There is no snow in the summer, so they are not needed.

How do you handle a work force like that? On a voluntary basis, we worked out a situation where the employees—it was their choice; they did not have to—could take compensatory time off, with time-and-a-half for all the overtime the employees worked in the summer. They could accumulate 5, 6, 7 weeks, as much as that, whatever they wanted, during the winter, and take it off. They loved it.

The street department employees could do the reverse. So we balanced our work force. We did not have people sitting around in the winter because there was no grass to cut, no street employees sitting around in the winter when there was no snow.

What did big labor want? They wanted the Fair Labor Standards Act to compel us to give the compensatory overtime within the week the overtime occurred or pay the employees in cash.

The employees did not want cash, they wanted the long period of time off during the winter or the summer, whichever applied. It would have compelled us to pay the firefighters time and a half over a 40-hour week, even though they did not want to go to a 40-hour work week. They preferred the 56-hour weeks so they could have their time off scheduled so they could work where they had full-time or part-time jobs outside the fire department.

I shall not belabor the fact, but we went through all this exercise where, because big labor wanted it, we were going to interfere with the work rules of all the cities and counties and States of this country and have a tremendous impact. It was estimated by the National League of Cities in a study—and Congress did not know this when they passed it—that the economic impact of these work rules changes would be $1 billion a year imposed on local taxpayers as the result of a very small change in the Fair Labor Standards Act including municipalities.

It is interesting that at the time, I was receiving $3.5 million of revenue sharing and the impact of these small changes in the Fair Labor Standards Act would have imposed an additional $3 million a year cost on the city, just about wiping out the total amount of revenue sharing that we were receiving.

My point that I have been trying to make throughout this last hour is, here again, we saw an attempt by union leadership to get something through Congress to give them more control. more say over all the municipal employees or local government employees of this country, when the employees did not want it, without regard to the $1 billion a year cost to local property taxpayers. I made the comment before the Labor Committee at that time that I felt it was unconstitutional. I was asked if I were an attorney and I said "No." I was led to believe that because I was not an attorney, I could not possibly

have an opinion on our constitutional situation that would be valid. Well, maybe sometimes, nonattorneys have a little more commonsense about the law.

I was willing to put up the money myself as mayor of Salt Lake City and got the vote of the council for $450,000 to challenge it and take it all the way to the Supreme Court. I did not have to do that because the National League of Cities got involved, the Governors Conference got involved, and the National Association of Counties.

We took that one to the Supreme Court and we won.

We saved the taxpayers of this country $1 billion a year, but, more importantly, we left some local control and some flexibility for some employees to make decisions for themselves on how and when they wanted to work, to spread out that workload in cities like mine and be able to have individual solutions for different areas of the country.

So now we see a general pattern again of organized labor coming back here, big labor, on what they cannot win in a competitive salesmanship type of process, asking Congress for laws to give them favorable status, to give them preferences, to give them advantage over the business community of this country.

When we hear "business" we say that they can afford it. But let us not be naive about who pays the bill or higher costs. It is the American consumer and it is the American taxpayer. That is who will pay the inflationary cost if this bill is passed. It is not big business or big labor. It is the little guy, because in this country I am convinced the very rich are doing quite well and the very poor are doing very well and it is the middle class that is getting really crippled in this country by excessive government, the people at the bottom.

I think we will have to either decide that we start fighting for the middle class, or we become extremely poor or rich and the Government will take care of us in tax incentives, on the one hand, or the doles, on the other.

So I would suggest we look and discuss at great length the inflationary impact of this bill. We will find out it is going to be excessive. We do not have to be too smart to figure out we cannot pass it off to the big business. It will be passed off to the American consumer and taxpayer.

Mr. President, I yield the floor to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah (Mr. HATCH) is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that my remarks not be considered a violation of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the labor law reform bill of 1978 is before the Senate at the insistent urging of organized labor. We are told by organized labor that the bill is necessary because the present act, originally enacted some 43 years ago, is now seen as ineffective in guaranteeing its central promise, that is, the right of workers to make a free choice on the question of union representation. Who can oppose the democratic principle and process of free choice, whether it be in the political or industrial world? But the issue is not as organized labor has framed it. As soon as you scratch the surface, it is evident that even the proponents of the bill make no claim that the act's original promise has become wholly illusory or hollow. Secretary of Labor Ray Marshall, an unabashed advocate of the reform bill and totally devoted to the interests of big labor, has assessed the situation in the following terms:

> My view is that there are relatively few [violators], that you don't get massive violations of the law, that you get relatively few violations of the law. And what we're trying to deal with are those cases.

Senator HARRISON WILLIAMS, my friend from New Jersey and chairman of the Human Resources Committee, has described the bill as very benign.

> This bill goes after only those employers who break the law.

John Fanning, a member of the National Labor Relations Board for 22 years, has been intimately involved in the administration of that act and enjoys a unique position as one qualified to assess its effectiveness. It was his considered judgment, in testimony before the Senate Human Resources Committee on Labor where I was present, that:

> The management community has an outstanding record of voluntary compliance with the Act.

Yet, proponents of the bill are saying that it is targeted at violators for whom present remedies are considered to be ineffective? This is not a credible statement. If you scratch the surface, the stated aim does not account for what is now before the Senate, and it certainly cannot account for the frenzy of activity by organized labor to assure its passage. Furthermore, if it is the conscience of this country, and in particular the conscience of this Congress, that labor law violators be prosecuted and that present remedies, if inadequate, be augmented, then why are we spending such inordinate amounts of time, effort, and money concentrating exclusively on one side of the labor-management equation?

If the goal of Senator WILLIAMS' benign bill is simply to "go after only those * * * who break the law," then why does not the bill, with equal fervor, address the question of labor law violations by unions? Senator WILLIAMS can hardly be ignorant of the situation in his home State of New Jersey, one of the most heavily organized States in the country. Within that State operates a very large and very strong local union, No. 825, of the International Union of Operating Engineers, AFL–CIO, which over the years has distinguished itself as a consistent, massive violator of the labor law's provisions. Its violations have caused extensive dislocations in the construction industry in New Jersey on building projects large and small, to the detriment not only of the public but to many innocent employers and their employees. Local 825's disdain and disregard for this country's labor laws has been so pervasive as to result in both civil and criminal contempt citations by the U.S. Court of Appeals for the Third Circuit. The following list of reported decisions by the NLRB and the third circuit against local 825 surely manifests, not only a disregard of the law by that union, but an inadequacy of the law to cope with that union:

I.U.O.E., Local 825 (Building Contractors Association of New Jersey, 118 NLRB 978 (1957);

Local 825, I.U.O.E. (Charles Simkin & Sons, Inc.), 120 NLRB No. 111 (1958);

Booth and Flinn Co., 120 NLRB No. 75 (1958);

I.U.O.E., Local 825 (Fluro Electric Corp.), 128 NLRB 725 (1960);

I.U.O.E., Local 825 (Carleton Bros Co.), 131 NLRB 452 (1961);

I.U.O.E., Local 825 (Warren George, Inc.), (1961);

I.U.O.E., Local 825 (R. G. Maupal Co.), 135 NLRB 578 (1962), enf'd 315 2d 695 (CA. 3, 1963) (in which the Board made special note of Local 825's proclivity to violate the secondary boycott provisions of the Act);

I.U.O.E., Local 825 (Schwerman Co. of Pa., Inc.), 139 NLRB 1426 (1962);

I.U.O.E., Local 825 (United Engineers & Constructors, Inc.), 138 NLRB 279 (1962), enf'd 322 F.2d 478 (C.A. 3, 1963);

I.U.O.E., Local 825 (Building Contractors Association of New Jersey), 145 NLRB 952 (1964), enforced August 5, 1966, by consent decree in civil No. 15, 928.

Mr. WILLIAMS. Will the Senator tell us what the charge was in that case?

Mr. HATCH. I am listing all the cases. Most of them are unfair labor practice charges. I will be happy to supply the Senator with a complete recitation of the cases.

Mr. WILLIAMS. Does the Senator have the docket?

Mr. HATCH. I do not have it here. I will obtain it for the Senator.

Mr. WILLIAMS. They are unfair labor practice cases?

Mr. HATCH. I believe all of them are, and they are serious unfair labor practice cases—which, incidentally, have brought the NLRB to a point of frustration. Continuing:

I.U.O.E., Local 825 (Nicholas Electric Co.), 137 NLRB 1425, enforced in part 3 6 F.2d 21d (C.A. 3, 1964), adjudged in criminal contempt (C.A. 3) certiorari denied 379 U.S. 934;

I.U.O.E., Local 825 (Peter Weber, President and Business Manager) and Utilities Line Construction Co., Inc., 159 NLRB 131;

Local 825, I.U.O.E. (American Dredging Co.), 168 NLRB No. 34 (1967), enforced sub. nom.

N.L.R.B. vs. Weber, 382 F.2d 387 (C.A. 3, 1967);

Local 825, I.U.O.E. (Morin Erection Co), 168 NLRB No. 1 (1967);

NLRB v. I.U.O.E., Local 825, 430 F.2d 1225 (C.A. 3, 1970) adjudged in civil contempt, certiorari denied 401 U.S. 976 (1971);

NLRB v. I.U.O.E., Local 825 (Burns & Roe, Inc.), 400 U.S. 297 (1971);

I.U.O.E., Local 825 (Humble Oil & Refining Co.), 195 NLRB 322 (1972).

Local 825's record is not unique among unions, but it is illustrative of a broader problem which surely is known to Senator WILLIAMS and other advocates of labor reform who insist it is high time we go after the "violators." Yet their bill is strangely silent when it comes to unions as violators.

We can no longer retain an open mind on the question. We have carefully sifted and evaluated the evidence offered by

the proponents in support of this bill and in support of their stated intentions as to the reach of the bill, and we can only conclude that the evidence is wholly lacking. We need not labor at this point with the statistical evidence which detracts from the proponents' claim, we will consider that again at a later time. We need only observe here that if it is merely the violators that we are supposedly concerned with, why are we then confronted with the wholesale revamping of representation procedures. What do "quickie" elections have to do with, and how will they remedy, violations of the law?

The Board conducts nearly 10,000 representation elections a year. Is anyone prepared to say that most of those cases, or even a significant minority of those cases are attended by violations, and if so, how will expedition cure that situation? What does "equal access," have to do with violations of the law or delay of representation cases at the Board level? No one has suggested that there is any relationship. What does the formulation of appropriate bargaining units by the rulemaking method have to do with violations of the law? No one suggests that a relationship exists.

The most that is suggested is that present procedures permit too much time to elapse before employees can drop their ballots in the box. But that is not a violation of the law. The statistics on elapsed time are more than adequate refutation, and further argument need not be generated. Reasonable minds cannot differ that the following statistics demonstrate a remarkable record: 75 percent of all representation elections are conducted within 60 days of the petition's filing date, and within that figure is a 10-day period which cannot be reduced because, under the Board's Excelsior rule, the union must have in its possession for 10 days a list of the names and addresses of eligible voters so that the union may make whatever mailings to them or visits to their homes that it wishes; 90 percent of all representation elections are conducted in less than 75 days from the date of the petition's filing, and again that figure includes the necessary 10-day period imposed by the Board for the possession of the Excelsior list by the union. If the message of unionism has a basic appeal, that basic appeal should shine just as brightly on the 60th day as it does on the first. But therein lies the difficulty, and, we are convinced, the real reason for his bill.

Today's unions do not project the same image that earlier unions did. Unions today suffer from hardening of the arteries, in terms of their original purpose, and their message today reflects that condition. A Washington Post editorial touched on this point at the time the bill passed the House of Representatives:

> Union leaders talk about their problems in bargaining with employers or trying to organize plants over management opposition. No one seems to talk in the workers' behalf. The union leaders, of course, claim that they do—and no doubt their predecessors once did. But the rhetoric of this debate underlines the degree to which much organized labor now acts as an independent force, deeply concerned about its own internal and external needs, which sometimes are—but sometimes are not—the same as the needs of the people it is supposed to be representing. (October 12, 1977)

What kind of innate appeal can unions have to unorganized workers who, like you and I, read in the daily papers instance after instance where union officials have become fat cats off of automatically deducted workers' dues, and have pillaged pension and welfare trust funds as if such were their own private bank accounts? How can unions as an institution appeal to the unorganized workers when certain union officials have resorted to the most primitive acts of violence against those who contended for their throne?

Organized labor is no longer a hungry, social force. It is an industry, dedicated first and foremost to self-preservation of its privileged economic and political status. Small wonder that the local union organizer in the street has considerable difficulty painting his union as an attractive alternative for the unorganized worker. And even if he initially succeeds in disguising the obvious, time and the opportunity to become informed are most decidedly not on his side. It is no longer enough, with today's educated work force, to simply throw darts at a particular employer.

Successful organizing demands that the union be able to sell itself effectively. But this it can no longer do, because it has become its own worst enemy. How can unorganized employees be effectively sold on the proposition when those who are already members are, in larger and larger numbers, protesting the consolidation of union power and the denial by unions of the individual member's rights? How can the union message be effectively sold when 51 percent of an at-large population sampling registered the view in a recent poll that today's labor unions are too powerful? (Opinion Research Corporation of Princeton, N.J.) The answer is that it cannot, and that is precisely and understandably what the statistics show.

For some time, organized labor has been on a downhill slide. And this deteriorating situation is manifested on two fronts. One, their increasing inability to win representation elections and thereby add new members. And two, the dramatically increasing frequency by which existing members are voting to terminate union representation and revert to their unorganized status. The statistics of their low ebb are well known. While the union member has not been placed on the endangered species list, union losses are substantial enough to be a matter of serious concern to organized labor, to the point where, lacking their own ability to sell the product, they resort to Government assistance as the underpinning necessary to shore up the institution of organized labor and to preserve its privileged status.

People wonder about labor's tenacity in pushing this bill. They would do well to examine union performance at the ballot box in the workplace. Take 1967 as a base year—it has no special significance, it simply portrays conditions 10 years ago. (The figures reported are for fiscal years and are taken from the annual reports of the NLRB to Congress.) In 1967, the NLRB conducted 8,116 representation elections.

That includes all types of representation elections, regardless of who filed the election petition—be it union, employees, or employer. Unions won 4,791 and lost 3,325, meaning that unions won 59 percent of the elections conducted. Ten years later in 1977, the results were basically the reverse, even though there were substantially more elections held. In 1977, the Board conducted 9,484 elections (an increase of 1,368 elections over 1967). Unions won 4,363, but lost 5,121, meaning that unions won only 46 percent of the elections conducted in 1977.

This reversal is not an aberration peculiar to 1977. It is but one manifestation of a national trend which was undoubtedly first discerned by organized labor and which, also undoubtedly, accounts for the issue now before the Senate. Lest there be any doubt of the trend now underway, consider the following statistics. In 1975, the NLRB conducted 8,577 representation elections of all kinds, an increase of 400 elections over 1967. The unions won 4,138 and lost 4,429, meaning they won 48.2 percent and lost 51.8 percent of the elections. In 1976, the unions won 4,159 elections but lost 4,479 of the total 8,638 elections conducted, meaning they lost 51.9 percent. In 1977 as indicated, the union lost/won ratio advanced significantly to 54 percent lost and 46 percent won.

The NLRB's first quarter statistics for 1978 reveal a worsening of the unions' situation. Of the 2,161 elections conducted, unions lost 1,209 or 56 percent, winning only 952 elections or 44 percent. In short, the 10-year period reveals that the unions' percentage of victory declined from 59 percent to 46 percent, with indications that the loss ratio is accelerating in 1978. The bottom is not yet in sight unless this easy organizing bill becomes law.

As a matter of fact. the reason for the quickie election provision, I think, is best summed up in paraphrasing the words of Bill Wimsinger, the head of the International Association of Machinists Unions. Mr. Wimsinger, one of the leading union leaders in America today, said that "the reason we want quickie elections is because when they are quick we win; when they are not we lose."

At least, he was honest. He basically was telling the truth, that quickie elections mean they can reverse the tide which apparently they are unwilling to reverse by selling their story which incidentally can be sold in many industries if they put forth the effort.

We all know that statistics can be suspect so it is instructive to examine the unions' election experience over 10 years in terms of the actual votes cast. We are, after all, dealing with the conscious free choice of humans who are confronted with the very real question of whether they wish to be represented by a union or whether they regard unions as an undesirable alternative. There is no question but that 10 short years ago, the majority of workers tested on the ques-

tion opted for union representation. That year, 1967, of more than half a million votes cast in NLRB elections, 339,347 workers voted for union representation and 214,786 voted against, meaning 61 percent of those polled favored representation.

Ten short years later, again with over half a million voting, only 244,764 voted for representation and 259,477 voted against, meaning 52 percent opposed unions. In both 1975 and 1976, unions were likewise rejected by a majority of those voting, 51 percent and 52 percent respectively, favoring no union representation. The first quarter figures for 1978 are even more revealing: 55,980 workers voted against unions, 45,523 voted for them, meaning 55 percent of the voting workers rejected unions. Looking at the 10-year experience, we we find a swing of over 139,000 votes moving from a preference for unions to a rejection of unions.

"Send them a message." And that is exactly what workers throughout this country are doing. The NLRB breaks down its election results into 10 geographic areas of the United States. What we are witnessing is not a loss of support in one or several areas of the country, but rather a uniform, national rejection of unionization by most workers. In 1967, unions won more elections than they lost in every one of the 10 geographical areas reported by the NLRB. This included the Southeast, the Southwest, and the Deep South. We hear a lot about the hostility of the southern environment to unions, but in 1967, in each of the three southern regions, unions scored significant successes.

However, by 1975, unions had experienced substantial slippage: in that year, they lost more elections than they won in each of 7 of the 10 areas and had a winning percentage in only 3 areas: the west north central region (Iowa, Minnesota, Missouri, North Dakota, Nebraska, Kansas), the mountain region (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah and Nevada) and the "outlying areas" (Puerto Rico and the Virgin Islands). Notice that they lost in the industrialized Northeast, the Middle Atlantic States and the Midwest, which is generally considered "their turf." In 1976, there was a slight shift but no net gain.

Again, they lost more elections than they won in 7 of the 10 areas, winning only in the Middle Atlantic region (New York, New Jersey, Pennsylvania) and again in the west north central and "outlying areas."

By the end of 1977, organized labor was in serious trouble. They had lost in every geographic area of the continental United States, plus Alaska and Hawaii. They won only in Puerto Rico and the Virgin Islands, and in the latter, only by a margin of two elections.

There are within the Senate today, certain Senators who have made a conscientious study of this Bill, but who in good faith remain undecided on its merits. I respectfully suggest that these Senators study the NLRB's election results for their States. The workers there are sending you a message.

So far, we have examined the union experience in representation elections generally. As ominous as that experience has become for unions in the last 3 years, it is only marginally bad news compared to a much more sensitive indicator of union effectiveness. We refer to that category of elections conducted by the NLRB to determine whether employees who are presently represented by a union are satisfied with that condition, or prefer to remove the union and revert to being unrepresented or individual bargaining. A typical case would be where employees in a plant had been represented by a union and have lived under a union contract for several or many years. A number of employees become dissatisfied with the union, and they petition the NLRB to conduct a "decertification" election, the aim of which effort is to oust the union. In the glory days of organized labor, such activity was not significant. By 1967, there were 234 such elections, still not cause for alarm. But by 1977, the number had swelled to 849, an increase of 260 percent in 10 years. And what is truly devastating is that in 76 percent, or 645, of these elections the employees who had been represented were throwing the unions out in favor or no representation.

In 76 percent of the decertification elections the employees who allegedly have had the benefit of representation by the unions were throwing the unions out in favor of no representation at all. Looking at it another way, we earlier mentioned that the number of NLRB elections of all kinds had increased by 1,368 between 1967 and 1977—virtually half of that increase, or 615 elections resulted from decertification elections. That means that the increase in certification elections over 10 years was only 9½ percent, whereas the increase in decertification elections was 260 percent.

Organized labor and the proponents of this bill argue that labor's poor showing in NLRB elections in recent years simply confirms the need for this bill. That is, if employees had in fact the right guaranteed by statute to make an unfettered, free choice on the question of union representation, the results would be different. Alan Kistler, organizing director for the AFL-CIO, reported his view in the Wall Street Journal of April 19, 1978 that the main problem confronting the unions is the illegal activity of employers. Remove the illegal acts, he argues, and you will see a dramatic change in organized labor's standing.

That analysis simply does not square with the NLRB's experience. Any one familiar with labor law knows that when a union files a petition for election, the Board clamps a rigid set of ground rules on the employer, the purpose of which is to create "laboratory conditions" in which the involved employees may consider, in an atmosphere free of any taint, the question of whether they wish to be represented. One misstep by the employer during this period of time and he runs the risk of the NLRB subsequently finding that he has interfered with the "laboratory conditions" and that the election must be rerun.

This "sterile technique" has been applied by the Board for years, and the Board has shown no reluctance in setting aside an election when it concludes that the atmosphere has been contaminated by an employer's conduct. If Mr. Kistler's claim is correct that union losses are attributable to unlawful employer conduct, then it would be reasonable to expect that such a claim would be supported by the NLRB's experience. Unfortunately for the unions, it is not.

As we stated earlier, in 1977 the Board conducted almost 10,000 representation elections. The Board reported to Congress that in that same year it had conducted 129 rerun elections resulting in certification of some kind. We are, therefore, dealing in magnitudes of a shade above 1 percent of the cases in which the Board found conduct by one of the participants to have tainted the "laboratory conditions," thereby necessitating a rerun of that election.

As minimal as this percentage is, it does not reveal the entire picture because not all rerun elections result from employer misconduct. For 40 percent of the postelection objections filed with the Board are filed by employers, claiming union misconduct had interfered with the election process.

There is another category of cases by which to measure labor's claim that unlawful employer activity is the cause of the unions' poor showing. The reference is to the Gissel type case wherein the Board, in order to remedy flagrant employer violations occurring during an organizing campaign, will impose on the employer an order to bargain with the union if the union can demonstrate that it in fact represents a majority of the employees. The theory is that the employer's conduct has made impossible the holding of a free and fair election, and therefore, no election will be held in the first place, or if an election was conducted (which the union lost) it will be declared a nullity. *N.L.R.B.* v. *Gissel Packing Company*, 395 U.S. 575 (1969).

The Board does not maintain statistics on the types of cases decided, but we can approximate that the number of situations involving a Gissel remedy is less than 100 cases. That is based upon information provided by NLRB General Counsel John Irving to the Office of Management and Budget regarding the estimated cost impact of the labor reform bill. Irving anticipated that the number of Gissel type cases, when combined with cases involving bad faith bargaining, would total about 150 cases per year. Here again, we are in an area which is just a shade above 1 percent of the number of situations where the Board conducts representation elections. Simple arithmetic establishes that the claim of organized labor is simply not well founded.

In 1977 unions lost 5,121 representation elections. Where is the widespread unlawful employer activity which accounted for so many of these losses justifying the punitive remedies in this bill?

This figure does not include the Gissel type case, because in the event an election had been conducted, which the Board later found to have been tainted,

that election would be declared a nullity as part of the process of imposing a bargaining order. And even assuming that all 129 rerun elections were precipitated by employer misconduct, that still means that there were over 5,000 elections which were properly held and not set aside and which the union nonetheless lost, fair and square.

We are all dedicated to the principle of the ballot box, and that being so, we should listen carefully to what the voters are saying. Congress has in the past been guided by the ballot box in the workplace. In 1947, the Taft-Hartley Act created the requirement that before a union shop provision could become effective, it must first be approved by a majority of the workers covered by the collective bargaining agreement.

The NLRB was responsible for conducting these union shop authorization elections. After several years, it became clear that the majority of workers polled on the question were voting in favor of union shop provisions. Based on these voting returns, Congress in 1951 revoked that statutory requirement, and reversed the procedure, that is, an existing and effective union shop provision could be rescinded by a majority of affected employees voting in an NLRB "deauthorization" election. That was a reasonable congressional response to the preferences of workers registered at the ballot box. The same kind of respect should be accorded the preferences expressed by today's workers. They are telling us, in more cases than not, from one end of the country to the other, and in Alaska and Hawaii as well, that, given the choice, they would rather not have unions representing them. That judgment, expressed time and again under "laboratory conditions", and with ever-increasing frequency over the past 3 plus years, and expressed by the very people whom this act was intended to benefit, cannot be dismissed with the bald assertion, by organized labor, that this is a judgment coerced from employees by unlawful employer conduct. That judgment must be accepted for what it is.

One of the great mysteries of Federal labor law is why the National Labor Relations Act is only recently seen by labor as inadequate. There have been only two major amendments to the act in 43 years: Taft-Hartley in 1947 and Landrum-Griffith in 1959. In each case the amendments were directed at union abuses. Most of us recall that labor dubbed Taft-Hartley as the "slave labor act," and who can forget the revelations of the McClellan committee which chronicled consistent abuse of union power and the denial by unions of the elementary rights of union members? Throughout this period there were many employers who violated the law. So far as employers are concerned, the prohibitions of the law have remained essentially the same since 1935. Unions did not despair at these employer violations then because unions thrived in spite of them—and in some respects because of them. It was not until relatively recently that the union growth pattern began to slow down.

The work force was expanding, but the unionized portion of the work force remained static and then began to shrink as the union movement failed to expand at the same rate as the work force. Worse yet, the absolute number of union members began to dwindle.

The unionized portion of the work force now stands at about 20 percent. And now, after 43 years, we are told that the basic law is inadequate to the task, that it is incapable of restraining employers from violating the law and incapable of assuring employees their right to freely choose a union. Forget that it was under this same inadequate law that unions successfully organized every basic industry in this country in the 1930's and 1940's over vigorous and often violent employer opposition.

Example: In the years 1939–42, over 2.5 million employees voted in representation elections. In that same period a staggering 185,000-plus employees were offered reinstatement as a result of proceedings under the act alleging (or proving) unlawful employer conduct. Labor did not battle then for amendments to the "ineffective" act because organized labor had momentum and was on the ascendancy. But today, with declining membership and a demonstrated inability to reverse that situation or at least a reluctance to do so, labor says that this same statute is ineffective. The Labor Reform Act of 1978 is designed to overcome the inadequacies of organized labor, and reverse its losses.

The AFL–CIO commissioned a study which recently reported that the bill, if enacted, would increase union membership by 10 percent or 2 million members in the next several years (Daily Labor Report, BNA, May 8, 1978). When is the last time union membership increased by that magnitude, even during the years when labor regarded the act as "effective"? That is phenomenal growth. Are we to understand that but for the "relatively few" violators referenced by Secretary of Labor Marshall, whom the present act is powerless to constrain and who are responsible, says Organizing Director Kistler, for the union's poor showing, there would be an additional 2 million union members? How extraordinary that a handful of "violators" could have denied freedom of choice to 2 million workers!

Remember that the unions lost over 5,000 elections in 1977, with 259,000 employees voting against representation, in proceedings that the Board concluded met its "laboratory conditions". Was that experience a fraud? How can this bill, which will neutralize the "relatively few" violators, generate 2 million new members in the next several years when only a half a million or so workers vote each year and better than half of them are rejecting unions in "fair and square" elections? It is relatively easy if you have Congress, the President and the NLRB on your side. You simply pass a law which shuts down the channels of employer communication, which exposes the employees to a controlled union environment, and which requires the NLRB to compress severely the time in which employees can reflect on the proposition before they vote. In short, with the assistance of Government, you program a union response. Outlandish? Of course it is, and so is this bill, because this is precisely what it contemplates.

Let us begin with the "equal access" provision. Neither its proponents nor anyone else knows how this will work—"endless litigation" will presumably provide the answer—but the concept is that if an employer uses company time to deliver remarks unfavorable to the union, the union will be entitled to equal opportunity on company premises to deliver a rebuttal. Put aside the serious limitations on the constitutional right of free speech and the private property issues involved in this scheme, and focus on its objective. Unions are not interested in obtaining equal time or access. This device is part of the programed response. Unions are banking on the fact, and rightfully so, that employers will be so hostile to the thought of surrendering the company podium to a union organizer that they will simply refrain from making any communication to their employees that might trigger the "equal access" requirement. When you consider the fact that the only permissible communication presently open to an employer during a union campaign is of an educational nature, you can see that this proposal is designed to cut off the very kind of information most damaging to a union.

Today's "laboratory conditions" limit what an employer can say and do. He cannot promise or grant benefits in order to persuade his employees against the union. He cannot threaten employees or take adverse action against them for that purpose. He cannot question his employees or solicit their grievances. The only things an employer can properly do is remind his employees of the company's past performance and inform them about the particular union involved and the mechanics of unionization and bargaining.

The mechanics of unionization and bargaining are important for employees to know, but there is nothing new under the sun on that subject, and most people have at least an elementary understanding of what is involved. Very little time need be spent on educating the work force to the company's past performance, its fringe benefit program, et cetera, because most employees already know the company's track record, its benefits and the like. So what is there left to talk about? The only true variable in each election case is the particular union involved. When a union comes on the scene and begins to organize a plant, the employees normally know nothing whatsoever about that organization. Unions, of course, are permitted to promise employees virtually anything in order to attract their vote, and employees, at least initially, are required to take such statements on faith and at face value. Likewise, when the union describes its own track record for the benefit of employees, those employees have virtually no way to measure that self description. Management does not have the same privilege.

Management is severely circumscribed in what it can say and what it can do.

I think that is as it should be. But, on the other hand, I am not so sure that we should allow the union representatives and organizers to misrepresent the true state of the facts, especially when they know that they cannot live up to the promises that they make.

Up until a year ago, there was one restraining influence; that is, the Board's policy that it would set aside an election where a misrepresentation of a material fact had been communicated to employees in such a manner and at such time as to preclude effective response. Hollywood Ceramics, Inc., 140 NLRB 221. However, in April 1977, the Board overruled its policy of policing misrepresentations and declared that it will no longer probe into the truth or falsify of campaign statements and will no longer set aside elections on the basis of misleading campaign statements. Shopping Kart Food Market, Inc., 228 NLRB 190.

As a result, unions not only may promise virtually anything they think may have political appeal, but also they need not be concerned with the accuracy of "factual" statements. Union agents may meet the employees as they enter and leave plant property, they may visit the employees in their homes at nights and on weekends, they may buy them drinks at the local pub and dinners at the local restaurant, and throughout all of these contacts, the business agent may say virtually anything he likes.

Meanwhile, back at the plant, the employer is attempting to run a business on the one hand, and on the other, trying to observe the hairsplitting distinctions imposed by the Board's straitjacket "laboratory conditions" which prohibit promises of anything, grants of benefits or favorable treatment, interrogation, solicitation of grievances, threats, interviews of employees in management's offices, visits to employees' homes, and so forth, and so forth.

And even though the Board imposes these restrictions on employers, it has always been the Board's expectation that the employer would undertake some kind of campaign to educate his employees and to rebut the union's propaganda. Indeed, it is the fundamental premise of the Shopping Kart decision that within the "laboratory conditions" of a clean campaign, there will be opportunity for exhaustive exchanges of viewpoints, and that it is incumbent upon each of the principal participants to set the record straight when he suspects his adversary has strayed off course. Misrepresentations, even as to material facts which may weigh heavily in an employee's judgment, are left for the opposition to correct, the Board having concluded that this is sufficient protection.

This policy, of course, places the highest premium on communications. But the authors and advocates of the labor reform bill hope, by the "equal access" provision, to take away the employer's best, last, and most direct means of communication; that is, standing up and talking to his employees as a group, or simply talking to them on an informal, individual basis.

Why do they hope to accomplish this? Because it is straightforward information from the employer to his employees, devoid of any threat, promise, benefit, or favor that is exposing the modern union to the critical judgment of employees. "If you can't stand the heat, then get out of the kitchen"—that is the conventional wisdom. But labor cannot buy that because the kitchen is where the action is. So the only alternative is to dampen the fire. It is more than regrettable that organized labor, which was responsible for bringing the ballot box into the workplace over 40 years ago, feels it can no longer live with that corollary principle so necessary to the democratic process of free choice; that is, an informed electorate. If unions would clean up their act and get back to the business of representing workers instead of themselves, they would have a salable product in the marketplace.

This is what is so disappointing about this bill. Instead of recognizing their deficiencies, and putting their priorities straight, unions are trying to use their concentrated power and accumulated wealth—the very areas in which they are most vunerable to enlightened employee judgment—to pass a bill whose principal aim is the perpetuation of the very things that are wrong with today's unions. In the long run, this bill will not help them because it does not attack their real problem.

If organized labor were truly interested in representing employees, who, themselves, were truly interested in being represented, there would be no concern about muffling employer comment. Under those circumstances, employer comment could not carry the day. But labor's compass is out of whack and it refuses to reorder its priorities. Critical comment must be muffled. Equal access is a start, but that is not enough because given sufficient time, an employer will find other ways to communicate, which though less effective, do not jeopardize the privacy of his plant. The time required must allow adequate opportunity for the employees to become informed. As you might expect, this bill does not afford that time but instead unreasonably reduces the opportunity to effectively inform employees before they vote.

The bill provides a precise statutory schedule within which elections must be conducted by the Board. Under today's practice, the vast majority of elections upward of 90 to 95 percent are conducted as a result of agreement between the employer and the union, including agreement as to when the election will be conducted. The bill completely removes the employer from any say in when the election will be conducted, and gives to the union the option of deciding whether there shall be a "quickie" election—within 21 to 30 days of the petition's filing—or whether there shall be an election within 45 days of the petition's filing.

Either way, the timeframes for campaigning have been severely compressed compared to current practice. To the uninitiated, a period of 21, 30, or 45 days may seem like a lot of time in which to conduct an exhaustive campaign. Experience shows otherwise. The fact is that in a typical organizing effort, the union goes underground and conducts a covert operation during which time the employer is either completely in the dark or, at best, experiences equivocal and ambiguous vibrations. The Goldberg study confirms this fact. When the union feels it has sufficient strength, it surfaces and files a petition. Of course, by that time, it has already established its plan of operation and has already disseminated a variety of propaganda. The typical employer targeted by a union for organization is a small business.

In 1977, 76 percent of the NLRB's elections involved bargaining units of less than 60 employees, and in 85 percent of the cases, there were less than 100 employees involved. Go back 10 years and those statistics are essentially the same. The typical small business does not have a personnel director on board and has not had occasion to search for or retain outside labor counsel. He knows nothing about NLRB procedures or the thicket of rules and regulations telling him what he can and cannot do or indeed the 43 years of case law which has been decided in this area.

When confronted out of the blue by a union petition filed with the NLRB, much of his initial time is spent simply sorting out the dimensions of the situation, trying to find out what he is permitted to do, and deciding what he should do. He is completely ignorant of what the union has been telling his employes, or promising them, and thus is unaware of what issues may have been framed in the minds of his employees. It is not at all uncommon for an employer to find out late in a campaign that what is "bothering" some of his employees is nothing more than misinformation. In short, it takes time for the uninitiated employer to get his bearings.

Meanwhile, of course, he has a business to run and, unlike the union whose sole business is simply organizing, he does not have the luxury of giving his undivided attention and resources to the situation at hand. The fact of the matter is that if a union petitions for a "quickie" election, there simply will not be enough time left, once the employer gets his bearings, to inform his employees about this union, its track record, the weak points of its propaganda or the misrepresentations it might have made. This is especially true where the employer has, by virtue of the "equal access" provision, been stripped of his best and most effective means of communication. The result is a stacked deck. The union, at its leisure, can say and promise whatever it likes, truthful or not, and can decide when the election will be held, according to the timetable of its choice.

The employer, starting from scratch, already saddled with "laboratory conditions" which limit him to conveying straight information, and now deprived of the best channel for communicating that information, is boxed in by a timetable over which he has no control and which is intended to reduce his opportunity to respond. This is what the proponents of the bill call "providing employ-

ees with an opportunity to express a free choice." Are they saying that for the past 43 years employees have not been able to express a free choice? That is patently absurd.

We ask once again: What do "equal access" and fast track elections have to do with violations of the law? If an employer is intent upon depriving his employees of "free choice," he might try it under any law and carry it out within a matter of hours. You simply summon all employees to a captive audience speech, threaten to fire anyone who joins or advocates the union and threaten to shut the plant if the union is brought in. You then proceed to fire those suspected of being ringleaders. That employer is not about to give equal time and access to the union, and even if he did, nothing the union could say or do could overcome the damage done. That is a violator of the worst kind. And it is for the Board, not the union, to deal with him.

But this bill's revamping of the entire representation election process has nothing to do with remedying these or lesser violations. If this bill required that all elections be conducted within 5 days of the filing of the petition, and if it said that the employer may not campaign at all, or alternatively, that it must provide office space on the company permises for the union organizer, none of this has anything at all to do with remedying violations of the law.

Yet time and again, from President Carter on down, the proponents of this bill say it is aimed at those who violate the law. Just days before the debate on this bill began in the Senate, President Carter invited its principal proponents to a "pep rally" breakfast at the White House. His comments, reported in the Daily Labor Report, May 9, 1978, are interesting. He said he examined the reform measure carefully and took part in its drafting. He called the bill "badly needed" and "moderate." He said it does not "radically change" the basic labor laws of the country, "but lets those laws that have been on the books a long time be enforced."

Commenting on the expected opposition to the bill in the Senate, President Carter said:

> In some instances it will simply be the opposition from the Chamber of Commerce, the small business organizations or the National Association of Manufacturers. There won't be any particular logic to it.

AFL–CIO President George Meany chimed in that he could not understand why the major corporations were opposed to this bill inasmuch as it would only affect labor law violators. Speaking of logic, we would like to hear someone, anyone, who can provide rational answers to the questions we have raised.

The provisions of the bill discussed so far would not, standing alone, completely meet the needs of organized labor. There are several technical obstacles standing in the way. Under present Board practice, if the employer and union cannot agree on what portion of the work force should be included in the bargaining unit, or cannot agree on the eligibility of certain individuals to vote in an election, the Board will conduct a formal hearing at which both the employer and union are entitled to submit the evidence supporting their respective positions. Based on this evidence, the Board makes a decision on the outstanding issues and, in most cases, directs an election consistent with its decision.

The proponents of the bill see this process as one of "endless delay," frivolously indulged in by the employer. Never mind the merits. Never mind the fact that unions frequently petition for "gerrymandered" units which avoid pockets of employees known to be unsympathetic to the union, but who nonetheless meet every objective criterion for inclusion in the unit and participation in the election. Never mind the fact that it is manifestly easier for a union to pick off one plant of a multiplant operation, even though the evidence would show that the multi-plant operation is so integrated that the Board would not permit an election to take place in just one of the plants, to the exclusion of the others.

Because the Board's current practice of resolving such issues before an election stands in the way of a union blitz, this bill, consistent with its overriding purpose, simply eliminates that obstacle. To make sure that "quickie" election truly means "quickie," the bill requires the Board to hold the election first, impound the ballots, and then resolve the issues. That makes a lot of sense from the union's point of view. It makes no sense from the employee's point of view, "am I eligible to vote or not?" It makes no sense from the employer's point of view, "what employees or groups of employees do I communicate with in the limited time and manner permitted me?" And it certainly makes no sense from a taxpayer's point of view "we underwrite all this elaborate machinery only to find out, after the fact, that the election should never have taken place in the first place."

In the name of freedom of choice, employees are asked to go into the ballot booth blindfolded. It is more than reasonable to expect that employees, whose eligibility is uncertain, will simply not bother to vote, only to find out after the election that in fact they were eligible.

There is one final element in the union's plan to assure "free choice." Presently, if the NLRB is called upon to make a decision in a representation case, and thereafter, as a result of the election, certifies the union as the bargaining agent, the employer, if he faults the decision, is able to obtain review of that decision in the U.S. Court of Appeals. This is the so-called test of certification type case. There is no question but that this type case can involve significant time.

It is also true that this type case can involve considerable expense for the employer, because certain circuits have taken the view that if the appeal is found frivolous, the court will assess against the employer the costs of the Board's litigation. "Test of certification" cases are not the routine. NLRB General Counsel John Irving reported to the Office of Management and Budget that in fiscal 1977 the Board was involved in only approximately 120 test of certification cases. In that same year, the Board issued 4,363 certifications of unions as bargaining representatives.

Whether the 120 test cases were frivolous or meritorious is not the issue. The point is that there is an avenue presently open to an employer to test Board decisions in representation cases. There is simply no substitute for the right of review. Knowledge that one's decision may be subjected to review does wonders for the decisionmaking process. Diligence and careful consideration of all evidence and contentions tend to be the order of the day, whereas if review is effectively foreclosed, there is no pressure on the decisionmaker to avoid the haphazard judgment or even the arbitrary one. The labor reform bill alters the decisionmaking process in a most prejudicial way, by imposing unacceptable risks on the employer who seeks to test a certification.

If the court of appeals finds against the employer, the Board is authorized to impose what the reformers call a make-whole remedy. That consists of an estimate by the Board of what the employees would have gotten in increased wages and benefits, but for the delay incurred by the employer's court appeal; the exact dollar figures are to be derived from an analysis of Bureau of Labor Statistics figures for average wage and benefit settlements of major collective bargaining agreements. "Major" refers to contracts covering 5,000 or more employees.

No matter how meritorious the employer's objection may be to the Board's decision, no company counsel can honestly guarantee that a court of appeals will look favorably upon his client's case, especially in view of the limited scope of review allowed in the court of Appeals. Absent a guarantee, the small business simply cannot run the risk of losing the appeal and being hit with an order imposing the highest wage and benefit increases of a kind negotiated by major corporations. Thus, there will be few appeals.

However, the real mischief lies in the fact that the Board knows there will be few appeals, such an insignificant number as, even unconsciously, to reduce the reasons for diligence in the decisionmaking process. I agree that the frivolous appeal should be discouraged, but not at the risk of cutting off even well-founded appeals, and certainly not at the risk of inculcating within the Board a sense of infallibility. There is a method, as earlier indicated, for handling frivolous appeals. If the court finds that the appeal is simply not well-founded in any way, it can assess the litigation cost against the employer and that is a potent deterrent.

These remarks have concentrated exclusively on the changes wrought by the bill in the representation process because it is in this area that the motives of organized labor are so transparent. That is not to say, however, that the remaining provisions of the bill are without objection. It is simply to say that I shall treat them in separate remarks.

Mr. President, I notice the distinguished Senator from New Mexico is here. I am delighted to yield to him.

Mr. SCHMITT. I appreciate the Senator's yielding.

Mr. President, I notice that all Senators now look up to identify the occupant of the Chair.

The PRESIDING OFFICER. Does the Senator from New Mexico seek recognition in his own right?

Mr. SCHMITT. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. We all must look up and identify the occupant of the Chair now that the Senate has become a bipartisan body with respect to male and female representation. I have a feeling that that is a tradition that should be perpetuated, though I am not sure it will be. We will have to wait and see how the elections turn out.

Mr. President, the so-called Labor Reform Act of 1978, H.R. 8410, has been labeled by many of my constituents in New Mexico as "the unnecessary law." The merits and demerits of this so-called reform, more properly referred to as change, will be discussed by persons, and has been discussed by persons, far more expert in these matters than I.

After a careful review of the arguments both pro and con I must side with the opponents of this bill.

New Mexico is a State of new growth as well as a State of extremely long-established traditions. As we look forward to our future of growth, we find that one of the potential inhibitors to that growth in the future will be the nature of the relationships that exist between labor and management.

We are not a right-to-work State at this time. However, I think most New Mexicans would agree that we should always have the right to determine whether we will be a right-to-work State. It is an issue that is going to be very prominent in our gubernatorial campaign this year, indeed it is already prominent in that campaign.

Although the total number of men and women who belong to organized labor unions is not large compared to many other States in this Union, particularly those in the East, Northeast, and the Midwest, nevertheless New Mexico does have a furturistic interest in this legislation. Also individual New Mexicans have a very strong personal interest, whether they be workers or managers, in the nature of labor law with which they will be forced to deal.

Of all the comments both spoken and written about this bill I find one of the most appropriate comments coming from, of all sources, the Washington Post, a longtime supporter of organized labor.

In the March 15 editorial on this bill, the Post stated that the bill is "mislabeled." It went on to state that, "It ought to be called the Union Organizing Act of 1978. Most of its major provisions are aimed at making it easier for unions to organize new units."

Mr. President, in my campaign in 1976 and today I have been a supporter of the organization of workers if they see fit to organize to improve their working conditions, benefits, and salaries. As a member of many professional organizations myself, I think that is not only a right but an obligation of people in this country, particularly those who work for a living whether professionally or in the so-called labor intensive industries.

It is through organization that we develop our best ability to sort out the synergistic means by which the best can be obtained for a particular group of people, and it is through organization that we can see that those goals are, in fact, obtained.

Now the role of Government in the free enterprise system as it is known in its modern character is primarily one of a referee—at least, it should be. As a referee, Government must be unbiased and fair in insuring that, where conflict arises between organizations and management, that conflict is resolved not only in the best interests of the two participants but in the best interests of the country as well. Unfortunately, it seems as if there are many interests in this Congress, as well as in the country, who would like to see Government bias its refereeing on one side or the other. I, for one, am committed to prevent that bias, whether it be a bias toward labor or a bias toward management. Government must, in fact as well as in theory, be a true referee.

Our concern here today is about the rules of that refereeing, because within changes to those rules, we can see the opportunity for one group to be favored over another. In the case of "the unnecessary law," H.R. 8410, that bias would be clearly, as stated by the Washington Post, in favor of the organizers of labor to the detriment, I believe, of both workers and their managers.

Mr. President, I can appreciate the concern of union leaders for their current situation. In fact, last year, unions lost more representation elections than they won. The membership of unions has been declining for a number of years. The big unions, particularly, seem to be the ones hardest hit by this new situation. The root causes of this particular trend are many and numerous.

Many are probably not even understood as yet.

One of them certainly is that, by their very success in improving the financial situation of their members, unions have created some of the seeds for their present and future problems; in fact, they have become, in some workers' minds, unnecessary. The workers now are receiving, at the very least in most cases, fair wages for the hours spent. They have become a major new portion of the so-called middle economic class of this country. They have become concerned about many new things beyond those with which they were concerned at the turn of the century and even more recently than that.

They are concerned, for example, about inflation, as all of us are; about abuses of the welfare system, where people they know are abusing that system while the workers themselves are continuing to try to work within the free enterprise system. They are concerned about their sons and daughters who cannot get into college because money just is not available, whereas those who are not working can get their sons and daughters into college.

Instead of looking for the root causes of this trend toward declining membership, union leaders have turned to Congress and the administration for help in organizing new members and new businesses, particularly those small- and medium-sized businesses which, up until now, have been largely immune to the direct efforts of such organization.

The indirect effect of union activity has clearly been felt throughout our entire economy. I think this is for the most part for the good, leaving out only those areas where wage increases have exceeded increases in productivity and the increases necessary to compensate for Government-sponsored inflation.

But the idea that union membership must be competitive and offer clear benefits over nonmembership in order to attract and hold members seems to have been lost in the minds of the more militant organizers. Failing in this arena, many union leaders have decided that the Federal Government must aid them in their efforts to organize, that the Federal Government must become, in fact, a biased referee in their favor.

Mr. President, it is this Senator's opinion that this is the basis for the discussion that we are in here on this floor today and will be for many days to come. This is what the bill before us is all about. Shall the Government be an impartial referee within the modern free enterprise system, or shall it begin to be used, depending upon whose ox is being gored, as a biased referee for the benefit of special interests? I believe the only special interest that the Government must always benefit is the special interest of the people, all the people, of this country.

This bill has not been designed to protect workers from labor abuses by management, although, in specific sections, there may be provisions that will accomplish this to some extent. Protection of workers from abuses by management does not appear to be the intent of this bill, because there are clearly better ways to insure fair labor practices by both management and unions. I emphasize "both management and unions," because if nothing else, this debate has brought to light that in individual cases, we have seen abuses by both management and unions.

Rather than spending the time and effort that has gone into this particular measure, H.R. 8410, we should have been searching for ways in which current law, with perhaps modifications, slight modifications of current law, can minimize these abuses, while realizing that their absolute elimination is probably impossible. Instead, we have established a blanket new bill that would, in the hope of eliminating the few—although certainly, in some cases, extremely onerous—abuses by both labor and management. But by seeking to eliminate those abuses, we are adding to the overall cost and regulation of business in this country.

By adding to that cost, both through court costs—litigation costs—and regu-

latory costs the ultimate loser is, of course, the consumer. The few protections which may result from passage of H.R. 8410 were intended to gain support for the bill whose overall purpose is to force unionism on as many workers and businesses as possible and to do so in schedules and in manners which, to this Senator, seem to be precipitate and grossly unfair to the workers, not to mention the business people who provide the jobs for those workers.

In its editorial, the Washington Post went further and stated that the bill "does nothing to protect them (workers) from labor unions. And one kind of abuse is about as common as the other these days."

Mr. President, I wholeheartedly support collective bargaining and the healthy competition between labor and management. Wage increases resulting from such bargaining will generally only reflect those warranted because of increased productivity and those necessary because of Government-created inflation.

It is interesting to me, Mr. President, that in the hearings in the last 2 days before the Senate Banking Committee, we have been hearing numerous proposals that through jawboning or statute we would begin to try to hold prices and wages down, as if prices and wages were the principal cause of inflation.

We are beginning, through the efforts of Ambassador Strauss and those advocating the so-called TIP policies, these tax-based income policies, to focus on the victims of inflation rather than the cause of inflation.

There is no question that in this time of inflationary trial for this country and for its people, business and labor must show restraint and not go beyond the wage increases warranted by productivity and those necessary in order to remain even with inflation. But they will be swamped and lost if the Government does not do its part and cut the growth of the money supply made necessary by huge Federal deficits, begin to hold down and reduce the cost of regulation, many of them clearly necessary, but passed and created without any thought in the Congress or in the Government, apparently, as to the total inflationary cost of such regulation.

The list is a long one and it is the Government's list, not the list of Americans who are trying to earn a living or build a business.

Ambassador Strauss yesterday in his testimony gave us a long list of the "abuses" of the private sector, the victims of inflation, but contained no list of the abuses of the public sector, and unless we carry both lists, Mr. President, it is going to be impossible for this Government to offer the American people any relief from the monster of inflation.

Ambassador Strauss also said as an aside that he had just learned how to spell "inflation" 2 months ago. The only counter I could think of to that, Mr. President, was that the American people learned how to spell "inflation" about 10 years ago and they are going to spell it in capital letters during this election year.

Now, I would support legislation that would offer protections for workers' rights and fair collective bargaining if those protections pertained to abuses by both management and unions. This bill does not accomplish this, nor was it intended to.

The underlying problem with this bill is its lack of understanding, whether intentional or unintentional, of the role of Government in the modern free enterprise system.

As I have said, and will say again and again on this floor, this role is a necessary role and is that of an impartial referee in the interaction between workers, business, and consumers. The fair but not excessive enforcement of antimonopoly laws, of existing labor laws, of the rules for collective bargaining, and of the rules for consumer protection of the rules for the regulation of workers, business, and consumers is a necessary part of the refereeing process.

However, all rhetoric and legalese aside, a commonsense, fair, and logical analysis of the so-called Labor Law Reform Act, H.R. 8410, clearly shows that the only beneficiaries of the passage of this act are the union bosses. The workers will lose much of their freedom of choice; business, particularly small- and medium-sized business will be faced with higher costs either through forced unionization or lengthy court action; the consumer, the ultimate loser, will see all of this reflected in higher prices and the taxpayer will pay the unnecessary cost of a vastly enlarged time-consuming bureaucracy.

Mr. President, if there is one thing that this Government does not need today it is an expansion of the existing bureaucracy, and that is exactly what this bill will provide.

Mr. President, the passage of this legislation simply makes little or no sense. We are tampering with a system of competitive bargaining and largely voluntary enforcement of labor law which has, with few exceptions, proved to be successful.

I will not try to defend some of those exceptions where clearly there has been abuse. If not abuse, certainly a violation of intent in collective bargaining.

Instead of using existing laws to solve the problems of abuse, we are being asked to enact new laws which punish not only companies that may violate existing law, but will even punish companies that comply with the law.

We are being asked to enact legislation that will require a rigid set of rules to replace 43 years of successful case-by-case "common law" developed by the National Labor Relations Board in dealing with union organizing activities. This change will require a one-third increase in administrative staff and a $30 million to $40 million increase in annual costs. In addition to the increased taxes which will be required for this change, consumers will be forced to pay increased costs for goods which will result from efforts of business to cope with the additional paperwork and litigation.

Mr. President, if nothing else, we should be presented with an analysis accompanying this bill of the paperwork and judicial and economic impact of passage of the bill and the regulations that will be promulgated as a consequence of the law.

I have spent a great deal of time during my first year or so in the Senate trying to see if there is some way Congress can assume its constitutional responsibilities over the making of law by regulation. It is clear that, by far, the largest quantity of law is created today by administrators and their agencies, over which the electorate has no control, other than a little control every 4 years, when they elect a President. Somehow, we in Congress must find a way to require that new regulations which will have major impact on the economy and on the public be required to be approved by Congress.

The passage of H.R. 8410 clearly will increase the cost, the paperwork, and the litigation of labor-management relations. Somehow, we must be forced to account to ourselves and to our constituencies for these increased costs.

Mr. President, instead of a schedule set by negotiations and the will of the workers concerned, H.R. 8410 would mandate that union representation elections would be held on a rigid schedule. According to this bill, this schedule must be adhered to even though all preelection issues have not been resolved.

What sense does it make, or how are workers protected, when we hold elections and then impound the ballots pending resolution of the basic issues that should have been resolved before the workers had to vote?

I suspect that, in most cases, elections will have to be held again, anyway, in order to resolve the legal questions raised by such a schedule.

Mr. President, to divert a moment back to the subject I was just treating—the regulatory and paperwork impact of this legislation—I wish to read, almost for the sake of humor, some of the committee statements in its report accompanying this bill, about the regulatory and paperwork impact:

> The committee determines that the legislation will have no impact on the numbers of individuals and businesses subject to the National Labor Relations Act.
>
> The committee bill does not expand the coverage of the National Labor Relations Act.

Mr. President as I understand it, that statement is only true if we realize that many businesses, under current law, by agreement, within the NLRB have not been subject to the provisions of that law. The question arises: When will be the activities of the NLRB under this bill, if passed, and with the legislative history that will accompany it? I do not think anybody is in a position to say at this time.

A final quotation from the report:

> The committee determines that the legislation will not result in substantial additional paperwork.

That is the extent, for the most part, of the analysis as reported. I do not believe that. I do not think the American people will believe that this law, this profound change from past arrangements

between labor and management, will have little or no regulatory paperwork or judicial impact.

Now, the proponents of this measure also argue that it will speed up elections. I submit that it will slow down the process. Management's only recourse to protect its business from unnecessary cost increases and its workers from unwanted union representation will be lengthy court litigation. They are literally forced into such kind of action.

Under the present NLRB arrangements, court litigation is avoided in some cases. The fact is that most representation elections are conducted with a minimal amount of problems and in a relatively short period of time. The very flexibility of the present system contributes to that success.

If there is one thing that the modern free enterprise system needs more than anything else, it is flexibility—not flexibility to abuse the law, but flexibility to work within it.

Workers, consumers, and taxpayers will be the ultimate losers as business costs rise, due to increased litigation and the rigid rules set up by this bill. Workers, consumers, and taxpayers will pay higher prices for goods, will pay increased taxes to support an even larger bureaucracy in Washington, will be taxed by inflation due to larger Federal deficits and the increasing prices not warranted by increased productivity.

Mr. President, most dangerously, all Americans will be a little less free if H.R. 8410 becomes the law of the land.

Perhaps the most blatant example of the real purpose of this legislation is contained in section 4 of the bill. Under the present law, management cannot communicate with employees at their homes; whereas, union leaders can. The only place where management can communicate with employees about labor-management relations is at the place of work. This bill would deny management even that opportunity to present its case in any dispute or election, unless it allows equal time, at management's expense, for union organizers.

While labor has opportunities to contact employees when they are going to and coming from work, at union halls, and even in the homes of employees, management is restricted in its activities. Under this bill, should management make any statement during working hours, union leaders would have the right to stop production and also to address employees during working hours.

Section 4 of the bill can have only two results: Either costs will increase to the consumer due to the break in production, or employers will be intimidated into not even communicating with their employees about conditions concerning labor and management. Surely, that is even a more one-sided situation than is currently the case.

Do union leaders feel so insecure in their message to workers that they must try to keep employers from communicating with their employees? The right or the opportunity to communicate with workers by union leaders is not presently denied nor unreasonably restricted. It is the access of employers that is presently restricted. This bill would restrict this access further and possibly would represent a de facto prohibition against it.

One further area of grave concern that many others in this body already have commented on is the "make-whole" provision in section 9.

Should this section of the bill be enacted, the effect will be that of putting the Government in the role of wage setter, something that I hope we never see, except in times of crisis such as war. Then I think we all would agree those kind of limitations may often be necessary, but we are not at war now. We have very serious problems, but they are problems with solutions far beyond the need of the Government to become a wage setter. Its proper role is of an impartial referee. Should this bill pass, the role of the Government as an impartial referee will be forever compromised and true collective bargaining will, in fact, be destroyed.

That will not accrue to the advantage of either labor or management. There will be no incentive for unions to accept a wage scale, no matter how reasonable for that particular entity and that particular industry, that is lower than that set by the Government.

The average wage and benefits settlements determined by the Bureau of Labor Statistics may have nothing to do with that particular industry or area of the country. This legislation will set the minimum wage scale which the company will be forced to accept even if it means the bankruptcy of the company and the dismissal of the employees the union is supposedly helping.

It is also ironic, Mr. President, that union leaders in an effort to help workers presumably are asking Congress to enact legislation that may very well mean the reduction of jobs. I am referring to the provision in this bill in section 9 which will deny Government contracts for a period of 3 years to any company found in willful violation of even the least fair provisions of the National Labor Relations Act.

Many jobs are dependent on the award of Government contracts to companies. Without these contracts, many businesses would have to reduce their employment and some may even have to close their doors. I find it hard to believe that this is in the best interest of employees. It is clear to this Senator that this punishment of employers will result in even greater hardship on employees if carried out. The point appears to be that some union leaders would prefer employees to be unemployed rather than employed as nonunion workers.

Thus, taken as a whole, the so-called Labor Law Reform Act of 1978, is, like so many reform-labeled proposals of today, not reform at all, but rather a step backward. It is designed by labor organizers to protect labor organizers. Their dwindling appeal to workers is the direct result of carrying a good thing to excess. Unions grew in response to a definite need. Now the interests and the rights of the very workers unions are supposed to protect are no longer being considered. If the Senate passes this legislation and if it becomes law, as we are sure it will if passed, workers, once abused by management, will now have no protection from abuse by union leaders.

I believe the American people understand this. I hope that before we are through the Senate understands this.

There are not many issues that so interest and so excite the American people and certainly the people of New Mexico and in other States, that I have been in over the last few years, as this issue of changes in the labor law.

I think it is difficult to fully analyze why the American people are reacting so unfavorably to this particular proposal. But I do think it comes down to a growing realization that more and more Government, more and more regulation, more and more taxes, over the last several decades, since World War II, have not solved any problems; they may have treated the symptoms of problems and for some made life a little easier, but the absence of a long-term focus to our attempts at solutions has seemed to not only perpetuate our problems but in many, many cases, unfortunately most cases, made them worse.

Until this body is willing to search for those true solutions to the disease of our society, which not only treat the symptoms, but take that absolutely mandatory and necessary second step that goes to the core of the disease, roots it out, gets rid of it, then we will forever be treating the symptoms of our problems rather than solving the problems themselves.

I do not pretend to have all of the answers. But I think it is becoming increasingly clear to the American people, and they are the ones who give us our strength, that what we have been trying to do in the past is not what we should be trying to do in the future.

There is no question that the modern free enterprise system in the United States of America is strong. It is the strongest economic system on this planet, in spite of everything that we have tried to do in order to weaken it, in order to milk every last dime we can out of it. It is still the envy of the world. It is still the target of our adversaries, because they know its inherent strengths.

All one has to do is look at what that economy has been doing over the last year or two. It has gradually reduced the unemployment rate, although nothing near where it should be.

It has, in fact, survived and grown. As Arthur Burns has said, one looking just as general statistics about the economy and its health would say we are on the verge of a golden age, but he would also add he is very fearful that we will miss the opportunity for that golden age. I am afraid that his concern is very real, and it is made even more real by attempts to create roadblocks, within the free enterprise system, such as H.R. 8410.

Again, Mr. President, I am a believer in organization. I belong to many societies. I hope that by so belonging I improve not only the health and welfare of my profession as a geologist, but also the health and welfare of the country.

And I think in general such national societies and local societies do just that.

People organizing to work synergistically for their own well-being more often than not also assist the well-being of the country, and in that regard I support those labor organizations that the workers decide through democratic processes they want to create or belong to as an important part of our free enterprise system.

However, I also support the right of those workers to not organize if they so desire to do so; the right of business to offer, if they can, nonunion workers a better deal, and in many, many cases that is exactly what is happening.

So, Mr. President, I would follow the lead of many Senators and Congressmen who are far more experienced in the political arena than I am, but I think with strong personal belief in the strength of labor and management in the free enterprise system, if they are allowed to bargain fairly and collectively, I would follow that lead in opposition to H.R. 8410.

Mr. President, frankly I am getting tired of opposing things in this Congress. Because of bad legislative proposals such as H.R. 8410 that opposition has been and is necessary. I hope that after a couple of more elections we can start to see some positive solutions to some of these problems appear, and that with those positive solutions all of us can be a little more positive in our votes.

Mr. President, I would now like to bring to the attention of the Senate a variety of statements by my constituents and by newspapers and other writers who have addressed the specific consequences of passage of this bill. For example, the National Restaurant Association has written to me, as they have to many other Senators, and I would just quote from that letter:

As the Senate begins consideration of S. 2467—

Which was the Senate bill now before us as H.R. 8410—

we wanted to be sure you had an opportunity to review the recently obtained report of the Small Business Administration. A copy is enclosed for your ready reference.

I would add here, Mr. President, that that report is an unofficial report but, seemingly, very, very good:

Our association is the national spokesman for the food-service industry which provides employment for over 5 million people and is the national leader in a number of retail establishments—over 500,000. The vast majority of these establishments are small businesses which would, as the SBA Report points out, be most adversely affected by this legislation.

We agree with the conclusions of the Report that enactment would: tip the balance of our labor laws in favor of labor; render ineffective small business' efforts to counter union organizing; disregard the rights of employers and be patently unfair to employees; create a devastatingly chilling effect on the rights of small businesses; give unions an unfair advantage in labor matters; and force many small businesses out of business.

Taking some information directly from the SBA report referred to in the NRA's letter, I would read the conclusion and recommendation in that report which is as follows:

While the bill might accomplish the underlying goal of fairness in labor-big business relations, it will probably tip the fairly even scale of labor-business relations in favor of unions. Although small business is generally opposed to unionism, we should not adopt an anti-union position since the country has traditionally protected the right to unionize, even in small firms. However, we should be straightforward in protecting the right of small businesses to fairly communicate to their employees the advantages and disadvantages of unionization and to legitimately manage their businesses even during an organizing campaign. The Labor Reform Bill will give unions an unfair advantage over small businesses who have neither the time or expertise (including resources to acquire the expertise) to walk the very thin compliance line proposed by the bills. Since the penalties for noncompliance are so severe, most small businesses confronted with a union organization drive will likely give up in advance rather than risk any action which might be construed later to have been illegal. This will result in unnecessarily increased costs which small businesses are least able to pass on to consumers. Projected further, this means many more small businesses going out of business.

Mr. President, I think it is well known in this body that the rate of failure of small businesses is up drastically; that there are fewer and fewer small businesses being created, particularly minority small businesses, and there is a higher and higher rate of failure of those that are in existence.

The small business and the small business personality, whether it is in the cities, the towns or in the farms, is an essential, if not mandatory—and I believe mandatory—ingredient in our society. It is the stuff upon which this Republic stands. It is the desire for small businesses to become medium-sized, to become large, that makes the modern free enterprise system thrive and go.

Whatever we can do to prevent small business from being destroyed will be in the best interests of workers, of the consumer, of the taxpayer and, certainly, the country.

As the distinguished Senator from California (Mr. HAYAKAWA) pointed out so eloquently in the discussion related to the increase in minimum wage, we are, by our actions in this Congress, more and more removing the bottom rungs of the ladder of success for those people less fortunate than ourselves. We remove the bottom rungs by overregulation of small business, by overtaxation of small business, and by the passage of bills such as the so-called Labor Law Reform Act, H.R. 8410.

If we really want to help the poor and minorities in this country to become part of the great American dream, and not remain as part of its nightmare, then we must be willing to restore the bottom rungs of the ladder so that they can, in fact, climb as our ancestors have, higher and higher into the society.

I think, Mr. President, it is in this light that the actions of this extended debate must be evaluated. In the days ahead, I shall continue to address these points.

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 p.m. having arrived, the Senate will now proceed to the consideration of the District of Columbia appropriations conference report.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on H.R. 9005 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ZORINSKY). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 11, 1978.)

The PRESIDING OFFICER. The time for debate on this conference report shall not exceed 30 minutes, to be equally divided between the Senator from Vermont (Mr. LEAHY) and the Senator from Maryland (Mr. MATHIAS) or their designees.

Mr. LEAHY. Mr. President, I am pleased to finally have the opportunity to bring to the Senate the conference report on the District of Columbia Appropriations Act of 1978. As you know, and as my other colleagues in the Senate know, the Senate Appropriations Subcommittee of the District of Columbia has traveled a long and arduous route to be able to bring to you today this conference report. The first conference with the House on the fiscal year 1978 bill was on October 12, 1977, and the second conference was 5 days later on October 17, 1977. The House and Senate did not meet again in conference on the fiscal year 1978 bill until May 11, 1978. The one item that had the conferees deadlocked for over 6 months was the city's proposal to build a $110,000,000 convention center in downtown Washington. In a moment I will report to the Senate the full details of the compromise agreement that we have worked out with the House and that I am recommending to the Senate today. But first I would like to report to the Senate the major outlines of the fiscal year 1978 budget as agreed to by the conferees.

As the Senate will recall, the city's budget request for the District of Columbia for fiscal year 1978 amounted to $1,237,084,200 for operating expenses and $177,476,900 for capital outlays for a total request of $1,414,561,100. The total amount agreed to by the conferee's re-

port is $1,368,623,200, which is $28,191,400 more than the Senate bill and $45,937,900 less than the total city request. In addition to these matters that relate to the fiscal year 1978 budget, the conference report includes a recommended $7,378,500 for a 1977 supplemental which is the same amount recommended in the Senate bill for the 1977 supplemental and $3,848,300 less than requested by the city.

The amount agreed to by the conferees for the fiscal year 1978 bill is $1,191,400 more than the Senate bill with regard to operating expenses and $27,000,000 more than the Senate bill with regard to capital outlay. There are two major items that explain these increases recommended by the conferees over the level in the Senate bill for fiscal year 1978. The first of these two items is the additional $27,000,000 included in the bill for capital outlay for the convention center. As I will soon explain in greater detail, the $27,000,000 for the convention center cannot be spent until we receive and approve a new convention center plan. The increases in operating expenses are explained primarily by an additional $1,243,000 recommended by the conferees for the Metropolitan Police Department. This will permit the police department to continue to fill all positions that they expect to lose due to normal attrition during fiscal year 1978.

The Federal payment recommended by the conferees' report is $276,000,000 which is the same amount recommended by the Senate bill. This is $24,000,000 less than requested by the city and $19,350,000 less than recommended by the House bill. These reductions to the Federal payment were possible primarily because subsequent to the House recommendations, the city's August 1977, revenue estimates became available which showed that estimated local revenues were increased by more than $31,000,000. So, because of this increase in local revenues, we are still able to finance an increase of over 15 percent in fiscal year 1978 over the fiscal year 1977 level. Additionally, because the city remained on a continuing resolution for the first half of fiscal year 1978, the funding requirements for this fiscal year are therefore less than previously anticipated.

The financial plan approved by the conferees for fiscal year 1978 is balanced on a cash basis and there will be approximately $3,256,000 left in the city's treasury on September 30, 1978. The budget total, as recommended by the conferees, is $92,000,000 less than the ceiling provided in the second concurrent resolution for the District of Columbia appropriations bill.

At this point in the RECORD, I ask unanimous consent to have printed in the RECORD a table which displays the full detail of the budget totals agreed to by the conferees.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1977	Estimates, fiscal year 1978–77	House, fiscal year 1978–77	Senate, fiscal year 1978–77	Conference, fiscal year 1978–77	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bill
TITLE I									
TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA									
Salaries and expenses	$1,500,000	$3,000,000	$3,000,000	$3,000,000	$3,000,000	+$1,500,000			
TITLE II									
DISTRICT OF COLUMBIA—FEDERAL FUNDS									
Federal payment	276,650,000	300,000,000	295,350,000	276,000,000	276,000,000	−650,000	−$24,000,000	−$19,350,000	
1977 supplemental		4,000,000					−4,000,000		
Payment in lieu of reimbursement for water and sewer services to Federal facilities	2,707,000	28,116,000	28,116,000	28,116,000	28,116,000	+25,409,000			
Loans to the District of Columbia for capital outlay	101,292,000	160,000,000		92,000,000	92,000,000	−9,292,000	−68,000,000	+92,000,000	
Total, Federal funds to District of Columbia	380,649,000	488,116,000	323,466,000	396,116,000	396,116,000	+15,467,000	−92,000,000	+72,650,000	
1977 supplemental		4,000,000					−4,000,000		
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
General operating expenses	(84,453,300)	(90,742,200)	(90,783,000)		(90,862,600)	(+6,409,300)	(+120,400)	(+79,600)	(+$90,862,600)
Governmental direction and support				(117,313,400)					(−117,313,400)
1977 supplemental, general operating expenses		(1,123,300)	(648,000)	(625,100)	(625,100)		(−498,200)	(−22,900)	
Economic development and regulation				(14,050,100)					(−14,050,100)
Public safety	(247,707,800)	(263,441,100)	(264,069,000)		(263,771,000)	(+16,063,200)	(+329,800)	(−298,000)	(+263,771,000)
Public safety and justice				(263,763,800)					(−263,763,800)
1977 supplemental, public safety		(2,192,000)	(150,000)	(2,151,000)	(2,151,000)		(−41,000)	(+2,001,000)	
Education	(245,287,700)	(265,382,600)	(264,876,600)		(264,679,200)	(+19,391,500)	(−703,400)	(−197,400)	(+264,679,200)
Public education system				(272,982,900)					(−272,982,900)
1977 supplemental, education		(3,800,000)	(2,800,000)	(2,800,000)	(2,800,000)		(−1,000,000)		
Recreation	(17,674,400)	(17,832,900)	(17,639,100)		(17,551,000)	(−123,400)	(−281,900)	(−88,100)	(+17,551,000)
Human resources	(274,675,600)	(287,311,100)	(285,865,600)		(283,462,300)	(+8,786,700)	(−3,848,800)	(−2,403,300)	(+283,462,300)
Human support services				(316,573,900)					(−316,573,900)
1977 supplemental, human resources		(1,939,000)	(1,486,500)				(−1,939,000)	(−1,486,500)	
Transportation	(55,028,600)	(61,337,200)	(59,834,500)	(59,713,900)	(59,713,900)	(+4,685,300)	(−1,623,300)	(−120,600)	
1977 supplemental		(1,737,200)	(1,309,100)	(1,309,100)	(1,309,100)		(−428,100)		
Environmental services	(69,036,000)	(68,519,100)	(68,519,100)	(68,191,900)	(68,191,900)	(−844,100)	(−327,200)	(−327,200)	
Personal services	(48,078,400)	(65,549,400)	(65,549,400)		(65,549,400)	(+17,471,000)			(+65,549,400)
1977 supplemental, personal services		(435,300)	(435,300)	(435,300)	(435,300)				
Settlement of claims and suits	(234,100)					(−234,100)			
1977 supplemental, settlement of claims and suits			(12,000)	(58,000)	(58,000)		(+58,000)	(+46,000)	
Repayment of loans and interest	(80,839,100)	(116,968,500)	(115,768,500)	(125,668,500)	(125,668,500)	(+44,829,400)	(+8,700,000)	(+9,900,000)	
Inaugural expenses	(650,000)					(−650,000)			
Total, operating expenses	(1,123,665,000)	(1,237,084,200)	(1,232,904,800)	(1,238,258,400)	(1,239,449,800)	(+115,784,800)	(+2,365,600)	(+6,545,000)	(+1,191,400)
1977 supplemental		(11,226,800)	(6,840,900)	(7,378,500)	(7,378,500)		(−3,848,300)	(+537,600)	
Capital Outlay									
Capital outlay	(36,586,700)	(177,476,900)	(168,757,900)	(102,173,400)	(129,173,400)	(+92,586,700)	(−48,303,500)	(−39,584,500)	(+27,000,000)
Total, District of Columbia funds	(1,160,251,700)	(1,414,561,100)	(1,401,662,700)	(1,340,431,800)	(1,368,623,200)	(+208,371,500)	(−45,937,900)	(−33,039,500)	(+28,191,400)
1977 supplemental		(11,226,800)	(6,840,900)	(7,378,500)	(7,378,500)		(−3,848,300)	(+537,600)	

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

	New budget authority					Conference compared with—			
	Enacted, fiscal year 1977	Estimates, fiscal year 1978–77	House, fiscal year 1978–77	Senate, fiscal year 1978–77	Conference, fiscal year 1978–77	Fiscal year 1977 enacted	Fiscal year 1978 estimate	House bill	Senate bill
TITLE III									
SUPPLEMENTAL APPROPRIATIONS, 1978									
SMALL BUSINESS ADMINISTRATION									
Disaster loan fund		($1,400,000,000)		($1,400,000,000)			(−$1,400,000,000)		(−$1,400,000,000)
RECAPITULATION									
Grand total, new budget (obligational) authority, consisting of:									
Temporary Commission on Financial Oversight of the District of Columbia	$1,500,000	3,000,000	$3,000,000	3,000,000	$3,000,000	+$1,500,000			
Federal funds to District of Columbia	380,649,000	488,116,000	323,466,000	396,116,000	396,116,000	+15,467,000	−92,000,000	+$72,650,000	
1977 supplemental		4,000,000					−4,000,000		
District of Columbia funds	(1,160,251,700)	(1,414,561,100)	(1,401,662,700)	(1,340,431,800)	(1,368,623,200)	(+208,371,500)	(−45,937,900)	(−33,039,500)	(+28,191,400)
1977 supplemental		(11,226,800)	(6,840,900)	(7,378,500)	(7,378,500)		(−3,848,300)	(+537,600)	
Small Business Administration		(1,400,000,000)		(1,400,000,000)			(−1,400,000,000)		(−1,400,000,000)

Mr. LEAHY. Mr. President, I would like to dwell on the convention center for a little bit, as it was the one item that held up the conference. Everything else was decided in a matter of minutes, once we got together.

The conferees talked about a compromise proposal. Basically, the compromise proposal is what our subcommittee, or the majority of the members of our subcommittee, had suggested last year.

Unfortunately, there was an enormous amount of lobbying on this issue, and there was a great deal of misinformation spread. I think that some of the local news media went out of their way to misstate the support for the convention center proposal itself, and also failed to talk about the compromise that we had proposed.

The conferees spent a great deal of time debating the merits of the city proposal to build and operate a $110,000,000 convention center in downtown Washington. We also spent a great deal of time developing a compromise proposal that we could all accept. I will now report to the Senate the substance of these discussions and the key elements of the compromise agreement that we have reached.

Essentially, the agreement requires the city to submit a new, amended plan for a civic center to the House and Senate Appropriation Subcommittees on the District of Columbia and prohibits the city from proceeding with construction of a convention center until the new plan has been approved by both the House and Senate Appropriation Subcommittees. We have agreed that the new plan, in order to be approved, must meet two important criteria. First, the overall cost of the convention center must be reduced. I have long argued, and a great majority of the D.C. taxpayers that wrote to me have also argued, that a $110,000,000 convention center is just too expensive. So we have asked the city to reexamine their plans, including the proposed location of the civic center, with the objective in mind of reducing the total cost. Essentially, we have told the city that we would not approve a new plan that does not include a reduction in the total cost of the project.

The second major factor of the compromise is that we will require evidence and proof that the so-called spin-off development will be adequate in magnitude to generate enough additional tax revenue to pay all the net annual fixed costs associated with the civic center.

One of my major concerns about the civic center has been that the major benefits would go to the downtown business community while the cost would be borne by the citizens and taxpayers in the city and in the Nation. For this reason, the convention center is not a popular proposal locally and could not pass a local referendum in the city. Therefore, the compromise proposal that we have agreed to requires business guarantees for spin-off development in a magnitude large enough to generate enough new tax revenue to at least pay for the fixed costs associated with the convention center. Last time the city told us the convention center would bring a net tax profit to the city of over $12,000,000 a year. If it does make a profit, that will be good. However, if they cannot prove that it will not result in a loss each year, then I will recommend that we disapprove the new plan. The committee will recommend against any convention center plan that would result in a net tax drain on the city.

The committee intends to be very thorough and rigorous in its review of the business commitments that are presented in the new plan. Last year, in late June of 1977, when I held a full day of hearings on the original convention center proposal a prominent local businessman told the subcommittee that if we would build the civic center, he would make a $6,000,000 investment in his downtown store for a major refurbishing project. He told us that if we did not build the convention center he would only invest $150,000 a year in standard maintenance and upkeep of the store. We were told definitely that the $6,000,000 investment would only be made if we built a convention center in downtown Washington. Seven months later on January 27, the Washington Post carried a story that this same department store had announced plans to invest $6,000,000 in the downtown store because of the additional business that the Metro stop in their basement was bringing to the store. I have taken the Senate's time to recount this story to indicate to you that I intend to be rather skeptical and probe in some detail any business commitments promised to us in a new civic center plan.

The city is currently experiencing a major construction and building boom that has been called the biggest boom since World War II. There are currently 3,000 new hotel rooms planned for construction in the District of Columbia and the number of metropolitan hotel rooms is now expected to increase by 15 percent in the near future. This is all happening without a convention center. We will not accept any of these 3,000 hotel rooms as spin-off development for the new convention center as they are already planned and will occur with or without a convention center. Additionally, there is a great deal of other construction and building activity that is already planned that the committee is well aware of, none of which we will accept as convention center spin-off development. The spin-off development that we will require proof of must be truly new and incremental and planned only because the city would build a convention center. I would like the members to know that I plan to hold very thorough hearings on this matter and I plan to have the businessmen come before the committee to discuss their commitments. These commitments must be firm and definite and planned only because of the convention center. They must be in adequate magnitude to generate enough taxes to have the convention center break even before I will recommend approval of a convention center in Washington, D.C.

There are three other items in the conference report that I would like to report on briefly.

The first of these items is the mission budgeting initiative that Senator CHILES began in the fiscal year 1977 appropriations bill for the District of Columbia.

Essentially, what this initiative does is to restructure the entire city budget so that all of its 87 major line items fall into one of seven mission-oriented accounts. For example, under this new budget format all the activities that relate to transportation would be in the transportation account and all the activities that relate to public safety and justice would be in the public safety and justice account. This new budget structure will permit the Congress and the public to more easily understand for what purposes the city is spending its money. The conferees agreed to require the city to submit its fiscal year 1980 budget on the mission budget structure included in the Senate Report 95–439.

Second, the conferees have agreed to establish a sinking fund to repay the RFK Stadium bonds which become due on December 1, 1979. The conference report recommends including $9.9 million in this sinking fund or half the amount that is due on December 1, 1979. I was pleased that the conferees agreed to accept this Senate initiative.

Finally, the conferees have agreed unanimously, both the House and the Senate conferees have agreed unanimously, to require the city to submit a consolidated master plan for the new University of the District of Columbia, and to have that approved prior to proceeding with the construction of the Mount Vernon campus of the Univeristy of the District of Columbia.

I mention this also because a recent editorial in one of the local daily newspapers talked about the fact that maybe just one person here was holding up higher education in the District of Columbia.

It was unanimously felt by both the House and the Senate conferees that we ought to have some view from them of what they were going to do with the money we have already appropriated, in excess of $70 million, for the purpose of building the Van Ness campus. The city proposes to build a second campus at a cost of in excess of $69 million; and while we are perfectly willing to do everything we can for higher education, and while we do not want them to be in substandard rented buildings, I wanted to make sure, Mr. President, that the city understands and the news media understand that Congress has been very generous with the University of the District of Columbia, and that Congress will continue to be generous with the University of the District of Columbia, but that, in answer to taxpayers, if we are spending $70 million in one place and another $70 million in another, we would like to know or at least have some kind of an idea just what kind of educational program is going to be offered, just how many students we are aiming this investment toward. We want to accept as much as we can on faith, but there are some skeptics who would like to have a little bit more than that.

A recent report prepared by the General Accounting Office suggests that enrollment and population trends may not be adequate to justify the construction of a second campus for the university at this time. The Subcommittee on the District of Columbia, therefore, intends to look very carefully at this construction proposal and the need for it before permitting the city to proceed.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. LEAHY. I yield to the Senator from Georgia.

Mr. TALMADGE. I am grateful to my distinguished friend the chairman of the conference for yielding to me for a very brief statement and two inquiries.

Mr. President, today the Senate is considering the District of Columbia appropriations bill which has, of course, Federal funding for the District of Columbia for various needs and projects. It is quite ironic to me, as a Senator from the State of Georgia, that this measure contemplates the building of a District Convention Center with Federal assistance. As my colleagues are well aware, the State of Georgia is one of several whose convention business is under economic boycott by ERA proponents and has, as a result, been severely damaged. Georgia is being boycotted because her State Legislature has chosen, up to this point, not to ratify the Equal Rights amendment. One of the most vociferous critics of this action has been the government of the District of Columbia.

At this point, Mr. President, I ask unanimous consent to have printed in the record a resolution of the Council of the District of Columbia mandating the boycott to which I have referred. Also, I ask unanimous consent that a letter on this subject that my distinguished colleague, Senator NUNN, and I sent to the Honorable Walter Washington, Mayor of the District of Columbia, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A RESOLUTION

This resolution expresses support by the Council of the District of Columbia of the Equal Rights Amendment to the Constitution of the United States and states that no District of Columbia government monies shall be spent on out-of-city travel expenses for District of Columbia government employees to attend conventions in states which have not presently ratified the Equal Rights Amendment.

Resolved, by the Council of the District of Columbia, That this resolution may be cited as the "Support of the Equal Rights Amendment and Convention Boycott Resolution of 1977".

SEC. 2. The Council of the District of Columbia finds that:

(a) The Equal Rights Amendments to the Constitution of the United States provides that, "Equality of rights under the laws shall not be denied or abridged by the United States or by any state on account of sex.".

(b) A favorable vote by thirty-eight (38) states is needed, by March 22, 1979, to ratify the Equal Rights Amendment.

(c) Only thirty-five (35) states have thus far ratified the Equal Rights Amendment.

(d) The National Organization of Women and other women's rights groups have called for an economic boycott against states which have not ratified the Equal Rights Amendment, including a boycott by groups, organizations, association and businesses from holding their conventions in states which have not ratified the Equal Rights Amendment.

(e) The government of the District of Columbia spends approximately two hundred and ten thousand dollars ($210,000) per year in out-of-city travel expenses, much of which is used to send District of Columbia government employees to conventions and conferences at public expense.

(f) The Council of the District of Columbia fully supports the Equal Rights Amendment.

(g) As of the date of introduction of this resolution, the states which have not ratified the Equal Rights Amendment are Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Utah and Virginia.

SEC. 3. The Council of the District of Columbia is outraged by the failure of fifteen (15) states to recognize the basic rights of women, as demonstrated by their failure to ratify the Equal Rights Amendment.

SEC. 4. The Council of the District of Columbia supports the convention and conference boycott identified in section 2(d) of this resolution by calling upon all District of Columbia government employees to refrain from the expenditure of funds within states which have not ratified the Equal Rights Amendment and by prohibiting the expenditure of District of Columbia government funds in connection with any conference or convention (whether for travel, registration, per diem, or related expenses; or as a reimbursement or advance for funds) held in a state which has not ratified the Equal Rights Amendment. The provisions of this section shall not apply to any expenses incurred by a District of Columbia government employee in connection with activities at the Department of Corrections facility in Lorton, Virginia.

SEC. 5. The Mayor is requested to adhere to this resolution by issuing an Executive Order to implement this convention boycott or achieve its implementation through other appropriate means as he deems necessary.

SEC. 6. Upon the passage of this resolution, the Secretary to the Council of the District of Columbia is requested to forward a copy of this resolution to the Mayor for his action and to the legislature of each state which has not presently ratified the Equal Rights Amendment.

SEC. 7. This resolution shall take effect immediately upon its adoption by the Council of the District of Columbia.

COUNCIL OF THE DISTRICT OF COLUMBIA:
RECORD OF OFFICIAL ACTION

Reference: (PR 2–46) Resolution 2–110.
Date of Consideration: July 12, 1977.
Motion Presented: To Adopt.
By: Councilman Dixon.
Amendment: No. — attached; record copy unavailable when presented; not in written form ————.
Roll call vote—Results: ——.

RECORD OF COUNCIL VOTE

Tucker	Mason	Spaulding
Hardy	Moore, D.	Wilson
Barry	Moore, J.	Winter
Clarke	Rolark	
Dixon	Shackleton	

X—Indicates Vote; A.B.—Absent; and N.V.—Not Voting.

Voice vote—Result: Adopted Unanimously (3 abs.) Absent: Wilson, Winter, Mason.

ROBERT A. WILLIAMS,
Secretary to the Council.

COMMITTEE ON ARMED SERVICES,
Washington, D.C., April 7, 1978.

Hon. WALTER E. WASHINGTON,
Mayor, District Building,
Washington, D.C.

DEAR MR. MAYOR: It is our understanding that the District of Columbia has formally adopted a policy prohibiting the expenditure of funds for transportation to or participation in a program in a State which has not ratified the Equal Rights Amendment.

We believe that this practice amounts to economic blackmail of States, such as Georgia, whose legislatures have freely fulfilled the responsibility with regard to the ERA that is assigned to them by the U.S. Constitution. Reasonable people may disagree on the merits of the amendment; however, there can be no responsible disagreement with the right of a State legislature to disapprove it.

We are therefore greatly concerned about the decision of the government of the District to inflict intentional economic injury on the State of Georgia as a consequence of our state's legislature exercising its constitutional right and responsibility. Furthermore, we are astonished that such an action would be taken by a government which is currently extolling the virtues of the proposed constitutional amendment to provide full voting representation in the Congress for it citizens. It is patently inconsistent and hypocritical to undermine the right of citizens of the State of Georgia to be represented by their legislature while at the same time arguing the merits of representation for yourselves.

There is no doubt that this action contradicts the principle of our constitutional system of government. In view of the fact that federally appropriated funds are involved, the action may also be illegal. By copy of this letter we are requesting an opinion from the Attorney General on this point.

As you may know, a federal agency considered the adoption of a policy similar to the one currently in effect in the District. Fortunately, the leadership in this agency recognized the inequities of such a policy and, following a formal apology to the State of Georgia, discontinued consideration of the matter. We would hope that the government of the District of Columbia would also recognize that the use of economic blackmail of this kind has been abhorred by Americans since the days of the English tea tax.

Therefore, we respectfully request that you reconsider the policy which the District of Columbia has adopted in this matter.

Sincerely,

SAM NUNN.

Mr. TALMADGE. While I have no intention of opposing or delaying this appropriations bill, I would like to ask the distinguished floor manager of the bill, my good friend the Senator from Vermont, several questions regarding the legislative history of the District of Columbia appropriations bill and its legal effect:

Does the Senator believe that the legislative history or intent of the District of Columbia appropriations bill legitimizes the use of these Federal moneys to boycott a State?

Mr. LEAHY. I am pleased that the senior Senator from Georgia, my colleague and friend (Mr. TALMADGE), as well as my friend, Senator NUNN, have taken the time to come to the floor today to make this fine statement and to enter into a dialog with me on the legislative history or intent of the District of Columbia appropriations bill. Let me assure them that there is nothing in the Senate report on H.R. 9005, nor is there anything in the conference report on H.R. 9005 that would encourage or sanction the action taken by the D.C. city government in imposing a boycott on conferences and conventions in States that have not ratified the equal rights amendment. There is on the other hand nothing in our hearing record or in our Senate report or the other reports I mentioned or in the bill itself that would specifically prohibit the city from taking this action. The city in this case is acting entirely on its own.

I personally support the equal rights amendment and as the Senators from Georgia know, I come from a State that has ratified the equal rights amendment. This does not mean, however, that I by any means support the city in this boycott action.

Mr. TALMADGE. Does the Senator believe that this would be a legal use of Federal funds granted to the District absent a specific prohibition?

Mr. LEAHY. I have not formed a final opinion on the question of legality. In this regard I have sent a letter to the mayor requesting that the city provide the committee with a formal legal opinion on this question. I will review the city's opinion and other views before I form a final opinion on this question. I will also consult the Senator from Georgia before I form a final opinion.

While I personally support the equal rights amendment and the State of Vermont has ratified the equal rights amendment, the city's action which involves public funds seems to be inappropriate. The State of Georgia and the State of Vermont have both exercised their constitutional rights and responsibilities in acting on the equal rights amendment. It does raise a question whether it is appropriate for one unit of government to discriminate against another for exercising that constitutional duty, and I believe that question should be answered.

I have been informed by the mayor's office that the boycott does not apply to training and it does not prohibit all District government contracts with nonratifying jurisdictions. The impact of the boycott is also limited by the fact that H.R. 9005 permits the city government to spend only $225,000 on travel and related expenses outside of the District of Columbia, Virginia, and Maryland.

I do not offer these facts to mitigate or excuse the city's action in this matter. If there is only $1 involved, the action is inappropriate; if there is only $1 involved, the action may also be illegal. Thus, I have asked for the legal opinion.

Mr. TALMADGE. I might say that other jurisdictions tried to adopt the same policy. They revoked that policy and sent us a profound and profuse apology for what they thought was an absurd act, a thought with which I concur. I thank my distinguished friend from Vermont for yielding. It seems to me to be wrong for an agency of the Federal Government to use Federal funds in an attempt to boycott another State because that State did not seem to comply with what they thought was an appropriate procedure on a constitutional amendment. I thank my colleague for yielding.

Mr. NUNN. Will the Senator yield?

The PRESIDING OFFICER (Mr. MELCHER). The time of the Senator from Vermont has expired.

Mr. LEAHY. Mr. President, in absence of Senator MATHIAS, unless he has a designee——

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Vermont.

Mr. LEAHY. I appreciate the Senator's yielding.

I yield to the Senator from Georgia.

Mr. NUNN. If the Senator will yield for a brief comment, I notice that section 3 on page 2 of the resolution that the D.C. City Council passed, states and I quote:

The Council of the District of Columbia is outraged by the failure of 15 States to recognize the basic rights of women as demonstrated by their failure to ratify the Equal Rights Amendment.

Mr. President, I believe it is clear to everyone that a State has a right to ratify amendments or fail to ratify amendments proposed to the Constitution. For one governmental body to go on record as being outraged at another governmental body's exercise of its constitutional right to me is an outrage in itself.

Mr. President, I believe that my senior colleague, Senator TALMADGE, in conjunction with the distinguished floor manager of the bill, has done an outstanding job of clarifying the congressional intent with regard to these appropriations.

I am confident that most Senators would agree with their conclusion that Federal funds appropriated by this bill should not and may not be used, directly or indirectly, for the purpose of influencing action or penalyzing action which is within the constitutional purview of one of our sovereign States. The consideration of a proposed constitutional amendment by a State legislature is a serious responsibility which must be decided upon its merits by the duly elected representatives of the people of that State. A government, primarily funded by Federal tax dollars, attempting to influence such a determination through economic blackmail, offends the principles on which our Nation was founded, if not the specific provisions of the Constitution itself.

As Senator TALMADGE mentioned, we wrote a letter to Mayor Washington expressing our concern about the District's policy. We have not received a response to that letter as of yet. However, I am sure that the District government will be pleased to have the guidance which this discussion has provided.

I thank the Senator from Vermont. I congratulate my senior Senator from Georgia (Mr. TALMADGE) for making clear the intent of the two Senators from Georgia, and also making clear that the Senator from Vermont has some very serious questions in this regard.

Mr. LEAHY. I thank the Senator from Georgia.

As I stated before, our State, of course, ratified ERA. I believe I was the first male elected official in the State of Vermont to publicly endorse it several years ago, when I held a different office from the office that I hold now. That was a subject appropriate for the State of Vermont to decide. I think we Vermonters would have been outraged had any other governmental body told us what to do and what not to do in that respect. I share the concerns of my colleagues from Georgia.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I would like to briefly reemphasize some of the remarks I made several months ago when the issue of the D.C. convention center was before us.

The city's proposed convention center represents a major initiative by the government of the District to make Washington a livable city in a total sense. It will generate private capital to stimulate urban renewal; it will create thousands of jobs, and it will rekindle the lights in sections of this city that have been dead for decades. As responsible legislators, I think it is our job to go ahead and support the elected representatives of the District in this venture.

I was one of the principal supporters of the convention center and am now pleased that a compromise has been reached. Approval of the pending fiscal year 1978 appropriation request for $27 million for the center is contingent upon conditions which insure a firm commitment of the private sector. The money for this project has been put into the bill but cannot be obligated until a new plan is approved by the Mayor, the City Council, and both House and Senate Appropriation Subcommittees

Overall, I think this is a reasonable and fair compromise which places the convention center one step closer to completion. I commend the chairman for his initiative in moving this problem off dead center toward a solution and I recommend approval of the conference report

Mr. LEAHY. I thank my gocd friend from Connecticut for those remarks. I know of his strong support of the convention center. I appreciate his help and the discussions that he and I had a while back during this compromise stage. The basic issue is not whether it was a matter of home rule. My only concern was to what extent tax dollars might be involved.

I wish when I first made this basic recommendation last year to the city, the House could have accepted it. I am delighted to have them do so now

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. WEICKER. I am prepared to yield back all the rest of the time on this side.

Mr. LEAHY. I yield back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert "$264,679,200".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert "$283,462,300".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert "$129,173,400: *Provided*, That none of the funds appropriated for the Washington Civic Center shall be obligated until the Appropriation Subcommittees on the District of Columbia of the House of Representatives and the Senate have approved the plan submitted by the Mayor and the City Council for the Washington Civic Center".

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House to the amendments of the Senate numbered 20, 26, and 37.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I may continue for not to exceed 3 more minutes with discussion of matters referring to the District of Columbia budget and 2 minutes on another matter. We would still be within the half-hour blocked out.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I take this time to thank the people who have been actively involved in this matter for their forebearance and their hard work. Certainly, the ranking minority member of the committee (Mr. MATHIAS) has counseled with me and given me the benefit of his far greater experience in this area at great length. He and the staff—and in that regard, I single out Mr. Bob Clark, who is here on the floor today and has worked with Senator MATHIAS—have gone beyond that.

Certainly, also, I compliment highly Mike Hall, of the Senate appropriations staff. Mike has put in yeoman service, hours way beyond the call of duty, on this matter, as has Martin Franks, of my office, who has worked with him. I think that without that kind of support and help, we would never have reached the compromise.

I also express my appreciation to my counterpart in the House, the distinguished chairman of the D.C. Appropriations Subcommittee, Mr. NATCHER, and those who worked with him.

EXPRESSION OF U.S. OPPOSITION TO IMPRISONMENT OF MEMBERS OF THE SOVIET HELSINKI GROUPS

Mr. LEAHY. Mr. President, I wish to speak in support of House Concurrent Resolution No. 624 that we adopted yesterday, and to add my voice to those deploring the arrest by the Soviet Government of members of the Helsinki Monitoring Groups in the Soviet Union. These trials come only 2 months after all CSCE signatories solemnly reaffirmed their Final Act pledges at Belgrade. By these actions, the Soviet authorities demonstrate a cynical disregard for their Helsinki obligation.

It is obvious from even casual observance of the activities of the Helsinki Monitoring Groups that the real crime for which these courageous Soviet citizens are being tried is their insistence that the Soviet Government honor its international moral obligations. It is not, as the authorities allege, their antistate propaganda and activity. The documents which the Soviet prosecutor is reported to have introduced as evidence against the founder of the Moscow Helsinki Group, Yuri Orlov, support the truth of this statement.

One of these documents in particular, "On the Right To Emigrate for Religious Reasons," underscores both the attachment of the Helsinki Monitoring Groups to the rule of law and the disregard for that law by Soviet officials in their efforts to weaken the practice of religion in the U.S.S.R. In describing the thwarted efforts of one religious group, the Pentecostalists, to practice their faith freely or to emigrate, this document provides compelling evidence of Soviet violation of the Helsinki accords. I ask that the full text of this document, a translation of which has been provided by the Commission on Security and Cooperation in Europe, be printed in the RECORD so that the Congress and the American people can judge the merits of the accusations brought against Yuri Orlov and his fellow Soviet citizens who dared to insist that their government honor the international commitment it made at Helsinki and reaffirmed at Belgrade.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

THE PUBLIC GROUP TO PROMOTE OBSERVANCE OF THE HELSINKI AGREEMENTS IN THE U.S.S.R.

ON THE RIGHT TO EMIGRATE FOR RELIGIOUS REASONS

We present to the public and to the Heads of State of the thirty-five nations which signed the Final Act of the Conference on Security and Cooperation in Europe, a collection of documents, "Go Forth, My People", on the situation of Christian-Pentecostals which has led them to decide to leave their country. (The full collection may be obtained from the Commission.)

The collection consists of declarations, complaints, open letters, court decisions, autobiographies, etc., which reveal the fates of many hundreds of people. The majority of the documents of this collection relate to very recent events (Summer-Fall 1976) but almost all of them present facts about the persecution of Pentecostals which are difficult to call anything less than crimes against humanity and which occurred before August 1, 1975—the date of the signing of the Helsinki Accords. These facts convince the reader of the reasons which impelled these patient, believing people to decide to leave the country—even if today the degree of repression is not as great as it was during the 1960's.

The collection follows one main goal, corresponding to Principle VII of Section I of the Final Act of the Helsinki Conference and the Universal Declaration of the Rights of Man, articles 13 and 14, where, in part, it is said that "Every person has the right to seek refuge from persecution in other countries and (the right) to use this refuge"—to assist emigration for people who want to emigrate for religious reasons. The Group has not included in this collection, documents at its disposal about persecutions, including court sentences, of other Pentecostals who are not at the present time expressing a desire to leave the country.

The fate of Fedotov, the presbyter of the Pentecostal community of the city of Maloyaroslavets, who at the present time is serving a three-year term of imprisonment in camp; the numerous instances of fines for participation in prayer meetings (for example, M. V. Chinarev from Maloyaroslavets, a pensioner born in 1890 who receives a 45-ruble a month pension, was fined 50 rubles in October 1975; the Pyzhev family in Obninsk was fined 200 rubles in November 1975 etc.;)—all bear witness to the fact that even after the signing of the Final Act, the Soviet government disregards its obligation "to recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience."

Further substantiation of this is the body of Soviet law itself which is discriminatory to the believer in the way it deals with religious cults, marriage and the family, popular education, universal obligation to serve in the military, private business, as well as articles 142 and 227 of the Criminal Code of the Russian SFRS (and the corresponding articles of the criminal codes of the other Union republics). This Damocles sword of legalized persecution always hangs over religious believers, depriving them of hopes for a better future and leading them to decide to emigrate.

The emigation movement among Pentecostals differs from analogous situations in its massive dimensions—it is not individuals or separate families who announced their intention to emigrate, but rather whole religious communities which have created special initiative organs—Emigration Councils—for this movement.

The Group wishes to call to the attention of those governments wishing independently to verify the facts given in this document, that at the end of this collection is included a statement of authenticity given by several members of a commune at Nakhodka, who have already left the country on invitations sent by relatives to Israel (E. Bresoenden and N. Plotnikov) and Canada (B. Borgrin). These witnesses can be called by any interested government.

In the collection, another crucial problem is raised for this category of people who desire to emigrate—the money to make possible the right to exit. You see, here one is talking about families with many children (five or seven or more children)—such are the majority of families which are represented in this collection—and these people are badly off, especially due to religious persecution. Yet they take on themselves the support of the poorest among them, they help the families of prisoners, and the old people (all of which is forbidden by Soviet laws on religious cults). One must either help these people or move the Soviet government to rescind the required payment of fees for renunciation of citizenship and visas for those for whom it is impossible. Such a possibility is provided for in the law, but in practice it is done extremely rarely—in those cases when the government feels it is in its own interest.

The Group to Promote reminds (the reader) that religious dissenters, fleeing from government persecution, made a considerable contribution to development of such participant states in the Conference at Helsinki as the USA and Canada.

I do this not only as a citizen of one of the signatories of the Commission on Security and Cooperation in Europe, but also as one who has met with a number of the Soviet dissidents in Moscow, at least one of whom is now to be tried. I am extremely concerned about this flagrant abuse of human rights. As one who holds his own religion deeply and strongly, I am concerned as a fellow human being for those who are unable to practice their religious beliefs freely. I think that the Soviet Union has shown little regard for its own role in signing the Helsinki Accords and, certainly, total disregard for its Helsinki obligations.

I yield back whatever time I may have. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

LABOR LAW REFORM ACT OF 1977

The Senate continued with the consideration of H.R. 8410.

Mr. MORGAN. Mr. President, I have spoken to the Senate so far about the motivations behind the labor law reform bill and the current situation at the National Labor Relations Board. Today I would like to address the first part of the labor law reform bill, a part which I describe as the"delay" section.

We have been told in the report of the Labor Subcommittee accompanying S. 2467 and by the supporters of this bill on the floor that "the primary purpose of this legislation is to expedite the procedures and augment the remedies under the National Labor Relations Act." Implicit in this statement is the idea that there are serious delays which merit the sweeping reforms proposed under this bill. I will have to take exception with that assumption.

To reverse the delay which supporters of this bill argue exists several actions are taken. First, the size of the National Labor Relations Board is to be increased by two members. Next, a summary affirmance procedures is created to be handled by a panel of three of the seven Board members. Finally, the NLRB is directed to promulgate rules to the effect that elections under the act would take place within 21 days of filing a petition if more than 50 percent of employees have signed authorization cards and other time limits are set. All of these provisions deal with delay.

EXPANDING THE BOARD

The proposal to expand the size of the NLRB from the current five members to a seven-member Board is of interest to me. While I am not adverse to the idea of increasing the size of an agencys top staff, I do feel that it should be properly managed and essential. I have several concerns about this concept when applied to the NLRB. The words of Chairman John Fanning of the Board are most interesting. In his testimony to the Labor Subcommittee, he stated that—

> The obvious purpose of the provision is to increase casehandling capabilities handled at the Board level. That will be true, assuming, of course, as we do, that all seven Members have the staff necessary to do their job.

If the way to accelerate cases is to increase staff then I am for it. I do not see that we need to expand the size of the Board, so that we can increase the staff, so we can process cases faster.

In 1977, Mr. President, the NLRB handled a record number of cases. It did so with current number of Board members. At present every member of the Board enjoys a staff of 20 or 21 attorneys. A Supreme Court Justice enjoys a staff of only two or three law clerks. My personal view on this point is that increasing the Board to seven members will result in either no increased time savings or slowdown in case processing as two additional persons will have to review each case. I think on the whole there will be no savings.

SUMMARY AFFIRMANCE

The proposed summary affirmance procedure appears to be just as ineffective. At present, the Board may review administrative law judge decisions by designating a three-member panel. Under H.R. 8410, the seven-member Board would have two three-member panels available to affirm uncomplicated cases. My first question is, What is an uncomplicated case? My second concern is that we may actually see more delay. For example, under current practice, if a three-member panel summarily affirms a decision there is really no purpose in appealing to the full Board. Under the proposed system, if I lost at the administrative law judge level and at the three-member panel level, I would surely be tempted to appeal to the full seven-member Board. That temptation to appeal to the full Board would be strong and I believe that it would increase the number of cases before the Board. These cases would have little precedential value as they would not be supported by a majority of the Board as occurs under current practice. Summary affirmance seems wasteful in all but a few cases; currently appeals must be made within 30 days anyway. This process adds another step and further expense to issue resolution as it requires a motion and answer. Again, I am not terribly upset about the idea, but I do believe that it could use some more careful thought.

ELECTION TIME LIMIT

Now I do believe that there are some very serious problems about the Congress mandating deadlines for elections as is provided in S. 2467. Indeed, the major proposal of this bill to overcome delay is to set forth stated time limits for holding elections after a petition has been filed. The Senate version of this idea calls for a 21- to 30-day limit for elections if 50 percent or more of the employees have indicated a desire for an election. Provisions for elections to be held in 45 or 75 days for complex elections also exist. The basic House version differs in that it calls for a 15-day time limit for elections.

This concerns me for several reasons. First, let us look at the record. In 1977, the NLRB noted that 30 million employees had taken the opportunity to vote on representation issues since the creation of the National Labor Relations Act. In 1976, for example, 444,635 employees voted in elections; in 1977 participation was up to 511,336 votes cast. To me that

speaks to the basic effectiveness of the law and of the Board. I believe that the election process has been an effective one.

At present, the Board and its regional offices operate under informal rules, suggested by the Chairman's task force. Under these rules, the target date for holding elections is 45 days. This is an informal approach and it works for it coaxes voluntary compliance; 82 percent of all elections ordered by the Board take place between 12 and 43 days. Now that seems pretty effective to me. It is long enough for both sides to make their final arguments to the employees and not too long that any side loses its advantage. I believe that we must have a decent interval between the ordering of an election and the time the election is held. A voluntary system produces a beneficial result; my fear is that a formal system may create a desire to evade the law or to use the escape clauses of this act to secure unnecessary time.

The next point I would like to make is that the impact of this bill is going to be on small employers. Many people feel that this is exaggerated, and studies have come out arguing both sides. I can only go by my own experience. Small business men are not experienced with the labor law and I am afraid they do not have the resources to find out very quickly. By resources I mean their personal funds and the resources of labor attorneys. In North Carolina, I would say that there are perhaps two or three major labor lawyers and they are located in the cities where big business is, not in the rural areas, where much of the small manufacturing goes on. Small business is at a disadvantage, and this bill would make the system so unbalanced that this disadvantage could only increase. The election section in particular would have its greatest impact on small business. A small businessman who finds himself confronted with a union organizing drive, often conducted quietly and covertly, would have but 21 days to explore the law of what he could and could not do and, as well, to present his side of the argument. In 1977, 98 percent of all elections were held in units under 400 employees and 73 percent of all elections were held in units under 50. I do not think anyone can deny where this bill is aimed. In reality, what this bill will do is not to automatically insure that unions will go into small businesses. What it will do, I can assure you, is to frighten every small businessman, cause him to seek assistance in labor law, and thereby increase his costs. These costs will be passed on to you and me in the form of higher prices. Unionization may be less of a concern than inflation brought about by the increased cost of doing business.

There is also a basic weakness to the entire approach of ordering the NLRB to make rules for elections. As we all know, the Board has had the power to make rules all along and has chosen not to do so in the area of elections or bargaining units, at least not of a formal nature. If rules were desirable, they no doubt would be made. Discretion and expertise are vested with the Board, and I believe it should be the one to set any rules in this area, not Congress.

The Board has not set rules for several reasons. First, it is a case-by-case agency and treats each case as unique. This apparently has worked as evidenced by the case-processing history of the Board. Second, the critical point with elections is determining who should participate in the election. Which unit in a facility is proper to seek representation and to participate in the election has been the time-consuming enterprise, not holding the election. It is the settling of preelection issues which is critical and not the time limits for elections. In my view, we will not be removing delay, but we will be burdening our system and injuring small business. We would be doing so at the expense of the credibility of the National Labor Relation Board.

In sum, the facts simply do not bear out a need for these rules and time limits on elections. Seventy-seven percent of all elections are run pursuant to an agreement between the parties which eliminated any need for hearings by the Board or court litigation. I am afraid that we will see a drop in the agreement rate and see more cases come to the Board. The delay this bill was set forth to remedy will actually be increased.

In conclusion, I would like to express my concern about increasing delay instead of reducing it. My fear is that the thrust of this bill is to reduce delay. On the whole, I do not believe that the procedures will achieve that end. Moreover, I am concerned that voluntary compliance, which is so vital to the operation of the labor law, will be lost to a great degree and that this will do more damage and create more delay than any problems resolved by this bill. It is the spirit of the law with which I am concerned as much as with the letter of the law.

One final note. There is something to be said for quality as opposed to speed. If the NLRB accelerates its processes, reduces the amount of case-by-case work that it does and injures either union or business, then we have justice denied as surely as we have with any delay. We should not sacrifice quality with ill-conceived and arbitrary time limits.

Mr. HARRY F. BYRD, JR. Mr. President, has the Senator from North Carolina completed his remarks? Does the Senator yield the floor?

Mr. MORGAN. Yes.

Mr. ROBERT C. BYRD. Mr. President, I seek recognition.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Virginia is recognized.

FUN CITY FISCAL MAGIC

Mr. HARRY F. BYRD, JR. Mr. President—

Now you see it, now you don't.

Magicians, since time immemorial, have uttered these words when practicing their art.

For the past several years, New York City has been the locale for two long-running shows which have dazzled millions with their slight-of-hand.

Each show, because of its performance, could appropriately be referred to as "The Magic Show."

One has legal claim to the title. It is currently playing as a musical at the Cort Theater on Broadway.

The other show, much longer running and without benefit of music, has been playing at city hall.

The chief magician of the political show has been the mayor, ably supported by a cast of hundreds of city and State politicians.

Last fall the people of New York City decided that a change in the show was in order. A new mayor was voted into office.

Supporters of the city readily admit the faults of the city's past magic shows. But, they contend, what has happened in the past should not be dwelled upon. The new mayor should not be linked with the performances of magicians no longer sharing center stage.

The city's supporters believe that the new mayor is so different from his predecessors that he should be judged only upon his own performance.

While it may be hard to believe that an act which has played so long can be changed completely, the request of the city's supporters is a reasonable one.

By studying the soliloquies he has delivered in the form of his 4-year financial plan, and his "Executive Budget-Fiscal Year 1979," along with his subsequent actions, one can begin to get a feel for his performance.

After only 3 weeks occupying center stage, Mayor Koch, under mandate by Secretary Blumenthal, submitted to the U.S. Treasury his 4-year financial plan for the city of New York, which hereafter will be referred to as "the plan."

Secretary Blumenthal requested the 4-year plan so that New York would spell out for him how it planned to handle its budget and borrowing problems.

The plan was touted as the brainchild of the city's new mayor.

Shortly after the plan was submitted, the Washington Post wrote an editorial entitled "The Truth About New York." The editorial stated:

Next to money, the item in shortest supply in New York City's government in recent years has been candor.

The article went on to say that it appeared from reading the plan that the city's new mayor had finally decided to tell all.

During the week following the plan's submission, it was brought to the attention of the press that a rather large portion of the supposedly original work had been plagiarized word-for-word from a report written a year earlier for the Twentieth Century Fund, which is a nonprofit research foundation. The plagiarized report was found to be a part of the section of the plan dealing with the city's capital needs.

When this disconcerting fact was called to the city officials' attention they apologized and said that the report had been lifted "under the pressure of producing the financial plan."

The import of this revelation was succinctly summed up by one city official who helped put the plan together, who upon learning of the plagiarism was quoted in the New York Times as saying:

This is very sloppy. Unfortunately, it makes a reader wonder how the rest of it was done.

Indeed, it does.

The New York magicians of the past based their act on accounting gimmicks. Is this new performer to be no different than the others?

The plan, which is to be the city's financial Moses, on inspection turns out to rest on a great many assumptions. Also, it is very vague, ambiguous, and sketchy on details.

The 104-page plan contains a laundry list of suggestions for actions which the city, State, and Federal governments can take together to help the city over its fiscal crisis. But it is barren of concrete facts and figures, setting forth how the city will deal with the day-to-day budget problems.

The Fiscal Observer, an objective publication that reports on New York Ctiy's finances on a regular basis, in its March 2 edition, pointed out in an interview with the city's director of the Office of Management and Budget that the plan did not contain any expenditure analysis by agency.

The director in the interview replied:

How in the world could the mayor make decisions on the allocation of resources between agencies in 20 days? It really would be irresponsible.

One could ask a similar question about the entire plan. How can a mayor, after only 20 days in office, draw up a 4-year plan which is candid, thorough, and accomplishes the task it was designed to do?

Possibly only a magician could bring this off.

The director of New York's Office of Management and Budget in the same interview, when asked why the city did not give detailed figures in the plan to the public, said:

It's just a matter of presentation. Really, the details or irrelevant . . .

Now you see it, now you don't.

Sounds like the old political magic show.

The public has been told that the plan is a very comprehensive, well thought-out answer to the city's financial problems.

Upon close scrutiny, the plan is found to be long on hopes and dreams, missing a very key factor and resting on shaky foundations.

The plan calls for a reduction in the city's work force of 10 percent which would result in a savings of $714 million over the life of the plan, and $280 million in the last year of the plan alone, which would be a savings of 2 percent. In reality, the city has acknowledged that in the last 3 years the city, by reducing its work force by 20 percent, has only saved about 1 percent on payroll costs.

Thus, it appears that the plan's projected saving is too optimistic.

The plan claims that management improvements will generate $446 million in savings in 4 years. While there is a long list of programs and claims of savings to be had in them, no actual documentation is offered. In contrast the New York Times has from time to time printed stories of current management policies which are costing the taxpayers enormous sums of money and do not appear to have been corrected.

The plan presents four pages of program suggestions which the city hopes the Federal and State governments will voluntarily undertake. In reality, the city has received no indication that these governments are so inclined.

In fact, many of the programs on the city's list are either scheduled for expiration this year or for a drastic cutback in their appropriations.

The plan rests on the shaky foundation that—

First, the Federal Government will provide loan guarantees to the city, even though the Senate Banking Committee has unanimously stated its opinion that the city does not need further Federal financial aid after June 30.

Second, the State and city pension funds and New York financial institutions will purchase New York securities, whereas they have either flatly refused to purchase any in the past, or begrudgingly purchased the securities.

Indeed, the city pension funds have given recent indications that they may not honor the agreement they entered into in 1975 to purchase the remaining $683 million of New York City securities. This refusal to stand by their past commitment would jeopardize the credibility of the mayor's plan.

The plan also has the various financial institutions located within the city purchasing a substantial amount of the city's securities over its life.

Within the past few days, the city's commerical banks, savings banks, and insurance companies have made conditional commitments to provide $983 million of the city's long-term financial needs.

Senator PROXMIRE and Secretary of the Treasury Blumenthal were critical of the amount of commitment by the city's commercial banks, which was $500 million—an amount termed by Senator PROXMIRE "a mere pittance."

Senator PROXMIRE said that the banks, because they have a big stake in New York's financial soundness should contribute more to meet the city's financial needs.

Secretary Blumenthal said that he was doubtful that the commitment by the city's commercial banks would prove sufficient to allow the city to raise the long-term lending it needs over the next 4 years.

The one key factor which the plan is missing is a provision for employee wage increases. Virtually all of the city's employee unions' contracts are up for renewal this year. The transit workers have tentatively settled on a contract which, among other things, grants a 6-percent raise to transit employees.

Each 1 percent increase in employee costs is estimated to add approximately $35 to $40 million to the city's budgeted deficit. Thus, if the transit workers' wage terms were to be extended, or as been recently reported in the news, improved upon, it would cost the city an estimated $800 to $900 million in increased labor wages.

The Fiscal Observer has noted that this settlement is "one loose brick that could topple Mayor Koch's budget. Any large settlement could substantially increase the city's deficit.

Without any Federal assistance and without factoring in any increased employee wage costs resulting from new union contracts, the plan has projected a deficit at its end in 1982 of nearly $1 billion.

One can see that the plan, though proclaimed to be realistic and straightforward, appears to be drafted in the mold of past magicians' budgets, complete with sleight-of-hand.

Indeed, critics of the plan claim that it is nothing more than the past magician's budget worked over in a cosmetic fashion to give the impression that it is in no way related to Mayor Beame's last budget.

After submitting his plan, the current mayor turned to the city employee union negotiations.

Entering the fray, he repeatedly proclaimed that there was not any money for wage increases. To support his claim, the mayor pointed to his 4-year plan, which included no money for wage increases.

Mayor Koch was quoted in the Wall Street Journal as saying:

If there's nothing in the cupboard, you can't have a party.

He indicated that if there were to be a wage increase, it would have to be funded by budget savings. One of the savings would be by employee "givebacks"—reductions in present contract benefits.

One of the key elements in Mayor Koch's successful mayoral campaign was his promise to get tough with the unions.

The mayor was now placed in a position in which he could deliver on one of his campaign promises.

It presented an opportunity for the mayor to show the rest of the country that the city's political show was, indeed, changing.

Senator PROXMIRE correctly pointed out to Mayor Koch that a tough stand with the workers would demonstrate fiscal responsibility.

But, just as the contract deadline had passed, the mayor magically "found" enough money to pay for the city's portion of the transit workers' contract and to pay for similar contract agreements with all of the other city's employee unions.

Now you see it, now you don't.

By pulling this proverbial "rabbit" out of the hat, the mayor began to remind some in his audience of his magician predecessors.

The mayor's stance shifted from the position that there could be no raises, to one which held that any raises would have to be offset by givebacks, to conceding raises to the unions, but adopting a facesaving position that no raises could increase the size of the city's deficit.

The mayor's performance raises several interesting questions: Was this the performance of a nonmagician mayor as supporters of the city would have us believe?

According to the mayor's "Executive Budget—Fiscal Year 1979," hereinafter referred to as the budget, Mayor Koch wants to use $170 million of the currently projected, so-called "surplus" of $280 million for fiscal year 1978 to pay for part of the proposed increased city employee contracts.

New York State's special deputy comptroller for New York City, Sidney Schwartz, has objected to this accounting by Mayor Koch. Mr. Schwartz believes that the attempt to use 1 year's "surplus" to pay another year's obligations was clearly improper and in conflict with generally accepted accounting practices.

Moreover, Mr. Schwartz, noting that the city has a large deficit rather than the much-trumpeted "surplus," said that the unused funds should be applied to the city's $1 billion accumulated debt.

After learning of Mr. Schwartz' objections the mayor quickly backed away from his position of using the "surplus" funds for labor contracts.

He left open the possibility though, and told his accountants to come back to him with a plan for using the "surplus" funds that would be in line with acceptable accounting practices.

The New York Times noted that there are two schemes currently being pursued by which the "surplus" funds could be used to pay union wages. Both present their own problems in implementation.

The first scheme would have the funds being used to pay for wages that, by agreement entered into in 1975 by the city and the unions, were deferred for 1 year.

The problem with this scheme is that the agreement stated that they could be repaid only if two conditions were met: The city must have a balanced budget and the city must have access to the private credit markets. It is agreed by the city officials that the latter condition has not been met.

Even though this latter condition appears to be ironclad on its face, those officials involved in the union wage bargaining sessions indicate that the city might find some way to relax this condition.

Abracadabra.

Now you see it, now you don't.

The second scheme has the funds being used to pay for a "productivity saving" from 1978 which the remaining workers are entitled to benefit from in 1979.

This "productivity saving" was arrived at by a tortuous process. Productivity is a nebulous concept to measure. This scheme uses the theory that city officials, in implementing more fiscally conservative policies, have underspent principally by leaving job slots unfilled, thus creating the "surplus." The officials say that this excess attrition is a productivity saving which the unions should share in.

The facts are that there is no surplus in the New York City budget for the current year, according to generally accepted accounting practices.

To the extent that the budgetary picture improved during 1978, this resulted from elimination or postponement of outlays not absolutely necessary, and from an unanticipated increase in revenues. The "productivity saving' is a fiction.

The mayor, by a stroke of his accountants' pens, averted a city transit strike and scored an apparent "victory" in the transit unions negotiations.

But finalization of his victory celebration has eluded the mayor as the transit unions have voided its first vote on ratification of the contract. A question has been raised as to whether the unions will ratify it. If not, the mayor is back to square one on this issue with a transit strike staring him in the face.

The transit unions have been watching the mayor's act and many are of the opinion that he has not been truthful with them in his dealings on this issue.

The belief is that even though the mayor "found" a goodly sum of money to fund their contracts, he is holding much more in reserve, which, according to their thinking, belongs to them.

Upon "settlement" of the transit unions' contract, the mayor turned his attention to the budget.

The budget is considerably fleshed out from its predecessor, the 4-year plan.

In introducing the budget to the press, Mayor Koch was quoted as saying:

I believe that Congress will perceive this budget as an honest budget. They will look at it and say, "This is a budget we can count on."

Mr. Koch, several times during the course of his press conference, repeated that the budget was an honest budget.

Well, Congress as well as other groups, has taken the mayor up on his offer, and has begun to examine his budget. This process will not be completed until all parties have thoroughly investigated the mayor's budget.

One such examiner is the distinguished chairman of the Senate Banking Committee, Senator PROXMIRE.

Senator PROXMIRE, in a speech given on the Senate floor on May 16, 1978, called the Senate's attention to an article which appeared in the New York Daily News on May 14, 1978, entitled "Ghost Army Marches, and You Pay."

The tenor of this article is that the budget at least in its personnel statistics is somewhat less than honest.

The Daily News article claims that the budget contains funding for 17,172 phantom jobs which simply do not exist.

The article alleges that the mayor, by a combination of legal budget gimmicks and lagging city employment policies has, by including these thousands of phantom jobs in the budget, created a giant hidden surplus estimated to be more than $250 million. The city has issued a statement disputing these figures.

Mayor Koch, when questioned about this policy, replied:

What's wrong—certainly nobody's stealing the money. Shouldn't I be congratulated, for saving money?

The Daily News provided a very incisive response to the mayor's question:

The answer, of course, is that this process does not save money; it spends it elsewhere. The money appropriated for the phantom army will along with other "savings" from budgetary gimmicks, go unaccounted for, to turn up and be trumpeted as surpluses to pay for such things as union settlements in future budgets.

Now you see it, now you don't.

Mr. President, I want to commend Senator PROXMIRE for drawing the Senate's attention to this critical issue. The Senator has shown once again that he is on top of this issue. The Senator is justifiably concerned by this article as it called into question the honesty of the mayor's budget.

I share with and support the Senator's views which he expressed on the Senate floor on Tuesday, May 16:

. . . New York City needs to get rid of the budget gimmickry of past years, and rid of the syndrome of 'finding' extra money in the budget to use for pay raises and other spending that the city may want to do. These are the practices which got it into trouble to begin with, and which it has to get out of now. . . .

. . . (I)t is my firm view that if the Federal Government continues to give New York City financial aid, then it will never take the actions needed to restore budgetary credibility and return to the credit markets.

One organization which has taken a critical look at the city's budget is the Fiscal Observer.

In its May 18 issue, the Fiscal Observer takes an independent, objective viewpoint and finds that the mayor in an attempt to balance the budget has included within it some shaky assumptions and practices which include, among others:

(1) The City plans to use $306 million in CETA funds to pay 29,000 on the City's payroll. This usage, it is pointed out, depends on receiving Congress' consent to the City's use of CETA revenues for workers other than the hardcore unemployed.

I suggest that since this usage does not comply with the mandates of the CETA legislation that Congress should be very reluctant to grant its consent. This is another gimmick by which the mayor attempts to lighten the city's financial burden.

(2) The budget shows an increase in miscellaneous revenues, two-thirds of which are accounted for by the City's movement of $80 million in right-of-way sale proceeds from the Westway road project from fiscal 1978 to 1979.

Mayor Koch, in campaigning last fall, said that Westway would "never be built" if he were elected mayor. Commentators have said that the mayor and Governor entered into the Westway deal and packaged it so that both would reap political benefits.

The Observer stated that the mayor switched his position on Westway, because he needed the $80 million to help balance his budget.

The citizens of New York, who did not want the Westway project, are beginning to understand the line, "Now you see it, now you don't."

(3) The City says it has set aside $262 million for increased City labor costs in fiscal 1979. But on closer inspection, the 1979 budget sets aside only $212 million in new money. And, because the labor contracts have not been finalized, the actual labor settlement could increase this figure, severely damaging further the budget's "balance".

(4) The Budget is looking for the continuation of federal countercyclical aid at its present rate when that program is in serious trouble in Congress.

(5) The Budget depends upon many uncertain federal and state actions to bring about a balance in fiscal 1979 and succeeding fiscal years.

The Observer points out many more accounting gimmicks, shaky assumptions and fuzzy estimates in its review of the city's budget.

The culmination of these points is that the mayor's budget may not live up to its advance billing for candor.

Supporters in the Senate of Federal aid to New York City have requested that Congress judge New York City on its current record.

In the coming weeks, Congress will scrutinize New York City's current record with very deliberate care.

An urgency has been attached to this issue.

Supporters of the "bailout" legislation claim that Congress must act before June 30 or else New York City will go bankrupt.

Senator PROXMIRE, who has monitored the city's fiscal situation very closely, has indicated in a May 11 letter to his colleagues on the Senate Banking Committee that even though the seasonal loan program expires on June 30, information furnished to the committee suggests that the city could get through most of July and perhaps August without new, outside financing.

That is welcome news to this Senator.

It means that Congress need not be stampeded into hasty consideration of this issue as was the case in 1975.

Congress will now have the time to investigate this issue thoroughly.

Experience since the launching of the seasonal financing plan in 1975 suggests that thorough investigation is in order.

When the now-expiring plan was approved, an amendment which I proposed, requiring that New York City attain a balanced budget, was rejected.

The reason it was rejected is that proponents of the financing plan assured the Senate that it was unnecessary.

Senator PROXMIRE stated on the floor of the Senate during debate in 1975:

Since September of this year, the City of New York has been under the direction of State law to balance its budget by fiscal 1978. . . .

. . . (T)here are all kinds of ways to balance a budget. This balanced budget would be in accordance with the municipal financing officer's definition, accounting definitions. So the budget would be truly balanced. In fact, they go a little farther than that. They require expenses to be on an accrual basis and revenues to be on a cash basis. So it would definitely be balanced in 1978.

Mr. President, today is only 5 weeks from June 30, 1978, and New York City's budget is still a long way from being balanced.

A poll was taken prior to the Senate debate on the Seasonal Financing Act which showed that the American people believed 90 to 7 percent that it was important for New York City to be forced to balance its budget, and not to spend more money than it takes in.

The Senator from Massachusetts (Mr. BROOKE), the ranking Republican member of the Banking, Housing, and Urban Affairs Committee, expressed the intent of, and the will of, the people and a majority of the Senate, I believe, when he commented during the debate on the concept of a balanced budget:

We do not want just a paper balanced budget. We want to be sure that we have an honest balanced budget according to sound accounting principles.

I say again that has not been accomplished.

When the Senate passed the Seasonal Financing Act of 1975, it was with the intent that the city's budget would be balanced according to what everyone understood to be generally accepted accounting practices.

Today, however, the city of New York has not achieved a budget which can be called balanced by generally accepted accounting practices.

The proposal of the Carter administration would not require such a balanced budget until 1982.

The State of New York would not require such a truly balanced budget until 1985.

It seems obvious that New York City officials are continuing to seek ways to avoid the necessity for a truly balanced budget.

My conviction on this point is reinforced by the fact that New York's current plans look a lot like the fiscal magic shows put on by city officials in the past.

When it comes to numbers in New York City budgets and plans, it is often a case of "Now you see it, now you don't."

Three years ago New York City committed to the Congress to achieve their balanced budget by the end of next month. It has not done so, and apparently does not plan to achieve the balanced budget for years in the future.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR LAW REFORM ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. LUGAR. Mr. President, as we have been engaged in this debate on labor law reform, a good number of things have been occurring in the country which are relevant to our pursuit of attempting to find ways in which employees could find justice, and in which free enterprise in this country might flourish.

I wish to draw to the attention of my colleagues a report which is contained in the Washington Post of this morning, and which is likewise covered in the Wall Street Journal of today.

I read from the Washington Post article:

EIGHT CONSTRUCTION UNIONS SIGN SOUTHERN CONTRACTORS' PACT

(By Helen Dewar)

Eight major construction unions, plagued by loss of jobs to cost-cutting non-union employers, signed an agreement yesterday to reduce strikes and featherbedding work rules on big industrial projects in the South.

It was the second such labor-management pact in little more than a month, following an agreement to cut costs and speed work in nuclear power plant construction.

In presiding over the signing ceremony between the unions and the National Constructors Association, which represents large unionized construction firms, Labor Secretary Ray Marshall estimated that the agreement would cut costs on affected projects 9 to 14 percent.

"This agreement can lead to a growing recognition in other sectors of the economy that private cooperation and private initiatives, rather than the actions of government working alone, are the real keys to reducing inflation," said Marshall.

Although described by Marshall as primarily anti-inflationary, the pact was under negotiation for more than a year as a tool for improving the competitiveness of the shrinking unionized sector of the construction industry.

The agreement will go into effect on projects started after July 1 in 11 southern states, where heavy construction is booming and non-union-competition is particularly intense. Both sides said they want to see it spread nationwide.

"These are the states where the work and the competition is," said Robert A. Georgine, president of the AFL–CIO's Building and Construction Trades Department. "We'll start here and see how it works."

The agreement rules out strikes or lockouts except after an impasse in localized collective bargaining; provides for an orderly grievance-settling process that may include arbitration; standardize overtime rates and shift rules, and establishes what it calls "common sense" work rules aimed at more efficient use of manpower and machines.

The initial coverage includes Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Arkansas, Louisiana, Oklahoma, Texas and all of Virginia outside the Washington area, where other agreements prevail.

Participating unions include the asbestos workers, boilermakers, carpenters, operating engineers, iron workers, laborers, cement masons and pipefitters. The International Brotherhood of Electrical Workers is involved in litigation with the NCA and did not sign, according to Georgine.

Mr. President, I suggest that this is an important development, first of all for the good of the Nation and certainly for the good of the construction industry, but also as a very concrete illustration of a point which a number of us have been attempting to make throughout the debate on this bill.

Our assertion has been that the Senate bill 2467 will lead to greater inflation in this country. This has been a point of dispute throughout the debate, and various studies have been cited. The Renfret study has been cited by those in agreement with the position I state today, and other studies have been cited by advocates of the bill which attempt to show that the effects of the bill will be less intense than the Renfret study indicates.

Leaving aside the theoretical studies that have been used by both proponents

and opponents in this debate, we now come to the real world. In the real world, eight construction unions and the Secretary of Labor, Mr. Ray Marshall, have indicated that the signing of the agreement that I have cited from the Washington Post story will lead, in Secretary Marshall's judgment—the same Secretary of Labor often quoted in many ways during this debate—to an 8 to 14 percent cut in costs on the affected projects.

Let us analyze why because, very clearly, this is the heart of the matter when we get to the sort of discussions we are having on the inflation issue. The heart of the matter is, as the unions affected and the Secretary of Labor have stated, that construction has been booming in the 11 Southern States which are mentioned in these agreements.

Construction is booming, and the allegation on the part of the 8 unions involved is that much less unionization is present in this situation, that the primary beneficiaries, as far as working men are concerned, in those 11 States are people in construction who are, apparently, not unionized.

The difficulty, Mr. President, is that, given this booming situation and the number of people availing themselves of these jobs, it has occurred to the eight construction unions involved that one reason that the unions have not been thriving is that disputes involving the unions and construction employers have been costly. Indeed, the same argument, I suppose, could be made in many other fields in many other States.

How can the situation be retrieved? Under the negotiations, apparently shepherded by the Secretary of Labor, the unions have suggested that they might be more competitive if they agreed not to strike, not to be involved in lockouts. The construction employers agreed to that, not to have lockouts, that there be orderly grievance-setting processes and, even more importantly, Mr. President, that there be commonsense rules aimed at more efficient use of manpower and machines.

This could have been done a long time ago. It could have been done in any particular year in time.

I submit, Mr. President, the only reason why costs are ever cut in such a situation is that, in this particular case of 11 States and the construction trade, by and large, most of the people heading into the dynamic parts of the field were not members of unions. This very threat has led to responsible conduct on the part of management and on the part of labor unions and may, in fact, help the public if costs on the effective project are cut by 9 to 14 percent, as estimated by the Secretary of Labor.

If there can be any doubt—and in my judgment, Mr. President, there is no doubt—that the gist of S. 2467, whatever its other merits or demerits, is going to lead to substantial increases in inflation in this country, the doubt has clearly been resolved by those involved in these 8 unions in the 11 States and by the Secretary of Labor, who has said very clearly that, through such an agreement, we can have something that is anti-inflationary. As a matter of fact, the Secretary of Labor characterizes his participation in shepherding over these negotiations as a means of trying to hold down inflation.

Indeed, I think that he may have succeeded in what is an exemplary pact. I simply say from my own experience, in a more parochial way, Mr. President, that a similar agreement was reached by contractors and the building trades unions in Indianapolis, Ind., 2 or 3 years ago. Due to potentially similar circumstances, it was apparent that the city was on the move in terms of building new buildings, that the inner city might thrive if we could get on with it, that there would be additional jobs available. In a very constructive activity, the construction unions agreed to similar terms, at least as I see them characterized in the press, to those being suggested now.

I think this is an important development and I draw it to the attention of my colleagues because, even as we are discussing the theory of how the law might work out, the facts are abundant in the real life of the world that swirls outside this Chamber.

Also going on outside this Chamber is a less pleasant sort of activity. I draw to the attention of my colleagues that would not have had an opportunity to see it on page 18 of the Wall Street Journal of today, Tuesday, May 23, 1978. Mr. Jim Drinkhall, staff reporter of the Wall Street Journal, starts with his lead paragraph by saying:

> In a direct rebuff to the government trustees of the Teamsters' Central States Pension Fund have repudiated the widely publicized agreement with the U.S. Labor Department and Internal Revenue Service that gave control of the fund's assets to outsiders.
>
> Trustees also are dismantling other major changes forced by the government and by Daniel J. Shannon, the fund's executive director who was fired in April.
>
> Additionally, a separate Labor Department probe into the union's related health and welfare fund has been stymied since, almost four months ago, the fund decided to stop its year-old policy of cooperation and began refusing to allow the Labor Department access to fund records.
>
> If the Labor Department's probe does get bogged down as a result of the fund's action, that could heighten the impatience that has been growing in Congress over the agency's handling of the highly complex Teamsters funds.
>
> Several sources in the Labor investigation say they were aware of the union's hardline position, but Labor Secretary Ray Marshall didn't mention any of the developments when he gave a status report on the probe in testimony before the House Ways and Means subcommittee on Oversight in March.
>
> The same sources also say the Teamsters' intransigence may have been touched off because of a federal lawsuit filed in February alleging that the former trustees misused the fund's assets. There has been concern expressed that some of the then-trustees may have thought the government had promised it wouldn't file the suit.

I proceed down to two paragraphs later, and this thought:

> One Labor Department lawyer predicts, "They're setting the stage for a confrontation with Equitable, and when it comes, they're going to fire them." It is understood the Labor Department sent a strongly worded letter to the fund saying the trustees couldn't take such an action but the fund hasn't replied to it.

Mr. President, I mention this particular situation because it was a part of the debate earlier in this day, as it has been in earlier sessions on this bill, that there are, indeed, a good number of problems, over all labor reform areas in this country.

When I had the pleasure of addressing my colleagues last Friday, I indicated that the common sense view of labor reform in this country presently, surely, encompasses national strikes, such as the coal miners strike, in which there are innocent bystanders, some of whom are labor union members, some are not, some are schoolchildren, some householders who find shrinking supplies of coal, and all these people are caught and are seeking some degree of relief.

At other times, some of my colleagues have pointed out the very real problems of violence that seem to plague labor-management relations of some sort in the country.

Additionally, some of my colleagues have pointed out that what ought to be sauce for the goose ought to be sauce for the gander in terms of equal application of the law by the National Labor Relations Board and some difficulty in seeing whether justice is occurring there.

To this, the distinguished Senator from New York (Mr. JAVITS) replied earlier this morning that S. 2467 could have encompassed a great number of things in labor reform.

As I recall, Senator JAVITS said it might have taken on the right-to-work issue, 14(b), and either its retention or repeal. It might have taken on amendments to the Taft-Hartley Act, giving the President either more or less power to deal with the coal strikes, or other national catastrophes of that sort. It could have taken on any number of issues that deal with labor violence or alleged misuse of pension funds, such as, apparently, we are heading toward in the Teamsters' situation I have cited.

But Senator JAVITS indicated that the proponents of the bill decided to narrow the focus to make certain that we have before us a very narrow focus; indeed, a very small sliver of what might be called labor law reform in the country.

As a matter of fact, Senator JAVITS indicated that the bill may be misnamed, that, in fact, it is not a bill dealing in any sense with labor law reform. It is, rather, a bill dealing with the specifics of trying to make certain that employees who are allegedly denied the opportunity to organize in this country have a better shot at getting that job done. A very small focus, he would suggest.

Indeed, the President of the United States has suggested on occasion that he had a hand in attempting to narrow the scope of this particular piece of legislation. The President was quoted, as I recall, after a breakfast meeting with labor union members almost a week ago, on Wednesday, that, in fact, he had a hand in trying to make certain that a fairly small number of things were covered, and that simply a rather narrow focus of simple justice was the outcome of the legislative effort.

But I would submit, Mr. President, that in an attempt to narrow the focus, we have, in fact, narrowed the possibil-

ities of the American public seeing any particular justice in the outcome here.

It is well and good to talk about at some time addressing the national difficulties of the coal strike predicament, at some time suggesting alternatives to Taft-Hartley, or extensions of that act, or a fine tuning situation that a President might need if the 80-day cooling off period is to prove unsatisfactory, and the other provisions the President might or might not want to use.

It certainly has been within the purview of various congressional committees on both sides of Capitol Hill to take a look at the problems of misuse of pension funds, the potential problems of violence in the labor-management field, although as we can perceive from the Wall Street Journal account today, that has not been an extraordinarily successful pursuit and, once again, a confrontation of sorts would appear to be heading toward us very rapidly, even as we discuss these issues.

What I would suggest, Mr. President, is that one reason why a majority of American people, and I think it is a very substantial one, do not find any enthusiasm for this legislation, is that it simply misses the mark with regard to elemental justice as they perceive the labor-management picture today.

I appreciate the points that have been made by proponents of the legislation as they described specific instances in which individual Americans may have faced discrimination, may have faced outrageous conduct, in terms of trying to see whether the Wagner Act of 1935 could be made a part of their lives.

But, Mr. President, any piece of legislation that has counterbalancing difficulties in terms of pains and penalties for others involved also has to bear the weight of using some commonsense balancing of the scales, and that is what we are about in this debate.

Those of us who are opposing this legislation have said that whatever may be the alleged benefits for specific employees who want to join unions or who want to find out about unions, or specific organizers who want access to those employees, that the benefits, however considerable they may be, must be weighed against, first of all, the problems for small business, generally, in the country, the problems of perceived fairness in terms of the bargaining relationships, clearly, the overall problem of inflation that this country faces, and it has very considerable penalties not only for the labor and management people involved, but, I would submit, for citizens generally.

Clearly, we have been attempting to make the case that whatever the benefits might be, they are outweighed by various other things that are going to occur.

It is in this spirit I have cited these current events this afternoon; namely, the construction trade agreement with 11 Southern States, the perceived problems in the Teamster pension fund as this is coming down the pike.

I would cite still a third situation, Mr. President. The American public is disturbed by the coal strike and by people caught in the middle, disturbed by what may be elemental fairness with regard to small business.

Most people in this country today are also very much disturbed by the difficulties in public employment.

The advocate of this bill could say that we are not dealing today with public employment, the public employment issues are complex and some day we really will have to think about policemen, firemen, and so forth. But I think the case was made in debate this morning that, essentially, in our system of American federalism, we have tried to deal with local problems at the local level, and appropriately so.

The distinguished floor manager and, as I recall, the Senator from Utah (Mr. GARN), were both in agreement that, to the best extent possible, we try to go to the local level for alleviation of local disputes.

However, we have, it seems to me, this predicament in the country in which there has been an overlay of Federal laws dealing with negotiations between labor and management.

Clearly, the Wagner Act of 1935 that we are talking about in terms of its basic thrust and potential amendments goes to the heart of most local situations.

The bill we are talking about now, as a matter of fact, would pertain, we believe, to bargaining units of somewhere between 20 and 25 persons, so far as the average unit that would be affected is concerned, and that becomes very local and very grassroots, indeed.

The Wall Street Journal of this morning, in its editorial page, discusses the predicament of public employment, and I think it is pertinent to our situation. It starts with an arresting paragraph:

> Police and firemen strike the city of Youngstown, Ohio, leaving it with skeleton protection for a day. Elsewhere in the state, firemen walk out in Lorain. More than 100 guards leave work at a Columbus correctional facility, in defiance of a court order. Teacher strikes are going on in some 10 different districts.
>
> Not many other states may have suffered from such a cross-section of public labor disputes as these compiled from a single day of recent Ohio news reports. But the problem of public employe labor relations is national in scope and shows little sign of abating.
>
> These Ohio strikes came in the middle of a legislative controversy over the state's 30-year-old Ferguson Act, which on paper forbids public employe strikes but obviously has done little to stop them. The legislature has sought to replace it with a bill granting public employes the right to strike and setting up mediation and arbitration procedures. Gov. James A. Rhodes has vetoed the bill. An attempt to override his veto apparently awaits the outcome of the state primary June 6, in which labor supporters will try to purge their most intractable legislative opponents. If the override succeeds, it might indeed buy labor peace. But if there is anything to be learned from New York's experience with the Taylor Act, the price will be a costly and possibly devastating pressure on state and local budgets.
>
> Although mediation sounds reasonable enough, all too often fact-finding and arbitration panels are manned by people who are more sensitive to labor relations than to the constraints of municipal finance. In one notorious case in Buffalo, N.Y., several years ago, a public employe relations board ordered that hard-pressed city to pay for a settlement by issuing short-term debt. In spite of wide dissatisfaction with the New York law, efforts to revise it have consistently been frustrated by the political power of organized civil servants.

Mr. President, once again we get back to several concurrent themes that run through this debate.

We are talking, first of all, about public frustration—public in the sense that the ordinary citizen wonders if in this whole area of labor law reform in the country anybody is listening to the plea for some degree of stability when it comes to public service.

The point was made this morning by the distinguished Senator from New York (Mr. JAVITS) that this may be a part of the price we pay in a democracy; that, in fact, as opposed to putting on very severe penalties for involving the life and limb and property, the public has a fairly high tolerance of strikes by Federal employees. Maybe that is the answer we are left with, but it is an unsatisfying answer.

It gets back to what the public as a whole is thinking about as we are talking about labor law reform. If you ask the man and woman on the street today, "Do we need labor law reform in this country?" The answer is a resounding, "Yes, we do; we need a lot of it."

But if we were to isolate what are the problems that cry out for reform, they come down to the nitty gritty of the local strike; they come down to the national problem of a coal strike; they come down to the thought that if the Taft-Hartley Act, as an amendment to the Wagner Act, does not work, what will; and why does Congress not address itself to those situations that cry out for reform?

Instead, the answer has been S. 2467, described by both its proponents now and its opponents as a very narrow focus, dealing specifically with the problems of certain Americans who either are trying to organize other Americans or, in fact, have been frustrated in their attempts to gain organization, and that is the proposed response to the American public calling for labor law reform.

It is a totally unsatisfactory response, first of all, because it is one clearly weighted on the labor side. I know of no person in society who does not perceive that. Those members of organized labor unions, those leaders of unions—either leaders or rank and file—clearly perceive this bill as a bill that is going to help them. The lobbying efforts we receive from that side clearly are in that kind of spirit.

The people with whom I have visited who are members of labor unions from the State of Indiana or elsewhere, or national labor, leaders who are representing persons throughout the country, come to each one of us as Senators, suggesting that this bill will be of considerable advantage to them, as they see it.

On the opposite side, small businessmen, large businessmen, lobbyists for business generally perceive that this bill will harm them.

There appears to be no doubt whatsoever as to who is to be helped and who is to be harmed. A philosopher looking at the whole terrain may say that every-

body is misperceiving the situation—that, in fact, not much harm or not much good will accrue to anybody from all this; that it will be very limited, not only in its focus but also in its results; that overall, it will be beneficial to the rule of law generally; that it will fill in the gaps that may have been created by misunderstanding, by fraud, by subterfuge, by any number of things that may have come along the pike.

Generally, Mr. President, the American public simply does not see that that is the overall effect of this. The public just sees Congress laboring with a very narrow piece of special-interest legislation. The public sees us laboring with this particular bill because of the strong push by specfic leaders of organized labor in this country to bring pressure upon the President of the United States, upon the leadership of this body, to say that this is the quid pro quo for cooperation and a degree of peace and harmony, and a coalition that has brought some election success in this country.

Because of that, I suggest that there is not a great deal of enthusiasm for this legislation. There is not a great deal of enthusiasm in the country. There has been very little enthusiasm, I must say, within this body, as we have debated the issue.

I appreciate the point that is made from time to time by advocates of the measure that debate on the bill has been consumed, if not dominated, by those who are opposing the legislation. It was suggested this morning, as I recall, that both those who are in favor of the bill and those who are opposed to it could read daily newsletters which pointed out about what time various Senators in opposition would speak and for about how long they would go on; so that it was fully predictable, in the event you wanted to contest the situation, whom you might match up with—find a congenial debater or an irascible personality, as the case may be.

The fact is that the number of people who have wanted to speak in behalf of this measure has been substantially limited. I presume this is because Senators are busy or Senators are elsewhere. But it has been a limited debate.

Be that as it may, the country as a whole has not been limited in its interest, however limited the interest may be on this floor.

One Senator after another has testified either to the press media, if not in direct testimony on this floor, that more mail has been received in our offices on this piece of legislation than on any other piece of legislation in the memory of various Senators, certainly much more mail than was received by most of us recently on the Panama Canal Treaty issues, or on the saccharine ban, or on common situs picketing a year or so ago or in previous battles on that subject. Some have suggested that the mail is part of a campaign of orchestration of employees, unions, and specific organizations of small business, and there is a degree of that, Mr. President.

I have made an analysis of my own mail to try to find out whether individual persons are writing to me more than once trying to be counted again to weigh up the totals. I think it may be of interest to Members to know that at least in the case of the mail reaching our office as of today it stands at 14,516 pieces of mail in favor of S. 2467 and 33,800 opposed. So we still have a ratio of about 33,000 to 14,500, that is about 60 percent of those pieces of mail that are, in fact, valid in the sense of one person and one vote, and almost the remainder of 40 percent come in terms of duplications as various organizations continue to turn out cards and letters at this point. But even reduced to that situation we are still taking a look roughly at 20,000 individual human beings in the State of Indiana who felt compelled to speak out against this legislation and barely 12,000 who have wanted to speak in favor of it, when we reduce these figures down, and I suggest that the trend of the mail continues in about that respect. In the survey that I took of my constituents, and in which 17,000 plus people answered, 57 percent were opposed to this bill and only 25 percent in favor of it.

There is clearly a mandate in the country, as a whole, for labor law reform, but there is no mandate for this legislation. There has not been a mandate for this legislation from the time that the general public began to think or hear about it.

The question that again and again arises, Mr. President, in view of what basis is the legislation to be passed and the age-old philosophical question may come to the fore that in our wisdom we may know more about this particular subject than do people in small business or people in labor unions or people who are organizing and wish to find other people, but, Mr. President, I suggest that our modesty should come to the fore. There are relatively few Members of this body who in recent years have been on the firing line either as an entrepreneur of a small business or a manager of a small business, or engaged in any way in a small business, or who have been a member of a labor union, and I say this: We are not talking about some historical affiliation Members have enjoyed on both sides of the question, alluding back to days of youth or early career in which they, or members of their families, have joined unions, or Members and their families engaged in small business.

Very clearly what I think we should be compelled to do presently is to visit with people who are on the firing line as small businessmen in this country and as people who are members of labor unions now in the rank and file, and try to find their sentiments about this situation and try to gauge how imperative they see this legislation.

If we do this, Mr. President, I think we are going to find, of course, that a large majority of people in this country not only regard this legislation as less than imperative, and most will say that it is clearly beside the point of what they felt was needed in labor law reform, but we even have some additional attitudes which are expressed that get to the heart of the matter, in my judgment, as to how people feel in labor-management relationships.

In my remarks of last Friday, I cited an opinion survey taken by Opinion Research Corp. of Princeton, N.J., in December of 1977.

At that time I shared my copy of the survey with the distinguished floor manager of this bill and I likewise shared certain questions and results with Members of this body during that debate.

I wish to continue that pursuit in reference to remarks that I have made this afternoon because some additional questions that are asked I think pertain to the general theme of my address this afternoon.

Question No. 15 was raised in this survey that demographically is sound, at least in my judgment, and Members may wish to test, from their own experience of taking political polls, the degree of soundness they perceive, but it follows along the structured measures of professional polls. Question No. 15: In your opinion are labor unions involved too much in political action, not involved enough, or is there a degree of involvement just about right?

I think this is a question, first of all, raised with the general public, and it is pertinent to find that sort of result. The general public felt by these percentages involved too much, 56 percent; not involved enough, 12 percent; just about right, 25 percent; and no opinion, 7 percent.

In brief, Mr. President, the general public believes that labor unions have been involved too much in political action.

What do labor union members feel about that subject, leaving aside what the general public believes about this sort of activity? This, Mr. President, I think is a rather astonishing result. Labor union members say in terms of alternative 1, involved too much, 43 percent believe that labor unions are involved too much in political action; 26 percent would say that labor unions are not involved enough; 27 percent would say just about right; and 4 percent no opinion.

Let us let that sink in for just a moment. Union members by a vote of 43 to 26 believe that labor is too heavily involved in political action. That, I think, once again gets to the heart of our debate this afternoon. Labor union members, quite apart from their thoughts about labor-management issues, are, first of all, citizens of this great country. They perceive that some things are happening in this country that include inflation bounding upward. They perceive perhaps the power of Government intruding into their lives and into the lives of us all in ways that restrict and constrict their freedom. They perceive, I suspect, that as union members they would prefer that unions were involved more in economic situations and less in political, although 26 percent would like to see more political action and 27 percent thought the whole thing was about right at this point.

Now, in addition to whether or not

labor should be involved in more political action we come in question 16A to an intriguing question about the results of this activity. Question 16A was:

In your opinion, does organized labor have too much influence on Congress or, secondly, too little influence or, third, about the right amount of influence?

Well, with the total public, the total public felt that labor has too much influence on Congress. Fifty-one percent said that, and I think that is interesting right off the bat. A majority of Americans believed that organized labor now has too much influence in this body and in the House of Representatives. Eighteen percent of the total public thinks that there is too little influence, and 27 percent believes it is just about right.

Now, when we get to union members, Mr. President, if you were to ask in a commonsense question, without the survey results that I am going to cite, if you ask union members:

Do you believe organized labor has too much influence on Congress or too little influence?

A commonsense answer, one would believe, would be that many members would say that there is too little influence. That is usually the way we look at the Congress. It is the way we usually look at anybody that we think might make a difference in our lives and prospects. We always tend to think somebody else has more influence than we do. We have too little, and we ought to have more. But that is what life is all about in trying to carve up the sectors.

But when union members were asked, 36 percent said that organized labor has too much influence, and only 31 percent said too little, and an amazing conclusion, not the same drift with the general public in which it was 51 to 18, the general public feeling there was too much organized labor influence on Congress. But with organized union members, 36 to 31 feeling that organized labor has too much influence on us in this body and in the House of Representatives.

Well, I would say, Mr. President, that members of unions in this country may have sized up the situation much more accurately than some other observers of the scene. It may be that members of this body would protest that no one really has that much influence on what we are doing; that 2467 simply sailed into this Chamber without any particular volition or motivation; that there was no correlation between the bottom line of what was demanded of this Senate by organized labor this year and the arrival of this bill; that it was such a manifestation of popular will that this Chamber has been crowded with people speaking out in behalf of 2467, of one survey after another over the country that says 2467 is it.

But I would suggest, Mr. President, one reason why that has not occurred, and is not going to occur, is that a majority of labor union members feel that labor is already too heavily involved in political questions and, more to the point a majority of organized labor members, who have opinions on this subject, believe that there is too much pressure on the Congress presently.

I think that is one reason why those of us who are opposed to 2467 are going to receive a substantial amount of support for our position from the grassroots rank-and-file of organized labor in this country. Indeed, that is my perception now of where the grassroots stand on this question.

I was called by a reporter for a radio station in New York City. The reporter said the network which he represented was heard substantially by black citizens in New York City and by other large metropolitan areas in this country. The reporter was eager for some type of statement in opposition to 2467 to balance a statement in favor of the bill.

I answered a number of questions. He came finally to one which, I think, is very pertinent. The reporter said:

Why would a black citizen in inner city New York or in the inner city of any other large area of this country be opposed to the labor law reform bill? Isn't it clear that black citizens in inner city areas, in essence, would be in favor of this legislation?

Such, in fact, was inferred, if not directly stated, by Secretary Marshall in his address in New York to the NAACP Defense Fund the other day.

I said:

I can tell you why, in my judgment, a black citizen in the inner city would be opposed to 2467. The basic reason is that 2467 may be the end of his or her job.

What we are talking about in terms of 2467 is small business, the cutting edge of entrepreneurship in this country, the ability for people as individuals or twosomes or threesomes to get into business to begin with.

(Mr. SARBANES assumed the chair.)

Mr. LUGAR. Now, the point has been made again and again in the debate that the area of jurisdiction of the NLRB does not pertain to individual entrepreneurships or even to a husband-and-wife team; that there are limits, and these have been pointed out, and I shall not take the time of the Members again to go over that territory.

But the facts of life are with regard to this bill, Mr. President, that the range of coverage gets down to very few people. As a matter of fact, in the State of Indiana over half of those who were covered in elections last year came in units of 24 employees or less, and that covers a good number who, of course, were less than 24 in number.

I would like to simply cite for the RECORD a letter that was written by the Labor Policy Association, Inc., a nonprofit association organized under the laws of the District of Columbia, Washington, D.C., in special memorandum (IV–9) which they have written on this subject. It just says:

SUBJECT: "ARE MOM AND POP INVOLVED?"

Last week, the AFL–CIO Task Force on Labor Law Reform issued a report entitled "Mom and Pop Aren't Involved." It claims that S. 2467, the labor law reform bill scheduled for Senate action this week, will not adversely affect small business principally because the NLRB has already established jurisdictional standards that exempt smaller companies from coverage by the National Labor Relations Act. Demonstrating that a statistic can be found to support any argument, the report claims that only 12 percent of all U.S. businesses are covered by the National Labor Relations Act.

In order that you may accurately assess the merits of the AFL–CIO's report, Attachment A to this memorandum contains statistics prepared by the National Labor Relations Board estimating the number of employees and establishments covered under the provisions of the National Labor Relations Act. The data indicates that 22 percent, or 847,497, of the Nation's businesses are covered by the Act; a rather substantial number. Further, these 847,497 companies employ 75 percent, or 44,112,560, of the country's covered workers.

The NLRB's statistics further indicate that the companies which do not come under the Board's jurisdiction employ, on the average, less than 5 employees. Thus, "Mom and Pop" may not be involved, but just about every other business is. Also, Attachment B sets forth the Board's jurisdictional standards, which are based on a company's business volume. They indicate that even if a company had only two employees and the business volume standards were met, the employer would, nevertheless, be considered as properly within the coverage of the Act.

Ignored in the AFL–CIO report is the practical effect of strengthening the power of unions against small employers. Union arguments in support of current labor law amendments include claims that employers engage in dilatory tactics before the courts and the NLRB. The only examples cited are very large corporations that have retained expert, and quite expensive, legal counsel. One might question whether a business employing only five workers has the financial resources to use the delaying tactics described by the unions even if its propaganda is true. Also, one might question whether a union is actually going to provide individual service to bargaining units of only five employees. If employees in these small units want union representation, it is available to them under present law. However, it would seem that such persons should not be forced into union membership solely because their employer would be forced into capitulating to union demands under the provisions of S. 2467. As the NLRB stated in South Hoover Hospital, "a small employer's first violation of the Act may be attributable to its gross ignorance of the labor laws rather than to its calculated design to subvert them." That comment notwithstanding, S. 2467 would effectively establish harsh new penalties to be applied against any business, large or small, found to have violated the Act either intentionally or inadvertently.

Mr. President, I would suggest this gets to the heart of the question raised by the radio announcer who requested of me as to why a black person in the inner city of New York or the metropolitan area might be opposed to S. 2467.

I would reply again, as I did to that reporter, "Because a person might be able to save a job. In fact, he might be able to find employment to begin with."

Clearly, after all, the debates we have had in this Chamber about how we are going to reach the so-called hardcore unemployed person in this country, it boils down to the fact that in the hearts of the inner cities of this country only small businesses serving neighborhoods, the small businesses that might be able to utilize the sometimes limited skills of persons who are parts of those neighborhoods, are likely to make a substantial contribution.

That still is our best answer. S. 2467 sets out to provide some degree of justice for individual Americans who would allege they have been denied the oppor-

tunity to organize. But I come back to the theme of this comment this afternoon, Mr. President, that whatever benefits and whatever justice may be a part of that plea, we are going to have to balance it out, the prospects of persons who do not have jobs in this country, against the hopes of all Americans for genuine labor law reform that covers a lot of other territory, quite beside the very small part of the jurisdiction that we are debating on S. 2467.

Mr. President, I yield the floor.

Mr. MELCHER. Mr. President, there has been a great deal of confusion developed on how small business is affected by basic labor laws, first of all. I do not believe that most small business people are aware of the present law that covers them regarding union organization efforts. In fact, most small businesses in my State are not union organized now. But yet many of the small business people in my State—and I suppose throughout the country—have been alarmed that somehow this bill is going to impose new rules and new requirements on them. They are hearing and reading that this bill would force unions on them and their workers.

So perhaps we could establish just what the present law provides as to how small business might be affected, or perhaps we could establish if small business is affected in some new way under this bill if it should become law.

Just what small businesses would be affected by it? I wonder if the Senator from Utah would engage in some colloquy with me on this subject.

Mr. HATCH. Yes.

Mr. MELCHER. I have listened to the very able Senator from Utah on a number of occasions during the debate on this bill, and as I understand the present law, the National Labor Relations Board is given broad jurisdiction over employers in any activity that affects commerce except farmers and ranchers.

Mr. HATCH. That is correct. It is given total jurisdiction.

Mr. MELCHER. The present law also gives the Board discretion in exercising that jurisdiction?

Mr. HATCH. That is correct.

Mr. MELCHER. In its discretion, the Board has established specific standards, such as gross annual volume for retail business of $500,000 a year?

Mr. HATCH. That is one of the jurisdictions. Let me add to that.

The fact of the matter is the two most significant jurisdictional amounts are $50,000 for most businesses, that is, small nonretail businesses, of inflow and outflow. With regard to retail merchandising, it is up to $500,000.

As a consequence, labor has argued that 78 percent of businesses—certain small businesses—are not covered by this projected bill. But they have also admitted that 76 percent of all employees are, and I think that it might help the distinguished Senator from Montana to know that.

In other words, the significant statistic in my eyes is the 76 percent of all employees, which would tend to show that the businesses which are, by rule of the Board, basically not covered, are businesses that are sole proprietorships or businesses with so few employees that the labor movement does not want to organize them.

Mr. MELCHER. The Board has a list that is available to anyone. Most small businesses have a book, if they would look it up; but usually they are not aware what the standards are, or whether they are covered under any action which the Board would take.

Running through that listing, for instance, for a taxicab company the standard is $500,000 worth of business a year.

Mr. HATCH. As a matter of fact, even if the standard is $500,000, most taxi businesses are included because it is not just gross business. That is not the standard; it is inflow and outflow, total. It would even include the purchasing of cabs. Let me read it to you:

> The retail standard of $500,000 or more annual gross volume of business is applied to taxicabs. But that includes the purchase of capital equipment and maintenance, etc.

Mr. MELCHER. Now, in the case of motion picture theaters, or drive-in theaters the standard is $500,000 annual business. My hometown, Forsyth, and I daresay in most of the communities in my State of Montana and most of the communities in the State of Utah, the distinguished Senator's State, have much in common, particularly in the West, and are generally made up of small business people taking care of the local needs of the community and the ranching and farming, basic industries surrounding our towns.

So the motels and hotels that have $500,000 annual business and above would be covered by the present law, the National Labor Relations Board, and the future law, if this bill becomes law.

Mr. HATCH. Let us understand this, that any business is covered by the complete law. In other words, the National Labor Relations Act could be applied to any business even if it only makes $1. All the Board has to do is change its jurisdictional amounts. If the Board says that a movie theater is not covered unless it does $500,000 worth of business a year before this bill is enacted, immediately thereafter it can say, "Well, we are going to cover it if it has $1 worth of business a year." That is the significant factor.

Mr. MELCHER. I might point out to the distinguished Senator that although the National Labor Relations Board could exercise its power to enforce the Act in all cases involving enterprises which operate in interstate commerce, the Board has not chosen to do that. The standards have been pretty much the same since 1959.

Mr. HATCH. That is true up to now, but a company would have to be either small in number of employees or small in total business to not be covered under the Board's jurisdictional amounts.

Mr. MELCHER. I am sure the distinguished Senator does not mean to indicate that the number of employees should be a standard.

Mr. HATCH. No; but I am saying this, that most people will realize that most movie houses across the country have very few employees and they are very insusceptible to being unionized. The union movement would see it as a waste of time to unionize two or three teenagers and one or two other people.

Mr. MELCHER. That is true. I am referring to typical small businesses in the Senator's State, Utah, and my State and the other States.

Since that is the case, since motels do not generally have $500,000 worth of business, and the retail establishments do not generally have $500,000 worth of business, many are exempt. The filling stations and motels that I know of in Montana, for the most part do not have $500,000 worth of business in a year.

Mr. HATCH. I would be surprised if they did not on an inflow and outflow basis.

Mr. MELCHER. I would not say that none of them do, but the biggest percentage do not.

Mr. HATCH. Basically, those that are sole proprietorships the unions do not want to organize. They cannot organize a sole proprietorship. Where they have such few employees, there is nothing for them to do about it.

Mr. MELCHER. That is the important point. In most of these small businesses, there are so few employees that the unions do not want to organize them.

Mr. HATCH. That is not true. If the Senator is talking about most businesses that fit within the Board's guidelines, those that make less than $50,000 a year inflow and outflow as we have discussed, and those retail businesses that make less than a half million dollars a year, yes, they are so small that there is no desire to unionize them. But if the Senator is talking about the vast majority of employees who work for small business, 76 percent of them, it has been admitted here on the floor, are covered even under the Board's present jurisdictional guidelines.

There is one other thing I would like to say on this.

Mr. MELCHER. The point that we would like to establish in this colloquy is how many small businesses might be affected. If they do not know, they may want to know how they can find out. It is not a question of whether they are going to be affected if the bill passes. The fact is that they are affected whether the bill passes or not. Those that meet the standard—retail gross over $500,000, et cetera—are affected right now. Perhaps when they read the CONGRESSIONAL RECORD and read those references to small business, how small business is so afraid of the bill because of what it is going to do to them, they might like to know whether they are indeed covered by the National Labor Relations Board now and what would be the effect on them if this bill should become law. I think that is what we are trying to establish.

Mr. HATCH. I think so.

Let me just add this: The present Chairman of the National Labor Relations Board has been on the Board for in excess of 20 years. He is on record as being for expanded jurisdiction. In other words, he wants to expand the Board's jurisdiction by narrowing these guidelines. I believe we are going to find that, regardless of what happens here, the guidelines will be narrowed. But if they

are not, 76 percent of all employees in the United States are covered by this bill.

Let me go a little bit further. The Small Business Legislative Council, to assist the Senator in his inquiry here, which is one of the major associations in America today representing small business, wrote me a letter. The first paragraph of that letter says:

The Small Business Legislative Council expresses the vehement opposition of 350 national and regional trade associations, employing 13,700,000 workers, to S. 2467—

And by interpolation, to H.R. 8410—

The Labor Law Reform Act. Enactment of S. 2467 would be devastating to the economic livelihood of the small business community and their employees.

That is only one association. As the Senator knows, there are a number of others. This one actually employs almost as many workers as there are in nonagricultural unions in this country.

Mr. MELCHER. The point, however, is to inform small business people whether the existing law, as it is, covers them, and, second, to take that next point, as the Senator has pointed out, that if this bill fails or is passed, the Board continues to have authority to cover them if they think they should be covered. In either case the Board has the power to do that, right now.

Mr. HATCH. That is correct.

Mr. MELCHER. Let us assume, if the Senator will, that I am practicing my profession of veterinary medicine, and assume my practice has been doing much better in the past year, with a much higher gross, and perhaps we would be covered now. Let us assume the good Senator is practicing his profession and is a practicing lawyer with a number of people employed, and he had the $250,000 annual gross in fees. Yes, both of us would be covered under the current law.

I would like the Senator to tell me, since the present law permits organization of workers by unions, permits attempts of unions to sign up workers, to get an election if the majority of those workers say yes, just what position would we be in under the present law, without changing it, without any consideration of this bill, just to be subject to the basic law.

Mr. HATCH. If you do not have this law as a small businessman, you would be in a lot better position to explain your side of the matter. You would not have to open up your premises, at your time, your expense, allowing the union organizers to come on and preach to your employees, at your expense, having to subsidize the unionization of your own business.

Mr. MELCHER. Those are the points we should be discussing. Under the existing law the union organizer approaches the workers, gets the cards signed, and—when 30 percent are signed up the Board will set an election date under present law.

Mr. HATCH. The Board can at that time; that is right.

Mr. MELCHER. Mr. President, the Senator from Utah has graciously and cooperatively agreed to this dialog so that we can establish some comparison of present law as it affects small business as compared to changes that might come about affecting small business if the bill would become law.

At this point, under present law, when a union signup is underway and 30 percent of the employees have signed a petition for an election, the Board will set an election date.

So far, I think the Senator from Utah will agree there is no change in the present law at this point contemplated in the new bill.

Mr. HATCH. Thirty percent?

Mr. MELCHER. Yes, at this point of the proceeding.

Mr. HATCH. We cannot quite admit that because the mandatory time limits this bill would impose statistically are not justified. Under present law, there is no mandatory time limit.

Mr. MELCHER. We have not gotten to the time limit.

Mr. HATCH. I see.

As far as the 30 percent is concerned, that is true.

Mr. MELCHER. All right. So an election is set. Under current law, there will be an election. Suppose there is nothing complicated involved, just a straightforward deal, the Board generally sets the election somewhere in the range of 30 days to 36 days.

Mr. HATCH. Well, the parties, generally, agree on a date.

Mr. MELCHER. All right, and that is accepted by the Board.

Mr. HATCH. That is right.

Mr. MELCHER. Yes.

So, basically, then, we are talking about a time frame somewhere between 30 days to 40 days.

Mr. HATCH. That is not correct.

Mr. MELCHER. That is not correct? All right, I will be corrected.

Mr. HATCH. Let me clarify that with regard to the election time filed, 82 percent of all elections are held between 12 and 43 days here, before that it was 47 days, so it has been coming down. It came down 4 days in the last year.

On the remaining 1,500 elections, a number are settled within a median time of 75 days. In 1976, in only 47 cases, where the elections were so serious they involved contempt citations.

But I hope that helps the Senator on that point.

Mr. MELCHER. Yes, it is very helpful, because if the bill would become law, then the Board, on the basis of a 30-percent signup, would set an election no later than 45 days.

Is that correct?

Mr. HATCH Yes, no later than 45 days.

Mr. MELCHER. No later than 45 days.

So it would be about the same time frame.

Mr. HATCH. That is correct.

Well, it would be about the same time frame. The 82 percent that are settled because they do not involve serious issues or serious problems; in regard to the others, not the same time frame.

Mr. MELCHER. Yes.

Mr. HATCH. In regard to the hot, contested, and elections involving serious difficulties, they would go beyond that.

Mr. MELCHER. So under the present law. ordinarily the time frame would be somewhere, as the Senator pointed out, between 12 and 43 days. Then with unusual cases—I beg the Senator's pardon?

Mr. HATCH. Fifteen hundred, the median time, 75 days. The remaining would be unusually complex cases.

Mr. MELCHER. That is right.

Mr. HATCH. But I suppose it depends on which business they are that is being organized.

If they need more than that, that it needs to organize, to hold an election in the 82-percent category, they might feel quite put upon if they have to have an election within 45 days, especially if the major jurisdictional and other decisions are not decided, other matters are not decided.

So the problem with these arbitrary dates and quickie election times is that they do not do justice.

Mr. MELCHER. Did I understand the Senator correctly when he said that there are 46 cases that needed more than 75 days?

Mr. HATCH. Forty-six or forty-seven.

Mr. MELCHER. That needed more than 75?

Mr. HATCH. More than that. But only 46 or 47, as I recall, that were so serious they required contempt citations.

Mr. MELCHER. I see.

Now, basically, that is the situation under the present law. And if this bill, just on these points, were enacted, there would not be a significant change for the vast number of elections that would be held.

Mr. HATCH. I am delighted to assist the Senator in this matter.

It would mean in every small business there would be an arbitrary time frame, regardless of whether the election issues were resolved.

This is what we call a vote in impound situation, where they vote even though the unit is not determined, and a lot of other matters are not determined, and who knows which particular small business will need more than the 45 days that are provided pursuant to this particular rule?

Incidentally, a lot of the elections occur because 51 percent of the cards are obtained.

When we have 51 percent of the cards, this particular bill calls for not less than 21 days, no more than 30 days. The House bill is not more than 25 days, which is, again, an arbitrary pressure that is unjustified in the facts or in the law.

In other words, under present law, it is working well. Put an arbitrary time frame in there and have an impound situation and we have created a procedural monster that could come back to bite both sides.

It is not fair. It is not right.

Mr. MELCHER. I think the Senator has gotten ahead of me.

Mr. HATCH. Fine.

Mr. MELCHER. I am right at the stage where the workers have signed cards, 30 percent have signed, and under present law the Board would set an election date.

The Senator has agreed with me that that could be anywhere from 12 to 43 days.

Mr. HATCH. Thirty percent of the cards, on any election, it could, with regard to 82 percent in 1977.

Mr. MELCHER. Yes.

Mr. HATCH. That would resolve it in that median time.

I would presume to help the distinguished Senator from Montana. I would presume that that 82 percent is probably a pretty accurate figure.

Mr. MELCHER. For one thing, I think it is well to point out that under the present law, whether we want to call it loose or nonarbitrary, I do not know, but the present law works to set the time frame for the election as has been described of between 12 and 43 days in 82 percent of the cases.

Now, if this bill would become law, it would require on 30 percent signup that the election be no later than 45 days. So I do not see a great deal of difference there.

Since we are talking about small business, we are probably not talking about two different unions coming in where no one wants to come in anyway at the present. We are probably not talking about the complicated procedures that the Board might have to unravel in some elections.

I think the purpose of our dialog should be to attempt to lay out so that small business people can understand whether or not this new bill would create a situation which is much different than what they are facing now.

They may not like either way, as a matter of fact.

Mr. HATCH. There is no question but this new bill would be a drastic change from what we have right now.

Mr. MELCHER. Some of those changes would be, would it not, or may be, to matters of procedure, but I think we ought to make it clear.

Mr. HATCH. Surely.

Mr. MELCHER. When we are talking about how many days before the election, we are not talking about Sundays or holidays or anything of that nature; are we?

Mr. HATCH. Yes; we are.

Mr. MELCHER. Oh, are we?

It was my understanding the Board does not count Sundays or holidays.

Mr. HATCH. For what purpose?

Mr. MELCHER. In setting the date for the elections. When we say so many days, they are not counting Sundays or holidays.

Mr. HATCH. As to whether the employees are going to be present—that is not normally a Sunday or holiday. They do count the days that transpire between the signing of the cards and the holding of the election.

Mr. MELCHER. Let us say they found something in the bill before us that might make a little more sense.

Mr. HATCH. I would like to know what that is.

Mr. MELCHER. The intent of this bill is not to count holidays or Sundays in setting the dates.

Mr. CHAFEE. Mr. President, may I ask a question of the Senator from Montana?

Mr. MELCHER. Yes.

Mr. CHAFEE. Do I correctly understand that what the Senator from Montana is saying is this: Let us take the case in which more than 50 percent have signed. As the bill came from the Labor Committee, it said no sooner than 21 days and no more than 30 days. Is the Senator suggesting that those are working days?

Mr. MELCHER. I am suggesting that it is the intent of the bill that they——

Mr. HATCH. I do not see anything in the bill that says that.

Mr. MELCHER. I am sorry. The Senator is absolutely correct, because the committee report says calendar dates.

Mr. HATCH. That is right.

Mr. CHAFEE. I thank the Senator.

Mr. HATCH. Under present law, there is no pressure on either side for a particular time, other than to have the election later. The problem, as I see it, I say to the Senator from Montana, is that under the present law, the election process is working well, by voluntary agreement between the parties, for the most part. Eighty-two percent of all cases are heard within a median time frame of no more than 30 days.

Mr. MELCHER. Does the Senator find anything in the proposed bill that would rule out this voluntary agreement?

Mr. HATCH. Yes, I think you will find that when you have an impounding situation, you are creating litigation, and you are going to have a quagmire of litigation.

Mr. MELCHER. The Senator again is ahead of me and ahead of the whole election process.

Mr. HATCH. No, I am not.

Mr. MELCHER. I ask whether there is anything in the bill to prevent that voluntary agreement between the employees and the employer on setting the date they prefer.

Mr. HATCH. To answer the Senator's question, what is the incentive to either side to agree on anything, when the board is going to set the dates? Right now, a lot of problems are solved because the parties get together. That is why the vote on the impound procedure is important. If you are going to vote within an arbitrary time frame based upon impounding all the decisions that have to be made, such as the scope of the unit, whether the union is truly a labor organization, whether the employer's operations affect commerce, inclusion of certain categories of employees in the union, if you are going to vote before all those are solved, which normally takes 43 days——

Mr. MELCHER. The distinguished Senator may be confusing the very people we are trying to help in this colloquy.

Mr. HATCH. I do not think so.

Mr. MELCHER. First of all, if the employer and the employees say, "We would like to vote Tuesday after next, because that is a good day for all of us," is there anything in the bill that prohibits that?

Mr. HATCH. It does not prohibit it, but the arbitrary time frame means that there is not going to be voluntary compliance, because there is no incentive to do so.

Mr. MELCHER. The bill would not prohibit that?

Mr. HATCH. It does not prohibit it, but it is no longer negotiable.

Mr. MELCHER. I am just asking whether the bill would prohibit that.

Mr. HATCH. Under this bill, it is no longer negotiable; whereas, under the present law, it is negotiable.

Mr. MELCHER. Pardon me, I did not hear the Senator.

Mr. HATCH. Under this bill, it is no longer negotiable. This is a time frame that has to be met. Under present law, it is a negotiable fact, and they can agree on the units and on the other questions; whereas, if you have an impound procedure, they will not. This bill creates many difficulties for small business.

Mr. MELCHER. The Senator will agree that if the employees and the employer agree on a specified date within the time frame, there is nothing in the bill to prohibit that accommodation.

Mr. HATCH. I think they might be able to agree shorter than the dates, but I do not think they can agree to go beyond the dates.

Mr. MELCHER. Yes, within the time frame, the parties can agree to an election date under this bill just as in present law.

Mr. HATCH. I might add, with regard to agreeing on the shorter period, that there will not be incentives to do it. I think it is creating litigation, and the vote on impounding situations is going to create a lot more problems than the promoters of this bill are trying to solve.

Mr. MELCHER. Under current law, a union organizer is free to approach the employees any way he wishes, such as by calling them up or writing to them.

Mr. HATCH. Almost unlimited freedom compared to the employer.

Mr. MELCHER. Yes. And he can get them to sign the cards, and so forth. Under current law, there is no requirement that he tell the employer that he is doing that, is there?

Mr. HATCH. No, and often, in the case of small business, he does not know. The small businessman does not really know. That is why an arbitrary time frame may be very disadvantageous to small businessmen who may not even know a labor lawyer, may not be able to get an appointment with a labor lawyer, and may not know they are being organized; and almost suddenly they are thrown into a situation in which they do not have any comprehension or understanding.

Mr. MELCHER. That is the present law.

Mr. HATCH. No.

Mr. MELCHER. Under current law, the union organizer does not have to inform the employer. He may approach the employees, get their signatures in order to have an election, and never have to tell the employer.

Mr. HATCH. Under either the present law or the bill before the Senate, the union does not have to tell the employer.

Mr. MELCHER. The bill leaves that point alone, does it not? It does not change the law, that the union organizer can approach the employee and sign him up and never bother to tell the employer, until at some point he has petitioned the National Labor Relations Board. Then the employer is told that the employees want an election. Is that not correct?

Mr. HATCH. On that specific point, the present bill does change the present law, except that, because they have to meet specific time frames, it puts the small businessman at a tremendous disadvantage if he does not know a labor lawyer or cannot get an appointment and cannot handle the problem.

Mr. MELCHER. Does the Senator feel that the present law does not sometimes require the employer to seek a labor lawyer to assist him?

Mr. HATCH. I think he does.

Mr. MELCHER. I do not think this point is changed.

Mr. HATCH. He has no arbitrary time constraints to be met, under present law, but it is under the prospective law.

Mr. MELCHER. In 82 percent of the cases, the Board sets the date somewhere between 12 and 43 days.

Mr. HATCH. That is very misleading. I think most of the cases are decided pursuant to 51 percent of the card signing. If this bill becomes law, the elections have to be held in not less than 21 nor more than 30 days. That is a different story.

Mr. MELCHER. That is when more than 50 percent have signed.

Mr. HATCH. That is correct. I think the Senator will find that that is the majority of cases.

Mr. MELCHER. Under the bill, there is an equal access procedure. If the union organizers want that so-called equal access, is there not then a change in this bill from current law?

Mr. HATCH. I am sorry; I did not hear the Senator.

Mr. MELCHER. Under the proposed bill, there is an equal access provision.

Mr. HATCH. Yes.

Mr. MELCHER. Does not the bill contemplate, then, a change in regard to informing the employer that the union organizer is working to get an election?

Mr. HATCH. I am not sure what the question means.

Mr. MELCHER. Under the present law, a union organizer can approach the employees and say, "I want you to sign up to get an election," and get them to sign. He does not need to inform the employer that he is making an effort to organize. He is not required to do that.

Mr. HATCH. That is right.

Mr. MELCHER. That is the present law. Under the bill before us we have a section that deals with equal access. If the union organizer wants equal access, does he not have to tell the employer when he starts signing up the employees that he is trying to organize?

Mr. HATCH. No. All he has to do is tell the Board.

Mr. MELCHER. I think this is the basic difference from present law, and I wish to point this out because under this bill, the organizer would have to inform the employer exactly what he is doing if he expects to get "equal access."

Mr. HATCH. I think ultimately the employer has to know that he wants equal access, and he believes it has been triggered as a result of the employer's making a speech in the exercise of his free speech privileges on his own premises, but literally at first he does not have to tell the employer anything. All he has to do is go to the Board and demand equal access.

Mr. MELCHER. He can approach the employees to do his business in attempting to get them to agree to organize and he need not inform the employer. But the bill does require here, if the "equal access" provision is going to be used by the union organizer, he must notify the employer. He shall notify the employer in writing that the employees of that employer have demonstrated an interest in representation by the labor organization and from the time of receipt of such notice the labor organization is to be entitled an equal opportunity to present such information in an equivalent manner.

Mr. HATCH. I think the point is moot. I think certainly the employer has to be notified that the organizer intends to exercise his right of equal access under this bill. But I think the point is why should the employer who persists in his free speech rights under the Constitution on his premises, at his time, to his own employees have to then open up his premises at his time and his expense and allow a union organizer to come on and preach unionization to his employees and run him down? Why does he subsidize the unionization of his own business? I do not know what the concept of freedom and right in America is of the Senator from Montana, but I do not think that is right. I do not think the people in this country think that is right. As a matter of fact, I think that the vast majority of the people in this society believe that to be wrong, especially since the union organizer has a right to have employee organizers in the plant passing out literature and handbills, has a right to get the names and addresses of every employee so he can call upon them in the home, which the employer cannot do, and has a right to make promises of benefit and other promises that he knows he cannot live up to and keep, and the employer cannot.

Those are advantages that no employer has, and all I can say is the weight of the advantage is certainly on the side of the union organizer.

Why is there any justification to force the employer to have to open up his premises at his time and at his expense to allow them to come on and preach to his employees? I do not see any justification, and I do not think too many people in our society do. I am a little surprised the distinguished Senator from Montana does.

Mr. MELCHER. I think we are at a point now where there is a slight difference——

Mr. HATCH. A big difference.

Mr. MELCHER. Between the proposed bill and the current law.

Mr. HATCH. It is not slight. It is a major difference, a major donnybrook here on the floor.

Mr. MELCHER. I think right up until now about everything we have been talking about under current law would be virtually the same if this bill should become law.

Mr. HATCH. How can the distinguished Senator from Montana say that?

Mr. MELCHER. Because it is true. I have gone through the questions.

Mr. HATCH. We have no artificial time constraints under the present law. We have no force of law making them hold an election within an arbitrary time period, which may be very capricious under certain circumstances. We have a reasonable time constraint right now rather than an arbitrary mandatory time constraint. We have all the incentives to voluntarily comply, agree, and compromise their difficulties. We do not have the vote and impoundment situation under the present law. I mean one can go on and on. I think there are major differences, and any labor lawyer would agree.

Mr. MELCHER. I shall recap on it. Our dialog has been to the effect that under existing law the Board has set certain standards and as far as the retail establishments are concerned, it is $500,000 per year. It is a gross dollar volume. It has nothing to do with how many employees they have. In the case of other standards, they vary some. We mentioned several.

Mr. HATCH. Let me correct the Senator on that one point. It does have a lot to do with the number of employees involved because the Board will not even certify a unit with less than two employees. It has to be more than two employees.

Mr. MELCHER. If that is a correction, I thank the Senator for that.

Mr. HATCH. Let me add one other correction that will help.

Mr. MELCHER. I am sure we are talking about one or two or three employees at least.

Mr. HATCH. Let me add another correction on that particular point, and that is that the data indicates that there are approximately 1 million of the Nation's businesses which are covered by the act no matter which way one looks at it, and that is a fairly substantial number.

Mr. MELCHER. I grant you that.

Mr. HATCH. Furthermore, these approximately 1 million companies employ 76 percent, or about 44 or 45 million of all the country's covered workers. That is a significant thing.

Mr. MELCHER. These are under the present law, and I remind the Senator that is what we are talking about, the present law.

Mr. HATCH. That is right.

Mr. MELCHER. That is what is covered now.

Mr. HATCH. Remember the present chairman wants to expand that law.

Mr. MELCHER. Pardon me?

Mr. HATCH. The present chairman wants to expand that law and he is on record for it to even get more of these businesses, but it actually involves about 45 million workers in our society or more.

Mr. MELCHER. I shall continue to recap then. Everything that the able Senator said in his last part of the dialog refers to present law.

Mr. HATCH. That is correct.

Mr. MELCHER. But there are certain exemptions under the law, and I shall make them part of the record.

Mr. President, I ask unanimous consent that there be printed in the RECORD a list of estimated number of employees and establishments covered under the provisions of the National Labor Relations Act, 1975, which also shows the standards that the Board does not consider.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ESTIMATED NUMBER OF EMPLOYEES AND ESTABLISHMENTS COVERED UNDER THE PROVISIONS OF THE NATIONAL LABOR RELATIONS ACT, 1975

Industry	All establishments	All employees [1]	Gross volume of business in excess of: [2]	Covered	
				Employees	Establishments
Total	3,843,100	58,496,150	----------	44,112,560	847,497
Mining	23,400	647,040	$150,000	627,540	12,082
Construction	368,780	3,756,830	150,000	3,088,300	162,881
Manufacturing	291,500	18,347,590	150,000	16,030,140	89,406
Transportation	153,970	4,384,170	----------	3,953,680	24,525
Local transit systems	2,845	94,560	250,000	63,470	276
Taxicabs	5,205	102,240	500,000	79,660	71
Other transportation	101,525	1,937,790	150,000	1,686,010	13,307
Radio and television broadcasting stations	5,615	143,290	100,000	127,490	1,829
Telephone and telegraph systems	14,095	995,270	100,000	960,900	3,184
Newspaper and magazine enterprises	10,100	432,310	200,000	405,700	1,454
Other communication systems and services	2,325	35,980	100,000	30,130	541
Public utilities	12,260	642,730	250,000	600,320	3,863
Wholesale trade	354,300	4,026,120	150,000	1,857,220	274,604
Retail trade	1,187,500	11,504,530	500,000	5,983,960	145,223
Finance, insurance, and real estate	369,000	4,345,710	500,000	2,975,110	33,138
Services	1,094,650	11,484,160	----------	7,596,610	105,638
Auto repair	83,000	384,610	500,000	77,200	2,766
Miscellaneous repair	44,010	201,720	500,000	55,790	1,231
Motion picture	15,050	177,080	500,000	54,500	1 215
Amusement and recreation	42,600	421,620	500,000	179,770	2,412
Business and personal service	287,800	2,675,960	500,000	1,180,040	13,123
Hotels, motels and other lodging places	46,000	709,210	500,000	469,240	3,830
Hospitals	5,500	2,127,550	250,000	2,124,140	5,240
Nursing homes	12,100	651,430	100,000	633,290	8,479
Other health care facilities	228,900	1,012,070	250,000	419,410	8,260
Universities and colleges and symphony orchestra	2,650	556,970	1,000,000	423,890	379
Other educational services	25,100	422,060	150,000	406,630	14,538
Legal services	79,140	263,000	250,000	129,530	9,136
Other services, n.e.c.	222,800	1,880,880	150,000	1,443,180	35,019

[1] Excludes agricultural employees; Federal, State and local government employees; self-employed and managerial employees.

[2] Estimates have been determined by the Boards jurisdictional standards, where possible, generally based on gross business-receipt-size. Nonretail businesses follow the $50,000 inflow/outflow test, translated into gross volume of business as shown above.

Mr. MELCHER. Mr. President, to go on from that, the law now requires that if the union organizer is attempting to organize the business and passes out the cards and gets them signed——

Mr. HATCH. Right.

Mr. MELCHER. And at a point when there is 30 percent of the employees in that particular business who have signed, the National Labor Relations Board will agree to set a date for an election.

Mr. HATCH. That is correct.

Mr. MELCHER. The Senator from Utah has told me that in the vast majority of the cases, 82 percent, if I understood the Senator, the time for that election is 12 to 43 days.

Mr. HATCH. Let us correct the distinguished Senator from Montana. They do not set a date arbitrarily. Under present law they decide all of these issues. Normally, unless there is full voluntary compliance and agreement, they decide all these issues before they hold an election. Under the proposed law that will not occur. They will have a vote and impoundment situation which, if I can put it this way, is the backwards way of doing things. Certainly, it is not a progressive or fair or competent way of doing things.

Mr. MELCHER. I think I understood the Senator correctly. He said that 82 percent of the elections are held under current law in the time frame ranging from 12 to 43 days.

Mr. HATCH. That is where employers and unions stipulate and voluntarily agree, which will not be the case, I submit, if this bill is passed. I think we are going to find the employees are really hurt by this bill because they will not get the benefits of voluntary compliance.

Mr. MELCHER. Let us find out where.

Mr. HATCH. And businesses are going to be hurt, specifically small businesses.

Mr. MELCHER. Let us find out where they are going to be hurt.

Mr. HATCH. We have gone through a lot of instances where they are hurt.

Mr. MELCHER. At this point, I fail to find much difference in the process under existing law and what the bill presents. As the Senator has said, those are arbitrary time frames. If they have less than 50 percent of the employees sign the petition cards, then the Board must set the election no later than 45 days.

If 50 percent plus 1 signed the petition card then the Board must set the election no later than 30 days and no sooner than 21 days.

Mr. HATCH. That is correct.

Mr. MELCHER. There is not a great deal of difference, I recognize the point the Senator has made.

Mr. HATCH. On the contrary.

Mr. MELCHER. There is no real difference in time between what the bill would require and the current practice.

Mr. HATCH. On the contrary, that is a great deal of difference because under present law there is no mandatory restraint. I do not know how many of these cases the Senator from Montana has tried, but I am familiar with a great number of them, thousands of them.

Mr. MELCHER. I am sure the distinguished Senator from Utah has exercised a great awareness, intelligence, and ability. But I have never, never been involved in the legal profession. I am a veterinarian, and I know a lot about being a veterinarian, and I know a lot about small business because I thought of myself as being in small business. I know a lot about putting up with Federal regulations of all types and all kinds that affect my profession.

Mr. HATCH. So do I.

Mr. MELCHER. I have learned through that experience that I abhor the regulations sometimes much more than I abhor what Congress puts down in a statute, and I feel more comfortable when Congress puts it in statutory form. I would feel more comfortable, mind you, if I were still a small business employer, thinking about this whole subject matter, I would feel much more comfortable having Congress establish a timeframe in this regard rather than to leave it up to the whim, the fancy, and the changes the Board might contemplate on their own. That is exactly the question here: Is it better for Congress to establish a timeframe by law, by statute, than to leave the discretion up to the Board? Surely if there is an opportunity for disadvantage and the Board seeks to take that opportunity on their own, all of us who might be affected by that would feel that Congress should have restrained the Board, and the bill works as a restraint on the Board not to change their rules regarding times when an election is going to be held.

Mr. HATCH. Let me say this: Does the Senator object to the fact that we have a very well-working system, probably the model agency in Government today, with a system which has worked well for 43 years, has brought people together in a free and open and fair bargaining process and, I might add, not only do I know a little bit about labor law, but I have represented thousands of small businesses; I have helped to save them, I have helped to build them, I have helped them with all of their problems, beginning with finding an accountant right on through.

I can tell you I do not know many small businesses—I do not know any small businessmen, to be honest with you, except with the possible exception of the distinguished Senator from Montana who, I am sure, was an excellent veterinarian, and I do not know any small businessmen—who want this bill, and the reason they do not is because not only do they have an arbitrary time constraint, not only do we have the access rights, not only are we stacking the

NLRB, but if the Senator is concerned about overregulation, the power this gives to rulemaking, even though this says it is ridiculous and it cannot work, it is going to lead to a myriad of unjust results and unjust rules and regulations like we have never seen before in this area; and this is an area where up to now almost 92 percent of all unfair labor practices are settled by voluntary compliance and agreement.

Mr. MELCHER. However, we were only talking about one point, whether the time frame for holding the election would be set by an act of Congress or whether it would be left to the discretion of the Board.

Mr. HATCH. Well, since it works well——

Mr. MELCHER. That is all we were talking about, and I addressed myself to that point and that point alone.

Mr. HATCH. The Senator was talking about equal access also.

Mr. MELCHER. I do not believe, as a small businessman, if I still were a small businessman, that any union would show me any more desire to organize our few employees after this bill passes or fails than they did before.

Mr. HATCH. That you are not in position to say.

Mr. MELCHER. I think that is unlikely to happen although that opportunity is available under existing law, and will not be changed by this bill.

Mr. HATCH. Has the distinguished Senator ever gone through a union organizing campaign? Does the Senator know what is involved?

Mr. MELCHER. No.

Mr. HATCH. Then maybe the Senator is not in a position to judge.

Mr. MELCHER. Neither have the bulk of small business people in my State or your State been in union organizing campaigns.

Mr. HATCH. That is right. Until this bill is passed they will not, but once it is passed they are going to find out what it means.

Mr. MELCHER. But now I have gone through just the stage of figuring out when the election would be held and what the difference would be under this bill if it became law, as compared with the way it is. That is all we have done.

Mr. HATCH. I respect the distinguished Senator from Montana, but I submit that, not having experience in this area and in the area of unionization and in the area of elections, equal access, determination of decisionmaking, the area of the Board's rulemaking power, I would submit if the Senator could spend just 1 year having to go through that procedure he might not be nearly as enthusiastic about this bill as he may seem, and I suggest and submit to the distinguished Senator, who is my friend and for whom I have a lot of regard, that this is an area that is very complex, very technical, and if we do not allow an efficient, well-running Board to work within efficient, reasonable approaches which, I believe, the present law is, and which has accomplished much for the unions, then I think we are asking for problems like we have never had before.

I would submit that you have only gone through a few of the minor problems with the bill, and in the eyes of small businessmen, who have to face them, they are monumental, major problems, and I submit to you they are problems that are even worse than this.

Mr. MELCHER. Let us take another case just to fully inform the small business people on what the bill is all about.

Mr. HATCH. All right.

Mr. MELCHER. If the business were organized, and they had a union, and if there was a desire to decertify, the same rules we have been talking about under the existing law, the same rules that we are talking about under the bill if it became law, would apply to that decertification process; would it not?

Mr. HATCH. That is correct.

Mr. MELCHER. That is absolutely correct.

Mr. HATCH. If this becomes law, the same time constraints would be in effect, they would be the same.

Mr. MELCHER. All right. I thank the Senator from Utah for his courtesy and his cooperation in responding to my inquiries on these points because I think it is helpful to let the people who are in small business know something about the existing law and how it works, so that they can compare it to what would be the the case if this bill became the law.

Mr. HATCH. I thank the distinguished Senator from Montana for those kind words.

Mr. MELCHER. If, for instance, small businesses are not really looked at, not considered by the National Labor Relations Board——

Mr. HATCH. On the contrary.

Mr. MELCHER. Although the Board has jurisdiction over them and could, it has set standards for determining those businesses that they intend to cover.

Mr. HATCH. That is to the contrary, Senator.

Mr. MELCHER. In the case of nonretail business, direct sales of goods to consumers in other States, of at least $50,000 a year; in retail enterprises, including restaurants, $500,000 annual gross business; public utilities $250,000; newspapers $200,000; radio, television, and so forth, $100,000; hotels, motels, and residential apartment houses, $500,000——

Mr. HATCH. Does the Senator contend those are large business standards?

Mr. MELCHER. In the case of day care center $250,000; credit unions $500,000, and so on.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. MELCHER. Yes, I would be glad to yield.

Mr. HATCH. Does the Senator contend that those are large business standards or does he contend that those are small business standards, those jurisdictional standards of the Board?

Mr. MELCHER. These are the standards.

Mr. HATCH. Are these large business or small business?

Mr. MELCHER. These are the current standards for covering a business. They are based on gross business.

Mr. HATCH. I say, if they have more would that make them a large business? If they gross more business than $500,000 a year, for instance, would that mean that is a large business, a $500,000 gross business, in the distinguished Senator from Montana's viewpoint?

Mr. MELCHER. The question of when a business becomes large or remains small is in the eyes of the beholder.

Mr. HATCH. Well, in the eyes of the distinguished Senator.

Mr. MELCHER. I have no definition of small business. Roughly, taken in the terms generally accepted, it is a business that supports a limited number of people.

Mr. HATCH. You be the beholder. Would you say that $500,000 constitutes a large business in the eyes of the Senator from Montana?

Mr. MELCHER. Five hundred thousand dollars, for some businesses, would be considered a large gross. Five hundred thousand dollars for some other businesses would be considered just modest.

Mr. HATCH. I am talking about the determination of whether it is a large business for the purposes of jurisdiction.

Mr. MELCHER. For the purposes of the debate, I just gave you what is generally used in determining which businesses will be covered by the law, now.

Mr. HATCH. You believe, then, that some businesses which make $500,000 a year are not too large a business and not a small business?

Mr. MELCHER. Speaking of my own hometown, I would say the filling stations do not gross $500,000. Perhaps one or two would.

Mr. HATCH. That is clearly——

Mr. MELCHER. But if they did, they might consider themselves a pretty big filling station, a pretty big operation.

Mr. HATCH. Would they still be a small business, though?

Mr. MELCHER. I would think they would think of themselves in the general category as being a small business as compared to General Motors.

Mr. HATCH. There is no question about that.

Mr. MELCHER. Or Texaco, if they were in the gasoline business.

I think it is obvious that the fast food services, the hamburger shops, by and large, in my State, would not make sufficient gross to be covered. That is the existing law, and it is not going to be changed by this bill. The Board policy is based on the law, and there is no indication that it will be changed. On the contrary, if it were going to be changed, the tendency would be not to go with a lower gross volume; the tendency would be to go with a higher gross volume, despite what might have been the remark of one of the current Board members.

I think it is only fair that people that are in business understand that the existing law allows all of this. What the bill gets into is a change in the timeframe; rather than it being at the discretion of the Board they will become statutory. I do not think that will disturb too many people. It is, however, one of the points frequently raised by those who are concerned about the bill and how it would affect them.

I think the question of involvement in a case that goes before the National Labor Relations Board and whether it will be determined, by the present five members or the proposed seven members, is something so remote from small businesses, something so unlikely to concern them, that I do not think small business people would contemplate any disturbance one way or the other, whether the Board is five or seven.

Mr. HATCH. Will the Senator yield on that point?

Mr. MELCHER. Yes, I am delighted to yield.

Mr. HATCH. Does the Senator feel, with regard to the small businesses which are covered by this bill, and particularly those small businesses which do business with the Federal Government, does the Senator feel that they are well served by the contract requirements of this bill, which say that if they commit certain unfair labor practices, which will be found by the test of the board always to be against them, they can be debarred from Federal contracts for up to 3 years and lose their business; do you consider that fair to small businesses?

Mr. MELCHER. I think that is a personal judgment, and goes along with what I have just said. I think the small businesses that are covered, that do get involved in a union organization effort, which could be done under existing law, would find very little difference under the proposed bill. But debarment is so remote to a small business person. He would rarely or never get into the position of having to go through that procedure and hiring the labor lawyers to process a case through the trial and then appeal it to the Board. That is so remote that I want to set my small business people in my State at ease, and tell them, "If you think this bill has anything more than what is in the existing law, just have somebody explain it to you. Go to that labor lawyer and let him explain to you what the existing law is."

Mr. HATCH. Will the Senator yield?

Mr. MELCHER. Now, to answer the Senator's question on debarment, because he threw that out, too; that is something small business should not be afraid of. I cannot envision the small business people that I know willfully disobeying the law.

Mr. HATCH. You cannot imagine that?

Mr. MELCHER. No, I cannot imagine that happening. And unless they willfully disobey the law, they could not be debarred.

Mr. HATCH. Let me just say this, if the Senator will yield for one comment: the Senator has indicated that he cannot believe that any small business in his community of Montana would ever be affected by any contract debarment. Let me just say to the distinguished Senator that I think there are many provisions under this bill that, if the distinguished Senator would discuss such provisions with the small business people back in Montana who will be covered by this bill—and I submit there will be a lot more than the distinguished Senator from Montana presently contemplates—he is absolutely going to be shocked at how vehement they are against this bill, and in particular the provisions on equal access and contract debarment.

I would submit that it would be well worth your time to sit down and chat with the small businessman of your communities back there, because I think you will find they are outraged by this bill, as are all the small business people of this country.

Mr. MELCHER. I thank the Senator, and I think that is eminently good advice. I will continue discussing this bill at every opportunity with small business people in Montana. I think it is extremely important that those who may be completely unaware of the law as it is, who may not even be aware that there is a law that says that they can be unionized, who may not know how the procedure goes, and how the election goes; I think it is important that they understand it; and then, having understood that, that they understood what is in this bill, and contemplate it from that point of view.

I do not believe that the small business people in my State, or, I would assume, throughout the country, would willfully disobey the law.

Mr. HATCH. I do not, either.

Mr. MELCHER. And bring down debarment or bring down the part of the bill dealing with debarment on themselves.

My whole point in this discussion is to assure small business people that where they have not been affected by the present law, they probably will not be affected by this bill if it becomes law.

Mr. HATCH. Well, would the distinguished Senator be willing to send out a poll, to query the small businessmen of Montana as to what they think of labor law reform, and see what they happen to say, and then let us know here in Washington, hopefully before this bill is concluded, what their viewpoint is?

Mr. MELCHER. I will say to my friend from Utah that I think there is great merit in polls. I see polls continuously, and I am in favor of having polls. But in this instance I am much more interested in having facts laid out so that small business people can comprehend what the existing law is with regard to this subject and where the law affects them, if it does. Many of them are totally unaware of it. I suppose in my own home county there are very few who are affected. Some, but very few. The great bulk of businesses are not affected. I want them to know that, and I want them to understand it.

I also think it is advantageous for all of us to understand what the law is, even if we have disregarded it or even if it has never affected us but still could at some point of time. In that regard, I think our dialog has been very useful because I believe it provides a criteria for a thorough understanding of the basic law, as it presently is, contrasting it with this bill. If it becomes law, they are entitled to know that there are very few changes.

I yield the floor. I know the distinguished Senator from Illinois wishes to proceed.

Mr. HATCH. Mr. President, I am grateful to the distinguished Senator from Montana for his questions. I believe those questions have demonstrated the difficulties with this bill. I believe he has evidenced a desire to understand the bill and do what is best for the small business community in his particular State. I hope he will give consideration to the millions of other small businesses all over this country in that final determination that he is to make.

With that, I am grateful to have had this colloquy and commend the distinguished Senator from Montana for his comments.

Mr. PERCY. Mr. President, I would like simply to comment on the pending legislation before us, the Labor Reform Act. I have not yet had occasion to take the floor on this bill. I will be at the United Nations tomorrow, at the special session. But on Friday I will be offering some of my thoughts and suggestions on this bill.

I do want to say at this time that the debate which has been carried on thus far has been extremely useful. This is the kind of a bill that cannot be rushed at all. The implications of it are far-reaching indeed, and the feelings about it are very strong on the part of both business and labor.

I simply wish to express appreciation to my distinguished colleague, who has been expressing his own particular points of view with great force and vigor, and, I might say, a good deal of physical endurance as well.

Senator HATCH has articulated his views, as have the managers of the bill, who feel very strongly about it.

I have indicated previously that I could not have supported the House-passed bill. I could not support and vote for the bill that was reported out of the Human Resources Committee.

I do feel, however, that there are some perfectly legitimate problems with respect to present labor laws that must be aired, and I do feel strongly that the spirit and intent of some of the laws passed by Congress are not now being implemented.

I have pointed out in some considerable detail situations such as the J. P. Stevens case. I have not found any responsible business people who will defend such actions.

The business community, in my judgment, after living with our labor laws for over 25 years, is a law-abiding community for the most part. There are those who sometimes attempt to evade and get around the letter and spirit of the law. That happens in labor law as well as in other areas, pricing and so forth. But for the most part, American business wishes to observe the rules of the game.

Any company has the right to resist unionization by legal means. I do not think the Federal Goverment should be placed in the position of taking sides. I feel some provisions of this bill require that the Federal Government actually take sides in management-labor relations.

I will be talking specifically about the "make-whole" provision on Friday and I commend my distinguished colleagues for the serious consideration they are and have been giving to this matter. They

will be joined by others of us just as quickly as we can be freed temporarily from other duties.

Mr. HATCH. Mr. President, I thank the Senator for his kind comments.

EMERGENCY INTERIM CONSUMER PRODUCT SAFETY RULE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2401.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2401) entitled "An Act to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Emergency Interim Consumer Product Safety Rule Act of 1978".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) existing Federal, State, and local laws and regulations are insufficient to protect the consumer from improperly manufactured insulation;

(2) an unreasonably large quantity of insulation is being distributed that does not meet minimum safety standards;

(3) an urgent need exists for the expedited setting of interim mandatory Federal standards for the manufacture of cellulose insulation; and

(4) such standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable and corrosive cellulose insulation.

(b) It is the purpose of the Congress in this Act to provide an interim mandatory safety standard for cellulose home insulation.

INTERIM CELLULOSE INSULATION SAFETY STANDARD

SEC. 3. (a) The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end thereof the following new section:

"INTERIM CELLULOSE INSULATION SAFETY STANDARD

"SEC. 35. (a)(1) Subject to the provisions of paragraph (2), on and after the last day of the 45-day period beginning on the effective date of this section, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH–I–515C (as that specification read on December 1, 1977), shall be deemed to be an interim consumer product safety rule which shall have all the authority and effect of any other consumer product safety rule promulgated by the Commission under this Act. During such 45-day period, the Commission may make, and shall publish in the Federal Register, such technical nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety rule. At the end of such 45-day period, the Commission shall publish in the Federal Register such interim consumer product safety rule, as altered.

"(2) The interim consumer product safety rule established in paragraph (1) shall provide that any cellulose insulation which is produced or distributed for sale or use as a consumer product shall have a flame spread rating of 0 to 25, as such rating is set forth in the General Services Administration's specification for cellulose insulation, HH–I–515C.

"(b) Judicial review of the interim consumer product safety rule established in subsection (a), as such rule is in effect on the first day after the end of the 45-day period specified in such subsection, shall be limited solely to the issue of whether any technical changes made by the Commission are nonsubstantive. For purposes of such review, any change made by the Commission under paragraph (1) which requires that any test to determine the flame spread-rating of cellulose insulation shall include a correction for variations in test results caused by equipment used in the test shall be considered a technical nonsubstantive change.

"(c)(1)(A) Any interim consumer product safety rule established pursuant to this section shall be enforced in the same manner as any other consumer product safety rule. A violation of the interim consumer product safety rule shall be deemed to be a violation of a consumer product safety rule promulgated by the Commission under section 9.

"(B) If the Commission determines that the interim consumer product safety rule does not adequately protect the public from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, it shall promulgate a final consumer product safety rule to protect against such risk. Such rule shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation. The provisions of section 9 (b), (c), and (d) shall apply to any proceeding to issue such a rule.

"(2)(A) Until there is in effect such a final consumer product safety rule, the Commission shall incorporate into the interim consumer product safety rule, in accordance with the provisions of this paragraph, each revision superseding the requirements for flame resistance and corrosiveness referred to in subsection (a) and promulgated by the General Services Administration.

"(B) At least 45 days before any revision superseding such requirements is to become effective, the Administrator of the General Services Administration shall notify the Commission of such revision. In the case of any such revision which becomes effective during the period beginning on December 1, 1977, and ending on the effective date of this section, such notice from the Administrator of the General Services Administration shall be deemed to have been made on the effective date of this section.

"(C)(i) No later than 45 days after receiving any notice under subparagraph (B), the Commission shall publish the revision, including such changes in the revision as it considers appropriate to make the revision suitable for promulgation as an amendment to the interim consumer product safety rule, in the Federal Register as a proposed amendment to the interim consumer product safety rule.

"(ii) The Commission may extend the 45-day period specified in clause (i) for an additional period of not more than 150 days if the Commission determines that such extension is necessary to study the technical and scientific basis for the revision involved, or to study the safety and economic consequences of such revision.

"(D) The Commission shall give interested persons an opportunity to comment upon any proposed amendment to the interim consumer product safety rule during the 30-day period following any publication by the Commissioner under subparagraph (C).

"(E) No later than 45 days after the end of the 30-day period specified in subparagraph (D), the Commission shall promulgate the amendment to the interim consumer product safety rule unless the Commission determines, after consultation with the Secretary of Energy, that—

"(i) such amendment is not necessary for the protection of consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation; or

"(ii) implementation of such amendment will create an undue burden upon persons who are subject to the interim consumer product safety rule.

"(F) The provisions of section 11 shall not apply to any judicial review of any amendment to the interim product safety rule promulgated under this paragraph.

"(d) Any Federal executive department or agency or independent regulatory agency which obtains information which reasonably indicates that cellulose insulation is being manufactured or distributed in violation of this Act shall immediately inform the Commission of such information.

"(e)(1) The Commission, no later than 45 days after the effective date of this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives which shall contain a detailed statement of the manner in which the Commission intends to carry out the enforcement of this section.

"(2)(A) The Commission, no later than 6 months after the date upon which the report required in paragraph (1) is due (and no later than the end of each 6-month period thereafter), shall submit a report to each committee referred to in paragraph (1) which shall describe the enforcement activities of the Commission with respect to this section during the most recent 6-month period.

"(B) The first report which the Commission submits under subparagraph (A) shall include the results of tests of cellulose insulation manufactured by at least 25 manufacturers which the Commission shall conduct to determine whether such cellulose insulation complies with the interim consumer product safety rule. The second such report shall include the results of such tests with respect to 50 manufacturers who were not included in testing conducted by the Commission for inclusion in the first report.

"(f)(1) The Commission shall have the authority to require that any person required to comply with the certification requirements of section 14 with respect to the manufacture of cellulose insulation shall provide for the performance of any test or testing program required for such certification through the use of an independent third party qualified to perform such test or testing program. The Commission may impose such requirement whether or not the Commission has established a testing program for cellulose insulation under section 14(b).

"(2) The Commission, upon petition by a manufacturer, may waive the requirements of paragraph (1) with respect to such manufacturer if the Commission determines that the use of an independent third party is not necessary in order for such manufacturer to comply with the certification requirements of section 14.

"(3) The Commission may prescribe such rules as it considers necessary to carry out the provisions of this subsection.

"(g) There are authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, such sums as may be necessary to carry out the purposes of this section.".

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended—

(1) in paragraph (8) thereof, by striking out "or";

(2) in paragraph (9) thereof, by striking out the period and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(10) fail to comply with any rule or requirement under section 35(f) (relating to testing of cellulose insulation).".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to and the Presiding Officer appointed Mr. FORD, Mr. CANNON, and Mr. PACKWOOD conferees on the part of the Senate.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 762, 826, 827, 828, 830, and 832.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I wish only to advise the majority leader that the calendar order numbers he identified are cleared on our side and we have no objection to proceeding with their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

NONPERFORMING ARTS FUNCTIONS OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The Senate proceeded to consider the bill (S. 2973) authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes, which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert the following:

That subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended by adding at the end thereof the following:

"There is authorized to be appropriated to carry out this subsection not to exceed $4,200,000 for the fiscal year ending September 30, 1979.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–831), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

As referred, the bill would amend the John F. Kennedy Center Act (72 Stat. 1968) to authorize appropriations for fiscal years 1979 and 1980 to the Secretary of the Interior, acting through the National Park Service, to provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. For 1979, it would authorize $4,066,000 and such additional amounts as may be necessary for increases in employee benefits and other nondiscretionary costs. For 1980, it would authorize such sums as may be necessary.

S. 2973, as reported by the committee, authorizes an appropriation of $4,200,000 to the Secretary of the Interior, acting through the National Park Service, for fiscal year 1979.

BACKGROUND AND NEED FOR THE LEGISLATION

Section 10 of the Public Buildings Amendments of 1972 (Public Law 92–313) amended the John F. Kennedy Center Act stating:

"The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts."

The same provision authorized funds to support such services through June 30, 1973. Congress has periodically extended the authority of the 1972 amendments and authorized and appropriated funds for this purpose through fiscal year 1978.

Without additional funds, the Park Service cannot continue beyond September 30, 1978, to exercise the responsibility required of it by law. Without such services, the building, equipment and grounds would deteriorate and necessitate extensive and costly repairs beyond the scope of those currently being carried out under the authority of separate legislation.

Pursuant to the authority provided by section 10 of Public Law 92–313, the National Park Service and the Board of Trustees entered into an agreement—dated October 4, 1972—whereby the Park Service pays 76.2 percent of operating costs and the Center pays 23.8 percent to compensate for the performing arts function.

The committee is informed that the suggestion has been made that the agreement be altered in order that the Park Service shall bear 100 percent of the costs of operation and maintenance. The committee believes that such a change, if attempted, would raise the issue of compliance with the John F. Kennedy Act as amended, which limits the services authorized to be provided by the Park Service to those building operation, maintenance and other costs determined to be necessary to the nonperforming arts functions. Costs of the Kennedy Center structure which are directly attributable to its national memorial functions, and the demands on the facility by visitors to the Nation's capital are appropriately borne by the Park Service. Funds are not authorized for subsidy of the Trustees' performing arts activities. Any Park Service contribution to the performing arts functions would be contrary to the John F. Kennedy Center Act, and would require a change in the authorizing act.

The authorization of $4.2 million provided in this legislation is based on the existing allocation of costs between the Park Service and the Kennedy Center. Any change in the allocation of costs which would increase the Park Service's share would require a change also in the monetary authorization. It would be highly inappropriate to change the formula, which in turn would require a change in the authorizing legislation, without prior consultation with and approval of the authorizing committees. Further, the Congress will later this year consider legislation dealing with the general financial structure and support for the Center.

The committee expects to be consulted on any question that occurs in this area. In any event, approval of the committee should be secured, and if necessary, a change in the authorizing legislation sought before the existing agreement is amended substantially.

Last year, the Congress provided a special authorization of $4.7 million for major repairs—Public Law 95–90—of which $4.5 million has been appropriated. Officials of the Kennedy Center have indicated that the difference of $200,000 between the authorized level and the amount appropriated to date is urgently needed for the timely awarding of a contract to complete the repair of leaks and leak-related damage.

The committee would agree that funding at the full authorization level would expedite the needed repairs, and it would support a recommendation by the Office of Management and Budget or the Appropriations Committees, requesting that full consideration be given to any suggestion that $200,000 in supplemental funds be provided in the next Supplemental Appropriations Act.

Later this year, the committee will consider legislation dealing with the general financial structure and support for the John F. Kennedy Center—including bond indebtedness and the appropriate ratio of operating costs to be borne respectively by the National Park Service and the center. Until these and other issues are examined and resolved, a specific authorization level for fiscal 1980 cannot be accurately estimated.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KAINOOSH-FARD BULLOCK AND HER SON, KAMI BULLOCK

The bill (S. 1826) for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the proviso of section 201(b) and the provisions of section 204 of the Immigration and Nationality Act, Kainoosh-Fard Bullock and her son, Kami Bullock, shall be held and considered to be immediate relatives for purposes of such Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–896), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant immediate relative status to Kainoosh-Fard Bullock and her son, Kami Bullock, the widow and adopted son of a U.S. citizen.

STATEMENT OF FACTS

The beneficiaries of the bill are mother and son, natives and citizens of Iran, ages 32 and 13, respectively. They last entered as visitors on May 24, 1977, and currently reside in Eastaboga, Ala. Mrs. Bullock married James Edward Bullock, Jr., a U.S. citizen, in Iran on January 31, 1974. Her husband was killed in an accident on December 10, 1976, prior to filing a visa petition in her behalf. Mr. Bullock was the adoptive father of Kami, Mrs. Bullock's son by a previous marriage.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EUGENIA CORTES

The bill (S. 2247) for the relief of Eugenia Cortes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Eugenia Cortes shall be held and considered to be within the purview of the first proviso to section 312(1) of that Act and may be naturalized upon compliance with all of the other requirements of title III of that Act.

SEC. 2. That no financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined $1,000.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–897), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to permit Eugenia Cortes to proceed to naturalization upon compliance with the requirements of the Immigration and Nationality Act, except that she would be exempt from the requirement to demonstrate an understanding of the English language. The bill provides that no financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act.

STATEMENT OF FACTS

The beneficiary of this bill is a 73-year-old native and citizen of Spain who was admitted to the United States for permanent residence May 28, 1921. She is a widow and the mother of seven U.S. citizen children. She has submitted applications for naturalization in 1951, 1953, and 1964. They were rejected because she was unable to meet the literacy requirement. Her dearest wish is to become a U.S. citizen before she dies.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JESUSA NAVARRO ROMERO AND ANTONIO ANGELES ROMERO

The Senate proceeded to consider the bill (S. 2379) for the relief of Jesusa Navarro Romero and Antonio Angeles Romero, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike, "Navario" and insert "Navarro";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jesusa Navarro Romero and Antonio Angeles Romero shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by two numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–898), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Jesusa Navarro Romero and Antonio Angeles Romero. The bill provides for the payment of required visa fees and for appropriate visa number deductions. The bill has been amended to correct the spelling of the female beneficiary's name.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of the Philippines, ages 31 and 35, respectively. They entered the United States on March 12, 1971 as exchange visitors; neither is subject to the 2-year foreign residence requirement. The beneficiaries are both physicians; Dr. Antonio Angeles Romero has a third preference priority date of June 2, 1972. He is currently engaged in the private practice of medicine and surgery; his wife has been unemployed since March, 1977. The Romeros are the parents of two U.S.-citizen children.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Jesusa Navarro Romero and Antonio Angeles Romero.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEE MYONG SOOK

The Senate proceeded to consider the bill (S. 2237) for the relief of Lee Myong Sook, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "shall" and insert "may";

On page 1, beginning with line 6, strike "and shall be accorded immediate relative status under section 201(b) of such Act";

On page 2, line 3, strike "No natural parent, brother, or sister, if any, of Lee Myong Sook shall" and insert "The natural parents, brothers, and sisters of the beneficiary shall not";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Lee Myong Sook may be classified as a child within the meaning of section 101 (b)(1)(F) of such Act upon approval of a petition filed on her behalf by Captain and Mrs. Harold W. Thomas, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–901), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the alien child to be adopted by citizens of the United States. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 17-year-old native and citizen of Korea who was abandoned at birth and currently resides at the Heavenly Grace Orphanage at Pyong-Taek Up, Pong Taek Kun, Kung Ki Bo, Korea. The prospective adoptive parents, Captain Harold Weldon Thomas and his wife, Gay Cynthia Thomas, are U.S. citizens. Captain Thomas has been a member of the U.S. Army for 17 years; his wife is a registered nurse employed at a medical center in Dothan, Ala. The couple wishes to adopt the beneficiary to provide her with a better way of life.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHARLES P. ABBOTT

The bill (H.R. 3394) for the relief of Charles P. Abbott, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–901), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 3994 would relieve Charles P. Abbott, of Glendora, Calif., of the obligation to repay a judgment of $87,734.63, plus interest accrued to date of enactment, entered against him in his capacity as personal guarantor of loans made by the Small Business Ad-

ministration to a business owned by him which defaulted on the loans after he had sold his interest in it.

STATEMENT

The facts of this bill as set out in the House of Representatives report are as follows:

Charles P. Abbott [claimant], currently of Glendora, Calif., was until December of 1957 an officer of and the principal shareholder in Cape Cod Manor, Inc., which owned and operated the Royal Megansett Hotel in North Falmouth, Mass. In March of 1957, Cape Cod Manor, Inc., borrowed $200,000 at 6 percent per annum from the Small Business Administration (SBA) to renovate and expand its hotel in an anticipation of increased hostelry business from tourism. In July, 1957, the corporation borrowed an additional $45,000 from SBA, again at 6 percent per annum, for the same purpose. Claimant executed a personal guarantee of repayment for both notes to SBA, whereby it established a mortgage security interest in the corporation's properties.

In December of 1957, claimant sold the corporation but remained the guarantor of the two renovation loans. On August 14, 1958, less than a year after the new owners of the corporation had assumed control of it, Cape Cod Manor, Inc., defaulted on the loan. At that time a total of $23,507.00 had been repaid on the $200,000 loan ($15,526.87 interest and $7,980.13 principal) and $3,077.53 had been repaid on the $45,000 loan ($2,055.56 interest and $1,021.97 principal). On February 17, 1959, subsequent to the filing of an involuntary petition in bankruptcy, Cape Cod Manor, Inc., was adjudged as bankrupt. On March 3, 1959, the trustee in bankruptcy filed a petition to sell the assets of the corporation to satisfy its debits. The corporation's principal asset was the Royal Megansett Hotel, which was appraised at $225,000; its personal property was evaluated at $26,136.28, for a total worth appraisal of $251,136.28.

On April 6, 1959, SBA and the receiver in bankruptcy entered into a stipulation which provided that the corporation's assets would be sold at public auction, free and clear of SBA's liens, and that the net proceeds of the sale (total purchase proceeds received less the total expenses for general bankruptcy administration and sale) would apply to those liens. On April 24, 1959, the hotel properties were sold at public auction for $200,000; SBA was the purchaser. The following day, the net proceeds of the sale ($200,000—$20,827.47) general administration and sale expenses) were applied to the outstanding loan balance. Earlier, by correspondence, claimant offered to purchase the hotel from SBA for $280,000 and assume the balance of the loan obligations. By letter dated March 21, 1959, SBA notified that it would approve the sale and assumption if claimant would make the loans current. Claimant responded on March 24, 1959, with a counteroffer that SBA require only the payment of accrued interest as of the date of assumption as a condition precedent to the sale. SBA rejected this counteroffer as "not * * * in the best interest of the United States Government." In June 1959, less than 2 months after it had purchased the hotel properties for $200,000, the SBA resold them for $250,000. On October 25, 1960, the U.S. attorney for the district of Massachusetts filed a civil complaint against claimant in his capacity as personal guarantor of the defaulted loans to recover an outstanding balance of $63,009.66 ($43,780.03 on the second loan and $19,229.63 on the first) in principal and $9,529.14 in interest. Judgment for the United States was entered on September 29, 1964, for $87,734.63 ($63,009.03 principal and $24,724.97 interest). *United States* v. *Abbott* (Civ. A. No. 60–800–W, D. Mass. 1964).

From its study of the pleadings, correspondence and relevant facts, the committee concludes that the Small Business Administration, by virtue of its purchase significantly under appraised value of the hotel properties and subsequent resale for $250,000, was made substantially whole in that it recouped all it had risked by making the original loans. In addition to the total $245,000 principal it disbursed, it incurred a total of $20,827.47 in expenses in connection with bankruptcy administration and the sale of the hotel properties pursuant to the stipulation with the trustee, for a total exposure of $265,827.47. Afer the resale of the properties, it realized a total recoupment of $276,584.53—sale proceeds of $250,000 plus $26,584.53 in principal and interest repayment prior to default. Thus, SBA realized a net gain of $10,757.06 as a result of those transactions. Based upon the original agreements, SBA lost approximately $10,000 in interest repayments between August 14, 1958, the date of default, and April 23, 1959, the date the proceeds SBA paid for the purchase of the hotel were applied to the remaining obligation. The U.S. attorney and the court, of course, proceeded in accordance with the letter of the law. As a result, claimant, who took reasonable steps to fulfill his obligations as personal guarantor of the loans—despite the fact that he held no interest in the successor corporation and could not be held responsible for the default—was saddled with not only the obligations themselves but also the expenses of bankruptcy administration and sale of the properties, to which he was not a party.

The committee feels that claimant was treated inequitably even though all the proceedings which resulted in this injustice were in strict conformity with the letter of the law. If the Small Business Administration, which should not be in the business of profiting at the expense of the entrepreneurs it was created to aid, had acted more carefully to protect its interests, the hardship caused claimant could have been avoided. The committee notes that interest accrued since levy has pushed claimant's judgment debt well over $100,000. Due to his advanced age and limited assets, the Government can never hope to recover a fraction of that. In consideration of all the circumstances, the committee believes that the Government owes claimant a moral obligation to make amends for a lapse in diligence which occurred almost 20 years ago. Accordingly, the committee recommends that the bill be considered favorably.

The Senate Committee on the Judiciary agrees with the conclusions of the House of Representatives that the bill is meritorious and recommends that it be considered favorably.

COST

The enactment of this legislation involves no additional expenditures to the Government.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALCOHOL AND DRUG ABUSE EDUCATION AMENDMENT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 750, S. 2915.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 2915) to amend the Alcohol and Drug Abuse Education Act to extend the authorization of appropriations for carrying out the provisions of such act, and for other purposes, which has been reported from the Committee on Human Resources with amendments as follows:

On page 4, line 19, after the period, strike through and including line 23, and insert in lieu thereof the following:

"To maximum extent practicable, funds expended under this subsection shall be used for grants and programs reflecting various services to individuals proportionate to relative numbers of individuals served within the outside of standard metropolitan statistical areas.".

On page 5, line 10, strike the comma and all through and including the word "Code" in line 12.

On page 6, line 5, after the period, insert the following:

"The Secretary shall further assure that all such prevention programs and strategies which are school-based (assisted or conducted by the Department of Health, Education, and Welfare) shall, to the extent feasible, be coordinated through the Office of Education (acting through the Office of Alcohol and Drug Abuse Education).".

On page 7, beginning with line 3, strike through and including line 7, and insert in lieu thereof the following:

"(2) To the maximum extent practicable of the amount appropriated in any fiscal year under this subsection, sums shall be allotted for alcohol and drug abuse education projects reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Amendments of 1978".

SEC. 2. Section 2(b) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1001(b)) is amended—

(1) by inserting after "encourage" the following: "the prevention of alcohol and drug abuse; to stimulate";

(2) by striking out "curricula on" and inserting in lieu thereof "aproaches to";

(3) by striking out "problems of" the first time it appears therein and inserting in lieu thereof "prevention of alcohol and";

(4) by striking out "curricula" the second time it appears therein and inserting in lieu thereof "approaches";

(5) by striking out "curricular materials" and inserting in lieu thereof "successful approaches"; and

(6) by striking out "on drug abuse problems", and inserting in lieu thereof "on alcohol and drug abuse problems".

SEC. 3. (a)(1) Section 3(a) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1002(a)) is amended—

(A) by inserting after "carry out" a comma and the following: "throughout the Nation in rural areas as well as urban areas,";

(B) by striking out "projects" the first time it appears therein and inserting in lieu thereof "programs, including programs of proven effectiveness";

(C) by striking out "projects throughout the Nation" and inserting in lieu thereof "programs to develop local capability to meet problems of alcohol and drug abuse"; and

(D) by inserting at the end thereof the following new sentence: "The Commis-

sioner shall seek equitable distribution of available resources among the various regions of the country and seek to ensure that the special needs of rural areas are appropriately addressed.".

(2) Section 3(b)(5) of such Act is amended by inserting "prevention" after "abuse".

(b) Section 3(d)(1) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1002 (d)) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clauses:

"(E) provides assurance that the applicant will coordinate its efforts with the appropriate State and local alcohol and drug abuse agencies, and educational agencies and organizations; and

"(F) provides a proposed performance standard to measure, or research procedure to determine, the effectiveness of the program or project for which assistance is sought.".

(c) Section 3(e)(2) of such Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

SEC. 4. (a) Section 3 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002) is amended by redesignating subsection (d) through (f) as subsections (g) through (i), respectively, and by inserting after subsection (c) the following new subsections:

"(d) In addition to the purpose described in subsections (b) and (c), from funds in an amount not to exceed 10 per centum of the sums appropriated to carry out this Act, the Commissioner is authorized to make grants to State educational agencies, local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in alcohol and drug abuse prevention, and to develop exemplary alcohol and drug abuse prevention programs. To maximum extent practicable, funds expended under this subsection shall be used for grants and programs reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(e)(1) In order to carry out the provisions of this Act, there is established in the Office of Education an Office of Alcohol and Drug Abuse Education (hereinafter in this section referred to as the 'Office'). The Office shall be headed by a Director.

"(2) The Director shall report directly to the Commissioner.

"(3) The Office of Education shall provide the Office of Drug Abuse Education with sufficient staff and resources to carry out its responsibilities under this Act.

"(4) In carrying out the provisions of this Act, the Director of such Office shall consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and shall coordinate the activities of such Office with the activities of such Institutes to the extent feasible.

"(f) The Secretary shall assure cooperation and coordination between the Office of Education (acting through the Office of Alcohol and Drug Abuse Education) and the Alcohol, Drug Abuse, and Mental Health Administration (acting through the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse) to identify and implement successful prevention programs and strategies, to identify research and deveolpment priorities, and to disseminate the results of such activities. The Secretary shall further assure that all such prevention programs and strategies which are school-based (assisted or conducted by the Department of Health, Education, and Welfare) shall, to the extent feasible, be coordinated through the Office of Education (acting through the Office of Alcohol and Drug Abuse Education).".

(b) Section 3(h)(1) of such Act (as redesignated by subsection (a)) is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by striking out "not exceeding 1 per centum" and inserting in lieu thereof "or 3 per centum".

(c)(1) The first sentence of section 3(1) (as redesignated by subsection (a)) is amended by striking out "and", and by inserting before the period at the end thereof a comma and the following: ", $10,000,000 for the fiscal year 1979; $14,000,000 for the fiscal year 1980; and $18,000,000 for the fiscal year 1981".

(2) Subsection 3(1) of such Act (as redesignated by subsection (a)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) To the maximum extent practicable, of the amount appropriated in any fiscal year under this subsection, sums shall be allotted for alcohol and drug abuse education projects reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(3) Funds appropriated under this subsection shall remain available for obligation through fiscal year 1981 in order to permit multiple year funding of projects under this Act.".

SEC. 5. Section 8(c) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1007 (c)) is amended by inserting "the Northern Mariana Islands," immediately after "the Virgin Islands,".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The committee amendments were agreed to.

UP AMENDMENT 1321

(Purpose: to provide a hold harmless mechanism for the Veterans Cost-of-Instruction Program)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CRANSTON, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. CRANSTON, Mr. STAFFORD, Mr. THURMOND, Mr. DECONCINI, Mr. CHILES, and Mr. STONE, proposes an unprinted amendment numbered 1321.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, after line 21, insert the following new section:

SEC. 6. (a) Section 420(a) of the Higher Education Act of 1965 is amended by adding after paragraph (3) the following new paragraph:

"(4) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Commissioner determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.".

(b) Clause (1) of section 310(b) of the GI Bill Improvement Act of 1977 (91 Stat. 1446) is amended by inserting at the end of subsection (a) of the new section 246, which was conditionally added to title 38, United States Code, by such clause, a new paragraph as follows:

"(3) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher learning during the same academic year for which the determination is made bears to the number of such recipients in all institutions of higher learning for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Administrator determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans.".

(c) The amendments made by this section shall be effective with respect to payments to which institutions are entitled as of June 30, 1978.

Mr. ROBERT C. BYRD. Mr. President, this amendment was fully explained by Senator CRANSTON when he introduced it on May 5, 1978. Mr. President, I ask unanimous consent that a copy of his remarks of that date be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

VETERANS COST-OF-INSTRUCTION HOLD-HARMLESS AMENDMENT

Mr. CRANSTON. Mr. President, I am submitting today an amendment to S. 2539, the College Opportunity Act of 1978, which

would provide relief for institutions now participating in the veterans cost-of-instruction program. Joining with me in introducing this legislation are Senators STAFFORD, THURMOND, TOWER, RANDOLPH, DECONCINI, and CHILES.

This amendment proposes to amend section 420 of the Higher Education Act of 1965, as amended, to provide that certain institutions now participating in the veterans cost-of-instruction (VCI) program do not suffer loss of eligibility as a result of declining enrollments between now and the end of the program's authorization. Currently, the program is authorized through fiscal year 1979, but would be subject to a general extension provision for an additional year.

BACKGROUND AND HISTORY

Mr. President, the VCI program, which I originally authorized in the Education Amendments of 1972—Public Law 92-318—was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist veterans in readjusting to an academic setting, especially educationally disadvantaged veterans. Institutions which meet the requirements of the program are entitled to payments for each of certain categories of veterans enrolled in an undergraduate program. It is important to understand that the VCI program is a program of payment to institutions for which services are provided to veterans, no payments are made to individuals.

In 1974, in conjunction with the Higher Education Act Amendments of 1974—Public Law 93-380—a series of amendments which I offered, along with Senators STAFFORD, MATHIAS, JAVITS, and RANDOLPH, were enacted to make it more feasible for smaller institutions of higher learning to establish VCI programs, to provide for a "hold-harmless" formula, and to set maximum and minimum grant awards that would result in a more equitable distribution of funds.

During the 94th Congress, I sponsored S. 2651, the "Veterans Cost-of-Instruction Extension Act." The provisions of this measure were incorporated into S. 2657, the Education Amendments of 1976, which eventually became Public Law 94-482. These provisions extended the authorization of the program through fiscal year 1979 and made a number of improvements in the program, including a "delimiting date discount" provision which prevented a massive number of schools from losing eligibility for the program as a result of the delimiting date for GI bill educational assistance under title 38, U.S.C., which first took effect on May 31, 1976.

Mr. President, as I noted, the purpose of this amendment is to afford protection through the end of the program's authorization to certain institutions now participating in the program. This amendment would allow an institution to remain automatically eligible for a continued VCI award if it has a ratio of decline in veteran enrollment equal to no less than the national decline in veteran enrollment from the period of time since it first became eligible until the present. The Veterans' Administration estimates that veteran enrollment nationwide is down approximately 34 percent since fiscal year 1976. This means, for example, that if a school which was first eligible for the program in 1976 has a decline in veteran enrollment of 32 percent, the school would automatically remain eligible for funding for the forthcoming academic year.

However, because we recognize that some schools have suffered greater declines than others—particularly high-cost institutions—the amendment also provides that for a school which does not meet the enrollment decline ratio, the institution would remain eligible if the Commissioner of Education determines that it is making reasonable efforts to continue to recruit, enroll, and serve veterans. In making this determination, the Commissioner would take into consideration the extent to which the school falls short of the ratio. Thus, an institution which had a decline in enrollment greater than the national average could continue to be eligible if the Commissioner finds, on the basis of evidence submitted by the school, that it is continuing efforts to meet the education needs of veterans. However, no school which has such a decline would be automatically eligible.

NEED FOR AMENDMENT

Mr. President, this amendment is necessary because at present the eligibility of institutions is based on increasing or maintaining a particular level of veteran-student undergraduate enrollment—first, a level at least 10 percent greater than the previous year; second, a level which represents at least 10 percent of all students in attendance and which is not less than the previous year; or third, if the school has established eligibility for 1 year, a level which is no less than the previous year or is at least the minimum number to qualify under first or second, above. Consequently, decline in GI bill veterans' enrollment which began in 1976 has impacted adversely on VCI schools. Although the Office of Education has not yet developed accurate statistics on the impact, it is estimated that without this amendment as many as 600 institutions—or approximately 50 percent of those which participated in the program last year—will lose funding as of June 30, 1978.

The following is a breakdown indicating the number of participating institutions since the inception of the program:

School year 1973-74	1,070
School year 1974-75	1,009
School year 1975-76	1,206
School year 1976-77	1,237
School year 1977-78	1,120

For the coming school year 1978-79, $23.7 million will be available for the program. This amount, which is forward funded, will be spent regardless of how many schools are eligible because the program allocates available dollars proportionately.

CONCLUSION

Mr. President, since the beginning of the VCI program, I have monitored its activities carefully. I believe it has done much to assist veterans in their academic pursuits—largely because of the dedicated efforts of many VCI coordinators. Nevertheless, thousands of Vietnam-era veterans still suffer serious readjustment and employment problems. We must continue to attack these problems vigorously and on all fronts.

That is one reason why I believe we must continue to provide for the continuation of the program where it is of demonstrated effectiveness.

A second reason for continuing the program is that the GI Bill Improvement Act of 1977 contained a provision I authored to authorize the Administrator of Veterans' Affairs to consult with the Commissioner of Education regarding a possible transfer of the VCI program from the Office of Education to the VA. If the Commissioner of Education and the Administrator of the VA agree that a transfer is in the best interests of veterans, such a transfer would be authorized. Currently, the VA is conducting a feasibility study of the merits of any transfer. Although I don't know what the recommendations of the study will be, I believe that until some future administrative structure is determined, the integrity of the program should be preserved so that whatever decisions are made with respect to its administration, its future—beyond 1980—the responsible agency can determine the need for the program and its future structure. In this regard, this amendment would also insert this "hold-harmless" provision into section 310 of title 38, U.S.C., since in the event that a transfer is agreed to, the provisions of section 420 of the Higher Education Act would be repealed and the provisions of section 310 of title 38—inserted by the GI Bill Improvement Act of 1977—would become effective.

I want to make clear, Mr. President, that this program should be the subject of close scrutiny between now and the expiration of its authorization. I believe the mission of the program—to serve the educational needs of veterans, particularly those who are educationally disadvantaged—remains significant. Moreover, substantial thought must be given between now and the expiration of the authority in 1979 as to how the purposes of the program could continue to be served.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on behalf of Mr. HATHAWAY, a statement by Mr. HATHAWAY be printed in the RECORD with reference to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HATHAWAY

S. 2915, the Alcohol and Drug Abuse Education Amendments of 1978, was reported unanimously and favorably by the Committee on Human Resources on May 10, 1978. Its language will be substituted for that of H.R. 10569.

S. 2915 extends for three years, through fiscal year 1981, the Alcohol and Drug Abuse Education Act of 1970, authorizing $10 million in fiscal year 1979, $14 million in fiscal year 1980, and $18 million in fiscal year 1981.

In addition, S. 2915 amends the Act by increasing federal attention to alcohol and drug abuse education in rural areas and mandating that to the maximum extent practicable, appropriations be allotted in proportion to the relative numbers of individuals within and outside of Standard Metropolitan Statistical Areas; authorizing multiple year fundings; establishing within the Office of Education of the Department of Health, Education and Welfare an Office of Alcohol and Drug Abuse Education; requiring coordination among alcohol, drug abuse and educational agencies at the federal, state and local levels and specifically placing responsibility for coordination of all school-based alcohol and drug abuse education programs within the Office of Alcohol and Drug Abuse Education; authorizing up to 10% of the total appropriations under the Act for model projects by state and local education agencies, post-secondary institutions, and other non-profit agencies to develop exemplary techniques and programs in alcohol and drug abuse prevention; emphasizing evaluation of programs by requiring the Commissioner of Education to conduct an independent analysis and evaluation of programs funded under the Act, using 3% of the total appropriations for this purpose, and by mandating that grantees provide proposed evaluation mechanisms in their applications for assistance; placing additional emphasis on prevention; and strengthening the focus on the "school team" approach to alcohol and drug abuse education.

The unanimous support from the members of the Committee on Human Resources is most gratifying. It indicates the importance of this legislation and the scope of the problem which it addresses. S. 2915 is cosponsored by Senators Williams, Riegle, Javits and Hatch.

BACKGROUND

The Alcohol and Drug Abuse Education Act was first enacted in 1970. It authorized the U.S. Office of Education to conduct a comprehensive program of alcohol and drug abuse education in local schools and communities. This involved the training of school personnel and community teams, development of teaching materials and offering of courses in elementary and secondary school programs. The Act also authorized community education programs, especially for parents. The 1974 amendments explicitly added alcohol abuse education to the scope of the Act.

The Act has had a history of limited appropriations and limited realization. After a modest start in fiscal year 1971 with an appropriation of $6.6 million, Congress provided $13.024 million in 1972. Since that time, appropriations have steadily declined with allotments of $12.4 million in 1973 and $5.7 million in 1974. For fiscal years 1975–1977, no funds were requested for the program in the President's Budget. However Congress did appropriate decreasing amounts of $4 million in 1975 and $2 million in 1976, 1977 and 1978. The Administration's $2 million request for the program this year represents the first such request from the White House in four years. Yet this request is far short of the presently authorized level of $34 million.

The basic authorities for the Alcohol and Drug Abuse Education Act expired at the end of fiscal year 1977, but funding of training and technical assistance for school-based teams has been continued in the 1978 fiscal year under provisions of the General Education Provisions Act. Funding for programs to train teachers-to-be in Colleges of Education ended in September, 1977, however, all are now continuing with support from the institutions.

The Subcommittee on Alcoholism and Drug Abuse held 4 days of hearings on the extension of the Alcohol and Drug Abuse Education Act and on oversight of the operation of the program conducted under the Act. These hearings were held in Washington, D.C. and in Bangor, Maine.

Among the witnesses heard during the hearings in Washington were Thomas K. Mintner, Deputy Commissioner, U.S. Office of Education, Department of HEW; Dr. Helen H. Nowlis, Director, Alcohol and Drug Abuse Education Programs, U.S. Office of Education; Dr. Ernest Noble, Director, National Institute on Alcohol Abuse and Alcoholism; Dr. Robert DuPont, Director, National Institute on Drug Abuse; Carl D. Mowatt, Director, Alcohol and Drug Education, Maine Department of Educational and Cultural Services; Madonna Clifford, Program Director, Farmington, Maine; Becky Yates, Student, Mechanic Falls, Maine; Gavin Blane, Chief of Police, Bergenfield, New Jersey; Rayburn Hesse, National Association of State Drug Abuse Program Coordinators; Richard Spoonster, National Parent Teachers Association; Jack Valenti, Motion Picture Association of America; and H. Leonard Boche, Alcohol and Drug Problems Association of North America.

These witnesses and others described their experiences with various aspects of the inservice and preservice training programs conducted under the Act and commented on the operation of the Act from their personal and professional perspectives. They agreed that the Act should be extended. Many stated that the programs must be redirected to address the needs of rural areas as well as those of urban locations. Particular praise was given for the school and community team approaches with an excellent example described by Bergenfield Police Chief Blane.

At the hearing in Bangor, Maine, testimony was received from educators, policymakers, service providers, the beer industry, and others from all parts of Maine who deal with these problems on a day-to-day basis. Of particular significance to the Subcommittee was the fact that witness after witness detailed the need for greater attention to prevention and education efforts. The sentiment was well-expressed by John Blatchford, of the Maine Eastern Regional Council on Alcoholism and Drug Abuse, who testified:

"What do I suggest to your Subcommittee? I suggest you give high priority to activities relating to education and prevention. National costs will be lower and our citizens better served if alcoholism and drug abuse can be nipped in the bud."

Concern for increased attention to the needs of rural areas was also voiced repeatedly by the witnesses who highlighted the necessity to tailor such programs to the special circumstances of rural locations for maximum effectiveness and efficiency.

The Administration testified that the existing alcohol and drug abuse education program has been very effective, and supports its continuation.

On April 13, 1978, I introduced S. 2915 to revise and extend for three years the Alcohol and Drug Abuse Education Act. The provisions of the bill were based on issues raised and discussed during three hearings held prior to introduction of the legislation. A fourth hearing was held after introduction of the bill.

A number of improvements were made after the hearings and during the markup by the Committee on Human Resources.

ADMINISTRATION OF THE PROGRAM

Faced with the ineffectiveness of most widely used "education programs" that put major emphasis on substances and their effects and sought simple, universally applicable approaches, the Office of Education program made the decision to emphasize people rather than substances, people who decide to use drugs and alcohol as well as people who decide not to use. The Office of Education defined use and abuse as human behavior that serves some function or would not persist. It designed a program based on the assumption that the most effective way to discourage destructive behavior is to engage the major institutions that influence the development of young people in promoting maximum positive growth and development.

The program has made some further somewhat unusual assumptions:

Each community's problem is different, and each must assess its own problem and enlist its own human, cultural and financial resources in prevention efforts;

People can be given the skills to solve their own alcohol and drug problems;

Local programs usually involve doing differently things that are already being done and need not represent an add-on to an already burdened system;

Effective programs require change. Lasting change can come only from within, and all segments of the institution-administrators, teachers, professionals, students, and parents must be involved.

Based on these assumptions the program involves six elements:

1. Five regional resource centers which between them service the entire United States—each covering an average of 10 States.

2. Project teams, trained and supported with technical assistance by the centers, in over 3,000 school districts and communities.

3. A central data base in Chicago to compile and distribute information on the entire system.

4. A national action committee, a nationwide network of top consultants on alcohol and drug problems and on education who can be deployed as needed.

5. Demonstration programs to train teachers-to-be in colleges of education. (Funding for these projects ended September 1977. All are continuing with support from their own institutions.)

6. A small central staff in Washington, D.C. to provide leadership in planning and maintenance of the entire system.

The centers enter into a yearlong (ideally 2-year when resources are available) contract with a local school. This begins with an onsite visit by center staff to initiate a needs assessment and to gather information about the school and the team members. Training itself takes 10 days to 2 weeks and is tailored to meet the distinctive needs of each team. Teams learn:

To assess the needs and expectations of the youth population to be served;

To formulate realistic objectives for meeting those needs;

To identify human and financial resources in their school and community for supporting a prevention program;

To design an action plan addressed to their carefully defined problem—specific projects to which the team is committed;

To evaluate the range of prevention materials and methods available and to adapt those that are appropriate tools for its particular school district or community setting; and

To build in feedback and evaluation, so they will know what parts of their strategy are working, and why and how.

Training is followed by onsite technical assistance or postgraduate training designed to facilitate the implementation of the action plan and teach the team to solve problems unique to that team.

Through this system, teams have been trained and supported with technical assistance in every State and territory, the number varying from State to State. This works out to some 3,000 schools and school communities, and involves approximately 16,000 educational personnel, students, and out-of-school youth and personnel from law enforcement, health, and social services agencies, civic and church leaders, parents, and State and Federal personnel. Programs set up by these teams reach approximately 1 million individuals annually.

These teams have formed networks, many times under the leadership of the State education department or other State agencies for drug abuse, alcohol abuse and mental health. In addition, teams have raised local and State funds to support their own programs. In the last year alone, teams raised over $3,670,000.

In the 4 years from 1972 to 1976, the program trained 3,000 teams from a variety of settings, most of them, however, from rural, suburban, and small- and medium-size city school districts. In fiscal year 1977, as resources available to the program decreased, the decision was made to concentrate on the challenging problem of alcohol and drug abuse in large urban school districts to the exclusion of rural areas.

Accordingly, in fiscal 1977 the program experimented with clusters of four school teams from definable segments of large urban school districts such as a high school with its feeder junior high schools or four schools from a regional division of a larger system. Forty clusters of four schools each in large urban areas were supported for training and followup onsite assistance.

On the basis of reports that successful alcohol and drug abuse prevention programs often reduce vandalism, dropouts, truancy, racial conflict, disciplinary problems, and other destructive behavior, the Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration suggested a cooperative effort with the Alcohol and Drug Abuse Education Program utilizing its system and strategies on

the problem of prevention of school crime and violence. The Office of Juvenile Justice under an interagency agreement provided $1.233 million in fiscal 1976 and $2.8 million for fiscal 1977–78 for this effort.

The Alcohol and Drug Abuse Education Act is administered by the Alcohol and Drug Abuse Education Program in the U.S. Office of Education. The National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse which are both in the Public Health Service of the Department of Health, Education, and Welfare, also administer programs dealing with the problems of alcohol and drug abuse. These agencies support large research programs and are also concerned with the delivery of treatment services for the victims of alcohol and drug abuse. The Drug Enforcement Administration in the Department of Justice is the leading Federal agency in drug law enforcement.

NEED FOR LEGISLATION

Mr. President, the need to prevent the abuse of alcohol and drugs by the youth of the Nation through educational programs must remain a high national priority. A 1977 Gallup poll revealed that 34% of American teenagers feel that alcoholism or drug abuse comprises the greatest problem facing their generation. Approximately one fourth of our nation's 12 and 13 year olds are classified as moderate or heavy drinkers. Fifty-eight percent of 16 year old boys and 40% of 16 year old girls fall into these categories as well.

Drug abuse is likewise a continuing and growing problem. There are now an estimated 450,000 heroin users, 1 million cocaine users, and 8–13 million regular marijuana users. Licit drugs, such as amphetamines, tranquilizers and barbiturates, are used for nonmedical purposes by an estimated 7–8 million Americans, including young people. In addition, "poly drug" abuse, or use of more than 1 drug at a time, is of growing concern, especially among youth. Finally, phencyclidine (PCD) or "angel dust", a devastating drug made of fairly common chemicals, is becoming increasingly popular among teenagers.

Alcoholism and drug abuse pose a serious threat to our Nation's well-being. The effects of these problems are widespread, and the costs to the Nation are substantial. In terms of health care, lost production, motor vehicle accidents, alcohol programs and research, and drains on the criminal justice and social welfare systems, alcohol abuse costs our Nation more than $42 billion dollars per year. Drug abuse adds another $10 billion to $17 billion in economic costs. The costs in terms of human suffering and misery cannot be tabulated.

Since prevention of alcohol and drug abuse is far more cost-effective than treatment and rehabilitation, it is essential to place greater attention on effective prevention programs and strategies.

Mr. President, I recommend extension of the Alcohol and Drug Abuse Education Act because available evidence indicates that it is a well-conceived and effective program aimed at the prevention of alcohol and drug abuse.

School districts with trained teams report decreases in alcohol and drug abuse offenses and related incidents such as vandalism, absenteeism, dropouts, discipline referrals, criminal arrests and school disruption. In addition, relationships among schools, police, community members, youth and parents are reportedly improved.

Based on this information, I recommend that the Act be amended to strengthen the focus on the "school team" approach. In the statement of purpose and the enumeration of authorized activities, references to the development of curriculum materials are deleted and the more general term "approaches" is substituted. Using the school team approach to provide local school personnel and community persons with the skills to develop curricula suited to their own problems and circumstances appears to be an effective means for preventing alcohol and drug abuse. With respect to the prevention of alcohol and drug abuse, federally developed curricula that do not meet local needs are often ineffective or even counterproductive. Therefore, I also recommend that the statement of purpose be amended to emphasize the prevention of alcohol and drug abuse as well.

While the alcohol and drug abuse education program appears to be effective, I am concerned that there is insufficient hard data at present with respect to the effectiveness of the programs which are developed by the trained teams, and that there is no required means to collect such data. Consequently the bill requires each applicant for assistance under the Act to provide in its application a proposed mechanism to determine the effectiveness of the program for which funds are sought. Furthermore, it requires the Committee recommends the Commissioner of Education to conduct an independent analysis and evaluation of programs, utilizing 3 percent of the total appropriations under the Act. Evaluation of programs is imperative in order to identify those programs which work and to avoid funding those which do not.

To develop exemplary, effective techniques and programs in alcohol and drug abuse prevention, I am recommending a new authority for model projects grants to state and local educational agencies, post-secondary institutions, and other non-profit agencies. S. 2915 allows up to 10 percent of the total appropriations under the Act to be authorized for such model projects including projects of proven effectiveness.

In this regard, I would like to turn my colleagues' attention to an exemplary program conducted by my own State of Maine. In 1970, a team from the State Department of Education was trained through the U.S. Office of Education program. The State then developed a school and community alcohol and drug abuse prevention team training capability of its own, with the assistance of a direct grant of $40,000 from OE. This was a direct result of the Federal initiative, but prior to the establishment of OE's regional training centers. Over a two-year period, the State trained approximately 600 people representing 66 teams from Maine communities. This was accomplished with no direct material or technical assistance from OE or then emerging regional training centers.

The Office of Education shifted its strategy and ceased giving grants directly to states in 1974. Instead, the Office began giving grants of $6,000 to $10,000 to local schools to send teams to regional training centers. A total of 8 Maine teams of 7 to 10 people were trained by the OE program at a cost of $55,225. This represented an average cost of $6,903 per team, as compared to the Maine effort which averaged $1,200 per team. In terms of cost, Maine could have trained 46 teams with the funds it cost the OE project to train 8 teams.

By giving OE the authority to give grants directly to states, as S. 2915 would do, exemplary, cost-effective programs like that run by the State of Maine, would be eligible to receive assistance to continue their valuable efforts. Consequently, I would expect that, when awarding model project grants, perference will be given to projects of proven effectiveness, such as the one I have just described. I would also expect that appropriate procedures will be established to evaluate the model projects, and to provide for dissemination of information concerning successful projects.

I am also concerned that there is no formal mechanism to collect and disseminate information with respect to local alcohol and drug abuse programs throughout the Nation. I believe that it is very important to make such information widely available so that other communities may replicate successful programs, and I would expect the Office of Education to establish such a mechanism.

Not all alcohol and drug abuse prevention programs are conducted through the Office of Education. Such programs are also carried out by the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse. While I am convinced that the Office of Alcohol and Drug Abuse Education, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse have distinct missions, I also recognize that the possibility of unnecessary duplication of effort clearly exists. Furthermore, there are obviously many areas for productive collaboration between these agencies. Therefore, S. 2915 requires these agencies to coordinate their efforts in areas of mutual concern. Specifically, the bill provides for coordination of all school-based prevention programs through the Office of Alcohol and Drug Abuse Education in the Office of Education. In addition to concern about fragmentation of efforts at the federal level, I am disturbed at the lack of coordination which often exists at the state and local levels. Consequently, S. 2915 also requires grantees to coordinate their programs with the appropriate state and local alcohol and drug abuse agencies and educational agencies and organizations. I expect that these various entities will work together to maximize the effectiveness of each effort.

On the whole, I am favorably impressed by the apparent success of the Alcohol and Drug Abuse Education program. To ensure the integrity and improvement of this program, and to give it the attention which it deserves, I recommend that the Office of Alcohol and Drug Abuse Education be established officially within the Office of Education. Further, I recommend that the Director of the new Office be directly responsible to the Commissioner and be provided with sufficient staff and resources to carry out its duties.

Given the apparent effectiveness of the program and the gravity of the social problem it addresses, I am deeply disappointed at the modest level of appropriations requested for the program by the Administration.

S. 2915 includes authorization levels for the Alcohol and Drug Abuse Education Act of $10 million in fiscal year 1979, $14 million in fiscal year 1980, and $18 million in fiscal year 1981.

The authorization for Alcohol and Drug Abuse Education Act in fiscal year 1978 is $34 million, and $2 million was appropriated. I must emphasize that more modest authorization levels for future years should not be construed as reflecting any loss of a sense of urgency and concern for the problems which this Act seeks to address. This provision does not reflect a judgment on the magnitude of the need and the problems. Indeed, even full funding of the $34 million fiscal 1978 authorization would not be adequate to address these urgent problems. The recommended authorization levels indicate only a realistic expectation of the levels of appropriations that can and should actually be provided and that can be effectively utilized by the program.

Further I recommend that the Act be amended to permit multiple-year funding of projects, which may be required to achieve effective implementation of the Act.

Mr. President, I recognize that the capacity of the Alcohol and Drug Abuse Education Program to provide its program to all those who are interested and who could benefit from it is constrained by the limited funds available. However, I am extremely disturbed that in recent years the program has been

limited to large urban areas to the exclusion of rural areas. I understand that more students can be reached with limited resources by focusing on large urban centers, and I favor cost-effectiveness. However, I also recognize the critical need for programs which address the special circumstances and needs of rural areas and the fact that it is often more costly to provide programs in sparsely populated rural areas. The need for programs must be considered in addition to the cost factor by the Office of Alcohol and Drug Abuse Education in developing priorities.

The exclusion of rural areas from the program must not be permitted to continue. Consequently, S. 2915 requires the Commissioner to carry out the program throughout the Nation in rural as well as urban areas, to seek equitable distribution of available resources among the various regions of the country and to seek to ensure that the special needs of rural areas are appropriately addressed. To achieve these aims, the bill further provides that the funds appropriated under the Act as a whole, and pursuant to the model projects authority in particular, be allocated, to the maximum extent practicable, in proportion to the relative numbers of individuals residing within and outside of Standard Metropolitan Statistical Areas. It is not my intention that this requirement disrupt ongoing efforts with respect to the provision of technical assistance. I would expect, however, that technical assistance and program information will be provided in increasing frequency to the smaller and more rural States and school districts.

I would like to commend the Office of Education for concluding an interagency agreement with the Law Enforcement Assistance Administration to make use of the school team approach in addressing the problems of school crime and violence. This is an excellent example of the kind of interagency cooperation that should be more widely encouraged. This agreement is further testimony to the effectiveness of the school team approach.

Finally, I would hope that the Alcohol and Drug Abuse Education Program will make greater use of the mass media, particularly television, in its prevention program.

Mr. President, S. 2915 responds to a clear need and builds on demonstrated success. It is for this reason that I strongly urge my colleagues to approve this legislation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD and excerpt from the report (No. 95–819), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY OF THE BILL

S. 2915, as reported by the Committee on Human Resources, extends for 3 years, through fiscal year 1981, the Alcohol and Drug Abuse Education Act of 1970, as amended, authorizing $10 million in fiscal year 1979, $14 million in fiscal year 1980, and $18 million in fiscal year 1981.

In addition, S. 2915 amends the act by—

(1) Increasing Federal attention to alcohol and drug abuse education in rural areas and mandating that, to the maximum extent practicable, appropriations be allotted in proportion to the relative numbers of individuals within and outside of standard metropolitan statistical areas;

(2) Authorizing multiple year funding;

(3) Establishing within the Office of Education of the Department of Health, Education and Welfare an Office of Alcohol and Drug Abuse Education;

(4) Requiring coordination among alcohol, drug abuse, and educational agencies at the Federal, State, and local levels and specifically placing responsibility for coordination of all school-based alcohol and drug abuse education programs within the Office of Alcohol and Drug Abuse Education;

(5) Authorizing up to 10 percent of the total appropriations under the act for model projects by State and local education agencies, post-secondary institutions, and other nonprofit agencies to develop exemplary techniques and programs in alcohol and drug abuse prevention;

(6) Emphasizing evaluation of programs by requiring the Commissioner of Education to conduct an independent analysis and evaluation of program funded under the act, using 3 percent of the total appropriations for this purpose, and by mandating that grantees provide proposed evaluation mechanisms in their applications for assistance;

(7) Placing additional emphasis on prevention; and

(8) Strengthening the focus on the "school team" approach to alcohol and drug abuse education.

The Subcommittee on Alcoholism and Drug Abuse unanimously ordered S. 2915 favorably reported on April 25, 1978. Subsequently, on May 10, 1978, the Committee on Human Resources unanimously ordered the bill favorably reported with amendments. S. 2915 is cosponsored by Senators Williams, Riegle, Javits, and Hatch.

II. BACKGROUND

A. HISTORY OF THE ACT

The Alcohol and Drug Abuse Education Act was enacted in 1970. It authorized the U.S. Office of Education to conduct a comprehensive program of alcohol and drug abuse education in local schools and communities. This involved the training of school personnel and community teams, development of teaching materials and offering of courses in elementary and secondary school programs. The act also authorized community education programs, especially for parents. The 1974 amendments explicitly added alcohol abuse education to the scope of the act.

The act has had a history of limited appropriations and limited realization. After a modest start in fiscal year 1971 with an appropriation of $6.6 million, Congress provided $13.024 million in 1972. Since that time, appropriations have steadily declined with allotments of $12.4 million in 1973 and $5.7 million in 1974. For fiscal years 1975–1977, no funds were requested for the program in the President's budget. However Congress did appropriate decreasing amounts of $4 million in 1975 and $2 million in 1976, 1977, and 1978. The administration's $2 million request for the program this year represents the first such request from the White House in 4 years. Yet this request is far short of the presently authorized level of $34 million.

The basic authorities for the Alcohol and Drug Abuse Education Act expired at the end of fiscal year 1977, but funding of training and technical assistance for school-based teams has been continued in the 1978 fiscal year under provisions of the General Education Provisions Act. Funding for programs to train teachers-to-be in colleges of education ended in September 1977; however, all are now continuing with support from the institutions.

B. ADMINISTRATION OF THE PROGRAM

Faced with the ineffectiveness of most widely used "education programs" that put major emphasis on substances and their effects and sought simple, universally applicable approaches, the Office of Education program made the decision to emphasize people rather than substances, people who decide to use drugs and alcohol as well as people who decide not to use. The Office of Education defined use and abuse as human behavior that serves some function or would not persist. It designed a program based on the assumption that the most effective way to discourage destructive behavior is to engage the major institutions that influence the development of young people in promoting maximum positive growth and development.

The program has made some further somewhat unusual assumptions:

Each community's problem is different, and each must assess its own problem and enlist its own human, cultural and financial resources in prevention efforts;

People can be given the skills to solve their own alcohol and drug problems;

Local programs usually involve doing differently things that are already being done and need not represent and add-on to an already burdened system;

Effective programs require change. Lasting change can come only from within, and all segments of the institutions—administrators, teachers, professionals, students, and parents—must be involved.

Based on these assumptions the program involves six elements:

1. Five regional resource centers which between them service the entire United States—each covering an average of 10 States.

2. Project teams, trained and supported with technical assistance by the centers, in over 3,000 school districts and communities.

3. A central data base in Chicago to compile and distribute information on the entire system.

4. A national action committee, a nationwide network of top consultants on alcohol and drug problems and on education who can be deployed as needed.

5. Demonstration programs to train teachers-to-be in colleges of education. (Funding for these projects ended September 1977. All are continuing with support from their own institutions.)

6. A small central staff in Washington, D.C., to provide leadership in planning and maintenance of the entire system.

The centers enter into a yearlong (ideally 2-year when resources are available) contract with a local school. This begins with an on-site visit by center staff to initiate a needs assessment and to gather information about the school and the team members. Training itself takes 10 days to 2 weeks and is tailored to meet the distinctive needs of each team. Teams learn:

To assess the needs and expectations of the youth population to be served;

To formulate realistic objectives for meeting those needs;

To identify human and financial resources in their school and community for supporting a prevention program;

To design an action plan addressed to their carefully defined problem—specific projects to which the team is committed;

To evaluate the range of prevention materials and methods available and to adapt those that are appropriate tools for its particular school district or community setting; and

To build in feedback and evaluation, so they will know what parts of their strategy are working, and why and how.

Training is followed by onsite technical assistance or postgraduate training designed to facilitate the implementation of the action plan and teach the team to solve problems unique to that team.

Through this system, teams have been trained and supported with technical assistance in every State and territory, the number varying from State to State. This works out to some 3,000 schools and school communities, and involves approximately 16,000 educational personnel, students, and out-of-school youth and personnel from law enforcement, health, and social services agencies, civic and church leaders, parents, and State and Federal personnel. Programs set up by these teams reach approximately 1 million individuals annually.

These teams have formed networks, many times under the leadership of the State education department or other State agencies for drug abuse, alcohol abuse and mental health. In addition, teams have raised local and State funds to support their own programs. In the last year alone, teams raised over $3,670,000.

In the 4 years from 1972 to 1976, the program trained 3,000 teams from a variety of settings, most of them, however, from rural, suburban, and small- and medium-size city school districts. In fiscal year 1977, as resources available to the program decreased, the decision was made to concentrate on the challenging problem of alcohol and drug abuse in large urban school districts to the exclusion of rural areas.

Accordingly, in fiscal 1977 the program experimented with clusters of four school teams from definable segments of large urban school districts such as a high school with its feeder junior high schools or four schools from a regional division of a larger system. Forty clusters of four schools each in large urban areas were supported for training and followup onsite assistance.

On the basis of reports that successful alcohol and drug abuse prevention programs often reduce vandalism, dropouts, truancy, racial conflict, disciplinary problems, and other destructive behavior, the Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration suggested a cooperative effort with the Alcohol and Drug Abuse Education Program utilizing its system and strategies on the problem of prevention of school crime and violence. The Office of Juvenile Justice under an interagency agreement provided $1.233 million in fiscal 1976 and $2.8 million for fiscal 1977–78 for this effort.

The Alcohol and Drug Abuse Education Act is administered by the Alcohol and Drug Abuse Education Program in the U.S. Office of Education. The National Institute on alcohol abuse and Alcoholism and the National Institute on Drug Abuse which are both in the Public Health Service of the Department of Health, Education, and Welfare, also administer programs dealing with the problems of alcohol and drug abuse. These agencies support large research programs and are also concerned with the delivery of treatment services for the victims of alcohol and drug abuse. The Drug Enforcement Administration in the Dept. of Justice is the lead Federal agency in drug law enforcement.

VII. COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510), the committee, based on information supplied by the Congressional Budget Office, estimates that the 5-year cost resulting from enactment of S. 2915, as reported, would be $5 million in fiscal year 1979, $12 million in fiscal year 1980, $16 million in fiscal year 1981, $9 million in fiscal year 1982, and $0 in fiscal year 1983.

The bill was ordered to be engrossed for a third reading and read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the companion House bill, H.R. 10569, be called up at this time and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10569) to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move to strike out all after the enacting clause and insert the language of S. 2915 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 10569) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 750 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR ORDER NO. 808—INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 808 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

PROPOSED REORGANIZATION PLAN NO. 2 OF 1978—MESSAGE FROM THE PRESIDENT—PM 177

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

On March 2 I sent to Congress a Civil Service Reform proposal to enable the Federal government to improve its service to the American people.

Today I am submitting another part of my comprehensive proposal to reform the Federal personnel management system through Reorganization Plan No. 2 of 1978. The plan will reorganize the Civil Service Commission and thereby create new institutions to increase the effectiveness of management and strengthen the protection of employee rights.

The Civil Service Commission has acquired inherently conflicting responsibilities: to help manage the Federal Government and to protect the rights of Federal employees. It has done neither job well. The Plan would separate the two functions.

OFFICE OF PERSONNEL MANAGEMENT

The positive personnel management tasks of the government—such as training, productivity programs, examinations, and pay and benefits administration—would be the responsibility of an Office of Personnel Management. Its Director, appointed by the President and confirmed by the Senate, would be responsible for administering Federal personnel matters except for Presidential appointments. The Director would be the government's principal representative in Federal labor relations matters.

MERIT SYSTEMS PROTECTION BOARD

The adjudication and prosecution responsibilities of the Civil Service Commission will be performed by the Merit Systems Protection Board. The Board will be headed by a bipartisan panel of three members appointed to six-year, staggered terms. This Board would be the first independent and institutionally impartial Federal agency solely for the protection of Federal employees.

The Plan will create, within the Board, a Special Counsel to investigate and prosecute political abuses and merit system violations. Under the civil service reform legislation now being considered by the Congress, the Counsel would have power to investigate and prevent reprisals against employees who report illegal acts—the so-called "whistleblowers." The Counsel would be appointed by the President and confirmed by the Senate.

FEDERAL LABOR RELATIONS AUTHORITY

An Executive Order now vests existing labor-management relations in a part-time Federal Labor-Relations council, comprised of three top government managers; other important functions are assigned to the Assistant Secretary of Labor for Labor-Management Relations. This arrangement is defective because the Council members are part-time, they come exclusively from the ranks of management and their jurisdiction is fragmented.

The Plan I submit today would consolidate the central policy-making functions in labor-management relations now divided between the Council and the Assistant Secretary into one Federal Labor Relations Authority. The Authority would be composed of three full-time members appointed by the President with the advice and consent of the Senate. Its General Counsel, also appointed by the President and confirmed by the Senate, would present unfair labor practice complaints. The Plan also provides for the continuance of the Federal Service Impasses Panel within the Authority to resolve negotiating impasses between Federal employee unions and agencies.

The cost of replacing the Civil Service Commission can be paid by our present resources. The reorganization itself would neither increase nor decrease the costs of personnel management throughout the government. But taken together with the substantive reforms I have proposed, this Plan will greatly improve the government's ability to manage programs, speed the delivery of Federal services to the public, and aid in executing other reorganizations I will propose to the Congress, by improving Federal personnel management.

Each of the provisions of this proposed reorganization would accomplish one or more of the purposes set forth in 5 U.S.C. 901(a). No functions are abolished by the Plan, but the offices referred to in 5 U.S.C. 5109(b) and 5 U.S.C. 1103(d) are abolished. The portions of the Plan providing for the appointment and pay for the head and one or more officers of the Office of Personnel Management, the Merit Systems Protection Board, the Federal Labor Relations Authority and the Federal Service Impasses Panel, are necessary to carry out the reorganization. The rates of compensation are comparable to those for similar positions within the Executive Branch.

I am confident that this Plan and the companion civil service reform legislation will both lead to more effective protection of Federal employees' legitimate rights and a more rewarding workplace. At the same time the American people will benefit from a better managed, more productive and more efficient Federal Government.

JIMMY CARTER.

THE WHITE HOUSE, *May 23, 1978.*

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 39. An act to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

At 1:20 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that, pursuant to the provisions of section 1, Public Law 84–689, as amended, the Speaker has appointed Mr. PHILLIP BURTON, chairman, Mr. HAMILTON, vice chairman, Mr. RODINO, Mr. BROOKS, Mr. ANNUNZIO, Mr. ROSE, Mr. IRELAND, Ms. OAKAR, Mr. BOB WILSON, Mr. BROOMFIELD, Mr. DEL CLAWSON, and Mr. GOODLING as members of the North Atlantic Assembly Conference in Brussels, Belgium, from May 25 to May 27, 1978.

The message also announced that, pursuant to the provisions of section 1(e), Public Law 93–568, the Speaker has appointed Dr. Gregory Adamian, from Belmont, Mass., as a member of the Advisory Committee of the White House Conference on Library and Information Services.

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 12353. An act to amend title 38, United States Code, to extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam era; and

H.R. 12602. An act to authorize certain construction at military installations for fiscal year 1979, and for other purposes.

The message also announced that the House has agreed to the following resolution:

S. Res. 1072. A resolution objecting to the action of the Commissioner of Education in consolidating certain advisory councils as proposed in the Commissioner's annual report submitted, pursuant to section 448 of the General Education Provisions Act, on February 28, 1978.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 555. A concurrent resolution approving the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic.

HOUSE BILL AND CONCURRENT RESOLUTION REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 12353. An act to amend title 38, United States Code, to extend the period of eligibility for veterans readjustment appointments in the Federal Government for veterans of the Vietnam era; to the Committee on Veterans' Affairs.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 555. A concurrent resolution approving the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic; to the Committee on Finance.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3662. A communication from the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a proposal for a comprehensive nutritional status monitoring system for the United States; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3663. A communication from the chairman, Indian Claims Commission, transmitting, pursuant to law, a report of final determination with respect to Chippewa Cree Tribe, et al., plaintiffs, versus the United States, defendant, Docket No. 221–A; to the Committee on Appropriations.

EC–3664. A communication from the President of the United States, transmitting an amendment to the request for appropriations for the fiscal year 1979 in the amount of $10 million for the Department of Justice; to the Committee on Appropriations.

EC–3665. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, relating to the involuntary separation or mandatory retirement of officers in the regular Navy and regular Marine Corps; to the Committee on Armed Services.

EC–3666. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report of the actions taken by the Export-Import Bank from July 1, 1977, through March 31, 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–3667. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report of procurement actions negotiated under Exception 10, U.S.C. 2034(a)(11), October 1, 1977, to March 31, 1978; to the Committee on Commerce, Science, and Transportation.

EC–3668. A communication from the Deputy Assistant Secretary for Land and Water Resources, Department of the Interior, reporting, pursuant to law, application for a loan from West Bench Irrigation District, Mont., in the amount of $3,400,000; to the Committee on Energy and Natural Resources.

EC–3669. A communication from the Secretary of Energy, transmitting, pursuant to law, Energy Action No. DOE–002, an amendment to the Strategic Petroleum Reserve (SPR) plan, entitled "Expansion of the Strategic Petroleum Reserve"; to the Committee on Energy and Natural Resources.

EC–3670. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a report of building project survey for Providence, R.I.; to the Committee on Environment and Public Works.

EC–3671. A communication from the Acting Assistant Secretary (Tax Policy), Department of the Treasury, transmitting a draft of a proposed targeted employment tax credit initiative; to the Committee on Finance.

EC–3672. A communication from the Chairman, U.S. International Trade Commission, a draft of proposed legislation to provide authorization of appropriations for the U.S. International Trade Commission for the fiscal year 1980; to the Committee on Finance.

EC–3673. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend title XX of the Social Security Act to provide for an expanded social services program, to promote consultation and cooperative efforts among States, localities, and other local public and private agencies to coordinate services, to extend certain provisions of Public Law 94–401, and for other purposes; to the Committee on Finance.

EC–3674. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–3675. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Health Hazard Evaluation Program Needs Improvement," May 18, 1978; to the Committee on Governmental Affairs.

EC–3676. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Annual Report of the Comptroller General of the United States, 1977," May 15, 1978; to the Committee on Governmental Affairs.

EC–3677. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Protection and Preservation of Wild and Scenic Rivers is Slow and Costly," May 22, 1978; to the Committee on Governmental Affairs.

EC-3678. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Workplace Inspection Program Weak in Detecting and Correcting Serious Hazards," May 19, 1978; to the Committee on Governmental Affairs.

EC-3679. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Multiprogram Laboratories: A National Resource for Nonnuclear Energy Research, Development, and Demonstration," May 22, 1978; to the Committee on Governmental Affairs.

EC-3680. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the A-10 close air support aircraft program; to the Committee on Governmental Affairs.

EC-3681. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Why Are New House Prices So High, How Are They Influenced by Government Regulations, and Can Prices be Reduced?" May 11, 1978; to the Committee on Governmental Affairs.

EC-3682. A communication from the Chairman, District of Columbia Law Revision Commission, transmitting, pursuant to law, its third annual report; to the Committee on Governmental Affairs.

EC-3683. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the fourth annual report of the emergency medical services program"; to the Committee on Human Resources.

EC-3684. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Status Report on Youth Incentive Entitlement Projects, dated March 15, 1978; to the Committee on Human Resources.

EC-3685. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend section 215 of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3686. A communication from the certified public accountant, American Symphony Orchestra League, transmitting, pursuant to law, its financial statements, dated March 31, 1978; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-658. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS

"Whereas, The fifth article of the amendments to the Constitution of the United States provides for a grand jury to protect persons from unwarranted prosecutions; and

"Whereas, The grand jury is entrusted with the authority and responsibility to indict only upon probable cause; and

"Whereas, A potential exists for the abuse or misuse of the grand jury by government officials or agencies; and

"Whereas, Such abuse or misuse may result in the harassment and intimidation of persons entitled to the protection of the grand jury and subsequent unwarranted indictments and prosecutions; and

"Whereas, The Congress of the United States is presently considering grand jury reform legislation in HR 94; now therefore be it

"Resolved, That the Massachusets Senate respectfully requests the President of the United States and the Congress to support, enact and approve legislation designed to insure the integrity of the grand jury system as embodied in HR 94; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of the Congress, and to the members thereof from this Commonwealth."

POM-659. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Armed Services:

"RESOLUTIONS

"Whereas, Fort Devens has excellent facilities for the locating and training of regular army units; and

"Whereas, from Fort Devens regular army units could be deployed to Europe in a military emergency; and

"Whereas, regular army units supply vital support for the reserve and national guard units in New England; now therefore be it

"Resolved, That the Massachusetts Senate respectfully urges the Congress of the United States to take such action as may be necessary to insure that additional regular army units are assigned to Fort Devens; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Secretary of Defense, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM-660. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on Governmental Affairs:

"RESOLUTIONS

"Whereas, Casimir Pulaski, a citizen of Poland, volunteered his services to the Revolutionary Army of George Washington; and

"Whereas, Casimir Pulaski distinguished himself with valor as a general in the American Revolution; and

"Whereas, on October ninth, seventeen hundred and seventy-nine, at the age of thirty-one, Casimir Pulaski died in the cause of American independence while engaged in battle with the enemy at Savannah, Georgia; and

"Whereas, the year nineteen hundred and seventy-nine will mark the two hundredth anniversary of his death; and

"Whereas, millions of Americans, particularly those of Polish descent, regard Casimir Pulaski as a gallant and heroic defender of American liberty; and

"Whereas, a commemorative postage stamp honoring this son of Poland for his contribution to American freedom would be a singularly fitting tribute; now therefore be it

"Resolved, That the Massachusetts Senate urges the Postmaster General of the United States to prepare and cause to be issued in the year nineteen hundred and seventy-nine a postal stamp commemorating the heroism of General Casimir Pulaski and the two hundredth anniversary of his death; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the Postmaster General of the United States and to the members of Congress from the Commonwealth."

POM-661. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Agriculture, Nutrition, and Forestry:

"HOUSE CONCURRENT RESOLUTION No. 92

"Whereas, the United States Department of Agriculture (USDA) is the Federal agency responsible for and authorized to implement federally mandated agriculture related pre-departure inspection requirements at the various airports in the State of Hawaii for aircraft destined for airports located within the continental United States; and

"Whereas, major pre-departure inspection programs and activities within the aegis of the USDA include inspection of the aircraft itself, passengers, luggage, and cargo; and

"Whereas, the sole, if not key objective of such pre-departure inspection activities, is the prevention of the entry of pests harmful to agricultural production in the continental United States; and

"Whereas, official statistics indicate that nearly 21 million passengers passed through the airports of the State of Hawaii in 1977 of which total, 3,608,138 passengers were destined for the continental United States; and

"Whereas, the Hawaii State Legislature finds that the USDA lacks sufficient resources, namely, personnel and funds, to adequately perform the pre-departure inspection requirements, particularly as they relate to luggage inspection at the major airports on the Neighbor Islands; and

"Whereas, as a result of the lack of adeqaute USDA resources, the State of Hawaii through the "Airport Special Fund", is absorbing the costs for the payment of services of State of Hawaii inspectors performing federally mandated inspection activities at Hilo Airport, Kahului Airport, Ke-ahole Airport, and Lihue Airport, all located on the Neighbor Islands; and

"Whereas, experience by the State of Hawaii has clearly documented the feasibility of effectively detecting and controlling the various target pests, principal among which are those generally classified as a fruit fly, through existing luggage inspection and closely allied procedures; and

"Whereas, informed experts have voiced the firm opinion that strengthened inspection activities at the Neighbor Island airports will serve to achieve the principal objective of curtailing pest entry into the continental United States without attendant inconvenience to passengers or the effective and efficient movement of passengers through and within the State's airport system; now, therefore,

"Be it resolved by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, the Senate concurring, that Hawaii's delegation to the Congress of the United States is respectfully urged to introduce and actively support passage of legislation so vitally needed to insure adequate compliance with federally mandated pre-departure inspection requirements at the Neighbor Island airports in the State of Hawaii; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to each member of Hawaii's delegation to the Congress of the United States, the United States Secretary of Agriculture, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, the Governor of Hawaii, the Chairperson of the Hawaii State Board of Agriculture, the Director of the Hawaii State Department of Transportation, and to the Mayors of the counties of Kauai, Maui, and Hawaii of the State of Hawaii."

POM-662. A resolution adopted by the City Council of the City of Mount Vernon, New York, relating to reduction in the military budget for the purpose of shifting such funds to job-creating human resource programs and tax relief; to the Committee on Armed Services.

POM-663. A resolution adopted by the Legislature of the State of New York; to the Committee on Armed Services:

"RESOLUTION

"Whereas, The people of the State of New York enjoy a rich military heritage in the

defense of our Country which dates from May tenth, seventeen hundred seventy-five when the first victory in the American Revolution was won at Fort Ticonderoga, New York, and extends through every major conflict in which this Nation has been involved, and, therefore, would welcome and support a military presence in peacetime as well as in war; and

"Whereas, Presently there are no active Army divisions (or even brigades) north of the Mason-Dixon line and east of the Mississippi, much less in the heavily populated Northeast; and

"Whereas, The President has announced his intention to return the Second Infantry Division from South Korea to the United States, and it will need a home base; and

"Whereas, Fort Drum, Jefferson County, New York, with one hundred seven thousand acres, is the only large-size military installation in the Northeast; and

"Whereas, The assignment of the Second Infantry Division to Fort Drum would offer the following benefits to our Nation:

"(1) Provide a rapid reinforcement capability for NATO of an active Army unit which would be trained in terrain, climate and weather comparable to that found at the same time of the year in Northern Europe;

"(2) Provide opportunity for mutual support of the active Army to over one hundred fifty thousand of the seven hundred seventy-seven thousand soldiers in the Army Ready Reserve, many of whom train at Fort Drum;

"(3) Provide opportunity for soldiers recruited by the Army from the Northeast to be assigned near home occasionally;

"(4) Make greater use of the vast acreage of Fort Drum which is dedicated exclusively to military use and is currently being utilized far below its full capacity;

"(5) Provide opportunity for the Division to be assigned to a single installation in the Northeast, where troops can go daily from the billeted area into a large maneuver, range and training area, and which is comparable in size to several other Army division stations; and

"Whereas, The assignment of the Second Infantry Division to Fort Drum would bolster the economy of the entire Northern area of New York State; now, therefore, be it

"Resolved, That this Legislative Body respectfully memorializes the Honorable Jimmy Carter, President of the United States, as Commander in Chief of the Armed Forces of the United States, to order that the Second Infantry Division of the Army of the United States, as it is phased out of Scuth Korea, be billeted and installed at Fort Drum in Jefferson County, New York, which military order would, indeed, be in the best interest of the defense posture of the United States; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Honorable Jimmy Carter, President of the United States, to the Secretary of Defense of the United States, to the President Pro Tempore of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each Member of the Congress of the United States from the State of New York."

POM–664. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION NO. 28

"Whereas, our nation as a whole benefits from international traffic, but only a few designated airports and harbors bear the added costs and responsibilities in performing the port of entry duties; and

"Whereas, in the State of Hawaii, the Honolulu International Airport and the Honolulu Harbor provide space for Customs, Immigration and Naturalization, Agriculture, Public Health Service and Coast Guard to carry out the port of entry and patroling duties; and

"Whereas, the pre-clearance activities of the U.S. Department of Agriculture at Hilo, Kona, Kahului and Lihue airports are conducted on space provided at no cost by the State of Hawaii, thereby relieving the U.S. mainland airports of this responsibility in this regard; and

"Whereas, the capital improvement costs for these activities have run over $10,000,000 and the operating costs run to about $400,000 per year; and

"Whereas, the border agencies, with the exception of Customs in Honolulu Harbor, do not pay any rent.

"Whereas, at the Honolulu Harbor, Customs is billed only for a portion of the total area used by them; and

"Whereas, Public Law 87–255 permits Customs to pay for use of space; and

"Whereas, Congress has to approve funds (budget) to border agencies to pay for their use of space at the Honolulu International Airport and Honolulu Harbor; and

"Whereas, this aspect was brought up by Admiral E. Alvey Wright, former director of the department of transportation, and others, at the recent hearing before the Committee on Commerce, Science and Transportation of the Ninth Congress under the International Visitor Facilities Session held during April 14 and 28, 1977; and

"Whereas, Mr. G. R. Dickerson, Acting Commissioner of Customs, has stated in his response to Honorable Daniel K. Inouye, Chairman, Subcommittee on Merchant Marine and Tourism, that if Customs were charged by the Honolulu International Airport for use of space, thereby giving them the full control of the space and all contracting authority to alter it, Customs would be in a better position to negotiate space; and

"Whereas, the Senate amendment of the Airport and Airways Development Act Amendments of 1976 states that, '. . . In addition, Federal inspection agencies were required to pay sponsors for space used for inspecting passengers and baggage in foreign air transportation to the extent these facilities were not paid for under this provision.'

"Whereas, the Airport Operators Council International, in their statement to Honorable Daniel K. Inouye, Chairman, Subcommittee on Merchant Marine and Tourism, states that, '. . . space required by the Federal Inspection Service for the performance of their statutory functions at U.S. airports is supplied without cost to the Federal government. If all federal inspection agency operations at United States airports were financed through the regular congressional appropriations channels, as has been long authorized by law, neither the airlines nor the public airport sponsor would be required to subsidize governmental inspection functions. The inability of the inspection agencies to pay for the space they use at international airports cuts both ways. Many of our members report that, since the federal inspection services do not pay for their space, they are not as cost-conscious as other tenants and often ask for more space than is clearly needed for effective opertions; and

"Whereas, at Hilo, international arrival activities are contemplated; now, therefore,

"Be it resolved by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, the Senate concurring, that the members of Hawaii's congressional delegation are requested to introduce legislation that will provide adequate funds to border agencies using space at the international airports and harbors, thereby recognizing the added burden to the State of Hawaii and other similar states imposed by the port of entry activities; and

"Be it further resolved that copies of this Concurrent Resolution be transmitted to the Governor of the State of Hawaii, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Hawaii's congressional delegation."

POM–665. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION NO. 95

"Whereas, the responsibility for financing public assistance programs is presently shared by the State and Federal governments; and

"Whereas, this arrangement has produced wide variations among the states and local jurisdiction in the quality and levels of public assistance programs provided therein; and

"Whereas, the financial burdens borne by state and local governments are distributed inequitably, often with the least financially able being required to assume the heaviest load; and

"Whereas, an individual may be eligible for substantially different amounts of public assistance depending upon the state or local jurisdiction in which an indiivdual resides; and

"Whereas, the existence of these discrepancies circumvents a basic principle of the public assistance program, which is to ensure a decent standard of living to all citizens of the United States, and to permit all needy citizens to apply for government aid up to a minimum standard; and

"Whereas, assumption of total financial responsibility for the public assistance program by the Federal government appears to be the best means of ensuring a uniform level of assistance; now, therefore,

"Be it resolved by the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, the Senate concurring, that the United States Congress be requested to enact appropriate legislation to transfer total responsibility for financing public assistance programs to the Federal government; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the United States Congress, and to each member of Hawaii's Congressional delegation."

POM–666. A resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"RESOLUTION NO. 277

Whereas, For over six decades through two world wars and an intense civil war to hold back communism, Greece has been a fighting ally and friend of the United States, and is now an indispensible ally and the symbol of democratic government in the Balkans and Eastern Europe; and

"Whereas, Greece is essential to the security of the United States and the Free World in the Mediterranean area and is essential for the safeguarding of the American Sixth Fleet in the Mediterranean; and

"Whereas, Turkey has attacked, seized and continues to occupy forty percent of the independent island nation of Cyprus, by illegal use of United States supplied military weapons, in violation of the United States Foreign Assistance and Military Sales Acts, and in violation of the Charter of the North Atlantic Treaty Organization and the Charter of the United Nations, and in repeated and flagrant violation of four United Nation Resolutions, including unanimous United Nations General Assembly Resolution 3212; and

"Whereas, Turkey since its illegal invasion continues to colonize with Turkish Nationals the occupied forty percent of Cyprus in viola-

tion of the Geneva Convention and International Law; and

"Whereas, The humanitarian crisis on Cyprus, involving 200,000 Cypriot refugees continues; and

"Whereas, President Carter has declared that the United States foreign policy shall be committed to the rule of law and to the protection of human rights; and

"Whereas, The President has proceeded to withdraw United States aid from nations which have persisted in violations of human rights; now, therefore, be it

"Resolved, That the New York State Assembly urges the President and the Congress of the United States to exert their best efforts towards a just resolution of the Cyprus conflict, in accordance with normally accepted principals of democratic government, to effectuate a removal of all foreign troops from Cyprus, to restore the 200,000 suffering Cypriot refugees to their homes, and to restore to the people of Cyprus the right of self-determination; and their independence, sovereignty and territorial integrity; and be it further

"Resolved, That the New York State Assembly urges the President and the Congress of the United States to give generous support to the Cypriot refugees, and to continue to support Greece by annual aid authorizations and to continue the embargo on arms to Turkey until such time as Turkey is in compliance with our laws, the North Atlantic Treaty Organization Charter, the United Nations Charter, United Nations General Assembly Resolution 3212, and there is an agreed settlement to the Cyprus conflict; and be it further

"Resolved, That the Clerk of the New York State Assembly is hereby instructed to send copies of this resolution to the President of the United States, to the Presiding officer of each House of Congress of the United States and to each Senator and Representative from New York in the Congress of the United States, that they may be apprised of the sense of this body.

"Mr. Speaker, I offer this resolution with thanks to the Members of the Assembly, who have joined me for this moment of reflection and what I consider to be a vital issue of our times."

POM-667. A resolution adopted by the Board of Governors, of the Puerto Rico Bar, relating to the increase in the number of Federal Judges for Puerto Rico from three to seven judges; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

S. 2236. A bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism (Rept. No. 95-908). Referred to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, jointly, through June 22, 1978, pursuant to previous order.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Gen. David C. Jones, U.S. Air Force, to be Chairman of the Joint Chiefs of Staff, serving in the grade of general.

Adm. Thomas Bibb Hayward, U.S. Navy, to be Chief of Naval Operations.

Gen. Lew Allen, Jr., U.S. Air Force, to be Chief of Staff of the U.S. Air Force.

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nominations of Col. Kermit D. Johnson, U.S. Army, for temporary appointment to the grade of brigadier general; and Rear Adm. Sylvester R. Foley, Jr., U.S. Navy, to be vice admiral; and Maj. Gen. Edward J. Miller, U.S. Marine Corps, to be lieutenant general. Also, Lt. Gen. Howard M. Fish, U.S. Air Force, for appointment as Senior Air Force Member of the Military Staff Committee of the United Nations; and there are eight for appointment in the Reserve of the Air Force to the grade of major general and brigadier general, list beginning with Paul R. Day; and Gen. Walter T. Kerwin, Jr., age 60, Army, to be placed on the retired list in the grade of general. Also, Lt. Gen. Allen M. Burdett, Jr., age 56, Army, to be placed on the retired list in the grade of lieutenant general and Lt. Gen. William B. Caldwell III, Army, to be general. Lt. Gen. C. J. Le Van, age 55, Army of the United States, to be placed on the retired list in the grade of lieutenant general. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, Mr. President, there are 3,278 in the Reserve of the Navy for permanent promotion in the grade of commander, list beginning with Wade A. Armstrong; and there are 46 in the Marine Corps for permanent appointment to the grade of colonel, list beginning with Jerry T. Bowlin; and there are 18 for appointment in the Regular and Reserve of the Air Force to be colonel and below, list beginning with James A. Silver. Also, there are 991 cadets, U.S. Military Academy, for appointment in the Regulary Army of the United States, in the grade of second lieutenant; and Robert W. Berry to be professor of law, U.S. Military Academy, list beginning with David A. Adam; and there are 2,810 lieutenants of the U.S. Navy for permanent and temporary promotion to the grade of lieutenant, list beginning with Edwin D. Abbott. Also, there are 909 in the Naval Reserve for permanent and temporary promotion of the grade of captain and below, list beginning with Donn V. Aaby; and there are 113 in the Navy for promotion to the grade of commander and below, list beginning with Kimberly O. Viner; and there are 260 for permanent and temporary appointment in the Marine Corps to the grade of second lieutenant and below, list beginning with Robert K. Aiken. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of April 24 and May 1, 1978, at the end of the Senate proceedings.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Donald W. Banner, of Illinois, to be Commissioner of Patents and Trademarks.

The committee in executive session approved the nomination of Mr. Banner subject to the condition that he agree to disqualify himself from participating directly or indirectly in all matters coming before his office during his tenure affecting Borg-Warner, its subsidiaries and any firms in which it owns stock.

Under date of May 22, 1978, the nominee wrote the following letter to the chairman of the committee:

DEAR SENATOR EASTLAND: In accordance with your letter to me of May 17, 1978, in accepting the appointment of Commissioner of Patents and Trademarks, I agree to disqualify myself from participating directly or indirectly in any case involving a patent, application for patent, trademark registration or application for registration of a trademark; owned—presently or in the future—by Borg-Warner Corporation, any subsidiary thereof or by any firm of which I am aware that Borg-Warner Corporation owns stock.

In addition, I agree to disqualify myself from participating directly or indirectly in any other proceeding before the Patent and Trademark Office in which one of the parties is Borg-Warner Corporation, any subsidiary thereof or any firm of which I am aware that Borg-Warner Corporation owns stock.

Sincerely yours,

DONALD W. BANNER.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

The following-named persons to be members of the Board of Directors of the Inter-American Foundation:

Arnold Nachmanoff, of Virginia;

Alberto Ibarguen, of Connecticut;

Peter Taylor Jones, of California; and

Carolyn R. Payton, of the District of Columbia.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before duly constituted committees of the Senate.)

Kenneth M. Curtis, of Maine, to be a Commissioner on the part of the United States on the International Joint Commission.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before duly constituted committees of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Richard F. Kneip, of South Dakota, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Singapore.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS OF RICHARD F. KNEIP

Nominee: Richard F. Kneip.

Post: Ambassador.

Contributions, amount, date, and donee:

1. Self, $100, 1974, Frank Denholm.

2. Spouse, $100, 1976, Jim Guffey.

3. Children and Spouses, None.

4. Parents, Bernice Kneip, $10.00, 1976, Jim Guffey.

5. Grandparents, None.

6. Brothers and Spouses, Wm. Kneip, $25.00, 1976, Jim Guffey; Wm. Kneip, $100.00, 1972, George McGovern.

7. Sisters and Spouses, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Terence A. Todman, of the Virgin Islands, to be Ambassador Extraordinary and Plenipotentiary of the United States to Spain.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS OF TERENCE A. TODMAN

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Terence T. Todman.

Post: U.S. Ambassador to Spain.

Contributions, amount, date, and donee:

1. Self, None.

2. Spouse, None.

3. Children and Spouses, None.

4. Parents, None.

5. Grandparents, None.

6. Brothers and Spouses, None.

7. Sisters and Spouses, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Richard W. Murphy, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Philippines.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS OF RICHARD W. MURPHY

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard William Murphy.

Post: Manila.

Contributions, amount, date, donee, if none, write none):

1. Self—none.

2. Spouse—none.

3. Children and Spouses—none. Names: Katherine, Elizabeth, Richard.

4. Parents—none. Names: John A. and Louise H. Cook.

5. Grandparents: deceased.

6. Brothers and Spouses. Names: John D. Murphy, none; David and Edward Cook, none.

7. Sisters and spouses: None.

I have listed above the names of each member if my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Nancy Ostrander, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Surinam.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before duly constituted committees of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS OF NANCY OSTRANDER

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Nancy Ostrander.

Post: Ambassador, Surinam.

Contributions, amount, date, donee, (If none, write none).

1. Self—None.

2. Spouse—Not applicable: I have no immediate family.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DANFORTH (for himself, Mr. PACKWOOD, Mr. HEINZ, and Mr. BAKER):

S. 3127. A bill to amend the Antidumping Act, 1921, the Tariff Act of 1930, Section 801 of the Revenue Act of 1916, and for other purposes; to the Committee on Finance.

By Mr. RIBICOFF:

S. 3128. A bill for the relief of Oscar Rutstein; to the Committee on the Judiciary.

By Mr. HELMS:

S. 3129. A bill for the relief of Sven Leif Mauritzson; to the Committee on the Judiciary.

By Mr. MUSKIE (for himself and Mr. HATHAWAY):

S. 3130. A bill to settle Indian land claims within the State of Maine and for other purposes; to the Select Committee on Indian Affairs.

By Mr. CASE (for himself, Mr. BROOKE, Mr. JAVITS, and Mr. BAYH):

S. 3131. A bill to eliminate discrimination with regard to mental illness under medicare; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 3132. A bill for the relief of James C. Dodds; to the Committee on the Judiciary.

By Mr. BELLMON:

S. 3133. A bill to provide for an International Grain Reserve; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ALLEN (for himself, Mr. RIBICOFF, Mr. WILLIAMS, Mr. CLARK, Mr. CASE, and Mr. BENTSEN):

S. 3134. A bill to provide that certain statutory subsistence allowances received by State police officers will not retroactively be included in gross income; to the Committee on Finance.

By Mr. STEVENS:

S. 3135. A bill to extend until September 30, 1980, certain provisions relating to employment in the civil service; to the Committee on Appropriations.

By Mr. BAKER:

S. 3136. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH (for himself, Mr. PACKWOOD, Mr. HEINZ, and Mr. BAKER):

S. 3127. A bill to amend the Antidumping Act, 1921, the Tariff Act of 1930, section 801 of the Revenue Act of 1916, and for other purposes; to the Committee on Finance.

(The remarks of Mr. DANFORTH when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. MUSKIE (for himself and Mr. HATHAWAY):

S. 3130. A bill to settle Indian land claims within the State of Maine and for other purposes; to the Select Committee on Indian Affairs.

MAINE INDIAN CLAIMS SETTLEMENT ACT

● Mr. MUSKIE. Mr. President, on behalf of Maine's Governor and Attorney General, Senator HATHAWAY and I are introducing legislation relating to the Maine Indian Lands Claim Case.

I ask unanimous consent that a letter from the Attorney General relating to the legislation and the text of the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Maine Indian Claims Settlement Act."

CONGRESSIONAL FINDING AND DECLARATION OF POLICY

SEC. 1. Congress finds and declares that—

(1) the Passamaquoddy and Penobscot Indian Tribes have raised certain claims seeking the return of vast areas of land in Maine to which they claim aboriginal title, as well as damages from, among others, the present owners of these lands, on the grounds that the original transfers of these lands by the Tribes to the State of Massachusetts and Maine were made in violation of the Trade and Intercourse Act of 1790, or subsequent version thereof;

(2) other claims to land in Maine may be raised in the future by other Indian tribes or nations;

(3) there are many unique and complicated questions of law and fact that would be raised in the litigation of each of the claims, which would take many years to resolve;

(4) the mere pendency of these claims, irrespective of the ultimate outcome of any

litigation testing their validity, may result in irreparable damage and substantial adverse consequences to the State of Maine and its citizens, who have acted in good faith in acquiring their present titles to the lands involved;

(5) the United States has at all times since the founding of the Nation until 1975 disclaimed any and all trust or fiduciary responsibility for the Indian tribes in Maine and has permitted and encouraged responsibility to reside in the Commonwealth of Massachusetts which, upon the separation of Maine from Massachusetts in 1820, transferred such responsibility to the State of Maine;

(6) since 1820 the State of Maine, has assumed and fulfilled numerous responsibilities, including trust responsibilities, to the Indian tribes in the State of Maine with the full knowledge and approval of the Federal Government;

(7) at all times prior to 1975 the United States acted in a manner consistent with the understanding that the Trade and Intercourse Act was not applicable to Indian tribes in Maine and Massachusetts, or alternatively, consistent with the premise that, if the Trade and Intercourse Act were applicable, the transfers of land by Indian tribes in the land area now comprising the State of Maine had received the express or implicit approval of Congress;

(8) based on the actions and inactions of the United States, the States of Maine and Massachusetts, and their citizens have justifiably relied on the belief that the Trade and Intercourse Act was inapplicable to Indian tribes in said States, or if the Act were applicable, the transfers of land by Indian tribes in the land area now comprising the State of Maine had received the approval of Congress;

(9) as a result of federal court decisions in 1975, the issue has now been raised whether the Trade and Intercourse Act does apply to land transfers made by Indian tribes in the land area now comprising the State of Maine, and the United States has stated that, desepite its failure to recognize any trust or fiduciary responsibilities to these tribes for 188 years, it is prepared to bring suit against the State of Maine and innocent present landowners in the State seeking the return of vast land areas to the Indian tribes and recovery of substantial money damages on their behalf;

(10) the current problems caused by the pendency of the claims are the direct result of the United States' failure to recognize that for the past 188 years it may have had a trust or fiduciary responsibility to the Indian tribes in the State of Maine and Massachusetts under the Trade and Intercourse Act.

(11) Judge William B. Gunter, the Special Representative of President Carter, who was assigned by the President in 1977 to study the case and recommend Federal action to resolve the problem, has properly concluded that the United States is primarily liable for the creation of these problems; and

(12) in light of the foregoing, it would be unfair and inequitable for innocent parties in the State of Maine to be subject to the risks and hardships that would be caused by litigation of the claims, and justice and sound public policy require that the United States accept responsibility and liability to any Indian tribe in the State of Maine that may have transferred its land in violation of the Trade and Intercourse Act.

RATIFICATION OF ALL PRIOR LAND AND WATER CONVEYANCE AND EXTINGUISHMENT OF ABORIGINAL TITLE

SEC. 2. (a) All claims, including but not limited to, claims for possession, occupancy or trespass against any State or subdivision thereof, or any other person or entity by any Indian involving any transfer of lands or waters located within the State of Maine from, by or on behalf of any Indian, including but not limited to, transfers pursuant to State statutes, is hereby extinguished and the exclusive remedy for any claimant shall be a claim against the United States under Section 3 of this Act. This section shall not be deemed to constitute a finding by Congress that any provision of the Constitution or any laws of the United States were applicable to any such transfer.

(b) To the extent that any transfer of lands or waters described in subsection (a) may involve lands or waters to which any Indian had aboriginal title, subsection (a) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer.

(c) As used in this Act, the phrase "lands or waters" shall include any interest in or right involving lands or waters; the term "transfer" shall include, but not be limited to, any sale, grant, lease, allotment, partition, conveyance, release, quitclaim, cession, adverse possession or any event or events that resulted in a change in possession or control of lands or waters or a relinquishment of rights in lands or waters, including, without limitation, hunting and fishing rights, and the terms "Indian" or "Indians" shall include any Indian, Indian tribe, nation, band or other identifiable group of Indians.

RECOVERY AGAINST THE UNITED STATES

SEC. 3 (a) Any Indian, whose claim to occupancy, possession or trespass was extinguished by Section 2 of this Act shall have the right to maintain an action against the United States for damages on the grounds that the transfers, when made, were in violation of the laws of the United States. The Court of Claims shall have exclusive jurisdiction to hear any such claim under the provisions of 28 U.S.C. § 1505.

(b) The amount of any judgment awarded under this section shall equal the value of the claimant's interest in the land or water at the date of transfer, less any payments made in consideration of the transfer plus reasonable annual simple interest from the date of the transfer to the date of judgment. Any judgment in favor of a claimant shall include reasonable expenses, including attorney and expert witness fees.

(c) Every claim for which jurisdiction is hereby established in the Court of Claims shall be barred unless a claim is filed within six years from the effective date of this Act.

JURISDICTION OF THE STATE

SEC. 4. Any lands currently held or hereafter acquired by any Indian in the State of Maine, or any persons residing or found thereon, shall be subject to all laws of the State of Maine.

STATE OF MAINE,
Augusta, Maine, May 19, 1978.

Re: Indian Land Claims
Hon. EDMUND S. MUSKIE,
Russell Building,
Washington, D.C.

DEAR ED: Enclosed is a bill designed to implement the proposal outlined in Governor Longley's letter to you of May 9, 1978, and which the Governor and I discussed with you that date.

As I stated in that meeting, I think the concept embodied in this bill is fair for several reasons. First, it transfers the obligation to resolve this claim to the Federal government where it rightly belongs. Second, it provides a mechanism to determine the amount of compensation, if any, that should be provided to the Indians. Third, it converts the claim to an action for money damages and eliminates the possible economic cloud that might be cast upon eastern Maine were the case to be heard in the normal course in the United States District Court.

I am convinced that the bill will withstand constitutional challenge. Unrecognized aboriginal title, which is the title asserted by the Maine Indians, is not protected by the Fifth Amendment to the Constitution of the United States and these claims may, therefore, be retroactively extinguished on any terms the Congress deems fair. See e.g.: *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272 (1955) and *United States* v. *Atlantic Richfield*, 435 F. Supp. 1009 (D. Alaska, 1977) and *Edwardsen* v. *Morton*, 369 F. Supp. 1359 (D. D.C., 1973). For a complete analysis of the constitutional basis for this approach, I recommend you review the recent paper of the American Land Title Association entitled "Indian Land Claims under the Non-Intercourse Act: The Constitutional Basis and Need for a Legislative Solution."

The proposed legislation would not create a potentially unlimited liability for the Federal government. Under section 3(b) the bill establishes the method of computing the award, if any, that the claimants could potentially recover. It should be noted that this formula is consistent with case law. See e.g. *United States* v. *Klamath and Moadoc Tribes*, 304 U.S. 119 (1938); *United States* v. *Creek Nation*, 295 U.S. 102 (1934); and *United States* v. *Cherokee Nation*, 202 U.S. 101 (1906). In general, the Supreme Court has affirmed the reasonableness of using 5% simple interest in computing awards regarding Indian lands. The formula in the bill is also more generous than the formula used by the Indian Claims Commission, which generally awards no interest to successful claimants. See 25 U.S.C. § 70a and annotations. In addition to providing a procedure to resolve currently pending claims, the mechanism in this bill is equally applicable to latent claims by other Indian groups in Maine (e.g. the Micmacs or Maliseets).

I understand that there has been some concern expressed that this legislative approach might not be the best solution to the problem and might encounter legislative opposition. Nevertheless, I believe this approach is fundamentally fair and will result in a resolution that the parties and history will accept. For that reason, the Governor and I have requested your support for this concept and we have asked you to introduce this particular bill. To the extent any member of the delegation believes that an alternate approach is appropriate or desirable, he is perfectly free to negotiate such an approach directly with Indian representatives.

It may be that there are certain aspects of the bill which, upon reflection, may need modification. I am sure, however, that the legislative process will result in refinements.

I trust you will advise me when the bill is introduced and will keep me apprised of its status.

Sincerely,

JOSEPH E. BRENNAN,
Attorney General.●

By Mr. CASE (for himself, Mr. BROOKE, Mr. JAVITS, and Mr. BAYH):

S. 3131. A bill to eliminate discrimination with regard to mental illness under medicare; to the Committee on Finance.

MEDICARE MENTAL ILLNESS NONDISCRIMINATION ACT

● Mr. CASE. Mr. President, today, joined by my colleagues Senators BROOKE, JAVITS, and BAYH, I am pleased to introduce the Medicare Mental Illness Nondiscrimination Act, S. 3131. At the present time, medicare does not pay the costs of mental illness to the same degree it pays for the costs of physical illness. My bill, which would equalize coverage for the treatment of mental illness under medicare with other types of illness, would eliminate a gap in the provision of quality health care for those over 65.

Today, the elderly comprise one-tenth of our population. Within the next 30 years, their numbers may well increase to one-fifth. And this large group of Americans does not now receive needed mental health services. This fact was noted by the 1971 White House Conference on Aging but, unfortunately, further attention was not paid to it until the Report of the President's Commission on Mental Health was released last month.

In 1971 we knew, and we still know, that the elderly are disproportionately subject to emotional and mental problems. They lead the World Health Organization's list of incidences of new cases of psychopathology of all types per 100,000 population at a staggering 236.1, compared to 93 in the next lower age category. The elderly account for 25 percent of all suicides and are more readily affected by many common emotional problems, complicated in part by their growing physical and sensory incapacities.

We know that if the predictions of the Biometry Division of the National Institute of Mental Health hold true, by 1980 about 80 percent of the elderly persons who need assistance for emotional disturbances will never be served.

As far back as I can remember, when people talked about mental illness they did so in hushed tones. There was a feeling of shame for the families of the mentally ill, a stigma attached to any mental disorder. Unfortunately that stigma has not yet been completely erased. The problem of mental illness itself remains with us, too, and in much greater quantities than many people realize.

The problem of mental illness is a particularly difficult one for the elderly to deal with, both in terms of recognition and treatment. It is wrong for us to have laws that discriminate against senior citizens who are troubled by some form of mental illness, compared to those who have an illness that is completely physical in nature.

I believe it is time for us to eliminate this form of discriminaton as well as to face the reality of mental illness in general and the mental health problems of the elderly in particular.

There continues to be a stigma attached to mental illness. In an article in the New York Times last year, Rosalynn Carter deplored the fact that:

> We reject those who are the most vulnerable because they have been branded by the old labels that evoke fear or repulsion.

The elderly who are mentally ill are doubly vulnerable to inattention because it is not easy for them to ask for help in general and for medical treatment for mental, emotional, or nervous disorders in particular.

Over its 13-year history, medicare has made it possible for senior citizens to meet their physical health care needs with dignity. This is not true for their mental health care needs. An estimated 15 to 25 percent of older persons have significant mental health problems.

Nonetheless, the elderly make up less than 2 percent of those cared for in private psychiatric settings and less than 4 percent of those seen in public outpatient mental health clinics. Part of the problem is fear—fear of asking for help, fear of loss of dignity. The other part, however, is financial. Medicare does not provide adequately for mental health care, and so, more often than not, the needs of the elderly with mental problems are never met.

The goal of the legislation I am introducing today is to eliminate the special restrictions placed on mental health treatment under medicare. Elimination of the 50–50 copayment and enactment of the standard 80–20 copayment now used for physical health care will go a long way to ease the large cost burden imposed on those in need of mental health services.

Elimination of the 190-day lifetime limit for in-patient psychiatric care and substituting the "spell of illness" definition employed for the rest of medical care will result in greater attention being paid to appropriate placement in proper facilities for those in need of mental treatment as inpatients.

Elimination of the annual $250 ceiling on outpatient treatment for mental, emotional and nervous disorders will result in greater utilization of outpatient services.

When mental health care is provided, it can have the effect of lowering the costs of other health care services as much as 50 percent for the average patient.

The Social Security Administration estimates the cost of this legislation to be approximately $45 million annually. That figure represents less than two-tenths of 1 percent of the dollars spent on supplementary medical insurance benefits under part B of medicare and less than one-half of 1 percent of the part A benefits. But there will be substantial savings under my proposal because the $45 million figure does not reflect the savings which would be realized from anticipated lower hospitalization expenditures or the substitution for existing part B expenditures.

In addition, this estimate does not reflect the increased productivity of a well person nor does it include the immeasurable benefit of being able to live with dignity.

I do not believe that medicare patients suffering from a mental illness should be singled out from all other older persons on medicare for less than equal treatment. I do believe that mentally ill medicare patients should be afforded the highest quality of care for as long as it is needed. This is the recommendation of the President's Commission on Mental Health, and the legislation I am introducing today can help make that recommendation a reality.

I ask unanimous consent, Mr. President, that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medicare Mental Illness Non-Discrimination Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) mental illness is more prevelant in elderly persons than in younger adults;

(2) in spite of potential benefits of treatment, elderly persons are not represented proportionately in the mental health care delivery system;

(3) medicare benefits must be equalized to better assure care in appropriate institutional settings for those elderly persons in need of such services;

(4) full outpatient care must be available for those elderly persons with mental, emotional or nervous disorders which do not require institutional care;

(5) elderly persons comprise 10 percent of the general population of the United States but account for 25 percent of the suicides;

(6) 80 percent of the elderly persons who need assistance for emotional disturbances by 1980 will not be able to receive assistance under the present system; and

(7) since its enactment 13 years ago, those sections of title XVIII of the Social Security Act restricting coverage for mental illness have not been revised and inflation has, in effect, further reduced the limited coverage originally envisioned by Congress.

(b) It is the purpose of this Act to provide for coverage of mental illness on an equal basis with coverage of other illness.

MEDICARE PROVISIONS

SEC. 3. (a) Section 1812(b) of the Social Security Act is amended—

(1) by striking out "(subject to subsection (c)" in the matter preceding paragraph (1);

(2) by inserting "or" at the end of paragraph (1);

(3) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(4) by striking out paragraph (3).

(b)(1) Section 1812 of such Act is amended by striking out subsection (c) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Section 1812(d) (as redesignated by paragraph (1)) is amended by striking out "(c) and (d)" and inserting in lieu thereof "and (c)".

(c)(1) Section 1833 of such Act is amended by striking out subsection (c) and redesignating subsections (d) through (h) as subsections (c) through (g), respectively.

(2) Section 1866(a)(2)(A) is amended by striking out the last sentence thereof.●

● Mr. BAYH. Mr. President, I am very pleased to join today as a cosponsor of the legislation introduced by my good friend and colleague, CLIFFORD CASE, which is designed to provide increased coverage under medicare for mental health services. It is clear to me that despite the fact that we are witnessing what has been termed "the graying of America," we have done too little to make sure that our Nation's older citizens are receiving adequate health care. In an age where 1 out of every 10 Americans is over the age of 65, I believe that we must reexamine current insurance practices provided under the medicare system to make sure that they are responsive to both the mental and physical health needs of our older Americans. The legislation we are introducing today is a first step in that direction in that it revises current discriminatory and restrictive practices under medicare regarding the coverage for treatment of mental health disorders.

Briefly, the legislation we are introducing would accomplish three changes in the present medicare program. First, it would change the copayment structure under medicare so that the same structure would exist for mental and physical

disorders. Presently, all physical health disorders require an 80/20 ratio of payment, while mental disorders require a 50/50 copayment. This discriminatory payment structure forces many of our elderly to choose betwe[illegible] food and housing or [illegible]ental health care.

Second, the legislation would eliminate the 190-day lifetime limit for inpatient psychiatric care, and would substitute the "spell of illness" definition required for all other forms of illness.

Last, the legislation would remove the annual $250 ceiling on outpatient treatment. Surely during a time of escalating costs for hospital stays, we must do more to encourage outpatient treatment for all disorders, mental or physical.

In the next 30 years, it has been estimated that nearly 1 out of every 5 of our citizens will be over the age of 65. Marked increase in emotional disturbances among our older citizens is clearly reflected in the statistic that shows that 25 percent of all suicides in our Nation are made up of those over 65. Sadly, current estimates also show that about 80 percent of those older Americans in need of treatment for emotional disturbance will never be served. In order to correct this appalling situation, I urge the Congress to consider the worthwhile legislation we introduce today.●

By Mr. BELLMON:

S. 3133. A bill to provide for an international grain reserve; to the Committee on Agriculture, Nutrition, and Forestry.

INTERNATIONAL GRAIN RESERVE ACT OF 1978

● Mr. BELLMON. Mr. President, I am today introducing legislation intended to provide for an international food reserve. Their is strong feeling that such a reserve is needed to provide food assistance in times of difficulty. Details as to how the reserve is acquired and released must be carefully written or such a reserve may be used to destroy producer incentives and thus reduce the world's food supply.

The bill I am proposing today provides the Secretary the right to acquire up to 250 million bushels of grain for an international grain reserve. The approach I have taken differs, however, from the approach taken by the administration and others. I propose that the international reserve program be composed both of Government-held and producer-held stocks.

TYPE OF RESERVE

This reserve is to be primarily a producer-held international grain reserve, similar in concept but different in design from the producer-held domestic grain reserve now in place.

The reserve will consist primarily of wheat and other grains in amounts and kinds selected by the Secretary of Agriculture. He may include fortified foods.

ACQUISITION

Producers may elect to put wheat or other grain into the reserve program on a first-come, first-serve basis up to the level of stocks desired by the Secretary to be held in the reserve. The maximum amount of producer-held grain stocks which the Secretary is authorized to secure is 200 million bushels. Producers are permitted to rotate stocks to prevent spoilage or deterioration. The producer is responsible for maintaining the quality of grain placed in the reserve.

Producers electing to participate in the international reserve shall receive a support price of up to $.50 above the national support price for grain at the time of their election. Storage payments will be made by USDA and interest payments by the producer shall be waived. Producers who attempt to withdraw grain prior to the proper release point shall be subject to penalty. The penalty shall be repayment of any storage payments received, payment of accrued interest, and remittance of the $.50 additional support price received plus other penalties the Secretary may ascribe.

RELEASE

Grain in the international reserve may be released only under the following circumstances:

First. For the purpose of providing emergency humanitarian relief in any foreign country which suffers a major disaster, as determined by the President.

Second. For the purpose of assisting any developing country to meet its food requirement in any year in which there has been such a severe shortfall in food production, as determined by the Secretary, as to warrant the use of the International grain reserve for such purpose.

Third. To fulfill any reserve stock obligations of the United States under the Wheat Trade Convention.

Upon a determination by the President or the Secretary that grain is needed for the specified purposes, the Secretary may order delivery of grain from the producers participating in the reserve by either of the following three procedures:

(1) If the market price reaches a level above 125 percent of the established target price set for that respective year, the Secretary of Agriculture may order delivery of the grain as needed.

(2) When the President declares that the need requirements of the previous sections have been met, the Secretary is authorized to order delivery of the grain from producers upon payment to the producer of 125 percent of the established target price regardless of existing market prices.

(3) Should the market price reach 175 percent of the established (target) price, the producer is free to sell the grain at his discretion, provided, however, that the Secretary has not previously called for delivery at the 125 percent of established price.

ADDITIONAL RESERVE PROGRAM

The Secretary is further authorized to purchase or acquire up to 50 million bushels of grain to remain in possession of CCC to be disposed of in accordance with the previously stated circumstances of the reserve program and only for those purposes. The Secretary may purchase this grain when he deems appropriate and is authorized to rotate these stocks for quality maintenance. Such stocks may be processed into fortified foods at the Secretary's discretion. The acquisition price shall be the market price at the time of purchase for the 50 million bushels of grain.

Mr. President, Americans have a long record of helping people in need. Their generosity has been extended to both friend and foe and to every race and creed. Grain producers share this spirit of generosity and over time have produced the abundance that makes such generosity possible. There is a well founded reason for producers as well as taxpayers to be concerned about an international food reserve, no matter how nobly motivated, which places in the hands of the Secretary of Agriculture the control of a large volume of commodities. Past experience has shown that under these conditions secretaries have yielded to consumer pressures and have dumped commodities on the market in an effort to depress prices. Such actions, if continued over any extended period of time, will destroy the economic strength of agriculture and make it impossible for American grain producers to meet the demands of domestic as well as foreign customers. The only lasting food security comes from a prosperous agriculture which has both the will and the means to produce an abundance.

The approach taken in this legislation is similar to that used in establishing the producer-held reserve. That reserve, while it has only recently come into operation, seems to be working to the mutual advantage of producers and consumers. Already several hundred million bushels of grain have been placed in the reserve. This has a stabilizing effect on current markets and will have a further stabilizing effect as producers take grain out of the reserve during times of high prices.

An international grain reserve which allows the Secretary of Agriculture control of hundreds of millions of bushels of grain can only be looked upon as dangerous. Politically, it would be impossible for a Secretary to resist the pressures and temptation to uitilize this grain for political advantage. The procedure set forth in this bill will serve the needs of those who look to the United States for help in time of trouble. At the same time, it will remove the threat producers see in large Government-owned stocks of grain.

I urge the Senate's adoption of this proposal while stocks of grain are high and available.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Grain Reserve Act of 1978".

SEC. 2. (a) The Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") shall establish a reserve to be known as the International Grain Reserve (hereinafter in this Act referred to as the "Reserve") which shall be used solely for the purposes described in section 4.

(b) The Reserve shall be composed of wheat and other grains. The Secretary shall contract with producers from time to time for such quantities of grain as may be necessary to insure a Reserve of not less than 200 million bushels of grain.

SEC. 3. (a) Grain for the Reserve shall be provided by producers who agree to store and maintain for the Reserve specified quan-

tities of grain. Each producer participating in the Reserve program shall be responsible for the quantity and quality of the grain such producer agrees to store and maintain for the Reserve.

(b) In addition to any price support loan or other price support benefit for which any producer may be eligible in connection with any grain placed in the Reserve by such producer, the Secretary shall pay such producer a special support payment of up to 50 cents per bushel (or equivalent price where a different unit of measure is used).

(c) The Secretary shall reimburse producers for storage costs incurred in the storage of grain for the Reserve.

(d) No interest shall be charged on loans made by the Secretary and secured by grain placed in the Reserve.

(e) Notwithstanding the foregoing provisions of this section, any producer who withdraws any grain from the Reserve prior to the release thereof by the Secretary shall be required to pay the storage costs on such grain, to pay interest on any loan made by the Secretary and secured by such grain, and forfeit entitlement to the special support payment provided for under subsection (b) of this section and shall be subject to such other penalties as the Secretary may prescribe.

(f) Producers shall be permitted, in accordance with regulations prescribed by the Secretary, to rotate their stocks of grain in the Reserve in order to prevent spoilage or deterioration of such grain.

(g) When ordered by the Secretary producers shall deliver grain held by them for the Reserve to local delivery points within 30 days.

SEC. 4. (a) Stocks of grain in the Reserve may be ordered delivered by the Secretary from the Reserve only for the following purposes:

(1) to provide emergency humanitarian relief in any foreign country which has suffered a major disaster, as determined by the President;

(2) to assist any developing country to meet its food requirements in any year in which the Secretary determines there has been a shortfall in food production of such severity as to warrant the use of the stocks of the Reserve for such purpose; and

(3) to meet any reserve stock objectives of the United States that may arise under the Wheat Trade Convention.

SEC. 5. Whenever the Secretary determines that the stocks of the Reserve are necessary for one or more of the purposes described in section 4, the quantity determined by the Secretary to be necessary shall be purchased from producers participating in the Reserve program. The price to be paid to any such producer for such stocks shall be determined as follows:

(1) If the market price for the commodity concerned at the time of purchase is equal to or greater than 125 percent of the established price currently in effect for such commodity, the Secretary shall pay an amount equal to 125 percent of the established price for such commodity.

(2) If the market price for the commodity concerned at the time of purchase is less than 125 percent of the established price currently in effect for such commodity, the Secretary shall pay an amount equal to 125 percent of the established price for such commodity.

SEC. 6. Notwithstanding any other provision of this Act, if at any time the market price for the type of commodity which any producer has in the Reserve is equal to or greater than 175 percent of the established price currently in effect for such commodity, such producer may, after notifying the Secretary, remove such commodity from storage and sell or otherwise dispose of such commodity unless the Secretary has previously called for delivery of such commodity. In any case in which any producer withdraws a commodity from the Reserve under authority of this section, the provisions of section 3(e) shall apply with respect to the quantities of the commodity withdrawn from the Reserve by such producer.

SEC. 7. The Secretary is also authorized to purchase at market price up to 50 million bushels of wheat and other grain for the purposes of this Act. Grain purchased under this section shall be retained in the stocks of the Commodity Credit Corporation and may not be used for any purpose other than those described in section 4. The Secretary may rotate grain acquired under this section to prevent spoilage or deterioration.

SEC. 8. The Secretary is authorized to fortify limited quantities of grain purchased under authority of this section when he deems such action appropriate to carry out the purposes of this Act.

SEC. 9. The stocks of the Reserve provided for in this Act shall be acquired and maintained separately from the stocks of any other reserve provided for by law.●

By Mr. ALLEN (for himself, Mr. RIBICOFF, Mr. WILLIAMS, Mr. CLARK, Mr. CASE, and Mr. BENTSEN):

S. 3134. A bill to provide that certain statutory subsistence received by State police officers will not retroactively be included in gross income; to the Committee on Finance.

TAX TREATMENT OF STATE POLICE TROOPERS

● Mr. ALLEN. Mr. President, on May 11, 1978, I offered an amendment to H.R. 9251, a bill reported by the Senate Committee on Finance. My amendment was the substance of S. 2872, a bill I had previously introduced which would allow a tax exemption for subsistence allowances paid to State troopers and other law enforcement officers. At that time, the distinguished Senator from Connecticut, Mr. RIBICOFF, indicated that he felt that the proposal might well have some merit and that he would support hearings for the measure in the Subcommittee on Taxation and Debt Management of the Committee on Finance. With that understanding, I withdrew my amendment, and indeed, my distinguished colleague from Virginia, Mr. BYRD, has agreed to hold hearings on June 19 to study the proposal and to hear testimony with respect to it.

Mr. President, the bill I am introducing today, on behalf of myself, Mr. WILLIAMS, Mr. CLARK, Mr. BENTSEN, Mr. CASE, and Mr. RIBICOFF, is a modified version of the proposal I originally submitted. This bill is drawn somewhat more carefully than the previous proposal and is designed to limit the exemption provided to the existing practice prior to the recent U.S. Supreme Court decision in Kowalski.

For many years now, in Alabama, our State troopers and other law enforcement officials have been allowed a subsistence allowance provided by statute of $5 per day. The Internal Revenue Service has decreed that this subsistence allowance would be treated as taxable income and the service has been supported in that conclusion by the Supreme Court; however, for many years, police officers have relied on various decisions in the Circuit Courts of Appeal which have indicated that statutory subsistence allowances of the sort provided by law in Alabama are not taxable income. This recent change in longstanding practice, occasioned by the decision of the Supreme Court, is unjust, unfair, and must be corrected. I, therefore, sincerely hope that action will be taken before the adjournment of this Congress to ameliorate the impact of this unfortunate reversal in longstanding tax law.●

● Mr. WILLIAMS. Mr. President, I am pleased to join with my distinguished colleague, the Senator from Alabama (Mr. ALLEN), in introducing legislation to lift an unbearable, retroactive tax burden that has been unfairly imposed on thousands of State police troopers across the Nation. This burden results from a Supreme Court decision (Commissioner of the Internal Revenue Service against Robert J. Kowalski) handed down on November 29, 1977, which declared that meal allowances paid to State troopers are taxable income.

For many years, my own State of New Jersey and 14 other States have provided cash allowances for meals to their State police troopers. The States have not viewed these allowances as compensation, but as reimbursements for work-related expenses important to the proper performance of the troopers' duties, which often carry them far from home. The allowances range from $450 to about $2,800 per person per year, depending on the State.

In 1972, the Internal Revenue Service audited the 1970 tax return of a New Jersey State trooper who had declared only a portion of his meal allowance as taxable income. The IRS concluded that he should have paid taxes on all of his meal allowance because it was income received and not subject to exclusion under the law. The trooper sought review of the IRS decision in the U.S. Tax Court on the grounds that the allowance was furnished for the convenience of the employer and not compensatory, and, therefore, not taxable income. With six of its members dissenting, the Tax Court held against the trooper, who then carried his case to the Third U.S. Circuit Court of Appeals, which decided in his favor. Other appeals courts have also held that State troopers' meal allowances are not taxable income. On the appeal of the IRS to the Supreme Court, the Court last year reversed the appeals court rulings and found against the trooper.

As a result of the Supreme Court decision, the IRS has begun to audit individual tax returns of State troopers in order to claim back taxes on meal allowances. These audits are expected to reach eventually as many as 9,000 troopers in 15 States. Some troopers face retroactive tax obligations dating back 3 years, the maximum period of tax liability under the statute of limitations. Others, including the troopers in New Jersey, will be forced to pay taxes on meal allowances retroactive to 1971. Acting in reliance on the rulings of appeals courts, these individuals waived the statute of limitations in order to forestall tax assessments pending the Supreme Court's action on the Kowalski case.

Mr. President, the Supreme Court's Kowalski decision and the determination of the IRS to collect local taxes on the meal allowances place thousands of State troopers and their families on the brink of financial ruin. Numerous letters which I have received from State troopers reveal that individual retroactive tax obligations totaling thousands of dollars are the rule rather than the exception. In some cases, troopers owe an incredible $6,000 plus interest. Such assessments will surely wipe out the financial security of individuals whom the Supreme Court admitted in its decision "are not handsomely paid to begin with."

Some troopers have found that the only alternative to bankruptcy is a second job. Already, the New Jersey State police superintendent has approved moonlighting requests for 24 of his men. Requests for permission to take side jobs have seldom exceeded two per year.

Our State troopers perform one of the toughest jobs imaginable, and our citizens' safety and well-being depend on them. The crushing tax assessments they face place added mental and physical strains on our troopers that can only destroy their morale and jeopardize their effectiveness.

The IRS insists that the law does not permit it to waive the tax obligations, and so legislative action is necessary. The measure I have joined in sponsoring today would remove any retroactive taxes on State troopers' meal allowances prior to January 1, 1978. Any meal allowances provided after that date would, however, be subject to taxation as ordinary income.

Mr. President, the basic issue before us is whether or not our tax laws are to be applied fairly and reasonably. Unless action is taken soon, a great many people will needlessly suffer severe financial harm. The legislation we introduce today would insure that our troopers and their families receive the fair tax treatment they deserve.

I ask unanimous consent that a list of those States whose State police departments have been affected by the Kowalski decision be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

STATE POLICE/HIGHWAY DEPARTMENT AFFECTED BY THE KOWALSKI DECISION

Alabama, Arkansas, Colorado, Connecticut, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Missouri, New Jersey, New Mexico, North Dakota, South Dakota, West Virginia.●

By Mr. STEVENS:

S. 3135. A bill to extend until September 30, 1980, certain provisions relating to employment in the civil service; to the Committee on Appropriations.

CIVIL SERVICE EMPLOYMENT

● Mr. STEVENS. Mr. President, today I am introducing a bill to extend until September 30, 1980 certain provisions of civil service law which otherwise will expire on September 4, 1978. These provisions of law, commonly referred to as the Whitten amendment, were attached as a rider to an appropriations act during the Korean war. The effect of the law was to last until the termination of the national emergency, declared on December 6, 1950. That national emergency, among others, was terminated on September 14, 1976 by legislation with a proviso that most legislation based on the terminating national emergencies would expire 2 years later, that is, September 14, 1978.

The Whitten amendment contains four provisions of substantive civil service law. One, it requires that initial appointments to the civil service be temporary or conditional so as to restrain the growth of the civil service. Two, it prevents rapid promotion within the civil service so as to protect against political abuse. Three, it mandates that the Civil Service Commission review and, if appropriate, reclassify or abolish positions within the civil service. Four, it requires the Commission to report to Congress on the above matters.

The expiration date is less than 4 months away. Rather than introduce a bill which would permanently affect the civil service and thus require drawn-out hearings, I am introducing a bill that would simply extend the present law's effect for 2 years to give us the opportunity to take a long look at these provisions.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1310 of the Supplemental Appropriation Act, 1952, as amended (5 U.S.C. 3101 note) is amended by striking out "termination of the national emergency proclaimed by the President on December 6, 1950" in the matter immediately preceding subsection (a) and inserting in lieu thereof "September 30, 1980".●

By Mr. BAKER:

S. 3136. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments; to the Committee on Environment and Pubic Works.

TVA ENVIRONMENTAL FINANCE BILL

● Mr. BAKER. Mr. President, I send to the desk for introduction and proper referral a bill to amend the Tennessee Valley Authority Act to provide that future expenditures by the TVA for pollution control facilities may be credited against required power investment return payments and repayments.

In recent years growing environmental concern has led to extensive capital investments throughout the electrical power industry. In order to encourage such investments and to minimize the impact upon rates the Congress has provided rapid tax writeoffs for private electric companies. These tax provisions have softened greatly the impact upon consumer costs of environmental controls investments by these companies.

The TVA is unable to take advantage of these provisions even though it is required by law to make substantial payments to the Federal Treasury.

The proposal which I now introduce would correct this inequity in a simple logical way: TVA, under Public Law 86–137, pays each year an annual "dividend" on the Federal Government's appropriation investment in TVA's power facilities, plus another $20 billion annually to retire a portion of that appropriation investment.

This bill provides that expenditures by the TVA for certified pollution control equipment—as defined in the U.S. Tax Code—required in connection with the TVA power program be credited against required payments to the Treasury.

Without this measure both the substantial investment costs of pollution control equipment and the annual payments to the Treasury would force rapidly increasing TVA power rates even higher. With the measure these rates should stabilize somewhat even in the face of other inflationary factors.

It is a strange paradox that under present Federal law, private companies can obtain huge write-offs for expenditures on pollution control equipment—on the ground that this equipment produces benefits to the general public; while TVA gets absolutely no credit for its expenditures on such equipment. These costs under TVA are passed directly on to the power user in his monthly bill. This measure is designed to correct that inequity.

I ask unanimous consent that the bill and a memorandum explaining in greater detail the need for this legislation be printed in the RECORD.

There being no objection, the bill and memorandum were ordered to be printed in the RECORD, as follows:

S. 3136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Tennessee Valley Authority Act of 1933 is amended by inserting immediately at the end of section 15d the following new subsection:

"(1)(1) Beginning with fiscal year 1975, and each fiscal year thereafter, the Corporation shall be entitled to a credit against the payments required as a return on the appropriation investment in power facilities and the annual repayment sum established for such fiscal year in the first sentence of subsection (e) of this section in an amount equal to the amount actually expended by the Corporation during the preceding fiscal year for any certified pollution control facility. The return on the appropriation investment in the Corporation's power facilities required to be paid by such first sentence of subsection (e) shall be reduced in an amount equal to such credit in the same manner and to the same extent as if such credit were a payment in cash. In any fiscal year when the amount expended by the Corporation for a certified pollution control facility or facilities exceeds the payments required as a return on the appropriation investment for the next fiscal year, the amount in excess of such payment requirement shall be applied, as a credit against the annual repayment sum for the next fiscal year and the appropriation investment required to be repaid by such first sentence shall be reduced in an amount equal to such credit in the same manner and to the same extent as if such credit were a repayment in cash. In any fiscal year in which the amount expended by the Corporation for a certified pollution control facility or facilities

exceeds both the payments required as a return on appropriation investment for the next fiscal year and the annual repayment sum established for such fiscal year, the amount in excess of such return payments and annual repayment sum shall be applied to the reduction of the appropriation investment required to be repaid by such first sentence in addition to both the credit against the appropriation investment return payment for such fiscal year and the reduction in such investment required as a result of the credit against the annual repayment sum for such fiscal year.

"(2) For purposes of this subsection, the term "certified pollution control facility" means a new identifiable treatment facility which is or will be used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

"(A) the Board has certified to the Environmental Protection Agency as being constructed, reconstructed, erected, or acquired in conformity with programs or requirements for abatement or control of water or atmospheric pollution or contamination; and

"(B) the Administrator of the Environmental Protection Agency has certified to the Secretary of the Treasury or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).".

MEMORANDUM: PROPOSAL TO CREDIT TVA FOR ENVIRONMENTAL INVESTMENTS

NATIONAL REQUIREMENTS AND POLICY FOR ENVIRONMENTAL ENHANCEMENT

In recent years a number of national requirements have been placed on various private and public activities for control of air and water pollution. The requirements have been established by legislation such as the Water Pollution Control Act, the Clean Air Act, the Solid Waste Disposal Act, the National Environmental Policy Act, amendments to the acts, Executive Orders, and regulations to implement the acts.

Improvement of the environment is a significant enough national goal to merit national financial support through various means:

1. Direct federal appropriations are provided for pollution control at many federal installations. These include military bases, industrial production facilities, naval vessels, GSA buildings, and recreational areas.

2. Federal grants are provided to state and local governments for many pollution control activities. (Presently, water pollution abatement facilities are eligible for 75 percent federal grants.)

3. Private industry is provided with various tax relief devices to ameliorate the cost of pollution control equipment as well as other investments in facilities. It is estimated that a private firm can recapture, through various tax provisions, within five years, 57.7 percent of a $10 million investment in a new facility. (This is not the maximum possible but a theoretical projection based on investment of $800,000 in land, $3,200,000 in building, $5,400,000 in production equipment, $500,000 in office fixtures, $100,000 in transportation equipment. Building is depreciated by straight-line method. The Asset Depreciation Range (ADR) is utilized. The investment tax credit is taken in the 1st year. Non-building is depreciated by sum-of-the-years digits method.)

TAX RELIEF FOR INVESTMENT

The tax provisions related only to pollution control equipment include the five year amortization provided for facilities installed in existing plants and tax-exempt status for state and local revenue bonds used for pollution control. Other provisions of the tax law provide for investment credits for new plant (7 percent for most industry, 4 percent for regulated utilities) and Asset Depreciation Range (ADR—which provides for a 20 percent alteration of the depreciation life of equipment) which would be available for new plants regardless of whether for pollution control or production.

At the time the pollution control amortization provision was considered, it was estimated that cost to the federal government in tax revenues foregone would be as follows:

[In millions]

1970	$40
1971	130
1972	230
1974	380
1979	400

The full year effect of investment credit is estimated at $3.3 billion annually in federal taxes foregone.

The annual benefits of the asset depreciation range to industry is estimated at $2.5 billion.

Each firm makes its own decision as to which tax procedures, if any, will be most beneficial to use in according for new investments or additions to old facilities.

For example, Consolidated Edison of New York reported to stockholders an income of $144,781,000 for 1972 yet paid no federal corporate tax (received a credit of $1,091,000). American Electric Power reported an income of $168,103,000 and received a credit of $6,-700,000 in 1972. In both cases, other provisions of the tax law may have been employed to achieve the credit status. Not all firms are in this situation.

Other types of federal assistance have been authorized by the Congress. For example, a Small Business Loan program to aid private firms in meeting pollution control requirements was established by the Federal Water Pollution Control Act of 1972. The same legislation established an Environmental Financing Authority to assist local governments in financing the 25 percent local funds required under the act.

ALL CITIZENS SHARE IN COST

Thus, because of the national requirements for and the national benefits from enhancement of the environment, all the people share in the attaining of the goal through tax advantages granted to industry and through other programs. In theory, an industry is able to make the required control improvements without the total cost being passed on to either the owners, workers, or customers of the particular firm.

A significant and unintentional inequity in this respect exists for at least one group of citizens—the consumers of electric power produced by the Tennessee Valley Authority.

Inasmuch as the TVA power consumer is the sole source of revenues for operation and improvement of the system, the TVA consumer has been burdened with the total cost of attaining the degree of water and air pollution control imposed by national requirements. These are nonrevenue producing expenditures for the TVA system as well as for private firms.

On the other hand, a similar investment requirement on a private firm has opportunities for recapture of a portion, if not all, of the cost through various tax laws. The capital fund requirements of local governments are lessened by federal grants for water pollution control. Most other federally owned installations are provided with pollution control facilities through direct appropriations.

TVA—A UNIQUE NATIONAL ASSET

Because of the unique charter, purpose, and function of TVA, none of the previously listed conditions apply to this system.

The TVA electric power system has some characteristics of privately owned power systems and some of publicly owned systems such as co-ops and municipals but is not exactly comparable to either.

A privately owned system is organized and operated as a profitmaking venture. Its management selects areas of service and establishes rates to maximize this objective.

An electric co-operative is owned by the people it serves and its objective is to maximize the availability of its services at the lowest possible cost to the consumer-owner.

A municipal system is owned by the people of the city being served and its operational objectives are established by the people through their local government organization.

In the event any of these three kinds of systems are liquidated, those who have paid for the system, as stockholders or as consumer-owners, share in the proceeds from the sale after debts are satisfied.

This is not the case with the TVA.

The TVA was organized by the federal government, through the Congress, to achieve certain national objectives as stated in the TVA Act, that is, to provide for the national defense and enhance the nation generally through the physical, social, and economic development of the area in which it operates.

TVA sells electric power to distributors, a few large industries and government, and, since 1959, financing of the system has been entirely by the consumers of the power. Yet those who are paying for the system through the consumption of power would not share in proceeds of liquidation or in any appreciation of the system as would stockholders of a private system or the consumer-owners of a cooperative.

The federal government is the total owner of the TVA system and is the beneficiary as generating facilities financed by bonds are repaid by the consumers of the power.

In addition, the Congress has established the bounds of the TVA service area, has set out the power rate objectives as well as the rate structure policy, decisions in which other systems have flexibility.

As a by-product of this federally established and owned system the consumers in the TVA service area, as directed by the rate structure policy, have realized slightly lower electric rates made possible by the efficiencies in operation of the system.

POLLUTION CONTROL EXPENSE

To put TVA consumers on a comparative basis in respect to environmental improvement with consumers of privately produced electric power outside the TVA service area, the federal government should make a recognition of and assume the cost of federally required air and water pollution control programs.

Analogous treatment for TVA consumers could be provided through legislation which amends Section 15d to provide that the cost of air and water pollution control equipment be certified as a credit and payment in lieu of that required as dividends and repayment of appropriations.

Coverage would be for equipment installed to meet various standards imposed by legislation which was unanticipated at the time of the 1959 Bonding Act.

LEGISLATIVE PROPOSAL

The proposed legislation would provide that in Fiscal Year 1975 and following, the certified pollution control expenditures by the TVA for the preceding year would be a credit against the dividend requirement and annual repayment sum of $20 million that year. Should the certified pollution control expenditures in the previous year exceed these requirements, the sum in excess would be applied to reduction of the appropriation investment required.

(The TVA amendments of 1959 established a repayment requirement of $1 billion on the appropriations for power plants of approximately $1.2 billion. After the balance of the $1 billion is satisfied, interest would always be required on the remaining $200,000,000 of appropriated funds—and the government will continue to be total owner of the property and improvements which have been paid for by revenues from TVA power consumers.

The TVA board would certify the environmental control investments to the EPA which would certify them to the Treasury as being in compliance with federal regulations and in furtherance of the U.S. policy to prevent water and air pollution.

Although no appropriations would be required under this proposal, the effect would be to afford consumers of TVA power with a treatment similar to that of privately owned facilities in regard to the pollution control investment. Cost of operation of the facilities would still be totally borne by consumers of TVA power. The details of TVA power operations have been established by the Congress after extended debates through the years. This proposal would not alter any of these details concerning area of service, rates for electricity, and rate structure policy.●

ADDITIONAL COSPONSORS

S. 2790

At the request of Mr. CRANSTON, the Senator from Maryland (Mr. MATHIAS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Texas (Mr. TOWER), the Senator from Utah (Mr. GARN), the Senator from Indiana (Mr. LUGAR), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 2790, the Renegotiation Exemption Act of 1978.

S. 2791

At the request of Mr. CRANSTON, the Senator from Maryland (Mr. MATHIAS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Texas (Mr. TOWER), the Senator from Utah (Mr. GARN), the Senator from Indiana (Mr. LUGAR), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 2791, the Renegotiation Abeyance Act of 1978.

S. 3007

At the request of Mr. DOLE, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 3007, a bill to disregard certain changes since 1975 with treatment of individuals as employers for taxation purposes.

S. 3050

At the request of Mr. MAGNUSON, the Senator from Oregon (Mr. MARK O. HATFIELD), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 3050, a bill to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.

S. 3065

At the request of Mr. HANSEN, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 3065, the Investment Incentive Act of 1978.

S. 3045

At the request of Mr. ALLEN, the Senator from Oregon (Mr. MARK O. HATFIELD), and the Senators from North Carolina (Mr. MORGAN and Mr. HELMS) were added as cosponsors of S. 3045, to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products.

SENATE RESOLUTION 462—SUBMISSION OF A RESOLUTION DISAPPROVING REORGANIZATION PLAN NO. 2 OF 1978

Mr. STEVENS (for himself and Mr. MATHIAS) submitted the following resolution, which was referred to the Committee on Governmental Affairs:

S. RES. 462

Resolved, That the Senate does not favor the reorganization plan numbered 2 transmitted to the Congress by the President on May 23, 1978.

Mr. STEVENS. Mr. President, today the Congress received from the President of the United States his reorganization plan for the reform of the Federal Civil Service. Senator MATHIAS and myself have serious reservations about some provisions included in the Civil Service Reform Act of 1978. The reform legislation is inseparable from the reorganization plan. We strongly favor civil service reform as a further means of improving the operations of Government. However, the President's submission put the Congress in the unfortunate position of being pressured to make final decisions on a reorganization plan within the next 3 months.

The plan—an integral part of the administration's comprehensive reform package—is inextricably intertwined with S. 2640, a 128-page document now being considered by our Committee on Governmental Affairs. This committee was able to just begin markup of this legislation yesterday. Several of the administration's key witnesses who appeared before this committee during the past few weeks testified about the interrelationship. We can cite several examples.

First, under the reorganization plan, most of the functions and powers of the bipartisan Civil Service Commission would be transferred to the Director of the Office of Personnel Management. The Director would have the responsibility to assure compliance with the civil service law. This means that one individual serving at the pleasure of the President will have enormous and unique power to directly affect the quality of the civil service. S. 2640, on the other hand, includes important safeguards against political and personal favoritism. The Governmental Affairs Committee needs to carefully consider the legislation to determine whether the safeguards in the legislation deal adequately with the added risks, or whether the Nation would be better served by having a bipartisan body as the central personnel agency.

Second, important administration initiatives such as the Senior Executive Service might be imperiled by first deciding through a reorganization plan that a White House-controlled Office of Personnel Management would exercise important powers with regard to the Executive Service. (S. 2640, title IV.) The committee may conclude that certain major features in the Senior Executive Service are clearly in the public interest, provided a bipartisan body, whose members are removable only for cause, is heading the central personnel agency instead of a Director serving at the will of the President.

Another aspect of the plan which is disturbing involves the authority of the Director of the Office of Personnel Management to conduct an unlimited number of research and demonstration projects in order to improve personnel policies and programs. For these demonstration projects, each of which could affect up to 5,000 individuals, the central personnel agency would be authorized to completely set aside practically all civil service laws except those few dealing with such matters as annual leave, insurance, and annuities. (S. 2640, title VI.) The committee might conclude that it would be in the public interest to authorize a more limited grant of power to set aside laws for research and demonstration purposes. It may further conclude that this authority should be exercised only by a central personnel agency headed by a bipartisan body.

Mr. President, it is clear that these and other proposals in S. 2640 should be carefully considered on their merits, without having predetermined the organization as proposed by the President. Once these decisions are made, we should proceed with dispatch to consider organizational changes that will permit the most effective administration of the laws. We must not allow this to preempt the committee's deliberations of the comprehensive and far-reaching changes in civil service laws proposed in S. 2640 in favor of deciding first on an organizational structure to executive what we have not yet decided.

Therefore, we strongly object to the administration's reorganization plan for the civil service.

AMENDMENT SUBMITTED FOR PRINTING

FEDERAL-AID HIGHWAY AUTHORIZATIONS—S. 3073

AMENDMENT NO. 2233

(Ordered to be printed and to lie on the table.)

Mr. ZORINSKY (for himself and Mr. ANDERSON) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 3073) to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

● Mr. ZORINSKY. Mr. President, on September 30, 1977, I introduced S. 2164, a bill which recognizes the Federal Government's responsibility for alleviating some of the adverse impacts brought about by America's growing dependence on coal mined from the Western States. This legislation is cosponsored by Senators ANDERSON, HART, HASKELL, GRAVEL, HUMPHREY, and RIEGLE.

Specifically, S. 2164 authorizes Federal funding for grade separations and relocations in communities which find themselves bisected by increasing numbers of unit coal trains from the Western mines.

Where a community experiences a highway/rail grade crossing conflict, aggravated by the growing number of coal trains, grade separations, and relocations are often the only means available to assure emergency vehicles, commercial traffic, and normal vehicular traffic continuous access to the community's streets and highways.

Since September 1977, numerous Federal, State, and private studies have been published, indicating that reliance on America's great rail transport system is the most efficient, and most readily available, solution to the problem of how to carry Western coal to Eastern markets. But each of the studies also notes that adverse social impacts, resulting from highway/rail grade crossing conflicts, must be addressed as part of the overall cost of relying on the railroads.

In order to begin to address the highway/rail conflict problem in this session, Senator ANDERSON and myself intend to offer an amendment to S. 3073, the Federal-Aid Highway Act of 1978, to provide funds for grade separations and relocations. The immediate need for this legislation was recognized by the House Committee on Public Works and Transportation by its inclusion of a similar provision in the House companion legislation, H.R. 11733.

As we noted in testimony on this issue before the Senate Committee on Environment and Public Works, the present level of funding for highway and rail grade crossings safety, in light of unit coal train traffic, is inadequate. Much of the present grade crossing funds are, and should be, earmarked for signaling. Grade separations and relocations are expensive projects. Sufficient construction leadtime is vitally important and mandates immediate additional funding in S. 3073.

Our testimony in support of this legislation appears at pages 7000 and 7286 of the CONGRESSIONAL RECORD for March 15, and 16, 1978, respectively. If you have any questions, or would like to lend your support to this important amendment, please contact Chip Terrill (4-6551) or Sam Stern (4-5641) of our staffs.

I ask unanimous consent that the text of our amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2233

On page 50 immediately after line 24, insert the following new section 137 and renumber the following sections accordingly:

ENERGY IMPACTED RAIL-HIGHWAY CROSSINGS

SEC. 137. (a) Chapter I of title 23, United States Code, is amended by inserting at the end thereof the following new section:

"§ 157 Energy impacted rail-highway crossings

"(a) The Secretary is authorized to apportion funds made available for the purpose of this section for projects to separate or relocate rail-highway crossings where (1) the rail facilities have incurred a substantial increase in use as a result of coal transportation activities to meet national energy requirements, (2) will continue to incur such use for such purpose resulting in substantial delays in highway travel, and (3) such crossings are part of principal routes used by emergency vehicles. Such apportionment shall be without regard to allocations under apportionment formulas otherwise established under this title.

"(b) Such funds authorized under this section shall be apportioned to the States in the ratio that total energy impacted rail-highway crossings in each State bear to the total of such impacted crossings in all States.

"(c) There is authorized to be appropriated out of the Highway Trust Fund for the purpose of this section, not to exceed $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981 and September 30, 1982."

(b) The analysis of chapter I of title 23 of the United States Code is amended by adding at the end thereof the following:

"157. Energy impacted rail-highway crossings." ●

LABOR LAW REFORM ACT OF 1978—H.R. 8410

AMENDMENTS NOS. 2235 THROUGH 2239

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE submitted six amendments intended to be proposed by him to the bill (H.R. 8410) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

NOTICE OF HEARING

SUBCOMMITTEE ON AGRICULTURAL POLICY

Mr. STONE. Mr. President, I wish to announce that the Agriculture Subcommittee on Foreign Agricultural Policy will hold a hearing on Thursday, May 25, 1978, at 9 a.m. in 324 Russell Senate Office Building. The purpose of the hearing is to hear administration witnesses discuss the import situation regarding winter vegetables. This is a followup to a previous hearing held last March.

ADDITIONAL STATEMENTS

FEDERAL FOREST POLICY

● Mr. JACKSON. Mr. President, on May 8, Senator CHURCH delivered a major forest policy speech before the annual meeting of the National Forest Products Association here in Washington. Senator CHURCH's speech focuses both on the traditional principles of Federal forest management and the problems which we must face in the future. I call this important speech to the attention of my colleagues and ask that it be printed in the RECORD.

The speech follows:

FEDERAL FOREST POLICY BALANCE, FORESIGHT AND STEWARDSHIP

As I look around this room and see so many forestry experts, I am reminded of the story of the young boy who, when visiting his grandfather's country store, used to slip into the backroom, stick his finger in the barrel of molasses kept there, and then lick it clean. One day, the level of molasses in the barrel had dropped down to the point where the boy had to reach so far inside the barrel that he fell in. As the youngster stood up in the midst of the barrel, covered from head to foot with sticky molasses, he looked heavenward, assumed a prayerful pose, and said: "Lord, may my tongue be equal to this occasion."

Over the past few months, I have been in the middle of a struggle here in Washington which may very well determine the future of the forest products industry in the West. So I guess by now, I'm pretty well covered with molasses. All I can say is, I hope my tongue holds out.

First, there was the legislative battle with the Department of Agriculture over the timber sale bidding provisions of the National Forest Management Act of 1976. Misconstruing that law as requiring the abandonment of traditional sale methods in the West, the Forest Service switched from oral auctions to sealed bids. As many of you know, that move threatened to completely rip apart the already thin economic fabric holding together many small lumber communities, often sustained by a single sawmill. When those of us in Congress who understood the importance of oral auction bids to such communities tried to restore oral bidding, we came up against a formidable array of opponents. Not only did we have to counter the Justice Department which seemed to regard all western timber operators as conspirators in restraint of trade, but we had to overcome the determined opposition of the Department of Agriculture, the President himself, and The Washington Post, which chose to make the issue a cause celebre. In the end, the President decided not to veto our bill, which had taken 15 hard fought months to move through Congress. The fact that we had prevailed by more than two to one margins in both houses may have had something to do with his decision.

The issue that now confronts us is the search for a solution to the roadless area problem. At stake is the future use of some 150 million acres of federally owned roadless land managed either by the Forest Service or the Bureau of Land Management. The question to be resolved is what part of this total should be wilderness and what portion should be made available for logging, mining, and other multiple-use purposes. But before addressing this perplexing issue, I want to restate some underlying themes which have defined our traditional approach to both public and private forestry in America. To do that, let's turn back the clock for a few moments to 1864. . . . and consider the first principle: permanent forests.

PERMANENT FORESTS: THE FIRST PRINCIPLE

It was in that year, over a century ago, that a former member of Congress from Vermont, a lawyer, linguist, and lumberman named George Perkins Marsh, wrote a book describing how man had the singular ability to alter nature and, if this were done heedlessly, to destroy himself in the process. His book, entitled Man and Nature, appeared at a time when American confidence in the inexhaustibility of our natural resources was reaching its peak. In that period, to almost everyone, America's wealth—especially the vast expanse of her forests—appeared endless. In fact, the only national policy then in effect for the timberlands of the public domain was one of disposal by the most expedient means. George Marsh, however, had travelled extensively throughout Europe and had recorded the destruction of that continent's forests. "In most parts of Europe," he wrote, "the woods are . . . nearly extripated."

Marsh argued that the European forests should be replanted, and he urged a vigilance over our own woodlands in order to avoid similar destruction. He said that if a tree was cut, proper stewardship dictated that a seedling should be planted to take its place.

"The planting of the mountains," he said, "will diminish the frequency and violence of river inundations, prevent the formation of torrents, mitigate the extremes of atmospheric temperature, humidity, and precipitation, restore dried up springs, . . . shelter the fields from chilling and parching winds, (and) . . . furnish an inexhaustible and

self-renewing supply of a material indispensable to so many purposes of domestic comfort, to the successful exercise of every art of peace, every destructive energy of war."

The philosophy espoused by George Perkins Marsh in Man and Nature, as amplified and expanded by Teddy Roosevelt, Gifford Pinchot and others of their day, eventually formed the basis for the multiple-use, sustained-yield policy which now governs the management of our national forests. They championed a principle which must always be the first tenet of that policy: the perpetuation of our forests.

THE SECOND PRINCIPLE: A PLAN FOR THE FUTURE

Today, over a hundred years after Man and Nature first appeared, we have learned many other conservation lessons. We know that even a nation as bountifully endowed as the United States must treat its land, its water, and its woods with care. We have come to realize that it is folly to extract resources without considering the impact of these actions on the surrounding environment. We have been forced to recognize that a good life cannot be long sustained on a falling water table, an eroded farm, or a field of abandoned tree stumps.

Experience has also taught us the value of planning, the second principle of prudent forest management. In recognition of this need, Congress in 1974 enacted Senator Hubert Humphrey's Forest and Rangeland Renewable Resources Planning Act. This forward looking law set up a two step process to anticipate future forest and rangeland needs and to channel our investment into programs that will help to satisfy those needs.

Every ten years, the country's forests and rangelands—both public and private—are to be inventoried and assessed by the Secretary of Agriculture. Then, once every five years, a program designed to meet expected demands in each of the next four decades is to be developed by the Forest Service, taking into account the findings of the ten-year assessment.

Finally, with the enactment of the Resources Planning Act, we have the means to put an end to piecemeal forest management. This law, in conjunction with other federal conservation statutes, provides us with a sound framework for anticipating the requirements of thc future.

As George Marsh said:

"(A)mong the most obvious duties which this age owes to those that are to come after it, are . . . the preservation of existing woods, and the far more costly extension of them where they have been unduly reduced."

And, so it must be.

A CAREFUL AND JUDICIOUS BALANCE OF FOREST USES: THE THIRD PRINCIPLE

When the first federal forest reserves were established in 1891, two reasons were given: the protection of vital watersheds, and the assurance of an adequate national inventory of softwood timber.

In the years that followed, as other uses of the national forests increased, so did the scope of Forest Service management. Opportunities were opened for grazing, hard-rock mining, and outdoor recreation. As each user competed for forest resources, one began to get in the way of the other. A third management principle emerged: the establishment of a judicious balance of forest uses.

Recently, we have seen increasing polarity among the competing forest user groups. This polarity, centered largely around the issue of wilderness, is proving to be both costly and self-defeating. Yet, I remain convinced that it is possible to satisfy both sides: through greater renewal and rehabilitation efforts, it is possible to have more wood and more wilderness.

Let me illustrate that point by referring to some interesting statistics that Tom Orth gave me concerning the results of intensified management within his own company, Kirby Lumber. That company has 635,000 acres of forestland and they spend $5 million a year on reforestation, and other activities. Contrast that figure with what the federal government is talking about for the millions and millions of acres of private woodlands covered under the Forestry Incentives Program: $15 million. We can't get the job done that way. What has Kirby Lumber's $5 million a year produced on their 635,000 acres of land? It has produced an increased yield that has tripled over the years. Of course, we can have more wood and more wilderness if our forests are sufficiently financed and adequately managed.

Wilderness is a vital part of America's heritage, and we are a nation rich enough to preserve ample tracts of wildlands in their natural state.

"It is desirable," George Marsh wrote, "that some large and easily accessible regions of American soil should remain, as far as possible, in their primitive condition, at once a museum for the instruction of the student, a garden for the recreation of the lover of nature, and an asylum where indigenous tree, and humble plant . . . and fish and fowl and four-footed beast, may dwell and perpetuate their kind, in the enjoyment of such imperfect protection as the laws of a people jealous of restraint can afford them."

Such was the reasoning which prompted Congress to establish the National Wilderness Preservation System in 1964. However, the role of wilderness in our overall land management activities has never been fully understood. Wilderness is part of a larger equation, which extends to the protection and preservation of our fragile but vital upland watersheds. Moreover, by designating some lands as wilderness, it follows that more intensive use should be made of other lands, such as our working forests.

SOME REMAINING PROBLEMS: TIMBER SUPPLY AND TAXATION

Even though we have come a long way in forest management since the time of George Marsh, many tasks remain unfinished. I would like to touch briefly on three areas of particular concern to me: timber supply, production incentives for private woodlot owners, and the national forest roadless area issue.

According to an article in the April 7 Wall Street Journal, housing starts in 1978 are expected, at a minimum, to reach the 1.7 million level. Although that figure is below the 2 million starts recorded in 1977, it is still quite high, given the recent increases in home mortgage interest rates. The children of the "baby boom" years are now entering the housing market, and we can expect housing starts to remain high for the next several years. That side of the coin spells good news for the wood products industry.

The other side of the coin, the supply side, however, presents some major problems. If we are going to harvest enough timber to meet our housing needs, some changes in timber supply policies must soon be made. Furthermore, if we set out to slow down inflation, as the President recently suggested, by stopping the spiraling cost of lumber, then more timber must be made available for harvest from both public and private lands.

At present, the national forests supply about 27 percent of our lumber and plywood needs. These forests represent only 18 percent of our country's commercial forest land but contain 52 percent of the standing inventory of softwood saw timber. Thus, the best opportunity for increasing the supply of timber must be found in our national forests. To increase the cut on these lands in a manner consistent with our long-term goals, I suggest the following steps be taken:

The Administration, working in harmony with Congress, should call for increased funding for Resource Planning Act programs, including timber sales. The RPA programs should be funded at no less than 85 percent of the ideal level for the coming fiscal year and 100 percent thereafter.

Forest Service manpower ceilings, which severely restrict agency programs, should be lifted. Part-time Forest Service employees in technical areas such as timber sales, environmental assessment, and engineering, should be moved into permanent positions.

And, finally, Congress should set up a revolving trust fund, similar in nature to the Land and Water Conservation fund, to provide adequate money for forest management. Payments into the fund should come from timber sale receipts and be used to finance needed access roads, sale preparation, and intensive reforestation and rehabilitation programs.

With regard to the private sector, first and foremost, we must preserve the capital gains treatment of woodlands now afforded private timber growers. Through this arrangement, we give our woodlot owners incentive to keep growing trees. But we must also explore other means to check the loss of private timberlands to other purposes, a loss now estimated to involve upwards of 10 million acres a year. For instance, one proposal I have seen recently would provide an investment tax credit for reforestation. The tax credit would be at a rate of 25 percent of the initial cost up to a ceiling of $5000 per year, and at a rate of ten percent thereafter. Second, the proposal would provide for a seven-year amortization of these costs. Legislation of this nature has been proposed by Congressman Weaver, Chairman of the House Subcommittee on Forests, with whom I work closely.

RARE II

Finally, let me say a word about the national forest roadless area issue, and the RARE II project now being completed by the Forest Service.

The objective of the RARE II program, as I understand it, is to speed up the decision-making as it relates to the future use of roadless areas within the National Forest System. To the degree that we can allocate these lands, we serve two important purposes. First, we remove some of the uncertainty about the lands to be made part of our working forests, so that the wood products industry can plan ahead, and, second, we get a handle on what may be the ultimate size of the National Wilderness Preservation System.

The inventory phase of the RARE II program, completed last November, identified some 66 million acres of roadless land. I am hopeful that the ongoing evaluation phase of the program will generate enough information and foster a consensus among forest user groups sufficient to settle the larger part of this total.

However, expectations that RARE II will solve the whole roadless area issue, once and for all, are, in my opinion, much too optimistic.

Certainly there are areas of roadless land under study in RARE II which clearly ought to be given full wilderness protection, because they possess unique ecological values or superlative wilderness characteristics, and because they present little conflict with other uses. It should be possible to earmark them for wilderness classification without much controversy.

By the same token, there are other roadless areas which have no distinguishing wilderness characteristics, and which have not been singled out for preservation. They are obviously best suited for other uses—including timber, minerals, and non-wilderness recreational opportunities. For these areas, as well, there ought to be a minimum of controversy.

The problem is that even the easy decisions have been tied up in so much red tape—extended studies, appeals and litigation—that a logjam has developed that must be broken. If we are to arrive at a timely solution, then all sides must take their blinders off and give some attention to the other side's point of view.

I know that at least part of the reluctance of the lumber industry to accede to more wilderness stems from a fear that the areas identified in RARE II as being best suited for multiple-use will not actually be opened for logging, but instead will remain snarled in a bureaucratic morass.

Those fears are not unfounded. When RARE II is completed at the end of this year, the Forest Service will recommend that a number of the roadless areas be made wilderness by act of Congress. But no one in the Forest Service, or elsewhere, knows what will be done with the so-called "multiple-use" lands, the roadless areas not selected for wilderness or further wilderness study. Present thinking is that these areas would be returned to multiple-use management after the issuance of the required environmental impact statements. That route would be effective only if the final environmental impact statement is not subsequently challenged. However, any person or group whose members use any roadless area for any purpose, be it just an occasional walk in the woods, would probably have standing to challenge the legal adequacy of such a statement. That is what happened in the first roadless area review. Thus the opening to resource development of any of the multiple-use areas could be delayed for years if the environmental impact statements were challenged in the courts.

As I see it, one way to finalize multiple-use decisions reached in RARE II is the same way it is done for wilderness decisions, namely, by act of Congress. The enactment of appropriate legislation would assure that the areas slated for multiple-use management will be opened for development without inordinate delay.

Perhaps, such legislation could follow the formula used earlier this year to successfully resolve the controversy over the Gospel-Hump roadless area in Idaho.

For years, the future use of this area of the Nezperce National Forest had been in dispute. Idaho conservationists wanted to see the magnificent alpine uplands of the region protected as wilderness, while local timber companies had long planned on cutting trees on the lower elevations of the area. Although the Forest Service spent several years trying, it just couldn't resolve the Gospel-Hump controversy and eventually had to suspend several planned timber sales within the area, threatening log supplies for the mills.

In late March last year, I helped bring the two sides together to seek a common agreement.

After several months of serious give-and-take, the wilderness advocates and the local businessmen finally came up with a joint plan for the area and, at their request, I introduced legislation to implement their allocation and management decisions. As is true with any compromise, neither side got everything it wanted. However, the recent enactment of the Gospel-Hump package has led to the creation of a splendid new upland wilderness, along with the release for multiple-use management of 137,000 acres of prime commercial forest land. Congress, in effect, said, "If we are going to make this upland area wilderness, then we must take those lands surrounding the wilderness which do not need further study, and which are best suited for development, and free them from further administrative appeals and litigation."

The Gospel-Hump approach, if it could be successfully applied to RARE II, would be one way to reach some final decisions about some of the remaining roadless areas and, in the process, bring a greater measure of certainty to the wood products industry in the West.

CONCLUSION

The judicious and responsible stewardship of our forefathers has left us with an immense patrimony of valuable forest lands. In coming years, as demands on our forests continue to grow, so will the challenges to forest management. If we meet those challenges, if we strive to preserve and perpetuate our woods, to balance carefully competing forest uses, and keep an eye on the future, only then will we have a rich inheritance to pass along to our progeny. Only then will it be possible to say, at the end of our years, "We did our part." ●

ANGOLA: THE BLACK STRUGGLE AGAINST COMMUNISM

● Mr. GARN. Mr. President, when Americans think of anti-Communist freedom fighters, they tend to think of Hungarians struggling against Soviet guns in 1956, or Czechs fighting almost unarmed against Soviet tanks in 1968, or they may think of Berliners risking and losing their lives to breach the satanic wall that divides a free people from a subject one. Occasionally, they may think of Cubans rotting in the jails of Havana, or holding out in the hills of Camaguey, or refugees embarking on frail rafts from Cambodia or Vietnam. Though communism may have become respectable to many of the important people of the world, it has never earned the respect of the unfortunate masses condemned to live under its yoke. And, it is encouraging that they resist, whether we understand and support their struggle or not.

Today, in southern Africa, there are new freedom fighters, created by the Cuban-backed Communist victory in Angola. Determined to drive out the Cuban occupation forces, and to end the rule of Castro's puppet regime in Luanda, this new anti-Communist resistance operates over large areas of northern and southern Angola, and has confined the authority of the Marxist regime only to those areas which its troops can constantly patrol.

It may have escaped the attention of White House aides, busy ferreting out human rights violations in South America, that the Cubans are not alone in repressing black Angolans by force of arms. The Marxist puppet government is also propped up by several thousand Nigerian troops, who in fact are patrolling the cities of Angola so that the Cubans can beat the countryside in search of anti-Communist guerrillas.

And who keeps the Nigerians there, Mr. President? Lt. Gen. Olusegun Obasanjo, military dictator of Nigeria, who a month ago welcomed President Carter to Nigeria with open arms, and lectured the United States on democracy and colonialism. At the time, President Carter told reporters:

It'll be hard for General Obasanjo and I to find differences between us. We have a good relationship and a good basis for discussion.

And last week, President Carter welcomed Kenneth Kaunda of Zambia to our own shores, stating that the two of them have the same view of what Africa should be like. Then Kaunda denied to reporters that there was anything at all wrong with Cuban troops being in Africa. After all, he said, they were invited.

If President Carter sees eye to eye with General Obasanjo, and shares Kenneth Kaunda's view of Africa, he is extremely naive. Unfortunately, the foreign policy he shapes affects all of us. We cannot easily escape being implicated in the inept foreign policy emanating from the Carter White House. Fortunately for the sake of freedom in southern Africa, there are some, like the Angolan freedom fighters who are less concerned with diplomatic niceties between heads of state than they are with the dirty job of fighting Cuban and Nigerian mercenaries in the field.

A headline in the London Sunday Telegraph of April 2 tells the story: "Cubans Wipe Out 70,000 in Angolan Terror." No doubt President Carter missed the article, busy as he was preparing an attack on wicked American lawyers and doctors, but for the edification of Andrew Young, or anyone else who thinks that Castro's mercenaries are a "stabilizing force" in Africa, I ask that the entire article be printed at this point in the RECORD.

The article follows:

[From the London Sunday Telegraph, Apr. 2, 1978]

CUBANS WIPE OUT 70,000 IN ANGOLA TERROR

(By Norman Kirkham)

Cuba has unleashed a reign of terror across northern Angola in a hidden war against Right-wing guerrillas.

Civilians have been machine-gunned and hundreds of villages bombarded or burned down during an offensive to try to stamp out opposition to the Marxist Government.

More than 70,000 civilians are estimated to have died so far at the hands of thousands of Cuban and African troops. Women and young girls have been raped and their homes looted.

I talked to survivors of the holocaust during a two-week trek of 300 miles into the Angolan bush with a platoon of the guerrillas from Dr. Holden Roberto's National Front F.N.L.A. army.

DAWN ATTACKS

Tanks and armoured cars with helicopter support have attacked sleeping villages at dawn and people have been shot down as they tried to escape. MiG jets are also bombing forests with napalm to try to force out fleeing refugees.

I learned that the attacks are being followed by compulsory evacuation from the insurgent north of thousands of children aged between 10 and 17 who are being flown out for "education" in Havana.

Parents too terrified to try to resist the Government orders believe that their children are wanted for cheap labour on Cuban sugar plantations and that they will never see them again.

Villagers told me that those who tried to question the actions of the Cubans and Government troops were liable to be shot. Hundreds of civilians had also been rounded-up and taken to prison.

The Cuban depredations have been spread over the last six months and in several previous purges of the north which have not been publicised because the Government of President Neto has kept Western journalists and observers away from the areas of conflict.

I was smuggled across the Zaire border to join the F.N.L.A. guerrillas and was the first

British journalist to be allowed to accompany them.

During our arduous journey through deep forest and hill country I found ragged, barefoot refugees whose children are dying for lack of medical attention. A total of one million are believed to have fled from their homes and are trying to hide in the bush.

Dr. Castro has sent 25,000 Cuban troops to help President Neto fight the F.N.L.A. and the separate army of the U.N.I.T.A. independence movement which controls wide areas in the south.

Despite its overwhelming superiority in fire power the Cuban force has suffered heavy losses over the last three years.

Up to 8,000 are believed to have been killed, and several thousand more casualties have been flown for hospital treatment in Russia and Eastern Europe to avoid a hostile public reaction at home.

The Cubans have been following up their northern offensive in the last few days by dispatching reinforcements southward to launch a similar campaign against U.N.I.T.A.

We moved cautiously, Indian file, through the rain forest and shoulder high elephant grass. It was one of those limpid African mornings, silent with heat, which overwhelm one with a sense of peacefulness. Nevertheless, scouts had been sent on ahead of us; there was danger, even here. And then, as if to confirm it, we saw a Mig fighter bomber flashing silver against the sun high overhead. It looked innocent enough. But up there at the MiG's controls, scanning the bush below through his cockpit canopy, was a Cuban pilot. How many helpless refugees had he strafed, I wondered. How many villages had he napalmed?

Not far away, across a range of hills shimmering in the heat, there were more Cubans, I knew. And Russian tanks . . .

We were in the heartlands of Northern Angola, deep in the bush. My companions were 20 guerrilheiros of the Frente Nacional de Libertacao de Angola, with whom I had already travelled more than 100 miles, on foot, to reach this point along the grim trail of carnage we had been following. In the eyes of the Marxist Government at Luanda and of its supporters in Moscow and Havana, these men were terrorists; in their own, they were members of the F.N.L.A. army fighting to rid this vast, primitive land of a cruel and foreign-dominated dictatorship.

What I had already seen in the course of my arduous trek with the guerrilheiros tended to confirm their own image of themselves. There was ample evidence that Cuban-led Government troops had resorted—and were still restoring—to appalling repression of the Northern Angolans. From panic-stricken villagers I had learnt of dawn massacres, the machine-gunning of unarmed civilians, of pillage, rape and indiscriminate napalm attacks. At least 70,000 men, women and children have been killed so far (a figure which may even be an underestimate according to observers in London). Entire communities have been wiped out.

Standing there amid the quietness of the African bush, shading one's eyes against the brilliant sunlight, it required an effort of the imagination to think in terms of such atrocities. But there was the MiG, twinkling menacingly overhead. . . .

Literally hundreds of villages across Northern Angola have been attacked, most of them over the past six months, in an offensive to drive out the anti-Government guerrillas and their supporters. The same merciless tactics have been used repeatedly to crush selected targets, with Russian T 52 tanks and armoured cars manned by Cubans, surrounding villages at first light and then unleashing a hail of machine gun, mortar and bazooka fire.

Sometimes the villagers are rounded up and taken to prison. Often those who do not escape are simply mown down outside their homes. Women and young girls are raped. Huts are stripped of furniture and valuables. Churches are demolished and bibles burned.

While I was inside Angola I learned of a new horror: an edict had been proclaimed by the military authorities in Luanda that children aged between 10 and 17 from "rebel" villages should be evacuated to Cuba. Officially they are undergoing this forced emigration so as to be educated and indoctrinated as good little Communists in Havana. But their bewildered parents believe the real reason is that they are to be used as cheap labour on Cuba's sugar plantations. A contemporary version of the slave trade? The irony would be staggering if these poor people turned out to be right. And the extent of Cuban influence in Angola today suggests that their suspicions may not be ill-founded.

Dr. Castro's biggest expeditionary force in Africa, 25,000 troops, has been flown and shipped from Havana to Luanda over the past three years. With them have come 50,000 Cuban civilians and technicians, 5,000 Russian advisers and another 14,000 helpers from Eastern Europe to form the spearhead of Communist imperialism looming over so much of the continent.

Few details of Angola's hidden war have filtered to the outside world. The Marxist regime of President Agostinho Neto, which is threatened by separate guerrilla forces in both the North and South, does not permit Western observers or journalists to witness the military operations of those who keep him in power. So I had entered the country by the back door, slipping across the border from Zaire, then moving south to meet refugees in the Madimba region.

My mission was first suggested several months ago at an interview in a Maida Vale flat with Mr. Daniel Chipenda, General Secretary of the F.N.L.A., and confirmed with another envoy who introduced himself as "Mr. Pedro" over coffee in the lounge of the Great Northern Hotel, Kings Cross, a popular meeting place for commercial travellers.

John Banks, the ex-paratrooper who helped to recruit 250 British mercenaries to fight for the guerrillas two years ago, was also there and his presence was to cause an unexpected hitch in my plans.

The guerrillas took the precaution of informing Special Branch of their intentions to take a Fleet Street journalist to Angola, and the Foreign Office reacted promptly by issuing a public warning that the F.N.L.A. was again in contact with British mercenaries. This in turn brought a threat from the Angolan Government to shoot Britons on sight—not a very comforting development. The rumpus was to delay my departure for Angola by three weeks, but at last I received instructions to fly to Kinshasa, in Zaire, where the stage was finally set for my long walk in the sun.

NO PRISONERS

In Kinshasa Dr. Holden Roberto, President of the F.N.L.A. is permitted to maintain his unofficial headquarters; although the guerrilla activities there are always kept discreet, hidden from the public gaze. His villa is protected by high walls and steel gates in a hilltop suburb of the city; it was from this compound that our party set off under cover of darkness, wearing civilian clothes.

In a battered open truck, a 12-ton Nissan with leaking radiator and bare tyres, we headed south for 250 miles, taking the main route to the old Congo trading port of Matadi, then turning off along a red dirt track towards the Angolan border.

By 3 a.m. the hills and forests of southern Zaire were lost in heavy, humid blackness. Shanty villages of tin roofs and thatch were fast asleep as we roared past, but startled goats and once a browsing antelope leapt from our path. The Nissan thumped and lurched precariously on the twisting, plunging track, the hard-baked surface riven by deep rainwater gullies.

Our roller-coaster ride continued for an hour until, just before first light, the lorry ground to an exhausted halt in the centre of a village on the edge of Angola. I was hustled to a large, brick-built house and told to snatch a brief rest.

Later, we crossed the border in single file, taking a path along an open hillside. After travelling a few miles, we picked our way into a copse which screened half-a-dozen grass huts: the F.N.L.A. command post for the Zaire Province. Here the platoon was kitted out with a motley collection of hard-worn combat uniforms and armed with equally varied weapons—Russian, American and Belgian carbines and an Israeli Uzi Machine pistol. Some of the younger soldiers were in rags, and the bearer boys had no boots.

Commandante Manzanza Ranca, 33, who leads a guerrilla battalion and first fought to free Angola from the colonial yoke of Portugal 14 years ago, explained that his men relied on captured guns and equipment. Each rifle had come from a dead soldier. The implication was clear: no prisoners are taken; no quarter given in the battle for Angola.

We discussed our plans over a meal of elephant stew served up in tin plates on a bamboo table—a somewhat disappointing culinary experience in view of the meat's beef-like flavour. Then we were ready to move out. I had been warned to travel light and the camp cook, "Papa" Pierre, came to my rescue by offering to carry my pack. During the following days I quickly grew to appreciate the importance of his help. So arduous were the conditions that even a few kilos would have been to much for me.

A team of veteran bush fighters had been carefully chosen to protect me. Apart from Commandante Ranca, the other leading members of our platoon were Commandantes Antonio Matutuka, Domingos Sozinho and Afonso Pinto.

Ranca padded along in his rubber plimsolls a few yards in front of me throughout our journey, carrying his Belgian automatic slung like a club across one shoulder, the pockets of his fatigues jingled with cartridges. He had been involved in an ugly clash with the Cubans a few days previously and it was plain he was anxious to avoid more trouble while the V.I.P. white man was around.

Matutukar, at 47, a somewhat fatherly figure, was always impeccable in olive green with high leather boots and forage cap, spoiling the effect rather by carrying a noisy transistor radio. He surprised me by reading long passages from the New Testament in French as we sat round the campfire at night. Sozinho wore a Belgian paratrooper's beret and carried an anti-tank launcher, while Pinto, a comparative youngster of 32, affected a rakish leopard camouflage uniform and spent much time fondling a hand grenade.

The guerrillas would chat to each other in African dialect and often spoke Portuguese and French as well. But they knew no English, so I was accompanied by an interpreter, Political Commissar Paulo Moniz. He had a tendency to confuse his languages in moments of excitement, with amusing results: "Do not be alarmé, Mr. Norman, if you herren der guns. It is the chasse for viande."

There were six private soldiers in the column as well as "Papa" Pierre, our kindly general factotum, who led a group of bearer boys, marching with food stores, pots and pans piled on their heads in traditional safari fashion.

It hadn't taken long after we had left the command post and headed across the

hills for me to realise that our trek would be an endurance test, a struggle to stay on my feet. A walk with the guerrillas in Angola is not to be recommended for paunchy middle-aged journalists. In the open the tall grass hid countless holes and ruts. In the woodlands there were impenetrable mazes of exposed roots and black mud; vindictive creepers and vines clutched at legs and head.

ENEMY TROOPS

The sun would build a wall of heat during the day with temperatures reaching between 80 and 90 degrees Fahrenheit, causing constant dehydration, turning the throat to sandpaper, the tongue to dried leather. Streams and rivers were plentiful and I found I could not drink enough water, however cloudy. I purified it with iodine tablets. At night, we slept beneath the trees and I rolled up in the red, white and yellow F.N.I.A. flag to try to keep away from the mosquitoes, ants and flies.

Our food was often dry and tasteless; manioc root, rice, funge (a moist dough), baked bananas, sardines and occasionally buffalo stew or a stringy chicken. I tried to live much of the time on sour green oranges, lemons, melons and plums gathered as we moved along.

I lost nearly a stone in weight during the long haul and suffered severe pains and swelling in my feet and legs. The diet and exhaustion began soon to take their toll and at rest points my companions would wave towels and splash water at me, trying to revive hope in the loser's corner.

Nevertheless, on our first day we managed nearly 40 miles across the great cordon of rolling green hills which guards Northern Angola, our path plunging us frequently into valley forests where parakeets screeched and fluttered among the broad-leaved palms. We made camp that first night on a wooded hilltop overlooking the Cuban garrison of San Salvador, and "Papa" Pierre inflated an airbed for me under the remnants of a straw-covered shelter (the air, needless to say, leaked away quickly, depositing me on the rock-hard earth and reminding me, as if I should forget, that the days ahead held little in the way of comfort for us).

Above our camp site, MiG 17s and 21s shot across the sky and we could hear Cuban troops moving along the nearby roads in armored cars and jeeps. Yet we were comparatively safe. Our enemy could never hope to control the limitless bush and was reluctant to venture regularly far off the beaten track. The hills and forests were the domain of the guerrillas and their friends, and here our platoon could move freely so long as strict precautions were taken.

FLEEING CIVILIANS

An estimated one million refugees have fled from villages and towns to shelter in the northern bush areas, and as we continued our journey south, we found several of them lying wounded or ill along our path. One woman nursing an injured leg told me that she had lost her family but had herself managed to escape when a column of 6,000 refugees had been ambushed by Cubans and African troops near San Salvador. The column, escorted by guerrillas, had been crossing a roadway when the trap was sprung. A helicopter gunship had strafed the fleeing civilians, killing 125.

On our second day, we began to pass through the blackened ruins of villages and refugee encampments. Larger settlements near San Salvador seemed to have escaped damage, and I noticed that some of the shanties along the roadway were decorated with red and black posters proclaiming the Neto Government—apparently an attempted insurance against Cuban depredations.

We spent the night in a bamboo grove. Suddenly, out of the darkness, a lantern procession arrived from a nearby village bringing meat and beans to feed us. Our visitors stayed chattering and staring while we ate greedily, excited yet frightened by the presence of the guerrilla platoon and a British journalist.

Our column set out each day at dawn, walking for four hours before breakfast, the pace certain and rapid. There was no pausing, no stopping to tie a bootlace.

On our third day, the guerrillas' determination to hurry forward proved irksome for "Papa" Pierre and the bearer boys. We were passing a tempting group of orange trees and they decided to stop for a while without permission to pick some fruit. When they tried to catch up, they took a wrong turning in the dense bush, with the result that we had to spend an evening in the forest bereft of food supplies. It was a bleak prospect. Then Ranca sent out three men to find something for the pot. To my dismay, the hunters returned within half-an-hour, carrying the body of a three-foot-tall monkey, a handsome creature with russet fur and large button eyes, shot down from the canopy above us. Despite my misgivings, he made a stew of rich, spicy meat.

When "Papa" Pierre had rejoined us, we emerged from the bush to march along the open road near Madimba, 40 miles south of San Salvador, a route ambushed and mined regularly by the guerrillas. They had blown up the bridge at Ngemba and my companions proudly showed me the wreckage of an Army truck and a half track transport as we passed a string of roofless hamlets.

At Melonga, we left the road again and spent a miserable, shivering night on a river bank teeming with mosquitoes. But at last we were near the main refugee villages which were our goal. I don't know how far I could have gone on the next day: I was parched with thirst, footsore, numb with the accumulated fatigue of the past few days. And then quite suddenly we emerged from a copse of towering silver gum trees to find the scattered grass huts of our first refugee camp, Recou.

SICK BABIES

In a way, I soon discovered at Recou, the refugees in this part of Angola were not too badly off. The forest is generous. It provides the materials for their temporary homes. Food is not scarce. Outside the doorway of my hut at Recou, chickens scratched in the brown dirt while young girls squatted pounding maize with heavy poles; and on the straw roofs, carcases of young antelopes were drying in the sun. Soon there was a procession of gifts for me: half a dozen eggs, a bowl of bananas, a buffalo steak.

Our hosts also made us welcome with huge gourds of palm wine—a milky coloured fluid taken from the trees by cutting the bark near the base and collecting the juice. The potent brew seemed deceptively mild, something like lemonade. We drank from pint mugs, wishing it were beer.

But the less picturesque aspects of these people's predicament quickly asserted themselves. The 300 or so refugees around Recou were managing to survive by farming and hunting, but the lack of medical supplies was clearly acute and disease had begun to spread. Some of the children had the pinkish hair of kwashiokor, the debilitating illness resulting from malnutrition, and others were anemic. Mothers brought their sick babies to show me as they talked of their desperate flight from the Cubans.

In each village, as we moved on from one to another, a meeting was called to greet me and I was asked unanswerable questions. Why had Britain, America and the Western democracies turned their backs on Angola? Why had Russia and Cuba been allowed to take over without challenge? I could think of no ready replies. I could only promise to do what I could to make known the plight of their people.

Refugees travelled miles from areas laid waste beneath the Cuban heel to see me. They told of villages bombarded by Cubans and African troops all over the provinces of Zaire and Uige during the previous six months and of several previous purges. The worst hit districts, they said were Vamba, Bembe, Nsanga, Ntoni, Kikila, Casilia, Bessa, Monteiro, Tundu, Nkoko, Kimansende, Sanaga . . . a roll-call of misery and terror.

A broken chair was brought for me to sit in the shade of a thorn tree while the refugees stepped forward one by one, arms folded, to recount their stories—as if giving evidence to the District Commissioner, I thought, recollecting colonial scenes from stirring adventure novels like "Sanders of the River."

Maria Madalena, aged 32, from Sangui: "I was one of a handful of people to survive out of a community of 700. I have five children. They were taken away and killed and my husband has disappeared."

VILLAGE RAIDS

Antonio Tusadila, 50, from Nova Caipemba: "Cuban, Russian and African troops were knocking on doors looking for anyone who supported the F.N.L.A. We tried to get to the bush. They followed, shooting, and about 40 people were killed. The African troops said that anyone with money would be shot. . . ."

Diowadu Lundu, 25, from Nsunga, Ambrizete: "The troops came to the village at 6 a.m. when the people were still asleep—and—simply opened fire. Then they burned down the huts. About 50 people, children and old women among them, were killed. Several hundred more villages in the Ambrizete area have been raided as well. . . ."

Feleciana Talanga, 55, from Senge: "The troops came and set fire to our homes driving us out to the forest. Then a helicopter began shooting, killing and wounding. We have lost everything. . . ."

The catalogue continued as I talked to dozens more. The Cubans in San Salvador had raped teenage girls, repeatedly forcing them one after another. . . . Bodies had been dumped in local rivers. . . . Stolen household goods had been shipped out to Cuba.

My conversations with the refugees continued for several more days. And then my departure was delayed for 24 hours by an enforced rest: Commandante Matutuka who acted as doctor to the platoon, told me that I had a fever and slight dysentery. Armed with a fearsome hypodermic, he injected penicillin into my behind.

Then he used a razor blade to cut festering insect bites from my body, while "Papa" Pierre prepared a chicken broth to strenghen me. Although I was sick after drinking it, the injections and some sulphur tablets pulled me round. We set off home.

At first we made 20 miles a day, then 30, hurrying back to Zaire, once again sleeping in the open and praying for rain which never came to cool the daytime heat. This time our march took us through areas where British mercenaries fought for the F.N.L.A. against the Cubans two years ago, and my companions spoke glowingly of the Britons' exploits. They even praised the mercenaries' leader, the notorious Cypriot "Colonel Callan," who ordered the shooting of a dozen of his men and was himself later executed in Luanda.

"Callan was a man with two faces," I was told. "We called him doctor and he was hard and brave. He was also a sadist who would accept no excuses for failure so long as his men had the right weapons."

As our platoon neared San Salvador again, we were forced to scurry for cover to hide from reconnaissance planes. They meant another wretched night, hidden in a manioc plantation. In the morning, a party of villagers came to tell us that within the previous few days Government troops had arrived

with orders that the children of the region aged over 10 were to be sent to Cuba.

The young man who led the delegation said that some parents were fleeing to Zaire with their children but that most would accept this monstrous Diktat without protest. "We have no choice but to agree. The troops do what they like and anyone who argues is likely to be shot."

The rate of our marching increased because we had lost time and the final stages became more and more of an ordeal. I developed acute muscular pains and protested to Rancan. "Il n'est pas bon, Commandant Vous me mettrez dans l'hôpital." But my companions made no response as I slipped and stumbled along. They stood impassive, leaning on their rifles, when I insisted on resting. They are dedicated men and think no more of marching great distances than the Zulu impis of old. I thought. I had ventured into their agonizing struggle for survival and my petty discomforts were of no account in a land of suffering.

But was their suffering worthwhile, I wondered. Could their struggle succeed?

Throughout the trek our platoon had taken elaborate precautions to stay in areas of maximum cover and to escape detection by patrols of Government troops. It seemed painfully obvious to me that the ill-equipped F.N.L.A. was no match for stand-up trials of strength against Soviet tanks, MiGs, "Stalin Organ" rocket launchers and missiles. Instead their tactics must always remain those of the ambush, the booby trap and the road mine.

They claim to have 17,000 men in the field. President Neto's forces also have to contend with the 7,000-strong guerrilla army of the Uniao Nacional da Independencia Total de Angola (U.N.I.T.A.) in Southern Angola, while hundreds more are fighting to free the Cabinda Province in the North West.

With the tide of rebellion swelling and his economy in ruins, Dr. Neto can today claim allegiance of perhaps 2.5 million of a population totalling nearly six million when he took power three years ago. Hundreds of thousands have fled to exile.

It is true, too, that despite their lack of sophisticated weapons, the guerrillas in the North have succeeded in severing the vital Benguela rail link and now menace most country roads so that they are used only by armed convoys. Yet all the major cities and towns remain in the firm grip of Cuba and Russia and such is the Kremlin's confidence that the territory is being developed as a base for Communist expansion in neighbouring countries. A camp has been set up at Missoa de Boma, South-Eastern Angola, where 25,000 Africans from Rhodesia, South West Africa and the Shaba Province of Zaire are being trained in use of artillery and heavy equipment.

What, then, are the prospects in the struggle for Angola? Dr. Roberto, the F.N.L.A.'s veteran 54-year-old leader, has powerful friends in Africa, and not only in Zaire. The South Africans and some of the former French African territories are also thought to be sympathetic. He still gives an impression of confidence in final victory, quarrelling bitterly with the supine acceptance by America and Britain of the Communist takeover.

When I met him at his Kinshasa villa, he was relaxing in a bright floral shirt and slacks, and as always hiding behind dark glasses which give him a slightly sinister appearance. Although the room was expensively furnished and decorated with a large pair of intricately carved elephant tusks, he sat on a sofa with threadbare armrests, reminding me that his organisation is short of money, deprived now of ample funds once made available by the American Central Intelligence Agency.

BITTERNESS

He immediately launched into a swinging attack on America, Andrew Young, President Carter's U.N. ambassador and special adviser on Africa, who had described Cuba as a stabilising influence in Angola, was behaving like a crypto-Communist, a fellow traveller, he said. Washington's reaction to the oppression of Russia and Cuba could be compared with Mr. Chamberlain's policy of appeasement at Munich.

Whatever Roberto's hopes about Western involvement, however, the truth is that the only real hope for the guerrillas is to turn Angola into "Russia's Vietnam," forcing an eventual withdrawal by the Cubans who have shown little stomach for the fight. Dr. Castro has been compelled by the Kremlin to commit his large forces and he has had to conceal a heavy cost in lives and wounded to avoid a hostile public reaction at home. Between 7,000 and 8,000 Cubans are believed to have been killed over the three years of fighting. Several thousand more have been flown out to hospitals in Russia and Eastern Europe instead of being returned to Havana to spread discontent.

Certainly it seems that the conflict will continue to tear Angola apart for the foreseeable future, and while Western Governments sit back either unknowing or uncaring, thousands more refugees will die.

As we completed our journey and I pondered the events of my two weeks with the barefoot guerrillas, I remembered a British diplomat with a penchant for poker who had described the F.N.L.A. to me as a "busted flush." His assessment was sweeping but perhaps Holden Roberto still has a few strong cards to play. Even so, I doubt whether his army can prevail without much more outside help. . . .

We made our final camp on the leafy bank of the river forming the border with Zaire and rested there a day until it was time to drive back to Kinshasa and a plane for London. At the last moment, when we reached Njili Airport, there was one more obstacle to negotiate before I could leave: an argument with Passport Control because it seemed that I should not have been given a visa to enter Zaire in the first place!

Eventually, however, I was allowed to hobble on to my plane and soon we were climbing into the night, turning for home, away from the anguish of Angola and the lost people whose pitiful reproach will stay with me: "Doesn't the world care about us?" ●

BATES FABRICS, INC.

● Mr. HATHAWAY. Mr. President, Bates Fabrics is a key employer in Lewiston, Maine. There had been some financial problems at this textile mill but with the spirit and determination of the employees the company has been revived.

Saturday's edition of the Washington Post has an excellent article on the success story of Bates Fabrics. It is a tribute to the skill and tenacity of the citizens of Lewiston. It also is a point of pride for the cooperative efforts of private industry and the Federal Government to assure continued employment opportunities for the people of Maine.

I ask that the text of the article be printed in the RECORD.

The article follows:

WORKERS ARE OWNERS AT BATES' MILL

(By Maxwell Wiesenthal)

LEWISTON, MAINE.—The 1,000 employees of Bates Fabrics, Inc., will receive a first-hand report tomorrow from their offices on how well their business performed last year.

The 1,000 are the owners of the sprawling 125-year-old textile mill. They purchased the concern last year from Bates Manufacturing Co. with the help of an $8 million loan from the First National Bank of Boston, 90 percent of which was guaranteed by the Farmers Home Administration.

Bates Fabrics, according to company officials, is one of the nation's largest employee stock ownership trusts.

Last week the first distribution of 35,000 shares of stock was made. The average worker at the mill was credited with 40 shares of stock valued at 90 cents a share. The shares were placed in separate accounts set up for each worker, who is to receive the proceeds when he reaches age 65. The distribution of shares was based on each worker's 1977 annual salary.

As the bank loan is repaid, a portion of the 4 million shares of outstanding stock held by the bank as collateral for the loan will be released and credited to the employees.

Robert T. Hickok, Bates' president and board chairman, said that when the 25-year loan is repaid the mill will be fully owned by the employees.

Raymond St. Pierre, Bates' treasurer, in an abbreviated report to the mill workers, said 1977 sales fell slightly to $23.8 million from $24.2 million in 1976. Earnings amounted to $20,000 compared with $68,000 in the previous year. But $906,000 of the $8 million debt was amortized.

Hickok said the net profits figure doesn't tell the real story of how well the company did last year.

In addition to amortizing the loan by $906,000, the company paid $322,000 in interest and had a $650,000 adjustment credit on cotton purchases for a total of more than $1.8 million in gross profits.

"I'd say we had a banner year," said Hickok.

The change in ownership has had little impact on the lives of the mill workers, most of whom are of French-Canadian extraction, descendants of immigrants from Quebec who poured into Maine at the end of the 19th century to work in the expanding textile and pulp mills.

Denis Blais, vice president of the Amalgamated Clothing and Textile Workers Union of America, the union which represents the mill hands, doesn't see employee ownership as a financial blessing for the workers, although the union supported it.

"I see it as a better chance for the plant to survive because the vultures are gone," he said, "The previous owners of Bates viewed the mill simply as a source of quick profits. Much needed capital improvements were left undone."

The new management plans to build the working capital and purchase new equipment to enable Bates to remain competitive with southern mills. Last year $600,000 worth of new equipment was installed in the plant, Hickok said. This year as much or more money will be spent on modernization, he added.

The Bates name has become synonymous with bedspreads, which constitute 85 percent of the mill's production. The remainder is drapes and table cloths. The top of the line is sold under the Bates name, and goods of lesser quality are sold unbranded to chain and discount stores.

The test of labor-management relations came last month during negotiations for a new union contract. ●

OLDER AMERICANS MONTH

● Mr. BENTSEN. Mr. President, President Carter has proclaimed the month of May as "Older Americans Month." In keeping with this spirit, I participated

for the second consecutive year, in the congressional senior citizen intern program, held this year from May 8–19.

During the past 2 weeks I watched my two senior citizens interns, Mr. Orren J. "Jack" Hooper, 73, of Pasadena, Tex., and Mrs. Bessie Rogers, 68, of Nacogdoches, Tex., run from one activity to another, taking part in working sessions with Cabinet and agency officials, White House briefings, and congressional committee hearings, all related to the problems of aging. Mr. Hooper and Mrs. Rogers returned from their days' activities, the likes of which might have tired some of my more athletic staff members, willing and eager to help out with routine office duties and assignments.

The enthusiasm and exuberance of these two senior citizens caused me to reflect upon the part played by the more than 23 million Americans over the age of 65 and what we can do to enhance that role.

Mr. Hooper and Mrs. Rogers exemplify the special skills older Americans offer and the wisdom that is the attribute of experience. They reinforced the idea that by providing older Americans with the supportive services to enable them to live their later years in dignity and self-respect, we also reap the benefits of their talents, skills, and experience.

Mr. President, our senior citizens, like all Americans, deserve the security of a comfortable and safe place to live, adequate daily diets, and the income and services to give them freedom to make choices. It is our duty to work together toward this end. Our Government has acted responsibly in providing public services and assistance to the elderly, through programs in the areas of transportation, consumer and legal assistance, crime, housing, social security, and medicare. But there is one vital area in which we have failed: We have not made these services accessible to those who need them.

The programs are there; yet the record is replete with horror stories of older people who spend months wading through bureaucratic redtape, trying to receive benefits which are rightfully theirs, which should be readily available, yet seem hopelessly inaccessible.

A recent U.S. News & World Report study of American opinion revealed that the general public rated the Congress, State and local government, regulatory agencies, and the Federal bureaucracy dead last among institutions and groups in ability to get things done. These results speak dismal truths about the situation of our senior citizens; our citizens who rely most on Government services and assistance to obtain those benefits for which they have worked so hard and so richly deserve.

Mr. President, I believe we can and must do more to educate older Americans about the services that are already available to them. The senior citizen intern program is a step in this direction. As extremely active members of local senior citizens program, Mrs. Rogers and Mr. Hooper both serve as liaisons to their communities, helping to enlighten their peers on how and where to obtain basic services and benefits. During their internships, they received valuable information into the workings of Congress and the Federal bureaucracy, knowledge that will directly benefit their fellow citizens back in Texas.

The senior citizen intern program is not only important as a resource for the interns to gather information about Congress to take back home. It also provides the opportunity for a mutual exchange of ideas. Mr. Hooper and Mrs. Rogers talked to me about the problems caused by unnecessary Government regulation and agency overlapping. For instance, in Nacogdoches, Tex., after an incident of flooding, Mrs. Rogers found at least two separate agencies responsible for home repairs, two separate agencies, accruing two separate sets of administrative costs. This type of intricate interagency gymnastics, which escapes no aspect of business or public services, must be eliminated. We need to match our desire for adequate services for our citizens with efficient management of Government policies.

Mr. President, the senior citizens of this Nation have a great deal to contribute. Most of them are active and interested citizens, with a wealth of experience and exposure. If I can judge by the performance of Bess Rogers and Jack Hooper, senior citizen interns constitute a valuable asset to the functioning of any Senate office where staff members are generally young and have little familiarity with the problems and issues involved in aging.

It was Aristotle who said that, "Education is the best provision for old age," and I believe that the knowledge gained from the 2 weeks of learning from these talented and involved Americans will serve us well.●

ADDRESS BY BREWSTER C. DENNY BEFORE FEDERAL PERSONNEL MANAGEMENT SEMINAR

● Mr. JACKSON. Mr. President, the Governmental Affairs Committee will finish marking up civil service reform legislation soon after the Memorial Day recess. As a member of that committee, I would like to bring to the full Senate's attention remarks recently made by Dr. Brewster C. Denny, the dean of our graduate school of public affairs at the University of Washington. Dr. Denny is an acknowledged expert in the field of civil service personnel management issues. His remarks were delivered at the Federal Personnel Management Seminar in Seattle on March 14 of this year. I believe that Dr. Denny's remarks will contribute to a better understanding of the issues involved in Federal civil service reform. I ask that Dr. Denny's remarks be printed in the RECORD.

The remarks follow:

THE PERSONNEL CONNECTION—BUILDING A STATE AROUND AN IDEAL

It is indeed an honor for me to be asked to open this important conference with a few brief remarks designed to place the deliberations in a broad context.

There are many opportunities for citizens in this special kind of society to shape the character, quality, and direction of public decisions and programs. Certainly the most important of these is the hallowed sacrament of the secret ballot—that special moment when each citizen is both obligated and privileged to make the most important decision of a society based on democratic and representative principles—the selection of the officers of government. At bottom, of course, that is what the personnel business is about as well. For our society, and a very few others like it, selects the officers of government, assigns them their responsibilities, and holds them accountable, for their discharge of the trust thus reposed in a constitutional and philosophic frame-work unique in human history. Do not interpret my efforts to make this overriding fact sound lofty, sacred, imposing—and it is all of those—as mere prefatory rhetoric. Then, as soon as it is over, we can get down to business—Praise the Lord, and Pass the Ammunition. We can quickly pay our obeisance to the Constitution and get down to what to do about veterans' preference and allocating super-grades among agencies.

For the fact of the matter is that our very special system of government and governance places very special requirements on our personnel system both in terms of its central goal, the work force we field to do the job, and the ways by which that work force is chosen. That great British analyst of the responsibilities of the West, Barbara Ward Jackson, writing thirty years ago about the historic American decision to assume its full share of responsibility for world order, called the American people "the only people in the world who thought of an idea first and then built a state around it." And that, of course, is the topic of this conference. We have built a state around an ideal of government. The question before us in practical terms is the performance of the means by which the government work force is chosen, motivated, trained, and assigned in the cause of giving that great ideal directive force and action.

It's an impressive record. The present low popularity ratings of public servants and a widely acknowledged malaise which has temporarily overtaken our institutions must not be allowed to obscure that record. Those of us who have called for major reform in the personnel systems of this country so often and so stridently as to be relegated to the position of the common scold are often misunderstood to have belittled the achievements of the public personnel system in this country or to have impugned the quality of public employees. *Au contraire*, we believe while there is much to criticize, there is much in which to take pride. The bold and innovative proposals which have precipitated this conference and the incredibly complex challenges facing the public servant and the public service can be met with confidence that a base has been built from which new and greater heights can be scaled.

Few Presidential campaigns in our history have focused so much attention on the quality of the performance of our public institutions as did that of 1976. At few times in our history have those often arcane and boring questions of personnel and administration been so close to the surface of public understanding and interest. Those of us who know the public sector well must grimace at the caricature of the underemployed time-serving civil servant which we hear so often. We should, however, welcome the public's interest in what we do and respond to the message—however unfair the rhetoric—and shape up. And we have a unique opportunity to do so. We are expected to do it. We have a President who has made it a high priority. We have constituents who demand it. We have tasks before our society which cannot be done without it. The performance of those tasks depends on the quality of our society and the public policies and programs which express its will—and most of all on the people who do the jobs. The failure to fashion and implement policies and programs which can

meet the intractable problems of our time will be the failure of our society itself. So the stakes are high—they've never been higher. And the time is ripe for doing the tough jobs of improving our personnel systems. I'm giving you this peptalk about the ripeness of the times because we must not let the chance slip by.

Fortunately President Carter and Chairman Campbell are determined that we not let the chance slip by. The proposals made March 2nd for major changes in the federal personnel management system are bold, innovative, imaginative and long overdue. They are technically achievable and technically sound. More important, they are politically achievable, especially if those of us in the business of improving the quality of public service in this country do our job.

The adoption and successful implementation of these fine proposals will face significant obstacles. An important one will be the state and local government dimension. I don't need to remind anyone here that most domestic federal programs are intergovernmental when it comes to administration and implementation and they often founder on the quality of the local and state government bureaucracies that administer them. Fortunately cleaning up the federal act in the personnel field will greatly help at the state and local government level.

I hope that President Carter's initiative in the personnel field will be followed by similar initiatives by leaders of local and state government. For I firmly believe that the tide may be running again in favor of merit. For example, after a ten-year effort in this City of Seattle to bring about the necessary changes in the City Charter so that a merit system and affirmative action would be first "legal" and then possible, the voters last fall passed a comprehensive Charter Amendment which requires a merit system and—I am proud to say—incorporates the merit principles of the Intergovernmental Personnel Act into the Charter itself. While this state locally and most nationally still haven't fully accepted merit, two other large local governments in this area recently adopted merit. It is therefore of very great importance that the federal government has decided to move fully to merit itself.

While the federal government is presently required by law to assure that state and local governments at least when spending federal dollars operate on a basis of merit principles, it has not, in my judgment, been either very effective or very vigorous in discharging this duty. The achievement of a federal personnel system with the high merit quality which President Carter and Chairman Campbell have set as their central objective should give a real impetus to a strong movement in that direction in local and state government. While I personally believe that the Civil Service Commission should vigorously use the authority already vested in it to bring local and state governments into conformity with the merit principles, the example of a federal system which is fully and aggressively merit itself will likely do more good than all the carrots and sticks of the Intergovernmental Personnel Act and related federal requirements. Thus President Carter's historic initiative, effectively carried out, can have an important impact on the quality of all the governments in this society and, thereby, on the quality of the society itself.

Thomas Jefferson was the first American President to turn his attention systematically to the question of the quality of leadership in this special type of society. In forming his first government in 1801—after taking care of the first difficult tasks of replacing the partisans of the previous administration—he said, with relief, we can now "return with joy to that state of things when the only questions concerning a candidate shall be, is he honest? Is he capable? Is he faithful to the Constitution?" While we would all correct the personal pronoun, we can all agree that this is the real definition of merit. Jefferson was bitterly criticized by his own political party for using that standard to retain many officials appointed by his predecessor.

Jefferson, a great architect, also gave considerable thought to the aesthetic quality of American life and early expressed the hope that this society could live kindly with the land. This too, in a real sense, was part of his merit views. For even today, the quality of all our cities and particularly those where the great decisions of our society are reached is critical to the quality of the people who live there. I am seriously worried about the deterioration of Washington, D.C. and its increasing unattractiveness to highly qualified, highly motivated people who need to go there and do the public's business.

It is a personnel problem too and needs attention. I am also disturbed that many of our cities are producing a permanent underclass, a tragic waste of human potential and a denial of that representativeness in our society so essential to our ideals, individual rights and a truly representative and merit based public work force. Finally, Jefferson was concerned about the education, development, and attraction to public service of the persons in our society with the greatest potential for service. "The natural aristocracy," he said, "I consider as the most precious gift of nature, for the instruction, the trusts, and government of society. . . . May we not even say that that form of government is the best which provides most effectually for pure selection of these natural *aristoi* into the offices of government."

We need not apologize for Jefferson's elitism. In fact, we should emulate it. The principal author of our American freedoms and of the ideals of equality, thus set down the merit principle in its purest form and in association with its overriding public purpose. Thus conceived a merit system opens opportunity for the ablest. It also mandates affirmative action which only a merit system can ever achieve. Such a merit system should operate in a society, if it follows Jefferson's advice, which offers superb educational opportunity to all those who can benefit from it, and finally, assures "the pure selection of these natural *aristoi* into the offices of government." In this connection we should also hail President Carter and Chairman Campbell's initiative in establishing the President's Management Intern Program designed to attract the natural *aristoi* into public service and exhort them to restore the Public Service Fellowship program to their budget, a program which has already helped to attract many great young people, including large numbers of minorities and women to public service. Thus vigorous affirmative action, high quality education for all and merit are compatible and equal partners in the personnel business.

I watched President Carter's address to the National Press Club on March 2nd in which he unveiled the dramatic and historic proposals which prompted this gathering. It was, I fear, characteristic of the interest which personnel matters attract that the questions which followed his speech turned immediately to other matters—energy, the Middle East, the quality of the Carter administration, Hamilton Jordan, the coal strike, etc. But were they truly other subjects? Won't the energy problem be more tractable and nearer of solution if we field in the federal government and in local and state government a generation of public servants who are in fact, in President Carter's words, "the best?" The slowness with which a new energy program has evolved and the difficulty of articulation of new and bold policies in this critical field may principally relate to the inherent difficulty of the problems, but the quality of all—citizen and public servant alike—who must deal with these matters is finally the test which our society must pass.

In recent years articulate and scholarly studies and reports by Barry Commoner, the Club of Rome and many others have popularized the notion that the world in general and this society in particular have very nearly reached the physical limits of growth. This thesis concludes that unless extraordinary means are taken, these limits will soon be reached and the result will be chaos and disaster. My own personal optimism and faith in the power of knowledge and learning has led me to believe that this forecast—based on the extrapolation of present trends—can be proved wrong. We trustees of this globe can perform the obligations of that trust and avoid the disaster that the extrapolation of present trends clearly and inevitably portends. My optimism, however, has been sorely tested by two recent great books—the late Fred Hirsch's "The Social Limits to Growth" and Rufus Miles, "Awakening from the American Dream." Both these authors—in entirely different ways—argue that, serious though the resource limitations of a growth society are and near though the outside physical limits be, the social and political limits of our capacity to cope with the benefits and costs of immense technological and economic growth will be reached first—before the physical limits, very soon, before the end of this century. Rufus Miles, one of the greatest, most skillful and sophisticated public administrators of the mid-Twentieth Century puts it this way:

"The ultimate limits to growth, in physical terms, are in energy, resources, technology, and the tolerance of the biosphere, but the more proximate limits are political—the limits to human capacity to design, manage, and accommodate to complex social systems. The United States and much of the rest of the world are much closer to the political limits than we realize."*

Bureaucrats, executives, and educators dealing daily with the incredible hassle of interdependent relations in a complex society can well understand this point. Most of us spend 90% of our time in committee meetings, phone calls, hearings, turf and mission disputes, justifying our activities, in what I call the "repeal boarders" function, and are lucky if we can spend 10% of our time on the substance of our job. The first building and still the most beautiful on the University of Washington campus was designed and built in less than two years and its site—the best piece of land on the whole campus—was picked by the Regents when they decided to sit down and have their picnic lunch. The average lead time, design time, site selection time, and construction time now is more like eight years. One project, on which I recently testified, has been under consideration since 1930, and its end is not in sight.

But I'm more optimistic that these sobering words indicate. I believe this special society can so design the process by which it trains and attracts to public service the ablest and most representative among us that we can stop short of the physical limits and political limits, avoid disaster and, more important, improve the lot of all people. The task is surely no more difficult than those so successfully performed by Jefferson, Adams, Washington, Lincoln, Truman, Acheson, and Marshall. If we do our personnel work as well as the system that put them in place, we'll succeed.

President Carter, like all Presidents, is learning that it is easier to be always right than to be occasionally effective. He has, thus, wisely and uniquely, turned his per-

*Rufus Miles, "Awakening from the American Dream," Universe Books, New York, 1976, pp. 225–226.

sonal attention to the quality of people who do the government's work. It is not expansive rhetoric to say that the successful adoption and implementation of the Carter initiative in personnel could prove the major achievement of his years in office. For the proposals viewed broadly are nothing less than a call to quality of leadership capable of meeting the intractable problems of our time. It would be wise if those of us who work in the vineyards of the personnel business would keep our eyes on these lofty purposes and so perform our tasks that we do in fact people the places of power and decision in this society with our best people—people with competence, honesty, and fidelity to the Constitution. The task of building a state around an ideal is never-ending. We have a major opportunity to build even better. And we must, if we are to survive.●

LOWERING THE CAPITAL GAINS TAX: THE TIME IS NOW

● Mr. HANSEN. Mr. President, the American people are deeply concerned about inflation. Their alarm and their lack of faith in the ability of the Federal Government to curb inflation are obvious in the results of recent public opinion polls. People certainly have every reason to be upset, for not only has Government failed to carry out its responsibility to control inflation, it has contributed to it by excessive spending and wrong-headed tax and economic policy.

For too long, Government has tried to generate investment activity and job creation by siphoning money out of the economy, laundering it through the bureaucracy and then selectively dribbling it back into the economy. It is obvious to everyone that the only thing Government has succeeded in generating by these policies is inflation.

There is a way, Mr. President, to encourage economic activity, private investment, and job creation without also encouraging inflation. It is possible to stimulate worker productivity, increase exports, and eliminate Federal deficits, thereby conquering inflation.

What we must do, and what at least 61 Senators have pledged to do, is unfetter our free enterprise system by changing Federal tax policy. We must encourage private investment in order to generate the necessary capital for our economy to expand and prosper and our people to be able to work. We can do these things by lessening the penalty now imposed on citizens who save and invest—the high tax on capital gains.

On May 11, I and 60 of my colleagues introduced a bill to lower the capital gains tax. We believe this approach affords an opportunity to do something about inflation and unemployment. An identical proposal sponsored on the House side by Congressman WILLIAM STEIGER has garnered similar strong support—because it is the right thing to do. A reduction in the capital gains tax rate would increase Federal revenue for the simple reason that it would stimulate economic activity. It would generate jobs. And it would curb inflation.

As the Wall Street Journal put it in a recent editorial: "A lower tax on capital gains will raise more money, not less, for the Government."

Mr. President, I am encouraged by the substantial support across this country for lowering the capital gains tax. I hope we will be able to get the job done this year so that we can finally get on the right track and start moving toward economic recovery.

I ask that a series of news articles and editorials concerning the capital gains tax and its effect on our economy be printed in the RECORD.

The articles follow:

[From the Wall Street Journal, May 5, 1978]

ECONOMIST SAYS CAPITAL GAINS TAX REDUCTION WOULD BENEFIT ECONOMY MORE THAN A TAX CUT

(By Charles J. Elia)

An effort by congressional Republicans to turn back the clock on capital gains taxation has reopened a highly charged issue. Proponents of the so-called Steiger alternative, aimed at reinvigorating capital investment, claim strong support for it within the House Ways and Means Committee.

At the very least, the proposal submitted by Rep. William Steiger of Wisconsin is generating a lot of heat. It isn't liked by the administration and it is complicating the efforts of administration stalwarts in the House to resolve tax issues.

The ultimate fate of the Steiger initiative won't be known for some time, but the proposal to go back to the 25 percent tax rate on capital gains that prevailed before 1968 is being put under the economic microscope nonetheless. At least one economist, Michael Evans, head of Chase Econometrics, a consulting service, thinks it's a more important issue than the magnitude or timing of a tax cut.

Since 1968, long-term capital gains taxes have been raised to a maximum 35 percent and inclusion of the gains in computing minimum taxability has pushed the tax rate near 50 percent for some taxpayers. In addition, the holding period for assets to become taxable at the long-term capital gains rate has been extended to one year from six months. Under the Steiger proposal, the holding period would remain one year but the maximum capital gains tax rate would revert to 25 percent for individuals and corporations after Jan. 1, 1980.

"In our view, the prolonged discussions over whether the tax cut should be $20 billion or $25 billion, or go into effect Oct. 1 or on next Jan. 1 aren't only misguided but also sterile," Mr. Evans says. He doesn't believe the economy can be fine-tuned as easily as the tax cut discussions might imply.

Mr. Evans believes the effects of the proposed rollback of capital gains taxes would be more important both to the stock market and to the economy than a tax cut.

"Under such (capital gains) legislation, the rate of growth in constant-dollar GNP (gross national product) for the period 1980–85 would average 3.6 percent compared to a 3.4 percent annual average growth rate otherwise," he says. Here are some of his other estimates of the impact of a capital gains tax reduction in the 1980–85 period:

An additional 440,000 new jobs would be created than would result otherwise.

Spending on plant and equipment would rise 5.7 percent a year instead of an estimated 4.7 percent a year.

The federal budget deficit would be $16 billion less in 1985 than it would have been otherwise. Over the entire period, the cumulative difference in the budget deficit would be reduced about $45 billion.

Stock prices would rise, spurring equity financing and decreasing dependence on debt financing, interest rates would ease and inflation would be lower.

Mr. Evans estimates that the maximum annual revenue loss to the government of a return to the 25 percent capital gains rate would be "only slightly above $2 billion," a figure disputed by the Joint Committee on Taxation.

He says: "Our contention is that a reduction in capital gains taxes would result in a massive inflow of funds from other sources of investment, and would also result in significant unlocking of capital gains. The Joint Committee's only answer to this line of reasoning is that our estimates are overstated."

Mr. Evans's views remain controversial because the direct link between changes in capital gains taxation and the movement of stock prices hasn't ever been convincingly documented by economists.

"However, we consider the relationship extremely important," says Mr. Evans. "The sharp declines in the stock market in 1969–70 and in 1977–78 are due in large part to the Tax Reform Acts of 1968 and 1976." The market declines were greater than could be accounted for by interest rates, inflation and profit trends, he says.

"We have found that after a two-year period, a 10-point increase in the capital gains tax reduces an average of stock market prices by about 17 percent," he says. He believes that a reduction in the tax rate to 25 percent in 1980 could boost stock prices 40 percent by 1982, relative to what would happen without a rate cut.

"The total change in stock prices wouldn't occur instantly because of the locked-in effect," he says. "High capital gains taxes reduce the number of individuals willing to sell their stock. Since these capital gains remain unrealized, fewer new funds are available for purchases of stock and prices gradually decline. This effect usually takes two years to become fully operative." Conversely, he believes, a reduction in capital gains taxes would spur investors to realize their gains, thus providing more funds for equity financing, again with some lag.

Mr. Evans also believes higher stock prices would increase the willingness and ability of corporations to expand fixed investments. "The reduction in capital gains would be relatively more important for nonresidential construction, raising this sector an additional 2.5 percent per year," he says, "while the incremental increase in producers' durable equipment would be substantial but lower, about 0.4 percent a year."

[From the Wall Street Journal, May 8, 1978]

MAKING US POORER

The classic debate of economic growth versus income redistribution now turns on the fulcrum of the Steiger amendment before the House Ways and Means Committee. Mr. Steiger wants to reduce the capital gains tax to provide incentives and spur economic growth, and seems to be gaining rather than losing support during the delay designed to head off his proposals. The administration wants to increase the effective rate on capital gains to further "tax reform" and income redistribution, and threatens to veto any tax bill with the Steiger amendment.

There is one simple reason why the capital gains proposal has become the fulcrum of this epic debate, and why Mr. Steiger has gained such impressive support. This is the growing consensus among nearly everyone who has looked at the matter seriously that a reduction in capital gains rates, because of its powerful effect in spurring economic growth, will actually result in an increase in government tax revenues.

Chase Econometric Associates, for example, has explicitly studied the Steiger proposals. Their Michael K. Evans writes, "The reduction in the maximum rate on capital gains taxes from the current level of 49.125% to 25% on January 1, 1980 would have a positive effect on economic growth while reducing

the federal budget deficit. . . . An additional 440,000 jobs would be created by 1985. . . . The federal budget deficit would be $16 billion less by 1985 than would be the case without this reduction in the capital gains tax."

Data Resources Inc., agrees. It studied various tax proposals for the Securities Industry Association. One of the alternatives was the total elimination of all taxes on capital gains. It found that under this proposal, "Tax receipts are lower by $5.1 billion in 1978. In subsequent years, receipts are higher than in the baseline. The net gain in revenues for the five-year period is about $38 billion."

Nor do you need powerful econometrics to come to this conclusion. After simply looking at the actual results of the higher capital gains treatment since 1970, Oscar S. Pollock of Ingalls & Snyder concludes, "The record of receipts from the capital gains tax, related to changes in the tax, certainly suggests that going back to the provisions that were in effect before 1970 would be more likely to add to government receipts than to lower them."

The studies above concentrate on the effect of the capital gains rate on stock prices, and the powerful secondary effects of the stock market on the economy. The capital gains tax is also especially important to one particular economic engine, the high-risk enterprises so important in technological advance. It gives prospective entrepreneurs a big incentive to form their own companies, and investors a big incentive to back them with equity capital.

The American Electronic Association concentrated on these effects in surveying its own members on capital availability, job creation and tax generation by small but growing enterprises. Its task force chairman, Edwin V. W. Zschau, testified to Ways and Means, "Because of the unique ability of long-term investment to generate jobs and economic growth, reducing capital gains taxes may not decrease federal tax revenues at all." In fact, data from the AEA survey indicate that a significant reduction in the capital gains tax rates could actually increase rather than decrease federal tax revenues.

Theodore Levitt of Harvard Business School writes in The New York Times, "Tax 'reform' has so drastically cut capital gains and income-offsetting incentives that the flow of venture capital for nascent purposes has virtually dried up. In 1968 over 300 high-technology companies were founded in the United States; in 1976, none."

Rep. Steiger has this mounting array of evidence. Against it, the tax "reformers" offer their ideological bagatelle: All income, however derived, must be taxed equally. Yet the tax "reformers" typically refuse to take their own shining principle seriously. They want capital gains counted as ordinary income, but they do not want capital losses fully and simply offset against ordinary income. While the administration watered down this pristine proposal into jiggering to boost some capital gains rates, the principle remains its guiding light and explains its fervent opposition to Mr. Steiger. But the principle is naive in conception and hypocritical in application.

So the debate is clearly focused. Shall we cut the capital gains tax, spurring growth, creating jobs, boosting government revenues and otherwise building a bigger pie for all to divide? Or shall we boost that capital gains tax, closing a "loophole" and redistributing income, even if it makes us all poorer?

NOTES TO ARTICLE

Our original capital gains editorial, "Stupendous Steiger," April 26, has left a couple of points to be cleared up.

The first concerns the position of the National Association of Manufacturers and the Business Roundtable; the NAM objects in a letter today. We have often watched powerful corporations scuttle proposals they nominally favor by subtle shadings of their support—the auto catalyst and oil deregulation issues come especially to mind—and have later seen that the scuttling corresponds to their interests vis-a-vis competitors. So sad experience has taught us to watch not what business lobbyists say but what they do. Our description of the NAM and the Roundtable as standing silent was based on reports from the trenches, and we do not believe any injustice was done. We are of course delighted to welcome them aboard.

Our original editorial did, however, repeat an error in some of the literature in saying that higher effective tax rates on capital gains took effect in 1969, and were responsible for the drop in capital gains tax receipts that year. The Tax Reform Act of 1969 actually applied to income during the year 1970.

We have also since discovered some better figures on capital gains receipts; Oscar S. Pollock, author of the Ingalls & Snyder study cited above, obtained internal Treasury figures not formerly available. Federal tax receipts from capital gains taxes on individuals for calendar years were:

Year	*Receipts (billions)*
1965	$4.1
1966	4.0
1967	5.5
1968	7.2
1969	5.9
1970	3.6
1971	5.3
1972	6.9
1973	6.8
1974	5.6-p
1975	5.5-p

Mr. Pollock also has an illuminating table on tax treatment of capital gains by various countries, with maximum rates on long-term gains, and holding periods to qualify for long term treatment:

Country, top rate, holding period

U.S., just over 49%*, one year.
Australia, exempt, one year.
Belgium, exempt, none.
Canada, 22%*, none.
Germany, exempt, six months.
Italy, exempt, none.
Japan, exempt, none.
Netherlands, exempt, none.
Sweden, 23%*, two years.
U.K., 30%, none.
*Excluding state and local taxes.

[From the Wall Street Journal, Apr. 26, 1978]

STUPENDOUS STEIGER

Rep. William Steiger of Wisconsin, a slight, youthful 39-year-old Republican has shaken the earth, causing convulsions in the Carter administration, a titanic struggle in the business world and the rapid aging of House Ways and Means Chairman Al Ullman.

What Mr. Steiger did, in all innocence, was propose an amendment to Mr. Carter's tax package. The amendment cuts back the tax on capital gains to where it stood in 1968, before President Nixon was talked into boosting it and hitting it with minimum-tax provisions. Because there are 37 members of the committee and only 12 Republicans, it hardly seemed likely the Steiger amendment could walk, much less fly. But a nose count on both sides turned up at least seven Democrats favoring the amendment. That gives Mr. Steiger 19 votes, a majority, with additional members undecided and potential converts.

The Carter tax package, already reeling from other setbacks, has been stopped in its tracks by the Steiger amendment. Mr. Carter wants to raise, not lower, the capital gains rate. Soaking the rich investor is such an article of faith among liberal tax "reformers" that they are likely to vote against any bill with the Steiger amendment, without even listening to the arguments that have persuaded a majority of Ways and Means. So the tax bill, originally scheduled for mark-up on May 3, has been put off for a week or more. The chief purpose of this delay is to stop Mr. Steiger by trying to horse-trade away some of his 19 votes.

The key to Mr. Steiger's sudden success is one argument: A lower tax on capital gains will raise more money, not less, for the government. The Treasury of course calculates that the rate cut would lose money, handing it out to rich investors. But the Treasury insists on using "static analysis," which calculates the effects of tax cuts by making the convenient but plainly silly assumption that nothing else in the economy changes as a result of different tax rates. Others work with "dynamic analysis," trying to calculate the feedback effects from the rate cuts themselves; often they argue that some kinds of tax cuts will increase total revenues.

With most taxes, you have to argue about the possible dynamic effect. But on the capital gains tax it is written in black and white: In 1968, the last year of the lower capital gains rate, the tax pulled in $7.2 billion in revenues. In 1969, at the higher rate, the tax took in $4.8 billion. After a decade, it is only now getting back to the 1968 level, and in inflated dollars.

So Mr. Steiger is asking the liberals whether they want to cut off their nose to spite their face. Are they really so intent on soaking the rich investor they want the government to give up money in the process? Understandably, the "tax reform" legions are running for cover.

We are prepared to argue that the Steiger amendment would not only boost the revenues from the capital gains tax itself, but would give the economy a powerful shove and boost revenues from other taxes as well. The 1969 change effectively cut in half the jackpot for high-risk capital investment. Reversing that move would double the jackpot and send the economy onto a real growth path.

This prospect of growth is spawning new political coalitions as well. Los Angeles Mayor Tom Bradley, a black liberal Democrat, has testified on Mr. Steiger's side, seeing that higher rewards for risk would boost the young electronics companies in his city. Black bankers and energy groups, seeing that favorable capital gains treatment helps rising enterprises, are pushing hard in a new, unusual alliance with the U.S. Chamber of Commerce.

Meanwhile, the Business Roundtable and the National Association of Manufacturers stand silent, tempted to throw in their lot with Ralph Nader and Jimmy Carter against Mr. Steiger. Big Everything does not relish competition from young upstarts. It prefers tax boondoggles like the Domestic International Sales Corporation, an export-subsidy scheme with no economic justification but of considerable help to multinationals that can hire hordes of lawyers to figure out its provisions.

So the battle is brewing. It remains to be seen whether Mr. Steiger—perhaps with help from Ways and Means minority leader Barber Conable, who also recognizes that a cut in the capital gains rate would boost revenues—can hold together 19 votes against the inevitable temptations of log-rolling. Everyone should know that the Steiger amendment is not one tax provision among many, but the cutting edge of an important intellectual and financial breakthrough.

[From the Wall Street Journal, May 18, 1978]

NEVER ON SUNDAY

The last ambiguity has been removed from the administration's position on the Steiger amendment to cut the capital gains tax to

spur economic growth. While Mr. Steiger commands a majority of the House Ways and Means Committee, and Sen. Clifford Hansen has now lined up an incredible 60 cosponsors for the measure in the Senate, Treasury Secretary Blumenthal has fallen in line with the administration's income-levelers.

"The Treasury very strongly opposes any attempt" to restore the pre-1969 treatment of capital gains, Mr. Blumenthal wrote Rep. Steiger. He asserted that the proposal would cost the Treasury $2 billion annually. He complained that the proposal "would sharply erode the progressivity and horizontal equity of the income tax system." And he said that "ad hoc" measures to cut taxes on capital now would complicate future plans to do so.

Yes, this is, the same Secretary Blumenthal who a week earlier had been billing and cooing about the taxation of capital with the financial analysts in Florida. The same one who complained that the problems of capital formation, and especially equity capital, are too often overlooked. Who suggested a study not only of capital gains, but of double taxation of dividends and the different tax rates for investment and personal service income. Assuming that the Secretary's words in Florida mean something, the position that has emerged over the past few weeks seems to be this: The administration is all for lower taxes on income from capital, except on Sunday, Monday, Tuesday, Wednesday, Thursday, Friday or Saturday.

To put a better face on it, Secretary Blumenthal wants to study the matter, hoping to come up with a "comprehensive" plan on the capital taxation issue. This approach has not exactly covered itself with glory on the matters of energy, welfare reform or tax reform generally. There is especially little reason for the Congress to wait on capital gains, since the ultimate outcome of any Treasury study is already clear enough from the arguments Secretary Blumenthal makes in his letter to Rep. Steiger.

There is, first of all, the tendentious treatment of the estimates of costs to the Treasury. A number of studies have predicted that cutting the capital gains rate would actually produce more revenues for the Treasury, by stimulating economic activity and encouraging the realization of gains. Mr. Blumenthal dismisses these studies as based on the assumption of "an enormous boom in the stock market (a 40% increase in stock values in one study), an effect supported by neither evidence or logic."

First, one has to keep matters in perspective. A 40% "enormous boom" from the market's recent low of 750 would carry it to 1050, only slightly above its level when President Carter was inaugurated, and about even with its 1973 high, even neglecting the effects of the interceding inflation. For that matter, stocks have gone up over 10% in the last month, no doubt in some part as a reaction to the new possibility of lower capital gains rates.

In any event, the estimates of the effect on stock prices were not plucked from the air but derived from past experience by our leading econometric consulting firms. We would be the first to agree that econometrics has considerable limitations, but clearly these studies are better than the Treasury's. So far as we can tell, the assertion of a $2 billion cost is based on the usual Treasury assumption that changes in tax rates have zero effect on stock prices or any other economic variable.

Even more ominous is the Secretary's complaint about "fairness," that "four-fifths of the benefits would go to persons with incomes over $100,000." That is another way of saying that persons with incomes of over $100,0000 have borne four-fifths of the increase in capital gains rates since 1969. But more fundamentally, this complaint can be raised against just about any attempt to reduce taxes on capital. If to encourage growth you decide to reduce taxes on the returns from capital, you have to reduce taxes on people who own capital. In Florida, Mr. Blumenthal seemed to be raising a prospect of lowering the top 70% rate on investment income to the 50% maximum on salaries. Who does he think would benefit from this?

A study of this issue by the present Treasury, then, would be dominated by two assumptions: First, the denial that tax changes have economic effects, and second, an assertion that there must never be a reduction in the progressivity of the tax system. These assumptions are what is at issue in the capital gains debate. Rep. Steiger is saying that the tax system ought to be designed, not to meet some abstract and ill-defined standard of fairness, but to encourage economic growth, the rising tide that lifts all boats. Since 1969 tax reform has concentrated on income redistribution, and considering the economic results, there is plenty of reason to shift the emphasis to growth. The place to start is with capital gains; the time is now.

[From the New York Times, May 21, 1978]

INFLATION'S TOLL ON CAPITAL GAINS

(By Donald T. Regan)

Wage earners are acutely aware of the income tax bite in the paycheck. Few are aware, however, of the subtle effect inflation has on income tax rates. Thanks in part to inflation, our total income is higher and therefore is taxed at a higher rate, leaving our real spendable income relatively constant.

There is another hidden inflationary impact that has just as damaging effects—on the capital gains tax. That tax, of course, is the Government's share of any increased value received in selling a house, stock, jewelry, works of art—anything that you sell for more than its purchase price. Capital gains, as they are called, are generally taxed at half of the usual tax rate to a maximum of 25 percent, although in large amounts the rate can rise to a high of 49.2 percent.

The Carter Administration has proposed raising the tax on preference income, which includes capital gains. Businessmen and economists have presented evidence that an elimination of all taxes on capital gains would provide needed long-term benefits to the economy by increasing investment and creating jobs. Congress is studying the whole question.

But aside from these larger questions is the problem of inflation. New economic studies have shown that inflation affects capital gains significantly more than it does income from salaries and wages. The results in fact, suggest that the Government is collecting a tax on supposed profits that are—in real terms—losses. And the middle-income stockholder is apparently hit much harder than the wealthy stockholder.

This impact is true no matter how capital gains are taxed. With the tax on preference income included, as noted, very large investors can pay a tax on a capital gain of more than 49 percent. With smaller capital gains, the tax drops back toward 25 percent. But even at the straight 25 percent level—the level at which all capital gains were taxed before 1969 and the level at which they would be taxed again if moves like the Steiger Amendment in the House succeed—the impact is severe.

Here's how it works. If a taxpayer in the 50 percent tax bracket (a family income of $50,000) sells for $1,060 something he bought for $1,000 a year ago, he would pay $15 in capital gains taxes, leaving a $1,045 balance. But that balance would have a real purchasing power of only $985 after just one year of 6 percent inflation.

If the same taxpayer held that same possession for 11 years, and it appreciated 6 percent a year, its market value would be $1,895 before a capital gains tax of $223. But the after-tax balance of $1,672 would be worth only $777, expressed in real purchasing power at the time the investment was made more than a decade before—assuming an inflation rate of 6 percent a year. And in recent years inflation has been higher than that.

Of course our theoretical taxpayer may have received dividends on his investment. But half of those are taken away, too, as part of his income tax. Thus he finds whenever he sells that his investment has not grown much and may even have shrunk. Along the way, he has had to take the risks associated with ownership, whether it be of a business, a piece of property, a stock or an object of art.

A recent study by two Harvard University researchers for the National Bureau of Economic Research concludes that our theoretical taxpayer is far from alone in losing money in real terms—partly because of inflation and partly because of the capital gains tax on the phantom profits he records when selling his investment. The study concludes that the $4.5 billion of nominal capital gains by individuals on corporate stock sold in 1973 becomes a real capital *loss* of nearly $1 billion when inflation is taken into account. And to add insult to injury, the study says the individuals paid nearly $500 million of capital gains taxes because of the distorting effect of inflation.

The study also concluded that, as a result of incorrect measurement of capital gains—disregarding the number of years the stock was held and the varying inflation rates for those years—the Government subjected individuals with similar real capital gains to very different total tax liabilities.

Who wants to invest under these circumstances? As we have seen in recent years, very few people. We have ample evidence of the flight of the individual investor from the stock market. Individuals were net sellers of stock every year from 1969 through 1977. It's true that individuals were net buyers during the fourth quarter of last year and the first quarter of this year, when there were a lot of bargains available, but they were again net sellers as soon as the market rally began in mid-April.

As interest in many stocks has declined, prices of those stocks have leveled off or dropped, making the new issuance of stock totally uninviting to most companies. The result is a shortage of the capital needed by those companies to build new facilities and modernize old equipment—and ultimately create jobs.

The stock market's performance has exacerbated the growing capital shortage. Real capital spending by American business has shown either no growth at all or growth under 8 percent for every year but one in the 1970's. Productivity has been dropping for the last decade. That is important because, economists believe the long-run growth rate of real wages is determined, for the most part, by the growth rate of productivity. And, in fact, since 1969 real hourly wages in private nonfarm employment have risen less than 1 percent a year.

By channeling a bigger share of our gross national product (perhaps as big in real terms as in the mid-1960's) into investment and by raising the effective amounts of capital per worker, the productivity decline can be turned around and the economy can regain close to its historical growth rate. But that will require Government policies that make investment attractive to individuals, historically an important source of capital

investments. A realistic capital gains tax policy—one that recognizes the effects of inflation—is the first step.

[From the Wall Street Journal, May 17, 1978]

AMERICANS SAVE FAR LESS OF THEIR EARNINGS THAN CITIZENS ELSEWHERE, AND THE GAP GROWS

(By Alfred L. Malabre Jr.)

Americans are saving far less of their money than citizens in other industrial countries.

At a time of growing uneasiness over the U.S. economic outlook, the disparity has received few headlines. Yet, it is enormous, and it has grown over the years. Many economists find the pattern deeply disturbing.

A willingness to save, of course, is fundamental to economic growth. Paul A. Samuelson, the Nobel-laureate economist at Massachusetts Institute of Techology, has observed that "to the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation."

DIVERSE TRENDS

American willingness to save is low, as the accompanying chart shows, and it has been diminishing. Meanwhile, saving rates abroad have risen. The following table traces these diverse trends over the last decade. In the six major industrial countries, it pinpoints consumer saving, as a percentage of consumer disposable, or after-tax, income.

Rate of Saving

(In percent)

	1977	1967
United States	5.1	7.5
Canada	9.8	6.2
Britain	13.9	8.5
West Germany	14.0	11.3
France	16.1	15.9
Japan	21.5	18.5

It is impossible to know whether the propensity to save will continue to decline in America, or keep expanding abroad. Inevitably, much will depend on the extent to which government policies tend to encourage or discourage saving. And who can foresee with precision the economic plans that political leaders may be hatching?

Whatever does develop, the present disparity is significant on a number of counts. It suggests a greater *potential* for economic growth abroad than in America. "If people don't save, there can't be sufficient investment, and eventually economic growth suffers," says Martin S. Feldstein, president of the National Bureau of Economic Research, a nonprofit business-analysis organization based in New York.

Noting the remarkable rise of savings in Canada, Robert Baguley, an economist at Royal Bank of Canada in Montreal, declares: "Canadians possess the capability to increase thir spending sharply." No such cushion exists in the U.S. says Paul Wachtel, an economists professor at New York University. "There is a strong argument that Americans should be saving more."

To many analysts, the relatively low rate of saving in America suggests that the U.S. economy is particularly susceptible, in the event of brisk expansion in coming months, to interest-rate increases. By the same token, these analysts maintain that interest rates are likely to rise relatively little in countries where a large portion of income is being plowed into savings. Sharply climbing interest rates, of course, act to inhibit economic activity inasmuch as they discourage borrowing for business expansion projects, homebuilding and other endeavors.

Economic growth in America has indeed tended to lag during the last decade. This is apparent, for instance, in data showing industrial production, an economic indicator expressed in physical terms and therefore not distorted by rising prices. Since 1967, industrial production in the U.S. has risen slightly over 40 percent. Among the major ccuntries, only Britain shows a smaller gain. The comparable increase in Japan is 97 percent. West Germany, France and Canada also show far larger gains than the U.S.

By no coincidence, capital spending in the U.S. is relatively small in terms of overall economic activity. Last year, according to a U.S. Commerce Department analysis, capital investment amounted to 17 percent of America's gross national product. This was a lower percentage than for any other major nation. The report shows the latest comparable rates to be 30 percent in Japan, 23 percent in France and Canada, 21 percent in West Germany and 19 percent in Britain.

International comparisons of economic data, to be sure, involve a particularly high degree of risk. It is easy to find oneself comparing oranges and apples. Different countries compile statistics in different ways. Definitions vary from country to country. Statistics involving savings are no exception.

ORANGES AND APPLES

"These are somewhat messy statistics that should not be taken as precisely accurate," warns Gerard Villa, consulting economist of Banque Bruxelles Lambert in Brussels. He notes, for example, that in much of Western Europe "spending by self-employed small businessmen on their own businesses is counted as a part of personal savings." This would not normally be so in the U.S., he adds.

Such distinctions, however, are hardly sufficient to explain the large lag in savings in America. "This is not simply a case of comparing oranges and apples," declares Edward F. Denison, an economist at the Brookings Institution, a nonprofit business-research group based in Washington. "People really do save much higher percentages of their incomes abroad than in the U.S."

There is no single explanation for this U.S. tendency to spend or the propensity elsewhere to save. Various factors appear to be at work.

Mr. Feldstein, who also teaches economics at Harvard University, maintains that Americans have relatively extensive insurance against old age through such programs as Social Security. He finds the U.S. coverage "substantially greater" than, for example, in Japan. Not surprisingly, he says, the typical Japanese worker feels obligated to set aside a relatively large fraction of pay for the retirement years.

BIG BONUSES

Mr. Denison notes that workers in some countries derive a considerable percentage of their yearly pay through annual or semi-annual bonuses. In Japan, he says, bonus money recently has approximated one-quarter of annual earnings. No precise figures are available, but he estimates that the comparable U.S. rate is "far lower." Bonus money, he explains, is likelier to be put into savings than regular pay.

The sharp rise of saving in Canada apparently reflects in part governmental efforts to induce thrift. Mr. Baguley of Royal Bank of Canada mentions, for example, the advent of government-sponsored plans, set up within the last decade, that provide tax breaks on various forms of saving. One plan encourages saving for retirement and another saving for home-buying.

Tax considerations are cited by many analysts. U.S. taxation of capital gains, for instance, is deemed relatively heavy. And this, many observers claim, acts to discourage key forms of saving in America. Mr. Villa maintains that the absence of a Belgian capital-gains tax on individual savings is a major reason that his country's saving rate is up around 18 percent. Countries that either exempt such gains from taxation or levy less of a tax than Uncle Sam also include Australia, West Germany, Italy, Japan, the Netherlands, Britain, Sweden, France and Canada.

Proposals have recently been in the Congress to trim capital-gains taxation in the U.S. However, the Carter administration makes clear that it opposes such measures. The dispute has caused a delay in congressional consideration of President Carter's entire tax "reform" package.

Demographic factors may also work to hold the U.S. saving rate below levels elsewhere. Over the next decade, forecasters project an increase of only 470,000 among Americans aged 45 to 64, a group that tends to save a relatively high percentage of income. In the period, a 6.4 million increase is foreseen among Americans aged 25 to 44 years when only a small portion of income typically is saved. Generally, these demographic patterns are more pronounced in the U.S. than in other industrial countries.

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the five notifications I have received.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 16, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No 78–40, concerning the Department of the Air Force's proposed Letter of Offer to Iran for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $170 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA,
Director,
Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78–40: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value: Major Defense Equipment* $170.0 million; Other, 0.0. million, total, $170.0 million.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Eleven (11) RF-4E reconnaissance aircraft and support equipment.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: 16 May 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 16, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-54, concerning the Department of the Air Force's proposed Letter of Offer to Japan for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $137.5 million and support costs of $6.7 million for a total estimated cost of $144.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A., Director, Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78-54: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Japan.

(ii) Total Estimated Value: Major Defense Equipment* $137.5M; Other, $6.7M; Total $144.2M.

(iii) Description of Articles or Services Offered: Two (2) F-15C and six (6) FP15D Aircraft.

(iv) Military Department: Air Force.

(v) Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: May 16, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 16, 1978.

Hon. JOHN J. SPARKMAN
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-55, concerning the Department of the Navy's proposed Letter of Offer to Japan for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $137.5 million and support costs of $6.7 million for a total estimated cost of $144.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A., Director, Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78-55: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Japan.

(ii) Total Estimated Value: Major Defense Equipment* $54.0 million; Other, $46.4 million; Total, $100.4 million.

(iii) Description of Articles or Services Offered: Three (3) complete flyaway aircraft including spare and repair parts and U.S. Government furnished equipment for five (5) additional license produced P3C aircraft plus spare parts and services.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: May 16, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 17, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-50, concerning the Department of the Navy's proposed Letter of Offer to Iran for other than major defense equipment, estimated to cost $130.1 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78-50: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value: Major Defense Equipment* $0.0 million; Other, $130.1 million; Total, $130.1 million.

(iii) Description of Articles or Services Offered: Support equipment, airframe changes and logistic support services for the Iranian Navy RH-53D, SH-3D, and AB-212 helicopter weapon systems through mid-CY1983.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: May 17, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 17, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-52, concerning the Department of the Navy's proposed Letter of Offer to Iran for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $78.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A., Director, Defense Security Assistance Agency.

Attachments.

TRANSMITTAL NO. 78-52: NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value: Major Defense Equipment* $0.0 million; Other, $78.4 million; Total $78.4 million.

(iii) Description of Articles or Services Offered: Provides for engineering changes for F-14 aircraft and associated missiles (Phoenix, Sidewinder and Sparrow). The engineering changes include safety of flight items, improvements in avionics equipment, engine, landing gear, cockpit escape mechanisms, flight controls and missile and electronics reliability.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Deport Delivered to Congress: 17 May 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

MEDAL OF HONOR

● Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD an article about Tony Cassamento and his long struggle to obtain the Congressional Medal of Honor. His "private war" has lasted since 1942 when he was severely wounded by enemy fire. It continues today. Congressman DOWNEY and I are aiding him in this battle to obtain the Medal of Honor and have introduced bills in our respective Houses to grant him this medal.

But the story of the real fight is contained in the New York Daily News, April 21, 1978, article I am introducing today. It is the story of his long and dedicated pursuit of the medal and of the courage and loyalty with which his wife and family have supported and encouraged him. I wish to share it with my colleagues so that they, too, may know of Tony's dedication to our country and the worthiness of his cause.

The article follows:

TONY CASAMENTO'S LONG PRIVATE WAR

(By Raina Grossman)

Anthony Casamento is a 57-year-old World War II veteran whose modest home in West Islip, L.I., is his outpost in a long private war to win the Congressional Medal of Honor.

It is not so much a dream as an obsession, but he is no crackpot. He is a bitter, angry fighter.

His long battle began a few months after Nov. 1, 1942, when he was a U.S. Marine Corps corporal, one of 30 men who were assigned to a machinegun crew near the Matanikau River on Guadalcanal.

While his crew was setting up a gun placement that November day, it came under Japanese fire so intense that it killed 27 of his 30 comrades. Casamento himself was struck 14 times by bullets and fragments of exploding hand grenades, but he managed to turn the machinegun on the Japanese and hold them off until American reinforcements arrived.

The next thing that Casamento remembers clearly, he was lying in a bed in a military hospital in the New Hebrides islands in the South Pacific—and he was a hero.

How special a hero is what his long fight is about.

The medal that he wants so desperately—and believes so firmly that he deserves—is the nation's most valued tribute to bravery and sacrifice in battle.

Of the 41.8 million men and women who have fought American wars since the Revolution that began in 1775, only 2,635 were awarded the Medal of Honor. (Another 900 actually received the medal but lost it when Congress decided it was improperly awarded.) Of the winners, two-thirds were killed in the action for which they were honored.

The medal is, to outsiders, only a fancy bronze badge that is worn around the neck, suspended on a bright blue ribbon.

But to the men and women who know its value, the medal is a badge of extreme repect, a symbol that its wearer went far above and beyond the call of duty in combat. It merits a salute even from the President, in his role as commander in chief of the armed forces.

Tony Casamento knows the medal's worth well.

"He thinks about it," says his wife Olivia. "Not every day, but every minute of every day."

"I believe in honor," Casamento says. "I don't believe in giving up."

Neither does Mrs. Casamento. She picketed the White House for 19 days last year (and lost 22 pounds during a 10-day fast), carrying a sign that read: "Secretary of the Navy denies earned Medal of Honor to veteran for fear of precedence. I seek justice for my husband. It is long overdue. President Carter, please help me."

While his wife walked back and forth with her sign, Casamento sent Carter two telegrams, asking him to see her for one minute—"only one minute," was the way he put it.

Carter did not see her. No official did.

Then when Carter flew to Clinton, Mass., for an appearance at a typical New England town hall meeting on March 19, 1977, Mrs. Casamento drove the 200-plus miles there for one more try.

Unable to get inside the hall, she joined several hundred other persons outside, waiting several hours for a glimpse of the President, or a word with him. Mrs. Casamento failed to catch Carter's eye.

Casamento's long battle actually began when he returned home and found his congressman, the late Vito Marcantonio, anxious to put the Marine hero's exploits on the record.

Marcantonio introduced a bill to award Casamento the medal (although the President actually awards the medal, it is done in the name of Congress). Marcantonio also read a stirring account of the Guadalcanal action into the Congressional Record. Casamento himself wrote the account.

However, the Navy, which is responsible for investigating Marines nominated for decorations, botched the investigation. Among other things, it reported that all of Casamento's comrades died in the Nov. 1 battle. Therefore, it said, it could not recommend the Medal of Honor on the strength of Casamento's account alone. It needed witnesses.

Casamento accepted the decision. He assumed that all of the other members of his company had died.

He picked up the pieces of his life, as much as he could between trips to VA hospitals (he still goes twice a month). He was granted a 100 percent disability pension.

The pension, now $963 a month, is still Casamento's only income. He has never worked since that day on Guadalcanal. The Medal of Honor would give him another $100 a month, but money is clearly not what motivates Casamento. He is obsessed by a belief that the Navy will not admit that he is really entitled to the medal.

"We feel that the Navy won't release the medal because it is embarrassed to admit that it never conducted a proper investigation into Tony's case," says his wife.

Then in 1964 Casamento learned that there were two witnesses on that Nov. 1. They were Michael Ciaverelli and Vincent Tortorici, the other two members of the company who survived. They contacted him after reading a laudatory Veterans' Day article about Casamento.

Ciaverelli and Tortorici did more—they each wrote a detailed account of Casemento's bravery and tenacity under fire.

Casamento soon collected 20 affidavits and, for the first time, he asked his old company commander, Col. Joseph S. Skoczylas, to argue his case before the Navy's advisory Board of Decorations and Medals, at a meeting in Washington on June 18, 1965.

After the meeting, Skoczylas telephoned Casamento to give him the good news—the board had recommended the Medal of Honor for him.

"We were so thrilled," Mrs. Casamento says. "Months went by. We didn't hear anything more. Finally, we learned that the Secretary of the Navy (then Paul Nitze) had overruled the board and approved the Navy Cross instead."

She said there was no explanation "The Navy Cross is not what he deserves, so Tony refused it."

A year later, the decorations and medals board met again. This time, it agreed that Casamento deserved not the Medal of Honor but the Navy Cross.

The Casamentos came out fighting. They wrote letters to every member of Congress. They telephoned many of them. They enlisted the aid of the fraternal Order of the Sons of Italy, which has more than 50,000 members in New York State, and many of them peppered congressmen with letters demanding that Casamento receive his medal.

The Casamentos' four daughters now aged 12 to 24, joined the battle, "Everyone in school knows his story," says Mary, 15. "He's taught me to fight for what I believe is right."

Finally, Rep. Thomas J. Downey (D-West Islip) and Sen. Jacob Javits (R-N.Y.) sponsored bills to clear the way for Casamento to receive the Medal of Honor. Both bills are still bottled up in committee and prospects for getting them out are slim.

As far as the Navy is concerned, the case is closed. Two months ago, it again said that it would approve only the Navy Cross.

There is little doubt that the original Navy investigation was botched—even the Navy concedes this privately—but it argues that even if it had conducted a full and proper investigation, the highest award that it would have recommended would have been the Navy Cross. (It is, incidentally, the second highest award for valor.)

One problem is political. Once any congressman rams through a bill giving a constituent, worthy or not, a Medal of Honor, it will cheapen its value and debase its significance.

"It's unusual for us to go this far," says Downey's legislative aide, Richard DiSalvo, "but we got involved because we think Mr. Casamento deserves the medal."

But the Navy must endorse it and that's the hang-up. The fact that the Board of Decorations and Medals originally approved the medal means little, the Navy argues, because it is only an advisory body.

"Mr. Casamento's persistence is well known in the Pentagon, believe me," says DiSalvo. "He is not forgotten. There's a guy at the Navy Department who spends most of his time on the Casamento case."

Will the Casamentos give up? "I'll fight them until the day I die," Casamento says.

And if he wins, Casamento was asked, what will he do with his medal?

"I'll hang it around my wife's neck," he says. "I'm very honored that she has stood by me."

The medal would, in fact, become Casamento's only souvenir of that November day in 1942. Somewhere on the long painful trip home from the South Pacific, he lost his seabag and with it, every momento of his wartime service.

Except two—the never-fading memories and the physical scars.●

IOWANS HONORED FOR VOLUNTARY ACTIVITIES

● Mr. CULVER. Mr. President, an outstanding and important part of our culture is the opportunity to perform voluntary services, and it is fitting that we recognize and honor those persons who make our lives fuller by generously volunteering their time and talents to help others. The National Center for Voluntary Action each year sponsors the National Volunteer Activist Awards to honor outstanding volunteers and volunteer groups throughout the country. This year, from over 700 entries, 9 national winners were chosen for outstanding volunteer activities in their communities.

I am most pleased that People United for Rural Education (PURE) of Alden, Iowa, has been chosen as one of those national winners. PURE was formed in 1977, in their words, to "promote the qualities that have been inherent in rural education and to pursue educational excellence that will enhance rural community life."

PURE is a diverse group and includes parents, teachers, school board members, administrators, college personnel, members of the Iowa General Assembly, and other individuals interested in education. This group publishes a monthly newsletter featuring articles on outstanding rural school programs, research findings relating to rural education, and other information about current rural education issues. Representatives from PURE attend meetings of the State Board of Public Instruction and the School Budget Review Committee, and testify before the Iowa House and Senate Education Committees.

Mr. President, quality education in rural areas is an important and worthwhile objective, and PURE has been instrumental in enhancing the opportunities for effective rural education in Iowa. The members of PURE should be commended for their outstanding voluntary work, and for receiving the National Volunteer Activist Award this year.●

CORRECTION OF ALLOCATION—SENATE CONCURRENT RESOLUTION 80

● Mr. MUSKIE. Mr. President, the statement of managers of the conference report on Senate Concurrent Resolution 80, the first budget resolution for fiscal year 1979, includes, as required by section 302 of the Budget Act, an allocation of the appropriate levels of new budget authority and outlays among the committees of the House and Senate. This allocation will guide the Congress in scorekeeping spending measures affecting fiscal year 1979 as they are considered over the next few months. The House committee Chairman, Mr. GIAIMO, has received consent to make this change.

Unfortunately, there was a technical error in the allocation to the House Committee on Ways and Means. This error does not affect any of the functional or aggregate figures in the budget resolution, nor does it involve matters of policy. To remedy this error, the allocation to the House Committee on Ways and Means pursuant to section 302 of the Congressional Budget Act, contained in the joint explanatory statement of the managers of Senate Concurrent Resolution 80, which was printed in the RECORD on May 15, 1978, at page 13619, (cross-referenced from page 13715) was corrected yesterday by the House for the permanent RECORD.

I submit the corrected allocation for the RECORD.

The table follows:

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

	Fiscal year 1979	
	Budget authority	Outlays
House Ways and Means Committee:		
450: Community and regional development		
New entitlement authority	(150,000)	
500: Education, training, employment, and social services	723,160	
New entitlement authority	(250,000)	
550: Health	31,900,000	28,615,262
600: Income security	119,758,510	112,842,364
New entitlement authority	(1,273,000)	
800: General government	4,025	4,025
850: General purpose fiscal assistance	458,000	458,000
900: Interest	53,528,000	53,528,000
950: Undistributed offsetting receipts	−15,000	−15,000
Committee total	206,356,695	195,432,651

●

WORLD TRADE WEEK

● Mr. DOLE. Mr. President, the week of May 21 through May 27 has been designated as World Trade Week. It is particularly important to call attention to this week, because for the first time in our history the United States has become a substantial net importer of goods. Last year's record trade deficit of $26.7 billion is likely to be repeated this year. With this balance-of-payments problems comes the consequences of the falling value of the dollar abroad and an accelerating rate of domestic inflation.

BALANCE OF PAYMENTS

The United States is the world's biggest and unfortunately most indifferent exporter. Last year, American industries shipped $120 billion worth of goods to foreign customers. In the same period of time, Germany shipped $118 billion and Japan exported $81 billion.

Last year, U.S. imports soared to $147 billion, raising our balance of deficit payment to nearly $27 billion. The export-minded Germany and Japan piled enormous surpluses of $18 billion and $10 billion respectively, largely due to stepped-up sales in the United States.

EXPORT POLICY

Mr. President, the Senator from Kansas has maintained for some time that part of our balance-of-payments problem is caused by the lack of a comprehensive export policy in this country. The administration and the Congress have enacted laws and regulations which inhibit rather than promote exports. It is all too easy to blame our problems on the purchase of imported petroleum.

In the past, the United States has paid little attention to the export markets. However, today, we must reverse that trend. In order to finance our need for energy, the United States must find buyers for billions of dollars worth of additional products abroad.

AMERICAN JOBS

The exportation of products generates American jobs. The Government should actively promote increased exports for American business. Unless a more favorable environment is created for U.S. exporters, I am concerned that we will continue to lose our world market share to foreign rivals.

Mr. President, I hope that the country takes note of world trade week and that Government, business, and labor can embark on a program to reverse the current trend.●

THE 100TH ANNIVERSARY OF KINDERGARTEN IN MASSACHUSETTS

● Mr. KENNEDY. Mr. President, we are today celebrating an important day in our history. It is important to adults, to children—and, of course, to crayon, colored paper, and glue manufacturers. Today is the 100th anniversary of free, continuous, uninterrupted kindergarten in Massachusetts.

The first public kindergartens in the United States were founded in Boston, by Elizabeth Peabody and John Philbrick in 1870. Those kindergartens closed in 1879 for lack of funds. But, in the interim, Mrs. Pauline Agassiz Shaw opened the two free kindergartens which were to stay open and whose centennial we are celebrating today. Mrs. Shaw made a tremendous commitment to this effort. While many of her kindergartens were housed in public schools, she supported the salaries, equipment, and maintenance that these kindergartens needed. By 1883 she was supporting 31 kindergartens in the Boston area.

Mrs. Shaw's view of the purposes of kindergarten are still good principles for young child education. She wrote:

(A) kindergarten is a place of training . . . The kindergarten is properly a school to train little children as if they really were little children; to train them certainly, but not to subdue them, to give them moral and physical training quite as much as intellectual . . . The benefits of such a training to the child are self-evident. He is taught to be considerate and generous; to respect those about him; to acquire or mature habits of politeness, cleanliness, and general good behavior; and all the while he is learning these most important lessons, he is also learning to use his eyes, his hands, and his mind; to know forms and colors, numbers and relations; to exercise his constructive powers, and thus to be getting ready for the work of older schools. This preparation for the instruction to follow is the end and the test of kindergarten training.

Kindergarten is now a basic part of the educational system throughout this country. It has expanded and changed with the times. Today, in Boston, we have bilingual kindergarten programs; we have extended day programs to take care of the children of working parents; and we have magnet programs to attract children, from different racial and ethnic groups from all over the city, where they learn and play together, and learn about each other while doing so.

Mr. President, kindergartens have made a great contribution to the education of our children, and in turn, to the decency of our society. I want to salute kindergarten teachers and the foresight of Mrs. Shaw, Miss Peabody, and Mr. Philbrick, on this anniversary.●

S. 1437 CRIMINAL CODE REFORM

● Mr. EAGLETON. Mr. President, after careful consideration of the merits and demerits, I decided some months ago to support the criminal code reform bill (S. 1437), which was approved by the Senate on January 30. I concluded that while this was by no means a perfect bill, it was a very substantial improvement over the current body of Federal criminal law.

Of course, this opinion is not universally held. Some continue to see danger in the criminal code reform bill, especially as it pertains to the first amendment to the Constitution. There has been a tendency in some quarters, I am afraid, to read S. 1437 too quickly and to react to the worst possible interpretation of its words, without looking to the legislative history of the bill to which the courts will refer when it is applied. There also has been a reflex reaction to several provisions of the bill which, in fact, are no more than carbon copies of current law incorporated into the new code.

For these reasons, I was pleased to see five recently published editorials in the Washington Post which, I believe, strike the correct balance between fair criticism of the bill's faults and praises for its virtues. As our colleagues in the other body continue their deliberations on the criminal code reform bill, I feel they could benefit from the insights of the Post editorials. For this reason, Mr. President, I ask that the five Washington Post editorials be printed in the RECORD.

The editorials follow:

THE PROPOSED CRIMINAL CODE (I)

The proposed federal criminal code arrived on the Senate floor last winter—after almost seven years in committee—with an unusual collection of friends and enemies. Leading the debate for it were two senators rarely found on the same side of any issue involving law enforcement and civil liberties: Edward M. Kennedy (D-Mass.) and Strom Thurmond (R-S.C.). Chief among its opponents were two senators with equally divergent views on such subjects, Alan Cranston (D-Calif.) and James B. Allen (D-Ala.). Those alliances tell you something. So does the final vote in the Senate (72 to 15). The code is neither the forward-looking modernization of the criminal law sought by the Brown Commission in 1971 nor the repressive, vindictive legislation it was when it bore the designation S. 1. It has evolved through compromise into a bill that leaves no one completely pleased but few totally distressed.

The mixed feelings of most critics leave a House Judiciary subcommittee, which has just begun to mark up its version of the code, with something less than a free hand. It has an opportunity to make substantial improvements in this first general revision of the criminal law in the nation's history. But it must keep in mind the accommodations, so carefully negotiated in the Senate, that permitted the legislation to get this far.

It is almost impossible for anyone, other than the lawyers who have lived with it for a decade, to comprehend all of the changes this proposed code would make in federal

criminal law. Almost everything from arrest procedures to sentences is touched by some provision somewhere in the 682 pages of the Senate bill. It would, for example, expand the civil-rights laws, create a system to compensate victims of violent crime, increase the fines for white-collar crimes, practically eliminate parole from prison, repeal the Smith Act, make overseas corporate bribery a crime and modernize the sexual assault laws.

The need for such a monumental legislative effort is one of the few things on which the bill's supporters and most of its opponents agree. The existing criminal law is a shambles—inconsistent, sometimes contradictory, scattered throughout the entire U.S. Code. This bill would pull it together, eliminate the inconsistencies and clarify what is left, while dropping such obsolete statutes as that making it a federal crime to detain a government carrier pigeon.

The most serious objection is the claim that it is a power grab by the federal government. Almost all of its opponents agree on that, even if they agree on little else. Sen. Cranston sees it as a serious threat to civil liberties because of the way it defines what crimes the federal government can prosecute. Sen. Allen sees that same characteristic as a serious attack on states' rights. Both say the bill would clear the way for a national police force and the federal courts to take over the investigation and prosecution of many crimes (for example, murder, robbery, assault, burglary) that have traditionally been left in the hands of local governments.

They have a point. In rationalizing all the statutes that Congress has passed in the last 50 years, the code does expand federal jurisdiction over some crimes, and it does give the sense of an enormous federal intrusion into ordinary law-enforcement activities. But the impression is illusory; much of this apparent new intrusion is old stuff; the new code simply calls attention to laws already on the books. The solution is not to try to rewrite the whole basis of the code now, as some of its opponents are urging, but to focus on this problem later. Some experience under the code will make it possible for Congress to know, for the first time, how widely it has cast the federal net in practice as well as in theory. Then it will have basis for a careful modification of the federal reach, if that seems advisable.

Apart from the united attack on that one aspect of the code, opposition to it is split. Some object to changes it does *not* make in the law. It does not, for example, re-institute the death penalty, modify the wiretapping laws or alter the changes Congress made a few years ago in the Supreme Court's *Miranda* rules and in the granting of immunity from prosecution. The code would be better if many of the proposals put forward in those areas by the American Civil Liberties Union were in it. But those parts of the existing law were left untounched in the Senate as the compromise to keep the bill from being destroyed by controversy. Our view is that even in areas like these, where major changes are badly needed, no change in the present law is better than no new criminal code.

There is also opposition, particularly from civil libertarians, to several provisions in the bill. The new code, for example, would fundamentally alter sentencing procedures in federal court and conditions under which prisoners are released. It may create problems for government workers who leak information to the press. Some of the changes it makes, especially those involving preventive detention and obscenity and conspiracy prosecutions, do create serious new threats to civil liberties. Those are specific issues to which we will return in a subsequent editorial.

THE CRIMINAL CODE (II): THE PRESS

We have, quite naturally, a particular interest in those parts of the proposed federal criminal code that deal with secrecy and the press. When the code first appeared in the Senate some years ago as S.1, its provisions concerning those matters were disastrous. The goal of the code seemed to be to create an Official Secrets Act that would have made it quite risky both for unauthorized government employees to disclose information and for newspapers to print anything that government higher-ups wanted to conceal. Happily, most of that was jettisoned before the Senate passed its version of the code last winter. What remains is laregly a rewrite of law now on the books, although there are two provisions of particular interest.

One of these deals with the leaking of information that was submitted to the government in private. It is aimed at protecting confidential information the government requires citizens to provide, such as trade secrets and census data. The goal is legitimate but the problem is to draft language that protects real confidence without punishing government employees for disclosing evidence of wrongdoing. The Senate bill resolves this by making it a crime, punishable by up to a year in jail, for a public servant to disclose information submitted solely to obtain a patent, copyright, license, job or benefit or to comply with a specific requirement of law as long as rules or regulations bar its disclosure.

That covers far more information than any law now on the books, and it strikes us as being much too broad. It might, for instance, penalize an employee for blowing the whistle on cost overruns or on certain kinds of corruption. While there is an exemption if a disclosure of illegality is made to a law-enforcement officer, either the exemption must be widened to include other kinds of disclosure or the definition of what is confidential must be narrowed considerably.

The other provision of particular interest makes it a crime for anyone to retaliate, physically or economically, against a witness or an informant because of testimony given in official proceedings or information given to investigators. Some of our colleagues in the newspaper business are worried about this. They claim newspapers might be prosecuted for publishing a news story or an editorial about a witness's testimony if someone were fired or suffered a loss of business as a result of what they published. That is not the intent of the provision, as its legislative history makes clear, and it would be unconstitutional if it were. We regard this section, and its companion, which protects government employees from retaliation for their official acts, as useful expansions of the law.

That is not the only part of the proposed code on which we find ourselves in disagreement with others in the news business. There has been considerable opposition, most notably from the Reporter Committee, to the way in which the Senate's version of the code handles the right of reporters to protect confidential sources. The code generally leaves the development of a reporter's privilege where it is now: in the hands of the courts. That's where we think it belongs. Indeed, we urge Congress not to legislate this kind of protection for reporters. As a matter of principle, the press should not ask Congress for this or other special treatment because it might come to rely on favors that another Congress at a later date could take away.

There is, we concede, one portion of the proposed code which we favor and which does give the press special consideration. That is a provision barring federal judges from punishing reporters or newspapers who disobey "gag" orders if the orders are subsequently held unconstitutional. That is a useful, if only partial, antidote to the current national avalanche of injunctions (most of them in state courts) restricting the reporting of court proceedings. The change approved by the Senate would mean that a reporter who is ordered not to publish certain facts could publish them anyway and escape punishment if the order was invalid. As the law stands, disobedience of invalid orders is punishable. As helpful as it would be to have this kind of special treatment, we urge Congress to go further and extend the same protection to everyone. We see no reason why anyone should be punished for disobeying an invalid judicial order when no one is punished for disobeying an invalid act of Congress or order of the president.

There are pending before the House Judiciary subcommittee some other proposals that would have a devastating effect on the news business and on the flow of information from government, proposals, for example, that would make it illegal to publish a stolen document or to possess government information without permission. Those are the remnants of S.1 that were left in the wastecan as that bill was modified in the Senate. The House subcommittee should leave them there.

THE CRIMINAL CODE (III): SENTENCING

The most sweeping change in the proposed federal criminal code concerns what happens after a defendant is convicted. The code, as it passed the Senate, would replace all existing law on sentencing, probation and parole with a system of fixed prison terms, limited parole, and compensation to victims of crime. Vanishing along with the old law would be the premise that criminals are sent to prison for rehabilitation, a premise that was once the cornerstone of federal corrections policy. The proposed code says flatly that judges are to regard prisons as inappropriate settings for rehabilitation efforts—except in those few situations, such as drug-detoxification programs, where there is no alternative.

This change in policy is not as controversial as you would expect. There seems to be a growing consensus that while some prisoners are reformed behind bars, we do not know enough about how, why or even when such rehabilitation occurs to base policy on the possibility that it will. Prison terms, the prevalent perception holds, are useful only in punishing criminals, deterring them from committing crimes and protecting the public from their deeds.

This change in purpose does not mean that federal prisons would have to give up efforts to train or treat inmates. But it does mean the end of indeterminate sentences (e.g., three to 10 years for robbery) and a substantially reduced role for the parole board. A prisoner would know when he entered prison how long he was going to be there, and his release, in most instances, would not depend on his ability to persuade the parole board at some future date that he had been rehabilitated.

Accompanying this basic change is a mechanism designed to smooth out the large differences that exist now in the sentences imposed on similar criminals for similar crimes. A sentencing commission would draw up guidelines for judges to use. These would contain a range of sentences for each kind of crime and each kind of defendant. A judge would not be bound to pick a sentence within that range but would have to explain the reason for any deviation from it. A prisoner whose sentence was longer than the commission had suggested could appeal; so could the government if the sentence were shorter than the recommendation.

That approach to sentencing has received general approval among the experts. But there have been some specific criticisms. One

is that it would mean longer terms for most criminals because it would reduce sharply the amount of time off for good behavior a prisoner could earn and because the prisoner would have to serve all of his term unless the judge specified that he could be released early. That criticism seems to us unjustified and premature. The code sets shorter maximum sentences than now exist for most crimes and establishes guidelines for the sentencing commission that should produce average sentences much like those now served. Another criticism is that the government should not be able to appeal short sentences. We think that if a defendant can appeal a long sentence, basic fairness requires that the government be able to appeal a short one. That view is reinforced by the recent slap on the wrist given a Houston policeman by a federal judge for the murder of a prisoner.

The proposed code also makes substantial changes in the size of the fines that can be imposed and in what happens to the money the government collects. Maximum fines for almost every offense would go up sharply, reaching $100,000 for an individual and $500,000 for a corporation in felony cases. That increase is coupled with provisions barring fines as alternative sentences (no more 30 dollars or 30 days) and requiring that their size be related to the burden imposed on the individual and his family. All of the money collected in fines would go into a new victim-compensation fund. Victims of violent crimes (murder, assault and so on) or their survivors could receive up to $50,000 from the fund to cover medical expenses and loss of earning.

Funds of this type now exist in only a few states. The creation of a federal fund, especially in combination with some other innovations in the proposed code, might provide the spur needed to generate more compassion for victims in the criminal law. One of the other innovations directs judges to consider requiring criminals to make restitution to their victims regardless of what other sentence is imposed. Another gives judges the explicit authority to require individuals or corporations convicted of fraud to notify all those with whom they have had similar financial dealings of the conviction. That would be useful, for example, in large land-fraud cases where many of those who have bought property never realize they have been cheated until it is too late to recover damages.

For many supporters of the proposed code, these proposals for profound changes in the post-trial handling of criminals offset various shortcomings they believe the code suffers from elsewhere. We will discuss some of those shortcomings, especially as they affect civil liberties, in another editorial.

CRIMINAL CODE (IV): CIVIL LIBERTIES

The proposed federal criminal code has divided civil libertarians. Some, following the lead of the American Civil Liberties Union, are calling for rejection of the code because they regard it as a threat to individual rights. Others, including many often allied with the ACLU, believe the code's gains for civil liberties far outweigh its defects. Our own view is that, if the House will make certain changes in what the Senate has approved, the proposed code will be a major advance for both civil liberties and criminal law.

There are four sections in the Senate's version of the code that should be eliminated. These would 1) codify the Logan Act, which limits the contacts of American citizens with foreign governments; 2) resurrect the part of the Comstock Act that makes it a crime to send information about abortion through the mail; 3) establish a system of preventive detention for suspects awaiting trial; and 4) keep the federal government in the business of prosecuting obscenity cases.

The first three of these provisions were added to the code on the Senate floor after having been rejected by the Judiciary Committee. Two involve existing legislation (the Logan and Comstock acts) that even the Department of Justice wants removed from the books. The third, preventive detention, is a subject of such controversy that it, like wiretapping and capital punishment, should be handled by Congress as a separate issue. The proposed code's provisions on the fourth, obscenity, are better in some respects and worse in others than the existing law, but the subject is simply one that the federal government ought to leave to the states; Washington has enough to worry about with trying to police the distribution of obscene material.

Beyond these four sections of the proposed code, discussions of civil-liberties questions turn on the meanings that can be given to the precise language used. The ACLU argues, for example, that the language of the conspiracy section could have the effect of broadening the existing law to make criminal what are now innocent acts. Our view is that the proposed changes are a slight improvement over what is on the books, although we share the belief that a revision of this particular law ought to produce a statute that is much less vague and also much less of a threat to civil liberties.

Similarly, we share some of the worries about what would be a new federal crime: soliciting someone to commit a crime. Provisions like this are found in most new state criminal codes. They are said to be highly effective against white collar and corporate crime. Yet there is a danger that such a law could be applied to those, such as political dissenters, who never get beyond talking about illegal behavior.

On the other hand, we think the complaints made about most of the other sections of the proposed code rest on strained interpretations of what it actually says. For example, there has been opposition to the code's provision against inciting military insubordination. Yet the basic change from existing law is the substitution of the word "incites" for such words as "advises," counsels" and "entices." Given the legal meaning of "incites" this seems to be a tightening up, rather than a loosening, of a potentially dangerous law.

There are some major gains for civil liberties in other parts of the code to which there seem to be relatively little objection. The present civil-rights law punishes only conspiracies to deprive persons of their rights; the code's version would punish individuals for such actions. The code would also expand the federal bar against discrimination to include sex as well as race, color, religion and national origin. It would modernize the sexual assault laws, and it would reduce the maximum jail term for possessing small amounts of marijuana from one year to five days.

Although there is much in the proposed code that we would prefer not to see there, these improvements in the law along with the changes we have mentioned would more than make up for its shortcomings. There remains the question of how the House of Representatives should deal with it, but that is a separate question to which we shall return.

CRIMINAL CODE (V): PASS IT

During the past week, we have devoted a lot of space to the proposed federal criminal code. We have done so because, in our view, it is one of the most important—and least understood—pieces of legislation to have come before Congress in years. This code has been in the making for over a decade. Yet the House Judiciary subcommittee responsible for handling the measure seems unsure of what it should do with the version the Senate passed last January.

At a subcommittee meeting a few days ago, several subcommittee members said they were staggered by the size of the job they have been asked to undertake. We can see why, since the job is enormous. But the more important fact is that revision of the federal criminal law has been on the legislative agenda since Jan. 7, 1971, when the Brown Commission made its recommendations. It is incredible, therefore, that after seven years of well-publicized work in the Senate some members of the House committee to which the subject has been routinely and predictably referred are only now realizing what is involved.

Several years ago, the decision was made in the House to let the Senate act first on the new code, largely because the late Sen. John L. McClellan was then so deeply interested in it. The work the Senate did in producing its version of the code has greatly simplified the work of the House. The basic issues and the areas of controversy have all been clearly identified, either in the voluminous literature that has grown up around the code or in the hearings held by the House committee this year. All that remains is for the committee to face those issues and make decisions on them. It would be a travesty of the legislative process for the committee to push the subject aside because it is "too difficult" or "too complex" for its members to handle.

We have discussed in previous editorials the provisions of the code (as it was passed by the Senate) that the House committee ought to eliminate or modify. With those changes, and perhaps a few others, the code would become a landmark in the history of American law. The need for it—and not just selected parts of it, as some have suggested—is as great now as it was in 1966 when Congress started the process of revision by establishing the Brown Commission.

The existing federal criminal law is a disgrace, intelligible only to those who spend their lives searching through its intricacies. The proposed code offers an opportunity to make it understandable to all, citizens and legislators as well as trial judges and lawyers. That opportunity must not be lost.●

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Russell T. Baker, Jr., of Maryland, to be U.S. attorney for the district of Maryland for the term of 4 years vice Jervis S. Finney, resigning.

Peter F. Vaira, Jr., of Illinois, to be U.S. attorney for the eastern district of Pennsylvania for the term of 4 years vice David W. Marston.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before May 30, 1978, any representations or objection they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

TRIBUTE TO WILLIAM POWELL LEAR

Mr. BAKER. Mr. President, one of the great, true Horatio Alger stories of our time ended recently with the death of William Powell Lear, the creative genius

who gave us the first practical car radio, the autopilot, the eight-track stereo cartridge, and so many more technical triumphs.

His name will remain a part of our language as the generic term for the popular little, fast executive jet plane, the Learjet.

But that was only one of dozens of his farsighted designs. He held more than 150 patents when he died at the age of 75 May 16.

I was privileged to know Bill Lear. I feel a great sense of loss at his passing, and my heart goes out to his widow Moya and his children. But surely it is a consolation to his family and friends to reflect on the amazing achievements of his lifetime.

He began life as a poor boy, and he finished his formal schooling after the eighth grade. He said later he lied about his age to join the Navy at 16, during World War I, where he learned about radio. He was the first person to figure out a way to fit a radio into an automobile. He said later he did that, "so people wouldn't have to rush home and listen to Amos'n' Andy."

This poor boy made millions, and he put his own money into his dreams. One that did not pan out was a steam powered automobile. But Bill Lear never gave up. When he died, too soon for such a genius, he was working on the production of another new plane, which he said would be the safest ever designed and one of the most economical.

His career consisted of doing the impossible—of doing those feats of engineering and invention that the conventional wisdom of the time said could not be done.

And in the future, whenever we face that kind of a challenge, we can all draw inspiration from William Powell Lear and the products of his genius. He lived out the old saying, "The difficult we'll do right now, the impossible will take a little time."

AN ANTI-INFLATION PROGRAM

Mr. PERCY. Mr. President, I wish to call to the attention of my colleagues a recent address by Dr. Arthur F. Burns, the highly respected former Chairman of the Federal Reserve Board.

In his remarks to the annual dinner of the Chamber of Commerce, held here in Washington on May 2, Dr. Burns expressed his strong concern about the increasing rate of inflation and points to what he sees as the reasons for the sudden resurgence of wages and prices. The former Federal Reserve Chairman also outlined his recommendations for cutting back on inflationary pressures.

Inflation is our No. 1 target and we need to take strong action to counteract it.

Certainly, George Meany, in a recent television appearance, pointed out the grave danger to the working people of this country if the present trend in inflation continues.

I will be working with Dr. Burns in the coming weeks to arrange a meeting of business and labor leaders in Chicago to discuss causes of and solutions to inflation. All sectors of the economy need to pull together on this if we are to have an effective program.

I ask unanimous consent that the text of Dr. Burns' thought-provoking remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY DR. ARTHUR F. BURNS

Since I announced that I was retiring from the Federal Reserve Board, I've attended all kinds of parties and have received various awards, and I must say I've enjoyed every moment of it. But there is a certain danger in all this. When you go to parties and receive awards and hear words of praise, after awhile you may start believing it all. The only cure that I know against a bacillus of that kind is to keep working, and that is what I have been doing since April 1st.

I decided to leave the country for a while and look around the world. I've just come back from a rather strenuous foreign trip, but I learned something. I tried also to teach a little, but I spent most of my time trying to learn.

I think all of you know the great admiration that I have for the American business community. There is no group quite like that anywhere in the world. The dynamism and the vitality of American business enterprise is not only admirable. It is the main source of the kind of civilization, a very honorable civilization, that we've developed in our country.

In the last few years, since the spring of 1975, we have added, I believe, something like nine million jobs in our country. Last year, in that year alone, we added approximately four million jobs. And they were not governmental jobs. These were jobs created by private enterprise. Actually, our record in creating jobs in the last few years has no precedent, at least in our own nation's history.

I'm not going to make a speech; but as you know, I was a university professor for almost a half century. I've given up governmental service now. I may or may not be returning to university work, but some of the old habits are returning. Having a platform, as I have one now, and having a captive audience, as I have one now, I do want to take a few minutes and return to a theme that I've emphasized for many years. This theme deserves special emphasis today. I refer to the quickening of the rate of inflation in our country during the past year. This is a disturbing development. It has many causes.

For one thing, our economy has been expanding rather rapidly. As is generally the case, this has resulted in some upward pressure on prices in individual markets, for example, the market for lumber and the market for insulating materials. All this has happened in spite of the fact that there is still considerable underutilization of industrial capacity in our country. That's one factor in the quickening of the inflation rate.

Another is that our government has not attended sufficiently to the depreciation of the dollar against foreign currencies. This has naturally served to raise our domestic inflation rate.

And third, governmental policy has contributed more directly to the faster rate of inflation that we have been experiencing of late. As the expansion of our economy has stretched out, the deficit of the federal government—instead of narrowing rapidly as is normally the case at such a time—has actually become larger and is now in process of becoming larger still.

In fiscal year 1977, the deficit—properly reckoned, something we don't always do—amounted to $54 billion. This fiscal year, the year ending in September, the size of the deficit is now estimated at about $65 billion. For next year, the deficit is projected at a level of about $72 billion. We're going the wrong way.

When the government runs a deficit, it pumps more money into the pocketbooks of people than it takes out of those pockets. This has always been a major cause of inflation, and this process is being speeded up at the present time. So it has been during the past year and we're continuing to do this.

Moreover, our government has sanctioned increases in the minimum wage. That serves to raise costs, and therefore prices. Our government has sanctioned increases in Social Security taxes, and that also affects prices. Our government has sanctioned subsidies to farmers for producing less, and that, obviously, raises prices.

Our government has sanctioned restrictions on imports of steel, shoes, television sets, and that tends to raise prices. Our government has sanctioned a spate of consumer protection and environmental bills; this runs up costs for industry, and therefore serves to raise prices. And more recently, our government has blessed a highly inflationary increase of wages for coal miners. That inevitably tends to set a pattern in the wage area and raises costs broadly, and therefore prices.

These policies are already reflected in a faster rate of inflation, and fears have been mounting in recent weeks that in the absence of modified governmental policies the rate of inflation in our country will continue to rise this year.

About two or three weeks ago, President Carter addressed this issue of inflation in forthright fashion. President Carter deserves our commendation and support.

I believe, however, that the policies sketched by the President fall short of being the strong and credible anti-inflation program that our country now needs. Let me comment, therefore, on some of the ingredients of an anti-inflation policy that, in my judgment, would make practical sense at the present time.

First of all, I would say the federal budget for fiscal 1979 needs to be substantially revised so that the deficit would begin shrinking instead of continuing to expand.

Second, I believe that increases in the salaries of federal employees, instead of being set at the figure indicated by wage comparability studies, should be scaled down to one-half of that figure, both this year and next year. Thus, if comparability studies. suggest an increase of six percent, let us say, federal salaries should go up only three percent. By adopting such a measure, the federal government would set an example for the country at large, and thus take the lead in the process of unwinding this inflation.

Third, and again to emphasize federal leadership in unwinding the inflation, I would suggest that the President should cut his own salary by, say, ten percent, and call on all presidential appointees and members of Congress to do likewise.

Fourth, the President should call on top corporate executives to refrain entirely from any increase in their compensation over the next two years.

Fifth, the federal government should establish rather promptly a national productivity center to assist business and labor leaders in each of our sizeable cities to form productivity councils within individual factories. offices, etc., with the objective of raising output per manhour. This country has to go back to work!

Sixth, I believe that it would be well if our federal government finally made a start on reducing the cost-raising practices that it has encouraged or tolerated. I have in mind relaxing restrictions on agricultural production; relaxing legal requirements on minimum wages; suspending, if not abolishing, the Davis-Bacon Act, which simply es-

calates construction costs. I have in mind relaxing the various detailed regulations that run up costs all around for industry. I have in mind, also, postponing the target dates that have been set for compliance with environmental regulations.

Finally, seventh, I think our government needs to deal more firmly with the dollar problem in foreign exchange markets than has yet been done. If the dollar continues to depreciate as it has, there is a grave risk of a recession in the entire international economy.

A cure to the international dollar problem, I think, is to be sought fundamentally along four routes.

First of all, we need an anti-inflation policy that is firm, that is credible. It may or may not contain the specific features that I've enumerated.

A second path to a cure of the dollar problem in our international markets, is to work out an energy policy that will help this country to conserve oil and, far more important than that, that will serve to develop new substantial sources of energy supplies.

The third cure to the dollar problem in international markets is a tax policy that serves to stimulate business capital investment, including foreign investment in our business enterprises, in our market securities, in our real estate.

And, of course, there is a fourth route, but it is not under our control, and that route is faster economic expansion in the outside world.

There are also some financial bridging actions that I think are necessary, since these permanent cures cannot become effective very quickly. But I will not burden you now with that.

Let me close by saying that a strong and credible anti-inflation program is long overdue in our country. If we embark on such a course we could have a true renaissance of our free enterprise system. On the other hand, if we continue to rely largely on rhetoric in dealing with the inflation problem, our economy and therefore I think also the economy of the entire world, may be headed for serious trouble.

You businessmen have a great responsibility. I have one word of advice to you that perhaps is more important than any other. Get into the political arena and be active in it. The Congressmen and Senators who are here I think would agree with me that they want to hear from their constituents, that they want them to play a significant part in what happens in our Congress. Don't blame our Congress if you yourselves remain inactive in the world of politics.

My best wishes to all of you.

SENATOR RIBICOFF

Mr. BAKER. Mr. President, an article appeared in the Monday edition of the Washington Post about my good friend and distinguished colleague, the Senator from Connecticut (Mr. RIBICOFF). It was inserted yesterday in the RECORD by Senator ALLEN, and I will not ask that it be reprinted here, but I do want to take this occasion to invite the attention of my colleagues to the article and note my own respect and affection for the man who prompted it.

In November of 1976 it was my good fortune to accompany Senator RIBICOFF on a trip to the Middle East. From that trip and the many subsequent discussions we have had on that subject, I know first hand the depth of his commitment to peace in that troubled area of the world. I benefited from my discussions with the leaders of the Middle Eastern countries we had the opportunity to visit, but I benefited more from the association that has developed with the Senator whose knowledge of and sensitivity to the problems of the Middle East is second to none in this Chamber.

Both that knowledge and sensitivity were amply demonstrated last Monday during the Senate's consideration of the resolution to disapprove the sales of advanced aircraft to Israel, Egypt, and Saudi Arabia. A vote to disapprove would have been the easy vote for Senator RIBICOFF, and, from a superficial point of view, virtually unchallengable; but, the Senator declined the easy vote. Instead, he spoke eloquently, first of our bedrock commitment to the security of Israel and then of our commitment to our relationship with Egypt and Saudi Arabia, and he explained the reasons, in both open and closed sessions, why our fulfilling the latter commitment in no way diminishes the former.

I believe that I share with all my colleagues the highest respect, admiration, and affection for the Senator from Connecticut. I am pleased that his role in this decision is recognized, and we should be grateful for his decision to bear a burden that none of the rest of us can quite share.

I would conclude, Mr. President, by quoting the closing paragraph of Senator RIBICOFF'S statement on Monday, which should characterize our approach to all the many difficult decisons confronting the Senate:

> Facing new problems and exchanging yesterday's answer for tomorrow's challenge is difficult. But if we are not honest with ourselves down what dark and uncertain road do we travel? If we are to accept the responsibility of guiding this nation's foreign policy and of assuring our future survival as a great nation we must have the courage, we must have the guts, to face a changing world and the will to serve our best national interests.

WELFARE REFORM

Mr. BAKER. Mr. President, an editorial appeared in the New York Times this morning calling upon the President to fulfill his campaign pledge to encourage the enactment of significant welfare reform.

Despite the fact that the President partially fulfilled that pledge by proposing comprehensive reform of the welfare system, his proposal is generally considered to be dead or dying due to its complexity and cost. It is for that reason that Senators BELLMON, RIBICOFF, DANFORTH, HATFIELD, YOUNG, STEVENS, and I introduced a more modest welfare reform proposal in March.

Since then, hearings on our bill have been held in the Senate Finance Committee; and a number of welfare reform groups have reacted very favorably to its provisions. As a result of extensive staff discussions involving HEW, the Department of Labor, the White House, and representatives of various Senators, it is apparent to me that a consensus with respect to an "incremental" welfare reform bill exists. The cost of such an incremental bill could easily be held below $10 billion, and it would embrace changes in the welfare system which would be widely considered as necessary and progressive. It could also include important new incentives for the creation of private sector jobs, as well as an expansion of the earned income tax credit so that private sector employment is always more profitable than collecting welfare.

Representative AL ULLMAN stated last week that if welfare reform is not enacted this year, it may not be enacted in the foreseeable future; and I share that view.

The editorial in the New York Times suggested that the differences between the Carter plan and the Ullman and Baker-Bellmon proposals are reconcilable. I, for one, am prepared to attempt to reconcile those differences, and I earnestly hope that the administration will join us in that effort.

Mr. President, I ask unanimous consent that the editorial in the New York Times urging the administration to embrace an incremental reform bill be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REDEEMING THE WELFARE PLEDGE

President Carter fulfilled a campaign pledge last year when he submitted a sweeping welfare reform proposal to Congress. But key Democrats, like House Ways and Means Chairman Ullman and Senate Finance Chairman Long, balked at the nearly $20 billion price tag and for all practical purposes declared the controversial plan dead on arrival. Even as Representative Corman's special subcommittee labored conscientiously on the original proposal, welfare reform was quietly stricken from Washington's legislative priority list.

Still, several Congressmen, notably Representative Ullman and Republican Senators Baker and Bellmon, persevered to devise more modest programs. All pretense of grandiose reform has vanished now, but a bill incorporating four critical ingredients of reform stands a chance—if only Congress and the Administration can overcome the partisanship that impedes compromise on the competing Democratic and Republican plans.

Minimum national benefit levels. Whatever new welfare law Congress passes, it should establish uniform benefit levels. Benefits now vary dramatically, from a high of $6,132 for a family of four in New York City to a low of $2,556 in Mississippi. The Ullman formula would raise the national minimum to $4,200, an increase over present levels in 11 states.

Welfare fathers. Any new welfare plan should also extend coverage nationally to families headed by unemployed fathers, eliminating pressure that drives families apart. At present, nearly half the states refuse such coverage. Both the Ullman and Baker-Bellmon bills would require it of all states, although to limit such coverage to 17 weeks a year, as the Ullman bill does, seems harsh.

Job creation. If the cycle of welfare dependency and poverty is ever to be broken, welfare recipients must be brought into the world of work. They need training in marketable skills and jobs that offer reasonable wages and hope for the future. Baker-Bellmon is the more appealing on this score. It would provide public service jobs under CETA (Comprehensive Employment and Training Act), the primary Federal job program for the poor. The Ullman plan would set a minimum-wage ceiling for such jobs; Baker-Bellmon would pay prevailing public service wages, thus avoiding the creation of another level of workers beneath the already stigmatized CETA work force. More important, it would virtually guarantee a job to

at least one parent in every two parent family.

Fiscal relief. Lastly, Washington must help the cities and states. Poverty—and migration of the poor—is a national problem, attributable largely to forces beyond local control. Yet the costs are now shared by all levels of government. For example, New York City pays 25 percent—over $400 million next fiscal year—of the aid to families with children. Mayors and governors will find Baker-Bellmon the more generous of the two measures in providing added fiscal relief.

Like the larger original Carter plan, both bills address the most glaring deficiencies of the current welfare system. Their differences seem reconcilable. And the President, who deserves credit for trying to straighten out the "welfare mess," can help by pushing welfare higher on his legislative agenda. In the end, substance will largely be dictated by cost. Even within the $7 to $9 billion ceiling on new expenditures suggested by Representative Ullman, Congress can fashion a sound welfare package that responds to pressing human needs. Is that too much to expect of a White House and Congress controlled by Democrats, self-proclaimed champions of the poor?

ALASKA D–2 LANDS

Mr. STEVENS. Mr. President, today I testified before the Senate Energy and Natural Resources Committee on the Alaska d–2 lands issue. As you know, this issue is the most important issue to face my State since statehood and it is becoming apparent that provisions in this bill could well be the first step to reversal of statehood. My testimony outlines some of the reasons why I am so concerned about legislation which the House has recently passed on this issue. Provisions of the legislation legitimize a series of broken promises to Alaskans over the past 20 years since the enactment of the Alaska Statehood Act.

I oppose the House legislation and will do whatever is necessary to prevent its passage unless it is modified to meet the objections of Alaskans. Provisions of the bill if applied to any other State would be totally unacceptable to its elected representatives, and I do not intend to allow these provisions to be enacted solely in Alaska. My statement points out the most onerous of the provisions which I am opposed to, but the legislation is complicated and almost 200 pages long. Therefore, I am unable to detail every specific section of the legislation which concerns me.

I have introduced legislation which is a balanced approach to this issue. My testimony also speaks of its provisions. My bill, S. 1787, is one which a vast majority of Alaskans support, and I hope the Senate will look closely at its approach before enacting d–2 legislation.

Mr. President, I ask unanimous consent that my testimony before the Senate Energy and Natural Resources Committee be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY ON D–2 LANDS LEGISLATION: SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Mr. Chairman, members of the Committee, it is my pleasure to testify before you today on the different bills pending before this Committee regarding the Alaska d–2 lands issue. Before beginning my testimony, I wish to thank the Committee, particularly the Chairman and Ranking Minority Member, for its invitation to me to sit in on the Committee's deliberations during the consideration of this issue which is of such great importance to my State. The Committee and its staff have been very cooperative, and I look forward to working with you during the further consideration of d–2 lands legislation this year.

LEGISLATIVE HISTORY

At the outset, I think it is important that the history of this issue be reviewed by the Committee in order to place the consideration of this issue in its proper perspective. Most people look to the enactment of the Alaska Native Claims Settlement Act as the genesis of this issue. However, the real beginnings of d–2 lands legislation can be found in recommendations which were sent by former Secretary of the Interior Stewart Udall to the late President Lyndon Johnson in January 1969, just prior to the expiration of President Johnson's term of office.

Secretary Udall recommended that President Johnson establish by Executive Order a series of National Monuments in Alaska. The memoranda to the President and his aides from Secretary Udall indicate serious feelings that the establishment of these monuments would add important and necessary features to the existing National Park and Wildlife Refuge Systems.

These recommendations were part of an overall package proposed by Secretary Udall and included the establishment of National Monuments in Arizona and Utah, as well as Alaska. Although choosing to establish recommended areas in these other States, President Johnson declined to establish the areas proposed by Secretary Udall in Alaska except for a 90,000-acre addition to the existing Katmai National Monument. Copies of the memoranda and other supporting documents regarding Secretry Udall's recommendations and President Johnson's decision are a matter of public record. I will supply them to the Committee and ask that they be made part of the record of this hearing.

The most interesting point regarding President Johnson's decision is not that he declined to establish these areas, but that the sum total of these areas of national interest was only 7.1 million acres. After 8 years in office, Secretary Udall, who is regarded as one of the most distinguished men to ever serve as Secretary of the Interior recommended that only 7 million acres be added to the National Park and Wildlife Refuge Systems in Alaska. To my knowledge, Secretary Udall has never been known for being niggardly with respect to conservation withdrawals. Yet, President Johnson declined to establish what now seems like a very small acreage indeed.

My question to the Committee is: what has changed in this past decade? How have less than 10 million acres of proposed withdrawals grown to nearly 150 million acres? From a resource protection standpoint, I submit that nothing has changed. Even with the enactment of the Alaska Native Claims Settlement Act and the construction of the Trans-Alaska pipeline, the vast majority of Alaska remains de facto wilderness—wilderness with a small "w". The opportunity still exists, and will exist for many years to come, for Congress to designate in Alaska additional units of national parks, wildlife refuges, forests, and wild and scenic river systems. Yet, why in less than 10 years has the 7 million acres which Secretary Udall deemed adequate for scenic and wildlife protection now increased twentyfold.

In passing the Settlement Act, Congress did agree to the review of "up to, but not to exceed," 80 million acres of vacant, unreserved and unappropriated public lands for potential designation as units of the existing conservation systems. As a member of the conference committee, I agreed reluctantly to that provision. The background of that section of the Settlement Act is important and should be noted by the Committee.

During consideration by the House of Representatives, Congressmen Morris Udall of Arizona and John Saylor of Pennsylvania suggested the establishment of 100 million acres of parks and refuges in Alaska to be proposed by the Secretary of the Interior. Instead, an amendment proposed by John Kyl of Iowa which was designed to promote uses under proper regulation was accepted.

In reviewing his amendment, Mr. Kyl stated a very cogent reason for the House action by pointing out the following: "At the present time, the Federal Government has preserved in the State of Alaska 73 million acres. Now note this: Thirty-one percent of all the national park acreage of the 50 states is in that single State of Alaska—31 percent of it. We have set aside in the State of Alaska for Federal areas, for fish and wildlife preservation, 20 million acres. How much of this total does that constitute? That is 65 percent of all the fish and wildlife preservation acres in the 50 states."

So the intent of the House as it dealt with d–2 lands was to provide the Secretary with the flexibility to classify lands and open them to uses under the public land laws based on his determination of the nature of the lands in Alaska. An important footnote to this intent is the fact that Congressman Kyl stated specifically that land selection rights of the State under the Alaska Statehood Act would be affected by his amendment.

At the time, 50 million acres of land had previously been withdrawn for classification under the Classification and Multiple Use Act of 1960. In the conference committee, at the urging of Senator Alan Bible of Nevada, an amendment to authorize the study of up to 80 million acres, including the 50 million acres previously classified, was agreed to. In effect, we agreed to the review of an additional 30 million acres.

The Conference committee was clear in establishing that 80 million acre figure as a ceiling for review of these lands for park, refuge, forest, and wild and scenic river purposes.

Yet, based on action in the House of Representatives and what certain special interest groups are advocating that the Senate act on, it is apparent that some feel the 80 million acre figure is a floor upon which legislation must be based rather than a ceiling. Again, let me ask the rhetorical question of what has changed in the past 7 years.

BALANCE AND S. 1787

Mr. Chairman, I submit to you and other members of the Committee that from a resource protection standpoint, nothing has changed in the last decade. As a Senator from Alaska for almost 10 years, I have been involved in the congressional consideration of numerous pieces of legislation which deal with the establishment of conservation system units throughout the country. My association with conservation goes back another 12 years to my service as Legislative Counsel and Solicitor in the Department of the Interior under Secretary Fred Seaton during the Eisenhower Administration.

As Solicitor, I participated in the establishment of the great wildlife refuges of Alaska that exist today and comprise two-thirds of that entire system. All of these were established at the behest of Alaskans. For example, the 9-million acre Arctic Wildlife Range was established at the request of the Fairbanks Womens Garden Club. We created these areas on the advice of Alaskans such as Clarence Rhode to protect wildlife habitat and insure the propagation of key wildlife species.

As Solicitor, I was the lead witness at the first hearings on the proposed Wilderness Act. Testifying in favor of legislation supported by the Eisenhower Administration, I recommended the establishment of a system to preserve wilderness throughout America and of a process to ensure that sound land use planning, including resource inventory on public lands on an individual basis, would be required prior to the establishment of any wilderness area. I believed then, as now, that a balanced approach must be taken to conservation issues.

The responsibility of the Senate is to ensure that a balance is adhered to during the consideration of this important issue. Alaska has much to offer the Nation in terms of the protection of wildlife and scenic resources and the appropriate and reasonable development of its vast natural resources. What the Senate must do is ensure that neither is exploited to the exclusion of the other.

I stand ready to work with this committee to produce a balanced bill which will once and for all ensure the protection of those scenic and wildlife resources of truly national significance and still provide the flexibility necessary to permit future generations to make land use decisions as these decisions become necessary.

As this Committee knows, I have introduced legislation on behalf of Governor Hammond and Congressman Young of Alaska, which we believe represents a balanced approach to the d–2 issue. Our legislation, S. 1787, was drafted last year following a series of meetings held in Alaska at which the three of us, along with Senator Gravel, met with literally every group or person who showed an interest in discussing the d–2 issue with us. Among those groups we met with were Alaskan environmentalists, Alaskan recreational interests, the Alaska Miners Association, the Alaska Oil and Gas Association, the Alaska labor unions, State and local Chambers of Commerce, the Alaska Loggers Association, sport and commercial hunters, and the Alaska Federation of Natives. Following these meetings, the three members of the Alaska delegation and the Governor met in a series of meetings to determine what type of legislation should be introduced in Congress on behalf of the residents of Alaska. Although Senator Gravel has chosen to introduce separate legislation, there is substantial agreement among the four of us about the specific concepts which should be included in the d–2 legislation. These concepts are embodied in S. 1787, the Alaska National Interest Lands Act.

We propose the immediate designation of specific lands as national parks, wildlife refuges, forests, and wild and scenic rivers with the remainder of the 80 million acres which Congress agreed to review under Section 17(d)(2) to be placed in a special classification program to provide a high level of environmental protection along with the flexibility to permit certain activities, such as resource inventories, on these lands which would otherwise be prohibited under another designation.

This approach is substantially that which was recommended by the Joint Federal-State Land Use Planning Commission for Alaska. Congress established the Commission in 1971 to advise it on land use decisions in Alaska. During the past 7 years, the Commission has spent much of its time, at the direction of Congress, in developing recommendations for national interest lands legislation, and we felt nobody was more qualified to advise us and the Congress on the concepts which must be included in the d–2 legislation to adequately serve the national interest.

This special classification program, commonly called cooperative management, envisions the participation of Federal, State, and private landowners in a program of cooperation to ensure that lands in Alaska which are related to one another through shared resource values are managed in a compatible fashion. Rather than designating artifical boundaries in which development is prohibited or unlimited, we feel that Alaskan land policy can best be determined through sound land use planning involving all major landowners. Under this program, the Federal Government would designate lands in d–2 legislation for cooperative management. These lands would be joined by lands designated by the State of Alaska and private landowners, most specifically Alaska Native corporations, to be classified under a joint Federal-State commission which would be charged with preparing land use plans for these areas. To ensure the preservation of sovereignty over the lands involved, the veto on land classification decisions by the commission would be vested in the Secretary of the Interior for Federal and the Governor of Alaska for State lands. Therefore, any classification decision by the commission which the respective owners felt was not advisable, would be sent back to the commission for further consideration.

We envision the classification commission to act in a similar fashion to a planning and zoning board. Daily management of these lands would be charged to existing line agencies of the Federal and State governments, with the Federal agencies designated on an area-by-area basis as part of d–2 legislation. An examination of S. 1787 shows that of the approximately 80 million acres involved, nearly 40 percent and 31 million acres, will be managed by the National Park Service and nearly 50 percent and 38 million acres, by the Fish and Wildlife Service. Almost 90 percent of the d–2 lands in our bill will be managed by the National Park Service and the Fish and Wildlife Service. These agencies which along with the Forest Service and the Bureau of Land Management are required to manage lands under their existing organic acts except for specific provisions of law or classifications by the Commission.

I am really dismayed at charges that this bill is called "rape and run" legislation. My bill is the largest single proposal by an elected representative for Park Service and Fish and Wildlife Service management on lands located within his own State. I hope this Committee will consider my bill in that light.

What we are striving for is flexibility which cannot be attained in the existing systems. In many cases, full information regarding these lands is not known and future needs cannot be completely predicted. The cooperative management program will allow decisions to be made by future generations while still providing a high level of environmental protection.

Alaska already has two-thirds of the Nation's wildlife refuges and 25 percent of its parks. If S. 1787 were enacted, without change, these figures would be amended to 85 percent of the refuges and 40 percent of the parks.

Eight of the 10 largest national parks would be located in Alaska, as would the 8 largest wildlife refuges. The total acreage of the Park System would be increased by 40 percent and the Wildlife Refuge System would be increased by nearly one-quarter.

The key to cooperative management is the encouragement of Federal, State and private landowners to work together toward a common land-planning goal. This is particularly important in Alaska where large areas of lands sharing common characteristics are divided among the three landowners. For the Committee's edification, I have prepared a map which shows why cooperative management is so important. This map illustrates existing and projected land patterns involving private lands, State selections, and Federal land withdrawals. The map speaks for itself, and throughout the State it is easy to see how cooperation among landowners, particularly in the Bristol Bay region, in the interior of Alaska, and along the southern flank of the Brooks Range, can lead to the protection of far more acreage than that which Congress would designate for protection solely under Federal management.

Cooperative management is a proposal to permit protection and allow flexibility. There are other ways which have been proposed to accomplish the same objective. Certainly, the land-use planning legislation introduced by the Chairman and twice passed by the Senate in previous sessions of Congress, could also provide a vehicle for d–2 legislation. The establishment of conservation areas such as the California Desert area by the BLM Organic Act, is another possibility as is the reinstitution of the range concept of wildlife protection originally proposed by the Interior Department when I was there. All of these concepts have one thing in common: They provide a high level of protection while still allowing resource information to be gathered and flexible land use decisions to be made in the future. This is my personal goal for d–2 legislation, and I hope the Committee will look favorably upon enacting legislation with such an approach.

H.R. 39 AND THE ECOSYSTEM CONCEPT

Legislation passed by the House of Representatives does not present a good approach to this issue. Known as H.R. 39, this legislation has been heralded as a pioneering and new approach to the establishment of conservation system units in Alaska. This so-called "ecosystem" approach adds nothing to a rational process for establishing national interest lands in Alaska. Quite frankly, the "ecosystem" which the bill's authors herald so highly has no specific definition from any standpoint, biological, scenic, or otherwise. Instead, the "ecosystem" which units are drawn to "protect" are really anything that those authors want it to be at a given time. An example of this can be found in the proposed Gate to the Arctic National Park. The "ecosystem" for this area includes a portion of the North Slope of Alaska, cutting across a number of rivers, drainages, and the lands well beyond the southern flank of the Brooks Range. In neither case do these areas comprise a logical part of a park designed to protect the central Brooks Range Mountain area. Conveniently enough, the borders include Native selections with high oil and gas potential, and State selections with high mineral potential. This lack of rationale in H.R. 39 is not unique only to the Gates of the Arctic National Park. Many of the areas designated cut across existing biological ecosystems, include State and Native selections, and do not represent rational planning from a park or refuge standpoint. The proponents of H.R. 39 define an "ecosystem" as they please, and it is significant that the term "ecosystem" is not defined in H.R. 39.

To illustrate the irrationality of the "ecosystem" process from a park and refuge planning standpoint, I have prepared a map of the United States which delineates the borders which might be drawn to protect the existing scenic features and wildlife habitats if the ecosystem concept from H.R. 39 were to be applied in the Lower 48. These areas are depicted on this map as they might appear in the conterminous United States if established on approximately the same scales as proposed in Alaska by S. 1500. Areas depicted are not intended to indicate equal amounts of coastline, mountains, or other natural features relative to a specific Alaska proposal, although some general comparisons can be made. Mostly, the areas are delineated to encompass the range of physical and biological diversity expressed in some of the Alaska proposals, including entire upper watersheds as comparable to some of these proposals. Gross acreages within boundaries are compared, not net Federal acreage. A list

of the areas depicted on the map is provided to the Committee for the record.

D–2 LEGISLATIVE HISTORY INADEQUATE

The designation of specific acreages is of utmost importance, and I urge this Committee to create a separate legislative history for each area through the markup process. Normally, Congress establishes parks by individual acts of organic legislation. However, legislation pending before this Committee would create up to 10 new units of the National Park System as well as adding substantial additions to the 3 existing park units in the State. The bill would also create 10 new wildlife refuges, new national forests, and a number of wild or scenic rivers. All of these units are of such importance and size as to justify individual organic legislation. I am unfamiliar with any national park which has not been created by a separate act of Congress. Consequently, it is incumbent upon the Senate to act carefully and judiciously in its designation of units created by this legislation.

Substantial legislative history, able to stand on its own, for use in conference committee and for agency administration, must be provided for during the consideration of this legislation. The boundaries must be carefully drawn to avoid unnecessary conflict areas and specific instruction regarding uses must be provided in legislation as well as the committee report. The creation of these areas, particularly because of this proposed size, required particular attention to detail. It is upsetting to me to see less than one page of report language designated to the description of individual park, refuge, and wilderness proposals in the House Interior Committee report on H.R. 39, many of which are larger than those units created by separate acts of legislation. The creation of over 41 million acres of National Park System units will increase that system by nearly 2½ times. It has taken us 100 years and over 50 pieces of separate legislation to achieve this. The establishment of national parks, refuges, and wilderness areas in Alaska deserves equal effort and attention.

INSTANT WILDERNESS

There are a number of issues which Congress must specifically address prior to the successful resolution of the d–2 issue. First and foremost is an issue which until the beginning of this Congress was never considered part of d–2 legislation at all. The provisions in H.R. 39 and S. 1500 to create so-called "instant wilderness" is as unwise a planning policy as any which Congress has ever been confronted with. Specific information has long been required by the Senate as part of its wilderness criteria. Additionally, the Wilderness Act of 1964 specifically required local public hearings by the Departments of the Interior or Agriculture, the participation of State and local governments and other federal agencies in the planning process including the submission of the views of these participants to Congress. These hearings were never held and the views submitted by other federal agencies on the Secretary of the Interior's proposals have not been transmitted to Congress.

To ignore this planning process in Alaska will set a precedent which will cause great controversy and problems as Congress begins to wrestle with wilderness designations under the RARE II wilderness review program for national forests and the wilderness review process mandated by Section 603 of the BLM Organic Act.

The vast majority of the lands proposed for instant wilderness are public lands presently under the administration of the Bureau of Land Management pursuant to the Federal Land Policy Act of 1966. Section 603 of that Act requires by law that any recommendation with a designation of an area as wilderness by the Secretary of the Interior shall include a mineral survey to be conducted by the Geological Survey and Bureau of Mines. A briefing by the USGS and the Bureau of Mines before this Committee last summer indicates that the level of survey used in the Lower 48 wilderness studies, Level 3 of 4 levels, has not been completed by these agencies in Alaska. In fact, Level 2 surveys were estimated to be completed by the survey at the end of 1977 with Level 3 surveys barely ongoing. Consequently, the "instant wilderness" recommendation by the Secretary of the Interior for most of these lands is in technical violation of the BLM Organic Act.

At a previous hearing, it was asserted that environmental impact statements prepared by the Department of the Interior for the areas proposed in 1973 by Secretary Morton are tantamount to wilderness study documents transmitted to Congress along with the Presidential recommendation for wilderness. This is simply not the case. The most glaring example of this deals with the minerals data which Congress has required to be submitted by the President along with his wilderness recommendations. The level of minerals information contained in the environmental impact statements is nowhere near that which is submitted as part of a wilderness study proposal.

As an example, the Committee should consider the hard-rock mineral information included in the final environmental impact statement for Gates of the Arctic National Park. That information amounted to a 2½-page description of general mineral potential in a 10-million-acre area.

On the other hand, USGS has recently released a detailed study of the mineral resources of the Tracy Arm—Fords Terror Willderness Study Area in Southeast Alaska. This report contains nearly 250 pages of detailed information in an area 1/10 the size of the Gates of the Arctic National Park Proposal. There is no comparison to the level of information contained in these two documents and should put to rest any questions the Committee has regarding the adequacy of the 1973 EIS process in regards to wilderness recommendations. For the record, I ask that the Tracy Arm—Fords Terror mineral report along with the section on minerals from the Gates of the Arctic National Park environmental impact statement be made a part of the permanent record of this hearing.

EFFECT ON RECREATION AND TOURISM

The designation of instant wilderness has just as great an effect on recreation as it does on resource development. Wilderness in this legislation is touted by its proponents as providing an extra layer of protection. What it will do instead is prevent the development of adequate management plans to provide visitor and interpretative facilities for the areas created by the legislation. H.R. 39 designates vast amounts of acreage which contain prime locations for recreational facilities, prior to any management plan or wilderness study. At the same time, the legislation provides for establishment of management plans for all areas regardless of their wilderness status. This clearly puts the cart before the horse and can cause grave repercussions for recreation.

The most glaring example of this is the designation of the entire Gates of the Arctic National Park as wilderness. This is an area the size of Delaware, Maryland, and the District of Columbia combined. The committee report provides that the entire park will be managed as wilderness with no development on federal lands proposed in the park. It will be controlled by a reservation and permit system with public use held to levels low enough to avoid the need for development.

Again, this is an area the size of Maryland, the District of Columbia, and Delaware combined. It is reserved for one class of visitor, the strong and vigorous hiker and canoeist. For any other visitors, including handicapped persons, the infirm, the older American—well over half of Alaska's tourists are over the age of 60—or even a person who chooses not to enjoy an area such as this through hiking or canoeing, there is no available alternative. If this area were located down here, the only way for the vast majority of visitors of the type who come to Alaska to ever see this area would be for them to go to the Virginia side of the Potomac River and look.

At the same time the Director of the National Park Service, William Whalen, has pledged his agency to "seek a wider audience in the parks."

At a recent briefing of agency staff, Mr. Whalen stated, "Among those for whom we must provide positive welcome are senior citizens, minorities, the handicapped, and the non-English speaking." How will vast wilderness parks help the elderly, infirm, and handicapped to enjoy Alaska's scenic and wildlife wonders?

The Gates of the Arctic illustrate the problems with the designation of instant wilderness from a tourism and recreational standpoint. Access will be limited by wilderness designation and will reduce visitation in Alaska for residents and nonresidents alike to that of a permit society. Again, referring to the Gates of the Arctic National Park, a review of the environmental impact statement reveals that:

"Access would be by foot, canoe, or aircraft with landings only on designated bodies of water, or by special permit on ponds, gravel bars, or snow. . . . Use would be by reservation and permit only to be held to a level below that requiring special camp sites, sanitary facilities, trails, and other developments usually needed to channel and mitigate environmental impact."

The environmental impact statement for this area proposes to limit visitor use to 4,000 persons for an area that is 8,000,000 acres. Now remember this visitor must bring in his own food and other supplies, camping tent, and will be without any amenities accompanying a campground such as toilets and pumped water. If you assume the visitors stay an average of one week, that gives each visitor 104,000 acres for his sole and personal use. Even if you raise visitation to two weeks, the acreage per person is still 52,000 acres, and at 3 weeks the figure is 34,000 acres. That is a lot of land for a wilderness experience for one individual.

Consider the size of this and other areas proposed. The impacts of this on recreation are astounding, yet this represents only one example of the effect of the wilderness overlay as it regards visitor use. At a previous hearing, there was testimony that wilderness provides protection from pressures on park and refuge managers to allow the development of visitor use and interpretative facilities. An example cited was the construction of an aerial tramway to the top of a mountain in a park unit. My attitude toward park management may be different than others, but I believe a decision regarding the construction of such a facility should be made as part of the management plan rather than initially as designation of instant wilderness. The designation of wilderness areas prior to the completion of an individual management plan is a major mistake and is a rejection of park planning as a concept. I urge the Committee to discard the concept of instant wilderness and provide an adequate wilderness study process instead.

SPECIAL WILDERNESS EXCEPTIONS

During the past year and a half, discussion has been given to the need for special provisions for Alaskan wilderness. Great promises have been made to Alaskans regarding a special Alaskan wilderness provision which will ensure that adequate access, recreational and otherwise, is guaranteed. My thoughts on this involve two areas. First, despite promises to Alaskans, H.R. 39 contains no specific language to guarantee use of motorized equipment, including motorboats, airplanes, and snow machines, for recreational use. The best that can be found is a reference to existing law in the Wilderness Act which prohibits motorized use except where the use had become established prior to the addition of the area to the system.

Quite frankly, this is not satisfactory. Bills before the Committee propose up to 150 million acres of wilderness, 10 times the amount already extant in 50 states today, virtually all of which is accessible only by airplane or motorboat. Yet, existing law which has raised questions throughout the country as regards the use of motorized equipment is deemed by the Committee to be adequate to accommodate any access needs to rise in the future. I reject this categorically and point to this as a major reason why the blanket establishment of instant wilderness without regard to the development of a plan to accommodate recreational access needs is a major step backward for tourism and recreational development in this country.

However, even if special provisions were legislated that provided for necessary recreational access, Alaskans are very suspicious of the transitory nature of such provisions. Presently before Congress is a bill to prohibit or severely limit existing motorized uses in the Boundary Waters Canoe Area in Northern Minnesota. We have researched the legislative history of this area and have found a 50-year history of erosion of promises made regarding uses in that area, particularly motorized transportation. In 1930, that area was established by an Act of Congress as a Special Area within the National Forest in which logging and motorized transportation would be allowed. The thrust of that legislation was to prevent the development of a dam in the Boundary Waters Canoe Area. Neither motorized uses nor logging was to be banned in the Boundary Waters Canoe Area.

Since the passage of that act, subsequent administrative and legislative decisions have been made which impact the uses the residents of the BWCA were promised would be permitted to continue. These uses include logging, ownership of private property within the area, and airplane flights below the 4000-foot level. In 1964, Congress passed the Wilderness Act with specific provisions for the BWCA to "guarantee" that a number of uses, including motorized use, would be permitted. Legislation before Congress would restrict the BWCA only to paddle, canoe, and foot travel. The history of this area does not encourage Alaskans as to the eventual fate of special provisions for Alaskan wilderness areas. It is interesting to note that this area is barely a million acres while in Alaska up to 150 times that is being proposed. For the record, I will submit excerpts from testimony from hearings on the 1930 Act and the Wilderness Act which relate to uses now permitted but which are proposed to be prohibited by pending legislation. Mr. Chairman, I ask that these documents be made part of the record of this hearing.

My legislation does not provide for any instant wilderness. Instead, areas would be studied under an orderly process of wilderness review and recommendations transmitted to the Congress by the President. This is the appropriate approach for wilderness, and I urge this Committee to act responsibly in regard to this very important question. The "instant wilderness" concept is one which must be rejected. I feel it has grave implications not only in Alaska, but also because of the upcoming congressional consideration of wilderness areas under the RARE II and BLM Organic Act Wilderness Review Programs. Congress must firmly establish that wilderness is a planning tool which must be given proper consideration under specific criteria rather than established by *ad hoc*, ill-conceived instant designations.

ALASKAN LIFESTYLE

Alaskans traditionally have utilized federal lands to a far greater extent than residents of other States. We call this the "Alaskan lifestyle" and are very concerned about the d–2 legislation's adverse impact upon it. Some of the uses involved in the lifestyle have been previously mentioned, but they bear repeating. These include access for recreational use to, from and within proposed areas by airplane, motorboat, and snow machines. Current law for existing management systems and wilderness areas does not adequately ensure the continued use of these lands by Alaskans. No changes have been made in legislation by the House to remedy this situation either, although special exceptions do not guarantee continued use. The availability of areas for hunting is another important factor, both from a subsistence and nonsubsistence standpoint, but I have grave reservations regarding any guarantees that hunting will be allowed in the national parks. A further concern is the Federal Government's present attitude toward the use of cabins on public lands.

John McPhee's book, "Coming Into the Country," really captured the spirit of Alaskans who choose to live a wilderness experience. All over the State, often in cabins that date back to Gold Rush days, Alaskans have chosen to lead a different lifestyle that involves subsistence and a special relationship with the land. Except for existing private land holdings, the passage of d–2 legislation would eliminate such use of these lands. In his book John McPhee described efforts by the Department of the Interior to evict Alaskans from homes because they may be technically in trespass.

These people are in trespass only because the Federal Government has refused to classify any lands for uses even though specific authority was given to them by my amendments in the BLM Organic Act. What is being proposed is the creation of wilderness, park, and refuge units which will ensure that man is only a visitor to vast areas in Alaska without any regard to the specific instructions of Congress two years ago to classify lands in Alaska for other uses. The most expansive bills even include lands which were not originally proposed by the Secretary of the Interior as additions to the management systems and were earmarked for classification. To affirm this ignorance if congressional instruction would absolutely reject existing policies and lead the Department of the Interior to believe that it has no obligation to provide classifications for land use.

There is no reason why these people should be evicted from these lands regardless of its status. There is no land rush in Alaska with hordes of people squatting on Federal lands. These people simply want to live a different kind of life—one which most Americans openly admire and encourage. Yet the passage of the d–2 legislation which does not address this existing "trespass" problem will condemn these people to eventual eviction.

Secretary Andrus has said that he would consider granting these people a life estate. I do not understand why "the Alaskan lifestyle" must be condemned to extinction at the end of this generation. There are many ways that the Committee can address this issue. Recreational homesites could be authorized as have been allowed in national forest units. Or the Committee could specifically grant authority for such uses in this legislation. The national interests need not by injured by such uses. In fact, some of those lobbying for these bills hold existing homesites, homesteads, or recreational cabins in proposed areas and they see no conflict in their occupancy.

WILDLIFE MANAGEMENT

As members of this Committee know, the issue of wildlife management is of great importance on the public lands. Traditionally, the State government has been responsible for daily management activities on public lands located within that State's boundaries. This concept is embodied in a number of pieces of legislation, but most specifically in the Sikes Act and its recent amendments passed in a previous Congress. Of additional interest as background, it should be noted that under the Alaska Statehood Act, the State was found by the Department of the Interior as being specifically capable of managing fish and game resources within its boundaries and a transfer of management responsibility from Federal to State authorities was affected when Alaska became a State. As made plain in a previous hearing, I believe very strongly in the right of the State to manage fish and game located within its boundaries. Wildlife management policy on federal lands is a national issue and I oppose any type of Federal oversight or other involvement in fish and game management which is legislated solely for Alaska.

My legislation specifically provides for a subsistence preference for local residents. It is particularly important that subsistence be recognized as a preference among consumptive uses because of the direct dependence that local residents in rural Alaska have on the uses of subsistence resources.

However, I believe that a change in Administration policies affecting only Alaska is unwise and will permit future erosion or elimination of hunting on federal lands, for subsistence and nonsubsistence hunters, without regard to Federal policy changes in the Lower 48. It is my firm conviction that Alaska must be treated in the same fashion from a wildlife management standpoint as any other State in the Union.

A subsistence preference will ensure that subsistence users are not detrimentally affected by any allocation among beneficial users. It is my hope that such allocations will be necessary only in extreme emergencies, and I believe that sound management can ensure that adequate game populations to allow both subsistence and nonsubsistence hunters can be maintained. However, there is no question in my mind that subsistence hunters must be given first preference if any allocation must be imposed.

In terms of establishing large park areas in which subsistence hunting is allowed, I again raise the problems raised by the Boundary Waters Canoe Area issue. There is no guarantee that subsistence hunting on parklands will be allowed in the future. Americans are used to parks in which hunting is prohibited, and I greatly fear the repercussions created by the viewing of non-Alaskan tourists of a subsistence hunter taking game within a park. The inevitable consequence of a number of these incidents will be a call to limit or prohibit subsistence uses within huge park proposals, and I believe the subsistence hunter will suffer in the long run.

This issue has never been properly addressed in the d–2 discussions. It has been

taken for granted that subsistence hunting will be allowed for perpetuity in all park units. There is no guarantee that this is the case and that Congress will not change its mind as it did in the mining in the parks legislation and as is being proposed for the Boundary Waters Canoe Area. I urge this Committee to look carefully at boundaries in regard to subsistence uses and prevent future conflict by excluding areas utilized heavily by subsistence users from park proposals.

In regard to sport and commercial hunting, the Committee needs to look at the facts and figures to determine what kind of conflicts we are dealing with. In most cases, the number of hunters in a given area is limited and are in an area for a very short hunting season. There are ways to accommodate most of the sport and commercial hunting problems through careful attention to boundary delineation.

Major hunting areas can be identified and in many cases eliminated from park proposals without detrimentally affecting them. Alternative designations which allow sport hunting without question could also be utilized on areas which the Committee feels must be included in a d-2 unit. Examples include cooperative management lands, wildlife refuges, and national forests. A tremendous acreage with great hunting potential is proposed for designation as part of the park system.

Sport hunting will not obstruct the goals of protection on any of these areas because there is no surface disturbance or other environmental consequences caused by hunting. Major hunting areas should not be closed to America's sportsmen. Hunting has always been a part fo the Alaskan lifestyle and should continue to be allowed in areas such as the Brooks Range, the Wrangell Mountains, Lake Clark, the Alaska Peninsula, Mt. McKinley and Yukon-Charley River areas. Guides and outfitters depend upon hunting in proposed parklands for their livelihood and should not be forced to change their lifestyle. Proposed grandfather clauses do not provide any real protection for hunting as an institution on these lands.

ACCESS

In a state with only 2,500 miles of paved roads, less than the combined total of the District of Columbia and Montgomery County, access is a tremendous problem. Seventy percent of our post offices are served by air and almost all of Alaska's communities are without any form of surface transportation. Additionally, the lack of an existing surface transportation system will greatly affect the development of resources on state, federal, and private lands. A review of proposed legislation indiactes that future surface transportation must be provided for in one of two ways, by designation of a specific corridor or by establishing a process that guarantees access where necessary. The word "guarantee" is significant and is the key to transportation provision in d-2 legislation.

Present law in management areas is unacceptable because of the unbridled discretion which is vested in the Secretary of the Interior. Courts will not overturn a Secretarial decision regarding access because of this discretionary power. The Senate must ensure that any d-2 legislation requires that access for transportation purposes be provided whenever necessary. Means and mode can be regulated to insure adequate environmental protection, but strong language providing an absolute guarantee for transporation is essential.

Future transportation needs in Alaska cannot be adequately estimated, and the success of the Senate's efforts will be determined by the development of a sound and sensible process which insures future access. In my legislation, the Alaska Land Classification Commission would determine the need for access and the managing agency would use its existing authority to provide a right of way for transportation corridors. Utilizing the expertise of these managing agencies, a high level of environmental protection could be ensured upon the grant of any right of way. This would solve the problems of access and still protect the areas involved.

MINERAL DEVELOPMENT AND ENERGY POTENTIAL

Much information has been provided this Committee in regard to the mineral resources of Alaska, and I do not wish to belabor this issue. But the importance of Alaska's mineral resources to the Nation's economy and security cannot be over-estimated. We know there are major minerals to be found on proposed d-2 areas, but Congress' real problem with this is a lack of site specific information. Decisions on mineral development need not all be made this year. There are certain areas which are of such tremendous significance from a scenic and wildlife standpoint that no surface disturbance should be allowed. Alaskans join conservationists everywhere in advocating protection for these areas. However, Congress need not make all decisions on land this year. Exploration is ongoing, and the USGS and Bureau of Mines are continuing to evaluate mineral resources in Alaska.

Congress must resist the pressure to turn the discussion of mineral development into an all-or-nothing affair in which one side must inevitably be the loser. There is a way to accommodate these interests and ensure that information is made available for future generations to make decisions as such decisions become necessary. Up until now, the debate regarding mineral development in Alaska has missed what I consider to be the major point of that debate: the ability and right of future generations to make decisions for Alaskan lands based on adequate information and needs as they perceive them. The fact that there is not adequate information to make these decisions now buttresses this all-important point. Legislation before this Committee assumes that adequate information to make permanent decisions is available. The resource workshops held by this Committee's staff have proved that information to make the hard decisions proposed to this Committee is simply unavailable. This is primarily becaue much of the land has been closed pending the passage and implementation of the Alaska Native Claims Act.

One need only to look at a map of Siberia and Canada which share the mineral provinces found in Alaska to see that in areas where the level of information is far more advanced, ongoing mining is occurring. Mr. Chairman, a copy of a map detailing activities in Siberia and Canada is available to the Committee and I ask that it be made a permanent part of this record.

The importance of Alaska's minerals, both fuel and nonfuel, to the future of the Nation's economic and financial security cannot be overestimated. The United States is now dependent upon foreign sources for over 50 percent of its supply of nearly 25 minerals. By the year 2,000, it is estimated that we will be 100 percent dependent on foreign sources for 17 minerals; 75–100 percent dependent for 12 minerals; and 50–75 percent dependent for 5 minerals. Ten of these minerals are found in Alaska and all of these minerals will be affected by d–2 legislation. Additionally, 16 of 18 minerals listed by the Federal Preparedness Agency as found strategic to our national security are in deposits in Alaska.

America's balance of trade shortfall regarding minerals is increasing at an alarming rate. In 1976, we imported $32 billion more of minerals than we exported. In 1977, this shortfall increased by about 40 percent to approximately $45 billion. This shortfall will continue to increase, and reasonable and appropriate development of Alaska's minerals is one way in which we can ease this burden.

Much of the problem deals with quantifying the aid Alaska's mineral potential can give to America's national and financial security. Because of a lack of information on many of these lands, it is difficult to specifically quantify the benefits that reasonable and appropriate development can provide the country. There are two specific examples which the Committee can consider to give them a feel for how important it is to seek more information.

The first is the Arctic Wildlife Range. Potential development of the Wildlife Range has become a cause celebre with particular emphasis on a decision to either completely prohibit inventory or throw the area open to development. My attitude is more balanced, and I feel it reflects a logical approach to the issue.

Every indication from existing data leads us to believe that between 10 to 15 billion barrels of oil may be beneath the Arctic Plain of the Wildlife Range. The discovery of such a tremendous resource of oil and gas, nearly 1 to 1½ times the size of that on Prudhoe Bay, would truly be of national significance.

It would be foolish not to complete an inventory of the resource to determine whether or not this resource exists within the Wildlife Range. As a participant in the establishment of the Wildlife Range, I know for a fact it was anticipated that oil and gas exploration under proper environmental stipulations would be carried out. The Fish and Wildlife Service has failed to issue these stipulations, and consequently we do not have the knowledge we should have to make a sound decision as to the exploration and development of this area. Hence, the need to inventory the resource.

I also feel that adequate steps should be taken to protect the caribou. The area was established primarily for the protection of the Purcupine herd, and I believe that herd is a national resource. There is a way to reconcile these two national goals and doing so need not be mutually exclusive. The caribou calve in those areas 3 to 6 weeks a year, and the calving takes place during a time when the condition of tundra surface is not conducive to heavy oil and gas exploration work. I believe that instituting temporal management which would impose strict controls, even shutting down the area, during the time when development might cause a danger to the caribou herd can solve the problem. As yet, no real attention has been given to this matter. I hope the Committee will give some consideration to this.

Another instance in which quantifiable figures can be considered is the recent study by the Stanford Research Institute on certain mineral deposits proposed for d–2 legislation. The study, a copy of which I request be made a part of the record of this hearing, concludes that development of 7 mines could by 1990 contribute $800 million to $1 billion toward American balance of trade deficits and provide 20,000 to 40,000 jobs, mostly in the Lower 48, to the work force. The study is useful more as an example than as a specific justification for exclusion of these 7 deposits. The study shows that Alaska's mineral deposits can be of real use to the Nation. The useful part of the study deals with extrapolation to other deposits, both known and as yet undiscovered, which could provide dramatic aid to America's lagging mineral supply prob-

lem. I urge the Committee to consider this study as an example of what the future could bring should reasonable and appropriate development of Alaska's mineral resources be permitted.

Major mineral areas, most of which are unexplored, are proposed for d–2 legislation. These include thirteen of the fifteen onshore sedimentary basins which contain oil, gas, and uranium potential. The two which have been adequately explored are both major producing fields.

The Committee is faced with hard decisions regarding the development of mineral resources on these lands, and I urge the Committee to consider a flexible program which would allow for a high level of environmental protection and still permit continuation of resource inventories. Again, I believe the Committee does not have enough information to make all decisions for all times. Instead, it should ensure that more information is gathered while the land is protected to provide information that can be useful to future generations.

As an added thought regarding energy related matters, d–2 legislation could have a devastating effect on hydroelectric potential in Alaska and more exotic forms of energy potential such as geothermal power. To cite specific examples, The Alaska Power Administration, an agency of the Department of Energy, recently estimated the Carter Administration d–2 proposal would preclude the development of 93% of Alaska's potential hydroelectric development, including all five of the projects with the highest potential. Alaska has an annual 70 billion kilowatt hour potential, one-third of the total undeveloped hydroelectric power in the Nation. A combination of existing and proposed parks, refuges, and rivers could eliminate virtually all this potential. A copy of this report and along with one regarding H.R. 39/S. 1500 is included with my statement for the record. The Alaska Power Administration finds that S. 1500 would preclude 93.5 percent of all hydroelectric potential in the State. The really upsetting point regarding these studies is that hydroelectric power is thought of as clean energy. Yet, in Alaska where it is proposed that vast areas of fuel and nonfuel energy potential be closed to use, virtually all of Alaska's hydro power is also precluded. Those projects that are left are few and according to the Alaska Power Administration are "substantially inferior" to the ones precluded by proposed legislation.

SOUTHEAST ALASKA

When Congress passed the authorization for study of d–2 lands, it limited the study to vacant, unreserved and unappropriated lands. There was never any discussion or contemplation of reviewing federal reserves. Under the Wilderness Act, there was already an existing mechanism in place to determine what lands on existing reserves should be specified as wilderness.

However, this year wilderness on existing reserves was injected abruptly into the discussion. My thoughts on wilderness as a concept are clearly stated, but Southeastern Alaska deserves special attention. The Tongass National Forest covers all of Southeastern Alaska. This forest, the largest in the country, has been the subject of a separate land use review during the past years which will be completed in December 1978. This review, the Tongass Land Use Management Plan, is as thorough and well designed a review process as any in the country and in fact predates the ongoing RARE II process. TLUMP, as it is called, will give Congress the information it needs regarding the effect of potential wilderness designations on the annual allowable cut and the timber industry in that part of the State. The proposed designations of wilderness in Southeastern Alaska are tantamount to rejection of the planning process which the Forest Service has been engaged in for the past few years.

Preempting that program and designating areas in Southeastern as instant wilderness is particularly onerous because figures regarding the effect of these proposed designations on the industry keep changing. Each time a new compromise is proposed that is patterned to solve an employment problem it turns out that because of an error in figuring, it still causes a job loss in the existing timber industry. For example, the figures in the House bill are counted as a dramatic reduction in wilderness for Southeastern which will not affect the timber industry. That simply is not so.

Utilizing the figures provided by the Forest Service and applying their criteria for job loss, it is apparent that 800 to 1,000 jobs would be lost if the most current compromise wilderness proposal were enacted. Total displacement would number between 3,500 and 4,000 people. In an area with 16 percent unemployment, it is a tremendous burden to ask an industry which employs nearly 30 percent of the entire work force in Southeastern to bear. Wilderness designation in Southeastern Alaska could wait until the conclusion of the Tongass Land Use Management Plan and all the figures and facts on potential wilderness designation in Southeastern can be determined.

INTERIOR FORESTS

The Committee should also consider the designation of interior forests in Alaska. My legislation includes two interior areas to allow specific uses under a compatible use concept. The Yukon Flats area is designated as a forest to permit future development of agricultural potential on these lands which have some of the highest potential in the State. This area is well known for its agricultural potential and the State of Alaska has identified the area as a major area for future agricultural development.

The development of agricultural potential on these lands can be made compatible with protection of wildlife. Testimony before the staff workshops pointed out a number of ways that this can be accomplished. Temporal management, timing uses, so as not to interfere with waterfowl nesting, is one way, but it is not the only way. Throughout the Lower 48, waterfowl habitat exists adjacent to and surrounding agricultural lands without damage to either. The Yukon Flats can also accommodate both of these interests. Additionally, stands throughout the interior of Alaska compare favorably to national forests in the Great Lakes area and the development of local forest industries could greatly contribute to lower the cost of living for local residents.

An example of such saving could be in the building of BIA/HUD local housing. Recently a major housing project was completed on the Venetie Reservation. Much of the timber for building these houses came from Indian lands found on the Venetie Reservation. The residents of Venetie and Arctic Village were lucky because their lands contain timber potential, but not all villages in the interior of Alaska will own land which contain such potential. The location and development of a local forest products industry make good sense for residents of the area and for the government which in many cases will have to provide more expensive housing materials cut and processed elsewhere.

For the record, I am submitting a copy of a report by Scandinavian foresters emphasizing the viability of interior forest potential which compares favorably to forest products potential throughout Scandinavia that is now being harvested. I urge the Committee to give real consideration to the establishment of interior forests such as the two proposed on the Yukon Flats and the Upper Porcupine River.

STATE AND NATIVE SELECTIONS

There has been a lot of discussion regarding the involvement of State and Native selections in d-2 areas. Most people now agree that no Native or State selection area should be revoked by d-2 legislation. It puzzles me that such a basic tenet of the public land policy required any discussion to resolve. However, the real question regarding the ability of the State of Alaska to finish its land selections under the Alaska Statehood Act and the appropriateness of including large areas of State and Native lands within management system units have yet to be properly addressed.

The proponents of expansive legislation talk of the generous grant that was given to the State of Alaska and Alaska's Natives under the Alaska Statehood Act and Alaska Native Claims Settlement Act, respectively. What is not talked about is the fact that the State of Alaska still has 35 million acres to select in its entitlement. It is unfair and untrue to say that d–2 legislation can now be passed without regard to State selection interest because the State of Alaska has its lands.

Fully one-third of Alaska's entitlement has yet to be chosen and much less conveyed. Of that which has been chosen, only about one-third has been conveyed. Out of the total proposed d–2 expansions of one hundred fifteen million acres, Alaska has shown an interest in selecting less than ten million. The State has agreed to satisfy the remainder of its entitlement from lands not in dispute, even though nearly 30 million acres of lands which under the Alaska Native Claims Settlement Act it expected to be able to select from has been identified for potential inclusion.

A brief history of Section 17(d)(2) and 17(d)(1) are required to fully understand the State selection problem. Upon the passage of the Settlement Act, the Secretary withdrew approximately 80 million acres under Section 17(d)(2). The State of Alaska was granted the right to identify selection interest on d–2 lands so the Congress might consider that interest in its overall decision. Reading of Section 17(d)(2)(E) is clear; Alaska had the right to identify selection interest on d–2 lands. What is more clear is that the State of Alaska was to be allowed to complete its Statehood entitlement from those lands which were not withdrawn for Native selection, for d–2 consideration or already included in an existing federal reserve.

However, the Secretary of the Interior chose to withdraw all remaining lands under d–2 authority and close the bulk of these lands to State selection. The State of Alaska has been effectively denied its right to complete its State selection. Now, following a rigorous process of inventory and public hearings, the State of Alaska has identified land selections which include less than 5 million acres of lands proposed for d–2 status. This is notwithstanding the fact that proposed park and refuge designations include from 7 to 10 million acres of existing State selections.

Does it seem right that up to one-tenth of the State selection entitlement should be included in parks and refuges? That is tantamount to a rejection of 10 percent of Alaska's selection entitlement because of the limitations that would be placed on land use and management. Additionally, because of the increase in proposed designations, from 80 to 115 million, it seems fair that the State should identify some lands in these proposed areas which it would be interested in selecting. If this Congress truly believes that the

Statehood Act was a pact with the State of Alaska, it should affirm these selections which are such a small area compared to the total area proposed.

The State of Alaska has been prevented from completing its selection entitlement for over ten years. The rules left by the Statehood Act have been changed because of the passage of the Claims Act and consideration of d–2 legislation. The State has not cried "foul" and declared that its pact has been broken, although I believe a case could be made to do so. The State agreed to the Settlement Act and is paying over one-half of the revenues which will go to Native Corporations. It does not seek to choose any Native selection; it only asks for fair treatment in fulfilling its Statehood entitlement.

What is particularly disturbing is the proposal that lands which are overselected by Native Corporations and not eventually conveyed to them within the boundaries of proposed d-2 units should be made a part of that unit rather than be made available to the State of Alaska. The Settlement Act clearly requires that these lands be made available for State selection and none of these lands should be made part of a d-2 unit if the State wishes to select the area. The State of Alaska has acted in good faith and it deserves to be treated in a similar fashion. I urge the Committee will give favorable consideration to the State selection package presented to it by the State of Alaska.

The conveyance of Native selections pursuant to the Alaska Native Claims Settlement Act has been delayed for years. Alaska's Natives have been very patient, as well as frustrated, because of the slow pace of the Act's implementation. I support their efforts to obtain special remedial legislation involving conveyances. It would be more appropriate for this language to be considered separately from d-2 legislation, along with a package of other amendments to the Native Claims Act which Senator Gravel and I have introduced. It is my hope that this Committee will act speedily on the entire package and separate it from d-2 legislation. This legislation is complicated enough without involving itself in the issue of implementation.

D–2 TRUST FUND

In S. 1787, a special provision is included to provide funds for the purchase of privately owned land in park, refuge or wild and scenic river units located in the other 49 states. It should also be made available for management and administration of these Lower 48 areas. This fund is proposed for two reasons. First, the use of Lower 48 areas is increasing tremendously and it is more realistic to expect that most Americans will visit management units in their local areas rather than to travel to Alaska. The proceeds from the controlled development of certain d–2 lands will go directly to the enhancement of recretational uses in the other 49 states.

Additionally, this Committee recently increased authorization for acquisition and development expenditure of approximately 150 million dollars. Additionally, the National Urban Recreation Study recently published by the Department of the Interior proposes that 150 million dollars be spent for development of urban recreational centers under the administration of the Department of the Interior. As Ranking Minority Members of the Interior Appropriations Subcommittee, I am familiar with the problems of turning authorizations levels into appropriated monies. My proposal for a trust fund to allow the use of monies from d–2 lands for acquisition and administration of park, refuge, or wild and scenic river units is designed as a direct response to this problem.

As more and more urban parks and recreational units are created by Congress, a greater demand on appropriated funds will be seen. Reasonable and appropriate development of resources on certain d–2 lands with the monies going directly for park, refuge, and wild river management in the other 49 states can help solve this appropriations problem without detrimentally affecting the overall purpose of d–2 legislation.

Mr. Chairman, the d–2 issue has evoked much discussion in Washington over the past 18 months. Many misleading statements have been made regarding what a given piece of legislation will do, and charges on both sides have been leveled regarding the accuracy of information. In my time in Washington, I have never seen more duplicitous use of figures to justify passage of a given position. It has angered me greatly in a number of instances, and my statements regarding the issue reflect my concern over the lack of veracity shown by some in their dealings with Congress.

Alaskans feel that they are being slighted as to consideration of this issue. We fought hard for statehood and believed that entrance into the Union would allow us to be treated on an equal footing with all of the states. In no other state have the massive permanent withdrawals proposed by this legislation ever been considered. I remind the Committee that in many western states there is ample public land in which similar withdrawals could be proposed, but they have not been. There is no question in my mind that a similar series of withdrawals anywhere else in the country would never receive the consideration that those in Alaska have received.

There is talk in Washington that Alaska's Natives received a generous settlement from the Federal Government. No one ever mentions the fact that the state is paying for more than half the monetary settlement, one-half billion dollars, from its own revenues. Without state participation, there would not have been an Alaska Native Claims Settlement Act because the Federal Government was unwilling to pay the second part of the almost one billion dollar settlement. No other state has ever offered to participate in the settlement of Indian claims in such a manner. Yet Alaska receives no credit for its participation.

Twenty years after the passage of the Statehood Act, the state still has not been allowed to select all of its lands because of a series of massive withdrawals imposed by the Federal Government. Yet, by the passage of d–2 legislation, the state will be denied the right to complete its statehood entitlements as agreed to under the Alaska Statehood Act. Based on the Administration's policy on state selections and a letter recently received by the State Department of Transportation from Secretary of Transportation, Brock Adams, it appears that the Executive Branch intends that the Interior Department become the lead agency for administration of federal policy throughout the State of Alaska. In the letter, a copy of which is provided to the Committee for the record, Secretary Adams declined to fund new DOT staff positions in Alaska because transportation planning will be the duty of the Interior Department following the passage of d–2 legislation.

Is there any other state which depends on the Interior or any other department besides the Department of Transportation for coordination of transportation planning? I think not—no Senator from another state would stand for it.

As far as I am concerned, that's a reversal of statehood and a reinstitution of territorial status. Alaskans fought the battle for statehood because they did not want to have to rely on the decisionmaking power of one individual, the Secretary of the Interior. Secretary Adams' letter indicates a decision by executive fiat to go back to the days when we were a territory and unbridled decisionmaking power was vested in one department. Alaskans do not intend to return to those days.

A lot of promises have been made to Alaskans over the 20 years since statehood. Yet, in one piece of legislation, H.R. 39, a number of these promises have been broken. We were promised that we could make our selections on Native fallout and d–1 lands. This bill denies that right. Alaskans were assured that the Wilderness Act applies in Alaska just like all other states. In H.R. 39, that promise is broken. Under the terms of the National Petroleum Reserve Act, exploration and surface management studies were mandated. H.R. 39 supersedes both studies by the imposition of wildlife refuge status while at the same time the Interior Department moves to phase out the study as quickly as possible. Most importantly, the promise that d–2 would deal with a study of 80 million acres of vacant, unappropriated, and unreserved public lands for parks, refuges, forests, and wild and scenic rivers has been broken by a 125 million acre bill dealing with existing reserves and the imposition of "instant wilderness." Based on this performance, Alaskans are not assured that promises made in H.R. 39 to provide for access, transportation, recreational uses, and that the Alaskan economy will not be adversely impacted will be kept. Alaskans just don't believe these promises any more.

NEW YORK CITY LOAN HEARING CANCELED

Mr. PROXMIRE. Mr. President, in view of the fact that no agreement has been reached on the labor contracts or on any of the other outstanding issues in the New York City financing situation, I have decided to cancel the hearing scheduled for Wednesday, May 24, before the Senate Banking Committee.

I agreed to hold the May 24 hearing only on condition that certain actions would be accomplished by parties in New York City and New York State before that date. None of these actions have been accomplished to date, although some progress has been made. They include the following:

A citywide agreement on the economic terms and budget costs of the city labor contracts for the period after June 30;

Firm agreements by the city pension funds to make some $700 million in bond purchases this month and next, pursuant to commitments made in 1975;

State legislation to establish a long-term fiscal monitor with powers at least as great of those of the present Emergency Financial Control Board;

State legislation to extend and increase the borrowing authority of the Municipal Assistance Corporation; and

Commitments in principle from the pension funds and the banks and other financial institutions to meet New York City's financing needs, both long-term and short-term, over the 4-year period following the expiration of the present Federal loan program on June 30.

Mr. President, I had hoped the committee would have all of these items before it when it began hearings on proposed New York City aid legislation. This information is of considerable importance in developing a hearing record on the basis of which the committee and

the Senate will be able to make an informed decision.

I hope that the issues presently holding up progress on these matters will be resolved soon, and resolved in a way which will enable New York City to balance its budget and restore its credibility in the bond markets.

THE GENOCIDE CONVENTION AND EXTRADITION

Mr. PROXMIRE. Mr. President, one concern frequently voiced by opponents of the Genocide Treaty is the fear that American citizens will be extradited to other countries under charges of genocide in the absence of our consent. I would like to demonstrate conclusively that the treaty provides protection for our citizens from such foreign interference to the same extent that now exists.

It should first be pointed out that article III stipulates that all parties to the treaty "pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force." There are no treaties now in effect which list genocide as an extraditable offense.

Furthermore, the United States retains the right to refuse extradition of its citizens in any future treaties. This right is protected by section 3 of the proposed implementing legislation to the treaty, which reads:

> It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country.

Should an American citizen be acquitted of a charge of genocide in an American court, he could not be charged for that crime anywhere else in the world.

Of course, any new extradition treaty that this country negotiates must be approved by a full two-thirds vote of the Senate before it becomes effective. Should the State Department agree to any extradition treaty which interferes with this perscribed right to refuse extradition, I pledge to be among the leaders in opposing such a treaty.

For 30 years, I have listened to arguments against the Genocide Treaty and I have failed to find one which is valid. The treaty stands today, as it did in 1948, worthy of our prompt ratification. I ask that such ratification be forthcoming.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. MATSUNAGA). Is there further morning business? If not, morning business is closed.

REFERRAL OF S. 3077

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3077 be referred to the Committee on Environment and Public Works for 45 days and that statements by Mr. STEVENSON and Mr. CULVER which I hold in my hand, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. CULVER. I appreciate the willingness on the part of the Senator from Illinois (Mr. STEVENSON) to work out a referral agreement on S. 3077, a bill to amend and extend the Export-Import Bank Act of 1945. This agreement will permit the Committee on Environment and Public Works, which has legislative jurisdiction over the National Environmental Policy Act, to examine an amendment contained in S. 3077 which has international environmental implications. I understand the concern the Senator has about the proposed regulations circulated by the Council on Environmental Quality. The bill will be referred to the Senate Environment and Public Works Committee for 45 days. We plan to examine this issue carefully during that time. Forty-five days does not allow a great deal of time, but we will be as thorough as we can be in examining the appropriate legislative response.

I thank the Senator again for his willingness to work out this agreement.●

● Mr. STEVENSON. Mr. President, I do not object to the request of the Committee on Environment and Public Works to have S. 3077, the bill to extend the authority of the Export-Import Bank, referred to that committee for a period not to exceed 45 days in order for that committee to review provisions in S. 3077 pertaining to environmental matters. I hope that the Environment and Public Works Committee will report the bill back to the Senate well before the end of the 45-day period.

The bill as reported by the Committee on Banking, Housing and Urban Affairs contains a provision which would prevent the issuance of regulations pursuant to the National Environment Policy Act with respect to activities of the Bank which have no environmental impact within the United States, unless future legislation directs otherwise. The purpose of the provision is to insure that the policy issues involved in applying environmental restrictions to U.S. exports which have no environmental effects upon the United States are determined by the Congress after thorough and careful study, not by the executive branch. Congress has never explicity addressed the problem of integrating U.S. foreign policy, commercial, and environmental interests. S. 3077 is not intended to be the final word on the subject as it affects the Export-Import Bank, but would head-off premature issuance by the Council on Environmental Quality of vague and potentially damaging regulations based on questionable authority.●

ORDER FOR BILLS TO BE HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 11922 and H.R. 12326, when received, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 39 AT THE DESK FOR 24 HOURS

Mr. BAKER. Mr. President, before the majority leader yields the floor, will he consider a unanimous-consent request in respect to H.R. 39, which is at the desk at this time? I understand it has been cleared on his side of the aisle. I propose, if there be no objection, to ask unanimous consent that H.R. 39, which is currently being held at the desk, be held at the desk for an additional 24 hours.

Mr. ROBERT C. BYRD. I understand that this is all right with Mr. JACKSON. I therefore impose no objection.

Mr. BAKER. The reason for the request is so that the Senate may consider a referral motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the earlier order which was entered to hold at the desk H.R. 39 be revised to provide that it be held at the desk until the close of business tomorrow night. I understand this is all right with Mr. JACKSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF TWO LEADERS TOMORROW FOR 2 MINUTES EACH

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning, the two leaders be limited to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees are recognized under the standing order tomorrow, Mr. DOLE and Mr. BARTLETT be recognized, each for not to exceed 15 minutes, after which the Senate will resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 a.m. tomorrow morning.

The motion was agreed to; and, at 6:28 p.m., the Senate recessed until tomorrow, May 24, 1978, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, May 23, 1978*

The House met at 10 o'clock a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
May 23, 1978.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Rev. Andrew B. Bjalobok, St. Cyril's Roman Catholic Church, Charleroi, Pa., offered the following prayer:

Let us pray:

O Heavenly Father, we come before You gathered together in Your name. Come unto us and be with us: Vouchsafe to enter our hearts; teach us what we are to do and whither we ought to tend; show us what we must accomplish in order that, with Your help, we may be able to please You in all things. Be Thou alone the Author and the Finisher of our judgments, who alone with God the Father dost possess a glorious name. Suffer us not to disturb the order of justice, You who love equity above all things; let not ignorance draw us into various paths, nor partiality sway our minds, neither let respect of riches or persons pervert our judgment; but unite us to You effectually by the gift of Your only grace, that we may be one in You and never forsake the truth; inasmuch as we are gathered together in Your name, so may we in all things hold fast to justice tempered by pity, that so in this life our judgment may in no wise be at variance with You and in the life to come we attain to everlasting rewards for deeds well done. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 624. Concurrent resolution expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of the members of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics to pursue their lawful activities, and urging the President to continue to express United States opposition to the imprisonment of members of the Soviet Helsinki Groups.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House with amendments to a bill of the Senate of the following title:

S. 1792. An act to amend the Administrative Conference Act.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2566. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; and

S. 2604. An act to provide authorizations of appropriations for fiscal years 1979, 1980, and 1981 for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

REV. ANDREW J. BJALOBOK

(Mr. MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of Pennsylvania. Mr. Speaker, I just want to add my words of welcome and thanks to Father Andrew Bjalobok, our visiting chaplain from St. Cyril's Church in my home community of Charleroi, Pa., this morning. Father Andy is not only a devout man of God in our community but a community leader as well. It is an honor and privilege to have him here on the eve of the celebration of his 34th anniversary into the priesthood.

We want to welcome Father Andy here.

TRIBUTE TO LATE DOORMAN LOUIS PAUL RANDALL

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADDABBO. Mr. Speaker, for over 17 years, Members and visitors to the House of Representatives grew accustomed to the courtesy of Doorman Louis Paul Randall who passed away quietly at his home Sunday just weeks before his 70th birthday.

Lou was born in Binghamton, N.Y., on July 14, 1908, and attended schools in that city before coming to Washington in 1941 under the sponsorship of the Honorable Edwin Arthur Hall, a Republican Member of the 76th Congress. Subsequently, he was associated with the Honorable Sterling Cole who also served in Congress from Broome County.

Lou served as a doorman from his appointment in February 1961, until his death. A member of the National Democratic Club, the Benevolent and Protective Order of Elks, and the Broome County Democratic Committee, Lou remained active and in good spirits until his death. He was an avid sports buff, an interest fostered by his skill as a youth when he was good enough to play professional baseball in the farm system of the New York Yankees.

Louis is survived by one daughter, Sandra Blackwell, of Binghamton, and two grandchildren. Our sympathies go to his family in this hour of loss for them.

CALL OF THE HOUSE

Mr. SCHULZE. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 352]

Allen	Gammage	Quie
Ambro	Garcia	Reuss
Anderson, Ill.	Gephardt	Rodino
Andrews, N.C.	Gibbons	Rogers
Archer	Goldwater	Rosenthal
AuCoin	Heckler	Runnels
Baldus	Howard	Ruppe
Bolling	Jenrette	Russo
Bonior	Jones, N.C.	Santini
Brademas	Kasten	Seiberling
Breckinridge	Kemp	Shuster
Brooks	Krueger	Simon
Burke, Calif.	LaFalce	Solarz
Burton, John	Latta	Spellman
Carter	McCormack	Teague
Cederberg	Martin	Thornton
Chisholm	Mazzoli	Treen
Clawson, Del	Meeds	Tsongas
Clay	Milford	Tucker
Cochran	Mitchell, Md.	Udall
D'Amours	Moss	Ullman
Dent	Murphy, N.Y.	Vander Jagt
Dingell	Neal	Whalen
Eckhardt	Nix	Wiggins
Findley	Oakar	Wilson, Tex.
Flowers	Pepper	Young, Alaska
Forsythe	Pike	Young, Tex.
Fountain	Preyer	
Frey	Pritchard	

The SPEAKER pro tempore (Mr. MOAKLEY). On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, will the gentleman repeat his request?

Mr. DANIELSON. If the gentleman will yield, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce be permitted to sit today during the 5-minute rule.

I have been informed that this was cleared with the minority, and the purpose is to take testimony only.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON MEDICAL FACILITIES AND BENEFITS OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. SATTERFIELD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Medical Facilities and Benefits of the Committee on Veterans' Affairs may be permitted to sit today during the 5-minute rule for the purpose of conducting public hearings on several bills amending and extending medical programs, and a brief session concerning H.R. 10287, a bill which we hope to report, to name the Veterans Administration hospital in Little Rock, Ark., after the late Senator McClellan.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

GOVERNMENT MUST HAVE EFFICIENT CIVIL SERVICE

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, according to recent press reports, our civil service is plagued by numerous Federal employees making as much as $50,000 for doing practically nothing. Some of these workers have never even been seen by their supervisors.

According to a recently published wire service story, these employees are found in virtually every Government department and agency. They have become "high-level welfare cases" who remain on the public payroll because it takes too much time and effort to fire them. And because dismissal procedures take so much time, the directors of these agencies are hindered in their efforts to hire new and more competent workers.

I do not believe we can afford to let this situation continue. There can be no doubt that it is hindering the effectiveness of the Government. And it is understandably angering the taxpayers of this country who are fed up with waste, abuse, and incompetence in their Government.

Several of my constituents have written recently of their disgust with the Federal bureaucracy. One has urged that we create a new Civil Service Commission "with specific guidelines to protect the citizen as well as the honest Government worker."

The House Post Office and Civil Service Committee has before it, at this time, the President's reorganization plan for the Federal service. I urge the committee to take a long and hard look at these practices, and if the allegations prove true, I urge swift remedial action.

If the taxpayers are to get their money's worth from their Government, we must have an efficient civil service. To a large extent, it is up to us to see that this happens.

PERSONAL STATEMENT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the following states how I would have voted on five recorded votes, which I missed, had I been present:

Rollcall No. 336, a vote on an amendment to H.R. 39, Alaska National Interest Lands Conservation Act, which sought to reduce wilderness designation in Alaska lands from approximately 66 million to 33 million acres. This amendment failed to pass by a vote of 119 to 240. I would have voted against this amendment.

Rollcall No. 337, a vote on a motion for the House to resolve itself into the Committee of the Whole to consider H.R. 39. This motion passed by a vote of 280 to 8. I would have voted in favor of this motion.

Rollcall No. 338, a vote on an amendment to H.R. 39, that a study with recommendations for development of Alaska lands be presented by the President to Congress by October 1, 1981. This amendment carried by a vote of 157 to 150. I would have voted against this amendment.

Rollcall No. 339, a vote on a motion to recommit H.R. 39 with instructions. This motion was defeated by a vote of 242 to 67. I was paired against this motion and would have voted against it.

Rollcall No. 340, a vote on final passage of H.R. 39. This vote carried by 277 to 31. I was paired on this vote. I would have voted in favor of final passage.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

HAWAIIAN NATIVE CLAIMS STUDY

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 4) establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes, as amended.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 4

Whereas it is alleged that the year 1893 the United States Minister accredited to the sovereign and independent Kingdom of Hawaii, acting wholly without the authority or knowledge of the Congress or the President, unlawfully conspired with a small group of non-Hawaiian residents to that kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii; and

Whereas it is alleged that in pursuance of such conspiracy the United States Minister and the naval representative of the United States, also acting without authority, caused Armed Forces of the United States to be put ashore and deployed in support of the overthrow of that indigenous and lawful government; and the United States Minister thereupon extended diplomatic recognition to a provisional government formed by the conspirators without the consent of the people or of the lawful government of Hawaii, which provisional government was sustained solely by the Armed Forces of the United States; and

Whereas, on December 18, 1893, in a message to the Congress, President Grover Cleveland did report fully and accurately on these alleged illegal actions, which statement acknowledged that "by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of the Congress, the government of a feeble but friendly and confiding people has been overthrown", that "a substantial wrong has thus been done with a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair", and that "the United States cannot fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation"; and

Whereas a claim for repair of these alleged wrongs to the Hawaiian people was presented to the Government of United States of America by Queen Lili-uokalani, the lawful monarch of Hawaii, and on July 15, 1893, a petition for redress was also presented by the Hawaiian Patriotic League, representing Aboriginal Hawaiians; and

Whereas, in 1898 Hawaii was annexed to the United States, and it is alleged that by such annexation, among other things, the United States acquired ownership of vast landholdings that had been common property of the Aboriginal Hawaiians prior to the overthrow of their indigenous government; and

Whereas some eighty-four years have now passed without the alleged wrongs done Aboriginal Hawaiians having been repaired: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares—

(1) that there is substantial evidence that a wrong was committed against the Aboriginal Hawaiians, involving the complicity and unauthorized support of civil and military officials of the United States;

(2) that this wrong, committed eighty-four years ago in far different circumstances to a specific people, few of whom survive today, cannot be fully rectified by Congress;

(3) that the Congress, however, is desirous of determining whether a suitable remedy for such wrong can be fashioned; and

(4) that the Congress should establish a commission of Aboriginal Hawaiians and other citizens to advise it on all matters pertaining to the best manner, if any, in which to provide such remedy.

ABORIGINAL HAWAIIAN CLAIMS SETTLEMENT STUDY COMMISSION

SEC. 2. (a) There is hereby established the Aboriginal Hawaiian Claims Settlement Study Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of fifteen members appointed by the President, of whom eight shall be from a list of not less than eighteen persons submitted to the President by the Governor of Hawaii. No less than seven of the members shall be of the blood of Aboriginal Hawaiians who inhabited the Hawaiian Islands prior to 1778 (hereinafter "Aboriginal blood"), two of whom shall be of one-half degree or more of Aboriginal blood, two of whom shall be of one-quarter or more degree of Aboriginal blood, and three of whom shall be of any degree of Aboriginal blood. Each of the four counties of the State of Hawaii shall be represented on the Commission by at least one member of Aboriginal blood who is an inhabitant thereof, and all persons of any degree of Aboriginal blood who are not residents of the State of Hawaii shall be represented by a member of any degree of Aboriginal blood who is not a resident of the State of Hawaii. The President, prior to appointing the members of the Commission, and the Governor, prior to submitting recommendations for members, shall consult with Aboriginal Hawaiian organizations and with the Aboriginal Hawaiian community in each of the islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu in the State of Hawaii.

(2) The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) Eight members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(4) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointments.

(5) Each member of the Commission shall receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

(c) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of approval of this resolution.

(d) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(e) Each Federal department, agency, and instrumentality is authorized to furnish to the Commission such data, reports, information, and other resources as the Chairman of the Commission may request.

DUTIES OF THE COMMISSION

SEC. 3. The Commission shall—

(1) conduct a study of the culture, needs, and concerns of the Aboriginal Hawaiians; the nature of the wrong, if any, committed against, and the extent of the injuries to, the Aboriginal Hawaiians by reason of the actions set forth in the preamble of this resolution; and various means to remedy such wrong;

(2) hold such public hearings with public notice as it deems necessary to further such study, but not less than one hearing in each of this islands of Hawaii, Kauai, Lanai, Maui, Molokai, and Oahu in the State of Hawaii and at another site elsewhere in the United States where a substantial number of persons of Aboriginal blood resides;

(3) provide public information concerning the actions set forth in the preamble wherever possible in advance of public hearings and such other methods employed by the Commission to obtain public participation in the study;

(4) publish, within one year of enactment of this resolution, a draft report of the findings of the study and make said report available to appropriate Federal and State agencies, Aboriginal Hawaiian organizations, and the public;

(5) solicit written comments from such agencies and organizations and the public;

(6) consider such comments in preparing the final report of the findings of the study; and

(7) submit to the President and the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives, within six months of the publication of the draft report, the final report of the findings of such study, such report to include all written comments on the draft report submitted to the Commission.

COMMISSION RECOMMENDATIONS

SEC. 4. Any recommendations for a remedy contained in the report required by section 3 may include, but shall not be necessarily limited to—

(1) the distribution, expenditure, investment, or other use of funds as a component of any such remedy, including, where appropriate, innovative uses of the funds which will permit such moneys to be employed successively for the benefit of Aboriginal Hawaiians, such funds to be appropriated in equal increments over a period of years;

(2) the provision of land as a component of any such remedy through any method, including the surplusing of Federal land and amendments to the Hawaiian Homes Commission Act of 1920 (42 Stat. 109); *Provided,* That, should the surplusing of Federal lands be recommended as a component of any such remedy, the Commission shall propose a method or methods for resolving, whenever a tract of such land is offered, whether such tract shall be conveyed to the State under applicable law or the Aboriginal Hawaiians under a subsequent Act to provide for such remedy;

(3) such other recommendations concerning the components set forth in clauses (1) and (2) of this subsection as the Commission deems appropriate;

(4) the preservation and enhancement of Aboriginal Hawaiian culture and life styles and the education of Aboriginal Hawaiians as principal purposes of any such remedy;

(5) the blood quantum or other requirements for eligibility to receive the benefits of any remedy, and, if the Commission deems appropriate, to receive specific benefits or shares of benefits;

(6) the form or forms of organization best suited to receive, distribute, or administer the benefits of any remedy; and

(7) all other matters concerning any such remedy, including, but not limtied to, alienability and tax status of the benefits of any such remedy, provision of technical assistance to Aboriginal Hawaiians on the use of such benefits, and the reporting to the Federal Government and the reporting to the Hawaiians of the disposition of such benefits.

(b) Any such recommendation shall, to the extent possible, be designed to assure that any such remedy—

(1) will be a final settlement of all claims of Aboriginal Hawaiians against the United States arising from the actions set forth in the preamble of this resolution;

(2) will be capable of prompt implementation with a minimum of litigation;

(3) will be in conformity with the real economic and social needs of the Aboriginal Hawaiians;

(4) is fashioned and will be implemented with the maximum participation of Aboriginal Hawaiians;

(5) will not create a wardship or trusteeship;

(6) will not diminish any right, privilege, or obligation of the Aboriginal Hawaiians as citizens of the United States or the State of Hawaii; and

(7) will not relieve, or diminish any obligation of the United States or the State of Hawaii to protect and promote the rights and welfare of Aboriginal Hawaiians as citizens of the United States or the State of Hawaii.

TERMINATION OF THE COMMISSION

SEC. 5. Except as provided in subsection (b) of section 7, upon the expiration of the sixty-day period following the submission of the report required by section 3, the Commission shall cease to exist.

SAVINGS CLAUSES

SEC. 6. No provision of this joint resolution shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Aboriginal Hawaiians to sue the United States or any of its officers with respect to claims arising from the actions set forth in the preamble of this resolution; or

(2) constituting a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

SEC. 7. (a) There are hereby authorized to be appropriated for fiscal years 1979 and 1980 such sums as are necessary to carry out the provisions of this resolution. Until October 1, 1978, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall

be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 5.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I shall not use but a few introductory minutes. I am happy to see our two colleagues, the gentlemen from Hawaii (Mr. AKAKA) and (Mr. HEFTEL) on the floor for these proceedings.

Mr. Speaker, I am happy to present this bill to my colleagues because I believe it is one of the last remaining acts of consciousness of the Congress of the United States, in the long-established and proper role that we have asserted in addressing claims of citizens of our Nation for wrongdoings or alleged wrongdoings.

In this way we are providing a true example to the world of a society that takes care of its own people, listen to its people's claims for equity, and in this way does indeed, insure a domestic tranquillity unmatched in the world today.

Mr. Speaker, it is for this reason that I am happy to call the Members' attention to the fact—and I do not think too many Members have to be reminded of it—that the acquisition of the Hawaiian Islands a number of years ago left a little bit to be desired insofar as conscionable action is concerned.

This bill before us today does nothing more than provide for the establishment of a 15-member study commission to be appointed by the President to hold hearings in Hawaii and to look into the great amount of claims attached to the taking of those islands so as to come up with some type of report and recommendation to the Congress.

Mr. Speaker, I do not believe there is a person in Hawaii, be he Native, non-Native, oriental, European, or whatever extraction of human being, who does not recognize that something should be done to address the problems of Native Hawaiians I have faced them on several occasions including their conservatives, their moderates, and a few of their wild-eyed types. I believe the situation should be addressed lest the islands become infected with demoralization or with activities encouraged by the wild-eyed types.

I believe that if the Congress had faced the claims of the Passamaquoddys even 15 years ago, there would not be present economic uncertainty because of the claims that exist today; so, too, in the case of Hawaii.

Therefore, Mr. Speaker, now is the time to act upon the Hawaiian claims matters by, first, establishing the commisison to review the facts and make recommendations.

Mr. Speaker, Senate Joint Resolution 4 relates to the moral claims of the aboriginal Natives of Hawaii against the United States arising from the annexation of the Hawaiian Islands to the United States in 1898.

The resolution provides for the establishment of a 15-member study commission, appointed by the President, to investgate the claims and current status of aboriginal Hawaiian Natives and to make a report to the Congress together with any recommendations for legislation.

The resolution does not impose any obligation upon the United States; does not form the basis for reopening any past settlement of Native claims against the United States; and does not authorize any suit against the United States by the Hawaiian Natives. It is merely a commission of inquiry to look into the matter and report to Congress.

The Hawaiian Islands first came to the attention of the Western World in 1778 when Capt. James Cook of the British Navy visited the islands. In 1795, the islands were unified as the Kingdom of Hawaii under King Kamehameha I. The kingdom existed for nearly 100 years and had diplomatic relations with most of the European colonial powers and with the United States. Sometime after unification of the kingdom, the government was converted to a constitutional monarchy patterned after the British form.

Early in 1893, a group of non-Hawaiian residents of Hawaii, desiring the annexation of Hawaii to the United States, organized as the Committee of Safety with their avowed goal being the overthrow of the kingdom. Annexation would open up the lands and resources to white exploitation and would secure the large economic interests the non-Natives had accumulated under Hawaiian law.

The committee secured the support of the United States Minister to Hawaii and, with his authorized support, U.S. Marines were landed, illegally, in the port of Honolulu.

Faced with this overwhelming armed force illegally deployed against her, the reigning Queen resigned under protest with the firm conviction that she would be reinstated by the United States when the circumstances of her overthrow were known.

The non-Natives formed a provisional government and immediately entered into a treaty of annexation with the U.S. Minister which was subsequently submitted to the Senate for ratification by President Harrison.

Before the Senate could act, Grover Cleveland assumed the Presidency and withdrew the treaty when advised of the circumstances surrounding the overthrow of the Hawaiian monarchy.

President Cleveland commissioned an investigation of the events surrounding the overthrow and the treaty of annexation. Based upon that report, Cleveland sent a lengthy message to the Congress on December 12, 1893, repudiating the illegal, unauthorized actions of officials of the United States in supporting the overthrow of the Hawaiian Government.

In that message, President Cleveland stated:

> * * * by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of Congress, the Government of a feeable, friendly, and confiding people has been overthrown. . . . a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair. * * * the United States cannot fail to vindicate its sense of justice by an earnest effort to make all possible reparations.

The Kingdom was not restored. Five years later, President McKinley signed the treaty of annexation ratified by the Senate by which the illegal Republic of Hawaii ceded and transferred to the United States "the absolute fee and ownership of all public, Government and crown lands * * * belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereto appertaining."

At one stroke of the pen, the Hawaiian Natives lost their national identity, their government, and their lands.

Mr. Speaker, my subcommittee visited Hawaii and found the Natives to be at the bottom of the social and economic ladder. They are a minority, discriminated against and stranger in their own land.

I will end my statement supporting enactment of this legislation as President Cleveland ended this 1893 message to the Congress:

> In commending this subject to the extended powers and wide discretion of the Congress I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Hawaii (Mr. AKAKA), a member of this body and one of our friends from that State.

Mr. AKAKA. Mr. Speaker, I rise in emphatic support of Senate Joint Resolution 4.

The so-called Revolution of 1893 was an unauthorized action taken by non-Hawaiian residents. The overthrow of Queen Liliuokalani and the negotiated Treaty of Annexation were later condemned by President Grover Cleveland as the results of steps taken unilaterally by the U.S. Minister to Hawaii.

In part, President Cleveland said:

> * * * the United States cannot propertly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it cannot allow itself to refuse to redress any injury inflicted through an abuse

of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeable but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States cannot fail to vindicate its honor and its sense of justice * * *

My colleagues in the House, this measure authorizes the establishment of an Aboriginal Hawaiian Claims Settlement Study Commission. It is not a reparations bill.

Senate Joint Resolution 4 does not prejudge this issue. It is carefully worded so that the Commission will have great flexibility in determining if a wrong was committed against the Hawaiian people and what obligation, if any, the United States may have in affording a remedy.

The members of the House Committee on Interior and Insular Affairs put a tremendous amount of effort into insuring that Senate Joint Resolution 4 is a thoughtful, objective proposal. In addition, there are savings clauses protecting against new litigation, reopening, renegotiating or legislating upon any settlement involving land claims or other matters involving Hawaiians or American Indians.

Since President Cleveland's speech to the Congress more than 80 years ago, the Hawaiian people have been patiently and peacefully waiting. Their self-awareness has begun heightening over the past 10 years. Still, with the assurance of their congressional delegation that their concerns would be properly addressed by the Government, they have refrained from socially and economically disruptive measures.

Then, last year, a number of Hawaiian activists began illegally occupying the tiny island of Kahoolawe, in order to prevent its continued use by the Armed Forces for target practice. Demonstrations have since abounded, several persons have been jailed and finally, two young men drowned while attempting to swim from the island to avoid the authorities.

I do not mean to sensationalize the situation. But, my friends, you must remember that I am speaking to you of people whom I represent as a Member of the U.S. Congress—people who are citizens of our land and who constitute 15 percent of the population of my State. Without this good-faith indication that we are willing to at least look into this nearly century-old matter, the Hawaiian community would be disasterously disenchanted and demoralized.

I would sincerely ask that you join me in supporting the passage of Senate Joint Resolution 4.

Mr. RONCALIO. Mr. Speaker, I am happy to yield 3 minutes to my friend and colleague from Oahu, the gentleman from Honolulu, Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Chairman, nearly a century ago, on December 12, 1893, President Grover Cleveland delivered a message to Congress declaring, in part, that "a substantial wrong has * * * been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair."

He was referring to an event occurring earlier that year in Honolulu, Hawaii. Without the knowledge of Congress or the President, the U.S. Minister in Hawaii had committed American troops to a successful effort to unseat the Government of Hawaii's native monarch, Queen Liliuokalani, and install in power a group composed primarily of non-Hawaiian residents of Honolulu who had named themselves the Committee of Safety.

Historians continue to argue over the motives of the insurrectionists, but there is no disputing these facts: American troops were committed at the direct written request of the rebels and without the knowledge of the American Government in Washington; a legitimate government formally recognized by the United States was overthrown; the commitment of American troops was a decisive factor in the overthrow; the upshot of this rebellion was the end of indigenous rule dating back continuously to 1795 when the unified Kingdom of Hawaii was established by Kamehameha I; all the considerable lands belonging to the Kingdom of Hawaii passed into the hands of the rebels.

The event occurred during the closing days of the administration of President Benjamin Harrison, and its details might have escaped public knowledge had not the insurrectionist government subsequently petitioned the United States for annexation, as they had intended from the start. The petition came before new elected President Cleveland who ordered an inquiry. So appalled was the President at the findings that he felt compelled to announce to the Congress and the American people that a terrible wrong had been committed and that if our honor and our commitment to the rule of law was to be maintained, that wrong must be corrected.

It was not only the patently illegal behavior of the U.S. Minister that inspired President Cleveland to call for redressment. Faced with a contingent of armed American troops, with cannon brought ashore from an American warship primed and aimd at the royal palace, knowing that her people might nonetheless resist this overwhelming firepower and pay a heavy toll in blood even if they were successful, Queen Liliuokalani determined to appeal to the laws and institutions that she and her royal forbears had been trained by their American missionary teachers to respect. As a previous Hawaiian monarch had done 50 years earlier when British troops, acting only on the limited authority of their admiral, had backed a coup d'etat, Queen Liliuokalani resigned under protest, writing "that I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused U.S. troops to be landed in Honolulu and declared that he would support the said Provisional Government," and proclaiming in a letter to President-elect Cleveland "the certainty which I feel that your Government will right whatever wrongs may have been inflicted upon us." When the British Government had learned of the independent actions of its admiral, he was condemned and orders were dispatched for the immediate restoration of the legitimate regime. Such was not to be the case for the American Government, however, despite the efforts of President Cleveland. Instead, the Provisional Government installed by the Committee of Safety rushed its representatives to Washington (while deliberately delaying the departure of the deposed Queen's delegates) and initiated an intense lobbying campaign that, while it failed to win annexation, at least forestalled American action to restore the status quo ante. A Republic was then proclaimed and its leaders awaited a more propitious moment to accomplish their goal of annexation. That moment arrived with the heated expansionist atmosphere of the Spanish-American War, when Hawaii was annexed along with the Philippines.

The primary motive of the annexationists was commercial, and there can be no doubt that annexation ultimately proved to be a commercial boon to the islands. Virtually no one today desires a return of an independent Hawaiian nation. The population of Hawaii is content in its association with the United States. And its contribution to all phases of American life—including the heroic comportment of its citizens of all races during military conflicts throughout this century—has earned for it a place of equality and respect among the States of the Union.

But as emotional wounds suffered in childhood may continue to plague even the most outwardly successful, so native Hawaiians have suffered grievously since the overthrow of their government. Already, at the time of the rebellion, their culture had been undermined by foreign influence. Suddenly, they found the one remaining symbol of their cultural legitimacy wiped out, while the culture which they had been asked to accept denied them access to its rule of law, thus inviting cynicism and despair. It is a matter of record that despite the tragic flow of events, native Hawaiians have shown a remarkable tenacity in holding onto their culture, and that even now, it is undergoing an inspiring renaissance from which all the races inhabiting Hawaii are deriving benefit, for the culture of native Hawaii, rich in natural grace and human warmth and community, offers a welcome balance to the hectic and often disjointed rhythms of modern life.

But it is also a matter of record that, in the words of the report recently prepared by the House Committee on Interior and Insular Affairs, "Their economic and social condition is far below that of the rest of the population and they are a minority in their own land"—which land, I might add, is their own only in memory. Is it any wonder that the Hawaiian people have been demoralized, made to feel as strangers in the land of their ancestors? Is it not a wonder that they have maintained any degree of good will and good humor, much less that resilient vibrancy of spirit now reaching outward with renewed vigor from the very ruins of their culture?

Hawaiian culture is grounded in "Aloha Aina"—the love of the land. Hawaii's official motto to this day, is a native phrase, Ua Mau Ke Ea O Ka Aina I Ka Pono, which translates as, "The life of the land is perpetuated in righteousness." Yet the land has been taken from them, and the righteousness of the American Government to which they appealed turned a deaf ear to them.

Now their appeal has been renewed. We have before us Senate Joint Resolution 4, calling for the establishment of a study commission to investigate the land claims of Hawaiian natives. It is, I think, fitting and proper that the Congress should be called upon to reopen the books on the case of the Hawaiian people. It was the Congress, in another less enlightened era, that rejected the pleas of both the Hawaiian people and the President of the United States. In that sense, we Members of the 95th Congress are doubly fortunate. We have it in our power to restore to a noble and trusting people that which is most precious to them, even more spiritually than materially, and so encourage a renewal of the faith in ideals and institutions imposed upon them by history. Moreover, we are presented with a rare opportunity to right a wrong for which we have, for better or for worse, inherited a large measure of the responsibility. Should we find the wisdom to right that wrong, we will have cleansed those same ideals and institutions we have sworn to uphold; we will have purged them of a blight that discolors their sacred memory and can only weaken their integrity at that distant time when final judgment will be rendered on us all. This is a case in which a favorable ruling will strengthen both judges and plaintiffs. I am hopeful that we will show ourselves worthy of the task.

Mr. Speaker, President Cleveland did us all a service and favor in acknowledging a wrong 85 years ago. As a credit to this body and to the Senate, we have acknowledged that a wrong certainly may have been committed. What we ask for today is not a determination of that wrong or a settlement for the Hawaiian people. What we ask for is the establishment of a commission, a commission which would in 18 months come back to this body and report its findings. Certainly, that is what the Hawaiian people are, at the very minimum, entitled to.

In the past 13 years I have witnessed their frustration as they awaited the promised action and reaction of the Congress. I know that there is a degree of disappointment that, after 10 active years of waiting, that which we pass is not a bill which makes a settlement or finds what should be retribution, but rather establishes a Commission which will determine what we should do to right that wrong if, in fact, a wrong was committed. So, I hope that we will all join together very unanimously in supporting this commission and its establishment.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. HEFTEL. I yield to my colleague from Arizona.

Mr. RUDD. Mr. Speaker, I would simply like to ask my friend and colleague from the great State of Hawaii a couple of questions in order to clarify some things in my own mind.

What is the wrong action that was believed to have been done?

Mr. HEFTEL. President Cleveland stated it better than I could in stating that our troops moved in, not at the request of the people, not to do something to benefit them, but rather to participate in the overthrow of the government and the acquisition of the land.

Mr. RUDD. Well, this having been done, was the conquest—if we want to call it that, and I assume that is what we are talking about since it was not with the agreement of the Hawaiian people—having been accomplished, then the result of the conquest was turned over to the U.S. Government, which accepted it at that time, is that correct?

Mr. HEFTEL. That would be a proper interpretation, yes.

Mr. RUDD. Well, the U.S. Government did accept what had been done, and so title to the Islands was really acquired by the United States by right of conquest.

I think that it was much in the same manner as Texas declared its sovereignty from Mexico and then turned itself over to the United States as a State. I am wondering if there is a difference there.

Mr. HEFTEL. I think there is an extreme difference. It is a difference in the sense tthat Texas has been a voice, a power, and a force in American Government. There has never been any question of denial of economic right or any other right to the people of Texas to their voice in this body. That cannot be said of Hawaii. The Hawaiian people are a people whose culture has been lost by us. unable to be expressed by them with the economic support of their State because that support has been taken away from them. Hawaii did not become a State until 1959 because two-thirds or more of its people were not Caucasian. There is a great distinction, and I think my colleague, the gentleman from Arizona, would readily recognize it.

Mr. RUDD. This means if there has been a wrong it has been remedied by now, but we are going to go back as a result of this Commission and see if there has been a wrong, and if it appears that there has been something terribly wrong, somehow or other then the people of the United States would be liable for whatever the Commission or a court or someone would decide.

Mr. HEFTEL. The Commission which we establish the provisions for today, the appointment of the 15 members of which would rest in the hands of the President, only 7 of whom can be native Hawaiian in any degree, would come to this Congress with the findings of what they thought was the wrong and what they thought was the remedy. They would determine what has happened to the education, the culture, the economic plight of those we call native Hawaiian people.

Mr. RUDD. Does this mean this may result in monetary reparations to individuals?

Mr. HEFTEL. I am assuming the Commission would determine what form it should take. I personally would assume that the Commission would concern itself with the cultural life, the educational opportunity, the real needs of the Hawaiian native people and that this would not result in reparations.

Mr. RUDD. This would not result in direct payments to individuals?

Mr. HEFTEL. I myself would not anticipate direct payments to any Hawaiian people. I would assume the establishment of a corporate entity to receive whatever would be that which was given for the benefit of the Hawaiian people.

Mr. RUDD. If there were monetary reparations, it would mean that this would have to be paid to the native Hawaiians who were, before the turn of the century, citizens of Hawaii.

Mr. HEFTEL. It would mean we would have a Commission deciding first of all whether any Hawaiians with up to a certain percentage of Hawaiian ancestry would qualify themselves to participate or whether they would have to have one-quarter Hawaiian ancestry before they would be able to participate. This is what the Commission would be required to do.

Mr. RUDD. I thank the gentleman.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ), the ranking minority member of the committee.

Mr. SKUBITZ. Mr. Speaker, I rise in support of Senate Joint Resolution 4. This bill establishes a study commission to investigate potential claims Native Hawaiians may have against the United States by virtue of wrongful taking of lands dating back to late in the 19th century.

The situation has been under intermittent official scrutiny since 1893 when President Grover Cleveland sent a special investigator to make a report on the circumstances. Those findings were communicated to Congress and concluded that the United States had wrongfully overthrown the Government of Hawaii while it was virtually helpless to defend itself.

Two basic improvements in this resolution were made by the Interior Committee. First, the other body drafted its language in conclusive terms rather than as allegations. This has been corrected in the version before us. Second, the Native representation on the commission was reduced from 9 to 7 out of 15 members, helping to cure any inherent bias.

This resolution establishes a study commission only. Through its findings a definitive assessment can be made as to the extent, if any, of the wrong to Native Hawaiians. On that information, further legislation can be based to make any necessary reparations.

Mr. Speaker, as I have listened to this debate, I thought of the story that was told me several years ago in the Hawaiian Islands. One of the guides who was taking us through made the statement that years ago when the missionaries came to the Islands, they had the Bibles and the Natives had the land. Now the missionaries have the land and we have the Bibles.

While this bill is not a result of action taken by missionaries, but by a group of

Americans acting on their own later in the same century, what we are trying to do is correct a wrong that was done under the guise of this country's authority, a wrong which has gone uncorrected to this day. I urge my colleagues to support this resolution.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I can hardly believe what I am hearing here today. I certainly have sympathy for righting historic wrongs. But I do not know how one can possible catalog all of the wrongs that have occurred in the history of the United States, or any other nation, and then give reparations to people who may have suffered but who are no longer alive.

There is principles in the law called laches and limitations that terminate claims at some point in time. Yet we seem to be going backward in time looking for problems. Many people would not endorse what may have been done in the diplomacy of 1893. Perhaps President Cleveland deserves some credit for openly stating that it was a wrong at that time; but the history that has flowed since that time makes it clear that the citizens of Hawaii, those of native blood and mixed blood, the descendants of all races and nationalities who settled there, are happy with their present political status. They supported statehood. They inhabit one of the most beautiful parts of our country, and they felt the brunt of modern warfare on their shores. In the meantime they have participated in and benefitted from all of the Federal programs, as they still do today. I am not quite sure what greater responsibility the Federal Government has beyond that. Are we to go back and assess the value of the lands transferred at the time, hunt down the descendants and pay them a pro rata share? Surely there must be many hundreds of thousands of such people and the land must now be worth many millions of dollars.

The thing that bothers me most is the precedent that this legislation creates. There are still alive today in Maryland descendants of Indian tribes who lived at the time the King of England granted to the First Lord Baltimore an absolutent patent to all of the lands in the area of the Chesapeake Bay. They, too, I assume, if this precedent is established, will have claims against the State of Maryland, the U.S. Government for permitting their land to be annexed as a state and, for all I know, against the Crown of England since the predecessor of the current Queen allowed this to happen. It seems to me that in our zeal to solve every problem, we ought to at least devote ourselves to the current ones. I am sure that there are descendants of those Hawaiians involved in 1893 who do feel strongly about this issue.

The gentleman from Hawaii—both of them—are to be commended for representing their people, but this is a horrendous precedent that will come back to haunt us. It is wrong, and to me it opens up a completely panoply of problems which we will never be able to solve, and which the taxpayers will be financing forever.

If there are living people who have been wronged by the Government of the United States, let them be compensated properly, but the taxpayers of the United States ought to be proteced against a wholesale raid on the Treasury under the guise of retroactive reparations.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I want to take a few minutes—and I am grateful to my friend, the gentleman from Maryland, for yielding to me—because I believe this colloquy possibly points out some of the reasons some of us belong to the various ideologies we do under this beloved Republic of ours. I believe the reasons we have to do this, I will say to my good friend, the gentleman from Maryland, are these: One, the Hawaiian natives are at the bottom of the economic, social, and every other type of ladder one can name in the country today; two, the prisons are filled with Hawaiians—not with non-Hawaiians and those of mixed blood.

I have been called many things on this floor, but I am now called a Haole. We will not find very many Haoles in the prisons, but we will find natives.

The highest unemployment in the islands occurs among the natives. They have been set back to the degree that I believe they require some special attention on a humanism basis to lift them again and give them an opportunity to help themselves. They have had machinery of this type set up over the decades. The Hawaiian Native Sons Commission set out to do this with land 20 or 30 years ago, but it got bogged down through bureaucratic management, where we see today the dollar ending up with 98 cents of it being spent, and it does not go to the people it was supposed to help.

Now, that is why I was so pleased to hear the two Hawaiiian Representatives with us today saying that this program when set up ought to be a corporate setup with stock owned by every native to share in the dividends and surplus lands coming down the road have been conveyed to them and let the lands be shared on a stock-by-stock basis.

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 1 additional minute to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to respond in this way. I do not dispute what the gentleman says. If, indeed, these problems do exist and they are peculiar to the group of native Hawaiians whose ancestors were wronged, let us not try to solve present problems under the guise of going back a century, rewriting history and creating a stacked commission to reach a foregone conclusion. Let the Congress assist and rehabilitate these people with the many existing Federal programs.

I was under the impression that the State of Hawaii was part of the union of these United States and, thus, has available to its citizens every one of the thousands of Federal programs that are funded by all the taxpayers of Hawaii and the other 49 United States. If problems exist, surely there is a Federal program already in place. If there is not, suggest a new one; but do not hand out payments under the guise of rewriting history, embracing claims that are nearly a century old.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, at the time this bill was originally presented before our subcommittee, it contained language that wrongs had been committed and that the United States definitely owed a remedy for those wrongs. That has been changed in the language of the bill.

The Commission that was originally to be established under the first language of the bill provided for a majority of people who would have ultimately benefited from any recommendation that the Commission might have made. That has been changed. So now a majority of people will not benefit, will not be in a position of conflict of interest; though 7 out of 15 will be people who perhaps will benefit from the recommendations of the Commission.

We must remember, however, that whatever the Commission recommends, it is still up to the Congress to make the final disposition. I am sure that the debate that will take place if and when this bill is passed and the Commission renders its report will raise the same points that the gentleman from Maryland has raised at this time.

I think that the bill as it has been brought to the floor by the committee is a reasonable bill. I do not know of any places in the American State papers where we acknowledge the right of conquest, where we claim as a nation the right of conquest is the way to acquire territory, where we claim that the right of conquest is the way we will treat people after they have been conquered. That is not in the American tradition. In this particular instance, from the very beginning the American authorities acknowledge that the wrong had been committed. Now, there is not any question but what the people against whom the wrong was committed are gone.

There is legitimacy to what the gentleman from Maryland (Mr. BAUMAN) says, that there are other programs to try to take care of people who have for one reason or another come to live at the bottom end of our social and economic scale. But I would just try to answer the arguments that have been made and say that this is not an attempt to rewrite history. This is an acknowledgement of what Grover Cleveland and others ever since that time have said is correct, and that is that a wrong was done at that time and should have been remedied at that time.

Perhaps the wrong will not be remedied now. That is something the Commission can study and recommend to us, and then we can, 2 or 3 years from now, make our determination as to whether or not some remedy is actually in order.

There is some talk about this setting a precedent that is wrong. It seems to me this is nothing more than a continuation of the American tradition of trying to remedy wrongs that have occurred in the past insofar as they can be remedied.

Mr. Speaker, this is not a precedent for remedying a wrong. This is following in the American tradition of trying to remedy those wrongs which should have been taken care of a long time ago, and if they were not taken care of then, we should, as we are now doing, try to do the best we can now.

The SPEAKER pro tempore. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 4 additional minutes.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I thank my friend, the distinguished gentleman from Colorado, for yielding.

I am a little confused, and I think I must disagree with the gentleman's statement regarding the right of conquest.

The right of conquest does bear clear title, and I think the United States recognizes that. I would like to cite, for example, our acquisition of the Louisiana Purchase. Although the Louisiana Territory was bought from France, France acquired title by conquest of Spain.

I think if we look back, we would have to agree that we have recognized the right of conquest, however we wish to describe it. When Texas became a sovereign nation, it turned itself over to the United States, and the entire southwestern part of the United States, through the Treaty of Guadalupe Hidalgo, was acquired as a result of conquest or action in the nature of conquest.

In our acquisition of other territories we have assumed title, in some cases temporarily, as a result of conquest.

I refer as one example to the Philippine Islands which was later granted independence.

Mr. Speaker, the right of conquest is to me a clear right of title in the acquisition of territories and has been recognized by our country since it became a nation.

Mr. JOHNSON of Colorado. Mr. Speaker, I appreciate what the gentleman from Arizona (Mr. RUDD) has to say, and, of course, his view of history is shared by many. But I submit to the gentleman that most of the American State papers, including our Constitution, the Declaration of Independence, and the writings of great historians of the United States, have always tried to lend credence to the westward expansion of the United States on the grounds that it was not based on the traditional right of conquest that nations had claimed for years.

When Mr. Bancroft wrote this great history about the westward expansion, it was not in the guise that this was pure, raw military power which justified that kind of expansion. It was not that kind of an exercise.

After all, Texas came into this Nation as a sovereign State; it chose to be affiliated with the United States. We bought Alaska.

This is the only instance in the entire history of the United States where, as a result of gunboat diplomacy, we actually acquired territory. Prior to that time it was accomplished as a result of a conflict with Mexico or a conflict with Spain, and the territory was taken over as a result of warfare with those countries.

But this is a case where we took the property away from the people, and we are now considering offering some form of remedy to them.

Mr. Speaker, I do not want to continue longer, because there are other Members who want to speak on the subject.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I will be glad to yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, my comment, in trying to bridge the gulf in understanding between the gentleman and his colleague, the gentleman from Arizona (Mr. RUDD), is this:

Might does not make right, and we must live by that concept.

This was an illegal military taking, because it was done through a conspiracy between the Minister of the United States and a few of the non-Hawaiians who were living there. It was not in furtherance of an act of Congress.

Mr. Speaker, this is the very point we have been making. It was not even a proper military operation, in my opinion.

Mr. JOHNSON of Colorado. That is correct. We were not at war with Hawaii at the time.

Mr. RONCALIO. And Congress had nothing to do with it. Had Congress intervened and voted on this incursion into the Hawaiian Islands, at least it would have followed the constitutional parliamentary procedure.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, it is certainly laudable that the members of the committee and the Representatives from the State of Hawaii are concerned about the unemployment and the economic opportunities that are not available to some of the Native Hawaiians. This is the type of thing which I felt justified support of the Fraser amendment the other day during the budget authority consideration, but that, unfortunately, did not pass.

But I rise reluctantly opposing this proposed approach, because I think we are not addressing the problems that we mean to address; and that is to provide opportunity for employment, opportunity for a decent life, opportunity for the retention of a cultural heritage, when we go back and now appoint another commission. I would question how objective the commission could be if it is going to be basically one-half comprised of Native members. I would question whether or not they could be objective in this particular instance, and at the same time laying the groundwork, to reply to my colleague, the gentleman from Arizona (Mr. RUDD), for monetary compensation and land compensation.

As far as the preservation of Hawaiian culture and education, there is no problem, that is a desirable goal. The thought of having a committee come back here in 2 or 3 years, after having spent about $1 million in travel and salaries and lodging to go and visit the Hawaiian Islands, running around making blood-test determinations of eligibility, I find ludicrous, and I would much rather that this bill not be on suspension but come up on the general calendar, to delete this monetary and land compensation and work with our colleagues from Hawaii in addressing the specific problems that they want to address—and that is the U.S. citizens they represent today, and not try to turn the clock back 100 years.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

Mr. Speaker, this is more than the attempts to fulfill programs that the gentleman so competently advances. This envisions a commission which should indeed make a finding that we committed a wrong, and we should thereupon admit we committed a wrong. I think we owe that to the people of Hawaii and to ourselves.

Let me add one thing more. At the hearings in Hawaii I heard from some of the types who were getting their motivation, I think, from the more radical elements within our midst. They said in effect, "You stole this, and you must return 66 percent of it back to the Hawaiian natives." I was not exactly restrained when I said to the man who so testified, "It will be a cold day in hell when you get back two-thirds of the State of Hawaii in compensation for your claim." Whereupon, I got headlines, among other ungracious gestures, from the radical types of Hawaiian natives. When the man mentioned, "We should have Pearl Harbor returned because you stole it from us, too." I lost my cool. I said, "You will never get Pearl Harbor back because it is a monument to all Americans, Hawaiian and non-Hawaiian." He said, "What if someone stole a small child's toy? Would you not give it back to the child?" I said, "Yes." But if I had possessed the toy for 80 years and defended it from hostile invasions, and my children learned to love it, I would share it, but I would not give it back."

Do I make myself clear on the admission of wrong? That is basically what we are doing.

Mr. CUNNINGHAM. Mr. Speaker, if I may reclaim my time, I understand what the chairman is saying. I really wonder whether it was a wrong or it was not a wrong.

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. CUNNINGHAM) has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 1 minute to the gentleman from Washington.

Mr. CUNNINGHAM. Mr. Speaker, to continue, we cannot go back and undo history; but we can work today to address the problems that the Natives have today.

That is the area in which I think we should concentrate our efforts and not try to roll back history.

Therefore, Mr. Speaker, I would urge that this joint resolution on the suspension calendar be defeated and be brought back at another time on a regular calendar so that we will have an opportunity to perfect it because we share common goals. However, going back to undo history is not the right approach and would make the taxpayers subject to what could be horrendous claims, which I think is a poor stewardship.

Mr. RONCALIO. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Speaker, under this joint resolution, a commission is being established to fairly determine what should be the nature of the contribution to the Hawaiian people. It may be in the form of education, it may be in the form of land, but certainly we do not have to believe that because seven of 15 members will be part-Hawaiian, that commission cannot be fair and objective, just as I would like to believe that this body of predominantly Caucasian men and women can be fair in dealing with those who are not.

Mr. RONCALIO. In conclusion, I should only like to again call attention to the fact that this is not a precedent setter. This follows in the pattern of acts of this Congress which have been passed over the past 150 years, seeking to do equity to its citizens. Alaska Native Claims Settlement Act was one of the most recent.

Mr. Speaker, I believe that this is essentially good legislation; and I would urge my colleagues to vote to create the Commission so as to see what the Commission comes up with.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. UDALL), the chairman of the committee.

Mr. UDALL. Mr. Speaker, I thank the gentleman for yielding.

I compliment him as chairman of the subcommittee for working out this important legislation.

Mr. Speaker, this problem is not going to go away. Congress may eventually decide that we have no obligation to the Hawaiian natives; but that is down the road, and certainly no harm can come from the kind of thorough and balanced study which the entire unanimous Hawaiian delegation in both the House and Senate has supported.

Therefore, Mr. Speaker, I think it would be a serious mistake not to pass this joint resolution.

Mr. RONCALIO. Mr. Speaker, let me conclude with the words of President Cleveland when he reviewed this entire matter. He was commending it to the Congress, and he desired to give the Congress assurances that he, as the President, would be glad to cooperate in any legislative plan which might be devised for the solution of the problem. He said the following:

In commending this subject to the extended powers and wide discretion of the Congress I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.

Mr. Speaker, let us take note of the words "consistent with American honor, integrity, and morality."

That is what is wonderful about this country. That is what World War II was all about. When right is on our side, we know we can win. That is when we get mighty, when we are right.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 4, as amended.

The question was taken.

Mr. CUNNINGHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DOMESTIC VIOLENCE ASSISTANCE ACT OF 1978

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12299) to establish a Federal Office on Domestic Violence, and a Federal Council on Domestic Violence, to provide grants for the assistance of victims of domestic violence and for training programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Domestic Violence Assistance Act of 1978".

ESTABLISHMENT OF OFFICE ON DOMESTIC VIOLENCE

SEC. 2. There is hereby established within the Office of the Secretary of Heath, Education, and Welfare an Office on Domestic Violence which shall be headed by an Administrator of Programs on Domestic Violence.

APPOINTMENT AND DUTIES OF ADMINISTRATOR

SEC. 3. (a) The Administrator shall be appointed by the Secretary of Health, Education, and Welfare.

(b) The Administrator shall—

(1) maintain a national clearinghouse on domestic violence for purposes of (A) collecting and disseminating information on domestic violence, (B) reviewing Federal, State, and local programs relating to domestic violence, (C) compiling and actively distributing information on existing programs for the prevention and treatment of domestic violence, and (D) developing a national directory of temporary shelters and other services for the victims of domestic violence;

"(2) undertake maximum efforts to achieve the coordination of all Federal programs relating to domestic violence in order to eliminate unnecessary duplication and inefficiency, and report to the Congress on such efforts and on the status of the grant program authorized by this Act;

(3) develop a national media campaign to increase public awareness of the problem of domestic violence and the availability of services for its victims, including, if he deems necessary, a national toll-free hotline to provide information regarding the availability of services in particular areas of the country;

(4) make recommendations to the Congress concerning the need for the modification of Federal programs which may affect or have applicability to victims of domestic violence, including federally supported housing and community development activities, legal and medical services, and job training programs;

(5)(A) obtain information regarding the nature and the findings of research projects relating to domestic violence which are conducted under programs receiving Federal funds; and (B) utilize such information in reviewing programs under paragraph (1)(B), in making his report and recommendations to the Congress under paragraphs (2) and (4), and in providing information to the Council under paragraph (6); and

(6) provide the Council with such information as may be necessary for the Council to discharge its functions under section 4(a).

FUNCTIONS AND DUTIES OF COUNCIL

"SEC. 4. (a)(1) The Secretary of Health, Education, and Welfare shall appoint the members of the Council on Domestic Violence, which shall consist of not more than twelve members who shall be appointed for a period of not more than three years. The Council shall be composed of—

(A) not less than five individuals who are victims of domestic violence or who are experienced in the operation of community-based shelters or service programs for victims of domestic violence and their children and in the delivery of services to such victims, but who are not employees of Government; and

(B) representatives with expertise in the the area of the prevention and treatment of domestic violence, from such agencies as—

(i) the Office of Children, Youth, and Families, Department of Health, Education, and Welfare;

(ii) The National Institute of Mental Health;

(iii) the ACTION Agency;

(iv) the Law Enforcement Assistance Administration;

(v) the Legal Services Corporation;

(vi) the Community Services Administration; and

(vii) representatives of State or local governments: *Provided however*, That the non-Federal members appointed pursuant to subparagraph (A) of this section shall at all times constitute a majority of the members of the Council.

(2) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are appointed pursuant to paragraph (1)(A), and members appointed pursuant to paragraph (1)(B) who are not otherwise reimbursed for travel expenses, shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as employees of the Federal Government are allowed such expenses under subchapter 1 of chapter 57 of title 5, United States Code.

(3) Members of the Council who are officers or employees of the Federal Govern-

ment shall receive no additional pay on account of their service on the Council.

(b) The Council shall have the sole responsibility for awarding grants pursuant to sections 5 and 6 of this Act.

(c) The Council shall make recommendations to the Administrator concerning the modification and improvement of programs and activities of the Office on Domestic Violence.

GRANT PROGRAM

SEC. 5. (a)(1) The Council shall make grants under this section for programs designed to prevent domestic violence and to provide aid to victims of domestic violence.

(2) No grant made under this section shall be approved for more than $50,000 in any fiscal year, or for more than 25 per centum of the annual budget of such program, whichever is less. No program for which a grant has been made under this section shall receive funds for more than three fiscal years.

(b) Except as provided in subsection (c), any applicant applying for a grant under this section shall demonstrate to the satisfaction of the Council that the program for which the grant will be used—

(1) has been in operation and has offered the type of services outlined in the application for a period of not less than six months;

(2) is receiving community support in the form of financial donations or in-kind goods and services; and

(3) is operated by personnel who have appropriate skills, including professional, clinical, or volunteer training, necessary to provide services to victims of domestic violence and their children, including multilingual skills, where appropriate.

(c) A grant may be made to a qualified applicant unable to meet the requirements of subsection (b)(1) if such applicant demonstrates to the satisfaction of the Council that—

(1) there is a local need for the establishment and maintenance of such services;

(2) there is an extreme financial hardship requiring the awarding of start-up funds in order to achieve the establishment of the program. No amount in excess of 40 per centum of the total amount of a grant made to any applicant under this subsection may be advanced for start-up funds. The Council shall provide the remaining funds for any grant made pursuant to this subsection upon a finding that the program has been established in conformity with the grant application; and

(3) no funds provided under this Act shall be used to supplant other funds otherwise available to an applicant.

(d)(1) Except as otherwise provided in paragraph (2) with respect to grants made pursuant to this section in any fiscal year, the proportion of funds made available by the Council for programs in any State to the total funds granted by the Council for programs under this section shall not exceed the proportion of such State's population to the total population of the United States, according to the latest available reliable data, except that the minimum amount available to grant applicants in any one State shall not be less than $50,000.

(2) The Council shall select grantees from diverse demographic regions within each State or territory.

(3) Any funds appropriated for purposes of this Act for any fiscal year which were not allocated before January 1 of such fiscal year shall be available for awarding to other qualified applicants upon approval on an application by the Council.

(e) Funds provided through grants made under this section may be used for services and related expenses including, but not limited to, the following—

(1) rent or mortgage payments for facilities (except that no more than 33 per centum of any grant may be used for rent);

(2) emergency counseling;

(3) job training;

(4) legal services;

(5) provision of food or clothing;

(6) emergency telephone assistance and counseling;

(7) housing information and referral;

(8) followup services;

(9) the dissemination of information and advocacy of other related social services; and

(10) administrative expenses (not to exceed 15 per centum of any grant).

(f) No funds provided through grants made under this section shall be used as direct payment to any victim of domestic violence.

(g) Services provided under this section shall be considered emergency services and no income eligibility standard shall be imposed with respect to any individual seeking such service.

(h) Any grant recipient under this section shall furnish to the Council within ninety days after the end of the fiscal year for which a grant was made to such grant recipient—

(1) an audit of all expenditures;

(2) a report of all purchases and related financial matters;

(3) information regarding the number of individuals served, and the services offered, and a description of the disposition of cases, except that no grantee may be required to release the identity of any victim served by the program if the grant recipient of such program deems such identity to be confidential; nor shall the exact street address of any grantee be made public if public knowledge of the location of a shelter would expose residents of that shelter to physical or psychological abuse;

(4) any other information the Council may require with respect to the program for which such grant was made.

GRANTS FOR TRAINING PROGRAMS

SEC. 6. (a) The Council shall make grants under this section for programs designed to provide personnel training and technical assistance training to individuals and organizations involved in establishing or maintaining community services for victims of domestic violence.

(b) Any applicant applying for a grant under this section shall demonstrate to the satisfaction of the Council that—

(1) such applicant is able to train personnel, and has expertise in the area of emergency victim assistance;

(2) a thorough description of the program for which such grant shall be used.

(c) Funds provided through grants made under this section may be used for expenses of training programs including costs of—

(1) dissemination of information regarding treatment of victims of domestic violence;

(2) technical training of shelter personnel, including transportation and living expenses for such personnel for a period of no more than two weeks;

(3) production of media information programs concerning the problem of domestic violence and the availability of community services for victims of domestic violence;

(4) shelter-based research programs concerning the need for and use of programs for victims of domestic violence; and

(5) programs designed to develop economic self-sufficiency of community-based service providers in order to assure the continuity of programs funded under this Act.

(d) Any grant recipient under this section shall furnish to the Council within ninety days after the end of the fiscal year in which a grant was made to such grant recipient—

(1) an audit of all expenditures;

(2) a report of all purchases and related financial matters; and

(3) any other information the Council may require;

with respect to the program for which such grant was made.

(e) The Council shall, as is practicable, distribute grants under this section to insure that training programs will be established in all regions of the United States, as determined according to the regional organization of the Department of Health, Education, and Welfare.

(f) The Council shall award grants for technical assistance and research under this section, to the maximum extent feasible, in all regions of the United States, including rural and urban areas, and may select programs which are interstate or regional in nature.

APPROVAL OF BUDGETS

SEC. 7. Before any funds are provided for any program for which a grant has been made under this Act, a budget for such program for the fiscal year in which such funds shall be used shall be approved by the Council.

EFFECT ON ELIGIBILITY FOR OTHER FINANCIAL AID

SEC. 8. No Federal income supplement, or nutrition, education, legal, or medical assistance, or job training shall be denied to any individual otherwise qualified for such supplement, assistance, or training, or to any child of such individual, because such individual has received aid from any shelter or program for victims of domestic violence to which a grant has been made under this Act, or has received any service provided by such shelter or associated service provider.

REGULATORY AUTHORITY

SEC. 9. The Secretary of Health, Education, and Welfare shall have the authority to promulgate such rules and regulations as he may deem necessary to carryout the provisions of this Act. Proposed regulations shall be subject to the approval of the Council.

DEFINITIONS

SEC. 10. As used in this Act—

(1) the term "Administrator" means the Administrator of the Office on Domestic Violence referred to in section 2;

(2) the term "applicant" means any community-based, nonprofit organization or Indian tribe or public agency in any State;

(3) the term "Council" means the Council on Domestic Violence established in section 4;

(4) the term "domestic violence" means any act or threatened act of violence, including any forceful detention of an individual, which results or threatens to result in physical injury, and is committed by a person against another person to whom such person is married or has been married or with whom such person is residing or has resided;

(5) the term "shelter" means a facility maintained by an applicant or grant recipient under this Act which provides, on an emergency basis, temporary housing and food, or related services, to victims of domestic violence;

(6) the term "State" means the fifty States and the District of Columbia, Guam, the Virgin Islands, and Puerto Rico; and

(7) the term "victim" means any individual threatened with or suffering injury or duress as a result of domestic violence, or the child under the age of eighteen of such individual.

AUTHORIZATION OF APPROPRIATIONS; LIMITATIONS

SEC. 11. (a) There are authorized to be appropriated for the purpose of this Act $15,000,000 for fiscal year 1979, $20,000,000 for the fiscal year 1980, and $30,000,000 for each of the three succeeding fiscal years.

(b) No amount in excess of 20 per centum

of any amount appropriated under this Act in any fiscal year shall be used for grants made under section 6 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, the gentleman from Indiana (Mr. BRADEMAS) offered this bill as amended.

Have any amendments been added to the bill since it was reported by the committee or is it as reported?

Mr. BRADEMAS. If the gentleman will yield, Mr. Speaker, it is as reported.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill H.R. 12299, the Domestic Violence Assistance Act of 1978, establishes an Office on Domestic Violence within the Department of Health, Education, and Welfare for the purpose of providing support of community activities for the prevention of domestic violence and assistance to the victims of domestic violence, and coordinating Federal programs and activities pertaining to domestic violence.

First, Mr. Speaker, I would like to thank the members of the Committee on Education and Labor for their support of this bill. In particular, I would like warmly to commend the gentleman from California (Mr. MILLER) a hard-working member of the Subcommittee on Select Education, for his outstanding work on this legislation, and I would also like to thank the gentleman from Vermont (Mr. JEFFORDS) the distinguished ranking minority member of the subcommittee, as well as the other members of the subcommittee for their efforts on this bill. Let me too, Mr. Speaker, take this opportunity to express my appreciation to our able colleagues, Mrs. BOGGS, Ms. MIKULSKI, and Mr. STEERS, for their leadership in sponsoring this legislation.

Mr. Speaker, in testimony given before the Subcommittee on Select Education on the domestic violence legislation, witnesses agreed that Federal funds should be used to stimulate community solutions to the problems of battered spouses and toward enabling communities to establish and maintain neighborhood shelters which provide services to the victims of domestic violence. At the hearings, the subcommittee gathered information on the alarming incidence and serious nature of family violence, and heard witnesses testify that relatively few resources have been developed for the prevention of domestic violence or to aid its victims.

Let me, Mr. Speaker, describe briefly the purpose of the Domestic Violence Assistance Act. H.R. 12299 would establish an Office on Domestic Violence in the Office of the Secretary of Health, Education, and Welfare, headed by an Administrator of Programs on Domestic Violence. The Administrator will be responsible for coordinating Federal programs which apply to the problem of domestic violence in order best to direct Federal efforts at aiding victims. The Administrator will also be responsible for gathering and disseminating information about community activities and Federal programs to assist the victims of domestic violence.

Mr. Speaker, in order to make the Federal program of domestic violence responsive to the needs of shelters established to help battered spouses, H.R. 12299 would establish a Council on Domestic Violence, with a majority of its members composed of individuals who have been the victims of domestic violence or involved in community programs serving such individuals. The remaining members of the Council, which would be responsible for awarding grants under the act, would be comprised of representatives of Federal agencies with programs relating to the problem of domestic violence.

Federal support under the act, Mr. Speaker, would supplement local efforts to establish and maintain shelters for the victims of domestic violence. Funds could be used for services and expenses such as rent or mortgage payments on facilities, emergency counseling, hotlines, job counseling, housing, and legal services. Grants would also be made to train personnel working in shelters for abused spouses.

At this point, Mr. Speaker, I am pleased to yield to the gentleman from California (Mr. MILLER) who will speak further on this legislation.

Mr. MILLER of California. Mr. Speaker, the House today will consider H.R. 12299, "The Domestic Violence Assistance Act of 1978," a bill which I introduced together with my colleagues, Congresswomen LINDY BOGGS, and BARBARA MIKULSKI, and Congressman NEWTON STEERS. This legislation has received overwhelming bipartisan support from the members of the Subcommittee on Select Education and the Committee on Education and Labor, and I am hopeful that the full House will similarly approve this important legislation today. Comparable legislation, introduced by my colleague from California, ALAN CRANSTON, has been approved by the Senate Human Resources Committee, and should come before that full body in the near future.

Mr. Speaker, the Domestic Violence Assistance Act addresses one of the most ignored, and most prevalent social problems in our country, that of violence among family members. A shocking number of women, and men, too, suffer from violence inflicted by a spouse or someone with whom they cohabit. Despite some popular ideas, this violence is not limited to simple slapping, but often reaches the most serious proportions. Between 1967 and 1973, over 17,000 deaths resulted from domestic violence in the United States, including 22 percent of police deaths. Between 1926 and 1968, it has been shown, 30 percent of reported homicides involved family members, and half of these involved one spouse against the other.

Spousal violence may occur, according to some researchers, in as many as half the marriages in our country. One researcher who conducted a widely respected survey concluded that, during the study year alone, one out of six couples studied had a violent episode, which nationally would translate into about 7½ million people. Over the duration of the marriage, he concluded, violence occurred among 28 percent of the couples, or 13 million couples, although he acknowledges that the actual total could be as much as double that finding.

"The results of the survey show that the amount of violence between members of the same family is extremely high," Prof. Murray Strauss of the University of New Hampshire found, "so high that we can only conclude that physical violence occurs between family members more often than it occurs between any other individuals or in any other setting except for wars and riots."

Other studies have noted that one-fifth of Americans approve of slapping a spouse on occasion, and, contrary to popular belief, that this attitude increases as education and income rise. Agreement with this idea among college-educated people was nearly twice as high as among grade school dropouts, 25 percent to 16 percent.

Violence among spouses in most cases have traumatic effects on their children, and there are numerous correlations between abuse of children and spousal violence. One major study found that between a quarter and a half of the children of battering spouses were emotionally disturbed. Various studies have shown that between one-third and two-thirds of the battered wives inflict abuse on their children, and in one-fifth of the child abuse cases which are reported, there is also found to be spousal abuse. The effects on children are not only the immediate physical injuries, but generational. The San Diego child abuse project found a very high correlation between violence experiences in childhood and one's becoming a spouse abuser in adult life.

Numerous States have now begun to recognize the importance of modifying their statutes in order to better protect the rights of the victims of domestic violence. Within the past year or so, Pennsylvania became the first State in the Union to enact protective legislation for battered spouses, followed by Oregon, Florida, California, New Jersey, Arkansas, Connecticut, Maryland, Maine, Nebraska, Colorado, Virginia, Minnesota, and Washington State. Several States, including my home State of California, have approved legislation establishing pilot projects to provide State assistance comparable to the grant program we are acting on today.

In addition to these State programs, the Colorado Association of Aid to

Battered Women has estimated that there are about 400 programs offering a variety of services to victims throughout the United States. National organization estimates that there are programs in 44 States at present. The record clearly demonstrates that there is strong local and State support for these programs, and H.R. 12299 would build on that support and encourage greater local efforts.

In addition to these non-Federal activities, some Federal agencies have been developing programs to aid victims of abuse.

Given this level of activity, one may question the need for another program of Federal support. I would urge my colleagues to take note of the severe inadequacies in the service programs at present. Where shelters and service programs do exist, the evidence is very clear that the massive demands from people seeking to utilize the services quickly overwhelms most programs. Many of the programs are simply too small to service their area. For example, Los Angeles County has only 30 beds for emergency use of women—although 4,000 for men—and none for women with male children over age 4.

The Santa Clara shelter in San Jose serves a population area of 1.2 million people, and yet can house only 6 women and their children at any time. The nearest shelter is 40 to 50 miles away. Meanwhile, it is estimated that there are 300 battered women per month who are treated in the county hospital emergency rooms. In Pasadena, the lone shelter was forced to turn away 400 people in October 1977, alone. These statistics from just one State indicate the inadequacy of existing shelter and service programs.

H.R. 12299 provides for a system of direct support grants to service providers and technical assistance programs to aid victims of domestic violence. This legislation has been designed on the basis of the extensive testimony offered the Subcommittee on Select Education last March, and contains most of the major recommendations offered by witnesses who included service providers, service professionals, police officers, women's organizations' representatives, academicians, and others. The main points of the program are:

Direct grants for service, bypassing complex formulas on distribution and bureaucratic requirements for States and local governments to meet in order to open the way for funding for local programs, which will be of the most aid to victims;

Emphasize the community basis of the existing programs by requiring a showing of need, of local participation in the operation and design of the program, and local contributions to the funding of the center;

Provide for centralized Federal administration of the program authorized under this act, and increased coordination of all related Federal activities in order to eliminate unnecessary duplication of effort;

Emphasize a wide range of services to aid victims, and restrict research funded under this act to shelter-based studies.

I would like to take a few moments to discuss the major provisions of this legislation, and to explain the intent behind them. The bill establishes an Office on Domestic Violence under the Secretary of Health, Education, and Welfare. Such an Office will give the problem of domestic violence the attention it clearly requires, and will serve as a coordinating center for all related Federal programs and activities which have an impact on spousal assault.

The office will be headed by an Administrator appointed by the Secretary, who will have a wide range of responsibilities. Together with his staff, and with the assistance of other Federal offices and departments, the Administrator will operate a clearinghouse on information and materials related to Federal, State, and local programs and laws concerning domestic violence. The Administrator is also explicitly mandated to "undertake maximum efforts to achieve the coordination of all Federal programs relating to domestic violence in order to eliminate unnecessary duplication and inefficiency." This function will be very important to the success of the program, because there are a number of Federal programs which peripherally affect this problem, including the community block grant, and CETA programs. These efforts, together with social services under titles IV–B and XX of the Social Security Act, must be coordinated to offer the maximum aid to victims of family violence.

The national office will also operate a media campaign to highlight the problem of domestic violence, and inform listeners of the availability of services, counseling and hotlines which may offer them aid. So often during our research, we found that women remained endangered, in their home with someone who had been abusing them for years, because they did not know where to go for services and advice.

Perhaps the most important conceptual idea in this legislation is the creation of the Council on Domestic Violence. This panel, which will award grants to qualified applicants and approve all regulations promulgated pursuant to this act, will be composed, in the majority, of persons "who are experienced in the operation of community-based shelters or service programs for victims of domestic violence and their children" and victims of domestic violence themselves. They will be appointed by the Secretary for a period of not more than 3 years, and we would hope that the terms would be staggered so that there is not a total turnover after the first 3 years.

Consumer representation on the Board is terribly important. For years, concerned people in the communities of this country struggled to establish and maintain shelters and other service facilities, developing enormous expertise in every phase of the management of such programs. Anyone who attended our hearings, or those of the Senate or the U.S. Commission on Civil Rights, cannot help but be impressed with the professionalism and dedication of these people. It would be irresponsible and self-defeating to establish this Federal program and not draw upon the background and practical knowledge of the men and women in the field who have been charting the way on these matters.

Also represented on the Council will be representatives of Federal agencies, and State and local governments, who possess expertise in the prevention and treatment of domestic violence. The overall size of the Council will be limited to 12 members, and we would anticipate their meeting periodically, as necessary, to review the recommendations of the staff and the Administrator in preparation to their making decisions regarding grants. The Council also will make recommendations about changes and improvements in the Federal program to the Administrator.

The grant program authorized in this legislation is simple and straightforward. We have purposely sought to avoid the frequently complicated formulae, percentages, matches, and qualifications which snarl the operation of so many programs. We felt that the key to long-range success lies in local funding, but that Federal assistance is necessary in order for a shelter or service program to establish itself. Funding is therefore limited to $50,000 in any year, and for a maximum of 3 years, limitation which won strong support from service providers at our hearings.

In order to assure that each program has community support, we require that a program exist for 6 months prior to the receipt of Federal funds, except in special hardship cases in which 40 percent startup funds may be provided in advance. In addition, no program may receive more than 25 percent of its budget from this legislation—although other sources of Federal dollars would not fall under the 25-percent ceiling—which further assures that the program will retain a strong local base.

I do not believe that it serves any useful purpose to require State matching, or to require the establishment of complicated and costly State bureaucracies, in the same way that we have sought to avoid costly administrative requirements on the Federal level. Current legislative and administrative activity on the State level eliminates the need to mandate creation of new State councils or departments. Many States have recognized the need for greater attention to the issue of domestic violence, and I think we should work with them cooperatively rather than mandate new State units be created.

Similarly, I believe the funding requirements in H.R. 12299 provide the widest latitude for funding, as they should. The 75 percent of a program's funding which cannot come from grants under this bill should come from State and local government, from communities, and from private organizations, from financial donations and inkind contributions. The obligation is not only the State's, but the program's beneficiaries and the community's responsibility.

Funds for such programs are meager enough right now. The likelihood is that, even were the full $15,000,000 authorized by H.R. 12299 appropriated, much of the

need would still be unmet. Given this circumstance, I do not think it is the wisest use of our limited funds to pour millions of dollars into administrative activities or State bureaucracies: We should get the maximum amount of money down to the community level, where the people are being served, and that is what H.R. 12299 is designed to do.

Mr. Speaker, H.R. 12299 assures that each State will receive funds on the basis of its population, but assures that every State, regardless of its size, will be eligible for at least $50,000 annually. In addition, we have a provision to assure that all demographic regions of a State are awarded grants—as funds permit—so that rural areas receive attention just as the cities do. We also prohibit a grantee from substituting funds under this act for funds from other sources. Programs which receive grants must provide a budget in advance of receiving funds, and must complete an audit for the Administrator within 90 days of the end of a fiscal year. I think it is clear, therefore, that we have imposed sufficient checks to assure financial accountability for the Federal Government, without miring down the program in a sea of redtape.

The grants for technical assistance, training, and research are limited to 20 percent of the funds appropriated for this program. We heard much testimony to the effect that many different Government agencies are already conducting voluminous research on domestic violence, and that many academicians are also producing valuable work on this subject. We heard that the research budget of the National Institute for Mental Health, which has been conducting the major research on this matter for the Federal Government, is $200,000,000, although certainly only a portion is for research on domestic violence. Nevertheless, I think it is clear that the funds under this bill are limited, and we ought to direct them to services and not to research, unless it is shelter based and helps us to understand usage patterns and other factors related to the actual operation of shelters.

Technical assistance and personnel training are very important, because they will provide programs throughout the country with the professional aid needed to build and sustain a program. We recognize that, on occasion, consolidated technical assistance programs are superior to local or even State-based ones, and so H.R. 12299 provides for interstate or regional training centers.

Mr. Speaker, H.R. 12299 waives all eligibility requirements for individuals seeking to utilize services provided by programs funded under this act, and also provides that no eligibility for other Federal benefits will be affected by one's using services of a shelter or other program. The services which will be provided under this act are, by their design and nature, short-term ones, aimed at getting a victim back on her or his feet and to the point where some important decisions about their futures can be made. The income of an abusing spouse is totally irrelevant in these cases, and we should clearly not that no such income test should be applied to a person utilizing services under this act.

Mr. Speaker, these are the major provisions of H.R. 12299. They are based upon the testimony of experts. The bill has received the support of experts, including the National Association of Social Workers, the Family Service Association of America, and the American Home Economics Association. In addition, I have received, and I know many of my colleagues have received, dozens of letters from constituents and others throughout the country urging favorable action on H.R. 12299. This bill has also received support from both Democrats and Republicans on both the subcommittee and full committee, and in testimony before the subcommittee. In particular, I would like to thank my colleague from Vermont, JIM JEFFORDS, the ranking subcommittee member, for his very good work on this bill, especially with regard to the special needs of residents of smaller States. And I would also like to thank the chairman of the Subcommittee on Select Education, JOHN BRADEMAS, for supporting my efforts to expedite action on this legislation. The cooperation of these Members, and many others, has permitted H.R. 12299 to move quickly through the committee and to the full House. I urge my colleagues to vote in favor of its passage today.

Mr. Speaker, let me add one more thing and that is to express my great appreciation to the gentlewoman from Maryland (Ms. MIKULSKI), the gentlewoman from Louisiana (Mrs. BOGGS), and the gentleman from Maryland (Mr. STEERS) for the fact that they have been absolutely magnificent in their ability to call the attention of this problem to the Committee on Education and Labor and to the Congress as a whole. I think we owe them a great debt of gratitude for finally having the strength and willingness to speak out on an issue that so long has remained the unspoken crime, an issue that has and is victimizing so many men and women in this country and so many children and the families with children. What we have is a start in making a real effort to provide services, shelters, and alternatives to these victims of domestic violence.

I have spent many months, many evenings, and many days talking to victims of domestic violence. I have spent many, many evenings in shelters that provide services in various parts of this country talking to people who render service, riding with the police in various parts of this country, and they all agreed on one thing, that currently, today, there is no alternative for the victims of domestic violence. The police especially request this as an alternative because they know the danger they are faced with when they walk up to the front door of a home responding to a call.

So, Mr. Speaker, again I want to personally thank all three of my colleagues for all of their help, and also thank the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS). I think the gentleman from Indiana (Mr. BRADEMAS) has a very unique quality around here as a subcommittee chairman, and that is the ability to delegate, and to see and to make sure that all of the resources of that committee and its staff can be used to put together legislation such as this, particularly that I believe directly responds in the most efficient manner to this problem that has plagued society for all too long a time.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I want to confess at the beginning I am a little bit jealous of my committee's jurisdiction in this area. As a member of the Committee on the Judiciary I thought that crime was our responsibility. So I do admit to a little prejudice before this legislation came to my attention to begin with.

But I have a larger problem and that is basically how does the Federal Government really undertake concern for this responsibility? Can the gentleman from California (Mr. MILLER) think of any area of legislative responsibility that is not more clearly the responsibility of the State and local governments than the relationships of the families? How does the Federal Government justify setting up an expensive new $100 million Federal program—I am reminded by the gentleman from Maryland (Mr. STEERS) that this actually authorizes $125 million—how do you justify setting up a new Federal program in an area which is so clearly the responsibility of the State and local governments?

Mr. MILLER of California. I would just answer the gentleman from Virginia (Mr. BUTLER) by saying that the Federal Government is deeply involved, whether the gentleman agrees with it or not, in problems associated with the American families through the Social Security Act, title XX and title IV(b). But certainly we have found out that there is a great deal of discrimination in the providing of those services. While we are taking care of children in cases of abuse and family arguments, and we are taking children out of some of the homes and we are providing them with shelter and alternative places at the same time we do not take care of the woman who has been battered by her husband.

As a matter of fact, title XX discriminates against providing shelter for adults, providing them an opportunity to go into that kind of a situation, and providing these alternatives. So I do not think it is inconsistent.

I would also state to the gentleman that during the days of hearings we held here and in the Senate we were told by many, many people, mostly from rural communities where this is one of the major problems also that the person who batters them generally is related to everybody in town and they could not provide these kind of services to the people because they do not want to get involved in family discussions. What we are trying to do here is to reduce that sort of interference that has occurred.

I would add further that the gentleman is quite correct in that the gentleman's committee does deal with crime.

All we are trying to do is provide a system of Federal support rather than the intervention so that we can reduce the trauma when violence takes place in the family. This is so that we can give the chance for the battered individuals to take their children to recover, to gather their thoughts, so that we do not have to provide jails, so we do not have to provide juvenile halls for these children, where they languish for days while we decide whether or not assault and battery charges are going to be proffered. This is really too often the approach that we now provide to the family.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I would just ask the Chair how many minutes I have remaining.

The SPEAKER pro tempore. The gentleman has 3 minutes.

Mr. BRADEMAS. I wonder if I could reserve the remainder of my time and allow the gentleman from Virginia to explore his problems with the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Speaker, I rise in wholehearted support of the Domestic Violence Assistance Act of 1978 (H.R. 12299). I am one of the sponsors of this bill which is an attempt to respond to the needs of family violence service providers. There are over 300 programs existing in our country today in 46 States and Puerto Rico.

These programs are primarily providing emergency shelter to women and their children who must flee a violent home environment.

The need is not being met and the existing facilities are overwhelmed.

In my own district of neighboring Montgomery County, Md., our county council has found it necessary to provide funds for an emergency shelter to provide protection and supportive services for spouse assault victims. We are lucky because only a handful of county governments throughout the country have offered such help.

A 1976 study funded by the National Institute of Mental Health estimates that 1.8 million wives a year are severely assaulted. By severely, the study refers to being hit with objects, stabbed or shot. Child abuse is estimated to occur in one-half of these families.

The legislation we bring to the House floor today simply provides direct service grants to emergency shelters to get them off the ground. No more than $50,000 or 25 percent of a project's budget may be awarded in a given year. Our intent by limiting funds in this manner is to supplement community support, not to create and run a host of new programs.

The second purpose of our bill is to establish training and technical assistance programs. The small community-based service projects to which we are gearing the service grants, will need help in completing grant forms, in searching for other forms of private and public assistance and in training personnel.

Mr. Speaker, when I first became involved with this problem, I had no idea of its magnitude nor was I persuaded of the need for Federal action. Today I am thoroughly convinced that it has reached epidemic proportions, that it knows no social, racial, religious, or economic boundaries and that help is desperately needed now. Basically it was hard evidence and strong constituent support which have determined my support.

In January 1977, when one of my aides who is affiliated with the District of Columbia shelter, the House of Ruth, brought up the issue of spouse battering, I decided to look into the problem. It was then that I initiated a questionnaire to all known emergency shelters dealing with spouse assault victims to determine the nature and extent of the problem. I also wrote to every Governor seeking information about existing administrative and legislative solutions to treating the domestic violence problem on the State and local levels.

It soon became evident that there was a great deal of activity directed at treating the problem by local shelters with little or no effective coordination of those activities with law enforcement officials, neighboring hospitals, mental health clinics, et cetera. A small number of States—13—reported legislation primarily concerned with treating victims vis-a-vis aiding or establishing emergency shelters and the establishment of incidence vis-a-vis mandatory reporting by law enforcement officials on the specific nature of domestic violence calls.

It was at this time that Congresswoman BOGGS, who is a member of the board of directors of the House of Ruth, and I decided to sponsor a luncheon-symposium on the subject. The luncheon speakers, legal experts on domestic violence and the law, authors spousal abuse and directors of emergency shelters, all confirmed the wide incidence of battering, the human tragedies which flow from it, the lack of adequate facilities to treat the problem, the failure of State and local statutes to provide adequate protection of its victims, and most importantly, the failure of society as a whole to recognize the severity of the problem.

Shortly thereafter, my staff along with staffers from the offices of Congresswoman BOGGS and Senator ANDERSON, initated a series of meetings with various Federal agencies to discuss existing family abuse programs. From these meetings, it became apparent that no one agency under existing mandates could effectively spearhead a comprehensive approach to treat victims of family violence.

Ten months ago, on June 21, 1977, Congresswoman LINDY BOGGS and I introduced H.R. 7927, "The Domestic Violence Prevention and Treatment Act of 1977," to set up a demonstration grant program within HEW to assist groups providing direct services to families in crisis. Senators WENDELL ANDERSON and TED KENNEDY simultaneously introduced an identical version of that legislation, S. 1728, in the Senate. Shortly thereafter, Congresswoman BARBARA MIKULSKI introduced an innovative measure which set up a training and stipend program within ACTION for volunteers to work with local community groups serving victims of family violence.

Our efforts have received broad bipartisan support. Last summer, Congresswoman BOGGS and I worked closely with the Office of Public Liaison at the White House on this issue. To its credit, the White House spearheaded several meetings with community shelter groups, agency officials, and Hill staff to help us gain nationwide recognition for the need to enact Federal legislation to assist victims of family violence.

In addition to the White House, Mary Crisp, cochairperson of the Republican National Committee, took an active interest in our bill. Congressman AL QUIE, ranking minority member of the House Education and Labor Committee, was an early cosponsor of it.

In the Senate, both Senator ALAN CRANSTON, chairman of the Child and Human Development Subcommittee, and ranking minority member, Senator SAM HAYAKAWA, supported family violence legislation. In fact, Senator CRANSTON chaired hearings on the matter—at which both BARBARA MIKULSKI and I testified—and subsequently introduced his own bill. That bill has since been reported by the full Senate Human Resources Committee.

The legislation we are introducing today is a result of House hearings by the Select Education Subcommittee held on March 16 and 17 of this year and chaired by Congressman GEORGE MILLER of California under the auspices of Subcommittee Chairman JOHN BRADEMAS. Mrs. BOGGS, Ms. MIKULSKI, and I at Mr. MILLER'S request pitched in to help with both the hearings and drafting of the bill we are considering today. If the truth were known, however, all this could not have been accomplished without the able assistance—and persistence—of our staffs: John Lawrence for Mr. MILLER, Mimi Griffiths for Mrs. BOGGS, Joanne Howes for Ms. MIKULSKI, and Bobbi Avancena of my staff.

This legislation would set up a coordinating unit in the new Office of Domestic Violence within HEW to, first, develop and maintain a national clearinghouse on domestic violence; second, make an annual report to the Congress with respect to the status of Federal, State, and local programs relating to domestic violence, including recommendations for improved coordination; and, third, make recommendations to the Congress concerning the need for modification of Federal programs which may affect victims of domestic violence, including public assistance housing, legal and medical service, and job training.

A council including victims of domestic violence, persons who are experienced in the operation of community-based shelters and service programs and Federal agency representatives will approve grants to domestic violence programs which can demonstrate community support and past experience in treating victims of family violence.

A ceiling on the amount of a grant is designed to see that programs use Federal money as a supplement to other local sources of funding. This is why no grant may exceed $50,000 or 25 percent of a program's annual budget in a given year. In addition, no program may receive funding under this bill for more than 3 years. These funds are intended to be used for a broad range of services such as counseling, job training, legal services, shelter, emergency hotlines, transportation, and followup services.

In addition to direct grants, a second grant program is established to provide personnel training and technical assistance to individuals and organizations involved in establishing and maintaining community shelters. Not more than 20 percent of any amount appropriated for this bill may be used for this purpose. Funds may cover expenses and training programs including costs of, first, dissemination of information regarding treatment of victims of domestic violence; second, technical training of shelter personnel, including transportation and living expenses for a period of no more than 2 weeks; third, production of media information programs concerning the problem of domestic violence and the availability of community services for victims of domestic violence; and fourth, shelter-based research programs concerning the need for shelters or other services for victims of domestic violence and their children, utilization of such a program, or related subjects.

I have become involved in this issue because it has become apparent to me that its widespread and alarming occurrence on all socioeconomic levels is not sufficiently understood by society. As domestic violence is increasingly recognized as a treatable social problem, its victims seem to come forward in greater numbers. Yet, small local groups have been left to tackle the problem, largely unaided by local, State, and Federal authorities. I believe it is time we face reality and provide help for the families caught in the violent cycle of spouse assault. The fact is that battered family members do not enjoy perpetuating or submitting to physical brutality, any more than children enjoy being abused, any more than rape victims enjoy being assaulted.

I would like to commend my colleagues who were early cosponsors of the "Domestic Violence Prevention and Treatment Act of 1977": Congresspersons AL QUIE, GLADYS SPELLMAN, JOHN SEIBERLING, WYCHE FOWLER, DOUG WALGREN, BRUCE VENTO, AUSTIN MURPHY, FRED RICHMOND, JOE MOAKLEY, JOHN MURPHY, JOHN JENRETTE, NORMAN LENT, DAVID BOWEN, JOHN BUCHANAN, JAMES HOWARD. MARK HANNAFORD, CLARENCE LONG, AUGUSTUS HAWKINS, LIZ HOLTZMAN, PARREN MITCHELL, JOSEPH ADDABBO, YVONNE BURKE, DONALD FRASER, CLIFFORD ALLEN, BOB KASTEN, and JIM LEACH.

The following lists the numbers of shelters and other services in each State compiled by the Center for Women Policy Studies under a Law Enforcement Assistance Administration grant:

	Shelters	Other service providers
Alaska	1	0
Arizona	2	2
Arkansas	1	1
California	21	8
Colorado	8	1
Connecticut	3	4
Delaware	3	0
District of Columbia	2	2
Florida	6	4
Georgia	2	0
Illinois	8	4
Idaho	2	0
Indiana	0	3
Iowa	0	2
Kansas	2	3
Kentucky	3	2
Louisiana	0	1
Maine	1	1
Maryland	9	2
Massachusetts	7	8
Michigan	4	6
Minnesota	5	3
Missouri	2	6
Montana	3	2
Nebraska	4	4
New Jersey	5	3
New Mexico	2	0
New York	12	17
North Carolina	4	3
North Dakota	2	1
Ohio	8	2
Oklahoma	2	1
Oregon	5	1
Pennsylvania	9	12
Puerto Rico	1	0
Rhode Island	2	1
South Carolina	0	1
South Dakota	2	0
Tennessee	0	2
Texas	4	2
Utah	0	1
Vermont	2	1
Virginia	4	2
Washington	9	11
West Virginia	1	1
Wisconsin	5	6
	177	138

States: 45

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. STEERS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

There are many things in this legislation which trouble me, but I would like to direct the gentleman from Maryland's attention to pages 8 and 9 of the bill where there are listed purposes for which funds can be granted by the council which the bill creates. On page 9, lines 2 and 3, one of those purposes is described as, and I quote:

* * * the dissemination of information and advocacy of other related social services;

Does this mean we are going to be handing out Federal funds to lobby for increased welfare, for abortions, and for various other programs that some local person who receives the grants may or may not feel are appropriate to help solve the problem of domestic violence?

There is a statute on the books, I would say to the gentleman, that prevents use of Federal funds for lobbying.

Mr. STEERS. Mr. Speaker, the gentleman speaks of "lobbying" and "statutes." I notice words neither of these words occurs in the section (9) to which the gentleman refers.

The point I would make is that the dissemination of information and advocacy for other related services would include such things as marriage counseling, legal advice, and medical advice. It would not relate to the type of subject to which the gentleman referred.

The SPEAKER pro tempore. The time of the gentleman from Maryland (Mr. STEERS) has expired.

Mr. JEFFORDS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I would have to say in all candor, I think this bill is a candidate for the most unlikely bill of the year to succeed.

The first argument we have received is that the States have programs, but they are inadequate; so once more what do we find, the bankrupt Federal big brother coming to the rescue, to give money that we do not have. At the very outset, it should be laid down politely: The Federal Government is in no position to aid State and local governments in this regard or any other new program.

Second, I must say with yet some degree of facetiousness, although it is not a facetious subject we are dealing with, but anybody who deals with domestic problems knows that the No. 1 problem is finances. The Federal Government with its increased taxes, and HEW as a contributor to that, probably in all honesty could be traced as one of the major problems of violence in homes in the country today. Particularly, HEW as our debate of 2 weeks ago shows a waste of $7 billion a year in their programs. When we think of how many households that would translate into, something like 5 million households, the whole amount of taxes they pay are being wasted by this one agency that we are trusting in kind of a 360° circle, that contributed to it in the first place.

I say in all honesty, I am not being facetious in that, because one more Federal program giving HEW that much more authority is not going to answer anybody's problems.

Above all, let us look at what we are doing. On page 5 of the bill, lines 21 and 22, it says:

The Council shall have the sole responsibility for awarding grants pursuant to sections 5 and 6 of this Act.

Now, what are we doing here? This is completely upside down. We are having an outside council, if you look right above that on page 5:

That the non-Federal members appointed pursuant to subparagraph (A) of this section shall at all times constitute a majority of the members of the council.

You are having an outside concern set up with the majority of its members not being in the Federal Government, outsiders, all five of them, and then they have to be victims of violence. Rather than being advisory, they are going to be controlling.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I would assume that would appeal to the gentleman from Ohio, because the gentleman is such a harsh critic of HEW. Rather than having people with no power and people who do not know what they are doing and have all the power, we thought we would give it to people that have the experience to pick and choose under the direction of the Secretary, under the direction of a director appointed by him, and let them make those determinations in direct grants and stop having the bureaucrats who do not understand the program and are running the programs.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

Mr. JEFFORDS. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I would recognize that as an office of HEW.

But what we are going to see is this office in HEW growing, with the basic controlling responsibility in this council composed basically of members, a majority of whom will be non-Federal.

Yes, in most cases that would appeal to me philosophically. But again—and I do not wish to say this facetiously—I am afraid that about all HEW would be able to add to this would be numbers, more employees, more expenses, and maybe the handing out of more "no smoking" signs. Those would be about the only things I can conceive of that HEW would be adding.

Yet they are going to have a massive grant by the time they are finished. We know how these hundred-million-dollar programs start off in the beginning and then become larger later on. How many times during the last decade or so have we heard of these programs that are modest in their infancy and then grow much larger?

So I happen to think, first of all, that this is a program that is almost doomed to failure in the beginning. I do not think taxpayers' money at the Federal level is going to solve this problem.

I would say—and again, not facetiously—that this same Office of Education is the one that has indicated there should be no religious schools, no prayer, and no invocation of values that have traditionally kept the home together. Now they are turning it around and going full circle and saying, "Let's spend more money and try to prevent domestic violence through this new program and solve this problem in the home," but this is a type of violence that has come about because of our modern education system that is devoid of morals, values, and religious training.

Mr. JEFFORDS. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would like to have the attention of the gentleman from California (Mr. MILLER), since he seems to be very knowledgeable in this area.

I do not want to mislead the gentleman. I am impressed by his sincere attention to a problem which is quite obviously epidemic in its proportions.

However, I am genuinely concerned about the Federal Government's undertaking to solve every problem, particularly one which is so clearly a State and local problem in my mind. Certainly there are not many husbands who run their wives across State borders in their pursuit.

I wish the gentleman would please tell me, if we did not have the big Federal Government to step into this problem, what could be done. I wish the gentleman would take himself back for a moment to California and assume that California was going to address this problem. What should the gentleman's State or local government do to address this problem?

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think it would be the situation that we have had in the past where we have a continuing problem, and it is addressed in the following manner——

Mr. BUTLER. Mr. Speaker, if I may interrupt, I am not asking the gentleman how the problem has been addressed; I am asking the gentleman how his State would address it.

Mr. MILLER of California. How my State would address the problem?

Mr. BUTLER. Yes.

Mr. MILLER of California. First of all, I assume the State would address the problem because there would be an outcry in the State, as I have mentioned, from the citizens for a need for such services.

I assume the State would address the problem by using revenue sharing funds, and that local governments would use revenue sharing funds. They would use CETA employees in some kind of a hodgepodge effort to direct their attention at this approach.

What we are trying to do is to coordinate those programs that are already there and to provide some money in those areas where there is not sufficient startup moneys or ongoing funds. As we have seen, most of these programs are an outgrowth of private charitable organizations or churches or concerned women's groups or concerned children's groups.

One of the nice things about the programs and one of the reasons we limit the amount of money in the programs is that we want to make sure the base money continues. If it does not, we are going to walk away from it because it is a community problem. But to raise the money and fund these programs is a larger task than most communities can handle.

Ms. MIKULSKI. Mr. Speaker, will the gentleman yield.

Mr. BUTLER. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. Mr. Speaker, perhaps I can clarify the situation.

Mr. BUTLER. I will have to admit I am not very clarified at the moment. I will hang on.

Ms. MIKULSKI. Just to state it quickly, Mr. Chairman, No. 1, we have demonstrated the need. Some of the biggest outcries we hear come, No. 1, from local court systems. I do not know just how this is true in Virginia or Maryland or any place else at the moment, but the biggest problem seems to start at the local court level where judges find they are facing increased problems of a family nature and they have no place to turn in order to get help.

No. 2, we have had tremendous support and requests for local resources from police departments, because about one-forth of the policemen who have been injured have been injured after intervening in domestic situations. I can elaborate on that a bit further.

Mr. BUTLER. Mr. Speaker, I have enjoyed chatting with gentlewoman, but I hope she will understand this is my time. My question is this:

It is not what the Federal Government can do, but what should a State be doing now, knowing or assuming that the Federal Government is not going to step in? What should a State be doing now?

Ms. MIKULSKI. That was my second point. To answer the gentleman, I am not convinced, in the long run, the Government should be footing the bill, whether it is the city council, the State government, or the Federal Government level. The whole thrust of this bill is very small, specific time-limited grants, to encourage what we call in the legislation local economic self-sufficiency, using through traditional methods that very often nonprofit groups do, through local fund raisers, working with unions, church groups, and so on, that they will do this. But essentially what they need now are startup funds while they begin their efforts to become economically self-sufficient.

Mr. JEFFORDS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, at first I was distressed at this bill, because I thought there was no Federal nexus and once more we were leaping into an area that was a matter of total local concern. But upon studying the report and learning that this is simply an effort to provide some leadership, to provide a clearinghouse for information and some direction to a lot of disparate local efforts to meet an enormous problem that requires some initiative and some leadership, I feel that this is a program that really deserves our support.

I grant that there is very little Federal nexus between a domestic abuse situation and the Federal Government. But we must not look at this in a vacuum. We are providing a Government Printing Office that sends pamphlets around the world on pottery, we fund science studies on the effect of Frisbees. It seems to me that this is a very useful and worthwhile area just to provide some leadership. Once the local communities can get a program going people in need of help can get it. It is not going to provide a philosophical antidote to domestic abuses. I

grant you, along with my good friend and colleague, the gentleman from Ohio, that the problems are much more profound than this bill can solve. But it helps provide a place to go to get your wounds bound up, to get shelter and some consolation for a problem for which facilities are woefully lacking at this time.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, I feel the gentleman is basically correct, but looking down the pike, there is not one area where we have talked in terms of triggering local activity, where sometime later we did not come in and sustain it. All this talk about getting it started, usually the program collapses when the Federal dollars end. We know that. We are starting a base for Federal spending and support which will go on and on and on.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. HYDE) has expired.

Mr. JEFFORDS. Mr. Speaker, I yield 1 additional minute to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I would say that as long as the formula stays 25 percent from the Federal Government, it mandates a substantial contribution from the local governments. And as long as that is mandated, and as long as local governments have very limited funds, it will be, primarily, a local government effort. And there is nothing wrong with the Federal Government nudging a little in that direction, providing some leadership to help people who desperately need the help.

Mr. ASHBROOK. If the gentleman will yield further, I sit on the Committee on Education and Labor, and we find that the programs come along later. Pretty soon, as a part of that contribution, they want a volunteer service, and they do everything they can to add it up. They want to squeeze it up to 60 percent, 70 percent, 80 percent, 90 percent. Instead of a local volunteer service, at the local level they want to hang it onto the Federal Government forever. That is the name of the game.

Mr. HYDE. This is 25 percent from the Federal Government.

Mr. JEFFORDS. Mr. Speaker, I yield myself whatever time I have remaining.

Mr. Speaker, in spite of the comments of my esteemed colleagues, I do support this legislation. It seems to me interesting that when we get into the fight against crime my colleagues on this side of the aisle almost always come to the aid of Federal assistance. We must do more, they shout. We supported the crime in the street bill. Why not be against the crime in the House bill?

I know that in my own State the number of people who are concerned about crime and violence is increasing, and it rates among the most important issues people desire to see something done about. Therefore, when we come forward with a bill in an area where we can do something, we should pass that bill.

For instance, a Kansas City study shows that 85 percent of the domestic homicides were preceded by at least one phone call to the police. In 50 percent of the domestic homicides the police get more than five phone calls. If we develop techniques to respond, we can prevent much of the resulting disaster.

Mr. Speaker, we have a chance here to do something constructive, a chance to intervene, a chance to stop an area of crime.

Also, my colleagues are always on the side of the police officer, feeling that we need to do more for him to make his job better and to protect him. I wish that more of my colleagues on both sides of the aisle were present to hear these startling figures. This bill gives us an opportunity to intervene and to do something to prevent the violence which results in the deaths of 22 percent of our policemen who are killed; 40 percent of the violence involving police officers is domestic violence.

Mr. Speaker, this is a good program. It is a Republican-conceived idea of helping local government by saying that what we want to do is to give some assistance in furthering programs which are necessary and helpful to the police in ending one of the most significant sources of crime in our country.

Mr. Speaker, nearly one out of every six families in this Nation, studies show, has an incidence of violence during the year. We can help. We can do something. We can start programs which will reduce crime in this area. I do have some questions about it, as I explore below. There are some areas in which I think perhaps we will need some changes later on.

First, I would like to work toward a family violence center, not just a spouse violence center or a child violence center. I think offices directed at these problems ought to be combined eventually, but I will go along with this bill in order to give emphasis to immediate needs in this particular area.

Second, Mr. Speaker, we do need more research into the ways in which we can support other than just shelter programs. I think we should have further research in this area.

The goal of this bill is to provide assistance to those who are trying to deal at a community level with this severe national problem. There is no doubt that violence between spouses is almost epidemic. As the gentleman from California mentioned, according to FBI estimates, 25 percent of all murders, and 22 percent of police fatalities are related to family quarrels. Yet, very few abusive spouses are ever prosecuted—fewer than 2 percent—and almost no treatment is available in many areas.

H.R. 12299 establishes a Federal Office on Domestic Violence, and provides for a Council to advise the Office. The Council will award limited Federal grants for operation of treatment programs and personnel training programs in this area. Both training and treatment grants will be limited in scope and duration, and will be aimed at supporting locally based efforts.

Grants for treatment programs, to be awarded by the Council, will be limited to $50,000 or 25 percent of a program's budget, whichever is smaller. Thus, programs will be forced to seek additional sources of support, both local and Federal. The Council will include in its membership both victims of domestic violence and professionals working in the field, as well as Federal officials from agencies which should be concerned with this problem. Fairness in the distribution of grants will be assured by the limits on grants, and by the fact that each State will be entitled to a pool of at least $50,000 in grant funds available for that State. Many small States and rural areas suffer from the effects of domestic violence as much or more than do many urban areas. Moreover, fewer social services generally are available in rural areas, so that domestic violence programs can have a genuine impact. Some degree of local support will be assured by the fact that grants under this bill will be limited to 25 percent of a program's budget.

The treatment programs supported by grants need not be limited to shelters which offer emergency services and housing to the victims of domestic violence, although shelters are the currently most common form of treatment program. Training grants will help support programs for the training of persons to give emergency assistance to the victims of domestic violence, including counseling, directing victims to additional sources of help, and working with local agencies.

I do have some reservations about H.R. 12299. Naturally, one hesitates to endorse the establishment of still another Federal bureaucracy. As the administrator of the office fulfills his responsibility to coordinate Federal efforts in this area, we should learn how someday to combine Federal contributions to the prevention and treatment of all family violence, not just that between spouses.

Thus, I hope, and the gentleman from California (Mr. MILLER) assures me, that Federal efforts to deal with violence in the family can and should be combined. The correlation between spousal abuse and child abuse, for example, is very high. The family should be treated as a unit, by personnel trained to deal with the whole family. I also believe that greater coordination among State, local, and Federal agencies dealing with the problem of domestic violence is needed. A combination of research and pilot programs should go far to establish how this coordination can be accomplished, and I trust that the Administrator of the new Office on Domestic Violence will include such an effort in his program.

A second area of reservation which I hold lies in the area of research. While the existence of the problem has been established, additional research is needed. For example, I mentioned that emergency shelters are currently the most common type of treatment program aimed specifically at domestic violence. Additional research would help us to determine the most effective types of treatment for both long-term solutions with-

in the family, and for the prevention of domestic violence. When a woman is driven to seek the aid of a shelter, it is the equivalent of emergency-room treatment in the hospital. We need to pay additional attention to preserving the family by treating all family members, including the abusive spouse.

The programs to be established under this act promise to go far to provide relief to the victims of domestic violence in the United States. Mr. MILLER, joined by Mrs. BOGGS, Ms. MIKULSKI, Mr. STEERS, and the members of the Education and Labor Committee have devoted a great deal of time and attention to this legislation. I urge you to join me in supporting it.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I would just like to say, as I said in my prepared remarks, that without the cooperation of the gentleman from Vermont (Mr. JEFFORDS), I do not think this legislation would have been reported out of the subcommittee. The help he personally provided in making sure that there were protections in this legislation for small communities, for small centers, and the help and the assistance that his committee staff provided to mine in the drafting of this legislation made it much easier to move this legislation as soon as we have been able to move it.

Mr. Speaker, I want to thank him on my behalf and on behalf of the sponsors of this legislation for all of his cooperation.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from California (Mr. MILLER).

I end only by stating that I believe this bill is a step forward in assisting in an area of great need and in preventing significant criminal violence. Therefore, Mr. Speaker, I would urge all Members to support this legislation.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Louisiana (Mrs. BOGGS), a cosponsor of the bill.

Mrs. BOGGS. Mr. Speaker, I rise today to request the support of my colleagues for the Domestic Violence Assistance Act, H.R. 12299, which is being considered today.

This bill will establish an Office on Domestic Violence and a Council on Domestic Violence within the Department of Health, Education, and Welfare. The purpose of the legislation is to provide support for ongoing community efforts to help the victims of family violence, which includes the battering of children and elderly grandparents as well as serious physical violence between spouses. Battering occurs in the affluent suburbs as well as in low-income neighborhoods, making this a critical family issue which cuts across all social, economic, and ethnic boundaries.

I would like to take this opportunity to salute my colleagues, Representative NEWTON STEERS, Representative BARBARA MIKULSKI and Representative GEORGE MILLER for the hours of hard work they have devoted to this issue. Last year Representative STEERS and I jointly introduced a bill, H.R. 7927, which would direct the National Institutes of Mental Health to step up its current research activities in the area of family violence and to support new initiatives in the area of services to victims. Later Representative MIKULSKI introduced her original bill, H.R. 8948, which proposed a community-based program to be administered through ACTION.

Both bills received a great deal of interest throughout the Nation and many Members of the House cosponsored either or both bills. One of our strongest supporters has been Representative GEORGE MILLER. As a member of the Education and Labor Subcommittee on Select Education, Representative MILLER conducted 2 days of public hearings this past March. These hearings attracted experts from all over the country, including law enforcement officials, social workers, local government officials, and citizens who volunteer their time and resources to local programs helping victims of violence in the home.

The most touching testimony was offered by women who have themselves been the victims of battering at the hands of their spouses. Time and time again the victims and those who serve them offered dramatic testimony about the lack of help available to families caught in this problem. The social and legal roadblocks which prevent victims from receiving assistance or justice can be enormous.

At this time I would like to express my special thanks to Representative MILLER and his staff assistant, John Lawrence, for leadership and technical assistance in drafting a new domestic violence bill in response to the needs expressed at the subcommittee hearings. Representative MILLER's sensitivity to this issue and his help in guiding the bill through the subcommittee and committee is deeply appreciated by myself, our cosponsors and citizens all over the country who are interested in this family issue.

I also wish to thank subcommittee Chairman JOHN BRADEMAS for his understanding of the problems of domestic violence and his willingness to bring our bill before the subcommittee for consideration. We are grateful to him and to Education and Labor Committee Chairman CARL PERKINS for recognizing the importance of the issue and for their active support in committee.

Many national and communuity organizations have expressed their support for H.R. 12299, among them the National Coalition Against Domestic Violence which is composed of community programs throughout the country. Other supporters have included the National Association of Social Workers, the Family Service Association of America, and the America Home Economics Association, as well as the Women's Lobby and many other national women's groups.

This legislation authorizes a very small 5-year program with a funding level of $15 million during fiscal 1979, $20 million in fiscal 1980, and $30 million for the 3 remaining years. We hope this modest initiative will support and stimulate local community programs which will still be in existence long after Federal funds have run out.

For the record, I am including a brief summary of the provisions of the bill:

Office on Domestic Violence—The bill creates an Office on Domestic Violence in HEW, to be headed by an Administrator of Programs on Domestic Violence. The office will—

Maintain an information clearinghouse on domestic violence;

Coordinate existing Federal programs relating to domestic violence, and report to Congress on the success of this coordination and the status of the grant program;

Develop a public awareness campaign on domestic violence;

Make recommendations to Congress for modifications of existing Federal programs which aid victims;

Obtain information regarding research projects on domestic violence and use it in carrying out the other duties; and

Cooperate with the Council on Domestic Violence.

Council on Domestic Violence—The bill also creates a 12-member Council on Domestic Violence appointed by the Secretary of HEW. A majority of the council would have to be either victims of domestic violence or involved in community domestic violence programs. The remaining members would represent Federal agencies or State or local governments whose programs have a relationship to the problem.

The Council would have sole responsibility for awarding grants under the bill. It would also make recommendations to the Administrator concerning the modification and improvement of programs and activities of the Office of Domestic Violence.

Grants to community programs—The bill authorizes the Council to provide grants to programs designed to prevent domestic violence and assist its victims. Grants would only go to programs which have existed for at least 6 months and received some community support. However, exceptions to this requirement would be made in cases of a local need for services and no possible financial resources. Grants would be limited to the lesser of $50,000 or 25 percent of a program's budget and could not extend for more than 3 years. The bill restricts the total amount per State on the basis of population. but the minimum amount available to grant applicants in one State would not be less than $50,000.

Training grants—Finally, the Council could make grants to programs that provide personnel training and technical assistance training to individuals and organizations involved in establishing or maintaining community services for victims of domestic violence. Training grants would be awarded, to the maximum extent feasible, in all regions of the United States. The Council could award grants to interstate and regional, as well as local, programs. The bill stipulates that no more than 20 percent of the funds appropriated under the bill may go to training programs.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to another distinguished cosponsor of the bill, the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, this is a very important and special day for me. The Domestic Violence Assistance Act will be voted on by my colleagues. This is my first major piece of legislation.

My concern for violence in the American home began during my 20 years as a social worker in the Balitimore community. I saw women and children beaten, burned, and battered.

I saw a pregnant woman beaten severely in the stomach because she forgot to buy her husband a pack of cigarettes. Another woman was the victim of periodic beatings whenever her husband got drunk. She would try to escape, but he often hid her car keys or took her money so she could not buy gas or food for her four children. Or finally the woman who tried to get the police to assist her, but she was always treated as if she did something wrong in order to "justify" the beatings by her husband.

The national data collected indicates that domestic violence is at epidemic levels. Some studies found that 25 percent of couples have violent episodes during their marriage; others indicate that it is as high as 60 percent. Ten percent of the couples have severe, frequent, and sometimes tragic encounters. One-fourth of the murders in this country occur in the home.

I have known that violence has existed in the American home for a long time. It is only recently that we, as a society, have been willing to admit it, and attempt to deal with the problem. I did see concerned citizens attempting to establish shelters and other support services to aid abused spouses, but they lacked the financial resources necessary. I thought that the Federal Government should give a helping hand without creating a big new bureaucracy.

In September, I introduced the Family Violence Prevention and Treatment Act. My colleagues, Representatives LINDY BOGGS and NEWTON STEERS also introduced legislation to give Federal support for programs designed to aid victims of domestic violence. Since then, I have spoken to battered spouses and services providers trying to determine the best approach for Federal support. Representative GEORGE MILLER held hearings before the Select Committee; these hearings were informative, sensitive, and enlightening. Representatives BOGGS, STEERS, MILLER, and myself have worked hard to determine the best consensus legislation. It has been a rewarding experience working with and getting to know such distinguished colleagues.

During this listening and thinking period, I developed six crucial elements for a good bill and stated them in my testimony before the Select Education Subcommittee:

First. Local control to reflect the diversities and needs of the communities;

Second. Direct grants for seed money and technical assistance;

Third. Encouragement of local economic self-sufficiency;

Fourth. Public information campaign and public-service announcements;

Fifth. Advocacy clearinghouse on the national and regional levels; and

Sixth. Coordination of all Federal programs.

During the hearings, I also listed certain obstacles that we should try to overcome; we definitely should not have:

First. High administrative costs;

Second. Expensive demonstration projects that are research oriented;

Third. Lots of dollars to study the victim, or research in general unless it is coordinated with ongoing service-providing programs;

Fourth. Rewards to agencies that haven't done anything about the problem to date, but who will be around to collect the Federal dollars when appropriated; and

Fifth. An orientation that the problems of child abuse and wife abuse are the same and should be dealt with in a similar manner.

The Domestic Violence Assistance Act deals with my concerns in an innovative way. I would like to highlight some of these provisions.

The bill creates a Council which would have the sole responsibility for awarding the grants. The majority of the members of the Council would have to be victims of spouse abuse or involved in community-based programs. Thus the people that know the most about what works and what communities need, would be in charge of the distribution of the funds.

Also grants will be given only to programs that have been in existence for 6 months or more. There are a few exceptions. This will prevent agencies that have refused to aid victims or spouse abuse from collecting the newly appropriated Federal dollars; thus giving the community-based groups a better chance to get Federal dollars.

Finally the grants can be only for 25 percent of the program budget and cannot last for more than 3 years. Programs will need to get the community involved in the project from the start.

I see this bill as a victory for everyone; the taxpayer whose dollars will be well-spent, the community-based people that spent so much time advising Congress on the key components of a program, but most importantly the victims of domestic violence, since there will be more dollars available to deal directly with their needs. I urge my colleagues' support for this needed Federal legislation.

The DSG summary follows:

DOMESTIC VIOLENCE ASSISTANCE ACT
(H.R. 12299)

SUMMARY

This bill establishes an HEW Office on Domestic Violence and a Council on Domestic Violence. It also authorizes grants to set up community-based domestic violence programs and train their personnel. The bill authorizes $15 milion in FY 1979, $20 million in FY 1980, and $30 million each for FYs 1981–83.

OFFICE ON DOMESTIC VIOLENCE

The bill creates an Office on Domestic Violence in HEW, to be headed by an Administrator of Programs on Domestic Violence. The office would:

Maintain an information clearinghouse on domestic violence;

Coordinate federal programs relating to domestic violence, and report to Congress on the success of this coordination and the status of the grant program;

Develop a public awareness campaign on domestic violence;

Make recommendations to Congress for modification of existing federal programs which aid victims;

Obtain information regarding research projects on domestic violence and use it in carrying out the other duties; and,

Cooperate with the Council on Domestic Violence.

COUNCIL ON DOMESTIC VIOLENCE

The bill also creates a 12-member Council on Domestic Violence, appointed by the Secretary of HEW. A majority of the council would have to be either victims of domestic violence or involved in community domestic violence programs. The remaining members would represent federal agencies or state or local governments whose programs have a relationship to the problem.

The Council would have sole responsibility for awarding grants under the bill. It would also make recommendations to the Administrator concerning the modification and improvement of programs and activities of the Office on Domestic Violence.

GRANTS TO COMMUNITY PROGRAMS

The bill authorizes the Council to provide grants to programs designed to prevent domestic violence and assist its victims. Grants would only go to programs which have existed for at least six months and receive some community support. However, exceptions to this requirement would be made in cases of a local need for services and no possible financial resources. Grants would be limited to the lesser of $50,000 or 25 percent of a program's budget and could not extend for more than three years. The bill restricts the total amount per state on the basis of population, but the minimum amount available to grant applicants in one state would not be less than $50,000.

TRAINING CAMPS

Finally, the Council could make grants to programs that provide personnel training and technical assistance training to individuals and organizations involved in establishing or maintaining community services for victims of domestic violence. Training grants would be awarded, to the maximum extent feasible, in all regions of the United States. The Council could award grants to interstate and regional, as well as local, programs. The bill stipulates that no more than 20 percent of the funds appropriated under the bill may go to training programs.

● Mr. PERKINS. Mr. Speaker, I rise in support of H.R. 12299, the Domestic Violence Assistance Act of 1978.

Initially, I want to compliment the distinguished chairman of the Subcommittee on Select Education, Congressman JOHN BRADEMAS, and other members of the committee on both sides of the aisle on this bill, specifically, the ranking minority member—our colleague AL QUIE.

At this time I would especially commend Congressman GEORGE MILLER—who introduced H.R. 12299—for the very dedicated efforts he has made in developing what I believe is a sound, relevant, and well-researched piece of legislation. It is largely through his concern that we

have a bill before us which is both responsive and practical in meeting the needs of the victims of domestic violence, a problem which is becoming increasingly serious in American family life.

H.R. 12299 has evolved after extensive hearings which bear out the importance of establishing the kinds of programs and assistance which will be provided under this legislation if it is enacted.

Specifically, H.R. 12299 establishes a Federal Office on Domestic Violence and a Federal Council on Domestic Violence, and provides grants for the assistance of victims of domestic violence and for training programs.

There is a strong emphasis in the bill on coordinating all Federal programs in order to eliminate unnecessary duplication and inefficiency. In addition H.R. 12299 emphasizes the necessity for increasing public awareness of the problem of domestic violence and the availability of services for its victims, and provides guidelines for doing this.

H.R. 12299 authorizes a modest grant program which is designed to both prevent domestic violence before it happens and to provide aid to victims of domestic violence through appropriate community programs. Grantees will be selected from diverse demographic regions within each State or territory.

Funds provided through grants, within specified guidelines and limitations, may go to such services and related expenses as rent or mortgage payments for facilities, emergency counseling, legal services, provision of food and clothing, and housing information. In addition to grants to establish services for emergency victims of domestic violence, grants are to be provided for personnel training and technical assistance training to individuals and organizations involved in establishing or maintaining community services for victims of domestic violence.

H.R. 12299 provides authorizations of $15 million for fiscal year 1979, $20 million for fiscal year 1980, and $30 million for each of the 3 following fiscal years. No more than 20 percent of funds appropriated may go for training programs.

This bill was unanimously ordered reported by the subcommittee and the full committee, and I urge my colleagues to support H.R. 12299.●

● Mr. BIAGGI. Mr. Speaker, as a member of the House Select Education Subcommittee which considered this bill I rise in full support of its passage. I wish to associate myself with the remarks of our chairman, Mr. BRADEMAS, as well as the main inspiration behind this bill, my colleague on the subcommittee, Mr. MILLER.

I am pleased to see the Congress responding in this fashion to what has become still another scar on the American society; namely, the serious problem of domestic violence. When we speak of domestic violence we are not talking about small spousal spats. We refer to some of the most vicious crimes imaginable from homicides to maimings. We must also deal with the psychological scars which are inflicted.

I view domestic violence from another perspective, one from which I have personal experience. I served as a police officer for some 23 years in New York City. During that time I and a number of my fellow police officers were summoned to many a domestic incident. We noted then the large number of police casualties when attempting to settle these disputes. Today the situation has grown even worse. During our subcommittee hearings we learned that intervention in domestic fights is now the leading cause of police deaths in this Nation.

H.R. 12299 represents a first step, a catalyst for what should become a concerted and coordinated Federal assistance program to aid most especially the victims of domestic violence.

The bill creates an Office on Domestic Violence in HEW to be headed by an Administrator of Programs on Domestic Violence. The office will have many functions not the least of which is to conduct a thorough study of all Federal programs which could be used to aid victims of domestic violence.

Perhaps the best and most important feature of the bill is the providing of grants to community based organizations and programs who are presently operating programs to aid victims of domestic violence. Created to determine who gets the grant funds will be a Council on Domestic Violence which will contain a rather innovative element—a majority of its members will be actual victims of domestic violence. This will provide for practical decisions on programs of value and will prevent frivolous or ineffective programs from being funded.

A number of community based "shelters" to aid victims of domestic violence have been established around the Nation. My home city of New York is fortunate enough to have a number of excellent programs providing assistance to domestic violence victims. Enactment of this legislation will insure the continuation of these and other fine programs.

It was just over 4 years ago when I spoke from this very well in support of a similarly conceived bill, the Child Abuse Prevention and Treatment Act. It was sponsored and supported by many of the same persons who today are championing H.R. 12299. Now as then we are seeking to come to grips with a serious social malaise. Now as then we are committing Federal dollars into programs to aid victims. Now as then we are beginning a process which hopefully will lead to an eradication of the problem. Now as then we must be candid enough to realize that the Federal Government cannot tackle the problem alone. It needs the continued cooperation of those States and localities who are aiding victims today and it must have the cooperation and commitment of financial aid from all other States. It is only by formulating this partnership that we can expect to make any real progress in combating the scourge of domestic violence in America.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise to commend the efforts of the Women's Center and Shelter of Greater Pittsburgh. This organization, begun only in 1974, has become a spiritual oasis for physically battered women and their children. The center provides shelter for those who have no other refuge, as well as referral information for women interested in employment, education, health, housing, or other services. During her stay, a women is treated with understanding and as an independent person capable of making mature decisions about her life. The center's staff of 7 full-time paid employees and 50 volunteers takes a nonjudgmental approach about a women's past and her future plans. This encourages the women to feel free to talk meaningfully about themselves, to reflect on their lives, and to increase their own self-awareness as to their situation and as to their future course of action.

Mr. Speaker, there is legislation today pending in the House which directly addresses the kind of problems on a national scale which the Women's Center confronts locally. H.R. 12299, the Domestic Violence Assistance Act of 1978 introduced by Congressman MILLER, basically provides information, technical assistance and Federal grants for those communities that want to organize programs to fight family violence. I believe that this legislation will substantially facilitate those communities interested in meeting the needs of these battered women. Accordingly, I support this bill and I urge all Members to seriously consider it.

Finally, Mr. Speaker, I include the following excellent articles on the Women's Center and Shelter of Greater Pittsburgh written by Patricia A. Moore in the publication Pittsburgh East, in the RECORD.

BATTERED WOMEN: D.C. DEBATES, PITTSBURGH ACTS

(By Patricia A. Moore)

"It seems a popular stereotype that a woman must be crazy (and therefore needs psychiatric care) to stay in a battering situation—and yet, there are many common sense reasons why she might. Such as:

"She has no place to go; friends and relatives don't want to be involved;

"She has no money and no transportation to get away;

"She is reluctant to leave the children with a violent man;

"She is reluctant to deprive the children of living with their father;

"She has been told by the police, magistrate, or her attorney that she should 'kiss and make up' rather than press criminal charges;

"She really loves the batterer—except when he is violent;

"She is financially and emotionally dependent on the man, and is afraid that she could not take care of herself and her children without him;

"She is sure that if she loves him enough and patiently forgives him, he won't want to batter her again."

The U.S. House of Representatives Subcommittee on Select Education of the House Committee on Education and Labor heard the preceding testimony on March 17 from Anne W. Steytler, co-founder of Women's Center South. Three hearings on family violence have been held recently in Washington, D.C., by: the U.S. Civil Rights Commission, Office on Women; the House Subcommittee on Select Education and the Senate Committee on Human Resources.

The object of the hearings is to provide some concrete help for victims of woman battering. There are four separate bills in

the House and Senate which would work in three distinctly different ways (two of the bills are identical).

There's a real tug-of-war going on behind the scenes in Washington. Where the money goes could seriously affect the kinds of help available to victims of family violence. For example, to National Institute of Mental Health it could mean that the battered woman is treated, some shelter people fear, as a "sick lady" who must be treated for her "illness." Or, services to victims lumped with child abuse services under the aegis of the "dreaded" Department of Health, Education and Welfare.

The big concern here in Pittsburgh is that the H.E.W. proposal could be the one that will win. Sen. Allen Cranston introduced it in the Senate March 16—the same day the House Subcommittee on Select Education opened hearings on family violence. Reps. Boggs and Steers, and Sens. Anderson and Kennedy who introduced the mental health proposal last June, have now switched their course to the H.E.W. bill.

The H.E.W. bill (S. 2759) would plunk down $30 million and funnel it through State Panels (similar to L.E.A.A. money that goes through the Governor's Justice Commission)—one House aide observed that Sen. Cranston wants tight controls on the money and is reported to be afraid "some woman" could abscond with the loot. Opponents fear that lumping women in the same agency office which deals with helpless child victims of violence suggests the possibility that women victims would be treated as helpless, too. They're also worried about getting bogged down in bureaucratic inertia.

Rep. Mikulski's bill would put battered woman funds under the authority of ACTION—to provide a program similar to its Vista Volunteers, and direct grant money to grassroots self-help shelters. All the bills talk about a National Clearinghouse for information sharing between shelters, some research money, and don't seem too far apart in concept, though worlds apart on implementation.

Many of the shelter-types caucused after the close of hearings with Congresssional aides. Because the Senate mark-up (when amendments are accepted from the Senate floor) was slated for April 7, plans were made for immediate lobbying directed toward Cranston and his fellow Senators on the Human Resources Committee—particularly in Cranston's home state of California, also home of 23 grassroots shelters, possibly the most enlightened state in the nation in aid for battered women.

Mikulski, who comes out of a background in social work and in grassroots movement, said it is her intention to "avoid the grants-junkie crowd." Her proposal would be geared to help the independent, non-profit, peer oriented, grassroots to get money to create or continue self-help programs.

She praised testimony prepared by Gwen Visser, and presented by Anne W. Steytler, of Womens Center and Shelter of Greater Pittsburgh (formerly Womens Center South). "You gave the most clear, concise explanation of why battered women should not be treated as mentally ill. This is exactly my position," stated Mikulski. Steytler and Visser urged creation of more grassroots shelters to function as. "a community of pioneers . . . (to) underscore the creative abilities and survival capabilities each woman has."

SHELTER FROM THE STORM

(By Patricia A. Moore)

Women's Center and Shelter of Greater Pittsburgh, formerly Women's Center South, offers a wide assortment of services to women in crisis and their children and to all women in the Allegheny County community.

Started as a gathering place ("men had bars and other places; women had no place to go—to think, create, or just be," says Ellen Berliner a co-founder), the women soon discovered a problem of unimagined magnitude. ("Our first shelteree was a woman who had been brutally beaten by her husband," notes Berliner.) In its nomadic existence, WCS moved from a storefront, to a house in Brentwood, then to the Homewood-Brushton Y.M.C.A., WCS marks its 4th birthday May 2 and is now in its second year at Pittsburgh Theological Seminary, East Liberty (at a nominal rent), hence the name change. In its path, WCS has left a long line of consciousness-raised people. The Y.W.C.A. has a committee hatching plans for at least two shelters for battered women and their children, thanks to WCS. Each move has meant developing new volunteers, educating new people to what the F.B.I. calls one of the most unreported crimes in the nation.

Recent expansion of facilities increases sheltering possibility to 20 people, and has opened the program to Childspace, a children's program with its own coordinator, trained to meet the needs of children going through crisis, to provide care, activities, outings, and even help with homework for all children in shelter from infants through teens. As yet, there are no tutorial services—kids either commute to their old schools, transfer temporarily into neighborhood schools, or just miss a few days. The average stay is six days at the shelter. Childspace provides an important babysitting service as the mother goes to job, housing, and other appointments.

For women in shelter and for any woman from the community, there are classes, films, rap groups, training sessions in such things as health ("What You Don't Know Can Kill You," is scheduled for April 18, 8 p.m.), Parenting, Transactional Analysis. A feminist Seder is planned for April 27, 6 p.m., and is being coordinated by Evelyn Levine and Norma Dubin.

An ever-growing list of community resources to provide information on housing, job hunting, medical, legal, public assistance and whatever a shelteree might be looking for, is maintained. Accompaniment can be provided, but the Center people work very hard at not telling someone what to do.

"After she's said what she wants to do, we'll provide telephone numbers and may suggest what questions she might want to ask," says Sue Burdick, Director of WCS. "In one sense, everybody here acts as a liaison for the woman—in the sense of cutting through a lot of red tape; in another sense, a woman must work on her own situation, determining her own destiny. We're trying to provide a homey place where a woman can receive support in terms of love and acceptance, no matter what kind of decision she may choose to make."

The sheltered women themselves soon become a part of the sharing and caring at the Center, reports Burdick. "Often a woman who feels she has nothing, finds she has much to share after finding she is not alone." She begins to exchange data and information on legal aid, house hunting, how to deal with parents who oppose a marital split-up.

Isn't it depressing seeing so much brokenness day-in-day-out? "I guess I've been in an awful lot of situations where I've seen people much worse off," replies Burdick, "I was in the Middle East in 1957. I saw people killed right in front of me. Life is broken every day and put together so many times so consistently." Once in a place of refuge and caring, "You can just see it get better. A child stops crying, and walks bravely down the hall. A woman shouts for joy because she's found a house, another because her husband has agreed to go to a marriage counselor. You can see it in terms of parent-child relationships, in a woman feeling better about herself, starting to clean her room. She's travelled the distance."

The staff is a mix of volunteers, who Burdick credits with making WCS what it is today, and professionals—who are a mix of people with degrees in related fields and former battered women. "They've walked in those moccasins. They know turmoil can be transcended and that tomorrow can be a happy thing," notes Burdick.

Outreach is an important part of the WCS activities these days: Speakers Bureau, In-Service Training Programs with the Pittsburgh Police Department to make officers aware of WCS services, and legislative research and action. Current legislative research is turning up the patterns in enforcement of Pa. Act 218, Protection from Abuse, a year old law that can evict a batterer from the home for a period up to a year. Legislative action has taken WCS representatives, co-founder Anne W. Steytler and WCS newsletter editor cum speechwriter Gwen Visser to Washington, D.C., twice in the past few weeks to attend important federal hearings and testify on needs of victims of family violence.

"What Do You Say to a Battered Woman" is a conference targeted to front line workers in welfare offices the housing authority, visiting nurses, marriage counselors, clergy, and planned for June 8. It's co-sponsored by Allegheny Community College South Campus and will be held on campus. Objectives of this outreach conference are to make those front-line people more aware and teach them a better response to battered women than, "What did you do to provoke this?" Says Visser: "We want them to recognize and identify with the problem—that it's not some government program for people with funny toes."

The State of Pennsylavnia has given recognition to WCS efforts with L.E.A.A. funds in the past, and has approved the Center and Shelter for assistance under the Neighborhood Assistance Act which gives corporations a tidy tax credit for contributions to approved groups. The catch is the corporation will have to ante up the money before the end of June. NAA funds can be used for capital outlays, such as beds, rugs, linens, office equipment, salaries, and phone bill for the hotline, which logged over 3000 incoming calls in 1977. The non-profit status means all individual donations are tax deductible. The center has relied heavily on donated items in the past.

Future hopes for WCS include the building of a follow-up program which has just begun, library, better recreation (Burdick would like to be able to arrange for bowling, movie, concert, or window-shopping trips through contributions and with the help of volunteers), housing liaisons—with realtors, public housing specialists, and individuals who would be willing to rent to women with children. "Housing is just an A Number One problem," observes Burdick, "To buy, you've just got to be wealthy, and so few people will rent to a woman with children."

Talking with WCS personnel, one gets the feeling they think they've only begun to scratch the surface in providing resources and services for families in crisis, although it's been described as one of the best in the country. Each of them has a long list of what they'd like to see tomorrow. To Anne Steytler, her list runs to employment opportunities that extend beyond the minimum wage; adequate day care; giving women satellite rap groups after they leave the shelter—groups than can grow with their needs as they face the challenge of single-parenting; educational opportunities and support, both psychological and financial.

"An extremely innovative and creative" program to begin to help the batterer is on most people's list. A business for WCS to operate to eventually become self-supporting

and not have to channel so much energy into fund-chasing, fund-raising, grants-manship. And, "ultimately, it would be magnificent if we could devise a way to have families go back together," says Anne Steytler wistfully.●

● Mr. GOLDWATER. Mr. Speaker, earlier today the House considered a bill to establish an Office of Domestic Violence in the Department of Health, Education, and Welfare. Child abuse and wife-beating are very definitely a serious problem in this country. I opposed this measure, however, because I do not trust the financial management of HEW, and I do not believe the Federal Government can be effective in actually dealing with domestic problems. Furthermore, I believe this modest proposal will snowball into a monstrosity before too long.

With all due respect to the importance of this issue, Congress, while in the mood to consider the creation of offices of this type, should carefully look at my proposal to create an Office of Taxpayer Abuse.

The beating of taxpayers is a problem of epidemic proportions in the United States, Mr. Speaker. I receive countless complaints from my constituents about their battered pocketbooks. There are pleas for relief from the black and blue marks inflicted by "Big Brother" reaching into everybody's back pocket.

Now, under my proposal, Mr. Speaker, we will not have to expand the existing bureaucracy. True, the office will be staffed by over 400 people, each receiving a salary approaching $60,000 a year. But they can conduct their business right here in this very building. Why, the office could meet here in this very Chamber. Why, it can be us.

Why not, Mr. Speaker? Taxpayer abuse has not received the attention it deserves. As I shared with my colleagues yesterday, the taxpayers in my home State have placed a referendum on the ballot to constitutionally limit their government from pounding them about. Will you in the House not join me in voting for fiscally responsible measures which will not necessitate the creation of an Office of Taxpayer Abuse? ●

● Mr. CORRADA. Mr. Speaker, I would like to add my endorsement of H.R. 12299, which is a bold initiative to deal with the complex social problem of domestic violence. This phenomenon is characterized by the lack of information to the general public, a misunderstanding and apprehension of many in dealing with it, and the lack of alternatives for the victim. The problem is further aggravated by the fact that it involves the privacy of the family and the home, and penetration by outsiders, however well intentioned, may be looked upon with suspicion, or may be shunned.

The bill provides a Federal office which can gather and disseminate data on the subject, and orient programs. It establishes a Council on Domestic Violence to award grants for community programs to prevent domestic violence and to offer assistance once it has occurred. Additionally, personnel training and technical assistance for domestic violence services are instituted.

In my district, several entities, notably the Instituto del Hogar, have been involved with family discord problems for many years. Instances of crimes of passion, suicide, disturbance of the peace, and cruelty and neglect of minors, are widespread manifestations of deep-rooted family problems. Many times we observe the treatment bestowed upon our aged, mentally and physically handicapped, which borders on cruel and inhuman punishment. It is, indeed, a problem of great magnitude which is difficult to handle because to lend a helping hand may be looked upon as invading the inner sanctum of the family. It is, therefore, significant in how we approach domestic violence. This bill foments the acquisition of data and knowledge on the subject, to recognize that it exists, to look at its causes and solutions. It stresses prevention, and in the alternative, services to its victims. It encourages the capacity building of personnel who can effectively deal with this problem. In my estimation, this bill is long overdue.

I wish to thank Ms. MIKULSKI and Mrs. BOGGS, Mr. STEERS, as well as my colleagues on the Committee on Education and Labor, GEORGE MILLER and JOHN BRADEMAS, for their leadership in this area, and urge all others to support this measure.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 12299, the Domestic Violence Assistance Act of 1978, which significantly increases the availability of services for the prevention of domestic violence and for the assistance of victims of this type of violence which, shockingly, is on the increase in America.

I commend my colleague, the gentleman from California (Mr. MILLER) who introduced this legislation and who has worked diligently for its passage. This legislation is necessary, as the crucial problem of domestic violence has reached proportions which border on epidemic, and which indicate to us that the American family is in dire need of assistance.

H.R. 12299 establishes an office of Domestic Violence within HEW and creates a Council on Domestic Violence to award grants under this act. Community service programs to prevent domestic violence will be established and training programs for the execution of these programs is mandated under the legislation. It is a sad commentary on the nature of this crime that few resources have been committed to the prevention of this problem, and that few services are offered presently to the victims of domestic violence.

Fifteen million dollars appropriated for the first year, fiscal year 1979, will enable the program to be initiated and will provide some necessary startup services to stem the tide of domestic violence. A public awareness campaign, designed to bring the delicate problem of domestic violence to light will stimulate interest in reporting cases of domestic violence, and will encourage potential victims to become aware of the dangers inherent in domestic violence.

This is worthy legislation. Accordingly, I urge my colleagues to support HR 12299, which will benefit many individuals.●

● Mr. McCLORY. Mr. Speaker, the concept of this legislation (H.R. 12299) is consistent with the needs of our Nation regarding domestic violence. We have provided already for training programs for local police departments to aid in handling domestic violence problems in the household in order to avoid criminal charges and the deterioration of purely domestic problems until they reach a criminal case status. However, we need assistance for those cases where battered wives and neglected and abused children are involved in inflamed and violent households. Many communities are handling this problem with the support of funds from revenue sharing and other local and regional sources.

Mr. Speaker, such domestic crisis centers are basically local in their application and receive major support from local sources. The Federal Government has a splendid opportunity to provide a leadership role and a limited support role in this area. This measure, H.R. 12299, may not be the complete or entirely correct answer. Still, it represents a responsible approach to a national problem which involves the most fundamental institutions of our Nation, that is the home and the family.

Mr. Speaker, the domestic crisis center in Elgin, Ill., in my congressional district, administered by my friend, Mary Berg, and supported by the township government of which Dave Reinert is the township supervisor and other local sources, is an outstanding example of the kind of community-based crisis centers which can and do serve the needs of battered and abused wives and neglected and endangered children. The Elgin crisis center has resolved literally hundreds of critical problems which otherwise might have resulted in prolonged injury or permanent damage. It is substantially out of respect for this community crisis center with which I have had personal experience that I am lending my support to this measure in the hope that it or some comparable legislative answer to this critical problem may be found.●

Mr. BRADEMAS. Mr. Speaker, I want only to reiterate my commendation of the gentleman from California (Mr. MILLER), the gentleman from Vermont (Mr. JEFFORDS), and the other three cosponsors of this measure, the gentlewoman from Louisiana (Mrs. BOGGS), the gentlewoman from Maryland (Ms. MIKULSKI), and the gentleman from Maryland (Mr. STEERS), for their outstanding work on this bill.

I urge that it command in the full House the bipartisan support which has been demonstrated in the debate here.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 12299, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior anouncement, further proceedings on this motion will be postponed.

TAX TREATMENT OF RETURNS OF MAGAZINES, PAPERBACKS, AND RECORDS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3050) to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes, as amended.

The Clerk read as follows:

H.R. 3050

A Bill to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Internal Revenue Code of 1954 (relating to the general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

That (a) subpart B of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year for which items of gross income included) is amended by adding at the end thereof the following new section:

"SEC. 457. MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

"(a) EXCLUSION FROM GROSS INCOME.—A taxpayer who is on an accrual method of accounting may elect not to include in gross income for the taxable year the income attributable to the qualified sale of any magazine, paperback, or record which is returned to the taxpayer before the close of the merchandise return period.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MAGAZINE.—The term 'magazine' includes any other periodical.

"(2) PAPERBACK.—The term 'paperback' means any book which has a flexible outer cover and the pages of which are affixed directly to such outer cover. Such term does not include a magazine.

"(3) RECORD.—The term 'record' means a disc, tape, or similar object on which musical, spoken, or other sounds are recorded.

"(4) SEPARATE APPLICATION WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORDS.—If a taxpayer makes qualified sales of more than one category of merchandise in connection with the same trade or business, this section shall be applied as if the qualified sales of each such category were made in connection with a separate trade or business. For purposes of the preceding sentence, magazines, paperbacks, and records shall be treated as a separate category of merchandise.

"(5) QUALIFIED SALE.—A sale of a magazine, paperback, or record is a qualified sale if—

"(A) at the time of sale, the taxpayer has a legal obligation to adjust the sales price of such magazine, paperback, or record if it is not resold, and

"(B) the sales price of such magazine, paperback, or record is adjusted by the taxpayer because of a failure to resell it.

"(6) AMOUNT EXCLUDED.—The amount excluded under this section with respect to any qualified sale shall be the lesser of—

"(A) the amount covered by the legal obligation described in paragraph (5)(A), or

"(B) the amount of the adjustment agreed to by the taxpayer before the close of the merchandise return period.

"(7) MERCHANDISE RETURN PERIOD.—

"(A) Except as provided in subparagraph (B) the term 'merchandise return period' means, with respect to any taxable year—

"(i) in the case of magazines, the period of 2 months and 15 days first occurring after the close of taxable year, or

"(ii) in the case of paperbacks and records, the period of 4 months and 15 days first occurring after the close of the taxable year.

"(B) Under regulations prescribed by the Secretary, the taxpayer may select a shorter period than the applicable period set forth in subparagraph (A).

"(C) Any change in the merchandise return period shall be treated as a change in the method of accounting.

"(8) CERTAIN EVIDENCE MAY BE SUBSTITUTED FOR PHYSICAL RETURN OF MERCHANDISE.—Under regulations prescribed by the Secretary, the taxpayer may substitute, for the physical return of magazines, paperbacks, or records required by subsection (a), certification or other evidence that the magazine, paperback, or record has not been resold and will not be resold if such evidence—

"(A) is in the possession of the taxpayer at the close of the merchandise return period, and

"(B) is satisfactory to the Secretary.

"(9) REPURCHASE BY THE TAXPAYER NOT TREATED AS RESALE.—A repurchase by the taxpayer shall be treated as an adjustment of the sales price rather than as a resale.

"(c) QUALIFIED SALES TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified sales of magazines, paperbacks, or records, as the case may be, if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such sales are made. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified sales of magazines, paperbacks, or records, as the case may be, made in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall be effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(d) 5-YEAR SPREAD OF TRANSITIONAL ADJUSTMENTS FOR MAGAZINES.—In applying section 481(c) with respect to any election under this section which applies to magazines, the period for taking into account any decrease in taxable income resulting from the application of section 481(a)(2) shall be the taxable year for which the election is made and the 4 succeeding taxable years.

"(e) SUSPENSE ACCOUNT FOR PAPERBACKS AND RECORDS.—

"(1) IN GENERAL.—In the case of any election under this section which applies to paperbacks or records, in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

"(2) INITIAL OPENING BALANCE.—The opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the 3 immediately preceding taxable years if this section had applied to such preceding 3 taxable years. This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

"(3) ADJUSTMENT IN SUSPENSE ACCOUNT.—At the close of each taxable year the suspense account shall be—

"(A) reduced by the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount excluded from gross income for the taxable year under subsection (a), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount excluded from gross income for the taxable year under subsection (a), over

"(ii) the opening balance of the account for the taxable year.

"(4) GROSS INCOME ADJUSTMENTS.—

"(A) REDUCTIONS EXCLUDED FROM GROSS INCOME.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be excluded from gross income for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(b) The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 457. Magazines, paperbacks, and records returned after the close of the taxable year."

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1976. The time for making an election under section 457 of the Internal Revenue Code of 1954 (as added by the first section of this Act) for any taxable year beginning before the date of the enactment of this Act shall not expire before the date which is one year after such date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3050 amends the Internal Revenue Code by providing a new accounting method applicable to returns of unsold magazines, paperbacks, and records.

Publishers and distributors of magazines, paperbacks, and records often sell more copies of their products than it is anticipated will eventually be sold to consumers. These excess copies are distributed to assure the retailer an adequate supply of products for display and to meet peak demand. Under this practice, retailers are allowed to return unsold items to distributors, and distributors to publishers, for credit or refund.

The Internal Revenue Service has taken the position that accrual-basis publishers and distributors must include in income the sales of magazines, paperbacks, or records shipped during the taxable year, and may deduct returns in the year they are received. Because the return may occur in a later year, the present accounting method does not accurately reflect income subject to tax, and is unfair to these publishers and distributors.

Accordingly, the bill would permit an accrual-basis publisher or distributor to elect to exclude from income the sales attributable to magazines, paperbacks, and records which are actually returned within a certain period after the end of a taxable year. For magazines, that period of time is 2½ months, and for paperbacks and records it is 4½ months. In order to qualify for the benefits of this provision, a taxpayer must meet several special requirements. These are intended to insure that the taxpayer was obligated to accept the returned merchandise and that it was received within the specified period of time.

The bill applies to taxable years beginning after December 31, 1976.

Mr. Speaker, this bill corrects a serious accounting problem of publishers and distributors of magazines, paperbacks, and records. I urge adoption of H.R. 3050.

Mr. FRENZEL. Mr. Speaker, H.R. 3050 is similar to the bill that passed the House 2 years ago, which is one of the reasons it is being handled in the suspension procedure.

It is as described by the chairman. There was no critical comment about the bill when it passed the House 2 years ago. When it went to the Senate it acquired some additional embellishment which was too difficult to be reconciled at that time.

We have this year added some of the things that concerned the Senate, that is the additions of records and paperbacks. In my judgment, the bill will put the industries on a reasonable accrual basis and give them the kind of accounting and tax treatment that they deserve.

Mr. Speaker, I rise in support of H.R. 3050, which amends the Internal Revenue Code of 1954 with regard to the tax treatment of income from certain sales of magazines, paperbacks, and sound recordings.

Currently an accrual basis taxpayer, who sells magazines, paperbacks, or sound recordings, has to include in his income amounts attributable to those sales at the time of sale. Such inclusion is required even for those magazines, paperbacks, or sound recordings which are sold mainly for purposes of display. Upon return of any display items, the taxpayer reduces his income. If sale occurs in one tax year and return in the next tax year, the income is taxed in year one and the deduction is not available until the next year.

H.R. 3050 establishes separate rules for an accrual basis taxpayer in the magazine or periodical business, or the paperback or sound recording business, which permit the taxpayer to make an election which allows him to exclude from income amounts attributable to sales of certain display products. The separate rules will more clearly reflect the practices of the industries.

An electing accrual basis taxpayer, in the magazine or periodical business, can exclude from income amounts attributable to the sale of display products that are returned within 2½ months following the close of the taxable year in which the sale for display was made. To minimize the revenue impact, in the first year the election is made by taxpayers in the magazine or periodical business, the reduction in taxable income for this year is required to be taken into account over a 5-year period.

On the other hand, accrual taxpayers in the paperback book or sound recording industry can exclude from income amounts attributable to the sale of display items that are returned within 4½ months following the close of the taxable year in which the display sale occurred. To reduce the revenue loss from this provision in its first year of application, a suspense account is required.

The election permitted under H.R. 3050 may be made without the consent of the Secretary of Treasury and must comply with applicable Treasury regulations. Once made, the election is effective for the taxable year in which made and all subsequent taxable years, unless it is revoked with the consent of the Secretary of Treasury.

H.R. 3050 will allow the tax rules to correspond more closely with industry practices and I urge its enactment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 3050, as amended.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

IRC AMENDMENTS FOR DEPENDENT CARE SERVICES

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8535) to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment, as amended.

The Clerk read as follows:

H.R. 8535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (6) of section 44A(f) of the Internal Revenue Code of 1954 (relating to payments to related individuals) is amended to read as follows:

"(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(3)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, H.R. 8535 amends the child care credit provided by section 44A of the Internal Revenue Code.

The bill eliminates the present law requirement that child care services performed by certain relatives must constitute "employment" as defined by the social security tax rules in order to qualify for the credit. This requirement in current law disallows any tax credit for amount paid to the grandparent to care for their grandchildren because the social security tax definition generally excludes services performed for a taxpayer by his or her parents.

By eliminating the present law reference to the social security tax definition, the bill makes the credit available for payments to grandparents to care for their grandchildren while the parents are at work. The bill does not change the present rule which denies the child care credit for amounts paid to a relative who is a dependent of the taxpayer or of the taxpayer's spouse.

Also under the bill, no credit is allowed

for amounts paid for services performed by a child of the taxpayer if the child being paid is under 19. No credit is allowed for payments by a husband to his wife, or by a wife to her husband, for care of their children.

Mr. Speaker, this bill corrects a situation in which the tax law operates to discourage the strengthening of family ties, because it discriminates against the care of grandchildren by grandparents. I urge the House to approve H.R. 8535.

Mr. CONABLE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, when we enacted the tax credit for work-related daycare expenses in the Tax Reform Act of 1976, we agreed that it would be good for families and for children to allow the credit for amounts paid to relatives as well as for amounts paid to daycare centers or nonfamily babysitters. We thought we had succeeded in doing this. We found out differently when most of the people who tried to claim the credit were denied the credit by IRS if the relative involved was the child's grandparent. The bill before us today simply rewrites the language of the daycare credit in a way that accomplishes what we tried to do 2 years ago.

Let me explain the technicality that causes the trouble. The tax credit is allowed for 20 percent of amounts paid to relatives who provide child care services if the relatives meet the definition of "employment" under the Social Security Act. That cross-reference has caused some of the absurd situations that bring us to the floor today. A grandmother caring for her grandchild is considered "employed" only if she is working in the home of her son or daughter. If she works in her own home—if the parents take their child to "Granny's house" each day—she is considered to be "self-employed" and the parents lose the tax credit. If the parent is widowed or divorced, the grandmother is considered to be "employed" and they get the tax credit. If the parents are married, however, the grandmother is not considered to be "employed", and the parents do not get the tax credit. If the mother is an unwed mother, she is neither widowed nor divorced, and therefore she does not get the credit. Clearly, Congress would never design a program to work this way. This situation crept into the tax code when we weren't looking, and we should eliminate it as soon as possible.

My bill simply does away with the requirement that relatives meet the social security definition of "employment" before the parents can claim the tax credit. We do, however, keep some restrictions—a taxpayer cannot claim the credit for amounts paid to his or her spouse the credit cannot be claimed when the relative providing the day care could be claimed as a dependent of either spouse. It cannot be claimed for payments to the taxpayer's own nondependent child under the age of 19.

The cost of this bill is quite modest—some $36 million in fiscal year 1979, compared with $525 million annually for the existing day-care tax credit.

There are a number of reasons why this measure ought to be enacted.

The most important has to do with the growing concern that family stability in the United States is deteriorating. Allowing the day-care credit for payment made to relatives may not reverse the situation but it will at least not penalize those families who rely on their own members for strength and support instead of turning to less personal institutions outside the home. The bill eliminates one of the many marriage penalties carried on our law books.

A second reason is the need to develop appropriate day-care resources for the children of the steadily growing army of mothers entering the paid work force. A larger proportion of these women than ever before have young children and infants some of whom are only a few weeks old when their mothers return to work. For many of these children, being taken care of by their own relatives is a far better choice than any available government or private service.

A third consideration is the difference in day-care preferences of various ethnic groups. According to a HEW-sponsored study, of those using child care, relatives are used by 46.5 percent of whites, 54.9 percent of blacks, and 67.8 percent of Spanish. Blacks and Hispanics have a traditionally strong reliance on an informal network of family relationships. Our Government's policies should build on these strengths, not penalize them.

Mr. Speaker, the existing antigrandmother provision contained in the daycare tax credit should never have occurred. To allow it to remain on the books would be a signal that Congress has little concern for the stability of families in the United States. Its effects have been capricious and unintended. Enactment of H.R. 8535 remedies this faulty provision in our tax law.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in support of this bill. It corrects an antifamily feature of our tax code that is so outrageous that Jimmy Carter, when he was campaigning for the Presidency, felt compelled to single it out as an item he pledged to change.

When Carter made his major speech on the theme of the "American Family" in Manchester, N.H., on August 3, 1976, he said, and I quote:

> The tax laws have ridiculous programs built in. The antigrandmother clause, for instance, makes it illegal to take as a tax deduction (sic) the employment of a grandmother to take care of children while the parents work. You can hire a stranger to do it, you can't pay the expenses of a grandmother. . . . We're going to reverse the trends that . . . have destroyed American families. . . . I pledge to you that every statement I make, every decision I make, in the campaign, or if I'm successful in the White House will give our families a decent chance to be strong again.

This bill gives Congress a chance to carry out President Carter's pledge to eliminate the antigrandmother clause from the existing daycare tax credit provision.

We have had a little trouble in our Ways and Means Committee lately getting Republicans and Democrats to agree on tax legislation. So if it seems a little odd that Republicans are eager to help keep this campaign pledge of Carter's, let me point out that this idea began as an amendment offered by BILL KETCHUM during our consideration of the 1976 Tax Reform Act. KETCHUM's eminently sensible amendment to allow the daycare credit for amounts paid to relatives, including grandmothers, was accepted and enacted—we thought. But a year later, we started getting letters from constituents who were angry that IRS had denied them the credit when they claimed it for daycare provided by their parents. A little detective work led to the discovery that when the credit had been drafted, the language that included care by relatives inadvertently excluded care provided by grandparents unless the parents were widowed or divorced. If they had the misfortune to be married, they were out of luck.

H.R. 8535 merely accomplishes what we thought we were enacting in 1976. It carries out Jimmy Carter's campaign pledge. It was a good idea then, and it is still a good idea today.

Mr. LEDERER. Mr. Speaker, I rise in support of H.R. 8535, Internal Revenue Code amendments for day-care centers. This important legislation eliminates the requirement that the services performed by relatives must constitute employment according to the social security tax definition. Therefore, as was mentioned, services performed by a grandparent will be eligible for the credit on the same basis as those of nonrelatives.

Mr. Speaker, I am a cosponsor of this legislation because I believe it is on the right track. Many of my constituents are low- and middle-class persons. In many cases, mothers must find suitable employment, not for extras, but in order that the family can have a decent life.

Thus, mothers are faced with the difficult choice of either staying home with their children or securing a job to keep family standard of living abreast with the rising cost of living. In many of these homes, elderly mothers or fathers are called upon to care for dependent children while the mother is working. This legislation recognizes a daily occurrence. It gives those taxpayers credit for such an arrangement. At the same time, this legislation addresses our concern for the stability of the family. H.R. 8535 addresses one small part of our massive tax code. It provides neutrality with regard to family relationships. And it eliminates the discrimination that now exists against married persons who employ their parents as babysitters instead of hiring strangers or taking their children to day-care centers.

Mr. Speaker, while I was not a member of the Ways and Means Committee in 1976, I can hardly believe that the committee intended that the non-refundable tax credit for dependent or household care discriminate against grandparents used for such care. I want also to congratulate the distinguished ranking

minority member of the committee for his efforts on behalf of this legislation. I know Mr. CONABLE feels very strongly about the needed equity achieved in this bill. Therefore, I urge all my colleagues on this side of the aisle to support his efforts and vote for this important legislation.

Mr. ULLMAN. Mr. Speaker, I have no further requests for time.

Mr. CONABLE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 8535, as amended.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMON MARKET REGULATIONS FOR DRIED FRUIT

Mr. VANIK. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 238) expressing the sense of the House with respect to the immediate removal of certain regulations unilaterally put in place by the European Economic Community which have the effect of damaging and interfering with historic and acceptable trade patterns in the U.S. exports of dried prunes, and efforts made to restrict exports of walnuts to the European Economic Community, as amended.

The Clerk read as follows:

H. RES. 238

Whereas interference with established and satisfactory trade patterns in contrary to the trading interest of all nations and the spirit of ambouillet;

Whereas the Congress of the United States enacted the Trade Act of 1974 with the intent of liberalizing international trade among the nations of the world;

Whereas proliferation of regulations to control, limit, and establish minimum prices on nonsensitive products of commerce is harmful to the world trading system and the spirit of the General Agreement on Tariffs and Trade;

Whereas the European Economic Community has a long history of putting in place highly restrictive regulations on United States exports, which threaten to impair our rights in the General Agreement on Tariffs and Trade, and in this case irrevocably damage United States dried prune exports and threaten walnut exports to the Eurcpean Economic Community: Now, therefore, be it

Resolved, That it is the sense of the House that the President shall use all means at his disposal to obtain immediate removal of the onerous trade impairments on certain United States processed fruits and vegetables, namely, the Council of the European Communities' (EEC) regulations numbered 516/77 through 524/77, notwithstanding any eventual adjudication of the proceedings under article XXIII of the General Agreement on Tariffs and Trade or any other initiatives; to obtain agreement with the European Economic Community Commission that similar restrictive measures will not be imposed in the future; and to place the European Economic Community on notice that should previously unsuccessful efforts by the Commission or its members to place restrictive regulations on imports of certain processed fruits and vegetables from the United States be followed by successful efforts and result in the establishment of such regulations. The United States will exercise its rights under the General Agreement on Tariffs and Trade to take retaliatory measures against these regulations.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. VANIK) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 238, as amended, expresses the sense of the House with respect to the desirability of removing and preventing the imposition of import restrictions by the European Communities on imports of U.S.-processed fruits, juices, and vegetables. Specifically, it is the sense of the House that the President: first, use all means at his disposal to obtain immediate removal of new restrictions imposed by the EC on imports of certain processed fruits and vegetables; second, obtain agreement with the EC that similar restrictive measures will not be imposed in the future; and third, place the EC on notice that we will exercise our rights under the General Agreement on Tariffs and Trade to take retaliatory measures against any future imposition of restrictive regulations.

House Resolution 238 is in response to the failure of the administration to secure elimination of EC licensing surety deposit requirements, and minimum import prices on these products, in the face of strong concern of U.S. producers and processors, first raised in their petition under the unfair trade practice provisions of the Trade Act of 1974, nearly 3 years ago in September 1975. The products under restriction include: canned mushrooms, peas, green beans, pears, and peaches; canned and frozen raspberries; tomato concentrate and tomato juice; and dried prunes. Total exports of these products to the EC in 1977 were $38 million, of which nearly $30 million were dried prunes, an important export product of our west coast. In addition, U.S. exports of walnuts, of an equal value, are threatened with future application of similar restrictions.

The complaints of our growers and processors have been frustrated by the inability of the administration to obtain relief through the dispute settlement procedures in the GATT. Although a GATT panel of experts was established over a year ago to consider and make recommendations on the U.S. complaint, it has yet to complete its work. However, even if the panel decides in favor of the United States, the outcome may be academic, at best. The EC, we now understand, intends to implement a program of domestic subsidies to their producers which, in combination with present restrictions, could virtually close out U.S. markets, not only in the nine EC countries, but in other areas of Western Europe where U.S. and EC products now compete. Taking the example of dried prunes, how could we expect to compete against a 16-cent-per-pound duty plus a 17-cent-per-pound subsidy, on a U.S. product that exports for only 52 cents per pound?

Mr. Speaker, in view of the administration's inability to resolve this important issue with the European Communities, and the Ways and Means Committee's unanimous voice vote in reporting this resolution, I urge my colleagues to support passage of House Resolution 238. In doing so, the House will have joined the Senate, which passed a similar resolution last year, in reinforcing congressional intent that unilaterally and arbitrarily imposed trade restricting practices are unacceptable to the United States.

Mr. STEIGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my only problem is that the title is longer than the debate. If we can stay awake during the title, we will be in good shape.

Mr. Speaker, I join my colleague in urging passage of House Resolution 238. A strong statement expressing congressional dissatisfaction with the continued application of unacceptable import restrictions by the European community is vitally important at this time.

The resolution expresses the sense of the House that the President use all means at his disposal to secure an immediate removal of import restrictions on certain fruits and vegetables and to assure that such restrictions will not be applied in the future. Of particular concern here are the community's licensing system and surety deposit requirements that act to prohibit the entry into that market of certain agricultural products below a minimum import price. This minimum import price, or MIP, puts U.S. imports at a severe competitive disadvantage—in fact virtually closes the European market for the affected products—and violates the legal and economic rights of the United States under the GATT.

Although the imposition of licensings and surety deposit regulations on U.S. dried prune exports, and the threatened application of similar import restraints on walnuts, was the impetus behind House Resolution 238, its implications are much broader. The resolution in its final form does not limit our complaint to just these products. It is the continued threat of having the onerous restrictions imposed again and again on any effectively competitive product that we can no longer tolerate. We must urge the President to take firm action immediately to alleviate this deteriorating situation.

The United States has expended much

energy, both through negotiations and through GATT dispute settlement procedures, to persuade the EC that its restrictions constitute unfair trade practices and that the MIP cannot remain as an integral part of its agriculture policies. The EC has not taken us seriously at the bargaining table. EC offers in the MTN to remove nontariff barriers have been superficial at best, without really touching on the most serious controversies. The GATT dispute settlement procedures have been bogged down by continuous delays. In any case, the EC is prepared to implement a subsidy program to support these agriculture products should their current restrictions be declared GATT illegal.

It is for this very reason that I think a strong statement expressing congressional dissatisfaction with the continued application of unacceptable import restrictions by the European Community is vitally important at this time. New information is available which I am sure my colleague, the chairman of the Subcommittee on Trade, and my colleagues on the Subcommittee on Trade will want to watch for three products: prunes, peaches, and tomatoes. The preliminary decision to subsidize these products results from the European Community's negotiations with France and Italy for the accession to the Community by Greece, Turkey, and Spain.

The subsidy on peaches could go as high as $4.62 a case—$4.62 a case. For prunes, the subsidy could go as high as 17 cents a pound and for tomatoes it could go, for concentrate, as high as 19.5 cents a pound, peeled tomatoes 7 cents a pound and for juice at 3 cents a pound. Thus, we are dealing not only with restrictions on the general ability of the United States to export, but now, as a result of the preliminary decision of the European Community, we have action which will directly relate to some of the same products which are involved here in House Resolution 238.

What would be the result if these subsidies should, in fact, replace licensing and surety deposits? We have seen the consequences where subsidies have been applied in other instances: The MIP is preserved and our exports continue to suffer in the EC market. In addition, EC producers have their costs artificially deflated so they can undercut the price of U.S. products in third markets as well. U.S. exports are hurt worldwide by such EC protectionist practices.

I shall ask for a vote on this resolution and I hope we can get an overwhelming vote of approval for the resolution, so that the sense of the House can be expressed, that the President should use all means at his disposal to secure the immediate removal of import restrictions on fruits and vegetables and to assure that such restrictions would not be used in the future.

Mr. Speaker, what we began with in this process was that we were dealing, as we know, with dried prunes and with walnuts. That was the beginning of the process. I think the implications are much broader, because the resolution in its final form does not limit our complaint to just these products. It is the continued threat of having the onerous restrictions imposed again and again on any effectively competitive product that we can no longer tolerate.

We must insist on equal footing with our trading partners. It is the only way a free and open world market can function successfully. House Resolution 238 is a message to the European Community that we expect to act to assure fair and equal treatment. I urge the overwhelming passage of the resolution at this time.

Mr. VANIK. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Speaker, I thank the gentleman for yielding. I also want to compliment him, as chairman of the Trade Subcommittee, for his work and efforts on behalf of House Resolution 238. The various agricultural commodities that this resolution refers to are raised primarily by small farmers. The Trade Subcommittee, the Ways and Means Committee, and the entire House are to be credited for their willingness to assist these farmers in securing fair treatment in the European marketplace.

I want to assure the House that even though I first introduced House Resolution 238 at the beginning of this Congress, the situation it addresses has not improved. As a matter of fact, it is getting worse.

Just last week, I was advised that the European Council of Agricultural Ministers voted to institute an internal production subsidy to French prune growers. It is my understanding that this subsidy will amount to $350 per metric ton, which equals about 16 cents per pound. This is on a commodity with a world market price of about 55 cents. It should also be noted that the Common Market's import duty of 16 percent, or about 9 cents per pound, will also remain in effect. This means that U.S. dried prune exports to the Common Market will sell at about 64 cents per pound while the French dried prunes will be at about 39 cents per pound.

And what purpose will this subsidy serve? The French are the only Common Market member that produce prunes, and even in their best production years, the French cannot produce more than 35 percent of the Common Market's annual consumption. American exports to the Common Market will be directly and adversely affected.

This is but one example of the type of restrictive trade regulation and barrier that the Common Market is using against American agricultural exports.

House Resolution 238 calls upon the President to use all means at his disposal to obtain immediate removal of these regulations by the Common Market and to secure the European's agreement that similar restrictive trade barriers will not be imposed in the future. I must sadly admit that in the nearly 3 years since this matter first came to my attention, I have yet to witness any serious or aggressive effort by the administration to secure relief for the American farmers affected by these Common Market trade barriers. In light of the trade negotiations now underway in Geneva, I hope that the administration and the Europeans will take special note of the House's action on this subject today.

Mr. VANIK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully concur with my colleague, the gentleman from California (Mr. McFALL), that the evidence of new restrictions against our exports can result in the elimination of European markets for other products.

Mr. Speaker, I ask for an overwhelming vote of approval for this resolution.

Mr. STEIGER. Mr. Speaker, I yield such time as he may consume, within limits, to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the legislation.

My congressional district has numerous growers who raise many of the commodities affected by this resolution and I am pleased with the positive action being taken here today to assist these small farmers. I join with my other colleagues from California in strongly commending the chairman of the Trade Subcommittee and its members of their willingness to advance this legislation.

The resolution, which I cosponsored is long overdue. It is intended to direct the President to use all means at his disposal to obtain immediate removal of the European Economic Community's trade barriers to exports of California specialty crops and to secure an agreement that similar restrictive trade barriers will not be imposed in the future.

Americans are concerned about our balance of payments problems. One way to bring this balance into a more favorable alinement is to increase exports and our agricultural products have a tremendous potential to accomplish this.

Unfortunately I have yet to witness any serious or aggressive effort by the administration to secure relief for the American farmers affected by these trade barriers. In light of the trade negotiations now underway in Geneva, I hope both the administration and the Europeans will respond to this direct congressional directive and begin at once to move in the direction of removing the trade barriers. It is essential that our negotiators take a more positive and tougher stance on behalf of our American farmers and our agricultural interests. This is particularly crucial to California because agriculture is such a vital part of our economy.

I urge my colleagues to support the resolution.

Mr. STEIGER. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. DON H. CLAUSEN), for his contribution.

Mr. Speaker, I have no further requests for time.

Mr. VANIK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the

House suspend the rules and agree to the resolution (H. Res. 238) as amended.

The question was taken.

Mr. STEIGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REIMBURSEMENT OF SOCIAL SERVICE EXPENDITURES

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11370) to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV–A, VI, X, XIV, and XVI of the Social Security Act, as amended.

The Clerk read as follows:

H.R. 11370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is authorized to be appropriated for the fiscal year which ends on September 30, 1979, not to exceed $543,000,000, to remain available until expended, to enable the Secretary of the Treasury to pay to any State the amount determined by the Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary"), in accordance with the succeeding provisions of this Act, to be payable to the State in settlement of the unpaid claim of the State against the United States for reimbursement of expenditures made by the State prior to October 1, 1975, with respect to services (and related administrative costs) which the State asserts were provided (or incurred) under an approved State plan pursuant to title I, IV–A, VI, X, XIV, or XVI of the Social Security Act.

(b) For purposes of this Act, the term "unpaid claim" of any State means (subject to the succeeding sentence) the total amount of Federal reimbursement for expenditures of the type specified in subsection (a) which has not been paid to such State prior to the date of enactment of this Act. In determining such total amount in the case of any State, any portion thereof attributable to expenditures made in any fiscal year with respect to which the provisions of section 1130 of the Social Security Act (as then in effect) were applicable shall be reduced (but not below zero) by the excess (if any) of (1) the aggregate of the portion of such total amount attributable to expenditures made in such year and the total amount of the Federal reimbursement paid prior to the date of enactment of this Act to such State with respect to expenditures made in such year, over (2) the State's allotment determined under such section 1130 for such year.

SEC. 2. (a) In the case of that portion of the unpaid claim of a State that the Secretary determines was asserted against the United States, in the form and manner prescribed by the Secretary with respect to the filing of claims under titles I, IV–A, VI, X, XIV, and XVI of the Social Security Act, prior to April 1, 1977, the Secretary shall certify to the Secretary of the Treasury for payments to the State the sum of—

(1) an amount equal to 38 percent of so much of such portion as does not exceed $50,000,000;

(2) an amount equal to 35 percent of so much of such portion as exceeds $50,000,000 but does not exceed $150,000,000; and

(3) an amount equal to 21 percent of so much of such portion as exceeds $150,000,000; except that the percentage specified in paragraph (1) shall be 58 percent and the percentage specified in paragraph (2) shall be 50 percent in the case of a State if the portion of the unpaid claim of such State referred to in the preceding provisions of this subsection equals or exceeds 85 percent of the sum of (A) such portion and (B) the total amount of Federal reimbursement for expenditures of the type specified in the first section of this Act which has been paid to such State prior to the date of enactment of this Act but with respect to which formal steps have been initiated by the Secretary to recover such reimbursement.

(b)(1) In the case of the portion of the unpaid claims of a State that the Secretary determines meets the requirements of subsection (a), except that the claim was asserted, in the form and manner prescribed by the Secretary, on or after April 1, 1977, but prior to the ninety-first day following the date upon which this Act is enacted, the Secretary shall cerify to the Secretary of the Treasury for payment to the State, subject to paragraph (2), an amount equal to 15 percent of so much of such portion as he finds to be for the provision of services that he finds the State provided and for which he has not provided reimbursement, but the expenditures for which were reimbursable under title I, IV–A, VI, X, XIV, or XVI of the Social Security Act prior to April 1, 1977, or, if not services the expenditures for which were reimbursable, are services of a similar kind and are not otherwise reimbursable under this Act.

(2) The Secretary may not certify for payment to any State under the authority of this subsection an aggregate amount that exceeds 5 percent of the State's allotment for the fiscal year 1973 of social service funds under titles I, IV–A, X, XIV, and XVI of the Social Security Act, as determined in accordance with section 1130(b) of such Act, less the amount certified for payment to the State under subsection (a) of this section.

(3) The Secretary shall have no authority, by regulations or otherwise, to extend the time period specified in paragraph (1) or to waive the time limit for assertion of a claim.

SEC. 3. (a) Except with respect to amounts paid by the Secretary to a State prior to April 1, 1977, no State is entitled to reimbursement of expenditures described by the first section of this Act, except as provided by this Act.

(b) Neither the Secretary nor any other official of the Federal Government may seek to recover any amount paid to a State prior to April 1, 1977, or pursuant to this Act, as reimbursement of expenditures made by the State of the type described by the first section of this Act.

SEC. 4. (a) The Secretary is authorized to enter into agreements with any State in accordance with the provisions of this Act, and agreements entered into prior to the enactment of this Act, to the extent not inconsistent with the terms hereof, shall have the same force and effect as agreements entered into subsequent to enactment of this Act.

(b) In the absence of an agreement, a State dissatisfied with a determination by the Secretary under this Act may, by application to the Secretary within 60 days after the date of notice to the State of that determination, obtain the Secretary's review of that determination. If the application requests a hearing, the Secretary shall conduct a hearing after reasonable notice to the State, and shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his determination. If the Secretary does not preside at the reception of the evidence at the hearing, the decision of the presiding official or body shall be the decision of the Secretary.

(c) No court of the United States has jurisdiction to entertain any action seeking the review of any determination or finding of the Secretary under this Act, or otherwise seeking to compel a determination by the Secretary to certify for payment any claim described by the first section of this Act; except that the appropriate district court shall have jurisdiction over any action seeking enforcement of an agreement of the kind referred to in subsection (a).

SEC. 5. (a) Amounts appropriated under the first section of this Act shall be first applied in settlement of the portions of unpaid claims described in section 2(a). If, after that payment, the amounts remaining are insufficient to pay the amounts established by section 2(b) with respect to the portions of unpaid claims asserted under section 2(b), the Secretary shall certify for payment with respect to each such portion an amount that bears the same relationship to that portion as the total of such remaining available amounts bears to the total of all portions of unpaid claims asserted under section 2(b).

(b) A reduction effected by subsection (a) of this section in the amount payable to a State under section 2(b) does not give rise to an entitlement of the State to the difference between the amount payable under section 2(b) (without regard to subsection (a) of this section) and the amount payable under section 2(b) after application of subsection (a) of this section.

(c) In the event that the amount appropriated pursuant to the first section of this Act exceeds the payable portions of unpaid claims under subsections (a) and (b) of section 2, the amount paid to any State receiving a payment computed with respect to paragraph (3) of section 2(a) shall be increased (to the extent of such excess) by an amount equal to the difference between the amount it received under section 2(a) and the amount it would have so received if the percentage in such paragraph had been 25 percent.

SEC. 6. The Secretary of the Treasury shall pay to each State, out of amounts appropriated pursuant to the first section of this Act, all amounts certified by the Secretary as payable to that State under the terms of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. VANDER JAGT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. VANDER JAGT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been from the very beginning a joint effort of the Committee on Ways and Means and the Committee on the Judiciary, and I will, therefore, yield much of my time to the gentleman from California (Mr. DANIELSON), who will be explaining the amendment and the provisions of the bill.

Mr. Speaker, H.R. 11370 would provide necessary statutory authority to implement a negotiated settlement of a

large number of longstanding disputes between the Department of Health, Education, and Welfare and many of the States. These disputes have to do with Federal cost sharing of social services authorized under the Social Security Act and provided by the States before October 1, 1975.

On October 1, 1975, the present title XX social services program superseded previous provisions under which the Federal Government shared in the cost of social services.

The bill would provide authority for the settlement of disputed claims involving 28 States and totaling $2.4 billion. This includes "unpaid" claims, for which States have received no Federal funds, totaling $1.6 billion. It also includes claims for which States have received Federal matching funds but which, on the basis of a subsequent review by HEW, have been disallowed. The Federal Government has sought $830 million for these "paid" claims. The final terms of the settlement have been negotiated by HEW and the affected States.

The bill would establish a fiscal 1979 entitlement authorization of $543 million for the final settlement of the $1.6 billion in disputed "unpaid" claims.

It would provide statutory authority for HEW to distribute this $543 million according to the negotiated settlement. States would be prohibited from requesting any matching funds beyond the $543 million for social services provided before October 1, 1975.

The bill would eliminate the ability of States to use the courts to obtain any additional Federal reimbursement for such services. Also, H.R. 11370 would prohibit the Federal Government from attempting to recover any of the $830 million in disputed "paid" claims, or any other Federal matching funds that have been paid to States for social services provided before October 1, 1975.

For a number of years, disputed social services claims have had a negative effect on relations between the States and the National Government in the administration of federally assisted programs. Continuation of the controversy will only serve to undermine the ability of the States and the Federal Government to work together in these and other areas of shared responsibility.

The committee approved this legislation because it provides necessary statutory authority to implement a solution that has been worked out and agreed to by the parties most directly affected, the States and the Department of Health, Education, and Welfare. The administration. and the Department of Health, Education, and Welfare are to be commended for their leadership in resolving this controversy.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. VANDER JAGT) is recognized for 20 minutes.

Mr. VANDER JAGT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the distinguished chairman of the Committee on Ways and Means in urging support of H.R. 11370. As the chairman has very ably explained, this bill authorizes the implementation of a negotiated settlement between HEW and 28 States for some disputed claims that arose in the administration of social services programs, all of these claims dating prior to October 1, 1975.

The bill would authorize a payment of $543 million of the $1.6 billion worth of disputed unpaid claims, and it allows the retention of $830 million in Federal funds already expended.

Mr. Speaker, there is an old adage in most legal circles that a good settlement is one in which neither side is totally happy. I am sure that using that criteria, this is a very good settlement indeed. States would like to have received more; HEW would like to have given less. However, both sides were satisfied with this settlement, which was negotiated at arm's-length bargaining.

The alternative, if we were to reject this, would mean that we would have extended, complicated litigation, and probably the Federal taxpayer would wind up paying more than $543 million, certainly when one takes into account the extensive legal costs that would be involved over many, many years.

We have been assured by HEW that because of the changes in the program since 1975, specifically the enactment of the new title XX social services program, these types of claims, disputes are not likely to ever occur in the future.

For these reasons, the Committee on the Judiciary and the Committee on Ways and Means by voice votes, unanimously on the minority and the majority sides, have urged support of this bill.

These have been thorny problems that have afflicted Federal relations for many years, and I think certainly it would be in the best interest of the recipients of the social services programs to get this problem resolved and put it behind us once and for all.

Mr. Speaker, I therefore urge support of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 11370 Reimbursements to States for Social Service Expenditure that would implement the proposed settlement of a longstanding dispute between the Department of Health, Education, and Welfare and the 28 States which seek reimbursement under the Social Security Act prior to October 1, 1975. Texas, along with many other States, has been engaged in a longstanding dispute with the Department of HEW. These disputes have resulted in several lawsuits by the States against the Federal Government including Cause No. 75–1953 in the U.S. Court of Appeals for the Fifth Circuit and Cause No. A–76–CA–118 in the U.S. District Court for the Western District of Texas, Texas State Department of Public Welfare against Mathews.

The bill provides for the reimbursement of certain State claims which were submitted to HEW for payment, but which were rejected because the State authority had failed to satisfy the various criteria. The eligibility requirements are extremely complex. The settlement terminates many years of vexatious discord that has already produced extensive and burdensome litigation. The settlement will prevent what promises to be several more years of struggle. The settlement reflects a compromise, but it is a compromise that both the States and the Federal Government can live with. Moreover, if not settled, the dispute would continue to place an undue strain on State-Federal relationships.

It seems to me that since this proposed settlement has been accepted by virtually all of the States, and since OBM has authorized HEW to enter the settlement that has also had the approval of the President, Congress should act speedily to authorize the appropriation.

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Michigan (Mr. VANDER JAGT) for his support of this measure and call his attention to the fact that any time he and I bring a bill to the floor, with both of us in favor of it, the bill usually passes. I hope he will bear that fact in mind on H.R. 10950.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, this bill was jointly referred to the Committee on Ways and Means and the Committee on the Judiciary.

I would like to point out that in the hearings before the Committee on the Judiciary, we went into, at substantial length, the merit of the claims and the wisdom of the settlements agreed to between the various States and the administration.

I might point out that the Committee on the Judiciary and the subcommittee both agreed completely and commend the departments of the administration for working out what I believe is a very satisfactory solution for all persons concerned.

Mr. Speaker, the amount of the claims that are still in controversy, which could be settled by this bill, substantially exceed $1 billion. They are being settled for $543 million. That is a good bargain, I respectfully submit, under any type of settlement negotiation.

Mr. Speaker, we should bear in mind that the money being paid out here is being paid out to the various States in settlement of claims for funds which they expended in the expectation that they would be reimbursed by the Federal Government. It is only fitting and proper that this settlement be achieved so that the States can be reimbursed.

The Committee on the Judiciary was concerned that this would be a final payment and a final settelement and an absolute bar to any future claims by the States based upon the particular transactions in question. We have received from the U.S. Department of Justice a letter stating that they have analyzed

the bill for that purpose; and they conclude that the passage of this bill into law, and the execution of the settlements, would be an absolute bar to any future claims for reimbursement for expenditures during the pertinent time.

I would also like to point out that a law firm in the District of Columbia had represented 16 of the States in a lawsuit based upon these transactions. They have obtained releases from their client States contingent upon the passage of this bill and the payment of the claims, which fully and finally release the Federal Government from any claims by them against the Federal Government or against the States by the Federal Government. Those releases and the letter from the Department of Justice which I have referred to are set forth on pages 9 and following of the report on this bill which was issued by the Committee on the Judiciary, Report No. 95–1114, which I incorporate by reference at this point in my remarks.

The bill H.R. 11370 implements a settlement between the United States and States concerning reimbursement for expenditures for social services under the Social Security Act. The bill authorizes an appropriation of $543 million to provide for payments to reimburse States for expenditures made prior to October 1, 1975. The reimbursements would be for services and related administrative costs provided by the States under titles I, IV, VI, X, XIV, or XVI of the Social Security Act. Under the bill, payments would be made to satisfy unpaid State claims filed prior to April 1, 1977, in accordance with a formula worked out in consultation with the States. The bill also authorizes payment of a portion of any newly filed claims for reimbursement for social services provided prior to October 1, 1975, if these new claims are filed within 90 days of the bill's enactment.

The bill would preclude reimbursement of social service expenditures prior to October 1, 1975, to any State except as provided for in the bill, and would limit Federal expenditure on the social services claims currently in dispute to the amount authorized to be appropriated. The bill would comprehensively and finally dispose of all such social services claims by the States.

Section 1 of the bill states that the sums appropriated are to be payable in settlement of the unpaid claims of the State against the United States for reimbursement of expenditures by the State prior to October 1, 1975, with respect to social services claims.

Section 2(a) provides the method of computing payment upon such claims if they were filed with the Secretary prior to April 1, 1977, while section 2(b) provides a different method for computing payment upon those claims submitted after April 1, 1977.

Section 3 states that:

> No State is entitled to reimbursement of expenditures described by paragraph (1) except as provided by this Act.

This would preclude a State from claiming reimbursement for social services on some basis outside the proposed bill. The remainder of section 3 provides that the United States cannot recoup amounts already paid to the States as reimbursement for social services prior to April 1, 1977, or amounts paid to the States pursuant to the proposed bill. Accordingly, all claims by the States for social services arising before October 1, 1975, would be governed by the terms of the proposed bill.

Section 4 provides that the amount to be paid a State under the proposed bill may be determined by agreement between the Secretary and the claimant State, but will be determined by the Secretary if no agreement is reached. There would be no judicial review of the determination or finding of the Secretary of the amount to be paid a State under the proposed bill. The district courts only have jurisdiction to enforce an agreement between the Secretary and a State that a sum certain shall be paid.

Therefore, H.R. 11370 provides for the full and final resolution of all claims for social services arising prior to October 1, 1975, whether the claim has been the subject of litigation on an agreement of the kind described in section 4(a), or has been filed with the Secretary, or has not to date been filed with the Secretary. So long as the claim is one for social services reimbursement arising prior to October 1, 1975, it will be governed by the terms and provisions of the proposed bill.

The bill, H.R. 11370, embodies the recommendations of an executive communication transmitted to the Speaker of the House on November 3, 1977. On March 8, 1978, the Subcommittee on Administrative Law and Governmental Relations held a hearing on a companion bill H.R. 10101. Both bills were also referred to the Committee on Ways and Means.

As I have stated, this bill is necessary to effect the settlement of claims by both the United States and the several States relating to reimbursement for certain social services provided by the States under the Social Security Act prior to October 1, 1975.

This bill will settle the disputes between the Federal Government and the States as to these claims matters. The situation is one which has complicated the Department's relations with the States in its administration of federally assisted social welfare programs. Time spent by legal and program personnel in connection with the disputed claims and related lawsuits could best be applied to issues of social security program administration. The Department of Health, Education, and Welfare asserts that a final court settlement would be at least several years away. That Department, therefore, concluded that the Federal Government and the States should compromise their differences. The bill H.R. 11370 would provide for such a compromise settlement in that it would reimburse a portion of the unpaid State claims filed prior to April 1, 1977, in accordance with a formula worked out in consultation with the States. The bill would also provide a basis for payment of a portion of any newly filed claims for reimbursement for social services provided prior to October 1, 1975, if these new claims are filed within 90 days of the bill's enactment.

The bill would preclude reimbursement of social service expenditures prior to October 1, 1975, to any State except as provided for in the bill, and would limit Federal expenditure on the social services claims currently in dispute to the amount authorized to be appropriated.

In recommending enactment of the bill, the Department of Health, Education, and Welfare stated:

> Because enactment of this bill will resolve longstanding and difficult issue between the Federal Government and the States, we recommend its speedy enactment.

In its report to the committee on the companion bill H.R. 10101, the Department of Justice recommended its enactment and stated:

> While it is possible that many of the claims submitted do not technically qualify for reimbursement, we favor congressional settlement of these retroactive claims by the proposed bill in consideration of our exposure in excess of one billion dollars and the circumstances under which these claims have arisen.
>
> It is significant that reimbursement, while not technically supportable by the statute, would pay for welfare costs actually incurred by the States. The settlement would also relieve the Department of Justice and HEW of enormous litigation difficulties, including years of discovery and trial preparation. Finally, we must recognize that full discovery might well disclose a significant portion of the claims in litigation that would justify reimbursement.

The claims that would be settled by payments under the bill are those by the States for reimbursement for expenditures incurred under titles I, IV, VI, X, XIV, and XVI of the Social Security Act. These public assistance titles of the Social Security Act—now superseded by title XX—authorize the establishment of cooperative Federal-State welfare programs to assist needy people who qualify for assistance under the act. These titles deal with aid to families with dependent children and a combination program with aid to the aging, blind, and disabled. The act provides for cash assistance as well as assistance in the form of social services; for example, counseling, family planning, and child care, and help needy people obtain or retain the capability for self-support to reduce their dependency. State welfare agencies may either provide these services themselves or they may purchase them from other State agencies in accordance with prescribed conditions. To receive Federal payment for purchased services, a State must show that the social services activities were actually being provided as part of the federally assisted welfare programs under a State plan approved by HEW as of the time for which Federal reimbursement is claimed, and that valid purchase of services agreements were in effect at the time the services were rendered under the public assistance program.

The bill would provide for the reimbursement of certain State claims which were submitted to HEW for payment, but which were rejected because the

State authority had failed to satisfy the various criteria for payment under the statute and HEW regulations. At the subcommittee hearing on the bill, the subcommittee was advised that the claims of some 22 States are now in litigation. As I have indicated, the aggregate amount sought by these claimant States exceeds $1 billion. The proposed bill would settle the claims in litigation as well as any outstanding claims that could be made by other States, and the bill provides the formula, and basic procedure for payment. These provisions implement provisions for the settlement of outstanding claims for social services reimbursement that were reached through extensive negotiation btween HEW and the claimant States.

This bill should be enacted as recommended by the Department of Health, Education, and Welfare in its executive communication. The need for this statutory authority was clearly demonstrated at the subcommittee hearing on the matter and by information supplied the subcommittee and the committee in the course of consideration of the bill and its companion measures. I urge that the bill be favorably considered.

Mr. CORMAN. Mr. Speaker, I have no further requests for time.

Mr. VANDER JAGT. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. MOORHEAD), a distinguished member of the Committee on the Judiciary to which this legislation was sequentially referred.

Mr. MOORHEAD of California. Mr. Speaker, I rise in support of the social services reimbursement authorization, which appears to be the most reasonable and fair way to resolve a dispute within our Federal system. The purpose of H.R. 11370 is to authorize $543 million in retroactive social services payments to a minimum of 28 States.

This legislation reflects the terms of a negotiated settlement of a dispute between HEW and the States over eligible costs under various Federal social services programs. The total amount actually in dispute is $2.576 billion, reflecting both unpaid amounts and disputed amounts already paid to some States. The payments in dispute occurred, or would have occurred, between January 28, 1969, and October 1, 1975. The disputes claims arose in connection with the following programs: Day care for children; protected services for neglected or abused children; drug and alcohol abuse services; family planning and counseling; and a variety of welfare services for the aged, blind, and disabled.

The dispute over eligible costs was prompted by a memorandum issued on December 20, 1972, issued by the then administrator of the Social and Rehabilitation Service. The memo—known as "Twiname Memorandum"—and the regulations issued to implement it, set forth changed qualification criteria for the States. The new regulations were used by HEW to both disallow new claims and to seek reimbursement for payments already made to States.

The negotiations leading to the proposed settlement embodied in H.R. 11370 were undertaken for two basic reasons. First, the enormous amount of Federal funds actually in dispute—that is, nearly $2.6 billion. Second, a successful action for declaratory and injunctive relief brought by 13 of the affected States, challenging the validity of HEW's memorandum. *Florida* v. *Matthews*, 422 F.Supp. 1231 (1976). This case is currently pending in the U.S. Court of Appeals for the District of Columbia Circuit, docket No. 76-2122. Both parties moved for a stay of those proceedings—which was granted and has been continued—pending congressional action on H.R. 11370.

H.R. 11370 has received both the scrutiny and approval of the Committee on Ways and Means and the Committee on the Judiciary. Both determined, after hearings and debate, that a negotiated settlement of this type is the best manner to resolve this situation. I urge my colleagues in the House to give this measure favorable consideration.

Mr. VANDER JAGT. Mr. Speaker, I have no further requests for time.

Mr. CORMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 11370, as amended.

The question was taken.

Mr. CUNNINGHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior anouncement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order, all by the yeas and nays: S.J. Res. 4; H.R. 12299; H.R. 3050; H.R. 8535; H. Res. 238; and H.R. 11370.

Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rule on which the Chair has postponed further proceedings.

HAWAIIAN NATIVE CLAIMS STUDY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate joint resolution (S.J. Res. 4) as amended.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) to suspend the rules and pass the Senate joint resolution (S.J. Res. 4) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 194, not voting 30, as follows:

[Roll No. 353]

YEAS—210

Addabbo	Garcia	Natcher
Akaka	Gephardt	Nedzi
Alexander	Gilman	Nolan
Ambro	Glickman	Nowak
Anderson, Calif.	Goldwater	Oberstar
Andrews, N.C.	Gonzalez	Ottinger
Andrews, N. Dak.	Gore	Patten
Annunzio	Green	Patterson
Applegate	Gudger	Pattison
Ashley	Hamilton	Pepper
Aspin	Hanley	Pickle
Baldus	Hannaford	Pike
Baucus	Hansen	Poage
Beard, R.I.	Harkin	Preyer
Bedell	Harrington	Price
Beilenson	Harris	Rahall
Bennett	Hawkins	Rangel
Biaggi	Heckler	Reuss
Bingham	Heftel	Richmond
Blanchard	Hightower	Risenhoover
Blouin	Holtzman	Roe
Boggs	Howard	Roncalio
Boland	Huckaby	Rooney
Bolling	Jeffords	Rose
Bonior	Johnson, Calif.	Rosenthal
Brademas	Johnson, Colo.	Rostenkowski
Brodhead	Jones, Tenn.	Roybal
Brooks	Jordan	Santini
Brown, Calif.	Kastenmeier	Scheuer
Burgener	Kazen	Schroeder
Burke, Mass.	Keys	Sebelius
Burlison, Mo.	Kildee	Seiberling
Burton, John	Kostmayer	Sharp
Burton, Phillip	Krebs	Shipley
Byron	Krueger	Sikes
Carney	LaFalce	Sisk
Carr	Le Fante	Skelton
Cavanaugh	Lederer	Skubitz
Clay	Leggett	Smith, Iowa
Collins, Ill.	Lehman	Solarz
Conte	Lloyd, Calif.	Spellman
Corman	Long, Md.	St Germain
Cornell	Lundine	Stark
Cornwell	McCloskey	Steers
Danielson	McFall	Steiger
de la Garza	McHugh	Stokes
Dellums	McKay	Studds
Dent	Maguire	Thompson
Diggs	Mann	Traxler
Dodd	Markey	Udall
Downey	Marks	Ullman
Drinan	Marlenee	Van Deerlin
Early	Mathis	Vanik
Eckhardt	Mattox	Vento
Edgar	Meeds	Volkmer
Edwards, Calif.	Metcalfe	Walgren
Eilberg	Meyner	Weaver
Ertel	Mikulski	Weiss
Evans, Ga.	Mikva	White
Fary	Miller, Calif.	Whitley
Fascell	Mineta	Wilson, Bob
Fisher	Mitchell, Md.	Wilson, C. H.
Flippo	Moakley	Wirth
Flood	Moffett	Wolff
Ford, Mich.	Moore	Wright
Ford, Tenn.	Moorhead, Pa.	Yates
Fraser	Moss	Yatron
Fuqua	Murphy, N.Y.	Young, Mo.
Gammage	Murtha	Zablocki
	Myers, Gary	Zeferetti
	Myers, Michael	

NAYS—194

Abdnor	Brown, Ohio	Cunningham
Allen	Broyhill	D'Amours
Ammerman	Buchanan	Daniel, Dan
Anderson, Ill.	Burke, Fla.	Daniel, R. W.
Archer	Burleson, Tex.	Davis
Armstrong	Butler	Delaney
Ashbrook	Caputo	Derrick
Badham	Chappell	Derwinski
Bafalis	Clausen, Don H.	Devine
Barnard	Clawson, Del	Dickinson
Bauman	Cleveland	Dicks
Beard, Tenn.	Cohen	Dingell
Benjamin	Coleman	Dornan
Bevill	Collins, Tex.	Duncan, Tenn.
Bonker	Conable	Edwards, Ala.
Bowen	Corcoran	Edwards, Okla.
Breaux	Cotter	Emery
Brinkley	Coughlin	English
Broomfield	Crane	Erlenborn
Brown, Mich.		Evans, Colo.

Evans, Del.	Latta	Regula
Evans, Ind.	Leach	Rhodes
Fenwick	Lent	Rinaldo
Findley	Levitas	Roberts
Fish	Livingston	Robinson
Fithian	Lloyd, Tenn.	Rogers
Florio	Long, La.	Rousselot
Flowers	Lott	Rudd
Flynt	Lujan	Ruppe
Foley	Luken	Russo
Forsythe	McClory	Ryan
Fountain	McCormack	Sarasin
Fowler	McDade	Satterfield
Frenzel	McDonald	Sawyer
Gaydos	McEwen	Schulze
Giaimo	McKinney	Shuster
Gibbons	Madigan	Slack
Ginn	Mahon	Smith, Nebr.
Goodling	Marriott	Snyder
Gradison	Martin	Spence
Grassley	Michel	Staggers
Guyer	Milford	Stangeland
Hagedorn	Miller, Ohio	Stanton
Hall	Minish	Steed
Hammer-schmidt	Mitchell, N.Y.	Stockman
	Mollohan	Stratton
Harsha	Montgomery	Stump
Hefner	Moorhead, Calif.	Symms
Hillis		Taylor
Holland	Mottl	Thone
Hollenbeck	Murphy, Ill.	Trible
Holt	Murphy, Pa.	Vander Jagt
Horton	Myers, John	Waggonner
Hubbard	Neal	Walker
Hughes	Nichols	Walsh
Hyde	O'Brien	Wampler
Ichord	Obey	Watkins
Ireland	Panetta	Whitehurst
Jacobs	Perkins	Whitten
Jenkins	Pettis	Wiggins
Jones, Okla.	Pressler	Wilson, Tex.
Kelly	Pursell	Winn
Kemp	Quayle	Wydler
Ketchum	Quie	Wylie
Kindness	Quillen	Young, Fla.
Lagomarsino	Railsback	

NOT VOTING—30

AuCoin	Jenrette	Simon
Breckinridge	Jones, N.C.	Teague
Burke, Calif.	Kasten	Thornton
Carter	Mazzoli	Treen
Cederberg	Nix	Tsongas
Chisholm	Oakar	Tucker
Cochran	Pease	Waxman
Conyers	Pritchard	Whalen
Duncan, Oreg.	Rodino	Young, Alaska
Frey	Runnels	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette and Mrs. Burke of California for, with Mr. Runnels against.

Mr. AuCoin and Mrs. Chisholm for, with Mr. Teague against.

Until further notice:

Mr. Breckinridge with Mr. Treen.

Mr. Simon with Mr. Whalen.

Mr. Jones of North Carolina with Mr. Cederberg.

Mr. Mazzoli with Mr. Carter.

Mr. Conyers with Mr. Young of Alaska.

Ms. Oakar with Mr. Kasten.

Mr. Nix with Mr. Frey.

Mr. Thornton with Mr. Cochran of Mississippi.

Mr. Waxman with Mr. Pease.

Mr. Tsongas with Mr. Pritchard.

Mr. Duncan of Oregon with Mr. Tucker.

Mr. MATHIS changed his vote from "nay" to "yea."

Messrs. BUCHANAN, FISH, LEVITAS, HUGHES, DON H. CLAUSEN, and CHAPPELL, changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

DOMESTIC VIOLENCE ASSISTANCE ACT OF 1978

The SPEAKER pro tempore (Mr. GLICKMAN). The unfinished business is the question of suspending the rules and passing the bill, H.R. 12299, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 12299, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 201, nays 205, not voting 28, as follows:

[Roll No. 354]

YEAS—201

Addabbo	Gaydos	Nolan
Akaka	Gilman	Nowak
Alexander	Gonzalez	Oberstar
Ambro	Goodling	Ottinger
Ammerman	Gore	Panetta
Anderson, Calif.	Green	Patten
	Hanley	Patterson
Aspin	Hannaford	Pattison
Baldus	Harrington	Pepper
Baucus	Harris	Perkins
Beard, R.I.	Hawkins	Pettis
Bedell	Heckler	Pressler
Beilenson	Heftel	Preyer
Benjamin	Hollenbeck	Price
Bevill	Holtzman	Pursell
Biaggi	Howard	Quie
Bingham	Hyde	Rahall
Blanchard	Jeffords	Rangel
Blouin	Jenrette	Regula
Boggs	Johnson, Calif.	Richmond
Bolling	Jordan	Rinaldo
Bonior	Kastenmeier	Roncalio
Bonker	Keys	Rooney
Brademas	Kildee	Rose
Brodhead	Kindness	Rosenthal
Brooks	Kostmayer	Roybal
Buchanan	Krebs	Ryan
Burke, Fla.	Krueger	Santini
Burke, Mass.	LaFalce	Sarasin
Burton, John	Le Fante	Sawyer
Burton, Phillip	Lederer	Scheuer
Caputo	Leggett	Schroeder
Carney	Lehman	Schulze
Carr	Lent	Seiberling
Cavanaugh	Lloyd, Calif.	Sharp
Clay	Long, La.	Shipley
Collins, Ill.	Lundine	Skubitz
Corman	McClory	Smith, Iowa
Cornell	McDade	Smith, Nebr.
Cotter	McFall	Solarz
Danielson	McHugh	Spellman
Delaney	McKinney	St Germain
Dellums	Maguire	Stark
Dicks	Mann	Stokes
Diggs	Markey	Studds
Dingell	Marks	Thompson
Dodd	Marlenee	Thone
Downey	Mathis	Traxler
Early	Meeds	Udall
Eckhardt	Metcalfe	Ullman
Edgar	Meyner	Van Deerlin
Edwards, Calif.	Mikulski	Vanik
Eilberg	Miller, Calif.	Vento
Ertel	Mineta	Walgren
Evans, Ga.	Mitchell, Md.	Walker
Fary	Moakley	Waxman
Fascell	Moffett	Weaver
Fisher	Moorhead, Pa.	Weiss
Fithian	Moss	Wilson, Bob
Flood	Mottl	Wilson, C. H.
Foley	Murphy, N.Y.	Wilson, Tex.
Ford, Mich.	Murphy, Pa.	Wirth
Ford, Tenn.	Myers, Gary	Wolff
Forsythe	Myers, John	Wright
Fowler	Myers, Michael	Wylie
Fraser	Natcher	Zablocki
Frenzel	Nedzi	Zeferetti
Garcia		

NAYS—205

Abdnor	Bauman	Butler
Allen	Beard, Tenn.	Byron
Anderson, Ill.	Bennett	Chappell
Andrews, N.C.	Boland	Clausen, Don H.
Andrews, N. Dak.	Bowen	
	Breaux	Clawson, Del
Annunzio	Brinkley	Cleveland
Applegate	Broomfield	Cohen
Archer	Brown, Calif.	Coleman
Armstrong	Brown, Mich.	Collins, Tex.
Ashbrook	Brown, Ohio	Conable
Ashley	Broyhill	Conte
Badham	Burgener	Corcoran
Bafalis	Burleson, Tex.	Cornwell
Barnard	Burlison, Mo.	Coughlin
Crane	Holt	Poage
Cunningham	Horton	Pritchard
D'Amours	Hubbard	Quayle
Daniel, Dan	Huckaby	Quillen
Daniel, R. W.	Hughes	Railsback
Davis	Ichord	Reuss
de la Garza	Ireland	Rhodes
Dent	Jacobs	Risenhoover
Derrick	Jenkins	Roberts
Derwinski	Johnson, Colo.	Robinson
Devine	Jones, Okla.	Roe
Dickinson	Jones, Tenn.	Rogers
Dornan	Kazen	Rostenkowski
Drinan	Kelly	Rousselot
Duncan, Tenn.	Ketchum	Rudd
Edwards, Ala.	Lagomarsino	Ruppe
Edwards, Okla.	Latta	Russo
Emery	Leach	Satterfield
English	Levitas	Sebelius
Erlenborn	Livingston	Shuster
Evans, Colo.	Lloyd, Tenn.	Sikes
Evans, Del.	Long, Md.	Sisk
Evans, Ind.	Lott	Skelton
Fenwick	Lujan	Slack
Findley	Luken	Snyder
Fish	McCloskey	Spence
Flippo	McCormack	Staggers
Florio	McDonald	Stangeland
Flowers	McEwen	Stanton
Flynt	McKay	Steed
Fountain	Madigan	Steiger
Fuqua	Mahon	Stockman
Gammage	Marriott	Stratton
Gephardt	Martin	Stump
Giaimo	Mattox	Symms
Gibbons	Michel	Taylor
Ginn	Mikva	Trible
Glickman	Milford	Vander Jagt
Goldwater	Miller, Ohio	Volkmer
Gradison	Minish	Waggonner
Grassley	Mitchell, N.Y.	Walsh
Gudger	Mollohan	Wampler
Guyer	Montgomery	Watkins
Hagedorn	Moore	White
Hall	Moorhead, Calif.	Whitehurst
Hamilton		Whitley
Hammer-schmidt	Murphy, Ill.	Whitten
	Murtha	Wiggins
Hansen	Neal	Winn
Harkin	Nichols	Wydler
Harsha	O'Brien	Yates
Hefner	Obey	Yatron
Hightower	Pease	Young, Fla.
Hillis	Pickle	Young, Mo.
Holland	Pike	

NOT VOTING—28

AuCoin	Jones, N.C.	Teague
Breckinridge	Kasten	Thornton
Burke, Calif.	Kemp	Treen
Carter	Mazzoli	Tsongas
Cederberg	Nix	Tucker
Chisholm	Oakar	Whalen
Cochran	Rodino	Young, Alaska
Conyers	Runnels	Young, Tex.
Duncan, Oreg.	Simon	
Frey	Steers	

The Clerk announced the following pairs:

On this vote:

Mr. AuCoin and Mrs. Burke of California for, with Mr. Runnels against.

Mrs. Chisholm and Mr. Nix for, with Mr. Teague against.

Until further notice:

Mr. Breckinridge with Mr. Carter.

Mr. Simon with Mr. Young of Alaska.

Mr. Conyers with Mr. Steers.

Mr. Tsongas with Mr. Cederberg.

Mr. Mazzoli with Mr. Frey.

Mr. Jones of North Carolina with Mr. Whalen.

Ms. Oakar with Mr. Cochran of Mississippi.

Mr. Duncan of Oregon with Mr. Kemp.

Mr. Kasten with Mr. Tucker.

Mr. Thornton with Mr. Treen.

Mr. LLOYD of California changed his vote from "nay" to "yea."

Messrs. ROSTENKOWSKI, McCORMACK, LEVITAS, DON H. CLAUSEN, HAGEDORN, BRINKLEY, and McCLOSKEY changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

TAX TREATMENT OF RETURNS OF MAGAZINES, PAPERBACKS, AND RECORDS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3050, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 3050, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 358, nays 50, not voting 26, as follows:

[Roll No. 355]

YEAS—358

Abdnor	Cornell	Hanley
Addabbo	Coughlin	Hannaford
Alexander	Crane	Hansen
Ambro	Cunningham	Harrington
Ammerman	D'Amours	Harris
Anderson, Calif.	Daniel, Dan	Harsha
	Daniel, R. W.	Hawkins
Anderson, Ill.	Danielson	Heckler
Andrews, N.C.	Davis	Hefner
Andrews, N. Dak.	de la Garza	Hightower
	Delaney	Hillis
Annunzio	Dellums	Holland
Archer	Derrick	Hollenbeck
Armstrong	Derwinski	Holt
Ashbrook	Devine	Holtzman
Ashley	Dickinson	Horton
Aspin	Dicks	Howard
Badham	Diggs	Hubbard
Bafalis	Dingell	Huckaby
Baldus	Dodd	Hughes
Baucus	Dornan	Hyde
Bauman	Downey	Ireland
Beard, R.I.	Duncan, Tenn.	Jacobs
Beard, Tenn.	Early	Jeffords
Bedell	Eckhardt	Jenkins
Beilenson	Edgar	Jenrette
Bevill	Edwards, Ala.	Johnson, Calif.
Biaggi	Edwards, Calif.	Johnson, Colo.
Bingham	Edwards, Okla.	Jones, Okla.
Blanchard	Eilberg	Jones, Tenn.
Blouin	Emery	Jordan
Boggs	English	Kastenmeier
Boland	Erlenborn	Kazen
Bolling	Ertel	Kelly
Bonior	Evans, Colo.	Kemp
Bonker	Evans, Del.	Ketchum
Bowen	Evans, Ga.	Keys
Brademas	Fary	Kindness
Breaux	Fascell	Krebs
Brinkley	Fenwick	Krueger
Brodhead	Findley	LaFalce
Brooks	Fish	Lagomarsino
Broomfield	Fisher	Latta
Brown, Calif.	Flippo	Le Fante
Brown, Mich.	Flood	Leach
Brown, Ohio	Flowers	Lederer
Broyhill	Foley	Lehman
Buchanan	Ford, Mich.	Lent
Burgener	Ford, Tenn.	Levitas
Burke, Fla.	Forsythe	Livingston
Burke, Mass.	Fountain	Lloyd, Calif.
Burleson, Tex.	Fraser	Lloyd, Tenn.
Burton, Phillip	Frenzel	Long, La.
Butler	Gammage	Long, Md.
Byron	Garcia	Lott
Caputo	Giaimo	Luken
Carney	Gibbons	Lundine
Carr	Gilman	McClory
Chappell	Glickman	McCloskey
Clausen, Don H.	Goldwater	McCormack
	Gonzalez	McDade
Clawson, Del	Goodling	McDonald
Clay	Gore	McEwen
Cleveland	Gradison	McFall
Cohen	Grassley	McHugh
Coleman	Green	McKay
Collins, Ill.	Gudger	McKinney
Collins, Tex.	Guyer	Madigan
Conable	Hagedorn	Maguire
Conte	Hall	Mahon
Conyers	Hamilton	Mann
Corcoran	Hammer-schmidt	Markey
Corman		Marks
Marlenee	Price	Stanton
Marriott	Pritchard	Steed
Martin	Pursell	Steers
Mathis	Quie	Steiger
Mattox	Quillen	Stockman
Meeds	Rangel	Stokes
Metcalfe	Regula	Stratton
Meyner	Reuss	Studds
Michel	Rhodes	Stump
Mikulski	Rinaldo	Symms
Mikva	Risenhoover	Taylor
Milford	Roberts	Thompson
Miller, Calif.	Robinson	Thone
Miller, Ohio	Roe	Traxler
Mineta	Roncalio	Trible
Minish	Rooney	Udall
Mitchell, Md.	Rose	Ullman
Mitchell, N.Y.	Rosenthal	Van Deerlin
Moakley	Rostenkowski	Vander Jagt
Montgomery	Rousselot	Vanik
Moore	Roybal	Vento
Moorhead, Calif.	Rudd	Waggonner
	Ruppe	Walgren
Moorhead, Pa.	Russo	Walker
Murphy, N.Y.	Santini	Walsh
Murtha	Sarasin	Wampler
Myers, John	Satterfield	Watkins
Myers, Michael	Sawyer	Waxman
Natcher	Scheuer	Weaver
Neal	Schulze	Weiss
Nedzi	Sebelius	White
Nowak	Seiberling	Whitehurst
O'Brien	Sharp	Whitley
Oberstar	Shipley	Whitten
Obey	Shuster	Wiggins
Panetta	Sisk	Wilson, Bob
Patten	Skelton	Wilson, C. H.
Patterson	Skubitz	Wilson, Tex.
Pattison	Slack	Winn
Pease	Smith, Iowa	Wirth
Pepper	Smith, Nebr.	Wolff
Perkins	Snyder	Wright
Pettis	Solarz	Wylie
Pickle	Spellman	Yates
Pike	Spence	Yatron
Poage	St Germain	Young, Mo.
Pressler	Staggers	Zablocki
Preyer	Stangeland	Zeferetti

NAYS—50

Akaka	Fowler	Murphy, Pa.
Allen	Fuqua	Myers, Gary
Applegate	Gaydos	Nichols
Barnard	Gephardt	Nolan
Benjamin	Ginn	Ottinger
Bennett	Harkin	Quayle
Burlison, Mo.	Heftel	Rahall
Burton, John	Ichord	Richmond
Cavanaugh	Kildee	Rogers
Cornwell	Kostmayer	Ryan
Cotter	Leggett	Schroeder
Dent	Lujan	Sikes
Drinan	Moffett	Stark
Evans, Ind.	Mollohan	Volkmer
Fithian	Moss	Wydler
Florio	Mottl	Young, Fla.
Flynt	Murphy, Ill.	

NOT VOTING—26

AuCoin	Jones, N.C.	Teague
Breckinridge	Kasten	Thornton
Burke, Calif.	Mazzoli	Treen
Carter	Nix	Tsongas
Cederberg	Oakar	Tucker
Chisholm	Railsback	Whalen
Cochran	Rodino	Young, Alaska
Duncan, Oreg.	Runnels	Young, Tex.
Frey	Simon	

The Clerk announced the following pairs:

On this vote:

Mr. AuCoin and Mrs. Chisholm for, with Mr. Runnels against.

Until further notice:

Mr. Breckinridge with Mr. Teague.
Mrs. Burke of California with Mr. Carter.
Mr. Jones of North Carolina with Mr. Frey.
Mr. Nix with Mr. Kasten.
Ms. Oakar with Mr. Treen.
Mr. Mazzoli with Mr. Cederberg.
Mr. Tsongas with Mr. Whalen.
Mr. Duncan of Oregon with Mr. Young of Alaska.
Mr. Simon with Mr. Cochran of Mississippi.
Mr. Thornton with Mr. Railsback.

Mr. ENGLISH and Mr. WIRTH changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income with respect to magazines, paperbacks, and records returned after the close of the taxable year.".

A motion to reconsider was laid on the table.

IRS AMENDMENTS FOR DEPENDENT CARE SERVICES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8535, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 8535, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 44, not voting 27, as follows:

[Roll No. 356]

YEAS—363

Abdnor	Carney	Fenwick
Addabbo	Chappell	Findley
Akaka	Clausen, Don H.	Fish
Alexander		Fisher
Allen	Clawson, Del	Fithian
Ambro	Clay	Flippo
Ammerman	Cleveland	Flood
Anderson, Calif.	Cohen	Florio
	Coleman	Flowers
Anderson, Ill.	Collins, Ill.	Foley
Andrews, N.C.	Collins, Tex.	Ford, Mich.
Andrews, N. Dak.	Conable	Ford, Tenn.
	Conte	Forsythe
Annunzio	Conyers	Fountain
Applegate	Corcoran	Fowler
Archer	Corman	Fraser
Armstrong	Cornell	Frenzel
Ashbrook	Cornwell	Fuqua
Aspin	Cotter	Gammage
Badham	Coughlin	Garcia
Bafalis	Crane	Gaydos
Baldus	Cunningham	Gephardt
Barnard	D'Amours	Gibbons
Baucus	Daniel, Dan	Gilman
Bauman	Daniel, R. W.	Ginn
Beard, R.I.	Davis	Glickman
Beard, Tenn.	de la Garza	Goldwater
Benjamin	Delaney	Goodling
Bevill	Dellums	Gradison
Biaggi	Dent	Grassley
Blanchard	Derrick	Gudger
Blouin	Derwinski	Guyer
Boggs	Devine	Hagedorn
Boland	Dickinson	Hall
Bolling	Dicks	Hamilton
Bonior	Diggs	Hammer-schmidt
Bonker	Dingell	
Bowen	Dodd	Hanley
Brademas	Dornan	Hannaford
Breaux	Downey	Hansen
Brinkley	Drinan	Harkin
Brodhead	Duncan, Tenn.	Harris
Brooks	Eckhardt	Harsha
Broomfield	Edgar	Hawkins
Brown, Calif.	Edwards, Ala.	Heckler
Brown, Mich.	Edwards, Okla.	Hefner
Broyhill	Eilberg	Heftel
Buchanan	Emery	Hightower
Burgener	English	Hillis
Burke, Fla.	Erlenborn	Holland
Burke, Mass.	Ertel	Hollenbeck
Burleson, Tex.	Evans, Colo.	Holt
Burlison, Mo.	Evans, Del.	Holtzman
Burton, John	Evans, Ga.	Horton
Burton, Phillip	Evans, Ind.	Howard
Butler	Fary	Hubbard
Caputo	Fascell	Huckaby

Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Russo
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stokes
Studds
Symms
Thompson
Thone
Traxler
Trible
Udall
Ullman
Vander Jagt
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—44

Ashley
Bedell
Beilenson
Bennett
Bingham
Brown, Ohio
Carr
Cavanaugh
Danielson
Early
Edwards, Calif.
Flynt
Giaimo
Gonzalez
Gore
Green
Harrington
Hughes
Kindness
Kostmayer
Krebs
Luken
Maguire
Mann
Markey
Miller, Ohio
Moss
Mottl
Pike
Ryan
Satterfield
Sisk
Skelton
Snyder
Stark
Stratton
Stump
Taylor
Van Deerlin
Vanik
Waxman
Weiss
Wirth
Yates

NOT VOTING—27

AuCoin
Breckinridge
Burke, Calif.
Byron
Carter
Cederberg
Chisholm
Cochran
Duncan, Oreg.
Frey
Jones, N.C.
Kasten
Lujan
Mazzoli
Nix
Oakar
Rodino
Runnels
Simon
Teague
Thornton
Treen
Tsongas
Tucker
Whalen
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Runnels.
Mrs. Chisholm with Mr. Carter.
Mr. Breckinridge with Mr. Frey.
Mrs. Burke of California with Mr. Kasten.
Mr. Byron with Mr. Cederberg.
Mr. Mazzoli with Mr. Lujan.
Ms. Oakar with Mr. Whalen.
Mr. Nix with Mr. Cochran of Mississippi.
Mr. Duncan of Oregon with Mr. Young of Alaska.
Mr. Jones of North Carolina with Mr. Simon.
Mr. Tsongas with Mr. Tucker.
Mr. Teague with Mr. Thornton.

Mr. SCHEUER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMON MARKET REGULATIONS FOR DRIED FRUIT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 238) as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. VANIK) that the House suspend the rules and agree to the resolution (H. Res. 238) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 27, as follows:

[Roll No. 357]

YEAS—407

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Cavanaugh
Chappell
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thone
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—27

AuCoin
Breckinridge
Burke, Calif.
Carter
Cederberg
Chisholm
Cochran
Duncan, Oreg.
Edwards, Okla.
Frey
Jones, N.C.
Kasten
McCloskey
Mazzoli
Nix
Oakar
Rodino
Runnels
Simon
Teague
Thornton
Treen
Tsongas
Tucker
Whalen
Young, Alaska
Young, Tex.

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Carter.
Mrs. Chisholm with Mr. Edwards of Oklahoma.
Mr. Breckinridge with Mr. Frey.
Mr. Jones of North Carolina with Mr. Kasten.
Mr. Mazzoli with Mr. Whalen.
Mr. Simon with Mr. Cederberg.
Mr. Teague with Mr. Runnels.
Mr. Tsongas with Mr. Thornton.
Ms. Oakar with Mr. Treen.
Mr. Nix with Mr. Tucker.
Mrs. Burke of California with Mr. Cochran of Mississippi.
Mr. Duncan of Oregon with Mr. Young of Alaska.

Mr. LUKEN changed his vote from "nay" to "yea."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The preamble was amended so as to read:

Whereas the Congress of the United States enacted the Trade Act of 1974 with the intent of liberalizing international trade among the nations of the world;

Whereas proliferation of regulations to control, limit, and establish minimum prices on nonsensitive products of commerce is harmful to the world trading system and the spirit of the General Agreement on Tariffs and Trade;

Whereas the European Economic Community has a long history of putting in place highly restrictive regulations on United States exports, which regulations threaten to impair our rights under the General Agreement on Tariffs and Trade: Now, therefore, be it

The title was amended so as to read: "A resolution expressing the sense of the House with respect to the immediate removal of certain regulations unilaterally put in place by the European Economic Community which have the effect of damaging and interfering with historic and acceptable trade patterns in the United States exports of certain processed fruits and vegetables to the European Economic Community.".

A motion to reconsider was laid on the table.

REIMBURSEMENT OF SOCIAL SERVICES EXPENDITURES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11370, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 11370, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 25, not voting 32, as follows:

[Roll No. 358]

YEAS—377

Abdnor	Andrews, N. Dak.	Bafalis
Addabbo	Annunzio	Baldus
Akaka	Applegate	Barnard
Alexander	Archer	Baucus
Allen	Armstrong	Bauman
Ambro	Ashbrook	Beard, R.I.
Anderson, Calif.	Ashley	Beard, Tenn.
Anderson, Ill.	Aspin	Bedell
Andrews, N.C.	Badham	Bellenson
		Bevill
Biaggi	Fraser	Marks
Bingham	Frenzel	Marlenee
Blanchard	Fuqua	Marriott
Blouin	Gammage	Martin
Boggs	Garcia	Mathis
Boland	Gaydos	Mattox
Bolling	Gephardt	Meeds
Bonior	Giaimo	Metcalfe
Bonker	Gibbons	Meyner
Bowen	Gilman	Michel
Brademas	Ginn	Mikulski
Breaux	Glickman	Mikva
Brinkley	Goldwater	Miller, Calif.
Brodhead	Gonzalez	Miller, Ohio
Brooks	Goodling	Mineta
Broomfield	Gore	Minish
Brown, Calif.	Gradison	Mitchell, Md.
Brown, Mich.	Grassley	Mitchell, N.Y.
Brown, Ohio	Green	Moakley
Buchanan	Gudger	Moffett
Burgener	Guyer	Montgomery
Burke, Fla.	Hagedorn	Moore
Burke, Mass.	Hall	Moorhead, Calif.
Burleson, Tex.	Hamilton	Moorhead, Pa.
Burlison, Mo.	Hammer-schmidt	Murphy, Ill.
Burton, John	Hanley	Murphy, N.Y.
Burton, Phillip	Hannaford	Murphy, Pa.
Butler	Harrington	Murtha
Byron	Harris	Myers, Gary
Caputo	Harsha	Myers, John
Carney	Hawkins	Myers, Michael
Carr	Heckler	Natcher
Cavanaugh	Hefner	Neal
Chappell	Heftel	Nedzi
Clausen, Don H.	Hightower	Nichols
Clawson, Del	Hillis	Nolan
Clay	Hollenbeck	Nowak
Cleveland	Holt	Oberstar
Cohen	Holtzman	Obey
Coleman	Horton	Ottinger
Collins, Ill.	Howard	Panetta
Conable	Hubbard	Patten
Conte	Hughes	Patterson
Conyers	Hyde	Pattison
Corcoran	Ichord	Pease
Corman	Ireland	Pepper
Cornell	Jacobs	Perkins
Cotter	Jeffords	Pettis
Coughlin	Jenkins	Pickle
Crane	Jenrette	Pike
Cunningham	Johnson, Calif.	Poage
D'Amours	Johnson, Colo.	Pressler
Daniel, Dan	Jones, N.C.	Preyer
Daniel, R. W.	Jones, Okla.	Price
Danielson	Jones, Tenn.	Pursell
de la Garza	Jordan	Quayle
Delaney	Kastenmeier	Quie
Dent	Kazen	Quillen
Derwinski	Kelly	Rahall
Devine	Kemp	Railsback
Dickinson	Ketchum	Rangel
Dicks	Keys	Regula
Diggs	Kildee	Reuss
Dingell	Kindness	Rhodes
Dodd	Kostmayer	Richmond
Dornan	Krebs	Rinaldo
Downey	Krueger	Risenhoover
Drinan	LaFalce	Roberts
Duncan, Tenn.	Lagomarsino	Robinson
Early	Latta	Roe
Eckhardt	Le Fante	Rogers
Edgar	Leach	Roncalio
Edwards, Ala.	Lederer	Rooney
Edwards, Calif.	Leggett	Rosenthal
Eilberg	Lehman	Rostenkowski
Emery	Lent	Rousselot
English	Levitas	Roybal
Erlenborn	Livingston	Rudd
Ertel	Lloyd, Calif.	Ruppe
Evans, Colo.	Lloyd, Tenn.	Russo
Evans, Del.	Long, La.	Ryan
Fary	Long, Md.	Sarasin
Fascell	Lott	Satterfield
Fenwick	Lundine	Sawyer
Findley	McClory	Scheuer
Fish	McCloskey	Schroeder
Fisher	McCormack	Schulze
Fithian	McDade	Sebelius
Flippo	McEwen	Sharp
Flood	McFall	Shipley
Florio	McHugh	Shuster
Flowers	McKay	Sikes
Flynt	McKinney	Sisk
Foley	Madigan	Skelton
Ford, Mich.	Maguire	Skubitz
Ford, Tenn.	Mahon	Slack
Forsythe	Mann	Smith, Iowa
Fowler	Markey	Smith, Nebr.
Snyder	Thone	Whitley
Solarz	Traxler	Whitten
Spellman	Trible	Wiggins
Spence	Udall	Wilson, Bob
St Germain	Ullman	Wilson, C. H.
Staggers	Van Deerlin	Wilson, Tex.
Stangeland	Vander Jagt	Winn
Stanton	Vanik	Wirth
Stark	Vento	Wolff
Steed	Volkmer	Wydler
Steiger	Walgren	Wylie
Stockman	Walker	Yates
Stokes	Walsh	Yatron
Stratton	Wampler	Young, Fla.
Studds	Watkins	Young, Mo.
Stump	Weaver	Zablocki
Symms	Weiss	Zeferetti
Taylor	White	
Thompson	Whitehurst	

NAYS—25

Ammerman	Evans, Ind.	Moss
Benjamin	Fountain	Mottl
Bennett	Harkin	O'Brien
Broyhill	Holland	Rose
Collins, Tex.	Huckaby	Santini
Cornwell	Lujan	Seiberling
Davis	Luken	Waggonner
Derrick	McDonald	
Evans, Ga.	Mollohan	

NOT VOTING—32

AuCoin	Hansen	Teague
Breckinridge	Kasten	Thornton
Burke, Calif.	Mazzoli	Treen
Carter	Milford	Tsongas
Cederberg	Nix	Tucker
Chisholm	Oakar	Waxman
Cochran	Pritchard	Whalen
Dellums	Rodino	Wright
Duncan, Oreg.	Runnels	Young, Alaska
Edwards, Okla.	Simon	Young, Tex.
Frey	Steers	

The Clerk announced the following pairs:

On this vote:

Mr. AuCoin and Mr. Wright for, with Mr. Runnels against.

Until further notice:

Mr. Breckinridge with Mr. Carter.
Mr. Mazzoli with Mr. Frey.
Mr. Waxman with Mr. Hansen.
Mrs. Burke of California with Mr. Milford.
Mr. Simon with Mr. Steers.
Mrs. Chisholm with Mr. Kasten.
Mr. Tsongas with Mr. Cederberg.
Mr. Teague with Mr. Pritchard.
Ms. Oakar with Mr. Treen.
Mr. Dellums with Mr. Cochran of Mississippi.
Mr. Nix with Mr. Edwards of Oklahoma.
Mr. Thornton with Mr. Tucker.
Mr. Young of Alaska with Mr. Whalen.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ADVANCED ENERGY TECHNOLOGIES AND ENERGY CONSERVATION, DEVELOPMENT, AND DEMONSTRATION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TODAY DURING HOUSE SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Advanced Energy Technologies and Energy Conservation, Development, and Demonstration of the Committee on Science and Technology may be permitted to meet today at 2 o'clock p.m. while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman assure us that this is for one bill only? Will the gentleman also tell us which bill this is?

Mr. McCORMACK. Mr. Speaker, if the gentleman will yield, this meeting has been called to markup of the Solar Photovoltaic Energy Research, Development and Demonstration Act of 1978, which is H.R. 10830.

The bill is ready for markup. As far as I know, there is no controversy. The minority and the ranking minority member, the gentleman from California (Mr. GOLDWATER) will be working on markup of the legislation.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that this will not be a lengthy session and that the Members will not be prevented from getting back here for the conduct of business in the House?

Mr. McCORMACK. Mr. Speaker, if the gentleman will yield further, it is our intention to be brief. I believe the markup will be brief, and that it is essentially noncontroversial.

Mr. ROUSSELOT. And no other bills will be taken up?

Mr. McCORMACK. No other bills will be considered.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentlemen for yielding, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

(Mr. RYAN asked and was given permission to address the House for 1 minute.)

Mr. RYAN. Mr. Speaker, since we took up some of these bills on the agenda out of order today, I inadvertently voted "yea" on the third bill on the agenda, H.R. 12299, and I would like to have my vote appear as "nay." I would ask that these remarks be printed in the RECORD at the end of the rollcall vote.

The SPEAKER pro tempore. The Chair will state that the gentleman's statement will appear in the RECORD. However, the gentleman cannot change his vote.

Mr. RYAN. Mr. Speaker, I recognize that the vote cannot be changed, but I ask that the RECORD show my statement.

THE MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1979

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10729) to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10729, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, May 22, 1978, all time for general debate had expired and the bill had been considered as having been read and open to amendment at any point.

Are there any further amendments?

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows;

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 19, insert after "Defense;" *"Provided further,* That no funds authorized by this paragraph may be paid for any item of wage costs that is paid to the Transportation Institute, the Joint Maritime Congress, or the American Maritime Officers Service, or to any other organization which engages in lobbying activities.".

Mr. McCLOSKEY. Mr. Chairman, this is a simple amendment. As the committee knows, the nearly $300 million that we pay in operating subsidies goes to remedy the differences in wages between U.S. seamen and their foreign counterparts, so that if a U.S. seaman earns $20,000 a year and a foreign seaman earns $8,000 a year, the $12,000 difference is paid to the company out of funds of the Treasury of the United States to make up that balance.

This amendment is simple. All it does is prohibit any of these taxpayers' funds being paid to organizations which engage in lobbying activity.

Mr. Chairman, I have with me the report to the Federal Election Commission last year, indicating that on the maritime bill, the cargo preference bill, a contribution was made of $50,000 from the Transportation Institute and $100,000 from the Joint Maritime Congress. When we ascertained that these two agencies funded by the maritime unions had made $150,000 in political contributions on the cargo preference bill, we asked the Maritime Administration how much those agencies had received from the wage subsidy program. The response from the Maritime Administration was that on the basis of an estimate, the Transportation Institute would have received an estimated $302,000 in calendar year 1977 for operators receiving an operating differential subsidy.

What that means is that the unions and management of the subsidized maritime companies negotiate as part of the wage cost, the unions will receive these contributions from management to the Transportation Institute and the U.S. Maritime Congress, and that those agencies can then turn around and use those public funds to lobby on bills before this Congress.

Mr. Chairman, if we want to squarely face the issue of public financing of campaigns, I suppose we might justify taxpayers' dollars going to agencies that then engage in lobbying. But I do not think we can justify singling out this industry to allow unions to negotiate that management will contribute funds from the taxpayer that will then be used for lobbying expenses.

The amendment is simple. It merely provides that no funds authorized by the operating subsidies can be used to be paid to the Transportation Institute, the Joint Maritime Congress, or to the American Maritime Officers Service, or to any other organization which engages in lobbying activities.

If those agencies wanted to engage in lobbying activities, they would be cut off from subsidy funds. If they wanted to end their lobbying activities, then there would be no problem with respect to their receiving these funds.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment.

The amendment offered by our colleague, the gentleman from California (Mr. McCLOSKEY), very cleverly impinges upon the collective-bargaining process.

Very clearly, what we are dealing with is the fact that the operational differential subsidy funds are paid to a steamship company. The steamship company then pays its employees. The employees then contribute to a fund, and that fund, in turn, then goes to the Transportation Institute, to the Joint Maritime Congress, and to the American Maritime Officers Service.

Mr. Chairman, we tried to build a hearing record to substantiate, in some degree, whether or not there was a direct subsidy paid to maritime labor. In effect, we could not establish that link.

Therefore, we went to the Maritime Administrator, and I would like to quote the following, which I think places in perspective precisely what this amendment is.

The Maritime Administrator said as follows:

Clearly, these organizations have sufficient funds from non-subsidized sources to have made the transfers to the U.S. Maritime Committee, in the case of the Transportation Institute, about 40 times that amount, and in the case of the Joint Maritime Congress, more than 6 times the amount.

Based on these estimates, we are not aware of any law which prohibits these contributions to the U.S. Maritime Committee.

However, it is important to bear in mind that the receipt of Federal subsidies, whether by the maritime industry, airlines, agriculture, or any of the other long list of industries does not bring with it a prohibition from the freedom to engage in legitimate politcal activity.

Mr. Chairman, I think the significant thing is that there is a bona fide collective-bargaining process between maritime labor and maritime management. Here we are trying to write into law restrictions and impingements on that collective-bargaining process.

Mr. Chairman, I would think the committee, in its wisdom, would reject this amendment.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, is the gentleman suggesting that the collective-bargaining process should permit a union to negotiate for the receipt of public funds to be used for the lobbying process? That is what happens here.

Mr. MURPHY of New York. I just pointed out to the gentleman that there are sufficient funds, 40 times enough funds to one of these organizations, one for example, 6 times enough funds to another of these organizations, coming from the nonsubsidized wages.

Mr. McCLOSKEY. Then why do they need funds from the Government?

Mr. MURPHY of New York. They are not getting funds from the Government. The steamship companies are getting the funds to operate so that the United States can compete with what we might virtually call foreign slave labor, as we have seen in the case of controlled carriers, with respect to that portion of the fund.

I do not see how we can favor programs to support these institutions when there are sufficient and substantial other funds to draw from for the operation of these organizations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 227, not voting 39, as follows:

[Roll No. 359]

AYES—168

Abdnor	Devine	Jeffords
Ambro	Dickinson	Jenkins
Anderson, Ill.	Drinan	Johnson, Colo.
Andrews, N. Dak.	Duncan, Tenn.	Jones, Tenn.
Archer	Early	Kastenmeier
Armstrong	Edgar	Kelly
Ashbrook	Emery	Ketchum
Badham	English	Keys
Bafalis	Erlenborn	Kildee
Barnard	Ertel	Kindness
Beard, R.I.	Evans, Del.	Kostmayer
Beard, Tenn.	Evans, Ind.	Krebs
Bedell	Fenwick	Latta
Bellenson	Findley	Leach
Bennett	Flynt	Lent
Blouin	Fowler	Levitas
Brinkley	Frenzel	Lloyd, Tenn.
Broomfield	Gephardt	Lott
Brown, Mich.	Gibbons	McClory
Brown, Ohio	Gilman	McCloskey
Broyhill	Glickman	McDonald
Burleson, Tex.	Goldwater	McKinney
Butler	Gore	Madigan
Caputo	Gradison	Maguire
Carr	Grassley	Mann
Clausen, Don H.	Green	Marlenee
Clawson, Del	Guyer	Marriott
Cleveland	Hagedorn	Martin
Cohen	Hall	Mathis
Coleman	Hamilton	Michel
Collins, Tex.	Hammer-schmidt	Mikva
Conable	Hefner	Miller, Ohio
Corcoran	Hillis	Montgomery
Coughlin	Holtzman	Moore
Crane	Hyde	Moorhead, Calif.
Daniel, Dan	Ichord	Mottl
Derwinski	Ireland	Murphy, Pa.
	Jacobs	Myers, Gary
Myers, John	Rudd	Stump
Neal	Russo	Symms
Nichols	Santini	Taylor
O'Brien	Sarasin	Udall
Obey	Satterfield	Ullman
Panetta	Sawyer	Vanik
Patterson	Scheuer	Volkmer
Pettis	Schulze	Walgren
Poage	Sebelius	Walker
Pressler	Seiberling	Watkins
Pursell	Sharp	Wiggins
Quayle	Shuster	Winn
Railsback	Skelton	Wirth
Rangel	Skubitz	Wydler
Regula	Smith, Iowa	Wylie
Rhodes	St Germain	Yatron
Roberts	Stanton	Young, Fla.
Robinson	Steiger	
Rousselot	Stockman	

NOES—227

Addabbo	Florio	Moorhead, Pa.
Akaka	Flowers	Murphy, Ill.
Alexander	Foley	Murphy, N.Y.
Allen	Ford, Mich.	Murtha
Anderson, Calif.	Ford, Tenn.	Myers, Michael
Andrews, N.C.	Forsythe	Natcher
Annunzio	Fountain	Nedzi
Applegate	Fraser	Nowak
Ashley	Fuqua	Oberstar
Aspin	Gammage	Ottinger
Baldus	Garcia	Patten
Baucus	Gaydos	Pattison
Bauman	Giaimo	Pease
Benjamin	Ginn	Pepper
Bevill	Gonzalez	Perkins
Biaggi	Goodling	Pickle
Bingham	Gudger	Pike
Blanchard	Hanley	Preyer
Boggs	Hannaford	Price
Boland	Hansen	Pritchard
Bolling	Harkin	Quie
Bonior	Harrington	Quillen
Bonker	Harris	Rahall
Bowen	Harsha	Reuss
Brademas	Hawkins	Richmond
Breaux	Heckler	Rinaldo
Brodhead	Heftel	Risenhoover
Brooks	Hightower	Roe
Brown, Calif.	Holland	Rogers
Buchanan	Hollenbeck	Roncalio
Burgener	Holt	Rooney
Burke, Fla.	Horton	Rosenthal
Burke, Mass.	Hubbard	Rostenkowski
Burlison, Mo.	Huckaby	Roybal
Burton, John	Hughes	Ruppe
Burton, Phillip	Jenrette	Ryan
Byron	Johnson, Calif.	Schroeder
Carney	Jones, Okla.	Shipley
Cavanaugh	Jordan	Sikes
Chappell	Kazen	Sisk
Clay	Kemp	Slack
Collins, Ill.	Krueger	Smith, Nebr.
Conte	LaFalce	Snyder
Conyers	Lagomarsino	Solarz
Corman	Le Fante	Spellman
Cornell	Lederer	Spence
Cornwell	Leggett	Staggers
Cotter	Lehman	Stangeland
Cunningham	Livingston	Stark
D'Amours	Lloyd, Calif.	Steed
Daniel, R. W.	Long, La.	Steers
Danielson	Long, Md.	Stokes
Davis	Lujan	Stratton
de la Garza	Luken	Studds
Delaney	Lundine	Thompson
Dellums	McCormack	Thone
Dent	McDade	Traxler
Derrick	McEwen	Trible
Dicks	McFall	Van Deerlin
Dodd	McHugh	Vento
Dornan	McKay	Waggonner
Downey	Mahon	Walsh
Eckhardt	Markey	Wampler
Edwards, Ala.	Marks	Waxman
Edwards, Calif.	Mattox	Weaver
Eilberg	Meeds	Weiss
Evans, Colo.	Metcalfe	White
Evans, Ga.	Meyner	Whitehurst
Fary	Mikulski	Whitley
Fascell	Miller, Calif.	Wilson, Bob
Fish	Mineta	Wilson, Tex.
Fisher	Minish	Wright
Fithian	Mitchell, N.Y.	Yates
Flippo	Moakley	Young, Mo.
Flood	Moffett	Zablocki
	Mollohan	Zeferetti

NOT VOTING—39

Ammerman	Carter	Diggs
AuCoin	Cederberg	Dingell
Breckinridge	Chisholm	Duncan, Oreg.
Burke, Calif.	Cochran	Edwards, Okla.
Frey	Nolan	Tsongas
Howard	Oakar	Tucker
Jones, N.C.	Rodino	Vander Jagt
Kasten	Rose	Whalen
Mazzoli	Runnels	Whitten
Milford	Simon	Wilson, C. H.
Mitchell, Md.	Teague	Wolff
Moss	Thornton	Young, Alaska
Nix	Treen	Young, Tex.

Mrs. SMITH of Nebraska, Messrs. FISH, HANNAFORD, and DENT changed their votes from "aye" to "no."

Messrs. WALGREN, PANETTA, and VOLKMER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN (Mr. MOAKLEY). Are there any additional amendments?

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 19, insert after "Defense;" *"Provided further*, That no funds authorized by this paragraph may be paid for any item of wage costs that is paid for the training expenses of new entrants into the maritime industry."

Mr. McCLOSKEY. Mr. Chairman, this amendment addresses a situation which I think is unique in the United States. Under this authorization bill we have funds to fund the Federal Maritime Academy at Kings Point with over 1,000 students, at Federal expense, that we graduate to serve the U.S. maritime establishment. We also furnish, under this bill, assistance to six State schools which graduate students for the maritime service. But in addition to the Federal funding of State and Federal academies, a single union, the Marine Engineers Beneficial Association, has been powerful enough in its negotiations with the subsidized liner companies to require that as part of the wages paid to marine engineers there be a payment in excess of $2 million a year toward the operation of a private school for marine engineers operated by the union.

Now, so far as I know, the Congress does not ordinarily intrude in the collective bargaining process, but where a Maritime subsidy, as in this case, is paid solely for the differential in wages between American seamen and foreign seamen, I know of no similar situation in the country where the collective bargaining process is allowed to impose a direct expense on the American taxpayer. Note that there is no ceiling if this procedure is permitted. If we will fund whatever union and management should negotiate as an increased cost to the American taxpayer, then under our law the Government will pick up that excess cost.

This amendment really provides that no part of the Federal subsidy should be paid for the operation of a private school.

The school involved is the Marine Operating Engineers' School operated by Jesse Calhoon. Jesse Calhoon is the same individual referred to in that confidential memorandum to the President last year on the cargo preference bill, stating that the sole reason for the administration's support of the cargo preference

bill was because of the President's obligation to Jesse Calhoon.

Now, Mr. Calhoon is an estimable gentleman and he may run a fine school and a strong union; but this is a school which is not accountable to the Congress of the United States for its operation, for its efficiency or the quality of its graduates. If it is to be a federally funded school, it should be considered by the Congress and we should fund it by direct funding. Here we are indirectly funding the school by not challenging the process where these funds are paid over for its operation.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment.

This amendment, of course, is directed at really hurting the nonsubsidized American carriers. Here we have one school where new entrants come into the maritime industry, where new personnel are trained, and that is the Marine Engineers Beneficial Association Academy. But who pays for it? All companies with a collective bargaining agreement with the MEBA, subsidized companies and nonsubsidized companies.

This amendment, in effect, would prohibit the subsidized companies from paying their fair share of the only input of trained personnel to this industry.

Now, the gentleman claims the Congress of the United States has nothing to say about the standards of this school. We do. Every graduate before he goes into this industry must be certified by the U.S. Coast Guard, whose regulations come from the law that we establish here in this Congress.

This is a vital and a necessary element of maritime labor. To saddle only the nonsubsidized companies with paying for this, I think, is an infringement on this industry. I think all elements of the industry should certainly bear their fair share of the costs for this school.

I hope the House will reject the amendment.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I think the gentleman is in error on one point. This amendment will not prohibit the subsidized companies from paying what the unions require them to pay toward the support of the school. What it will do is provide that these moneys will not be paid out of Federal funds. It will just deny to the subsidized companies Federal reimbursement for funds contributed toward that school.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 12, noes 26.

RECORDED VOTE

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 289, answered "present" 1, not voting 33, as follows:

[Roll No. 360]

AYES—111

Anderson, Ill.	Gradison	Myers, John
Archer	Guyer	Pettis
Badham	Hagedorn	Pickle
Bafalis	Hall	Poage
Beard, Tenn.	Hamilton	Pursell
Brinkley	Hammer-schmidt	Quayle
Broomfield	Harrington	Quillen
Brown, Mich.	Hillis	Railsback
Brown, Ohio	Holtzman	Regula
Burke, Fla.	Ichord	Rhodes
Burleson, Tex.	Jeffords	Roberts
Butler	Jenkins	Robinson
Carr	Johnson, Colo.	Roncalio
Clawson, Del	Jones, Okla.	Rousselot
Cleveland	Kastenmeier	Sarasin
Cohen	Kazen	Satterfield
Coleman	Kelly	Sawyer
Collins, Tex.	Ketchum	Schulze
Conable	Kindness	Sebelius
Conte	Latta	Shuster
Crane	Leach	Sisk
Devine	Lujan	Skubitz
Dickinson	McClory	Smith, Nebr.
Dornan	McCloskey	Spence
Drinan	McDade	Stangeland
Duncan, Tenn.	McDonald	Stanton
Early	McKay	Steiger
Emery	McKinney	Stockman
English	Markey	Symms
Erlenborn	Marriott	Thone
Evans, Del.	Michel	Volkmer
Evans, Ind.	Milford	Walker
Fenwick	Miller, Ohio	Wiggins
Fish	Montgomery	Winn
Forsythe	Moorhead, Calif.	Wylie
Fowler	Mottl	Yates
Frenzel		Young, Fla.
Goodling		

NOES—289

Abdnor	Corcoran	Grassley
Addabbo	Corman	Green
Akaka	Cornell	Gudger
Alexander	Cornwell	Hanley
Allen	Cotter	Hannaford
Ambro	Coughlin	Hansen
Anderson, Calif.	Cunningham	Harkin
Andrews, N.C.	D'Amours	Harsha
Andrews, N. Dak.	Daniel, Dan	Hawkins
Annunzio	Daniel, R. W.	Heckler
Applegate	Danielson	Hefner
Armstrong	Davis	Heftel
Ashbrook	de la Garza	Hightower
Ashley	Delaney	Hollenbeck
Aspin	Dellums	Holt
Baldus	Dent	Horton
Barnard	Derrick	Howard
Baucus	Derwinski	Hubbard
Bauman	Dicks	Huckaby
Beard, R.I.	Diggs	Hughes
Bedell	Dingell	Hyde
Beilenson	Dodd	Ireland
Benjamin	Downey	Jacobs
Bennett	Eckhardt	Jenrette
Bevill	Edgar	Johnson, Calif.
Biaggi	Edwards, Ala.	Jones, N.C.
Bingham	Edwards, Calif.	Jones, Tenn.
Blanchard	Eilberg	Jordan
Blouin	Ertel	Kemp
Boggs	Evans, Colo.	Keys
Boland	Evans, Ga.	Kildee
Bolling	Fary	Kostmayer
Bonior	Fascell	Krebs
Bonker	Findley	Krueger
Bowen	Fisher	LaFalce
Brademas	Fithian	Lagomarsino
Breaux	Flippo	Le Fante
Brodhead	Flood	Lederer
Brooks	Florio	Leggett
Brown, Calif.	Flowers	Lehman
Buchanan	Flynt	Lent
Burgener	Foley	Levitas
Burke, Mass.	Ford, Mich.	Livingston
Burlison, Mo.	Ford, Tenn.	Lloyd, Calif.
Burton, John	Fountain	Lloyd, Tenn.
Burton, Phillip	Fraser	Long, La.
Byron	Fuqua	Long, Md.
Caputo	Gammage	Lott
Carney	Garcia	Luken
Cavanaugh	Gaydos	Lundine
Chappell	Gephardt	McCormack
Chisholm	Giaimo	McFall
Clausen, Don H.	Gibbons	McHugh
Clay	Gilman	Madigan
Collins, Ill.	Ginn	Maguire
Conyers	Glickman	Mahon
	Goldwater	Mann
	Gonzalez	Marks
	Gore	Marlenee
	Martin	Pepper
	Mathis	Perkins
	Mattox	Pike
	Meeds	Pressler
	Metcalfe	Preyer
	Meyner	Price
	Mikulski	Pritchard
	Mikva	Quie
	Miller, Calif.	Rahall
	Mineta	Rangel
	Minish	Reuss
	Mitchell, Md.	Richmond
	Mitchell, N.Y.	Rinaldo
	Moakley	Risenhoover
	Moffett	Roe
	Mollohan	Rogers
	Moore	Rooney
	Moorhead, Pa.	Rose
	Murphy, Ill.	Rosenthal
	Murphy, N.Y.	Rostenkowski
	Murphy, Pa.	Roybal
	Murtha	Ruppe
	Myers, Gary	Russo
	Myers, Michael	Ryan
	Natcher	Santini
	Neal	Scheuer
	Nedzi	Schroeder
	Nichols	Seiberling
	Nolan	Sharp
	Nowak	Shipley
	O'Brien	Sikes
	Oberstar	Skelton
	Obey	Slack
	Ottinger	Smith, Iowa
	Panetta	Snyder
	Patten	Solarz
	Patterson	Spellman
	Pattison	St Germain
	Pease	Staggers
		Stark
		Steed
		Steers
		Stokes
		Stratton
		Studds
		Stump
		Taylor
		Thompson
		Traxler
		Treible
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Waggonner
		Walgren
		Walsh
		Wampler
		Waxman
		Weaver
		Weiss
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, Bob
		Wilson, Tex.
		Wirth
		Wolff
		Wright
		Wydler
		Yatron
		Young, Mo.
		Zablocki
		Zeferetti

ANSWERED "PRESENT"—1

Broyhill

NOT VOTING—33

Ammerman	Holland	Teague
AuCoin	Kasten	Thornton
Breckinridge	McEwen	Treen
Burke, Calif.	Mazzoli	Tsongas
Carter	Moss	Tucker
Cederberg	Nix	Vento
Cochran	Oakar	Watkins
Duncan, Oreg.	Rodino	Whalen
Edwards, Okla.	Rudd	Wilson, C. H.
Frey	Runnels	Young, Alaska
Harris	Simon	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. AuCoin against.

Mr. Teague for, with Mrs. Burke of California against.

Mrs. MEYNER changed her vote from "aye" to "no."

Mr. ENGLISH changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RUDD. Mr. Speaker, during rollcall 360, I was unavoidably absent. Had I been present I would have cast an "aye" vote.

I ask unanimous consent that my statement appear immediately after that vote.

The SPEAKER pro tempore. Without objection, the statement of the gentleman will appear in the RECORD.

There was no objection.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 19, insert after "Defense;" "*Provided further*, That no funds authorized by this paragraph may be paid to compensate for the wages of those members

of the crew of any vessel that are greater than 50 percent in excess of the minimum manning scale established for the vessel by the United States Coast Guard;".

Mr. McCLOSKEY. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 19, insert after "Defense;" "*Provided further*, That no funds authorized by this paragraph may be paid under the terms of any future operating differential contract which has a duration greater than one year;".

Mr. McCLOSKEY. Mr. Chairman, for the benefit of the members of the committee who are not familiar with the details of the operating subsidy program, it is a program under which we pay the differential in wage costs of American seamen as between our wages and those of competing foreign seamen. The meaning and the purpose of this program is that American ships should be able to operate in competition with foreign ships which pay their seamen much lower wages.

For example, if a Greek seaman earns $8,000 a year, and an American seaman earns $20,000 a year, the Federal Government will pay to the subsidized companies the difference of $12,000, as it is paid out over the year.

Thus we pay that portion of American seamen's wages necessary to permit American ships to compete with foreign ships.

What this amendment seeks to do is limit this year's operating differential subsidy contracts to 1 year in duration rather than the 20-year contract which has become customary in this industry. This year we have approximately 173 U.S.-flag ships owned by companies which will be receiving operating subsidies. Eighty of those ships come up for renewal in this next fiscal year. Thus, if Congress does not act to adopt this amendment, the Maritime Administration will be authorized next year to negotiate 20-year contracts which will bind the Federal Government to pay over a period of 20 years some $3.1 billion as a charge against the U.S. Treasury.

Why should we limit those contracts to solely 1 year? Because this year, as I am sure the chairman will confirm, we are considering a comprehensive change in U.S. maritime policy to shift away from the subsidy program that we have followed since 1936, to a means of protection for our shipping companies which may involve cargo protection or cargo allocation. As we sit here, the Merchant Marine Committee has before it a bill to authorize closed conferences, monopolies of U.S. shipping owners to require 40 percent or more of U.S. cargoes to be carried on U.S. ships.

Should we adopt within the next year this monumental change in U.S. shipping policy, the operating subsidy program will be out of date, and yet we will be committed to 20 years of payment, under contract, of operating subsidies.

This was one of the problems we had last year with the cargo preference bill. Had that bill been enacted, we would have given a cargo preference to some U.S. companies but others would have been receiving operating subsidies.

When we asked the U.S. Maritime Administrator how he could reconcile cargo preference with payment of maritime subsidies, he confessed they had no legal opinion which would justify cutting off subsidies even though cargo preference were adopted.

In the last year of the Ford administration, the budget proposal which the Ford administration was going to submit to the Congress proposed to end the subsidy program in consideration of adopting some other programs, and they wanted a limitation on these subsidies for 1 year.

It seems to me in the light of the legislation we are now considering we should not permit this Congress to bind almost half the U.S. merchant marine to 20-year contracts. If we proceed in this year or in the next to adopt the closed conference concept to protect our merchant marine so it would be guaranteed to carry 40 percent or more of our foreign commerce. I think the chairman will concede there is no need for subsidies.

Could I ask the chairman that question?

Mr. MURPHY of New York. Mr. Chairman, will the gentleman from California restate his question?

Mr. McCLOSKEY. Mr. Chairman, the question is this: If we adopt the gentleman's bill now before the Congress, the basic closed conference bill which the chairman and I have joined in sponsoring, for discussion purposes, if we adopt the closed conference bill, which will guarantee our U.S. carriers will carry 40 percent of the foreign commerce, will we need the subsidy program?

Mr. MURPHY of New York. The closed conference bill now before the committee would probably guarantee that the existing American-flag liners operating in their different trades would be able to stay in business. That would probably be the net effect of that legislation.

What we do need, however, that we do not have currently before the committee, is a long-term cargo policy that this country must enter into for the long-range benefit of the American merchant marine, and at that time the need for subsidy should diminish.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 3 additional minutes.)

Mr. McCLOSKEY. May I direct this question to the chairman:

If this authorization permits 43 percent of the American liner ships to be subsidized under contracts which extend for 20 years and we do adopt the long-term cargo preference policy that the chairman is advising, is it not correct that we will then have to take steps to try to terminate the very subsidies which we are authorizing for 20 years today?

Mr. MURPHY of New York. Yes, certainly. We are really dealing with two subsidies in terms of current policy. We are dealing with an operational subsidy that is of 20 years duration. This is tied to a ship construction subsidy which, of course, is the 20-year life of a ship. These two go hand in hand with guarantees to the investment market in support of these programs.

If at some time the Congress in its wisdom should pass a cargo policy which states that in less than 20 years, perhaps 10, perhaps even 5, that we do not need the subsidy program, then at that time the Congress could terminate those 20-year contracts.

Mr. McCLOSKEY. But is it not true that once you enter a contract the Government is obligated, so that if we wanted to terminate the contract in 3 years hence we would not be able to do so unless the Maritime Administrator writes into the contract some sort of provision that upon adoption of a new law the contract can be terminated?

Mr. MURPHY of New York. I think that the question of a change in maritime policy was dealt with when we enacted the 1970 act into law and, of course, the Congress has the power to make changes and recapture, as the gentleman knows. I think we probably could alter those contracts on an equitable basis.

Mr. McCLOSKEY. Is the gentleman saying that we could instruct the Maritime Administrator starting September 30, if we are close to adopting this policy, that contracts he might enter into should be subject to the accommodation of a limitation in the event we adopt a new law?

Mr. MURPHY of New York. I think that language would have to be justly and fairly tied to a proper understanding of the long-term effect of a particular contract including precisely what it would do to the subsidized operators, and whether they could survive under any proposed new condition that we intend to impose.

Mr. McCLOSKEY. Mr. Chairman, then, on that statement, I would ask unanimous consent that I may be permitted to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 13, insert after "series;" "*Provided further*, That no funds authorized by this paragraph may be paid for construction in any shipyard unless the Secretary of Commerce certifies that craft union rules or lines do not unduly prevent flexible and efficient use of the labor force;".

Mr. McCLOSKEY. Mr. Chairman, the purpose of this amendment lies in a set of facts which have been recognized in

testimony before the Committee on Merchant Marine and Fisheries by every element in the U.S. Merchant Marine industry. It has been recognized by the Shipbuilders Council, the General Accounting Office, the American Institute of Maritime Shipping, and the Maritime Administration.

I would like to call to the attention of the committee the 1970 act which this Congress enacted to try to resolve the American shipbuilding industry's dilemma. You will recall at that time we were paying a construction subsidy to U.S. shipyards of 50 percent, because it cost 50 percent more in U.S. yards to build the same ship that was being built in Japanese shipyards. But in 1970, when we enacted that act to stimulate U.S. shipyard construction, we provided, and this House voted overwhelmingly, to require that, year by year, the construction differential would be reduced to 43 percent, to 41 percent, to 39 percent, and ultimately to 35 percent. We voted in 1970 that it was the feeling of the Congress that U.S. shipyards should have an incentive to increase productivity, and that the construction subsidy rate should be steadily reduced.

In testimony before the committee, all of the maritime interests agreed that one reason that we have had to go back to a 50-percent construction subsidy is that labor practices in our shipyards are nonproductive and noncompetitive.

We have a situation where, because of past management abuses, individual craft unions years ago negotiated work rules, which, for example, may require that five unions participate one task, that four union members had to stand by, four men standing by in a shipyard, while a fifth man was called over to tighten a bolt. These work rules are admittedly archaic, and yet as long as those work rules continue, we cannot compete with German yards, with Swedish yards, let alone with Japanese yards.

All this amendment would do would be to require that if we are going to pay construction subsidy, the Secretary of Commerce must certify that work rules do not unduly prevent flexible and efficient use of the labor force.

You may ask what example there is of this.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. Recently in the Seatrain Yard in New York—and the gentleman from New York is aware of this—a yard which all of us were anxious to see go back into production, the private company Seatrain said, yes, we will put the yard into production, but we would like a commitment from organized labor that we not have to deal with six craft unions in this yard, but that we deal with only one union. It was stated to us, by Paul Hall of union labor and Joe Kahn representing Seatrain, that it was that agreement between Seatrain and one union that said, "We will represent all of the crafts," that permitted that yard to go back into operation. If the Federal Government is going to recognize the need to maintain shipyards, then, clearly, I think there is a responsibility of the Government to insist that outmoded craft union rules be dispensed with. That is all this amendment does. This is not an antiunion amendment. It merely requires that work rules not unduly prevent flexible and efficient use of the labor force.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

This sounds like a move back to the IWW to have one big union.

Mr. McCLOSKEY. I would like to say to the gentleman from California, because he and I represent the San Francisco Bay area, that we have seen the shipyards in the San Francisco Bay area literally disappear, because craft union rules there were so bad that they could build ships in Pascagoula or Norfolk of Baltimore, or on the east coast, more cheaply because our craft union rules did not permit shipyards to compete.

Mr. JOHN L. BURTON. I do not think that was the reason at all.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. ZEFERETTI. I thank the gentleman for yielding.

The gentleman gave us a fine example in New York City of how the unions work together and recreated, if you would, the efficiency that was so desperately needed. Could the gentleman give us an example on the other side of the fence how the present system is inadequate?

Mr. McCLOSKEY. The difficulty with the present system is that unless someone takes a hand, the unions have been able to negotiate the requirement that there be as many as five or six craft unions working on the same task.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ZEFERETTI, and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 1 additional minute.)

Mr. ZEFERETTI. If the gentleman will yield further, my point is, though, that if we are talking about collective bargaining agreements within that collective area of interunions, then we should be talking about the rights of each group working efficiently.

Mr. McCLOSKEY. That is correct.

Mr. ZEFERETTI. Working toward that end. We have not really shown any cause to change anything, because in effect what we are saying now is that we are going to build another bureaucratic level of people who will go in and become mediators to every collective bargaining contract that comes up.

Mr. McCLOSKEY. That is not the purpose at all. All that is required is that the Secretary of Commerce, who pays this construction subsidy, set forth before he grants the subsidy that there are no archaic work rules that unduly prevent efficient use of the work force.

Mr. ZEFERETTI. It is kind of difficult to single out what is efficient and what is not efficient when you have an intertrade type of operation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EILBERG. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I have two objections to this amendment. First, the amendment's standard of "flexible and efficient use of the labor force" is vague and could lead to arbitrary limitation of the payment of construction funds where they are most needed.

Second, such a limitation on the payment of funds could have a potentially devastating effect on the cost of American ship construction, since shipbuilding by union personnel in American shipyards would be seriously impaired.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the committee in its wisdom adopted an amendment by the gentleman from California that related to series construction in American shipyards. Thus, the efficiency of a shipyard is in series construction, that is, building a string of similar vessels.

Now, why can we not have complete efficiency? Seventy percent of our construction in American shipyards is U.S. Navy construction. Only 30 percent is available for merchant ship construction, because we just do not have such a need under present programs. And because we are disappearing as a cargo carrying country we are prevented by economics from building more ships of similar type. In the year 1980, we will have zero ships on order in American yards. So the efficiencies on construction are really achieved when there is series construction, the construction of three, four, or five vessels of the same type in the same yard.

American shipyards today are competing tremendously with each other on the very few ships that are available; so the yards basically are efficient.

Where do we come in with the craft union problem? Some of our yards are very old yards. Some are new and have been tooled up recently.

The gentleman from California refers to the Seatrain yard where one collective bargaining entity bargained for all craft unions, that is, for all crafts in a yard. On a national basis, we find in shipyards in the State of Virginia or in the State of Massachusetts we have many craft unions that have very successfully and very efficiently been able to bargain with management.

On the west coast, we have a different problem.

In the gulf we have old and established yards and once again we have the craft problems.

It is not a question of crafts for efficient shipbuilding construction. Efficient shipbuilding will come on large scale and series construction. If this Congress does not enact a cargo policy so America can once again build its merchant fleet, then

we will never have the efficiencies of scale and production in those yards.

Mr. Chairman, this amendment should be rejected on the face of it.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I join in the opposition to the amendment. The gentleman from New York stated it very well. The effects of the amendment would be harshly felt throughout the country, but basically in the Great Lakes where our shipbuilding industry is only beginning to grow in recent years. It would be very adversely affected by this amendment.

Mr. Chairman, I rise in support of H.R. 10729 as reported by the Committee on Merchant Marine and Fisheries, and in opposition to amendments that would further limit or restrict the construction and operating differential subsidy programs beyond those already in law or in H.R. 10729.

This bill authorizes the Maritime Administration's fiscal year 1979 construction and operating differential subsidy programs enacted by Congress in the Merchant Marine Acts of 1936 and 1970.

These programs implement the national shipping policy to establish and maintain a strong merchant fleet built by the United States, owned by American citizens, operated by American crews, and fully capable of serving our economic, military, and national policy requirements.

MarAd's title XI mortgage guarantee program provides a major stimulus to American shipbuilding. At present, nearly $6 billion in shipbuilding is guaranteed under this program.

The extension of title XI guarantees to the Great Lakes under the Merchant Marine Act of 1970 was a major boon to Great Lakes shipbuilding. Nearly a quarter of a billion dollars in construction costs for 24 vessels have been financed with title XI guarantees.

It is a successful program and one which is now actually returning more to the Government than it costs. Through the fees and premiums MarAd charges for loan guarantees, the program has acquired a surplus fund of nearly $150 million.

The legislation before us will continue funding of critically needed operating and construction subsidies.

A strong American fleet is a policy goal established by Congress. Until 1975 the Great Lakes did not have the advantage of extensive U.S.-flag service. Happily, in that year, U.S.-flag service returned to the Great Lakes after an absence of 6 years.

Two American lines are now planning a total of 16 sailings to the lakes this season; and for the first time, a U.S.-flag vessel called on the Port of Duluth at the outset of this current shipping season. Those 16 voyages do not represent a major portion of ocean-going traffic on the lakes. They do indicate the potential for growth of U.S.-flag service to the lakes.

I would like to see American cargo from our region carried on American vessels manned by American crews. I would like to see our Great Lakes cities and States enjoy the employment and other economic benefits which will result from increased U.S.-flag service to the lakes. Whatever modest investment we make in CDS and ODS funds for this service will be returned to the U.S. Treasury many times over through taxes paid by productive, gainfully employed U.S. maritime workers and companies.

U.S.-flag service to the lakes will become a continuing economic reality only if the American-flag lines can overcome the many financial obstacles of doing business in the lakes. That will require, at least for a period of a few years, a commitment of incentive assistance which the ODS and CDS programs offer.

The 20-year contracts for subsidy assistance from MarAd now provide this kind of assurance. Limiting the length of these subsidy renewals would severely restrict the ability of American-flag lines to make long-term commitments for the kind of service we are hoping to attract to the Great Lakes.

I strongly urge my House colleagues to continue to provide the support for these programs as we have in the past to achieve the goal of a strong, independent U.S. merchant marine serving America's four seacoasts.

Mr. RUPPE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think that the gentleman from California has offered a very logical and a very sensible amendment. Several years ago prior to the chair being held by the gentleman from New York, the committee issued a report on the shipping industry. In response to a request on the part of the committee, a witness from the Shipbuilders' Council of America pointed out that this situation, the situation that has caused us to operate our yards at a much higher cost than foreign yards resulted from:

> Job demarcation, so-called work rules, for the utilization of manpower in Swedish shipyards, for example, are considered to be far less rigid than in the United States. (In this regard, the witness for the American Institute of Merchant Shipping also testified that work rules of craft unions in our shipyards severely inhibit the efficiency of shipyard workers. The witness from the Maritime Administration generally agreed. These job protection practices resulting from rigid craft union lines have built up over the past 100 years in response to past management abuses.)

So it is not a question of unions being the bad guys and the companies being the good guys.

The report developed by the Committee on Merchant Marine and Fisheries a couple of years ago recognized the problem of the tremendous abuses in the shipyards of the country resulting in improper craft practices.

I think there is a lot of merit in the argument that if we are going to pay up to half of the cost of construction of a vessel, the Federal Government ought to take a look at the yards and see if the yards are operated with some measure of efficiency. We ought to take a look at the yards and determine if the craft union lines followed impede the yard from doing an efficient job.

We are not suggesting that we should crack down on all the work rules. We are simply asking the question: Are the regulations and the work practices such that they make it very, very difficult for these yards to compete in the world market?

Mr. Chairman, it seems to me that when we are paying up to 50 percent, up to half the cost of construction of a vessel, the Federal Government ought to take a look at the yards, since we are putting up the money, and make some determination as to whether the work rules are proper or whether the mangement is doing a bad job of managing these yards.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to point out to the gentleman and to the committee that in 1970 we enacted a Merchant Marine Act that would require the construction of 300 ships over a 10-year period. In other words, we were to build 30 ships a year for 10 years, so we were providing for the construction of 300 vessels.

When that act passed, the American shipbuilding industry invested a billion and a half dollars in upgrading its plants and equipment and in tooling up and meeting its requirements to fulfill the commitment that was really mandated by the Congress.

In no given year did we ever start more than 14 ships, and, as I stated, after 1980 we are down to zero ships.

The problem of the yards is not with the craft unions; the problem of the yards is with the nonutilization and the lack of series construction of ships.

Mr. RUPPE. Mr. Chairman, the fact of the matter is that they cannot compete. We are simply going abroad for our construction of ships in the United States.

It is a sad commentary, when we can compete in the United States in the auto industry, when we can compete in the steel industry, and when we can compete in the chemical industry, that we in this country have to require that the Federal Government pay up to half the cost of the construction of an American vessel.

Therefore, Mr. Chairman, I think at this point in time the Federal Government ought to take a look at the management and at the work rules developed by the management and the craft unions.

Mr. JACOBS. Mr. Chairman, I move to strike the appropriate number of words.

Let me ask the gentleman from California (Mr. McCLOSKEY) this question, after listening to this debate: Would it be fair to characterize the gentleman's amendment as a featherbedding amendment? Is that what the gentleman had in mind, that we are dealing with what is traditionally known as featherbedding in relation to the union work rules?

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, the result is featherbedding when six unions are involved and when the carpenters, the pipefitters, and the plumbers, for example, all require that they participate in attaching a particular piece of plumbing, so that until that plumbing fixture can be installed three people have to come over and participate in the turning of the wrench. Yes, that does result in featherbedding, there has been no question of that.

There has been no question that even the unions have not suggested that these rules are still appropriate.

Mr. JACOBS. Mr. Chairman, may I make this further inquiry:

I heard in the debate a suggestion that the gentleman's amendment would also affect inefficient management as well as inefficient work rules, so that this would apply to management as well as to any act approving inefficient work rules?

Mr. McCLOSKEY. Mr. Chairman, I think it would apply to management as well. It would apply in this sense, because the amendment says this:

Provided, That no funds authorized by this paragraph may be paid for construction in any shipyard unless the Secretary of Commerce certifies that craft union rules or lines do not unduly prevent flexible and efficient use of the labor force.

I think that many managements have agreed to these kinds of rules because they have no inhibition from the Government. The problem with our whole subsidy program is that whatever the union and management may negotiate, the Government pays for it, so we do not have the usual inhibition on labor and management to negotiate against bad practices; the Government picks it up.

Mr. JACOBS. Mr. Chairman, on that basis I do support the gentleman's amendment.

I would always oppose any kind of Federal law that created regulations which say that labor and management had to negotiate a certain kind of contract and a certain kind of work rule. That is a regulation that private parties ought to negotiate. But to enact a law, as the gentleman from California (Mr. McCLOSKEY) has suggested by his amendment, or to enact a policy of not subsidizing inefficiency is a far cry from a policy of regulating against inefficiency.

Mr. Chairman, I believe the gentleman has offered a good amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that the Members are anxious to vote on this amendment, but I resent strongly the insinuation that this amendment is offered because of featherbedding by the crafts or inefficient mangement.

I am not a member of this committee. I happen to live in an area and a district that is very active in shipbuilding, as well as the building of aircraft. These vessels are built to meet very high standards. These are not little sailing dinghies that are going to be used out here on the Potomac; these are major vessels, these are oceangoing vessels, and these are made by people who have to pass examinations.

Often, many of the things that make shipbuilding yards inefficient are simply compliance with rules and regulations that their own Government imposes on them. I do not think it is fair to say if you support this amendment you are going to strike out featherbedding, nor do I think it is fair to say if you oppose this amendment that you are mandating inefficiency. Welders should not do carpentry, electricians should not do pipefitting. We want safe well built ships.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is starting to show an awareness of what shipbuilding and ship construction is today.

Mr. CUNNINGHAM. Mr. Chairman, if I can reclaim my time, I will say to the gentleman that I have had the awareness longer than the gentleman might think.

Mr. MURPHY of New York. If the gentleman will yield further, I have been in many yards, at least eight of our competitors on a worldwide basis. We find a depression in the worldwide shipbuilding industry, not just in the United States. There was a tremendous overtonnage and overbuilding, with no market, about 7 or 8 years ago. When you go to yards today, you see most welding done electronically. You see the automation that has been built into the yards today. You see the heavy lifts, the module development and construction, the teams that are formed to do certain tasks on a programed basis.

I almost feel we are debating something out of the past, perhaps 50 years ago, from listening to this type of amendment. We are in an efficient, electronic, viably competitive area in American yards today. That is why $1.5 billion was invested in updating and upgrading those yards, so that they could compete on a world basis. But we are in an industry depression today on a world basis, particularly in America.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 20, nays 54.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 13, insert after "series;" *Provided further,* That no funds authorized by this paragraph may be paid to subsidize the construction of liquefied natural gas carriers;".

Mr. McCLOSKEY. Mr. Chairman, I will not take too much time of the committee on this amendment, but let me just call to the committee's attention that last year this committee in this House voted to fund two LNG carriers, carriers of liquefied natural gas. The administration at that time was not certain whether it wanted to proceed with the subsidization of liquefied natural gas carriers, but they decided later in the year not to build the carriers that we authorized. This year the House is asked to authorize two more LNG carriers, although the administration admits it has not yet decided to build the two authorized last year, let alone these two. It seems to me almost absurd, if the administration has not decided whether it wants to build LNG carriers, when it has not used the funds that the House authorized last year, that we authorize a third and fourth LNG carrier.

The administration is presently reviewing the liquid natural gas carrier program. They may come to us and say, "We would like to build these two liquid natural gas carriers and the two that were authorized last year but which we chose not to build."

Mr. Chairman, it seems the height of folly for the Congress to authorize $102 million, that is, $51 million each for ships that may never be built when the ships which we authorized last year have not been built, and the administration has not decided to build them.

I would think that the Committee on the Budget might be interested in this particular kind of issue where the Congress goes ahead and funds programs and then the administration says, "We do not know whether we will build or not. The money you gave us last year we are not going to spend."

It seems to me that under that circumstance, the least a supposedly fiscally minded Congress might do would be to vote against authorizing $102 million when similar money was not spent last year.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, the Committee on the Budget is interested in the national debt, in the deficit, and in money really spent.

Here we are talking about a liquid natural gas program that has been going on. We have 16 ships now that are currently authorized for subsidy or loan guarantee and that we are building.

The administration has taken a second look at the program. Certainly if they determine they want to do a 180-degree turn and not fund these programs, as we have in the past, then certainly it is not going to cost the Federal Government a dime; and we will not incur any further expenditure. The national debt will not be exacerbated.

Mr. McCLOSKEY. If these ships are so good, why did not the administration build them this year?

Mr. LEGGETT. As the gentleman knows, they are conducting a review, and based on their findings, they will approve the program.

Mr. McCLOSKEY. However, we do not know that, do we?

Mr. LEGGETT. Not today.

Mr. McCLOSKEY. Nevertheless, we are authorizing money for ships they did not build when we do not know whether they will build them or not; is that not true?

Mr. LEGGETT. Unless we authorize this money right now, we are closing the door for a full year.

Mr. McCLOSKEY. We authorized for a full year, and 8 months have passed and they have not decided to spend the money.

Mr. LEGGETT. They are still studying the matter, but they can still build them.

Ms. MIKULSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am speaking in opposition to the amendment simply because of concerns for the environment and for public safety.

Some of the major terminals receiving liquid natural gas in this country are my own Cove Point in Maryland, and also there is another major terminal in Boston Harbor. These terminals are not too far from major urban areas.

Mr. Chairman, it is absolutely critical if this country receives these kinds of energy supplies that we should receive them on ships that meet international safety standards or standards even stricter than those governing international safety.

Quite frankly, Mr. Chairman, my constituents want liquid natural gas coming up our Chespeake Bay, on which they depend for their livelihood, on American ships. We do not want some tanker with a bamboo bottom coming up the harbor, the kind of tanker that is going to blow Baltimore sky high.

Mr. Chairman, for that reason I oppose the amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the last word.

In opposing the amendment, I might categorize it as not only a cargo preference, but a construction preference for foreign flag building and carriage.

The Federal Energy Regulatory Commission at the present time is resolving two facets of a liquid natural gas policy which remain to be resolved. One of those is incremental pricing, and a second is the question as to how much of the total gas supply in this country will be allocated to liquid natural gas. We realize that 15 percent is the downside of that estimate, and how far on the upside it will go we are not sure. However, we do know that to carry liquid natural gas, we would prefer that it come in an American flag ship. This is one area of shipbuilding in which, on a world basis, the United States leads the world and on which it has the expertise.

To cut back this authorization on ship construction certainly would hamper us and lay us over for a year.

We might see what I saw just a few weeks ago at Cove Point, Md., which was a French liquid natural gas ship arriving at an American terminal with Algerian liquid natural gas.

Mr. Chairman, the gentleman from California (Mr. LEGGETT) knows that his State is wrestling with the location of a liquid natural gas terminal in order to bring liquid natural gas in from Indonesia. That contract is under its final review. The only thing holding up that entire project is the question of what incremental increase in price there will be and what yardstick will be used, whether it will be an OPEC increase or a cost-of-living increase in the United States. Those are technical problems. The program for liquid natural gas is ongoing.

We will need ships. We have, as Congressman LEGGETT said, 15 or 16 under construction at the present time. To adopt this amendment would merely delay a year, and perhaps take off the ways two of those vital ships.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I will be happy to yield to the gentleman from California.

Mr. McCLOSKEY. Would the gentleman not concede, though, that of the LNG ships that have thus far been constructed, half of them have not needed a Federal subsidy for construction? They have been built in U.S. yards, but without the need for subsidies.

Mr. MURPHY of New York. I might say that the subsidy percentage of LNG ships is much lower than the average subsidy of dry freighters.

Mr. McCLOSKEY. I appreciate that. but they have not required subsidies.

Mr. MURPHY of New York. Eleven of those 16 did get a construction differential subsidy.

Mr. McCLOSKEY. So five of the ships did not require a subsidy.

Mr. MURPHY of New York. Yes, but those five ships are programmed for carriage between Indonesia and Japan, not in the American trade.

Mr. McCLOSKEY. Is that not the question the administration is concerned with, that they may not need additional subsidy?

Mr. MURPHY of New York. I think the Maritime Administration clearly presented evidence to the committee that a construction differential subsidy would be necessary for the construction of these vessels.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 2, at the end of line 19, insert after "Defense;" *"Provided further,* That no funds authorized by this paragraph may be paid to subsidize the carriage of grain to Russia;".

Mr. McCLOSKEY. Mr. Chairman, it has always perplexed me why the taxpayer of the United States should pay the cost of shipping grain to Russia. When the Russians agreed to buy U.S. grain, we provided that we might have the privilege of transporting a third of that grain in U.S. ships. However, we also agreed with the Russians that the price would be $16 per ton. The difficulty is that the cost to ship that grain on American ships is $30 per ton. So, in essence, with the Russians buying grain from the United States, we are now paying almost half the cost of transporting that grain to the Russians.

This might be understandable if there were some benefit to the United States in paying the cost of shipping the grain to the Soviets, but there is no benefit to the United States. They buy the grain anyway. The purchase of the grain was not conditioned upon use of U.S. shipping. That is a condition we imposed. If the Soviets do not use U.S. ships, at a cost to us of $4 million, they will either use their own ships or third flagships.

Another argument might be made that, under the maritime subsidy program, it is important to the United States to keep ships in operation that may be helpful at a time of national emergency. Here, however, the U.S. ships used to carry grain average 19 years of age. They are rust buckets; they are obsolete. If they were not being used to carry grain, they would be mothballed. So, there is absolutely no benefit to the U.S. taxpayer in paying $4 million to transport this grain to Russia.

Last year, there was some concern on the part of the Agriculture Committee that, if we cut back the subsidy, it might intrude on the grain sales. It is clear from the testimony that the Russians will buy the grain anyway. They are protected.

The question is, Why should the United States finance the shipment of grain to Russia? There are other things on which we could spend the $4 million for, other parts of the shipping program we could spend the $4 million for. This benefit goes directly to the Russian Government, not to us.

Mr. MURPHY of New York. Mr. Chairman, I rise in opposition to the amendment.

The Russian grain trade of course was negotiated in two stages, one programed in 1972 and the other in 1975. We agreed internationally with the Russians that one-third of the carriage would be in American bottoms, one-third in Russian bottoms, and one-third through the cross trades. We knew that the rate that was negotiated by the Russians was a noncompensatory rate for most foreign ship operators as well as for American operators, and therefore, a break-even subsidy was authorized for the carriage by American ships in the Russian grain trade.

This trade happened to come along during a very low point in American shipping. In fact, small oil tankers were used to carry this grain. It was at a time when the Alyeska pipeline was seriously delayed, and this provided 3.7 million metric tons of carriage and saved many jobs in the American maritime industry at, as I said, break-even rates to the American operators.

I do not think many of these vessels would have been put in mothballs. They would have been either scrapped or sold on the foreign market and we would have had an even further reliance on foreign tonnage to meet America's shipping needs.

The fact is that this does provide employment to American ships and to American merchant seamen. I think to deny a break-even subsidy—note that it is not a subsidy but merely a break-even subsidy—would not have been in the best interest of the American merchant marine or American interest in this grain trade.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 18, noes 35.

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and fifteen Members are present, a quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. McCLOSKEY) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 218, not voting 36, as follows:

[Roll No. 361]

AYES—180

Abdnor	Fuqua	Montgomery
Anderson, Ill.	Gammage	Moorhead,
Archer	Gephardt	Calif.
Armstrong	Gibbons	Mottl
Ashbrook	Gilman	Myers, John
Badham	Goldwater	Natcher
Bafalis	Gonzalez	Nichols
Bauman	Goodling	Ottinger
Beard, Tenn.	Gradison	Panetta
Benjamin	Grassley	Pease
Bennett	Green	Pettis
Bevill	Guyer	Pickle
Blanchard	Hagedorn	Poage
Boland	Hamilton	Pressler
Bolling	Hammer-	Pursell
Bowen	schmidt	Quayle
Brinkley	Hanley	Quie
Broomfield	Hansen	Quillen
Brown, Ohio	Harrington	Railsback
Broyhill	Harris	Regula
Buchanan	Harsha	Rhodes
Burgener	Heckler	Roberts
Burke, Fla.	Heftel	Robinson
Burleson, Tex.	Hillis	Roe
Butler	Holt	Rogers
Carr	Horton	Roncalio
Chappell	Hyde	Rousselot
Clausen,	Ichord	Rudd
Don H.	Ireland	Ruppe
Clawson, Del	Jacobs	Santini
Cleveland	Jeffords	Sarasin
Cohen	Johnson, Colo.	Satterfield
Collins, Tex.	Kastenmeier	Sawyer
Conable	Kazen	Scheuer
Conte	Kelly	Schulze
Corcoran	Kemp	Sebelius
Coughlin	Ketchum	Sharp
Crane	Krueger	Shuster
Daniel, Dan	Lagomarsino	Sikes
de la Garza	Latta	Skubitz
Derwinski	Leach	Smith, Nebr.
Devine	Lent	Stangeland
Dickinson	Long, Md.	Stanton
Dornan	Lott	Steiger
Drinan	Lujan	Stockman
Duncan, Tenn.	McClory	Stratton
Early	McCloskey	Stump
Edwards, Ala.	McDade	Symms
Emery	McDonald	Taylor
Erlenborn	McKay	Thone
Evans, Del.	McKinney	Treen
Evans, Ind.	Marriott	Udall
Fenwick	Martin	Van Deerlin
Findley	Michel	Walgren
Fish	Milford	Walker
Fisher	Miller, Ohio	Walsh
Fountain	Minish	White
Frenzel	Mitchell, N.Y.	Whitten
Wiggins	Wolff	Yates
Winn	Wydler	Yatron
Wirth	Wylie	Young, Fla.

NOES—218

Addabbo	Flynt	Murtha
Akaka	Foley	Myers, Gary
Alexander	Ford, Mich.	Myers, Michael
Allen	Ford, Tenn.	Neal
Ambro	Forsythe	Nedzi
Anderson,	Fowler	Nolan
Calif.	Fraser	Nowak
Andrews, N.C.	Garcia	O'Brien
Andrews,	Gaydos	Oberstar
N. Dak.	Giaimo	Obey
Annunzio	Ginn	Patten
Applegate	Glickman	Patterson
Ashley	Gore	Pattison
Aspin	Gudger	Pepper
Baldus	Hall	Perkins
Barnard	Hannaford	Pike
Baucus	Harkin	Preyer
Beard, R.I.	Hawkins	Price
Bedell	Hightower	Pritchard
Beilenson	Holland	Rahall
Bingham	Hollenbeck	Rangel
Blouin	Holtzman	Reuss
Boggs	Hubbard	Richmond
Bonior	Hughes	Rinaldo
Bonker	Jenkins	Risenhoover
Brademas	Jenrette	Rooney
Breaux	Johnson, Calif.	Rose
Brodhead	Jones, N.C.	Rosenthal
Brooks	Jones, Okla.	Rostenkowski
Brown, Calif.	Jones, Tenn.	Roybal
Brown, Mich.	Jordan	Russo
Burke, Mass.	Keys	Ryan
Burlison, Mo.	Kildee	Schroeder
Burton, John	Kindness	Seiberling
Burton, Phillip	Kostmayer	Shipley
Byron	Krebs	Sisk
Caputo	LaFalce	Skelton
Carney	Le Fante	Slack
Cavanaugh	Lederer	Smith, Iowa
Clay	Leggett	Snyder
Coleman	Lehman	Solarz
Collins, Ill.	Levitas	Spellman
Corman	Livingston	Spence
Cornell	Lloyd, Calif.	St Germain
Cornwell	Lloyd, Tenn.	Staggers
Cotter	Long, La.	Stark
Cunningham	Luken	Steed
D'Amours	Lundine	Steers
Daniel, R. W.	McCormack	Stokes
Danielson	McEwen	Studds
Davis	McFall	Thompson
Delaney	McHugh	Traxler
Dellums	Maguire	Trible
Derrick	Mahon	Ullman
Dicks	Markey	Vander Jagt
Diggs	Marks	Vanik
Dingell	Marlenee	Vento
Dodd	Mathis	Volkmer
Downey	Mattox	Waggonner
Eckhardt	Meeds	Wampler
Edgar	Metcalfe	Watkins
Edwards, Calif.	Meyner	Waxman
Eilberg	Mikulski	Weaver
English	Mikva	Weiss
Ertel	Miller, Calif.	Whitehurst
Evans, Colo.	Mineta	Whitley
Evans, Ga.	Moakley	Wilson, Bob
Fary	Moffett	Wilson, C. H.
Fascell	Mollohan	Wright
Fithian	Moore	Young, Mo.
Flippo	Moorhead, Pa.	Zablocki
Flood	Murphy, Ill.	Zeferetti
Florio	Murphy, N.Y.	
Flowers	Murphy, Pa.	

NOT VOTING—36

Ammerman	Edwards, Okla.	Oakar
AuCoin	Frey	Rodino
Biaggi	Hefner	Runnels
Breckinridge	Howard	Simon
Burke, Calif.	Huckaby	Teague
Carter	Kasten	Thornton
Cederberg	Madigan	Tsongas
Chisholm	Mann	Tucker
Cochran	Mazzoli	Whalen
Conyers	Mitchell, Md.	Wilson, Tex.
Dent	Moss	Young, Alaska
Duncan, Oreg.	Nix	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. AuCoin against.

Mr. Teague for, with Mr. Howard against.

Mr. Cederberg for, with Mr. Dent against.

Mr. Cochran of Mississippi for, with Mr. Mitchell of Maryland against.

Mr. Frey for, with Mrs. Chisholm against.

Mr. Madigan for, with Mrs. Burke of California against.

Mr. Young of Alaska for, with Mr. Biaggi against.

Mr. DICKS and Mr. LIVINGSTON changed their vote from "aye" to "no."

Messers OTTINGER, WOLFF, and ABDNOR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. WOLFF. Mr. Chairman, during the consideration of H.R. 10729, I believe it is particularly relevant to draw the attention of the House of Representatives to the excellent work of the U.S. Merchant Marine Academy, whose authorization is contained therein.

The U.S. Merchant Marine Academy is located in a 68-acre campus at Kings Point, N.Y., located in my congressional district. The Academy was established under the Merchant Marine Act of 1936 which provided that the United States shall have a merchant marine capable of serving as a naval and military auxiliary in time of war or national emergency. The deep sea segment of the merchant marine is an essential and critical component of national defense because it provides the basic sealift support to meet overseas military commitments. It is imperative that our defense posture, in this "uneasy world," must always be ready to deal quickly, and effectively, with any threat to our vital security.

Among the prerequisites necessary to accomplish this is a well-trained, intelligent, and dedicated leadership. Fortunately, our great Merchant Marine Academy at Kings Point has been providing this type of leadership since its inception. The U.S. Merchant Marine Academy has been furnishing intelligent, qualified, highly trained officers to the Navy and Merchant Marine services for decades. The loyal dedication and sacrifices of its graduates and students are inscribed on its battle monuments honor roll.

However, the work of the Merchant Marine Academy, by providing graduates with the necessary education for careers in technical and management positions in the maritime industry, offers a great peacetime service to this great Nation. The recent rash of tanker mishaps, off our shores, has revealed the alarming fact that many of these ships are old, unsound, and poorly served. The Merchant Marine Academy provides the necessary trained personnel to help us prevent further costly and dangerous incidents of this kind.

In conclusion, I congratulate, and the House should congratulate, the U.S. Merchant Marine Academy for its excellent training of well-educated professional maritime officers for our future commerce.●

● Mr. ANDERSON of California. Mr. Chairman, as a cosponsor of H.R. 10729, I rise in full support of this bill. This authorization is necessary for the United States to operate and construct a modern

flag merchant fleet, and will demonstrate continued congressional commitment to the maintenance of a strong American maritime industry.

Any significant weakening of H.R. 10729 will threaten the existence of the U.S. martime fleet, as well as the future of construction and support facilities which service these ships, such as Bethlehem Steel and Todd Shipyards in my district of Long Beach, Calif.

The United States is the world's largest trading nation, yet only 4 percent of our commerce is carried on U.S.-flag vessels, and over 93 percent is carried on foreign-flag vessels. So to protect our Nation in time of a national emergency, we must have a ready, financially sound, merchant marine fleet.

Also contained in this authorization are funds to establish a firefighting training school on the west coast. The purpose of the school is to provide training to crews of merchant ships to cope with shipboard fires and damage.

I have already written to Assistant Secretary of Commerce for Maritime Affairs, Mr. Robert Blackwell, about our desire to locate this school in the Los Angeles/Long Beach Harbor area. I rise to reiterate this request for the record.

The committee has also adopted an amendment which increases the authorization to pay for the increased cost of bunker fuel that is used on training vessel cruises. This has been a particular problem to the Maritime Academy in California, and I endorse this provision of the bill.

Therefore, Mr. Chairman, I urge my colleagues to enact this vital legislation.●

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10729) to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes, pursuant to House Resolution 1190, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendments? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCLOSKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 326, nays 82, not voting 26, as follows:

[Roll No. 362]

YEAS—326

Abdnor	Evans, Colo.	Mann
Addabbo	Evans, Del.	Markey
Akaka	Evans, Ind.	Marks
Alexander	Fary	Marlenee
Allen	Fascell	Mathis
Ambro	Fish	Mattox
Anderson, Calif.	Fithian	Meeds
	Flippo	Metcalfe
Andrews, N. Dak.	Flood	Meyner
	Florio	Mikulski
Annunzio	Flowers	Milford
Applegate	Flynt	Miller, Calif.
Archer	Foley	Miller, Ohio
Ashley	Ford, Mich.	Mineta
Aspin	Ford, Tenn.	Minish
Baldus	Forsythe	Mitchell, Md.
Barnard	Fountain	Mitchell, N.Y.
Baucus	Fowler	Moakley
Bauman	Fraser	Moffett
Beard, R.I.	Fuqua	Mollohan
Benjamin	Gammage	Montgomery
Bennett	Garcia	Moore
Bevill	Gaydos	Moorhead, Calif.
Bingham	Giaimo	
Blanchard	Gibbons	Moorhead, Pa.
Blouin	Gilman	Murphy, Ill.
Boggs	Ginn	Murphy, N.Y.
Boland	Goldwater	Murphy, Pa.
Bolling	Gonzalez	Murtha
Bonior	Gore	Myers, John
Bonker	Grassley	Myers, Michael
Bowen	Green	Natcher
Brademas	Gudger	Neal
Breaux	Hall	Nedzi
Brinkley	Hanley	Nichols
Brodhead	Hannaford	Nolan
Brooks	Harkin	Nowak
Brown, Calif.	Harrington	O'Brien
Brown, Mich.	Harsha	Oberstar
Buchanan	Hawkins	Obey
Burgener	Heckler	Ottinger
Burke, Fla.	Hefner	Panetta
Burke, Mass.	Heftel	Patten
Burlison, Mo.	Hightower	Patterson
Burton, John	Hillis	Pattison
Burton, Phillip	Holland	Pease
Byron	Hollenbeck	Pepper
Caputo	Holt	Perkins
Carney	Horton	Pettis
Carr	Howard	Pickle
Cavanaugh	Hubbard	Pike
Chappell	Huckaby	Pressler
Chisholm	Hughes	Preyer
Clausen, Don H.	Hyde	Price
	Ichord	Pritchard
Clay	Ireland	Pursell
Cohen	Jenrette	Quie
Coleman	Johnson, Calif.	Quillen
Collins, Ill.	Jones, N.C.	Rahall
Conte	Jones, Okla.	Railsback
Corcoran	Jones, Tenn.	Rangel
Corman	Jordan	Reuss
Cornell	Kazen	Rhodes
Cornwell	Kemp	Richmond
Cotter	Keys	Rinaldo
Coughlin	Kildee	Risenhoover
Cunningham	Kindness	Roe
D'Amours	Kostmayer	Rogers
Daniel, Dan	Krebs	Roncalio
Daniel, R. W.	Krueger	Rooney
Danielson	LaFalce	Rose
Davis	Lagomarsino	Rosenthal
de la Garza	Le Fante	Rostenkowski
Delaney	Lederer	Roybal
Dellums	Leggett	Ruppe
Dent	Lehman	Russo
Derrick	Lent	Ryan
Derwinski	Levitas	Santini
Dickinson	Livingston	Sarasin
Dicks	Lloyd, Calif.	Satterfield
Diggs	Lloyd, Tenn.	Sawyer
Dingell	Long, La.	Scheuer
Dodd	Long, Md.	Schulze
Dornan	Lott	Sebelius
Downey	Luken	Seiberling
Duncan, Tenn.	Lundine	Sharp
Early	McCormack	Shipley
Eckhardt	McDade	Sikes
Edgar	McEwen	Sisk
Edwards, Ala.	McFall	Skelton
Edwards, Calif.	McHugh	Skubitz
Eilberg	McKay	Slack
Emery	Madigan	Smith, Iowa
Ertel	Mahon	Smith, Nebr.
Snyder	Traxler	White
Solarz	Treen	Whitehurst
Spellman	Trible	Whitley
Spence	Udall	Whitten
St Germain	Ullman	Wiggins
Staggers	Van Deerlin	Wilson, Bob
Stanton	Vander Jagt	Wilson, C. H.
Stark	Vento	Winn
Steed	Volkmer	Wirth
Steers	Waggonner	Wolff
Stokes	Walgren	Wright
Stratton	Walsh	Wydler
Studds	Wampler	Yatron
Taylor	Waxman	Young, Mo.
Thompson	Weaver	Zablocki
Thone	Weiss	Zeferetti

NAYS—82

Anderson, Ill.	Frenzel	Marriott
Andrews, N.C.	Gephardt	Martin
Armstrong	Glickman	Michel
Ashbrook	Goodling	Mikva
Badham	Gradison	Moss
Bafalis	Guyer	Motti
Beard, Tenn.	Hagedorn	Myers, Gary
Bedell	Hamilton	Poage
Beilenson	Hammer-schmidt	Quayle
Broomfield		Regula
Brown, Ohio	Hansen	Roberts
Broyhill	Harris	Robinson
Burleson, Tex.	Holtzman	Rousselot
Butler	Jacobs	Rudd
Clawson, Del	Jeffords	Schroeder
Cleveland	Jenkins	Shuster
Collins, Tex.	Johnson, Colo.	Stangeland
Conable	Kastenmeier	Steiger
Conyers	Kelly	Stockman
Crane	Ketchum	Stump
Devine	Latta	Symms
Drinan	Leach	Vanik
English	Lujan	Walker
Erlenborn	McClory	Watkins
Evans, Ga.	McCloskey	Wylie
Fenwick	McDonald	Yates
Findley	McKinney	Young, Fla.
Fisher	Maguire	

NOT VOTING—26

Ammerman	Edwards, Okla.	Teague
AuCoin	Frey	Thornton
Biaggi	Kasten	Tsongas
Breckinridge	Mazzoli	Tucker
Burke, Calif.	Nix	Whalen
Carter	Oakar	Wilson, Tex.
Cederberg	Rodino	Young, Alaska
Cochran	Runnels	Young, Tex.
Duncan, Oreg.	Simon	

The Clerk announced the following pairs:

On this vote:

Mr. Ammerman for, with Mr. Teague against.

Mr. AuCoin for, with Mr. Runnels against.

Until further notice:

Mr. Biaggi with Mr. Carter.

Mr. Breckinridge with Mr. Duncan of Oregon.

Mr. Mazzoli with Mr. Frey.

Mrs. Burke of California with Mr. Tucker.

Ms. Oakar with Mr. Whalen.

Mr. Tsongas with Mr. Cederberg.

Mr. Charles Wilson of Texas with Mr. Young of Alaska.

Mr. Nix with Mr. Cochran of Mississippi.

Mr. Simon with Mr. Kasten.

Mr. Thornton with Mr. Edwards of Oklahoma.

Mr. GUYER and Mr. MARTIN changed their vote from "yea" to "nay."

Mr. KOSTMAYER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 2553) to authorize appropriations for the fiscal

year 1979 for certain maritime programs of the Department of Commerce, and for other purposes, a similar Senate bill, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1979".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1979, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $157,000,000;

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $262,800,000;

(3) For expenses necessary for research and development activities, not to exceed $17,500,000;

(4) For maritime education and training expenses, not to exceed $22,483,000, including not to exceed $15,359,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $5,370,000 for financial assistance to State marine schools, and $1,904,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) For operating expenses, not to exceed $34,845,000, including not to exceed $5,516,000 for reserve fleet expenses, and $29,329,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1979, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273 (f)), is amended by striking out "$7,000,000,000", and inserting in lieu thereof "$10,000,000,000".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate bill, S. 2553 and to insert in lieu thereof the provisions of the bill H.R. 10729, as passed, as follows:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1979".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1979, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $157,000,000: *Provided,* That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense: *Provided further,* That in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series;

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $262,800,000: *Provided,* That no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense;

(3) For expenses necessary for research and development activities, not to exceed $17,500,000;

(4) For maritime education and training expenses, not to exceed $24,647,000, including not to exceed $15,523,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, of which $450,000 shall be for the replacement of barracks windows at the Academy, $7,220,000 for financial assistance to State marine schools, and $1,904,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

(5) For operating expenses, not to exceed $34,845,000, including not to exceed $5,516,000 for reserve fleet expenses, and $29,329,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1979, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 3 of the Maritime Academy Act of 1958 (46 U.S.C. 1382) is amended by the addition of a subsection to read as follows:

"(d) The Secretary may pay additional amounts to assist in paying for the cost of fuel oil consumed during the training cruises of the vessels referred to in subsection (a).".

SEC. 5. Section 1103(f) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1273 (f)) is amended by striking "$7,000,000,000.", and inserting in lieu thereof "$10,000,000,000.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 10729) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 10729.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and Joint Resolutions of the House of the following titles:

On May 15, 1978:

H.R. 1552. An act for the relief of Oh Soon Yi; and

H.R. 6782. An act to provide emergency assistance to producers of wheat, feed grains, and upland cotton, and for other purposes.

On May 19, 1978:

H.J. Res. 859. Joint resolution making supplemental appropriations for the U.S. Railway Association for the fiscal year ending September 30, 1978, and for other purposes.

On May 21, 1978:

H.R. 8331. An act to amend the Securities Investor Protection Act of 1970; and

H.J. Res. 873. Joint resolution making an urgent supplemental appropriation for the disaster loan program of the Small Business Administration for the fiscal year ending September 30, 1978, and for other purposes.

PROVIDING FOR CONSIDERATION OF H.R. 10929, DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1188 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1188

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedos, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without section 805 included

therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. It shall be in order to consider the amendment printed in the Congressional Record of May 17, 1978, by Representative Carr if offered as an amendment in the nature of a substitute for the amendment in the nature of a substitute recommended by the Committee on Armed Services. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1188 provides for the consideration of H.R. 10929, the Department of Defense Appropriation Authorization Act of 1979. On May 17, by a nonrecord vote, the Committee on Rules granted the rule requested by the Committee on Armed Services for consideration of this legislation with two exceptions. The committee granted an open rule providing 3 hours of general debate and making the committee amendment in the nature of a substitute to be considered as an original bill for the purpose of amendment and providing that the substitute shall be read for amendment by titles instead of by sections.

One exception to the Armed Services request provided in the rule would allow a point of order against section 805 of the bill concerning Korea troop withdrawal provisions on the basis of nongermaneness. In testimony before the Committee on Rules, the chairman of the Committee on International Relations, Mr. ZABLOCKI, and the chairman of the Subcommittee on Asian and Pacific Affairs, Mr. WOLFF, had requested this exception in the rule because they believed that section 905 is a matter of jurisdiction for their committee.

The other exception in the rule requested makes in order the substitute of Representative CARR printed in the CONGRESSIONAL RECORD of May 17, 1978. Under the open rule, Mr. CARR would already be entitled to offer his amendment in the nature of a substitute. Although this provision in the rule does not give Mr. CARR special or preferred status under the rule, it does indicate the Rules Committee's desire to have all the diverse viewpoints on the DOD legislation available for consideration by the House.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, in connection with the so-called Carr amendment, is it in order for a motion to table to be made?

Does the gentleman know?

Mr. MEEDS. The gentleman will have to ask the Parliamentarian that, but I do not think a motion to table would be in order during consideration of the bill in the Committee of the Whole, on any bill.

Mr. CHARLES H. WILSON of California. Or any amendment?

Mr. MEEDS. On any bill it would be out of order in the Committee of the Whole.

Mr. CHARLES H. WILSON of California. Would the gentleman yield for the purpose of permitting me to make such a parliamentary inquiry?

Mr. MEEDS. I yield to the gentleman from California for a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CHARLES H. WILSON of California. Mr. Speaker, the parliamentary inquiry is whether the substitute amendment to be offered by the gentleman from Michigan (Mr. CARR) is subject to a motion to table?

The SPEAKER pro tempore. The Chair will state that if the gentleman refers to a motion offered in the Committee of the Whole to table an amendment, such a motion is not in order in the Committee of the Whole.

Mr. CHARLES H. WILSON. I thank the Speaker.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 1188 provides for the consideration of H.R. 10929, the Department of Defense Appropriation Authorization Act, 1979. This is an open rule providing 3 hours of debate. The rule is fairly simple in principle, though it does furnish some unusual procedures. While most of these provisions should be relatively familiar, a couple are out-of-the-ordinary.

More usual aspects of the rule allow the committee amendment in the nature of a substitute to be made in order as an original bill for the purpose of amendment. The bill will be read for amendment by title instead of by sections. All points of order are waived against the substitute for two reasons. The first waiver is for failure to comply with clause 5, rule 21, which deals with appropriations in a legislative measure. The second is of clause 7, rule 16, the germaneness rule, since several unrelated provisions were added to the original bill.

Less common facets of the rule may be a bit complicated in procedure, but simple in objective. The rule acknowledges that a point of order may lie against section 805 of the committee substitute under the germaneness rule. Should a point of order be sustained, the entire substitute must be striken out. Deletions may not be made by sections nor titles; a substitute is a "package deal." If necessary, then, the rule would make the committee substitute in order as the original bill once again, but without that particular section. In short, this is the method by which that section may be ruled out of order.

The final major provision of the rule acknowledges the right of the gentleman from Michigan (Mr. CARR) to offer an amendment in the nature of a substitute which was previously entered in the RECORD. All other amendments are accorded the same rights whether or not they are mentioned in the rule.

Finally, one motion to recommit with or without instructions is permitted.

Mr. Speaker, H.R. 10929 authorizes appropriations to the Department of Defense for major weapons procurement, research and development and civil defense, as well as military personnel strengths for fiscal year 1979. A total of $37.9 billion dollars is authorized by this bill for the vital defense of our Nation.

Mr. Speaker, even with the unusual character of the rule, I know of no organized opposition, and suggest we proceed accordingly and allow the House to debate the merits of the legislation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Maryland.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I would like to put a parliamentary inquiry to the Chair regarding the language on page 2 of the rule, line 24, through line 4 on page 3. It appears to me that the making in order of the offering of a substitute to the committee amendment by the gentleman from Michigan (Mr. CARR) is nothing more than an expression of the right of any Member of the House to offer such amendment at any time in the Committee of the Whole. My question to the Chair is whether or not the appearance of this language in the rule in any way changes the right of the Chair to recognize members of the committee in order of seniority at the Chair's discretion.

The SPEAKER pro tempore (Mr. WRIGHT). The recognition will be a matter for the Chairman of the Committee of the Whole House to determine. The gentleman from Maryland has expressed an opinion with respect to the propriety or necessity of the language in question. There is nothing improper so far as the Chair can discern about the language. It simply states that it would be in order under this rule for the particular language referred to to be offered as an amendment in the nature of a substitute, and whether or not that would be in order otherwise would be for the Chairman of the Committee of the Whole House to determine.

Mr. BAUMAN. My specific question, Mr. Speaker, was whether or not this varies the precedents regarding recogni-

tion and confers upon the gentleman from Michigan (Mr. CARR) some special status as opposed to the Chair's recognizing other members of the Committee on Armed Services handling the bill.

The SPEAKER pro tempore. It would still be up to the Chairman of the Committee of the Whole House on the State of the Union to determine the priorities of recognition. To some degree, that could depend upon the debate that was held upon the rule.

Certainly nothing contained in the sentence to which the gentleman refers would in and of itself prejudice any right that any other Member might have to offer any other germane amendment.

Mr. BAUMAN. I thank the Speaker.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I have no objection to the rule, I would state to the gentleman from California; but I would ask the gentleman from California, does the gentleman have the same understanding as the gentleman from Washington? As the gentleman from Washington explained, the gentleman from Michigan (Mr. CARR) would have this right anyway if it were not in the language. It is just to clarify the fact that we do have a completely open rule. That is the statement I understood from the gentleman from Washington. Does the gentleman from California agree?

Mr. DEL CLAWSON. Mr. Speaker, as far as I know, that would be the case. There were some of us that were not quite as enthusiastic about making another substitute in order; however, that was done by the Committee on Rules, and we have the ruling from the Chair and I understand it can be done in that manner.

Mr. ICHORD. Mr. Speaker, if the gentleman will yield further, the gentleman does agree, as stated by the gentleman from Washington, that a substitute amendment would be in order without the rule?

Mr. DEL CLAWSON. That is certainly my understanding under the rules of the House.

Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

Mr. BAUMAN. Mr. Speaker, will the gentleman from Washington yield?

Mr. MEEDS. Mr. Speaker, I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the Speaker referred to the fact that somehow the terms of the rule might be varied as offered by the gentleman from Michigan by the debate on the rule. Was it the intention of the Committee on Rules to waive this requirement to seek recognition because simply they would like to have the substitute offered?

Mr. MEEDS. It was the intention of the Committee on Rules to make this in order as a substitute. It was in order anyhow as a substitute, because it appears to be germane. The gentleman from Michigan will be able to offer his substitute either at the beginning or at the end.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, but it confers no special recognition. It is a right any Member would have, anyway.

Mr. MEEDS. No special privilege, that is correct.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, under the language of the rule I understand that the amendment of the gentleman from Michigan would be in order, even after other amendments would be possibly adopted to the committee substitute.

Mr. MEEDS. My understanding of the parliamentary situation is that that would not be correct; that this would have to be offered immediately after the reading of the first section or at the end; so from the standpoint that it would be offered at the end, it certainly could be offered after other amendments and, indeed, other substitutes had been offered.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield further, that is what I mean; if offered at the end after other amendments are adopted or even after another substitute had been adopted, even if the other substitute had been adopted, then the substitute amendment of the gentleman from Michigan, as I read the rule, would be in order at that time.

Mr. MEEDS. Yes, it would.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such additional time as I may consume.

Mr. Speaker, if I may just make an observation, it is my understanding that the Committee on Rules, while they did make in order the substitute amendment of the gentleman from Michigan, it is my understanding it was not intended to confer upon the gentleman any special privilege that is not the prerogative of any other Member, providing they are recognized in the regular order of the business of the House.

The SPEAKER pro tempore (Mr. WRIGHT). Let the Chair respond by stating that the rules of the House will apply and will not be abridged by reason of the adoption of this rule. If another amendment in the nature of a substitute should have been adopted, it would not perforce thereafter be in order to offer an additional amendment, whether it be the Carr amendment or any other.

As the Chair interprets the inclusion of the language referred to in the rule, it confers no special privilege upon the amendment in the nature of a substitute referred to as the Carr substitute. It presumes and makes in order such language as an amendment in the nature of a substitute. Beyond that, it does not foreclose consideration of any other germane language that otherwise would be in order.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

Mr. MEEDS. Mr. Speaker, I yield to the gentleman from Missouri for the purpose of making a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Mr. Speaker, if I understand the Chair properly, then, following my colloquy and my questions of the gentleman from Washington (Mr. MEEDS), the rule does not so provide as I had thought, and so if along the way a substitute is adopted other than that offered by the gentleman from Michigan (Mr. CARR), then at the end of our consideration the substitute of the gentleman from Michigan (Mr. CARR) would not be in order; is that correct?

The SPEAKER pro tempore. The Chair believes the gentleman from Missouri (Mr. VOLKMER) has correctly stated the parliamentary situation, if any amendment in the nature of a substitute is adopted, then additional amendments would not be in order.

Mr. MEEDS. Mr. Speaker, the gentleman has used the words, if it is "adopted." Clearly, if it is adopted, then no other substitute is in order. However, the gentleman can offer his substitute just prior to the adoption of another substitute.

Mr. Speaker, that is all I have to say in answer to the gentleman, and I am sure, as the Chair has stated, that is the correct answer.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I rise in opposition to the rule, and I do so because of the specific decision of the Committee on Rules to bring us a rule that waives other points of order in our bill but fails to waive a point of order on section 805, which was adopted by a 2-to-1 vote in the Armed Services Committee itself.

Section 905 prevents the withdrawal of troops from Korea, first, unless there has been action by the Congress to retain the weapons of those troops in Korea; and, second, it provides that in no event should these withdrawals exceed 6,000 until we have achieved a political settlement of the Korean War between North Korea and South Korea.

It may well be that the arguments on which the Rules Committee declared its unwillingness to waive a point of order on that particular section are sound. There may be some question as to whether the Committee on International Relations should have at least some jurisdiction in this matter. But it seems to me that the stationing of military forces in critical areas abroad is certainly also within the responsibility, and should be within the responsibility, of the Committee on Armed Services. If we, as a Congress have as the Constitution provides, authority to "regulate and govern the land and naval forces," then certainly we have the authority to say where those forces shall be stationed, and where they shall be withdrawn particularly if those withdrawals impact on our national security.

In fact, just the other day the New York Times, on May 17, indicated that

the pullout of troops from South Korea is already underway. So in the absence of any action by the Congress the President will not only be free to pull all of these troops out any time he wants to do so, but he can pull them out without waiting for any action by the Congress to transfer to the Korean forces the combat equipment of the U.S. forces that are pulled out.

By allowing this action to take place, by not giving the House an opportunity to act on this kind of a question before those troops are actually pulled out, we are setting a precedent that would allow all our troops to be withdrawn regardless of the fact that Korea is the most volatile and explosive location in Asia today and regardless of the fact that only the presence of American troops in South Korea is deterring North Korea from attacking South Korea.

I take this time because I want to advise the House that I intend to try to accomplish this result elsewhere in this bill if section 805 is ruled out of order. I am not sure, under the procedures that we follow and considering the complexity of parliamentary precedents, where we can usually find a parliamentary precedent for almost anything we want to do, whether this alternate amendment of mine will be declared in order or not.

But whether this bill is the proper place for the House to speak its will on Korean troop withdrawal or whether it is some other bill, I intend to continue to bring this issue before the House so that we can take action on it, one way or the other.

The one thing that is perfectly clear to many of us on the Armed Services and elsewhere who have had an opportunity to examine at close range the volatile situation in Korea is that the security of South Korea is not going to be protected simply by repeated reiterations of a commitment to the defense of South Korea, no matter how eminent are those who make these statements.

Nor is the security of Asia going to be protected by repeated flights by the Vice President, or other distinguished people, to various spots in Asia and making more speeches. The people of Asia are looking for actions and not talk. And if we go on talking about our commitment to the defense of South Korea at the same time we are pulling our troops out of Korea—even though those troops are just one-tenth of the American troops that are stationed now permanently in NATO to deter a war over there—the people of Asia are just not going to believe us and we will be risking the security of our nation to allow these troops to be pulled completely out of Korea before a peace settlement has been reached in Korea.

Congress must have an opportunity, at whatever is the proper point, to express its will on this very vital defense matter. Certainly, if we can tell the President that he cannot station troops abroad without approval of the Congress, as we do in the War Powers Act, then we have the right to tell him he cannot withdraw those troops from areas essential to our national security without the approval of Congress.

Mr. MEEDS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I take this time to respond to the gentleman from New York and to advise the House that the Committee on Rules did not make this waiver of nongermaneness on the merits. It was based on the question of jurisdiction. Withdrawal of the troops and the transferring of equipment in Korea is a matter which is clearly within the jurisdiction of the Committee on International Relations. Indeed, there is legislation pending right now to do precisely what the proposal of the gentleman from New York would do in this bill. It is pending before the Committee on International Relations right now and was assigned there.

Mr. Speaker, the way this came up, this came up as an amendment here. And when the assignment was made of this legislation, initially, section 805 was not in it. It was put in as an amendment by the gentleman from New York in the committee. So there was no chance for sequential or consecutive referral, as might have been if it were originally there.

The second part, paragraph (b), is a question of setting the strength of ground combat troops in Korea. And this again clearly comes under the jurisdiction of the Committee on International Relations because it is under the original U.N. mandate in which the troops are there, in the first place.

So, while the Committee on Armed Services may have jurisdiction for certain matters with regard to the troops in Korea, it does not have jurisdiction for the matters contained in the bill.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I urge the adoption of the rule.

The defense authorization legislation now before us does not reflect the cruel realities confronting the country.

Worldwide peace, unless our decision is to reduce or modify commitments made and sustained for decades, makes it imperative we strip the blinders from our eyes and authorize the proper levels of expenditures. Yes, strip the blinders but not the authorizations and expenditures for our proper level of defense.

Glaring and dangerous contradictions in our immediate past and present administrations, compounded by the antipathy to the military and division, results of the Vietnam war has, in my opinion, created the false feeling among our enemies and rivals that we are unprepared and unwilling to bear up under the burdens of proper and sufficient levels of defense.

For several years now the critics and perennial opponents of defense have had their day; the psychology of antidefense and blind levelers of expenditures have ruled the day. Only during the last 1 year has this mood eroded somewhat.

Ironically, some of the greatest opponents of these expenditures and some military baiters are now fighting for selective authorizations because of the belated thought that they must for economic reasons do this for their districts or region, even though the military administrators are not seeking these authorizations.

However, the combination of shortsighted judgment and blind opposition to the military has resulted in havoc to our defense capability. The erratic pendulum of national defense has swung violently from one extreme to another. First, the abdication of Congress and the country in the case of the improper—perhaps unconstitutional—use of unwilling conscripts in undeclared wars to the present philosophy of the "mercenary military," yet to be tried or tested.

I was the first (1963) and the only one for years (1963–75) to fight what was, and is, to me the illegal use of conscripts, or draftees.

No one seemed to listen then—and no one is listening now. We haven't even been willing to study and review the sad and dreary defeat of Vietnam in order to profit from our mistakes and to better prepare for the future.

It is later than we think. A word to the wise is sufficient.

Mr. MEEDS. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 330, nays 71, not voting 33, as follows:

[Roll No. 363]

YEAS—330

Abdnor	Brodhead	Dingell
Addabbo	Brooks	Dodd
Akaka	Broomfield	Downey
Alexander	Brown, Calif.	Drinan
Allen	Brown, Mich.	Duncan, Tenn.
Ambro	Broyhill	Early
Anderson, Calif.	Buchanan	Eckhardt
	Burke, Fla.	Edgar
Anderson, Ill.	Burke, Mass.	Edwards, Ala.
Andrews, N.C.	Burleson, Tex.	Edwards, Calif.
Andrews, N. Dak.	Burlison, Mo.	Eilberg
	Burton, John	English
Annunzio	Burton, Phillip	Erlenborn
Applegate	Byron	Ertel
Armstrong	Carney	Evans, Colo.
Ashley	Carr	Evans, Del.
Aspin	Cavanaugh	Evans, Ga.
Baldus	Chappell	Evans, Ind.
Barnard	Clay	Fary
Baucus	Cleveland	Fascell
Beard, R.I.	Cohen	Fenwick
Beard, Tenn.	Coleman	Fish
Bedell	Collins, Ill.	Fisher
Beilenson	Conte	Fithian
Benjamin	Corcoran	Flippo
Bennett	Corman	Flood
Bevill	Cornell	Florio
Biaggi	Cornwell	Flowers
Bingham	Cotter	Flynt
Blanchard	D'Amours	Foley
Blouin	Danielson	Ford, Mich.
Boggs	Davis	Ford, Tenn.
Boland	de la Garza	Forsythe
Bolling	Delaney	Fountain
Bonior	Dellums	Fowler
Bonker	Derrick	Fraser
Bowen	Derwinski	Frenzel
Brademas	Devine	Fuqua
Breaux	Dicks	Garcia
Brinkley	Diggs	Gaydos

Gephardt	McEwen	Rogers
Giaimo	McFall	Roncalio
Gibbons	McHugh	Rooney
Gilman	McKay	Rose
Ginn	Madigan	Rosenthal
Glickman	Maguire	Rostenkowski
Gonzalez	Mahon	Roybal
Gore	Mann	Ruppe
Gradison	Markey	Russo
Green	Marks	Ryan
Gudger	Mathis	Santini
Guyer	Mattox	Sarasin
Hall	Meeds	Satterfield
Hanley	Metcalfe	Sawyer
Hamilton	Mikulski	Scheuer
Hannaford	Mikva	Schroeder
Harkin	Milford	Sebelius
Harris	Miller, Calif.	Seiberling
Harsha	Miller, Ohio	Sharp
Hawkins	Mineta	Shipley
Heckler	Minish	Skelton
Hefner	Moakley	Skubitz
Heftel	Moffett	Slack
Hightower	Mollohan	Smith, Iowa
Holland	Montgomery	Smith, Nebr.
Hollenbeck	Moore	Snyder
Holtzman	Moorhead, Pa.	Solarz
Horton	Moss	Spellman
Howard	Mottl	St Germain
Hubbard	Murphy, Ill.	Staggers
Huckaby	Murphy, N.Y.	Stanton
Hughes	Murphy, Pa.	Stark
Ichord	Murtha	Steed
Ireland	Myers, Gary	Steers
Jacobs	Myers, John	Stokes
Jeffords	Myers, Michael	Studds
Jenkins	Natcher	Thompson
Jenrette	Neal	Thone
Johnson, Calif.	Nedzi	Traxler
Johnson, Colo.	Nichols	Udall
Jones, N.C.	Nolan	Ullman
Jones, Okla.	Nowak	Van Deerlin
Jones, Tenn.	Oberstar	Vander Jagt
Jordan	Obey	Vanik
Kastenmeier	Ottinger	Vento
Kazen	Panetta	Volkmer
Ketchum	Patten	Waggonner
Keys	Patterson	Walgren
Kildee	Pattison	Walsh
Kindness	Pease	Wampler
Kostmayer	Pepper	Watkins
Krebs	Perkins	Waxman
Krueger	Pickle	Weaver
LaFalce	Pike	Weiss
Latta	Poage	White
Le Fante	Pressler	Whitley
Lederer	Preyer	Whitten
Leggett	Price	Wiggins
Lehman	Pritchard	Wilson, C. H.
Lent	Pursell	Winn
Levitas	Quie	Wirth
Livingston	Quillen	Wolff
Lloyd, Calif.	Rahall	Wright
Long, La.	Rangel	Wydler
Long, Md.	Regula	Wylie
Lott	Reuss	Yates
Lujan	Richmond	Yatron
Luken	Rinaldo	Young, Mo.
Lundine	Risenhoover	Zablocki
McCormack	Roberts	Zeferetti
McDade	Roe	

NAYS—71

Archer	Hagedorn	Pettis
Ashbrook	Hammer-schmidt	Quayle
Badham	Hansen	Railsback
Bafalis	Harrington	Robinson
Bauman	Hillis	Rousselot
Brown, Ohio	Holt	Rudd
Burgener	Hyde	Schulze
Butler	Kelly	Shuster
Caputo	Kemp	Sikes
Clausen, Don H.	Lagomarsino	Spence
Clawson, Del	Leach	Stangeland
Collins, Tex.	Lloyd, Tenn.	Steiger
Conable	McClory	Stratton
Crane	McCloskey	Stump
Cunningham	McDonald	Symms
Daniel, Dan	McKinney	Taylor
Daniel, R. W.	Marlenee	Treen
Dickinson	Marriott	Trible
Dornan	Martin	Walker
Emery	Michel	Whitehurst
Findley	Mitchell, Md.	Wilson, Bob
Gammage	Mitchell, N.Y.	Young, Fla.
Goldwater	Moorhead, Calif.	
Goodling	O'Brien	
Grassley		

NOT VOTING—33

Ammerman	Burke, Calif.	Chisholm
AuCoin	Carter	Cochran
Breckinridge	Cederberg	Conyers
Coughlin	Nix	Teague
Dent	Oakar	Thornton
Duncan, Oreg.	Rhodes	Tsongas
Edwards, Okla.	Rodino	Tucker
Frey	Runnels	Whalen
Kasten	Simon	Wilson, Tex.
Mazzoli	Sisk	Young, Alaska
Meyner	Stockman	Young, Tex.

The Clerk announced the following pairs:

Mrs. Meyner with Mr. Carter.
Mr. Mazzoli with Mr. Young of Alaska.
Mr. AuCoin with Mr. Kasten.
Mr. Ammerman with Mr. Teague.
Mrs. Burke of California with Mr. Cochran of Mississippi.
Mr. Breckinridge with Mr. Stockman.
Mr. Runnels with Mr. Whalen.
Mr. Simon with Mr. Cederberg.
Ms. Oakar with Mr. Edwards of Oklahoma.
Mrs. Chisholm with Mr. Coughlin.
Mr. Tsongas with Mr. Tucker.
Mr. Thornton with Mr. Nix.
Mr. Charles Wilson of Texas with Mr. Duncan of Oregon.
Mr. Dent with Mr. Conyers.

Messrs. COLLINS of Texas, SYMMS, SPENCE, GAMMAGE, HYDE, KEMP, and O'BRIEN changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROPOSAL TO REFORM FEDERAL PERSONNEL MANAGEMENT SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95-990)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

On March 2 I sent to Congress a Civil Service reform proposal to enable the Federal Government to improve its service to the American people.

Today I am submitting another part of my comprehensive proposal to reform the Federal personnel management system through Reorganization Plan No. 2 of 1978. The plan will reorganize the Civil Service Commission and thereby create new institutions to increase the effectiveness of management and strengthen the protection of employee rights.

The Civil Service Commission has acquired inherently conflicting responsibilities: to help manage the Federal Government and to protect the rights of Federal employees. It has done neither job well. The plan would separate the two functions.

OFFICE OF PERSONNEL MANAGEMENT

The positive personnel management tasks of the Government—such as training, productivity programs, examinations, and pay and benefits administration—would be the responsibility of an Office of Personnel Management. Its Director, appointed by the President and confirmed by the Senate, would be responsible for administering Federal personnel matters except for Presidential appointments. The Director would be the Government's principal representative in Federal labor relations matters.

MERIT SYSTEMS PROTECTION BOARD

The adjudication and prosecution responsibilities of the Civil Service Commission will be performed by the Merit Systems Protection Board. The Board will be headed by a bipartisan panel of three members appointed to 6-year, staggered terms. This Board would be the first independent and institutionally impartial Federal agency solely for the protection of Federal employees.

The plan will create, within the Board, a Special Counsel to investigate and prosecute political abuses and merit system violations. Under the civil service reform legislation now being considered by the Congress, the Counsel would have power to investigate and prevent reprisals against employees who report illegal acts—the so-called "whistleblowers." The Counsel would be appointed by the President and confirmed by the Senate.

FEDERAL LABOR RELATIONS AUTHORITY

An Executive order now vests existing labor-management relations in a part-time Federal Labor Relations Council, comprised of three top Government managers; other important functions are assigned to the Assistant Secretary of Labor for Labor-Management Relations. This arrangement is defective because the Council members are part-time, they come exclusively from the ranks of management and their jurisdiction is fragmented.

The plan I submit today would consolidate the central policymaking functions in labor-management relations now divided between the Council and the Assistant Secretary into one Federal Labor Relations Authority. The Authority would be composed of three full-time members appointed by the President with the advice and consent of the Senate. Its General Counsel, also appointed by the President and confirmed by the Senate, would present unfair labor practice complaints. The plan also provides for the continuance of the Federal Service Impasses Panel within the Authority to resolve negotiating impasses between Federal employee unions and agencies.

The cost of replacing the Civil Service Commission can be paid by our present resources. The reorganization itself would neither increase nor decrease the costs of personnel management throughout the Government. But taken together with the substantive reforms I have proposed, this plan will greatly improve the Government's ability to manage programs, speed the delivery of Federal services to the public, and aid in executing other reorganizations I will propose to the Congress, by improving Federal personnel management.

Each of the provisions of this proposed reorganization would accomplish one or more of the purposes set forth in 5 U.S.C. 901(a). No functions are abolished by the plan, but the offices referred to in 5 U.S.C. 5109(b) and 5 U.S.C. 1103(d) are abolished. The portions of the plan providing for the appointment and pay for the head and one or more officers of the

Office of Personnel Management, the Merit Systems Protection Board, the Federal Labor Relations Authority and the Federal Service Impasses Panel, are necessary to carry out the reorganization. The rates of compensation are comparable to those for similar positions within the executive branch.

I am confident that this plan and the companion civil service reform legislation will both lead to more effective protection of Federal employees' legitimate rights and a more rewarding workplace. At the same time the American people will benefit from a better managed, more productive and more efficient Federal Government.

JIMMY CARTER.

THE WHITE HOUSE, *May 23, 1978.*

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10929, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 1½ hours, and the gentleman from California (Mr. BOB WILSON) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, by direction of the Committee on Armed Services, I bring to the House today H.R. 10929, the fiscal year 1979 appropriation authorization bill. This bill provides $37.97 billion in authorization for the procurement of major weapon systems, all military research, development, test and evaluation, and civil defense in the year which begins next October 1. The bill also authorizes the Active and Reserve personnel strengths of the military services, as well as the civilian strength of the Department of Defense, and the level of student training for the Active and Reserve components for fiscal year 1979. Finally, in its general provisions, the bill carries a number of important requirements and limitations covering the operation of the Department of Defense.

The bill as approved by the committee is $2.48 billion above the request submitted by the administration. However, the administration, through the Secretary of the Navy, has now indicated its support for an aircraft carrier, which means an addition of $1.525 billion. Therefore, the difference between the committee bill and the request of the administration is reduced to $800 million.

The committee recommends continuing some growth beyond inflation in the "investment areas" of the defense budget. The budget as submitted provided for no real growth in this area subject to authorization.

The committee approved the bill by a vote of 32 to 4, with one voting present.

Understandably, there are some additional views. Some members objected to a number of programs authorized and some members objected that the bill is not large enough and leaves serious deficiencies in the U.S. Navy. Some disagreement would appear to be inevitable in a bill as large and varied as this which provides almost $38 billion for literally thousands of procurement and research and development programs. On balance, the bill reflects the Armed Services Committee's deep concern with the Soviet strategic and Naval weapons buildup.

Mr. Chairman, the committee report on this legislation is available to all Members of the House (H. Rept. No. 95–1118). Its pages, I believe, represent one of the most comprehensive reports issued by the House Armed Services Committee. I will not, therefore, take extensive time today to discuss all of the many actions which the committee has taken in the legislation. Let me just highlight some major differences between the bill, H.R. 10929, and the proposal submitted by the administration in January:

PROCUREMENT

The most significant change the committee made to the President's budget was in naval vessels procurement. The President's shipbuilding bill provided only 15 ships at $4.7 billion, half of his plan for fiscal year 1979 as stated last year. The committee deleted authorization in the amount of $911.9 million for an eighth Trident submarine due to delays in the program (but retained authorization for long lead), and added authorization for a nuclear aircraft carrier and a nuclear strike cruiser, in the amounts of $2,129.6 million and $1,096 million, respectively.

The ship construction portion of the bill will be discussed in more detail by the distinguished gentleman from Florida (Mr. BENNETT).

The committee made these other major changes in the procurement areas:

ARMY AIRCRAFT

Added $19.6 million for the purchase of 20 C–12 utility aircraft.

NAVY AIRCRAFT

Added $200 million for 12 additional F–14 fighter aircraft, bringing the total buy for fiscal year 1979 to 36 aircraft;

Added $153.9 million for 24 A–7E attack aircraft;

Added $138 million for four additional F–18 fighter aircraft, bringing the total buy for fiscal year 1979 to nine aircraft;

Added $3 million for the conversion of two S–3A aircraft to carrier-on-board delivery aircraft;

Deleted $116.9 million for 18 A–4M attack aircraft for the Marine Corps, adding in their place 15 AV–8A V/STOL attack aircraft at a cost of $90 million;

Added $8.1 million for one Gulf Stream II administrative support aircraft for the Marine Corps;

AIR FORCE AIRCRAFT

Added $145 million for 16 C–130H aircraft;

Added $141 million for 16 two-place A–7D aircraft for the Air National Guard;

Added $15 million for production engineering and early procurement of selected components for the E–4 advanced airborne command post program;

Deleted $161.3 million for the EF–111A aircraft with the intent to cancel the program due to unacceptable cost growth;

Added $9 million for initiation of the KC–135 aircraft reengining program.

TANKS

Reduced the XM–1 tank authorization by $122.4 million due to improved pricing information.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The committee made over 143 changes in the diverse R.D.T. & E. budget request resulting in a net reduction of over $575 million. The following are some of the major revisions in the R.D.T. & E. accounts:

The restoration of $25 million for the F–18 aircraft, resulting in a total recommendation of $498.6 million for the F–18 program for fiscal year 1979. This puts the F–18 program back on its original schedule with potential long-term savings estimated at over $425 million.

The addition of $93 million to the Navy R.D.T. & E. budget request for the continued development of the surface effect ship (SES).

A reduction of the entire $124.5 million request for the Navy's light airborne multipurpose system (LAMPS III), thereby terminating the program because of extreme cost growth.

Deletion of the $41.2 million requested for development of a cruise missile carrier by the Air Force. Its vulnerability, high cost, and performance constraints did not justify initiation of such a multi-billion-dollar program, the committee concluded.

The R. & D. programs will be discussed in detail by the gentleman from Missouri, Mr. ICHORD, chairman of our Research and Development Subcommittee.

PERSONNEL

The committee approved the following end strengths for the forces for fiscal year 1979:

Army: 776,600.
Navy: 525,300.
Marine Corps: 191,500.
Air Force: 566,350.

The recommended strength is a net increase of 10,000, primarily to prevent a proposed reduction in the Army's training establishment and to support longer recruit training in the Navy and Marine Corps.

With these adjustments, active military strength will still be approximately 25,000 less than the strength authorized last year.

The committee recommended a change to permanent law which will give increased flexibility to the Secretary of the Navy in the assignment of women aboard Navy ships, allowing the Navy to assign women for permanent duty to noncombat vessels—oceanography vessels, tugs, et cetera, and to combat ships for temporary duty such as for training, or for technical repair activities.

For Reserve personnel, the committee approved the recommendations of the President with one exception. The committee rejected the proposal to reduce Naval Selected Reserve strength to 51,400 and instead approved a strength of 87,000.

Reflecting its deep concern for shortages in several of the Reserve components, the committee approved language to extend the current authority for an educational assistance program and a reenlistment bonus which were initiatives of the committee last yar.

Mr. WHITE of Texas, the distinguished chairman of our Military Personnel Subcommittee, will discuss personnel changes in more detail.

TRAINING BASE REALINEMENTS

The committee approved an amendment to title VI which will require the Secretary of Defense to notify the Committees on Armed Services and Appropriations of the specific details of any substantial reduction or realignment of the training base structure planned as a part of the fiscal year 1979 Defense program. Pursuant to this amendment, the Secretary will be required to certify the plan is in the best interest of national security and provides for efficient management. No action implementing the plan submited can be taken until 30 legislative days have passed.

CIVIL DEFENSE

The committee approved an authorization of $137 million for civil defense. The administration had requested only $96.5 million, which the committee considered inadequate for necessary civil defense preparedness.

GENERAL PROVISIONS

Finally, the bill contains 11 sections under general provisions, consistent with the number in recent years. Included are 2-year extensions for reenlistment/enlistment bonuses for enlisted personnel in critical skills; special pay and bonuses for health professionals and subsistence allowance for Marine Corps officer trainees. Also, there are provisions which apply to the organization of the Army Dental Corps; place restrictions on contracting out commercial and industrial type functions; provide for optional DOD assistance to the 1980 Winter Olympic Games; and place restrictions on the procurement of foreign-produced specialty metals.

HEARINGS

Despite the requirements for early completion of work in line with the Congressional Budget Act, our committee conducted unusually thorough hearings into overall defense programs. The committee commenced its hearings in January with a briefing by the Central Intelligence Agency.

In all, the committee's consideration included 35 full committee meetings and 89 subcommittee meetings.

JUNIOR ENLISTED PERSONNEL

During its deliberation on H.R. 10929, the committee expressed concern with the continuing and alarming decay of the financial well-being of our most junior enlisted personnel stationed overseas. The conditions under which many of these young servicemen and their families are living today have deteriorated to the point that they reflect adversely on the image of America abroad and is viewed in some quarters as reflecting a lack of concern for the welfare of these young Americans serving the Nation overseas.

The committee recognizes that a number of factors contribute to the circumstances in which these junior personnel find themselves. Hearings are presently being conducted to delineate these further and to recommend comprehensive action. However, the committee has determined that the single most important action that can be taken to alleviate the problem is to insure that funds are appropriated to provide travel and transportation benefits for the dependents of junior enlisted personnel assigned overseas. Timely action is critically important, and the committee reaffirms its strong desire that these benefits be provided.

PROCUREMENT PROGRAMS APPROVED AS REQUESTED

Much is made of the committee additions to the bill. However, the Members should be clear that the majority of procurement programs authorized in the legislation are administration proposals approved as requested.

These include:

For the Army, the AH–1S, the CH–47C, and the UH–60A helicopters;

For the Navy, the administration request for the following aircraft: the A–6E, EA–6B, P–3C, E–2C, and the CTX. It also includes the CH–53E helicopter.

For the Air Force, all of the requests for the A–10, F–15, F–16, advanced tanker cargo aircraft, and the E–3A AWACS.

The bill provides all of the Roland, Hawk, and Stinger missiles requested for the Army and the Marine Corps; all of the Sparrow, Sidewinder, Phoenix, Harpoon, Standard, and Tow missiles requested for the Navy; and all of the Sparrow, Sidewinder, and Shrike tactical missiles, and the strategic ALCM requested for the Air Force.

The bill provides 14 of the 15 ships requested by the administration for the Navy, with the only deletion being a Trident submarine.

The bill provides the number of tanks, armored personnel carriers, and machineguns requested for the Army.

COST IMPACT

Members should be clear that they do not confuse an authorization increase with a straight increase in Defense spending. In some cases, the committee has increased programs because of long-range cost increases. For example, the committee added funds for 12 additional F–14 aircraft and 4 additional F–18 aircraft. All this did is put the programs back on the procurement schedule laid out by Congress last year. The administration proposal would have involved a stretchout of these two programs which would have added over $1 billion in total cost for the life of the two programs.

The net increase in this year's bill for aircraft procurement is about $150 million less than was added to the authorization bill last year.

FLOOR PROCEDURE

The committee is bringing up the bill under an open rule and anybody is free to offer an amendment to make any deletions or additions they believe to be justified.

As you know, one Member will seek to substitute the administration proposal for the committee bill. This substitute, if approved, would have the effect of blocking consideration of the committee bill. It would have us rubberstamp the Pentagon request without making any changes.

If the Member sincerely wants to substitute the administration bill, he can offer his amendment and have it voted up or down. But a vote to support such a substitute would mean turning over our legislative mandate to the executive branch.

We all know that the real dollar difference between our committee bill and the administration bill is in shipbuilding. Specifically, there is a nuclear aircraft carrier for $2.1 billion not requested by the President. The Secretary of the Navy has now indicated administration support for a carrier costing $1.5 billion.

Mr. Chairman, at this point I include a letter from the Secretary of the Navy to myself as chairman of the Committee on Armed Services; as follows:

THE SECRETARY OF THE NAVY,
Washington, D.C., May 22, 1978.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Congress has before it a number of issues particularly important to the 1979 Department of Defense request for appropriations. One of these issues is that of whether or not to authorize a carrier, and, if so, what kind of carrier. At this juncture in your deliberations, I thought it could be helpful to provide you with my views.

There should be no question that this Administration supports the construction of another carrier, both to replace the USS *Midway* and to enable us to maintain 12 deployable large decks through the balance of this century. The President's Five-Year Shipbuilding Plan includes a carrier, the

Secretary of Defense has testified in support of another carrier, and I have consistently supported a carrier since becoming Secretary of the Navy. Setting aside whether the carrier should be authorized in fiscal year 1979 or fiscal year 1980, the difference between what the President, the Secretary of Defense, and I have consistently recommended, and what the House and Senate Armed Services Committees have proposed, is whether or not this carrier should be a nuclear-powered CVN or a conventionally-powered CVV.

I indicated in my letter transmitting the Assessment of Sea-Based Air Platforms Project that I favored the conventionally-powered CVV. I still prefer the CVV. I prefer it because of its lesser acquisition cost—on the order of one billion dollars—which not only frees up money for other vital programs but also helps ameliorate the budget deficit we face. At the same time, the CVV—a carrier about the size of MIDWAY which it replaces—is by any standard a highly capable and flexible weapon system that can conduct operations with all types of aircraft in the inventory, including the F-14. While of lesser unit capability than a CVN, it is still orders of magnitude more capable than any carrier the Soviets are projected to deplay. The CVV would break the chain of increasingly more capable, larger, more expensive, and hence fewer sea-based platforms, and points the way to greater numbers, greater dispersal, and greater aggregate power of sea-based air until such time as the transition to VSTOL and much smaller, cheaper, and more numerous U.S. carriers can be effected.

I call to mind last year's debate when the House rejected a CVN by an overwhelming margin, and we wound up with no carrier at all. Although in its 5-year shipbuilding plan, a CVV was included in fiscal year 1980 rather than fiscal year 1979, the administration will now support a CVV this year. While Admiral Holloway has testified that he prefers a CVN to a CVV because of its admittedly superior capability, I can say categorically that he joins me in putting top priority on getting one more large-deck carrier regardless of its method of propulsion, and would prefer a CVV to no carrier at all.

For all these reasons, I urge your support for a CVV in lieu of the proposed CVN in the fiscal year 1979 authorization bill.

Sincerely,

W. GRAHAM CLAYTOR, JR.

Mr. Chairman, I understand one Member is prepared to offer an amendment on the aircraft carrier. If the carrier is approved, then the House will be making a specific decision to approve an addition to the original request. If no carrier is approved, the committee bill would be reduced below the authorization level presently approved by the administration.

The committee believes that its arguments in behalf of the nuclear carrier are persuasive. It invites an honest debate on the issues and a determination here on the floor of the House.

Let us not abrogate the committee system.

CONCLUSION

The bill reported by the Armed Services Committee provides necessary improvements in our strategic and conventional forces to continue our deterrent capability.

This is an authorization bill—the first step in the authorization and appropriation process which invariably sees some modification as the legislation goes through the congressional process. Even if all of the authorization in this legislation is funded, however, and even if no reductions were made in areas of lesser priority, such as noncombat procurement, the net increase in the President's budget, as a result of the additions in this bill, would be 1.9 percent. In view of the dramatic increases we have seen in Soviet strategic and conventional forces, and the continuing trouble that freedom faces in various parts of the world, such an addition for national preparedness can be readily understood.

I ask the Members of the House to support the committee bill and to oppose attempts to cut off debate on this bill in the House.

Mr. BOB WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Gen. George S. Brown, Chairman of the Joint Chiefs of Staff and our highest ranking military officer, made his final report to the Armed Services Committee earlier this year. The messsage carried by his report is very clear. General Brown told the committee:

. . . that in nearly every area of military strength there has been a relative decline over the years in relation to the Soviet Union, our principal potential adversary.

General Brown is not alone in this assessment of U.S. military strength as compared to the Soviet Union. He has been joined by others including Defense Secretaries Harold Brown, Donald Rumsfeld, and James Schlesinger.

While these assessments have not made headlines, they leave little doubt that current trends in the acquisition of weapons in almost all mission areas and current trends in the magnitude of military research and development favor the Soviet Union. The ultimate outcome of these trends in terms of the future military balance remains uncertain.

Increasing Soviet military capability has raised serious questions about the ability of the United States to successfully defend against a major conventional attack against NATO. Soviet naval developments which have not been offset by the U.S. Navy raise grave questions about our ability to operate in the eastern Mediterranean or in the western Pacific in support of our friends and allies.

This brings us to the primary purpose of the authorization bill under consideration. This bill lays the foundation for the Defense Establishment we will have in the future. The downward trend of U.S. military forces in relation to those of the Soviet Union has resulted in what some choose to call a "rough equivalence" at this time. This trend has been taking place for the past 15 years, and the Armed Services Committee realizes that it cannot be reversed in a single year.

The committee also realizes that unless the trend is reversed, the Soviets will, without doubt, achieve military superiority in most key areas by 1985. The bill, H.R. 10929, is only a minimum effort to reverse the trend of declining U.S. defense investment.

The defense budget submitted to the Congress for the next fiscal year was about $10 billion less than the amount conidered necessary by the Ford administration to meet the Soviet threat. In fact, there is general agreement that a budget at least 30 percent larger than the $128 billion recommended is needed if we were to equal the Soviet defense effort.

While I understand the pitfalls in making comparisons between the dollar expenditures for U.S. military hardware and manpower with ruble expenditures in the Soviet Union, there are considerable differences. It has been estimated that the cost of the Soviet defense effort now exceeds that of the United States by some 40 percent when retirement costs are excluded. But the real test, Mr. Speaker, is in what our satellites tell us is coming off the ends of Soviet production lines.

Our means of intelligence tell us that the Soviets have outproduced the United States in tanks, armored fighting vehicles, artillery, submarines, and surface combatants for more than a decade. Their present output of tactical aircraft and helicopters also exceeds that of the United States. The Soviet investment in R.D.T. & E. and military construction has exceeded that of the United States every year since 1969. In 1977, the Soviet R.D.T. & E. defense investment was estimated to be 75 percent larger than that of the United States.

Between 1964 and 1977, Soviet military personnel increased by 1 million—from 3.4 to 4.4 million men.

The rough strategic balance between the United States and the Soviet Union will tilt dangerously in favor of the Soviets by the early 1980's. The introduction of powerful new ICBM's and SLBM's provide the Soviets with a growing threat to our Minuteman forces which, when coupled with an active Soviet civil defense and massive air defense system, may provide a decisive strategic advantage.

There was wide agreement among the witnesses before our committee that if the present trend continues, that is, if the momentum of Soviet strategic and conventional developments continue without some response from the United States, the Soviets will achieve superiority within a decade.

The opinion polls show that the people of the United States do not want this to happen. The polls show wide support for such expenditures as are required to maintain a conventional and strategic deterrent. On this issue, the sense of danger expressed by the people may be running well ahead of that of their elected leaders.

During the debate on this bill, much will be made about the fact that the committee recommends slightly larger expenditures and different priorities than those recommended by President Carter. In past years, it has been argued that the committee has simply acted as a rubberstamp with regard to the President's recommendation. Today you will have the argument that the committee failed to rubberstamp the President's programs.

The truth is, Mr. Chairman, the Armed Services Committee has acted responsi-

bly under the Constitution and the rules of the House of Representatives. Section 8 of article I of the Constitution gives the Congress the power and the responsibility to provide for the common defense; to raise and support armies; to provide and maintain a Navy; to make rules for the Government and regulation of the land and naval forces; and to repel invasions. No such powers or responsibilities reside in the Office of the President.

Much has been written, and in many speeches made in this Chamber, to the effect that the Congress should recover its powers which have been given away to the executive branch or usurped by one President or another. The power of the Congress with respect to defense matters has never been given over to the executive branch, and the Congress has never considered a Presidential budget request for defense as immutable. In making its recommendation with respect to the fiscal year 1979 request, the committee was well aware that it is the Congress and not the President which decides the priorities respecting our national defense.

Much debate will be heard about the committee's recommendation for a nuclear-powered aircraft carrier. The President's budget contained no request for an aircaft carrier and no new carrier was supported by the Secretary of the Navy at the time he testified. Now, I understand that the Secretary of the Navy and the Secretary of Defense support the addition of an oil-fired aircraft carrier, and that an amendment to the bill dealing with that carrier may be expected.

The committee's recommendation for nuclear an additional powered carrier followed its thorough examination of two major studies by the Department of Defense. One of these studies dealt with naval force levels. The other, directed by the Congress last year, dealt with naval aircraft platforms. The studies showed that if only one aircraft carrier is to be built, the large-deck nuclear-powered carrier is by far the most desirable option. In terms of combat effectiveness, cost effectiveness, and survivability, the nuclear-powerered carrier is the best weapon system available to combat the growing Soviet naval threat.

The Soviet naval threat consists of large numbers of cruise missile firing submarines and surface ships. In addition, the Backfire bomber and other Soviet land-based aviation units present a growing threat to U.S. naval and merchant marine vessels within their range of operation. These forces could present a serious threat to the sealanes of communication in case of a conflict involving the Soviet Union. Such a conflict could involve the oil routes upon which we depend for 50 percent of our oil. Conflicts could affect our ability to resupply NATO or to carry out our commitments to Japan, South Korea, and other nations in the Pacific as well as the assistance of friendly governments in the Middle East. The large deck nuclear-powered carrier with its ability to conduct antiair, antisubmarine, and antisurface warfare simultaneously is the only effective means of countering these threats in a hostile environment.

It is interesting to note that even those who argue that we should move toward smaller oil-fired carriers in the future, concede the requirement for a mixed force containing 12 large carriers. But to have 12 large carriers in the future requires the building of 1 more large carrier such as that which would be authorized by H.R. 10929. This mix of 12 large carriers, complemented by guided missile cruisers, by F14 interceptors, by modern destroyers, and by attack submarines is the minimum necessary if the U.S. fleet is to retain what the Chief of Naval Operations considers to be only a "slim margin" of superiority over the Soviet navy. The "slim margin" of superiority today would, according to Adm. James L. Holloway, the Chief of Naval Operations, permit open sealanes only as far as Hawaii in the Pacific during a conflict with the Soviet Union. Shipping to NATO and allied naval units would suffer serious losses in the Atlantic.

The "slim margin" of superiority is becoming slimmer each month, with the new production of new Backfire bombers and the launching of more and more Soviet warships and submarines. If current trends continue, Admiral Holloway says, the balance will tip substantially in favor of the Soviets.

The judgment of the Armed Services Committee also differed from the President's budget with respect to additional funding for a *Virginia*-class cruiser. President Carter requested the authorization of long-lead funding for this ship last year, with the remainder of the authorization to be provided this year. The ship was dropped from the fiscal year 1979 budget request. The committee recommends that the cruiser, destined to be the first nuclear-powered AEGIS air defense escort, continue on schedule.

I should note that even with the addition of a carrier, now apparently supported by the administration, and the cruiser requested last year, the bill authorizes only 16 ships—one more than the 15 ships requested. The request for 15 ships was totally inadequate and would not sustain a Navy even at today's reduced levels. The request bears little relationship to what the Defense Department's own studies show is necessary to maintain an adequate Navy.

A DOD study called Sea Plan 2000, completed in March of this year, includes a number of options and alternative naval force structures. The 5-year shipbuilding program submitted to the Congress by the President provides less in the way of future shipbuilding than even the lowest option contained in the study. The committee's recommended additions to such a deficient shipbuilding program can hardly be called excessive.

Although not affected by any specific provision of the authorization bill, the economic plight of our junior enlisted personnel stationed overseas was addressed during committee consideration of H.R. 10929. The committee is extremely concerned that many of our young servicemen overseas are being distracted from their job as a result of their financial problems. The primary cause of these problems is the lack of travel and transportation benefits for dependents of junior enlisted personnel. The debt that is often incurred in moving dependents and even minimal amounts of household goods—at the member's own expense—to the overseas station sets in motion a sequence of events that eventually results in these severe financial problems.

Consequently, the committee reiterated its strong belief that travel and transportation benefits are singularly important in rectifying a situation that potentially reduces the effectiveness of our personnel assigned overseas.

Mr. Chairman, I note that three of our colleagues have filed dissenting views which begin on page 139 of the committee's report on H.R. 10929. The views begin with the following language:

> Your Armed Services Committee has run amok. It has slipped its moorings, lost its bearings, stripped its gear, gone off its trolley, flipped its wig.

It goes without saying, Mr. Chairman, that these terms are slang expressions for insanity. In other words, the majority of the members of the committee—those who supported the changes in the Carter administration's programs—are nuts. I can assure you, Mr. Chairman, that such is not the case.

This bill is a result of a great deal of study and effort by the Committee on Armed Services. The committee logged a total of 89 hearing sessions by five different subcommittees on various titles of the legislation. In addition, the full committee conducted 35 hearing sessions, including six markup meetings, on the bill.

This is a bill with many diverse items and naturally not everyone agrees with all of the committee's actions on all items. I personally do not agree with all of the committee's actions. In some cases, I am concerned that our cuts were too severe. But the legislative process is a compromise and I think the committee has worked exceptionally hard on this legislation and has come up with the best bill possible under the circumstances.

I firmly believe that the bill provides what is necessary for our national security during these dangerous times but more importantly, what is necessary to provide for our national security in the future. I urge the passage of the bill.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. BOB WILSON. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman for yielding.

Since the gentleman from California (Mr. Bob Wilson) has quoted a famous American, I thing it might be well to quote Plato, a renowned philosopher of Greece:

> You are young, my son, and time goes by, things will change and, may even reverse many of your present opinions. Refrain therefore awhile from setting yourself up as a judge of the highest matters.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BOB WILSON. Mr. Chairman, that is very appropriate. I appreciate the gentleman's comment.

Mr. PRICE. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I would like to point out that H.R. 10929, the Department of Defense authorization bill for fiscal year 1979, reflects an agreement on certain intelligence-related budget items between the Committee on Armed Services, and the permanent Select Committee on Intelligence. The Permanent Select Committee on Intelligence has budget authorization jurisdiction over both the intelligence and intelligence-related activities of our Government. This last category consists of a number of Department of Defense programs which provide intelligence to military operational commanders. Both committees share jurisdiction over these programs. Both H.R. 10929, the defense authoization bill for fiscal year 1979 and H.R. 12240, the intelligence and intelligence-related progam authorization bill for fiscal year 1979, represent the unanimous, consensus opinions of both committees as to all the intelligence-related items in the fiscal year 1979 budget. I want to acknowledge the full cooperation and assistance of Chairman PRICE, Chairman ICHORD, and the ranking minority member, BOB WILSON—who is also ranking minority member on the permanent Select Committee on Intelligence—in resolving our differences on these matters. As a result, both H.R. 10929 and H.R. 12240 are consistent as to these classified progams.

Mr. PRICE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Massachusetts for his comments concerning the joint efforts of the permanent Select Committee on Intelligence and the Armed Services Committee in reporting out authorization for intelligence-related activities.

We reached complete accord on those elements over which we share responsibility and I am pleased to report that the committees and staff worked in an atmosphere of complete cooperation and understanding.

Although the overall funds authorized fall in budget category 050 and are in the Armed Services Committee authorization figures, the details are classified and are contained in the classified annex to the report on H.R. 12240 prepared by the select committee.

Mr. BOLAND. If the gentleman will yield further, Mr. Chairman, I want to thank the chairman of the Committee on Armed Services for his remarks. I also want to congratulate his staff for the manner in which they have worked with the permanent Select Committee on Intelligence on these sometimes difficult and oftentimes controversial matters.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I rise in support of H.R. 10929 as amended.

I wish to speak especially to the naval vessel portion of the bill—the Navy's shipbuilding program.

While 1 year ago, the President promised to have a shipbuilding program for fiscal year 1979 of 30 ships and $8.5 billion, his submission was of only 15 ships for $4.7 billion. Today the Navy stands at 459 ships.

Secretary Brown has just testified before the Seapower Subcommittee that—

Our commitments require that we maintain a two-ocean Navy. (Emphasis supplied.)

However, Admiral Holloway had testified only 4 days earlier:

I do not think that the size of the Navy today, the 459 ships, realistically represents a two-ocean Navy. (Emphasis supplied.)

In addition, Admiral Holloway testified earlier that:

If Pacific Fleet assets were to be shifted to the European Theater in a NATO conflict, the U.S. forces remaining in the Pacific would be sufficient to protect the sea lanes from the continental United States to Hawaii and Alaska. *But only the military lines of communication to our allies in the Western Pacific.* (Emphasis supplied.)

The President's budget was based on a NATO war and on the central front of NATO. For the Navy, this completely overlooked the Navy's world wide role, and especially its role in the Pacific and in the Indian Ocean. Vice President MONDALE has just returned from a trip to Asia during which he reemphasized the U.S. commitment to stand by Southeast Asia against Communist aggression. These treaty commitments are but part of the commitments of the United States to provide mutual defense assistance to over 40 nations overseas. Yet, as I just quoted Admiral Holloway as saying, we cannot protect our sea lines of communication west of Hawaii and Alaska.

We have other reasons for needing to protect our sea lines of communication with the Far East and the Indian Ocean. With half of our petroleum now coming from overseas—the biggest portion of that comes from the Middle East. In case of trouble, the seas will be our main way of insuring that we continue to receive the needed oil. Of our strategic materials, almost all are imported by sea. Our export trade now faces west—40 percent of our exports go to the Far East as compared to 31 percent going to Europe.

All of these factors cause us to have new thoughts about the strategic role to be played by the Navy. When these points were brought home to Secretary Brown, he agreed that there would be no diminution of the role played by the Navy. The Navy is needed to protect the northern and southern flanks of NATO. It is needed to protect all of our sea lines of communications—and it is needed regardless of whether the war will be short or long.

But how are we doing with our Navy? The Soviets have 671 as compared to our 352 combat ships; 232 as compared to our 156 surface combatants; and 351 as compared to our 120 submarines. No wonder in his assessment Admiral Holloway says:

Risk Assessment.

1. Today the U.S. Navy has a slim margin of superiority over the Soviets in those scenarios involving the most vital U.S. national interests. In the event of conflict, the U.S. could retain control of the North Atlantic sea lanes to Europe, but would suffer serious losses to both U.S. and allied shipping in the early stages. The Navy's ability to operate in the eastern Mediterranean would be uncertain at best. U.S. fleets in the Pacific would hold open the sea lanes to Hawaii and Alaska, but shortages of sea control and mobile logistic support forces could cause the U.S. to have difficulty in protecting its sea lines of communication into the western Pacific.

2. Future.

The foregoing conflict evaluation refers to the present. At the current rate of improvement of their naval capability, the balance of maritime superiority will tip in favor of the Soviets within the next five to ten years if the U.S. simply maintains its current force structure. Since it takes an average of at least five years for a unit authorized for construction to become operational, the U.S. must begin now to build the requisite number of ships if it is to maintain the advantage necessary to accomplish its sea control function and retain its current marginal superiority at sea.

At a later time in our hearings, Admiral Holloway testified that we should have a fleet of around 600 ships if we are to have a two-ocean Navy—about the same balance of ships as we have now.

Secretary Brown held up the submission of a 5-year shipbuilding program until he had received a naval force planning study from the Navy. When that study was prepared, he forwarded a 5-year program without any reference to the study. The study started with the present Navy and the President's shipbuilding program for fiscal year 1979, then adds 1 percent, 3 percent, and 4 percent real growth to provide options 1, 2, and 3. These three options result in fleets of 439, 535, and 585 ships at year 2000 respectively. The risk evaluations of these three options are:

Option 1: 439 ships, high risk; minimum capability; not flexible.

Option 2: 535 ships, minimum acceptable risk; maintains selective superiority versus Soviets.

Option 3: 585 ships, lower risk; provides hedge and options.

No matter what is said, we need to build ships—and combatant ships. I should note that of the 15 ships in the President's program this year, four are noncombatant.

The Armed Services Committee added one nuclear-powered aircraft carrier and one nuclear-powered cruiser to the President's budget while removing one Trident submarine, because of shipyard scheduling problems.

Recognizing that the shipbuilding program was low, we asked the Chief of Naval Operations and his uniformed associates what would be their priority for additional ships if extra money were added to this year's program. The answer was unanimous—a nuclear-powered carrier first, and a nuclear-powered cruiser second.

At the same time that the Navy force level planning study was being conducted, another study on sea-based aircraft platforms was also being conducted. This study showed that one more nuclear-powered aircraft carrier of the *Nimitz* class was the most battle worthy, and the most cost effective. It was also the personal first choice of those who conducted the study.

Study after study—but more importantly experience after experience—shows that the CVN is the most battle worthy and cost effective of all of the carriers. It may cost more at the start, but in the life cycle costing it comes out within 5 percent of the conventionally powered carrier. On the basis of life cycle costs for militarily equivalent task forces and on cost effectiveness for embarked aircraft, the CVN is the most desirable.

CVN has these advantages over CVV: 50 percent more aircraft; 2.8 times as much aircraft fuel; 2 times as much ammunition and or ordinance; 50 percent more deck space; 2 times as many catapults and aircraft elevators; 5 knots more speed; Unlimited endurance vice 2–3 days.

Most importantly CVN can go into high threat area—CVV cannot. Therefore—CVN is more combat capable, more cost effective, and provides more savings in U.S. lives than CVV.

What we have provided is the most capable fighting ship we can—one that can go into the high-threat area and win. This is not true of any other carrier. The smaller carrier, the CVV, cannot go into the high-threat area and thus unilaterally extends the Soviet's area of power without the Soviets doing a thing.

There is but one new carrier presently planned for the Navy through the 1990's, not two or three. That one should be the best one made of the *Nimitz* class.

The same thing applies to the nuclear-powered cruiser. Here again, the ability of the ship to sail without regard to logistics train is of great value militarily—although it is a value that the analysts cannot quantify in any way.

The time is now to build up the Navy—and the time is now to get ahead with the stronger, more capable ships. The smaller, less capable ships can be built later. We need to give the Navy the kinds of ships it needs and wants now. The Constitution gives the Congress the power to "provide and maintain a Navy * * *" It has taken the exercise of that power to get the nuclear-powered Navy that we have today.

Mr. Chairman, in reading the report to bill, I note on page 137, in the "dissenting views" by someone who does not want to build the CVN, it reads:

> The committee is asking the Congress to make such a dollar commitment at a time when the material condition of the fleet is still in sad shape largely due to fiscal constraints.

The reason for this is very simple when you analyze how we come to have the number and types of ships that are recommended by the Department of Defense and what is recommended for this operation and maintenance. It is very clear how they arrived at this sad posture. The way they arrived at it was to first ask us this the primary question: "How much is going to be allotted for the national defense of our country?" Then they ask, "How much of that will be spent for the Navy? Then, how much of that for the Navy will be spent for ships?"

Well, of course, that is not performing our constitutional responsibility. The constitutional responsibility of the Members of the Congress is to see to it that our country is adequately defended, not just to distribute funding based on budgetary restrictions arbitrarily arrived at.

People ask, "What does it take to adequately defend our country? How can we properly protect our country and prevent war?" George Washington said some 175 years ago, or even more than that, that the surest way not to have war, and instead have peace, is to have an adequate defense. That is just as true today as it was when he said it.

Our present sad state in international affairs around the world results from our national defense ability being curtailed. For example we see Cuba as a surrogate nation for Russia taking power by military force in underdeveloped countries rich in minerals in Africa. This is happening simply because our country's opposition to this carries no alarm, because our weakened strength speaking boldly while doing not enough for our adequate defense is losing for us any credibility throughout the world. Anyone who believes our present strength is adequate and strong enough to measure up to our needs is not thinking clearly.

Mr. BOB WILSON. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, I rise in support of H.R. 10929 as amended. I appreciate this opportunity to present to my colleagues the rationale behind the House Armed Services Committee decision to recommend to the Congress the addition of a nuclear-powered aircraft carrier and a nuclear-powered Aegis cruiser for the fiscal year 1979 shipbuilding program.

The committee chose to support these ships for very logical reasons: Let me point them out for you.

The Secretary of Defense, the Secretary of the Navy, and the Chief of Naval Operations all testified as to the need to build one more large-deck carrier in order to maintain a fleet of 12 large-deck carriers into the 21st century.

They do not differ on the need for a large-deck carrier. They differ only as to whether it should be a nuclear-powered carrier—the CVN—or a fossil-fueled carrier, the CVV.

Therefore, the need for one more large-deck carrier for the Navy is not disputed by the President or key Defense officials.

The Secretary of Defense says no, because it costs too much.

The Secretary of the Navy says that he would welcome a nuclear carrier. He recognizes its superiority and the advantages of nuclear power. However, because of fiscal restraints, he opts for the conventionally powered ship.

The Chief of Naval Operations, a battle-experienced, professional naval tactician, most familiar with air warfare at sea, says the nuclear carrier is his No. 1 priority among any ships authorized in fiscal year 1979.

This distinguished group concurred in the need for another large-deck carrier, but were divided primarily over the question of cost. It was necessary, therefore, for the committee to explore still another salient question: "In comparison to a CVV, is a CVN too expensive?" Let us look at the question in the context of how the ships will be used.

The answer is that, at worst, the cost of a CVN task force compared to a CVV task force is only 3 to 6 percent more in total 30-year, life-cycle costs. Furthermore, among cost estimators there is a generally accepted caveat that, for all practical purposes, the costs of these forces are the same, if not slightly favoring the nuclear task force.

There is another cost comparison which is generally overlooked—that is, the cost ratio of the life-cycle costs of the ship compared to the number of aircraft the ship carries. The CVN carries around 100 aircraft, the CVV around 60. Using this comparison, the cost to operate a CVV is about 5 to 15 percent greater over 30 years. This is a very significant point.

There is still another argument worth exploring, regarding cost. The assertion is made that the CVN costs $1 billion more than a CVV, and that extra Navy ships can be bought with the difference in cost.

This is where a lot of people have problems, because a vote in favor of the nuclear carrier appears to invite the criticism that a billion dollars could be better used elsewhere.

Let me examine this dilemma one step at a time.

The "billion dollar savings" rhetoric does not hold up under scrutiny. The realities are that the best-estimate difference in total costs to procure and operate the CVN versus the CVV over 30 years is closer to a draw, than $1 billion.

For example, last year, DOD told us that the cost of the CVV was about $1.2 billion. The latest estimate from DOD is $1.6 billion, and this price is an estimate based on design costs, and that price does not include the procurement, storage, or delivery costs of the oil needed to run the ship. On the other hand, the CVN is a proven product for which we have budget quality estimates.

You can also be assured that the price of the CVV will continue to go up in order to add back into it the capability that has been left out in an effort to make a better argument for the CVV.

But, for the sake of this discussion, I will continue to refer to the $1 billion figure, because it still does not weaken my argument.

First of all, the $1 billion are front-end costs. Recalling what I said earlier, the total life-cycle costs of either force are about the same. This initial investment in the carrier is a function of the full funding principle established by the House Appropriations Committee. It is a fact of life regarding military weapons systems purchases. The front-end costs tend to be high.

But, the long-term investment of the CVN force versus the CVV force is the same. Since one more large-deck car-

rier is needed for the fleet, it is superfluous to argue that more ships can be bought for $1 billion; of course they can. But in this case, the $1 billion is simply the front-end cost of a long-term, but necessary investment.

Opponents of the nuclear carrier are fond of saying that "Two Presidents and two Secretaries of Defense elected not to build another nuclear-powered carrier"—as if there were something sacrosanct about that statement.

Let me point out that if the Congress had not taken the initiative in the Louis Johnson days—which, incidentally are reminiscent of what we are going through again—and opted to build nuclear-powered submarines, we would not have the lead in that field we have today.

A lot has happened since last year that invites some positive rethinking about the nuclear-powered aircraft carrier.

Last year the Congress directed that a study of various aircraft carrier platforms be made in time to choose between them in fiscal year 1979.

The Secretary of Defense, in a complementary directive, asked the Navy to undertake an independent study of naval force structure options for the future.

Both of these studies have been completed.

The sea-based air platform assessment study showed conclusively that the nuclear-powered carrier was the superior weapons system among all of the platforms examined, including the CVV.

The naval force planning study—Sea Plan 2000—clearly showed the need to maintain a 12-carrier force well into the 21st century. One of the most important findings was that carriers are not nearly as vulnerable as some people have been led to believe.

I understand that there was some visible anger expressed at various levels in the Department of Defense over the results of both studies, perhaps because the studies did not turn out the way some people had wanted them to turn out.

That may help to explain what appears to be a ludicrous situation. Even after the studies were completed, the Secretary of Defense submitted a shipbuilding program to the Congress which runs contrary to the findings of either study. In any event, article I, section 8 of the U.S. Constitution gives to Congress the power "to provide and maintain a Navy."

So, in review, I can state that the House Armed Services Committee considered:

The need for another carrier,

The life-cycle costs of nuclear and conventional carrier forces,

The higher cost ratio per aircraft carried on the CVV,

The findings of the studies which clearly show the superiority of the nuclear carrier,

And reached the only conclusion that makes sense: Authorize one more *Nimitz*-class carrier.

I have one more thing to say on the carrier issue. The Seapower Subcommittee, under the experienced leadership of its chairman, CHARLIE BENNETT, did its homework on carrier options. The decision to recommend authorization for the nuclear carrier was based on a great deal of evidence and testimony presented to the committee during 26 separate hearings this year. The decision for the nuclear carrier was conscientiously made, after thorough deliberation of all the facts available.

Now, I want to speak briefly about the Aegis nuclear-powered cruiser.

In fiscal year 1978, the House voted to authorize this ship. The Aegis system is a state-of-the-art, quick reaction, electronic system which is capable of intercepting and dealing with many supersonic aircraft and missiles at the same time. It is remarkably fast and accurate.

The cruiser was dropped out in the conference with the Senate last year as a compromise to get some conventionally powered Aegis destroyers—the DDG–47's—into the fleet. The argument was that the cruiser would be authorized in fiscal year 1979.

There is an urgent need to put a nuclear-powered Aegis cruiser into the fleet as soon as possible in order to take advantage of its unique capabilities and to add still another dimension to our nuclear task forces.

The DDG–47's, although fine ships, cannot keep up with the nuclear ships. We need the nuclear cruiser.

In summary, I want to point out that this year is the time to invest in the nuclear carrier and the nuclear cruiser.

Next year, and in following years, if the kind of funding for naval ships recommended by the House Armed Services Committee this year is continued, we will be able to buy more ships and help the Navy inventory grow in the direction of at least option 2 of the 1978 naval force planning study. You will find that option described in this year's committee report.

Mr. PRICE. Mr. Chairman, I yield 13 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I will yield to the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, would the gentleman please refer to page 69 of the committee report and at that page is reflected for the U.S. Navy Test Pilot School, they have zeroed the amounts for that school. It is my understanding that this reduction was without prejudice and only reflects the committee's desire that these moneys be funded out of the O. & M. account, rather than R. & D.; am I correct?

Mr. ICHORD. The gentleman is eminently correct. The committee did not consider this an R. & D. item. It is not an R. & D. item. We do intend it should be funded out of O. & M. I hope the Committee on Appropriations will so act.

Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Chairman, on behalf of my colleagues and myself from Philadelphia, I wish to point out that the authorization bill we are considering today includes a provision on pages 37 and 38 which places an unnecessary—and I fear political—cloud over the Navy's planning for the service life extension program on four aircraft carriers.

Before the Armed Services Committee reported this bill to the floor, it adopted an amendment which raises needless doubt about where the first of the aircraft carriers, the U.S.S. *Saratoga*, will be assigned.

Last month the Vice President announced that the *Saratoga* will be overhauled at the Philadelphia Naval Shipyard. This will mean a much-needed boost to the Delaware Valley's economy, which is suffering from a continuing unemployment problem made worse by a staggering loss of Federal jobs over the last 10 years.

We welcomed the Vice President's announcement.

But in fact, the decision to assign the *Saratoga* to Philadelphia had been made at least a full year earlier.

Early last year, I obtained copies of Navy documents showing that the *Saratoga* and her three sister ships were scheduled to be refitted in Philadelphia.

Then, in a June 16, 1977, letter to the entire Philadelphia delegation, President Carter referred to new jobs which would be created at the Philadelphia Navy Yard due to the arrival of the *Saratoga*, starting in 1980.

So the Vice President's announcement, Mr. Chairman, amounted to a welcome confirmation of a decision reached by the Navy after an evaluation of which shipyard could do this large job most effectively and cost-efficiently.

The fact is, Mr. Chairman, that an objective evaluation of the merits shows the following:

The last successful overhaul of an aircraft carrier of this size was performed in Philadelphia. It was in 1968, on the very same U.S.S. *Saratoga*, which went on to perform admirably under combat conditions off the coast of Vietnam;

Philadelphia's naval shipyard is the best-equipped yard on the east coast to handle the Slep program. Assuming that the Newport News yard is occupied with building a new nuclear-powered aircraft carrier, the Philadelphia yard has superior facilities to refit the *Saratoga* and her sister ships, and still leave a dry dock open to carry out emergency work should it become necessary;

Philadelphia's naval shipyard has an outstanding on-time completion record for the jobs it has performed;

Philadelphia's naval shipyard has the most advanced job safety equipment of any yard on the east coast for the asbestos removal work which will be necessary on the Slep program;

The Philadelphia naval shipyard has been the planning yard for the Slep program for more than 1 year. The yard has completed arrangements to house more than 1,400 crewmen from the *Saratoga*, and has had personnel aboard the carrier for many months now.

In summary the assignment of the *Saratoga* to Philadelphia has been made

after a careful examination of the merits of the situation. Clearly, the Philadelphia Naval Shipyard can carry out the Slep program effectively and competitively.

You might hear, Mr. Chairman, that it will cost x millions of dollars more to refit the *Saratoga* in Philadelphia.

But this simply is not true.

I am told by representatives of the GAO that the Navy has turned over to the GAO information concerning its decision to assign the *Saratoga* to Philadelphia.

This information shows that the Philadelphia Naval Shipyard will perform this work in a cost-efficient manner.

Mr. Chairman, my colleagues and I feel strongly that the assignment of this major defense project should be based on the quality and cost of the work at any particular shipyard, and on the impact of the project on a local economy.

On both counts, the Navy's decision to assign the *Saratoga* to Philadelphia was a sound one.

The decision, today, remains eminently sound.

I bring these facts to the attention of my colleagues, Mr. Chairman, because I think it is important to dispel the needless cloud which has been placed over the assignment of the U.S.S. *Saratoga*.

Mr. ICHORD. Mr. Chairman, I thank my distinguished colleague from Illinois, the chairman of the Committee on Armed Services, for yielding time to me. I take the floor for the purpose of urging your support for the committee's action on title II of H.R. 10929, research, development, test and evaluation. Title II was written by the R. & D. subcommittee which I have the responsibility of chairing.

The Department of Defense requested $12.4 billion for the fiscal year 1979 Defense research and development program. After a comprehensive and extensive review of the total R.D.T. & E. program, the committee recommends an authorization of $11.8 billion. This action results in a net reduction of $635.9 million—or a 5-percent plus reduction from the DOD budget request.

I know that I reflect the views of many of the members of the committee in stating that the decision to recommend a reduction in the fiscal year 1979 research and development program, in the face of an ever-increasing Soviet threat, was difficult at best. The committee's review of the R.D.T. & E. program was more thorough this year than in any previous year I can recall in my 13 years of service on the Research and Development Subcommittee. Whether we like it or not, I am afraid that we must face up to the fact that the Soviet Union has surpassed us in many areas of military technology and capability. In February of this year, Under Secretary of Defense for Research and Engineering, the Honorable William J. Perry, advised the committee, and I quote:

> Should current relative trends measured in terms of military equipment continue, the USSR could achieve significant military advantages in the next few years.

He went on to state:

> The acquisition balance now clearly favors the Soviet Union in terms of quantitative weapons being produced in almost all measured areas. Moreover, our qualitative lead may have declined to the point where, in some cases, it may not offset the Soviet numerical superiority.

Mr. Chairman, I fear that unless we take strong, positive action at this time to get our military program back on its proper course, the prognosis offered by the Under Secretary and the many Intelligence experts who appeared before our subcommittee, are going to materialize and the national security of this country will be threatened as it never has been before.

I would like to offer just a few indicators in support of this point. Between 1971 and 1975, 7.3 Soviet tanks were produced for each U.S. tank; 2½ armored personnel carriers flowed through the Soviet pipeline for each U.S. APC; 5 Soviet artillery pieces were produced for each U.S. counterpart. In the area of technology, every Defense witness who appeared before the Armed Services Committee acknowledged the fact that the Soviets hold a clear lead over the United States in charged particle beam technology, high-yield nuclear weapon technology, artillery technology, high-frequency radio wave propagation technology, and many, many other areas.

I am more concerned over what we are not doing than I am over what the Soviet Union is doing. We have spent many billions of dollars, as our committee report points out, to develop weapon systems that will never be deployed. We seem to be following a stop-and-start policy. The B–70 program was started in the early 1960's, and nearly $2 billion was expended on it. It was canceled. The advanced manned strategic aircraft and the B–1 program followed the B–70 effort. Over $4 billion has been expended. The B–1 program has been canceled. The Cheyenne helicopter program was initiated in 1965 and, after an expenditure of nearly a half billion dollars, it, too, was canceled. The MBT–70 main battle tank program was initiated in 1963 and was subsequently canceled after an expenditure of nearly a half billion dollars. Just these four programs alone add up to over $8 billion in defense spending for systems that will never reach our military forces. It is simply not possible for this country to go on initiating programs—expensive programs—to develop weapon systems that will never be deployed.

I think the time has come where we must question whether or not we have lost our sense of commitment to have a war-winning capability against any potential adversary. In any event, we have lost the unquestionable military superiority that we once held over the Soviet Union.

A decade ago, the Soviet Union had to exploit weaknesses in the U.S. miiltary capability because we were the strongest military power in the world. Today, however, when I talk to the men in the field, the Army commander or the fleet commander, I find that their major theme is how we intend to exploit Soviet weaknesses—not to defeat them but to deter them. The tables have turned.

We can and we must turn this situation around. We have the resources and the technology base in this country to recapture the lead that we once enjoyed. To do this, we do not have to give the Department of Defense a blank check for defense spending, nor must we approve every program that they request authorization for.

A good starting point would be to accept the recommendation of the committee to take the "frills" out of the research and development program and to cull out those programs that are "nice to have," and provide strong support to those systems that are essential to the national security of this country.

Mr. Chairman, many of us on the floor today fought long and hard for the B–1 program. We lost. I do not think it is necessary to belabor the arguments pro and con over the B–1 here today. It is water over the dam, and I think we must accept that decision. Accordingly, I think we must also accept the fact that there is very little to be gained by spending another quarter of a billion dollars or more on research and development for the B–1—an aircraft that the Department does not plan to deploy. The committee therefore recommends that the $105.5 million requested by the Department to continue B–1 research and development be denied.

The committee recognizes the ever-increasing Soviet submarine threat. The committee also recognizes that the LAMPS III helicopter system—an anti-submarine warfare helicopter that will help counter this threat—is simply too expensive for the performance that it will provide. Consequently, the committee recommends that the Navy look at other less expensive alternatives to seek out and destroy Soviet submarines in the event of Soviet aggression.

The committee saw fit to delete the Air Force EF–111A electronic countermeasures aircraft because it too has had considerable cost growth, and in the judgment of the committee, will be too high a price to pay for the capability that this aircraft will provide. The total cost to modify 40 Government-furnished F–111A aircraft now approaches $1.1 billion. It was the judgment of the committee that the Air Force will simply have to look for less-costly alternatives to neutralize Soviet surface-to-air missile systems.

Mr. Chairman, the committee also recommended a number of additions to the fiscal year 1979 research and development program. One such recommendation was to add $93 million to the Navy account to continue the development of the surface effect ship (SES). The SES is this country's only high-technology shipbuilding program, and if successful, will produce a 3,000-ton prototype ship that will be capable of attaining speeds in excess of 90 knots.

It is the intent of the committee to structure a research and development program that is responsive to the near-, mid-, and long-term requirements of our military forces.

I urge each Member to support the recommendations of the committee for the fiscal year 1979 research and development program. I respectfully request that you think long and hard about the amendments that may be offered here today to either cut deeper or add funds back to the R.D.T. & E. program. I believe that if you attempt to cut deeper, it will adversely impact the ability of this country to regain the clear military superiority that was once ours. On the other hand, adding back funds for those systems that are not cost or performance effective would turn the R. & D. program into a Christmas tree that similarly will not enhance our military capability.

I understand that an amendment will be offered to restore the $41.2 million that was requested by the Department of Defense and denied by the committee to develop a cruise missile carrier. The committee looked long and hard at our cruise missile program, and concluded that our B–52 forces are more than adequate to deliver the number of cruise missiles that are required to deter the Soviet Union from initiating a strategic confrontation. To support my point, I will give you a direct quote from the Air Force material that was provided to the committee in support of the fiscal year 1979 program:

> The B–52G can carry all missiles in sufficient quantities to fulfill anticipated national needs well into the mid-term period.

I would like to remind you also that this $41.2 million amendment, if offered, will be the start of a multibillion dollar program to convert a commercial aircraft into a cruise missile carrier. The cost per aircraft as estimated by the staff of the Secretary of Defense is over $100 million per copy—$100 million per aircraft—for a plane that will lack survivability and would be incapable of penetrating the Soviet Union.

I believe that our committee has worked long and hard to trim the fat out of the research and development program and to authorize funds for those systems that will expand our technology base and enhance our fighting capability. It is not the best research and development program that many of us would have hoped for, but in consideration of funding constraints and other factors, it is indeed a good program. It is the first step that must be taken to enable us to recapture the lead in those areas where the Soviets have overtaken us.

I urge you to support this first step so that future generations can enjoy the same level of national security that we have enjoyed.

Thank you.

Mr. BOB WILSON. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I want to reinforce the comments made by my distinguished colleague and subcommittee chairman, the gentleman from Missouri (Mr. ICHORD), regarding the scrubbing the Defense Department's research and development budget request underwent during our consideration of H.R. 10929. It is amazing that a subcommittee can look in detail at a request consisting of over 3,000 projects totaling almost $12.5 billion, but that is exactly what we did.

We took action on almost 150 of these projects resulting in a net reduction of $635 million. I might mention, however, that we not only recommended reducing or terminating funding for programs, we also proposed additional funding for programs that were improperly structured.

As an example, the committee recommended that $93 million be restored to the Navy's surface effect ship (SES) program. This is an exciting new surface ship concept that the Navy has expended over $350 million on to date. The cost to finish the program is estimated to be $335 million. Can you imagine the number of applications a 3,000-ton vessel capable of skimming over the ocean surface at 80 knots would have? Well, the Navy, or perhaps it was OMB, evidently cannot. Or at least that is the reason we were given for terminating the program. The committee was told that due to a "matter of competing priorities" and lack of a mission, the program had been terminated. Now I find it incredible that there would be no mission for an 80-knot vessel. Antisubmarine warfare, barrier patrols, and the like would seem to be likely candidates. The committee believes the SES could potentially revolutionize surface warfare and strongly supports this new concept.

Mr. Chairman, I would be remiss if I did not take this opportunity to once again express my frustration over the manner in which the Defense Department procures its hardware. I have said many times in the past that once we decide to procure a particular weapon system, we should do so at a rate that is economically sensible. At times it appears as if the only thing the Department is concerned about is "how much down and how much a month" with little regard for total program cost.

Let me mention a couple of examples. I picked on the Air Force last year with its F–15 program so let me highlight two Navy programs this year.

The Congress authorized long lead funding for 36 F–14's during last year's budget cycle and yet the Department came back this year and only requested 24 F–14's. This resulted in an "apparent" savings in fiscal year 1979 of $161 million. In cutting back the buy, however, the unit cost of the F–14 increased from $24.2 million to $29.6 million, over $5 million a copy. Further, the total program cost increased by over $850 million due to the stretchout.

The F–18 program is another sorry example of an inefficient procurement structure. In last year's House-Senate joint explanatory statement of conference managers the conferees stated that—

> The F–18 program is essential to Naval aviation and should not be slowed or stretched out.

Contrary to this guidance, $25 million was cut from the F–18 development program and the procurement was cut from nine to five during this year's DOD/OMB budget cycle. The impact of this was to increase the total development cost by $50 million and to introduce a $427 million cost increase in the procurement account.

Now, to me, this just does not make good sense. We know we are going to buy F–14's and we know we are going to buy F–18's. We have made that decision so why not get on with it and do so in an efficient manner. I realize this may require that we "bite the bullet" and face the fact we cannot buy everything we might like to buy. Some tough decisions will have to be made regarding which systems we develop, how many we procure, and what procurement rate we authorize. These decisions must be made early in the development process, before we move into full-scale engineering development. This will require clever planning and keen foresight. In my opinion this close coordination between R. & D. and procurement planning is lacking today and improvement is in order. As I look at the Department's R. & D. request, I have to conclude that the Department is developing more systems than it can ultimately afford to procure.

Take the Army as an example. After not fielding much in the way of new hardware over the past 15 years, the Army suddenly has a host of new systems ready to move out of R. & D. and into procurement. Several that immediately come to mind are:

XM–1 tank.
Infantry fighting vehicle.
Roland short-range air defense system.
Patriot long-range air defense system.
Advanced attack helicopter.
UTTAS helicopter.
General support rocket system.
Hellfire missile.
Divisional air defense gun.

During the Army posture hearings, I asked Gen. Bernie Rogers, Chief of Staff of the Army, how much funding the Army would require over the next 5 years to purchase, at a reasonable rate, all of these new systems. General Rogers indicated at least $47 billion would be needed. Considering the current Army procurement request is for a mere $6.6 billion a year, this leaves over $40 billion over the next 4 years, or an average of $10 billion a year. This is a whopping 50 percent increase above the present level of funding for Army procurement.

Unless the administration and the Congress drastically revise future Defense budgets in an upward fashion, there is no way we can buy all these new systems at a reasonable rate. Now, I am certainly willing to push for a much larger budget for Defense. I think the President's budget is woefully inadequate. But, I am a pragmatist and if a larger budget is not in the cards, I would prefer to terminate lower priority programs and adequately fund those of higher priority. Unfortunately, muscle will have to be cut if this comes to pass.

Mr. Chairman, there are several other concerns I would like to mention, but in the interest of time I will reserve my remarks on these matters for another occasion. I want to close by expressing

my strong support for our committee's action on title II of H.R. 10929 and I want to encourage our colleagues to do likewise. We have looked closely at the Department's request and the committee has recommended changes where changes are in order. I would therefore hope the House would see fit to adopt this bill as reported.

Mr. BOB WILSON. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Chairman, we live in a hard world and America must always be strong and vigilant. I support the Armed Services Committee's Defense Authorization Act for 1979 and encourage my colleagues to give this measure their support.

At this time, I want to direct my attention to the naval shipbuilding provisions in the act.

Because of America's insular position on the North American Continent, this Nation is fundamentally a maritime Nation. Our national security cannot be assured without a balance of maritime superiority residing in the United States and its allies. Our Navy is the principal force through which that superiority is achieved and maintained.

In testimony before the Armed Services Committee, the Chief of Naval Operations has assessed the capability of the Navy as follows:

> To date the Navy is capable of carrying out its mission and task within the national strategy. However, the United States fleet currently possesses this capability with only a slim margin of superiority over the Soviets in some scenarios involving the most vital national interests of the United States. . . . In the event of conflict, the United States could probably retain control over the North Atlantic sea lanes to Europe, but would suffer serious losses to both U.S. and allied shipping in the early stages. The Navy's ability to operate in the Eastern Mediterranean would be uncertain at best. If Pacific fleet assets were to be shifted to the European Theater in a NATO conflict, the U.S. forces remaining in the Pacific would be sufficient to protect the sea lanes from the continental United States to Hawaii and Alaska, but only the military lines of communication to our allies in the Western Pacific. . . . Furthermore, the risk evaluation refers only to the present. If current trends are allowed to continue, the balance of maritime superiority could tip substantially in favor of the Soviets in ten years.

Looking to the future, you will recall that 15 or even 10 years ago, the United States was clearly the dominant naval power in the world. Today that is no longer true. Since it takes an average of at least 5 years for a unit authorized for construction to become operational, the United States must begin now to build the requisite number of ships and aircraft if it is to maintain the advantages necessary.

In the Soviet Union we see an adversary that continues to expend more and more money in real dollars each year on national defense. The Soviet naval threat has steadily increased.

As of January 1, 1978, the Soviet Navy had 234 surface warships frigate size and larger. The active Soviet submarine force now numbers almost 350, of which 61 are modern ballistic missile submarines of the *Yankee* and *Delta* classes.

The construction of these modern, highly capable ships and submarines are products of the world's largest shipbuilding industry. Most of the Soviet yards use modern sophisticated assembly techniques and many have been expanded in size and capability over the past decade.

It is also significant that over the past 10 to 15 years, the Soviet Navy has introduced its ships into new operating areas, far removed from the home waters of the Soviet Union. The first was to the Mediterranean Sea where the Soviets began regular deployments in 1964; now at any given day, you can count up to 45 Soviet Navy ships in the Mediterranean. Since the early 1970's, the Soviet Navy presence in the Indian Ocean has averaged about 18 to 20 units.

The Soviet Union also deploys a naval contingent of 8 to 10 units in the West African waters. The Soviets continue to make periodic deployments with surface combatants to the Cuban area. In 1977, two of these deployments operated in the Gulf of Mexico.

In short, the Soviet Navy continues to grow in capability, especially in its ability to conduct multidimensional warfare in oceans remote from the Soviet Union.

The confidence of the Soviet Union in its large and flexible navy was emphasized this past November on the occasion of the 60th anniversary of the Soviet revolution when the admiral of the fleet of the Soviet Union, Sergei Gorshkov stated:

> The hopes of overseas and other strategists that "in the event of war their navies would be able to operate freely against our state and that their sealines of communication and shores would be beyond reach of our strikes have been dashed. Today there are neither inviolable targets on the continents nor in an area in the world's oceans in which enemy ships would not be subjected to the most realistic threat of defeat and destruction."

These developments and expansions of Soviet seapower are, of course, something we cannot control. However, we must marshal our resources and be able to meet this challenge in the accomplishment of our national mission.

What size fleet do we need in order to meet the Soviet threat? In 1969, Adm. Thomas H. Moorer, then Chief of Naval Operations, told the House Seapower Subcommittee that—

> A Navy of 850 ships ought to be attained by 1980.

Morer's successor, Adm. Elmo Zumwalt, later told the same panel that the Navy would need "a balance force of about 770 ships in the 1972–79 time frame." In December 1974, our present Chief of Naval Operations, Adm. James Holloway, strongly endorsed a 5-year shipbuilding program which he said:

> Will provide the 600 ship Navy which I am personally convinced we must achieve by the mid 1980's.

Certainly, a 600-ship fleet is a rock-bottom figure.

During the time frame in which these various estimates were given, the Soviet naval threat has steadily increased, U.S. dependence on overseas imports of raw materials—particularly Persian Gulf oil—has substantially increased, and the number of U.S. land bases overseas has been reduced in number—with most of those that remain significantly more vulnerable either politically or militarily.

The scale and scope of U.S. overseas commitments has not been reduced. The net result, it would seem is an urgent national requirement—now and for the foreseeable future—for a Navy larger in numbers and of considerably higher quality than postulated by Moorer, Zumwalt, or Holloway.

Where do we stand today? Well, at the end of fiscal year 1977, the fleet inventory was down to 464 ships, and will be further reduced to 456 ships by the end of this current fiscal year September 30, 1978.

In the face of these facts and circumstances, the Carter administration recommended that the naval shipbuilding program be cut by $1 billion in fiscal year 1979. The shipbuilding budget was reduced from $5.8 billion in fiscal year 1978—to build 18 ships—to $4.7 billion requested in fiscal year 1979 funding for the construction of 15 ships.

This year the administration requested funding for one Trident ballistic missile submarine, one nuclear-attack submarine, eight guided-missile frigates, one destroyer tender, three TAGOS ocean surveillance ships, and one TARC cable repair ship.

More recently, the President unveiled the 5-year plan for the Navy. The Carter program features fixing up existing ships to make them last longer and a shift toward construction of less expensive and less capable ships. The Carter administration plan would provide only half as many new ships—70 instead of 150—as envisioned by the 5-year plan developed in the last year of the Ford administration.

In March 1978, the Navy completed the naval force planning study—sea-plan 2000. This study examined the probable range of tasks required of naval forces through the end of the century and attempted to determine how well these tasks could be performed by naval forces of various sizes.

Sea-plan 2000 did not reach any specific conclusions and recommendations. It did, however, lay out three options as guidelines for planning for a balanced naval force through the year 2000. The options are driven by different percentages of real growth allotted for naval shipbuilding. The administration's 5-year shipbuilding plan is less than that suggested in option one of the study which provides for 1 percent per annum real growth in shipbuilding and is characterized as "high risk; minimum capability; and inflexible."

The Carter plan is inadequate and unrealistic. It is inadequate to provide the ships necessary to control vital sea lanes and project power abroad. It is totally unrealistic in the face of the

threat posed by the Soviet Navy. If implemented, the President's 5-year plan would also have a devastating effect on employment in America's shipyards.

The House Armed Services Committee has approved a defense authorization bill that calls for the construction of a *Nimitz*-class nuclear aircraft carrier and nuclear missile cruiser in addition to 14 other ships requested by President Carter. These major combatant surface ships are vital to our Navy and to our national defense.

Admiral Holloway, testified before the Armed Services Committee, that in his professional and personal opinion the Navy's highest priorities are: First, a CVN nuclear aircraft carrier; second, nuclear Aegis cruiser, and third, additional 3SN nuclear attack submarines. The Secretary of the Navy has testified that the Navy's highest priorities are: first, a carrier and second, nuclear Aegis cruiser.

Much debate will, no doubt, center on the question of the aircraft carrier. Suffice it to say that everyone acknowledges that we need one additional aircraft carrier to satisfy our minimum force requirements. I am advised by the Secretary of the Navy that the administration now supports the construction of an aircraft carrier—CVV—in fiscal year 1979. The question, then, is whether we build a CVN or a CVV.

Clearly, the CVN is a more capable ship. Moreover, the sea based air platform assessment and the sea plan 2000 study establish that the CVN is more survivable and more cost-effective over a lifetime than the CVV. Finally, I suggest that the CVN will cost no more to procure and propel than a first—and one of its kind—CVV. The total net additional cost of a CVN is $2.112 billion—$2.380 billion construction cost with a modification to increase ship survivability less the cost savings of $268 million from previous appropriated and expended funds. The total cost of a CVV is $2.205 billion—estimated construction cost of $1.575 billion plus $630 million cost of procuring, storing, and delivering fuel oil. This represents a $93 million cost savings if the CVN is constructed instead of the CVV.

The Armed Services Committee has also recommended a nuclear powered cruiser. This ship is an essential addition to our existing nuclear task forces.

The all-nuclear powered battle group must have the capability to conduct offensive operations against enemy ships, aircraft, submarines, and targets ashore. In so doing, the battle group is expected to face the most severe threats, both in terms of numbers of both platforms and in terms of the most advanced naval weapons technology—the cruise missile.

The nuclear powered Aegis cruiser will be equipped with the most sophisticated shipboard antiwar warfare missile system which is the Aegis combat system. The additional highly capable and versatile weapons systems on board, for example, the Tomahawk and Harpoon antiship missiles, supplement the carriers airwing—both offensively and defensively and adds significant capability and survivability to the task force.

Finally, the committee eliminated the procurement of a Trident submarine in fiscal year 1979. The committee stands committed to the Triden program. However, the Trident program is so far behind schedule that the authorization of an additional Trident submarine can be deferred until the next fiscal year and the entry of that ship into our fleet will not be delayed. Under these circumstances, it makes sense to defer the authorization of an additional Trident submarine. The defense authorization bill does, however, retain the long-lead funding for three Tridents.

The shipbuilding program approved by the Armed Services Committee is sound and necessary. I am hopeful that the Congress will have the courage to face the realities which the administration seems to be ignoring.

I believe that it is appropriate that in this House Chamber hang the portraits of George Washington and Lafayette, two men who contributed so much to the independence of this Nation and the freedom of our people. On the occasion of this important debate, I think we should recall the words of George Washington to the Marquis de Lafayette at Yorktown on November 15, 1781:

> No land force can act decisively unless it is accompanied by a maritime superiority; nor can more than negative advantages be expected without it . . . it follows then, as certain as that night succeeds day, that without a decisive naval force we can do nothing definitive, and with it everything honorable and glorious.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, titles III through VI of H.R. 10929, respectively, establish thc active duty, Reserve, and civilian personnel strengths in the Department of Defense, as well as the military training student loads for fiscal year 1979. The authority in these titles encompasses slightly less than 4,000,000 military and civilian personnel and is a major responsibility.

I want to thank the ranking minority member of the subcommittee, Mr. TREEN, and the other members of the Military Personnel Subcommittee for their valuable contribution and interest during the consideration of the fiscal year 1979 defense manpower program.

Overall, the strength levels contained in this bill are slightly below the strengths authorized by Congress last year.

As all of the Members are aware, the Armed Forces have been dependent on volunteers for more than 5 years now. This All-Volunteer Force has received mixed reviews, some saying it is a success, while others announce its failure.

It is still somewhat early to reach a firm judgment on the All-Volunteer Force, but it is important for all of us to understand the current condition of the All-Volunteer Force in each of its segments because there are distinct differences.

In the Active Forces, the Department of Defense has been able to maintain the largest military force based on volunteers in history. The price has not been small with over one-half billion dollars a year spent to recruit the necessary personnel.

The quality of personnel enlisted has been generally acceptable with 69 percent of those recruited last year high school graduates. Within this overall picture, though, the Army is having the most difficulty in attracting quality personnel.

Generally, while the personnel situation in the Active Forces is better than would have been expected at the beginning of the All-Volunteer Force, significant problems do exist.

The number of males in the 18 to 21 age group—the prime recruiting source—will decline in the next 10 years placing a heavier burden on already difficult recruiting.

The number of personnel who do not complete their first enlistment is unusually high—slightly more than one of three enlistees are not successful. The cost of recruiting replacements and the lost investment on those discharged is substantial.

The situation in the military medical care system is dangerous and must be addressed in a priority manner.

For the Reserves, the situation is fundamentally different than for the Active Forces.

Recruiting for selected Reserve units is extremly difficult. The effort to maintain strength is taking a toll on training in these units and even at that the strength of the Army National Guard and the Army Reserve—the two largest components—continues to decline.

At present, the selected Reserve is approximately 50,000 personnel short of their authorized strength and 130,000 short of actual peacetime requirements.

The situation is serious and immediate action is necessary. The committee is placements for combat casualties until the Selective Service System begins to produce—is a disaster.

In the Army alone, this manpower pool is more than 300,000 short of replacements for combat casualties until the Selective Service System begins to produce—is a disaster.

In the Army alone, this manpower pool is more than 300,000 short of requirements and the situation promises to get worse.

The committee is recommending a change to the law which can offset some of the shortage in several years, but much more is required to produce even minimal vitality.

The final element of manpower to meet national security requirements is the standby draft system. The committee has received substantial evidence that the current system is incapable of meeting requirements in a mobilization.

It is important for the House to appreciate the fact that even as originally conceived by the Gates Commission, the All-Volunteer Force was not intended to

exist without a viable standby draft mechanism to augment active and reserve forces during a mobilization. If the Selective Service System is incapable of meeting requirements, action will be necessary in the near future or the entire AVF concept will be affected.

With these general remarks about the condition of military manpower as a preface, let me speak more specifically about the committee's recommendations in this bill:

In title III, the committee recommends end strengths for the active forces as follows:

Army	776,600
Navy	525,300
Marine Corps	191,500
Air Force	566,350
Total	2,059,750

Overall, the strengths recommended by the committee are approximately 10,000 more than were requested by the Department of Defense, but approximately 25,000 less than the strength authorized by the Congress last year.

The recommended strength for the Army is a total of 4,900 authorized spaces over the requested strength. The increase is to prevent a proposed reduction in the Army's training establishment.

For the Navy, the committee recommendations exceed the requested strength by 3,600. The strength recommended reflects an increase of 2,850 to permit the Navy to retain the length of recruit training at 8 weeks instead of 6 weeks and 5 days as proposed, an addition of 1,200 spaces necessary for active duty personnel required to support the Naval Reserve at its current strength, and a minor reduction associated with an intelligence matter.

The level recommended for the Marine Corps is 1,500 higher than the requested strength to offset a proposed reduction in the amount of formal training a recruit receives prior to being assigned to the Fleet Marine Force.

The Air Force figure is only slightly higher than the requested strength.

The committee is recommending a change to permanent law in title III, the effect of which will be to give increased flexibility to the Secretary of the Navy in the assignment of women aboard Navy ships. Today, the Navy has much less flexibility than either the Army or the Air Force in the assignment of women. In fact, the situation is such that while an Army or Air Force female can go aboard naval vessels at sea, Navy women cannot. Further, the Navy is having some serious problems in manpower in general and this proposal, while not intended to solve these problems, will provide some assistance.

Mr. Chairman, the language recommended will allow the Navy to assign women to noncombat vessels—oceanography vessels, tugs, and so forth. However, women will only be assigned to combat ships for temporary duty such as for training, or for technical repair activities.

This language is a legislative proposal of the Department of Defense which the Secretary of the Navy strongly endorses.

Title IV authorizes average strength floors for the Selected Reserve of each of the Reserve components. The committee recommendations are:

Army National Guard	363,000
Army Reserve	196,700
Naval Reserve	87,000
Marine Corps Reserve	33,000
Air National Guard	92,400
Air Force Reserve	53,200
Coast Guard Reserve	11,700
Total	837,000

With one exception, these are the strengths requested.

The requested strength for the Naval Reserve was 51,400.

The committee recommended against this proposed reduction of 36,500. The rationale on which this reduction is based is unchanged from that offered by the Department and rejected by the Congress each of the last 2 years.

The committee is still very concerned by the continued shortages in strength in several of the Reserve components. For this reason, the committee is recommending language in this title to extend the current authority for an educational assistance program and a reenlistment bonus which were initiatives of the committee last year and would have expired at the end of this fiscal year. The committee is recommending two minor changes in these incentive programs to decrease the minimum enlistment period an individual must commit himself or herself for from 8 to a minimum of 6 years to be eligible for educational assistance, and to permit individuals with prior service in the Active Force to be eligible for the reenlistment bonus.

The committee is also recommending authority for an enlistment bonus program to be used as a complement to the educational assistance incentive for enlistment. This authority will allow the Department of Defense to test the recruiting market to determine which form of enlistment incentive will be most effective. The major features of this incentive are:

Only for high school graduates who enlist for a 6-year period of obligation;

Pays an amount not to exceed $2,000, one-half to be paid upon completion of initial active duty for training, and the remainder to be prorated over the period of the enlistment; and

Selective authority to be provided by the Secretary concerned as appropriate.

In this regard, the committee is recommending language that will establish a limit of $32.75 million on the amount which is authorized to be appropriated for these incentives in fiscal year 1979.

In two actions related to the Reserve Forces as a whole, the committee is recommending statutory changes. The first is a change to the statutes to prevent individuals from transferring to the Standby Reserve for the last year of their 6-year period of statutory military obligation. The effect of the current statute is to further deplete the already seriously deficient Individual Ready Reserve manpower pool. The existing provisions on this subject are out-of-date and serve no purpose, and if changed could serve as an initial action to address this serious deficiency. Language to this effect was proposed by the Department of Defense in the 94th Congress, but has not been cleared by the Office of Management and Budget for the 95th Congress.

The second statutory change related to a deletion of a requirement for an annual report from each Reserve component. The reports do not provide any useful information and this deletion was proposed by the Department of Defense.

Title V establishes the end strength for civilian personnel in the Department of Defense. The strength recommended by the committee—1,018,200—is a ceiling for Department of Defense personnel as a whole. The Secretary of Defense is also provided authority to exceed this ceiling by 1¼ pecent if he considers it in the national interest to do so.

The strength recommended by the committee is approximately 10,700 above that requested by the Department of Defense. The difference results from a decision to not reduce the spaces proposed to be converted to private contract operations in advance of a decision by the Congress on this volatile issue, an action to offset proposed reductions in support activities primarily associated with training functions, and an increase of 1,100 for the naval air rework facilities (NARF's).

Title VI establishes the military training student loads for fiscal year 1979. The committee recommendation is identical to that requested by the Department of Defense.

The committee is recommending an amendment to this title which will give the Secretary of Defense authority to adjust these loads to be consistent with the strengths provided in titles III and IV.

Also in title VI, the committee has included a section which will require the Secretary of Defense to report to the Congress on any substantial changes in the training program for fiscal year 1979 to permit Congress to review these changes before they are implemented.

Mr. Chairman, the effect of this bill is to maintain an effective force structure while at the same time begin to resolve some of the significant deficiencies in defense manpower. It is good legislation and should be supported.

Mr. BOB WILSON. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Chairman, I rise in support of H.R. 10929. As our distinguished chairman has pointed out, for 4½ months now the Committee on Armed Services has been laboring to study, to figure out, to ascertain which is best in our constitutional responsibility for the raising and maintaining of armies and to provide for the national defense, which is our responsibility.

This authorization that we are pre-

senting to the House will be, naturally, too much for some, too little for some others.

Naturally, there has been a great deal of give and take, but this procurement bill pretty much indicates the amount of spending that we should have done last year. As to the cuts in overall defense spending last year recommended at that time by the then fledging administration, with a year to settle in and take hold of what was necessary for the future of this Nation's defense, we accepted cuts grudgingly, but accept them we did.

This year's expenditures, as put forth in this bill, would put us about at the level that we should have spent last year to keep up with the need for expansion recognized by all the Soviet military force, which is our greatest potential threat in the world today. Overall spending has been increased this year to about what it should have been last year.

This slippage that we have allowed in the procurement for the defense needs of the United States of America somehow seems to assume a static capability on the part of the Soviet Union and the Warsaw Pact. In assuming such a static nature of their forces and in assuming that they do not expand and they do not go through the same problems we do, we should be able, with our slippage and our weapons systems procurement, to assume that since we cut back on procurement, somehow the Soviet Union would read this as a signal and in all good friendliness and delight cut back on their procurement of new weapons systems, new technology, new research, and new development. Unfortunately, with this goodhearted but softheaded approach, we have seen that the contrary has been true as far the military situation in the Soviet Union is concerned. The pure truth is that while we are cutting back, they are expanding.

We have come now to recognize some of these errors, and I am glad it only took the administration about a year to recognize those errors. While we have had to add money for the proper and correct and efficient buys of aircraft, we have also had to add money to recognize the need for a nuclear-powered cruiser, and we have had to add money to recognize the need for a nuclear-powered carrier.

On that subject I would just like to cite one more example in addition to those already stated. If the Members will recall, last year we knew not what a CVV was. We still do not know what a CVV is, but we know now that the administration has reluctantly agreed to accept one, whatever it is.

As is the case with nuclear-powered generation and nuclear reactors generally, the first cost is the "killer." The first cost is much greater than that of a fossil fuel-powered generator or a fossil fuel propulsion plant. But in the long run the fuel costs go down so far in refueling expense and the lack of necessity to constantly refuel that we are in the situation where the CVN is more cost efficient and indeed dollar cheaper throughout its life.

Mr. Chairman, it is not without a couple of regrets that I will support this legislation. I deeply regret the Korean troop withdrawal situation which has been alluded to in the discussion on the rule by the distinguished chairman of the Subcommittee on Investigations, the gentleman from New York (Mr. STRATTON). The gentleman properly pointed out that the Committee on Rules saw fit to diminish the work that the Subcommittee on Investigations did for so long, so diligently, and, I would say, so well. And the gentleman very accurately and properly depicted the correct language that should go out as a signal to our administration and to the world on the situation of the Korean troop withdrawal.

I also deeply regret the credence given by the Committee on Rules to the attempt to rewrite this bill on the floor of the House of Representatives after the considerable amount of work that has gone into it and the efforts of those members of the committee who study this as a constant routine.

But all in all, Mr. Chairman, I think this procurement bill providing for authorization for military expenditures does express a trend in keeping with the desires of the people of the United States that this Nation continue to be strong and get back into the system of procuring what we feel is vital for the defense of the United States.

Mr. PRICE. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, as I sat in this House during the debate on the first budget resolution, I was amazed to hear my colleague from Michigan (Mr. CARR) state to this House that "the Committee on Armed Services ran amok this year in markup."

He repeated that phrase several times during his statement. In the committee report the same gentleman, in his dissenting views, stated on page 139 of the report,

> Your Armed Services Committee has run amok. It has slipped its moorings, lost its bearings, stripped its gear, gone off its trolley, flipped its wig.

It appears Mr. CARR is doing a good job of mixing up not only his metaphors but also his priorities.

While this rhetoric may be "cute" and may evoke a snicker or two, nothing could be further from the truth.

Let us examine some of the committee "add-ons" and see if you think the committee "has run amok or stripped its gear or flipped its wig."

F-14 AIRCRAFT

The addition of 12 F-14's in the amount of $200 million was criticized. However, what my colleagues did not tell you was the fact—not rhetoric—that to reduce the production rate of F-14 aircraft from 36 to 24 would increase the flyaway unit cost of this aircraft by $3 million. In other words, by producing 36 per year instead of 24, as the administration proposed, we—the taxpayer—will pay $19 million instead of $22 million per aircraft, a savings of $3 million per aircraft. That over $100 million in savings. Let me also point out the fact, evidenced in committee testimony, that this stretched-out, costly method of procuring F-14's preferred by the administration would also cost jobs to taxpayers, an estimated loss of between 500 and 1,000 production workers. Let me ask you, is that "running amok?" Further, reducing the production rate from 36 aircraft per year to 24, over the proposed buy of 521 aircraft, would cost the taxpayers a minimum of $861 million more. This figure is from undisputed, and even unchallenged, testimony before our committee. Should such frugal action by the committee be referred to as "stripping your gear" or "flipping your wig?"

Obviously, the barrage of correspondence that has poured into the offices of Members of Congress and the House Armed Services Committee does not support an attitude of fiscal irresponsibility. The committee, as a matter of fact, did not receive a single letter or post card supporting the President's proposed reduction in the F-14 production rate.

F-18 AIRCRAFT

Let us go to the F-18, another committee "add-on." The committee added $138 million to return the fiscal year 1979 buy of F-18 aircraft to nine instead of five. Last year, the information furnished Congress with the budget estimate indicated that there would be a request this year, for fiscal year 1979, of nine F-18 aircraft. However, when the fiscal year 1979 budget request was received, only five F-18's were requested. When Navy witnesses appeared before our committee, they were questioned about the decrease in the production rate. The committee learned that this was not a Navy decision, but was dictated from above. Again, undisputed, and unchallenged, testimony was that this reduction in the production rate would cost the taxpayers an additional $427 million over the life of the program. Is saving $427 million "running amok?" Is that "slipping your moorings?" I will let you be the judge.

GULFSTREAM II

The dissenting views of my colleagues, mentioned a few moments ago, contain the following paragraph relative to the committee's addition of a Gulfstream II aircraft for the Marine Corps:

> The contribution of this aerial limousine to keeping the enemy off our shores is not immediately apparent. Nor is it apparent why the Commandant cannot avail himself of the pool of executive jets the nation already owns.

First of all, the procurement of a Gulfstream II aircraft is not an aerial limousine for the Commandant. The aircraft is for the use of the staff at Marine Corps Headquarters, the Marine Corps Development and Education Center at Quantico, Va., the Marine Barracks at 8th and "I", the Marine Corps amphibious presentation team, detachments of the Marine Corps Band and Drum and Bugle Corps, the Naval ROTC programs, Marine Corps sponsored flights for which other assets are not available, and for

support of any other DOD agency when required.

Second, let me speak just a moment about the economics of this program. Again, undisputed and unchallenged evidence furnished this committee convinced the majority of the committee members that the procurement of this one aircraft, to replace two aging C–118 and one C–131 aircraft, would provide an annual savings of $1,079,656 in operating costs alone. Further, with procurement of the Gulfstream II the Marine Corps estimates a reduction in manpower requirements of 9 officers and 93 enlisted personnel. This factor alone is justification enough for the procurement of this transport aircraft.

Now let's talk about safety for a moment. The aging C–118's have had six engine failures with high-ranking Marine Corps officers aboard in the past 5 years. It is dangerous to operate these aircraft. The C–118's have lost two engines with the Commandant aboard recently. One engine failure was while airborne in October 1977, the second was on takeoff in January 1978. The C–118's have had three engine failures with the former Commandant aboard. The aging and antiquated systems of the C–118's and C–131 aircraft have made the operations and maintenance of these aircraft increasingly difficult and expensive. My colleagues, in their criticism of this "add-on," talk about using the pool of executive jets the Nation already owns. It would cost $704 more per hour for the use of a C–135 than for the Gulfstream II. These facts are uncontradicted and subject to verification. Again I ask you, with these projected savings, did the committee really "go off its trolley?"

A–7D AIRCRAFT

Let's talk about the add-ons for the Air Force for a moment, which have been criticized by my colleagues. The committee voted to add $141 million for 16 A–7D two-place trainer aircraft for the Air National Guard. This is not a new requirement because the National Guard Bureau submitted a required operational capability (ROC) for a two-place A–7D combat-capable trainer on September 12, 1975, shortly after the introduction of the A–7D into the Air National Guard force structure. Experience has shown the need for a two-place aircraft when combat crew training involves the sophisticated level of the A–7D with its radar, computer, and other advanced systems. Close monitoring of training is mandatory to realize the full benefit of the A–7D system.

The National Guard estimates the training costs to be reduced by 30 percent if the two-place A–7D's are made available. Cost reductions will result from fuel and maintenance savings through the substantial reduction of training sorties made possible by eliminating the instructor pilot lead/chase aircraft. Savings will also be realized through greater safety achieved by two-place combat cross-training operations. It is estimated that training accidents will be reduced at least 50 percent by utilizing a two-place aircraft with an instructor aboard. This saves lives as well as aircraft.

With these undisputed facts, do you believe the addition of this program makes the committee look like it has "gone amok?"

C–130H AIRCRAFT

Another aircraft added by the committee, for which the committee was criticized, is the C–130H. This is another program for which the committee is unjustifiably criticized as I think you will agree when you hear the facts.

First, the Air National Guard and the Air Force Reserve C–130 units provide 64 percent of the tactical airlift force. With an average age of over 19 years, most C–130A's in the airlift force have already exceeded the 10,000 flight-hour service life goal for an assault transport. A $60 million propeller retrofit program has been initiated, for example, because fatigue cracks in the out-of-production C–130A propellers had rendered them unsafe for flight. In January 1977, serious center-wing cracks found during an initial urgent-action inspection of the C–130A fleet resulted in the grounding of 32 aircraft.

Over 40 percent of the C–130A fleet is out of commission—mostly as a result of groundings for propellers and wing repairs. With no relief in sight until AMST deliveries are made about 5 to 10 years from now—if indeed they are to be procured at all by the Pentagon since this program too has been deferred by the administration due to cost restraints—the Air National Guard and Air Force Reserves, particularly those personnel who must fly and maintain the C–130A, are concerned that tactical airlift is being seriously impacted. Action is needed now to continue the C–130H procurement program so that the C–130A's can be phased out of the inventory.

Although safety-of-flight conditions warrant replacing the entire fleet of 112 C–130A's as rapidly as possible, budget constraints dictate that procurement of replacement C–130H's be spread over several years. Procurement initiated with fiscal year 1978 funding provided C–130H deliveries in calendar year 1979.

Further, the logistics support costs avoided by replacing the deteriorating C–130A's would offset one-third of the C–130H procurement costs. I do not think this action makes the committee seem irresponsible and I do not think this committee action is subject to criticism and I believe you will agree.

CONCLUDING REMARKS

In conclusion, what I have tried to do is to prove to the Members of the House that the Armed Services Committee acted responsibly and prudently in its actions on the Defense authorization bill.

I have never seen a clearer example of the old adage about being penny wise and pound foolish. That is what Mr. CARR would have us be—penny wise and pound foolish. Mr. CARR would have us all believing the Armed Services Committee is sacked with spendthrifts. On the contrary, these provident judgments can only represent the committee's frugal allocation of limited defense dollars.

I think it is beyond doubt that what the committee has done will, over the buy of the programs discussed, save the taxpayers billions of dollars. We have no way of knowing what the inflation is going to be in the future; and if the Department of Defense intends to buy out the programs discussed, then I say let us do it in a manner to save the taxpayers money.

It is, of course, easy to criticize additions to the administration's budget, but I hope you will agree that the analysis I have tried to bring to the House today will indicate that this is the sane and sensible thing to do and to get on with the defense of our Nation in a sensible and economical manner.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, the Defense budget this year has been characterized as a NATO budget. Though other subjects such as strategic nuclear forces require high priority, the primary defense issue has been the present state of NATO's military capability.

Last spring President Carter agreed with NATO allies that defense budgets should be increased. This agreement was deemed necessary in order to address the greatly expanded military capability of the Warsaw Pact.

There has been confusion as to the commitment. It was not a promise to increase by 3 percent our contribution to NATO defense. Rather, it was a promise to increase by 3 percent our total defense budget.

Some argue that increasing the defense budget by 3 percent is excessive. That the defense needs of Europe do not require an overall budget increase. But who can point to the forces and identify those costs which directly relate to the defense of Europe? No one can do that. The Secretary of Defense has said: "Almost everything in the Department supports our NATO commitment."

The principal geographical area where Soviet and Western military forces are deployed is Europe, Today, that is the area of the world of highest military risk. Therefore, no part of the defense budget can be excluded from consideration. The total defense budget affects NATO to some degree.

But where is the 3-percent growth? The administration's defense request includes 1.7 percent real growth. However, the measure of the commitment is determined by what is spent during the year, or what is referred to as "outlays," not what is appropriated. If the President's budget were approved, the planned outlays would increase by 3 percent excluding inflation.

Has the Armed Services Committee concurred in that policy recommendation? Yes, because the committee's recommendations for defense will maintain the policy of 3 percent growth in outlays.

A major portion of the committee's recommended $2.4 billion increase over the President's budget is accounted for

by two proposals. These are the nuclear carrier and cruiser. The authorization for these two ships account for all but $100 million of the increase. Since the outlays for the ships will occur over several years, the committee's recommended increases will have negligible impact on the 3-percent growth in outlays during 1979.

The committee concurred in the policy objective of increasing the budget, but was not a rubberstamp. The many recommendations which the committee made will not adversely impact the commitment to NATO. Disagreements between the committee and the Defense Department focused upon specific weapon programs and not on major priorities for general purposes forces.

I find it necessary to make these findings known to my colleagues. For it would be misleading and dangerous for us on the floor to disregard the recommendations of a committee which has considered in detail a broad host of programs and policies. The committee's recommendations are for a meaningful defense budget which reflects the conclusion of that review.

Mr. BOB WILSON. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in support of H.R. 10929, the Department of Defense Appropriation Act of 1979. As a member of the House Armed Services Committee, I am well aware of the many hours of work and investigation that went into this piece of legislation. The committee spent weeks hearing from all segments of our society concerning the future needs of our military. The recommendations contained in H.R. 10929 represent the best judgment of the committee after digesting the significance of the various witnesses which appeared before the committee.

The fiscal year 1979 defense budget represents the first true indication of President Carter's view of the military and the importance he places in its capabilities. Perhaps the biggest surprise to be found in the President's defense budget recommendations are in his naval cuts. The President's proposals were questioned to insure that with the cuts he recommended our Navy could continue to protect American interest worldwide. After the most careful review, the committee determined that the President's naval recommendations were not realistic.

The administration's study entitled "Sea Plan 2000," which was recently submitted to the Congress outlined several options of naval capabilities. Option 1 represented the lowest force level reviewed in the study. This option has been described by the Secretary of the Navy as being too inflexible with only minimum capabilities. However, President Carter's recommendations, particularly his 5-year shipuilding program, represented a force level lower than that of option 1. By way of comparison, President Ford had recommended the construction of 157 new ships between now and 1983. President Carter recommended only 70 ships. Therefore, it is not surprising that the committee made the most significant changes in the naval vessels procurement portion of the DOD budget. Specifically, the committee recommends the addition to the President's budget of a nuclear aircraft carrier and a nuclear strike cruiser. Even with these two major additions, I consider our naval building program merely bones with no meat and certainly no fat. I fear that our Navy would not meet its required missions should a major conflict erupt in the near future. Our Navy would be limited to resupplying missions and defending only the most vital shipping lanes. It could not maintain forward deployed forces nor could it fight a worldwide war due to its lack of flexibility. In order to improve upon its flexibility and readiness the committee made several more additions to the naval portion of the budget; $200 million were added for 12 more F–14's, for a total of 36 aircraft in fiscal year 1979; $153.9 million were added for 24 A–7E attack aircrafts; $138 million for a total of 9 F–18's.

Major improvements over the administration's budget were not limited strictly to the Navy. For example the committee added $145 million for 16 C–130H aircrafts for the Air Force, $141 million for 16 two-place A–7D aircraft for the Air National Guard and $15 million for production engineering and early procurement of selected components for the E–4 advanced airborne command post program.

The Committee illustrated its desire to keep cost overruns down by deleting $161.3 million for the EF–111A aircraft with the intent to cancel that program due to unacceptable cost growth.

The list of changes between the administration's budget and the committee's goes on; I will not attempt to list all of them. My point is that the committee seems to view the role of our military in world politics in different terms than the President.

Recently the President has made two important and very strong statements to the Soviets concerning their role in Africa. However, judging from the events of the last few weeks, these statements have been ignored by the Soviets. This occurrence was highly predictable because there is only one thing the Soviets respect. They do not respect compassion, self-restraint, or a willingness to compromise. To the Soviet, these are signs of weakness. What the Soviets understand and respect is pure military power and the willingness to use it whenever events necessitate its usage. Why should they think the President is serious when he cancels the B–1, the neutron bomb production, recommends that our Navy be cut drastically? These examples mention only a few of the unilateral concessions the United States had made recently.

Not only are our capabilities to protect our allies being questioned throughout the world, but our willingness to make the sacrifices necessary to protect our interest and allies is aso being questioned. I am very much concerned about the growing deficiencies in the conventional defense of NATO. This budget has been described as "the year of NATO" but I have difficulty reconciling that with the facts.

I think it is important to recognize that the battle for Western Europe, if it comes to that is going to be decided on the ground by land armies. The naval and air forces will have a supporting role in that battle, just as they had in World War II.

I do not for a minute suggest that a strong Navy and a strong Air Force are not absolutely vital to our defense. But I am concerned that we have been seriously neglecting the needs of the Army which will have to bear the brunt of a Soviet attack in Europe.

Every responsible observer has taken note of the fact that the greatest conventional threat facing us is the armored capability of the Warsaw Pact. We are badly outnumbered, "tank-poor," if you will, and yet, inexplicably, the administration request for tanks represents less than 3½ percent of this bill.

In fact, Army weapons systems account for only 13 percent—$1 out of every $7—of the procurement programs approved in this bill. Overall, the Army receives less than 16 percent of the Defense Department funds in the investment area dealing with procurement and R. & D.

This pattern simply cannot continue because we are kidding ourselves if we think we can buy a credible Army force in NATO with this kind of investment.

The committee made a number of changes in Army programs by reprioritizing to increase the near term combat capability of the Army. The most important change was to restore funding for the infantry fighting vehicle which had been arbitrarily deleted in the last stages of the budget preparation by the armchair strategists at OMB.

When you consider that the U.S. Army is the only major army in the world that does not have an infantry-fighting vehicle; that the IFV is superior to anything in the world today; and that the next war can only be won by highly mobile, mechanized forces with massive firepower, it seems to me that denying such capability to our own Army borders on criminal neglect.

If this Congress deletes any of the programs recommended by the committee we will be giving yet another indication to the world that the United States is declining in world power and influence. Furthermore, we will be giving the Soviet Union a green light in Africa to expand its influence even more. Further, we will be hampering our efforts to negotiate a reasonable SALT II agreement. How can we expect the Soviets to agree to any concessions in SALT if we continue to make unilateral concessions without any request for concessions on their part?

I realize that many of my colleagues would prefer we spend less on defense and more on human needs programs. I would remind those who feel that our defense spending is excessive, that our military capabilities have probably done

more to preserve the human rights and freedoms of our allies than any other single assistance program introduced in this Congress. Hopefully, we will reject the President's recommendations and concur with those of the committee by passing H.R. 10929.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise in total support of the committee bill and in total opposition to the Carr substitute. I am proud to be a member of the Personnel Subcommittee. I might say that we have met more than 15 times, probably more than any other subcommittee of the Armed Services Committee, working on the personnel titles. There are four titles under the personnel portion which we have had to work on; titles III, IV, V, and VI, which is half the bill. We have made 17 statutory changes in administrative proposals; we have been very active.

Mr. Chairman, I would like to limit my remarks to two areas, one of which is the Reserve Forces and the other, which I would like to talk about first, is the manner in which the officials of the Department of Defense have been complying with congressional guidance on personnel matters.

That has not been good in some cases. I cite some examples:

First, the Naval Reserve: Last year's conference report on the defense authorization bill said that the Secretary of Defense should "stabilize the Naval Reserve strength." This was not done, as the administration is again requesting a reduction of the Naval Reserve, in effect virtually doing away with the Naval Reserve.

Incentive for the Reserves: Last year's conference report also stated.

> The conferees expect to see a comprehensive program to address the problems in maintaining Reserve strengths in the fiscal year 1979 budget submission.

This direction was ignored.

Shortages in the Individual Ready Reserve: The committee report on the defense authorization bill called the situation in the Individual Ready Reserve, "inexcusable neglect, and the committee expects to be presented with a comprehensive program addressing this problem in the very near future." These comments were totally ignored, and as a result there is no significance to the IRR today.

Mr. Chairman, these examples, plus the gradual erosion of the authority conferred on the chiefs of the Reserve components by Congress, are very disturbing.

As to the other matter, as we cut back on the regular forces, the National Guard and Reserve are now picking up more missions. More than half the combat missions in the military forces are the responsibility of the Reserve. But in the last 5 years the Guard and Reserve strength levels have fallen well over 100,000 personnel, 12 percent of the strength of the Reserve Forces. This has come about of course because of the volunteer era.

Really the best deal by far to the taxpayer is a strong Reserve to augment the Regular Forces. It costs about half as much to equip and train a Reserve unit as a Regular unit. So in this bill we have provided for more aircraft to improve the air units. We have provided in this bill incentives to attract young Americans into the Guard and Reserve.

Mr. Chairman, it is common knowledge now that the air units of the Air Guard and Air Reserve and Air Naval Reserve are as good as the Regulars, and in some cases these air units are better than the Regulars. Giving additional A–7D's and C–130's will further improve the air units of the Reserve.

Also in this bill we have included and extended the authority for incentives for the Guard and Reserve.

There are enlistment and reenlistment bonuses.

Every witness that has testified before our Personnel Subcommittee from the Defense Department has said and insisted that they must have these incentives. We have been telling them this for several years.

Other language in the committee bill would strengthen the Reserve Forces.

So if the Members adopt the Carr substitute you had just better kiss the Reserves goodby. If Members vote for the committee bill, sleep well tonight, for our National Guard is alert. If Members vote for the Carr substitute, I hope they have a miserable night.

Mr. BOB WILSON. Mr. Chairman, I yield such time as he may require to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, I rise in strong support of the bill presently being considered. Although it directly addresses only about a third of the defense budget, it represents a keystone in the overall acquisition of our defense resources.

Recently President Carter warned the Soviets that—

> We will not allow any other nation to gain military superiority over us.

I hope, consistent with this newly announced policy, he will reconsider his unfortunate decision to scrap the B–1—America's only hope for a modern, effective, penetrating bomber this decade. It would be good, too, if the President would approve production of the MX missile he just put on the back burner, restart the Minuteman III production line he recently closed, restore funds for the *Nimitz*-class aircraft carrier and the other ships he scrapped this year, rescind his order to remove troops from South Korea and shelve his base closure list.

It is OK to talk tough if you have something to back it up. I am afraid if the President does not bolster his words with deeds, the Soviets will see his latest stand as just so much rhetoric—just something that would go over well with one particular audience on one particular occasion. The President's budget did not seem to support his rhetoric. The committee bill does a better job.

I know that there will be those who will argue in favor of reducing the dollars authorized in the measure before us. As the Baltimore News American editorialized earlier this week:

> It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of the social services.

We have all been witness to that. But, as the editorial gets to the heart of the matter:

> There is a tendency to forget that the most important service that a government can do for its people is to keep them live and free.

This important measure very much deserves our support in line with our continuing responsibility to do that which is necessary to provide for the security of our people—to keep them alive and free.

H.R. 10929 does not address itself exclusively to hardware and personnel levels, it also deals with some critical areas in the military health care delivery system and I wish to address the need for special pay for health professionals, reorganization of the Army dental corps, and an improved civil defense system for our Nation.

Authority to provide special pays to health professionals expires on September 30, 1978. Included in this authority are special pay for physicians, dentists, optometrists, and veterinarians; variable incentive pay for physicians below flag rank; and special continuation pay for physicians with flag rank and for dentists.

Two major concerns have been expressed—by physicians in particular—regarding the special pay program: the anomalies that become apparent in compensation comparisons between similar individuals who were procured under different programs, and the uncertainty inherent in annual expiration dates.

The present system of special pays and bonuses and the various programs for procuring military health professionals has resulted in a complex system. Several significant anomalies exist, primarily as a result of the timing of laws and regulations affecting these programs.

The committee believes that enactment of a comprehensive, understandable, and equitable system of pay for health professionals is crucially important to the continued delivery of quality health care in the military. There is a special need to avoid the anomalies presently causing so much disenchantment and discontent among our military health professionals, today.

A legislative proposal that would substantially revise and replace these programs is presently being coordinated within the administration. Recognizing the critical nature of the situation and the importance of a revised system of compensation for military health professionals, it is hoped that final enactment of new legislation would be accomplished during this Congress.

REORGANIZATION OF ARMY DENTAL CORPS

The bill would also place in statute a revised organizational structure for the Army Dental Corps.

Until recently, a dental activity at an Army unit would be organizationally under the medical activity. The commander of the medical activity was a physician, and at times of a lower grade than the dental officers in the dental activity. Resource allocations such as manpower, funds, and equipment were made by the physician in his capacity as the head of the medical activity.

The bill would place in statute a revised organizational structure in which the commander of the medical activity and the commander of the dental activity both report directly to the post commander providing more autonomy to the dental unit. The Army has already implemented—administratively—many of the provisions included in this section of the bill. During testimony, the Army provided evidence that the reorganization improved dental productivity significantly. The bill will assure that improved dental care delivery is maintained in the future by placing the organizational structure in statute.

There is no increase in cost or grade authorizations stemming from the change.

As for civil defense, Mr. Chairman, I am pleased that the committee approved my amendment increasing the civil defense authorization from $96.5 to $137 million for fiscal year 1979.

This authorization level underscores the increased importance that is attached to civil defense and the need to have a long-range upgraded program. The higher authorization will enable the Department of Defense to start on such a program now that will cost an estimated $1.9 billion—approximately $1.2 billion over current policy spending based upon the testimony received during the hearings, there is no compelling reason to wait until fiscal year 1980 to undertake the program as the Department of Defense contemplates.

The increased efforts of the Soviets to protect their civilian population and industrial base, pose a threat to the strategic balance of power so necessary to the maintenance of peace. Their ability to better protect themselves from attack gives them a distinct advantage over us, not only in nuclear war, but in arms limitations talks, and of Soviet interference with the destiny of other free and emerging nations.

The proposed authorization will enable DCPA to respond to that threat with the first year authorization of a 7-year plan concentrating funds requested for crisis evacuation, research and development, emergency operating centers, training and education, mangement, and program coordination.

Mr. Chairman, H.R. 10929 is a balanced bill. It authorizes funds for the major weapon systems required to meet the threat and authorizes the personnel needed to develop, operate, and maintain these complex systems. I strongly urge all Members to support the bill.

Mr. BOB WILSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Chairman, the hour is late. We have heard a lot of discussion with regard to the defense budget and the bill that we are dealing with. I am sure there is not anyone in the room who is greatly surprised at the comments which have been made, but I would like to, if I could, sum up and put into perspective the issue as I see it at present, Mr. Chairman.

I greatly fear that the United States has slipped badly in its defense posture. I think that these moneys we are asking for our weapons systems that we are dealing with are necessary. That is the reason that I support, for the main part, the bill that is before us today.

I am very much concerned when I read about the armed conflict which is going on about the world today. And it is not just "the old people" who are doing it, it is the new, emerging nations who are involved. There is strife everywhere. We hear about the Cubans being in Africa and we read about the involvement with terrorism all around the world.

I think the best way to maintain our position is for us to maintain a strong position, one which traditionally will protect the best interests of the people of the United States. That is really what I am here to do, to support that kind of involvement, because if we do not, we are decidedly going to pay for it in other areas.

I ask of those Members who would try to weaken this bill all along the line to think carefully of what the results may be because they very well may have to pay the fiddler on this.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank the gentleman from Illinois (Mr. PRICE) for yielding me this time.

Mr. Chairman and members of the committee, I have some extraordinarily articulate pearls of wisdom for my colleagues, but as I look around the Chamber I only see members of the Committee on Armed Forces and their staff and they have already heard these pearls of wisdow. I will, therefore, not involve myself with them. Perhaps tomorrow when we are engaged in the debate on the amendments then other Members will be here to listen to my words.

I have asked unanimous consent to revise and extend my remarks, Mr. Chairman, so that my colleagues who are not here at this time may be able to read them.

I would comment to my distinguished colleague the gentleman from California (Mr. LLOYD) when the gentleman says that we are indulging in an effort to weaken the bill that he must assume that the bill is a strong bill because I hope that the gentleman from Michigan (Mr. CARR) and myself and others will challenge that position with as much courage as we can muster.

The authorization bill proposed by the committee is not in the best interests of the American people. Among other things, it is a "Budget Buster." It is an authorization that would divert needed resources from human needs, while spending billions on unnecessary military projects.

The authorization level shows a lack of discernment, rationale, and restraint by the committee. It is reflective of the "wants" of the military brass rather than constituting a reasoned policy. The committee has a responsibility to the House and the American people to be more than a rubberstamp. It has not met that responsibility by proposing this bill.

It is time that we coolly reflect on our interest, our capacities, the threat, and the costs of our military programs.

The programs articulated by Secretary Brown and the caricature drawn by the committee cannot and should not be supported. Both programs are far too expensive not only this year, but particularly for the future, where their projected increases would raise the defense budget to over one quarter of a trillion dollars a year by the end of the 1980's.

Such an expenditure would mean that major social concerns would be set aside, because money would not be available to fund them. The Nation's priorities would be misshaped and our commitment to social justice and a decent and secure standard of living unfulfilled.

Each year we are confronted by panic stories of "the Russians are coming." Despite the cries, the overall balance between the United States and the U.S.S.R. remains stable. The Soviets have increased their annual defense expenditures over the last decade and a half. But, the Soviets were clearly behind when the increase started and clearly they have not surpassed us. And I would add that just comparing numbers of weapons is meaningless, the question is not the numbers, but rather, what is the mission and our capacity to carry it out. Russia and America both possess military power capable of destroying each other many times over. Both have more military capacity than they can utilize. Our foreign policy problems, the foreign threats to our economy and the challenges to international peace have not come about, because of U.S. military weakness, rather they are continuing evidence that the world's major problems are not solvable by U.S. arms. Indeed, we have painfully learned from Vietnam and previous paramilitary efforts that our weapons have definite limitations.

We need to maintain a strong military, but its strength should be measured as to the real needs of America.

President Carter has said:

> It is a new world that calls for a new American foreign policy.

This is most certainly so. Our intent should be to shape a foreign policy and supporting military posture that recognizes our limitations and our true interests.

Our foreign policy should be noninterventionist with our military posture sufficient to defend the United States and our vital interest, but without the adornments necessary for being the police officer of the world or an intervenor in the Third World.

Former Secretary of Defense Schlesinger saw clearly that our commitments were not being met even by our present astronomical budget. I believe it would be correct to say that even the one-quarter trillion dollar a year budget in the late 1980's would not fill out the military image we project. We must either devote even more resources to the military or curtail our commitments abroad.

Clearly, we must disengage. We must assume a posture which carries only the cost and risks which the American people should and would be able to bear. Are we willing, can we truly afford to defend the "American system" which reaches throughout the world?

In a real sense the effort to project our power throughout the world locks us into situations where our security and our lives are challenged unnecessarily. Our effort to maintain third-rate dictatorships could be the portal to world war III.

Obviously, we cannot immediately pack up and go. But, we must decide now where our long-term interests are, and begin to shape our foreign policy and military posture accordingly. This will require patience, thoughtful reflection and effective diplomacy.

The authorization for fiscal year 1979 should be a beginning toward a rational defense policy.

ASIA

Our military posture in Asia is too large and is designed for interventions that we should avoid. Presently 20 to 30 percent of our military budget is targeted toward Asia.

While maintaining sensitive and continuing discussions with Japan, we should begin to reduce our presence in the western Pacific.

Our first steps are and should be withdrawal from Korea. The committee's action as regards President Carter's plan for withdrawal from Korea, is irresponsible, unsupportable, and probably unconstitutional. It must be reversed.

In 1975 I asked Secretary Schlesinger—How can you justify on military grounds a forward deployment of 42,000 troops? His response, and we can read it in the RECORD was:

The gentleman from California is correct. We cannot justify on military ground the forward deployment of troops in South Korea. We are there to provide a political presence.

My question is: Why do we need 42,000 troops or 30,000 to provide a political presence? Why not 4,000, 420, or 42? What is so magic about 42,000 troops? Why 30,000 troops providing resources to one of the most powerful, best equipped armies on the face of the Earth?

As President Carter explained:

The time has come for a very careful, very orderly withdrawal over four or five years.

The President underscored that the United States would leave behind "adequate intelligence forces, observation forces, air forces, naval forces, and a firm, open commitment to our defense treaties."

The three squadrons of American F–4 fighter-bombers (of 18 to 25 planes each) will remain in the country indefinitely. Powerful American naval deployments in regional waters, forward based at Yokosuka and Sasebo in Japan, will be available for quick reaction. The withdrawal schedule has been modified, in response to South Korean fears and the advice of the Joint Chief of Staff, to allow most of the American ground combat forces—two brigades of the 2d Infantry Division with 8,000 men, another 4,000 support troops—to stay to the last, until 1982. At the end, a residual American force of 8,000 Air Force personnel and 6,000 logistics specialists will remain.

The administration's confidence in ROK to defend itself is well placed. The military forces on the Korean Peninsula are essentially equal. The South Korean Army has over 635,000 persons under arms. Many of them are combat experienced as the result of their involvement in South Vietnam. Who are the ostensible enemies of the South Koreans? The North Koreans. The North Koreans have approximately 500,000 troops and have not fired a shot in 22 years, with the exception of occasional sniper fire. South Korea should be able to defend itself from a thrust from the north. North Korea is a state with less than half the population (16,280,000) of the south (34,610,000). It is inferior in overall ground forces (500,000 against the South's 635,000); about 27 Soviet-size divisions in the north against 22 larger South Korean divisions, including a marine division. On the other hand, the north has an advantage in armor (roughly two tank divisions against the south's equivalent of about one). And unfortunately the capital of South Korea is only 30 miles from the DMZ. But a majority of North Korea's planes are obsolete Mig 15/17's and IL–28's, while few of South Korea's planes are the outdated F–86's. But, in any case, air forces do not directly oppose each other, as do ground units. Moreover, ROK also has the advantage of being able to fight from a strong defensive position. Importantly, NK's air and sea superiority are more than balanced by the U.S. air and sea units, which would remain under the Carter proposal. The actual fighting strength of combined forces would remain nearly the same. There are some risks in any troop withdrawal plan from Korea. On the other hand, I believe that there are even more serious risks if our ground troops remain in their present position. Let us be clear about one point, the only result of our combat troops located where they are if there is a military confrontation in Korea, is that the U.S. Forces (on or close to the DMZ) would become virtually, instantly, and automatically involved in a new war on the Asian mainland—without time for any careful reasoned decision by the President and by Congress.

The continuation of the status quo could lead to any one of two disastrous consequences: Automatic U.S. involvement in a new land war, or the withdrawal of U.S. Forces under fire.

Withdrawal under fire, or withdrawal of these combat troops immediately prior to conflict, will be viewed as much more damaging to the morale of ROK forces than doing it now.

The President's phased withdrawal is accompanied by more than $2 billion of additional arm transfers. Congress will be asked to approve a package of modern equipment for South Korea, to consist of credits, over 5 years, of nearly $1.4 billion, and a legacy of more than $800 million of the 2d Division's helicopters, armored personnel carriers, and possibly tanks and nuclear-capable "Honest John" rockets. The package will probably also include hundreds of modern jet fighters, among them the new F–16, and half a dozen naval destroyers. When our Government agrees to a 5-year dose of Korean modernization in exchange for a 5-year reduction of our troop presence, we should realize that this is precisely what we have already done: The 5-year plan that ended in 1975 cost more than $1.5 billion in addition to "regular" military assistance. By now, South Korea was supposed to be militarily self-sufficient on the peninsula, and American troops were supposed to be out.

While I support the decision by President Carter to withdraw these troops, I would go even further—and remove all ground forces and air units. As we withdraw, we should eliminate from our force structure all units committed to, or primarily oriented to the defense of Korea. We should disband the units that are withdrawing from Korea. This would result in a saving of $900 million yearly and reduce our force structure accordingly. Korea is the case that requires all the other support troops in the area. The Japanese and Philippine bases are all primarily geared to providing support for a Korean conflict. Therefore, these bases could be reduced without endangering other foreign policy considerations.

NATO

Between 45 to 50 percent of the projected DOD budget is targeted for NATO. There is a proposed increase in the Army force in Europe. The Army additions are said to be in response to a Soviet buildup in the Warsaw Pact, yet NATO has also increased its capacity. Further, there is a Chinese threat at Moscow's back, and there are questions as to the dependableness of the Warsaw allies in Eastern Europe. On the other side, our allies are dependable. Given all this and our strategic capacity, there is little likelihood of conventional war in Europe. In fact there is little likelihood of war with the Soviet Union at all.

We must question, therefore, the requirement for additional troops. Certainly there is little likelihood of an extended conventional war. Given a conventional attack, there would be considerable pressure to escalate to nuclear war.

This uncertainty makes conventional attack even less likely.

The greatest weakness is not in U.S. forces but in those of the western allies. A significant effort should be made to strengthen our allies, to achieve the level of capacity we feel is necessary. The real need for the United States would appear to be maintaining our troops in Europe at the highest level of readiness, not to increase their number. We must also encourage greater standardization and interoperability of NATO weapons systems.

NAVAL FORCES

U.S. naval policy is based on yesterday's wars. It is not rational to expect our Navy to conduct extended conventional surface warfare with the Soviet Navy during any future war. There remains in the Navy more than enough capacity for other contingencies across the world. Of all the committee's actions, the most irrational action was the authorization for a nuclear carrier and cruiser construction, against the wishes of the President and Secretary of Defense, without logic and justification except the desires of the admirals.

STRATEGIC FORCES

With regard to our strategic forces, we must accept the fact that our fixed land-based missiles are becoming vulnerable to Soviet missiles. Irrespective of this, the probability of destroying them all within several minutes is remote. Further, they would necessarily draw Soviet resources. Many would get off the pad. We have significant capacity, enough to destroy the Soviets, in either our bombers and submarines. Therefore, we do not need the MX or other counterforce system. The Soviets perceive such developments as a clear threat that would destabilize the peace. I absolutely believe we must not develop a first-strike capacity which argues for a Soviet quick strike during any crisis. Nor should we deploy capacities which may defeat a SALT agreement. Other counterforce developments such as the MK2A warhead, NS–ZO guidance system, the advance ballistic reentry systems (ARBES) are also destabilizing and should be canceled.

CIVIL DEFENSE

This year the committee increased civil defense spending by $40.5 million over the request by President Carter. Given the weapons systems being developed by both the United States and U.S.S.R., to conceive that a battle between the superpowers would be anything less than all-out nuclear war is unthinkable. Increased spending on civil defense will engender a false sense of security that a large segment of the population can be saved from a nuclear exchange. This budget for civil defense is a fraud and a waste of resources.

MISCELLANEOUS

WINTER OLYMPICS

We must strike the logistical assistance for the Winter Olympics in Lake Placid, N.Y. If the U.S. Congress decides to subsidize the Olympic Games it should be done directly and not as a hidden item in the defense budget. This support certainly would not benefit our national security.

COMMANDANT'S PRIVATE PLANE

I find it particularly amusing that the committee voted to purchase a private plane for the head of the Marine Corps. It would seem reasonable that out of the thousands of planes already in the DOD inventory, one could be ıreed to ny the Commandant when it was necessary for him to travel. Asking the American people to spend $8.1 million for his plane is insulting.

RESERVE AND NATIONAL GUARD SUPPORT

Any increase in personnel or money for the Army Reserve and Army National Guard should be opposed until they can show that their mission requires the increase and that they have improved the readiness of their forces. I also support the administration's decision to reduce the naval selected reserves since such a reduction in training slots will not weaken the readiness of these units. The increased strength can only be justified in terms of the financial benefit it gives to certain individuals.

There are costs to any course of action, but the greatest costs of all are associated with simply continuing the old routine, keeping the budget more or less in line, and hoping the world will take our increasingly hollow rhetoric seriously. I ask Congress not to fly from reality, and not to mislead people.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, in recent years our military strength has declined relative to that of the Soviet Union. Most estimates show that they are leading in quantity of weapons, and are reducing our advantage in quality. They have accomplished this through a firm national commitment to an extensive military research, development, and deployment effort. We must make no less a commitment to our national defense. In the preamble, it clearly states that one of the purposes of the Constitution is to "provide for the common defense." Article I, section 8, states that Congress shall have power, among other things:

To raise and support armies, . . . To provide and maintain a navy; To make rules for the government and regulation of the land and naval forces; . . . To provide for organizing, arming and disciplining the militia, . . .

The responsibility is ours. The authorizations recommended by the House Armed Services Committee represent a recognition of that responsibility. They are an important first step in reversing the present trends which favor the Soviet Union. In particular, I want to address three areas:

First, the committee is to be commended for recommending in its report that first priority be given to determining a viable basing mode for our land-based ICBM system. By most estimations, our land-based ICBM's will be vulnerable to Soviet attack by the 1980's. If we are to preserve our strategic Triad of land-based ICBM's, submarine launched ballistic missiles, and airpower, we must develop an alternative to the present fixed silo-based ICBM. Studies currently being undertaken by the Department of Defense in this area will be of interest. I urge my colleagues to give careful consideration to any requests made by the committee for supplemental authorizatoions based on the results of these studies.

Second, the committee has made important recommendations in the area of defense manpower. In particular, I want to express my agreement with the committee's conclusion that our military recruitment process must use the concept of patriotism and a citizen's duties to serve his Nation, and must realistically present the demands of military life. In addition, the committee makes an important commitment to support our Reserve Forces in a manner to permit them to accomplish their assigned mission. We have allowed our Reserve Forces to become short in personnel and deficient in readiness. This cannot continue. Moreover, our selective service no longer has ability to meet manpower mobilization requirements in an acceptable time frame. The committee is correct in directing that plans be formulated providing for national registration and classification.

Finally, I want to commend the committee for recognizing the need to start a long-range upgrading of our civil defense program. This is of special interest to me, because my congressional district, Missouri's 4th, contains a significant number of our Minuteman missiles, and is, therefore, a potential prime target in case of a nuclear attack against our country. When title VII of the bill is considered, I will offer an amendment which I believe complements the action of the committee in strengthening our national civil defense program. My amendment would require the Defense Civil Preparedness Agency to use some of the $10.2 million authorized by the Committee for Research and Development for a study of the special civil defense needs of certain areas, which, like my district, are prime targets, because they contain significant elements of the U.S. strategic nuclear retaliatory forces. I feel we owe it to the 10 million Americans who live in these areas to determine if some type of effective, yet affordable, civil defense can be provided. The study required by my amendment would evaluate the existing civil defense plans in these high-risk areas, determine the feasibility of establishing more effective plans, and examine potential costs and methods of financing, among other things. It is all information which is necessary to accurately assess the special civil defense needs of this high-risk area. I urge the adoption of my amendment, and I urge the adoption of the committee's recommendation on civil defense, with no reduction in the authorization.

● Mr. STEIGER. Mr. Chairman, I would like to take this opportunity to commend the committee for its realistic approach to military manpower issues. As the committee report notes:

In many ways, the implementation of an enlistment system based entirely on volunteers after many years of reliance on the draft has been a remarkable management achievement.

The committee adds that as a general matter, "the Active Forces are in acceptable condition after 5 years of volunteer experience." Along with these favorable comments, I concur with the views of the committee noting a number of problem areas to be addressed. I urge the Pentagon to give prompt and thorough attention to the issues addressed in the committee's report.

The creation of the Volunteer Force means more to the country than the mere absence of conscription. It represents a commitment to economical and efficient use of our manpower resources in the interest of national defense. To a great extent, however, our personnel practices remain unchanged from the draft era. There has been no systematic review of the interrelationship between recruiting, assignment, promotion, separation, and compensation. Each of these matters has been treated as an independent concern. That approach may have sufficed during the draft, when compulsion produced a never ending supply of recruits; but it led to the classic inefficiencies and misallocation of resources we now associate with conscription. Full implementation of the Volunteer Force requires an integrated approach to these different areas of manpower management. Until the Pentagon and the Congress pay serious attention to these issues, we will not achieve the potential for savings and improvements in quality of our Forces.

To the degree that management problems remain, let it not be said that such matters were overlooked by those of us who have pressed for personnel reform. In 1972, I joined the gentleman from Florida (Mr. BENNETT), the gentleman from California (Mr. BOB WILSON), and our former colleague, now the junior Senator from Hawaii (Mr. MATSUNAGA) in sponsoring a comprehensive package of incentives. That legislation included special pay for the medical profession and incentives for the Reserve Forces. If we had acted rapidly on the medical incentives, and the related scholarship programs for doctors, we would not be facing the shortages presently before us.

Those who decry shortages in the Reserves might do well to ask why the Reserve incentives languished over the last 5 years. I am pleased to see that the committee has included such incentives in this year's legislation. They will provide a flexible tool for addressing shortages while the situation can still be addressed in an orderly fashion.

I am pleased by the committee's observation that "the quality of volunteers has generally met established standards." However, as the committee notes, the record has been somewhat mixed in the recruiting area. I should like to remind the House that many of the remaining problems are attributable to our actions in 1975 during consideration of the DOD appropriations legislation. At that time, the recruiting force had recovered from the initial difficulties of converting to the Volunteer Force and was performing quite well. The Appropriations Committee, citing the successful performance of the recruiting force, ordered drastic reductions. It reduced the Recruiting Command by 1,200 spaces, radically undermined the support budget, eliminated unit recruiting, and slashed advertising by 35 percent. When the committee proposed the cuts, then-Assistant Defense Secretary Brehm noted that reductions in military recruiting expenditures might be possible after close and careful review, but he added a warning:

We must be extremely careful about making any downward adjustments in that organization because we built it at great cost, and at some pain. It is functioning very well now so we want to make sure that any steps we take are taken deliberately. If we dismantle it and for some reason recruiting becomes more difficult than it is today, then we have the problem of building it back up again.

The gentleman from New York (Mr. MURPHY) joined with me in warning the House that it was too early to tamper with the successful transition from the Volunteer Force. The House, however, confident that recruiting could succeed with a lower budget, concurred in the reductions. As a result of those cuts, pressure was placed upon the recruiting establishment. It is a tribute to the durability of the Volunteer Force that quality has largely been maintained. Those in this Chamber who criticize the Volunteer Force would do well to assess first the adequacy of our own performance in supporting military manpower programs.

I was intrigued by the committee's comments on attrition. While it is true that the number of recruits completing the first term of service in recent years has declined, the longer term of service in the Volunteer Force has led to an increase in the average length of time actually served—from 24 to 28 months. This has led to substantial savings. Nevertheless, I agree that the attrition rate is much too high. As the committee is well aware, the Pentagon has been most reluctant to face up to the need for a thorough review of discharge and retention policies. As members of the Armed Services Committee will recall, extensive hearings were held by a subcommittee headed by the gentleman from Michigan (Mr. NEDZI) in 1975. At that time, the gentleman from Florida (Mr. BENNETT) and I introduced comprehensive legislation to rationalize the discharge process. Nothing ever came of that review. While our legislation may not have been the ultimate answer, the increasing concern with attrition makes it abundantly clear that action is necessary. Discharge reform is necessary, not simply out of fairness to service members, but also—and most importantly—to promote uniform and consistent decisions on separation policies. To the degree that the present maze of discharge regulations leads different commanders to apply differing policies in similar situations, we are separating soldiers who are capable of becoming satisfactory performers. Unless we take corrective action we are not going to solve the attrition problem. I strongly urge the committee to take up where we left off in 1975 and produce a comprehensive discharge reform bill specifically addressed to the problem of attrition.

With respect to Selective Service, I am disappointed that the committee may consider a return to national registration and classification. As a long time supporter of the Volunteer Force, I have consistently emphasized the need to be ready for mass mobilization—with conscription, if necessary—in the case of a major national emergency. I have seen no persuasive evidence, however, that registration and classification in this day and age will enhance our ability to mobilize. Young people of potential draft age are extremely mobile. Their residential, occupational, marital, and physical characteristics change rapidly. The information gained from registration is likely to grow obsolete in a matter of months. I note that the committee has directed both the Director of Selective Service and the Assistant Secretary of Defense for Manpower to address the issues of mobilization. They will have to make a much better case than offered in the past if they are to justify registration and classification.

In closing, I want to add a word about costs. I am pleased that the committee has not endorsed some of the popular misconceptions about the cost of the Volunteer Force. The facts are quite encouraging. The total savings from a return to the draft today would be less than $300 million, even if we were to eliminate the additional recruiting programs associated with the Volunteer Force. Even if we cut recruit pay to the minimum wage, the total savings would only be $1.3 billion. I know that few if any Members of this body are interested in achieving such minimal savings at the expense of our young men and women in uniform. Some friends of the draft talk about bringing conscription back in the form of compulsory national service. The idea of creating a bureaucracy to control the lives of several million teenagers has little appeal in a free society. Moreover, according to a study just completed by the Congressional Budget Office, compulsory universal service would cost $25 billion above the cost of the current defense budget. By comparison, the Volunteer Force has been a bargain.●

● Mr. OTTINGER. Mr. Chairman, it is inconceivable to me that today we are considering a Defense Authorization bill which would increase National Defense budget authority by $3.4 billion when, just last week, the majority of my colleagues and I rejected an amendment to the first budget resolution of fiscal year 1979 which would have increased the target for the National Defense budget authority by $2.4 billion.

We are in a day and age when "fiscal responsibility" is one of the most keenly used phrases in the political world. Oddly, it is most frequently and vociferously used by those same people who want to break the budget with defense spending increases. Is it fiscally responsible to authorize a $2.1 billion unbudgeted expenditure for a new nuclear powered aircraft carrier when both Congress and

Presidents Ford and Carter agreed that there is literally no need for such a carrier? Is it fiscally responsible for a committee to add-on numerous expenditures for questionable items during an Executive session which is not subject to public accountability?

My colleague and friend, Representative BOB CARR, has proposed a substitute for the committee's wasteful authorization bill. Mr. CARR's substitute would revert the level of budget authority for National Defense to the original level proposed by the President. I support the Carr substitute emphatically.

I am against the Armed Services Committee's proposed budget on the basis of distorted priorities, poorly conceived necessities and excessive waste. I am for the Carr substitute, in addition, on the grounds of following the proper procedure as dictated by the House budget process.

I would also point out to my more conservative colleagues, who so often base their positions on the need for fiscal responsibility and the need for ending excessive spending, that it is neither fiscally responsible nor necessary to propose or to approve a National Defense Authorization bill which includes such items as "snow shoveling" at the Lake Placid Olympic Games. It is not fiscally responsible nor wise for any Member of Congress, who represents American citizens, to vote for a defense budget without considering each of the major provisions and expenditures within the budget on its merits.

The Carr substitute provides a baseline—a guideline—a starting point from which Congress can carefully and thoughtfully devise a defense program which reflects a cost-conscious, need-conscious and basically rational approach to military spending.●

Mr. PRICE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. BRADEMAS, having assumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loans, and to authorize appropriations for civil defense, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all members may be permitted to extend their remarks and to include extraneous material on the bill H.R. 10929 which was considered today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

LEGISLATION TO DENOUNCE BARBARISM AND TO INTENSIFY ANTI-TERRORIST INITIATIVES

(Mr. DODD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DODD. Mr. Speaker, yesterday I introduced a resolution condemning the latest in the seemingly endless series of Arab terrorist attacks against the citizens and the state of Israel. The May 19 raid at Orly Airport—in which the terrorists and a French policeman were killed—may seem insignificant in comparison to the situation which currently exists in Zaire; but, in fact, it is much the same: just another unspeakable act of international violence which will contribute as much as any other to the breakdown of peaceful human relations, and to the perpetration of a state of anarchy wherever they take place.

We must all recognize that the situation that we confront with respect to terrorism is an alarming one and one that is hard to control. Technology has given its beneficiaries many opportunities—including the opportunity to destroy human life unpredictably and efficiently. It occurs to me that we have not been nearly as successful in our efforts to curb technology as we have in our efforts to develop it. It also occurs to me that many of us in the west, and many of our governments have taken to philosophizing on the use of random violence and have accepted, by doing so, a state of helplessness.

I feel very strongly, as I know many of my colleagues do, that we should not give up what may at times appear to be a lost battle, but rather step up our international efforts to combat terrorism. To this end, my resolution which I hope many of you will cosponsor not only denounces the act of barbarism at Orly, but in addition states our firm support for intensified diplomatic initiatives to encourage the development of more satisfactory antiterrorist mechanisms at an international level.

Later on this week I will be attending a session of the European Parliament in Brussels, and participating—as a member of the Parliament's joint working group on human rights—in a hearing on the current state of human rights in Argentina. I state before you now my intention of bringing up the issue of international terrorism as one that deserves the highest priority and the sustained attention of the Parliament—one of the world's most important interparliamentary organizations.

If we are ever to be successful in our war against international crime, we must—as with domestic crime—first resolve never to accept it as an occurrence of everyday life. We must fight it as best we can—working together to prevent it when possible, and lamenting it when it does take place. Follows the full text of my resolution, which I hope many of you will support:

H. Res. 1195

Whereas acts of terrorism are the ultimate affront against principles of justice and international law; and

Whereas the reaching of a lasting peace in the Middle East can only be made more difficult by continued acts of violence against innocent peoples; and

Whereas the May 19th raid against El Al is the fourth one to take place at Orly airport in six years, and another in a long series of extremist attacks by Arab terrorists: Now, therefore, be it

Resolved, That—

(a) the House of Representatives condemns not only this latest affront against world justice but all acts of international violence;

(b) it is the sense of the House of Representatives that greater international efforts should be made to develop, in a cooperative framework, more effective means of combating and controlling the destructive phenomenon of world terrorism.

CONGRESSMAN STRATTON RELEASES HIS 1977 INCOME TAX RETURN AND CURRENT NET WORTH

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STRATTON. Mr. Speaker, in keeping with a practice I have followed each year since 1974 I am including with my remarks in this RECORD a copy of my wife's and my own joint Federal income tax for 1977, together with a statement of our net worth as of May 15, 1978.

This information has also been made available to the news media in my area. As Members will note, this information goes further, and is more specific than the disclosure information required under the new House Code of Ethics.

The documents referred to above follow:

1977 JOINT FEDERAL TAX RETURN OF SAMUEL S. AND JOAN H. STRATTON

Two dependent children: Kim and Brian.
Total exemptions: 4
Wages (Congressional Salary), $54,275.
Interest Income (U.S. Government bonds and savings accounts), $104.
Dividends, none.
Fully taxable pensions and annuities (Naval Reserve retirement), $8,195.70.
Total Income, $62,575.54.
Total adjustments to income (D.C. cost of living allowance), $3,000.
Adjusted gross income, $59,575.54.
Excess itemized deductions (From Schedule A)
Medical, $150.
Taxes (State, real estate, sales, gasoline), $8,492.64.
Interest payments, $2,180.28.
Contributions, $566.50.
Miscellaneous, $85.81.
Total, $11,475.23.
Zero bracket amount, $3,200.
Excess itemized deductions, $8,275.23.
Tax Table Income, $51,300.31.
Total Tax (from Schedule TC), $14,272.34.
Total Credits, $12.50.
Total Federal Tax Paid, $14,259.84.

TOTAL TAXES PAID FOR 1977

1977 Federal Tax Paid, $14,259.84.
1977 New York State Tax, $6,090.50.

Maryland Real Estate Tax, $1,595.59.
Total Taxes Paid, $21,945.93.

NET WORTH OF SAMUEL S. AND JOAN H. STRATTON (AS OF MAY 15, 1978)

Assets

Cash on hand or in checking accounts, $2,759.51.
Cash in savings accounts, $2,018.45.
Cash value of life insurance policies, $1,934.30.
Accumulated dividends on life insurance, $71.18.
U.S. Government bonds (Series E & H), cash value, $1,993.75.
Bethesda, Maryland residence (estimated market value), $90,000.
Automobiles: 75 Pinto, $2,175 (book value); 67 VW convertible, $900 (estimated value), $3,075.
Sailboat, $300.
Furniture, clothes, personal possessions (estimated), $4,000.
Accumulated contributions to congressional retirement fund (available *only* for retirement purposes), $52,114.72.
Total assets, $158,266.91.

Notes on assets

1. Bethesda residence—purchased in 1965 at $42,600.
2. Amsterdam residence is a rented apartment.
3. Total term life insurance held: $90,860.

Liabilities

Notes outstanding (National Bank of Washington), $1,900.
Mortgage on Bethesda residence, $25,968.13.
Charge accounts payable, $1,461.15.
Total liabilities, $29,329.28.

Computation on net worth

Total assets, $158,266.91.
Total liabilities, $29,329.28.
Net worth, $128,937.63.

H.R. 3050, TAX TREATMENT OF RETURNS OF MAGAZINES, PAPERBACKS, AND RECORDS

The SPEAKER pro tempore (Mr. BRADEMAS). Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 20 minutes.

● Mr. JEFFORDS. Mr. Speaker, this bill, reported by the Ways and Means Committee by voice vote and considered by the House today, would permit publishers and distributors of magazines, paperback books, or records to elect to deduct from their annual taxable income the costs of repurchasing unsold merchandise which is returned after the close of the taxable year in which the merchandise was sold. The deadline would be 75 days for magazines and 135 days for paperbacks and records.

I believe there is a real need for this legislation, and the summary contained in the committee report (No. 95–1091) concisely states the problem this measure seeks to address:

Under present law, sellers of merchandise who use an accrual method of accounting generally must include sales proceeds in income for the taxable year when all events have occurred which fix the right to receive the income and the amount can be determinded with reasonable accuracy. The Internal Revenue Service has taken the position that accrual-basis publishers and distributors of magazines, paperbacks, or records must include the sales proceeds of these items in income when they are shipped to purchasers, and may reduce income for returns only in the year the items actually are returned unsold by the purchaser.

This position taken by the Internal Revenue Service creates a problem for many publishers and distributors. It requires that these publishers and distributors pay income taxes based on sales minus only repurchases made by the end of the taxable year. For income tax purposes, this means that income on sales made during the last part of a year cannot be offset by repurchase of the unsold merchandise in January or February. I fully agree with the committee when they noted in the report that—

. . . The present method of tax accounting for returns of magazines, paperbacks, and records does not accurately measure income for Federal income tax purposes and that it adversely affects publishers and distributors of these items.

My interest in this legislation stems from the fact that we have encountered a similar situation in my State of Vermont because of our beverage container deposit law. My colleagues might wonder how in the world bottles and cans would relate to this situation, so I will explain. Our State deposit law, which is similar to laws enacted in Oregon, Maine, Michigan, and more recently in Connecticut and Iowa, requires the consumer to pay a 5-cent deposit on each beverage container purchased, and the deposit is refunded when the empty container is returned for reuse or recycling. The deposit is initiated with the beverage distributor, who charges the deposit to the retailer, who in turn charges it to the consumer. This chain then reverses itself with the return of the container.

To oversimplify the situation somewhat, the Internal Revenue Service maintains that beverage distributors must report all container deposits as income, and pay income taxes on those deposits, even though it is acknowledged that most of the deposits will have to be refunded to the purchasers. A deduction is allowed only for refunds actually made during the taxable year. The problem arises because the completion of one full cycle (sale by distributor to retailer, sale by retailer to consumer, consumer's return of empty to retailer, retailer's return of empty to distributor) may take 3 months or more. Consequently, in the taxable year in question, the actual deposits received are much higher than the actual deposits returned. Under the Internal Revenue Service approach, this produces a bulge in income, and a major increase in a distributor's tax liability.

I believe this results in an unnecessary and inequitable burden on the beverage distributors, and that a more appropriate method of dealing with container deposits for the purposes of determining tax liability would be to allow container deposits to be set up in a reserve account to be offset with returns and other collection costs, and only then include the anticipated balance in income. I am presently preparing legislation to specifically allow for this reserve account method, and will be introducing it in the near future. As more and more States pass deposit laws, the need for this approach becomes clear.

The net effect of this bill we have considered today, H.R. 3050, is essentially the same as utilizing a reserve account approach. Given the support for using this approach for magazines, paperbacks, and records from the Internal Revenue Service, the Ways and Means Committee, and the House, it would seem appropriate that the same logic could be applied to the beverage container deposit issue, and I hope my colleagues would support me in this effort as the only fair way to solve this problem.●

THE COMMUNITY AND AIRPORT DEVELOPMENT ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SKUBITZ) is recognized for 10 minutes.

● Mr. SKUBITZ. Mr. Speaker, today I am introducing the Community and Airport Development Act of 1978. This legislation would provide new airport financing through the use of currently uncommitted revenues in the airport and airway trust fund by increasing current authorization levels for air carrier and general aviation airport programs for fiscal years 1979 and 1980.

The necessity for my legislation is clear. A recent paper published by the Transportation Research Board concluded:

The availability of air transport is a significant factor in the growth and prosperity of communities. The airport has become vital to business and industry by providing air access for companies that must meet the demands of expanding, competitive markets. Communities also benefit from the local expenditures of airport-related businesses for supplies, materials, equipment, and contracting services. These expenditures represent significant direct contributions to the business activity of communities served by the airport and, of course have a multiplier effect on the communities' economies.

Wages and salaries paid by airport business activities provide the purchase prices of local goods and services while generating tax revenues. Local payrolls alone are not the only measures of the economic benefit of an airport to the community, however. Indirectly employees expenditures also have a multiplier effect and generate successive waves of additional employment and purchases that are substantial, although more difficult to measure.

The Federal Government has failed to take the proper initiatives to stimulate airport development in those areas of the Nation where the state of airport facilities are a prohibitive factor to industrial location and expansion. This bill would release surplus revenues from the airport and airway trust fund to help meet the growing demand for additional airport construction and repair funds throughout the Nation.

Unlike much legislation introduced these days, my bill would not place an additional tax burden on the American people. Federal Aviation Administration figures show that as of February 1978 the airport and airway trust fund contained approximately $3.556 billion and was growing by about $25 million monthly. According to the Federal Aviation Administration, estimated uncommitted (surplus) revenues in the airport and airway trust fund will total $2.076 billion by the end of 1978. The surplus in the fund will total $2.2 billion for fiscal year 1979 and $2.4 billion for fiscal year 1980. At the present time, authorizations

through 1980 for both air carrier and general aviation airport development fail to equal one-half the estimated cash income for the trust fund through this same period.

My bill would authorize an additional $486 million for airport construction during fiscal years 1979 and 1980, or approximately $243 million for each year, leaving an estimated uncommitted surplus in the trust fund of over $1.9 billion in fiscal year 1979 and $2.0 billion in fiscal year 1980.

The current authorized level for commercial air carrier development would be increased from $495 million to $720 million for fiscal year 1979, an increase of $225 million. The 1980 fiscal year authorization level would be increased to $793 million, an increase of $268 million from the present authorization level of $525 million.

The bill would also provide a $500,000 base for general aviation airport development during fiscal years 1979 and 1980 for each of the 50 States. In addition, the bill would provide an increased authorization level for the development of general aviation airports for fiscal years 1979 and 1980: from $80 million to $115 million in fiscal year 1979; and from $85 million to $127 million in fiscal year 1980.

Thus, my bill will authorize an additional $486 million for fiscal years 1979 and 1980 for air carrier and general aviation airport development programs, increasing total authorizations from $1,185 million to $1,805 million.

Mr. Speaker, the key provisions of the bill are as follows:

Present funding levels

[In millions]

	1979	1980
ADAP (development)	$575	$610
Air carrier	495	85
General aviation	80	85
FAA projection of uncommitted revenues	2,200	2,400

Proposed funding levels

[In millions]

	1979	1980
ADAP (development)	$860	$945
Air carrier	720	793
General aviation base	25	25
General aviation	115	127
FAA projection of uncommitted revenues	1,915	2,065

Mr. Speaker, a modern and safe airport is an important consideration for industrial leaders when choosing prospective sites for location and expansion. A modern and safe airport is a must for any growing community regardless of the district or State it lies in. I put forward this legislation, Mr. Speaker, in a nonpartisan spirit—and I urge its adoption.●

"WILL D.C. BAN N.C.?"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 5 minutes.

● Mr. MARTIN. Mr. Speaker, according to the local papers, the Washington, D.C. City Council, in continued exhilaration over its home rule powers, is about to pass a bill that will violate article I, section 9, paragraph 6 of the U.S. Constitution, which provides:

> No preference shall be given by any Regulation of Commerce . . . to the Ports of one State over those of another.

The measure will forbid city agencies to make any purchases from companies in North Carolina until the State frees the Wilmington Ten. One account suggests that this is a reflection of the activist attitude of the city council to support all civil rights causes. I think it suggests an even greater sensitivity to campaign propaganda.

North Carolina's Governor, James B. Hunt, Jr., upon full consideration, decided that the prison sentences handed out in the wake of violence in that coastal city were excessive under the circumstances of harmony now prevailing, and reduced those sentences remaining. He did not find cause to issue pardons. That would seem to leave our D.C. City Council in the curious position of advocating a civil right to firebomb.

It also leaves me in the indefensible position of having voted for home rule for D.C.

It is, of course, possible for Congress to veto this boycott measure and thus permit the city council to freely exercise its self-righteous insult without having to go through with it and bear responsibility for the consequences. If they are not restrained, will they rigorously root out all North Carolina products; not just tobacco but also inks, fabrics, plastics, furniture, food products, timber, et cetera? Will they steadfastly refuse to purchase electricity wheeled in from North Carolina in a power emergency? Or will they suspend their virtue on a selective basis?

If they persist unchecked, what will happen if citizens from North Carolina decide to postpone that enjoyable vacation in our Capital City? Or, how am I expected to respond to constituents who plan to come even if they are not wanted, and write asking where they might stay? Or, am I expected to continue supporting home rule for D.C. but not for N.C.? Or, should I be expected to support any further measures like the convention center bond authority?

On balance, I doubt if a D.C. boycott of North Carolina will be noticeable there. Perhaps it might be better to just let nature take its course, but I hope the D.C. Council will take a more appropriate view of its responsibilities.●

THE 75TH ANNIVERSARY OF TUNA CANNING INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, the year 1978 marks the 75th anniversary of the tuna canning industry in the United States and I feel it is timely to pay more than passing note to this event since many of my constituents depend upon this industry for their livelihood.

The tuna industry traces the early days of its founding to southern California where major developments in the industry can be attributed to San Diegans. Most of the early San Diego tuna fishermen were Portuguese who hailed from the tiny island of Pico in the Azores. I am reminded of one of the tuna processing pioneers, Joe Azevedo who was born in the Azore Islands in 1870 and moved to San Diego in 1913.

In 1914 he and his wife started canning tuna in a small shed in the rear of their home in the Point Loma area of San Diego. A year later he constructed a much larger commercial cannery on the waterfront at the foot of Dickens Street in Point Loma. This plant canned tuna, sardines, and mackerel and had the first fish reduction plant in San Diego. Total employment reached approximately 400 on a seasonal basis. In 1917 Mr. Azevedo sold his interest in the plant to a fisherman by the name of Montiero and then built another cannery, the Normandy Seafood Co., where the oldest part of the present Sun Harbor Industries plant is now located.

Thus began the tuna processing industry in San Diego which today is the home of the Sun Harbor Industries processing plant and the new and modern Van Camp Sea Food Co. The Sun Harbor Industries plant is the oldest tuna plant operating in San Diego. And today, Mr. Chairman, I am pleased to pay tribute to Sun Harbor and all the tuna processors on the occasion of this diamond jubilee.

San Diego is also the home port of the U.S. tuna fleet; it is the hub of major shipbuilding and repair for the U.S. fleet and generally is regarded as the "Tuna Capital of the World."

The first tuna pack in the United States amounted to a modest 700 cases. That was in 1903. During the early history of tuna packing, albacore was the only variety known. This unpredictable fish, normally found during summer and autumn in the waters off southern California, Baja California and the Pacific Northwest, disappeared completely for a period of 15 years. The discovery of bluefin tuna in 1916, followed almost immediately by the finding of yellowfin tuna, compensated for the lack of albacore.

Yellowfin, the "backbone" of the industry, was found by accident off the coast of Baja California, 280 miles south of San Diego, by lobster fishermen, and its arrival in San Diego created a furor along the waterfront. A sardine canning company decided it would be an ideal fish to pack, and made an open offer of $100 per ton. Fishermen scurried south into Mexican waters to seek quick riches. Cargoes of 11 and 12 tons were brought back, packed in ice, after voyages of only 10 days.

To keep pace with the ever-increasing demand for tuna for canning, larger and still larger boats with increased cruising range were built, giving birth to a major shipbuilding industry in San Diego. The early tuna boats were small 50- and 60-foot craft with limited capacity and no mechanical refrigeration. Today's tuna boats can store more than 1,200 tons of hard-frozen fish in their yawning holds. These holds are the "treasure chest" of today's boats and are practical only because of their "hard-freezing" equipment. Because it enables the boats to make extended trips, this gear has been responsible in large measure for the phenomenal growth of southern California's commercial fishing and related industries.

So on the occasion of the Diamond Jubilee of the U.S. tuna industry I am pleased to have this opportunity to relate some interesting history of the industry's beginnings in my district for the benefit of my colleagues. The tuna industry has contributed greatly to the economy of San Diego and that of the Nation. I hope that my colleagues will join me in extending sincere congratulations to this great American industry on the 75th anniversary of its beginnings.●

FINANCIAL DISCLOSURE STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 5 minutes.

● Mr. TRIBLE. Mr. Speaker, in recent years public confidence in the Congress and our other institutions of Government has eroded. Therefore, I believe that it is important that this Congress go the extra mile in order to transact the affairs of Government in the sunshine, and that the Members of this body be open and honest in their activities.

As a candidate for the Congress, I made a full financial disclosure—not because the law required it—but because I believed the people had a right to know this information.

In my first year in the Congress, I enthusiastically supported the enactment of a stronger ethics code that provided for a more thorough financial disclosure and placed limits on outside income for members. I believe, however, that the required disclosure is still vague and inadequate. Accordingly, I am now entering in the CONGRESSIONAL RECORD a full listing of my assets, liabilities, and net worth, in more detail than required by law. I do so because I believe that my constituents have a right to know this information in order to determine if my actions are in the public interest.

The material follows:

FINANCIAL DISCLOSURE STATEMENT OF PAUL S. TRIBLE, JR. AND ROSEMARY D. TRIBLE, MAY 15, 1978

ASSETS

Real estate:	
Residence and lot, 430 Prince Street, Tappahannock, Va	$55,000.00
54 acres timberland, Wicomico Magisterial District, Northumberland County, Va	15,000.00
40 acres open and timberland, Wicomico Magisterial District, Northumberland County, Va	27,500.00
5 acres timberland, Rappahannock Magisterial District, Essex County, Va	1,350.00
28 acres open and timberland, Wicomico Magisterial District, Northumberland County, Va	8,068.00
15 acres, more or less, Wicomico Magisterial District, Northumberland County, Va	3,960.00
13 acres, more or less, Wicomico Magisterial District, Northumberland County, Va	3,675.00
Bank accounts:	
Checking account, Southside Bank, Tappahannock, Va	68.21
Checking account, Sergeant at Arms, Washington, D.C	304.52
Personal property:	
1977 Ford stationwagon	4,375.00
1973 Ford Torino	1,225.00
1967 Chevrolet Camaro (estimated value)	300.00
Furniture and other personal property (estimated value)	15,000.00
Life insurance:	
$50,000, Paul S. Trible, Jr., Northwestern Mutual Life Insurance Co	$822.59
$5,000, Rosemary D. Trible, Northwestern Mutual Life Insurance Co	124.96
$20,000, Paul S. Trible, Jr., Fidelity Bankers Life Insurance Co	1,620.00
$50,000, Paul S. Trible, Jr., Shenandoah Life Insurance Co.	1,250.00
$10,000, Paul S. Trible, Jr., Philadelphia Life Insurance Co., no cash or loan value	
Other: Law books and equipment (estimated value)	5,258.66
Total assets	144,901.94

LIABILITIES

Debts owed to Paul S. Trible, Sr.	25,319.00
Debts owed to West Publishing Co. for law books	997.98
Consumer revolving charges	4,570.59
Bank of Essex, Tappahannock, Va.	7,000.00
Total liabilities	37,887.57
Total assets	144,901.94
Total liabilities	37,887.57
Net worth	107,014.37

●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. STEERS) is recognized for 5 minutes.

● Mr. STEERS. Mr. Speaker, today I of course voted for H.R. 12299, the Domestic Violence Assistance Act of 1978. I am a sponsor of the bill. I was the first sponsor of the first bill on the subject of spousal abuse and spoke for the bill acted on today. Nevertheless, my vote did not record on the electronic voting device, and I am making this statement as the only means of correcting the RECORD available to me.●

IMPERIALISM IN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, the Western Alliance is wondering aloud: "Does the Carter administration really have an African policy?" The tragic events of last week in Zaire prove beyond doubt that the administration, and in particular, U.N. Ambassador Andrew Young, have totally miscalculated Soviet incursions on the African Continent.

The Soviet presence in Africa is very real and despite pronouncement by Mr. Young to the effect that their henchmen—the Cubans—are a "stabilizing force," the possibility exists that at least five more African nations could fall to the Communists in the same fashion as Angola, Mozambique, and Ethiopia.

The weakness of American foreign policy as applied to Africa is summed up by the total naivete of Mr. Carter in responding to Soviet aggression by calling the Russians "racists and atheists." I wonder where Mr. Carter has been all these years. Every schoolchild in America knows that racism and atheism are part and parcel of Soviet policy. The boys in the Kremlin must have enjoyed a good laugh or two over Mr. Carter's "profound" discovery.

But the laughter on the part of both Soviet and Cuban leadership must be uncontrollable when it comes to Andrew Young's repeated assurances that we really have nothing to fear from their presence in Africa.

Conservative estimates have it that some 40,000-plus Cuban troops and so-called technicians are in Africa today, and regardless of whether Cuban troops were in the invasion force that penetrated Zaire—and I would be very surprised if they were not involved—the point is that the Katangan rebels came out of Angola, and Cuban and Russian personnel are in Angola training these hoodlums and murderers.

Angola, Somali, Ethiopia, Zaire—it is only the beginning. Unless Mr. Carter, Mr. Young, and others who purport to speak for the U.S. Government, wake up, the African Continent is going to be a Communist enclave, and the massacre in Zaire last week will be mild compared to future events. Thus, we will really see the "stabilizing influence" that Mr. Young so smugly hands us as justification for Cuban involvement in Africa. If the Cubans are a "stabilizing influence" in Africa, then it must be assumed that Nazi Germany was a "stabilizing influence" in Europe in the 1930's.

Mr. Speaker, rhetoric on the part of this administration is not going to minimize Communist gains in Africa, or anywhere else. In 1 week, a NATO summit is scheduled to take place in Washington. Hopefully, the Carter administration will give us a hint as to how this Nation can effectively deal with Soviet and Cuban imperialism.●

STATEMENT BY EULA BINGHAM, ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 5 minutes.

Mr. STEIGER. Mr. Speaker, in view of today's Supreme Court decision on the constitutionality of the Occupational Safety and Health Act of 1970 (OSHA) I want to share with my colleagues the statement of the Assistant Secretary of Labor with her comments on the decision. I am sure others will place in the RECORD the majority decision and in case they do not include the dissent I shall do so tomorrow. The statement follows:

STATEMENT BY EULA BINGHAM, ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH

Good afternoon. The Supreme Court has now addressed itself to the question of the constitutionality of OSHA's inspection procedures and has held that the warrant requirements of the Fourth Amendment are applicable to OSHA inspections. We will, of course, conform our policies and procedures to the Court's ruling.

We are studying this decision carefully and will quickly issue appropriate instructions to our field staff on the procedures they should follow.

It is OSHA's intention to continue to carry out its mandate of protecting American workers to the fullest extent possible.

The Court was convinced that its decision would not prevent inspections or make them less effective. The Supreme Court anticipated, and we certainly hope, that the "great majority" of businessmen can be expected to consent to inspection without warrant.

And in those cases where employers insist on a warrant, the Court also held that to obtain one, OSHA need not show specific evidence of an existing violation at a workplace. It would be sufficient, the Court said, for the Agency to show that the workplace was selected on the basis of a "general administrative plan for the enforcement of the Act derived from neutral sources." The Court's ruling thus falls right into line with our policy announced last year of directing 95 percent of our inspection activity toward high-hazard industries.

With regard to other high priority inspection activity such as investigation of worker complaints and of catastrophes that kill or injure numbers of employees, we clearly are in a position to demonstrate the justification for a warrant if one is required.

One major point that must not be overlooked in public discussion of the effect of the Court's ruling is that it does not change the employer's responsibility. As recent events have all too vividly shown, OSHA cannot be in all workplaces at all times. The best we can hope to achieve is an ever increasing national awareness of the importance of providing safe and healthful workplaces. Our responsibility is to set the standards and offer the training, education and consultation assistance that will help to achieve the goal. By inspecting, we only can spot check on the overall effectiveness of the efforts of employers. It is the responsibility of employers on a continuing, daily basis to provide safe and healthful workplaces and this decision in no way alters that responsibility.

So, even though the decision may ultimately require us to alter our inspection procedures somewhat, workers need have no fear that their safety and health will go unprotected. It is OSHA's intention to continue to carry out its mandate of assuring that employers carry out their responsibilities under the Occupational Safety and Health Act of 1970.

A BILL TO SETTLE INDIAN LAND CLAIMS WITHIN THE STATE OF MAINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 10 minutes.

● Mr. COHEN. Mr. Speaker, today, Congressman EMERY and I are introducing legislation which is designed to resolve the problems created by the land claim of the Penobscot and Passamaquoddy Indians in the State of Maine.

Congressman EMERY and I support this legislation which was drafted and submitted to the Maine congressional delegation by the attorney general of Maine, Joseph E. Brennan, with the concurrence of the Governor of Maine, James B. Longley. The legislation, in our judgment, is a responsible proposal which deals both decisively and fairly with a problem which has the potential to adversely affect over 350,000 Maine citizens.

The bill has two major components. First, it would extinguish all Maine Indian claims for possession, occupancy, or trespass against Maine, any Maine subdivision, or any individual. Second, the legislation grants to the tribes whose claim to occupancy, possession, or trespass is extinguished, a right to assert a claim against the United States for damages on the grounds that the initial land transfers to non-Indians, when made, were in violation of the laws of the United States.

Congressman EMERY, Governor Longley, Attorney General Brennan, and I have long held the position that if, in fact, it can be proven that the Indian Trade and Non-Intercourse Act was intended by the First Congress to apply to Maine, then any responsibility for the violation of the act in the district of Maine resulted directly from the executive branch's failure to effectively and responsibly implement the law. Once again, we ask: How could Massachusetts (of which Maine was then a district) have been expected to seek congressional approval of land transfers when administration officials in Washington—including the author of the Indian Trade and Non-Intercourse Act, Henry Knox—did not interpret the statute to apply to Maine?

If the Indian Trade and Non-Intercourse Act was violated when the land once occupied by Passamaquoddies and Penobscots was transferred to non-Indians, then it is the Federal Government which should, and must, shoulder the burdens resulting from this violation. The State of Maine and innocent private landowners are not at fault, and must not be held liable for a situation which they did not help create.

The legislation which we introduce today, if enacted, would permit an expert, unbiased, and experienced panel—the U.S. Court of Claims—to determine what was the actual intent of the first Congress when it approved in 1790 the Indian Trade and Non-Intercourse Act. If the land transfers are found by the court to be invalid and the Indian claims therefore sound, then the court may award a judgment to the Indian claimants. This judgment shall equal the value of the Indians' interest in the land or water at the date of transfer, less any payments made in consideration of the transfer, plus reasonable annual simple interest from the date of the transfer to the date of judgment. The judgment shall also include reasonable expenses, including attorney and expert witness fees.

I am obligated to acknowledge that this legislation is not acceptable to the two Maine tribes involved. They maintain that they should receive a sizable package of land and money before the Congress takes action to extinguish their aboriginal claims.

Despite discussions involving the tribes, Maine officials, and Federal authorities, a settlement package has not been agreed upon, and negotiations between the State of Maine and the tribes have been suspended. At this time, there is no reason to believe that a settlement proposal will receive the approval of all the interested parties concerned.

Active congressional consideration of legislation Congressman EMERY and I are introducing today is necessary if we are to move ahead toward solving this very difficult problem. I welcome the involvement of my colleagues in this effort and especially those who have experience in dealing with the difficulties resulting from past Native American claims in other areas.

The U.S. district court decision which precipitated this claim was made in 1975. For 3 years, this matter has festered and has benefited no one, Indian or non-Indian. It is now time for Congress to act and to do so with dispatch.

Mr. Speaker, I ask that the legislation which Mr. EMERY and I are introducing today be inserted in the RECORD at this point, with the text of the letter from Maine's attorney general which accompanied the draft bill:

STATE OF MAINE,
DEPARTMENT OF THE
ATTORNEY GENERAL,
Augusta, Maine, May 19, 1978.

Re: Indian Land Claims
Hon. WILLIAM S. COHEN,
Cannon House Office Building,
Washington, D.C.

DEAR BILL: Enclosed is a bill designed to implement the proposal outlined in Governor Longley's letter to you of May 19, 1978, and which the Governor and I discussed with you that date.

As I stated in that meeting, I think the concept embodied in this bill is fair for several reasons. First, it transfers the obligation to resolve this claim to the Federal government where it rightly belongs. Second, it provides a mechanism to determine the amount of compensation, if any, that should be provided to the Indians. Third, it converts the claim to an action for money damages and eliminates the possible economic cloud that might be cast upon east-

ern Maine were the case to be heard in the normal course in the United States District Court.

I am convinced that the bill will withstand constitutional challenge. Unrecognized aboriginal title, which is the title asserted by the Maine Indians, is not protected by the Fifth Amendment to the Constitution of the United States and these claims may, therefore, be retroactively extinguished on any terms the Congress deems fair. See e.g.: *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272 (1955) and *United States* v. *Atlantic Richfield*, 435 F. Supp. 1009 (D. Alaska, 1977) and *Edwardsen* v. *Morton*, 369 F. Supp. 1359 (D.D.C., 1973). For a complete analysis of the constitutional basis for this approach, I recommend you review the recent paper of the American Land Title Association entitled "Indian Land Claims under the Non-Intercourse Act: The Constitutional Basis and Need for a Legislative Solution."

The proposed legislation would not create a potentially unlimited liability for the Federal government. Under section 3(b) the bill establishes the method of computing the award, if any, that the claimants could potentially recover. It should be noted that this formula is consistent with case law. See e.g. *United States* v. *Klamath and Moadoc Tribes*, 304 U.S. 119 (1938); *United States* v. *Creek Nation*, 295 U.S. 102 (1934); and *United States* v. *Cherokee Nation*, 202 U.S. 101 (1906). In general, the Supreme Court has affirmed the reasonableness of using 5% simple interest in computing awards regarding Indian lands. The formula in the bill is also more generous than the formula used by the Indian Claims Commission, which generally awards no interest to successful claimants. See 25 U.S.C. § 70a and annotations. In addition to providing a procedure to resolve currently pending claims, the mechanism in this bill is equally applicable to latent claims by other Indian groups in Maine (e.g. the Micmacs or Maliseets).

I understand that there has been some concern expressed that this legislative approach might not be the best solution to the problem and might encounter legislative opposition. Nevertheless, I believe this approach is fundamentally fair and will result in a resolution that the parties and history will accept. For that reason, the Governor and I have requested your support for this concept and we have asked you to introduce this particular bill. To the extent any member of the delegation believes that an alternate approach is appropriate or desirable, he is perfectly free to negotiate such an approach directly with Indian representatives.

It may be that there are certain aspects of the bill which, upon reflection, may need modification. I am sure, however, that the legislative process will result in refinements.

I trust you will advise me when the bill is introduced and will keep me apprised of its status.

Sincerely,

JOSEPH E. BRENNAN,
Attorney General.

H.R. 12834

A bill to settle Indian land claims within the State of Maine and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Maine Indian Claims Settlement Act."

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SECTION 1. Congress finds and declares that—

(1) the Passamaquoddy and Penobscot Indian Tribes have raised certain claims seeking the return of vast areas of land in Maine to which they claim aboriginal title, as well as damages from, among others, the present owners of these lands, on the grounds that the original transfers of these lands by the Tribes to the State of Massachusetts and Maine were made in violation of the Trade and Intercourse Act of 1790, or subsequent version thereof;

(2) other claims to land in Maine may be raised in the future by other Indian tribes or nations;

(3) there are many unique and complicated questions of law and fact that would be raised in the litigation of each of the claims, which would take many years to resolve;

(4) the mere pendency of these claims, irrespective of the ultimate outcome of any litigation testing their validity, may result in irreparable damage and substantial adverse consequences to the State of Maine and its citizens, who have acted in good faith in acquiring their present titles to the lands involved;

(5) the United States has at all times since the founding of the Nation until 1975 disclaimed any and all trust or fiduciary responsibility for the Indian tribes in Maine and has permitted and encouraged responsibility to reside in the Commonwealth of Massachusetts which, upon the separation of Maine from Massachusetts in 1820, transferred such responsibility to the State of Maine;

(6) since 1820 the State of Maine, has assumed and fulfilled numerous responsibilities, to the Indian tribes in the State of Maine with the full knowledge and approval of the Federal Government;

(7) at all times prior to 1975 the United States acted in a manner consistent with the understanding that the Trade and Intercourse Act was not applicable to Indian tribes in Maine and Massachusetts, or alternatively, consistent with the premise that, if the Trade and Intercourse Act were applicable, the transfers of land by Indian tribes in the land area now comprising the State of Maine had received the express or implicit approval of Congress;

(8) based on the actions and inactions of the United States, the State of Maine and Massachusetts, and their citizens have justifiably relied on the belief that the Trade and Intercourse Act was inapplicable to Indian tribes in said States, or if the Act were applicable, the transfers of land by Indian tribes in the land area now comprising the State of Maine had received the approval of Congress;

(9) as a result of Federal court decisions in 1975, the issue has now been raised whether the Trade and Intercourse Act does apply to land transfers made by Indian tribes in the land area now comprising the State of Maine, and the United States has stated that, despite its failure to recognize any trust or fiduciary responsibilities to these tribes for 188 years, it is prepared to bring suit against the State of Maine and innocent present landowners in the State seeking the return of vast land areas to the Indian tribes and recovery of substantial money damages on their behalf;

(10) the current problems caused by the pendency of the claims are the direct result of the United States' failure to recognize that for the past 188 years it may have had a trust or fiduciary responsibility to the Indian tribes in the State of Maine and Massachusetts under the Trade and Intercourse Act.

(11) Judge William B. Gunter, the Special Representative of President Carter, who was assigned by the President in 1977 to study the case and recommend Federal action to resolve the problem, has properly concluded that the United States is primarily liable for the creation of these problems; and

(12) in light of the foregoing, it would be unfair and inequitable for innocent parties in the State of Maine to be subject to the risks and hardships that would be caused by litigation of the claims, and justice and sound public policy require that the United States accept responsibility and liability to any Indian tribe in the State of Maine that may have transferred its land in violation of the Trade and Intercourse Act.

RATIFICATION OF ALL PRIOR LAND AND WATER CONVEYANCE AND EXTINGUISHMENT OF ABORIGINAL TITLE

SEC. 2. (a) All claims, including but not limited to, claims for possession, occupancy or trespass against any State or subdivision thereof, or any other person or entity by any Indian involving any transfer of lands or waters located within the State of Maine from, by or on behalf of any Indian, including but not limited to, transfers pursuant to State statutes, is hereby extinguished and the exclusive remedy for any claimant shall be a claim against the United States under Section 3 of this Act. This section shall not be deemed to constitute a finding by Congress that any provision of the Constitution or any laws of the United States were applicable to any such transfer.

(b) To the extent that any transfer of lands or waters described in subsection (a) may involve lands or waters to which any Indian had aboriginal title, subsection (a) shall be regarded as an extinguishment of such aboriginal title as of the date of said transfer.

(c) As used in this Act, the phrase "lands or waters" shall include any interest in or right involving lands or waters; the term "transfer" shall include, but not be limited to, any sale, grant, lease, allotment, partition, conveyance, release, quitclaim, cession, adverse possession or any event or events that resulted in a change in possession or control of lands or waters or a relinquishment of rights in lands or waters, including, without limitation, hunting and fishing rights, and the terms "Indian" or "Indians" shall include any Indian, Indian tribe, nation, band or other identifiable group of Indians.

RECOVERY AGAINST THE UNITED STATES

SEC. 3. (a) Any Indian, whose claim to occupancy, possession or trespass was extinguished by Section 2 of this Act shall have the right to maintain an action against the United States for damages on the grounds that the transfers, when made, were in violation of the laws of the United States. The Court of Claims shall have exclusive jurisdiction to hear any such claim under the provisions of 28 U.S.C. § 1505.

(b) The amount of any judgment awarded under this section shall equal the value of the claimant's interest in the land or water at the date of transfer, less any payments made in consideration of the transfer plus reasonable annual simple interest from the date of the transfer to the date of judgment. Any judgment in favor of a claimant shall include reasonable expenses, including attorney and expert witness fees.

(c) Every claim for which jurisdiction is hereby established in the Court of Claims shall be barred unless a claim is filed within six years from the effective date of this Act.

JURISDICTION OF THE STATE

SEC. 4. Any lands currently held or hereafter acquired by any Indian in the State of Maine, or any persons residing or found thereon, shall be subject to all laws of the State of Maine.●

LEGISLATION SEEKING FEDERAL RESOLUTION TO CURRENT LAND CLAIMS BY PENOBSCOT AND PASSAMAQUODDY INDIAN NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. EMERY) is recognized for 5 minutes.

● Mr. EMERY. Mr. Speaker, the State of Maine is currently faced with one of the most complex land claim decisions in the history of our Nation. As many of us here tonight already know, the Maine Penobscot and Passamaquoddy Indian nations claim over 12 million acres of land, approximately two-thirds of the State of Maine, and trespass damages on the basis that the Federal Government did not ratify action taken by the State of Massachusetts during transfer of Indian lands to State jurisdiction under the Non-Intercourse Act of 1970. The Justice Department, as trustees of the Maine tribes, will sue the State of Maine and private landowners for the return of lands and the recovery of damages from landowners if an out of court settlement or Federal resolution is not forthcoming.

Litigation against the State would be economic chaos for those who could not get a clear title to their lands and for municipalities who could not float bond issues. One only has to look at the problems which resulted in Mashpee, Mass., a miniscule claim compared to that pending in Maine, to understand the ramifications of prolonged litigation against the State.

The Maine tribes, however, have indicated that they will file against large landowners, those who own more than 50,000 acres, in July. By so doing, they lift the cloud which would have been cast over homeowners, small landowners, and municipalities, but they set up a system whereby one kind of landowner is treated differently from another. I cannot accept this approach, because it is contrary to the principles on which I feel our judicial system should be based.

Recent negotiations by the State and representatives for the tribes have ended in a stalemate over the issue of sovereignty. The tribes want to set aside the issue for 2 years, during which time the sovereignty question would be fully investigated and its economic and judicial merits weighed; whereas the Governor of the State of Maine will not proceed with negotiations unless the sovereignty issue is resolved first, on terms which are compatible with the State's judicial system and tax structure.

The legislation I have introduced with my colleague, Mr. Cohen, seeks a Federal resolution to the current claim. It is my sincere belief that since the alleged violation of the Non-Intercourse Act of 1970 was committed by the Federal Government, the Federal Government should assume full financial responsibility for any compensation due. By placing the case in the U.S. Court of Claims, Congress can alleviate the hardship which will be placed on Maine landowners and taxpayers, while providing an avenue for litigation by the Penobscot and Passamaquoddy nations, should they seek to pursue their claim. It is with this view in mind that I join my colleague, Mr. Cohen, in introducing legislation which would lift the burden of negotiation and financial responsibility from the State of Maine.●

HOW THE RAILROADS AFFECT WISCONSIN'S ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 20 minutes.

● Mr. ASPIN. Mr. Speaker, three-quarters of a century ago the biggest economic issue confronting Wisconsin was railroads. Our Governor, Robert M. La Follette, said:

> Every producer, every consumer, every man who buys, every man who sells, must pay railroad transportation. It pervades every phase of our existence; it is part of every hour of our daily life. It is an important element of our clothing, our food, our fuel.

Fighting Bob spent much of his career fighting the railroad barons. He saw the strength of the railroads combined with their throttlehold on the State's economy as a grave threat.

Today it is the weakness of the railroads combined with their throttlehold on the State's economy which threatens.

We have seen the spectacle of an entire railroad—the Milwaukee Road—derailing last December when it filed for bankruptcy. The faltering Milwaukee Road prompted me to take a long look at all of Wisconsin's railroads. What I found was grim indeed. I found that the Milwaukee Road faces not only a shortage of cash, but also miles of tracks and stocks of equipment slowly falling apart for lack of repairs. I found that the State's largest railroad, the Chicago & North Western, is also in hot water with a billion dollars worth of backlogged repair work.

But I also found the glimmer of a silver lining.

Based on this study, I am cautiously optimistic that essential rail service can be maintained in Wisconsin. But right now the business community in Wisconsin is jittery. Because of uncertainty over future rail service, tens of millions of dollars in planned expansions are in limbo, and so are the jobs of thousands of workers.

To prevent unfounded fears from undermining the economy, it is essential that the problems of our rail system be laid out in public, along with the alternative solutions.

THE IMPORTANCE OF RAILROADS TO WISCONSIN

Few of us are aware just how many jobs in Wisconsin depend on railroads. For example:

Most of the steel used at the American Motors Corp., and General Motors assembly plants in Kenosha and Janesville is brought in by rail. So are most of the automobile parts and accessories. And after the cars are assembled, the majority are shipped out by rail.

Three-quarters of the raw material used by the State's paper industry is shipped by rail from northern Wisconsin, and elsewhere in the country, to large papermaking firms in the Wisconsin and Fox River Valleys. Likewise, about 75 percent of the products manufactured at those plants is shipped out by rail.

Half of the workers in Douglas County depend on its harbors, at Superior and Allouez, for their jobs. The major commodities leaving the ports are coal, taconite, and grain. Virtually all those shipments first reach port by rail.

Half the beer produced in Wisconsin is shipped by rail, and breweries receive the majority of their raw materials by rail.

Most commercial fertilizer used in Wisconsin agriculture is shipped by rail, as is a major share of the feed grain used for livestock herds. Wisconsin is also the Nation's leading producer of processed vegetables, and the canning industry uses rail to distribute a significant volume of its products.

In addition, more than two-thirds of the electricity used to power the State's industries is generated by coal, and railroads transport the majority of that coal.

FIGURE I.—IMPACT OF RAILROADS ON WISCONSIN ECONOMY

	Jobs		Payroll		
	Number of jobs	Percent of State total	Amount (millions)	Percent of State total	Percent of State rail shipments
I. Railroad employees [1]	10,400	0.5	$147.0	0.7	NA
II. Rail-dependent mining and manufacturing employees [2]	380,000	16.5	5,451.1	26.2	80.3
III. Rail-dependent farm employees [3]	40,000	1.7	163.6	.8	8.1
IV. Jobs created through "multiplier effect" [4]	840,000	36.4	8,382.5	40.2	NA
Total	1,270,400	55.1	$14,144.2	67.9	88.4

NA—Not applicable.
Footnotes—See appendix I.

These examples only touch the surface. Figure I, above, provides a more comprehensive estimate of how railroads affect Wisconsin's economy.

The table lists four categories of jobs which directly or indirectly rely on railroads.

First, of course, are railroad employees themselves. Then there are manufactur-

ing and mining and agricultural employees whose businesses rely directly on railroads to receive raw materials and to ship finished products.

Finally, and most importantly, the income from those manufacturing and agricultural jobs provides the foundation for the rest of the economy. The dollars factory workers and farmers spend and save have a "multiplier effect" which creates jobs in retailing and wholesaling, transportation, construction, finance, government, health care, and so on. In Wisconsin, for every factory and farm job there are about 2.4 jobs in these other sectors. Using a multiplier of 2.0, it can be conservatively assumed that about 840,000 of these jobs rely initially on the income of rail-dependent factory and farm workers.

In total, these four categories represent more than half of the jobs and more than two-thirds of the income earned in Wisconsin. And even those numbers understate the full impact of railroads, because the estimates in the table are based on 88.4 percent of total rail traffic in the State. The commodities which account for this traffic are listed in figure II.

FIGURE II.—*Distribution of Wisconsin freight by commodity groups*

	1975 Carloads	Percent
Pulp, paper, and allied products	170,482	15.6
Metallic and nonmetallic ores	167,350	15.3
Food and kindred products (including beer)	145,904	13.4
Lumber and wood products	104,819	9.6
Farm products	88,314	8.1
Transportation equipment	78,433	7.2
Coal	73,976	6.8
Primary and fabricated metal products and machinery	64,819	6.0
Chemicals and allied products	36,747	3.4
Stone, clay, glass, and concrete	33,133	3.0
Totals	963,977	88.4

The majority of these shipments are deliveries of raw materials to Wisconsin businesses. In only three categories do more carloads leave Wisconsin than enter: (1) pulp, paper and allied products; (2) food and kindred products; and (3) transportation equipment. In addition, more than half the freight shipments start or end at just six locations: Milwaukee, Superior and Allouez; Green Bay; Janesville; Neenah-Menasha, and Kenosha. These locations reflect the heavy reliance on railroads by the auto and paper industries, the brewers and manufacturers of the Milwaukee area, and the Port of Superior.

As is the case nationally, more freight in Wisconsin is shipped by rail than by any other major mode—truck, pipeline, or water. Figure III illustrates how the U.S. freight market has shifted during the last half century.

The decline in the rail share is primarily the result of heavy competition from trucks and river barges, aided by a multi-billion-dollar public investment in highways and waterways. In addition, manufacturing accounts for a smaller share of the economy than it once did, and many manufacturers have decentralized their operations. This has slowed growth in demand for long distance bulk hauling, the kind of traffic best suited to rail freight. Despite this trend, railroads are now and will remain the dominant mover of freight for the foreseeable future.

FIGURE III

PROPORTION OF FREIGHT CARRIED BY EACH MODE OF TRANSPORT (BASED ON TON-MILES)

[In percent]

	Rail	Truck	Great Lakes	Rivers and canals	Pipeline	Air	Total
1929	74.9	3.3	16.0	1.4	4.4	0	100
1976	36.7	22.6	4.7	11.6	24.2	.2	100

WHAT IS THE PROBLEM?

In spite of Wisconsin's heavy reliance on rail service, much of it is not adequate. The majority of track is owned by financially weak carriers. Much of the system needs rehabilitation. Unless major steps are taken, the prosperity Wisconsin has witnessed in the 1970's might not be matched in the 1980's. Without a viable rail network, businesses will go to other states to make the job-producing investments which might otherwise come to Wisconsin.

Fourteen railroads, with 5,707 miles of track, serve Wisconsin; nearly 90 percent of the system is operated by only three lines, as shown in figure IV.

FIGURE IV.—*Major railroad firms in Wisconsin*

Railroad:	Miles	Percent of total
Chicago & North Western	2,333	40.9
Milwaukee Road	1,385	24.3
Soo Line	1,306	22.9
Total	5,024	88.1

A major problem facing Wisconsin railroads is too many unprofitable routes. Only 11.8 percent of the track of these three railroads is on high-volume, high-profit lines. In contrast, 25 percent of the national rail network consists of heavily used freight corridors.

In other words, Wisconsin is simply overbuilt with relatively little-used rail milage. Per square mile, the State has nearly twice as much track as the Nation as a whole. The origin of the problem lies in the latter half of the 19th century. The primary shippers of that era were farmers, and a decentralized rail system was created to meet their needs. The general rule of thumb was that the rail network needed to be dense enough so that farmers could haul their crops to a terminal and return home the same day. However, once an extensive farm-to-market highway network was built, such a dense rail system was no longer needed. During the last four decades, about 1,500 miles, or one-quarter of the track in the State, has been eliminated. Even so, more than 70 percent of the remaining track lies on lightly used branch lines. This compares to less than 50 percent nationally.

These branch lines produce modest profits or, too often, no profits at all. To maintain and operate them requires dollars that could better be used to maintain and upgrade more essential—and more profitable—lines. The result is a deterioration of service on high-volume corridors, and a loss of revenue as shippers transfer their business to other railroads or other transport, such as trucks or barges.

This is exactly what has happened with the C. & N.W. and the Milwaukee Road—two of the industry's weakest lines with two-thirds of Wisconsin's rail mileage. The difficulties they face represent Wisconsin's "railroad problem." That problem, according to David Morgan, editor of Trains magazine is that the C. & N.W. and the Milwaukee Road are "one railroad too many" for Wisconsin.

A look at the State's rail map shows that the two lines roughly parallel each other on many corridors, including: Chicago-Madison; Chicago-Milwaukee-Minneapolis; Milwaukee-Madison; and Milwaukee-Green Bay. These corridors carry enough freight to support one profitable line, but not enough for two. As a result, neither line has the money to keep up its track and rolling stock. Their weaknesses show up in a variety of ways:

The two lines have more ties and track needing replacement than any system except ConRail, according to reports filed with the Interstate Commerce Commission;

Track conditions on the C. & N.W. are such that almost two-thirds of its trains cannot meet published schedules. Nearly a third of the Milwaukee Road's trains are similarly plagued; nationally, the figure is about 20 percent;

In 1974, the Milwaukee Road reported that 4.3 percent of its freight cars were out for repair; at the end of 1977 that had more than doubled to 10.3 percent. For the C. & N.W. the percentage of cars out of service rose from 9 percent to 16 percent.

The Milwaukee Road had three times as many locomotives out of service in 1977 as in 1974. These broken-down locomotives were a major reason for the broken-down service last winter.

Under these circumstances, a railroad can find itself without enough money to pay its bills and/or without enough cars

and locomotives to provide complete service. That, of course, is exactly what happened to the Milwaukee Road last winter. The result was the second Midwest rail bankruptcy in 3 years (the Rock Island failed in 1975), along with scattered layoffs in Wisconsin industries. This presented a vivid example of how essential rail service is.

The problems that pushed the Milwaukee Road into bankruptcy have not abated. Four developments have granted a reprieve: warm weather; a $5.1 million loan from Uncle Sam; a $5.8 million dividend from a nonrail subsidiary; and protection from creditors and the tax collector offered by the bankruptcy proceedings. Despite these developments, the underlying causes of the Milwaukee Road's weakness are still with us: too many unprofitable lines and not enough money to maintain track and equipment.

As for the C. & N.W., it does not confront the daily cash flow problems of the Milwaukee Road. On the other hand, its modest profit of recent years is dwarfed by the billion dollar repair backlog it has reported to the Interstate Commerce Commission. No railroad of comparable size lists a repair bill so large.

(While not disputing the billion-dollar figure, C. & N.W. officials say it should be considered in the context of three factors: (1) it is the amount needed to put the railroad in "optimal" condition, a desirable but perhaps unrealistic expectation; (2) the company has pursued major improvements recently, including more than $400 million in freight car purchases and track repair; and (3) the amount is so high in relation to other railroads because the C. & N.W. is more forthcoming than other lines in filing its reports—a view shared by some rail industry observers.)

What is most troubling about these problems is that they tend to create a self-fulfilling cycle of decline: inadequate revenue prevents sufficient investment in equipment; that worsens services and jeopardizes the ability to keep current customers and attract new ones; that, in turn, further erodes the hope of generating sufficient revenue.

WHAT NEEDS TO BE DONE?

Wisconsin's railroad problem demands short- and long-term solutions.

THE SHORT TERM

In the short run, the obvious first priority is to maintain services for Milwaukee Road customers while long-term solutions are developed. In early spring there was a threat that the railroad might run out of money to pay day-to-day expenses. Its cash balance in early March was $16 million, but that was down to $7 million by the beginning of April—with daily operating costs of about $2 million, the line was running on a financial tightrope. When the trustee for the railroad was named in January, he was told the system could run out of money by March; subsequently, the Interstate Commerce Commission said a cash crisis could occur this summer.

During April and early May the near term outlook for the Milwaukee Road has stabilized. Those running the railroad and those watching it in Government now say that continued normal operations appear certain at least till winter.

Here are some developments which assure that in the near term enough cash is on hand to pay bills and keep the road in operation:

First. A $5.1 million Federal loan was recently approved. This will help pay day-to-day expenses and allow locomotives to be repaired and returned to profitable service. This loan will exhaust the Government's current authority to provide direct operating assistance.

Second. The railroad also might be able to draw again on the resources of a subsidiary, the Milwaukee Land Co. A $5.8 million transfer earlier this year kept the line afloat, and the railroad is considering another transfer. Some of the Milwaukee's chief creditors, however, have sought to block any more transfers, just as they opposed the $5.1 million Federal loan; in both instances they say the actions are an unwarranted erosion of the creditors' collateral.

Third. Another way to get needed operating funds is to sell property not required for transportation purposes. For example, a depot and related facilities in Oconomowoc were recently sold, and the line is trying to dispose of property in downtown Racine.

Fourth. A more indirect form of Federal help may come as loans and loan guarantees for capital improvements. These dollars cannot be used directly for daily operating needs, but to a limited extent may free dollars for such day-to-day costs.

Fifth. If a crisis develops the Federal Government can direct another line to provide service to Milwaukee Road customers for up to 8 months. While this is clearly a last resort, the Interstate Commerce Commission is preparing contingency plans for just such an order.

Sixth. A potentially significant source of ongoing cash has come directly from improved freight haulage. The end of the coal strike, warm weather, and heavy demand for grain are all factors which have increased operating revenue. Business has been enhanced as the railroad greatly improved its locomotive repair program.

None of these options individually offers much more than stopgap assistance. Taken together, these measures offer a fair degree of assurance that the Milwaukee Road will be able to continue service this year while more lasting solutions are worked out. The situation has to be monitored closely to assure that each option is used to the fullest extent possible.

As for 1979, the Milwaukee's trustee recently has begun an intensive analysis of the outlook for the winter and the months beyond. A detailed appraisal is not available at this time.

Separately, this fall the trustee will receive a consultant's report which is supposed to identify how the Milwaukee Road can be reorganized for long-term viability. Some important elements of any such reorganization are outlined below.

THE LONG RUN

Beyond the next few months, two major steps are needed to assure reliable rail service for the long term. First what is needed is a restructuring of the entire Midwest rail network to eliminate unprofitable and duplicate operations which prevent the current system from having any viable future. The Department of Transportation (DOT) in Washington has decided that this restructuring should be done without a ConRail-type bailout. It believes there are enough sound markets and routes to support a strong, private rail system in Wisconsin and the Midwest. Second, along with a rational shrinkage of track mileage, we also need a major infusion of capital to get rundown railroads like the Milwaukee Road and the C. & N.W. back in shape.

The process of restructuring the rail system already is under way on two separate fronts.

First, under an exemption from antitrust laws, the major Midwest lines have been meeting under Federal auspices for several weeks. The purpose of the meetings is to determine how to consolidate operations and save money while minimizing the loss of service. This can occur in many ways.

The Midwest, including Wisconsin, is replete with freight corridors served by two or more lines. In many cases that makes it possible to abandon one of the lines without affecting service.

There also are examples where individual lines can operate more efficiently and profitably by trading business in one region for comparable service handled by another line elsewhere.

Finally, many communities have two or more railroads with separate switchyards and terminals that could be more efficiently run if consolidated in one place. This can produce revenue from the sale of property for more productive railroad investment, in addition to freeing land for other development purposes.

Second, independent of these cooperative discussions, the Milwaukee Road and the C. & N.W. are aggressively pursuing plans to dispose of unprofitable, scarcely used lines. The Milwaukee Road has identified fully a third of its system for potential abandonment, and the C. & N.W. has targeted a fifth. No other major railroads have earmarked such large shares for abandonment; this underscores the general view that the Milwaukee Road and the C. & N.W. are the Nation's two most overbuilt lines.

At the same time, a major Federal assessment is nearing completion that will detail the multi-billion-dollar investment needed to rehabilitate the Nation's track and rolling stock. The needs of Midwest lines, especially the Milwaukee Road and C. & N.W. are sure to represent a disproportionate share of the Nation's overall repair bill.

Finding the money to pay that bill, and restructuring the Midwest rail network, represent the major long-term challenges in creating a reliable rail network for Wisconsin.

FINANCING THE SOLUTION

Figure V estimates the financial requirements of the Milwaukee Road and the C. & N.W. as of December 31, 1977.

FIGURE V

ESTIMATED FINANCIAL REQUIREMENTS OF THE MILWAUKEE ROAD AND THE CHICAGO & NORTH WESTERN

[Dollar amounts in millions]

	Milwaukee Road	Chicago & North Western	Total
I. Needs:			
(a) Operating revenue to avoid a cash balance deficit this year [1]	$18.5	NA	$18.5
(b) Long-term capital improvements and deferred maintenance: [2]			
(1) Crossties and switch and bridge ties	42.2	$161.3	203.5
(2) Rail replacement	8.5	103.9	112.4
(3) Other deferred maintenance and delayed capital improvements	357.0	773.1	1,130.1
Total needs	426.2	1,038.3	1,464.5
II. Sources of revenue:			
(a) Potential profits 1978–87		$53.7	$53.7
(b) Abandonments: [3]			
(1) Sale of land and track	$27.0	18.0	45.0
(2) Reduction in deferred maintenance	26.0	17.5	43.5
(3) Reduced operating losses	18.0	12.0	30.0
(c) Federally supervised restructuring and consolidation	Unknown	Unknown	Unknown
(d) Milwaukee Land Co	5.8	NA	5.8
(e) Emergency Federal loan	5.1	NA	5.1
Total revenues	81.9	101.2	183.1
III. Potential revenue gap	344.3	937.1	1,281.4

NA—Not applicable.

Footnotes—See appendix II.

Part I of the table addresses the needs of the two railroads. These include operating needs, applying only to the Milwaukee Road and estimated at $18.5 million for 1978. This represents a recent forecast of how much additional cash is needed this year to meet daily expenses that will not be covered by normal operating revenue. No projection is available for 1979. It is possible by that time the Milwaukee Road's own business will be generating enough money to cover day-to-day needs. If not, still more cash will be necessary.

The other need is to get at the backlog of deferred maintenance and capital improvements, which are a major cause of deteriorating service. This includes: $203.5 million to replace wooden ties that support metal tracks; another $112.4 million to replace rail itself, and about $1.1 billion for major right-of-way maintenance, structural bridge repair, locomotive and freight car repair, and other major capital improvements. The overall cost of these long-term repairs is nearly $1.5 billion.

Offsetting these needs only partially are several possible revenue sources identified in Part II. The Milwaukee has not made a profit since 1974, and there is little realistic hope that any significant profits will materialize for some years. The C. & N.W. has earned an average of $5,370,000 in the last three years; if that trend continues over the next 10 years, there would be at best $53.7 million available for rehabilitation out of profits.

Another possible revenue source stems from the abandonment of unprofitable lines. The Milwaukee Road has identified about a third of its mileage for potential abandonment and the C. & N.W. has designated a fifth of its track. Assuming this mileage is gradually phased out in coming years, the two lines could realize about $45 million from the sale of land and track. About $43.5 million in maintenance spending on these lines could then be diverted to more profitable track, and about $30 million could be saved in reduced operating costs.

Additional savings are expected from federally supervised discussions now underway regarding the consolidation and elimination of overlapping service. Initial proposals are predicted to be announced this summer, but the overall restructuring process could take years. Furthermore, the extent of the savings is difficult to determine. It is not realistic to expect the yield from this process to surpass the dollars that will come available through the abandonment procedures being pursued independently by the two railroads. The potential savings from shedding 20 percent to 30 percent of each system's network are almost sure to exceed the amounts that might result from the restructuring negotiations, which focus on such steps as exchange of market areas, consolidation of yard operations, and joint trackage use agreements.

Savings also will result from the federally supervised consolidation talks now underway. At this time, it is not possible to determine the extent of these savings (beyond the impact of abandonments already mentioned). Some participants think the savings from exchanging market areas, joint trackage rights, and consolidated yard operations might exceed the benefit of abandonments. Others are less optimistic.

With respect to the Milwaukee Road, the table also lists two short-term revenue sources which have been discussed previously.

One is the Milwaukee Land Co., a subsidiary of the Milwaukee Road. Earlier this year the land company transferred $5.8 million in profits to the railroad. More transfers may be possible, depending on the outcome of legal challenges by the railroad's creditors.

A final revenue source is the $5.1 million Federal loan which the Milwaukee Road has received to repair locomotives and help pay operating costs.

Together, all these potential sources of revenue total only $183.1 million. That produces a revenue gap of about $1.3 billion when compared to the needs identified in Part I.

Where will the money come from to plug this gap?

The major source surely will be the Federal Government, probably through loans and loan guarantees. Under current law, $1.6 billion is authorized for such capital and repair expenses nationwide. Clearly this program can only finance part of Wisconsin's needs—perhaps $100 million to $200 million—and cannot bridge the entire $1.3 billion gap.

In the next month or two the Carter administration will release its own estimates of national needs for deferred maintenance and capital improvements. The report will also recommend how much should be financed through railroad-generated money and how much through an expansion of the $1.6 billion program now in effect. These administration proposals will be the first sign of how much additional help the Milwaukee Road and the C. & N.W. might be able to expect from the Federal treasury.

State and local governments also should be expected to put up some money. One promising program has been started in Iowa, where the State as well as affected shippers make low-interest loans to railroads to cover part of the maintenance and capital improvement backlog. So far, about 718 miles of Iowa rail have been rehabilitated and shipments are up substantially on those lines. Another 1,200 miles have been identified as possible candidates for the program.

Wisconsin ought to take a close look at the Iowa plan. Admittedly, there is a potential problem in the State's constitutional prohibition against financing internal improvements for rail transportation. Lawyers differ as to how much of an obstacle this might be. Two years ago voters defeated an amendment to delete the restriction; another effort should be made if it appears the provision shackles the State.

We ought to consider other ways the State could help close the revenue gap. One possibility is a change in the tax laws. Today railroads pay property taxes to the State on the value of their track and right-of-way, but at the same time are exempt from the State corporate income tax. It might make sense to eliminate the property tax and instead impose the corporate income tax. This would address the inequity of taxing the lines whether or not they make any money. It would also put railroads in a position comparable to their main competitor, the trucking companies, which do not pay property taxes on the public highways. This proposal could generate $2 million to $4 million a year for railroads in Wisconsin alone; if it were considered in other States with similar laws it would make a modest, but still important, contribution to closing the revenue gap.

In summary, when measured against the $1.3 billion revenue gap, there are not many firm programs in hand to meet the railroads' needs. We will know more soon about the administration's ideas, but it is not realistic to expect that the Federal Government will completely solve the problem. or are there enough promising State initiatives at this time to fill the void.

CONCLUSION

Our railroads are in deep trouble. We cannot do without them, because they carry fully a third of our freight, including the key raw materials that keep much of our industry going. But Wisconsin's rail crisis is worse then many other States because only about 12 percent of our State's track can produce substantial revenue, versus a national average of 25 percent.

Few have paid much attention to this problem in recent years. During this time the unprofitable lines have been a drain that now threatens to pull down the profitable ones. Benign neglect is no solution; without attention the crisis can only worsen.

The crunch of the Milwaukee Road bankruptcy and the Miller Brewery's freight car shortage may have been the wet rag we needed slapped across our face. The public, the press, the politicians are all at least aware now.

As usual, however, the delay of past years means we are dealing in crisis management in which we must prop up the ailing Milwaukee Road for the short haul even while we are searching for the long-haul solution.

The long haul means real changes, not just cosmetic ones. We must get really serious about the tough decisions to abandon service that threatens more essential parts of the rail network. Not everyone will be able to get everything they want. That means individual communities and shippers will have to assume responsibility for taking over some unprofitable spur lines which might be essential only to local needs. The consolidation of duplicate rail service and facilities may mean that some railroad jobs are no longer needed. The need to preserve essential transportation service will have to become the basis for making difficult choices.

However, even after all this has been done we are still left with the depressing prospect of a $1.3 billion gap between what the railroads need to do and what money they can be expected to generate. This is a clear warning that the rail problems of our State are not about to disappear at the waving of a magic wand—be it the restructuring wand or the Federal subsidy wand. Crippled railroads will not, like the poor, be with us always, but they will be with us for some years. It is going to be a slow climb back up the mountain.

There is understandable uncertainty among many State employers about the reliability of Wisconsin's rail transportation system in the future. That should be a clear signal that now is the time to begin making that climb.

I think the problem is surmountable, because the first important steps already are underway.

First, we appear to have the means for keeping the Milwaukee Road on line in the near term.

Second, the Federal Government is cordinating the efforts of major Midwest railroads to consolidate operations and eliminate duplicate service.

Third, the Milwaukee Road and the C. & N.W. are moving more rapidly to identify the trackage that simply cannot be justified.

Fourth, the national administration will soon make recommendations that should help address the long-term financial needs of our railroads. In addition, there is increased State and local interest in Wisconsin in attacking the problem.

These are positive signs that the problem is being taken seriously. There really is no alternative but to do just that, if we sincerely care about Wisconsin's future.

APPENDIX I.—NOTES FOR TABLE ON RAILROADS' ECONOMIC IMPACT

(1) "Transportation Policy Plan: An Issue Paper," Wisconsin Department of Transportation, February, 1978, p. 148.

(2) The Wisconsin industries which rely most on railroads are listed in the Wisconsin Railroad Plan (August, 1977), Wisconsin Department of Transportation, p. V-29.

Employment and income in these industries was determined from the economic data bank of the Wisconsin Department of Revenue (primary source for the data bank is the Bureau of Economic Analysis, U.S. Department of Commerce).

(3) There are about 200,000 hired and family farmworkers in Wisconsin ("Wisconsin Agricultural Statistics," 1977, p. 5, published by U.S. Department of Agriculture and the Wisconsin Department of Agriculture, Trade & Commerce Protection). Based on total farm cash receipts, it is estimated that 80 percent of these workers are in dairy or other livestock farming. The remaining 20 percent (40,000) are involved in the production of crops, which is the most rail-dependent form of agriculture. Income estimates for these 40,000 workers are derived from the Department of Revenue data bank cited above.

The dependency of Wisconsin agriculture on railroads is documented in several publications, including the previously cited Wisconsin Railroad Plan (p. V-29), as well as the "Technical Report: Railroad Freight Projections," prepared for the Wisconsin DOT by Harbridge House, Inc., May 1975.

(4) For each manufacturing and agricultural job in Wisconsin there are about 2.4 jobs in the various service, construction, and professional sectors. Economists agree that such jobs owe their initial existence to the aggregate multiplier effect created by the savings and spending of factory and farm workers.

Estimates vary regarding the employment multiplier effect of any given job. For purposes of this table a multiplier of 2.0 was used, meaning that the aggregate effect of the 420,000 rail-dependent jobs is to support 840,000 jobs in other sectors.

APPENDIX II.—NOTES FOR TABLE ON FINANCIAL NEEDS

(1) Cash balance projection derived from Milwaukee Road application for the $5.1 million loan under the Emergency Rail Service Act (ERSA).

NOTE: As of the time this report was prepared, the Milwaukee Road had not officially revised the cash balance forecast in the ERSA loan application. However, such a revision is expected in the near future. There are indications that the railroad's situation has improved to some extent, due in part to increased traffic, warmer weather and locomotive availability.

(2) Estimates of deferred maintenance and delayed capital improvements are based primarily on reports filed with the Interstate Commerce Commission. The reports have their genesis in a 10 percent rate increase sought in 1974, when the rail industry said a primary need for the cash was to rehabilitate track and rolling stock. The ICC consented, but in so doing, it required the railroads to submit periodic reports regarding the extent of their deferred maintenance and delayed capital improvements.

The methodology used in this table is patterned after similar studies by the Wisconsin Department of Transportation. Specifically, see:

(a) "The Status of Rail Freight Services in Wisconsin Now and in 1980", Wisconsin DOT, September 1975, p. 24–28; and,

(b) "Wisconsin Railroad Plan", Wisconsin DOT, August 1977, p. V–18 through V–20.

Each of those DOT studies relied on the ICC reports to estimate the financial needs of Wisconsin railroads. The data in the table in this report differ from the earlier DOT studies in the following respects. First, they reflect the most recent (12–31–77) reports filed with the ICC. Second, they include systemwide figures for each railroad, rather than a pro-rata estimate of Wisconsin needs alone. Third, deferred maintenance estimates for the Milwaukee Road are estimates of the Federal Railroad Administration reported in the July 1977 edition of Trains Magazine.

(c) The Milwaukee Road hasn't earned a profit in four years; given its current bankruptcy status, any realistic projection of future profits isn't possible. The $53.7 million figure for the C & NW assumes that in each of the next 10 years it will earn its average of the last three years, i.e., $5,370,000.

(3) Potential savings from abandonments are difficult to determine. Many variables must be considered, including: a) amount of track and land to be abandoned; b) current value of the land and salvage value of the track; c) extent of current operating and maintenance expenses on lines sought to be abandoned; and, d) regulatory delays in gaining approval for abandonment.

Because of these variables, the data in Part II regarding abandonment: reflect order-of-magnitude estimates. Their significance is determined primarily by comparing them to the financial needs of the railroads; in so doing, it is clear that while abandonments may generate important cash savings, the additional resources do not begin to approach the major capital needs of the railroads.

The specific sources used for the estimates are as follows:

Value of land and track based on testimony of Stanley E. G. Hillman, Milwaukee Road trustee, to federal bankruptcy court Judge Thomas McMillen. Testimony filed on March 14, 1978. See p. 5.

Amount of track based on mileage designated as potentially subject to abandonment by each line in system maps filed with the ICC. The Milwaukee Road has designated about a third of its mileage, the C & NW a fifth.

Deferred maintenance savings derived from p. 5 of March 14 Hillman statement.

Reduction in operating losses assumes a 10-year phase-in of abandonments. Per-mile savings are based on a Milwaukee Road study of 2,400 miles of unprofitable line. See p. 11, "The Milwaukee Road Magazine," Vol. 66, Number 2 (issued in January 1978).●

AMENDMENT TO ENABLE COAL LEASE EXCHANGES

The SPEAKER, pro tempore. Under a previous order of the House, the gentle-

man from Wyoming (Mr. RONCALIO) is recognized for 5 minutes.

● Mr. RONCALIO. Mr. Speaker, the Coal Leasing Amendments Act of 1975 (Public Law 94-377) does two things which I hope to change by the bill I am introducing today.

First. Section 2(1) states that mineral leases shall be awarded by competitive bidding, and makes no allowance for lease exchanges.

Second. Section 13(b) amends lease modification regulations to allow only a maximum additional 160 acres to an existing lease. It also requires the Secretary to apply all terms and conditions of the act (including the newly adopted 12½ percent royalty rate) to all acreage within the lease.

These two provisions have obstructed development of coal leases held by Wyodak Resources Development Corp., a subsidiary of the Black Hills Power & Light Co., and I am sure that similar situations exist elsewhere in the Western States.

The Wyodak Mine, operated by Wyodak Resources Development Corp., is located east of Gillette, Wyo.; and coal leases held by that corporation have been bisected by Interstate 90, an East-West highway. Wyodak presently mines the leases south of the interstate, and in order to mine those beneath and north of the interstate, I–90 would have to be rerouted. Rerouting could possibly be avoided by simply amending Public Law 94–377 to allow an exchange of Federal leases in situations where exchanges would be in the public interest.

Through discussions between the BLM, Wyodak, and the State highway department, BLM has indicated a willingness to exchange their leases contiguous to the present mining activity for those leases now held by Wyodak beneath and north of the highway, but there is no provision in the law allowing this. By amending the Coal Leasing Amendments Act, this option would be made available to BLM, Wyodak, and the State highway department; and would perhaps be instrumental in ending the suit against the State by Wyodak for the surface loss.

My bill would amend sectinon 2(1) of Public Law 94–377 (30 U.S.C. 20.1(a)(1)), by authorizing the Secretary of Interior to exchange Federal coal leases when the public interest would be better served. The Secretary could allow an exchange after determination that development of the lease or part of the lease to be relinquished would result in unacceptable damage to other resource values, or cause any other adverse impacts—and/or if the exchange would better serve the public interest.

It is inevitable that an exchange lease will be considered to be a "now lease," thus obligating the Secretary to apply terms and conditions according to the 1975 act. So, even though the terms of the existing leases may not be up for readjustment, new terms and conditions would be applied. My bill allows the Secretary some flexibility in application of royalty rates pursuant to the new terms. When he finds it to be in the interest of the United States to impose a royalty of less than 12½ percent (as before the 1975 law), the Secretary will have authority to do so.

Along these same lines, my bill also amends section 13(b) of Public Law 94–377 by adding to that section which reads:

The Secretary shall prescribe terms and conditions which shall be consistent with this Act and applicable to all of the acreage in such modified lease.

by adding to that section the following:

Provided that notwithstanding any other provisions of the Mineral Leasing Act of 1920, the terms and conditions in the existing lease, including the royalty rate provided therein, need not be changed if the Secretary finds that it would be in the interest of the United States that those terms and conditions, or any of them, not be changed.

By adding this provision to the requirement that the Secretary apply terms and conditions of the act to all acreage within the lease, the Secretary would be given the option of weighing the factors involved in the lease modification; and if he deems that the lease modification would be in the public interest, the regulations applied might not impose an overwhelming burden on the lessee making the modification.

We had a great struggle to get the Coal Leasing Amendments Act of 1975 signed into law. We worked hard on establishing provisions that would be workable not only to the Government, but to those at the mining end. We came up with a good law, but that does not mean that some changes are not worthy. The changes that I propose in this bill would help unlock many tons of good coal that are now unattainable, and when situations can be worked out simply, the law should be flexible enough to allow this.

I am hopeful that my colleagues will realize the importance of continually improving even the laws recently enacted, and I do think these amendments are an improvement.●

WILLIAM SEACH—OLDEST MEDAL OF HONOR VET CELEBRATES 101ST BIRTHDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

● Mr. BURKE of Massachusetts. Mr. Speaker, I wish to have my distinguished colleagues join me in paying tribute to America's oldest living recipient of the Medal of Honor. Lt. William Seach, U.S. Navy, retired, is celebrating his 101st birthday today.

Lieutenant Seach was decorated for bravery for his rescue of American lives during the Boxer Rebellion in China 78 years ago. During the siege of Peking this heroic American placed himself in constant danger by defending Allied emplacements for a surprise enemy sabre attack. His valiant defense insured the safety of many American citizens and other foreign nationals trapped in the city.

Beginning as seaman, Lieutenant Seach remained in the Navy for 20 years retiring with his present rank after serving in the Spanish-American War and World War I.

I wish to publicly congratulate this great man and his dear wife, Caroline, on this happy occasion.

I am including an article written in the Boston Herald-American, Tuesday, May 23, 1978 for the RECORD.

OLDEST MEDAL OF HONOR VET 101

BROCKTON.—America's oldest living Medal of Honor hero, William Seach, a patient in the Veterans Administration Hospital, celebrates his 101st birthday today almost 78 years after the Boxer Rebellion in which he served with valor.

Seach was an ordinary seaman aboard the USS Newark when he was cited "for action with the relief expedition of the Allied forces in China" during four battles in June 1900.

The lives of American citizens in Peking were being threatened when he performed such heroism as running across an open clearing and cleaning out nests of Chinese snipers and defending a gun emplacement against a surprise enemy sabre attack.

He remained in the Navy for 20 years, retiring with the rank of lieutenant after serving in the Spanish-American War and World War I.

His wife, Caroline, 86, lives in South Weymouth.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

o Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes. If I had been present, I would have voted as indicated:

MAY 8, 1978

Rollcall No. 287, "yes."
Rollcall No. 288, "yes."
Rollcall No. 289, "yes." ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, due to previously scheduled appointments in the 16th District of Texas, I was unable to be present to vote on several amendments to and final passage of H.R. 39, the Alaska National Interest Lands Conservation Act. I would like to go on record with the following votes:

On Rollcall No. 336, May 18, 1978, amendment to H.R. 39 that sought to reduce lands to be designated as wilderness from approximately 66 million acres to 33 million acres: "no";

On Rollcall No. 338, May 19, 1978, amendment to H.R. 39 that continues mineral assessment provisions, and requires the President to submit a proposal to Congress by October 1, 1981, for a procedure for evaluating applications by individuals wishing to carry out mineral exploration or extraction on conservation system lands: "yes";

On Rollcall No. 339, May 19, 1978, motion to recommit H.R. 39 to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries with instructions to report it back forthwith containing an amendment in the nature of a substitute (text of H.R. 12703): "no"; and

On Rollcall No. 340, May 19, 1978, passage of H.R. 39, Alaska National Interest Lands Conservation Act: "yes." ●

LEGISLATION TO RESTORE MONTHLY EARNINGS TEST AS IT EXISTED IN SOCIAL SECURITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. IRELAND) is recognized for 5 minutes.

● Mr. IRELAND. Mr. Speaker, last month the Social Security Administration announced that they will begin implementing a recent change in the earnings limitation provision of the new social security law.

In the past, people who applied for benefits but planned to work part of the year—such as teachers, farmers, and self-employed workers—were legally considered to be retired for each month they did not work. Therefore, they could keep their social security benefits for each month they did not work more than 45 hours.

Under the new law, which took effect January 1, 1978, the provision of paying full benefits for months when no income was received has been removed, except for the first year of retirement. Consequently, approximately a quarter of a million senior citizens who previously were entitled to benefits under the old law will now become ineligible for social security benefits.

At a time when inflation is eroding the income of retired citizens, we need to seek new ways to assist them, not to penalize them further.

This suituation is particularly painful to Florida with its high percentage of retirees, many of whom derive supplemental income from investments in farming or citrus groves.

These individuals are no longer working and are truly retired. They merely provide capital for these farms and groves, and perform no work at all. They should not, therefore, be deprived of benefits during that period when they receive no income. Accordingly I offer here today a bill to amend title II of the Social Security Act to restore the monthly earnings test.

My amendment simply restores the monthly earnings test as it existed in the Social Security Act prior to the enactment of Public Law 95–216. Under this amendment (as in the past), an individual would not lose benefits or have benefits reduced, because of outside earnings for any month in which he earned less than one-twelth of the annual exempt amount.

I will welcome cosponsors of this measure Mr. Speaker, and hope that we can act upon it expeditiously.

Thank you Mr. Speaker.●

CAMBODIA: THE WORST HUMAN RIGHTS VIOLATOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MATTOX) is recognized for 5 minutes.

● Mr. MATTOX. Mr. Speaker, I want to speak out on the hell that has engulfed Communist Cambodia. This is a hell that has taken the lives of one third of a country and leaves the other two-thirds living in constant terror. This is a hell comparable to Hitler's reign of terror in Nazi Germany.

Since the Communist takeover, we have come to regard Vietnam as a hell. Yet Cambodians immigrate to Vietnam almost as quickly as the Vietnamese attempt to escape. If Vietnam is bad, Cambodia is worse. This quote by Leo Cherne of the Wall Street Journal should help put our hells in the proper perspective:

> Even desperation has its levels of comparative intolerableness. If we are to understand the sheer terror which must have driven a hundred thousand Cambodian to escape into the arms of the traditionally hated Vietnamese, we must first refresh our sense of the desperation that presently exists in Vietnam.
>
> To this day, some three thousand Vietnamese per month crowd into anything that will float, knowing that they risk their lives if their plans to escape are discovered or frustrated. Of that number, an estimated 50 percent drown at sea. Despite these near-unbearable odds, the flight from Vietnam continues, even as the flight of Cambodians into Vietnam is surely going on. Yes, there is a pecking order even in hell; and at the bottom of this one stand the Cambodian people.

We cannot let this Cambodian hell be as bad as Hitler's purge. So that we might learn by our mistakes I thought it would be profitable to look back at the Congress during that pre-World War II hell, the 80th Congress. I thought the best way to demonstrate the dangerous similarities between that period in the late thirties and now, would be to produce an extension of Remarks from the earlier period and compare it to one appropriate for today.

To my surprise not a single Member of either House addressed the truth of what was going on in Nazi Germany. Oh, there were allusions to death with such general terms as oppression, persecution, violation of civil liberties, infringements upon the rights of, lack of religious freedom and inhuman treatment. But, not a mention of a gas chamber, a concentration camp, human soap . . . I need not go on. We all saw the holocaust last week.

These disgraceful acts will not go unspoken this time. I offer these quotes from Cambodian refugees as reported in Wednesday's press:

> * * * at the appointed hour, 268 men, women and children set off on the long and dangerous trek. . . . But the villagers had only walked a few yards . . . when machine guns opened up on them from the darkened hamlet. Apparently, one of the villagers who had remained behind had betrayed them. The Khmer Rouge made no attempt to capture the fleeing peasants or give them a chance to surrender . . . the shooting continued for half an hour. . . . By morning, the survivors had regrouped. . . . Less than 12 hours later, one group was attacked again when it stopped to scavenge for food. Exhausted by the pace and famished, Lamout Chhuon's 15-year-old daughter had climbed a tree to pluck some hanging fruit. As she reached for it, a Khmer Rouge sniper's bullet cut her down, and a hail of automatic rifle fire and M–79 grenades tore into those who gathered round her fallen body . . . of the 268 peasants who had set out . . . only 50 survived the attempt to escape from Communist Cambodia.
>
> The next passage is not for the squeamish; but for those who can face it, here are two still more recent accounts of the behaviour of the Cambodian forces, this time in raids across the Thai and Vietnamese borders respectively:
>
> Thirty-one Thai villagers, including babies and women, were hacked to death by Khmer Rouge troops. . . .
>
> Women and children, including small babies, had been decapitated. Many had been tortured. Men had been castrated and poles were protruding from the bodies of women.

Newsweek described the situation with equal candor on January 23:

> The workday seldom varies. Men, women and children are roused at dawn and sent out into the fields. After a mid-day rest break, they toil on until dark. There are no holidays, no days off. The sick must rely on untrained medics who treat cholera with Pepsi-Cola and typhoid with coconut milk. A meal is a bowl of thin rice gruel and an occasional piece of dried fish. It is forbidden to dance, read books, make love to unmarried girls or take part in any philosophical, political or culture discussion.
>
> Anyone who breaks the rules faces immediate execution. The transgressor is usually clubbed to death with a pick handle. But in special cases, like those of starving workers who are caught cannibalizing dead bodies, there are special tortures. They are buried in the ground up to their shoulders and beaten to death—or their heads are chopped off and jammed onto pointed stakes.

President Carter has termed Cambodia the worst violator of human rights. These ugly examples show more than a mere violation of human rights, the violations of human dignity.

The Khmer Rouge places no value on human life. Estimate of the killing thus far that one-third of all Cambodians have been slain, roughly between 2.5 and 3 million people. These are more people than are in Vermont, North Dakota, South Dakota, Delaware, Wyoming, and Montana. If the dead Cambodians were American citizens they would be entitled to elect six Congressmen.

During the 80th Congress my parent's representatives stood by silently as Hitler killed Jewish people and Catholics. I cannot stay silent and watch the Cambodian Government do the same.●

HON. CARDISS COLLINS OPPOSES DEPARTMENT OF COMMERCE AUTHORIZATION FOR FISCAL 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. COLLINS) is recognized for 5 minutes.

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise not in opposition to H.R. 10729, the Department of Commerce Authorization for fiscal year 1979, but to share some concerns about the department with my colleagues.

As some of you know, I have been concerned in the last 2 years with the role the Commerce Department plays in the implementation of the U.S. arms embargo against South Africa. The Commerce Department is the Government entity that licenses for export the items which, although not weapons, can serve the interest of the security establishment of South Africa and in so doing violate

our obligations under the embargo. The items I refer to include: aircraft, helicopters, engines and parts for each, electronic equipment, shotguns and police equipment, and related material.

Although it is quite true that our obligations under our unilateral embargo of 1963 and the mandatory U.N. embargo of 1977 do not explicitly exclude the export of these items by name, it seems reasonable that the items would be prohibited from export if the United States were to undertake its embargo obligations in a serious manner. I am sad to say a close study of the embargo's operation from 1963 to 1978 reveals that our policy has been one of narrowly construing the terms of our obligation. The Commerce Department, although left to implement this policy of embargo at the direction of the State Department, has failed all the same to preceive by its independent judgment that this announced embargo is a very important part of American foreign policy toward South Africa.

To illustrate, let me share some observations. To the best of my knowledge, the Commerce Department has no established group to monitor exports to South Africa with the understanding that strict embargo considerations will be applied to questionable items. The Department, to the best of my knowledge, still assumes, about trade of questionable items to South Africa, that unless the Congress or the public can show specifically how the export item will be abusive of the embargo—all trade will be encouraged. This unrealistic burden seems to convey the impression that the Department cannot distinguish between free trade and trade we are obligated by announced policy and domestic and international legal obligations to restrain. Simply stated, there is little, in my view, to promote the view that the Department has been applying a trade policy to South Africa which reflects the full scope of the embargo.

To further illustrate let me share these observations. When I first pursued an inquiry into the workings of the Department on the export of police equipment and shotguns, I was informed by individuals at the Department who should have known their responsibilities that the Department was not authorized to, and did not license, export of this material. The simple fact is the Department is authorized by law to act in this area, it publishes regulations governing the matter and documents the exports in other publications. The Department recently licensed for export to South Africa 70 to 80 civilian aircraft. Despite the various communication from myself and other Congresspersons interested in this transaction, neither the State or Commerce Department informed any of us of the transfer. We have learned of it only because of a wire service account in the Washington Post which ran because the aircraft trade association wished to make the announcement public. To further indicate the unfortunate manner in which the Commerce Department acts in these affairs, let me share a personal account.

On May 12, one of my assistants received a call from a fellow describing himself as a "liberal" South African. He asked for a chance to come in and discuss the political situation in his country. My assistant accepted. It has been my policy to try to keep communication flowing in order to promote some chances of understanding and progress on all difficult issues. The gentleman arrived accompanied by a Commerce Department official. In no short order, the South African launched a rather embittered racial diatribe against the black citizens of South Africa. Without any particular sign of embarrassment on behalf of the gentleman from the Commerce Department, the South African banker was asked to leave.

Perhaps this is simply a bureaucratically insensitive folly. But my dealings with the Department leave me to ask why the Department is parading a South African with obviously racist attitudes around the Congress when it is asked to operate an embargo-induced trade restraint policy against that country. Incidents like this and others, cause me great alarm. Is the Department serious and capable in this matter? I have encountered capable individuals at Commerce. I choose to think people try to do a good job, yet I am alarmed at Commerce's actions on the embargo policy. I might add that my concern appears to be shared by Congressman FRASER and others on the House International Relations Committee which recently adopted an amendment to the Security Assistance bill for 1979. The amendment would transfer control of the licensing for export of crime control equipment from the Commerce Department to State Department.

In closing let me urge my colleagues to contact my office should they desire further information on the work I have done on the implementation of the arms embargo. This is a serious matter which a number of my colleagues have joined me in pursuing.●

PERSONAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I insert at this point a statement regarding two recorded votes I missed on Monday, May 22, 1978, and an indication of how I would have voted had I been present.

The votes are as follows:

Rollcall No. 350, a vote on final passage of H.R. 12602, military construction authorization, fiscal 1979. The bill passed by a vote of 363 to 18. I was paired for this bill and had I been present, would have voted in favor of it.

Rollcall No. 351, a vote on an amendment offered by Mr. MCCLOSKEY of California, to H.R. 10729, maritime authorization, fiscal 1979, to strike the $3 billion increase in ship mortgage guarantee authority. The amendment was rejected by a vote of 126 to 241. Had I been present, I would have voted against the amendment.●

SUPREME COURT HOLDS WARRANTLESS INSPECTIONS BY OSHA UNCONSTITUTIONAL

(Mr. HANSEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANSEN. Mr. Speaker, I take extreme pleasure in announcing to my colleagues today's decision by the U.S. Supreme Court in the case of Marshall versus Barlow's, Inc. The Court has handed down a historic landmark decision upholding the constitutional rights of businessmen against harassment and warrantless inspections.

The Supreme Court decision banning OSHA inspections without a search warrant is a great victory for privacy and freedom in this Nation.

The Court ruled 5 to 3 today that Government agents checking for safety and health hazards may not make spot checks of businesses without a warrant. The Occupational Safety and Health Administration (OSHA) since its inception in 1970 has long been an irritating violator of fourth amendment rights of the Nation's farmers and businessmen.

It took the courage and determination of one small businessman to stand up to a runaway bureaucracy indulging wholesale in the unreasonable searches and seizures prohibited by the Constitution. Bill Barlow, a Pocatello, Idaho, businessman, in the face of possible jail and costs of well over $100,000 proved his point in the gallant fashion of American patriots and all who value liberty owe him a great debt for this effort in basic citizen's rights.

The performance of the Barlow attornies, Runft and Longeteig of Boise, and their legal colleagues on similar cases across the country was most effective and provided a long string of victories going into the Supreme Court.

Although it will take some study to determine the full implications of the decision, the preservation by the Court of the separation-of-powers doctrine protecting citizens from the tyranny of any one branch of Government through checks and balances is a great victory. This should set a constructive precedent for necessary protective guidelines for citizen rights in the face of Government activities.

Mr. Speaker, for the benefit of my colleagues I include for the RECORD an article by UPI Reporter Charlotte Moulton concerning today's Supreme Court action and a copy of the Court's decision:

SUPREME COURT ACTION

(By Charlotte Foulton)

WASHINGTON.—The Supreme Court ruled 5–3 today that Government Agents checking for safety and health hazards may not make spot checks of businesses without a warrant.

The decision struck down the inspection provision of the 1970 Occupational Safety and Health Act on the ground that it in-

vades employer privacy in violation of the Fourth Amendment's ban on "unreasonable searches and seizures."

Justice Byron White wrote the Court's Opinion, dissenters were Justices John Paul Stevens, Harry Blackmun and William Rehnquist. Justice William Brennan, ill earlier in the term, did not participate.

White said experience to date indicates that requiring warrants will impose no serious burdens upon OSHA's system or upon the courts.

The advantage of surprise will not be lost if, after entry is refused, a warrant can be obtained permitting an inspector to reappear without further notice, the opinion said.

The basis for the warrant will not depend on demonstrating a violation is probable, but only that reasonable administrative standards for conducting an inspection are satisfied, White said in his opinion.

OSHA's inspection provision has come under heavy fire by industry, particularly small businesses whose owners charge bureaucratic harassment and niggling safety and health standards threaten their survival.

Several months ago OSHA officials conceded some of the agency's standards were petty, and said it will start concentrating on major health and safety problems instead of cracking down on the small violators.

White warned that requiring a warrant for OSHA inspections does not mean that, as a practical matter, warrantless search provisions in other regulatory laws are unconstitutional. He said the reasonableness of those provisions depends upon specific enforcement needs and privacy guarantees of each law.

Speaking for the dissenters, Stevens said the ultimate question is whether warrantless searches authorized by the law is "unreasonable" within the meaning of the Fourth Amendment.

He said the warrant clause in the Fourth Amendment does not apply to routine, regulatory inspections of commercial premises.

The Act, administered by the Labor Department, covers nearly 6 million places of business. About 1,470 inspectors conduct many thousands of spot checks each year for violations of Department regulations.

Offenders have been subject to civil penalties, and the most flagrant violations can be originally prosecuted.

The provision was challenged by Barlow's Inc., a Pocatello, Idaho, plumbing and heating firm whose President, Ferrol Barlow, turned an inspector away in 1975 even after the agent obtained a court order.

"The businessmen were afraid of them," Barlow was quoted as saying. "It's frightening when you think that a bureaucracy can come in and close down a business."

Barlow's won an order by a Three-Judge Federal Panel in Boise that the law ran counter to the Fourth Amendment because it says nothing about warrants.

The Fourth Amendment conditions warrants on "Probable Cause" to believe a crime has been committed and requires a specific description of what is to be searched and seized.

By action of Rehnquist, the random inspections have continued everywhere except Idaho pending final disposition of the Barlow case.

The Justice Department told the court numerous other laws authorizing warrantless inspections could ride on the outcome of the OSHA test case. They deal with subjects ranging from meat inspection by the Agriculture Department to Coast Guard checks of vessel boiler plates.

But this Government's worries appeared to be somewhat alleviated by White's warning that each law must stand on its own provisions.

The Justice Department cited a Congressional Report that 14,500 persons were killed each year as a result of industrial accidents and 2.2 million were disabled.

The Court was told warrantless inspections have been included in the State laws of Alaska, Arizona, California, Colorado, Illinois, Indiana, Maryland, Minnesota, Montana, Nevada, New Mexico, North Carolina, Oregon, Tennessee, Vermont, Virginia, and Wisconsin.

They said 23 states and the Virgin Islands have developed their own plans to enforce the federal law themselves. They are Alaska, Arizona, California, Colorado, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington and Wyoming.

The statutes of Maryland, Oregon and Alaska already have been held unconstitutional by state courts.

[Supreme Court of the United States]

Syllabus

MARSHALL, SECRETARY OF LABOR, ET AL. *v.* BARLOW'S INC.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

No. 76–1143. Argued January 9, 1978—Decided May 23, 1978

Appellee brought this action to obtain injunctive relief against a warrantless inspection of its business premises pursuant to § 8(a) of the Occupational Safety and Health Act of 1970 (OSHA), which empowers agents of the Secretary of Labor to search the work area of any employment facility within OSHA's jurisdiction for safety hazards and violations of OSHA regulations. A three-judge District Court ruled in appellee's favor, concluding, in reliance on *Camara* v. *Municipal Court*, 387 U.S. 523, 528–529, and *See* v. *City of Seattle*, 387 U.S. 541, 543, that the Fourth Amendment required a warrant for the type of search involved and that the statutory authorization for warrantless inspections was unconstitutional. *Held:* The inspection without a warrant or its equivalent pursuant to § 8(a) of OSHA violated the Fourth Amendment. Pp. 3–17.

(a) The rule that warrantless searches are generally unreasonable applies to commercial premises as well as homes. *Camara* v. *Municipal Court, supra*, and *See* v. *City of Seattle, supra*. Pp. 3–5.

(b) Though an exception to the search warrant requirement has been recognized for "closely regulated" industries "long subject to close supervision and inspection," *Colonnade Catering Corp.* v. *United States*, 397 U.S. 72, 74, 77, that exception does not apply simply because the business is in interstate commerce. Pp. 5–6.

(c) Nor does the fact that an employer by the necessary utilization of employees in his operation mean that he has opened areas where the employees alone are permitted to the warrantless scrutiny of Government agents. Pp. 6–7.

(d) Insofar as experience to date indicates, requiring warrants to make OSHA inspections will impose no serious burdens on the inspection system or the courts. The advantages of surprise through the opportunity of inspecting without prior notice will not be lost if, after entry to an inspector is refused, an *ex parte* warrant can be obtained, facilitating an inspector's reappearance at the premises without further notice; and appellant Secretary's entitlement to a warrant will not depend on his demonstrating probable cause to believe that conditions on the premises violate OSHA but merely that reasonable legislative or administrative standards for conducting an inspection are satisfied with respect to a particular establishment. Pp. 7–13.

(e) Requiring a warrant for OSHA inspections does not mean that, as a practical matter, warrantless search provisions in other regulatory statutes are unconstitutional, as the reasonableness of those provisions depends upon the specific enforcement needs and privacy guarantees of each statute. Pp. 13–15.

424 F. Supp. 437, affirmed.

WHITE, J., delivered the opinion of the Court, in which BURGER, C. J., and STEWART, MARSHALL, and POWELL, JJ., joined. STEVENS, J., filed a dissenting opinion, in which BLACKMUN and REHNQUIST, JJ., joined. BRENNAN, J., took no part in the consideration or decision of the case.

[Supreme Court of the United States, No. 76–1143]

RAY MARSHALL, SECRETARY OF LABOR, ET AL., APPELLANTS, AGAINST BARLOW'S, INC.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

[May 23, 1978]

Mr. JUSTICE WHITE delivered the opinion of the Court.

Section 8(a) of the Occupational Safety and Health Act of 1970 (OSHA)[1] empowers agents of the Secretary of Labor (the Secretary) to search the work area of any employment facility within the Act's jurisdiction. The purpose of the search is to inspect for safety hazards and violations of OSHA regulations. No search warrant or other process is expressly required under the Act.

On the morning of September 11, 1975, an OSHA inspector entered the customer service area of Barlow's, Inc., an electrical and plumbing installation business located in Pocatello, Idaho. The president and general manager, Ferrol G. "Bill" Barlow, was on hand; and the OSHA inspector, after showing his credentials,[2] informed Mr. Barlow that he wished to conduct a search of the working areas of the business. Mr. Barlow inquired whether any complaint had been received about his company. The inspector answered no, but that Barlow's, Inc. had simply turned up in the agency's selection process. The inspector again asked to enter the nonpublic area of the business; Mr. Barlow's response was to inquire whether the inspector had a search warrant. The inspector had none. Thereupon, Mr. Barlow refused the inspector admission to the employee area of his business. He said he was relying on his rights as guaranteed by the Fourth Amendment of the United States Constitution.

Three months later, the Secretary petitioned the United States District Court for the District of Idaho to issue an order compelling Mr. Barlow to admit the inspector.[3] The requested order was issued on December 30, 1975, and was presented to Mr. Barlow on January 5, 1976. Mr. Barlow again refused admission, and he sought his own injunctive relief against the warrantless searches assertedly permitted by OSHA. A three-judge court was convened. On December 30, 1976, it ruled in Mr. Barlow's favor. 424 F. Supp. 437. Concluding that *Camara* v. *Municipal Court*, 387 U.S. 523. 528–529 (1967), and *See* v. *City of Seattle*, 387 U.S. 541, 543 (1967), controlled this case, the court held that the Fourth Amendment required a warrant for the type of search involved here[4] and that the statutory authorization for warrantless inspections was unconstitutional. An in-

Footnotes at end of article.

junction against searches or inspections pursuant to § 8(a) was entered. The Secretary appealed, challenging the judgment, and we noted probable jurisdiction. —— U.S. ——.

I

The Secretary urges that warrantless inspections to enforce OSHA are reasonable within the meaning of the Fourth Amendment. Among other things, he relies on § 8(a) of the Act, 29 U.S.C. § 657(a), which authorizes inspection of business premises without a warrant and which the Secretary urges represents a congressional construction of the Fourth Amendment that the courts should not reject. Regretfully, we are unable to agree.

The Warrant Clause of the Fourth Amendment protects commercial buildings as well as private homes. To hold otherwise would belie the origin of that Amendment, and the American colonial experience. An important forerunner of the first 10 Amendments to the United States Constitution the Virginia Bill of Rights, specifically opposed "general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed." [5] The general warrant was a recurring point of contention in the colonies immediately preceding the Revolution.[6] The particular offensiveness it engendered was acutely felt by the merchants and businessmen whose premises and products were inspected for compliance with the several Parliamentary revenues measures that most irritated the colonists. "[T]he Fourth Amendment's commands grew in large measure out of the colonists' experience with the writs of assistance . . . [that] granted sweeping power to customs officials and other agents of the King to search at large for smuggled goods." *United States* v. *Chadwick*, 433 U.S. 1, 7–8 (1977). See also *G. M. Leasing Corporation* v. *United States*, 429 U.S. 338, 355 (1977). Against this background, it is untenable that the ban on warrantless searches was not intended to shield places of business as well as of residence.

This Court has already held that warrantless searches are generally unreasonable, and that this rule applies to commercial premises as well as homes. In *Camara* v. *Municipal Court*, 387 U.S. 523, 528–529 (1967), we held:

"[E]xcept in certain carefully defined classes of cases, a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant."

On the same day, we also ruled:

"As we explained in *Camara*, a search of private houses is presumptively unreasonable if conducted without a warrant. The businessman, like the occupant of a residence, has a constitutional right to go about his business free from unreasonable official entries upon his private commercial property. The businessman, too, has that right placed in jeopardy if the decision to enter and inspect for violation of regulatory laws can be made and enforced by the inspector in the field without official authority evidence by a warrant." *See* v. *City of Seattle*, 387 U.S. 541, 543 (1967).

These same cases also held that the Fourth Amendment prohibition against unreasonable searches protects against warrantless intrusions during civil as well as criminal investigations. *See* v. *City of Seattle*, *supra*, at 543. The reason is found in the "basic purpose of this Amendment . . . [which] is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." *Camara*, *supra*, at 528. If the government intrudes on a person's property, the privacy interest suffers whether the government's motivation is to investigate violations of criminal laws or breaches of other statutory or regulatory standards. It therefore appears that unless some recognized exception to the warrant requirement applies, *See* v. *City of Seattle*, *supra*, would require a warrant to conduct the inspection sought in this case.

The Secretary urges that an exception from the search warrant requirement has been recognized for "pervasively regulated business[es]," *United States* v. *Biswell*, 406 U.S. 311, 316 (1972), and for "closely regulated" industries "long subject to close supervision and inspection." *Colonnade Catering Corp.* v. *United States*, 397 U.S. 72, 74, 77 (1970). These cases are indeed exceptions, but they represent responses to relatively unique circumstances. Certain industries have such a history of government oversight that no reasonable expectation of privacy, see *Katz* v. *United States*, 389 U.S. 347, 351–352 (1967), could exist for a proprietor over the stock of such an enterprise. Liquor (*Colonnade*) and firearms (*Biswell*) are industries of this type; when an entrepreneur embarks upon such a business, he has voluntarily chosen to subject himself to a full arsenal of governmental regulation.

Industries such as these fall within the "certain carefully defined classes of cases," referenced in *Camara*, *supra*, at 528. The element that distinguishes these enterprises from ordinary businesses is a long tradition of close government supervision, of which any person who chooses to enter such a business must already be aware. "A central difference between those cases [*Colonnade* and *Biswell*] and this one is that businessmen engaged in such federally licensed and regulated enterprises accept the burdens as well as the benefits of their trade, whereas the petitioner here was not engaged in any regulated or licensed business. The businessman in a regulated industry in effect consents to the restrictions placed upon him." *Almeida-Sanchez* v. *United States*, 413 U.S. 266, 271 (1973).

The clear import of our cases is that the closely regulated industry of the type involved in *Colonnade* and *Biswell* is the exception. The Secretary would make it the rule. Invoking the Walsh-Healy Act of 1936, 41 U.S.C. § 35 et seq., the Secretary attempts to support a conclusion that all businesses involved in interstate commerce have long been subjected to close supervision of employee safety and health conditions. But the degree of federal involvement in employee working circumstances has never been of the order of specificity and pervasiveness that OSHA mandates. It is quite unconvincing to argue that the imposition of minimum wages and maximum hours on employers who contracted with the government under the Walsh-Healy Act prepared the entirety of American interstate commerce for regulation of working conditions to the minutest detail. Nor can any but the most fictional sense of voluntary consent to later searches be found in the single fact that one conducts a business affecting interstate commerce; under current practice and law, few businesses can be conducted without having some effect on interstate commerce.

The Secretary also attempts to derive support for a *Colonnade-Biswell*-type exception by drawing analogies from the field of labor law. In *Republic Aviation Corp.* v. *NLRB*, 324 U.S. 793 (1945), this Court upheld the rights of employees to solicit for a union during nonworking time where efficiency was not compromised. By opening up his property to employees, the employer had yielded so much of his private property rights as to allow those employees to exercise § 7 rights under the National Labor Relations Act. But this Court also held that the private property rights of an owner prevailed over the intrusion of nonemployee organizers, even in nonworking areas of the plant and during nonworking hours. *NLRB* v. *Babcock & Wilcox Co.*, 351 U.S. 105 (1956).

The critical fact in this case is that entry over Mr. Barlow's objection is being sought by a Government agent.[8] Employees are not being prohibited from reporting OSHA violations. What they observe in their daily functions is undoubtedly beyond the employer's reasonable expectation of privacy. The Government inspector, however, is not an employee. Without a warrant he stands in no better position than a member of the public. What is observable by the public is observable, without a warrant, by the Government inspector as well.[9] The owner of a business has not, by the necessary utilization of employees in his operation, thrown open the areas where employees alone are permitted to the warrantless scrutiny of Government agents. That an employee is free to report, and the Government is free to use, any evidence of noncompliance with OSHA that the employee observes furnishes no justification for federal agents to enter a place of business from which the public is restricted and to conduct their own warrantless search.[10]

II

The Secretary nevertheless stoutly argues that the enforcement scheme of the Act requires warrantless searches, and that the restrictions on search discretion contained in the Act and its regulations already protect as much privacy as a warrant would. The Secretary thereby asserts the actual reasonableness of OSHA searches, whatever the general rule against warrantless searches might be. Because "reasonableness is still the ultimate standard," *Camara* v. *Municipal Court*, *supra*, at 539, the Secretary suggests that the Court decide whether a warrant is needed by arriving at a sensible balance between the administrative necessities of OSHA inspections and the incremental protection of privacy of business owners a warrant would afford. He suggests that only a decision exempting OSHA inspections from the Warrant Clause would give "full recognition to the competing public and private interests here at stake." *Camara* v. *Municipal Court*, *supra*, at 539.

The Secretary submits that warrantless inspections are essential to the proper enforcement of OSHA because they afford the opportunity to inspect without prior notice and hence to preserve the advantages of surprise. While the dangerous conditions outlawed by the Act include structural defects that cannot be quickly hidden or remedied, the Act also regulates a myriad of safety details that may be amendable to speedy alteration or disguise. The risk is that during the interval between an inspector's initial request to search a plant and his procuring a warrant following the owner's refusal of permission, violations of this latter type could be corrected and thus escape the inspector's notice. To the suggestion that warrants may be issued *ex parte* and executed without delay and without prior notice, thereby preserving the element of surprise, the Secretary expresses concern for the administrative strain that would be experienced by the inspection system, and by the courts, should *ex parte* warrants issued in advance become standard practice.

We are unconvinced, however, that requiring warrants to inspect will impose serious burdens on the inspection system or the courts, will prevent inspections necessary to enforce the statute, or will make them less effective. In the first place, the great majority of businessmen can be expected in normal course to consent to inspection without warrant; the Secretary has not brought to this Court's attention any widespread pattern of refusal.[11] In those cases where an owner does insist on a warrant, the Secretary argues that inspection efficiency will be impeded by the advance notice and delay. The Act's penalty provisions for giving advance notice of a search, 29 U.S.C. § 666(f), and

Footnotes at end of article.

the Secretary's own regulations, 29 CFR § 1903.6, indicate that surprise searches are indeed contemplated. However, the Secretary has also promulgated a regulation providing that upon refusal to permit an inspector to enter the property or to complete his inspection, the inspector shall attempt to ascertain the reasons for the refusal and report to his superior, who shall "promptly take appropriate action, including compulsory process, if necessary." 29 CFR § 1903.4.[12] The regulation represents a choice to proceed by process where entry is refused; and on the basis of evidence available from present practice, the Act's effectiveness has not been crippled by providing those owners who wish to refuse an initial requested entry with a time lapse while the inspector obtains the necessary process.[13] Indeed, the kind of process sought in this case and apparently anticipated by the regulation provides notice to the business operator.[14] If this safeguard endangers the efficient administration of OSHA, the Secretary should never have adopted it, particularly when the Act does not require it. Nor is it immediately apparent why the advantages of surprise would be lost if, after being refused entry, procedures were available for the Secretary to seek an *ex parte* warrant and to reappear at the premises without further notice to the establishment being inspected.[15]

Whether the Secretary proceeds to secure a warrant or other process, with or without prior notice, his entitlement to inspect will not depend on his demonstrating probable cause to believe that conditions in violation of OSHA exist on the premises. Probable cause in the criminal law sense is not required. For purposes of an administrative search such as this, probable cause justifying the issuance of a warrant may be based not only on specific evidence of an existing violation[16] but also on a showing that "reasonable legislative or administrative standards for conducting an . . . inspection are satisfied with respect to a particular [establishment]." *Camara* v. *Municipal Court, supra,* at 538. A warrant showing that a specific business has been chosen for an OSHA search on the basis of a general administrative plan for the enforcement of the Act derived from neutral sources such as, for example, dispersion of employees in various types of industries across a given area, and the desired frequency of searches in any of the lesser divisions of the area, would protect an employer's Fourth Amendment rights.[17] We doubt that the consumption of enforcement energies in the obtaining of such warrants will exceed manageable proportions.

Finally, the Secretary urges that requiring a warrant for OSHA inspectors will mean that, as a practical matter, warrantless search provisions in other regulatory statutes are also constitutionally infirm. The reasonableness of a warrantless search, however, will depend upon the specific enforcement needs and privacy guarantees of each statute. Some of the statutes cited apply only to a single industry, where regulations might already be so pervasive that a *Colonnade-Biswell* exception to the warrant requirement could apply. Some statutes already envision resort to federal court enforcement when entry is refused, employing specific language in some cases[18] and general language in others.[19] In short, we base today's opinion on the facts and law concerned with OSHA and do not retreat from a holding appropriate to that statute because of its real or imagined effect on other, different administrative schemes.

Nor do we agree that the incremental protections afforded the employer's privacy by a warrant are so marginal that they fail to justify the administrative burdens that may be entailed. The authority to make warrantless searches devolves almost unbridled discretion upon executive and administrative officers, particularly those in the field, as to when to search and whom to search. A warrant, by contrast, would provide assurances from a neutral officer that the inspection is reasonable under the Constitution, is authorized by statute, and is pursuant to an administrative plan containing specific neutral criteria.[20] Also, a warrant would then and there advise the owner of the scope and objects of the search, beyond which limits the inspector is not expected to proceed.[21] These are important functions for a warrant to perform, functions which underlie the Court's prior decisions that the Warrant Clause applies to inspections for compliance with regulatory statutes.[22] *Camara* v. *Municipal Court, supra; See* v. *City of Seattle, supra.* We conclude that the concerns expressed by the Secretary do not suffice to justify warrantless inspections under OSHA or vitiate the general constitutional requirement that for a search to be reasonable a warrant must be obtained.

III

We hold that Barlow was entitled to a declaratory judgment that the Act is unconstitutional insofar as it purports to authorize inspections without warrant or its equivalent and to an injunction enjoining the Act's enforcement to that extent.[23] The judgment of the District Court is therefore affirmed.

So ordered.

MR. JUSTICE BRENNAN took no part in the consideration or decision of this case.

FOOTNOTES

[1] "In order to carry out the purposes of this chapter, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

"(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

"(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent, or employee." 84 Stat. 1590, 29 U.S.C. § 657(a) (1970).

[2] This is required by the Act. See n. 1, *supra.*

[3] A regulation of the Secretary, 29 CFR § 1903.4, requires an inspector to seek compulsory process if an employer refuses a requested search. See p. 9, *infra,* and n. 12.

[4] No *res judicata* bar arose against Mr. Barlow from the December 30, 1975 order authorizing a search, because the earlier decision reserved the constitutional issue. See opinion of District Court, reprinted in jurisdictional statement at 5a.

[5] H. S. Commager, Documents of American History 104 (8th ed. 1968).

[6] See, *e.g.,* O. M. Dickerson, "Writs of Assistance as a Cause of the Revolution," The Era of the American Revolution 40 (R. Morris, ed. 1939).

[7] The Stamp Act of 1765, the Townsend Revenue Act of 1767, and the tea tax of 1773 are notable examples. See commager, *supra,* n. 5, at 53, 63. For commentary, see S. E. Morison, H. S. Commager & W. E. Leuchtenburg, I The Growth of the American Republic 143, 149, 159 (1969).

[8] The Government has asked that Mr. Barlow be ordered to show cause why he should not be held in contempt for refusing to honor the inspection order, and its position is that the OSHA inspector is now entitled to enter at once, over Mr. Barlow's objection.

[9] Cf. *Air Pollution Variance Bd.* v. *Western Alfalfa Corp.,* 416 U.S. 861 (1974).

[10] The automobile search cases cited by the Secretary are even less helpful to his position than the labor cases. The fact that automobiles occupy a special category in Fourth Amendment case law is by now beyond doubt, due, among other factors, to the quick mobility of a car, the registration requirements of both the car and the driver, and the more available opportunity for plain-view observations of a car's contents. *Cady* v. *Dombrowski,* 413 U.S. 433, 441–442 (1973); see also *Chambers* v. *Maroney,* 399 U.S. 42, 48–51 (1970). Even so, probable cause has not been abandoned as a requirement for stopping and searching an automobile.

[11] We recognize that today's holding might itself have an impact on whether owners choose to resist requested searches; we can only await the development of evidence not present on this record to determine how serious an impediment to effective enforcement this might be.

[12] It is true, as the Secretary asserts, that § 8(a) of the Act, 29 U.S.C. § 657(a), purports to authorize inspections without warrant; but it is also true that it does not forbid the Secretary from proceeding to inspect only by warrant or other process. The Secretary has broad authority to prescribe such rules and regulations as he may deem necessary to carry out his responsibilities under this chapter "including rules and regulations dealing with the inspection of an employer's establishment." § 8(g)(2), 29 U.S.C. § 657(g)(2). The regulations with respect to inspections are contained in 29 CFR Part 1903. Section 1903.4, referred to in the text, provides as follows:

"Upon a refusal to permit a Compliance Safety and Health Officer, in the exercise of his official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with § 1903.3 or to permit a representative of employees to accompany the Compliance Safety and Health Officer during the physical inspection of any workplace in accordance with § 1903.8, the Compliance Safety and Health Officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records, or interviews concerning which no objection is raised. The Compliance Safety and Health Officer shall endeavor to ascertain the reason for such refusal, and he shall immediately report the refusal and the reason therefor to the Area Director. The Area Director shall immediately consult with the Assistant Regional Director and the Regional Solicitor, who shall promptly take appropriate action, including compulsory process, if necessary."

When his representative was refused admission by Mr. Barlow, the Secretary proceeded in federal court to enforce his right to enter and inspect, as conferred by 29 U.S.C. § 657.

[13] A change in the language of the Compliance Operations Manual for OSHA inspectors supports the inference that, whatever the Act's administrators might have thought at the start, it was eventually concluded that enforcement efficiency would not be jeopardized by permitting employers to refuse entry, at least until the inspector obtained compulsory process. The 1972 Manual included a section specifically directed to obtaining "warrants," and one provision of that section dealt with *ex parte* warrants: "In cases where a refusal of entry is to be expected from the past performance of the employer, or where the employer has given some indication prior to the commencement of the investigation of his intention to bar entry or limit or interfere with the investigation, a warrant should be obtained before the inspection is attempted. Cases of this nature should also be referred through the Area Director to the appropriate Regional

Solicitor and the Regional Administrator alerted." OSHA Compliance Operations Manual (Jan. 1972), at V-7.

The latest available manual, incorporating changes as of November 1977, deletes this provision, leaving only the details for obtaining "compulsory process" *after* an employer has refused entry. *OSHA Field Operations Manual*, Vol. V, at V-4–V-5. In its present form, the Secretary's regulation appears to permit establishment owners to insist on "process"; and hence their refusal to permit entry would fall short of criminal conduct within the meaning of 18 U.S.C. §§ 111 and 1114, which make it a crime forcibly to impede, intimidate or interfere with federal officials, including OSHA inspectors, while engaged in or on account of the performance of their officials duties.

[14] The proceeding was instituted by filing an "Application for Affirmative Order to Grant Entry and for an Order to show cause why such affirmative order should not issue." The District Court issued the order to show cause, the matter was argued, and an order then issued authorizing the inspection and enjoining interference by Barlow. The following is the order issued by the District Court:

"It is hereby ordered, adjudged and decreed that the United States of America, United States Department of Labor, Occupational Safety and Health Administration, through its duly designated representative or representatives, are entitled to, and shall have hereby, entry upon the premises known as Barlow's Inc., 225 West Pine, Pocatello, Idaho, and upon said business premises to conduct an inspection and investigation as provided for in Section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, *et seq.*), as part of an inspection program designed to assure compliance with that Act; that the inspection and investigation shall be conducted during regular working hours or at other reasonable times, within reasonable limits and in a reasonable manner, all as set forth in the regulations pertaining to such inspection promulgated by the Secretary of Labor, at 29 C.F.R., Part 1903; that appropriate credentials as representatives of the Occupational Safety and Health Administration, United States Department of Labor, shall be presented to the Barlow's Inc. representative upon said premises and the inspection and investigation shall be commenced as soon as practicable after the issuance of this Order and shall be completed with reasonable promptness; that the inspection and investigation shall extend to the establishment or other area, workplace, or invironment where work is performed by employees of the employer, Barlow's Inc., and to all pertinent conditions, structures, machines, apparatus, devices, equipment, materials, and all other things therein (including but not limited to records, files, papers, processes, controls, and facilities) bearing upon whether Barlow's Inc. is furnishing to its employees employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees, and whether Barlow's Inc. is complying with the Occupational Safety and Health Standards promulgated under the Occupational Safety and Health Act and the rules, regulations, and orders issued pursuant to that Act; that representatives of the Occupational Safety and Health Administration may, at the option of Barlow's Inc., be accompanied by one or more employee of Barlow's Inc., pursuant to Section 8(e) of that Act; that Barlow's Inc., its agents, representatives, officers, and employees are hereby enjoined and restrained from in any way whatsoever interfering with the inspection and investigation authorized by this Order, and, further, Barlow's Inc. is hereby ordered and directed to, within five working days from the date of this Order, furnish a copy of this Order to its officers and managers, and, in addition, to post a copy of this Order at its employee's bulletin board located upon the business premises; and Barlow's Inc. is hereby ordered and directed to comply in all respects with this order and allow the inspection and investigation to take place without delay and forthwith."

[15] Insofar as the Secretary's statutory authority is concerned, a regulation expressly providing that the Secretary could proceed *ex parte* to seek a warrant or its equivalent would appear to be as much within the Secretary's power as the regulation currently in force and calling for "compulsory process."

[16] Section 8(f)(1), 29 U.S.C. § 657(f)(1), provides that employees or their representatives may give written notice to the Secretary of what they believe to be violations of safety or health standards and may request an inspection. If the Secretary then determines that "there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this Section as soon as practicable." The statute thus purports to authorize a warrantless inspection in these circumstances.

[17] The Secretary's Brief, p. 9 n. 7, states that the Barlow inspection was not based on an employee complaint but was a "general schedule" investigation. "Such general investigations," he explains, "now called Regional Programmed Inspections, are carried out in accordance with criteria based upon accident experience and the number of employees exposed in particular industries. U.S. Department of Labor, Occupational Safety and Health Administration, Field Operations Manual, *supra*, 1 CCH Employment Safety and Health Guide ¶43272 (1976)."

[18] The Mine Safety Act provides "Whenever an operator . . . refuses to permit the inspection or investigation of any mine which is subject to this chapter . . . a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the Secretary in the district court of the United States for the district. . . ." 30 U.S.C. § 733(a). "The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order to the district court . . . whenever such operator or his agent . . . refuses to permit the inspection of the mine. . . . Each court shall have jurisdiction to provide such relief as may be appropriate." 30 U.S.C. § 818. Another example is the Air Pollution Control Act, which grants federal district courts jurisdiction "to require compliance" with the Administrator's attempt to inspect under 42 U.S.C. § 1857c-9, when the Administrator has commenced "a civil action for appropriate relief." 42 U.S.C. § 1857c-8(b)(4).

[19] Exemplary language is contained in the Animal Welfare Act which provides for inspections by the Secretary of Agriculture; federal district courts are vested with jurisdiction "specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter." 7 U.S.C. § 2146(c) (Supp. V 1975). Similar provisions are included in other agricultural inspection acts; see *e.g.*, 21 U.S.C. § 674 (meat product inspection); 21 U.S.C. § 1050 (egg product inspection). The Internal Revenue Code, whose excise tax provisions requiring inspections of businesses are cited by the Secretary, provides "The District Courts . . . shall have such jurisdiction to make and issue in civil actions writs and orders of injunction . . . and such other orders and processes, and to render such . . . decrees as may be necessary or appropriate for the enforcement of the internal revenue laws." 26 U.S.C. § 7402(a). For gasoline inspections, federal district courts are granted jurisdiction to restrain violations and enforce standards (one of which, 49 U.S.C. § 1677, requires gas transporters to permit entry or inspection). The owner is to be afforded the opportunity for notice and response in most cases, but "failure to give such notice and afford opportunity shall not preclude the granting of appropriate relief [by the district court]." 49 U.S.C. § 1679(a).

[20] The application for the inspection order filed by the Secretary in this case represented that "the desired inspection and investigation are contemplated as part of an inspection program designed to assure compliance with the Act and are authorized by Section 8(a) of the Act." The program was not described, however, or any facts presented that would indicate why an inspection of Barlow's establishment was within the program. The order that issued concluded generally that the inspection authorized was "part of an inspection program designed to assure compliance with the Act."

[21] Section 8(a) of the Act, 29 U.S.C. § 657(a), provides that "in order to carry out the purposes of this chapter" the Secretary may enter any establishment, area, work place or environment "where work is performed by employees of an employer" and "inspect and investigate" any such place of employment and all "pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and . . . question privately any such employer, owner, operator, agent, or employee." Inspections are to be carried out "during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner." The Secretary's regulations echo the statutory language in these respects. 29 CFR § 1903.3. They also provide that inspectors are to explain the nature and purpose of the inspection and to "indicate generally the scope of the inspection." 29 CFR § 1903.7(a). Environmental samples and photographs are authorized, 29 CFR § 1903.7(b), and inspections are to be performed so as "to preclude unreasonable disruption of the employer's establishment." 29 CFR § 1903.7(d). The order that issued in this case reflected much of the foregoing statutory and regulatory language.

[22] Delineating the scope of a search with some care is particularly important where documents are involved. Section 8(c) of the Act, 29 U.S.C. § 657(c), provides that an employer must "make, keep and preserve, and make available to the Secretary [of Labor] or to the Secretary of Health, Education and Welfare" such records regarding his activities relating to OSHA as the Secretary of Labor may prescribe by regulation as necessary or appropriate for enforcement of the statute or for developing information regarding the causes and prevention of occupational accidents and illnesses. Regulation requiring employers to maintain records of and to make periodic reports on "work related deaths, injuries and illnesses" are also contemplated, as are rules requiring accurate records of employee exposures to potential toxic materials and harmful physical agents.

In describing the scope of the warrantless inspection authorized by the statute, § 8(a) does not expressly include any *records* among those items or things that may be examined, and § 8(c) merely provides that the employer is "to make available" his pertinent records and to make periodic reports.

The Secretary's regulation, 29 CFR § 1903.3, however, expressly includes among the inspector's powers the authority "to review records required by the Act and regulations published in this chapter, and other records which are directly related to the purpose of the inspection." Further, 29 CFR § 1903.7 requires inspectors to indicate generally "the records specified in § 1903.3 which they wish to review" but "such designations of records shall not preclude access to additional records specified in § 1903.3." It is the Secretary's position, which we reject, that an in-

spection of documents of this scope may be effected without a warrant.

The order that issued in this case included among the objects and things to be inspected "all other things therein (including but not limited to records, files, papers, processes, controls and facilities) bearing upon whether Barlow's, Inc., is furnishing to its employees employment and a place of employment that are free from recognizable hazards that are causing or are likely to cause death or serious physical harm to its employees, and whether Barlow's, Inc., is complying with . . ." the OSHA regulations.

[23] The injunction entered by the District Court, however, should not be understood to forbid the Secretary from exercising the inspection authority conferred by § 657 pursuant to regulations and judicial process that satisfy the Fourth Amendment. The District Court did not address the issue whether the order for inspection that was issued in this case was the functional equivalent of a warrant, and the Secretary has limited his submission in this case to the constitutionality of a warrantless search of the Barlow establishment authorized by § 8(a). He has expressly declined to rely on 29 CFR § 1903.4 and upon the order obtained in this case. Tr. of Oral Arg. 19. Of course, if the process obtained here, or obtained in other cases under revised regulations, would satisfy the Fourth Amendment, there would be no occasion for enjoining the inspections authorized by § 8(a).

[Supreme Court of the United States,
No. 76–1143]

RAY MARSHALL, SECRETARY OF LABOR, ET AL., APPELLANTS, VERSUS BARLOW'S, INC.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

[May 23, 1978]

Mr. JUSTICE STEVENS, with whom Mr. JUSTICE BLACKMUN and Mr. JUSTICE REHNQUIST join, dissenting.

Congress enacted the Occupational Safety and Health Act to safeguard employees against hazards in the work areas of businesses subject to the Act. To ensure compliance, Congress authorized the Secretary of Labor to conduct routine, nonconsensual inspections. Today the Court holds that the Fourth Amendment prohibits such inspections without a warrant. The Court also holds that the constitutionally required warrant may be issued without any showing of probable cause. I disagree with both of these holdings.

The Fourth Amendment contains two separate clauses, each flatly prohibiting a category of governmental conduct. The first clause states that the right to be free from unreasonable searches "shall not be violated"; [1] the second unequivocally prohibits the issuance of warrants except "upon probable cause." [2] In this case the ultimate question is whether the category of warrantless searches authorized by the statute is "unreasonable" within the meaning of the first clause.

In cases involving the investigation of criminal activity, the Court has held that the reasonableness of a search generally depends upon whether it was conducted pursuant to a valid warrant. See, *e. g., Coolidge* v. *New Hampshire*, 403 U.S. 443. There is, however, also a category of searches which are reasonable within the meaning of the first clause even though the probable cause requirement of the Warrant Clause cannot be satisfied. See *United States* v. *Martinez-Fuerte*, 428 U.S. 543; *Terry* v. *Ohio*, 392 U.S. 1; *South Dakota* v. *Opperman*, 428 U.S. 364; *United States* v. *Biswell*, 406 U.S. 311. The regulatory inspection program challenged in this case, in my judgment, falls within this category.

Footnotes at end of article.

I

The warrant requirement is linked "textually . . . to the probable-cause concept" in the Warrant Clause. *South Dakota* v. *Opperman, supra*, at 370 n. 5. The routine OSHA inspections are, by definition, not based on cause to believe there is a violation on the premises to be inspected. Hence, if the inspections were measured against the requirements of the Warrant Clause, they would be automatically and unequivocally unreasonable.

Because of the acknowledged importance and reasonableness of routine inspections in the enforcement of federal regulatory statutes such as OSHA, the Court recognizes that requiring full compliance with the Warrant Clause would invalidate all such inspection programs. Yet, rather than simply analyzing such programs under the "reasonableness" clause of the Fourth Amendment, the Court holds the OSHA program invalid under the Warrant Clause and then avoids a blanket prohibition on all routine, regulatory inspections by relying on the notion that the "probable cause" requirement in the Warrant Clause may be relaxed whenever the Court believes that the governmental need to conduct a category of "searches" outweighs the intrusion on interests protected by the Fourth Amendment.

The Court's approach disregards the plain language of the Warrant Clause and is unfaithful to the balance struck by the Framers of the Fourth Amendment—"the one procedural safeguard in the Constitution that grew directly out of the events which immediately preceded the revolutionary struggle with England." [3] This preconstitutional history includes the controversy in England over the issuance of general warrants to aid enforcement of the seditious libel laws and the colonial experience with writs of assistance issued to facilitate collection of the various import duties imposed by Parliament. The Framers' familiarity with the abuses attending the issuance of such general warrants provided the principal stimulus for the restraints on arbitrary governmental intrusions embodied in the Fourth Amendment.

"[O]ur constitutional fathers were not concerned about warrantless searches, but about overreaching warrants. It is perhaps too much to say that they feared the warrant more than the search, but it is plain enough that the warrant was the prime object of their concern. Far from looking at the warrant as a protection against unreasonable searches, they saw it as an authority for unreasonable and oppressive searches. . . ." [4]

Since the general warrant, not the warrantless search, was the immediate evil at which the Fourth Amendment was directed, it is not surprising that the Framers placed precise limits on its issuance. The requirement that a warrant only issue on a showing of particularized probable cause was the means adopted to circumscribe the warrant power. While the subsequent course of Fourth Amendment jurisprudence in this Court emphasizes the dangers posed by warrantless searches conducted without probable cause, it is the general reasonableness standard in the first clause, not the Warrant Clause, that the Framers adopted to limit this category of searches. It is of course true that the existence of a valid warrant normally satisfies the reasonableness requirement under the Fourth Amendment. But we should not dilute the requirements of the Warrant Clause in an effort to force every kind of governmental intrusion which satisfies the Fourth Amendment definition of a "search" into a judicially developed, warrant-preference scheme.

Fidelity to the original understanding of the Fourth Amendment, therefore, leads to the conclusion that the Warrant Clause has no application to routine, regulatory inspections of commercial premises. If such inspections are valid, it is because they comport with the ultimate reasonableness standard of the Fourth Amendment. If the Court were correct in its view that such inspections, if undertaken without a warrant, are unreasonable in the constitutional sense, the issuance of a "new-fangled warrant"—to use Mr. Justice Clark's characteristically expressive term—without any true showing of particularized probable cause would not be sufficient to validate them. [5]

II

Even if a warrant issued without probable cause were faithful to the Warrant Clause, I could not accept the Court's holding that the Government's inspection program is constitutionally unreasonable because it fails to require such a warrant procedure. In determining whether a warrant is a necessary safeguard in a given class of cases, "the Court has weighed the public interest against the Fourth Amendment interest of the individual . . ." *United States* v. *Martinez-Fuerte*, 428 U.S. at 555. Several considerations persuade me that this balance should be struck in favor of the routine inspections authorized by Congress.

Congress has determined that regulation and supervision of safety in the work place furthers an important public interest and that the power to conduct warrantless searches is necessary to accomplish the safety goals of the legislation. In assessing the public interest side of the Fourth amendment balance, however, the Court today substitutes its judgment for that of Congress on the question of what inspection authority is needed to effectuate the purposes of the Act. The Court states that if surprise is truly an important ingredient of an effective, representative inspection program, it can be retained by obtaining *ex parte* warrants in advance. The Court assures the Secretary that this will not unduly burden enforcement resources because most employers will consent to inspection.

The Court's analysis does not persuade me that Congress' determination that the warrantless inspection power is a necessary adjunct of the exercise of the regulatory power is unreasonable. It was surely not unreasonable to conclude that the rate at which employers deny entry to inspectors would increase if covered businesses, which may have safety violations on their premises, have a right to deny warrantless entry to a compliance inspector. The Court is correct that this problem could be avoided by requiring inspectors to obtain a warrant prior to every inspection visit. But the adoption of such a practice undercuts the Court's explanation of why a warrant requirement would not create undue enforcement problems. For, even if it were true that many employers would not exercise their right to demand a warrant, it would provide little solace to those charged with administration of OSHA; faced with an increase in the rate of refusals and the added costs generated by futile trips to inspection sites where entry is denied, officials may be compelled to adopt a general practice of obtaining warrants in advance. While the Court's prediction of the effect a warrant requirement would have on the behavior of covered employers may turn out to be accurate, its judgment is essentially empirical. On such an issue, I would defer to Congress' judgment regarding the importance of a warrantless search power to the OSHA enforcement scheme.

The Court also appears uncomfortable with the notion of second-guessing Congress and the Secretary on the question of how the substantive goals of OSHA can best be achieved. Thus, the Court offers an alternative explanation for its refusal to accept the legislative judgment. We are told that, in any event, the Secretary, who is charged with enforcement of the Act, has indicated that inspections without delay are not essential to the enforcement scheme. The Court based this conclusion on a regulation

prescribing the administrative response when a compliance inspector is denied entry. It provides that: "the Area Director shall immediately consult with the Assistant Regional Director and the Regional Solicitor who shall promptly take appropriate action including compulsory process if necessary." 29 CFR § 1903.4. The Court views this regulation as an admission by the Secretary that no enforcement problem is generated by permitting employers to deny entry and delaying the inspection until a warrant has been obtained. I disagree. The regulation was promulgated against the background of a statutory right to immediate entry, of which covered employers are presumably aware and which Congress and the Secretary obviously thought would keep denials of entry to a minimum. In these circumstances it was surely not unreasonable for the Secretary to adopt an orderly procedure for dealing with what he believed would be the occasional denial of entry. The regulation does not imply a judgment by the Secretary that delay caused by numerous denials of entry would be administratively acceptable.

Even if a warrant requirement does not "frustrate" the legislative purpose, the Court has no authority to impose an additional burden on the Secretary unless that burden is required to protect the employer's Fourth Amendment interest.[6] The essential function of the traditional warrant requirement is the interposition of a neutral magistrate between the citizen and the presumably zealous law enforcement officer so that there might be an objective determination of probable cause. But this purpose is not served by the new-fangled inspection warrant. As the Court acknowledges, the inspector's "entitlement to inspect will not depend on his demonstrating probable cause to believe that conditions in violation of OSHA exist on the premises . . . For purposes of an administrative search such as this, probable cause justifying the issuance of a warrant may be based . . . on a showing that 'reasonable legislative or administrative standards for conducting an . . . inspection are satisfied with respect to a particular [establishment].'" *Ante*, at 12–13. To obtain a warrant, the inspector need only show that "a specific business has been chosen for an OSHA search on the basis of a general administrative plan for the enforcement of the Act derived from neutral sources . . ." *Ante*, at 13. Thus, the only question for the magistrate's consideration is whether the contemplated inspection deviates from an inspection schedule drawn up by higher-level agency officials.

Unlike the traditional warrant, the inspection warrant provides no protection against the search itself for employers whom the government has no reason to suspect are violating OSHA regulations. The Court plainly accepts the proposition that random health and safety inspections are reasonable. [It does not question Congress determination that the public interest in work places free from health and safety hazards outweighs the employer's desire to conduct his business only in the presence of permittees, except in those rare instances when the government has probable cause to suspect that the premises harbor a violation of the law.

What purposes, then, are served by the administrative warrant procedure? The inspection warrant puports to serve three functions: to inform the employer that the inspection is authorized by the statute, to advise him of the lawful limits of the inspection, and to assure him that the person demanding entry is an authorized inspector. *Camara* v. *Municipal Court*, 387 U.S., at 532. An examination of these functions in the OSHA context reveals that the inspection warrant adds little to the protections already afforded by the statute and pertinent regulations, and the slight additional benefit it might provide is insufficient to identify a constitutional violation or to justify overriding Congress judgment that the power to conduct warrantless inspections is essential.

The inspection warrant is supposed to assure the employer that the inspection is in fact routine, and that the inspector has not improperly departed from the program of representative inspections established by responsible officials. But to the extent that harassment inspections would be reduced by the necessity of obtaining a warrant, the Secretary's present enforcement scheme would have precisely the same effect. The representative inspections are conducted "in accordance with criteria based upon accident experience and the number of employees exposed in particular industries.'" *Ante*, 13 n. 17. If, under the present scheme, entry to covered premises is denied, the inspector can gain entry only by informing his administrative superiors of the refusal and seeking a court order requiring the employer to submit to the inspection. The inspector who would like to conduct a nonroutine search is just as likely to be deterred by the prospect of informing his superiors of his intention and of making false representations to the court when he seeks compulsory process as by the prospect of having to make bad-faith representations in an *ex parte* warrant proceeding.

The other two asserted purposes of the administrative warrant are also adequately achieved under the existing scheme. If the employer has doubts about the official status of the inspector, he is given adequate opportunity to reassure himself in this regard before permitting entry. The OSHA inspector's statutory right to enter the premises is conditioned upon the presentation of appropriate credentials. 29 U.S.C. § 657 (a)(1). These credentials state the inspector's name, identify him as an OSHA compliance officer, and contain his photograph and signature. If the employer still has doubts, he may make a toll free call to verify the inspector's authority, *Usery v. Godfrey Brake & Supply Service, Inc.*, 545 F. 2d 52, 54 (CA8 1976), or simply deny entry and await the presentation of a court order.

The warrant is not needed to inform the employer of the lawful limits of an OSHA inspection. The statute expressly provides that the inspection may enter all areas in a covered business "where work is performed by an employee of an employer," 29 U.S.C. § 657(a)(1), "to inspect and investigate during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner . . . all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein . . . ." 29 U.S.C. § 657(a)(2). See also 29 CFR § 1903. While it is true that the inspection power granted by Congress is broad, the warrant procedure required by the Court does not purport to restrict this power but simply to ensure that the employer is apprised of its scope. Since both the statute and the pertinent regulations perform this informational function, a warrant is superfluous.

Requiring the inspection warrant, therefore, adds little in the way of protection to that already provided under the existing enforcement scheme. In these circumstances, the warrant is essentially a formality. In view of the obviously enormous cost of enforcing a health and safety scheme of the dimensions of OSHA, this Court should not, in the guise of construing the Fourth Amendment, require formalities which merely place an additional strain on already overtaxed federal resources.

Congress, like this Court, has an obligation to obey the mandate of the Fourth Amendment. In the past the "Court has been particularly sensitive to the amendment's broad standard of 'reasonableness' where . . . authorizing statutes permitted the challenged searches." *Almeida-Sanchez* v. *United States*, 413 U.S. 266, 290 (WHITE, J., dissenting). In *United States* v. *Martinez-Fuerte, supra*, for example, respondents challenged the routine stopping of vehicles to check for aliens at permanent checkpoints located away from the border. The checkpoints were established pursuant to statutory authority and their location and operation were governed by administrative criteria. The Court rejected respondents' argument that the constitutional reasonableness of the location and operation of the fixed checkpoints should be reviewed in a *Camara* warrant proceeding. The Court observed that the reassuring purposes of the inspection warrant were adequately served by the visible manifestations of authority exhibited at the fixed checkpoints.

Moreover, although the location and method of operation of the fixed checkpoints were deemed critical to the constitutional reasonableness of the challenged stops, the Court did not require Border Patrol officials to obtain a warrant based on a showing that the checkpoints were located and operated in accordance with administrative standards. Indeed, the Court observed that "[t]he choice of checkpoint locations must be left largely to the discretion of Border Patrol officials, to be exercised in accordance with statutes and regulations that may be applicable . . . [and] [m]any incidents of checkpoint operation also must be committed to the discretion of such officials." *Id.*, at 559–560, n. 13. The Court had no difficulty assuming that those officials responsible for allocating limited enforcement resources would be "unlikely to locate a checkpoint where it bears arbitrarily or oppressively on motorists as a class." *Id.*, at 559.

The Court's recognition of Congress' role in balancing the public interest advanced by various regulatory statutes and the private interest in being free from arbitrary governmental intrusion has not been limited to situations in which, for example, Congress is exercising its special power to exclude aliens. Until today we have not rejected a congressional judgment concerning the reasonableness of a category of regulatory inspections of commercial premises.[7] While businesses are unquestionably entitled to Fourth Amendment protection, we have "recognized that a business, by its special nature and voluntary existence, may open itself to intrusions that would not be permissible in a purely private context." *G. M. Leasing Corp.* v. *United States*, 429 U.S. 338, 353. Thus, in *Colonnade Catering Corp.* v. *United States*, 397 U.S. 72, the Court recognized the reasonableness of a statutory authorization to inspect the premises of a caterer dealing in alcoholic beverages, noting that "Congress has broad authority to design such powers of inspection under the liquor laws it deems necessary to meet the evils at hand." *Id.*, at 76. And in *United States* v. *Biswell*, 406 U.S. 311, the Court sustained the authority to conduct warrantless searches of firearm dealers under the Gun Control Act of 1968 primarily on the basis of the reasonableness of the congressional evaluation of the interests at stake.[8]

The Court, however, concludes that the deference accorded Congress in *Biswell* and *Colonnade* should be limited to situations where the evils addressed by the regulatory statute are peculiar to a specific industry and that industry is one which has long been subject to government regulation. The Court reasons that only in those situations can it be said that a person who engages in business will be aware of and consent to routine, regulatory inspections. I cannot agree that

Footnotes at end of article.

the respect due the congressional judgment should be so narrowly confined.

In the first place, the longevity of a regulatory program does not, in my judgment, have any bearing on the reasonableness of routine inspections necessary to achieve adequate enforcement of that program. Congress' conception of what constitute urgent federal interests need not remain static. The recent vintage of public and congressional awareness of the dangers post by health and safety hazards in the work place is not a basis for according less respect to the considered judgment of Congress. Indeed, in *Biswell*, the Court upheld an inspection program authorized by a regulatory statute enacted in 1968. The Court there noted that "[f]ederal regulation of the interstate traffic in firearms is not as deeply rooted in history as is governmental control of the liquor industry, but close scrutiny of this traffic is undeniably" an urgent federal interest. 406 U.S., at 315. Thus, the critical fact is the congressional determination that federal regulation would further significant public interests, not the date that determination was made.

In the second place, I see no basis for the Court's conclusion that a congressional determination that a category of regulatory inspections is reasonable need only be respected when Congress is legislating on an industry-by-industry basis. The pertinent inquiry is not whether the inspection program is authorized by a regulatory statute directed at a single industry but whether Congress has limited the exercise of the inspection power to those commercial premises where the evils at which the statute is directed are to be found. Thus, in *Biswell*, if Congress had authorized inspections of all commercial premises as a means of restricting the illegal traffic in firearms, the Court would have found the inspection program unreasonable; the power to inspect was upheld because it was tailored to the subject matter of Congress' proper exercise of regulatory power. Similarly, OSHA is directed at health and safety hazards in the work place, and the inspection power granted the Secretary extends only to those areas where such hazards are likely to be found.

Finally, the Court would distinguish the respect accorded Congress' judgment in *Colonnade* and *Biswell* on the ground that businesses engaged in the liquor and firearms industry "accept the burdens as well as the benefits of their trade. . . ." *Ante*, at 5. In the Court's view, such businesses consent to the restrictions placed upon them, while it would be fiction to conclude that a businessman subject to OSHA consented to routine safety inspections. In fact, however, consent is fictional in both contexts. Here, as well as in *Biswell*, businesses are required to be aware of and comply with regulations governing their business activities. In both situations, the validity of the regulations depends not upon the consent of those regulated but on the existence of a federal statute embodying a congressional determination that the public interest in the health of the Nation's work force or the limitation of illegal firearms traffic outweighs the businessman's interest in preventing a government inspector from viewing those areas of his premises which relate to the subject matter of the regulation.

The case before us involves an attempt to conduct a warrantless search of the working area of an electrical and plumbing contractor. The statute authorizes such an inspection during reasonable hours. The inspection is limited to those areas over which Congress has exercised its proper legislative authority.[9] The area is also one to which employees have regular access without any suggestion that the work performed or the equipment used has any special claim to confidentiality.[10] Congress has determined that industrial safety is an urgent federal interest requiring regulation and supervision, and further, that warrantless inspections are necessary to accomplish the safety goals of the legislation. While one may question the wisdom of pervasive governmental oversight of industrial life, I decline to question Congress' judgment that the inspection power is a necessary enforcement device in achieving the goals of a valid exercise of regulatory power.[11]

I respectfully dissent.

FOOTNOTES

[1] "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . ."

[2] ". . . and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[3] Landynski, Search and Seizure and the Supreme Court, 19 (1966).

[4] Taylor, Two Studies in Constitutional Interpretation, 41 (1969).

[5] *See* v. *City of Seattle*, 387 U.S. 541, 547 (Clark, J., dissenting).

[6] When it passed OSHA, Congress was cognizant of the fact that in light of the enormity of the enforcement task "the number of inspections which it would be desirable to have made will undoubtedly for an unforeseeable period, exceed the capacity of the inspection force . . . ." Committee Print, Legislative History of the Occupational Safety and Health Act of 1970, Senate Committee on Labor and Public Welfare, 92d Cong., 1st Sess., 152 (1971).

[7] The Court's rejection of a legislative judgment regarding the reasonableness of the OSHA inspection program is especially puzzling in light of recent decisions finding law enforcement practices constitutionally reasonable, even though those practices involved significantly more individual discretion than the OSHA program. See, *e. g.*, *Terry* v. *Ohio*, 392 U.S. 1; *Adams* v. *Williams*, 407 U.S. 143; *Cady* v. *Dombrowski*, 413 U.S. 433; *South Dakota* v. *Opperman*, 428 U.S. 364.

[8] The Court held:

"In the context of a regulatory inspection of business premises that is carefully in time, place, and scope, the legality of the search depends . . . on the authority of a valid statute.

* * * * *

"We have little difficulty in concluding that where, as here, regulatory inspections further urgent federal interests, and the possibilities of abuse and a threat to privacy are not of impressive dimensions, the inspection may proceed without a warrant where specifically authorized by statute." *Id.*, at 315, 317.

[9] What the Court actually decided in *Camara* v. *Municipal Court*, 387 U.S. 523, and *See* v. *City of Seattle*, 387 U.S. 541, does not require the result it reaches today. *Camara* involved a residence, rather than a business establishment; although the Fourth Amendment extends its protection to commercial buildings, the central importance of protecting residential privacy is manifest. The building involved in *See* was, of course, a commercial establishment, but a holding that a locked warehouse may not be entered pursuant to a general authorization to "enter all buildings and premises, except the interior of dwellings, as often as may be necessary," *id.*, at 541, need not be extended to cover more carefully delineated grants of authority. My view that the *See* holding should be narrowly confined is influenced by my favorable opinion of the dissent written by Mr. Justice Clark and joined by Justices Harlan and Stewart. As *Colonnade* and *Biswell* demonstrate, however, the doctrine of *stare decisis* does not compel the Court to extend those cases to govern today's holding.

[10] The Act and pertinent regulation provides protection for any trade secrets of the employer. 29 U.S.C. §§ 664–665; 29 CFR 1903.9.

[11] The decision today renders presumptively invalid numerous inspection provisions in federal regulatory statutes. *E.g.*, 30 U.S.C. § 813 (Coal Mine Health and Safety Act); 30 U.S.C. § 723, 724 (Metal and Nonmetallic Mine Safety Act); 21 U.S.C. § 603 (Inspection of meat and food products). The fact that some of these provisions apply only to a single industry, as noted above, does not alter this fact. And the fact that some "envision resort to federal court enforcement when entry is refused" is also irrelevant since the OSHA inspection program invalidated here requires compulsory process when a compliance inspector has been denied entry.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RUDD) and to revise and extend their remarks and include extraneous matter:)

Mr. JEFFORDS, for 20 minutes, today.
Mr. SKUBITZ, for 10 minutes, today.
Mr. MARTIN, for 5 minutes, today.
Mr. BOB WILSON, for 5 minutes, today.
Mr. TRIBLE, for 5 minutes, today.
Mr. STEERS, for 5 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. STEIGER, for 5 minutes, today.
Mr. FRENZEL, for 60 minutes, today.
Mr. COHEN, for 10 minutes, today.
Mr. EMERY, for 5 minutes, today.

(The following Members (at the request of Mr. STUMP) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. LEVITAS, for 5 minutes, today.
Mr. ASPIN, for 20 minutes, today.
Mr. RONCALIO, for 5 minutes, today.
Mr. BURKE of Massachusetts, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. WHITE, for 5 minutes, today.
Mr. IRELAND, for 5 minutes, today.
Mr. MATTOX, for 5 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. BAUCUS, for 5 minutes, today.
Mr. BAUCUS, for 5 minutes, on May 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEDERER, on H.R. 8535 on the Suspension Calendar today.

Mr. HANSEN, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and

is estimated by the Public Printer to cost $2,792.25.

(The following Members (at the request of Mr. RUDD) and to include extraneous matter:)

Mr. DON H. CLAUSEN.
Mr. RHODES.
Mr. STEERS.
Mr. BROOMFIELD.
Mr. GOLDWATER.
Mr. MCCLORY in two instances.
Mr. JEFFORDS.
Mr. BADHAM.
Mr. HILLIS.
Mr. STEIGER.
Mr. LENT.

(The following Members (at the request of Mr. STUMP) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. IRELAND.
Mr. HUCKABY in two instances.
Mr. FISHER.
Mr. DODD.
Mr. FARY.
Mr. VANIK in two instances.
Mr. STARK.
Mr. FRASER.
Mr. CLAY.
Mr. ECKHARDT.
Mr. MAZZOLI.
Mr. ROYBAL.
Mr. ROE.
Mr. BIAGGI in 10 instances.
Mr. WOLFF in two instances.
Mr. UDALL in two instances.
Mr. EDGAR.
Mr. MCDONALD.
Mr. DOWNEY.
Mr. FORD of Michigan in two instances.
Mr. CONYERS in two instances.
Mr. JENKINS.
Mr. HARKIN in three instances.
Mr. SKELTON.
Mr. TEAGUE.
Mr. D'AMOURS.
Mr. EDWARDS of California.
Mr. ROGERS in five instances.
Mr. CARNEY.
Mrs. SPELLMAN.
Mr. MOTTL.
Mr. HAMILTON.
Mr. FOLEY.
Mr. OTTINGER.

ADJOURNMENT

Mr. STUMP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.), the House adjourned until Wednesday, May 24, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4242. A letter from the Comptroller General of the United States, transmitting a report on Federal protection and preservation of wild and scenic rivers (CED–78–96, May 22, 1978); jointly, to the Committees on Government Opertaions, and Interior and Insular Affairs.

4243. A letter from the Comptroller General of the United States, transmitting a report on the nonnuclear energy research, development, and demonstration roles and capabilities of the Department of Energy's multiprogram laboratories (EMD–78–62, May 22, 1978); jointly, to the Committees on Government Operations, and Science and Technology.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENJAMIN (for himself, Mr. FARY, and Mr. DERWINSKI):

H.R. 12821. A bill to amend the act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, to increase the number of members on the advisory commission for the lakeshore, and to authorize the appropriation of funds for the construction of a marina within the lakeshore; to the Committee on Interior and Insular Affairs.

By Mr. BENJAMIN (for himself, Mr. MURPHY of Illinois, and Mr. MIKVA):

H.R. 12822. A bill to amend the Urban Mass Transportation Act of 1964 relating to certain operating assistance under the act; to the Committee on Public Works and Transportation.

By Mr. BURGENER:

H.R. 12823. A bill to permit the sale of rights to use water for privately owned land in the Imperial Irrigation District in California without regard to certain restrictions imposed by the Reclamation Act of 1902; to the Committee on Interior and Insular Affairs.

By Mr. FISHER:

H.R. 12824. A bill to amend title II of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to abolish the Disability Insurance Trust Fund and provide instead for the payment of disability insurance benefits from general revenues, with appropriate adjustments in social security tax rates; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 12825. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

H.R. 12826. A bill entitled "Technical correction of section 1034(d) of the Internal Revenue Code"; to the Committee on Ways and Means.

By Mr. IRELAND:

H.R. 12827. A bill to amend title II of the Social Security Act to restore the monthly earnings test; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 12828. A bill to amend the Internal Revenue Code of 1954 to exclude from the definition of an unrelated trade or business qualified convention and trade show activities carried out by an organization described in section 501(c)(3); to the Committee on Ways and Means.

By Mr. PICKLE:

H.R. 12829. A bill to expedite the issuance of certain coal or lignite leases at Camp Swift, Tex., under the Mineral Leasing Act for Acquired Lands; to the Committee on Interior and Insular Affairs.

By Mr. ROE (for himself, Mr. PREYER, Mr. FOUNTAIN, Mr. WHITLEY, Mr. HEFNER, Mr. ANDREWS of North Carolina, Mr. BROYHILL, and Mr. NEAL):

H.R. 12830. A bill to establish an administrative procedure and guidelines to be followed by the Department of the Interior in its decision to acknowledge the existence of certain Indian tribes; to the Committee on Interior and Insular Affairs.

By Mr. RONCALIO:

H.R. 12831. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) as amended by sections 2 and 13 (B) of the Federal Coal Leasing Amendments Act of 1975 to authorize the Secretary of the Interior to exchange Federal coal leases and modify existing Federal coal leases to include additional lease acreage without changing the other terms and conditions of those leases and to encourage recovery of marginal coal deposits and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SISK (for himself and Mr. ROBERTS):

H.R. 12832. A bill to amend section 612 (b) of title 38, United States Code, to clarify the intent of Congress in the application of the 1-year limitation within which certain veterans may apply for outpatient dental care; to the Committee on Veterans' Affairs.

By Mr. SKUBITZ:

H.R. 12833. A bill to amend the Airport and Airway Development Act of 1970 to provide funds for increased levels of community development through airport construction, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. COHEN (for himself and Mr. EMERY):

H.R. 12834. A bill to settle Indian land claim within the State of Maine and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and the Judiciary.

By Mr. DRINAN (for himself, Mr. MARKS, and Mr. RICHMOND):

H.R. 12835. A bill to amend the Office of Federal Procurement Policy Act to require the payment of interest by Federal agencies on overdue payments to small business concerns; jointly, to the Committees on Government Operations, and Small Business.

By Mr. HANSEN:

H.R. 12836. A bill to amend the Occupational Safety and Health Act of 1970 to prohibit restrictions on work rules in locations in which there is hunting, fishing, or shooting sports, and for other purposes; to the Committee on Education and Labor.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 12837. A bill to amend title 10, United States Code, to authorize waiver of application of certain laws in connection with the acquisition of property or services from friendly foreign governments and international organizations to facilitate cooperation relating to defense equipment, and for other purposes; to the Committee on Armed Services.

By Mr. RANGEL:

H.R. 12838. A bill to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 12839. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid or incurred for certain State and local individual income taxes and to repeal the deduction for State and local general sales taxes; to the Committee on Ways and Means.

By Mr. JOHN L. BURTON (for himself, Mr. CONYERS, Mr. CORCORAN of Illinois, Mr. EILBERG, Mr. FLOOD, Mr. FOLEY, Mr. FRASER, Mr. GIAIMO, Mr. GIBBONS, Mr. HARSHA, Mr. KELLY, Mr. LONG, of Maryland, Mr. MARLENEE, Mr. MEEDS, Mr. MOORE, Mr. PREYER, Mr. PURSELL, Mr. QUIE, Mr. SHARP, Mr. SOLARZ, Mr. STOKES, Mr. WHITTEN, Mr. CORNELL, Mr. SKELTON, and Mr. ROBINSON):

H.J. Res. 933. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; to the Committee on Post Office and Civil Service.

By Mr. FARY:

H.J. Res. 934. Joint resolution designating 1978 as the "Back of the Yards Council Community Congress Year"; to the Committee on Post Office and Civil Service.

By Mr. GOODLING:

H.J. Res. 935. Joint resolution to designate the first week of October 1978 as "National Woodcarvers' Week"; to the Committee on Post Office and Civil Service.

By Mr. McDADE (for himself, Mr. BRADEMAS, Mr. AKAKA, Mr. AMMERMAN, Mr. BEVILL, Mr. BONIOR, Mr. BOWEN, Mr. BRODHEAD, Mr. BROYHILL, Mr. BURGENER, Mr. CUNNINGHAM, Mr. DENT, Mr. DERRICK, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. ERTEL, Mr. FLORIO, Mr. FORD of Michigan, Mr. GAYDOS, Mr. GORE, Mr. GUYER, Mr. HAWKINS, and Mr. HUGHES):

H.J. Res. 936. Joint resolution designating September 10 through September 17, 1978, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

By Mr. McDADE (for himself, Mr. BRADEMAS, Mr. JENRETTE, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEDERER, Mr. MARKS, Mr. MAZZOLI, Mr. MEEDS, Mr. MIKVA, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. MICHAEL O. MYERS, Mr. NIX, Mr. RANGEL, Mr. RYAN, Mr. ST GERMAIN, Mr. SIMON, and Mr. VENTO):

H.J. Res. 937. Joint resolution designating September 10 through September 17, 1978, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

By Mr. BOWEN (for himself, Mr. FREY, Mr. EDGAR, Mr. GOODLING, Mrs. COLLINS of Illinois, Mr. WHITEHURST, Mr. LAGOMARSINO, Mr. CLEVELAND, Mr. MCKINNEY, and Mr. RICHMOND):

H. Con. Res. 633. Concurrent resolution expressing the sense of the Congress that an energy conservation impact statement shall be prepared before any law is passed, any agency regulation or rulemaking is promulgated, or any Executive order is issued; to the Committee on Interstate and Foreign Commerce.

By Mr. CORNWELL (for himself, Mr. AMMERMAN, Mr. VENTO, Mr. CORRADA, and Mr. MARKEY):

H. Res. 1197. Resolution expressing the sense of the House of Representatives with respect to the killing of some 1,000 dolphins by Japanese fishermen in February 1978, and encouraging the Government of Japan to reassess its policy in permitting such killing; to the Committee on International Relations.

By Mr. FINDLEY (for himself, Ms. OAKAR, Mr. PATTERSON of California, Mr. RINALDO, Mr. WHITLEY, and Mr. CHARLES WILSON of Texas):

H. Res. 1198. Resolution to recognize Bob Hope on his 75th birthday celebration; to the Committee on Post Office and Civil Service.

By Mr. FITHIAN:

H. Res. 1199. Resolution relating to the rail transportation crisis for farmers and shippers of agricultural commodities; to the Committee on Interstate and Foreign Commerce.

By Mr. STEERS:

H. Res. 1200. Resolution to disapprove Reorganization Plan No. 2 transmitted by the President on May 1, 1978; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BENNETT introduced a bill (H.R. 12840) for the relief of Mr. and Mrs. William Michael Feitelson and their children, Ann and Sally, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10929

By Mr. LLOYD of California:

An amendment to H.R. 10929, title I, page 11, line 5, to strike on line 6 the amount "$7,046,400,000" an insert in lieu thereof the amount "$6,984,200,000."

H.R. 11983

By Mr. FRENZEL:

In section 2, insert the following new paragraph "(6)" to proposed section 501 of the Federal Election Campaign Act of 1971:

"(6) The term 'qualified campaign expense' means only those expenses incurred by a candidate, or by his/her authorized committee in connection with his/her campaign for general election which are for the use of—

"(i) broadcasting stations to the extent that they represent direct charges for air time;

"(ii) newspapers, magazines, and outdoor advertising facilities to the extent that they represent direct charges for advertising space;

"(iii) mailings to the extent that they represent direct charges for postage.

"For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to incur such expense on behalf of the candidate or committee."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 1st district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 2nd district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 3rd district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 4th district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 5th district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 6th district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 7th district of the State of Alabama shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the At Large district of the State of Alaska shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 1st district of the State of Arizona shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 2d district of the State of Arizona shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 3d district of the State of Arizona shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 4th district of the State of Arizona shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 1st district of the State of Arkansas shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 2d district of the State of Arkansas shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 3d district of the State of Arkansas shall be eligible to receive payments under this title."

In section 2, insert the following new paragraph in proposed section 502 of the Federal Election Campaign Act of 1971:

"(c) Notwithstanding the provisions of this section no incumbent from the 4th district of the State of Arkansas shall be eligible to receive payments under this title."

In section 2, strike "$1,000" in proposed section 502(a)3 of the Federal Election Campaign Act of 1971, and insert in lieu thereof, "$5,000".

In section 2, strike "$1,000" in proposed section 504(a)(1)(A) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "$5,000".

In section 2, insert the following new paragraph after paragraph (5) of proposed section 504(a) of the Federal Election Campaign Act of 1971:

"(6) In addition to payments made under any other provision of this subsection, the eligible candidates of a political party shall be entitled to payments to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees or to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses, if such qualified campaign expenses represent legal and accounting costs incurred by such candidates for the purpose of insuring com-

pliance with the provisions of this Act, in an amount equal to not more than $20,000.

[Note: See section 504(b).]

In section 2, strike out paragraph "(B)" of the proposed section 504(a)(1) of the Federal Election Campaign Act of 1971 and insert the following new paragraph:

"(B) not more than 10 matching payments of $5,000 under section 507, if, with respect to each such payment, the eligible candidate and his authorized committees have received contributions aggregating $5,000, which have not been matched under this section; and" and strike paragraph "(C)" of the proposed section 504(a)(1) and insert the following new paragraph "(C)":

"(C) in the case of an eligible candidate for whom the limitation on expenditures established in section 320(b) is made inapplicable under section 505(a), not more than 10 additional matching payments of $5,000 under section 507, if, with respect to each such payment, the candidate and his authorized committees have received contributions aggregating $5,000, which have not been matched under this section, except that any contribution which is received after the date on which the limitation on expenditures is made inapplicable shall be matchable under this subparagraph, whether or not the individual making such contribution has made any contribution that has been matched under subparagraph (A) or subparagraph (B)."

In section 2, after "(a)" in proposed section 507 of the Federal Election Campaign Act of 1971, insert "In the taxable year for 1978 and thereafter, the Secretary of the Treasury on the form 1040A shall place immediately after the Presidential check-off, the following question:

Do you wish to designate 50 cents of your taxes to be paid over to a House of Representatives Campaign Account?

Yes ------ No ------

If a joint return, does your spouse wish to designate 50 cents?

Yes ------ No ------

In section 2, after the word "title,", strike "the amount available after the Secretary determines that the total amount to be available in the fund by the end of such year will equal 60 percent of the payments made during the past presidential election under such subtitle. With respect to candidates who are eligible for payments in 1980, the May 15 deadline shall not apply and the Secretary shall make available to the Account from the Presidential Election Campaign Fund such amounts as may be necessary, and shall, from the moneys paid into the fund in 1981 and 1982, reimburse the fund for the amounts made available in 1980 to the Account. The moneys in the Account shall remain available without fiscal year limitation." and insert in lieu thereof: "an amount not in excess of the sum of the amounts designated (subsequent to the previous Congressional election) to the fund by individuals pursuant to form 1040 under the House of Representatives Campaign Account."

In section 2, after "(a)" in proposed section 507 of the Federal Election Campaign Act of 1971, insert "In the taxable year for 1978 and thereafter, the Secretary of the Treasury on the form 1040A shall place immediately after the Presidential check-off, the following question:

Do you wish to designate 50 cents of your taxes to be paid over to a House of Representatives Campaign Account?

Yes ------ No ------

If a joint return, does your spouse wish to designate 50 cents?

Yes ------ No ------

And if the majority of the taxpayers filing their form 1040 do not approve a designation to such fund then the said account will be abolished and the funds in such account will be applied by the Secretary to the reduction of the National Debt.

In section 2, after the word "title,", strike "the amount available after the Secretary determines that the total amount to be available in the fund by the end of such year will equal 60 percent of the payments made during the past presidential election under such sub-title. With respect to candidates who are eligible for payments in 1980, the May 15 deadline shall not apply and the Secretary shall make available to the Account from the Presidential Election Campaign Fund such amounts as may be necessary, and shall, from the moneys paid into the fund in 1981 and 1982, reimburse the fund for the amounts made available in 1980 to the Account. The moneys in the Account shall remain available without fiscal year limitation." and "insert in lieu thereof: "an amount not in excess of the sums of the amounts designated (subsequent to the previous Congressional election) to the fund by individuals pursuant to form 1040 under the House of Representatives Campaign Account."

In section 2, add the following new subsection at the end of proposed section 508 of the Federal Election Campaign Act of 1971:

"(d) Any candidate who is required to make repayments under this section shall be granted not less than 36 months to repay such amounts to the Secretary."

In section 2, add the following new section after proposed section 513 of the Federal Election Campaign Act of 1971:

"[HEADING]

"SEC. 514. No employee, consultant, or officer of any authorized committee eligible to receive any payments under this Act (or any other employee or a candidate eligible to receive payment under this Act) shall receive compensation in excess of the maximum rate authorized to be paid to a member of the staff of a Member of the House of Representatives.".

And in section 2, strike out the quotation marks and the period after "necessary." at the end of proposed section 513.

In section 2, insert the following new proposed section 514:

"KICKBACKS AND ILLEGAL PAYMENTS

"SEC. 514. KICKBACKS AND ILLEGAL PAYMENTS

"It shall be unlawful for any person knowingly and willfully to give or accept any kickback or make any illegal payment in connection with any payments received under this title or in connection with any expenditures of payments received under this title."

In section 3, add the following new subsection:

(d) Section 305 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Each candidate and his authorized committees who accept payments under this title shall include on the face or front page of all literature, advertisements, and campaign material relating to such candidate's general election campaign the following notice:

"Paid for, in part, by Federal tax funds".

In section 3(a), insert the following new paragraph after proposed section 320(b)(2) of the Federal Election Campaign Act of 1971:

"(3) For purposes of the limitation on expenditures defined in paragraph (2), such limitation shall be reduced by 10 percent for an individual who holds the office of Representative in, or Delegate or Resident Commissioner to, the Congress.".

In section 3(a) strike out the quotation marks and the period after "office." at the end of proposed section 320(b)(2).

And in section 3(a), strike out "paragraph (3)" and insert in lieu thereof "paragraph (4)", and strike out "new paragraph" and insert in lieu thereof "new paragraphs".

In section 4, strike out "apply to any election to the office of Representative in, or delegate or Resident Commissioner to, the Congress held after the date of the enactment of this Act, except that no payments under this title shall be distributed under section 507 prior to August 1, 1980." and insert in lieu thereof:

"shall be subject to and effective only after a National Referendum shall be held to ascertain approval of the diversion of funds presently held, and in the future accumulated, in the Presidential Election Campaign Fund.

(a) On the form 1040 for the taxable year 1978, there shall be included, immediately after the place for designation of funds for the Presidential Election Campaign Fund, the following question:

(1) "Do you approve of the use of any excess of the Presidential Election Campaign Fund for public financing of Congressional campaigns?

Yes, ____, no ____.

(2) In the event a majority of those taxpayers responding to this question answer the question in the negative by the 15th day of May, 1979, then the provisions of this Title to the Act shall be null and void."

By Mr. WIGGINS:

In section 2, strike out paragraph (4) of proposed section 501 of the Federal Election Campaign Act of 1971 and insert in lieu thereof the following:

"(4) The term 'election' means—

"(A) a general, special, primary, or runoff election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or for the office of United States Senator; or

"(B) any convention or caucus of a political party which has authority to nominate a candidate.

In section 2, strike out "expenditures" in subparagraph (A) of proposed section 502(a)(1) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "qualified campaign expenses".

In section 2, after "expenditure" in subparagraph (D) of proposed section 502(a)(1) of the Federal Election Campaign Act of 1971, insert "for qualified campaign expenses".

In section 2, strike out "$1,000" in paragraph (2) of proposed section 502(a) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "$10,000"[, and make the appropriate conforming and technical changes thereafter].

In section 2, strike out "$25,000" in proposed section 503 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "$50,000".

In section 2, strike out "election" the first place it appears in subsection (b) of proposed section 504 of the Federal Election Campaign Act of 1971 and insert in lieu thereof "qualified".

In section 2, strike out paragraph (2) of proposed section 505(b) of the Federal Election Campaign Act of 1971, and redesignate paragraph (1) accordingly.

In section 2, strike out "to the best of their knowledge" in paragraph (2) of proposed section 506(a) of the Federal Election Campaign Act of 1971 and insert in lieu thereof the following: "under penalty of perjury".

In section 2, strike out subsection (d) of proposed section 510 of the Federal Election Campaign Act of 1971.

In section 2, strike out "the national committee of any political party" in paragraph (1) of proposed section 511(b) of the Federal Election Campaign Act of 1971 and insert in lieu thereof "any political committee".

In section 3(a), insert the following new paragraph after proposed section 320(b)(2) of the Federal Election Campaign Act of 1971:

(3)" and insert in lieu thereof "paragraph of this Act, a political committee of a national party may expend amounts without limitation on behalf of any candidate.".

In section 3(a), strike out the quotation marks and the period after "office.".

And in section 3(a), strike out "paragraph (3)" and insert in lieu thereof "paragraph (4)".

EXTENSIONS OF REMARKS

THE HUMAN CONTRACT

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. HARKIN. Mr. Speaker, Leo Perlis, director of the AFL–CIO Department of Community Services, has written a very thought-provoking article, "The Human Contract," that exists, or at least should exist, between the worker, his or her union, and the employer. Mr. Perlis points out that many of the problems and discords that arise in the workplace are not necessarily attributable to the workplace or to any discord between the employer and the employee. Rather these problems may spring from personal and human problems outside of the workplace but which directly affect production and labor-management relations. Mr. Perlis has given us something to think about: That the responsibility of both the employer and the labor union toward the worker does not begin when the worker shows up on the job and ends when the worker leaves the job to return home. Both employers and the union must become more concerned with the worker's total health and happiness, and not just his health and happiness on the job. This can only be achieved, as Mr. Perlis points out, not by confrontation between unions and employers, but by cooperation between employers, the union, and the worker.

Mr. Speaker, I believe my fellow members will find this article by Mr. Perlis very illuminating:

THE HUMAN CONTRACT

(By Leo Perlis)

WASHINGTON.—The union contract does not cover most personal problems workers face. Even those agreements which provide fringe benefits, such as insurance coverage for health care, do not deal with the real and often tragic family needs of employees in the interrelated worlds of the home and the workplace. Yet it is those human problems that often affect production and labor-management relations.

The ultimate solution of marital discord may be found in the counselor's office or in the family courtroom, but its consequences are immediately apparent by poor performance in the workplace. The alcoholic may eventually wind up in a detoxification center or in an Alcoholics Anonymous fellowship but the result of his irrational behavior is instantly evident in turnover and absenteeism. A distraught employee, depressed by overwhelming debts and legal entanglements, is a poor candidate for a gung-ho production line. These are only a few of the many human problems which affect the workplace. Misplaced company concern for the welfare of its employees may have been expressed best in 1955 by the exploitative theme of a conference co-sponsored in Garden City by the Long Island Industries Association and the Mental Health Association of Nassau County: "Productivity for Business and Industry through Emotional Health."

Now both union leaders and corporate executives are beginning to see that the union contract simply didn't cover it all, that it is only a fig leaf in the industrial jungle. Both labor and management now realize that personal problems can and often do result in absenteeism, turnover, low labor morale, reduced productivity and curtailed production. But not all are aware that they must address themselves to the human causes and not to the unproductive consequences. If a constructive program of human service is to be established in the organized workplace, both labor and management must recognize the simple truth that the company employee and the union member are, in fact, one and the same person.

To serve this person as a total human being and not just as a productive machine or a dues-paying member is the joint responsibility of labor and management.

A cooperative and positive approach to the alleviation of personal and family problems of the company employee/union member can be spelled out in a supplementary agreement, the human contract, with a carry-over provision to the union contract for the handling of grievace procedures.

The union contract covering wages, hours and working conditions is the product of the politics of confronation around the collective bargaining table. The human contract covering health, welfare and living conditions may be achieved through the politics of cooperation around the conference table.●

EUROPEAN STEEL SUBSIDIES: EXPORTING THEIR UNEMPLOYMENT TO THE UNITED STATES OF AMERICA

HON CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. VANIK. Mr. Speaker, in the first 3 months of 1978, more steel was imported than in any previous 3-month period in our Nation's history—nearly 6 million tons, and from the price of this imported steel, it is clear that unfair dumping practices are still occurring. The question is: Will the new trigger price system, which did not really become effective until late March and April, begin to stem this flood of illegally priced steel? If it does not, then the 1978 economic outlook for the American steel industry is uncertain—and the long-range picture is a disaster.

I would like to provide for the record two recent examples of the types of problems we face from State-subsidized foreign steel competition. The Wall Street Journal of April 28 reported that the nationally owned British Steel Corp. expects to lose $732 million in the current year—and this comes on top of a loss of $805 million last year and $173 million the year before. In other words, over a 3-year period, this company has lost $1.7 billion—and yet they are still shipping steel to the United States at subsidized rates and limiting the employment opportunities of our workers.

Germany, where there is less state ownership than in most foreign countries, has just announced a 5-year investment grant for steel of $116 million. The grant only needs to be repaid if the steel industry is doing well enough to afford it. The purpose of the grant is to create an extra 17,300 jobs in the Saar region—and in the meantime, we continue to import subsidized European steel.

It is a clear and uncontestable fact that most of the governments of the world are subsidizing steel production to keep their people working—and they are exporting their steel and their unemployment to the United States. The continuation of the subsidized, unfair steel imports threatens the support of the American public for international trade.●

MAN AGAINST WAR

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. BINGHAM. Mr. Speaker, Mrs. Richard L. Simon, a neighbor and dear friend, recently sent me a copy of a fascinating letter written to her late husband on White House stationery, dated April 4, 1956. The letter, which was labeled personal and confidential, follows:

APRIL 4, 1956.

DEAR DICK: Thank you for your letter, which brings up subjects too vast to be discussed adequately in a letter.

Suffice it to say here that I doubt that any columnist—and here I depend upon heresay as I have no time to read them—is concerning himself with what is the true security problem of the day. That problem is not merely man against man or nation against nation. It is man against war.

I have spent my life in the study of military strength as a deterrent to war, and in the character of military armaments necessary to win a war. The study of the first of these questions is still profitable, but we are rapidly getting to the point that no war can be *won*. War implies a contest; when you get to the point that contest is no longer involved and the outlook comes close to destruction of the enemy and suicide for ourselves—an outlook that neither side can ignore—then arguments as to the exact amount of available strength as compared to somebody else's are no longer the vital issues.

When we get to the point, as we one day will, that both sides know that in any outbreak of general hostilities, regardless of the element of surprise, destruction will be both reciprocal and complete, possibly we will have sense enough to meet at the conference table with the understanding that the era of armaments has ended and the human race must conform its actions to this truth or die.

The fullness of this potentiality has not yet been attained, and I do not, by any means decry the need for strength. That strength must be spiritual, economic and military. All three are important and they are not mutually exclusive. They are all part of and the product of the American genius, the American will.

But already we have come to the point where safety cannot be assumed by arms alone. But I repeat that their usefulness be-

comes concentrated more and more in their characteristics as deterrents than in instruments with which to obtain victory over opponents as in 1945. In this regard, today we are further separated from the end of World War II than the beginning of the century was separated from the beginning of the sixteenth century.

Naturally I am not taking the time here to discuss the usefulness of available military strength in putting out "prairie fires"—spots where American interests are seriously jeopardized by unjustified outbreaks of minor wars. I have contented myself with a few observations on the implications of a major arms race.

Finally, I do not believe that I shall ever have to defend myself against the charge that I am indifferent to the fate of my countrymen, and I assure you that there are experts, technicians, philosophers and advisers here, who give far more intelligent attention to these matters than do the commentators.

With warm regard.

Sincerely,

D. E.●

EQUAL RIGHTS AMENDMENT TIME LIMIT EXTENSION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. EDGAR. Mr. Speaker, there are several key questions that must be considered when addressing the issue of the extension of the ratification period for the proposed 27th amendment. These are:

First. Is it constitutionally possible for Congress to extend the time allowed for ratification, and what are the precedents?

Second. Even if extension is possible, should Congress use this power?

Third. What decisions can be made about the legality of rescision both in the event of extension or not?

Fourth. What procedure should the Congress follow if it decides to grant extension?

The question of the right of the Congress to extend the ratification deadline of the amendment has been thoroughly debated by constitutional scholars since this issue came up. There are a variety of points that lead to the conclusion that extension in this case is fully within the powers of the Congress. Article I, section 8 gives Congress the right to make all laws deemed "necessary and proper" to effect execution of the Constitution—including amendments. Second, the interpretation of article V has been extended—in Coleman against Miller and Dillon against Gloss—to include the right of Congress to set—and change—time limits as a "matter of detail" and to consider, when deliberating on such matters, the political and social atmosphere of the time. Third, an important factor to remember is that the "7-year clause" in the proposed ERA is not in the body of the amendment, rather in the resolution; therefore, nothing that the States have ratified will be changed.

The precedence issue is another matter altogether. While the right of Congress to change the time limit may be established, there have been no cases in which there was a need to address this question. Eighteen out of the 26 existing amendments to the Constitution were passed without any attached time limit stipulation. In 1917, with the 18th amendment, Congress decided to make a 7-year limitation in order to avoid having the amendment floating around the States for a period of time which exceeded the political vitality of the issue. In this amendment, as in the 20th, 21st, and 22d, the 7-year stipulation was attached to the amendment itself and thus was ratified by the States along with the amendment. Beginning with the 23d, the clause was attached instead to the resolution. This shift represents a kind of compromise—signifying the right of Congress to impose time limits and to make the limit a procedural matter instead of a constitutional one.

Because until this time, every amendment has been ratified within a 4-year period, the question of time extension has never been explored. The guidelines that are most often used in the extension debate concern a need for ratification within a "reasonable time and with a sense of contemporaneous consent." Both of these issues will be open for debate when the resolution comes up.

Is extension a good idea? The opponents of ERA see extension as trying to "change the rules in the middle of the game." Through powerful lobbying efforts, Stop ERA forces have managed to cause a stalemate situation in several of the 15 States that have not ratified. In some of these States, there is no chance for ratification before the deadline because either the amendment cannot come up on the calendar before March of 1979 or the legislature does not meet before then at all. Six out of the unratified States have never addressed the ERA in both of their houses on the floor. In some States political tactics have been employed to delay the consideration and/or passage of the ERA. In Illinois, for example, the new State constitution requires a three-fifths majority (a rule that is under judicial scrutiny). Twice the ERA has received a clear-cut majority of the votes; however, the vote has both times fallen just short of the required three-fifths margin. In other States, legislators elected on ERA platforms have been railroaded into changing their positions at the 11th hour.

If the time limit was imposed in order to prevent a dead issue from "floating around" among the States past the time of interest, this cannot be applied to consideration of the ERA. It has taken the ERA almost 50 years to reach the floor of Congress, and during the 6 years that the proposed amendment has been circulating in the States, interest and debate has continued to be controversial and spirited. The equal protection under the law of 51 percent of the American population could certainly be considered of contemporaneous interest in any decade. The Stop ERA forces have allowed a great deal of misinformation to disseminate to the masses of Americans. There are basically three camps involved in the ERA struggle—those who support, those who oppose, and those who do not understand the implications of the ERA in their lives. Some State legislators have been led to believe that if they can just hold out for one more session, the ERA will die and their constituents will not hold them accountable.

All of the great equal rights and protection amendments have taken a great deal of struggle and debate to pass. The 13th, 14th, and 15th required a civil war to accomplish; the 19th amendment took from 1848 until 1920 to be ratified. Along with the question of precedence should also be considered the need and the intensity of debate.

A two-pronged question has arisen in the area of rescission. The first is whether three States or seven are now required for ratification—since four States have made an effort to rescind. The second is whether, if the extension is granted, States may be allowed to rescind until the second deadline. At the hearings for House Joint Resolution 638, the Justice Department testified to the effect that while the Constitution gives Congress the power to deal with the procedural detail of time limits, there is nothing short of an amendment to article V that could be interpreted as a designation of power to the States to reject their ratifications.

Regarding the procedure for voting on the issue—there are three choices—a concurrent resolution simply requiring a majority vote in both Houses, a joint resolution, requiring two-thirds majority in both Houses without the President's signature, and a joint resolution requiring a simple majority and the President's signature. The best argument for a concurrent resolution is that since extension is being considered a procedural matter there is no need to use the joint resolution that would bring with it the force of law. The concurrent resolution could also be revised without repeal.

In conclusion—Congress has the right to extend the time limit and perhaps also has the responsibility to at least consider the desire of the American public to continue discussion on the issue. The issue of women's rights is "far too serious to see who beats whom to the finish line * * * it is more than a game."●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district. I was absent on Friday, May 19, 1978. Had I been present, I would have voted: "aye" on rollcoll No. 337, that the House resolve itself into the Committee of the Whole House for the further consideration of H.R. 39, Alaska National Interest Lands Conservation Act of 1978; "aye" on rollcall No. 338, an amendment to H.R. 39 requiring the President to submit a proposal to Congress by 1981 for the evaluation of applications to carry out mineral exploration or extraction on conservation system lands; "nay" on rollcall No. 339, a motion to recommit H.R. 39 to the Committee on the Interior and

the Merchant Marine Committee with instructions; and "aye" on rollcall No. 340, final passage of H.R. 39.●

HOGS FOR LIVING

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. HARKIN. Mr. Speaker, I am sure that when most people, including many of my colleagues here in the House, think of hogs, they think of funny looking, quite ugly little animals whose sole function in life is to provide us with pork chops, bacon, and ham. While not downgrading the hogs' usefulness in those areas, and not trying to make the hog the beautiful animal that it is not, I do not believe the full range of benefits that we derive from this animal are known by very many people.

There is a famous photograph taken by Mr. Joe Munroe which depicts two hogs nuzzling each other. The picture has been widely reprinted on posters and on buttons. The buttons have the saying, "hogs are beautiful." The buttons evoke a lot of laughter because the simple fact is, hogs are not physically beautiful.

But like so many things, beauty is only skin deep. Hogs are, in fact, a beautiful animal whose worth to mankind goes far beyond hams, bacon, and pork chops.

A recent article written by Lyle W. Borg titled, "Hogs for Living" was issued by the Iowa Farm Bureau Federation. It told me many things about hogs which I had not known, although I felt that I had quite a bit of knowledge of the usefulness of this animal. We in Iowa are very proud of the hog; one out of every four hogs in this country is produced in Iowa. I hope that all Members of Congress have taken the opportunity to enjoy the delicious Iowa chop that is now on the House restaurant menu. I would like to insert Mr. Borg's article into the RECORD so that my colleagues will have a much better idea of the many benefits we derive from this beautiful animal:

HOGS FOR LIVING

(By Lyle W. Borg)

Thousands of Americans, including at least one famous actor, have the Iowa hog to thank for keeping them alive. They are the people who have had heart valves transplanted from hogs.

One of the more recent recipients of the heart valve was actor John Wayne. And since about one-fourth of all the hogs in this country come from Iowa farms, chances are it was an Iowa hog that provided Wayne with his heart valve.

It takes about six weeks to stabilize heart valves to preserve the tissue and make it more adaptable to the human body. With a self life of five years, the valves sell to hospitals for $600 to $1200 each.

There are a number of other human medicinal uses for parts of the hog.

Insulin from the pancreas of 130 hogs is used to keep one diabetic alive for a year. Porcine grafts of blankets of skin from hogs are used as temporary coverings for victims of severe burns. ACTH from a hog's pituitary gland is used to treat arthritic patients because it stimulates the human adrenal gland to produce more cortisone.

Material from the hog is also used to make drugs to treat peptic ulcers, whooping cough and bronchial asthma. Hogs provide blood thinner for individuals who are prone to strokes. Pig intestines are used for sutures and segments of the hog's liver go to treat anemia. Thyroxine from thyroid glands of hogs is needed for making pills for patients with underactive thyroids.

Iowa pork producers play an important role in providing a wholesome food product with by-products used for life-sustaining medical supplies.●

FALN BOMBS IN FOUR CITIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. McDONALD. Mr. Speaker, yesterday the FALN terrorist group took responsibility for bombs that exploded at the Department of Justice, at Kennedy International Airport in New York, at Newark International Airport in New Jersey, and in Chicago.

The four-city bombing spree came exactly 2 weeks after the four remaining witnesses jailed for refusing to answer grand jury questions were released on May 8 in New York following expiration of a grand jury that was attempting to investigate the terrorist group during the past 18 months. The four men, Pedro Archuleta of La Punta, N. Mex., a leader of the People's Agricultural Cooperative in Tierra Amarilla who was jailed last July; and the brothers Julio, Luis, and Andres Rosado had claimed that the purpose of the grand jury investigations was to destroy the Puerto Rican independence movement. But the reported questions at which the witnesses balked were related to their knowledge of fugitive FALN members Carlos A. Torres, his wife, Haydee Beltran Torres, Lucy Rodriguez, and her friend, Oscar Lopez Rivera.

Following their release on May 8, the spokesman for the group, Julio Rosada, told the press:

We neither support nor condemn the FALN.

The FALN has accepted responsibility for bombings in which five human beings have been murdered, and others in which scores of victims have been injured. The FALN's bombings have ranged from car bombs on the streets which scattered shrapnel through booby-traps to pipe bombs.

The FALN has openly boasted of its ties to the Cuban Government with its communique No. 6 stating in October 1975:

We especially acknowledge the moral support given to our organization by the Cuban people and government in a speech made by Prime Minister Fidel Castro in August in which he said that the Cuban government would do all it could to support the FALN.

The FALN is now in its 4th year of operation. With the drastic cutbacks in FBI domestic intelligence programs under the "guidelines" introduced by former Attorney General Edward Levi and continued under the present administration, the FBI is trying to fight terrorism wearing a blindfold and with its hands tied. According to the Secret Service, there are three American cities in which so little protection can be offered the President that they request he not enter.

Congress is responsible for holding hearings to determine the extent of the terrorist threat and for drafting appropriate legislation which will enable the Federal law enforcement and security agencies to effectively protect the American people from terrorist attack. One hundred seventy-six of my colleagues have joined with Representative JOHN ASHBROOK and me in cosponsoring House Resolution 48 which would restore the House Committee on Internal Security, the first step in the process of rebuilding this country's internal security defenses against terrorism.

I urge those of my colleagues who have not yet cosponsored House Resolution 48 to do so, and join in urging the Rules Committee to report this resolution out to the floor for a vote.●

BILINGUAL EDUCATION INEFFECTIVE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. McCLORY. Mr. Speaker, as a consistent supporter of bilingual education in order to aid primarily the children who come from Spanish-speaking homes, I am nevertheless disappointed in the lack of effectiveness of the bilingual educational program which is funded out of the Office of Education. A recent report points out the deficiencies in the existing bilingual education program.

An editorial which appeared in the May 22 issue of the Chicago Tribune emphasizes the shortcomings of bilingual education as presently administered. It is my view that the program should be overhauled with a view toward providing far greater local control—and responsibility.

The Chicago Tribune editorial follows:

[From the Chicago Tribune, May 22, 1978]

BILINGUAL ED CHALLENGED

A government-sponsored study of bilingual education has confirmed some of the most serious suspicions held about this program. Ostensibly intended to ease and speed the transition of children from non-English-speaking families into the mainstream of instruction in English, bilingual education inevitably attracted employees and constituents with quite another purpose—to develop and enlarge a non-English enclave within the public schools. The empire builders of course want a maximum number of pupils for a maximum length of time. Enrolling in bilingual education pupils with no need of their own to be there and keeping pupils longer than could be reasonably justified could be understandably tempting.

A report recently released by the federal Office of Education contains figures even worse than a prejudiced critic of bilingual education might have guessed. Less than a third of the 5,300 pupils in 38 projects reviewed had significantly limited command of English. And 85 per cent of the bilingual education pupils were kept in segregated classes after they were ready for instruction in English. The study also found that veterans of bilingual education did not get on

any better than similar pupils who had always been in regular classes.

These findings suggest that the public is not getting much for the $135 million that the federal government spent in the current year for bilingual education. The beneficiaries of this program appear to be the salaried employees, rather than the pupils.●

CONGRESSIONAL SALUTE TO RABBI DR. DAVID H. PANITZ, TEMPLE EMANUEL, PATERSON, N.J., UPON THE 35TH ANNIVERSARY OF HIS RABBINIC ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. ROE. Mr. Speaker, on Sunday, June 4, residents of my congressional district and State of New Jersey will join with the congregational families of Temple Emanuel, Paterson, N.J., in commemoration of the 35th anniversary of the rabbinic ordination and in deep appreciation of the outstanding record of service of a national and internationally renowned spiritual adviser, esteemed author, exemplary educator, community leader, distinguished citizen, and good friend, Rabbi Dr. David H. Panitz, whose standards of excellence in promulgating, enhancing, and preserving the richness of his Jewish religious and cultural heritage have truly enriched our community, State, and Nation.

Mr. Speaker, I know that you and our colleagues will want to join with me in extending our warmest greetings and felicitations to Rabbi Panitz; his good wife, Esther; their three sons, Jonathan, Raphael, and Michael; daughter-in-law, Jane; and grandchildren, Zimra and Obadiah, on this most joyous occasion and join with his family in great pride of his lifetime of achievement in devotion and dedication to the Jewish community and to all of our people.

Mr. Speaker, the people of my congressional district are singularly honored by, and wish to wholeheartedly commend to you, the distinguished and dedicated lifetime of outstanding public service rendered by Rabbi Panitz. At the helm of Temple Emanuel and ever steadfast to the ideals and principles of his alma mater, the Jewish Theological Seminary of America, he has not only endeared himself to his congregation and the Jewish community, but his interreligious and interfaith activities have truly redounded to the spiritual and moral integrity of all faiths and materially contributed to the spirit of brotherhood and truth of knowledge among all mankind.

As an educator and author, he has helped to strengthen the very basic fabric of our society, developing the minds and hearts of our people, young and adults alike, to work in greater harmony and good will in achieving life's purpose and fulfillment.

As a community leader, he has brought enlightenment and encouragement, aiding, comforting, and rehabilitating those in need of his good counsel and judgment.

As a friend, the warmth of his friendship and untiring efforts are boundless and we have been truly blessed by the inspiration of his good deeds and by his good example. I know I am proud and honored to be numbered amongst his many, many friends.

Rabbi Panitz's long list of exemplary achievements throughout his lifetime span the needs and concerns of all of our people, and with your permission I would like to insert at this point in our historic journal of Congress a brief biography which will provide you with some of his activities and responsibilities, as follows:

Rabbi David Hirsh Panitz, son of Nettie and the late Ezekiel Panitz, was born in Baltimore in 1918. He was educated in the public schools of that city, graduated from both the Academic and Teacher Training Schools of the Baltimore Hebrew College, received his undergraduate education as well as the graduate Master of Arts degree from the Johns Hopkins University, and was ordained in 1943 at The Jewish Theological Seminary of America, which later conferred upon him the degree of Doctor of Divinity, honoris causa.

A disciple of William Foxwell Albright at the Johns Hopkins University in Near Eastern languages, history and archeology, Rabbi Panitz taught Bible at the George Washington University in the nation's capital. He now teaches Homilectics in the Rabbinical School at the Seminary.

The Spiritual Leader of Paterson's Temple Emanuel since 1959, he earlier was Rabbi at Temple Adath Yeshurun in Syracuse, N.Y., at Congregation B'nai Jeshurun in New York City, and at Adas Israel Congregation in Washington, D.C.

Rabbi Panitz has fashioned an outstanding record of service to his congregational families, to the entire Jewish people, to Israel, and to the larger community. He is a Commissioner of the Paterson Board of Education; Chaplain of the Passaic County Jail; has just completed a fifteen-year tenure as Chairman of the Passaic County Alcoholic Rehabilitation Board; is national chairman of the Joint Commission on Rabbinic Placement of the Rabbinical Assembly, the United Synagogue of America and the Jewish Theological Seminary; national Co-Chairman of the State of Israel Bonds Rabbinic Cabinet; national chairman of the Inter-Religious Cooperation Committee of the B'nai B'rith Anti-Defamation League; Vice-President of the Jewish Conciliation Board of America; President of the New Jersey Board of Rabbis; Secretary of the Coalition of Religious Leaders of New Jersey; and is a member of the Plenum, the Domestic Policy Committee and the International Affairs Committee of the Synagogue Council of America.

Always active in inter-faith and inter-group endeavors, he has held high positions at the National Conference of Christians and Jews: has preached and lectured at scores of churches, colleges and civic organizations; has served, in Paterson, as Chairman of the Mayor's Brotherhood Committee, Co-chairman of the Commission on Jewish-Catholic Dialogue and Co-chairman of the Task Force for Community Action to Combat Poverty.

In Conservative Judaism, he has served as National Secretary, member of the Committee on Jewish Law and Standards and national chairman of the Committee on Regions for the Rabbinical Assembly; was a member of the Seminary's Rabbinic Cabinet, a Fellow of the Seminary's Herbert H. Lehman Institute of Talmudic Ethics and chairman of the Rabbinic Tutors Committee of the Seminary's Institute of Religious and Social Studies; and has served the United Synagogue of America on the National Youth Commission and chairman of the Committee on Peace and Religion of the Joint Commission for Social Action.

He has served the Synagogue Council of America as national chairman of the Broadcasting-TV-Film Commission, national chairman of the Commission on Social Justice, and head of its delegation to the Conference of Presidents of Major Jewish Organizations. Among other posts, he has served as President of the Louis Marshal Lodge of B'nai B'rith, Vice President of the North Jersey Jewish Family and Children's Service and long time chairman of its Child Care Committee, member of the National Rabbinic Advisory Committee of the United Jewish Appeal, member of the Board of Directors of the Jewish Federation of North Jersey and its Board of Jewish Education, chairman of the Paterson Board of Education's Adult Education Advisory Committee, chairman of the Passaic County Narcotics Rehabilitation Board, and has rendered more than 6,000 hours of volunteer chaplaincy services at the Barnert Hospital and Medical Center.

Rabbi Panitz is the author of "Studies in the Legal Responsa of Joseph Colon" (researches in 15th century Italian Jewish history), co-author, with his wife, of "Simon Wolf, U.S. Consule to Egypt", and of numerous articles and chapters in various books. He is married to the former Esther Leah Allentuck; they have three sons, Rabbi Jonathan A. Panitz (married to Jane Royal), of Salisbury, Maryland, Raphael I. Panitz, doctoral candidate at the University of Pennsylvania in Near Eastern Studies, and Michael E. Panitz, rabbinical student at the Jewish Theological Seminary, and two grandchildren, Zimra and Obadiah. The Rabbi's major relaxation comes from listening to his large collection of classical records and from reading in his personal library of more than 10,000 volumes.

Mr. Speaker it is a privilege and honor to seek this national recognition of Rabbi Panitz and all of his good works. I ask my colleagues here in the Congress to join with me in expressing our most sincere appreciation for the richness of his wisdom and quality of his leadership which have immeasurably contributed to our Nation's spiritual, cultural, and educational endeavors and the quality of life and way of life for all of our people. If he could but know the high esteem with which he is held in the hearts of our people and could but experience the pleasure and comfort that he has imparted to his fellowman over these many years, he would surely enjoy the abundant rewards of happiness and success which he so justly deserves. We do, indeed, salute Rabbi Dr. David H. Panitz, a good friend and great American.●

THE HIGH COST OF REGULATION

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. UDALL. Mr. Speaker, in an editorial in the March 20, 1978, issue of Newsweek magazine, Henry Ford II, chairman of Ford Motor Co., warned against the ever-increasing cost of complying with the rules and regulations of the Federal Government. Mr. Ford makes the point that we must increase the use of economic incentives in order to achieve our national goals, that we must use the carrot as well as the stick.

I have received permission from Mr. Ford to have the editorial reprinted here,

and commend it to my colleagues' attention:

THE HIGH COST OF REGULATION

(By Henry Ford II)

As I look at our country today, I see a powerful but uncertain and unsteady giant being trussed up in a growing web of rules and regulations to the point where it can no longer exert its strength freely and effectively. I am reminded of the story of Gulliver in the land of the Lilliputians.

Perhaps it's only a coincidence that the recent period of rapidly rising government spending and roughshod regulation also has been a time of high unemployment, slow productivity improvement, soaring government deficits and unprecedented peacetime inflation. But I don't believe it's a coincidence at all. Despite a mounting record of failure and frustration, our leaders have failed to grasp the fact that too much government inevitably leads to economic decay.

It is obvious to everyone—or should be—that the more government spends, the less wealth is left for productive investment as well as for private consumption. What is not so obvious—and our lawmakers and regulators apparently choose to ignore it—is that private spending to meet government requirements has similar consequences.

I am not arguing with the need for government action to conserve energy, reduce harmful pollution and protect the health and safety of all of us. But I am arguing with the tendency to sanctify each goal—to seek instant perfection with little regard for costs and consequences. In our national effort to solve common problems caused by our private choices, we have spent too much time on moralistic and ideological disputes and too little time seeking practical compromises. Our real task is to find the best balance between benefits to people as citizens and costs to people as consumers.

DESIRABLE GOALS

I am not at all reluctant to say that some automotive regulations have been needed. The industry simply did not respond quickly and effectively enough to the harmful side effects of vastly increased automotive usage in highly populated areas. And some obviously desirable goals such as reduced emission of pollutants and increased passenger protection in the event of accidents could not have been achieved as readily without uniform, across-the-board government mandates. In retrospect, I think it is fair to say also that the law requiring greater fuel economy in motor-vehicle use has moved us faster toward energy conservation goals than competitive, free-market forces would have done.

But the effect of even the most desirable law can be unnecessarily costly and disruptive to both manufacturers and consumers if it is interpreted in a narrow or punitive way by those who enforce the law. Regulatory decisions can have far greater impact than was intended or foreseen by those who enacted the basic legislation. To the extent that those decisions are biased or overzealous, there can be no hope of seeing the law carried out objectively.

INSIDIOUS POWER

There is a real danger that regulation will continue to feed upon regulation and become not so much a means to an end as an end in itself. With the labyrinth of regulations, many in Washington and elsewhere find themselves possessed of a power greater in some respects than that of the Congress or state legislatures.

It is an insidious kind of power. It lacks accountability to the people, has few real restraints and avoids any immediate public outcry because it does not make any direct or substantial demands upon the U.S. Treasury. The staggering cost of meeting regulations falls first upon the affected industry and its customers, and only later does the impact begin to be felt by the society at large in terms of general price rises, slower economic growth and fewer jobs. One of our critical needs today is a "sunset law" for regulations and regulatory agencies.

What the regulators evidently do not recognize is that they are forcing some fundamental changes in the structure of our economy. To the extent that some companies are unable to sustain the level of spending required by government regulation, they could find it necessary to cut back operations, reduce product lines or—at the extreme—simply go out of business. One automobile company has already dropped out of the heavy-truck business because, by its own account, it "could not keep pace with the growing list of government standards." Despite efforts by government throughout the years to prevent concentration in industry, the regulators are fast bringing us to the point where only the largest companies can survive.

What troubles me most about all of this is our apparent inability or unwillingness to recognize that there is something wrong about the way we look at our national problems and the way we try to solve them. We want clean, sparkling rivers and streams wherever we go. But must we close down all the industrial plants along their shores to achieve that goal? We want clean air. But is 90 per cent clean much worse than 99.9 per cent clean? We want safe motor vehicles. But can the vehicle alone guarantee absolute protection from accidents and injuries?

Several years ago, I went to Washington at the invitation of the late Sen Hubert Humphrey to testify before the Joint Economic Committee. I suggested that this country would be well-served if we introduced into the conduct of our national economy some of the planning concepts that are common in business. We had better know and understand all the factors that must be taken into account when we size up the economy and lay out our course for the future. We cannot have economic growth, balanced or otherwise, if we approach problems narrowly. We must know how each action affects another, and be willing to change or eliminate those that are counterproductive.

INCENTIVES

It seems to me also that we have made too little use of incentives in attempting to resolve many of our most difficult social and environmental problems. That's the essence of this economic system that has served our country so well for so many years. Even a donkey will respond to a carrot as well as a stick. The more we can encourage people—manufacturers and consumers alike—to want to do what should be done because it is demonstrably in their best interests to do so, the less damage will be done to our economy and to the society at large.

That assumes, of course, that we can arrive at some better way of deciding—by consensus—what our national priorities should be. To paraphrase Winston Churchill, never before have so few attempted to speak for so many with such devastating results.

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PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

© Mr. DOWNEY. Mr. Speaker, as an early cosponsor of H.R. 39, the Alaska lands bill, I was quite pleased that the House overwhelmingly approved this important conservation initiative on May 19. I was not pleased that I was somewhere between my district and the La Guardia shuttle when the final votes on the bill took place. Had I been present for our session on Friday, I would have voted as follows: Rollcall No. 337, "yea"; rollcall No. 338, "nay"; rollcall No. 339, "nay"; rollcall No. 340, "yea." ●

WHO KILLED JACK ARMSTRONG?

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. RHODES. Mr. Speaker, Walter Wriston, the chairman of Citicorp, one of the Nation's largest financial institutions, also is a very acute and penetrating observer of the economic scene, and he does not like the trends he sees developing.

For example, he is concerned about emerging attitudes that seem to denigrate individual initiative and creativity, the well-springs of our economy. Furthermore, he believes that Government, through high taxes and the increasing flood of regulations, has become a principal reason for such negative attitudes.

Mr. Wriston's views on these matters are ably and succinctly told in a column by Marshall Loeb that appeared in the May 1 issue of Time magazine. I commended it to my colleagues and I insert it in the RECORD:

WHO KILLED JACK ARMSTRONG?

(By Marshall Loeb)

The stock market has come alive, industrial production is growing like a young colt, and 4 million more Americans are at work than a year ago. Then why do so many people feel so skeptical and tentative about the economy?

Walter Wriston, probably the nation's most influential banker, thinks he has some answers. As chairman of New York's Citicorp, he is a gilt-edged Establishmentarian who gets an insider's rare look at loan-seeking corporations and bends elbows with their chiefs at the Metropolitan Club and the Greenbrier and the Business Roundtable. Yes, says Wriston, business should be strong both in 1978 and 1979, which is as far as anybody can foresee. But he is bedeviled by many questions about modern America, including who killed Jack Armstrong and whether Abe Lincoln could be elected today and what's doing with the Laffer Curve. Let Wriston explain three of the problems that he senses worry the nation:

The first is high taxes. "The taxpayers are in revolt. You see that in the Jarvis Initiative in California, which would drastically cut property taxes. You see it in people leaving New York State by the thousands and fleeing Massachusetts for New Hampshire. The attraction of the Sunbelt is not just the sunshine but that there is no income tax in Texas. Just about anywhere in the country, if local authorities try to raise taxes, citizens come over the wall in protest."

History's lesson, as University of Southern California Economist Arthur Laffer has shown in the so-called Laffer Curve, is that when taxes go up, economic activity goes down. Empires from Rome to Britain reached their fullest flower when their taxes were low, Wriston remarks, and started to self-destruct as taxes rose. Americans feel uneasy about their economy, partly because federal, state and local governments tax away 29% of the gross national product.

Warns Wriston: "We are getting very close to the point where high taxes will cause the economy to deteriorate."

The country is also upset about the spread of Government regulation. "What worries me," Wriston says, "is that General Motors and Citibank have a fighting chance of obeying all the new regulatory laws because we have the staff and the big-time lawyers to do so. But most small business people do not. They cannot even find out what the law is. There are, for example, 1,200 interpretations by the Federal Reserve staff of the Truth in Lending Act. Now 90% of the more than 14,000 commerical banks in the country have fewer than 100 employees. If you gave every staff member those regulations and started them reading, they wouldn't be finished by next year.

"The same is true if you go into the neighborhood delicatessen or laundry and ask about the Occupational Safety and Health Act. 'Hey, are you obeying OSHA?' And the guy behind the counter sneers, 'Osha, gosha, forget it!' If the majority of people ignore the law, it will stop the vitality of our country—the voluntarism on which it is built."

Finally, Wriston is troubled that "success is no longer perceived by large groups of people as being success. It used to be that if you were Henry Ford and got three fellows and a monkey wrench and built a great company, people gave you flowers. Today, if you create a great company, people take potshots at you because they think that behind every success there must be some dirty secret."

Take IBM, "One of the few scientific edges that we still have on the rest of the world is in computer hardware and software," says Wriston. "So the Government is suing to dismember IBM. The question is: What is the public good of knocking IBM off? The ultimate conclusion to all this nonsense is that people will cry, 'Let's break up the Yankees—because they are so successful!'"

Success is under suspicion, heroes are under attack. "I claim that Jack Armstrong, the all-American boy, died a long time ago," Wriston continues. "And today, Abe Lincoln could never be nominated. Abe Lincoln, the fellow who did not show up at his own wedding. Abe Lincoln, who, after Ann Rutledge died, was certifiably crazy and was found wandering in the woods, mumbling to himself. Can you imagine what a great story that would have made on Channel 7? The sad fact is that we are scrutinizing our leaders and our institutions in the kind of close detail that no human being and no institution can survive."●

TUITION TAX CREDITS: THE ILLUSORY "ONE-LINE ENTRY"

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. FORD of Michigan. Mr. Speaker, the proponents of tuition tax credits argue that this approach provides benefits to families through a "simple one-line entry" on the tax form. Just how simple is it?

The supplementary schedule for determining a taxpayer's eligibility for a postsecondary tuition tax credit and the amount of the credit would include at least the following items:

First. Are you a full-time or qualified part-time student? Did you, during any 4-month period of the tax year, attend an educational institution full time or did you take at least one-half of a full-time load during any 8-month period of the tax year? (Students attending less than half-time are ineligible.)

Second. Did you pursue your studies at an eligible institution? (H.R. 12050 cross-references sections 491(b) and 1201(a) of the Higher Education Act for the definition of "institution of higher education." Not all institutions of higher education are eligible under these definitions; for example, of the approximately 8,000 postsecondary proprietary schools, only about 1,500 are eligible institutions.)

Third. Did you pursue a general course of instruction leading to a baccalaureate or associate degree or for a certificate at a postsecondary vocational school? (Graduate and nondegree students are ineligible).

Fourth. Are you claimed as a dependent by any other taxpayer, or in the case of a spouse, are you claimed as a personal exemption by the taxpayer or are you filing a joint return?

If you answer "yes" to questions 1, 2, and 3 and either "no" to the first part of question 4 or "yes" to the second part of question 4, you are eligible for a tax credit.

Compute the tax credit as follows:

First. Add together all tuition and required fees. (Definitions would be required to specify which among the wide variety of charges levied by eligible institutions are to be considered as "tuition and required fees".)

Second. Add together the sum of all scholarship and other educational assistance paid wholly or in part for tuition and required fees. Scholarships and other educational assistance designated entirely to cover tuition and required fees are added to that portion of other scholarships and other educational assistance which could be attributed to paying for tuition and required fees. Such an allocation is computed as follows: Compute total educational expenses (detailed instructions would be required to define what could be counted in computing total educational expenses), compute the percentage of total educational expenses that is attributable to tuition and required fees, compute the same percentage of the scholarship.

Third. Subtract the sum obtained under 2 from the sum obtained under 1.

Fourth. If the remainder obtained under 3 is greater than zero, multiply that remainder by 25 percent.

Fifth. Enter on form 1040 either $250 or the product obtained under 4, whichever is less. (This is the "simply one-line entry," which the taxpayer receives only if he has a tax liability.)

The Internal Revenue Code and Treasury Regulations currently contain 173 pages of provisions defining and explaining matters like "student," "educational institution," and "educational expenses." If a tuition tax credit were adopted, these regulations would need to be substantially amplified and revised. For example, section 151 of the Internal Revenue Code defines "educational institution" as "an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students at the place where its educational activities are carried on." This definition clearly excludes some types of educational institutions eligible under the Higher Education Act, for example, home study schools and extension programs. The mention of "regular faculty," "curriculum," and "regularly organized body of students" represents a very traditional view of education and has the potential for both retarding new development in the delivery of educational services as well as intruding in the autonomy and independence of educational institutions.●

DOROTHY BAYLOR, AN OUTSTANDING GEORGIAN

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. JENKINS. Mr. Speaker, it is with great pleasure that I acknowledge and congratulate an outstanding Georgia educator, Mrs. Dorothy Baylor.

Mrs. Baylor was recently inducted into the Georgia Teachers Hall of Fame. Every year, WSB–TV in Atlanta and the Georgia Association of Educators select one teacher for the Hall of Fame. As this year's selection, Mrs. Baylor was honored at the annual Georgia Association of Educators' Awards Banquet.

A teacher for 30 years, Mrs. Baylor has been teaching in the Gainesville school system since 1962. The food services teacher comes from a long line of teachers. Her grandmother was the first black teacher in Walker County, Tex.

Awards are nothing new for Mrs. Baylor. She received the State Teacher of the Year Award in 1969 for the Georgia Teachers and Educators Association and the Georgia State Chamber of Commerce. She was State Home Economics Teacher of the Year in 1974. Earlier this year she was named Teacher of the Year in the Gainesville school system, an honor she received earlier in 1971 and 1972.

In 1973 she was selected Outstanding Secondary Educator of America. The Gainesville Parks and Recreation Department gave her its Service to Recreation Award in 1970.

Mrs. Baylor received her bachelor of science degree from Huston-Tillotson College (Texas Southern University) in Austin, Tex. in 1947 and studied there again in 1961–62 on a scholarship from the Natural Science Fellowship Foundation. She received her master of education in home economics in 1967 from the University of Georgia.

She is married to L. C. Baylor, the principal of Miller Park School in Gainesville. They have three children; Carolyn, Marie, and Kimberly.●

TRADE REGULATION RULES

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. ECKHARDT. Mr. Speaker, on Wednesday of this week, the Appropriations Committee is scheduled to take up the Federal Trade Commission's appropriations bill. At that time, the committee will be confronted with a controversial amendment to the bill voted by its Subcommittee on State, Justice, Commerce, and Judiciary. This amendment could prohibit the Commission from limiting, through trade regulation rules, the advertising of food products determined by the Food and Drug Administration to be safe for human consumption, even though the advertising of such products may be unfair or deceptive.

The subcommittee's amendment has produced much concern. I would like to share with the Members one letter dated May 18, 1978, to the chairman of the Appropriations Committee which urges that committee to overturn the amendment. The letter was transmitted in behalf of over 20 organizations representing such interests as consumer protection, labor, health, and education:

MAY 18, 1978.

HON. GEORGE H. MAHON,
Chairman, Appropriations Committee,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: We, the undersigned, were deeply dismayed by the May 2 vote of the Subcommittee on State, Justice, Commerce and the Judiciary to attach to the Federal Trade Commission's appropriations bill a legislative provision which would forbid the use of any FTC funds to limit advertising of any food product containing ingredients which the Food and Drug Administration has determined to be generally recognized as safe.

The Subcommittee's discussion indicated that the chief objective in attaching the rider was to prevent the FTC's proposed inquiry and rulemaking concerning television advertising directed primarily at children. The trade press has reported that over 45 representatives of manufacturers, advertisers and broadcasters have united to combat the FTC's inquiry and proposed rule. On the basis of the Subcommittee's vote, it appears that the first effort has resulted in victory for these forces, which reportedly have raised a $2 million war chest to finance their efforts. Such political interference in the independent regulatory process prior to the fact-finding phase sets a dangerous and reprehensible precedent.

Based on the information discussed below, rather than on the misinformation used to promote the appropriations rider, it is hoped that the full Appropriations Committee will serve the public interest by reversing the Subcommittee's action.

First, we submit that the action taken by the Subcommittee was beyond the bounds of its appropriations jurisdiction. The rider is a legislative measure which should have been considered, if at all, by the House Committee on Interstate and Foreign Commerce, which has the requisite authorizing jurisdiction. If the Subcommittee action is not reversed, it will encourage other subcommittees to use this mechanism for anti-consumer purposes and to prevent legitimate regulatory agency activities.

Second, it was incorrectly asserted before the Subcommittee that the FTC's proposed trade regulation rule on children's advertising is duplicative regulation which represents FTC incursion into the jurisdiction of the Food and Drug Administration. In fact, there is a clear delineation of food regulation responsibilities between FDA—which regulates food manufacturing and labeling—and FTC—which regulates food advertising. FDA has no authority to act in the area addressed by the FTC proposal. Further, FDA Commissioner Donald Kennedy and HEW Assistant Secretary for Health Julius Richmond are both on record in support of FTC's inquiry into the facts and the law which pertain to the issue of whether certain aspects of advertising directed to children may constitute violations of Section 5 of the Federal Trade Commission Act.

The children's advertising issue has been trivialized as "the National Nanny." Such a cavalier dismissal of the issue is unfair to parents, health professionals, educators and consumers who are deeply concerned about the issues associated with highly sugared food products and advertising practices which seek to influence young children's product preferences. A recent consumer attitude survey conducted by Yankelovich, Skelly and White for the Food Marketing Institute, shows that 60 percent of the public feel deeply enough about this issue that they would be willing to accept fewer children's programs in exchange for a complete ban on TV advertising directed to children under the age of 12. Moreover, those who attempt to criticize FTC's initiative overlook the substantial health issues raised by advertising products associated with tooth decay.

Cutting off FTC's inquiry at this preliminary stage in the proceedings also will forestall industry efforts at improved self-regulation with respect to children's advertising. We note (with approval) that Group W stations indicate a willingness to reduce the total number of commercials directed at children. It is doubtful that such efforts as this will be undertaken if Congress removes by legislation the incentives for industry self-examination and voluntary reform created by the FTC's proposal for a government inquiry into the issues.

We call on you to ensure that the FTC fulfills its public interest and consumer protection obligations by acting to reverse the Subcommittee vote and reporting the FTC appropriations bill to the House floor without the Subcommittee rider.

Sincerely,

American Association of Colleges for Teacher Education.
Americans for Democratic Action.
American Public Health Association.
Citizens Communications Center.
Community Nutrition Institute.
Consumer Federation of America.
Johanna Dwyer, Ph. D., Director, Frances Stern Nutrition Center, Tufts New England Medical Center.
American Federation of State, County and Municipal Employees.
American School Food Service Association.
Center for Science in the Public Interest.
Coalition of Black Trade Unionists.
Congress Watch.
Cooperative League of the U.S.A.
Food Research and Action Council.
Mary Goodwin, Chief Nutritionist, Montgomery County (MD), Public Health Department.
Thomas B. Hargreaves, Jr., General Executive, YMCA of Greater Washington.
National Committee for Citizens in Education.
National Consumers League.
The Children's Foundation.
United Steelworkers of America.
Eleanor Williams, Ph. D., Assistant Professor of Nutrition, University of Maryland.
Joan Gussow, Ph. D., Chairman, Department of Nutrition, Teachers College, Columbia University.
National Citizens Communications Lobby.
National Congress of Parents and Teachers.
National Education Association.
United Auto Workers.
Washington Association for Television and Children.●

BRITISH WITHDRAWAL FROM NORTHERN IRELAND ENJOYS WIDE PUBLIC SUPPORT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. BIAGGI. Mr. Speaker, the May 20 edition of the Irish Echo, the largest Irish American newspaper contains an important editorial dealing with the subject of British withdrawal from Northern Ireland. It cites a recent Gallup poll conducted which showed that a majority of the British people have indicated their wish for Britain to withdraw its troops from Northern Ireland.

Last week's Irish People released the results of a poll conducted in Ireland by the BBC. This poll indicated that 75 percent of adults surveyed in Southern Ireland and a whopping 91 percent of those living in the so-called border counties want Britain to make a political and military withdrawal from Ireland.

This message is consistent with the intent of House Concurrent Resolution 478 which I have introduced calling on Britain to make a declaration of intent to withdraw from Ireland. I do not advocate an immediate withdrawal for this could have drastic consequences. However the time is long overdue for Britain to make their intentions known relative to a gradual diminution of their control over Northern Ireland. My resolution has some 25 cosponsors at the present time.

It is my hope that the resounding opposition of the British and Irish people will provide an impetus for action by the Irish and British Governments to develop a plan for the gradual withdrawal of the British rule over Northern Ireland.

I maintain this is a fundamental prerequisite for peace in Ireland and should be given every consideration. As chairman of the 105 House and 1 Senate Member Ad Hoc Congressional Committee for Irish Affairs which is dedicated to the cause of peace in Ireland I am pleased to insert the Irish Echo editorial entitled "Another Call for Withdrawal":

ANOTHER CALL FOR WITHDRAWAL

Once again, as they have for several years now, a majority of the British people have indicated their wish for Britain to withdraw its troops from Northern Ireland.

A recent Gallup poll again shows this, yet when it comes to Ireland, the British Government seems to ignore majority sentiment.

Most Britons clearly feel that their troops are not doing any good in Ulster and their continued stay there will not bring a lasting peace in the troubled area.

The logical course for the British Govern-

ment is to develop a time table for withdrawal. It will happen, eventually, whether or not there is British declaration.

But if Britain does not announce a plan to get out, bloodshed will continue with intermittent "false peaces."

A phased withdrawal of troops over a period of perhaps years can be the first step towards settling the age old problem.●

PEACEFUL USES OF OUTER SPACE—THE POSITIVE POTENTIAL OF SATELLITES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. BROWN of California. Mr. Speaker, a recurrent concern of this body and others is the threat of new weapons of destruction, and new avenues for war. Only a few regions of the world are considered nuclear-free zones, and even fewer are demilitarized. One of the few regions of our fragile planet that is, by treaty, nuclear weapons free, is outer space.

Even though nuclear weapons are banned from space, it is common knowledge that the United States and the Soviet Union have extensive military intelligence satellite networks, one of whose purposes is to assist in the readiness for nuclear war. There are other, much more benevolent uses of satellites, and an enormous potential from which all nations and all peoples could benefit. A few presently known peaceful uses of space are climate and weather forecasting, crop monitoring and forecasting, mineral prospecting, and communications of all kinds.

Outer space, and especially near space, is a global resource that we all share. Our ability to use this resource is barely 20 years old, but already we can see the enormous creative potential of satellites. One of the most thoughtful concepts for using satellites as a force for peace is advocated by Howard G. Kurtz, a fact which is well known by many of my colleagues. Today, as the U.N. Conference on Disarmament begins in New York, I think it is especially timely to consider the views of Howard Kurtz, and his late wife, Harriet. I hope to have an opportunity in the near future to sponsor a seminar on this topic, and invite every Member of the body to attend.

At this time, I ask unanimous consent to have a column by President Ford's first press secretary printed in the RECORD. This column by J. F. terHorst succinctly describes the concept of Howard Kurtz.

The column follows:

[From the Los Angeles Times, May 22, 1978]

SECURITY BY SATELLITE—AN IDEA FOR PEACE

(By J. F. terHorst)

The mark of genius, it has been said, is not perfection but originality, the opening of new frontiers. By that definition, Howard Kurtz must be elevated from the ranks of utopian schemers, and placed in the company of pioneers for peace.

For more than a quarter-century, Kurtz and his late wife have nurtured a simple idea for enhancing global security. It is so ingenious that it takes your breath away. Yet it is so morally attuned to the nuclear age and so technically practical that some people in high places are beginning to listen.

What it will need, eventually, is a decision by a President, this one or the next—a decision on the magnitude of John Kennedy's resolve to make America the No. 1 nation in space exploration.

To understand Kurtz's idea, it is first necessary to leap beyond all conventional arguments and proposals for achieving security, and thus peace, between the superpowers and among other nations.

Can peace be achieved by the continuing arms race, the doctrine of more and "better" nuclear weapons so destructive that America and the Soviet Union would be mutually deterred from using them? Kurtz thinks not.

So long as both sides continue to distrust each other, he reasons, not even a strategic arms limitation treaty will stop the superpowers from secretly improving their arsenals. They may talk of nuclear equality, he says, but neither will be comfortable without privately believing that its weaponry is superior.

Can a peaceful world be achieved through disarmament? Kurtz is too cynical about human nature to think that it can be achieved on a global scale any time soon. And unilateral disarmament, he says, would be foolhardly.

As for notions of voluntary one-world government, he finds that illusory. The earth's people are too different, the regions too complex, to make it workable. Only a dictator with the force of arms would think it possible.

So what, then, does Kurtz have in mind? Would you believe—"security by satellite"?

Kurtz proposes that existing space technology be employed to achieve what he calls "an open world." He argues that the United States could initiate a global information service through which a system of orbiting satellites would provide all nations with instant intelligence about everyone else—military, economic, environmental.

The data collected by a greatly expanded, earth-scanning network of satellites would keep all nations aware of the war capabilities of all others. Such a body of knowledge, kept current by the daily satellite sweeps across the sky, would be the basic security blanket for every country. It would be a sort of Space Age moat around the castle.

We already are doing some of that. So are the Russians. Spy satellites keep track of missile sites and troop movements, and follow submarines under the seas. The sky spies have made possible a series of American-Soviet weapon pacts, since they overcome Russian objections to on-site inspections of nuclear bases. Each side can verify the other's actions.

One existing Landsat in orbit already scans the earth to distinguish, using infrared light, 17 kinds of crops, plus soil conditions, rainfall and potential crop yields. Satellite prospectors can plot new mineral deposits on land or under water. But 98% of Landsat data, obtained over other countries, is held secretly by the United States for intelligence purposes.

Kurtz says America, without sacrificing its own security, could brake the momentum toward nuclear Armageddon by establishing a "global information cooperative." It would use techniques already available to the National Aeronautics and Space Administration.

Kurtz is an Air Force officer turned management consultant. He and his wife, Harriet, an ordained minister who died last year, have been fostering the concept of security by satellite since the dawn of the Space Age. They had formed a small, nonprofit organization called War Control Planners, Inc.

Lately, some influential persons have paid attention: Chairman Olin E. Teague (D-Tex.) of the House Science Committee; Sen. Adlai E. Stevenson (D-Ill), who chairs the subcommittees on space science and intelligence collection; Sen. Edward M. Kennedy (D-Mass.), who heads the congressional Office of Technology Assessment, and the presidential science adviser Frank Press.

Kurtz's articles have appeared in various military journals and scientific periodicals. NASA administrator Robert A. Frosch says Kurtz "is on the right track."

"The technologies available today for gathering worldwide information and for its redistribution are certainly well enough advanced to warrant consideration of an operational global environment and resources system," Frosch said. "In its earliest configuration, such a national system for world use need not, in my opinion, have a major budgetary impact."

The space agency, incidentally, has begun work on a "conceptual design" of such a system. The mood of the country and perhaps the globe, Frosch thinks, "would be receptive to a dramatic political and practical initiative along these lines. The long-range implications for civilization . . . can only be positive."

If President Carter wants to back the world off the nuclear brink, if he is looking for a way to enhance every nation's security without eroding America's, he ought to talk to Kurtz and Frosch's team at NASA. He may find there an idea whose time has come.●

THE USO AND THE UNITED WAY

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. HARKIN. Mr. Speaker, on March 17, 1978, Leo Perlis, director of the Department of Community Services for the AFL–CIO, spoke to the biennial conference of the USO National Council in San Antonio, Tex. Mr. Perlis is also a member of the board of governors of the United Way of America. While Mr. Perlis' remarks were mainly geared toward the USO and the United Way and the relationship between the two groups, I believe there is another message that comes through in his remarks. What is clear is that Mr. Perlis has a deep faith and belief in the power and the value of volunteerism in maintaining a free and democratic society. Mr. Perlis correctly points out that the "association of free men and women in organizations of their own choosing designed to serve the common good" is really the "heart and soul of the democratic society."

Also, Mr. Perlis has some criticisms about the method in which United Way has related with USO. While I have always been a supporter of United Way, I have also been a long supporter of USO, since I spent a great deal of my life in the military. While I am in no way qualified to comment on the criticisms that Mr. Perlis has leveled at the United Way, I do know Mr. Perlis and I know of his deep commitment to voluntary agencies and of his sensitivity to the problems that they encounter.

Mr. Speaker, I believe my fellow Members will find the printed remarks of Mr. Perlis to be most interesting and informative:

THE USO AND THE UNITED WAY: ACCOUNTABILITY IN A FREE SOCIETY*

(By Leo Perlis)

I am no Johnny-come-lately.

I have served on the board of directors of USO and I have served on the board of governors of the United Way.

I have helped to found a local united fund, and I have helped to develop a USO camp show abroad.

I have worked, as a volunteer, for both—and for more than thirty years—and in many different ways.

God knows, I have done my fair share of organizing, speaking, promoting and writing—and, perhaps, even more than my fair share of hell-raising—in and out of them, but always for them.

I have attended a thousand and one meetings up and down the country and back—and I think I have developed a chronic case of deja vu.

And what have I learned?

I have learned the old lesson—that well-intentioned men and women can be right—and wrong—all at the same time.

It isn't much of a lesson, to be sure, but it does serve as an antidote to self-satisfaction.

It is, after all, a condition endemic to all mankind, a sort of humane malaise—a constant reminder of our own fallibility. And the United Way is no exception.

Take such words as democracy, accountability, voluntarism, government and responsibility—five simple words which many agencies bandy about and which high school seniors are expected to spell—and what do we get?

A "democratic" agency controlled by corporate executives.

A "voluntary" agency subsidized by government funds.

An "accountable" agency responsible only to a self-perpetuating board.

A "responsible" agency unresponsive to people's needs.

A "responsive" agency—more to some than to others.

As the King of Siam once said: "It's a problem."

But it is a problem which is inherent in both the human condition and the free society.

That's life—and it's tough all over. But life is more simple in other places—such as prisons and slave states.

In Russia and China, for example, the five words mean what the rulers say they mean.

In America, even the dictionary does not count for much—as any Washington regulation writer can readily confirm.

In America, not only the government but all citizens and all organizations are free to define their own terms.

It is somewhat chaotic, of course, but it does provide full employment for lawyers who, given the chance, can complicate the complex. But it keeps us free—free to be right and free to be wrong and, if we are lucky enough, free to be wise.

Thank God for America.

Let other countries keep their own wonders. Let the Chinese keep their great wall, and the Russians their big dam. Let the Egyptians keep their pyramids and the Indians keep their Taj Mahal. Let them all keep their own hanging gardens—but, please God, let America keep its freedom and its volunteers.

These—our freedom and our volunteers—are the two wonders of America. They go hand-in-hand, and they are a beacon of light and hope to the world.

This is the American Way.

And both USO and the United Way are living symbols of the American way.

But, if democracy is to survive in a pluralistic society confronted by internal problems and external dangers, it is essential that we find many areas of agreement among ourselves—even though we may differ at the ballot box, the bargain counter and the bargaining table.

One such area for potential agreement is the voluntary agency—the association of free men and women in organizations of their own choosing designed to serve the common good.

That's the heart and soul of the democratic society.

For the purposes of the democratic society, the voluntary agency is not only a means but also an end in itself. If it serves no other purpose, it serves in being.

To use a now old fashioned phrase, the volunteer is not only the medium but also the message.

Here I can think of no better example which reflects the genius of America for voluntary action than USO.

The military is, in its very nature and by its very mission, authoritarian. All who serve must obey. But all who obey must remember that their mission is not only to protect American security but to defend American democracy.

This, too, is the American way.

And the American way is the free, open, flexible, responsive, pluralistic society.

The USO is there to remind them—and to remind us—that USO services are important, but that USO volunteers are even more important. The very presence of a civilian volunteer is a constant reminder to the military volunteer that, basically, both share not only the same home but also the same hope.

It was difficult, therefore, for me to understand why the United Way's CONAS (Committee on National Agency Support) recommended in 1974 "that USO not be considered for financial support by local United Way organizations for 1975."

It was just as difficult for me to understand why people who promote voluntary action as a way of preventing government intervention would suddenly leave it to the military.

"Let the Pentagon do it," they said in effect, as if the Pentagon were some voluntary road show—or turnverein.

The beauty of it all is that ironies never cease, but, unfortunately, USO cannot live on beauty alone. It needs bread. As a result of the United Way-CONAS action, it has been getting less and less of it with each succeeding year.

Even the reversal by the blue ribbon fact-finding committee (or was it the red faced—face saving committee) which the United Way helped to establish in response to protests—including our own hell-raising—did little to help. The damage was done. USO's support declined from $4.1 million in funding year 1973, to $3.3 million in 1974, to $2.4 million in 1975, to $2.1 million in 1976, and to less than $2 million in 1977. The United Way reversed itself but kept the faith—a neat trick.

But, if it makes you feel any better—which I doubt—USO can take perverse pleasure; it is not the only national agency kicked out or kicked around by the United Way and CONAS. There are others.

The fact is that most—if not all—national agencies have been given short shrift by the United Way of America and by many local United Way organizations.

Even with a CONAS seal of approval, the going is rough. Why?

First of all, CONAS means control and not cash.

But there are many other reasons, old and new.

Among the old reasons are provincialism, lack of local constituencies, a locally perceived need for keeping the dollar in the local community to meet local needs, and there just is not enough voluntary money to go around—despite those who keep saying, "keep the government out, let the voluntaries do it all."

But there are some new reasons, and they are often veiled in words—such words as "accountability" and "responsibility."

I have heard both words used at board meetings of the United Way of America. I got the impression that the United Way of America thinks of itself just as accountable as other national voluntary agencies—except more so. The United Way considers itself, after all, as the duly elected representatives of givers. And in a very limited sense it is. But that is a subject for another speech.

For the purpose of this meeting, however, it is sufficient to note that the United Way movement has become so public-relations minded that it is beginning to believe its own handouts.

It is my impression that the United Way believes that people give (and should give) to the United Way—and not through the United Way.

It is my judgment, however, that people give (and should give) through the United Way. And it is my guess that that's the way most of our own members feel about it—and they do give a lot.

They give to the YWCA and they give to the Girl Scouts, they give to Family Agencies and USO and all the other services—through the United Way.

The difference between "to" and "through" is the difference between accountability and control. The difference between "to" and "through" is the difference between master and servant.

If givers give to givers' funds, and if that is what they knowingly want to do, then they may be wrong—but it is their business. But if they give to givers' funds and what they want to do is give through givers' funds, then we have a problem with United Way perceptions, programs and publicity, including the principles of planning, budgeting and federation itself.

I, for one, think we have a problem, a problem which can be solved not by extreme positions but by common sense.

During the past seven years, since the reorganization of the somewhat moribund United Community Funds and Councils of America, in belated response to the seething sixties, the United Way has made the kind of power play which should disturb all those who believe in democratic community organization, sound social planning practices, agency integrity and pluralism right across the board.

Under the cloak of accountability, the United Way has 1) diminished the national agency, 2) taken control of local planning, 3) attempted to compete with agency programs, 4) almost destroyed The National Assembly, 5) starved the Council on Social Work Education, 6) kept professional and religious leaders off the boards (as if laymen have a monopoly on wisdom) and 7) used soft words to drown hard facts. And these are only a few.

But all this, of course, is nothing new to the national agencies.

On June 22, 1977, we called a meeting of 19 national agencies in Washington to explore their concerns. On September 29, the meeting was held, and 18 agencies were represented, USO among them.

As a result, the agencies will appear before the board of governors of the United Way of America in Detroit on April 30. I hope the agencies, despite their fears, ingrained caution and courteous demeanor, will come clean with all their concerns and in concrete terms. Even the most painful

*Address, Biennial Conference of USO National Council, San Antonio, Texas, March 17, 1978.

truths can be put in polite terms. And I hope the United Way board does not look upon the singular concerns of the national and local agencies only in context of their own established and projected United Way programs. The United Way needs to take a fresh look at what has happened during the past seven lean years. I know this isn't always easy. The haze of good fellowship, happy board hours, good publicity and the self-confidence that is the hallmark of the all-powerful have the same mesmerizing effect as a dry martini and a good cigar—but I am sure they will give it a whirl. At least I hope so. And the sooner the better.

And when they do, they should ask themselves these questions:

1. What is the difference between control by an overpowering voluntary agency and an overpowering governmental agency?
2. Is such a voluntary agency more democratic than a governmental agency?
3. What is the basic difference between continuous payroll deductions (without education, representation and service) and taxation?
4. Is the board of the United Way really more accountable and more responsible than, say, the boards of USO or USS or WWCA? And to whom? And how?
5. With all due respect to the importance of managerial competence, can and should a human service agency (which is what the United Way of America is) be run like a "business"? And with year 'round hotel suites yet, and other gadgetry made in Taiwan no less?
6. Does a human service agency gain greater credibility among corporate leaders by using business jargon rather than, say, social work jargon—and why? CE, MBO, CONAS, UWASIS, Etc.
7. Why shouldn't agencies be represented on United Way governing boards? And sociologists and urbanologists and social workers and clergymen? Have they nothing to contribute?
8. Wouldn't it be better for people if local community planning councils were representative of all interests and independent of any single interest, including the United Way? Or labor or management or social work?
9. Why not reorganize the United Way and its annual meetings to make them more representative and more responsive to consumers and providers as well as to givers?
10. Wouldn't it be more realistic to say that, on the whole, the usefulness of voluntary agencies in a democratic society is not to prevent government responsibility but to counterbalance big government?

There is a myth abroad that voluntary agencies are in the vanguard of progress. Well, you can't prove it by my own experience.

It was, after all, only when the government required the adoption of a nondiscrimination policy by each agency to qualify for admission in the Combined Federal Appeal that the United Community Funds and Councils of America resolved that discrimination was bad.

This is one example. There are others.

I remember the time on the UCFCA board when I couldn't get a second to a motion to condemn the ouster of Urban Leagues by several local United Funds, and I remember when my second motion for the appointment of a committee to explore the intimidation by White Citizens' Councils of local United Funds vis-a-vis the Urban League was overwhelmingly defeated.

Well, some say, timing is what counts. I said to them then and I say to them now that on moral and ethical issues the time to act is now.

And the fact is that it isn't all that difficult to act on basic moral and ethical issues such as racism—if you are not wrapped up in situational ethics and if you are willing to pay a small price.

It is more difficult, however, to act on social and economic issues where the difference between right and wrong isn't always all that clear. It is here that we need yardsticks. What is good for the United Way isn't one of them. What is good for USO isn't one of them.

To my mind, an agency should be measured by the following yardsticks:

1. Is it good for the people?
2. Is it good for America?
3. Is it good for the democratic society?
4. Is it an effective and efficient means to achieve these ends?

After measuring the USO by these yardsticks, I say yes to the first three counts and a qualified yes to the fourth.

USO is good for the people. It serves them. USO is good for America. It serves the men and women who serve America.

USO is good for democratic society. It serves democracy by reaching the military and by being itself a voluntary association of free men and women—volunteers all.

USO can be more effective if the United Way will fund it.

And if not, all of us must.

Either way—it is our money.●

TUITION TAX CREDITS: LITTLE HELP FOR A FEW

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. FORD of Michigan. Mr. Speaker, many Members of the House apparently feel that if they vote for H.R. 12050, the tuition tax credit bill, they can claim they have cut their constituents' taxes. If the bill passes, however, most constituents will be dismayed to find that it provides little or no help for them:

Of the 74 million families and individuals in separate households in the United States, only about 10 million have sons or daughters in college.

Of these 10 million families, many would not receive any tax credits. Under H.R. 12050, they would be ineligible if they are:

Families of the 5 million students enrolled in graduate schools or enrolled in college on less than half-time basis.

Families who pay no Federal income tax, whose 500,000 students are enrolled at least half-time.

Families of the 800,000 students enrolled at least half-time in institutions which do not charge tuition.

This leaves about 6 million families of some 7.2 million students eligible to receive tuition relief under H.R. 12050. Many of the families in this group would not receive the maximum $250 credit, however. The full amount would only be received by families of students attending institutions where the tuition, net of a prorated amount of any Federal State or private grant aid, is at least $1,000.

Therefore, it is certain that a majority of families who may be eligible for the tax credit would not receive the full amount, because annual tuition at any community college is well below $1,000; only 12 public 4-year colleges currently charge more than $1,000 for in-State students; and many students in private colleges (which enroll about one-quarter of all students) pay tuitions under $1,000 net of grant assistance from Federal, State or private sources.

Thus, the full $250 tax credit would only be available to a small percentage of American families, primarily those with students attending private or public out-of-State institutions and who pay tuitions in excess of $1,000 net of grant assistance.●

A. J. JR.—DISCO KING

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. CLAY. Mr. Speaker, I want to take this opportunity to share with my colleagues a phenomenal success story of one of St. Louis' youngsters:

[From the St. Louis Post-Dispatch, May 21, 1978]

A. J. JR.: DISCO KING

(By John M. McGuire)

Forty-two years ago, the first Cervantes of St. Louis landed in California, bags in hand, brimming over with a promoter's chutzpah, a young man thumbing his nose at the Depression. He was in the Golden West, land of opportunity and rumba contests.

Twenty-nine years later, the same Alfonso J. Cervantes, who had promoted rumba contests at various Hollywood night spots in the late 1930s for a percentage of the gross, was back in the solid heartland, taking on a new job—politician-promoter, mayor of St. Louis.

Southern California, however, had not seen the last of the Cervanteses.

"I'm amazed myself, to be honest. The overhead would scare you to death. Yes, I'm surprised we've grown as fast as we have; you might say it's your basic mushroom."

Speaking on the telephone from West Los Angeles, in the self-assured manner for which the clan is known, is Cervantes of St. Louis the second, Alfonso J. Cervantes Jr., whose power does not derive from rumba contests, insurance, cab companies or politics, and who, unlike his father, appears to be firmly and happily entrenched in the soil of Fernando Lamas and Maria Montez. No Midwesterner he.

A.J. Cervantes Jr., 28 years old, the eldest son of Cervantes the first, is in the recording, music-publishing and direct mail business, mostly a thing called disco music. It is a thing that grows well along Sunset Boulevard, judging by the September-through-March financial statement of his new company, Butterfly Records. Butterfly showed a gross of $3,500,000 during that seven-month period.

Young Cervantes, it seems, is getting rich. He is certainly achieving a degree of fame outside his old hometown—an appearance on a recent CBS "60 Minutes" segment about disco record companies and a forthcoming feature in Cosmopolitan magazine's Bachelor of the Month section. This, he assures us, is not the centerfold of the magazine.

In August of last year, Cervantes' new company released a song titled, "Je T'aime," a song that had been rejected as too risque the year before by Casablanca Records, his former employer. Before starting his own company, Cervantes had written a memorandum to Casablanca executives suggesting that the time was ripe for the song, long popular in Europe, and that it should be recorded and marketed immediately.

"My feeling was that there had always been

a strong, underground cult appeal in this country for 'Je T'aime,'" Cervantes explained.

But Casablanca hesitated, then said no. The oh-h-h-hing and ah-h-h-hing and sensual theme of the music made it unmarketable for radio, said Casablanca executives.

But A.J. Jr., much like his father with his Spanish Pavilion and Santa Maria ideas, thought otherwise. And, again like his father, he stuck to that conviction. In this case, however, the Cervantes salesmanship worked.

Young Cervantes' first move was to bring together a group of nondescript studio musicians, who recorded "Je T'aime" for his new company, Butterfly. "Je T'aime" hit the pop music charts in the No. 12 spot; only three records have debuted that high, he says.

(Ironically, Casablanca Records, Cervantes' old employer, changed its mind and released a version of "Je T'aime" by Donna Summer after the Cervantes record hit. So far, the Butterfly release has sold about 200,000 units in the first year, with sales amounting to about $600,000.)

In the disco-music business, the song comes first, said Cervantes. Then, if it becomes a success, the record company gives a name and image to the group, which had previously been nothing more than a collection of faceless musicians. In the case of "Je T'aime," Butterfly's studio musicians were to become known as "Saint Tropez."

"We develop a concept and then sell it," he said.

Sounds like Cervantes the first, former mayor and salesman. Cervantes the elder once said that producing rumba contests during the Depression was easy. Cervantes the first, like his son, has always been involved in developing ideas and selling them.

"Look, suppose I wanted to put on a tennis contest," the first-term mayor told a reporter back in 1968. "I would go about it by lining up a group of very good tennis players. I would offer prizes for the winners. I would advertise to people who are interested in the game. It was the same with dance contests. You have this central ingredient: interest in the subject itself, be it rumba or tennis." Cervantes the first just as well could have included disco.

A man who has known both father and son for a number of years says that there's a lot of the father in young Cervantes: "He reflects what a kid can do when he's the child of a successful parent who keeps at it and doesn't give up. Young A.J. has tremendous zest for whatever he's doing, just like Fons."

Indeed he has. Consider this Cervantesian memo from A.J. Jr. to his record company's staff and distributors: "Our reorders are incredible; our promotion department is humming; the momentum is now unstoppable. But we can't rest. Your support and hard work are needed more than ever. Go to the wall now. Do you need a deal? Do you need materials? More records? Advertising dollars? Call us." (Somewhere in the West End's Maryland Plaza area, a real estate developer and former mayor is smiling.)

For Cervantes the second, "Je T'aime" was just the beginning. Other disco groups and other albums and singles were to follow, a litany of odd and familiar, provocative and evocative names—"Two Hot for Love," by Butterfly's THP Orchestra; "Maybe I'm a Fool," by PJ & Bobby; "Tuxedo Junction" and "Chattanooga Choo Choo," by Tuxedo Junction, and a new rhythm-and-blues disco album, "Boogie Down," by something called Blackwell. (The "Tuxedo Junction" group, which features three women vocalists, includes another hometown product, former St. Louis singer Jamie Edlin.)

With Cervantes' "Boogie Down" album, we gain some insight into the aspects of disco marketing techniques, which, in this case, include time-honored, foolproof methods—sex and sexy music. The album cover is a photograph, in color, of course, of two very handsome and very naked young women. They seem to be cavorting. Songs include: "Belly Button," "Put the Funk Back" and "Boogie Down and Mess Around." At least, Glenn Miller was left in peace, for the time being.

Cervantes says he feels comfortable in the record business. He must—he says he is in his office 12 to 14 hours a day, six days a week. His only relaxation (he calls it therapy) is motorcycling in the mountains.

He owns a controlling interest in Butterfly, although he has silent partners, including some in St. Louis. Typically, the company was seriously undercapitalized at first. The record business allows for the return of all stock, so shipping thousands of records to distributors can be deceptive.

"At one time, we had receivables in excess of a quarter million dollars and hardly enough for payroll," Cervantes said, "Initially, we didn't have very many lines of credit—the doors were squeaking, things were so tight. In the beginning, when you're new, it's tough to get your money. The cash bind can be substantial.

"But people took a shot with us and we got investor financing. If we were to tell someone in the record industry how we did it, they wouldn't believe us."

When his father paid a visit to his offices at 9000 Sunset Boulevard a while back, he was surprised at the size of the operation, even taken aback, said Cervantes the second. The company will soon move to the seventh floor of the building where it will occupy 75 per cent of the rental space.

Butterfly is the fastest-growing new record company in the industry. It was incorporated in December 1976. Last August, at the time "Je T'aime" was released, the company had three employees. Today, there are 28 persons with Butterfly, many of them hired away from larger and better-known record labels.

The company now has 14 acts signed to contracts and plans to release 24 albums in the next year. It is not strictly a disco record company, said young A. J. "Twenty-five percent of our business is hard rock 'n' roll and 25 percent is Top 40 music, so we're interested in radio play and not just what the discos are doing. We're sort of a hybrid in that respect.

"But the record business has been very good to me," he said.

It would seem so. Butterfly is considering branching out by acquiring radio stations in southern California through a joint broadcasting venture. Radio is one of his first loves, he says. He used to be a night news editor for KMOX Radio here. And at age 17, he worked for KLPW in Union, Mo. (He is a graduate of Webster College, with a bachelor's degree in media arts. He also studied art and religion.)

Young Cervantes, again in the manner of his father, has not always danced with success. He tried free-lance photography, poetry and the theater-restaurant business.

"His dad really did back A. J. in a lot of ventures that he knew wouldn't make it," said an old friend. "And his poetry—well, I'm glad to see he's in the record business. At the time he was writing poetry, he was a young man very much at sea. But he's energetic and imaginative, a kid with natural class."

Perhaps his biggest flop, and this came after a stint with the film industry on the West Coast, was a business he started called The Screening Room, a theater and restaurant on Maryland Plaza across from the Chase-Park Plaza Hotel. The idea was to serve gourmet noshes and quiche appetizers during the movies. The films were vintage classics, such as Humphrey Bogart's "Casablanca."

"The concept," Cervantes said the other day, "was absolutely beautiful. But it was in the wrong market.

"You've got to understand this St. Louis is my hometown, I have a lot of friends there. My family is there. But it is not very progressive. And I had my L.A. marketing cap on; I was thinking in L.A. terms. I felt the Central West End would be an appropriate place, but I was 180 degrees off.

"The Screening Room was a huge success on Saturday night, and a failure the rest of the week, which, of course, is consistent with St. Louis social behavior.

"Now my father is trying to put a tourist attraction out there and he seems to be having great success. But it's unfortunate that St. Louis has to be sold on positive things. If you walked into San Francisco or Chicago and wanted to redevelop a gracious but declining neighborhood, they'd go wild. But in St. Louis, you've got to fight for it. Even Kansas City, which is smaller and has less money, is a lot more progressive."

The Screening Room is now a Chinese restaurant.

Young Cervantes is no Johnny-come-lately critic of the mores and folkways of his old hometown. He has had things to say about attitudes here before. And he makes it very clear that he is quite fond of both the East and West Coasts, and can do without the Midwest.

When the Board of Aldermen voted to ban a road production of "Hair" in 1971, because of a first-act nude scene, Alfonso Juan Cervantes Jr. was moved to write a lengthy essay on St. Louis parochialism. It appeared in the Post-Dispatch later that year. He was 22 at the time and a student.

"If St. Louis could be said to be any indication of the future of contemporary culture in the United States then I, as well as most of my generation, am justifiably concerned and seriously apprehensive," he wrote.

A friend recalls that his father, always the consummate politician, was quietly delighted in his son's actions: "Fons was just as proud as punch of the kid. 'Did you see that write-up in the paper,' he said."

The year before that, A. J. earned college credits by traveling across America in a delivery van, painted pop art-patriotic red, white and blue, as part of a study project to see how the country, particularly the police, reacted to hippies and other youthful nonconformists. He grew a beard and long hair.

As the son of a well-known and political father, young A. J. could just as easily have sought college credits for a research project on the subject of being the slightly infamous son of a famous father.

"Mayor's Son Pays $612 On 34 Parking Tickets," read one newspaper headline. "Driver's License of Mayor's Son Wrongly Restored Twice In Year," said another. "Mayor's son arrested and charged with failure to answer 34 traffic tickets, most of them illegal parking."

Yes, young A. J. went through his Peck's Bad Boy phase. He chuckles about it now. "It comes with the territory," he said.

His father's nearly all-consuming interest in politics and public office is another thing that bewildered A. J.

"I could never understand why he took the abuse he did," he said.

"But anything I can do to help him, I would. (He wrote television and radio spots for the former mayor's 1972 campaign.) I find it a very thankless job though; I could never fight the city like he has, taken his lumps."

And there is another thing he never does, at least not now: "I have never traded on the fact that I'm A. J. Cervantes' eldest son. I avoid it."

During the "60 Minutes" interview, there was no mention of the fact he is a son (one of five sons) of a two-term mayor of St. Louis.

A. J. Jr. likes it that way, stayin' alive on his own.●

POLITICAL ACTION COMMITTEE OF GREENVILLE DIVISION OF "E" SYSTEMS POLLS ITS MEMBERS ON ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. TEAGUE. Mr. Speaker, the Greenville Division of "E" Systems polled their members of the political action group on the energy question. A total of 1850 cards were handed out at the plant entrances, and 559 cards—30 percent—were completed and returned. This percentage figure, as many of us know here in the Congress is about a normal response to questionnaires.

Comments written on 46 of the returned cards will be used for review of planning for future PAC actions.

I would like to share the results of this opinion poll with the Members of this body, who, like me, I believe will find the results most interesting:

MAY 19, 1978.

Hon. OLIN E. TEAGUE,

U.S. House of Representatives, House Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: The E-Systems' Greenville Division Political Action Committee conducted an opinion poll on the subject of the energy crisis in the United States, and the results of this poll are provided below:

Question	Response (percent) Yes	No	No opinion
1. "Do you believe there is a real energy (oil and natural gas) crisis (shortage) now, or in the foreseeable future?"	65.6	32.7	1.7
2. "Do you consider the President's energy plan to be a fair and workable solution for all Americans?"	6.7	71.1	22.2
3. "Do you think that the Government should take the lead in establishing policies and plans for solving energy problems?"	63.1	33.1	3.8
4. "Should more emphasis be put on expanding the research and development effort for alternate source of energy?"	93.1	5.5	1.4
5. "Have you noted any increase of efforts to reduce energy (fuel) consumption in the past five (5) years?"	58.9	39.6	1.5

DO NOT EXTEND ERA DEADLINE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

Mr. McCLORY. Mr. Speaker, there is a growing apprehension about the current move to extend for an additional 7 years the time allocated for ratification of the equal rights amendment. We can recall that when this important constitutional change was recommended to the States for ratification in March 1972 we provided for ratification within a 7-year period. This 7-year provision coincided with similar provisions in all constitutional amendments proposed durng the past 60 years. An additional 7-year extension would be a departure from this tradition.

Mr. Speaker, as a consistent supporter of ERA, I hope that efforts will be made between now and March 22, 1979, to secure ratification by three additional States, thus assuring that ERA will become part of our Constitution. However, adoption of a measure at this time to extend the time for ratification for another 7 years smacks of defeatism—and diminishes substantially the efforts to secure ratification before the March 1979 deadline. My position has widespread support in Illinois, including an expression of support from my long-time friend and ERA supporter, Mayor Frances Kuhn of Woodstock, Ill., an officer and prominent member of the Business and Professional Women's Organization. My position is also supported by a most persuasive editorial which appeared in the Sunday, May 21, 1978, edition of the Chicago Sun-Times. I am attaching a copy of the Sun-Times editorial to these remarks:

[From the Chicago Sun-Times, May 21, 1978]

DO NOT EXTEND ERA DEADLINE

After more than six years of struggle to win ratification, the Equal Rights Amendment is still 3 states short of the necessary 38. Fearing failure, some supporters want Congress to extend the March, 1979, deadline by another seven years.

They note, correctly, that the Constitution did not establish that seven-year deadline. Congress created it 61 years ago, and Congress can change it.

And they argue, also correctly, that ERA is much more complex and controversial than the last seven amendments, all of which were ratified well before the deadline.

We enthusiastically support the Equal Rights Amendment. A simple statement that sex may no longer be a barrier to equality belongs in the constitution of a nation that, though promising equal rights to all, has nevertheless tolerated a number of federal state and local laws and practices that discriminate against women—and some that discriminate against men.

Yet, despite this commitment, we don't want an extension of that 1979 deadline.

If the cause is equality, the supporters should not ask for special—that is, unequal—consideration.

Also, an extension could backfire. Four of the 35 states that approved ERA have voted to rescind their endorsement. Whether these new votes are valid is disputed. It's possible, though, that courts would recognize a state's right to rescind during a second seven-year period. And under the battle cry that "they changed the rules in the ninth inning," more states could decide to switch.

Finally, we think that the March, 1979, deadline can be met.

Passage this year is possible in several states—including Illinois, the first state to endorse women's suffrage and one of the first to insert a comprehensive equal rights clause in its own constitution.

A clear majority of Illinois legislators support ERA. Only a few more votes are needed for the three-fifths majority required by the General Assembly. With a little push from Mayor Bilandic and Gov. Thompson, Illinois would line up on the side of equality.

ALASKA LANDS BILL, H.R. 39

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. STEERS. Mr. Speaker, for 3 days last week the House worked on a major piece of legislation that will preserve the beauty of our last great wilderness, the State of Alaska. I was pleased to be able to support this bill and joined with an overwhelming majority of my colleagues in approving H.R. 39.

The House of Representatives has passed a balanced bill. It is important to keep in mind that this bill frees up almost three-quarters of the State for economic development. The only land that is placed under different protection systems is land that is already under Federal protection. While we do protect approximately 100 million acres of land, we do not impede Alaska's ability to help meet this Nation's immediate needs for minerals and petroleum. This then is the balance that the House accepted; Alaska continues its mineral development on State owned and federally owned land. while the Nation preserves great sections of wilderness area.

There are several actions taken by the House that I feel are worthy of review. There were two amendments offered, one by Mr. YOUNG of Alaska and one by Mr. MEEDS of Washington that would have significantly reduced the amount of land to be protected under the bill. Mr. YOUNG's amendment would have reduced acreage in parks and wildlife systems by about 5 million acres. This amendment was defeated by a vote of 141 to 251 and I voted against the amendment. Mr. MEEDS' amendment would have reduced lands designated as "wilderness" from 66 million acres to 33 million acres. This amendment failed 119 to 240 and I voted against the amendment.

Congressman SANTINI offered an amendment that would have allowed for continued mineral assessments in Alaska. In addition, the amendment ordered the President to prepare a report for the process of evaluating applications for exploration and extraction of minerals. I voted against this amendment because I feel that it would have allowed for more drilling and digging in lands that we are trying to protect. Furthermore, this sort of activity would mean the construction of roads and heavy vehicle traffic in lands that are supposed to be protected for the animal and plant life that already exists in those areas. This amendment passed by a vote of 157 to 150.

Finally, the House rejected a motion of Mr. YOUNG's to recommit the bill with specific instructions to the House Interior and Insular Affairs Committee and the House Merchant Marine and Fish-

eries Committee that would have severely weakened the bill. This motion was rejected by a vote of 67 to 242 and I voted against the motion. The bill passed by a vote of 277 to 31 and I voted for final passage.

I want to take this opportunity to commend the chairman of the Interior Committee, Mr. UDALL, the chairman of the Alaska Subcommittee, Mr. SEIBERLING and Mr. MURPHY and Mr. LEGGETT of Merchant Marine and Fisheries for their hard work in presenting to the House a bill that is both balanced and farsighted. This is a very positive bill and I hope that it meets with success in the Senate.●

OUTRAGED ON TREATMENT OF YURI ORLOV

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. WOLFF. Mr. Speaker, I rise today to add my voice to the thousands throughout the world who are outraged by the trial and sentencing of Dr. Yuri Orlov, a Soviet dissident whose only crime was to monitor the compliance of the Soviet Union with the Helsinki Accords. The Soviet Union is, of course, a signatory of the Final Act of the Conference on Security and Cooperation in Europe, better known as the Helsinki Accords. Why monitoring the progress, or lack of it, by the Soviet Union in complying with an agreement they signed should be criminal can only be explained by the absence of the very human rights they agreed to follow.

Dr. Orlov, a respected theoretical physicist, was charged with "anti-Soviet agitation and propaganda" because he was the founder of the Helsinki human rights group. This group was made up of many well-known dissidents, who are also brilliant and internationally respected professionals in a variety of fields. For daring to speak up and protest the miserable Soviet record on human rights and civil liberties, Dr. Orlov was sentenced to 7 years in a labor camp followed by 5 years of internal exile.

The most disturbing aspect of the case against Dr. Orlov is that it is just one step in a series of measures designed to crush dissidence in the Soviet Union. Next in the defendant's chair will probably be Alexander Ginsberg and Anatoly Scharansky. Moscow is trying to destroy the dissident leadership by dealing with them very severely. Not that this type of sentence is anything new to dissenters in the U.S.S.R. Dissidents have been packed off to forced labor camps, prisons, and mental hospitals in all parts of the Soviet Union for years. The difference is that in the recent past Soviet officials have had some concern for their image abroad, how attacking celebrated dissidents might affect United States-Soviet relations. Now, however, the Soviet Government is assaulting the most famous, apparently without concern about how their actions might appear in the West. This certainly shows that the dissidents have been somewhat successful in the Soviet Union in spreading their message—at least enough for the party officials to feel threatened by their continued statements. The Soviet officials seem to be trying to convince both the dissidents and their supporters in the West that their protests make no difference, that they might as well give up.

We in the West will not be discouraged from raising our voices in protest, we will not give up. Detente is fading fast. In a nuclear age confrontation is best avoided. Yet the Soviets seem more interested in heightening tension in many regions rather than relaxing them. We do not want to return to the cold war, and all the rhetoric and mistrust that went with it. However, we will continue to protest these violations of human rights. We will not be convinced that our protests are useless.●

IT COULD ONLY HAPPEN IN AMERICA

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. FARY. Mr. Speaker, I would like to take this opportunity to bring to the attention of my fellow colleagues the story of Mr. Nick Awdziejczyk, a Polish born American citizen whose hard work and diligent efforts have made him a classic example of the American success story.

Nick is presently the general manager of Top Flight Industries, a Chicago based small business contractor, whose efforts and achievements were recently recognized by the Small Business Administration (SBA) as one of the outstanding small business prime contractors in the Midwest region. Top Flight was also recommended for consideration of the General Services Administration's Small Business Prime Contractor of the Year Award. It should be remembered that Top Flight was nominated from a field of 10 million small business firms throughout the country and a nomination in itself indicates the quality of Top Flight's workmanship.

But Nick's life has not always looked so promising. Born in Pinsk, Poland, Nick found himself a victim of Nazi aggression as Germany launched its lightning war against Poland and subjugated its people to its will. Nick was then brought from Poland to Germany and relegated to the status of a forced laborer for the remainder of the war. These were truly the darkest days of his life.

Nick remained in Germany after the war and attended the University of Pinneburg, located outside Hamburg, where he graduated with a degree in science. In August of 1949, Nick decided to come to America to seek his fortune. Upon arriving in Chicago, he found a few jobs while continuing his education at night, attending the Chicago Technical College and taking various engineering courses.

Eventually, Nick found employment with the Reflector Hardware Co., where he worked for 22 years. Starting out as a polishing machine operator, he gradually worked his way up the ladder to become project engineer and then production engineer prior to going to work for Top Flight Industries.

Nick is married to his wife of 20 years, Maria, and together they have three sons: 19-year-old Edward, a computer science major at Triton College; Andrew, age 16, and Christopher, age 14, both students at Weber High School in Chicago. Nick is a member of the Polish National Alliance, which he joined upon his arrival in this country in 1949 and a member of the father's club of Weber High School and actively participates in the local scouting program.

Nick Awdziejczyk came to work for Top Flight Industries as general manager in 1974 when Mr. Stanley Zarnowiecki, now president of Top Flight, decided to purchase that company when it was on the verge of bankruptcy. Zarnowiecki, already president of the Consumer Vinegar & Spice Co., knew he needed a competent and experienced man to operate the daily affairs of Top Flight if it were to reestablish its financial solvency and become a profitable business. That man was Nick Awdziejczyk. With Nick's expertise in the technical end of the business, coupled with his own financial know-how, Zarnowiecki was able to turn Top Flight into one of America's outstanding small businesses in a matter of 4 years. Beginning its operations in September of 1974 with only 8 employees. Top Flight now employs 28 people, including handicapped persons who were unable to find employment elsewhere.

Mr. Speaker, Nick Awdziejczyk recently came to Washington to attend a small business conference and award banquet and while he was here, I had the opportunity to meet with him. I was truly impressed with the efforts and achievements of Top Flight Industries and feel this company's future is just getting started. However, I was most impressed with Nick himself. Here was a man whose life stood virtually in ruins following the invasion of Poland and his subsequent forced removal to Germany, yet his spirit did not fail him. Overcoming countless odds, this man was able to educate himself, successfully pursue a respectable career, and raise a lovely family, all in a country where he felt his dreams could best be realized. To quote an unnamed author: "It could only happen in America."●

PRO-LIFE POSITION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. SKELTON. Mr. Speaker, many of my constituents have expressed concern over the use of Federal funds to promote or encourage abortions. As in the past, I share this concern, and I take this opportunity to express my views about it.

As I have stated before, I am now, and have always been, personally opposed to abortion. It is my sincere belief that life begins at the moment of conception. I do

not believe that government, Federal or State, should do anything to promote or encourage abortions, particularly elective or nontherapeutic abortions. In my view, indiscriminate abortion cheapens the value of each individual life and degrades society. As a member of the Missouri State Senate and now as a Member of the U.S. Congress, I have reflected these views.

It is for these reasons, plus the fact that we should carefully scrutinize the spending of the taxpayers' dollars, that I intend to support an amendment to the fiscal year 1979 Labor/HEW appropriations bill to prohibit the use of Federal funds to pay for abortions or to promote or encourage abortions.

I intend to continue to work for and support legislation that would provide proper protection of the unborn.●

GOD THE GREAT ARTIST

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. HUCKABY. Mr. Speaker, with all the problems that command so much of our attention every day, we sometimes forget the natural gifts we enjoy in this Nation. Therefore, I commend to my colleagues the following celebration of nature, written by Mrs. G. B. Green, of Monterey, La., and printed in the Concordia Sentinel:

GOD THE GREAT ARTIST

In this great world that God has given us, there is one tiny spot that I call my own. Sometimes I think of it as my own haven or my open air theatre.

In front of me is a stream of water that is crystal clear. It reminds me of a huge mirror. Each morning as the sun comes up and shines down on the water, the reflection looks like an enormous diamond and the sparkles go in every direction.

The scene as it first appears is a dark rose color and all around it is a soft pink that gradually diminishes into the blue sky.

The sky is a delicate and soft tone of blue. I know God must have made very soft strokes to get such a delicate and lovely hue.

I suppose the color blue is the most popular one of all. So much has been written about it. Such as Rhapsody in Blue, Blue Heaven, The Blue Danube and so many more.

On each side of this stream are borders of green trees. If you will look close enough, you will see that each type of tree is a different shade of green. My favorite ones are two cypress that stand so proudly and erect, and they have shapes like two giant Christmas trees. Sometimes after a rain and the sun shines on the rain drops that cling to their lacey leaves, the drops glitter like a million diamonds, then they look more like Christmas trees than ever.

Another one of God's wonderful works of art is a little girl swinging in a rope swing that hangs from a branch of a very big pecan tree. She had the broadest grin and sparkling eyes that blend in perfectly with our blue sky. She brings to mind a song that was once very popular, "Thank Heaven for Little Girls." I am going to play it safe and say "Thank Heaven for Little Boys."

For added color there is a bird with a red head, another one with a splash of yellow on its wing and of course there is also the solid red and the blue ones.

In all the beauty and glitter of the world, there is always a little sadness. In this case it is the sad coo of a dove, they also symbolize God's love for us, because sometimes in the history of mankind, God sent down his great love on the wings of a dove.

Lord, thank you for giving us such a beautiful world and painting it so lovely.●

THE ROAD TO PROSPERITY—PART III—THE STATIC ANALYSIS OF THE CAPITAL GAINS AMENDMENT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. STEIGER. Mr. Speaker, yesterday, I indicated that there were two types of analysis available for changes in tax policy. One version, used by the Treasury Department, is arithmetic or static analysis. This tax model is a microeconomic model of the Federal individual income tax. It was originally developed at the Treasury Department, Office of Tax Analysis, in the early 1960's to produce revenue estimates for the 1964 tax cut. Producing revenue estimates in support of legislation continues to be its primary purpose.

In recent years, we have reduced the debate on tax policy to the question of how much revenue is gained or lost from a change in existing policy. The advent of the Budget Act has encouraged this trend, because of the focus on tax expenditures as one form of Government spending. It seems that some have assumed that all income belongs to the Federal Government, and that the private sector is subsidized through tax expenditures. It is a ridiculous assumption, but it has credence in some circles.

The danger of focusing on revenue estimates when deciding tax policy is that we may ignore the more important elements of tax policy, namely simplicity, equity, and efficiency. This is one caveat we should all keep in mind when reviewing Treasury and Joint Tax Committee estimates.

Another danger is that the tax model is a microeconomic model, it only estimates the first order revenue impact; it does not estimate the macroeconomic impacts of tax legislation. No account is taken of the additional (second order) tax revenue resulting from the stimulative effect of a tax cut. Nor are shifts in relative prices of capital assets benefiting from some favorable legislation in that area allowed to reduce the revenue loss to the Treasury, because of the possibility of increased investment boosting the economy. The model does not account for feedback, and thus has no dynamic implications.

This has been a controversial area, because feedback is difficult to measure. It cannot be ignored. The problem is that little agreement exists on the assumptions necessary to construct a model. For instance, there would be a problem of consistency should one attempt to take second order effects into account. Treasury has been unwilling to grapple with the issue, and the tax model is used only to produce first order estimates of the revenue impact of tax changes.

As I mentioned yesterday, four dynamic models have been used to analyze the capital gains amendment. I included the DRI version in the CONGRESSIONAL RECORD. Today, I am including the static estimates for the Members to review. In my next installment, I will describe how the dynamic models work:

STEIGER ALTERNATIVE CAPITAL GAINS AND MINIMUM TAX PROPOSAL, H.R. 12111

[In billions of dollars]

Provision	Calendar year— 1980	1981	1982	1983
Corporate	−378	−414	−465	−476
Minimum tax	−109	−119	−130	−143
Total	−487	−533	−584	−639
Individual:				
Alternative tax	−485	−522	−561	−603
Minimum tax	−1,405	−1,545	−1,700	−1,870
Total	1,890	2,067	2,261	2,473
Corporate and individual, total	2,377	2,590	2,845	3,112

Source: Joint Committee on Taxation. Apr. 20, 1978.●

EQUAL RIGHTS AMENDMENT

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Ms. HOLTZMAN. Mr. Speaker, Edith Bunker supports the Equal Rights Amendment, according to Jean Stapleton who portrays her in the television program "All in the Family." Jean Stapleton explained why Edith believes that homemakers will benefit from ERA in a recent speech at Emerson College. I commend her remarks to my colleagues. The text of excerpts from the speech, printed in the New York Times on Friday, May 12, 1978, follows:

"EDITH BUNKER" ON THE E.R.A.

(By Jean Stapleton)

(Following are excerpts from an address given by Jean Stapleton, who plays Edith Bunker in the television program, "All in the Family," upon receiving a doctor of humane letters degree at Emerson College, in Boston.)

A newspaper was conducting a survey of celebrities. Their question was: What do you regard as your greatest achievement? I said, and meant it, I haven't lived long enough to answer that question. I have the same answer today: I haven't lived long enough to deserve this singular honor. Therefore, instead of resting on this prestigious laurel I shall treat it as an obligation and renew my efforts to recognize and utilize my God-derived humanity.

Personally, I anticipate the same old struggle against the familiar obstacles: self-interest, self-justification, self-will, and so on, but in my imagination I have a role model to emulate—Edith Bunker because, her intellectual shortcomings notwithstanding, Edith has become the epitome of compassionate and selfless humanity.

Early in our 8-year run, a woman telephoned her doctor in exasperation asking for a soothing antidote for her frayed nerves. With some irritation, she told him that her husband at the height of their worst argument said to her: "Why can't you be like Edith Bunker?" Of course, at that time he may have been fantasizing about the old,

submissive Edith. Thanks to the influence of her enlightened daughter and neighbor, Edith is growing . . . to know herself as a whole person with rights and power. How we all love the moments when Edith stands up to Archie. The audience cheers. Most of the letters I receive are from young people 8 to 18 who state that those are their favorite moments.

Yes, the concept of equal partnership is beginning to dawn on Edith. We hope that poor Archie can keep up with her, for next season he'll have some challenges. A question I am most asked by the press is: "Do you think Edith would support E.R.A.?" Well, since Edith was born in the imagination of Norman Lear and her development was carried on in the collective thinking of more than nine writers, five producers, three directors and four actors, we would need a script conference to determine the answer. But lacking that, I assume the privilege of answering. Yes, if she understood it.

For it is the homemaker like Edith who stands to benefit most from the Equal Rights Amendment. Contrary to some misconceptions, she will not have to leave her homemaker job unless she chooses. She will not lose the protection of her husband; rather, she will gain more in that her legal rights and standing in the economy, insurance, Social Security, inheritance, divorce, credit, taxes, etc. will be guaranteed.

Until two and a half years ago, I thought I was in the Constitution. I believed the use of the word "men" in the Bill of Rights and Declaration of Independence was generic. Legal inequalities in our society reveal that I was mistaken. The rights of all races and religions are now squarely written into the Constitution. The only right spelled out there for women is suffrage. The E.R.A. has nothing to do with privacy or sexual preference. It says, "No rights shall be denied or abridged because of sex."

That means male and female. I believe a woman has the right to engage in combat in the armed forces if she wants to. I also trust that the armed forces in the event of a draft would utilize men and women according to their capabilities, as they have done in the past.

Opponents say we have ever-increasing Federal laws to remedy women's unequal legal status. True, but these are fragments subject to the winds of political change. The 27th Amendment will guarantee our equality with men—not our sameness—but our equality. This is the principle on which our country was founded—equality of opportunity, freedom of choice under the law.

Of course Edith Bunker would support ratification of the 27th Amendment to the Constitution because it is a matter of simple justice—and Edith is the soul of justice.●

THE BOUNDARY WATERS WILDERNESS ACT: SIGURD OLSON'S UNIQUE ROLE—PART III

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. FRASER. Mr. Speaker, I would like to call my colleagues' attention to the final installment of a three-part interview the Madison, Wis., Capitol Times conducted with Sigurd Olson, a leading advocate for increased wilderness protection for the Boundary Waters Canoe Area. The author of many books on the great north woods, Sigurd possesses a capacity to interpret wilderness values in human terms. And these values are too frequently overlooked in the heat of the kind of political deliberations we are currently going through on the BWCA.

The opportunity for solitude, the chance to escape the trappings of modern society, the possibility of better understanding our primeval roots, are all part of the allure of the northern lakeland wilderness. As Olson says:

When people go into the wilderness today—where there's any left unravished by noise, by mechanical motors—they are looking for the same spiritual inspiration the early people found. And many of them today, more than ever before, are finding it again.

Our debate could be placed in no better context than what Olson offers as a final thought:

You must understand that, in saving the Boundary Waters
Canoe Area, in saving any wilderness area, you are saving
more than rocks and trees and mountains and lakes and rivers.
What you are really saving is the human spirit.
What you are really saving is the human soul.

The interview follows:

WILDERNESS A "SACRED" PLACE

(Editor's note: Now in his 79th year, famed naturalist and writer Sigurd F. Olson has never lost his love for the Boundary Waters Canoe Area, a love which a life time ago lured him into its interior as a professional wilderness guide. In the following, the third and concluding installment of an interview which took place at his Ely, Minn. home. Olson discusses the "intangible values" which lure people into the BWCA today.)

Question. When you talk about going into the wilderness for intangible values, are you talking about spiritual values? Is the wilderness a spiritual experience for you?

Answer. It's true, I do have a deep feeling for wilderness values. I've always had the feeling. I think I was born with it. I didn't have to acquire it. Call it spiritual, if you will. Call in an understanding of intangible values. Call it harking back to the primeval pool of awareness which is within us all.

Whatever it is, it has dominated my whole life. It has made me do a great deal of writing, too, trying to tell how I feel about the greater value of wilderness.

I've always felt that any wilderness is unique.

I remember very well an experience in Paris. I was in a friend's apartment on the Left Bank of the Seine and, as usual, talking about wilderness. And my friend said: "Do you see that vine coming up past my window? Well, I'll never know the wilderness that you've seen all over the world, but that vine is my wilderness. In that vine is all of nature, all of growth, all of God. There is my particular wilderness."

I've often thought of that. My friend understood.

The many young people who come through here have much the same feeling, but in a broader sense. They're going into the wilderness now trying to find something bigger than themselves. Something sacred, as opposed to secular. Something the Indians sensed long before we came here.

They had the sacred places where they didn't speak, just as we have it in our great cathedrals and in our places of worship.

They had it on the Kawashaway, the land they called "No Place Between." They had it on Darkey Lake. They had it on LaCroix. They tried to epitomize in such places that there were values which they felt deeply about. They tried to put those values into words long before there was such a thing as a written language. And the legends have come down.

In the caves of France and Spain—in the dark recesses of those caves—other early people painted pictures, sacred pictures, legends. They were all animists at heart. The spirit world was in everything.

So when people go into the wilderness today—where there's any left unravished by noise, by mechanical motors—they are looking for the same spiritual inspiration the early people found. And many of them today, more than ever before, are finding it again.

They find it in the sense of harmony and oneness with all living things. They find it in a feeling of communion and meditation. And, as I said in one of my books, one doesn't have to be a Buddhist to meditate, or get into any special position. Just looking at any natural thing is, in a sense, meditation. It is communion with God, or the Spirit.

So I think that's what people are looking for in the wilderness today, spiritual values. And they are almost impossible to define.

I've done a great deal of reading in Oriental religions. One of my friends was a practicing Buddhist and I have a Buddhist Bible in my library which I read occasionally. I asked my friend once to put into a single sentence what Buddhism means.

"Buddhism, to me," he said, "means gentility, peace, understanding and, above all, the sense of oneness—including the reverence that Albert Schweitzer talked about. And Lin Yutang. And Lao-Tse. And Confucius."

All of the Orient has this feeling. And it is this feeling that the Boundary Waters Canoe Area represents. We can get it; but not everybody can get it. Sometimes it takes time.

Question. I know what you're saying. And I've heard an awful lot of trout fishermen over the years try to express the same thing, but never so eloquently. They'll understand this, because you're talking their language. Now, what do you say to somebody who thinks this is all so much impractical, esoteric bull?

Answer. Well, let me say this. I remember one time, years ago, I guided a business magnate on a canoe trip back into the bush. It took him about four days to settle down to get calm, to notice sunsets and moonrises. And on the fifth day, I found him sitting on the ground, just watching a colony of ants. I asked him what he was doing, was he all right?

"I have never noticed ants before," he said. "Never before in my whole life. The enormous loads they carry. They all seem to know where they're going . . ."

The wilderness had opened his eyes to a whole new world that his frenetic, busy life back in town didn't give him a chance, an opportunity to think about.

I've noticed another thing out in the back country.

As men approached town after a long time in the bush, the civilization would reach out and take them, two or three days from town. They knew they were coming back to the old life and they were anxious to get back. But I could see the change.

Their minds were no longer concerned with sunsets and the calling of the loons or the hermit thrushes. Their minds were involved once again with the old lives they were going back to. But the interesting thing is that, even after they got back to their cities and their jobs, they never really forgot the impact of those days in the bush.

Sometimes I go to visit them, and they dig out the old maps and the pictures, and we'll spend an evening or two talking about fun we had and the joys they had known.

So they had absorbed some of the spiritual values; and once you absorb spiritual values, you don't lose them very easily.

Question. But that's the problem with saving wilderness, isn't it? Not everybody absorbs the spiritual values.

Answer. Of course, not everyone absorbs them. Some people go into the bush and come out, and they never get the spiritual at all.

I used to be amused when I'd come back in from a trip and usually the first questions from the people back in town were: Well, how did you do? Did you catch any big ones?

And I'd ask, "What big ones?"

They'd say: Didn't you do any fishing?

"Oh," I'd say. "We did fish a couple times."

Well, they would be greatly disappointed. They couldn't imagine going back into the bush without going in to fish. I always figured that, if they had gone back into the wilderness and stayed long enough, they might discover something different from fishing.

Intangible values, that's what we're talking about. Values that are difficult to explain. You can't put a value on them.

Once in Germany, during World War II, along a stretch of the River Main—ruined buildings all around, the stench of death everywhere—I saw a flock of mallards come flying down the river as they had always done. That flock of mallards was an intangible value, and, all of a sudden, I was back in the North Country.

Intangible values? The whole business of Conservation and Preservation is based on those intangible values.

You must understand that, in saving the Boundary Waters Canoe Area, in saving any wilderness area, you are saving more than rocks and trees and mountains and lakes and rivers.

What you are really saving is the human spirit.

What you are really saving is the human soul.●

TURKISH CYPRIOT STATEMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a statement by the Turkish Cypriot community's leader, Mr. Rauf Denktash, which outlines more clearly than I have ever seen before the current Turkish negotiating position on Cyprus and thus casts a new light on the prospects for early movement toward an equitable and lasting Cyprus settlement.

The Turkish Cypriot statement stresses the following points:

First, a willingess to consider significant territorial readjustments;

Second, an indication of a willingness to make further troop reductions as the intercommunal negotiations progress;

Third, an undertaking that some 30,000 to 35,000 Greek Cypriots can commence returning to their homes and businesses in the city of Varosha as the negotiations progress;

Fourth, A willingness to consider means to reopen Nicosia airport for civilian traffic;

Fifth, the possibility of joint economic ventures between Greek and Turkish Cypriots.

In a few weeks, Congress will be considering H.R. 12514, the International Security Assistance Act of 1978, which contains important provisions regarding Greece and Turkey and the lifting of the partial arms embargo against Turkey.

A key objective of the United States and the Eastern Mediterranean is to promote successful negotiations for a settlement of the Cyprus dispute. What the Turkish Cypriots offer here is positive. Although not as forthcoming as many of us would like, this statement does offer hope for the start of negotiations.

The statement of Mr. Denktash follows:

STATEMENT BY TURKISH CYPRIOT LEADER DENKTASH, MAY 22

I had a discussion on the question of Cyprus with the Secretary-General, H. E. Dr. Kurt Waldheim.

This meeting gave me the opportunity to reconfirm in detail the position of the Turkish Cypriot Community regarding the intercommunal talks.

This position can be summarized as follows:

The Turkish Cypriot Community believes that sustained intensive good faith negotiations between the Greek and Turkish Cypriot Communities with a view of reaching a just, lasting and mutually satisfactory settlement on Cyprus should not be delayed any longer. With this goal in mind, the Turkish Cypriot representatives presented to the Secretary-General, Dr. Kurt Waldheim, on April 13, 1978 a description of the proposals that the Turkish side is prepared to put on the table once the intercommunal talks are reconvened. These proposals, it has been stressed, represent a negotiating position that can provide a starting point for discussions. The Turkish side had made a commitment to the Secretary-General, Dr. Kurt Waldheim, to engage in negotiations with an open mind and in a spirit of conciliation and flexibility.

The Turkish side is prepared, in short, for a genuine and productive dialogue. It is the belief of the Turkish Cypriot Community that intercommunal negotiations under the auspices of the Secretary-General of the United Nations should be immediately resumed.

The Greek side will not contribute to a settlement of the Cyprus issue by refraining from negotiations when the Turkish Cypriot attitude is so conciliatory.

It is the Turkish Cypriot belief that the guidelines agreed upon by Archbishop Makarios and myself at our meeting in February 1977 constitute the essential framework for a Cyprus settlement, according to which Cyprus must be a sovereign, independent, non-aligned, bi-communal and bi-zonal federal state.

The federal structure should incorporate, as indicated in the constitutional proposals of the Turkish side, a joint constitutional legislative and executive bodies as well as such functions as foreign affairs, external defence, banking, foreign exchange and monetary affairs, federal budget, customs duties and tariffs, external communications, federal health services, tourism and information etc.

In addition to such federal governmental structure and functions, the constitution must also provide satisfactory safeguards for the rights of individual Cypriots without infringing upon the bi-zonal and bi-communal character of the federal state envisaged.

The Turkish side is prepared to consider significant geographical re-adjustments in the light of its economic viability and security requirements which would enable a considerable number of Greek Cypriots to resettle.

It has been the longstanding position of the Turkish Government that upon conclusion of the Cyprus settlement all Turkish military forces will be withdrawn from the island, except those whose continued presence will be authorized under the terms of the settlement. This position is hereby reaffirmed. Since 1975 the Turkish Government has already withdrawn some 16,000 troops from Cyprus, and it is my understanding that it is prepared to make further such reductions as the intercommunal negotiations progress.

As further demonstration of the forthcoming approach of the Turkish side I announce that it is the Turkish Cypriot position that as negotiations progress, Greek Cypriot inhabitants of the city of Varosha may commence returning to their homes and businesses. We believe that aprpoximately 30,000–35,000 Greek Cypriots can eventually be accommodated in Varosha under arrangements that would meet the legitimate security concerns of the Turkish Cypriot and the Greek Cypriot communities. As far as the long term status of Varosha is concerned the Turkish Cypriot side is fully prepared to discuss alternative formulae once the intercommunal talks are resumed. It has already been stressed that the future political framework of Varosha is open to negotiations. All these are envisaged in the Turkish Cypriot proposals and explained to the Secretary-General, Dr. Kurt Waldheim, on April 13, 1978.

These proposals also indicate that the freedom of movement shall be fully implemented through progressive stages to be agreed upon by both sides in a way that will ensure security, and the freedom of settlement will be enlarged in time in a way that would increase cooperation between the two national communities while at the same time preserving the basic bi-zonal and bi-communal character of the federal state.

The Turkish Cypriot side is also eager to discuss with the Greek Cypriot side other practical steps to heal the wounds of the past. Discussions could be initiated under U.N. auspices on reopening Nicosia Airport for civilian traffic providing also for initial United Nations use.

It would be productive to discuss immediate cooperative efforts in the economic areas such as the construction of a pipeline to bring water from Turkey to Cyprus for use by both communities.

It is the Turkish Cypriot view that the resumption of negotiations on a Cyprus settlement and on related issues should not be dependent on extraneous factors but should commence immediately. The Turkish Cypriot Community stands ready to meet at any time with the Greek Cypriot Community to work in good faith to reach a settlement of the Cyprus problem.

I understand that both Mr. Kyprianou and myself will be in the U.S.A. for some time. It will be much better if instead of working with cross purposes, we would come together in a search of a solution to the benefit of both communities.

I want to reiterate what I said to the press on Friday, May 19, 1978. I am ready to meet Mr. Kyprianou, anywhere, any time and to discuss the problem with him even without any agenda.●

SOCIAL SECURITY FINANCING

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. FISHER. Mr. Speaker, to stabilize the three social security trust funds—for old age, disability, and medicare—Congress last year approved increases to begin in 1979 in the payroll taxes which support the funds. Both the

wage base—the amount of wages subject to tax—and the tax rate are scheduled to rise in several steps over the next several years. Some Members of Congress who favored these increases as a way of insuring the financial strength of the social security program into the next century are now having second thoughts about the wisdom of further increases in this tax. A debate is now going on over whether to roll back the scheduled tax increases and if so, how to accomplish the rollback.

In opposition to a reduction in the taxes approved last year, the trustees of the social security trust funds, some Members of Congress, and some private organizations such as the National Association of Manufacturers argue that last year's legislation restored the financial integrity of the social security system. The quadrennial Social Security Advisory Council has just begun working on its 1979 report. This council, as well as the National Commission on Social Security, established by the 1977 legislation, will be looking at the financing arrangements for the system. Since the really large tax increases do not begin until 1981, opponents of change now believe that there is ample time to wait for the recommendations of the study groups before altering the financing provisions of the law.

The proponents of an immediate rollback argue that the schedued tax increases are too large, bear too heavily on the middle-income classes, provide a disincentive to employers—particularly small ones—to hire new workers, and add to inflation. They believe that a reduction in the social security payroll tax would help to keep the economy on a steady course.

Among those who want the taxes lowered, there is no agreement on the level of the reduction or the best way to make up the resulting loss to the trust funds. Most of the proposals call for one of the following: Shifting one of the social security programs or parts of it from payroll financing to general revenue financing; using general revenue to replace payroll taxes; cutting back on some types of benefits.

The method for reducing the payroll tax that I would prefer, if Congress decides to do so, is to remove the disability program from the payroll tax and make it a general revenue financed program. The social security program was begun as a retirement pension plan. As time has gone on, additional kinds of benefits have been added, some like medicare, age-related and some not, and payroll taxes have been increased to pay for the additional benefits. With public concern over the level of payroll tax that will be necessary to pay for all the benefits in the future, the time may have come to remove the major non-age-related program from the social security payroll tax financing. This program is disability insurance. Furthermore, the disability part of social security is in the worst financial condition and apparently involves the most troublesome administrative difficulties.

Any person with minimal time working in social security-covered employment who becomes disabled can receive disability insurance benefits for as long as the disabling condition persists. The benefits in this situation are unrelated to the purposes of a retirement pension and health care system. Income protection for the disabled might be better provided through general funds than through earmarked payroll funds.

This would not violate the principle of maintaining earmarked funds for income security and medicare programs which are so important for the protection of older and retired citizens. The age-related progams would remain under payroll financing and their entitlement status would not be jeopardized. Public confidence in social security, which had been undermined by concern about its fiscal soundness before the 1977 legislation and is still endangered by distaste for the tax increases, would be restored once the payroll tax was reduced by this proposal.

If there is to be a cutback, I would propose reducing the payroll tax by the portion of it that is now allocated to disability insurance. I am introducing a bill today that would accomplish a payroll tax reduction in this way. Of the 6.13 percent tax to be paid by both employers and employees in 1979, 0.75 percent is allocated to the disability insurance program. If the disability portion were not included in the payroll tax, the maximum social security tax would be reduced from $1,404 to $1,232. To avoid putting too great a strain on general revenues, which come from the income tax, I would phase in this change over 2 years. Thus in 1979, the tax rate would be reduced by 0.375 percent from its scheduled level and in 1980, it would be reduced by the full 0.75 percent. The following table shows the tax rates through 1990 under the present (1977) law and under my proposal. Table follows:

SOCIAL SECURITY TAX RATES UNDER PRESENT LAW AND UNDER PROPOSAL TO ELIMINATE DI TAXES

[In percent]

Year	Present law				Proposal			
	OASI	DI	HI	Total	OASI	DI	HI	Total
Employers and employees, each:								
1978	4.275	0.775	1.00	6.05				
1979	4.330	.750	1.05	6.13	4.330	0.375	1.05	5.755
1980	4.330	.750	1.05	6.13	4.330	----------	1.05	5.380
1981	4.525	.825	1.30	6.65	4.525	----------	1.30	5.825
1982–84	4.575	.825	1.30	6.70	4.575	----------	1.30	5.875
1985	4.750	.950	1.35	7.05	4.750	----------	1.35	6.100
1986–89	4.750	.950	1.45	7.15	4.750	----------	1.45	6.200
1990 and later	5.100	1.100	1.45	7.65	5.100	----------	1.45	6.550
Self-employed:								
1978	6.0100	1.0900	1.00	8.10				
1979	6.0100	1.0400	1.05	8.10	6.0100	.52	1.05	7.5800
1980	6.0100	1.0400	1.05	8.10	6.0100	----------	1.05	7.0600
1981	6.7625	1.2375	1.30	9.30	6.7625	----------	1.30	8.0625
1982–84	6.8125	1.2375	1.30	9.35	6.8125	----------	1.30	8.1125
1985	7.1250	1.4250	1.35	9.90	7.1250	----------	1.35	8.4750
1986–89	7.1250	1.4250	1.45	10.00	7.1250	----------	1.45	8.5750
1990 and later	7.6500	1.6500	1.45	10.75	7.6500	----------	1.45	9.1000

Other proposals have been put forward. One would be similar to mine, but would change the financing of the medicare program instead of disability. Because that proposal undermines the connection between contributions and entitlement to hospital benefits for older people, I believe it to be less desirable. However, proposals to separate other programs which are not directly age related from the payroll financing should be examined.

The debate over the proper level of payroll taxes and the financing of social security will continue. I am putting forward my proposal in the hope that other Members will see its advantages and consider it as a solution to the controversy.●

A CORPORATE LOOK INWARD: WHAT IS GOOD FOR THE ARTS MAY BE GOOD FOR BUSINESS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. BRADEMAS. Mr. Speaker, one of the outstanding leaders of our country is J. Irwin Miller, chairman of the Executive and Finance Committee of the Cummins Engine Co., Inc., of Columbus, Ind.

Mr. Miller recently delivered an address to the 11th annual "Business in the Arts" award luncheon entitled, "A Corporate Look Inward: What Is Good for the Arts May Be Good for Business."

I ask unanimous consent to insert in the RECORD the text of his remarks as excerpted and published in the Chicago Tribune:

The article follows:

A CORPORATE LOOK INWARD: WHAT IS GOOD FOR THE ARTS MAY BE GOOD FOR BUSINESS

(By J. Irwin Miller)

American businessmen today are indignant. They are having troubles with profit

margins, troubles with government regulators, troubles with foreign governments. On top of all this, antibusiness sentiment is growing—among the young, among housewives, among consumers generally. "It's not fair," we businessmen tell ourselves. "Nobody mentions or gives us credit for the great contribution of business to the nation and to the world." . . . To all this my reply, as a business manager of more than 40 years' service, is, "Down boy!"

We had better ask ourselves a hard question or two. The papers have reported that more than 430 corporations disclosed to the IRS that they had made a variety of illegal political and other payments. We have all read about multimillion-dollar bribes given by business even to heads of state. We know about housing development scandals, security frauds, bank scandals, lawyers going to jail, doctors ripping off Medicare. But most of all we have our own cocktail hour conversation—about personal experiences at airline counters, at department stores, with automobile and TV repairmen. Why get indignant? Who would expect any other public response than the one we now receive?

The pathetic thing about us is our most frequently proposed solution: a new wave of programs to "tell Americans the story of business." As we say, we must effectively counter the teaching of socialistic college professors. So, when an airline begins to develop a reputation for losing passenger baggage, its first response is all too often to mount a multimillion-dollar advertising campaign to instruct the public in how well it handles baggage. We all know similar examples; they are embarrassing.

What has all this to do with business and the arts? I have begun with this kind of statement because I would like to lay to rest the notion that business support of the arts is "good for the image of business." A store that gives contemptuous service at the counter, a manufacturer who makes shoddy products, a multinational which bribes heads of states, if it counters by advertising its superb collection of avant-garde paintings, invites public comment printable not even in Playboy.

The American public is pretty patient. It is tolerant with all who try, and it is tolerant of business when it perceives it to be trying. On the other hand, business itself has long told Americans to expect great things from the products and services of business, and has beautifully described the "miracles" business had wrought. It is therefore not at all surprising that the expectations of Americans from business are reasonably high.

When the products of business really work, when business is known to step up and accept responsibility for mistakes, when it serves its customers with understanding and humanity, when it obeys the laws of every land in spirit as well as letter, then I think the image of business will change for the better.

Well, then, if business can probably not do much to change its image simply by supporting the arts, why should business give to the arts? Let's back up one step. Why should business give at all? There are those who say it should not.

Milton Friedman expressed this opinion most forcefully in a New York Times Magazine article. He said: "The social responsibility of business is to increase its profits . . . only people can have responsibilities. Business as a whole cannot be said to have responsibilities . . . In a free society there is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its profits as long as it stays within the rules of the game."

You may be thinking that perhaps this doesn't really exclude generous support of the United Way, going the extra mile for customers, voluntary efforts to clean up industrial pollution. I think it does. In a Newsweek column, Prof. Friedman, commenting on business and pollution, argued that business should not really do anything that costs money and that it isn't compelled to do by law or by direct contribution to profit.

Now let's reflect on that a little. Do you really imagine that an individual, after being told explicitly and by long example that his company has no responsibility to him or to anyone else except insofar as it maximizes its legal profits—do you imagine that such an individual will be of a mind to make a loyal commitment to the welfare and progress of his company, to go to extraordinary lengths in helping to solve its problems? Or do you imagine that such a worker, assuming he is in on the shop floor, might be inclined to maximize his own legal profits by stretching out the work so that he can get more overtime—or maybe even a little Sunday double time? Perhaps Prof. Friedman can be excused for his naivete. He is a tenured professor and hasn't had to meet a payroll. Let me add to his opinion that of a well-known businessman, Henry Ford, founder of a very successful profit-making business. He once wrote to a complaining stockholder:

"Business and industry are first and foremost a public service. We are organized to do as much good as we can everywhere for everybody concerned I do not believe we should make such an awful profit on our cars. A reasonable profit is right, but not too much. So, it has been my policy to force the price of the car down as fast as production would permit and give the benefit to the users and laborers with resulting surprisingly enormous profits to ourselves."

People such as Henry Ford are saying meaningful freedom will stay alive, and democracy will exist, only among people who feel fairly treated, recognized and who feel individually that they have a chance to use their abilities to the full.

So Henry Ford was more realistic than Prof. Friedman. We save ourselves, our business, only by making this society work equally well for all its members. To me that means, among many other things, voluntary individual and collective concern, voluntary giving—giving knowledge, time, money wherever we are convinced it will improve quality, correct evils, extend equity in America. The case for corporate giving is an essential part of corporate survival.

But why the arts? Are they not just an ornament, a status symbol, OK in good times, but something to be quickly abandoned at any sign of a downturn, something surely less than the reality of living and surviving? I suppose we have to ask, What is real? Well, I'm not about to give up willingly all the creature comforts that America has achieved, nor the luxuries possessed here by such an astonishingly large portion of the population, and neither are you; but why is it that, in the midst of our superb material achievements, we aren't the most deliriously happy people on the face of the Earth?

There is today not a group among us, young or old, rich or poor, black or white, man or woman, that doesn't have some degree of anger in its collective or individual life, some feeling that there ought to be more to life than this. We say that men and women are alienated, and we point to the highest divorce rate of our history. We say that children and parents are alienated. We say that blacks and whites are alienated.

Do you know what an alien is? He is a fellow who has no home here. He may not know where home is, but for him he does not find it here.

Why do Americans suddenly feel alienated, homeless? Twenty-three hundred years ago, in a play by Euripides, a character said: "Where the good things are, there is home." What are the good things that will make America a home for all its people? Are they air-conditioned houses, with pools, patios, and barbecues? Divorces can happen there, too, and children can leave such homes in anger.

Are they compassionate families, each of whose members find happiness in the happiness of the other, share with each other? Few children leave such homes, no matter where they travel.

It is the ancient task of the best artists among us to awaken us. The artist at his best helps each of us to discover what our best might be, helps us truly to see our neighbor, helps him to see us. If all this is true, then the artist helps us to discover the good things in our own selves, helps us to be at home with ourselves, and in so doing can help us to make America a home for all its members.

I think such an America might be a very good place for any business. So money and time and concern spent here might turn out really not to have been "spent" at all.●

AUGUST A. PINELLI: AN OUTSTANDING CITIZEN

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. DON H. CLAUSEN. Mr. Speaker, the city of Sonoma is fortunate in being blessed with many outstanding local leaders. Such a man is August A. Pinelli, who was born, raised, and has always lived in Sonoma.

As a teenager he went to work in the hardware store and 10 years later he was owner and operator of the business. He also assisted in organizing the volunteer fire department, served as a volunteer fireman and eventually became fire chief.

Like his father before him, he served as a member of Sonoma City Council from 1932 to 1954, during which time he served several terms as mayor.

He was chairman of city cemetery commission for 30 years, and at the same time served as a trustee for local school board and for the Sonoma State Hospital. He was a leader in the formation of the boys club, and served as a member of its board for many years. He served on the public utilities commission, and has frequently been called upon to advise area, State and county officials and organizations for several decades. He is a lifetime member of St. Francis Solano Church, a longtime member of the local Kiwanis Club, and was appointed in 1976, as the first Honorary Alcade of the city.

In addition he served on the Sonoma draft board for World War II, and 1 year on the county grand jury. His efforts in working for passage of State legislation called the Hospital District Act resulted in the construction of the Sonoma Valley Hospital.

Mr. Speaker, one word, one thought, is woven throughout Mr. Pinelli's life—and that is service—to his family, to his church, to his community, he selflessly devoted his time, energies and resources. There is an old saying, "If you want something done—look for a busy man." People have been looking to August Pinelli for years as the man who gets things done in Sonoma.

It has been said that freedom rests, and always will, on individual responsibility, individual integrity, individual effort, individual courage and individual religious faith. August Pinelli is truly a free man. His guiding philosophy seems to be similar to that of the person who said: "I am only one, but I am one. I cannot do everything, but I can do something; and what I should do and can do, by the Grace of God, I will do."

The citizens of Sonoma realize how deeply in debt they are to Mr. Pinelli. To express their appreciation and to serve as an inspiration for others to emulate his dedication, the city of Sonoma will name a park in his honor.

So that the nation may be aware of the high esteem in which the city of Sonoma holds August Pinelli, I am entering my remarks in the CONGRESSIONAL RECORD. I want my colleagues in the Congress and people throughout the Nation to be aware of the high esteem in which the city of Sonoma holds August Pinelli.●

TRIBUTE TO DR. FREDERICK W. HILL, NOTED EDUCATOR

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. LENT. Mr. Speaker, Dr. Frederick W. Hill, superintendent of the Hicksville Public Schools on Long Island, is retiring after 40 years of distinguished service as an educator. I wish to congratulate and commend Dr. Hill for his many contributions to the Hicksville community, and to our entire Nation. Indeed, he has compiled a record worthy of the highest tribute.

Dr. Hill brought to the Hicksville schools the benefits of his wide ranging interests and experiences. His career began as a teacher and supervising principal in a small midwestern community, and he accepted numerous progressively responsible positions, including that of deputy superintendent for business and administration in New York City—the largest school system in the Nation. Thus, his efforts in Hicksville reflect both the wisdom of experience and the enthusiasm so necessary to meet the demands of the job as superintendent.

Educators across the country recognize Dr. Hill as the "No. 1 School Business Administrator" because of his success in promoting sound business management policies and practices, and his leadership in school systems. His national reputation was affirmed when the Association of School Business Officials conferred upon him certificate No. 1 as a registered school business official and registered school business administrator.

The role of education in our democracy is an important one, and Dr. Hill's philosophy was based on his commitment to education as a means of self and community betterment. By encouraging all people to seek the highest level of accomplishment, Dr. Hill has made a significant contribution to the personal satisfaction of many, and to an active program of community involvement to help those less fortunate.

Dr. Hill's commitment to educational opportunity is not only demonstrated in his classroom and school board rooms, but in his personal life as well. He and his wife, Mary, exemplify sensitivity and concern for others in all they do. They and their five children have opened their home and their hearts to five "adopted" children—from Japan, Germany, Pakistan, and Denmark. There is no doubt that the international understanding they were able to develop firsthand and at home, has been applied both in Dr. Hill's professional and community work.

I am proud to join all those who admire and respect the many accomplishments of Dr. Frederick Hill to congratulate him on the many outstanding contributions he has made over the years.

Through it all, Dr. Hill has retained his commitment to helping others, and his sense of honesty, integrity, understanding, and humor. What more can be said for the sense of well-being I know he so rightfully feels at this crossroad in his life.

My warmest wishes today to Dr. Hill, his family, and friends on the occasion of a tribute richly deserved.●

DR. WILLIAM J. SETTLE

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

© Mr. BADHAM. Mr. Speaker, seldom has the opportunity to pay tribute to an outstanding educator and teacher been more pleasant to me than to rise before this honorable body to call the attention of my colleagues to the great achievements of Dr. William J. Settle, upon the occasion of his retirement.

Jay Settle has pursued a distinguished career for 33 years in Los Angeles and Orange Counties, most recently as deputy superintendent of the Huntington Beach Union High School District, which is in the 40th Congressional District, which I have the honor to represent.

During the three decades Jay Settle has spent in education, he has been a high school principal in the inner-city, he has been the molder of young boys' lives in the field of athletic endeavors, but, most importantly, he has spent much of his career in the classroom helping to prepare young people for the great adventure of living as successful citizens.

In addition to top performances in all aspects of his chosen career in education, Jay Settle has always found time to lead his community in all manner of activities in his spare hours away from the classroom and field of coaching.

But perhaps his best-known public recognition was as one of the Nation's top athletic officials, where Jay Settle never missed a hacking foul, a double dribble, an incident of backfield in motion or pass interference, at least so he claims.

As one who has long admired the fine art of remaining calm in the midst of opposing views, I must express my deepest admiration for a man who has been asked to call them as he sees them, assuming of course that he does, in the face of angry 280-pound linemen and 7-foot centers.

But, in any case, I must take this occasion to remind my colleagues that in California, to retire and have your friends present for a joyous occasion on June 3, just 3 days before the election in my home State, where the voters will be deciding on the merits of the Jarvis amendment, combines what has to be the greatest amount of courage with the best of timing.

So, with that in mind, let me join with Jay Settle's many friends in wishing him the very best in his retirement years ahead, during which he can reflect on a worthy career of excellent achievements for the youth of our Nation.●

OIL SHALE

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. EVANS of Colorado. Mr. Speaker, on Monday, May 22, I introduced legislation to test the commercial, environmental, and social viability of various oil shale technologies. This legislation was developed by Senator FLOYD HASKELL in his Senate Committee on Energy and Natural Resources. I would like to include for the RECORD a section from the Senate bill report (No. 95–802) which provides background on oil shale development and this bill:

OIL SHALE

3. THE HISTORY OF EFFORTS TO DEVELOP OIL SHALE IN THE UNITED STATES

Development of oil shale has had a history of false starts dating from the 1860's. The discovery of oil in Pennsylvania put an end to early interest in shale development.

The U.S. Bureau of Mines has conducted research on the extraction of oil from shale beginning in 1916. This effort was in response to the concern, during World War I, that the Nation was running short of liquid fuels. The Bureau of Mines effort coincided with a revival of interest in the private sector. However, this wave of interest was cut short by the discovery of cheap east Texas oil in the 1920's.

The Synthetic Liquid Fuels Act of 1944, sponsored by Senator Joseph C. O'Mahoney and Representative Jennings Randolph, established a second Bureau of Mines program aimed at obtaining data on the cost of construction of a synthetic liquid fuel industry. Under this program, the Bureau of Mines spent $18 million for the construction of oil shale pilot plants on the Naval Oil Shale Reserves at Anvil Points, Colorado, near the town of Rifle. This facility was shut down in 1955, largely in response to a recommendation by the National Petroleum Council.

The results of these tests were very encouraging. On January 14, 1953, Under Secretary of the Interior Vernon D. Northrup was able to write Senator John Sparkman, ". . . it now appears that costs have been reduced to a point approaching a level with petroleum products." [1]

There was further reason for optimism in the late 1950's as a result of pronouncements by representatives of Union Oil Company of

[1] *The Control of Oil*, by John Blair.

California. On February 7, 1958, the Grand Junction, Colorado Daily Sentinel published an article entitled "Depletion Allowance Only Block to Shale Oil Boom." The article stated that Union Oil had a new target cost of $.50 per barrel of shale oil. Mr. Fred Hartley, then Vice President in charge of research and current President of Union Oil, stated that the only major impediment to a commercial shale oil industry was the lack of a fair depletion allowance. At the time, the oil shale depletion allowance was calculated on the basis of the rock mined, rather than the oil produced, which has a much higher value. It was the basis of calculation to which Mr. Hartley objected.

On July 8, 1958, according to John Blair, Albert C. Rubel, President of Union Oil wrote that Union could "with complete assurance proceed with the building of a shale plant which we know will work . . . and at a price closely comparable to current crude prices."

Less than a year later, prospects were not so bright, according to Union. On May 24, 1959, the Grand Junction Daily Sentinel published an article entitled "Union Oil's Rubel Says Shale Stalled." Mr. Rubel is quoted in the article as saying that "The only factor needed to trigger the oil shale industry in the Grand Valley (Colorado) area is a guarantee of a sufficient market."

Mr. Rubel went on to argue that the state of the world crude market was unstable and that until this situation changed, oil shale would not become a reality. Thus, by 1960, Union Oil representatives had identified the first two major impediments to shale development, lack of tax incentives and an unstable market.

In 1960, the Union shale retort was dismantled and sold for scrap.

Although the government facility at Anvil Points, Colorado was shut down in 1955, interest still existed. In 1957, the Navy submitted to Congress detailed plans for a research program which would have been financed by the Federal government and operated under contract by private industry. According to Captain Albert S. Miller, USN, Director of the Office of Naval Petroleum and Oil Shale Reserves, the idea was to perfect an economic shale oil process with a large-scale 1,000 ton/day retort. Miller pointed out that should wartime shortages develop, the Navy could take such a plant out of mothballs, replicate it and produce sufficient liquid fuel to cope with supply interruptions.

This plan was strongly opposed by the oil industry and never reached fruition.

In lieu of the Navy proposal, an arrangement was worked out whereby the Secretary of the Interior was authorized to lease the research facility for experimental research. On April 24, 1964, the Anvil Points facility was leased to the Colorado School of Mines Research Foundation. The Foundation then subleased the facility to six major oil companies, including Mobil, Humble Oil, Continental Oil, Pan-American Petroleum Co. (a subsidiary of Amoco), Sinclair Research, Inc., and Phillips Petroleum.

This consortium of companies operated a retorting unit at a 150 ton per day level, considerably below that recommended in the Navy proposal.

In February, 1966, these companies determined not to proceed further with the test, stating that it had been completed. In April, the plant was returned to the government.

By the late 1960's, a third major impediment to the development of oil shale was added to the list. Private industry argued that development of an oil shale industry was inhibited by the lack of access to rich oil shale deposits on Federal lands. At that time there was considerable dispute over claims filed under the 1872 Mining Law followed by pressure on the Department of the Interior to permit access to Federal lands via a leasing program.

However, efforts by the Department of the Interior to develop such a leasing program, met on two occasions in the late 1960's, with almost universal opposition from all companies.

The second proposal, submitted by the Secretary of the Interior Udall, would have permitted leasing of three oil shale tracts. It was opposed by one industry spokesman because of a provision in the Mineral Lands Leasing Act of 1920 which limits a company to a single 5,120 acre tract. The spokesman argued that this provision of law should be changed before any leases were offered. A fourth impediment to shale oil development was thereby identified.

By 1974, three of the four impediments to oil shale development previously cited by industry representatives had been eliminated. In 1970 the value of oil shale's depletion allowance (15 percent) was enhanced by changing the point of application from the rock to the oil produced. An additional incentive for large oil companies was provided by the Tax Reduction Act of 1974 which eliminated the right of companies producing more than 10 million barrels per year to use the oil depletion allowance, but continued to permit the use of the oil shale depletion allowance.

Secondly, the argument that the market for petroleum was unstable was largely eliminated by the Nation's dramatically increased reliance on imported crude oil and a developing national policy in favor of reduction of this reliance.

Thirdly, an oil shale leasing program finally became a reality in 1973 with the announcement of the Department of the Interior's Prototype Oil Shale Leasing program.

The fact that the tracts offered for sale under this program contained some of the richest oil shale deposits owned by the government may have served to reduced somewhat the negative effect of the fourth impediment—i.e. the provision of law limiting a company to one 5,120 acre tract. One of the tracts offered was estimated to contain 5.5 billion barrels of recoverable oil, or almost 20 percent of the total U.S. crude oil reserves.

The purpose of the leasing program was to determine the economic and environmental feasibility of oil shale development. Secretary of the Interior Morton stated in the Decision Statement for the program:

"The leasing program I have approved will encourage oil shale development and allow us to learn whether our 600 billion barrel shale oil reserves can be developed at acceptable economic and environmental costs."

The Decision Statement went on to point out that the Secretary had determined that the leasing program would be economically attractive because of private participation in the design of the program provisions encouraging timely development and the rapidly rising price of crude oil. In addition, major oil companies had the added tax incentives mentioned above.

Morton stated that the best incentive the Department had to offer was the availability of rich shale lands to the private sector. He stated that he did not believe that ". . . under present circumstances a subsidy is either wise or necessary for this program."

In testimony before the House Subcommittee on Mines and Mining on February 26, 1974, Secretary Morton expanded on the thinking behind the prototype leasing program.

He emphasized that the government could no longer afford to delay in obtaining financial and environmental data. He argued that the six tracts to be offered under the program were sufficiently diverse to assure that multiple technologies would be tested. He pointed out that the leases contained ample financial incentives to assure prompt development. He argued that the risk to the government was small, as it should be. And, in response to a proposal for a Federal oil shale corporation, he argued that the private sector did not need any subsidy to proceed and that therefore a Federal program of that nature was not necessary. Finally, he emphasized that the prototype program was structured to test the feasibility of an oil shale industry. He stated: "With the prototype program, we have simply asked: are you ready?"

Initial response to the program seemed to confirm Secretary Morton's conclusions. The first tract to be offered, Colorado tract C–a, was leased to Standard Oil of Indiana and Gulf Oil Co. for a bonus bid of $210 million. The second, tract C–b was leased to a group of four oil companies, including Ashland Oil, Inc., ARCO, TOSCO, and Shell Oil Co. for $117 million. Two tracts in Utah, U–a and U–b were leased for a bonus of $75 and $45 million respectively to Phillips Petroleum Co., Sun Oil Co. and Sohio.

The first indication of problems with the prototype program was with the offering of two tracts in Wyoming. No bids were received.

By December 12, 1975, two of the original holders of the C–b lease, ARCO and TOSCO, had withdrawn from the program.

The holders of tract C–a, Amoco and Gulf, indicated that they could not best proceed with their mining plan until and unless Congress enacted legislation permitting them access to additional Federal lands for waste disposal. Thus a new impediment to oil shale development emerged.

In August and September, 1976, all four groups of lessees applied to the Department of the Interior, under section 39 of the Mineral Lands Leasing Act, for suspension of their leases.

The list of reasons given for the suspension requests, both in the formal applications and accompanying letters include the following:

(1) unanticipated developments and changing conditions
(2) rock mechanics problems
(3) unknown environmental consequences
(4) project economics
(5) need for additional lands
(6) air quality regulations
(7) time needed to establish a joint industry/government program to test the commercial feasibility of oil shale technology
(8) hostility toward the petroleum industry
(9) state and Federal severance taxes
(10) vertical and horizontal "dismemberment" proposals in the Congress
(11) the lack of tax incentives.

The list of impediments to oil shale development was thereby insignificantly expanded. All four requests for suspensions were granted by the Department of the Interior in the fall of 1976 for a period of one year.

On November 2, 1976, Shell Oil withdrew from lease C–b and on November 3, 1976, Ashland signed an agreement with Occidental Petroleum which gave that company a 50 percent ownership of lease C–b.

In early 1977, the lessees of both Colorado tracts revised their Detailed Development Plans. These new plans were submitted to the Department of the Interior prior to the expiration of the suspensions and were accepted. Both plans call for the use of modified in-situ technology to recover the shale oil. The ability of the lessees to submit new DDP's without an EIS is being challenged in the case of *Environmental Defense Fund et al.* v. *Cecil Andrus, et al.*

The current situation regarding the Utah leases is more ambiguous. On May 31, 1977, the Federal District Court in Utah issued a preliminary injunction suspending the terms of the leases due to multiple claims on the title to the land. It will probably be years before this dispute is settled.

The two law suits added to the growing list of impediments.

On April 18, 1978, the President of Occi-

dental Oil Shale, Inc., stated that it will require in excess of $700 million to develop lease tract C-b, and that due to the increased cost of the initial phase of their development program (the estimate in February 1977 was $442 million), additional incentives will be necessary.

This is the most recent expression of a view voiced by many industry spokesmen, and represents one aspect of the economic impediment, i.e., capital requirements are beyond the investment capabilities of many private companies.

In summary, the status of the prototype oil shale program which was to test the commercial feasibility of multiple oil shale technologies is as follows:

(1) two leases did not receive bids

(2) two leases are subject to a suit as to title which will last for the foreseeable future

(3) two leases are being developed, however on one the lessees appear to be in financial trouble, and both are subject to a suit challenging the Department of the Interior's ability to approve the second Detailed Development Plan.

With the exception of activities on the two Colorado leases, there are no on-going efforts to demonstrate the commercial viability of oil shale technologies. Since lessees on both tracts intend to use modified in-situ technology, this means that there are no efforts to test any above ground technology.

4. RECENT EFFORTS TO REMOVE THE ECONOMIC UNCERTAINTIES ASSOCIATED WITH OIL SHALE DEVELOPMENT

Beginning in 1975, the Congress made two major attempts to deal with the economic impediments to oil shale development.

Both efforts were in the form of a loan guarantee proposal for synthetic fuels, including oil shale, and both were eventually defeated in the House of Representatives.

On April 20, 1977, President Carter sent his energy message to the Congress. The mention of oil shale in this message is brief enough to quote in its entirety:

"Billions of barrels of oil may some day be recovered from shale deposits in Western States if environmental and economic problems can be overcome. Several private firms have announced that they believe they can solve these problems, and that they are prepared to proceed with shale oil development. These commercial ventures should provide valuable information about the viability of a shale oil industry.

"Due to the high risks and costs involved in shale oil development, the Government should establish a pricing policy that provides adequate incentives to producers.

"Accordingly, shale oil will be entitled to the world price of oil."

In testimony before the Senate Subcommittee on Energy Research and Development on April 28, 1977 on S. 419, Dr. William Gouse, of the Energy Research and Development Administration, elaborated on the President's policy toward oil shale as follows:

"Because of the high risks and costs involved in the development of shale oil projects the President recommended in his April 20, 1977, energy message that private-sector producers of shale oil be entitled to receive the world price of oil in the United States for their product.

"ERDA believes that this recommendation will be adequate incentive to initiate private-sector development of oil shale facilities where there is minimal or no technical risk. and later:

"Senator HASKELL. It is ERDA's opinion that world price solves economics and that private companies have so indicated?

"Dr. GOUSE. Yes, sir."

By July, 1977, the opinion of the Administration had apparently changed. It issued a proposed regulation which would not only give oil shale producers the world price, but would also treat shale oil as imported crude for the entitlements program. Administration spokesmen have estimated that this could amount to a $2.00 per barrel subsidy of shale oil.

During consideration of the President's National Energy Plan, in the Senate Committee on Finance, Senator Talmadge successfully offered an amendment which would give oil shale a $3.00 per barrel tax credit. The measure was passed by the Senate and is now in Conference as part of the National Energy Act. This credit amounts to another $5.50 subsidy per barrel.

Administrator spokesmen now indicate that they are willing to accept a modified version of the Talmadge amendment, currently pending in Conference, in addition to the entitlements benefits.

One oil company, Union Oil Company of California, has indicated that it would be willing to proceed with the construction of a modular oil shale plant should the provisions of the Talmadge amendment become law. No others have given such a commitment.

5. SUBSIDY STRATEGIES VERSUS A "GOCO"

S. 419 would direct the Secretary of Energy to establish what is known as a "GOCO"—a government owned, contractor operated test facility. Under such an arrangement, the Federal government supplies all of the necessary funds for the construction and operation of the projects. Private contractors, in this case most probably oil companies, would carry out the work specified in the contract.

A GOCO is distinct from other subsidy alternatives in that it seeks to directly accomplish a given task with Federal dollars, rather than attempting to induce action on the part of others by calculating what incentives will cause them to act.

GOCO is distinct in another way as well. Subsidies, whether they be tax incentives, entitlements benefits, loan guarantees, guaranteed purchases, or other devices, are aimed at only one impediment to development—the economic impediment. A GOCO can proceed in spite of the other uncertainties which might discourage private investment, even with the existence of an attractive subsidy.

History has given us evidence of such a possibility in the case of oil shale. The list of major impediments to oil shale development prior to the initiation of the Prototype Oil Shale Leasing program were four: (1) modification of the depletion allowance, (2) access to rich Federal lands, (3) an unstable petroleum market caused by overabundance and (4) limitation on the number of acres of Federal oil shale lands which can be controlled by a single company.

Three of these four impediments have been removed. Since it is really the amount of oil and not the acreage which is the critical factor in terms of private investment decision, the fourth limitation is arguably mooted by the offering of extremely rich deposits of oil.

Yet, there is not a single on-going effort in the United States to demonstrate the commercial viability of an above ground retorting technology. Impediments, like a worm, apparently grow geometrically when they are cut in half.

It is the judgment of the Committee that the Nation cannot afford to continue to await, as has been the case for twenty years, the demonstration of the commercial viability of oil shale technologies by private industry and should begin now to test these technologies at public expense.

6. OTHER ADVANTAGES TO THE GOCO APPROACH

Some of the impediments to oil shale development which are listed by industry spokesmen cannot be removed. Uncertainties will always remain. It is clearly impossible for example, for any Congress or Administration to guarantee that future Congresses or Administrations will not advocate "dismemberment" of the oil industry.

It is possible however, to remove or reduce many of the impediments. This is one major objective of S. 419.

For example, the environmental consequences of an oil shale industry can be much more clearly established. Moreover, the consequences can be studied in the context of a circumscribed Federal program which has a definite termination and which welcomes the participation of all those concerned. S. 419 is such a program. The opposition of environmental groups to any and all oil shale development in the courts is much less likely to occur if information is available which demonstrates the environmental acceptability of a commercial oil shale industry. If, on the other hand, the environmental consequences of this industry are not proved to be acceptable, the program is structured such that this decision will be made in full public view, with detailed supporting evidence, and we will then have to look elsewhere for our liquid fuel energy.

The program established in S. 419 will also narrow considerably the current uncertainty with respect to oil shale economics. Table I shows that the range in prices is from $11 to $25 per barrel. If the lower figure is accurate, oil shale producers would be able to sell their oil for $3.50 per barrel and still break even under a combination of an entitlements benefit and a tax credit as is being considered by the current Administration. If, on the other hand, oil shale requires a price in excess of $25 per barrel, and it is judged to be in the public interest to subsidize the industry to such an extent, the subsidies might have to be even higher than $7.50 per barrel. At the moment we do not know the answers. After the completion of the program established in S. 419, we still may not know, but we will have a much better idea.

Another advantage to the GOCO is that with the Federal government supplying all of the needed funding, it is possible to require that the patents vest in the government and that these be available to all should any of the tested technologies prove viable. This is not the case with any other subsidy alternative.

Should the projects be located on the lands of the Navy Oil Shale Reserve, as is possible under the bill, there is yet another advantage. The development of the Navy's oil shale deposits in the event of an emergency would require a hopelessly long period of time. If, however, modular retorts were already in place on the Navy lands, and if there was a body of knowledge regarding the ability to use these particular deposits of oil shale, the oil could be available in a matter of months instead of years. This advantage was recognized by Captain Miller in 1957 when he proposed a program almost identical to the one proposed in S. 419.

Finally, there is good evidence that a GOCO operation of the size proposed in S. 419 may be the cheapest way available to the Federal government to accomplish these tests.

The Congressional Budget Office has advised that the total cost of the program will range from a net outlay of $111 million to a net receipt of $33 million. The capital and operating costs of the program will be offset by the use or sale of the oil produced during the tests.

The production level assumed to obtain this estimate was 6.3 million barrels in the first year, and 4.2 million barrels per year in the second and third years, for a total production of 14.7 million barrels.

Table II illustrates the costs of other subsidy alternatives which are under consideration.

Table II

$3/bbl tax credit (equals $5.50/bbl), $80.85 million.

$3/bbl tax credit plus entitlement (equals $7.50/bbl), $110.25 million.

Loan guarantee (default on $1 in 7) (includes impact assistance) (capital and start

up—i.e. 1 year operating), from $49.6 million to $60 million, for an average of $59.3 million.

S. 419, from net outlay of $111 million to net receipt of $33 million, for an average of $39 million.

These comparative figures are based on the same amount of oil production in each case. However, budget estimates for the Talmadge amendment of a $3/bbl tax credit are estimated at $327 million in FY 1985 alone. Under the proposal to allow tax credits and entitlements for up to 50,000 barrels per day (total production), the cost in 1985, assuming this level is reached and assuming a conservative 300 days of operation per year, would be $112.5 million in fiscal year 1985 alone. Of course the government would be permitting the testing of more technologies and would enjoy a higher production rate in these instances.

LEGISLATIVE HISTORY

S. 419 was introduced on January 24, 1977 by Senator Floyd K. Haskell. Hearings were conducted by the Subcommittee on Energy.●

U.N. SPECIAL SESSION ON DISARMAMENT

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. HILLIS. Mr. Speaker, today marks the first day of the U.N.'s special session on world disarmament. As one of the congressional advisers to this historical event, I would like to take this opportunity to comment on the objectives of this conference.

In the Arms Control and Disarmament Agency's March 1978 report to Congress it states that in maintaining the balance between the United States and the U.S.S.R., the "United States is committed to denying the Soviet Union either an overall military advantage—or a perceived political advantage—in strategic forces." This policy must act as the foundation of any disarmament negotiations entered into by the administration. However, and most unfortunately, I am afraid this point has been ignored by the vast majority of our delegates to the U.N. special session.

Last Thursday, in a top level meeting of the U.S. disarmament community and the delegates and advisers of our delegation to the U.N. special session, the question was raised how to best "discredit the higher echelons of the military who argue that the United States must negotiate from a position of strength." It is undeniable that the entire U.S. delegation to the disarmament conference in New York is against any further improvements or strengthening of our military.

It is not a coincidence that over 300 demonstrators were arrested yesterday in a protest in Bangor, Wash., against the Trident submarine. Some of the demonstrators admitted they had timed their protest to coincide with the U.N.'s disarmament conference.

It is vital to our national security that disarmament negotiations continue in all eight areas we are currently working on with the Soviets. However, the U.N.'s special session should not be used as a platform to declare war on the Pentagon. The administration may have made a mistake in appointing a majority of antimilitary personalities to the U.S. delegation. With such a stacked deck, there can be no balance in whatever results from our efforts at the U.N.●

VICE PRESIDENT MONDALE'S ASIAN MISSION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. WOLFF. Mr. Speaker, the recent mission of Vice President MONDALE to Asia was a welcome one for those of us concerned about our Asian friends, allies and trading partners. And, judging from the reception the Vice President received, his mission was welcomed by the leaders and the people of Asia too.

The Vice President's travels were particularly well timed, coming just over a year into the new administration's term, when many of the policies of the administration are now beginning to be seen in a clearer light, but when the first-hand presence and input of a senior administration official and representative of the American people could be most productive in fostering a sense of mutual understanding between Americans and Asians.

The Vice President raised a number of points during his mission which I would like to highlight briefly since they underscore points made during a fact-finding mission by the Asian and Pacific Affairs Subcommittee to many of the same nations in January of this year.

The Vice President's overriding theme was what we as well sought to stress in January—that the United States is and will remain a Pacific nation, and will remain a key partner in the defense of the region, and in the economy of the region, particularly through the ASEAN nations.

The Vice President likewise represented the strong concerns of the Congress, the President, and the American people for the human rights of all peoples, and the need for people and governments of good will to do all they can to foster human rights.

Finally Vice President MONDALE helped illuminate the concerns of the Congress and the American people for the plight of the thousands of Indochinese refugees. While we certainly welcome the plans he discussed in Thailand, the need for a unified administration policy on refugee admissions remains an important goal, and we hope that the interest and enthusiasm generated by the Vice President's trip will be translated into working policies not only on refugees, but on the many important issues raised on the mission.

The Vice President's conclusions and recommendations from his mission were expressed by him in an address he presented before the East-West Center in Hawaii, en route to Washington after his stops in the Philippines, Thailand, Indonesia, Australia, and New Zealand.

Because of the importance of the Vice President's mission, and of his findings on that mission, I am pleased to present for the RECORD a transcript of his remarks in Honolulu on May 10, 1978.

REMARKS OF VICE PRESIDENT WALTER F. MONDALE AT THE EAST-WEST CENTER, HONOLULU, HAWAII

Chancellor Kleinjans and distinguished guests, I am delighted to be with you today at this distinguished center of learning. The East-West Center embodies the basic purpose of the mission I have just completed: the promotion of better relations and understanding between the United States and the nations of Asia and the Pacific.

I am also pleased to return to Hawaii—a State which reminds us more powerfully than any other that we are a nation of immigrants, blessed as a result with constant infusions of new energy and new blood. And Hawaii reminds us that when Theodore Roosevelt spoke of the "ocean of destiny" he was speaking of the Pacific.

My discussions with the leaders of the Philippines, Thailand, Indonesia, Australia and New Zealand, were held at the request of President Carter, in order to help define clearly America's role in the region. I want to report to the American people on this mission and on the new role for our nation in the Pacific community.

For nearly a decade, our involvement in Southeast Asia touched not only every corner of the region, but ultimately every family in America. When that era ended three years ago, many Americans understandably wanted to turn their attention away from Southeast Asia. Our military presence in the region declined. Aid levels dropped. And for several years high-level American visitors were few. These developments induced deep concern that the United States would abandon the area.

All the non-Communist countries of the region want America to maintain a visible presence. They value our security role and the deployment of U.S. naval and air forces. They want stronger economic ties with us, and welcome an active American diplomacy.

The problem that challenged the Carter administration was to fashion a policy toward Southeast Asia that advanced American interests in a setting of rapidly changing circumstances. We must define a sustainable level of American involvement in the region, one that accommodates local concerns; one that is less colored by past traumas. And our new role requires emphasis on America's new foreign policy concerns—such as human rights and arms transfer restraints. This is not an easy task. But we believe we have begun.

In each capital I visited—I reaffirmed one central proposition; America is unalterably a Pacific power. This is a natural condition of history and geography, as well as a conscious choice. The State of Hawaii and various American territories are located in the Pacific. America has extensive political, economic and security interests in Asia. Our ties with Asian nations are central to the success of our global policy.

Our key Asian alliances contribute to regional stability and a favorable global balance of power. We will preserve them.

The freedom of the sealanes in the Pacific are vital to the security and well being of the United States and all maritime powers. We will protect them.

Our trade with the Pacific Basin nations—which is larger and growing faster than with any other region—is crucial to the health of our own economy. We will expand it.

Our relationship with the Peoples Republic of China contributes to a stable balance in the Pacific. We will strive to deepen it.

Our lives, our art, our sciences are enriched through cultural exchanges of peoples and ideas across the Pacific. We will strengthen them.

We will not cling to past patterns of involvement in the Pacific. We will shape our

future involvement to assure a balance between preserving security and promoting constructive change; between government actions and private enterprise. We will meet necessities of power and fulfill the claims of principle.

I saw a vastly different Southeast Asia when I last visited the region in 1966. For many Americans, at that time, Southeast Asia meant violence, instability and corruption.

Ideological conflict tore Southeast Asia apart. The economic outlook was uncertain. Regional cooperation was a mere aspiration. China inspired fear in its neighbors. Japan pursued a diplomacy dominated by commercial interests. Most of the small noncommunist states in the region were deeply dependent on the U.S., and the very size of our presence invited excessive involvement in their internal affairs.

What I have seen in the past ten days reveals dramatically how far Southeast Asia—and we, the American people—have travelled in a few short years. The United States is at peace in Asia, and the region is relatively tranquil. Old ideological struggles have lost their force; nationalism has triumphed over all competing ideologies; and the most intense regional rivalries now pit Communist nations against each other.

The Pacific Basin has become the most dynamic economic zone in the world. Its prosperity is shared by all except those nations that have rejected the market system. The era of great power dominion has given way to a more mature and equitable partnership. Regional cooperation is no longer a slogan; ASEAN has moved into a period of substantive accomplishment. Economic issues are now the prime concerns of most governments in the area.

Japan's economy continues to provide an engine of growth for the Pacific Basin, and the Japanese are defining a wider vision of their political role in the region through the expansion of their economic assistance, their support for ASEAN, and their efforts to discourage the emergence of antagonistic blocs in Southeast Asia.

China has become an increasingly constructive force in the region and is pursuing policies in Southeast Asia which in some respects parallel our own.

These are hopeful trends. They offer the prospect of new and promising relationships with the nations of the Pacific. They encourage me to believe we can combine our traditional concerns about security with an imaginative response to a new agenda— assuring adequate food supplies for Asia's growing population; solving trade and commodity problems; developing alternative sources of energy; promoting patterns of regional cooperation and reconciliation; and promoting wider observance of basic human rights.

All these objectives require that America remain strong in the Pacific. If we do so, our security everywhere will be enhanced. If we do not, the consequences will not be confined to Asia alone.

Yet the nature of our security role is changing. Our willingness to maintain a U.S. military presence must be balanced by the growing self-reliance of our friends.

Our security concerns are sharpest in Northeast Asia, where the interests of all the major powers directly intersect. But we cannot draw a line across the Pacific, and assume that what happens in Southeast Asia will not affect Japan and Korea. Moreover, the area is of great intrinsic importance:

It is rich in resources and offers the United States a large and growing market.

It sits astride sea lanes through which Middle East oil flows to Japan and to our own west coast.

Access to Philippine bases enhances our strategic flexibility, and our ANZUS ties contribute to the stability of the Southwest Pacific.

The friends and allies we have in the area strengthen our global positions; their independence and well being remain important to us.

Perhaps most significant of all are the human ties: Ties of kinship, of comradeship and sacrifice in war, of shared dreams for peace.

Fortunately, Southeast Asia is no longer a theater of large-scale armed struggle. But our friends there continue to have serious and legitimate security concerns. Many states in the region remain plagued by internal conflicts. Vietnamese ambitions in the area remain unclear. Armed clashes between communist states and Sino-Soviet competition generate growing pressures and uncertainties.

The non-Communist nations continue to look to the United States for help. They do not seek our direct military involvement, which they consider neither desirable nor necessary.

But they do want us to sustain a military presence to serve as a deterrent and a source of psychological reassurance. They want us to be a reliable source of essential defense equipment, thus avoiding the need to establish wasteful and inefficient local defense industries. They want diplomatic support in their efforts to avoid being drawn into the rivalries of other great powers.

These desires are reasonable and consistent with our interests. I affirmed at each stop our intent to maintain America's multilateral and bilateral security commitments and preserve a balanced and flexible military posture in the Pacific. Our friends want this; our potential adversaries expect it; our interests require it.

In the Philippines I discussed with President Marcos amendments to our existing Military Base Agreement which can stabilize our continued use of these key military facilities on terms that fully respect Philippine sovereignty over the bases.

In Indonesia and Thailand I emphasized our intent to remain a reliable supplier of defense equipment even as we attempt to encourage greater restraint in the field of arms transfers. I confirmed our willingness to deliver F5 aircraft to Thailand and A4 aircraft to Indonesia. These systems permit our friends to enhance their self-reliance without threatening their neighbors.

In Australia and New Zealand I reaffirmed our commitment to ANZUS and made it clear that any Indian Ocean arms limitations arrangements we may negotiate with the Soviets will not impair our ability to support these commitments—as evidenced by our decision to hold joint naval exercises from time to time off the west coast of Australia.

To those who are concerned with putting the Vietnam war behind us, I pointed out that we have made a fair offer to the Vietnamese—that we are ready to establish diplomatic relations without preconditions. But Hanoi is still demanding a prior commitment of American aid, something which the American people cannot accept.

To all those with whom I spoke, I repeated our determination not to intervene in the internal affairs of Southeast Asian nations.

We threaten no nation. But we shall express in a tangible way our resolve to contribute to the security of the area.

ADDRESSING THE NEW AGENDA

All of the Asian leaders with whom I met emphasized that national resilience, economic growth, social justice and regional cooperation—rather than military strength alone—provide the essential foundation of security. I conveyed President Carter's desire to support their efforts to help themselves—particularly in developing their economic potential.

As in the security field, our economic involvement is undergoing rapid change. It is difficult to overstate America's economic stake in the Pacific. Two way trade with the East Asian Pacific nations reached $61 billion last year. Our investments in the Pacific now exceed $16 billion, and yield high returns. 40 percent of our imports of manufactured goods come from the Pacific. And the region offers a rich source of energy and raw materials.

Our trade and investment with Southeast Asia have matured. We buy more than we sell; our private capital transfers exceed our aid; and our imports include a growing proportion of manufactured goods rather than raw materials.

The concerns I encountered focused less on aid than on business; our regulatory processes, our incentives for private investment, and the fear of possible protectionism in the United States. Conversely, the issues I raised dealt with the need to work together to increase Southeast Asian agricultural productivity, develop alternative energy supplies, expand trade and promote more equitable growth.

In the future the following tasks must claim our priority attention:

1. We must assure the continued expansion of our trade with the Pacific nations—and others—through the successful conclusion of the Multilateral Trade Negotiations. Agriculture is an essential element of this negotiation. All of us will benefit if tariff and nontariff barriers to trade are reduced; all of us will suffer if the negotiations do not succeed. The time to make progress is this year. We have put forward a generous offer in Geneva: we expect other developed countries—like Japan and the European community—to match it.

2. We must help the Asian nations overcome deficiencies in their agricultural productivity. The Pacific Basin has special assets for dealing with this issue. The three largest grain exporters in the world—the United States, Canada, and Australia—border on the Pacific. So, too, do several of the largest grain importers—especially Japan and Indonesia. While rapid population growth is increasing food requirements in Southeast Asia, its nations also have considerable potential for expanding productivity, which we must encourage.

I emphasized our determination to undertake a comprehensive assault on this problem by:

Expanding our long term Public Law 480 and other forms of aid to food-deficit countries like Indonesia if they will take practical steps to increase agricultural productivity.

Offering the use of Landsat satellites to help assess regional ecological problems.

Focusing our bilateral aid in Southeast Asia on rural development.

Improving international food security by helping to create an international system of nationally-held food reserves to meet international shortages.

3. We must promote the development of alternate sources of energy. Southeast Asian countries—apart from Indonesia—have only modest proven oil reserves, but they possess abundant supplies of natural gas, coal, uranium and geothermal resources. Their rapid development will enhance our energy security and that of our friends while slowing the upward pressure on oil prices. We must find new ways to use our technology to assist local development of indigenous energy resources.

In the course of my trip I offered to send technical teams from our Department of Energy to help assess regional energy resources, strengthen energy planning, and identify new areas for collaboration. I made clear our interest in expanding cooperation in the development of conventional and nonconventional fuels. We can learn much from nations such as New Zealand, which have had long practical experience with geothermal energy production.

I responded positively to the idea of a formal consultative mechanism to facilitate deeper energy cooperation with ASEAN.

I emphasized that the American private sector remains the most skillful in the world at developing new sources of oil and natural gas.

4. We must preserve Asia's access to capital on favorable terms. Our bilateral assistance programs remain crucial to the Philippines, Thailand and Indonesia as each tries to deal with staggering problems of rural poverty, hunger and unemployment.

These development priorities reflect the new directions in our own aid program. We shall work with other donors and recipients to see that these objectives are met.

Meanwhile, we will continue to increase our development assistance to multilateral institutions such as the Asian Development Bank. During my visit to the bank headquarters in Manila, I confirmed President Carter's decision to contribute $445 million to the 1979–1982 replenishment program. This will help assure adequate financing for development plans in the region.

5. We shall encourage the increasingly influential role of the U.S. private sector in promoting Asian development for our mutual benefit. When I met in Jakarta with representatives of American business in Asia, my message was simple: We want our business community actively engaged in the Pacific; we want its role to grow and our companies to prosper. The administration is developing a comprehensive strategy for increasing American exports. We will give priority to reforming or eliminating governmental practices that undercut America's competitive position in Asia.

6. We will continue to promote the cohesion of ASEAN—The Association of Southeast Asian Nations. One of the most encouraging developments in Southeast Asia is the emergence of the ASEAN regional group. This association of nations is developing greater economic cooperation and acquiring the habit of consulting closely on political issues.

We have long enjoyed close relations with the individual members of ASEAN. We now seek stronger ties with the organization itself. In all of my talks with Southeast Asian leaders, I emphasized our willingness to host United States-ASEAN consultations at the Ministerial level in Washington later this year.

It is up to ASEAN's leaders to define the future patterns of regional cooperation. For our part, we are ready to support their initiatives.

HUMAN RIGHTS

In addition to maintaining security and strengthening our economic ties, our new role in Southeast Asia and the Pacific requires the affirmation of the basic values for which our nation stands. As President Carter said in his inaugural address, "Because we are free, we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear cut preference for those societies which share with us an abiding respect for individual human rights."

If our foreign policy is to be credible and effective, it must be based on these principles: the right to live without fear of cruel and degrading treatment; to participate in the decisions of government; to achieve social justice; and to seek peaceful change. We can take justifiable pride in our military strength and our economic prowess, but the greatest source of American influence is the power of our example.

The promotion of wider observance of human rights is a central objective of the administration's foreign policy. In Southeast Asia, there is no more profound test of our government's commitment to human rights than the way in which we respond to the rapidly increasing flow of Indochinese refugees who deserve our admiration for their courage and our sympathy for their plight. My trip has convinced me that we and others have underestimated the magnitude of the refugee problem. The flow of refugees is rapidly increasing. Vietnam's immediate neighbors are hard-pressed to handle the growing numbers of "boat cases" as well as large numbers of land refugees, and the burden of coping with these increased numbers falls disproportionately upon Thailand.

No single country can manage this problem alone. Given our legacy of involvement in Vietnam, we bear special responsibilities, and we are prepared to meet them.

The United States must take the lead in developing a broader international effort to handle the refugee problem. I informed Southeast Asian leaders that the United States will exercise parole authority to accept an additional 25,000 refugees from Southeast Asia annually. We will expedite the processing of refugees destined for the United States by stationing additional Immigration and Naturalization Service personnel in Bangkok.

I extended to Thai authorities an offer of up to $2 million to support their development of longer term plans for handling the Indochinese refugees. And I made clear that once such plans are developed, the United States will be prepared to offer more substantial assistance, in concert with others, to finance the permanent settlement of refugees in Thailand and elsewhere. In short, we shall do our part to find permanent homes for the refugees; we will urge others to do theirs.

There is no human rights situation in Asia, or indeed the world, which cries out for more attention than the tragedy still continuing in Cambodia. We have little leverage with which to affect the harsh, brutal, repressive nature of the regime in Cambodia, but we will continue to try to focus the world's attention on the horror of what is happening there.

Some critics suggest that the preservation of security and the promotion of human rights are mutually exclusive objectives. They are not. Only in an environment of security can human rights genuinely flourish. Yet, no government which fails to respond to the basic human needs of its people or which closes off all channels of dissent can achieve that security which is derived from the consent of free citizens.

The security we seek is not an end in itself, and it cannot be divorced from the question for social and economic justice. This poses for us a diplomatic challenge of extraordinary delicacy, for we must pursue both our interests and our ideals; we must avoid both cynicism and sentimentalism; we must shun both callous indifference to suffering and arrogant intrusion into others' internal affairs. And if we are to succeed:

We must concern ourselves with achieving results rather than claiming credit;

We must combine frankness in our private diplomacy with forbearance in our public statements;

We must remember that our example is our most potent weapon.

I am confident that we can strike the right chord. During each of my stops, I was able to speak frankly about human rights while enhancing cooperation on security and other matters. I believe we can develop relationships of confidence with the leaders of these nations without forfeiting the opportunity to listen to a wide variety of political opinions. And in several key stops I met with private citizens to hear a wide variety of views. I hope progress is being made. For example, we have received indications that the government of Indonesia at its own initiative is seriously considering speeding up the phased release of the 10,000 prisoners scheduled to be freed by the end of this year.

Only time will tell whether our efforts will yield genuine and enduring results. But unless we assert our beliefs, we can neither expect the support of our own people nor respond to the yearnings of others.

As Archibald MacLeish once wrote, "There are those who will say that the liberation of humanity, the freedom of man and mind is nothing but a dream. They are right. It is. It is the American dream."

CONCLUSION

The Pacific Basin, I am convinced, has begun an unprecedented and exciting era of change and growth. The future promises rapid economic advance and relative political stability, nationalism accompanied by regional cooperation, security without huge defense budgets, effective governmental authority combined with a growing respect for the rights of individuals.

This is what is possible, but this future is not assured. What happens will hinge on the wisdom, vision and determination of the Asian-Pacific countries themselves, including the United States. Our role is crucial. Our continuing political, security and economic involvement is indispensable and our interest. It must continue to adapt to changing realities. But it is not a burden to be borne, it is a challenge that we welcome.●

ALAMEDA HERITAGE DAYS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. STARK. Mr. Speaker, on Saturday afternoon, May 27, Alameda will celebrate the dedication of the Alameda Heritage Days' biplane and opening ceremony. On the same day, at noon, Mayor Chuck Corica will join with the public at city hall to address the dedication.

The celebration of Alameda Heritage Days is an expression of nostalgia and citizen participation. It reflects a community desire to work together toward an acknowledgement and recognition of the city's rich history. Through 40 events spanning a 6-week period, Alameda Heritage Days will turn back the clock to days gone by and reveal to citizens the evolution of their city.

The Spanish soldiers who first explored the area in 1795 called it an "alameda," meaning a "grove of poplar trees." Since that time, Alameda has served as the western terminus of the first transcontinental railroad. It was once the port of the Alaskan packers sailing fleet. The talented and renowned writer Jack London even lived and wrote here.

Enriching the community with Alameda's unique and colorful history, heritage days will certainly leave the citizens with a greater awareness and appreciation of their city's heritage and identity.

Of course, an important part of any city's past is its people and their spirit. It is for this reason that I ask my colleagues to join with me in extending warm congratulations to the citizens of Alameda, who themselves have made history in the knowledge, enthusiasm, and effort they have displayed in making the Alameda Heritage Days conception, a reality.●

PUBLICATION OF THE IPS FEDERAL BUDGET STUDY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. CONYERS. Mr. Speaker, a year ago 54 Members of Congress called upon the Institute for Policy Studies to undertake a full-scale examination of the Federal budget. We envisioned an analysis that would clarify the foreign and domestic policy assumptions underlying the President's budget, survey the consequences of the existing budget for the well-being and security of the American people, and offer alternative budget programs that represent a reordering of Federal priorities toward full employment, equitable taxation, and balanced economic and social growth. The bottom line behind our request was to stimulate new thinking on what the Federal budget can and should accomplish and innovative ideas on new directions for public policy.

Today I am pleased to announce that the institute's budget study, "The Federal Budget and Social Reconstruction," has been released and made available to Members of Congress. As one of the congressional sponsors I want to express my appreciation to Mr. Marcus Raskin and the staff at the institute who were responsible for the study. The 466-page study has measured up superbly in every regard to the expectations I had. I am confident that in the coming year it will be the basis for a far-reaching reevaluation of the congressional budget process and of the state of current domestic and international policies.

For the past few years I have called attention to inadequacies in the existing budget process and its program and policy results. We have not yet begun to establish national budget priorities in a deliberate and explicit manner. We have not yet gained control over Federal programs and developed the yardsticks that would permit us to determine what is working and what is not. There still exists a rather tenuous connection between budget decisions and policy objectives. We still lack the means to plan ahead on a multiyear basis so that we may monitor and manage more effectively the programs that we do enact.

There are, however, signs that the budget process is raising awareness of what national priorities are and ought to be. More and more of the debate on budget resolutions is focusing on the issue of priorities. More and more public-oriented groups and organizations are participating in the politics of congressional budgets. I fully expect in the not so distant future that the budget committees themselves will see the wisdom in holding budget hearings in major areas of the country to give citizens a direct role in framing budget choices.

The IPS budget study, "The Federal Budget and Social Reconstruction," will contribute enormously to the gathering momentum of public dialog on budget issues. On Saturday, June 17, the Institute for Policy Studies will convene a day-long seminar on the budget study, as one of several forums for bringing discussion of the issues to Congress and the citizenry.

I am attaching at this point in the RECORD a letter from Marcus Raskin summarizing the major points of the new study, and its table of contents. I look forward to future discussion on its findings.

INSTITUTE FOR POLICY STUDIES,
Washington, D.C., May 15, 1978.

Representative JOHN CONYERS, Jr.,
House of Representatives,
Washington, D.C.

DEAR JOHN: Under separate cover I am sending you and your colleagues copies of "The Federal Budget and Social Reconstruction." I hope that the study will be of use to you and the other Members in the critical years ahead.

The purpose of this letter is not to rehearse the analysis or varied recommendations in the study except to suggest that the ideas and programs of the study are outside the current policy consensus. While there are differences among the authors, one underlying assumption seems to be shared. It is that there is a need to break with a number of the notions which have governed American public policy since the New Deal and World War II. The reason is painful. It is that the problems of the society are not reached by present government policies and program. The economic and social policies of recent Administrations are pillars constructed on shifting sand. It is now time—while we still have it—to re-examine and reconstruct the basic assumptions of policy and statecraft according to principles of fairness, dignity, security and participation. These principles should not be considered as abstract goals for the society but should be reflected in budgetary choices and techniques of change. While it is fashionable to discuss the question of human rights abroad. and indeed, this activity has its place, we should be aware that a number of policies and attitudes which should have served as our guidepost for policy formulation and judgment in the past generation have been steadfastly downplayed or rejected. The programmatic ideas of this study present a series of arguments which take into account those problems not addressed adequately in current budget and programmatic choices but which do concern questions of fundamental human rights for Americans:

(a) nonparticipation of workers in decision making and production;

(b) the problem of aggregate and structural unemployment simultaneous to inflation;

(c) economic squeeze among two-thirds of the population so that less disposable income is available to them, and fewer possibilities for self defense against economic catastrophe are present;

(d) increasing sense of powerlessness among the people which now includes elective politicians and government officials. Both groups are held responsible for the operations of the "economy" but have little power over production or investment;

(e) an arms and national security system which is tied to genocidal weapons and outmoded alliances, without any respite in sight, and which has not increased the American people's sense of security;

(f) a health system which represents 12 percent of the federal budget but which gives mediocre care as compared to other industrialized nations;

(g) an energy "plan" which moves the United States towards greater reliance on the great oil ("energy") corporations and greater commitment to nuclear energy—which requires authoritarian systems of distribution;

(h) a transportation system which is hopelessly embroiled in the notion that "more" transportation is necessary, even as the present transportation system uses 40 percent of our energy supplies;

(i) housing which takes up 30 percent of a person's income with the likelihood that this will steadily increase;

(j) a budgetary process which is both closed and does not take adequate account of local and state spending and international corporate investment.

There is a likelihood that these problems will deepen in the immediate future. The result will be an increase of conflict within American society. If we are to have a chance at the solution of these problems it will be necessary to undertake certain changes in governmental organization.

As you know, I am in favor of opening the budgetary process to the citizenry as a whole. One possible way to achieve this is through a mechanism in which the citizens cast an advisory vote on their tax forms to indicate which governmental activities their taxes should support. Thus, for example, each taxpayer would "vote" $100, applying it to a particular priority. This yearly function would be aided through budget hearings in congressional districts at which different views would be presented.

Parallel to this process would be another Congressional activity: that of laying out long-term substantive goals, the likely means for achieving them, their cost and consequences. This process would be conducted through the congressional committees and is meant to seek an ongoing dialogue within the citizenry. In this way such programs as those outlined in our study could be widely debated.

Best regards,

MARCUS RASKIN.

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NEW HAMPSHIRE KINDERGARTEN VICTIM OF BUREAUCRACY RUN AMOK

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. D'AMOURS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

I was recently contacted by the Conway Cooperative Kindergarten in Conway, N.H., regarding what appears to be a particularly flagrant case of bureaucracy run amok. This kindergarten, run by volunteer mothers on a limited budget, has been bombarded by conflicting requests from no less than three different offices of the Internal Revenue Service.

In response to my inquiry on the kindergarten's behalf, I have received a letter from IRS acknowledging that in this case, their "followup inquiries were misdirected." That would seem to me to be an understatement. I submit for the record the correspondence involved in this case, in the hopes that it will raise the consciousness of Members to the very real problems being caused by an insensitive bureaucracy.

INTERVALE, N.H., *March 22, 1978.*

WILLIAM J. BATTYR,
Chief, Taxpayer Assistance Section, Internal Revenue Service, Andover, Mass.

DEAR SIR: We, Conway Cooperaitve Kindergarten (Employer No. 02-0335633), are confused. We have received within the last month mailings from three different I.R.S. centers, obviously uncoordinated. From you in Andover we have a letter (No. 2360) requesting that we fill out form 5818 to determine our filing status and acknowledging receipt of our form 941. From Manchester, N.H., we have received a request for form 941E quarterly returns. From Boston, J.F.K. Building, we have received a request for information on our racial distribution in connection with our pending 501(c)(3) form.

We were informed in December by your I.R.S. information service that we must file form 941 (not 941E) until our 501(c)(3) status is confirmed. We have paid our FICA for both the December '77 and March '78 quarters with such understanding. We realize that we are not exempt from paying FICA until we are designated 501(c)(3). Now we have received form 941E, not 941, to fill out for the March quarter!

Perhaps you would be willing to answer our questions without our incurring more expensive long distance phone calls to pay for from our shoestring budget. What are we doing wrong? How long is it before we can expect 501(c)(3) status? May we, indeed shouldn't we, wait until then, and ask our employees then if they want FICA? May we not apply then for a refund of FICA payments if so determined?

Our Board of Directors is entirely made up of volunteer mothers of kindergarten children. This is the first venture for all of us into a business-like operation. We have been unbelievably diligent and scrupulous. Our response to each IRS correspondence and form requests has been prompt and accurate. Frankly we are a bit overwhelmed by the duplication, repetition, and lack of coordination on the part of the Internal Revenue Service.

Wouldn't having just one specific I.R.S. center for an organization or individual to file with every time relieve the expensive duplication of postage, materials, and labor? The single file could comprensively handle all requests and responses.

With all good intentions,

DORCAS H. DEANS,
President, Board of Directors, Conway Cooperative Kindergarten, Conway Recreation Center, Conway, N.H.

MARCH 31, 1978.

Mr. GENE E. GODLEY,
Assistant Secretary for Legislative Affairs, Department of the Treasury, Washington, D.C.

DEAR MR. GODLEY: Please see to it that the situation described in the attached letter from the Conway, New Hampshire, Cooperative Kindergarten is cleared up as quickly as possible.

I would also appreciate a report from the appropriate officials on how such a situation could develop and what can be done in the future to prevent IRS offices from working at cross purposes. It would also be useful to know whether or not it is feasible to designate a single "lead office" for small new organizations such as this one.

Sincerely,

NORMAN E. D'AMOURS,
Member of Congress.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., May 8, 1978.

Hon. NORM D'AMOURS,
House of Representatives, Washington, D.C.

DEAR MR. D'AMOURS: This is in reply to your letter in behalf of Ms. Dorcas H. Deans of the Conway Cooperative Kindergarten, who wrote to you requesting your assistance concerning the organization's application for tax-exemption.

We have been advised by our Exempt Organizations Division that the Conway Cooperative Kindergarten was granted tax-exempt status on April 5, 1978. They were notified by letter that the effective date of exemption is October 1977 under Section 501(c)(3) of the Internal Revenue Code.

We apologize for the multiple inquiries the Conway Cooperative Kindergarten has been receiving. Our procedure requires that any organization claiming to be tax-exempt may make application requesting recognition under the Code explaining its purposes and proposed activities on the prescribed forms to the Internal Revenue Service. These applications are examined and determination of the tax-exemption is processed in each key District Office which has a designated area of responsibility. Our Boston office therefore processed the tax-exempt application of the Conway Cooperative Kindergarten.

To ensure prompt action on each application, an organization should be certain that all statements, documents, charters, by-laws, or any additional information or material is provided in sufficient detail to clarify the nature of the organization since failure to include a detailed description would preclude a clear determination of tax-exemption. A subsequent inquiry may be necessary which would cause a delay in determining recognition. Apparently, an additional inquiry from the key District Office in Boston was required before recognition could be granted which undoubtedly contributed to the delay and reasons for the inquiries from the Andover Service Center and local office in Manchester, New Hampshire.

An organization even though applying for tax-exempt status is required to withhold Federal income tax and social security tax under the Federal Insurance Contributions Act (FICA) and report these taxes on Form 941, Employer's Quarterly Federal Tax Return. At such time as the organization receives tax-exempt status, FICA tax is not required to be withheld and only Federal income tax is reported on Form 941E, Quarterly Return of Withheld Federal Income Tax.

The return received by the Andover Service Center could not be processed and the inquiry was mailed requesting assistance in resolving the problem. In this particular instance, it also appears that the receipt of the return was not posted to the account pending the inquiry and generated a followup by the local office in Manchester.

The Conway Cooperative Kindergarten may apply for a refund of the FICA taxes collected in the previous quarters by filing Form 941C, Statement to Correct Information Previously Reported Under the Federal Insurance Contributions Act, since they are now no longer liable for FICA taxes.

We regret the confusion caused the Conway Coopertaive Kindergarten in resolving this matter. While the Service attempts to be as responsive to the needs of all taxpayers and to minimize any inconvenience, unfortunately our followup inquiries were misdirected. Thank you for the opportunity to look into this matter and for bringing it to our attention.

Sincerely yours,

ROBERT BAUMEISTER,
Chief, Taxpayer Communications Branch.●

THANKS FOR THE MEMORIES

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. MOTTL. Mr. Speaker, there is probably not an American alive today who has done as much for his fellow Americans as Bob Hope. I take great pleasure in joining with hundreds of millions of people—both here and abroad—in saluting him on his 75th birthday.

Bob Hope is undoubtedly one of the most unselfish individuals our country has ever seen. His Christmastime trips to entertain U.S. troops on foreign soil are legendary.

Clevelanders are most honored that this outstanding person claims Cleveland as his hometown. Greater Clevelanders, in turn, consider Bob Hope to be our favorite son.

The Greater Cleveland area, the State of Ohio, the United States and the rest of the world offer Bob Hope our deepest thanks for all his contributions to mankind on the eve of his 75th birthday celebration. We offer him our best wishes as he embarks upon his second 75 years.

"BEAUTIFUL BUREAUCRATS"

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mrs. SPELLMAN. Mr. Speaker, how often one hears disparaging remarks made about civil servants. Their "incompetencies" have been decried throughout the country—in the press, the television, radio, and yes, even in these hallowed Halls of Congress. By now, I am sure, the population is absolutely certain that Federal employees are lazy, overpaid, ineffective parasites on the Government payrolls. This is, is it not, what one hears repeatedly?

But, I do not believe it. For several years now, I have given public recognition to people in the Federal service who, by any standards, would have to be judged "superior." In my periodic newsletters, I have a continuing column, called "Beautiful Bureaucrats," in which I commend those who have gone beyond their required duties to help me help my constituents, and I am happy to say I am never at a lack for a candidate. I am equally pleased to say that these "Beautiful Bureaucrats" mirror the vast majority of civil servants who are hardworking, dedicated, and knowledgeable people, deeply concerned about their missions and disturbed by the unwarranted criticism.

Mr. Speaker, on May 26, 1978, just a few days from now, a "Beautiful Bureaucrat" will be leaving the civil service after having dedicated over 34 years in the administration of our Government. Wayne David McLellan is about to depart, and I invite my colleagues to join me in saluting him for his long career of superior service.

I have known Wayne for over a decade, and I am well aware of his commitment to duty. Throughout his long career, which has spanned many disciplines, varied duties, several changes in location, always within the Department of Defense, he has maintained his belief in high purpose. I have witnessed his pride over assignments well done. Others along the way have also recognized his worth and contributions and have cited him with many outstanding and superior performance awards. During his retirement ceremony, Wayne will again be honored with a meritorious civilian service award by his commanding general.

A steady, dependable dedication to accomplishment of mission has been Wayne's credo throughout his 34 years of service, and I believe that he reflects the type of Federal careerists who are found throughout our civil service system. Mr. Speaker, I know my colleagues share my salute to Wayne McLellan on the joyous occasion of his retirement. I am confident that his active and inquisitive mind, boundless energy, and enthusiasm for involvement will lead him into yet untried fields of endeavor. Always supported and encouraged by the affection and respect of his family, he will, I know, succeed and thoroughly enjoy the next phase of his career.●

INDUSTRY'S SEARCH FOR ENERGY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. UDALL. Mr. Speaker, one of the essential components of a national energy program must be conservation. Conservation by industry, commercial establishments, and home consumers will, in time, determine if this Nation has the will to cut down without cutting back its needed expansion and growth.

A recent article by Michael L. Millenson in "Across the Board" magazine tells of some of the energy conservation and alternative research and development programs being undertaken by private industry.

This move is heartening and ought to be commended.

The article follows:

[From Across the Board, May 1978]

INDUSTRY'S OWN SEARCH FOR ENERGY

(By Michael L. Millenson)

For months, Firestone Tire & Rubber Co. had been methodically searching for a place where it could drill for natural gas, in an effort to replace some of the fuel oil for producing electricity and heat in its plants. On a crisp winter day in Mid-December 1976, the company made an announcement that must have sent shivers of the energy crisis closer to executive hearts than any blizzard of government statistics or cautionary cries to conserve.

The good news was that the tire and rubber firm had found two promising sites where its contractor could drill test wells for natural gas.

The bad news was that one of the sites consisted of a sizable chunk of the exclusive, company-owned Firestone Country Club golf course. Despite the danger to well-manicured greens and carefully designed water hazards, Firestone swallowed hard and sank $100,000 into the drilling efforts. The golf course gas search eventually came to a halt when it encountered uneconomic turf. (The second promising site, near a company synthetic rubber plant, also turned out to be not so promising.)

The point of the story is not so much the threat to Akron-area golf handicaps as the seriousness with which industry has begun to take conservation and management of energy. While American consumers don cardigans and paste exhortations on their bumpers ("Don't Be Fuelish"; "I'm 55—Drive Me"), manufacturers have begun to invest millions of dollars conserving energy, using it more efficiently, switching from relatively scarce forms to more abundant ones, and looking to alternative sources such as garbage, shredded tires, and leftover instructional pamphlets. A number of companies, including Celanese, Dow-Corning, Beech Aircraft, St. Regis, Amfac and Hanes, have also created a new post of corporate energy manager. In some cases, the energy manager is given the authority to review all corporate purchasing decisions.

The numbers tell the reason: In 1976, according to the Federal Bureau of Mines, industrial energy use amounted to 21.2 quads—or, to put it another way, 21.2 Btus. In 1976, industry's consumption was 35.5 percent of the total of 59.6 quads of energy that the Bureau of Mines said was used in the U.S. The transportation sector was second, followed by household and commercial utilities for generation of electricity, and by other miscellaneous uses.

All that amounts to an annual expenditure of close to $30 billion a year, using conservative price estimates from a 1974 survey of manufacturers by the Bureau of the Census. More than half of that energy use falls to six categories of manufacturers: chemicals and allied products; primary metals; petroleum and coal products; paper and allied products; stone, clay and glass products; and food and kindred products. By 1974 those costs were almost double what they had been in 1971; by 1976 they were some 20 percent higher still.

In addition to price woes, industry has also had to face the problem of availability of energy. This has especially been true for natural gas, though, to some extent, there have also been problems in securing oil in some parts of the country.

The figures above have already risen from the ledger book to haunt the hallways of more than one executive suite. A. O. Smith, Milwaukee, for instance, said that its first quarter profits in 1977 declined about 25 cents per share because of an extra $1.5 million it needed to spend for alternate fuels when its natural gas supplies were cut off. Keystone Consolidated Industries, Peoria, Ill., reported that rising energy costs were directly responsible for a major portion of a $2.7 million loss it suffered in the fiscal year ending last June 30. The company, a major steel, wire and hardware producer, said that energy costs had gone up 38 percent company-wide and 39 percent at its largest facility, which alone lost $14.6 million in 1976. And FMC Corp. last year closed its Marcus Hook, Pa., cellophane plant, citing the facility's dependence on increasingly expensive oil.

A. O. Smith, Keystone and FMC are not untypical. Because the stakes are so high, many companies have responded with high-stakes energy efforts of their own. Monsanto has a two-year program to spend $100 million (1977 and 1978), mostly for waste heat boilers. This follows a $70 million investment in conservation and alternate fuel projects in 1975 and 1976. Exxon has pledged $90 million for energy conservation by 1980. And even financially troubled Bethlehem Steel, plagued by one of the largest fiscal year losses in corporate American history, told a questioner that energy conservation expenditures would probably not be one of the categories cut.

The justification for such large expenditures is, of course, a large payoff. Ford Motor Co., for instance, is spending $911,200 for a total energy-management system for its Sharonville, Ohio, transmission plant in the expectation that long-term average savings will total $983,500 a year, or more than 20 percent of the plant's total 1977 energy bill of $4.4 million. For smaller companies, too, increasing energy prices make conservation investments attractive. Don Bree, manager of manufacturing engineering for Owatonna (Minn.) Tool Co., called energy conservation "one of our most attractive investments." The company, a small manufacturer of hydraulic pumps and automotive maintenance equipment, estimated that it gained $4 in fuel savings for each $1 it spent during the first 15 months of its energy conservation program.

Stop heat loss—fix a broken window. For most, if not all, companies energy conservation starts here, at the one day, one month, or maybe even one year payback level. Before such things as the multimillion-dollar heat recovery systems, or backup fuel storage facilities, or expensive monitoring equipment (more on those later), come "housekeeping" measures. They are the corrections of little sloppinesses—the poor maintenance and never-thought-about old ways of doing things—that can eat up large chunks of energy. Examples include: steam leaks, compressed air leaks, water leaks, damaged or insufficient insulation, excessive lighting, equipment left running when not needed, boiler burners out of adjustment, excessive ventilation. All are areas where "dollars [can be] saved with little effort or delay," in the words of one Federal Energy Administration (now Department of Energy) advisory guide.

Many firms, experts agree, can reduce their energy use a quick 10–25 percent through attention to better housekeeping—especially of older facilities. The petroleum industry, for instance, attributed four-fifths of its 12 percent gross reduction in energy use for 1976 over 1972 to housekeeping fixes. An analysis by A. T. Kearney and Co. of the machinery industry, the ninth most energy consuming, concluded that low energy prices had caused waste. A 15 percent industry-wide energy reduction could be achieved by 1980, it said, solely through use of housekeeping measures.

Just how much costs can be reduced is illustrated by the example of a General Electric Co. jet engine plant in Evendale, Ohio. The 33-year-old plant got into energy conservation in 1970, as part of cost-cutting moves undertaken when the aircraft industry fell upon hard times. The 1973 Arab oil embargo, which led to soaring energy prices, provided a powerful stimulus. As a first step, Vernon Osiecki, manager of engineering, sent a team of 12 auditors throughout the plant to look for evidence of energy waste. Because five-sixths of the 6.5 million square foot plant uses energy for heating, ventilation and air-conditioning (a ratio typical of light manufacturing facilities), G.E. engineers concentrated their efforts there, rather than on manufacturing process changes.

Some of the actions were simple: adjusting lighting to meet just the task for which it was used; cutting out several miles of unused compressed air pipe; eliminating couplings that could leak. Others, like recirculating the water in the plant's cooling towers, started out simple enough, but, in this case, minerals began to collect on the pumping equipment, reducing energy efficiency. Osiecki's team then installed an automatic sensing device to "blow down" the towers, introducing fresh water and demineralizing chemicals automatically.

Finally, after the simple and "almost-simple" measures were accomplished at little cost, came the slightly more expensive, although still uncomplicated, steps. They included installation of a system of temperature and air-pressure monitors and timers on equipment. The result: from an expenditure of $400,000, the plant netted $8.6 million in energy savings, dropping electricity and steam use 40 percent and slicing air-conditioning use by 75 percent. Said Osiecki: "All we've done is just good management. It's been fun."

When a company moves out of the housekeeping phase to the point where it is willing to invest capital, demand control and heat recovery equipment are usually the first items it will consider. Demand controllers are devices, usually run by computer, which limit how much electricity a plant or building will use over a given time period. Business is billed not only on the basis of total electricity used, but also on the basis of how high "peak usage" was during a sample time period. Thus, a company with low total monthly energy consumption, but which hits one high spot of usage each month, could find that the "demand charge" from that peak actually forces it to pay more than a competitor with higher total energy use, but whose use is more evenly spread out.

A demand control system, connected to lights, air-conditioners and other electric-consuming equipment, can make sure that usage does not exceed a predetermined "peak" over any given—say, 15 minutes—time period. Machines can be started up sequentially, rather than together, and nonessential equipment can be automatically shut down—or "shed"—any time that use threatens to exceed the predetermined amount. This kind of load shedding—or load management, as it is also called—can significantly reduce both total energy use and the size of a firm's electric bill. The equipment itself ranges from shoebox size, for a few thousand dollars, to large-scale terminals capable of monitoring, in addition to electric use, functions ranging from combustion efficiency of boilers to steam traps and ventilation fans. Their cost can reach more than $250,000.

An example: Last January, giant TRW installed a demand control system monitoring 13 buildings, comprising some 260,000 square feet of space, at its Redondo Beach, Calif., defense and space systems complex. The company, which expected to recoup its $221,000 investment over a 24-month period, found that the system paid for itself after a year because of its monitoring alone, with a total of $250,000 saved as a result of other scheduling improvements prompted by the system.

After demand controllers, use of heat recovery systems of one type or another is the most common conservation step taken by a management with its energy consciousness raised. The idea can be as simple as using waste heat from machinery to provide warmth for the plant interior. That's what Hiawatha Rubber Co. (Minneapolis) did, cutting natural gas bills 30 percent during the winter by recycling hot, smoky air from molding presses instead of exhausting it to the outside. A $1,230 investment in precipitators (for the smoke) and auxiliary equipment saved the plant $7,500 during one of Minnesota's coldest winters, according to company president Art Popehn.

Hoechst Fiber Industries, Spartanburg, S.C., harnessed steam from one plant, where there was an excess, for use in another plant nearby. The result: 1.5 million less gallons of No. 6 fuel oil needed by the plant, and $433,000 more a year fed into corporate coffers.

A good illustration of how companies are reaping energy—and dollar—savings from carefully designed heat recovery systems is that of a Gardena, Calif., food processor. In 1973, Larry's Food Products handled an average of 677,100 pounds of meat per month, using just over 7 million cubic feet of natural gas. After spending $50,000 for a custom-made afterburner (to incinerate fumes), a heat exchanger and a waste-heat boiler, Larry's reduced natural gas usage by one-third, for savings of more than $200,000 each year.

In Larry's system, gas is used to heat the boilers and raise their fumes to 1,200 degrees F. The fumes are then incinerated, with the 1,200-degree exhaust from the afterburner going to run the deep fryer and the waste-heat boiler.

The deep fryer operates at a temperature of 340 degrees F., and is heated through a thin, stainless steel heat exchanger. Natural gas boilers previously used to run the deep fryer were removed.

The waste-heat boiler is used to provide steam for processing the meat and for some of the cleanup duties. This had been done with a separate, natural gas-fired boiler, which is now used only infrequently.

For some plants, heat recovery is not a matter of cost reduction or simple conservation but of survival. In Bellefonte, Pa., last winter Cerro Metals Products bought a $225,000 heat wheel, which preheats combustion air enough to allow a billet heating furnace to burn fuel oil instead of natural gas. The devise was started up "just hours" before the company faced a 100 percent natural gas curtailment from its supplier, company president David Gardner recalled. Because of the wheel, a six-week plant shutdown was averted. The payback period? According to one source, eight days. Said Gardner, "It's not savings, it's survival."

Still, no matter how much time or money a company invests, efforts to conserve, in the sense of recouping lost energy, have their limits. It is then that companies begin to give greater consideration to what might be called energy management, rather than simply energy conservation. While conservation may be the result, in that fewer Btus are finally consumed, the approach is different from a simple strategy based on eliminating more or less obvious waste.

As part of energy management, companies are changing the fundamental way they manufacture their products. They are changing the way that they generate energy for manufacturing, the mix of fuels that they use, and the degree of their dependence on whatever fuel they require. They are changing their relationships with their energy suppliers, and in some cases are moving to own and operate their own supply source.

In the highly energy-intensive steel industry, for instance, a study by the American Iron and Steel Institute (AISI), the industry trade group, concluded: "Technology is currently available in the U.S. to reduce the amount of energy required to produce a ton of steel by 20 to 30 percent." However, the study added, "the most critical restraint to energy conservation in the American steel industry is not a lack of technology, but a lack of available funds."

Despite those capital restraints, which have squeezed more tightly with much publicity in the past several months, American steel makers are moving to change their old ways of doing things. One of the more popular changes in manufacture is to continuous casting of steel in place of the more conventional step-by-step molding process.

In continuous casting, a process developed within the last 10 years, hot molten steel is continuously poured directly from a caster into ingot molds, bypassing one stage of preheating the metal. As a result of eliminating this one step—where cool metal must be reheated for shaping—steel companies like Bethlehem, Laclede, McLouth and Lukens have reported energy savings ranging from 10 to 18 percent since the late 1960s.

A couple of more homely instances: Merry Brick and Tile Co., Augusta, one of the nation's major brick producers, has reduced natural gas consumption approximately 40 percent and has increased production by reviving and updating an old technique of using sawdust in the production of lightweight brick (the sawdust additive speeds up the drying process).

General Mills is testing a major redesign of the puffing equipment for such cereals as Cheerios and Trix in a way that will allow them to cut steam and natural gas use by up to 50 percent per pound of production, primarily by increasing the size of the puffing-gun enclosure.

In changing the manufacturing processes themselves, companies have gone from natural gas to oil, from oil to coal, and from any or all of the three to electricity. They have modified equipment to burn waste gas, particulate emissions, chemical wastes, wood chips, and garbage. They have tossed into the combustion chamber the remains of everything from educational materials to worn-out tires to worn-out old houses. A few have even turned, tentatively, to look at the sun.

"Hog fuel"—a mixture of bark, shavings, chips and sawdust—is finding an increasingly important place in the paper industry, which is moving to reduce its dependence on fossil fuels. Boise-Cascade reported that a new fluid-bed combuster (a type of boiler), powered by wood wastes, has helped it cut energy bills 70 percent at its Emmett, Idaho, plant. Georgia-Pacific says that it generated half of the 57.7 trillion Btus of energy it produced in 1976 through use of various wastes.

A slightly more novel use of wood wastes was recently advocated by Donald Y. Clem, president of McConway and Torley Corp. (Pittsburgh), a producer of couplers and steel castings. Clem told a group of representatives of small manufacturing firms that

when his company tried to burn coke instead of natural gas, "it smelled too bad, so now we buy old houses, chop them up, and burn them for wood." He added the wood smells no worse than it does in a fireplace, and "the employees enjoy getting away from their jobs to stoke the fire."

Things have gone better with coke for some other firms, Armco and U.S. Steel have both netted multimillion-dollar savings by using coke oven gas in place of natural gas, despite its much lower BTU content.

Other companies have begun burning just-plain-leftovers. Groveton (N.H.) Papers has solved a trucking and disposal problem by buying a $325,00 incinerator that produces 6,000 pounds of steam per hour, using plant and town garbage. Hooker Chemicals and Plastics Corp. will be doing the same thing next year, albeit on a somewhat larger scale, when it completes a $65 million project to supply steam for its Niagara Falls, N.Y., plant, using a relatively new process for converting garbage into energy. The plant is scheduled to produce 600,000 pounds of steam per hour and save almost 18 million gallons of fuel oil per year, the project manager said. Georgia-Pacific is in the midst of an experimental project to use old tires as a boiler fuel; General Motors is studying tests that show a mixture of 40 percent shredded tires and 60 percent coal working the same as 100 percent coal; and Xerox Educational Publications, Columbus, Ohio, perhaps in tribute to all test results, reports tidy savings on its fuel bill by burning its own trash.

The most common fuel switch, though, is not from fossil fuels to waste, but from one fossil fuel to another. Usually it is a switch away from natural gas. The reason for the switch is simple: problems of availability. "Wintertime" gas curtailments that start in early November and continue until April for some firms have helped to bring that point home dramatically. Yet the reason that the switch has been less than a stampede is also simple: economics.

Historically, natural gas has provided energy at a much cheaper price than any other fuel, while providing advantages by its ease of delivery and its clean-burning. Under long-term contracts, in some parts of the country, those characteristics remain true today.

Still, the handwriting on the wall for gas is clear, both for availability and price. The day of the 10 cents per thousand cubic foot (mcf) contract is over, and the era of the $1.75, $2, and even more per mcf contract has arrived. And, despite the "Made in OPEC" label, much of the change in dependence on gas is to a dependence on oil.

The Canners League of America, representing one of the nation's largest groups of food processors, has advised its members to buy boilers that can burn oil as well as gas, and has told them to begin obtaining the necessary air-pollution permits.

McDonnell Douglas, for instance, spent $750,000 to convert 55 boilers at its St. Louis aerospace facility from gas to oil, an example being followed by tens of other firms. Other companies, when not converting boilers completely, are modifying burners so that they can use either natural gas or oil. Oil is then stored on a plant site in enormous storage tanks, sufficient to keep production going at a minimal level for several weeks in the event of a gas curtailment.

Propane is used as a backup fuel for natural gas. Although costing at least twice as much, aerated propane can be used as an emergency substitute for natural gas in industries dependent on it. Whatever the backup fuel, the key is economic survival.

Increasingly, companies are beginning to switch from uncertain supplies of gas and foreign-controlled oil to abundant (when there is no strike), domestically produced coal. Despite the carrot proffered by President Carter's energy plan, however, formidable obstacles remain. Boilers built to burn either gas or oil cannot be converted to coal. The cost of the new coal boilers is enormous, and they require a lead time of at least two years. In addition, there are difficulties in buying, transporting, and storing coal, as well as environmental problems in burning it.

But the problems of supply for other fuels are causing some larger corporations to bite the bullet of coal conversion. Goodyear Tire and Rubber, for instance, will build its first coal-burning plant in 50 years—at five times the cost of a gas-burning one—in Lawton, Okla., almost entirely because of the reliability of supply. The plant, to come on stream in summer 1978, will burn 58 million tons of coal annually in two boilers, and will also have the capacity to burn waste oils and solvents. The company said that the boilers will cost $3 million—without precipitators to control pollution.

Even in gas-rich Texas there is a switch to coal coming. Celanese has been a leader in the change. The company has announced that its Puma plant will require some 850,000 tons of coal yearly for its conversion, and the company is studying the requirements of coal conversion at its other three plants in the state, too. (Other petrochemical and refining giants are following suit, prodded by a Texas Railroad Commission order mandating reductions in gas use of 25 percent from either 1974 or 1975 levels by Jan. 1, 1985.)

The cost? A Gifford Hill and Co. Portland cement division spokesman answered: "We are converting at an incredible cost. We have not yet determined the final cost, but it's going to be many millions [of dollars]. There's no return on the dollar on something like this. It just can't be justified."

Still, most companies that have made the switch appear satisfied. Amcord, Newport Beach, Calif., converted three of its cement plants to coal back in 1973, when return-on-investment appeared shaky at best. Today, company officials say they are happy both with the ROI and the supply situation, noting dryly, "The embargo removed a lot of uneasiness about that decision around here."

Naturally, there are exceptions to any rule. Worthington Compressors, for instance, remains happy with its switch eight years ago from coal to natural gas, despite the firm's Buffalo, N.Y., location. Even the fury of the winter of '76 did not shake the conviction of Worthington officials that their move was correct, and they contend that they have been able to save $800,000 on fuel bills because of it.

Some experts warn that the switch to coal is a prime case of energy needs colliding with conservation. While energy-intensive industries may reduce their dependence on scarce and foreign-controlled sources of supply, these observers caution, total energy use will rise as a result of a switch to coal—a prediction confirmed by some companies which have made the move.

"Increasing the percentage of coal used in processing tends to increase the total energy consumed per ton of product," Inland Steel president Michael Tenenbaum told last year's meeting of the American Iron and Steel Institute. "Emphasizing conservation of total energy induces the industry to use more critical fuels in its facilities."

Some companies are at least partially avoiding the question of what fuel to favor by using electricity, leaving it to their utility to thread its way through decisions on coal, oil, gas or nuclear generating power. Electric power, however, remains an extremely high-cost option for most of industry.

Caterpillar Tractor Co., for instance, said that its operating costs could increase 30 to 40 percent as a result of switching natural gas-fired stress relief furnaces, situated near Peoria, Ill., to electricity. The justification for the nation's 36th largest corporation is to keep production going if gas is curtailed.

One company, Air Products and Chemicals, has tried to reduce that high cost through a novel agreement it worked out with its utility in 1960. In return for allowing service to be interrupted, the company has cut the cost of electricity approximately 10 percent.

Some companies have tried to reduce electric bills by taking advantage of time-of-day rates, when those are offered by their utility. (The rates result in a firm's being charged less for electricity used during periods when demand is not high.) Many firms, however, report that higher labor costs would offset any savings.

In the chemical and refining industries, especially, companies are starting to favor projects to generate their own electricity, using high-pressure process steam to turn the turbines, then reusing the steam when it emerges at a lower pressure. In co-generation, as that process is called, companies either use the electricity themselves or sell it to a utility.

In the chemical business, Celanese is working on a $15 million, 30-megawatt, coal-fired co-generation facility in Pampa, Tex., which it says will spply all the electricity its acetic acid plant needs, beginning in 1979. The cost is being shared equally with Celanese's utility, Southwestern Public Service Co.

Outside of the chemical industry, Rohr Industries, San Diego, has contracted with a San Diego Gas and Electric Co. subsidiary for a co-generation project that the aerospace and transportation company says will save it $90,000 this year. And two major sugar producers, U.S. Sugar Corp. and the Sugar Cane Growers Cooperative, also appear happy with co-generation. They said that their ability to generate all their own electrictly needs has meant that they have no need for a formal energy conservation program.

Companies not so sanguine about their own energy situation have increasingly begun to take steps to assure a secure, proprietary energy supply. For many, this has meant drilling for natural gas, although few, if any, have faced Firestone's dilemma of a country club golf course in their way. A number of firms have taken advantage of a self-help program in Ohio that encourages industry to drill for its own gas. Libbey-Owens-Ford, Toledo, is spending close to $6.5 million to drill 60 wells in Ohio, in contract with independent exploration companies. The gas is piped to East Ohio Gas Co. which, while physically keeping all of it, actually buys only 25 percent. The pipeline company that would normally supply East Ohio then transfers an amount equivalent to 75 percent of gas from LOF's wells to LOF's gas supplier, Columbia Gas Co. In return for use of its pipeline, Columbia charges LOF 10 cents per mcf. The arrangement is typical of those used by companies drilling for gas to avoid the expense of building a separate pipeline to their plant from each producing well.

Other companies that have taken the bit to the ground include Stone Container, Goodyear, Ferro, Olin, Parker-Hannifin, Anchor-Hocking, and McConway and Torley (not satisfied with the results of burning old houses), among others. Park-Ohio Industries last year even reported a pretax operating profit of $820,000 from its gas and oil production program, originally undertaken to provide gas and oil for its own operations, by selling the excess.

Firms are not ignoring coal supplies, either. Dow owns enormous amounts of lignite reserves in Texas. Inland Steel, in a move copied by others, owns several seams of commercially recoverable low-sulfur coal that it is preserving for its own needs.

Solar energy, however, remains even more remote for industry than for the general public. Several firms have bought solar hot-

water heating systems, deciding that the hands-on experience in operating them outweighed the poor economics, while Federal grant money has made experimentation with the solar option more palatable to others. With its own funds, Anheuser-Busch will use a new solar energy collection, storage and retrieval system to heat process water for the pasteurization of bottled beer at its Jacksonville, Fla., plant. While calling use of the system "a major commitment . . . toward finding and using alternative energy systems," executive vice president Frank J. Sellinger acknowledged that the project was a pilot effort and said that no energy savings could yet be estimated.

There is no energy crisis.

At least, a third of the engineers responding to a January 1977 poll by the American Institute of Plant Engineres doubted its existence. And the plant engineers are not alone. That same month the enegry conservation manager at ESB, Inc., a large Philadelphia-based battery manufacturer, acknowledged, "Great things were begun" after the 1973 Arab oil embargo, "but there's nothing functioning now." As for the company's energy committee, he said, "we're really not working anymore."

Observers note that several companies which appear to have active, successful programs have, in reality, realized most of their success in the company public relations office, not on the plant floor. And, there are other firms that see energy as no different from any other item, and have included it under general cost control procedures. As one consultant put it, "A lot of industries are waiting for clarification of national energy policy to make major investments." For countless other companies, however, the time to wait is long past. The energy crisis is here, now, at home.

It is real for CF Industries. CFI filed a $16.5 million lawsuit against Transcontinental Pipeline Co., which supplies its utility, contending that negligence by the pipeline company caused natural gas shortages that threatened the survival of CFI's Tunis, N.C., plant. As the case drags on, CFI is also asking damages at the rate of $5 million annually.

The energy crisis is real to the workers at the Pioneer Rubber unit of Brunswick Corp., which said it would close a manufacturing plant in Willard, Ohio, and eliminate an expansion in Fond du Lac, Wis., because of energy problems. The expansions went to the gas-rich Southwest.

It is embarrassingly real for Anaconda's aluminum division. The division chose a Japanese pollution-control process over its own foam scrubber system when the former promised greater energy savings. Anaconda was the first American buyer of the new technology.

Industry, perhaps, has already chosen to do its part in what President Carter has called the "moral equivalent of war" (for many the words echo faintly), according to the kind of advice of Rabbi Tarfon, a Jewish sage of the Middle Ages: "While it is not incumbent upon you to complete the task neither are you free to abstain from it."●

SUN DAY

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. JEFFORDS. Mr. Speaker, I would like to take this opportunity to express my sincere thanks to the staff of the Environmental Study Conference for the superb job they did in helping Congress prepare for the recent national day of celebration for solar energy—Sun Day. The ESC staff provided background material, fact sheets on solar programs, Sun Day idea packets, a speech bank and State-by-State lists of solar professionals and projects for more than 200 House and Senate offices. I especially want to thank two of ESC's dedicated interns—Larry Fioretta and Echo Nowakoski.

Their work was instrumental in raising Congress' awareness of the potential for solar energy and helping us spread the message to our constituents.●

THE WOMAN'S PLACE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. EDWARDS of California. Mr. Speaker, the Judiciary Committee's Subcommittee on Civil and Constitutional Rights has just completed 3 additional days of hearings on extending the ratification period for the Equal Rights Amendment.

As everyone knows, this amendment has generated considerable interest across the country among groups, legislative bodies and individuals. As such, virtually every aspect of the issue has been covered and discussed, and just about every conceivable position has been taken.

Recently, the lead editorial in one of the largest newspapers in my district, the San Jose Mercury, took the philosophical position of transition to discuss the state of flux that characterizes the collective position of women today. I found it particularly refreshing to ponder this point of view, and hope that my colleagues will also find it stimulating:

[From the San Jose Mercury]

THE WOMAN'S PLACE

For women's rights this was a week of contrasts. Women won a place in the White House honor guard, but were ruled out of place as members of Rotary. Meanwhile, a move was afoot to extend the 1979 deadline for approval of the Equal Rights Amendment (ERA).

Each event reflects a society in transition. Traditions are falling or faltering as women step forth to perform tasks they have always been capable of, but were not permitted or encouraged to perform before because of now vanishing lifestyles and attitudes.

The worst reason to keep on doing something a certain way is because "that's the way it's always been done." Alert, active women won't buy that. They are properly in the forefront of challengers to the way things have always been done.

The goal of equal rights for the sexes is seldom disputed. Controversy results because many fear that genuine differences between the sexes will be obscured. The role of government also becomes an issue: how far should government go to guarantee "equal rights" in the private sector?

President Carter's decision to include women in the White House honor guard is significant, despite its token nature, because it reflects the reality of today's armed forces. Women are assuming increased responsibilities in the military. They have earned a place in the White House honor guard. Another tradition has crumbled, another barrier fallen.

In the private sector, the lopsided vote of Rotary International to expel the Duarte, Calif., club for admitting three women may prove a temporary setback. To begin with, the Duarte club's directors plan to file suit contending that Rotary membership rules violate California laws prohibiting discrimination. But what happens in court may be less important than the effect of social and economic change.

Women already represent a majority of the business people in Duarte, a Los Angeles suburb. They were invited to join Rotary to reverse a declining local membership. The pattern is not unique to Duarte, suggesting the day may be near when Rotary clubs in the United States begin admitting women—regardless of traditions in the other 150 countries where Rotary is active.●

MR. RONALD CANACCI MAKES SIGNIFICANT CONTRIBUTION TO THE CULTURAL AND SOCIAL LIFE OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 23, 1978

● Mr. CARNEY. Mr. Speaker, on Sunday, May 28, 1978, the city of Youngstown, Ohio, will open the doors of Powers Auditorium to the outstanding talent of Robert Goulet. Goulet, a singer of longstanding international renown, is famous for his personable and close rapport with audiences, as well as his captivating vocal performances. Many people remember his stunning portrayal of Lancelot in the Broadway production of "Camelot."

The person responsible for the upcoming concert is Mr. Ron Canacci, president of CGY Productions. With the other CGY officer, William G. Lyden III, Dom Byrd Giampetro, and James J. Yannerella, Mr. Canacci forms a small group of involved and energetic men who are working hard to bring the exciting world of the theater and entertainment to our city.

Citizens and groups are working hard to revitalize many aspects of life in the Youngstown area, and Mr. Canacci is an excellent example. By bringing top talent and acts to our city, he is contributing in an important way to the quality of life in Youngstown.

Mr. Speaker, Mr. Ron Canacci is to be commended for his efforts. The work that he is undertaking involves personal and financial risk, and his sense of community service is admirable. I wish to congratulate Mr. Canacci for his investment of time, energy, and money so that Youngstown, Ohio, will be a better place to live. I think that all of us should join in wishing Mr. Canacci success in his future endeavors on behalf of our community.●